

Item No: 2.2
Title: PP/2012/33 - Planning Proposal Bakali Road,
Forresters Beach
Department: Environment and Planning



25 March 2019 Ordinary Council Meeting

Trim Reference: F2019/00041 - D13438076

Author: Bruce Ronan, Town Planner

Manager: Scott Duncan, Section Manager, Land Use and Policy

Executive: Matthew Prendergast, Unit Manager, Strategic Planning

Report Purpose

The purpose of this report is for Council to consider amending an existing Planning Proposal which requires changes to minimum lots size mapping and requires the preparation of a Voluntary Planning Agreement (VPA) to address traffic management issues and requires the dedication of land for a small park and drainage lands.

This report recommends that the amended Planning Proposal be supported and an amended Gateway Determination be requested from the Department of Planning and Environment (DP& E).

Recommendation

1 That Council support an amended Planning Proposal to:

- a) Rezone the following lots to R2 Low Density Residential under Gosford Local Environmental Plan 2014 or Central Coast Local Environmental Plan (whichever is in effect at the time):**
 - Lot 1 DP 405510,**
 - Lot 51 DP 1028301,**
 - Lot 62 DP 838562,**
 - Lots 155 & 156 DP 531710,**
 - Lots 1-14, 18 & 19 DP 23283,**
 - Lots 1-8 DP 24187,**
 - Lots 1-3 DP 101649, and**
 - part of Lot 522 DP 1077907 Central Coast Highway, Forresters Beach, and**
 - Lots 1, 2 & 4 DP 1000694, and**
 - part of Lot 3 DP 1000694 Bakali Road, Forresters Beach.**
- b) Rezone part of Lot 522 DP 1077907 and part of Lot 3 DP 1000694 to E2 Environmental Conservation under Gosford Local Environmental Plan 2014 or Central Coast Local Environmental Plan (whichever is in effect at the time);**

- c) ***Rezone part of Lot 522 DP 1077907 and part of Lot 3 DP 101649 Central Coast Highway, Forresters Beach to RE1 Public Recreation under the Gosford Local Plan 2014 or Central Coast Local Environmental Plan (whichever is in effect at the time);***
- d) ***Apply the Minimum Lot Size of:***
- ***1850 m² to land proposed to be zoned R2 Low Density Residential and fronting Bakali Road on Lot 3 DP 1000694 and parts of Lots 1 & 2 DP 1000694 ,and***
 - ***550 m² to all remaining land proposed to be rezoned R2 Low Density Residential, under the Gosford Local Environmental Plan 2014 or the Central Coast Local Environmental Plan (whichever is in effect at the time).***
- 2 ***That Council submit a revised Planning Proposal to the Minister for Planning in accordance with Section 3.35(2) of the Environmental Planning and Assessment Act 1979, requesting an amended Gateway Determination, pursuant to Section 3.34 of the Environmental Planning and Assessment Act 1979.***
- 3 ***That Council request delegation for Council to finalise and make the draft Local Environmental Plan, pursuant to Section 3.36 of the Environmental Planning and Assessment Act 1979.***
- 4 ***That Council prepare and exhibit the appropriate Development Control Plan provisions to support the development of the land subject to this Planning Proposal.***
- 5 ***That Council enter into a Voluntary Planning Agreement with the owner of Lot 522 DP 1077907, Lot 4 DP 1000694 and Lot 3 DP 101649 to require:***
- ***Dedication of 4000m² of land to Council for a park;***
 - ***Dedication of land for the purposes of a drainage reserve;***
 - ***Undertake roadworks to satisfy the requirements of the NSW Roads and Maritime Service and Council;***
 - ***Implement a Vegetation Management Plan for the area proposed to be zoned E2 Environmental Management; and***
 - ***exhibit with the Planning Proposal.***
- 6 ***That Council undertakes community and public authority consultation in accordance with the Gateway Determination requirement.***

7 That Council considers a further report on the results of the public authority and community consultation.

Background

At the Ordinary Meeting held on 2 July 2013, the former Gosford City Council (fGCC) resolved that:

