

Subject: PES - Proposed Rezoning - Briton Court Rd Stroud
Index: SP-PP-08
Author: Strategic Landuse Planner - Peta Stimson
Strategic Committee Meeting: 14 April 2015

SUMMARY OF REPORT:

Council at its Strategic Committee Meeting on 14 May 2013 resolved to support the preparation of a planning proposal for the rezoning of the land at Stroud for large lot residential purposes. The proposal seeks to rezone Lot 1 DP 1045567, Briton Court Road, Stroud from RU1 Rural Landscape to R5 Large Lot Residential. The proposed minimum lot size for the rezoned area is 5,000m². In accordance with Council's resolution a Planning Proposal was prepared and publicly exhibited for comment.

To address issues relating to remnant vegetation and sewage servicing of future allotments, draft provisions for inclusion in the Great Lakes Development Control Plan were exhibited concurrently with the planning proposal.

This report presents the final planning proposal, along with issues raised from submissions received during the public exhibition of the proposal. The report seeks Council's endorsement of the final planning proposal to enable drafting of the planning instrument, as well as adoption of the site specific development control provisions.

SUMMARY OF RECOMMENDATION:

That Council:

1. Pursuant to s59 of the *Environmental Planning and Assessment Act, 1979*, adopt the revised Planning Proposal contained in Attachment A.
2. Submit the Planning Proposal to the Parliamentary Counsel's Office for final drafting of the corresponding Local Environmental Plan (LEP).
3. Once drafted by the Parliamentary Counsel's Office, submit the LEP to the Department of Planning & Environment for notification by the Parliamentary Counsel's Office on the NSW legislation Website.
4. That development control provisions, as contained in Attachment C, be adopted and be inserted into the appropriate section of the Great Lakes Development Control Plan once the LEP has been made.

FINANCIAL/RESOURCE IMPLICATIONS:

The planning proposal and all supporting documentation were prepared by Kleinfelder Australia (the proponent) acting on behalf of the land owner. The landowner covered all Council's costs associated with the preparation and processing of the Planning Proposal in accordance with Council's recently adopted "Policy on the Procedure for Preparation and Processing of Planning Proposals". The financial implications to Council in order to progress the proposal to completion were minimal.

The preparation of the draft development control provisions was undertaken internally by Council's Strategic Planning Section. All costs associated with the preparation of the development control provisions have been paid for by the proponent. Council's funding agreement with the proponent enables full cost recovery for all works associated with the rezoning of the subject allotment.

POLICY IMPLICATIONS:

The planning proposal and preparation of a Development Control Plan will establish Council's policy for the future development of the site.

LEGAL IMPLICATIONS:

It is always possible for a development application pertaining to the subject land to be challenged in the Land and Environment Court.

LIST OF ANNEXURES:

- A: Locality Map.
- B: Proposed Land Use Zone Map.
- C: Public Submissions.

LIST OF ATTACHMENTS:

- A: Planning Proposal - Briton Court Road.
- B: Appendices to Planning Proposal (14).
- C: Development Control Provisions.

Due to its large size, Attachment A has been circulated in hard copy and Attachments B and C have been provided electronically to Senior Staff as a paper conservation measure. However, these attachments are publicly available on Council's Website, and copies can be made available on request.

REPORT:

Background

On 14 May 2013 Council resolved to support, in principle, the preparation of a Planning Proposal for the site. The location of the land is shown in the figure in Annexure A.

The proponent prepared a planning proposal which was presented to Council's Strategic Committee Meeting on 10 September 2013. At this meeting Council resolved to endorse the planning proposal and submit the proposal to DPI to seek a Gateway Determination. The area to be rezoned to R5 Large Lot Residential is shown in the figure in Annexure B. A Gateway Determination was granted by the Department on 5 December 2013 outlining several key studies which needed to be undertaken prior to exhibition of the proposal. This included ecological, traffic, noise and odour, land contamination, stormwater and Aboriginal heritage.

