

3.2 RZ 17/2009 - Glenning Valley Rezoning Proposal

TRIM REFERENCE: RZ/17/2009 - D02821547

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SUMMARY

Council is in receipt of a rezoning application (Planning Proposal) which seeks to rezone an area of land totalling 52.9 hectares for residential and conservation purposes. A review of the proposal has established that the proposal has merit and should be advanced to the "Gateway" (Department of Planning and Infrastructure); it being noted that further investigations and extensive consultation will be required.

Applicant:	Glenning Valley Partnership Pty Ltd
Owners:	Glenning Valley Partnership Pty Ltd and Others
Proposal No.:	R7/17/2009
Description of Land:	Lot 2 DP110081, Lot 4 DP1078468, Lot 455 DP786675, Lots 414 and 413 DP868340, Lot 52 DP 1039187, Lots 1111 and 1112 DP1143167, Lots 21 and 22 DP740435, Lots 513 DP500951 and Lot 511 DP205919
Zoning:	Part 7(a) Conservation, Part 7(f) Environmental Protection, Part 7 (g) Wetlands Management.
Existing Use:	Vacant generally wooded land (Northern - Bundeena Road/ Bottlebrush Drive precinct) and rural residential development (Southern – Berkeley Road Precinct).
Employment Generation	Subdivisional Works, bushland regeneration, dwelling construction and on-going maintenance.
Estimated Value:	\$54 million approx.

RECOMMENDATION

- 1 That Council initiate the Local Environmental Plan "Gateway" process, pursuant to Section 55 Environmental Planning and Assessment Act 1979 by endorsing the preparation of a Planning Proposal.**
- 2 That Council forward the Planning Proposal to the Department of Planning and Infrastructure requesting a "Gateway" determination, pursuant to Section 56 (1) Environmental Planning and Assessment Act.**
- 3 That Council undertake community consultation regarding the planning proposals, subject to the determination of the Gateway Process and Director General's approval,.**

- 4** *That a further report be submitted to Council to report on results of the community consultation.*

BACKGROUND

The site has been the subject of residential development aspirations for several decades. The most recent trigger for submission of a rezoning request (in June, 2009) was a negotiated Agreement with one of the landowners (The Glenning Valley Partnership) as part of an Out of Court Settlement. This Agreement had at its foundation the cessation of legal proceedings before the Land and Environment Court and a Section 82A review in respect of a large wholesale/retail plant nursery and associated infrastructure.

The Agreement (in respect of part of the land) broadly considered the prospects of possible future urban development (approximately 18 hectares) and the conservation of land exhibiting significant ecological qualities (approximately 2.0 hectares) and in the latter case potential integration with Council's existing reserve system and creation of corridor linkages.

In March, 2010 Council communicated its preparedness to progress the Planning Proposal after receiving a request through the Rezoning Request Strategy process which formed part of the process of informing Council's Draft Settlement Strategy.

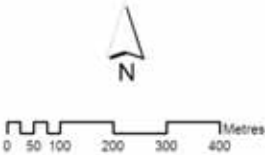
CURRENT STATUS

The Site

The subject site has frontage to Berkeley Road, Bundeena Road and Bottlebrush Drive (Glenning Valley) and comprises 12 separate parcels totalling approximately 52.9 hectares. It has moderate topographical variation (slopes of approximately 5-10%) and significant tracts of vegetation of variable quality.

The site comprises bushland, wetland, cleared rural land and some large lot/rural residential and low density residential development. (Refer to Site Plan)

The site is predominately zoned 7(f) Environment Protection pursuant to Wyong Local Environmental Plan, 1991 (WLEP). Portions of the central area are, however, zoned 7(g) Wetlands Management and 7(a) Conservation (aligning with an existing wetland/wetland Buffer). (Refer to Attachment 1)



Site / Locality Plan

Site History

The most recent site history is summarised in the Background to the Report (i.e. the Nursery related proposal). Other salient elements include;

- Land generally to the east of the subject site (the Bottlebrush Drive and Bundeena Road area) was rezoned for residential purposes in the early 1980s.
- The land currently zoned 7(f) and other similarly positioned land was the subject of a Council Local Environmental Study (LES) in the early 1990s. Nearby employment land related noise considerations were a key determinant Council deciding not to proceed with a partial residential zoning.
- In mid 1990 a portion of the former holding along the northern boundary (fronting Enterprise Drive) was zoned (and subsequently partially developed) for industrial purposes.

