



**Item No:** 2.1  
**Title:** Planning Proposal Application - RZ/3/2019 - 45  
Mulloway Road Chain Valley Bay  
**Department:** Environment and Planning

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23 March 2020 Ordinary Council Meeting

Trim Reference: RZ/3/2019 - D13749206

Author: Rodney Mergan, Senior Strategic Planner

Manager: Karen Tucker, Acting Unit Manager, Strategic Planning

Executive: Scott Cox, Director Environment and Planning

### **Report Purpose**

The purpose of this report is for Council to consider a request to prepare a Planning Proposal to amend *Wyong Local Environmental Plan 2013* (WLEP) or *draft Central Coast Council Local Environmental Plan* (CCLEP) (if in effect) for 45 Mulloway Road, Chain Valley Bay.

This report recommends that Council prepare a Planning Proposal and request a Gateway Determination from the Department of Planning, Industry and Environment (DPIE).

### **Recommendation**

- 1** *That Council, pursuant to Section 3.33 of the Environmental Planning and Assessment Act, 1979, prepare a Planning Proposal applying to Lot 5 DP 1228880 (45 Mulloway Road, Chain Valley Bay) to rezone the subject sites from E3 Environmental Management to RE2 Private Recreation and E2 Environmental Conservation by amending the Wyong Local Environmental Plan 2013 (or Central Coast Local Environmental Plan), whichever is in effect at the time.*
- 2** *That Council, pursuant to Section 3.34 of the Environmental Planning and Assessment Act, 1979, forward the Planning Proposal to the Minister requesting a Gateway Determination.*
- 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 undertakes public authority and community consultation in accordance with the Gateway Determination requirements.*

- 5 That Council authorise staff to negotiate, prepare and exhibit a Planning Agreement with respect to any aspect of the proposal to support the development of the subject land.**
- 6 That Council authorise staff to prepare and exhibit site specific development controls with respect to any aspect of the proposal to support the development of the subject land.**
- 7 That Council consider a further report on the results of public authority and community consultation.**

### **The Site**

The subject land (figure 1) is known as 45 Mulloway Road Chain Valley Bay, Lot 5 DP 1228880.

The site has an area of 10.61 Hectares (Ha) and can be divided into three distinct areas:

- a dwelling and ancillary development to the north of the site,
- a generally cleared area predominately used for rural purposes through the majority or middle of the site, and
- a heavily vegetated area along the southern boundary of the site.



**Figure 1- Aerial Photo - Subject site and surrounding land**

Surrounding land uses include:

- a Manufactured Home Estate (MHE) to the west,
- State Recreation Area to the north,
- vacant vegetated land to the east and south currently subject to a planning proposal for residential development. Land to the south is separated from the subject site by Karignan Creek.

## The Proposal

The proposal seeks to amend the *Wyong Local Environmental Plan 2013* (WLEP 2013), or future Central Coast Local Environmental Plan (CCLEP) as follows:

- Rezone the subject sites from E3 Environmental Management to part RE2 Private Recreation and part E2 Environmental Conservation.

The proposal does not propose to alter the existing minimum lot size applicable to the subject site, being 40 ha.

The intended outcome is to enable the construction of a MHE on the site. The proposal looks to accommodate approximately 190 home sites, communal open space, communal hall and recreation facilities.

