

'Heritage Estates' Worrowing Heights – Paper Subdivision

November 2023

Introduction

A paper subdivision is an old, undeveloped subdivision registered before land use zoning was introduced. They pre-date the requirement for infrastructure to be provided before registration of a subdivision plan. Paper subdivisions therefore typically lack formed roads, drainage, reticulated water, sewer or electricity.

This factsheet provides information on the Heritage Estates Paper Subdivision at Worrowing Heights (refer to Map on page 4). Heritage Estates is a 180 hectare paper subdivision of approximately 1,200 lots.

In 2009, a residential development proposal for Heritage Estates was rejected under the Federal Government's Environment Protection and Biodiversity Conservation Act 1999. This was due to the land's significant biodiversity values and the impacts development would have on Booderee National Park. The land has now been zoned C2 Environmental Conservation and residential development is prohibited.

Planning and Tenure Resolution

The Heritage Estates Planning Proposal to rezone the land to C2 - Environmental Conservation was finalised in accordance with Council's resolution on 29 July 2014. Amendment No. 4 to the Shoalhaven Local Environmental Plan 2014 was notified and commenced on 24 June 2016. The amendment rezoned the 'Heritage Estates' (excluding Lot 8 DP 8771 and Lot 1768 DP 28785) to C2 - Environmental Conservation.

Voluntary Heritage Estates Land Purchase (HELP) project concluded

The one-off Voluntary HELP project concluded in 2018. All three levels of Government were partners in this project which sought to buy as many lots from landowners as possible for inclusion into the Jervis Bay National Park. The Foundation for National Parks and Wildlife managed the project, and for more information visit the Foundation's website: <http://www.fnpw.org.au/>.

Important information for remaining owners

Remaining landowners interested in selling their land should contact the NPWS Reserve Establishment team via email: Reserve.Establishment@environment.nsw.gov.au or telephone 1300 361 967.

The Reserve Establishment team's website is at this address:

<https://www.environment.nsw.gov.au/topics/parks-reserves-and-protected-areas/establishing-new-parks-and-protected-areas/new-parks-and-changes-to-parks>

Installation of gates and barriers & access key requests

In 2016, Council approved the installation of gates and barriers under section 118 of the Roads Act 1993 to protect water quality in St Georges Basin and prevent further land degradation caused by vehicles and trail bikes. The gates and barriers have now been installed at Heritage Estates and to enable access to the estate a key will be required. To request an access key please fill in the [Heritage Estates Access Key Request Form](#) and return to Council.

Background

In 1915-16, the Heritage Estates were subdivided into approximately 1,200 urban-sized lots. In 1964, the land was undeveloped and subsequently zoned "rural" when zoning laws were first introduced in Shoalhaven. In the 1980s-90s many lots within the Heritage Estates subdivision were sold off individually without the legal ability to build housing. In 1992, Shoalhaven City Council resolved to investigate rezoning of Heritage Estates to enable residential development. In 1999, a NSW Commission of Inquiry (CoI) was held. In 2005, Council commissioned a Threatened Biodiversity Study (by BES Pty Ltd) for a rezoning proposal consistent with the recommendations of the CoI. This study identified federally protected threatened species and migratory species. Booderee National Park (BNP) raised concerns that the proposal would threaten biodiversity in the Jervis Bay Territory.

In 2007 Shoalhaven City Council referred the proposal to the Commonwealth Government and the proposal was deemed a controlled action under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) thus needing Commonwealth approval.

Decision under the Environment Protection and Biodiversity Conservation Act, 1999

On 13 March 2009, the proposed rezoning and associated public works to facilitate residential development at the "Heritage Estates", Worroving Heights was refused under the EPBC Act, due to its impact on threatened species and Commonwealth land (Booderee National Park). Further information on this decision is accessible at the following links:

- [EPBC notice board including the Minister's decision](#)
- [Recommendation Report prepared by the Federal Department of the Environment Water Heritage & the Arts \(DEWHA\)](#)
- [Public Environment Report prepared by Council](#)

Legal challenges dismissed

A landowner class action in the Federal Court of Australia and subsequent appeal were both unsuccessful. The landowners then applied for special leave to appeal this decision to the High Court, the highest Court in Australia. On 5 May 2016, the High Court dismissed the application. In 2017, a member of the Shoalhaven Landowners' Association lodged a claim in the NSW Land and Environment Court (LEC) against the Minister administering the National Parks and Wildlife Act, the Foundation for National Parks and Wildlife, Shoalhaven City Council, and the Minister for Planning. This claim was dismissed. An application by a landowner to the NSW Supreme Court for leave to appeal the NSW LEC's judgements was unsuccessful. Links to each of the judgements can be viewed below.

- Federal Court: Esposito v The Commonwealth [2013] FCA 546 (31 May 2013)
- Full Court of the Federal Court: Esposito v Commonwealth of Australia [2015] FCAFC 160 (17 November 2015)
- High Court: Esposito & Ors v Commonwealth of Australia & Ors [2016] HCASL 87 (5 May 2016)
- Land & Environment Court: Scevola v Minister Administering National Parks and Wildlife [2017] NSWLEC 106 (24 August 2017)
- NSW Supreme Court of Appeal: Scevola v Minister Administering National Parks and Wildlife [2018] NSWCA 171

Camping in Paper Subdivisions

Camping cannot be undertaken on land within paper subdivisions without development consent under the Environmental Planning & Assessment Act 1979. This applies to all 'moveable dwellings', which includes tents, caravans (including tiny homes and tiny houses) and campervans (including camper trailers). For more information, please refer to Council's [Camping in Paper Subdivisions Fact Sheet](#).

Other information

- [Heritage Estages, Worroving Heights, "Small lot rural subdivision"](#) - Information Report¹
- [Dirt bikes & the Heritage Estates leaflet](#)
- [Land Clearing Information 2006](#)¹

Council reports and resolutions

Report	Resolution
Report to Development Committee dated 7 July 2009, on options for resolving tenure of the Heritage Estates	MIN09.870
Report to Property Steering Committee 4 May 2011 regarding Caring for our Country funding application	MIN11.477
Report to Development Committee meeting to finalise rezoning 9 July 2014	MIN14.487
Report to Policy & Resources Committee 8 September 2015 update and proposal to regulate vehicle access	MIN15 (Item 1)
Report to Strategy & Assets Committee 19 January 2016 Proposed Gates/Barriers - Submissions	MIN16.13
Report to Strategy & Assets Committee 12 April 2016 Proposed Gates/Barriers – Traffic Committee Referral	MIN16.278
Report to Development Committee 14 June 2016 Proposed Gates/Barriers, Stage 2: Birriga Avenue (west) and Naval College Road	MIN16.456

¹ These are historical documents. All information was current at the time of publication.

