

Council Minute Item

Action

City Strategy Committee

11/02/2013

TRIM Ref: D02788210

Subject: Eleebana (113 Wyndham Way) - Planning Proposal to Amend Lake Macquarie Local Environmental Plan 2004

Date to be 25/02/2013

Completed by:

Instructions to User

This TRIM action is assigned to you to complete. Record all actions taken in TRIM using InfoCouncil's process to add a note, and then complete the TRIM action via InfoCouncil.

Council Decision:

Submission and Committee's Recommendation:

No. 2

- A. Council authorises staff to prepare a Planning Proposal that rezones the site, generally in accordance with the plan in Attachment 5, so that 1.4ha of the site becomes 2(1) Residential and the remainder 7(1) Conservation (Primary).
- B. Council authorises the submission of the Planning Proposal to the Department of Planning and Infrastructure (DoPI) for a Gateway determination pursuant to section 55 of the Environmental Planning and Assessment Act 1979 (EP&A Act 1979).
- C. Upon receipt of DoPI's Gateway Determination under section 56 of the EP&A Act 1979, and in accordance with DoPI's direction, Council authorises the exhibition of the Planning Proposal.
- D. Council authorises staff to notify stakeholders and affected landowners of the Gateway Determination and public exhibition period.

In accordance with Section 375A of the Local Government Act 1993 a division took place.

For the Motion

Cr. Fraser
Cr. Wallace
Cr. Johnston
Cr. Coghlan
Cr. Adamthwaite
Cr. Denton
Cr. Griffith
Cr. Langford
Cr. Okeno
Cr. Paxinos
Cr. W Harrison
Cr. J Harrison
(carried)

Against the Motion

End

The minutes of City Strategy Committee on 11/02/2013 is located in TRIM folder titled 'GOVERNANCE - COUNCIL MEETINGS - Minutes and Agenda - Council Agendas & Minutes - PDF Version'

**City Strategy Committee Meeting
31 December 2013**

Eleebana (113 Wyndham Way) - Planning Proposal to Amend Lake Macquarie Local Environmental Plan 2004

Council Ref: F2006/00651 - D02789063
Report By: Temporary Land Development Officer - Vanessa Hitchcock

Précis:

Council resolved on 10 June 2008 (08STRAT034) to prepare an amendment to Lake Macquarie Local Environmental Plan 2004 (LMLEP 2004) to rezone Lot 414 DP866775 from 10 Investigation Zone, 2(1) Residential Zone and 6(1) Open Space Zone to more appropriate zones.

A Local Environmental Study (LES) has been prepared and consultation undertaken with relevant government agencies in accordance with Section 62 of the *Environmental Planning and Assessment Act, 1979 (EP&A Act 1979)*, to determine the most suitable zones for the area. This report recommends that a Planning Proposal be prepared to zone 1.4ha of the site to 2(1) Residential and the balance of the site to 7(1) Conservation (Primary).

Recommendation:

- A. Council authorises staff to prepare a Planning Proposal that rezones the site, generally in accordance with the plan in Attachment 3, so that 1.4ha of the site becomes 2(1) Residential and the remainder 7(1) Conservation (Primary).
- B. Council authorises the submission of the Planning Proposal to the Department of Planning and Infrastructure (DoPI) for a Gateway determination pursuant to section 55 of the Environmental Planning and Assessment Act 1979 (EP&A Act 1979).
- C. Upon receipt of DoPI's Gateway Determination under section 56 of the EP&A Act 1979, and in accordance with DoPI's direction, Council authorises the exhibition of the Planning Proposal.
- D. Council notifies stakeholders and affected landowners of the Gateway Determination and public exhibition period.

Background:

Council is the registered proprietor of land known as Lot 414 DP 866775 and situate at 113 Wyndham Way Eleebana ("the land"), illustrated in red on Attachment 1. The land is zoned part 10 Urban & Employment/Conservation (Investigation), part 2(1) Residential, and part 6(1) Open Space, as illustrated in red on Attachment 2, under the Lake Macquarie Local Environmental Plan 2004 (LMLEP 2004), and is classified as Operational Land under the provisions of the Local Government Act 1993.

The land has a total area of 12.94 hectares and contains an Endangered Ecological Community (EEC) in the western portion, covering approximately one third of the site.

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In 2006, the Property & Business Development Department (PBDD) received enquiries in relation to the possible purchase and development of about 6000m² of the land fronting Wyndham Way, for a small neighbourhood shopping centre. As a result, investigations into the land's development potential were undertaken and Council resolved on 10 June 2008 to prepare an amendment to LMLEP 2004 to rezone the land to a more appropriate zone. Department of Planning and Infrastructure (DoPI) were advised of the resolution on 28 July 2008 and a Local Environmental Study (LES) obtained. That LES assessed the merits of rezoning part of the land for commercial purposes to permit a small neighbourhood shopping centre.

The area of the EEC was excluded from the LES.

The LES found that commercial development was not a compatible use of the land and instead made the following recommendations:

1. The whole of the land be rezoned to 7(1) Conservation (Primary) Zone, or alternatively,
2. An area of 2.1ha situate outside the known areas of environmental significance be rezoned to a residential zone with the remainder being rezoned to 7(1) Conservation (Primary) Zone (shown as 'Potential Developable Area' on Attachment 3).

On consideration of the LES, PBDD requested a third zoning option be considered. This option seeks to rezone approximately 1.4 hectares of the land (11%) that enjoys frontage to the existing formed roads of Wyndham Way and Stenhouse Drive to a residential zone consistent with the existing surrounding development, and the remainder of the land (89%) rezoned to a conservation zone (illustrated on Attachment 4).

This option has a number of benefits over and above the LES recommendation including negating the need for road construction, as all lots would have frontage to the existing formed roads of Stenhouse Drive and Wyndham Way. Further, all lots are readily accessible to existing services as those servicing the surrounding development (water, telecommunications, gas and electricity) are situate within the road reserves of Stenhouse Drive and Wyndham Way. The sewer main that services the surrounding residences is situate within the land itself, traversing the land from approximately the junction of Wyndham Way and Stenhouse Drive and travelling west to Macquarie Drive.

The 1.4ha option is also a more sensitive development of the land than 2.1ha option in that it is seeking to develop 44% less land whilst maintaining a comparative lot yield. The reduction in developable area will result in less clearing of native vegetation for dwelling construction. The resiting of the developable area will also result in less clearing of native vegetation for service trenching, as all services are available in the road reserve, with no clearing of native vegetation for road construction as all lots will have frontage to existing constructed roads.

The land does have environmental significance and this has been discussed in the Consultation and Environmental Implications sections of this report. The PBDD however believes that a balance of development and conservation could be achieved on the land without significantly affecting the environmental attributes of the land.

Proposal:

It is proposed that:

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- Council authorises preparation of a Planning Proposal that would rezone the land so that 1.4ha of the site would be zoned 2(1) Residential, and the remainder 7(1) Conservation (Primary), generally in accordance with Attachment 5; and
- Council authorises that when a Planning Proposal has been prepared by staff, it be referred to the DoPI for a Gateway determination and then be dealt with in accordance with that Determination.

A Planning Proposal has not been prepared at this stage as the zoning options being considered in this report are significantly different, and it is more efficient to prepare a single Planning Proposal based on a decision of Council rather than prepare a number of speculative Planning Proposals.

Consultation:

The Integrated Planning Department consulted relevant departments within Council on the proposed commercial option during the preparation of the LES, including Sustainability, Community Planning, Asset Management, Development Assessment and Compliance, Economic Development, and Waste Environment and Rangers.

Integrated Planning undertook further consultation in relation to the proposed residential options with departments - Sustainability, Asset Management, Development Assessment and Compliance, and Waste Environment and Rangers. The following comments have been provided.