LOCAL CONTEXT AND SURROUNDING DEVELOPMENT

The subject site is generally contiguous with an existing residential estate largely to the east of Bundeena Road and Bottlebrush Drive and the radiating small residential precincts.

To the north is a small developing industrial precinct. The middle of the site abuts a significant wetland whilst to the south is rural residential and small scale community facility.

More broadly, it forms part of a precinct that “circumnavigates” the southern end of Tuggerah Lake and crosses Wyong Road into Berkeley Vale, Glenning Valley. At this broader scale it is proximate to the significant industrial and employment lands of Berkeley Vale and Tuggerah.

It has good access to Wyong Road and good regional connections principally via the F3 Freeway. Furthermore, it forms part of a network connecting the regionally significant Rumbalara/Katandra Reserves wildlife corridor network. (Refer to Attachment 2)

THE PROPOSAL

The planning proposal before Council seeks a modification to Council’s prevailing planning instrument, namely, WLEP 1991 to facilitate residential development in the less constrained areas of the site and the conservation of the balance of the site. A low density residential zone and conservation zone are proposed (Refer to Attachment 3). The likely zones under the Standard Instrument would be R2 (low density residential) and E2 (environmental conservation).

A conceptual layout plan is produced as Attachment 4. In accordance with this plan a projected residential yield of 280 – 310 residential allotments has been proposed by the proponents. More detailed investigations, including design and conservation considerations, could potentially lead to amendments to the conceptual layout plan and a reduction in the projected yield. (Refer to Enclosure 1 for reference to some of the amending principles).

Other features of the proposal include:

- Adoption of buffer zones to assist in managing the interface between the residential and conservation areas.
- Conservation/integration of habitat trees.
- Implementation of Bushfire Asset Protection zones.
- Comprehensive management of water onsite/offsite impacts through the adoption of Water Sensitive Urban Design (WSUD) techniques.
- Rehabilitation and long term conservation of highly modified remnant Endangered Ecological Communities (EECs).
- The proposed dedication of approximately 14.8 hectares of rehabilitated ecologically sensitive land. (It is noted that care and control management options need to be further investigated).
- A proposal to introduce comprehensive site specific design requirements via an amendment to DCP, 2005. (These are considered fundamental to the prospects of a sustainable outcome).
- Off-site compensatory biocertification “credits”, for significant habitat impacted by the proposal.

OVERVIEW

The planning proposal had been developed by the proponents over a period of time, informed by a series of diverse specialist studies/investigations and discussions with Council staff and statutory Authorities including the Office of Environment and Heritage (OEH).

Many of the background studies/investigations are not exhaustive and require further detailed work and in some instances the resolution of key issues before any final assessment of the planning proposal. The identified deficiencies are detailed in Enclosure 1. The submitted planning proposal has been reviewed and modified by Council and is presented as Enclosure 2.

The planning proposal and the studies/investigations are, however, sufficient to support the compilation of a relevant submission to the Department of Planning and Infrastructure (DOPI) “Gateway” process. (Refer to Enclosure 2).

REVIEW OF THE PROPOSAL

STRATEGIC CONTEXT (GENERALLY)

The proposal is not expressly identified in any existing strategic plans or reports. It does, however, assist Council in providing additional serviced residential land, and generally meets the Sustainability Criteria for NSW Land Releases contained in the Central Coast Regional Strategy 2006 – 2031 (refer to Enclosure 3), subject to final resolution of the environmental footprint, offsetting and biodiversity management considerations.

