

REPORT OF THE DIRECTOR OF ENVIRONMENTAL SERVICES

Submitted to the Ordinary Meeting of Council held on 19 February 2013

5 Report to Council Supporting Initial Gateway Consideration of the Wyalla Road Planning Proposal, Jamberoo (PR.02587, 11077)

Summary

Council has received a planning proposal for consideration on Lot 100 DP 1063277 and Lot 1 DP 7881781, Wyalla Road Jamberoo referred to as sites 25 and 26 in Council's Kiama Urban Strategy. This report overviews the reports submitted by the applicant against criteria outlined in Council's Planning Proposal Policy and recommends the planning proposal proceed to the Department of Planning and Infrastructure's "Gateway" process for a determination.

Finance

Consideration of Planning Proposals involves significant staff input in respect of 'peer reviewing' submitted consultant reports. A fee structure for submittal and review of planning proposals has been developed by Council and is contained in Council's fees and charges schedule. Relevant fees have been paid in regard to this proposal.

Policy

Consideration of requests for rezoning of land require consideration of a number of Acts, Government policies, Council environmental planning instruments and planning documents.

Reason for Report to Council

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

Council's Vision and Goals

Council's vision is a Municipality working together for a healthy, sustainable and caring community. Council's goals include:

- The building and cultural heritage is recognized and maintained;
- Development is sustainable and resilient to change;
- The long term integrity and biodiversity of the natural environment.

Report Attachments and Councillor Enclosures

- Attachments – Nil.
- Enclosures – Map of site location.

RECOMMENDATION

Council endorse this planning proposal to proceed to the Department of Planning and Infrastructure for determination and that Council request plan making delegations for this proposal as a part of the Gateway determination.

REPORT

Council has received a planning proposal for consideration on Lot 100 DP 1063277 and Lot 1 DP 7881781, Wyalla Road Jamberoo referred to as sites 25 and 26 in Council's Kiama Urban Strategy. In line with Council's Planning Proposal policy, this report details the submitted planning proposal and provides an assessment of the specialist

consultant

reports.

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Background

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

A planning proposal is the mechanism utilised to amend Council's LEP and involves both Council and State Government in the processing of any proposal. In order for Council to consider a request to change the zone of an area, a planning proposal needs to be produced. Council has an adopted Planning Proposal Policy (February 2012) which outlines the steps involved in the production and assessment of all planning proposals. Such policy assists in ensuring a clear and transparent process.

The planning proposal is a document that explains and justifies the effect of a proposed LEP and is the first step in the preparation of an LEP. Producing an LEP is a legal process involving the amendment or creation of statutory planning instruments.

In line with the requirements of the planning proposal policy, Council has received a planning proposal to consider rezoning Urban Strategy sites 25 and 26: Lot 100 DP 1063277 and Lot 1 DP 7881781, Wyalla Road Jamberoo.

In relation to the site, the urban strategy states: *"Due to the high suitability of the rural site identified in Wyalla Road Jamberoo for seniors housing, this site is not being considered further as an urban expansion site for standard residential purposes. Council may need to negotiate further with this landowner to enable the site to be used for seniors living housing suitable to the needs of Jamberoo and surrounds in scale and housing type. This negotiation may include consideration of some additional residential opportunities. This site is impacted by a riparian corridor that defines its western edge."*

Planning Proposal Details

The applicants (Huntingdale Developments Pty Ltd and Ms Camarda) have submitted planning proposals for each site prepared by Urbis. Although 2 planning proposals have been lodged with Council they need to be considered jointly as the allotments are adjoining and will share infrastructure provision. This position is reinforced by the Urban Strategy.

The proposal seeks a rezoning from the current split zone of Rural Landscape-RU2, with small patches of Environmental Management-E3, to a split zone of Low Density Residential-R2, and an Environmental Management-E3 zone. The applicants are seeking the rezoning to enable facilitation of residential development on the site. The proposed development will comprise approximately 52 residential lots, of which 30 will be available for self care seniors housing, and 22 residential housing blocks. The details of any proposed development are in concept stage only and will be subject to further development applications.

The applicants have prepared an "indicative lot layout" which has been attached to this report for demonstration purposes only. They have also prepared a site specific development control plan that outlines the intended land uses including the proposed form of the seniors development.

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Review and Assessment of the Planning Proposal

The results of the review will be framed around the requirements of the planning proposal policy.

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

Criterion for proceeding to step 2	Compliance
Land is identified as a nominated area in the Urban Strategy.	Complies. Land is identified as site 25 and 26 in the Kiama Urban Strategy.
Land can be identified as assisting to meet Council's strategic direction.	Complies. Proposal will assist in meeting councils strategic direction in terms of lot numbers and seniors development for Jamberoo.
A clear zoning anomaly exists on site.	N/A

Step 2: Concept planning proposal presented to Council

In order to adequately assess the viability of the land for residential development a number of specialist consultant reports were required to be undertaken by the applicant. The results of these have been summarised below:

Flora and Fauna Assessment prepared by OMVI Ecological

The Flora and Fauna Assessment report was prepared by OMVI ecological. Investigations found that two threatened species: the Greater Broad nosed Bat and potentially the Large Footed Myotis have been recorded in the study area. The site also contained a small heavily disturbed remnant of the endangered ecological community: Illawarra Subtropical Rainforest along part of Hyams Creek. No threatened flora species or endangered populations listed on the schedules of the NSW threatened species Conservation Act 1995 or the Commonwealth Environment Protection and Biodiversity conservation act 1999 were recorded in the study area.

