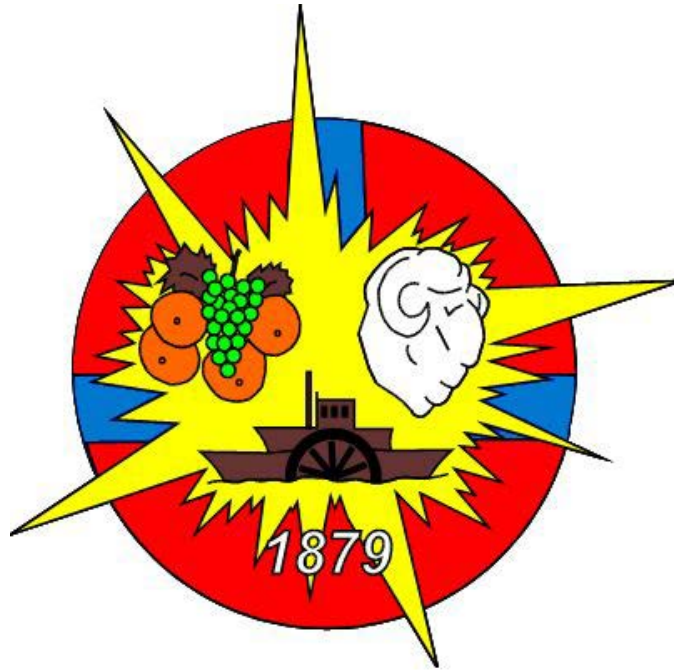




WENTWORTH SHIRE COUNCIL

**PLANNING LIAISON COMMITTEE
MEETING
MINUTES**

18 DECEMBER 2013

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1 OPENING OF MEETING

2 PRESENT

COUNCILLORS: Don McKinnon (Mayor), Paul Cohrs (Deputy Mayor), Brian Wakefield, Bob Wheeldon

STAFF: Mr Peter Kozlowski (General Manager)
Mr Ken Ross (Director Health & Planning)
Mrs Kerrilyn Miller (Coordinator Health & Planning)

3 APOLOGIES AND LEAVE OF ABSENCE

Nil.

4 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Recommendation

That the Minutes of the Planning Liaison Committee Meeting held 20 November 2013 be confirmed as circulated.

As there was no official Planning Liaison Committee Meeting held 20 November 2013 there were no minutes to be confirmed. What took place was a presentation by Consultants David Broyd & Shelley McGuinness regarding the Rural Land Use Strategy before the whole Council.

5 DECLARATIONS OF PECUNIARY INTEREST AND CONFLICTS OF INTEREST

Councillor Bob Wheeldon declared a conflict of interest for items 6.2 and 6.4 as item 6.2 relates to his business' planning proposal and item 6.4 relates to a separate rural land holder's proposal which may have an impact on his development. Upon his request the order was rearranged and items 6.1 and 6.3 were discussed with him present. He left the room at 12.47pm after which items 6.2 and 6.4 were discussed.

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6 REPORTS

6.1 ACQUISITION OF LAND FOR RECREATIONAL PURPOSES - BURONGA GOL GOL STRUCTURE PLAN

File Number: RPT/13/651

Responsible Officer: Ken Ross - Director, Health and Planning

Responsible Directorate: Health and Planning

Reporting Officer: Ken Ross - Director, Health and Planning

Delivery Program Objective: 4. Community Life

Delivery Program Strategy: 4.2 Continue to provide services that contribute to community life

Summary

The topic of this report has a long history of which is important for the Committee to recognize in the deliberations to determine the appropriate Course of action to progress the acquisition of land for the purpose of passive recreation and drainage.

Purpose

The purpose of this report is for the committee to endorse the progression of the acquisition of some freehold land with frontage to Dawn Avenue. It is intended by the officer to follow the previous process identified at a Council meeting held in July 2009. The sections of the minutes are attached for the member's information.

Report

Background

The current position of Council in response to this matter is authorized by the minutes of the Extraordinary meeting of Council held on 1 July 2009. This resolved the following:

1. That Council progress the acquisition of part Lot 1 DP 1114400 by private agreement
2. That Council delegate the authority to the General Manager to negotiate the terms of the agreement to be later endorsed by Council as part of the formal resolution to acquire as required by the *Land Acquisition (Just Terms Compensation Act) 1991*.

Matters under consideration

The acquisition of this parcel of land had been previously identified in the Buronga Gol Gol structure Plan. In subsequent dealings it has been identified that the land in its entirety is not required for the development of recreational facilities but rather only a portion. This portion has now been identified and agreed to by the current owner of the land.

Council issued a Development Consent upon the subject allotment in 2010. A condition of that consent was:

13. The land the subject of this approval has been identified in the Buronga Gol Gol Structure Plan as being part of a multi use corridor for drainage or open space, dependent on the detailed staging and release of residential land. Further negotiation with previous discussions on this matter will occur when the Local Environmental Plan 2010 is finalized.

To add value to the functionality of this land it is further intended to acquire the adjoining crown allotment under Licence No 397554.

Options

Based on the information contained in this report, the options available to address this matter are to:

Progress this matter in line with the resolution of Council dated 1 July 2009.

Not proceed with the identified process.

Implications

The decision item has the following implications for Council:

The acquisition of the land would be subject to the payment of compensation and costs associated with the transfer of land. It is envisaged that this amount would be paid for from Council's Section 94 reserve.