Community Benefit

The proposal, subject to refinement, is considered on balance to produce a net community benefit, as follows: ‘

- It will lead to the conservation of bushland areas and enhanced public access to such areas in perpetuity (upon further refinement of the conceptual layout plan). Additionally, the projected biodiversity losses are to be “made good” in the sub region.
- Satisfactory access is available for transport infrastructure and service infrastructure can be satisfactorily augmented.
- Integration with surrounding land uses is possible but will require sensitivity in respect of the natural environment, bushfire hazards, the amenity of nearby residential areas and to a lesser extent the small Blade Close employment precinct (off Enterprise Drive).
- Positive development-related employment prospects will occur in the short term and Incidental employment prospects will exist in the post development phase. Further, no potential employment lands will be adversely impacted by the proposal.
- The additional supply of a potential range of residential dwellings will assist in meeting Council’s housing supply objectives in an appropriate context.
- The proposal is situated in close proximity to the village of Chittaway Bay and locality of Berkeley Vale related lower order retail/commercial and community facilities (including schools, community centre and playing fields) and will capitalise upon the same. The additional residents will create additional demand for support facilities and services. Such demand is to be quantified and addressed in a relevant Voluntary Planning Agreement (VPA) (which will be exhibited concurrently with the final planning proposal).
- The proposal is unlikely to create a precedent. Further, it is unlikely to have an adverse cumulative impact. The other rezoning proposals noted in the locality are smaller and of far less intensity.

Ecological Impacts

The site is heavily vegetated with some lower quality vegetation present on the southern part of the study area, especially within an area that was previously planted as a pine forest. Large tracts of native vegetation are also proposed for removal. The proposal, notwithstanding the proposed dedication of 14.8 hectares of rehabilitated significant habitat produces a net loss of on-site biodiversity. However, with an appropriate “offsetting strategy” (compensatory off-site conservation) the proposal is considered on balance to have an acceptable and sustainable ecological outcome. The final off-setting strategy is, however, yet to be detailed.

It is considered imperative, however, that the principles of the final biodiversity strategy are agreed to by Council and OEH. The final strategy will need to be incorporated in a Draft Voluntary Planning Agreement (VPA) prior to the land being rezoned. This is especially important, as the proponent has indicated that there is the possibility that they might purchase land for conservation offsets and intend to transfer the land to Council for ultimate management.

Additional ecological investigations and management principles will also importantly inform the final Concept Layout Plan, particularly in respect of the treatment and management of the urban interface and “edge” effects and clearing requirements to create Asset Protection Zones which are of sufficient width to manage bushfire planning risks.

Infrastructure Impacts

The rezoning proposal will form an extension of the existing Bundeena Road/Bottlebrush Drive residential community. As such, it falls within the Southern Lakes Section 94 Contribution Plan catchment. This plan, however, did not anticipate the development of the subject site and accordingly made no provision for contributions to local engineering and social infrastructure.

The proposed development will increase demand on water, sewer, storm water drainage, elements of the immediate road network and community and recreation facilities. These impacts should be fully quantified as the planning proposal progresses and by way of a VPA.

Other Impacts Generally

Further discussion in respect of environmental, social and economic impacts flowing from the planning proposal is detailed in Enclosure 2 at Sections 4.3 and 4.4; including land contamination, bushfire hazard, indigenous and non-indigenous heritage, traffic and transport, visual, acoustic, geotechnical, stormwater management, community and physical infrastructure.

Additional investigations required to further resolve the final nature of the planning proposal are detailed in Enclosure 1 to this Report.

Concept Layout Plan/Urban Design

As referenced previously the Concept Layout Plan will be further refined as:

- the final ecological footprint is defined.
- the buffer/edge treatment is resolved, including the final stormwater management design.
- the final perimeter bushfire management strategy is adopted.
- potential additional points of vehicle access to the surrounding road network and enhanced on-site connectivity are addressed.
- geotechnical influences and visual and acoustic impacts are responded to.

Additionally, design parameters will inform the prevailing DCP controls.

STATUTORY COMPLIANCE

State Environmental Planning Policy No 14 – Coastal Wetlands

This SEPP aims to ensure that coastal wetlands are preserved and protected in the environmental and economic interests of the State.

A Coastal Wetland is located down slope of the subject land (to the immediate north-west) within a Council owned and managed conservation reserve (Refer to Site Plan).

