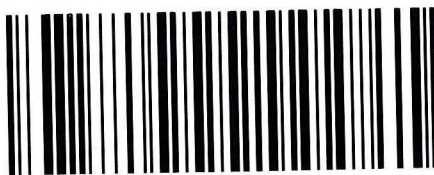


9 November 2010



PGF000655

Reference: DWS:645059
Contact: Scott Lenton

The Director General
NSW Department of Planning
Locked Bag 9022
GRAFTON NSW 2460

10 / 22538

Received

11 NOV 2010

JE
North Coast

Dear Sir

**Planning Proposal - part of Grafton District Golf Course site
Part Lot 400 DP 1153969, Bent Street, South Grafton**

Council, pursuant to section 56 of the *Environmental Planning and Assessment Act 1979*, hereby seeks a Gateway Determination in respect of the attached Planning Proposal. A change to the zoning of the subject land was considered by Council at its Meeting held on 19 November 2008. A copy of the Council report and resolution is attached.

Council's resolution also endorsed amendment to the South Grafton Heights Precinct Strategy, subject to public consultation. It is suggested that such consultation would occur concurrent to any public consultation on the Planning Proposal.

A Gateway determination is now requested at your earliest convenience.

If you require further information please contact Scott Lenton on telephone 6643 0234.

Yours faithfully

David Morrison
Manager, Strategic and Economic Planning



PLANNING PROPOSAL

for the rezoning of

**Part of Lot 400 DP 1153969
BENT STREET
SOUTH GRAFTON**

Prepared by: Clarence Valley Council

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1. PRELIMINARY

1.1 Context

This planning proposal has been drafted in accordance with Section 55 of the Environmental Planning and Assessment Act, 1979 and the Department of Planning's "A guide to preparing planning proposals" (July 2009). A gateway determination under Section 56 of the Act is requested.

1.2 Subject Land

This planning proposal applies to the following land and is identified in the sketch below (Figure 1).

Part of Lot 400 DP 1153969
Bent Street
South Grafton



Figure 1 - Locality Sketch

1.3 Current Zoning & Use

The subject land is zoned 6(b) (Recreation (Special Purposes) zone under the Grafton LEP 1988 (refer to Figure 2, below). The 6(b) zone prohibits the erection of dwelling-houses (except ancillary dwellings), and subdivision for such development. Hence, current lot potential for housing is nil.

