
ADOPTED AT COUNCIL MEETING HELD ON TUESDAY 17 MAY 2011

491. Draft Local Environmental Plan Nos LP225 Seascape Close, Narrawallee and LP338 Ross Avenue, Narrawallee - Exhibition of associated draft Voluntary Planning Agreement
File 42484E, 1787E, 26448E
-

RESOLVED on a MOTION of Clr Young, seconded Clr Guile, that Council endorse the draft Voluntary Planning Agreement as exhibited and authorise the General Manager to execute the Voluntary Planning Agreement.

THE RECORD OF VOTING ON THIS MATTER WAS AS FOLLOWS:

The following Councillors voted "Aye";

Clrs Soames, Fergusson, Bennett, Guile, Miller, Brumerskyj, Ward, Kearney, Watson, Proudfoot, Young, Green

The following Councillors voted "No";

Clr Findley

REPORT OF GENERAL MANAGER

ORDINARY MEETING

TUESDAY, 17 MAY 2011

STRATEGIC PLANNING AND INFRASTRUCTURE

1. **Draft Local Environmental Plan Nos LP225 Seascope Close, Narrawallee and LP338 Ross Avenue, Narrawallee - Exhibition of associated draft Voluntary Planning Agreement** **File 42484E, 1787E, 26448E**
-

Purpose of the Report:

The purpose of this report is to advise Council of the outcomes of the public exhibition of the draft Voluntary Planning Agreement (VPA) associated with the two draft Local Environmental Plan (LEP) amendments (LP225 & LP338) at Narrawallee.

This report is being presented directly to the Ordinary Meeting of Council given the timeframe set for completion of this project by the Department of Planning & Infrastructure (the Department). The Department granted an extension of time until 30 June 2011 to complete the planning proposals (LEPs), and this requires Council to finalise its position on the LEP amendments during May.

RECOMMENDATION

Recommended that Council endorse the draft VPA as exhibited and authorise the General Manager to execute the VPA.

Community Strategic Plan:

Objective 1.5 Major town centres that are attractive vibrant and popular destinations.

Strategy 1.5.3 Deliver and ensure high quality city planning and urban and landscape design outcomes for the city.

Delivery Program:

1.5.3.2 Implement appropriate land use zones and planning controls that reflect endorsed strategic plans/policies and are responsive to the Community's needs.

Options and Implications:

Option 1

Council endorse the draft VPA as exhibited and authorise the General Manager to execute the VPA.

Implications

Should the associated draft amendments be made by the State Government the following outcomes will result:

- positive environmental outcome through the protection of the whole of Garrads Lagoon. The majority of Garrads Lagoon is already a public reserve in Council's ownership; and
- rezoning of land currently zoned Environment Protection 7(d2) (Special Scenic) to allow for residential development at Seascope Close.

The VPA provides the mechanism by which the transfer of land occurs.

Option 2

Council not proceed with the endorsement of the draft VPA.

Implications

This option would leave this longstanding matter unresolved and would be inconsistent with the resolution of 16 November 2010.

Should Council decide to pursue Option 2, legal advice would be required to determine Council's responsibility under the current Deed of Agreement that already exists.

Report Details:

Introduction:

On 16 November 2010 (MIN10.1303) Council resolved:

- a) Council approach Hanson South Coast Pty Ltd to reformat the terms of the Deed into a Voluntary Planning Agreement (VPA);*
- b) The VPA be prepared in line with relevant legislation and Council Policy and be publicly exhibited for a period of 28 days; and*
- c) Should the VPA be endorsed by Council (post exhibition), adopt draft LEP No LP 225 and draft LEP No LP 338 as exhibited, with any minor wording changes required by the Parliamentary Council, and forward to the Minister for Planning for commencement.*

Background:

Draft LEP No LP338 proposes to rezone that part of Lot 300 DP 792411 zoned Residential 2(c) (Living Area) to Environment Protection 7(a) (Ecology) under Shoalhaven LEP1985. The draft Plan aims to protect Garrads Lagoon and once the land is rezoned in part, the current Deed requires Lot 300 to be dedicated to Council.

