



Council's first free household chemical collection of 2013 proved successful once again, recording the second highest amount of materials in its nine year history. More than 650 vehicles dropped off numerous materials such as paints, oils, pool chemicals, gas bottles, batteries, pesticides, acids and fluorescent tubes

Wyong Shire Council

Business Paper

ORDINARY COUNCIL MEETING

27 March 2013

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MEETING NOTICE

The **ORDINARY COUNCIL MEETING**
of **Wyong Shire Council**
will be held in the **Council Chamber,**
Wyong Civic Centre, Hely Street, Wyong on
WEDNESDAY 27 MARCH 2013 at 5.00 pm,
for the transaction of the business listed below:

OPENING PRAYER

ACKNOWLEDGEMENT OF COUNTRY

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At the conclusion of the meeting and at the discretion of the Mayor, Council may meet with staff in an informal, non-decision making mode for a period of no more than 30 minutes.

Michael Whittaker
GENERAL MANAGER

1.1 Disclosure of Interest

TRIM REFERENCE: F2013/00023 - D03298760

MANAGER: Sonia Witt, TL Governance and Councillor Services

AUTHOR: Barbara Gardiner; Councillor Service Officer

The provisions of Chapter 14 of the *Local Government Act, 1993* regulate the way in which Councillors and nominated staff of Council conduct themselves to ensure that there is no conflict between their private interests and their public trust.

The Act prescribes that where a member of Council (or a Committee of Council) has a direct or indirect financial (pecuniary) interest in a matter to be considered at a meeting of the Council (or Committee), that interest must be disclosed as soon as practicable after the start of the meeting and the reasons for declaring such interest.

As members are aware, the provisions of the Local Government Act restrict any member who has declared a pecuniary interest in any matter from participating in the discussions, voting on that matter, and require that member to vacate the Chamber.

Council's Code of Conduct provides that if members have a non-pecuniary conflict of interest, the nature of the conflict must be disclosed. The Code also provides for a number of ways in which a member may manage non pecuniary conflicts of interest.

RECOMMENDATION

That Councillors now disclose any conflicts of interest in matters under consideration by Council at this meeting.

ATTACHMENTS

Nil

1.2 Proposed Inspections and Briefings

TRIM REFERENCE: F2013/00023 - D03286795

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Barbara Gardiner; Councillor Service Officer

SUMMARY

There were no inspections scheduled for the March 2013 Ordinary meeting at the time of printing the business paper.

The briefings schedule for the 27 March 2013 Ordinary Council meeting is to be finalised.

RECOMMENDATION

That Council receive the report on Proposed Inspections and Briefings.

1.2 Proposed Inspections and Briefings (contd)

Proposed Briefings List to date

1

| Briefing Title: | Directorate: | Proposed Month: | Proposed Date: |
|---|-----------------------------------|-----------------|----------------|
| Community Precinct Committees | Community and Recreation Services | | 27/03/2013 |
| Precinct 7A Masterplan - Feedback following exhibition | Land Management | March | 27/03/2013 |
| Branding Strategy | Community and Recreation Services | June | 27/03/2013 |
| Quality of Life Study | Community and Recreation Services | March | 27/03/2013 |
| Metro Cinemas Lake Haven **Confidential** | Land Management | | 27/03/2013 |
| CSP & Strat Plan | GM Unit | | 10/04/2013 |
| Bateau Bay and Lake Haven Draft Masterplan | Land Management | April | 24/04/2013 |
| General Manager's Performance Review *Confidential | GM Unit | | 24/04/2013 |
| Q3 2012/13 | GM Unit | | 22/05/2013 |
| Q4 2012/13 | GM Unit | | 28/08/2013 |
| Q1 2013/14 | GM Unit | | 27/11/2013 |
| Comprehensive LEP, DCP & Settlement Strategy post exhibition | Land Management | April | |
| Urban Design Principles & Concepts | Land Management | April | |
| RZ/7/2009 Chittaway road Rezoning | Land Management | May | |
| Bushfire works plan | Land Management | March | |
| Iconic Site No 16 - 216-222 Main Road & Rowland Terrace Toukley | Land Management | May | |
| Rezoning - 223 Scenic Drive Colongra | Land Management | March | |
| Retail Strategy Review | Land Management | March | |
| Natural Resources Management Strategy | Land Management | August | |
| Biodiversity Management Plan | Land Management | | |
| Central Coast Taxis | Land Management | March | |
| Customer Service Review | Community and Recreation Services | July | |

2

1.3 Address by Invited Speakers

TRIM REFERENCE: F2013/00023 - D03286812
MANAGER: Lesley Crawley, Manager Corporate Governance
AUTHOR: Barbara Gardiner; Councillor Service Officer

SUMMARY

There have been no requests to address the Ordinary Meeting at the time of printing the Business Paper.

RECOMMENDATION

- 1** *That Council receive the report on Invited Speakers.*
- 2** *That Council agree meeting practice be varied to allow reports from Directors and/or the General Manager to be dealt with following an Invited Speaker's address.*

Nil

1.1 Notice of Intention to Deal with Matter in Confidential Session

TRIM REFERENCE: F2004/07986 - D03271165

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Barbara Gardiner; Councillor Service Officer

SUMMARY

It is necessary for the Council to adopt a resolution to formalise its intention to deal with certain matters in Confidential Session. The reports are incorporated in the "Confidential" business paper which has been circulated to Councillors.

The Local Government Act, 1993 requires the General Manager to identify those matters listed on the business paper which may be categorised as confidential in terms of Section 10A of the Local Government Act, 1993.

RECOMMENDATION

- 1 That Council consider the following matter in Confidential Session, pursuant to Section 10A 2(a) of the Local Government Act 1993:**
 - 8.1 Selection of Community Members for the Tuggerah Lakes Estuary, Coastal and Floodplain Management Committee**
- 2 That Council note its reasons for considering item 8.1, Selection of Community Members for the Tuggerah Lakes Estuary, Coastal and Floodplain Management Committee, as it contains personnel matters concerning particular individuals (other than Councillors).**
- 3 That Council request the General Manager to report on this matter in open session of Council.**

Note: Explanation - Section 10A of the Local Government Act 1993 states:

“2(a) personnel matters concerning particular individuals (other than Councillors),

2(b) the personal hardship of any resident or ratepayer,

2(c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business,

2(d) commercial information of a confidential nature that would, if disclosed:

(i) prejudice the commercial position of the person who supplied it, or

(ii) confer a commercial advantage on a competitor of the Council, or

(iii) reveal a trade secret,

1.1 Notice of Intention to Deal with Matter in Confidential Session (contd)

- 2(e) information that would, if disclosed, prejudice the maintenance of law,*
- 2(f) matters affecting the security of the Council, Councillors, Council staff or Council property,*
- 2(g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege,*
- 2(h) information concerning the nature and location of a place or an item of Aboriginal significance on community land.”*

1.5 Confirmation of Minutes of Previous Meeting

TRIM REFERENCE: F2013/00023 - D03286829

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Barbara Gardiner; Councillor Service Officer

SUMMARY

Confirmation of minutes of the previous Ordinary Meeting of Council held on Wednesday 13 March 2013.

RECOMMENDATION

That Council confirm the minutes of the previous Ordinary Meeting of Council held on Wednesday 13 March 2013.

ATTACHMENTS

1 MINUTES - Ordinary Council Meeting - 13 March 2013 D03293319

WYONG SHIRE COUNCIL

**MINUTES OF THE
ORDINARY COUNCIL MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBER
WYONG CIVIC CENTRE, HELY STREET, WYONG
ON 13 MARCH 2013
COMMENCING AT 5:00 PM**

PRESENT

Councillors D J Eaton (Chairperson), G P Best, R L Graham, K G Greenwald, L A Matthews, L R Y Nayna, L S Taylor, A Troy, D P Vincent and L D Webster.

IN ATTENDANCE

Acting General Manager, Director Development and Building, Director Infrastructure and Operations Management, Director Land Management, General Counsel, Executive Manager to the General Manager, Communications and Marketing Coordinator and three administration staff.

The Mayor, Councillor Eaton, declared the meeting open at 5.02 pm and advised in accordance with the Code of Meeting Practice that the meeting is being recorded.

Mayor Eaton delivered the opening prayer and Councillor Matthews read an acknowledgment of country statement.

As chair of the Status of Women Advisory Committee, Councillor Matthews wanted to take the opportunity to thank council and staff for the success of the International Women's Day breakfast held at Council on Friday 8 March 2013.

APOLOGIES

There were no apologies.

At the commencement of the ordinary meeting report numbers 1.1, 1.4, 1.5, 1.6, 3.2, 5.1, 5.2, 5.5, 5.6, 5.7, 5.8, and 8.3 were dealt with first then the remaining reports in order. However for the sake of clarity the reports are recorded in their correct agenda sequence

1.1 Disclosure of Interest

1.5 Mayor Minute – State Electoral Redistribution Process

Councillor Nayna declared a non-pecuniary insignificant conflict in the matter for the reason that he is employed by the State Member for Wyong, Mr Darren Webber MP.

Councillor Nayna stated:

"I choose to remain in the chamber and participate in discussion and voting as the conflict has not influenced me in carrying out my public duty."

1.6 Mayoral Minute – Delegation to Canberra

Councillor Greg Best declared a pecuniary interest in the matter for the reason that he is the General Manager of Central Coast Group Training, left the chamber at 5.37 pm, took no part in voting and returned to the chamber at 5.39 pm.

5.5 Rural Fire Fighting Fund Estimate 2013/14

Councillor Troy declared a non-pecuniary insignificant conflict in the matter for the reason that he is a volunteer fire fighter with the NSW Rural Fire Service.

Councillor Troy stated:

"I choose to remain in the chamber and participate in discussion and voting as the conflict has not influenced me in carrying out my public duty."

5.9 Recommendations and Minutes of the Employment and Economic Development Committee

Councillor Vincent declared a non-pecuniary significant conflict in the matter for the reason that he is an employee of Delta Electricity.

Councillor Vincent stated:

"I choose to remain in the chamber and participate in discussion and voting as the conflict has not influenced me in carrying out my public duty."

RESOLVED unanimously on the motion of Councillor NAYNA and seconded by Councillor WEBSTER:

227/13 That Council receive the report on Disclosure of Interest and note advice of disclosures.

PROCEDURAL MOTION

RESOLVED unanimously on the motion of Councillor NAYNA and seconded by Councillor WEBSTER:

228/13 That Council allow meeting practice to be varied.

229/13 That Council use the exception method to deal with the balance of the Agenda.

RESOLVED unanimously on the motion of Councillor GRAHAM and seconded by Councillor NAYNA:

230/13 That with the exception of report numbers 1.4, 1.5, 1.6, 3.2, 5.1, 5.2, 5.5, 5.6, 5.7, 5.8, 5.9, 6.2, 8.1, 8.2 and 8.3 Council adopt the recommendations contained in the remaining reports.

1.2 Proposed Inspections and Briefings

RESOLVED unanimously on the motion of Councillor GRAHAM and seconded by Councillor NAYNA:

231/13 That Council receive the report on Proposed Inspections and Briefings.

1.3 Address by Invited Speakers

RESOLVED unanimously on the motion of Councillor GRAHAM and seconded by Councillor NAYNA:

232/13 That Council receive the amended report on Invited Speakers.

233/13 That Council agree meeting practice be varied to allow reports from Directors and/or the General Manager to be dealt with following an Invited Speaker's address.

1.4 Confirmation of Minutes of Previous Meeting

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

234/13 That Council confirm the minutes of the previous Ordinary Meeting of Council held on Wednesday 27 February 2013.

Business Arising

Councillor Graham clarified his absence from the Ordinary Meeting of Council held on 27 February 2013.

1.5 Mayoral Minute - State Electoral Redistribution Process

Councillor Nayna declared a non-pecuniary insignificant conflict in the matter for the reason that he is employed by the State Member for Wyong, Mr Darren Webber MP.

Councillor Nayna stated:

"I choose to remain in the chamber and participate in discussion and voting as the conflict has not influenced me in carrying out my public duty."

RESOLVED on the motion of Councillor EATON:

- 235/13** That Council make comment on the suggestions received by the Electoral Districts Commissioners by way of supporting the suggestions of Mr G Piper MP, A Hayes and R Jones of Ourimbah, that call for the Wyong valleys (of Dooralong and Yarramalong) to be within the Wyong electorate and for the Ourimbah Valleys (Palmdale and Ourimbah Creek) to be within either Wyong or The Entrance electorates.
- 236/13** That Council request the General Manager to advise the Commissioners that Council supports these submissions on the basis of:
- a) Community of interest – these areas are regarded by the community as part of the Central Coast not as part of Lake Macquarie.
 - b) They are all within Wyong Shire LGA.
 - c) All community facilities, shopping and business areas servicing these valleys are in the Wyong Shire LGA and either in Wyong or The Entrance electorates.
 - d) The valleys are defined by waterways that drain into Tuggerah Lakes within the Wyong Electorate.
 - e) These waterways are harvested for town water supplies for the Central Coast region, and regulated by the CCWC.
 - f) There is an increase in administrative efficiency if Wyong Council has 3 MP's and electoral offices to deal with rather than the current 4.
 - g) The residents in these valley areas are disadvantaged in access to their local MP, in that they have to make a special trip to see the MP/offices rather than as part of a trip for shopping or business.
 - h) The Wyong/Ourimbah valleys are geographically distinct from the land in the environs of Lake Macquarie.
- 237/13** That Council note a suggestion by the Greens to move the suburb of Bateau Bay from The Entrance electorate to Terrigal and request the General Manager to advise the Commissioners that Council does not support this submissions due to Bateau Bay being within the Wyong LGA and being within the Tuggerah Lakes catchment.
- 238/13** That Council endorse immediate implementation of points 1, 2 and 3 of this recommendation given that the closing date for submissions is 20 March 2013.

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

1.6 Mayoral Minute - Delegation to Canberra

Councillor Greg Best declared a pecuniary interest in the matter for the reason that he is the General Manager of Central Coast Group Training, left the chamber at 5.37 pm, took no part in voting and returned to the chamber at 5.39 pm.

Councillor Nayna left the meeting at 5.37 pm and returned to the meeting at 5.38 pm during consideration on this item.

RESOLVED unanimously on the motion of Councillor EATON:

239/13 That Council endorse the proposed Federal Parliamentary Delegation as outlined in the Mayor's letter to the Member for Shortland attached.

240/13 That Council recognise the seriousness, and urgency, of the issues to be discussed and that due to the announced election, and parliamentary sitting dates, the meetings must occur in March.

241/13 That Council endorse the Mayor:

- a Thanking Ms Jill Hall MP, Member for Shortland for her assistance to date.**
- b Directly contacting the relevant Ministers to secure the necessary appointments.**
- c Forwarding a copy of the resolution on this matter to the nominated Ministers and the Prime Minister.**



Office of the Mayor
Cr Doug Eaton
Mayor of Wyong

Phone: (02) 4350 5211
Email: Doug.Eaton@wyong.nsw.gov.au



F2011/01741

12 February 2013

Ms Jill Hall MP
Federal Member for Shortland (Labor)
PO Box 499
BELMONT NSW 2280

Dear Ms Hall,

Parliamentary Meetings

As discussed on a number of occasions between my P.A. and your staff, we are seeking for you to arrange meetings in Canberra for the General Manager and myself.

Previously the Federal Member for Dobell has provided this service for Council but as he is no longer a member of the Government I request that you as our other Local Member use your best endeavours on our behalf.

We seek meetings with the following Ministers on the following topics:

- Minister Burke - continuation of funding for Tuggerah Lakes
- Minister Albanese - Transport Infrastructure, including regional airport.
- Minister Crean - RTA funding
- Minister Garrett - Wyong Skills Centre

We envisage spending a day in Canberra, hopefully in March, to see these Ministers and/or their senior advisers, of course with your attendance also if possible.

These matters are all of great importance to our community and your assistance in facilitating the requested meetings and discussions will be much appreciated.

Given the "busyness" of all our diaries some indicative dates are requested as soon as possible. My P.A. will follow up your staff next week.

Please contact me if you wish to discuss this matter.

Yours faithfully

Cr Doug Eaton
Mayor

2.1 Public exhibition of draft Wyong Local Environmental Plan 2012, draft Settlement Strategy and draft Wyong Development Control Plan 2012

RESOLVED unanimously on the motion of Councillor GRAHAM and seconded by Councillor NAYNA:

- 242/13 That Council endorse the carrying out of a public hearing in relation to the public exhibition of the draft Wyong Local Environmental Plan (LEP) 2012 and draft Settlement Strategy.**
- 243/13 That Council note that a separate public hearing into the Land Reclassification component of the draft Wyong LEP 2012 will be held, in accordance with section 29 of the Local Government Act 1993.**
- 244/13 That Council authorise the appointment of an independent facilitator to carry out the public hearings.**
- 245/13 That Council authorise notification of the public hearings in accordance with section 14 of the Environmental Planning and Assessment Regulation 2000.**
- 246/13 That Council endorse the carrying out of an LEP Consultation Panel meeting to provide the community with additional opportunity to comment publicly on the draft Wyong LEP 2012, draft Settlement Strategy and draft Wyong DCP 2012.**
- 247/13 That Council endorse the categorisation of submissions received in relation to the public exhibition of the draft Wyong LEP 2012, draft Settlement Strategy and draft Wyong Development Control Plan (DCP) 2012 into the following categories:**
- a Submissions received between 9 January 2013 – 20 February 2013 = Formal submissions given full consideration.**
 - b Submissions received after 20 February 2013 (closure of public exhibition period) to 22 March 2013 = Informal submissions given full consideration.**
 - c Submissions received at public hearing = Submissions to be considered by independent facilitator.**
- 248/13 That Council note that the majority of submissions requesting rezoning of land are considered to be outside the scope of the draft Wyong LEP 2012 and any requests with merit should instead be deferred and considered as a separate planning proposal.**
- 249/13 That Council conform to the LEP Practice Note issued by Department of Planning and Infrastructure as it relates to the zoning of schools.**

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

AGAINST: NIL

3.1 Classification of Land, Part Lot 2 DP 1158945 at Cascades Road, Woongarrah

RESOLVED unanimously on the motion of Councillor GRAHAM and seconded by Councillor NAYNA:

250/13 That Council propose classification of proposed Lot 1 in a plan of subdivision of Lot 2 DP 1158945, Cascades Road, Woongarrah, as Operational Land.

251/13 That Council advertise the proposal in accordance with Section 34 of the Local Government Act 1993.

252/13 That Council adopt the classification if no adverse submissions are received.

3.2 Proposed Acquisition of Crown Land Lots 7316 and 7317 DP 1155188, Lot 1 DP 206598 and Part of Lot 31 DP 1096069 South Tacoma Rd Tuggerah

Councillor Best left the meeting at 5.38 pm and returned to the meeting at 5.39 pm during consideration on this item.

Councillor Nayna left the meeting at 5.39 pm and returned to the meeting at 5.40 pm during consideration on this item.

RESOLVED unanimously on the motion of Councillor NAYNA and seconded by Councillor WEBSTER:

253/13 That Council acquire by compulsory acquisition from the Crown Lots 7316 and 7317 DP 1155188, Lot 1 DP 206598 and Part of Lot 31 DP 1096069 South Tacoma Road Tuggerah.

254/13 That Council acknowledge that compensation payable for the acquisition will be market value as determined by the Valuer General and that the funds for the acquisition will be made available from available funds in 2012/13 capital works budget as per the Q2 Business Report 2012/13.

255/13 That Council give authorisation to proceed with an application seeking the approval of the Minister and the consent of the Governor NSW, pursuant the provisions of the Land Acquisition (Just Terms Compensation) Act 1990 to proceed with the compulsory acquisition.

256/13 That Council authorise the General Manager to sign and seal all documentation associated with the acquisition of the land referred to in Item 1 by Council.

257/13 That Council classify the land referred to in Item 1 as Operational Land

258/13 That Council advertise the proposal to classify the land in accordance with Section 34 of the Local Government Act 1993.

