



**Item No:** 2.2  
**Title:** Planning Proposal 84/2015 - 2,14 and 24 Collingwood Drive and 107 Matcham Road, Matcham  
**Department:** Environment and Planning

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26 April 2017 Ordinary Council Meeting

D12629626

**Report Purpose:**

The purpose of this report is for Council to consider a planning proposal which seeks to amend the *Interim Development Order Number 122 – Gosford (IDO 122)* by rezoning the subject lots from 7(a) Conservation and Scenic Protection (Conservation) to 7(c2) Conservation and Scenic Protection (Scenic Protection – Rural Small Holdings).

This report recommends that Council prepare an amended planning proposal and request a gateway determination from the NSW Minister for Planning.

**Recommendation:**

- 1 That Council consult with the owners of Lot 12 DP 576336 No 14 Collingwood Drive, Matcham to seek their support to be included in the revised planning proposal as recommended by staff.**
- 2 That Council prepare, subject to the outcome of Recommendation 1 above, a planning proposal to amend the *Interim Development Order Number 122*, to rezone the land listed below from 7(a) Conservation and Scenic Protection (Conservation) to 7(c2) Conservation and Scenic Protection (Scenic Protection – Rural Small Holdings), pursuant to Section 55 of the *Environmental Planning and Assessment Act 1979*:
  - a) Lot 11 DP 576336 No 24 Collingwood Drive, Matcham;**
  - b) Lot 12 DP 576336 No 14 Collingwood Drive, Matcham;**
  - c) Lot 2 DP 561283 No 2 Collingwood Drive, Matcham;**
  - d) Lot 13 DP 576336 No 7 Matcham Road, Matcham.****
- 3 That Council forward the planning proposal to the NSW Minister for Planning requesting a gateway determination, as well as requesting delegation for Council to finalise and make the draft *Local Environmental Plan*, pursuant to s. 56(1) of the *Environmental Planning and Assessment Act 1979*.**
- 4 That Council undertake community and public authority consultation in accordance with the gateway determination requirements.**
- 5 That Council consider a further report on the results of the public authority and community consultation.**

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**6 That Council request from the NSW Department of Planning & Environment delegations for the Chief Executive Officer (or delegate) to finalise and make the draft Local Environmental Plan.**

**The Site**

The Planning Proposal sought by the applicant applies to three (3) lots comprising Lot 11 DP576336 (No 24) Collingwood Drive, Lot 2 DP561283 (No 2) Collingwood Drive, and Lot 13 DP576336 (No 107) Matcham Road, Matcham (land shaded red in Figure 1). The land has a total area of 6.06 Ha. The three (3) parcels of land respectively contain one (1) dwelling and associated structures and dams. The land contains a mix of cleared and vegetated areas located on varying slopes with some parts of the subject land having slopes over 20%.

The submitted proposal would result in fragmentation of zoning controls within the area by leaving an isolated lot on the northern side of Collingwood Drive still zoned 7(a) Conservation and Scenic Protection (Conservation). It is therefore recommended that this additional property, Lot 12 DP 576336 (No 14) Collingwood Drive, be included in the planning proposal. This additional parcel of land has similar environmental qualities and represents a logical boundary to define the area proposed to be rezoned. The total area of land affected by the revised planning proposal is 8.08 Ha.



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**Figure 1:** Locality Plan (Sites subject of the Planning Proposal application are shown shaded red and the additional lot proposed to be included in the planning proposal is shown shaded green)

The four (4) lots included in the planning proposal are zoned 7(a) Conservation and Scenic Protection (Conservation) under *IDO 122* (Figure 2). The 7(a) zoned land occupies a ridge and side slopes that runs in an east-west direction with land on the southern side of Collingwood Drive and on the eastern side of Matcham Road also being within the 7(a) Conservation and Scenic Protection (Conservation) zone.

Land on the footslopes to the north and south of the 7(a) Conservation and Scenic Protection (Conservation) zoned land is zoned 7(c2) Conservation and Scenic Protection (Scenic Protection – Rural Small Holdings) (Figure 2).



**Figure 2:** Zoning under *IDO 122* showing the additional lot proposed to be included in the Planning Proposal

Surrounding properties in the vicinity are generally developed for rural residential purposes as shown in the aerial photograph (Figure 3).