- A Council initiate the Local Environmental Plan 'Gateway' process pursuant to Section 55 Environmental Planning and Assessment Act by endorsing the preparation of a Planning Proposal to:
- i zone existing residential sized lots (i.e. Lot 1 DP 405510, Lot 51 DP 1028301, Lot 62 DP 838562, Lots 155 and 156 DP 531710, Lots 1-14, 18 and 19 DP 23283, Lots 1-8 DP 24187 and Lots 1-3 DP 101649, Central Coast Highway, Forresters Beach) and similar land fronting the Central Coast Highway (i.e. part of Lot 522 DP 1077907) to R2 Low Density Residential.
 - ii zone land accommodating EECs and/or being flood liable to E2 Environmental Conservation, subject to the outcome/findings of the required studies stated in Part C.
 - iii zone land that is flood-free on Lots 1-4 DP 1000694 and part of Lot 522 DP 1077907 Bakali Road, Forresters Beach to R2 Low Density Residential.
- B Council notify the Department of Planning and Infrastructure of Council's resolution requesting a 'Gateway' determination pursuant to Section 56(1) Environmental Planning and Assessment Act and forward the Planning Proposal and all necessary documentation according to their requirements and this report.
- C Should the Gateway determination support the Planning Proposal the following studies are to be carried out prior to exhibition of the Planning Proposal:
- Flood Study for whole catchment including overland flow study
 - Impact assessment on groundwater and Wamberal Lagoon (runoff, sedimentation and nutrification and mitigation measures required for treatment to current standards and detention to current flows)
 - Urban capability (e.g. soil type, soil characteristics)
 - Bushfire Hazard Assessment
 - Traffic Impact Study

- D Upon receipt of the studies, Council investigate the need for a Development Control Plan and Contributions Plan prior to consultation with public authorities and the community.*
- E The applicant be advised of Council's resolution.*
- F Council does not seek delegations from the Department of Planning and Infrastructure for this Planning Proposal.*
- G After public exhibition of the Planning Proposal, a report be referred to Council on the matter.*

A Gateway Determination dated 21 August 2013 was issued to Council for the proposal as well as five extensions, lapsing on 28 February 2019. The original Planning Proposal was lodged by a major landowner (in the study area), who had failed to progress the proposal to public exhibition. More recently this property was sold to a new landowner, who has demonstrated their willingness to complete the rezoning and provide the necessary reports to address relevant planning issues.

The Site

The subject site (Figure 1) is located between Bakali Road and the Central Coast Highway, Forresters Beach. It is generally triangular in shape with an area of 12.261 Ha and comprises 32 residential sized lots fronting the Central Coast Highway and 5 rural-residential sized lots to the west.

Four of the five rural residential lots contain dwelling houses which are located on a cleared area which are accessed from Bakali Road. The remaining rural residential lot (Lot 522 DP 1077907) is vacant and contains good quality Swamp Sclerophyll Forest on Coastal Floodplains (which is a defined Endangered Ecological Community) under the *Biodiversity Conservation Act 2016* in the north western part of the lot.

There is an intermittent overland flowpath from the Central Coast Highway which discharges through the site into the coastal wetland downstream.

The land immediately to the north has development consent for a residential subdivision and is currently under construction.

The land immediately to the west accommodates three dwellings each on 1 Ha lots.



Figure 1: Subject Site Aerial Locality/Context Plan

All of the subject 37 lots are zoned 7(c2) Conservation and Scenic Protection (Scenic Protection - Rural Small Holdings) under *Interim Development Order No 122* (IDO 122), except one lot (Lot 522 DP 1077907) which is zoned part 7(c2) Conservation and Scenic Protection (Scenic Protection - Rural Small Holdings) and part 7(a) Conservation and Scenic Protection (Conservation) (Figure 2).

