

VISITOR ITEMS

CORPORATE & STRATEGY

v-CS1 Planning Proposal to Rezone and Reclassify Eridge Park, Burradoo to Permit Residential Aged Care Facility

Environment

Reference: 5901, PN976400, PN1753470, PN976100, PN1716300
Responsible Officer: Manager Strategic and Community Development

PURPOSE

The purpose of this report is to inform Council of the receipt of a Planning Proposal to rezone and reclassify Lot 5 DP 1087928, being Eridge Park, Eridge Park Road and Moss Vale Road, Burradoo, to permit development for the purposes of a Residential Aged Care Facility associated with the establishment and refurbishment of sporting and leisure facilities at the property known as Wongabri Moss Vale Road Burradoo and the Mittagong pool and adjoining leisure centre Mittagong.

SUMMARY

The proposed development is part of an integrated three-site proposal which also involves a land swap between Eridge Park and the site known as Wongabri (comprising Lot 3 DP 609703 and Lot 2 DP 258454), Moss Vale Road, Moss Vale, and the construction and augmentation of the recreation facilities from Eridge Park to Wongabri, and the development of the Mittagong Pool site and Mittagong Leisure Centre (Lot 1 DP 981285) for the purposes of a "wet and dry leisure facility".

The Eridge Park site is zoned RE1 Public Recreation, is owned by Wingecarribee Shire Council and is classified as Community Land under the provisions of Division 1 Part 2 Chapter 6 Clause 30 of the Local Government Act, 1993. It is noted that the lodging of a formal Planning Proposal with the Department of Planning and Infrastructure would also need to address the reclassification of the land from Community Land to Operational Land.

It is recommended that a formal Planning Proposal be lodged with the Department of Planning and Infrastructure for a Gateway Determination. If the Proposal is supported by the Gateway, community consultation as required by that Determination would be undertaken and the matter subsequently reported back to Council, so that Council may determine whether or not to support the Planning Proposal being finalised.

DESCRIPTION OF PROPOSAL

BACKGROUND

In 2006 Council received a submission from the owners of the Wongabri site requesting permission to develop the site for the purposes of an aged care facility, leisure centre and botanic gardens. The (then) NSW Department of Planning refused support for this development in 2007 due to the scale and intensity of development on land zoned 7(b) Environmental Protection (Landscape Conservation) zone between Bowral and Moss Vale.

On 29 February 2012 a second Planning Proposal for the Wongabri site was submitted to Council. This proposal was similar to the proposal lodged in 2006 with the addition of a Regional Art Gallery and Performance venue. The proponent and supporters undertook extensive public engagement through displays in local shopping centres and via establishment of a website prior to formal lodgement of the Planning Proposal. The proposal was never formally reported to Council and was withdrawn on 17 May 2012.

On 23 May 2012, the Planning Proposal which is the subject of this report was lodged with Council. **(Circulated separately as ATTACHMENT 1).**

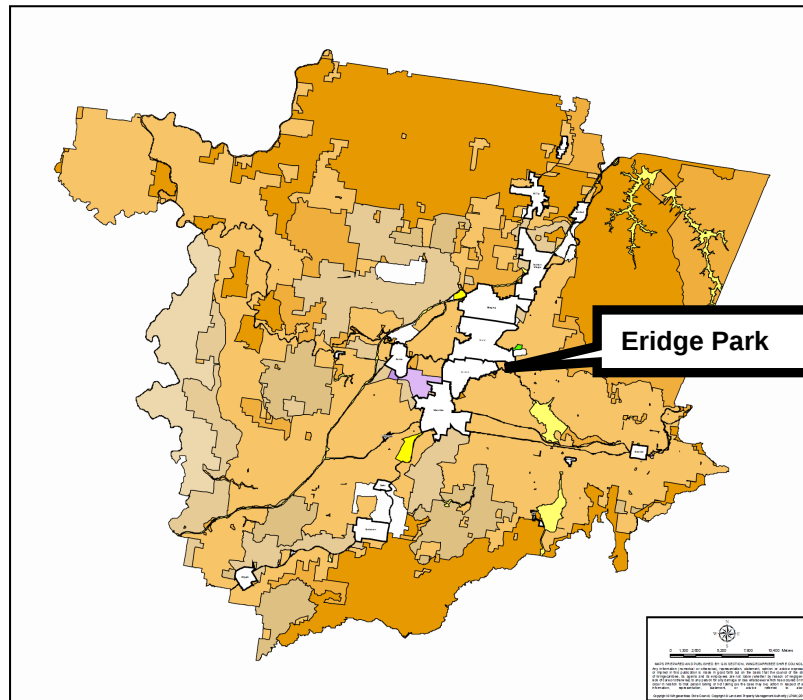
This submission proposes an alternative solution which achieves the range of developments originally proposed for the Wongabri site, but locates those developments across the Shire. Instead of all development being at Wongabri, that site will be developed for active and passive recreation with the leisure centre facility being provided through an extensive upgrade of the Mittagong pool site, thereby providing a facility in the northern part of the Shire to complement Council's own pool upgrade programme at Moss Vale. The aged care component is proposed to be developed on the Eridge Park site, providing a full ageing-in-place residential care facility centrally located in the Shire on the southern boundary of Bowral township.