Sustainability Department

Council's Environmental Planner would prefer conservation of the whole of the land as:

"This site has very high environmental values and the second LES option has identified a development area of least impact, however, even the area of least impact still has high environmental values due to the *Tetratheca juncea* habitat, hollow bearing trees, and a suite of ground orchids found, including some species known to be associated with *Cryptostylis hunteriana*.

Should Council decide to zone the whole site for conservation, there is the possibility of using the site as an offset or biobanking site. Issues relating to biodiversity offset principles and Council-owned land will need to be investigated and considered before determining a consistent approach.

From a biodiversity/conservation perspective, it is preferable that the site be retained as conservation without being used as an offset or for biobanking. However, should Council decide to use the site for an offset or to generate biobank credits then these should be reserved only for Council projects as these are more likely to be in the community's interest.

The 1.4ha option contains a number of additional indirect impacts including the impact of edge effects on native vegetation, including *Tetratheca juncea*, on the corner of Stenhouse Drive and Wyndham Way. Retention of this vegetation also has bushfire implications.

The abovementioned issues may be able to be addressed in part and the plan proposed by the Property Department improved, however, it directly impacts more *Tetratheca juncea* plant clumps and is likely to have higher long term indirect impacts. Such impacts are likely to outweigh the benefits of disturbing less land."

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Asset Management Department

The preferred development option from a traffic perspective is the 2.1ha option as this would allow vehicles to enter and leave from one location (intersection) in a forward direction instead of individual access points per lot from Wyndham Way where vehicles may be reversing back into the traffic. Wyndham Way is classified as a Collector Road on the Lake Macquarie Road Hierarchy Plan.

Wyndham Way is approximately 1.5kms in length and currently has in excess of 100 residential properties accessing their dwellings from individual access points along the road.

Development Assessment and Compliance Department

Council's Chief Development Planner stated that the site's high intrinsic landscape and ecological values are stronger than any supporting economic or social considerations, and that it provides a visually important buffer between the Lake and the surrounding residential development.

Council's Chief Subdivision Engineer however supports residential development on the existing road frontages of Wyndham Way and Stenhouse Drive as all necessary services are available in close proximity to the development site and could be provided with minimal impact on native vegetation, with only a small amount of clearing required at the eastern end of Stenhouse Drive for a sewer connection.

Waste, Environment and Rangers Department

WER requires a buffer zone between Tingira Drive and any residential development to reduce traffic noise by way of landscaped mounding and/or minimal acoustic treatment in any proposed dwellings.

Property also consulted with external companies with ADW Johnson (town planners) and EcoLogical (ecologists) in relation to the residential proposals and the potential for providing ecological offsets for in the event off site offsetting was required to facilitate development.

ADW Johnson prepared a Land Capability Report in February 2011 and the findings of that report are discussed further in the Environmental Implications section of this report.

Statutory Authorities

The following government authorities provided responses pursuant to section 62 of the EP&A Act 1979.

Department of Environment and Climate Change	Department of Water and Energy
Department of Planning	Department of Primary Industries – Coal advice
Department of Primary Industries – Aquatic Habitat Protection	Hunter Central Rivers Catchment Management Authority
Hunter New England Health	Hunter Water Corporation
Mine Subsidence Board	Ministry of Transport

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NSW Rural Fire Service

Roads and Traffic Authority

A summary of submissions from government authorities at the section 62 consultation stage is provided in Attachment 6.

Implications:

Policy Implications:

Lifestyle 2020 Strategy (LS 2020) and draft Lifestyle 2030 Strategy (draft LS 2030)

The land is identified in LS 2020 as a 'neighbourhood centre under investigation'. Neighbourhood centres are considered to predominantly serve a local business and residential community, provide retail and business services and are located on public transport routes between sub-regional and town centres.

The nearest neighbourhood centre is approximately 1.8km away at Valentine with the larger town centres of Warners Bay, Mount Hutton and Belmont between 3.5km – 5km away. The land is situated on a public transport route providing access to these nearby town centres.

The Green System Map identifies the land as containing 'high value habitat', which is intended to be protected and enhanced to ensure the retention of the City and Region's biodiversity.

Consideration of the suitability of providing a neighbourhood centre in this location, as well as the land's high environmental value were undertaken as part of the LES.

LS2020 was reviewed as part of the preparation of draft LS 2030. During this review, it was noted that a focus of the LS 2020 was to intensify town centres through mixed-use development. It was concluded that there was sufficient land zoned 3(1) and 3(2) in the City to enable further development.

A reconciliation of the Lower Hunter Regional Strategy (LHRS) and LS 2020 provisions has found that 8,715 detached housing lots need to be identified in existing urban areas (infill). While there appears to be sufficient capacity in existing urban areas (infill) for attached dwellings, there does not appear to be sufficient suitable land to accommodate the projected increase in detached dwellings and applying a conservation zone to the whole of the land would not assist in achieving this target.

The land is currently identified in Council's Urban Development Program as providing a possible 50 dwellings and the proposed 2(1) Residential zone seeks to accommodate predominately detached dwellings, consistent with the existing surrounding residences.

Lower Hunter Regional Strategy (LHRS) and Lower Hunter Regional Conservation Plan (LHRCP)

The LHRS identified a target within Lake Macquarie LGA of 36,000 new dwellings by 2031 with 21,000 provided as infill development (14,000 within centres and corridors and 7,000 as other urban infill). The land has not been identified in the LHRS to accommodate a new town centre however as identified above, some infill development for detached housing has previously been considered on the land to accommodate the targets in the LHRS. The proposed 2(1) Residential zone will assist in achieving these targets.

The Lower Hunter Regional Conservation Plan (LHRCP) identifies the land as being part of a regionally significant squirrel glider population, as well as a State Significant wildlife corridor.

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The LES analysed the opportunity for both dwellings and local neighbourhood shops to be accommodated on the land to meet the growing demands in this location. It was determined that local neighbourhood shops were not an appropriate use of the land, but that residential development in a limited capacity may be supported.

State Environmental Planning Policies (SEPPs)

Relevant SEPPs have been considered and the draft Amendment is consistent with the relevant SEPPs. No issues have been identified that would prevent the Planning Proposal being placed on public exhibition.

Section 117(2) Ministerial Directions

The proposal is generally consistent with the relevant Ministerial Directions, made pursuant to Section 117(2) of the *EP&A Act 1979*. No issues have been identified that would prevent the Planning Proposal being placed on public exhibition.

10 Year Community Plan

The proposal is consistent with the community aspirations conveyed in the 10 Year Community Plan. The proposal continues to respect the principles of environment, economic, social and governance aspirations and constraints of the City.

Lake Macquarie Local Environmental Plan 2004 (LMLEP 2004) and Draft Lake Macquarie Local Environmental Plan 2011 (draft LMLEP 2011)

The proposal adopts the land use zones in LMLEP 2004. The proposal will need to be converted to land use zones in draft LMLEP 2012.

Biodiversity Planning Policy and Guidelines for (LEP) Rezoning Proposals

The Biodiversity Planning Policy and Guidelines for LEP Rezoning Proposals (BPPG) aims to ensure that biodiversity issues are considered and resolved early in the land use planning process through a number of guiding principles. The BPPG are to be applied to assist in ascertaining biodiversity values of land and indicate which values need to be conserved, and where acceptable loss can occur.

Further guidelines on specific issues are outlined in the policy. Those relevant to the land include evaluation of biodiversity data and reports, habitat and riparian corridors, endangered ecological communities and habitat trees.

Species requirements for *Tetratheca juncea* are also outlined in the policy, with reference to the Lake Macquarie *Tetratheca juncea* Conservation Management Plan. Where a relevant ecological assessment has been undertaken and the objectives of the policy are achieved, the removal of more than 25% of the local sub-population on a site may be considered.

