

[REDACTED]

From: [REDACTED]

Submitted on Fri, 13/03/2020 - 13:34

Submitted by: Anonymous

Submitted values are:

Submission Type: I am making a personal submission

First Name: Christopher

Last Name: Spagnol

Name Withheld: No

[REDACTED]
Suburb/Town & Postcode: Bringelly 2556

Submission file:

[christopher-spagnol_amp_2-mandina-pl-bringelly.pdf](#)

Submission: To Whom It May Concern Re: [REDACTED], Bringelly Please see attachment as a part of my submission. I purchased [REDACTED], Bringelly located in Kelvin Park in late 2017 and moved in early 2018 with my wife and son. We spent a lot of money making the place into a livable state as it was very run down and neglected by the previous owners. We persisted with making it a place to live as we went into it with a few core reasons for our purchase – the first reason being financial growth. [REDACTED] [REDACTED], having an investment where I would sell the house eventually for a substantial amount of money above what I paid for it. Even though we knew that there would be sacrifice due to lack of amenities, lack of basic needs e.g – Phone reception and Internet, the risk of snakes and dangerous animals and not to mention the massive responsibility of managing the maintenance of the land as well as the time in transit to take my son to a Catholic school each day with all the road works – this doubles my transit time daily. Another core reason was the lack of pollution and noise. The wide roads, the greenery, the quiet streets and peace. The space between the neighbors. This was a huge thing for me coming from residential. After living here for 2 years now, I realize that this is one of the quietest streets in Bringelly. Another core reason was that I always wanted to live on a big block of land that would one day be something I could pass onto my son or even divide the block to help him with his future. I was not aware that land use changes were about to be proposed, or that I was affected at the time of purchase. I did my due diligence as a purchaser that was taking on a financial risk and did all the checks I could possibly do, to confirm I was in a good position. That I was buying land that would be fruitful in the future. I

believe that my situation is unique as we are one of the newest to the area and therefore paid substantially more than other residents. In February 2019 we discovered by chance when meeting a local resident that there were meetings running from council etc regarding our land and the changes that were being made. Not ONCE did I receive any correspondence from the council or Government regarding this information that everyone had for over a year.

The process with the changes has come with a total lack of transparency and a lack of security for owners like us dealing with medical conditions and financial strains to take into account. All the things that I mention above to be important to me, are the very things that are now being impacted and threatened with the proposed land use changes. We are currently RU4, but with the proposed changes, we would be 18% Mixed Use and 82% Environmental & Recreational. After speaking with the planning team and attending meetings, I understand that we are lucky to have 18% of our property in the core, but not happy that such a huge amount of my land has been potentially depreciated with the Environmental & Recreational status. With there being such a high percentage of my land in the Environmental status, it financially sterilizes me from being able to sell the property to date as it depreciates the perceived value of the property. It is also scaring away possible purchasers with the current confusion and lack of stable information from council and State regarding the development. This is important to me, as if my wifes health was to get any worse, I am not able to sell quickly and potentially risk bankruptcy and the same thing if something were to happen to my myself. The proposed changes threaten the core reasons why I purchased the property in the first place. I believe that compensation should be given for this. The feared impact of the loud noise of the planes, the pollution caused by the jets, the traffic congestions and ongoing road works and construction as they build Aerotropolis in our front yard, the loss of peace and privacy to the area, safety of residents with public entering the area. Attending the community meetings that were held in late Dec 2019 and Jan 2020 that many of the residents in South Creek feel the same way. We feel that an extremely unmoral way of dealing with things has taken place to residents. Not enough information is being generated and the time frames given for this submission were at the peak of when everyone closed for Christmas and New Year and didn't allow much time for residents to educate themselves enough or the opportunity to get help with writing their submission outside of the Planning Team due to the unfair nature of so many changes to the zoning, a lot of people in the community would have seeked out professional help eg Solicitors, Town Planners etc, but most were closed until early February and then they were backlogged with existing work on their return and not being able to accept the work with such short time frames. I have taken the time to think about what I truly want as a good outcome from this for myself. That would be the following –

