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The Yorke Peninsula Council

NOTICE OF MEETING

Notice is hereby given that the meeting of Council's

Section 101A Committee

will be held on Wednesday 10th September 2014
in the Council Chambers,
57 Main Street, Minlaton commencing at 5.00pm

Roger Brooks
DIRECTOR DEVELOPMENT SERVICES

AGENDA

ITEM 1 SECTION 101A COMMITTEE

1.1 Welcome by Mayor – meeting declared open

1.2 Present

1.3 Leave of absence

1.4 Apologies

1.5 Minutes of previous meeting – for confirmation
Section 101A Committee meeting held on Wednesday 11 September 2013 at 5:16pm

1.6 Motions on Notice
Nil

1.8 Questions on Notice
Nil

1.9 Questions without Notice

1.10 Conflict of Interest

> CONFLICT OF INTEREST
>
> Elected Members are reminded of the requirements for disclosure by Members of direct or indirect pecuniary benefits in items listed for consideration on the Agenda. Section 74 of the Local Government Act 1999 requires that Elected Members declare any interest and provide full and accurate details of the relevant interest to the Council prior to consideration of that item on the Agenda.
>
> Each Member of a Council has a duty to vote at all meetings unless excepted by legislation.
>
> The major exception being where a Member has a conflict of interest.

ITEM 2 VISITORS TO THE MEETING
Nil

ITEM 3 INFORMATION AGENDA
Nil

ITEM 4 DEBATE AGENDA

4.1 Sheoak Flat Development Plan Amendment

ITEM 5 GENERAL BUSINESS

ITEM 6 CONFIDENTIAL AGENDA
Nil

ITEM 7 NEXT MEETING
To be advised.

ITEM 8 CLOSURE

DIRECTOR DEVELOPMENT SERVICES

DA/ITEM 4

1. SHEOAK FLAT DEVELOPMENT PLAN AMENDMENT (DPA) (File Ref:3.71.7.9)

INTRODUCTION

The purpose of the report is for the Committee to consider a request from Sheoak Flat Developments Pty Ltd to support a developer funded Development Plan Amendment (DPA) in relation to the rezoning of their land adjacent the Sheoak Flat settlement.

RECOMMENDATION

The Committee recommends that Council proceed with the proposed developer funded DPA to rezone land at Section 298 Hundred of Curramulka from Coastal Conservation Zone to a combination of Coastal Conservation and Rural Living Zone, in accord with the matters identified in the report from Access Planning dated 4 August 2014 subject to the following condition:-

The preparation of the Development Plan Amendment in its entirety is to be completed at no cost to Council.

COMMENT

Correspondence was received from TIA Consulting on behalf of Sheoak Flat Developments Pty Ltd seeking Council's consideration to support a developer funded DPA to rezone land adjacent and immediately to the south of Sheoak Flat settlement.

The correspondence item was referred to Council's Planning Consultant, Access Planning for a report which is attached.

Historically, the land has been the subject of at least one development application for land division and one earlier request for rezoning.

At the time, the owner of the land indicated a willingness to fund the DPA and enter into agreement with Council to undertake various infrastructure works if the rezoning was successful.

Consequently, Council resolved to accept the proposed Developer Funded DPA and a Statement of Intent was prepared and sent to the Minister for approval. At the time, Council had several Developer Funded DPA's at varying stages of completion and by correspondence dated September 2008, the Minister refused the request.

It should be noted that the original DPA had a much greater impact on the land with potentially 110 allotments being identified above and below the cliff line with little regard to the existing native vegetation.

This latest proposal has come about after a considerable amount of consultation with staff in Council and DEWNR and appears to address the previous concerns raised in the Minister's refusal. The amended proposal as shown in the Concept Plan has much better regard to the constraints imposed on the land by the native vegetation, its coastal location and the impact of the cliff.

The proposed rezoning identifies that approximately 11 x 5000 square meter rural living allotments could be created at the top of the cliff, including one allotment of approximately 6 hectares which would contain the bulk of the remnant vegetation at the base of the cliff.

