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Gateway determination report – PP-2021-3536

Planning Proposal for 48 Campbell Street Gerringong to facilitate residential development (166 homes and 0 jobs)

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1 Planning Proposal

1.1 Overview and objectives of planning proposal

Table 1 Planning proposal details

LGA	Kiama
PPA	Kiama Municipal Council
NAME	Rezone part of 48 Campbell Street, Gerringong to facilitate residential development
NUMBER	PP-2021-3536
LEP TO BE AMENDED	Kiama LEP 2011
ADDRESS	48 Campbell Street Gerringong
DESCRIPTION	Lot 2 DP1168922
RECEIVED	19/05/2021
FILE NO.	EF21/7711 & IRF21/2596
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objective of the planning proposal is to:

- extend the Gerringong residential zone from Campbell Street to the southern boundary of 48 Campbell Street consistent with the Gerringong Charrette and Kiama Local Strategic Planning Statement.

The objective of this planning proposal is clear and adequate.

The Lot is approximately 45.83 hectares in area of which 16.19ha of the eastern part of the Lot is to be rezoned (13.8ha residential and 2.3ha public reserve).

The residual 29.64ha will continue to support agricultural farming operations on the lower flood affected land which is a higher class of agricultural graded farming land. It is proposed to revegetate and rehabilitate the riparian areas within a public reserve along Union Creek. The mature fig tree is to be retained in a public reserve.

1.2 Explanation of provisions

The planning proposal seeks to amend the Kiama LEP 2011 per the changes below.

Table 2 Current and Proposed controls

Control	Current	Proposed
Land Zoning	RU2 Rural Landscape	R2 Low Density Residential – to allow residential development RE1 Public Recreation – to protect Union Creek and its riparian buffer and to provide community open space around the existing mature fig tree. Further investigation of the area's biodiversity values should consider the appropriateness of an environmental zone.
Minimum Lot Size	40ha	Apply an MLS of 450m ² for the area to be rezoned to R2 consistent with the residential zone development standard. No MLS mapping for areas to be rezoned RE1 consistent with the public recreation zones elsewhere. Should an environmental zone be applied then the 40ha development standard would remain unchanged.
Height of Building	None	Apply a BOH of 8.5m for area to be rezoned to R2 consistent with the residential zone development standard.
Floor Space Ratio	None	Apply a FSR of 0.45:1 for the area to be rezoned to R2 consistent with the residential zone development standard.
Number of dwellings	2	166
Number of jobs	N/A	N/A – although construction jobs would be created.

The site is not proposed to be an Urban Release Area through this proposal.

The explanation of provisions is to be updated to reflect any outcomes from additional investigations or technical studies which may require the provisions to be revised. Further investigation of the biodiversity values along Union Creek should consider whether an environmental zone is more appropriate to protect and maintain this area. Also, a potential road connection to Elambra Estate to the east should consider the need for a R2 zoning consistent with the zoning of the connection through the existing public reserve within Elambra Estate.

The planning proposal will need to be approved by the Department to progress to agency and public consultation to ensure there is adequate explanation of how the objectives of the proposal will be achieved.

1.3 Site description and surrounding area

Lot 2 DP1168922 is located adjacent to the south-western edge of Gerringong urban area and is approximately 1.2km via the road network to the town centre. The Lot is shown in **Figure 1**.

The Lot generally continues the same natural land elevation/form as existing residential developed land to the north and slopes gradually both on the eastern and western sides of the site to lower flood prone land.

The eastern part of the Lot (the site proposed for residential purposes) is a low hill which slopes gradually to Union Creek along the eastern lot boundary. Union Creek extends from the main Gerringong urban area through the Lot and into Crooked River at Gerroa.

The western alluvial, flood liable creek flats (which will be retained for agriculture) extend westwards to the South Coast railway line and are drained by an intermittent tributary of Union Creek.

The vegetation cover is predominately exotic pasture grasses with occasional paddock trees along fence lines and around the farm dwellings and structures. A significant fig tree is located near the farm dwellings.

The site is not mapped as bushfire prone nor is it in close proximity to bushfire prone land.

The Lot has been used historically for agricultural production – previously dairying, more recently beef cattle grazing with forage crops on the alluvial flats.

