

2.3 RZ 15/2009 - Rezoning 76 Berkeley Road, Fountaindale

TRIM REFERENCE: RZ/15/2009 - D02961268

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SUMMARY

Council is in receipt of a rezoning application (Planning Proposal) which seeks to rezone an area of land totalling 5.22 hectares for rural residential and conservation purposes. A review of the proposal has concluded that the proposal has merit and is recommended to be forwarded for a "Gateway Determination" (Department of Planning and Infrastructure). Further investigations and consultation will be required prior to public exhibition or finalisation of the rezoning.

Applicant:	Optima Developments PL
Owners:	TSM Trading PL and Hapido PL
Proposal No.:	RZ/15/2009
Description of Land:	Lot 23 DP 1159704
Zoning:	Part 7(a) Conservation, part 7(c) Scenic Protection: Small Holdings and part 7(f) Environmental Protection.
Existing Use:	Mosaic of cleared land and native vegetation.
Employment Generation	Extension of infrastructure, dwelling construction and on-going maintenance.
Estimated Value:	\$400,000 approx.

RECOMMENDATION

- 1 That Council initiate the Local Environmental Plan "Gateway" process, pursuant to Section 55 of the Environmental Planning and Assessment Act 1979 by preparation of a Planning Proposal.
- 2 That Council forward the Planning Proposal to the Department of Planning and Infrastructure requesting a "Gateway" determination, pursuant to Section 56 (1) of the Environmental Planning and Assessment Act.
- 3 That Council undertake community consultation regarding the Planning Proposal, subject to the determination of the Gateway Process.
- 4 That Council direct the General Manager to submit a report to Council on results of the community consultation.

ORDINARY MEETING HELD ON 26 APRIL 2012

RESOLVED unanimously on the motion of Councillor EATON and seconded by Councillor BEST:

- 1 That Council initiate the Local Environmental Plan “Gateway” process, pursuant to Section 55 of the Environmental Planning and Assessment Act 1979 by preparation of a Planning Proposal.**
- 2 That Council forward the Planning Proposal to the Department of Planning and Infrastructure requesting a “Gateway” determination, pursuant to Section 56 (1) of the Environmental Planning and Assessment Act.**
- 3 That Council undertake community consultation regarding the Planning Proposal, subject to the determination of the Gateway Process.**
- 4 That Council direct the General Manager to submit a report to Council on results of the community consultation.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

BACKGROUND

The site straddles Berkeley Road, Fountaindale. On the northern side of Berkeley Road, the land contains Zone 7(f) Environmental Protection. This zone was created as a buffer to industrial land in Enterprise Drive in Berkeley Vale. Recent noise studies have confirmed, and council has accepted, that the noise levels in the industrial area do not require the extent of land currently zoned 7(f). The 7(f) zone contains areas of native vegetation and cleared areas.

On the southern side of Berkeley Road, the land contains a small area (about 0.85ha) of Zone 7(c) Scenic Protection (Small Holdings). This land is relatively steep and heavily vegetated.

On both sides of Berkeley Road, the land contains Zone 7(a) Conservation, with some heavily vegetated areas and cleared areas. The 7(a) zone creates a conservation corridor linking the vegetated, Council owned, ridgelines to the south with Council owned wetland areas to the north.

The rezoning seeks to gain development rights for 3 rural residential lots and offers the dedication of approximately 6.9 ha of conservation land. It proposes to remove the industrial land buffer (Zone 7(f)) and to relocate the 7(c) Zone to better align vegetated areas with a proposed conservation zoning, including retaining the corridor linkage.

CURRENT STATUS

The Site

The site has a total area of about 10.8ha, with about 5.2ha north of Berkeley Road and 5.6ha on the southern side. The high point is in the south western corner, at about RL69.5m falling to about RL12.0m along the northern side. Slopes range from steep, up to 40%, in the south east corner to gentle, about 5%, across the central section north of Berkeley Road.



The site is part zoned 7(a) Conservation, 7(c) Scenic Protection Smallholdings and 7(f) Environmental Protection.



Council's vegetation mapping identifies two vegetation communities on the land:

- Alluvial Bluegum – Paperbark Mesic Palm Forest, which is identified as an Endangered Ecological Community, and
- Narrabeen Coastal Blackbutt Shrubby Forest.

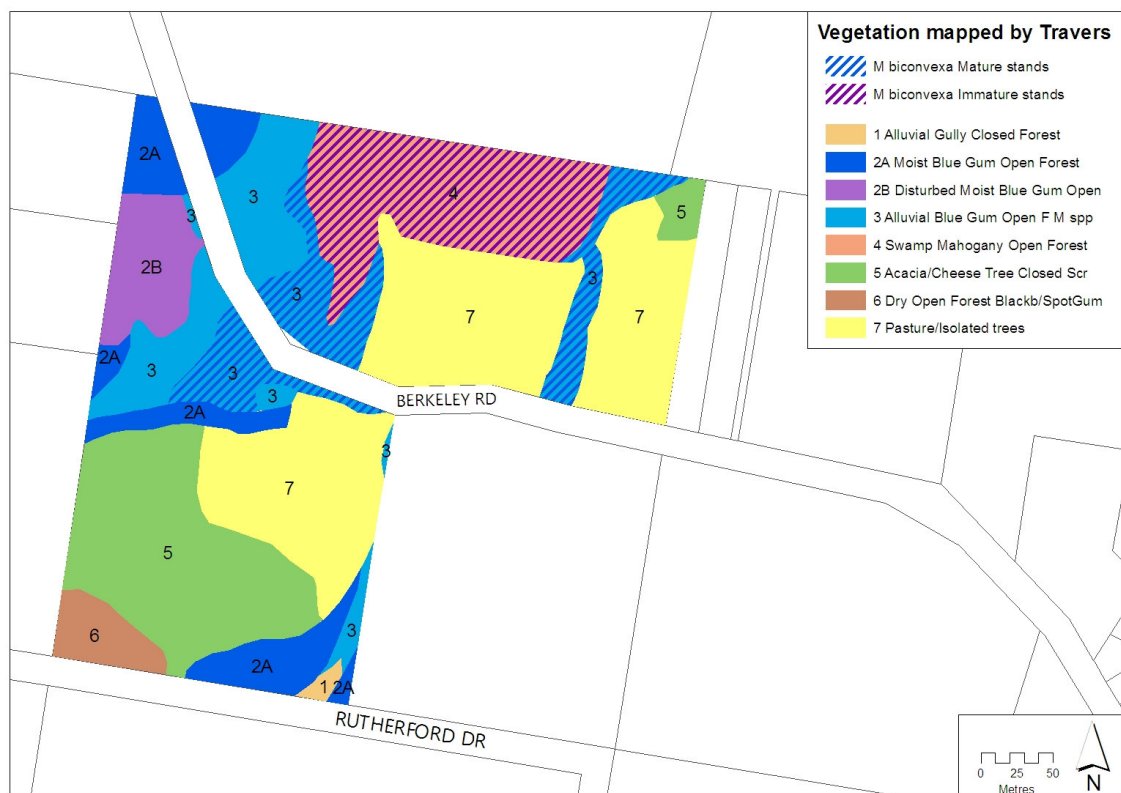
Vegetation mapping of the site by Travers Bushfire and Ecology (consultant for the developer) identified 6 vegetation communities:

- Alluvial Gully Closed Forest (EEC),
- Moist Bluegum Open Forest,
- Alluvial Bluegum Open Forest – Melaleuca spp (EEC),
- Swamp Mahogany Open Forest (EEC),
- Acacia/Cheese Tree Closed Shrub,
- Dry Open Forest – Blackbutt Spotted Gum, and
- Exotic grassland with isolated trees.

The most significant differences between the mapping are:

- Travers considers the extent of EEC to be significantly less than Council's mapping and
- Travers identifies a greater area of cleared land.

Travers also identified stands of the threatened flora species *Melaleuca biconvexa* on the land, which have been fenced off from grazing activities for their protection.



Site History

In the early 1980's, the 7(f) (Environmental Protection) zone was introduced which affected land in the locality that was subject to potential noise constraints in the nearby Berkeley Vale Industrial Estate to the north of Enterprise Drive. Earlier noise studies were used to establish the extent of the 7(f) (Environmental Protection) zone. Recent noise studies have indicated that the required buffer is substantially less than the current extent of the 7(f) zone.

The current lot was created by progressive subdivision of 7(c) and 7(a) zoned land in Berkeley Road over the past 10 years.

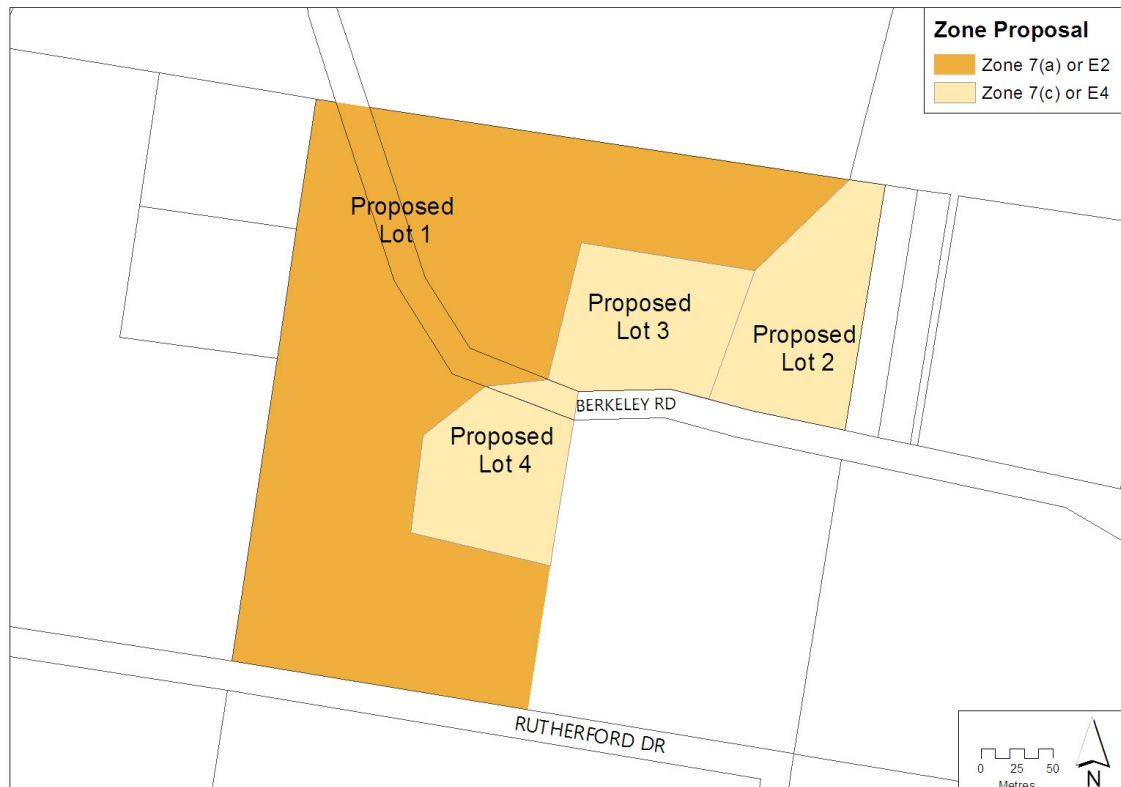
LOCAL CONTEXT AND SURROUNDING DEVELOPMENT

The subject site is located amongst rural residential and conservation land along Berkeley Road.

