

13.7 Planning Proposal to Rezone the 'Mt Ashby' Property from E3 Environmental Management to SP3 Tourist

Reference:	5901
Report Author:	Acting Strategic Planning Team Leader/Coordinator
Authoriser:	Group Manager Planning, Development and Regulatory Services
Link to Community Strategic Plan:	Ensure tourism balances the economic benefits with impact on environment and community

PURPOSE

The purpose of this report is to consider a Planning Proposal to amend Wingecarribee Local Environmental Plan 2010 to rezone land at 140 Nowra Road Moss Vale from E3 Environmental Management to SP3 Tourist for the purposes of enabling ongoing use of the subject site for tourism activities.

VOTING ON THE MOTION

Councillors are required to record their votes on this matter.

RECOMMENDATION

1. **THAT** a Planning Proposal be prepared to amend Wingecarribee Local Environmental Plan 2010 to rezone Lot 7 DP 632169, 140 Nowra Road Moss Vale (Mt Ashby), from E3 Environmental Management to SP3 Tourist and forwarded to the Department of Planning and Environment for a Gateway Determination in accordance with Section 55 of the *Environmental Planning and Assessment Act, 1979* and the relevant Departmental guidelines.
2. **THAT** the applicant be advised of Council's decision.

REPORT

BACKGROUND

A Planning Proposal was lodged by Lee Environmental Planning Pty Ltd on behalf of the property owners the property known as 'Mt Ashby' (Lot 7 DP 632169, 140 Nowra Road, Moss Vale) to amend Wingecarribee Local Environmental Plan 2010 (WLEP 2010) to rezone the land from E3 Environmental Management to SP3 Tourist to enable the ongoing use of the site for functions, currently permitted on a temporary basis under Development Application 15/1138. The Planning Proposal forms **Attachment 1** to this report under separate cover.

A similar proposal to rezone the site to SP3 Tourist was considered by Council at its Ordinary Meeting of 23 November 2016, as part of a report which also considered a similar