Conclusion

The intent of the Council has been clearly demonstrated through previous resolution. With the current development of subdivisions in the nearby vicinity under consideration it is timely that the subject parcel be acquired for the purposes of a multi use corridor for drainage or open space.

Recommendation

That the committee recommends to Council that the acquisition of part Lot 1 DP 1114400 having an approximate area of 2.57 hectares be continued in line with the resolution of Council dated 1 July 2009.

COMMITTEE RECOMMENDATION

That the committee recommends to Council that the acquisition of part Lot 1 DP 1114400 having an approximate area of 2.57 hectares be continued in line with the resolution of Council dated 1 July 2009.

Moved Councillor P Cohrs, Seconded Councillor B Wakefield

CARRIED

In accordance with Section 375A of the Local Government Act the Mayor called for a division.

For the Motion : ***Councillors P Cohrs, D McKinnon, B Wakefield and B Wheeldon.***

Against the Motion: ***Nil.***

**6.2 GRAND JUNCTION
PLANNING PROPOSAL AT SOUTH AND NORTH POMONA
PROPOSED REZONING OF LAND FROM RU1 TO RU4**

File Number: RPT/13/758

Responsible Officer: Ken Ross - Director, Health and Planning

Responsible Directorate: Health and Planning

Reporting Officer: Warrick Fisher - Planning Contractor

Delivery Program Objective: 2. Growth & Development

Delivery Program Strategy: 2.1 Maximise the productive use of land

Summary

Grand Junction submitted an application to Council on 30 September 2013 to rezone 490 hectares of land to the north and south of the Pomona township from RU1 Primary Production to RU4 Primary Production Small Lots to enable dwellings on lots of five (5) to 10 hectares.

The land subject to the proposal is formally known as:

South of Pomona:

- Lot 2, DP116816
- Lot 5, DP756964

North of Pomona:

- Lot 2, DP134929
- Lot 4, DP1015663

Purpose

The purpose of this report is to seek the elected members support to include the proposal as part of the Rural Land Use Strategy currently being undertaken by Council.

The proposal should not be considered separately to the Rural Land Use Strategy as any rezoning within the rural area may undermine the outcomes of the strategy. Given Council has agreed to proceed with a rural land use strategy, it would be beneficial to include the proposal in the 'overall' strategic assessment of rural land in the municipality.

Report

Background

The applicant (Grand Junction) presented the proposal at Council's Planning Liaison Committee (PLC) meeting dated 08 November 2013.

The RU1 land has a total area of 490 hectares and it is proposed to rezone the land to RU4 to enable lot sizes of a minimum of 5 to 10 hectares enabling the creation of 49 lots. The applicant considers that each lot will have a dwelling entitlement, although any future development application would be required to be determined on the merits of each individual application and must meet the objectives of the relevant zone.

The applicant has submitted they also own 4,997 hectares of RU1 land west of Pomona that they would 'surrender' the dwelling entitlements of the land and 'transfer' the dwelling entitlements to the rezoned land north and south of Pomona.

Grand Junction has submitted additional information to support their application for rezoning on 08 November 2013. The additional information was in response to the PLC meeting on the same day. The further information detailed Grand Junction firmly believe the RU4 zone is appropriate *"as it best reflects the proposal for small rural holdings"* and RU1 is not suitable due to the restrictions that apply to dwellings contained in Section 4.2B and 4.2D of the Wentworth LEP.

The proposal is in its infancy and this report to the Planning Liaison Committee is to seek the elected members support to include the proposal in the Rural Land Use Strategy.

Timeline:

<u>Date</u>	<u>Action</u>
30 September 2013	Grand Junction submitted planning proposal to rezone 490 hectares of land north and south of Pomona from RU1 Primary Production to RU4 Primary Production Small Lots.
08 November 2013	Kathryn Baird of Grand Junction presented the proposal to the Planning Liaison Committee and tabled a document with dot points outlining why the proposal should be supported. In discussions with Council, Grand Junction advised by letter proceeding the PLC meeting they will happily take up Council's suggestion to have a surveyor obtain relevant elevations around the two sites and provide the information to Council. The letter also further discussed why the RU4 zone has been selected by Grand Junction as being the most appropriate zone and why the RU1 and R5 zones are not appropriate. Grand Junction requested the proposal be put forward to the November 2013 Council meeting with Council's recommendation.
08 November 2013	Preliminary assessment undertaken by Warrick Fisher, Council's Contract Planner.
11 November 2013	Preliminary assessment by Warrick Fisher updated with respect to the additional information submitted by Grand Junction on 08 November 2013.
25 November 2013	Meeting undertaken with Kathryn Baird of Grand Junction and Warrick Fisher, Council Contract Planner and Ken Ross (Director Sustainable Development) to discuss the proposal. Council's preferred method of assessing the application was detailed to Kathryn Baird. It was recommended the proposal be included as part of Council's Rural Land Use Strategy that was currently underway.
25 November 2013	Meeting undertaken with Kathryn Baird of Grand Junction and Warrick Fisher, Council Contract Planner and Ken Ross (Director Sustainable Development) to discuss the proposal. Council's preferred method of assessing the application was detailed to Kathryn Baird. It was recommended the proposal be included as part of Council's Rural Land Use Strategy that was currently underway.

	Kathryn Baird also submitted 2 x A3 plans with land elevation contours as requested by Council.
25 November 2013	Written response received by Kathryn Baird of Grand Junction and indicated she was concerned about the prospect of postponing consideration of their planning proposal until completion of the Rural Land Use Strategy and request Council to consider the proposal without delay.

