

ITEM 2

DRAFT PLANNING PROPOSAL - FORMER CORRIMAL COKE WORKS SITE -
FORESHORE BUILDING LINE MAP AMENDMENT

On 1 November 2021, Council resolved to finalise the Planning Proposal for the former Corrimal Coke Works site to permit medium density residential development, and the Wollongong Local Environment Plan (LEP) 2009 (Amendment 50) was notified by the NSW Department of Planning and Environment on 29 April 2022. The Planning Proposal required the amendment of several maps. It has come to the attention of Council Officers that an error was made when finalising the Planning Proposal, with the required amendment of the Foreshore Building Line Map omitted.

This report recommends that Council resolve to prepare a draft Planning Proposal to amend the Foreshore Building Line Map in Wollongong LEP 2009 by deleting the mapped area from the former Coke Works site. The proposed map amendment will reflect the site's adopted Master Plan 2021 and planned realignment of North Corrimal Creek. The draft Planning Proposal will be submitted to the Department of Planning and Environment seeking a Gateway Determination to enable public exhibition.

This report also takes the opportunity for Council to note that notation are intended to be placed on Planning Certificates issued in the development area promoting awareness of the Grey-headed Flying-fox Camp and any future proposed on-site encapsulation of contaminated material.

RECOMMENDATION

- 1 A draft Planning Proposal be prepared to amend the Foreshore Building Line Map for the former Corrimal Coke Works site, to reflect the site's adopted Master Plan 2021 and the planned realignment of North Corrimal Creek.
- 2 The draft Planning Proposal be forwarded to the Department of Planning and Environment seeking a Gateway Determination to enable public exhibition.
- 3 The draft Planning Proposal be exhibited for a minimum period of 14 days, or as specified in the Gateway Determination.
- 4 A post exhibition report be prepared for Council's consideration.
- 5 The NSW Department of Planning and Environment be requested to issue authority to the General Manager to exercise plan making delegations, in accordance with Council's resolution of 26 November 2012.
- 6 That Council notes the intention to place notifications on Planning Certificates issued in the development area advising potential landowners of:
 - a The location of the Grey-headed Flying-fox Camp, and
 - b Any long-term Site Management Plan (SMP) required in association with any future proposed on-site encapsulation of contaminated material.

REPORT AUTHORISATIONS

Report of: Chris Stewart, Manager City Strategy

Authorised by: Linda Davis, Director Planning + Environment - Future City + Neighbourhoods

ATTACHMENTS

- 1 Pre Planning Proposal Riparian Map and Current Riparian Map
- 2 Current FBL Map and Proposed FBL Map

BACKGROUND

The former Corrimal Coke Works site is located at 27 Railway Street, Corrimal. It consists of four (4) lots and has an area of approximately 18.167 hectares. It is bounded by the main southern railway line on the east, Memorial Drive and residential buildings on the west, Railway Street to the north and Towradgi Creek and residential buildings to the south. The site is traversed by Towradgi Creek along the southern extent and North Corrimal Creek through the site.

On 1 November 2021, Council considered a post exhibition report and resolved to finalise the Planning Proposal for the former Corrimal Coke Works site to permit medium density residential development. On 29 April 2022, the Wollongong LEP 2009 (Amendment 50) was notified by the NSW Department of Planning and Environment (DPE). The Amendment has rezoned the site from IN3 Heavy Industrial and RE2 Private Recreation zoned land to RE1 Public Recreation, R3 Medium Density Residential and SP2 Infrastructure.

On 6 June 2022, Council adopted the Wollongong Development Control Plan (DCP) 2009 Chapter D19 Former Corrimal Coke Works.

The exhibited draft Planning Proposal and LEP amendment required the amendment of 10 maps to facilitate the residential development envisaged in the adopted Master Plan 2021, including -

- Land Zoning
- Minimum Lot Size
- Height of Buildings
- Floor Space Ratio
- Natural Resource Sensitivity – Biodiversity
- Riparian Land
- Foreshore Building Line Map
- Key Sites
- Urban Land Release Area, and
- Additional Permitted Uses.

