
GENERAL MANAGER'S REPORT

**ITEM 9.4 SF1730 240413 PLANNING PROPOSAL - NAMBUCCA LEP AMENDMENT
NO. 13 - SCHEDULE 1 AMENDMENT TO USE LOT 155 AND 188 DP 755537 FOR THE
PURPOSES OF SENIORS LIVING DEVELOPMENT**

AUTHOR/ENQUIRIES: Grant Nelson, Strategic Planner

SUMMARY:

Council has received a planning proposal from Hampton Property Services on behalf of Starberg Investments Pty Ltd to amend Schedule 1 of the *Nambucca Local Environmental Plan (NLEP) 2010* to permit a Seniors Living development on Lot 155 and 188 DP755537.

The Planning Proposal requires a gateway determination by the Department of Planning and Infrastructure (DOPI) in order for investigations to proceed. This report is to notify Council we are in receipt of the planning proposal and to recommend Council permit the proposal to proceed to Gateway determination accompanied by recommendations for further investigation.

NOTE: This matter requires a "Planning Decision" referred to in Section 375A of the Local Government Act 1993 requiring the General Manager to record the names of each Councillor supporting and opposing the decision.

RECOMMENDATION:

- 1 That Council staff collaborate with applicant to ensure the planning proposal has addressed all matters necessary pursuant to Clause 55 of the *Environmental Planning and Assessment Act 1979* and DOPI's Guide to preparing planning proposals;
- 2 That, pursuant to Clause 56 of the *Environmental Planning and Assessment Act 1979*, the Planning Proposal proposing a Schedule 1 Amendment to the Nambucca LEP 2010 to allow a seniors living development on Lot 155 and 188 DP755537 be forwarded to the Minister for Gateway Determination.
- 3 That minister be advised of the matters that Council considers require further detailed investigation should the proposal proceed beyond the initial gateway determination. In the first instance an examination of the appropriateness of a seniors living development being isolated during flood events should be considered as well as the availability of alternative accesses to the property.

OPTIONS:

Council may choose not to support the planning proposal.

DISCUSSION:

Council received an application for an LEP amendment in Feb 2013. The subject land for the application is Lot 155 and 188 DP755537, 24 Coronation Road Macksville which is presently zoned RU1 Primary Production; E3 Environmental Management; E2 Environmental Protection. The amendment proposes an addition to schedule 1 of the Nambucca LEP 2010 in order to allow a seniors living development on the subject land. Access to the seniors living development would be from Coronation Road.

Note: the land in question was identified in the Nambucca Shirewide Structure Plan as a locality suitable for future business park; educational facility or seniors living development.

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Why is the amendment required?

An amendment to the LEP is required because a seniors living development is not a permissible use in the current zone. After consideration of a number of methods to permit a seniors development on the site including a site compatibility certificate or rezoning, discussions between the applicant and the DOPI advised that an LEP amendment to Schedule 1 was the preferred option in this instance.

It is noted that there was an unsuccessful application for a site compatibility certificate (SEPP (housing for seniors or people with a disability) made on the site in 2009. This application was rejected because the land did not directly adjoin residential land (a requirement to be considered under the SEPP).

What information is required and what information has been provided?

The LEP amendment process allows Council to present a proposal to the DOPI Gateway Panel for consideration prior to significant investment being afforded to studies and like material that may be required to support a proposal. The purpose of this process is to avoid applicants or a Council expending significant money on specialist investigations if a proposal is not supported in principle or due to inconsistencies with state-regional or locally approved strategies.

In this instance the applicant has provided a planning proposal prepared by Hampton Property Services. The planning proposal has been prepared generally in accordance with the Guidelines on Preparing Planning Proposals and included a number of appendices including:

- Bushfire Update (innovation planning Aust 2009);
- Bushfire Risk Assessment (Steven Ellis Bushfire Risk Assessor 2004);
- Flora and Fauna Investigations (Ozeecomangement Pty Ltd 2004);
- Water Sensitive Urban Design Concepts (Cardno Willing draft report 2004);

The Planning Proposal has been **circularised for Councillors only** for Council information. The other studies can be provided on request.

The studies provide investigations relevant to the site attributes and the proposed development, however they are dated and due to legislative changes will need to be given further consideration. Issues relating to these studies will be discussed in more detail below.

The EP&A Act requires SEPP's and 117 Directions to be addressed in a planning proposal. Although consideration of these matters has been provided in the Planning Proposal, staff need to ensure all these matters have been appropriately addressed prior to submission to the gateway panel. Should the gateway panel determine the proposal may proceed, additional information will be required to support the process and the Panel may call a second gateway determination to consider the additional information.

What specific matters are relevant to the Planning Proposal?

Rural Land – As stated above part of the land is zoned RU1 Primary Production this portion of the land is intended to be used for Seniors Living Development. Relevant 117 Directions indicate that Council must not rezone rural land to residential, business, industrial, village or a tourist zone which is not intended in this instance. Further the 117 directions indicate that a planning proposal affecting rural land must be consistent with the principles of the SEPP (rural lands) or justified by a planning strategy or be of minor significance. The principles of the SEPP relate to the protection and productivity of the land on and adjoining the site. The applicant has indicated that in this regard the proposal is of minor significance.

In respect to rural land it is noted that some of this land is identified as regionally significant farmland which needs to be addressed as part of the Mid North Coast Regional strategy and related 117 directions. Prior to forwarding to the DOPI for Gateway determination Council staff will ensure these matters related to these 117 directions have been addressed in detail.