- Making the mixed use a higher percentage – 76% or greater and lowering the Environmental percentage and the Government purchasing a large percentage of the Environmental land at a fair rate
- Compensation from the Government for the losses/differences in the Environmental Land and Mixed Use
- The option to be acquired at a fair rate comparable to residents with a higher Mixed Use percentage or the option to remain at the property with a compensation package to make up the difference
- If the flood line can't change, the government offer residents assistance financially to convert the land into NON flood zone land so that mixed use can be a higher percentage and so much of the land won't be Environmental. As mentioned earlier, we are new to the area and still owe A LOT on our mortgage and the above outcomes would rectify/compensate for the proposed changes. We ask that you keep in mind that if the proposed zoning change didn't go through, we would have the desired outcome with the present zoning being a more desirable outcome for future development. Just as I would be liable for any damages if I were to devalue someone's property, the Government should also be liable and bare the burdens of this as a total cost to the development. Further concerns I have, council rates and land tax bills going up substantially to an unaffordable sum and what the Government is prepared to compensate on an ongoing matter for this as they will be financially sterilizing us and making the property potentially unsellable. The amount that was offered to the Thompson Creek residents was extremely low and unfair to those residents because if the zoning was not changed, the properties would be worth 2-3 times what was offered to them. From all the research and professionals I have spoken with, I am aware that the flood zone can be fixed by Rehabilitation and widening of the creek and also landfill and taking other measures to engineer the properties to have a better drainage facility which I am sure will be done regardless in the future as the area develops, why not give more of a percentage to mixed use and solve these engineering problems now? We have attached a PDF as part of our submission and in this attachment, we sourced assistance on putting a detailed report together on what can be done to maximize the use of the mixed-use percentage of our land from 18% to approx. 76%. This report was at a great cost to us, as we are taking this matter very seriously. Also, with recent rainfall at its highest in decades, we didn't experience any floods in our street and properties. If the Government chose to address these issues, we would not be in this situation. When we purchased our land in Bringelly, we had no idea that something this unjust could ever happen in Australia

and I don't think many people know how easily Government and Council can impact your life with a decision to serve themselves and their developments without compensating the affected. We trust that the outcome will be that the Government will do the right thing and not financially sterilize and financially cripple residents like myself.
Regards, Christopher Spagnol A distressed resident

URL: <https://pp.planningportal.nsw.gov.au/draftplans/exhibition/western-sydney-aerotropolis-planning-package>

[Redacted signature block]

10th March 2020

Western Sydney Planning Partnership
PO Box 257
Parramatta NSW 2124

**RE: Submission to Western Sydney Aerotropolis Planning Package
2 Mandina Place, Bringelly**

On behalf of the owner (Mr Christopher Spagnol) of No. 2 Mandina Place, Bringelly please find below a submission to the Western Sydney Aerotropolis incorporating the Draft SEPP (Western Sydney Aerotropolis) 2019 (DSEPP 2019) and WSADCP Stage1.

Our client strongly objects to the impost of the proposed Environment and Recreation Zone ("ER" zone) under the DSEPP 2019 as it effectively sterilises a large portion of the site which, apart from high risk flooding to the rear 23.6% of the site, is free from significant development constraints. The site currently is capable of supporting a number of residential and commercial pursuits that will be lost because of the rezoning. Further the entire site is suitable for zoning as Mixed Use zone under the Draft SEPP like the first 18% of the site. We say there is no reason why the entire site can not be zoned Mixed Use because a Part 4 assessment under the EP and A Act 1979 will follow. The site is located in a strategic position and therefore greater consideration should be given to making this urban land (Mixed Use) as opposed to the ER zone.

The proposed zoning regime under the Draft SEPP results in a lost opportunity to retain viable/suitable land located in close proximity to the Airport that is necessary to sustain airport related pursuits. The issues are discussed further below:

1.0 The Site (No. 2 Mandina Place, Bringelly)

The property is Lot 526 DP 785782, No. 2 Mandina Place Bringelly (referred to as 'the property').

The property is located within the rural residential estate generally known as Kelvin Park. The site has an area of 2.1ha. The site is generally triangular in shape, flaring out from the Mandina Place front boundary to South Creek bordering the rear boundary of the site. Existing on the site is a large, single storey, dwelling house (DA-30/1989), a shed and at the rear. The front half of the site is predominantly cleared of mature vegetation. The rear half has scattered trees, denser towards the rear. The rear area is mapped as bushfire buffer area and a small area near the Creek mapped as bushfire Category 1. The rear of the property is identified high risk flood prone due to its proximity to South Creek. Flood affectation categories include high (near the creek), medium and low towards the front.



Mandina Place intersects Kelvin Park Drive – a circular loop road that feeds onto the northern side of Bringelly Road approximately 750m east of The Northern Road and 10km west of Camden Valley Way.

