



Wyong
Shire
Council
CENTRAL COAST

Planning Proposal

Lot 514 DP 729979
300 Bateau Bay Road, Bateau Bay
Application No. RZ/6/2005 (dLEP Amendment No. 172)

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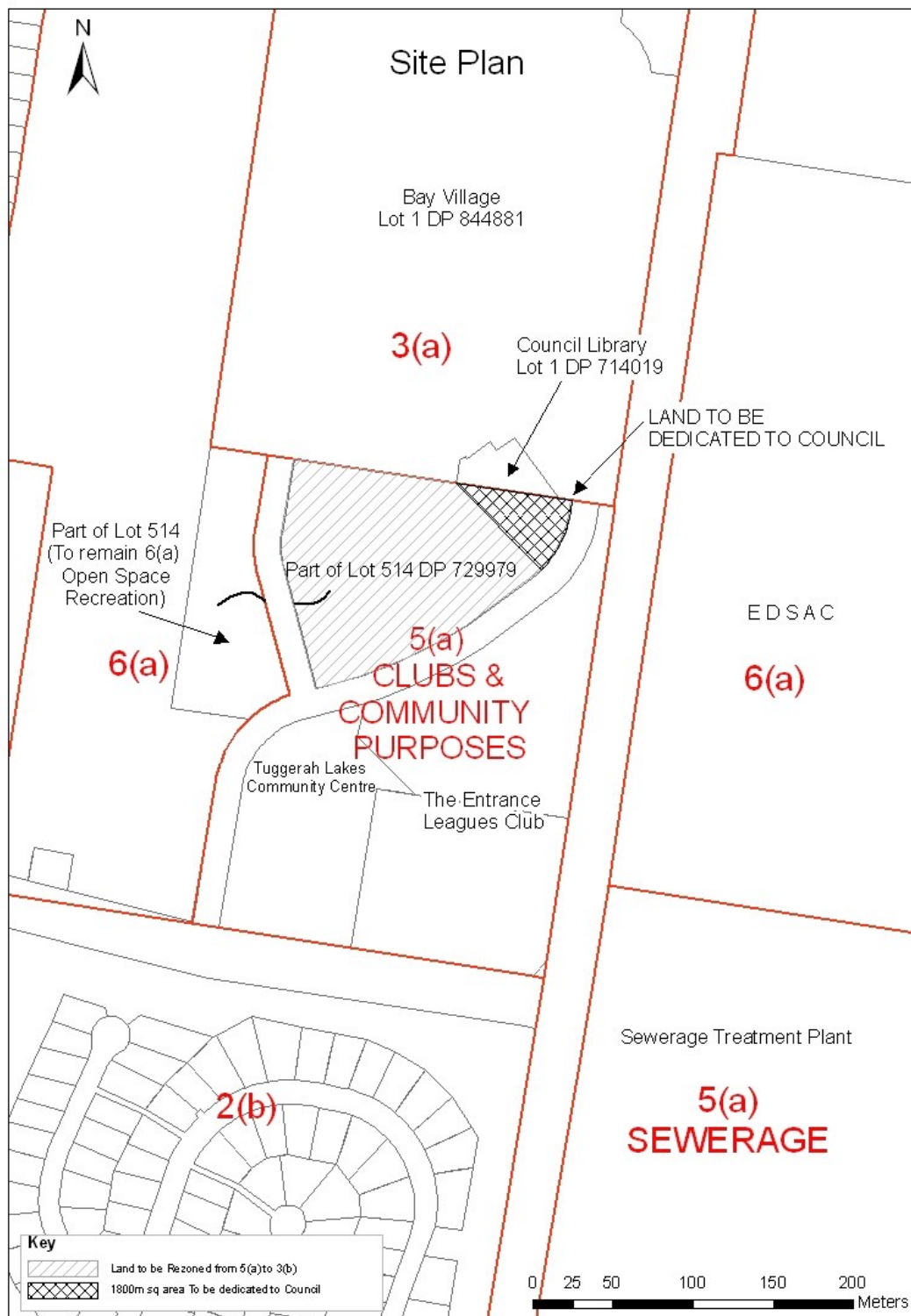


Figure 1 Planning Proposal Locality Plan

Part 1 Objectives or Intended Outcomes

The intended outcome of this Planning Proposal is:

To enable the use of Part of Lot 514 DP 729979 Bay Village Road, east of the Service Road to be used for commercial purposes, consistent with the permissible uses within the 3(b) Centre Support Zone.