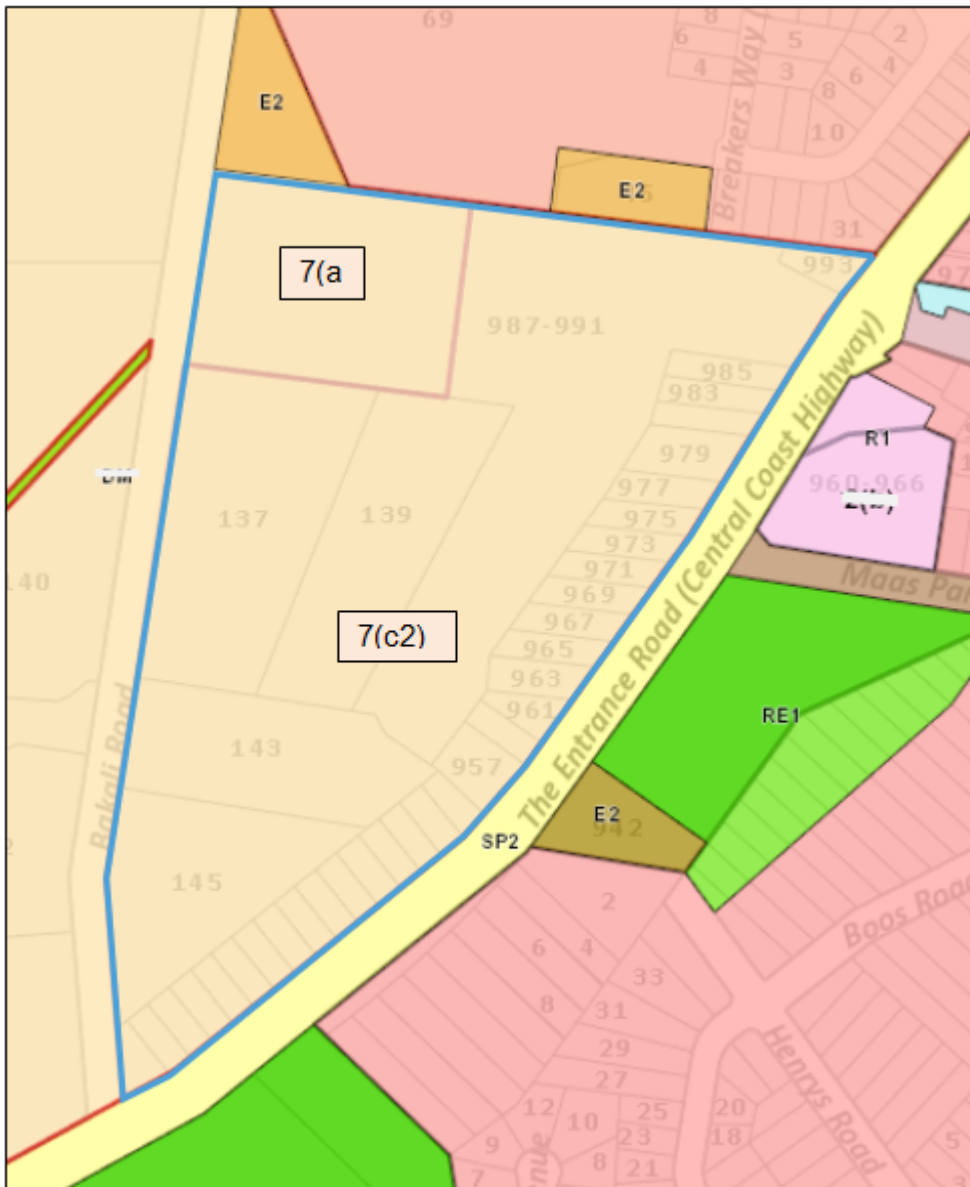


Figure 2: Existing Zoning under IDO 122

The Planning Proposal seeks to zone:

- 9.625 Ha from 7(c2) Conservation and Scenic Protection (Rural Small Holdings) under IDO 122 to R2 Low Density Residential under *Gosford Local Environmental Plan 2014* (GLEP 2014) or *Central Coast Local Environmental Plan* (CCLEP) (whichever is in effect at the time); and
- 2.236 Ha from 7(c2) Conservation and Scenic Protection (Rural Small Holdings) and 7(a) Conservation and Scenic Protection (Conservation) to E2 Environmental Conservation under GLEP 2014 or CCLEP (whichever is in effect at the time);

- 0.4 Ha from 7(c2) Conservation and Scenic Protection (Rural Small Holdings) under IDO 122 to RE1 Public Recreation GLEP 2014 or CCLEP (whichever is in effect at the time) (Figure 3).