259/13 That Council adopt the classification if no adverse submissions being received.

4.1 CPA/219328 - Replacement of WSC Air Conditioning Chillers and Associated Works

RESOLVED unanimously on the motion of Councillor GRAHAM and seconded by Councillor NAYNA:

- 260/13 That Council accept the tender from the company nominated as Tenderer '5' in the attached Tender Evaluation Report for Contract CPA/219328 Replacement of Air Conditioning chillers and associated works.
- 261/13 That Council approve the contingency sum and increased budget allocation as detailed in the Tender Evaluation Report in Attachment A.

5.1 Proposed Councillors' Community Improvement Grants

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

- 262/13 That Council allocate an amount of \$9,340.00 from the 2012-13 Councillors' Community Improvement Grants as follows:

| <i>Proposed allocations for 13 March 2013</i> | | |
|---|---|-----------------|
| <i>Bateau Bay PCYC (\$2000)</i> | <i>Time for Kids Event and other programs</i> | <i>500.00</i> |
| <i>Charles Richards for Tayla Richards (\$1200) (\$450 already allocated)</i> | <i>Registration for Central Coast Mariners Academy</i> | <i>150.00</i> |
| <i>Child and Family Services Wyong Shire (\$2000)</i> | <i>Provide an Early Childhood Education and Care Service Crèche</i> | <i>400.00</i> |
| <i>Homeless No More (\$2000)</i> | <i>Sneaks 4 Streets Walkathon</i> | <i>1,100.00</i> |
| <i>Homeless No More (\$2000)</i> | <i>Workshops focussing on long term unemployed, homeless and disadvantaged youth</i> | <i>800.00</i> |
| <i>Iris Foundation (\$2000)</i> | <i>Slither & Slumber Sleepout</i> | <i>2,000.00</i> |
| <i>Lakeland Park Fitness Group (\$300)</i> | <i>Exercise equipment for seniors</i> | <i>150.00</i> |
| <i>Long Jetty & District Senior Citizens Club (\$1000)</i> | <i>Seniors' Week - provide meals to housebound seniors</i> | <i>400.00</i> |
| <i>Ourimbah Public School P & C (\$2000) (\$100 already allocated)</i> | <i>150 year celebration commemorative medallion/pin to be given to students</i> | <i>500.00</i> |
| <i>Rotary Club of Wyong Tuggerah (\$400)</i> | <i>Sponsor a hole at Rotary Charity Golf Day</i> | <i>40.00</i> |
| <i>The Entrance Rugby Club (\$2000)</i> | <i>Sporting equipment</i> | <i>600.00</i> |
| <i>Toukley & District Senior Citizens Club (\$2000)</i> | <i>Replacement of ceiling fans</i> | <i>600.00</i> |
| <i>Tuggerah Tuffs Winter Swim club (\$1700)</i> | <i>Purchase of club shirts</i> | <i>500.00</i> |
| <i>Variety the Childrens Charity (\$1000)</i> | <i>Helping a child within the Wyong Shire who is sick, disadvantaged or has special needs</i> | <i>200.00</i> |
| <i>YMCA (\$2000)</i> | <i>Swimathon Toukley Aquatic Centre to teach disabled children to swim</i> | <i>1,400.00</i> |

263/13 That Council enact the allocation to the Iris Foundation immediately.

5.2 Proposed Water Supply, Sewerage and Drainage Charges for 2013/14 to 2016/17

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

264/13 That Council provides a response to the draft IPART price proposal outlining its concern with the proposal.

265/13 That Council formally record its concern in regard to the potential financial losses in the water a sewerage fund over the next four years if the draft prices are retained and the likely result in reduced levels of service to our community resulting from that financial position.

266/13 That Council note its extreme concern that the draft IPART pricing may lead to Council being unable to meet its public health and environmental compliance responsibilities.

5.3 Flooding of Turpentine Road Rail Underpass

RESOLVED unanimously on the motion of Councillor GRAHAM and seconded by Councillor NAYNA:

267/13 That Council include the flood risk management issue of the flooding of Turpentine Road rail underpass, Kangy Angy, as an additional implementation action in the already adopted Lower Ourimbah Creek Flood Risk Management Plan. This will allow time for a grant application to be prepared and submitted before the 21 March 2013 deadline.

5.4 Wyong Town Centre Flood Planning Levels

RESOLVED unanimously on the motion of Councillor GRAHAM and seconded by Councillor NAYNA:

268/13 That Council adopt the 1% AEP flood levels as presented on Figures 4.3 and 4.5 in the Wyong Town Centre Concept Stormwater Drainage Investigation and Options Analysis (3 May 2011) for flood planning purposes: including notations on s149(2) Planning Certificates that the relevant lots are affected by flood related development controls.

5.5 Rural Fire Fighting Fund Estimate 2013/14

Councillor Troy declared a non-pecuniary insignificant conflict in the matter for the reason that he is a volunteer fire fighter with the NSW Rural Fire Service.

Councillor Troy stated:

"I choose to remain in the chamber and participate in discussion and voting as the conflict has not influenced me in carrying out my public duty."

RESOLVED unanimously on the motion of Councillor VINCENT and seconded by Councillor GREENWALD:

- 269/13 That Council endorse the submitted RFS bid estimate of probable expenditure for the 2013/14 financial year being (11.7% of \$5,444,152) \$636,966 understanding that a further \$234,000 will be added to the approved bid accommodating other Statewide Support Items generally (11.7% of \$2,000,000).
- 270/13 That Council endorse the proposal that it will not supplement the RFS bid by making any contributions beyond its required 11.7% contribution apart from matters that have been identified and funded in the 2013/14 Service Unit Business Plans and associated budgets.

5.6 Proposed Beach Renaming - Tuggerah Beach, Magenta

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

- 271/13 That Council consider the renaming of Tuggerah Beach to North Entrance Beach, Magenta Beach and Pelican Beach.
- 272/13 That Council advertise the proposal to rename the Tuggerah Beach to Magenta Beach for a period of 28 days.
- 273/13 That Council consult with the National Parks and Wildlife Service, relevant emergency service organisations and The Entrance Peninsula Community Precinct Committee as part of the exhibition process.
- 274/13 That Council request the General Manager to apply to the Geographical Names Board (GNB) for the beach to be named North Entrance Beach, Magenta Beach and Pelican Beach subject to no significant objections being received as a result of the exhibition.
- 275/13 That Council negotiate with the proponent to assist with the cost of signage should the proposal be adopted by the Geographical Names Board.

5.7 Central Coast Tourism Board Representation

Councillor Troy left the meeting at 6.10 pm returned to the meeting at 6.11 pm during consideration of this item.

Councillor Greenwald left the meeting at 6.10 pm returned to the meeting at 6.11 pm during consideration of this item.

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

- 276/13 That Council receive the report.
- 277/13 That Council request the General Manager to nominate, as his nominee, to the Central Coast Tourism Board, the Mayor, or his or her delegate.

5.8 Alternate Councillor Member for Audit and Risk Committee

It was MOVED by Councillor BEST and seconded by Councillor WEBSTER:

That Council appoint a Councillor Luke Nayna as an alternate member of the Audit and Risk Committee.

An AMENDMENT was MOVED by Councillor GREENWALD and seconded by Councillor MATTHEWS:

That Council appoint a Councillor Doug Vincent as an alternate member of the Audit and Risk Committee.

The AMENDMENT was put to the vote and declared LOST.

FOR: COUNCILLORS GREENWALD, MATTHEWS AND VINCENT

AGAINST: COUNCILLORS BEST, EATON, GRAHAM, NAYNA, TAYLOR, TROY AND WEBSTER

An AMENDMENT was MOVED by Councillor VINCENT and seconded by Councillor EATON:

That Council appoint Councillors Luke Nayna and Doug Vincent as alternate members of the Audit and Risk Committee to be called up in order.

The AMENDMENT was put to the vote and declared CARRIED.

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

AGAINST: NIL

The AMENDMENT became the MOTION.

RESOLVED unanimously on the motion of Councillor VINCENT and seconded by Councillor EATON:

278/13 That Council appoint Councillors Luke Nayna and Doug Vincent as alternate members of the Audit and Risk Committee to be called up in order.

PROCEDURAL MOTION

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

279/13 That Council allow meeting practice be varied to consider item 8.3, Notice of Motion - 2013 - Repeated Flooding of Tuggerah Businesses, before item 5.9, Recommendations and Minutes of the Employment and Economic Development Committee, as a speaker is present for this item.

5.9 Recommendations and Minutes of the Employment and Economic Development Committee

RESOLVED unanimously on the motion of Councillor GREENWALD and seconded by Councillor MATTHEWS

280/13 That Council allow meeting practice to be varied.

281/13 That Council deal with recommendations, 1 to 6, 7 & 8 and 9 of item 5.9, Recommendations and Minutes of the Employment and Economic Development Committee, as individual matters to allow Councillor Vincent to leave the chamber for voting on recommendations 7 & 8.

RESOLVED on the motion of Councillor BEST and seconded by Councillor NAYNA:

282/13 That Council receive the report on Delegation to China.

283/13 That Council endorse the arrangements for Council's delegation to China.

284/13 That Council develop a Code of Conduct/ indemnity form for all delegates for completion prior to the commencement of the trip.

285/13 That Council note all delegates and accompanying persons are funding their own travel, accommodation and expenses.

286/13 That Council purchase a standard Mayor chains as per other Councils.

287/13 That Council request the General Manager to report to Council the circumstances in which the chains of office will be worn.

Councillor Vincent declared a non-pecuniary significant conflict in the matter for the reason that he is an employee of Delta Electricity, left the chamber at 7.01 pm and took no part in voting.

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

288/13 That Council include the Cogeneration Project at Mannering Park on the list of future inspections.

289/13 That Council facilitate a delegation together with Delta Electricity with a view of assisting the Cogeneration Projects' commencement.

Councillor Vincent returned to the meeting at 7.02 pm, during consideration of this item.

Councillor Best left the meeting at 7.02 pm returned to the meeting at 7.03 pm and as a result took no part in voting on this item.

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

290/13 That Council authorise the attendance of the Mayor and the General Manager at the Regional Aviation Association of Australia Summit and reimburse reasonable expenses incurred as a result of attendance at the above conference in accordance with Council's Facilities and Expenses Policy for Councillors.

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

AGAINST: NIL

6.1 Outstanding Questions on Notice and Notices of Motion

RESOLVED unanimously on the motion of Councillor GRAHAM and seconded by Councillor NAYNA:

291/13 That Council receive the report on Outstanding Questions on Notice and Notices of Motion.

6.2 Road Capital Works Program

Councillor Matthews left the meeting at 7.17 pm and returned to the meeting at 7.19 pm during consideration of this item.

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

292/13 That Council receive the report on the status of the Council's Road Capital Rolling Works Program.

8.1 Notice of Motion - Regional Sport Economic Benefit

RESOLVED unanimously on the motion of Councillor NAYNA and seconded by Councillor WEBSTER:

- 293/13 That Council note the numerous benefits (including tourism, economic and sporting) associated with hosting Regional Sporting events.
- 294/13 That Council investigate the capability restraints of our current sports grounds to host Regional Sporting events and the need to formulate a strategic approach to maximise the usage of our facilities to attract such events.
- 295/13 That Council request the General Manager to report proposals for regional sports events within Wyong Shire Council for its consideration.
- 296/13 That Council liaise with local sporting organisations, via the Sports Committee, to seek feedback on hosting regional sporting events.

8.2 Notice of Motion - Waste Initiatives

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

- 297/13 That Council note the recent announcement by the New South Wales Government of their 'Waste Less, Recycle More' program.
- 298/13 That Council note the 'Supporting Local Communities – Local Government Program' that provides access to \$137.7 million over 5 years to reduce illegal dumping and littering.
- 299/13 That Council request the General Manager to provide a briefing to Councillors which identify possible applications to the 'Supporting Local Communities – Local Government Program'.
- 300/13 That Council note that the waste levy will cost Ratepayers \$12.5 million in 2013/14.
- 301/13 That Council write to The Hon Robyn Parker MP, Minister for the Environment expressing ongoing concerns with the cost to Council of the Waste Levy.

8.3 Notice of Motion - 2013 - Repeated Flooding of Tuggerah Businesses

Councillor Nayna left the meeting at 6:47 pm and returned to the meeting at 6.49 pm during consideration of this item.

Councillor Vincent left the meeting at 6:49 PM and returned to the meeting at 6.53 pm during consideration of this item.

Mr Andrew Dash, property owner from Ace Crescent, addressed the meeting at 6.23 pm, answered questions and retired at 6.42 pm.

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

- 302/13** That Council note with great concern the escalating frequency of flooding events of local Tuggerah businesses in and around the Anzac, Ace and Gavenlock roads area.
- 303/13** That Council investigate as a matter of urgency the possible flooding causes and seek advice from Roads and Maritime Services and RailCorp as to whether any works carried out by those bodies may be contributing to further localise flooding.
- 304/13** That Council note that since the Roads and Maritime Services upgrade of the Tuggerah Straight the major Tuggerah storm water channel is now permanently charged providing for little to no flood storage, further this now permanent standing body of water is ideal for supporting large quantities of aquatic vegetation, conducive to blocking drainage.”
- 305/13** That Council direct the General Manager to report the outcome of the recommendations on this issue as a matter of urgency.

QUESTIONS ON NOTICE**Q11/13 Systemic Discrimination**

Councillor Greg Best

F2012/00893

“Mr Mayor,

The irony of the outrageous issues I raise is that it was drawn to my attention on International Women’s Day. At the heart of the issue is that young teenage girls, 11 to 15 years old from the Budgewoi Netball Club, have, for a number of years now, been denied toileting facilities at training despite repeated pleas by their coach. Curiously Mr Mayor, the facilities are available to the boy’s cricket and football teams. In desperation the coach has also pleaded to use the canteen facilities, only in emergencies, yet again she has been rejected. In frustration Coach Dibley has approached myself, I table her correspondence dated March 12th, and request this matter of discrimination now be dealt with as a matter of urgency, thankyou?”

Q12/13 Louisiana Road Safety Issues
Councillor Greg Best
F2010/00500

“Mr Mayor,

I table correspondence from a local resident of Louisiana Road. While Mrs Heart’s thankyou and congratulations are most welcomed she raises further issues around pedestrian safety, in particular school children, heavy vehicle movements and enforcement. Mr Mayor, could you please have staff look in to the safety issues raised in the below memo as a matter of urgency? Thankyou?”

Q13/13 Systemic Discrimination
Councillor Lloyd Taylor
F2012/00893

Councillor Doug Vincent,

In reference to the correspondence tabled in Q11/13 from Councillor Best.

“At the beginning of last season we had Doug Vincent visit the courts. Our president and myself broached the subject with him. We asked that we even be given a key to the toilet block which we would only unlock when necessary. We are still waiting to hear the outcome of this request”

Is this correspondence referring to you, Councillor Doug Vincent ?

Q14/13 Resources for Regions Program
Councillor Doug Vincent
F2012/00500

Could staff please advise if Wyong Shire Council is eligible for funding from the State Government’s ‘Resources for Regions Program’. The funding is for mining affected communities and was released in 2012.If Wyong Shire Council was not eligible, could staff please identify why ?

THE MEETING closed at 7.37pm.

2.1 Delegation of Making Local Environmental Plans to Council

TRIM REFERENCE: F2004/00550 - D03263740

MANAGER: Jari Ihalainen, Director Land Management

AUTHOR: Rodney Mergan; Senior Planner

SUMMARY

As a part of ongoing reforms to the Planning System in NSW, the State Government has introduced amendments to the Local Environmental Plan (LEP) making process. A change that directly impacts Council is the decision of the Minister for Planning and Infrastructure to delegate to Councils the responsibility of making and determining some LEPs. Council is required to make a decision as to whether the new delegations should be accepted and who within Council will be granted the proposed delegation.

RECOMMENDATION

- 1 That Council accept the delegation to councils of the functions of the Minister for Planning and Infrastructure under section 59 of the Environmental Planning and Assessment Act 1979 for the making of Local Environmental Plans (LEPs)**
- 2 That in accordance with the provisions of Section 381(3) of the Local Government Act 1993, Council sub-delegate the functions of the Minister for Planning and Infrastructure under section 59 of the Environmental Planning and Assessment Act 1979 for the making of Local Environmental Plans (LEPs), to the General Manager.**
- 3 That the Department of Planning and Infrastructure be advised of Council's decision.**

BACKGROUND

In April 2012 the NSW Government called for public submissions on a draft policy statement to improve the local plan making process by returning local planning decisions to local councils. Council has since received notification from the Minister for Planning and Infrastructure, that following consideration of submissions received, the Minister has decided to delegate the making of LEP's of local significance to Councils.

The modification to the LEP making process means that Council will now be responsible for routine rezoning proposals following Gateway Determination by the Department of Planning and Infrastructure (DoPI). Gateway Determination from DoPI is only sought following the consideration and endorsement of a planning proposal (rezoning proposal) by Council.

LEP's that will routinely be delegated to Council to prepare following Gateway Determination may include mapping alterations, reclassification of land and spot rezonings that are consistent with an endorsed strategy. For such proposals, following a positive Gateway Determination, Council will undertake the exhibition and external consultation process and liaise directly with the Office of Parliamentary Counsel (PC) with regard to the final wording of the LEP, without further involvement from DoPI.

CURRENT STATUS

The current LEP process requires that all Planning Proposals be referred back to DoPI following the public exhibition and external agency consultation. The Department then determines the proposal and when a decision is made to approve a proposal, liaises with PC with regard to the final wording of any Instrument.

While the appropriate changes to Legislation were made late last year, in accordance with the requirements of the Minister for Planning and Infrastructure, Council cannot exercise the delegations until the Department is advised that the delegations are accepted and have nominated officers or employees of Council who will be provided with the delegations.

Section 381 of the Local Government Act 1993 require that such functions cannot be delegated to:

- a) The General Manager, except with the approval of Council or
- b) An employee of the council, except with the approval of the council and the General Manager.

THE PROPOSAL

It is proposed that Council accepts the delegations to determine LEP's of local significance and delegate this function to the General Manager.

Council will still review rezoning proposals following initial staff assessment and prior to referral for a Gateway Determination. It will still be up to Councils discretion whether the results of consultation and exhibition are referred back to Council.

The delegations permitted will enable Council to make decisions on LEP's which are currently undertaken by the Minister. The delegations will provide Council with greater ownership of rezoning proposals and is likely to reduce timeframes for determination of proposals.

OPTIONS

Council accept Delegations

The acceptance of these delegations is likely to increase workload for staff in reporting and liaising with the PC and there is potential for conflicts of interests that will need to be addressed.

2.1 Delegation of Making Local Environmental Plans to Council (contd)

It is considered that these issues are outweighed by the prospect of Council gaining greater ownership of locally significant planning decisions and the potential to reduce time required to assess and process planning proposals.

Council not accept Delegations

If Council decides not to accept the delegations, the current process will continue with the responsibility for determining locally significant planning proposals remaining with the Department of Planning.

STRATEGIC LINKS

Budget Impact

As indicated above, there will be a potential for an increase in work for Council that has previously been undertaken by DoPI. Council's Annual Plan currently provides for a fee for service payment for the assessment of rezoning proposals therefore any additional hours worked on planning proposals can and will be charged to the proponent.

CONSULTATION

Potential changes to delegations for LEP's was raised as an issue as part of the NSW Planning System Review conducted through 2011/12. Submissions were called for by the NSW Government and have led to the introduction of these reforms.

GOVERNANCE AND POLICY IMPLICATIONS

All reports will include a recommendation on whether delegation will be sought.

Modification of Annual Plan/Planning Proposal Procedure will be required to ensure costs are covered under the new process. This work is currently underway as part of the Annual Plan Review.

MATERIAL RISKS AND ISSUES

Care will need to be taken when choosing whether to seek or accept delegation for some LEP's in certain circumstances. For example reclassification of land or LEP's involving land where Council can be seen to be making considerable gain from the rezoning process. Appropriate checks and balances will need to be put in place to address this issue.