As part of an agreement between Council and the Land and Property Management Authority (LPMA – formerly Crown Lands/Department of Lands), 1,800m² of the site will be transferred into Council ownership for the purposes of expanding the existing Council library located in the adjacent Stockland Bay Village shopping complex.

Part 2 Explanation of Provisions

The following provisions are proposed in order to achieve the intended outcome of this Planning Proposal:

Amendment of Clause 7 – Definitions and Schedule 4 – Development Restrictions on Certain Land (Clause 53) of Wyong Local Environmental Plan 1991 in accordance with the following Schedule:

[1] Clause 7 Definitions

The definition of “the map” is amended by the inclusion of a reference to the map accompanying Wyong Local Environmental Plan 1991 (Amendment No. 172) in the list of amending plans.

[2] Schedule 4 – Development Restrictions on Certain Land (Clause 53)

Insert in order within the Schedule:

Land	Development Restriction
Part of Lot 514 DP 729979, Bateau Bay as shown heavy edged on the map marked “Wyong Local Environmental Plan 1991 (Amendment No 172).	No development on the affected lot can occur unless a formal assessment of the bus interchange options has been conducted by appropriately qualified personnel, to the satisfaction of the RTA and Council, and the proposed works to be undertaken are to the satisfaction of the RTA and Council.

Part 3 Justification

Section A – Need for the Planning Proposal

1. Is the Planning Proposal a result of any Strategic Study or report?

Whilst the Planning Proposal is not a direct result of any Strategic Study or report, the use proposed to be enabled by the Planning Proposal is consistent with Wyong Shire Council's Retail Centres Strategy (2007).

The Retail Centres Strategy identifies a hierarchy for retail centres throughout Wyong Shire, being Regional, District, Village and Neighbourhood Centres. The Strategy is based on an economic assessment of the retail needs for the Shire and provides recommendations for maximum retail floorspace areas within these centre hierarchies.

The site of the Planning Proposal falls within the Bateau Bay District Centre, characterised by the Stockland Bay Village Shopping Complex. The Retail Centres Strategy recommends that approximately 5,000m² of bulky good retail floorspace be located within this centre. This Planning Proposal will facilitate the provision of this area. Furthermore, Council has agreed that a development bonus of 1,800m² may also be available to the proponent for the development of the site in response to that 1,800m² granted to Council as part of the process.

Social planning for the Shire has identified a need for the community facilities within this locality for some time and has been negotiating with the LPMA since the late 1980's. The current 5(a) zoning of the site is to provide in part for Community Purposes. Given that the land is government owned and zoned for community purposes, it has been proposed for such uses for some time.

Negotiations with the LPMA (Crown) prior to this planning proposal focused on the dedication of land adjoining the existing library facilities (within the Stockland Bay Village Shopping complex) so that the opportunity exists to rationalise the site between the new land and existing library site.

The LPMA, in 1989, gave 'in principle' agreement for the development of Lot 514 for this purpose. The current planning proposal provides an opportunity to upgrade, modernise and expand the current facilities offered at Bateau Bay. Council has retained its interest in the land for this purpose.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

It is considered that this Planning Proposal is the best and fastest means of achieving the intended outcomes.

The proposal in its current form has been lodged with Council since 2005 and has undergone government agency and community consultation under the former Section 62 and Section 66 provisions of the EP & A Act, resulting in the proposed provisions as detailed in Part 2 of this Proposal.

Council was scheduled to consider a report recommending the referral of the draft Local Environmental Plan (LEP) to the Minister for Planning in May 2009 under s69 of the former provisions of the Environmental Planning and Assessment (EP & A) Act, 1979.

Days prior to this report being considered however, a land claim under the Aboriginal Land Rights Act, 1983 was lodged on the subject site. Given Council's interest in the land and existing

agreements with the LPMA, and legal advice received on the subject, progression of the matter has been unable to proceed until such time as the claim had been determined and the appeal period completed.

The claim was formally refused on 9 March 2010; however the appeal period does not lapse until 9 July 2010. The introduction of the Gateway Process and repeal of the former plan making provisions of the EP & A Act on 1 July 2010 have necessitated this proposal to be considered under the Gateway process.