Draft LEP No LP225 proposes to rezone that part of Lot 29 DP 874275 zoned Environment Protection 7(d2) (Special Scenic) to part Residential 2(a1) and part Environment Protection 7(d2) (Special Scenic), with the inclusion of scenic preservation area over part of the land. The draft Plan aims to allow for some residential development while protecting landscape values and the habitat of the threatened species, ensuring that the risk to life and property from bush fire is minimised, and ensuring that the visual

impact of development is reduced through the protection and establishment of appropriate landscaping.

Both properties are currently owned by Hanson South Coast Pty Ltd and Council agreed to the rezoning of Lot 29 DP 874275 Seascope Close as a negotiated outcome for the surrendering of a 17 lot subdivision consent that existed on the part of Lot 300 DP 792411 that is zoned Residential 2(c).

To ensure the surrender of the 17 lot subdivision consent and the dedication of Lot 300 DP 794211 Ross Avenue to Council, Council also previously resolved to prepare a Deed of Agreement to ensure this is ultimately facilitated.

Key Issues:

Conversion to Planning Proposals

In July 2009, the LEP plan making process in NSW changed. The new legislation included saving provisions for what were called draft pending LEPs which meant that the subject plans were able to proceed under the previous plan making system provided that they were completed within a year of the commencement of the changes.

As this was not able to be achieved for the subject draft LEPs, Draft LEP Nos LP225 & LP338 have now migrated across as 'planning proposals' under the new 'Gateway Process'.

The Department indicated that the planning proposals should be completed within 6 months of the date of the letters confirming the conversion of the draft LEPs to planning proposals - with this date being 1 January 2011. Council has received an extension to this timeframe to facilitate the change of the Deed of Agreement into a VPA and the process must be completed by 30 June 2011.

Following the finalisation and endorsement of the VPA (as recommended), the two draft LEPs will be forwarded to the Department for finalisation within the normal time frame.

Draft VPA

As per Council's resolution (16 November 2010), the draft VPA was placed on public exhibition for 28 days from 31 March 2011 to 28 April 2011 (inclusive) at Council's Ulladulla and Nowra Offices.

Seven (7) submissions (external) were received during the exhibition period. The submissions are summarised and commented on in the following table:

No.	Issue	Comment
1 22/3/2011	Adjoining resident: Fully support this environmentally responsible action on Council's part to retain Garrads Lagoon and rezone more suitable land for future housing development.	<i>The recommendation in this report is consistent with the comments raised in this submission, in that the submission supports the draft LEPs. The submission does not request/ require any changes to the draft VPA as exhibited.</i>
2	Roads and Traffic Authority	<i>The submission does not request/</i>

31/3/11	(RTA): The RTA noted that the proposed subdivision of land is from a local road and cannot exceed 200 dwellings.	<i>require any changes to the draft VPA. Any potential development on the rezoned land at Seascape Close would be subject to compliance with relevant legislation, as part of a development application process.</i>
3 28/4/11	Resident: Supports and thanks Council for decision to rezone Garrads Lagoon to Environmental Protection Area.	<i>The recommendation in this report is consistent with the comments raised in this submission, in that the submission supports the draft LEPS. The submission does not request/ require any changes to the draft VPA as exhibited.</i>
4 29/4/11	Adjoining Resident: Does not support the rezoning of the Seaspray Street land as: • The land provides habitat for a variety of native fauna; • The land provides a natural buffer zone between Narrawallee and Ulladulla; • The local road network does not have sufficient capacity to cope with additional development; and • There is sufficient land available in the Ulladulla Milton Narrawallee area to cater for future demand.	<i>Only part of the site is proposed to be rezoned for residential purposes, through Draft LEP LP 225. The zone boundary for the Residential 2(a1) zone has been delineated through negotiation, Council's environmental studies and using information provided by NPWS to ensure impact is minimised on the environmental qualities of the site. The rezoning provides a buffer between the existing residential properties of Seascape Close to the proposed residential zone and a buffer from the proposed residential zone.</i> <i>The Roads and Traffic Authority and Council's Traffic Unit did not raise any issues regarding the capacity of the local road network.</i> <i>Whilst there may be available land in the Ulladulla area to cater for future demand, Council agreed to investigate rezoning the Seaspray Street site to enable the 17 lot development consent at Ross Avenue to be surrendered and the environmentally significant land transferred to Council.</i> <i>Note: This resident made a similar submission when Deed of Agreement was on exhibition.</i>

5 29/4/2011	Adjoining Resident: Does not support the rezoning of Seascape Close land due to a loss of buffer zone between Milton and Ulladulla.	<i>Only part of the site is proposed to be rezoned for residential purposes, through Draft LEP LP 225. The zone boundary for the Residential 2(a1) zone has been delineated through negotiation, Council's environmental studies and using information provided by NPWS to ensure impact is minimised on the environmental qualities of the site. The rezoning provides a buffer between the existing residential properties of seascape Close to the proposed residential zone and a buffer from the proposed residential zone.</i> <i>Any potential development on the rezoned land at Seascape Close would be subject to compliance with relevant legislation, as part of a development application process.</i>
6 29/4/2011	Adjoining Resident: Does not support the rezoning of Seascape Close land due to: • Loss of habitat; • Loss of wind protection; and • Loss of trees.	<i>Only part of the site is proposed to be rezoned for residential purposes, through Draft LEP LP 225. The zone boundary for the Residential 2(a1) zone has been delineated through negotiation, Council's environmental studies and using information provided by NPWS to ensure impact is minimised on the environmental qualities of the site. The rezoning provides a buffer between the existing residential properties of Seascape Close to the proposed residential zone and a buffer from the proposed residential zone.</i> <i>Any potential development on the rezoned land at Seascape Close would be subject to compliance with relevant legislation, as part of a development application process.</i>
7 29/4/2011	Adjoining Resident: Does not support the rezoning of Seascape Close Land due to loss to the local/natural environment.	<i>Only part of the site is proposed to be rezoned for residential purposes, through Draft LEP LP 225. The zone boundary for the Residential 2(a1) zone has been delineated through</i>

		<i>negotiation, Council's environmental studies and using information provided by NPWS to ensure impact is minimised on the environmental qualities of the site. The rezoning provides a buffer between the existing residential properties of Seascope Close to the proposed residential zone and a buffer from the proposed residential zone.</i> <i>Any potential development on the rezoned land at Seascope Close would be subject to compliance with relevant legislation, as part of a development application process.</i>
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Copies of the submissions and the draft VPA as exhibited are available in the Councillors' Room.

The concerns and objections raised relate more to the actual rezoning of the land at Seascope Close than the form and content of the VPA. The merits of the rezoning were considered by Council in November 2010 and it was resolved to proceed to finalise the draft LEPs provided the VPA was prepared and endorsed. The VPA essentially provides the legal mechanism to facilitate the transfer of land at Garrads Lagoon if the rezoning proceeds.

Resourcing Implications - Financial, Assets, Workforce:

As previously reported, a condition of the draft VPA will see Hanson South Coast Pty Ltd credited for the equivalent of 17 lots for Section 94 and Section 64 contributions for future development of the Seascope Close land. The estimated value of the credits is \$411,820 which includes:

- a) Approx \$168,227 for Section 94 contribution (estimate calculated on 14 July 2009); and
- b) Approx \$243,593 for Section 64 head works charges, including water supply, water service fee and sewerage (09/10 Charges).

These credits have the potential to negatively impact on future budgets due to a reduced level of income and the need to still provide the services without receiving a contribution.

Community, Environment (ESD), Economic and Governance Impact:

Draft LEP No LP 338 aims to achieve a positive environmental outcome through the zoning protection of Garrads Lagoon. The associated VPA will see the land transferred to Council. This should ensure that this area of environmentally sensitive land will be brought into public ownership and maintained for future generations. However, this positive environmental outcome will be negated by the loss of land currently zoned Environment Protection 7(d2) (Special Scenic) to residential development as proposed by draft LEP No LP225.

Conclusion:

Submissions received during the public exhibition period have been considered and do not raise significant issues in relation to draft VPA and its finalisation. As such it is recommended that Council endorse the VPA as exhibited.

