

## **cw-CS4 Amendment to Local Environmental Plan and Development Control Plan Controls Over Lot 5 DP 10008, 10 Drapers Road, Willow Vale**

**Reference:** PN451400, 5901  
**Responsible Officer:** Coordinator Strategic Planning

### **PURPOSE**

The purpose of this report is to recommend the preparation of a Planning Proposal to (a) amend the Wingecarribee Local Environmental Plan (WLEP) 2010 controls over Lot 5 DP 10008, 10 Drapers Road Willow Vale, to rezone the site from IN1 General Industrial to R5 Large Lot Residential and apply a minimum lot size of 4000m<sup>2</sup>, (b) to amend the Industrial Lands DCP to remove the specific DCP controls which apply to the site, and (c) amend the Northern Villages DCP to include the subject site as R5 Large Lot Residential within that DCP.

### **DESCRIPTION OF PROPOSAL**

#### **BACKGROUND**

Amendment No 2 to WLEP 2010, which was made on 24 June 2011, zoned the subject site to IN1 General Industrial. Under the same amendment, the properties to the south of the subject site were zoned R5 with a minimum lot size of 4000m<sup>2</sup>. Figures 1 and 2 below indicate the location of the subject site and Figure 3 indicates the zoning.



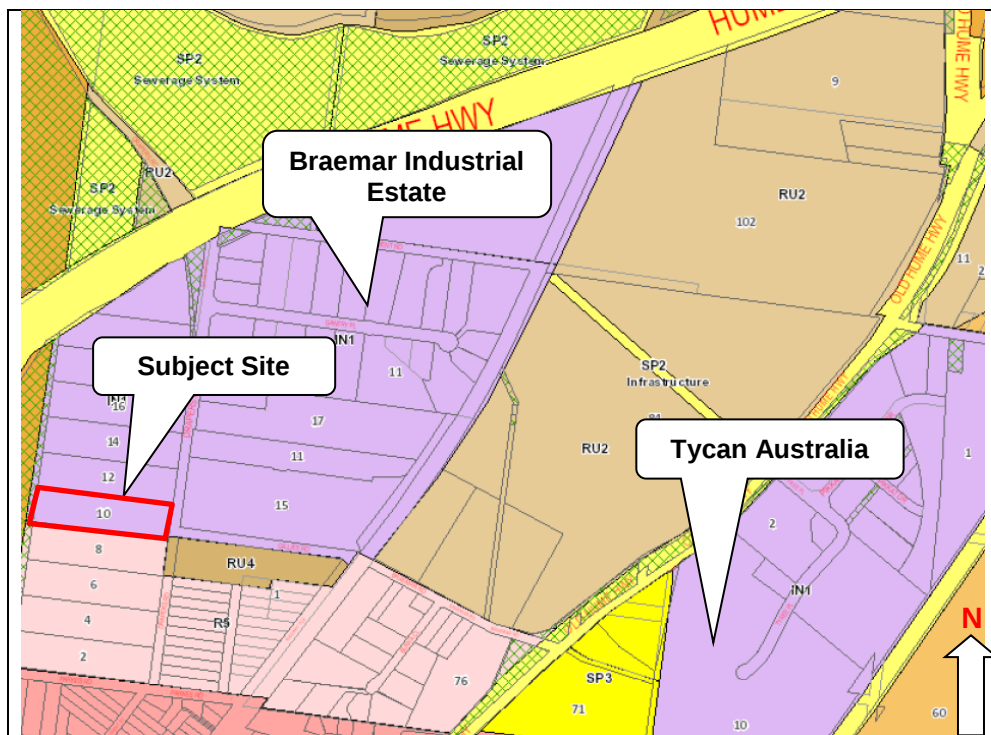
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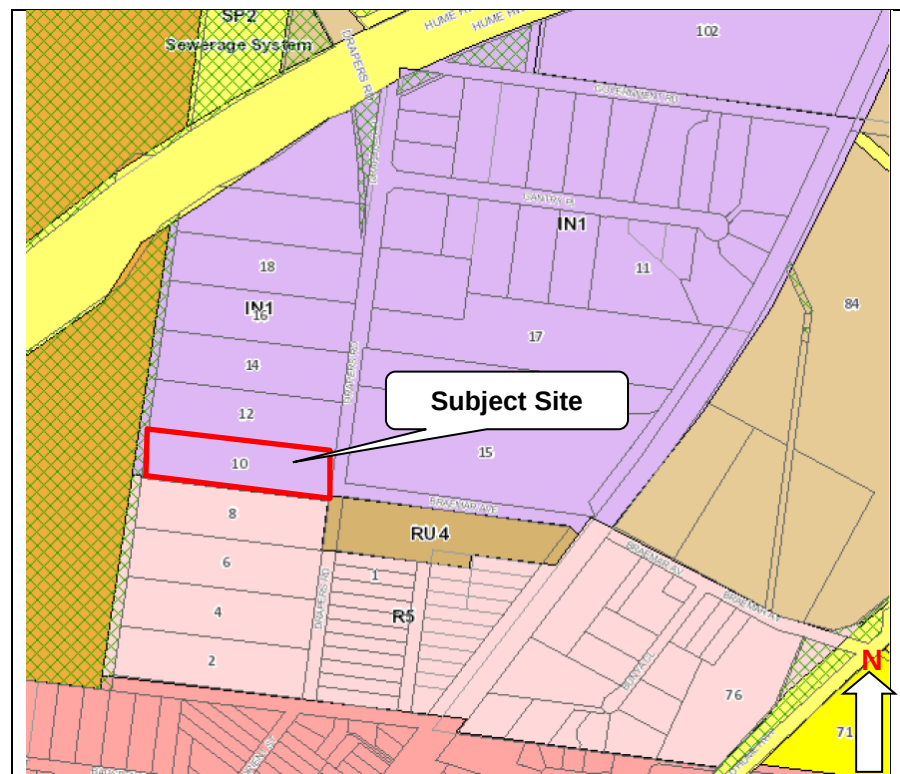
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**Figure 1 Shire Wide Location Map – Star shows location of subject site.**



