

DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES REPORT

14th November 2006

DSDS 2	PROPOSED LOCAL ENVIRONMENTAL PLAN AMENDMENT NO. 96 LOT 1 DP 196559 BERANGHI ROAD CRESCENT HEAD FILE: T5-96 GAN {Folio No. *}
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SUMMARY:

The purpose of this report is to advise Council of the results of the Public Exhibition undertaken for the proposed LEP Amendment at Beranghi Road Crescent Head and recommends that Council forward the proposed LEP amendment to the Minister for approval.



Applicant: Tim Meacham
Subject Property: Lot 1 DP 196559 Beranghi Road Crescent Head
Zone: 1(a1)

Background

Lot 1 is currently zoned 1 (a1) and is approximately 450 hectares in size. In 2002 an application was received for an eleven (11) lot subdivision with each lot approximately 40 hectares in size.

The application was not proceeded with not withstanding that it complied with the LEP subdivision standards for rural land as it was determined that the traditional approach to subdivision would not adequately address the environmental and historic constraints of the site.

An application was submitted to Council to amend the LEP to permit the development of the subject site for 11 Community Title Lots on a less constrained part of the land and 1 residue lot containing land with significant habitat value. The residue lot (conservation lot) is proposed to be re-zoned from 1(a1) Rural to 7(b) Environmental Protection.

Council resolved to support the proposed LEP amendment on 14th of September 2004. The applicant has since supplied the following information to support the application:

- Statement of Environmental Effects;

- Threatened Species Assessment under State and Commonwealth Legislation;
- A SEPP 44 Koala Habitat Assessment and associated Plan of Management.
- An archaeological investigation and assessment of the potential heritage significance of ruins associated with Commander James Gordon R.N. (c1840)
- Bushfire Risk Assessment and Management Plan; and
- Community Management Statement;

A draft LEP was prepared and forwarded to the Department of Planning for consideration. The Department of Planning issued a Section 65 Certificate on the 27 February 2006, which permitted Council to exhibit the proposed LEP.

Given the period which had past since the application was initially lodged, the applicant was requested to update their supporting information to reflect current legislation and proposed management regimes. This additional information was provided to Council on the 5th July 2006.

Pursuant to the relevant provisions of the *Environmental Planning and Assessment Act 1979*, Council exhibited the draft LEP from 22nd August 2006 to 22nd September 2006.

During this time Council received one (1) submission which may be summarised as follows: - [\(Appendix C\)](#)

Objection	Planning Comment
<p>1 The impacts of the subdivision on the environment, koala and other threatened fauna present on the site have been grossly underestimated.</p>	<p>1 The threatened species assessment has been undertaken with the assumption that all vegetation on each Lot may be cleared.</p> <p>This assessment concluded that clearing would be unlikely to result in a significant impact to any threatened species.</p> <p>Although the threatened species assessment has been made under this assumption, Council should not permit the removal of all vegetation from</p>

2 Concern over the disturbance to the water drainage from the central ridge (where the subdivision is to be placed) down to the Environmental Protection areas.

2 The removal of vegetation and introduction of hard surfaces and effluent treatment systems on the property is expected to alter the hydrological regimes of the site, however these alterations can be managed in accordance with Council's standard engineering requirements.

the proposed lots and this will be achieved through the development application process.

The proposed rezoning and any future subdivision approval will only permit the removal of vegetation for the proposed roads. This is partly due to the *Native Vegetation Act 2003* which requires consent from the Catchment Management Authority (CMA) to remove vegetation in rural areas. To construct the entry road into the site the applicant will be required to enter into a Property Vegetation Plan with the CMA.

Future dwelling applications on the site will be undertaken within strict management guidelines governed through development consent conditions, a Community Management Statement and Property Vegetation Plan.

On site waste water disposal will be in accordance with statutory requirements and vegetation buffers have been proposed to all watercourses on the site. Erosion and sediment controls can be enforced through Development Consent

<p>3 The proposed subdivision will undoubtedly affect the natural movement of Koalas through the site</p>	<p>conditions and the <i>Protection of the Environment Operations Act</i>.</p> <p>3 The proposed development will in some manner affect the movement of wildlife through the site, however the application has been designed to facilitate the movement of wildlife through the site via the provision of corridors between lots and a large corridor on the western portion of the site.</p> <p>A Koala Plan of Management (KPOM) has been prepared and submitted to the Department of Planning for concurrence. The KPOM provides various management actions to ensure the viability of the local Koala population. The management actions range from key habitat retention to monitoring regimes.</p>
<p>4 Disturbance and loss of habitat makes Koalas susceptible to chlamydial disease.</p>	<p>4 In providing a habitat protection zone to this land and including appropriate controls through consent conditions including; the implementation of the Koala Plan of Management and the Community Management Statement, the land to be retained will gain a much higher level of protection in comparison to what is currently provided.</p> <p>At present the site may be subdivided into eleven (11) 40ha lots with no residue conservation lot. The proposed amendment is considered to present an ecologically sustainable alternative to present</p>

5 The Land should be recommended for acquisition by the Department of Environment and Conservation and added to Maria River National Park.

6 Should the development proceed it should be done with great caution and sensitivity particularly during construction.

7 Staged release of lots with staged clearing and construction may lessen the impacts.

situation.

5 It is not the policy of the Department of Environment (DEC) and Conservation to compulsory acquire land. Therefore the owner of the land would need to offer the land to DEC for purchase. DEC would then be required to assess the land in relation to their policy and against other properties offered for sale within NSW.

6 The proposed development will be subject a Property Vegetation Plan approved by the (CMA), a Community Management Statement, a Koala Plan of Management approved by the Department of Planning and strict conditions of consent. When combined these management policies and conditions should ensure future development is carried out appropriately.

7 Any future development approval for Community Title subdivision of the land would only permit clearing for the road access. This is a requirement of the CMA under the *Native Vegetation Act 2003* which is recognised in the proposed LEP amendment.

Upon completion of the access construction and any other requirements of future development consent, Council may release the linen plan. At this time Council can accept development applications for individual dwellings on the lots. It is unlikely that Council will receive a dwelling application for each of the

allotments at the same time.

Council will assess clearing involved with each development application for dwellings and ensure the retention of sensitive ecological attributes and habitat.

Report Implications:

• **Environmental**

The proposed LEP amendment provides an alternative option to an eleven (11) 40ha lot subdivision which is currently permitted under the LEP. With appropriate management regimes the community title subdivision is expected to provide a more sustainable solution in comparison to a standard subdivision.

• **Social**

N/A

• **Economic (Financial)**

N/A

• **Policy or Statutory**

Pursuant to s68 of the Environmental Planning and Assessment Act, Council is required to forward all submissions and other relevant information to the Director General of the Department of Planning for concurrence and approval by the Minister.

• **General Managers or Directors Review**

RECOMMENDATION:

The proposed LEP amendment and material as referred to in s68 of the Environmental Planning and Assessment Act 1979 be forwarded to the Director General of the Department of Planning for concurrence and the Minister for approval.

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R B Pitt
DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES