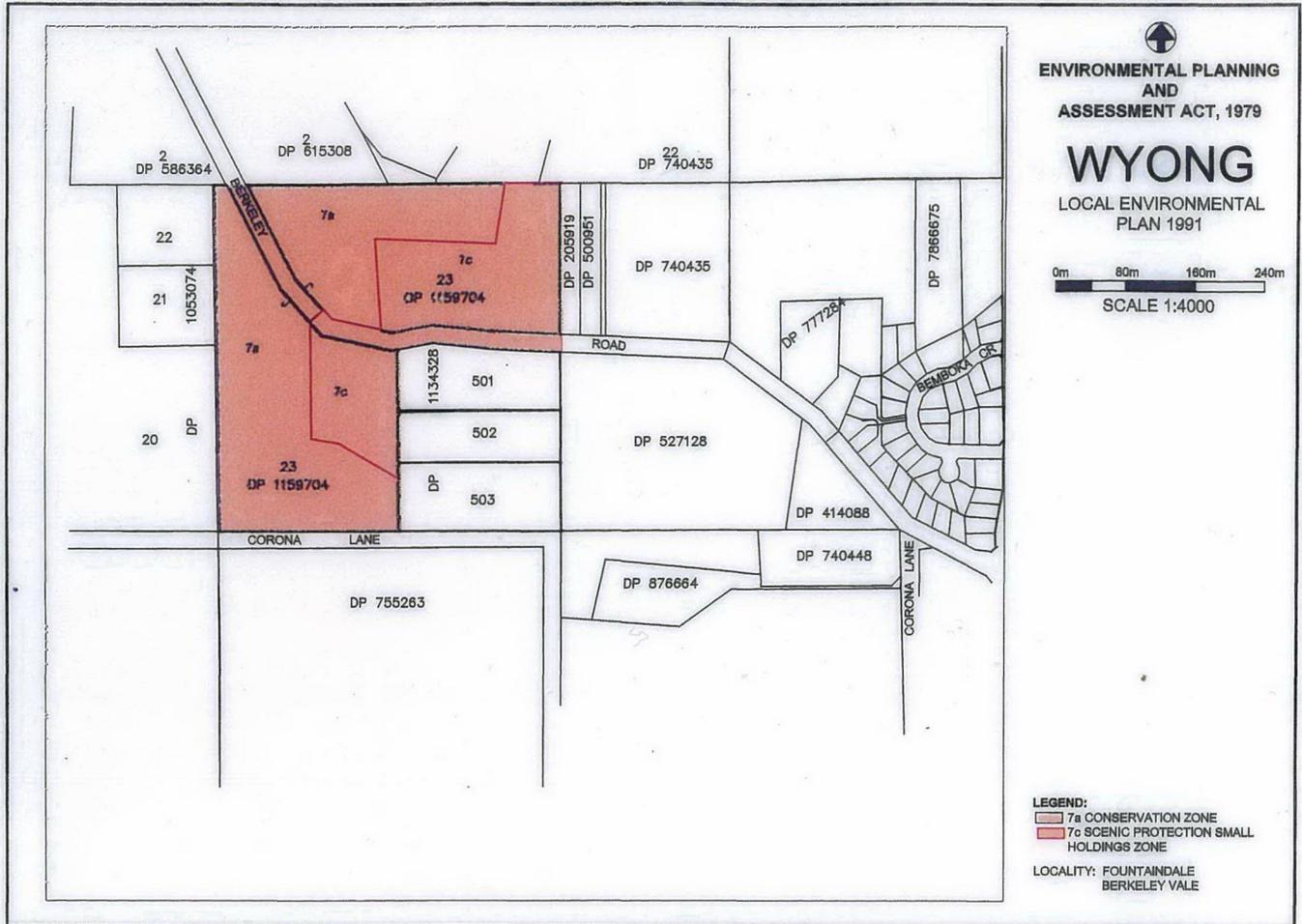


WYONG SHIRE COUNCIL



PLANNING PROPOSAL

FOR

**No 76 (LOT 23 DP 1159704) BERKELEY ROAD,
FOUNTAINDALE**

OWNERS: Hapido Pty Ltd and TSM Projects Pty Ltd

Reference No: RZ/15/2009

August 2011



OPTIMA DEVELOPMENTS PTY LTD

ABN 75 070 515 883

TOWN PLANNING AND DEVELOPMENT CONSULTANTS

11 ALFRED STREET
UMINA BEACH
NSW 2257

P.O. BOX 3136
UMINA BEACH
NSW 2257

e-mail: optimapl@bigpond.net.au

PH (02) 4344 2100
FAX (02) 4344 3289
MOBILE (0418) 647581

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OWNERS: Hapido Pty Ltd and TSM Projects Pty Ltd

Prepared by
Optima Developments Pty Ltd
Town Planning & Development Consultants
11 Alfred Street
Umina Beach, NSW 2257
P.O. Box 3136
Umina Beach, NSW 2257
Ph (02) 4344 2100
Fax (02) 4344 3289
Mobile 0418 647581
Email: optimapl@bigpond.net.au



Planning Proposal

No 76 (Lot 23 DP 1159704) Berkeley Road

Fountaindale

Reference No. RZ/15/2009

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1 Objectives and Intended Outcomes

The objective of the Planning Proposal is to support an amendment to the Wyong Shire Council Local Environmental Plan 1991 (**WSC LEP 1991**) as illustrated within **Attachment 1a**. The intention being to enable the subject land which contains a total area 10.861 ha of to be developed for rural residential purposes (3.962 ha) with the residue land (6.899 ha) identified for conservation (**Attachment 1b**). The conservation land contains a regionally significant habitat corridor, linking Crown Public Recreation zoned land, managed by Wyong Shire Council (**WSC**) and situated along the vegetated ridgeline to the south of the subject site, with the Council owned vegetated wetlands situated to the north (**Figure 1**).

A draft Voluntary Planning Agreement (VPA) is proposed between the land owners and Council to cater for the transfer of the conservation land containing 6.899 hectares to Council, upon finalisation of the Plan (**Attachment 2**), thereby ensuring its conservation status in perpetuity, reflective of a positive environmental outcome.

1.1 Planning History and Background

The subject land is currently zoned part 7(a) (Conservation), part 7(f) (Environmental Protection) and part 7(c) (Scenic Protection – Small Holdings) under WSC LEP 1991 (as amended). This Shire wide consolidating plan first took effect on 15 February 1991 and superseded WSC LEP 1987 – Rural Lands which had earlier replaced Interim Development Order 58 (**IDO 58**) (18 February 1977). IDO 58 first introduced the Conservation and Scenic Protection zones to the Shire. The last major review of WSC LEP 1991 occurred on 28 November 2003 by amending LEP 135, however Council is currently in the process of completing the conversion of the LEP to the Standard Instrument format with exhibition anticipated early in 2012. The existing zone boundaries applicable to the subject site and surrounding locality are depicted on **Figure 1**.