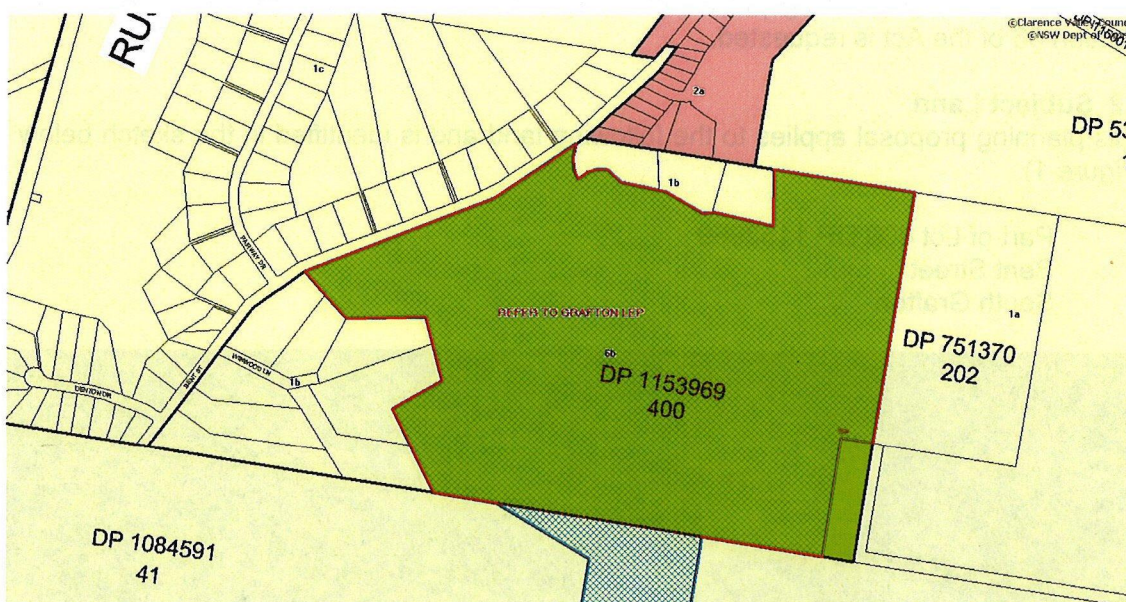


Figure 2 - Existing Zoning Plan – Grafton LEP 1988

The subject land is adjoined to the south/south-east and east by the balance of the golf course and associated infrastructure. Land to the west/south-west is rural/small-holdings with allotments (approximately 1.5 hectares) containing dwelling-houses. Rural-residential development is located on the north/north-west side of Bent Street opposite the subject land. The rural-residential allotments are developed with residential dwellings.

The site of the proposed zoning change aligns with a ridge line and falls away to the south-east. The site contains a mix of vegetation dominated by plantings associated with the golf course as well as some remnant native vegetation. Native vegetation cover on part of the site and neighbouring small holdings land to the south-west provides a hazard in terms of bush fire prone land. This may limit development potential in the south-western part of the site and needs to be subject to further investigation.

The land is currently utilized as part of the Grafton and District Golf Club golf course as indicated on Figure 1.

1.4 Proposed Zoning in Clarence Valley Draft Local Environmental Plan 2010

The subject land is proposed to be zoned RE2 Private Recreation under the Clarence Valley Draft Local Environmental Plan 2010 (refer to Figure 3, below). That Draft LEP is currently pending a section 59 referral to the Department of Planning.

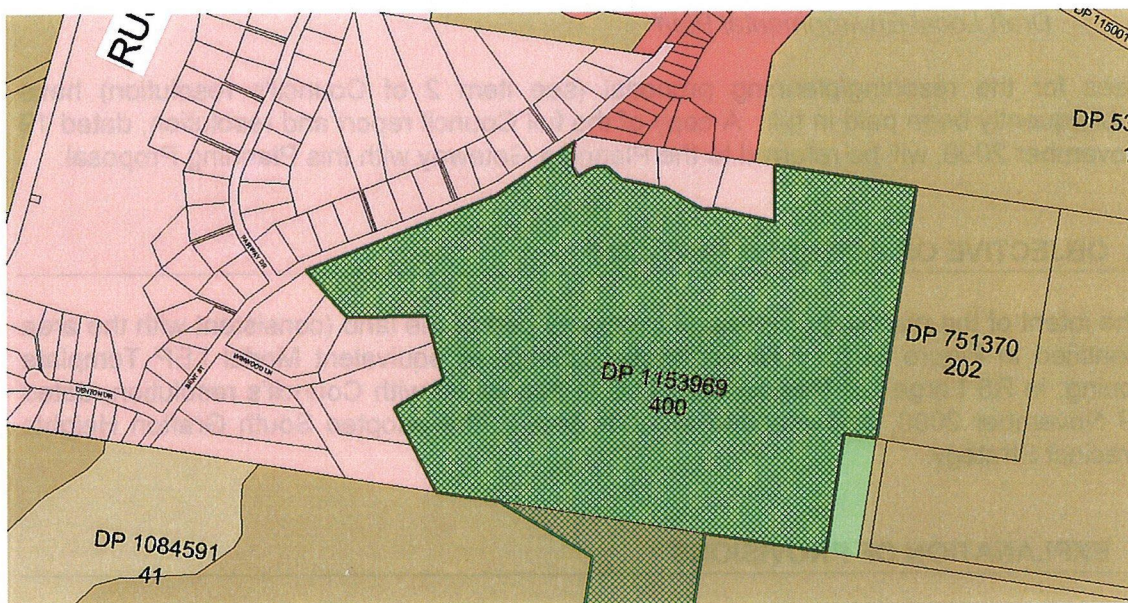


Figure 3 – Proposed zoning under Clarence Valley Draft LEP 2010

1.5 Background

The South Grafton Heights Precinct Strategy (adopted by Council in August 2007) did not include the subject land as being suitable for residential or rural-residential rezoning. However, Council resolved on 19 November 2008 to support a rezoning of the subject land and a consult on a concurrent amendment to the SGHP Strategy.

Details of that resolution are:

That:

1. Council resolve, pursuant to Section 54 of the Environmental Planning and Assessment Act 1979, to prepare a draft local environmental plan to rezoning part Lot 40, DP1084591, Bent Street, South Grafton from the 6(b) Open Space (Recreation – Special Purposes) Zone to the 1(c) Rural Residential Zone, or similar zoning in order to enable development of large residential lots, under the Grafton Local Environmental Plan or other appropriate local environmental planning instrument.
2. Action on item 1 above not occur until the Applicant has paid the rezoning application fee to Council.