Species requirements for the Squirrel Glider are also outlined in the policy. It states in larger fragments (>4ha) connectivity should be maintained and a viable patch sized conserved.

Zoning the entire site to a conservation zone is consistent with the BPPG and will aid in the objective to retain important natural ecosystems and biodiversity, and maintain landscape connectivity.

The 1.4ha development option, by virtue of its sensitive design and minimisation of developable land area, also complies with the BPPG.

Lake Macquarie *Tetratheca juncea* Conservation Management Plan

The purpose of the Conservation Management Plan is to provide a framework to assist with development assessment and assess the significance of populations of *Tetratheca juncea*.

The Plan requires that (1) stepping stone clumps are retained, (2) increased conservation in sectors of the City where inadequately conserved, (3) morphological variants to be conserved and (4) populations setting seed to be conserved. At least 75% of local sub-population should be retained on site in a core area with a 20m buffer.

The aim is to conserve all large *Tetratheca juncea* populations however, 75 to 80% of the plant clumps in these populations should retain a viable population depending on edge effects.

The LES recommended that the entire sub-population of *Tetratheca juncea* be retained and rezoning the land to a conservation zone will achieve this. Rezoning to a residential zone will achieve 75% retention as required but edge effects may impact on the retention threshold if the 1.4ha option is adopted. Environmental Implications:

The LES did not identify any heritage issues, mine subsidence issues, contamination issues, acid sulphate soil issues or major geotechnical constraints. It did identify two drainage courses to the north of the land (outside of the areas of potential development) running from east to west but noted that only a limited amount of flood hazard associated with these watercourses had been identified during a 1 in 100 year flood event.

It has however been widely documented in all studies that the major constraint to development of the land is ecology. The flora and fauna study prepared by Worley Parsons (2010) stated that the land was considered to be of high conservation significance with a more diverse mix of flora, and in better condition, than other remnant bushland sites within a 500m radius.

The flora and fauna study undertaken on the land as part of the LES concluded:

“Overall, the site at Eleebana is considered to be locally unique in terms of vegetation communities and floral diversity and is reasonably intact with little significant disturbance. The site’s small size, high floral diversity, confirmed presence of threatened species, strong possibility of further threatened species occurring, proximity to an existing EEC and Council’s minimum buffer requirements for the EEC, TJ and riparian zones constrain development of the site.”

The land is also part of a regionally significant squirrel glider population and a state significant wildlife corridor. It has links to a larger conservation corridor to the east (including the Tingira Heights Nature Reserve), as well as other vegetation corridors to the north and north-east. These corridors are recognised in Council’s Native Vegetation and Corridors Map as remnant native vegetation with four crossing points that could be used for mobile fauna such as the Squirrel Glider. The development proposals for the land seek to avoid each of these corridors as well as a majority of the known threatened species.

The primary recommendation in the LES is to zone the whole of the land to 7(1) Conservation (Primary) Zone. The LES stated that the sub-population of *Tetratheca juncea* found on the land was by far the largest known population in the locality and that it contained high quality habitat with a floral diversity unlike any other surveyed within 500 metres of the land. The sub-population has been deemed as “significant” under the criteria listed in the Lake Macquarie *Tetratheca juncea* Conservation Management Plan (Payne 2001a).

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During the consultation period, the then Department of Environment and Climate Change stated the land had “high biodiversity value, and is a viable component of other interconnecting bushland patches in the immediate area.”

The LES identified a second option for the zoning of approximately 2.1ha of the land to a residential zone, subject to a number of conditions including a vegetation management plan. The LES recommended that any proposed future development should accommodate predominantly 800 m² to 1,000m² lots, with a range of larger lot sizes to encourage a sensitive design response to the environmental constraints of the land and to allow a softer transition between the built form and the undeveloped/sensitive and significant environmental areas. The larger lots recommended are consistent with the surrounding existing development and are also PBDD's preference for resale purposes.

The LES also noted that alteration or fragmentation of the land resulting from development would lead to an increased susceptibility to weed invasion. At present, Tingira Drive and Wyndham Way provide a barrier between the land and residential development to the south and east which limit the invasion of exotic plants. Development around the edges of the land, or within the land itself, may result in human disturbance impacts, adversely impacting upon the threatened vegetation and fauna communities supported on the land.

In its present state, the roads are the only protective barriers to the vegetation contained within the land and unfettered access is available to pedestrians and limited access available to vehicles which could also result in human disturbance impacts.

Significance of site for the Squirrel Glider

As part of the LES, Forest Fauna Surveys prepared a separate Squirrel Glider Study in May 2010. The study stated:

“The project brief indicates the requirement for a map of low, medium and high value habitat of the subject site. The generation of such a map would in fact be a very simplistic assessment of the subject site, as all remnant vegetation within the subject site and locality is of high significance to the Squirrel Glider. The diversity of vegetation community types within the relatively small area of the subject site highlights the significance of the site for the Squirrel Glider for foraging resources. Additionally, the elevated parts of the subject site contain an abundance of mainly small to medium sized tree hollows, with an average density of 5.1 habitat trees per hectare.

One simplified habitat quality area is denoted for the subject site, high quality. No medium to low quality habitat is mapped for the subject site.”

PBDD wishes to ensure preservation of the squirrel glider corridors and the proposal to rezone 1.4ha of the land to a residential zoning has been designed to minimise disturbance to ecologically sensitive areas. Part of the subject land containing two of the squirrel glider corridors is currently zoned 2(1) Residential and is classified as Operational Land. To ensure preservation of those corridors in perpetuity it is proposed to renounce that 2(1) component and offer it as 7(1) Conservation (Primary) Zone instead. This back zoning will provide a positive environmental outcome as not only will it ensure long-term connectivity of the squirrel glider corridors, it will also result in a net gain in conservation land. The 2(1) component being renounced contains in excess of 3.1ha, i.e. 200% more residential land than is being sought by PBDD's proposal.

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ADW Johnson undertook a Land Capability Report in February 2011 and the findings of that report are discussed further in the Environmental Implications section of this report. That report identified 11 Council-owned sites with offset potential. All 11 of those sites are situated within a 5km radius of the subject land, contain appropriate ecosystem types including *Tetradlea juncea* (TJ), and are of more than five hectares in area.

From those 11 properties of particular interest is 73 Croudace Bay Road, Valentine. This land is classified Operational Land, part zoned 2(1) Residential and is known to contain TJ. The land was surveyed in 1999 by Ecotone Ecological Consultants Pty Ltd (Ecotone) and was found to contain 300-320 clumps with a large proportion of the plants setting seed. Ecotone surveyed the land again in 2003 and found 792 clumps, a population increase of 250% over four years. Although further survey work would have to be undertaken on this land to ascertain the current TJ population and other resident species and populations, the land has an area of approximately 28 hectares and is likely to be a satisfactory offset for the small residential development proposed. Utilising this land as an offset would ensure its conservation in perpetuity, and combined with the 11.5 hectares of the Wyndham Way land that is also proposed for conservation, could see up to 40 hectares of Council-owned land in Valentine locked away as conservation land.

Despite the possible positive environmental outcomes that can be achieved through sensitive design, off site offsetting and on site back zoning, Council's Senior Strategic Planner and Strategic Landuse Planner have advised that they would not accept any loss of vegetation, threatened or otherwise, from this parcel of land.

Social Implications:

Development of part of the land for residential purposes will support projected population growth and the strategic direction contained within Lifestyle 2020 and draft Lifestyle 2030 and will generate temporary employment opportunities throughout construction.

The Lower Hunter Regional Strategy identifies a requirement for 7,000 urban infill dwellings in Lake Macquarie, with 36,000 dwellings required Citywide. The land had been identified in Council's Urban Development Program as providing a possible 50 dwellings and although it is now known that this number cannot be achieved from the land due to the ecological constraints, the development proposal would assist in meeting these requirements.

