



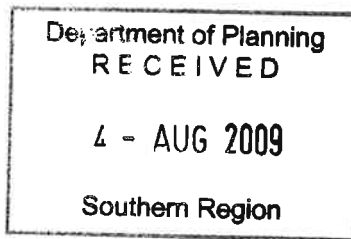
Civic Centre Elizabeth Street Moss Vale 2577
PO Box 141 Moss Vale NSW 2577
Email: wscmail@wsc.nsw.gov.au
DX 4961 Bowral

Telephone (02) 4868 0888
Facsimile (02) 4869 1203

ABN 49 546 344 354

Our Reference 5800/19
Contact: Mark Pepping

31 July 2009



Department of Planning
Southern Region
PO Box 5475
WOLLONGONG NSW 2520

Dear Sir/Madam

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979
NOTICE OF PROPOSED PLANNING PROPOSAL IN ACCORDANCE WITH S55**

Council has resolved to prepare a Draft Local Environmental Plan (Planning Proposal) so as to amend Wingecarribee LEP 1989 to rectify a situation in relation to the permissibility of Seniors Housing in certain zones within the Shire. The information required under the provisions of section 55 of the Act as a Planning Proposal is set out hereunder and in the attached documentation:

- (a) Date of Council's decision – 8 July 2009. A copy of the planning reports to Council and resolution are **attached**.
- (b) The Planning Proposal set out in accordance with the Guide to preparing a local environmental plan.

Should you require any further information in support of this proposal, please contact Mrs Susan Stannard on 4868 0854 or email susan.stannard@wsc.nsw.gov.au

Yours faithfully,

Mark Pepping
Manager Strategic Planning

Doc. no	CW09/282.....
Officer	Anna.....
Due/Comment	FIVEA.....
File no	W09/00107.....



MINUTES OF THE ORDINARY MEETING OF COUNCIL
held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 8 July 2009
REPORT OF DIRECTOR ENVIRONMENT & PLANNING

o-EP5 Draft LEP Amendment No 133

REF: SPM

5800/19

The purpose of this report is to clarify the aims of Draft LEP Amendment No 133, which was presented to Council on 10 June 2009.

MN 278/09

MOTION moved by Cllr K Halstead and seconded by Cllr L A C Whipper:

1. ***THAT the revised draft LEP Amendment 133 at Attachment 1 to this report be endorsed.***
2. ***THAT a report be prepared in accordance with the provisions of s54 of the Environmental Planning and Assessment Act 1979, seeking permission from the NSW Department of Planning to proceed with the draft LEP amendment.***

PASSED

In accordance with the Local Government Act (section 375A – Recording of voting on planning matters) Council must record the Councillor's vote in relation to this matter.

Councillor	For	Against
Cllr T D Gair	x	
Cllr K Halstead	x	
Cllr J G Arkwright	x	
Cllr J R Clark	x	
Cllr G McLaughlin	A	
Cllr J Mauger	x	
Cllr D Stranger	x	
Cllr P B Tuddenham	x	
Cllr L A C Whipper	x	



AGENDA FOR THE ORDINARY MEETING OF COUNCIL
held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 8 July 2009

REPORT OF DIRECTOR, ENVIRONMENT AND PLANNING

Lifestyle and Community

o-EP5 Draft LEP Amendment No. 133

REF: SPM

5800/19

The purpose of this report is to clarify the aims of Draft LEP Amendment No.133, which was presented to Council on 10 June 2009.

REPORT

BACKGROUND

At its meeting on 10 June 2009 Council resolved, inter alia:

'THAT draft LEP Amendment 133 be endorsed to allow the removal of 'Seniors Housing' from the Definitions clause of the Draft LEP amendment to Wingecarribee Local Environmental Plan 1989.'

As the Report to Council of 10 June 2009 explained, when Amendment No.125 to WLEP 1989 was gazetted (the Renwick LEP), it had the unintentional effect of permitting, with consent, seniors housing in many zones within the Shire where such development is not desirable. The intent was that *seniors housing* as defined in the Renwick LEP would be permissible within the Renwick area only.

Under Wingecarribee LEP 1989, seniors housing was not an identified land use activity prior to the gazettal of LEP Amendment 125. Such development could however be considered under the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

LEP Amendment 125 resulted in the inclusion of *seniors housing* within the LEP dictionary and, consequently, *seniors housing* became permissible with consent in zones 1(a) (Rural "A"), 1(b) (Rural "B"), 1(c) (Rural (Smallholdings), 2(c) (Village or Township) and 3(a) (Business). *Seniors housing* remained prohibited in all other zones, a fact which does not appear to have been clear to readers of the June 10 report, causing considerable confusion within the community.

The report to the Council meeting of 10 June also implied that Council's Solicitor, Bilinsky & Co, had provided certain instructions to Council in the way that Amendment 133 should be drafted. This was incorrect. The actual request from Bilinsky & Co was "...to have that definition removed from the Planning Instrument without delay..." Council officers then drafted the amendment in the way they believe best achieves the desired outcome.

CONCLUSION

To clarify the confusion caused by the wording of the draft Amendment No.133, a revised draft amendment is included as **Attachment 1** to this report. The change made is to the objectives of the amendment, which are now unambiguous in removing the definition of *seniors housing* from



AGENDA FOR THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 8 July 2009

REPORT OF DIRECTOR, ENVIRONMENT AND PLANNING

all land covered by WLEP 1989, except the Renwick area. This maintains the intent of the Renwick LEP without inflicting the unintentional consequences on the rest of the Shire.

MANAGEMENT PLAN ISSUES OR IMPLICATIONS

The draft amendment to Wingecarribee LEP 1989 is consistent with the Council's Management Plan.

POLICY IMPLICATIONS

The proposed amendment will preserve the WLEP 1989's stated objectives without affecting permitted land uses on the Renwick site. Council's policy in relation to seniors housing is reflected accurately in the provisions of the draft WLEP 2009.

BUDGET IMPLICATIONS

Due to the unintended consequences of the Renwick LEP, the current provisions of the WLEP 1989 permit *Seniors Housing*, with consent, in several zones where such development would be contrary to the objectives of those zones. This has already resulted in one application for such development which has been refused. Should there be further applications, Council may find it necessary to defend its position in the Land and Environment Court, with associated cost implications.

ECOLOGICAL SUSTAINABLE DEVELOPMENT ISSUES

(i) Environmental Factors

The current provisions of the WLEP 1989 have the potential to undermine the stated objectives of some of the zones. The draft amendment will remove this potential conflict.

(ii) Social Factors

The affected zones are often poorly located with regard to the provision of social and medical facilities and services for seniors housing.

(iii) Economic Factors

The restriction of *seniors housing* development to the Renwick site ensures that such development can be adequately and efficiently serviced.

ATTACHMENTS

There is one (1) attachment to this report being the revised Draft LEP Amendment 133 (**Attachment 1**).



AGENDA FOR THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 8 July 2009

REPORT OF DIRECTOR, ENVIRONMENT AND PLANNING

RECOMMENDATION

1. THAT the revised draft LEP Amendment 133 at Attachment 1 to this report be endorsed.
 2. THAT a report be prepared in accordance with the provisions of s54 of the Environmental Planning and Assessment Act 1979, seeking permission from the NSW Department of Planning to proceed with the draft LEP amendment.
-

(Voting on the Motion)