3. *Public consultation on the DLEP occur at the Section 66 stage of preparing the DLEP.*
4. *Council consult on the associated amendment to the South Grafton Heights Precinct Strategy concurrent with public exhibition at Section 66 stage of the Draft Local Environmental Plan.*

Fees for the rezoning/planning proposal (see item 2 of Council's resolution) have subsequently been paid in full. A copy of the full Council report and resolution, dated 19 November 2008, will be referred to the Planning Gateway with this Planning Proposal.

2. OBJECTIVE OR INTENDED OUTCOME

The intent of the planning proposal is to rezone part of the land (consistent with the area identified in Figure 1) for rural-residential zoning, or equivalent Model LEP Template zoning, ie R5 Large Lot Residential. This is consistent with Council's resolution, dated 19 November 2008, and intended amendments to the adopted South Grafton Heights Precinct Strategy.

3. EXPLANATION OF PROVISIONS

The objective of the Proposal will be achieved by amending "the map" under the Grafton Local Environmental Plan, 1988 by altering the zoning of the part of the land, generally fronting and adjacent to Bent Street (as shown hatched on Figure 1), currently zoned 6(b) to 1(c) under that Plan. The balance of the subject land will remain in the 6(b) and 1(a) zoning (refer to Figure 2). Alternatively, if implemented after the completion of the Clarence Valley LEP 2010, a similar amendment to the "map" is required, to R5 – Large Lot Residential with the balance being RE2 Private Recreation.

4. JUSTIFICATION

4.1 Is the Proposal a result of any strategic study or report?

Rezoning to rural-residential has been supported by Council subject to a concurrent amendment to the South Grafton Heights Precinct Strategy (adopted by Council in August 2007) being prepared and subject to consultation (see also Section 1.4). The South Grafton Heights Precinct Strategy is a more detailed Strategy intended to assist implementation of the Clarence Valley Settlement Strategy and Mid North Coast Regional Strategy at the local scale.

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

Yes.



4.3 Is there a net community benefit?

The ultimate development of the subject land under the proposed zoning will result in no net loss of recreational utility value from the golf course. The rezoning and future development would necessitate a new course layout. Additional land in the 1(a) Rural zone has been purchased to the south of the current golf course to provide space for a new 18-hole course layout. The current, and proposed, LEP zoning of that additional land (see Figures 2 and 3) enables the expanded golf course subject to development consent being obtained.

The construction of the subdivision, future dwellings and new golf course layout will provide additional work for local contractors in the development industry for a limited period of time. The direct and indirect, or multiplier effects of this development and building activity for local and regional suppliers of construction materials as well as ongoing supplies and produce for occupants of the dwellings will add to the retail strength in the Grafton locality and the wider Clarence Valley.

The location of the development close to services, business nodes and bus transport links ensures more efficient servicing and access for residents and service providers.

5. RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

5.1 Applicable Regional Strategy – Mid North Coast Regional Strategy

The proposal is consistent with the Rural Residential component of the 'Settlement and Housing' section of the Regional Strategy. In other words, it is adjacent to a Proposed Future Urban Release Area (as shown in the Regional Strategy – Growth Areas Map 2 – Clarence South), away from the coast, away from areas likely to be needed for future urban growth and primary production, nor does it require significant vegetation clearing to accommodate the future development.

Bus transport passes the site and the site and is not likely to be significantly affected by natural hazard (subject to more detailed bushfire assessment) or environmental values (subject to more detailed assessment).

5.2 Consistency with Council's Community Strategic Plan, or other local strategic plan

Valley Vision 2020, July 2008, is Council's adopted corporate strategic plan. The additional residential development ultimately capable of being provided on this site (subject to rezoning) would contribute to the Vision 2020 Key Goals of providing efficient transport and access and providing quality built environment and places.

5.3 Consistency with applicable state environmental planning policies

The proposal is generally consistent with applicable state environmental planning policies. More detailed analysis of flood levels needed. Refer to the checklist against these policies at Appendix 1.



5.4 Consistency with applicable Ministerial Directions (s.117 Directions)

The proposal is consistent with applicable Section 117 Directions., except for 4.4 (at this stage) subject to more information.