However, it has come to the attention of Council Officers that a mapping error was made when seeking Gateway Determination and finalising the Planning Proposal, with the proposed amendment of the Foreshore Building Line Map omitted. This map amendment was not translated from the proponent's rezoning request and initial Council report to the draft Planning Proposal that was issued a Gateway Determination and placed on public exhibition. This error presents a barrier to the development proceeding and will require a new Planning Proposal to correct the mapping layer in Wollongong LEP 2009.

A key component of the Master Plan 2021 is the proposed realignment of the modified North Corrimal Creek to the western part of the site, designed to provide a flood free area for development and improve flood, stormwater and drainage on site and at Railway Street/Cross Street. The Flood and Geomorphological studies submitted incorporated modelling of future flood events and concluded that a realigned riparian corridor can be provided along the western edge of the site such that flood risk levels currently present on site can be significantly mitigated to enable a Probable Maximum Flood (PMF) event free area suitable for residential development, and adjoining lands up and downstream will have an improved or neutral impact.

On 5 August 2020, the (then) Department of Planning, Industry and Environment advised that, based on a review of the updated flood information provided, the draft Planning Proposal is consistent with Ministerial Direction 4.3 – Flood Prone Land, and this was reaffirmed through the review and notification of the LEP Amendment.

PROPOSAL

The Foreshore Building Line Map

The Foreshore Building Line Map is one of many map layers that sit within Wollongong LEP 2009, and that required amendment to enable the endorsed Corrimal Coke Works proposal to progress to development phase.

The original Planning Proposal submitted by the applicant in 2017 identified the need to amend both the Riparian Land Map and the Foreshore Building Line Map, to reflect the master planned nature of the site and proposed realignment of North Corrimal Creek. This requirement for both maps to be amended was included in the original report to Council on 3 April 2018 and included as an attachment (draft Planning Proposal) to that report. Unfortunately, this map amendment was omitted from the suite of maps included in the endorsed draft Planning Proposal that was issued a Gateway Determination and placed on public exhibition.

The purpose of the LEP amendment was to facilitate residential development in accordance with the adopted Master Plan 2021. All relevant maps and LEP clauses have been amended to facilitate this, except for the Foreshore Building Line Map, which was omitted by error.

The current Foreshore Building Line Map and application of Wollongong LEP 2009 Clause 7.7 has the effect of prohibiting works proposed on that part of the site mapped as being within the foreshore area. There is a need to rectify this error to enable the development of the site, as envisaged through the adopted Master Plan 2021 and Wollongong LEP 2009 (Amendment 50).

The Development Assessment team has advised that they will accept an initial Development Application for consideration of demolition of some structures not impacted by the Foreshore Building Line. Discussions, informed by legal advice, are ongoing between Council and the proponent to determine what other aspects of the Master Plan 2021 may be considered and determined prior to correction of the mapping error.

The Foreshore Building Line Map is proposed to be amended by deleting the foreshore building line and area on the site (see Attachment 2), to reflect the adopted Master Plan 2021 and proposed realignment of North Corrimal Creek.

The usual process for a draft Planning Proposal is that it is first referred to the Wollongong Local Planning Panel for advice prior to reporting to Council for a resolution to proceed. However, the Local Planning Panel Direction issued by Department of Planning and Environment (DPE) permits a draft Planning Proposal to be reported directly to Council if the General Manager determines that it relates to the correction of an obvious error in the LEP. Initial discussions have been held with DPE regarding use of these provisions and has indicated that this is an appropriate use of the Direction.

Given that the proposed Foreshore Building Line Map amendment was included in the submitted Planning Proposal application and the purpose of the draft Planning Proposal was to enable development to occur on the former Coke Works site in line with the adopted Master Plan 2021, the omission of the map amendment is an obvious error. The General Manager has accordingly determined that the Planning Proposal relates to an obvious error in the LEP.

The applicant will be required to submit further modelling and flood analysis in support of the submission of future development applications related to the realignment of North Corrimal Creek. It is anticipated that this further modelling and flood analysis will inform the need and location of any future Foreshore Building Line required for the site. If considered necessary, a future house-keeping Planning Proposal can be prepared to amend the Foreshore Building Line Map in Wollongong LEP 2009.