An extension of Campbell Street continues through the centre of the site and services the dwellings, farm buildings and stockyards. The road runs along the top of the north-south running ridgeline and provides legal access (via a Right of Access) for the rural property (Lot 11) to the south.

The site is bordered to the north and east by residential development (Elambra Estate). The land to the west and south is zoned rural and used for agricultural production.



Figure 1 Lot 2, 48 Campbell Street Gerringong (Residential Land Supply and Demand Analysis, Allen Price & Scarratts)

1.4 Mapping

The planning proposal includes a table outlining the proposed map changes and mapping showing the existing and proposed changes. The following maps are to be changed:

- Land Zoning Map Sheets LZN_014
- Lot Size map Sheets LSZ_014
- Height of Buildings Map Sheets HOB_014
- Floor Space ratio map Sheets FSR_014

The mapping should reflect the final revised explanation of provisions.

2 Need for the planning proposal

The planning proposal is the only suitable mechanism available for amending the land use zones and associated development standards including consultation.

The Planning Proposal is the best way of achieving the intended outcomes.

3 Strategic assessment

3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the Illawarra Shoalhaven Regional Plan 2041. The planning proposal provided details on its consistency with the Illawarra Shoalhaven Regional Plan 2036 and draft Illawarra Shoalhaven Regional Plan 2041 which have now been superseded by the endorsed Illawarra Shoalhaven Regional Plan 2041.

Table 3 Regional Plan assessment

Regional Plan Objectives	Justification
ISRP Objective 11 Protect important environmental assets Strategy 11.4 Protect biodiversity values in urban release areas.	The planning proposal is consistent with the intent of <i>Strategy 11.4 – Protect biodiversity values in urban release areas by investigating strategic biodiversity conservation opportunities in local plans</i> , in that the site has been identified in the Kiama LSPS as a potential urban expansion area and the riparian values of Union Creek are to be protected through the zoning and establishment of a public reserve. Further investigation of the biodiversity values along Union Creek should consider whether an environmental zone is more appropriate to protect and maintain this area.
ISRP Objective 12 Build resilient places and communities Strategy 12.2 Reduce exposure to bushfire and natural hazards	<p>The planning proposal is proposed to be consistent with <i>Strategy 12.2 - Local plans should consider the proximity of new development, in relation to areas of high bushfire risk, flooding hazards ... to protect the community from natural hazards</i>.</p> <p>The planning proposal identifies that the site is not mapped as bushfire prone or in close proximity to bushfire prone land.</p> <p>The residential development is located at a similar flood free contour as the adjoining development to the east however confirmation is sought on whether this is still the current flood planning line.</p>

IRSP Objective 14 Enhance and connect parks, open spaces and bushland with walking and cycling paths Strategy 14.1 Enhance and increase access to public spaces	<i>Strategy 14.1 identifies that local plans should consider opportunities to plan for urban release areas to supply a sufficient quantity and quality of new accessible open space.</i> The planning proposal is proposing two new public reserves which will be accessible to residents in the proposed residential development and to those existing residents in adjoining residential areas. Council will need to assess whether the new reserves are sufficient in size and with appropriate facilities to meet the needs of residents.
ISRP Objective 18 Provide housing supply in the right locations Strategies 18.1 and 18.2	<i>Strategy 18.1 seeks to identify urban growth boundaries and facilitate opportunities to support ongoing supply of housing in appropriate locations.</i> The site is a greenfield site identified in the Kiama Local Strategic Planning Statement (LSPS). <i>Strategy 18.2 seeks to facilitate housing opportunities in existing urban areas, particularly within strategic centres.</i> The site sets the southern boundary for Gerringong township consistent with the Elambra Estate. Existing infrastructure and services are available and will be utilised to service the residential development.
ISRP Objective 19 Deliver housing that is more diverse and affordable Strategy 19.1 Continue to provide for and encourage a range of housing choices	<i>Strategy 19.1 encourages local plans to consider opportunities to provide a mix of housing types and lot sizes including small lots in urban release areas.</i> The planning proposal states it is of a good design and allows for a mix of large lots and for a varying housing mix. The proposed minimum lot size is 450m ² . There may be potential during the preparation of a supporting development control plan to identify different housing types. It is noted that the R2 zone allows a variety of housing types including dual occupancies, multi-dwelling housing, semi-detached dwellings and secondary dwellings.