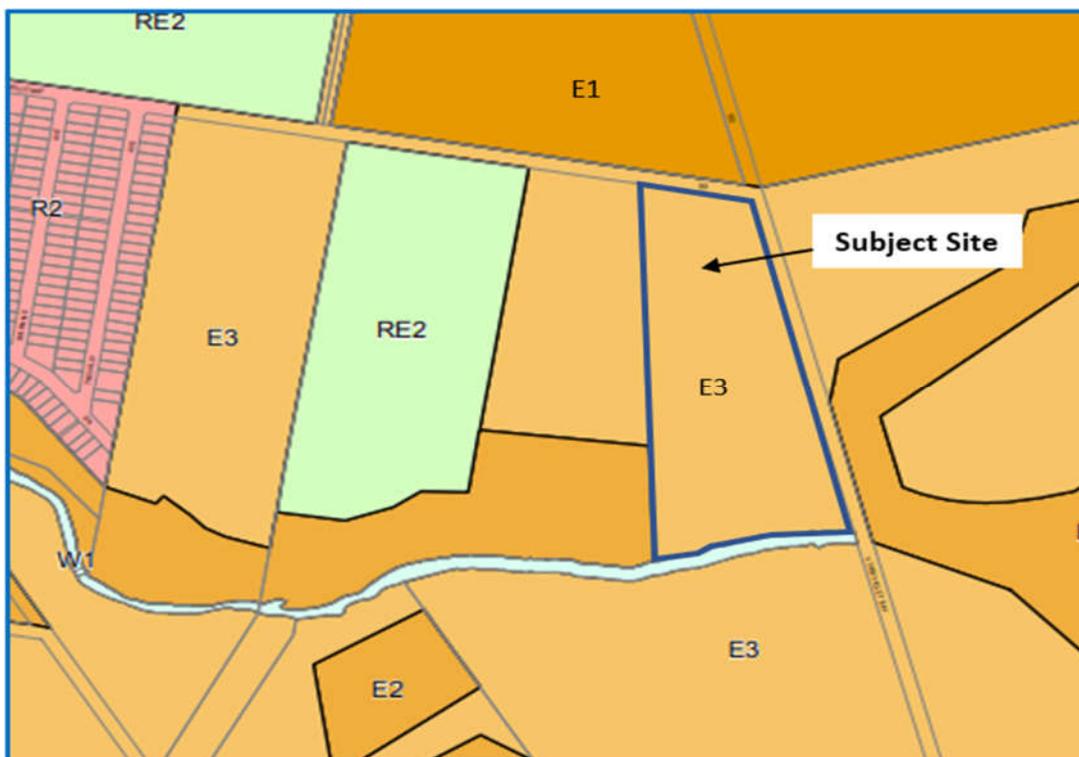


Figure 2 – Current Zoning Map

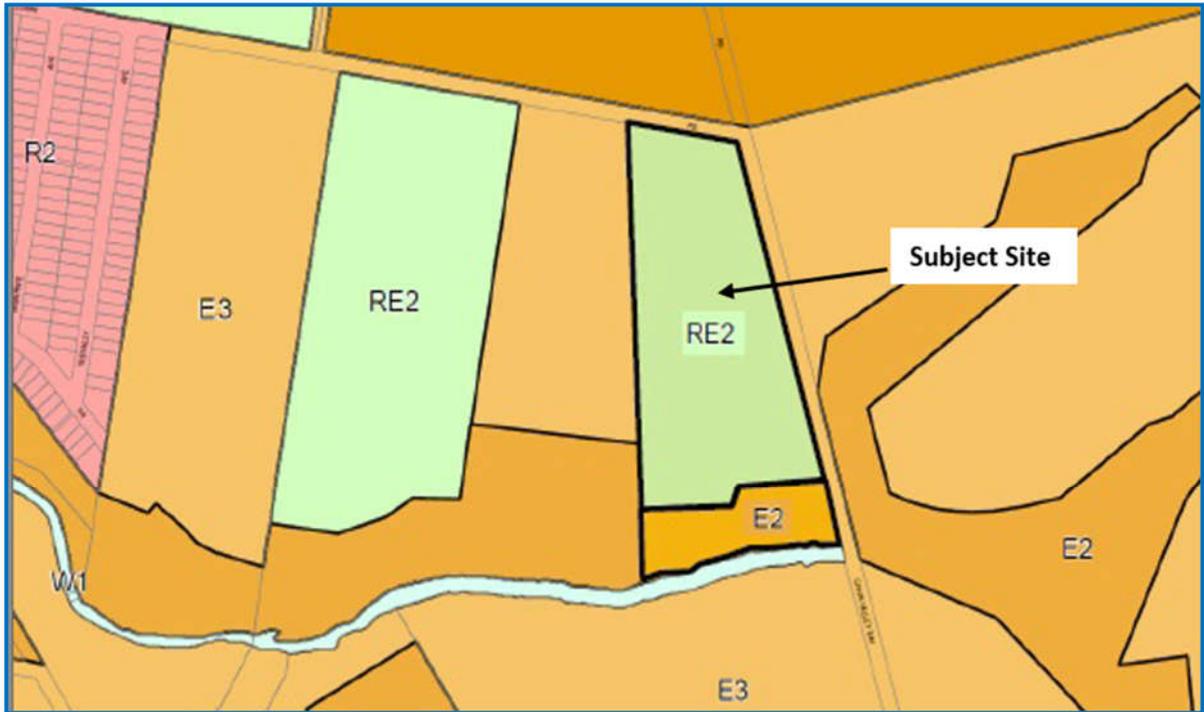


Figure 3 – Proposed Zoning

### Assessment

The rezoning of the subject land to RE2 Private Recreation and E2 Environmental Conservation has strategic merit on the basis that:

- The proposed amendment is consistent with actions in the *Central Coast Regional Plan (CCRP) 2036*, aligning specifically with Goal 3- Well-connected communities and attractive lifestyles and Goal 4- A variety of housing choice to suit needs and lifestyles.
- The proposal is consistent with the requirements of the Department Planning, Industry and Environment (DPIE's) North Wyong Shire Structure Plan (NWSSP), see Figure 4.

This plan identifies the site is required for future residential purposes. The current timing had identified the staging of the development within the long-range timeframe (land will not be zoned before 15 years), this timing can be revised due to new information relating to underlying mining constraints which are no longer an impediment to surface land release. This means that the release of the land can be accelerated, subject to appropriate funding arrangements being put in place to manage infrastructure and servicing issues associated with increasing the population in the locality.