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Flooding – Part of the land on the eastern portion of the site is identified as being flood prone land and adjoins a High Risk floodway in Councils existing Flood Risk Management Plan. Recent draft flood investigations indicate this area will be likely to flood in a 1 in 5 ARI flood event. However, the actual development is proposed on flood free land.

The relevant 117 Direction indicates that planning proposal must not contain provisions relating to flood planning areas that significantly increase development on those areas. As stated the front portion of the land is flood prone the land where future development is intended is flood free.

It is noted that any future development will have no access available to and from Coronation Road in small a flood event unless the internal access is designed to accommodate flood flows. Larger flood events will cause surrounding roads to be flooded eliminating access to Macksville. Councils Manager of Technical Services has indicated a flood free access would be required to Coronation Road.

The above is a cursory examination of the flooding matters, detailed consideration as part of this process is likely to be core to the appropriateness of the amendment and any future development. Should the Gateway Panel determine the proposal may proceed it is recommended the applicant be required to investigate flooding issues on the site including the availability of alternative flood free access during flood events. The specialist study should also give consideration the appropriateness of a seniors living development being isolated in a flood event.

Flora and Fauna – the land contains 2 environmental zones and a SEPP 14 wetland and likely Endangered Ecological Communities. Concepts for the proposed future development demonstrate that these areas will not be directly impacted. Nevertheless appropriate buffer zones should be placed on any future development in accordance Councils DCP 2010. Further 117 direction no. 2.1 Environmental Protection Zones indicates a planning authority must not reduce the environmental protection standards that apply to the land. The concept layout provided does not have any direct impact on the Environmental Protections zones.

Should the gateway panel determine the planning proposal proceed it is recommended the Flora and Fauna Investigations be updated to reflect current legislation.

Bushfire – The land is identified as being bushfire prone land and a bushfire hazard assessment has been submitted with the application. 117 Direction no. 4.4 Planning for Bushfire Protection indicates Council must consult with commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made.

As with the flora and fauna assessment a number of changes to the Bushfire guidelines have been made since the preparation of the supporting information and should the gateway panel determine the planning proposal may proceed it is recommended the Bushfire Assessment be updated to reflect the current Planning for Bushfire Protection Guidelines. It is recommended this occur prior to referral to the commissioner of the NSW Rural Fires Service for comment.

Acid sulphate Soils - The land is identified as containing Class 2, 3 and 5 acid sulphate soils. 117 Direction no. 4.1 Acid Sulphate Soils indicates that a planning authority must give consideration to the acid sulphate soils planning guidelines it also indicates that if proposing to permit an intensification of land uses on site with a probability of containing acid sulphate soils then an acid sulphate soils study is required and must be provided to the director general prior to public consultation being undertaken.

Should the gateway panel determine the proposal may proceed an acid sulphate soils study will be required.

Servicing – Should the gateway panel determine that the proposal may proceed, a Concept services plan will be required detailing sufficient water supply and sewer drainage services are designed to accommodate minimum requirements for the development to the satisfaction of Councils Manager Water and Sewerage.

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Access to Macksville - Should the gateway panel determine that the proposal may proceed, access for pedestrians/motorised scooters from the subject to Macksville CBD should be given further consideration.

CONSULTATION:

Manager Technical Services

SUSTAINABILITY ASSESSMENT:**Environment**

Further detailed environmental investigations have been recommended should the proposal be permitted to proceed.

Social

Nambucca shire and the broader region have been identified as an area with high growth in the ageing end of the demographic. It is expected that developments of this nature will be required to cater for the demand of this demographic as time goes by.

The selection of suitable/ appropriate land may often be outside existing residential areas and amendments to the LEP to permit such activities will allow sites to be given further consideration. However, the selection of a suitable site is key to the amendment.

To assess the suitability of the site for this type of development, further investigations have been recommended.

Economic

It is likely a development of this nature would provide a number of economic opportunities to the shire, during constructions and post construction.

Risk

At this stage there is limited risk associated with the planning proposal. However, it is recommended that the issue of flooding be pursued early in the process as it is likely to be a key issue for the development.

FINANCIAL IMPLICATIONS:**Direct and indirect impact on current and future budgets**

NIL

Source of fund and any variance to working funds

NIL

Service level changes and resourcing/staff implications

NIL

ATTACHMENTS:

1 - Councillors Only - Planning Proposal 24 Coronation Drive, Congarinni 0 Pages

TO: General Manager (Michael Coulter)

Subject: PLANNING PROPOSAL - NAMBUCCA LEP AMENDMENT NO. 13 -
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THE PURPOSES OF SENIORS LIVING DEVELOPMENT
Target Date: 8/05/2013
Notes:
Trim Reference SF1730 (4402/2013)

33/13 **RESOLVED:** (Ainsworth/Finlayson)

- 1 That Council staff collaborate with applicant to ensure the planning proposal has addressed all matters necessary pursuant to Clause 55 of the Environmental Planning and Assessment Act 1979 and DOP's Guide to preparing planning proposals;
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For the motion: Councillors Hoban, Morrison, Smyth, Finlayson, Ainsworth, Macdonald and
South (Total 7)
Against the motion: Councillor Flack (Total 1)

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ACTION TAKEN BY OFFICER

ONGOING / COMPLETED

Completion date: _____

(Please update once item is actually completed)

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