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 11 October 2017

REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES

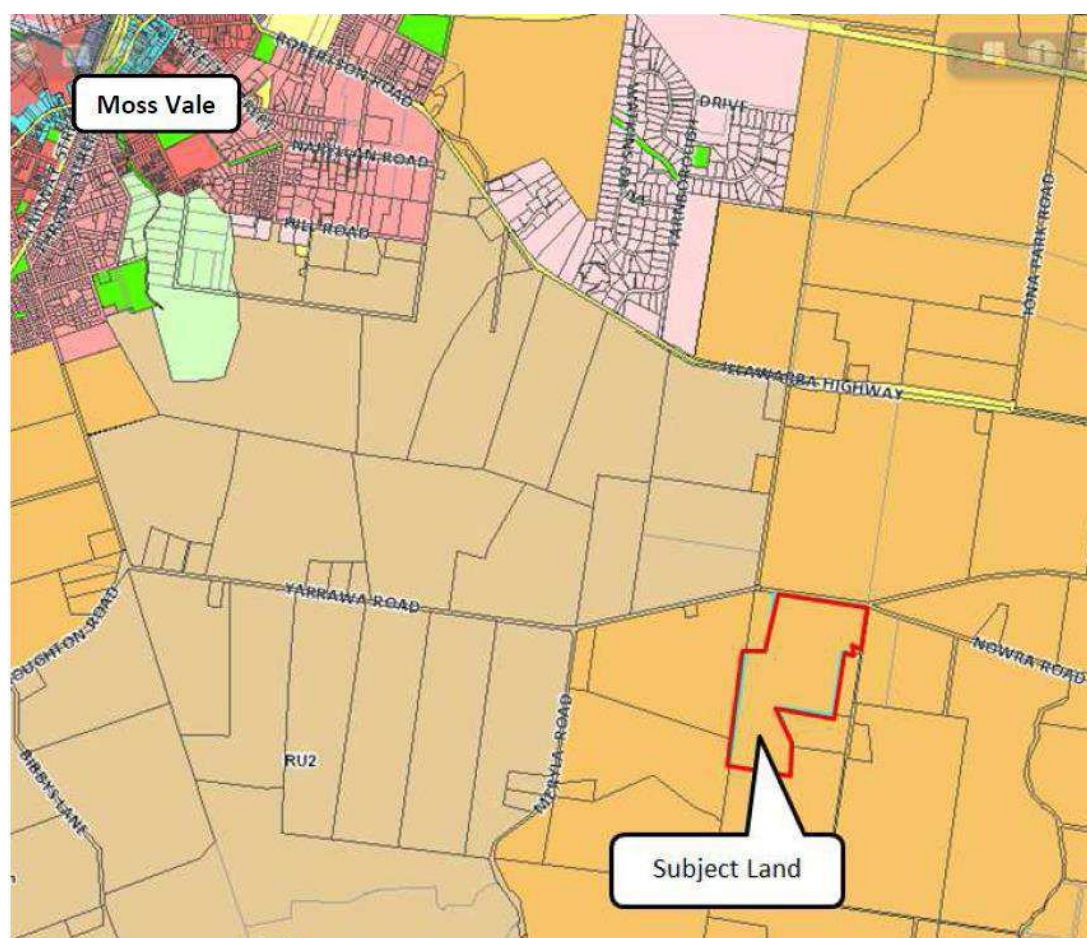


rezoning of the Montrose berry Farm at Sutton Forest. The matter was subsequently refused by Council.

A request has subsequently been received from the owners of Mt Ashby that Council review its previous decision. The matter was considered at a Councillor Information session on 27 September 2017 at which time Councillors in attendance agreed to review the submission.

REPORT

The subject land is located to the south east of Moss Vale as indicated in **Figure 1** below and reproduced as **Attachment 2** to this report provided under separate cover. The land covers an area of 40.47 hectares.



Figure

1: Location of Subject Land

There is an existing consent (DA03/1879) for the use of the site for, *inter alia*, a cellar door and food preparation room. More recently, a three (3) year development consent (DA15/1138) was issued for functions, a new farm building and alterations and additions to an existing cellar door.

The Planning Proposal seeks to rezone the property to SP3 Tourist to reflect current approved uses, to facilitate continued use of the vineyard and cellar door premises and to provide the opportunity to seek approval to further develop the tourist potential of the site for food and drink premises, functions and accommodation.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 11 October 2017

REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



There are currently seven (7) SP3 Tourist zones across the Shire as indicated by the red stars in **Figure 2** below and reproduced as **Attachment 3** to this report provided under separate cover. Two (2) of which are located in the vicinity of the subject site.

