

Planning Proposal

In accordance with “Gateway” provisions of the Environmental Planning and Assessment Act, 1979.

October 2011

Local Government Area	Wingecarribee Shire Council
The Property	Lot 6 Section 7 DP 2836 “The Pavilions”, Bong Bong Road, Mittagong
The Proposal	Amendment to the WLEP 2010 – to permit use of the existing structure for the purpose of a dwelling house.
The applicant	Ms A Gardner
The Owner	Ms A Gardner
Document preparation	Bureaucracy Busters Town Planning Consultants



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PART 1 – REZONING ASSESSMENT

1.0 INTRODUCTION

The site, which is the subject of this rezoning report, is known as Lot 6 Section 7 DP 2836 Bong Bong Road at Mittagong. The site is part of the low-key rural lands on the outskirts of the Mittagong township in the northern portion of the Shire of Wingecarribee. The primary land uses in this locality is of rural and residential purposes. The site is 5 minutes away from the town of Mittagong for a range of services and facilities for residents, businesses and the travelling public.

The site and landholding is split zoned RU2 and E3 under Wingecarribee Local Environmental Plan 2010. The locality is characterised by both rural and urban land uses.

Council granted approval to LUA07/0890 for the construction and establishment of a “Health Retreat and Accommodation” on Kennerton Green (two allotments), which in part included the subject site. Physical works were undertaken on the site, therefore constituting *substantial commencement* and activating the development consent. This was acknowledged by Council in August 2010. Ownership of the property has now changed with different parties owning each allotment. The landowner of the subject site is reviewing the future use of the site. The landowner considers that the use of the site for a single dwelling house would be significantly more orderly and economical use for the site than the previously approved health retreat.

The site is in a good location for a dwelling given that it is on the outskirts of the Mittagong township (adjacent to Renwick urban release area) and in close proximity to the Mittagong town centre.

Bureaucracy Busters has been engaged to act on behalf of the landowner in the matter and to:

- (a) Assess the current planning (land use objectives, zoning and use) situation for the site and landholding;
- (b) Determine the suitability of the site for a single dwelling house; and
- (c) Prepare this planning proposal outlining the case for amending the LEP 2010 to enable the proposed use.

Bureaucracy Busters conclude that the site can sustain a dwelling house without compromising the setting, character and environmental qualities of the locality and the strategic directions of Council.

Council is requested to:

1. Assess the planning proposal for the site;
2. Support the conclusion that site is suitable for a dwelling house; and
3. Resolve to take the next step in the “gateway” process.

1.1 Purpose of Report

The purpose of the report is to consider those land use planning matters that need to be considered upfront in assessing the suitability of any change in land use of the site. In particular the report:

- (1) Describes the site and its locality;
- (2) Assesses the site’s planning matters;
- (3) Assesses the site’s current planning situation;

- (4) Assesses the merits of the land use options; and
- (5) Makes recommendations for the site.

Importantly, it will be demonstrated that there is merit in permitting an additional land use for the site as it can be successfully developed in the context of the planning aims and objectives of the Strategic Plan, the adopted strategic planning policy guiding the development of all lands in the local government area.

1.2 Likely Development

No detailed development plans to support the proposal have been prepared by the owner as it would be premature for a number of reasons. The intent of the report is to obtain Council's endorsement for using the site for a dwelling house and therefore commencing the process to amend the WLEP 2010.

However, the landowner has given some indication about the site's development, which would include:

- Conservation and enhancement of the rural character of the property;
- Preservation of the amenity of the locality; and
- Minimise the environmental impacts compared to the previously approved health retreat, with no significant alterations to the existing structures.

1.3 Reasons for rezoning

The reasons for the rezoning are:

- (i) *The site is suitable for the use of the existing building for the purpose of a dwelling house;*
- (ii) *The development of the site can be realised while maintaining the setting and character of the low-key rural/residential precinct;*
- (iii) *The site does not form part of any significant scenic qualities or view lines that would be compromised;*
- (iv) *There are no environmental constraints that would prevent the site from being used for residential purposes and all urban services, to an appropriate level, are available to the site and locality; and*
- (v) *The proposal is the most orderly and economic use of the site.*

2.0 CHARACTERISTICS OF THE SITE AND ITS LOCALITY

The site and its locality are described below to provide baseline data on the lands cadastral and environmental history.