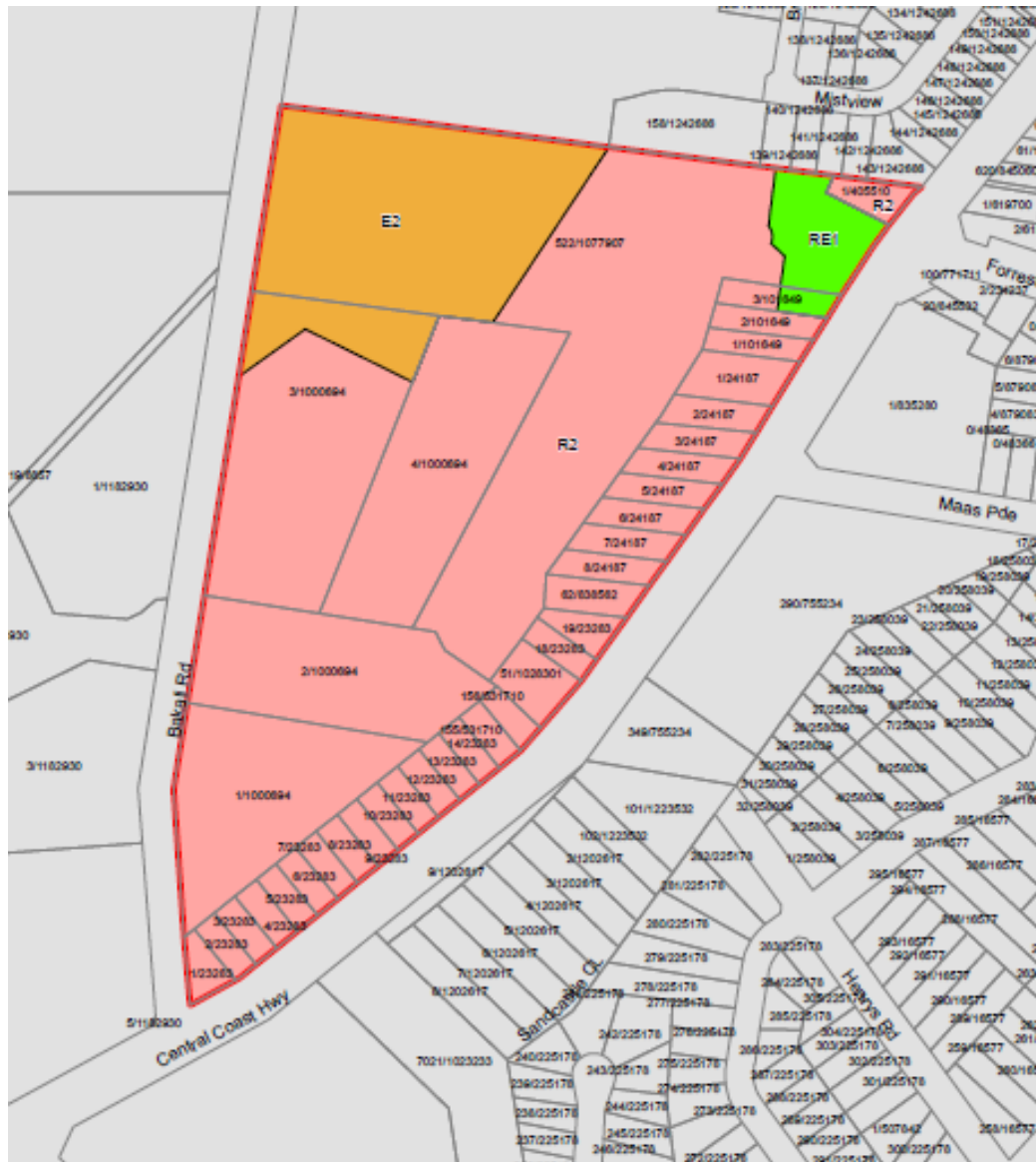


Figure 3: Proposed Zoning

Part of Lot 522 DP 1077907 (1.659 ha) is currently zoned 7(a) Conservation and Scenic Protection (Conservation) did not form part of the original Planning Proposal that was considered by the fGCC in 2013. This land accommodates vegetation which qualifies as an Endangered Ecological Community (EEC) and is flood liable and meets the criteria for qualifying as an E2 Environmental Conservation under GLEP 2014. The NSW Office of Environment and Heritage (OEH), as part of agency consultations, requested this area be included within the E2 Environmental Conservation zone.