Matters under consideration

1. Should the proposal be considered as part of Council's Rural Land Use Strategy?

Comment:

It is recommended the proposal be included for consideration as part of Council's Rural Land Use Strategy. The strategy will outline the municipalities future rural land use needs into the future. The outcome of the strategy may support the need to provide rural lifestyle properties in Pomona and will need to be strategically justified in context with the future objectives of the Wentworth Shire Council.

2. Is the RU4 Primary Production Small Lots zone appropriate for the proposal?

Comment:

While the initial thought was that the RU4 zone is not considered an appropriate zone for the land as the applicant has submitted the land is to be for rural/residential purposes which the RU4 zone does not promote and the zone was not created for rural/residential purposes, to satisfy a more appropriate zone within the standard instrument has proven difficult.

Options

Based on the information contained in this report, the options available to address this matter are to:

1. Proceed to consider the proposal as submitted; or
2. Include the proposal as part of the Rural Land Use Strategy.

Implications

The decision item has the following implications for Council:

1. It is highly recommended to include the land with the Rural Land Use Strategy currently being completed as this is the ideal opportunity to ensure the decision is consistent with Council's future rural land use objectives.

Conclusion

This item will be the subject of a further report to the full Council with the comments of the committee being incorporated within that report.

Recommendation

That the Planning Liaison Committee recommend to Council an appropriate course of action based on the content of this report.

Recommendation

That the Planning Liaison Committee recommend to Council an appropriate course of action

based on the content of this report.

COMMITTEE RECOMMENDATION

That the planning proposal for the change of zone and minimum lot size over the subject land being Lot 2 in DP 134929, Lot 4 in DP 1015663, Lot 5 in DP 756964 and Lot 2 in DP 1165816 be forwarded to the Department of Planning and Infrastructure under Section 56(1) of the Environmental Planning and Assessment Act, requesting that the Minister issue a *gateway determination* that will allow the planning proposal to proceed to facilitate Wentworth Local Environmental Plan 2011 Amendment No 5.

Moved Councillor P Cohrs, Seconded Mayor D McKinnon

CARRIED

In accordance with Section 375A of the Local Government Act the Mayor called for a division.

For the Motion : ***Councillors P Cohrs, D McKinnon and B Wakefield.***

Against the Motion: ***Nil.***

**6.3 DEVELOPMENT APPLICATION DA13/048
PROPOSED 2 LOT SUBDIVISION (EXCISION OF DWELLING)
APPLICANT - ROY COSTA AND ASSOCIATES**

File Number: RPT/13/776

Responsible Officer: Ken Ross - Director, Health and Planning

Responsible Directorate: Health and Planning

Reporting Officer: Warrick Fisher - Planning Contractor

Delivery Program Objective: 2. Growth & Development

Delivery Program Strategy: 2.1 Maximise the productive use of land

Summary

Applicant: Roy Costa and Associates

Owner: Raelene Stephens and David Hilton

Proposal: 2 Lot Subdivision (Dwelling Excision)

Location: 239 Boeill Creek Road, Boeill Creek

Zone: RU1 – Primary Production

Introduction

The purpose of this report is to provide the elected members with the relevant planning assessment to enable a determination of the proposal. As per Council's requirement, any proposal recommended for refusal must be prepared for Council to determine the application.

Background / Site Description

The subject land has access to Boeill Creek Road and is 7.723 hectares and contains two (2) existing dwellings. The allotment has frontage to the Murray River. There is no existing rural use of the land.

The land is zoned RU1 – Primary Production and is located in a flood planning area.

The minimum lot size is 10,000 hectares in accordance with Lot Size Map - Sheet LSZ_004C.

The existing use of the land is a dwelling that was approved in 2007 (DA06/186). The approval was granted as there was an existing dwelling on the land and Condition 17 required the existing dwelling to be removed when the new dwelling was constructed. The dwelling to be removed remains on the land today.

The new dwelling (subject to DA06/186) was granted an Occupation Certificate on 10 April 2012. The dwelling to be removed as part of DA06/186 has not been removed to date.

Proposal

2 Lot Subdivision (Dwelling Excision) of existing land.

Planning Assessment

Section 79C(1)(a)(i) provisions of any environmental planning instrument

State Environmental Planning Policies

**State Environmental Planning Policy
(SEPP) Rural Lands 2008**

Part 2 – Rural Planning Principles

7 Rural Planning Principles

The Rural Planning Principles are as follows:

