
REPORT OF GENERAL MANAGER

BUDGET WORKING PARTY

TUESDAY, 12 APRIL 2011

STRATEGIC PLANNING AND INFRASTRUCTURE

1. Jerberra & Nebraska Estates - Proposed Special Rate Removal

File 31944E, 33534E, 2653E & 1013E

Purpose of the Report:

To consider removal of rezoning, road design and road construction special rates from properties in Jerberra and Nebraska Estates that now have little prospect of benefitting from the rezoning investigations and also obtain Council's direction on the redistribution of the costs. A separate report has/will be submitted to Council on Verons Estate.

RECOMMENDATION

Recommended that Council

- a) **Remove the rezoning, road design and road construction special rates from the Jerberra and Nebraska Estate properties identified as now having little prospect of benefitting from the rezoning investigations for each Estate; and**
- b) **Redistribute the costs either to the:**
 - i. **Broader rate base in recognition of the broader community benefits of resolving these longstanding contentious issues; or**
 - ii. **Remaining properties within each Estate.**

Community Strategic Plan:

- Objective 2.2 Population and urban settlement growth that is ecologically sustainable, carefully planned and managed to meet the needs of the community.
- Strategy 2.2.1 Develop and implement land use zones and related strategies for future growth of the City, based on principles of connectivity, ecological sustainability, flexibility and accessibility.
- Objective 4.3 A Council that is respected, professional, trustworthy and transparent.
- Strategy 4.3.1 Ensure transparent and accountable fulfilment of Council's charter and functions under the Local Government Act.
- Objective 4.5 A Council that is accountable and sustainable.

Strategy 4.5.1 Manage Council's finances and resources in accordance with the Resourcing Strategy.

Delivery Program:

Activity 1.5.3.2 Implement appropriate land use zones and planning controls that reflect endorsed strategic plans/policies and are responsive to the community's needs.

Activity 2.1.1.16 Recognise environmental constraints identified in small lot rural subdivision rezoning investigations and facilitate outcomes that balance environmental, social and economic outcomes.

Activity 2.2.1.9 Implement the Planning Works Program to complete priority planning and strategy initiatives.

Options and Implications:

Option 1

Remove the Jerberra & Nebraska Estate special rates from the identified properties and redistribute to the remaining properties in each Estate.

Option 2

Remove the Jerberra & Nebraska Estate special rates from the identified properties and redistribute across the broader rate base.

Report Details:

Introduction:

Council's longstanding position on 'paper subdivision' is that if they are to be rezoned to allow residential development, the costs associated with the rezoning process and provision of infrastructure will be borne by the benefitting landowners. The special rates for Jerberra and Nebraska Estates were introduced in 2006/2007 in accordance with this principle.

Special rates are made under section 495 of the *Local Government Act 1993* which states that:

- 1) *A council may make a special rate for or towards meeting the cost of any works, services, facilities or activities provided or undertaken, or proposed to be provided or undertaken, by the council.*
- 2) *The special rate is to be levied on such rateable land in the council's area as, in the council's opinion:*
 - (a) *benefits or will benefit from the works, services, facilities or activities, or*
 - (b) *contributes or will contribute to the need for the works, services, facilities or activities, or*

(c) *has or will have access to the works, services, facilities or activities.*

Prior to introducing the rezoning and road design special rates in 2006/2007, landowners were advised that if any property is found to be unsuitable for rezoning to allow residential development through the investigation process, then the special rate for that land would end in the next financial year.

As a result of the rezoning investigations for Jerberra and Nebraska Estates, certain properties in each Estate are now recognised as being highly constrained and unable to be rezoned to allow development. Thus, the special rates should be removed from these properties, effective from 2011/2012.

To ensure that Council's budget is not impacted by removing the rezoning and road design special rates, these costs need to be distributed either to the remaining benefitting properties in each Estate or the broader rate base.

Background:

Loans taken out by Council to fund rezoning investigations for Jerberra (\$550,000), Nebraska (\$200,000) and Verons Estates (\$150,000) are being repaid by landowners in each Estate via special rates. An equivalent arrangement is also in place for each Estate for road design. The rezoning and road design special rates were introduced in 2006/2007 and will cease after 2015/2016. As such, 2011/2012 will be the sixth year of the 10 year repayment program.

