

Planning and Providing Our Infrastructure

Item: 13.08

Subject: PLANNING PROPOSAL FOR RESIDENTIAL INFILL AND ENVIRONMENTAL PURPOSES - LINCOLN ROAD, CASTLE COURT & MARIAN DRIVE, PORT MACQUARIE

Presented by: Development and Environment Services, Matt Rogers

Alignment with Delivery Program

5.4.3 Review the planning framework for decisions regarding land use and development.

RECOMMENDATION

That:

- 1. Council prepare a Planning Proposal pursuant to section 55 of the Environmental Planning Assessment Act 1979 in relation to Lot 1 DP 1066820 and Lot 34 DP 856163, Lincoln Road, Castle Court and Marian Drive, Port Macquarie, for residential infill and environmental purposes as described in this report.**
- 2. Council submit the Planning Proposal to the NSW Department of Planning and Environment requesting a Gateway Determination pursuant to section 56 of the Environmental Planning and Assessment Act 1979, as well as the issue of a Written Authorisation to Council to Exercise Delegation of the plan making functions under section 59 of the Act in respect of the planning proposal.**
- 3. Council delegate authority to the Director Development and Environmental to make any amendments to the Planning Proposal as a result of the Section 56 Gateway Determination, prior to public exhibition of the proposal.**
- 4. In conjunction with the landowner, Council prepare a Voluntary Planning Agreement as referred to in this report and publicly exhibit the Planning Agreement for a minimum of 28 days in accordance with clause 25D of the Environmental Planning and Assessment Regulation 2000.**
- 5. A further report be presented to Council following the public exhibition period to demonstrate compliance with the Gateway Determination and to provide details of any submissions received throughout that process.**

Executive Summary

The purpose of this report is to consider the preparation of a Planning Proposal for a proposed rezoning to protect an environmentally sensitive site in Lincoln Road, Castle Court and Marian Drive, Port Macquarie and allow minor infill residential on three small fringe areas of the site, including part of an adjoining Council property, which has been identified as suitable for residential purposes.

The proposal is intended to result in a small number of infill residential lots similar in size and character to adjacent residential development, improvements to and

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reallocation of stormwater infrastructure into public ownership and dedication of approximately 30 hectares of environmentally sensitive land to Council.

It is recommended that Council proceed with the preparation of a Planning Proposal for the land and that a Gateway Determination be requested from the Department of Planning and Environment, subject to continued negotiation regarding key matters during preparation of a planning agreement, as proposed by the proponent and as described in this report.

