

Planning Proposal Attachment 2b

Lot 514 DP 729979, Bateau Bay

Council Report and Minutes – 17 November 2007

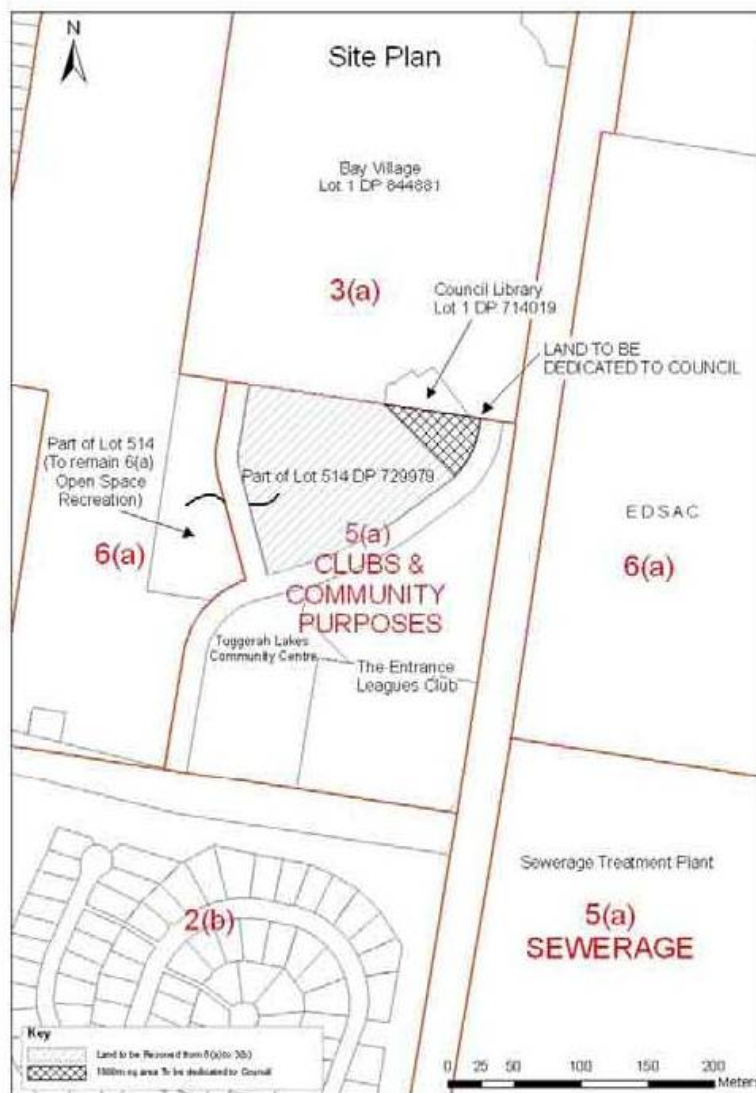
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14 November 2007
To the Ordinary Meeting of Council

Director's Report
Shire Planning Department

473 **RZ/06/2005 – Lot 514 DP 729979, Bay Village Road, Bateau Bay**
Request to rescind part of Resolution of 14 December 2005
(Attachment 1)

Locality Plan



WYONG SHIRE COUNCIL

14 November 2007
To the Ordinary Meeting of Council

Director's Report
Shire Planning Department

**473 RZ/06/2005 – Lot 514 DP 729979, Bay Village Road, Bateau Bay
– Request to rescind part of Resolution of 14 December 2005**

RZ/06/2005 JLO

SUMMARY

Council, at its meeting on 14 December 2005, resolved to prepare a draft Local Environmental Plan for the rezoning of Lot 514 DP 7229979 from 5(a) (Special Uses – Clubs and Community Purposes) to 3(b) (Centre Support).

This resolution identified the timing for the transfer of land between the Department of Lands (DoL) and Council, as agreed to by both parties at that time. Subsequent to recent discussions with representatives of the DoL, this report requests an amendment to that timing.

