

<b>ITEM 8.5</b>	<b>OXFORD FALLS VALLEY AND BELROSE NORTH PLANNING PROPOSAL</b>
<b>REPORTING MANAGER</b>	<b>GROUP MANAGER STRATEGIC PLANNING</b>
<b>TRIM FILE REF</b>	<b>2015/029789</b>
<b>ATTACHMENTS</b>	<b>1 Council Resolution dated 26 August 2014</b> <b>2 Letter from the NSW Department of Planning and Environment received 29 January 2015</b> <b>3 Departments Proposed Zoning Map, received 30 January 2015</b>

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### **EXECUTIVE SUMMARY**

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#### **PURPOSE**

For Council to endorse the preparation and submission of a Planning Proposal for deferred land in Oxford Falls Valley and Belrose North under Warringah Local Environmental Plan 2011 to the NSW Department of Planning and Environment for Gateway Determination.

#### **SUMMARY**

On 5 June 2012, Council resolved to undertake Stage 1 of the Strategic Review in partnership with the NSW Department of Planning and Environment (the Department) to determine how best to transfer the deferred lands in Oxford Falls Valley and Belrose North into Warringah Local Environmental Plan 2011 (WLEP2011) and to report the results of Stage 1 back to Council.

The results of Stage 1 were reported to Council on 26 August 2014 (Item 8.1) and Council resolved (Attachment 1) that the Department consider the report to Council and select one of five options to progress as a Planning Proposal.

In January 2015, the Department responded with a clear direction that a Planning Proposal be submitted based on Option 2, subject to replacing the proposed RU4 Primary Production Small Lot zoned land in proximity to Wakehurst Parkway with the E4 Environmental Living zone.

The Department requests that Council submit a planning proposal for the deferred lands seeking a Gateway Determination. The purpose of this report is to endorse the submission of a Planning Proposal to the Department for Gateway Determination in accordance with the Department's direction.

#### **FINANCIAL IMPACT**

Nil

#### **POLICY IMPACT**

Nil

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#### **RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT**

That Council:

- A. Endorse the preparation and progression of a Planning Proposal for deferred land under
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Warringah Local Environmental Plan 2011 in accordance with the attached Department's Proposed Zoning Map.

- B. Staff work with the Department prior to submitting the Planning Proposal for Gateway Determination, to develop the additional permitted uses and objectives for the E4 zone .
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**REPORT**

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**BACKGROUND**

In December 2011 the Minister deferred land in Oxford Falls Valley and Belrose North from WLEP2011 in response to stakeholder concerns regarding the adequacy of consultation during the preparation of WLEP2011. Therefore, planning controls under Warringah Local Environmental Plan 2000 (WLEP2000) continue to apply to the deferred land.

The transfer of planning controls from WLEP2000 to WLEP2011 is required in accordance with the NSW Government's Standard Instrument (LEP) Order 2006. It is also required to eliminate unnecessary duplication, management and operational cost of operating two Warringah LEPs.

On 5 June 2012, Council resolved to undertake Stage 1 of the Strategic Review in partnership with the Department and in accordance with a defined scope of works, and to report the results of Stage 1 back to Council.

The Strategic Review has involved 2 stages. Stage 1 is to transfer the deferred lands in Oxford Falls Valley and Belrose North into WLEP2011. Stage 2 involves considering the future urban development potential for the area.

The results of Stage 1 were reported back to Council on 26 August 2014. The relevant clause 2(A) of the Council Resolution stated:

*'2. That Council:*

- A. Requests the NSW Department of Planning and Environment to consider the report which is Item 8.1 on tonight's agenda and make a determination by selecting one of the five options.'*

A copy of the full resolution is contained in Attachment 1.

In January 2015, the Department responded with a clear direction that a Planning Proposal be submitted based on Option 2, subject to replacing the proposed RU4 Primary Production Small Lot zoned land in proximity to Wakehurst Parkway with the E4 Environmental Living zone. A copy of the Department's letter and map with proposed zones is contained in Attachment 2 and 3 respectively.

The Department requests that Council submit a planning proposal for the deferred lands seeking a Gateway Determination. The purpose of this report is to endorse the submission of a Planning Proposal to the Department for Gateway Determination in accordance with the Department's direction.

