

**8. REPORTS BY DIRECTOR OF ENVIRONMENTAL HEALTH
AND PLANNING**

8. REPORTS BY DIRECTOR OF ENVIRONMENTAL HEALTH AND PLANNING

8.1	PROPOSED LEP AMENDMENT – SENIORS HOUSING DEVELOPMENT AT DORRIGO
------------	--

File/Index:	Planning/Property Enquiry/Planning Local Environmental Plan
Author	Charlie Hannavy, Director of Environmental Health and Planning

REPORT SUMMARY:

Council has received a formal request to rezone industrial land at Dorrigo to allow it to be developed for seniors housing.

Council is required to take into consideration the requirements of Section 55 of the Environmental Planning and Assessment (EP&A) Act 1979 when considering a planning proposal for rezoning. These matters are addressed in this report.

Council's new principal LEP - 'Bellingen LEP 2010' - is likely to be gazetted in the next month. Hence, if the subject planning proposal proceeds, it will become the first LEP amendment to Bellingen LEP 2010.

REPORT DETAIL:

Proposal: Rezone land to allow a Seniors Housing development

Subject land: Lot 710, DP 706735, Railway Street, Dorrigo

Applicant: Barwick Stevens Lawyers on behalf of the Trustees of the George and Annie Cork Memorial Trust

Zone: Zone No.4 (Industrial Zone) under Bellingen LEP 2003. Note: This zone is to become Zone 'IN1 General Industrial' under Bellingen LEP 2010.

The Site:

The subject land has an area of 2.028 ha and is located at the southern end of the industrial estate on the western side of Dorrigo township. The land is bound by Railway Street to the west, a Crown reserve adjoining the Bielsdown River to the east, Berry Street to the north and land zoned 2(b) Village to the south. The subject land is currently vacant and exhibits a slight slope down to the river. The site does not contain any significant vegetation.

Land to the west contains a train yard (train museum). The river front reserve to the east is interspersed with some trees. Dorrigo town centre is located on the eastern side of the river and reserve.

Land to the north of the subject site has been partially developed for a variety of industrial uses, as well as an SES shed. Vacant land to the south zoned 2(b) Village contains a dwelling house and farm shed, but does not have any apparent agricultural use.

THE PLANNING PROPOSAL

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

The proposal outlined below is based on the request and accompanying information submitted by the applicant.

Objectives

The objectives of the proposed LEP amendment are as follows:

1. To rezone Lot 710, DP 706735, Railway Street, Dorrigo to enable it to be developed for the purpose of seniors housing.
2. To provide for seniors housing in Dorrigo.

Proposed provisions

The provisions of the proposed LEP amendment will include:

1. An amendment to Bellingen LEP 2010 Land Zoning Map in accordance with a yet to be drafted zoning map, the effect of which will be to rezone the land from IN1 General Industrial to R1 General Residential under Bellingen LEP 2010.

Justification

The Department of Planning has issued requirements for specific matters that must be addressed in all planning proposals. These are addressed below.

A. Need for Planning proposal

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

The proposal is not the result of any State or Council strategic planning study. The proposal is in response to a request by an applicant to rezone the land to enable it to be developed for seniors housing. The applicant contends that there was no justification for the subject land to be zoned Industrial in 2005. The applicant has submitted a Site Comparison Study to support the proposal. The Study compares the subject land to a parcel of land located in Kurrajong Street, Dorrigo, which has been identified by various people (including Council representatives) as having potential for seniors housing.

The applicant notes that the subject site is in close proximity to the town centre and is of suitable size and slope. It is proposed that a new pedestrian bridge across the Bielsdown River would connect the site to the town centre. The applicant contends that the development will create employment and provide opportunities for local businesses,

which in turn will stimulate the local economy. The proposal will meet an identified demand for seniors housing in the locality.

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

The Bellingen LEP will need to be amended to allow the subject land to be developed for seniors housing.

However, in terms of providing for seniors housing in Dorrigo, there is vacant residential land in Dorrigo where seniors housing is currently permissible, without the need for an LEP amendment. It would appear logical that alternative sites currently zoned residential be further investigated for seniors housing before rezoning industrial land. This is particularly so given the concerns identified with the proposal, as listed below.

Is there a net community benefit?

No substantial information has been provided to indicate that there will be a net community benefit as a result of the proposal.

