

**TITLE PLANNING PROPOSAL FOR LOT 1 DP 9671 HN 65 BRISBANE WATER
DRIVE POINT CLARE APPLICANT: DAVID KETTLE CONSULTING (IR
10043561)**

Directorate: Environment and Planning
Business Unit: Integrated Planning

Disclosure of political donations and gifts - s147 Environmental Planning and Assessment Act (EP&A Act).

"A relevant planning application means: (a) a formal request to the Minister, a council or the Director-General to initiate the making of an environmental planning instrument or development control plan in relation to development on a particular site". The following item is an *initial report* to consider a request to Council to prepare a *Planning Proposal*; hence it falls under the definition of a *'relevant planning application'*.

No disclosure was made by the applicant pursuant to s147 EP&A Act.

INTRODUCTION

Reason for Referral to Council: This report discusses merits for Council's consideration and decision of whether or not to prepare a Planning Proposal (PP) (*which, if supported would result in an LEP*), pursuant to Section 55 Environmental Planning & Assessment Act, 1979 (State).

Application Received: 31 January 2011

Environmental Planning Instrument – Current Zone: Residential 2(a)

Area: 875m²

Background

Council considered draft LEP 2009 on 31 May 2011 and is in the course of preparing documentation for submission to DOP&I pursuant to Section 68 of the Environmental Planning and Assessment Act.

Applicant's Submission:

Point Clare Medical Centre is currently located at 63 Brisbane Water Drive. The practice was established in 1989 and due to increasing demands, the owners wish to expand the premises and have acquired the adjoining property to the north (HN 65 Brisbane Water Drive). Point Clare has become an increasingly important focus for retail, commercial and community activities. This Practice provides medical services to the community and also is an accredited teaching practice for medical students.

The practice has recently been offered funding for its expansion under the Primary Care Infrastructure Grants Program from the Federal Government's General Practice Super Clinics Branch. In order to take advantage of this funding the practice needs to expand. This will also offer a better level of service from the practice and ability to offer more medical services in a more contemporary setting. There is not enough room in the existing premises to support the requirements now demanded by the community. The proposal would provide for a new building and better on-site car parking arrangements that would benefit both the practitioners and their patients.

Council is requested to prepare a Planning Proposal given the uncertainty as to when Draft LEP 2009 may be finalised and the need to take advantage of the funding prior to the end of 2011.

'Gateway' planning process

A Local Environmental Plan (LEP) is a legal instrument that imposes zoning of land, standards to control development and other planning controls.

Council has been previously advised as to how the new 'gateway' process operates. Its aim is to enable early consideration by the Department of Planning and Infrastructure (DOP&I), early public consultation and ensure that there is sufficient justification from a planning perspective to support a change to statutory planning provisions. It also acts as a checkpoint before significant resources are committed to carrying out technical studies, where these may be required.

PLANNING PROPOSAL GOSFORD CITY COUNCIL – Lot 1 DP 9671, 65 Brisbane Water Drive Point Clare

This Planning Proposal has been drafted in accordance with Section 55 of the *Environmental Planning and Assessment Act, 1979* and the Department of Planning and Infrastructure's "A Guide to Preparing Planning Proposal"s.

A gateway determination under Section 56 of the Environmental Planning and Assessment Act is requested from the Department of Planning and Infrastructure.

Part 1 Objectives or Intended Outcomes

s.55(2)(a) A statement of the objectives or intended outcomes of the proposed instrument.

The objective/intended outcome of the Planning Proposal is to facilitate the redevelopment of the site to be integrated into the adjoining medical practice located on Lot B DP 960225, 63 Brisbane Water Drive, Point Clare. The subject site has been purchased by the Practice specifically for this purpose, however the current Residential 2(a) zone precludes its redevelopment.

Part 2 Explanation of Provisions

s.55(2)(b) An explanation of the provisions that are to be included in the proposed instrument.

The objectives/intended outcomes are to be achieved by:

- Amending the planning provisions to zone the land to 3(a) General Business under the Gosford Planning Scheme Ordinance. Note: rezoning of the land to zone B1 Neighbourhood Centre is supported under dLEP 2009. If gazettal of the dLEP 2009 occurs prior to finalisation of this PP, then this PP will become redundant.
- ***s.55(2)(d) If maps are to be adopted by the proposed instrument, such as maps for proposed land use zones, heritage areas, flood prone land – a version of the maps containing sufficient detail to indicate the substantive effect of the proposed instrument.*** It is intended to zone the land to 3(a) General Business under the Gosford Planning Scheme Ordinance, or alternatively the zoning amendment to zone the land B1 will occur under dLEP 2009 if this plan is made first. Under dLEP 2009, relevant maps in relation to development standards would not need to be updated. The site is shown on the Height of Building maps as having a maximum building height of 8 metres, and on the Floor Space Ratio as 0.75:1 which is consistent with the development standards for Point Clare neighbourhood centre and is proposed to be zoned B1 under dLEP 2009.

