

**MINUTES OF THE ORDINARY MEETING OF THE COUNCIL OF THE
MUNICIPALITY OF KIAMA HELD IN THE COUNCIL CHAMBERS, KIAMA, ON
TUESDAY 20 JULY 2010**

REPORT OF THE DIRECTOR OF ENVIRONMENTAL SERVICES

- 6 Lot 1 DP 1070506 and Lot 3 DP 258919 No 1015 Jamberoo Road,
Curramore (LEP.025.066 & PR.11243)
Jamberoo Action Park - Amendment to Kiama Local Environmental Plan
1996 (Amendment No 66)**

CR211

Committee recommendation that:

- 1) the Planning Proposal prepared by Siteplus Pty Ltd on behalf of Council (as included in this report) for the proposed Amending Local Environmental Plan for the Jamberoo Action Plan be forwarded to the NSW Minister for Planning for determination under the Gateway process under Section 56 of the EP&A Act; and
- 2) the Minister be requested to give advice to Council on:
 - a) the need for studies or other information to support the Planning Proposal and any associated need to revise the Planning Proposal;
 - b) the appointment of independent consultants to undertake the necessary studies to resolve the outstanding issues; and
 - c) who will be responsible for meeting costs of any required studies or a peer review of consultant reports prepared on behalf of the proponent in support of the Planning Proposal as prepared by JBA Urban Planning Consulting and that may be relied upon in determining if the Planning Proposal should proceed as an Amending Local Environmental Plan.

(Councillors Petschler & van der Wijngaart)

For: Councillors McCarthy, Wheeler, Reilly, Dare-Ward, van der Wijngaart,
Petschler and Bowman

Against: Nil

The **Motion** was carried unanimously.

EXTRACT REPORT OF THE DIRECTOR OF ENVIRONMENTAL SERVICES

Submitted to the Ordinary Meeting of Council held on 20 July 2010

- 6 Lot 1 DP 1070506 and Lot 3 DP 258919 No 1015 Jamberoo Road, Curramore (LEP.025.066 & PR.11243)
Jamberoo Action Park - Amendment to Kiama Local Environmental Plan 1996 (Amendment No 66)**

Summary

This report provides Council with an independent review and assessment of a Planning Proposal under Section 55 of the Environmental Planning and Assessment Act, 1979 (EP&A Act) for a proposed amendment to Schedule 4 of Kiama LEP 1996 to enable the expansion of the Jamberoo Action Park beyond its current boundary. The report recommends that Council resolve to forward the Planning Proposal to the NSW Minister for Planning under the Gateway determination process in accordance with Section 56 of the EP&A Act.

Finance

The proposed amendment to Kiama LEP 1996 may involve various legal and drafting costs required to finalise the draft Amending LEP. The cost of the independent review of the Planning Proposal and the management of the rezoning process through the Gateway determination process will be met by the proponent.

Policy

Council has resolved that all new proposals for amendment to Kiama LEP 1996 be incorporated into the Kiama LEP 1996 review. However, as the Kiama LEP 1996 review has not progressed to the Section 65 Certificate stage, and the proposal is of significant size and the Jamberoo Action Park has both local and regional economic and social significance it is considered appropriate to progress this matter separately as an Amending LEP to allow additional permitted uses under Schedule 4 of the Kiama LEP 1996 for the subject land. In addition the engagement of external planning consultants will also provide a balanced and transparent approach to the process. The applicant has agreed to pay the costs of a Consultant to undertake Council's processing due to the necessary priority being given to the draft Kiama LEP 2010 and DCP by Council staff.

Reason for the Report

This matter is reported to Council as, in accordance with the provisions of the Environmental Planning and Assessment Amendment Act, a resolution of Council is required to accept the Planning Proposal and recommend it be forwarded to the NSW Minister for Planning for determination under the Gateway process as a proposed amendment to Kiama LEP 1996.

Council's Vision and Goals

The proposal is generally consistent with Council's goals of seeking a sustainable environment and objective to control and plan development of our built environment for the wellbeing of the community.

Report Attachments and Councillor Enclosures

- Attachments - Attachment 1- Colour A4 sized map showing area of proposed Amending LEP.
- Enclosures – Jamberoo Action Park Site Plan – Existing
Jamberoo Action Park Site Plan - Proposed

Item 6 Contd.**RECOMMENDATION**

That:

1. The Planning Proposal prepared by Siteplus Pty Ltd on behalf of Council (as included in this report) for the proposed Amending Local Environmental Plan for the Jamberoo Action Plan be forwarded to the NSW Minister for Planning for determination under the Gateway process under Section 56 of the EP&A Act.
2. The Minister be requested to give advice to Council on:
 - a. the need for studies or other information to support the Planning Proposal and any associated need to revise the Planning Proposal;
 - b. the appointment of independent consultants to undertake the necessary studies to resolve the outstanding issues;
 - c. who will be responsible for meeting costs of any required studies or a peer review of consultant reports prepared on behalf of the proponent in support of the Planning Proposal as prepared by JBA Urban Planning Consulting and that may be relied upon in determining if the Planning Proposal should proceed as an Amending Local Environmental Plan.

REPORT**Zone:** 1(a) Rural A and Part 7(e) Rural Environmental Protection (Hinterland)**Proposal:** To amend Schedule 4 of the Kiama LEP 1996 to permit the following development with the consent of the consent authority on the subject land (Lot 1 DP 1070506 and Lot 3 DP 258919 Jamberoo Road Curramore) as shown on the draft LEP Map contained in Attachment 1:

1. Existing Jamberoo Action Park amusement rides, car parking and facilities as described in Section 3 of the Planning Proposal report, and
2. Additional new rides, car parking and facilities also as described in Section 3 of the Planning Proposal report on certain parts of the subject land as identified on the map contained in Attachment 1 of the report.

Jamberoo Action Park has determined a need to upgrade and expand its tourism and recreation facilities to meet growing demand and address issues associated with traffic impacts and parking. To this end, it has lodged a development application and Master Plan (DA10.2009.126.1) with Council to guide the future expansion of the Park. Concurrently, the proponent has requested Council to consider a Planning Proposal in accordance with Section 55 of the Environmental Planning and Assessment Act, 1979 (EP&A Act) for a proposed amendment to Schedule 4 of Kiama Local Environmental Plan 1996 (Kiama LEP 1996) to address the issue of permissibility and enable the expansion of the Jamberoo Action Park beyond its current boundary.

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The purpose of the Planning Proposal is twofold, firstly to remove reliance upon "existing use rights" associated with the Park's past, current and future operations and to remove any ambiguity associated with ongoing permissibility of the activities on the subject land and secondly, to put in place planning controls to guide the future development and operation of the Park.

Kiama Council recognises the social and economic importance of the Park and generally supports the objective of the Planning Proposal document but also recognises that a number of planning and operational issues related to the development application need to be resolved prior to any development approvals or amendments to the Kiama LEP 1996. The Planning Proposal must address a number of issues to determine the capacity of the site to accept further growth including:

- Traffic volume and management.
- Water supply.
- Effluent disposal.
- Visual impact.
- Ecological issues.

The Planning Proposal will facilitate and is consistent with the development application lodged with Council. The Planning Proposal seeks an amendment to Schedule 4 of the Kiama LEP 1996 by identifying specific development that may be carried out with consent on the subject land. All of the new rides and structures will be accommodated within Lot 1 and within the existing physical boundaries of the Park. However, a significant extension to the existing car parking area and new and expanded water supply and effluent management systems are proposed within Lot 3. The upgrade of the Park will require a substantial upgrade of the water supply, stormwater management and effluent treatment and disposal systems as the Park is not serviced by Sydney Water Corporation water and sewer facilities.

