



SOUTHERN DOWNS REGIONAL COUNCIL ORDINARY COUNCIL MEETING

LATE AGENDA ITEMS

Wednesday, 24 May 2023

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13. PLANNING AND ENVIRONMENTAL SERVICES REPORTS

13.3 Proposed New Planning Scheme for the Southern Downs Regional Council Local Government Area

Document Information

	Report To: Ordinary Council Meeting	
	Reporting Officer:	Meeting Date: 24 May 2023
	Manager Planning and Development	ECM Function No/s:

Recommendation

THAT Council requests a State interest review of the proposed new planning scheme for the Southern Downs Regional Council Local Government Area.

REPORT

Background

In 2018 Council resolved to make a new planning scheme for the Southern Downs Regional Council Local Government Area. The Minister was advised of this decision. As Councillors are aware, new planning scheme consultants were engaged in 2020 to continue with the development of a new planning scheme. The Department of State Development, Infrastructure, Local Government and Planning (DSDILGP) advised that the previous Section 18 notice was sufficient to continue with the process.

Report

The initial phase of community consultation, to assist in preparing the strategic direction for the new Planning Scheme was undertaken between November 2021 and January 2022. This initial round of consultation included the development of a dedicated website, Interactive map, postcards sent to every Southern Downs household, survey, pop-up listening posts, open house drop-in events, Innovative ideas competition, one-on-one meetings, development industry workshop, tourism workshop, intensive agriculture industry workshop, and a number of internal Council officer workshops.

In addition, three focused workshops and a number of Information Sessions have been held with Councillors and a workshop with the Shaping Southern Downs Advisory Committee.

Council has also considered various policy proposals to the planning scheme at briefing meetings and Ordinary Council Meetings. At the 26 October 2022 Ordinary Council Meeting, Council made resolutions in relation to a number of policy matters that have provided direction for the drafting.

Except for a few minor matters, preparation of the major amendments to the planning scheme is now complete. Due to the size of the document, a copy of the consolidated version of the draft amended planning scheme has been provided to Councillors separately.

There is a couple of changes to the mapping for note:

- The Bushfire hazard overlay and the Biodiversity areas overlay have been updated to match the bushfire and biodiversity mapping provided by the State government. These revised

overlays have been included in the draft amended planning scheme that has been separately provided to Councillors.

- The Motor sport environs overlay is to be amended with the inclusion of the Sandy Creek Raceway and associated buffer. Council has engaged a consultant to undertake this work.

When the details for Sandy Creek Raceway buffer are received, the Motor sport environs overlay will be finalised. This complete overlay will be presented to Council in due course.

The *Minister's Guidelines and Rules* outlines the processes involved in undertaking major amendments to the planning scheme. The stages in the amendments process are as follows:

1. Council decides to make major amendments to the planning scheme;
2. Council advises the Minister of its decision to make major amendments;
3. When the proposed major amendments have been prepared, Council must request a State interest review;
4. The Minister considers the proposed amendments and decides how to proceed, i.e. whether any conditions are imposed by the Minister;
5. Public consultation is undertaken;
6. Council reviews any submissions received, decides how to proceed with the proposed amendments, and advises the Minister accordingly;
7. The Minister advises whether Council may adopt the amendments, with or without conditions; and
8. Council decides whether to adopt the amendments.

Council must now request a State interest review, which can be a lengthy process. The proposed amendments to the planning scheme will be provided to the State, and the Motor sport environs overlay will also be referred to the State once it has been considered by Council.

When advice is received from the Minister, a further report will be presented to Council prior to public consultation commencing.

FINANCIAL IMPLICATIONS

Nil, the development of the new planning scheme has already been budgeted.

RISK AND OPPORTUNITY

Risk

Delay in the development of the new Planning Scheme if resolutions on key matters aren't made.

Ensure appropriate alignment with the community sentiments which have been provided through the consultation process.

Opportunity

Progression of the drafting of the new Planning Scheme.

COMMUNITY ENGAGEMENT

Internal Consultation

As part of the Stage 1 consultation, internal Council Officer workshops were held at both the Stanthorpe and Warwick depots and administration buildings. This consultation was advertised to and open to all Council staff.

External Consultation

Community and stakeholder consultation was undertaken over a seven-week period from Wednesday 3 November to Monday 20 December 2021 as part of the Stage 1 consultation for the new Planning Scheme. This engagement broadly sought the views of current residents, workers, the Shaping Southern Downs Advisory Committee and industry representatives on their key issues, opportunities and aspirations for the region to inform the strategic framework for the new planning scheme. The campaign involved targeted, online and broad community communication and consultation activities.

