

ITEM 1

DRAFT PLANNING PROPOSAL 227 CORDEAUX ROAD (LOT 100 DP 1123517)
MOUNT KEMBLA - PP-2017/3

A draft Planning Proposal request has been submitted for 227 Cordeaux Road, Mount Kembla (Lot 100 DP 1123517) which seeks to facilitate additional large lot residential development, together with the establishment of a Vegetation Management Plan (VMP) and funding mechanism to protect in perpetuity the identified environmental values of the site. This site was considered in the Farmborough Heights to Mount Kembla Concept Plan that was endorsed by Council (9 December 2013) and the Department of Planning and Environment (20 March 2014) to guide future development potential for this area.

This report presents the preliminary assessment of the draft Planning Proposal request and recommends that Council resolve to submit a draft Planning Proposal to the NSW Department of Planning and Environment seeking a Gateway Determination to enable public exhibition.

RECOMMENDATION

- 1 A draft Planning Proposal be prepared and submitted to the NSW Department of Planning and Environment for 227 (Lot 100 DP 1123517) Cordeaux Road Mount Kembla seeking a Gateway determination to:
 - a Rezone (4.3ha) of the site from E3 Environmental Management to E4 Environmental Living with a Minimum Lot Size of 5,000m² and Floor Space Ratio of 0.3 : 1.
 - b Rezone the remainder of the site (1.5ha) from E3 Environmental Management to E2 Environmental Conservation.
- 2 The draft Planning Proposal be exhibited for 28 days.
- 3 The Department of Planning and Environment be requested to issue authority to the General Manager to exercise plan making delegation in accordance with Council's resolution of 26 November 2012.

REPORT AUTHORISATIONS

Report of: David Green, Manager Environmental Strategy and Planning (Acting)
Authorised by: Andrew Carfield, Director Planning and Environment - Future City and Neighbourhoods

ATTACHMENTS

- 1 Site Locality Map and Current Zoning
- 2 Extract from endorsed Concept Plan and accompanying Planning Principles
- 3 Indicative Subdivision Layout
- 4 Proposed Zoning; Minimum Lot Size and Floor Space Ratio Maps
- 5 Indicative Vegetation Management Plan

BACKGROUND

In January 2017 a draft Planning Proposal request was submitted by Cardno on behalf of the landowner for 227 Cordeaux Road (Lot 100 DP 1123517) Mount Kembla, with additional information and revisions submitted between June 2017 and February 2018. The original draft Planning Proposal request sought to facilitate an additional four residential lots on the site, however following feedback received during the preliminary consultation period, the draft Planning Proposal request has been revised down to two additional lots.

The site is approximately 5.8 hectares in size and is currently zoned E3 Environmental Management. The site is bounded by land zoned E4 Environmental Living to the north and south, and E3 Environmental Management to the east and west (Attachment 1).

There is one residential dwelling house and a shed on the property, with horse grazing occurring on the open areas. A riparian corridor traverses the southern portion of the site. Vehicular access is provided via a single lane, two-way right of way (ROW) driveway, which also provides vehicular access to properties No

1/227A and 2/227A Cordeaux Road. The site contains a high geotechnical constraint in the north-western corner and bushfire prone land.

The site contains cleared and modified lands comprising predominantly exotic pasture species in the northern portion of the property with native vegetation (Moist Box-Red Gum Foothills Forest – MU13) present along the southern boundary, consisting of regenerating vegetation and some mature trees. The site assessment also identified Acacia scrub and weeds and exotics. No threatened flora species were recorded on the subject site. The site contains first and second order vegetated watercourses. Approximately 4.12 hectares is cleared.

The site inspection undertaken in March 2017 identified the area as containing a good diversity of native flora species with good potential for rehabilitation and recovery. Several hollow-bearing trees present in the riparian area have the potential to provide habitat for a number of threatened species, including birds and microchiropteran bats. The Office of Environment and Heritage (OEH) submission concluded that the subject site represents a strategically important linkage opportunity and the proposed revegetation and active conservation within the riparian corridor will contribute to this if undertaken and managed appropriately.

Farmborough Heights to Mount Kembla Concept Plan

This site was considered in the Farmborough Heights to Mt Kembla Concept Plan that was endorsed by Council (9 December 2013) and the Department of Planning (20 March 2014) to provide a strategic framework to guide future development potential for this area in the context of active conservation. The key objectives of the Concept Plan were to provide certainty for the community by identifying land suitable for conservation and potential development within the study area, as well as provide the opportunity to implement a number of mechanisms that will conserve and manage the environmental attributes of the foothills of the Illawarra Escarpment.

The focus of the development of the Concept Plan has been the long term management of the Illawarra Escarpment and the contribution that appropriately scaled and located residential development could make to conserving land of high ecological value, restoring degraded lands and providing an overall community benefit in terms of creating conservation opportunities. The Plan recognises that ongoing management of areas of high ecological value will be required in order to maintain or improve biodiversity values of the Illawarra Escarpment, and stipulates that any development is linked to the protection and enhancement of key identified environmental attributes.

The endorsed Concept Plan is importantly consistent with and complements the Illawarra Escarpment Strategic Management Plan (IESMP 2015) and the Illawarra Escarpment Land Use Review Strategy (IELURS 2007), which consider limited development may be possible having regard to the environmental sensitivity of the receiving environment and provided there are mechanisms in place to drive rehabilitation and restoration of the land and its surrounds. The Concept Plan is also consistent with the objectives and targets of regional strategies including the Illawarra Biodiversity Strategy (2011) and the Illawarra Shoalhaven Regional Plan (2015), with a focus on priority vegetation and important habitat corridors.