2.1 Property Description

The site is described as Lot 6 Section 7 in Deposited Plan No.2836 and maintains an area of 4,047m². The site originally formed part of “Kennerton Green” which had development consent to operate as a “*commercial garden, lecture hall and tearoom*” (reference Development Application No.DA02/0125). This consent applied to both Lots 5 and 6.

The site currently maintains buildings that formed part of the approved health retreat. Council granted approval to LUA07/0890 for the construction and establishment of a “Health Retreat and Accommodation” on Kennerton Green (two allotments), which in part included the subject site. Pursuant to the previous use, Lot 6 contains an administration and lecture room; café; storage shed; a gravel car parking area; and the garden service area.

2.2 Topography

The site is relatively level with Bong Bong Road.

2.3 Vegetation and Water

The subject site maintains stands of ornamental vegetation with isolated cleared areas.

2.4 Visibility and Views

The site is located along a relatively discrete local road known as Bong Bong Road. The site does not perform any role in protecting any scenic qualities when compared to other lands in Wingecarribee, which display significant natural features because of topography and vegetation eg. Mt Gibraltar. The development of the site for a dwelling therefore would not have an impact on any recognised view or viewline.

2.5 Improvements, Restrictions and Uses

The site currently maintains built structures. Council granted approval to LUA07/0890 for the construction and establishment of a “Health Retreat and Accommodation” on Kennerton Green (two allotments), which in part included the subject site. Restoration of the existing buildings was undertaken on the subject site.

Electricity and telecommunications are available to the site. Town water is also available to the site and all existing toilets and facilities are currently connected to a sewerage scheme owned by the NSW Department of Community Services and connected to Council’s sewer in Mittagong.

2.6 The Site's Locality

The site is split zoned both E3 and RU2 under the provisions of Wingecarribee Local Environmental Plan 2010. Furthermore, adjacent to the site is land zoned R5 and the recent urban release area known as “Renwick”, which is zoned for small residential allotments R2.

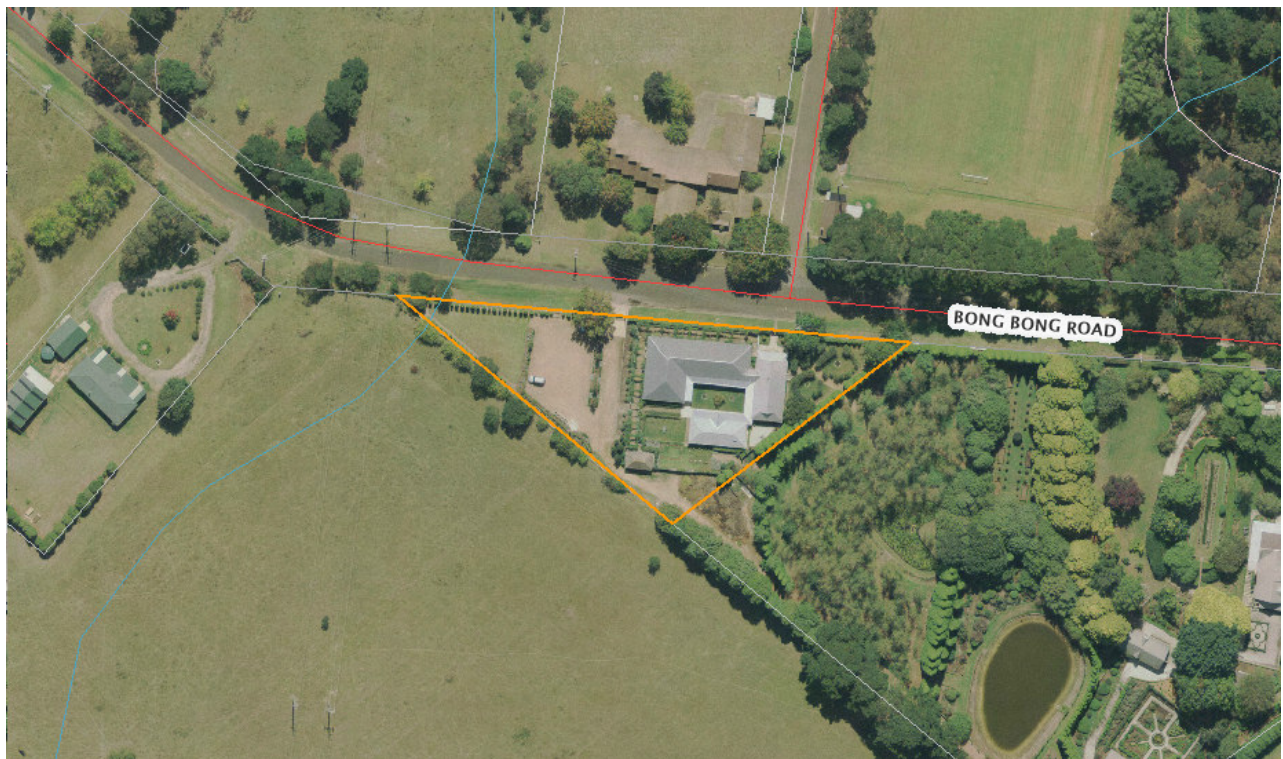
Surrounding properties consist of land holdings of varied sizes maintaining dwellings and associated rural and residential outbuildings. Uses of these lands are consistent with both the rural and residential zonings within the immediate vicinity of the site.