The new Planning Scheme must undergo a formal consultation process for a minimum of 30 business days.

LEGAL / POLICY

Legislation/Local Law

Planning Act 2016

Planning Regulation 2017

Minister's Guidelines and Rules

Corporate Plan

Theme: Places

Focus Area: Safety and Planning

Deliverable: 12. Rewrite the Planning Scheme in consultation and partnership with the community to ensure sound social, environmental and economic outcomes.

Policy / Strategy


Southern Downs Planning Scheme

ATTACHMENTS

Nil

13.4 Request to Waive Planning Application Fees, Infrastructure Charges and Infrastructure Requirements - PID 26215

Document Information

	Report To: Ordinary Council Meeting	
	Reporting Officer:	Meeting Date: 24 May 2023
	Senior Planning Officer	ECM Function No/s:

Recommendation

THAT Council, in accordance with Section 109 of the *Planning Act 2016*:

1. Waive 50% of the Planning Application fees to be paid in accordance with Council's Schedule of General Fees and Charges 2022/23, in relation to the proposed two staged subdivision and associated Multiple dwelling development; and
2. Refuse the request to waive 100% of the Planning Application fees for the development;
3. Refuse the request to waive applicable Infrastructure Charges for the development;
4. Refuse the request for infrastructure provision to be considered prior to the assessment of the application to allow an appropriate assessment to be undertaken; and
5. Recommend the applicant apply for a Ministerial Infrastructure Designation (MID) to allow appropriate consideration of the proposal for affordable / social housing as it is the responsibility of State and Federal Governments.

REPORT

Background

On 16 May 2023, Council received a request from Wolter Consulting Group on behalf of WIN Housing Solutions to consider a complete waiver of Council application fees, Infrastructure Charges and particular infrastructure provision for an impending residential development application.

WIN Housing Solutions have partnered with Churches of Christ to deliver a 50 lot Community Title Scheme subdivision with 50 modular homes on land at 9 Law Road, Warwick, described as Lot 2 RP89671.

No development applications have yet been received, however a pre-lodgement application has been undertaken for the development. A copy of the request to waive the aforementioned costs has been provided to Councillors.

Report

Planning Application fees

The applicant has estimated the applicable Development Application fees associated with a Material Change of Use (Multiple dwelling) and Reconfiguring a Lot (Subdivision by Community

Title Scheme). The estimated development assessment fees total \$11,540 (\$5,770 with the 50% discount for non-profit organisations) and are distributed as follows:

- Material Change of Use (Multiple dwelling) - \$8,240 (\$4,120 with the 50% discount)
- Reconfiguring a Lot (Subdivision by Community Title Scheme – when combined with an MCU application) - \$3,300 (\$1,650 with the 50% discount)

Section 109 of the *Planning Act 2016* allows for the assessment manager (Council), to waive all or part of the required application fee, in the circumstances prescribed by regulation. Section 40 of the *Planning Regulation 2017* allows for the assessment manager (Council), to waive all or part of the required application fee if the application is made by a registered non-profit organisation. The Churches of Christ are registered under the Australian Charities and Not-for-profits Commission as a registered charity. Therefore, Council have the ability to waive all or part of the application fees.

In accordance with Section 97 of the *Local Government Act 2009*:

- (1) A local government may, under a local law or a resolution, fix a cost-recovery fee. ...
- (4) A cost-recovery fee must not be more than the cost to the local government of taking the action for which the fee is charged.

As per the requirements of the *Local Government Act 2009*, Council do not currently generate profit by assessing development applications and use the funds received to cover the cost of assessment. In recognition of the important role Not-for-profit organisations play in the community, a 50% discount is applied to these organisations when making development applications. This subsidy provided by Council recognises the contribution made by Not-for-profit organisations and the remaining 50% is subsidised by other forms of revenue generated by Council. Further subsidy of these fees for a commercial venture, despite being targeted towards social / affordable housing, places a burden on other forms of revenue to cover the shortfall.

Local Government are responsible for the provision of a vast array of services to the community. Whilst Local Governments may play a role in facilitating housing delivery, the primary responsibility for housing policy and housing funding lies with the State and Federal Governments. As the applicant is seeking further assistance beyond the existing offerings of Council to developers and Not-for-profit organisations, it may be worthwhile pursuing the Ministerial Infrastructure Designation (MID) pathway as proposed in their request to waive associated costs. If the State Government agree that the project is an MID, the applicant would be able to pursue the fee relief afforded by that process and assessment would be undertaken by the State Government. This would ensure the community are not burdened by the costs of assessment proposed to not be paid by the applicant and would allow the State Government to provide a more affordable process for the applicant. Further detail surrounding the MID process and its advantages are expanded upon later in this report.

