

## 8.0 ENVIRONMENT DIVISION REPORTS

<b>ITEM 8.1</b>	<b>OXFORD FALLS VALLEY AND BELROSE NORTH STRATEGIC REVIEW - STAGE 1</b>
<b>REPORTING MANAGER</b>	<b>GROUP MANAGER STRATEGIC PLANNING</b>
<b>TRIM FILE REF</b>	<b>2014/210974</b>
<b>ATTACHMENTS</b>	<b>1 Council Resolution 5 June 2012 (Included In Attachments Booklet)</b> <b>2 Study Area Map (Included In Attachments Booklet)</b> <b>3 WDAP Report 18 June 2014 (Included In Attachments Booklet)</b> <b>4 Minutes WDAP 18 June 2014 (Included In Attachments Booklet)</b> <b>5 Environmental Constraints Map (Included In Attachments Booklet)</b> <b>6 Consideration of Submissions to WDAP (Included In Attachments Booklet)</b> <b>7 Consideration of Submissions Received Post WDAP (Included In Attachments Booklet)</b> <b>8 Five Option Maps (Included In Attachments Booklet)</b> <b>9 Map and Table of Proposed Additional Permitted Uses (Included In Attachments Booklet)</b>

---

### EXECUTIVE SUMMARY

---

#### PURPOSE

To advise Council of the outcomes of Stage 1 of the Oxford Falls Valley and Belrose North Strategic Review (the Strategic Review) and recommend that Option 1 be developed into a Planning Proposal to bring land in Oxford Falls Valley and Belrose North into Warringah Local Environmental Plan 2011 (WLEP2011).

#### SUMMARY

In July 2012 Warringah Council and the New South Wales Department of Planning and Environment (the Department) commenced work on Stage 1 of the Strategic Review to inform how a Planning Proposal should bring land in Oxford Falls Valley and Belrose North into WLEP2011.

Extensive consultation and research was undertaken to prepare the draft Strategic Review Report. The draft Strategic Review Report was publicly exhibited from 22 June to 30 August 2013 and consideration of the submissions resulted in a recommendation where the majority of the land would be zoned E3 – Environmental Management (Option 1).

Following on from the development of Option 1, Options 2, 3, 4 and 5 (Attachment 8) are also tabled based on opinions from the (former) Minister for Planning and Infrastructure (the Minister), the Warringah Development Assessment Panel (WDAP) and a residents association as follows:

Option 2: A compromise between Option 1 and the (below) Ministers opinion.

Option 3: The Ministers opinion that any land zoned E3 (under Option 1) that contains 'no-to-moderate' environmental constraint should remain deferred.

- Option 4: WDAP recommendation that all land remain deferred pending Stage 2 of the Strategic Review.
- Option 5: Warringah Urban Fringe Association (WUFA) recommendation to maintain all R2, R5, SP2 and RU4 zoned land as identified in Option 2, however, also zone large areas of land RU4 (where this land is proposed to be zoned E3 under Option 1 and 2).

This Report provides an analysis of all five options and recommends that Council resolve to support Option 1 to be developed as a Planning Proposal to proceed to a Gateway Determination.

---

## RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT

That Council:

- A. Prepare a Planning Proposal to bring land in Oxford Falls Valley and Belrose North into Warringah Local Environmental Plan 2011 generally in accordance with Option 1 as outlined in Council Report dated 26 August 2014 with the key amendments being:
1. The majority of land zoned E3 with smaller areas of land zoned R2, R5, RU4 and SP2 as identified in Option 1 of the attached Five Option Maps (attachment 8).
  2. Schedule 1 Additional Permitted Uses being amended, as identified in Map and Table of Proposed Additional Permitted Uses (attachment 9).
  3. Amendment to Clause 6.6; 3(b) to ensure a dwelling house will continue to be permitted on certain land as permitted under WLEP2000.
- B. Submit the Planning Proposal to the New South Wales Department of Planning and Environment for a Gateway Determination.
-

---

## REPORT

---

### BACKGROUND

In December 2011 the Minister deferred land in Oxford Falls Valley and Belrose North from the WLEP2011 in response to stakeholder concern regarding the adequacy of consultation during the preparation of WLEP2011 (Attachment 2). Therefore, planning controls under Warringah Local Environmental Plan 2000 (WLEP2000) continue to apply to the deferred land.

