

SHOALHAVEN CITY COUNCIL
D E V E L O P M E N T C O M M I T T E E

To be held on Tuesday, 1 March, 2016
Commencing at 4.00 pm.

24 February, 2016

Councillors,

NOTICE OF MEETING

You are hereby requested to attend a meeting of the Development Committee of the Council of the City of Shoalhaven, **to be held in the Council Chambers, City Administrative Centre, Bridge Road, Nowra on Tuesday, 1 March, 2016 commencing at 4.00 pm** for consideration of the following business.

R D Pigg
General Manager

Membership (Quorum – 5)

Clr White (Chairperson)
All Councillors
General Manager or nominee

BUSINESS OF MEETING

- 1. Apologies**
- 2. Adoption of Minutes of Previous Meeting**
- 3. Declarations of Interest**
- 4. Mayoral Minutes**
- 5. Deputations**
- 6. Report of the General Manager**
 Planning and Development
- 7. Notices of Motion**
- 8. Addendum Reports**
- 9. Confidential Report of the General Manager**
 Planning and Development

Delegation:

Pursuant to s377 (1) of the Local Government Act 1993 the Committee is delegated the functions conferred on Council by the Environmental Planning & Assessment Act 1979 (EPA Act), Local Government Act 1993 (LG Act) or any other Act or delegated to Council, as are specified in the attached Schedule, subject to the following limitations:

- i. The Committee cannot make a decision to make a local environmental plan to classify or reclassify public land under Division 1 of Part 2 of Chapter 6 of the LG Act;
- ii. The Committee cannot review a s82A or s96AB EPA Act determination made by the Council or by the Committee itself;
- iii. The Committee cannot exercise any function delegated to the Council which by the terms

- of that delegation cannot be sub-delegated;
- iv. The Committee cannot exercise any function which s377(1) of the LG Act provides cannot be delegated by Council; and
 - v. The Committee cannot exercise a function which is expressly required by the LG Act or any other Act to be exercised by resolution of the Council.

Schedule

1. All functions relating to the preparation, making, and review of local environmental plans (LEPs) and development control plans (DCPs) under Part 3 of the EPA Act.
2. All functions relating to the preparation, making, and review of contributions plans and the preparation, entry into, and review of voluntary planning agreements under Part 4 of the EPA Act.
3. The preparation, adoption, and review of policies and strategies of the Council in respect of town planning and environmental matters and the variation of such policies.
4. Determination of variations to development standards related to development applications under the EPA Act where the development application involves a development which breaches a development standard by more than 10% and the application is accompanied by a request to vary the development standard under clause 4.6 of Shoalhaven Local Environmental Plan 2014 or an objection to the application of the development standard under State Environmental Planning Policy No. 1 – Development Standards.
5. Determination of variations from the acceptable solutions and/or other numerical standards contained within the DCP or a Council Policy that the General Manager requires to be determined by the Committee
6. Determination of development applications that Council requires to be determined by the Committee on a case by case basis.
7. Review of all determinations of development applications under sections 82A and 96AB of the EP&A Act.
8. Preparation, review, and adoption of policies and guidelines in respect of the determination of development applications by other delegates of the Council.

Note: The attention of Councillors is drawn to the resolution MIN08.907 which states:

- a) That in any circumstances where a DA is called-in by Council for determination, then as a matter of policy, Council include its reasons for doing so in the resolution.
- b) That Council adopt as policy, that Councillor voting in Development Committee meeting be recorded in the minutes.
- c) That Council adopt as policy that it will record the reasons for decisions involving applications for significant variations to Council policies, DCP's or other development standards, whether the decision is either approval of the variation or refusal.

Note: The attention of Councillors is drawn to Section 451 of the Local Government Act and Regulations and Code of Conduct regarding the requirements to declare pecuniary and non-pecuniary Interest in matters before Council.

Cell Phones:

Council's Code of Meeting Practice states that "All cell phones are to be turned off for the duration of the meeting".

LOCAL GOVERNMENT ACT 1993

Chapter 3

Section 8(1) - The Council's Charter

(1) The council has the following charter:

- to provide directly or on behalf of other levels of government, after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively
- to exercise community leadership
- to exercise its functions in a manner that is consistent with and actively promotes the principles of multiculturalism
- to promote and to provide and plan for the needs of children
- to properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development
- to have regard to the long term and cumulative effects of its decisions
- to bear in mind that it is the custodian and trustee of public assets and to effectively account for and manage the assets for which it is responsible
- to facilitate the involvement of councillors, members of the public, users of facilities and services and council staff in the development, improvement and co-ordination of local government
- to raise funds for local purposes by the fair imposition of rates, charges and fees, by income earned from investments and, when appropriate, by borrowings and grants
- to keep the local community and the State government (and through it, the wider community) informed about its activities
- to ensure that, in the exercise of its regulatory functions, it acts consistently and without bias, particularly where an activity of the council is affected
- to be a responsible employer.

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MINUTES OF THE DEVELOPMENT COMMITTEE MEETING HELD ON TUESDAY, 2 FEBRUARY 2016 IN THE COUNCIL CHAMBERS, CITY ADMINISTRATIVE CENTRE, BRIDGE ROAD, NOWRA COMMENCING AT 4.00 PM

The following members were present:

Clr White - Chairperson
Clr Gash
Clr Tribe – arrived 4.03pm
Clr Robertson
Clr Kearney
Clr Anstiss
Clr Wells
Clr Baptist
Clr Findley – Arrived 4.01pm
Clr Guile – Arrived 4.40pm
Clr Watson
Clr Kitchener
Russ Pigg – General Manager

1. Confirmation of the Minutes of the Development Committee meeting held on Monday 18 January 2016
-

MOTION: Moved: Robertson / Second: Baptist

(MIN16.80) RESOLVED that the Minutes of the Development Committee meeting held on Monday 18 January 2016 be confirmed.

CARRIED

2. Declarations of Interest
-

Conflict of Interest Declaration – Clr Tribe – Pecuniary Interest – Item 3 Bayswood Vincentia Coastal Village – She owns land in the Bayswood Vincentia Estate – will leave the room, will not take part in discussion or vote.

REPORT OF GENERAL MANAGER

PLANNING AND DEVELOPMENT

3. The Halloran Trust Planning Proposal (PP008) - Gateway Determination Outcome
File 49256e (PDR)
-

Note: Clr Findley arrived 4.01pm.

MOTION: Moved: Baptist / Second: Gash

(MIN16.81) RESOLVED that in accordance with the Committee's delegated authority from Council that:

- a) The report on The Halloran Trust Planning Proposal (PP008), Gateway Determination Outcome be received for information; and
- b) Council note and acknowledge the proposed Terms of Reference and Membership of the Project Control Group (Attachment "B") that will support the Planning Proposal process

CARRIED

FOR: Robertson, Kearney, Anstiss, White, Wells, Baptist, Findley, Watson, Kitchener, Gash, Russ Pigg.

AGAINST: Nil.

4. NSW Local Development Performance Monitoring Report for 2014-2015: DA Processing Times File 36637E
-

MOTION: Moved: Wells / Second: Baptist

(MIN16.82) RESOLVED that in accordance with the Committee's delegation from Council, that this report regarding NSW Local Development Performance Monitoring 2014-2015: DA Processing Times be received for information.

CARRIED

5. Bayswood Vincentia Coastal Village File SF9786-12 (PDR)
-

Note: Clr Tribe arrived – 4.03pm and left immediately.

Conflict of Interest Declaration – Clr Tribe – Pecuniary Interest – she owns land in the Bayswood Vincentia Estate - left the room, did not take part in discussion or vote.

Note: Clr Guile arrived – 4.40pm

MOTION: Moved: White / Second: Baptist

(MIN16.83) RESOLVED that in accordance with the Committee's delegated authority from Council that:

- a) The Development Committee receive the report regarding the Bayswood Vincentia Coastal Village for information; and
 - b) Council seek immediate repair to the existing cycleway between the Bayswood Village and Bay and Basin Leisure Centre at an acceptable standard, and that the construction method used for the repairs be resistant to sheet and channel erosion.
 - c) Issues associated with the park / detention basins be pursued with the original applicant and the current owner in a manner which will be preliminary to legal action
-

taken if necessary to obtain compliance with the agreed conditions and conditions of consent.

- d) Council consider including the all-weather concrete constructed cycleway in the 2016-17 works program.
- e) Council consider allocating funds in the 2016/17 budget for the works.
- f) That it be noted that Council is negotiating with the State Government in relation to compliance with the conditions applied in the consent determined by the State Government.

CARRIED

FOR: Robertson, Kearney, Anstiss, White, Wells, Baptist, Findley, Guile, Watson, Kitchener, Gash, Russ Pigg.

AGAINST: Nil.

GENERAL BUSINESS

6. Procedural Motion - Introduction of Item as a Matter of Urgency

Note: Clr Tribe returned to the meeting 4.45pm.

MOTION:

Moved: Kearney / Second: Gash

That the matter of the provision of sewerage facilities at 3 Rock Hill Rd, North Nowra be introduced as a matter of urgency.

CARRIED

The Chairperson ruled the matter as one of urgency as there is a residence under construction for which the applicant is requesting a variation to Policy in relation to the extension to sewer, and allowed its introduction.

7. Additional Item - Provision of Sewerage Facilities at 3 Rock Hill Rd, North Nowra

File DA15/2244SW

MOTION:

Moved: Kearney / Second: Gash

(MIN16.84) RESOLVED that in accordance with the Committee's delegated authority from Council that Councillors be advised on the Policy options for effluent disposal on the provision of sewerage facilities at 3 Rock Hill Rd, North Nowra.

CARRIED

There being no further business, the meeting concluded, the time being 4.55 pm.