In developing the Concept Plan it was necessary for the consultant (GHD) to provide a high level estimate of potential dwellings as input into traffic and utilities modelling to assess the likely impact that potential development might have on existing infrastructure and amenity. These estimates were used to develop a Concept Plan, with the GHD report clearly stating that these estimates did not constitute a guarantee of the estimated development potential nor a detailed subdivision plan. Additionally, it was acknowledged in the report to Council (13 December 2013) that the Strategic Planning Study conducted to inform the development of the Concept Plan included a number of high level investigations, and hence identified that more detailed site specific studies may produce some variations to the findings and associated recommendations contained in the Concept Plan. It was recommended that as new information and/or studies are completed in the future there may be the opportunity to revisit the Concept Plan recommendations, should amendments be justified. The role of the Concept Plan is to guide development in the area. Individual Planning Proposals are invited for specific land holdings, and to refine appropriate development outcomes, supported by detailed studies.

The endorsed Concept Plan identified potential to rezone this site to permit large lot residential development, subject to satisfying the accompanying Planning Principles and demonstration that an improved environmental outcome could be achieved for the land. The Concept Plan recommends an E4 Environmental Living zoning for the developable area with a minimum lot size of 5,000m², which would

enable approximately four additional residential allotments in the northern part of the site. An E2 Environmental Conservation zoning was recommended for the remainder of the site, in recognition of the ecological attributes associated with the riparian corridor in the south. The Concept Plan identified the opportunity for the long term management, protection and enhancement of the riparian corridor in the south of the site (Attachment 2).

The Concept Plan additionally identified the need to demonstrate adequate access to individual lots and through site connectivity. Development would be subject to the preparation of a geotechnical impact assessment at the development application stage that confirms resolution of any geotechnical issues and development of the site would be subject to visual amenity controls due to its prominent location.

PROPOSAL

The revised draft Planning Proposal request includes an indicative subdivision layout comprising 2 additional rural/residential large lots and the conservation of 1.5 hectares of the site (Attachment 3). To facilitate the proposed development, the draft Planning Proposal request seeks to amend the Wollongong Local Environmental Plan 2009 as follows:

- Rezone 4.3ha of the site from E3 Environmental Management to E4 Environmental Living with a Minimum Lot Size of 5,000m² and Floor Space Ratio of 0.3:1; and
- Rezone the remainder of the site (1.5ha) from E3 Environmental Management to E2 Environmental Conservation (Attachment 4).

Access to the subdivision is proposed via the current single lane, two-way right of way (ROW) driveway, which also provides vehicular access to properties No 1/227A and 2/227A Cordeaux Road. Each of the proposed dwellings would be accessed via a shared internal driveway.

Full urban reticulation services (power, sewer, water and telecommunications) can be provided to the site. The Concept Plan notes that there is capacity within the existing road network to accommodate additional development throughout the study area. Should a rezoning be approved, any subsequent development application would need to be supported by a detailed assessment of traffic impacts, car parking, site servicing/manoeuvring and waste collection. Any proposed access to the site would need to comply with Australian Standards AS2890.1 and Wollongong Development Control Plan 2009 to provide adequate grades, widths and safe sight distances. The proponent has been advised that Council would not take on the road asset, given the geotechnical issues on site, and hence a Community Title subdivision to fund a private road access would be the solution in this regard.

The draft Planning Proposal request indicates that refuse collection would remain as per the existing arrangement, where residents are required to wheel their bins onto kerbside locations along Cordeaux Road for collection. The proponent has subsequently been advised that Council's Development Control Plan (DCP) 2009 will not permit this arrangement (the number of bins proposed cannot be accommodated within 50% of the development's frontage on collection day) and has been advised that a private waste collection arrangement will be required to be organised by the Body Corporate as part of a Community Title subdivision.

Other supporting documents submitted with the draft Planning Proposal request included:

- Assessment of Ecological and Bushfire Constraints (EcoPlanning 2016);
- Desktop Traffic Assessment: Proposed Residential Subdivision (Cardno 2016);
- Aboriginal Heritage Information Management System Search (Cardno 2016);
- Vegetation Management Plan (EcoPlanning 2017);
- Aboriginal Cultural Heritage Due Diligence Assessment (Biosis 2017); and
- Driveway Grade Study (2017).

The proponent has undertaken consultation with Council officers and the Office of Environment and Heritage (OEH), to inform the preparation of this draft Planning Proposal request.

Key Issues for Consideration

The following key issues are relevant to the evaluation of the Planning Proposal request:

Consistency with Endorsed Farmborough Heights to Mt Kembla Concept Plan

The endorsed Concept Plan identifies potential for additional residential development on this site in conjunction with scope to rehabilitate the riparian corridor. The recommended zoning for the potential developable area is E4 Environmental Living, given the proximity to the escarpment and the desire for any development to be rural residential in character. This zoning controls for a more limited range of permitted land uses appropriate to the surrounding environmental setting and importantly this E4 zoning won't allow further subdivision for dual occupancies and multi dwelling houses. The Concept Plan proposed 5,000m² lots for the developable area. An E2 Environmental Conservation zoning is recommended in the Concept Plan to protect and restore the riparian corridor in the south of the site.