Peter Adams

DIRECTOR, STRATEGIC PLANNING AND INFRASTRUCTURE

R.D Pigg

GENERAL MANAGER

Our Ref: 404.5314 (11/327) STH09/02499
Contact: Andrea Boes 4221 2771
Your Ref: 1787E, 26448E & 42484E (D11/57897)



29 MAR 2011

Shoalhaven City Council

Received

31 MAR 2011

File No. _____

Referred to: S. Edwards

787e
26448e
The General Manager
Shoalhaven City Council
PO Box 42
Nowra NSW 2541

Attention: Susan Edwards

**SHOALHAVEN CITY COUNCIL - DRAFT VOLUNTARY PLANNING AGREEMENT -
DRAFT LOCAL ENVIRONMENTAL PLANS NO. LP225 SEASCAPE CLOSE (LOT 29
DP874275) & NO. LP338 ROSS AVENUE (LOT 300 DP 792411), NARRAWALLEE**

Dear Sir/Madam

Reference is made to your letter dated 15 March 2011 regarding the subject proposed agreement forwarded to the Roads and Traffic Authority (RTA) for consideration.

The RTA has reviewed the submitted information and notes that lot 29 DP 874275 is accessed via Seascape Close, a local road, and this land cannot be developed with 200 or more dwellings according to Shoalhaven LEP. Given this, the RTA does not object to the development application in principle.

Yours faithfully

Rob Reynolds
Manager, Road Safety and Traffic Management
Southern Operations and Engineering Services

Roads and Traffic Authority

Yvonne & John Dwyer
9 Seaspray St
NARRAWALLEE. 2539

(02) 4455 1147
yjdwyer@internode.on.net

28th April 2011

Cinnamon Dunsford
Senior Strategic Planner/DA Co-ordinator
Shoalhaven City Council
Administrative Centre,
Bridge Rd
NOWRA 2541

RECEIVED
29 APR 2011

BY:

Shoalhaven City Council

Received

- 2 MAY 2011

File No.

Referred to: S. Edwards

REFERENCE: 1787E (D11/68470) , 26448E & 42484E

SUBJECT: DRAFT LOCAL ENVIRONMENTAL PLANS
No. LP225 Seascape Close, and No. LP338 Ross Avenue Narrawallee

We wish to make it known our objection to the proposed changes to Lot 29 DP874275 Seascape Close, Narrawallee. This is a beautiful, peaceful and unique bushland which will be sadly missed by local residents not to mention the loss of habitat of fauna and flora.

We have the following concerns should this development go ahead:

1. The loss to our local environment – the loss of habitat for native fauna (we have seen mopoke owl, frogs, black cockatoos, echidna, kangaroo, black snake and wonderful bird life) and loss of native flora all of which give great pleasure to many people in the area.
2. We believe the trees afford us some protection from the high winds which are experienced in this area. We have had roof damage on two occasions as a result of high winds, and, as well, shrubs were blown away from our garden.
3. It will be important to us that Scenic Preservation 2(a1) will be maintained and monitored by Council. The trees should not be knocked down for sewerage or any other reason by the developer or other persons.
4. With the proposed development of 167 residences between Gemini, Seascape Streets and the lake there will be little natural bushland left in Narrawallee. Narrawallee and the inlet is a beautiful, scenic area and it would be a shame on Council not to maintain it for future generations. Once gone never to be returned.

We urge Council not to approve the above development.

Yours sincerely

Y. E. Dwyer
[Signature]

RECEIVED
29 APR 2011

Lynda Williamson
45 Seaspray St
NARRAWALLEE. 2539

BY:

Phone 4454 4034

28th April 2011

Shoalhaven City Council

Received

Cinnamon Dunsford
Senior Strategic Planner/DA Co-ordinator
Shoalhaven City Council
Administrative Centre,
Bridge Rd
NOWRA 2541

- 2 MAY 2011

File No.

Referred to: S Edwards

REFERENCE: 1787E (D11/68470), 26448E & 42484E

**SUBJECT: DRAFT LOCAL ENVIRONMENTAL PLANS
No. LP225 Seascape Close, and No. LP338 Ross Avenue Narrawallee**

Thank you for the opportunity to make comment on the above development.

I wish to object to the proposed changes to Lot 29 DP874275 Seascape Close, Narrawallee.

I am concerned about the loss to our local environment. I have lived here for 14 years and have enjoyed the native flora and fauna and have felt that my children have been lucky to have grown in this area.

