
ADDENDUM REPORT OF GENERAL MANAGER

COUNCIL PROPERTY STEERING COMMITTEE

WEDNESDAY, 4 MAY 2011

STRATEGIC PLANNING AND INFRASTRUCTURE

1. Heritage Estates – Possible Caring for Our Country Grant Application File 1446E

Purpose of the Report:

To obtain Council's direction to prepare a funding application under the Australian Government's 'Caring for Our Country' program, to acquire the Heritage Estates, Worroving Heights, for addition to the National Park system.

RECOMMENDATION

Recommended that Council:

- a) **Prepare and submit an application for funding under the Australian Government's 'Caring for Our Country' program, to acquire the Heritage Estates, Worroving Heights, for addition to the National Park system, in partnership with the NSW National Parks & Wildlife Service and any other bodies such as the Foundation for National Parks & Wildlife by the deadline of 30 May 2011.**
- b) **Acknowledge that if successful the Australian Government would fund a maximum of two-thirds of the purchase price; and**
 - i. **that Council contribute its land, as part of the acquisition package subject to creation of easements to accommodate infrastructure;**
 - ii. **seek a contribution from the NSW Government.**
- c) **Write to both Joanna Gash MP, Federal Member for Gilmore and Shelley Hancock MP, State Member for South Coast seeking letters of support to submit with the funding application.**

Community Strategic Plan:

Objective: 2.1 A city that protects, values and cares for the Shoalhaven Environment.

Strategy: 2.1.1 Ensure that the ecological and biological environments of the Shoalhaven are protected and valued through careful management.

Delivery Program:

Activity: 2.1.1.14 Facilitate resolution of land tenure of the Heritage Estates Small Lot Rural Subdivision to ensure protection of its biodiversity values.

Options and Implications:

Option 1:

Prepare and submit an application for funding under the 'Caring for Our Country' program to acquire the Heritage Estates for addition to the National Park system.

Implications

- This option is consistent with previous Council resolutions to resolve the tenure of the Heritage Estates and to contribute Council's land to any Government acquisition arrangement (MIN09.1835).
- While the proposal has merit, the funding request is not aided by the fact that the land is not located in an under-represented bioregion and is held by more than 1000 landowners.
- Should the funding application be successful, significant staff resources may be required to manage the acquisition process, unless NSW National Parks or another appropriate party are prepared to take on this role.
- Any proposal to dispose of Council land at less than market value will be conditional on community consultation in accordance with the Disposal of Council Land Policy.

Option 2:

Maintain the status quo and not prepare an application for funding under the 'Caring for Our Country' program to add the Heritage Estates to the National Park system.

Implications

There is no other available funding option at present. Previous representations have indicated that this program is available for this type of acquisition, short of a one-off funding allocation from the Commonwealth Government. Without intervention, the land will remain in fragmented private ownership and its significant natural values will continue to diminish over time despite Council's best efforts to manage the situation. Ongoing problems such as illegal dumping, degradation caused by trail bike and 4WD activity, firewood collection etc. absorb a significant level of Council resources and are relatively ineffective due to the private tenure of the many allotments. There is also considerable community and landowner interest in seeing this longstanding issue finally resolved.

Report Details:

Introduction:

The Federal Environment Minister refused the Heritage Estates rezoning proposal on 13 March 2009 under the *Environment Protection & Biodiversity Conservation Act 1999* (EPBC Act). Consequently on 24 March 2009, Council resolved to lobby to have the land acquired by the State and/or Federal Government for addition to the National Park system.

Representations were made to the Federal Director of National Parks; and the Deputy Director General of the NSW Department of Environment, Climate Change and Water

(DECCW). The responses received suggested that neither the NSW nor Federal Governments were prepared to commit to Government acquisition, leaving the future of the land uncertain. As a result, Council resolved on 14 July 2009 to:

- b) Again make further strenuous representations to relevant State and Federal Ministers pointing out that the property owners in the Heritage Estates, Worroving Heights, are being treated unfairly and being denied natural justice by not having the provision of compensation.*

Since then, numerous submissions have been made both the Commonwealth and NSW Governments. In summary the NSW Government's position has been that while it recognises the ecological importance of the land, it does not have the financial capacity to acquire the land without significant financial assistance from the Commonwealth Government.

The Commonwealth Government's position has, until recently, been that due to inconsistency with national funding priorities, it is unlikely to be able to contribute funding to add the land to the National Reserve System (NRS). However, as outlined later in this report, additional priorities have been introduced into the funding program, providing increased flexibility.

A report on a possible voluntary land donation / tax incentive scheme was considered by Council and it was resolved on 24 November 2009, that:

- a) Council in principle support an offer to contribute Council's land (lots and roads) to any Government acquisition arrangement (including voluntary land donation/tax incentive scheme) for the Heritage Estates;*
- b) Indicate that Council is willing to enter into a partnership agreement with FNPW and DECCW to make a joint submission to the Federal Government for funding and support the voluntary land donation scheme;*
- c) Council not support the waiver of outstanding rates; and*
- d) Community consultation take place in accordance with Council policy on land disposal.*

NSW DECCW subsequently indicated that they could not support a voluntary land donation / tax incentive scheme if only a portion of landowners were willing to participate due to the practicalities of managing a 'checkerboard' area of land.