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| <ul style="list-style-type: none"> • the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas • recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State • recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development • in planning for rural lands, to balance the social, economic and environmental interests of the community • the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land • the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities | <ul style="list-style-type: none"> • The creation of Lot 2 further reduces the viability of the existing farming allotment. The applicant has not submitted the opportunity of consolidation with adjoining farming allotments and inadequate information has been given regarding any proposed farming/agricultural use. • The keeping of rural lands for agricultural purposes in the municipality is critical in ensuring the ongoing viability of the agricultural industry. Whilst it is important to recognise the changing nature of agriculture now and into the future within the municipality, Council must ensure that productive agricultural land is not lost to inappropriate development and/or subdivision. • The importance of maintaining rural land uses within the municipality is considered a high priority and should not be lost to inappropriate development and/or subdivision. • Agricultural activity within the municipality is considered an activity that is vital to the region's economic growth and sustainability. • Not applicable to this application. • The proposed subdivision has arisen from the owners opportunity to construct a new dwelling (DA186/06) abutting the Murray River. The existing dwelling should have been removed from the site as part of DA186/06, but remains today. • The new dwelling location has provided the owner with the potential to excise the dwelling to create a rural residential lifestyle property (abutting the |
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- the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing - ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.	Murray River environs) and this could not be achieved if the new dwelling was not constructed on the land. - Should the new dwelling have been refused as part of DA186-06, it would not have presented the owner with the opportunity to create a lifestyle property that they are now trying to achieve by the proposed excision of the new dwelling. - By allowing the excision of the new dwelling, it provides a purely rural residential allotment within an existing rural zone, which should be discouraged. - The proposed subdivision is not likely to have adverse impacts on services and infrastructure as the new dwelling is currently connected to services. No advice has been submitted as to how Lot 2 (rural lot) will be serviced for agricultural use. - Should approval of the application be considered by Council, the applicant should submit a farm management plan detailing how Lot 2 will be serviced and demonstrate how the land can be farmed in a viable manner. - The Department of Planning and Infrastructure contains a draft strategy for the NSW Murray Region which is one of a number of regional strategies prepared by the Department of Planning. - The strategy outlines the importance of sustaining the agricultural industry and details the NSW Murray Region is under pressure from a range of influences such as changes in agricultural production and the increasing development pressure and demographic changes, driven by retirees and 'tree changers' in particular. - The Wentworth Shire Council is constantly under pressure to provide development opportunities abutting the Murray River and it must ensure inappropriate development and/or subdivision is avoided. - The NSW Murray Region has experienced significant population growth over the years and it is critical the population growth is managed to ensure the regions agricultural base is not lost to inappropriate development. The region must ensure urban release of land is strategically based and not provided for at the detriment of productive agricultural land. - The strategy provides principles relating to how rural residential development should occur. It is considered the proposal is inconsistent with the strategy. - The strategy acknowledges rural lifestyle
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8 Rural Subdivision Principles The Rural Subdivision Principles are as follows: • the minimisation of rural land fragmentation • the minimisation of rural land use conflicts, particularly between residential land uses and other rural land uses • the consideration of the nature of existing agricultural holdings and the existing and planned future supply of rural residential land when considering lot sizes for rural lands • the consideration of the natural and physical constraints and opportunities of land • ensuring that planning for dwelling opportunities takes account of those constraints. 9 Rural subdivision for agricultural purposes The objective of this clause is to provide flexibility in the application of standards for subdivision in rural zones to allow land owners a greater chance to achieve the objectives for development in the relevant zone. • Land in a rural zone may, with consent, be subdivided for the purpose of primary production to	developments have increased over recent decades and the pressure to provide additional rural lifestyle land is increasing. It is considered this type of development should occur of the edge of towns and villages and not in an 'ad-hoc' manner due to 'other' inappropriate development within the area. • It is considered 'rural lifestyle' opportunities should be strategically based and the proposal does not include any strategic base of why a dwelling should be located on a small lot within a rural zone. • The proposal promotes rural land fragmentation. • The proposal could create land use conflicts as the proposed Lot 1 will not contain a rural land use. • The nature of existing agricultural holdings within the area are generally larger lots with horticultural use. No rural residential land is being considered by Council in the area. • The land is subject to flooding and is a constraint of the land. As no dwelling would be allowed on proposed Lot 2, it is considered no adverse impact is associated with the subdivision. • No dwelling is proposed as part of the application. • Proposed Lot 2 is to be for the purpose of primary production and would create a lot less than the
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create a lot of a size that is less than the minimum size otherwise permitted for that land • However, such a lot cannot be created if an existing dwelling would, as the result of the subdivision, be situated on the lot • A dwelling cannot be erected on such a lot. 10 Matters to be considered in determining development applications for rural subdivisions or rural dwellings (1) This clause applies to land in a rural zone, a rural residential zone or an environment protection zone. (2) A consent authority must take into account the matters specified in subclause (3) when considering whether to grant consent to development on land to which this clause applies for any of the following purposes: (a) subdivision of land proposed to be used for the purposes of a dwelling (b) erection of a dwelling. (3) The following matters are to be taken into account: (a) the existing uses and approved uses of land in the vicinity of the	minimum size otherwise permitted for the land. • Proposed Lot 2 contains an existing dwelling that should have been removed as part of DA13/186 (Condition 17). If a subdivision was approved, this dwelling must be removed and if the subdivision is refused, the dwelling must be removed as part of DA13/186 (Condition 17). • In accordance with Section 9 of the Rural Lands SEPP, a lot cannot be created if an existing dwelling would be situated on the lot. Lot 2 contains a dwelling that has not been removed from the site. • If the subdivision was approved, no dwelling can be erected on the land and an agreement should be registered on title to restrict any future use and development of a dwelling on the land. • The application provides for subdivision of land proposed to be used for the purposes of an existing dwelling. • No dwelling is proposed as part of the application.
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development (b) whether or not the development is likely to have a significant impact on land uses that, in the opinion of the consent authority, are likely to be preferred and the predominant land uses in the vicinity of the development (c) whether or not the development is likely to be incompatible with a use referred to in paragraph (a) or (b) (d) if the land is not situated within a rural residential zone, whether or not the development is likely to be incompatible with a use on land within an adjoining rural residential zone (e) any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c) or (d).	• The existing use of the land is a dwelling that was approved in 2007 (DA06/186). The approval was granted as there was an existing dwelling on the land and Condition 17 required the existing dwelling to be removed when the new dwelling was constructed. The owner is in breach of DA06/186 as the dwelling has not been removed within 3 months of the completion of the new dwelling. • There are four (4) rural residential allotments that have been created in the area and contain dwellings with no associated rural use. • The majority of land within the area is used for rural uses and development containing dwellings. • No development is proposed. • No development is proposed. • The land is not located in a rural residential zone. • No measures proposed by the applicant. No development is proposed. • It is noted the creation of Lot 1 will contain a dwelling not directly associated with a rural use and may be impacted upon by the surrounding rural uses. • As discussed above, it is considered the proposal is inconsistent with the SEPP (Rural Lands) 2008.
Deemed REP (Murray 2)	The proposal is for subdivision only and no development

