



BELLINGEN SHIRE COUNCIL PLANNING PROPOSAL 9 (Version 1 – March 2014)

Permit medical centre & minor ancillary components of seniors housing development in Industrial zone at Railway St, Dorrig.

THE PLANNING PROPOSAL

Pursuant to Section 55(1) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), a planning proposal must be prepared before a draft Local Environmental Plan (LEP) amendment is made. The proposal must explain the intended effect of the draft LEP amendment and provide justification for the amendment. The proposal must address those matters identified by Section 55(2) of the EP&A Act, which is considered below. Council must then determine whether or not to proceed with the proposal.

History

Council resolved to support the proposal at its meeting of 26 February 2014. The report to Council and the relevant resolution is included as Attachment 1.

There have been several attempts by the "George & Annie Cork Memorial Trust" (the Cork Trust) to construct seniors housing on land at Railway St in Dorrig. The Cork Trust was established upon the death of Cyril Cork, in memory of his parents George & Annie and their long association with Dorrig. The estate was to be used for projects that would benefit the people of Dorrig. The Trust *'believes that a Medical Centre and Seniors Housing would be a fitting tribute to George and Annie Cork and would provide an ongoing economic benefit to the people of Dorrig'*.

Initial efforts were focused on land that was zoned IN1 – General Industrial. It was necessary to amend Bellingen Local Environmental Plan 2010 (LEP) to permit this use of the land. Two formal requests were made to Council to amend the LEP.

The first request to amend the LEP was made by the Cork Trust in 2010 and despite being supported by resolution of the elected Council the request failed to receive the support of the NSW Department of Planning. The inconsistency of the proposal with *Section 117 Direction 1.1 Business and Industrial Zones* (which protects industrial land from residential redevelopment pressure) was the principle reason for the planning proposal not being supported by the NSW Department of Planning.

The second request was made in February 2012 and was considered by Council in parallel with the development of an Employment Lands Strategy (ELS). This planning proposal request was ultimately withdrawn by the proponents and the endorsed ELS did not support the removal of the IN1 zone on the relevant land, or the establishment of seniors housing on the land.

The need for seniors housing has been a matter of considerable significance to the Dorriggo community, and Council, in recent years. Over the past 12 months, Council officers have been in regular discussion with the Cork Trust regarding the possible options for development of seniors housing in Dorriggo.

The viability of development in this precinct has been significantly enhanced by the Cork Trusts acquisition of land that is zoned R1 General Residential and adjoins the Industrial Zone. This acquisition has allowed for the housing component of the overall development to be primarily located in the R1 Zone and has influenced Councils decision to consider the use of the industrially zoned land for the purposes described in this planning proposal.

A plan of the land showing relevant details is included as part of Attachment 1 (specifically, Attachment 8.4A to the Council Report).

Objectives

The objectives of the proposed LEP amendment are as follows:

1. To enable the use of industrial land at Railway St Dorriggo for the purpose of a medical centre and ancillary components of seniors housing as part of an integrated community development project undertaken on the land.

Proposed provisions

The provisions of the proposed LEP amendment will include:

1. Include the following item in Schedule 1 Additional permitted uses:

3 Use of certain land at Railway St, Dorriggo

- (1) This clause applies to land at Railway St, Dorriggo, being Lot 70 DP 1191049.*
- (2) Development for the purpose of a medical centre is permitted with consent on that part of the land zoned IN1 General Industrial.*
- (3) Development for the purpose of domestic water tanks and landscaping is permitted with consent on that part of the land zoned IN1 General Industrial provided that it is no greater than 6m north of the R1 General Residential and IN1 General Industrial zone boundary on the land.*
- (4) Development consent under subclause (2) must not be granted after 5 years from the commencement of this Plan.*

The Site Identification Map for the Schedule 1 Amendment is included as Attachment 2 to this planning proposal.

An Information Checklist, Project Timeline & Delegation Request Checklist are included as Attachments 3-5 in accordance with the requirements of 'A Guide to preparing planning proposals'.

SPECIFIC JUSTIFICATION FOR PLANNING PROPOSAL

A. Need for Planning proposal

Is the planning proposal a result of any strategic study or report?

