



WARRINGAH
COUNCIL

MINUTES

WARRINGAH DEVELOPMENT ASSESSMENT PANEL MEETING

held in the Council Chambers, Civic Centre, Dee Why on

WEDNESDAY 18 JUNE 2014



**Minutes of a Meeting of the Warringah Development Assessment Panel
held on Wednesday 18 June 2014
at Council Chambers, Civic Centre, Dee Why
Commencing at 6:00pm**

ATTENDANCE:

Panel Members

Mary-Lynne Taylor	Chair (Environmental Law)
Marcus Sainsbury	Environmental Expert
Patrick O'Carrigan	Urban Design Expert
Lloyd Graham	Community Representative

1.0 APOLOGIES AND DECLARATIONS OF PECUNIARY INTEREST

Nil

2.0 MINUTES OF PREVIOUS MEETING

Nil

3.0 WDAP REPORTS

Nil

4.0 PLANNING PROPOSALS

4.1 STRATEGIC REVIEW OF DEFERRED LANDS IN OXFORD FALLS VALLEY AND BELROSE NORTH

PROCEEDINGS IN BRIEF

PEX2012/0006

Warringah Council has requested of the WDAP that it make a recommendation to the councillors whether or not they should accept the findings of the Stage 1 Strategic Review and move forward to the Gateway with a Planning Proposal to rezone lands deferred from the WLEP 2011 based on a joint review of those lands by the Council's strategic planning team and the Department of Planning and Environment.

These lands were not rezoned at the time of the making of WLEP2011 as is required in accordance with the NSW Government's Standard Instrument Order 2006 but were deferred for further consideration and consultation. The Minister in December 2011, apparently holding the opinion that further work needed to be done, based on the number and nature of the submissions received during the preparation of WLEP 2011, deferred certain lands. Since that time the planning controls for the deferred area have remained to be considered under WLEP 2000 with its place-based approach to decision-making, thus bringing about a lack of certainty and confusion about planning controls in the deferred area and generally. In 2013, the Department and the Council combined to work on a joint response in a review which commenced in 2012 and finishes with this referral to WDAP in June 2014.

Based on the findings in the review: *Oxford Falls Valley and Belrose North Strategic Review*, if accepted by the Council – then the rezonings would proceed via the Gateway to consideration of a Planning Proposal to be decided eventually by the Minister or her delegate, and the controls for the deferred area would finally be contained all in the one instrument – WLEP 2011.

In the review there are 2 options suggested – the first being favoured by the Department assessment, generally laying a blanket E3 zoning ["Environmental Management"] over the majority of the area with some specific small site rezonings. The Council proposal – option 2 – suggests a larger number of "spot" rezonings for RU4 - recognising the lands' current rural activity. However, the Panel is aware that an RU4 zone does introduce a number of additional land use activities, with a potential environmental impact, beyond those contemplated in an E3 zone.

One of the main reasons for a new instrument was to follow the directives of a NSW Government Order in 2006 to standardise the wording of LEPs throughout the state, forcing Warringah in particular to have to try and find a "best fit" standard zone for its more sophisticated place-based assessment initiative put into place in WLEP 2000 after extensive consultation within the local government area. According to the background information in the Review, it was assessed as being a task unique to Warringah, requiring a rationalisation of 73 place-based locality statements into standard instrument zones. The method of carrying out this task was to develop a "detailed translation methodology" and apply it to the whole of the LGA. [This methodology has been the subject of criticism in a number of the submissions to this review.]

The review areas of Oxford Falls Valley and Belrose North are well known to members of the WDAP through their Panel responsibilities in this area over the past 11 years. A further visit to the area was conducted focussing on this report, the Panel being accompanied by strategic planning officers and members of council's Natural Environment section and the Panel was once again reminded of the unique nature of Warringah's natural bushland and the important responsibility to conserve it for present and future generations. The environmental member of the WDAP has concluded, from this visit:

The values within the Oxford Falls Valley and Belrose North, including the important representation of endemic threatened species and communities, and being the catchment to the Narrabeen Lagoon, are significant beyond just the Warringah Local Government Area.

The WDAP was addressed by, and received detailed submissions from, a number of concerned environmental groups in the LGA, including the Friends of Narrabeen Lagoon, stressing the importance of intergenerational equity in these circumstances, and the extreme difficulty of retrieving areas that have been degraded.

As the requirement to standardise zones in NSW is now over 8 years old, it is clear that a method that would more quickly bring about standardisation by using a “best fit” zone approach – for a short time – in a “holding pattern” until detailed studies will more specifically identify more exact zonings, would meet the present objectives of the Environmental Planning and Assessment Act 1979,

Especially;

- S5 (a)(i) *...the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals , water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
- (ii) *the promotion and coordination of orderly and economic use and development of land,*
- (vi) *the protection of the environment, ...*

Meeting these worthy objectives was clearly in the mind of the council and department in undertaking the “blanket rezoning” methodology, but WDAP notes that in Stage 2 the PAC has recommended in stage 2 Council is to carry out a number of studies recommended by the Planning Assessment Commission namely quote 1. Transport/Accessibility, 2. Bushfire Management, 3. Water Quality, 4. Flora/Fauna study, 5. Visual Analysis, and 6. Satellite Communications Buffer. Subject to sufficient finance available to the Council. Moving in this way meets the objectives (and concerns) of the environmental groups who wish no delay in protecting and conserving by the provision of controls on individual sites where the environment may be in danger.