Clr White

CHAIRPERSON

REPORT OF GENERAL MANAGER

DEVELOPMENT COMMITTEE

TUESDAY, 1 MARCH 2016

PLANNING AND DEVELOPMENT

ITEMS TO BE DEALT WITH UNDER DELEGATED AUTHORITY

1. **Development Application - Proposed Subdivision of Dual Occupancy at Lot 18 DP1045765 Wattlevale Place Ulladulla. Applicant: Rygate & West. Owner: H & C Martin File SF10490 (PDR)**
-

SECTION MANAGER: Cathy Bern.

PURPOSE:

The purpose of this report is to seek Council direction with respect to a policy issue that concerns a proposed Torrens Title subdivision. The issue relates to a proposed exception (variation) to the minimum lot size specified in Shoalhaven Local Environmental Plan 2014 (SLEP 2014).

RECOMMENDED, in accordance with the Committee's delegated authority from Council, that the Committee:

- a) **Confirms support for the proposed exception; and**
- b) **The application be determined under delegated authority.**

OPTIONS

1. **Resolve to support the proposed exception (variation) to the development standard:**

This would enable the dual occupancy development to be subdivided, subject to development consent;

2. **Resolve not to support the proposed exception (variation) to the development standard.**

The result would be that the strata title subdivision could not proceed and the proposed dual occupancy development would have to remain in one (1) land title.

DETAILS

Background

- # The subject land is Lot 18 DP1045765 Wattlevale Place, Ulladulla. It is located at the northern end of Wattlevale Place. (**ATTACHMENT A**).
- # The application is for a Torrens Title subdivision of an approved and constructed dual occupancy development (as approved under DA02/4388). (**ATTACHMENT B**).

The land is within Area 1 of Clause 4.1A *Exceptions to minimum lot sizes for dual occupancies and multi dwelling housing*. Area 1 permits subdivision of dual occupancy development to create allotments of 350m².

Minimum lot sizes - Shoalhaven Local Environmental Plan 2014 (SLEP2014)

The subject site is located within an area that has a minimum lot size of 500m². However, in accordance with Clause 4.1A (2):

Development consent may be granted to the subdivision of land on which development for the purpose of a dual occupancy has been carried out if the area of each resulting lot will be equal to or greater than:

(a) if the land is identified as "Area 1" on the Lot Size Map—350 square metres,

The proponent has elected to subdivide the dual occupancies by way of a Torrens Title subdivision. In this particular case, the proposed lots for the dual occupancy dwellings are proposed to be 296.3m² and 431.6m².

The proposal complies with the essential requirements of Shoalhaven Development Control Plan 2014 (SDCP 14) Chapter G11 Section 5.24 Dual Occupancy Subdivision which include:

Table 1 – Lot Sizes

Lot number	Lot size m ²	% variation from 350m ² standard
1	296.3m ²	Approx.16%
2	431.6m ²	complies

This application seeks to vary the 350m² minimum lot size development standard under Clause 4.1A (2) of the Shoalhaven Local Environmental Plan 2014 for one of the proposed lots.

The subdivision of the dual occupancy development will not alter the appearance of the development or adversely impact upon the amenity of future occupants or adjoining properties. It will enable land title to be created and therefore the sale of the proposed dwellings. These developments will provide an additional type of housing, i.e. dual occupancy that achieves the relevant objectives of the R2 zone, which is compatible with the low density residential environment.

Clause 4.6 – Exception to Development Standard

The NSW planning system provides flexibility in planning controls by providing the ability for Council to vary development standards in certain circumstances. In this regard, the concurrence of the Secretary of the Department of Planning and Environment (DP&E) can be assumed, with regard to the DP&E publication – Varying development standards: A Guide – August 2011 (the Guide). Clause 4.6 enables a development standard to be “contravened”, provided the applicant has submitted a written request that adequately justifies the exception (variation) from the development standard by demonstrating that:

- *Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and*
- *There are sufficient environmental planning grounds to justify contravening a development standard.*

Further, the consent authority must be satisfied that:

- (i) the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objective for development within the zone in which the development is proposed to be carried out,*

The concurrence of the DP&E can be assumed for clause 4.6 variations, excluding certain situations. These situations relate to certain zones/circumstances and do not apply to this particular case which can be considered under clause 4.6.

Varying the development standards under clause 4.6 is addressed as part of the assessment of a development application, and includes the submission of a written request from the applicant to vary the development standard in accordance with clause 4.6(3). The extent of the proposed variations and the number of lots to be varied need to be considered.

In accordance with the DP&E requirements and guidelines, any development application that proposes a variation under clause 4.6 greater than ten percent (10%) of the development standard must to be determined by the Development Committee or full Council (rather than General Manager or nominated staff member). In this regard, one of the proposed lots for the dual occupancy lots is only 296.3m², which represents a variation of approx. 16%. The DP&E requirements are designed as part of corruption risk management measures.

Applicants submission – request for exception (variation) to development standard

- # The applicant has made a submission pursuant to clause 4.6 of the SLEP 2014. The submission contends that compliance with this development standard is considered to be unreasonable and unnecessary in the circumstances of this case, refer to **ATTACHMENT C**.

FINANCIAL IMPLICATIONS:

Should the application be determined by way of refusal, there is the possibility of a challenge in the Land Environment Court by the applicant. Accordingly, there would be costs associated with such action.

Nil other budgetary concerns.

COMMUNITY ENGAGEMENT:

In accordance with Council's Community Consultation Policy the development application was not notified because it is considered that subdivision of an existing dual occupancy is unlikely to adversely affect other property owners. Variations from minimum lot size are relatively minor, except for common lot.

CONCLUSION

In summary:

- One of the proposed lots would be <350m², with a variation of approximately 16%. Strict compliance with the development standard will hinder attainment of the objects of the Environmental Planning and Assessment Act 1979 and objectives of the R2 zone that include provisions for a variety of housing types;
- A variation to the development standard is necessary to facilitate the orderly development of land and achieving the zone objectives. Further, the performance criteria of Council's SDCP14 with a variation to the minimum statutory lot size are satisfied;
- Maintenance of the minimum lot size development standard is unreasonable because it will not facilitate the neighbourhood title subdivision of dual occupancies that are in accordance with the objectives of the R2 zone; and
- The subdivision of the land would not result in any change to the approved development.
- The subdivision enables land title to be created and would provide for a type of housing adding to the diversity of housing stock available in an urban environment and as noted above satisfies the zone objectives.

2. NSW Right to Farm Policy - Release

File 21709e

SECTION MANAGER: Gordon Clark.

PURPOSE:

Advise of the release of the Right to Farm Policy by the NSW Government.

RECOMMENDED, in accordance with the Committee's delegated authority from Council, that the report on the release of the NSW Right to Farm policy be received for information.

DETAILS

In rural areas, land use conflicts can often occur where agriculture impacts on adjoining residential use. Conflicts can also arise when other land uses impact on farms, and also between different agricultural industries. Land use conflict can be an issue for local government, and it creates uncertainty for farm businesses, as it can increase costs and exert pressure on some farmers to relocate or leave the industry. This has been, and could continue to be, an issue in Shoalhaven given our diverse range of lifestyle choices.

On 17 December 2015, the NSW Government released a 'Right to Farm' policy (**Attachment "A"**) to support farmers to operate their businesses without conflict or interference from other land users, and assist in driving forward agriculture in NSW.

The 'Right to Farm' policy represents a comprehensive, State-wide approach that includes a series of clear actions to help address 'right to farm' issues:

The actions in the policy include:

- reinforcing rights and responsibilities of farmers and encouraging best practice to minimise conflicts;
- establishing a baseline and ongoing monitoring and evaluation of land use conflicts;
- strengthening land use planning, including providing direction on managing land use conflict;
- ensuring ongoing reviews of relevant environmental planning instruments include consideration of options to ensure best land use outcomes and to minimise conflicts;
- improving education and awareness on management of land use conflicts; and
- considering potential future legislative options, should additional Government intervention be required.

IMPLICATIONS FOR COUNCIL

The implications for Council are currently somewhat unclear given the lack of any legislative or other changes to support the policy. The policy however includes the following commitments:

- the Department of Primary Industries will consult with local councils to identify any additional measures required to assist efforts in best practice land use planning to address land use conflict issues; and
- NSW Legislative Council is currently undertaking an inquiry into regional planning processes in NSW to investigate land use planning mechanisms and instruments, with the aim of delivering a planning policy framework that supports the management of current and future farming practices. Council staff made a submission to this inquiry that largely focusses on possible structural changes to the planning system to support regional planning and economic development.

Council staff will continue to monitor the implications of this new policy and if required additional reports will be provided to Council in this regard.

FINANCIAL IMPLICATION

There are currently no financial implications for Council.

COMMUNITY ENGAGEMENT:

There is no community consultation required as this is a State Government policy release. It is however noted that no direct consultation or notification occurred prior to the release of the policy.

3. **Worrigee Urban Release Area - Planning Proposal (Rezoning) - Shoalhaven Development Control Plan 2014 draft Chapter NB2 and Shoalhaven Contributions Plan 2010 draft Amendment No. 7 - Owners: Umbene Pty Ltd and R&J Coney
File 49004e, 49572e, 49573e (PDR)**
-

SECTION MANAGER: Gordon Clark.

PURPOSE:

To detail the outcomes of the public exhibition of the package of planning documents for the Worrigee Urban Release Area (URA) and seek Council endorsement to finalise the Planning Proposal (PP), Development Control Plan (DCP) chapter and Contributions Plan (CP) amendment.

