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## **cw-CS6 Planning Proposal to Amend Certain WLEP 2010 Maps**

**Reference:** PN 1750880, PN 1779180, PN 1774200, 5901  
**Responsible Officer:** Manager Strategic and Assets

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### **PURPOSE**

The purpose of this report is to present to Council a Planning Proposal to:

- (1) amend the relevant Land Zoning Map of Wingecarribee Local Environmental Plan 2010 (WLEP 2010) to correct a drafting error which resulted in Lot 3 DP 1076561, Merriola, 205 High Range Lane, High Range, being zoned E2 Environmental Conservation under WLEP 2010 instead of RU2 Rural Landscape.
- (2) amend the relevant Lot Size Map of Wingecarribee Local Environmental Plan 2010 (WLEP 2010) to apply a minimum lot size of 40 hectares to Lot 3 DP 1076561, Merriola, 205 High Range Lane, High Range.
- (3) Insert the area comprising that part of Lot 117 DP 659149 zoned R2 Low Density Residential, known as Braemar Garden World, Lots 1-8 DP 1044854 and Lots 2 and 3 DP 607486, known as Nattai Ponds, on to the relevant Urban Release Map so that development of these lots occurs as required under the provisions of Part 6 of WLEP 2010, particularly with regard to the preparation of a separate Development Control Plan (DCP) to apply to this Urban Release Area.

It is recommended that Council proceed with this Planning Proposal.

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### **DESCRIPTION OF PROPOSAL TO REZONE LOT 3 DP 1076561**

#### **BACKGROUND**

It has recently been brought to Council's attention that Lot 3 DP 1076561, Merriola, 205 High Range Lane, High Range is zoned E2 Environmental Conservation under WLEP 2010. The location of the subject site is indicated on Figure 1 below and a more detailed map follows at Figure 2 below. An aerial photograph is located at Figure 3.

