



Item No: 2.1
Title: Deferred Item - Planning Proposal RZ /6/2016
Warnervale and Virginia Rd, Warnervale
Department: Innovation and Futures

19 October 2020 Extraordinary Council Meeting

Reference: RZ/6/2016 - D14238118
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Report Purpose

At its meeting held 12 October 2020, the Council resolved, in part as follows:

963/20 That Council defer all items with the exception of the following to an Extraordinary meeting to be conducted remotely on Monday, 19 October 2020 at 6.30pm:

- *Item 1.3 – Notice of Intention to Deal with Matters in Confidential Session*
- *Item 1.4 - Mayoral Minute – Staff Matter*
- *Item 1.5 - Mayoral Minute – Establishment of a Finance Committee to Oversee Council's Forensic Financial Audit and 100-Day Action Plan to Recovery*
- *Item 3.7 – Council Representative for Hunter and Central Regional Planning Panel (Late Report)*
- *Item 3.8 – Serious Financial Situation (Late Report)*
- *Notice of Motion 6.2 – Collapse of Confidence in Council's Internal Controls and Financial Management*

At its meeting held 28 September 2020, the Council resolved as follows;

526/20 That Council defer consideration of this item until a site visit has been conducted for those interested Councillors.

A site inspection is scheduled for the 19 October 2020, should there be any questions from the site inspection, a memo will be distributed post site inspection for the information of all councillors.

The purpose of the report is for Council to consider a Planning Proposal and amendments to Chapter 6.5 of Wyong Development Control Plan (DCP) in relation to Lot 1 DP 385242, Lots 1, 2 & 3 DP 1101086, Lot 1 DP 1018444 and Lots 73, 74, 75 & 76 DP 7091 (15-35 Warnervale Road & Part of 95-105 & 107-171 Virginia Road, Warnervale. The Proposal

2.1 Deferred Item - Planning Proposal RZ /6/2016 Warnervale and Virginia Rd, Warnervale (contd)

seeks to rezone the land to R1 General Residential, R2 Low Density Residential and E3 Environmental Management.

This report provides an overview of the outcomes of community consultation in respect of the Planning Proposal and draft Development Control Plan.

This report recommends that Council finalise the Planning Proposal and adopt changes to Chapter 6.5 of Wyong Development Control Plan (DCP) relating to the subject land.

Recommendation

- 1 *That Council supports the Planning Proposal as exhibited to rezone Lot 1 DP 385242, Lots 1, 2 & 3 DP 1101086, Lot 1 DP 1018444 and Lots 73, 74, 75 & 76 DP 7091 (15-35 Warnervale Road & Part of 95-105 & 107-171 Virginia Road, Warnervale to R1 General Residential, R2 Low Density Residential and E3 Environmental Management under Wyong Local Environmental Plan 2013 or the Central Coast Local Environmental Plan (whichever is in effect).***
- 2 *That Council request the Secretary of the Department of Planning, Industry and Environment to concur that the inconsistency of the Planning Proposal with the s9.1 Ministerial Direction 4.3 Flood Prone Land be considered of minor significance for the reasons outlined in this report.***
- 3 *That Council request, upon the receipt of concurrence requested by resolution 2, the Chief Executive Officer to exercise the delegation issued by the Department of Planning, Industry and Environment for Planning Proposal (PP_2017_CCOAS_010_00; RZ/6/2016) to proceed with the steps for drafting and making of Amendment No. 35 to Wyong Local Environmental Plan 2013 or an amendment to the Central Coast Local Environmental Plan (whichever is in effect).***
- 4 *That Council advise all those who made a submission of the decision.***
- 5 *That Council adopt amendments to Chapter 6.5 Warnervale South (Attachment 2) as:***
 - a Amendment to chapter 6.5 within Wyong Development Control Plan 2013, or as new Chapter 5.25 within the Central Coast Development Control Plan (whichever is in effect), which shall come into effect upon notification of the plan.***
 - b Amended as per the following items outlined in response to the exhibition period incorporating the following changes:***

2.1 Deferred Item - Planning Proposal RZ /6/2016 Warnervale and Virginia Rd, Warnervale (contd)

- i. Inclusion of an additional road type (Park Edge)*
- ii. Updating of bushfire requirements to meet current legislation*
- iii. Updating of maps to be consistent with approved development on the site*
- iv. Minor alterations to wording, terminologies and references to ensure consistency with legislation updates.*

6 That Council publish a public notice of its decision regarding the adoption of the Development Control Plan within 28 days.

