

TITLE RA2005.205 APPLICANT ANDREWS NEIL - PROPOSED DRAFT LEP TO REZONE LOT 2 DP 155116, LOTS 8 & 9 DP 876102, LOT 202 DP 831864, LOT 4 DP 37914 AND LOT 1 DP 381971 KINGS AVENUE, TERRIGAL TO A RESIDENTIAL ZONE TO PERMIT A HOME BUSINESS PARK (IR 2302216)

Directorate: Environment and Planning
Business Unit: Integrated Planning

BACKGROUND

Council considered a report on the above rezoning at its meeting of 4 May 2010 where it resolved;

- A The Local Environmental Study be adopted by Council for Lot 2 DP 155116, Lots 8 & 9 DP 876102, Lot 202 DP 831864, Lot 4 DP 37914 and Lot 1 DP 381971 Kings Avenue, Terrigal pursuant to the Environmental Planning & Assessment Act, 1979.
- B As a result of A above, the rezoning application (DLEP) for Lot 2 DP 155116, Lots 8 & 9 DP 876102, Lot 202 DP 831864, Lot 4 DP 37914 and Lot 1 DP 381971 Kings Avenue, Terrigal be supported for further processing by Council.
- C The discussions with Council include a voluntary planning agreement as offered by the applicant.

Under S62 of the EPA Act Council undertook consultation with the following Government Authorities;

- Rural Fire Service
 - Roads and Traffic Authority
 - Department of Environment, Climate Change and Water
 - Hunter and Central Rivers Catchment Management Authority
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REPORT

Consultations with Public Authorities

Comment was received from all the authorities that were contacted. The comments that have the most impact on the proposed draft local environmental plan were from Department of Environment, Climate Change and Water (DECCW) and the Hunter and Central Rivers Catchment Management Authority (CMA)

DECCW provided the following summary of their comments;

DECCW is of the opinion that the proposal does not achieve an 'improve or maintain' existing biodiversity values benchmark. The proposal does not appear to adhere to the principle of avoiding impacts prior to mitigating or offsetting, as it includes development within areas of very high conservation values.

DECCW recommends that the entirety of Lot 1 DP 381971 be dedicated to conservation (COSS) and that development is removed from the north-west and is moved to at least 50 metres from the riparian zones. This would reduce the number of hollow trees being

removed by approximately half, which would considerably reduce the impact on threatened species and reduce the potential for conflict between bushfire protection and the sensitive riparian environment. It would also retain connectivity between the rainforest gully and the Narrabeen Coastal Blackbutt Forest, which is likely to help retain wildlife movement, including threatened species, between these two vegetation communities.

Council should assess whether a reduction of the development footprint will result in a proposal which may approach, or be more consistent with, an 'improve or maintain' biodiversity benchmark. The reduction in development is also likely to ensure more consistent management of common areas.

The CMA comments have been summarised for Council's information;

The clearing of native vegetation on this site may be sufficiently offset by improved protection and management of the vegetation that is proposed for retention (in the dedicated Coastal Open Space System), but whether this meets the 'improve or maintain' principle would need to be assessed. As such, the CMA would like to see a full assessment of the conservation value of the vegetation communities existing on the site and an assessment of how any clearing following a rezoning would satisfy the EOAM [Environmental Outcomes Assessment Methodology] to 'improve or maintain environmental outcomes'.

The EOAM suggests that in some instances offset ratios of up to 50:1 may be required (primarily for threatened species), although in the CMA's experience this is typically closer to offset ratios of 10:1. It would be expected that offsets would be delivered through some form of offset agreement, for example a property vegetation plan (PVP) under the Native Vegetation Act (NV Act). This would provide a higher level of protection and requires active management to ensure the IoM [Improve or Maintain] principle is achieved and maintained.

The ENV Report (report to Council of 4 May 2010) states that the rezoning will result in the net loss of 10.4 hectares or 29% of high biodiversity value vegetation' with an offset of 18 ha, an offset ratio of approximately 1.7:1 would be achieved. Although Council have used a different methodology to determine if biodiversity values have been improved or maintained the CMA support Council's conclusion that the proposal fails to meet this principle.

Objectives of the NV Act should guide the assessment of this proposal and the CMA strongly encourages Council to require the proponent to develop a PVP or other covenanting instrument to ensure that the IoM principle is achieved. The CMA could undertake a preliminary desktop assessment to determine if the current proposal of clearing and offset meets the IoM principle.

The vegetation at the site includes an EEC (Endangered Ecological Community) and is generally in good condition and is part of a broader vegetation corridor.

- As patch size is large in relation to the perimeter of the vegetation, the site is currently more viable as a biodiversity conservation site. The proposed rezoning with subsequent clearing that will ultimately occur will remove buffer vegetation and increase perimeter to area ratio. This subjects that patch to various impacts such as increase weed invasion: changes to hydrology: human impacts and other edge effects.*
- The CMA does not support the clearing of EEC or trees with hollows due to their high conservation significance. Under the EOAM, clearing of EEC and trees with hollows may be prohibited or, at the least, will significantly increase the area required for offset when assessed under the EOAM. Trees with hollows should as far as possible be retained and protected using vegetated buffers so that impacts are minimised from future building envelopes (ie so that they are not removed as "unsafe trees" or that they*

do not end up in an APZ (Asset Protection Zone). Council's report shows that the vegetation here exhibits "old growth" characteristics and that the proposal will result in a net loss of 33 or 36% of hollow bearing trees'.

The CMA supports the Council's position (as contained in the report to Council of 4 May 2010) that replacing hollow bearing trees with nest boxes does not provide maintenance of biodiversity values.

- Slopes greater than 20% are a significant natural resource constraint and development of land with these steep slopes will be contradictory to CMA's Landuse Planning guiding principles outlined in the CAP (Catchment Action Plan) as well as Council's own policies.*
- DECCW should be consulted for information and recommendation regarding threatened species that are using or potentially using the site.*

A meeting was arranged between Council, the applicant and his consultants, DECCW, CMA and DOP to enable a discussion to be held to determine whether there was an opportunity to amend the proposal to address the concerns of the government authorities. Subsequent to the meeting further discussions took place between the applicant and DECCW. The applicant has provided the following correspondence;

As stated in our letter to Council dated 30th September, 2010, Crighton Properties corresponded with DECCW by providing them with a copy of the proposed amendments and an explanatory note - a copy of this correspondence is attached for the record of Council.