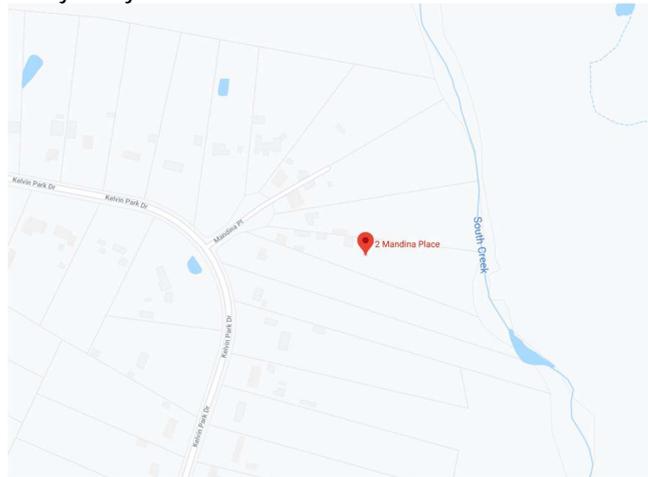


Figure 1: Location of the property – No. 2 Mandina Place, Bringelly



Figure 2: Aerial of No. 2 Mandina Place, Bringelly



Figure 3: View of No. 2 Mandina Place from the access driveway

The primary issues relate to the following:

- High level planning not recognising the existence of current Environmental Planning Instruments (EPIs) and development controls/policies applying to the land;
- Subject site has cleared areas that can be used for future Mixed Use activities and is of sufficient size, shape and slope to allow for suitable engineering solutions to build within the 1:100 year flood level. Under the current LLEP and LDCP an applicant is entitled to lodge an application supported by relevant engineering documentation and flood analysis supporting permitted land uses. As such we see no reason why the RE zone should be applied to land affected by medium flood risk which has the direct effect of sterilising the land. The land is most appropriately zoned as Mixed Use like the remaining part of the land in the low flood affectation area;
- Sufficient buffer area exists between the subject site and South Creek to provide design and engineering responses for permissible Mixed Use development;
- Significant down zoning of a large portion of the property without any compensation offered to the property owner. The green zone is a public burden over private land and unlike other areas within the Aerotropolis there is no compensation mentioned in the strategy.
- No known detailed flood studies that model the potential for filling within the floodplain to determine the most efficient use of the land which could see development within the low and moderate 1:100 flood levels. Detailed studies are required prior to any zoning changes as current Draft SEPP zoning provides for a lost opportunity given the sites juxtaposition to the core airport areas.

The strategic policy rules out any further development by applying a highly restrictive ER zone which significantly devalues the subject site. The current local planning controls allow for uses of a residential and commercial nature even though the land is subject to 1:100 year overland water flow. These zones have co-existed with the LLEP 2008 and the current flood information where clause 7.8 of the LLEP 2008 applies to redevelopment.

At present a development application is capable of being assessed under Part 4 of the Environmental Planning and Assessment Act 1979 (the "Act"). The Act provides a legal pathway to lodge and assess applications. This process considers all aspects of the sites opportunities and constraints. The Draft SEPP zoning regime is a restrictive and inappropriate planning tool as it fails to achieve the fundamental objective of the Act which is to allow for the orderly and economic use of land. Future applications can be assessed against the established provisions under Part 4 of the Act and more specifically S4.15 of the Act.



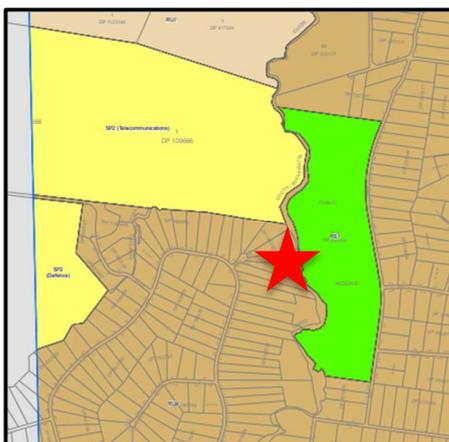
The submission also highlights the following:

1. Current permissible uses in the RU4 Primary Production Small Lots zone will be rendered prohibited under the proposed ER zone affecting 82% of the site.
2. Low and medium flood affected areas of the site can be redeveloped with development consent under the current planning controls applicable under Part 4 of the Act and assessment under S4.15 of the Act.
3. Part 4 of the Act provides a legal and robust pathway for the assessment of development proposals negating the need to use recreational type zonings to sterilise potentially viable urban land within the flood plain.
4. Recognises that the 76.4% of the site affected by low – moderate flooding is potentially suitable for redevelopment subject to clause 7.8 of the LLEP 2008.
5. LLEP 2008 and LDCP provisions facilitate assessment of works within the floodplain thus a statutory trigger exists providing an approval pathway for works in the flood plain rather than a prohibition.
6. Identifies the need to extend the proposed Mixed use zone to the entire site or at least to cover the medium flood affected lands. A detailed DA assessment will uncover whether or not the rear 23.4% of the site affected by high risk flooding is suitable for Mixed Use related drainage areas or other ancillary Mixed Use activities.
7. Confirms that bushfire is not a limitation to seeking a greater area zoned Mixed Use under the Draft SEPP.

Further discussion of the issues is provided below.