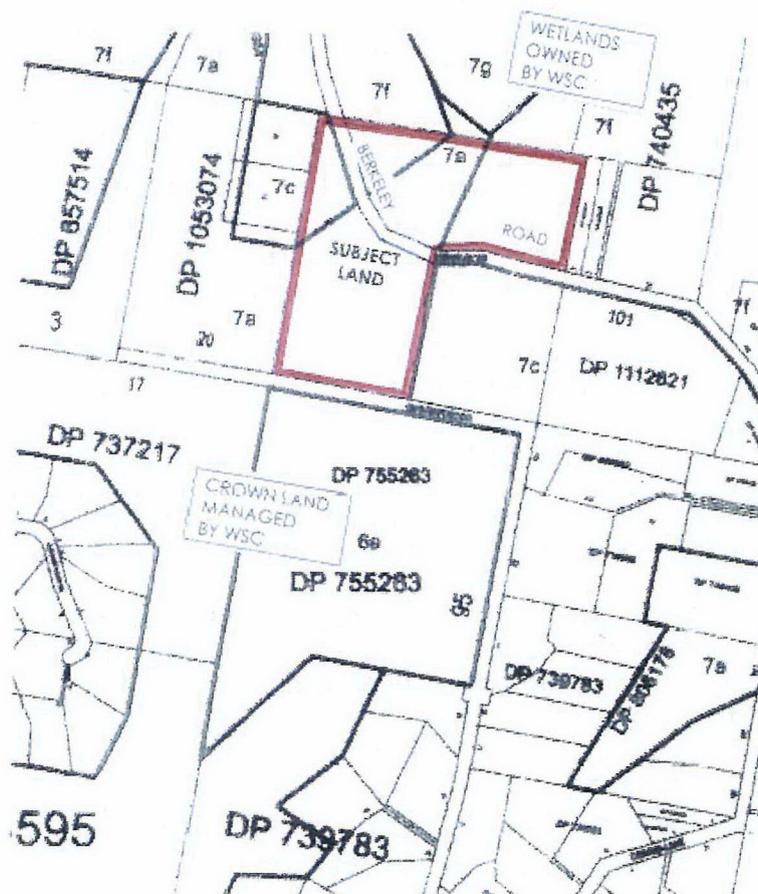


FIGURE 1 - EXTRACT OF EXISTING ZONING MAP

The 7(a)(Conservation) zone, with a subdivision minimum of 40 hectares and the 7(c) (Scenic Protection – Small Holdings) zone, with an initial subdivision minimum of 5000 m², which was later increased to 1 hectare (18 August 1984), had their origins in the strategic planning documents that preceded the introduction of IDO 58 (18 February 1977). These documents being the Gosford Wyong Structure Plan 1975 and Rural Lands Study of 1975.

The Rural Lands Study set the foundation characteristics for the application of the various zones to the physical features of the land. Conservation areas were intended to provide a visual relief or green backdrop to the urban areas and for informal recreation. The intention being to protect natural vegetation and encourage planting and regeneration, with such areas applying to:

1. *Steep slopes (slopes of 20% and over);*
2. *Ridgelines, prominent hills and headlands;*
3. *Wetlands (estuarine and freshwater);*
4. *Coastal dunes and cliffs, and*
5. *Important flora and fauna habitats.*

For the subject land the existing 7(a)(Conservation) zone is situated on the lower enclosed slopes, not visible from any urban area and provides a conservation zoned corridor linking more sensitive 7(g) (Wetland) zoned land within the valley floor to the ridgeline containing Crown land which is zoned 6(a) Public Recreation (Lot 95 DP 755262), as illustrated within **Figure 1**.

However, not all of the conservation zoned land within the site is vegetated and the small isolated triangular 7(c) zoned portion containing an area of 8964 m² consists of greater vegetation cover than parts of the conservation zoned land. The 7(c)(Scenic Protection) zone was introduced at a time when the subdivision standard was originally 5,000 m². The triangular section has a common boundary with a rectangular portion of similar zoned land on the adjoining parcel to the west, which has subsequently been subdivided into two x 1 (one) hectare rural residential lots, consistent with the current now minimum 1 (one) hectare subdivision development standards of the WSC LEP 1991.

These isolated shape, nature of vegetation cover and land area (which is below the zone development standard) applying to this triangular part of the subject site creates an inconsistency with the current instrument. These inconsistencies are the result of the location of the original zone boundaries being selected from a combination of physical features and cadastral nodal points and the interpretation of aerial photography available at that time (mid 1970's) and legislation changes. The foundation for zone boundary selection has not been reviewed since that time, over 30 years.

Advanced assessment techniques, coupled with ground truthing surveys and detailed ecological investigations, now justify a revisit of these boundaries as part of the Planning Proposal process.

At the time of commencement of IDO 58 (18 February 1977), the land that is currently zoned 7(f) (Environmental Protection), was zoned Rural 1(c), which was an accepted urban investigation holding zone, utilised to restrict development (with a subdivision minimum of 40 hectares) pending the completion of more detailed investigations to identify the most desirable development and land use potential.

The 7(f)(Environmental Protection) zone that applies to part of the subject land (north of Berkeley Road) had its origin with the gazette on 16 July 1986 of WSC Amending LEP 105. This zone replaced the previous Rural 1(c) zone following the adoption of recommendations after investigations for the Berkeley Vale Urban Release Area.

The aim of the amending plan was stated as:

- (a) *to reduce the potential for subdivision or residential occupation or both of certain rural lands in the vicinity of the Berkeley Vale Industrial Estate.*
- (b) *To make provision for the use of those lands for purposes appropriate to their proximity to the Berkeley Vale Industrial Estate, and*

(c) To create a new buffer zone for use in similar circumstances.

The foundation for the 7(f) (Environmental Protection) zone was the adverse findings from an acoustic assessment undertaken in 1986 in respect to the impacts on industrial development within the Berkeley Vale Industrial Estate of encroaching urban development. At this time Steel Mains had established a steel foundry within the estate. This development has since been abandoned and replaced by major food manufacturers.

Over subsequent years Council commissioned several acoustic studies which provided conflicting analysis. In 2003 Council acknowledged that the studies that formed the foundation of the introduction of the 7(f) Environmental Protection zone in 1986 may not stand up to current day technological advances in noise assessment.

In September 2003, Steven Cooper Acoustics undertook a noise assessment on a nearby property, which revealed that the extent of noise protection buffer had been over exaggerated and that a true impact acoustic buffer line was some distance north of Berkeley Road.

This Planning Proposal recognises the above zone boundary location anomalies between the 7(a) and 7(c) zones and the fact that the noise foundation of the 7(f) (Environmental Protection) zone selection, no longer remains applicable. A detailed noise assessment and other supporting environmental studies form part of the supporting documentation assisting in formulating the most suitable alternate zone and zone boundary locations for this Planning Proposal.

In March 2009, as an initial step in the implementation of the planning reforms instigated by the NSW State Government to prepare a new LEP consistent with the Standard Instrument (Local Environmental Plans) Order 2006, (**Standard Instrument**), Council commenced formal action under Section 54 of the Environmental Planning and Assessment Act 1979 (**EP&A Act**). Part of this process involved the adoption of a rezoning strategy for rezoning requests, which had a deadline for submission of such of 28 May 2010.

