

'Boscobel' boundary adjustment, 'Burrawang Hotel' subdivision and 'The Pavillions' erect a dwelling

Proposal Title : **'Boscobel' boundary adjustment, 'Burrawang Hotel' subdivision and 'The Pavillions' erect a dwelling**

Proposal Summary : **Three matters form part of the Planning Proposal:**
1. Allow a boundary adjustment at 453 Exeter Road, Sutton Forest, with no new dwelling entitlements.
2. Provide for the subdivision of 14-16 Hoddle Street, Burrawang (including the existing Burrawang Hotel) into 2 lots.
3. Allow an existing building (being 'The Pavillions' function rooms and offices) to be converted to a dwelling.

PP Number : **PP_2013_WINGE_001_00** Dop File No : **12/18863-1**

Proposal Details

Date Planning Proposal Received :	19-Dec-2012	LGA covered :	Wingecarribee
Region :	Southern	RPA :	Wingecarribee Shire Council
State Electorate :	GOULBURN	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	14-16 Hoddle Street		
Suburb :	Burrawang	City :	Postcode : 2577
Land Parcel :	Lot 1, DP 198682		
Street :	123 Bong Bong Street		
Suburb :	Mittagong	City :	Postcode : 2575
Land Parcel :	Lot 6, Section 7, DP 2836		
Street :	453 Exeter Road		
Suburb :	Sutton Forest	City :	Postcode : 2577
Land Parcel :	Lot 3, DP 1142493, Lot 1, DP 63523, Lot 1, DP 1094302, Lots 1-19, Section 8, DP 758938, and Lots 1&2, Section 9, DP 758938		

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DoP Planning Officer Contact Details

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Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Sydney-Canberra Corridor Regional Strategy	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	
No. of Lots :	2	No. of Dwellings (where relevant) :	1
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with : **Yes**
If No, comment :

Have there been meetings or communications with registered lobbyists? : **No**
If Yes, comment :

Supporting notes

Internal Supporting Notes : **There was considerable discussion between Council and the Regional team about whether Item 1: Boscobel satisfied the criteria for exempt development. Council agreed to withdraw Item 1 from the Planning Proposal, however after it received legal advice that the proposal was not considered exempt development, it resubmitted Item 1 for consideration in this Planning Proposal.**

External Supporting Notes : **Item 1: Boscobel - The proposal involves the consolidation of a number of lots and the realignment of a boundary of a small parcel with an existing dwelling entitlement to enlarge the dwelling allotment from 650sqm to 4,000sqm. The larger part of the site contains a heritage item.**

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Item 2: Burrawang - The proposal involves enabling the subdivision of the existing Burrawang Hotel, currently zoned B1 Neighbourhood Centre, from the remainder of the site (zoned R2 Low Density Residential and E3 Environmental Management) by amending the minimum lot size for the non-hotel part of the site to 1ha. The Hotel site is heritage listed and within the Burrawang Conservation Area C438. The heritage map and, if Council can obtain an interim Lot and DP number for the subdivided site, Schedule 5 of the Wingecarribee LEP 2010 will need to be amended.

Item 3: The Pavillions - The proposal involves the reuse of an existing building (erected but never used for the purpose of a health retreat), known as 'The Pavillions', for the purpose of a dwelling on an undersized lot.

Adequacy Assessment

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

Is a statement of the objectives provided? Yes

Comment : The Planning Proposal provides an adequate statement of the objectives and intended outcomes, namely:

Item 1: Boscobel - To create a lot of 4,000sqm and that would allow construction of a dwelling on the newly created lot.

Item 2: Burrawang Hotel - To facilitate a 2 lot subdivision on the subject site.

Item 3: The Pavillion Property - To permit the use of the site for a residential purpose.

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

Is an explanation of provisions provided? Yes

Comment : The Planning Proposal identifies the appropriate map sheets that require amendment.

Item 1: Boscobel - Amend the Minimum Lot Size (MLS) Map 008B to change the small lot to 4000sqm; and amend the Heritage Map 008B to reflect the boundary adjustment for the local heritage item on the larger site.

Item 2: Burrawang Hotel - Amend MLS map 011A to reduce the MLS for the non-hotel part of the site to 1ha; and amend the Heritage Map 011A to alter the site of the local heritage item to only apply to the small lot created and zoned B1.