The transfer of planning controls from WLEP2000 into WLEP2011 is required in accordance with the NSW Governments 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 (Attachment 1), and to report the results of Stage 1 back to Council. The purpose of this report is to advise Council of the outcomes of Stage 1 of the Strategic Review.

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:

**Stage 1:** The purpose of the Stage 1 Strategic Review Report has been to recommend an appropriate set of zoning and planning controls to transfer from WLEP2000 into WLEP2011, and to engage the community in the process. Through this initial stage it was never intended to significantly change the urban development potential of land in Oxford Falls Valley and Belrose North.

**Stage 2:** The purpose of Stage 2 is to investigate the urban development potential of land as recommended by the New South Wales Planning and Assessment Commission (PAC) in its 2009 report of the Strategic Review of four sites in Oxford Falls Valley for urban development. Stage 2 was planned to commence once deferred lands have been consolidated into WLEP2011.

### Stage 1 – Strategic Review

The following points briefly outline the steps taken that have resulted in the tabling of five options to bring land in Oxford Falls Valley and Belrose North into WLEP2011, one of which must be selected by Council in order to complete Stage 1 of the Strategic Review:

1. Initial stakeholder consultation by Council and the Department including a community information evening and site visits of all private landholdings within the study area. Receipt of stakeholder submissions throughout this process.
2. Preparation of a draft Strategic Review Report that recommends how to transfer planning controls from WLEP2000 into WLEP2011 (Attachment 3).
3. Public exhibition by the Department of the draft Strategic Review Report from 22 June until 30 August 2013.
4. 124 submissions were received by the Department (Attachment 3).
5. The Department prepared a Submissions Report (Attachment 3) on the exhibited draft Strategic Review Report. The submissions report details:
  - The community engagement / public exhibition process undertaken.
  - Consideration of issues raised by submissions.

- Recommended land use controls for inclusion in a Planning Proposal, to bring land in Oxford Falls Valley and Belrose North into WLEP2011 (**Option 1**).
6. A letter from the Minister dated 17 March 2014 provided an opinion that any land zoned E3 (under Option 1) that contains 'no-to-moderate' environmental constraint should remain deferred (Attachment 3). Following on from discussions with the Minister, Council staff proposed an alternative zoning map as a compromise between the Minister's opinion and Option 1, to prevent the continued deferral of land in Warringah (**Option 2**).
  7. On 15 May 2014 the Department sent a media release (Attachment 3) to all stakeholders re-stating the Minister's opinion dated 17 March 2014. (**Option 3**). This is inconsistent with the Department's recommended land use controls outlined in Option 1.
  8. On 18 June 2014, the above mentioned Planning Proposal Options 1 and 2 were presented to WDAP for an independent public hearing and opinion. WDAP subsequently provided an opinion that all land should remain deferred pending Stage 2 of the Strategic Review, for reasons as detailed in the WDAP report (Attachment 4) (**Option 4**).
  9. WUFA submitted their preferred zoning map as a submission to WDAP (Attachment 8) (**Option 5**).
  10. 39 submissions have been received since the WDAP meeting was publicised up until close of business on 28 July 2014. These submissions have been considered as an attachment to this report (Attachment 6 and 7).

### Options Analysis

Analysis of the five options is detailed below, with Option 1 recommended to Council as the preferred option to be developed as a planning proposal to proceed to a Gateway Determination.

#### **OPTION 1 – Outcome of Strategic Review / Submissions Report**

Option 1 would result in the following key amendments to WLEP2011:

- The majority of land zoned E3 with smaller areas of land zoned R2, R5, RU4 and SP2 (Attachment 8).
- Schedule 1 Additional Permitted Uses being amended, as identified in Attachment 9.
- Amendment to Clause 6.6; 3(b) to ensure a dwelling house will continue to be permitted on certain land as permitted under WLEP2000.