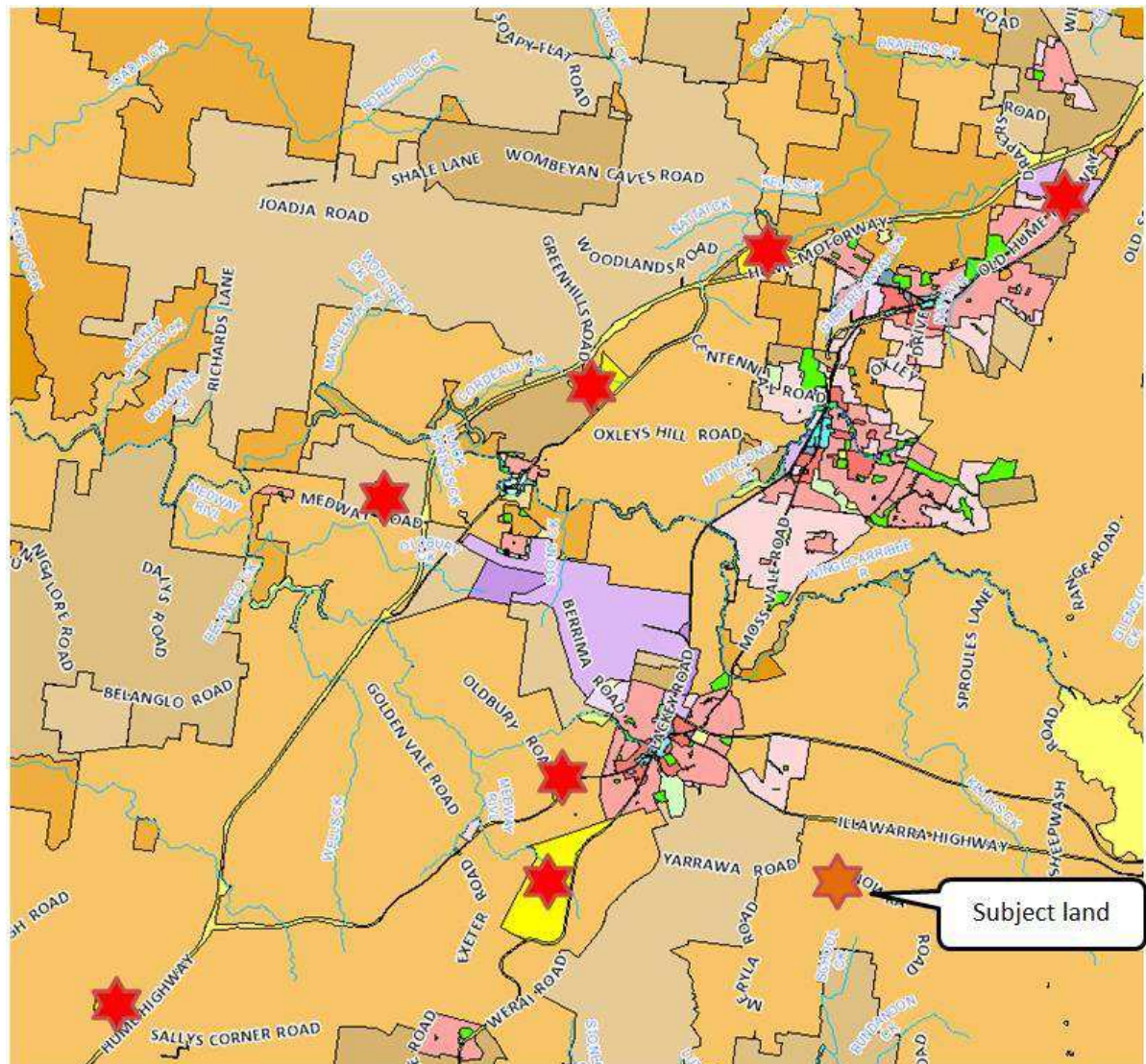


Figure 2: Location of SP3 Tourist Zones

The Wingecarribee Local Planning Strategy 2015-2031, adopted by Council on 23 March 2016 and conditionally endorsed by the Department of Planning and Environment on 15 May 2017, sets out key criteria against which any future application for rezoning to SP3 Tourist will be assessed, namely:

- 1) Covers an area of at least 20 Hectares
- 2) Has been operating as a tourist establishment for three (3) years
- 3) Is within 2km of residential development
- 4) Is adjacent to or near major access road
- 5) Has access to adequate water and sewerage infrastructure (not necessarily reticulated)

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 11 October 2017

REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



- 6) Is free of extensive Endangered Ecological Community (EEC)
- 7) Is free of significant bushfire or flood threat which cannot be addressed through design considerations
- 8) Is free of any other environmentally sensitive constraints.

All current SP3 Tourist sites comply with the assessment criteria, with three (3) exceptions.

- 1) Some properties within the Woodlands and Braemar SP3 Tourist 'precincts' which are below the 20 hectare minimum.
- 2) The Sutton Forest Estate Wines and 'Berrima' sites are further than 2km from residential development, however both are well established tourist venues, the Berrima site being formerly Parmy's Woolshed.
- 3) It is noted that reticulated water and sewer are not required under criteria (5), just that adequate arrangements can be provided. On site water collection and effluent disposal are acceptable to meet this criteria.

With regard to (5) above, all requirements are met except reticulated water and sewerage infrastructure. Water NSW's assessment is that there would be low risk to water quality from the proposed development. It is noted that any future Application for development consent would need to meet the 'NORBE' (Neutral or Beneficial Effect) test prior to any approval.

With regard to (7) above, there is minor bushfire affectation on a portion of the eastern boundary consistent with remnant Endangered Ecological Community (EEC) of National and State significance (Southern Highlands Shale Woodland) on the adjoining property.

Therefore, applying the same standards to the Mt Ashby site as were applied to the current SP3 Tourist zones, it would pass assessment.

The objectives of the SP3 Tourist zone are:

- (a) *to provide for a variety of tourist-oriented development and related uses, and*
- (b) *to ensure that development is sympathetic with the rural setting and landscape features of the site and minimises impact on the scenic values of nearby development and land use activity.*

The subject site meets the criteria established by Council and now included within the Local Planning Strategy. Chapter 5 of the Strategy addresses 'Developing a Prosperous Wingecarribee' and includes a discussion of Rural Tourism opportunities. Council has expressed concern with ongoing applications under clause 2.8 (Temporary use of Land) for tourism related activities on rural land and recognises that this clause is not the most appropriate mechanism for considering such applications.