The property is located on the fringe of the Mittagong Township, where allotments exist of small rural/residential scale.

Key features of the site/locality are:

- (i) Its use for residential purposes can be realised while maintaining its setting and character by utilising the existing structures;
- (ii) It is within easy access to the Mittagong Township for services and facilities; and
- (iii) There are no environmental constraints that would prevent it from being used for a dwelling.

Map (1) – The Site and its Locality



3.0 REVIEW OF PLANNING MATTERS

The purpose of this section is to complete an investigation of planning matters (strategic and statutory) that need to be considered in determining the suitability of the site for a dwelling house. It investigates those issues of relevance and importantly shows that the site's use for residential accommodation would be consistent with Council's strategic directions.

3.1 Planning Background and Context

Wingecarribee is a regional centre providing transport, industry, business, living, employment, traveller and visitor services and facilities. Its service centre role is enhanced by good transport and access to the region and by the M5 extension which makes the area more accessible to Sydney in a reasonable timeframe.

3.2 Key Planning Issue – Wingecarribee Our Future Strategic Plan

The role of Wingecarribee in the Southern Highlands, the Sydney to Canberra Corridor and generally in the Greater Sydney Region is a fundamental issue facing Council and the community. The advent of the M5 and its extensions has made the area more accessible for living, business and commuting purposes. Wingecarribee is an attractive place on a number of levels. The East Coast of the Country struggles to keep pace with the demand for land for housing and land/housing costs and site costs are rising. There is now great need for Council's to ensure good planning decisions are made about land supply to sustain the environment and the community.

Council in response to forward planning needs and other demands adopted the Strategic Plan on 23 October 2002 to guide planning policy for three key land use areas (ie. urban, rural and natural) and a number of key planning directions have been developed including a direction for the Population and Housing Issue and the Agriculture and Rural Lands Issue.

The housing policy in the Strategic Plan is about consolidating the towns and villages of the Shire and generally exhausting all opportunities in the urban localities for housing before or while investigating/planning for the rezoning and development of strategic new urban-residential release areas. The subject site provides an opportunity to provide for a residential dwelling on land otherwise useless for any agricultural pursuit.

In terms of the rural lands policy in the Strategic Plan, it is about protecting viable agricultural lands; ensuring activities do not take place on lands that have scenic/cultural rural landscapes or are natural bushland of value and meet environmental standards.

Comment

In terms of the Agriculture and Rural Lands Issue for the site, it is not that relevant, as it is primarily focused on the protection of viable agriculture lands and industries. The site is not of sufficient area to be sustainable as agricultural lands. The environmental benefits of using the site for a single dwelling house in comparison to other permissible uses such as viticulture, plant nurseries, extractive industries, place of worship, etc are obvious. Impact on water quality will be significantly reduced where it is deemed to have a neutral or beneficial effect.