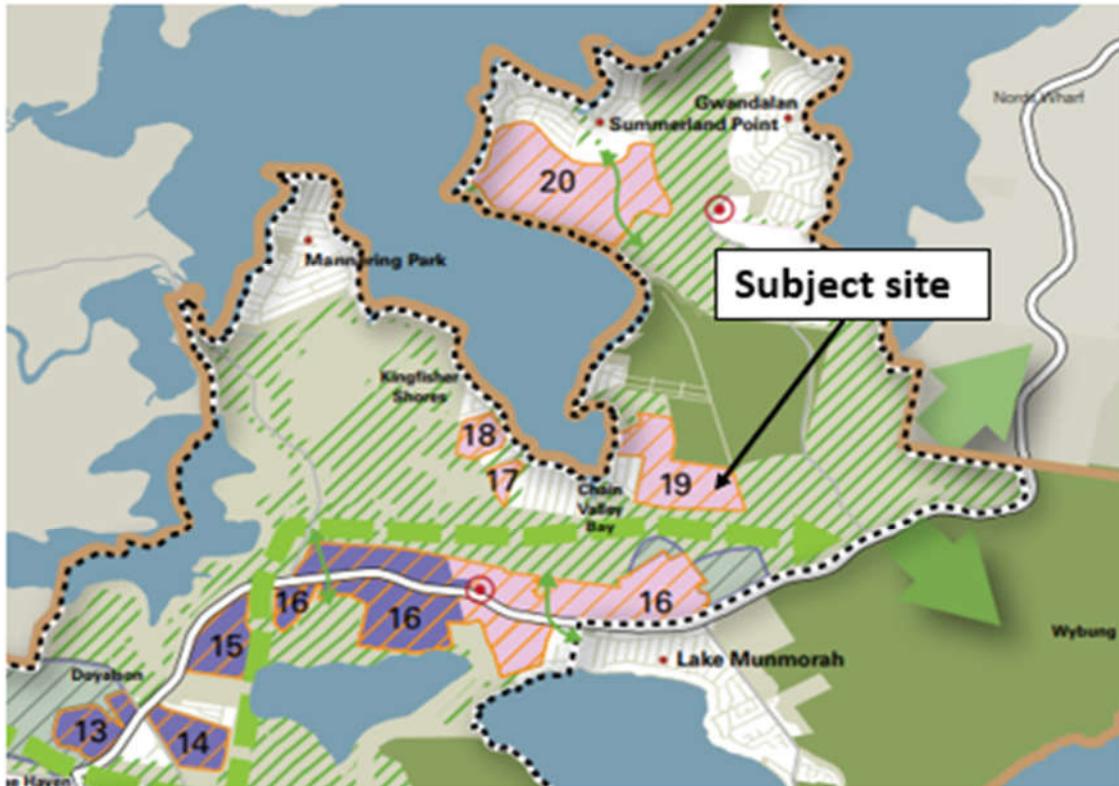


Figure 4 – Extract – North Wyong Shire Structure Plan

- The proposal is consistent with the draft Greater Lake Munmorah Structure plan, see Figure 5, which was publicly exhibited between 1 April 2019 to 26 May 2019.

The area to be rezoned is identified within the Draft Greater Lake Munmorah Structure Plan located within Precinct 7 Chain Valley Bay,

The draft Greater Lake Munmorah Structure Plan facilitates the delivery of 2,885 additional lots, the subject proposal will provide an additional 190 home sites.

The site is partially nominated as a green corridor and habitat network by the NWSSP. That portion of the site proposed to be zoned E2 Environmental Conservation aligns with the high-level mapped boundary of the green corridor.



**Figure 5 – Draft Greater Lake Munmorah Structure Plan, Precinct 7 – Chain Valley Bay**

- The applicant has provided relevant supporting studies. These studies have been reviewed through the internal consultation process and are considered appropriate for submission with a request for a Gateway Determination. Once a suitable degree of certainty is provided by a Gateway Determination being issued, appropriate draft planning agreements to address issues such as roadworks and servicing can be completed prior to public consultation.

### **Internal Consultation**

Internal consultation has been undertaken regarding the proposed Planning Proposal and is summarised below.

### **Environmental Strategies**

Clearing of vegetation would be required to facilitate the proposed development of the site for a MHE. While vegetation removal would generally occur as part of a development application process that would follow the completion of the planning proposal, Council must be satisfied that the proposal can reasonably meet the requirements of *State Environmental Planning Policy (SEPP) (Vegetation in Non-Rural Areas) 2017* and the *Biodiversity Conservation Act 2016*.

A review of information submitted in support of the proposal has confirmed that the proposal seeks to impact on approximately 0.32 ha of Swamp Sclerophyll Forest and 0.92 ha of Narrabeen Doyalson Coastal Woodland and potentially impact on the vegetated southern end of the site. The proposal triggers entry into the Biodiversity Offset Scheme (BOS) via impacting areas highlighted on the BV map and exceeding the area clearing threshold.