2.0 Current Zoning and Permissible Land Uses

The property is zoned RU4 – Primary Production Small Lots under Liverpool LEP 2008.



RU4 Primary Production Small Lots



Zone RU4 Primary Production Small Lots

1 Objectives of zone

- To enable sustainable primary industry and other compatible land uses.
- To encourage and promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.

2 Permitted without consent

Extensive agriculture; Home-based child care; Home occupations

3 Permitted with consent

Agriculture; **Animal boarding or training establishments**; Aquaculture; Bed and breakfast accommodation; Building identification signs; Business identification signs; **Cemeteries**; Community facilities; **Crematoria**; Dual occupancies; Dwelling houses; **Entertainment facilities**; Environmental facilities; Environmental protection works; **Farm buildings**; **Farm stay accommodation**; Flood mitigation works; Helipads; **Home businesses**; **Home industries**; **Landscaping material supplies**; **Places of public worship**; **Plant nurseries**; Recreation areas; **Recreation facilities (indoor)**; **Recreation facilities (outdoor)**; Roads; **Roadside stalls**; **Rural industries**; **Rural supplies**; Rural workers' dwellings; Secondary dwellings; **Veterinary hospitals**; Water recreation structures

4 Prohibited

Any development not specified in item 2 or 3

From the list of permissible landuses above the uses in red are commercially based businesses type uses currently available to the property owner with consent. The majority of uses whether residential or commercial in nature can occur with consent within the 1:100 flood affected land.

Development in the floodplain is not prohibited. Details of suitable cut and fill and engineering solutions can be provided with a development application for any one of the permissible uses. The proposed zoning regime strips the land of the current listed permissible uses.

Any rezoning of the land which removes the site's development potential for either residential use and/or commercial or industrial uses reduces the value to the land. This is particularly the case where the new zoning of the land is largely an environmental zone (82% of the site) which effectively sterilises the site. The proposed ER zone limits permissible uses. The ER zone dedicates 82% of the site as part of the open space and recreation 'green' link for the aerotropolis core area and potentially part of an regional parkland (investigation) area. The ER zone is a public purpose and sterilises our clients land.

The down zoning has a significant adverse impact on our clients financial position. The usable mixed use zone (18%) should be extended to include the whole site. A future DA can be assessed for suitability. Each site within the mixed use zone has not been individually tested for redevelopment potential therefore it makes planning sense to allocate additional land to support the airport as some Mixed Use lands will be unsuitable following a detailed Part 4 assessment. It may well be the case that 70% of the land zoned Mixed



Use is suitable therefore more than the required area is needed to support the airport for the next 50-100 years.

The use of the 1:100 flood level as a prohibition to development through the zoning hierarchy is not an appropriate way to manage land and its future redevelopment potential. Part 4 of the EP and A Act 1979 provides an acceptable pathway to assess the acceptability or otherwise of redevelopment proposals.

3.0 Flood affectation of the property

The flood planning levels for part of the property are at or below the 1:100 flood level as shown below in Figure 4 below. The Council's electronic mapping shows the flood affectation of the land to be as follows:

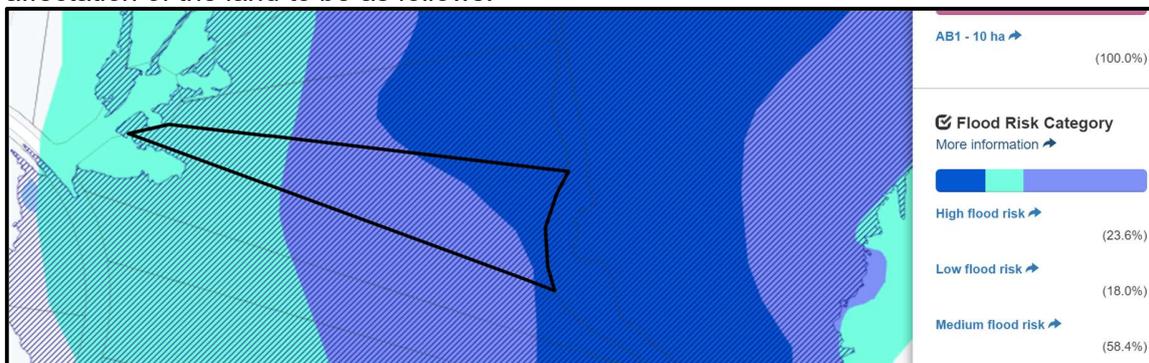


Figure 4: Extract of flood risk categorization of property, showing high, medium and low flood risk areas of the site. Significant area remains outside the high risk area to the rear of the site.