I believe that as much of the natural environment should be maintained for future generations.

I urge Council not to approve the above development.

Yours sincerely



RECEIVED
29 APR 2011

BY:

12 Seaspray St
Hawthorne 2539

29 April 2011.
Shanghai City Council

Received

- 2 MAY 2011

The General Manager
P.O. Box 42 Howard 2541

File No.

Council Ref. 17875, 26448E + 42484E
Referred to: S. Edwards

Re. Plans NO LP225
Seascope Close + NO LP338 Ross Ave.

Dear Sir

I wish to lodge my objection to the above plans, as the land stated was always to be a buffer zone between Witter + Ulladulla. When you live in a big city like Sydney or the Central Coast, you will never see Nature like you do on this land. I have seen, echinodas, possums, snakes, kangaroos, and the bird life is in abundance + and when you go to bed at night we can hear owls. This area and the South Coast is a jewel please don't destroy it for the almighty Dollar.

Regards.

J.P. Murphy.

ORIGINAL

27 APR 2011

Shoalhaven City Council

Received

7 Seascope Close,
Narrawallee. 2539

29 APR 2011

25 April, 2011

File No.

1787 E

Referred to:

S. Edwards

THE GENERAL MANAGER
P.O. BOX 42, NOWRA. 2541

Council Reference: 1787E, 26448E & 42484E

Re: Draft Voluntary Planning Agreement, Draft Local Environmental Plans No. LP225
Seascope Close, and No. LP338 Ross Avenue, Narrawallee.

Dear Sir/Madam

First off I am not affiliated with any Political Party nor have I ever made any donation to any Political Party.

I am totally against the proposed Draft Environmental Plans and Deeds of Agreement as I have previously stated in my letter to Council dated 9 October, 2009 when this proposal was put up then.

The land that they wish to develop is zoned Environment Protection 7(d2)(Special Scenic) and should not be changed. As previously stated the land is a natural buffer zone between Narrawallee and Milton and is a natural habitat to numerous animal and birdlife. I have many animal coming onto my land (kangaroos, wallabies, echinandas, possums etc) together with the birdlife (owls, hawks, eagles, parrots etc) and this bush is a natural home and protection for them. The proposed alteration of this bush site would be criminal and vastly effect nature. As previously stated this is the land that Council should be protecting, not Garrads Lagoon. This bushland is the only strip of bushland between Narrawallee and west of Milton to the mountains. Why would you want to destroy this. If this bushland was not present in its current form during the disasterous winds of Fathers Day, 2010 there would have been far greater damage to houses in the Narrawallee area.

To reiterate what I have said previously, the land should not be rezoned to make it part residential as this will destroy the pristine bushland. Garrads Lagoon was the original area to be developed and the Goal Posts should not be shifted. There is very little bushland left in the Narrawallee area and the existing buffer zone is very important to the environment and if altered would be a disaster, not only for the present time but for our future. Numerous people access the land for walks and to view nature. This would be destroyed if this selfish proposal goes ahead.

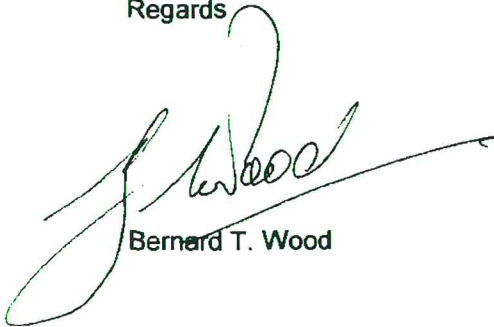
The proposed development shows that access to the area would be through Seaspray

Street, Narrawalle. This is a narrow residential street and access to this street is off Seawinds Parade, Gemini Way, Scorpio Grove, then Leo Drive. All of the streets leading from Leo Drive are also narrow residential streets and any further volume of traffic would be dangerous and disastrous. The streets would not be able to cope.

There are a number of residential Developments proposed and on-going in the Ulladulla/Mollymook/Narrawallee area and these should sustain the area for years to come.

The subject land should not be rezoned, but left as it is - Environment Protection 7(d2)(Special Scenic).

Regards

A handwritten signature in black ink, appearing to read 'B. Wood', with a long horizontal flourish extending to the right.