Projections were made in the 2006/2007 Management Plan to borrow \$3.515 million in 2008/2009 to undertake interim road construction in Jerberra, Nebraska and Verons Estates and repay this loan over 10 years via a road construction special rate. However, on 22 April 2008, Council resolved not to borrow any funds for road construction. Relatively smaller road construction special rates were introduced in 2008/2009. Monies raised from these road construction rates provide a relatively small, but ongoing annual road construction budget for an undefined period. The annual road construction budget for each Estate is small compared to the expected costs to complete the roads to the required standard and the current arrangement will need to be reviewed when the rezoning process nears a conclusion for each Estate to enable completion of the roads and development to occur as soon as possible after the land is rezoned.

Previous Considerations of Special Rate Removal from Jerberra and Nebraska Estate

On 13 April 2010, Council resolved to:

- a) *In order to expedite the rezoning process for land that may have development potential, accept that land identified as either "high level constraint" in the biodiversity constraints map prepared by BES (Attachment "A") and/or subject to flooding in a 1 in 100 year event as shown in the 2006 flood modelling (Attachment "B") is unsuitable for rezoning to allow residential development.*
- b) *Subject to the above, consider removal of special rate and road construction charges on properties that have little prospect of supporting development as part of the 2010/11 Management Plan.*

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- c) *Proceed with the next stage of the rezoning investigations generally based on the potential development footprint supported by DECCW but:
 - i. *Investigate where the buffers to the threatened vegetation can be reduced to possibly accommodate additional development and minimise impacts through appropriate measures;*
 - ii. *Investigate the possibility of incorporating some limited rural residential development between Pelican Road and Nebraska Road, as identified on the map provided in Attachment 2 “C”; and*
 - iii. *Review ii. (above) when further information comes to hand on the status of the orchid *Speculantha ventricosa*.**
 - d) *Continue to investigate options for resolving the tenure of any land that cannot support further development.*
 - e) (Refer to [MIN10.376](#).)

A report was subsequently considered by Council on [18 May 2010](#) which recommended the removal of special rates from certain properties in Jerberra and Nebraska Estates deemed to have little prospect of being rezoned to support development. Council resolved to:

- a) *Remove the special rates from the properties in Nebraska & Jerberra Estates as listed in this report from 1 July 2010.*
- b) *Determine to spread the shortfall of special rates across the remaining properties within the respective estates and undertake appropriate consultation with affected landowners.*
- c) *Review the lists of properties which have little prospect of being rezoned to enable development in Nebraska, Jerberra and Verons Estates in conjunction with subsequent Draft Operational Plans. (Refer to [MIN10.608](#).)*

However, a letter dated 31 May 2010 was then received from the NSW Government in relation to Jerberra Estate which stated that Council should “...*refocus its investigations for rural residential development outside the area with significant environmental values but with the aim of providing a return for all lots...*” [emphasis added] and that “*Community title and biocertification could provide lands with no development potential (i.e. those lands with significant environmental values), with a return when linked to development of the remaining lands, albeit in a new subdivision pattern.*”

Given the specific request by the State Government, on 29 June 2010, Council resolved to retain the special rates on all properties in Jerberra and Nebraska Estates for 2010/2011 and to:

- b) *Expedite investigations into the feasibility of community title and/or biocertification options suggested by the NSW Government;*
- c) *Review the Special Rates for subsequent financial years in light of b);*

A considerable amount of effort has gone into investigating the feasibility of options which could potentially benefit all landowners in Jerberra Estate. As reported to Council on [17 January 2011](#), the survey of Jerberra Estate landowners found that there was very little support for land pooling and community title re-subdivision. Thus, on 1 February 2011, Council resolved that it:

- a) *Acknowledges that there appears to be insufficient support from landowners for “Option B - Land Pooling/Community Title re-subdivision”;*
- b) ...
- c) *Considers the removal of the special rates from those properties identified as having little prospect of supporting development, from 2011/2012 onwards.*

Review of Feasibility of Land Pooling and Re-subdivision Options for Nebraska Estate

Land pooling and re-subdivision were discussed with the Nebraska Estate landowners (23) that attended a workshop on the rezoning investigations on 13 March 2010.

Comments made by several of those landowners indicated it would be difficult to get sufficient landowner support to enable land pooling and re-subdivision (refer to details in [Development Committee](#) report dated 6 April 2010). Had there been a higher level of support for land pooling among Jerberra landowners, it would have been considered appropriate to undertake a similar consultation process with the Nebraska landowners. The Jerberra Estate experience suggests that land pooling and re-subdivision of Nebraska Estate is highly unlikely as it will not be supported by landowners.

