

WYONG SHIRE COUNCIL

26 September 2007
To the Ordinary Meeting of Council

Director's Report
Shire Planning Department

403 Draft Local Environmental Plan, Tumbi Umbi

RZ/5/2005 JLO:JLO

SUMMARY

The application seeks amendment of Clause 60B of the WLEP 1991, to:

- * Permit additional uses to Drive Thru Video Outlet on Lot 100: "restaurant," "drive-thru restaurant," "medical centre" and "commercial premises" (with restrictions on tenancy numbers, strata lots and height)
- * Permit additional uses of "medical centre" "commercial premises" (with restrictions on tenancy numbers, strata lots and height) on Lot 21; and
- * Remove anomalous lot references within the clause

The proposal has been revised on several occasions having regard to preliminary assessments, the decisions of staff panels and discussions with senior officers, and is recommended to proceed in a manner consistent with the objectives of Clause 60B of the Wyong Local Environmental Plan, 1991, providing for development which is integrated with the adjacent Mingara Club and Recreation Complex.

Applicant	Stewart Planning Group
Owner	Granis Pty Ltd
Application No	RZ/5/2005
Description of Land	Land affected by Clause 60B of the Wyong Local Environmental Plan, 1991, including in particular Lot 21 DP 883318 and Lot 100 DP 1001482 Mingara Drive Tumbi Umbi
Proposed Development	Amend Clause 60B to permit the additional use of Lot 21 for "a medical centre and up to two (2) commercial premises containing no more than two (2) tenancies or strata lots. Any development is restricted to a maximum of two (2) storeys in height"; and permit the additional use of Lot 100 for a "drive thru restaurant, restaurant, a medical centre and up to two (2) commercial premises containing no more than two (2) tenancies or strata lots. Any development is restricted to a maximum of two (2) storeys in height".
Site Area	Lot 21 DP883318: 6755m ² ; Lot 100 DP 1001482 : 1719.4m ²
Zoning	7(a) Conservation (Enabling Clause 60B), WLEP, 1991
Existing Use	Lot 21: Vacant Lot 100: Drive-Thru Video Outlet

Draft Local Environmental Plan, Tumbi Umbi (contd)

RECOMMENDATION

- 1** *That a draft Local Environmental Plan be prepared to amend Clause 60B of the Wyong Local Environmental Plan, 1991, in the following manner:*
 - a** *Remove anomalous lot references within the clause;*
 - b** *Permit the use of Lot 100 for a "restaurant, drive-thru restaurant, a medical centre or commercial premises. Any development is restricted to a maximum of two (2) storeys in height".*
 - c** *Permit the additional use of Lot 21 for "a medical centre and up to two commercial premises containing no more than two tenancies or strata lots. Any development is restricted to a maximum of two storeys in height."*
- 2** *That the Department of Planning be advised of the decision.*
- 3** *That the Department of Planning be further advised that Council's delegate proposes to exercise the delegations under Section 65 and if appropriate, under Section 69 of the Environmental Planning and Assessment Act 1979 and the Department be requested to issue a Written Authorisation to Exercise Delegation to permit the exhibition of the draft Local Environmental Plan.*
- 4** *That the draft Local Environmental Plan be referred to appropriate authorities for comment.*
- 5** *That upon receipt of the Written Authorisation to Exercise Delegation under section 65, the draft Local Environmental Plan be advertised for 28 days.*
- 6** *That Council's Section 149 Certificates be noted.*
- 7** *That upon receipt of the Written Authorisation to Exercise Delegation under section 69, and subject to no significant objections be received as a result of the exhibition, the Minister for Planning be requested to create the Local Environmental Plan.*
- 8** *A revised traffic study is to be submitted prior to any referral of this rezoning to the relevant Government Agencies under Section 62 of the Environmental Planning and Assessment Act 1979. Such revised study is to address how any deficit in the number of parking spaces is to be dealt with in relation to Lot 100.*

Draft Local Environmental Plan, Tumbi Umbi (contd)

INTRODUCTION

Council has received an application from Stewart Planning Group, on behalf of the Stevens Group to amend Clause 60B of the Wyong Local Environmental Plan, 1991. The Clause relates to Lots 4, 7 and 8 DP 863731, Lots 20 and 21 DP 883318 and Lots 100, 101 and 102 DP 1001482, Mingara Drive, Tumbi Umbi. These sites are located at the intersection of Wyong Road and Mingara Drive at Tumbi Umbi, at the entry to the Mingara Club and Recreation Complex.

The sites are zoned 7(a) Conservation, however are also affected by enabling Clause 60B of the Wyong Local Environment Plan 1991. This clause provides for restricted additional uses on the subject lands, if the development is, in the opinion of Council, appropriately integrated with the adjacent Mingara Club and Recreation Complex.

The locality is characterised by a service station, car related uses and take-away restaurants which have been developed for the convenience of Club patrons. These uses are integrated with the Club complex through coordinated access and car parking areas, restricted signage, and common urban design elements, eg, common building materials, themes, colours and roof forms.

THE PROPOSAL

The subject application notes that references within the clause to existing lot numbers are outdated and inaccurate, due to subdivisions and development which has occurred since the original clause was gazetted. The application seeks to insert the correct lot numbers and to also insert additional uses, "to potentially increase the viability of the sites". The proposal seeks to permit the additional uses of "commercial premises" and "medical centre" on Lot 21 (currently permits "car service centre"); and the additional uses "restaurant," "drive-thru restaurant," "medical centre" and "commercial premises on Lot 100 (currently permits a "drive-thru video outlet"). The inaccuracies within the clause could be read as already permitting a "restaurant" on Lot 100.

The application contains advice that it is intended to relocate the head office of the Stevens Group from its premises at Erina to a new office building on vacant Lot 21. It therefore seeks inclusion of the use "commercial premises". Further, the applicant seeks the ability to strata subdivide these commercial premises, should the Stevens Group decide to relocate in the future. Should this rezoning be supported, the number of permissible tenancies within the commercial premises would be limited to two as would the potential number of strata allotments. This would ensure that the number of delivery and loading areas needed by the building would be kept to a minimum, reducing potential truck/delivery movements through the adjoining allotments. Additionally, the maximum height of the development would be restricted to two storeys.

Draft Local Environmental Plan, Tumbi Umbi (contd)

The application also seeks a "medical centre" use on Lot 21, together with retention of the use "car service centre". The submitted "masterplan" shows two buildings on Lot 21, a two storey building of 1263m² shown as "commercial building/medical centre" and a single storey building of 360m² shown as "commercial". There are no details as to the percentage of floorspace within the larger building to be occupied by each use or how these uses would interact and co-exist on site.

The application proposes to expand the uses permissible on Lot 100 from "drive-thru video outlet", to include use the existing building for a "restaurant, drive-thru restaurant, medical centre and commercial premises. The applicant believes that video outlets are becoming obsolete, and alternative "viable uses" are sought.

Should this rezoning be supported, the maximum height of the development would be restricted to two storeys.