Council owns significant conservation lands to the north (wetlands) and to the south (wet sclerophyll forest – Coastal Range Moist Layered Forest). The subject land is considered to provide a significant vegetated link between the Council conservation land.

THE PROPOSAL

The planning proposal is to amend WLEP 1991 by zoning the land part 7(c) Scenic Protection: Small Holdings and part 7(a) Conservation, and to dedicate the 7(a) zone land to Council. A concept subdivision has been submitted that proposes a 3 lot subdivision of the proposed 7(c) zone and a single 4th lot containing 7(a) zoned land for dedication. Following internal review of the proposal, particularly in relation to ecological values and the practical management of the proposed dedicated lands, a preferred zone boundary arrangement has been identified. This is shown below.



OVERVIEW

The Planning Proposal (Enclosure 1) is considered to provide sufficient justification for submission to the Department of Planning and Infrastructure (DoPI) for a “Gateway determination”.

If the Gateway Determination is for the proposal to proceed, the following matters will need to be addressed prior to public exhibition:

- Submission of a report from an owl specialist to confirm that there is no powerful owl nesting tree within 200m of the proposed dwelling envelopes, or a detailed hollow bearing tree assessment for the entire site that will either identify the nesting tree or confirm it is not on site. The applicant may wish to consider confirming the location of the tree immediately as if it is within 200m of the dwelling envelopes then the rezoning proposal may fail;
- Submission of an updated amphibian, reptile and microbat survey report carried out during the appropriate season;
- Addition to the ecological report to include the location of threatened species, the date of each record;
- Identification of riparian corridors in accordance with Office of Water Guidelines for Riparian corridors and justification for any variations;
- Negotiation of the VPA arrangements to ensure:

- The land is dedicated to Council following rezoning, and not to be dependent upon the developer proceeding with a subdivision application of the rural residential lots; and
 - Costs of works to establish the conservation land to Council's requirements and for long term management (10 years) are met by the developer.
- Establishment of the conservation land to Council's requirements will include the restoration works proposed in the report by Optima Developments (August 2011), the provision of bushfire trails and maintenance access paths, weed removal and any drainage or development interface works identified during the processing of the rezoning;
- Prior to the submission of any Development Application for subdivision of the land, the developer is to engage a suitably qualified person to prepare, and submit to Council for approval, a Plan of Management including landscaping principles for the conservation land and interface with the proposed lots in accordance with the above requirements, including costing of initial works (2 year period) and an overall 10 year management schedule.
- Submission of a detailed hydrological and hydraulic assessment report for a range of design storm events to determine the flood extent and Flood Planning Level for the site, including methodology, drainage calculations, velocity and flow characteristics, localised impacts of development and mitigation affect upstream and downstream, and how both stormwater quantity and quality controls can be designed to meet Council's design criteria during and post construction (Council is advised this report will be completed shortly and submitted for Council's review);
- Submission of an Onsite Effluent Disposal Report that relates to the current subdivision proposal and recognises the intention to connect to reticulated water supply, and demonstrates the ability of each proposed lot to cater for onsite disposal of effluent (Council is advised this report will be completed shortly and submitted for Council's review);
- Completion of a Phase 2 Assessment Contamination Assessment, in accordance with the contaminated land planning guidelines, to confirm that the land is suitable for the proposed zoning. It is unlikely that there will be any significant contamination issues, however; Council is required (under SEPP 55) to be satisfied the land is suitable for the proposed development (Council is advised this report will be completed shortly and submitted for Council's review);
- Ground truthing of building envelopes to ensure they are not sited over minor watercourses.

REVIEW OF THE PROPOSAL

STRATEGIC CONTEXT (GENERALLY)

The Central Coast Regional Strategy (CCRS) provides the primary framework for the release of land for urban development.

Chapter 4 Centres and Housing states (page 21) under “Rural Residential Development” that “Existing rural residential development will continue to provide a choice of housing in the Region....opportunities for new rural residential development will be limited to those already provided in the Region and opportunities, if any, identified as a part of the North Wyong Shire Structure Plan.

Action 6.9 states “Ensure LEPs do not rezone rural and resource lands for urban purposes or rural residential uses unless agreement from the DoPI is first reached regarding the value of these resources.”

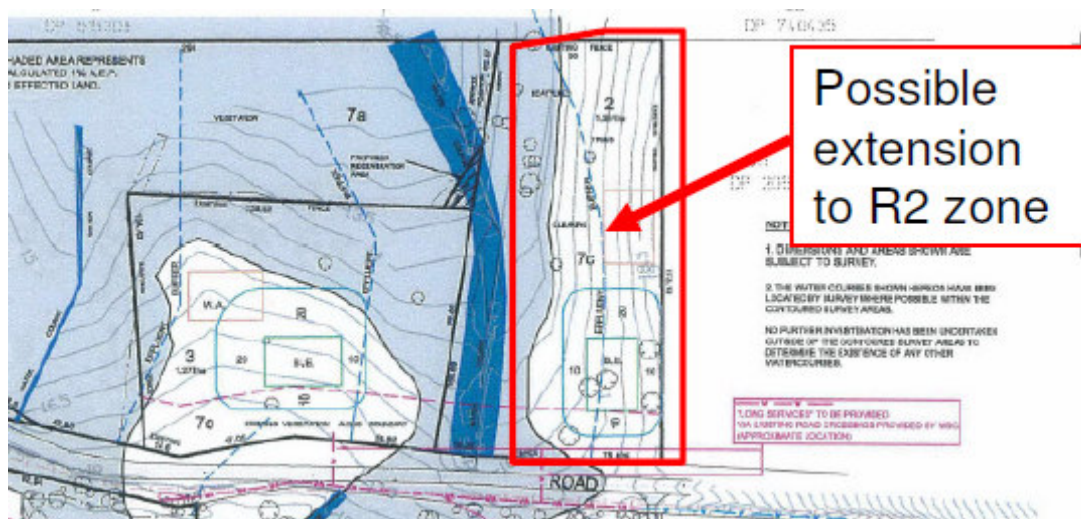
The land is within an existing area of rural residential development and does not affect rural or resource lands.

