



## **D2.02**

# **REZONING OF LAND ZONED RURAL CONSERVATION 7(a)**



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### ENVIRONMENT AND PLANNING - INTEGRATED PLANNING

#### **POLICY OBJECTIVES**

##### **1 Rural Land Study**

In 1975 the former NSW Planning and Environment Commission, together with the Shires of Gosford and Wyong, undertook a study of all areas in the two Shires which did not at the time have an urban zoning. The reasons for the study were to address the following problems:-

- a A reduction in the area being farmed and a consequent increase in the area of unused land.
- b Rapidly increasing rateable values on rural land.
- c Destruction and deterioration of areas of high landscape and environmental value.
- d Growth of urban type activities in rural areas, including ribbon development along major transport routes.
- e A need to resolve the uncertainty in the interim period for landholders in areas ultimately required for urban expansion.

The report identified five categories of land as not suitable for any form of development that would disturb the natural environment:-

- i Steep slopes - problems of soil erosion, land slip, visually obtrusive;
- ii Ridgelines, Prominent Hills and Headlands - visual significance;
- iii Estuarine Wetlands and Permanently Waterlogged land;
- iv Coastal Dunes and Cliffs - erosion, visual significance, recreation potential;
- v Important Flora and Fauna Habitats - to ensure protection.

##### **2 Interim Development Orders 100 and 122**

The Rural Lands Study became the basis for Interim Development Order No 100 followed by Interim Development Order No 122. In respect to lands zoned Rural-Conservation 7(a) {now Conservation and Scenic Protection 7(a) (Conservation)} it provided that:-

- i a minimum lot size of 40 ha should apply for subdivision purposes.
- ii to uses which Council could grant consent to are restricted to agriculture, dwellings, home occupation, parks and gardens, public and other reserves and roads.

### **3 Coastal Open Space Program**

In recognition of the values of these lands, the Council undertook a further study in the late 1970's to identify areas of such importance that public ownership to provide protection in perpetuity is necessary. These lands form the Coastal Open Space System. Council may add lands to the system periodically based upon further studies and investigations.

However, the balance of land in the 7(a) zone throughout the city is still seen as important and the existing planning controls are necessary to retain them in their largely undeveloped state.

### **4 Current Status**

The Council remains committed to the principles relating to the Conservation and Scenic Protection (formerly Rural-Conservation) 7(a) (Conservation) zone as derived from the Rural Land Study and the subsequent Planning Instruments which give it status under the Environmental Planning and Assessment Act.

This Policy stated herein relates to DLEPs seeking to provide dedication of strategically environmentally/scenically important land for the community benefit in exchange for additional development rights on other land having regard to "fine tuning" of zone boundaries because of the extent and scale of the aerial photographs and other data used to originally define the boundaries of the zones. The Policy should not therefore be interpreted as providing for general conditions for the rezoning of Conservation 7(a) lands. The criteria used in this Policy are derived from the report (1984) on the Coastal Open Space System (refer Section 5.2.3) and the requirements of the (then) Planning and Environment Commission as being the characteristics by which areas could be judged as to whether or not the 7(a) zoning is appropriate.

### **POLICY OBJECTIVES**

- 1 To define objectives for the Conservation zone to ensure the long term preservation of the scenic and environmental qualities of the region and to ensure DLEPs are consistent with the prescribed objectives.
- 2 To establish criteria to be used by Council to assess requirements to prepare draft local environmental plans primarily for the purpose of providing dedication of strategically environmentally/scenically important land for the community benefit in exchange for additional development rights having regard to the land's attributes pertaining to the zone boundary of the 7(a) conservation zone.

## POLICY STATEMENT

All draft local environmental plans must be in conformity with the objectives of the Conservation and Scenic Protection 7(a) (Conservation) Zone as prescribed within this Policy.

### Objectives of the Conservation Zone

- a The conservation and rehabilitation of areas of high environmental value.
- b The preservation and rehabilitation of areas of high visual and scenic quality in the natural landscape.
- c The provision and retention of suitable habitats for native flora and fauna.
- d The prohibition, of development on or within proximity to significant ecosystems, including rainforests, estuarine wetlands, etc.
- e The provision and retention of areas of visual contrast within the City, particularly the "backdrop" created by retention of the ridgelines in their natural state.
- f The provision of opportunities for informal recreational pursuits, such as bushwalking, picnic areas, environmental education, etc. in appropriate locations.
- g The minimisation or prohibition of development so that the environmental and visual qualities of natural areas are not emasculated by the cumulative impact of incremental, individually minor developments.
- h The minimisation or prohibition of development in areas that are unsuitable for development by virtue of soil erosion, land slip, slope instability, coastal erosion or bushfire hazard.

### SUBMISSION REQUIREMENTS

An application to request Council to prepare a draft Local Environmental Plan (DLEP) must be accompanied by an environmental assessment to justify the DLEP—on environmental, statutory and strategic planning grounds. Additionally, the submission must include; but not be restricted to the following:

- 1 Land Capability Study addressing the suitability of the site for the resultant development and prepared in accordance with a specification issued by Council.