**Figure 2 Local context of subject property**



**Figure 3 Zonings**

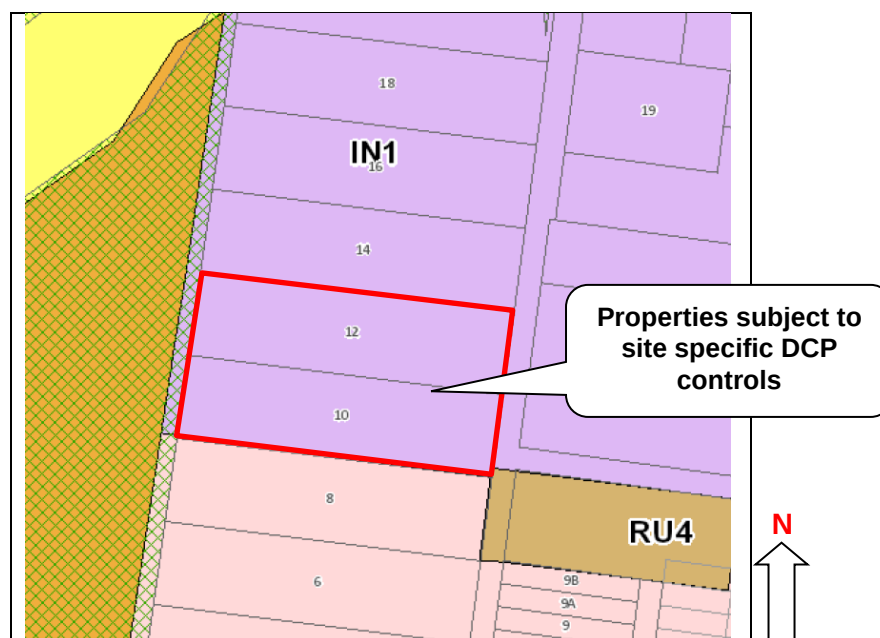
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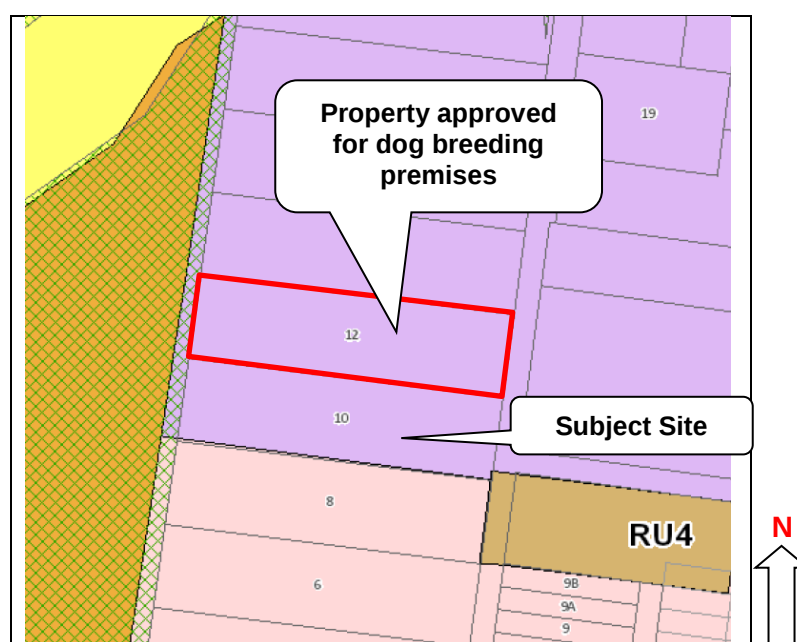


On 20 April 2011 amendments to the Industrial Lands DCP came into force to require that, for the purposes of industrial development, the subject site and the adjoining Number 12 Drapers Road to the north were to be developed together under a set of site specific DCP controls. These controls form **Attachment 1** to this report. The two affected properties are shown in Figure 4 below.



**Figure 4 Properties subject to DCP controls**

At the ordinary meeting of the Planning & Strategic Peak Committee of the Whole on 11 June 2014, a Development Application for a dog breeding premises at Number 12 Drapers Road (indicated on Figure 5 below) was approved by Council subject to conditions. It is noted that such a premises falls within the definition of an Animal Boarding & Training Premises under WLEP 2010 which is not classified as Industrial development. Therefore, the site specific provisions of the DCP contained in **Attachment 1** were not applicable.



**Figure 5 Property approved for dog breeding premises**

Following the land use approval for 12 Drapers Road, the owner of 10 Drapers Road recently contacted Council to request that Council consider rezoning the site and removing the site specific DCP controls which currently apply.

### **PLANNING CONSIDERATIONS**

The proposed rezoning of the subject site to R5 Large Lot Residential with a minimum lot size of 4000m<sup>2</sup>, and removal of the current site specific DCP controls is considered preferable to the current arrangements for the following reasons:

- It would provide certainty to the residential land to the south of the subject land that future development of the subject site would be for residential rather than industrial purposes.
- Any future purchaser of the subject site would do so knowing that a legally approved dog breeding premises was located next door. The conditions of the DA approval serve to minimise any adverse impacts on surrounding amenity, particularly residential amenity.
- The approval of a dog breeding premises at Number 12 limits the industrial potential of the subject site especially if the DCP controls remain, as it is unlikely that Number 12 will seek to develop that land for industrial purposes.

The rezoning would pave the way for the removal of the site specific DCP controls. The principal reason for those controls was to provide a buffer between the potential industrial development of the subject site and the residential land to the south. The proposed rezoning would remove the need for these controls, as the dog breeding facility becomes the buffer between the Industrial zone to the north and the Large Lot Residential Zone to the south.