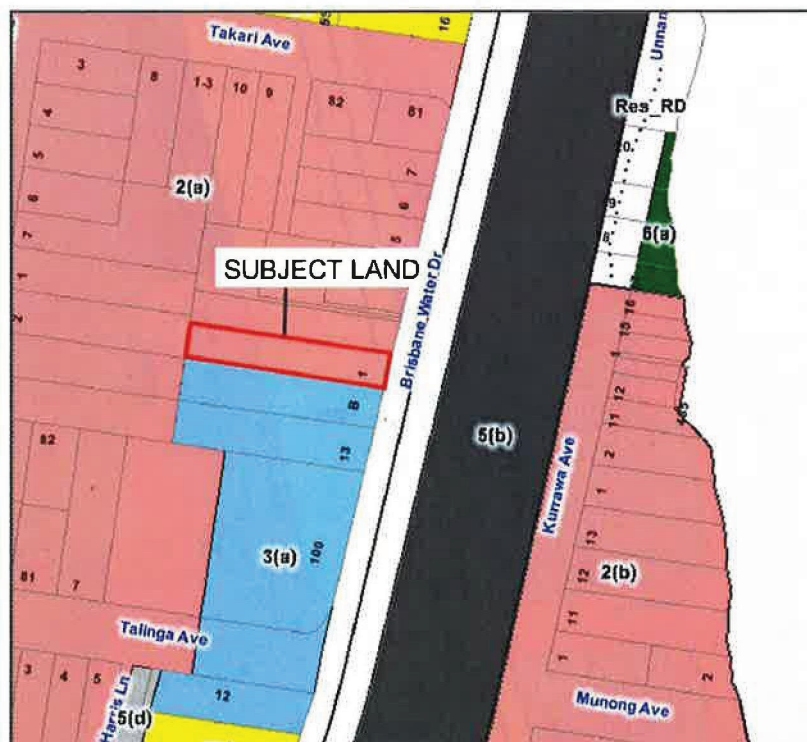
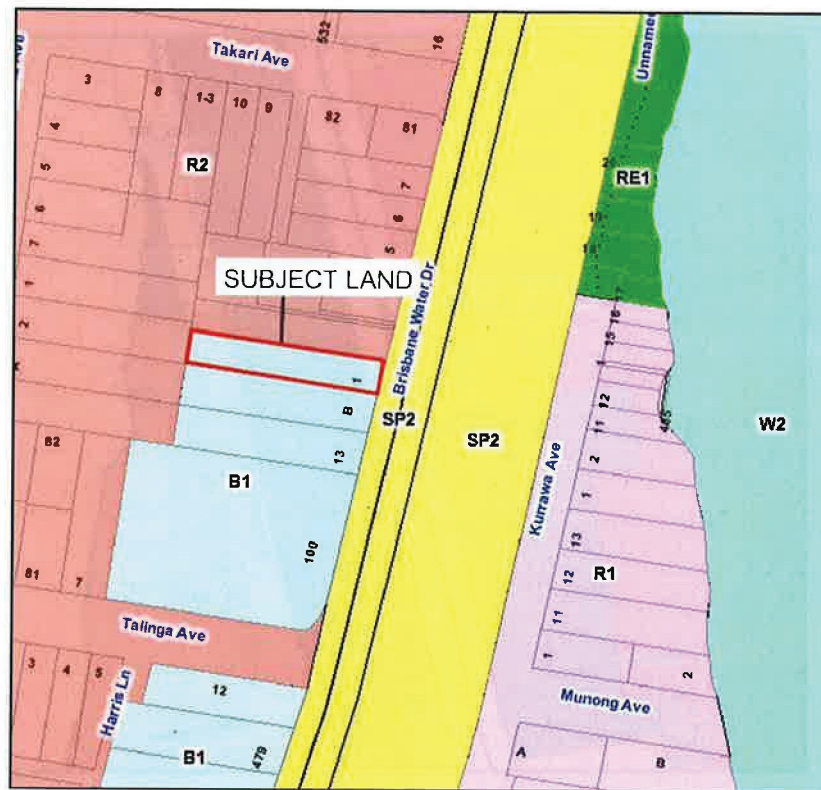
Diagram 1: Existing Zoning**Diagram 2: Aerial Photo**