Figure 4 indicates that the property is affected by low, medium and high risk category land due to its proximity to South Creek at the rear of the site. The low and medium risk area equates to 76.4% of the site; the high risk area is 23.6% of the site to the rear. The fact that the high risk is at the rear of the site offers an opportunity to zone the land Mixed Use because an effective engineering strategy can be developed to ensure vehicle and pedestrian egress can be achieved. Future Mixed Use buildings can be designed to account for low and medium risk flood affected areas including freeboard.

In order to ascertain the implications of this flood affection, a property owner is referred to Council's DCP 2008, Part 1 - General Controls for all Development, Section 9: Flooding Risk. This section applies to potential development on flood prone land. In relation to the three categories of flood risk that apply to the property, the LDCP defines each risk category as follows and contemplates development within the floodplain:

High Flood Risk Category means land below the 1% AEP flood that is either subject to a high hydraulic hazard or where there are significant evacuation difficulties.

Note: The high flood risk Category is where high flood damages potential risk to life evacuation problems would be anticipated or development would significantly and adversely effect flood behaviour. Most development should be restricted in this Category. In this Category there would be a significant risk of flood damages without compliance with flood related building and planning controls.

Medium Flood Risk Category means land below the 1% AEP flood that is not subject to a high hydraulic hazard and where there are no significant evacuation difficulties.

Note: In this Category there would still be a significant risk of flood damage, but these damages can be minimised by the application of appropriate development controls.

Low Flood Risk Category means all other land within the floodplain (i.e. within the extent of the probable maximum flood) but not identified within either the High Flood Risk or the Medium Flood Risk Category.

Note: The Low Flood Risk Category is where the risk of damages is low for most land uses. The Low Flood Risk Category is that area above the 1% AEP flood and most land uses would be permitted within this Category.

4.0 Current LLEP 2008 Provisions Acknowledge Development in the 1:100 Floodplain

Clause 7.8 of the LLEP 2008 contains provisions for development in the floodplain. Clause 7.8 relevantly provides:

7.8 Flood planning

(1) *The objectives of this clause are as follows—*

(a) *to minimise the flood risk to life and property associated with the use of land,*
 (b) *to **allow development on land** that is compatible with the land's flood hazard, taking into account floodplain risk management studies and plans adopted by the Council and projected changes as a result of climate change, including sea level rise and rainfall intensity,*

(c) *to avoid significant adverse impacts, including cumulative impacts, on flood behaviour and the environment.*

(2) *This clause applies to land at or below the flood planning level.*

(3) *Development consent must not be granted to development on land to which this clause applies **unless the consent authority is satisfied that the development—***

(a) *is compatible with the flood hazard of the land, and*

(b) *will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affection of other development or properties, and*

(c) *incorporates appropriate measures to manage risk to life from flood, and*

(d) *will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*



- (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding, and*
(f) is consistent with any relevant floodplain risk management plan adopted by the Council in accordance with the Floodplain Development Manual.
(4) A word or expression used in this clause has the same meaning as it has in the Floodplain Development Manual, unless it is otherwise defined in this Plan.

The existence of Clause 7.8 of LLEP 2008 confirms that development in the flood plain is subject to a merit assessment and is permissible with consent. The LEP already has the relevant provision's built into its legal framework to deal with development within the floodplain.

There is no purpose to the foreshadowed strategic zone unless the zone is for a public purpose. This occurs because the LLEP 2008 already contains the required statutory provisions to allow for a full and proper assessment under Part 4 of the EP and A Act 1979. As stated above any development application for development within the floodplain for any of the permissible uses in the RU4 zone is subject to an assessment under Clause 7.8 which does not serve as a prohibition but rather a facilitative clause for developing in the floodplain.

5.0 Development Control Plans

The following DCP provisions of the LDCP relate to permissible landuse typologies within the RU4 Primary Production Small Lots zone.

It is accepted that development (residential or non-residential) is unsuitable in the high flood risk area particularly given that the rear area is also vegetated. The land could be used for recreation (as listed in the DCP at page 37) and/or concessional development (as listed in the DCP page 38) could be permitted.

The focus is the medium and low flood risk areas where residential, commercial, industrial, tourist related development could be permitted subject to the minimum floor levels, flood compatible building components, structural soundness. Based on the DCP provisions there is no reason why the low and medium flood affected land could not be redeveloped (Refer to Figure 5 at page 39, Table 2 at page 41 and Table 5 at page 44). Each would be subject to Engineer's reports with a future development application dealing the flood impact and certifying the development provides suitable flood response.