The Amending LEP will identify the existing development and the proposed additional development on the subject land to reflect the ongoing and future landuse activities on the subject land and provide clarity in the zone. It is suggested that this is achieved by additional permissible land uses identified in Schedule 4 of the Kiama LEP 1996 plus the Amending LEP Map contained in Attachment 1.

The development application is still under assessment by Council. As the issues remained unresolved, the proponent lodged a Class 1 Legal Action in the Land and Environment Court for a "Deemed Refusal" of the development application in December 2009. At the Case Management Conference held on 5 February 2010 the proponent agreed that the issues raised by Council during the assessment process needed to be addressed by the development application and it was considered that all the merit contentions could be resolved. It was agreed that experts for both parties should meet to discuss the contentions raised by Council and determine what amendments to the proposal could be made and what further information was required to resolve the issues. At this point in time it is understood that experts on both sides have met on the various issues of traffic, water supply, effluent management and visual impact but no resolution has been reached on the key issues.

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Council considers that the issues under investigation for the current development application also need to be resolved for the Planning Proposal. Although these issues are still under investigation the Planning Proposal to amend the Kiama LEP 1996 for the subject land has merit in that it will put in place planning controls that provide certainty in terms of permissibility and will guide and control the future development and operation of the Jamberoo Action Park.

The remainder of this report has been constructed to meet the Department of Planning guidelines for planning proposals. Should Council adopt the report recommendation it will be the following part of the report which will be submitted to the Department of Planning as the planning proposal.

Introduction and Background to Planning Proposal

The Jamberoo Action Park (The Park) is a regional tourist facility located at 1215 Jamberoo Road, on the outskirts of the village of Jamberoo on the South Coast of New South Wales. The Park was first opened in 1979 as the Jamberoo Grass Ski Park with the establishment of a chairlift, restaurant and an amenities building on Lot 1 DP 1070506. Over the past 30 years the Park has expanded by incremental approvals and now incorporates more than 12 attractions, many water based activities. This has been achieved through a number of building and development applications approved by Kiama Council. Until the gazettal of Illawarra Regional Environmental Plan No 2 (IREP No 2) on 11 September 1987, all applications for the Park were dealt with as permissible development by Council. The IREP No 2 added the definition of "amusement park" to Kiama LEP No 5 and then prohibited the use of land as an "amusement park" in the Jamberoo Valley. Therefore, after 1987, all development applications for expansion of the Park were made on the basis that the subject land where the Park was located enjoyed "existing use rights" as an amusement park under the relevant planning instruments.

The Park has now developed into the largest theme park in New South Wales and has local and regional economic and social significance and provides a significant tourist destination in the Illawarra.

The owners of the Park wish to build on the success of the Park and to continue to expand and upgrade facilities beyond the current boundary of the Park. Therefore, they prepared a Master Plan to guide the future development of the Park over the next 10 years. In June 2009 this Master Plan was submitted as a development application (DA10.2009.126.1) to Kiama Council over Lot 1 DP 1070506 (Lot 1) and Lot 3 DP 258919 (Lot 3). Until lodgement of that development application, there has been no development application to use Lot 3 DP 258919 as part of the Park operations. In the assessment of the submitted development application Council questioned the permissibility of the development over Lot 3. Council sought legal advice on this matter and on 26 June 2009 wrote to the proponent requesting the development application be withdrawn on the basis that Council's legal advice was that the development as proposed was prohibited. The proponent countered with legal advice stating the proposal could be considered permissible in the zone and requesting Council to continue with the assessment of the development application.

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In addition, the proponent lodged a Planning Proposal with Council in June 2009 seeking to rezone the subject land to 3(d) Business (Tourist Related) under Kiama LEP 1996. Council officers advised that Council would not support the proposed rezoning to a Business Zone as the Park is in a rural area and is not serviced by Sydney Water Corporation water supply or sewer. In addition, there are a number of uses permitted in a Business Zone which could not be supported on the land in a rural area. Understanding the need to resolve the issue Council suggested that the application be withdrawn and a new Planning Proposal be prepared seeking an amendment to Schedule 4 of Kiama LEP 1996 to permit specific additional uses on the subject land identified as Lot 1 and Lot 3.

Council agreed to continue the assessment of the development application as the issues that need to be resolved for Council to support the amendment to the Kiama LEP 1996 are the same as those that need to be resolved for the development application to expand the Jamberoo Action Park. Detailed assessment of the development application proposal by Council revealed that it was inadequate in a number of areas and Council had many concerns with the intensification of the use of the land and the impact on the area in terms of traffic impact and management, water supply, effluent management and disposal and visual impact. Council also expressed concern about the adequacy of the consultant studies prepared for the development proposal. Additional information and studies were requested from the proponent to address the main areas of concern. This took several months of continuous correspondence between Council and the proponent and some requested studies and information were not submitted to Council's satisfaction.

As the issues remained unresolved, the proponent lodged a Class 1 Legal Action in the Land and Environment Court for a "Deemed Refusal" of the development application in December 2009. At the Case Management Conference held on 5 February 2010 the proponent agreed that the issues raised by Council during the assessment process needed to be addressed by the development application and it was considered that all the merit contentions could be resolved. It was agreed that experts for both parties should meet to discuss the contentions raised by Council and determine what amendments to the proposal could be made and what further information was required to resolve the issues. At this point in time it is understood that experts on both sides have met on the various issues of traffic, water supply, effluent management and visual impact but no resolution has been reached on the key issues. The current status of the development proposal is that the proponent has agreed to lodge amended plans in July 2010 to address issues of traffic management and visual impact. It is also understood that work continues on the issue of an adequate water supply and effluent disposal system for the expansion of the Park.

Council is keen to deal with the issue of the permissibility of the proposal as a separate matter from the merit issues before the Court and recommended that this could be dealt with while the other issues are being resolved by the experts for both sides. However, the Commissioner has not ruled on this as yet. That being the case the Planning Proposal to amend the Kiama LEP 1996 for the subject land has merit in that it will put in place planning controls that provide certainty in terms of permissibility and will guide and control the future development and operation of the Jamberoo Action Park.

Item 6 Contd.**Subject Land**

The Jamberoo Action Park is located at 1215 Jamberoo Road, Curramore, New South Wales (See Figure 2.1 below). It lies on the western side of Jamberoo Road near the boundary of the Kiama and Shellharbour Local Government Areas. The subject land is located north of the Jamberoo township and is bounded on its north and west by rural zoned grazing land, south by rural zoned grazing land and rural residential dwellings and on its east by Jamberoo Road with rural zoned grazing land on the eastern side of that road.

The subject land consists of Lot 1 DP 1070506 (Lot 1) and Lot 3 DP 258919 (Lot 3). Lot 1 has an area of 42.61 hectares and Lot 3 has an area of 20.49 hectares. All the current water and amusement activities associated with the Park are located on Lot 1. Lot 3 is predominantly cleared of vegetation and is generally flat rural land. It does not contain any of the activities of the Park, although a couple of dams, effluent disposal pond and irrigation areas associated with the Park are located within Lot 3. Occasionally Lot 3 is used for overflow parking although this has not been approved by Council.

Under Kiama LEP 1996 the majority of the subject land is currently zoned 1(a) Rural A with the north-western corner of Lot 1 zoned 7(e) Rural Environmental Protection (Hinterland). No new development is proposed on the 7(e) zoned land.