**Figure 3:** Locality Context Aerial (Sites subject of the application are shown edged in red and additional Lot 12 DP 576336 proposed to be included in the Planning Proposal shown edged in blue)

### The Proposal

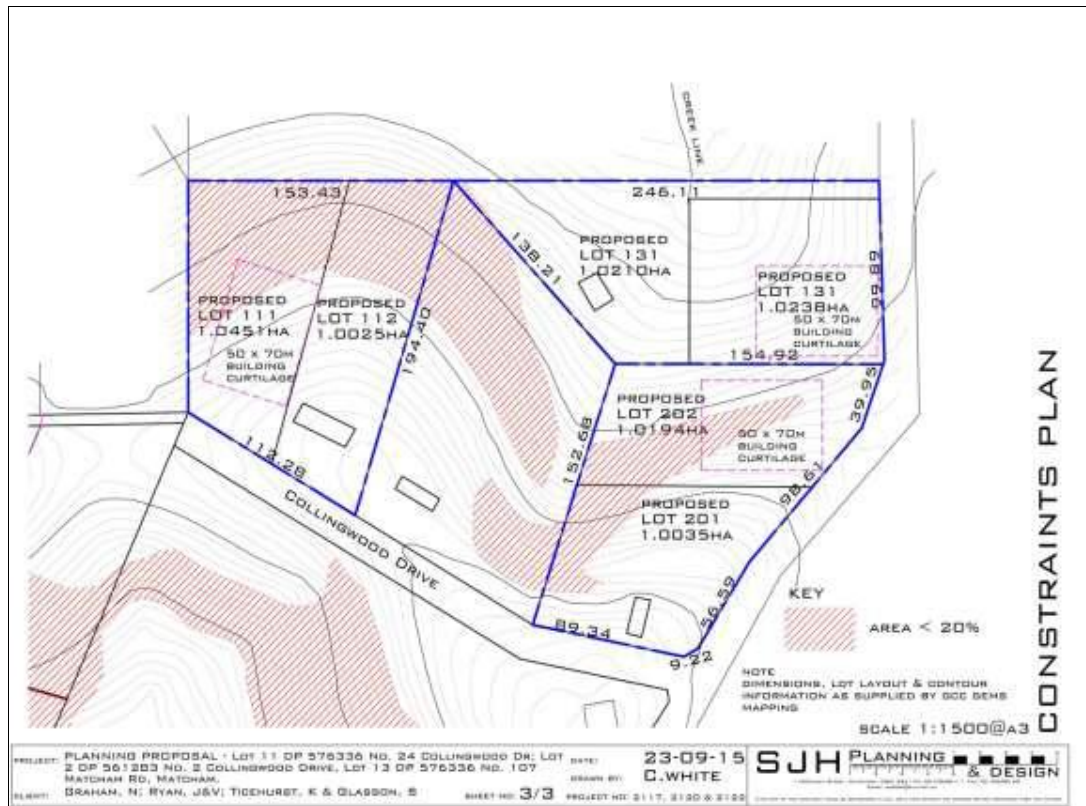
The planning proposal as lodged, seeks to rezone three (3) lots of land, being 2 and 24 Collingwood Drive and 107 Matcham Road, Matcham (refer land shaded in red in Figure 1) from 7(a) Conservation and Scenic Protection (Conservation) to 7(c2) Conservation and Scenic Protection (Scenic Protection – Rural Small Holdings) under the IDO 122 (see Figure 2). Through the assessment of the application, it is recommended that the adjoining site, No. 14 Collingwood Road, Matcham, be included as part of the proposed development (refer Assessment for further discussion).

The planning proposal now being considered seeks to rezone four (4) lots of land (inclusive of the recommended additional lot) to 7(c2) Conservation and Scenic Protection (Scenic Protection – Rural Small Holdings) under IDO 122 to enable these sites to be subdivided into smaller 1 hectare allotments through a development application under the provisions of the bonus lot subdivisions within clause 18(4)(b) of IDO 122. The lots are currently about 2 Ha each.



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The applicant has provided a preliminary subdivision plan (excluding the additional lot) demonstrating a possible future subdivision pattern (refer Figure 4).