Figure 5 – Location of the Subject Site



Figure 2 – Zoning of the Subject Site

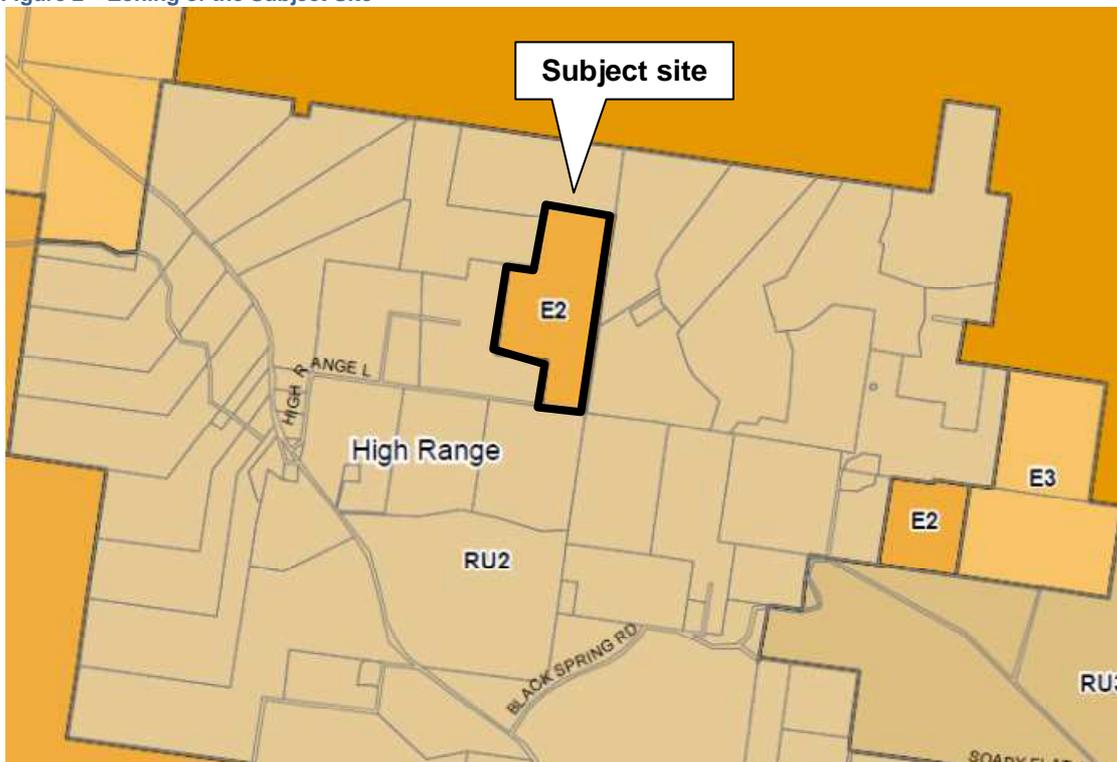
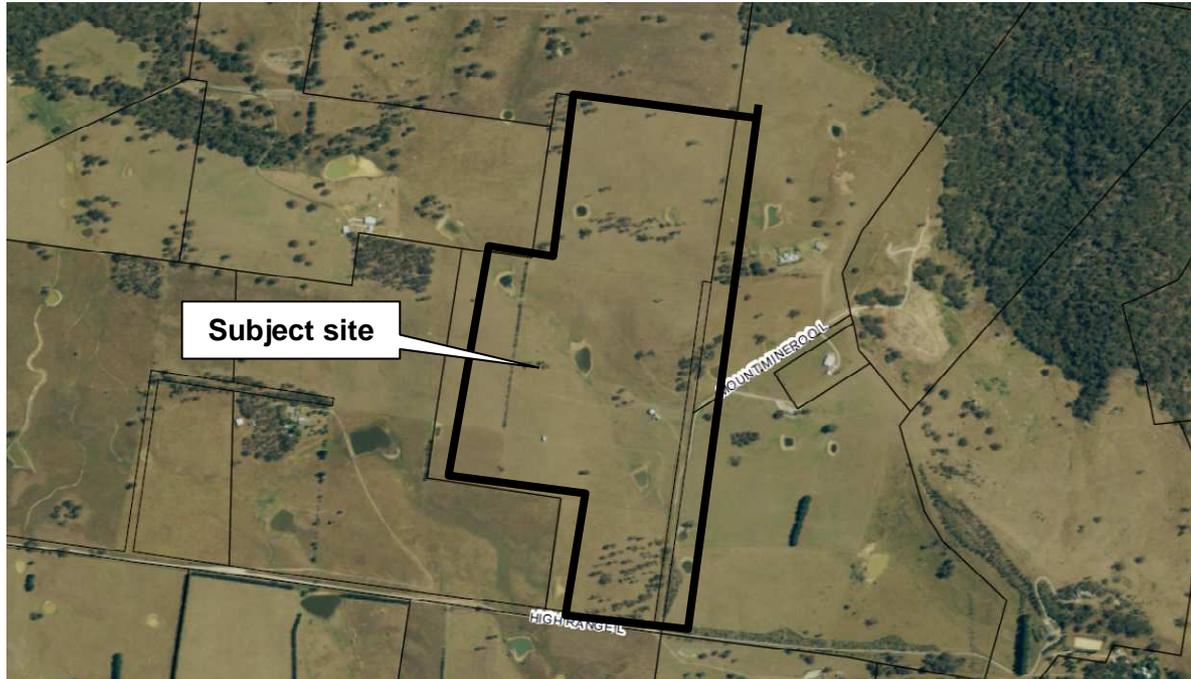


Figure 3 – Aerial Photograph (2009) of the Subject Site



## **PLANNING CONSIDERATIONS**

This zoning would appear to be an error which occurred in preparing the draft WLEP maps in 2007. It is considered to be an error because:

- The subject site was zoned Rural 1(a) under WLEP 1989. All other land in the vicinity of the subject site which was also zoned Rural 1(a) was rezoned to RU2 Rural Landscape when preparing the new draft maps under the Standard Instrument zoning template.
- Council intended to apply the E2 zone to only publically owned land and not to any privately owned land. The subject site is privately owned.
- It is noted that there is a portion of Crown road bordering the subject land to the south and east and in zoning this land to E2 Environmental Conservation it is thought that the subject land was also 'captured' in that zoning.
- No other justification for zoning the land E2 can be found in Council's records.

The subject site is currently for sale and the proposed purchaser wants to lodge a Development Application to construct a dwelling house. The E2 Environmental Conservation zone prohibits dwelling houses. Dwelling houses are permissible with consent in the RU2 Rural Landscape zone, provided the minimum lot size is met. The land covers an area of 53 hectares and the minimum lot size for the proposed RU2 zone is 40 hectares.