To this end, Bureaucracy Busters and the owner support the view that the site is suitable for a single dwelling house and therefore Council should favourably consider amending the LEP.

3.3 Strategic Land Use Planning Matters

The future land use of the site must be determined in the wider strategic planning context for Wingecarribee and the greater Region. The following land use planning provisions are relevant to the site and need to be considered in assessing the suitability of the site for a dwelling house. It is shown that there are no strategic planning reasons why the site could not permitted a residential dwelling.

3.3.1 State (and Federal) Planning Provisions

State planning policies that apply to the site and have relevance to the proposed process are:

- (a) SEPP No. 11 – Traffic Generating Development
- (b) SEPP No. 44 – Koala Habitat Protection;
- (c) SEPP No. 55 – Remediation of Land; and

State (and Federal) planning legislation that apply to the site and have relevance to any rezoning are:

- (d) Threatened Species Conservation Act, 1995 (TSC Act) & Part 5 of EP&A Act - State;
- (e) Native Vegetation Act, 2003 – State;
- (f) Environment Protection & Biodiversity Conservation Act, 1999 (EPBC Act) – Federal; and
- (g) Planning for Bushfire Protection 2001 under the EP&A Act & Bush Fires Act (State).

Comment

The following comments are made about the above planning provisions:

(a) SEPP 11

This policy introduced statewide planning controls for traffic generating developments to ensure the RTA is consulted on larger developments to assess impact on regional and state roads etc. The site does not have direct access to a main road and therefore the RTA would not need to be consulted about the development of the site.

The rezoning of the site would not be inconsistent with SEPP No. 11, and where necessary adequate development performance controls can be used.

(b) SEPP No. 44

This policy introduced statewide planning controls for the conservation and management of native vegetation that provides habitat for koalas for permanent free-living population ranges and to reverse the trend in population decline. The assessment criterion applies to native vegetation with certain types of trees where there must be a minimum 15% representation and to land holdings with an area greater than 1ha.

The site has potential for the presence of native vegetation habitat for koalas (and further investigation at the LES stage or as an 8 Part Test at the principal stage would confirm this position.) No koalas were observed on site and the owner is not aware of the site being part of the home range of a breeding female koala. The existing built form will accommodate a dwelling house.

The rezoning of the site would not be inconsistent with SEPP No. 44.

(c) SEPP No. 55

This policy introduced statewide planning controls for the remediation of contaminated land. Its aim is to reduce the risk of harm to human health or any other aspect of the environment when there is a change of use of the land, like a change from industrial to residential (as distinct from a different use in the same zone). The provision of SEPP 55 and the EP&A Act are not designed to stop development but to ensure remediation of land takes place before the use of land changes.

The policy requires a Council, in preparing an environmental planning instrument, which is required to effect a rezoning of a site, not to include land in a new zone that would permit a change of use of land unless it is satisfied the land is not contaminated or where it is contaminated the land is suitable for use in its contaminated state or is remediate for that use in the zone before the use commences.

The site has not been used for agriculture. It is not anticipated that the site would contain any form of contamination.

(d) Threatened Species Conservation Act, 1995 & Part 5 of EP&A Act

This Act provides for the protection and conservation of threatened species, whether flora or fauna, and where necessary a Species Impact Statement is to be prepared. The Species Impact Statement usually follows a 7 Part Test under the EP&A Act, which determines the likelihood of any such threatened species etc. The site maintains significant cleared areas, where the future dwelling would be limited to the existing structures.

The rezoning of the site would not be inconsistent with TSC Act.

(e) Native Vegetation Act, 2003 (regional scale) – State;

This plan provides for the conservation and management of native vegetation on a regional basis and applies to in part lands zoned rural. It generally applies to clearing of native vegetation, as defined, the clearing of state/regional protected land and to lands regional vegetation plan areas at the development applicator stage. The site maintains significant cleared areas, where the future dwelling would be limited to the existing structures.

The rezoning of the site would not be inconsistent with NVC Act.