All studies were independently reviewed by Council staff and the planning proposal was revised to incorporate the findings from the studies. The revised planning proposal is contained in Attachment A, with the supporting documents contained in Attachment B to this report. A study of the current ecological attributes of the subject site revealed that, whilst the subject site is predominately cleared of vegetation, the remaining trees are of significant value and recommended these trees be retained. Subsequently at the Strategic Committee Meeting on 12 August 2014 Council resolved to prepare draft provisions pertaining to the retention of remnant vegetation for inclusion into Great Lake Development Control Plan 2014.

Upon advice from Mid Coast Water, Council also resolved at this meeting to create development control provisions to ensure that all habitable buildings on all lots created can drain via gravity to Mid Coast Water's reticulated sewage system.

The revised planning proposal and draft development control provisions were placed on public exhibition for 28 days from 3 September until 1 October 2014. Community consultation was undertaken in accordance with Council's adopted consultation protocols which included a notice in the local newspaper, all relevant documents displayed at Council's administration buildings (both Forster & Stroud) and on Council's website. A letter was also sent to adjoining landowners.

Four (4) submissions from the public were received. All issues raised in submissions are outlined in the table in Annexure C. The key issues and responses are summarised below:

Public Submissions

1. *Concern raised that the planning proposal will result in increased traffic and pose a threat to the livestock moving along Briton Court Road. Concern was also raised at the current state of Briton Court Road, specifically the causeway over Mill Creek, is not suitable for increased traffic.*

Response: The Traffic Impact Assessment prepared in relation to the proposal indicates that the proposed rezoning will have minimal traffic flow impact on the surrounding road network. Briton Court Road is a 6.7m wide bitumen sealed road with grass verges. The speed limit is currently 60km per hour and will remain as such.

The proposal will not impact the rights of neighbouring landowners to move livestock along Briton Court Road in accordance with the provisions of the *Local Land Services Act 2013* and regulations. The regulations require standard signage to be displayed whenever livestock are being moved along a public road.

Briton Court Road is a local collector road, commencing north of Stroud looping around to the south via Laman Street. The Traffic Impact Assessment revealed 70% of the traffic leaving Briton Court Road at the Bucketts Way intersection was heading in a northward direction towards Gloucester, with only 30% of traffic moving south into Stroud over Mill Creek. This suggests that traffic flow along Briton Court Road predominantly moves in a northward direction towards the Bucketts Way intersection, with less traffic moving southward towards Laman Street.

Council's Traffic Engineer has reviewed the planning proposal and advises the following:

The assessment of the access over Mill Creek has not been carried out in this report. This is due to the general direction and origin of traffic for this development is assumed to travel to the north to access Cowper Street and Stroud, not via Laman Street which is a much longer and indirect route.

It is expected that additional traffic from the development travelling along the southern section of Briton Court Road, crossing the Mill Creek causeway, will be minimal.

2. *Concern raised that the subject land located in close proximity to industrial sites and a poultry farm.*

Response: The issue of proximity to poultry farms and industrial sites has been considered by both Council and the Department of Planning & Environment (DPE) prior to issuing a Gateway Determination. The site had previously been identified as "employment lands" within the Mid North Coast Regional Strategy. Given that the subject land is located in an important drinking water catchment, and

predominately flood prone, the DPE agreed that industrial uses of the land would be unfavourable to water quality.

The planning proposal acknowledges the low scale industrial land on Gorton's Crossing Road located south of the development site. However any potential conflict between the industrial land and the proposed development will be largely ameliorated by existing vegetation within the road reserve on both sides of Gorton's Road. There are adequate buffers provided under existing planning controls to reduce the potential for conflict between the existing industrial developments and the proposed Large Lot Residential development.

A Noise Assessment was prepared in relation to the proposal. The results of site noise measurements and theoretical calculations indicate that there would be potentially minimal adverse impacts on closest possible residential receivers as a result of industrial noise.

The nearest operational poultry farm is located more than 600m from the subject land.