Having due regard for the report provided by Access Planning, it is recommended that the Committee endorse the recommendation provided.

LEGISLATION/POLICY/COUNCIL STRATEGIC PLAN

Development Act 1993

Strategic Plan

Key Theme:	Sustainable Communities 2. Progressive and Sustainable Development
Strategic Goal:	2.1 Provide an effective and sustainable Development Plan

FINANCIAL AND RISK MANAGEMENT CONSIDERATIONS

There are no financial or risk management considerations as this DPA is to be funded by the Developer.

PLANNING

4th August 2014
Ref: DPA Council Letter

Mr. Roger Brooks
District Council of Yorke Peninsula
PO Box 88
MINLATON SA 5575

Dear Roger,

RE: DEVELOPER FUNDED DEVELOPMENT PLAN AMENDMENT – SECTION 298, SHEAOAK FLAT

Sheaoak Flat Developments Pty Ltd have written to Council seeking support for a developer funded Development Plan Amendment (DPA) in relation to the rezoning of their land adjacent to and immediately to the south of the Sheaoak Flat settlement.

1.0 The Subject Land

The land which is subject to the request for a change of zoning DPA comprises section 298 Hundred of Curramulka. It has an area of 16.8 hectares with a frontage to Old Coast Road of some 776m and a secondary frontage to an unconstructed road reserve which separates the subject land from Sheaoak Flat Settlement.

The land is unencumbered with easements. It is presently vacant, save a small shed which it is understood was used intermittently by the previous owner of the land, who often camped on the property, or used the shed in conjunction with a caravan for more extended visits.

The property is bisected by a coastal cliff which runs roughly parallel to Old Coast Road and which separates the land into three distinct parts comprising;

1. The plateau at the top of the cliff, which varies in depth from almost zero in the centre of the property to about 130m at both the northern and southern ends. This land sits at between 11.4m to 24mAHD and comprises gently undulating terrain which falls generally to the east (towards the sea).
2. The cliff face, which varies from a gentle but nonetheless still a steep slopes to more precipitous slopes, particularly at the southern end of the land.
3. The coastal flats which comprise reasonably well vegetated remnant sand dunes varying in height from 1.3m AHD to 3m AHD.

By reference to documents submitted to Council is support of a recent land division application the applicants advise that the land;

- Has not been farmed for many years and information from local residents familiar with the property suggests that there has been no meaningful (agricultural) use of the land since the late 1940s.
- Is subject to invasion by weeds and pest plants including exotic grasses (veldt grass and wild oats) and annual weeds (cape tulip and onion weed) mixed with boxthorn, bridal creeper with a very heavy infestation of introduced Acacia cyclops.
- Has limited value as a farming property as assessed in a report by Environments by Design.

An engineering assessment of the land by Magryn and Associates has identified that;

- Having regard to coastal processes, the minimum site level for development on the land should be 4.0m AHD, with a floor level 0.25m above this.
- The land is suitable to accommodate on site effluent disposal, with sufficient land to achieve a 100m setback from high water mark.
- There is no water supply to the locality. As such development will require an on-site water supply in the order of 20 to 100kL.
- There may be a need to augment power supplies, but encouragement of on-site generation may mitigate this need.
- Road access is available from the un-named road abutting the western boundary of the land.
- Council stormwater disposal needs can be considered as part of any development of the land and will need to be managed to prevent erosion.

The subject land is identified below in figure 1.

Figure 1: The Subject Land **Source:** NatureMaps

The land is located within the Coastal Conservation Zone in which both the development of a dwelling and land division are presently non-complying forms of development

2.0 Background

The property has been the subject of at least 1 development application for land division and one earlier request for rezoning.

In 2008 there was a request to Council to rezone the land from Coastal to Holiday Settlement, which would have resulted in a significant extension of the existing Holiday Settlement Zone to the south.