The only correspondence in reply was verbal, as previously advised. Richard Bath (DECCW) verbally advised us on the 20th September 2010, that whilst the suggested option does not address every one of the issues raised by DECCW, Richard said that the option was "better" than that previously proposed. Richard stated that DECCW's preference was for the whole of Lot 1 to be dedicated to Council with a further reduction in development on the western slope of the site. We requested a formal reply from DECCW during this conversation, but were told by Richard, that it was a matter for Council to make a decision upon, as DECCW had already provided its advice, and DECCW is acting in an advisory capacity.

With regard to the CMA, we discussed amongst our consulting team the suggestion of undertaking the vegetation mapping using the CMA tool (as suggested by the CMA) to consider the application of the Native Vegetation Act, but given the following issues we do not believe the cost or the further delays could be justified.

- 1. The time required to undertake the additional mapping and to run the CMA tool - as advised by the CMA, would be measured in months.*
- 2. It is still not clear to whether the provisions of the Native Vegetation Act actually applies at the rezone stage.*
- 3. CMA has already stated that its requirement for offsets are likely to be in excess of 10:1 (the current proposal is 4.7:1)*
- 4. The CMA based its previous comments on Council's own outdated assessment of the previous draft LES, and has not reviewed the current LES itself.*
- 5. The Section 54 advice received from the NSW DoP did not request Section 62 consultations be undertaken with the CMA.*

(NB: It should be noted that the *requirement* to consult with the CMA at S62 stage was made by DOP in correspondence to Council dated 31 July 2007).

Accordingly, we respectfully suggest that the advice already received from the CMA (for what it is worth) should be more than adequate for Council to finalise its assessment of the LES. The role of each agency is, in any event that of an 'advisor', with no "concurrence" through the rezone process required. We take this opportunity to remind Council that since the LES was formally lodged with Council and advice received by the various agencies the following suggested amendments to the proposal have been put forward for Council's consideration

- 1. The loss of onsite vegetation has been reduced from 10.4 Ha to 7.6 Ha*
- 2. The proposed dedication of land to Council (under COSS) has increased from 18.0 Ha to 27.28 Ha (subject to Council's willingness to accept this extra dedication)*
- 3. A 50m buffer area around the designated Rainforest vegetation on site has been established in response to Council's request.*
- 4. Confirmation has been provided that ALL privately owned "on site conservation" areas will be managed by the Community Association and NOT private individuals.*
- 5. As a result of the re-configuration of proposed urban areas, the ratio of vegetation offset to be provided on site has been increased from 2.7:1 to 4.3:1*

Our understanding of the rezone process is that it is now up to Council to request permission from the Minister to exhibit the LES/Planning proposal.

We point out that the LES/LEP now proposes to only develop only 17.38 Ha (or 32%) of the 53.53 Ha Parkside site, the remainder of which will either be dedicated to Council or held under a private conservation zone. Additionally, significant sums would be invested by the Community Association and the Developer toward Riparian rehabilitation and ongoing management of conservation areas.

We argue strongly, that no matter which way the proposal is viewed, it is a win for the environment and also a win for the community - through the delivery of over 220 full time year equivalent jobs on site.

We respectfully request Council immediately proceed to support the LES/LEP (either in its original form or the recently revised proposal) and seek, as a matter of urgency, the Ministers permission to exhibit the proposal

The applicant has proposed a number of changes to the proposal as identified in the applicant's correspondence. The changes proposed involve the proposed zoning of Conservation zoned land to Residential, the zoning of Scenic Protection land to Conservation and the zoning of Conservation zoned land to Open Space purposes. These changes will improve the environmental outcomes for the development, although many of the issues raised by the Public Authorities and Council's Senior Environmental Officer have not been able to be addressed.

The applicant considers that no more significant change could be made to the proposal without affecting the development's viability. The applicant has requested that Council proceed with consideration of the proposed draft local environmental plan.

Next Stages

The proposed draft local environmental plan has now reached a stage where it could, subject to Council resolution, be forwarded to the Department of Planning requesting a certificate under S65 of the EPA Act to enable exhibition of the plan. As Council would be aware the local environmental plan process that this application is being considered under is subject to sunset provisions which will conclude on 1 January 2011. The Department of Planning has advised that a Section 65 certificate would need to be issued prior to the above date for the plan to proceed under this process.

For the plan to proceed under this process it would be necessary for the Council to resolve to continue with the plan and for the Department of Planning to issue a S65 certificate before the end of this year, this would seem to be unachievable. Further, the applicant needs to alter the local environmental study to reflect the latest changes thus making the timetable even more unlikely to be achieved.

The Department of Planning has indicated that if the proposed draft local environmental plan process cannot meet the timetable then it should be converted into a Planning Proposal under the Gateway Process. The Department has indicated that if it receives a request from Council by way of resolution to gain a Gateway Determination before 1 January 2011, the proposed draft local environmental plan can be converted directly to a Planning Proposal. If it does not receive the proposal before this date a new Planning Proposal will need to be prepared. The consideration by the Department of conversion of the existing draft plan would be preferable, as already undertaken consultations with public authorities would be considered by the Department, rather than the undertaking of a new round of consultations being necessary under a new Planning Proposal.

Although the applicant has requested that the plan proceed to exhibition the most appropriate means of furthering the draft plan that Council has supported is for the proposed draft local environmental plan to be considered by the Department for conversion into a Planning Proposal.

The applicant was advised of the above information and has agreed to the preparation of a Planning Proposal prepared on the basis of Council's resolution of support for the development.

PLANNING PROPOSAL FOR THE REZONING OF "PARKSIDE@TERRIGAL"

