

PLANNING PROPOSAL – GLENTHORNE EMPLOYMENT AREA, SOUTH TAREE

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Authorising Director Paul De Szell, Acting Director Planning & Natural Systems

SUMMARY OF REPORT

The purpose of this report is to seek a formal resolution of Council to seek a Gateway Determination from the NSW Department of Planning and Environment to support the processing of a Planning Proposal to rezone land referred to as the Glenthorne Employment Area.

The Planning Proposal involves changing the current RU1 Primary Production zone to the IN1 General Industrial, B6 Enterprise Corridor and E2 Environmental Conservation zones.

SUMMARY OF RECOMMENDATION

That Council:

1. seek a Gateway Determination based on the attached Planning Proposal;
2. require the applicant to complete any outstanding studies;
3. undertake government agency consultation;
4. update the Planning Proposal to incorporate the outcomes of outstanding studies and agency consultation;
5. exhibit the Planning Proposal; and
6. in the event that no objections are received to the exhibition of the Planning Proposal, that the associated Local Environmental Plan amendment be drafted and made without referral back to Council.

FINANCIAL/RESOURCE IMPLICATIONS

Nil - All the work associated with the rezoning is being funded by the applicant under Council's Release Area Program.

LEGAL IMPLICATIONS

A planning proposal must be considered by Council in a manner consistent with its obligations under the *Environmental Planning and Assessment Act 1979* and its corresponding *Environmental Planning and Assessment Regulation 2000*.

The applicant provided a planning proposal on 5 December 2018 and subsequently was reviewed by independent consultants, RPS Australia East (RPS) and Council officers. The applicant was notified by Council on 18 December 2018 that the submitted documentation meets its requirements pursuant to Council's Planning Proposals and Development Control Plan Applications Policy. As a result Council is required to undertake a full assessment of the Planning Proposal and to formally resolve whether to support it or not by 18 March 2019.

ATTACHMENTS

A: Glenthorne Employment Area Planning Proposal – as amended by RPS

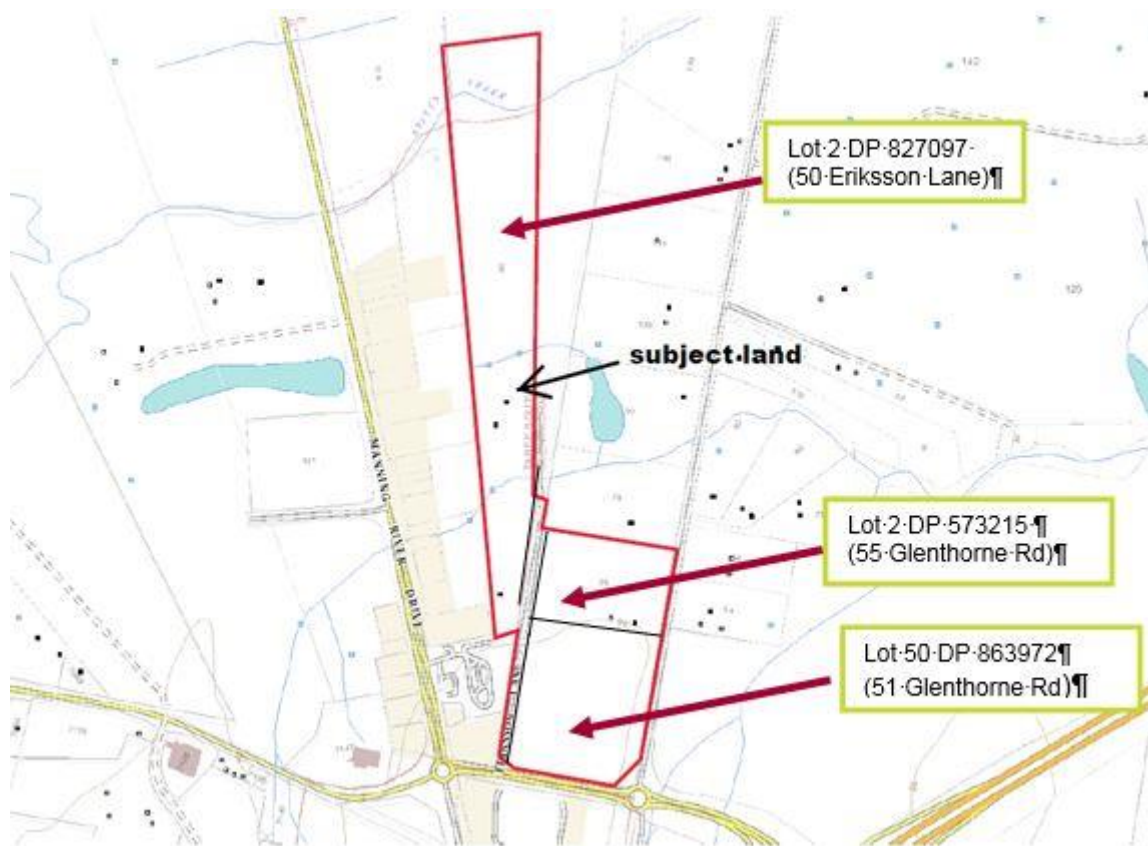
Attachment A has been circulated electronically to the Councillors and Senior Staff, however this Attachment is publicly available on Council's website.

BACKGROUND

Location

The planning proposal relates to three parcels of land in Glenthorne (see Map 1 below) and includes:

- Lot 50 DP 863972 (51 Glenthorne Road) being 6.42ha in area;
- Lot 2 DP 573214 (55 Glenthorne Road) being 4.05ha in area; and
- Lot 2 DP 827097 (50 Eriksson Lane) being 12.94ha in area.



Map 1: Glenthorne Employment Area Planning Proposal site

The land is currently zoned RU1 Primary Production under *Greater Taree Local Environmental Plan (LEP) 2010*.

The land is undeveloped and mostly cleared. The land contains a number of vegetation communities, all of which have been highly modified by past activities. Results from a preliminary ecological assessment suggest that it is unlikely that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the planning proposal. A more detailed biodiversity assessment will be undertaken following a successful Gateway Determination.

The subject land contains two minor streams in the south and a third order stream in the north, with scattered native and exotic vegetation. It has a gently undulating topography primarily draining to the north-east. A dwelling is located on each lot.



Map 2: Aerial photo of Glenthorne Employment Area Planning Proposal site

To the west the subject land adjoins an area referred to as the Manning River Drive Employment Precinct, including land zoned B6 Enterprise Corridor zone, B5 Business Development and IN1 General Industrial. To the north and east the subject land adjoins RU1 Primary Production zoned land used for extensive agriculture and rural lifestyle properties. To the south the subject land adjoins the RU5 Village zone of Purfleet on the opposite side of Manning River Drive. The Manning River Drive / Pacific Highway interchange is located approximately 350m east of the subject land. At its closest point the Manning River is located approximately 1.1km to the north.

Ownership

Land ownership is as follows:

- Lot 50 DP 863972 (51 Glenthorne Road) is owned by Michael and Heather Barrett;
- Lot 2 DP 573214 (55 Glenthorne Road) is owned by Edward Gersbach; and
- Lot 2 DP 827097 (50 Eriksson Lane) is owned by Michael and Heather Barrett.

Processing of the planning proposal

The land has been previously identified by Council, in the draft Manning Valley Local Strategy, as suitable for employment generating purposes. If the Glenthorne Employment Area is rezoned it will enlarge the existing Manning River Drive Employment Precinct, providing more employment opportunities to support the township of Taree and the wider MidCoast area. Appropriate zones to facilitate such purposes will be achieved through the planning proposal process.

Applicant

The applicant is Jasbe Glenthorne Pty Ltd.

Process for preparing the planning proposal

Council engaged independent consultants, RPS, to review and process the planning proposal submitted by the applicant. The cost of the consultants is being funded by the applicant.

