

Planning Proposal Attachment 6

Lot 514 DP 729979, Bateau Bay

Section 117 Directions and SEPP/REP Statement of Justification (as at 10 July 2008 and as exhibited)

Draft Local Environmental Plan (Amendment No. 172)

Section 117(2) Directions, REPs and SEPPs

Statement of Justification

Section 117(2) Directions

Direction		Comment
Employment & Resources		
1.1 Business & Industrial Zones		
▪ Aims to encourage employment growth in suitable locations, protect employment land in business and industrial zones and to support the viability of identified strategic corridors ▪ Applies when a dLEP affects land within an existing or proposed business or industrial zone	▪ Applicable ▪ The dLEP will increase the supply of commercially available land within the locality. ▪ The dLEP does not reduce the potential total floor space area for employment or related public services. ▪ Both independent and applicant's economic assessment support the viability of the proposed 3(b) (Centre Support) zone. ▪ The proposed zone is consistent with Council's Retail Strategy (adopted December 2007) and is located within a centre identified by the <i>draft Central Coast Regional Strategy</i>.	
1.2 Rural Zones		
▪ Aims to protect the agricultural production value of rural land ▪ Applies when a dLEP affects land within an existing or proposed rural zone	▪ Not applicable ▪ The land subject to the dLEP is not within a rural zone. The land is zoned 5(a) (Special Uses – Clubs and Community Facilities) and proposes a 3(b) (Centre Support Zone).	
1.3 Mining, Petroleum Production and Extractive Industries		
▪ Aims to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development ▪ Applies when a dLEP would have the effect of prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or restricting the potential of development resources of coal, other mineral,	▪ Not applicable ▪ The dLEP does not seek to prohibit mining of coal, other minerals, petroleum and extractive materials or restrict potential development of coal, other minerals, petroleum and extractive materials	

Direction	Comment
petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development	
1.4 Oyster Aquaculture	
▪ Aims to ensure that Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area are adequately considered, and to protect Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area from land uses that may result in adverse impacts on water quality and the health of oysters and consumers ▪ Applies when a dLEP could result in adverse impacts on a Priority Oyster Aquaculture Areas or current oyster aquaculture lease in the national parks estate or results in incompatible use of land between oyster aquaculture in a Priority Oyster Aquaculture Area or current oyster aquaculture lease in the national parks estate and other land uses	▪ Not applicable ▪ The dLEP does not propose a land use which will have adverse effects or be incompatible with Priority Oyster Aquaculture Areas or current oyster aquaculture lease in the national parks estate
1.5 Rural Lands	
▪ Aims to protect the agricultural production value of rural land; and facilitate the orderly and economic development of rural lands for rural and related purposes. ▪ Applies to Councils to which <i>State Environmental Planning Policy (Rural Lands) 2008</i> applies and prepares a dLEP that affects land within an existing or proposed rural or environment protection zone.	▪ Not applicable ▪ Wyong Shire Council LGA is not subject to SEPP (Rural Lands) 2008.
<i>Environment & Heritage</i>	
2.1 Environmental Protection Zones	
▪ Aims to protect and conserve environmentally sensitive areas ▪ Applies when council prepares a dLEP	▪ Applicable ▪ While this direction applies to this draft LEP (Amendment No. 172), it is considered that Direction No 2.1 Environmental Protection Zones is not relevant to the draft LEP, as the draft plan does not affect environmentally sensitive areas, therefore is not inconsistent with this direction

Direction	Comment
2.2 Coastal Protection	
▪ Aims to implement the principles in the NSW Coast Policy ▪ Applies when a dLEP applies to land in the coastal zone as defined in the <i>Coastal Protection Act 1979</i>	▪ Not applicable ▪ The dLEP does not apply to land in the coastal zone
2.3 Heritage Conservation	
▪ Aims to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance ▪ Applies when council prepares a dLEP	▪ Applicable ▪ No items, areas, objects and places of environmental heritage significance and indigenous heritage significance have been identified as being on the sites subject to the dLEP ▪ The dLEP does not propose development which will affect items, areas, objects and places of environmental heritage significance and indigenous heritage significance therefore is not inconsistent with this Direction
2.4 Recreational Vehicle Areas	
▪ Aims to protect sensitive land or land with significant conservation values from adverse impacts from recreational vehicles ▪ Applies when council prepares a dLEP	▪ Applicable ▪ The dLEP does not propose for the use of the land for the purpose of a recreation vehicle area therefore is not inconsistent with this direction
<i>Housing, Infrastructure and Urban Development</i>	
3.1 Residential Zones	
▪ Aims to encourage a variety and choice of housing types to provide for existing and future housing needs, to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and to minimise the impact of residential development on the environmental and resource lands ▪ Applies when a dLEP affects land within an existing or proposed residential zone, and any other zone in which significant residential development is permitted or proposed to be permitted.	▪ Not applicable ▪ The dLEP does not affect land within an existing or proposed residential zone.