Given that Council was on the verge of requesting the Minister to make the plan in May 2009, and that events have occurred beyond the control of neither the applicant nor Council, it is considered that this proposal be continued under the Gateway process, commencing at Section 57(8) and is finalised as soon as is practicable.

3. *Is there a net community benefit?*

The proposal has been considered against the evaluation criteria for the net community benefit test as detailed within the Draft Centres Policy. This evaluation is further detailed below, in summary however, the proposal will:

- assist in the provision of library and information services for residents within the Bateau Bay area;
- Create new employment land and permanent employment opportunities;
- Have a net economic benefit to the region and centre through retail activity; and
- Contribute to State Government revenue through the sale of the rezoned land.

Evaluation Criterion	Consistency of the Proposal
Will the proposal be compatible with agreed State and regional strategic direction for development in the area (eg land release, strategic corridors, development within 800 metres of a transit node)?	Yes. The proposal is consistent with the directions of the Central Coast Regional Strategy (refer to Section B of this document).
Is the proposal located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/subregional strategy?	Yes. The proposal is located within the existing Bateau Bay Town Centre.
Is the proposal likely to create a precedent or create or change the expectations of the landowner or other landholders?	No. The proposal is consistent with Council's Retail Centres Strategy therefore expectations for other retail rezonings will also need to be consistent with this strategy.
Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?	Yes. Given the consistency of this proposal with relevant state, local and regional planning strategies and policies, the proposal will not supply an over demand of retail premises and be appropriately located within an existing town centre.

Will the proposal facilitate a permanent employment generating activity or result in a loss of employment lands?	The proposal will facilitate approximately 130 full time jobs in addition to those created through the construction process. The proposal does not result in a loss of employment lands.
Will the proposal impact upon the supply of residential land and therefore housing supply and affordability?	The proposal does not result in a loss of residential land.
Is the existing public infrastructure (roads, rail, utilities) capable of servicing the proposed site?	Yes. The site is located within the existing Bateau Bay Town Centre, serviced by public transport with good pedestrian linkages.
Is there good pedestrian and cycling access?	Yes.
Is public transport currently available or is there infrastructure capacity to support future public transport?	Yes. Public transport is available to the northern area of the existing shopping centre. Additional requirements have been built into the proposed Instrument and Draft Chapter 110 to require the extension of public transport services to the southern area of the shopping centre to support this proposal.
Will the proposal result in changes to the car distances travelled by customers, employees and suppliers? If so, what are the likely impacts in terms of greenhouse gas emissions, operating costs and road safety?	This proposal will enable car travel to be reduced as the nearest bulky goods retailing area is located at least 10km away from this centre (other centres of this nature in Gosford City LGA are at least 30km away). This will have a resultant reduction in greenhouse gas emissions for this type of retail activity. Shorter travel distances also result in less road time, therefore the potential for vehicle accidents is also reduced.
Are there significant Government investments in infrastructure or services in the area whose patronage will be affected by the proposal? If so, what is the expected impact?	No.
Will the proposal impact on land that the Government has identified a need to protect (e.g. land with high biodiversity values) or have other environmental impacts? Is the land constrained by environmental factors	No. Refer to Section C of this document.

such as flooding?	
Will the proposal be compatible/complementary with surrounding land uses? What is the impact on amenity in the location and wider community? Will the public domain improve?	Yes. The proposal is located within an existing Town Centre and will enable retail uses which will complement the adjoining retail activity within the Stockland Bay Village Centre. The transfer of the 1,800m² into Council ownership will enable to extension and improvement of the existing library and customer service facilities. This facility will have a strong focus on the creation of functional public space.
Will the proposal increase choice and competition by increasing the number of retail and commercial premises operating in the area?	No. The proposal is consistent with Council's Retail Centres Strategy which has assessed demand for the retail activity likely to result from this proposal. This proposal will not exceed the demand.
If a stand-alone proposal and not a centre, does the proposal have the potential to develop into a centre in the future?	N/A
What are the public interest reasons for preparing the draft plan? What are the implications of not proceeding at that time?	1,800m ² of land will be transferred into the ownership of Council for the upgrade and improvement of the existing library and customer service facilities within the centre.

Section B – Relationship to strategic planning framework**4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?**

The Planning Proposal is considered to be consistent with the relevant objectives and actions contained within the Central Coast Regional Strategy (CCRS).