Notwithstanding, the wetland is not on the subject site and works are not proposed in respect of the wetland. However, inappropriate management of subdivisional works and/or stormwater management associated with this development (should they occur) could adversely impact the wetland.

Measures to address this potential issue include:

- Enhanced separation (setback) of the developable land.
- Identification and dedication/management of the significant remnant vegetation conservation precinct.
- A perimeter vegetated buffer area.
- Implementation of advanced WSUD technology.

State Environmental Planning Policy No 44 – Koala Habitat Protection

This SEPP aims to encourage the proper conservation and management of koala habitat in areas in order to maintain the viability of koala populations.

A Koala Survey (Biolink, 2008 – SEPP44 Assessment) in November 2008 was conducted and concluded that there was no evidence to suggest that “Core Koala Habitat” exists on the site and hence there was no need for a Plan of Management.

The majority of the potential Koala Habitat will be preserved in the proposed conservation areas on site. Smaller, highly disturbed areas of potential habitat are dispersed through the proposed residential precincts and are likely to be removed.

State Environmental Planning Policy No 55 – Remediation Of Land

This SEPP introduces state-wide planning controls for the remediation of contaminated land. It establishes that land must be remediated if contaminated, to a standard suitable for the end land use. The Policy is particularly relevant where it is proposed to rezone land for residential purposes. In such instance Council must have regard initially to a preliminary investigation given; inter alia, the past agricultural use of limited areas of the land and limited rubbish/spoil dumping.

Ministerial Directions (Section 117 EP& A Act)

These directions issued by the Minister for Planning and Infrastructure must be addressed, where relevant, in Planning Proposals.

The following table identifies the applicability and consistency of the proposed rezoning with the current Section 117 Directions:

Number	Direction	Applicable	Consistent
Employment and Resources			
1.1	Business and Industrial Zones	No	N/A
1.2	Rural Zones	No	N/A
1.3	Mining, Petroleum production and Extractive Industries	No	N/A
1.4	Oyster Aquaculture	No	N/A
1.5	Rural Lands	No	N/A
Environment and Heritage			
2.1	Environment Protection Zones	Yes	No
2.2	Coastal Protection	No	N/A
2.3	Heritage Conservation	Yes	Yes
2.4	Recreation Vehicle Areas	Yes	Yes
Housing, Infrastructure and Urban Development			
3.1	Residential Zones	Yes	Yes
3.2	Caravan Parks and Manufactured Home Estates	Yes	Yes
3.3	Home Occupations	Yes	Yes
3.4	Integrating Land Use and Transport	Yes	Yes
3.5	Development Near Licensed Aerodromes	No	N/A
Hazard and Risk			
4.1	Acid Sulphate Soils	No	N/A
4.2	Mine Subsidence and Unstable Land	No	N/A
4.3	Flood Prone Land	No	N/A
4.4	Planning for Bushfire Protection	Yes	Yes
Regional Planning			
5.1	Implementation of Regional Strategies	Yes	Yes
5.2	Sydney Drinking water Catchments	No	N/A
5.3	Farmland of State and Regional Significance on the NSW Far North coast	No	N/A
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	No	N/A
5.5	Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA) (Revoked)	No	N/A
5.6	Sydney to Canberra Corridor (Revoked)	No	N/A
5.7	Central Coast (Revoked)	No	N/A
5.8	Second Sydney Airport: Badgerys Creek	No	N/A
Local Plan Making			
6.1	Approval and Referral Requirements	Yes	Yes
6.2	Reserving Land for Public Purposes	Yes	Yes
6.3	Site Specific Provisions	No	N/A

An expanded commentary in respect of compliance is produced as Enclosure 4.

OPTIONS

Option 1

The planning proposal is considered to present a substantive case for rezoning and as such the progression of the planning proposal presented in Enclosure 2 to the “Gateway” determination.

Option 2

Council if it were to choose to not progress the planning proposal, to a “Gateway” determination, it may again be confronted with the submission of an “inappropriate” development application for the land with potentially greater environmental and community impacts and possible litigation as evidenced from the landowner’s previous Land and Environment Court action over the refusal of the DA for a plant nursery.