The land is in close proximity to existing services and infrastructure. A public bus stop is located at the front of the land in Wyndham Way and Newcastle Buses provides a regular bus service from Belmont to Newcastle, via the Town and Regional Centres of Warners Bay, Mount Hutton (Lake Macquarie Fair Shopping Centre), Charlestown, Kotara (Westfield Shopping Centre) and The Junction.

Given the outcomes of the LHRS and the draft LS 2030 as well as taking into account the land's proximity to the above town centres, no further investigation on the need for a neighbourhood centre in this area was undertaken.

The Social Impact Assessment (SIA) recommended that if a development footprint be identified on the land, larger lots be provided to integrate the new development with the existing area and attract a similar demographic with the existing community.

The land is located in close proximity to existing recreational areas, including the Croudace Bay Foreshore Reserve with its children's playground, shared cycleway, skate park and nearby indoor swimming facility.

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The close proximity to such recreational facilities assist in promoting an active lifestyle for residents reducing the risk of lifestyle diseases such as diabetes and obesity.

The SIA considered that no further recreational or community facilities were required based on the small scale of any proposed development on the land.

Financial Implications:

Preliminary feasibilities have been undertaken on the 1.4 hectare option and it may be possible for Council to achieve a significant profit in the order of \$2,000,000 if it were pursued. Feasibility on other development options have not been estimated as development costs would be heavily reliant on servicing of the land, and further discussions would need to be held with Hunter Water in that respect.

If the whole of the land is rezoned to conservation land, to effectively conserve the land it would be necessary for a Conservation Management Plan to be implemented for the land for maintenance in perpetuity. The cost of maintenance for this land is unknown however has been estimated at \$400,000 up front plus \$20,000 per annum for another similar parcel.

Risk and Insurance Implications:

The preparation of a Planning Proposal to amend LMLEP 2004 is a regular Council activity governed by the provisions of the *EP&A Act 1979* and the *Environmental Planning and Assessment Regulation 2000*. The level of risk associated with this activity is minimised by following the process outlined in the *EP&A Act 1979* and *EP&A Regulation*.

Options:

1. Council resolves to submit a planning proposal to the Department of Planning and Infrastructure and request a Gateway Determination recommending 1.4ha or greater of the land be zoned to 2(1) Residential zone, with the remaining land rezoned to 7(1) Conservation. This option is preferred as a sensitive development of the land could secure a majority of the land (89%) as conservation lands while at the same time achieve a financial profit for Council and set a positive precedent for private developers.
2. Council resolves to submit a planning proposal to the Department of Planning and Infrastructure and request a Gateway Determination recommending the entire land be rezoned to 7(1) Conservation Zone.
3. Council resolves not to proceed to rezone the land.

Conclusion:

Investigations undertaken on the land have shown that the land has environmental significance, but is of sufficient size to also support some development. With a sensitive design, it could be possible for Council to achieve both conservation of a majority of the land as well as achieve a profitable development from the land.

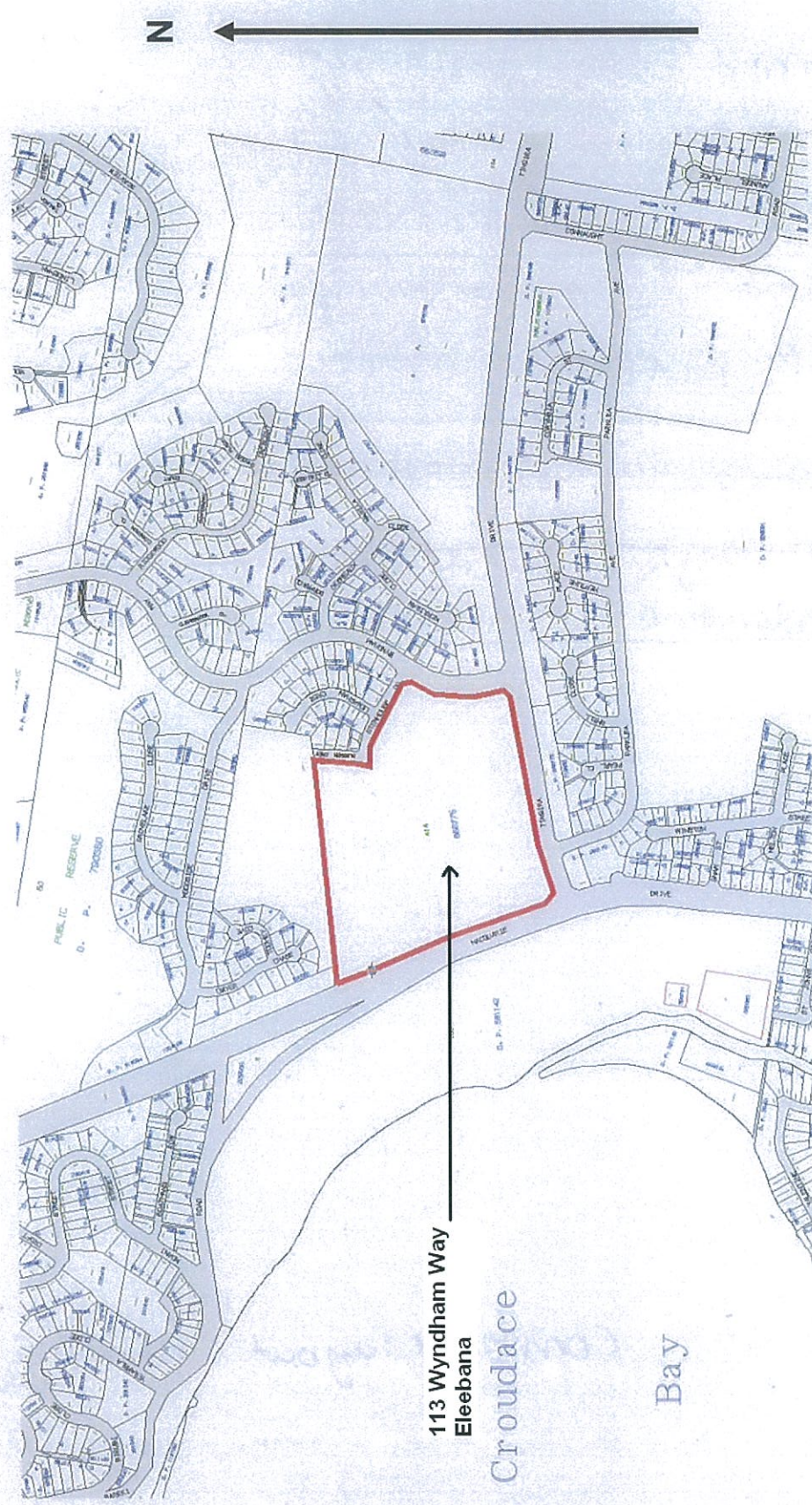
Manager - Property & Business Development - Peter Coburn

Attachments:

- | | |
|---|-----------|
| 1. Diagram showing locality of 113 Wyndham Way Eleebana | D02730241 |
|---|-----------|