At the time of adoption of this programme, public exhibition of the then WSC LEP 2011 (now referred to as WSC LEP 2012) was anticipated to occur between July 2010 and December 2010, with the Section 68 report anticipated to be completed by March 2011.

The owners made a rezoning request within the allotted timeframe (28 May 2010) to which Council responded on 27 October 2010 following a desktop assessment (**Attachment 3**). This Planning Proposal includes a response to the issues raised from this desktop assessment.

The WSC LEP 2012 is yet to be forwarded to the Gateway and the likely timeframe for exhibition is now early in 2012. In view of this timeframe this Planning Proposal has been prepared as an amendment to the current instrument (WSC LEP 1991), whilst also including comparable references to the Standard Instrument.

1.2 Site Location

The subject property and suburb of Fountaindale is located within the western rural suburbs of Tuggerah Lakes situated between the suburbs of Chittaway Bay, Glenning Valley and Berkeley Vale and the main northern railway, midway between Tuggerah in the north and Ourimbah in the south. Berkeley Road which is being upgraded to a distributor road status linking The Entrance Road at Berkeley Vale (approximately 1.5 klm to the east) and Enterprise Drive (approximately 0.75 klm to the north west) which links the suburbs of Chittaway Bay to Ourimbah and onto Gosford. This road severs the subject property and forms the boundary between the suburbs of Fountaindale and Berkeley Vale.

The Berkeley Vale Industrial Estate is located on the northern side of Enterprise Drive with the larger industrial operations situated off Tradesman Drive. Locality map and aerial photograph identifying the subject land are included as **Attachment 1c and 1d** to this Planning Proposal.

1.3 Physical Characteristic

The subject land is the vacant residue parcel created within the subdivision of Lot 50 DP 755263, (Portion 50 Parish of Tuggerah) and recent road widening acquisition by Council. The subdivision excised the 7(c) zoned land to the south east which has subsequently been divided into three rural residential allotments. Historically the lower portions and least slope constrained sections of the land were cleared and utilised for grazing. Grazing activities continue within the cleared areas, however are currently confined to the fenced paddocks.

The topography comprises north to northeast facing sideslopes on Terrigal Formation sediments that are quite steep in the far south, gently sloping in the central parts of the site where building envelopes are proposed, and grading into alluvial flats in the far north. Gradients are variable from approximately 5-30% with a generally north easterly aspect. The approximate elevation of the subject site varies from RL 10 m to RL 60 m Australian height Datum (**AHD**). Open depressions and defined watercourses generally drain in a northerly direction across the land and through the Council's adjoining wetland before they ultimately drain to Ourimbah Creek and Tuggerah Lakes. Parts of the low lying sections and watercourses are subject to inundation in a 1% flood event as defined on the Planning Proposal Subdivision Plan at **Attachment 1b**.

The soil landscape consists of

- Watagan (wn) Soil Landscape – colluvial soils located on steep slopes in the south of the site;
- Erina (er) Soil Landscape – an erosional landscape containing soils derived from the Terrigal Formation and located in the central midslopes and footslopes of the site; and
- the Yarramalong (ya) Soil Landscape – alluvial soils formed on the floodplains at low elevations in the far north of the site;

The vegetation of the subject site comprises natural forests, disturbed forest and cleared lands that arise from historical and current day grazing practices. One threatened species (*Melaleuca biconvexa*) and three Endangered Ecological Communities (**EECs**) (*Swamp Sclerophyll Forest on Coastal Floodplains*, *River-flat Eucalypt Forest on Coastal floodplains* and *Lowland Rainforest*) exist within the subject land (**Attachment 4**).

2 Explanation of Provisions

WLEP 2012 is currently being prepared in accordance with the template of the NSW Standard Instrument. At present Council envisages this Plan will be exhibited sometime in early 2012. Whilst this Planning Proposal could be incorporated within that LEP at present there can be no guarantee that the envisaged timetable will be met and certainly no indication as to when that Plan is likely to be finalised, particularly as it will be a Shire wide instrument with many contentious issues to be addressed.

Under the model template instrument it is envisaged that the subject land would contain E2 – Environmental Conservation and E4 – Environmental Living zoned land. An extract of a zoning map illustrating how these zone may be applied to the subject land has been included at **Attachment 1e**.

In view of the nature of the objectives of the current Planning Proposal and the above timeframe uncertainty with the WSC LEP 2012, the following provisions are proposed in order to achieve the intended outcome of this Planning Proposal:

Amend

[1] Clause 7 Definitions

The definition of "the map" is amended by the inclusion of a reference to the map accompanying Wyong Local Environmental Plan 1991 (Amendment No XX) in the list of amending plans.

Wyong Local Environmental Plan 1991 (Amendment No XX)

3 Justification

3.1 Need for the Planning Proposal

3.1.1 Is the planning proposal a result of any strategic study or report?

Whilst not a direct result of any Strategic Study or report, the Planning Proposal complies with various State and local (Council) strategies, resolutions, policies and relevant statutory controls. Refer to Section 3.2 for discussion on these elements.

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

Yes. Amending the zoning and zone boundary locations of WSC LEP 1991 that apply to the subject land is the most efficient way to achieve the intended outcomes. The following **LEP Pro-forma Evaluation Criteria Table**, demonstrates consistency with State Government policy direction and provides justification for the progression of the Planning Proposal.

Evaluation Criteria	Consistency
1. Will the LEP be compatible with the agreed State and regional strategic direction for development in the area (e.g. land release, strategic corridor, development within 800m of a transit node)?	YES
EXPLANATION: Addressed within Section 3.2 of this Planning Proposal, dealing with The Central Coast Regional Strategy (CCRS).	
2. Will the LEP implement studies and strategic work consistent with State and regional policies and Ministerial (s117) directions?	YES
EXPLANATION: Addressed within Section 3.2 of this Planning Proposal, dealing with the application of Ministerial directions (Section 117).	
3. Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan or other regional/sub regional strategies?	NO
EXPLANATION: Note: The Conservation Strategy is yet to be released, however the Planning Proposal is considered to be consistent with the envisaged outcomes of this document.	
4. Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?	NO
EXPLANATION: The Noise Assessment with Attachment 5 demonstrates that the Planning Proposal will not be impacted by or will impact upon the employment lands of the nearby Berkeley Vale Industrial Estate.	
5. Will the LEP be compatible/complementary with surrounding land uses?	YES
EXPLANATION: The Planning Proposal will be consistent with the surrounding land uses containing similar features and constraints. The scale, intensity and impacts of envisaged future development has been considered in the supporting documentation within Part 5 of this Planning Proposal.	

Evaluation Criteria	Consistency
6. Is the LEP likely to create a precedent, or create or change the expectations of the landowner or other landowners?	NO
EXPLANATION: The identified anomalies and physical features of the subject land warrant a zoning amendment consistent with the outcomes from current day assessment techniques, inclusive of ground truthing surveys and detailed environmental and ecological investigations. The Planning Proposal will result in a positive benefit to adjoining landowners and the general community.	
7. Will the LEP deal with a deferred matter in an existing LEP?	NO
EXPLANATION: N/A	
8. Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?	YES
EXPLANATION: There are no other spot Planning Proposals before Council in the locality resembling the features of this Proposal. Council has indicated that any further Planning Proposals in the locality would be the subject of a broader study area review.	