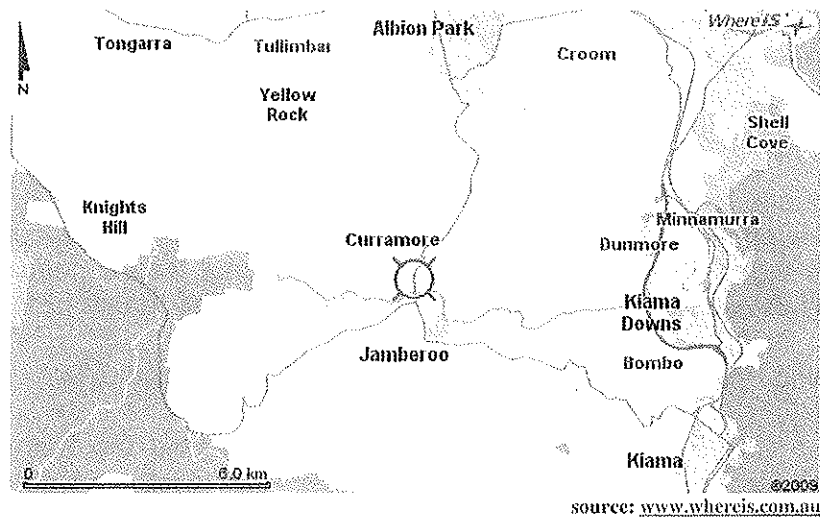


Figure 2.1 Location Map

The site is located in a rural precinct within the Jamberoo Valley Rural Conservation Area and the Jamberoo Valley Escarpment Area. The site is visible from a number of dwellings in the area and also from Jamberoo Road, Curramore Road and Minnamurra Lane. The topography of the site is undulating, sloping generally from the north to south. Both Lot 1 and Lot 3 contain stands of dense vegetation. Much of this vegetation is on the higher slopes and mapped as an area of high conservation value pursuant to Kiama LEP 1996. The listed Endangered Ecological Community - Illawarra Subtropical Rainforest is mapped as occurring within Lot 1 and Lot 3.

Item 6 Contd.**Planning Proposal**

The Jamberoo Action Park has determined a need to upgrade and expand its tourism and recreation facilities to meet growing demand and address issues associated with traffic impacts and parking. To this end, it has lodged a development application and Master Plan with Council to guide the future expansion of the Park. Concurrently, the proponent has requested Council to consider a revised Planning Proposal in accordance with Section 55 of the Environmental Planning and Assessment Act, 1979 (EP&A Act) for a proposed amendment to Schedule 4 of Kiama LEP to address the issue of permissibility and enable the expansion of the Jamberoo Action Park beyond its current boundary.

The Planning Proposal document submitted to Council for its consideration was prepared by JBA Urban Planning Consulting on behalf of George Eddy Holdings, the owners of the Jamberoo Action Park. The purpose of the Planning Proposal is twofold, firstly to remove reliance upon "existing use rights" associated with the Park's past, current and future operations and to remove any ambiguity associated with ongoing permissibility of the activities on the subject land and secondly, to put in place planning controls to guide the future development and operation of the Park.

At the request of Council the document briefly examines the issues associated with the expansion and operation of the Park but does not adequately address the critical issues of traffic and parking management, water supply, effluent disposal, visual impact assessment and flora and fauna. There is also concern that the applicant's Planning Proposal document does not give a balanced and unbiased consideration of both the positive and negative impacts of the proposed expansion of the Park and its management.

Kiama Council recognises the social and economic importance of the Park and generally supports the objective of the Planning Proposal document but also recognises that a number of planning and operational issues need to be resolved prior to any development approvals or amendments to the Kiama LEP 1996.

The Planning Proposal must address a number of issues including:

- Traffic volume and management – impacts beyond the Kiama LGA on the Albion Park Town Centre and impacts on the local road network and local residents.
- Water supply – source of water, volume of water, water treatment and compliance with appropriate water guidelines for human contact and health.
- Effluent disposal – including type of system, capacity, volume, peak loads, treatment options and onsite effluent disposal and management.
- Visual impact assessment and management – including consideration of the deemed SEPP Illawarra Regional Environmental Plan No 2.
- Ecological issues.

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These issues are discussed elsewhere in this report.

The Planning Proposal will facilitate and is consistent with the development application DA10.2009.126.1 lodged with Council. The Planning Proposal seeks an amendment to Schedule 4 of the Kiama LEP 1996 by identifying specific development that may be carried out with consent on the subject land. The development application /Master Plan for the Park identifies the following additional development as part of the "Kangaroo Island" expansion of the Park:

- Seven new rides including:
 - Lazy River Ride (with Action Rapids)
 - Rain Fortress
 - Kids Themed Water Play Zone
 - Tornado Ride
 - Behemoth Ride
 - Uphill Coaster
 - Mammoth River Ride
- Shade and Picnic shelters.
- Water Cannon Boathouse.
- Food and Beverage Outlets.
- Observation Deck.
- Change Rooms/Amenities.
- Additional Car Parking Areas.
- Landscaping.
- Amendments to the Water Supply and Effluent Management on the site.
- Demolition of the existing car racing track to accommodate some of the new rides.

Presently, the activities being conducted at the Park include:

- Toboggan Tracks.
- The Taipan Raft Ride.
- Surf Hill Water Slide.
- Billabong Beach Activities.
- Splash Out Water Slides.
- The Rock Jumping Platform.
- Outback Bay Wave Pool.
- Go-Kart Circuit.
- Mini Golf Area.
- Restaurant and Reception Centre.
- Entrance Structures.
- Associated Administrative and Amenity Areas.
- Car Parking Areas (including overflow parking).

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All of the new rides and structures will be accommodated within Lot 1 and within the existing physical boundaries of the Park. However, a significant extension to the existing car parking area and new and expanded water supply and effluent management systems are proposed within Lot 3. The upgrade of the Park will require a substantial upgrade of the water supply, stormwater management and effluent treatment and disposal systems as the Park is not serviced by Sydney Water Corporation water and sewer facilities.

The Amending LEP will identify the above proposed development plus incorporate the existing development on the subject land to reflect the ongoing and future landuse activities on the subject land and provide clarity in the zone. It is suggested that this is achieved by additional permissible land uses identified in Schedule 4 of the Kiama LEP 1996 plus the Amending LEP Map contained in Attachment 1.

Key Issues Relating to Expansion of the Jamberoo Action Park

- Traffic Volume and Management

Over the years the increasing popularity of the Park has resulted in congestion on the local road network. At times this has caused traffic to back up along Jamberoo Road all the way back to Albion Park. As such a report on the traffic aspects of the proposed expansion of the Park was prepared by Colston Budd Hunt and Kafes as part of the development application DA10.2009.126.1 submitted to Council. This report also formed part of the Planning Proposal prepared by the proponent. An assessment by Council engineering staff and the Roads and Traffic Authority (RTA) found the report to be inadequate. Principally, the figures for traffic generation supplied in the report are considered to be understated and provide an inaccurate representation of the traffic generated by the development at peak times. The traffic generated by the development will have an unacceptable impact on the road network, principally between the entry to the Park on Jamberoo Road and the township of Albion Park.

