

ITEM 12

TALLAWARRA LANDS - SUBMISSION TO ENVIRONMENTAL ASSESSMENT REGARDING THE CONCEPT PLAN - PART 3A MAJOR PROJECT APPROVAL

The NSW Department of Planning and Infrastructure is seeking comments on a Concept Plan application for a mixed use development at Tallawarra.

This report provides Council with background information to the rezoning of the site, discussion on the Concept Plan and a draft submission.

Recommendation

The draft submission on Major Project 2009/131 at Tallawarra (Attachment 4) be endorsed for finalisation by the General Manager and submitted to the NSW Department of Planning and Infrastructure.

Attachments

- 1 Aerial Photograph and Cadastre of the site.
- 2 Proposed land use zoning overlay for Concept Plan.
- 3 Department of Planning and Infrastructure Exhibition Advice.
- 4 Draft response to Environmental Assessment.
- 5 Part 3A Process Flowchart.
- 6 Previous response to draft Director-General's Environment Assessment Requirements dated 14 October 2009.

Report Authorisations

Report of: Mark Riordan, Manager City Planning
Director: Andrew Carfield, Director Planning and Environment

Background

The Tallawarra site consists of seventeen (17) properties covering 580 hectares on the foreshore of Lake Illawarra between Koonawarra and Haywards Bay (Attachment 1).

Under the Wollongong Local Environmental Plan 2009 the land is zoned:

Zoned	Area (hectares)
R2 Low Density Residential	71.09
R5 Large Lot Residential	9.38
B1 Neighbourhood Business	5.46
B6 Enterprise Corridor	16.46
B7 Business Park	20.60
IN1 General Industrial	76.42
IN2 Light Industrial	12.01
E2 Environmental Conservation	110.86
E3 Environmental Management	188.42
SP2 Infrastructure – Power Station	40.00
SP3 Tourist	2.49
RE1 Public Recreation	21.98
TOTAL	574.57

The site was used as a Coal Fired Power Station between 1954 and 1989. In 2003, the NSW Government sold the site to a private energy supplier, with an approval to construct a Combined Gas Turbine Power Station, which was opened in 2009. A second gas-fired power plant (Stage B) has also been approved but has not been constructed. The power station and buffer occupy 40 hectares of the site.

Following a submission by TRUenergy seeking to rezone the remaining portion of the site, Council at its meeting on 12 September 2005 resolved to prepare a draft Local Environmental Plan for the Tallawarra lands. The resolution indicated that Council intended to consider a range of land uses for the site, but did not specify the particular land use zonings that would be used, as more detailed studies were required in order to prepare a Local Environmental Study (LES), which would better inform Council as to a range of suitable land uses and zones for the site.

The Local Environmental Study process commenced in April 2006, being coordinated by Willana Associates who were engaged by the land owner. A Project Control Group (PCG) was set up to oversee the preparation of the Local Environmental Study. The Project Control Group comprised of representatives from Wollongong City Council, the Department of Planning, the Premier's Department and TRUenergy. Council and the State agencies emphasised the need for employment land and environmental outcomes.

Council considered a report on the Tallawarra Local Environmental Study at its meeting on 2 April 2007 and resolved:

- 1 *The Tallawarra Lands Local Environmental Study be adopted for the purposes of informing the preparation of a draft Local Environmental Plan.*
- 2 *A draft Local Environmental Plan be prepared for the Tallawarra site to amend the draft Wollongong Local Environmental Plan 2007.*
- 3 *The draft Local Environmental Plan be referred to the relevant statutory authorities for further consultation under Section 62 of the Act.*

Council at its meeting on 7 May 2007 considered a further report on the proposed draft Local Environmental Plan and resolved that:

- 1 *The draft Wollongong Local Environmental Plan 2007 be amended for the Tallawarra Power Station site in accordance with Attachments 1 and 2.*
- 2 *The draft amendments be referred to the Department of Planning and statutory authorities for review under sections 54 and 62 of the Environmental Planning and Assessment Act 1979.*
- 3 *The draft amendments be exhibited with the draft Wollongong Local Environmental Plan 2007.*

A further review of the proposal, undertaken by the Administrators in 2008, resulted in a reduction of the extent of residentially zoned land at Wollongurry Point.

The draft Wollongong Local Environmental Plan 2009 was exhibited for four (4) months from 10 December 2008 to 17 April 2009. One thousand four hundred and twenty three (1,423) submissions were received commenting on the draft Local Environmental Plan, of which thirty two (32) submissions commented on the rezoning proposal of Tallawarra.

Council considered the issues raised in submissions on Tallawarra at its meeting on 23 June 2009. The report recommended that the rezoning and development of the Tallawarra site should be supported with modifications, including the deletion of residential zonings from the southern slopes of Tallawarra Point and the upper slopes of Mount Brown. These areas should revert to an E3 Environmental Management zoning.

