

Rezoning of land at 19-23 Geoffrey Road, Chittaway Point

Proposal Title : Rezoning of land at 19-23 Geoffrey Road, Chittaway Point

Proposal Summary : The planning proposal seeks to rezone constrained lands for residential and environmental purposes and remove lot amalgamation provisions to enable a future residential subdivision.

The planning proposal seeks to rezone land from 1(c) Non-Urban Constrained Lands to 2(a) Residential and 7(a) Conservation under Wyong LEP 1991.

Depending on timing of the draft Wyong LEP 2012 the planning proposal would rezone land from E2 Environmental Conservation and E3 Environmental Management to R2 Low Density Residential and E2 Environmental Conservation and E3 Environmental Management.

PP Number : PP_2013_WYONG_010_00 **Dop File No :** 13/12803

Proposal Details

Date Planning Proposal Received : 01-Aug-2013 **LGA covered :** Wyong

Region : Hunter **RPA :** Wyong Shire Council

State Electorate : WYONG **Section of the Act :** 55 - Planning Proposal

LEP Type : Spot Rezoning

Location Details

Street : 19-23 Geoffrey Road

Suburb : Chittaway Point **City :** **Postcode :** 2261

Land Parcel : Lots 1-3 DP21536, Lot 1 DP1014033, Lot 1 DP 22467, Lots 10-11 DP1177776

DoP Planning Officer Contact Details

Contact Name : Glenn Hornal

Contact Number : 0243485009

Contact Email : glenn.hornal@planning.nsw.gov.au

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 :

Rezoning of land at 19-23 Geoffrey Road, Chittaway Point

Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Central Coast Regional Strategy	Consistent with Strategy :	No
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	212	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 : **Dwelling yield:**
The proposal identifies a yield of 212 lots and it is possible that further detailed investigations may result in a reduction in the projected lots.

Consistency with Regional Strategy
The site is not identified as a release area in the CCRS however the CCRS provides a mechanism for proposals outside the CCRS to be considered (sustainability criteria) and an assessment against these criteria has been provided in the planning proposal.

The development footprint has not been established, although the concept plan has an indicative layout, as further investigation regarding biodiversity, flooding and bushfire are required to establish appropriate zones. Subject to the resolution of these environmental constraints the proposal is considered to have merit to proceed.

External Supporting Notes :

Adequacy Assessment

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

Is a statement of the objectives provided? Yes

Comment : The planning proposal seeks to enable residential development and provide for conservation outcomes by rezoning the land and removing lot amalgamation provisions.

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

Is an explanation of provisions provided? Yes

Comment : Council proposes to rezone some of the current 1(c) land to a 2(a)/R2 zone for residential purposes and the remainder is to be zoned 7(a)/E2 & E3 for environmental conservation

purposes to reflect the land constraints.

Council seeks to remove lot amalgamation provisions applying to Lots 1-3 DP 21536 and Lot 1 DP 1014033 as identified in Clause 18 of WLEP 1991 and also remove lot amalgamation provisions for the same lots identified in the draft Wyong LEP 2012 (Lot Amalgamation Map (LAM_010)). The Lot Amalgamation Map submitted by Council with the planning proposal also identifies the southern portion of the site (Lots 10-11 DP1177776) to be amalgamated. These southern lots are not identified in the draft WLEP 2012 as lots to be amalgamated and they appear in this planning proposal without any explanation.

It is not clear what Council's intention is with regard to these southern lots. The planning proposal seeks to remove lot amalgamation provisions from the northern lots to enable the development to proceed at the same time as introducing lot amalgamation provisions on the southern lots which limit the development.

Council should clarify its intention with regard to lot amalgamation on the southern portion of the site in the planning proposal and rectify the maps, if appropriate, before community and agency consultation.

Council proposes to amend the minimum lot size maps in accordance with the applicable zone in the draft Wyong LEP 2012 (40Ha for the E2 & E3 zones and 450m2 for the R2 zone).

Council has included an indicative concept plan showing a potential layout of the residential lots within the site in the "explanation of provisions" section. Given this section will form the basis for legal drafting of the instrument it would be more appropriate to contain the indicative layout plan in the "justification" section of the planning proposal.

Council has included a discussion and plan of an existing approved subdivision on the southern boundary of the site. These lots are not part of the site to be rezoned and no explanation is given for its inclusion other than giving a brief history on the subdivision of the lots. The discussion and plan are unnecessary inclusions and should be removed from the planning proposal.