Reason for the rezoning

The draft planning proposal states that the suggested LEP amendment will facilitate an orderly extension to the Manning River Drive Employment Precinct by taking advantage of the subject land's distinctive locational strengths to activate the creation of new employment opportunities.

The planning proposal is consistent with the draft Manning Valley Local Strategy (MVLS), prepared by MidCoast Council and dated 27 May 2016. The land (except for the northern extent of Lot 2, DP 827097) is identified in the mapping of the Manning River Drive South Precinct within the MVLS.

The planning proposal is also consistent with the Regional Economic Development Study (REDS) for the Mid Coast region, prepared by the NSW Department of Premier and Cabinet (2018). The planning proposal has the potential to be a key contributor to achieving the REDS objectives through the provision of land that is of a suitable zone and size and has locational advantages due to its proximity to a major transport corridor, being the Pacific Highway.

Notwithstanding consistencies with the above strategies, the planning proposal must also demonstrate planning merit in its own right. This has been successfully demonstrated by the information provided in the attached planning proposal – Glenthorne Employment Area Planning Proposal.

Economic impact

The Economic Assessment attached to the planning proposal found that there are strong economic grounds to support the proposed rezoning of the land for the following reasons:

- The site is strategically located for locals and visitors alike. The provision of additional services at this location will complement the nearby existing Caltex highway service centre and other transport services planned for the Northern Gateway employment precinct of Taree, located at Cundletown.
- Employment zones on the subject land capitalise on the land's distinctive locational strengths (i.e. highway accessibility and co-location with the existing employment precinct) and has the potential to trigger much needed local investment and job creation.
- The proposal has the potential to incorporate economic and cultural development opportunities in partnership with the Purfleet-Taree Local Aboriginal Land Council (the developer initiated discussions regarding providing a space within the proposed service station for this purpose).
- The total estimated benefit from stage one of development of the land is likely to equate to approximately \$1.73 million annually.
- The Glenthorne rezoning will strengthen the significance of the Manning River Drive Employment Precinct as an important southern entry into Taree. The proposal also complements the Northern Gateway employment precinct, ensuring that Taree captures every opportunity to trade from highway traffic and local resident movements in order to maximise the available local economic benefits.
- The proposed rezoning is consistent with the aims of the draft Manning Valley Local Strategy which seeks to 'grow the local economy' by offering accessible and affordable options for new businesses. This objective is key to current Council and State government initiatives to strengthen the regional economy and to build local resilience in the face of challenging demographic and economic trends.

DISCUSSION

Planning Context

The land subject of the planning proposal is not specifically identified in any statutory State strategy however the planning proposal is consistent with the Directions and Actions of the Hunter Regional Plan 2036 as it strengthens opportunities for interconnections with the North Coast region by identifying employment land located in close proximity to the Pacific Highway on the northern fringe of the Hunter.

It is expected that businesses will be attracted from within the Hunter and from the North Coast Region, Greater Sydney and beyond. The rezoning of this land will result in the growth of industries that can leverage efficient access on to the Pacific Highway without requiring heavy vehicles to travel through towns or residential areas. It will also allow for implementation of initiatives to support small business growth and innovation.

The planning proposal is consistent with the draft MVLS, as it is identified in the strategy for rezoning for employment purposes and is consistent with the REDS for the Mid Coast region with locational advantages due to its proximity to a major transport corridor, being the Pacific Highway.

The land has a gently undulating topography and is adjacent to the existing Manning River Drive Employment Precinct.

Having regard for these attributes it is believed that strategic merit can be demonstrated to the NSW Department of Planning and Environment (DPE) for this planning proposal, a necessary planning requirement for it to receive a positive Gateway Determination.