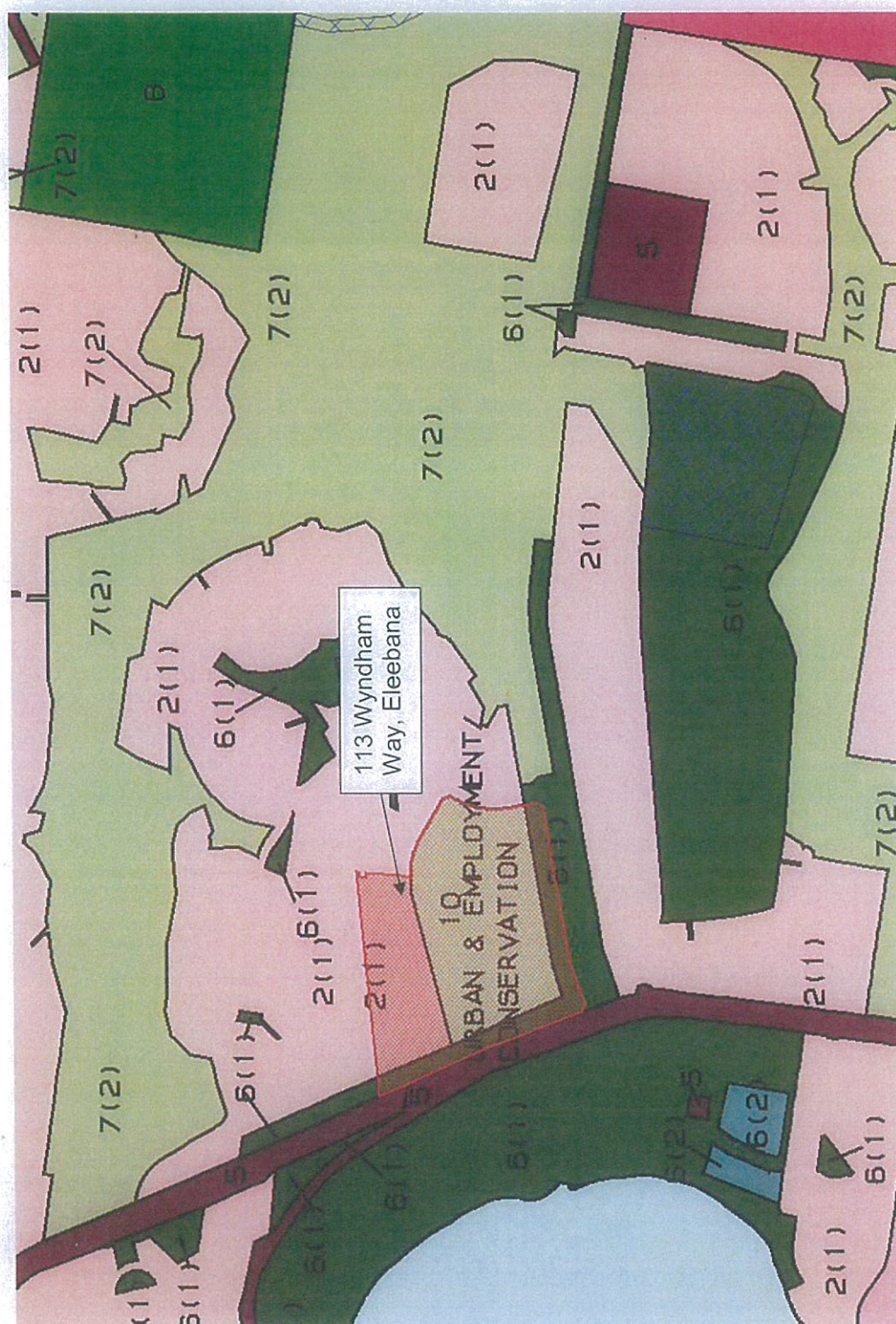
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| 2. Zoning map - Lake Macquarie Local Environment Plan 2004 - 113 Wyndham Way Eleebana | D02730247 |
| 3. Diagram showing potential developable area - 113 Wyndham Way Eleebana | D02730266 |
| 4. Diagram showing City Projects concept plan - 113 Wyndham Way Eleebana | D02730279 |
| 5. Memo - Proposed Zoning Options for 113 Wyndham Way Eleebana | D02737224 |



113 Wyndham Way
Eleebana

Attachment 1 - Locality diagram – 113 Wyndham Way, Eleebana



Zoning map – Lake Macquarie Local Environmental plan 2004

113 Wyndham Way, Eleebana shown in red

Eleebana LES

Potential Developable Area

Regulated Boundary

(75% T. juncea retained)

KEY

-  EEC Area
-  Original IEEC Boundary (Study Area Boundary)
-  Revised EEC Boundary (Including 20m Vegetation buffer)
-  Habitat Trees
-  T. juncea Individuals
-  T. juncea 20m buffer
-  T. juncea Habitat
-  Regulated Boundary
-  Squirrel Glider Habitat/Offset Area
-  APZ Bushfire Buffer
-  Vegetation Setback (extension of est. rehabilitation corridor)
-  Watercourse Alignment
-  Riparian Buffer
-  100 year Flood ARI
-  Potential Access
-  Biorention Catchment Division
-  Native Vegetation Corridor (LMCC) - Crossing Point
-  Native Vegetation Corridor (LMCC) - less than 200m width
-  Native Vegetation Corridor (LMCC) - Rehabilitation Corridor

Metres
0 25 50 100

Scale @ A4 1:3,500





INTERNAL

MEMO



To: Valuation & Property Development Coordinator – Anthony O'Reilly
 Property Officer – Reclassifications – Vanessa Hitchcock

From: Senior Strategic Planner - Karen Partington Ext: 1298

File: RZ/3/2008 **Date:** 17 June 2011

Subject: **Proposed Zoning Options for 113 Wyndham Way Eleebana**

The purpose of this memo is to provide sufficient information for Property to consider the relevant options for the rezoning of council owned land at Lot 414 DP 866775, 113 Wyndham Way, Eleebana, based on the outcomes of the LES, subsequent investigations, and internal comments from various departments.

Background

The site has a long history with numerous enquiries about the land since LMLEP 1984. The total subject area is 12.94 hectares and is situated on the corner of Tingira Drive and Macquarie Drive, Eleebana.

In December 2006, Council's Property Department commenced an investigation into the development potential of the site, specifically the feasibility of a small neighbourhood shopping centre and residential development. The findings recommended the retention of the existing EEC (*Melaleuca Scrub*) including a 10 metre buffer on the western side of the site and the conservation of the main population of *Tetratheca juncea* with a 20 metre buffer. This resulted in a potential developable area of approximately 5.7 hectares (see D01031325).

This area was subject to further investigation as a previous study (D01337775) and a previous recommendation from Council's Environmental Planner to the Manager Property Services (D00942248) considered the area of potential development to be substantially less than the initial 5.7ha proposed.

In addition, an Interim Report prepared by Asquith & Dewitt around the same time, indicated the following:

Based on current information ecological constraints apply to the whole site. Given the presence of the EEC and TJ on the site (and associated buffers) the developable area may be limited to 2-3 hectares at best if all ecological constraints apply. In these circumstances, a yield of 20 to 30 lots may be possible off Stenhouse Drive and Gleeson Crescent.

Current work identifies the site as also being of potentially high ecological value. If the ecological values are proven and given priority, it is possible the site has no development potential whatsoever. The site as an ecological asset has ongoing management costs for the Council and the community. If Council prefers to retain the site as an ecological asset, the site needs drainage works and management plus ongoing bushfire and weeds management.

Due to the outcomes of previous studies, it was determined that a Local Environmental Study (LES) should be prepared to assist in determining zone boundaries for the proposed rezoning and be confined to the area outside the EEC.

The LES has now been finalised and identified two options. The preferred option was to retain the biodiversity values of the land by zoning the entire site 7(1) Conservation (Primary). The second option included a potential developable area of approximately 2.1 ha in the south east corner of the site providing a number of mitigative measures were put in place.

Following the finalisation of the LES, Property engaged ADW Johnson and Ecological Australia to prepare a Land Capability Report (LCR) with the intent of reviewing the LES and investigating opportunities to provide a larger development footprint through biodiversity offsets. The review has now been finalised and this memo is provided to discuss the way forward following the finalisation of both the LES and the LCR.

Outcome of Local Environmental Study (LES)

The LES was prepared by Hassell Pty Ltd and completed in August 2010 (see D01889664). As part of the brief, the consultants considered the four previous studies prepared on the site.