2.1.3. Is there a net community benefit?

Yes. The amendment will facilitate a positive environmental outcome by ensuring the regional significant environmentally sensitive habitat corridor is transferred into public ownership, resulting in its conservation and protection in perpetuity. The opportunity is also provided to protect and enhance riparian waterways and threatened species via title restrictions concurrent with future development, an opportunity not previously available under the existing zoning regime. The following **Net Community Benefit Test** has been undertaken and provided below:

Evaluation Criteria	Consistency of the proposal
Will the proposal be compatible with agreed State and regional strategic direction for development in the area (e.g. land release, strategic corridors, development within 800 metres of a transit node)?	Yes. The Planning Proposal is consistent with the directions of the CCRS (refer to Section 3.2 of this document).
Is the proposal located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/subregional strategy?	No, however The Conservation Strategy is yet to be released. The Planning Proposal is considered to be consistent with the envisaged outcomes of this document.
Is the proposal likely to create a precedent or create or change the expectations of the landowner or other landholders?	No, as Council has indicated that any further Planning Proposals in the locality would be the subject of a broader study area review.

Evaluation Criteria	Consistency of the proposal
Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?	Yes. Council has indicated that any further Planning Proposals in the locality would be the subject of a broader study area review.
Will the proposal facilitate a permanent employment generating activity or result in a loss of employment lands?	No. The Noise Assessment with Attachment 5 demonstrates that the Planning Proposal will not be impacted by or will impact upon the employment lands of the nearby Berkeley Vale Industrial Estate.
Will the proposal impact upon the supply of residential land and therefore housing supply and affordability?	The Planning Proposal will not result in the loss of residential land, however will contribute to the future variety of housing choice.
Is the existing public infrastructure (roads, rail, utilities) capable of servicing the proposed site?	Yes, Berkeley Road has recently been upgraded to a distributor road status. Town water can be extended with adequate capacity to service the proposed 7(c) (Scenic Protection) zoned land. No sewerage service is available. Telephone and electricity is available in Berkeley Road.
Is there good pedestrian and cycling access?	No, however such facilities are not considered essential for the type and style of future developable land use.
Is public transport currently available or is there infrastructure capacity to support future public transport?	The Red Bus Company currently provides Three (3) x am and one (1) pm service (Monday to Friday) between Bay Village Shopping Centre at Bateau Bay via Berkeley Road and one (1) am and two (2) pm (Monday to Friday) services to Wyong via Berkeley Road .
Will the proposal result in changes to the car distances travelled by customers, employees and suppliers? If so, what are the likely impacts in terms of greenhouse gas emissions, operating costs and road safety?	The nett result of the Planning Proposal, besides the positive environmental outcomes, will be the capacity for the land to accommodate up to a maximum of three (3) rural residential dwellings. The subject site is centrally located too many centres and employment zones and provides an ideal attractive housing choice for company executives for the employment zones as the current similar housing style supply is almost exhausted in the locality. The impacts in terms of greenhouse gas emissions, operating costs and road safety are considered negligible.
Are there significant Government investments in infrastructure or services in the area whose patronage will be affected by the proposal? If so, what is the expected impact?	Council has recently committed Grant Funds to the upgrading of Berkeley road to distributor road status and town water can be extended to the future development, resulting in no adverse impacts from the Planning Proposal in respect of this criteria.

Evaluation Criteria	Consistency of the proposal
Will the proposal impact on land that the Government has identified a need to protect (e.g. land with high biodiversity values) or have other environmental impacts? Is the land constrained by environmental factors such as flooding?	Part of the subject land is impacted by flooding. This is outside the area available for future development (see to Attachments 1b and Attachment 6). The land with the highest biodiversity value is proposed for conservation and transfer to Council for protection in perpetuity. This action compliments existing adjoining Government and Council owned land holdings containing similar attributes.
Will the proposal be compatible/ complementary with surrounding land uses? What is the impact on amenity in the location and wider community? Will the public domain improve?	The Planning Proposal is compatible with and complements surrounding land uses and will result in positive impacts for the area and wider community. The protection and conservation of the habitat corridor, will contribute to an improvement in the public domain.
Will the proposal increase choice and competition by increasing the number of retail and commercial premises operating in the area?	N/A.
If a stand-alone proposal and not a centre, does the proposal have the potential to develop into a centre in the future?	N/A
What are the public interest reasons for preparing the draft plan? What are the implications of not proceeding at that time?	A total of 6,899 hectares will be transferred for conservation purposes ensuring the protection in perpetuity of an important regional habitat corridor linkage. If the proposal does not proceed the subject land would have not development potential or entitlements under the current controls, resulting in little incentive for the land owners to improve or maintain the biodiversity values of the property.

3.2 Relationship to strategic planning framework

3.2.1 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)?

CENTRAL COAST REGIONAL STRATEGY

The Central Coast Regional Strategy (**CCRS**) was released by the Department of Planning in July 2008 and will be implemented primarily through LEPs, DCPs, the State Infrastructure Strategy and provides a frame work for local councils in their preparation of new principle LEP's, such as the WSCLEP 2012.

The CCRS covers an area of 1854 square kilometres with a population of 304,700 residents and consists of the Local Governments Areas (**LGAs**) of Gosford and Wyong, which are known for their outstanding environmental qualities. It represents an agreed NSW government position on the future of the Central Coast and is the pre-eminent document for the region, prepared to compliment and inform other relevant State planning instruments.

The CCRS identifies the population targets of the Central Coast expected over the next 25 years, and the primary purpose is to ensure adequate land is available and appropriately located to sustainably accommodate the projected housing needs and promote local employment over the next 25 years (2006 – 2031). The region is expected to grow by 4000 people per year, allowing for a population increase of 100,000 people.

The strategy 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 site adjoins existing rural residential development and is therefore considered to be best described as a "minor (large lot residential) infill development on the edge of the urban footprint".

Under the housing component of the strategy rural residential development is recognised as continuing to provide a choice of housing in the region, however new rural residential development will be limited to those already provided in the region. The exception to the above is considered to be minor infill development such as the current proposal

The Strategy position is due to an acceptance that rural small holdings raise a number of issues including fragmentation of agricultural lands and subsequent loss of efficiencies, conflict with other resource land uses such as extractive industries, water rights issues and higher servicing costs.

The Planning Proposal does not fragment any economically viable agricultural land or represent a wholesale increase in this style of housing choice, however represents the rectification of an anomalous land use situation created by an outdated planning instrument coupled with inappropriate historical zonings applying under the existing LEP.

The minor nature of potential increases in rural residential development generated by this proposal is more than compensated by the ecological and conservation offsets proposed by the transfer of the environmentally sensitive land to Council. This will ensure the protection of the recognised habitat corridor, thus contributing positively and in perpetuity to the regions biodiversity. It is considered that any inconsistency with the strategy in this instance can be justified by the minor infill nature of the Planning Proposal.