## **CONCLUSION**

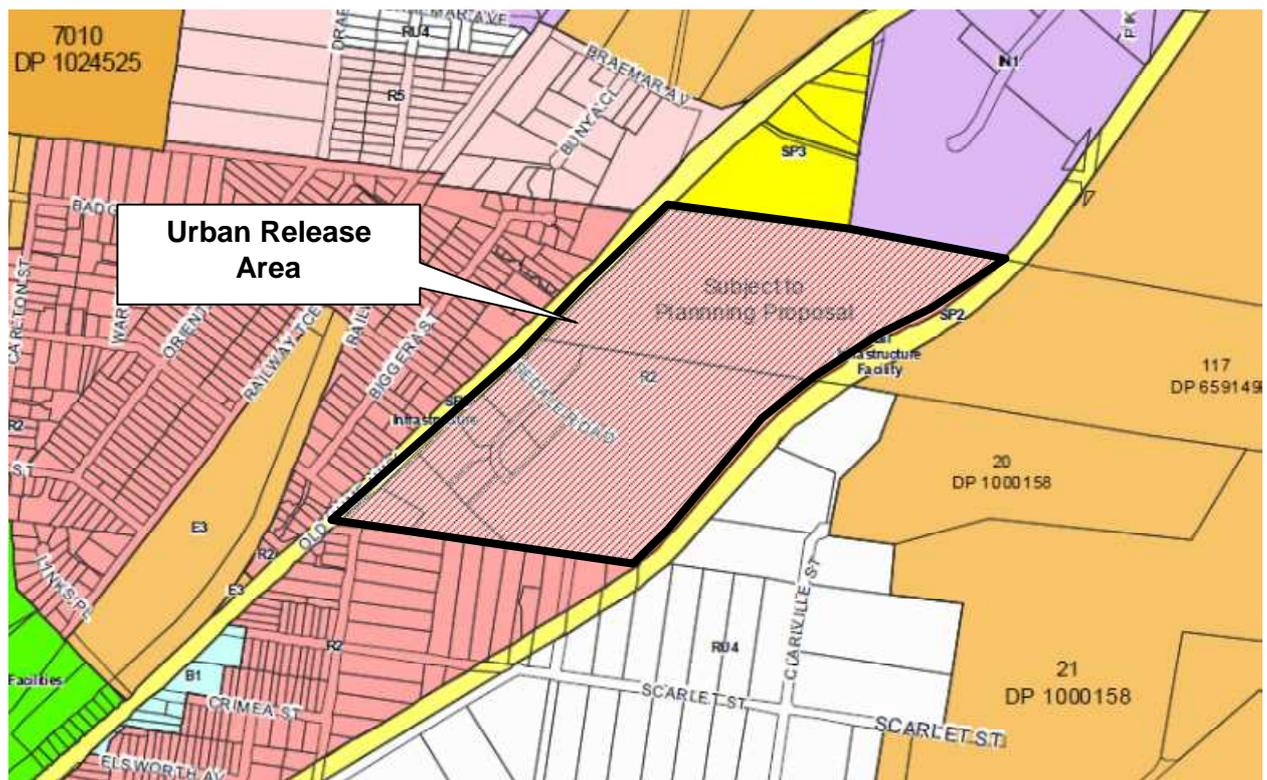
A Planning Proposal is required to correct this error because both the relevant Land Zoning Map and the Lot Size Map require amendment. It is noted that under the E2 Environmental Conservation zone there is no minimum lot size applied to the site. In rezoning the land to RU2 Rural Landscape it will also be necessary to apply the relevant minimum lot size of 40 hectares.

## **DESCRIPTION OF PROPOSAL TO IDENTIFY THE BRAEMAR GARDEN WORLD AND NATTAI PONDS SITES ON THE RELEVANT URBAN RELEASE AREAS MAP**

### **BACKGROUND**

The subject sites which comprise the Urban Release Area are located as indicated on Figure 1 below.

Figure 6 – Location of the Urban Release Area



The area comprising that part of Lot 117 DP 659149 zoned R2 Low Density Residential, known as Braemar Garden World, and Lots 1-8 DP 1044854 and Lots 2 and 3 DP 607486, known as Nattai Ponds, was rezoned to R2 Low Density Residential on 24 June 2011 as Amendment No.2 to WLEP 2010. Subsequently a Plan of Subdivision has been lodged with Council for Nattai Ponds.

On 24 April 2012 Council resolved to prepare a Planning Proposal to amend the minimum lot size over Braemar Garden World to enable a Plan of Subdivision to be lodged for that site. It was also proposed to prepare an amendment to the Northern Villages Development Control Plan (DCP) to include precinct controls based on the Renwick development at Mittagong.

The outcome from the public exhibition of the Planning Proposal and draft DCP controls was reported to Council on 28 November 2012 and Council resolved to return the Planning Proposal to the Department of Planning and Infrastructure (DP&I) for making. The Planning Proposal remains with the DP&I. It was also resolved to adopt the draft amendment to the Northern Villages DCP. These amendments have not yet come into effect.

### **PLANNING CONSIDERATIONS**

The inclusion of both the Braemar Garden World and Nattai Ponds on the relevant Urban Release Areas Map as a unique Urban Release Area will initiate the provisions of Part 6 of WLEP 2010, of which clause 6.2 is particularly relevant.

