

## CORPORATE & STRATEGY

### **cw-CS1      Application to Amend WLEP 2010 to Permit a Highway Service Centre on Lot 2 DP 1010179, 1-9 Church Avenue, Colo Vale**

**Reference:** PN1710130, 5901  
**Responsible Officer:** Group Manager Strategic and Assets

#### **PURPOSE**

The purpose of this report is to present to Council a submission to amend Wingecarribee Local Environmental Plan 2010 (WLEP 2010) to permit development for the purposes of a Highway Service Centre on Lot 2 DP 1010179, 1-9 Church Avenue, Colo Vale.

#### **SUMMARY**

In January 2012 Council received a submission from JBA Planning on behalf of the owners of Lot 2 DP 1010179, 1-9 Church Avenue, Colo Vale, seeking an amendment to WLEP 2010 to permit a highway service centre and associated development on the subject site. The proponents were advised that previously, at its meeting on 12 October 2011, Council resolved to prepare a Planning Proposal to amend various aspects of the WLEP 2010 land use table, including prohibiting Highway Service Centres in all zones. This resolution was based on Council's opinion that such centres discouraged visitors from coming into the towns and villages thereby disadvantaging them economically.

Further consideration of the submission was delayed until completion of the exhibition of this Planning Proposal. The proponents addressed the Local Planning Strategy Steering Committee Sunset Working Group on 15 August 2012 where it was decided to further delay a decision on the submission until after the Council elections. The matter was again reported to the Local Planning Strategy Steering Committee Sunset Working Group on 20 February 2013 at which time it was decided to not support the submission.

A report was contained in the Agenda for the Ordinary Council Meeting of 10 April 2013 and was subsequently considered at its Meeting on 17 April 2013 when it was resolved:

1. *THAT the submission to amend Wingecarribee Local Environmental Plan 2010 to permit development for the purposes of a Highway Service Centre on Lot 2 DP 1010179, 1-9 Church Avenue, Colo Vale, be deferred pending a site inspection by Councillors AND THAT the matter be reported back to the Local Planning Strategy Sunset Steering Committee Working Group with information as supplied by the Applicant.*
2. *THAT the applicant and property owners be informed of Council's decision.*

A site inspection was undertaken on 8 May 2013 and the information supplied by the Applicant was considered at the Local Planning Strategy Sunset Steering Committee Working Group on 15 May 2013.

## DESCRIPTION OF PROPOSAL

### BACKGROUND

The subject site is located at Colo Vale in the northern part of the Shire, as indicated in Figure 1 below.