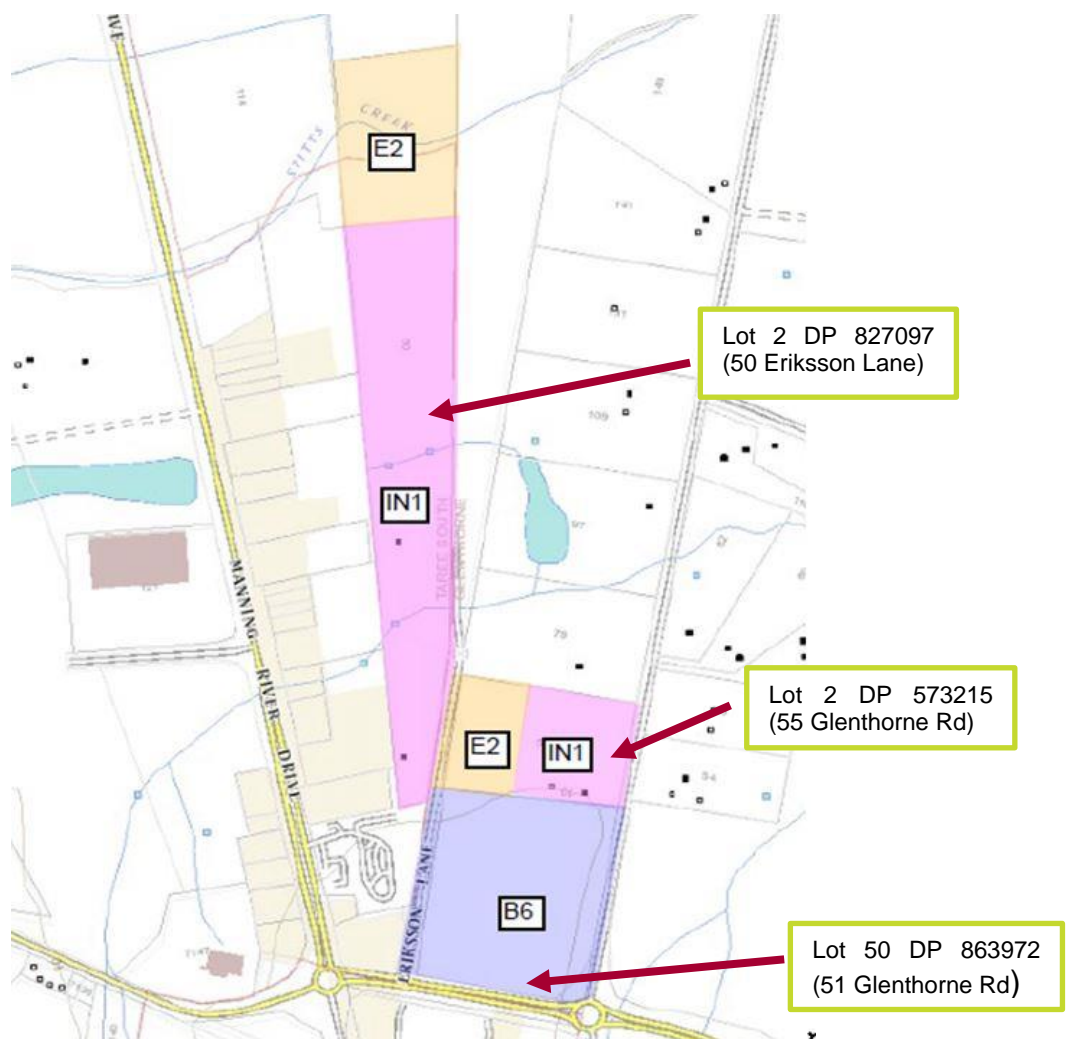
Draft LEP Amendment

The following changes to the planning controls within Greater Taree LEP 2010 are proposed in the planning proposal:

Lot 2 DP 827097 (50 Eriksson Lane) and Lot 2 DP 573215 (55 Glenthorne Road)

- Amend the zoning from RU1 Primary Production to E2 Environmental Conservation (northern extent for 50 Eriksson Lane and western half of 55 Glenthorne Road) and IN1 General Industrial. Water courses within the IN1 zone are to be investigated for possible E2 zoning post Gateway Determination;
- Removing the minimum lot size applying to that part of Lot 2 DP 827097 and that part of Lot 2 DP 573215 proposed for IN1, consistent with standard controls for the IN1 zone; and

An illustration of the proposed rezoning across the area subject of the planning proposal is provided in Map 2 below.