3. *Concern raised that the KleenHeat gas storage facility located on Gortons Crossing Road poses a potential safety risk to future residential development on the subject land.*

Response: The existing gas storage facility on Gorton's Crossing Road contains two bulk LPG storage tanks of 40KL and 36KL. As a result of this submission Council requested the proponent to undertake "risk screening" in accordance with State Environmental Planning Policy No. 33 – Hazardous and Offensive development (SEPP 33) to determine if the existing gas storage facility in Gorton's Crossing Road contains a potentially hazardous industry.

The risk screening deemed the existing gas storage facility to be a potentially hazardous industry and as such a "Preliminary Hazard Analysis" (PHA) was prepared by the proponent, in accordance with SEPP 33. The PHA was submitted to the Departments of Planning and Environment (DPE) for review by their Hazards and Risk Advisor. Upon initial review the DPE requested additional information. This information was provided by the proponent and a revised PHA was resubmitted to the DPE.

Council received the following advice from the DPE in relation to the PHA review:

*Based on the information provided in the updated PHA, there are no hazard related issues which may preclude the rezoning to **R5 Large Lot Residential Zone**. The Council should note that the Department's advice is based on the following assumptions, which should be accounted for in the rezoning process:*

1. *The minimum lot size for R5 will be 5 000 m².*
2. *The distance from the Kleenheat Gas Site to the nearest residence is at least 60m.*

The planning proposal has been amended to include consideration of the existing gas storage facility and the DPE's advice on the matter. The site specific development control provisions have also been amended to include an exclusion area for placement of habitable buildings adjacent to the Kleenheat Gas site. The draft Development Control Plan is discussed in more detail below.

Public Authority Submissions

The Gateway Determination required consultation with four (4) public authorities. The proposal was provided to the four (4) public authorities listed and given 21 days to comment on the

proposal. All issues raised in the submissions from public authorities are addressed in Annexure C. The key issues and responses are summarised below:

Mid Coast Water (MCW)

Comment: MCW has advised that reticulated water and sewerage services are available to the majority of the subject site. MCW has indicated that the proposed DCP provisions requiring new lots to be connected to reticulated sewage only via gravity drainage is acceptable.

MCW strongly supports the requirement of a “comprehensive water quality management strategy” for the entire subdivision. They recommend an additional provision within the DCP stating a comprehensive water quality management strategy for the entire subdivision be submitted at the subdivision stage.

Response: Council has prepared DCP provisions, as contained in Attachment C, to ensure all new lots are connected to reticulated sewage and water via gravity drainage.

The subdivision of the site will be subject to the existing Water Sensitive Design provisions within DCP 2014. The planning proposal identifies Council’s position being that the site is classified as a greenfield site and a large scale development. Subsequently, a “comprehensive water quality management strategy” (referred to in DCP 2014 as a “Water Sensitive Design Strategy”) for the entire subdivision will be required at the development application stage.

A statement to this effect is included in the planning proposal under “Stormwater Management” in section 3.3. The planning proposal has been amended to also include this statement under “Drinking Water Catchment”. Furthermore, an additional statement has been included to identify the provisions of LEP 2014 with regards to Drinking Water catchments. No additional provisions within DCP 2014 are required.

NSW Department of Primary Industries (Formally Agriculture NSW)

Comment: The NSW Department of Primary Industries (DPI) has identified inconsistencies between the MNCRS (Mid North Coast Regional Strategy) and GLRLS (Great Lakes Rural Living) for the subject land. The DPI identifies inconsistencies within GLRLS which excludes rural residential development from class 2 and 3 agricultural land.

The DPI advises that the minimum buffer distance between residential development and poultry sheds is 1000m. Two sheds are located within this buffer.

DPI advises that consideration should be given to the retention of the subject land for future free ranger broiler production.

Response: The inconsistencies between MNCRS and GLRLS have been discussed in Section 3.2 of this planning proposal.