Consistent with the Concept Plan, the submitted Planning Proposal request is seeking a rezoning to the recommended E4 Environmental Living zoning for land proposed to be developed, with a minimum lot size of 5,000m² proposed. The riparian corridor is proposed to be zoned E2 Environmental Conservation with a minimum lot size of 39.99ha, in line with the Concept Plan recommendations. The submitted revised draft Planning Proposal request would result in 2 additional residential lots, subject to further investigations and finalisation of a subdivision plan at the development application phase. The Planning Proposal is consistent with the Planning Principles contained in the IESMP and IELURS, and further developed through community consultation on the Concept Plan.

It is noted that based on a 5,000m² minimum lot size, the 4.8 hectare proposed to be zoned E4 Environmental Living could theoretically be subdivided into 8 lots. As discussed later in this report the current access way can only support an additional 2 lots. If alternate access could be provided by a new road from Cordeaux Road, then a greater number of lots could be achieved. Council could resolve to increase the minimum lot size to 1 hectare to limit the number of additional lots.

Proposed Conservation Plan

The Farmborough Heights to Mt Kembla Concept Plan identifies that there is potential and capacity for appropriately scaled and located development on the interface of the escarpment provided that this development is considered within the context of active conservation. The endorsed Concept Plan for the wider Farmborough Heights to Mt Kembla study area identified approximately 213 hectares as potential future conservation areas, and concluded that ongoing management of proposed conservation areas will be required in order to improve and maintain biodiversity values. The Concept Plan acknowledges that management is likely to be linked to specific development via a conservation offset strategy that would specify titling, management and funding arrangements. The Concept Plan stated that individual Planning Proposals would be required to be prepared by each land owner detailing how any rezoning on that property will lead to an overall conservation improvement for the escarpment or foothills.

The Planning Proposal request seeks large lot low density residential development opportunity on land identified in the Concept Plan with little ecological value (areas dominated by cleared land and exotic vegetation), and proposes to undertake ecological conservation and rehabilitation works associated with the riparian corridor in the south of the site. Rehabilitation of riparian corridors can incur significant costs and as such a suitable mechanism for management and funding is required. A Vegetation Management Plan (VMP) has been prepared and submitted (EcoPlanning September 2017) detailing the management and restoration methods for the area designated as a conservation zone. The VMP includes calculations of indicative costings - an amount of \$101,288 has been identified to provide on ground rehabilitation works over a five year period.

The VMP identifies the following standard and other management actions for the restoration and stabilisation of the riparian zone, to improve biodiversity values on site:

- Reduce the abundance and cover of all exotic species, including woody weeds, which are preventing the establishment and further succession of native plant species;
- Creating a revegetated riparian zone to buffer the watercourse from the impacts of the surrounding land use (eg nutrient enriched runoff;
- Revegetating the subject site with a combination of native mid storey, over-storey and occasional grasses/groundcovers;

- Increasing the complexity of the habitat within the riparian zone for macroinvertebrates and terrestrial fauna;
- Implementing a "top of catchment approach" by reducing the vegetative and propagule spread of exotic species further down the catchment.

Council's Environment Division notes that the VMP prepared is generally considered satisfactory, although specifies that the VMP will need to be updated at any subsequent development application (DA) stage to incorporate a larger riparian corridor and larger Asset Protection Zones (to reflect the Environment division submission), as well as the inclusion of APZ works in the program (including costings).

The draft Planning Proposal request refers to a Property Vegetation Plan (PVP) as the likely legislative mechanism to be used to ensure the VMP is registered on title and implemented in perpetuity. Since the lodgement of the Planning Proposal request the *Biodiversity Conservation Act 2016* and associated reforms have now commenced and therefore an in perpetuity **Conservation Agreement** will need to be registered on land title, funding obtained and active management underway prior to the issuing of a subdivision development approval. While the VMP submitted refers to a five year period, this VMP will provide the basis for a Conservation Agreement (which have replaced PVPs) registered on title and administered by the Biodiversity Conservation Trust (Office of Environment and Heritage) to ensure in perpetuity funding of conservation works. This Agreement will need to be registered with the Office of Environment and Heritage (OEH) prior to finalisation of the Planning Proposal to rezone the land, as evidence of the improved environmental outcome to be achieved through the Planning Proposal (as required by the Farmborough Heights to Mount Kembla Concept Plan).

Additionally, the draft Planning Proposal request initially proposed a Torrens Title subdivision, however a Community Title subdivision will be required in order to facilitate private road construction and maintenance, and provide funding for the conservation works identified in the VMP. One option to fund the in perpetuity conservation works is a Community Title arrangement with a Body Corporate collecting a yearly environmental fee and managing the restoration works detailed in the VMP. Should the land proposed for E2 Environmental Conservation zoning be retained in private ownership, Council's Environment Division recommend that the E2 land be contained within one separate lot to be owned and managed as Community Title in perpetuity as the best way to achieve the conservation and improvement outcome for biodiversity. This will require separate access that does not involve trespassing through private property (preferably from the communal driveway) for maintenance. The IESMP 2015 refers to the need to avoid creating additional lot boundaries through existing native vegetation or riparian areas. Further fragmentation of the ownership of the riparian zone is not consistent with the Regional Plan, s117 Direction 2.1 Environment Protection Zones; outcomes sought by the Illawarra Biodiversity Strategy (2011), IESMP 2015 and Concept Plan; and general principles of improve or maintain biodiversity where the structural and functional connectivity of corridors is affected by tenure.

The funding details will be finalised in consultation with the Biodiversity Conservation Trust (OEH) with the establishment of the Conservation Agreement, which can then inform the final subdivision plan. Under the new Biodiversity Conservation legislation, some Conservation Agreements will be eligible for stewardship payments and a range of assistance, with landowners able to access the Landholder Support Program.