The following Table addresses **the identified actions relevant** to the preparation of this Planning Proposal for **the housing and economy and employment components of the CCRS**.

ACTION REFERENCE	DESCRIPTION	COMMENT
4.5	Councils are to review their current residential development strategies, including a review of the adequacy and accuracy of existing urban boundaries and zoning in fringe areas, through the preparation of the principal LEPs.	Although the Settlement Strategy is yet to be finalised and exhibited the subject site is considered to fall within this criteria of the strategy.
4.6	Land to be rezoned for housing during the life of the Strategy is to be located within existing urban areas, existing MDP areas, areas identified through preparation of LEPs and Greenfield areas nominated in the North Wyong Shire Structure Plan.	This minor infill area should be identified through the LEP process as the current 7(c) zoned land has some limitations and the 7(f) zone is redundant over the subject site and an alternate suitable zone needs to be selected.

ACTION REFERENCE	DESCRIPTION	COMMENT
5.15	Protect and enhance strategic employment lands	The subject land does not impact upon or is impacted from the Berkeley Vale Industrial Estate, particularly in respect of noise. Refer to Attachment 5 .
5.17	The DoP is to work with councils in identifying and implementing measures to manage interface issues between industrial and residential land uses.	See comment above.

The Environment, heritage, recreation and natural resources are key issues under the strategy. The natural environment is highly valued from a cultural, environmental and recreational perspective and is sensitive to change. The diverse range of landscapes and ecosystems support a range of threatened species populations, ecological communities and critical habitat. A significant part of the cultural heritage of the Central Coast is embodied in the natural and built environment.

The Regional Conservation Plan (**RCP**) when complete, will provide a framework for more detailed planning elsewhere in the region, besides the North Wyong Shire Structure Plan (**NWSSP**) area. It is considered that the supporting investigations of this Planning Proposal will assist and complement the investigations and assessments underway for the RCP.

Although the RCP is not yet available, it is considered that the minor nature of this infill Planning Proposal, with its positive conservation outcome would be consistent with such a RCP. The transfer of the environmentally sensitive land which will complete a valuable habitat corridor link between the valley floor and the vegetated publicly owned ridge-lands, is considered to represent an ideal solution to the longer term management of such a land resource.

Natural hazards are another key issue under the strategy. In an area that has such substantial vegetated areas and dispersed population there is a high risk of bushfires. Planning for bushfire protection is to be undertaken in accordance with NSW government policy. Local planning needs to be consistent with NSW flooding, acid sulphate soils, bushfires and coastal management plans. The following Table addresses the relevant **identified actions** to the preparation of LEPs for the environment, heritage, recreation and natural resources and natural hazard components of the CCRS.

ACTION REFERENCE	DESCRIPTION	COMMENT
6.3	LEPs are to appropriately zone land with high state or regional environmental, agricultural, resource, vegetation, habitat, waterways, wetlands or coastline values.	The Planning Proposal includes appropriate zones having regards to their underlying values.
6.4	LEPs are to appropriately zone land of high landscape value (including scenic and cultural landscapes).	The selected zones of the Planning Proposal are consistent with this action of the strategy.
6.8	Ensure LEPs facilitate conservation of Aboriginal and non-Aboriginal heritage.	The Aboriginal heritage was assessed in conjunction with representative of the Local Aboriginal Land Council (LALC) Refer to Attachment 7 .

ACTION REFERENCE	DESCRIPTION	COMMENT
6.15	Councils and the DoP are to ensure that Aboriginal cultural and community values are considered in the future planning and management of the LGA.	The Aboriginal heritage was assessed in conjunction with representative of the Local Aboriginal Land Council (LALC) Refer to Attachment 7 .
7.2	LEPs will zone areas subject to high hazard to reflect the capabilities of the land.	The bushfire risk and potential for contaminated land was assessed as part of this Planning Proposal. Refer to Attachment 8 and Attachment 9 .

Although the proposal falls within a minor infill development definition, the following points are considered relevant in respect to the assessment against the **relevant sustainability criteria** of the CCRS:

- The subject land has ready access to the existing and recently improved road network and is close to employment lands and a choice of commercial centres.
- The Planning Proposal:
 - Will contribute to the geographic market spread and choice of housing supply, although to an insignificant extent.
 - Does not create any land use conflicts, particularly with employment lands.
 - Does not place an unacceptable pressure on infrastructure nor exceed the carry capacity of the land for the future envisaged development, and
 - Maintains and improves existing environmental and biodiversity with the transfer to Council of significant and critical habitat corridor lands.

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

It is considered that the Planning Proposal is consistent with the Wyong Shire Strategic Vision (SSV). The eight (8) key objectives of this vision are that:

1. Communities will be vibrant, caring and connected with a sense of belonging and pride in their local neighbourhood;
2. There will be ease of travel within the Shire, and to other regional centres and cities. Travel will be available at all hours and will be safe, clean and affordable;
3. Communities will have access to a diverse range of affordable and coordinated facilities, programs and services;
4. Areas of natural value in public and private ownership will be enhanced and retained to a high level in the context of ongoing development;
5. There will be a sense of community ownership of the natural environment through direct public involvement with environmental programs;
6. There will be a strong sustainable business sector and increased local employment built on the Central Coast's business strengths;
7. Information communication technology will be consistent with world's best practice and adaptive to technological advances across all sectors; and

8. The community will be well educated, innovative and creative. People will attain full knowledge potential at all stages of life.

The Planning Proposal will enable the transfer of 6.899 hectares of significant and critical habitat corridor lands to Council which will assist in achieving Objective No's 4 and 5 of the SSV

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

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 SEPPs relevant to this Planning Proposal are SEPP 44 – Koala Habitat protection and SEPP No. 55 – Remediation of Land and assessment is provided below.

SEPPs	Relevance	Implications
SEPP 44 – Koala habitat Protection	This SEPP aims to provide proper conservation and management of Koala habitat by requiring the identification and conservation, and management of actual and potential Koala habitat.	Assessment of the vegetation under the SEPP revealed that the subject site is not considered to be potential Koala habitat and no Koalas were recorded at the time of extensive fauna surveys undertaken on the land in 2001, 2007 and 2011. Refer to Attachment 4 .
SEPP 55 – Remediation of Land	The SEPP requires the subject land to be suitable for its intended use in terms of the level of contamination, or where the land is unsuitable due to the level of contamination, remediation measures are required to ensure that the subject land is suitable for its intended use.	As part of the Planning Proposal a Phase 1 (non-intrusive) Contamination Assessment found that the site is compatible with its intended use. Refer to Attachment 9 .

3.2.4 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 EP&A Act, relevant to the Planning Proposal, are addressed as follows:

OBJECTIVE	OBLIGATION	CONSIDERATION
1. EMPLOYMENT AND RESOURCES (01/07/2009)		
1.1 BUSINESS & INDUSTRIAL ZONES		
(1) The objectives of this direction are to: (a) encourage employment growth in suitable locations, (b) protect employment land in business and industrial zones, and	(4)(a) Give effect to the objectives. N/A Applicable	In complying with this direction objective (1)(b) is relevant to the Planning Proposal. The subject land does not impact upon or is impacted from the Berkeley Vale Industrial Estate, particularly in respect of noise. Refer to Attachment 5 .