CONCLUSION

The delegation to Council to complete the LEP making process for locally significant proposals will provide Council with greater ownership of these projects and potentially reduce the processing time for such applications. However impacts on staff workloads and effectiveness of the process will need to be monitored.

It is recommended that Council accept the delegation for making locally significant LEP's by providing the Minister for Planning and Infrastructure a letter indicating that the delegations are accepted and will be sub-delegated to the General Manager.

ATTACHMENTS

Nil.

2.2 DA/1015/2012 - Proposed Detached Dual Occupancy at Gorokan

TRIM REFERENCE: DA/1015/2012 - D03258687

MANAGER: Lin Armstrong, Director Development and Building

AUTHOR: Peter Fryar; Manager Development Assessment

SUMMARY

A development application has been received for a dual occupancy development at Merrendale Avenue, Gorokan. The application has been examined having regard to the matters for consideration detailed in section 79C of the Environmental Planning and Assessment Act (EP&A Act) and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

| | |
|-----------------------------|--|
| Applicant | Highlight Consulting |
| Owner | Leanne Nicola |
| Application No | 1015/2012 |
| Description of Land | Lot 329 DP 26286 (23) Merrendale Avenue, Gorokan |
| Proposed Development | Detached dual occupancy |
| Site Area | 613m ² |
| Zoning | 2(a) Residential |
| Existing Use | Dwelling |
| Estimated Value | \$135,000 |

RECOMMENDATION

- 1 That Council refuse the application subject to the reasons for refusal detailed in the schedule attached to the report, having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues.***

PRECIS

- An application has been received for a detached dual occupancy which involves the relocation of the existing dwelling house to the rear of the subject site and the construction of a new dwelling house to create a detached dual occupancy development.
- The site is zoned 2(a) Residential under the provisions of the Wyong Local Environmental Plan 1991 (WLEP 1991).
- The application was advertised in accordance with DCP 2005, Chapter 70 Notification of Development Proposals.

INTRODUCTION

The Site

The site is located at 23 Merrendale Avenue, Gorokan. The site currently contains a single storey relocatable home located within the south-western portion of the site. The site has a north south orientation and slopes toward the south. There are currently two trees that exist on site. Land surrounding the site consists of predominantly detached dwellings and dual occupancy developments.



Figure 1. Site as viewed from Merrendale Avenue

The Proposed Development

The proposed development is for a detached dual occupancy development on the site. The proposed development is to include the relocation of the existing dwelling at the front of the site to the rear of the site. An additional manufactured dwelling would then be placed at the front of the site. The proposal also includes the provision of parking, private open space areas and landscaping for the dwellings.

A previous (almost identical) proposal was refused under delegated authority. The current development application involves one minor change involving the erection of a small veradah to the front façade of dwelling 1.

Summary

The proposed development proposes a number of variations to Council's Dual Occupancy requirements. The proposed development is considered to be of poor quality and not consistent with the aims and objectives of Council's dual occupancy requirements. Given the number of variations proposed and the quality of the proposal the development is not supported in its current form. The proposed development is therefore recommended for refusal.

VARIATIONS TO POLICIES

| | |
|-----------------|--|
| Clause | 5.1.1 Building Design |
| Standard | Development to be of high architectural quality |
| LEP/DCP | DCP 2005, Chapter 58 – Dual Occupancy |
| Departure basis | Development is not considered to be of high architectural quality. |

| | |
|-----------------|---|
| Clause | 5.1.4 (f) Design Integration |
| Standard | External colours and material to be provided. |
| LEP/DCP | DCP 2005, Chapter 58 – Dual Occupancy |
| Departure basis | No details of any exterior upgrade works to the existing dwelling have been provided. |

| | |
|-----------------|---|
| Clause | 5.1.4 (g) Design Integration |
| Standard | Use of manufactured dwellings not considered acceptable. |
| LEP/DCP | DCP 2005, Chapter 58 – Dual Occupancy |
| Departure basis | Dwelling 1 proposed to be a manufactured dwelling and not considered suitable for the site. |

| | |
|-----------------|---|
| Clause | 5.3.1 Building Lines |
| Standard | Side setbacks to be minimum 0.9 metres. |
| LEP/DCP | DCP 2005, Chapter 58 – Dual Occupancy |
| Departure basis | Dwelling 2 to have a side setback of 500mm. |

| | |
|-----------------|--|
| Clause | 5.4.2 Carparking |
| Standard | Each dwelling to be provided with an enclosed garage. |
| LEP/DCP | DCP 2005, Chapter 58 – Dual Occupancy |
| Departure basis | No enclosed garage to be provided for dwelling 2 and no details provided for design of new garage. |

| | |
|-----------------|--|
| Clause | 5.5.2 Vehicular Access Design |
| Standard | Driveway to be offset a minimum 2.0 metres |
| LEP/DCP | DCP 2005, Chapter 58 – Dual Occupancy |
| Departure basis | Driveway only offset 1.4 metres at front boundary. |

| | |
|-----------------|--|
| Clause | 6.1 Density |
| Standard | Minimum site area of 700m ² for front and rear dual occupancy |
| LEP/DCP | DCP 2005, Chapter 58 – Dual Occupancy |
| Departure basis | Site area = 613.4m ² . 12% variation. |

| | |
|-----------------|--|
| Clause | 9.1 Private Open Space |
| Standard | Private Open Space areas to be accessible from living areas. |
| LEP/DCP | DCP 2005, Chapter 58 – Dual Occupancy |
| Departure basis | Private Open Space area for Dwelling 1 is not accessible from a living area. |

| | |
|-----------------|--|
| Clause | 11.1.1 Laundries |
| Standard | Each dwelling to be provided with an internal laundry. |
| LEP/DCP | DCP 2005, Chapter 58 – Dual Occupancy |
| Departure basis | No internal laundry to be provided for Dwelling 2. |

| | |
|-----------------|--|
| Clause | 11.1.4 Storage |
| Standard | Between 3m ² and 6m ² of storage to be provided. |
| LEP/DCP | DCP 2005, Chapter 58 – Dual Occupancy |
| Departure basis | Inadequate storage to be provided for both dwellings. |

2.2 DA/1015/2012 - Proposed Detached Dual Occupancy at Gorokan (contd)

| | |
|-----------------|---|
| Clause | 12.1.1 Fencing |
| Standard | Details of fencing for the development to be provided. |
| LEP/DCP | DCP 2005, Chapter 58 – Dual Occupancy |
| Departure basis | No details of any fencing to be retained or provided on the site have been submitted. |

| | |
|-----------------|---|
| Clause | 12.2 Streetscape |
| Standard | Development to enhance and address the streetscape whilst been compatible with themes in the locality. |
| LEP/DCP | DCP 2005, Chapter 58 – Dual Occupancy |
| Departure basis | Development does not address the street frontage or contribute positively to the streetscape. Development not consistent with other dual occupancy development in the locality. |

HISTORY

Development application DA/522/201 for a detached dual occupancy (without subdivision of land) was refused on 3rd August 2012. The applicant initially sought to have the determination (refusal) reviewed under the provisions of Section 82A of the Act. However, as the development is “integrated development” this provision is not an option. Consequently, a new development application has been submitted which is the subject to this report.

PERMISSIBILITY

The subject site is zoned 2(a) Residential under the WLEP 91. The proposed development is defined as a detached dual occupancy which is permissible with development consent.

A detached dual occupancy is defined as follows:

“detached dual occupancy means two dwelling-houses on one allotment of land.”

The proposed detached dual occupancy generally complies with the objectives of the 2(a) zone. The zone objectives are as follows:

- “(a) to provide land primarily for detached housing generally not exceeding a height of 2 storeys and with private gardens in an environment free from commercial and other incompatible activities and buildings, and*
- (b) to provide for other uses, but only where they:*
 - (i) are compatible with the residential environment and afford services to residents at a local level, and*
 - (ii) are unlikely to adversely affect residential amenity or place demands on services beyond the level reasonably required for detached housing, and*
- (c) to provide for home-based employment where such will not:*
 - (i) involve exposure to view from any public place of any unsightly matter, or any raw material, equipment, machinery, product or stored finished goods, or*
 - (ii) have a material adverse impact on residents.”*

RELEVANT STATE/COUNCIL POLICIES AND PLANS

The Council has assessed the proposal against the relevant provisions of the following environmental planning instruments, plans and policies:

- Wyong Local Environmental Plan 1991 (WLEP)
- State Environmental Planning Policy 71 – Coastal Protection (SEPP 71)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Development Control Plan 2005, Chapter 58 – Dual Occupancy (Chapter 58)
- Development Control Plan 2005, Chapter 70 – Notification of Development Proposals (Chapter 70)
- Gorokan and Shire Wide S94 Contribution Plans
- Wyong Council DCP Chapters 100 'Quality Housing'

ECOLOGICALLY SUSTAINABLE PRINCIPLES

The proposal has been assessed having regard to ecologically sustainable development principles and is considered to be consistent with the principles.

The proposed development is considered to incorporate satisfactory stormwater, drainage and erosion control and the retention of vegetation where possible and is unlikely to have any significant adverse impacts on the environment and will not decrease environmental quality for future generations. The proposal does not result in the disturbance of any endangered flora or fauna habitats and is unlikely to significantly affect fluvial environments.

Climate Change

The potential impacts of climate change on the proposed development have been considered by Council as part of its assessment of the application. This assessment has included consideration of such matters as potential rise in sea level; potential for more intense and/or frequent extreme weather conditions including storm events, bushfires, drought, flood and coastal erosion; as well as how the proposed development may cope / combat / withstand these potential impacts.

ASSESSMENT

Having regard for the matters for consideration detailed in Section 79C of the EP&A Act 1979 and other statutory requirements, Council's policies and Section 149 Certificate details, the assessment has identified the following key issues, which are elaborated upon for Council's information. Any tables relating to plans or policies are provided as an attachment.

THE PROVISIONS OF RELEVANT INSTRUMENTS/PLANS/ POLICIES (s79C(1)(a)(i-iv): Wyong Local Environmental Plan 1991

Development Control Plan 2005, Chapter 58 – Dual Occupancy

Council's Development Control Plan 2005, Chapter 58 – Dual Occupancy outlines a number of requirements for dual occupancy developments within Wyong Shire. The objectives of Chapter 58 are as follows:

2.2 DA/1015/2012 - Proposed Detached Dual Occupancy at Gorokan (contd)

- *Encouraging the provision of housing choice and allowing for innovation in individual design.*

Comment: The proposed development would allow an affordable housing choice for the area however is not considered to be an innovative design.

- *Promoting standards of design which achieve functional and aesthetic quality in development.*

Comment: The proposed development does not provide dwellings which are considered to be of a functional design and are not of high visual quality.

- *Encouraging designs of high architectural quality.*

Comment: The proposed development is not considered to be of a design which is of high architectural quality. The use of manufactured dwellings does not provide any architectural merit.

- *Promoting sustainable development which is energy and water efficient.*

Comment: No details as to how the development will provide water and energy efficient measures have been provided.

- *Encouraging dual occupancy housing which is compatible with the existing or desired future environmental character of the residential and non-urban zones where it is permissible.*

Comment: The area currently consists of a mixture of older style and newly developed residential development. The proposed development is not considered to be in keeping with the more recent dual occupancy developments within the locality that generally consist of brick dwellings where existing dwellings are replaced.

The proposed development is not considered to be consistent with the objectives of Chapter 58. The proposed development has also been assessed against the requirements of Chapter 58 and a number of variations to the requirements have been identified. The variations proposed are outlined below.

- *Building Design*

Dual occupancy developments are required to be of a high architectural quality. The proposed development involves the retention of an existing manufactured home on the site and the placement of an additional manufactured dwelling on the site. The use of manufactured homes on the site is not considered to result in a development that is of a high architectural quality.

- *Design Integration*

Where an existing dwelling is proposed to be retained on the site as part of a dual occupancy development details are to be provided as to how the exterior of the existing dwelling is to be upgraded. The existing dwelling has been on the site for a number of years however is not

2.2 DA/1015/2012 - Proposed Detached Dual Occupancy at Gorokan (contd)

proposed to be upgraded externally as part of the current application. The existing dwelling is therefore unlikely to integrate with any new dwelling without any suitable exterior upgrades.

The use of manufactured dwellings for a new dwelling on the site is not considered to be acceptable for integration with an existing dwelling. Although the existing dwelling on the site is also an older style manufactured dwelling the placement of an additional manufactured dwelling on the site is not considered to result in “quality development” of the site. The use of manufactured homes on the site is also not consistent with the more recent dual occupancy developments being constructed in the locality.

- *Building Lines*

Dwelling houses are required to be located a minimum of 900mm from the side boundaries. The existing dwelling is to be relocated to the rear of the site and would result in a side setback along the eastern boundary of 500mm. Although the eastern elevation does not contain any openings the existing exterior wall would not be suitably fire rated under the Building Code of Australia (BCA) to allow it to be located less than 900mm from the side boundary. The proposal has not included any details as to how the eastern elevation would be upgraded to meet BCA requirements. The width of the property would also not allow an increased setback due to the width of the existing dwelling. The reduced setback is therefore not supported.

- *Carparking*

Each dwelling within a dual occupancy development is required to be provided with an enclosed garage. Although the development provides sufficient parking to meet the requirements of Chapter 58 only one enclosed garage, for the new dwelling, is proposed to be provided on the site. No enclosed garage for Dwelling 2 is proposed to be provided. The applicant has also not submitted any details in regards to the design of the proposed garage. The suitability of the proposed garage can therefore not be assessed. The proposed development provides an unsatisfactory parking arrangement for the development.

- *Vehicular access design*

Dual occupancy developments are required to provide driveways that are curved in design and provide a side boundary offset of 2.0 metres at the front boundary which tapers to 0.5 metres at the front building line. The offset area is then required to be landscaped. The proposed development is to provide a driveway which is to have a setback of only 1.4 metres to the side boundary. No justification for the reduced setback has been provided with the application and variation is therefore not supported.

- *Density*

Front and rear style dual occupancy developments are required to be undertaken on properties that have a minimum site area of 700m². The site currently has an area of 613.4m² which requires a variation of 12.4% to the requirement. The applicant has stated that the proposed variation is considered acceptable given the proposed development is in keeping with the scale, character and quality of dwellings in the streetscape. Given the number of other variations to Council’s dual occupancy policy the site is not considered to be suitable for a front and rear style development. The variation to the minimum lot size is therefore not supported.

2.2 DA/1015/2012 - Proposed Detached Dual Occupancy at Gorokan (contd)

- *Private Open Space*

Private open space areas are required to be accessible from the internal living areas of each dwelling. The private open space area for Dwelling 1 is only accessible through the kitchen of the development. The kitchen is not considered to be a living area of the development. The design of the dwelling and the location of the private open space area is therefore not consistent with the requirements of Chapter 58.

- *Laundries*

Each dwelling in a dual occupancy development is required to be provided with an internal laundry. The laundry may be provided within its own room or included as part of another room. The plans submitted for the development indicate that Dwelling 2 is not provided with an internal laundry. There also appears to be insufficient area within the dwelling to locate a laundry. The development is therefore not able to meet this requirement of Chapter 58.

- *Storage*

Each one bedroom dwelling is required to be provided with 3m² of storage area whilst three bedroom dwellings are required to provide a minimum of 6m² of storage. Both Dwelling 1 and 2 do not appear to provide adequate storage facilities within the dwellings. Given the small size of the dwellings it is unlikely that the minimum requirements can be met.

- *Fencing*

Details of all fencing to be provided for the development are to be provided with the application. No details of what fencing is to be retained or provided for the development have been submitted with the application. Insufficient details have therefore been submitted regarding fencing for the development.

- *Streetscape*

Dual occupancy developments are to enhance the streetscape and are also to be designed to address the streetscape. The manufactured dwelling to be positioned at the front of the site is not considered to enhance the streetscape. The front dwelling has also not been designed to address the streetscape as the front façade consists of a single bedroom window and a large blank wall. Any new development should be of a high standard which enhances the streetscape. The development, as proposed, is not considered to contribute positively to the streetscape and is inconsistent with the requirements of Chapter 58.

The proposed development has been found to require a number of variations to Council's Chapter 58. Although some of the variations may be considered to be of a minor nature the cumulative impact as a result of the number of variations is that the proposal in its current form is considered to be of poor quality and is inconsistent with the aims of Chapter 58. The above variations are therefore not supported and the development can not be supported in its current form.

*The relationship to the regional and local **context and setting**.*

The local area contains a mixture of detached residences and dual occupancy developments. The proposed development is considered to be consistent with the existing context of the area.

*The **access, transport and traffic** management measures.*

Access to the site is via Merrendale Avenue which is a Council public road in good condition. The road is considered suitable for the expected increase in traffic flow that would be generated by the proposed development. The street frontage currently contains no kerb and guttering or footpaving.

*The impact on the **public domain** (recreation, public open space, pedestrian links).*

Nil impact

*The impact on **utilities** supply.*

A sewer main currently runs through the northern portion of the site. The rear dwelling has been located a suitable distance from the sewer main. All other services are currently available for the site and would be capable of catering for the proposed development.

*The effect on **heritage** significance.*

Nil impact

*Any effect on **other land resources**.*

Nil impact

*Any impact on the conservation of **water**.*

No rainwater tanks are proposed to be provided for the development and no details of any other water saving methods to be implemented for the dwellings have been provided.

*Any effect on the conservation of **soils** or acid sulphate soils.*

Nil impact

*Any effect on quality of **air and microclimate conditions**.*

Nil impact

*Any effect on the **flora and fauna**.*

There is one Melaleuca and one palm tree located on the site. The Melaleuca is to be retained whilst the palm is to be relocated on the site. The proposed is unlikely to result in any other impacts on flora and fauna.

*The provision of **waste** facilities.*

Nil impact

*Whether the development will be **energy** efficient.*

The proposed development involves the use of an existing manufactured dwelling on the site along with the placement of a new manufactured dwelling on the site. Manufactured dwellings are currently not captured by BASIX and as such have no legislative requirements

2.2 DA/1015/2012 - Proposed Detached Dual Occupancy at Gorokan (contd)

for energy efficiency. No details have been provided as to any energy efficient measures to be implemented for either dwelling.

*Whether the development will cause **noise and vibration**.*

Nil impact

*Any risks from **natural hazards** (flooding, tidal inundation, bushfire, subsidence, slip etc).*

The site is located within a Mine Subsidence District.

Section 91A(2) of the *Environmental Planning and Assessment Act 1979* states that:

“Before granting development consent to an application for consent to carry out the development, the consent authority must, in accordance with the regulations, obtain from each relevant approval body the general terms of any approval proposed to be granted by the approval body in relation to the development. Nothing in this section requires the consent authority to obtain the general terms of any such approval if the consent authority determines to refuse to grant development consent.”

The proposed detached dual occupancy development is “integrated development” within the meaning of Section 91 of the EP&A Act as the subject site is within a mine subsidence district and requires approval in accordance with Section 15 of the *Mine Subsidence Compensation Act 1961*. As the application is not supported no further information was requested in relation to bushfire and the application was not referred to the Mine Subsidence Board for comment.

*Any risks from **technological hazards**.*

Nil impact

*Whether the development provides **safety, security and crime prevention**.*

Nil impact

*Any **social impact** in the locality.*

Nil impact

*Any **economic impact** in the locality.*

Nil impact

*Any impact of **site design and internal design**.*

Nil impact

*Any impacts of **construction** activities (construction site management, protection measures).*

Nil impact

2.2 DA/1015/2012 - Proposed Detached Dual Occupancy at Gorokan (contd)

Any cumulative impacts.

The proposed development requires a number of variations to Council's policies. Although some of the variations may be considered to be of a minor nature the cumulative impact of the variations is that the development is considered to result in the placement of a development of poor quality on the site. The proposed development would be therefore required to be redesigned to address the issues of non-compliance.

THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT (s79C(1)(c)):

Whether the proposal fits in the locality.

The development is to be undertaken within an area that contains a mixture of detached residences and dual occupancy developments. The type of development proposed is consistent with other development in the locality however the design of the dual occupancy development is not in keeping with other dual occupancy development in the locality.