RECOMMENDED, in accordance with the Committee's delegated authority from Council, that the Committee:

- a) **Adopt the Planning Proposal (Rezoning) for the Worrigee Urban Release Area with the following changes:**
 - i) **Rezone the existing R1 General Residential land to R2 Low Density Residential, instead of R5 Large Lot Residential**
 - ii) **All other provisions, including the minimum lot size of 2,500m² retained as exhibited**
 - iii) **If necessary include site specific provisions to facilitate the intended and desired subdivision outcomes, particularly related to the rural or environmental protection zoned residue components of the subject land.**
- b) **Adopt Shoalhaven Development Control Plan Chapter NB2 and Shoalhaven Contributions Plan 2010 Amendment No. 7 as exhibited**
- c) **Submit the Planning Proposal for the Worrigee Urban Release Area to the NSW Parliamentary Counsel Office with instructions to prepare an amendment to Shoalhaven Local Environmental Plan 2014 under Section 59(1) of the Environmental Planning and Assessment Act 1979.**
- d) **Notify the adoption of Shoalhaven Development Control Plan Chapter NB2 and Shoalhaven Contributions Plan 2010 - Amendment No. 7 in local newspapers in accordance with the requirement of the Environmental Planning and Assessment Act 1979 and its Regulations.**
- e) **Advise the NSW Department of Planning and Environment and the people/agencies who made submissions on the Planning Proposal of Council's resolution.**

OPTIONS

1. Adopt the recommendations of this report -this is the preferred option as it allows the realisation of the URA to proceed, and will facilitate a development outcome that is more in keeping with the natural setting and constraints of the site.
2. Make additional changes to the exhibited planning documents for the URA. Depending on the nature of these changes, it may require the re-exhibition and will potentially delay the release of the URA.
3. Not adopt the package of documents - this option is not preferred as the exhibited package is considered a significantly better outcome for the site and will facilitate a development outcome that is more in keeping with the natural setting and constraints of the area.

DETAILS

Background

The Worrigeer URA was identified as one (1) of seven (7) URAs in the Nowra-Bomaderry Structure Plan (NBSP) which was adopted by Council in October 2006 and endorsed by the State Government in early 2008. The URA was rezoned in April 2014, under Shoalhaven Local Environmental Plan (LEP) 2014, with the majority of the site zoned for general residential use (zoning allowed smaller lots).

Following a request from the landowners within the URA, Council resolved to prepare and progress as a package, a PP, DCP chapter and CP amendment to rezone the subject land and facilitate a large lot residential development of the site.

The draft package of planning documents was prepared in accordance with Council's resolution and was exhibited from 2 December 2015 to 20 January 2016. A brief overview of the exhibited package of planning documents is provided below and a copy of the exhibited material has been available in the Councillor's Room for today's meeting. Alternatively it can also be viewed on line at:-

<http://shoalhaven.nsw.gov.au/My-Council/Public-exhibition/Documents-on-exhibition>

Planning Proposal (Rezoning)

The PP seeks to change the zoning of land within the URA to facilitate a large lot residential subdivision outcome that is sympathetic to the constraints and characteristics of the site.

The subject land is currently zoned part R1 General Residential and part RE2 Private Recreation under Shoalhaven LEP 2014. The PP seeks to rezone the land to part R5 Large Lot Residential and part RU2 Rural Landscape, with a minimum lot size of 2,500m². The existing zones under Shoalhaven LEP 2014 and the proposed/exhibited zones are shown in Figure 1 and 2 respectively.

The RE2 zoning is being removed as it is no longer appropriate/relevant and if left in place may create unrealistic expectations or potentially undesirable outcomes that are at odds with the adjacent residential zone.

