

Rezone land at 2-10 Cams Boulevard, Summerland Point

Proposal Title : **Rezone land at 2-10 Cams Boulevard, Summerland Point**

Proposal Summary : **The proposal seeks to rezone part of Lot 200 DP 1181286 from 5(a) Special Uses to 2(a) Residential by amending Wyong LEP 1991 to enable the subdivision of the site for residential allotments. Alternately should the Principal SI be finalised in advance of the planning proposal the lot would be zoned to R2 Low Density Residential.**

PP Number : **PP_2013_WYONG_008_00**

Dop File No :

13/11022

Proposal Details

Date Planning : **02-Jul-2013**

Proposal Received :

LGA covered :

Wyong

Region : **Hunter**

RPA :

Wyong Shire Council

State Electorate : **SWANSEA**

Section of the Act :

55 - Planning Proposal

LEP Type : **Spot Rezoning**

Location Details

Street : **2-10 Cams Boulevard**

Suburb : **Summerland Point**

City :

Postcode : **2259**

Land Parcel : **Lot 200 DP1181286**

DoP Planning Officer Contact Details

Contact Name : **Glenn Horal**

Contact Number : **0243485009**

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RPA Contact Details

Contact Name : **Jenny Mewing**

Contact Number : **0243505742**

Contact Email : **jlmewing@wyong.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name :

Contact Number :

Contact Email :

Land Release Data

Growth Centre : **N/A**

Release Area Name :

N/A

Regional / Sub : **Central Coast Regional**

Consistent with Strategy :

No

Regional Strategy : **Strategy**

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MDP Number :		Date of Release :	
Area of Release (Ha) :	0.80	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	15	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with :

If No, comment :

Have there been meetings or communications with registered lobbyists? :

If Yes, comment :

Supporting notes

Internal Supporting Notes : **BACKGROUND**

The site is the northern 1/3 of a site currently zoned 5(a) school under Wyong LEP 1991. The site is no longer needed as a potential school site.

Wyong LEP 1991 (Amendment No 165) sought to rezone the southern 2/3 for residential development and the northern 1/3 conservation due to the presence of listed threatened flora (*Tetratheca juncea* – a listed vulnerable species under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 and the NSW Threatened Species Conservation Act 1995). Council and the then owners (Department of Education and Training) agreed to these proposed zonings and the proposed LEP was exhibited but not finalised.

In 2009 the Director General of the Department of Planning issued a site compatibility certificate for residential development of the southern 2/3 of the site. The application made by Landcom on behalf of the Department of Education and Training, and agreed to by Council, recognised development of the southern part of the site provided the opportunity to conserve and manage that part of the site (northern 1/3) containing threatened species.

Following the site compatibility certificate a subdivision consent was issued in 2011. This consent required the northern 1/3 to be transferred to the Council due to the presence of threatened species. The consent also required nest boxes to be installed as compensation for tree hollows lost on the southern part and 23 nest boxes were installed on the northern part (site of this proposal).

The draft Wyong SI LEP, which has been exhibited and recently submitted to the department for finalisation, proposes to zone the southern 2/3 R2 and the northern 1/3 E2 Conservation.

The current proposal seeks to rezone the northern 1/3 to residential. In considering the planning proposal, Council resolved to write to both State and Federal agencies requesting reconsideration of the status of the vulnerable flora.

It is unclear whether biodiversity issues can be satisfactorily addressed so as to allow any development on the site. Given Council has resolved to write to the OEH and DSEWPac about the vulnerable flora on the site, it is recommended that Council undertake this consultation prior to the proposal being considered for a Gateway determination. This

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report recommends that a Gateway determination not be issued however also proposes conditions for a Gateway determination should the proposal be supported.

External Supporting
Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : Council's stated intention is to enable residential subdivision by rezoning part Lot 200 DP 1181286 from 5(a) Special Uses - School to R2 Residential. The Standard Instrument identifies R2 as Low Density Residential and the planning proposal should be updated to reflect this.