### **Water Planning and Development**

The site is connected to mains water supply.

The site is connected to a nearby sewer main and pumping station. Upgrade works in this area are identified in the Development Servicing Plan with the timing of this upgrade to be confirmed. Any additional contributions for upgrade works can be negotiated through an agreement between Council and the applicant.

### **Environmental Health - Land Contamination**

The proponent has addressed the requirements under *SEPP No. 55 - Remediation of Land* by providing a Preliminary Contamination Assessment.

The findings of this contamination assessment recommend a detailed contamination assessment be undertaken with remedial actions, where necessary. It has been determined that if all "Areas of Concern" identified in the report are addressed prior to the release of any subdivision certificate the land can be remediated to a suitable condition for the proposed MHE.

### **Social Planning**

There is concern relating to residents being unable to access the services they need due to the large population increase in an area that is already underserved and while there is need for more affordable housing on the Central Coast, it must be well planned and well located to avoid negatively impacting on residents.

### **Contributions**

The site is subject to the Northern Districts Section 7.11 Contribution plan. Contributions will be payable for manufactured home sites for Open Space, Community Facilities and Administration.

Any road upgrades required as a result of this development would be subject to agreement between the applicant, Council or Transport for NSW depending on the works required.

### **Development Engineering (Traffic)**

It has been acknowledged that the intersection of Pacific Highway and Chain Valley Road is already at capacity and requires a significant upgrade. The Roads and Maritime Services

(RMS) will not support the creation of additional lots requiring access to this intersection until the intersection has been upgraded. There are several planning proposals concurrently being considered in this area and all parties are to contribute to the completion of the required works through agreement with Transport for NSW.