7 That Council provide the Planning Secretary with a copy of the Development Control Plan within 28 days.

Background

At the Ordinary Meeting held on 26 July 2017 Council resolved to;

446/17 That the Council prepare a Planning Proposal to amend Wyong Local Environmental Plan 2013, to rezone lands at (15-35 Warnervale Road & Part of 95-105 & 107-171 Virginia Road);

- Lot 1 DP 385242
- Lots 1, 2 & 3 DP 1101086
- Lot 1 DP 1018444
- Lots 73, 74, 75 & 76 DP 7091

from E3 Environmental Management to R2 Low Density Residential, from RE1 Public Recreation to R1 General Residential, from R2 Low Density Residential to R1 General Residential and from RU6 Transition to R2 Low Density Residential and E3 Environmental Management, pursuant to Section 55 of the Environmental Planning and Assessment Act 1979.

447/17 That the Council forward the Planning Proposal to the NSW Minister for Planning requesting a gateway determination, as well as requesting delegation for Council to finalise and make the draft Local Environmental Plan, pursuant to Section 56 (1) of the Environmental Planning and Assessment Act, 1979.

448/17 That the Council prepare and exhibit, subject to the Gateway Determination, appropriate Development Control Plan provisions to amend Wyong Development Control Plan 2013.

449/17 That the Council prepare and exhibit, subject to the Gateway Determination, appropriate amendments to applicable Section 94 Development

2.1 Deferred Item - Planning Proposal RZ /6/2016 Warnervale and Virginia Rd, Warnervale (contd)

Contributions Plan (if required) to support the development of the subject land.

- 450/17 *That the Council authorise staff to negotiate and prepare a Voluntary Planning Agreement with respect to any aspect of the proposal, (if required).*
- 451/17 *That the Council undertake community and public authority consultation, in accordance with the Gateway Determination requirements, including the concurrent exhibition of the draft Development Control Plan, draft amending Section 94 Development Contributions Plan and draft Voluntary Planning Agreement (if required).*
- 452/17 *That the Council consider a further report on results of the agency and community consultation.*

A Gateway Determination was issued by the then NSW Department of Planning and Environment on 17 October 2017. Amending Gateway Determinations were issued to extend the timeframe for completion of the Planning Proposal until 1 November 2020.

The Site

The Planning Proposal applies to Lot 1 DP 385242, Lots 1, 2 & 3 DP 1101086, Lot 1 DP 1018444 and Lots 73, 74, 75 & 76 DP 7091 (15-35 Warnervale Road & Part of 95-105 & 107-171 Virginia Road, Warnervale (see Figure 1).

The site is zoned RE1 Public Recreation, R2 Low Density Residential, RU6 Transition and E3 Environmental Management. The total area is approximately 210 hectares (ha) which includes approximately 150 ha of floodplain. The land is predominately clear and used for grazing livestock.

The site is located south of Warnervale Road and west of Virginia Road and is referred to as the southern portion of Precinct 7A, now identified as Precinct 7 in the *North Wyong Shire Structure Plan* (NWSSP). The main Northern Railway line adjoins the site to the west and North Wyong Industrial area is located to the south.

The Planning Proposal covers a small part of a prior rezoning known as 'Precinct 7A' that rezoned 540 ha of land from 10(a) Investigation zone to R1 General Residential zone, R2 Low Density Residential zone, B1 Neighbourhood centre, B7 Business Park zone, E2 Environmental Conservation zone, E3 Environmental Protection zone, RE1 Public Recreation and RE2 Private Recreation in 2013 under *Wyong Local Environmental Plan 2013* (WLEP 2013).