An assessment of the car parking arrangements by Council officers determined that the layout of the visitor and staff car parking arrangements and the number of car parking spaces provided in the development application is inadequate to cope with the traffic generated at peak times and will lead to unacceptable delays for traffic entering and leaving the Park and conflicts with other users of Jamberoo Road and the local road network. The internal car park design does not provide internal pedestrian footpaths and does not comply with Australian Standard 2890. Queuing at peak times at the Park will not be accommodated within the designated right-turn-in lane for vehicles entering the Park from the north and there is potential for rear end accidents between southbound traffic, particularly over the crest on Jamberoo Road immediately north of the Park entrance.

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In addition, the problems associated with entering the Park during peak times, will lead to patrons avoiding using the car park and parking along Jamberoo Road in the vicinity of the Park entrance. This will cause a conflict with road users and pedestrians and may lead to accidents. Jamberoo Road is an alternative road access for emergency vehicles in the event of a major incident blocking the Princes Highway between Albion Park Rail and Kiama. Access will be severely restricted if an incident coincides with high usage at the Park.

Council considers that the creation of a second entry located a short distance south of the main entry will lead to unacceptable and unsafe traffic conflicts along Jamberoo Road. Also, the creation of a left turn lane as part of this new entry encroaches on the neighbouring Lot 4 DP 258919 which is not part of the subject land and the consent of the owner has not been obtained.

Finally, the works proposed within Jamberoo Road, including an extension to the existing right turn bay and the creation of an additional southern entrance to the Park, require approval of the RTA under Section 138 of the Roads Act. At the moment the RTA is not supporting the proposal as it also has concerns regarding traffic impacts and road safety issues.

Council and the RTA are yet to be satisfied that the concerns can be addressed by the proponent. Currently, Council and the Court are waiting on additional traffic reports and amended plans to address the concerns raised by Council and the RTA. This is considered a critical issue to the proposed expansion of the Park, as it directly affects the successful operation of the Park but has wider impacts on the safety and amenity of the surrounding area, and must be resolved prior to finalisation of any amendment to the Kiama LEP 1996.

- Water Supply

The subject land is not serviced by a town water supply and the provision of an adequate water supply to service the ambitious expansion of the Park was not addressed in the development application lodged in June 2009. As such, on 6 July 2009, Council requested the proponent to provide a Water Cycle Management Report detailing the provision of potable water for the site, water for all the water based activities on the site, the provision for treatment and disposal of waste water generated by the proposed development as a whole and compliance with the relevant Australia Standards. A report was prepared by Cardno Forbes Rigby titled, *Preliminary Drinking Water Demand and Sewage Generation Study*, in November 2009 for the Park. An extract of this report was included in the Planning Proposal prepared by JBA Urban Planning Consultants to address this issue.

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However, it is considered by Council officers that insufficient detail is provided in this report to determine how water is to be collected and treated to produce a potable water supply for drinking, food preparation, showering and hand-washing in accordance with the relevant standards. There is insufficient information on an adequate recreational water supply for pools, water rides and water features in accordance with the requirements of the Public Health Act and Regulations. The report fails to adequately address water supply and management for fire fighting purposes, water supply and management for public amenities and water supply for the Loft Reception Centre. There is also concern that there is no justification for the estimated average daily usage per person of 6 litres and it is considered an underestimation.

As the Park is reliant on the treatment and reuse of water captured on the site for its water supply it is imperative that Council and the Court be satisfied that the proposed system is adequate and can operate in accordance with the relevant standards. It is considered that these issues can be resolved with further work by the proponent but at the time of preparing the Planning Proposal no resolution has been reached.

The reports and material submitted by the proponent with the development application were also inadequate regarding stormwater management and treatment. Council has requested additional information regarding hydrologic and hydraulic analysis, overland flow, on-site detention, a comprehensive stormwater quality treatment system and management plan and compliance with Kiama Council's Water Sensitive Urban Design Policy for Large Scale Developments. It is considered that without this information the Council and the Court cannot be satisfied that stormwater will be properly managed on the subject land.

- Effluent Treatment System

The material supplied by the proponent with the development application and the Planning Proposal is inadequate in terms of feasibility, geotechnical structure, environmental impacts, treatment method, disposal (ie; irrigation scheme) and management of effluent at the Park. The design of the proposed effluent treatment system is based on a water usage at the Park of 6 litres per person per day. This is considered an underestimate of usage. In addition, the effluent irrigation area is located in the south-western corner of Lot 1 and the western area of Lot 3 which is unsatisfactory as it will involve the removal of vegetation which is designated as high conservation value under Kiama LEP 1996 and contains an Endangered Ecological Community – the Illawarra Subtropical Rainforest. It is also located in the catchment area of two dams and is considered too small if the estimated daily usage rate proves to be an under estimation.

As the Park is not connected to the Sydney Water Corporation sewage system and is totally self sufficient for water supply and effluent treatment, the effectiveness of effluent treatment and appropriate reuse is critical to the health and well being of the patrons of the Park and the surrounding environment.

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It is understood that after discussions the proponent has decided to implement a tertiary treatment system for effluent as part of the Park expansion. It is anticipated that the tertiary treatment system would allow for reuse of a large proportion of the treated effluent and an associated reduction in the area needed for effluent disposal. Apparently, the proponent has engaged consultants from Burleigh Heads to assist in the design and implementation of this system, but detailed information has yet to be submitted to Council or the Court.

- Visual Impact Assessment and Management

Both the development application and the Planning Proposal do not adequately address the visual impact of the proposed expansion of the Park. No Visual Impact Assessment was undertaken as part of the proposal. Although the Park is an existing development in the visual landscape of the Jamberoo Valley the proposed expansion is doubling the footprint of the Park and will result in an altered view from adjoining properties and public areas.

The subject land is located within the Jamberoo Valley Rural Conservation Area and the Jamberoo Valley Escarpment Area. Therefore, of particular importance are the following stated aims and objectives of *Illawarra Regional Environmental Plan No 2 Jamberoo Valley* (IREP 2) in Clause 2 of that Plan that are referred to specifically in the preparation of draft local environmental plans in Clause 9:

Clause 2 - Aims, objectives etc

- (1) *The general aim of this plan is to conserve the agricultural, environmental and aesthetic values of the Jamberoo Valley.*
- (2) *The specific aims of this plan are:*
 - (a) *to conserve the agricultural potential of the Jamberoo Valley,*
 - (b) *to protect the rural environment and scenic amenity of the Jamberoo Valley Escarpment Area,*
 - (c) *to conserve areas of native vegetation,*
 - (d) *to conserve items of the environmental heritage and to encourage and promote their restoration and enhancement,*
 - (e) *to conserve the scenic quality of the Valley,*
 - (f) *to encourage re-forestation with appropriate species of trees and the eradication of undesirable exotic weed species, and*
 - (g) *to ensure that future development, including tourist development, in the valley is sited, designed and of such a scale and nature so as not to compromise other conservation objectives.*

Clause 9 - Preparation of Local Environmental Plans

A consent authority shall, in the preparation of a draft local environmental plan applying to the land to which this plan applies, give effect to the objectives, policies and principles specified in this plan.

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The proposal is located against a hillside in the valley within the existing Park area. The new rides proposed as part of the Master Plan are compatible with the existing elements in the Park and continue the theme of water based amusements. The colour and bulk of the new structures will be softened by the extensive landscaping proposed which incorporates three distinct landscape precincts; beach/coastal character, rainforest and Australia native parkland. Once this landscaping is established the development will be more easily absorbed into the visual landscape. The rides are located to sit against the hillside and not above it. This does result in the Park expansion being more sympathetic to the topographical characteristics of the area.