Direction	Comment
3.2 Caravan Parks and Manufactured Home Estates	
▪ Aims to provide for a variety of housing types and provide opportunities for caravan parks and manufactured home estates ▪ Applies when council prepares a dLEP	▪ Applicable ▪ The dLEP does not seek to rezone land to provide for caravan parks or manufactured home estates, therefore the dLEP is consistent with this Direction
3.3 Home Occupations	
▪ Aims to encourage the carrying out of low impact small business in dwelling houses ▪ Applies when council prepares a dLEP	▪ Applicable ▪ The dLEP seeks to rezone Lot 514 DP 729979 from 5(a) (Special Uses – Clubs and Community Purposes) to 3(b) (Centre Support). ▪ The dLEP is not inconsistent with this Direction as Dwelling houses, and therefore home occupations, are prohibited within the proposed 3(b) (Centre Support Zone).
3.4 Integrating Land Use & Transport	
▪ Aims to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts to achieve: improving access to housing, jobs and services by walking, cycling and public transport; increasing choice of available transport and reducing transport on cars; reducing travel demand; supporting efficient and viable public transport services; and provide for efficient movement of freight ▪ Applies when a dLEP creates alters or moves a zone or provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes	▪ Applicable ▪ The dLEP involves consolidation of business activity adjacent to an existing shopping centre. ▪ The draft chapter of DCP 2005 (Chapter 110 – Centre Support Bateau Bay) further specifies requirements for facilities to support public transport. Walking and cycling. ▪ It is considered that the dLEP is consistent with the objectives of <i>Improving Transport Choice – Guidelines for Planning and Development (DUAP 2001)</i> and <i>The Right Place for Business Services (DUAP 2001)</i> and this Direction.
3.5 Development Near Licensed Aerodromes	
▪ Aims to ensure the effective and safe operation of aerodromes, their operation is not compromised by development which constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity, development for residential purposes or human occupation (within the ANEF contours between 20 & 25) incorporates appropriate mitigation measures so that the development is not	▪ Not applicable ▪ The dLEP does not seek to create, alter or remove a zone or provision relating to land in the vicinity of a licensed aerodrome, therefore this Direction is not applicable to the dLEP

Direction	Comment
adversely affected by aircraft noise ▪ Applies when a dLEP creates, alters or removes a zone or provision relating to land in the vicinity of a licensed aerodrome	
<i>Hazard & Risk</i>	
4.1 Acid Sulfate Soils	
▪ Aims to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils ▪ Applies when a dLEP applies to land having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps	▪ Not applicable. ▪ The dLEP does not affect land identified as having a probability of containing acid sulfate soils.
4.2 Mine Subsidence & Unstable Land	
▪ Aims to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence ▪ Applies when a dLEP permits development on land which is within a mine subsidence district, or identified as unstable in a study or assessment undertaken by or on behalf of Council or other public authority and provided to Council	▪ Not applicable ▪ The dLEP is not located on land within a mine subsidence district or on land which has been identified as unstable, therefore this Direction is considered not applicable to the dLEP
4.3 Flood Prone Land	
▪ Aims to ensure: development on flood prone land is consistent with NSW Government's Flood Prone Land Policy and principles of the <i>Floodplain Development Manual 2005</i>; and provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land ▪ Applies when a dLEP creates, removes or alters a zone or provision that affects flood prone land	▪ Not applicable ▪ The dLEP is not located on land which is flood prone, therefore this Direction is considered not applicable to the dLEP
4.4 Planning for Bushfire Protection	
▪ Aims to protect life, property and the environment from bushfire hazards, and encourage sound management of bushfire prone areas	▪ Applicable ▪ The dLEP affects land within 100m of an area identified as being bushfire prone. Accordingly,

Direction	Comment
Applies when a dLEP affects or is in proximity to land mapped as bushfire prone land	consultation has been undertaken with the NSW RFS under s62 of the EP & A Act, with comments provided taken into account. No objections were received in response to this consultation; therefore it is considered that the dLEP is considered consistent with this Direction.
<i>Regional Planning</i>	
5.1 Implementation of Regional Strategies	
- Aims to give legal effect to the vision, land use strategy, policies, outcomes and actions contained within regional strategies - Applies when council prepares a dLEP that is located on land addressed within the Far North Regional Strategy, Lower Hunter Regional Strategy, Illawarra Regional Strategy, South Coast Regional Strategy, Sydney – Canberra Corridor Regional Strategy, & Central Coast Regional Strategy	- Applicable - The dLEP does not seek to provide out of centre retail activity outside of those centres identified by the <i>Central Coast Regional Strategy</i>. The dLEP is therefore not inconsistent with this Direction.
5.2 Sydney Drinking Water Catchments	
- Aims to protect water quality in the hydrological catchment - Applies when council prepares a dLEP that applies to Sydney's hydrological catchment	- Not applicable - The dLEP does not apply to land within Sydney's hydrological catchment
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	
- Aims to: ensure that the best agricultural land will be available for current and future generations to grow food and fibre; provide more certainty on the status of the best agricultural land, assisting councils with strategic settlement planning; and reduce land use conflict arising between agricultural use and non-agricultural use of farmland caused by urban encroachment into farming areas - Applies to Ballina, Byron, Kyogle, and Tweed Shire Councils, Lismore City Council and Richmond Valley Council	- Not applicable - The dLEP does not apply to land within the NSW Far North Coast.
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	

