

REPORT OF GENERAL MANAGER

DEVELOPMENT COMMITTEE

TUESDAY, 7 OCTOBER 2014

PLANNING AND DEVELOPMENT

ITEMS TO BE DEALT WITH UNDER DELEGATION OF COUNCIL

1. **Planning Proposal (Rezoning) – Culburra Beach, Callala Bay and Currarong (The Halloran Trust)** **PDR File 49256E, 1089E (PDR)**
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SECTION MANAGER: Gordon Clark.

PURPOSE:

To obtain Council direction on the Planning Proposal (PP) for areas that were “deferred” from the Shoalhaven Local Environmental Plan (SLEP) 2014 at Culburra Beach, Callala Bay and Currarong that has been submitted by Allen Price & Associates Pty Ltd on behalf of the Halloran Trust.

RECOMMENDED that the Committee under delegation from Council:

- a) **Support the PP for the deferred lands at Culburra Beach, Callala Bay and Currarong in principle and commence the process to submit the proposal initially to the Department of Planning & Environment for Gateway determination, subject to the following studies being undertaken after Gateway determination:**
- i) Flora and Fauna (including biodiversity offset strategy);**
 - ii) Geotechnical;**
 - iii) Stormwater;**
 - iv) Aboriginal Cultural Heritage;**
 - v) Flood Risk;**
 - vi) Bushfire;**
 - vii) Traffic Impact;**
 - viii) Visual Impact;**
 - ix) Community Impact;**
 - x) Economic / Business Impact; and**
 - xi) Infrastructure (Delivery Plan).**
- b) **Not support the proposed urban development area south of Culburra Road to the west of the existing retirement village as it is contrary to existing strategic planning directions for the area and pursue an environment**
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protection zoning over the “community recreation zone” south of Culburra Road at this stage consistent with previous decisions of Council.

- c) Advise the proponent, CCB’s, interest groups and those who submitted comments of this resolution.
- d) Receive a further report following the Gateway determination.

OPTIONS

- 1. Adopt the recommendation. This will allow Council staff to prepare and submit the PP for the initial Gateway determination to ascertain the State Governments view on the rezoning proposal prior to the supporting studies being prepared and the proposal moving through in the process. The outcome of the studies may require the PP to be adjusted/revised as it moves through the process.
- 2. Adopt an alternative or revised recommendation. This could mean further delays in resolving the zoning of the deferred lands and not meeting the extended Gateway determination deadline currently being considered by the NSW Department of Planning & Environment. It could also trigger a possible pre-Gateway review by the proponents.
- # 3. Not consider the PP and provide direction to Council staff. As per the letter from the previous Minister for Planning and Infrastructure (see **Attachment A**) this will possibly result in the land being zoned as per the publicly exhibited zones of the Draft SLEP 2013

DETAILS

Background

On 31 July 2013, Council resolved at a Special Development Committee meeting (D13/182028) to “defer” the zoning of all the Halloran landholdings within Shoalhaven until a master plan or overall approach had been prepared and considered.

Council received a PP from Allen Price & Associates Pty Ltd for the Halloran landholdings at Culburra Beach, Callala Bay and Kinghorne Point on 4 August 2014.

Prior to receiving the PP, Council and Department of Planning & Environment (DPE) staff had been involved in ongoing discussions with the proponents during the preparation of their PP. The PP documents as submitted to Council can be accessed on the internet at:

<http://shoalhaven.nsw.gov.au/My-Council/Public-exhibition/Documents-on-exhibition/portalid/3>

The PP documents are also provided in the Councillors Information Folder for today’s meeting.

The PP arose from the Council resolution to “defer” the zoning of the subject land and a subsequent direction made on 6 March 2014 by the then Minister for Planning & Infrastructure, Hon. Brad Hazzard MP. The direction enabled the zoning of lands to be deferred under the SLEP 2014 till 29 August 2014 until which time a PP must be submitted for Gateway determination. The direction also indicated that should a proposal not be submitted by the August deadline, mechanisms would be utilised to have the land zoned in accordance with the exhibited zones. A copy of the Ministers letter is provided as **Attachment A**.

The SLEP 2014 was published on 8 April 2014 and the subject lands were deferred from the plan – see **Attachment B**.

Recognising the PP would not make the 29 August 2014 deadline, Council staff have requested an extension to this deadline. At the time of writing this report, formal correspondence has not been received agreeing to an extension. However verbal advice from Department staff has indicated that an extension is likely to be granted.

Planning Proposal Received

The PP seeks to rezone the Halloran landholdings at Culburra Beach, Callala Bay and Currarong that were deferred from the SLEP 2014. The PP as submitted by the proponent, proposes to rezone the land for residential, commercial, recreation and environmental purposes. A substantial proportion of land is proposed to be gifted to the State (National Parks and Wildlife Services) as an extension of the Jervis Bay National Park (JBNP) as part of the process.