	is proposed. The only issue pertaining to the REP (Murray 2) relates to the location of the waste water system and the applicant has not submitted any detail pertaining to the existing location of the waste water system. Should approval be granted, the applicant/owner should provide evidence Lot 1 can contain the existing dwelling in accordance with the relevant waste water regulations.
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Regional Environmental Plan

N/A

Local Environmental Plan

Wentworth Local Environmental Plan 2011 Zoning Clause 2.6 – Subdivision Consent requirements	The land is zoned RU1 – Primary Production and is located in a flood planning area. The minimum lot size is 10,000 hectares in accordance with Lot Size Map - Sheet LSZ_004C. The subject land is 7.723 hectares in size. • This Clause states that: (a) Land to which this Plan applies may be subdivided, but only with development consent. (b) Development consent must not be granted for the subdivision of land on which a secondary dwelling is situated if the subdivision would result in the principal dwelling and the secondary dwelling being situated on separate lots, unless the resulting lots are not less than the minimum size shown on the <u>Lot Size Map</u> in relation to that land. The subject land currently contains two (2) existing dwellings. As per DA186/06, one (1) of the existing dwellings must be removed as per Condition 17 of the DA. This dwelling has not been removed to date and therefore a permit cannot issue for a subdivision at this stage. It is noted that the dwelling should have been removed and the owner has not chosen to abide by the conditions of the above DA. If the dwelling was removed from the site, it would allow scope for development consent for the subdivision.
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Zone RU1 Primary Production 1 Objectives of zone • To encourage sustainable primary industry production by maintaining and enhancing the natural resource base. • To encourage diversity in primary industry enterprises and systems appropriate for the area. • To minimise the fragmentation and alienation of resource lands. • To minimise conflict between land uses within this zone and land uses within adjoining zones. • To ensure the protection of both mixed dryland and irrigation agricultural land uses that together form the distinctive rural character of Wentworth. • To ensure land is available for intensive plant agricultural activities.	• The proposal does not encourage sustainable primary industry production as proposed Lot 2 (rural lot) will only be 5.513 hectares. The applicant has not proposed any consolidation with adjoining allotments. • The application does not encourage diversity in primary industries in any way. The applicant has only advised Lot 2 will be used for sheep/agricultural use with no supporting evidence the land could be farmed in a viable manner. • In consideration of the supporting evidence presented in the application regarding the rural use of the land, it is not considered sheep with an undetermined agricultural use could create a viable rural holding. • The land is irrigated rural land and should be made available for this use. • The creation of Lot 1 (residential use only), it has the potential for land use conflicts with any future farming use on proposed Lot 2 in terms of noise, dust, spray drift and hours of operation. • The proposal does not protect the rural land from being used for other purposes. Proposed Lot 1 will reduce the capacity of the land to be farmed by over 2 hectares and this is not considered appropriate as the applicant has not provided any net gain such as consolidating the land with adjoining property. • The subdivision reduces the amount of land available for intensive plant agricultural activities. Proposed Lot 1 is to be used solely for a rural residential 'lifestyle' property with no associated rural use.
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To encourage diversity and promote employment opportunities related to primary industry enterprises, including those that require smaller holdings or are more intensive in nature. 4.1 Minimum subdivision lot size (1) The objectives of this clause are as follows: (a) to ensure subdivision of land occurs in a manner that promotes suitable land uses and development (b) to ensure subdivision occurs in a staged manner that minimises the cost to the community from the provision of public infrastructure and services (c) to ensure rural lands are not fragmented in a manner that threatens their future use for agriculture or primary production (d) to ensure that subdivision is not likely to result in inappropriate impacts on the natural environment including native vegetation, natural watercourses and habitats for threatened species and populations and endangered ecological communities (e) to maximise the economic potential of, and provide for more	- It is noted that diversity in farming is important to the continuance of the rural sector within the municipality, the application has not provided adequate evidence the land can support a more intensive rural use. - Based on the information submitted, Council cannot form a position to allow the land to be subdivided to a smaller holding as the applicant has not submitted adequate evidence the land can support a more intensive rural use. - The applicant has only submitted the land is to be used for sheep/agricultural use and this is not considered adequate justification for the creation of a smaller rural holding. It is not considered a viable rural holding. - The application does not support suitable land use and development of land. The subdivision is reducing the capacity of the land to be farmed and creating a residential allotment within a rural zone. - No expected impact. - The proposed subdivision fragments the rural land and threatens the viability of the land to be farmed into the future. - The subdivision is not likely to cause detriment to the Murray River and surrounding environments. - The land has access to commercial quantities of irrigation water and is in close proximity to the Murray River.
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intensive, small lot agricultural uses in areas able to access commercial quantities of irrigation water. (2) This clause applies to a subdivision of any land shown on the <u>Lot Size Map</u> that requires development consent and that is carried out after the commencement of this Plan. (3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the <u>Lot Size Map</u> in relation to that land. (4) This clause does not apply in relation to the subdivision of individual lots in a strata plan or community title scheme.	• It is acknowledged Council should maximise the economic potential of more intensive, small lot agricultural uses, the applicant has submitted an application reducing the capacity of the rural land to be farmed to provide a purely residential lot and has not provided adequate evidence proposed Lot 2 can support a viable small lot agricultural use. • Applies to this land. • The size of the land is proposed to be: Lot 1: 2.21 hectares Lot 2: 5.513 hectares. • The land is less than the 10,000 hectare minimum lot size. • Not applicable.
4.2 Rural subdivision (1) The objective of this clause is to provide flexibility in the application of standards for subdivision in rural zones to allow land owners a greater chance to achieve the objectives for development in the relevant zone. (2) This clause applies to the following rural zones: (a) Zone RU1 Primary Production, (b) Zone RU2 Rural Landscape, (c) Zone RU4 Primary Production Small Lots, (d) Zone RU6 Transition. (3) Land in a zone to which this clause applies may, with development consent, be subdivided for the purpose	• It is acknowledged there is flexibility within the LEP to provide for smaller allotments than the minimum 10,000ha. • The submitted application has not provided adequate evidence the proposal meets the decision guidelines of the LEP and the SEPP (Rural Lands) 2008 and basic rural planning principles. • The land is located within RU1 – Primary Production. • This clause allows (with development consent) for land to within the RU1 to be subdivided for the purpose of primary production to create a lot of a size

