

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

Proposal Title : Rezoning of 76 Berkeley Road, Fountaindale 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

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

Panel Recommendation

Recommendation Date : **22-Nov-2012**

Gateway Recommendation : **Passed with Conditions**

Panel

The Planning Proposal should proceed subject to the following conditions:

Recommendation :

1. Prior to commencing public exhibition, Council is to amend the planning proposal to include a map which clearly identifies the current zones that apply to the site under Wyong LEP 1991.
 2. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal is classified as low impact as described in A Guide to Preparing LEPs (Department of Planning 2009) and must be made publicly available for 14 days; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 4.5 of A Guide to Preparing LEPs (Department of Planning 2009).
 3. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - Office of Environment and Heritage
 - NSW Rural Fire Service
- Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.
4. Prior to undertaking public exhibition, Council is to amend the planning proposal to provide further discussion regarding the planning proposals consistency with Section 117 Directions 2.1 Environmental Protection Zones, 2.3 Heritage Conservation, 4.3 Flood Prone Land and 4.4 Planning for Bushfire Protection.
 5. In relation to the requirements of S117 Direction 2.1 Environmental Protection Zones, Council is to reconsider the proposals consistency as per the terms of the direction, and seek the Director-Generals agreement to any inconsistency. Council should consider the need to consult with the Director-General of the Office of Environment and Heritage as per s.34A of the EP&A Act and if necessary, update the planning proposal accordingly.
 6. In relation to the requirements of S117 Direction 2.3 Heritage Conservation, Council is to demonstrate consistency with the Local Planning Direction following consultation with the Heritage Branch of the Office of Environment and Heritage, prior to finalisation of the LEP.
 7. Council is to consult with the Office of Environment and Heritage in regards to potential flood impacts, making reference to Council's flood study as relevant. Council is to detail how flooding impacts can be adequately managed and address inconsistencies with the requirements of S117 Direction 4.3 Flood Prone Land prior to exhibition.
 8. Council is to consult with the Commissioner of the NSW Rural Fire Service as per the requirements of S117 Direction 4.4 Planning for Bushfire Protection. Council is to amend the planning proposal, if necessary, to take into consideration any comments prior to the commencement of public exhibition.
 9. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

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10. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.

Signature:



Printed Name:

Neil McGaffin

Date:

26-11-12