In addition, there will be local road and associated upgrades required to facilitate the proposed MHE, the cost of which will be borne by the applicant through conditions of consent.

### **Council Site Inspection**

A site inspection was undertaken on 2 March 2020. The site inspection was attended by Council staff and the following Councillors:

- Mayor – Councillor Lisa Matthews
- Deputy Mayor - Councillor Jane Smith
- Councillor Chris Holstein

The following matters were raised and discussed during the site inspection:

1. The southern area of the site is identified as a Regional Wildlife Corridor. What width is this corridor and could it be widened on this site?

The subject site includes a small part of a regional wildlife corridor which includes vegetated land north of the creek. The regional corridor identified in the CCRP is also located on land owned by the Darkinjung LALC to the south of the site. The final width of the regional wildlife corridor is not yet agreed upon in this location and is a relevant consideration in developing a Structure Plan for the DLALC Lake Munmorah residential rezoning (further to the south). Regional wildlife corridors are generally wider than local corridors and are normally several hundred metres in width.

It was confirmed that an increase in corridor (E2 zone) width on the site could be discussed with the applicant (with a splayed design response to better align with the position of E2 zones on adjoining land).

2. Can Council lobby for an improvement in public transportation servicing in the area given the impact that this and other proposals in the area may have?

The State Government are aware of emerging issues in the area and this proposal is one of several developments which will be contributing to required intersection upgrades at the intersection of Chain Valley Bay Rd and the Pacific Highway.

The proposal will be referred to Transport for NSW for comment/consideration and will address the need for a coordinated approach to public transport in the area.

3. Are there plans for improve recreation facilities and other services for this area?

Facilitated for in the draft GLMSP and a revision of the relevant S7.11 Contribution Plan is also underway.

4. Will the existing residential accommodation and ancillary structures be staying?

The entire site is proposed to be zoned RE2 and eventually all existing development will be replaced.

### **External Consultation**

Government agency and public consultation requirements will be detailed in the Gateway Determination and undertaken accordingly.

It is anticipated due to the existing development, the proposal and the location that several external agencies including the following will need to be consulted:

- Department of Transport (formerly Transport NSW and Roads and Maritime Services)
- Department of Planning, Industry and Environment
- Department of Family and Community and Justice (former Rural Fire Service NSW)
- Subsidence Advisory NSW
- Darkinjung Local Aboriginal Land Council
- Guringai Tribal Link

It is expected that the Planning Proposal will be publicly exhibited for a period of 28 days.

### **Statutory compliance and strategic justification**

The Planning Proposal has been assessed having regard for relevant State Environmental Planning Policies (SEPPs), Ministerial Section 9.1 Directions and relevant guidelines set out within the regional and local plans, including the Central Coast Regional Plan (Attachment 2). The proposal is considered to be generally consistent with the applicable directions and SEPPs.

### **Financial Impact**

The direct cost to Council is the preparation of the Planning Proposal and Council's fee has been paid for this service. Council's Fees and Charges allow for an hourly rate for staff time beyond the scheduled fee to be charged where required.

### **Social Impacts**

It has been identified that the area is currently quite poorly serviced and is not equipped to accommodate the increase in population envisaged by the development of this type.

It is noted that the draft Lake Munmorah Structure Plan envisages the development of this site and surrounding sites and provides for improved servicing of the area.

### **Environmental Impacts**

Some clearing of vegetation would be required to facilitate the proposed development of the site for a MHE. As the area of the site over which development is proposed is not densely vegetated, it is considered that required offsetting or redesign can be undertaken and further addressed following Gateway Determination.

The site is partially nominated as a green corridor and habitat network by the NWSSP. That portion of the site proposed to be zoned E2 Environmental Conservation aligns with the high level mapped boundary of the green corridor.

### **Link to Community Strategic Plan**

Theme 3: Green

#### **Goal F: Cherished and protected natural beauty**

G-F2: Promote greening and the wellbeing of communities through the protection of local bushland, urban trees, and expansion of the Coastal Open Space System (COSS).