The subject land is within an important drinking water catchment, located adjacent to the Karuah River and is partially flood prone land. Both industrial and poultry farm uses of the site are considered unfavourable to protecting water quality. The planning proposal has been supported by the Department of Planning. Additionally the GLRLS was reviewed by the NSW Department of Agriculture prior to its adoption in 2003 upon which the department provided its support to the strategy.

Given the minimum buffer distance, the subject land would not be suitable to future poultry production. The majority of the site is within 500m of the existing village zone, being too close to the township.

No amendment to the planning proposal is necessary as a result of the DPI's submission.

Draft Development Control Provisions

Council at its Strategic Committee Meeting on 12 August 2014 considered a report seeking approval for the preparation of site specific development control provisions for the site. The draft Development Control Plan (DCP) provisions related to the protection of remnant vegetation and ensuring habitable buildings can be effectively connected to reticulate sewage.

The draft DCP was exhibited concurrently with the planning proposal for 28 days. No submissions relating to the draft DCP were received.

In relation to the gas storage facility, the DPE advises that the Preliminary Hazard Analysis undertaken for the site assumes that the nearest residence will be located 60 metres from the front boundary of Kleenheat Gas site. Subsequently the risks associated with the facility are estimated based on this distance. Pursuant to this advice, the DCP has been amended to include an area of exclusion for habitable buildings.

CONCLUSION

The planning proposal seeks to rezone the subject land from RU2 Rural Landscape to R5 Large Lot Residential for the purpose of establishing a rural residential area west of the Stroud village. Prior to rezoning the land, it is imperative that Council obtains a detailed understanding of the nature and source of any potential environmental, social and economic impacts relating to the proposal. Subsequently, the landowner prepared numerous reports and studies which have been closely reviewed by Council staff and various government agencies.

The proposal demonstrates the suitability of the subject land to accommodate a large lot residential subdivision. The proposal has considered all potential impacts to and from adjoining lands as a result of the rezoning. Where necessary, additional information has been sought to satisfy Council and site specific DCP provisions have been prepared.

The subject land will provide an increase in housing diversity thus providing greater choice within the local real estate market. The proposal will meet the objective of the R5 zone in providing residential housing in a rural setting without impacting on environmentally sensitive locations. The land is suitably located to provide the desired buffer and graduation between the existing urban village area and agricultural lands. This buffer assists in avoiding the potential conflicts caused by hard edge boundaries of urban and rural land.

The planning proposal has been prepared in accordance with Section 55 of the *Environmental Planning and Assessment Act 1979* and all conditions of the Gateway Determination relating to the proposal have been adhered to.

Council's endorsement of the planning proposal is now required in order for it to be forwarded to the Department of Planning & Environment so the planning instrument can be drafted and the LEP amendment made. Council's endorsement is also sought for the DCP provisions to be included within DCP 2014 on the making of the LEP for rezoning the land. Council has been granted delegations by the Minister for processing the planning proposal.

RECOMMENDATION:

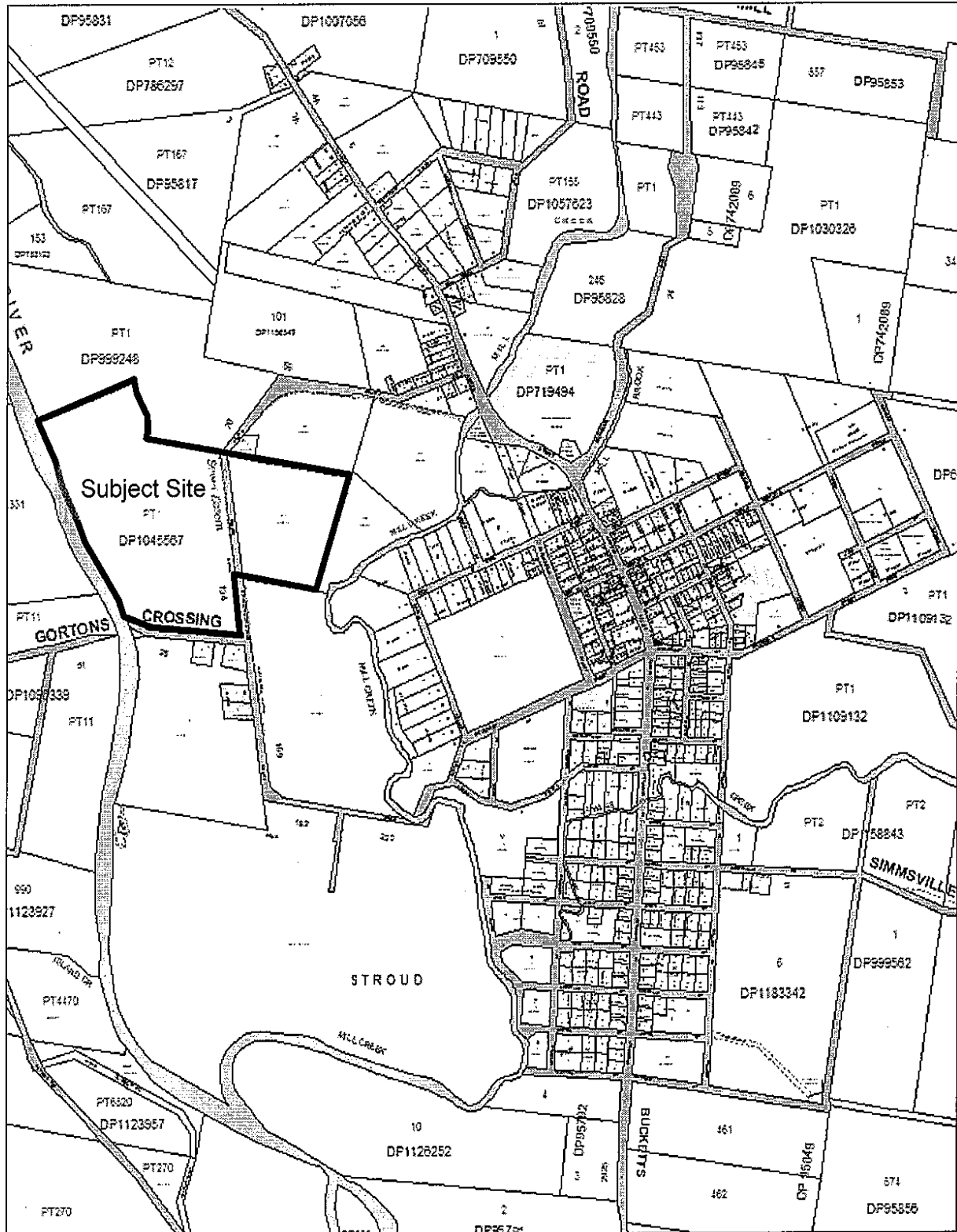
That in relation to Lot 1 DP1045567 Briton Court Road, Stroud, Council:

1. Pursuant to s59 of the Environmental Planning and Assessment Act, 1979, adopt the revised Planning Proposal as contained in Attachment A.
2. Submit the Planning Proposal to the Parliamentary Counsel's Office for final drafting of the corresponding Local Environmental Plan.
3. Once drafted by the Parliamentary Counsel's Office, submit the LEP to the Department of Planning & Environment for notification by the Parliamentary Counsel's Office on the NSW legislation Website.
4. That development control provisions, as contained in Attachment C, be adopted and be inserted into the appropriate section of the Great Lakes Development Control Plan 2014 once the LEP has been made.

