

EXTRACT REPORT OF THE DES
Submitted to the Ordinary Meeting of Council held on 17 September
2013

2 Report to Council Supporting Initial Gateway Consideration of the Planning Proposal for Lots 1 & 2 DP 797732, Lot 1, 2, 3 & 4 Sec 67 DP 758563 Jamberoo Road, Kiama

Summary

Council has received a planning proposal for consideration on Lots 1 & 2 DP 797732, Lot 1, 2, 3 & 4 Sec 67 DP 758563 Jamberoo Road, Kiama referred to as site 13 in Council's Kiama Urban Strategy. This report overviews the reports submitted by the applicant against criteria outlined in Council's Planning Proposal Policy and recommends the Planning Proposal proceed to the Department of Planning and Infrastructure's "Gateway" process for a determination.

Finance

N/A.

Policy

N/A.

Reason for Report to Council

In accordance with adopted policy, Council is required to support the consideration of a Planning Proposal in order for the Proposal to proceed to the Department of Planning for consideration.

Council's Vision and Goals

The relevant vision and goals are: a healthy, safe and inclusive community; well planned and managed spaces, places and environment; a diverse, thriving economy; and responsible civic leadership that is transparent, innovate and accessible.

Report Attachments and Councillor Enclosures

Attachments

- Attachment 1 – Location Plan of the Subject Site
- Attachment 2 – Indicative Lot Layout
- Attachment 3 – Photomontage of Proposed Access Road

Enclosures

- Nil

RECOMMENDATION

That Council endorse this Planning Proposal to proceed to the Department of Planning and Infrastructure for Gateway Determination.

That Staff prepare the Gateway Report, SEPP Compliance Report and Section 117 Direction Compliance Report in order for this Proposal to proceed to Gateway Determination.

REPORT

Council has received a Planning Proposal for consideration on Lots 1 & 2 DP 797732, Lot 1, 2, 3 & 4 Sec 67 DP 758563 Jamberoo Road, Kiama (known hereafter as 'the subject site'). The subject site is identified as Site 13 in the Kiama Urban Strategy with a nomination as a stage 1 site (suggested timeframe for preparation of a Planning Proposal within 0-5 years).

In line with Council's Planning Proposal Policy, this report details the submitted Planning Proposal and provides an assessment of the specialist consultant reports.

Background

Kiama's Urban Strategy was adopted by Council on 20 September 2011. The Urban strategy identifies both infill and urban expansion opportunities for the Kiama LGA. For sites that are identified for possible future urban expansion opportunities, Council may consider Planning Proposals to facilitate urban development.

A Planning Proposal is the mechanism utilised to amend Council's LEP and involves both Council and State Government in the processing of any Proposal. In order for Council to consider a request to change the zone of an area, a Planning Proposal needs to be produced. Council has an adopted Planning Proposal Policy which outlines the steps involved in the production and assessment of all Planning Proposals. Such Policy assists in ensuring a clear and transparent process.

The Planning Proposal is a document that explains and justifies the effect of a proposed LEP and is the first step in the preparation of an LEP. Producing an LEP is a legal process involving the amendment or creation of statutory planning instruments. In line with the requirements of the Planning Proposal Policy, Council has received a Planning Proposal to consider rezoning Urban Strategy site 13: Lots 1 & 2 DP 797732, Lot 1, 2, 3 & 4 Sec 67 DP 758563, Jamberoo Road, Kiama.

In relation to the subject site, the Urban Strategy states:

"6.1.3 Sites 8,11,13,18(b) and 20 as identified in the Table, the Kiama North and Kiama South Maps on pages 42 & 43 should be assessed further in a Planning Proposal. The Planning Proposal should at a minimum:

6.1.3a assess whether land within these sites is suitable for residential zoning having regard to traffic & transportation, flooding, land stability, natural environment, aboriginal and European cultural heritage, and scenic landscape considerations,

6.1.3b establish a more accurate lot yield potential and density,

6.1.3c assess infrastructure servicing availability and amplification needs,

6.1.3d propose a priority for release, and

6.1.3e identify any environmental and physical constraints to development and town services and social infrastructure requirements which should be met."

Concept Planning Proposal Details

The applicant, White Constructions Pty Ltd, has submitted a Concept Planning Proposal for the subject site. The applicant is seeking to rezone the land to enable facilitation of residential development on the site. The Planning Proposal seeks to rezone the subject site from RU2 Rural Landscape to R2 Low Density Residential. The applicant has provided a draft Master Plan for the site outlining a Concept Plan which comprises approximately 98 low density residential lots varying in size from 300 square metres to over 2000 square metres. It should be noted that the Planning Proposal seeks to amend Kiama Local Environmental Plan 2011. If successful, further applications will be required for subsequent stages, ie subdivision. The subject site is located west of the Cedar Grove Estate and is planned to gain a road access point from Lilly Pilly Way. The southern boundary of the site adjoins the Cedar Ridge Estate. A location plan has been attached to this report as Attachment 1 – Location Plan of the Subject Site.