In terms of the Conservation Agreement the following process would apply:

- 1 Draft VMP prepared and submitted with Planning Proposal request - submitted
- 2 Council resolves to prepare a draft Planning Proposal
- 3 During / post exhibition: Final VMP prepared based on exhibition feedback, including updated costings.
- 4 Council resolves to finalise Planning Proposal
- 5 Conservation Agreement registered with the Biodiversity Conservation Trust
- 6 Council submits the Planning Proposal to DPE for notification.

It should be noted that the option of dedication of the land proposed for E2 Environmental Conservation zoning to Council with funding was discussed with the proponent, as a mechanism to ensure in perpetuity conservation works required by the Concept Plan. The proponent has indicated a preference to retain the

land proposed for E2 zoning in private ownership and register a Conservation Agreement with the Biodiversity Conservation Trust (OEH) as the mechanism to achieve active conservation in this regard.

The Office of Environment and Heritage (OEH) support a long term conservation outcome being achieved for the site through establishing the proposed conservation areas, and stress that the mechanism for securing and managing the environmental corridor should be resolved as part of the Planning Proposal. Conservation of ecologically constrained land with funding in association with low density limited residential development provides both the legal and financial mechanisms to ensure the long term conservation and enhancement of the identified biodiversity values and rehabilitation of an important riparian corridor. This aligns with the Concept Plan and associated Planning Principles (2013), where any rezoning on a property must lead to an overall conservation improvement. A focus on riparian conservation to improve the ecological value of the watercourse is consistent with Council's Illawarra Biodiversity Strategy (2011), which highlights the degradation of native riparian vegetation and invasion of exotic weeds as major threats to biodiversity in the Illawarra, and identifies the importance of Council encouraging conservation and restoration efforts in this regard. A network of regional biodiversity corridors has been mapped as part of the Biodiversity Strategy, with the value of landscape connectivity well recognised by various state, regional and local policies, including Australia's Biodiversity Conservation Strategy (2009), the Southern Rivers Catchment Action Plan (2013-23), and the Illawarra Shoalhaven Regional Plan (2015). Maintaining connectivity and enhancing existing connectivity within corridors by regenerating or revegetating missing links, is also one of the three recommended approaches to managing biodiversity in the face of climate change.

The development strategy for this site has the potential to support, rehabilitate and improve the following important environmental functions of the riparian corridor:

- providing a diversity of fauna and flora habitat resources;
- providing connectivity between wildlife habitats;
- providing bed and bank stability and reducing potential bank and channel erosion;
- protecting water quality by trapping sediment, nutrients and other contaminants; and
- conveying flood flows and controlling the direction of flood flows.

The Planning Proposal would result in the retention and rehabilitation of approximately 1.5 hectares of vegetation, through the establishment of a Conservation Agreement administered by the Biodiversity Conservation Trust (Office of Environment and Heritage).

Traffic and Access

A Desktop Traffic Assessment (Cardno 2016) was included with the Planning Proposal request. The report confirmed that vehicular access to the site is currently provided via a single lane, two-way right of way (ROW) driveway approximately 80 metres in length, which also provides vehicular access to properties No 1/227A and 2/227A Cordeaux Road. It is proposed that the additional two new residential lots will also be accessed via this driveway, with each of the dwellings within the site then accessed via a shared internal driveway.

The Desktop Assessment concluded that the projected nett increase in the traffic generation potential of the site as a consequence of the development proposal is minimal and could not be expected to have any unacceptable traffic implications in terms of road network capacity. The Assessment included a vehicle conflict analysis in order to determine whether the existing single lane two-way ROW driveway will continue to operate satisfactorily with increased number of traffic movements as a result of a future development proposal. The analysis concluded that the probability of two vehicles meeting along the single lane ROW driveway is negligible, and that in the rare occasion that a vehicle is seeking to enter or exit the ROW driveway when it is already occupied by another vehicle travelling in the opposite direction, there is ample sight distance for two vehicles to see each other. The Assessment notes that provision will be made for two vehicles to pass along the shared internal driveway at least every 30 metres in accordance with Australian Standard AS 2890.1 upon entry to the site, which will service the two new residential lots in addition to the existing dwelling.

The assessment did not address the issue of the safety of sight distance when exiting onto Cordeaux Road. Any proposed access to the site would need to comply with Australian Standards AS2890.1 and Wollongong Development Control Plan 2009 to provide adequate grades, widths and safe sight distances.

The Concept Plan identified development potential for the site, subject to (among other considerations) demonstration of adequate access. The Concept Plan identified that access may need to be achieved through amalgamation with adjoining properties. It should be noted that the initial draft Planning Proposal request initially sought an additional four dwellings. During the preliminary consultation on the Planning Proposal request, the Roads and Maritime Services (RMS), NSW Rural Fire Service (RFS) and Council's traffic engineers raised concerns in relation to the proposed access arrangements to accommodate an additional four dwellings, as originally requested through the Planning Proposal application. The proposed access arrangements to permit four additional dwellings were found to be unsatisfactory, failing to meet Australian Standards in relation to the width of the driveway and the spacing of passing bays, and not complying with 'Planning for Bushfire Protection 2016' (PBP), where *"access to a development comprising more than 3 dwellings have formalised access by dedication of a road and not by right of way"*.

The advice from the RFS and Council's Traffic Division was that a maximum of 2 additional dwellings could be accommodated on site if reliant solely on the existing access (noting potential for the site to accommodate more dwellings if alternative access could be arranged such as acquisition of other properties, as suggested in the Concept Plan). This Planning Proposal request has been amended based on this advice, seeking an additional two lots (down from the four lots originally proposed) in order to meet the access requirements.