Discussion



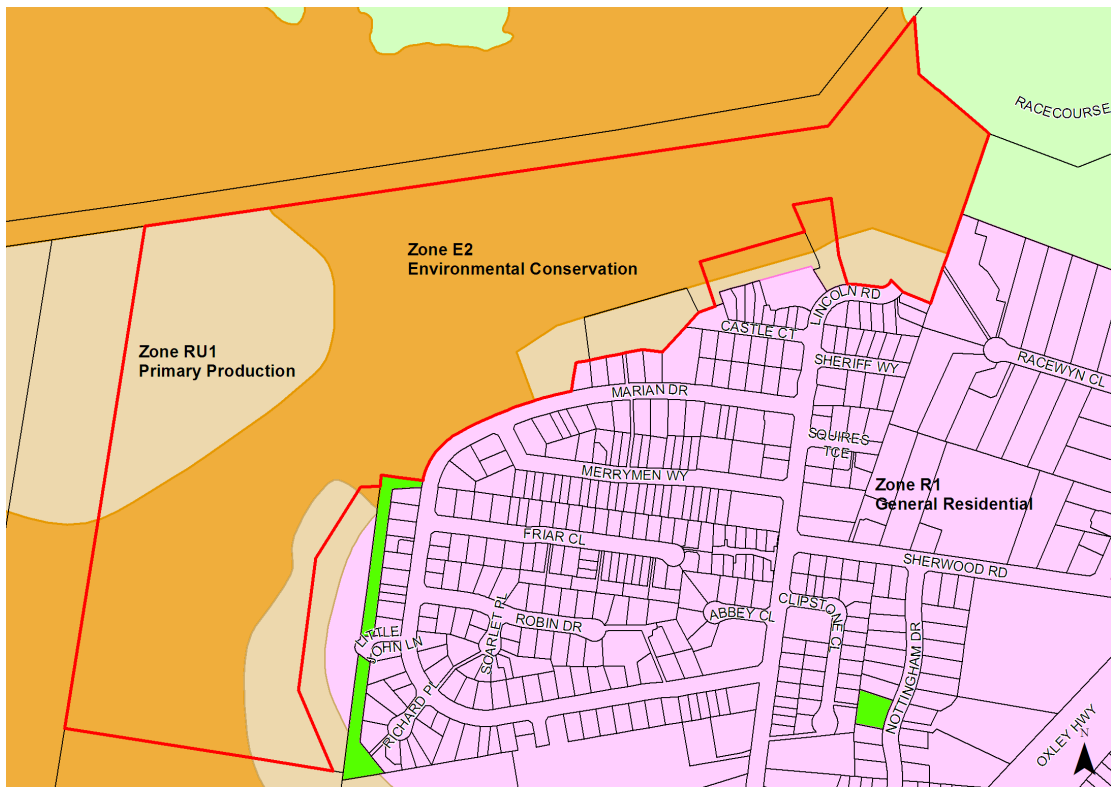
The site

The site is located approximately 5 kilometres west of the Port Macquarie town centre and comprises Lot 1 DP 1066820 and Lot 34 DP 856163 with frontage to Lincoln Road, Castle Court and Marian Drive. Land adjacent to the southern fringe is characterised by low and medium density residential housing and retirement villages.

As shown below, Lot 1 DP 1066820 (32.38 ha) is currently zoned partly RU1 Primary Production and partly E2 Environmental Conservation. The site is occupied by a single dwelling with access off Lincoln Road. The remainder of Lot 1 comprises wetland, significant vegetation, including endangered ecological communities, and formerly cleared grazing land.

Lot 34 DP 856163 is owned by Council. It is currently zoned RU1 Primary Production and is used for stormwater detention associated with existing residential development in the locality.

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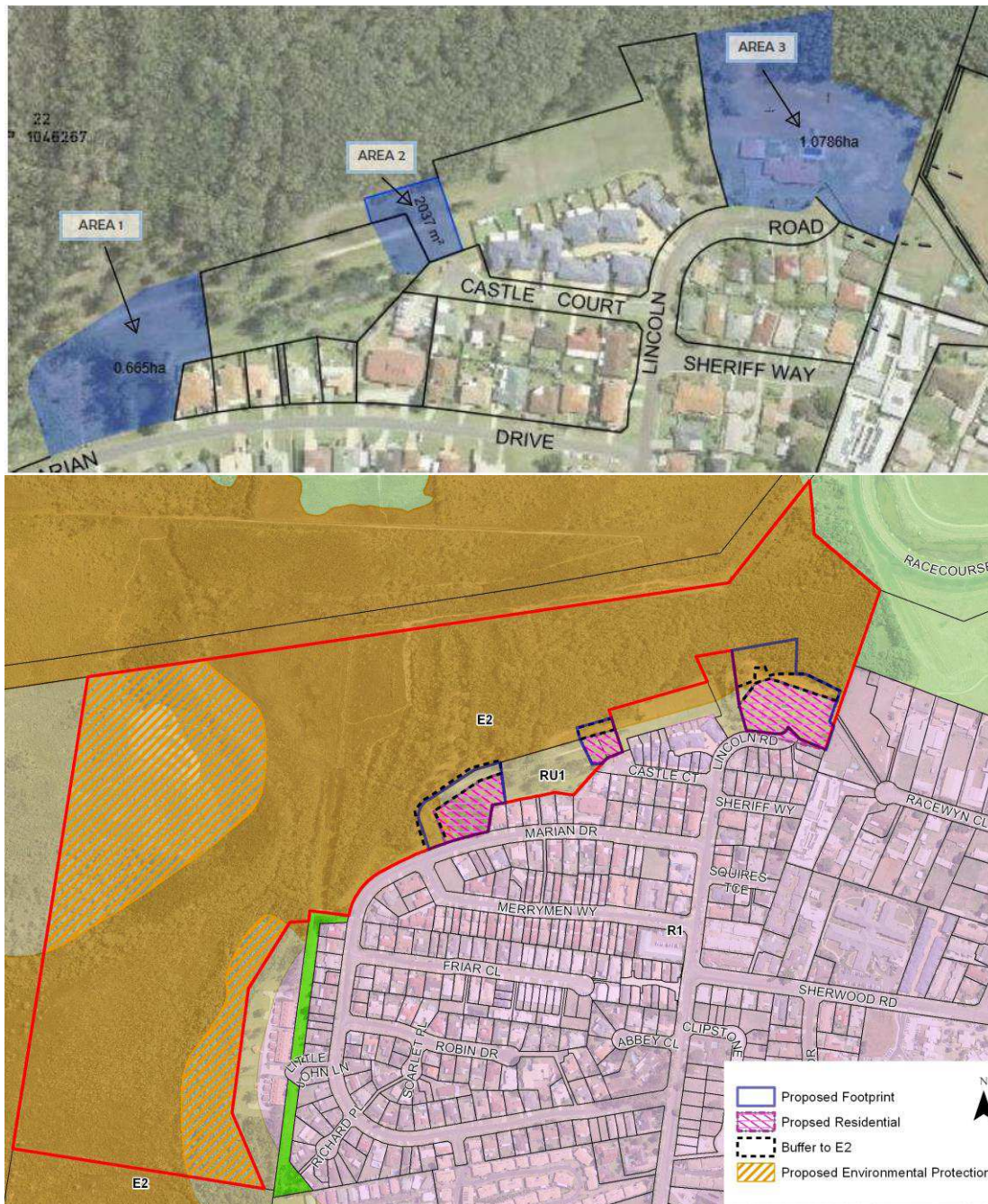
The Proposal