There is no doubt that the proposed expansion of the Park will alter the visual landscape in that area of Jamberoo Valley. But the proposed new rides and facilities are contiguous with the existing water based activities on the site and are located in a confined visual catchment. The scenic attributes of the Jamberoo Valley beyond the subject land will be retained. The proposal will result in an altered view from adjoining properties but will not result in view loss.

A number of concerns have been raised with the visual impact of the proposal. Concern with the height of a number of the rides particularly the proposed Tornado Ride which incorporates a giant frilled neck lizard wrapped around a huge funnel structure which is 26 metres tall. This exceeds the 11 metre height limit by 15 metres. The Uphill Coaster and the Rain Fortress rides exceed the height limit by 2.1 metres. It is considered that the Tornado Ride may have an unacceptable visual impact in the rural landscape when viewed from Jamberoo Road and other places in the locality due to its excessive height. Also, the proposed new car park on Lot 3 will have an unacceptable visual impact in the rural landscape as it will almost double the area of hard stand surface in that locality. No allowance has been made for landscaping screening around its perimeter and there is little opportunity for landscaping along its southern boundary. Finally, the removal of trees to create the new effluent irrigation area will also have a visual impact on the rural landscape.

As a number of the proposed new rides exceed 11 metres in height the development application was referred to the Department of Planning, in accordance with Clause 139 of the IREP 1, for concurrence which was granted on 14 October 2009.

It is considered that many visual impacts associated with the proposal can be alleviated by a reduction in the height of some of the rides and an improvement in the car parking design layout and landscape treatment. In addition, a rethink of the effluent treatment and management system will hopefully result in less area needed for effluent disposal and a corresponding retention of vegetation cover. It is understood that these issues will be addressed in the amended plans due to be lodged with Council in July.

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- Ecological Issues

A Flora and Fauna Assessment Report was prepared by Ecological Australia as part of the development application for the Park expansion. The report appears to only cover the area directly affected by the proposed "Kangaroo Island" extension and associated car park. Additional areas within the subject land may also be affected, directly or indirectly by the proposal, through the provision of ancillary water supply or drainage infrastructure, waste water irrigation areas and bush fire hazard reduction works. These ancillary works and any potential impacts have not been considered in the report. The report notes the presence of one Endangered Ecological Community (EEC) on the subject land and does not identify the presence of an area of high conservation value under the Kiama LEP 1996 on the subject land.

The Flora and Fauna Assessment Report identifies two vegetation communities, the Red Gum Forest-Rainforest, and Exotic Pasture and Ornamental Plantings occurring within the footprint of the proposed Kangaroo Island extension and car park. It states that the study area also includes a small highly disturbed remnant patch of the EEC Illawarra Lowlands Grassy Woodland, which is listed on Schedule 1 of the *NSW Threatened Species Conservation Act 1995 (TSC Act)*. A total of 72 flora species were recorded in the study area including 31 exotic species. Twenty-nine fauna species were recorded in the study area including nine microchiropteran bats, 18 native birds and 2 amphibians. Two threatened species, the Large Bentwing Bat and Little Bentwing Bat, which are listed in the TSC Act were recorded around the study area. No other threatened species were recorded and no endangered populations occur within the study area. The report concluded that the proposal was unlikely to have a significant effect on threatened species, endangered populations, ecological communities or their habitats.

However, the Regional Vegetation Survey identifies two native vegetation communities occurring on the subject land within the proposed wastewater irrigation area and the Asset Protection Zone. The Subtropical Dry Rainforest and Subtropical Complex Rainforest are both component communities of the Illawarra Subtropical Rainforest, a listed EEC under the *TSC Act*. The Illawarra Subtropical Rainforest EEC is endemic to the Illawarra and the remnants at Curramore are highly diverse and provide habitat for endemic, endangered flora listed under the TSC Act and the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*, such as the Illawarra Socketwood (*Daphnandra Sp.*) and the White-flowered Wax Plant (*Cynanchum Elegans*). It should be noted that some species of this EEC may only be present as seeds in the soil seed bank with no above ground individuals present. The remnant vegetation on Lot 1 and Lot 3 forms part of a regionally significant east west biodiversity corridor linking the Illawarra Escarpment to the Minnamurra River, as identified in the *Illawarra Regional Strategy 2006-31* and the draft *Illawarra Biodiversity Strategy 2009*.

Item 6 Contd.

Based on the information lodged to date, it is not clear whether the proposed development will have an adverse environmental impact on the ecology of the subject land. Additional information needs to be provided on the direct and indirect impacts of the proposed expansion of the Park on the flora and fauna on the subject land and an Assessment of Significance under the Threatened Species Assessment Guidelines (DECC 2007) needs to be undertaken for the Illawarra Subtropical Rainforest EEC, Illawarra Socketwood and the White-flowered Wax Plant for the whole of the subject land.

Objective of Proposed LEP

The objective of the site specific Amending LEP is to identify specific development that may be carried out with consent on the subject land through an amendment to Schedule 4 of the Kiama LEP 1996 as shown on the draft LEP map to enable the expansion of the Jamberoo Action Park.

Specifically, the Planning Proposal seeks to:

- Define the footprint of the Amending LEP on the subject land.
- Add site specific land uses to enable the carrying out of the following development on that part of the subject land zoned 1(a) Rural A under Kiama LEP 1996 namely:
 - Amusement Park.
 - Function Centre.
 - Facilities associated with the Park such as shops, refreshment rooms, and amenities.
 - Car Parking.
 - Water Supply and Effluent Management.
- Provide an ecologically sustainable recreation facility.
- Achieve State and local planning objectives by providing significant employment opportunities in the local area.

The outcome of the Planning Proposal is to remove the reliance upon 'existing use rights' associated with the Park's past and current operations on Lot 1 and to remove any ambiguity associated with the permissibility of the Park and its ongoing operation on the subject land.

Item 6 Contd.**Expansion of Provisions**

It is proposed that the existing local environmental plan, Kiama LEP 1996, will still apply to the subject land and will be amended by the site specific Amending Local Environmental Plan. As the preparation of Council's comprehensive LEP for the Local Government Area has not yet advanced to exhibition, it is considered appropriate that the provisions for the subject land be incorporated within an amending LEP to Kiama LEP 1996. The provisions of the amending LEP can then be transferred to Schedule 1 in Council's comprehensive LEP at the time that it is finalised. The Gateway determination may consider and direct on this as a matter of statutory drafting.

The subject land is currently zoned part 1(a) Rural A and part 7(e) Rural Environmental Protection (Hinterland) under Kiama LEP 1996. The Planning Proposal proposes to amend Schedule 4 of the Kiama LEP 1996 to permit the existing and future Park development with the consent of the consent authority on the subject land (legally described as Lot 1 DP 1070506 and Lot 3 DP 258919 Jamberoo Road, Curramore) as shown on the draft LEP Map contained in Attachment 1 as follows:

- Area A - Existing and future amusement park as described in Section 3 of the Planning Proposal report; and
- Area B – Existing and future car parking, water supply and effluent management areas as described in Section 3 of the Planning Proposal report.

Section 3 of the Planning Proposal details the existing and proposed land uses to be inserted into Schedule 4 to amend the Schedule 4 of the Kiama LEP 1996 which would make the following land uses permissible on that part of the subject land zoned 1(a) Rural A:

Area A

- Amusement Park.
- Function Centre.
- Facilities associated with the Park such as shops, refreshment rooms, and amenities.

Area B

- Car Parking.
- Water Supply and Effluent Management.