Bushfire

An assessment of bushfire constraint was undertaken by EcoPlanning (2016) and consisted of desktop analysis against the provisions within the NSW Rural Fire Service document *"Planning for Bush Fire Protection 2006"* and a site inspection. The assessment identified forest vegetation in the south of the site on steep downslopes within the slope class "10-15 degrees downslope" and "15-18 degrees downslope". This riparian vegetation poses a bushfire hazard influencing future development and subdivision of the site.

The bushfire assessment proposes the removal of the outer extremity of the forest in order to reduce the total width of the vegetated corridor to a maximum of 50 metres to reduce the vegetation classification to "low hazard" in accordance with *"Planning for Bush Fire Protection 2006"*. The resultant required Asset Protection Zones (APZs) would range from 20 to 25 metres under this scenario.

The proposal to remove vegetation in the south of the site to reduce the width of the riparian vegetation corridor to 50 metres, which would then reduce the asset protection zones required to 20 to 25 metres, is not supported. Council does not support the removal/thinning of the Moist Box-Red Gum Foothills Forest vegetation and an area mapped as planted native vegetation. It is recommended that Asset Protection Zones (between 50 and 60 metres) be required to protect future housing from bush fire hazards. The following comments are provided in justification of this recommendation:

- The Concept Plan references the Illawarra Escarpment Strategic Management Plan (IESMP 2015) which stipulates that riparian corridors are to be applied consistent with the recommendations contained in the Riparian Corridor Management Study, DIPNR 2004 (riparian width requirement of 50 metres from the top of the bank).
- Any APZs must be located and managed outside the required riparian corridor. Thinning/removal of Moist Box – Red Gum Foothills Forest (MU13) for the establishment of APZs should only occur outside a 50 metre (from top of bank) riparian corridor as required by WDCP 2009 Chapter E23. APZs of 50m and 60m would apply – proposed building envelopes could be moved north and west to accommodate the APZs.
- This will allow the retention of all moderate constraint area/Moist Box-Red Gum Foothills Forest (MU13) and some of the native plantings/propagation area to achieve a moderate to high biodiversity outcome, consistent with the Concept Plan.
- These APZs will also remove any future implications of the 10/50 Vegetation Clearing Code of Practice (NSW Rural Fire Service 2015).

The bushfire assessment additionally identifies non compliance with the Rural Fire Service (RFS) publication *"Planning for Bush Fire Protection 2006"*, which recommends that residential developments situated more than 200 metres from a public through road require an additional access road and dead ends should not be more than 200 metres in length and are not recommended. The proposed access measures 230 metres from Cordeaux Road, with the planning proposal request citing the following as reasons to allow the variation:

- The road traverses cleared lands such that a fire will not sever the access;
- The road directs potential evacuees to the north away from the bushfire hazard, being the vegetated corridor in the south.

The existing access drive is 3 metres wide for a distance of 60 metres within the access handle between properties fronting Cordeaux Road, which is below the 4 metres acceptable solution in *"Planning for Bush Fire Protection 2006"*. The Planning Proposal request refers to the width of a Category 1 tanker as 2.47 metres, and the fact that the 3 metre access drive is within a 4.5 metre access handle providing room to negotiate access, as justification for this variation.

The bushfire assessment provided the following recommended mitigation measures to ensure suitability of part of the subject lands for residential development:

- Asset Protection Zones to be provided to all future dwelling houses.
- A turning facility suitable for a Category 1 tanker and hydrant will be provided at the end of the access drive.
- Each new dwelling will be required to have a 10,000 litre water tank (or pool) that can be accessed by fire-fighters

The NSW Rural Fire Service (RFS) submission raised concern that the Planning Proposal request which originally sought to subdivide the land to permit additional 4 lots does not comply with *"Planning for Bush Fire Protection 2006"*, that states *"access to a development comprising more than 3 dwellings have formalised access by dedication of a road and not by right of way"*. The submission further states that the road access would be required to meet a standard of 6.5 metres, while the existing access handle from Cordeaux Road is only 4.5 metres in width. The submission concluded that the proposal should not proceed in its current form and that if the proposal was to proceed, it will be necessary to acquire land outside of the lot to allow for a 6.5 metre wide road, or development of the site in conjunction with adjoining land(s). Alternatively, the development of the subject site should be restricted to a maximum of 3 lots, which may have access by a 4 metre wide right of way.

The proponent has subsequently revised the draft Planning Proposal request to seek an additional two lots (down from four) for the site to comply with this requirement.

The RFS will be provided with further opportunities to comment at the development application and detailed subdivision stage. The Department of Primary Industries (DPI) raised no objection, however noted that hazard reduction activities to create APZs should not encroach into the riparian corridor.

Geotechnical

The Concept Plan identified the north western corner of the site as having a high geotechnical constraint, requiring an impact assessment to confirm the resolution of geotechnical issues on site. The internal referral feedback was that the area of high geotechnical constraint is located west of the existing dwelling and remote from any of the proposed building envelopes. The nominated building envelopes are considered feasible from a geotechnical perspective and encountered geotechnical constraints can readily be managed through routine earthworks. Supplementary geotechnical advice will be required to support the engineering design for the subdivision, as well as for the development of the lots created by the subdivision.