3.2 Local

The planning proposal is the direct result of the Kiama Local Strategic Planning Statement (LSPS) 2020. The proposal is consistent with the LSPS as discussed in the table below. The Council report on the planning proposal also identifies the proposal's consistency with the Kiama Community Strategic Plan.

Table 4 Local strategic planning assessment

Local Strategies	Justification
Kiama Local Strategic Planning Statement 2020 Planning Priority 1 Plan for and balance housing supply and demand.	The site has been strategically identified by the Kiama Local Strategic Planning Statement 2020, and the Kiama Urban Strategy 2011 before it, as a potential urban expansion area. The Gerringong Charrette 1995 identified the site and an area on Lot 11 to the south as the southern Gerringong expansion area. The preliminary structure plan for the site includes the potential main roads as identified in the Charrette. Extensive community consultation was undertaken during the development of these local strategic plans and policies.

Kiama Community Strategic Plan	The planning proposal is consistent with the Plan's Objective 2.0 Well planned and managed spaces, places and environment; Strategy 2.1 Maintain the separation and distinct nature of local towns, villages and agricultural land; Delivery Program 2.1.1 Develop and implement appropriate land use plans
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3.3 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below. Council in its report on whether to support the planning proposal proceeding to a Gateway determination, refuted the proposal's claim that it is 'not inconsistent' with all relevant Ministerial Directions.

The planning proposal is to be updated prior to public exhibition to confirm the proposal's consistency with applicable directions.

Table 5 Section 9.1 Ministerial Direction assessment

Directions	Consistent	Reasons for Consistency or Inconsistency
1.2 Rural Zones	No – however strategically justified	The planning proposal is rezoning land from a rural zone to a residential zone. However, the rezoning is consistent with regional and local planning strategies and plans. The planning proposal is to be updated to note the inconsistency with this Direction.
1.5 Rural Lands	Yes	The rezoning and subsequent changing of the minimum lot size for rural land is consistent with regional and local planning strategies and has been investigated and justified in a supporting Agricultural Assessment report.
2.1 Environment Protection Zones	Unknown	This Direction requires a planning proposal to include provisions that facilitate the protection and conservation of environmentally sensitive areas. The proposal will see the mature fig tree and Union Creek and adjoining riparian lands protected in a public reserve. Union Creek is also mapped as a category 2 watercourse on the Kiama Riparian Land and Watercourse Map. The Ecological Constraints Assessment ranked the fig tree as a high ecological constraint and the watercourse as moderate ecological constraint with potential habitat for several threatened fauna species. The proposal will be referred to DPIE – Biodiversity and Conservation Division to confirm whether a flora and fauna assessment is required as part of the rezoning investigation or at the time a development application for subdivision (as proposed in the Ecological Constraints Assessment).

2.3 Heritage Conservation	Unknown	The planning proposal includes an Aboriginal Heritage Due Diligence Assessment. The Assessment identifies that the mature fig tree holds significant Aboriginal cultural and spiritual significance. The planning proposal recommends the preparation of an Aboriginal Cultural Heritage Assessment. An Aboriginal Cultural Heritage Assessment (including an archaeological investigation and Aboriginal community consultation) should be undertaken prior to agency and public consultation to inform the proposed rezoning.
2.6 Remediation of Contaminated Land	Unknown	Based on a preliminary study the planning proposal recommends that the Gateway determination requires a Stage 1 Land Contamination Assessment. It is unknown whether the planning proposal is consistent with this Direction until the Assessment is completed.
3.1 Residential Zones	Yes	The planning proposal will facilitate residential development to allow for a mixture of housing types and design on the urban edge of Gerringong township with connections to and efficient use of existing infrastructure and services.
3.4 Integrating Land Use and Transport	Yes	The planning proposal will facilitate residential development on the urban edge of Gerringong township and in close proximity to existing public transport links including Gerringong train station.
4.1 Acid Sulfate Soils (ASS)	Yes	The south west corner of the site is mapped as Class 5 land (land within 500m of land containing ASS) on the Acid Sulfate Soils Map. Future development of the site is unlikely to disturb or lower the watertable below 1m AHD, for these soils.
4.3 Flood Prone Land	Unknown	<p>The residential development is located at a similar flood free contour as the adjoining Elambra Estate development to the east however confirmation is sought on whether this is still the current flood planning line.</p> <p>The planning proposal identifies that the Gateway determination can condition the requirement for a flood investigation.</p> <p>It is unknown whether the planning proposal is consistent with this Direction until the flood investigation is completed.</p>
5.10 Implementation of Regional Plans	Yes – unknown for flooding issues	Refer to Section 3.1 above

