

Amend Minimum Lot Size Map - Lot 3 DP 1013344, 76 Drapers Creek Road Colo Vale

Proposal Title :	Amend Minimum Lot Size Map - Lot 3 DP 1013344, 76 Drapers Creek Road Colo Vale		
Proposal Summary :	To amend the minimum lot size for Lot 3 DP 1013344, 76 Drapers Creek Road, Colo Vale from 40 hectares to 20 hectares to enable the construction of a dwelling house. As the WLEP 2010 does not have a minimum lot size category of 20 hectares, the Planning Proposal also will require the amendment of all Minimum Lot Size Maps to include this category (to be labelled AB2) in the legends. The 40 hectare category is currently labelled AB2 and therefore all 40 hectare land will need to be relabelled as AB3.		
PP Number :	PP_2012_WINGE_001_00	Dop File No :	12/01887

Proposal Details

Date Planning Proposal Received :	30-Jan-2012	LGA covered :	Wingecarribee
Region :	Southern	RPA :	Wingecarribee Shire Council
State Electorate :	GOULBURN	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	76 Drapers Creek Road		
Suburb :	Colo Vale	City :	Wingecarribee
		Postcode :	2575
Land Parcel :	Lot 3 DP 1013344		

DoP Planning Officer Contact Details

Contact Name :	Jenna Tague
Contact Number :	0242249461
Contact Email :	jenna.tague@planning.nsw.gov.au

RPA Contact Details

Contact Name :	Susan Stannard
Contact Number :	0248680854
Contact Email :	susan.stannard@wsc.nsw.gov.au

DoP Project Manager Contact Details

Contact Name :	Mark Parker
Contact Number :	0242249468
Contact Email :	mark.parker@planning.nsw.gov.au

Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Sydney-Canberra Corridor Regional Strategy	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	
No. of Lots :	0	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 : **Yes**

If No, comment :

Have there been meetings or communications with registered lobbyists? : **No**

If Yes, comment :

Supporting notes

Internal Supporting Notes : **The Planning Proposal seeks to amend the minimum lot size for the site from 40 hectares to 20 hectares to enable the erection of a dwelling house.**

Amendment to the legends on all Minimum Lot Size Map sheets is required to provide sequential lot size categories in accordance with the 'Standard technical requirements for LEP Maps'.

External Supporting Notes : **The Planning Proposal seeks to amend the minimum lot size for the site from 40 hectares to 20 hectares to enable the erection of a dwelling house.**

Adequacy Assessment

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

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

Comment : **A statement of objectives for the Planning Proposal has been provided which is to permit the construction of a dwelling house on the subject site.**

The statement of objectives/purpose is generally consistent with the Department's 'A Guide to Preparing a Planning Proposal'.

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

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

Comment : **The Planning Proposal will effect an amendment to Wingecarribee Local Environmental Plan 2010 by creating a new minimum lot size category of 20 hectares and applying it to the site. This category will enable a dwelling house to be constructed on the subject site.**

The explanation of provisions is consistent with the Department's 'A Guide to Preparing a Planning Proposal'.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

1.2 Rural Zones

* May need the Director General's agreement

1.5 Rural Lands

2.3 Heritage Conservation

3.3 Home Occupations

4.4 Planning for Bushfire Protection

5.2 Sydney Drinking Water Catchments

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 (Mining, Petroleum Production and Extractive Industries) 2007

SEPP (Rural Lands) 2008

Drinking Water Catchments Regional Environmental Plan No. 1

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

The Department also considers that the following instrument should be considered:

- SEPP 44 - Koala Habitat Protection.

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

If No, explain :

S117 - 1.2 RURAL ZONES

It appears that Council has misinterpreted the intent of this Direction. The subject site is not located within a rural zone so the Direction is not relevant.

S117 - 1.5 RURAL LANDS

The site is zoned E3 Environmental Management and therefore this s117 Direction is relevant to this planning proposal as it relates to an Environmental Protection Zone and a change in the minimum lot size.

The Direction is considered to be consistent with the Objectives of the Direction and is consistent with the Rural Subdivision Principles of the Rural Lands SEPP. It does not affect viable agricultural land, is an existing undersized lot, affected by a road separation and development will only occur on already disturbed land. The Planning Proposal is considered to be consistent with the Direction.

S117 - 2.1 ENVIRONMENT PROTECTION ZONES

The site is zoned E3 Environmental Management and usually this Direction would apply. However, clause (5) of the Direction indicates that the Direction does not apply to a change in minimum lot size for a dwelling in accordance with clause (5) of Direction 1.5 "Rural Lands". This is the nature of the planning proposal and therefore this Direction is not relevant in this instance.

S117 - 2.3 HERITAGE CONSERVATION

It appears that Council has misinterpreted the intent of this Direction. The subject site is not identified as being in a heritage conservation area nor is there an identified heritage item (European or Aboriginal) on the site so the Direction is not considered relevant.