(f) Environment Protection and Biodiversity Conservation Act, 1999

This Federal Act provides for the environmental protection of lands to conserve biodiversity of flora and fauna. It is similar to SEPP 44 and the TSC Act at the State level and the three (3) policies are usually assessed together as they overlap. The site maintains significant cleared areas, where the future dwelling would be limited to the existing structures.

The rezoning of the site would not be inconsistent with EPBC Act.

- (g) Planning for Bushfire Protection 2001 under the EP&A Act and Bush Fires Act

An assessment can be undertaken at the LES stage with relevant recommendations provided.

- (h) State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011

The objectives of the governing SEPP are:

- (a) to provide for healthy water catchments that will deliver high quality water while permitting development that is compatible with that goal, and*
- (b) to provide that a consent authority must not grant consent to a proposed development unless it is satisfied that the proposed development will have a neutral or beneficial effect on water quality, and*
- (c) to support the maintenance or achievement of the water quality objectives for the Sydney drinking water catchment.*

Recommended practices and performance standards of the Sydney Catchment Authority

- (1) Any development or activity proposed to be carried out on land to which this Policy applies should incorporate the Authority's current recommended practices and standards.
- (2) If any development or activity does not incorporate the Authority's current recommended practices and standards, the development or activity should demonstrate to the satisfaction of the consent authority or determining authority how the practices and performance standards proposed to be adopted will achieve outcomes not less than those achieved by the Authority's current recommended practices and standards.

Development consent cannot be granted unless neutral or beneficial effect on water quality

- (1) A consent authority must not grant consent to the carrying out of development under Part 4 of the Act on land in the Sydney drinking water catchment unless it is satisfied that the carrying out of the proposed development would have a neutral or beneficial effect on water quality.
- (2) For the purposes of determining whether the carrying out of the proposed development on land in the Sydney drinking water catchment would have a neutral or beneficial effect on water quality, the consent authority must, if the proposed development is one to which the NorBE Tool applies, undertake an assessment using that Tool.

A **neutral or beneficial effect on water quality** is satisfied if the development:

- (a) has **no** identifiable potential impact on water quality, or
- (b) will **contain** any water quality impact on the development site and prevent it from reaching any watercourse, water body or drainage depression on the site, or

(c) will **transfer** any water quality impact outside the site where it is treated and disposed of to standards approved by the consent authority.

3.3.2 EP&A Act – 117 Directions

The following Section 117 Directions under the EP&A Act are relevant to the site:

1.5 Rural Zones

The objectives of this direction are to:

- (a) protect the agricultural production value of rural land,
- (b) facilitate the orderly and economic development of rural lands for rural and related purposes.

Comment

The direction is noted. The environmental study would provide a formal arena in which to demonstrate the site can sustain a dwelling house without having a negative impact on the rural zoning and objective of the land.

The proposed development of the site would not be inconsistent with 1.5 Direction, once the study is completed.

2.1 Environmental Protection Zones

The objective of this direction is to protect and conserve environmentally sensitive areas.

(4) A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.

(5) A planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with clause (5) of Direction 1.5 “Rural Lands”.

Comment

The direction is noted. The environmental study would provide a formal arena in which to demonstrate the development of the site will not cause significant detrimental harm to the environment.

3.1 Residential Zones

The objectives of this direction are:

- (a) to encourage a variety and choice of housing types to provide for existing and future housing needs,
- (b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and
- (c) to minimise the impact of residential development on the environment and resource lands.

(4) A planning proposal must include provisions that encourage the provision of housing that will:

- (a) broaden the choice of building types and locations available in the housing market, and*
- (b) make more efficient use of existing infrastructure and services, and*
- (c) reduce the consumption of land for housing and associated urban development on the urban fringe, and*
- (d) be of good design.*

(5) A planning proposal must, in relation to land to which this direction applies:

- (a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and*
- (b) not contain provisions which will reduce the permissible residential density of land.*

Comment

This direction is noted. The site is capable of providing residential accommodation whilst being adequately serviced with utilities within the immediate vicinity.

3.4 Integrating Landuse and Transport

The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:

- (a) improving access to housing, jobs and services by walking, cycling and public transport, and
- (b) increasing the choice of available transport and reducing dependence on cars, and
- (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and
- (d) supporting the efficient and viable operation of public transport services, and
- (e) providing for the efficient movement of freight.