The proposal provides for the conservation and public dedication of a significant wildlife corridor connection. The CCRS recommends the preparation of a Regional Conservation Plan (RCP) to identify and protect significant biodiversity values. However, the RCP has not been released. The dedication of conservation land in this Planning Proposal is considered likely to be consistent with the recommendations of the RCP.

Planning Proposal on Adjoining Land – RZ/17/2009

Land immediately adjoining to the east is the subject of a current Planning Proposal to rezone land from 7(f) Environmental Protection to residential (2(a) or R2). The 7(f) zone is the noise buffer for the Berkeley Vale industrial area that is now considered more extensive than required. In the event that RZ/17/2009 proceeds, then it is necessary to consider the appropriate location for the urban – rural residential interface.

Having regard to the creekline and vegetation strip running down the western edge of proposed Lot 2 in RZ/15/2009, it is considered that proposed Lot 2 should be considered for future residential development with the creekline being the natural separation between residential and rural residential development. This would preferably be pursued as a separate Planning Proposal either conjointly with RZ/17/2009 or following RZ/17/2009.



Community Benefit

The proposal provides community benefit through the protective zoning and dedication of conservation lands that are considered to provide a significant regional corridor connection between existing Council owned conservation land.

Ecological Impacts

It is noted that the vegetation mapping by Travers Bushfire and Ecology on behalf of the developer differs from Council's vegetation mapping (by Bell). Internal review indicates the mapping by Travers is accepted as providing a more accurate delineation and finer grain detail of the existing vegetation.

The ecological assessment by Travers indicates that there was an assessment of trees within the proposed dwelling envelopes and APZs and identified no hollow bearing trees. There is a record of a Powerful Owl foraging at the site, indicating a potential nesting tree on or near the site. The applicant has indicated verbally that the tree is located to the east of the site, in the Berkeley Road reservation.

The EPA (NPWS) recommend a 200m buffer to Powerful Owl nest trees. The existence of a nest tree within 200m of the proposed building envelopes may result in failure of the rezoning proposal. An "owl specialist" ecological consultant will therefore be required to confirm whether the nesting tree is on site or within 200m of the proposed building envelopes, and to confirm that the tree assessment for the whole site (submitted with DA/310/2008) provides a means of determining if the hollow bearing nesting tree is located on site.

In addition, the threatened species records shown in Figure 3 are required to be annotated with the date of the record.

The submitted proposal has been modified to reduce ecological impacts, maximise the extent of conservation land and to improve long term management practices for the land. These modifications were:

- maximise the land to be transferred for conservation;
- lot 4 southern boundary to be closer to perpendicular to eastern boundary;
- truncate north west corner of lot 4 to capture additional Blue Gum forest and *M biconvexa*, and improve boundary angles;
- modify lot 3 to capture all vegetation within lot 1 and to provide improved boundary angles;
- modify lot 2 to add *Melaleuca biconvexa* to Lot 1 and provide improved buffering to Council conservation land to the north;
- modify lot 2 to provide for access on western side of riparian vegetation within lot 2 and avoid fence line clearing being within riparian vegetation.

These modifications, together with the proposed dedication, restoration and long term management of the conservation land, will ensure ecological impacts are minimised and offset.

Conservation Management

Council has implemented the protection of environmentally sensitive land by way of the provisions of LEP 1991, for over 20 years. Under LEP 1991, Council has been able to secure conservation outcomes over extensive land in the Fountaindale – Berkeley Vale - Glenning Valley – Tumby area through the subdivision bonus incentives provisions in clause 14(3) of LEP 1991. The bonus applies to 7(c) zoned land and operates to enable additional dwelling rights in return for the dedication of significant environmental lands.

This proposal intends to create 3 lots within the 7(c) zone ranging from 1.01 to 1.24ha. Under the current bonus lot provisions of LEP 1991, this would require dedication of about 6.5ha of 7(a) zone. This proposal intends to dedicate about 7.5ha (when modified as above) through an offer under a voluntary planning agreement (VPA). Final areas will be determined following the rezoning and future subdivision.

Timing of dedication of the land, under the draft VPA offer from the developer, is linked to approval of a subdivision application. However, the land dedication should be secured as an outcome of the rezoning and should not await the owner proceeding with a subdivision application. This issue will be negotiated as part of the VPA.

The developer has offered, through a VPA, to meet the costs associated with restoration of the land to be dedicated to Council either through undertaking the work or making an equivalent monetary payment. It is noted that the land will become Council's responsibility, and having regard to Council's Long Term Financial Strategy, the long term management costs of this new council asset should be met by the developer. It is recommended that the developer be advised Council will be seeking a commitment from the developer to meet the 10 year management costs for the land.

Prior to proceeding to public exhibition of the Planning Proposal, Council must be satisfied that these long term management costs will be met by the developer and that the costing is a true reflection of the impost to Council.