It is noted that, under the current provisions of WLEP 2010, Wongabri is zoned E3 Environmental Management with a minimum lot size of 4 hectares. Theoretically, the site could yield seven (7) lots, however the significant constraints of the site, principally with regard to flooding, may result in a yield well below the seven (7) lot theoretical potential.

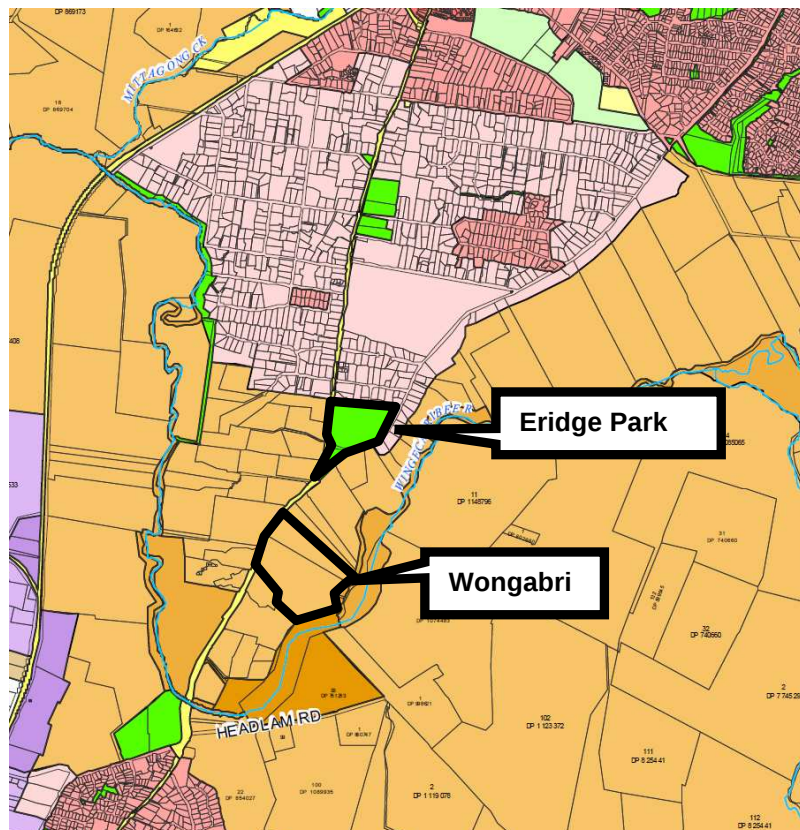
DETAILS OF PROPOSAL

Subject Site and Locality

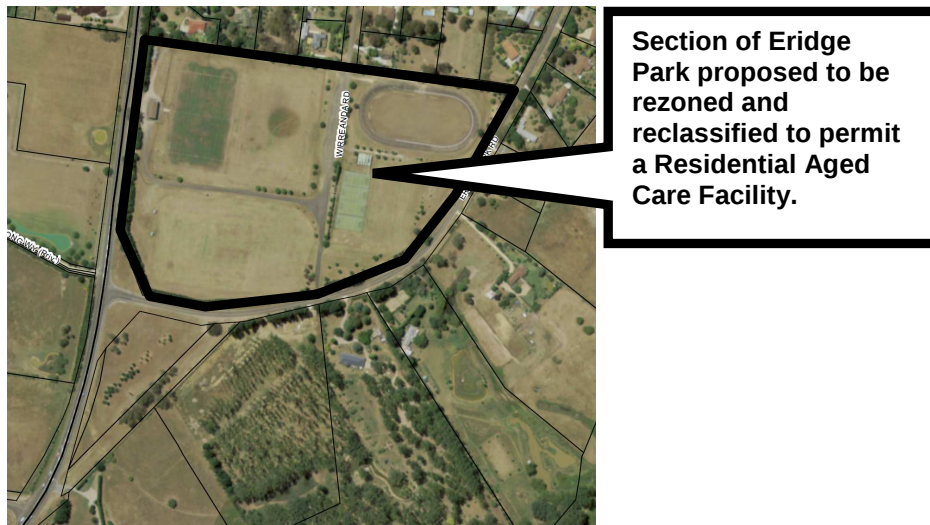
Eridge Park is located almost at the centre of the Shire, on the corner of Moss Vale Road and Eridge Park Road at Burradoo. It forms the southern boundary to the Bowral Township and the northern boundary to the 'green belt' area between Bowral and Moss Vale townships. The location of Eridge Park, in relation to the Shire as a whole and to the Bowral township, is shown on the maps below. The location of the Wongabri site is also indicated.



Location of Eridge Park within the Shire.



**Location of Eridge Park on the southern edge of Bowral Township
and Location of Wongabri in relation to Eridge Park.**



The Wingecarribee Sport, Leisure & Living Proposal

The Wingecarribee Sport, Leisure & Living Proposal comprises three elements:

1. A “land swap” between Eridge Park (Lot 5 DP 1087928 - approximately 12 hectares / 30 acres) and the property known as ‘Wongabri’, comprising Lot 3 DP609703 and Lot 2 DP258454 (approximately 28 hectares / 70 acres.) It is proposed to establish the sporting facilities currently located on Eridge Park on the Wongabri site and build additional active and passive recreation facilities, including an amphitheatre and bike tracks, to create the “Wongabri Recreational Park” (quoted from the applicant’s submission). The proposal would also create public access to the Wingecarribee River. The Wongabri site is zoned E3 Environmental Management under WLEP 2010 which permits, with consent, Recreation Areas and Outdoor Recreation Facilities.