**Figure 4:** Preliminary Subdivision Plan

### Assessment

The rezoning of the subject land to 7(c2) Conservation and Scenic Protection (Rural Small Holdings) has strategic merit on the basis that:

- The existing lots do not satisfy the objectives of land zoned 7(a) Conservation and Scenic Protection (Conservation);
- The existing lots achieve the 7(c2) Conservation and Scenic Protection (Rural Small Holdings) zone objectives in that the existing lots reflect a rural residential character that supports the overall aesthetic and scenic value of the Matcham area;
- Future subdivision of the sites if allowed (subject to a separate development application assessment) would enable 1 Ha lots consistent with the character of the area, subject to detailed assessment under Section 79C of the *EP&A 1979*;

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- The 7(c2) Conservation and Scenic Protection (Rural Small Holdings) zone is consistent with adjoining lands.

### **Urban Planning**

#### *Land use*

On 23 November 2016, Council resolved to prepare a Consolidated Central Coast Local Environmental Plan (*Consolidated CCLEP*). The *Consolidated CCLEP* would replace the existing *Wyong Local Environmental Plan 2013 (WLEP 2013)*, *Gosford Local Environmental Plan 2014 (GLEP 2014)*, *Gosford Planning Scheme Ordinance (GPSO)* and the *Interim Development Order No. 122 – Gosford (IDO 122)*.

Importantly, the *Consolidated CCLEP* would be formatted using the *Standard Instrument Local Environmental Plan (SILEP)*, which does not include or enable bonus lot provisions such as those which currently exist under *IDO 122*.

In accordance with the Council resolution of 23 November 2016, a planning proposal for a Consolidated Central Coast Local Environmental Plan was submitted to the NSW Department of Planning and Environment (DPE) on 31 March 2017. This planning proposal was supported by an 'Environmental and Urban Edge Zones Review' of the "deferred matters" under *IDO 122*. This review, recommends that the subject sites be rezoned to E4 – Environmental Living in the *Consolidated CCLEP*. Under this zone, the minimum lot size would be 2 hectares (as is the current provision). However, subdivision as envisaged by the applicants would not be allowed under the Consolidated Central Coast Local Environmental Plan.

The outcome of the *Consolidated CCLEP* is consistency in the approach to subdivision across environmental zoned lands on the Central Coast. It is advised that the former Wyong Shire Council addressed this same issue (i.e. removal of the bonus lot provision) when *WLEP 2013* was adopted. Currently, subdivision of environmentally zoned lands in the former Wyong Shire Council Local Government Area must comply with the minimum lot sizes.

The rezoning of the land to 7(c2) Conservation and Scenic Protection (Rural Small Holdings) zone is consistent with the zone objectives recommended in the 'Environmental and Urban Edge Zones Review' which identifies the site as a future E4 – Environmental Living Zone on a *Consolidated CCLEP*.

The basis for inclusion of 14 Collingwood Drive (Lot 12 DP 576336) to the planning proposal is that this additional parcel of land has similar environmental qualities and represents a logical boundary to define the area proposed to be rezoned.

*Development Standards*

The minimum subdivision size for land zoned 7(a) is 40 Ha. The minimum subdivision size for land zoned 7(c2) Conservation and Scenic Protection (Scenic Protection – Rural Small Holdings) is 2 Ha. The minimum subdivision size may be reduced to 1 Ha if the conservation incentive clause under 18 (4) (b) of the *IDO 122* is used.

The planning proposal does not make changes to any development standards under *IDO 122*. Furthermore, Council is unlikely to support any adjustments to the 2 Ha minimum lot size for E4 - Environmental Living zoned land under the *Consolidated CCLEP* to enable 1 hectare lots.

The basis for not supporting a mapped change to the development standard is that this approach does not reflect a consistent approach to lot sizes in the existing deferred lands and across environmentally zoned lands. Currently, subdivision below the minimum lot size is only enabled under clause 18(4)(b) of *IDO 122*. This provision will not exist in the *Consolidated CCLEP*, furthermore no such provision should exist until such time as a region wide approach to bonus lot provisions is adopted by Council. This would be more appropriately examined through the *Comprehensive Central Coast Local Environmental Plan (Comprehensive CCLEP)* which will occur after the finalisation of the *Consolidated CCLEP*. Until this occurs subdivision will need to comply with the existing two (2) hectare minimum lot size.

The bonus lot provision within *IDO 122* has provided funding for the Coastal Open Space System in the former Gosford City Council Local Government Area. However, until an adopted strategy is developed across the whole Central Coast Region a bonus lot provision is not proposed within the *Consolidated CCLEP*.