The Draft (CCLEP) proposes to rezone all of the land subject to this Planning Proposal to E4 Environmental Living. Should Council proceed with the subject Planning Proposal the CCLEP will be amended to reflect the outcome of this Planning Proposal.

The Amended Proposal

A site specific Development Control Plan has been prepared for the subject site to manage site specific development issues associated with the Planning Proposal as per the fGCC resolution.

The original fGCC resolution dated 2 July 2013 did not consider a number of matters that have arisen after undertaking a detailed assessment of the Planning Proposal to address relevant matters associated with the rezoning of the land. The following issues are required to be addressed as part of the modified Planning Proposal:

The original fGCC resolution did not include the option of preparing a VPA. In the assessment of this Planning Proposal, the owner has agreed to enter a VPA to undertake the following actions:

- Dedicate 4000m² of land to Council for a public park;
- Dedicate land to Council for a drainage reserve;
- Undertake roadworks to satisfy the requirements NSW Roads and Maritime Service and Council;
- Implement a Vegetation Management Plan for the area proposed to be zoned E2 Environmental Management on Lot 522 DP 1077907 for a period of 8 years.

The land subject to the proposed VPA is outlined in Figure 4.

A Contributions Plan (under s7.11) does not apply to the land and is not proposed to be prepared. However a need has been identified for a local park in the area by Council's Open Space and Recreation Unit and the proponent has agreed to provide an area of 4000 m² on site for a park. This in addition to, the implementation of drainage works, roadworks and the conservation of existing wetland vegetation will provide a significant public benefit for the local community.



Figure 4: Land subject to the VPA shown in red bold outline.

- The original fGCC resolution specified that the flood liable land is to be zoned E2 Environmental Conservation. The flood study submitted by the applicant has proposed that the intermittent overland flowpath through the site can be formalised within a channel (dimensions yet to be determined). As drainage works are not a permitted use within the E2 Environmental Conservation zone, the drainage channel is to be zoned R2 Low Density Residential. The VPA will ensure the channel is constructed and dedicated to Council.
- The original fGCC resolution did not specify the minimum lot size within the R2 Low Density Residential zone, however, it was implied that the minimum lot size would be the standard lot size within the zone, i.e. 550m². In order to ensure a transition from the 1 Ha lots on the western side of Bakali Road to the proposed 550m² on the subject site, it is proposed to specify that that part of the subject land fronting the eastern side of Bakali Road has a minimum lot size of 1850m².

Assessment

The rezoning of the subject land to part R2 Low Density Residential and part E2 Environmental Conservation has strategic merit on the basis that:

- The existing lots fronting the Central Coast Highway have a residential character and purpose and do not satisfy the objectives of the current 7(c2) Conservation and Scenic Protection (Rural Small Holdings) zone. They are also serviced with water and sewer. Therefore it was considered reasonable to formalise the existing development fronting the Central Coast Highway in this Planning Proposal.
- The rezoning of the north-western part of the site from 7(a) Conservation and Scenic Protection (Conservation) and 7(c2) Conservation and Scenic Protection (Rural Small Holdings) to E2 Environmental Conservation is considered to reflect the constraints of the land as this area accommodates an EEC (Swamp Sclerophyll Forest on Coastal Floodplains) and/or is flood liable. The VPA will contain measures to ensure that the wetland is protected.
- The Planning Proposal has identified land between the Highway frontage lots and Bakali Road as being suitable to be zoned R2 Low Density Residential.

However including a minimum lot size of 550m² to all the land proposed to be zoned R2 Low Density Residential will result in an abrupt urban edge fronting Bakali Road and facing 7(a) Conservation and Scenic Protection (Conservation) zoned land to the west. In order to ensure a transition between the 7(a) Conservation and Scenic Protection (Conservation) zoned land and the future standard residential development, it is proposed to apply a minimum lot size of 1850m² to the proposed residential land fronting Bakali Road. This outcome is considered to have strategic planning merit.

- The VPA will ensure the Planning Proposal will result in a benefit for the public via the dedication of land to Council for a public park and will ensure the cost of managing development impacts, such as roadworks and the conservation of EEC vegetation are met by the proponent.