Notation on Planning Certificates

Previous reports to Council on the proposed development of the former Corrimal Coke Works site discussed the recommendation to include a notation on the section 10.7 Planning Certificates issued in the development area advising potential landowners of -

- 1 The location of the Grey-headed Flying-fox Camp.
- 2 Any long-term Site Management Plan required in association with any future proposed encapsulated contamination on site.

The submission received from DPE – Environment, Energy & Science included a recommendation that community awareness of the known Grey-headed Flying-fox Camp is critical, both in terms of the need to protect this threatened species and providing advice to residents on how to minimise amenity impacts.

The Remediation Action Plan (RAP) developed for the site (Arcadis May 2019) considered the possibility of on-site containment of contaminated material. Should this be the case, the RAP requires a notification be placed on the Planning Certificate advising residents of the long-term Site Management Plan (SMP) to promote awareness of the contamination management and the requirements to avoid disturbance. Any on-site containment would need to be placed under commercial buildings held in private ownership with an appropriate section 88B restriction placed on the Land Title and a section 10.7 (Planning Certificate) notation advising of the Site Management Plan.

Council resolution is not required to include notifications on Planning Certificates however, given the broad community interest in these two matters, providing advice to Council is considered to be warranted.

CONSULTATION AND COMMUNICATION

The exhibited draft Planning Proposal and accompanying technical studies to rezone the site were exhibited, including the 2018 Council report which stated the need to amend the Foreshore Building Line Map, and the original Planning Proposal submitted by the applicant (as an Attachment to that report).

Internal consultation with Council Officers has confirmed that the current Foreshore Building Line Map and application of Wollongong LEP 2009 Clause 7.7 has the effect of prohibiting the works proposed on the parts of the site mapped as being within the foreshore area and is hindering delivery of the site's adopted Master Plan 2021.

Council Officers have raised no concern with the removal of the Foreshore Building Line in terms of development issues, confirming that the site-specific DCP Chapter adopted by Council on 6 June 2022 and relevant Chapters of Wollongong DCP 2009 (including, but not limited to Chapters B2, E3, E7, and E13) contain development objectives and controls relevant to any development application.

Should Council resolve to prepare a draft Planning Proposal to amend the Foreshore Building Line Map, a Gateway Determination will be sought from the DPE. The Gateway Determination will stipulate the consultation requirements.

Councillors received a briefing on this matter on 10 October 2022.

CONCLUSION

On 1 November 2021, Council resolved to finalise the Planning Proposal for the former Corrimal Coke Works site to permit medium density residential development, and the Wollongong LEP 2009 amendment (Amendment 50) was notified by the NSW Department of Planning and Environment on 29 April 2022.

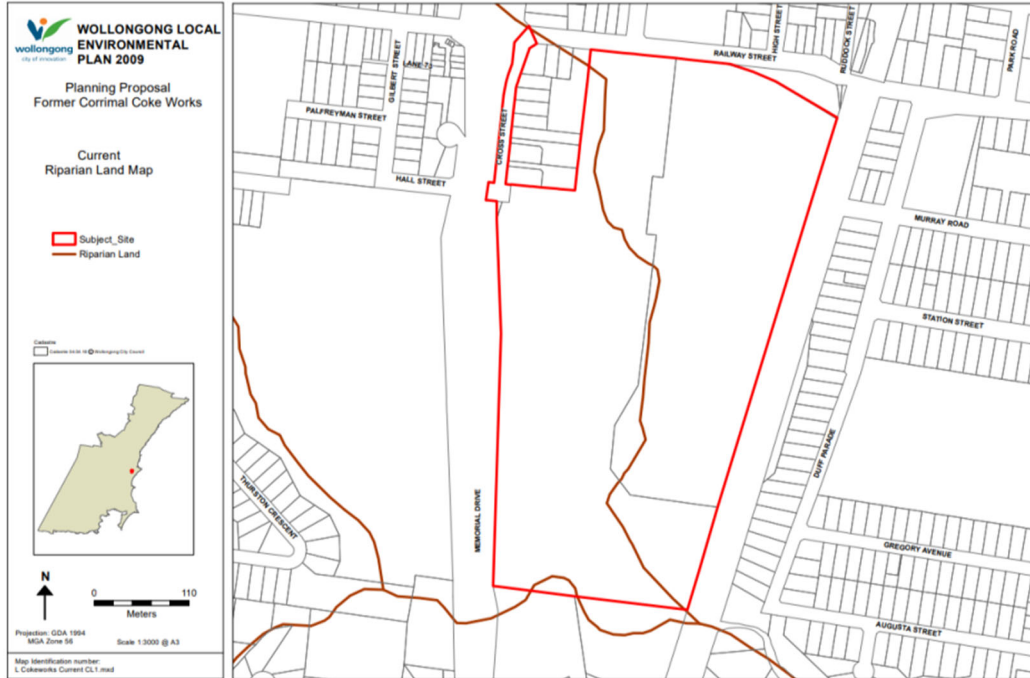
It has come to the attention of Council Officers that in finalising the Planning Proposal an error was made, with the required amendment of the Foreshore Building Line Map omitted.