Noise

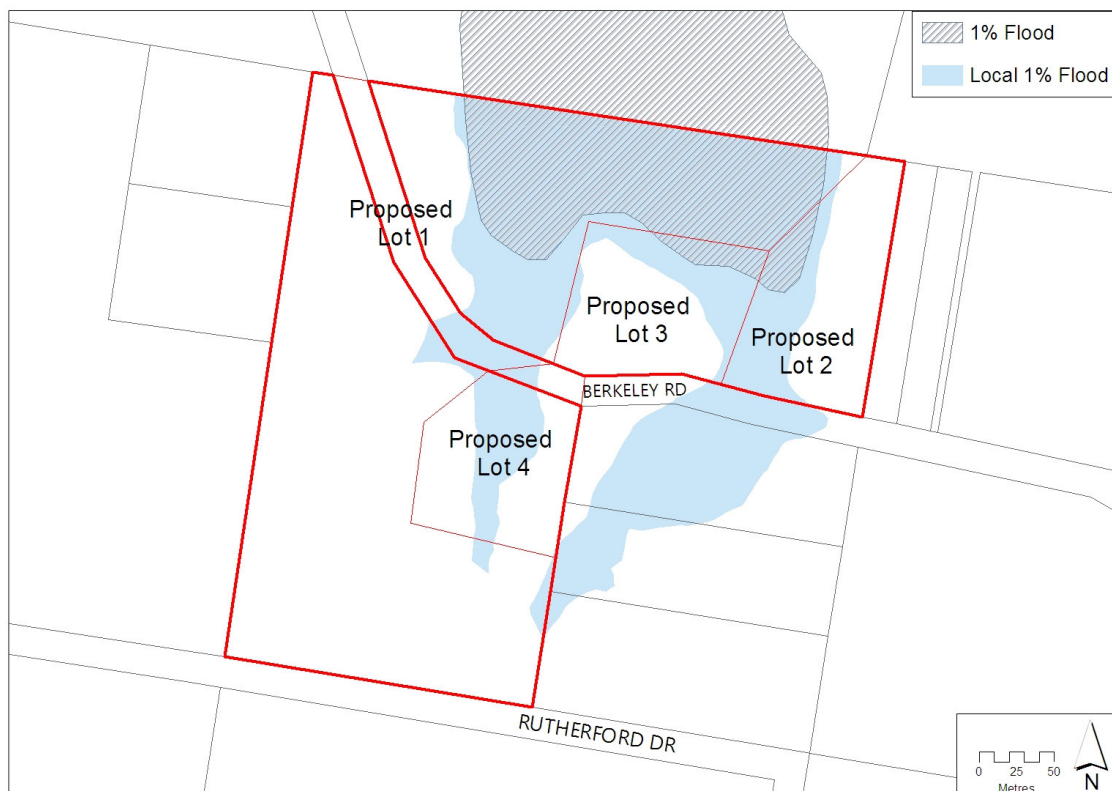
The purpose of the 7(f) Environmental Protection zone was to ensure that the encroachment of residential development did not create a limitation on the establishment and operation of significant industrial, and employment generating, development within the industrial zone in Enterprise Drive. Subsequent noise assessments (refer The Acoustic Group Report June 2011) identified that current EPA Industrial Noise Policy criteria would not be exceeded on the subject site and therefore, no restrictions would be placed on development in the industrial area.

It is noted that the industrial zone is more than 700m to the north of the proposed dwelling envelopes in the current rezoning proposal.

Flooding

Council's records indicate that parts of Lots 1, 3 and 4 are affected by the 1% flood level for the broader catchment. The proposed building envelopes and on-site disposal areas are shown to be located outside of the affected area. Further detailed flood modelling was undertaken (Hoolihan Partners May 2011) to identify the 1% flood level within the local catchment. This indicates a greater extent of flood affected land on Lots 1, 2 and 3 and an affected area on Lot 4. Building envelopes and effluent disposal areas will need to be carefully located to avoid these areas.

The submitted flood impact assessment report (May 2011) contains only a plan showing the extent of the 1% AEP flood which is considered inadequate. It will be necessary for the developer to submit a detailed hydrological and hydraulic assessment report for a range of design storm events to determine the flood extent and Flood Planning Level for the site, including methodology, drainage calculations, velocity and flow characteristics, localised impacts of development and mitigation affect upstream and downstream, and how both stormwater quantity and quality controls can be designed to meet Council's design criteria during and post construction. It is recommended that this be provided after Gateway determination and prior to public exhibition of the Proposal (Council is advised this report will be completed shortly and submitted for Council's review. The revised report includes additional assessment of the proposed effluent disposal areas).



Onsite Effluent Disposal

An Onsite Effluent Disposal report was prepared for a previous subdivision proposal for the site. This indicates a likely ability to dispose of effluent on site. However, it is recommended that an assessment be made that relates to the current proposal which has different building envelopes and proposes connection to reticulated water. This is to be provided prior to public exhibition.

Services, Facilities and Infrastructure Impacts

The Shire Wide Contributions Plan (library stock, performing arts centre, public art commissions, regional open space and shire cycleway network and administration costs) will apply to the subdivision of the land. The development will generate an increase in the demand for these services and facilities and will be required to contribute under the Plan and meet its share of the cost of these services.

The rezoning proposal will form an extension to the Berkeley Vale residential community. It falls within the Southern Lakes Section 94 Contribution Plan catchment. This Plan imposes a contribution rate for Open Space and Recreational Facilities Works, Community Facilities Works (and administration of the Plan). The development will generate an increase in the demand for these services and facilities and will be required to contribute under the Plan and meet its share of the cost of their provision.

However, the Southern Lakes Plan did not anticipate the development of the subject site and accordingly made no provision for contributions to traffic facilities or drainage.

The impact on traffic facilities is considered to be minimal from a 3 lot subdivision. It is noted that there are sight distance constraints where there is a bend in Berkeley Road (western portion). Suitable access points are available which do not have sight distance issues on the eastern part of the site. The lot layout provides for building envelopes and access points that are located on the eastern parts of the site.

Stormwater drainage is considered capable of reasonable treatment and disposal on-site having regard to the size of the lots.

Water supply is currently available to the eastern boundary of the property. A preliminary design has been submitted for extending the water main along the southern side of Berkeley Road to service the development. There is limited space between the Berkeley Road pavement and the property boundary to the east and there is likely to be an impact on existing trees within the road reserve. It is recommended that the location be more accurately identified on the ground and an assessment of the impact of likely tree losses be provided prior to exhibition of the proposal. Contributions for water supply will be applicable at subdivision stage.