2. Construction of a “state of the art wet and dry leisure facility” (quoted from the applicant’s submission) at the Mittagong pool facility (Lot 1 DP 981285) to be known as the ‘Mittagong Sport and Leisure Centre’. It is proposed that this facility would be constructed and operated by the applicant for a set period of time before the facility is handed over to Council at no cost. The Mittagong pool site is zoned RE1 Public Recreation which permits, with consent, development for the purposes of an Indoor Recreation Facility. No change to the classification of the land is required.
3. Construction of an “ageing in place aged care facility” (quoted from the applicant’s submission) on Eridge Park, to be known as the “Eridge Park Retirement Living, Burradoo”. The development proposes to offer independent living villas, low care accommodation, assisted care accommodation, high care accommodation and special needs dementia accommodation. It is proposed that the development would be delivered in stages over a ten year period. The submission indicates that the applicant “would maintain through the staging period significant areas of open space that could continue to be accessed and utilised by the community.”

Concept Plans for each of these three elements are contained in the Allen Jack + Cotter document submitted to Council and circulated separately (**ATTACHMENT 2**) to this report.

The proponent has also indicated the proposed staging programme for the delivery of each element of the Proposal. The amendment to WLEP 2010 to permit development of the residential aged care facility would initiate the construction and completion of the facilities at Wongabri. The finalisation of the lease arrangements and commencement of works for the Mittagong site would also occur at this time. The proponent expects that the Wongabri site would be operational by mid-2014 with the upgraded Mittagong Pool being operational by Summer of 2014.