An amendment to the Wollongong LEP 2009 is required to correct the mapping error to facilitate the development in accordance with the adopted Master Plan 2021 and Wollongong LEP 2009 (Amendment 50).

This report recommends that Council resolve to prepare a draft Planning Proposal to amend the Foreshore Building Line Map for the former Corrimal Coke Works site, to reflect the planned realignment of North Corrimal Creek, and submit it to the Department of Planning and Environment seeking a Gateway Determination to enable public exhibition.

The report also notes the intention to place a notation on Planning Certificates for the site in relation to the Grey-headed Flying-fox Camp and contamination management.

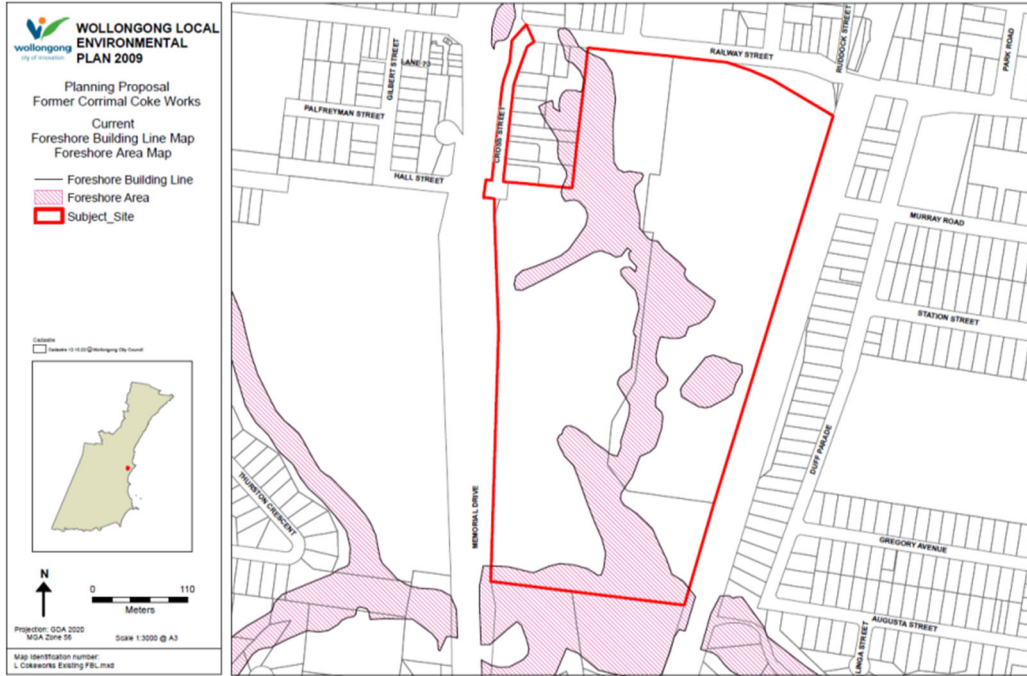
Pre Planning Proposal Riparian Lands Map sheet CL1_024



Current (Amended with Planning Proposal) Riparian Lands Map sheet CL1_024



Current Foreshore Building Line Map sheet CL1_024



Proposed Foreshore Building Line Map sheet CL1_024