Whether the site attributes are conducive to development.

Nil impact

ANY SUBMISSION MADE IN ACCORDANCE WITH THIS ACT OR REGULATIONS (s79C(1)(d)):

Any submission from the public.

The application was advertised in accordance with DCP 2005 Chapter 70-Notification of Development Proposals with no submissions being received.

Any submission from public authorities.

No submissions have been received from any public authorities.

THE PUBLIC INTEREST (s79C(1)(e)):

Any Federal, State and Local Government interests and community interests.

Nil impact

CONCLUSION

The proposed development is for a dual occupancy development consisting of two detached manufactured dwellings and associated parking and private open space areas.

An assessment of the application has revealed that the proposed detached dual occupancy, as defined under Wyong Local Environmental Plan 1991, is not satisfactory having regard for the relevant provisions of Council's adopted controls contained within Development Control Plan 2005 Chapter 58 Dual Occupancy Development. the proposed development is considered to be of poor quality that is not suitable for the locality and therefore recommended for refusal.

2.2 DA/1015/2012 - Proposed Detached Dual Occupancy at Gorokan (contd)

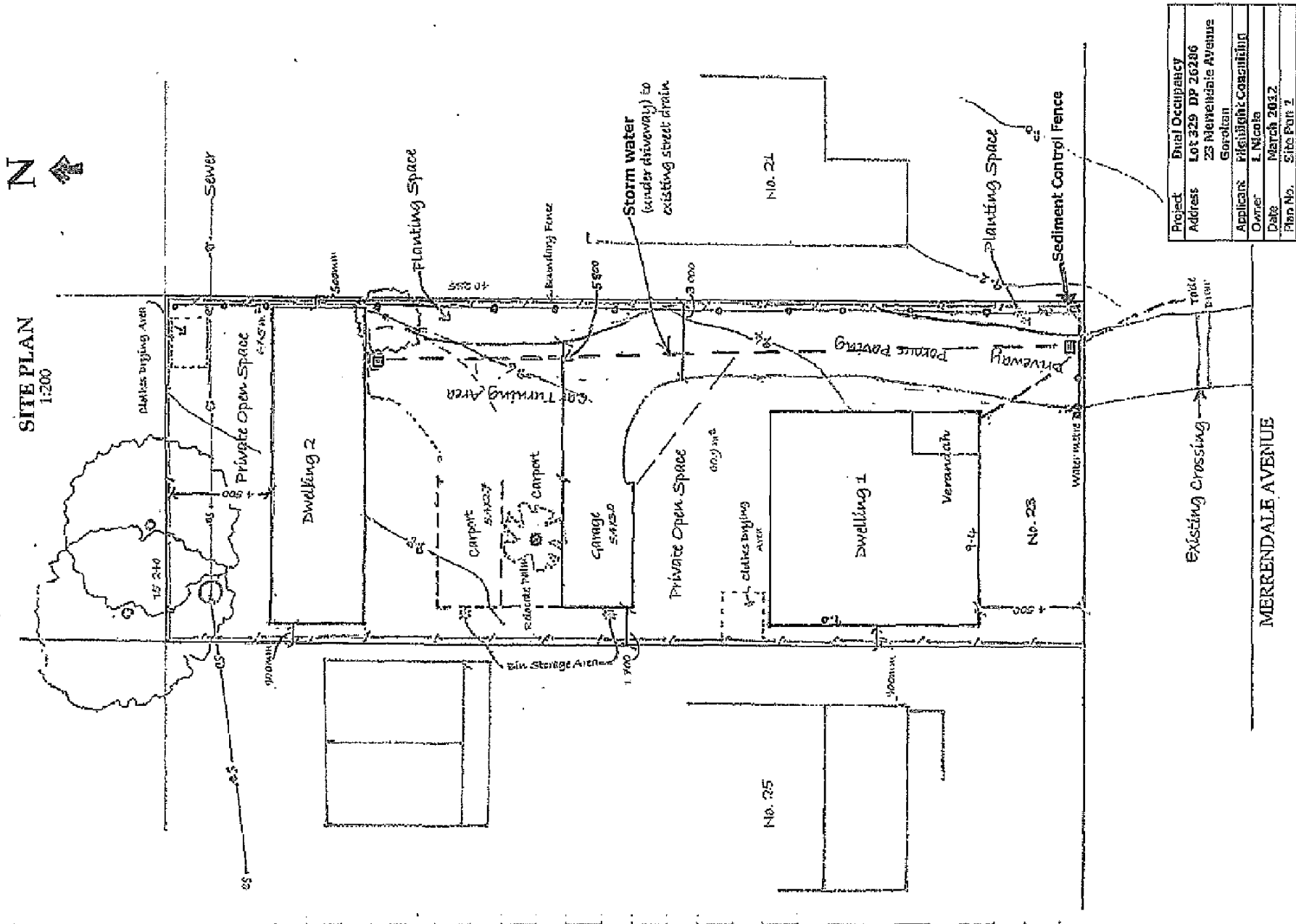
ATTACHMENTS

- | | | |
|---|---------------------------|-----------|
| 1 | Draft Reasons for Refusal | D03288983 |
| 2 | Development Plans | D03289010 |

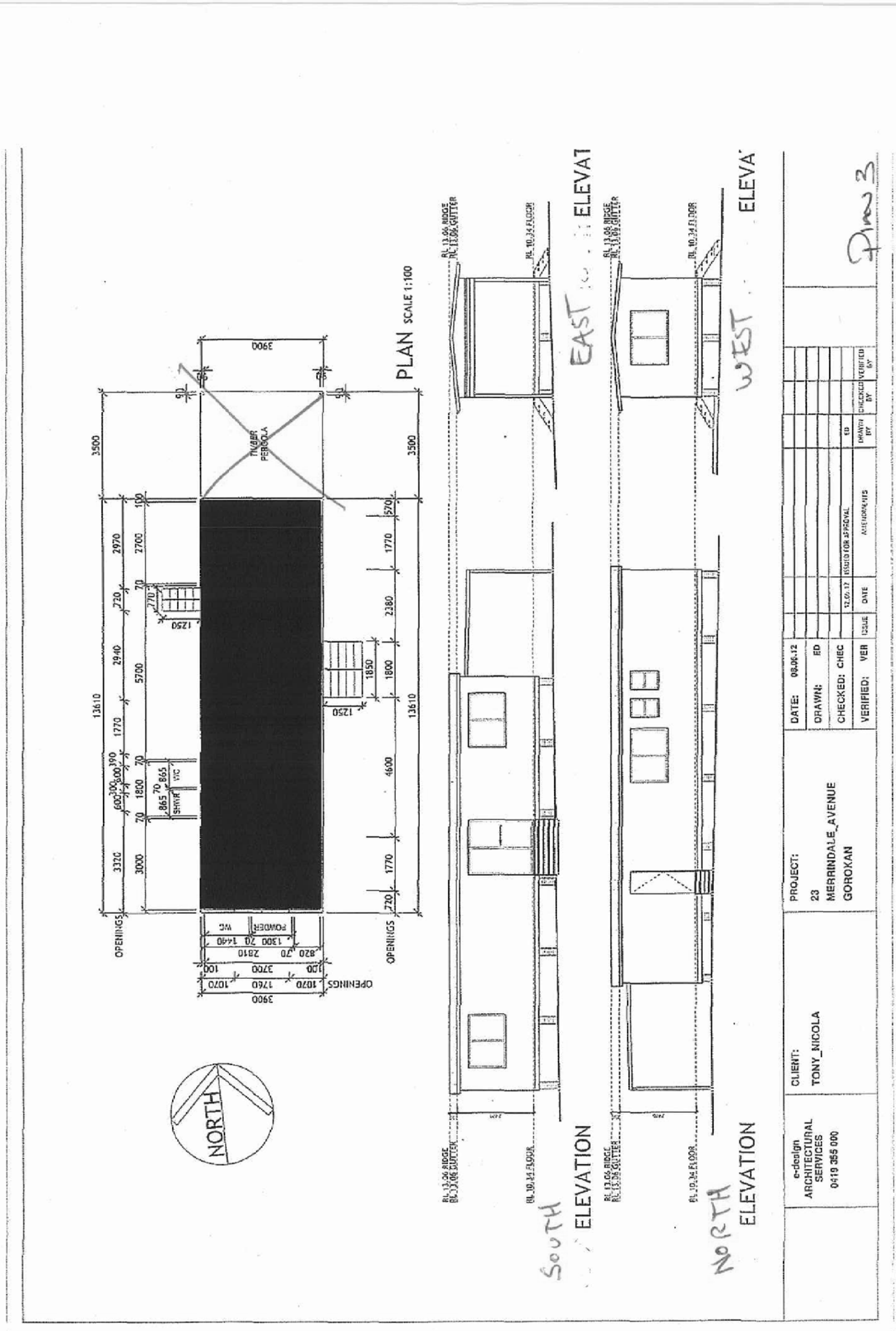
DRAFT REASONS FOR REFUSAL - DA/1015/2012

23 MERRENDALE AVENUE, GOROKAN

1. Pursuant to the provisions of Section 79C(1) (a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the objectives of Development Control Plan 2005, Chapter 58 Dual Occupancy, in that it does not promote quality development.
2. Pursuant to the provisions of Section 79C(1) (a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development fails to comply with the requirements of Development Control Plan No 58 Dual Occupancy with respect to building design, design integration, building lines, carparking, vehicular access design, density, private open space, provision of laundries and storage, fencing and streetscape.
3. Pursuant to the provisions of Section 79C(1)(b) of the Environmental Planning and Assessment Act, 1979, the information provided with the application was not sufficient to enable a fair and accurate assessment of the development. Specifically, the application provided plans that did not accurately reflect the development proposed.
4. Pursuant to the provisions of Section 79C(1)(c) of the Environmental Planning and Assessment Act, 1979, the proposal, given the various areas of non-compliance with Council requirements is considered to be development of poor quality.
5. Pursuant to the provisions of Section 79C(1) (e) of the Environmental Planning and Assessment Act 1979, the proposed development is not considered to be in the public interest and would set an undesirable precedent for similar development proposals in the locality.



| | |
|-----------|---------------------------------|
| Project | Dual Occupancy |
| Address | Lot 329 DP 26286 |
| Applicant | 23 Merrendale Avenue Gorokan |
| Owner | Pfaffliack Consulting |
| Date | 1. Nicole |
| Plan No. | March 2012 |
| | Site Part 1 |



| | | | | | | | | | | |
|---|------------------------|--|----------------|---------------------|------|---------|----------|------|------|------|
| e-design ARCHITECTURAL SERVICES 0419 355 000 | CLIENT: TONY NICOLA | PROJECT: 23 MERRINDALE AVENUE GOROKAN | DATE: 08.06.12 | | | | | | | |
| | | | DRAWN: ED | | | | | | | |
| | | | CHECKED: CHEC | | | | | | | |
| | | | VERIFIED: VER | DATE | DATE | DATE | DATE | DATE | DATE | DATE |
| | | | 12.02.17 | ISSUED FOR APPROVAL | ED | CHECKED | VERIFIED | BY | | |

Plan 3

2.3 DA/9/2013 - Proposed Detached Secondary Dwelling at Chain Valley Bay

TRIM REFERENCE: DA/9/2013 - D03283815

MANAGER: Jamie Loader, Acting Director Development and Building

AUTHOR: Lachlan Anderson; Health and Building Surveyor

SUMMARY

An application has been received for a detached secondary dwelling above an existing fibre cement clad double garage with attached awning at 3 Elabana Avenue, Chain Valley Bay. The application has been examined having regard to the matters for consideration detailed in section 79C of the Environmental Planning and Assessment Act (EP&A Act) 1979, the State Environmental Planning Policy (SEPP) (Affordable Rental Housing) 2009 and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

| | |
|-----------------------------|---|
| Applicant | J & G Battaglini |
| Owner | J & G Battaglini |
| Application No | DA/9/2013 |
| Description of Land | Lot 36 DP 31565, No 3 Elabana Avenue, Chain Valley Bay. |
| Proposed Development | Detached secondary dwelling |
| Site Area | 570m ² |
| Zoning | 2(A) Residential |
| Existing Use | Residential |
| Estimated Value | \$45,000 |

RECOMMENDATIONS

- 1 ***That Council grant consent subject to the conditions detailed in the schedule attached to the report, having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues.***
- 2 ***That Council advise those who made written submissions of its decision.***

PRECIS

- An application has been received for a detached secondary dwelling above an existing fibre cement clad double garage with attached awning.
- The site is zoned 2(A) Residential under the provisions of the Wyong Local Environmental Plan 1991 (WLEP).
- The secondary dwelling generally complies with the standards of Part 2- Division 2 of SEPP Affordable Housing 2009.

INTRODUCTION

The Site

The property currently contains a single dwelling and fibre cement clad, colorbond roofed double garage with attached awning in the rear yard. The secondary dwelling is proposed to be sited in the vacant area between the existing dwelling and rear boundary above the existing garage. The adjoining properties consist of residential dwellings and ancillary structures which is the predominant development type in this area.



Location- 49 Alison Road, Wyong.

Aerial photograph of the allotment where the **proposed secondary dwelling** is to be constructed.



Pic 1- View of allotment from Elabana Avenue, Chain Valley Bay.



Pic 2- Rear of existing dwelling / location of proposed secondary dwelling on existing garage.

2.3 DA/9/2013 - Proposed Detached Secondary Dwelling at Chain Valley Bay (contd)

The application has been referred to Council for determination solely based upon the Council resolutions of 14th of November 2012 which states:

Council at its meeting of the 14 November 2012, resolved unanimously on the motion of Councillor Graham and seconded by Councillor Vincent:

- 1 *That Council extend the trial for a period of 6 months.*
- 2 *That Council levy secondary dwellings (Granny Flats) during the trial period on the basis that they are equivalent to 35% of a Development Unit for the purpose of Section 94 contributions in accordance with the applicable contributions plans.*
- 3 *That Council implement the trial by way of those affected development applications being reported to Council for determination.*

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

AGAINST: NIL

The approval of the secondary dwelling would not create any adverse impact on adjoining properties. As such, it is recommended that the application be approved subject to conditions.

VARIATIONS TO POLICIES

NIL

HISTORY

Council has received the following applications and the corresponding buildings have been constructed and remain on site;

- BA/1682/1985 Timber framed residence.
- BA/3710/1994 Addition and garage (Rear addition of living room and detached garage).
- DA/2869/2001 Dwelling additions (Rear addition and attic on second storey).

PERMISSIBILITY

The subject site is zoned 2(A) Residential Zone under the WLEP 1991. The proposed secondary dwelling is permissible with consent and complies with the objectives of the zone as follows:

- (a) to provide land primarily for detached housing generally not exceeding a height of 2 storeys and with private gardens in an environment free from commercial and other incompatible activities and buildings, and
- (b) to provide for other uses, but only where they:

2.3 DA/9/2013 - Proposed Detached Secondary Dwelling at Chain Valley Bay (contd)

- (i) are compatible with the residential environment and afford services to residents at a local level, and
 - (ii) are unlikely to adversely affect residential amenity or place demands on services beyond the level reasonably required for detached housing, and
- (c) to provide for home-based employment where such will not:
- (i) involve exposure to view from any public place of any unsightly matter, or any raw material, equipment, machinery, product or stored finished goods, or
 - (ii) have a material adverse impact on residents.

The proposal is for a detached secondary dwelling above an existing fibre cement clad double garage with attached awning that integrates with the existing dwelling. The overall scale is consistent with existing development in the area.

The secondary dwelling is permissible under the provisions of SEPP (Affordable Rental Housing) 2009.

RELEVANT STATE/COUNCIL POLICIES AND PLANS

Council has assessed the proposal against the relevant provisions of the following environmental planning instruments, plans and policies:

- SEPP (Affordable Rental Housing) 2009
- WLEP 1991
- Wyong Council DCP Chapters 14 'Tree management'
- Wyong Council DCP Chapters 99 'Building Lines'
- Wyong Council DCP Chapters 100 'Quality Housing'

ECOLOGICALLY SUSTAINABLE PRINCIPLES

The proposal has been assessed having regard to ecologically sustainable development principles and is considered to be consistent with the principles.

The proposed development is considered to incorporate satisfactory stormwater, drainage and erosion control and the retention of vegetation where possible and is unlikely to have any significant adverse impacts on the environment and will not decrease environmental quality for future generations. The proposal does not result in the disturbance of any endangered flora or fauna habitats and is unlikely to significantly affect fluvial environments.

ASSESSMENT

Having regard for the matters for consideration detailed in Section 79C of the EP&A Act 1979 and the SEPP (Affordable Rental Housing) 2009, statutory requirements, Council's policies and Section 149 Certificate details, the assessment has identified the following key issues, which are elaborated upon for Council's information.

THE PROVISIONS OF RELEVANT INSTRUMENTS/PLANS/ POLICIES (s79C(1)(a)(i-iv):

State Environmental Planning Policy (Affordable Rental Housing) 2009

SEPP (Affordable Rental Housing) 2009 permits secondary dwellings up to a maximum floor area of 60m². The proposed secondary dwelling has a floor area of 48m². The subject allotment also exceeds the minimum area of 450m².

Division 2, Clause 20 and 22 state:

Clause 20 'Land to which Division applies'

"This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones, but only if development for the purposes of a dwelling house is permissible on the land:

- (a) Zone R1 General Residential,*
- (b) Zone R2 Low Density Residential,*
- (c) Zone R3 Medium Density Residential,*
- (d) Zone R4 High Density Residential,*
- (e) Zone R5 Large Lot Residential.*

Clause 22 "Development may be carried out with consent"

- "(1) Development to which this Division applies may be carried out with consent.*
- (2) A consent authority must not consent to development to which this Division applies if there is on the land, or if the development would result in there being on the land, any dwelling other than the principal dwelling and the secondary dwelling.*
- (3) consent authority must not consent to development to which this Division applies unless:
 - (a) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area allowed for a dwelling house on the land under another environmental planning instrument, and*
 - (b) the total floor area of the secondary dwelling is no more than 60 square metres or, if a greater floor area is permitted in respect of a secondary dwelling on the land under another environmental planning instrument, that greater floor area."**
- (4) A consent authority must not refuse consent to development to which this Division applies on either of the following grounds:
 - (a) site area if:
 - (i) the secondary dwelling is located within, or is attached to, the principal dwelling, or*
 - (ii) the site area is at least 450 square metres,***

(b) parking

if no additional parking is to be provided on the site.

- (5) *A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (4)".*

The provisions of Division 2 Clause 20 and 22 of the SEPP as stated above are fully complied with. Whilst compliance with the standards set out in Schedule 1 of the SEPP for Complying Development is not a requirement with this application as it has been made as a development application, it is however fully compliant with these standards.

Under these circumstances the proposed secondary dwelling is considered justified.

Wyong Local Environmental Plan 1991

The property is zoned 2(A) Residential. The secondary dwelling is permissible under the provisions of WLEP 1991 and meets the objectives of the zone. The secondary dwelling is proposed under the provisions of SEPP (Affordable Rental Housing) 2009 which overrides any provisions contained with the WLEP.

Development Control Plan 2005 Chapter 99 – Building Lines

Clause 3.1 of Chapter 99 – Building Lines for residential dwellings and ancillary development requires a front setback of 6 metres and side/rear setback 900mm to a boundary. The proposed secondary dwelling is fully compliant with both building line setbacks.

THE LIKELY IMPACTS OF THE DEVELOPMENT (s79C(1)(b)):

The relationship to the regional and local context and setting

The proposed secondary dwelling is consistent with the scale and character of the local area of Chain Valley Bay. The scale, bulk, height, massing and choice of materials and finishes for the proposed secondary dwelling is considered appropriate to the local context and will enhance the rural scenic quality.

The access, transport and traffic management measures

Access to the site is provided by an existing driveway from Elabana Avenue, Chain Valley Bay.

The SEPP (Affordable Rental Housing) 2009 does not require additional parking or access to be provided for the secondary dwelling.