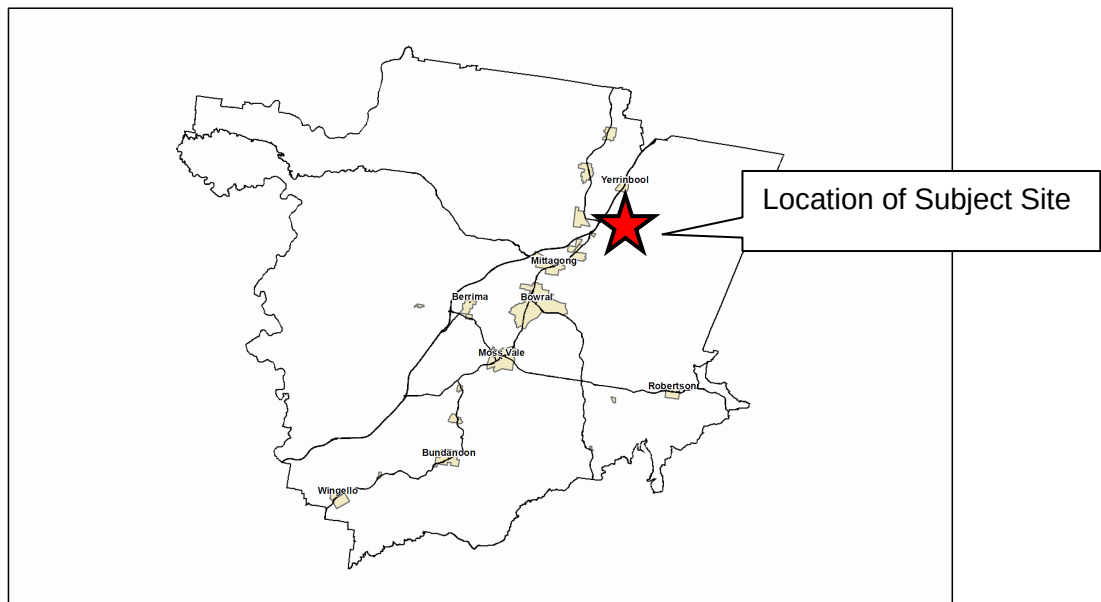
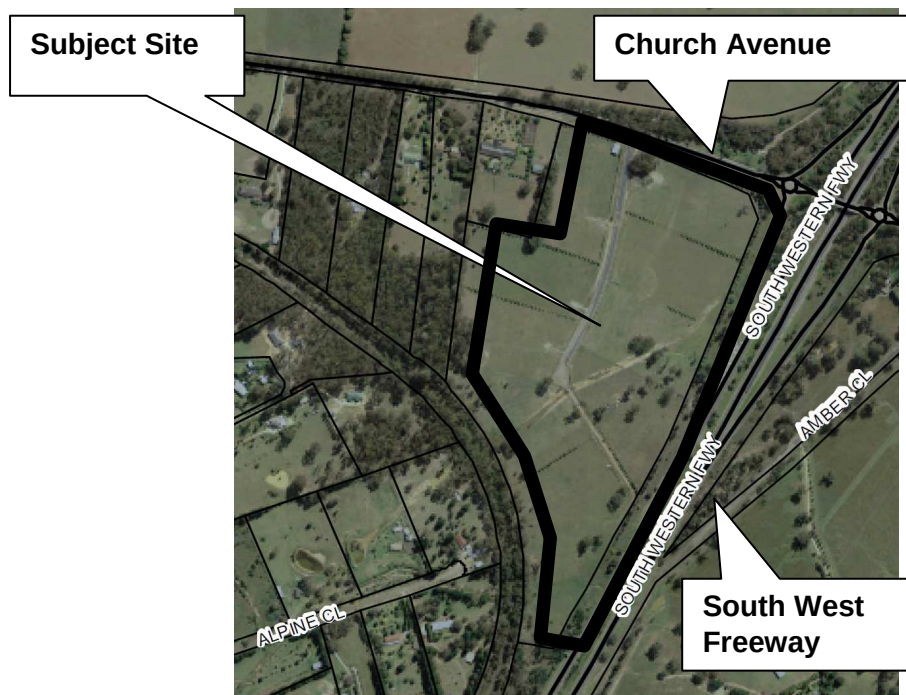


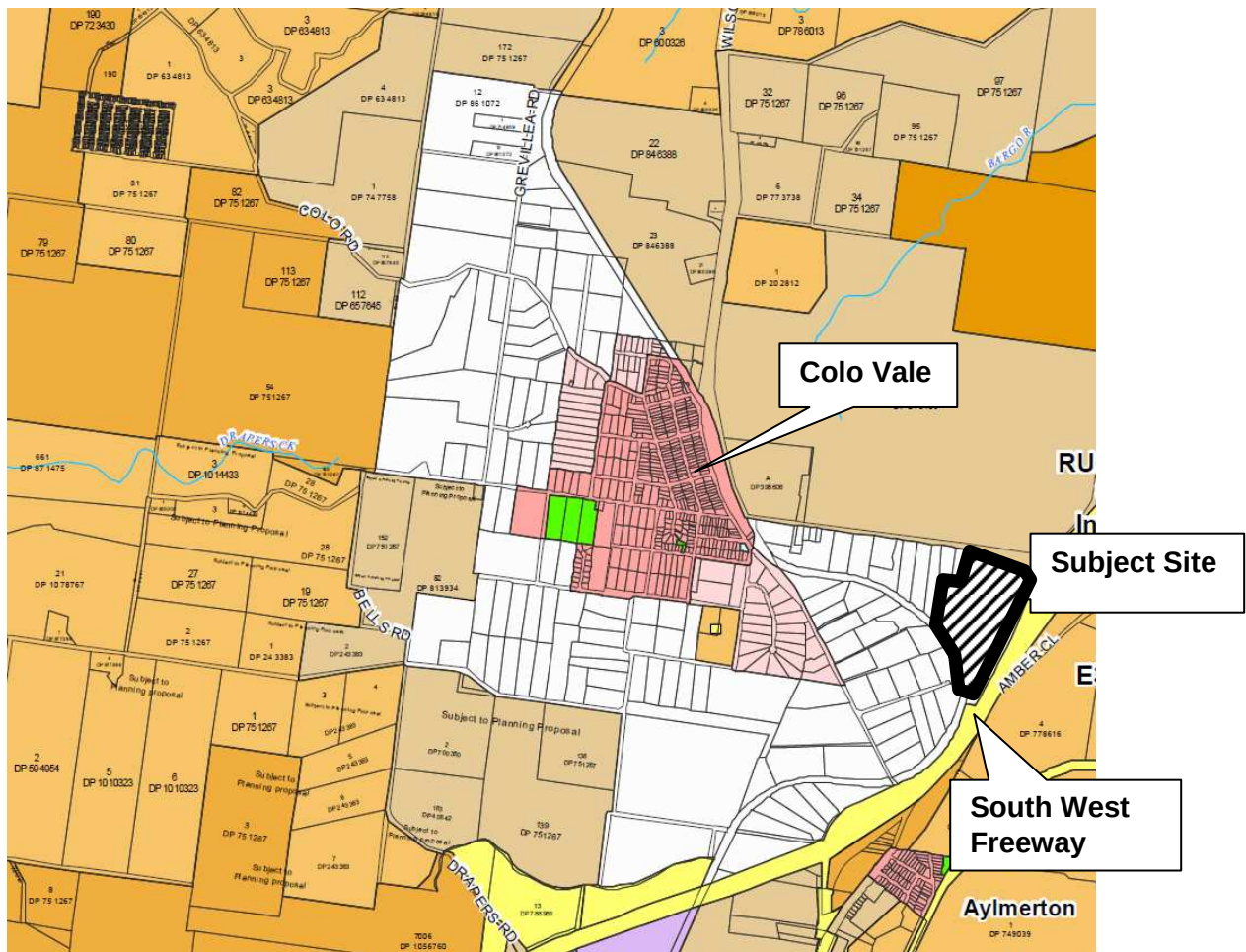
Figure 1 – Location of the Subject Site -regional