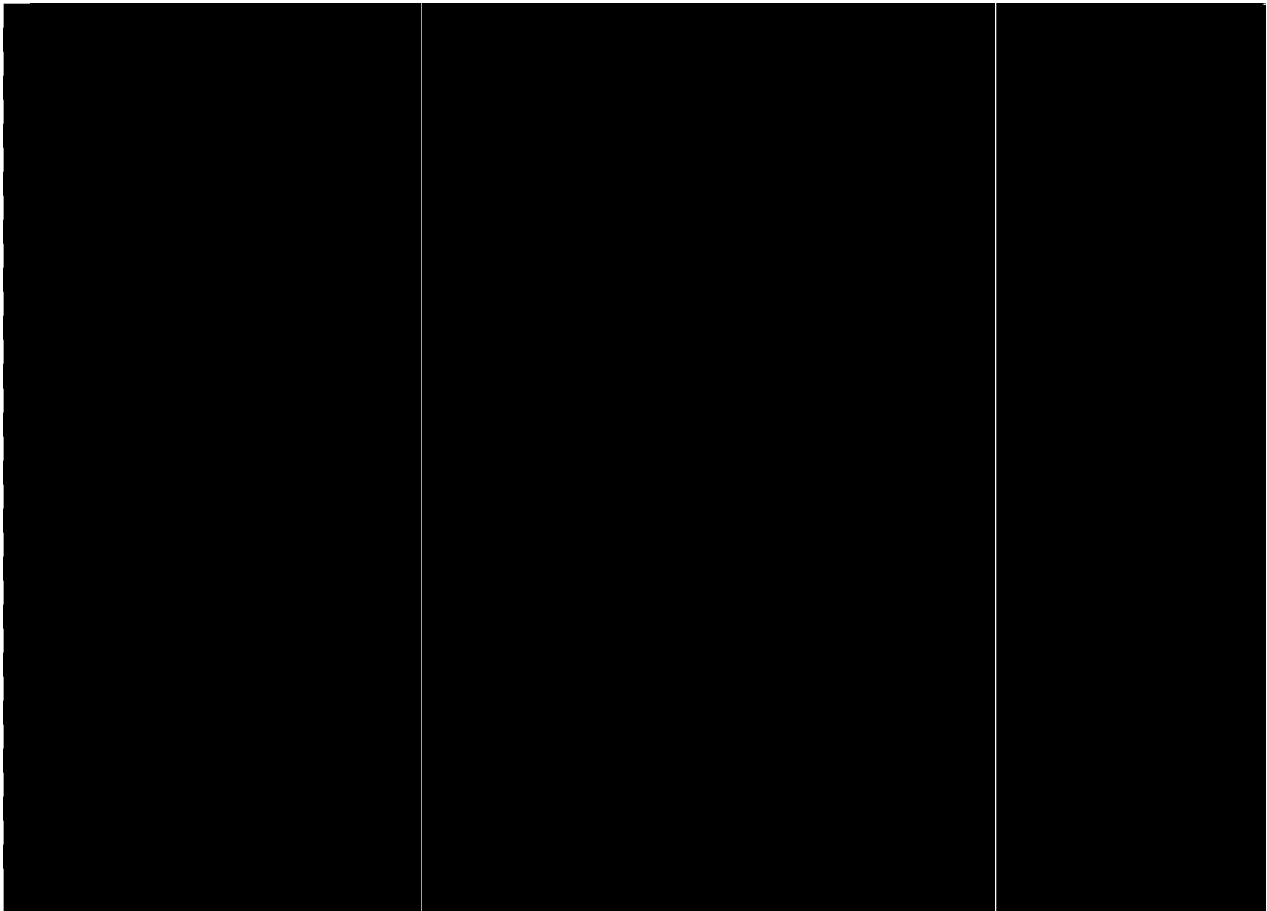
Background

Site Description and Context

The Parkside site is located immediately abutting the urban areas of Erina and Terrigal fronting Kings Ave, Terrigal. The site comprises the lots set out below and encompasses an area of 53.3 Ha;

Lot	Deposited Plan
Lot 2	DP 1111392
Lots 8 and 9	DP 876102
Lot 202	DP 831864
Lot 4	DP 37914
Lot 1	DP 381971

Current Zoning



The site consists of some cleared areas, some woodland areas and some forested areas (the forested areas are predominantly within the 7(a) conservation zoned areas).

The site is characterised by a central North/South Ridge running the length of the site, which drains to a Riparian gully in the West and an unformed water course to the East. The site is bounded to the North by Kings Ave (a formed public road) and established residential development beyond, and to the East and West by established residential development. The site is bounded to the South West by the Kincumber Mountain Reserve, and the South and South East by established rural residential development (see Figure below).

This Planning Proposal has come about by way of the need to transition to the new Planning system from the existing rezone process, following a Section 54 advice issued on 18th January 2007. It is unlikely that, following the current legislative process, the rezone will be finalised by 31st December 2010.

Aerial Photograph



Part 1 - Objectives and intended outcomes.

The Primary objective of the planning proposal is;

“To enable development of the Parkside site for the purpose of housing and support functions tailored specifically for the establishment and support of home based businesses upon the site – to create, in essence a Home Based Business Park”

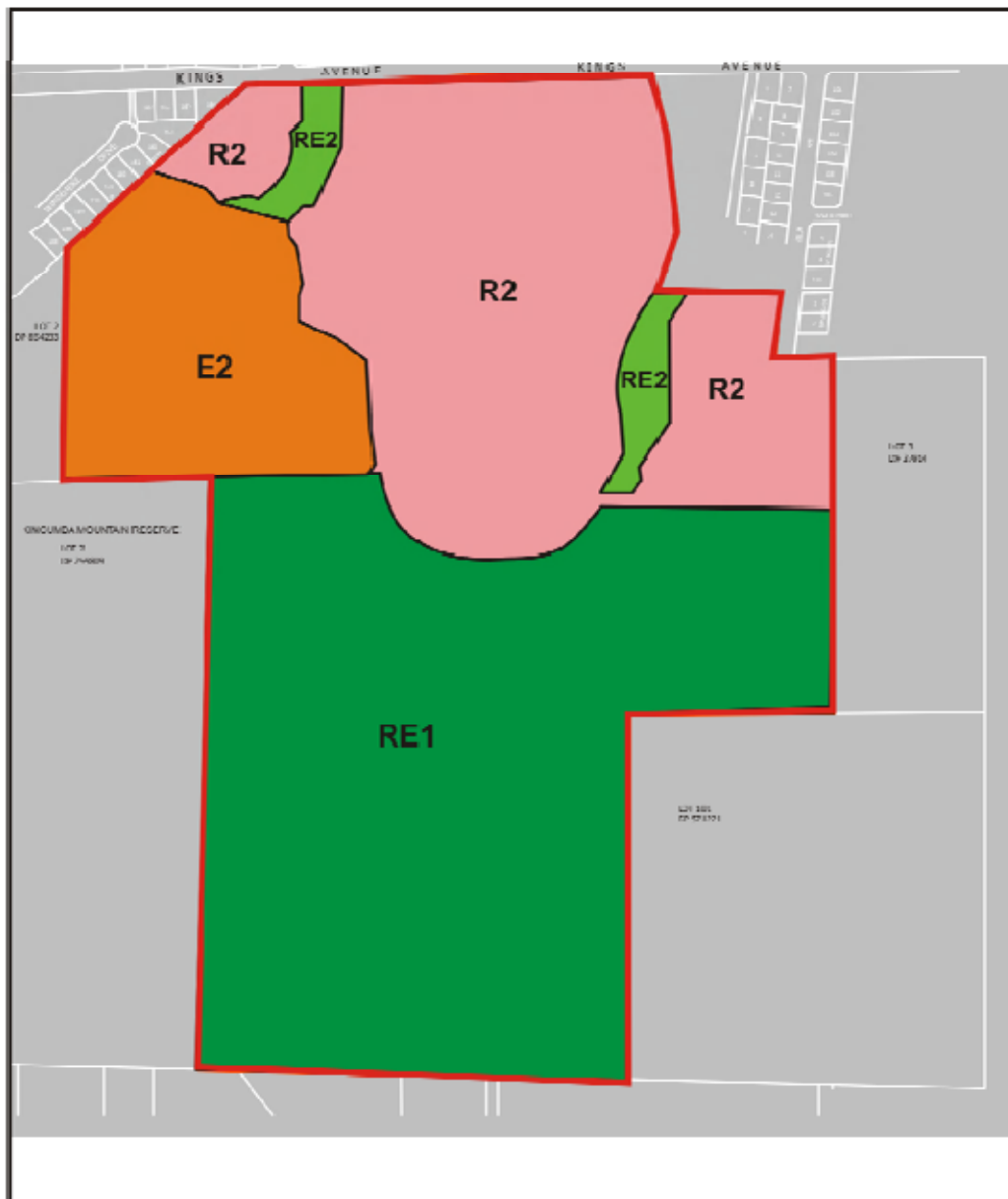
The intended outcomes of the Planning Proposal are:

1. To ensure that the site is developed not just for the purposes of standard residential, but to ensure development establishes and fosters Home Based Business (HBB).
2. To allow for the dedication of a large portion of the site to Council as part of the Coastal Open Space System (COSS).
3. To ensure that suitable recreation and business support amenity is provided on site with any future development.
4. To ensure that areas of conservation significance are protected and properly managed in perpetuity.
5. To ensure that the site is developed under a common scheme (such as Community Title) in order to enforce regulatory controls unique to this development type, and to ensure ongoing management costs (relating to a range of amenities) are internalised within any development.

Part 2 - Explanation of the Provisions

1. Amendment of the (currently draft) Gosford LEP 2009 in accordance with the map shown below;

Proposed Zoning



Legend	
	Site
	Low Density Residential
	Public Recreation
	Private Recreation
	Environmental Conservation

Client:	Crichton Properties Pty Ltd
Project:	Partside Temporal Planning Proposal
Drawing No:	0050200v_PP_C003_RD.cdr
Date:	28/10/2010
Drawn by:	JD
Source:	Crichton Properties Pty Ltd
Scale:	Refer to Scale Bar

Figure 5
Proposed Change to LEP 2009 Zoning

Environmental Resources Management Australia Pty Ltd
68 Bonville Avenue, Thornbury, NSW 2062
Telephone +61 2 4954 2100



R1 Preliminary Issue 26-10-10 JD
Suffix Revisions Date Init

1. An addition to Clause 5.4(2) of Draft Gosford LEP 2009 to add the words "...unless the business is located upon Lot 202 DP 831864, Lots 8 and 9 DP 87601, Lot 2 DP 1111392, Lot 4 DP 37914 and Lot 1 DP 381971 located at Kings Avenue, Terrigal, in which case the business must not use more than 60 square metres of floor area".

2. The linking of a VPA, DCP, Draft Community Management Statement or other form of controls, to the making of the plan which compels a range of development controls to regulate development upon the site, to that of a Home Based Business Park – under Community Title.

Part 3 - Justification

Section A- Need for the Planning Proposal

1. *Is the planning proposal a result of any strategic study or report?*

The Planning Proposal is not identified in any formal Council strategic study or adopted Council report. Instead, this Planning Proposal is the result of an approach to Council by a proponent to undertake a particular form of development upon the site – a spot rezone. This form of development is described within the report “*Parkside at Terrigal - Discussion Paper*” see Appendix 2. It is, on the **strength** of the proposal in addition to Council’s understanding of the need for, and benefits arising from this form of development, that Council has agreed to commence consideration of the site for rezone and development.

The Director General provided Section 54(4) advice to Gosford Council in respect of the proposal on the 18th January 2007.

A large portion of the site (approximately 18 Ha) was identified by Council for future incorporation into the Coastal Open Space System (COSS) and forms part of the COSS strategy – the PP proposes the dedication of this land, in addition to a further 9.28 Ha to the COSS, based on mapped environmental values.

The proposal has been considered against, and is justified in terms of the “Sustainability Criteria for New Release Areas” contained within the Central Coast Regional Strategy (further information on compliance with these criteria can be found in Sect 2.4.2 of the LES and Annexure Q.)

The PP is also consistent with the Strategic directions of the “Gosford Vision 2025”, in particular by creating economic opportunity and employment, protecting the environment, improving transportation and infrastructure and management of the future. (further information can be found in Sect 2.4.3 of the LES and Annexure Q.) In brief, this planning proposal seeks to allow a development to occur upon the site which would result in;

- **Significant local ongoing employment opportunities**
- **Significant Economic benefit within the region**
- **Broadening the scope of housing stock in the region**
- **Add significantly to the provision of managed publically accessible open space within the region in a strategic location.**
- **Protecting in perpetuity, areas of high conservation value on site**

2. *Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

The Planning Proposal seeks to allow development of a site for a specific purpose as a “whole of site” development, through the coming together of 3 individual land owners. The resulting provision of support amenity ‘on site’ is unique to the proposed development and additional contributions to regional amenity via embellishments of the open space park network, represent a significant private investment in amenity.

Such investment (in amenity and support services) could only be undertaken as a result of a development of significant size over a considerable land area, free from fragmentation. The Planning proposal represents a unique opportunity in that;

- the site is of adequate size to support such a comprehensive proposal
- the site is currently held between 3 land owners (not fragmented)
- willing land owners and a developer are committed to the proposed unique range of uses
- very few opportunities exist within the LGA to provide a site of this size, strategically located within an urban corridor.

The planning proposal represents a rare opportunity to achieve the objectives and intended outcomes on a greenfield site. Such outcomes would be all but impossible to achieve through infill development, or other sites where a higher degree of fragmentation exists which is common within the LGA, particularly due to Rural Residential fragmentation. Any smaller sites are unlikely to yield the level of amenity and public benefit contained within the Planning Proposal, and would in all likelihood render the resulting development unfeasible.

Under current zoning and planning controls for the site, permissible development upon the site would result in a high degree of fragmentation, and provide little or no contribution to public amenity in the area (the site is permitted to be subdivided into rural-residential holdings). Additionally, such currently permissible uses would result in little in the way of protection of the natural environment upon the site, nor funding of ongoing maintenance or rehabilitation of these areas.

Little opportunity exists to implement such a proposal of this scale and benefit elsewhere within the LGA. The Erina – Terrigal corridor is one that benefits from existing services, transport and social infrastructure.