Diagram 3: Proposed Zoning: DLEP 2009

Part 3 Justification

s55(2)(c) *The justification for those objectives, outcomes and provisions and the process for their implementation (including whether the proposed instrument will comply with relevant directions under section 117).*

Section A Need for the Planning Proposal

1 Is the Planning Proposal a result of any strategic study or report?

The zoning of the site was supported in response to a submission lodged in relation to dLEP 2009. No other land is available in the existing zoned centre to accommodate the development. Land that could have potentially been available was redeveloped for an Aldi Store, which was inconsistent with the draft Gosford Centres Strategy, however compliant with existing permissible landuses under the GPSO. As a general planning principle, the ad-hoc, lineal incremental expansion of centres is not supported. However, given that no other land exists in the centre and the positive social and health benefits offered by improving the practice operations, the proposal is considered to be justified.

2 Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. The time limits imposed by the Federal funding grant necessitate a more expeditious process than potentially rezoning the land under dLEP 2009. This is particularly the case given some aspects of the dLEP, such as a new E5 zone (for COSS land) and deferral of all existing privately owned 7(a) and 7(c2) zoned lands east of the Freeway, may add to the time DOP&I requires to consider dLEP 2009.

The Planning Proposal is not inconsistent with the Central Coast Regional Strategy 2006 – 2031 as it will improve the delivery of health services to the local community. The site is now considered to be part of the Point Clare Neighbourhood centre as it is inextricably linked to the existing medical practice. The existing practice is located on business zoned land, at the edge of zoned neighbourhood centre.

3 Is there a net community benefit?

The assessment provided in Attachment A demonstrates that the Planning Proposal will produce a net community benefit.

Section B Relationship to strategic planning framework

4 Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including exhibited draft strategies)?

The Central Coast Regional Strategy 2006 – 2031 is applicable to the subject land and the proposed rezoning. The Planning Proposal is not inconsistent with the CCRS and will help achieve improvements in local health services delivery. The loss of one lot for low density residential use is not significant in terms of achieving overall population housing targets.

Strategy Action 5.11 requires new retail and commercial development to be located within centres. If supported, the land would be integrated into Point Clare Neighbourhood Centre.

5 Is the Planning Proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

CCRS identified a hierarchy of centres across the region, with Gosford as the regional capital, Erina and Woy Woy as town centres and a number of smaller village centres. The draft Gosford Centres Strategy was prepared to support the CCRS and inform zonings under dLEP 2009 and further classify the hierarchy of centres. Smaller centres (nodes and neighbourhood centres) are proposed to be zoned B1 Neighbourhood Centre and larger centres (villages and town centres) are to be zoned B2 Local Centre. Point Clare is identified as being a neighbourhood centre and has a gross spatial extent of approximately 1 hectare of land zoned for business purposes. The addition of approximately 850m² will not significantly alter the role of the centre or its relationship to other centres.

6 Is the Planning Proposal consistent with applicable State Environmental Planning Policies?

The following assessment is provided of the relationship of the Planning Proposal to relevant State Environmental Planning Policies: SEPPs are only discussed where applicable.

- (i) **SEPP 55 – Remediation of Land-** Clause 6 of this instrument requires contamination and remediation to be considered in a proposal. In this case, the issues raised in Clause 6 of SEPP 55 do not arise as the subject land has not previously been used for a purpose referred to in "Table 1 Some Activities that may Cause Contamination" and was previously used for conventional residential purposes..
- (ii) **SEPP 71 – Coastal Protection-** The front third of the lot has been mapped as being in a sensitive coastal location. Clause 8 lists a series of Matters for Consideration in the preparation of draft local environmental plans. Relevant matters for consideration are;
 - d) the suitability of development given its type, location and design and its relationship with the surrounding area

- e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore
- o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities

It is noted that the site is physically separated from Brisbane Water estuary by the main northern railway line and other residential development. The Planning Proposal it is considered is in conformity with the relevant matters of consideration in clause 8 of SEPP 71.

No other SEPPs are considered relevant to the assessment of the Planning Proposal.

7 Is the Planning Proposal consistent with applicable Ministerial Directions (s.117 directions)?

The following assessment is provided of the consistency of the Planning Proposal with relevant Section 117 Directions applying to Planning Proposals lodged after 1st September 2009. S117 Directions are only discussed where applicable. The Planning Proposal is considered to be consistent, with all other S117s Directions or they are not applicable.