The *Consolidated CCLEP* is not be expected to be finalized until mid to late 2018, and as this planning proposal was lodged with the former Gosford City Council in September 2015 there is a reasonable expectation that the applicant be provided an opportunity to rezone the land under *IDO 122* and apply for a development application for subdivision prior to *IDO 122* being repealed. This opportunity is limited as the applicant will need to have the land zoned under *IDO 122* and a development application lodged prior to the commencement of the *Consolidated CCLEP*.

It is not the intention of Council to map the lands with a minimum lot size of 1 Ha under *Consolidated CCLEP*. It is also recognised that this approach is a result of lengthy period of assessment of the application, and this approach would not be supported for any new requests to rezone land to 7(c2) Conservation and Scenic Protection (Rural Small Holdings) under the *IDO 122*.

### ***Environmental Planning***

#### *Bushfire*

The subject land is bushfire prone and the proponent has provided a bushfire assessment report. This report has concluded that the current condition of the existing vegetation satisfies the requirements for an Asset Protection Zone in relation to the existing dwellings. There is also ample opportunity for each allotment to provide a subdivision design with building envelopes that would not require the removal of trees to satisfy the requirements of future Asset Protection Zones.

On the basis of the above study it is assumed for the purpose of this preliminary bushfire assessment the proposed additional parcel of land, 14 Collingwood Drive, Matcham (Lot 12 DP 576336), which has been incorporated into the planning proposal, will also be able to meet bushfire requirements. This site has similar qualities of the land with surrounding sites which were included in the original planning proposal. Further comments from the Rural Fire Service will be sought prior to public exhibition of the planning proposal.

#### *On-Site Wastewater Disposal and Environmental Health*

An on-site effluent disposal feasibility report was carried out to show that each future lot can accommodate the required waste disposal measures. This assessment concluded that on-site disposal of treated wastewater on each new allotment is feasible subject to detailed site investigations on each allotment and Council approval. Also, a preliminary review of the subject properties identified that no additional tree removal is likely to be required to accommodate an on-site sewage management system.

On the basis of the above study it is assumed for the purpose of this preliminary assessment, that the proposed additional Lot 12 DP 576336 (which will be incorporated into the planning proposal) would also have feasible options available due to similar land characteristics.

#### *Flora and Fauna*

It is unlikely that the proposal will have a significant impact on threatened species, populations, ecological communities or their habitats subject to the retention of the large eucalypts on the site. The environmental assessment has concluded that a detailed flora and fauna assessment is not required.

Council's Environmental Assessment Officer raised no objection to the planning proposal subject to future development not requiring tree removal for onsite effluent disposal, asset protection zones and/or building envelopes.

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### **Statutory Compliance and Strategic Justification**

In May 2016 the DP&E issued guidance for merged Councils on planning functions. In accordance with these guidelines, merged Councils are to continue to progress planning proposals with strategic merit. This planning proposal is consistent with the guidelines and is appropriate to be progressed.

The proposal has been assessed having regard for all State Environmental Planning Policies, Ministerial s.117 Directions and the relevant guidelines set out within the regional plans including the Central Coast Regional Plan 2036.

The request is considered to be consistent with these considerations and suitable for forwarding to the Minister for Planning for a gateway determination.

### **Internal Consultation**

The planning proposal was referred to the following staff within Council.

- Ecology Assessment Officer/Section Manager Environmental Strategies;
- Environmental Health Officer;

No objections were raised to the planning proposal proceeding and issues raised are reflected in the issues assessment section of this report.

### **External consultation**

Government agency and public consultation requirements will be detailed in the gateway determination and conducted accordingly. It is anticipated that the following agencies will need to be consulted:

- NSW Rural Fire Service
- NSW Office of Environment and Heritage;

### **Budget Impact**

There are no immediate budget impacts as the assessment of the planning proposal will be funded by the proponent in accordance with Council's adopted fees and charges.

### **Conclusion**

The request to rezone the subject site for rural residential development is considered to have merit. Preliminary assessment of the proposal indicates that the site is suitable for such development.

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An assessment of the request has not identified any issues that would prevent Council seeking a gateway determination for this proposal.

It is therefore considered that a planning proposal should be prepared and forwarded to the NSW Minister for Planning for a gateway determination.

**Attachments**

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|----------|------------------------------|-----------|
| <b>1</b> | Summary of Planning Proposal | D12636075 |
| <b>2</b> | Strategic Assessment         | D12648463 |

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