Figure 1 – Site Area

The site is being developed by AV Jennings, a development consent has been issued for stage 1 (5 lots) and for stages 2A and 2B on the 3 July 2020. The development consent for stages 2A and 2B is for subdivision (158 residential lots, 1 commercial lot, 14 residue lots and wildlife corridor). A copy of the approved subdivision is provided below.

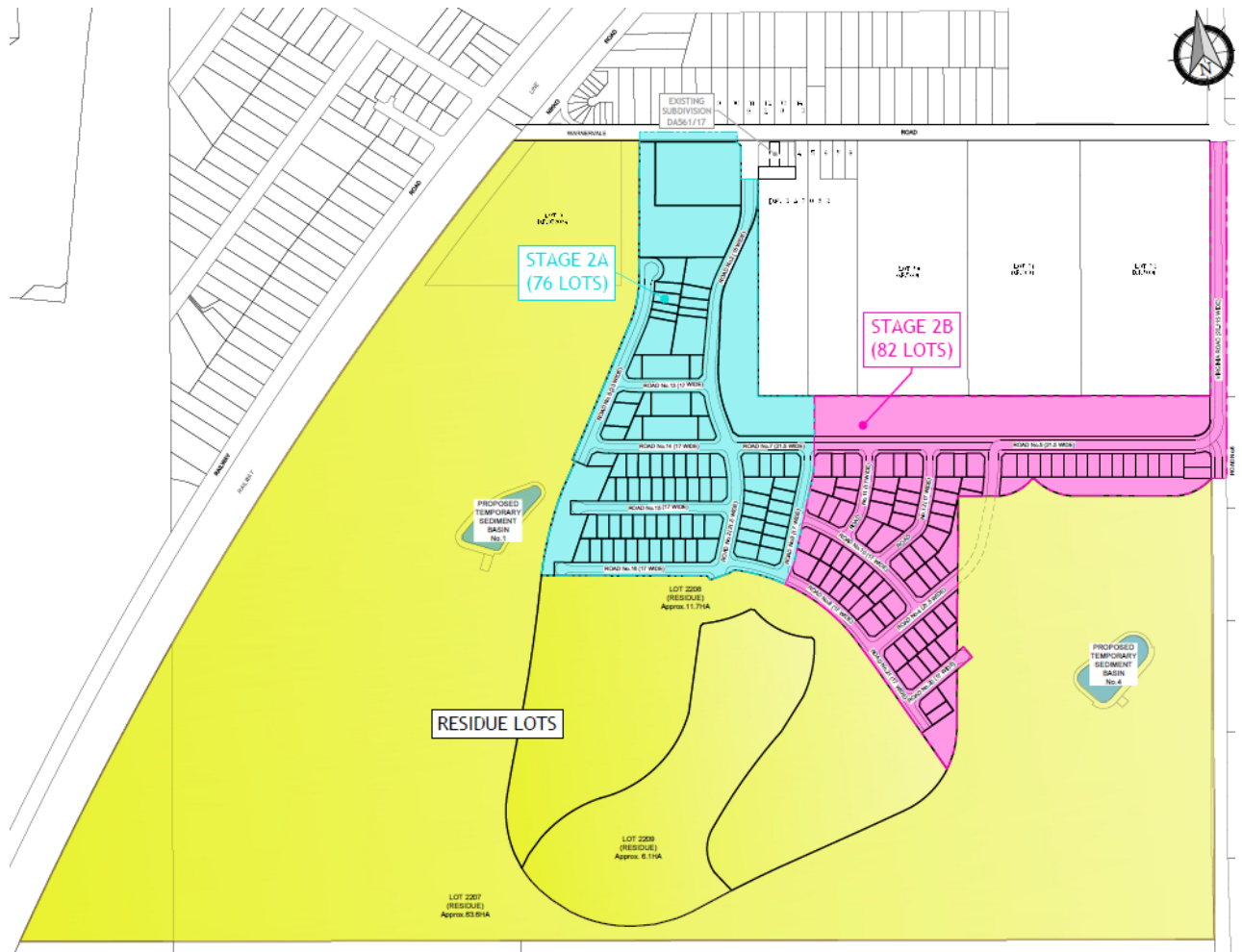


Figure 2 – Approved lot layout Stages 2A and 2B (AV Jennings)

