

Planning Proposal

Property Details:

Application No.	RZ/19/2009
Applicant:	R.B. Smyth (Smyth Planning)
Owner:	Hereford Properties Pty Ltd
Description of Land:	Lots 9 & 10 DP 255990 – 15 & 13 Hereford Street, Berkeley Vale
Proposed Development:	Enabling Clause under Schedule 2 of <i>Wyong Local Environmental Plan 1991</i> to permit 'Plant hire establishment' activities
Site Area:	2,625m ² and 2,575m ² respectively
Current Zoning:	4(a) (General Industrial zone) under <i>Wyong Local Environmental Plan 1991</i>
Existing Use:	Storage of larger-size hire items including large plant machines, road barriers and portable toilets



Figure 1 Planning Proposal Locality Plan

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Part 1 – Objectives or Intended Outcomes

This LEP Amendment request seeks to introduce an enabling clause into the *Wyong Local Environmental Plan 1991* (WLEP 1991) to permit 'plant hire establishment' activities within Lots 9 & 10 DP 255990 – 15 & 13 Hereford Street, Berkeley Vale.

The intended outcome is to allow Lot 9 DP 255990 to be used in conjunction with Lot 10 DP 255990, which is subject to existing use rights and is currently utilised for the purpose of a plant hire establishment business. Permitting Lot 9 DP 255990 to be utilised for the plant hire establishment operation will make the business more viable and better able to meet the needs of its customers.

Part 2 – Explanation of Provisions

The subject sites are located centrally within a larger 4(a) (General Industrial zone) within Berkeley Vale industrial area, in close proximity to Wyong Road. The surrounding land uses therefore include a variety of general industrial uses. The subject sites are currently used for general industrial purposes (i.e. storage of larger-size hire items including large plant machines, road barriers and portable toilets). Both allotments are under the ownership of a single landowner.

Plant hire establishment activities (Coates National Hire) are currently lawfully carried out on Lot 10 DP 255990, subject to existing use rights that apply to the site. On 8 April 2009, a development application (DA/297/2009) for the adjacent Lot 9 DP 255990 was lodged with Council. DA/297/2009 applied for permission to operate a 'Warehouse' for the storage of hire equipment & construction of associated outbuildings, in association with the Coates National Hire business operation on Lot 10 DP 255990. This application was withdrawn on 21 July 2009, as the proposed use was considered to be closer to the definition of a 'Plant Hire Establishment' than a 'Warehouse' subject to WLEP 1991. Plant hire establishments are not permissible in the 4(a) (General Industrial zone).

Therefore, the applicant is now requesting that an enabling clause be inserted into Schedule 2 of WLEP 1991 to enable the additional use of plant hire establishments on Lot 9 DP 255990. Lot 10 DP 255990 has been included in this rezoning application to provide for the possibility that existing use rights legislation may change in the future and the permissibility of the plant hire establishment use within this allotment becomes unlawful.

A desktop assessment has been undertaken for the proposal, having regard to local and state strategies and policies, in addition to applicable legislative requirements. This desktop assessment has identified that the proposal has merit and should be supported. Council supported this assessment at its meeting of 14 April 2010.

In summary, the proposal seeks to insert the following into Schedule 2 (Development for Certain Purposes) of the WLEP 1991:

'Lots 9 and 10 DP 255990 – Hereford Street, Berkeley Vale as shown edged heavy black on the map marked "Wyong Local Environmental Plan 1991 (Amendment No 180) – Plant Hire Establishment.'

Part 3 – Justification

Section A – Need for the Planning Proposal

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

No. However, the Planning Proposal complies with various State and local (Council) strategies and resolutions. Refer to *Section B* for discussion on how this planning proposal complies with these strategies and resolutions.

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

Yes. Insertion of an enabling clause into *Wyong Local Environmental Plan 1991* is the most efficient way to achieve the intended outcomes.

3 *Is there a net community benefit?*

Yes. Permitting Lot 9 DP 255990 to be utilised for the plant hire establishment operation will make the business more viable and better able to meet the needs of its customers.

Section B – Relationship to strategic planning framework

1 *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)?*

a *Central Coast Regional Strategy*

The Central Coast Regional Strategy (CCRS) was released by the Department of Planning in July 2008. The CCRS provides the framework for preparing new comprehensive local environmental plans under the *NSW Government Standard Instrument (Local Environmental Plans) Order 2006*.