A concept for the proposed development on the land was provided at the time and involved a combination of residential and holiday accommodation including;

- Approximately 110 allotments – developed in 5 stages;
- All allotments greater than 600m2;
- Ecologically sustainable design and practice throughout the development;
- A Community Wastewater Disposal Scheme including sufficient capacity to accommodate the existing Sheaoak Flat settlement;
- An engineered stormwater retention and treatment wetland reserve;
- An aesthetically designed seawall/public boardwalk along the coastline incorporating paving and landscaping;
- The retention of existing significant areas of native vegetation; and
- Land provided for community use and the provision of community facilities for both the proposed and existing development.

At the time the owner of the land indicated a willingness to fund the DPA and enter into a legally binding agreement with Council to undertake various infrastructure works if the proposed rezoning was successful, including;

- The development of a common wastewater disposal scheme for the proposed development with the capacity for Council to add to the existing 60 allotments in the existing Sheaoak Flat Settlement.
- Funding a private water connection along Sheaoak Flat Road from the nearest SA water main on Power Line Road (7 kilometres west).
- Funding any required power upgrade to service the development and the existing settlement.
- Provide approximately 3300m^2 of community land and development community facilities in the north west corner of the site.
- Developing an engineered stormwater scheme that directed stormwater runoff into wetlands prior to entering the sea
- Funding of a sealed road (Sheaoak Flat Road) approximately 2 kilometres to the main road.
- Provision of a contribution towards the upgrading of the existing public boat ramp at Sheaoak Flat.

The Council resolved to accept the proposed Developer Funded DPA and a Statement of Intent was prepared and sent to the Minister for approval.

At the time the Council had a number of Developer Funded DPAs either at proposal stage or developed to the point of Council having approved Statements of Intent.

By correspondence dated September 2008, the Minister refused the Councils request for the rezoning. Stated reasons included;

- The subject land has been chosen without any strategic consideration or investigation into the most suitable sites for expansion of Sheaoak Flat.
- Township growth should be strategically planned and managed, with coastal areas a priority
- Locate and design development to prevent further loss, degradation and fragmentation of native vegetation, on public and private land, including within townships
- Establish Coastal Zones and manage development to:
  - Minimise the impact of development and land uses, including cumulative impacts, on natural processes and systems
  - Prevent disturbance of natural coastal habitats and native vegetation
  - Provide buffer areas of sufficient width to separate new development from the foreshore and sensitive coastal features, accommodating long term physical coastal process

The Minister advised that the Department of Environment and Heritage strongly object to the SOI given that the subject land is sensitive coastal land which is vulnerable to flooding, erosion, sea level rise and a potential sand drift hazard.

The EPA also indicated its opposition to the development as the extreme proximity of the site to the coast does not provide for a sufficient buffer between wastewater and stormwater collection facilities and the coast line, thus increasing the risk of overflows entering marine waters under high rainfall/tidal events.

It should be noted that the proposal at the time was for the land both above and below the cliff to be subject to a scale of development that was residential in character and involved little consideration of the native vegetation on the land, and whilst it involved the development of coast protection measures, the relevant Government Departments at the time were, quite rightly, opposed the development of physical coast protection measures to protect at risk urban development.

More recently, there has been an application to the Council for the subdivision of the land into 19 allotments 18 varying is size from 3000m^2 9000m^2, with one larger allotment, to contain the stand of native vegetation on the cliff top.

The application was accompanying by a number of reports supporting the development, which have been summarised in part 1.0 above.

I do not intend to speak to the application in any detail as it was a non-complying use and was refused on that basis.

As a consequence of the application however, I understand that there was detailed discussion with the staff at Council and the Department of Environment, Water and Natural Resources in relation to coastal erosion and flooding and native vegetation management issues which have led to a new potential development outcome and the request to rezone the land.

3.0 The Rezoning Proposal

The land owners are now intending to pursue a more modest development comprising rural living allotments with zoning similar to the land located to the north of Sheaoak Flat.