The impact of bushfire risk on this site is not expected to have a significant impact, if any at all, on the proposed rural-residential capability for the land. More detailed assessment will clarify impact prior to final rezoning approval.

Refer to the checklist against these Directions at Appendix 2.

6. ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT

6.1 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?

Not considered likely. The site is used as a golf course and has been substantially cleared. Some remnant trees remain on site. Some threatened species are known to frequent the site from time to time. A full assessment against the *Threatened Species Act* (ie 7-part test) will be required at the time of a development application for subdivision.

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

No additional environmental impacts are anticipated.

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

The Council has considered social and economic issues in resolving to endorse the change of zoning to part of the subject land. Additional consultation would occur in association with the planning proposal and an amendment to the South Grafton Heights Precinct Strategy.

7. STATE AND COMMONWEALTH INTERESTS

7.1 Is there adequate public infrastructure for the planning proposal?

Yes. The site is adjacent to an urban residential and rural-residential neighbourhood which contains all normal urban services. Services either directly available or can be extended to the site.



7.2 What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

A gateway determination has not yet been issued. No consultation with such agencies has occurred to date.

8. COMMUNITY CONSULTATION

It is considered that the proposal is an 'All other planning proposals' under Section 4.5 of *"A guide to preparing a local environmental plan"*. This conclusion is made on the basis that the planning proposal seeks endorsement to zone rural-residential land on the site that is outside the current adopted South Grafton Heights Precinct Strategy. Council has resolved to draft amendments to that Strategy and concurrently exhibit those changes.

On this basis, it is intended that the planning proposal be advertised for 28 days in accordance with Section 4.5 of *"A guide to preparing a local environmental plan"*. It is also intended to write directly to adjoining and nearby land owners.

A public hearing is not, at this stage, considered necessary.

APPENDIX 1 : STATE ENVIRONMENTAL PLANNING POLICY CHECKLIST

STATE ENVIRONMENTAL PLANNING POLICY	COMPLIANCE	COMMENTS
SEPP 1 Development Standards.	n/a	Not relevant.
SEPP 2 Minimum Standards for Residential Flat Buildings. Repealed by SEPP 20.	Repealed.	
SEPP 3 Castlereagh Liquid Waste Depot. Repealed by Infrastructure SEPP.	Repealed.	
SEPP 4 Development Without Consent and Miscellaneous Complying and Exempt Development.	n/a	Not relevant
SEPP 5 Housing for Older People with a Disability. Repealed by Seniors Living SEPP.	Repealed.	
SEPP 6 Number of Storeys in a Building		
SEPP 7 Port Kembla Coal Loader. Repealed by Infrastructure SEPP.	Repealed.	
SEPP 8 Surplus Public Land. Repealed by Infrastructure SEPP.	Repealed.	
SEPP 9 Group Homes. Repealed by Infrastructure SEPP.	Repealed.	
SEPP 10 Retention of Low Cost Rental Accommodation.	Not Applicable.	
SEPP 11 Traffic Generating Developments. Repealed by Infrastructure SEPP.	Repealed.	
SEPP 12 Public Housing (dwelling houses). Repealed by SEPP 53	Repealed.	
SEPP 13 Sydney Heliport. Repealed by Sydney REP 26.	Repealed.	
SEPP 14 Coastal Wetlands.	Complies.	None identified on this site.
SEPP 15 Multiple Occupancy of Rural Land. Repealed by SEPP 42. SEPP 15 Rural Land-Sharing Communities.	N/a	Not relevant
SEPP 16 Tertiary Institutions. Repealed by Infrastructure SEPP.	Repealed.	
SEPP 17 Design of Buildings In Certain Business Centres.	Did not Proceed	
SEPP 18 Public Housing.	Did not proceed	
SEPP 19 Bushland in Urban Areas.		
SEPP 20 Minimum Standards for Residential Flat Buildings. Repealed by SEPP 53.	Repealed.	
SEPP 21 Caravan Parks.	Complies.	Not applicable
SEPP 22 Shops and Commercial Premises.	N/a	Not relevant
SEPP 23	Not allocated.	
SEPP 24 State Roads.	Did not proceed	
SEPP 25 Residential Allotment Sizes. Repealed	Repealed.	