Bernard T. Wood

28 APR 2011

File No.

Referred to: S. Edwards

Shoalhaven City Council
P.O. Box 42
Nowra N.S.W. 2541

Re. Draft Planning Agreement.
1787E (D11/68470)

To the General Manager
Attention, Susan Edwards.

I would like to take this opportunity to thank Shoalhaven City Council for the decision to rezone Lot 300 DP 792441 to an Environmental Protection Area.
(Note the Voluntary Planning Agreement plan is shown as DP 300 792441)?

I wrote to the Council back in February 1990 offering Garretts Lagoon been drained and filled and the proposed development. (Note see attached previous letter).

I applaud the decision been made today which will ensure that the natural reserve forming a buffer zone between the existing housing estates, creating a unique pocket and corridor for both fauna and flora.

I would like to thank you for your continued correspondance with regards to these matters pertaining to Carvett's Lagoon and the aiaing nature reserve.

Yours Faithfully
A. Rindell

L R & M M BISHELL
~~10 MANDBOON ROAD~~
~~GIRRAWEEEN 2145~~
20/2/90

SHOALHAVEN CITY COUNCIL
BOX 42 P.O.
NOWRA N. S. W. 2541
Att. Mr. Stasiukynas

Your Ref. S/F 5052 AS:SH

Dear Sir,

I wish to advise that my family and I are totally opposed to having the Garrett's Lagoon area drained and filled or any other development changes to the Lagoon.

I would like to say that this area has always been indicated to me as a reserve and a natural water easement by both council and estate agents which influenced us in purchasing and building on our land at lot 201 Bangalow Street Narrawalle.

I would also like to draw attention that Garrett's Lagoon was not always covered with reeds, prior to the development now taking place this was a open clear water lagoon thriving with natural bird life.

This lagoon is shown on all maps, tourist brochures, and tourist information boards located at Milton and Ulladulla and I feel that to remove this lagoon which has always been part of the natural environment in this area, by draining and filling would be a regressive step for the whole community.

Garrett's Lagoon has always been a wild life refuge, natural feeding area and a nesting ground for many species of birds, also around the foreshore many native animals can still be found including the Possum, Bandicoot and Echidna making this a small but worthwhile reserve.

The recent development around the western side of the lagoon has caused the lowering of the depth of water, plus the installation of a sewer pipe across the centre of the lagoon and removal of vegetation has allowed silting to take place. This action has allowed the reeds to cover the lagoon at a alarming rate. With the level returned to its original height and removal of the reeds this area would return to its original condition.

Garrett's Lagoon could be better utilised as a natural reserve forming a buffer zone between the existing and new housing estates creating a unique pocket for both fauna and flora.

This would be a fine example by Council to retain this lagoon and thereby making this a better environment for local residents and tourists alike to see a natural reserve in a residential area.

I would also like to thank Council for giving my family and I the opportunity to speak against the draining and filling of Garrett's Lagoon.

Yours faithfully,
L. Bishell.



18 March 2011

The General Manager
Shoalhaven City Council
PO Box 42 Nowra NSW 2541

Shoalhaven City Council

Received

22 MAR 2011

File No. _____

Referred to: _____ CD _____

Ref: 1787E, 26448E & 42484E

**A Submission regarding the Draft Voluntary Agreement:
Draft Local Environment Plans No. LP225 Seascope Close, and No. LP338 Ross
Avenue, Narrawallee**

Our house at 91 Matron Porter Drive, Narrawallee is adjacent, to the east, of the piece of land stated by Council to be part of Lot 300 DP 792441 (or is it, as on the Map sent to us, DP 792411?). In either case we are in favour of this land being re-classified Environmental Protection 7a (Ecology).

We experienced the move some years back for this land to be developed for housing, for which it was unsuitable on several grounds – one being partial inundation, without considerable filling. We argued then that it was part of a wetland that helped preserve the environmental integrity of Narrawallee Inlet and that it should be reclassified accordingly.

Hence we fully support this environmentally responsible action on Council's part which proposes an alternative, more suitable parcel of land for future housing development in the vicinity of Seascope Close.

Judy and Keith Amos
37 Maas Street
Cromer NSW 2099

Ph. 02 99824736