6.0 Bushfire Prone Land

The property is also mapped as partly bushfire prone, as follows:

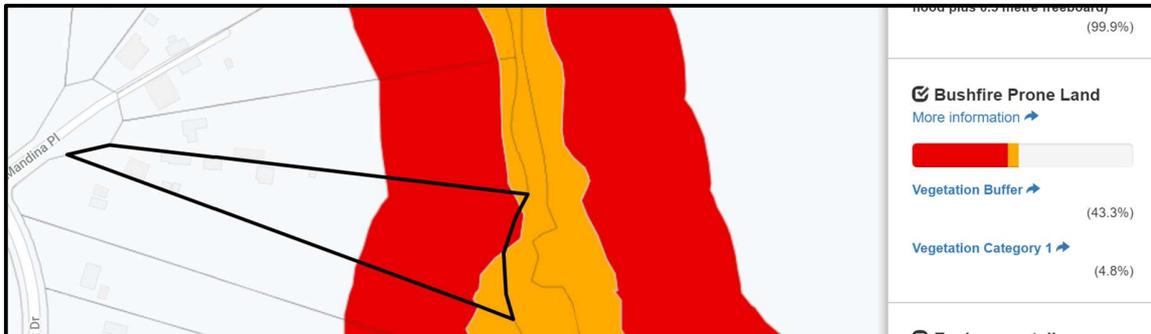


Figure 5: Council's electronic map showing bushfire risk affection of property

The above mapping shows that the higher bushfire risk, when overlapped with the flood risk mapping, is located in the area of high flood risk. The medium and low flood risk area on the property is only a bushfire buffer area and likely to be able to be addressed within any development application. The bushfire risk is a constraint to development, not a prohibition. The bushfire risk would not impact on the use of 76.4 % of the site for mixed use purposes.

The property owner has a reasonable expectation that any development application lodged with Council for any permissible uses in the RU4 zone the above listed landuse, are anticipated as permitted within the RU4 zone, notwithstanding the acknowledged site constraints, as both the LLEP 2008 and the LDCP 2008 anticipates these landuses on the property and provides clear guidelines to applicants of the anticipated requirements for construction and management of the environmentally sensitive land. In this case, that area of the property that is both bushfire prone and high flood risk.

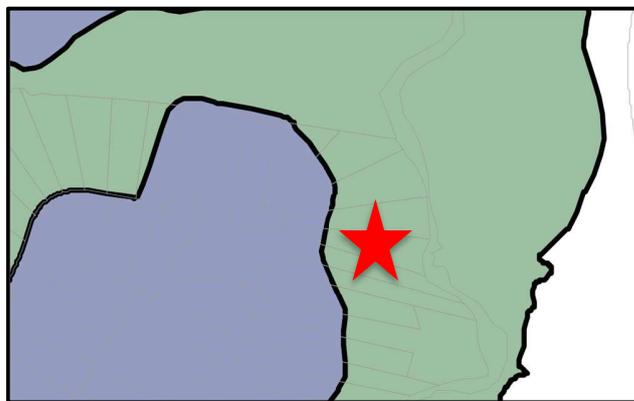
Council's current planning instruments do not currently restrict the landuse on the property. The proposed zone seeks to impose a prohibition to a variety of landuses (both residential and non-residential) including viable business operations on 82 % of the land. The owner accepts the high flood risk is a constraint unlikely to be subject to an engineering solution.

7. Proposed Zoning and Development Guidelines

The new planning instruments proposed to facilitate the development of the Aerotropolis core area propose a very different zoning for the property. This is outlined below.

The proposed SEPP (DRAFT) maps zones the property as follows:





Environment and Recreation Zone
under the draft SEPP (Western
Sydney Aerotropolis) 2019

Mixed use Zone under the draft
SEPP (Western Sydney
Aerotropolis) 2019

The property is therefore zoned part Mixed Use (MU) and part Environment and Recreation (E&R) under the draft SEPP (Western Sydney Aerotropolis) 2019. The Mixed Use zone applies to the front of the site or 18% of the site area. The E&R zone applies to the remainder or 82% of the site.

It appears that the E&R zone has been delineated using the flood risk maps (as above in section 3) from Liverpool Council and the western boundary of the E&R zone coincides with the dividing line of the low flood risk line and medium flood risk line.

The landuse tables applicable to the new landuse zones are as follows:

Mixed Use Zone

1. Objectives:

- *To manage the transition of land from non-urban uses to a range of urban uses.*
- *To encourage the development of well-planned and well-serviced new urban communities in accordance with the Precinct Indicative Layout Plan.*
- *To ensure a range of uses are located in a way that are consistent with the strategic planning for the Western Sydney Aerotropolis.*
- *To safeguard land used for non-urban purposes from development that could prejudice the use of the land for future urban purposes.*
- *To ensure that land adjacent to environmental conservation areas is developed in a way that enhances biodiversity outcomes for the Precinct.*
- *To protect the operations of the Airport, including 24-hour operations, and provide appropriate protections for the community.*



- To ensure there are no sensitive land uses (such as residential, aged care, early education and childcare, educational establishments and hospitals amongst other uses) located within the ANEG 20 and above contours.
- To ensure that land uses up to the ANEG 20 contour are subject to appropriate design and construction standards to reduce any potential for airport noise impacts.