3. *Is there a community benefit?*

In addition to the provision of additional housing stock as well as further diversity of house types for both, new and current residents of Gosford, the Planning Proposal will result in a number of community benefits;

- By providing new employment opportunities for 220 people in perpetuity on the site.
- The dedication of 25.3 Ha of privately owned land to the publically accessible open space reserve network.
- The creation and embellishment of new public access ways through the site to access the Kincumber Mountain reserve (to cater for pedestrians and cyclists)
- The provision of a range of business services on site that will support local residents and businesses beyond the boundaries of the site.
- The completion of upgrades to the fronting road network, which currently constrains efficient vehicular movement.
- An increase in the speed of digital communication technology within the local area due to upgrades of the network.
- The likelihood that the development will actually reduce, peak hour traffic on the local and regional road network, by capturing a number of local employees, who would otherwise be commuting to Sydney or Newcastle – a major source of traffic conflict in the region.

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 the Sydney Metropolitan Strategy and exhibited draft Strategies)*

The Central Coast Regional Strategy does not identify any new green field residential release areas in the Gosford LGA (as has been contained in other Regional Strategies) and as such, the site of this Planning Proposal is not specifically identified within the Regional Strategy.

However, the planning proposal is in direct accordance with the aims and initiatives of the Central Coast Regional Strategy which seeks to deliver 16,500 new homes in the Gosford LGA (primarily through increased residential densities within the centres due to limited opportunities within the LGA for Greenfield land release), whilst strongly encouraging an increase in employment opportunities within the region.

The Central Coast Regional Strategy acknowledges the need for the Gosford LGA to establish an identity of its own and not grow as merely a dormitory suburb of Sydney – adding to existing traffic conflicts.

In this regard the Planning proposal details an innovative approach to provide a combination of both Housing and Employment within the region in a sustainable fashion, whilst also assisting to address housing diversity (all remaining growth within the Central Coast Regional Strategy is planned to be through increased densities in established areas) and Housing Affordability, by fostering home based business.

The proposal has been considered against, and is justified in terms of the "Sustainability Criteria for New Release Areas" contained within the Central Coast Regional Strategy (further information on compliance with these criteria can be found in Sect 2.4.2 of the LES and Annexure Q.).

5. *Is the planning proposal consistent with the local councils Community Strategic Plan, or other local strategic plan?*

The PP is also consistent with the Strategic directions of the "Gosford Vision 2025", in particular by creating economic opportunity and employment, protecting the environment, improving transportation and infrastructure and management of the future. (further information can be found in the LES and Annexure Q.)

In brief, this planning proposal seeks to allow a development to occur upon the site which would result in;

- **Significant local ongoing employment opportunities**
- **Significant Economic benefit within the region**
- **Broadening the scope of housing stock in the region**
- **Add significantly to the provision of managed publically accessible open space within the region in a strategic location.**
- **Protecting in perpetuity, areas of high conservation value on site**

6. *Is the planning proposal consistent with applicable State Environmental Planning Policies?*

The planning proposal is not inconsistent with any SEPP. SEPPs which are relevant include;

SEPP (Exempt and Complying Development Codes) 2008
SEPP (Infrastructure) 2007
SEPP No.19 - Bushland in Urban Areas
SEPP No. 44 – Koala Habitat Protection
SEPP No. 55 - Remediation of Land

An analysis of the PP against each SEPP is contained within the LES for further information.

In particular, the new SEPP (Exempt and Complying) deserves particular consideration. SEPP (Exempt and Complying) identifies “Home Office” (in accordance with the template definition) as Exempt development. The Parkside Planning Proposal, allows specifically for the incorporation of Home Offices within the desired land uses. The Planning Proposal seeks (through the provision of additional onsite business support amenity) to encourage home offices to a greater degree than is likely within a standard residential development – taking the provisions of the SEPP one step further.

7. *Is the planning proposal consistent with the applicable Ministerial Directions (s.117 directions)*

The relevant and applicable section 117(2) Ministerial Directions include:

Section 117 Direction	Consistency
2.1 Environmental Protection Zones	<i>Inconsistent</i> – however, clause 6 allows justification by an Environmental Study
2.3 Heritage Conservation	Consistent throughout
3.1 Residential Zones	Consistent throughout
3.3 Home Occupations	Consistent throughout
3.4 Integrating Land use and Transport	Consistent throughout
4.3 Flood Prone Land	Consistent throughout
4.4 Planning for Bushfire Protection	Consistent throughout
5.1 Implementation of Regional strategies	Whilst site is not identified in Regional Strategy, it is consistent with the Sustainability Criteria for consideration
5.7 Central Coast	Not inconsistent - The structure Plan to which this direction applies has been superseded by the Regional Strategy
6.1 Approval and Referral Requirements	Consistent
6.3 Site Specific Provisions	Consistent.

A more detailed description of the degree of consistency with each provision can be found in the LES.

Section C - Environmental, social and economic impact.

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

An ecological site assessment (ESA) was undertaken by the Conacher Environmental Group (see Annex C). The ecological site assessment was peer reviewed by Cumberland Ecology.

Survey Results

During site surveys, the following vegetation communities were identified on site, as shown within the ecological site assessment as described below:

- Coastal Warm Temperate Rainforest within the more sheltered sections of the drainage lines which corresponds with the Lowland Rainforest Endangered Ecological Community (EEC) as described within the Threatened Species Conservation Act 1995;
- Coastal Narabeen Moist Forest which predominately occurs within the drainage lines;
- Narrabeen Coastal Blackbutt Forest which predominately occurs within the drainage lines;

- Narrabeen Coastal Blackbutt Forest which extends throughout the slopes and ridges of the central and southern parts of the site;
- Disturbed/Regeneration Open Forest of the central slopes; and
- Grassland with Scattered Trees which occur throughout the site with the exception of the southern part of the site.

No threatened flora species were identified on the site. The following threatened fauna species were observed on site during surveys:

- Little Eagle, Little Lorikeet, Powerful Owl, Sooty Owl, Yellow Bellied Glider, Grey Headed Flying Fox, Eastern Bentwing Bat, Eastern False Pipistrelle, Greater Broad Nosed Bat, Little Bentwing Bat, Yellow Bellied Sheath-tail Bat; and Eastern Freetail Bat.

Following the detailed ecological surveys and site analysis a variety of biodiversity conservation outcomes were incorporated into the proposal to mitigate against any impacts upon the identified Endangered Ecological Community and Threatened Species. The biodiversity conservation components incorporated into the project include:

- Retention and restoration of riparian vegetation;
- Retention of areas of endangered ecological communities;
- Retention and protection of areas of vegetation in good condition with high biodiversity values;
- Retention of habitat linkages to conservation reserves (Kincumber Mountain Reserve);
- Retention of habitat for threatened fauna species;
- Implementation of a Water Quality Management Strategy;
- Preparation of an Ecological Site Management Plan; and
- Transfer of land to public reserve as part of the Coastal Open Space System.