The Amending LEP will insert at the end of Schedule 4 of Kiama LEP 1996 the following:

Part Lot 1 DP 1070506 and Lot 3 DP 257919, Jamberoo Road, Curramore, as shown on the map marked "Kiama Local Environmental Plan 1996 (Amendment 66)" the following:

Item 6 Contd.Area A

- Amusement Park.
- Function Centre.
- Facilities associated with the Park such as shops, refreshment rooms, and amenities.

Area B

- Car Parking.
- Water Supply and Effluent Management.

It is not considered necessary to include a savings provision in relation to the undetermined development application as the current development application is consistent with the Planning Proposal. Relevant State Environmental Planning Policies, such as, State Environmental Planning Policy (Exempt and Complying Development) 2009, State Environmental Planning Policy (Infrastructure) 2007 and State Environmental Planning Policy No 64 (Advertising and Signage) apply and will continue to apply to the subject land.

Justification**Section A - Need for the Planning Proposal****1. Is the Planning Proposal a Result of any Strategic Study or Report?**

The Planning Proposal is not the result of a comprehensive strategic study or report, but results from the development of the Master Plan and development application for the subject land lodged with Council in June 2009 and subsequent discussions with Council concerning the permissibility of the proposal on the subject land. The Planning Proposal needs to resolve the same issues that are under consideration as part of the development application before Council and the Court to expand the Park. Those issues being:

- Traffic volume and management.
- Water supply.
- Effluent management and disposal.
- Visual impact assessment and management.
- Ecological issues.

A number of studies and reports have been prepared by the proponent to address these issues to support the development application and the Planning Proposal. Detailed assessment of the consultant reports by Council revealed inadequacies in a number of areas. Additional information and studies have been requested from the proponent and at the request of the Court experts from both Council and the proponents consultants are meeting to resolve the issues.

Item 6 Contd.**2. Is the Planning Proposal the Best Means of Achieving the Objectives or Intended Outcomes, or is there a better way?**

The Planning Proposal is the most practical way to provide certainty in terms of land use permissibility for Lot 1 and Lot 3 and will enable the orderly expansion of the Park attractions and infrastructure to improve the overall operation and management of the Park. Lot 1 will continue to contain the amusement park attractions and rides without the reliance on "existing use rights" and Lot 3 will be available for the provision of additional car parking and the upgrade of water supply and effluent management facilities to guide the future development of the Park.

Council cannot support a proposal to rezone the subject land to 3(d) Business (Tourist Related) as the Park is within a rural area and is not serviced by Sydney Water Corporation water supply or sewer. In addition, there are a number of uses permitted in a Business Zone which could not be supported on the subject land. Therefore, Council considers an amendment to Schedule 4 of the Kiama LEP 1996 to permit specific additional uses on the subject land identified as Lot 1 and Lot 3 and shown on the LEP Map in Attachment 1 as the most appropriate approach by an Amending LEP on the site currently zoned 1(a) Rural A in Kiama LEP 1996. The amendment can then be incorporated in the comprehensive LEP for the Kiama LGA once implemented.

3. Is there a Net Community Benefit?

While it is recognised that the Planning Proposal will benefit the proponent, it is also recognised that the proposal will result in a net community benefit by facilitating an upgrade of the Park's facilities and infrastructure which will result in the provision of additional car parking and improved traffic management, sustainable onsite water and effluent management, and in turn additional social and economic benefits in the local area by providing an improved regional tourism and recreational facility and associated local employment.

The Park currently employs 300 full time, part time and casual staff, which equates to an equivalent 120 full time jobs. The implementation of the proposed "Kangaroo Island" Master Plan expansion of the Park, through the development application and the Planning Proposal will result in an additional 60 full time equivalent jobs in the area. The Park currently has an annual turnover of \$16,000,000. Applying an appropriate multiplying factor of 2.5 it is estimated that the Park contributes \$40,000,000 in economic benefits to the regional economy.

Jamberoo Action Park is a unique tourist facility, with no comparable development operating within New South Wales. Its economic benefit extends beyond the direct impacts of employment within the Park, to the contribution to the regional economy from the tourism it generates. These economic benefits are recognised as important to the vitality of the economy of the Illawarra.

Item 6 Contd.

It is considered that the proposed upgrade of the facilities on the site as part of the expansion of the Park will also deliver a community benefit in terms of an improved ecologically sustainable development on the site. The Planning Proposal will enable the upgrade of the existing water supply system and effluent management and disposal system to ensure they operate efficiently, safely and minimize impact on the environment. The Planning Proposal will also facilitate the provision of additional car parking within the subject land, which together with improvements on Jamberoo Road and an improved Traffic Management Plan will alleviate the road congestion and safety issues experienced in the area on high visitation days.

Section B: Relationship to Strategic Planning Framework

1. Is the Planning Proposal Consistent with the Objectives and Actions Contained within the Applicable Regional or Sub-Regional Strategy?

The Illawarra Regional Strategy (Jan 2007) provides a vision, land use strategy, policies, outcomes and actions for the Illawarra region. The Planning Proposal is not a specific outcome or action within the Illawarra Regional Strategy but is consistent with a number of actions in the Strategy. The Park is important within the region in terms of its social and economic significance and tourism impact.

The existing and future development of the Park is in accordance with the vision of the Illawarra Regional Strategy in that it seeks to contribute to the prosperity, diversity and sustainability of the region. This vision is supported through the provision of a regionally significant and unique tourist facility that provides employment and attracts visitors both locally and state wide. In particular the proposed expansion of the Park will provide direct and indirect local employment opportunities during construction and permanent positions once operational.

2. Is the Planning Proposal Consistent with the Local Council's Community Strategic Plan, or other Local Strategic Plan?

Council has developed a draft Community Strategic Plan which has not yet been adopted for public comment. The Planning Proposal is consistent with an aim of Council's Social Plan 2010 -2012 of providing recreational activities and facilities in the LGA for its population. The amending LEP for the subject land is not an issue relevant to Council's current Plans of Management.

3. Is the Planning Proposal Consistent with Applicable State Environmental Planning Policies?

The following table outlines the State Environmental Planning Policies and their relevance to the Planning Proposal:

Item 6 Contd.

STATE ENVIRONMENTAL PLANNING POLICY		COMPLIANCE	COMMENT
State Policies			
SEPP No 4	Development without consent and miscellaneous exempt d and complying development.	N/A	
SEPP No 6	Number of storeys in a building.	N/A	
SEPP No 10	Retention of Low-Cost Rental Accommodation.	N/A	
SEPP No 19	Bushland in Urban Areas.	N/A	
SEPP No 21	Caravan Parks.	N/A	
SEPP No 22	Shops and Commercial Premises.	N/A	
SEPP No 26	Littoral Rainforests.	N/A	No littoral rainforests identified on the subject land.
SEPP No 29	Western Sydney Recreational Area.	Does not apply to Kiama	
SEPP No 30	Intensive Agriculture.	N/A	
SEPP No 32	Urban Consolidation (Redevelopment of Urban Land).	N/A	
SEPP No 33	Hazardous and Offensive Development.	N/A	
SEPP No 36	Manufactured Home Estates.	N/A	
SEPP No 38	Olympic Games and Related Projects.	Does not apply to Kiama	
SEPP No 39	Spit Island Bird Habitat.	Does not apply to Kiama	
SEPP No 41	Casino/ Entertainment Complex.	Does not apply to Kiama	
SEPP No 44	Koala Habitat Protection.	NA	No koala habitat identified on the subject land.
SEPP No 47	Moore Park Showground.	Does not apply to Kiama	

Item 6 Contd.