Specific zones as per the SLEP 2014 have not been identified in the PP under advice from Council and DPE staff. Should Council support the PP for submission for Gateway determination, then depending on the outcome of the Gateway, it is intended that appropriate detailed studies will be undertaken to inform the appropriate and eventual zones for the areas subject to the PP.

Community Comment

Given community interest the PP was made publicly available on Council’s website from 13 August to 5 September 2014 (inclusive). This public availability was not the statutory exhibition required by the *Environmental Planning & Assessment Act 1979* (Note – this will occur later in the process should the PP proceed.)

As a result of this availability, a total of 141 written submissions were received from community groups, members of the public and one government agency Office of Environment & Heritage (OEH) with 88 in support and 53 in opposition. All submissions were acknowledged and advised that they would have another opportunity to make further submissions should the PP proceed further into the process. Copies of the submissions are available in the **Councillor’s Room**.

Key points raised in the submissions include:

- Proposal achieves a balance of environmental and development interests.
- Advantages of the PP outweigh the disadvantages.
- Represents the last and only suitable land in the vicinity of Culburra Beach for development.

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- Proposal will ensure the future viability of Culburra and Callala Bay by encouraging economic activity and provision of employment.
 - Gifting of land to the NPWS is a significant gesture.
 - Too much land is being gifted to NPWS which will hinder future development in the long term
 - Rezoning of land in Callala Bay for residential purposes is desperately needed
 - Rezoning in Callala Bay should include provision of open space, pedestrian and bicycle access, stormwater management, retention of biodiversity values, bush fire protection and varied lot sizes
 - Rezoning of land for residential development is inconsistent with strategies and policies including the South Coast Regional Strategy and Sensitive Urban Lands Review.
 - Rezoning of land for residential purposes within the Lake Wollumboola catchment is inappropriate as it ignores its high conservation values.
 - The urbanisation of the north of the catchment of Lake Wollumboola and proposed golf course at Long Bow Point will lead to the destruction of ecology, damage the water quality of the Lake and severely diminish the values of any national park dedication. Similarly, this is the case for the Crookhaven River catchment.
 - Rezoning land in Callala Bay for residential purposes will destroy the habitat, peace and tranquillity of the area and bring misery to homeowners.
 - PP does not recognise or consider previous investigations / inquiries on the sensitivity of the Lake.
 - Urban sprawl threatens the coastal village character of these localities.

A detailed and unsolicited submission was received from OEH that raised a range of concerns regarding water quality, biodiversity offset issues and clarity of the proposed land use zones. The submission notes that the southern component of the PP (Callala Bay and Kinghorne Point) is generally a suitable outcome and reflective of previous investigations, discussions and the broader strategic planning direction. However significant concerns were raised with respect to the zoning of land within the Lake Wollumboola catchment and the resultant inconsistencies with relevant policies and strategies which acknowledge the environmental sensitivity of the lake.

The submission goes as far as saying the following:-

OEH sees the Planning Proposal to be an opportunity for Shoalhaven City Council, as the local planning authority, to implement the strategic direction that has been set by:

- (i) Confirming the lands within the catchment of Lake Wollumboola as unsuitable for further urban development, and*
- (ii) Affording long term land use protection to the environmental sensitivity of the Lake.*

It is apparent to OEH that there is enough independent assessment and technical information, accompanied by a lack of sound justification and evidence within the Planning Proposal, for Council to deliver such an outcome

Other issues raised in OEH's submission (and by Jerrinja Local Aboriginal Land Council) relate to flooding, and aboriginal cultural heritage and natural heritage values. It is identified that a Flood Risk Assessment and Aboriginal Cultural Heritage Assessment will

be required to comprehensively consider the site, and the potential impacts of the PP. OEH also requested a meeting with Council to discuss the PP and particularly the proposed land dedication options in the northern catchment and biodiversity offsets.

Council staff will consider the recommendations made by OEH as the process continues and as required by legislation.

Relevant Strategies

The following strategies and policies are relevant to the subject land. A summary of their purpose and relevance is provided.

Jervis Bay Settlement Strategy (JBSS)

The JBSS applies to the Jervis Bay Region and establishes a set of principles to manage growth in the Region. The principles aim to preserve natural, cultural and recreational values of the region where there are opportunities for new settlement. Culburra Beach and Callala Bay are two of the 17 towns and villages recognised as having new settlement opportunities in the Region. Issues identified in these areas in the JBSS relate to threatened species, localised habitat corridors, significance of vegetation, buffers to wetlands and watercourses, water quality and stormwater controls, setbacks from roads, flooding and bushfire.

South Coast Sensitive Urban Lands Review (SULR)

The SULR was an independent review of 16 areas within Shoalhaven, Eurobodalla and Bega Valley to investigate the suitability for development. The SULR addresses key environmental issues within Culburra and specifically in relation to the Lake Wollumboola catchment. The SULR recommends that urban development within the catchment of the Lake is unsuitable, principally on the grounds of the potential negative impacts.