The CCRS identifies the population targets of the Central Coast expected over the next 25 years, and employment capacity targets. The strategy also identifies actions to ensure ongoing growth and prosperity of the region, including actions for centres and housing, economy and employment, environment and natural resources, natural hazards, water supply, regional infrastructure and regional transport.

The subject sites are located in the Berkeley Vale Industrial Estate and are currently utilised for the purposes of the Coates National Hire – this involves storage of larger-size hire items associated with the Coates Hire operational centre, including large plant machines, road barriers and portable toilets.

This request to amend Wyong LEP 1991 to make the development / use of the site as a 'plant hire establishment' permissible on the subject lands is considered to be consistent with the CCRS.

The subject land is identified as employment land to be retained under the CCRS. The rezoning request application demonstrates that the development on the subject lands will equate to employing an additional 16 equivalent full time persons and is compliant with Council's criteria (being over 10 long-term equivalent jobs) to be classified an employment generating proposal.

The request is also consistent with a key objective of the CCRS, with the potential to increase the current level of employment self-containment, by providing economic development that will potentially increase local employment, fundamental to reducing the proportion of workers living on the Central Coast, but commuting to employment outside the Central Coast Region.

b *Regional Economic Development and Employment Strategy*

The CCRS identifies that, as part of the planning for the next 25 years for the Shire, a Regional Economic and Development Strategy (REDES) be prepared to examine the employment types needed over the next 25 years, identify strategies to improve employment opportunities, determine the location of these jobs, establish land area and floor space targets to ensure adequate supply of employment lands, establish a framework which enables the targets to be met, and establish a framework for the establishment of business parks.

The REDES was launched on 3 February 2010, and is a partnership between the NSW Government, Regional Development Australia Central Coast (RDACC), Gosford City Council and Wyong Shire Council.

It is considered that the proposal in its entirety is consistent with the aims and objectives of the REDES. The request has the potential to contribute to increased economic growth in the region, by increasing the number of jobs on recognised employment lands and the level of employment self-containment in the area.

2 Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

a Shire Strategic Vision

Of the 8 priority objectives found within the Wyong Shire Council's Shire Strategic Vision (2009), this proposal is consistent with the following objectives:

- Communities will have a range of facilities and services; and
- There will be a strong sustainable business sector.

b Wyong Retail Centres Strategy Review

The purpose of the Wyong Shire Retail Centres Strategy and associated development controls is to identify a retail hierarchy within Wyong Shire to ensure that growth pressures can be managed to maximise the economic benefits to the Shire and was adopted by Council in December 2007.

The Strategy does not discuss industrial land use in any detail, and does not mention the Berkeley Vale Industrial area. However, the use of the site for a plant hire establishment is not inconsistent with the strategic direction of the Wyong Retail Centres Strategy, as it will support industrial land uses, with good connections to a major transport link (Wyong Road and Enterprise Drive) servicing the wider Central Coast area.

3 Is the planning proposal consistent with applicable state environmental planning policies?

a NSW Standard Instrument (Local Environmental Plans) Order 2006

The Standard Instrument (Local Environmental Plans) Order 2006 was gazetted in March 2006. This order required all Councils within New South Wales to convert existing Principal Local Environmental Plans (LEPs) to a format prescribed by the Order, within certain timeframes. Wyong Shire Council has until mid-2011 to make this conversion.

The standard instrument contains standard zones, mandatory permissible and prohibited land uses, development standards and definitions which must be utilised in the development of a new principal LEP. It is recognised that an alternative zoning which encompasses the landuse proposed on this site will be required to be adopted in accordance with the NSW Standard Instrument Zones and provisions.

As previously identified, the significant nature of the proposal in terms of the expected employment generation and injection of funds into the local economy warrants a priority amendment to the existing WLEP 1991.

Further consideration of the future zoning of the site in accordance with the zones of the NSW Standard Instrument will be undertaken during Wyong Shire Council's development of the new principal LEP, however initial assessment of the site against the Standard Instrument has identified that the IN1 – General Industrial zone may be appropriate.

b State Environmental Planning Policies and Regional Environmental Plans

The proposal has been assessed having regard for State Environmental Planning Policies and Regional Environmental Plans. There are no Regional Environmental Plans that apply to this rezoning request. The only SEPP relevant to this rezoning request is SEPP No.55 – Remediation of Land.