Assessment by the consultant under the relevant acts have concluded that the proposed rezoning for residential development is unlikely to have a significant effect on threatened fauna or migratory species that have been recorded or could potentially occur in the study area. Furthermore referral to the Commonwealth environment Minister is not required.

Staff Comment

Council's Landscape officer reviewed the study and indicated that the remanent EEC may require specific controls at DA stage.

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Flood Study

In its present form, a portion of the site has been subject to flood inundation from Hyams Creek. Due to this issue a number of flood studies have been requested by Council and undertaken by the consultant. These have included:

1. Flood Study – Report KF 107193 prepared by KF Williams and Associates Pty Ltd, dated June 2005,
2. Addendum to Wyalla Rd Jamberoo Flood Study – Post Development, prepared by Rudy Van Drie 28/05/2012.
3. Flood Level Assessment at Lot 100 DP 1063277 & Lot 1 DP 781781 Wyalla Rd Jamberoo, Reference 110001_FS_FINAL_V2 prepared by Rudy Van Drie updated 05/06/12
4. Addendum – 3b (sections) to Wyalla Rd Flood Study, prepared by Rudy Van Drie, 20/09/12.
5. Additional modelling requested from office of water impacts of flood affectation though increased riparian roughness through possible riparian works.

Due to the existing flooding on site and the requirements of the section 117 Directions Council has requested these reports in order to determine the suitability of the site for residential development. Part of the application for this site (subject to future development applications) will entail the applicant reshaping/filling a portion of the site to ensure that all residential lots and associated road networks are above the Possible Maximum Flood (PMF), including consideration for any climate change impacts. This proposal deals with the change of zone, rather than development application for any works on site. As such, Council has requested studies demonstrating that possible future works are capable of being carried out in an acceptable manner.

Council has also sought comments from the Office of Water on this proposal. They requested further modelling be undertaken by the applicants. This has been received and reviewed both by Council and Office of Water.

Staff Comment

Council's Engineering and Works staff have reviewed, commented and liaised with the applicant in order to progress this proposal. They have indicated that the concept for the development is satisfactory. This of course will be subject to further investigation during any subsequent development applications for works on site.

Bushfire Constraints Assessment Report

The Bushfire Assessment Report was prepared by Australian Bushfire Protection Planners Pty Ltd. At present the site does not contain vegetation deemed to be bushfire prone. The assessment was required to address the possible future revegetation of Hyams Creek which may present a future bushfire hazard. The report has adopted a precautionary approach in its assessment and concludes that there will be an adequate separation between the proposed future residential land and the revegetated areas to address the requirement of Planning for Bushfire Protection 2006.

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Staff comment

Council staff reviewed this report and indicated that there may be an issue with the road length of one of the roads shown in the indicative lot layout. This issue has been communicated to the applicant and will be addressed at DA stage. The planning proposal is not approving the indicative lot layout as submitted this is only to act as a concept for discussion. The report also raised requirements for access and water supplies for fire fighting purposes which will be addressed in future development applications.

Aboriginal Archaeological Study

An Aboriginal Archaeological study was prepared by Mary Dallas Consulting Archaeologists. The study concluded that there were no in situ sites or areas of potential archaeological deposit identified on site, and therefore no Aboriginal Archaeological constraints to redevelopment of the site.

Advice was sought from Council's Aboriginal Liaison officer with respect to proceeding with obtaining a peer review for this report. On her advice, the report was sent to the Illawarra Local Aboriginal Lands Council for comment. We have not received any comments/advice back on this report, despite several letters and phone calls. As the site has been cleared and used for rural activities for many years and the submitted report does not indicate any items of indigenous heritage, the current view is that there are no issues. Further consultation may be carried out if this proposal proceeds to public consultation.

Contamination Assessment

Stage 1 Contamination Assessment prepared by Network Geotechnics Pty Ltd. The report concluded that there was a low assessed risk of site contamination exceeding health based guidelines for residential land use, areas with a potential for contamination were localised and small, future sampling and testing could be carried out as apart of future development applications, appropriate actions would need be taken if future sampling does indicated levels of contaminate.

Staff Comment

Staff concurred with the findings of this assessment. If required, further investigation can be undertaken as a part of future development applications.

Site Servicing

As this is a planning proposal the details of site servicing are indicative only and would be further addressed in any subsequent development applications. The applicant has provided details of the ability to obtain servicing on site.

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Staff comment

The servicing on site appears to be adequate. Several issues were raised regarding the possible future movement of a servicing trench however, this would be dealt with as a part of future development applications.

Illawarra Regional Strategy Sustainability Criteria Compliance

Urbis prepared a brief report referring to the sustainability criteria.

Staff Comment

No major issues have been identified with this report.

Report	Considered appropriate to proceed to Gateway
Flora and Fauna study	✓
Flood Studies	✓
Bushfire Constraints Assessment	✓
Aboriginal Archaeological study	✓
Preliminary Site Contamination report	✓
Illawarra Regional Strategy Sustainability compliance	✓
Servicing	✓

Council staff have been reviewing the planning proposal in line with the requirements of the planning proposal policy.

Plan Making Delegations

Council has recently received delegations for local plan making under section 59 of the Environmental planning and Assessment Act. The department indicated proposals for 'spot rezoning consistent with an endorsed strategy and/or surrounding zones' will be able to be delegated to councils to prepare and make following a Gateway determination that the planning proposal can proceed. Council is required to request delegations for plan making of this planning proposal. This request can be sent to Gateway with the planning proposal documentation.

Council will receive notification of this with the determination from Gateway.

Phil Costello
Director of Environmental Services