STRATEGIC LINKS

Annual Plan

<u>Principal Activity</u>	<u>Strategy or Program</u>	<u>Financial Line Item No. and Description</u>
A More Sustainable Community	Nil Impact	Nil Impact
A More Sustainable Economy	Nil Impact	Nil Impact
A More Sustainable Environment	Nil Impact	Nil Impact
Infrastructure	Nil Impact	Nil Impact
Organisation	Nil Impact	Nil Impact

Link to Shire Strategic Vision (Community Strategic Plan – 2030)

The following comments are made with respect to the 8 priority objectives:-

- Communities will be vibrant, caring and connected.
- There will be ease of travel.
- Communities will have a range of facilities and services.
- Areas of natural value will be enhanced and maintained.
- There will be a sense of community ownership of the natural environment.
- There will be a strong sustainable business sector.
- Information and communication technology will be world's best.
- The community will be educated, innovative and creative.

Travel*Access to public and private bus services*

Access is available to the local bus service, with opportunities for enhanced services to be further pursued.

Enhancement of local bicycle/shared pathway and on-road cycle way opportunities.

Opportunities for linkages to existing pedestrian and cycleway networks should be further explored as the proposed residential subdivision design is revised.

Facilities and Services*Maximising access to, and potential for, new and existing facilities/infrastructure to support growth.*

The potential exists to capitalise on existing community infrastructure and provide an opportunity for enhancement funded by increased demand.

Education*Creating programs that encourage lifelong learning for everyone.*

The conservation initiatives to accompany the proposed development will provide wide ranging opportunities for an expansion of the broader community's understanding of biodiversity and conservation initiatives.

Natural Areas*Preserving threatened and endangered species as well as ecological communities and biodiversity.*

The proposal will provide for the rehabilitation and long-term conservation of bushland and enhanced access to such areas (upon refinement of the planned layout). Additional offsite conservation commitments will need to be identified to support the proposal as it progresses through the rezoning assessment process.

Expanding and continuing programs focused on restoring degraded natural areas.

The proposed conservation initiatives will lead to the enhancement of the retained bushland, whilst that removed will be compensated for in the adopted offsetting strategy.

Ensuring all development areas create or maintain tree covered ridgelines and waterways.

The dominant local ridgeline has been partially developed for residential purposes (ridge, plus east facing slope – Bottlebrush Drive/Bundeena Road). The subject proposal largely involves the west facing slope as opposed to the ridge proper. Further, the retention of bushland, buffers and street plantings, together with final urban design parameters will diminish any visual impact created by new residential development.

Developing and introducing strategies to reduce the Shire's Environmental Footprint.

The proposal represents a logical extension of the existing urban footprint in the Glenning Valley neighbourhood. Expected native vegetation losses are projected to be addressed through the development of biodiversity offsets to minimise impact on Wyong Shire's Environmental Footprint.

Environmental Programs

Improving and promoting public access to environmental areas.

The significant conservation and proposed public dedication initiatives which will be provided by the proposal will reflect positively in this regard, particularly if enhanced access to the conserved remnant is provided from Bottlebrush Drive(it being noted that the conceptual layout plan will need to be modified to facilitate enhanced accessibility-Refer to Enclosure 1)

Employment

There will be a sustained increase in local jobs.

Short term employment opportunities will be provided during the development phase, whilst incidental job and home occupation opportunities will exist in the post development phase. Further, no potential employment lands will be adversely impacted by the proposal.

Asset Management Strategy

There are no immediate implications for the Asset Management Strategy. Ultimately the servicing strategy and design and dedication of public infrastructure will need to observe Council's relevant standards and integrate with the Asset Management Strategy

Workforce Management Strategy

The advancement of the planning proposal is being funded by the proponents., Future workforce implications beyond the processing phase will be addressed as Council reviews its Revenue Policy annually and the Unit Business Plan.

Link to Community Strategic Plan (2030)

An overview assessment against the Community Strategic Plan is provided at the “Strategic Links” section of this report and reflects general consistency.