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

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

4.3 Flood Prone 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

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

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 :

Rezoning of land at 19-23 Geoffrey Road, Chittaway Point

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

If No, explain : **S117 Directions and SEPPs are discussed in the assessment section of the report.**

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **Council has provided an aerial map, current zoning map under Wyong LEP 1991 and a draft zoning, minimum lot size and land amalgamation map under draft Wyong LEP 2012.**

Council has not provided proposed zoning and minimum lot size maps as these will be determined once further investigation/studies are complete. These should be included in the planning proposal before community consultation.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council has identified a community consultation period for 14 days in the project timeline. However given the planning proposal was assessed against the CCRS sustainability criteria for new land release and requires further investigation before consistency with it can be determined, a 28 day consultation period is considered appropriate in this instance.**

Additional Director General's requirements

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

If Yes, reasons : **PROJECT TIMELINE**
Council's timeline anticipates the planning proposal is to be finalised in April 2014 (approx 9 months). This appears to be a tight timeframe given there are several environmental constraints that require further investigation/studies before determining the residential development area within the site. It is recommended that a 12 month timeframe should be sufficient time to complete the plan and this does not prevent Council from finalising a plan in a shorter timeframe.

DELEGATION AUTHORISATION
Council has accepted plan-making delegations for planning proposals generally and has requested delegation to make this planning proposal.

Overall adequacy of the proposal

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

If No, comment :

Proposal Assessment

Principal LEP:

Due Date : **October 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 : **Council has identified the site as suitable for further consideration/investigation for residential development in its Settlement Strategy. Council has requested the Department endorse its Settlement Strategy and an assessment is currently underway.**

Consistency with
strategic planning
framework :

CENTRAL COAST REGIONAL STRATEGY (CCRS)

Council has assessed the proposal against the CCRS sustainability criteria for new release areas and has found it to be generally consistent with these criteria. Council's assessment is based on future studies and investigations that support the development and consistency with the sustainability criteria will need to be assessed following completion of these studies. The proposal to provide additional residential lots would assist in meeting dwelling targets identified in the CCRS for the Central Coast.

LOCAL STRATEGIES

Council identifies the planning proposal links with the Wyong Shire Community Strategic Plan - Environmental and Land Use "Principal Activity Area" which includes assessment of land use strategies and rezonings. The planning proposal is generally consistent with Council's community plan.

Settlement Strategy

The site is identified in the strategy for further investigation and consideration for residential development. Council should consider updating Part 3B of the planning proposal with a discussion on consistency with its Settlement Strategy.

STATE ENVIRONMENTAL PLANNING POLICIES (SEPPs)

SEPP 44 Koala Habitat

Council has advised a flora and fauna report included a targeted koala survey and no actual or indicative evidence of koalas were found on the site.

SEPP 55 - Contaminated Land

Council states that that a desktop assessment did not identify any contamination on the site but the issue still requires formal assessment and proposes a contaminated land assessment be carried out to comply with the provisions of the SEPP. A preliminary Stage 1 investigation for contaminated land on the site is supported.

SEPP 71 - Coastal Protection

Council has stated the proposal is consistent with the aims and objectives of the SEPP. The matters for consideration under clause 8 should be taken into account by a council when it prepares a draft local environmental plan. Council should include consideration of clause 8 matters in the planning proposal once further studies/investigations are obtained and before community consultation.

S117 DIRECTIONS

The planning proposal is considered to be consistent with all S117 Directions except where discussed below:

1.3 Mining, Petroleum Production and Extractive Industries

Council has advised this direction is not applicable. However the planning proposal is inconsistent with this direction as it would have the effect of prohibiting the uses (i.e. mining) covered by this direction.

Currently mining uses are permitted by the Mining SEPP as they can occur where agriculture is permitted, however agriculture is a prohibited use in the proposed 2(a)/R2 and the E2 zone.

Council should consult with the Department of Primary Industries - Minerals and Petroleum to satisfy the requirements and demonstrate consistency with the direction.

2.1 Environment Protection Zones

The planning proposal is inconsistent with the direction as it would reduce the environmental protection standards applying to the land by rezoning the land from 1(c) to 2(a) and 7(a) or to R2 and E2 and E3 to enable a residential subdivision.

Council states that modifying the proposal to avoid development of sensitive lands results in the proposal being consistent with the Direction. A Flora and Fauna assessment and Flood Issues assessment have been provided in support of the application however

Council should address consistency with the Direction following agency consultation with the Office of Environment and Heritage.