STATE ENVIRONMENTAL PLANNING POLICY		COMPLIANCE	COMMENT
State Policies			
SEPP No 50	Canal Estate Development.	N/A	
SEPP No 52	Farm Dams, Drought Relief and Other Works.	N/A	
SEPP No 53	Metropolitan Residential Development.	N/A	
SEPP No 59	Central Western Sydney Economic and Employment Area.	Does not apply to Kiama.	
SEPP No 61	Exempt and Complying Development for White Bay and Glebe Island Ports.	Repealed by Infrastructure SEPP.	
SEPP No 62	Sustainable Aquaculture	N/A	
SEPP No 64	Advertising and Signage.	Not inconsistent.	
SEPP No 65	Design quality of residential flat development.	N/A	
SEPP No 70	Affordable housing (revised schemes).	N/A	
SEPP No 71	Coastal Protection.	N/A	
SEPP No 74	Newcastle Port and Employment Lands.	Does not apply to Kiama.	
SEPP	Housing for Seniors or Persons with a disability 2004.	N/A	
SEPP	Building Sustainability Index: BASIXs 2004.	Not inconsistent.	
SEPP	Major Projects 2005.	N/A	
SEPP	Development on Kurnell Peninsular 2005.	Does not apply to Kiama.	
SEPP	Sydney Region Growth Centres 2006.	Does not apply to Kiama.	
SEPP	Mining, Petroleum Production and Extractive Industries 2007.	N/A	

Item 6 Contd.

STATE ENVIRONMENTAL PLANNING POLICY		COMPLIANCE	COMMENT
State Policies			
SEPP	Infrastructure 2007.	Yes	The proposed Master Plan and development application for the future expansion of the Park, including the proposed improvements to car parking, Park entrance, works in Jamberoo Road and traffic management, has been referred to the RTA for comment as it is a traffic generating development under this SEPP.
SEPP	Temporary Structures and places of public entertainment 2007.	Not inconsistent.	
SEPP	Kosciuszko National Park – Alpine Resort 2007.	Does not apply to Kiama.	
SEPP	Rural Lands 2008.	Yes	The Park is an existing facility in an the existing 1(a) Rural A zone under KIAMA LEP 1996, in a predominantly rural landscape. The Planning Proposal aims to facilitate the future expansion of the Park and improve the operation of the Park to further protect the rural environment.
SEPP	Affordable Rental Housing 2009.	N/A	
Deemed SEPPS (former Regional Plans)			
Illawarra REP 1 Illawarra		Not inconsistent	Concurrence of the Department of Planning was sought and given under Clause 139 for exceedance of the 11m height limit.
Illawarra REP 2 Jamberoo		Generally consistent	The proposed expansion of the Park will have an impact on the visual and scenic value of the Jamberoo Valley. Further advice needs to be submitted on this issue.

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STATE ENVIRONMENTAL PLANNING POLICY		COMPLIANCE	COMMENT
Deemed SEPPS (former Regional Plans)			
REP	Sustaining the catchments	Does not apply to Kiama.	
Greater Metropolitan REP No 2	Georges River Catchment	Does not apply to Kiama.	

4. Is the Planning Proposal Consistent with Applicable Ministerial Directions (s.117 Directions)?

The following table outlines the Ministerial Directions under Section 117 of the EP&A Act and their relevance to the Planning Proposal:

MINISTERIAL DIRECTION	COMPLIANCE	COMMENT
1. Employment and Resources		
1.1 Business and Industrial Zones	N/A	
1.2 Rural Zones	Generally consistent.	The proposed amending LEP is of minor significance as the Park is existing and currently relies on existing use rights. The Planning Proposal will not impact on the agricultural production value of rural land. The Schedule 4 site specific uses propose no change to the existing rural zone.
1.3 Mining, Petroleum Production and Extractive Industries	N/A	
1.4 Oyster Aquaculture	N/A	
1.5 Rural Lands	Generally consistent.	The Planning Proposal is considered to be of minor significance in terms of its impact on the surrounding rural land uses. The Schedule 4 site specific uses propose no change to the existing rural zoning.

Item 6 Contd.

MINISTERIAL DIRECTION	COMPLIANCE	COMMENT
2. Environment and Heritage Contd		
2.1 Environment Protection Zones	N/A	The Planning Proposal does not affect the environmental protection zone on the subject land.
2.2 Coastal Protection	N/A	
2.3 Heritage Conservation	Consistent	There are no known heritage items on the subject land.
2.4 Recreation Vehicle Areas	Consistent	No recreation vehicle areas proposed.
3. Housing, Infrastructure and Urban Development		
3.1 Residential Zones	N/A	The Master Plan and development application for the Park propose the creation of additional car parking, road improvements and traffic management improvements to assist in alleviating traffic congestion and safety issues on Jamberoo Road. Further work is required on this issue by the proponent. The Planning Proposal will facilitate the implementation of these measures.
3.2 Caravan Parks and Manufactured Home Estates	N/A	
3.3 Home Occupations	N/A	
3.4 Integrating Land Use and Transport	Generally consistent.	
3.5 Development Near Licensed Aerodromes	N/A	
4. Hazard and Risk		
4.1 Acid Sulfate Soils	N/A	
4.2 Mine Subsidence and Unstable Land	N/A	
4.3 Flood Prone Land	N/A	

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MINISTERIAL DIRECTION	COMPLIANCE	COMMENT
4. Hazard and Risk Contd		
4.4 Planning for Bushfire Protection	Consistent	The Bushfire Protection Assessment Report prepared by Ecological Australia submitted with the development application addresses asset protection zones and mitigation measures. The proposal is consistent with <i>Planning for Bushfire Protection 2006</i> .
5. Regional Planning		
5.1 Implementation of Regional Strategies	Not inconsistent	The Planning Proposal is not inconsistent with the Illawarra Regional Strategy. The Planning Proposal will enable the expansion and upgrade of a regionally significant tourist attraction.
5.2 Sydney Drinking Water Catchments	N/A	
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Does not apply to Kiama.	
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Does not apply to Kiama.	
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	Does not apply to Kiama.	
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)	Does not apply to Kiama.	
5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	Does not apply to Kiama.	
5.8 Second Sydney Airport: Badgerys Creek	Does not apply to Kiama.	
6. Local Plan Making		
6.1 Approval and Referral Requirements	N/A	
6.2 Reserving Land for Public Purposes	N/A	
6.3 Site Specific Provisions	Consistent.	The provision of additional scheduled land uses on the subject land is not considered restrictive but will facilitate better site development and operation of the Park.

Item 6 Contd.**Section C: Environmental, Social and Economic Impact**

1. Is there any Likelihood that Critical Habitat or Threatened Species, Populations or Ecological Communities, or their Habitats, will be Adversely Affected as a Result of the Proposal?

The development application and the Planning Proposal for the Park were accompanied by a Flora and Fauna Report prepared by Ecological Australia. The Report identifies two vegetation communities, the Red Gum Forest-Rainforest, and Exotic Pasture and Ornamental Plantings occurring within the footprint of the proposed Kangaroo Island extension and car park. It states that the study area also includes a small highly disturbed remnant patch of the EEC Illawarra Lowlands Grassy Woodland, which is listed on Schedule 1 of the *NSW Threatened Species Conservation Act 1995 (TSC Act)*. A total of 72 flora species were recorded in the study area including 31 exotic species. Twenty-nine fauna species were recorded in the study area including nine microchiropteran bats, 18 native birds and 2 amphibians. Two threatened species, the Large Bentwing Bat and Little Bentwing Bat, which are listed in the TSC Act were recorded around the study area. No other threatened species were recorded and no endangered populations occur within the study area. The report concluded that the proposal was unlikely to have a significant effect on threatened species, endangered populations, ecological communities or their habitats.