The initial stages of the Aged Care Facility would commence at the same time as the Mittagong Pool site upgrades with the Mittagong site development completed prior to any occupation of the aged care facility. The proponent also intends to deliver the 'dry facilities' at the Mittagong facility within 12 months of the opening of the upgraded Pool facility.

STATUTORY ASSESSMENT

ASSESSMENT - KEY ISSUES

The basis for this report is the receipt by Council of a Planning Proposal prepared on behalf of the owner of the Wongabri site requesting the rezoning of Eridge Park from RE1 Public Recreation to R2 Low Density Residential and the reclassification of the site from Community Land to Operational Land for the purposes of permitting, with consent, a Residential Care Facility under the provisions of WLEP 2010. This Proposal needs to be assessed within the context of the entire Wingecarribee Sport, Leisure & Living Proposal of which the Residential Care Facility is just one component.

Therefore assessment needs to address the following:

1. The proposed land swap between the Council-owned Eridge Park and the privately owned Wongabri site.
2. The development of the Wongabri site for the purposes of both active and passive recreation pursuits.
3. The redevelopment of the Mittagong swimming pool site to create an indoor leisure facility under a 'public private partnership' arrangement.
4. The rezoning of the Eridge Park site.
5. The reclassification of the Eridge Park site from Community to Operational Land.
6. The Classification of the Wongabri site to Community Land once the 'land swap' is completed.
7. The identification, commissioning and assessment of additional studies which may include traffic studies associated with the recreational park at Wongabri, the aged care facility at Eridge Park and the Mittagong leisure centre proposal, as well as an environmental assessment of the Wongabri site, including flooding potential, and an environmental assessment of the proposed Leisure Centre development on the Mittagong pool site.

It is noted that the Planning Proposal includes the following supplementary material:

1. Letter from Sparke Helmore Lawyers outlining the process of the proposed land swap between Eridge Park and Wongabri. In addition to addressing the necessary processes to amend WLEP 2010 and reclassify the two sites, it also discusses the legal process by which the land swap would be achieved.
2. A document from ARUP (consulting designers, planners, engineers, and technical specialists) summarising the Environmentally Sustainable Development Principles of the Wingecarribee Sport, Leisure & Living Proposal.
3. A Preliminary Flora and Fauna inspection of the Mittagong Pool site from Hayes Environmental Ecological Consultant.

Based on the information supplied to date, it would appear that the proposal has sufficient merit to warrant further consideration. It is considered that, prima facie, the proposal offers the following:

- (i) The exchange of the 12 hectare Eridge Park site for the 28 hectare Wongabri site.
- (ii) Extended and upgraded active and passive recreation opportunities, including public access to the Wingecarribee River, provided to Council's specifications, at no cost to Council.
- (iii) An upgraded 'wet and dry' leisure facility, provided to Council's specifications, at no cost to Council.
- (iv) An 'ageing-in-place' retirement care facility incorporating high care facilities centrally located near the centre of the Shire on the southern edge of Bowral township.
- (v) Development which incorporates the principles of Ecologically Sustainable Development.

Considerable further assessment of the details of the proposal is required however at this stage there would appear to be sufficient merit to warrant involving the community in the decision-making process. This would best be achieved through lodging a formal Planning Proposal with the Department of Planning and Infrastructure to obtain endorsement to request the applicant submit the necessary studies and concept drawings for the whole proposal package and in particular the aspect pertaining to the Eridge Park site. This will enable the Council to proceed with undertaking community consultation as required under the Gateway Determination.

Such an action does not commit Council to the Proposal, either wholly or in part, but it does enable the community to become involved in a full assessment of all implications of the Wingecarribee Sport, Leisure & Living Proposal.

Wingecarribee LEP2010

A Planning Proposal would be required to rezone Eridge Park from RE1 Public Recreation to R2 Low Density Residential for the purposes of permitting, with consent, a Residential Care Facility. The Planning Proposal would also need to address the reclassification of Eridge Park from Community to Operational land. It is also noted that the Wongabri site will need to be classified to Community Land, once transfer of ownership to Council is completed.