Direction 1.1 Business and Industrial Zones – the Planning Proposal is consistent with the objectives of the Direction to encourage employment growth in suitable locations and to support the viability of identified strategic centres. No other land is available in Point Clare Neighbourhood Centre that is appropriately zoned to accommodate expansion of the existing practice and the improvements to the practice will support the viability of the centre. The practice also enjoys synergies with other landuses within the centre, such as the pharmacy.

Direction 2.2 – Coastal Protection – the Planning Proposal is located within the coastal zone and must give effect to and be consistent with the NSW Coastal Policy; the Coastal design Guidelines; and the NSW Coastline Management Manual 1990.

The Planning Proposal gives effect to the Direction, being consistent with the strategic actions contained in the NSW Coastal Policy relevant to the preparation of LEPs (Table 1) and consistent with the principles of coastal settlement structure contained within the Coastal Design Guidelines. The NSW Coastline Management Manual has no practical application to this Planning Proposal.

Direction 3.4 – Integrating Landuse and Transport – Clause (4) of the Direction requires a Planning Proposal to locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of Improving Transport Choice – Guidelines for Planning and Development 2001 and the Right Place for Business and Services – Planning Policy 2001.

The Planning Proposal is consistent with the objective to locate businesses which generate transport demand in locations that offer a choice of transport and increase opportunities for people to make fewer and shorter trips.

The Planning Proposal is consistent with objectives to integrate landuse and transport. It is located on an arterial road with regular bus services and in close proximity to Point Clare Railway Station and the land can be integrated into the existing Point Clare neighbourhood centre.

Direction 5.1 Implementation of Regional Strategies: Clause (4) of the Direction requires Planning Proposals to be consistent with a Regional Strategy released by the Minister for Planning.

The Planning Proposal is considered to be consistent with the objectives and actions contained in the Central Coast Regional Strategy 2006 – 2031.

Direction 6.1 – Approval and Referral Requirements: Clause (4) of the Direction requires a Planning Proposal to minimise the inclusion of concurrence/consultation provisions and not identify development as designated development.

This Planning Proposal is consistent with this direction as no such inclusions, or designation is proposed.

Direction 6.3 – Site Specific Provisions: The Planning Proposal is consistent with this Direction as it will apply the provisions of the Gosford Planning Scheme Ordinance similarly applicable to all land zoned 3(a) Business (General) throughout the City without imposing any landuse restrictions, development standards or special provisions additional to those already applicable to that zone.

Section C Environmental, social and economic impact

8 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No, the land has been used for residential purposes for many years and no native flora or fauna exists on the properties.

9 Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

The rezoning and incorporation of the land into the existing medical practice will not result in any other significant environmental effects.

- The land and its future development are able to be serviced by Council's reticulated sewage and stormwater drainage systems, thereby avoiding adverse impacts on water quality;
- Sedimentation and waste management controls can be appropriately implemented in the consideration of future development applications lodged in respect of the subject land;
- Development of the land as an extension to the existing medical practice will not adversely affect the streetscape, and would represent a minor extension of commercial development fronting on to Brisbane Water Drive.

10 How has the Planning Proposal adequately addressed any social and economic effects?

The Planning Proposal will not have any adverse social and economic effects. The Planning Proposal will enable the land to be incorporated into the existing medical practice that will result in improved delivery of health services to the local community. The training offered by the practice also assists the broader community through the provision of on-the-job training opportunities for medical practitioners.

Section D State and Commonwealth interests

11 Is there adequate public infrastructure for the Planning Proposal?

Conventional urban services are available to the land. The site is well served by public transport (bus services) and railway services providing access to other centres and readily accessible from residential areas throughout the City.

12 What are the views of State and Commonwealth Public Authorities consulted in accordance with the gateway determination, and have they resulted in any variations to the Planning Proposal?

No consultations have yet been undertaken with State and Commonwealth agencies as the gateway determination has not yet been issued.

Part 4 Community Consultation that is to be undertaken***S55(2)(e) Details of the community consultation that is to be undertaken before consideration is given to the making of the proposed instrument.***

Subject to Gateway support, community consultation will be undertaken in accordance with Gateway's requirements and Council's procedures to ensure the community is informed about the Planning Proposal.

Other Matters for Consideration

No other matters need to be considered for the Planning Proposal.

Conclusion

The subject land is proposed to be zoned from Residential 2(a) to General Business 3(a). It is to be developed in conjunction with the adjoining medical practice. The applicant cannot wait until the DLEP 2009 is gazetted (which will rezone the land to make permissible the medical practice) due to time limitations on funding. Therefore the applicant requests that the land be zoned 3(a) - Business (General) under the current planning provisions. Given the net community benefit in the provision of improved health services to the residents of Point Clare and other localities, it is considered appropriate the rezoning proceed by way of this Planning Proposal.