Statutory Compliance and Strategic Justification

The proposal has been assessed having regard for all State Environmental Planning Policies, Ministerial Directions and relevant guidelines set out within the Central Coast Regional Plan 2036 as detailed in Attachment 2.

The proposal is considered to be consistent with these considerations, therefore is suitable for forwarding to the Minister of Planning requesting an amended Gateway Determination.

Internal Consultation

Internal consultation for the current Planning Proposal has been undertaken as summarised below.

Environmental Strategies

In respect to ecological matters the Planning Proposal will result in the conservation of the endangered ecological community (EEC) listed as Swamp Sclerophyll Forest on Coastal Floodplain as all the area identified in the Flora and Fauna Assessment as exhibiting good quality EEC is proposed to be zoned E2 Environmental Conservation. Furthermore the accompanying VPA includes measures to ensure the land zoned E2 Environmental Conservation will be protected.

It should be noted that the land proposed to be zoned R2 Low Density Residential is generally cleared however does contain isolated stands of EEC vegetation. As the Flora and Fauna Assessment identifies these isolated vegetation stands as being of poor quality it is considered acceptable to rezone the land R2 Low Density Residential.

Traffic

The potential traffic generation resulting from the Planning Proposal will not impact the traffic efficiency of the Central Coast Highway adjacent to the subject site. The existing road infrastructure is capable of servicing the proposed residential site provided intersections with the Central Coast Highway are designed in accordance with the NSW Roads and Maritime Services (RMS) criteria. The site is accessible for pedestrians and cyclists. Frequent public bus transport is available to the subject site.

Should the development proceed, the proponent will be required to upgrade the road infrastructure as required by RMS. This requirement has been included in the VPA.

Water and Sewer

Water and sewer is available to the land however there is insufficient capacity to accommodate additional expected loads and demands from future residential development following the rezoning of the land. Consequently contributions will have to be made towards the augmentation of the water and sewer systems at the time of subdivision.

Flooding and Drainage

The most recent Flood Study, submitted in 2018, has been assessed by specialist staff. Additional information is required to be submitted prior to public exhibition to ensure future developable R2 Low Density Residential land is not adversely affected. Any additional details that Council would require, pending submission of this information, are able to be incorporated in the site specific DCP which will apply to the subject land.

External Consultation

Government agency consultation was undertaken in relation to the current Planning Proposal. The Gateway Determination required consultation with the NSW Rural Fire Service (RFS), NSW Office of Environment and Heritage (OEH), NSW Roads and Maritime Services (RMS), National Parks and Wildlife Service (NPWS) and the Hunter Central Rivers Catchment Management Authority (CMA). A revised Gateway Determination may require further agency consultation to be undertaken.

Rural Fire Service

The New South Wales Rural Fire Service has reviewed the proposal and raises no objections subject to a requirement that the future subdivision of the land complies with Planning for Bush Fire Protection 2006.

Office of Environment and Heritage/National Parks and Wildlife Service

In relation to biodiversity, OEH does not object to the rezoning proposal.

In relation to flooding, OEH raised concerns with the increase in developable area and significant additional detail which would be required at the development application stage. These additional details are summarised below.

- Suitable end treatments to ensure no adverse effect on downstream properties as a result of pipe/open channel improvements on the development site.
- Appropriate stormwater treatment to ensure no increase in pollutants including management of runoff quality and quantity to the sensitive receiving waters consistent with the Wamberal Lagoon Management Plan.
- Removal of open channels from private allotments and provision of appropriate maintenance access and fencing as required.
- Consideration of improvements to channel alignment to improve hydraulics at bends, increase amenity and ecological values.
- Sensitivity analysis for blockage of any major piped system.
- Sensitivity analysis for variation in vegetation cover within any open channel system.
- Design of appropriate surface finishes to control erosion and scour within the open channel system.

- Flooding analysis for the final arrangement, inclusive of sensitivity analysis and inclusive of climate change for the purposes of setting flood planning levels within the development. The analysis must demonstrate no adverse effects outside of the property boundaries.

Also OEH maintained that the assessment of Aboriginal cultural heritage in the Due Diligence Report is considered inadequate.

Council staff have revised the original proposed boundary of the E2 Environmental Conservation zone to include all of the vegetation identified as an EEC and the area within the 1% AEP flood event adjacent to Bakali Road. The area zoned E2 is greater than that currently zoned 7(a) Conservation so this outcome is considered to improve biodiversity protection in accordance with the requirements of OEH.