2. Permitted without consent:

Home business, Home occupation, Home-based child care

3. Permitted with consent:

Attached dwelling, Backpackers' accommodation, Boarding house, Business identification sign, Car park, Commercial premises, Community facility, Early education and care facility, Educational Establishment, Electricity generating works, Emergency Services Facility, Entertainment facility, Environmental facility, Environmental protection works, Flood mitigation work, Function centre, General industry, Group home, Health services facilities, Home industry, Hostel, Hotel or motel accommodation, Industrial training facility, Information and education facility, Light industry, Multi dwelling housing, Passenger transport facility, Places of public worship, Public administration building, Pubs, Recreation areas, Recreation facility (indoor), Recreation facility (major), Registered club, Residential care facility, Residential flat building, Respite day care centre, Road, Semi-detached dwelling, Service station, Serviced apartment, Sex services premises, Shop top housing, Storage premises, Telecommunications facility, Vehicle repair station, Veterinary hospital.

4. Prohibited:

Any development not specified in item 2 or 3.

Environment and Recreation Zone

1. Objectives:

- To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.
- To prevent development that could destroy, damage or otherwise have an adverse effect on ecological or recreational values.
- To enable land to be used for public open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To ensure that development is secondary and complementary to the use of land as public open space, and enhances public use, and access to, the open space.
- To encourage, where appropriate key regional pedestrian and cycle connections.

2. Permitted without consent:



Environmental protection works, Flood mitigation work

3. Permitted with consent:

*Environmental facility, Information and education facility, Kiosk, Recreation area
Recreation facilities (outdoor), Water recreation structure, Road*

4. Prohibited:

Any other development not specified in item 2 or 3.

The Draft document also states:

The broad application of the Environment and Recreation Zone will permit both environmental and recreational land uses. However, land that is of high biodiversity value and intended to be preserved for environmental conservation will benefit from additional planning controls in the proposed SEPP which are intended to prevent the clearing of vegetation or broader uses and activities that are not consistent with this object. These areas will be mapped.

The property is located within the Wianamatta-South Creek Precinct.

The Draft SEPP contains Part 4 – Precinct specific controls, Section 4.1 Wianamatta-South Creek the central spine of the Blue-Green Grid and Section 4.2 Wianamatta-South Creek Precinct Boundary and Flood Planning Levels.

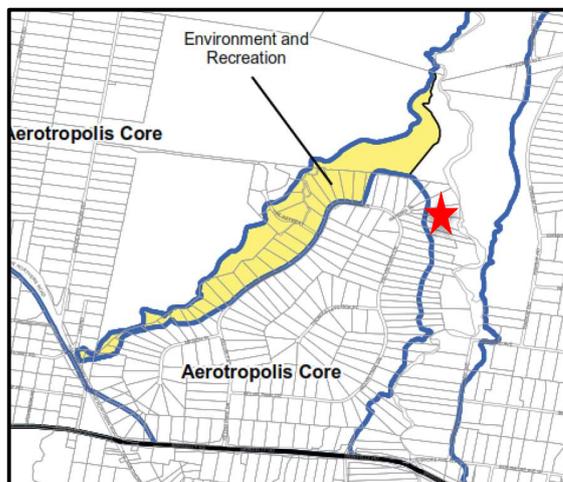
The Draft SEPP encourages development orientated towards waterways as follows:

“Areas of higher density and high-quality public spaces will be orientated towards waterways, making the most of this green infrastructure. This is important to deliver the best amenity and lifestyle for the residents of the Parkland City, challenging the traditional transit-oriented approach to development. An integrated approach to both green and transport related infrastructure is therefore paramount to balance growth with supporting infrastructure, ensuring the Parkland City vision is realised as the region transforms over time. (page 23 of Draft SEPP).”

Based on the above, the 82% of the property that is proposed to be zoned environment and recreation which could potentially be used to provide Mixed Use development. Whilst filling may be required in the moderate flood levels it can be achieved via flood filling studies and modelling. The use of fill in the floodplain has been used in growth centres and this needs to be modelled before any rezoning occurs to determine the most efficient and best use of the land considering the site justopostion to the proposed airport.

The use of a development of the Aerotropolis Core and the residential land releases to come.¹ The subject site has value to the Aerotropolis and should be considered in the same manner as other urban precincts and tested with fill modelling within the 1:100 year flood plain.