Any effect on privacy, view loss and overshadowing

An assessment of potential over viewing, privacy and view sharing has been undertaken. It is concluded that the construction of the secondary dwelling would not be detrimental to the adjoining properties or those within the nexus of the development.

The impact on utilities supply.

Existing services for the site are adequate for the proposed development.

Any impact on the conservation of water.

A BASIX certificate has been submitted with the application and the proposal involves the use of water saving fixtures and a water tank of a minimum 2500 litre capacity. Connection of the tank to the toilet, washing machine and external tap will contribute to the conservation of water.

Any effect on the conservation of soils or acid sulphate soils.

The proposal does not involve any effect on the conservation of soils or acid sulphate soils.

Any effect on the flora and fauna.

The development is over the same building envelope as the existing garage and no trees require removal.

The provision of waste facilities.

A waste management plan has been submitted with the development application and provides details of how waste will be managed during construction. The occupants of the secondary dwelling will utilise the waste collection services associated with the primary dwelling.

Whether the development will be energy efficient.

A BASIX certificate has been issued as part of the development application.

Whether the development will cause noise and vibration.

A minimal amount of noise and vibration will be created during the construction phase. A condition will be placed on the consent restricting the hours that construction work can take place.

Any risks from natural hazards (flooding, tidal inundation, bushfire, subsidence, slip etc).

Mines Subsidence

The Mines Subsidence Board has granted approval.

Any impacts of construction activities (construction site management, protection measures).

During the construction of the works sediment fencing will be installed and construction noise will be minimised via conditions of consent.

THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT (s79C(1)(c)):

Whether the proposal fits in the locality.

The proposal meets the objectives of the zone and complies with the criteria contained within the SEPP (Affordable Rental Housing) 2009.

The development is within a rural residential area that contains a number of single and multiple dwelling developments. The secondary dwelling would not have any significant impact on the surrounding area and promotes an orderly and economic use of the land.

It is considered the effect on the environment would be minimal and the proposed secondary dwelling would complement the existing rural and social amenity of the locality.

Whether the site attributes are conducive to development.

The site is considered appropriate for the proposed development.

ANY SUBMISSION MADE IN ACCORDANCE WITH THIS ACT OR REGULATIONS (s79C(1)(d)):

Any submission from the public.

The application was advertised in accordance with DCP 2005 Chapter 70 - Notification of Development Proposals with two submissions being received.

| | Summary of Issues | Response |
|------------|--|--|
| d/03256456 | <ul style="list-style-type: none"> The view loss caused by the height of the development. Overloading the existing infrastructure within the area. | <p>The views currently enjoyed by the property owners are glimpses of Lake Macquarie across the subject lot and other adjoining properties. The development is fully compliant with setback and height restrictions and accordingly under the circumstances of this case this is not a matter to prevent the approval of the development.</p> <p>Contributions will be applied to the development to contribute proportionally to the maintenance of infrastructure in the locality.</p> |

2.3 DA/9/2013 - Proposed Detached Secondary Dwelling at Chain Valley Bay (contd)

| | Summary of Issues | Response |
|------------|--|--|
| d/03247155 | The view loss of the lake caused by the height of the development. | The views currently enjoyed by the property owners are glimpses of Lake Macquarie across the subject lot and other adjoining properties. The development is fully compliant with setback and height restrictions and accordingly under the circumstances of this case this is not a matter to prevent the approval of the development. |

Impact to Views

Both of the objectors currently enjoy distant minor glimpses of Lake Macquarie across the rear yard of the subject property and other properties. The secondary dwelling will effectively block these views.

Although the distant lake glimpses are not considered to be significant, any interruption to existing views from surrounding residences must be adequately reviewed. 'Planning Principles' established by case law identify how view sharing should be considered in assessing development. The findings of *Tenacity Consulting v Waringah Council 2004* established a four step approach to assessing the impact of development on views.

1st step - *Establish the value of the view*

Case law suggests that iconic views (views with significant features in the distance – E.g. Sydney Opera House or Harbour Bridge or historical features) are the most valuable followed by coastal views.

In this case there are no icons within view range at the site and the distant minor lake glimpses are considered to be of low value.

2nd step – *Establish source of view*

This aspect is concerned with what position the view is gained at the source. Locations such as living areas are more important than bedrooms or other less communal areas.

In this case the views are from the rear verandah. This area would have a high value as a source of a view as it would be used regularly for socializing and other passive recreation uses.

3rd step – *Establish extent of impact*

The extent of impact can either be whole or part. In this instance the impact on water views would be referred to as only part.

Case law suggests that a qualitative assessment (minor, moderate, severe etc,) is more useful than a quantitative value (10%, 20% etc).

2.3 DA/9/2013 - Proposed Detached Secondary Dwelling at Chain Valley Bay (contd)

The minor lake glimpses would be effectively lost due to the construction of the secondary dwelling.

□ 4th step – *Establish reasonableness of the impact*

Case law suggests that where a design complies with relevant Council development guidelines, the argument of loss of view lessens compared to development that exceeds for instance any height or setback limitations.

The State Environmental Planning Policy Affordable Housing 2009 does not contain any prescriptive provisions for secondary dwellings when lodged as a Development Application other than those relating to the minimum allotment size and maximum floor area for the building. However the SEPP does contain provisions applicable for secondary dwellings as Complying Developments and these standards have some relevance due to the lack of any other controls.

In this regard an assessment of the development against the planning standards set out in Schedule 1 of the SEPP for Complying Development has concluded that it is fully compliant with these standards including height and setback criteria.

Furthermore although the SEPP over rides any requirement of a Council DCP it is relevant to note that the development achieves full compliance with the restrictions relating to height bulk and scale contained within Chapter 100 Quality Housing and setbacks contained within Chapter 99 Building Lines.

In conclusion as the value of the view is low and the development is fully compliant with the relevant design guidelines there are not any valid circumstances that would justify the refusal or redesign of the proposal.



Pic 3- View of lake from neighbouring property.

Impact upon infrastructure

The SEPP Affordable Rental Housing 2009 was enacted to facilitate the development of affordable housing for homeless and other disadvantaged people and to provide for a housing opportunities in existing urban areas with existing infrastructure. Contributions will be applied to the development to contribute proportionally to the maintenance of infrastructure in the locality.

Under these circumstances this is not a matter to prevent the approval of the development.

Any submission from public authorities.

There are no submissions from public authorities.

OTHER MATTERS FOR CONSIDERATION

The property is within Northern Districts S94 Contribution Plan created under the provisions of Section 94 of the EP&A Act 1979. Section 94 contributions are applicable to secondary dwellings under this plan as defined under the Affordable Housing SEPP.

Under the contribution plan the secondary dwelling would generate Section 94 contributions for a 1 bedroom dwelling at the rate of 0.52 development unit equating to \$5063.10. In accordance with the Council resolution of 14th of November 2012 contributions of 35% of a development unit would reduce the contributions to \$3407.85 which equates to a reduction of \$1655.15.

CONCLUSION

The development application for a proposed secondary dwelling meets the standards of the relevant chapters of Council's DCP 2005 and the SEPP (Affordable Rental Housing) 2009. The application is recommended for approval subject to the attached conditions.

ATTACHMENTS

- 1 Draft Approval Conditions D03269297
- 2 Development Plan (A3 B&W) D03283881

PROPOSED CONDITIONS – DA 9/2013**Detached secondary dwelling at 3 Elabana Avenue, CHAIN VALLEY BAY**

- 1 The development taking place in accordance with the approved development plans reference number 35 Elabana Ave, Chain Valley Bay sheets 1 to 1 prepared by Coastline Building Design dated 2/11/2012 except as modified by any conditions of this consent, and any amendments in red.

Prior to Release of Construction Certificate:

The following conditions must be satisfied prior to the release of the Construction Certificate. Conditions may require the submission of additional information with the Construction Certificate Application. Applicants should also familiarise themselves with conditions in subsequent sections and provide plans in accordance with any design requirements contained therein.

Certificates – Application and Approval

- 2 A Construction Certificate is to be issued by the Principal Certifying Authority prior to commencement of any construction works. The application for this Certificate is to satisfy all of the requirements of the Environmental Planning and Assessment Regulation 2000.

Contribution Payment Requirements

- 3 Prior to the issue of a Construction Certificate, the payment to Council of contributions (as contained in the attached Schedule) under Section 94 of the Environmental Planning and Assessment Act 1979 and Council's Section 94 and Section 94A Contribution Plan. Council's contributions are adjusted on the first day of February, May, August and November. The amount of the contributions will be adjusted to the amount applicable at the date of payment.

Structural Design Requirements

- 4 Prior to the issue of a Construction Certificate, a report prepared by a suitably qualified Registered Structural Engineer is to be provided for the approval of the Accredited Certifier providing certification that the existing structure is capable of accepting all anticipated live and dead loads imposed by the proposed addition. Such report is to include any recommendations on the structural upgrade of the existing structure.

Water and Sewer Services - Design Requirements

- 5 All water and sewer works or works impacting on water and sewer assets must be designed and constructed to the requirements of Council as the Water Supply Authority. The requirements are detailed in the Section 306 Notice of Requirements letter attached to this consent. **Note:** The Section 306 Notice contains requirements associated with the development that must be completed prior to the issue of the Construction Certificate.

- 6 The developer must submit an application to Council under Section 305 of the Water Management Act 2000 for any requirements for the obtaining of a Section 307 Certificate of Compliance. The application must be made prior to the issue of the Construction Certificate. **Note:** The Section 305 Notice may contain requirements associated with the development that must be completed prior to the issue of the Construction Certificate.

Prior to Commencement of Works:

The following conditions must be satisfied prior to the commencement of site works, including any works relating to demolition, excavation or vegetation removal.

Erosion and Sediment Control Requirements

- 7 Prior to works associated with the development commencing, soil erosion and sediment controls measures are to be provided on the development site in accordance with Council's Policy E1 - Erosion and Sediment Control from Building Sites and Development Control Plan 2005, Chapter 67 – *Engineering Requirements for Development* and the approved development plans.
- 8 Prior to works associated with the development commencing, an appropriate sign to promote the awareness and importance of the maintenance of on-site sediment control techniques is to be provided on the most prominent sediment fence or erosion control device within the development site, for the duration of the project.

Home Building Act Requirements

- 9 Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless Council, as the Principal Certifying Authority for the development to which the work relates, has been furnished with the following information:

In the case of work to be done by the holder of a contractor licence under that Act:

- the name and licence number of the contractor; and
- A copy of the Home Owner Warranty Insurance.

In the case of work to be done by the holder of an owner-builder permit under that Act:

- A copy of the Owner Builder's Permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified above becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council), has given the Council written notice of the updated information.

Site Requirements

- 10 Prior to works associated with the development commencing, the Principal Contractor (or Owner/Builder) is to erect a suitable sign in a prominent position on the development site (not attached to any tree) identifying the name, address and telephone number of the Principal Certifying Authority (PCA) for the work, the name, address and telephone number (including a number for outside of business hours) of the Principal Contractor for the work (or Owner/Builder) and stating that unauthorised entry to the site is prohibited. The required sign is to be maintained for the duration of works associated with the development. Appropriate signs can be collected from Council's Customer Service Centre, where Council is the nominated Principal Certifying Authority with respect to the development.
- 11 Prior to works associated with the development commencing, where any excavation is proposed in proximity to existing gas and/or electricity networks, the developer is advised to notify 'Dial Before You Dig' of the time and place of work no more than thirty (30) days before the work commences. The developer must satisfy any requirements as set by the network operators in carrying out excavation works.

During Construction Works:

The following conditions must be satisfied during construction works.

Approved Plans

- 12 A copy of the stamped approved plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.

Ecology/Trees - Construction Requirements

- 13 No tree (or other vegetation) other than those specifically notated on the approved plan(s) as "tree to be removed" shall be felled, lopped, topped, ring-barked, uprooted, or otherwise wilfully destroyed or removed, without the further written consent of the Consent Authority.

Erosion and Sediment Control - Construction Requirements

- 14 Sand and other materials associated with the construction of the development that could potentially be washed off the site during rain periods, are to be stored behind a suitable sediment control barrier.
- 15 All sediment and erosion control devices provided with respect to the development are to be periodically cleaned and maintained in an effective state for the duration of works. On the spot fines for non-compliance with this requirement may be issued under the provisions of the *Protection of Environment Operations Act, 2000*.

Plumbing and Drainage - Construction Requirements

- 16 Council as the Water Supply Authority, under the provisions of the Water Management Act, or in unsewered areas where an onsite sewage management facility is to be installed, is to be notified to undertake inspections of the internal drainage lines, (prior to the pouring of the concrete slab), and external drainage lines inclusive of sewer junction connection, prior to the backfilling of the trenches. These inspections can be arranged by telephoning Council's Customer Contact Centre on (02) 4350 5555 a minimum of twenty-four (24) hours prior to the required time for the inspection. Please note that all drainage inspection fees are to be paid to Council prior to plumbing and drainage works associated with the development commencing.

Site Requirements

- 17 Construction or demolition works involved with the development may only be carried out between the hours of 7.00 am and 5.00 pm Monday to Saturday with no construction or demolition works associated with the development permitted to be carried out at any time on a Sunday or a public holiday.
- 18 During the construction phase of the development, all building materials, plant and equipment must be placed on the site of the development in order to ensure that pedestrian and vehicular access within adjoining public roads, footpaths and reserve areas, is not restricted and to prevent damage to public infrastructure.
- 19 During the construction phase of the development, downpipes and the associated stormwater disposal system is to be suitably connected to the site stormwater connection point immediately after the roof materials are positioned in order to prevent erosion of the site from roof water run off. The Principal Certifying Authority for the development will not issue a compliance certificate for framing unless connection of the site stormwater (or temporary system) has occurred.

Water and Sewer Services/Infrastructure – Compliance Requirements

- 20 Prior to the issue of an Occupation Certificate, all water and sewer works for the development must be approved by Council as the Water and Sewer Authority.
- 21 The obtaining of a Section 307 Certificate of Compliance under the Water Management Act 2000 for water and sewer requirements for the development from Wyong Shire Council as the Water Supply Authority prior to issue of the Subdivision/Occupation Certificate. All works for the development must be approved by Council prior to the issue of a Certificate of Compliance.

Prior to Release of Occupation Certificate:

The following conditions must be satisfied prior to the release of an Occupation / Subdivision Certificate.

BASIX Requirements

- 22 Prior to the issue of an Occupation Certificate, pursuant to Clause 97A(3) of the Environmental Planning and Assessment Regulation 2000, it is mandatory that all the commitments listed in the BASIX Certificate applicable to the development are fulfilled.

Building Code of Australia – Compliance Requirements

- 23 Prior to the issue of the Occupation Certificate, the building shall be completed in accordance with the relevant provisions and requirements of the Building Code of Australia.

Plumbing and Drainage - Compliance Requirements

- 24 Prior to the issue of an Occupation Certificate, the hot water installation is to be suitably tempered in order that hot water not exceeding 50 degrees Celsius is provided at the outlet of the sanitary fixtures used primarily for personal hygiene purposes. Compliance with this temperature limit is optional for kitchen sinks and laundry tubs under the provisions of AS/NZS 3500, Part 4.2 C1.1.6.2.
- 25 Prior to the issue of an Occupation Certificate, the required rainwater tank is to be provided in the location as detailed within the approved development plans with suitable plumbing connections provided to collect rainwater from the roof area as detailed within the BASIX Certificate applicable to the development. The required rainwater tank is to be installed in accordance with the requirements of the National Plumbing and Drainage Code AS/NZS 3500 and shall be provided with first flow diversion devices fixed to all inflows and a functioning pressure pump plumbed to service all fixtures as detailed within the BASIX Certificate applicable to the development. The required tank must be controlled in order that supplemental flow from domestic mains does not take place until the capacity of the tank has been reduced to 20%.

Stormwater – Compliance Requirements

- 26 Prior to the issue of an Occupation Certificate, stormwater generated from roof areas of the building and any overflows from rain water tanks installed in conjunction with the development, is to be disposed of to Council's street gutter drainage system. Where provided, the existing kerb stormwater connection is to be utilised.

Ongoing Operation:

The following conditions must be satisfied during use / occupation of the development.

No Conditions

SCHEDULE OF CONTRIBUTIONS

| | |
|--|------------|
| Shire Wide Regional Open Space | \$88.75 |
| Shire Wide Cycleway Network | \$182.05 |
| Shire Wide Performing Arts Centre & Public Art | \$205.40 |
| Shire Wide Administration | \$39.45 |
| Northern Districts Open Space Local Parks | \$2,315.75 |
| Northern Districts Community Facilities | \$1,958.85 |
| Northern Districts Administration | \$272.85 |

2.4 Proposed Rezoning - RZ/2/2012 - Jilliby Stage 2

TRIM REFERENCE: RZ/2/2012 - D03294728
MANAGER: Jari Ihalainen, Director Land Management
AUTHORS: Scott Duncan; Senior Strategic Planner
Chris Ferry; Strategic Planner

SUMMARY

Council is in receipt of a Planning Proposal (Rezoning Application) known as Jilliby Stage 2. The Proposal is accompanied by a Concept Masterplan and seeks to rezone 355 ha of land for rural residential purposes in the form of 197 allotments ranging from 1 to 3 hectares. Further, it is proposed to set aside a drainage and conservation corridor of 76 hectares, which links with similar lands off-site.

The proposal represents an extension of similarly styled development which characterises the Hue Hue locality.

A review of the Proposal has concluded that it generally has merit "in principle" and that Council should initiate the rezoning process by preparing a Planning Proposal and referring it to the Department of Planning and Infrastructure (DoPI) for a "Gateway" determination.

| | |
|------------------------------|---|
| Rezoning Application | RZ/2/2012 |
| Applicant | LFA (Pacific) Pty Ltd |
| Owners | G and G Lake, B Mullard, R and L Atchison, R Lin, C Tohamy, K Currey, D Brown, D and P Dewberry, Y Shevket, F and E Mercieca, L and M Baulch, T and S Ethell, E and B Blank, K and P McDonald, Z Mushu, R and E Hanna, C Sciberras, J Gardner, L Dunn, and E Sinclair. |
| Description of Land | Various lots comprising Lot 1 DP 560489, Lot 2 DP 560489, Lots 2, 3 and 4 DP246727, Lot 5, 6, 7, 8, 9, 11 and 12 DP 258965, Lot 10 and Lot 102 DP 773780, Lots 10 and 11 DP 613648, Lots 11, 12 and 13 DP 838870, Lots 168 and 226 DP 755271. (known as Jilliby Stage "2") |
| Proposal | Option 1 - Rezone the land 7(c) scenic protection small holdings and 7(a) Conservation zone pursuant to Wyong LEP, 1991 Or Option 2 - Rezone the land R5 Large Lot Residential and E2 Environmental Conservation under Draft Wyong LEP, 2012 dependent upon its progress. |
| Site Area | 355 hectares |
| Zoning | 7(b) Scenic Protection – Wyong LEP, 1991 |
| Existing Use | Various rural residential uses and low intensity agriculture. |
| Employment Generating | 620 jobs over 10 years |
| Estimated Value | \$250 million |

RECOMMENDATION

- 1 *That a Planning Proposal be prepared to amend Wyong Local Environmental Plan, 1991, (or pending timing, Wyong Standard Instrument Local Environmental Plan) pursuant to Section 55 of the Environmental Planning and Assessment (EP & A) Act, 1979, for the rural residential development and conservation of the Jilliby Stage 2 area.*
- 2 *That Council, forward the Planning Proposal to the Department of Planning and Infrastructure accompanied by a request for a “Gateway Determination”, pursuant to Section 56 of the EP & A Act, 1979.*
- 3 *That Council require, subject to the “Gateway Determination,” the proponent enter into a Funding Agreement with Council in accordance with Council’s Planning Proposal Procedure to recover the costs involved in further progressing the proposal.*
- 4 *That Wyong Development Control Plan, 2005 be revised and publicly exhibited to provide guidelines to future development.*
- 5 *That Council authorise the General Manager (or delegate) to sign the Funding Agreement.*
- 6 *That Council undertake community and government agency consultation, in accordance with the requirements attached to the “Gateway Determination”.*
- 7 *That Council request the Department of Planning and Infrastructure to prepare a relevant Local Environmental Plan amendment, and that the Minister be requested to make the Plan, subject to there being no significant objections that cannot be resolved by making minor amendments to the Planning Proposal.*

BACKGROUND/CURRENT STATUS

The rural residential development of Hue Hue and Jilliby was considered some 20 years ago. The Hue Hue proposal proceeded to rezoning and development, with Jilliby Stage 2 deferred from immediate release.