Once rezoned to R5 Large Lot Residential, the subject site would come under the provisions of the Northern Villages Development Control Plan and that DCP would be amended accordingly to include the subject site. This would require amending the map at Figure A1.7 to include the subject site within the designated boundary.

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## **CONSULTATION**

### **EXTERNAL REFERRALS**

The Sydney Catchment Authority and the Rural Fire Service are consulted as a matter of course in the preparation of any Planning Proposal. It is unlikely that there would be any objection to the rezoning given the existing residential development to the south. Further referrals would occur as required under the Gateway Determination.

### **INTERNAL REFERRALS**

Relevant branches within Council would be consulted during the referral and community consultation phase of the Planning Proposal.

### **COMMUNITY CONSULTATION**

Community consultation would occur as required under the Gateway Determination. This would be for 14 or 28 days, as identified in section 5.5.2 of *A Guide to Preparing LEPs*

(Department of Planning and Infrastructure 2013). Affected neighbours in the vicinity would be specifically notified and the Planning Proposal would be advertised on Council's website and in the Southern Highland News. Copies of the Planning Proposal would be available at the Civic Centre and at the Mittagong Library, as well as on Council's website and the Department of Planning & Environment's website. The community consultation process would be complete with the post exhibition report to Council.

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## **STATUTORY PROVISIONS**

### **WINGECARRIBEE LEP (WLEP) 2010**

The proposed amendments to WLEP 2010 require a process which involves the following steps:

**Planning Proposal** - the relevant planning authority (Council) is responsible for the preparation of a planning proposal, which explains the effect of and justification for the plan.

**Gateway** - The Minister (or delegate) determines whether the planning proposal is to proceed. This gateway acts as a checkpoint to ensure that the proposal is justified before further studies are done and resources are allocated to the preparation of a plan. A community consultation process is also determined at this time. Consultations occur with relevant public authorities and, if necessary, the proposal is varied.

**Community Consultation** - the proposal is publicly exhibited for a minimum of 14 days. A person making a submission may also request a public hearing be held.

**Assessment** - The relevant planning authority (Council) considers public submissions and the Proposal is varied as necessary. It is noted that section 58(1) of the EP&A Act allows Council to vary, at any time, its Proposal as a consequence of its consideration of any submission or report during community consultation or for any other reason. However, clause 58(2) requires Council to inform the Minister (or delegate) that such a variation is to be made. Council may also resolve, at any time, to request that the Minister not proceed with the Planning Proposal (section 58(4)).

If the Planning Proposal does proceed (section 59), Parliamentary Counsel then prepares a draft local environmental plan (the legal instrument).

**Decision** - With the Minister's (or delegate's) approval the plan becomes law and is published on the NSW Legislation website.

### **DEVELOPMENT CONTROL PLANS (DCPS)**

The proposed amendment to the Industrial Lands DCP to remove the site specific controls requires a resolution of Council, public exhibition and a post exhibition report to Council. By undertaking the exhibition of both the Planning Proposal and the DCP amendments conjointly, the full implications of the proposed amendments to the subject site can be identified and assessed by any interested party.

## **STATE ENVIRONMENTAL PLANNING POLICIES (SEPPS)**

State Environmental Planning Policies (SEPPs) are a set of Environmental Planning Instruments with which Council must comply, where relevant, when considering amendments to WLEP 2010.

The following SEPPs are relevant to the Planning Proposal:

### **State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011**

The *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011* SEPP came into force on 1 March 2011 and applies to all land in Wingecarribee Shire. The SEPP requires that a consent authority must not grant consent to any development under Part 4 of the EP&A Act unless it is satisfied that the development will have a neutral or beneficial effect on water quality.

The Planning Proposal would be referred to the Sydney Catchment Authority (SCA) prior to Council seeking a Gateway Determination.