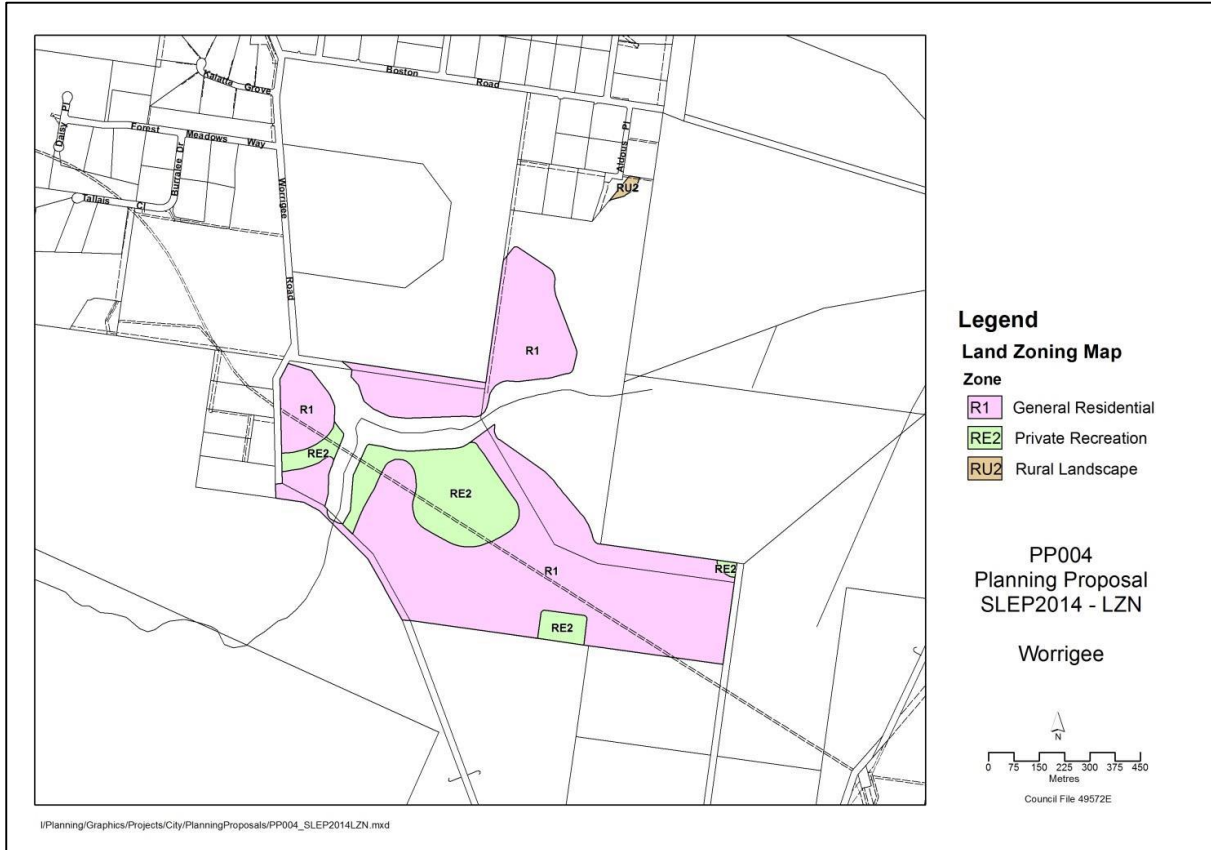


Figure 1 - Existing Land Use Zones, Shoalhaven LEP 2014

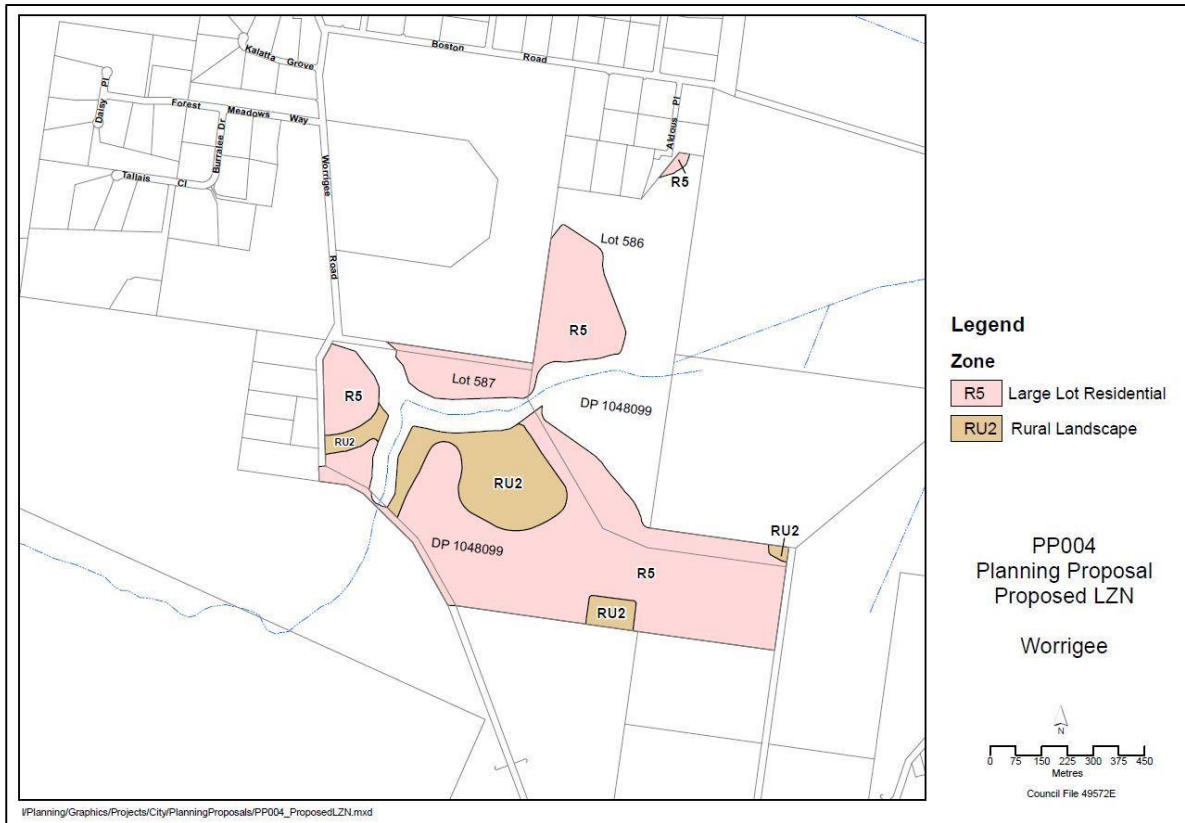


Figure 2 - Exhibited Land Use Zones

Draft Chapter NB2 – Worrigeer URA (Shoalhaven DCP 2014)

The draft DCP chapter will ultimately guide and facilitate the actual subdivision and development of the URA and ensure it complements the surrounding natural environment and rural edge setting.