Documentation within the Attachments to this proposal provide the assessment of the proposal against the Actions/Objectives of the CCRS. In Summary, applicable objectives/actions include:

The CCRS identifies the need for additional employment generating development, setting a target of 27,000 additional jobs by 2031. 9,000 of these jobs are proposed to be located within existing centres. This proposal will enable the development of 5,000m² (plus an additional 1,800m² development bonus) for commercial premises consistent with the aims, objectives and permissible uses within the 3(b) Centre Support Zone. The development of this site has the potential to provide for over 130 full time jobs, in addition to those jobs created through the construction process.

In accordance with the actions and recommendations of the CCRS, the Department of Planning (DoP) released the Regional Economic Development and Employment Strategy (REDES) in February 2010. It is considered that this Planning Proposal is consistent with and will assist in achieving strategies 4 (Ensuring an adequate supply of lands for employment) and 5 (Focus on centres development) of the REDES.

5. Is the planning proposal consistent with the local Council's Community Strategic Plan, or other local strategic plan?

It is considered that the Planning Proposal is consistent with the Wyong Shire Strategic Vision (SSV). The eight (8) key objectives of this vision are that:

1. Communities will be vibrant, caring and connected with a sense of belonging and pride in their local neighbourhood;
2. There will be ease of travel within the Shire, and to other regional centres and cities. Travel will be available at all hours and will be safe, clean and affordable;
3. Communities will have access to a diverse range of affordable and coordinated facilities, programs and services;
4. Areas of natural value in public and private ownership will be enhanced and retained to a high level in the context of ongoing development;
5. There will be a sense of community ownership of the natural environment through direct public involvement with environmental programs;
6. There will be a strong sustainable business sector and increased local employment built on the Central Coast's business strengths;
7. Information communication technology will be consistent with world's best practice and adaptive to technological advances across all sectors; and
8. The community will be well educated, innovative and creative. People will attain full knowledge potential at all stages of life.

The Planning Proposal will enable the transfer of 1,800m² of land to Council for the purposes of upgrading, modernising and expanding the current library facilities offered at Bateau Bay which will assist in achieving Objective No's 3 and 8 of the SSV.

Additionally, the site is located within the existing Bateau Bay Centre which is well connected to other areas of the Shire by public transport and pedestrian accesses, therefore is consistent with Objective No. 2 of the SSV.

6. *Is the planning proposal consistent with applicable state environmental planning policies?*

The Planning Proposal has been assessed against relevant and applicable State Environmental Planning Policies (SEPPs) and is considered consistent with the provisions contained therein.

Further justification of the consistency of the Proposal against these provisions is detailed within the Attachments.

7. *Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?*

The Planning Proposal has been assessed against relevant and applicable Section 117 Directions and is considered to be consistent.

Direction 6.2 – Reserving Land for Public Purposes required approval from the Director General from the DoP. This approval has been obtained, a copy of which is included within the Attachments.

Further justification of the consistency of the Proposal against these provisions is detailed within the Attachments.

Section C – Environmental, Social and Economic Impact**8. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?***

The site of the Planning Proposal is predominantly cleared of vegetation and does not contain any critical habitat or threatened species, populations or ecological communities or their habitats.

The portion of Lot 514 DP 729979 west of the service road qualifies as an Endangered Ecological Community (Riverflat Eucalypt Forest or Sclerophyll Forest on Coastal Floodplains) under the Threatened Species Conservation Act, 1995, however consists of disturbed plant systems which gradually grade into the better quality vegetation on the adjoining land to the west. This portion of Lot 514 DP 729979 is not part of the Planning Proposal and is to remain zoned as 6(a) (Open Space and Recreation) and remain under the ownership of the Crown.

An aerial image of the site which shows the vegetation of the site is provided within the Attachments.

9. *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

As the Planning Proposal proposes intensification in land use from the current zone, environmental management of the site and adjoining properties will be required when any development of the site occurs.

A site specific chapter of Council's Development Control Plan 2005: Development Controls for Wyong Shire has been developed to manage such issues. Specific requirements have been included in relation to water sensitive urban design, waste management and construction management to manage potential environmental issues associated with development.

Draft Chapter 110: Centre Support Development is included within the Attachments of this Planning Proposal. It is intended for Council to adopt this Chapter of DCP 2005 prior to the plan being made by the Minister. The Chapter will come into effect on the date of gazettal of the LEP amendment.