Contamination Issues

Clause 6 of SEPP 55 requires Council to obtain and have regard to a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines. A preliminary report (Phase 1 Contaminated Land Assessment) has been prepared (Douglas Partners July 2011). The report concludes that the site is generally compatible with the proposed residential land use. However, due to the historical use of the land to the west as an orchard, the report recommends that a targeted Phase 2 Contamination Assessment be undertaken for areas adjacent the western boundary and the sediments entering the intermittent watercourse that runs adjacent the western boundary. It is recommended that the Phase 2 Assessment be undertaken prior to public exhibition of the proposal.

Other Impacts Generally

Environmental, social and economic impacts from the planning proposal are discussed in more detail in Attachment 1.

Concept Subdivision Plan

The Subdivision Layout Plan will be further refined to address the gazetted boundary of the conservation zoned land, including access for maintenance and management of the proposed conservation land for both ecological and bushfire management purposes.

It is recommended that the future subdivision Development Application include a draft Plan of Management, including landscaping principles. The Plan is to be prepared by the developer at the developers cost and identify restoration works, provision of bushfire trails and access for maintenance, weed removal and any drainage or development interface works. The Plan is to be based on the gazetted boundary of proposed Lot 1 and shall detail an implementation schedule for the carrying out of initial 2 year restoration works and an 8 year management schedule for ongoing maintenance works, including costing for each activity.

The Plan of Management principles and implementation schedule is to be prepared by an appropriately qualified bush regenerator and shall be submitted to Council for approval. Council may require the applicant to meet the costs of independent review of the costings within this Plan. It is recommended that Council require the developer to meet the costs of the implementation of the Plan for a 10 year period.

STATUTORY COMPLIANCE

State Environmental Planning Policy No 44 – Koala Habitat Protection

This SEPP aims to encourage the proper conservation and management of koala habitat in areas in order to maintain the viability of koala populations. The SEPP requires an assessment of the site to determine if it is potential koala habitat. Potential koala habitat is defined as areas of native vegetation where at least 15% of the total number of trees are prescribed koala feed trees. The ecological assessment by Travers Bushfire and Ecology submitted with the Planning Proposal request notes that only 10% of trees are koala feed trees and therefore the land does not contain potential koala habitat.

State Environmental Planning Policy No 55 – Remediation Of Land

This SEPP introduces state-wide planning controls for the remediation of contaminated land. It establishes that land must be remediated if contaminated, to a standard suitable for the end land use. Clause 6 requires Council to obtain and have regard to a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines. The Preliminary (Phase 1 Assessment) has concluded the site is generally compatible with the proposed residential use however a Phase 2 assessment is required and is recommended to be completed prior to public exhibition of the proposal (Council is advised this report will be completed shortly and submitted for Council's review).

Ministerial Directions under Section 117 of the EPA Act 1979

Section 117 of the EPA Act 1979 provides for the Minister for Planning and Infrastructure to issue directions to Council specifying principles, aims, objectives or policies that must be considered when preparing a local environmental plan. The current 117 directions that apply to the preparation of an LEP associated with this Planning Proposal are addressed in the following table.

Number	Direction	Applicable	Consistent
Employment and Resources			
1.1	Business and Industrial Zones	No	N/A
1.2	Rural Zones	No	N/A
1.3	Mining, Petroleum production and Extractive Industries	No	N/A
1.4	Oyster Aquaculture	No	N/A
1.5	Rural Lands	No	N/A
Environment and Heritage			
2.1	Environment Protection Zones	Yes	Yes
2.2	Coastal Protection	No	N/A
2.3	Heritage Conservation	Yes	Yes
2.4	Recreation Vehicle Areas	Yes	Yes
Housing, Infrastructure and Urban Development			
3.1	Residential Zones	No	N/A
3.2	Caravan Parks and Manufactured Home Estates	No	N/A
3.3	Home Occupations	Yes	Yes
3.4	Integrating Land Use and Transport	No	N/A
3.5	Development Near Licensed Aerodromes	No	N/A
3.6	Shooting Ranges	No	N/A
Hazard and Risk			
4.1	Acid Sulfate Soils	No	N/A
4.2	Mine Subsidence and Unstable Land	No	N/A
4.3	Flood Prone Land	No	N/A
4.4	Planning for Bushfire Protection	Yes	Yes
Regional Planning			
5.1	Implementation of Regional Strategies	Yes	Yes
5.2	Sydney Drinking water Catchments	No	N/A
5.3	Farmland of State and Regional Significance on the NSW Far North coast	No	N/A

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5.4	Commercial and Retail Development along the Pacific Highway, North Coast	No	N/A
5.5, 5.6, 5.7	Revoked	No	N/A
5.8	Second Sydney Airport: Badgerys Creek	No	N/A
Local Plan Making			
6.1	Approval and Referral Requirements	Yes	Yes
6.2	Reserving Land for Public Purposes	Yes	Yes
6.3	Site Specific Provisions	No	N/A
Metropolitan Planning			
7.1	Implementation of the Metropolitan Plan for Sydney 2036	No	N/A

OPTIONS

The Planning Proposal is consistent with the CCRS and consistent with all relevant 117 directions. The Proposal is considered to be justified and recommended for submission to DoPI for a Gateway Determination.

Council could consider applying a residential zone to part of the land within proposed Lot 2. However, this would require significant additional investigation and would be dependent upon RZ/17/2009 proceeding. It is considered that the securing of conservation land as part of rezoning to 7(c) (or E4) is desirable in the short term. Any proposal for future rezoning of Lot 2 to residential would be subject to consideration of additional conservation outcomes.