The site is bounded by Church Avenue to the north and the South Western Freeway to the east as indicated in Figure 2 on the following page.



**Figure 2 – Location of the Subject Site -detailed**

The land is zoned RU4 Primary Production Small Lots under WLEP 2010 with a minimum lot size of two (2) hectares and form the eastern boundary to an extensive area of RU4 zoned land surrounding Colo Vale, as indicated by the white area in Figure 3 below.



**Figure 3 – Colo Vale and the Subject Site surrounded by the RU4 Primary Production Small Lots Zoned land.**

The objectives of the RU4 zone are:

- To enable sustainable primary industry and other compatible land uses.
- To encourage and promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To provide for a restricted range of employment-generating development opportunities that are compatible with adjacent or nearby residential and agricultural development.
- To avoid additional degradation or fragmentation of the natural environment caused by further clearing of native vegetation, high intensity development and land use.
- To maintain flora and fauna species and habitats, communities and ecological processes that occupy land in the zone, ensuring that development minimises any off and on site impacts on biodiversity, water resources and natural landforms.
- To conserve and enhance the quality of potentially valuable environmental assets, including waterways, riparian land, wetlands and other surface and groundwater



resources, remnant native vegetation and fauna movement corridors as part of all new development and land use.

- To provide for the effective management of remnant native vegetation within the zone, including native vegetation regeneration, noxious and environmental weed eradication and bush fire hazard reduction.

It is noted that highway service centres are prohibited in the RU4 zone under WLEP 2010.

The land is largely cleared of native vegetation, as indicated in Figure 4 below.