The purpose of the draft DCP chapter is to provide additional development controls to ensure that the development is planned and managed to minimise any associated risks or impacts on the surrounding natural environment, acknowledging bushfire, flooding and road network constraints.

Draft Amendment No. 7 Shoalhaven Contributions Plan 2010

The CP allows Council to levy monetary contributions on future development to fund a portion of the cost of providing community infrastructure in order to meet the need created by new development. The purpose of the draft amendment is to fund a portion of the costs of providing upgrades to Worrigeer Road required to facilitate the development of the URA.

Public Exhibition

The package of planning documents for the URA was publicly exhibited from 2 December 2015 to 20 January 2016 (inclusive). A total of three (3) submissions were received in relation to the PP from the NSW Rural Fire Service (RFS), NSW Office of Environment and Heritage (OEH) and a landowner within the URA. No submissions were received on the draft DCP chapter or CP amendment.

The major issues raised in the submissions and corresponding staff comments are summarised below. Copies of the submissions received are provided in the Councillor's Room for today's meeting.

NSW Rural Fire Service Submission

Raised concerns regarding areas of unmanaged vegetation within the site becoming a bushfire hazard in the future, and its effect on the future subdivision of the site. Requires Council to be satisfied that future bushfire hazards can be managed as an Asset Protection Zone (APZ), managed to provide perimeter firefighting access and managed to minimise elevated fuel levels.

Requires Council to be satisfied that the PP is consistent with the provisions of the Planning for Bushfire Guidelines (PFBG) 2006, including minimising the interface with bushfire hazards, access and road requirements, the provision of water and the provision of appropriate APZs.

The RFS has previously provided comments on the draft DCP Chapter and concept subdivision design. An updated concept subdivision design was provided and the RFS support a number of the improvements to the subdivision design, however, retains some concerns with the concept subdivision.

Comments

The PP seeks to essentially back zone the land to a large lot residential zone, which is considered a significantly better strategic outcome in relation to bushfire hazard management, as it allows APZs to be provided on individual properties. While only a very small portion of the site is 'bushfire prone land', the PP is supported by a set of complimentary development controls in the draft DCP chapter that ensure that future development of the site is consistent with the provisions of the PFBG 2006. The draft DCP chapter requires appropriate perimeter roads, APZs and access/egress arrangements in accordance with the PFBG 2006.

It is noted that the RFS supports the changes made to the concept subdivision, yet still has some concerns. However, the concept subdivision does not form part of the PP and any issues/concerns in relation to bushfire constraints will need to be considered in detail and resolved as part of the formal subdivision assessment.

NSW Office of Environment and Heritage Submission

Support the back zoning of the land from R1 to R5, which will reduce the number of dwellings in the Flood Planning Area.

Recommend that future lot layouts minimise flood risks by locating building envelopes outside of the high hazard flood areas. While they support the back zoning, they have concerns that the proposal has only considered the 1% AEP Flood Event, not the full range of floods, and may be inconsistent with Section 117 (2) Direction 4.3 Flood Prone Land.

Do not support removing the R5 zoned land from the Native Vegetation Act's clearing provisions as this standard instrument zone is not considered 'more urban in character'. The proposal also refers to the possible dedication of the E3 residual parcel to NSW National Parks & Wildlife Service (NPWS), however this is not supported by OEH.

Note that the existing E2 Environmental Conservation and E3 Environmental Management areas provide riparian and habitat connectivity for threatened species known to occur such as the Green and Golden Bell frog. Recommend mitigation measures be incorporated at subdivision stage for the proposed RU2 zoned areas, which should also be considered important habitat areas.

Comments

The PP seeks to back zone the R1 zoned land to a large lot residential zone which is considered a significantly better outcome in relation to the flooding constraints of the land. The PP does not seek to increase the land use intensity of any flood prone land and it is therefore considered broadly consistent with Section 117 (2) Direction 4.3 Flood Prone Land. Nevertheless, the supporting DCP chapter contains controls which restrict development to outside of the high hazard floor areas which is a significantly improved outcome for the site.

Given that OEH does not support removing the R5 zoned land from the Native Vegetation Act's clearing provisions, it is recommended that the existing R1 zoned areas be rezoned to R2 Low Density Residential, instead of an R5 Large Lot Residential, to ensure the land maintains its exemption under the Native Vegetation Act. It is recommended that all other

provisions in the PP, including the 2,500m² minimum lot size remain as exhibited. As such the subdivision outcome will essentially remain the same.

OEH have indicated that they do not support the transfer of the residue E3 zoned land to NPWS. Therefore this area will need to be attached to a residential lot in the future subdivision of the site.