Applicant	Department of Commerce NSW
Owner	NSW Department of Lands (The Crown)
Application No.	RZ/06/2005
Description of Land	Part Lot 514 DP 729979, 2-8 Bay Village Road, Bateau Bay
Proposed Development	Development in accordance with the 3(b) zone objectives and the expansion of the existing community facilities functions.
Site Area	Lot 514 is 2.495 hectares in size. The application applies to approximately 1.7 hectares of the site.
Zoning	The subject land is currently zoned 5(a) Special Uses (Clubs and Community Purposes) under WLEP 1991. The remainder of the site is zoned 6(a) (Open Space) and is not part of the current application.
Current Use	The subject land is currently fenced, cleared and vacant.
Proposed Zoning	It is proposed to rezone the eastern portion of Lot 514 to Zone No. 3(b) Centre Support.

RECOMMENDATION

- 1 That Council rescind item 7 of resolution 615 of 14 December 2005 for preparation of Draft LEP Amendment No. 172 to Wyong Local Environmental Plan (WLEP) 1991 as follows:**
 - 7 That the land to be transferred in fee simple as part of the Deed of Agreement between The NSW Department of Lands (The Crown) and Council be transferred into Council ownership prior to the rezoning being referred to the Minister for Gazettal under s.69 of the Environmental Planning and Assessment Act 1979 or the site being sold, whichever happens first.**
- 2 That the land to be transferred from the Department of Lands to Council be transferred in fee simple (as part of the Deed of Agreement between The NSW Department of Lands and Wyong Shire Council) and be transferred into Council ownership after Gazettal of dLEP Amendment No. 172, or the site being sold (being the date of exchange of contracts), whichever occurs first.**

RZ/06/2005 – Lot 514 DP 729979, Bay Village Road, Bateau Bay – Request to rescind part of Resolution of 14 December 2005 (contd)

BACKGROUND

Council, at its Ordinary Meeting on 14 December 2005, resolved to prepare Draft LEP Amendment No. 172 to Wyong Local Environmental Plan (WLEP) 1991 as follows:

- "1 That a draft Local Environmental Plan be prepared to rezone part Lot 514 DP 729979, Bateau Bay from Zone No 5(a) Special Uses (Clubs and Community Purposes) to Zone No. 3(b) Centre Support under Wyong Local Environmental Plan, 1991.*
- 2 That the Department of Planning be advised of the decision within 28 days.*
- 3 That the Department of Planning be further advised that Council's delegate proposes to exercise the delegations under Section 65 and if appropriate, under Section 69 of the Environmental Planning and Assessment Act 1979.*
- 4 That upon issue of the Section 65 Certificate, the draft Local Environmental Plan be advertised for 28 days in accordance with the NSW Department of Planning's "LEPs and Council Land: Best Practise Guidelines, January 1997" and referred to the appropriate authorities for comment.*
- 5 That should no significant objections be received as a result of the exhibition, the Minister for Planning be requested to create the Local Environmental Plan.*
- 6 That a Deed of Agreement be prepared between the NSW Department of Lands (The Crown) and Wyong Shire Council that transfers in fee simple part of Lot 514 to Council, at no cost, for the development of an Integrated Library and Customer Service centre.*
- 7 That the land to be transferred in fee simple as part of the Deed of Agreement between The NSW Department of Lands (The Crown) and Council be transferred into Council ownership prior to the rezoning being referred to the Minister for Gazettal under s.69 of the Environmental Planning and Assessment Act 1979 or the site being sold, whichever happens first.*
- 8 That Council authorise the Mayor and the General Manager to execute all documents relating to the Deed of Agreement between Wyong Shire Council and the NSW Department of Lands (The Crown).*
- 9 That Development Control Plan 2005 be amended and exhibited to guide future development on Lot 514 DP 729979, Bateau Bay.*
- 10 That the applicant be requested to submit a detailed traffic report prior to the draft Local Environmental Plan and Development Control Plan being placed on public exhibition.*

RZ/06/2005 – Lot 514 DP 729979, Bay Village Road, Bateau Bay – Request to rescind part of Resolution of 14 December 2005 (contd)

11 That Council's Section 149 Certificates be noted."

The timing for the agreed transfer of land between the DoL and Wyong Shire Council was identified in resolution number 7.