**Planning Consideration**

The E4 Environmental Living Zone under WLEP2011 is currently tailored specifically for land zoned E4 at Cottage Point. Council staff consider that rezoning the proposed RU4 land in proximity to Wakehurst Parkway to E4 Environmental Living would be an acceptable zoning for the land, provided that additional permitted uses and zone objectives are reviewed to determine how best to transfer the planning controls from the B2 Locality under WLEP2000 into the E4 zone under WLEP2011 prior to submission of a Planning Proposal to the Department. The additional permitted uses identified by the Department include, environmental facilities, extensive agriculture, farm buildings, home industries and horticulture. All these land uses were previously proposed to be permissible under the E3 zone in Oxford Falls Valley and Belrose North, however by including each into the E4 zone they become permissible land uses, with consent, at Cottage Point.

**CONSULTATION**

If the Planning Proposal is endorsed by Council, and receives Gateway determination, it will be placed on public exhibition for a period of 28 days as required by legislation.

**CONCLUSION**

The Planning Proposal is assessed as having merit and has satisfied the requirements of a pre-Gateway assessment. It is recommended that Council supports the progression of a Planning Proposal to the Department and that prior to submitting the application to the Department for Gateway Determination, further work be undertaken to establish the most appropriate objectives for the E4 zone and if there are any appropriate additional permitted uses required for the land identified to be zoned E4 Environmental Living.

**FINANCIAL IMPACT**

Nil

**POLICY IMPACT**

Nil

# Attachment 1:

## **Council Resolution dated 26 August 2014,**

### **ITEM 8.1 OXFORD FALLS VALLEY AND BELROSE NORTH STRATEGIC REVIEW - STAGE 1**

#### **523/14 RESOLVED**

#### ***Cr Menano-Pires / Cr Regan***

##### **1. That Council notes:**

- A. That Council staff have consistently followed the methodology determined by the NSW Department of Planning and Environment.
- B. The conflicting advice it has received from the NSW Department of Planning and Environment and from the former Minister.
- C. The residents' concerns regarding the review of their individual parcels of land by the NSW Department of Planning and Environment led team.
- D. That the previous Council was in favour of Stage 2 of the Planning and Assessment Commission recommended studies being carried out immediately.
- E. That the E3 zone is being reviewed by the NSW Department of Planning and Environment.

##### **2. That Council:**

- A. Requests the NSW Department of Planning and Environment to consider the report which is Item 8.1 on tonight's agenda and make a determination by selecting one of the five options.
- B. Recommends the renaming of the E3 zone to address public concern about the implications of having a zone entitled "Environmental Management".
- C. Recommends that Stage 2 of the Planning and Assessment Commission recommended studies be carried out immediately by the State Government.
- D. Expresses its concern to the State Government at the rising costs of unnecessarily administering two Local Environmental Plans.
- E. Informs affected landowners of this resolution.

#### **VOTING**

**For the resolution:** Crs Daley, Gobert, Harrison, Heins, Kerr, Menano-Pires, Moskal and Regan

**Against the resolution:** Crs De Luca and Giltinan

**CARRIED**



## Attachment 2:



Planning &  
Environment

Office of the Secretary

Mr Rik Hart  
General Manager  
Warringah Council  
Civic Drive – 725 Pittwater Road  
Dee Why NSW 2099

14/18047

Dear Mr Hart

Thank you for your letters of 11 and 17 September 2014 relating to the Oxford Falls Valley and Belrose North Strategic Review and deferred land from the Warringah Local Environmental Plan 2011. The Minister has asked me to reply on her behalf.

I note Warringah Council's resolution on 26 August 2014 requesting that the Department of Planning and Environment determines the deferred land based on the various options presented to Council.

I note that this has been an extensive and complex process with a high level of community interest. It is important that the land does not continue to remain deferred so that surrounding landowners and the broader community are given certainty. Resolution of this will allow for a single Local Environmental Plan to cover the Warringah Local Government Area.

There is sufficient evidence to implement the findings of the Strategic Review by translating the existing character-based controls into zones in the Warringah Local Environmental Plan 2011. I consider that this is an appropriate way forward.