There are however a number of concerns with the current proposal that would need to be assessed in any cost/benefit analysis, namely:

1. The proposal will significantly reduce the supply of available vacant industrial land in Dorrigo.
2. The site is physically isolated from the core residential and commercial precincts of Dorrigo and adjoins industrial uses as well as an old railway yard.
3. There is potential for the proposed land use to sterilize the future potential of adjacent industrial land through land use conflict, particularly as any north facing windows and outdoor spaces in a future seniors development would directly face the industrial estate.
4. There is potential for conflict with existing land uses, particularly existing industrial sheds and the SES shed which adjoin the site. The SES are known to carry out practice exercises involving sirens and flood lights at night, which could have significant impacts on any future seniors housing development.
5. The proposed link to the town centre relies on a future footbridge across the Bielsdown River and adjoining reserve. The environmental impacts of a bridge are unknown at this stage. The disposition of the land owners of the reserve area to having a bridge/pathway traverse the reserve is also unknown. The riverside reserve is Crown land administered by the NSW Department of Lands, and a portion of adjoining reserve at Pine Street is owned by Council.
6. The use of a footbridge through a secluded riverside park raises security concerns for seniors, given this would be the main pedestrian link to the town centre.
7. It is unclear why the subject site has been selected for seniors housing as opposed to other vacant sites already zoned for residential purposes in Dorrigo.
8. The best use of the subject site has not been considered in any detail. It has not been illustrated why a seniors housing development would be a better use of the subject land than industrial development.

B. Relationship to strategic planning framework

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

The Mid North Coast Regional Strategy provides a broad outline for the direction of future development in this region for the next 2 decades. The relevant objectives and actions of the Mid North Coast Regional Strategy include:

4. Settlement and Housing

“Outcomes: Opportunities for increased dwelling densities will be explored in inland centres and towns ... it will enable affordability demands to be met, while encouraging housing opportunities appropriate to the ageing of the population”.

“Actions: Councils will plan for a range of housing types of appropriate density, location and suitability that are capable of adapting to the ageing of the population”.

While the proposal will encourage housing opportunities for an ageing population, it is not considered that the location is suitable for a seniors housing development, given its relative isolation from other residential areas and services and its proximity to an industrial estate.

6. Economic development and employment growth

“Outcomes: Sufficient zoned and subdivided industrial land will be provided ... so that it is readily available when opportunities emerge... Buffers between industrial and residential areas will limit conflict”.

“Actions: LEPs will ensure that sufficient lands which are zoned industrial ... and currently vacant are protected to accommodate the new jobs required for each LGA until 2031”.

The proposal is contrary to the regional strategy in that existing, vacant industrial land will not be protected for future industrial employment opportunities. This is important to note, given that the subject site represents approximately half the vacant industrial land in the Dorrigo industrial estate.

Is the proposal consistent with Council's strategic plans?

Industrial Land Strategy:

Council's Industrial Land Strategy (April 2003) recommended that the existing developed industrial area east of Railway Street be zoned Industrial (section 5.1.2), and that future industrial land be made available by rezoning the former Dorrigo Abattoir site (section 5.2).

The portions of land identified above were subsequently rezoned from Zone 2(b) (Village Area Zone) to Zone 4 (Industrial) under Bellingen LEP 2003 via LEP Amendment No 6, which was gazetted on 12 August 2005. This amendment however also included the additional subject portion of vacant land.

While the Industrial Land Strategy did not specifically recommend the subject portion of land to be rezoned for industrial purposes, it does appear to be an ideal portion of land

for industrial development. It represents approximately 50% of the vacant industrial land in the Dorrigo Industrial estate. The majority of remaining vacant industrial land is Crown land. The land is located adjacent to other industrial uses, in close proximity to Waterfall Way, with a natural buffer (river and reserves) between it and residential areas. Given the general difficulty in locating and zoning suitable industrial land, Council should exercise caution in any consideration to remove the land's industrial status.

Council should also note that a new employment lands strategy is listed as a project on its Strategic Planning Works Program for the current financial year (2010/11). It is envisaged that the preparation of such a strategy will take approximately 18 months to complete and will include the consideration of 'seniors housing' along with other employment generating land uses. Ideally, the strategy will provide an in depth assessment of industrial needs on a shire wide basis. Consideration of the best use of the subject land can be included as part of the strategy.

Is the proposal consistent with applicable state environmental planning policies?