Subsequently, negotiations for the preparation of the draft Deed of Agreement which provided the detail for the land transfer were commenced with the Department of Commerce (DoC). However, due to the return of its project management from the DoC to the DoL, significant delays have been experienced as new staff have taken up the project. The final handover only occurred in mid 2007.

Council was unable to resolve outstanding matters with the draft Deed of Agreement during this time, given these circumstances and the lack of a project manager from the DoL. The DoL has since assigned their Manager of Crown Lands as project manager for this rezoning.

A meeting was held in September 2007 between Council staff and the Manager of Crown Lands which enabled a number of the outstanding matters to be resolved. DoL have requested that Council consent to amending the timing of the transfer of the agreed portion of Lot 514 to after the draft plan had been gazetted, instead of prior to the s69 report being issued to the Minister.

The DoL argues that this revised timing will avoid an additional agreement having to be entered into with Council and the eventual purchaser of the land. If Lot 514 is sold by the DoL prior to the transfer occurring, the new owner will have no legal obligation to transfer that 1,800m² to Council as per the agreement reached by the DoL and Council.

DoL also have advised that the tenders for the sale of Lot 514 would be called for in the near future. In alignment with the existing and proposed new resolution the transfer of the land to Council would occur when this sale goes through. There is therefore little risk to Council in amending the original resolution to transfer the land after the draft plan is gazetted, as it is more than likely that the land will be sold and finalised prior to either action occurring.

CONCLUSION

The request made by the DoL for Council to amend its original resolution to transfer the land to Council ownership after gazettal of dLEP Amendment No. 172 should be supported. This resolution will enable the Deed of Agreement to be finalised, and subsequently it will enable the progression of the rezoning of the subject land.

Minutes of the Ordinary Meeting of Council held on 14 November 2007 (contd)

473 RZ/06/2005 – Lot 514 DP 729979, Bay Village Road, Bateau Bay – Request to rescind part of Resolution of 14 December 2005

RZ/06/2005 JLO

RESOLVED unanimously on the motion of Councillor STEWART and seconded by Councillor STEVENS:

- 1** *That Council rescind item 7 of resolution 615 of 14 December 2005 for preparation of Draft LEP Amendment No. 172 to Wyong Local Environmental Plan (WLEP) 1991 as follows:*

7 *That the land to be transferred in fee simple as part of the Deed of Agreement between The NSW Department of Lands (The Crown) and Council be transferred into Council ownership prior to the rezoning being referred to the Minister for Gazettal under s.69 of the Environmental Planning and Assessment Act 1979 or the site being sold, whichever happens first.*

- 2** *That the land to be transferred from the Department of Lands to Council be transferred in fee simple (as part of the Deed of Agreement between The NSW Department of Lands and Wyong Shire Council) and be transferred into Council ownership after Gazettal of dLEP Amendment No. 172, or the site being sold (being the date of exchange of contracts), whichever occurs first.*

474 Dedication of Land - Part of Lot 3 DP 618884 and Part of Lot 63 DP 262025 at Berkeley Vale as Public Road

DA/563/1993/A PF

RESOLVED unanimously on the motion of Councillor GRAHAM and seconded by Councillor STEWART:

- 1** *That Council agree to dedicate part of Lot 3 DP 618884 and part of Lot 63 DP 262025 Enterprise Drive Berkeley Vale as public road at no cost to Council.*
- 2** *That Council agree to waive its right for compensation associated with the dedication of the land in Item 1 as public road.*
- 3** *That Council authorise for the Common Seal of the Wyong Shire Council to be affixed to the plan of dedication and associated instruments of transfer that will allow the land in Item 1 to be dedicated as public road.*
- 4** *That Council authorise the Mayor and the General Manager to execute all documents relating to the plan of dedication and associated instruments of transfer that will allow the land in item 1 to be dedicated as public road.*