SEPP	Consistency
<i>SEPP 55 – Remediation of Contaminated Land</i> This SEPP aims to promote the remediation of contaminated land for the purposes of reducing risk to human health or the environment	The subject lands have been used for general industrial, plant hire, storage and parking purposes. Consequently, there is potential that the subject lands have been contaminated due to the use history. However, the site is already being utilised for the purpose of a plant hire establishment, and no development is proposed. Therefore a preliminary contaminated land assessment and report will not be required at this time.

c Department of Planning's Criteria for Spot Rezoning

The Department of Planning has developed the *LEP Pro-forma Evaluation Criteria-Category 1: Spot Rezoning LEP*, which provides criteria for consideration for any draft LEP. This LEP Amendment request is assessed against these criteria in the table below.

Criteria	Consistency
Will the LEP be compatible with agreed State and regional strategic direction for development in the area (e.g. land release, strategic corridors, development within 800m of a transit node)?	The LEP Amendment request is compatible with the Central Coast Regional Strategy in regard to contributing to the retention of an area / location of an existing industrial zone, being located within the Berkeley Vale Industrial Estate. The request also provides potential for increased employment self-containment and should, therefore, support the viability of the Berkeley Vale Industrial Estate, which is identified as employment lands by the Central Coast Regional Strategy.
Will the LEP implement studies and strategic work consistent with State and regional policies and Ministerial (s.117) directions?	As mentioned above this LEP Amendment request will support the economic objectives of the Central Coast Regional Strategy and relevant S.117 Directions.
Is the LEP located in a global / regional city, strategic centre or corridor nominated within the metropolitan Strategy or other regional / sub-regional strategy?	N/A
Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?	The LEP Amendment request will facilitate an employment generating activity and demonstrates that the employment of an additional 16 equivalent full time persons will be achieved.
Will the LEP be compatible / complementary with surrounding	The surrounding land uses are predominantly general industrial. It is considered that a plant hire establishment

land uses?	use of the subject lands could operate without unreasonable impact on the surrounding industrial properties.
Is the LEP likely to create a precedent, or create or change in the expectations of the landowner or other landowners?	Possibly. The expectations of landowners in the Berkeley Vale Industrial Estate or in other general industrial zoned areas, could potentially be raised for the extension of a similar amendment for similar development / use. However, other properties in the Berkeley Vale Industrial Estate do not have existing use rights as Lot 10 DP 255990 does, which permits the use of the site for plant hire establishment activities. Regardless, the implementation of the Wyong LEP 2011 may enable this use within the equivalent of the 4(a) (General Industrial zone), therefore any precedent may be negated once Wyong LEP, 2011 is gazetted.
Will the LEP deal with a deferred matter in an existing LEP?	N/A
Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?	There are no other spot rezonings in the immediate vicinity of the locality.

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

The Section 117 Directions [issued to Councils under S.117(2) of the *Environmental Planning & Assessment Act 1979* (EP&A Act)], relevant to the proposed LEP amendment, are addressed as follows:

#	Direction	Applicable	Consistent	Comments
Employment & Resources				
1.1	Business & Industrial Zones	Y	Y	This LEP Amendment request is consistent with this direction as the request contributes to the retention of an existing industrial zone (is within the Berkeley Vale Industrial Estate and provides potential for increased employment self-containment) and should, therefore, support the viability of the Berkeley Vale Industrial Estate, which is identified as employment lands by the Central Coast Regional Strategy.
1.2	Rural Zones	N	N/A	N/A
1.3	Mining, Petroleum Production & Extractive Industries	N	N/A	N/A
1.4	Oyster Aquaculture	N	N/A	N/A
1.5	Rural Lands	N	N/A	N/A

#	Direction	Applicable	Consistent	Comments
Environment & Heritage				
2.1	Environmental Protection Zones	N	N/A	N/A
2.2	Coastal Protection	N	N/A	N/A
2.3	Heritage Conservation	Y	Y	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 planning proposal. The planning proposal 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	Recreation Vehicle Areas	N	N/A	N/A
Housing, Infrastructure & Urban Development				
3.1	Residential Zones	N	N/A	N/A
3.2	Caravan Parks & Manufactured Home Estates	N	N/A	N/A
3.3	Home Occupations	N	N/A	N/A
3.4	Integrating Land Use & Transport	Y	Y	Applicable. It is considered that the proposal is consistent with the aims, objectives and principles of Improving Transport Choice – Guidelines for Transport and Development. The subject site of the proposal is in close proximity to existing bus routes along Wyong Road and Enterprise Drive. Additionally, the site has good access to pedestrian and bicycle paths as alternative transport choices. It is considered that the proposal is therefore consistent with this Direction.
3.5	Development Near Licensed Aerodromes	N	N/A	N/A
Hazard & Risk				
4.1	Acid Sulfate Soils	Y	Y	Applicable. The planning proposal contains potential Class 4 Acid Sulfate Soils (ASS) as it is as identified by the ASS Planning Maps. Disturbance of the soil on the site is likely to be restricted to those areas