STRATEGIC LINKS

Wyong Shire Council Strategic/Annual Plan

The Annual Plan and 4 Year Delivery Plan are Council's short to medium term plans outlining the strategic role that Council will play in delivering the community's strategic vision. Council has 12 Principal Activities, each activity provides a set of services to the community and the Delivery Plan and Annual Plan show the net cost of each service.

The following Table lists the 12 Principal Activities and identifies any relevant service and related key actions and objectives.

<i>Principal Activity</i>	<i>Service</i>	<i>Key Action and Objectives</i>	<i>Funding Source and Description</i>	<i>Impact on Key Performance Indicators/ Service Performance Indicators</i>
1 Community & Education	1.1 Community Cultural Development	Provide and maintain community facilities across the Shire	Developer Contributions	Marginal increase in utilisation of facilities. Additional contributions will be collected.
2 Community Recreation	2.1 Open Space 2.2 Sport, Leisure & Recreation	Provide and maintain open space, sports fields and recreation facilities across the Shire	Developer Contributions	Marginal increase in utilisation of facilities. Additional contributions will be collected.
3 Economic & Property Development	None relevant			
4 Council Enterprises	None relevant			

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Principal Activity	Service	Key Action and Objectives	Funding Source and Description	Impact on Key Performance Indicators/ Service Performance Indicators
5 Regulatory	None relevant			
6 Environment & Land Use	6.2 Environment & Natural Resources	Preparation/implementation of Natural Resources Strategy and Biodiversity Management Plan	Various – opportunity for development sponsored biodiversity conservation	Conservation land proposed to be dedicated.
	6.3 Land Use Planning & Policy Development	Develop comprehensive DCP, planning policies, voluntary planning agreements, review s94 plans. Increase revenue from full cost recovery and rezoning fees		6 planning proposals required to be prepared by June 2012, 3 planning policies reviewed by June 2012, 10 VPAs prepared by June 2012 This Proposal will part satisfy the KPI
7 Waste	7.1 Waste	Provide regular domestic waste & recycling service	Revenue	Marginal increase in number of collections per week when developed
8 Roads & 9 Drainage	None relevant			
10 Water & 11 Sewerage Services	10.1 Water & Sewerage	Provide safe & reliable drinking water and the treatment and disposal of sewerage collected. Provide essential community services in cost effective & sustainable manner	Developer funded Contributions Revenue	New local water reticulation infrastructure to be constructed at developer cost Increased head works contributions will be collected Additional rate revenue will be generated
12 Administration	None relevant			

Contribution of Proposal to Principal Activities

Processing of the Planning Proposal is being funded by the developer/proponent in accordance with Council's Planning Proposal Procedure.

The subsequent rezoning will enable development that will create increased utilisation of existing community, open space, sports fields and recreation facilities. Developer contributions are proposed to be levied to assist with the funding of these facilities.

Community benefit from dedication of key biodiversity conservation land is proposed in this Planning Proposal. A VPA has been offered by the developer to secure this land.

The future development of the land will be able to be efficiently serviced for garbage collection. Water contributions are expected to be collected for the future development which will contribute to cost recovery for headwork charges. Any specific local reticulation infrastructure will be at the full cost of the developer.

Long Term Financial Strategy

Council's Long Term Financial Strategy recognises that operating revenue (excluding capital grants) has not covered operating expenditure to maintain existing services and levels of service. Additionally, the required maintenance and renewals of existing assets cannot be fully funded. The Long Term Financial Strategy is aimed at providing a framework in which Council "can assess its revenue building capacity to meet the activities of and level of services outlined in the Community Strategic Plan."

Under the Financial Strategy, it is essential that this Planning Proposal achieves the following funding arrangements:

1. The cost of processing the rezoning is to be fully funded by the developer. This is able to be satisfied through the existing funding agreement with the developer.
2. The development is to contribute to the cost recovery or funding of any services and or facilities that will be utilised by the future residents generated by the development. This is expected to be satisfied through existing developer contributions plans.
3. Development density should be optimised to achieve cost recovery for services and facilities (water, waste collection) through rate and annual levy charges. The density of development is considered to be the maximum achievable for unsewered development having regard to environmental constraints. As noted above, proposed Lot 2 may be considered for future residential development subject to further assessment and progress of RZ/17/2009. A residential zone would maximise opportunities for increased development density.
4. Management costs for new assets associated with the development should be funded by the development. The long term management costs for the proposed dedicated conservation land should be met by the developer. It is intended to seek a commitment from the developer to meet the costs of a 10 year management program.
5. The proposal should demonstrate and achieve net community benefits resulting from the future development of the land. Dedication of the conservation land will achieve this outcome.

Following a Gateway Determination, it is proposed to discuss these issues with the developer to ensure the funding arrangements are satisfied prior to further progress of the rezoning.

Asset Management Strategy

Council's long term Asset Management Strategy specifies objectives and outcomes for asset management over the next 5 years. The desired outcomes are ensuring the right assets are built, ensuring existing assets are managed well, ensuring a balance between Council operations, new assets and existing assets and ensuring future budgets reflect the asset requirements. In general terms, the intention is to ensure Council has the financial capacity to maintain the asset, renew the asset at the end of its life cycle, or to decommission the asset when it is no longer required.

The proposed rezoning will result in a 3 lot rural-residential subdivision. New assets associated with the development include local water reticulation and dedication of conservation land.

The ongoing maintenance of water supply services is funded through annual charges levied by Council. A 200m extension of the watermain is required to service the development. While this is a significant length to service only 3 lots, utilisation of existing capacity of headworks provides some offset to the relatively high ratio of asset replacement cost – rate to income.

Workforce Management Strategy

Processing of the Planning Proposal requires staff resources primarily with professional and technical skills. The capacity of the organisation to progress any Planning Proposal is dependent on the current demands on the professional and technical staff. Due to the current high demand on these staff for core Council activities or higher priority projects, short term contractors are engaged to provide professional services for short term periods. It is expected that full time staff will take back the provision of these services after the current high demand period has past.