The Flood Study shows that the overland flow through the site can be accommodated in an open channel up to the Probable Maximum Flood level. The zoning of the land accommodating the channel to R2 is considered appropriate as it relates to the residential subdivision and is addressed in the draft DCP for the site. The details that OEH require to be addressed at the development application stage in relation to flooding will be included in a site specific DCP as matters to be addressed with any development application for subdivision.

An Aboriginal Cultural Assessment has subsequently been prepared in accordance with OEH requirements. It found that the subject site is assessed to be of low Aboriginal archaeological sensitivity.

NSW Roads and Maritime Services

The RMS reviewed the information and provided the following comments for Council's consideration:

- The Bakali Road intersection with the Central Coast Highway should be restricted to left-in / left out only by extending the central median within the Central Coast Highway.
- Vehicles from the north requiring access to Bakali Road can utilise Crystal Street roundabout to perform a U-turn to access Bakali Road.
- Vehicles from Bakali Road seeking to travel south will have to travel north and turn around in order to head south. It is considered likely that Maas Parade could be used to facilitate this movement by undertaking the following road works:
 - Upgrade the intersection of the Central Coast Highway and Maas Parade to Roads and Maritime and Council's satisfaction;

- Install a concrete median within Maas Parade to restrict vehicles from U-turning at the throat of the intersection to Roads and Maritime and Council's requirements;
- Construct a U-turn bay within Mass Parade to Council's requirements;
- Upgrade the pavement on Maas Parade (as required) to Council's requirements.
Roads and Maritime is generally supportive of the abovementioned road work options as it is considered the works will permit safe manoeuvres from Bakali Road onto the Central Coast Highway.

The RMS also recommended that the proponent investigate options to restrict access from Bakali Road into the service road which runs parallel to the Central Coast Highway and carry out road works to provide for left-in / left out at the northern intersection with Central Coast Highway. This will eliminate potential conflicts at the intersection of Bakali Road, provide a safe U-turn option via Maas Parade and will restrict the potential for road users to U-turn at the northern service road intersection, which provides limited sight distance.

The VPA agreement will require the proponent to fund the costs of all roadworks for the development in order to meet RMS requirements.

Hunter Central Rivers Catchment Management Authority

No comments received.

Financial Impact

A Contributions Plan does not apply to the site or land in the vicinity of the site. The owner has agreed to enter a VPA to dedicate land for a local park at no cost to Council (Council will undertake any embellishment in accordance with the requirements for such parks) and undertake the roadworks required for the future development of the site at no cost to Council.

Social Impacts

The dedication of the land for a small park will provide open space for the future residents of this subject site and residents of the adjoining development to the north.

Environmental Impacts

The protection of vegetation which qualifies as an EEC will be achieved by zoning the land to E2 Environmental Conservation and ensuring the land is protected via a Vegetation Management Plan by outlining measures for the management of weeds on the site and measures to achieve flora and fauna habitat protection.

A site specific DCP will also set out measures to manage stormwater runoff so that the downstream wetlands will not be adversely impacted by the future residential development.

Link to Community Strategic Plan

Theme 3: Green

Goal F: Cherished and protected natural beauty

F1: Protect our rich environmental heritage by conserving beaches, waterways, bushland, wildlife corridors and inland areas, and the diversity of local native species.

Theme 4: Responsible

Goal I: Balanced and sustainable development

I3: Ensure land use planning and development is sustainable and environmentally sound and considers the importance of local habitat, green corridors, energy efficiency and stormwater management.

Risk Management

There have been no risks identified to the natural and built environment if this Planning Proposal is supported by Council as previously discussed in this report.

The proposed amendment to the Planning Proposal to rezone the land to R2 Low Density Residential and E2 Environmental Conservation under the GLEP 2014 is considered to have strategic merit.

It is recommended that the Council support the amendments to the Planning Proposal and the supporting documents and undertake the necessary next steps to progress the Planning Proposal in accordance with the Planning Proposal process.

Attachments

- | | | |
|----------|----------------------------|-----------|
| 1 | Proposal Summary | D13450552 |
| 2 | Strategic Assessment - PDF | D13485861 |