STATE ENVIRONMENTAL PLANNING POLICY	COMPLIANCE	COMMENTS
by SEPP 53.		
SEPP 26 Littoral Rainforests.	Complies	None identified on this site
SEPP 27 Prison Sites. Repealed by Infrastructure SEPP.	Repealed.	
SEPP 28 Town Houses & Villa Houses. Repealed by SEPP 25 Amendment 4.	Repealed.	
SEPP 29 Western Sydney Recreation Area.	Not Applicable	
SEPP 30 Intensive Agriculture	N/a	Not applicable
SEPP 31 Sydney (Kingsford Smith) Airport. Repealed by Infrastructure SEPP.	Repealed.	
SEPP 32 Urban Consolidation (Redevelopment of Urban Land).	Complies.	Not applicable
SEPP 33 Hazardous & Offensive Development.	N/a	Not relevant
SEPP 34 Major Employment Generating Industrial Development. Repealed by Major projects SEPP.	Repealed.	
SEPP 35 Maintenance Dredging of Tidal Waterways. Repealed by Infrastructure SEPP.	Repealed	
SEPP 36 Manufactured Home Estates.	n/a	Not relevant
SEPP 37 Continued Mines & Extractive Industries Repealed by Mining, Petroleum Production and Extractive Industries SEPP.	Repealed.	
SEPP 38 Olympic games & Related Projects. Repealed by Major Projects SEPP.	Repealed.	
SEPP 39 Split Island Bird Habitat.	Not Applicable	
SEPP 40 Sewerage Works.	Did not proceed.	
SEPP 41 Casino/Entertainment Complex.	Not Applicable	
SEPP 42 Multiple Occupancy & Rural Land.	Repealed by SEPP 15	
SEPP 43 New Southern Railway. Repealed by Infrastructure SEPP.	Repealed.	
SEPP 44 Koala Habitat Protection.	Complies	No core koala habitat on site.
SEPP 45 Permissibility of Mining. Repealed by Mining, Petroleum Production and Extractive Industries SEPP.	Repealed.	
SEPP 46 Protection & Management of Native Vegetation. Repealed by Native Vegetation Conservation Act 1997.	Repealed.	
SEPP 47 Moore Park Showground.	Not Applicable	
SEPP 48 Major Putrescible Landfill Sites. Repealed by Infrastructure SEPP.	Repealed.	
SEPP 49 Tourism Accommodation in Private Homes.	Draft only.	
SEPP 50 Canal Estate Development.	N/a	Not relevant
SEPP 51 Eastern Distributor.	Repealed.	



STATE ENVIRONMENTAL PLANNING POLICY	COMPLIANCE	COMMENTS
Repealed by Infrastructure SEPP.		
SEPP 52 Farm Dams & Other Works in Land & Water Management Plan Areas.	Not Applicable	
SEPP 53 Metropolitan Residential Development	Not Applicable	
SEPP 54 Northside Storage Tunnel. Repealed by Infrastructure SEPP.	Repealed.	
SEPP 55 Remediation of Land.	Complies	No known contamination on site
SEPP 56 Sydney Harbour Foreshores & Tributaries. Repealed by Major Projects SEPP Amendment.	Repealed.	
SEPP 57	Not allocated.	
SEPP 58 Protecting Sydney's Water Supply. Repealed by Drinking Water Catchments REP No 1.	Repealed.	
SEPP 59 Central Western Sydney Economic & Employment Area.	Not Applicable	
SEPP 60 Exempt & Complying Development.	Not Applicable	
SEPP 61 Exempt & Complying Development for White Bay & Glebe Island Ports. Repealed by Infrastructure SEPP.	Repealed.	
SEPP 62 Sustainable Aquaculture.	n/a	Not relevant
SEPP 63 Major Transport Projects. Repealed by Infrastructure SEPP.	Repealed.	
SEPP 64 Advertising & Signage.	n/a	Not applicable to rezoning
SEPP 65 Design Quality of Residential Flat Buildings.	n/a	Not relevant
SEPP 66 Integration of Land Use & Transport. Draft.	Complies	Site close to public bus transport route.
SEPP 67 Macquarie Generation Industrial Development Strategy. Repealed by Infrastructure SEPP.	Repealed	
SEPP 68	Not allocated.	
SEPP 69 Major Electricity Supply Projects. Repealed by Infrastructure SEPP.	Repealed.	
SEPP 70 Affordable Housing (Revised Schemes).	Not Applicable	
SEPP 71 Coastal Protection	n/a	Not within coastal zone.
SEPP 72 Linear Telecommunications Development - Broadband. Repealed by Infrastructure SEPP.	Repealed.	
SEPP 73 Kosciuszko Ski Resorts Repealed by SEPP Kosciuszko National Park – Alpine Resorts.	Repealed.	
SEPP 74 Newcastle Port & Employment Lands Repealed by Major Projects SEPP.	Repealed.	
SEPP (Housing for Seniors or People with a Disability) 2004	Consistent.	Not relevant. Doesn't apply to current or proposed zone/s.
SEPP Building Sustainability Index: BASIX 2004	Complies.	Relevant to development