The majority of the land in the Oxford Falls Valley and Belrose North area has clear environmental value. These areas should be considered for an E3 Environmental Management zone consistent with the findings of the Strategic Review (Option Two - Land Use Zoning Map reported to Council on 26 August 2014).

Land mapped as having 'no to moderate' environmental constraints should be zoned to reflect the existing character, level of clearing and current land uses. The land in this category along the Wakehurst Parkway should be zoned E4 Environmental Living.

Council may wish to consider expanding the current permitted land uses for the E4 Environmental Living zone to include environmental facilities, extensive agriculture, farm buildings, home industries, horticulture where consistent with the mandatory land uses of the zone. It is noted the current objectives for the zone specifically cater to water-related business and leisure uses, and these would also need to be expanded.

Additionally, I encourage Council to separately begin the Stage 2 analysis to review the minimum subdivision lot size controls following the rezoning of the land. Any additional

studies will be the responsibility of Council and form the basis of a future planning proposal.

I therefore request Council submit a planning proposal for the deferred land seeking a Gateway determination within three months of the date of this letter. I have asked the Metropolitan (CBD) team to continue working with Council throughout the plan making process.

If you have any further enquiries about this matter, please contact Mr Lee Mulvey, Director of the Department's Metropolitan (CBD) team, on (02) 8575 4140.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Marcus Ray', with a stylized flourish at the end.

Marcus Ray  
Acting Deputy Secretary  
Planning Services

23/01/15



**Option 2 : Land Use Zoning Map**

**Oxford Falls Valley and Belrose North Strategic Review**

**WLEP 2011 Land Application Map**

Deferred matter (Study Area)

WARRINGAH

Cadastral

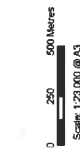
Cadastral 28/07/2014 © Warringah Council

**Draft Land Zones**

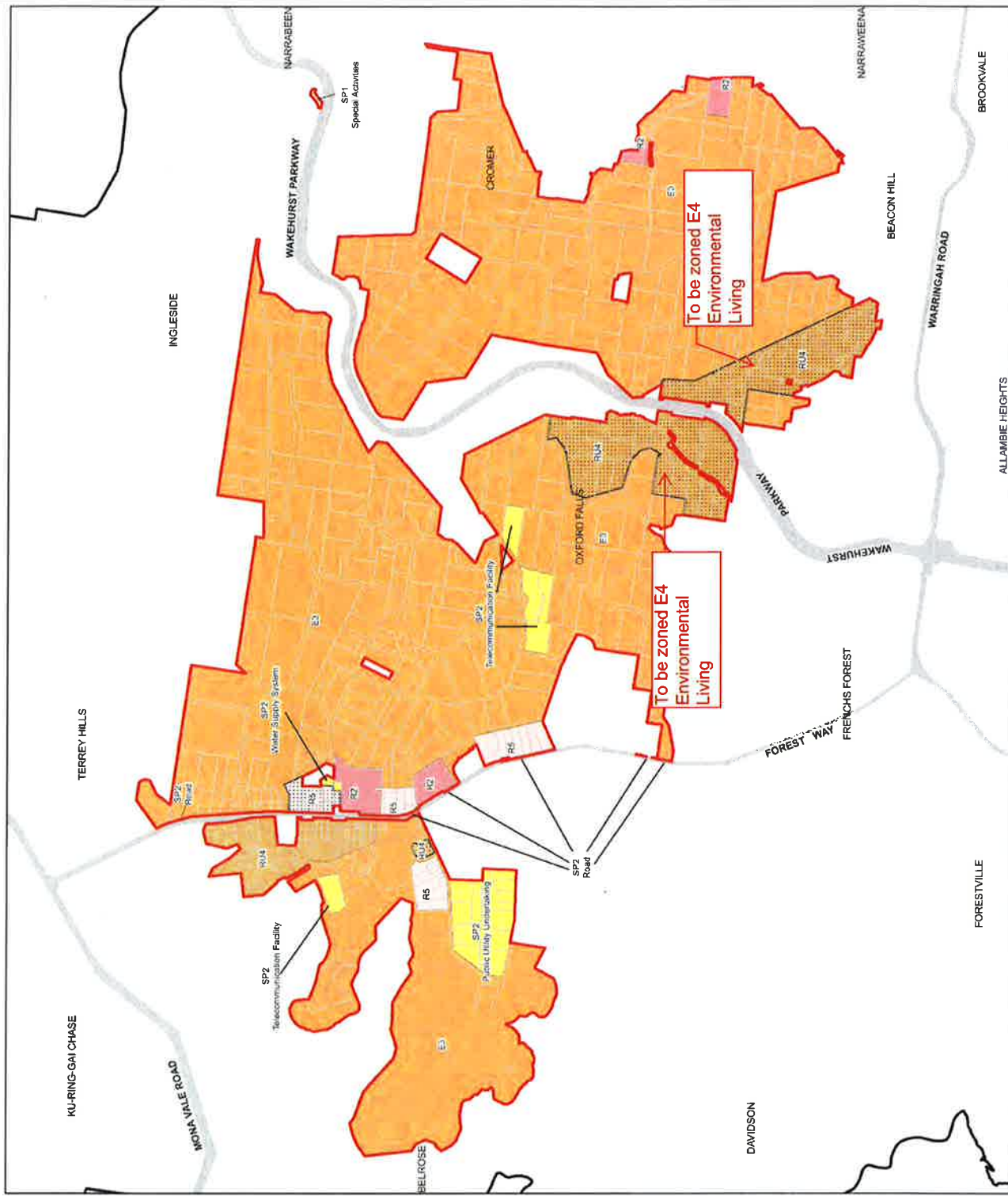
- E3 - Environmental Management
- R2 - Low Density Residential
- R5 - Large Lot Residential
- RU4 - Primary Production Small Lots
- SP1 - Special Activities
- SP2 - Infrastructure