The Council resolution for the Burrawang Hotel site includes a requirement to amend Schedule 5 Environmental Heritage of the LEP to reflect the newly created lot for the heritage item of the Burrawang Hotel. However, given that Land and Property Information will only issue the new Lot and DP numbers on receipt of an approved subdivision linen plan, Council would need to include that amendment to Schedule 5 in a future planning proposal, unless Council can obtain interim numbers from the applicant's surveyor.

Item 3: The Pavillions - Amend MLS Map 007J to reduce the MLS on the site to 4000sqm; and amend the Land Zoning Map 007J to zone the whole of the subject land E3 Environmental Management.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? Yes

b) S.117 directions identified by RPA : 1.2 Rural Zones

* May need the Director General's agreement 1.5 Rural Lands

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Is the Director General's agreement required? **Yes**

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

d) Which SEPPs have the RPA identified?

SEPP (Rural Lands) 2008

Drinking Water Catchments Regional Environmental Plan No. 1

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

S117 Direction 1.2 Rural Lands does not apply. Council incorrectly asserts that this direction applies to Item 3: The Pavillions as it contains provisions that will increase the permissible density of land within a rural zone. However, this part of the Direction does not apply to Wingecarribee local government area, as specified in the Direction. Item 3 is currently zoned part RU2 Rural Landscape and part E3 Environmental Management. The proposal is to rezone the whole of the site to E3.

Section 117 Direction 1.5 Rural Lands applies to all three proposals as they are all affected by rural and/or environmental protection zones where the MLS is proposed to be changed. All of the sites and proposed amendments are considered minor as they involve existing dwellings/buildings or existing dwelling entitlements. No new dwelling entitlements are proposed. There is unlikely to be any impact on the rural or environmental qualities of the subject lands due to the proposals.

S117 Direction 2.1 Environmental Protection Zones applies to all three sites (although Council did not identify that this Direction applies). The Direction requires that a LEP must not reduce the environmental protection standards that apply to the land. Item 3 will not be inconsistent with this direction as it does not alter the protection, infact it increases the environmental protection by wholly rezoning the site to E3.

Both Items 1 and 3 amend the MLS for the E3 zoned parts of their respective sites. However, there are no new dwelling entitlements proposed and both proposals are justifiably inconsistent with the Direction as they are of minor significance.

S117 Direction 2.3 Heritage Conservation applies to Item 1: Boscobel and Item 2: Burrawang Hotel as both sites are currently identified as heritage items. Both propose to reduce the area identified as heritage on the map. Neither have provided any statement about the impact of the proposed subdivisions on the heritage significance of the sites. Council will need to satisfy the Director-General at a later stage in the process that the items are adequately conserved or the proposed changes are of minor significance.

S117 Direction 3.1 Residential Zones applies to Item 2: Burrawang Hotel as the site includes a portion of R2 Low Density Residential zoned land (although Council did not identify this Direction applies). However, the proposal is not inconsistent with the Direction.

S117 Direction 3.4 Integrating Land Use and Transport applies to Item 2: Burrawang Hotel as the proposal will alter a provision relating to urban land (although Council did not identify this Direction applies). Provisions are to give effect to the stated Guidelines and Planning Policy. This proposal is justifiably inconsistent (reducing the density of the R2 zoned land) with this Direction as it is of minor significance.

S117 Direction 4.4 Planning for Bushfire Protection. Council has not identified whether the subject lands are identified as or near land mapped as bushfire prone land. Therefore Council will need to obtain advice from the Rural Fire Service that it does not object to the proposals.

S117 Direction 5.1 Regional Strategies applies to the three proposals as Sydney-Canberra Corridor Regional Strategy applies to the Wingecarribee local government area (although Council did not identify this Direction applies). The proposals are unlikely to be inconsistent with the Regional Strategy given the minor nature of the amendments.

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S117 Direction 5.2 Sydney Drinking Water Catchment applies to the three proposals (although Council did not identify this Direction applies). Council has consulted with the SCA prior to lodging the planning proposal. The SCA has no objection to the proposals. The proposals are not considered to be inconsistent with this Direction.

Recommendations:

1. The Director General can be satisfied that the proposals are not inconsistent with Directions 1.5 Rural Lands, 3.1 Residential Zones, 5.1 Regional Strategies and 5.2 Sydney Drinking Water Catchment.