2.3 Heritage Conservation

Council has included a supporting Indigenous Archaeological Due Diligence Assessment but identified that it was unclear if the investigations were conducted in the presence of representatives from local Aboriginal groups and requires confirmation/documentation. Council should reassess consideration of the direction once additional information regarding Heritage conservation has been obtained.

4.1 Acid Sulfate Soils

Council advises the site is affected by Class 2, 3, 4 and 5 acid sulfate soils and that no supporting acid sulfate soils study was provided with the planning proposal. Council is to reconsider the requirements direction once information on acid sulfate soils has been obtained.

4.2 Flood Prone Land

The site is identified as Flood Prone Land and Council states the proposal is able to be consistent with the Direction by undertaking a Flood Risk Management Plan. The direction requires that a planning proposal may be inconsistent with the direction only if the RPA can satisfy the DG the planning proposal is in accordance with a floodplain risk management plan prepared in accordance with the Floodplain Development Manual.

Council will need to reassess consistency with the direction once additional investigation/information has been obtained in accordance with the requirements of the Direction. Council should consult with OEH and needs to ensure that it seeks the DG agreement with regard to any inconsistency with the Direction prior to the plan being made.

4.3 Planning for Bushfire Protection

The site is located on land identified as Bushfire Prone. Council should reassess consideration of the direction once additional information regarding bushfire protection has been obtained and consultation with the NSW Rural Fire Service has occurred.

5.1 Implementation of Regional Strategies

Council has identified the planning proposal as consistent with the CCRS and therefore the Direction. Council has used the sustainability criteria for new land release and until further investigation/information with regard to bushfire, flooding, and environmental protection has been resolved the planning proposal will remain inconsistent with the direction. Council should reassess consistency with the CCRS and the requirements of the direction once appropriate studies/investigations are complete.

6.2 Reserving Land for Public Purposes

Council states that the planning proposal is consistent with this direction. However Council has also identified that there may be a requirement for a small park within the site. Should Council's further investigations identify land to be zoned or reserved for public purposes as part of this planning proposal then Council would need to seek the DG's agreement per the requirements of this direction.

Environmental social
economic impacts :

ENVIRONMENTAL

Council has identified a number of environmental impacts associated with the proposal including threatened flora and fauna, bushfire, contaminated land, acid sulfate soils, flooding, and noise. These environmental constraints are to be addressed through provision of further information, agency consultation and consideration of the applicable s117 Directions, SEPPs and CCRS to establish appropriate residential and environmental zones on the site.

Flora & Fauna

Council states the site has been used for grazing livestock and, although largely cleared of native vegetation, there are some areas which remain heavily vegetated. Council has advised their records show two endangered ecological communities; Swamp Sclerophyll Forest on Coastal Floodplains and River-flat Eucalypt Forest on Coastal Floodplains as

Rezoning of land at 19-23 Geoffrey Road, Chittaway Point

well as the presence of threatened fauna species. Council has also identified concerns with the supporting flora studies with regard to detecting other species on site (i.e. an orchid (*Corunastylis* sp. *Charmhaven*)).

Council has identified the site adjoins a wildlife corridor which connects to remnant riparian vegetation along Ourimbah Creek and may be impacted by the proposed development. Council has stated that investigations for offset arrangements have not been undertaken and mitigation measures to consider loss of hollow bearing trees, hollows, foraging habitat and loss of integrity of the north western vegetation and its role in the vegetation corridor would need to be considered.

These matters can be addressed once supporting information on flora and fauna and associated biodiversity impacts has been obtained, subject to consultation with Office of Environment and Heritage, to determine the development footprint and appropriate zones for residential and environmental purposes.

Flooding

Council provided an analysis on flood modelling of the site and concluded additional work would be required to address flooding issues. The site has the potential to be largely inundated with floodwaters during high flood events and further information regarding flooding issues should be obtained to address this issue.

SOCIAL

Council has identified the proposal as infill development within the existing residential area of Chittaway Point with access to local medical, educational, recreational and shopping facilities. The site is also located within 200m of Wyong Road with regular bus services to regional centres and Tuggerah Train Station (approx 2.5km from the site). A less frequent bus service operates along Geoffrey Road servicing Chittaway Point. The site is separated by a plant/vegetation buffer from a sewerage treatment plant to the west. Council advised an odour study found recent upgrades to the treatment plant determined the site to be within acceptable environmental standards for odour assessment.

ECONOMIC

Council's consideration of the economic viability of the planning proposal concerns provision of a small park within the site, extension and upgrades to water/sewer services and potential road network upgrades to connect the site to the existing road network. These are matters that Council can address directly with the proponent or through agency consultation with Transport NSW - Roads and Maritime Services.