The Recreation Areas and Outdoor Recreation Facilities which are proposed on the Wongabri site are permissible with consent in the E3 Environmental Management zone which applies to the subject site under WLEP 2010.

The Recreation Areas and Indoor Recreation Facilities which are proposed on the Mittagong pool site are permissible with consent in the RE1 Public Recreation which applies to the subject site under WLEP 2010.

Development Control Plans

Details of each aspect of the Wingecarribee Sport, Leisure & Living Proposal would be assessed under the relevant Development Control Plans should Council support proceeding with the proposal.

State Environmental Planning Policies

As part of the preparation of the Planning Proposal, compliance with State Environmental Planning Policies must be demonstrated.

Section 79C Evaluation

Details of each aspect of the Wingecarribee Sport, Leisure & Living Proposal would be assessed under Section 79C within the context of the various development applications should Council support proceeding with the proposal.

Relevant State Legislation

The Planning Proposal would also address the proposed reclassification of Eridge Park as required under the provisions of Division 1 Part 2 Chapter 6 Clause 30 of the Local Government Act, 1993.

Planning Proposal Gateway Process

Amendments to WLEP 2010 are made through the 'Gateway Process' as defined by the NSW Department of Planning and Infrastructure. The Gateway process comprises the following steps:

Planning Proposal — Council, being the relevant planning authority, is responsible for the preparation of the formal Planning Proposal and its lodgement with the Department. The purpose of a Planning Proposal is to explain the effect of, and justification for, amending the LEP. A resolution of Council to proceed with the preparation of a Planning Proposal initiates the Gateway process, however, the process does provide later opportunity for Council to resolve not to proceed further should it wish to do so.

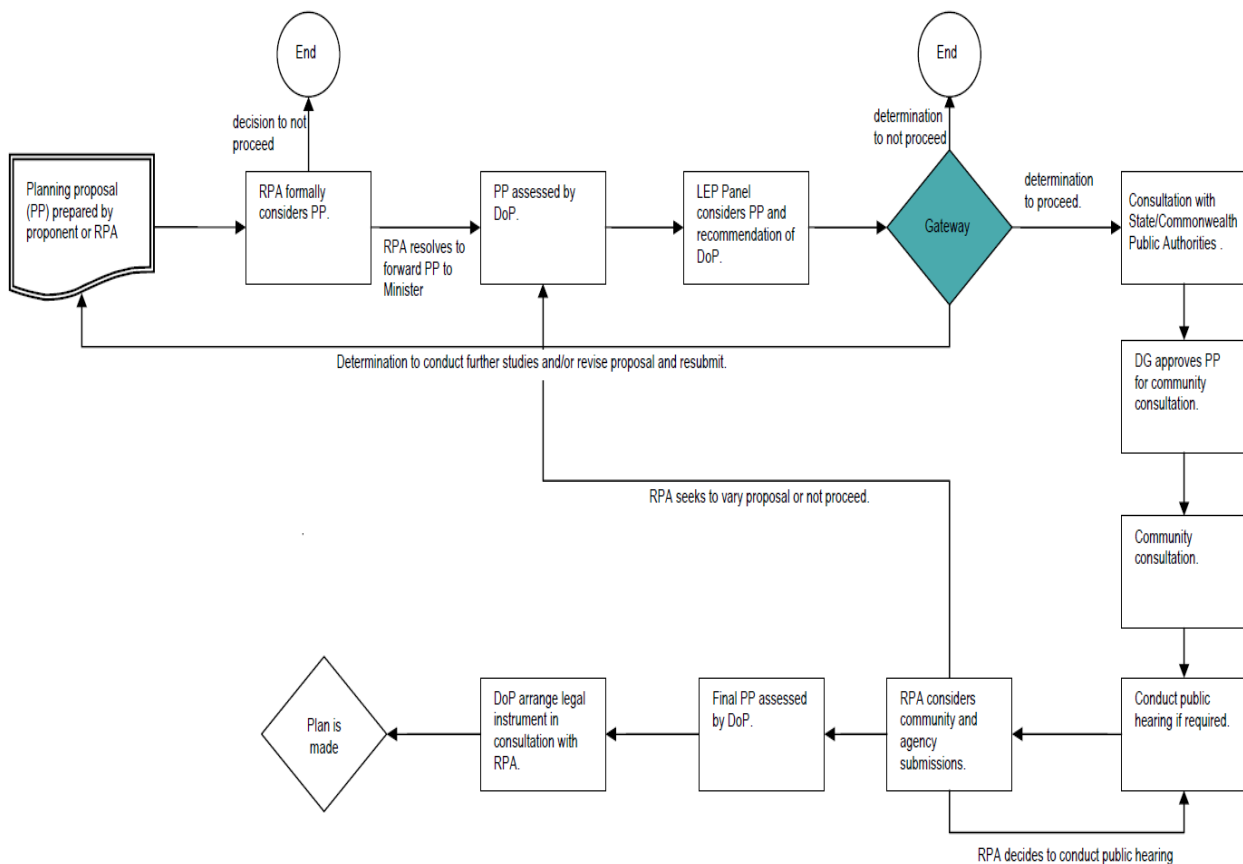
Gateway — The Minister (or delegate) determines whether the Planning Proposal is to proceed. This Gateway acts as a checkpoint to ensure that the Proposal is justified before further studies are done and resources allocated. A community consultation process is also determined at this time. Consultations also occur with relevant public authorities and, if necessary, the Proposal is varied prior to community consultation occurring.