2. The Director General can be satisfied that inconsistencies with Directions 2.1 Environmental Protection Zones and 3.4 Integrating Land Use and Transport are of minor significance.

3. With regard to Direction 4.4 Planning for Bushfire Protection, Council should be required to obtain advice from the Rural Fire Service that it does not object to the proposals.

4. With regard to Direction 2.3 Heritage Conservation, Council should be required to satisfy the Director-General at a later stage in the process that the Boscobel and Burrawang Hotel heritage items are adequately conserved or the proposed changes are of minor significance.

Other comments:

Item 2: The Burrawang Hotel Planning Proposal involves an amendment to the MLS map. Council has identified a new MLS for the non-hotel part of the site of 1ha. The new small lot with the Hotel is 3,000sqm, while the remainder of the site is approximately 1.9ha.

It is clear from the Council and consultant information that the applicant only wants to subdivide off the Hotel site. The SCA and Council have both identified that it would not support further subdivision of the non-Hotel site.

Council has therefore proposed to amend the MLS map to show no MLS for the new lot containing the Hotel (this is consistent with its B1 zoning), and to amend the MLS map for the remainder of the site to a 1ha minimum. This enables the Hotel site to be subdivided off and should protect the remainder of the site from future subdivision.

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **The mapping provided is adequate.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council is proposing a 28 day exhibition.**

Additional Director General's requirements

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

If Yes, reasons :

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Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

The proposal for the three sites is considered minor and the information provided (although not in one document) is considered reasonably adequate. The s117 Direction assessment was poor and there was insufficient context and background information provided for some parts of the proposal. More detailed discussion about parts of the proposal would have assisted with the Department's consideration. Discussions are planned with Council to improve overall planning proposal submissions in the future.

For item 2: Burrawang Hotel, the Panel should consider requesting that Council seek a final subdivision plan for the proposal to enable the surveyor to access interim Lot and DP numbers for the subdivided lots. If Council could obtain these numbers, it should then include the appropriate amendment of Schedule 5 relating to the Burrawang Hotel site in the planning proposal.

For Items 1 and 2, Council's Heritage Planner or Heritage Advisor should undertake a review of the two proposals and the potential impact on the heritage significance of each item. This assessment should be included as part of Council's public exhibition of the Planning Proposal for the 3 sites. The Director-General will need to be satisfied that the s117 Direction has been complied with at a later stage in the process.

Delegations:

Council has not requested the Minister's delegations to exercise plan making under sections 59(2),(3)&(4) of the Environmental Planning and Assessment Act 1979. Given, however, the minor nature of the planning proposal, the exercise of delegations to Council may be appropriate. Council has, however, indicated that it currently has a significant planning workload and may decline the offer.

Recommendation 5: Council be offered delegation under sections 59(2),(3)&(4) of the Environmental Planning and Assessment Act 1979.

Project timeline:

Council has not provided a project timeline as required in the 'A guide to preparing planning proposals'

Recommendation 6: Council should be requested to provide a project timeline and include it in the planning proposal prior to exhibition.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP :

Council's principal LEP was made in 2010. This is a minor amendment to the principal LEP.

Assessment Criteria

Need for planning proposal :

Item 1: Boscobel - The proposal involves the consolidation of 23 lots into 1 and the adjustment of the boundary between an existing small lot adjoining the proposed, large consolidated lot to create a 4,000sqm lot. This small lot has an existing dwelling entitlement. The MLS Map will be amended to reflect a MLS of 4,000sqm. The site is also a heritage item and the Heritage Map will be amended to remove the proposed small lot from the heritage item.

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It is understood that the existing small lot (which may be a concessional allotment) was recently purchased and the new owner has been informed that he can't get approval for on-site effluent disposal as the Sydney Catchment Authority requires at least 1,800sqm and the site is only 650sqm. To facilitate the on-site effluent, Council has negotiated and agreed that the small lot should be increased in size to 4,000sqm; similar in size to other rural residential allotments.

Item 2: Burrawang - The proposal involves the subdivision of the existing heritage item, the Burrawang Hotel, from the remainder of the site. The existing hotel is currently zoned B1 and the remainder of the site is currently zoned both R2 (with an existing dwelling) and E3.

