

12.7 Cancellation of Planning Proposal - Lot 3 DP 1018217 - Dido Street, Kiama

CSP Objective: 2.0 Well planned and managed spaces, places and environment

CSP Strategy: 2.3 The principles of sustainable development and compliance underpin town planning and local development

Delivery Program: 2.3.1 Conduct development and building assessment/approval functions in accordance with statutory requirements, policies and procedures

Item 12.7

Summary

At its March 2018 meeting, Council resolved to support a Planning Proposal to rezone Lot 3 DP 1018217, Dido Street, Kiama from RU1 Primary Production to R2 Low Density Residential to facilitate residential development of the site.

The Planning Proposal received a positive Gateway Determination from NSW Department of Planning, Industry and Environment and progressed through public exhibition and consultation with the relevant public authorities.

The NSW Rural Fire Service has confirmed that the existing PP and associated concept subdivision layout is inconsistent with Section 9.1 Ministerial Direction 4.4. – Planning for Bushfire Protection as the concept subdivision layout relies upon performance-based alternate solutions to comply with *Planning for Bushfire Protection (PBP) 2019*.

In its current format the PP cannot be reported to Council for final endorsement. The prescribed timeframe to complete the PP is 23 January 2021 (i.e. 30 months from date of Gateway). The DPIE have indicated that no additional extension will be granted.

Staff are facilitating discussions with the owners of Lot 3 and Lot 4 DP 1018217 and have encouraged a joint venture to prepare a single PP to rezone both sites concurrently. By rezoning both Lot 3 and 4 together a better planning outcome can be achieved as a perimeter road can be constructed around both lots, providing bush fire protection, protection high biodiversity land and providing safety and compliant vehicular access/egress.

Finance

A fee structure for submittal and review of planning proposals has been developed by Council and is contained in Council's fees and charges schedule. Relevant fees have been paid for this proposal.

Policy

Consideration of requests for rezoning of land require consideration of a number of Acts, Government policies, Council environmental planning instruments and planning documents. Specifically, the *Environmental Planning and Assessment Act 1979*, *Kiama Local Environmental Plan 2011*, Illawarra-Shoalhaven Regional Plan, Kiama Urban Strategy, Kiama Local Strategic Planning Statement 2020 and the Kiama Planning Proposal Policy.

Consultation (Internal)

This Planning Proposal has been reviewed by Council's Engineering Department to determine the appropriateness of traffic and stormwater issues.

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(cont)**Communication/Community Engagement**

This Planning Proposal was placed on public exhibition for a period of not less than 28 days, in accordance with the Gateway Determination and the Kiama Community Participation Plan (CPP) 2019.

Attachments

Nil

Enclosures

Nil

RECOMMENDATION

That Council request an amended Gateway determination from the NSW Department of Planning, Industry and Environment to no longer proceed with *PP_2018_KIAMA_002_03* which seeks to rezone Lot 3 DP 1018217 Dido Street, Kiama.

BACKGROUND

At its March 2018 meeting, Council resolved to support a Planning Proposal to rezone Lot 3 DP 1018217, Dido Street, Kiama from RU1 Primary Production to R2 Low Density Residential to facilitate residential development of the site.

A map of the subject site is shown in Figure 1 below:



Figure 1 – Aerial photograph of Lot 3 DP 1018217 Dido Street (Source: Kiama LSPS)

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Council requested a Gateway Determination on 14 April 2018 which received a positive determination from the DPE on 23 July 2018. Additional information, including amendments to preserve/protect the land identified as having high biodiversity value, was requested by Council, as prescribed by the Gateway Determination, on 1 August 2018.

In March 2019 Council was verbally advised by the proponent's consultants that they no longer wished to proceed with the rezoning and the requested additional information was not going to be submitted.

The withdrawal of the PP was endorsed by Council at its April 2019 meeting. A rescission motion was requested by the applicant in May 2019 which was then adopted by Council at their July 2019 meeting on the basis that the additional information, requested in August 2018, would be submitted.

Planning for Bush Fire Protection

The additional information was submitted in September 2019, and resulted in the PP being amended to rezone a portion of the land identified as having high biodiversity value as E2 Environmental Conservation land.

An amendment to the Gateway Determination was requested in February 2020 and issued by the NSW DPIE in March 2020. Upon issue of the amended Gateway Determination, Council conducted consultation with the prescribed state agencies/authorities, including NSW Rural Fire Service (RFS), as well as placing the PP on public exhibition.

In May 2020 the RFS confirmed that the existing PP and associated concept subdivision layout is inconsistent with Section 9.1 Ministerial Direction 4.4. – Planning for Bushfire Protection as the concept subdivision layout relies upon performance-based alternate solutions to comply with *Planning for Bushfire Protection (PBP) 2019*.

In order to be consistent with Ministerial Direction 4.4, the concept subdivision layout is required to include a perimeter road and compliant Asset Protection Zones (APZ's). The inclusion of a perimeter road will reduce the concept lot yield of the site from approximately 9 residential allotments to 3. In this scenario, the rezoning would no longer be feasible for the proponent and is likely to result in a poor planning outcome.

Way Forward

In its current format the PP cannot be reported to Council for final endorsement. The prescribed timeframe to complete the PP is 23 January 2021 (i.e. 30 months from date of Gateway). The DPIE have indicated that no additional extension will be granted.

Discussions have been held between Council staff and the proponent detailing possible options for progressing the PP. One option involved including the adjoining lot to the west (Lot 4 DP 1018217, Dido Street) into the PP. Lot 4 is identified as Greenfield Site 4 in the *Kiama Local Strategic Planning Statement 2020* (LSPS), and has been identified for possible future expansion (Site 4), as shown in Figure 2 below:

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Figure 2 – Greenfield opportunities Map 1: Kiama (Source: Kiama LSPS)

Council staff have facilitated discussions with the owners of both properties and have encouraged a joint venture to prepare a single PP to rezone both sites concurrently. By rezoning both Lot 3 and 4 together a better planning outcome can be achieved as a perimeter road can be constructed around both lots, providing bush fire protection, protection high biodiversity land and providing safety and compliant vehicular access/egress.

To date, both owners have indicated their desire to work on this proposal together. Given the impending deadline for the existing PP, it is recommended that Council request an amended Gateway to no longer proceed with the current rezoning of Lot 3. A new PP can then be submitted, assessed and exhibited in 2021.