

6 January 2012

Jenna Tague
Local Planning Manager
NSW Department of Planning and Infrastructure
PO Box 5475
WOLLONGONG NSW 2500

Dear Jenna,

**Additional Information in support of Planning Proposal for
Rural Fire Service Training Facility Welby**

Reference is made to the above Planning Proposal and the Department of Planning & Infrastructure's request, dated 25 October 2011, for additional information in support of Council's preferred option to proceed. Specifically this request included:

- Greater justification for the Planning Proposal including why the SP2 Infrastructure zone is proposed over other potential options; and
- Discussion of relevant S117 Directions, particularly those that the Planning Proposal is inconsistent with (for example 2.1 Environmental Protection Zones).

Please note that the request of **the original Planning Proposal** to rezone the subject site to SP2 Infrastructure **has been revised** to request that Schedule 1 of Wingecarribee LEP 2010 be amended to permit the proposed development application to be considered for the purpose of a Rural Fire Service Emergency Services Facility (Training Facility). This will require no change to the site descriptors (Lot 7307 DP 1146411) or the zoning map.

To effect this revision Council resolved on 14 December 2011 as follows.

1. **THAT Council proceed with the Planning Proposal to amend Schedule 1 of Wingecarribee LEP 2010 to enable Emergency Services Facilities on the subject land with the consent of Council.**
2. **THAT the additional information requested by the Department of Planning and Infrastructure be prepared and forwarded as soon as practicable.**
3. **THAT the Rural Fire Service be informed of Council's decision.**

For your information a copy of the Council report and resolution of 14 December 2011 are also attached.

Following on from Council's resolution and the request from The Department of Planning & Infrastructure please find following:

1. Additional justification as to why amending Schedule 1 is Council's preferred option,
2. Justification as to why other options are not appropriate, and
3. Discussion of relevant Section 117 Directions

1. Why amending Schedule 1 is Council's preferred option

The revised Planning Proposal is for an amendment to Schedule 1 of the Wingecarribee LEP 2010 to allow consideration of a Development Application for the purpose of a Rural Fire Service Training Facility. The proposed use falls into the category of an Emergency Services Facility. The SEPP (Infrastructure) 2007, as does the Wingecarribee LEP 2010, defines **emergency services facility** (ESF) as *a building or place (including a helipad) used in connection with the provision of emergency services by an emergency services organisation.*

Wingecarribee Shire Council considers that this definition would include common State Emergency Services (SES) and Rural Fire Service (RFS) 'stations' located in most rural towns and villages where such activities as equipment storage and, for the most part, emergency services functions are staged (eg, fires are directly fought). In other words these structures generally function as 'staging posts'. While Council considers that a Training Facility can fit into the above definition, the range of activities proposed in the development application under consideration will be extended over and above the 'common' functions of the abovementioned stations. It is further considered that 'live-fire' training will require specialised OH&S equipment and chemical quantities to be immediately available far in excess of common Rural Fire Service Station facilities. The location and site characteristics, the activities to be conducted, the numbers of participants who will attend training, the frequency of use and proximity to the Rural Fire Service Headquarters (Priestley Street, Mittagong) are characteristics that are unique and highly desirable for the proposed use of the site as a Training facility.

Undertaking these training functions on one site will enable coordinated and efficient use of resources. In short this is a type of development that will be a 'one-off' for any district or region and should not be considered in the same way as a conventional ESF type development would.

More specifically, the conditions of the development consent for the Training Facility and any ancillary functions can and will be focussed on protecting the objectives of the existing E2 Environmental Conservation zoning. The objectives of the zone will thereby be most effectively preserved by conditions of consent.

Further to this, the specific area of the site identified by the development application will effectively contain the proposed activities. The joint lodging of the development application and the need for the Planning Proposal limits the use of the land to that portion of the site designated by the boundary of the development application. The tenure of the land is limited to the concurrence provided by the Department of Lands for the use of the site for this purpose and the physical location of the activities on the site will be delineated on the ground by a proposed perimeter fence. That is, the boundaries of the activities proposed by the development application are limited to that identified in the development application. Amending Schedule 1 of Wingecarribee LEP 2010 would identify this site only as being able to be used for this purpose with an accompanying amendment to Wingecarribee LEP 2010 Schedule 1 map delineating the location of the proposed activities.