The panel was addressed, however by a large number of landowners concerned that any zoning containing the word “environment” in its title – was highly likely to lower the value their land immediately for on-selling purposes by suggesting that there would be restrictions on the activities that could otherwise be carried out over the whole of their land. They gave as an example – the inability to develop their land thereafter for living for seniors.

In support of their argument, a 17 March 2014 letter was produced from the Minister for Planning suggesting that no kind of environmental zoning should be placed on land (with no - to - moderate-environmental development constraints) without sufficient study and research, and there was a reference made to a study for the NSW Northern Councils that suggested a similar approach. The objectors at the meeting, and especially including WUFA members, pointed to a number of sites in the deferred area where sites had been cleared and long used for purposes that might not now be allowed, but were permissible in the past. The claim was that council seemed to be unaware of these sites – which were in such number that the temporary zoning approach would give a false impression of the true makeup of certain areas, and, might encourage restriction where unnecessary. This would, in the short term, affect potential for business and personal interests, thus would be unfair, causing stress and possible financial loss to individuals. They had no problem with further delay to the rezoning of the deferred lands and preferred them to be deferred until a final detailed assessment had been carried out.

Before WDAP was the original Strategic Review outcome – Option 1 and Council's compromise Option 2. The Panel was also made aware of a so called Option 3 preferred by the Warringah Urban Fringe Association (WUFA) which provided a similar zoning map to that lodged in their submission to the Draft Strategic Review report in 2013.

Voting 4/0

RECOMMENDATION OF WARRINGAH DEVELOPMENT ASSESSMENT PANEL

Reluctantly, WDAP unanimously recommends 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 for the following reasons:

- (1) The Panel notes that the Draft Metropolitan Strategy 2031 acknowledges that the Oxford Falls Valley - Belrose North area is identified as an area of rich environmental significance and an asset that Sydney must retain and protect. As such there is a need to protect the natural heritage of significant valleys, watercourses, rock outcrops and unique flora and fauna as well as sites of aboriginal significance. Some of these areas may best be protected by either an E2 or E3 zone.
- (2) As such, any development within this highly important area should be "limited", and the use of the term "urban development potential" is seen as incongruous in the light of (1) above.
- (3) The determination of appropriate zonings should only follow the completion of the "evidence based" specialist studies scheduled for Stage 2.
- (4) To proceed now with a Planning Proposal (via the Gateway) would be premature as there is strong opposition from some residents as to the validity of base data collected from their properties and the information recorded on the "site inspection checklists". Again, such agencies as the Department of Environment & Heritage have called into question the logic of the suggested RU4 zone to the west of Forest Way in North Belrose in Options 1 and 2.
- (5) The preparation of a Planning Proposal now, essentially based on an E3 zone, would involve the community in another (3rd round) of consultations with the inevitable result of many listing their same objections as those going back to 2009. A further (4th round) of consultations would then follow when final detailed zonings were determined following Stage 2.
- (6) A 2012 Study completed by consultants titled "Northern Councils E Zone Review Interim Report", and subsequent Ministerial comment, has called into question the use of E2 and E3 environmental zones on land that is clearly rural. Some residents have argued that their land in the study area is clearly rural.
- (7) Because of the unique nature of the Oxford Falls Valley - Belrose North area there may well be a case to approach government, after the conclusion of the Stage 2 studies, to have either special zonings or statutory adjustments to the E3, RU4 and R5 zones within Warringah that better reflect the limited development intent of the area.
- (8) The argument that transferring planning controls from WLEP 2000 to WLEP 2011 to avoid unnecessary duplication and operational costs is understood, but this is not a sufficient reason to override the best possible planning outcome for this unique area.
- (9) The Council has developed Option 2 and recommended that it proceeds to the Gateway. However the criteria upon which it has been decided, for instance, to convert the western side of Oxford Falls Road into RU4 [meaning that it comprises No to Low environmental significance, and Moderate environmental constraints] could equally apply to all or most private lands that are objected to by the local group, WUFA.
- (10) The Panel were of the view that because of the large private lots – for instance found east of Oxford Falls Road, with a semi-rural or cleared area fronting the Road as well as uplands that were undeveloped, with significant tree cover, could benefit perhaps from a split zoning rather than a blanket approach.

- (11) Apart from the different landuses within E3 and RU4, there are changes in the zone objectives, with the important effect that under E3, the priority is for environmental protection and therefore entirely compatible with the Oxford Falls Valley - Belrose North area being identified as an area of rich environmental significance and an asset that Sydney must retain and protect as it develops.
- (12) The Panel members were dismayed that landowners who, in addressing the issue of potential down zoning, were adamant that their lands were degraded or with limited environmental potential, were not willing to consider that, with careful environmental management in the future, these environmental values could recover or be reinstated.
- (13) The Panel formed the conclusion that the E3 zoning under Option 1 in the absence of rigorous and detailed site-by-site assessments would provide the best possible outcome and protection in the interim. However in the longer-term, for the preservation of the unique and special environment of Oxford Falls Valley-Belrose North,-the Panel believed option 1 was for the above reasons preferred of the two options presented, the Panel's recommendation is not to choose either option at this stage.

5.0 CATEGORY 3 APPLICATIONS

Nil

The meeting concluded at 8.00PM

This is the final page of the Minutes comprising 7 pages
numbered 1 to 7 of the Warringah Development Assessment Panel meeting
held on Wednesday 18 June 2014