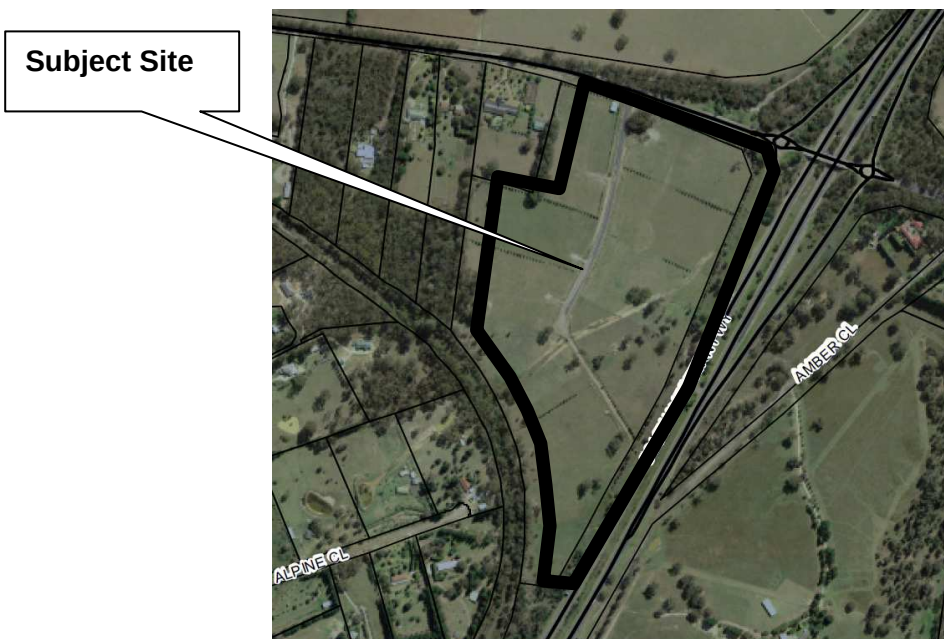


Figure 4 – Aerial Photograph (2009) of the Subject Site

## **PLANNING CONSIDERATIONS**

The submission was initially considered at the Local Planning Strategy Steering Committee Sunset Working Group on 15 August 2012 at which time the proponents addressed the Committee and explained their proposal.

The Committee recommended that the presentation be noted and that further discussion occur with the new Council. It was noted that Council does have a Planning Proposal underway to prohibit Highway Service Centres in all zones. It was also noted that the review of the policy to prohibit Highway Service Centres could be considered by the new Council when that Planning Proposal (which is to amend several land uses and zones in the WLEP 2010 land use table) is returned to the LPS Steering Committee for consideration prior to being reported to Council.

The matter was further considered by Council's Local Planning Strategy Steering Committee Sunset Working Group at its meeting of the 20 February 2013. The Committee resolved not to support the proposal for the following reasons:

- A *Highway Service Centre* is not compatible with the RU4 Primary Production Small Lot zone

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 12 June 2013

### REPORT - DEPUTY GENERAL MANAGER CORPORATE & STRATEGY



- Traffic intensification on the Highway entry and exit ramps
- Adverse visual impact on the entrance to the Southern Highlands
- The proposal is not consistent with Council's policy, goals and objectives of the Wingecarribee Strategic Plan 2031+ to protect the rural land landscape between town boundaries, commonly referred to as the "green between".
- The proposal may have a detrimental impact on existing business in Mittagong and Bowral

At its meeting on 20 March 2013, Council's Local Planning Strategy Steering Committee Sunset Working Group considered the Planning Proposal to amend the land use table for various zones in the Shire, including the prohibition of Highway Service Centres in all zones, and recommended reporting the Planning Proposal to Council as originally exhibited. It is noted that following exhibition of the Planning proposal, Council received one submission objecting to the proposed prohibition of highway service centres in all zones. It is also noted that this Planning Proposal will be reported to Council in April 2013.

It is also noted that the Rural Lands SEPP (2008) includes within its aims the following:

- (b) to identify the Rural Planning Principles and the Rural Subdivision Principles so as to assist in the proper management, development and protection of rural lands for the purpose of promoting the social, economic and environmental welfare of the State,
- (c) to implement measures designed to reduce land use conflicts,

It is considered that the location of a highway service centre in proximity of this extensive area of Rural zoned land in the northern part of the Shire would not support these aims.

### **THE GATEWAY PROCESS FOR PLANNING PROPOSALS**

In July 2009, the 'gateway' plan-making process was introduced. The gateway process has 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. If initiated by the Minister (rather than the local council which is mostly the case) the Minister can appoint the Director-General of the Department of Planning or a joint regional planning panel to be the relevant planning authority.

**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 (generally low impact proposals for 14 days, others for 28 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 clause 58 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. Council may also resolve to not proceed with the Planning Proposal under this clause.

If the Planning Proposal does proceed, 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.

### **REVIEW OF DECISIONS**

On 29 October 2012, the Minister for Planning and Infrastructure announced that proponents seeking a rezoning can now request an independent review of decisions through the local Joint Regional Planning Panel. These changes came into effect on 2 November 2012 and allow an independent body to review some decisions by councils and the department, in the following situations:

#### **(1) Pre-Gateway reviews**

If a proponent (e.g. developer, landowner) has requested that a council prepare a planning proposal for a proposed instrument, the proponent may ask for a pre-Gateway review if:

- a) the council has notified the proponent that the request to prepare a planning proposal is not supported, or
- b) the council has failed to indicate its support 90 days after the proponent submitted a request accompanied by the required information.

#### **(2) Gateway reviews**

A council or proponent may request the Minister (or delegate) to alter a Gateway determination, when a Gateway determination is made that:

- a) the planning proposal should not proceed,
- b) the planning proposal should be resubmitted to the Gateway, or
- c) imposes requirements (other than consultation requirements) or makes variations to the proposal that the council or proponent thinks should be reconsidered.