The revised proposal equates to approximately:

Land Use	Exhibited	Revised
Power Station	30 ha	40 ha
Employment and Tourism	130 ha	130 ha
Residential	130 ha	80 ha
Open Space	22 ha	23 ha
Environmental Conservation	261 ha	300 ha

The reduction of the residential zonings equated to a reduction of approximately 500 dwellings. It also provides a buffer to the power station consistent with the acoustic assessment prepared for the applicant, retains the current visual character of the Point and Mount Brown, and reduces the impact of residential development on the northern part of the site.

Council resolved (in part) that:

- 2 *The following exhibited rezoning proposals proceed with amendments, as part of the draft Wollongong Local Environmental Plan 2009:*
 - a *The exhibited rezoning of the Tallawarra Lands proceed, with the following amendments:*
 - i *A revised zoning pattern as shown in Attachment 1 of the report, that includes the deletion of residential zoning from the southern slopes to Tallawarra Point, the slopes of Mount Brown and adjacent to Haywards Bay, with these areas being zoned E3 Environmental Management, and RE1 Public Recreation zone on the foreshore of Wollingurry Point.*
 - ii *A local provision be included in the draft LEP requiring an independent site audit for asbestos prior to any residential development occurring within the Tallawarra Lands. The audit is to be funded by the proponent and supervised by Council.*
 - iii *A local provision be included in the draft LEP requiring satisfactory arrangements to be reached with council and the relevant statutory authorities for the provision of infrastructure to service development of the Tallawarra site, prior to residential, commercial or industrial development occurring.*
 - iv *A local provision be included in the draft LEP to provide a buffer around the power station to prevent conflicting land uses.*
 - v *The proponent be advised that the Tallawarra site masterplan is not formally endorsed and that a Development Control Plan is to be prepared to guide future development on the site.*
- 7 *A new local provision be included in the draft Local Environmental Plan requiring the preparation and adoption of a Development Control Plan for the following lands, prior to development consent being granted –*
 - a *Tallawarra lands, Yallah Bay Road.*

It is noted that the Department did not support the inclusion of resolutions 2.a.iii or 7.a. into the Local Environmental Plan.

The Wollongong Local Environmental Plan 2009 was approved by the Minister for Planning and came into force on 26 February 2010.

A Development Control Plan chapter incorporating a revised masterplan was not prepared as the proponent was required to pursue the development of the site through a Part 3A Major Project with the Department of Planning, as the land was adjacent to Lake Illawarra.

The proponent lodged a Major Project application on 25 June 2009 for a mixed use development on the site. The Department of Planning issued Director-General Requirements for the development on 28 September 2009. The proponent submitted the required documentation to the Department of Planning and Infrastructure in August 2011 and it is now on exhibition for community input.

Proposal

A Concept Plan on the Tallawarra Lands for a mixed-use development consisting of residential (approximately 1010 lots, together with 200 retirement dwellings), commercial, industrial (approximately 40ha) and retail development (approximately 16ha), public open space areas, new recreational facilities, environmental management, conservation areas and riparian corridors has been exhibited by the Department of Planning and Infrastructure (MP09_131)

Recent Legislative changes

On 1 October 2011, The Environmental Planning and Assessment Amendment (Part 3A Repeal) Act 2011 commenced, amending the Environmental Planning and Assessment Act 1979. These amendments include the repeal of the Part 3A 'major projects' system, and provide a new assessment pathway for State Significant Development and Infrastructure. Transitional arrangements are in place for those applications already in the Part 3A system.

As the Tallawarra Lands project has Director-General Requirements that are less than two years old and an environmental assessment that has been lodged, the declaration of Tallawarra Lands as a 'major project' has not been revoked. As such, determination of the application may be carried out by officers of the Department of Planning and Infrastructure or the Planning Assessment Commission. The Planning Assessment Commission determines an application where more than 25 members of the public have made a submission objecting to the application, or the Council for the area objects in writing to the application or a political donation disclosure statement has been lodged with the application. At this stage, the final determination pathway of this project is unknown. The Part 3A process flowchart is presented at Attachment 5.

Consultation and Communication

TRUenergy Tallawarra has submitted an Environmental Assessment (EA) for the proposed project in response to submissions made to the project proposal application

and issued Director-General requirements. The exhibition record of the EA is presented at Attachment 3.

Council upon receipt of the EA arranged for an exhibition copy to be placed within the Customer Service area for viewing by the public and sought further referral advice comments from all relevant divisions for compilation into the draft response presented at Attachment 4.

Planning and Policy Impact

Council is neither the determining or consent authority for this proposal and has considered planning and policy impacts within the draft response to the EA presented at Attachment 4 for consideration by the Director-General.

Conclusion

The NSW Department of Planning and Infrastructure is seeking comments on a Concept Plan application for a mixed use development at Tallawarra.

This report provides Council with the background information to the history of the rezoning of the site, information regarding a previous submission forwarded to NSW Department of Planning and Infrastructure, a Part 3A Process Flowchart and a draft submission to the Concept Plan as a result of the proponents Environmental Assessment.

On balance, Council's draft response identifies that there are a number of aspects of the Concept Plan that remain unresolved or for which further information is requested by Council to be considered by the Director-General prior to any project approval being granted for the proposal. The key issues include landuse zoning, traffic, environmental and social planning impacts.