Heritage

An Aboriginal Heritage Information Management System (AHIMS) search was undertaken, with no recorded Aboriginal Heritage sites or Aboriginal places declared in or near the site. Following the preliminary notification, the Office of Environment and Heritage (OEH) requested that an Aboriginal Cultural Heritage Due Diligence Assessment be undertaken. This due diligence assessment was subsequently undertaken (Biosis 2017), involving a desktop analysis and archaeological survey. No new sites were discovered during the archaeological survey with the conclusion drawn that the entire study area is assessed as having low archaeological potential.

The report recommended that in the event of the discovery of unanticipated Aboriginal objects or ancestral remains, then any works associated with the proposal must cease and OEH and Aboriginal stakeholders notified. Further heritage assessment will be required at any subsequent DA stage.

Visual Impact

The Planning Principles adopted with the Concept Plan identify the need for development to be located with full consideration of its visual context within a precinct. While the indicative subdivision plan incorporates larger lot sizes to achieve a rural residential development, further visual impact analysis may be required at the development application stage when finalising a subdivision layout. The potential visual impact of a subdivision on the upper ridges of the site should be carefully considered at the development application stage with respect to the principles and strategies outlined in the IESMP, given the heritage significance of the Illawarra Escarpment and the cultural significance of Mt Kembla.

Stormwater

Council's Development Engineering Division has no objection to the rezoning of the land for the purpose of subdividing from a stormwater and floodplain management perspective, however noted that the proposed new lots may require the acquisition of an interallotment drainage easement over downslope properties to facilitate the disposal of stormwater from any development on the site. Any future development on the land will be subject to the requirements of Chapters E13 and E14 of Council's Wollongong DCP 2009, Clause 7.3 of the Wollongong LEP 2009 and the NSW Government's Floodplain Development Manual 2009.

CONSULTATION AND COMMUNICATION

Preliminary consultation was carried out as part of the assessment of the draft Planning Proposal request, which involved referral to Roads and Maritime Services, NSW Rural Fire Service, the Office of Environment and Heritage, Department of Primary Industries – Water, Sydney Water, and relevant internal divisions of Council. The Office of Environment and Heritage attended a site visit in March 2017. Preliminary community consultation has not been conducted as extensive consultation occurred with the development of the Farmborough Heights to Mt Kembla Concept Plan.

State Authority comments provided on the Planning Proposal request were as follows:

Issues Raised	Council Officer Response
<p>Roads and Maritime Services (RMS):</p> <p>Do not object to the planning proposal in principle as it is unlikely to have a significant impact on the state road network.</p> <p>However it is noted:</p> <ol style="list-style-type: none"> 1 That the access is via an existing right of way and given the length (approx. 60m) and width Council needs to be satisfied that sufficient space is available for two vehicles to pass and that the access arrangements are suitable for the proposed intensification/additional dwellings without adversely impacting upon the local road network. 2 Council needs to be satisfied that suitable arrangements are in place for ongoing garbage pickup noting the length of the right of way and where bins will be placed for pick up. 	<p>Noted.</p> <p>Proponent has revised the number of additional dwellings sought to two (2) to address issues of access.</p> <p>The proponent has subsequently been advised that Council's Development Control Plan (DCP) 2009 will not permit this arrangement (the number of bins proposed cannot be accommodated within 50% of the development's 4.5 metre frontage on collection day) and has been advised that a private waste collection arrangement will be required to be organised by the Body Corporate as part of a Community Title subdivision.</p>

Issues Raised	Council Officer Response
<p>3 Council needs to be satisfied that sufficient sight lines are available/not restricted at the site's access point with Cordeaux Road.</p>	<p>Any proposed access to the site would need to comply with Australian Standards AS2890.1 and Wollongong Development Control Plan 2009 to provide adequate grades, widths and safe sight distances.</p>
<p>NSW Rural Fire Service (RFS):</p> <p>Do not support in current form due to Planning for Bushfire Protection 2006 (PBP) compliancy issues regarding access:</p> <ul style="list-style-type: none"> • Access to the property does not comply with PBP – “access to a development comprising more than 3 dwellings have formalised access by dedication of a road and not by right of way” • The road access would be required to be 6.5m in width as per Table 4.1 of PBP – existing access handle from Cordeaux Road is only 4.5m in width • Dead end roads are not recommended, but if unavoidable, dead ends are not to be more than 200m in length – the length of this driveway is indicated as 230m <p>If the proposal is to proceed it will be necessary to acquire land outside of the lot for a 6.5m wide road or development of the site in conjunction with adjoin land(s) also nominated in the Farmborough Heights to Mt Kembla Concept Plan as potentially developable. Alternatively, the development of the subject site should be restricted to a maximum of 3 lots, and which may have access by a 4m wide right of way.</p>	<p>Proponent has revised the number of additional dwellings sought to two (2) to address issues of access.</p>
<p>Office of Environment & Heritage (OEH):</p> <p>The site represents a strategically important linkage opportunity and the proposed revegetation and active conservation within the riparian corridor will contribute to this if undertaken and managed appropriately. Our site inspection noted that the area contained a good diversity of native flora species with good potential for rehabilitation and recovery. The proposed community title provisions outlined are supported for the riparian corridor and access road. Support the protection of the riparian corridor area by an in perpetuity conservation agreement registered on title.</p>	<p>Noted – Community Title subdivision recommended and Conservation Agreement to be registered on title with Biodiversity Conservation Trust (OEH).</p>