Community consultation — the Proposal is publicly exhibited (generally low impact proposals for 14 days, others for 28 days). A person making a submission may also request a public hearing be held.

Assessment — The Council considers all public submissions and, based on those submissions, Council may resolve vary the Proposal, or to no longer support the Proposal at all.

Decision — If Council does resolve to proceed with the Planning Proposal, Parliamentary Counsel prepares a draft local environmental plan — the legal instrument. With the Minister's (or delegate's) approval the LEP amendment becomes law and is published on the NSW Legislation website.

The process for dealing with Planning Proposals is illustrated in the following flowchart



It is noted that the current Planning Proposal submitted by the proponent is sufficient to enable the DoPI to consider for a Gateway Determination. It is not considered that the information is sufficient enough to enable the community to make an informed opinion on the proposal. Subject to the gateway determination, the applicant would need to undertake a number of further studies prior to consultation and exhibition. The DoPI has previously notified Councils requesting that further studies not be requested by the Council of the applicant until such time as the DoPI has determined that the Proposal can proceed. Due to the lack of detailed information it would be difficult for the community to at this time undertake a detailed analysis of the merits or otherwise of the proposal.

Therefore the recommendation of this report is to proceed with seeking a Gateway Determination to enable such information to be prepared and submitted.

CONSULTATION

Pre-lodgement Meeting

The proponent and their professional associates met with Council for an Information Session on 18 April 2012. The proponent has also met with Council staff.

External Referrals

Should Council resolve to prepare a Planning Proposal to rezone and reclassify the Eridge Park site, the Department of Planning and Infrastructure will advise, as part of the Gateway Determination, what public authority consultation should occur.

Community Consultation

Under Clause 57 of the Environmental Planning and Assessment Act, community consultation will occur as set out in the Gateway Determination. That Determination will also describe what Public Hearings should occur with regard to the reclassification of Eridge Park from Community to Operational Land. Given the lack of detailed information at this point in time, it is considered premature to seek community feedback. Community consultation would occur once the detailed reports accompanying the proposal are prepared.

SUSTAINABILITY ASSESSMENT

- **Environment**

The Wingecarribee Sport, Leisure & Living Proposal involves two sites which are currently zoned RE1 Public Recreation and a third site which is zoned E3 Environmental Management. If Council resolves to support the proposal all necessary consultation and assessment with regard to the potential environmental implications of the proposed development on each site will be undertaken by the applicant and assessed by Council.

- **Social**

The Wingecarribee Sport, Leisure & Living Proposal addresses both the recreation and aged care needs in the community. The proponent's submission identifies a number of potential community benefits including improved sport and recreation facilities on both the Wongabri and Mittagong pool sites and ageing-in-place accommodation and associated facilities on the Eridge Park site.