The planning proposal is not the direct result of any strategic study or report, however it is argued that it is not contrary to the objectives of the Employment Lands Strategy recently adopted by Council and partially endorsed by the Department.

Specifically, the minor amendment to the LEP will provide for land uses that although not industrial in nature, will act as an effective form of buffering between future residential uses and more conventional industrial uses within the existing industrial estate. This will ultimately mitigate any adverse environmental impacts associated with industrial activities and act to preserve the ongoing and future viability of uses within the existing industrial estate. It is also relevant to note that the proposed medical centre will in fact be employment generating in nature, thereby ensuring that the employment generating objectives for the land are preserved.

Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Council has met with the proponents to explore opportunities for the approval of the minor encroachments as part of a DA, without having to amend the LEP to allow these uses. Despite the minor nature of the encroachments (ie: outdoor waiting area for the medical centre and water tanks for seniors housing) there is unfortunately no opportunity to use flexible zone provisions or any other mechanism to approve the encroachments in the IN1 zone. It should be noted that Council has sought advice from the Department of Planning & Infrastructure, at the request of the proponents, to further confirm that this is the case.

The proposed mechanism for amendment of the LEP is the insertion of an additional item in Schedule 1 – Additional permitted uses, of the LEP. The schedule would make a “medical centre” a use that is permissible with development consent on that part of the land zoned IN1 and make minor ancillary components to residential development permissible within Zone IN1 within a 6 metres distance of the zone boundary with the R1 Zone.

This is considered preferable to:

- The amendment of Clause 5.3 – Development near zone boundaries to prescribe a distance between Zones IN1 and R1 within which uses may be permitted with consent that are prohibited in one of those zones but permissible in the other. This is due to the fundamental incompatibilities that can exist between industrial and residential developments and the potential use of this clause at the zone interface between IN1 & R1 in other areas of the Shire that do not have the same conducive set of circumstances as the subject site.

- The inclusion of a medical centre and residential development as permissible uses within the IN1 zone across the Shire, given the same issues of incompatibility that may apply in other circumstances.
- The rezoning of a small strip of land to R1 that would permit the development with consent, given that the underlying employment generating zoning of the land has recently been re-affirmed via the adoption of the ELS.

Is there a net community benefit?

The planning proposal will facilitate the establishment of both a medical centre and a seniors housing development in Dorriggo. These are both uses that will contribute not only towards the social infrastructure in Dorriggo but are also likely to have a positive economic impact by virtue of the employment opportunities associated with the construction phase of the project and the employment generating potential of the medical centre

When compared against the minor loss of land within the existing industrial zone, it is submitted that a net benefit will accrue to the community if the planning proposal was to proceed.

B. Relationship to strategic planning framework

Is the proposal consistent with the objectives and actions contained within the Mid North Coast Regional Strategy?

The Mid North Coast Regional Strategy (MNCRS) provides a broad outline for the direction of future development in this region for the next 2 decades. Relevant outcomes and actions of the Mid North Coast Regional Strategy include:

6. Economic development & employment growth

Outcomes

- *Buffers between industrial and residential areas will limit conflict*

Actions

- *Local environmental plans will ensure that sufficient lands which are zoned industrial and business and currently vacant are protected to accommodate the new jobs required for each local government area until 2031.*
- *The Department of Planning will work with Councils to ensure that appropriate opportunities for employment lands, as identified in the Strategy's growth area maps, are brought on stream via local growth management strategies and local environmental plans.*

Comment:

An appropriate buffering land use (in the form of a medical centre) at the residential and industrial interface is considered likely to lessen the potential conflict that may otherwise exist in this location. The planning proposal will retain the existing industrial zone whilst also providing for an employment generating land use that addresses the identified need for medical services in Dorriggo.

Planning & Infrastructure have the opportunity to work with Council to allow for the realisation of this opportunity for the development of employment lands within the growth area map boundaries included in the MNCRS.

Is the proposal consistent with Council's strategic plans?

Employment Lands Strategy:

The subject land was endorsed for retention as industrial land in the ELS. The uses proposed for that part of the land within the IN1 zone are not currently permissible and were not provided for in the ELS.