Theme 4: Responsible

#### **Goal I: Balanced and sustainable development**

R-13: 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 associated with the proposed amendment to WLEP 2013 or the CCLEP.

## **Conclusion**

The request to rezone the subject land is considered to have strategic merit, subject to being supported by appropriate studies and infrastructure funding arrangements being in place to manage impacts associated with the additional population arising from future development.

It is recommended that a Planning Proposal be prepared and forwarded to the Minister for Planning for a Gateway Determination.

**Subject:** Planning Proposal Application - RZ/3/2019 - 45 Mulloway Rd Chain Valley Bay

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**Moved:** Councillor Best  
**Seconded:** Councillor Holstein

**Resolved**

- 288/20 ***That Council, pursuant to Section 3.33 of the Environmental Planning and Assessment Act, 1979, prepare a Planning Proposal applying to Lot 5 DP 1228880 (45 Mulloway Road, Chain Valley Bay) to rezone the subject sites from E3 Environmental Management to RE2 Private Recreation and E2 Environmental Conservation by amending the Wyong Local Environmental Plan 2013 (or Central Coast Local Environmental Plan), whichever is in effect at the time.***
- 289/20 ***That Council, pursuant to Section 3.34 of the Environmental Planning and Assessment Act, 1979, forward the Planning Proposal to the Minister requesting a Gateway Determination.***
- 290/20 ***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.***
- 291/20 ***That Council undertakes public authority and community consultation in accordance with the Gateway Determination requirements.***
- 292/20 ***That Council authorise staff to negotiate, prepare and exhibit a Planning Agreement with respect to any aspect of the proposal to support the development of the subject land.***
- 293/20 ***That Council authorise staff to prepare and exhibit site specific development controls with respect to any aspect of the proposal to support the development of the subject land.***
- 294/20 ***That Council consider a further report on the results of public authority and community consultation.***
- 295/20 ***That Council notes the need for Roads and Maritime Services to upgrade the intersection of Pacific Highway and Chain Valley Road.***

**For:**  
Mayor Matthews, Councillors Best, Burke,  
Gale, Greenaway, Holstein, Marquart,  
McLachlan, Mehrtens, Pilon, Smith and  
Sundstrom

**Against:**  
Councillors Hogan and MacGregor



**Item No:** 4.2  
**Title:** Request for Amendment - Planning Proposal  
RZ/3/2019 - 45 Mulloway Road Chain Valley Bay  
**Department:** Environment and Planning

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3 February 2021 Extraordinary Council Meeting

Reference: RZ/3/2019 - D14457744  
Author: Rodney Mergan, Senior Strategic Planner  
Scott Duncan, Section Manager, Land Use and Policy  
Manager: Shari Driver, Unit Manager, Strategic Planning  
Executive: Scott Cox, Director Environment and Planning

### **Report purpose**

To enable Council to consider an amendment to an endorsed Planning Proposal.

### **Executive Summary**

This report provides an assessment of the merits of amending a Planning Proposal endorsed by Council 23 March 2020 relating to 45 Mulloway Road Chain Valley Bay.

This Planning Proposal seeks to rezone the site from E3 Environmental Management to part RE2 Private Recreation and part E2 Environmental Conservation to permit the construction of a Manufactured Housing Estate (MHE) and provide for the conservation of environmentally significant land.

Negotiations between the applicant and the landowner have been complicated by the landowner's wish to retain the ownership of the existing dwelling house on the northern part of the site. The proposal currently seeks to rezone the majority of the site, including the existing dwelling and surrounds, to the RE2 Private Recreation and retain the current 40Ha minimum lot size.

It is proposed to amend the Planning Proposal to apply the R2 Low Density Residential Zone over approximately 1 Ha at the northernmost end of the site and reduce the area of the site to be rezoned RE2 accordingly. No change to the area of land to be rezoned E2 is proposed.

This modification to the Planning Proposal requires an amended Council resolution and Gateway Determination. The proposed variation to the original Planning Proposal will provide for a better balance of housing choice and that opportunities to manage any land uses conflicts can readily be addressed by good subdivision design and layout.