The Proposal

The intended outcome of the proposal is to enable the subdivision and development of the site to accommodate a variety of housing types from single dwellings to medium density housing. The inclusion of the R1 General Residential zone will allow a mixture of housing types, providing greater housing diversity in the Warnervale area. The Planning Proposal will create an additional 180 lots, with the overall Masterplan for the site providing approximately 526 lots.

The amendment proposes the following changes to the *Wyang Local Environmental Plan 2013* or the *Central Coast Local Environmental Plan*:

- Rezone part of the land zoned R2 Low Density Residential to R1 General Residential
- Rezone land zoned RU6 Transition to R2 Low Density Residential and E3 Environmental Management;
- Rezone land zoned RE1 Public Recreation to R1 General Residential

2.1 Deferred Item - Planning Proposal RZ /6/2016 Warnervale and Virginia Rd, Warnervale (contd)

- Amend the Minimum Lot Size Map to remove the minimum lot size requirements for land proposed to be zoned R1 General Residential and amend the minimum lot size on land to be rezoned from RU6 Transition to R2 Low Density Residential to 450m².
- Amend the Land Reservation Acquisition Map to reflect the new zone boundaries of the E3 Environmental Management zone.

A draft development control plan (Chapter 6.5 Wyong Development Control Plan and Chapter 5.25 Central Coast Development Control Plan) was exhibited with the Planning Proposal.