Map 3: Proposed zonings for the Planning Proposal site

It should be noted that Lot 2 DP 573215 (55 Glenthorne Road) is recommended to be rezoned to part E2 Environmental Conservation (western half) and IN1 General Industrial. The rationale for the zoning nomination relates to the location of vegetation in the western half of the site. A precautionary approach has been taken in nominating this area as E2 Environmental Conservation. In a practical sense, it may be possible to develop this area for

industrial purposes, however it is likely that environmental offsets (yet to be explored or contemplated) would be required.

In the absence of any Biodiversity Development Assessment Report (BDAR), prepared in accordance with the guidelines of the *Biodiversity Conservation Act 2016* (BC ACT) and addressing impacts over this part of the site, the nomination of this part of the land as E2 Environmental Conservation is considered appropriate but could be reviewed post Gateway Determination.

Lot 50 DP 863972 (51 Glenthorne Road)

- Amend the zoning from RU1 Primary Production to B6 Enterprise Corridor;
- Impose a maximum Floor Space Ratio of 1:1;
- Impose a maximum Height of Buildings of 8.5m; and
- Removing the minimum lot size applying to the land, consistent with standard controls for the B6 Enterprise Corridor zone

Main rezoning issues

The applicant and Council met with the NSW Roads and Maritime Service (RMS) on 2 May 2018 to discuss the potential development outcomes in order to provide the RMS with the opportunity to provide feedback and discuss any concerns that should be addressed in the planning proposal.

The RMS were unable to provide details of any relevant upgrades, stating that there are no works proposed within the RMS' current five year plan that may affect the land or the proposal, and of particular note, there were no current plans to upgrade the Taree South highway interchange.

The RMS advised that modelling would not be required for the highway interchange for the planning proposal, unless modelling and traffic counts for the roundabouts on Manning River Drive indicate that traffic queuing on to the highway may result from the proposal. The RMS' primary concern is whether the development would be likely to cause any queuing back onto the highway. The RMS also stated that they would be concerned if the development included a Highway Service Centre.

As a result of the discussions with the RMS, it was agreed that a Traffic Impact Assessment (TIA) for stage 1 of the planning proposal will investigate yield and traffic generated by the potential development of the land for industrial and business purposes. It would also investigate a service station use on the land (a potential use of the land following rezoning and one that provides a high traffic volume to model [i.e. worst case scenario regarding traffic volumes]).

In particular, the TIA investigates the split between local traffic and highway traffic and considers whether the planning proposal would have a likely impact on the Pacific Highway and in particular the Old Bar Road / Taree South interchange. This has been considered in detail in the TIA contained in the planning proposal. The modelling results show that the proposal would be unlikely to cause queuing on the Pacific Highway. Further consultation with RMS will occur following completion of an updated TIA and prior to public exhibition.

Due to the presence of vegetation on the site Council required preliminary consideration of this issue pre-Gateway. A preliminary ecological assessment is contained within the planning proposal and states that it is unlikely that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the planning proposal. Using a precautionary approach the planning proposal recommends zoning the area on 55 Glenthorne Road which contains vegetation as E2

Environmental Conservation. A more detailed biodiversity assessment will be undertaken following the Gateway Determination and this zone may be revised at that time.

Post Gateway, the detailed biodiversity assessment will need to be carried out in accordance with the *Biodiversity Conservation Act 2016*. Field surveys will need to be undertaken and described in accordance with the requirements of the Biodiversity Assessment Method (BAM). Application of the BAM will need to be undertaken by an accredited person and results included in the detailed biodiversity assessment (a Stage 1 Biodiversity Development Assessment Report [BDAR]) which may influence the zones that will be applied to Eriksson Lane and Lot 2 DP 573215.