They propose a zoning that would allow for approximately 11 x 5000m^2 rural living allotments at the top of the cliff, including one allotment of about 6ha in area which would contain the bulk of the remnant native vegetation.

The land below the cliff would be created in one allotment and it is envisaged that a single dwelling would be allowed on this land to assist in management of the vegetation on the property.

The applicants have provided a concept plan (attached) which shows how the land might be developed and which makes provision for common access to the beach for those allotments at the top of the cliff. This would be achieved either by creating rights of way for a Torrens Title development, or common land in the case of a Community Title arrangement.

The intention of the common access is to manage access down the cliff to avoid multiple access points across this feature.

The proposed development would appear to address the previous concerns of the Minister in his refusal of the last attempt to rezone the land by;

- Reducing significantly the scale of the development from 110 allotments to about 10 allotments.
- Retaining remnant vegetation in single allotments with sufficient room to accommodate a dwelling without the need for clearance and avoiding the need for clearance around property boundaries.
- Limiting development below the cliff to address potential impacts from sea level rise.
- Avoiding the need for engineered coast protection measures.

The amended proposal as shown in the concept plan provided by the applicants now has much better regard to the constraints imposed on the land by the native vegetation, its coastal location and the impact of the cliff.

It is considered that the rezoning should allow for the land above the cliff to be located in a Rural Living zone, with land below the cliff to be retained in the Coastal Conservation zone.

Given the applicants have provided a Concept Plan, it is desirable that this be redrafted to comply with the drafting requirements of the Development Plan and the Concept Plan adopted for inclusion into the Development Plan.

4.0 Consistency with the Planning Strategy

The Yorke Peninsula Regional Land Use Framework form the basis for any rezoning proposals.

The following is a brief assessment of the proposed rezoning with the relevant parts of the Land Use Framework.

ACCESS PLANNING

Conversion of productive agricultural land to residential and other sensitive uses – through poorly planned township expansion or subdivision into 'rural living' areas – is strongly discouraged as this has the potential to create conflicts at interfaces and compromise farm operations.	
9.1 Prevent loss of productive agricultural land to other uses and through potential conflict with incompatible uses by: • focusing housing (including rural living) and industrial development within townships and industrial estates, unless directly related to primary industry • preventing fragmentation of agricultural land • managing interfaces with residential areas	The proposed land is well suited to accommodate rural living development. It has no established primary production use, it has low rural potential, it is fragmented by and contains significant stands of native vegetation, it is well located adjacent to the existing Sheaoak Flat settlement and provides land adequately setback from the coast and with site levels able to have regard to the potential impacts from sea level rise and coastal erosion. There is no evidence that the land might be contaminated by previous land uses that preclude its development for rural living use. It is similarly well separated from adjoining Primary Production land by Old Coast Road.
A planned approach to development seeks to balance the range of competing interests. This strategy supports the focussing of development in existing settlements and towns to build on existing and planned business, service and infrastructure investment while protecting coastlines of importance to tourism and environmental protection, and rural land of importance to industry.	
Strategies 18.1 Focus development in existing towns and settlements based on role and function 18.2 Base expansions of towns on clear and structured master planning that: • ensures new areas are continuous with and form compact extensions of existing built up areas • prevents linear development along the coast and arterial roads • does not encroach upon areas of importance to economic development • in coastal settlements, retains public access to the coast, promotes strong linkages with the coast, and better defines 'coastal zones' • protects places of heritage and cultural value, minimises adverse environmental and aesthetic impacts,	The land is located adjacent to Sheaoak Flat settlement. There is no likelihood of the Sheaoak Flat settlement being expanded beyond its present boundaries so the rezoning will not impinge of any future expansion of the settlement.. The rezoning would represent linear development along the coast, but at scale that allows ample setback of buildings from the road, retention of natural features (cliff, coast and vegetation) in such a way that the visual impacts from future development from the road and coast can be minimised. The rezoning will not affect public access to the coast and access can be provided to residents on the land in such a way as to minimise impacts on the cliffs and native vegetation.