SEPP 32 – Redevelopment of Urban Land:

The SEPP promotes the redevelopment of urban land for multi-unit housing to ensure better use of existing serviced land and thereby reduce the need for new development on the urban fringe. In this regard the proposed use of the land for seniors housing complies with the intent of the SEPP. Clause 6 of the SEPP requires that Council consider whether urban land is no longer needed for the purpose for which it is zoned. In consideration of this, there is no evidence at this stage to suggest that the subject land is no longer required for industrial development. Council should note that approximately 5 years ago serious consideration was given to develop a significant industry on the subject land.

SEPP 55 – Remediation of Land:

A preliminary investigation of the land (including a comprehensive site history and site condition report) will be necessary to support the planning proposal. Such a study must be carried out by a suitably qualified person in accordance with the relevant EPA guidelines. The study is required because the proposed rezoning would permit development for residential purposes on land where there is incomplete knowledge as to whether a potentially contaminating land use had previously been carried out, and where it would have been lawful to carry out such development. There is no comprehensive record of site development history for the subject land.

SEPP (Housing for Seniors or People with a Disability) 2004:

The SEPP outlines various location and design principles for seniors housing. Clause 35 of the SEPP provides principles for 'solar access and design for climate' and states that "the proposed development should involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting by locating the windows of living and dining areas in a northerly direction". As the remainder of the industrial estate lies directly to the north of the site, orientation of any seniors housing to the north could result in potential noise and fume impacts on the development from adjoining industrial uses.

Clause 38 of the SEPP provides design principles for access and states that "the proposed development should have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities". In the subject case, it appears that any future development of the site would require a bridge/pathway link to

the town centre, which would traverse a public reserve area. Such a link may not be particularly safe or practical for older and frail people.

Is the proposal consistent with applicable Section 117 directions?

Section 117 directions are issued by the Minister for Planning and relate to various planning matters that must be considered when preparing a planning proposal. The directions relevant to the subject proposal are considered below. Note: The land is not of any environmental or heritage significance and as such the directions relating to these matters have not been addressed.

Direction 1.1 – Business and Industrial Zones

This direction applies to the land as it is affected by an existing industrial zone.

The objectives of the direction are to:

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

A planning proposal must:

- give effect to the objectives of the direction,
- retain the areas and locations of existing business and industrial zones,
- ensure that proposed new employment areas are in accordance with a strategy that is approved by the Director-General of the Department of Planning.

A planning proposal may be inconsistent with the direction only where:

- the inconsistencies are justified by a strategy approved by the Director-General of the Department of Planning, or
- justified by a study in support of the planning proposal which considers the objectives of the direction, or
- is in accordance with the relevant regional strategy, or
- is of minor significance.

The subject planning proposal is inconsistent with Direction 1.1, as it fails to protect the area of employment land available in the Dorrig Industrial zone. The proposal is not supported by any approved strategy or by any study that has considered the above objectives. The proposal is not of minor significance, as it affects approximately half of the vacant land in the Dorrig industrial estate.

Direction 3.1 – Residential Zones

This direction applies if the land is to be rezoned Residential.

The objectives of the direction are to:

- encourage a variety and choice of housing types to provide for existing and future housing needs,
- to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and

- to minimise the impact of residential development on the environment and resource lands

A planning proposal must include provisions that encourage the provision of housing that will:

- Broaden the choice of building types and locations available in the housing market, and
- Make more efficient use of existing infrastructure and services, and
- Reduce consumption of land on the urban fringe, and
- Be of good design

A planning proposal must:

- Contain a requirement that development is not permitted until arrangements have been made for the land to be adequately serviced, and
- Not contain provisions which reduce permissible density

The direction requires minimal impact on resource lands, which generally include natural resources such as minerals and food production land. While there will be no impacts on natural resources, there are likely to be impacts on employment lands, i.e. the adjoining industrial zone. It should be noted that the design details of the proposal have not yet been provided.

Direction 3.4 – Integrating Land Use and Transport

This direction applies to the land as the proposal will alter an urban land zone.

The relevant objectives of the direction are to:

Improve access to housing, jobs and services by walking, cycling and public transport, and

Increasing the choice of available transport and reducing dependence on cars, and

Reducing travel demand including the number of trips generated by development and the distances travelled, especially by car

A planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:

- Improving Transport Choice – Guidelines for Planning and Development (DUAP 2001)
- The Right Place for Business and Services – Planning Policy (DUAP 2001)

Generally, the proposal is consistent with this direction, as the land is relatively close to the town centre of Dorrig and the proposal by its nature is not expected to generate a significant increase in private car travel.