A table commenting on the applicant's submission in regard to Council's Development Management Panel decision of 14 August 2006 is provided as Attachment 2.

CONTEXT AND SETTING

A Locality Plan is attached (Attachment 1). The subject lands are located on either side of Mingara Drive, adjacent to a roundabout connection with Wyong Road, which also serves a light industrial estate to the North. Mingara Drive provides access via a second roundabout to the Mingara Club and Recreation Complex, as well as adjacent residential estates, rural/residential lands, a large retirement village and a private primary/secondary school.

The development sites are within this congested traffic environment, a locality characterised by a service station, car related uses and take away restaurants. These uses have been developed for the convenience of Club patrons, and are integrated with the Club complex through restricted signage, common building materials, themes, colours and roof forms. Any proposed new uses or buildings would be required to conform with these requirements for 'integration' and would also be required to not exacerbate traffic congestion or result in any car parking deficiency.

RETAIL STRATEGY REVIEW

Council has reviewed and publicly exhibited its Retail Hierarchy Strategy and the associated DCP 2005: Chapter 81 - Retail Centres.

The subject lands are not addressed by the Strategy, as they do not form a general business precinct and are not within a Business zone.

Draft Local Environmental Plan, Tumbi Umbi (contd)

Whilst Council has a strong goal to foster employment generating activities, the land has deliberately not been zoned to a Business zone as broader retail and commercial uses were not seen to be justifiable in support of the Club development (a requirement of Clause 60B). Council has always intended that the land not impact centres which are identified within the Retail Hierarchy Strategy and instead has supported uses which are *integrated with* the Mingara Club and Recreation Complex, for the benefit of Club patrons.

The uses proposed are traditionally located within the 3(a) (General Business) zone and in the case of commercial uses the 3(b) (Centre Support) zone. Typical centres in the area which could accommodate these uses include Killarney Vale, Bay Village, Long Jetty or the Tumbi Umbi shops, located only 220 metres east of the intersection of Mingara Drive and Wyong Road. Tuggerah Business Park is also a potential site for large scale commercial premises.

It is therefore considered that Council should maintain its practice of permitting nominated uses and development restrictions, to limit the potential for adverse impacts on existing commercial areas. For these reasons it is proposed to support the additional use of Lot 100 for a "restaurant, drive-thru restaurant, a medical centre and commercial premises" and the additional use of Lot 21 for "a medical centre and commercial premises."

Restrictions placed on the number of tenancies, permissible strata subdivision and height will enable the proposed uses to more easily integrate into the surrounding land uses. In addition, these restrictions will not greatly impact on the existing business and commercial zones in located in close proximity to the site.

STATUTORY REQUIREMENTS

Council may, pursuant to Section 54 of the Environmental Planning and Assessment Act 1979, resolve to prepare a draft Local Environment Plan.

The proposal has been assessed in terms of applicable State Environmental Planning Policies, Regional Environmental Plans and Ministerial s.117 Directions.

The proposal is consistent with those relevant Plans and Directions, excepting Directions 2.1 (Environmental Protection Zones), 4.1 (Acid Sulphate Soils), 4.3 (Flood Prone Land) and 6.3 (Site Specific Provisions).

These inconsistencies are requested to be considered as of minor significance by the Director-General.

(refer s117 Assessment – Attachment 3).

Draft Local Environmental Plan, Tumbi Umbi (contd)

Planning Reforms

The Department of Planning announced planning reforms in 2005 that will result in a new Local Environment Plan being prepared for the Shire by 2011. The reform requests that where possible, local Councils avoid proposing minor amendments to existing local environment plans.

The Department's position is that an amendment in the transition period should only be by exemption and Council would need to demonstrate a compelling case such as an amendment to facilitate an employment generating activity or to implement an agreed strategic direction for development in the area.

Subject to the proposal being progressed in accordance with the recommendations within this report, the draft Local Environment Plan is seen as having the potential to be consistent with these reforms and Directions 2.1, 4.1, 4.3 and 6.3. It will provide future employment opportunities within the new land uses and the medical centre may help address the strategic issue relating to the shortage of GP's within Wyong Shire and on the Central Coast generally. Additionally, the proposed permissible uses, although inconsistent with the objectives of the 7(a) (Conservation) zone, are suited to this site given that Lot 21 is cleared and contains no items of environmental significance and Lot 100 is already developed.

Existing Clause 60B: Development of certain land - Mingara Drive, Tumbi Umbi, Wyong Local Environmental Plan, 1991

The land is within a 7(a) Conservation Zone under the Wyong Local Environment Plan 1991. The land is also affected by, and the uses enabled in accordance with, Clause 60B, as detailed below:

This clause applies to the land, being lots 2, 4, 7, 8, 9 and 10 DP 863731, Mingara Drive, Tumbi Umbi, as shown edged heavy black on the map marked "Wyong Local Environmental Plan 1991 (Amendment No 97)".

- 1 Nothing in this plan prevents a person, with the consent of the Council, from carrying out development on:
 - a Lot 2, DP 863731—for the purpose of a car service centre, and
 - b Lots 4, 7, 8 and Lot 10, DP 863731—for the purpose of a service station, a car wash facility and restaurants, and

Draft Local Environmental Plan, Tumbi Umbi (contd)

c Lot 9, DP 863731—for the purpose of a drive-thru video outlet,

if the development is, in the opinion of the Council, appropriately integrated with development for which consent has been granted in accordance with clause 60A.

(Clause 60A enables the Mingara Club and Recreation Complex).

Intent of Clause 60B, WLEP, 1991

The land has deliberately not been zoned to a Business Zone as Council intends that the land support uses which are complementary to and integrated with the Mingara Club and Recreation Complex, not general retail or business activity.

Council has not in the past supported the lands being rezoned to a general Business zone as broader uses were not seen to be justifiable in support of the Club development, may potentially impact adjacent local and neighbourhood commercial centres and as the lands are not identified within Council's Retail Hierarchy Strategy.

Notwithstanding the land uses nominated in the application, the applicant has correctly identified that due in part to subdivisions which have occurred subsequent to development of some of the lots, Clause 60B incorrectly cites that Lot 100 may now be used for a restaurant" (currently used for a "drive-thru video outlet"), Lot 102 may be used for a "drive-thru video outlet" (currently used for restaurants) and Lot 21 may be used only as a "car service centre" (referred to as its parent Lot 2). It is considered appropriate to adjust and correct the anomalies within the clause.

Strategic Implications

An assessment of the proposal against the Minister's Section 117(2) Directions and the Department of Planning's Pro-forma *LEP Evaluation Criteria for Category 1 – Spot Rezoning* is attached (Attachments 3 and 4). Subject to the recommended limitations, the proposed draft Local Environment Plan would be consistent with these Directions, with the exception of Directions 2.1, 4.1, 4.3 and 6.3. The amended enabling clause will be site specific, as it will permit uses not permitted in the 7(a) zone elsewhere in Wyong Shire.

The terms of Direction 4.1 and 6.3 suggest that an environmental study is required where there is such an inconsistency. However, it is considered that a formal environmental study is not warranted in this case, as one of the buildings is already on site and there would be no proposal to alter its access and car parking arrangements.