The Proposal seeks the following amendments to Council's Local Environmental Plan 2013 and Development Control Plan 2012:

Controls	Current controls	Proposed controls
Zone	Zone RU2	R2
Floor Space Ratio (FSR)	FSR - none	FSR C 0.45:1
Height of Building (HOB)	HOB – none	HOB I 8.5m
Lot Size	Lot size 40ha	D 300 sq m and G 450 sq m
Terrestrial Biodiversity Map		Adjacent vegetation mapped correctly in accordance with ground truthing carried out as a component of the Flora and Fauna Assessment.
Development Control Plan 2012	No provisions for the subject site.	Addition of site specific local planning provisions for lots between 300 sq m – 450 sq m (not developed at the Planning Proposal Stage).

The applicant has prepared an indicative “Masterplan Lot Layout” which has been attached to this report for concept purposes only.

Review and Assessment of the Planning Proposal

The results of the review will be framed around the requirements of the Planning Proposal Policy.

Step 1: If the Proposal meets any of the following criteria Council staff may agree in principle that a concept Planning Proposal be prepared.

Criterion for proceeding to step 2	Compliance
Land is identified as a nominated area in the Urban Strategy.	Complies. Land is identified as site 13 in the Kiama Urban Strategy. This site was identified in as a stage 1 site (timeframe for PP of 0-5 years)
Land can be identified as assisting to meet Council's strategic direction.	Complies. Proposal will assist in meeting councils' strategic direction in terms of lot numbers for the Kiama Area.
A clear zoning anomaly exists on site.	N/A

Step 2: Concept Planning Proposal presented to Council

In order to adequately assess the viability of the land for residential development a number of specialist consultant reports were required to be undertaken by the applicant. It should be noted that Council staff raised a number of issues that the applicant needed to consider in the preparation of this Proposal including the need for the Proposal to consider the visual aspects of any subsequent development on the subject site, including the visual impact of the proposed new access road.

The results of these have been summarised below:

Planning Report – Prepared by Unicomb Development Services,

The site is approximately 9ha in size and is located between the Cedar Ridge Estate and Cedar grove Estate. The Concept Planning Proposal aims to create approximately 98 additional lots for the Municipality comprising of 19 lots with a minimum lot size of 300 m² and approximately 79 lots with a minimum lot size of 450 m² or greater, zoned R2 Low Density Residential. The Proposal contains a draft Master Plan for the site which has an indicative lot layout which is included in this report as Attachment 2 – Indicative Lot Layout. The Planning Proposal considered, and incorporated the retention and rehabilitation of dry stone walls on site. The Proposal also aims to connect the site through to Kiama through a series of bike pathways/cycleways.

Comment

The site is mapped as prime crop and pasture under Illawarra Regional Environmental Plan No 1, (as is a significant proportion of the Kiama LGA). This issue has not been adequately addressed by the applicant. Whilst it is not ideal, the Proposal can be supported as it:

- (a) proposes to rezone only a small proportion of KMC's Prime Crop and Pasture land available for agricultural purposes,

- (b) the site is located adjacent to existing residential development on two sides (the north and south) and will form the western edge of urban development for the Kiama township,
- (c) the site had been investigated, publically exhibited and supported by Council with the adoption of the Kiama Urban Strategy,
- (d) the Proposal does not further fragment agricultural land.

These issues will require discussion in any reports submitted to the Department of Planning and Infrastructure, and will require post gateway consultation with NSW Department of Primary Industries.

Appendix 1 – Amended LEP and Masterplan Maps prepared by Unicomb Development services

This information illustrates the proposed LEP map amendments. The Masterplan contains an indicative lot layout, road network, etc.

Comment

A number of issues were raised with the applicant including the impacts of the nominated APZs on a number of lots shown in the indicative lot layout, the development potential of some lots impacted by APZs, and building access guidelines on smaller lots. These issues can be addressed at subsequent DA stages if the Proposal is successful.

Appendix 2 – Water Cycle Management Report prepared by Brown Smart Consulting

The report includes a concept plan for storm water management. The consultants highlighted that the report would need to be reviewed and further details provided in any future DAs. The report concluded that all storm water components of the development would be designed to:

- ensure that peak flows are maintained at a rate not exceeding existing conditions,
- improve water quality of storm water discharging from the site such that pollutant loads are no worse than existing conditions and meet the removal targets specified by council,
- manage environmental flows of Spring Creek and Willow Gully Creek, and
- promote Water Sensitive Urban design.