S117 - 3.3 HOME OCCUPATIONS

It appears that Council has misinterpreted the intent of this Direction. The Planning Proposal does not seek to enable home occupations so the Direction is not relevant. In

any case Wingecarribee LEP 2010 adopts the Standard Instrument which directs where this land use should apply.

S117 - 4.4 PLANNING FOR BUSHFIRE PROTECTION

The site is identified as bushfire prone and therefore this s117 Direction is relevant to this Planning Proposal.

The development application process would ensure the facility meets the requirements of Planning for Bushfire Protection 2006 and the conditions of consent would satisfy the requirement of the Direction. The development application process would also enable further consultation with the NSW Rural Fire Service.

Under this Direction, the Planning Proposal is required to be referred to the NSW Rural Fire Service and its comments taken into account prior to exhibition of the Planning Proposal. This action would be consistent with this s117 Direction.

S117 - 5.1 IMPLEMENTATION OF REGIONAL STRATEGIES

Council has not identified that this Direction applies. The site is located on land to which the Sydney-Canberra Corridor Regional Strategy applies and therefore the Department considers the Direction applicable.

Specifically relevant to this site, the Strategy requires consideration of water quality (i.e. drinking water catchment SEPP requirements) and riparian corridors (i.e. Drapers Creek). The potential for endangered ecological communities should also be considered due to the heavy vegetation cover over the site.

The development application process would ensure that Regional Strategy issues would be addressed and appropriately conditioned. Development is proposed on an already disturbed part of the site. The Planning Proposal is considered to be consistent with the s117 Direction.

S117 - 5.2 SYDNEY DRINKING WATER CATCHMENTS

The site is located within the Sydney Drinking Water Catchment and therefore this s117 Direction is relevant to this Planning Proposal.

The Planning Proposal is considered consistent with this Direction with the exception of clause (5)(d) where the RPA is required to consult with the Sydney Catchment Authority.

The Sydney Catchment Authority has not yet been informed of this proposal by Council. Council has advised that it will consult with the SCA during the public exhibition of the Planning Proposal as:

- The site already has a Development Approval for a health retreat and the proposed dwelling house development is less intensive.
- The Planning Proposal is not seeking to subdivide land or permit a land use not normally permissible within the zone, but rather to facilitate the completion of what is ostensibly now a construction site.

Council is of the opinion that any issues raised by the SCA would apply to the DA assessment process and that consultation during the public exhibition phase of the Planning Proposal is therefore appropriate, unless otherwise advised in the Gateway Determination.

The Department is of the opinion that consultation with the SCA during the exhibition period is acceptable in this instance due to the reasons stated above. The inconsistency with clause (5)(d) of the Direction is considered to be of minor significance and therefore the Planning Proposal is considered justifiably inconsistent with this Direction.

S117 - 6.1 APPROVAL AND REFERRAL REQUIREMENTS

It appears that Council has misinterpreted the intent of this Direction. The Planning Proposal does not propose any referral requirements in the WLEP 2010 so the Direction is not relevant.

Council has noted that the SCA will be consulted during the exhibition period of the Planning Proposal. It would be appropriate for the NSW Rural Fire Service, Hawkesbury Nepean Catchment Management Authority and the Environment Protection Authority to be consulted regarding this specific Planning Proposal at this time.

S117 - 6.2 RESERVING LAND FOR PUBLIC PURPOSES

It appears that Council has misinterpreted the intent of this Direction. The land to which this Planning Proposal applies is not identified for public purposes and therefore the Direction is not relevant.

S117 - 6.3 SITE SPECIFIC PROVISIONS

The Planning Proposal will not result in any unnecessarily restrictive planning controls and therefore the Planning Proposal is considered to be consistent with this s117 Direction.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : A location plan and aerial photo has been provided.

No amended LEP maps are provided at this stage due to the resourcing required due to the number of Maps. The RPA has advised that the maps will be prepared after the Gateway Determination.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : The RPA is proposing a public exhibition period of 28 days which is considered acceptable.

During this time, all relevant stakeholders will be notified (i.e. Sydney Catchment Authority, Environment Protection Authority and NSW Rural Fire Service) unless otherwise advised in the Gateway Determination.

Consultation will need to be consistent with section 4.5 of the Department's 'A Guide to Preparing Local Environmental Plans'.

It is considered appropriate for the Planning Proposal to also be referred to the Hawkesbury Nepean Catchment Management Authority.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

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

If No, comment : The proposal meets the adequacy criteria.

Proposal Assessment

Principal LEP:

Due Date : June 2010

Comments in relation to Principal LEP : The Wingecarribee Local Environmental Plan 2010 was notified on 16 June 2010.

Assessment Criteria

Need for planning proposal : A Planning Proposal to reduce the minimum lot size to 20 hectares is the best way to enable a dwelling house on the site. A Planning Proposal allows for justification and exhibition of the proposal.