The SP3 Tourist zone permits a range of development, with Council consent. Council has always made a clear distinction between permissibility and approval, emphasising that just because a land use may be permissible in a zone that does not necessarily mean it will be approved for a particular site. The requirement for an individual Development Application would remain to assess the ongoing use of the land for current and any proposed development.

The provision of SP3 Tourist controls within the Rural Lands Development Control Plan confirms that Council fully appreciates that the SP3 zone is generally located in a rural context and that consideration of the potential for land use conflicts needs to be given high priority in assessing and determining such applications. Development Control Plans, consistently applied, continue to play an important supporting role in providing specific land use controls for the assessment of Development Applications relating to SP3 Tourist zoned land including controls for the provision of Function Centres in a rural context.

The Mt Ashby site meets the key criteria set down in the Local Planning Strategy by which all other SP3 Tourist zones in the Shire have been supported. The SP3 Tourist zone, rather than the current E3 Environmental Management zone, better reflects the current range of tourism related development occurring on the site and supports the ongoing use of the site for purposes which already have consent on a temporary basis.

IMPACT ON COUNCIL'S FIT FOR THE FUTURE IMPROVEMENT PLAN

There are no implications for Council's Fit for the future Improvement Plan resulting from this report.

CONSULTATION

Community Engagement

Should Council support proceeding with the rezoning of the property, a Council-prepared Planning Proposal would be lodged with the Department of Planning and Environment for a Gateway Determination. The applicant's Planning Proposal would accompany Council's document.

Community Engagement would occur for a period of at least 28 days in accordance with the standard requirements of a Gateway Determination.

Internal Consultation

Internal consultation will occur during the exhibition period for those submissions supported by Council.

External Consultation

Pre Gateway advice has been obtained from Water NSW which advises that there is a low risk to water quality from retail or commercial development on the site. Further external consultation will occur as required under the Gateway Determination.

SUSTAINABILITY ASSESSMENT

- **Environment**

One of the objectives of the SP3 Tourist zone is to ensure development is sympathetic with the rural setting and landscape features of the site and minimise impact on the scenic values of nearby development and land use activity. Controls for assessing tourist related development within rural settings particularly address this objective and have already been applied in assessing and approving the current temporary uses on the site.

- **Social**

There are no other social issues in relation to this report.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 11 October 2017

REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



- **Broader Economic Implications**

Tourism is a significant generator of Shire's economic benefit to the Shire.

- **Culture**

There are no cultural issues in relation to this report.

- **Governance**

Should Council resolve to proceed with the Planning Proposal, it would be processed in accordance with the relevant sections of the *Environmental Planning and Assessment Act 1979* and Departmental Guidelines.

COUNCIL BUDGET IMPLICATIONS

Any Planning Proposal supported by Council is subject to a fee as set out in Council's Fees and Charges.

RELATED COUNCIL POLICY

There are no other related Council policies.

OPTIONS

The options available to Council are:

Option 1

Support the recommendation to rezone the land from E3 Environmental Management to SP3 Tourist in order to allow consideration of future applications for tourist development of the site.

Option 2

Not support the recommendation provided in the report and retain the site as E3 Environmental Management.

Option 1 is the recommended option to this report.

CONCLUSION

The subject site already operates as a tourist destination and has done so for many years. It meets the criteria set out by Council by which an application to rezone a site to SP3 Tourist is strategically assessed. The SP3 Tourist zone permits the current range of tourist related land uses on the site including those which have been assessed and approved under Clause 2.8 (Temporary Use of Land). This report concludes that the rezoning of the site to SP3 Tourist is the appropriate mechanism to enable ongoing use of the site as currently permitted. Any future proposal can then be assessed against relevant Development Control Plan controls and may be supported, or not, accordingly.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 11 October 2017

**REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY
AND DEVELOPMENT SERVICES**



ATTACHMENTS

1. Mt Ashby Planning Proposal - *circulated under separate cover*
2. Figure 2 - Location of Subject Land - *circulated under separate cover*
3. Figure 3 - Location of SP3 Tourist zones - *circulated under separate cover*