Update on Nebraska Estate Rezoning Investigations

One of the main constraints affecting the north-east part of Nebraska Estate is the orchid previously known as *Speculantha ventricosa*. When reported to Council in April 2010 it was understood that this orchid had been nominated to the NSW Scientific Committee for listing on the NSW Threatened Species Conservation Act. Any change in the status of the orchid would require the development potential of the north-east part of the Estate to be reviewed.

As reported to Council on [7 December 2010](#), this orchid (now known as *Pterostylis ventricosa*) has been formally nominated as ‘critically endangered’ by the NSW Scientific Committee. A submission to the Scientific Committee by Council suggested that this orchid is likely to have a broader distribution than is currently known. Nevertheless, the formal nomination of this orchid ‘critically endangered’ confirms that the north-east part of the Estate has limited development potential at most, as resolved by Council on 13 April 2010.

Given the circumstances it is proposed to proceed to remove the special rates from the Nebraska Estate properties as was originally proposed under Council’s resolution on 18 May 2010 which followed Council’s resolution on 13 April 2010 ([MIN10.376](#)).

Key Issues:

The properties identified for special rate removal within Nebraska Estate are shown in Table 1. This has not changed from the report to Council on 18 May 2010.

Table 1 - Nebraska Estate properties identified for special rate removal for 2011/2012

Rate Assessment No.	Property Description	Property Address
106767400	Lot 2 DP 722549	Fisherman Rd, ST GEORGES BASIN
106768000	Lots 6-7 Section J DP 9699	27 Fisherman Rd, ST GEORGES BASIN
106768100	Lots 8-9 Section J DP 9699	31 Fisherman Rd, ST GEORGES BASIN
106768200	Lot 10 Section J DP 9699	35 Fisherman Rd, ST GEORGES BASIN
106768300	Lot 1 DP 777950	195 The Wool Rd, ST GEORGES BASIN
108413200	Lot 16 Section B DP 9699	Nebraska Rd, ST GEORGES BASIN
108413400	Lot 2 Section C DP 9699	Nebraska Rd, ST GEORGES BASIN
108413500	Lot 3 Section DP 9699	Nebraska Rd, ST GEORGES BASIN
108413900	Lots 8-13 Section C DP 9699	Nebraska Rd, ST GEORGES BASIN
108414000	Lot 1 Section D DP 9699	Nebraska Rd, ST GEORGES BASIN
108414100	Lot 2 Section D DP 9699	Nebraska Rd, ST GEORGES BASIN
108414200	Lot 3 Section D DP 9699	Nebraska Rd, ST GEORGES BASIN
108730100	Lots 14-15 Section B DP 9699	Pelican Rd, ST GEORGES BASIN
108730500	Lot 4 Section D DP 9699	Pelican Rd, ST GEORGES BASIN
108730600	Lot 5 Section D DP 9699	Pelican Rd, ST GEORGES BASIN
108730700	Lot 6 Section D DP 9699	Pelican Rd, ST GEORGES BASIN
108731500	Lot 18 Section D DP 9699	Pelican Rd, ST GEORGES BASIN
108731700	Lots 3-5 Section F DP 9699	Pelican Rd, ST GEORGES BASIN
110273300	Lot 8 Section B DP 9699	15 Waterpark Rd, ST GEORGES BASIN
110273400	Lot 9 Section B DP 9699	17 Waterpark Rd, ST GEORGES BASIN
110273500	Lot 10 Section B DP 9699	19 Waterpark Rd, ST GEORGES BASIN
110273600	Lots 6-8 Section F DP 9699	21 Waterpark Rd, ST GEORGES BASIN
343555100	Lots 1-2 Section F & Lots 19-20 Section D DP 9699	Pelican Rd, ST GEORGES BASIN

The list of Jerberra Estate properties recommended for special rate removal is shown in Table 2.