#	Direction	Applicable	Consistent	Comments
				necessary as required for the construction of footings or the installation of drainage. An ASS Assessment has not been submitted with the planning proposal, however is required to be undertaken and submitted to Council alongside any future development application for the site. It is considered that the proposal can be consistent with this Direction pending the outcomes of an ASS Assessment.
4.2	Mine Subsidence & Unstable Land	N	N/A	N/A
4.3	Flood Prone Land	N	N/A	N/A
4.4	Planning for Bushfire Protection	Y	Y	It is considered that this LEP Amendment request can be made consistent with this direction. While the subject lands are marginally affected by a bushfire buffer area, the main structures associated with the development have already been constructed on Lot 10 DP 255990 due to existing use rights. It is not expected that the enabling clause will result in significant additional development whereby the bushfire considerations would be a constraint. In any event, it is considered that any future development could be designed and constructed to adequately mitigate the bushfire threat, and could be made consistent with the document <i>Planning for Bushfire Protection 2006</i>, as part of the future development assessment process.
Regional Planning				
5.1	Implementation of Regional Strategies	Y	Y	This LEP Amendment request is considered consistent with the Central Coast Regional Strategy (CCRS). The subject lands are located within the Berkeley Vale Industrial Estate, an area identified as employment lands in the CCRS. The request demonstrates that the development on the subject lands will equate to the employment of an additional 16 equivalent full time persons. This is compliant with Council's criteria (being over 10 long-term

#	Direction	Applicable	Consistent	Comments
				equivalent jobs) to be classified an employment generating proposal. The request is also consistent with a key objective of the CCRS, to increase the current level of employment self-containment, by providing economic development that will potentially increase local employment, fundamental to reducing the proportion of Central Coast residents commuting outside the region for employment.
5.2	Sydney Drinking Water Catchments	N	N/A	N/A
5.3	Farmland of State & Regional Significance on the NSW Far North Coast	N	N/A	N/A
5.4	Commercial & Retail Development along the Pacific Highway, North Coast	N	N/A	N/A
5.5	Development in the Vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	N	N/A	N/A
5.6	Second Sydney Airport: Badgerys Creek	N	N/A	N/A
Local Plan Making				
6.1	Approval & Referral Requirements	Y	Y	Consistent.
6.2	Reserving Land for Public Purposes	Y	Y	Consistent.
6.3	Site Specific Provisions	N	N/A	N/A
Metropolitan Planning				
7.1	Implementation of the Metropolitan Strategy	N	N/A	N/A

Section C – Environmental, Social and Economic Impact

1 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 subject site consists of predominantly hardstand surface areas. The site contains some remnant vegetation on the northern and eastern periphery; however this vegetation is limited to a handful of trees and shrubs, and is therefore not considered to be significant vegetation.

Therefore, it is highly unlikely that the site contains any Endangered Ecological Communities and threatened species listed under the TSC Act, 1995. The site is also not located in any proximity to an existing or proposed wildlife corridor.

Whilst there is still a low potential for threatened species to be or establish on the site, it is considered that the long-term viability for the survival of any such species would be in effect unachievable.

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

No. See Part C(1). Any impacts could potentially be moderated through the retention/planting of screening vegetation and the development and implementation of appropriate development controls to ensure that any new development is sympathetic to the built form and character of the existing area.

These controls could include building envelope location, building colour, building materials, appropriate building setbacks, and a requirement for appropriate landscaping sensitive to the surrounding vicinity.

3 *How has the planning proposal adequately addressed any social and economic effects?*

a *Social Impact*

The establishment of a 'plant hire establishment' business on the subject allotment will provide additional industrial employment opportunities to Wyong Shire LGA. Given its location as a type of "in-fill" development within the existing industrial area of Berkeley Vale, the site is considered to be well located and well suited for the use of the site as a 'plant hire establishment'.