Despite this it is considered that the proposal is broadly consistent with the direction of the ELS given the following.

- The proposal will facilitate the optimal use of the R1 zoned land for seniors housing purposes. This parcel of land (Lot 709 DP 706735) was one of the potential sites for seniors housing evaluated for its suitability according to criteria detailed in the ELS. In terms of relative suitability, this site scored 94 out of 100 and was ranked as the 5th most suitable site in the Shire for seniors housing from the list of properties considered.
The consideration of future demand for seniors housing and the evaluation of potential sites was a key feature of the ELS. The ability to preserve this land for seniors housing (rather than a medical centre that acts an effective buffering land use) and to permit minor encroachments into the IN1 zone will help to achieve the goals of the ELS.
- The ELS endorsed a potential expansion area for industrial land in Dorrig. This provides approximately 1.4ha of additional potential industrial land if required in Dorrig. The designation of this area was partially a function of concerns at the time that the industrial land the subject of this planning proposal would never be used for that purpose. The consolidation of the R1 and IN1 portions into a single ownership, the intention to preserve the IN1 zoning and the provision of a buffering land use to provide additional protection from the existing and /or future industrial activities to the R1 zone are all actions that indicate the dominant purpose of the IN1 zone on this land will be protected. The minor incursion of the development into the IN1 zone will not significantly impact upon the amount of industrial land in Dorrig that currently exists or has been provided for by the designation of possible expansion areas.
- The principle purpose of the ELS was to undertake the land use planning necessary to provide a platform for job creation in the Shire. The development of a medical centre on that part of the land zoned IN1 and the attendant employment generation must be viewed as a desirable outcome in terms of this purpose.

Is the proposal consistent with applicable state environmental planning policies?

The planning proposal does not directly contradict any relevant SEPP.

Is the proposal consistent with applicable Section 117 directions?

Section 117 directions are issued by the Minister for Planning and relate to various planning matters that must be considered when preparing a planning proposal. The directions relevant to the subject proposal are considered below.

Direction 1.1 Business and Industrial Zones

The objectives of this direction are to:

- a) encourage employment growth in suitable locations,
- b) protect employment land in business and industrial zones, and
- c) support the viability of identified strategic centres.

This direction applies as the planning proposal will affect land within an existing industrial zone. A relevant planning proposal must:

- a) give effect to the objectives of this direction,
- b) retain the areas and locations of existing business and industrial zones,
- c) not reduce the total potential floor space area for employment uses and related public services in business zones,
- d) not reduce the total potential floor space area for industrial uses in industrial zones, and
- e) ensure that proposed new employment areas are in accordance with a strategy that is approved by the Director-General of the Department of Planning.

A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:

- a) justified by a strategy which:
 - i. gives consideration to the objective of this direction, and
 - ii. identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and
 - iii. is approved by the Director-General of the Department of Planning, or
- b) justified by a study (prepared in support of the planning proposal) which gives consideration to the objective of this direction, or
- c) in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or
- d) of minor significance

Comment:

The planning proposal will not reduce the area of land within the existing industrial zone, however it could reduce the total potential floor space for the industrial zone based upon the area of land occupied by the footprint of the medical centre and ancillary components of the seniors housing development. The existence of a buffering land use however between residential and other industrial development in the locality could in fact facilitate a wider range of industrial uses occurring that may not have been suitable if developed to the zone interface given the likely conflict with residential amenity. Also, as previously noted, the ELS endorsed a potential expansion area for

industrial land in Dorriggo that provides for approximately 1.4ha of additional potential industrial land if required in Dorriggo.

In this regard, in the event that this minor incursion resulted in a reduced supply of land relative to future demand, Council has already completed the necessary strategic work to proceed with the development of a planning proposal for the rezoning of additional land in response.

Overall, it is considered that the inconsistency is of minor significance and worthy of support by the Department.

Direction 3.1 – Residential Zones

This direction applies because the planning proposal will affect land within an existing or proposed residential zone. The planning proposal will include provisions that encourage the provision of housing that will:

- (a) *broaden the choice of building types and locations available in the housing market, and*
- (b) *make more efficient use of existing infrastructure and services,*

It is therefore considered that the planning proposal is consistent with this direction.