10. *How has the planning proposal adequately addressed any social and economic effects?****Economic Retail Assessment***

In 2003 Leyshon Consulting prepared a review of retail facilities within both The Entrance and Southern Lakes Social Planning Districts to determine the most appropriate use for Lot 514. The review determined that the most appropriate use of the site is development in accordance with the 3(b) Centre Support. This zoning would permit the site to be developed for bulky goods retailing, commercial development, restaurants and other entertainment functions. These functions would compliment the retail offer of the Bay Village centre. The applicant's economic assessment also supports this conclusion.

The main difference between the 3(b) and 3(a) business zones is that shops are not permitted in the 3(b) zone. Leyshon's assessment found that if the site was developed for more traditional retail facilities (i.e. shops) the potential market share of the Bay Village centre could be as high as 44.6% of available retail spending in the trade area. This market share is more consistent with a sub-regional centre and would likely lead to a distortion of the retail hierarchy in the eastern part of Wyong Shire. Such a distortion would impact on surrounding shopping facilities at; The Entrance, Long Jetty, Killarney Vale and Cresthaven Avenue (Bateau Bay).

The recently completed extensions to Bay Village that adjoins Lot 514 increased the size of that centre from approximately 22,000 square metres of retail floor space to approximately 30,046 square metres of retail floor space. The most significant point in regards to defining future land use on Lot 514 was the addition of a third supermarket (ALDI) to the existing two supermarkets (Coles and Woolworths). This leaves only limited scope for any additions to retail floor space in the Lot 514 trade area through to after 2011.

In essence, the recently completed expansion of Bay Village severely limits the potential of Lot 514 to accommodate further retail development – particularly traditional retail development which involves supermarkets, specialty stores and the like. However, if development on Lot 514 was oriented more towards bulky good retailing, then the development outlook for the site is more positive. If Lot 514 is developed for more traditional bulky goods retailing (as is found at The Entrance Road, Erina and the Pacific Highway, Tuggerah), then it may not compete directly with the established bulky goods-type businesses at nearby Long Jetty. Direct competition between the two 3(b) areas would be reduced somewhat by the fact that most of the tenants in Long Jetty cater to the home renovation and automotive repair markets; there are almost no chain bulky goods tenants at Long Jetty. The scale of development on this site would not be sufficient enough to impact on the regional clustering of bulky goods development that occurs at Tuggerah.

Rezoning Lot 514 to 3(b) would therefore have the benefit of allowing the expansion of the existing Bay Village Centre functions whilst not competing directly with either its existing functions or other bulky goods areas in the Shire.

District Library and Customer Service Centre

New library facilities being developed throughout NSW are now being planned and developed as multi-functional, comfortable, vibrant and inviting spaces for the community. Opportunities exist to integrate this with other community functions e.g. Common entry, foyer space, amenities, shared activity spaces etc. It is proposed that this new centre integrate an expanded library, a customer service centre, community meeting rooms and an outdoor community meeting space/forecourt.

There are currently two libraries within The Entrance Social Planning District:

- The facility at Bay Village that is 345 square metres in size, has a collection of 27,683 books and 8,746 borrowers, and
- A smaller branch library at The Entrance that is 176 square metres in size and has a collection of 11,552 books and 1,049 borrowers.

The next closest library facility and customer service centre to these two facilities is a district level facility at Westfield Tuggerah that is 850 square metres in size and has a total book collection of 60,327 books.

The Entrance and Bay Village libraries currently service an area that includes The Entrance Social Planning District, part of the Southern Lakes Social Planning District (Killarney Vale, Tumbi Umbi, Tumbi Rural and Berkley Vale) and the northern coastal suburbs of the Gosford City Council LGA (Forresters Beach and Wamberal).

There is an opportunity to consolidate library services and customer service functions within The Entrance Social Planning District into one modern centre. The current Council building is approximately 650 square metres in size and does not have sufficient land available for car parking. The car parking for this facility is provided as a part of the parking for the Bay Village

centre. The additional car parking required for the expanded community facilities (over and above the existing facility's requirements) is to be provided as a part of the future development of Lot 514 as a part of the overall site development. This has been included in the deed of agreement between Council and the LPMA.

Consideration also needs to be given by Council, in the longer term, for the future and role of the small branch library and customer service centre at The Entrance and whether the sale of the land on that facility is located could partially fund the construction of the facility at Bay Village.

Section D – State and Commonwealth Interests**11. Is there adequate public infrastructure for the planning proposal?**

It is considered that there is adequate water and sewer infrastructure to support development resulting from the Planning Proposal.

