

AMENDED REPORT

26 November 2014
To the Ordinary Council Meeting

Director's Report
Development and Building Department

2.1 Proposed amendments to Development Control Plan 2013 to align with Wyong Local Environmental Plan 2013 Major Amendment 1

TRIM REFERENCE: F2013/02015 - D11698079

MANAGER: Scott Cox, Director

AUTHOR: Rodney Mergan; Senior Planner

SUMMARY

This report seeks the endorsement of Council for the public exhibition for a group of minor changes to Development Control Plan (DCP) 2013 to align with the exhibition of Wyong Local Environmental Plan (LEP) 2013 Major Amendment 1.

RECOMMENDATION

- 1 ***That Council request that in conjunction with the exhibition of Wyong Local Environmental Plan (LEP) 2013 Major Amendment 1, a revision of Wyong Development Control Plan 2013 that provides consistency with the provisions of the LEP, be publically exhibited.***
- 2 ***That Council adopt Draft Development Control Plan 2013 subject to their being no significant objection at the time of notification of Wyong LEP 2013 Major Amendment 1 and appropriate public notice be given within 28 days that the draft DCP as amended will come into effect.***
- 3 ***That Council delegate authority to the General Manager to undertake any minor amendment to the Development Control plan as a result of the public exhibition.***
- 4 ***That Council forward a copy of DCP 2013 containing the amended Chapters to the Secretary of the NSW Department of Planning and Environment within 28 days of the DCP becoming effective.***

BACKGROUND

Council, at its meeting 23 July 2014;

“RESOLVED unanimously on the motion of Councillor BEST and seconded by Councillor TAYLOR:

749/14 *That Council initiate the Local Environmental Plan “Gateway” process by the preparation of a Planning Proposal, pursuant to Section 55 of the Environmental Planning and Assessment Act, 1979.*

750/14 *That Council forward the Planning Proposal to the Department of Planning and Environment requesting a “Gateway” determination, pursuant to Section 56(1) of the Environmental Planning and Assessment Act, 1979.*

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- 751/14 That Council advise the Department of Planning & Environment that it does not intend to apply for plan making delegations for the rezoning, pursuant to Section 23 of the Environmental Planning and Assessment Act, 1979.
- 752/14 That Council refer the project to appropriate public authorities for comment, subject to the determination of the Gateway Process, pursuant to Section 56(2) of the Environmental Planning and Assessment Act, 1979.
- 753/14 That Council undertake community consultation regarding the Planning Proposal, subject to the determination of the Gateway Process, pursuant to Section 57 of the Environmental Planning and Assessment Act, 1979.
- 754/14 That Council direct the General Manager to submit a further report to Council to report on the results of the public authorities' consultation and community consultation phase.
- 755/14 That Council update its Section 149 Certificates accordingly.

FOR: COUNCILLORS BEST, EATON, GRAHAM, GREENWALD, MATTHEWS, NAYNA, TAYLOR, TROY AND WEBSTER

AGAINST: NIL"

It has been recognised that the revision of Wyong LEP 2013 through Major Amendment 1, will introduce inconsistencies with Wyong DCP 2013. To ensure that Council's planning considerations remain consistent and current it is considered that an exhibition of a revision of DCP 2013 should be conducted concurrently with the public exhibition process identified in resolution 753/14 above.

THE PROPOSAL

The scope of the changes proposed to the DCP are identified in Attachment 1 and include:

- Changes to Chapters 2.5 – Home Based Employment and Chapter 2.8 – Child Care Centres to reflect amendments to the LEP with regard to the need for consent for home based child care and child care centres on bushfire prone land.
- Deletion of Chapter 6.20 - Woodbury Park Estate as development of the subject site is complete.
- Mapping updates for Chapter 5.3 – The Entrance Peninsula to reflect zoning changes and provide development controls relevant to the desired future development of the Entrance Peninsula.
- Amendments to Chapter 2.4 – Multi Dwelling Housing to reflect amendments to the LEP with regard to floor space ratio concessions for affordable housing.
- Any other minor changes as required to align with the LEP revision.