OBJECTIVE	OBLIGATION	CONSIDERATION
(c) support the viability of identified strategic centres.	N/A	N/A
1.2 RURAL ZONES		
(1) The objectives of this direction is to protect the agricultural productive value of rural land	<p>A Planning Proposal must</p> <p>(4)(a) not rezone land from rural to residential, business, industrial, village or tourist zone</p> <p>(b) not contain provisions that will increase the permissible density of land within a rural zone.</p>	<p>The Planning Proposal rezones rural land to a more suitable rural land zoning.</p> <p>N/A</p>
1.3 MINING, PETROLEUM PRODUCTION & EXTRACTIVE INDUSTRIES - N/A		
1.4 OYSTER AQUACULTURE - N/A		
1.5 RURAL LANDS - N/A		
2. ENVIRONMENT AND HERITAGE (01/07/2009)		
2.1 ENVIRONMENT PROTECTION ZONES		
(1) The objectives of this direction is protect and conserve environmentally sensitive areas.	<p>(4) A Planning Proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.</p> <p>(5) A Planning proposal must not reduce the environmental protection standards that apply to the land.</p>	<p>The Planning Proposal is consistent with this directive.</p> <p>A Planning Proposal may be inconsistent with the terms of this direction where gives consideration to the objectives of this direction or is of a minor significance, as is the case with the subject proposal. The zone boundaries and their locations have address an identified anomaly and given the justified redundancy of the noise constraint (foundation for the existing 7(f) Environmental Protection zone), have a conservation protection foundation.</p>

OBJECTIVE	OBLIGATION	CONSIDERATION
2.2 COASTAL PROTECTION - N/A		
2.3 HERITAGE CONSERVATION - N/A		
(1) The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	N/A	Refer to Aboriginal Heritage Assessment prepared by the LALC at Attachment 7 .
2.4 RECREATIONAL VEHICLE AREAS - N/A		
3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT (01/07/2009)		
3.1 RESIDENTIAL ZONES - N/A		
3.2 CARAVAN PARKS & MANUFACTURED HOME ESTATES - N/A		
3.3 HOME OCCUPATIONS - N/A		
3.4 INTEGRATED LAND USE & TRANSPORT - N/A		
3.5 DEVELOPMENT NEAR LICENSED AERODROMES - N/A		
3.6 SHOOTING RANGES - N/A		
4. HAZARD AND RISK (01/07/2009)		
4.1 ACID SULPHATE SOILS		
(1) The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils (ASS)	N/A	Council has recognised that there are no known ASS on the subject site.
4.2 MINE SUBSIDENCE & UNSTABLE LAND - N/A		
4.3 FLOOD PRONE LAND		
(1) The objectives of this direction are:		

OBJECTIVE	OBLIGATION	CONSIDERATION
<p>(a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i>, and</p> <p>(b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.</p>	<p>(6) A planning proposal must not contain provisions that apply to the flood planning areas which:</p> <p>(a) permit development in floodway areas,</p> <p>(b) permit development that will result in significant flood impacts to other properties,</p> <p>(c) permit a significant increase in the development of that land,</p>	<p>Part of the Planning Proposal contains 1% AEP Flood effected land. Refer to Attachment 6. The area identified for future development is outside this affected area.</p>
<p>4.4 PLANNING FOR BUSHFIRE PROTECTION</p>		
<p>(1) The objectives of this direction are:</p> <p>(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</p> <p>(b) to encourage sound management of bush fire prone areas.</p>	<p>(5) A planning proposal must:</p> <p>(a) have regard to <i>Planning for Bushfire Protection 2006</i>,</p> <p>(b) introduce controls that avoid placing inappropriate developments in hazardous areas, and</p> <p>(c) ensure that bushfire hazard reduction is not prohibited within the APZ.</p>	<p>The Planning proposal is consistent with this Directive. Refer to Attachment 8.</p>
<p>5. REGIONAL PLANNING (01/07/2009)</p>		
<p>5.1 IMPLEMENTATION OF REGIONAL STRATEGIES</p>		
<p>The objective is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.</p>	<p>(4) planning Proposals must be consistent with a regional strategy released by the Minister for Planning</p>	<p>Refer to 3.2.1. The Planning Proposal is considered to be a minor infill proposal.</p>

OBJECTIVE	OBLIGATION	CONSIDERATION
5.2 SYDNEY DRINKING WATER CATCHMENT - N/A		
5.3 FARMLAND OF STATE AND REGIONAL SIGNIFICANCE ON THE NSW FAR NORTH COAST – N/A		
5.4 COMMERCIAL AND RETAIL DEVELOPMENT ALONG THE PACIFIC HIGHWAY, NORTH COAST – N/A		
5.5 REVOKED		
5.6 REVOKED		
5.7 REVOKED		
5.8 SECOND SYDNEY AIRPORT: BADGERYS CREEK – N/A		
6. LOCAL PLAN MAKING (01/07/2009)		
6.1 APPROVAL AND REFERRAL REQUIREMENTS – N/A		
(1) The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	Stated obligations applicable	Planning Proposal consistent with this directive.
6.2. RESERVING LAND FOR PUBLIC PURPOSES - N/A		
6.3 SITE SPECIFIC PROVISIONS – N/A		
7. METROPOLITAN PLANNING (01/02/2010)		
7.1 IMPLEMENTATION OF THE METROPOLITAN PLAN FOR SYDNEY 2036– N/A		

3.3 Environmental, Social and Economic Impact

3.3.1 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?

Ecological survey and assessment (refer to **Attachment 4**) has been undertaken by *Travers bushfire & ecology* in accordance with relevant legislation including the *EP&A Act 1979*, the *Threatened Species Conservation Act 1995*, the *Environment Protection and Biodiversity Conservation Act 1999* and the *Fisheries Management Act 1994*.

In accordance with *Section 5A* of the *EP&A Act 1979*, a 7 part test of significance concluded that the proposed subdivision and associated works, is not likely to have a significant impact on any threatened species, populations or endangered ecological communities. Therefore, a Species Impact Statement should not be required for the proposal.

In respect of matters required to be considered under the *Environment Protection and Biodiversity Conservation Act 1999*, one (1) threatened fauna species, Grey-headed Flying fox (*Pteropus poliocephalus*) and one (1) threatened flora species, *Melaleuca biconvexa*, was recorded within the subject site. No endangered populations or endangered ecological communities listed under this Act were recorded within or in close proximity the subject site.

The proposed development will not impact on the population of *Melaleuca biconvexa* due to the strategic location of proposed development footprint and asset protection zones that avoid the habitat of this species. Additionally protection measures for the existing protection and enhancement will provide a positive outcome for the ongoing sustainability of the population.

In respect of matters relative to the *Fisheries Management Act 1994*, no suitable habitat for threatened marine or aquatic species was observed within the subject site and there are no matters requiring further consideration under this Act.