South Coast Regional Strategy (SCRS)

The SCRS is a high level strategic planning document which applies to Shoalhaven, Eurobodalla and Bega Valley. The SCRS plans for the provision of suitable land to address the employment and housing needs of the Region. The SCRS incorporates the recommendations of the SULR with respect to providing direction on land use and environmental management decisions. As per the SULR, the SCRS identifies sensitive urban land within Culburra Beach, specifically within the catchment of Lake Wollumboola, as unsuitable for urban development

Key Issues / Inconsistencies with Strategy

Council staff have done an initial review of the PP and identified the following key issues related to environmental/biodiversity, estuary management, water quality, economic impact, traffic and infrastructure servicing, generally. These issues largely relate to the areas at Culburra Beach and Callala Bay, as the land at Currarong /Kingshorne Point is proposed to be zoned environment protection and gifted to NPWS in its entirety. Consistency with relevant existing strategies is also discussed below.

The key issues and inconsistencies with strategy identified will need to be addressed or outlined in detail in the Gateway submission should Council resolve to support the advancement of the PP.

General

<i>Environmental/ Biodiversity</i>	• Inclusion of environmentally sensitive land into the JBNP is considered to be appropriate, however appropriate Flora and Fauna studies will need to be undertaken to determine areas of high conservation value (as per the South Coast Regional Strategy). • Riparian and coastal areas require appropriate buffers from development. • Stormwater and Bushfire studies must accompany the proposal to ensure impacts on estuary water quality and vegetation corridors are minimised and identify mitigation measures. • How the offsets for the current Part 3A and Part 4 Applications within land subject to this PP will be delivered, needs to also be considered.
<i>Traffic</i>	• The existing road network is inadequate to cater for increased traffic flow to occur as a result of development within these localities. • A Traffic Impact Assessment is required that addresses the traffic impacts of the proposal. Traffic and parking impacts of the proposal must be addressed including impacts on the adjacent towns / villages, and required infrastructure upgrades identified to address the generated higher demands. The assessment must consider and recommend facilities that may encourage alternative modes of travel such as public transport, walking and cycling.

Culburra Beach

<i>Consistency with Strategy</i>	• The PP is inconsistent with the recommendations of the South Coast Sensitive Urban Lands Review (SULR) which considers land within the catchment of Lake Wollumboola as unsuitable for development on the grounds of potential adverse impacts on the Lake. • The PP is inconsistent with the South Coast Regional Strategy which requires that land within the Lake Wollumboola catchment be protected for conservation purposes. • The Jervis Bay Settlement Strategy (JBSS) requires that
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	future land uses in West Culburra Beach be subject to the findings of the Long Bow Point Commission of Inquiry which recommended the refusal of a residential subdivision in West Culburra Beach due to its unacceptable environmental impacts. • As a result of the above the Draft SLEP proposed to zone the land on the southern side of Culburra Road as E2 Environmental Conservation. Land north of the road, to the northern boundary of the lake catchment was shown as proposed RU2 Rural Landscape zone. Attachment C shows the previous draft zones. • The reason the RU2 zone was shown in the draft LEP for the area north of Culburra Road to the edge of the Lake catchment was to provide for some flexibility and enable the possible zoning of this area to be reconsidered in the future. This was consistent with the thrust of Councils submission to the SULR, that the ability for a consolidated, cohesive development footprint north of the road and that managed water quality impacts on the Lake would be a more preferable outcome. The current PP generally identifies a similar area north of the road as "residential investigation area". There may still be some merit in looking closer at this area to see whether a more logical development footprint can be achieved simply keeping development outside the Lake Wollumboola catchment will potentially create a linear strip of development that will be difficult to manage and service. There is also a need to ensure that impacts on the equally sensitive Crookhaven catchment are managed and appropriate setbacks established to this waterway. • The PP also shows an area of "urban development" south of Culburra Road adjacent to the current retirement village. This is inconsistent with existing strategic planning directions as it would potentially enable urban development within the Lake Wollumboola catchment. As such this component should not be supported. • The area covered by the current golf course development application is shown in the PP as a "low impact community recreation zone with private conservation area". This is potentially inconsistent with existing strategic planning directions and any advancement of this component of the PP would in effect possibly pre-determine the current development application. It is difficult to consider this component of the PP until the outcome of the development application is known. During the preparation of the draft LEP, Council previously resolved in 2012 to rezone the site of the proposed golf course from E2 to a zone (RU2) that allowed a golf course. However this did not proceed as the Department of Planning did not support the proposed change. In the subsequent report to Council (Feb 2013) it was noted that the
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	draft plan would proceed to re-exhibition with an E2 zoning and state the intention to pursue a future planning proposal to include an additional permitted use clause in the LEP to ensure the ongoing permissibility of the golf course, should the golf course be approved, was noted. • The development application for the proposed golf course at Long Bow Point is currently undetermined. The applicants have recently submitted a Species Impact Statement (SIS) and amended development plans. It is understood that these will be exhibited for review shortly and the application is not likely to be finally determined until possibly early/mid 2015. • The unresolved nature of the golf course development application, the previous government view on the zoning of this area and also the previous Council resolutions on the zoning of this area make it difficult at this point to consider a possible zoning for the area shown in the PP as "low impact community recreation zone with private conservation area". Ideally the zoning of the area should proceed as E2 and should the golf course development application be approved, then a subsequent PP be considered to insert an additional permitted use clause into the SLEP to ensure its ongoing permissibility. This is consistent with the Council resolution from February 2013 related to this issue. Alternatively the site could be removed from the PP at this stage and its future zoning considered via a future subsequent PP once the outcome of the development application is known
<i>Environmental/ Biodiversity</i>	• The proposed urban, industrial and commercial land uses potentially pose a threat to estuary health and ecological integrity of the adjacent water bodies (Lake Wollumboola and Crookhaven River). Buffers to coastal and riparian areas will need to be investigated and established in order to preserve water quality of sensitive aquatic environments. • The establishment of an odour buffer around the existing Sewerage Treatment Plant needs to be considered and land within the buffer zoned appropriately.
<i>Economic</i>	• The creation of two new commercial / tourist development centres outside the Culburra Beach Township may impact on the existing centre. An Economic / Business Impact Study is required to assess the impacts of such development.
<i>Traffic</i>	• Development in this area will place additional pressure on all roads between Culburra Beach and the Princes Highway at Nowra and South Nowra.
<i>Water and Sewer Infrastructure</i>	• Area for urban development is identified in Council's current and proposed Water Supply Development Servicing Plan (DSP) and Sewerage Services DSP. This may need to be reviewed as the PP advances.
<i>Other</i>	• Passive recreation and active recreation areas require detailed assessment in terms of both need and functionality.