- **Broader Economic Implications**

The Wingecarribee Sport, Leisure & Living Proposal identifies potential economic benefits to both Council and the broader community through improved recreation and aged care facilities provided at the proponent's expense.

- **Culture**

There are no additional cultural implications identified with this proposal.

- **Governance**

Amendments to WLEP 2010 occur through a process set out in the Environmental Planning & Assessment Act and as determined by the Department of Planning and Infrastructure through the Gateway process.

RELATIONSHIP TO CORPORATE PLANS

The proposed provision of upgraded active and passive recreation facilities, both on the Wongabri site and at Mittagong pool, together with the ageing-in-place residential care facilities proposed for the Eridge Park address all four goals under the 'People' theme in the 2031 Community Strategic Plan. These goals are:

- 2.1** Wingecarribee community has access to a variety of cultural, recreational and sporting opportunities.
- 2.2** Wingecarribee people have a healthy lifestyle and inclusive community.
- 2.3** Services and facilities are provided locally to meet the needs of our community.
- 2.4** Wingecarribee fosters a diverse, creative and vibrant community.

RELATED COUNCIL POLICY

Should Council proceed with the Planning Proposal, Council's policies and state government requirements relating to public private partnerships will be required to be followed.

BUDGET IMPLICATIONS

The Planning Proposal to rezone and reclassify Eridge Park would be undertaken by Council staff. Relevant Planning Proposal fees would apply. Council staff would also be responsible for the negotiation of the 'land swap' arrangement and the public private partnership agreement, as well as the preparation of any developer contributions agreement. These costs will be borne by the developer.

OPTIONS

Three options are considered.

Option 1: Defer consideration of the Wingecarribee Sport, Leisure & Living Proposal on the grounds that the current Council does not have a mandate to make a decision given the extended time frame needed for full consideration of the proposal and the fact that the current Council adopts a 'caretaker' role from the end of July until the declaration of the poll following Council elections on 8 September 2012.

Option 2: Resolve to undertake community consultation prior to deciding whether or not to lodge a formal Planning Proposal. The NSW Department of Planning and Infrastructure confirms that Council may adopt this approach. Such consultation does not preclude further consultation under clause 57 of the EP&A Act.

Option 3: Resolve to prepare and lodge a formal Planning Proposal with the NSW Department of Planning and Infrastructure. The timing of the consultation phase would depend on the extent of further studies that may be required. Usually the Gateway Determination identifies a 9 to 18 month timeframe for completion of the Planning Proposal.

Option 3 is the recommended option. This will enable a process to commence whereby the applicant will undertake to submit further detailed studies and concept plans which will better illustrate the proposal and enable the community to make informed comments on what is being proposed.

It is noted that Council can at a future time resolve not to proceed with finalising the Planning Proposal for various reasons including; the level of community opposition; State Government Departmental or Agency opposition; or that the Council is simply no longer supportive of the concept particularly as it may have significant financial implications on Council's budget in terms of the larger open space precinct to maintain at the Wongabri site and the much larger Mittagong pool and leisure complex.

ATTACHMENTS

There are two (2) attachments to this report which have been circulated under separate cover:

1. Planning Proposal to rezone Eridge Park (with appendices).
2. Concept Plans prepared by Allen Jack + Cotter.

RECOMMENDATION

1. THAT Council in accordance with Section 55 of the Environmental Planning and Assessment Act, 1979 to prepare and lodge with the NSW Department of Planning and Infrastructure a Planning Proposal to rezone Lot 5 DP 1087928 (Eridge Park) from RE1 Public Recreation to R2 Low Density Residential and to reclassify Eridge Park from Community Land to Operational Land.
 2. THAT if the Planning Proposal is given a Gateway Determination to proceed, undertake consultation with the community and relevant government agencies in accordance with Section 57 of the Environmental Planning and assessment Act, 1979 and the directions of the gateway determination.
 3. THAT the applicant be advised of Council's decision.
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(Voting on the Motion)

Ann Prendergast
Deputy General Manager Corporate & Strategy

8 June 2012