of primary production to create a lot of a size that is less than the minimum size shown on the <u>Lot Size Map</u> in relation to that land.	that is less than the minimum lot size of 10,000ha.
(4) However, such a lot cannot be created if an existing dwelling would, as the result of the subdivision, be situated on the lot.	• The merits of the application must be considered against the relevant guidelines for Council to form a position on the application and it is considered in this instance there is not adequate justification to allow a dwelling to be excised from the land reducing the farming lot by 2.21 hectares and a farm management plan detailing how proposed Lot 2 will be farmed has not been submitted to further justify how the land will be viably farmed.
(5) A dwelling cannot be erected on such a lot.	• As previously discussed, there is a dwelling remaining on proposed Lot 2 and the new dwelling is located on proposed Lot 1. As per DA186/06, the dwelling on proposed Lot 2 should have been removed. • Council cannot issue a permit for a two (2) lot subdivision unless there is no dwelling on proposed Lot 2.
7.3 Flood planning	• If this proposal is supported by Council, a restriction would be required to be placed on the title to ensure that no dwelling can be erected on proposed Lot 2 in the future.
(1) The objectives of this clause are as follows:	• There is no development proposed as part of this application.
(a) to minimise the flood risk to life and property associated with the use of land	• There is no development proposed as part of this application.
(b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change	• There is no development proposed as part of this application.
(c) to avoid significant adverse impacts on flood behaviour and the environment.	• The land is located within the 'Flood Planning Area' on the Flood Planning Map.
(2) This clause applies to:	
(a) land that is shown as "Flood Planning Area" on the <u>Flood Planning Map</u>	
(b) other land at or below the flood planning level.	

(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development: (a) is compatible with the flood hazard of the land (b) is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties (c) incorporates appropriate measures to manage risk to life from flood (d) is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.	The application was referred to the Flood Plain Management Committee on 17 June 2013 for comment. Consent granted with no conditions as the application is for subdivision only.
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Section 79C(1)(a)(ii) any draft environmental planning instrument that is or has been placed on public exhibition

N/A

Section 79C(1)(a)(iii) any development control plan

N/A

Section 79C(1)(a)(iia) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F

N/A

Section 79C(1)(a)(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)

The relevant regulations pertaining the land have been considered as part of the planning assessment including the State Environment Planning Policy (Rural Lands) 2008, the Wentworth LEP 2011, and Deemed REP (Murray 2).

Section 79C(1)(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

The proposal is for subdivision only. No development is proposed, therefore there will not be any environmental impact from the proposal.

Section 79C(1)(c) the suitability of the site for the development

No development is proposed as part of the application.

Section 79C(1)(d) any submissions made in accordance with this act or the regulations

N/A

Section 79C(1)(e) the public interest

The main issues raised by the objectors are summarised below and comment provided:

N/A

Financial Implications

This matter has no direct financial impact upon Council's adopted budget or forward estimates unless the applicant wishes to challenge Council's decision to refuse the application.

Policy Implications

This matter has no specific policy implications for Council.

Statutory Implications

Statutory implications relating to assessment of the subject application have been addressed in the body of the report.

Conclusion

As discussed in this report, the proposed subdivision does not meet the relevant decision guidelines and regulations applicable to rural subdivisions. The impact of approving such a development could give rise to setting a precedent for similar applications to be made in close proximity to the Murray River environs.

Given a dwelling exists on proposed Lot 2 that should have been removed as part of DA06/183 in accordance with Condition 17, the regulations restrict the creation of a subdivision that would result in a dwelling being situated on the lot.

Reasons For Refusal

The application should be refused on the following grounds:

- 1. The subdivision does not accord with the objectives and provisions of the State Environmental Planning Policy (Rural Lands) 2008.*
- 2. The proposal does not comply with Section 4.2 of the Wentworth Local Environmental Plan 2011.*
- 3. The subdivision permanently removes productive agricultural land from the state's agricultural base for residential purposes.*

4. *The subdivision does not meet the minimum lot size shown on the Lot Size Map in relation to the land.*
5. *The application did not provide adequate evidence proposed Lot 2 can support a viable small lot agricultural use.*
6. *The subdivision has the potential for land use conflicts.*

Recommendation

That the Planning Liaison Committee recommend to Council that based on the content of this report the application in its current form be refused.

