

Rezoning of 76 Berkeley Road, Fountainsdale to conservation/ scenic protection zones

Proposal Title : **Rezoning of 76 Berkeley Road, Fountainsdale to conservation/ scenic protection zones**

Proposal Summary : **The PP would amend the Wyong LEP 1991 by changing the zoning of land currently zoned part 7(a) Conservation, 7(c) Scenic Protection: Small Holdings Zone and 7(f) Environmental Protection to part 7(a) Conservation and 7(c) Scenic Protection: Small Holdings.**

Alternatively, should the draft Wyong LEP 2012 be finalised before this PP is finalised, the PP would rezone the site to an E2 Environmental Conservation and E4 Environmental Living.

PP Number : **PP_2012_WYONG_005_00** Dop File No : **12/16630**

Proposal Details

Date Planning Proposal Received :	19-Oct-2012	LGA covered :	Wyong
Region :	Hunter	RPA :	Wyong Shire Council
State Electorate :	THE ENTRANCE	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	76 Berkeley Road		
Suburb :	Fountainsdale	City :	Postcode : 2258
Land Parcel :	part of Lot 23 DP 1159704		

DoP Planning Officer Contact Details

Contact Name : **Ben Holmes**
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RPA Contact Details

Contact Name : **Peter Kavanagh**
 Contact Number : **0243505537**
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DoP Project Manager Contact Details

Contact Name :
 Contact Number :
 Contact Email :

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Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Central Coast Regional Strategy	Consistent with Strategy :	No
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	
No. of Lots :	1	No. of Dwellings (where relevant) :	3
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with :

If No, comment :

Have there been meetings or communications with registered lobbyists? :

If Yes, comment :

Supporting notes

Internal Supporting Notes : Purpose of the PP:

Rezoning the 10.8 ha site as proposed would provide the landowner with the opportunity to subdivide the site such that four new lots would be created. Three of these lots could then be developed for rural-residential with the fourth being dedicated to Council for conservation purposes. A draft VPA regarding transfer and maintenance of the lot to be dedicated to Council is to be exhibited with the PP.

Site description:

The site is located within a locality that is largely vegetated; broadly consisting of conservation land (zoned 7(a) Conservation), scenic protection land (zoned 7(c) Scenic Protection: Small Holdings), wetland (zoned 7(g) Wetlands Management Zone) and vegetated noise buffer land (zoned 7(f) Environmental Protection Zone). Rural-residential properties are scattered throughout the area, generally aligning with 7(c) zoned land.

Further to the north and west is an industrial estate, while to the east is low density residential forming part of Glenning Valley. Further to the south is scenic protection/ rural-residential land and conservation land.

Adjoining land (east):

Council is currently progressing a PP (PP_2012_WYONG_001_00) that would rezone part of the land adjoining the site (53 ha approximately) to the east to low density residential and conservation. It is understood that PP_001 is yet to be publicly exhibited and would potentially create approximately 300 dwellings. Presumably, should PP_001 be finalised and a DA for subdivision follow, interface matters with adjoining rural-residential (including this site) would be considered as part of that DA.

External Supporting Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : **The statement of objectives is generally consistent with the Department's "A guide to preparing planning proposals".**

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : **The explanation of provisions is generally consistent with the Department's "A guide to preparing planning proposals".**

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

2.1 Environment Protection Zones

2.3 Heritage Conservation

2.4 Recreation Vehicle Areas

3.3 Home Occupations

4.3 Flood Prone Land

4.4 Planning for Bushfire Protection

5.1 Implementation of Regional Strategies

6.1 Approval and Referral Requirements

6.2 Reserving Land for Public Purposes

* May need the Director General's agreement

Is the Director General's agreement required? **No**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 44—Koala Habitat Protection

SEPP No 55—Remediation of Land

e) List any other matters that need to be considered :

Have inconsistencies with items a), b) and d) being adequately justified? **N/A**

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **Council should include a map which shows the current zones applying to the site. This would assist with community consultation.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **A 28 day consultation period has been proposed. As this PP is generally consistent with the pattern of surrounding land use zones/ uses, it could be considered to be a low impact type PP and so a 14 day exhibition period is recommended.**

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

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Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? Yes

If No, comment :

Proposal Assessment

Principal LEP:

Due Date : June 2013

Comments in relation to Principal LEP :

Council's draft SI LEP has been submitted to the Department so that it can be certified for public exhibition.