### **State Environmental Planning Policy No. 44 – Koala Habitat**

SEPP 44 requires Council to consider, for any application where the SEPP applies, whether or not the land is a potential koala habitat. It is considered that the proposed residential zoning would be less intensive than the current Industrial zoning, noting that the Planning Proposal will only be reinforcing the current land use status quo and any koala population would be unaffected.

Notwithstanding, should the proposed rezoning occur, any subsequent Development Application would be required to address the provisions of the SEPP.

## **SECTION 117 DIRECTIONS**

The Minister for Planning, under section 117(2) of the Environmental Planning and Assessment Act 1979 (EP&A Act) issues Directions that Council must follow when preparing Planning Proposals. The Directions cover the following broad categories:

1. employment and resources
2. environment and heritage
3. housing, infrastructure and urban development
4. hazard and risk
5. regional planning
6. local plan making.

An assessment of the Planning Proposal against these Directions occurs during its initial preparation.

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## **SUSTAINABILITY ASSESSMENT**

- **Environment**

The current IN1 General Industrial zoning, even with the associated DCP controls, is considered a more intensive land use than a residential zone. It is therefore considered that the proposal will have no adverse environmental impacts.

- **Social**

There are no social implications associated with this Planning Proposal or proposed DCP amendment.

- **Broader Economic Implications**

The change from an industrial zone to a residential zone on the subject land will not result in the loss of potential employment lands and subsequent broader economic implications, as the current DCP controls on the land severely limit the potential to develop the land for any industrial purpose. The current DCP controls require a significant area of the site to be used, as a buffer to the residential zone and the remainder of the site to be amalgamated with the property to the north to be developed for industrial purposes. As the property to the north has now been approved as a Dog Breeding Facility by Council, there is limited ability for the subject property to be developed for industrial purposes. Therefore, the rezoning will enable the site to be developed for its current and best use of residential.

- **Culture**

There are no cultural implications associated with this Planning Proposal or proposed DCP amendment.

- **Governance**

The Planning Proposal would be required to meet all relevant requirements under the EP&A Act and Regulations.

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## **RELATIONSHIP TO CORPORATE PLANS**

There are no Corporate Plans relevant to this Planning Proposal or proposed DCP amendment.

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## **BUDGET IMPLICATIONS**

A fee for the preparation of the Planning Proposal will be due under Council's schedule of fees and charges.

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## **RELATED COUNCIL POLICY**

There are no related Council Policies relevant to this Planning Proposal or proposed DCP amendment that have not been previously discussed in this report.

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## **OPTIONS**

The options available to Council are:

### **Option 1**

Resolve to not proceed with the Planning Proposal and DCP amendment.

### **Option2**

Resolve to proceed with the Planning Proposal and DCP amendment.

Option 2 is recommended as a residential zone would provide more certainty to the immediate residential community and would remove the need for the current site specific DCP controls.

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## **CONCLUSION**

The proposed rezoning of the subject site to R5 Large Lot Residential with a minimum lot size of 4000m<sup>2</sup>, and removal of the current site specific DCP controls is considered preferable to the current arrangements for the following reasons:

- It would provide certainty to the residential land to the south of the subject land that future development would be for residential rather than industrial purposes.
- Any future purchaser of the subject site would do so knowing that a legally approved dog breeding premises was located next door to the north.
- The approval of a dog breeding premises at Number 12 limits the industrial potential of the subject site especially if the DCP controls remain.
- The change of zoning will recognise the current and best use of the property, being Large Lot Residential.