Direction 4.3 – Flood Prone Land

This direction applies as a minor part of the subject land adjoining the Bielsdown River is flood prone.

The objectives of the direction are:

- *To ensure development is consistent with the Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005,*
- *To ensure that the provisions of an LEP on flood prone land are commensurate with flood hazard and includes consideration of the potential flood impacts*

The planning proposal must not contain provisions that:

- *Permit development in floodway areas,*
- *Permit development that will result in significant flood impacts to other properties,*
- *Permit a significant increase in the development of that land,*
- *are likely to result in increased government spending on flood mitigation measures, infrastructure or services,*
- *permit development without consent.*

The proposal would simply allow residential development to occur on land currently zoned Industrial. Council's current flood planning controls will still apply, and development would be unlikely to occur in the riparian flood affected zone for environmental protection as well flood related reasons. As such the proposal is considered to be generally consistent with this direction.

Direction 5.1 – Implementation of Regional Strategies

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

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

As noted in comments under the Regional Strategy section above, the proposal is contrary to the regional strategy in that existing, vacant industrial land will not be protected for future industrial employment opportunities. This is important to note, given that the subject site represents approximately half the vacant industrial land in the Dorrigo industrial estate. Consequently, the inconsistency cannot be considered to be of minor significance.

Direction 6.3 – Site Specific provisions

This direction applies as the planning proposal will allow a particular development to be carried out.

The objective of the direction is to discourage unnecessarily restrictive site specific planning controls.

Planning proposals that amend an LEP in order to allow a particular development to be carried out must either:

- *allow the land use to be carried out in the zone the land is situated on, or*
- *rezone the site to an existing zone already applying in the LEP that allows that land use without imposing additional standards or requirements, or*

- *allow the land use on the relevant land without imposing additional standards or requirements*

It is considered that the planning proposal should change the actual zone of the land rather than simply allowing the use on the land in the industrial zone. This is because a seniors housing development is simply not compatible with the objectives of the Industrial zone nor compatible with other development expected to occur in the Industrial zone.

C. Environmental, social and economic impact

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

Given the generally cleared nature of the subject land, there is unlikely to be any significant adverse impact on critical habitat or threatened species, populations or ecological communities, or their habitats from any seniors housing development. Development of the land is unlikely to impact on the flying fox habitat located on the adjoining river front reserve, however this matter would need to be considered in more detail at any future development application stage.

The envisaged footbridge to the town centre would traverse the vegetated reserve areas located either side of the river. The potential environmental impacts of such a proposal would need to be carefully assessed by a qualified environmental consultant. A concept plan for the bridge design would also be required for further consideration of environmental impacts.

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

Stormwater runoff would need to be managed to ensure that there were no pollution impacts on the Bielsdown River. This would need to be considered by means of a stormwater management concept plan at any future development application stage.

The land is not bushfire prone. A small portion of the site immediately adjacent to the Bielsdown River is classified as flood prone land. Any future development proposal would need to avoid the flood affected area.

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

The proposal has not considered any potential social effects. The applicant claims that the proposed development would likely have a greater economic impact than a small scale industrial development, but this claim has not been substantiated. The applicant contends that the development will create employment and provide opportunities for local businesses which will stimulate the local economy.

The specific social and economic effects are unclear, as the intended scale of development and the socio-economic profile of the intended future residents have not been clearly identified in the proposal.

State and Commonwealth interests

Is there adequate public infrastructure for the planning proposal?

There appears to be adequate public infrastructure available for the proposal, in terms of local roads, and sewer and water availability. Satisfactory electricity and telecommunications infrastructure are likely to be available, but this will need to be confirmed at any future consultation stage.

Views of State and Commonwealth authorities

Consultation with any state and commonwealth authorities will occur after advice has been received from the Department of Planning (DoP) concerning consultation requirements, following any referral of this report to the DoP.

Proposed Community consultation

Should the planning proposal proceed, it is considered that community consultation should include the placement of the proposal on public exhibition for a period of 28 days at both the Bellingen Administration Centre and the Dorrigo Public Library. Notice of any exhibition should be placed in the Bellingen Courier Sun and the Don Dorrigo Gazette newspapers on two separate occasions, and also on Council's website. Adjoining owners would be notified of the proposal by letter.

