

**OXFORD FALLS VALLEY AND BELROSE NORTH STRATEGIC REVIEW
APRIL 2013 AND DRAFT WARRINGAH LEP 2011
ASSESSMENT OF CERTAIN LAND IN SPICER ROAD, OXFORD FALLS**

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1. INTRODUCTION

Kevin Mills & Associates was engaged by three land owners at Oxford Falls in the Warringah Council area to assess and make comment upon a land use zoning proposal outlined in the document *Oxford Falls Valley and Belrose North Strategic Review* (Department of Planning and Infrastructure 2013). The document was prepared by the Department and Warringah Council and is dated April 2013. Our role is to investigate the environmental attributes of the land and to provide an opinion on the suitability of the proposed E3 – Environmental Management zone, which is proposed to cover all of the three lots.

2. THE STRATEGIC REVIEW

In its summary page, the *Strategic Review* makes the following statements:

“The review was initiated in response to stakeholder concern regarding the adequacy of consultation during the preparation of *Warringah Local Environmental Plan 2011* (LEP 2011). The purpose of the strategic review has been to translate the planning controls under *Warringah Local Environmental Plan 2000* (LEP 2000) into the best fit zones and land use controls under Warringah LEP 2011 and to engage the community in the process.”

“The draft strategic review has been informed by:

A review of relevant planning legislation, studies, policies and guidelines;

A review of existing information on environmental constraints and infrastructure provisions,

Extensive stakeholder consultation via a community information evening, notification letters, website and Manly Daily updates, site visits and consideration of submissions received during the development of the draft report;

A review of current land use controls; and

Regular Project Control Group (PCG) meetings. “

“The draft findings of the strategic review do not significantly change the urban development potential of land in Oxford Falls Valley and Belrose North. This is the role of a future review (Stage 2), which will involve commissioning major studies as recommended by the Planning Assessment Commission in its 2009 report of the *Review of four sites in Oxford Falls Valley for Urban Development*.”

“Overall, the strategic review found that the best fit land use zone for the majority of the study area is the E3 Environmental Management zone. There are however some smaller areas of land that have been identified for alternative zonings and/or additional permitted uses.

It is intended that the findings of the strategic review inform the development of a planning proposal by Warringah Council to bring Oxford Falls Valley and Belrose North into Warringah LEP 2011.”

In essence, the *Strategic Review* aims to assist in bringing the old LEP for the Oxford Falls area into line with an updated LEP to meet the requirements of the New South Wales Government’s *Standard Instrument (Local Environmental Plans) Order 2006*, which requires that all New South Wales councils prepare new Local Environmental Plans (LEPs) in a standard instrument format, including the use of a standard set of land use zones.

It is noted that the *Strategic Review* makes it very clear that further ‘major studies’ are envisaged to determine the future urban development capability of the area; this includes “Water quality, aquatic ecology and hydrology of Narrabeen Lagoon and its catchments; Flora and fauna protection.” These further studies may or may not change the zoning that is recommended in the *Strategic Review*.

3. THE SUBJECT LAND PARCELS

This assessment involves three parcels of land in Spicer Road South, each with a different owner. The land is encompassed by Lots 1059, 1068 and 1071. The last two lots are adjoining, while the first lot is a short distance to the northeast.

These lands are within the area covered by the *Strategic Review* and are the subject of mapping that appears in that document. A summary of the *Strategic* mapping for each of the lots appears in our **Table 1**, below.

The three parcels have over the years been almost completely cleared of their natural vegetation. Lot 1059 is about 90 percent cleared; the remainder is a strip of modified bushland along the western edge of the lot and there is a line of planted River Oak trees near the creek boundary in the east. The percentage bushland on this lot is probably about 10 percent, although Council’s Site Analysis Sheet completed on 11 December 2012 implies the proportion of the lot that is not cleared is 40 percent.

Table 1
Information from the Strategic Review maps

Land Parcel	Habitat/Corridor Map	Landuse Analysis	Primary Constraints	Secondary Constraints	Proposed Landuse Zone
Lot 1059	Mostly 'regional corridor'; strip of 'regional core habitat' on western edge.	Dwelling.	Almost all 'moderate environmental constraints to development'. Strip on western edge 'prohibitive, severe or significant constraints'.	Strip in west is 'Primary constraint – E3 zoning'. Most is 'for further zoning consideration'.	E3 – Environmental management.
Lot 1068	Entirely 'regional corridor'.	Dwelling and commercial mix	c.60% 'moderate environmental constraints to development'. c.40% 'prohibitive, severe or significant constraints'.	Front 40% 'primary constraint - E3 zoning'. Remainder 'for further zoning consideration'.	E3 – Environmental management.
Lot 1071	Mostly 'regional corridor'; area of 'regional core habitat' in rear.	Dwelling.	C.60% 'moderate environmental constraints to development'. c.40% 'prohibitive severe or significant constraints'.	'E3 zone consideration' overlay shown over whole lot.	E3 – Environmental management.

Lot 1068 has been almost entirely cleared of bushland in the distant past. The majority of the trees on the lot are planted non-local species, with some scattered remnant local trees of Scribbly Gum, Smooth-barked Apple and Sydney Peppermint. The understorey to the main stand of trees at the front of the lot is entirely exotic; part of the area was a vineyard until recently, and long ago the whole area was quarried for soil. The percentage bushland on this lot is nil; this contrasts with Council's Site Analysis Sheet completed on 11 December 2012, which implies a bushland cover of 30 percent.

The rear of Lot 1071 still supports modified bushland about 19 metres in width, a measurement made by the land owner who also informs us that this represents an area of bushland of less than 10 percent of his land area. This is well short of the estimate made on Council's Site Analysis Sheet on 11 December 2012, which implied a bushland cover of 50 percent.