and prevents exposure of people and property to risk of hazards (e.g. flooding, erosion) • locates land for rural living (large residential allotments) within townships in such a way that it retains opportunities for future town expansion 18.3 Cluster activities along the coast in distinctive and compact coastal towns, and strongly discourage linear development 18.5 Development in areas remote from infrastructure should be self sufficient in energy, water supplies, and wastewater management 18.8 Provide for limited compact expansion of Ardrossan, Port Wakefield, Port Vincent and Stansbury. For all other townships along the eastern coast of the Peninsula focus future development within existing townships	The land is well located to deal with impacts from sea level rise and coastal erosion. Can be developed to be self-sustaining in respect to water, effluent disposal and power. Represents a modest development of only 10 allotments catering for a land use (rural living) that is in demand in the northern section of the Peninsula but is not well catered for.
People have different housing needs depending upon such things as age, health, income and cultural background. People also have different housing preferences. Across the Region, locations within towns need to be identified to provide a range of housing types, ensuring compatibility with township character, landscapes, environmental and industry needs, and availability of infrastructure and services	
20.1 Focus housing within townships, including 'rural living' (large residential allotments), to prevent encroachment on sensitive environments, agriculture, mining and industrial land, exposure to risks (e.g. flooding, bushfire, pollution) and to best utilise strategic infrastructure 20.2 Locate land for rural living within townships in such a way that it retains opportunities for future township expansion	As indicated above, the land is well suited to a modest rural living development that seeks to preserve the natural character and features of the land. Future rural living development will not interfere with the expansion of Sheaoak Flat as no such expansion is proposed or warranted.

5.0 The Process/Where to from here

Council will be aware that notwithstanding this is a proposal for a developer funded DPA, that it remains in full control of the process and must be satisfied that the investigations have been undertaken rigorously and that proposed policy is consistent with outcome sought by the Strategy Plan and as expected of the Council and community and not the Developer.

To this end, proceeding with the DPA is at the developers risk and Council has no obligation to proceed with the DPA if it is not satisfied with the investigations or proposed outcomes.

The Council may also alter or adopt \ proposed policy to ensure that it meets the Communities expectations that may not meet the developer's expectations.

If the Council is of a mind to proceed with a developer funded DPA then the next step will be the preparation of a Statement of Intent which will need to set out the matters to be considered and the processes to be undertaken when changing the Development Plan.

The Statement of Intent is effectively a 'project brief' which:

- describes why the DPA is needed and what is being proposed
- confirms the relevant Planning Strategy policies that will be addressed through the DPA
- identifies the link between the proposed DPA and council's Strategic Directions Report
- identifies the current policies in the Development Plan and related policies that will be considered through the DPA
- outlines the nature of the investigations and who will be consulted on the DPA
- outlines the DPA's proposed process and timetable
- gives assurance that the documentation standards in the DPA will be produced to an acceptable technical standard.

In accord with Ministerial guidelines a DPA's proposed scope must be concise and manageable, by addressing a single issue or confining the proposed amendment to a single area.

Once the SOI is agreed by the council and the Minister, the DPA process can commence.

The proposed rezoning would conform to the Ministers guidelines.

6.0 Recommendation

That Council resolve to proceed with a developer funded DPA to rezone the land at Section 298 Hundred of Curramulka from Coastal Conservation to a combination of Coastal Conservation and Rural Living, in accord with the matters set out above and subject to the following condition;

1. The preparation of the Development Plan Amendment in its entirety is to be completed at no cost to Council.

Should you wish to discuss any aspects of the above, please do not hesitate to contact me on (08) 81307222 or alternatively via email dhutchison@accessplanning.com.au.

Yours sincerely,

DHutchison

David Hutchison
ACCESS PLANNING

EXISTING COASTAL SETTI
SHEAOAK FLAT.

SHEAOAK FLAT ROAD