Arrangements for traffic management have been deemed to be able to be resolved at the Development Application stage for any development of the site. This is reflected in the proposed provisions of the LEP amendment as detailed within Part 2 of this proposal and draft Chapter of DCP 2005 (Chapter 110 – Centre Support Development, Bateau Bay).

12. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

State government authorities were consulted under Section 62 of the former plan making provisions of the EP & A Act in 2006 and 2007. The results of this consultation are detailed within the Attachments to this proposal.

The Roads and Traffic Authority (RTA) initially held an objection to the proposal based on a need for additional traffic modelling and resolution of access issues for public transport (buses). This formal objection was removed by the RTA in March 2007 following the submission of additional modelling.

Arrangements for traffic management have been deemed to be able to be resolved at the Development Application stage for any development of the site, to which the RTA has agreed to be acceptable. This is reflected in the proposed provisions of the LEP amendment as detailed within Part 2 of this proposal and draft Chapter of DCP 2005 (Chapter 110 – Centre Support Development, Bateau Bay).

Part 4 Community Consultation

Public Exhibition of the proposal was undertaken under Section 65 and Section 66 of the former plan making provisions of the EP & A Act. The results of this consultation are detailed within the Attachments to this proposal.

Public Exhibition occurred between 5 November 2008 and 5 December 2008. Adjoining landholders and Precinct Committees were notified directly by letter, and notification of the exhibition published in the Central Coast Express Advocate on Wednesday 5 November.

Copies of the exhibition material were located at the Council Civic Centre, Wyong, the Tuggerah, Lake Haven, The Entrance and Bateau Bay Libraries and Information Centres and also available for download from Council's website.

The following information was provided as part of the exhibition material:

- dLEP Amendment (Amendment No. 172) Instrument
- dLEP Amendment (Amendment No. 172) Map
- s65 Certificate
- Written Authorisation to Exercise Delegation
- Plain English LEP
- S117, SEPP and REP Checklist
- S117, SEPP and REP Statement of Justification
- S117 Direction No. 6.2 Approval
- All s117 Ministerial Directions
- Relevant SEPPs
- Relevant REPs
- LEPs and Council Land – Best Practice Guidelines (January 1997)
- LEPs and Council Land – Best Practice Guidelines (January 1997) – Addressed Requirements
- Council Reports
- Current 3(b) (Centre Support) and 5(a) (Special Uses) Zoning Table
- Draft DCP 2005 – Development Controls for Wyong Shire

It is considered that there were no significant issues raised regarding the Planning Proposal exhibition period. As previously stated, arrangements for traffic management have been deemed to be able to be resolved at the Development Application stage for any development of the site, to which the RTA has agreed to be acceptable. This is reflected in the proposed provisions of the LEP amendment as detailed within Part 2 of this proposal and draft Chapter of DCP 2005 (Chapter 110 – Centre Support Development, Bateau Bay).

Attachments and Supporting Documentation

The following documentation is provided in support of this Planning Proposal.

Document	Attached
1. Aerial Plan (1 page)	✓
2. Council Reports and Minutes dated 14 February 2005 (15 pages) and 14 November 2007 (5 pages)	✓
3. Written Authorisation to Exercise Delegation dated 10 April 2006 (1 page)	✓
4. Section 65 Certificate dated 27 October 2008 (1 page)	✓
5. Section 117 Directions and SEPP/REP Checklist as at 10 July 2008 and as exhibited (2 pages)	✓
6. Section 117 Directions and SEPP/REP Statement of Justification as 10 July 2008 and as exhibited (9 pages)	✓
7. S117 6.2 Direction Approval (1 page)	✓
8. Statement of Council's interest in accordance with Requirements of LEPs and Council Land – Best Practice Guidelines as exhibited (3 pages)	✓
9. Public Agency Summary and Submissions (5 pages)	✓
10. Public Exhibition Submission Summaries (3 pages)	✓
11. Draft LEP Instrument and Map (4 pages)	✓
12. Draft Chapter 110 – Centre Support Development Bateau Bay following public exhibition (18 pages)	✓
13. Deed of Agreement between Wyong Shire Council and The Crown (8 pages)	✓
14. Deed of Variation between Wyong Shire Council and The Crown (8 pages)	✓
15. Central Coast Regional Strategy Assessment (11 pages)	✓