Council has identified the site as Lot 200 DP 1181286 which appears incorrect. The property description of the site is identified on SIX Maps as Lot 200 DP1181287 or Lot 100 DP1181286 and both property descriptions include the part of the site subject to the proposed rezoning. Council should confirm and update, if required, the planning proposal with the correct property description.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : Council proposes to amend either the land zoning maps in Wyong LEP 1991 or, depending on timing, the planning proposal will amend Land Zoning and Minimum Lot Size Maps of the Standard Instrument draft Wyong 2012.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

- 1.3 Mining, Petroleum Production and Extractive Industries
- 2.1 Environment Protection Zones
- 2.2 Coastal Protection
- 2.3 Heritage Conservation
- 2.4 Recreation Vehicle Areas
- 3.1 Residential Zones
- 3.2 Caravan Parks and Manufactured Home Estates
- 3.3 Home Occupations
- 3.4 Integrating Land Use and Transport
- 4.1 Acid Sulfate Soils
- 4.2 Mine Subsidence and Unstable Land
- 4.4 Planning for Bushfire Protection
- 5.1 Implementation of Regional Strategies
- 6.1 Approval and Referral Requirements
- 6.2 Reserving Land for Public Purposes
- 6.3 Site Specific Provisions

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 44—Koala Habitat Protection
SEPP No 55—Remediation of Land
SEPP No 71—Coastal Protection

e) List any other
matters that need to
be considered :

Council has identified the site as containing threatened species listed under Commonwealth legislation and Council will require consultation with the relevant Commonwealth department the Department of Sustainability, Environment, Water, Population and Communities (DSEWPoC).

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Have inconsistencies with items a), b) and d) being adequately justified? **Unknown**

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **Council has provided an aerial photo of the site, existing and proposed zoning maps and lot size map. The maps although sufficient for assessment could be improved for community consultation. LEP standard maps would better indicate existing and proposed zones and lot sizes for the site.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council has proposed a 28 days community consultation period. The proposal could be considered a 'low impact proposal' as it is consistent with surrounding land use zones, presents no issues with regard to infrastructure servicing, is not a principal LEP and does not reclassify public land. However, given the background to the site and potential community interest, 28 days could be supported if a Gateway determination to proceed is issued.**

Additional Director General's requirements

Are there any additional Director General's requirements? **Yes**

If Yes, reasons : **PROJECT TIMELINE**
Council's timeline anticipates finalisation of the plan in June 2014 (approx 12 months). The timeframe to complete the plan is supported and does not prevent Council from finalising a plan in a shorter timeframe.

DELEGATION AUTHORISATION

Council has accepted plan-making delegation for planning proposals generally and has requested delegation for this specific proposal. Given Council's potential interest in the land ie. a development consent condition requires the site to be transferred to Council) it is recommended delegation be retained by the Department in this instance if the Gateway decides the proposal should proceed.

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date : **September 2013**

Comments in relation to Principal LEP : **Council submitted the standard instrument draft Wyong LEP 2012 (dLEP 2012) to the Department to be made on 31 May 2013, (with subsequent submissions on 19 June and 3 July 2013), and it is expected the plan will be finalised in September/October 2013.**

Assessment Criteria

Need for planning proposal : **The proposal is not the result of any strategic study or report and appears to have been initiated at the request of the proponent.**

Council advise the intended objectives, to enable the subdivision of the site for residential purposes, cannot be achieved by any other mechanism than a planning proposal.

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The site was to be transferred to Council as community land under an existing development consent. Council has stated in the planning proposal (page 11) that it has no need for the retention of the site due to:

- the contribution of the site to larger regional corridors is questionable;
- its value as a permanent conservation reserve is limited regardless of the biodiversity values on the site;
- the funds from Council to manage such land are limited;
- there are no arrangements in place for provision of funds by the proponent for the management of the site in perpetuity as a recreational reserve.

Council's previous view was that the site should not be developed and the draft Wyong LEP 2012 proposes an E2 Environmental Conservation zone, a zone generally intended to protect land with high conservation values.

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Consistency with strategic planning framework :

CENTRAL COAST REGIONAL STRATEGY (CCRS)

Council has provided an assessment against Appendix 3 - Sustainability Criteria for New Land Release - Central Coast in the CCRS and has found the proposal to be consistent with all the criteria apart from Environmental Protection criteria. It is uncertain whether the proposal will meet the maintain or improve biodiversity criteria given the presence of a threatened flora species on the site. Further consultation with the Office of Environmental and Heritage and Department of Sustainability, Environment, Water, Population and Communities to establish consistency with this criteria is required.

NORTH WYONG SHIRE STRUCTURE PLAN

The site adjoins but is outside the north boundary of Precinct 20, an area identified for future long term land release. Council has advised the development of the site would be a logical infill development and a logical extension of the boundary of Precinct 20. Bringing forward a portion of infill development that adjoins the Precinct is not inconsistent with the Structure Plan provided future resource extraction is not impacted by the proposal.