The LES identified that there were no heritage, mine subsidence, contamination, or acid sulphate soil issues. There were also no major geotechnical constraints; however the possibility of landslides due to the existing slope were flagged. Two drainage courses were identified to the north of the site running from east to west. Only a limited amount of flood hazard associated with these watercourses were identified during a 1 in 100 flood event.

As identified in previous studies undertaken on the site, the major constraint identified in the LES for future land development is ecology. Due to its environmental significance, the LES recommended the conservation of the entire site.

The site is identified in the Lower Hunter Regional Conservation Plan as being part of a wildlife corridor of State Significance and a regionally significant squirrel glider population. During the consultation period, the then Department of Environment and Climate Change stated the site had "high biodiversity value, and is a viable component of other interconnecting bushland patches in the immediate area."

The site has links to a larger conservation corridor to the east (including the Tingira Heights Nature Reserve), as well as other vegetation corridors to the north and north-west. These corridors are recognised in Council's Native Vegetation and Corridors Map as remnant native vegetation with four crossing points that could be used for mobile fauna such as the Squirrel Glider.

The flora and fauna study undertaken on the site as part of the LES concluded:

Overall, the site at Eleebana is considered to be locally unique in terms of vegetation communities and floral diversity and is reasonably intact with little significant disturbance. The site's small size, high floral diversity, confirmed presence of threatened species, strong possibility of further threatened species occurring, proximity to an existing EEC and Council's minimum buffer requirements for the EEC, TJ and riparian zones constrain development of the site.

A second option to develop a portion of approximately 2.1ha to a 2(1) Residential zone was also identified (see Figure 1 attached), subject to a number of conditions including a vegetation management plan.

In addition, the LES recommended (for option 2) that any proposed future development should accommodate predominantly 800 m² to 1,000m² lots, with a range of larger lot sizes to encourage a sensitive design response to the environmental constraints of the site and to allow a softer transition between the built form and the undeveloped/sensitive and significant environmental areas.

A retail land use was also considered during the preparation of the LES and the following was concluded:

While it is acknowledged that retail land uses can be designed and operated to address environmental sensitivities, these are the exception and not the rule. It is noted that without details of an end retail use(s) at the site, a retail zoning cannot be recommended. A stand alone commercial or retail zone, permitting larger tenancy footprints with associated truck deliveries, large numbers of customer parking and high customer turnover on the site is not considered appropriate due to the likely operational impacts on the neighbouring lands.

Outcome of Land Capability Report (LCR)

Ecological Pty Ltd prepared the LCR under the advice of ADW Johnson (Pty Ltd) following the completion of the LES. As stated above, the intent of the report was to review the findings of the LES and investigate the expansion of the urban development footprint identified in the second option of the LES.

A major flaw of the LCR is that it does not question the ecological significance of the site as identified in the LES, rather it identifies what biodiversity credits would be required if Council was to increase the development footprint. It also identifies possible Council owned land that could provide these credits.

The Biobanking and Offsets Scheme has been introduced by the NSW Government to help address biodiversity loss through urban development. The scheme establishes an 'improve or maintain' test for biodiversity values which means avoiding important areas for conservation of biodiversity values, and offsetting impacts on other areas. As a result, the critical component of biodiversity offsetting principles is that impacts on high value areas are avoided first and areas with lower environmental values are offset with land identified elsewhere in order to meet the 'improve or maintain' principles.

Further information is provided in this memo on the importance of the land from an environmental perspective, including its role within a larger corridor network, location of threatened species and high habitat function. The LCR fails to address the environmental significance of the land and as a result, does not provide adequate justification as to why the land should not be avoided in line with biodiversity offsetting principles.

Given the high environmental value of the land, it is unlikely any loss of vegetation would be acceptable.

Council Policies

A number of policies are directly relevant to the assessment of this site.

Biodiversity Planning Policy and Guidelines for LEP Rezoning Proposals

The Biodiversity Planning Policy and Guidelines for LEP Rezoning Proposals (BPPG) aims to ensure that biodiversity issues are considered and resolved early in the land use planning process through a number of guiding principles.

The BPPG are to be applied to assist in ascertaining biodiversity values of the land and indicate which values need to be conserved (or avoided by development) and where acceptable loss can occur (i.e. to identify the highest and best use of the land).

Given the existing zoning of the site, the objective of the policy is to retain important natural ecosystems and biodiversity, and maintain landscape connectivity. The guiding principle is to maintain quality, condition, connectivity and extent of high quality threatened species habitat, and areas of endangered ecological communities on the site.

Further guidelines on specific issues are outlined in the policy, those relevant to the Eleebana site include:

- evaluation of biodiversity data and reports;
- habitat corridors;
- riparian corridors;
- endangered ecological communities; and
- habitat trees.

Species requirements for *Tetratheca juncea* (TJ) are also outlined in the policy, with reference to the Lake Macquarie *Tetratheca juncea* Conservation Management Plan (see below). Where a relevant ecological assessment has been undertaken, and the objectives of the policy are achieved, the removal of more than 25% of the local sub-population on a site may be considered.

Species requirements for the Squirrel Glider are also outlined in the policy. It states in larger fragments (>4ha) connectivity should be maintained and a viable patch sized conserved.

Council's Environmental Planner provided the following comments in relation to the studies undertaken on the site and adherence to the Biodiversity Planning Policy and Guidelines:

- The LCR has not fully assessed the BPPG. For example, it does not assess the species specific requirements. Options 1-5 would fail to meet the requirement for TJ.
- In Appendix D of the LCR, the report quite invalidly uses the (Office of Environment and Heritage's) bio-certification methodology to address a number of the BPPG parameters. If the bio-certification methodology is satisfied for a particular parameter, it does not follow that Councils Biodiversity Planning Policy and Guidelines are satisfied.
- If Council were to depart from the BPPG, then sufficient justification would need to be provided to be accountable to the community and other developers who Council enforces these controls onto. This could create an unfavourable precedent.

Draft Biodiversity Offsets Policy

A draft Biodiversity Offsets Policy has been prepared by Sustainability to ensure that the loss of native vegetation and biodiversity within the City, as a result of development, will be subject to an appropriate offset or compensation, having regard to the extent and magnitude of that loss.

The policy is to apply where the consequence of a proposed development would be to remove or adversely affect native vegetation and biodiversity values, and on-site conservation is not possible, practical, or sufficient or it is not in the community's interest to conserve native vegetation on site.

The Policy does not apply where the biodiversity impacts of a development could be reasonably avoided or mitigated. When undertaking any assessment under this policy, the Council should take into account social and economic factors and strategic planning considerations. Biodiversity offsets should be used as a last resort, after consideration of alternatives to avoid and/or mitigate impacts.

Council's Environmental Planner, Martin Fallding prepared a Biodiversity Offsets Policy Trial for the site to evaluate how the draft Biodiversity Offsets calculator would apply to three development options, one identified in the LES and two identified in the LCR (D02158757).

The calculation was undertaken to review the implications of the proposed Council policy and identified the number of credits required to offset the development of three options. Notwithstanding this calculation, the feasibility of avoiding or mitigating biodiversity impacts are required to be considered on this site, before any determination on whether biodiversity offsets are appropriate.

Lake Macquarie *Tetratheca juncea* Conservation Management Plan

The purpose of the Conservation Management Plan is to provide a framework to assist with development assessment and assess the significance of populations of *Tetratheca juncea*.

The Plan requires that (1) stepping stone clumps are retained, (2) increased conservation in sectors of the City where inadequately conserved, (3) morphological variants to be conserved and (4) populations setting seed to be conserved. At least 75% of local sub-population should be retained on site in a core area with a 20m buffer.