Clarence Valley Council

Grafton District Golf Club, Bent Street, South Grafton - Planning Proposal, ver 1.0, 5 November 2010 – for referral to the Department of Planning 'Gateway'
Part of Lot 400 DP 1153969, Bent Street, South Grafton



STATE ENVIRONMENTAL PLANNING POLICY	COMPLIANCE	COMMENTS
		application stage.
SEPP (ARTC Rail Infrastructure) 2004 Repealed by Infrastructure SEPP.	Repealed.	
SEPP (Sydney Metropolitan Water Supply) 2004 Repealed by Infrastructure SEPP.	Repealed.	
SEPP (Development on Kurnell Peninsula) 2005	Not applicable	
SEPP (Major Projects) 2005	n/a	Not relevant
SEPP (Sydney Regional Growth Centres) 2006	Not applicable	
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	Not applicable.	
SEPP (Temporary Structures and Places of Public Entertainment) 2007	Not applicable	
SEPP (Infrastructure) 2007	Not applicable	
SEPP (Kosciuszko National Park – Alpine Resorts) 2007	Not applicable.	
SEPP (Rural Lands) 2008	Not applicable	
SEPP – North Coast Regional Environmental Plan 1988 (NCREP)	Applicable	This document now has the status of a SEPP – specific relevant provisions are addressed below.
NCREP <i>clause 45 – Plan Preparation – Hazards</i> 45(1)(b) requires that rezoning of land for urban purposes should not occur on land subject to flooding or poor drainage unless an assessment has been made of the extent of the hazard and provisions to minimize adverse impacts.	Consistent	More details needed to determine the bushfire hazard and impact on the planning proposal and future rural-residential development.
NCREP <i>clause 45A – Plan Preparation – flood liable land</i> A draft LEP should not rezone flood liable land zoned, inter alia, open space unless consistent with an adopted floodplain risk management plan.	Consistent	Not relevant.
NCREP <i>Plan Preparation – servicing urban areas</i> Draft LEPs should ensure that ensuing development will make economic use of existing services.	Consistent	All normal urban services are either available to the site or can be extended for future additional residential development adding to efficiency of service provision.
NCREP – <i>Clause 61 – Plan Preparation – health and education facilities</i> Requires that such facilities are located with good access to other complimentary developments and services	Consistent	Not relevant.
NCREP – <i>Clause 65 – Plan Preparation- provision of community, welfare and child care services</i> Land should not be rezoned for residential purposes unless adequately serviced by welfare services etc.	Consistent	Not relevant.
NCREP – <i>Plan Preparation – existing zones for public open space</i> A draft LEP should not substantially reduce zones for public open space	Consistent.	Ultimate development will enable relocation of the existing section of the golf course to a vacant rural area at the south side of Lot 400.



APPENDIX 2: SECTION 117 DIRECTION CHECKLIST

SECTION 117 DIRECTION	COMPLIANCE	COMMENTS
1. EMPLOYMENT AND RESOURCES		
1.1 Business and Industrial Zones	Not applicable	
1.2 Rural Zones	Not applicable	
1.3 Mining, Petroleum Production and Extractive industries	Not applicable	
1.3 Oyster Aquaculture	Not applicable	
1.5 Rural Lands	Not applicable	
2. ENVIRONMENT AND HERITAGE		
2.1 Environmental protection Zones	Not applicable	
2.2 Coastal protection	Not applicable	
2.3 Heritage Conservation	Not applicable	
2.4 Recreation Vehicle Areas	Not applicable	
3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT		
3.1 Residential Zones	Complies.	
3.2 Caravan Parks and Manufactured Home Estates	Not applicable.	
3.3 Home Occupations	Not applicable.	
3.4 Integrated Land Use and Transport	Consistent.	
3.5 Development Near Licensed Aerodromes	Not applicable.	
4. HAZARD AND RISK		
4.1 Acid Sulfate Soils	Complies.	No Acid Sulfate Soil on-site.
4.2 Mine Subsidence and Unstable land	Not applicable.	
4.3 Flood Prone Land	Not applicable	
4.4 Planning for Bushfire	Likely to comply.	More detailed site assessment