2.1 Proposed amendments to Development Control Plan 2013 to align with Wyong Local Environmental Plan 2013 Major Amendment 1 (contd)

LEP Major Amendment 1 will also require changes to Chapter 2.1- Dwelling Houses and Ancillary Structures. This chapter is currently undergoing a full review and a revision of this chapter is to be reported to Council for consideration in a separate report.

OPTIONS

The required changes to DCP 2013 could be separated for the exhibition of individual chapters. This is considered to be unnecessary given the relatively minor nature of the changes to the DCP proposed.

The DCP must be exhibited at the same time as the LEP Major Amendment 1 to ensure there is consistency in the planning considerations of Council and will also provide context for the proposed changes to the DCP. It is noted that LEP Major Amendment 1 is scheduled to be exhibited in early 2015.

CONSULTATION

The proposed amendments to the DCP have been developed through consultation with relevant staff. In accordance with the requirements of the Environmental Planning and Assessment Regulation 2000 the DCP will be placed on public exhibition for a minimum of 28 days.

CONCLUSION

Wyong LEP 2013 Major Amendment 1, will have implications on Wyong DCP 2013 that need to be addressed. The proposed LEP revision has been reviewed and a group of minor changes, omissions and additions to the DCP are required. To ensure that Council's planning considerations remain consistent it is considered that an exhibition of a revision of DCP 2013 should be conducted concurrently with LEP Major Amendment 1. Subject to their being no significant objection to this revision, the DCP will come into effect with Major Amendment 1 of LEP 2013.

ATTACHMENTS

- 1 LEP Major Amendment No 1 - DCP Changes Summary (Revised) D11783069

Attachment 1 - LEP Major Amendment 1 - DCP Changes Summary

DCP 2013	Chapter Name & Status	LEP Amendment 1 Issues	Proposed Action
Ch 2.1	Dwelling Houses and Ancillary Structures	Heights, FSBL, secondary dwellings, fencing provisions	Separate exhibition to be conducted.
Ch 2.4	Multiple Dwelling Residential Development	Additional information to support new LEP affordable housing provisions.	Chapter 2.4 to be amended to indicate that 15% of units be adaptable is desirable but 10% is to remain the requirement. An additional objective with regard to affordable housing to be provided in Chapter 2.4 Section 5.2 with regard to FSR bonus provisions under the LEP. Additional requirement under Chapter 2.4 Section 5.2 to indicate that information must be provided to satisfy Council that the use of the LEP Bonus is to address housing affordability as opposed to providing for luxury housing.
Ch 2.5	Home Based Employment	Bushfire issues - Changes to permissibility of home based child care	Rewording Ch 2.5 as per below: 4.0 Home Based Child Care Home-based child care in certain circumstances is considered exempt development under the Codes SEPP. In addition, in zones where this land use is listed in the WLEP 2013 as 'permitted without consent' development consent from Council is not required. Home based child care that does not meet the criteria of the SEPP and is 'permitted with consent' under the WLEP 2013 is to comply with the provisions outlined in Chapter 2.8 Child Care Centres.
Ch 2.8	Child Care Centres	Bushfire issues - Changes to permissibility of home based child care	The following rewording of Ch 2.8 is required: 2.0 Home Based Child Care Home-based child care in certain circumstances is considered exempt development under the Codes SEPP. In addition, in zones where this land use is listed in the WLEP 2013 as 'permitted without consent' development consent from Council is not required. Home based child care that does not meet the criteria of the SEPP and is 'permitted with consent' under the WLEP 2013 as a child care centre is to comply with the provisions outlined in Chapter 2.8 Section 3.
Ch 5.3	The Entrance Peninsula	Change to area of B2 zoned land	Amend Figure 7 Statement of Desired Character Map to match new zone boundaries in Long Jetty
Ch 6.17	Warnervale East / Wadalba North West	Housekeeping	Amend Figures 3 & 4 to match the zone boundaries in Wyong LEP 2013 for land bounding the Wadalba Wildlife Corridor.
Ch 6.20	Mardi – Woodbury Park Estate	Housekeeping	Development of this site completed. Delete Chapter