Draft Local Environmental Plan, Tumbi Umbi (contd)

Further, the scale of development is strategically minor and it is not intended to vary the restrictive intent of the existing enabling clause. The impacts are able to be clearly demonstrated and any issues that may arise from the amended clause would be able to be addressed via subsequent conditions of development consent.

Given the minor nature of this proposal, Council would seek to use its delegation under Section 65 and Section 69 of the Act, dependant on the outcome of the Section 62 consultations.

OTHER MATTERS

The proposed development is considered to be capable of incorporating satisfactory stormwater, drainage and erosion controls and the retention of vegetation where possible and is unlikely to have any significant adverse impacts on the environment. The proposal does not result in the disturbance of any endangered flora or fauna habitats.

RELEVANT ISSUES

Bushfire Risk

The site is identified as Bushfire Prone Land and as such the proposed development must be addressed by a report addressing the requirements of *Planning for Bushfire Protection 2001*, to enable referral to the Rural Fire Service under s62, should the dLEP be supported (s117 Direction 4.4).

The standard of information presented in the report by Trehy Ingold Neate fails to adequately apply the bushfire hazard assessment methodology required by the RFS. A significant corridor of vegetation 50-60m wide remains along the eastern boundary of the subject site, and will continue to do so as this land is owned by Council and zoned for conservation and open space purposes. The majority of this land is classified "Community – Wetlands Management" under the LG Act (1993). An additional portion of land will be added to this reserve system when the residential subdivisions to the south are completed.

Under the new regulation (PBP, 2006) it is clear that the following general principles must be applied:

- * Protection measures are governed by the degree of threat posed to a development, i.e. a reasonable assessment of the hazard, both existing and into the future must be provided, and the size, location and structure of the hazard needs to be considered;
- * a minimum setback from the hazard is **always** required, ie a defensible space to reduce radiant heat and provide a safe working area for fire-fighters;

Draft Local Environmental Plan, Tumbi Umbi (contd)

- * bushfire protection measures must be contained within the overall development and not on adjoining lands, ie minimum setbacks must be provided within the development site and not on adjoining public land.

In addition, it is the current best practice to utilise bushfire setbacks for a variety of purposes including location of Water Sensitive Urban Design (WSUD) infrastructure, service access, public access as appropriate, and management of edge effects on land with conservation values.

Following these principles it is clear that Lot 21 should incorporate an area (within the lot) along the eastern boundary to provide a minimum setback and access for emergency services personnel. This should be sized accordingly to reflect the **relatively low hazard** of the vegetation. This assessment relates to the narrow width of the vegetation corridor adjoining, which will limit the ability of a bushfire to impact on the subject site.

It is therefore recommended that Lot 21 be required as part of the proposed rezoning and subsequent development (map notation) to exclude any development from an area of 10m width along the eastern boundary. This 10m wide strip should be reserved for bushfire protection measures including the incorporation of an access trail and maintenance of vegetation to provide for a reduction in available fuels.

The NSW RFS required access trail is to be a minimum of 4m width construction and an additional 1m of cleared area on each side. The trail therefore, will take up the western 6m of the proposed 10m reservation, and this will leave 4m to incorporate suitable WSUD drainage measures and landscaping to manage development impacts on the adjoining public land having conservation values.

It is further recommended that suitable easements to this effect should be placed on the title of Lot 21 as a condition of any future development consent for development of the land.

Traffic Access and Parking

The revised traffic report submitted with the application needs to be submitted to the RTA for comment (this occurs at s.62 Consultation phase). Concerns are raised with regard to the proposed increase in traffic and the affect it will have on the already congested Wyong Road intersection. The RTA will need to identify what, if any, upgrading of the Wyong Road intersection will be required.

Specific issues for Lot 21

- * Access to Mingara Drive would be denied. Access to Lot 21 is to be only via the ROW through Lot 20 with an egress through Lot 8 DP 863731 as shown on the Master Plan SK11. This will require a ROW to be registered over Lot 8 DP 863731.

Draft Local Environmental Plan, Tumbi Umbi (contd)

- * Doubts are expressed from a traffic perspective as to the suitability of an access to a Medical Centre through a tyre outlet business. The car service centre use is considered more compatible (use to be retained as permissible).
- * The size of the Medical Centre, if approved, would need to be restricted to ensure there is sufficient parking on site.
- * An alteration to permit the relocation of the Stevens Group office to the site is supported, subject to there being sufficient number of parking spaces and manoeuvring areas for all the proposed developments. The 56 parking spaces identified at present needs to be increased to 59. Further, the number of surgeries has not been identified - it would appear that the consultant hasn't included the doctors/other staff in the total.
- * Constraints need to be placed on the site coverage permitted to ensure there will not be overdevelopment of the site. There is concern that if the site is overdeveloped there will be an ultimate shortfall in number of parking spaces provided, as there already appears to be.
- * A restriction should be placed preventing small users from occupying the commercial building. Smaller units will only increase the number and extent of delivery and manoeuvring areas required and hence there will be less space available for parking.
- * The roundabout at the service station egress needs to be upgraded to improve safety to Council's requirements. It most likely will require placement of raised pavement markers around the perimeter of the roundabout and for them to be maintained for minimum period of 2 years. A concrete median separator at the entry off Mingara Drive leading to the roundabout will also be required.

Specific issues for Lot 100

- * The building currently has too few parking spaces for it to be a "dine-in" restaurant. With 17 existing parking spaces for 375 m² floor area, this equates to approximately 1 space per 22 m². The rate for restaurants is 15 spaces per 100 m² (1 space per 6.7 m²) GFA (DCP 2005: Chapter 61 – Carparking). At this rate, a restaurant would be required to provide 57 parking spaces. For this use, the building has a deficit of 40 spaces. The applicant will need to address this should a development application be lodged for this land use in the future.

Draft Local Environmental Plan, Tumbi Umbi (contd)

The majority of these concerns may be able to be resolved at Development Application stage.

Landscaping and Amenity

The density of the development proposed and the dominant location of the whole complex highlights the need for high quality landscaping, particularly to Wyong Road and Mingara Drive. This may impact on the site coverage attainable for any new development.

Up to two storey development is considered acceptable on both Lot 100 and Lot 21. This reflects the existing development on both sides of Mingara Drive and the backdrop of mature trees to the east.

Proposed Bottle Shop on Lot 100

As a result of discussions between the applicant and senior Council staff, the proposed use of Lot 100 as a bottle shop was deleted. It was generally agreed that a bottle shop was detrimental to the area for social reasons and its proximity to the Mingara Club.

PRECEDENT AND SHIRE-WIDE IMPLICATIONS

The proposal can be refined to involve amendment of an existing "spot" rezoning to facilitate "the viable use of an existing building" and a new medical centre and commercial premises. While the preferred scenario would be to have a medical centre within an existing shopping centre, the proposed location does provide services closer to adjacent residential areas, including the retirement village.