This PP would either amend the current Wyong LEP 1991 using existing zones (ie 7(a) Conservation and 7(c) Scenic Protection: Small Holdings) or would amend the finalised draft Wyong LEP 2012 using SI-based zones (ie E2 Environmental Conservation and E4 Environmental Living).

The PP would apply minimum lot sizes of 40 ha for E2 and 2 ha for E4 if it amends the finalised draft Wyong LEP 2012. These minimum lot sizes reflect the minimum lot sizes specified in the Wyong LEP 1991 respectively for 7(a) and 7(c) land.

Assessment Criteria

Need for planning proposal :

The PP is not the result of a strategic study or report. It has been initiated by the landowner. Council is of the view that the PP would enable the dedication of land which would serve as a green corridor connecting a wetland to the north and vegetated ridge to the south, in return for increased subdivision potential.

It is reported by Council that over the past 20 years Council has sought to bring certain land in the broader locality into public ownership for the purposes of securing conservation land.

While Council does not appear to have a formal strategy which identifies future land to be acquired for this purpose, this outcome is embedded in the existing Wyong LEP 1991. Clause 14(3)(b) allows additional development potential for 7(c) zoned land provided 7(a) land is dedicated to Council. The amount of land to be dedicated is defined by clause 14(3)(c).

In terms of this specific site, ecology studies have confirmed the ecological values of the site and the proposed 7(a)/7(c) zone boundary has been prepared accordingly. A noise assessment has been undertaken and Council states that there would be no noise related land-use conflicts associated with the industrial precinct 700 m to the north.

Council is satisfied that the creation of three rural-residential lots in return for approximately 7.5 ha of conservation land (plus maintenance) is a good outcome, stating that conservation outcomes and a marginal increase in housing choice (rural-residential) would be achieved. Further, the amount of land to be dedicated appears generally consistent with clause 14(3)(c).

In light of the above, it is considered that there is adequate justification for the PP.

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Consistency with strategic planning framework :

Central Coast Regional Strategy (CCRS):

The PP could be considered to be broadly consistent with the CCRS because it would increase housing choice and would appropriately zone land with environmentally sensitive/ scenic landscape characteristics.

Notwithstanding the above, the CCRS also requires that new rural-residential development be limited to existing opportunities or those provided by the North Wyong Shire Structure Plan. As this PP would create new rural-residential, it would be inconsistent with this aspect. However, it is considered that this inconsistency is minor as the rural-residential potential would be limited to three lots and it would effectively be infill rural-residential within a precinct of rural-residential.

Local Strategies:

Council advise that the PP is consistent with its Community Strategic Plan.

State Environmental Planning Policies:

The PP is consistent with the relevant SEPPs.

s117 Directions:

Council's assessment of s117 directions concludes that the PP is consistent with the relevant s117 directions. However, no discussion is provided to demonstrate how consistency is achieved.

Council should expand on this by including further discussion on the relevant s117 directions in the PP. This will assist with community/ agency consultation. In particular, consideration needs to be given to the following directions -

2.1 Environmental Protection Zones: the PP would reduce the environmental protection standards applying to part of the site by rezoning it from 7(a) Conservation to 7(c) Scenic Protection: Small Holdings. As a result the PP is inconsistent with this direction.

Council's ecology study reports that the site contains threatened flora and fauna species as well as three EECs. While the study concludes that a significant impact is unlikely, and the PP concludes that the dedication/ maintenance proposed is likely to minimise ecological impacts, Council should consider the need to consult with OEH to satisfy s.34A of the EP&A Act (Special consultation procedures regarding threatened species).

Council should update the PP accordingly and seek the DG's agreement to the inconsistency per the terms of the direction.

2.3 Heritage Conservation: applies and a heritage study has been undertaken confirming no issues. Council should update the s117 consistency assessment accordingly and consult with OEH.

4.3 Flood Prone Land: the site is flood prone and a flooding study has been prepared to examine the possible location of building envelopes/ effluent management areas. While Council is satisfied that the flooding impacts can be adequately managed, Council should detail these matters in terms of the s117 direction requirements and update its s117 assessment accordingly.

4.4 Planning for Bushfire Protection: consultation with the RFS needs to occur before consistency with this direction can be determined. Council should detail this matter in the PP.

5.1 Implementation of Regional Strategies: as discussed the PP is inconsistent with the CCRS but this inconsistency is of minor significance. The DG should agree to the inconsistency. Council should update its s117 direction assessment accordingly.

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Environmental social economic impacts : **Council has already undertaken noise, ecology, bushfire, contaminated land, flooding, heritage and wastewater studies and has concluded that the studies support the progression of the PP. The Department has no issue with these studies at this time.**

Other than the dedication of land for conservation purposes and the potential for three new rural-residential dwellings, social and economic impacts are anticipated to be minimal.