SECTION 117 DIRECTION	COMPLIANCE	COMMENTS
Protection		required. In conjunction with any consultation on the planning proposal the more detailed assessment needs to be referred to the NSW Rural Fire Service in accordance with this Direction.
5. REGIONAL PLANNING		
5.1 Implementation of Regional Strategies	Consistent	Refer to Section 5.1 earlier.
5.2 Sydney Drinking Water Catchments	Not applicable.	
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable.	
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable.	
5.5 Development in the Vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	Not applicable.	
5.6 Sydney to Canberra Corridor	Not applicable.	
5.7 Central Coast	Not applicable.	
5.8 Second Sydney Airport: Badgerys Creek	Not applicable.	
6. LOCAL PLAN MAKING		
6.1 Approval and Referral Requirements	Complies.	No additional planning provisions are intended.
6.2 Reserving Land for Public Purposes	Not applicable.	
6.3 Site Specific Provisions	Complies.	

Committee:	ENVIRONMENT, ECONOMIC & COMMUNITY	11 Nov 2008
Section:	Strategic Planning	DWS# No
Item:	08.204/08 REZONING AT GRAFTON & DISTRICT GOLF CLUB, SOUTH GRAFTON	

ATTACHMENT**REPORT SUMMARY**

The report outlines the steps involved in progressing a draft local environmental plan to rezone part of the Grafton & District Golf Club land at Bent Street, South Grafton. The relationship of this proposed rezoning to the South Grafton Heights Precinct Strategy is detailed and Council is requested to make formal resolution to enable initial referral of this matter to the State Government.

OFFICER'S RECOMMENDATION

1. That Council resolve, pursuant to Section 54 of the Environmental Planning and Assessment Act 1979, to prepare a draft local environmental plan to rezoning part Lot 40, DP1084591, Bent Street, South Grafton from the 6(b) Open Space (Recreation – Special Purposes) Zone to the 1(c) Rural Residential Zone, or similar zoning in order to enable development of large residential lots, under the Grafton Local Environmental Plan or other appropriate local environmental planning instrument.
2. That action on item 1 above not occur until the Applicant has paid the rezoning application fee to Council.
3. That public consultation on the DLEP occur at the Section 66 stage of preparing the DLEP.
4. That Council consult on the associated amendment to the South Grafton Heights Precinct Strategy concurrent with public exhibition at Section 66 stage of the Draft Local Environmental Plan.

RECOMMENDATION BY COMMITTEE

Howe/Comben

That the Officer's Recommendation be adopted.

Voting recorded as follows:

For: Councillors Howe, Comben, Hughes, Williamson
Against: Councillor Tiley

**COUNCIL RESOLUTION - item 08.204/08
(Crs Dinham /Howe)**

That:

1. **Council resolve, pursuant to Section 54 of the Environmental Planning and Assessment Act 1979, to prepare a draft local environmental plan to rezoning part Lot 40, DP1084591, Bent Street, South Grafton from the 6(b) Open Space (Recreation – Special Purposes) Zone to the 1(c) Rural Residential Zone, or similar zoning in order to enable development of large**

residential lots, under the Grafton Local Environmental Plan or other appropriate local environmental planning instrument.

- 2. Action on item 1 above not occur until the Applicant has paid the rezoning application fee to Council.**
- 3. Public consultation on the DLEP occur at the Section 66 stage of preparing the DLEP.**
- 4. Council consult on the associated amendment to the South Grafton Heights Precinct Strategy concurrent with public exhibition at Section 66 stage of the Draft Local Environmental Plan.**

Voting recorded as follows:

For: Councillors Williamson, Dinham, Howe, Hughes, Simmons, Toms

Against: Tiley, McKenna

BACKGROUND

Council has most recently considered this matter at its meeting on Tuesday, 21 October 2008 when it resolved:

"That:

Council support the rezoning application seeking further public consultation on the 9 lot proposal."

