

Minute No.

COUNCIL RESOLUTION EXTRACT FROM MINUTES 27 APRIL 2011

PUBLIC ACCESS FORUM

WEST DAPTO URBAN RELEASE AREA - FUNDING OPTIONS FOR REZONING PROCESS

Mr N Fredericks addressed the meeting and stated that landholders were alarmed, particularly with recommendation four of the report, which relates to funding options for completing the rezoning process. He said that on numerous occasions over the past two years Council had advised that it will be controlling and funding this process through to the end, and to now see that Council may consider requiring landholders to collectively pick this up and take it forward was distressing.

Mr Fredericks said that the vast majority of the landholders do not have the capacity to make financial contributions, as many are self-funded retirees. Consequently, if Council goes down this path, the process will stall. Additionally, landholders in Precincts 1 and 2 of West Dapto were not required to fund pre-rezoning planning studies and Mr Fredericks said that it was therefore inequitable to require Yallah-Marshall Mount landholders to fund remaining planning studies in advance of a rezoning.

In conclusion, the yield has increased significantly from the original plan, with approximately 3,300 additional allotments, all of which will require a Section 94 contribution. Landholders therefore request that Council recover any planning costs in the usual manner, which is through a Section 94 Plan.

ITEM 3 - WEST DAPTO URBAN RELEASE AREA - YALLAH-MARSHALL MOUNT PRECINCT (ESP-100.01.016) - REPORT OF MANAGER ENVIRONMENTAL STRATEGY AND PLANNING [ACTING] (JB) 7/04/11

47 **RESOLVED UNANIMOUSLY that -**

- 1 **The Duck Creek Flood Study be received (Attachment 4 of the report).**
- 2 **The report on the Yallah-Marshall Mount Enquiry by Design Workshop be received (Attachment 2 of the report).**
- 3 **A Draft Planning Proposal for the Yallah-Marshall Mount Precinct be**

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prepared and submitted to the NSW Department of Planning for a "Gateway" determination.

- 4 Council note the funding options available for the further studies required to progress planning for the precinct.
- 5 Landholders be advised of Council's decision.

Note: In relation to the landowners' request via Mr Neville Fredericks at the Public Access Forum which sought funding from the Section 94 Plan, Administrator Gellatly advised that no decision is proposed at this time and the matter of funding will need to come back to Council for approval.

REF: CM42/11

WEST DAPTO URBAN RELEASE AREA - YALLAH-MARSHALL MOUNT PRECINCT

Report of Manager Environmental Strategy and Planning [Acting] (JB) 7/04/11 ESP-100.01.016

PRECIS

On 26 May 2009, Council resolved to abandon draft planning controls for the Yallah-Marshall Mount precinct and to prepare a revised set of planning controls in conjunction with the Duck Creek Flood Study and a review of environmental and biodiversity issues.

The Duck Creek Flood Study (existing situation) and a review of flora and fauna issues have been completed. In March 2011, an Enquiry by Design workshop was held to assist the development of a new Masterplan for the precinct.

This report provides Council with an update of the work completed and recommends that Council resolve to commence the preparation of a draft Planning Proposal to continue the project.

RECOMMENDATION

- 1 The Duck Creek Flood Study be received (Attachment 4).**
- 2 The report on the Yallah-Marshall Mount Enquiry by Design Workshop be received (Attachment 2).**
- 3 A Draft Planning Proposal for the Yallah-Marshall Mount Precinct be prepared and submitted to the NSW Department of Planning for a "Gateway" determination.**
- 4 Council note the funding options available for the further studies required to progress planning for the precinct.**
- 5 Landholders be advised of Council's decision.**

BACKGROUND

Council exhibited the draft West Dapto Local Environmental Plan, Masterplan, draft Development Control Plan and supporting documents from 26 September 2007 to 30 May 2008, with submissions closing on 30 June 2008. One hundred and forty eight (148) submissions were received in relation to the exhibition. Thirty nine (39) submissions commenting on the Yallah-Marshall Mount precinct, the majority being objections from landholders. Many submissions considered the proposed retention of vegetation was excessive and sites lacked sufficient development potential.

The Administrators were appointed during the exhibition period, and following meetings with some landholders and Council staff, the Administrators raised concerns regarding the viability and affordability of aspects of the draft plan and regarding the timing and cost of infrastructure provision, access, flooding and the Yallah-Marshall Mount vegetation strategy.

In May 2008, Council requested the NSW Growth Centres Commission to review the planning project. Following the review, the Commission recommended Council proceed with stages 1 and 2 of the West Dapto Urban Release Area, with the remaining stages being deferred for review and re-exhibition.

On 16 December 2008, Council considered a report on the recommendations and resolved to defer Yallah-Marshall Mount for further consideration.