Callala Bay

<i>Consistency with Strategy</i>	• The PP is inconsistent to a minor extent with the JBSS. This relates to the area of land identified for 'possible urban expansion' subject to investigations (shown on Detailed Map 10A of the JBSS). The PP identifies an area slightly greater than that identified by the JBSS for 'urban development'.
<i>Environmental Biodiversity</i> /	• Setbacks from Callala Beach Road and Emmett Street need to be considered/incorporated. • Threatened orchids are known to exist within the area proposed for development. This will need to be fully investigated and considered as the PP advances.
<i>Traffic</i>	• Urban development in Callala will result in increased traffic pressure on Currarong Road and Coonemia Road.
<i>Water and Sewer Infrastructure</i>	• Servicing of water and wastewater infrastructure in Callala has not been proposed in Council's Delivery Service Plan (DSP) and Strategy Reports. Further assessment will be required to ensure that water and sewer infrastructure could be provided.

Recommended Studies

Consistent with the above comments, the following studies are recommended to be undertaken as an outcome of and following the Gateway determination (assuming it is favourable):

- Flora and Fauna (including biodiversity offset strategy);
- Geotechnical (including acid sulphate soils and management plans);
- Stormwater (including management, water quality control and monitoring);
- Aboriginal Cultural Heritage;
- Flood Risk;
- Bushfire;
- Traffic Impact;
- Visual Impact;
- Community Impact;
- Economic / Business Impact; and
- Infrastructure (Delivery Plans).

The various detailed issues already raised by OEH will be considered in the relevant studies mentioned above.

Where to from here

If Council supports the proponent's PP with the changes recommended at this stage, Council staff will take responsibility for the PP and submit it to the Department of Planning & Environment, with the addition of the required detail, to go through the Gateway determination process.

As part of the advancement of the PP, should it be supported by Council and receive a favourable Gateway determination there will be a need to specifically meet with OEH, the Department of Planning and the proponents to discuss the range of matters related to the

PP for example the proposed transfer of land the State Government, the supporting biodiversity offset package and the possible need for a Voluntary Planning Agreement to pull this all together.

Given the scale and complexity of this matter and the studies required to support it and ultimately identify the right development outcome for the area it is likely to take some time to reach a conclusion. To ensure that all interested parties are involved throughout the process, the establishment of an oversight group (or similar) has some merit. Ideally this group would consist of representatives of the proponent, Council, relevant Government Departments, local community consultative bodies and also special interest groups. This group could help facilitate early feedback on the outcome of the studies and the content of the PP as it continues to evolve.

CONCLUSION:

The PP submitted by the proponents seeks to resolve the zoning of the three areas of land at Culburra Beach, Callala Bay and Currarong. The processes associated with the PP also provide the opportunity to finally resolve the planning and future tenure of the subject lands. Previous strategic planning processes also need to be respected and the intent of their outcomes integrated into this process.

The early comment received on the PP continues to show a difference of community views on the future development or conservation of the land adjacent to Culburra Beach and within the catchment of Lake Wollumboola. It is important that as the PP proceeds that the range of detailed studies outlined in the report are prepared to help clarify the final development outcome. To assist in this regard it is proposed that an oversight group be established to provide a vehicle for ongoing dialogue between Council, the proponent, government departments and the community as the PP moves through what could be a long process.

FINANCIAL IMPLICATIONS:

The proponent has paid the initial PP lodgement fee in accordance with Council's fees and charges. The proponent is also required to fund any studies associated with the PP following any Gateway determination that may be issued. However significant staff resources are still likely to be required to progress the proposal given its size and significance.