LOCAL STRATEGIES

Council references the Wyong Shire Community Strategic Plan which identifies the provision of essential services via principal activity areas. Rezoning is incorporated in the Environment and Land Use principal activity areas which aims to support the natural and built environment by providing controls over land use. The planning proposal is generally consistent with the aims of Council's Community Strategic Plan.

STATE ENVIRONMENTAL PLANNING POLICIES (SEPPs)

SEPP 44 Koala Habitat - Council has advised a flora and fauna assessment identified one species of food tree for Koalas and therefore could be considered potential koala habitat. The lot was surveyed and no evidence of Koalas or Koala habitation was discovered. Council considers the proposal is consistent with the SEPP.

SEPP 55 - Contaminated Land

Council has advised there was historic evidence of illegal dumping on site and considers there is a low likelihood of contamination on the site. The requirements of the SEPP require a formal assessment given the proposal will rezone the land for residential purposes.

SEPP 71 Coastal Protection

Council considers the proposal is consistent with the policy.

S117 DIRECTIONS

The planning proposal is consistent with all relevant directions except where discussed below.

1.3 Mining, Petroleum Production and Extractive Industries

The site is located within the Swansea North Entrance Mine Subsidence District. Council has advised that it is unlikely that future resource extraction will impact the site. The site is currently zoned 5(a) Special Uses and permits with consent any purpose. Currently the uses are permitted by the Mining SEPP which provides that the uses can occur where agriculture and industry is permitted and agriculture and industry will be prohibited in the 2(a)/R2 Residential zone.

The planning proposal is currently inconsistent with this direction as it would have the effect of prohibiting the uses covered by this direction. Council should consult with the Department of Primary Industries to satisfy the requirements and demonstrate consistency with the direction.

2.1 Environment Protection Zones

The site is zoned 5(a) Special Uses and is proposed to be zoned E2 Environmental Conservation in the draft Wyong LEP 2012, a zone generally intended to protect land that has high conservation value. An existing development consent requires the land to be transferred to Council as community land and installation of nest boxes has occurred as compensation for the loss of habitat from the development to the south. The rezoning to a

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2(a)/R2 residential zone will reduce the environmental protection standards applying to the land and is inconsistent with the Direction. Given Council intends consulting with OEH & DSEWPaC it would be appropriate to reconsider the s117 Direction after this consultation.

4.1 Acid Sulfate Soils

Council has advised the proposal is consistent with the Direction. The site is located on land classified as Class 5 Acid Sulfate Soils. The Acid Sulfate Soils Maps for the SI dLEP show the site to be located on land approximately 350 metres from Class 2 land with potential acid sulfate soils. Therefore any inconsistency with the direction is considered to be of minor significance.

4.2 Mine Subsidence and Unstable Land

The site is located in the Swansea North Entrance Mine Subsidence District. The proposal is currently inconsistent with the direction and should be addressed after agency consultation with the Mine Subsidence Board.

4.4 Planning for Bushfire Protection

The site is located on Bushfire Prone Land. Council has advised the proposal is consistent subject to asset protection zones being assessed during the DA stage. However the proposal consistency with this direction can only be determined following consultation with the NSW Rural Fire Service. This s117 Direction should be addressed following agency consultation.

5.1 Implementation of Regional Strategies

Council states the proposal is consistent with the Central Coast Regional Strategy and is therefore consistent with the Direction. However as discussed earlier the proposal is currently inconsistent with Appendix 3 - Sustainability Criteria for New Land Release - Central Coast as it is uncertain whether the proposal will meet the maintain or improve biodiversity criteria given the presence of a threatened flora species on the site. The inconsistency with the direction should be addressed following consultation with OEH & DSEWPaC.

Environmental social
economic impacts :

Environmental

Council advise a number of flora and fauna assessments have been undertaken on the site which identified the presence of *Tetratheca juncea* which is listed as a vulnerable species under both Commonwealth and State legislation. Development of the site will require removal of this population. In addition, the site may have the potential for the orchid *Corunastylis* sp. Charmhaven to be present due to the high number of dominant species known to co-occur with the orchid. Council advise the orchid is provisionally listed as critically endangered under the Threatened Species Conservation Act.

Social & Economic

The proposal extends development east along Cams Boulevard and Council states the proposal is a logical infill for the neighbourhood. Council considers the site to be well located for accessibility to local education and recreation facilities and local and regional shopping amenities. A regularly serviced bus stop is also located opposite the site.