Further detail is available on both Council's and the DP&I's websites by consulting the documents *A guide to preparing local environmental plans* and *A guide to preparing planning proposals*.

## **CONCLUSION**

It is concluded that the support of a highway service centre on the subject site is not consistent with the zoning of the site and adjoining land and the objectives of that zone, nor with Council's position on seeking to protect the economic viability of the towns and villages by encouraging highway traffic to divert into existing centres rather than use highway service centres.

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## **STATUTORY PROVISIONS**

### **Wingecarribee LEP2010**

The site is zoned RU4 Primary Production Small Lots with a minimum lot size of 2 hectares. The site for the eastern boundary of an extensive area of RU4 zoned land surrounding Colo Vale. The rezoning of the site, or the inclusion of the site in Schedule 1 for the purposes of a highway service centre, does not alter the fact that the land is within an area that has been identified for, and is suitable for, the land uses permitted under the RU4 zoning.

### **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 *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 EPA Act unless it is satisfied that the development will have a neutral or beneficial effect on water quality. As it is recommended that the development proposal not be supported, no further consideration of this or any other SEPP has occurred.

The Rural Lands SEPP has been addressed previously.

### **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.

As it is recommended that the development proposal not be supported, no further consideration of the 117 Directions has occurred although it is noted that the DP&I, in considering a Planning Proposal, places significant emphasis on whether or not the proposed development complies with local and regional strategic plans. In this case, neither Plan supports a highway service centre on the subject site.



### **Development Control Plans (DCPs)**

As it is recommended that the development proposal not be supported, no further consideration of Development Control Plans has been done.

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## **CONSULTATION**

### **COMMUNITY ENGAGEMENT**

#### **External Referrals**

It is noted that on 10 June 2011 Council received communication from the then Roads and Traffic Authority (RTA) with regard to this site and the potential for a highway service centre. The RTA raised various concerns and identified further areas of research which would be required before an application would be supported by them.

#### **Internal Referrals**

The matter was referred twice to the Local Planning Strategy Steering Committee Sunset Working Group as reported earlier. The proponents addressed the Committee on the first occasion.

#### **Neighbour Notification/Public Participation**

No community consultation has occurred.

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## **SUSTAINABILITY ASSESSMENT**

### **ENVIRONMENT**

If the proposed development were to proceed, it would impact on the rural landscape and land use of the RU4 zoned land surrounding Colo Vale.

### **SOCIAL**

There are no specific social impacts associated with the proposed development.

### **BROADER ECONOMIC IMPLICATIONS**

If the proposed development were to proceed, it could impact significantly on the economic viability of the towns and villages.

### **CULTURE**

There are no specific cultural implications in relation to this report.

### **GOVERNANCE**

The proposed development is not supported by neither the 2002 Local Strategy, nor the 2006 Sydney-Canberra Corridor Regional Strategy.

### **RELATIONSHIP TO CORPORATE PLANS**

Support for the proposed development would be contrary to Goal 2.1 of the W2031+ Community Strategic Plan – *Services and facilities are provided locally to meet the needs of our community* – which reflects Council's preference that existing local businesses in the towns and villages be supported through Council decisions.

Goal 3.2 – *Wingecarribee has maintained a distinct character of separate towns and villages* – is reflected in Council's preference to leave an area of rural land around the village of Colo Vale.

Goal 5.3 – *Wingecarribee has agribusiness suited to our distinct climate and geography* - is also reflected in Council's preference to maintain the rural land around Colo Vale.

### **BUDGET IMPLICATIONS**

There are no specific budget implications as no fee is charged for the preliminary assessment of such Planning Proposal submissions.

### **RELATED COUNCIL POLICY**

There are no related Council Policies other than those discussed in this report.

### **OPTIONS**

There are 2 options available to Council with regard to the Planning Proposal:

#### **Option 1**

Not support the Submission for the reasons outlined in this report, including the location of the site within an area zoned RU4 Rural Small Holdings and the resolution of Council to prohibit highway service centres in all zones.

#### **Option 2**

Support the submission by amending Schedule 1 of WLEP 2010 to permit development for the purposes of a highway service centre on the subject site.

Option 1 is preferred.

### **ATTACHMENTS**

There are no attachments to this report.

### **RECOMMENDATION**

1. THAT Council resolve to not support the submission to permit a highway service centre on Lot 2 DP1010179, 1-9 Church Avenue, Colo Vale.
2. THAT the applicant and property owners be informed of Council's decision.

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***(Voting on the Motion)***