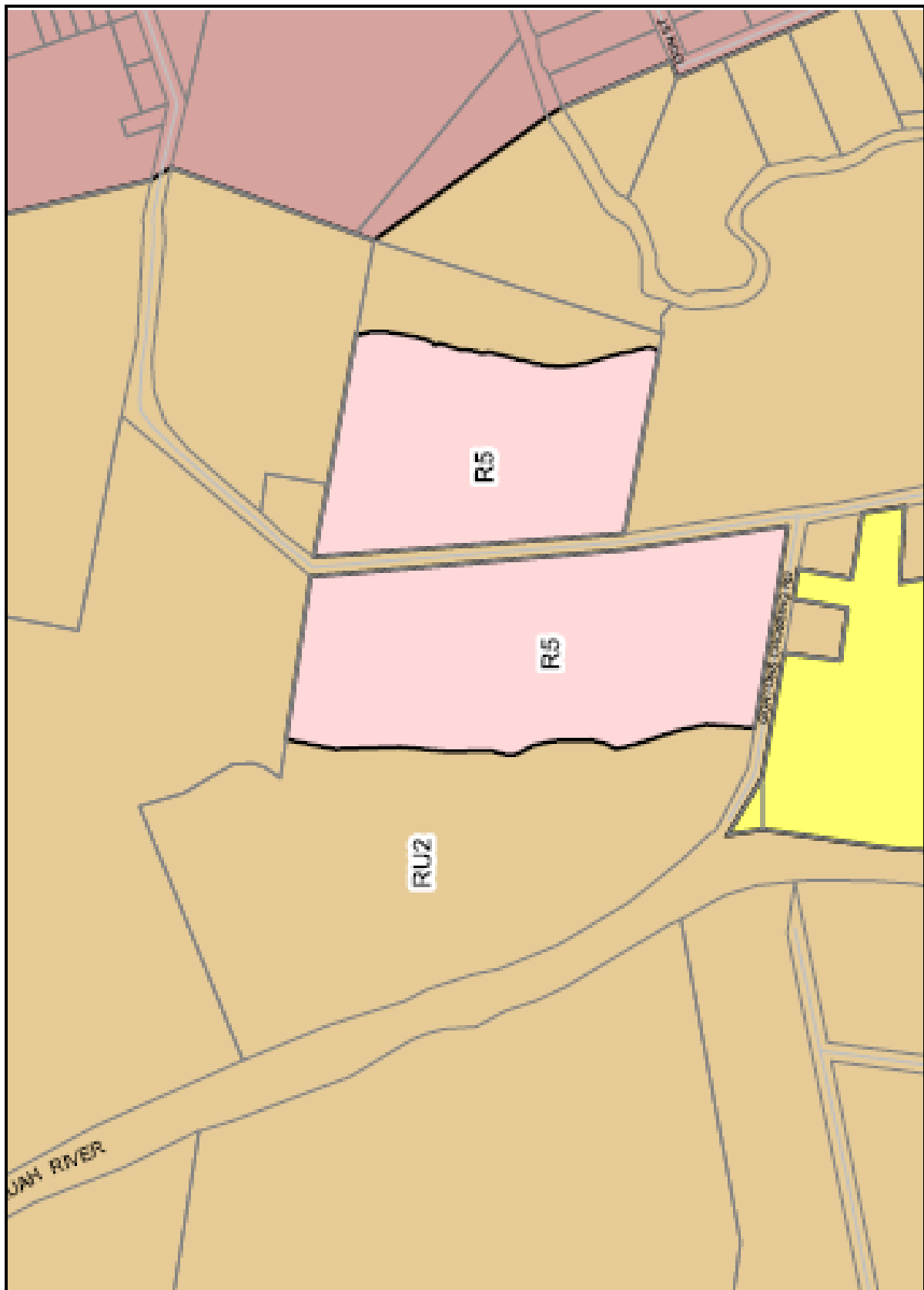
ANNEXURES:

A: Locality Map.

Lot 1 DP 1045567 Briton Court Road, Stroud Locality Plan



B: Proposed Land Use Zone Map.



C: Public Submissions.