The assessment concluded that the proposed rezoning, future subdivision and associated development to create three (3) rural-residential allotments as well as a residual conservation lot at No. 76 Berkeley Road, Fountaindale is unlikely to result in a significant impact on any threatened species, populations or endangered ecological communities or their habitats. The proposed rezoning conserves the most significant threatened flora, fauna habitat and recorded endangered ecological communities within the proposed E2 lands. As such no further assessments are considered to be required under the *EP&A Act 1979*, *EPBC Act 1999* or *FM Act 1994*.

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

The remaining likely environmental effects were set out in the Council's desktop review of the initial rezoning request (see **Attachments 3**) and have been addressed in the documents included within the Attachments and which have been summarised below:

Flora and fauna.- The following summary of assessment is provided from the ecological assessment (see **Attachment 4**).

Seven (7) vegetation communities were identified within the subject site through ground truthing. The vegetation communities observed included

- Vegetation Community 1 - Alluvial Gully Closed Forest
- Vegetation Community 2a - Moist Blue Gum Open Forest
- Vegetation Community 2b - Disturbed Moist Blue Gum Open Forest
- Vegetation Community 3 - Alluvial Blue Gum Open Forest
- Vegetation Community 4 - Swamp Mahogany Open Forest
- Vegetation Community 5 - Acacia / Cheese Tree Closed Scrub
- Vegetation Community 6 - Dry Open Forest
- Vegetation Community 7 - Exotic Grassland Pasture with Isolated Trees

A total of two hundred and fifty (250) plant species have been observed within the subject Site. One of the species, *Melaleuca biconvexa* is listed as a threatened species under the TSC Act (1995) and EPBC Act (1999). Three (3) EECs were located onsite, namely;

- River-flat Eucalypt Forest on Coastal Floodplains (Alluvial Blue Gum Open Forest)
- Swamp Sclerophyll Forest on Coastal Floodplains (Swamp Open Forest)
- Lowland Rainforest on Coastal Floodplains (Alluvial Gully Closed Forest)

A total of one-hundred and four (104) fauna species were observed within or in close proximity to the subject site during the survey. This number constitutes as a high number of biodiversity occurring within the site with 70 species of bird, 26 species of mammal, 2 species of reptile and 6 species of amphibian recorded.

Seven (7) threatened fauna species including Powerful Owl (*Ninox strenua*), Varied Sittella (*Daphoenositta chrysoptera*), Grey-headed Flying-fox (*Pteropus poliocephalus*), Little Bentwing-bat (*Miniopterus australis*), Eastern Bentwing-bat (*Miniopterus orianae oceansis*), Yellow-bellied Glider (*Petaurus australis*) and Greater Broad-nosed Bat (*Scoteanax rueppellii*) – were recorded within the subject site. The Greater Broad-nosed Bat was recorded only to a 'possible' level of certainty given the lack of recorded Anabat call sequences

The assessment noted (page 65) that the proposed building envelopes and APZ's are entirely within existing cleared areas. The entire residual open forest habitats within the southern, western and northern portions of the subject site are offered for conservation zoning. The proposed restoration of existing cleared areas within the proposed southern conservation lot will facilitate a north-south corridor at a minimum width of greater than 100m within the site. This will ensure that the existing options for fauna passage will be retained and enhanced to provide a more direct route for fauna able to negotiate Berkeley Road.

The assessment also noted that the proposed transfer of Conservation lands will result in a significant habitat corridor maintaining important linkages between larger remnants of native vegetation

Wetlands:

Travers bushfire and ecology as part of their ecological assessment (refer **Attachment 4**), noted that a SEPP 14 Wetland occurs approximately 600m to the north east of proposed Lot 2. The wetland is mapped in Wyong Council's DCP 30 immediately to the north-west of Lot 2 DP 1100181. The subject site is within land that is upstream of the wetland. Consequently development within the proposed subdivision has an influence on the quality of catchment runoff into the SEPP 14 Wetland.

However the low impact nature of the subdivision (rural residential) and the presence of significant vegetated lands between the site and the wetland, reduces the risk of nutrient or sediment pollution into the wetland to an insignificant level. The implementation of standard controls over the construction and ongoing land management within the proposed rural residential lots will ensure that there is no significant deterioration in runoff from the proposed E4 lands. Such issues can adequately be addressed at the DA stage.

Wildlife Corridors:

The ecological assessment (refer **Attachment 4**) revealed that the existing vegetation within the conservation lands of the subject site, which is proposed to be transferred to Council, forms an important regional wildlife corridor linking the vegetated ridge top lands with the vegetated wetlands within the valley floor. The corridor through the site connects these northern and southern conservation areas which are currently owned by Council.

The transfer of this significant corridor link to Council will ensure a positive conservation outcome by protection of the corridor in perpetuity. The vegetation within the corridor is only broken by the existing Berkeley Road corridor which represents a greater threat to the movement of wildlife than the proposed subdivision. Future road works along Berkeley Road will need to consider the impact of road widening on habitat connectivity and the provision of appropriate crossing points. The implementation of crossing points is not the responsibility of the current land owners.

The proposed Conservation lands provide a minimum 100 m wide corridor that is fully vegetated and is actively utilised by local fauna. Ongoing natural regeneration will continue to see the previously disturbed portions of the corridor mature. Weed control and strategic planting shrub, subcanopy and canopy species will enhance the quality of the existing wildlife corridor.

The proposed regeneration areas in Wyong Shire Councils correspondence on the northern portion of lot 2 and southern portion of lot 4 do not add significantly to the functioning of the corridor or to the amount of land conserved.

The retention of trees within these areas will continue to provide canopy connectivity facilitating wildlife movement. Natural regeneration to the west of lot 4 is occurring rapidly with native and weed species. Therefore revegetation works should only supplement canopy species and aim to remove any existing weeds that may be competing with the regeneration of native plants.

Conservation Offsets:

The ecological assessment (refer **Attachment 3**) found that as there is to be no clearing of vegetation, a conservation offset is not required for the loss of native vegetation. In combination with fencing, regeneration and protection of any *Melaleuca biconvexa* areas under title, the proposed conservation lands provide an offset for the loss of any affected *Melaleuca biconvexa*.

Aboriginal Cultural Heritage:

An aboriginal Heritage Site Assessment was undertaken for the land owners by a representative (Mr Craig Foreshew, Cultural and Heritage Officer) of the Darkinjung Local Aboriginal Land Council (**DLALC**) (refer **Attachment 7**) and include reference to AHIMS Data List. This assessment revealed after investigation of the site that no engraving, grinding grooves, modified trees or shelters with art pertaining to prehistoric and contact persons were located in the study area.

Bushfire:

As part of the Planning Proposal investigations a Bushfire Protection assessment was undertaken by *Tavers bushfire and ecology* for the likely future development (refer to **Attachment 8**). This assessment noted that the development is categorised by the NSW Rural Fire Service (**RFS**) as being a *residential subdivision* and this requires the RFS to issue a *Bushfire Safety Authority (BSA)* in accordance with *Planning for Bush Fire Protection 2006 (PBP)*.