The scope for expansion would be limited by the constraints of the site area, parking and access arrangements and the need to protect local resident's amenity, which can be addressed via the imposition of additional appropriate conditions of development consent. The practice could also be accessed on foot or by scooter (utilising the footpath/cycleway on Mingara Drive), via the taxi services which frequent the Mingara Club, and via the bus service and bus stops on Wyong Road.

The facilitation of the use on this site would go some way toward addressing the shortage of General Practitioners within Wyong Shire, identified in the Wyong Shire Community Plan. The proposal would broaden services available to Club patrons as well as the wider community. It is considered that the use of Lot 21 and 100 for a "medical centre" is able to be supported.

In addition, the location of commercial premises on lot 21 and lot 100 would enable creation of temporary and permanent employment opportunities. Employment generation is a key direction within the Gosford-Wyong Structure Plan and the *draft Central Coast Regional Strategy*.

Draft Local Environmental Plan, Tumbi Umbi (contd)

CONCLUSION

Having regard to the issues and the statutory considerations above, it is considered appropriate for Council to support the proposal in the manner recommended. It is clear that the intent behind Clause 60B is to provide for restricted additional uses on the subject lands to that normally allowable within a 7(a) zone, where the development is, in the opinion of Council, appropriately integrated with the adjacent Mingara Club and Recreation Complex.

The locality is not a general business precinct, and the developments exist by virtue of having been developed for the convenience of Club patrons. They are further integrated with the Club complex through urban design elements, such as restricted signage, common building materials, themes, colours and roof forms.

It is considered that subject to the matter being progressed as detailed in the recommendation that Council support the recommended proposal for a draft Local Environmental Plan.

Attachment 1	Locality Plan (1 page)
Attachment 2	Summary of Applicants Response (5 pages)
Attachment 3	Assessment against Ministerial (Section 117(2)) Directions (8 pages)
Attachment 4	Department of Planning's draft LEP Pro-Forma Evaluation Criteria for Category 1 – Spot Rezoning (2 pages)

Draft Local Environmental Plan, Tumbi Umbi (Attachment 2)

Summary of Applicant's Response

The following table summarises the applicant's submission in response to the DMP decision of 14 August 2006:

ISSUE	APPLICANT'S VIEW	COUNCIL RESPONSE
Complexity of dLEP	DOP seeks simplified planning controls - Council is complicating the matter and seeking to be overly restrictive. Council should deal with these issues at DA stage.	The lack of definite proposals complicates Council's consideration and results in recommendations for more restrictive controls, due to Council's responsibility to ensure compliance with the intent of the Clause and to control likely on and off-site impacts within a congested locality with constricted access and parking provisions
Design commitment vs commercial flexibility	Developer needs to have flexibility to respond to the market. Council's position will force the applicant to seek further zoning changes in future to meet changing consumer demands.	Current planning practice discourages Council supporting "spot" rezoning proposals without the knowledge that the proposal can be appropriately accommodated on the site
Flexibility, generally	The maximum floor space for the medical centre should not be defined until DA stage	As the medical centre and commercial premises were indicated as within the one building and another unspecified building was shown on the concept plan, Council sought an indication of the floor space split to enable an assessment of required parking arrangements (different requirements).
Medical Centre / Stevens Group Head Office	A medical centre will service the needs of club patrons, users of the recreation facilities, the adjacent retirement village and neighbouring residents. The relocation of the Stevens Group Head Office will continue the existing relationship with the development of the Club, the Glengara Retirement Village, etc.	Council has already indicated its support for the "medical centre" use, Council seeks evidence as to compliance with the requirement for "integration" with the Club by the provision of concept plans. Council has also indicated general support for the relocation of the Stevens Group Head Office, "subject to the proponent providing evidence as to the means by which the use could be restricted/controlled to a single large scale commercial use". This issue has been addressed through

		recommendations to limit tenancy number, strata subdivision and imposing height controls.
--	--	---

Draft Local Environmental Plan, Tumbi Umbi (Attachment 2) (contd)

ISSUE	APPLICANT'S VIEW	COUNCIL RESPONSE
<p>Council may support commercial premises for a single large tenant (Stevens Group)</p>	<p>Restricting small tenancies from the commercial premises is unlikely to achieve substantive benefits.</p> <p>Stevens Group does not want limitations placed on the floorspace, therefore the submission does not address the issue.</p> <p>Stevens will not construct a medical centre unless Council permits smaller tenancies</p>	<p>The creation of a number of small tenancies on either site (shop or office) could result in additional competition with, and vacant tenancies within, adjacent commercial centres; a proliferation of advertising signs; potentially increased traffic conflicts within the site; and competition for car parking spaces. Various tenancies would encourage increased variety, decreasing the likelihood that the uses would "integrate" with the Club development, as required by Clause 60B. Once established, the uses could be replaced by other generic shop or office uses approved by Private Certifiers (CD) with their own interpretation of "integration".</p> <p>An available mechanism may be by defining the uses as "large scale commercial premises" and "large scale retail establishment", however this would only restrict each to a maximum floor space of 200m².</p> <p>The recommendation is to restrict tenancy and strata subdivision to two, and limit heights to two storeys.</p>
<p>Adverse economic impact on existing commercial centres</p>	<p>The area is an existing employment node. Council is responsible to ensure there is sufficient flexibility to maintain and enhance the economic viability of the centre.</p> <p>The proposed uses will have no impact on existing centres.</p>	<p>Whilst Council has a strong goal to foster employment generating activities, Council has not supported the lands being rezoned to a general Business zone as broader uses were not seen to be justifiable in support of the Club development, may potentially impact adjacent local and neighbourhood commercial centres and as the lands are not identified within Council's Retail Hierarchy Strategy. The applicant fails to substantiate in any real way</p>

		that there will be "no impact".
--	--	---------------------------------

Draft Local Environmental Plan, Tumbi Umbi (Attachment 2) (contd)

ISSUE	APPLICANT'S VIEW	COUNCIL RESPONSE
Draft Central Coast Strategy	<p>Strategy promotes expansion of "employment land" nodes to increase employment self-containment within the Region.</p> <p>Ensure new retail / commercial development (other than convenience retailing) is confined to centres – the site is an established centre, even if not zoned business or not identified in Retail Hierarchy.</p> <p>Video outlet is "convenience retail", therefore a change to "shop" would enable convenience retailing outside established centres. Video is outdated and Lot 100 may become vacant.</p>	<p>Discussions with the DoP have confirmed that references to "Employment Land Nodes" are to industrial estates.</p> <p>Not considered an appropriate site for general "convenience retailing".</p> <p>To allow a general "shop" on the land decreases the likelihood that existing centres can fill their vacancies, decreasing the viability of those existing centres.</p>
Appearance	Medical centre needs to be within an attractive commercial premises, not surrounded by car uses	In any event the centre would be surrounded by car related uses and accessed via their existing access driveways.
Competition	New premises will not compete with established areas	No data to support this assertion. Could be addressed at s.57
Shops and Offices conflict with the intent of Clause 60B	Agrees that restaurants would be regarded as complimentary uses to the Mingara Club. Disagrees that the existing car related uses and the video outlet are. If Council considers the video outlet is complimentary then the broadening of this use to "shop" should also be regarded as complimentary. E.g., a bottle-shop should be considered complimentary and integrated.	(It should be noted that the existing clause was originally framed and justified by the Stevens Group). The land has deliberately not been zoned to a Business Zone as Council intends that the land not impact centres identified within the Retail Hierarchy Strategy and instead supports uses which are integrated with the Mingara Club and Recreation Complex, for the benefit of Club patrons. This was determined to not include general retail activity, hence "shops" and are not enabled by Clause 60B. The clause does not use the term "complimentary".