Given that the site is located within an existing general industrial area, it is not anticipated that the proposed additional permitted use ('plant hire establishment') will increase any detrimental impacts (noise, amenity etc) on the surrounding areas.

b *Economic Feasibility*

The submission for rezoning, suggests that the proposed rezoning will generate 16 long-term equivalent full-time jobs on the subject site. Whilst this number is likely to include the existing employment generation associated with the Coats National Hire operation from the adjoining site, the rezoning will facilitate the continued operation of this business from the subject sites and enable an expansion of activities, creating further employment opportunities. Consequently, this LEP amendment request meets Council's criteria (being over 10 long-term equivalent jobs) to be classified an employment generating proposal.

Section D – State and Commonwealth Interests

1 *Is there adequate public infrastructure for the planning proposal?*

The subject lands are located next to existing industrial development, indicating a capacity for service provision in the vicinity of the site. The site is currently connected to Council's water supply and sewerage system. Advice from Council's Investigation and Design Engineer indicates that the subject lands are capable of supporting the additional use of the site for 'plant hire establishment' activities. However, further assessment of applicable loading on water supply and the sewerage system can only realistically be properly undertaken during assessment of a development application, when essential details are known.

a *Servicing (Water, Sewer and Drainage)*

15 Hereford St, Berkeley Vale is within the Southern Lakes DSP area and the site is serviced for both water and sewerage. Contributions will be applicable if any development of the site impacts loading on water supply and sewerage systems.

b Drainage

The site is generally quite flat (grades less than 1 percent), which indicates that the treatment and conveyance mechanisms for water quality and quantity purposes may be constrained. A lot layout or subdivision plan is required to ensure adequate consideration has been given to stormwater drainage and water quality treatment requirements.

c Roads, Traffic and Transport

The subject allotment has a frontage to Hereford Street, Berkeley Vale. Council's Senior Transport Engineer has advised no objection to the proposed addition of 'plant hire establishments' to the permissible uses on this site.

- 2 *What are the views of State and Commonwealth Public Authorities consulted in accordance with the gateway determination, and have they resulted in any variations to the planning proposal? (Note: The views of State and Commonwealth Public Authorities will not be known until after the initial gateway determination. This section of the planning proposal is completed following consultation with those public authorities identified in the gateway determination.)*

TBD.

Part 4 – Community Consultation

The proposal is of a minor nature, without impact on any residential community or concern from surrounding business zone occupants. The consultation would therefore consist of a minimum 14-day period as required by the *Environmental Planning & Assessment Act 1979*.

Conclusion and Recommendation

This Local Environmental Plan Amendment request, in respect of WLEP 1991, for the purpose of introducing an enabling clause to permit 'plant hire establishment' activities on Lots 9 & 10 DP 255990 – 15 & 13 Hereford Street, Berkeley Vale, is supported.

This request is supported because:

- It provides for an employment generating development of a service station, employing 16 full-time / long term equivalent positions, which is above Council's threshold criteria of 10 full-time / long term equivalent jobs.
- The subject lands are not unreasonably affected by any significant hazards that could not be mitigated.
- The subject lands do not possess any known significant environmental sensitivities that could not be mitigated.
- The subject lands have access to all relevant infrastructure and services.
- The subject lands can be provided with adequate access arrangements.
- The proposed future development on the subject lands could comply with all the relevant Chapters of Wyong Development Control Plan 2005.
- The proposed future development on the subject lands would comply with all the relevant provisions of the Wyong Retail Centres Strategy.

- It is consistent with all relevant State Environmental Protection Policies.
- It is consistent with all relevant s117 Directions.
- It is consistent with key components of the Central Coast Regional Strategy and REDES.
- It is consistent with all of the Department of Planning's criteria for spot rezonings.

Consequently, it is recommended that the following wording be inserted into Schedule 2 - Development for Certain Purposes (Clause 52 – WLEP 1991):

'Lots 9 and 10 DP 255990 – Hereford Street, Berkeley Vale as shown edged heavy black on the map marked "Wyong Local Environmental Plan 1991 (Amendment No 180) – Plant Hire Establishment.'

Attachments and Supporting Documentation

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

Document	Attached
1. Aerial Plan (1 page)	✓
2. Council Report and Minutes dated 14 April 2010 (12 pages and 1 page)	✓
3. Central Coast Regional Strategy Assessment (11 pages)	✓