Where similar rezoning of land is proposed on the western side of Kelvin Park Drive, the properties are proposed for acquisition in accordance with the following Draft SEPP mapping:



Land Reservation Acquisition
 Environment and Recreation

Figure 6: Draft SEPP map – Land Reservation Acquisition

None of the properties along the eastern side of Kelvin Park Drive and mapped for Land Reservation Acquisition, including No. 2 Mandina Place, and the blocks north of the property, off Mandina Place, which back onto South Creek.

The way that the Wianamatta-South Creek Precinct has been defined in this case is via the Council flood modelling. Although additional precinct planning is proposed, this is to occur post adoption and commencement of the new landuse zoning and therefore any refinement of the zone lines will be highly unlikely. More studies are required before the recreation and environment zone is applied to ensure more efficient use of the floodplain can be achieved via acceptable amounts of filling.

¹ The proposed “Environment and Recreation Zone” is not listed as one of the zones within the *Standard Instrument - Principal Local Environmental Plan* and will therefore sit outside of the standard zonings under the LLEP 2008.



In relation to the environmental aspects of the Wianamatta-South Creek Precinct Section 4.2 (page 24 of the Draft SEPP) states that further precinct planning will investigate the flood extent across the Aerotropolis and inform the water cycle management strategy that will confirm land needed for water detention and treatment. Again, this confirms that further studies are required before any zone change occurs that effectively sterilises land.

6. Submission

It is the property owners submission that current draft planning for their property effectively changes the zoning of their land without sufficient recognition of its current development potential as part of the wider Aerotropolis development area. A full appreciation of the site contribution can only be achieved with detailed fill modelling within the floodplain.

While their property contains a high risk area to the rear there are suitable low and medium flood risk areas which are not absolute prohibition to development for the future. This is demonstrated via Council's own planning guidelines (as outlined in this submission). Up to 76.4% of the land (considerably more than the 18% to be zoned Mixed Use) is low to medium flood risk. Within the Mixed Use zone there are uses which can be subject to an engineering response within the low – medium flood risk area of the site.

The new zoning of the property is part Mixed Use (18%) and part Environment and Recreation (82%), based on the flood affectation of the land. The State Government planning proposes to adopt this line as an absolute cutoff between urban and non-urban landuses on the property. This distinction should not occur on the subject site until such time as more detailed studies are completed regarding fill within the flood plain.

It is the property owners submission that as a worst case outcome the line should be moved to the eastern side of the medium flood risk line, thereby changing the zoning of the land to part Mixed Use (76.4%) and Environment and Recreation (23.6%) of the property. Leaving aside that option the site could remain entirely a Mixed Use zone with no fill permitted in the high risk area to the rear which is vegetated in any event. These specific fill requirements can be determined at the DA stage.

The draft DCP includes Part 4 – Specific Precinct Planning. The draft DCP acknowledges that additional detailed planning is required in the Wianamatta-South Creek Precinct. This section of the DCP is where any additional level of detail could be applied to future development within the medium flood risk section of the property. Such detailed planning may determine a number of options appropriate to use of this land that can integrate between the urban and non-urban land. The issues raised in the DCP for further investigation should be prepared before any zone changes.



The DCP states that future development of the Mixed Use zone should be oriented towards the waterways and open space areas. This section of the property is appropriate to act as transition area between the two. However, this will not be possible should that section of the property be zoned environment and recreation.

At a local subdivision and individual property level the planning strategy is not taking into account the current broad drainage solutions to activate median risk lands. The strategy does not fully appreciate the current investment undertaken by our clients.

The property owner is not mapped as part of the Land Acquisition area and therefore the strategy makes no suitable compensation provisions. The majority of the site is essentially being downzoned as the new zone only permits environment or recreation based uses such as water management, environmental rehabilitation and enhancement, pathways and undefined recreational area uses. Only 18% of the site is afforded an urban zone. Currently 76.4% of the site is viable for residential and commercial uses.

Whilst we accept that a strategic plan will apply to create and support the airport we do not accept that the site is essentially being downzoned without sufficient justification or compensation. The zoning has been determined on the flood mapping by Council which does not indicate the studies undertaken to test fill within the floodplain.

Our clients respectfully requests the following:

1. Mixed Use zone applied to the site;
2. Detailed studies and modelling of the site and the surrounding area testing the provision of fill within the floodplain particularly over medium risk lands to ensure the most appropriate and efficient use of land.
3. That the precinct planning for the Wianamatta-South Creek Precinct include more detailed planning and development guidelines for the future use of the property and others in the immediate vicinity of the property to ensure that useable land within the low to moderate flood risk level is not sterilised. The DCP itself states that precinct planning will further investigate the flood extent across the Aerotropolis.
4. That as a worst case scenario the rear section of the property (i.e. 23%) serve as a transitional area between the Mixed Use (urban) zone and the water course.



Andrew Martin *MPIA*
Principal