The existing allotment is approximately 2.47ha. The new Lot 1, Hotel site (4,600sqm) is proposed to be subdivided off from the remainder of the site (1.82ha).

The new Lot 2, non-Hotel part of the site, currently has 2 MLS: 40ha minimum over the E3 part and 2,000sqm over the R2 part of the lot. The proposal involves amending the MLS for the new Lot 2 to a 1ha minimum. This will prevent further subdivision of the new Lot 2.

Item 3: The Pavillions - This proposal involves the reuse of an existing building that was approved as part of a larger health retreat into a dwelling house. Whilst buildings were erected to enact the health retreat approval, the retreat itself was never completed and the original allotment has since been subdivided. The subject land contains buildings that are currently used for offices and function rooms. The proposal to convert the building to a dwelling house is not expected to involve much, if any, construction.

The subject land is currently part zoned RU2 and part zoned E3; both subject to a 40ha MLS to erect a dwelling. The MLS map is proposed to be amended to reduce the minimum for a dwelling from 40ha to 4,000sqm. Council has negotiated and agreed, but has also stipulated that the current RU2 part of the site must be rezoned to E3, so the whole of the site will be E3.

The subject land is located adjacent to the Renwick urban release area and there are other properties in the vicinity of a similar small size.

Consistency with strategic planning framework :

The three proposals are consistent with the local and regional strategic frameworks. Given the very minor nature of all three proposals (and particularly given there are no new dwellings proposed), they are all considered consistent with the strategic planning framework.

Environmental social economic impacts :

An issue of potential concern is with regard to Item 2: Burrawang. The SCA and the Council have both indicated that they would not support the further subdivision of the new Lot 2 (non-Hotel part of the site) as there are potential issues with water quality and an inability for any future development in that area to meet the neutral or beneficial test. The proposal to change the MLS to 1ha should prevent any further subdivision of that site as the new Lot 2 will be 1.9ha in size and will retain it's dual zoning of R2 and E3.

The Heritage significance of both subdivision proposals for Item 1: Boscobel and Item 2: Burrawang Hotel has not been undertaken. Whilst it is likely that the proposed amendments to the Heritage map will not significantly impact on the heritage items, Council needs to undertake some analysis and satisfy the Director-General that the S117 Direction 2.3 has been complied with. It is appropriate that Council undertake this assessment as a Gateway condition.

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Assessment Process

Proposal type : **Minor** Community Consultation Period : **28 Days**

Timeframe to make LEP : **9 Month** Delegation : **RPA**

Public Authority Consultation - s56(2)(d) : **NSW Rural Fire Service**

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

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

If no, provide reasons : **There are no additional matters (to those raised in the rest of the report) to be addressed.**

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

If Yes, reasons : **Not required.**

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

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

If Yes, reasons : **There are no new dwellings and this is a very minor matter.**

Documents

Document File Name	DocumentType Name	Is Public
Planning_Proposal_Boscobel_Burrawang_Hotel_Pavilions.pdf	Proposal	Yes
Boscobel_Council_Report_27_Jun_2012.pdf	Proposal	Yes
Boscobel_Council_Resolution_27_Jun_2012.pdf	Proposal	Yes
Burrawang_Hotel_Council_Report_27_Jun_2012.pdf	Proposal	Yes
Burrawang_Hotel_Council_Resolution_27_Jun_2012.pdf	Proposal	Yes
Pavillions_Council_Report_27_Jun_2012.pdf	Proposal	Yes
Pavillions_Council_Resolution_27_Jun_2012.pdf	Proposal	Yes
s117_Direction_JI_Boscobel_Burrawang_Hotel_Pavilions.pdf	Proposal	Yes
Boscobel_WLEP_2010_Draft_Heritage_Map.pdf	Map	Yes
Boscobel_WLEP_2010_Draft_Lot_Size_Map.pdf	Map	Yes
Boscobel_WLEP_2010_Existing_Zoning_Map_lwr.pdf	Map	Yes
Burrawang_Hotel_WLEP_2010_Draft_Heritage.pdf	Map	Yes
Burrawang_Hotel_WLEP_2010_Existing_Zoning_Map.pdf	Map	Yes
Burrawang_Hotel_WLEP_2010_Y_Draft_Min_Lot_Size_Map.pdf	Map	Yes
Pavillions_WLEP_2010_Draft_Min_Lot_Size_Map.pdf	Map	Yes
Pavillions_WLEP_2010_Draft_Zoning_Map.pdf	Map	Yes