Issues Raised	Council Officer Response
<p>The Illawarra Shoalhaven Regional Plan (ISRP 2015) identifies the property as occurring within a biodiversity corridor. The proposal is considered generally consistent with the ISRP provisions to look for opportunities to improve funding and resilience of corridors in strategic planning and proposed land uses need to maintain or enhance connectivity – minor changes to the indicative building envelopes would ensure a better conservation outcome resulting from the proposal. In order to minimise removal and/or ongoing modification of vegetation on site (e.g. through 10/50 Vegetation Clearing Code of Practice for NSW) it is recommended that building envelopes be set back a minimum of 50 metres from the outside edge of the vegetation boundary – would allow optimal enhancement of the riparian corridor area and therefore better meet the objectives within the Concept Plan and the ISRP. The planning proposal is considered to be generally consistent with the Concept Plan intent and provisions.</p>	<p>The proposal to remove vegetation to accommodate APZs to reduce the bushfire risk to a low hazard is not supported. Larger APZs (50 to 60 metres) will be required to ensure building envelope setbacks comply with bush fire safety guidelines.</p>
<p>A Vegetation Management Plan (VMP) should be prepared for the riparian corridor prior to the amending LEP being publicly exhibited. The VMP will need to demonstrate appropriate costings for works and provisions for funding ongoing management. Key considerations for management include weed control, supplementary planting, appropriate management of feral deer and monitoring of works to ensure conservation outcomes are achieved.</p> <p>The proponent should conduct a due diligence assessment at planning proposal stage in accordance with OEH guidelines, before any ground disturbance works that may result from the proposed subdivision of this land. The due diligence process should determine whether a more detailed Aboriginal cultural heritage assessment is required.</p>	<p>A VMP has now been submitted detailing works and costings. This VMP will be the basis for a Conservation Agreement established for the site with OEH.</p> <p>A due diligence assessment was subsequently undertaken (Biosis 2017), involving a desktop analysis and archaeological survey. No new sites were discovered during the archaeological survey with the conclusion drawn that the entire study area is assessed as having low archaeological potential.</p>
<p>Department of Primary Industries – Water (DPI Water):</p> <p>No objection to the rezoning. Once rezoned appropriate protections should be included to ensure that the E2 zone is protected from future activities. It is suggested that physical structures be incorporated along the E2 zone to ensure that no hazard reduction activities to create the Asset Protection Zone (APZ) encroach into the riparian corridor.</p>	<p>Noted – the Conservation Agreement established with OEH will address these issues.</p>
<p>Sydney Water:</p> <p>Generally supportive. More detailed comments relating to servicing future residential developments will be provided when development applications are submitted to Council and referred to Sydney Water.</p>	<p>Noted.</p>

PLANNING AND POLICY IMPACT

This report contributes to the delivery of Wollongong 2022 objective “*The Natural environment is protected and enhanced*” under the Community goal “*We value and protect our environment*”. It specifically delivers on the following:

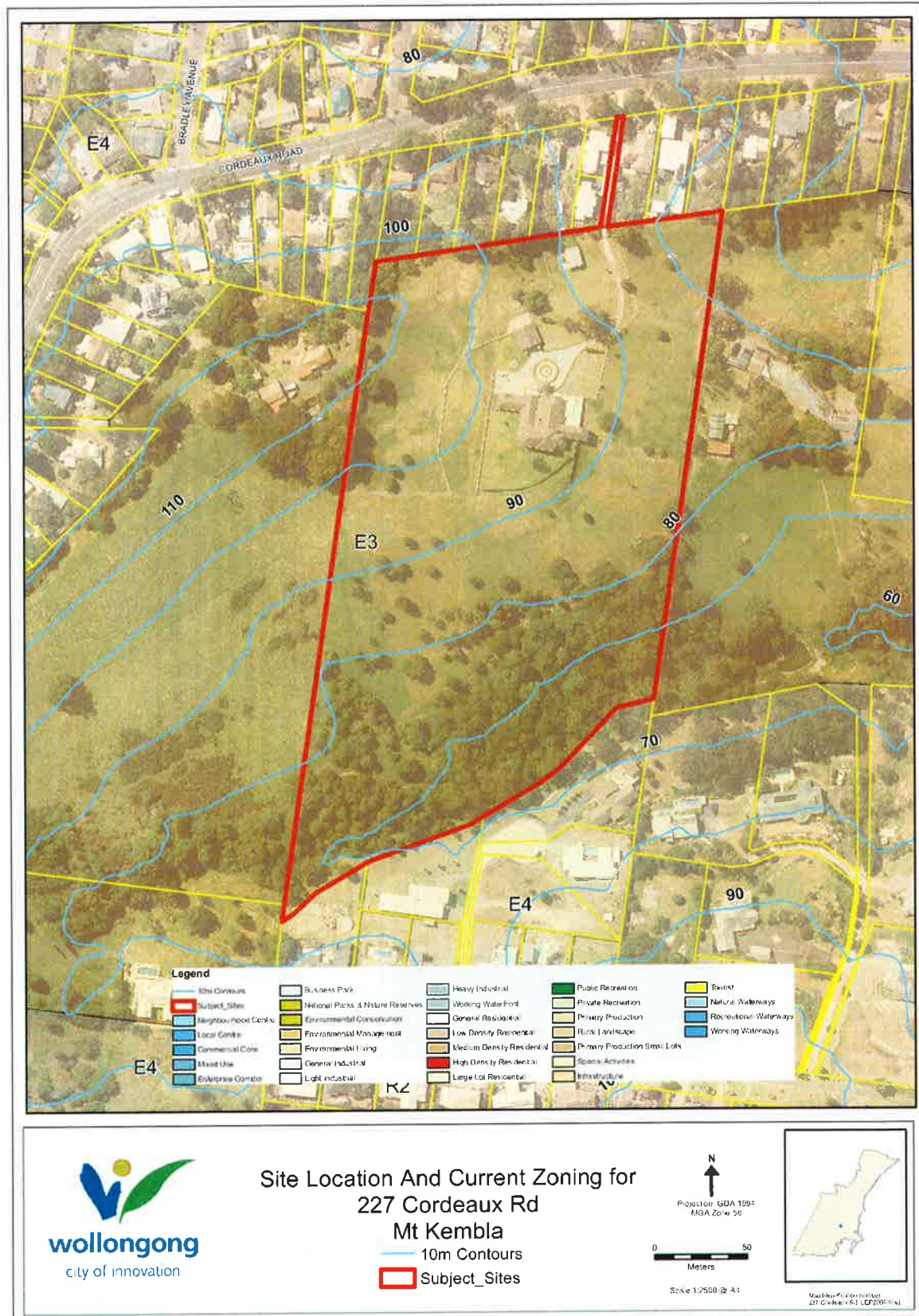
Community Strategic Plan	Delivery Program 2012-2017	Annual Plan 2017-18
Strategy	5 Year Action	Annual Deliverables
1.6.1 Our urban environment minimizes impacts on habitat and biodiversity and areas of high conservation value are protected.	1.6.1.1 Review planning controls for environmentally sensitive locations.	Continue to assess Planning Proposals against environmental strategies, including the Illawarra Biodiversity Strategy and the Illawarra Escarpment Strategic Management Plan.