Fees for the remaining stages of the PP will be charged in accordance with Council's fees and charges.

COMMUNITY ENGAGEMENT:

The proponents PP document was made publicly available from 13 August to 5 September 2014 (inclusive) on Council's website. The availability of the document for viewing was notified in local papers while relevant CCB's and interest groups were directly notified. The formal exhibition will occur later in the process in accordance with any Gateway determination requirements and in accordance with the relevant legislation.



The Hon Brad Hazzard MP
Minister for Planning and Infrastructure
Minister Assisting the Premier on Infrastructure NSW
MAYORAL

Mayor
Councillor Joanna Gash
Mayor
Shoalhaven City Council
PO Box 42
NOWRA NSW 2541

Shoalhaven City Council

14/03109

Received

- 6 MAR 2014

File No. _____

Referred to: LEP 1
LST 2
m/d/cm 3

Dear Councillor Gash

I refer to my letter of 4 December 2012 on the draft Shoalhaven Local Environmental Plan. I am pleased that a draft LEP has been provided to Planning and Infrastructure for finalisation.

I understand that in submitting its final plan, Council resolved to "*defer the zoning of all the Halloran (Realty Realization) landholdings within the Shoalhaven until a masterplan or overall approach for Realty Realization land has been prepared and considered*". As you know, Realty Realizations approached me in November 2012 with a proposal for a holistic approach to the development and conservation of its landholdings. I have been supportive of this approach given the environmental sensitivities of the land in the Lake Wollumboola catchment, as well as the opportunities to allow sustainable growth of Culburra and Callala Bay.

I am therefore willing to agree to Council's request that the Realty Realization lands are deferred from the draft LEP to allow the preparation of the proposed Masterplan and Planning Proposal.

While I am willing to agree to the deferral, I am also aware that the planning for this area requires certainty as soon as possible. I am therefore prepared to defer the zoning of the lands until 29 August 2014. If the required proposals have not been submitted to the Agency for Gateway Determination by this time, I may consider mechanisms to zone the land according to the exhibited zones.

As a result of my decision on the deferral, Planning and Infrastructure is now able to complete the work necessary to finalise the making and notification of the draft Shoalhaven LEP. I have asked the agency to complete this work as quickly as possible.

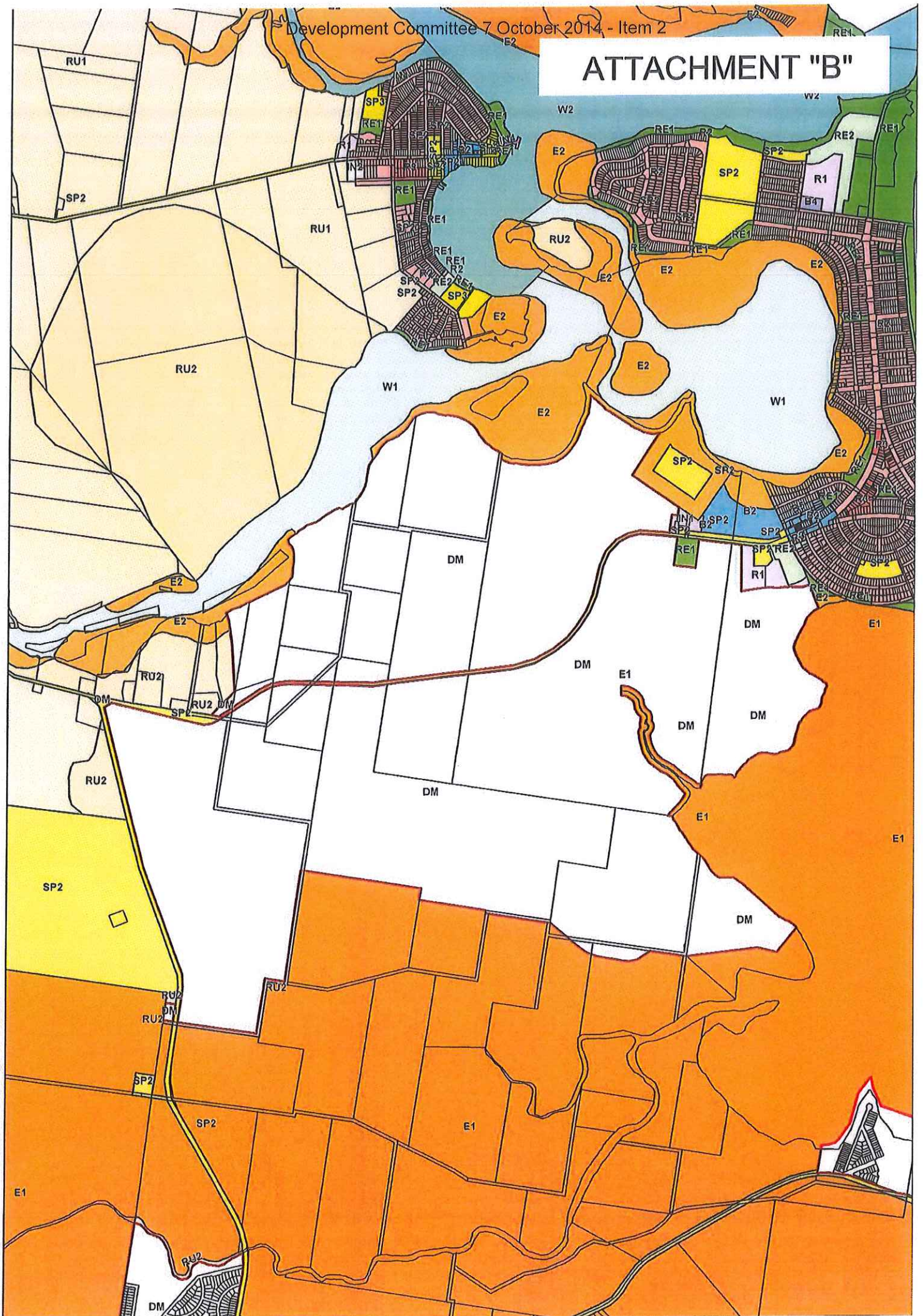
I encourage Council to continue to liaise with Mr Brett Whitworth, General Manager of Planning and Infrastructure's Southern Region, to progress the Masterplan and Planning Proposal further. Mr Whitworth can be contacted on (02) 4224 9455.