The objective stated in Clause 6.2 (1) is “to ensure that development on land in an urban release area occurs in a logical and cost-effective manner, in accordance with a staging plan and only after a development control plan that includes specific controls has been prepared for the land.”

Clause 6.2 (2) states that “Development consent must not be granted for development on land in an urban release area unless a development control plan that provides for the matters specified in sub-clause (3) has been prepared for the land.”

Those provisions are to provide:

- (a) a staging plan for the timely and efficient release of urban land making provision for necessary infrastructure and sequencing,
- (b) an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists,
- (c) an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain,
- (d) a network of passive and active recreational areas,
- (e) stormwater and water quality management controls,
- (f) amelioration of natural and environmental hazards, including bushfire, flooding and site contamination and, in relation to natural hazards, the safe occupation of, and the evacuation from, any land so affected,
- (g) detailed urban design controls for significant development sites,
- (h) measures to encourage higher density living around transport, open space and service nodes,

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 13 March 2013

### REPORT - DEPUTY GENERAL MANAGER CORPORATE & STRATEGY



- (i) measures to accommodate and control appropriate neighbourhood commercial and retail uses,
- (j) suitably located public facilities and services, including provision for appropriate traffic management facilities and parking.

The DCP controls adopted on 28 November 2012 for the Braemar Garden World site will form the basis for the drafting of a separate Northern Gateway Urban Release Area Development Control Plan and will replace those previous controls once adopted. The preparation of a single DCP for the whole Urban Release Area will also ensure that both sites are developed in a cohesive and co-ordinated manner.

### **CONCLUSION**

Due to the high visibility of the subject land at the northern gateway to the Shire, the identification of the land as an Urban Release Area will allow for a cohesive development of the site as a whole to occur through the preparation of a single Development Control Plan. A Planning Proposal is required because the WLEP 2010 Urban Release Areas Map requires amendment.

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### **STATUTORY PROVISIONS**

#### **ASSESSMENT - KEY ISSUES**

##### **Wingecarribee LEP2010**

With regard to Lot 3 DP 1076561 (Merriola, 205 High Range Lane, High Range), the E2 Environmental Conservation zoning is an error which occurred in preparing draft WLEP 2007. The Planning Proposal will correct this error in an expedient manner.

With regard to the Braemar Garden World and Nattai Ponds sites, the designation of this land as an Urban Release Area and its inclusion on the Urban Release Areas Map will ensure that an Area-specific Development Control Plan is prepared and used to guide future development of the site.

##### **Section 117 Directions**

The Minister for Planning, under section 117(2) of the Environmental Planning and Assessment Act 1979 (EP&A Act) issues Directions that Council must follow when preparing Planning Proposals. The Directions cover the following broad categories:

1. employment and resources
2. environment and heritage
3. housing, infrastructure and urban development
4. hazard and risk
5. regional planning
6. local plan making.

In preparing a Planning Proposal, Council must give consideration to the 117 Directions, and whether or not the Planning Proposal is Consistent, Justifiably Inconsistent,

Inconsistent or Not Relevant to each of the Directions and sub parts. In each case, Council must substantiate its assessment.

### **Development Control Plans**

The rezoning of the High Range site from E2 Environmental Conservation to RU2 Rural Landscape and the application of a 40 hectare minimum lot size will enable future development of the site to occur under the provisions of the Rural Lands Development Control Plan.

The inclusion of the Braemar Garden World and Nattai Ponds sites as an Urban Release Area will initiate the preparation of an Area-specific Development Control Plan to manage the integrated development of both sites.

### **State Environmental Planning Policies (SEPPs)**

#### *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011*

This SEPP came into force on 1 March 2011 and applies to all land in Wingecarribee Shire. Should Council resolve to proceed with the Planning Proposal, it would be referred to the Sydney Catchment Authority, which is also required by the Section 117 Directions, prior to being sent to the DP&I for a Gateway determination.

Essentially the SEPP requires that a consent authority must not grant consent to any development under Part 4 of the EPA Act unless it is satisfied that the development will have a neutral or beneficial effect on water quality.

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## **CONSULTATION**

### **COMMUNITY ENGAGEMENT**

#### **External Referrals**

Should Council resolve to prepare a Planning Proposal, it will need to be assessed by the DP&I through the Gateway Determination process. The Gateway determination will advise what public consultation should occur.

#### **Internal Referrals**

The High Range zoning matter was first brought to Council's attention when the proposed purchaser sought confirmation from Council that a dwelling house could be legally constructed on the site. Subsequently, Environmental Assessment officers have liaised with Strategic Planning officers to seek an expeditious correction of this error.