Comment

Council's Engineering and Works staff raised a number of issues and sought further clarification on some of the catchment discharge information contained in this report. Additional information was requested from the applicant. This additional information was provided by the applicant and was deemed by staff as acceptable for this stage of the Planning Proposal.

Appendix 3 – Road Access Design Plans and Photomontage prepared by Brown Smart Consulting

Council had discussed the need to have regard to the visual nature of any subsequent development on the subject site, including the impact of the proposed new access road. This photomontage was requested by Council in order to demonstrate what the proposed new access road to the subject site would look like viewed from the direction of Jamberoo Road.

Comment

Staff reviewed this information and raised no issues. For illustrative purposes, the photomontage will need to be included with any exhibition material. The photomontage has been included in this report as Attachment 3 – Photomontage of Proposed Access Road.

Appendix 4 - Rock Survey Report prepared by Douglas Partners

The report summarized that the subject site is generally comprised of topsoil overlying clay, gravelly clay, boulder overburden and latite bedrock. The rock depths across the site range from the surface (at rock outcrop) to 1.2m.

Comment

Staff noted this report and raised no issues.

Appendix 5 - Preliminary Contamination Assessment Report prepared by Douglas Partners

This report concluded that the potential for contamination on the subject site is low and recommended that the 'unexpected finds protocol' be included in the sites 'Construction Environmental Management Plan' during earthworks and construction for any subsequent stages.

Comment

Staff assessed that the study and subsequent report had been carried out in accordance with relevant guidelines. Staff concluded that all recommendations contained in this report including the "unexpected finds protocol" be included in any subsequent DAs.

Appendix 6 – Bushfire Assessment Report prepared by Eco Logical

Whilst the majority of the site is not mapped as Bush Fire Prone Land, there are vegetated portions of the western and eastern boundaries (and adjacent parcels of land) that will have an impact on bushfire protection requirements. The report proposes Asset Protection Zones (APZ) on the eastern and western boundaries of the site to provide protection from these vegetative portions. The report also recommends extending the APZ to the neighboring privately owned properties formalized through an 88B instrument. The report raises the issue of the development potential of some lots given the extent of the proposed APZ on site. The report concludes that the proposed rezoning of the site to low density residential development has; *“the capacity to comply with Planning for Bushfire Protection 2006.”* However, subsequent DAs will need to revisit this issue to ensure continued compliance.

Comments

Staff concluded that there were a number of lots that may need to be redesigned to ensure a useable developable portion of land that is free from any APZ however this can be addressed in subsequent DAs. There are potential issues arising from locating APZs on neighboring property controlled through 88B instruments. Any subsequent DAs will need to address appropriate bushfire protection measures including any changes in bushfire associated legislation. The Section 117 Direction 4.4 - Planning for Bushfire Protection, requires that the Planning Proposal be referred to NSW Rural Fire Service for comment post Gateway Determination.

Appendix 7 - Archaeological Due Diligence Report - prepared by Godden Mackay Logan

The Illawarra Aboriginal Land Council was invited and participated in the site inspection for the report. The report concluded that the study area was assessed as having no Aboriginal archaeological potential; that the site had no subsurface historical archaeological potential, and that existing Dry Stone Walls (currently protected by the LEP and REP) will require specific controls be included in any subsequent DAs. The consultants recommended that that *“future work can proceed with caution without a Section 90 Aboriginal Heritage Impact Permit Application”*.

Comment

Staff concluded that the Planning Proposal can proceed as there are no known heritage issues (aside from those identified ie Dry Stone Walls). With respect to Aboriginal Archaeology; no further studies are required for the Planning Proposal and future work can proceed without a Section 90 Aboriginal Heritage Impact Permit application; and should Aboriginal objects be found during the course of any future development, work should cease and an archaeologist consulted.

In relation to dry stone walls; the three identified dry stone walls should be conserved in accordance with Council guidelines. Staff recommended that any future DA works on site will be required to add appropriate conditions to ensure that unexpected finds are identified and conserved.

Appendix 8 – Flora and Fauna Assessment - prepared by Eco Logical

The Flora and Fauna Assessment found that the site is predominantly cleared of native vegetation and contains “few flora and fauna values”. However, there are areas of native vegetation with high conservation values including threatened plants and an Endangered Ecological Community on properties adjoining the subject site. The consultants stated that future development of the subject site will need to incorporate strategies to protect the conservation values on adjoining lands.