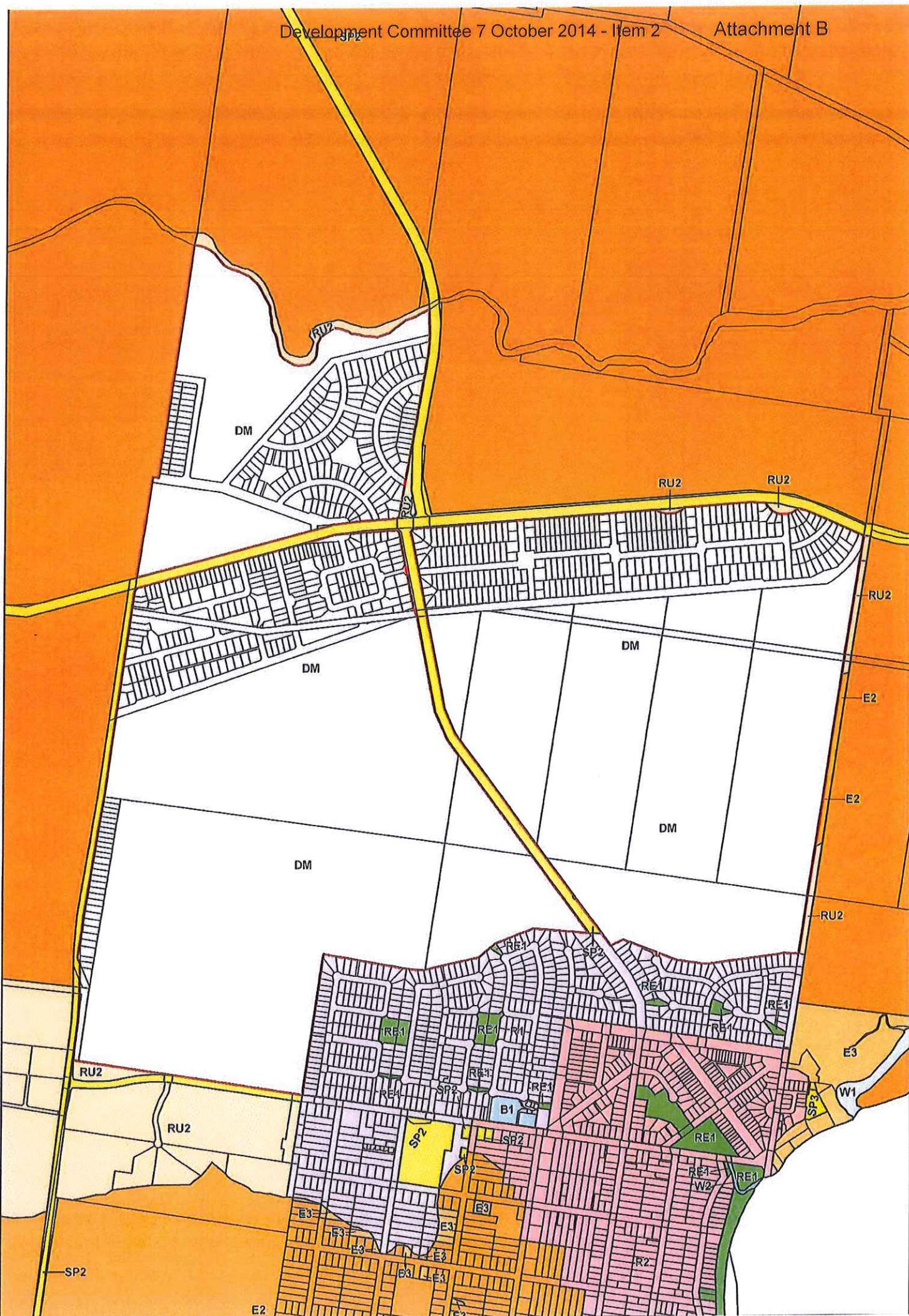
Yours sincerely

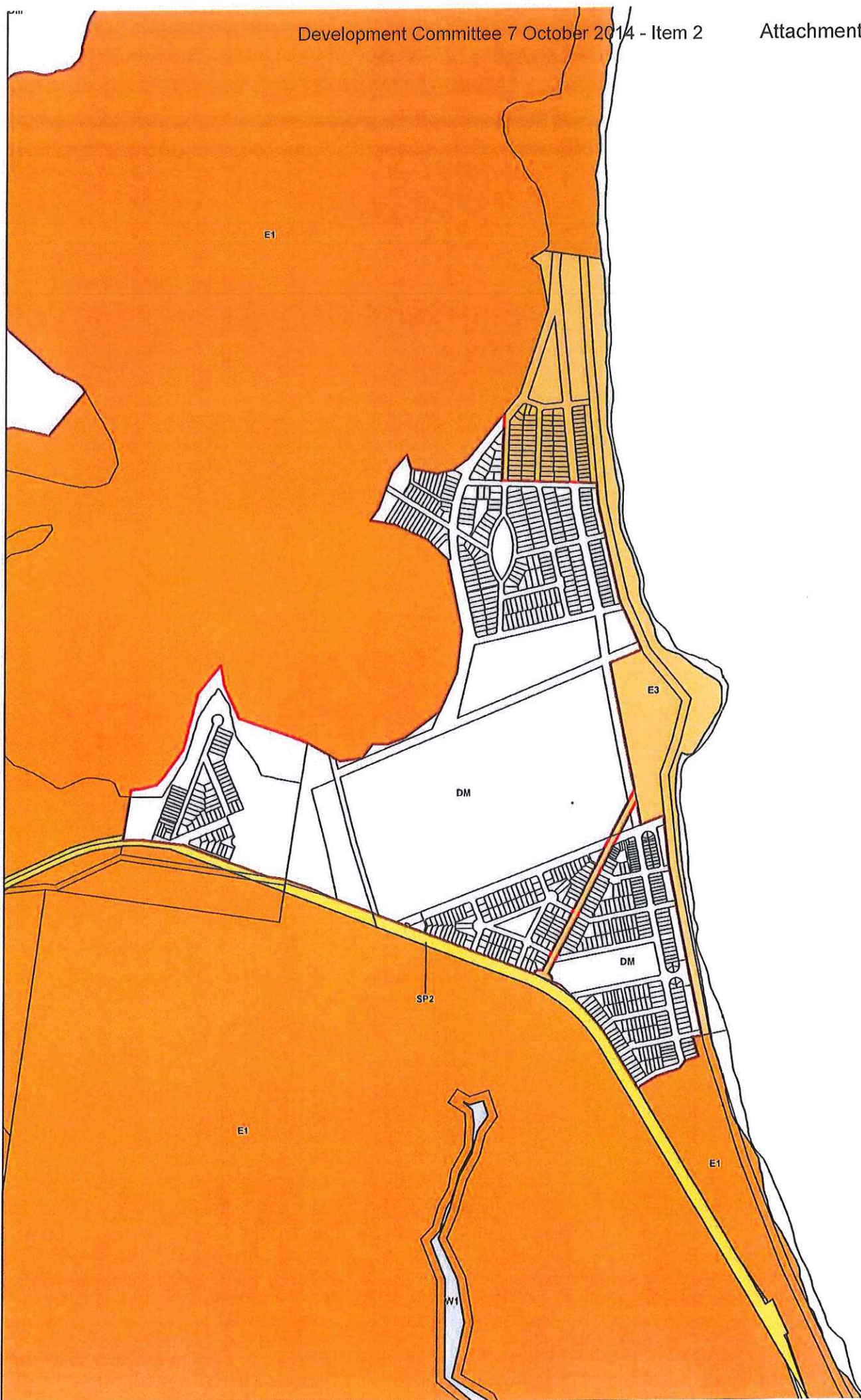
HON BRAD HAZZARD MP
Minister

25 FEB 2014

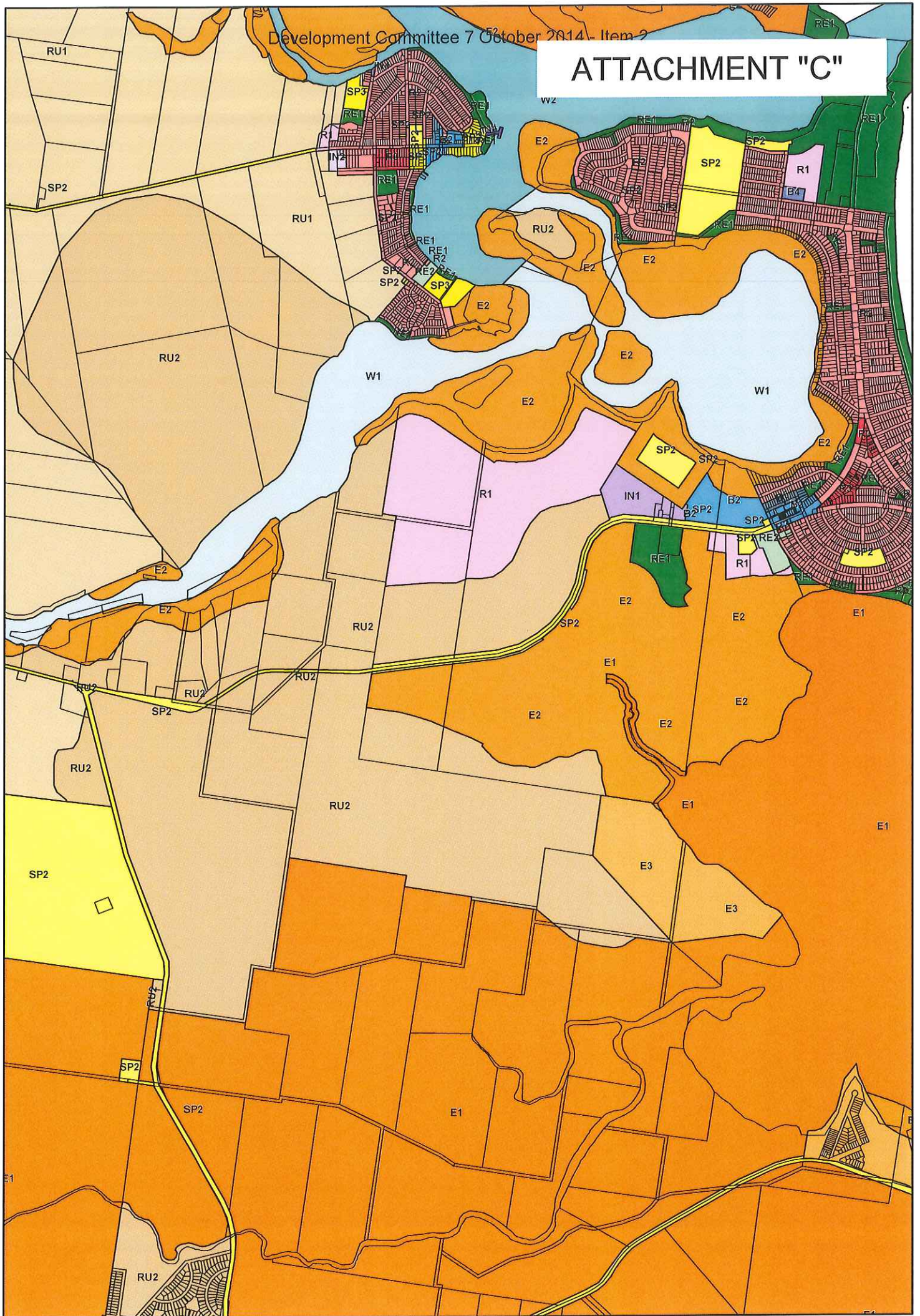
ATTACHMENT "B"







ATTACHMENT "C"



MINUTES OF THE DEVELOPMENT COMMITTEE MEETING HELD ON TUESDAY 7TH OCTOBER 2014 IN THE COUNCIL CHAMBERS, CITY ADMINISTRATIVE CENTRE, BRIDGE ROAD, NOWRA COMMENCING AT 4.00 PM

1. Planning Proposal (Rezoning) – Culburra Beach, Callala Bay and Currarong (The Halloran Trust) File 49256E, 1089E (PDR)

Mr Philpott, Mr Muller, Ms Bray, Ms Hollis-Coates, Mr Connolly gave a deputation on this item.

MOTION:

Moved: Watson / Second: Guile

RESOLVED that in accordance with the Committee's delegated authority from Council, that Council:

- a) Support the PP for the deferred lands at Culburra Beach, Callala Bay and Currarong in principle and commence the process to submit the proposal initially to the Department of Planning & Environment for Gateway determination, subject to the following studies being undertaken after Gateway determination:
 - i) Flora and Fauna (including biodiversity offset strategy);
 - ii) Geotechnical;
 - iii) Stormwater;
 - iv) Aboriginal Cultural Heritage;
 - v) Flood Risk;
 - vi) Bushfire;
 - vii) Traffic Impact;
 - viii) Visual Impact;
 - ix) Community Impact;
 - x) Economic / Business Impact; and
 - xi) Infrastructure (Delivery Plan).
- b) Advise the proponent, CCB's, interest groups and those who submitted comments of this resolution.
- c) Receive a further report following the Gateway determination.

CARRIED

FOR: Tribe, Robertson, Anstiss, White, Wells, Baptist, Guile, Watson, Kitchener, Gash

AGAINST: Findley and Russ Pigg