#### ***Analysis***

- Determination of zonings has been based on a detailed strategic planning analysis using the best available information at the time, as outlined in the Strategic Review Report and Submissions Report. (Attachment 3).
- The E3 zone is the closest possible translation of the C8 and B2 localities under WLEP2000.
- Large contiguous areas of land would be zoned E3, protecting the environmentally sensitive attributes of the area as a whole.
- Option 1 would minimise the cumulative environmental impact of spot rezoning isolated parcels of land where the land is surrounded by bushland and/or vacant land or significantly constrained land often with limited existing infrastructure provisions to a zone other than E3. Noting that cleared land is not necessarily devoid of existing and future environmental value when viewed within the context of the surrounding area.
- Option 1 serves to protect the unique nature of Warringah's natural bushland and recognises the importance of its conservation for present and future generations, whilst enabling land

uses in the E3 zone such as dwelling houses, aquaculture, horticulture, extensive agriculture, farm buildings, community facilities, bed and breakfast accommodation, home business and home industries.

- WDAP notes that Option 1 would provide the best possible outcome to protect the land in the interim, however recommends the continued deferral of the land until the completion of Stage 2.
- It is important to note here that Stage 2 studies are to determine future urban development potential, not to transfer planning controls from WLEP2000 into WLEP2011. Stage 1 and 2 differ in purpose and required methodology. Given the difference in the style of planning controls under WLEP2000 compared to WLEP2011, completion of Stage 1 is required as a platform to undertake Stage 2.
- Option 1 would result in all land being governed by WLEP2011.
- By proceeding with this option, the Department may request deferral of certain land based on its press release or accept it based on their recommended Option 1. If Council does not support the Department's determination, Council can determine whether or not to proceed with a Planning Proposal at that point.

### **OPTION 2 - Compromise Between Option 1 and the Minister's Opinion**

Option 2 would result in the following key amendments to WLEP2011:

- Land zoned similar to Option 1, with the conversion of some land proposed to be zoned E3 to RU4, R5 and SP2 as detailed in the WDAP Report (Attachment 8).
- Schedule 1 Additional Permitted Uses to remain the same as those identified in Option 1.
- Amendment to Clause 6.6; 3(b) to remain the same as those identified in Option 1.

#### ***Analysis***

- Details of Option 2 were reported to WDAP as a compromise between Option 1 and the Minister's Option 3 (Attachment 3).
- Consideration in developing this option was given to large contiguous areas of land with 'no-to-moderate' environmental constraint, which are in close proximity to existing urban or rural development. These areas were proposed to be rezoned to RU4, R5 and SP2.
- Similar to Option 1, Option 2 would result in no deferred land remaining under WLEP2000.
- Similar to Option 1, Option 2 would ensure that large contiguous areas of land within Oxford Falls Valley and Belrose North will be zoned E3.
- WDAP's independent opinion is that Option 1 would provide the best possible outcome and protection of the land in the interim compared to Option 2, for reasons as outlined in the WDAP minutes ( i.e. RU4, Primary Production Small Lots, would introduce activities which could have potential environmental impacts).
- It is recommended that Council support WDAP's preference for Option 1 as it is based on the detailed draft Strategic Review Report and Submissions Report.

### **OPTION 3 –Minister's Opinion**

Option 3 would result in the following key amendments to WLEP2011:

- Land would be zoned similar to Option 1, however, it would continue to defer land proposed to be zoned E3 that contains a 'no-to-moderate' level of environmental constraint to development (Attachment 8).

- Schedule 1 Additional Permitted Uses to remain the same as those identified in Option 1.
- Amendment to Clause 6.6; 3(b) to remain the same as those identified in Option 1.

### **Analysis**

- This option is based on the Minister's opinion (Attachment 3) that any land proposed to be zoned E3 in Option 1 (above) that contains 'no-to-moderate' environmental constraint, should remain deferred pending further evidence based planning and validation of environmental significance.
- In response to the Minister's opinion, Council staff believe that the project control group operated by the Department did undertake a detailed strategic analysis and validation of environmental significance based on the best available information at the time to determine the proposed zonings under Option 1.
- One perceived benefit of Option 3 is that land identified as having a 'prohibitive, severe or significant' level of environmental constraint, as identified on the environmental constraint map (Attachment 5) would proceed to be zoned E3.

