
REPORT OF GENERAL MANAGER

DEVELOPMENT COMMITTEE

TUESDAY, 7 JULY 2009

STRATEGIC PLANNING AND INFRASTRUCTURE

1. Tenure Resolution - Heritage Estates, Worroving Heights

File 1446-10

Purpose of the Report:

To inform Council of the feedback received from the Commonwealth Director of National Parks and the NSW Department of Environment and Climate Change (DECC) regarding the option of government acquisition of the Heritage Estates. These approaches followed the recent refusal of the previously proposed rezoning under the Commonwealth Environment Protection & Biodiversity Conservation (EPBC) Act.

RECOMMENDED that Council advise landowners of the outcome of representations and meet with landowner representatives to discuss possible options.

Options:

1. Do nothing

As previously reported, the do nothing option is not considered to be an appropriate long term solution for all stakeholders. The forthcoming reduction in rates over the affected properties to a nominal amount is likely to mean that the vast majority of properties will stay in private ownership. It is likely that the land will continue to be degraded through trail bike use, unauthorised access, rubbish dumping etc. These impacts will be difficult for Council and the landowners to manage through time.

2. Continue to pursue a joint Government acquisition solution

Neither the NSW nor Commonwealth Governments appear to be enthusiastic about acquiring the land at this point in time. This appears to be due to the area of land, the number of property owners, the potential cost and inconsistency with priorities for expansion of the National Reserve System. An avenue that could be explored further in regard to this option is to seek a staged acquisition program over a number of years.

3. Investigate other options to resolve land tenure

There could be a range of other options to resolve the land tenure and these could include:

- Carry out an indicative assessment using the BioBanking Assessment Methodology of the credits that could be generated by establishing a biobank over the land.
- Write to relevant non-government organisations that could potentially have an interest in acquiring and managing the land for conservation purposes.

There are obvious issues with these two examples and the practicality of other options would need to be assessed as part of any investigations and separately considered by Council and the landowners.

Details/Issue:

Council resolved on 24th March 2009 to:

- a) *Acknowledge the refusal of the Heritage Estates rezoning proposal under the EPBC Act by the Federal Minister for the Environment on 13th March 2009.*
- b) *Urgently seek discussions with the Commonwealth Director of National Parks and the NSW Department of Environment and Climate Change (DECC) to discuss the option of Government acquisition of the Heritage Estates.*

The following is a summary of the outcome of the approaches to the Commonwealth and State Governments in accordance with part (b) of the resolution.

Representations to NSW DECC and Federal National Parks

Council representatives met with Mr Peter Cochrane, Commonwealth Director of National Parks, on 20th March 2009. Council also sought a meeting with the Hon. Carmel Tebbutt MP, the NSW Minister for the Environment, but was advised that the Minister was not available. Council representatives met instead with Ms. Sally Barnes, Deputy Director General of DECC on 20th April 2009, to discuss the possibility of joint government acquisition of the Heritage Estates. Submissions were prepared by Council for these meetings outlining the case for Government acquisition. Copies of the submissions are provided in the Councillors information folder for today's meeting.

- # Following the meetings, the Mayor, Councillor Paul Green sent a letter to Sally Barnes (see Attachment "A"). The General Manager also sent follow-up emails requesting a response. The subsequent responses from Sally Barnes and Peter Cochrane are summarised below.

Sally Barnes, Deputy Director General, DECC:

In a letter dated 11 June 2009, Sally Barnes wrote:

"...the Department is unlikely to be able to fund the acquisition of these properties. Any purchase program of such a large nature would probably need financial support under the National Reserve System. Coastal lands such as those on the Heritage Estate are already well represented in the reserve system and therefore are not a priority under the current program.

If any other avenues arise in the future, I have asked our local manager, Diane Garrod to contact your staff immediately."

Comment - Any prospect of the government acquisition option proceeding would appear to hinge on the willingness of the Commonwealth Government to provide a significant portion of the total funding required.

Peter Cochrane, Federal Director of National Parks, DEWHA:

In an email dated 20 May 2009, Peter Cochrane indicated that the Australian Government's priorities for the acquisition of lands for inclusion in the National Reserve System through the Caring for Our Country program are focussed on regions that have very low levels of protection in reserves, and these are generally in western parts of Queensland, the Northern Territory and northern Western Australia.

Mr Cochrane stated that the priorities of non-government organisations such as Bush Heritage and the Australian Wildlife Conservancy also tend to focus on more remote and untouched regions.

Mr Cochrane went on to indicate that he did not know of any other source of funds within government programs for this type of activity.

It was however indicated that at times there are wealthy individuals with a strong interest in conservation and sometimes in investing in the acquisition of specific properties - these usually work (as donors) through organisations such as Bush Heritage.

Comment - It appears that there is currently little opportunity for Commonwealth funding assistance for acquisition as their priorities lie elsewhere.

It is also understood that there was some discussion between the State and Federal Parks Services before the above responses were provided

Representations to the Federal Opposition's Environment Spokesperson, Greg Hunt MP

The Federal Opposition's spokesperson, Mr Greg Hunt, MP, visited the Heritage Estates on 28 April 2009 with Member for Gilmore, Mrs Joanna Gash, MP. Several Heritage Estates landowners attended as well as members of the Vincentia Ratepayers Association. Mr Hunt indicated that it was unlikely that the EPBC Act decision would or could be overturned if there was a change in government and expressed support for the option of Government acquisition for the purpose of adding to the National Park system.

National Reserve System funding priorities

Funding can be sought under Caring for our Country from the Federal Government to buy land for new reserves. The Federal Government provides up to two-thirds of the cost of purchasing an approved property, which will then be owned and managed as part of the National Reserve System by the partner organisation. The National Reserve System consists of formally recognised parks, reserves and protected areas primarily dedicated to the protection of Australia's biodiversity.

The main priority for funding is the protection of under-represented bioregions with less than 10 per cent protected in the National Reserve System. More than 30% of the bioregion of which the Shoalhaven LGA is part is already represented. Thus acquisition of the Heritage Estates is not consistent with this priority as indicated in the Federal Government response.

However, a secondary priority is to conserve:

- key habitats for nationally listed threatened species or migratory species and/or Ramsar sites or wetlands of national importance
- areas that contribute to whole-of-landscape conservation outcomes, such as places that offer refuge or contribute to the adaptation of biodiversity to changing climate.

The Heritage Estates land would appear to satisfy both of these secondary priorities.

Non-government organisations

It is acknowledged that a number of non-government organisations are active in raising funds to purchase and manage land with significant conservation values. An example is the Nature Conservation Trust of NSW which protects private land of high conservation value in NSW through Revolving Fund and Covenanting programs. Their interest in assisting with the acquisition of Heritage Estates is however unknown.

Economic, Social & Environmental (ESD) Consideration:

There appears to be a general consensus that adding the land to the National Park system would provide a range of ESD benefits over the 'do nothing option'. It would resolve the land tenure issue, provide closure for the landowners, and ensure that the land's environmental values are conserved and enhanced for the benefit of the broader community into the future

Financial Considerations:

The reduction of rates on the Heritage Estates properties to an average of \$50 per annum (previously \$383 + special rates if within the investigation area) reduces the immediate financial impacts on the landowners of the land tenure not being resolved.

11 May 2009

Sally Barnes
Deputy Director of NSW Department of Environment & Climate Change
Department of Environment & Climate Change NSW
PO Box A290
SYDNEY SOUTH NSW 1232

Dear Sally

Heritage Estates, Worroving Heights - resolution of land tenure

Thank you for meeting me on 20 April 2009 to discuss this matter. As stated at the meeting, Council is requesting that the NSW Government and the Federal Government acquire the Heritage Estates for addition to the National Park system. This would ensure the protection of the land's biodiversity values and strengthen linkages between the Jervis Bay National Park and the Booderee National Park. The purpose of this letter is to seek your advice on the likelihood of the NSW Government providing assistance in this matter.

Further to our discussions, as a result of the Federal Environment Minister's refusal, Council resolved on 6 May 2009 to significantly reduce the level of rates levied on these properties to reduce Council's financial risk. As a result, the majority of the Heritage Estates landowners are likely to continue to pay their rates until such time that the land tenure issue is resolved. As discussed however, while ever the land remains in fragmented ownership, the land is not being managed to protect and enhance its environmental value. Therefore, it is imperative that the issue of land tenure be resolved as soon as possible.

You might recall from our discussions that the option of staged acquisition was suggested as a way of overcoming DECC's budgetary limitations. Has any further consideration been given to this option?

I look forward to receiving your response. If you would like to discuss anything further or to arrange another meeting please contact myself or Ernie Royston Director Strategic Planning on (02) 4429 3470.

Kind regards



Paul Green
Mayor

1446-10 D09/73666