Key Issues:

The Commonwealth Government invests in the National Reserve System (NRS) through 'Caring for our Country' program. Organisations can apply for funding to help buy land for new conservation reserves. The Government provides up to two-thirds of the purchase price for a property and the partner organisation/s contribute the rest. The partner (government, conservation organisation or community group) then owns the property and manages it for long term nature conservation.

Previously the Business Plan for the NRS program effectively precluded an application for the purchase of Heritage Estates due to the fact that 37% of the Sydney Basin bioregion is already represented in the NRS. Priority is given to bioregions with less than 10% representation.

The revised Business Plan includes additional considerations including proposals which demonstrate that the resilience and ecological connectivity within the landscape can be improved. This change reflects the recommendations of a report by the House of Representatives in 2009 titled: *Managing our coastal zone in a changing climate*. The report recommended that the Government seek to address loss of coastal habitat as a result of coastal development and population pressures.

Nevertheless, the key priority is still to increase representation in bioregions where less than 10% is currently protected in the NRS. The importance of this factor in determining funding under this round of the program will ultimately depend on the number and quality of applications in under-represented bioregions.

Applications are due on 30 May 2011.

As stated, the NRS will fund up to two-thirds of the acquisition price of successful applications. The remaining one-third must come from Council, the State Government or private sources. Council and/or the NSW Government are likely to need to contribute at least one-third of the cost. In this regard Council can use its land within the Estates and its vicinity as part of its contribution. Other methods of contributing toward funding are being discussed with relevant parties.

The Heritage Estates has a total area of approximately 180 ha including road reserves and the St Georges Avenue Reserve (11.7 ha) on the eastern side of the Worroing Waterway. Council currently owns approximately 51.6 ha (34.47 ha as road reserves and 17 ha in lots or other land) of land within the Heritage Estates, or approximately 28% of the total land area. Discussions are being held with NSW NPWS staff to also determine whether the possible contribution of the Crown reserve that runs along the Worroing Waterway is feasible. Also, some land on the western side of The Wool Road which has approved development, including the Greek Orthodox Church site, would obviously not be included for acquisition.

A significant consideration should we proceed down this path is the implementation timeframe. Compulsory acquisition of more than 1000 properties would take several years. A voluntary acquisition process could occur in a shorter period, but only a proportion of landowners would be willing to voluntarily sell their land for an amount based on current valuations. As such working with the landowners to ensure that acquisition occurs in a timely manner will be a challenge.

The possibility of a reverse tender process has been discussed and is being further investigated. This may offer significant advantages in setting a defined timeframe as well as allowing consideration of tenders and resultant land aggregation patterns to be assessed when tenders were received.

Comments

The percentage of landowners that would readily agree to sell their land for the current Valuer General's (VG's) valuation is unknown at this point in time. Furthermore, given the decline in sales activity and prices since the EPBC decision was handed down in 2009, it is likely that the 2011 valuations will be lower than the current 2008 valuations.

Preliminary discussions indicate that the NSW National Parks and Wildlife Service (NPWS) is willing to prepare a joint application, but at the time of preparing this report, the details have not been discussed. There are several issues that need to be considered, including:

- How to acquire the land, given the number of landowners, within 12 months as stipulated in the NRS funding guidelines.
- The method of acquisition including whether it would be voluntary (such as reverse tender) or compulsory. Refer to comments above.
- The respective roles of NPWS and Council in the acquisition process.
- Whether the State Government and/or NPWS is willing/able to make a financial contribution to acquire the land. Comment: A possible source of State funding is the NSW Environmental Trust program. The possibility of a funding submission under this program has also been raised with NPWS.

Acquisition Cost

Based on 2008 land valuations, the total land value (excluding Council's land) is approximately \$13.4M. As indicated above, the next valuations are expected to be lower and these are expected in October 2011.

Resourcing Implications – Financial, Assets, Workforce:

Staff resources will be required to work on the application. If the application is successful, depending on arrangements made with NPWS, significant resources may be required over an extended period to manage the acquisition process.

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

Acquisition of the Heritage Estates would have a number of significant social and environmental benefits and resolve a longstanding issue. Its addition into the National Park Estate would effectively link the northern and southern portions of Jervis Bay National Park and Booderee National Park to the regional network of protected areas. The Heritage Estates is considered to be strategically important for the long term ecological viability of the southern peninsula of Jervis Bay (which includes Booderee National Park and part of the Jervis Bay National Park). Acquisition would also give closure to the landowners. However, their attitude to acquisition and their reasonable attitude to its likely value will be a key to its success.

Conclusion:

Given the strategic importance of the Heritage Estates to the area's biodiversity; and its proximity to Booderee National Park and Jervis Bay National Park, a whole-of-Government approach is required to resolve the tenure of the Heritage Estates. To be eligible for NRS funding under 'Caring for Our Country' program, Council would need to be willing to offer its land as part of an overall solution. If the financial aspects of the funding guidelines can be satisfied, the application will need to address how it is proposed to acquire the land within a fixed time frame. These details will be discussed with NPWS.

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