Budget Impact

There are no immediate budget impacts.

FINANCIAL IMPLICATIONS

Advancement of the planning proposal will continue to be fully funded by the proponents (in accordance with Section 54(3) of the EP&A Act and Council’s Planning Proposal Procedure).

Should the land ultimately be rezoned for residential purposes it will attract development generated Application Fees, Section 94 and Developer Servicing Charges and Residential Rates from future residential property owners.

The proposed dedication of land (principally the conservation precinct and wildlife corridor) will attract future management/maintenance responsibilities and related costs, which could potentially be offset in a “sinking fund” commitment in a VPA.

Council will ultimately be assuming a management/maintenance responsibility also for the publicly dedicated roads and stormwater management systems.

PRINCIPLES OF SUSTAINABILITY

The planning proposal has the potential, subject to necessary refinements and adjustments, of producing a sustainable development/conservation outcome. The finalisation and implementation of a Biodiversity Conservation Strategy will, however, be critical.

A comprehensive stormwater management system based upon WSUD principles including some of the design elements communicated to date will be critical to ensuring appropriate offsite impacts and sustainable stormwater management principles generally.

The siting of the precinct and its inherent environmental sensitivity establish a context for the attainment of a high quality residential environment that showcases sustainability principles beyond the environmental management outcomes alluded to above.

Other sustainability principles contained within existing Council policy will be incorporated in the final design outcome include:

- optimisation of lot layout and dwelling orientation having regard to the principles of passive solar design.
- pursuit of energy efficient dwelling design generally.
- adoption of waste minimisation and management practices.
- application of principles of Crime Prevention through Environmental Design (CPTED).

- adoption of water conservation practices (including fittings/appliances) and landscape design.
- optimisation of renewable energy utilisation.
- consideration of principles of adaptable housing design.
- biodiversity enhancement/conservation.

Finally, the proposal will be subject to extensive consultation subject to a favourable "Gateway" determination. (Refer to Enclosure 2)

MATERIAL RISKS AND ISSUES

CORPORATE RISKS

Corporate exposure to Council would potentially occur if all relevant planning issues associated with the planning proposal are not resolved prior to the rezoning being finalised. In particular it is considered imperative that a Draft VPA is developed and exhibited concurrently with the planning proposal.