As this justification demonstrates, it is Council's view that the Planning Proposal should seek to amend Schedule 1 of the Wingecarribee LEP 2010 for the purpose of an Emergency Services Facility on this site only.

2. Justification as to why other options are not appropriate

Amending the E2 Environmental Conservation Land Use Table

From the range of activities outlined above the 'common' usage of the definition does not encompass all activities being proposed as a Training Facility. It is considered that a 'broad-brush' approach to amending Wingecarribee LEP 2010, by revising the 'permissible with consent' Land Use Table of the E2 Environmental Conservation zone, is an inappropriate response because the subject development application is a 'one-off' facility.

As outlined above, it is considered that the E2 Environmental Conservation Land Use table should not be amended in such a way that Council must consider development applications for the type of activities that will be included at the subject Training Facility, in the same light as applications for Emergency Service Facilities (or common RFS 'stations') on all E2 Environmental Conservation land in the Shire.

Council has no objection to amending the 'Permissible with consent' Land Use Table to allow development applications to be lodged for Emergency Service Facilities as common Rural Fire Service 'stations' but considers characteristics of the proposal as a Training Facility will not be 'common'.

Further amending the Land Use Table attached to the E2 Environmental Conservation is not supported by Council because of the perceived inundation of applications for similar facilities on other zoned E2 Environmental Conservation land across the Shire. It is anticipated that this type of development and the intensity of land use will be a 'one-off' for the Shire and would not and could not be repeated on other sites. As stated above, conditions of consent for this particular site will be the most effective mechanism for site management whereas, other sites 'opened-up' by amending the 'permissible with consent' Land Use Table may be too constrained (terrain, vegetation, access) to be an appropriate location for a training facility. Using various sites for various training activities would not be an efficient use of resources, access or volunteer and personnel time, having to travel to different sites for different training and would certainly not have the access to the RFS Headquarters in Mittagong that the subject site enjoys.

The following are options derived from the list of **Prescribed Zones** for the purpose of an Emergency Services Facility under the provisions of the **SEPP (Infrastructure) 2007**.

Council must consider these defaulting options in the unlikely scenario that the development application does not proceed or due to other circumstances must relocate.

Rezoning the site R2 Low Density Residential

Rezoning the subject land to R2 Low Density Residential will bring the potential for residential development closer to both the watercourse and the nearby IN2 zone (employment generating) land. This will increase the potential for land use conflicts with, not only the IN2 land, but also the existing RTA Office and Depot and the nursery adjoining the subject land. It is considered that this will thereby compromise the development potential of the adjoining sites and the nearby IN2 General Industrial zoned land. It is acknowledged that the RTA and nursery sites were rezoned in accordance with the SI LEP Practice Notes however Council considers that their further development potential should not be constrained unnecessarily, particularly in view of the repercussions that rezoning the site R2 Low Density Residential may have on the important adjoining lands.

Rezoning the site RE1 Public Recreation

The site contains particular characteristics (flat, adjacent to a watercourse and will be revegetated with Endangered Ecological Community species) that make it desirable for integration into Council's bicycle and open space network and, with the provision of minimal facilities, would provide a convenient and well patronised location for active and passive leisure activities on the site and with good access to the adjacent Mount Alexandria Reserve.

This option however would require Council to compulsorily acquire the site if requested by the Department of Lands. This option is favourable but not preferred.

Rezoning the site IN2 Light Industrial

The IN2 Light Industrial zone adjoins the subject E2 Environmental Conservation to the east. Opening up industrial land uses from this option would not be consistent with the protection of the riparian corridor (Gibbergunyah Creek) objectives or maintaining access to Mount Alexandria. Future Industrial land uses would be severely constrained and have impeded development potential for future expansion (future land uses would need to relocate if they become too large for the subject area).

Further intensive development of Industrial zoned land raises the potential for negative externalities compromises of the objectives of the existing E2 Environmental Conservation zone of the Mount Alexandria Reserve.