The following concerns are raised with this option:

(1) Deferring land from WLEP2011:

- Continuing to defer land will undermine the key purpose of Stage 1 of the Strategic Review which is to have all land within Warringah governed by one WLEP2011.
- The transfer of planning controls from WLEP2000 into WLEP2011 is required in accordance with the NSW Governments Standard Instrument (LEP) Order 2006.
- Operating under two LEPs is a duplication of Council's management and operational resources. It is not necessary to continue to defer the land. The future urban development potential of the area will be determined through Stage 2 of the Strategic Review. Zoning of the land under Stage 1 will not prevent consideration of future urban development potential and alternative zonings under Stage 2.

(2) Properties containing a combination of an E3 Zone and "Deferred Land" are problematic:

- This option would result in a large number of lots that are partially zoned E3 and partially 'Deferred land'.
- This option would result in piecemeal land zoning controls which is not conducive to strategically planning how the area as a whole is to develop over time.
- There are many instances where a small portion of a lot would be 'Deferred Land' that is surrounded by bushland and/or vacant land or significantly constrained land. Deferral of such land is not supported - the E3 Zone is recommended.
- It is not considered appropriate to defer small portions of individual parcels of land differently to the surrounding area based on the fact that the land is in part cleared. Cleared land is not necessarily devoid of existing and future environmental value when viewed within the context of the surrounding area.
- An increase in properties that contain split zone/deferred land that do not follow lot boundaries will increase the complexity of the development assessment process and the provision of Section 149 Planning Certificates.
- Deferring land that adjoins land proposed to be zoned R2 is of concern as this may enable seniors housing on the deferred land where seniors housing is currently not permissible. If



this option was to be selected, it is recommended that land covered by the R2 zone also remain deferred until the overall zoning for the area has been established.

#### **OPTION 4 – Warringah Development Assessment Panel Opinion**

Option 4 would result in no amendments to WLEP2011 until the completion of Stage 2 of the Strategic Review.

##### ***Analysis***

- WDAP notes that Option 1 would provide the best possible outcome and protection of the land in the interim, however recommends the continued deferral of the land until the completion of Stage 2.
- Stage 2 would involve undertaking several studies to determine the future urban development potential of land in accordance with the recommendations of the PAC report.
- Stage 2 studies are to determine future urban development potential. Stage 2 will not involve the transfer of planning controls from WLEP2000 into WLEP2011. Therefore, Stage 1 must be completed. Repeating Stage 1 in the future would be a duplication of cost, resources and time with a similar level of opposition.
- Determination of zonings has been based on a comprehensive strategic analysis of the best available information at the time, as detailed in the draft Strategic Review Report. All submissions were considered by the Submission Report and this resulted in the recommendation of Option 1. Undertaking 'Rigorous detailed site-by-site assessments' as noted by WDAP (Recommendation -13) beyond that which has been already been undertaken is not considered an effective use of resources, as this is highly unlikely to alter the overall zoning recommendations for how the area as a whole should develop over time, based on a transfer planning controls from WLEP2000 into WLEP2011.
- Council does not have budget to undertake Stage 2 studies in the near future.
- Timing of Stage 2 could commence and be guided by the outcomes of the Warringah Local Planning Strategy which will strategically determine the appropriate location for increased urban development within the whole of Warringah. The Local Planning Strategy will commence in 2015.
- Issues relating to the continued deferral of land as outlined under Option 3 are also applicable to this option.

Note: The minutes of WDAP in recommendation 1, makes reference to the Draft Metropolitan Strategy 2031 stating that "*Oxford Falls Valley – Belrose North area is identified as an area of rich environmental significance and an asset that Sydney must retain and protect.*"

The statement in the WDAP minutes directly reflect a statement made in the draft Strategic Review report Section 2.2, which was written and placed on exhibition by the Department of Planning in June 2013. The Draft Metropolitan Strategy 2031 does not directly make this specific statement, however it is the author's interpretation of how the Draft Metropolitan Strategy 2031 relates to this area. This has been confirmed with the Panel and does not affect the final recommendations contained in the minutes.