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BB_Boscobel_Applicants_Report.pdf	Study	Yes
BB_Burrawang_Hotel_Applicants_Submission.pdf	Study	Yes
BB_Pavillions_Applicants_Report.pdf	Study	Yes

Planning Team Recommendation

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

S.117 directions: **1.2 Rural Zones**
 1.5 Rural Lands

Additional Information : **It is recommended that the delegate of the Minister for Planning and Infrastructure determine under section 56(2) of the EP&A Act, that an amendment to the Wingecarribee LEP 2010 to:**

- (a) Provide for a boundary adjustment between Lot 3, DP 1142493 and 453 Exeter Road, Sutton Forest by amending the Minimum Lot Size Map to reduce the lot size to 4,000sqm for the new small lot (currently Lot 3), and amend the Heritage Map to remove the new proposed small lot from the heritage item, and**
- (b) provide for the subdivision of Lot 1, DP 198682 into 2 lots by amending the Minimum Lot Size Map to change the lot size for the new non-Hotel lot to 1ha, and to amend Schedule 5 and the Heritage Map to reflect the new lot for the 'Burrawang Hotel', and**
- (c) amend the Land Zoning Map to zone Lot 6, Section 7, DP 2836 to E3 and amend the Minimum Lot Size Map to AB2 for the entire lot,**

should proceed subject to the following conditions:

- 1. Prior to public exhibition, Council should request that the applicant identify the new (interim) Lot and DP numbers for the proposed subdivision of Lot 1, DP 198682, and if it is provided, include a suitable amendment to Schedule 5 Environmental Heritage to reflect the new Lot and DP number for the heritage item in the public consultation material.**
- 2. Prior to public exhibition, Council's Heritage Planner and/or Heritage Advisor should undertake an assessment of the impact of the proposed changes on the "Boscobel" and "Burrawang Hotel" heritage items. This assessment should be included in the public consultation material.**
- 3. Prior to public exhibition Council should be requested to provide a project timeline and include it in the planning proposal.**
- 4. Community consultation should be undertaken for a minimum of 28 days under section 56(2) of the EP&A Act.**
- 5. Council should be undertaken with the Rural Fire Service that it does not object to the proposals. Consultations are not required with any other State Government agency.**
- 6. No public hearing is required to be held into the matter under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing.**
- 7. The timeframe for completing the LEP is to be 9 months from the week following the date of the Gateway Determination.**
- 8. Council be offered the Minister's plan making delegation under sections 59(2),(3)&(4) of the Environmental Planning and Assessment Act 1979.**

9. SECTION 117 DIRECTIONS - It is recommended that:

'Boscobel' boundary adjustment, 'Burrawang Hotel' subdivision and 'The Pavillions' erect a dwelling

(a) The Director General can be satisfied that the Planning Proposal is consistent with s117 Direction 1.5 Rural Lands, 3.1 Residential Zones, 5.1 Regional Strategies and 5.2 Sydney Drinking Water Catchment; and

(b) The Director General can be satisfied that inconsistencies with the following s117 Directions are justified as they are considered of minor significance: 2.1 Environmental Protection Zones, and 3.4 Integrating Land Use and Transport.

(c) Council will need to satisfy the Director-General that the proposal is consistent with s117 Direction 2.3 Heritage Conservation and 4.4 Planning for Bushfire Protection, and

(d) no further consultation or referral is required in relation to s117 Directions (other than Direction 2.3 Heritage Conservation and 4.4 Planning for Bushfire Protection).

10. The planning proposal is considered to be consistent with all relevant SEPPs.

Supporting Reasons :

These proposals are considered of minor significance. They should be straightforward amendments and should be able to be completed reasonably quickly (although Council does have a lot of amendments it is currently processing).

Council will need to ensure that all appropriate amendments (including to the Heritage Schedule as well as the map) are publicly exhibited.

Consultation with government agencies is not considered relevant for this proposal as these are very minor changes with negligible impacts and Council has already consulted with the Sydney Catchment Authority and received appropriate advice.

Signature:



Printed Name:

Mark Parker

Date:

21/01/2013