**Alternatives to E3 Zone**

- R5 Alternative to E3
- RU4 Alternative to E3



Projection: GDA 1984  
Zone: 56





**VOTING**

**For the resolution:** Crs Daley, De Luca, Giltinan, Gobert, Harrison, Heins, Kerr, Menano-Pires, Moskal and Regan

**Against the resolution:** Nil

**CARRIED**

**8.0 ENVIRONMENT DIVISION REPORTS**

**8.1 AMENDMENTS TO SECTION 149 (5) NOTATIONS FOR 17, 19 AND 19A FRAZER STREET AND 21 JENKINS STREET, COLLAROY**

036/15 **RESOLVED**

**Cr Regan / Cr De Luca**

That Council take no action in respect of adding Section 149(5) Certificate notations on 17 Frazer Street, 19 Frazer Street, 19A Frazer Street and 21 Jenkins Street, Collaroy.

**VOTING**

**For the resolution:** Crs Daley, De Luca, Giltinan, Gobert, Harrison, Heins, Kerr, Menano-Pires, Moskal and Regan

**Against the resolution:** Nil

**CARRIED**

**8.5 OXFORD FALLS VALLEY AND BELROSE NORTH PLANNING PROPOSAL**

**Cr Menano-Pires / Cr Regan**

That Council:

- A. Endorse the preparation and progression of a Planning Proposal for deferred land under Warringah Local Environmental Plan 2011 in accordance with the attached Department's Proposed Zoning Map.
- B. Staff work with the Department prior to submitting the Planning Proposal for Gateway Determination, to develop the additional permitted uses and objectives for the E4 zone .

**AMENDMENT**

**Cr De Luca / Cr Giltinan**

1. That this Council notes:
  - a. correspondence from the then Minister for Planning dated 17 March 2014 advising that "all land identified in the Strategic Review as having no-to-moderate environmental development constraints and proposed to be an Environmental zone, be further reviewed to validate the environmental significance of the land and that the subject land will continue to remain deferred until such time that further evidence based

planning is undertaken."