Most recently the Jilliby Stage 2 rezoning proposal was included in Council’s Shire Wide draft Local Environmental Plan 2012 (dLEP 2012). In issuing certification for the public exhibition of such plan the DoPI excluded the subject land and suggested that it should proceed as an independent Planning Proposal.

SUBJECT LAND

The subject land holding comprises 355 hectares extending over 22 allotments and ranging in size from 2 hectares to 40 hectares. It is further noted that 3 of the larger holdings are in common ownership and total 81 hectares.

The land is characterised by significant variability in topography, drainage qualities and vegetation cover. Further, it is generally devoted to rural residential and low impact agricultural activities (refer to Figure 1 of Attachment 1).

The constraints and opportunities of the land are generally captured in Figure 2 of Attachment 1, whilst Figure 3, in Attachment 1, displays the Site Ownership Pattern.

SETTING/CONTEXT

The subject lands are located approximately 8 kilometres (line of sight) North West of the Wyong Town Centre and abut Sandra Street and more generally the Hue Hue Rural Residential area.

To the east is generally dense vegetation including the residue lands of the Buttonderry Waste Management Facility; whilst to immediate west are generally heavily vegetated steeper slopes.

The context/setting is depicted in Figure 1 of Attachment 1 and Attachment 2.

THE PROPOSAL

The current proposal seeks to rezone 355 hectares of land (comprising 22 allotments) to enable the creation of an indicative 197 allotments, ranging from 1 to 3 hectares in size, which generally respond to the sensitivities of the site.

It is proposed to set aside a central drainage and conservation corridor of 76 hectares which links with lands of similar qualities offsite, as a conservation zone.

More generally, it is proposed to largely:

- Retain the natural drainage network;
- Retain and preserve ecologically sensitive areas;
- Preserve the existing landscape character; and
- Retain and expand the existing road network.

A Concept Masterplan (refer to Attachment 3) and Concept Masterplan Report accompanies the Planning Proposal submission. This Plan will need further review as more detailed environmental investigations are undertaken, as will discussed below.

OVERVIEW

The Planning Proposal Submission (PPS) has been developed by the proponents over a period of time and has been generally informed by a series of diverse but somewhat limited specialist studies/investigations, with little contact with Council.

Many of the background studies/investigations are not exhaustive and require further detailed work and, in some instances, resolution of key issues. This information, together with other data gaps, will represent a key input in finalising a Planning Proposal to the standard suitable for consultation with the community and statutory authorities.

It is planned that the required information be compiled after a Gateway Determination by the DoPI. Indeed, the additional information requirements and consultation requirements will likely be further detailed if a positive Gateway Determination is made.

Further, the additional information will assist in revising the accompanying Concept Masterplan (Indicative Layout Plan).

It should be noted that the abovementioned approach suggests deferment of the additional information requirements to post-Gateway; it being considered on balance that the PPS has sufficient merit and rigour to advance it to the Department for a Gateway Determination.

REVIEW OF THE PROPOSAL

General Strategic Context

The proposal has not been expressly identified in any strategic plans or reports but for Council's Draft Settlement Strategy, as discussed further below.

It is not identified as a future low density residential/rural residential release in the recently released North Wyong Structure Plan.

Its context relative to the North Wyong Structure Plan is, however, depicted conceptually in Attachment 4.

The Wyong Draft LEP 2012 (as exhibited) proposes to zone the site RU2 Rural Landscape. This zone represents a "best fit" conversion of the existing zone in Wyong LEP, 1991.

Issues Analysis

The following issues have emerged from the review of the Planning Proposal Submission (PPS) and will form the basis of the additional investigations required to support the compilation of a relevant Planning Proposal and revision of the Concept Masterplan (post Gateway):

- Planning Proposal Boundaries;
- Buttonderry Waste Management Facility;
- Nature and Extent of Vegetation Clearance;
- Creation and Management of corridor linkages;
- Flooding and Stormwater Management;
- Total Water Cycle Management/Water Catchment impacts;
- Bushfire Risk Management;
- Preliminary Contamination investigation;
- Mine Subsidence;
- Geotechnical understanding/response;
- Soil suitability/capability;
- Acoustic Impact Management;
- Nature of Road Network;
- Responsiveness to Landscape Character;
- Indigenous archaeological cultural heritage impacts;
- Service infrastructure provision;
- Social Impact and Open Space and Recreational demands;
- Physical infrastructure and natural systems Funding/Management; and
- Operational impacts of Warnervale Airport (and any other similarly located proposal).

An overview statement in respect of each is provided below and an expanded commentary forms Attachment 8.

Planning Proposal Boundaries

Opportunities to expand and rationalize the boundaries of the proposed study area should be explored in a broader planning context after more detailed examination of constraints has occurred. Some land in the northern part of the study area is very steep, heavily vegetated and bushfire prone. Further consultation with state government agencies is also likely to lead to some rationalisation of the study area boundaries as the rezoning is progressed.

Buttonderry Waste Management Facility

The compatibility of the proposal and the long term operational parameters of the Waste Management Facility need to be evaluated and inform the final nature and form of the Planning Proposal.

Ecology

A more holistic review of the vegetation to be cleared, mitigation measures and options for offsetting unavoidable losses and creating more extensive "green links" should be undertaken.

Ownership and management requirements of the green links and floodways has not been clarified. Council is unlikely to support taking ownership responsibilities for those areas.

Bushfire

A comprehensive Bushfire Risk Management Strategy which fully addresses "Planning for Bushfire Protection, 2006" should be prepared.

Contamination

As a minimum a Stage 1 – Preliminary Investigation should be undertaken.

Mine Subsidence

Potential mine subsidence impacts need to be further reviewed.

Land Stability/Geotechnical

A more comprehensive geotechnical investigation shall accompany the Planning Proposal as it is advanced.

Soil Capability/Suitability/Acid Sulphate Soils

The prospect of on-site effluent disposal necessitates a comprehensive understanding of soil capability/suitability.

Acoustics

A more comprehensive acoustic assessment and relevant strategy developed which accounts for road traffic noise and industrial type activities shall be developed.

Buttonderry Waste Facility Operations

The impact of expansion plans of the Buttonderry Waste Facility that adjoins this site will need to be carefully examined by Council staff in order to assess potential noise, dust and odour impacts on the proposal.

Traffic/Transport/Accessibility

A comprehensive accessibility strategy that explores opportunities of enhanced connectivity road network upgrades generally and has regard to flooding impacts.

Landscape Character and Views

The preliminary landscape character and view analysis shall be further developed and more rigorously inform the Concept Masterplan.

Flooding and Stormwater Management

A more comprehensive understanding of the application and integration of water sensitive urban design principles and flood management, including accessibility impacts, shall be facilitated.

Service Infrastructure Provision

An integrated and sustainable infrastructure strategy shall be developed, including an appropriate funding mechanism.

Indigenous/Cultural Heritage

A comprehensive Aboriginal Archaeological and Cultural heritage survey, including relevant consultation shall be undertaken.

Social Impact

An understanding and outline strategy for servicing the social impacts of the proposal having regard to existing and proposed infrastructure in the locality should be documented.

Physical Infrastructure and Natural Systems Funding/Management

Knowledge of the nature and extent of infrastructure impacts and principles of a relevant funding and management strategy shall be developed.

Airport operations

The potential operational impacts of the Warnervale Airport (and any other locally proposed airport) should be evaluated and addressed.

LOCAL PLANS, POLICIES AND STRATEGIES

Wyong Local Environmental Plan 1991 and Wyong Standard Instrument Local Environmental Plan

The subject site is currently zoned 7(b) Scenic Protection under Wyong Local Environmental Plan 1991 as identified in Attachment 5.

The Wyong Standard Instrument Local Environmental Plan (dLEP 2012) as exhibited proposes to zone the site RU2 Rural Landscape. This zone represents the 'best fit' conversion of the existing zone in Wyong LEP 1991.

The site is also affected by a Height Limitation Area implemented through Clause 46 – Development of certain land near Warnervale Airport of Wyong LEP 1991. This restriction affects the southern elevated areas (RL 14m – 36m) of Lots 2, 3 and 4 DP 246727. This may affect development potential in these localities.

Draft Wyong Settlement Strategy 2012

Council's draft Settlement Strategy provides an analysis of demand, supply and nature of land and identifies where additional land may need to be set aside for rural residential, residential, business and commercial development while retaining the Shire's natural environmental values.

The draft Settlement Strategy includes a composite analysis of land capability and suitability for development potential based on an analysis of constraints, including (but not limited to) flooding, slopes, 'at risk' vegetation communities, landscape quality, agricultural potential and proximity to services.

This limited assessment has identified that the subject site is a low priority area for settlement due to the effect of a range of 'land suitability and capability' considerations. In summary, the Jilliby Stage 2 precinct was identified to:

- comprise class 3 agricultural lands;
- have water catchment implications;
- exhibit moderate landscape quality and was generally not highly visible;
- potentially be impacted by industrial and waste management matters;
- have high erosion hazard, localized foundation hazards, seasonal waterlogging and hardsetting stoniness;
- have a low standard of road construction;
- have limited flood free access; and
- be extensively vegetated in parts.

A submission to the Draft Settlement Strategy (and Draft Wyong LEP, 2012, and Draft Wyong DCP) on behalf of the proponents, challenges the "low" ranking as a candidate future rural residential area.

The submission is underpinned by some more detailed information that was not previously readily available to Council. Some of this information is sufficiently well founded to, on balance; suggest at least a 'moderate' ranking of the subject area. Some assertions, however, need ultimately to be reviewed in the light of more comprehensive investigations.

The Draft Settlement Strategy should accordingly be revised to reflect the subject site as having a ‘moderate’ ranking as a candidate future rural residential area.

Development Control Plan (DCP) 2005: Development Controls for Wyong Shire & Draft DCP 2012: Development Provisions for Wyong Shire

Any development of the subject site being undertaken as a result of the rezoning will be required to be consistent with relevant controls of DCP 2005, or pending timing of DCP 2012, in particular, the following Chapters:

| DCP 2005 | DCP 2012 |
|---|---|
| 61: Car Parking; | Chapter 2.1: Dwelling Houses and Ancillary Structures |
| 66: Subdivision; | Chapter 2.3: Dual Occupancy Development |
| 67: Engineering Requirements for Development; | Chapter 2.11: Parking and Access |
| 69: Controls for Site Waste Management; | Chapter 3.1: Site Waste Management |
| 58: Dual Occupancy Development; | Chapter 3.2: Water Sensitive Urban Design |
| 100: Quality Housing; and | Chapter 3.3: Floodplain Management |
| 99: Building Lines; | |
| Draft Chapter 97: Water Sensitive Urban Design. | |

STATE PLANS, POLICIES AND STRATEGIES

Central Coast Regional Strategy (CCRS)

The subject site is not identified within the Central Coast Regional Strategy (CCRS) for future development. Furthermore, the CCRS specifically states that:

‘opportunities for settlement expansion will not apply to the rezoning of land for urban residential development west of the F3 Freeway.’

It is important that the proposal is identified as a suitable location for rural residential development within a local Strategy, and endorsed by the Director General of DoPI.

Council’s draft Settlement Strategy is expected to fulfill this requirement. It is important to note however that the strategy has not been endorsed by Council, or the DoPI Director General. This may hinder the progression of the proposal beyond Council endorsement.

The CCRS further identifies that additional greenfield development sites not already nominated by the strategy are required to be assessed against the CCRS Sustainability Criteria. It is considered that following the completion of additional investigative studies, the proposal can be consistent with these criteria.

Regional Economic Development and Employment Strategy (REDES) 2010

The Regional Economic Development and Employment Strategy (REDES) is a partnership between the NSW Government, Regional Development Australia Central Coast (RDACC), Gosford City Council and Wyong Shire Council.

Whilst the proposal will not directly supply long term employment opportunities, short term opportunities would be created through associated planning and construction work.

Section 117 Directions

The proposal has been assessed on a preliminary basis against the Section 117 Ministerial Directions. The assessment in full is contained within Attachment 6 of this report.

The consistency of the proposal against a number of s117 Directions is subject to the outcomes of a number of additional updated studies required to be undertaken by the proponent, should the proposal be supported by Council and the Gateway.

State Environmental Planning Policies

The proposal has been assessed having regard for relevant State Environmental Planning Policies (SEPP). The assessment in full is contained within Attachment 7 of this report.

OPTIONS

Option 1 – Progression of Proposal as Proposed

This report recommends additional investigative studies are undertaken to assist in the development of a revised concept plan. Presently, it is proposed that such studies are delayed until a Gateway Determination to proceed with the progression of the proposal is received.

In order to provide some level of development and financial certainty for the Proponent, prior to the outlay of funds for these studies to be undertaken, this option is recommended.

Option 2 – Delay Progression until Additional Investigative Studies Completed

As an alternative to Option 1, Council could request additional updated investigative studies to be undertaken by the Proponent prior to a Planning Proposal being forwarded to the DoPI for consideration. The completion of these studies could take some time (as seasonal survey may be required).

This would result in the potential outlay of funds and time by the Proponent without any certainty being available as to the potential outcomes.

This option is therefore not recommended.

Option 3 – Defer the Proposal until CCRS is Reviewed

A formal commitment from DoPI to include the site in the next revision of the CCRS is required. Furthermore, whilst the timing of a review is imminent, Council has not been advised of when it will commence or be completed.

This option is not recommended.

Option 4 – Refuse to Progress the Proposal

The site has long been identified for rural residential development as identified within Council's own strategic planning documents.

This option is not recommended.

STRATEGIC LINKS

Wyong Shire Council Strategic/ Annual Plan

The proposal is consistent with Wyong Shire Council's Strategy Annual Plan.

Long term Financial Strategy and Asset Management Strategy

Some of the subject lands may ultimately be zoned for conservation purposes, having regard to the environmental and drainage qualities of the land.

The ownership and management of such lands will need to be carefully considered, post Gateway, in order to find a balance that achieves the desirable environmental management outcomes and minimises any Council burden.

The proposal can be directly linked to the following objectives of the plan:

1. Communities will be vibrant, caring and connected with a sense of belonging and pride in their local neighbourhood.
 - (e) Developing and implementing the Wyong Shire-wide Settlement Strategy.
3. Communities will have access to a diverse range of affordable and coordinated facilities, programs and services.
 - (f) Maximise the access to, and potential for, new and existing facilities/infrastructure to support growth.
4. Areas of natural value in public and private ownership will be enhanced and retained to a high level in the context of ongoing development.
 - (a) Preserving threatened and endangered species as well as ecological communities and biodiversity.
 - (c) Ensuring all development areas create or maintain tree covered ridgelines and waterways.

Budget Impact

There are no immediate budget impacts, as progress of the Planning Proposal is being funded by the requisite accompanying Phase 1 fee. Further assessment work conducted by Council will be funded by the proponent.

CONSULTATION

The proposal was referred to a cross section of Council staff representing diverse interests including:

- Water Management/Hydrology;
- Ecology;
- Bushfire;
- Transport/Accessibility;
- Wastewater/Sewer;
- Developer Contributions;
- Service Infrastructure; and

- Social Planning.

Comments received have informed the assessment of the proposal and the need for additional investigative studies.

Future community and government agency consultation requirements will be outlined by the Gateway Determination, should the proposal be supported.

GOVERNANCE AND POLICY IMPLICATIONS

Refer to discussion relating to Local Plans, Policies and Strategies

CONCLUSION

This report seeks Council's endorsement to prepare and submit to the DoPI, a Planning Proposal for the area known as Jilliby Stage 2 to enable rural residential development.

The site in general has long been identified as having suitable qualities for this land use and is supported by Council's exhibited draft Settlement Strategy (2012).

Where information accompanying the PPS are deemed inadequate, additional studies/updates will be required to be undertaken at the expense of the Proponent.

ATTACHMENTS

| | | |
|---|--|-----------|
| 1 | Principle Features of Subject Site | D03296363 |
| 2 | Site Context/Setting | D03296364 |
| 3 | Concept Masterplan (Indicative Lot Layout) | D03296365 |
| 4 | North Wyong Shire Structure Plan Context | D03296360 |
| 5 | Wyong LEP 1991 Zoning | D03296362 |
| 6 | Section 117 Direction Assessment | D03296684 |
| 7 | State Environmental Planning Policy Assessment | D03296683 |
| 8 | Issues Analysis Expansion | D03296379 |

