
GENERAL MANAGER'S REPORT

ITEM 9.8 SF2331 150819 HOUSE KEEPING PLANNING PROPOSAL

AUTHOR/ENQUIRIES: Daniel Walsh, Manager Development and Environment

Summary:

This report outlines amendments to a previously supported planning proposal.

NOTE: This matter requires a “Planning Decision” meaning a decision made in the exercise of a function of the council under the Environmental Planning and Assessment Act 1979 including a decision relating to a development application, an environmental planning instrument, a development control plan or a development contribution plan. Under Section 375A of the Local Government Act 1993 it requires the General Manager to record the names of each Councillor supporting and opposing the decision.

RECOMMENDATION:

- 1 Council forward the planning proposal contained within attachment 1 to the Minister for gateway determination in accordance with section 3.34 of the Environmental Planning and Assessment Act 1979.**
- 2 If the Minister determines that the matter should proceed, Council staff undertake community consultation in accordance with the gateway determination.**
- 3 Following community consultation, Council staff report the planning proposal back to Council for consideration of any submissions received and a final decision as to whether Council will proceed to make the planning proposal.**

OPTIONS:

- Proceed with the planning proposal with or without amendments.
- Not proceed with the planning proposal.

DISCUSSION:

At the meeting on 14 February 2019 Council resolved to forward a planning proposal to the Minister for gateway determination in accordance with section 3.34 of the Environmental Planning and Assessment Act 1979. The planning proposal included a number of housekeeping amendments to the Nambucca Local Environmental Plan 2010.

During consultation with the NSW Department of Planning and Environment (DOP), it was agreed that a number of amendments would be made to the planning proposal including the deletion of three items. Furthermore, two additional items have been added to the planning proposal. A summary of the proposed changes to the planning proposal is as follows:

- Item 3 – An amendment to the minimum lot size map has been included which reduces the minimum lot size for 45 Old Coast Road, Nambucca Heads from 40ha to 450m².
- Item 5 – A draft clause has been included to make events on a public reserve exempt.
- Item 6 – This is a new Item which was not included within the previous planning proposal. It includes the rezoning of 21 Riverside Drive, Nambucca Heads from R1 General Residential to E2 Environmental Conservation, amendment to the lot size map, and the addition of the site as a heritage item in Schedule 5 of the LEP. This land is to be transferred to Council's ownership in

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accordance with an agreement with the NSW Planning Ministerial Corporation due to the social and cultural significance of the site to the Gumbaynggirr nation.

- Item 7 – This is a new Item which was not included within the previous planning proposal. It includes the rezoning of the intersection of Hyland Park Road and Mann Street, Nambucca Heads from R1 General Residential to B7 Business Park. The area of the road reserve which is to be rezoned was created to accommodate a future roundabout at the intersection. However, due to the volume of traffic generated from Hyland Park which has little potential for expansion; a roundabout is no longer considered necessary for the intersection. The area of this land suitable for development (excluding area to accommodate a sufficient road reserve for the existing intersection) is approximately 3,500m².

The proposed amendment will enable the land to be used for a practical purpose which will be facilitated by a future road closure/boundary adjustment. It is also intended to amend the Height of Buildings Map and Lot Size map for this section of land to be consistent with the adjoining B7 land.

- Item 8 – This Item previously proposed to rezone sections of the existing B3 Commercial Core zoned areas of the Macksville CBD dominated by residential character to B4 Mixed Use, R1 General Residential, and R3 Medium Density Residential. The intent of this was to consolidate commercial development within the CBD, minimise land use conflicts, and remove the issue of people not being able to lawfully use dwellings due to it not being permissible to change the use of a business back to a buildings former use as a dwelling.

However, because the proposal would reduce business zoned land within Macksville and that there is no endorsed strategic planning policy in place which demonstrates what impacts the amendment would have on employment land within Macksville; DOP could not support the proposal.

To avoid the issue of people not being able to lawfully use dwellings within these areas, it was agreed that all the land could be rezoned to B4 Mixed Use and not include any residential zones. Dwelling Houses are permissible within the B4 zone which would rectify this issue while still maintaining the areas as business zones. This would be an interim measure until a strategic policy was undertaken, with a future planning proposal implementing residential zones as previously proposed.

- Item 9 – A part map illustrating the location of the proposed heritage item (rec Hut in Scotts Head) has replaced the original map illustrating the whole lot it is located on.
- Item 11 – The draft clause provided in the previous proposal has been amended to delete references to flood mapping. It is not proposed to include flood mapping in the LEP as only part of the shire has been surveyed as part of a flood study. The inclusion of mapping would exclude development within flood affected areas which have not been surveyed from complying with the flood planning clauses.
- Item 12 – The additional permitted use map for the V-wall tavern has been amended to reflect the existing tavern as well as the areas for future expansion.
- Item 13 – Instead of rezoning land to accommodate encroachments of the Big 4 and Foreshore Caravan Parks on adjoining land; the proposal has been amended so that the affected parts are captured by part additional permissible uses maps.
- Item 14 – Amendments to the height of building and lot size maps to support the proposed rezoning of 4 and 6 Back Street, Nambucca Heads to R3 Medium Density Residential have been included.
- Item 15 - A draft clause to exempt grave digging and erection of monuments in cemeteries has been included.

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- Item 16 - A draft clause to exempt A frame signs in business zones has been included.
- It was proposed to make group homes permissible with consent within the rural zones. However, the State Environmental Planning Policy (Affordable Rental Housing) 2009 contains a provision which permits group homes in any zone in which a dwelling house is permissible. Given dwelling houses are permissible within the shires rural zones, group homes are already permissible with consent. As such, this item has been deleted from the planning proposal.
- The previous planning proposal had an item which proposed to reclassify a number of Council owned lots from community land to operational land. This item has been removed from the planning proposal as it would result in the planning proposal taking longer to get through. This item will be submitted as part of a separate planning proposal in the future.
- The previous planning proposal had an item which proposed an amendment to clause 6.1 of the LEP to exempt industrial subdivision from having to obtain certification from the Director-General that contributes towards the provision of State public infrastructure is not required. This item has been deleted from the planning proposal as DOP do not support the amendment to model provisions.

A copy of the amended planning proposal has been included within **attachment 1**.

CONSULTATION:

NSW Department of Planning and Environment (DOP)

SUSTAINABILITY ASSESSMENT:**Environment**

Addressed within attached planning proposal.

Social

Addressed within attached planning proposal.

Economic

Addressed within attached planning proposal.

Risk

It is considered that there is minimal risk associated with the proposal.

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

Nil.

Working funds – justification for urgency and cumulative impact

N/A

Service level changes and resourcing/staff implications

There will be no adverse service level changes as a result of staff proceeding with this planning proposal.

ATTACHMENTS:

1 29753/2019 - Planning Proposal