- b. No further evidence as required by the Minister for Planning's letter dated 17 March 2014 has been shown to residents affected.
  - c. An email from the NSW Department of Planning & Environment dated 15 May 2014 concerning the Oxford Falls Valley and Belrose North Strategic Review which states "The land - which makes up a large amount of the area proposed to be zoned E3 - will continue to be deferred from Warringah's Local Environment Plan (LEP) until further studies are undertaken to identify the most appropriate zone."
  - d. No studies of the respective area to be zoned E3 has been shown to residents affected.
  - e. In a Media Release from the new Minister for Planning, The Hon Pru Goward MP, dated 14 May 2014, the Minister states "strong planning needs to be backed by strong evidence - that's the principle behind these draft recommendations .... That's why we are working with Councils to ensure that every decision they make in this regard is backed by strong evidence. Decisions on land being considered for environmental zoning have been deferred as local environment plans are finalised."
  - f. No strong evidence has been presented to residents to justify an E3 zoning.
  - g. The recommendation of the Independent Warringah Development Assessment Panel on 18 June 2014 "WDAP unanimously recommend to the Councillors of Warringah that they do not proceed with approval of a Gateway approach for this Planning Proposal at the present time and that, instead, they commence immediately to implement stage 2, undertaking the detailed work required to finally decide on the values of the deferred lands and their relevance for an environmental (or other) zoning in the LGA of Warringah".
2. That this Council resolves to:
- a. Write to the Department of Planning requesting it urgently carry out stage 2 of the Strategic Review so that any new zonings of land in the deferred area can be based on strong evidence.
  - b. The deferred area will remain deferred until the stage 2 report is completed and presented to all affected residences and Warringah Councillors.

**VOTING**

**For the amendment:** Crs Daley, De Luca, Giltinan and Kerr

**Against the amendment:** Crs Gobert, Harrison, Heins, Menano-Pires, Moskal and Regan

**LOST**

**037/15 RESOLVED**

***Cr Menano-Pires / Cr Regan***

That Council:

- A. Endorse the preparation and progression of a Planning Proposal for deferred land under Warringah Local Environmental Plan 2011 in accordance with the attached Department's Proposed Zoning Map.
- B. Staff work with the Department prior to submitting the Planning Proposal for Gateway Determination, to develop the additional permitted uses and objectives for the E4 zone .

*Councillor Heins left the chamber at 7:30pm and returned at 7:31pm*

**VOTING**

**For the resolution:** Crs Gobert, Harrison, Heins, Menano-Pires, Moskal and Regan

**Against the resolution:** Crs Daley, De Luca, Giltinan and Kerr

**CARRIED**

**5.0 MAYORAL MINUTES**

**PROCEDURAL MOTION - DEFERMENT OF MATTER**

***Cr De Luca / Cr Giltinan***

That in view of NSW local Government's practice note which states, "Mayoral minutes should not be used to introduce, without notice, matters that are routine, not urgent, or need research or a lot of consideration by the councillors before coming to a decision. These types of matters would be better placed on the agenda, with the usual period of notice being given to the councillor" and noting that both Mayoral Minutes 5.1 and 5.2 sent to Councillors at 3:20pm will have a significant impact on sporting and community groups as well as residents and businesses of Brookvale these items be deferred to the next meeting of Council at which members of the community may address Council.

**VOTING**

**For the motion:** Crs De Luca and Giltinan

**Against the motion:** Crs Daley, Gobert, Harrison, Heins, Kerr, Menano-Pires, Moskal and Regan

**LOST**

**5.1 MAYORAL MINUTE NO 2/2015 - SOLDIERS AVENUE OF HONOUR, FRESHWATER - PROPOSED FOOTPATH**

**BACKGROUND**

The Soldiers Avenue of Honour Stakeholders Group have requested funding assistance for the provision of a footpath on the northern side of Soldiers Avenue in Freshwater.

The treescape in Soldiers Avenue is already listed for its local heritage significance, but the Avenue of Honour including the footpaths are not. Soldiers Avenue is the last remaining intact Avenue of Honour in the Sydney Metropolitan Area.

The State Government have provided funding towards the Soldiers Avenue of Honour Information Plinth and the nearby RSL "Service Tree" and the footpath will provide safe access to this facility and add to the amenity and connectivity of the area.

It is important to remember that this year, the Centenary of the Establishment of Avenues of Honour across the country will also be celebrated as part of the Nation's celebrations of the