Consistency with strategic planning framework : The Wingecarribee Strategic Plan 2002 is an older strategy. It is understood that Council is working towards a revised Strategic Plan that should be available at the end of 2012. The proposal is not considered inconsistent with the 2002 strategic plan.

Drinking Water Catchments Regional Environmental Plan No. 1 (now State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011) - The proposal is not inconsistent with this SEPP. A Neutral or Beneficial Effects report will need to be prepared for the development application.

State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 - The RPA have identified that this SEPP is relevant to this Planning Proposal. The objective of this Planning Proposal is to enable the construction of a dwelling house on the site and no development relating to (or affecting) mining, petroleum production and extractive industry is proposed. As a result, it is considered that this SEPP is not relevant to this Planning Proposal.

State Environmental Planning Policy (Rural Lands) 2008 –S117 Direction 1.5 'Rural Lands' calls for the Planning Proposal to be consistent with the Rural Subdivision Principles in the SEPP. The proposal is not inconsistent with the SEPP as no agricultural pursuits are undertaken on the site and the establishment of such a use would be difficult without significant clearing of dense vegetation. Due to the location of the site, rural land use conflicts are unlikely. A dwelling house is considered to be a suitable land use for the site as it makes good use of the previously cleared development envelope with few remaining constraints.

SEPP 44 - Koala Habitat Protection - Likely to be consistent, would need to be addressed at the development assessment stage. Due to the fact that construction has commenced on site for the health retreat and vegetation was no doubt cleared for this purpose, it is unlikely that the location of the dwelling house (restricted by a positive covenant to the site of the health retreat) would contain significant remnant koala habitat or feed trees.

Environmental social economic impacts : The proposal will provide social benefits to the Colo Vale area by increasing the resident base.

As the location of the dwelling house will be located at the cleared and partially constructed health retreat site (enforced by a positive covenant), no negative environmental impacts are expected. Further assessment of the riparian corridor and effect on water quality will be undertaken at the DA stage.

Communications with Council has identified that "substantial commencement" may have been made on the health retreat consent. Council will consider seeking surrender of that consent if the dwelling proceeds.

No negative economic impacts are expected.

Assessment Process

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

Timeframe to make LEP : **6 Month** Delegation : **DDG**

Public Authority : **Hawkesbury - Nepean Catchment Management Authority**
Consultation - s56(2)(d) : **Office of Environment and Heritage**
: **NSW Rural Fire Service**

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

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

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
Drapers_Creek_Road_Report_14_Sep_2011.pdf	Proposal	Yes
Letter_to DOPI_re_PP_for_Drapers_Creek_Road.pdf	Proposal Covering Letter	Yes
Minutes_Drapers_Creek_Road_14_Sep_2011.pdf	Proposal	Yes
Planning_Proposa_Drapers_Creek_Road.pdf	Proposal	Yes
s.117_Directions_Drapers_Creek_Road.pdf	Proposal	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 1.2 Rural Zones**
- 1.5 Rural Lands**
- 2.3 Heritage Conservation**
- 3.3 Home Occupations**
- 4.4 Planning for Bushfire Protection**
- 5.2 Sydney Drinking Water Catchments**
- 6.1 Approval and Referral Requirements**
- 6.2 Reserving Land for Public Purposes**
- 6.3 Site Specific Provisions**

Additional Information : **It is recommended that the proposal proceeds through the Gateway subject to the**

following conditions:

1. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:

(a) the Planning Proposal must be made publicly available for 28 days; and

(b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 4.5 of A Guide to Preparing LEPs (Department of Planning 2009). This will involve the preparation of Maps that introduce a new 20ha minimum lot size to the legend of all Lot Size Map sheets.

2. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act.

Environment Protection Authority
Sydney Catchment Authority
Hawkesbury Nepean Catchment Management Authority
NSW Rural Fire Service

3. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

4. The timeframe for completing the LEP is to be 6 months from the week following the date of the Gateway determination.

SECTION 117 DIRECTIONS

5. s117 Direction 4.4 Planning for Bushfire Protection - Consultation with the NSW Rural Fire Service is to be undertaken prior to community consultation and its comments taken into account.

6. s117 Direction 5.2 Sydney Drinking Water Catchments - Consultation with the Sydney Catchment Authority is required and this would be appropriate during public exhibition.

7. The Planning Proposal is considered to be consistent with all other s117 Directions or the Director General can be satisfied that any inconsistencies are considered to be of minor significance.

8. No further referral is required in relation to s117 Directions for the plan in its current form.

Supporting Reasons :

The Planning Proposal enables the construction of a dwelling house on the site at the location of the partially constructed health retreat. As the site is 21.1 hectares in area, the change in minimum lot size to 20 hectares enables the provision of the dwelling house without the risk of undesirable further subdivision.

Signature:



Printed Name:

MARK PARKER
Local Planning Manager

Date:

13th February 2012