Draft Local Environmental Plan, Tumbi Umbi (Attachment 2) (contd)

ISSUE	APPLICANT'S VIEW	COUNCIL RESPONSE
Future use of SEPP 4	The impacts associated with one type of shop or office are the same as those for another.	<p>The use of SEPP 4 requires no change to pre-existing hours, storage and display arrangements, parking, loading or landscaping requirements, for the provisions to be used. However, this argument is superfluous as in fact the relevant clauses (6 – 10) of SEPP 4 do not apply within Wyong LGA. Likewise, SEPP 22 does not apply as the land is not within a "business" zone. However, DCP 2005 – Ch 86 does permit the change of a shop or office use to a use permissible within the zone (which would include the uses identified within Cl. 60B), i.e. an office changed to another office, as complying development.</p> <p>Chapter 86 contains the same provisos as SEPP 4, however, Council's experience with Private Certifiers is that these matters are not assessed with the same rigour, and therefore does not seek to broaden permissible uses under the Clause to the extent sought through the use of a generic definition.</p>
Use: "drive-thru video outlet"	This use is effectively a "shop" and should be recognised as such	See above.
Updated Traffic Report required	Submitted, justifies that the uses and required carparking can be adequately accommodated.	The Traffic and Parking Assessment Report by Varga Traffic Planning P/L has been assessed. Recommendations from this assessment are included within this Council report.
Bushfire Prone Land	Report enclosed. Site can be developed with the recommendations implemented	The Bushfire Hazard Assessment Report by Peter Ingold (Trehy Ingold Neate) has been assessed. Recommendations from this assessment are included within this Council report.

Draft Local Environmental Plan, Tumbi Umbi (Attachment 2) (contd)

ISSUE	APPLICANT'S VIEW	COUNCIL RESPONSE
Integration	Design should be assessed at DA stage. A number of factors may influence the final design, including the needs of the tenants (up to 3 years away). Cites PS06-013 advising that Council should not seek excessive detail prior to s.54 stage, this material should be developed as part of the LES. Therefore unwilling to commit to elevations and floorspace layouts.	Issue is related to the land use not being general retail / commercial (as would be found in established centres) and the building form integrating with the Club, in compliance with Clause 60B. "Integration" has been achieved by restricted signage, common building materials, themes, colours and curved roof forms.
Anomalies within clause	* Incorrect Lot references * Incorrect Use references	It is agreed that references within the clause are required to be updated. The land has been re-subdivided on several occasions, due to revised proposals, parking and access layouts etc, in response to the various tenancies within the precinct

Draft Local Environmental Plan, Tumbi Umbi (Attachment 3)

Assessment against Ministerial (Section 117(2)) Directions

Section 117(2) Directions Summary

Draft Local Environmental Plan RZ/5/2005

Lot 21 DP 883318 & Lot 100 DP 1001482

Number	Direction	Applicable	Consistent
<i>Employment & Resources</i>			
1.1	Business & Industrial Zones (Previous Direction No. 3 & 16)	No	N/a
1.2	Rural Zones (Previous Direction No. 22)	No	N/a
1.3	Mining, Petroleum Production and Extractive Industries (Previous Direction No. 5)	No	N/a
1.4	Oyster Aquaculture (Previous Direction No. 29)	No	N/a
<i>Environment & Heritage</i>			
2.1	Environmental Protection Zones (Previous Direction No. 13)	Yes	No
2.2	Coastal Protection (Previous Direction No. 6)	No	N/a
2.3	Heritage Conservation (Previous Direction No. 9)	Yes	Yes
2.4	Recreation Vehicle Areas (Previous Direction No. 20)	Yes	Yes
<i>Housing, Infrastructure & Urban Development</i>			
3.1	Residential Zones (Previous Direction No. 21)	No	N/a
3.2	Caravan Parks and Manufactured Home Estates (Previous Direction No. 18)	Yes	Yes
3.3	Home Occupations (Previous Direction No. 23)	Yes	Yes
3.4	Integrating Land Use & Transport (Previous Direction No. 17)	No	N/a

Draft Local Environmental Plan, Tumbi Umbi (Attachment 3) (contd)

3.5	Development Near Licensed Aerodromes (Previous Direction No. 12)	No	N/a
<i>Hazard & Risk</i>			
4.1	Acid Sulphate Soils (Previous Direction No. 1)	Yes	No
4.2	Mine Subsidence and Unstable Land (Previous Direction No. 11)	No	N/a
4.3	Flood Prone Land (Previous Direction No. 15)	Yes	No
4.4	Planning for Bushfire Protection (Previous Direction No. 19)	Yes	Yes
<i>Regional Planning</i>			
5.1	Implementation of Regional Strategies (Previous Direction No. 30)	No	N/a
5.2	Sydney Drinking Water Catchments (Previous Direction No. 28)	No	N/a
5.3	Farmland of State and Regional Significance on the NSW Far North Coast (Previous Direction No. 14)	No	N/a
5.4	Commercial and Retail Development along the Pacific Highway, North Coast (Previous Direction No. 7)	No	N/a
5.5	Development in the Vicinity of Ellalong, Paxton and Millfield (Cessnock LGA) (Previous Direction No. 31)	No	N/a
5.6	Sydney to Canberra Corridor (Previous Direction No. 27)	No	N/a
5.7	Central Coast (Previous Direction No. 4)	Yes	Yes
5.8	Second Sydney Airport: Badgerys Creek (Previous Direction No. 24)	No	N/a
<i>Local Plan Making</i>			
6.1	Approval and Referral Requirements (Previous Direction No. 2 & 10)	Yes	Yes
6.2	Reserving Land for Public Purposes (Previous Direction No. 26)	Yes	Yes
6.3	Site Specific Provisions (Previous Direction No. 25)	Yes	No

Draft Local Environmental Plan, Tumbi Umbi (Attachment 3) (contd)