Figure 1: Aerial Locality Plan



Figure 2: Constraints and Opportunities

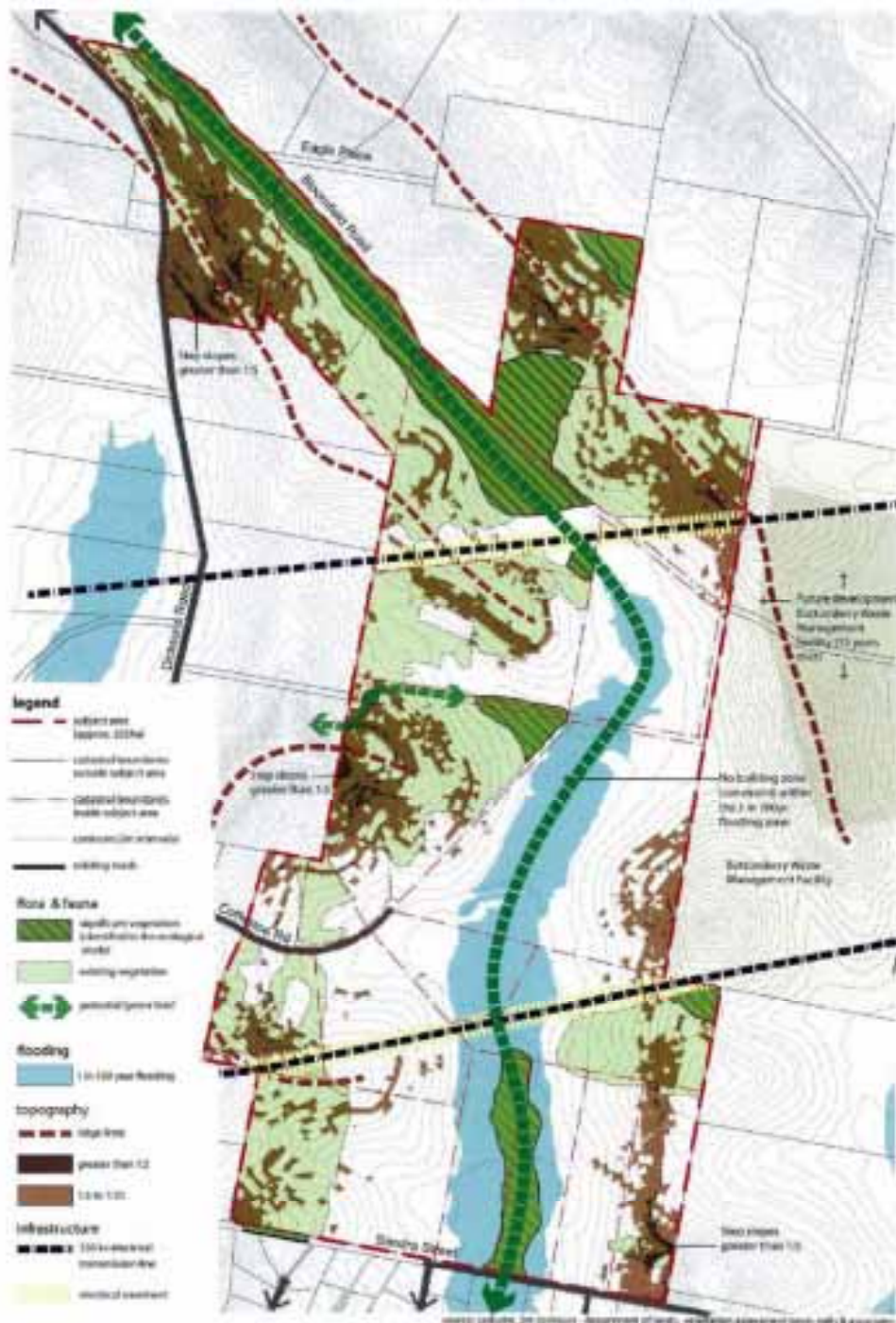
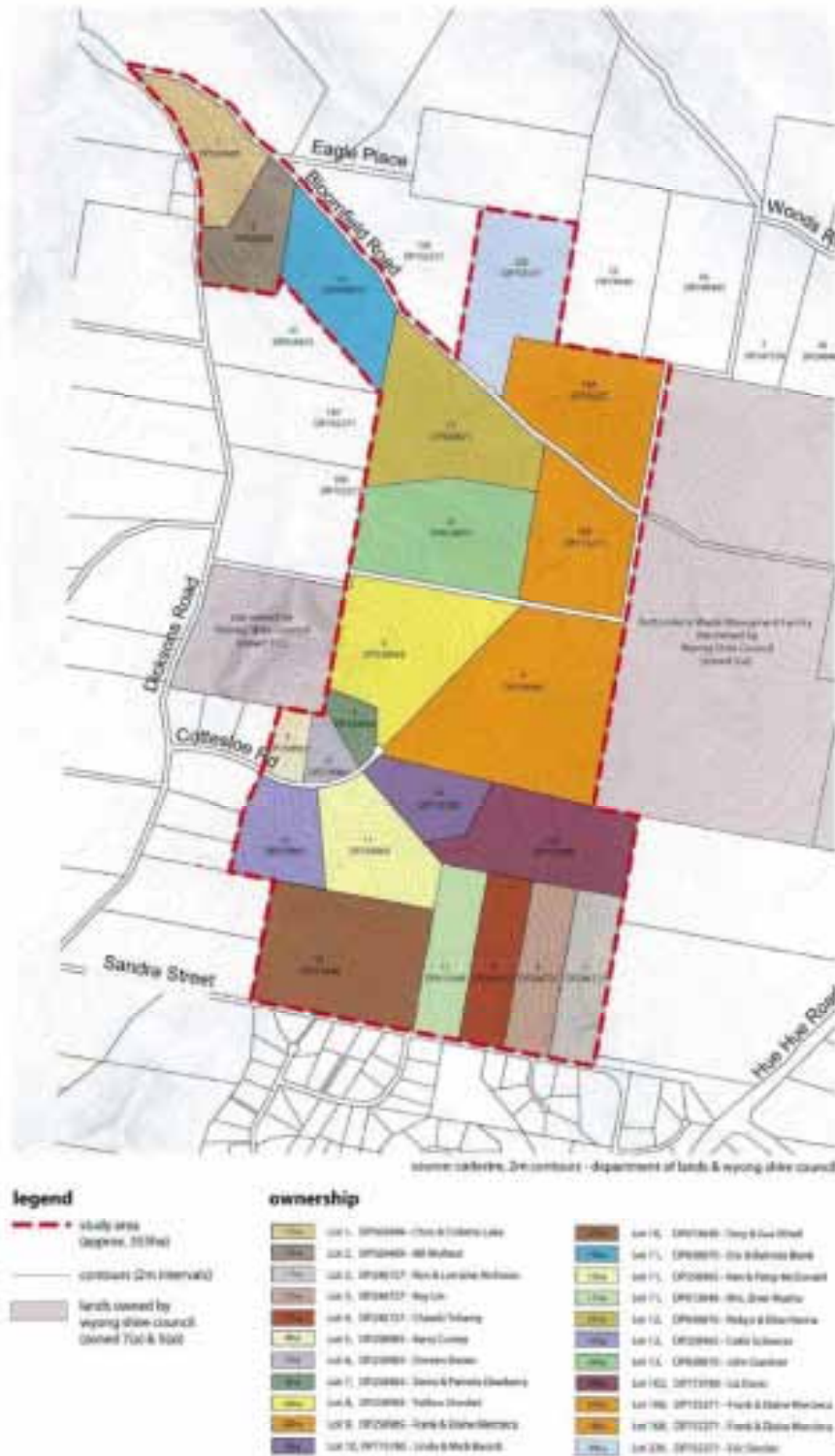
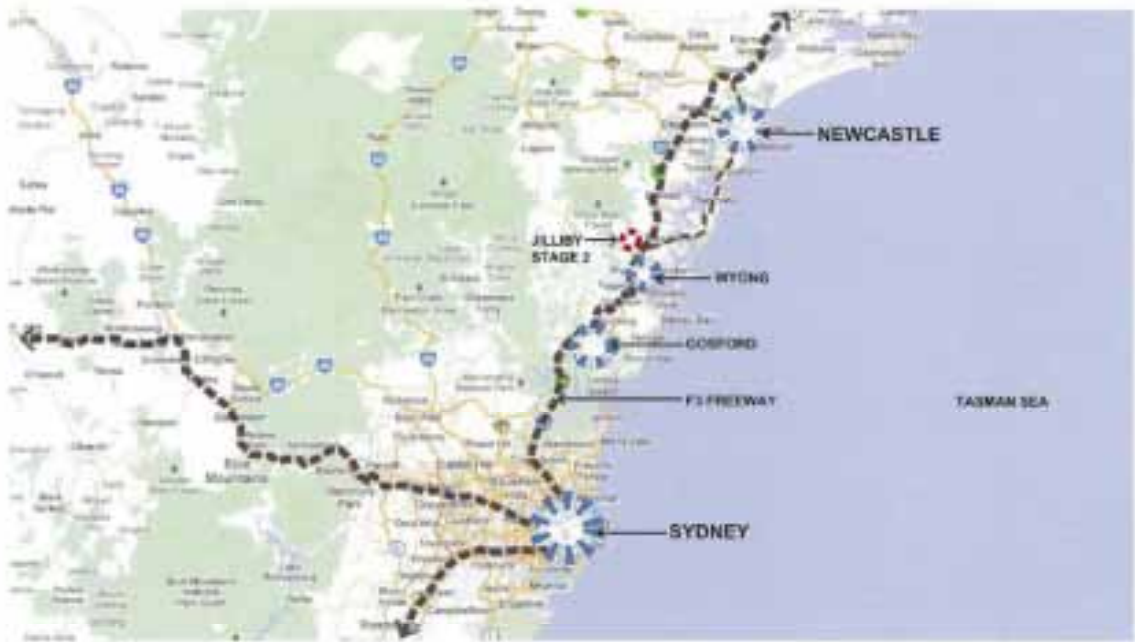


Figure 3: Site Ownership



Site Context

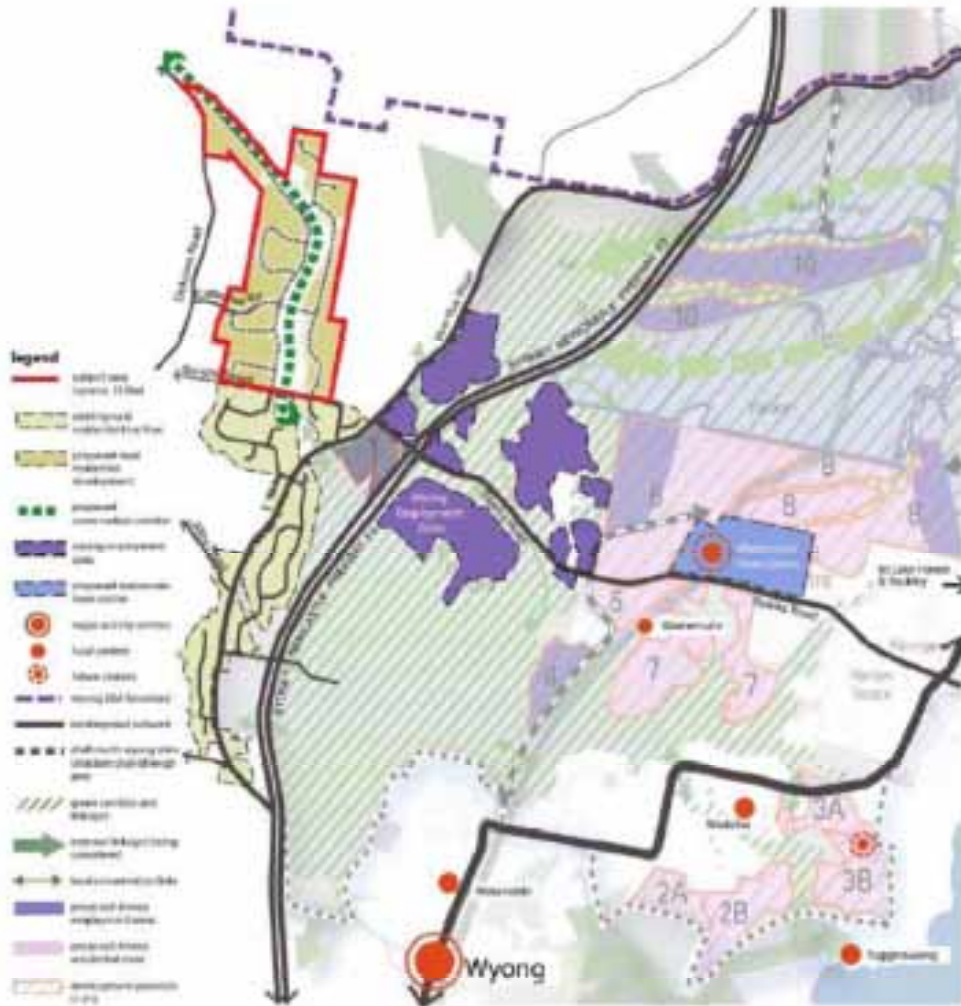


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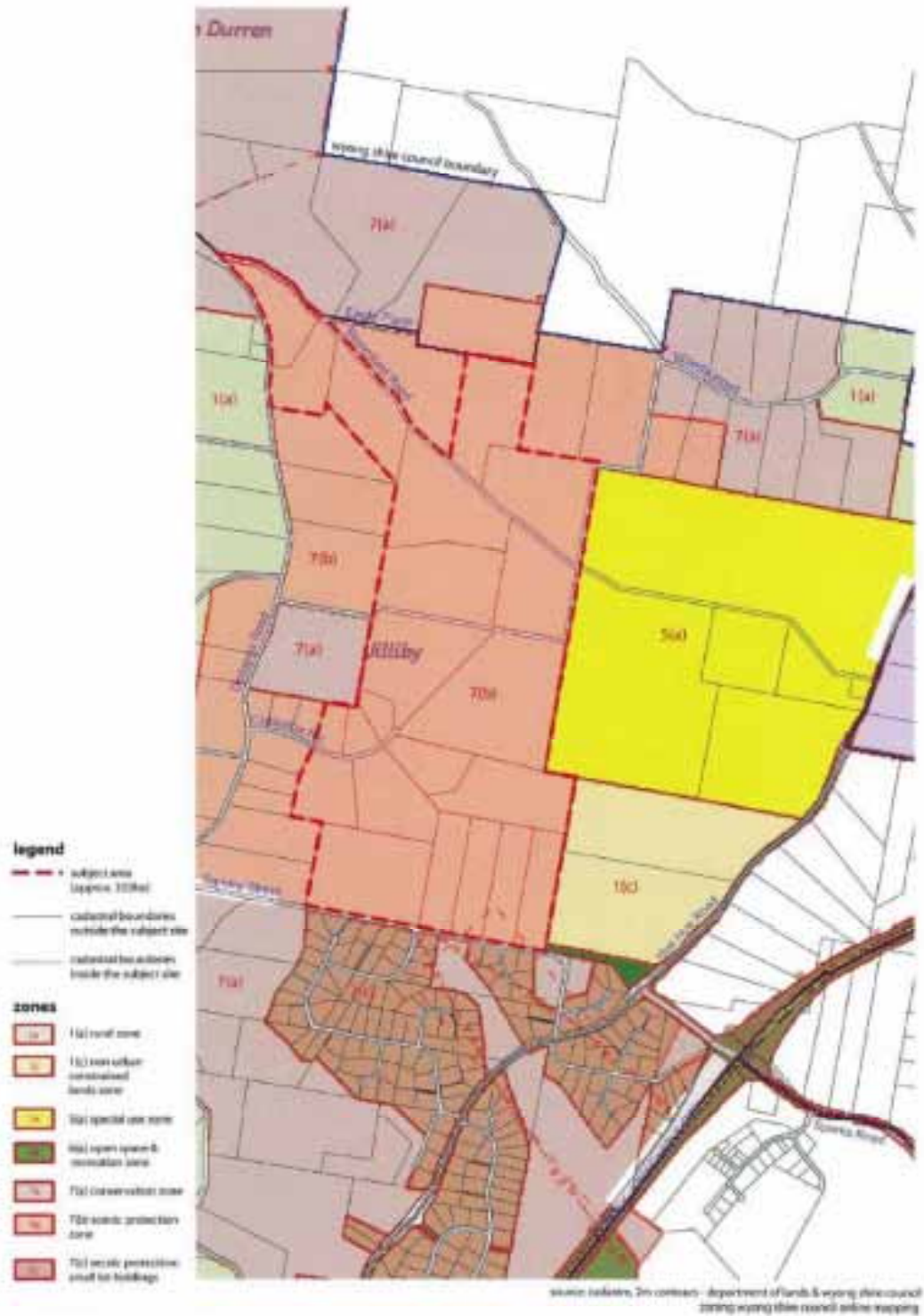


source: google maps

North Wyong Shire Structure Plan Context



Wyong LEP 1991 Zoning



Section 117 Direction Assessment

| Direction | Comment |
|---|--|
| Employment & Resources | |
| 1.1 Business & Industrial Zones | |
| <p>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.</p> <p>Applies when a planning proposal affects land within an existing or proposed business or industrial zone.</p> | <p>Not Applicable.</p> <p>The proposal does not affect land within an existing or proposed business or industrial zone.</p> |
| 1.2 Rural Zones | |
| <p>Aims to protect the agricultural production value of rural land.</p> <p>Applies when a planning proposal affects land within an existing or proposed rural zone.</p> | <p>Not Applicable.</p> <p>The subject site is not currently zoned for rural purposes.</p> |
| 1.3 Mining, Petroleum Production and Extractive Industries | |
| <p>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.</p> <p>Applies when a planning proposal 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.</p> | <p>Applicable.</p> <p>The proposal seeks to enable rural residential development within an identified mine subsidence district, and is located in close proximity to the proposed Wallarah 2 longwall mine project</p> <p>The scale of proposed residential development may exceed surface development limitations/guidelines of the MSB.</p> <p>Additional comment from the MSB will be required having regard to the above, prior to confirming this proposal can be consistent with this direction.</p> |
| 1.4 Oyster Aquaculture | |
| <p>Aims to ensure that Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area are adequately</p> | <p>Not applicable.</p> <p>The proposal is not located within a Priority</p> |

| Direction | Comment |
|---|--|
| <p>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.</p> <p>Applies when a planning proposal 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.</p> | Oyster Aquaculture Area. |
| 1.5 Rural Lands | |
| <p>Aims to protect the agricultural production value of rural land; and facilitate the orderly and economic development of rural lands for rural and related purposes.</p> <p>Applies to local government areas to which State Environmental Planning Policy (Rural Lands) 2008 applies and prepares a planning proposal that affects land within an existing or proposed rural or environment protection zone.</p> | <p>Not applicable.</p> <p>SEPP (Rural Lands) 2008 does not apply within the Wyong LGA.</p> |
| Environment & Heritage | |
| 2.1 Environmental Protection Zones | |
| <p>Aims to protect and conserve environmentally sensitive areas.</p> <p>Applies when the relevant planning authority prepares a planning proposal.</p> | <p>Applicable.</p> <p>The site of the proposal includes land zoned 7(b) Scenic Protection.</p> <p>An ecological assessment undertaken identifies no significant impact on threatened flora and fauna, which has informed the concept plan. This assessment however doesn't adequately address the removal significant areas of native vegetation. This is required to be further assessed by the proponent to enable holistic consideration of the area and quality of vegetation to be cleared, mitigation measures and options for</p> |

| Direction | Comment |
|---|--|
| | <p>offsetting unavoidable losses and forging green links beyond those identified.</p> <p>Providing the above is undertaken, it is considered that the proposal can be consistent with this Direction.</p> |
| 2.2 Coastal Protection | |
| <p>Aims to implement the principles in the NSW Coastal Policy.</p> <p>Applies when a planning proposal applies to land in the coastal zone as defined in the <i>Coastal Protection Act 1979</i>.</p> | <p>Not applicable.</p> <p>The site of the proposal is not within the Coastal Zone.</p> |
| 2.3 Heritage Conservation | |
| <p>Aims to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</p> <p>Applies when the relevant planning authority prepares a planning proposal.</p> | <p>Applicable.</p> <p>The submitted proposal identifies there are no items of cultural heritage significance present on the site, however a detailed survey has not been undertaken.</p> <p>A comprehensive Aboriginal Archaeological and Cultural Heritage survey will be required to be undertaken in accordance with the NSW Office of Environment and Heritage investigation, assessment and reporting guidelines, inclusive of relevant consultation with indigenous groups.</p> <p>Subject to the above being undertaken, it is considered the proposal can be consistent with this Direction.</p> |
| 2.4 Recreational Vehicle Areas | |
| <p>Aims to protect sensitive land or land with significant conservation values from adverse impacts from recreational vehicles.</p> <p>Applies when the relevant planning authority prepares a planning proposal.</p> | <p>Applicable.</p> <p>The proposal is considered consistent with this Direction as it does not propose to develop land for recreational vehicle usage.</p> |
| Housing, Infrastructure and Urban Development | |
| 3.1 Residential Zones | |
| <p>Aims to encourage a variety and choice of housing types to provide for existing and</p> | <p>Applicable.</p> <p>The proposal seeks to enable rural</p> |

| Direction | Comment |
|--|--|
| <p>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.</p> <p>Applies when a planning proposal 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.</p> | <p>residential development.</p> <p>The proposal seeks to provide a form of housing which is in limited supply within the broader central coast region.</p> <p>The subject site is not currently serviced by reticulated water or sewer services and will rely on onsite supply and disposal.</p> <p>It is recommended that an outline strategy which identifies required civil/service infrastructure (including existing road upgrades) is developed by the proponent, which optimises utilisation of existing infrastructure and the augmentation/embellishment prospects of the same, and identify indicative costings and funding scenarios</p> <p>It is considered that subject to the above, the proposal can be consistent with this Direction.</p> |
| 3.2 Caravan Parks and Manufactured Home Estates | |
| <p>Aims to provide for a variety of housing types and provide opportunities for caravan parks and manufactured home estates.</p> <p>Applies when the relevant planning authority prepares a planning proposal.</p> | <p>Applicable.</p> <p>The proposal does not seek to specifically enable caravan parks or manufactured homes, however it does not seek to exclude or remove existing provisions relating to this purpose. It is therefore considered that the proposal is consistent with this Direction.</p> |
| 3.3 Home Occupations | |
| <p>Aims to encourage the carrying out of low impact small business in dwelling houses.</p> <p>Applies when the relevant planning authority prepares a planning proposal.</p> | <p>Applicable.</p> <p>The proposal does not seek to alter the permissibility of home occupations. It is therefore considered that the proposal is consistent with this Direction.</p> |
| 3.4 Integrating Land Use & Transport | |
| <p>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</p> | <p>Applicable.</p> <p>The proposal seeks to enable rural residential development.</p> <p>In order to be consistent with this Direction, the proponent will be required to prepare a</p> |