Assessment Process

Proposal type : **Routine** Community Consultation Period : **14 Days**

Timeframe to make LEP : **6 Month** Delegation : **DDG**

Public Authority Consultation - 56(2)(d) : **Office of Environment and Heritage
NSW Rural Fire Service**

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Council_Letter.pdf	Proposal Covering Letter	Yes
Planning_Proposal.pdf	Proposal	Yes
Planning_Proposal_Attachment_1_Zoning_Map.pdf	Proposal	Yes
Planning_Proposal_Attachment_2_Lot_Size_Map.pdf	Proposal	Yes
Planning_Proposal_Attachment_3_Zoning_Map_Wyong LEP1991.pdf	Proposal	Yes
Planning_Proposal_Attachment_4A_Council_Report.pdf	Proposal	Yes
Planning_Proposal_Attachment_4B_Council_Minutes.pdf	Proposal	Yes
f Planning_Proposal_Attachment_5_Landowner_Proposal.pdf	Proposal	Yes
Planning_Proposal_Attachment_5A_Landowner_Plans.pdf	Proposal	Yes

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Planning_Proposal_Attachment_5B_Landowner_DraftV PA_&_Desktop_Assessment.pdf	Proposal	Yes
Planning_Proposal_Attachment_5C_Landowner_Ecology.pdf	Proposal	Yes
Planning_Proposal_Attachment_5D_Landowner_Noise.pdf	Proposal	Yes
Planning_Proposal_Attachment_5E_Landowner_Heritage.pdf	Proposal	Yes
Planning_Proposal_Attachment_5F_Landowner_Bushfire.pdf	Proposal	Yes
Planning_Proposal_Attachment_5G_Landowner_Phase 1_Contaminated_Land.pdf	Proposal	Yes
Planning_Proposal_Attachment_5H_Landowner_Wastewater.pdf	Proposal	Yes
Planning_Proposal_Attachment_6&7_Wastewater_Phase 2_Contaminated_Land.pdf	Proposal	Yes
Planning_Proposal_Attachment_8_Ecology_Updated.pdf	Proposal	Yes
Planning_Proposal_Attachment_9_Flooding.pdf	Proposal	Yes
Existing_Zones_Map_DP&I_Prepared.pdf	Map	No

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

- S.117 directions:
- 2.1 Environment Protection Zones
 - 2.3 Heritage Conservation
 - 2.4 Recreation Vehicle Areas
 - 3.3 Home Occupations
 - 4.3 Flood Prone Land
 - 4.4 Planning for Bushfire Protection
 - 5.1 Implementation of Regional Strategies
 - 6.1 Approval and Referral Requirements
 - 6.2 Reserving Land for Public Purposes

Additional Information :

The following conditions are recommended in order to progress the PP:

- include a map that shows the current Wyong LEP 1991 zones that apply to the site;
- Council should provide further discussion in the PP regarding consistency with the s117 directions 2.1 Environment Protection Zones, 2.3 Heritage Conservation, 4.3 Flood Prone Land and 4.4 Planning for Bushfire Protection;
- in relation to direction 2.1, Council reconsider consistency per the specific terms of the direction, and seek DG agreement to any inconsistency. Council should consider the need to consult with the DG of OEH per s.34A of the EP&A Act and if undertaken, update the s117 direction assessment accordingly;
- in relation to direction 2.3, Council update the s117 consistency assessment with reference made to the heritage study undertaken. Consultation with OEH should also occur;
- in relation to direction 4.3, Council should clarify whether the PP is consistent with the terms of s117 direction with reference made to the flooding study undertaken as relevant. If the PP is inconsistent then seek the DG's agreement to the inconsistency per the terms of the direction;
- in relation to direction 4.4, Council should consult with the RFS and update the s117 direction consistency assessment accordingly;
- 6 month timeframe; and
- 14 day community consultation.

It is recommended that the DG agree that the PP's inconsistency with s117 direction 5.1 Implementation of Regional Strategies is of minor significance. Council should update the PP accordingly.

Supporting Reasons :

- extra map to assist with consultation
- added discussion for certain s117 directions to assist consultation and clarify possible outstanding matters (eg s.34A, RFS consultation)

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- completion and consultation timeframe as PP could be considered to be a routine, low impact PP

Signature: GHOPKINS

Printed Name: GARRY HOPKINS Date: 16.11.2012