Comments	Response
Concern that the proposal will result in increased traffic and pose a threat to livestock movements between paddocks along Briton Court Road.	The Traffic Impact Assessment prepared in relation to the proposal indicates that the proposed rezoning will have minimal traffic flow impact on the surrounding road network. Neighbouring landowner will still retain the ability to move livestock along Briton Court Road in accordance with the provisions of the <i>Local Land Services Act 2013</i> and regulations. The regulations require standard signage to be displayed whenever livestock are being moved along a public road.
Concern that several of the proposed lots are situated on a natural pond or watercourse.	The planning proposal identifies that parts of the subject land is mapped as being flood prone land. The area to be rezoned to R5 Large Lot Residential is elevated and above the appropriate flood planning level. The proposed lot layout is indicative and not considered or approved as part of the rezoning process.
Concern that Briton Court Road, in its current state, and specifically the causeway over Mill Creek is not suitable for increased traffic.	The Traffic Assessment revealed 70% of the traffic leaving Briton Court Road at the Bucketts Way intersection were heading in a northward direction towards Gloucester, with only 30% of traffic moving south into Stroud. Council's Traffic Engineer has reviewed the planning proposal and advises the following: <i>The assessment of the access over Mill Creek has not been carried out as part of the Traffic Assessment report. This is due to the general direction and origin of traffic for this development is assumed to travel to the north to access Cowper Street and Stroud, not via Laman Street which is a much longer and indirect route.</i> It is expected that additional traffic along the southern section of Briton Court Road, crossing the Mill Creek causeway, will be minimal.
Concern that the subject land is located in close proximity to industrial sites and a poultry farm.	The planning proposal acknowledges the proximity of the site to low scale industrial land on Gorton's Crossing Road located south of the development site. Any potential conflict between the industrial land and the proposed development will be largely ameliorated by existing vegetation

	within the road reserve on both sides of Gorton's Road. A Noise Assessment was prepared in relation to the proposal. The results of site noise measurements and theoretical calculations indicate that there would be potentially minimal adverse impacts on closest possible residential receivers as a result of industrial noise. The nearest poultry farm in operation is located more than 500m from the site.
Concern raised that the "KleenHeat" gas storage facility located on Gorton's Crossing Road poses a potential safety risk to the future rural residential area.	A "Preliminary Hazard Analysis" (PHA) was prepared by the proponent in accordance with SEPP 33. The PHA was reviewed by the Department of Planning & Environment who concluded: <i>There are no hazard related issues which may preclude the rezoning to R5 Large Lot Residential Zone.</i> <i>The Council should note that the Department's advice is based on the following assumptions, which should be accounted for in the rezoning process:</i> <i>1. The minimum lot size for R5 will be 5 000 m²</i> <i>2. The distance from the Kleenheat Gas Site to the nearest residence is at least 60m.</i>

[PES - Proposed Rezoning - Briton Court Rd Stroud](#)

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Resolved Items Action Statement

Action is required for the following item as per the Council Decision or Resolution Under Delegated Authority.

Subject: PES - Proposed Rezoning - Briton Court Rd Stroud

Index: SP-PP-08

Author: Strategic Landuse Planner - Peta Stimson

Strategic Committee Meeting: 14 April 2015

RECOMMENDATION:

That in relation to Lot 1 DP1045567 Briton Court Road, Stroud, Council:

5. Pursuant to s59 of the Environmental Planning and Assessment Act, 1979, adopt the revised Planning Proposal as contained in Attachment A.
6. Submit the Planning Proposal to the Parliamentary Counsel's Office for final drafting of the corresponding Local Environmental Plan.
7. Once drafted by the Parliamentary Counsel's Office, submit the LEP to the Department of Planning & Environment for notification by the Parliamentary Counsel's Office on the NSW legislation Website.
8. That development control provisions, as contained in Attachment C, be adopted and be inserted into the appropriate section of the Great Lakes Development Control Plan 2014 once the LEP has been made.

RESOLUTION

(Moved K Hutchinson/Seconded C McCaskie)

That the above recommendation be adopted.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE - Cr J Morwitch, Cr L Roberts, Cr C McCaskie, Cr A Summers, Cr K Hutchinson, Cr J Weate

ABSENT. DID NOT VOTE - Cr J McWilliams, Cr L Vaughan, Cr L Gill