All lots have a long history of rural and/or industrial use. Existing and approved developments and activities include horse stabling and agistment, operation of a home business, market gardening, orchards, alpaca grazing, a vineyard, quarrying of sandstone, removal of a large amount of soil and chicken farms. Today all lots contain houses, sheds, dams and/or roadways, and the evidence of past quarrying and other activities is clearly visible.

Maps in the *Strategy* identify all of the three lots as regional habitat corridor, with core habitat on small parts of Lots 1059 and 1071; i.e. the bushland areas identified above. This delineation is inconsistent with Council's map of fauna corridors available on their web site in that the cleared parts of the lots are not identified as corridor on that map. In any case, the cleared parts of these lots are of no real value as habitat corridor for native fauna.

The *Strategy* maps the majority of the three lots as having 'moderate environmental constraints'; this is identified by yellow on the map. This is different to an earlier map titled 'Environmental Constraint Land Map' dated 2007, which mapped the lots as largely having 'no significant environmental constraints to development'.

4. ASSESSMENT OF PROPOSED LAND USE ZONING

The *Strategic Review* recommends the E3 - Environmental Management zone cover a large proportion of the Oxford Falls – Belrose area, including the three lots in question and all of the surrounding land. The objectives of the E3 - Environmental Management zone are set out below.

Objectives of the 3 zone:

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.
- To provide for a limited range of development that does not have an adverse effect on those values.
- To ensure that development, by way of its character, design, location and materials of construction, is integrated into the site and natural surroundings, complements and enhances the natural environment and has minimal visual impact.
- To protect and enhance the natural landscape by conserving remnant bushland and rock outcrops and by encouraging the spread of an indigenous tree canopy.
- To protect and enhance visual quality by promoting dense bushland buffers adjacent to major traffic thoroughfares.

A key objective of the E3 zone is to “protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.” Much of the delineated E3 land is naturally vegetated and adjoins parks and reserves, such as Garigal National Park (NPWS) and Middle Creek Reserve (Council), which are also naturally vegetated. Naturally vegetated land clearly meets the key objective of the E3 zone; we have no disagreement with this application of the zone.

Lots 1068 and 1059 are not identified as land for consideration as E3 zone on any map, yet the zoning map proposes such a zone over both lots.

In the immediate Oxford Falls area, the E3 zone as proposed covers much cleared land and intensive land uses including large buildings, extensive car parks and playing fields. In addition to cleared land, which is largely contiguous rather than being isolated clearings in this area, the following large institutions are within the E3 zone; these are indicated on the Landuse Analysis map contained in the *Strategy*.

- Treacy Education Centre;
- St Pius X College and playing fields;
- Oxford Falls Grammar;
- Christian City Training College;
- Australian Tennis Academy and The Falls Function Centre.

The *Strategy* recommends that:

“The E3 Environmental Management zone is proposed to apply to the majority of the review area on land that is significantly constrained by environmental and infrastructure factors. This also includes land that is isolated, does not adjoin urban areas and/or would cumulatively have a significant impact if zoned to an alternative zone without first undertaking studies recommended by the PAC.”

We note the following comment in the *Strategy* regarding use of the E3 zone in this instance.

“A number of submissions presented a view that the E3 Environmental Management zone is not appropriate for cleared land or land adjacent to existing residential areas. LEP Practice Note 09-002 outlines where the E3 Environmental Management zone may be applied and also indicates that it is generally not intended for cleared lands. In determining whether the application of the E3 Environmental Management zone is appropriate, the project team considered the desired future character statements under LEP 2000 in the translation process. In addition, LEP Practice Notes 09-002 and 11-002 indicate that E3 Environmental Management zone can be applied as a transition area between high conservation area and intensive landuses. Applying this approach, it was not always appropriate to zone land adjoining an existing residential area or cleared land to an alternative zone.”

We cannot comment upon infrastructure factors, but in terms of environmental factors, we contend that the cleared parts of the three lots in question, and indeed much of the cleared and highly developed land adjoining and in the vicinity of these areas, is inconsistent with the objectives of the E3 zone.

Inspection of the subject lots readily finds that little of the land is naturally vegetated. As noted above, the three lots have a long history of rural and other uses and bushland has not existed on the majority of the land for a very long time. Bushland occurs on no more than 10% of Lot 1059 and less than 10% of Lot 1071, and not at all on Lot 1068.

The land at the front of Lots 1068 and 1071 supports almost entirely planted non-local trees, yet it is identified as being ‘severe or significantly constrained’, the same classification as vast areas of natural bushland elsewhere in the locality.

5. CONCLUSION

This paper has reviewed the proposal to zone certain land at Oxford Falls as E3 – Environmental Management. The *Strategy Review* document proposes a blanket use of this zone over a large area around Oxford Falls, seemingly irrespective of current land use and environmental values.

After inspecting the subject properties, it is our view that the majority of the land contained on the three properties is not “significantly constrained by environmental factors”. In fact, the only area of bushland with any real habitat value is the strip at the back of Lot 1071, which adjoins bushland to the west.

Although we are not claiming to be town planners, it seems to us that one or more of the Rural zones would be more appropriate for much of the Oxford Falls land. We have no disagreement with an E3 zoning over land that clearly has high environmental value such as natural bushland, or indeed for other land that, although disturbed/partly cleared, may form

useful buffers or corridors that supplement bushland areas. This is not the case with the subject lots.

6. REFERENCES

Department of Planning and Infrastructure (2013). *Oxford Falls Valley and Belrose North Strategic Review*. The Department and Warringah Council, April.