PBP dictates that the subsequent extent of bushfire attack that can potentially emanate from a bushfire must not exceed a radiant heat flux of 29 kW/m² for *residential subdivision* developments. This rating assists in determining the size of the *asset protection zone (APZ)*, in compliance with Appendix 2 of PBP, to provide the necessary *defendable space* between hazardous vegetation and a building.

The assessment found that bushfire can potentially affect the proposed development from the forest vegetation fringing the proposed site to the north, south and west resulting in possible ember attack, radiant heat attack. The bushfire risk posed to the development however can be mitigated if appropriate APZs are put in place and managed in perpetuity.

The assessment has concluded that the proposed development will provide:

- Compliance with Planning for Bushfire Protection 2006.
- Compliance with AS 3959 (2009)

Other bushfire protection measures are identified within the assessment (refer **Attachment 8**).

Contaminated Land:

A Phase 1 Contamination Assessment (**PCA**) undertaken by Douglas Partners Pty Ltd (**DP**) for the Planning Proposal (refer to **Attachment 9**). The scope of the current assessment included a desktop review of site information and a site walkover. No intrusive sampling (soil or groundwater) was undertaken as part of the PCA. The PCA was undertaken with respect to the staged investigation approach outlined in *State Environmental Planning Policy No. 55 – Remediation of Land* (SEPP 55 – Ref 1), the *Contaminated Site: Guidelines for Consultants Reporting on Contaminated Sites* (NSW EPA – Ref 2) and with regard to the WSC's *Contaminated Land Policy*.

Based on the information gathered, DP considers that the site is generally compatible with the proposed residential land use from a site contamination perspective. It is noted however the adjacent up slope property to the west was identified as a former orchard which presents a low risk potential contamination source. Furthermore, it is noted that the adjacent site has been subsequently subdivided and developed for residential land uses.

Noise

A detailed acoustic assessment was undertaken for the subject site and Planning Proposal by The Acoustic Group (refer to **Attachment 5**) to address the noise from the existing industrial area to the north and traffic noise on Berkeley Road. The assessment referred to a previous assessment undertaken for Council which indicated that with full utilisation of the industrial area to the north there would be no acoustic impact with respect to the subject subdivision, and more importantly the provision of residential dwellings on the subdivision would not impinge or restrict the industrial operations.

Noise logger data was assemble for the subject site and the assessment concluded that no additional noise control measures to address road traffic or industrial noise are required for the residential dwellings that may be erected upon the proposed subdivision at 76 Berkeley Road Fountaindale.

Flooding and Drainage

Council had advised that as several tributaries traverse the d=site that hydrologic and hydraulic investigations would be required to determine the extent of flooding on the site and indicated that Councils records indicated that the northern part of the site is affected by flooding from Wyong River during a 1% storm event.

Engineering consultants Hoolihan Partners completed the required flood modelling and calculations to determine the extent of flood impact under a 1% flood event. The results of their assessment is illustrated in the plan at **Attachment 6**.

Traffic and Transport:

The Planning proposal will result in negligible impact from a traffic and transport viewpoint. Access to the future rural residential lots have been designed to maximise site distance and safety. With respect to public transport the Red Bus Company currently provides three (3) x am and one (1) pm service (Monday to Friday) between Bay Village Shopping Centre at Bateau Bay via Berkeley Road and one (1) am and two (2) pm (Monday to Friday) services to Wyong via Berkeley Road .

Servicing:

Sewerage service is not available and future development will require disposal of wastewater by way of on-site sewerage management system. The Planning Proposal Subdivision Plan (refer **Attachment 1b**) identifies the location of future building envelopes, APZ's and effluent disposal areas for each future lot. The effluent disposal areas have been sized from the recommendations and investigations undertaken in accordance with WSC DCP 65 by Whithead & Associates for an earlier subdivision proposal, however the base data remains applicable to the current proposal (refer to **Attachment 10**) These areas are sized at 600 m² and located above the land impacted by the 1% AEP event and above the 40 metre effluent buffer from the bank of the watercourse or overland flow path. These features are shown on **Attachment 1b**).

Water supply is currently available to the eastern boundary of the property. Investigations and liaison with Council's water main extension department has revealed that this service is capable of being extended to service the future development (refer to **Attachment 11**). The location of this future service has been shown on the Planning Proposal Subdivision plan (refer **Attachment 1b**).

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

The Planning Proposal will result in minor increase in population. It will provide infill development identified in the CCRS which will assist the Council in meeting its population targets. It is considered that the proximity of the subject site to facilities and services is adequate for the proposal in the provision of relevant goods, services and community facilities.

In respect to economic effects the outcome can only be positive for the landowners and the Council, particularly with the transfer of ownership of the habitat corridor land. Under the present planning controls the subject land lacks the statutory ability to achieve even a basic development entitlement due to anomalies in development controls, zonings and zone boundary locations that apply to the parcel. All of which are in need of review and are the foundation to this Planning Proposal and the achievement of the *Objects of the EP&A Act*, particularly *Section 5(a)(i) and (ii)*, namely:

- (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
- (ii) *the promotion and co-ordination of the orderly and economic use and development of land,*

3.4 State and Commonwealth Interest

3.4.1 Is there adequate public infrastructure for the planning proposal?

The relevant public infrastructure issues of this Planning proposal are addressed within Section 3.3.2 with supporting documentation contained within supporting documents included within Part 5 of this submission. It is considered that minor infill nature of the Planning proposal and the proximity of the subject site to facilities and services, is adequate for the proposal in the provision of relevant goods, services and community facilities.

3.4.2 What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

The views of State and Commonwealth 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 within the gateway determination.

4.0 Conclusion and Recommendation

The Local Environmental Plan Amendment request of this Planning Proposal, in respect of WSC LEP 1991, for the purpose of a *minor infill development* which will allow the subject land to be developed for rural residential purposes (3.962 ha) with the residue land (6.899 ha) identified for conservation on Lot 23 DP 1159704, no 76 Berkeley Road Fountaindale is supported because:

- It provides for an employment generating development of a service station, employing 16 fulltime / 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 proposed future development on the subject lands could comply with all the relevant statutory controls.

The proposed future development on the subject lands is considered to be:

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

Consequently, it is recommended that an appropriate amendment be made to the definition of "the Map" contained within *Clause 7* of WSC LEP 1991.

5 Attachments and Supporting Documentation

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

Document No	Title Reference	Attached
1	Plans a. Draft WSC LEP 1991 Map (option 1) b. Planning Proposal Subdivision Plan c. Locality Map d. Locality Aerial Photograph e. Draft WSC LEP 2012 Map (option 2) f. Bushfire Protection Measures Plan g. Vegetation Communities Plan h. Flora and Fauna Survey Results Plan	√
2	Draft Voluntary Planning Agreement	√
3	WSC Desktop Review of Rezoning Request	√
4	Ecological Assessment	√
5	Noise Assessment	√
6	Flood Impact Assessment Plan	√
7	Aboriginal Heritage Assessment	√
8	Bushfire Assessment	√
9	Phase 1 Contaminated Land Assessment	√
10	Onsite Wastewater Management Report	√
11	Water Service Extension Investigation	√