Attachments: ATTACHMENT A – Net Community Benefit evaluation

ATTACHMENT B – DOP&I's Planning Proposal 'flow chart' of processing

Tabled Items: Nil

FINANCIAL IMPACT STATEMENT

The recommendation does not impact on Council's financial position.

RECOMMENDATION

- A Council initiate the Local Environmental Plan 'Gateway' process pursuant to Section 55 Environmental Planning and Assessment Act by endorsing the preparation of a Planning Proposal for Lot 1 DP 9671, 65 Brisbane Water Drive Point Clare to rezone the land to Zone 3(a) Business (General) and to forward it to the Department of Planning and Infrastructure requesting a 'Gateway' determination pursuant to Section 56(1) Environmental Planning and Assessment Act and that Council staff prepare all necessary documentation and process the

matter according to the Department of Planning and Infrastructure's directives and this report.

B The applicant be advised of the Council's decision.

ATTACHMENT A

NET COMMUNITY BENEFIT TEST - EVALUATION CRITERIA

The net community benefit of the Planning Proposal is to be assessed based on answers to the following questions:

Will the LEP be compatible with agreed State and Regional strategic directions for development in the area? - Yes, the proposal is not inconsistent with any SEPPs or the CCRS. It is located within an existing urban area, and involves the conversion of residential land to allow expansion of the adjoining medical practice.

Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/sub-regional strategy? No, however the rezoning only involves the addition of 875m² of land to the existing neighbourhood centre at Point Clare.

Is the LEP likely to create a precedent or create or change the expectations of the landowner or other landowners? No, the rezoning is in direct response to the need for improved medical services to the community. No other land is available within the centre. As such, it is not considered speculative nor to change expectations of other landowners. Speculative site specific rezonings are not supported from a landuse planning perspective.

Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations? There are no other spot rezoning in the locality. From a landuse planning perspective, speculative spot rezoning that are not supported by a strategy are not advocated. In this instance however, there is no other land available in the centre to accommodate the development and the rezoning offers significant community benefits.

Will the LEP generate permanent employment generating activity or result in a loss of employment lands? The LEP will not result in the loss of employment lands. It will offer better opportunities for the delivery of health services to the community and improvements to the operation of the medical practice for health practitioners.

Will the LEP impact on the supply of residential land and therefore housing supply and affordability? The loss of one low density residential lot is not considered to affect the overall supply of housing or affect housing affordability.

Is the existing public infrastructure (roads, rail, utilities) capable of servicing the proposed site? Is there good pedestrian and cycling access? Is public transport currently available or is there infrastructure capacity to support future public transport? The site is well located in terms of pedestrian and cycling access and public transport is available to the land.

Will the proposal result in changes to the car distances travelled by customers, employees and suppliers? If so, what are the likely impacts in terms of green house gas emissions, operating costs and road safety? No. Patients would be drawn from the existing catchment of the practice.

Are there significant Government investments in infrastructure, or services in the area whose patronage will be affected by the proposal? If so what is the expected impact? There is no significant government infrastructure investments that would be affected by the proposal. The proposal is consistent with the Federal Government's objective of providing improved services from general practitioners.

Will the proposal impact on land that the Government has identified as needed to protect (eg land with high biodiversity values) or have other environmental impacts? Is the land constrained by environmental factors such as flooding? The land does not have valuable environmental qualities that need protection, nor is it subject to other natural constraints such as flooding.

Will the LEP be compatible/complementary with surrounding land uses? What is the impact on amenity in the location and wider community? Will the public domain improve? The LEP will result in the integration of the land into the adjoining medical practice. It is not expected to adversely affect either the amenity or public domain appearance in the area.

Will the proposal increase choice and competition by increasing the number of retail and commercial premises operating in the area? The proposal will result in improved provision of health services to the community. The issue of competition is not relevant to the Planning Proposal.

If a stand alone proposal and not a centre, does the proposal have the potential to develop into a centre in the future? The proposal is not a stand-alone proposal, as it is to specifically integrate the land into the adjoining medical practice.

What are the public interest reasons for preparing the draft plan? What are the implications of not proceeding at that time? The proposal is in the public interest as it will result in an improved level of delivery of medical services to the community and improved practice operations. If the Planning Proposal is not supported at this point in time, access to federal funding may not be available in the future.

Figure 5 – Process to make a local environmental plan