Table 2 - Jerberra Estate properties identified for special rate removal

Rate Assessment No.	Property Description	Property Address
108784900	Lots 1-11 DP 1088096	Pine Forest Rd, TOMERONG
107322400	Lot 36 DP 11629	Inglewood Cres, TOMERONG
107322500	Lot 35 DP 11629	Inglewood Cres, TOMERONG
107322600	Lot 34 DP 11629	Inglewood Cres, TOMERONG
107322700	Lot 33 DP 11629	Inglewood Cres, TOMERONG
107322800	Lot 32 DP 11629	Inglewood Cres, TOMERONG
107322900	Lot 31 DP 11629	Inglewood Cres, TOMERONG
107326000	Lot 150 DP 11629	Inglewood Cres, TOMERONG
107326100	Lot 151 DP 11629	Inglewood Cres, TOMERONG
107326200	Lot 152 DP 11629	Inglewood Cres, TOMERONG
107326300	Lot 153 DP 11629	Inglewood Cres, TOMERONG
107326400	Lot 154 DP 11629	Inglewood Cres, TOMERONG
107326500	Lot 155 DP 11629	Inglewood Cres, TOMERONG
107326700	Lot 157 DP 11629	Inglewood Cres, TOMERONG
107326800	Lot 158 DP 11629	Inglewood Cres, TOMERONG

107326900	Lot 159 DP 11629	Inglewood Cres, TOMERONG
107327000	Lot 160 DP 11629	Inglewood Cres, TOMERONG
107327100	Lot 161 DP 11629	Inglewood Cres, TOMERONG
107331900	Lot 63 DP 11629	Invermay Ave, TOMERONG
107332000	Lot 64 DP 11629	Invermay Ave, TOMERONG
107332100	Lot 65 DP 11629	Invermay Ave, TOMERONG
107436800	Lot 23 DP 11629	Jerberra Rd, TOMERONG

This list has been revised downward slightly from the 2010 property list to reflect the proposal being prepared following Council's resolution on [1 February 2011](#).

Resourcing Implications - Financial, Assets, Workforce:

To avoid any financial impact on Council, if the special rates currently levied on the properties listed above are removed from 2011/2012 onwards, the costs need to be distributed either to the remaining properties in each Estate or to the broader rate base.

This would have the following impact upon rates on the remaining properties within the following Estates.

Jerberra Estate - Special Rates

Jerberra Estate currently consists of 138 rateable assessments contributing to the rezoning, road design and road construction special rates. Of these 138 assessments, there are currently 22 assessments which have been identified as not receiving any real perceived benefit. If these 22 assessments were to be removed from paying the special rates for 2011-2012 then the following impact on rates for the remaining properties would occur.

Spread Across the Remaining Properties in Jerberra Estate

New Special Rate payable on average	\$ 963.57
Current Special Rate payable on average	\$ <u>817.70</u>
Increase	\$ <u>145.87</u> per assessment

Across the Broader Rating Base

If the balance of the special rate was not absorbed by the remaining eligible properties within the Jerberra Estate and spread over the broader rating base then rates would increase on average by around **\$0.31c per rating assessment**.

Nebraska Estate - Special Rates

Nebraska Estate currently consists of 49 rateable assessments contributing to the rezoning, road design and road construction special rates. Of these 49 assessments, there are currently 23 assessments which have been identified as not receiving any real perceived benefit. If these 23 assessments were to be removed from paying the special rates for 2011-2012 then the following options would need to be considered to cover the funding shortfall.

Spread Across the Remaining Properties in Nebraska Estate

New Special Rate payable on average	\$ 1,771.03
Current Special Rate payable on average	\$ <u>939.73</u>
Increase	\$ <u>831.30</u> per assessment

Across the Broader Rating Base

If the balance of the special rate was not absorbed by the remaining eligible properties within the Nebraska Estate and spread over the broader rating base then rates would increase on average by around **\$0.89c per rating assessment**.

Community, Environment (ESD), Economic and Governance Impact:

A key question for the special rate redistribution options is who will derive a benefit from the zoning outcomes? If the broader community is going to benefit from the identification of properties that are highly constrained by threatened species issues and therefore unsuitable for development, redistribution of special rates from those particular properties to the broader rate base is justifiable.

Conversely, if there is no tangible broader benefit and the remaining properties (i.e. those with development potential) are the only beneficiary of the rezoning investigations, it would be difficult to justify the redistribution of the special rates to the broader community.

Conclusion:

The properties listed in this report have been found to be highly constrained by threatened species and as a result are likely to be rezoned to 'Environmental Conservation'. It is reasonable to conclude that not rezoning these properties for development would benefit the area's biodiversity in the long term, suggesting that it is appropriate to spread the rezoning and road design special rates currently levied on the properties listed in this report to the broader rate base from 2011/2012 to 2015/2016. This however should be reviewed annually to reflect anticipated planning outcomes from the rezoning investigations.

If Councillors wish to be briefed on this matter before formally adopting a position, staff will attempt to schedule a briefing prior to the Ordinary meeting on 19 April 2011, so that the matter is not delayed further.