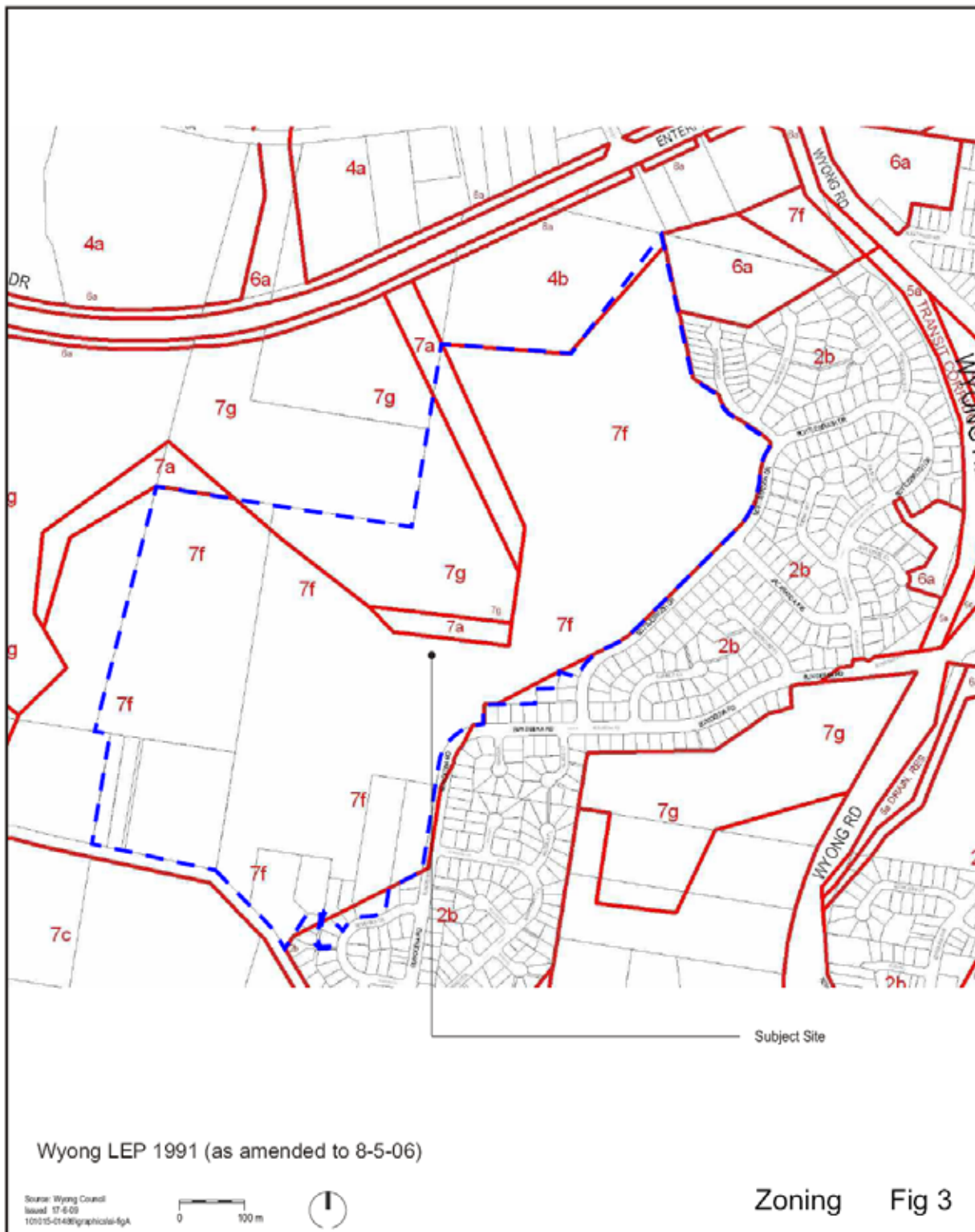
CONCLUSION

The subject land, is well placed to potentially leverage off its the underlying positive attributes and provide a sustainable extension to the existing residential community. The proposal provides conservation of bushland areas, enhanced public access to the same and appropriately secured off-site "bio-diversity offsets". The Proposal will also assist Council and the State Government in addressing its housing supply targets. Further investigations will be required to progress the planning proposal, including additional work on the biodiversity strategy, development of a VPA, refinement of the conceptual subdivision layout plan and broad ranging consultation with the State Government agencies and the community.

It is recommended that the planning proposal be endorsed by Council for submission to the DOPI, accompanied by a request for a "Gateway" determination.