| Direction | Comment |
|---|---|
| <p>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.</p> <p>Applies when a planning proposal creates alters or moves a zone or provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.</p> | <p>traffic study and Transport Management and Accessibility Plan in consultation with Council.</p> <p>It is considered that undertaking the above will result in the proposal being able to be consistent with this Direction.</p> |
| 3.5 Development Near Licensed Aerodromes | |
| <p>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.</p> <p>Applies when a planning proposal creates, alters or removes a zone or provision relating to land in the vicinity of a licensed aerodrome.</p> | <p>Applicable.</p> <p>The proposal is located in the vicinity of Warnervale Airport and the proposed Regional 'Type 3' Airport under Wyong's draft Standard Instrument LEP.</p> <p>The proponent has identified that the subject area is not affected by the noise contours for Warnervale Airport, however is affected by the obstacle limitation contours identified by SEPP (Major Development) 2005, Schedule 3, Part 15 (Wyong Employment Zone). The proponent identifies that this will not present a constraint for development provided specific heights of buildings are not exceeded.</p> <p>Additional assessment of this issue is recommended to be undertaken by the proponent.</p> <p>Pending the above, it is considered the proposal can be consistent with this Direction.</p> |
| 3.6 Shooting Ranges | |
| <p>Aims to maintain appropriate levels of public safety and amenity when rezoning land adjacent to an existing shooting range, to reduce land use conflict arising between existing shooting ranges and rezoning of adjacent land, and to identify issues that must be addressed when giving consideration to rezoning land adjacent to an existing shooting range.</p> | <p>Not applicable.</p> <p>The proposal does not seek to affect, create, alter or remove a zone or provision relating to shooting ranges.</p> |

| Direction | Comment |
|---|---|
| <p>Applies when a relevant planning authority prepares a planning proposal that will affect, create, alter or remove a zone or a provision relating to land adjacent to and/ or adjoining an existing shooting range.</p> | |
| Hazard & Risk | |
| 4.1 Acid Sulfate Soils | |
| <p>Aims to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.</p> <p>Applies when a planning proposal applies to land having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps.</p> | <p>Applicable.</p> <p>The presence of acid sulfate soils is unknown for the subject site. It is recommended the proponent undertake additional investigations in this regard.</p> <p>Subject to the above being undertaken, it is considered the proposal can be consistent with this Direction.</p> |
| 4.2 Mine Subsidence & Unstable Land | |
| <p>Aims to prevent damage to life, property and the environmental on land identified as unstable or potentially subject to mine subsidence.</p> <p>Applies when a planning proposal 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 the relevant planning authority or other public authority and provided to the relevant planning authority.</p> | <p>Applicable.</p> <p>The proposal seeks to enable rural residential development within an identified mine subsidence district, and is located in close proximity to the proposed Wallarah 2 longwall mine project</p> <p>The scale of proposed residential development may exceed surface development limitations/guidelines of the MSB.</p> <p>Additionally, beyond the valley floor the site comprises variable slopes inclusive of slopes of 1:5 to 1:10 and greater than 1:5, which is not adequately addressed by the proposal's indicative lot layout.</p> <p>Consultation with the MSB, in addition to reassessment of the potential for erosion and landslip by the proponent will be required, prior to confirming this proposal can be consistent with this direction.</p> |
| 4.3 Flood Prone Land | |

| Direction | Comment |
|---|---|
| <p>Aims to ensure: development on flood prone land is consistent with NSW Government's Flood Prone Land Policy and principles of the Floodplain Development Manual 2005; and provisions of an LEP on flood prone land are commensurate with flood hazard and include consideration of the potential flood impacts both on and off the subject land.</p> <p>Applies when a planning proposal creates, removes or alters a zone or provision that affects flood prone land.</p> | <p>Applicable.</p> <p>Parts of the site are affected by the 1% AEP.</p> <p>The proponent will be required to undertake a revised flood study to determine the full level of flood affectation on the site, in addition to developing appropriate flood risk management plans.</p> <p>Subject to undertaking the above, it is considered that the proposal can be consistent with this Direction.</p> |
| 4.4 Planning for Bushfire Protection | |
| <p>Aims to protect life, property and the environment from bushfire hazards, and encourage sound management of bushfire prone areas.</p> <p>Applies when a planning proposal affects or is in proximity to land mapped as bushfire prone land.</p> | <p>Applicable.</p> <p>Subject to endorsement by Council and the Gateway, the proponent will be required to undertake a revised bushfire assessment consistent with the provisions of Planning for Bushfire Protection 2006 and Council's DCP 2005: Chapter 66 – Subdivision (particularly relating to the Urban Interface Areas).</p> <p>Consultation will also be required to be undertaken with the RFS.</p> <p>Subject to the above, it is considered that the proposal can be consistent with this Direction.</p> |
| Regional Planning | |
| 5.1 Implementation of Regional Strategies | |
| <p>Aims to give legal effect to the vision, land use strategy, policies, outcomes and actions contained within regional strategies.</p> <p>Applies when the relevant planning authority prepares a planning proposal that is located on land addressed within the Far North Regional Strategy, Lower Hunter Regional Strategy, Central Coast Regional Strategy, Illawarra Regional Strategy & South Coast Regional Strategy.</p> | <p>Applicable.</p> <p>The site is subject to the provisions of the Central Coast Regional Strategy (CCRS).</p> <p>The subject site is not recommended for settlement expansion as it lies west of the M3 Motorway.</p> <p>However, Council's draft Settlement Strategy (as exhibited) identifies the subject site as being suitable for investigation for rural residential development. It should be noted that this strategy has not yet been endorsed by the Director General of DoPI.</p> |

| Direction | Comment |
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| | At present, the proposal is inconsistent with this Direction. |
| 5.2 Sydney Drinking Water Catchments | |
| <p>Aims to protect water quality in the hydrological catchment.</p> <p>Applies when a relevant planning authority prepares a planning proposal that applies to Sydney's hydrological catchment.</p> | <p>Not Applicable.</p> <p>The proposal is not located within Sydney's hydrological catchment.</p> |
| 5.3 Farmland of State and Regional Significance on the NSW Far North Coast | |
| <p>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.</p> <p>Applies to Ballina, Byron, Kyogle, and Tweed Shire Councils, Lismore City Council and Richmond Valley Council.</p> | <p>Not Applicable.</p> <p>The proposal is not located within the Far North Coast Region.</p> |
| 5.4 Commercial and Retail Development along the Pacific Highway, North Coast | |
| <p>Aims to manage commercial and retail development along the Pacific Highway, North Coast.</p> <p>Applies to all councils between and inclusive of Port Stephens and Tweed Shire Councils.</p> | <p>Not Applicable.</p> <p>The proposal is not located between Port Stephens and Tweed Shire Councils.</p> |
| 5.8 Second Sydney Airport: Badgerys Creek | |
| <p>Aims to avoid incompatible development in the vicinity of any future second Sydney Airport at Badgerys Creek.</p> <p>Applies to land located within the Fairfield, Liverpool and Penrith City Council and Wollondilly Shire Council Local Government Areas.</p> | <p>Not Applicable.</p> <p>The proposal is not located within the Fairfield, Liverpool and Penrith City Council or Wollondilly Shire LGA.</p> |
| Local Plan Making | |

| Direction | Comment |
|---|--|
| 6.1 Approval and Referral Requirements | |
| <p>Aims to ensure that LEP provisions encourage the efficient and appropriate assessment of development.</p> <p>Applies when the relevant planning authority prepares a planning proposal.</p> | <p>Applicable.</p> <p>The planning proposal does not seek to include provisions which require concurrence from other agencies.</p> <p>It is therefore considered the proposal is consistent with this Direction.</p> |
| 6.2 Reserving Land for Public Purposes | |
| <p>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.</p> <p>Applies when the relevant planning authority prepares a planning proposal.</p> | <p>Applicable.</p> <p>The proposal includes a concept plan which indicates drainage and conservation areas being dedicated to Council.</p> <p>Consent from the Director General will be required prior to this proposal being considered consistent with this Direction.</p> |
| 6.3 Site Specific Provisions | |
| <p>Aims to discourage unnecessarily restrictive site specific planning controls.</p> <p>Applies when the relevant planning authority prepares a planning proposal to allow particular development to be carried out.</p> | <p>Applicable.</p> <p>The proposal does not seek to enable a specific use on the site which is not permissible under existing zones.</p> <p>It is therefore considered the proposal is consistent with this Direction.</p> |
| Metropolitan Planning | |
| 7.1 Implementation of the Metropolitan Strategy | |
| <p>Aims to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in the Metropolitan Strategy.</p> <p>Applies when the planning authority within a Metropolitan Local Government Area prepares a planning proposal.</p> | <p>Not Applicable.</p> <p>This Direction does not apply to Wyong LGA.</p> |

State Environmental Planning Policy Assessment

| SEPP | Comment |
|---|---|
| SEPP No. 44 – Koala Habitat | |
| <p>Aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline:</p> <p>(a) by requiring the preparation of plans of management before development consent can be granted in relation to areas of core koala habitat, and</p> <p>(b) by encouraging the identification of areas of core koala habitat, and</p> <p>(c) by encouraging the inclusion of areas of core koala habitat in environment protection zones</p> | <p>As the area is greater than 1 hectare, the provisions of State Environmental Planning Policy 44 – Koala Habitat are triggered.</p> <p>A koala survey was undertaken by the Proponent based on the requirements of this SEPP with no koalas being identified.</p> |
| 55 – Contaminated Land | |
| <p>Aims:</p> <p>to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment</p> <p>(a) by specifying when consent is required, and when it is not required, for a remediation work, and</p> <p>(b) by specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular, and</p> <p>(c) by requiring that a remediation work meet certain standards and notification requirements.</p> | <p>Whilst the submission and preliminary assessment exercise has not identified any contamination of the site, this issue still requires formal assessment.</p> <p>Should the proposal proceed beyond a Gateway determination, the proponent will be required to undertake a contaminated land assessment (Stage 1) to comply with the provisions of this SEPP.</p> |

Issues Analysis Expansion

The following additional investigations shall inform compilation of a Planning Proposal and review of the Concept Masterplan (Indicative Layout Plan).

Planning Proposal Boundaries

The potential to expand and rationalise the boundaries contained in the Planning Proposal Submission (PPS) and Draft Concept Masterplan need to be explored, particularly in respect of land fronting Dicksons Road (notwithstanding its Water Catchment context) and to the south of Eagle Place and north of Bloomfield Place.

Not only does the potential expansion constitute a more logical planning boundary and facilitate an enhanced road/subdivisional pattern, it contributes to the viability of upgrading the subject roads to an appropriate urban standard.

Ecology

Despite the extensive ecological investigations undertaken, the Concept Masterplan does not fully reflect a suitably sensitive response to the constraints identified.

Despite concluding that the proposal is not likely to have a significant effect on threatened species, populations or communities (under the TSC Act and EPBC Act), the potentially significant impact upon native vegetation and its proposed removal is not adequately addressed (NV Act).

The proposal needs to holistically consider the area and quality of vegetation to be cleared, mitigation measures and options for offsetting unavoidable losses and forging green links beyond those identified.

Bushfire

The PPS and Concept Masterplan do not reflect full compliance with the requirements established in "Planning for Bushfire Protection" (2006) and Council's Urban Interface Areas (Chapter 66 of DCP2005) and other related ecological impacts of compliance, particularly in respect of Asset Protection Zones.

A comprehensive Bushfire Risk Management Strategy should be prepared and the Concept Masterplan revised accordingly.

Traffic/Transport/Accessibility

The impact on the existing road network needs to be fully evaluated and considered in the context of opportunities for enhanced connectivity and general road network upgrades.

The proposed road network also needs to have regard to bushfire hazard management requirements together with flood egress requirements.

The funding of existing road upgrades will be a central consideration in an infrastructure funding/management strategy.

Contamination

The subject land is indicated to have been used for agricultural purposes in the past, with little risk of contamination projected.

It is considered that at least a Stage 1 – Preliminary Investigation should initially be undertaken in accordance with the provisions of SEPP55 and the "Contaminated Land Planning Guidelines".

Soil Capability/Suitability/Acid Sulphate Soils

The qualities of the existing soils shall be further evaluated to provide a comprehensive understanding of their capability/suitability to the typical rural residential demands they would be exposed to at the projected development density, inclusive of on-site effluent disposal.

The evaluation should include projected soil/water balance outcomes and lead to the compilation of an outline management strategy.

Land Stability

Beyond the valley floor the site comprises variable slopes inclusive of slopes of 1:5 to 1:10 and greater than 1:5.

The Concept Masterplan is not considered to have adequately responded to the more extreme slopes in both a road layout and indicative lot layout context and should be amended accordingly.

Acoustic Assessment

A more detailed understanding of the acoustic impacts of road traffic noise and existing/projected industrial type activity in particular shall be developed and a relevant management strategy compiled.

Any strategy should be both comprehensive and pragmatic and integrate with the existing and desired future environmental qualities of the precinct.

Indigenous Heritage

A comprehensive Aboriginal Archaeological and Cultural Heritage survey shall be undertaken in accordance with the NSW Office of Environment and Heritage investigation, assessment and reporting guidelines, inclusive of relevant consultation with indigenous groups.

Social Impact

An understanding of the social impacts of the likely resident population on existing and proposed social/recreational infrastructure shall be documented and an outline strategy for addressing projected impacts developed, inclusive of local opportunities.

Buttonderry Waste Management Facility

The Buttonderry Waste Management Facility is a significant local and emerging regional facility. A comprehensive understanding of the operation, management and projected "evolution" of such facility, inclusive of notional end landuse, needs to be documented and potential adverse offsite impacts identified including; inter alia, noise, odour and methane migration.

An outline strategy must be compiled which demonstrates relevant on-site mitigation measures which are the operators responsibility and any off-site management measures which may be occasioned by the proposal and should justifiably be addressed by the proponent, including potential amendment of the Planning Proposal "footprint".

Any required amendments to the development footprint including buffers should be clearly identified.

Landscape Character/Views

The preliminary landscape character and view analysis shall be further developed and more rigorously inform the Concept Masterplan and principles to be adopted to control both civil works and built form impacts and reflect in a relevant DCP Chapter.

Total Water Cycle Management

(including flooding and stormwater management)

A total water cycle management strategy should be prepared. The strategy should address; inter alia,

- Comprehensive flood modelling
- The design impact requirements for roads/crossings
- Flood mitigation principles and risk management objectives.
- Water quality impacts in general
- Ground water impacts
- On-site effluent disposal impacts and water quality generally
- Catchment management objectives (where relevant)
- Sediment and erosion control
- Water conservation/reuse opportunities
- Water sensitive urban design principles
- Urban interface requirements.

Mine Subsidence

Potential mine subsidence impacts need to be further reviewed notwithstanding the abandonment of the Wallarah Coal Project.

The review should involve liaison with the Mine Subsidence Board and the implications particularly for flooding and infrastructure should be established and a relevant design position adopted.

Service Infrastructure Provision

An outline strategy which identified required civil/service infrastructure (including existing road upgrades) shall be developed. It shall optimise utilisation of existing infrastructure and the augmentation/embellishment prospects of the same, and identify indicative costings and funding scenarios.

Physical Infrastructure and Natural Systems Funding/Management

The outline costs of providing requisite service infrastructure and conserving embellishing riparian and ecological corridors generally shall be detailed and relevant funding and management strategies identified.

The infrastructure provision and conservation initiatives shall importantly minimise Council's financial exposure.

Airport Operations

The existing and potential operational impacts of the Warnervale Airport (and any other locally proposed airport) should be evaluated and addressed in the Planning Proposal and relevant DCP Chapter controls.

Particular regard should be had to both available and conceptual noise exposure contour mapping and obstacle limitation surface mapping.

2.5 Proposed Rezoning - RZ/12/2012 - Lot 1 DP 1005467 - 165 Yeramba Road, Summerland Point

TRIM REFERENCE: RZ/12/2012 - D03275538

MANAGER: Jari Ihalainen, Director Land Management

AUTHOR: Jenny Mewing; Strategic Planner

SUMMARY

A Planning Proposal has been received to rezone part of Lot 2 DP 1005467 (165 Yeramba Road), Summerland Point, from 7(b) Scenic Protection to 2(a) Residential (or equivalent) to enable a four lot subdivision fronting Yeramba Road.

An assessment of the proposal has been undertaken, which identified that the concept has merit and that Council should initiate the rezoning process by preparing a Planning Proposal and referring it to the Department of Planning and Infrastructure (DoPI) for a "Gateway" determination.

Real Description: Lot 1 DP 1005467
Street Address: 165 Yeramba Road, Summerland Point
Owner/s: Mr M J Schmidt and Mrs M Schmidt
Site Area: 3.495 hectares
Current Zoning: 7(b) Scenic Protection
Current Land use: Single Rural Residential Dwelling

RECOMMENDATION

- 1 That a Planning Proposal be prepared to amend Wyong Local Environmental Plan, 1991, (or pending timing, Wyong Standard Instrument Local Environmental Plan) pursuant to Section 55 of the Environmental Planning and Assessment (EP & A) Act, 1979, to rezone part of Lot 1 DP 1005467 from 7(b) Scenic Protection to 2(a) Residential (or equivalent).**
- 2 That Council, as part of the above Planning Proposal, amend Wyong Local Environmental Plan, 1991, to remove the application of Clause 53, Schedule 4, as it relates to land at Summerland Point.**
- 3 That Council forward the Planning Proposal to the Department of Planning and Infrastructure (DoPI) accompanied by a request for a "Gateway Determination", pursuant to Section 56 of the EP & A Act, 1979.**
- 4 That Council undertake community and government agency consultation, in accordance with the requirements attached to the "Gateway Determination".**
- 5 That Council request the DoPI to prepare a relevant Local Environmental Plan amendment, and that the minister be requested to make the Plan, subject to there being no significant objections that cannot be resolved by making minor amendments to the Planning Proposal.**

BACKGROUND/ CURRENT STATUS

An amendment to Interim Development Order (IDO) number 58, gazetted in 1983 enabled, the subdivision of land fronting Yeramba and Summerland Roads into four (4) hectare allotments, the subject site being one of these allotments (Attachment 1).

A building restriction was placed at the time of creation of Lot 3 DP 701178. This building restriction prohibited any structure being located on the eastern boundary of the site as it was within the odour buffer zone for the Summerland/Gwandalan Sewerage Treatment Works.

The subdivision of Lot 3 DP 701178 created Lots 1 & 2 DP 1005467, resulting in the present irregular shaping of the site. Lot 1 DP 1005467 was further subdivided in 2004 to create Lots 1-7 DP 1074128 which front Yeramba Road. These lots were zoned as 2(a) General Residential prior to the gazettal of Wyong LEP 1991

Consent was issued for the construction of a rural dwelling on the subject site in 1997, with subsequent approvals issued in 1998 for the extension of this dwelling to provide for Relative's Accommodation.

A rezoning proposal was lodged with Council in 2009 to rezone the entire site to R2 Low Density Residential, in response to Council's call for requests to be included in the Standard Instrument Local Environmental Plan. This proposal was refused based on delays with the finalisation of the draft North Wyong Shire Structure Plan (*NWSSP*).

THE PROPOSAL

The current rezoning proposal seeks to rezone the site's frontage along Yeramba Road from 7(b) Scenic Protection to 2(a) General Residential/R2 Low Density to enable subdivision to create four (4) additional lots. The remainder of the site is proposed to retain its current 7(b) Scenic Protection or equivalent E3 Environmental Management zone as proposed by Council's draft Standard Instrument Wyong Local Environmental Plan 2012 (*dWLEP 2012*).

The proponent has identified that this rezoning is sought to enable the development of a separate dwelling to provide an independent living arrangement for a disabled relative.

ISSUES ANALYSIS

The planning proposal submission has been assessed having regard for the following matters:

- Flora and fauna;
- Bushfire;
- Climate Change;
- Mine Subsidence
- Aboriginal Archaeology and European Cultural Heritage;
- Contaminated Land and Acid Sulfate Soils;
- Odour;
- Flooding and Drainage;
- Noise and Acoustics;
- Social Impact and Amenity;
- Servicing; and
- Economic Feasibility.