BUDGETARY IMPLICATIONS:

There are no direct budgetary implications for Council.

SUSTAINABILITY ASSESSMENT:

Sustainable development is best achieved through a strategic approach to land use management. Council's employment lands strategy, to be prepared in the current financial year, is the appropriate mechanism for further consideration of this matter.

CONSULTATION:

Internal consultation has occurred with Council's Engineering Department, Environmental Health Section, Community Planning, Strategic Planning and Economic Development Staff. The comments from respective staff are paraphrased below.

Development Engineer's comments:

Water connection and sewer junction have been provided. Access to the site can be provided off Railway Street.

Senior Environmental Health Officer's comments:

As a general noise planning principle the separation of antagonistic land uses is embraced at all costs. This is clearly nominated in the NSW Industrial Noise Policy and is a basic tenant in the general application of planning principles to policy, management plans and potential development. From a noise perspective a spot rezoning such as that proposed could lead to development difficulties for surrounding land.

Background noise levels were recorded on the subject land at 2pm, a time when seniors are often in repose. The background level recorded for the site was 46 dBA which is reasonably quiet. No noise disturbance was observed from surrounding industrial uses. There was noise evident from both Waterfall Way and the high school which is located on the southern side of Waterfall Way.

It is likely that with close attention to noise issues, the design of any future development could ensure suitable living conditions within a built structure. However, it is unlikely that this would be possible in outdoor areas. If the proposal were to proceed, a detailed noise report focussed on design amelioration measures for both inside and outside areas would be required. Such a report would need to elaborate on noise planning principles and how the principles have been accommodated.

Community Planning Officer's comments

Close proximity and ease of access to amenities and facilities for health and social interaction are required. Proximity to an industrial zone is not desirable, due to potential noise and pollution impacts. Seniors need peace and quiet and security. Some seniors housing is better than none, provided it is affordable. Affordability is a concern. It is unclear what criteria were used to select the proposed site for seniors housing as opposed to other sites. It should be noted that any economic benefits from the proposal would also be expected if other alternative sites were developed.

Economic Development Officer's comments

The proposal offers opportunities for building stimulus, long term employment, and to develop Dorrigo as a desirable location for seniors to retire to.

Department of Planning

Should Council decide to proceed with the Planning proposal, it will be referred to the NSW Department of Planning (DoP). The proposal will be assessed by the DoP, then referred to the Government's LEP Panel which will decide whether or not to proceed with the proposal. Attachment B provides a flowchart of the LEP process. In the chart, RPA means 'Relevant Planning Authority', and in the subject case, Council is the RPA.

OFFICERS RECOMMENDATION:

- (1) That Council not proceed with the subject Planning proposal, on the grounds that there is no strategic basis on which to support the proposal at present, and that the subject site is not considered to be a desirable location for a seniors housing development.
- (2) That Council consider the optimum use of the subject land and options for seniors housing in its proposed Employment Lands Strategy.
- (3) That the applicant be advised of Council's decision.

ATTACHMENTS:

- 8.1.A Locality Map (DW 219229)
- 8.1.B Flowchart – Process to make a local environmental plan ('Figure 5') (DW 219228)
- 8.1.C Applicant's Rezoning Proposal **[TABLED]**

08.021/10

RESOLVED: (Cr Troy/Cr Scott)

That the Item be deferred until after the Public Access Session at 9.30am

UNANIMOUS

Next business Item 8.2

MOTION (Cr Scott/Cr Cronin)

- (1) That Council resolves to support the Planning proposal to rezone land, comprising Lot 710 DP 706735 Railway Street Dorrigo, to allow a seniors housing development and to refer it to the Minister for Planning for consideration.
- (2) That the Department of Planning be advised that Council will be proceeding with a review of its Employment Lands Strategy later in 2010/11.

08.022/10

AMENDMENT (Cr Child/Cr Braithwaite)

That Council resolves to support the Planning proposal to rezone land, comprising Lot 710 DP 706735 Railway Street Dorrigo, to allow a seniors housing development and to refer it to the Minister for Planning for consideration.

The Motion was withdrawn and the Amendment then became the Motion.

The Motion on being put was carried.

FOR – Cr Braithwaite, Cr Child, Cr Coe, Cr Cronin, Cr Scott, Cr Troy

AGAINST – Cr Tuohy

The meeting adjourned for morning tea at 10.40am.

The meeting reconvened at 11.00am.

Next business Item 9.1