ITEM 3

Following a request from landowners, Council on 26 May 2009 resolved to abandon the draft planning controls for Yallah-Marshall Mount and that a new set of draft planning controls be prepared in conjunction with the preparation of a Duck Creek Flood Study and a review of vegetation and conservation issues.

PROPOSAL

This report considers the Enquiry by Design Workshop and a revised draft Structure Plan for the Yallah-Marshall Mount Precinct.

Duck Creek Flood Study

Council's Infrastructure Division engaged BMT WBM to carry out the Duck Creek Flood Study. The Duck Creek Flood Study has now been completed and Council now has a flood model for existing flood impacts. The study included collection and review of existing flood data, a community questionnaire, survey data, development and calibration of a flood model and a preliminary design for flood simulation and mapping. The flood model is ready for development scenario data input. The Duck Creek Flood Study is at Attachment 4.

Duck Creek has very incised upper sections, with well defined banks, a flat lower section, with mixed terrain in between. Potential flooding depths within the flood zone range from 20 cm up to 4 metres, with varying velocities. Flood areas which contain a risk to life are a concern in flood planning, with such areas generally being excluded from development potential. Engineering solutions may be able to modify base flood areas in minor, low risk flood areas. Once the structure plan is refined, development scenarios can be fed into the flood model and tested.

Biodiversity Issues

The Yallah-Marshall Mount Precinct contains stands of vegetation identified by the Illawarra Bioregional Strategy (December 2002) as being of regional significance as an east-west corridor.

Council has been working in cooperation with landholders, the NSW Department of Planning and Department of Environment, Climate Change and Water to review biodiversity issues with the Yallah-Marshall Mount precinct. Council has held regular meetings with landholder representatives on the progression of the project. Council's in-house flora experts have undertaken a flora assessment and a fauna assessment was undertaken by a consultant (Gaia Research) on behalf of Council.

The study identifies the biodiversity qualities of the precinct. The broad objectives relating to biodiversity are to:

- Protect and enhance Class 1 and Class 2 habitat vegetation;
- Utilise the riparian corridors as the control "spine" of the biodiversity corridor;
- Connect significant stands of vegetation and provide buffers to significant vegetation.

The Yallah-Marshall Mount precinct contains stands of remnant Illawarra Lowlands Grassy Woodland, which also provide a potential habitat for threatened fauna. The fauna consultant found a number of threatened species – bats and flying species. The survey found very little ground dwelling species, largely due to clearing of understorey areas.

The former Department of Environment, Climate Change and Water organised a workshop for landholders on 4 April 2011 to present and discuss the options for conservation and management of land of high ecological value.

Enquiry by Design Workshop

Following completion of the Duck Creek Flood Study and flora and fauna surveys, Council held an Enquiry by Design Workshop at Dapto Ribbonwood Centre on 10 and 11 March 2011. Council engaged Elton Consulting to facilitate the workshop, AECOM to provide an urban design team for the workshop and Urbacity to provide town centre and economic advice.

The Enquiry by Design process is used to enable a coordinated master planning workshop to produce a structure plan. The process allows stakeholders, including landholders and government agencies to give timely input during the design of the structure plan.

The workshop was attended by council staff, government agency representatives and landholders. Some landholders also brought professional representatives to take part in the workshop. Council's economic; flood and fauna consultants also attended the workshop.

During the workshop, the stakeholders formed mixed groups to explore different design options and to evaluate the options against site constraints, opportunities and desired outcomes.

The first part of the workshop involved presentations on the Yallah-Marshall Mount precinct, including its place in a regional context, flooding constraints, ecological constraints and the economic factors in creating a viable town centre.

Following presentations, the workshop participants divided into four (4) groups to work on different design options:

- 1 Explore potential town centre locations and road networks;
- 2 A "high land take" development option;
- 3 A "low land take" development option; and
- 4 A "conventional subdivision" development option.

Each group presented the advantages, disadvantages and issues arising from the options.

Council also held a two (2) hour drop-in information session in the evening to enable landholders who did not have an opportunity to attend the two (2) day workshop to participate in the process. Only one (1) landowner attended.

On the second day of the workshop, the participants split into groups to review and refine the various options, including refining town centre and "edge studies" for constrained land.

Elton Consulting has submitted a workshop report to Council (Attachment 2).

Since the workshop, AECOM have progressed the elements of the workshop options into a draft Structure Plan (Attachment 1). The Structure Plan does not contain zonings, but gives a general layout of potential development which can be refined through further studies. The draft Structure Plan seeks to create a sustainable urban community. The estimated dwelling potential could be 4,000 – 4,800 dwellings.