It is noted that there is potential habitat for the Green and Golden Bell frog within the subject site. Any potential mitigation measures will need to be considered in the subdivision assessment process.

Landowner Submission

One of the landowners within the URA has raised concerns about the lack of flexibility in the PP and the standard instrument LEP. Particularly in relation to the residue RU2 zoned land and the requirement for the residue to be attached to no more than one residential lot. The landowner has requested that the PP include provisions that allow the residue land to be split up and attached to more than one residential lot (with the dwellings to be located entirely within the residential area).

The flood study prepared on behalf of the landowners identifies a large area that is not flood liable that should be considered for residential rezoning. This additional area will compensate for the loss of development yield associated with the move to the proposed larger lot residential zoning.

Comments

It is noted that allowing the residue RU2 land to be split up and attached to more than one residential lot would provide more flexibility and potentially facilitate a better subdivision outcome in this location. However, the NSW Department of Planning and Environment has previously advised that allowing the subdivision of the residue lot would potentially make the PP inconsistent with Section 117 (2) Direction 4.3 Flood Prone Land, in that it intensifies the land use within a flood prone area.

Given DP&E have previously objected to the residue lot being subdivided and attached to more than one lot, any attempt to change the PP will likely result in delays to the process, and would be unlikely to be supported by DP&E. Therefore no changes to the PP are recommended in this regard.

It is noted that the flood study that was prepared on behalf of the landowner appears to identify a large area with the URA that is not flood liable land that could potentially be rezoned for residential purposes. However, this is due to an error in the mapping, and the Flood Planning Area shown in the PP is correct. Therefore, an increase in the residential zoned land is considered inappropriate.

FINANCIAL IMPLICATIONS:

Shoalhaven Contributions Plan 2010 draft Amendment No. 7 commits Council to funding a portion of the cost of upgrading Worrigeer Road, between the entrance to the URA and Isa Road. Council will need to consider its share of the cost in future capital works planning.

COMMUNITY ENGAGEMENT:

The Worrigee URA has been the subject of extensive community consultation over a number of years, through the Nowra-Bomaderry Structure Plan and Shoalhaven LEP 2014 processes. The package of planning documents to help realise the URA was publicly exhibited from 2 December 2015 to 20 January 2016 (inclusive). Relevant Government agencies and adjoining landowners were invited to comment in accordance with the Gateway determination, and a total of three (3) submissions were received.

Tim Fletcher
DIRECTOR, PLANNING AND DEVELOPMENT

R.D Pigg
GENERAL MANAGER

NOTICES OF MOTION
DEVELOPMENT COMMITTEE
TUESDAY, 1 MARCH, 2016

4. Willows Caravan Park Full Compliance and Fire Audit

File 25006E

The following Notice of Motion of which due notice has been given, is submitted for Council's consideration:

Council undertake a full compliance, fire and regulatory audit of the Willows Caravan.

Background:

I have received complaints from residents who have alleged noncompliance, overcrowding, and substandard accommodation. If the complainants are correct and there was loss of life caused by fire Council may be held to have been negligent by the Coroner if the site is not audited following complaints

Signed
Clr Watson

Note by General Manager:

Every year between May to August Council's Environmental Health Officers audit the 82 caravan parks and camp grounds across the Shoalhaven Local Government Area.

Environmental Health Officers assess caravan parks against the Local Government (Manufacture Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005. They also ensure that a caravan park is complying with their approval to operate in regards to the number and breakdown of sites into long term sites (permanents), short term (holiday vans) and camp sites (tents and campervans).

Council conducted a detailed audit of the caravan park in 2012 which identified 25 issues that were not complying with the Local Government Regulation. These issues ranged from minor numbering of sites to breaches involving the separation distances between moveable dwellings. It was also found that the caravan park was being occupied by too many permanent residents and orders were issued upon the owner to address these matters.

These non-compliances were quickly addressed by the caravan park owner at the time and subsequent inspections of the premises have found only one or two issues outstanding.

- August 2013 – Certification of the fire hose reels needed following up.
- July 2014 – Nil issues to be addressed.
- May 2015 – Minor issues relating to broken power point in the laundry and taps missing from basins in the amenities.

The Willows Caravan Park has been on this site prior to the 1960's when it was operating 70 sites. Today it has approval for 67 sites including 16 long term sites (for permanents), 49 short term sites (holidays vans) and 2 camp sites (tents and campervans).

The caravan park was last inspected on 28 May 2015 as part of Council's annual caravan park inspection program and no major non-compliances identified.

CONFIDENTIAL BUSINESS PAPER AGENDA

PLANNING AND DEVELOPMENT

1. Land & Environment Court Case No. 40252 2004 – Legal Proceedings

Reason

Section 10A(2)(g) - Advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

2. Jerberra Estate Land & Environment Court Legal Proceedings

Reason

Section 10A(2)(g) - Advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

Pursuant to Section 10A(4) the public will be invited to make representation to the Council meeting, before any part of the meeting is closed, as to whether that part of the meeting should be closed.