Section 117(2) Directions Assessment

Direction	Comment
<i>Employment & Resources</i>	
1.1 Business & Industrial Zones	
<ul style="list-style-type: none"> ▪ Aims to encourage employment growth in suitable locations, protect employment land in business and industrial zones and to support the viability of identified strategic corridors ▪ Applies when a dLEP affects land within an existing or proposed business or industrial zone 	<ul style="list-style-type: none"> ▪ Not applicable ▪ The land subject to the dLEP is not within a Business or Industrial Zone. The land is zoned 7(a) (Conservation Zone). ▪ The dLEP seeks to enable additional permissible uses in the current zone only.
1.2 Rural Zones	
<ul style="list-style-type: none"> ▪ Aims to protect the agricultural production value of rural land ▪ Applies when a dLEP affects land within an existing or proposed rural zone 	<ul style="list-style-type: none"> ▪ Not applicable ▪ The land subject to the dLEP is not within a Rural Zone. The land is zoned 7(a) (Conservation Zone)
1.3 Mining, Petroleum Production and Extractive Industries	
<ul style="list-style-type: none"> ▪ Aims to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development ▪ Applies when a dLEP would have the effect of prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or restricting the potential of development resources of coal, other mineral, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development 	<ul style="list-style-type: none"> ▪ Not applicable ▪ The dLEP does not seek to prohibit mining of coal, other minerals, petroleum and extractive materials or restrict potential development of coal, other minerals, petroleum and extractive materials

Draft Local Environmental Plan, Tumbi Umbi (Attachment 3) (contd)

1.4 Oyster Aquaculture	
<ul style="list-style-type: none"> ▪ Aims to ensure that Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area are adequately considered, and to protect Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area from land uses that may result in adverse impacts on water quality and the health of oysters and consumers ▪ Applies when a dLEP could result in adverse impacts on a Priority Oyster Aquaculture Areas or current oyster aquaculture lease in the national parks estate or results in incompatible use of land between oyster aquaculture in a Priority Oyster Aquaculture Area or current oyster aquaculture lease in the national parks estate and other land uses 	<ul style="list-style-type: none"> ▪ Not applicable ▪ The dLEP does not propose a land use which will have adverse effects or be incompatible with Priority Oyster Aquaculture Areas or current oyster aquaculture lease in the national parks estate
<i>Environment & Heritage</i>	
2.1 Environmental Protection Zones	
<ul style="list-style-type: none"> ▪ Aims to protect and conserve environmentally sensitive areas ▪ Applies when council prepares a dLEP 	<ul style="list-style-type: none"> ▪ Applies ▪ The dLEP proposes additional uses on land currently zone 7(a) (Conservation Zone) ▪ Lot 21 is proposed for additional permissible uses including commercial premises and medical centre. The site is cleared and no environmentally sensitive areas (such as endangered ecological communities, wildlife corridors etc) are located within the development site ▪ Lot 100 is currently developed for the purpose of a drive-thru video outlet. As such, the land is cleared and there are no environmentally sensitive areas within the development site. ▪ The land uses proposed are unlikely to have any significant impact on the receiving natural environment ▪ Therefore Council requests that the Director General considers the inconsistency with this Direction to be of minor significance.
2.2 Coastal Protection	
<ul style="list-style-type: none"> ▪ Aims to implement the principles in the NSW Coast Policy ▪ Applies when a dLEP applies to land in the coastal zone as defined in the <i>Coastal Protection Act 1979</i> 	<ul style="list-style-type: none"> ▪ Not applicable ▪ The dLEP does not apply to land in the coastal zone

Draft Local Environmental Plan, Tumbi Umbi (Attachment 3) (contd)

2.3 Heritage Conservation	
<ul style="list-style-type: none"> ▪ Aims to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance ▪ Applies when council prepares a dLEP 	<ul style="list-style-type: none"> ▪ Applies ▪ No items areas, objects and places of environmental heritage significance and indigenous heritage significance have been identified as being on the sites subject to the dLEP ▪ The dLEP does not propose development which will affect items, areas, objects and places of environmental heritage significance and indigenous heritage significance therefore is not inconsistent with this Direction
2.4 Recreational Vehicle Areas	
<ul style="list-style-type: none"> ▪ Aims to protect sensitive land or land with significant conservation values from adverse impacts from recreational vehicles ▪ Applies when council prepares a dLEP 	<ul style="list-style-type: none"> ▪ Applies ▪ The dLEP does not propose for the use of the land for the purpose of a recreation vehicle area therefore is not inconsistent with this direction
<i>Housing, Infrastructure and Urban Development</i>	
3.1 Residential Zones	
<ul style="list-style-type: none"> ▪ Aims to encourage a variety and choice of housing types to provide for existing and future housing needs, to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and to minimise the impact of residential development on the environmental and resource lands ▪ Applies when a dLEP affects land within an existing or proposed residential zone, and any other zone in which significant residential development is permitted or proposed to be permitted. 	<ul style="list-style-type: none"> ▪ Not applicable ▪ The dLEP proposes additional permissible uses within the 7(a) (Conservation Zone) for Lot 21 DP 883318 and Lot 100 DP 1001482 ▪ 7(a) (Conservation Zone) permits dwelling houses and dual occupancies with consent. Both allotments subject to the dLEP are unable to be subdivided given the minimum lot size requirements within WLEP 1991 to create further dwelling potential ▪ The current zoning does not permit significant residential development, therefore this Direction is not applicable
3.2 Caravan Parks and Manufactured Home Estates	
<ul style="list-style-type: none"> ▪ Aims to provide for a variety of housing types and provide opportunities for caravan parks and manufactured home estates ▪ Applies when council prepares a dLEP 	<ul style="list-style-type: none"> ▪ Applies ▪ The dLEP does not seek to rezone land to provide for caravan parks or manufactured home estates, therefore the dLEP is consistent with this Direction
3.3 Home Occupations	
<ul style="list-style-type: none"> ▪ Aims to encourage the carrying out of low impact small business in dwelling houses ▪ Applies when council prepares a dLEP 	<ul style="list-style-type: none"> ▪ Applies ▪ The dLEP proposes additional permissible uses within the 7(a) (Conservation Zone) for Lot 21 DP 883318 and Lot 100 DP 1001482. These additional uses do not include home occupations, therefore the dLEP is consistent with this Direction

Draft Local Environmental Plan, Tumbi Umbi (Attachment 3) (contd)

3.4 Integrating Land Use & Transport	
<ul style="list-style-type: none"> ▪ Aims to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts to achieve: improving access to housing, jobs and services by walking, cycling and public transport; increasing choice of available transport and reducing transport on cars; reducing travel demand; supporting efficient and viable public transport services; and provide for efficient movement of freight ▪ Applies when a dLEP creates alters or moves a zone or provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes 	<ul style="list-style-type: none"> ▪ Not applicable ▪ The dLEP seeks additional permissible uses for lots located within the 7(a) (Conservation Zone). ▪ The dLEP does not alter or moves a zone provisions relating to urban land, therefore this Direction is not applicable to the dLEP
3.5 Development Near Licensed Aerodromes	
<ul style="list-style-type: none"> ▪ Aims to ensure the effective and safe operation of aerodromes, their operation is not compromised by development which constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity, development for residential purposes or human occupation (within the ANEF contours between 20 & 25) incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise ▪ Applies when a dLEP creates, alters or removes a zone or provision relating to land in the vicinity of a licensed aerodrome 	<ul style="list-style-type: none"> ▪ Not applicable ▪ The dLEP does not seek to create, alter or remove a zone or provision relating to land in the vicinity of a licensed aerodrome, therefore this Direction is not applicable to the dLEP
<i>Hazard & Risk</i>	
4.1 Acid Sulphate Soils	
<ul style="list-style-type: none"> ▪ Aims to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils ▪ Applies when a dLEP applies to land having a probability of containing acid sulphate soils on the Acid Sulphate Soils Planning Maps 	<ul style="list-style-type: none"> ▪ Applies ▪ The dLEP is located on land which is identified as having a low probability of containing acid sulphate soils (LAP4 Classification). ▪ The dLEP does not propose to intensify land uses within an already developed area. ▪ Lot 100 is currently developed. ▪ Lot 21 is vacant, however, it is surrounded by development on the same soil type ▪ Council requests that the Director General considers this inconsistency to be of minor significance