Council has arrived at this decision in recognition that the proposal is inconsistent with the South Grafton Heights Precinct Strategy adopted by Council in August 2007. Support for the proposed rezoning would necessitate an amendment to the adopted Strategy to ensure consistency. Such amendment should be subject to community consultation concurrent with public exhibition of the DLEP.

ISSUES

Council's resolution from the October meeting requires 'further public consultation' on a rezoning to enable a 9-lot proposal. Preparation of an amendment to an LEP requires formal public consultation after the draft amendments have been prepared and following consultation with Government agencies.

Council has previously consulted local residents and the wider community on a rezoning of the subject land concurrent with public exhibition of the Draft South Grafton Heights Precinct Strategy. Hence, the issues in respect of the proposal are largely understood. In the circumstances, it is proposed that no further consultation occur until after a Draft LEP is prepared, ie consistent with the legislative requirements for public exhibition under the Environmental Planning and Assessment Act 1979 (refer to the boxes bordered heavy black at Attachment 1).

Additionally, the proposal needs to be referred to the DoP and their LEP Review Panel (LEPRP) before the preparation of a DLEP can be progressed. Attachment 1 indicates the timing and role of the LEPRP in the DLEP process. Council will have a clearer view of the State Government's position on the rezoning after that referral. That information will further assist preparation of the DLEP and future public consultation.

Recommendation 1 clarifies Council's intention in legal terms to address the current situation where the draft LEP could be an amendment either to the existing Grafton LEP or the new Clarence Valley LEP, depending on timing issues out of Council's control.

The part of Lot 40, DP1084591 that is proposed to be rezoned, and hence subject to the DLEP, is shown in Attachment 2.

SUSTAINABILITY ASSESSMENT**Summary Statement:**

This issue relates primarily to legislative procedure and 'governance'. There are other elements of Council's Sustainability Framework which apply in a less direct sense.

Ecology:

Not a major consideration for this issue. Ecological considerations on the site of the proposed rezoning will be considered in preparation of the DLEP and include consultation with relevant State Government agencies specialising in such matters.

Economic:

Again, not major consideration. The Applicant has argued a case that the proposed rezoning makes more efficient use of existing infrastructure and this could be deemed to be an economic consideration.

Social & Cultural:

The subject land is zoned and used for recreation. The change to this function and associated amenity has been the subject of significant discussion during the history of rezoning proposal/s for this site.

Human Habitat & Infrastructure:

Issues presented at 'Economic' and 'Social and Cultural' above are relevant here too. Any rezoning of the subject land to allow residential land use will alter the current human habitat or landscape.

Governance:

This is the most relevant Sustainability element to the subject of this report. The report promotes good governance and compliance with contemporary planning practice. The opportunity for public consultation and input is provided by the formal DLEP preparation process.

Guiding Sustainability Principles:

Council needs to comply with current best practice and legislative requirements in the preparation of Draft LEPs. This report promotes continual improvement while providing for community involvement at an appropriate future stage of the DLEP process.

OPTIONS

The following options are offered for Council's consideration:

1. Adopt the Recommendation and formally resolve to refer this rezoning proposal to the Department of Planning.
2. Not proceed with the proposed Recommendation, in particular Item 1. This action would appear to be contrary to the resolution of Council's meeting on Tuesday, 21 October 2008. Further, it is unlikely that the Department of Planning would consider this matter without formal resolution consistent with the terms stated in the Recommendation.

ORDINARY MEETING

19 NOVEMBER 2008

3. Commence public consultation on the DLEP and amendments to the South Grafton Heights Precinct Strategy prior to the Section 66 stage of preparing the DLEP. Conducting two lots of community consultation would not be efficient use of staff resources and is not supported.
4. Proceed with the rezoning process and not require payment of the rezoning application fee. This action would be contrary to the procedure typically applied by Council and the adopted Fees and Charges. Such a decision is not considered prudent and would potentially raise a range of other questions, or suspicions, as to the basis for such a decision.

Option 1 is the preferred option.

FINANCIAL IMPLICATIONS

Fees for the rezoning application assist in recouping Council for costs incurred in processing and preparing a DLEP. The fee has been adopted in the Fees and Charges. The fee is not typically refunded, in whole or part, if a decision is made during the process to discontinue preparation of a DLEP as proposed.

Des Schroder

DEPUTY GENERAL MANAGER - ENVIRONMENTAL & ECONOMIC

Prepared by: Scott Lenton
Section: Strategic Planning

Attachment: Local Environmental Plan Process, Site Plan