**Note:** Soils on the land must be capable of supporting development, including building works, access, effluent disposal, ancillary land uses or site works without adversely affecting site stability or resulting in adverse soil erosion both at the time of development and in the long term. In general terms, the change of grade of slope to 20% or greater should be used in association with the other criteria to determine the appropriate delineation for proposed development in the 7(a) zone.

- 2 Vegetation Analysis - outlining the vegetation communities that exist on the land, including species identification and significance thereof, identification of likely impacts on vegetation and means of mitigating impact (both direct and indirect) upon vegetation (consideration must be given to relevant legislation and planning instruments, ex; Environmental Protection and Biodiversity Conservation Act 1999, Threatened Species Conservation Act, Environmental Planning & Assessment Act - SEPP 44 Koala Habitat Protection, etc – initial enquiries & advice may be sought from Council's Environment Protection & Education Unit)

**Note:** Development subsequent to the DLEP should not interfere (either directly or indirectly) with ecologically or visually significant vegetation.

All development, including all building works, access, fire radiation zones, etc. are to be confined to existing cleared areas (as identified on 1991 Quascope Aerial Photo Series).

- 3 Faunal Analysis - identification of wildlife habitats, corridors etc. and impact of the rezoning on native fauna (consideration must be given to relevant legislation and planning instruments, ex; Environmental Protection and Biodiversity Conservation Act 1999, Threatened Species Conservation Act, Environmental Planning & Assessment Act - SEPP 44 Koala Habitat Protection, etc – initial enquiries & advice may be sought from Council's Environment Protection & Education Unit)

**Note:** This analysis is to include the need to provide corridors or links between areas in the Coastal Open Space System for fauna movements and migrating patterns including the need for revegetation of such areas (initial enquiries & advice about the COSS may be sought from Council's Natural Resources Unit).

- 4 Visual Assessment - the location of the land in relation to surrounding lands, including elevation, location of ridgelines or visual brows, visual catchments and impact of the rezoning on the visual and scenic qualities of the area and the means of mitigating impact (if any).

**Note:** Land will not be considered for affectation by a DLEP where it forms part of a wider landscape unit with surrounding Conservation land and/or where the DLEP may have a precedential effect on other conservation zoned lands, or where in the opinion of Council, the rezoning will adversely affect the scenic qualities of the locality.

- 5 Bushfire Hazard Analysis - to be prepared in accordance with "Planning for Bushfire Protection" A Guide for Land Use Planners, Fire Authorities, Developers and Home Owners". (by planning NSW & NSW Rural Fire Service December 2001).

**Note:** Land will not be subject to a DLEP where the resultant development will constitute a high bushfire hazard or increase commitment of existing resources for hazard reduction or emergency services in the event of wildfire.

- 6 Any submission is to give due regard to the provisions of State Environmental Planning Policy No. 19 - Bushland in Urban Areas.

**Note:** Dedications of land for open space provision may be required. Only those lands identified as being required for inclusion within the Coastal Open Space System, or as otherwise identified by Council, will be accepted for dedication purposes. The owner must enter into a Deed of Agreement (at no cost to Council) prior to the draft plan being forwarded to the Minister to provide for the dedication of these lands at the time of development. Land dedicated will be offset against monetary contributions (indexed at the time of development) in accordance with the provisions of Clause 18 of Interim Development Order No. 122. However in the event of a surplus land component, no credit will apply. In the instances of enabling clauses, contributions will also be levied in conformity with Clause 18 of IDO 122. It is anticipated that, as the purpose of the exercise is to "fine tune" the boundary between zones, an area greater than 50% of the site will have the characteristics of 7(a) land and should be the subject of any dedication or contribution requirement.

- 7 Any submission should also address all the criteria for DLEPs as contained within this Policy.

**Note:** Land will not be subject to a DLEP where, in the opinion of Council, the DLEP would be inconsistent with the objectives of the Conservation zone as contained within this Policy.

- 8 Preparation of a proposed draft development control plan identifying development areas, vegetation to be retained, soil erosion control measures, access, etc.

**Note:** If it is considered necessary, Council may require the creation of a Restriction as to User pursuant to Section 88B of the Conveyancing Act to protect significant vegetation, restrict works, etc. In addition, access must be available to both the allotment of land and to the individual dwelling sites to the satisfaction of Council. Where access is not available, provision of access must have due consideration to the objectives of this Policy and be to the satisfaction of Council.

- 9 The Council will consider proposals which will result in substantial areas of land identified in the Coastal Open Space System being dedicated at no cost or minimal cost. Where generally consistent with the objectives of this Policy, it may be possible to identify suitable areas for single dwelling development.

- 10 The strategic basis of the proposal is to be outlined, ex; the relationship to the Coastal Open Space System of any proposed land dedication in exchange for additional development rights and the effects of such a proposal.

**(Note - a DLEP form & general information is obtainable from Council's website [www.gosford.nsw.gov.au](http://www.gosford.nsw.gov.au) under 'Download a form' then 'Building & Development' then 'Draft LEP (rezoning) or DCP')**

(Min No 1355/92 - 10 November 1992)

(Min No 651/96 - 27 August 1996 - Review of Policies)No Change

(Min No 239/00 – 26 October 2000 – Review of Policies)

(Min No 214/2005 - 8 March 2005 - Review of Policies)

(Min 311/2009 - 5 May 2009 - Review of Policies)