Assessment Process

Proposal type :	Inconsistent	Community Consultation Period :	28 Days
-----------------	---------------------	---------------------------------	----------------

Timeframe to make LEP :	12 months	Delegation :	RPA
-------------------------	------------------	--------------	------------

Public Authority Consultation - 56(2) (d) :	Hunter - Central Rivers Catchment Management Authority Office of Environment and Heritage NSW Department of Primary Industries - Minerals and Petroleum NSW Rural Fire Service Transport for NSW - Roads and Maritime Services
---	---

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 :

Rezoning of land at 19-23 Geoffrey Road, Chittaway Point

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? **Yes**

If Yes, reasons : **Should the proposal be supported then consultation with the Infrastructure Planning & Co-ordination team should occur before the plan is finalised.**

Documents

Document File Name	DocumentType Name	Is Public
Council Letter.pdf	Proposal Covering Letter	Yes
Planning Proposal.pdf	Proposal	Yes
Mapping.pdf	Map	Yes
Supporting Documentation.pdf	Study	Yes

Planning Team Recommendation

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

S.117 directions:

- 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**
- 4.3 Flood Prone 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**

Additional Information : **It is considered the planning proposal should proceed subject to the following:**

1. Council is to be satisfied that sufficient information has been provided to demonstrate that the planning proposal adequately addresses the following issues:

- a) The impacts of site development on biodiversity;**
- b) The degree to which future development of the site will respond to the Planning for Bushfire Protection Guidelines;**
- c) The potential impacts associated with Acid Sulfate Soil and Contaminated Lands,**
- d) The potential impacts of future development of the site on Aboriginal heritage;**
- e) The potential impacts in terms of flooding and drainage;**
- f) The servicing arrangements in relation to water, sewer and other utilities;**
- g) The potential future traffic impacts of development of the site, including public transport, pedestrian and cycle planning issues have been addressed;**

h) The potential for acoustic impacts on new residential development;

i) Whether future development of the site will generate additional requirements for open space and whether this matter should be addressed prior to exhibition of the planning proposal;

In considering the above issues, Council is to determine whether existing studies and background reports already prepared for the site are adequate for exhibition purposes or whether additional work is required to supplement and expand on the existing material. This decision should be made in conjunction with relevant agencies.

2. Council update the planning proposal to:

a) clarify its intention with regard to lot amalgamation on the southern portion of the site as shown in the Lot Amalgamation Map.

b) relocate the indicative concept plan showing a potential layout of the residential lots within the site in the "explanation of provisions" section to the "justification" section of the planning proposal.

c) remove the discussion of an existing approved subdivision including a Council approved plan of the subdivision in the "explanation of provisions" section from the planning proposal.

d) update the planning proposal with a discussion on consistency with Council Settlement Strategy in the "justification" section.

5. Council is to include proposed zoning and development standards maps once further investigation/studies are complete prior to community consultation.

6. Council is to demonstrate that the planning proposal satisfies the requirements of State Environmental Planning Policy (SEPP) 55 - Remediation of Land and demonstrate that the site is suitable for the rezoning once information on contamination has been obtained.

7. Council update the planning proposal to include consideration of clause 8 matters in SEPP 71 - Coastal Protection once further studies/investigations are obtained and before community consultation.

8. Council update the planning proposal's consistency with Section 117 Directions once supporting information has been obtained and following agency consultation:

-1.3 Mining, Petroleum Production and Extractive Industries

-2.1 Environment Protection Zones

-2.3 Heritage Conservation

-4.1 Acid Sulfate Soils

-4.2 Flood Prone Land

-4.3 Planning for Bushfire Protection

-5.1 Implementation of Regional Strategies

-6.2 Reserving Land for Public Purposes

9. Consultation is required with the following public authorities:

- Hunter - Central Rivers Catchment Management Authority

- Office of Environment and Heritage

- NSW Department of Primary Industries - Minerals and Petroleum

- NSW Rural Fire Service

- Transport for NSW - Roads and Maritime Services

10. The planning proposal must be made publicly available for 28 days.

11. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.

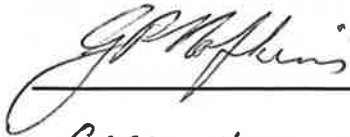
Rezoning of land at 19-23 Geoffrey Road, Chittaway Point

12. Council be granted delegation to make the plan.

Supporting Reasons :

*

Signature:



Printed Name:

GARRY HOPKINS

Date:

19.8.2013