CONCLUSION

This report considers a draft Planning Proposal request for 227 Cordeaux Road Mt Kembla which seeks to facilitate additional large lot residential development together with the registration of a Conservation Agreement to protect in perpetuity the identified environmental values on site. The Planning Proposal request has been amended to respond to issues of access and Asset Protection Zones/bushfire issues raised.

The protection of ecologically constrained land with funding in association with low density limited residential development will provide a suitable development outcome for this site whilst significantly enhancing the biodiversity values of an important riparian and habitat corridor. The Office of Environment and Heritage has acknowledged the potential for net conservation gains at this site and support a long term conservation outcome being achieved. The establishment of a Conservation Agreement, registered on title and administered by the Biodiversity Conservation Trust (OEH), will provide the legal and financial mechanism to achieve active conservation on this site, as required by the Concept Plan.

It is recommended that Council resolve to prepare a draft Planning Proposal for Lot 100 DP 1123517 Cordeaux Road, Mt Kembla and submit it to the NSW Department of Planning and Environment seeking a Gateway determination to allow public exhibition.



Planning Principles to Accompany Concept Plan

In order to address a number of key concerns raised through the public exhibition of the Strategic Planning Study and draft Concept Plan, it is recommended that the following Planning Principles accompany the Concept Plan to guide development in the vicinity of the escarpment in the Farmborough Heights to Mt Kembla area. Some of these principles were outlined in the IESMP and IELURS and were designed to minimise the impact of any development on the environment and ensure the most important environmental assets are given full protection. Additional principles have been suggested as part of the public exhibition.

1. Principles contained in the IESMP and IELURS:
 - A gradation and increasing lot size and reduced density from high density urban development to no development from east to west;
 - Riparian corridors are applied consistent with the recommendations contained within the Riparian Corridor Management Study (WCC 2004);
 - No clearing of native vegetation for the location of a dwelling site, provision of services/infrastructure or for the implementation of bushfire controls/location of Asset Protection Zones (APZs);
 - No overt increase in the density of development so as to retain rural atmosphere (dwellings to be hidden or clustered);
 - Development needs to contribute to the improved management of adjoining high conservation value lands;
 - Environmental controls, such as effluent management, can be incorporated and contained within the site;
 - There are sufficient water resources for domestic and firefighting purposes;
 - Provision of vegetated buffers to adjoining high conservation value land;
 - Identification of appropriate sites to be managed under an agreed environmental management plan or voluntary conservation agreement;
 - Where a heritage site is to be affected, development may be acceptable if it allows its preservation in situ, or where this is impractical, its investigation and recording. Development will only be acceptable in areas of archaeological potential if proper evaluation of the archaeological implications of the proposed development has been undertaken and taken into account;
 - Protect, maintain and enhance flora and fauna species and habitats of importance;
 - Limiting exposure where possible to bushfire hazard and limiting development in areas of instability or geotechnical risk;
 - Location of development with full consideration of its visual context within a precinct; and
 - Promotion of a pattern of land use sympathetic to the valuable escarpment landscape.
2. Additional Principles arising from the public exhibition of the draft Concept Plan:
 - The provision of limited residential development must be considered within the context of active conservation and as a secondary outcome (COI);
 - Planning proposals must provide justification in terms of specific conservation initiatives proposed to enhance the escarpment for the long term;
 - A corridor of rural and bushland around the eastern approaches to Mt Kembla must be maintained to provide a separation from Cordeaux Heights and to preserve the historic identity of Mt Kembla Village;

- No residential or infrastructure development on visually significant or prominent ridgelines – ridgelines should be managed for conservation, visual and biodiversity outcomes. Vegetated ridges should separate suburbs;
- Development opportunities should be considered where there is only a localised visual impact which is not visible from the broader city urban areas;
- Limited development in appropriate locations and which provides for practical considerations such as access and service provision; and
- Subdivision on bushfire prone land must be designed to minimise the siting of future dwellings away from ridge tops and other steeply sloping land (>15%), especially upslope lands, within saddles or narrow ridge crests, and to provide an efficient and safe road network which minimises potential bottlenecks and provides for satisfactory access and manoeuvring of fire fighting vehicles.