Rezoning the site SP2 Infrastructure

This is the current zoning recommended for the Planning Proposal. This zoning effectively closes the subject land to all types of future land uses that are not the identified purpose or '*ordinarily incidental to the development for that purpose; Roads*'. This is not a preferred default position if the development does not proceed.

The above reasons are given for our preference to retain the E2 Environmental Conservation zoning and amending Schedule 1 to allow Council to consider this 'one-off' development type.

3. Discussion of Relevant Section 117 Directions

There is no change to the status of the applicable Directions under Section 117 of the EP&A Act, 1979 however the following information is provided to address the additional supporting information requested by the DoP&I and has been revised to reflect Councils preferred option.

2.1 Environmental Protection zones

The subject land is zoned E2 Environmental Conservation and is currently the subject of a development application for the purpose of a Rural Fire Service Emergency Services Facility.

Objective

- (1) The objective of this direction is to protect and conserve environmentally sensitive areas.

Response: The objectives of the E2 Environmental Conservation zone are as follows

The objectives of the E2 Environmental Conservation Zone are:

- *To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.*
- *To prevent development that could destroy, damage or otherwise have an adverse effect on those values.*

These objectives are considered more stringent and focussed than that put forward by this direction and will be retained with an amendment to Schedule 1 of Wingecarribee LEP 2010. The management and restoration of cleared Ecologically Endangered Community is required by the Department of Environment Climate Change and Water to be replanted with appropriate and suitable species. The cultural values of the zone will be protected by raising the profile of the Rural Fire Service in Wingecarribee and the work and training undertaken to protect the community. The aesthetic values of the site and its location adjacent to Mount Alexandria will be protected by the use of screen plantings of appropriate species and the retention of the outlook to Mount Alexandria from the adjacent Hume Highway through Mittagong.

What a relevant planning authority must do if this direction applies

- (4) A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.

Response: Any development consent will contain conditions of consent that will relate directly to the specific development and address the types of activities proposed for the site and the site characteristics. The focussed areas of consideration of the E2 Environmental Conservation zone objectives will require broader and more detailed conditions of consent to address the proposed site activities. Further, any future modification will allow Council to revise or review these conditions of consent to manage any future activities for the site (eg, helipad).

- (5) A planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with clause (5) of Direction 1.5 "Rural Lands".

Response: The environmental protection standards that will apply to the land will be those contained in the current Wingecarribee LEP 2010. The riparian environmental protection measures will be in accordance with Sydney Catchment Authority Current Recommended Practices (CRP's).

Consistency

- (6) A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:
- a. justified by a strategy which:
 - i. gives consideration to the objectives of this direction,
 - ii. identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and
 - iii. is approved by the Director-General of the Department of Planning, or
 - (b) justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this direction, or

- (c) in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or
- (d) is of minor significance.

Response: The subject Planning Proposal is not inconsistent with the terms of the direction.

4.4 Planning for Bushfire Protection

Objectives

- (2) The objectives of this direction are:
 - (a) to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and
 - (b) to encourage sound management of bush fire prone areas.

Response: The subject site is Bushfire Prone Land however it is considered that the proposed Rural Fire Service Training facility is (a) not an incompatible land use and (b) would encourage the sound Bushfire Management of the land.

What a relevant planning authority must do if this direction applies

- (3) In the preparation of a planning proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made,
- (4) A planning proposal must:
 - (a) have regard to *Planning for Bushfire Protection 2006*,
 - (b) introduce controls that avoid placing inappropriate developments in hazardous areas, and
 - (c) ensure that bushfire hazard reduction is not prohibited within the APZ.
- (5) A planning proposal must, where development is proposed, comply with the following provisions, as appropriate:
 - (a) provide an Asset Protection Zone (APZ) incorporating at a minimum:
 - (i) an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property, and
 - (ii) an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road,
 - (b) for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the planning proposal permit Special Fire Protection Purposes (as defined under section 100B of the *Rural Fires Act 1997*), the APZ provisions must be complied with,
 - (c) contain provisions for two-way access roads which links to perimeter roads and/or to fire trail networks,
 - (d) contain provisions for adequate water supply for firefighting purposes,
 - (e) minimise the perimeter of the area of land interfacing the hazard which may be developed,
 - (f) introduce controls on the placement of combustible materials in the Inner Protection Area.