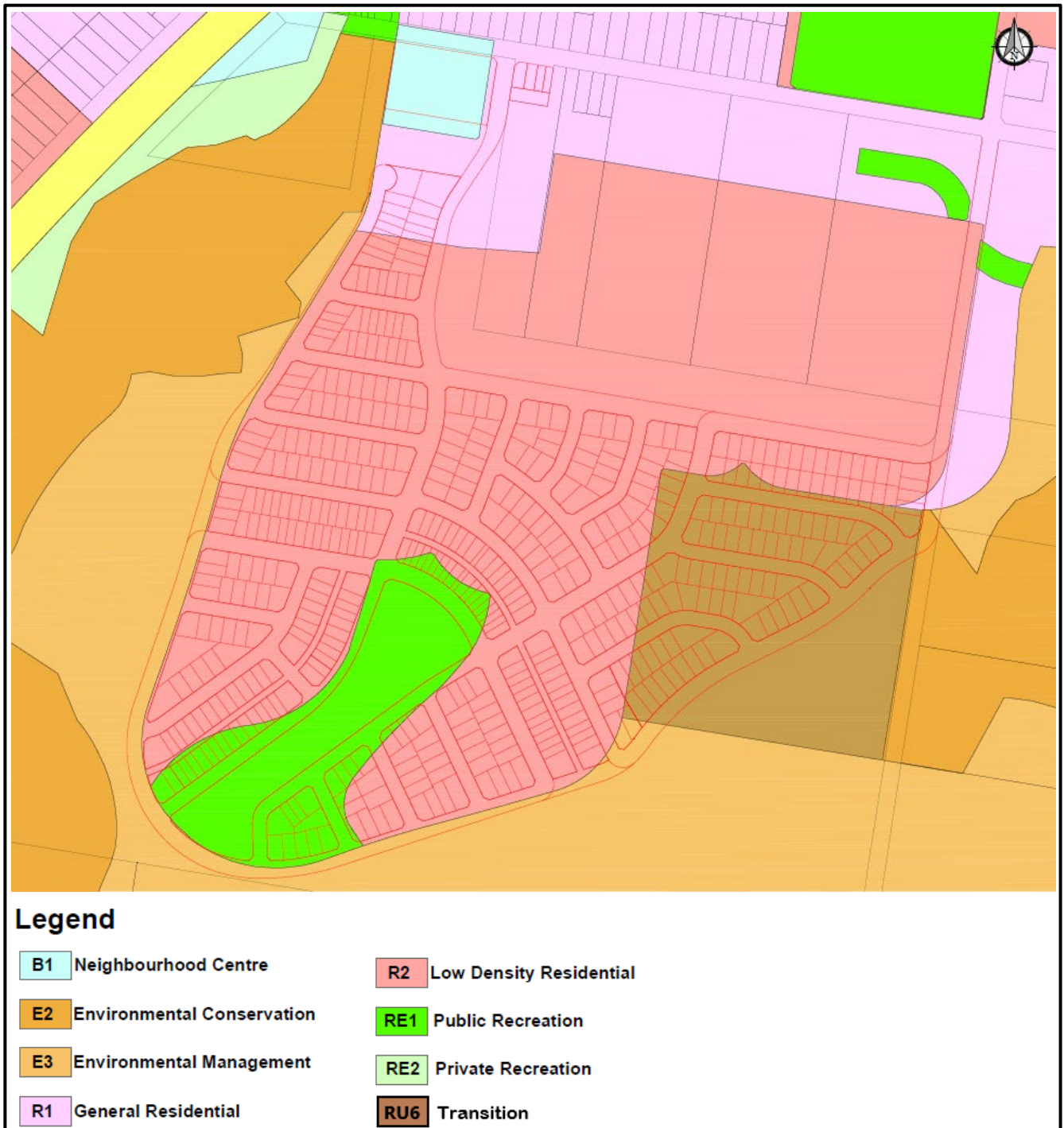


Figure 3 – Current zoning with proposed lot layout

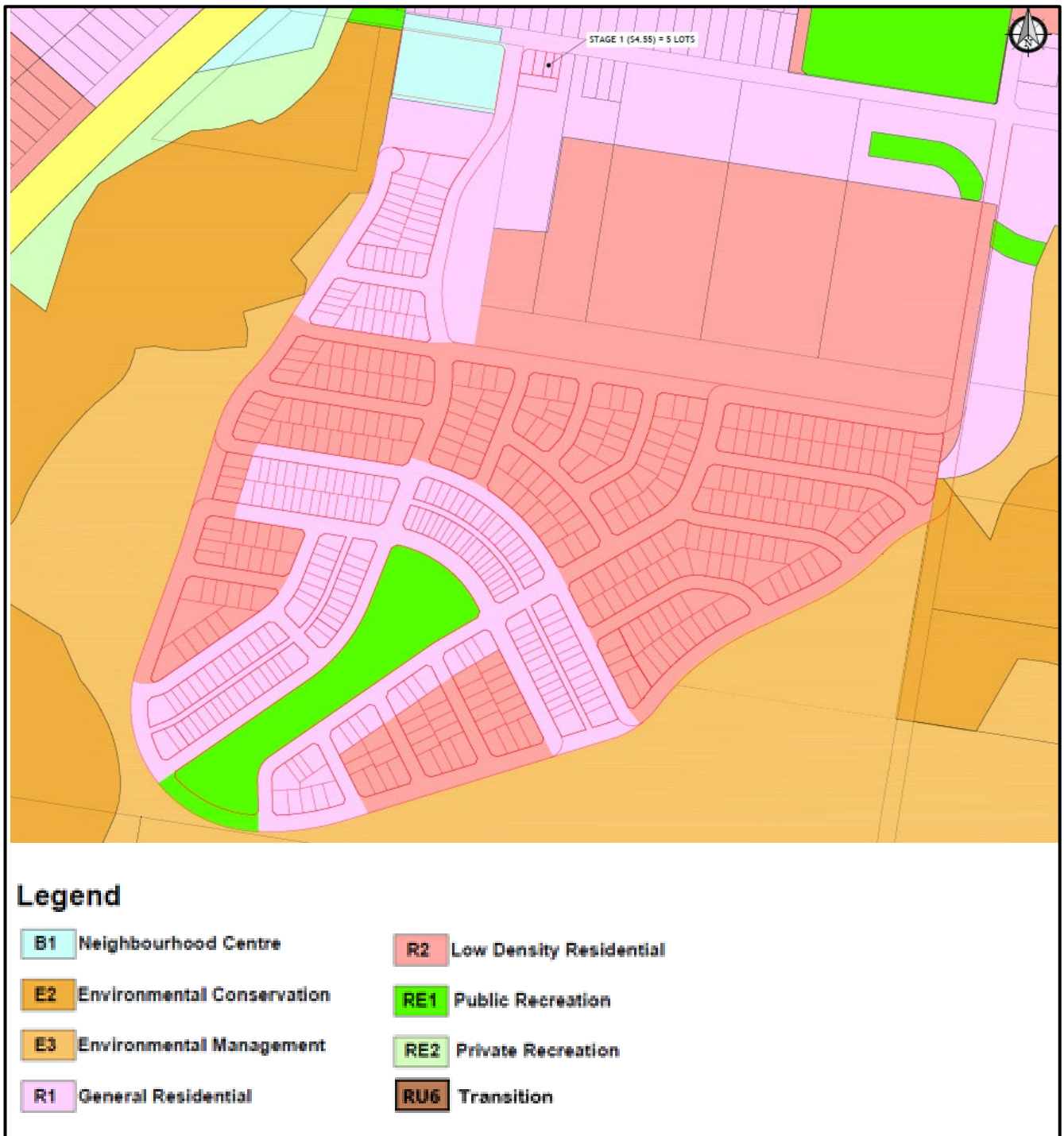


Figure 4 – Proposed zoning and lot layout

Consultation

The Planning Proposal, draft DCP Chapter and relevant supporting information were publicly exhibited for 28 days between 20 May and 17 June 2020.

The exhibition was undertaken in accordance with the Gateway Determination (as amended) the DP&E's *A Guide to Preparing Local Environmental Plans* and the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The exhibition material was available on Council's Your Voice Our Coast website during the above dates. A notice of the exhibition was also placed on the Public Notices page on Council's website.

Community Consultation

Two submissions were received during the exhibition period; one from a community member and one from the applicant of the Planning Proposal (ADW Johnson).

The submission from the community member raised two concerns being the reduction of open space and filling of land presently zoned E2 Environmental Conservation which is within the Porter Creek Flood Plain.

The second submission requested changes to the draft development control plan and additional site-specific LEP controls to allow a reduction in the minimum lot size to allow the Low Rise Housing Diversity Code to apply to the site.

Minor amendments have been made to the draft development control plan as a result of the community consultation. A detailed summary of submissions and the response to issues raised is provided within Attachment 3, Summary of Submissions.

Agency Consultation