Direction	Comment
▪ Aims to manage commercial and retail development along the Pacific Highway, North Coast ▪ Applies to all councils between and inclusive of Port Stephens and Tweed Shire Councils	▪ Not applicable ▪ The dLEP is not located in a council between or inclusive of Port Stephens and Tweed Shire Councils
5.5 Development in the Vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	
▪ Aims to ensure that development in the vicinity of the villages of Ellalong, Paxton and Millfield is consistent with the Cessnock City Wide Settlement Strategy and Lower Hunter Regional Strategy ▪ Applies to land in the vicinity of the villages of Ellalong, Paxton and Millfield in the Cessnock LGA	▪ Not applicable ▪ The dLEP is not located within Cessnock LGA
5.6 Revoked	
5.7 Revoked	
5.8 Second Sydney Airport: Badgerys Creek	
▪ Aims to avoid incompatible development in the vicinity of any future second Sydney Airport at Badgerys Creek ▪ Applies to land located within the Fairfield, Liverpool and Penrith City Council and Wollondilly Shire Council Local Government Areas	▪ Not applicable ▪ The dLEP is not located within the Fairfield, Liverpool and Penrith City Council and Wollondilly Shire Council Local Government Areas
<i>Local Plan Making</i>	
6.1 Approval and Referral Requirements	
▪ Aims to ensure that LEP provisions encourage the efficient and appropriate assessment of development ▪ Applies when council prepares a dLEP	▪ Applicable ▪ The dLEP does not propose amendments which require concurrence, consultation or referral of development applications to the Minister or public authority ▪ The dLEP does not identify any development as designated development ▪ Therefore, the dLEP is considered consistent with this Direction
6.2 Reserving Land for Public Purposes	

Direction	Comment
▪ Aims to facilitate the provision of public services and facilities by reserving land for public purposes, and facilitate the removal of reservations of land for public purposes where land is no longer required for acquisition ▪ Applies when council prepares a dLEP	▪ Applicable ▪ The dLEP seeks to rezone Lot 514 to DP 729979 from 5(a) (Special Purposes – Clubs and Community Purposes) to 3(b) (Centre Support). In addition to the rezoning, an agreement for the transfer of 1,800m² of land from Lot 514 DP 729979 from the current owner (Department of Lands) to Council has been made and finalised within a Deed of Agreement between the two parties. This land is to facilitate the expansion of Council's customer service and library facilities on the adjoining allotment (Lot 1 DP 844881). ▪ As the proposal seeks to alter existing zones for public purposes, approval is required from the relevant public authority and the Director – General of the Department of Planning. Approval of the relevant public authority (Department of Lands) has been obtained through the Deed of Agreement between themselves and Council. Representation has been made to the Department of Planning (14 May 2008) also seeking their approval. This approval was granted on 11 August 2008. The dLEP is therefore considered consistent with this Direction.
6.3 Site Specific Provisions	
▪ Aims to discourage unnecessarily restrictive site specific planning controls ▪ Applies when council prepares a dLEP to allow particular development to be carried out	▪ Not applicable ▪ The dLEP seeks to rezone Lot 514 DP 729979 from 5(a) (Special Uses – Clubs and Community Purposes) to 3(b) (Centre Support), enabling a range of permissible land uses. ▪ The dLEP does not seek to enable a specific development.

REPs and SEPPs

SEPP / REP	Comment
Draft SEPP No. 66 – Integration of Land Use and Transport	
▪ Aims to ensure that urban structure, building forms,	▪ The dLEP seeks to rezone Lot 514 DP 729979

SEPP / REP	Comment
land use location, development designs and street layouts help by: - improving accessibility to housing, employment and services by walking, cycling, and public transport, - improving the choice of transport and reducing dependence solely on cars for travel purposes, - moderating growth in the demand for travel and the distances travelled, especially by car, - supporting the efficient and viable operation of public transport services, - providing for the efficient movement of freight.	from 5(Special Uses – Clubs and Community Purposes) to 3(b) (Centre Support), enable a range of permissible land uses including commercial purposes. ▪ It is considered that the dLEP is consistent with the aims of the draft SEPP due to: ▪ Consultation during the preparation of the dLEP has been undertaken with local transport agencies and public transport providers. ▪ The location of the subject property adjoins a major retail centre which is accessible by a range of public transport mechanisms and has good pedestrian access. ▪ Further requirements to strengthen accessibility by public transport and reduce car dependence have been included within the associated DCP 2005: Chapter 110 for the site (Centre Support Development, Bateau Bay).