It is proposed to rezone three small cleared areas on the southern fringe of Lot 1 and part of Lot 34 (approx 1.9 ha in total) to permit future infill residential development consistent with concept subdivision plans submitted by the proponent (see **Attachment 1**). It is also proposed to rationalise the RU1 zone on the residue of Lot 1. The proponent's concept subdivision plans indicate potential for nine additional lots, including a new lot for the existing dwelling, part of which is also proposed to retain an existing area of Zone E2 Environmental Conservation lands to be managed in private ownership.

The landowner has offered to enter into a planning agreement with Council to dedicate the residue of Lot 1 (approx 30 ha) as public reserve to be rehabilitated and maintained in perpetuity for environmental conservation purposes. The landowner has also offered to dedicate a drainage channel on the south-eastern boundary of Lot 1, in exchange for part of Council's land (Lot 34) for inclusion in the infill footprint.

The proposed infill areas and intended land use outcomes, in context of the existing land use zoning, are illustrated below.

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The concept provides for residential infill footprints with buffer areas to the proposed environmental residue lands. It is proposed that Council introduce new zone and minimum lot size provisions to facilitate future subdivision of the proposed lots incorporating a buffer containing Asset Protection Zones (APZs).

The proponent's concept plans include detail to demonstrate that the proposed infill areas can be readily serviced (road access, sewer, water, stormwater infrastructure). Specialist studies have been submitted in relation to ecology and bushfire hazard, which are key considerations in the preparation of a Planning Proposal. These studies, which are based on an earlier concept, suggest that the proposed subdivision will not have a significant environmental impact.

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Key considerations

- Flora and Fauna

Council's mapping indicates that the site contains three endangered ecological communities (EECs) comprising Broad-leaved Paperbark Swamp Woodland Forest, Twig-rush Coastal Lagoon Sedgeland and Swamp Oak Coastal Floodplain Wetland Forest. The majority of EECs are located within the residue of Lot 1 which is proposed to be dedicated to Council for ongoing conservation. The dedication of the residue and rezoning of part of this area from RU1 Rural to an Environmental zone is a significant outcome in this proposal.

The environmental assessment report prepared on behalf of the proponent by Naturecall Environmental (Oct 2015) - at **Attachment 2** - includes an assessment of EECs where impacted by the proposed infill footprints. The report notes that the EECs occur in a highly degraded form within the proposed Marian Drive and Castle Court footprints and a small patch of trees in the northwest of the proposed Lincoln Road footprint. The report concludes that the loss of the disturbed margins of EEC for future infill development is insignificant.

It should be noted that the intact EEC at the rear of the proposed Lincoln Road footprint is proposed to be retained in an Environmental Protection zone and managed in private ownership in accordance with a Vegetation Management Plan to be approved by Council. As part of the planning agreement, no fencing will be permitted in this area of the proposed new lot.

Also, as part of the planning agreement, the landowner has offered to undertake vegetation enhancement works along the interface of the proposed urban fringe, in accordance with a Vegetation Management Plan to be approved by Council. Given the substantial environmental offset proposed, Council staff have accepted that the buffer along the edge of the existing EEC will incorporate management for bushfire asset protection. This is a variation from Council's policy of requiring revegetation within the buffer. However, in this case there is a substantial net environmental gain.

The environmental assessment report indicates that the proposed infill areas contain little or no habitat value to threatened species. The Koala was found to be the species with the strongest association with the site due to eight food trees (Forest Red Gum and Swamp Mahogany) within the proposed Marian Drive and Lincoln Road infill footprints. The report concludes however that the proposed infill sites do not contain major Koala activity nor qualify as Potential Koala Habitat.

It is proposed to consult with the NSW Office of Environment and Heritage in relation to the flora and fauna aspects of the proposal prior to public exhibition.

- State Environmental Planning Policy No 14 - Coastal Wetlands

Lot 1 contains a large area of mapped State Environmental Planning Policy (SEPP) No 14 Wetland, the majority of which forms part of the environmental lands proposed to be dedicated to Council for ongoing conservation. A small area of the SEPP 14 wetland is contained in the proposed lots in the northern area of the Castle Court infill residential footprint.