Further internal referral will occur during the public exhibition phase of the Planning Proposal should Council resolve to proceed.

#### **Neighbour Notification/Public Participation**

Under Clause 57 of the Environmental Planning and Assessment Act 1979, community consultation will occur as set out in the Gateway Determination, if supported.

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## **SUSTAINABILITY ASSESSMENT**

- **Environment**

The correction of a zoning error and the designation of a new Urban Release Area will both ensure that appropriate controls are in place to address all relevant environmental concerns associated with future development.

- **Social**

The preparation of a Development Control Plan to manage development in the Northern Gateway Urban Release Area will include consideration of the potential social impacts of subdivision and housing design.

- **Broader Economic Implications**

There are no broader economic implications in relation to this report.

- **Culture**

There are no cultural implications in relation to this report.

- **Governance**

With regard to both matters, Council is seeking to ensure that future development occurs in accordance with accurate zoning maps and appropriate development controls.

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## **RELATIONSHIP TO CORPORATE PLANS**

With regard to including the Braemar Garden World and Nattai Ponds sites on the Urban Release Areas Map, the following Goals from the W2031+ Community Strategic Plan will be addressed through the preparation of a site specific Development Control Plan.

*3.3 – Ensure future development respects the character of the area in which it is located, and reinforce that character with appropriately sited and designed new development.*

*3.4.1 – Provide for housing types that match projected demographic and household needs in appropriate locations.*

*3.4.2 – Provide housing options in all towns and villages that will enable residents to age in their communities.*

*3.4.4 – Promote ‘universal design’ in housing to enable people of all ages and abilities to live independently.*

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## **BUDGET IMPLICATIONS**

The Planning Proposal, if supported, would be undertaken by Council officers. The Department of Planning and Infrastructure does not impose fees on the Gateway Process. In this case, as the matters are being initiated by Council, no application fee to Council would be charged.

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## RELATED COUNCIL POLICY

There are no related Council Policies other than those discussed in this report.

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## OPTIONS

There are 2 options available to Council with regard to the Planning Proposal:

### Option 1

Proceed to prepare a Planning Proposal for lodgement with the Department of Planning and Infrastructure for a Gateway Determination to:

- a) amend the relevant Land Zoning Map of Wingecarribee Local Environmental Plan 2010 (WLEP 2010) to correct an apparent drafting error which resulted in Lot 3 DP 1076561, Merriola, 205 High Range Lane, High Range, being zoned E2 Environmental Conservation under WLEP 2010 instead of RU2 Rural Landscape.
- b) amend the relevant Lot Size Map of Wingecarribee Local Environmental Plan 2010 (WLEP 2010) to apply a minimum lot size of 40 hectares to Lot 3 DP 1076561, Merriola, 205 High Range Lane, High Range.
- c) Insert the area comprising that part of Lot 117 DP 659149 zoned R2 Low Density Residential, known as Braemar Garden World, and Lots 1-8 DP 1044854 and Lots 2 and 3 DP 607486, known as Nattai Ponds, on to the relevant Urban Release Map so that development of these lots occurs as required under the provisions of Part 6 of WLEP 2010, particularly with regard to the preparation of a separate Development Control Plan (DCP) to apply to this Urban Release Area.

Or

### Option 2

Do not proceed to prepare a Planning Proposal.

Option 1 is recommended because it will result in the correction of an apparent drafting error and will put in place the framework for future residential development of the Northern Gateway to the Shire.

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## ATTACHMENTS

There are no attachments to this report.

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**RECOMMENDATION**

1. THAT Council resolves to prepare a Planning Proposal to:
  - (a) amend the relevant Land Zoning Map of Wingecarribee Local Environmental Plan 2010 to zone to RU2 Rural Landscape Lot 3 DP 1076561, Merriola, 205 High Range Lane, High Range.
  - (b) amend the relevant Lot Size Map of Wingecarribee Local Environmental Plan 2010 to apply a minimum lot size of 40 hectares to Lot 3 DP 1076561, Merriola, 205 High Range Lane, High Range.
  - (c) Insert the area comprising that part of Lot 117 DP 659149 zoned R2 Low Density Residential, known as Braemar Garden World, and Lots 1-8 DP 1044854 and Lots 2 and 3 DP 607486, known as Nattai Ponds, on to the relevant Urban Release Map under WLEP 2010.
2. THAT the property owners be informed of Council's decision.

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***(Voting on the Motion)***

Ann Prendergast  
**Deputy General Manager Corporate & Strategy**

8 March 2013