Draft Local Environmental Plan, Tumbi Umbi (Attachment 3) (contd)

4.2 Mine Subsidence & Unstable Land	
<ul style="list-style-type: none"> ▪ Aims to prevent damage to life, property and the environmental on land identified as unstable or potentially subject to mine subsidence ▪ Applies when a dLEP permits development on land which is within a mine subsidence district, or identified as unstable in a study or assessment undertaken by or on behalf of Council or other public authority and provided to Council 	<ul style="list-style-type: none"> ▪ Not applicable ▪ The dLEP is not located on land within a mine subsidence district or on land which has been identified as unstable, therefore this Direction is considered not applicable to the dLEP
4.3 Flood Prone Land	
<ul style="list-style-type: none"> ▪ Aims to ensure: development on flood prone land is consistent with NSW Government's Flood Prone Land Policy and principles of the <i>Floodplain Development Manual 2005</i> and provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land ▪ Applies when a dLEP creates, removes or alters a zone or provision that affects flood prone land 	<ul style="list-style-type: none"> ▪ Applies ▪ Both lots affected by the dLEP are affected by the 1:100 AEP flood event ▪ Lot 100 is already developed (in accordance with existing requirements for development on flood prone land). Additional uses only are proposed for that site. ▪ The proposed development area of lot 100 is above the 1:100 flood level ▪ Given the above, it is requested that the Director General consider this inconsistency as of minor significance
4.4 Planning for Bushfire Protection	
<ul style="list-style-type: none"> ▪ Aims to protect life, property and the environment from bushfire hazards, and encourage sound management of bushfire prone areas ▪ Applies when a dLEP affects or is in proximity to land mapped as bushfire prone land 	<ul style="list-style-type: none"> ▪ Applies ▪ Both lots affected by the dLEP are located in identified Bushfire Prone Land ▪ This has been addressed by a Bushfire assessment report. As a result, a recommendation is made within the dLEP that a 10m buffer along Lot 21 is reserved for bushfire protection measures ▪ Accordingly, consultation shall be undertaken with the Commissioner of the NSW RFS under s62 of the EP & A Act, with comments provided taken into account ▪ Development is not proposed within the dLEP, as only additional permissible uses are requested. Any future development of the sites will be required to comply with relevant APZs, access and controls as well as <i>Planning for Bushfire Protection 2006</i>. ▪ It is therefore considered that the dLEP is consistent with this Direction

Draft Local Environmental Plan, Tumbi Umbi (Attachment 3) (contd)

<i>Regional Planning</i>	
5.1 Implementation of Regional Strategies	
<ul style="list-style-type: none"> ▪ Aims to give legal effect to the vision, land use strategy, policies, outcomes and actions contained within regional strategies ▪ Applies when council prepares a dLEP that is located on land addressed within the Far North Regional Strategy, Lower Hunter Regional Strategy, Illawarra Regional Strategy & South Coast Regional Strategy 	<ul style="list-style-type: none"> ▪ Not applicable ▪ The dLEP is not affected by the Far North Regional Strategy, Lower Hunter Regional Strategy, Illawarra Regional Strategy & South Coast Regional Strategy ▪ The Central Coast Regional Strategy has not yet been implemented. The dLEP is therefore not inconsistent with this Direction
5.2 Sydney Drinking Water Catchments	
<ul style="list-style-type: none"> ▪ Aims to protect water quality in the hydrological catchment ▪ Applies when council prepares a dLEP that applies to Sydney's hydrological catchment 	<ul style="list-style-type: none"> ▪ Not applicable ▪ The dLEP does not apply to land within Sydney's hydrological catchment
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	
<ul style="list-style-type: none"> ▪ Aims to: ensure that the best agricultural land will be available for current and future generations to grow food and fibre; provide more certainty on the status of the best agricultural land, assisting councils with strategic settlement planning; and reduce land use conflict arising between agricultural use and non-agricultural use of farmland caused by urban encroachment into farming areas ▪ Applies to Ballina, Byron, Kyogle, and Tweed Shire Councils, Lismore City Council and Richmond Valley Council 	<ul style="list-style-type: none"> ▪ Not applicable ▪ The dLEP does not apply to land within the NSW Far North Coast.
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	
<ul style="list-style-type: none"> ▪ Aims to manage commercial and retail development along the Pacific Highway, North Coast ▪ Applies to all councils between and inclusive of Port Stephens and Tweed Shire Councils 	<ul style="list-style-type: none"> ▪ Not applicable ▪ The dLEP is not located in a council between or inclusive of Port Stephens and Tweed Shire Councils
5.5 Development in the Vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	
<ul style="list-style-type: none"> ▪ Aims to ensure that development in the vicinity of the villages of Ellalong, Paxton and Millfield is consistent with the Cessnock City Wide Settlement Strategy and Lower Hunter Regional Strategy ▪ Applies to land in the vicinity of the villages of Ellalong, Paxton and Millfield in the Cessnock LGA 	<ul style="list-style-type: none"> ▪ Not applicable ▪ The dLEP is not located within Cessnock LGA

Draft Local Environmental Plan, Tumbi Umbi (Attachment 3) (contd)

5.6 Sydney to Canberra Corridor	
<ul style="list-style-type: none"> ▪ Aims to ensure that dLEPs are prepared in accordance with the Sydney to Canberra Corridor ▪ Applies to land within the local government areas described as the 'Sydney to Canberra Corridor' 	<ul style="list-style-type: none"> ▪ Not applicable ▪ The dLEP is not located on land identified as being part of the 'Sydney to Canberra Corridor'
5.7 Central Coast	
<ul style="list-style-type: none"> ▪ Aims to ensure that land is zoned in accordance with the appropriate regional strategy for the Central Coast ▪ Applies to Wyong Shire Council when council prepares a dLEP 	<ul style="list-style-type: none"> ▪ Applies ▪ The dLEP is not inconsistent with the Gosford – Wyong Structure Plan 1977. ▪ The dLEP provides for additional permissible uses of medical centres and commercial premises, both identified within the Structure Plan of being of high importance to the region. This dLEP will enable contribution to health care availability (particularly for the adjoining Glengara Retirement Village) and employment generation through construction, permanent administrative and professional employment opportunities
5.8 Second Sydney Airport: Badgerys Creek	
<ul style="list-style-type: none"> ▪ Aims to avoid incompatible development in the vicinity of any future second Sydney Airport at Badgerys Creek ▪ Applies to land located within the Fairfield, Liverpool and Penrith City Council and Wollondilly Shire Council Local Government Areas 	<ul style="list-style-type: none"> ▪ Not applicable ▪ The dLEP is not located within the Fairfield, Liverpool and Penrith City Council and Wollondilly Shire Council Local Government Areas
<i>Local Plan Making</i>	
6.1 Approval and Referral Requirements	
<ul style="list-style-type: none"> ▪ Aims to ensure that LEP provisions encourage the efficient and appropriate assessment of development ▪ Applies when council prepares a dLEP 	<ul style="list-style-type: none"> ▪ Applies ▪ The dLEP does not propose amendments which require concurrence, consultation or referral of development applications to the Minister or public authority ▪ The dLEP does not identify any development as designated development ▪ Therefore, the dLEP is considered consistent with this Direction