In meeting the requirements of the *Biodiversity Conservation Act 2016* at the rezoning stage, planning proposals should firstly seek to avoid or minimise the impacts of development on biodiversity. If the impact of future development of land can be offset then the BAM provides a mechanism to determine what the offset would be and whether full development of the land can be achieved. Hence, until this work is undertaken post Gateway the proposed zones cannot be fully determined.

The results of the BDAR will be referred to OEH as part of the agency referrals of the finalised planning proposal, prior to exhibition. Only then will Council have a level of certainty as to whether 55 Glenthorne Road can be fully or partly developed or whether an environmental zone is required to be provided over part of this lot.

The subject land does not contain any listed or potential items of European heritage significance and is not located within close proximity to a heritage conservation area.

An Aboriginal Heritage Impact Assessment (AHIA) was undertaken for the planning proposal and is included at Appendix E of the attached planning proposal. The AHIA concludes that it is highly unlikely that the subject land would have been favoured for past large-scale Aboriginal occupation but would have been suitable for small-scale camping and hunting and gathering grounds, as well as for travelling to the Manning River.

Consultation with the Aboriginal community was undertaken for the purpose of documenting the social and cultural significance of the subject land. No aesthetic, historic, scientific or social / spiritual significance was assigned by the Registered Aboriginal Participants (RAPs) to the subject land.

There has been a concern raised by an adjoining owner that rezoning the land would require the closing of Eriksson Lane. This is not the case – a rezoning affects the land under consideration, not the status of surrounding roads.

Outstanding studies

In its current form the planning proposal indicates that the following studies are required to be undertaken/completed post-Gateway:

- Preparation of a site specific development control plan (DCP) for the subject land.
- A Water and Sewer Servicing Strategy.
- A Stage 1 Biodiversity Development Assessment Report (BDAR) prepared by accredited person using the Biodiversity Assessment Method (BAM) of the *Biodiversity Conservation Act 2016*.
- A preliminary local flooding and drainage assessment of the subject land.
- A Concept Stormwater Management Strategy.
- A Preliminary contamination assessment.

- Geotechnical survey.
- An updated Traffic Impact Assessment (including assessment of an internal road layout).

The planning proposal, as amended by RPS, includes the requirement to undertake/complete these studies.

Agency consultation

The planning proposal recommends consultation with the following government agencies post-Gateway, following completion of outstanding studies and prior to public exhibition:

- NSW Roads and Maritime Services
- NSW Office of Environment and Heritage
- NSW Rural Fire Service
- TransGrid / Essential Energy
- Telstra / NBN Co

This is considered satisfactory for this Planning Proposal.

Use of delegations

Council has been issued with plan making delegations from the NSW Minister for Planning in regard to processing planning proposals. What this effectively means is that Council can bypass DPE following exhibition of the planning proposal to seek the LEP amendment to be made (formally called gazettal). For this to occur Council needs to resolve to use these delegations and the Gateway Determination needs to then confirm that Council can use these.

In deciding whether to request to use its delegations Council must decide whether it has a potential or actual conflict of interest in the planning proposal.

It is considered that there is no conflict of interest existing in regard to processing this planning proposal, as Council owns no land within the area being rezoned. As such, it is appropriate to ask the Minister to permit Council to use its plan making delegations.

CONSULTATION

Formal consultation with identified government agencies will occur post-Gateway, prior to public exhibition.

Internal consultation on the draft planning proposal has been undertaken with Council's Senior Ecologist, Water Quality and Estuary Management Program Co-ordinator, Team Leader Environmental Health (Contamination and Health), Waste Officer, Asset Planning Coordinator - Water Services, Development Services Manager, Community Strengthening Officer and Senior Development Engineer (including Senior Traffic Engineer feedback).