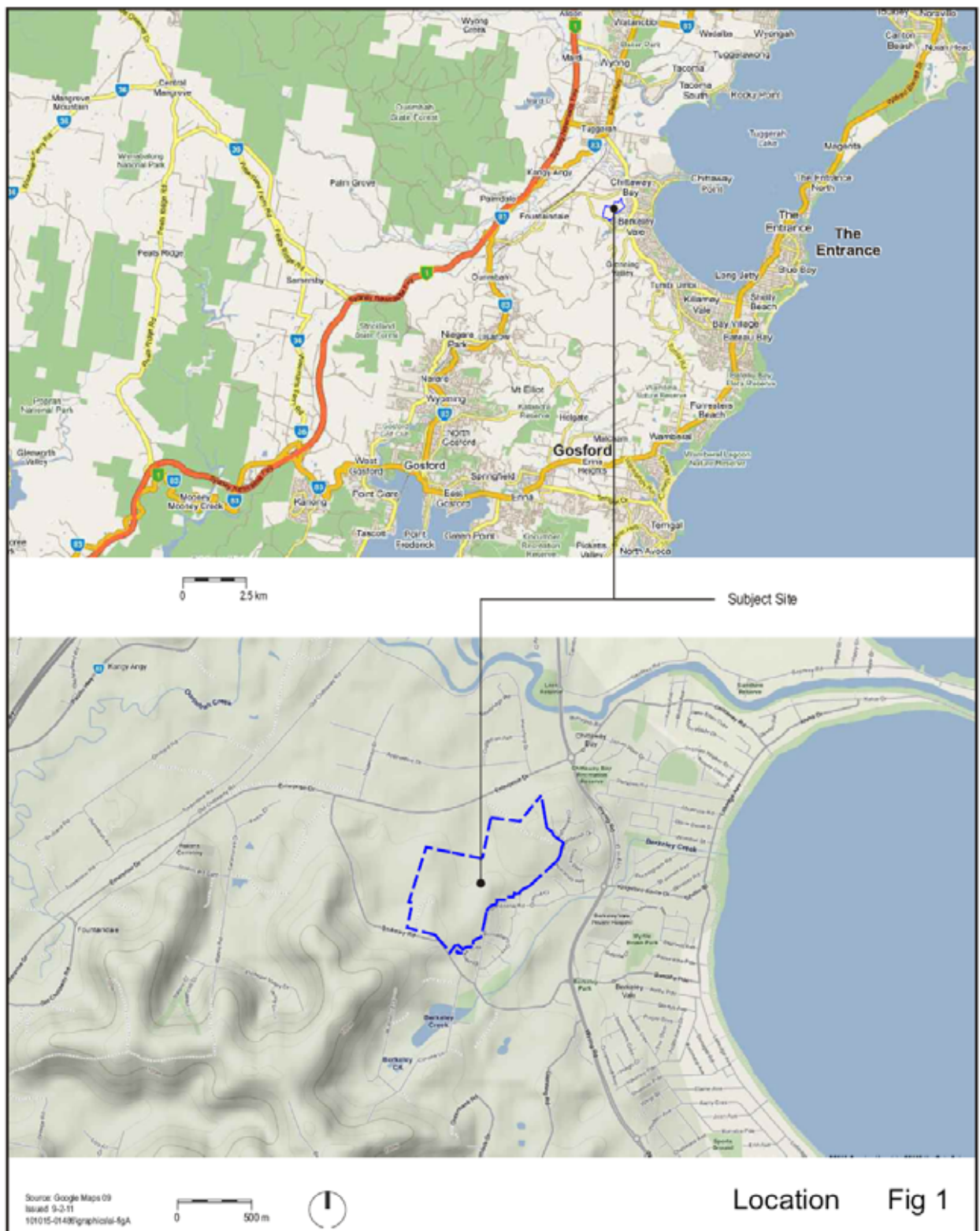
ATTACHMENTS

1	ATTACHMENT 1 - Existing Zone (A4-Colour)		D02824004
2	ATTACHMENT 2 - The Context (A4-Colour)		D02824006
3	ATTACHMENT 3 - Indicative Zoning Plan		D02824008
4	ATTACHMENT 4 - Conceptual Layout Plan		D02824010
5	ENCLOSURE 1 - Overview Background Investigations (A4 Colour)	Enclosure	D02824012
6	ENCLOSURE 2 - Planning Proposal (A4 - Colour)	Enclosure	D02824013
7	ENCLOSURE 3 - Sustainability Criteria for New Land Releases	Enclosure	D02824015
8	ENCLOSURE 4 - Consistency with Ministerial Directions - Section 117	Enclosure	D02824018

ATTACHMENT 1**EXISTING ZONING**

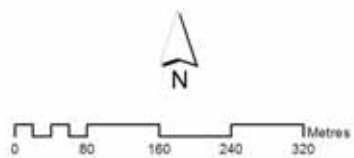
ATTACHMENT 2

THE CONTEXT



ATTACHMENT 3

INDICATIVE ZONING PLAN



Legend

- R2 Low Density Residential Zone
E2 Environmental Conservation Zone
* To be rationalised

Proposed Zonings (Wyong LEP 2012)

ATTACHMENT 4**CONCEPTUAL LAYOUT PLAN****Legend**

 Collector Roads proposed within R(2) zoned land

 Developable land proposed for rezoning to R(2) Residential Zone

(Subject to Future Amendments)

Conceptual Layout (Draft)