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## **ATTACHMENTS**

There is one (1) attachment to this report:

1. The site specific DCP controls which it is proposed to remove from the Industrial Lands DCP.

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**RECOMMENDATION**

1. **THAT** a Planning Proposal be prepared and submitted to the Department of Planning & Environment under section 55 of the Environmental Planning & Assessment Act to rezone Lot 5 DP 10008, 10 Drapers Road, Willow Vale to R5 Large Lot Residential with a minimum lot size of 4000m<sup>2</sup>.
  2. **THAT** the Industrial Lands DCP be amended to remove site specific controls applicable to 10 and 12 Drapers Road, Willow Vale in accordance with the Environmental Planning & Assessment Regulation 2000.
  3. **THAT** it be noted that on completion of the Planning Proposal the subject site would form part of the Northern Villages DCP and be subject to the relevant provisions of that DCP.
  4. **THAT** the applicant be advised of Council's decision.
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*(Voting on the Motion)*

**ATTACHMENT 1**

# **Part D**

## **Development Controls for certain lots on Drapers Road, Braemar**

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**INDUSTRIAL LANDS DEVELOPMENT CONTROL PLAN**

**PART D SITE SPECIFIC CONTROLS**



**PART D SITE SPECIFIC CONTROLS FOR CERTAIN  
LOTS ON DRAPERS ROAD, BRAEMAR**

**1. Location**

The following objectives and controls relate to two lots which adjoin the R5 Large Lot Residential land in Drapers Road, Braemar, as indicated on the map below. These lots are to be proposed to be zoned IN1 General Industrial under an amendment to WLEP 2010.



**2. Objectives and Intended Outcomes**

The purpose of these controls is to provide an effective buffer between the potentially conflicting land uses which the adjacent industrial and residential land uses permit. To this extent the controls are performance as well as standards based.

In assessing an application for industrial development of this site, the following objectives and intended outcomes must be addressed to the satisfaction of Council:

- a) Both lots 5 and 6 DP 10008 must be amalgamated to form one site for the purposes of industrial development.

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**INDUSTRIAL LANDS DEVELOPMENT CONTROL PLAN**

**PART D SITE SPECIFIC CONTROLS**



- b) The proposed land use shall not adversely impact on neighbouring residential amenity through noise or odour generation, traffic generation, or operating hours which regularly extend beyond normal day-time and week-day patterns.
- c) Significant landscaping shall be provided between the southern side of the industrial development and the adjacent residential land.
- d) The design of the building in terms of height, style, materials and external colours shall be such as to be recessive in the landscape.

**3. Specific Controls**

Notwithstanding any other provisions of this Plan, the following controls apply to future development of Lots 5 and 6, DP 10008, located on the western side of Drapers Road.

- (a) The minimum area for development of the subject site for industrial land use shall be four (4) hectares.
- (b) Permissible industrial development shall be of a type that will not adversely impact on the adjoining residential area. Council will give most favourable consideration to the following forms of land use - aquaculture (pond or natural water-based), landscape and garden supplies, rural supplies, light industries and self storage premises.
- (c) A minimum thirty (30) metre buffer zone measured from the property boundary shall be provided incorporating mounding of a minimum height of two (2) metres for the full length of any building on the site plus five (5) metres beyond the front and rear setback of the building and which is graded to provide easy maintenance.
- (d) A two (2) metre high acoustic sound wall is to be erected along the top ridge of the mound.
- (e) Landscaping of the buffer zone shall require planting with mature native trees, bushes and under-storey vegetation at a density of one (1) plant per square metre so as to provide a dense screening of any building and to compliment existing native vegetation in this locality.
- (f) The Development of the site is required to be supported by a landscape plan and an acoustic report prepared by suitably qualified persons.
- (g) Industrial buildings shall be a maximum of eight (8) metres in height on the southern most side of the site.
- (h) Industrial buildings shall be designed from non-reflective materials in colours which are recessive in the landscape.

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**INDUSTRIAL LANDS DEVELOPMENT CONTROL PLAN**

**PART D SITE SPECIFIC CONTROLS**



- (i) The walls of buildings on the southern most side of the subject site shall be constructed from noise-inhibiting materials, or the building shall be in some other way insulated to prevent noise impacts on adjoining residential development.
- (j) Car parking and areas for the movement and parking of any vehicles associated with the development shall be located towards the northern side of the site.
- (k) There shall be one (1) vehicular access to the site from the northern most end of the site.