Infrastructure Charges

As outlined earlier, the applicant has also requested a 100% reduction of Infrastructure Charges from Council. Council does not currently have a policy that considers the reduction of Infrastructure Charges and these charges apply to all applicant's, including Not-for-profit organisations.

Local government cannot fund all of the municipal infrastructure that is required to support development and maintain a solid and stable fiscal position. In determining the applicable infrastructure charges for development, consideration has been afforded to whether the charges are set too high or too low in the preparation of the *Charges Resolution (No. 4) 2023*. Set too low, local government will under-recover money to pay for infrastructure; however, set too high, projects will not proceed and housing affordability will be further eroded.

The proposal will result in 50 lots divided over two stages, with the second stage resulting in the provision of 35 houses and associated lots. The estimated Infrastructure Charges are shown below:

- Stage 1 – (15 lots) \$301,000

- Stage 2 – (35 dwellings and associated lots) \$752,500

To assist with the provision of trunk infrastructure in the region and to reduce the burden on the existing community to meet the obligation to fund this infrastructure, no reduction of the required infrastructure charges is considered appropriate. Similar to the commentary provided with the Planning Application fees, concession may be pursued from these charges if the proposal is able to meet the requirements to be lodged as an MID to the State Government.

Infrastructure Provision

The applicant has included in their request confirmation from Council that only the minimum works would be imposed on the development approval and that any additional infrastructure would be provided by Council. Unlike the above two requests, confirmation of required infrastructure with a development application is considered premature without an assessment having been undertaken. Should Council wish to consider reduction of potential infrastructure requirements, this could be considered via change representations to any approval. It is recommended this item be refused until such time as an application is made and a decision issued. If the applicant decides to pursue an MID, the provision of required infrastructure will be considered by the State Government.

Ministerial Infrastructure Designation (MID)

The Ministerial Infrastructure Designation (MID) process is managed by the State Government and provides its applicants with a whole-of-government response for certain types of infrastructure projects. The MID process provides applicants with an alternative to lodging a development application with Council; the Planning Minister is responsible for making decisions on MID's.

An MID application involves a comprehensive assessment of planning matters, with the final decision being made by the Planning Minister once submissions received during community consultation have been considered. This comprehensive assessment includes any associated impacts including, but not limited to: traffic, car parking, stormwater, noise, ecology, amenity and built form.

If the developer would like to pursue further fee exemptions, this can be done through the MID process. This would allow for the project to be assessed by the State Government, of whom is responsible for affordable housing, whilst not further burdening the limited budget of Council and the community it represents. This will provide a more equitable solution for the Council and the applicant, if the applicant requires additional fee relief beyond the current offering of Council.

FINANCIAL IMPLICATIONS

If the request is approved other than as recommended, there will be a reduction in the fees and infrastructure charges collected in association with the development applications assessed by Council. The cost has been outlined in the report and will require funding from other areas of Council, as the development assessment fees are cost recovery. The waiving of infrastructure charges will result in reduced available funding for future infrastructure upgrades and extra demand on the infrastructure resulting from the development.

RISK AND OPPORTUNITY

Risk

The risk associated with approving such a fee reduction request is that other applicants may make similar requests to Council.

The risk associated with approving a complete waiver of Infrastructure Charges is that funding may not be available when required to upgrade infrastructure. This risk is heightened by the overall lot yield proposed at 50 lots.

Opportunity

Take additional responsibility for services typically facilitated through the State and Federal Governments, resulting in an increased stock of affordable / social housing facilitated by Council's processes.

COMMUNITY ENGAGEMENT

Internal Consultation

Nil

External Consultation

Nil

LEGAL / POLICY

Legislation / Local Law

Local Government Act 2009

Local Government Regulation 2012

Planning Act 2016

Planning Regulation 2017

Corporate Plan

Theme: Prosperity

Focus Area: Population Growth

Deliverable: 26. Encourage residential and commercial development by implementing user friendly and proactive practices to make doing business with Council easier.

Focus Area: Communications and Development Infrastructure.

Deliverable: 29. Continue to provide quality core services/functions to the community in the following areas, whilst ensuring that Council's legislative obligations are met, i.e. development assessment.

Policy / Strategy

Council's Schedule of General Fees and Charges 2022/23.

Charges Resolution (No. 4) 2023

Southern Downs Planning Scheme (v.5)

ATTACHMENTS

Nil