Comment

The direction is noted. The development for the use of an existing structure for a single dwelling house would not be inconsistent with 3.4 Direction.

4.3 Flood Prone Land

The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:

The objectives of this direction are:

- (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 *Floodplain Development Manual 2005*, and
- (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.

(5) A planning proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone.

(6) A planning proposal must not contain provisions that apply to the flood planning areas which:

- (a) permit development in floodway areas,*
- (b) permit development that will result in significant flood impacts to other properties,*
- (c) permit a significant increase in the development of that land,*
- (d) are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, or*
- (e) permit development to be carried out without development consent except for the purposes of agriculture (not including dams, drainage canals, levees, buildings or structures in floodways or high hazard areas), roads or exempt development.*

(7) A planning proposal must not impose flood related development controls above the residential flood planning level for residential development on land, unless a relevant planning authority provides adequate justification for those controls to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).

(8) For the purposes of a planning proposal, a relevant planning authority must not determine a flood planning level that is inconsistent with the Floodplain Development Manual 2005 (including the Guideline on Development Controls on Low Flood Risk Areas) unless a relevant planning authority provides adequate justification for the proposed departure from that Manual to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).

Comment

The site is not deemed to be located within a flood affected area. The residential development of the site would not be inconsistent with 4.3 Direction.

4.4 Planning for Bushfire Protection

The objectives of this direction are:

- (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
- (b) to encourage sound management of bush fire prone areas.

(4) In the preparation of a planning proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made,

(5) A planning proposal must:

- (a) have regard to Planning for Bushfire Protection 2006,*
- (b) introduce controls that avoid placing inappropriate developments in hazardous areas, and*
- (c) ensure that bushfire hazard reduction is not prohibited within the APZ.*

(6) A planning proposal must, where development is proposed, comply with the following provisions, as appropriate:

(a) provide an Asset Protection Zone (APZ) incorporating at a minimum:

- (i) an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property, and*
- (ii) an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road,*

(b) for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the planning proposal permit Special Fire Protection Purposes (as defined under section 100B of the Rural Fires Act 1997), the APZ provisions must be complied with,

(c) contain provisions for two-way access roads which links to perimeter roads and/or to fire trail networks,

(d) contain provisions for adequate water supply for fire fighting purposes,

(e) minimise the perimeter of the area of land interfacing the hazard which may be developed,

(f) introduce controls on the placement of combustible materials in the Inner Protection Area.

Comment

The Planning for Bushfire Protection 2006 provides the guidelines for bushfire planning on lands in the rezoning assessment process and the development assessment process.

The guidelines provide that if a Draft LEP is prepared, which permits housing on bushfire prone land, as shown on the Bushfire Prone Lands Map, then an environmental study is required to justify the development (considering the rules contained in the guidelines). The NSW Rural Fire Services should also be consulted.

This enables a full assessment to be completed during the LES process so it is determined what additional development on a site can be sustained. It is also noted that the bushfire planning requirements are not specifically design to prohibit development but to ensure its impacts are minimised.

The effects of bushfire mitigation should be considered.

5.1 *Implementation of Regional Strategies*

The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies. The proposed residential dwelling is not considered to be inconsistent with any regional strategies.

5.2 *Sydney Drinking Water Catchments*

The objective of this direction is to protect water quality in the hydrological catchment.

(4) A planning proposal must be prepared in accordance with the general principle that water quality within the hydrological catchment must be protected, and in accordance with the following specific principles:

(a) new development within the hydrological catchment must have a neutral or beneficial effect on water quality, and

(b) new development within the hydrological catchment must not compromise the achievement of the water quality objectives set out in the Drinking Water Catchments Regional Environmental Plan No.1, and

(c) future land use in the hydrological catchment should be matched to land and water capability, and

(d) the ecological values of land within a Special Area that is:

(i) reserved as national park, nature reserve or state recreation area under the National Parks and Wildlife Act 1974, or

(ii) declared as a wilderness area under the Wilderness Act 1987, or

(iii) owned or under the care control and management of the Sydney Catchment Authority, should be maintained.

Comment

The site falls within the Sydney water drinking catchment. The LES will need to address potential impacts on water quality.