Council has advised the site is not currently serviced by water or sewer although this could be serviced by connection to the existing water mains on Cams Boulevard and extension of the sewer facilities located on the adjacent lot south of the site.

Were the site developed for residential, it would not place a significant increased demand on State infrastructure.

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Assessment Process

Proposal type : **Routine** Community Consultation Period : **28 Days**

Timeframe to make LEP : **12 months** Delegation : **DDG**

Public Authority : **Office of Environment and Heritage**
Consultation - 56(2)(d) : **NSW Department of Primary Industries - Minerals and Petroleum**
: **Mine Subsidence Board**
: **NSW Rural Fire Service**
: **Other**

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **No**

If no, provide reasons : **The planning proposal is not recommended to proceed as it is unclear whether the biodiversity issues can be satisfactorily addressed so as to allow any development on the site.**

Council's resolution to write to the OEH and DSEWPaC to reconsider the status of the vulnerable flora on the site should be undertaken prior to the proposal being considered for a Gateway determination to confirm the development potential of the site.

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Council Letter.pdf	Proposal Covering Letter	Yes
Planning Proposal.pdf	Proposal	Yes
Planning Proposal Mapping.pdf	Map	Yes
Supporting Documentation.pdf	Proposal	Yes
Attachment_4_-_Evaluation_criteria_for_the_delegation_of_plan_making_functions1.doc	Determination Document	Yes
Excerpt from incomplete LEP to zone the site 7(a).pdf	Study	No
Excerpt from SCC to allow development of southern part of 5(a) land.pdf	Study	No
Excerpt from DA requiring transfer as community land and proposed reserve for conservation.pdf	Study	No

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Not Recommended**

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S.117 directions:

- 1.3 Mining, Petroleum Production and Extractive Industries
- 2.1 Environment Protection Zones
- 2.2 Coastal Protection
- 2.3 Heritage Conservation
- 2.4 Recreation Vehicle Areas
- 3.1 Residential Zones
- 3.2 Caravan Parks and Manufactured Home Estates
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- 6.1 Approval and Referral Requirements
- 6.2 Reserving Land for Public Purposes
- 6.3 Site Specific Provisions

Additional Information :

The planning proposal is not recommended to proceed as it is unclear whether the biodiversity issues can be satisfactorily addressed so as to allow any development on the site. Council's resolution to write to the OEH and DSEWPaC to reconsider the status of the vulnerable flora on the site should be undertaken prior to the proposal being considered for a Gateway determination. Once OEH and DSEWPaC's view are known, and if a realistic likelihood of approvals to allow residential development occurring is identified, then the planning proposal can be resubmitted with this supporting documentation.

However, should the Gateway support the planning proposal then it should require that:

-The planning proposal be updated as necessary once Council confirm the correct property description of the lot and references to R2 Residential be replaced with R2 Low Density Residential.

-The maps be improved for community consultation with LEP standard maps indicating existing and proposed zones and lot sizes for the site.

-Council is to demonstrate that the planning proposal satisfies the requirements of State Environmental Planning Policy (SEPP) 55 - Remediation of Land and prepare an initial site contamination investigation report to demonstrate that the site is suitable for rezoning to the proposed zone. This report is to be included as part of the public exhibition material.

-The Director General agrees that the provisions of the planning proposal that are inconsistent with S117 Direction 4.1 Acid Sulfate Soil are of minor significance.

-Council is to update the planning proposal to include sufficient additional information to adequately demonstrate consistency or justify any inconsistency with the below S117 Directions once it has undertaken consultation with public authorities and information on biodiversity has been obtained:

- 1.3 Mining, Petroleum Production and Extractive Industries
- 2.1 Environment Protection Zones
- 4.2 Mine Subsidence and Unstable Land
- 4.4 Planning for Bushfire Protection
- 5.1 Implementation of Regional Strategies

-Agency Consultation with:

- Office of Environment and Heritage
- NSW Department of Primary Industries - Minerals and Petroleum
- Mine Subsidence Board
- NSW Rural Fire Service
- Department of Sustainability, Environment, Water, Population and Communities.

-28 days community consultation period.

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-12 month timeframe to complete the plan.

-Delegation be retained by the Department in this instance as the site is conditioned under an existing development consent to be transferred to Council.

Supporting Reasons : **The conditions listed above would be required should a Gateway Determination allow the proposal to proceed.**

Signature:



Printed Name:

GARRY HOPKINS

Date:

19.7.2013.