The full extent of the implementation of these measures is provided within the LES.

Adequacy of Biodiversity Offsets

An independent assessment of the adequacy of the proposed biodiversity offsets against the DECCW principles was undertaken by Cumberland Ecology, the foremost biodiversity principle being that impacts upon areas of ecological value must firstly be avoided then mitigated where total avoidance is not possible. Finally impacts to developments should be offset using compensatory measures if the two other components of the biodiversity offset hierarchy do not appropriately offset development impacts.

Parkside@Terrigal incorporates the following avoidance, mitigation and compensation measures:

Avoidance

The current design sits primarily within the most disturbed portions of the subject lands, thereby providing for the retention of key vegetation and habitat features on site, including the conservation of the Lowland Rainforest EEC. The proposed development footprint has been reduced in the south eastern and south western portions of the site, which will assist in maintaining a wildlife corridor along the southern extent of the subject lands. The wildlife corridors on the subject lands will facilitate the movement of fauna across Kincumber Mountain Reserve and through riparian areas. The footprint also allows for the retention of a range of habitat features suitable for a suite of fauna species, including hollow-bearing trees and riparian areas.

Mitigation

The primary mitigation measure for the Parkside project is the management and rehabilitation of a number of areas of retained vegetation. The riparian areas on the site, including a patch of Lowland Rainforest EEC will be retained within non-developable areas of the project. A vegetation management plan has been prepared to increase the biodiversity values of the riparian areas. This plan will be implemented and funded via a Community Association scheme.

Compensation

Compensatory measures for Parkside@Terrigal supplement the avoidance and mitigation measures and are being used to offset the loss of biodiversity values from the development footprint. The compensatory offset proposed is the dedication of approximately 27.28ha of land (51% of the site) in the southern portion of the subject lands to Council. The 27.28 ha of land to be dedicated to Council is to become part of the Gosford Coastal Open Space System (COSS). The transfer of the land into the Gosford COSS is considered to constitute greater protection of the vegetation and habitats. Dedication of 27.28 ha of the subject lands to the Gosford COSS will significantly add to the patch size of the vegetation in Kincumber Mountain Reserve. This dedication, in addition to the areas of site proposed to be retained and managed on site, represent an "on site" offset ratio of 4.3:1.

An assessment against each of the DECCW offset principles is provided in *Annex D*. The assessment concluded that the proposed ecological offsets:

- addresses the loss of vegetation from the proposed development;
- provides a sustainable development outcome that provides habitat for threatened species;
- adds to the conservation areas associated with Kincumber Mountain Reserve;
- maintains habitat linkages with sizeable areas of forest on Kincumber Reserve;
- conserves in situ substantial areas of forest; and
- is clearly consistent with the latest principles for offsetting of DECCW.

Based on the detailed field surveys and assessment provided within the ecological site assessment it is concluded that:

- the majority of the site is of reduced quality for locally occurring flora and fauna species due to a history of disturbance;
- ten threatened fauna species were observed on the site. Habitat for these species is proposed to be retained on the site and in adjoining reserve areas;
- one Endangered Ecological Community, Lowland Rainforest, is present on the site;
- no threatened flora species or endangered populations were observed on the site;
- the proposal includes the retention, protection and restoration of higher quality habitats within riparian areas to offset and minimize impacts upon locally occurring flora and fauna;
- a detailed Ecological Site Management Plan should be prepared to detail management requirements for retained vegetation and fauna habitats and accompany any proposal for development of the site;
- that the proposed development is not likely to have a significant effect upon threatened species;
- a referral of this project to the Commonwealth Department of Environment, Water, Heritage and the Arts is not required;

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

In addition to Flora and Fauna assessment reporting, the following investigations have been undertaken with the corresponding results as part of the Planning proposal.

Study	Result
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Study	Result										
Storm Water Quantity Management assessment	A trunk drainage network already exists downstream to convey runoff expected from the fully urbanised catchment, including the site. The modelling results indicate that the construction of the proposed detention basins will reduce the flows from the developed site to less than existing for all events up to the 100 year ARI, except for the 5 year ARI event which was found to be slightly higher. It is intended that some of the runoff will be captured and reused on site in accordance with water sensitive urban design principles. This will further reduce flows into the downstream stormwater system. Refer to the LES for further detail										
Storm Water Quality Management Assessment	The comprehensive water cycle management plan identifies strategies such as wastewater effluent recycling, stormwater collection and reuse and the implementation of water quality measures to treat stormwater runoff. The basic stormwater management system modelled is a treatment train which utilises a range of measures to achieve the required goal of limiting pollutant export to pre development levels. This treatment train includes gross pollutant traps, rainwater tanks, buffer strips, grass swales, bioretention trenches and a constructed wetland. <i>Table 4.1</i> shows the results of water quality modelling based on the treatment train development <table border="1" data-bbox="405 1021 1165 1263"> <thead> <tr> <th>Parameter</th><th>% Reduction</th></tr> </thead> <tbody> <tr> <td>Total Suspended Solids</td><td>87.1</td></tr> <tr> <td>Total Phosphorus</td><td>69.7</td></tr> <tr> <td>Total Nitrogen</td><td>44.8</td></tr> <tr> <td>Gross Pollutants</td><td>100</td></tr> </tbody> </table> These results demonstrate that with the implementation of the water cycle management plan post development loads into the downstream receiving waters will be minimized in accordance with Council's requirements.	Parameter	% Reduction	Total Suspended Solids	87.1	Total Phosphorus	69.7	Total Nitrogen	44.8	Gross Pollutants	100
Parameter	% Reduction										
Total Suspended Solids	87.1										
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Aboriginal Cultural heritage Risk assessment	<i>An Aboriginal Heritage Assessment (ERM 2008) was undertaken in accordance with the provisions of the National Parks and Wildlife Act 1974 (NPW Act) and the Interim Community Consultation Requirements guidelines (DECC 2004) and is provided in the LES</i> No sites or areas of cultural sensitivity have been recorded within the study area during the various field surveys. The proposed rezoning and subsequent development will not directly impact upon any areas of the known archaeological record and no further archaeological investigations are warranted.										
Bushfire risk assessment	<i>A bushfire hazard assessment was undertaken by Conacher Environmental Group. The report has been prepared to provide details of the characteristics of the site and adjoining areas in relation to existing bushfire hazard and demonstrates how the site can be developed balancing the implementation of adequate bushfire planning provisions (including asset protection zones, fuel management zones, lot configuration, road orientation and provision of fire trails) with other physical site constraints. The report has been provided within the LES.</i>										