Draft Local Environmental Plan, Tumbi Umbi (Attachment 3) (contd)

6.2 Reserving Land for Public Purposes	
<ul style="list-style-type: none"> ▪ Aims to facilitate the provision of public services and facilities by reserving land for public purposes, and facilitate the removal of reservations of land for public purposes where land is no longer required for acquisition ▪ Applies when council prepares a dLEP 	<ul style="list-style-type: none"> ▪ Applies ▪ The dLEP does not seek to create, alter or reduce existing zonings or reservations of land for public purposes. ▪ The dLEP seeks additional permissible uses including medical centres and commercial premises for land zoned 7(a) (Conservation Land) which is privately owned ▪ Council has not been requested by the Minister to reserve land for a public purpose in this dLEP, nor requested provisions relating to the use of land reserved for public purposes ▪ Therefore, the dLEP is not inconsistent with this Direction
6.3 Site Specific Provisions	
<ul style="list-style-type: none"> ▪ Aims to discourage unnecessarily restrictive site specific planning controls ▪ Applies when council prepares a dLEP to allow particular development to be carried out 	<ul style="list-style-type: none"> ▪ Applies ▪ The dLEP seeks additional uses (medical centre, commercial premises) to be permissible on specific lots zoned 7(a) (Conservation Zone) ▪ The sites are not to be rezoned to a zone which permits these additional uses. This was considered inappropriate as it would undesirably increase the development potential of the site, resulting in development which is incompatible with surrounding land uses (including residential and conservation areas). Council has considered alternative zones, however maintaining the current land zone was considered more appropriate to avoid the above, as the objectives of the 7(a) zone will be retained.

Draft Local Environmental Plan, Tumbi Umbi (Attachment 3) (contd)

	<ul style="list-style-type: none">▪ Additionally, it is not considered appropriate to enable the proposed uses within the entire 7(a) (Conservation Zone). 7(a) land is an environmental conservation zone, zoned thus to protect and conserve land with special aesthetic, ecological or conservation values. The allotments to which the dLEP applies, although zoned 7(a) are somewhat anomalous, given their current character, (i.e. being cleared and containing existing development in close proximity to a major recreation and entertainment complex). The 7(a) zone and values are retained in other areas of Wyong shire, particularly to the south of the land to which the dLEP applies. This enables the conservation of a number of EECs. By permitting these additional uses within the entire 7(a) zone, there is the potential for these aesthetic and ecological values to be removed entirely from the Shire. In this case it is considered appropriate that an exception is made where the dLEP applies to sites no longer contain these values.▪ The proposed use of medical centre to the dLEP will enable facilitation of the objectives of the Gosford – Wyong Structure Plan, which identifies a need for the provision of health care facilities within Wyong Shire. This will be particularly beneficial for residents of the adjoining Glengara retirement village.▪ The commercial premises proposed will also enable the creation of local employment for the area through temporary construction opportunities, through to permanent administrative and professional employment creation▪ The dLEP proposes additional development controls including restricting the number of tenancies and strata subdivision of the proposed commercial premises. This is required to ensure that the additional permissible uses are integrated at a scale consistent with the surrounding development▪ The dLEP does not contain or refer to drawings that show details of the development proposal▪ Given the above justification, it is recommended that the inconsistencies of the dLEP with this Direction are considered of minor significance by the Director General
--	---

Draft Local Environmental Plan, Tumbi Umbi (Attachment 4)

**Section 117(2) Directions and Department of Planning's draft LEP Pro-Forma
Evaluation Criteria for Category 1 – Spot Rezoning**

**Draft Local Environmental Plan Pro Forma
Evaluation Criteria**

Draft Local Environmental Plan RZ/5/2005

Lot 21 DP 883318 & Lot 100 DP 1001482

Category 1: Spot Rezoning LEP		
1	<p>Will the LEP be compatible with agreed State and Regional strategic direction for development in the area (e.g. land release, strategic corridors, development within 800m of a transit node?) EXPLAIN: <i>The proposal is consistent with the current operational Gosford – Wyong Structure Plan 1977. The LEP is consistent with the direction set out in this strategy. The LEP will enable the provision of medical centres and commercial premises, both of which have been identified as necessary for the area in terms of provision of health care services and creation of local employment.</i></p>	YES
2	<p>Will the LEP implement studies and strategic work consistent with State and regional policies and Ministerial (s117) Directions? EXPLAIN: <i>The proposal will not require the implementation of any studies or strategic work</i></p>	NO
3	<p>Is the LEP located in a global / regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional / sub-regional strategy? EXPLAIN: <i>The Metropolitan Strategy identifies Gosford as the regional city for the Central Coast and Tuggerah as a major centre. The LEP is not located within either of these areas The draft Central Coast Regional Strategy does not identify the site as being located within an identified regional or sub regional centre.</i></p>	NO
4	<p>Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands? EXPLAIN: <i>The LEP has the potential to provide for temporary construction and permanent clerical, administrative and retail jobs and to result in premises to cater for additional GPs on the Central Coast to address the identified shortage.</i></p>	YES

Draft Local Environmental Plan, Tumbi Umbi (Attachment 4) (contd)

5	<p>Will the LEP be compatible / complementary with surrounding land uses? EXPLAIN: <i>Supported proposals are considered to integrate with the adjacent club and regional recreation complex and nearby retirement and residential communities.</i> <i>In addition, Clause 60B of the WLEP 1991 requires any additional development on these allotments to be integrated with the existing development.</i></p>	YES
6	<p>Is the LEP likely to create a precedent; or change the expectations of the landowner or other land holders? EXPLAIN: <i>The amendment will result in additional permissible development and will be site specific to Lot 21 DP 883318 and Lot 100 DP 1001482.</i></p>	NO
7	<p>Will the LEP deal with a deferred matter in an existing LEP? EXPLAIN: <i>The LEP does not deal with a deferred matter.</i></p>	NO
8	<p>Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations? EXPLAIN: <i>There are no other spot rezoning proposals within the locality</i></p>	YES