Consultation is expected to continue between the developer and the local Aboriginal community regarding the potential to incorporate economic and cultural development opportunities within the proposed service station in partnership with the Purfleet-Taree Local Aboriginal Land Council, post-Gateway. If successful, the outcomes of this can be considered for inclusion in a Planning Agreement, which would be separately report to Council for exhibition.

Wider community consultation will occur during the formal exhibition of the planning proposal and proposed Development Control Plan. The Gateway Determination will direct Council as to how this is to occur for this planning proposal, though Council's standard minimum 28 day exhibition period is usually granted by the State.

COMMUNITY IMPACTS

The positive impacts of the planning proposal and the development it will provide include:

- The provision of additional services within the extended Manning River Drive Employment Precinct, to complement the nearby existing Caltex highway service centre and other transport services planned for the Northern Gateway, north of Taree at Cundletown.
- Employment zones capitalising on the land's distinctive locational strengths (i.e. highway accessibility and co-location with the existing employment precinct) with the potential to trigger much needed local investment and job creation.
- The opportunity to incorporate economic and cultural development opportunities in partnership with the Purfleet-Taree Local Aboriginal Land Council.
- A total estimated benefit from stage one of development of the land is likely to equate to approximately \$1.73 million annually.
- Strengthening the significance of the Manning River Drive Employment Precinct as an important southern entry into Taree. The proposal complements the Northern Gateway precinct, ensuring that Taree captures every opportunity to trade from highway traffic and local resident movements in order to maximise the available local economic benefits.

The negative impacts of the planning proposal include:

- A potential increase in traffic, traffic noise and amenity impact commensurate with any other industrial and commercial development. This may have an impact, although it is unlikely to be adverse, on existing residents in the surrounding residential areas. Road and intersection refinements will be explored in an updated TIA.
- Loss of vegetation, though it is likely that most vegetation will be contained within the proposed E2 Environmental Conservation zones as nominated within the planning proposal.

The planning proposal is seen as having a clear overall positive community impact and is recommended for support on this basis.

ALIGNMENT WITH COMMUNITY PLAN/OPERATIONAL PLAN

Processing of planning proposals to rezone land is core business for Council.

This particular Planning Proposal is in alignment with the following actions from the MidCoast 2030 Shared Vision, Shared Responsibility – Community Strategic Plan 2018-2030:

- Provide an environment to grow and strengthen local business and attract new businesses;
- Optimise land use to meet our environmental, social, economic and development needs; and
- Develop and promote our region as an attractive visitor destination offering products and experiences that meet the needs of our visitors and residents.

RISK CONSIDERATION

The major risks arise from Council not following due process, not maintaining probity or taking too long to consider the planning proposal. All of these represent a legal and reputational risk.

These risks have been mitigated by staff following due process, managing access by the applicant to Council's consultant involved in the assessment of this application and by seeking that Council resolve this matter within legislative timeframes.

This report recommends that Council seek to use the NSW Planning Minister's delegation to be the plan making authority for this draft LEP amendment, enabling Council to bypass DPE in seeking the plan being made [formally called gazettal]. The risk to Council of this is minimal as a legislated process is followed in this regard.

RECOMMENDATION

1. That the Glenthorne Employment Area Planning Proposal as amended by RPS (Attachment A) be forwarded to the NSW Department of Planning and Environment seeking a Gateway Determination to progress the planning proposal.
 2. That the Department be advised that Council wishes to be *the local plan making authority* to make the draft Local Environmental Plan associated with the planning proposal.
 3. That should a positive Gateway Determination be issued, that the additional studies be prepared, government agency consultation be undertaken and the planning proposal be revised (to reflect the findings of the studies and results of agency consultation) and exhibited in accordance with the Determination.
 4. That a draft Development Control Plan for the land the subject of the Planning Proposal be reported to Council for endorsement for exhibition concurrently with the planning proposal.
 5. In the event no objections are received to the exhibited planning proposal, that the associated Local Environmental Plan amendment be drafted and made without referral back to Council.
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