The report states that the proposed rezoning utilizes cleared land. It is recommended that the Proposal and any subsequent DAs will need to ensure that:

“appropriate site design, site controls and ongoing management should adequately mitigate impacts upon endangered ecological communities, threatened species, habitats and connectivity.” Habitat connectivity on site was judged as “generally poor”.

The report concluded that no threatened Flora or Fauna will be removed by the Proposal, and that there is a small proportion of a disturbed Illawarra Subtropical Rainforest on an adjacent property that will unavoidably need to be removed to construct water and sewerage service facilities. In order to address this issue, the consultants carried out an Environmental Planning and Assessment Act, Assessment of Significance for the Proposal. The consultants indicated that the Proposal is: *“unlikely to significantly impact on those threatened species or EEC’s assessed provided a range of measures are implemented [in subsequent stages]. ... A small loss in ISR [Illawarra Subtropical Rainforest] is likely to be required for the subdivision stage, although the proposal also has the potential to substantially improve habitat condition for ISR ...”*

Comment

Staff raised concern over the proposed impacts on the Illawarra Subtropical Rainforest on the adjacent property as a result of the service infrastructure corridor. It is noted that a test of significance has been carried out in relation to the EEC which stated that the Proposal is unlikely to significantly impact on those threatened species or EEC’s assessed providing a range of measures are implemented in subsequent DA stages.

Appendix 9 – Traffic and Transport Planning Statement - prepared by Unicomb Development Services

This report overviewed the proposed road access points, the road network access and the potential traffic and transport movements from the subject site to surrounding areas. The subject site will gain access to Jamberoo Road from Banksia Street and Lilly Pilly Way in the Cedar Grove Estate. This Proposal includes the requirement of widening the Lilly Pilly Carriage way from 6m to 8m to carry the additional traffic generated by this proposal. The consultant has ascertained that there is no possibility gaining an additional road access point from the Cedar Ridge Estate. The report raised the possibility of the provision of a pedestrian/cycle way though to Bland Street and/or Jamberoo Road. The site has been assessed as capable of a public transport bus route if required. The consultants indicated that all road construction will be in accordance with DCP 2012.

Comment

Staff requested additional traffic generating data taking into consideration the potential for dual occupancies/secondary dwellings being developed on a proportion of lots. The applicant prepared revised modeling which indicated that even at full development capacity the proposed road networks could adequately cater for this development.

Appendix 10 – Servicing Options Plans and Service Authority Letters

Preliminary Servicing advice was submitted to Council.

Comment

Submitted servicing advice has been considered sufficient for this stage of the Planning Proposal.

Additional Appendix 4 & 5 – information relating to the proposed closure of a Crown Public Road (Noorinan St).

Information was requested on the proposed closure and purchase of a section of a Crown Public road (Noorinan Street) located within the subject site.

Comment

Information from NSW Trade and investment, Department of Primary Industries Catchments and Lands etc was supplied on the proposed closure and purchase of a section of Noorinan Street located within the subject site. This information is sufficient for the Planning Proposal to proceed.

SEPP Compliance Report – Prepared by Urbis

Comment

This report has not considered a number of SEPPs (ie SEPP Rural Lands 2008) that will require assessment. It is considered best practice for Council to prepare an independent report addressing SEPP Compliance as a part of the Gateway report.

Section 117 Directions Compliance Report– Prepared by Urbis)

Comment

This report has not considered a number of section 117 Directions such as Directions: 1.2 Rural zones; 1.5 Rural Lands; 4.4 Planning for Bushfire Protection that will require assessment. It is considered best practice for Council to prepare an independent report addressing Section 117 Directions Compliance as a part of the Gateway Report.

Assessment Summary

Report	Considered appropriate to proceed to Gateway
Planning Report	✓
Appendix 1 – Amended LEP and Masterplan Maps	✓
Appendix 2 – Water Cycle Management Report	✓
Appendix 3 – Road Access Design Plans and Photomontage	✓
Appendix 4 - Rock Survey Report	✓
Appendix 5 - Preliminary Contamination Assessment Report	✓
Appendix 6 – Bushfire Assessment Report	✓
Appendix 7 - Archaeological Due Diligence Report	✓
Appendix 8 – Flora and Fauna Assessment	✓
Appendix 9 – Traffic and Transport Planning Statement	✓
Appendix 10 – Servicing Options Plans and Service Authority Letters	✓
Additional Appendix 4 & 5 – information relating to the proposed closure of a Crown Public Road (Noorinan Street).	✓

Conclusion

The Planning Proposal meets the criteria outlined in the Planning Proposal Policy, as it is an endorsed site, (Site 13) under the Kiama Urban Strategy.