Study	Result
Geotechnical assessment	The report demonstrates compliance with the relevant requirements of Planning for Bushfire Protection (Rural Fire Service, 2006); A geotechnical investigation of the site was carried out by Coffey Geotechnics Pty Ltd. This is provided within the LES. The purpose of the report was to assess the suitability of the site for proposed residential subdivision with respect to risk of slope instability. The results of this were used to provide concise outcomes as to the geotechnical constraints inherent within the site. Additional work has also been undertaken to demonstrate compliance of the proposed development against the principles set out in DCP 122- Cut and Fill. The geotechnical risk assessment carried out concluded that development of the site is feasible from a slope risk viewpoint. Whilst subdivision of the site may increase the risk of instability it was concluded that this risk would not exceed the risks assessed within the report subject to a number of recommendations being implemented. These relate to road excavations, fill embankments, building platforms, retaining walls; and drainage and sewage disposal. Further reporting recommends 'in principle' the likely design solution which could be employed on the site to address the areas of the site with severe slope. The report concludes that opportunities to address slope considerations on the site are available at the subdivision and individual house level, with multiple options available for the proposal to achieve compliance with DCP 122.
Visual impact assessment	Due to the emphasis placed by Council on the retention of the important visual characteristics present within the LGA, a comprehensive visual impact assessment was undertaken as part of the LES. This document is included within the LES which contains a comprehensive visual analysis and impact assessment carried out in accordance with the requirements of DCP 89 – Scenic Quality and DCP 159 - Character. It provides a number of outcomes and recommendations based on landscape character and viewshed assessment. These recommendations have been included within the site analysis and constraints plan as well as the form of the draft LEP. These elements also pertain to the control of the built environment that will need to be considered during the subdivision design process.
Traffic impact	A traffic impact statement for the development of the proposed hi – tech home business park estate was prepared by Mark Waugh Pty Ltd and included within the LES. It is noted that the level of traffic generation from the development of the site has been determined utilising the Guide to Traffic Generating Developments (RTA). These guidelines contain no provisions for the precise nature of the development proposed, therefore the report is based on a number of quantitative judgements. A number of conclusions were reached with regards to impacts arising

Study	Result
	from the proposed hi – tech home business park estate on the existing traffic network: - the additional traffic generated by the development can be accommodated on the local road network and the local roads will remain within their road capacity limits; - based on the capacity of the local road network (including Terrigal Drive) and operation assessment, no mitigation or augmentation measures on the adjacent road network are required to accommodate the potential traffic generated by the proposal; and - with the provision of support facilities for the home based business the impact upon the greater regional and metropolitan road network is likely to have a net reduction in traffic movements.

10. How has the planning proposal adequately addressed any social and economic effects?

The proponent is proposing to construct what is essentially a pilot project and then facilitate the monitoring of the success of the project. The concept has been the subject of a discussion paper compiled by Dr Tony Gilmore, Research Policy Manager of the Planning Research Centre at the University of Sydney, entitled “Creating a Wired Home Business Community on the Central Coast”.

There are a number of identified needs which the proposal seeks to address. These needs arise primarily from well documented issues facing the Central Coast region, as well as the changing demographic for Australia as a whole, and relate primarily to the following:

- Provision of more employment opportunities on the Central Coast;
- Provision of a greater diversity of employment opportunities on the Central Coast;
- accommodation of the growing trend towards small and home based businesses within Australia;
- achievement of strategic planning outcomes through the provision of housing stock along with employment opportunities; and
- facilitation of the economic growth of the Gosford LGA.

Professor Scott Holmes of the Newcastle University was engaged by the proponent to generate an economic model of the proposed development. The anticipated economic development value of the entire project is expected to be in the order of \$182,000,000 over the construction phase. This results in 1,105 FTYE jobs in the 5 year construction phase alone.

When the proposed HBBP is fully established, it is estimated by Professor Scott Holmes that 75% of the expected 146 homes will house a functioning business with owner operators equating to 110 persons. It is projected that these owner operators will support a further 110 (FTE) staff, making a total 220 people employed on site in perpetuity. This would result in a total national multiplied effect of 440 jobs (308 within the local region).

The annual benefit flowing from the HBB activities is expected to be \$35 M, with \$8.4 M captured in the immediate region. The annual pay packet effect for the additional jobs is expected to be \$3.4 M per annum. Considering that the salaries earned by these employees will stay within the locality this will have a further multiplier effect within the local economy in the Central Coast.

As the proposed development will be under Community Title, the communal open space and assets on the site will be maintained by the Community Association, therefore there will not be any Council responsibility or any ongoing financial burden to the wider ratepayers of the LGA.

In addition the project centres around cultivating new intellectual industries in the region whilst building on the “Work Where You Live” principle. This provides employment opportunities enabling residents to work in the locality rather than commuting to Sydney each day.

Young people employed in support staff roles, training positions or junior professionals, would be able to seek relevant employment in the immediate locality, again living and working in the LGA. The following represents a summary of the benefits of the proposed development concept over and above that which is currently allowable on the site.

Economic	Environmental	Social
Significant increase in local employment opportunities.	Consolidated management and funding of ecological resources including water quality, biodiversity and open space.	Broader range of housing opportunities in the region.
Significant investment and expenditure catchment in the local region.	Minimise fragmented ownership of environmental assets.	Proper consideration of local demographic – work from home opportunities/ lifestyle choice.
Key attractor for further ongoing development and investment.	Allows larger scale investment in environmental protection.	Community amenity benefit is regional park network and enhanced access and enjoyment of natural and man made assets.
Major investment in community assets without burden on ratepayers.	Enforceable development and behavioural controls at the Community Title Level.	Tightly controlled management and protection of character of place.

Section D- State and Commonwealth Interests

11 *Is there adequate public infrastructure for the planning proposal?*

- The region is well serviced by **Medical facilities** including Gosford Hospital and a range of allied health professionals in the local area. Opportunities may also exist on site as part of the proposal for the establishment of further medical specialist facilities.
- The Planning proposal may increase the demand for up to 33 **Primary school** places and 23 **Secondary school** places. The region is well serviced by both public and private schools, with capacity both now and to expand into the future. Tertiary education campuses based at Gosford, Ourimbah and Wyong provide opportunity for tertiary studies without the need for students to commute to Sydney or Newcastle (both of which are in easy reach themselves) by private or public transport.
- The site is well serviced by **public transport**. The site lies directly on an operation bus route which connects with the railway system at Gosford.
- The RTA has advised that it is satisfied that the Draft LEP adequately addresses all issues that may have an impact on the surrounding state road network.
- Local augmentation of sewer, water and drainage services may be required as a result of the Planning Proposal, however these upgrades have been deemed feasible.
- The Planning Proposal will require an upgrade of digital telecommunication services to service the site – this is proposed to be funded by the developer.
- The site is well serviced by a range of local **churches** and other places of worship. A number of child care centres also exist in close proximity to the site where capacity is available for new children.