Recommendation

That the Planning Liaison Committee recommend to Council that based on the content of this report the application in its current form be refused.

COMMITTEE RECOMMENDATION

That Director Health & Planning would have a discussion with Roy Costa regarding the removal of the second dwelling. If the removal of the dwelling is proceeding, the Planning Liaison Committee will not need to be involved in making a decision regarding the determination of the development application.

Moved Councillor B Wheeldon, Seconded Councillor P Cohrs

CARRIED

In accordance with Section 375A of the Local Government Act the Mayor called for a division.

For the Motion : Councillors P Cohrs, B Wakefield and B Wheeldon.

Against the Motion: Councillor D McKinnon.

**6.4 DANSON AND BLABY PTY LTD
PROPOSED REZONING OF LAND FROM RU1 PRIMARY PRODUCTION TO R5
LARGE LOT RESIDENTIAL**

File Number: RPT/13/794

Responsible Officer: Ken Ross - Director, Health and Planning

Responsible Directorate: Health and Planning

Reporting Officer: Warrick Fisher - Planning Contractor

Delivery Program Objective: 2. Growth & Development

Delivery Program Strategy: 2.3 Encourage land development and housing construction

Summary

Danson and Blaby Pty Ltd on behalf of IL and LG Roberts, Robert Superannuation Fund and Roberts Family Superannuation Fund, lodged a Gateway Determination Proposal on 21 October 2013 for the proposed rezoning of land known as Lots 56 and 73 in DP756946, Wilga Road, Gol Gol.

The proposal is to rezone the land from RU1 – Primary Production to R5 – Large Lot Residential adjacent to the Gol Gol Creek.

Purpose

The purpose of the proposal is to rezone the land for large lot residential purposes of approximately 3,000m² allotments. The proponent has provided an indicative subdivision plan that estimates the land could cater for 54 new residential lots.

Report**Background**

The location of the land is 2.0km north-east of the Gol Gol township and is adjacent the Gol Gol Creek and connects existing R5 – Large Lot Residential land to the south-west along the Gol Gol Creek (Modikerr Way – 5,000m² allotments).

The proposal is to provide 53 low density residential allotments of approximately 3,000m² each. 11 of the allotments are proposed to front the Gol Gol Creek.

The land is currently developed for horticultural purposes with a dwelling on each of the existing titles and outbuildings used in association with the farming use of the land. The dwelling on Lot 56 is not habitable.

The proposal submitted to Council is in its infancy and this report to the Planning Liaison Committee is to seek support to proceed with investigations to determine if the land should be rezoned for residential purposes.

The land presents site constraints that need to be further investigated and it is recommended that no decision should be made on the proposal 'as submitted' by Danson and Blaby Pty Ltd.

The site constraints/issues will be further discussed in this report in the Matters Under Consideration section.

The proposal in its infancy has planning merit and it is considered the rezoning may be strategically justified, but the site constraints/issues must be considered before proceeding with the proposal.

Matters under consideration

The proposal presents an opportunity for large lot residential allotments to be established in a sequential manner adjacent the Gol Gol Creek and surrounding area. To undertake the rezoning, the proposal must consider the site constraints/issues before Council should provide its full support.

The matters for consideration that need further investigation include:

- Is there a need for additional R5 Large Lot Residential land?
 - o *Does the existing R5 zoned land cater for rural/residential (large lot) development into the future?*

COMMENT:

The proposal needs further work to establish a 'need' (supply and demand) for further rural/residential use and development.

- o *What supply is currently available?*

COMMENT:

The applicant has submitted a report detailing a supply analysis of developed and undeveloped large lot residential land but has not supplied a map to assist in the analysis of the information. It would be recommended the applicant supply a plan/map of the information contained in Appendix D of the submitted report.

- o *What demand is there for large lot residential now and into the future?*

COMMENT:

When a detailed map or plan is submitted to Council, a proper analysis of existing large lot residential land can be undertaken. This will determine what impact the proposal will have on Council's future large lot residential growth needs.

- o *Need to do supply and demand analysis*

COMMENT:

A supply and demand analysis is critical to strategically justify the proposal. The information required above will determine the need for any further large lot residential land in the municipality. If the proposal is not strategically justified, the Minister will not grant consent for the proposal to proceed.

- o *Does the transfer of the old 'Gol Gol Tip' site (Lot 188 DP756946) from R5 to an appropriate zone assist in justification of the proposal (ie. Tip site is 14.75ha and the proposal wishes to rezone 20.03ha creating an additional 5.28ha of R5 land – approximately 15 lots of 3,000m²):*

COMMENT:

The old 'Gol Gol Tip' site presents an opportunity to 'transfer' 14.75ha of existing R5 land to the land subject to this proposal. The old tip site presents many constraints for future residential use in terms of native vegetation and its current use being for a wildlife sanctuary by Sunraysia Wildlife Carers Group who are a volunteer group of locals experienced in the rescue, care and rehabilitation of native wildlife. The land has been entirely fenced.

The land owner (Sunraysia Wildlife Carers Group) of the old tip site would need to provide consent and discussions should be undertaken with the group prior to proceeding with the proposal.