The former Office of Environment and Heritage (OEH) reviewed the Planning Proposal following issue of the Gateway Determination. Further consultation was undertaken between Council staff, the applicant and OEH to address concerns raised regarding the inconsistency with s9.1 Ministerial Direction 4.3 Flood Prone Land.

To address the inconsistency with the s9.1 Ministerial Direction, a revised development footprint was submitted to Council which significantly reduced the encroachment of both the proposed residential land into the flood planning area and proposed filling into the floodplain. A Council staff reviewed the development footprint and determined that the flood impacts of the proposal were of minor significance and therefore consistent with s9.1 Ministerial Direction 4.3 Flood Prone Land.

2.1 Deferred Item - Planning Proposal RZ /6/2016 Warnervale and Virginia Rd, Warnervale (contd)

Further comments were received from the Biodiversity and Conservation Division of the Department of Planning, Industry and Environment (formerly the Office of Environment and Heritage) during the exhibition period which recommends that the Planning Proposal boundary is restricted to the area outside the flood planning area in accordance with the Ministerial Direction.

Whilst the proposal seeks to rezone land from E3 Environmental Management to R1 General Residential and R2 Low Density Residential, Council considers the proposal to be acceptable and will request the Secretary of the Department of Planning, Industry and environment to concur with Council's opinion that any inconsistency of the planning proposal with the s9.1 Ministerial Direction 4.3 Flood Prone Land is of a minor significance.