However, the Regional Vegetation Survey identifies two native vegetation communities occurring on the subject land within the proposed wastewater irrigation area and the Asset Protection Zone. The Subtropical Dry Rainforest and Subtropical Complex Rainforest are both component communities of the Illawarra Subtropical Rainforest, a listed EEC under the *TSC Act*. The Illawarra Subtropical Rainforest EEC is endemic to the Illawarra and the remnants at Curramore are highly diverse and provide habitat for endemic, endangered flora listed under the TSC Act and the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*, such as the Illawarra Socketwood (*Daphnandra Sp.*) and the White-flowered Wax Plant (*Cynanchum Elegans*). The remnant vegetation on Lot 1 and Lot 3 forms part of a regionally significant east west biodiversity corridor linking the Illawarra Escarpment to the Minnamurra River, as identified in the *Illawarra Regional Strategy 2006-31* and the draft *Illawarra Biodiversity Strategy 2009*.

The report appears to only cover the area directly affected by the proposed "Kangaroo Island" extension and associated car park. Additional areas within the subject land may also be affected, directly or indirectly by the proposal, through the provision of ancillary water supply or drainage infrastructure, waste water irrigation areas and bush fire hazard reduction works. These ancillary works and any potential impacts have not been considered in the report. Based on the information lodged to date, it is not clear whether the proposed development will have an adverse environmental impact on threatened species, populations or ecological communities on the subject land. Additional information needs to be provided on the direct and indirect impacts of the proposed expansion of the Park on the vegetation communities on the subject land.

Item 6 Contd.**2. Are there any other Likely Environmental Effects as a Result of the Planning Proposal and how are they Proposed to be Managed?**

The proposed 'Kangaroo Island expansion will double the footprint of the Park. Although it is planned to be implemented over a 10 year period, it will result in a growing demand on the Park's water supply system and increasing pressure on the Park's wastewater treatment facility.

As the Park is not connected to the Sydney Water Corporation water and sewage system it is totally self sufficient for water supply and effluent treatment. The Park is reliant on the treatment and reuse of water captured on the site for its water supply. In addition the effectiveness of effluent treatment and appropriate reuse is critical to the health and well being of the patrons of the Park and the surrounding environment. It is imperative that Council and the Court be satisfied that the proposed water supply and effluent management systems are adequate and can operate in accordance with the relevant standards. It is considered that these issues can be resolved with further work by the proponent but at the time of preparing the Planning Proposal no resolution has been reached.

3. How has the Planning Proposal Adequately Addressed any Social and Economic Effects?

The development application and concurrent Planning Proposal for the expansion of the Jamberoo Action Park did not contain a detailed economic analysis or social impact statement in support of the proposed development. The Planning Proposal states that the Park currently employs 300 full time, part time and casual staff, which equates to an equivalent of 120 full time jobs. It is expected that the implementation of the proposed expansion facilitated by the Planning Proposal will result in an additional 60 full time equivalent jobs.

Council recognises that the Park is an existing unique tourist facility, with no comparable recreational development operating in New South Wales that does contribute to the local and regional economy. And its benefits extend beyond the direct impacts of employment within the Park, to the wider social, recreational and tourism benefits it generates. These benefits are important to the vitality of the economy of the Illawarra.

Therefore, Council supports the Planning Proposal on social and economic grounds but is concerned about the adequacy of the studies and reports submitted by the proponent and recognises that issues of merit still need to be resolved.

Section D: State and Commonwealth Interests

There are no known significant State and Commonwealth interests affected by the Planning Proposal.

Item 6 Contd.**1. Is there Adequate Public Infrastructure for the Planning Proposal?**

The subject land is not serviced by the Sydney Water Corporation water and sewer system and has to be completely self sufficient for its water supply and effluent management and disposal. Therefore, the proposal does not impact on public water and sewer infrastructure. It is anticipated that the relevant services for electricity and communication can be upgraded and provided to the site.

The Traffic Study prepared by Colston Budd Hunt and Kafes as part of the development application for the Park expansion identified a number of measures to address the traffic impact, congestion and safety issues associated with the ongoing operation of the Park. Although Council and the RTA have concerns with this report and are currently working through the car parking and traffic issues with the proponent, it is evident that some works will be required on Jamberoo Road to alleviate the congestion and safety issues associated with the existing and proposed development at the Park. Therefore, the Planning Proposal will result in some works being undertaken on a public road with approval of the RTA.

2. What are the Views of State and Commonwealth Public Authorities Consulted in Accordance with the Gateway Determination, and have they Resulted in any Variations to the Planning Proposal?

During the assessment of the development application for the Park expansion Council consulted with the RTA, the Rural Fire Service, the Department of Planning (DOP) for concurrence and the Department of Environment, Climate Change and Water (DECCW).

As the proposal is of a significant size and the Jamberoo Action Park has both local and regional economic and social significance Council also briefed the Department of Premier and Cabinet and the Department of Planning on the proposal.

No consultation with Commonwealth Departments has been carried out to date on the Planning Proposal.

Further consultation may be required once the Planning Proposal has gone through the gateway determination and further studies and information is prepared on the unresolved issues pertaining to the Park expansion. This consultation may result in variations to the Planning Proposal.

Details of Community Consultation

The development application lodged with Council for the proposed expansion of the Jamberoo Action Park was placed on public exhibition for a period of fourteen (14) days from 24 July 2009. Council received three letters of objection to the development application. Nine letters of support were lodged by JBA Urban Planning Consultants acting for the proponent.

Item 6 Contd.

No formal consultation has been undertaken with the community in relation to the Planning Proposal to date. It is expected should the Minister decide to proceed with the Planning Proposal that conditions in the Gateway determination will set out the nature and extent of the community consultation to be undertaken and the consultation with relevant government agencies.

Conclusion and Recommendations

It is recommended that Council forward the Planning Proposal to the NSW Minister for Planning under the Gateway determination process in accordance with Section 56 of the EP&A Act and request advice on the resolution of the outstanding issues regarding the Park operation and expansion as follows:

1. That the Planning Proposal prepared by Siteplus Pty Ltd on behalf of Council (attached to the report) for the proposed Amending Local Environmental Plan for the Jamberoo Action Plan be forwarded to the NSW Minister for Planning for determination under the Gateway process under Section 56 of the EP&A Act.
2. That the Minister be requested to give advice to Council on:
 - a. the need for studies or other information to support the Planning Proposal and any associated need to revise the Planning Proposal;
 - b. the appointment of independent consultants to undertake the necessary studies to resolve the outstanding issues;
 - c. who will be responsible for meeting costs of any required studies or a peer review of consultant reports prepared on behalf of the proponent in support of the Planning Proposal as prepared by JBA Urban Planning Consulting for the proponent and that may be relied upon in determining if the Planning Proposal should proceed as an Amending Local Environmental Plan.

REPORT ATTACHMENT – ITEM 6



ATTACHMENT 1

source: www.maps.google.com.au

- AREA A - AMUSEMENT PARK - EXISTING AND FUTURE DEVELOPMENT
- AREA B - AREAS OF CARPARK, WATER SUPPLY AND EFFLUENT MANAGEMENT