#### **OPTION 5 – Warringah Urban Fringe Association Opinion**

Option 5 would result in the following key amendments to WLEP2011:

- Maintain all R2, R5, SP2 and RU4 zoned land as identified in Option 2, however, also zone large areas of land RU4 (where this land is proposed to be zoned E3 under Options 1 and 2) (Attachment 8).

- Schedule 1 Additional Permitted Uses being amended, as identified in Option 1.
- Amendment to Clause 6.6; 3(b) to ensure a dwelling house will continue to be permitted on certain land as permitted under WLEP2000.

### **Analysis**

- WUFA is one of a several lobby groups to the Strategic Review. WUFA predominantly comprises of private landowners of deferred land within Oxford Falls Valley and Bellerose North.
- Land zonings recommended by WUFA are supportive of selective parcels of land, to a zone other than E3, i.e. either RU4 or R5.
- Attachment 6 includes WUFA's submission and argument in support of this option.
- WUFA's option does not align with Option 1, 2, 3 or 4 as it would result in vast areas of land that have a 'Prohibitive' level i.e. not 'Low to Moderate' level of environmental constraint (Attachment 5) being zoned RU4 Primary Production Small Lots.
- In many instances WUFA's option proposes to zone land RU4 where the land is surrounded by bushland and/or vacant land or significantly constrained land. Often the additional land proposed to be zoned RU4 is relatively isolated from urban development, has limited infrastructure provisions and/or access to services. As raised by WDAP, the RU4 zone would make permissible new landuses which would potentially create environmental impacts.
- The primary objective of the RU4 zone is to support agricultural / food production and to minimise fragmentation and alienation of lands important for food security. In contrast, the E3 Zone would serve to protect the unique nature of Warringah's natural bushland, recognising the importance of its conservation for present and future generations whilst enabling land uses similar to that which currently operate on these parcels of land such as dwelling houses, aquaculture, horticulture, extensive agriculture, farm buildings, community facilities, bed and breakfast accommodation, home business and home industries. Therefore, the E3 Zone is recommended for these parcels of land compared to the RU4 zone proposed by WUFA.
- It is not recommended to zone individual parcels of land differently to the surrounding area based on the fact that the land is in part cleared. Cleared land is not necessarily devoid of existing and future environmental value when viewed within the context of the surrounding area.
- The proposed zoning of some areas of land to RU4 under WUFA's proposal (notably land to the east of Forest Way) that adjoins land proposed to be zoned R2 under Option 1 is of concern as this would enable applications to be made for seniors housing on environmentally sensitive land where seniors housing is currently not permissible.

### **CONSULTATION**

Extensive consultation has been undertaken as outlined under 'Stage 1- Strategic Review' above, this includes but is not limited to:

- A public information evening
- Site visits to all private land holdings in the area
- Receipt and consideration of submissions throughout the project
- Public exhibition and consideration of 124 submissions
- WDAP independent public hearing and opinion



- This Council Meeting
- Consideration of an additional 39 submissions received pre and post WDAP up to 28 July 2014. No amendments to this Council Report are recommended as a result of a consideration of these submissions (Attachment 8).

If Council resolves to proceed with a Planning Proposal, a further statutory public exhibition period will also occur in the Post-Gateway Process.

#### **TIMING**

If Council resolves to proceed with the submission of a Planning Proposal to the Department, it is estimated that it may take up to nine months for WLEP2011 to be amended. Noting that the Department's timeframes are largely out of Council's control.

If Council resolves to continue to defer the land pending the commencement of Stage 2 the timing will be dependent on available Council budget.

#### **FINANCIAL IMPACT**

Proceeding with the proposal through Gateway determination can be undertaken within Strategic Planning's budget and resources.

#### **POLICY IMPACT**

Nil