The aim is to conserve all large TJ populations for Conservation, however 75 to 80% of the plant clumps in these populations should retain a viable population depending on edge effects.

According to this calculation, EcoBiological (2007) recommended that the main TJ population be conserved with an additional 20m buffer (about 87% of the total population). Ecotone (2003) considered the sacrifice of one or both of the smaller patches of TJ acceptable if the remaining areas were restored, conserved and actively managed on an ongoing basis.

The LES recommended that the entire sub-population of TJ be retained.

Environmental Significance of the Land

It has been widely documented in all the studies undertaken that the site has high environmental value.

As previously stated in this memo, the site has been identified in the Lower Hunter Regional Conservation Plan as a State Significant Corridor and a Regionally Significant Squirrel Glider Corridor.

Further, the LES concluded that: *given the site's small size and its isolation from continuous areas of vegetation, any alteration or fragmentation of the site resulting from development would increase pressures on ecological processes, and may result in the disruption or loss of ecological functions. A change or disruption to ecological function may result in a change or loss of a habitat and the species which depend on it.*

In addition, the LES also notes that alteration or fragmentation of the site resulting from development would lead to an increased susceptibility to weed invasion. At present, Tingira Drive and Wyndham Way provide a barrier between the site and residential development to the north and east, which limit the invasion of exotic plants. Development around the edges of the site, or within the site itself, will result in human disturbance impacts, adversely impacting upon the threatened vegetation and fauna communities supported on the site.

The flora and fauna study prepared by Worley Parsons (2010) stated that the site was considered to be of high conservation significance with a more diverse mix of flora, and in better condition, than other remnant bushland sites within a 500m radius.

Significance of site for the Squirrel Glider

As part of the LES, Forest Fauna Surveys prepared a separate Squirrel Glider Study in May 2010. The study stated:

The project brief indicates the requirement for a map of low, medium and high value habitat of the subject site. The generation of such a map would in fact be a very simplistic assessment of the subject site, as all remnant vegetation within the subject site and locality is of high significance to the Squirrel Glider. The diversity of vegetation community types within the relatively small area of the subject site highlights the significance of the site for the Squirrel Glider for foraging resources. Additionally, the elevated parts of the subject site contain an abundance of mainly

small to medium sized tree hollows, with an average density of 5.1 habitat trees per hectare.

One simplified habitat quality area is denoted for the subject site, high quality. No medium to low quality habitat is mapped for the subject site.

Although the study indicated the high importance of the site as a Squirrel Glider habitat and foraging resource, it also noted that the potential loss of 3.5 to 3.75 ha of high quality habitat on the site is unlikely to significantly impact upon the long-term viability of the local Squirrel Glider population.

Importance of *Tetratheca juncea* Population

The LES concluded that the sub-population of TJ found on the site is by far the largest population found in the locality and occurs in an area of high quality habitat with a floral diversity unlike any other habitat surveyed within 500 metres of the site. The sub-population is deemed as “significant” under the criteria listed in the Lake Macquarie *Tetratheca juncea* Conservation Management Plan (Payne 2001a) for the following reasons:

- The sub-population contains over 100 plant clumps.
- Some nearby sites where this species is found could be considered close enough to be regarded as part of the same inter-breeding subpopulation under the ‘stepping-stone principle’ (sites must be within 500 m of each other to be regarded as potentially interbreeding).

Further discussion on the aims and objectives of the *Tetratheca juncea* Conservation Management Plan is provided above under Council’s Policies.

Issues with Biodiversity Offsets

As outlined above, Council’s Environmental Planner, Martin Fallding prepared a Biodiversity Offsets Policy Trial for the site to evaluate how the draft Biodiversity Offsets calculator would apply to three development options, one identified in the LES and two identified in the LCR. The calculation was undertaken to primarily review the implications of the proposed Council policy and it was flagged that the feasibility of avoiding or mitigating biodiversity impacts were still required to be considered on the site, before determining whether biodiversity offsets are appropriate.

If Council were to propose a development footprint on the site, and subsequently require the identification of suitable offsets, a number of issues will need to be resolved, including the following:

- Is there an ethical issue with Council accepting offsets to develop high value conservation land?
- What would Council’s stance be on offsetting Council owned land? Should reserves be offset or just operational land? Is offsetting operational land plausible? I.e. given the land will be locked in perpetuity. Is there an ethical issue with offsetting dedicated land or reserve land?

It is relevant to note that the two options evaluated through the Biodiversity Offsets calculator do not meet the requirements for TJ under Council’s *Tetratheca juncea* Conservation Management Plan. Further, the options also do not satisfy the Biodiversity Planning Policy and Guidelines for the retention of habitat trees (i.e. retaining 75%-80% of habitat trees with small to medium hollows).

Comments from Council’s Environmental Planner

Council’s Environmental Planner, Robbie Economos, provided comments on the LES and the LCR. A summary of some of Robbie’s comments on the LES are provided below.

- It is recommend that the whole site be zoned conservation as managing edge effects from development (and the possibility that servicing could go through the conservation land) could lead to deterioration of the area with the highest environmental values.

- Should Council's property department wish to pursue option 2 of the LES, they should undertake all the recommendations associated with it, including:
 - Referral to the Federal Government's Department of Sustainability, Environment, Water, Population and Communities under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) due to the likely impact on *Tetratheca juncea*, including a Species Impact Statement.

Note: Referral under the EPBC Act is likely for Option 2 in the LES, however any greater footprint is highly likely to require approval under this Act.

 - Consultation with OEH and preparation of an offset package for the vegetation that has been identified within the proposed residential zone.
- Further to the recommended vegetation management plan and associated management options identified in the LES, a further recommendation is to improve and secure native vegetation corridor linkages with glider posts across Wyndam Way and possibly acquiring parcels of land that Council does not own within corridors 3 and 4.
- Option 2 of the LES puts Council in a position of pursuing a development that does not completely comply with the Biodiversity Planning Policy and Guidelines. However, subject to additional studies, it is likely that viable populations of threatened species could be retained on site.

The following comments from Robbie relate to the LCR:

- The biocertification method applied does not appear to have incorporated any indirect impacts and edge effects from the proposed development options. The impacts arising from development in accordance with the footprint of options 3-5 is likely to threaten the viability of the EEC and TJ population on the site. Even though these footprints avoid a number of TJ plant clumps, edge effects could result in the loss of additional, if not all, plant clumps.
- The tool enables credits to be generated from the TJ individuals not directly impacted by the development footprint. In reality, these plants and the whole population could be lost as a result of edge effects, particularly in configurations shown in options 4 & 5 where the main cluster of TJ would be surrounded by development on three sides with no buffer. It is highly likely that additional species credits would be required. There are also assumptions made about the distribution of TJ on the site that are incorrect.
- There should be some credits attributable to the improvement and conservation of the land on site to be zoned for conservation, including the EEC in any offset package. As indicated in the report, the biocertification methodology does not allow for this credit.

Draft Lifestyle 2030

Integrated Planning conducted a review of Lifestyle 2020 and has prepared a draft Lifestyle 2030 document, which will soon be placed on public exhibition.

The review of Lifestyle 2020 noted that a focus of the document was to intensify town centres through mixed-use development. During the review, it appeared there was sufficient land zoned 3(1) and 3(2) to enable further development.

The review concluded that based on the Lower Hunter Regional Strategy (LHRS) projections, 1440 dwelling approvals would be required per year until 2030, or 60% more than the average approval rate for the last 10 years.

A reconciliation of the LHRS and Lifestyle 2020 provisions has found that 8,715 detached housing lots need to be identified in existing urban areas (infill). While there appears to be sufficient capacity in

existing urban areas (infill) for attached dwellings, there does not appear to be sufficient suitable land to accommodate the projected increase in detached dwellings in these areas.

The site is currently within Councils Urban Development Program as providing a possible 50 dwellings. If this site were to be zoned for conservation this could possibly increase the number of detached housing required in infill areas to 8,765.

Under the review, it is also noted that areas identified in the LGA as high priority in the Lower Hunter Regional Conservation Plan include the regionally significant squirrel glider population in the north east of the LGA and indicative state significant wildlife corridors. Both of which are recognised on this parcel of land.

Economic and Social Analysis

Council has established a Hierarchy of Centres within the local government area, which is identified in the Lifestyle 2020 Strategy. The sub-regional centres of Charlestown and Glendale/Cardiff provide the key retail, shopping and business services for Lake Macquarie. A number of town centres are located in proximity to the site (including Warners Bay, Mount Hutton and Belmont), approximately 3.5 to 5km away and the closest neighbourhood centre is Valentine, approximately 1.8km away.

The draft Lifestyle 2030 Strategy did not identify any new emerging centres within the existing hierarchy. The draft Strategy does highlight the need to enhance the growth of the Mount Hutton centre into a comprehensive town centre as well as local area plans for town centres such as Belmont. The draft Strategy also stated that new release urban development should be focussed on new centres or reinforcing the role of existing centres.

Given the site's proximity to the town centres of Warners Bay, Mount Hutton and Belmont and the neighbourhood centre of Valentine, no further investigation on the need for a neighbourhood centre in this area was undertaken.

The Social Impact Assessment recommended that if a development footprint be identified on the land, larger lots be provided to integrate the new development with the existing area and attract a similar demographic with the existing community. The assessment noted there is a large amount of community facilities in the Eleebana area and the potential size of any development on the site is unlikely to create further demand for additional facilities.

The location of the site in close proximity to existing recreational areas promotes an active lifestyle and reduces the risk of lifestyle diseases such as diabetes and obesity.

Further comments on the economic viability were sought from Council's Economic Development Department. Their comments, as well as comments from the Chief Development Planner are provided below.

Comments from Economic Development

Economic Development Manager, Graeme Hooper commented on the draft LES and concluded that from a planning perspective the provision of a small neighbourhood shopping centre (<1000m²) could potentially be viable as Tingira Drive is a sub collector road and serves a wider range of communities. However, from a commercial perspective, it is doubtful that a commercial business would generate necessary revenue to locate there if the proposal was for minimal space.

It was also stated that given the car dependence in the area, it was questionable whether a small centre would be viable.

Graeme noted that there had been enquiries in the past from supermarket operators to establish a smaller supermarket on the site (i.e. IGA) but it was considered that the site's close proximity to Belmont and Mt Hutton would not make the operation viable. A limited range supermarket could

enhance the business opportunities for other small businesses and this would suggest a floor space provision of 2500-3000 m² would be required if this were to be achieved.

Comments from DAC

Chief Development Planner, John Andrews commented on the draft LES, stating:

The land has extremely high ecological values. I believe these values are stronger than any arguments supporting economic/social justification. The locality is sufficiently serviced with retailing opportunities and the land would be best served in zoning it for its conservation value.

I do not support any view that the degradation (which could only be described as extremely minor) justifies Council rezoning the land for urban purposes.

I am also of the opinion that it has very high intrinsic landscape value. It provides a visually important buffer between the Lake and the surrounding residential development, and therefore could be sufficiently argued to be conserved on this basis alone.

Issues for Further Consider

Housing Affordability

Consideration has been given to providing a partial development footprint on the site to assist with the issue of housing affordability. As stated above, it is recommended that any development on the site be restricted to a lot size of between 800m² – 1000m² to ensure any new development is aligned with the existing residential areas, and is sympathetic to the surrounding vegetation. The LES also concluded that a maximum of 48 lots and 4 small neighbourhood shops could be accommodated on the site.

As a result, given the locality of the site, and the size of any proposed lots, it is considered the lots would be sold at a premium and any impact on housing affordability would be a negligible flow-on effect.

Financial implications

The LES and subsequent investigations have highlighted a number of financial implications that require further consideration when examining future options for the site. These are discussed in further detail below under two categories relating to a development scenario on the land and a conservation scenario on the land.

1. Financial implications for development scenario

Servicing

The LES identified four options for servicing any proposed development on the site. The two preferred connections by Hunter Water Corporation (HWC) traverse the site and would likely result in significant disturbance of the environmentally sensitive land identified for conservation.

If any development is identified on the site, it is essential that servicing options be further investigated with HWC and costed to ensure servicing is financially viable without affecting upon environmentally sensitive land.

Species Impact Statement for Tetratheca juncea (TJ)

As outlined above, referral under the Federal Government's EPBC Act for Option 2 in the LES is required due to the likely impact on TJ and as a result, a Species Impact Statement is required.

It is likely that any greater development footprint on the site will require approval under this Act.

Offset package

Any proposed development would require the preparation of a suitable offset package, which would need to be agreed to by the Office of Environment and Heritage.

Further discussion on issues pertaining to biodiversity offsets are provided below.

Further Recommendations

The LES also provided a number of recommendations if Council proposes to rezone any part of the land for development, including:

- dwellings generally being restricted to two storeys in order to be consistent with surrounding built form and remain below the tree canopy height;
- the green corridor established along Tingira Drive be reinforced by retaining a building setback along the southern boundary of the site of at least 10 metres; and
- a path is provided to connect the subject site and Macquarie Drive. This should then connect to a raised pedestrian island on Macquarie Drive to allow for ease of crossing to the lake foreshore area and the skate park.

2. Financial implications for conservation scenario

Vegetation Management Plan

The LES recommended an appropriate vegetation management plan be adopted to monitor, maintain and improve the ecological value of the study site and adjacent EEC.

Bank Stabilisation works were also recommended to be undertaken in some areas of the Watercourse 2 channel identified in the LES. Including installation of rock armouring along the toe of the channel where there is evidence of bank erosion.

Further information on the recommendations and management options are provided on page 55 of the *Eleebana Flora and Fauna Report* (Worley Parsons, February 2010)

Conclusion

The site is identified in the Lower Hunter Regional Conservation Plan as part of a state significant corridor and a regionally significant squirrel glider corridor. The LES, as well as previous environmental studies, highlighted the high environmental value of the land.

Given the site's environmental value, any proposed development would be limited to a small portion of the site, which not only limits the social and economic viability of any future development, but is also likely to impact on the environmental value of the land through edge effects. When assessing impacts on land with high environmental values, avoidance of the impacts are to be considered first.

During the preparation of the LES and comments from internal departments, it is considered a commercial zoning would not be appropriate in this location. It is noted that during the review of Lifestyle 2020, the identification of appropriate infill areas for detached housing in the LGA was required. Notwithstanding this, because of the limited number of lots able to be accommodated on the site, and possible servicing difficulties, it is considered the effect of removing this site from the UDP for potential residential development would be negligible, and the site is better served to the community for its environmental value.

When assessing the balance of social, economic and environmental values of the land, it is apparent that its biodiversity significance is its highest and best capability. As a result, and in accordance with the LES findings, I would be recommending a conservation zone over the entirety of the site in any report to Council on proposed zoning.

Next Steps

It is advised that Property consider this memo in conjunction with the Biodiversity Offsets Policy – Summary Report for Eleebana report, completed by Martin Fallding and advise of any comments for inclusion into the council report.

Following discussions with Property and Sustainability, IP will prepare a draft Council report, which would recommend a 7(1) zone, but could also include two subsequent options.

An additional point for consideration is that, although this is the rezoning stage, impacts of the development footprint on the Squirrel Glider, EEC, orchids and TJ would also be considerations at the development application stage, so rezoning more land than is capable of development may lead to complications at the DA stage.

Karen Partington
Senior Strategic Planner
Integrated Planning Department



Figure 1 – LES Option 2 Developable Area