- Regional **shopping facilities** are available close to the site at Erina to the West and local facilities at Terrigal to the East.

12 What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

The Planning proposal has not been formally publically exhibited at this time. Section 62 consultations have been undertaken with State Agencies. The regional office of the DOP has been kept up to date on the project, but no formal advice has been issued from the Regional office in respect of the Proposal.

The following State agencies have been consulted and their responses to the draft LES are summarised;

Agency	Response
NoW NSW Office of Water	NoW has offered its requirements regarding development in the LGA. The Planning Proposal is consistent with these requirements, NoW has not objected to the Planning Proposal. It should be noted that the proponent liaised over a long period with the NoW in order to address it's particular requirements for Riparian Corridor protection.
RFS Rural Fire Services	RFS has indicated that the plans and reports submitted with the proposal are adequate at the rezone stage. RFS foreshadow that further detail will be required to be submitted to accompany a development application upon the site.
RTA Roads and Traffic Authority	The RTA advises that "The RTA is satisfied that the Draft LEP adequately addresses all issues that may have an impact on the surrounding state road network. The RTA, therefore, raises no objection to the Draft LEP.
DECCW Dept. of Environment, Climate Change and Water	DECCW has raised the following issues with respect to the previous issue of the LES/LEP for the site. 1. Inadequate buffering to mapped rainforest upon the site – the current Planning Proposal has been amended to provide a 50m buffer to mapped rainforest upon the site as requested by Council. 2. Potential conflict between Riparian buffer zones, APZ's and Water management features - The current planning proposal has been modified to remove any overlapping or conflict between these zones, which now remain independent of each other. 3. Potential mismanagement of conservation areas to reliance on private management – The Proposal has been modified to ensure all conservation areas requiring active management are either dedicated to Council or managed by the Community Association in perpetuity. 4. Inadequate offsetting of loss of biodiversity, fails to achieve a maintain or improve outcome on site – The Planning Proposal has subsequently been modified to achieve a 4.3:1 vegetation offset on site, for comparison, the Proposal was previously 2.2:1. This has partly been achieved through an increase in the proposed dedication of land to council from 18.0Ha to 27.28 Ha. At the same time the extent of vegetation to be removed from site has been reduced from 10.4 to 7.6 Ha. 5. Inadequate avoidance of on site biodiversity – The Planning Proposal has been amended to avoid part of the area referred to by DECCW, however DECCW has requested a 50m setback of development from the riparian areas on site. This is in excess of NoW requirements for Riparian setbacks, which have been met by the proposal, and compliance with this request would render the project unfeasible to deliver. The proponent continues to argue that the proposed level of

Agency	Response
	avoidance, mitigation and offsetting is more than appropriate.
CMA Catchment Management Authority	CMA has provided comment generally to the effect that it believes that vegetation impacts (under the Native Vegetation Act) have not been adequately offset in the Proposal. It should be noted that the CMA have based these comments upon a previous, outdated version of the LES, although given the offsetting numbers the CMA would like to see achieved (approximately 10:1) this may be of little consequence. The Proposal has been modified to achieve an offset ratio of 4.3:1. The CMA states that it objects to the Proposal in its current form, it is clear by its own admission however, that the CMA has not, in actual fact, genuinely considered the Proposal "in its current form".

Part 4 - Community Consultation.

The Planning Proposal has not yet been formally exhibited.

An informal workshop session was held by the proponent early in the rezone process, community feedback received was supportive of the innovative nature of the project. Some concern was registered by respondents immediately adjacent the project. Proposed development in these areas has been either removed or reduced since this initial consultation.

Conclusion

The recommendation provided to Council at its meeting of 4 May 2010 was that the rezoning processes not continue as the combined weight of strategic, legislative and policy provisions relating to environmental issues support the retention of the existing zoning, outweighing the economic and social benefits of the proposal. As indicated earlier in this report, Council chose not to accept this recommendation but resolved to continue with the preparation of the plan. The next stage of the process was consultation with public authorities.

The applicant as a result of discussions with DECCW has improved the environmental outcomes from the proposed development of the land. These improvements though do not address many of the issues raised by DECCW, CMA and Council's Senior Environmental Officer, nor do they meet the DECCW and CMAs' principle of improve or maintain. The conversion of the rezoning application into a Planning Proposal does not affect the recommendation previously provided to Council and therefore a recommendation of support for the Planning Proposal cannot be provided.

If Council chooses to support the Planning Proposal the following recommendation is provided for Council's use.

- 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 2 DP 1111392, Lots 8 & 9 DP 876102, Lot 202 DP 831864, Lot 4 DP 37914 and Lot 1 DP 381971 Kings Avenue, Terrigal and forwarding it to the Department of Planning requesting a 'Gateway' determination pursuant to Section 56(1) Environmental Planning and Assessment Act.
- B The applicant be advised of Council's resolution.
- C Council resolve to prepare a Development Control Plan for Lot 2 DP 1111392, Lots 8 & 9 DP 876102, Lot 202 DP 831864, Lot 4 DP 37914 and Lot 1 DP 381971 Kings Avenue, Terrigal and this plan be placed on exhibition with any draft LEP prepared for this land.

- D Council resolve to amend Contributions Plan No. 42 to include for Lot 2 DP 1111392, Lots 8 & 9 DP 876102, Lot 202 DP 831864, Lot 4 DP 37914 and Lot 1 DP 381971 Kings Avenue, Terrigal to include and this plan be placed on exhibition with any draft LEP prepared for this land.
- E That a draft Voluntary Planning Agreement for Lot 2 DP 1111392, Lots 8 & 9 DP 876102, Lot 202 DP 831864, Lot 4 DP 37914 and Lot 1 DP 381971 Kings Avenue, Terrigal be placed on exhibition with any draft LEP prepared for this land.
- F That a draft of the Community Plan for Lot 2 DP 1111392, Lots 8 & 9 DP 876102, Lot 202 DP 831864, Lot 4 DP 37914 and Lot 1 DP 381971 Kings Avenue, Terrigal be placed on exhibition with any draft LEP prepared for this land.
- G Prior to the draft LEP being forwarded to the Department of Planning for its making after the consideration of submissions received in response to the public exhibition of the above documents, the owner enter into a legal agreement for the transfer of land to be dedicated to Council.

Attachments: Nil

Tabled Items: Nil

RECOMMENDATION

- A Submitted for Council's consideration and determination.