The technical reports obtained by the applicant have provided enough information to enable Council staff to support this stage of the Concept Planning Proposal.

Attachment

Attachment 1 – Location Plan of the Subject Site

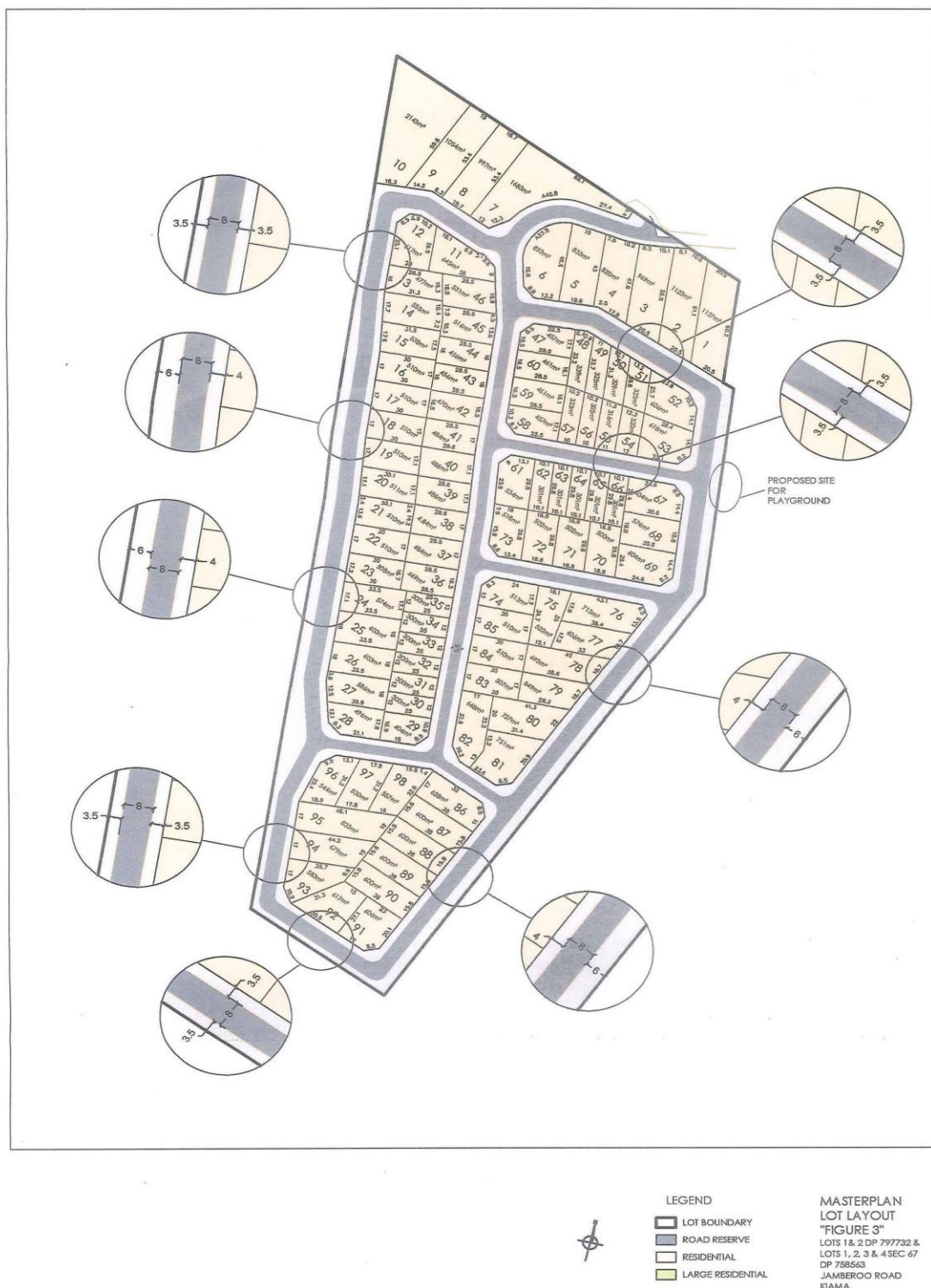


SITE LOCATION PLAN "FIGURE 1"

LOTS 1 & 2 DP 797732 &
LOTS 1, 2, 3 & 4 SEC 67 DP 758563
JAMBEROO ROAD
KIAMA

Attachment

Attachment 2 – Indicative Lot Layout



Attachment

Attachment 3 – Photomontage of Proposed Access Road