### **Environment and Planning Recommendation**

- 1 *That the Planning Proposal endorsed under Resolutions 288/20 to 295/20 be modified to rezone the subject sites from E3 Environmental Management to RE2 Private Recreation, E2 Environmental Conservation and R2 Low Density Residential by amending the Wyong Local Environmental Plan 2013 (or Central Coast Local Environmental Plan), whichever is in effect at the time.*
- 2 *That Council request an amendment to the current Gateway Determination from the Department of Planning, Industry and Environment (DPIE) to include the R2 Low Density Residential Zone.*

## **Background**

Refer to Attachment 1 - Report to Council 23 March 2020.

Following consultation with Council, DPIE and external consultation authorities, the applicant is currently preparing additional studies and information required for public exhibition

## **Report**

The applicant has provided amended information indicating how the R2 land can be subdivided and serviced in the future (Attachment 2). It is also proposed that a minimum lot size of 450m<sup>2</sup> be applied to the R2 zone.

The proposed addition of the R2 zone to this Planning Proposal increases the potential for a variety of residential land uses possible on the subject site. In issuing a Gateway Determination, the DPIE encouraged Council to investigate the use of the R2 zone on the site. DPIE have been made aware of the proposed change to this Planning Proposal and have indicated they will consider a request for an amended Gateway Determination.

## **Consultation**

The Gateway Determination lists external authorities to be consulted during the public exhibition of the planning proposal. Preliminary consultation with these authorities has already occurred and is helping to guide information required for public exhibition. These authorities will be further consulted, as required, during the public exhibition phase. If the proposed amendment is supported, this consultation information will include a revised Planning Proposal which will include amended and additional information as required and a revised zoning and minimum lot size map to support the proposed R2 zone.

## **Financial Considerations**

At its meeting held 19 October 2020, Council resolved the following:

- 1036/20 *That any motions put before Council for the remainder of this term of Council that have financial implications require the Chief Executive Officer to provide a report on how those additional costs will be met.*

The following statement is provided in response to this resolution of Council.

Planning Proposals are identified under Council's Fees and Charges and staff time is charged at an hourly rate. Any additional work required to complete this Planning Proposal as a result of this variation will be at no cost to Council.

### **Link to Community Strategic Plan**

Theme 4: Responsible

### **Goal I: Balanced and sustainable development**

R-13: 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 associated with the proposed amendment.

### **Options**

- 1 Adopt as per the recommendations of the report. **Recommended**
- 2 Allow the Planning Proposal to continue as endorsed by Council 23 March 2020. **Not Recommended** as without a resolution of issues between the landowner and the applicant, the current Planning Proposal is unlikely to be completed.
- 3 The option of applying other land use zonings or controls could be explored. **Not Recommended** as has previously been explored and could not appropriately accommodate retaining the dwelling house permissibility, MHE construction and subdivision.

### **Critical Dates or Timeframes**

There are no identified critical dates or timeframes.

### **Attachments**

1	Planning Proposal Application - RZ/3/2019 - 45 Mulloway Road Chain Valley Bay - Report	Provided Under Separate Cover	D13749206
2	Proposed Subdivision Layout and Preliminary Assessment	Provided Under Separate Cover	D14435476

**FOR ACTION**

**Ordinary Meeting**

**3/02/2021**

To: Director Environment and Planning (Cox, Scott)

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**Subject:** Request for Amendment - Planning Proposal RZ/3/2019 - 45 Mulloway Road Chain Valley Bay  
**Author:** <AUTHORNAME>  
**Target Date:** 17/02/2021

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Moved: Mr Persson AM

**15/21 Resolved**

- 1 *That the Planning Proposal endorsed under Resolutions 288/20 to 295/20 be modified to rezone the subject sites from E3 Environmental Management to RE2 Private Recreation, E2 Environmental Conservation and R2 Low Density Residential by amending the Wyong Local Environmental Plan 2013 (or Central Coast Local Environmental Plan), whichever is in effect at the time.*
  
- 2 *That Council request an amendment to the current Gateway Determination from the Department of Planning, Industry and Environment (DPIE) to include the R2 Low Density Residential Zone.*