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As background, SEPP 14 was gazetted on 12 December 1985, with the aim of ensuring that coastal wetlands are preserved and protected in the environmental and economic interests of the State. The Policy applies to developments that have the potential to damage or destroy wetlands.

The proponent's Ecological assessment report considers the extent of the mapped SEPP 14 boundary on a 1981 aerial photograph (i.e. prior to adoption of the SEPP) and notes that the proposal will affect a miniscule area on the degraded outermost fringe of the SEPP 14 wetland, subject to interpretation of the boundary line, which can be varied from 25-50m due to limitations of the mapping.

The report concludes that as this will only remove a minute fraction of the SEPP 14's biodiversity and not significantly alter the hydrological regime, this impact is considered insignificant relative to the objectives of the SEPP. It is also noted that the proposed edge treatments, closure of 4WD tracks and dedication of the residue environmental lands to Council will contribute to greater protection of the SEPP 14 area overall.

Consultation will occur with the NSW Office of Environmental on this aspect of the proposal prior to public exhibition.

- Flooding hazard

Council's Hastings River Flood Study (2006) indicates that the proposed infill residential sites are located predominantly in Flood Fringe areas with a Low to Medium Hazard category. The proponent has submitted information to the satisfaction of Council staff, which demonstrates that filling these areas approximately 900 mm above the 1 in 100 year flood level (i.e. a minimum floor level of 4.1m AHD), will have minimal impact on the flooding characteristics in the locality.

- Bushfire hazard

A Bushfire Hazard Assessment (Oct 2015), prepared on behalf of the proponent by Midcoast Building and Environmental (see **Attachment 3**), indicates that the proposed infill building envelopes can achieve a 21m wide APZ to protect development on the proposed residential lots from bushfire associated with the remnant vegetation to the north. Consultation will occur with the NSW Rural Fire Service on this aspect of the proposal prior to public exhibition.

- Stormwater management

The offer to enter into a planning agreement will facilitate rectification of temporary water treatment basins located on Lot 1 into Council ownership. These basins receive significant upstream flows as a result of the original Marian Drive subdivision but are not covered by an easement for drainage.

Future development of the land will involve filling these basins and stormwater redirected via an easement and right of carriageway to a swale to be constructed on the land to be dedicated to Council. The proponent's concept plans include detail in relation to the proposed swale.

At the development stage, modifications will also be required to the existing drainage reserve off Castle Court to ensure that access to the perimeter of the basin is able to

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be maintained prior to amending the boundary to include part of this land in the proposed residential footprint. In addition, modifications will be required to the swale of the eastern-most drainage channel, prior to dedication to Council.

- Aboriginal heritage

The proponent has undertaken a search of the Aboriginal Heritage Information Management System and did not identify any recorded/declared Aboriginal sites or places on or within 200m of the site. Consultation with the NSW Office of Environment and Heritage, Birpai Aboriginal Land Council and the NSW Aboriginal Land Council will occur on this aspect of the proposal prior to public exhibition.

Options

Council's options are:

1. To resolve to prepare a Planning Proposal based on the information submitted by the proponent and send it to the NSW Department of Planning and Environmental to request a Gateway Determination as recommended by this report.
2. To resolve to prepare a Planning Proposal differently to that described in this report and send it to the NSW Department of Planning and Environment to request a Gateway Determination.
3. To resolve not to support the preparation of a Planning Proposal for the land.

Based on a review of the proponent's submitted information by Council staff, it is considered that the proposal has a significant net environmental benefit and that it will also resolve existing stormwater management issues. On this basis, option 1 is the preferred option, subject to consultation with State agencies and the community as well as ongoing negotiation with the proponent in relation to the matters discussed in this report.

Community Engagement & Internal Consultation

Should the preparation of a Planning Proposal be supported, the Department of Planning and Environment's Gateway Determination will outline consultation requirements with relevant State agencies. These agencies are likely to include the Office of Environment and Heritage, NSW Rural Fire Service, NSW Aboriginal Land Council and Birpai Local Aboriginal Land Council. The Gateway Determination will also specify community consultation requirements.

Planning & Policy Implications

The site was considered and prioritised with other site specific proposals in a report to Council dated 20 August 2014.

The proposal is considered to be consistent with the Port Macquarie-Hastings Urban Growth Management Strategy as an infill proposal representing minor amendments to the R1 General Residential zone in this location. Dedication of the residue environmental lands to Council as part of the proposal represents a significant public benefit.

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Financial & Economic Implications

There are not expected to be any significant adverse financial or economic implications in relation to this report.

Attachments

- 1[View](#). Concept subdivision plans
- 2[View](#). Ecological Assessment Report
- 3[View](#). Bushfire Hazard Assessment Report