Response: (3) Appropriate consultation will be undertaken if required following receipt of the Gateway determination. (4) The development assessment of the subject proposal will have regard to *Planning for Bushfire Protection 2006*. (4b) Appropriate controls via conditions of consent will be imposed to avoid the placement of inappropriate development in hazardous areas. (5a) Appropriate Asset Protection Zones will be required in accordance with *Planning for Bushfire Protection 2006*. (5c) Access to the site is considered suitable and complies with *Planning for Bushfire Protection 2006* requirements. (5d) The subject site has access to reticulated water supply. (5e) The interface of the subject site with the hazard perimeter will be minimised. (5f) Conditions of development consent will be included regarding the placement of combustible materials in the Inner Protection Area.

Consistency

- (6) A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the council has obtained written advice from the Commissioner of the NSW Rural Fire Service, to the effect that, notwithstanding the non-compliance, the NSW Rural Fire Service does not object to the progression of the planning proposal.

Response: The Planning Proposal is not inconsistent with this direction. There will be no additional Bushfire Threat generated by the Planning Proposal or Rural Fire Service Training Facility Development Application. The purpose of the proposal is to establish a Rural Fire Service Training facility so that advance skills can be provided and revised effectively and efficiently by greater numbers of volunteers and personnel. The site will be further used to aerial monitor Bushfire Incidents and could provide a holding yard for resources during major local incidents.

5.1 Implementation of Regional Strategies

Response: The subject proposal is consistent with the Sydney Canberra Corridor Regional Strategy. The proposed development will contribute to managing Rural Lifestyle and peri-urban residential areas as the skills essential for Rural Fire Service and State Emergency Service volunteers and personnel who are active in these areas can be acquired and retained close to their homes and businesses.

5.2 Sydney Drinking Water Catchments

Response: The Sydney Catchment Authority (SCA) has no objection to the subject Planning Proposal. The SCA require that the proposal meet and exceed the Neutral or Beneficial Effect Test (NorBE Test) and deploy Current Recommended Practices (CPR's).

6.1 Approval and Referral Requirements

Response: Council has consulted with the Sydney Catchment Authority who have advised as above, that they have no objection to the subject proposal. As noted above, the Commissioner of the NSW Rural Fire Service will also be consulted following receipt of a supported Gateway Determination and prior to public consultation.

6.3 Site Specific Provisions

Objective

- (1) The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.

Response: The subject Planning Proposal will not include unnecessarily restrictive site specific planning control and any conditions of development consent will be subject to Section 80A of the EP&A Act, 1979.

When this direction applies

- (2) This direction applies when a relevant planning authority prepares a planning proposal that will allow a particular development to be carried out.

Response: The Planning Proposal is intended to allow consideration of a development application for the purpose of a Rural Fire Service Training Facility.

What a relevant planning authority must do if this direction applies

- (3) A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either:
- (a) allow that land use to be carried out in the zone the land is situated on, or
 - (b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or
 - (c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.
- (4) A planning proposal must not contain or refer to drawings that show details of the development proposal.

Response: (3) No additional development standards will be imposed on the particular development to those that already apply to the land and that are contained in the principal environmental planning instrument. (4) No details of the proposed development will be shown on the map attached to the Planning Proposal. A map shall be prepared in accordance with the original Planning Proposal showing that Part of the property is the subject of the development application and in accordance with Standard Instrument Guidelines.

Consistency

- (5) A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are of minor significance.

Response: The subject Planning Proposal is not inconsistent with this direction.

Conclusion

I confirm that the Planning Proposal remains consistent with all relevant State Environmental Planning Policies.

Council now requests that the Department of Planning & Infrastructure make a Gateway Determination under section 56 of the Environmental Planning and Assessment Act 1979.

Should you require further information please contact me on (02) 4868 0829, or Bennett.Kennedy@wsc.nsw.gov.au

Yours sincerely

Bennett Kennedy
Land Use Planner
Strategic and Community Development