Transport for NSW also provided a response requesting that a traffic study of the broader Warnervale area as well as the North Wyong Enterprise and Industrial Area be undertaken to assess the impact of development on the State Road Network and its intersections. TfNSW has recommended that this study is undertaken, and the relevant development contribution plans be updated to collect towards the required transport infrastructure.

Council is undertaking a review of the Local Infrastructure Contribution Plans for the Central Coast Region, which includes a traffic and transport study for the Central Coast. The comments received from TfNSW will be addressed through the contribution plan review process.

Responses were also received from Rural Fire Service and Heritage NSW, no other issues were raised as part of the Planning Proposal Exhibition.

Assessment

The assessment of the Planning Proposal has identified that the rezoning has strategic merit for the following reasons:

- The Planning Proposal is consistent with the goals, directions and actions in the CCRP, specifically creating well planned, compact settlement patterns and providing housing choice to meet community needs.
- The Planning Proposal is consistent with the North Wyong Shire Structure Plan and delivers on the dwelling estimates nominated for Precinct 7.
- The site is included within the Warnervale Local Infrastructure Contribution Plan.

Statutory Compliance and Strategic Justification

The Planning Proposal has been assessed having regard to the relevant State Environmental Planning Policies, section 9.1 Ministerial Directions and relevant guidelines set out within

2.1 Deferred Item - Planning Proposal RZ /6/2016 Warnervale and Virginia Rd, Warnervale (contd)

regional and local plans, includes the Central Coast Regional Plan and North Wyong Shire Structure Plan.

Although there is a minor inconsistency of the Planning Proposal with section 9.1 Ministerial Direction 4.3 Flood Prone Land, the development footprint has been reduced and the inconsistency is considered to be minor.

The Planning Proposal is consistent with the remaining relevant statutory and strategic planning considerations and is suitable for finalisation.

Financial Impact

The direct cost to Council is the preparation of the Planning Proposal and Council's fee has been paid for this service.

Environmental Impacts

A biodiversity assessment was undertaken as part of the Planning Proposal, the E3 Land proposed to be rezoned to residential is clear of vegetation and does not impact on the biodiversity corridors within the North Wyong Shire Structure Plan or Central Coast Regional Plan.

Link to Community Strategic Plan

Theme 5: Liveable

Goal I: Balanced and sustainable development

I2: Ensure all new developments are well planned with good access to public transport, green space and community facilities and support active transport.

Risk Management

The risks identified with the Planning Proposal can be managed through the detailed design and development application process for the site.

Delegation

Council has been issued with the delegations of the Minister to make amending Local Environmental Plans (LEPs).

Council has been issued with the delegation of the Minister to make the amending LEP. Council advised the DPIE that Council's new delegate for this function is the Chief Executive Officer (CEO), Gary Murphy.

2.1 Deferred Item - Planning Proposal RZ /6/2016 Warnervale and Virginia Rd, Warnervale (contd)

The Gateway Determination issued on 17 October 2017 (as amended) provides the Council's CEO, the appropriate delegations under Section 3.36 of the EP&A Act to make this plan.

Conclusion

The Planning Proposal to rezone the land to R1 General Residential, R2 Low Density Residential and E3 Environmental Management provides an opportunity to allow housing diversity in the Warnervale area through the inclusion of medium density housing while protecting important environmental values of the site.

It is recommended that the Council support finalisation and implementation of the Planning Proposal and adopt amendments to DCP Chapter 6.5 Warnervale South, to be incorporated into WDCP 2013 or the new CCDCP (with the amendments discussed in the report). The amendments to the DCP will come into effect upon the LEP amendment being made.

Attachments

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| 1 | Planning Proposal Summary - Warnervale and Virginia Road, Warnervale | D14159771 |
| 2 | Draft DCP Chapter 6-5-Warnervale South | D14159755 |
| 3 | Table of Submissions | D14159763 |