The residential development of the site would not be inconsistent with 5.2 Direction.

6.1 Approval and Referral Requirements

The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.

(4) A planning proposal must:

(a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and

(b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of:

(i) the appropriate Minister or public authority, and

(ii) the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), prior to undertaking community consultation in satisfaction of section 57 of the Act, and

(c) not identify development as designated development unless the relevant planning authority:

(i) can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and

(ii) has obtained the approval of the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act.

Comment

Noted. The residential development of the site would not be inconsistent with 6.1 Direction.

6.3 Site Specific Provisions

The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.

(4) A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either:

(a) allow that land use to be carried out in the zone the land is situated on, or

(b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or

(c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.

(5) A planning proposal must not contain or refer to drawings that show details of the development proposal.

Wingecarribee LEP is the principal planning instrument applying to the site. It sets the aims and objectives for all lands in the LGA, zones lands and provides the general and special provisions, which are known as land use controls. The site is zoned E3 Environmental Management and RU2 Rural Landscape under

Wingecarribee LEP 2010 and maintains an area of 4,047m². The objectives are to protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.

Comment

In rezoning the site for any purpose, Council must consider the impact of the decision to do so in terms of the existing, approved and likely use of the site and be satisfied that a new zone/use is a better outcome strategically for the land and community. The proposed development is unlikely to have an adverse impact upon the environment. Impact on the environment will be substantially reduced when compared to the other permissible uses of the site under the governing zones.

The subject site is located within a relatively flat landscape and does not contain any visually dominant features. The use of the existing structure for as a dwelling does not involve any physical changes to the landscape or built form. Accordingly, the proposed dwelling will not have a direct impact on the scenic attributes of the rural landscape.

It is considered that a decision to permit a dwelling on the site would be in the interest of the land and the community.

3.4 Summary of Planning Matters

This section of the report has investigated the strategic planning matters of relevance to the development of a dwelling house on the site, including:

- State Environmental Planning Policies
- State (and Federal) legislation;
- Regional Environmental Plans;
- Section 117 Directions of the EP&A Act; and
- The Wingecarribee Local Environmental Plan.

A change to WLEP 2010 to permit a dwelling house would not be inconsistent with any strategic planning matters as discussed. The site is not strategically important in the rural context for the protection of agricultural land, rural industries and rural scenic qualities, the principal objectives for rural zoned lands. There are other lands and rural zoned precincts throughout the Shire that do this much better than the site will ever do.

The change to the LEP would not constitute a major rezoning under any strategic plans/policies and therefore it does not involve any strategic environmental issues that would prevent Council from supporting the proposal (as demonstrated in the description of the site and assessment of strategic planning matters). The merits of the proposal are a local issue (provided Council has regard to the broader regional and state planning documents).

With the above in mind, the determinant as to whether the site is to be used for residential development, will be its environmental capability, whether physical factors and (man made) development constraints are at an acceptable level and can be managed appropriately.

4.0 REVIEW OF DEVELOPMENT MATTERS

Section 2 Characteristics of the Site and its Locality and Section 3 Review of Planning Matters have considered the physical characteristics and the planning legislation that governs the use and development of the site. They have generally shown that there are no reasons why the site could not accommodate a dwelling house. There would be no inconsistencies with any environmental planning instruments and the development assessment process could ensure compliance with the Council's development control plans.

With the above in mind, the determinant as to whether the site is to be used for such development, will be its environmental capability, whether physical factors and (man made) development constraints are at an acceptable level and can be managed appropriately.

The environmental capability of the site was assessed by completing a Site Analysis to determine issues of interest for the purpose of this upfront investigation of the suitability of the site for residential development. Once Council decides to permit the additional land use, formal requirements for further environmental investigation will need to be undertaken. However, the Site Analysis provides sufficient information for Council to make a decision about supporting the new use for the site and commencing the process.

4.1 Site Analysis (and Impact of Development)

A Site Analysis, of physical factors and development constraints and opportunities was carried out for the site. Outlined below are the matters that would be relevant in assessing the proposed development of the site under the current zone. These matters are primarily linked to performance assessment at the development stage.