3.4 State environmental planning policies (SEPPs)

The planning proposal identifies that SEPP 55 Remediation of Land and SEPP (Primary Production and Rural Development) 2019 apply to the proposal.

SEPP 55 no longer contains provisions relating to the zoning of land. As discussed in Table 5 above, a Stage 1 Land Contamination Assessment is to be undertaken to determine whether a change of land use to residential raises any remediation issues.

The SEPP (Primary Production and Rural Development) 2019 contains provisions relating to State significant agricultural lands; sustainable aquaculture and livestock industries; irrigation and waterbodies; and subdivision standards for non-Standard LEPs and rural sharing communities. The planning proposal does not impact on any of these provisions. The SEPP is therefore not applicable/relevant to this planning proposal.

4 Site-specific assessment

4.1 Environmental

The following table provides an assessment of the potential environmental impacts associated with the proposal.

Table 6 Environmental impact assessment

Environmental Impact	Assessment
Protection of high biological conservation lands	<p>The planning proposal states it will not affect any critical habitat or threatened species, populations or ecological communities, or their habitats as it involves a rezoning of land which is already predominately cleared and has been used for cattle grazing for some time. However, the Ecological Constraints Assessment identified Union Creek and its riparian lands as potential habitat for several threatened fauna species. Further investigation is required to confirm the biodiversity values and protection of this area.</p> <p>The planning proposal identifies there is an opportunity to rehabilitate and improve the riparian lands along Union Creek. Water quality measures are also to be incorporated into the development to protect downstream riparian health.</p>
Subdivision design	<p>The planning proposal includes a preliminary structure plan which could be supported by a site specific Development Control Plan (DCP) to establish design and character controls. Council has recently prepared planning proposals and supporting DCPs for new greenfield areas.</p>
Impacts on agricultural lands	<p>The structure plan provides either a perimeter public road or public reserve with landscaping to manage the interface with the adjacent agricultural land. This is to allow for better integration and minimise impacts to the adjacent agriculture lands. An Agricultural Assessment has been prepared which identifies that higher value agricultural land will be retained and there will only be a minor loss in agricultural production resulting from the proposed rezoning.</p>

Visual amenity	A Visual Impact Analysis concludes that the proposed residential development will not significantly diminish the rural landscape amenity any more than what already exists for the surrounding Gerringong township. The extension of the urban setting can be mitigated and transitional where possible through perimeter and watercourse landscape plantings.
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4.2 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the proposal.

Table 7 Social and economic impact assessment

Social and Economic Impact	Assessment
Housing opportunities	Increased residential opportunities provided by the residential development will have positive social impacts for the community with additional housing supply and mix and potentially impacts on housing affordability.
Traffic management	<p>The planning proposal will generate additional traffic which has been considered in a Traffic Impact Assessment. The Assessment considered a potential connection of the site with Elambra Estate via a new watercourse crossing onto Union Way/Elambra Parade, however the Assessment demonstrated that a single road connection via Campbell Street was adequate.</p> <p>Council's report identified that a second connector road would disperse traffic impacts throughout the road network rather than concentrating on a single intersection. Further consideration of this crossing and the corresponding land zone is required during the preparation of the planning proposal or at development application stage.</p> <p>The Assessment identifies that pedestrian paths and cycling facilities are to be provided within the road reserves of the internal road network.</p>
Gerringong economic viability	The associated land rezoning is likely to add to the economic viability of the township, including the business community in Gerringong town centre. Employment opportunities will be created during construction and opportunities for home businesses/employment.

