

13.2 Former Sale of Council Land and Planning Proposal

CSP Objective: 4 Responsible Civic Leadership that is Transparent, Innovative and Accessible

CSP Strategy: 4.2 Ensure finances are managed responsibly to meet the goals of the Community Strategic Plan and to protect financial investments and assets

Delivery Program: 4.2.3 Ensure maximum revenue return is achieved

Summary

In 2003, Council entered into a contract for the sale of land in Kiama. The land was previously part of an adjoining road reserve and a road closure was undertaken in order to sell the land. The section of land was zoned for road purposes at that time. This zoning carried through into Kiama LEP 2011 albeit under a different name/description. This report recommends that steps be taken through a planning proposal to rezone the subject section of land as residential.

Finance

A planning proposal for rezoning will incur costs of approximately \$10,000 for the preparation and normal statutory fees. This cost will be met by Council.

Policy

Environmental Planning and Assessment Act 1979

Roads Act 1993

Attachments

1 Plan of Land - Bland Street Kiama

Enclosures

Nil

RECOMMENDATION

That a planning proposal commence for that part of Lot 73 DP1153471 Bland Street Kiama currently zoned SP2 Infrastructure to R2 Residential under Kiama LEP 2011 and that Council meet the costs in the preparation and lodgement of the planning proposal.

BACKGROUND

In December 2003, Council entered into a contract to sell land on the corner of Bland and King Street Kiama to the adjoining private property owner. The section of land was formerly part of the adjoining road reserve. Council took steps to close the section of road (584m²) under the Roads Act and the land was subdivided and consolidated in title with the adjoining privately owned land.

The land is now described as Lot 73 DP1153471.

Report of the Director Engineering and Works

13.2 Former Sale of Council Land and Planning Proposal (cont)

In the negotiations for closure and sale of the subject section of land, a valuation assessment was made on the basis of the land having a residential zoning. The land sale proceeded on the basis of this assumed residential land value.

It has recently been brought to Council's attention that the subject land has never been made a residential zoning. The purchaser claims that it was always the understanding during negotiations with Council that the land would become residential zoned and is the reason why the purchase took place on the basis of a residential-zoned parcel in 2003.

Council incorrectly indicated in correspondence during the initial road closure process in 2003 that the land was zoned residential, although this has never actually been the case. The purchaser cites this previous Council correspondence and has commented that they were given the notion that the land was in the process of, or soon to be rezoned as residential.

The previous planning regulations at that time, allowed for developments within 20 metres of a zoning boundary the ability to adopt the adjacent zoning classification. In this instance a residential development could have been applied to the entire lot without the need for rezoning and may be the reasoning why this was never pursued. Unfortunately this zoning boundary proximity clause no longer applies in the current LEP.

Council's current Kiama LEP 2011 planning maps confirm that the land is currently zoned SP2 Infrastructure. However the Kiama LEP 2011 floor space ratio (FSR) maps indicate the subject part of Lot 73 is assigned an FSR of 0.45:1 contiguous with the adjoining residential zoned land in the proximity. This indicates some intention of Council to treat the land as residential zoned at some stage in the future. It is considered appropriate to amend the Kiama LEP accordingly on the basis no extraordinary issues such as geotechnical or contamination arise during the planning proposal process.

From review of the documentation related to this matter it is clear that sole purpose of proceeding with the initial road closure, land disposal and consolidation of land titles was for the subject area of land to be able to be used expressly for residential purposes. It then follows that the land needs to be appropriately zoned for this to take place.

It is recommended that the required planning proposal application be commenced by Council with the intention of rezoning the subject part of Lot 73 DP1153471 to R2 Residential.