(a) Physical Factors

- | | |
|--|---|
| (i) Topography | <u>Minimal impact and no risk to development.</u> The site is stable; slopes are minor and drainage pattern conducive to development. |
| (ii) Flooding | <u>Minimal impact and no risk to development.</u> The site is not identified as being within flood affected land. |
| (iii) Water Quality | <u>Minimal impact and no risk to development.</u> Water quality is reasonable but will need to be monitored etc. A reduction in the currently approved land uses will be of benefit. |
| (iv) Flora & Fauna | <u>Minimal impact and no risk to development.</u> Site maintains minimal native vegetation. It is proposed to utilise the existing built form and therefore impacts on flora and fauna are not anticipated. |
| (v) Bushfire | <u>Minimal impact and no risk to development.</u> Development can be designed within Planning for Bushfire Guidelines. |
| (vi) Visual Catchment/
Scenic Qualities | <u>Minimal impact and no risk to development.</u> The site does not form part of the greater rural scenic landscape that characterises the Shire and which is valued by the community. The site is located along a discrete road. |

(b) Development Constraints and Opportunities

- | | |
|---------------------------|---|
| (i) Site Zonings | <u>Potential constraint and therefore risk to development.</u> The change to the LEP to permit the residential use of the existing structure needs to be in place before any development proposal can take place. |
| (ii) Adjacent Zonings | <u>No constraint but potential risk to development.</u> Adjoining properties have consistent zones to that of the subject site. However, adjacent to the site is residentially zoned land of significantly greater density. |
| (iii) Contamination | <u>No constraint and no risk to development.</u> The land use history revealed no obvious contamination issues that would need to be remediate for a change in land use. |
| (iv) Restrictions | <u>No constraint and no risk to development.</u> There are no identified easements and the like that prevent the development. |
| (v) Geotechnical | <u>No constraint and no risk to development.</u> Standard development standards suitable. |
| (vi) Access | <u>No constraint and no risk to development.</u> Bong Bong Road is to a standard to support the proposal. The local road network can cater for any increase in movements. |
| (vii) Utility Services | <u>No constraint but potential risk to development.</u> Electricity, telecommunications and reticulated water and sewer are available to the site. |
| (viii) Heritage Items | <u>No constraint and no risk to development.</u> The site does not maintain any built heritage item. |
| (ix) Pollution | <u>No constraint and no risk to development.</u> The site is not exposed to any pollution risks. |
| (x) Services & Facilities | <u>No constraint and no risk to development.</u> The use will not place an unreasonable demand on services and facilities in the Shire. |
| (xi) Safety | <u>No constraint and no risk to development.</u> There are no foreseeable issues. Crime Prevention Through Environmental Design can be applied. |

4.2 Summary of Development Matters

Overall, the site has the capacity to sustain development for the use of the existing structure as a dwelling house with no adverse impact on the environment. "Standard" development issues just need to be managed through the development process to ensure they are achieved. The site is suitable for the development and an opportunity to capitalise on a site that does not present too many problems, unlike others.

Part 2 CONCLUSIONS

The Site, which is the subject of this planning proposal, is zoned E3 Environmental Management and RU2 Rural Landscape under Wingecarribee LEP 2010. The site is part of the low-key rural lands on the outskirts of the Mittagong village. The primary land uses in this locality is of rural and residential purposes. Mittagong Township is 5 minutes away for a range of services and facilities for residents, businesses and the travelling public.

With other more intensive uses currently permitted in the governing zones, it is considered a better use of the site as a single dwelling. This position has been established from an assessment of the physical characteristics of the site and the development factors and constraints that need to be considered in any new development of the site. The reduction in land use will be of significant benefit.

Bureaucracy Busters is of the opinion that the site should be allowed to be used for a dwelling house. There are no real reasons why the Site could not be granted such use. Our planning experience advocates this position and is advocated to Council. In response to the report, Council is requested to favourably consider the planning proposal.

Part 3 - RECOMMENDATIONS

That:

1. Council assess the planning proposal for the site;
2. Support the conclusion that the site is suitable for a dwelling house on planning and development grounds;
3. Resolve to support the planning proposal and refer the matter to the next stage of the “gateway” process.

Darren Hogan M.P.I.A
Principal