To create a sustainable urban community, the area will need to be able to accommodate sufficient population to support a local village centre, and social infrastructure such as primary schools. If the projected population is not enough to support local services, then the area could end up being a car reliant suburb.

The draft Structure Plan has been shown to the landholder group and to landowners at the Department of Environment, Climate Change and Water workshop. A number of landowners and their representatives have raised concerns about the extent of development on their land. Some landowners have submitted more detailed subdivision layouts for their properties. The draft Structure Plan requires further development into a more detailed masterplan.

To progress the Structure Plan further studies are required, including:

- Development of a detailed masterplan for the precinct;
- Flood modelling and development of a Flood Risk Management Plan – testing potential development scenarios;
- Continue to refine habitat boundaries and resolve stewardship issues;
- Aboriginal heritage assessment;
- Bushfire assessment – testing potential development scenarios; and
- Financial servicing assessment.

Council can submit the Structure Plan to the NSW Department of Planning as a draft planning proposal. This would enable the Structure Plan to be assessed against the “Gateway” process and enable the LEP Review Panel to advise on any other further studies in addition to those listed, which would be required by the Department for a planning proposal to progress to a Local Environmental Plan.

Once additional studies are complete, the draft Structure Plan can be further refined to enable public exhibition. A process flow chart is Attachment 3.

CONSULTATION AND COMMUNICATION

Council has set up monthly meetings with landholder representatives to keep them informed of the progress of the project. The five (5) landholder representatives keep the local community informed of the progression of the project. Council invited all landholders within the study area to the two (2) day Enquiry by Design Workshop and held an evening drop in session for landholders who were unable to attend the workshop.

The former Department of Environment, Climate Change and Water has also held an information session at Marshall Mount on 4 April 2011 to inform landholders on potential options for managing conservation lands.

Should Council resolve to progress with a planning proposal for the Yallah-Marshall Mount precinct, the “Gateway” process would outline the further agency and public consultation and exhibition requirements, including exhibition of a planning proposal.

ECOLOGICAL SUSTAINABILITY

The Enquiry by Design process has considered the need for a sustainable urban form to provide for the future housing demand for Wollongong.

RISK ASSESSMENT

The Duck Creek Flood Study outlines the areas within the precinct subject to high flood risk.

FINANCIAL IMPLICATIONS

To date, Council has funded the Duck Creek Flood Study (\$150,000), Fauna Survey (\$15,000) and cost of the Enquiry by Design Workshop (\$65,000). This funding has been provided to date, on the basis that Yallah-Marshall Mount precinct is part of the West Dapto Urban Release Area. Apart from the further cost of flood modelling, progression of the further studies for urban design, bushfire, traffic, Aboriginal heritage, biodiversity, financial analysis and infrastructure is conservatively estimated to cost a further \$200,000 (approximately). Should Council progress with a planning proposal for Yallah-Marshall Mount precinct, then the organisation will need to consider the cost and potential source of funding for further studies. There is no current budget for these studies.

Council has three (3) options for carrying out the required studies should the draft Structure Plan progress to a planning proposal:

- 1 The land owners arrange and fund the required studies and submit these to Council prior to exhibition of a planning proposal. The advantage of this option is that responsibility for carrying out and financing further studies would rest with landholders, who would benefit from a rezoning. The disadvantage is that landholders would have to agree on financing the studies to enable progression of the planning proposal.
- 2 Council carries out the required further studies, with agreement from landholders to reimburse or fund the cost of the studies by Council. This option has the advantage that Council could carry out the studies independently, but the cost would be borne by the landholders seeking to benefit from rezoning, rather than from public funds. The disadvantage is again, the potential delays and problems if landholders are not able to agree between themselves how much each would pay.
- 3 Council carries out and funds the further studies using public funds. The advantage of this option is that Council can carryout and control the required studies, which would be done at "arms-length" from landholders. This option would however, involve a commitment of further public funds.

Council should note these options and give consideration to whether further public money should be committed to the project or whether landowners bear the cost of future studies to progress the project.

CONCLUSION

Council has completed the first stage of the Duck Creek Flood Study and has carried out flora and fauna surveys to inform further discussions and studies on the retention and upkeep of areas of biodiversity value. Council has worked with landholder representatives and government agencies to progress studies for the precinct. It is appropriate at this stage for the draft Structure Plan to be presented to the NSW Department of Planning for a "Gateway" determination. Council can concurrently progress further studies and determine what funding mechanism will be used to fund these studies.

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ATTACHMENTS

1. Draft Structure Plan
2. Yallah-Marshall Mount Enquiry by Design Outcomes Report [Separate Attachment]
3. Process Flowchart
4. Duck Creek Flood Study [Separate Attachment]