Link to Community Strategic Plan (2030)

The Community Strategic Plan identifies 8 priority objectives, each supported by a range of actions. The Planning Proposal is assessed as follows.

1. Communities will be vibrant, caring and connected.

The proposed development is immediately adjoining existing residential development. Opportunities exist for new residents to participate in existing programs in the district, including community, business, sports, recreation, education and creative groups.

The Planning Proposal is considered to be consistent with the Wyong Shire-wide Settlement Strategy and the Central Coast Regional Strategy.

2. There will be ease of travel.

Bus services operate along Berkeley Road. Pedestrian access is difficult to achieve for rural residential development.

The development of the land will create a minor increase in traffic movements on Berkeley Road. There will be an imperceptible reduction in ease of car travel at peak times.

3. Communities will have a range of facilities and services.

The proposed development will result in developer contributions to cultural and community facilities, open space, sports and recreation facilities. Council is currently seeking to increase utilisation of many of its existing facilities.

4. Areas of natural value will be enhanced and maintained.

Significant vegetation will be protected by the 7(a) zone and dedicated to Council for conservation purposes. Establishment of regeneration areas and long term management of the land is to be required to be funded by the developer.

5. There will be a sense of community ownership of the natural environment.

The proposed dedication of the conservation land will create opportunities for community ownership of the environment.

6. There will be a strong sustainable business sector.

Not relevant to this Proposal.

7. Information and communication technology will be world's best.

Not relevant to this Proposal.

8. The community will be educated, innovative and creative.

Not relevant to this Proposal.

Budget Impact

The processing of the Planning Proposal is being funded by the developer and is intended to be "budget neutral".

CONSULTATION

Internal consultation has been undertaken across relevant sections of Council. Consultation with the developer and owner has also been undertaken.

GOVERNANCE AND POLICY IMPLICATIONS

The processing of the Planning Proposal is being undertaken in accordance with Council's adopted procedure.

Rezoning of the land is undertaken by preparing an amendment to the local environmental plan (currently Wyong LEP 1991) through progressing of a Planning Proposal under sections 55-59 of the Environmental Planning and Assessment Act (EP&A Act) 1979.

Section 55 requires Council to prepare a Planning Proposal that explains the intended effect of the amendment to the LEP and sets out the justification for the amendment. Section 55 specifies matters to be included in the Planning Proposal.

Section 56 provides for Council to submit the Planning Proposal to the Minister (DoPI) for a Gateway Determination. DoPI will advise whether or not the matter should proceed (with or without variation), and may specify further studies or modification to the Proposal, community and government agency consultation requirements and other matters.

The timing of the making of draft Wyong LEP 2012, which is in the Standard LEP format, will affect the Planning Proposal. Initially, it is anticipated that the Planning Proposal will be an amendment to Wyong LEP 2012. However, if that draft LEP is delayed significantly, then the Planning Proposal may reasonably proceed as an amendment to LEP 1991.

Under LEP 2012, the recommended zones are E4 Environmental Living and E2 Environmental Conservation. Under LEP 1991, the recommended zones are 7(c) Scenic Protection: Small Holdings and 7(a) Conservation.

It is recommended that the attached Planning Proposal (Enclosure 1) be submitted the Minister (DoPI) for a Gateway determination.

MATERIAL RISKS AND ISSUES

Corporate risks to be addressed for the Planning Proposal are:

1. Infrastructure Provision:
 - a. Ensure future development of the land is subject to existing Contributions Plans;
 - b. Ensure any new infrastructure required to service the development is funded by the developer;
2. Service Capacity
 - a. Ensure existing water headworks and mains have capacity to cater for the increased load;
3. Political
 - a. Ensure the community consultation process is open and transparent;
 - b. Ensure Councillors are adequately briefed;
4. Certification/Governance
 - a. Ensure appropriate consultation with other levels of government during the consultation phase;
 - b. Ensure legislative procedures for Planning Proposals are followed;
5. Asset Management
 - a. Assess long term maintenance requirements and renewal costs of proposed new assets and the capacity for rate/levy income from future lots to fund these costs.

CONCLUSION

The Planning Proposal is consistent with Council's (draft) Shire-wide Settlement Strategy and the CCRS.

The land is within an existing rural residential precinct and is considered to be well placed to utilise existing infrastructure, facilities and services.

The proposal is considered to be consistent with relevant section 117 directions.

Following a Gateway determination, a number of additional matters will need to be addressed prior to public exhibition of the Proposal, including negotiation of VPA arrangements for establishment, dedication and long term management of the conservation land, onsite effluent disposal assessment, bushfire assessment revision and contamination issues.

Community benefits from securing of conservation land are considered significant. Ecological impacts are considered minor.

The Proposal is considered to be consistent with the Wyong Shire Council Strategic Plan and Annual Plan. Under Council's Financial Strategy, a number of matters are to be addressed during the processing of the Planning Proposal. The Proposal is considered capable of being consistent with Council's Asset Management Strategy. A number of matters are to be addressed during the processing to ensure consistency with the Community Strategic Plan. The processing of the Proposal is expected to have no net impact on Council's budget.

Internal consultation and discussions with the developer and land owner have been undertaken. Public consultation and government agency consultation will be undertaken following a Gateway Determination.

Potential corporate risks are to be managed during the processing of the Proposal.

The submitted studies are considered sufficient to justify support for the proposal and all of Council's policy and strategy considerations are able to be reasonably addressed.

It is recommended the Planning Proposal be submitted to the Minister (DoPI) for a Gateway Determination.

ATTACHMENTS

1	Map of Zone Proposal (A4 Colour)	D02961449
2	Map of Proposed Zone LEp 1991 (A4 Colour)	D02961450
3	Planning Proposal	D02961453