Direction 4.3 – Flood Prone Land

The lower portion of subject land adjoining the Bielsdown River is mapped as flood prone in accordance with the Dorriggo Flood Study.

Overall, the proposal is considered consistent with the direction as it does not permit a significant increase in development on land that is likely to be subject to flooding. The masterplan for development of the land indicates that the flood prone portion will be used for passive open space.

Direction 4.4 – Planning for Bushfire Protection

This direction does not apply as land included within the planning proposal is not mapped as bushfire prone.

Direction 5.1 – Implementation of Regional Strategies

This direction applies as Bellingen Shire is included in an adopted regional strategy, this being the Mid North Coast Regional Strategy.

The objectives of the direction are to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in the regional strategies. Planning proposals must be consistent with the regional strategy. A proposal may be inconsistent if the extent of inconsistency is of minor significance and the proposal achieves the overall intent of the regional strategy.

As noted previously in comments under the Regional Strategy section above, the proposal is considered to be consistent with the Mid North Coast Regional Strategy.

C. Environmental, social and economic impact

Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

It is unlikely that the planning proposal will give rise to development that will have an adverse impact upon critical habitat or threatened species, populations or ecological communities, or their habitats.

Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Other likely environmental effects such as bushfire, flooding and acid sulfate soils have been addressed in previous sections. The overall effects of the proposal are likely to be inherently minor, given the minor extent of the changes that are proposed.

How has the planning proposal adequately addressed any social and economic effects?

The planning proposal aims to facilitate a development that is expected to provide a range of positive social and economic effects in Dorrig. The integrated provision of medical and seniors housing facilities on the recently consolidated land parcels will address two needs that have been identified by the Dorrig community and also recognised in the adopted planning strategies of Council (eg: the ELS).

It does not propose any significant departure from any agreed strategic planning direction.

D. State and Commonwealth interests

Is there adequate public infrastructure for the planning proposal?

Adequate public infrastructure is available for the proposal. The proposal does not open up any new localities for development that would warrant detailed investigation of infrastructure availability.

Views of State and Commonwealth authorities

Consultation with relevant state authorities will occur as relevant and where specified as part of the Gateway Determination.

Proposed Community consultation

Having regard to the Department of Planning document "A guide to preparing local environmental plans", the planning proposal is required to include details as to the proposed form of Community Consultation. In the circumstances, it is considered that the proposed amendment to the LEP would be classified as a "low impact" planning proposal. This requires a 14 day exhibition period that must include;

- Newspaper notification of the amendment.

- Notification on the Council website.
- Notification of adjoining landowners.

In the circumstances, documentation should be placed on public exhibition at the Bellinghen Shire Council Administration Centre, Bellinghen Library, Dorriggo Library and on Council's website. Notice of the exhibition should be placed in the Bellinghen Courier Sun and the Don Dorriggo Gazette.

It is noted though that the gateway determination will ultimately specify the community consultation that must be undertaken on the planning proposal and Council will undertake consultation in accordance with the conditions of the Gateway Determination.

Delegations to make plan

Council recently accepted an offer of Delegation of Ministerial Functions to Council for the making of certain Local Environmental Plans. As such it is prudent at this point in the process to note whether Council intends to use delegations for the making of this Plan.

Given the locally specific and minor nature of this proposed amendment, Council resolved as follows regarding its intention to use its delegation to make the Plan.

"That Council resolves to advise the Minister of Planning & Infrastructure that it considers the proposed amendment to be of minor significance and that it intends to use its delegations to permit the General Manager to make the Local Environmental Plan."

PLANNING PROPOSAL 9
VERSION 1 ATTACHMENTS INDEX
MARCH 2014

Attachment 1 - The report to Council (including sub-attachments) and relevant resolution.

Sub-attachments

- 8.4.A Plan showing relevant details – Planning Proposal 9
- 8.4.B Plan of consolidation of Lots 709 & 710 DP 706735
- 8.4.C Preliminary plan of proposed encroachments into the Industrial Zone

Attachment 2 - Site Identification Map for Schedule 1 Amendment.

Attachment 3 - Information Checklist

Attachment 4 – Project timeline

Attachment 5 – Delegation Request Checklist