4.3 Infrastructure

The planning proposal does not discuss infrastructure requirements but notes instead that 'as a requirement of the planning proposal and Gateway determination process, re-confirmation of capacity to connect to existing services and the process of negotiating connection to necessary public infrastructure, including sewer treatment, water, electricity, telecommunications and stormwater drainage will be undertaken.'

Advice from Endeavour Energy for a proposed 317 lot subdivision of Lot 2 and Lot 11 to the south states that 'there is available capacity on the existing network to supply this development.' Additional infrastructure would be reticulated with underground network including padmount substations and 11kV cables.

The Agricultural Assessment notes that reticulated water is used throughout the property for stock water.

Advice is to be sought from infrastructure providers to confirm the provision of infrastructure and to note the planning and timing of required infrastructure.

5 Consultation

5.1 Community

Council proposes a community consultation period of 28 days.

The exhibition period proposed is considered appropriate, and forms part of the conditions of the Gateway determination.

5.2 Agencies

The planning proposal does not identify agency consultation.

It is recommended the following agencies be consulted on the planning proposal and given at least 21 days to comment:

- DPIE (Biodiversity Conservation Division)
- Natural Resources Access Regulator
- Heritage NSW
- Illawarra Local Aboriginal Land Council
- Sydney Water
- Endeavour Energy

6 Timeframe

Council seeks on the planning portal a 12 month time frame to complete the LEP, although the project timeline only identifies 7 months to finalise the LEP.

The Department recommends that a time frame of 12 months is appropriate to allow completion of the required supporting studies and agency and public consultation.

The project timeline is to be updated in the planning proposal to reflect the revised tasks, responsibilities and timeframes/dates of completion.

7 Local plan-making authority

Council has identified on the planning portal that it would like to exercise its functions as a Local Plan-Making authority.

As the planning proposal is of local significance; consistent with the Illawarra and Shoalhaven Regional Plan 2041 and Kiama Local Strategic Planning Statement; an identified expansion of the Gerringong town boundaries; infrastructure and services are available/in proximity to the site; and flooding and riparian flora and fauna site constraints and Aboriginal cultural heritage values can be avoided and/or managed, the Department recommends Council be authorised to be the local plan-making authority for this proposal.

8 Assessment Summary

The planning proposal is supported to proceed with conditions for the following reasons:

- The planning proposal has strategic and site merit. Further technical studies will confirm its consistency with Section 9.1 directions.
- The planning proposal is an identified potential urban area in the Kiama Local Strategic Planning Statement. The Illawarra Shoalhaven regional Plan 2041 supports the provision of housing in strategically identified areas.
- The planning proposal has the potential to provide around 166 residential lots in proximity to Gerringong town centre with access to existing infrastructure and services including public transport.
- The planning proposal will protect and maintain the environmental values of Union Creek by applying an appropriate zone and adopting management options which maintain and rehabilitate the Creek and its riparian lands.

9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with the section 9.1 Direction 1.2 Rural Zones is justified by strategies and studies; and
- Note that the consistency with section 9.1 Directions 2.1 Environment Protection Zones, 2.3 Heritage Conservation, 2.6 Remediation of Contaminated Land and 4.2 Flood Prone Land are unresolved and will require justification.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal is to be updated following the preparation of technical studies and prior to agency and public consultation to:
 - include technical studies for Aboriginal Cultural Heritage Assessment, Flood Assessment, a Stage 1 Land Contamination Assessment and Flora and Fauna Assessment as required by government agencies;
 - confirm the explanation of provisions and mapping to identify and justify all proposed changes which reflect the outcomes of the studies; and
 - provide further advice and details on the consistency with the section 9.1 Directions; provision of infrastructure; and project timeline.

The revised proposal is to be submitted to the Department for review and approval prior to agency and community consultation.

2. Consultation is required with the following:
 - DPIE (Biodiversity Conservation Division)
 - Natural Resources Access Regulator
 - Heritage NSW
 - Illawarra Local Aboriginal Land Council
 - Sydney Water
 - Endeavour Energy
3. The planning proposal should be made available for community consultation for a minimum of 28 days.

4. The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination.
5. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.



23/6/21

Graham Towers
Manager, Southern Region



24/06/2021

Sarah Lees
Director, Southern Region

Assessment officer

Lisa Kennedy
Planning Officer, Southern Region
4247 1827