- Flooding:

- o *The land is not contained within the Flood mapping in the Wentworth LEP 2011*

COMMENT:

The land is not contained within the flood mapping of the Wentworth LEP 2011. The applicant has submitted the land is between 0.2m and 0.8m below the 1:100 year flood event (via field survey), therefore, further investigations are needed to ascertain if the land can or should be used for residential purposes.

- o *Any approval should be considered in conjunction with the NSW Government Flood Prone Land Policy*

COMMENT:

The policy aims to reduce the impact of flooding and flood liability on flood prone land while undertaking a merit based approach for all development decision making.

- o *There is a regulator under the Sturt Highway to prevent water flows along the Gol Gol Creek from the Murray River in a flood event.*

COMMENT:

The regulator is not under Council control and liability needs to be established in the event of a flood. The regulator gate can be closed at the time of high water flood times, and can also be opened to allow water to access Lake Gol Gol for environmental purposes.

Flood liability is in question by this proposal. If the regulator gate cannot be controlled by Council, should consent be granted for further development of 'known' land that is below the 1:100 year flood event?

- Servicing:

COMMENTS:

- o Need to refer the proposal to Council's Infrastructure Department for comments regarding drainage, sewer (only if applicable as land will be large enough to contain wastewater onsite but land will be in close proximity to the Gol Gol Creek which should not be detrimentally affected by development) and water (raw and filtered).
- o Need to refer the proposal to any external authorities for comments.
- o It is considered power can service the land.

- Old 'Gol Gol Tip' site (Lot 188 DP756976):

COMMENTS:

- o To assist in strategic justification of the proposal, it may be appropriate and the ideal opportunity to rezone the old tip site along Tip Road, Gol Gol. As mentioned above, this would only see a net gain of 15 potential 3,000m² allotments being created as a result of the proposal. This would not distort the supply and demand in an inappropriate way.
- o The old tip site is now used by the Sunraysia Wildlife Carers Group Inc.
- o As the land was previously used as a tip, it is potentially contaminated and should not be used for residential purposes as per the existing zoning.
- o The proposal creates the ideal opportunity to include the rezoning of the old tip land to an appropriate zone. Appropriate zones have been investigated:
 - SP1 – Special Activities
 - RU1 – Primary Production
 - RU6 – Transition
 - E3 – Environmental Management
- o It is considered SP1 would be the most appropriate zone as the zone is generally intended for land uses or sites with special characteristics that cannot be accommodated in other zones.
- o The SP1 zone objectives are:

- To provide for special land uses that is not provided for in other zones.
 - To provide for sites with special natural characteristics that is not provided for in other zones.
 - To facilitate development that is in keeping with the special characteristics of the site or its existing or intended special use, and that minimises any adverse impacts on surrounding land.
- o The SP1 zone allows the local Council to prepare the zone in accordance with the proposed or existing use.

A further option would be to return the land to RU1 Primary Production to enable future agricultural uses on the land should the animal welfare group exit the site.

Options

Based on the information contained in this report, the options available to address the matters are to:

- Planning Liaison Committee recommend Council's Planning Department further investigate the proposal.
- Rezone the old Gol Gol Tip land (Lot 188 DP756976) from R5 – Large Lot Residential to an alternative zone to accord with the current use and transfer the residential component of the land to the land subject to this proposal. This should provide strategic justification for the proposal in terms of supply and demand as it will only provide a relatively small increase of further large lot residential land in the municipality by approximately 5.28 hectares.
- Investigate the flood mitigation measures to ensure the land will not be subject to flooding in the event of a flood.
- Liaise with Council and external authorities to determine serviceability of the land.

When the above information is assessed, the proposal should be presented to Council for a determination.

Implications

The decision item has the following implications for Council:

- Any implications of the proposal will become evident with further investigations into the feasibility of the rezoning request as described in this report.
- Possible flood liability issues due to Gol Gol Creek flood regulator gate not being controlled by Council must be considered and determined by Council.
- Council may be required to undertake some strategic work to assist the applicant with the proposal. The time and budget is not known at this stage.

Conclusion

The Gateway Determination Proposal as submitted to Council contains planning merit and the feasibility of the proposal should be further examined in order to provide a strategically justified response to enable a Gateway Determination by the Minister (or delegate).

It is recommended Council acknowledge the receipt of the proposal and resolve to proceed with the proposal on the basis further strategic work is required from the applicant.

Recommendation

That the Planning Liaison Committee recommend to Council an appropriate course of action based on the content of this report.

Recommendation

That the Planning Liaison Committee recommend to Council an appropriate course of action based on the content of this report.

COMMITTEE RECOMMENDATION

That the planning proposal for the change of zone and minimum lot size over the subject land being Wilga Road Lots 56 & 73 in DP 756946 be forwarded to the Department of Planning and Infrastructure under Section 56(1) of the Environmental Planning and Assessment Act, requesting that the Minister issue a *gateway determination* that will allow the planning proposal to proceed to facilitate Wentworth Local Environmental Plan 2011 Amendment No 4.

Moved Councillor B Wakefield, Seconded Councillor P Cohrs

CARRIED

In accordance with Section 375A of the Local Government Act the Mayor called for a division.

For the Motion : Councillors P Cohrs, D McKinnon and B Wakefield

Against the Motion: Nil.

7 NEXT MEETING

Wednesday 22 January 2014.

8 CLOSURE

The meeting was declared closed at 1.15 pm.

.....
General Manager

.....
Chairperson