

BUREAUCRACY
>>BUSTERS
TOWN PLANNING CONSULTANTS

28 April, 2011

General Manager
Wingecarribee Shire Council
PO Box 141
MOSS VALE NSW 2577

Attention: Scott Lee

Dear Scott,

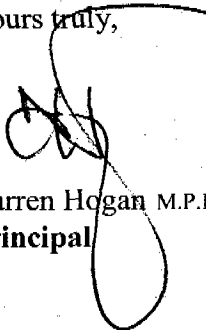
Planning Proposal
"Boscobel" 453 Exeter Road Sutton Forest

Reference is made to our recent telephone conversation regarding the subject proposal.

Please find attached revised planning proposal for the subject property as discussed for your consideration.

In the event you need to discuss this matter further, please contact me on 4862 3337.

Yours truly,


Darren Hogan M.P.I.A; C.P.P.
Principal

WINGECARRIBEE SHIRE COUNCIL		
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OFFICER	ACTION	INFO
S. Lee	✓	
S. Stannard		✓

COPY SENT


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Planning Proposal

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

April 2011

Local Government Area	Wingecarribee Shire Council
The Property	"Boscobel" 453 Exeter Road, Sutton Forest (Lot 1 DP 63523; Lots 1&2 Sec 9 DP 758938; Lot 1 DP 1094302; Lots 1-19 Sec 8 DP 758938) and Lot 3 Nicholson Street, Sutton Forest (Lot 3 DP 1142493)
The Proposal	Boundary Realignment and Consolidation of Allotments to create two (2) separate parcels
The applicant	Steven Hallis
The Owner	Steven Hallis
Document preparation	Bureaucracy Busters Town Planning Consultants



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Contents

Part 1 Rezoning Assessment

1.0 Introduction

- 1.1 Purpose of Report
- 1.2 Likely Development
- 1.3 Reasons for Rezoning

2.0 Characteristics of the Site and its Locality

- 2.1 Property Description
- 2.2 Topography
- 2.3 Vegetation and Water
- 2.4 Visibility and Views
- 2.5 Improvements, Restrictions and Uses
- 2.6 The Site's Locality

3.0 Review of Planning Matters

- 3.1 Planning Background and Context
- 3.2 Key Planning Issue - Wingecaribee Our Future Strategic Plan
- 3.3 Strategic Land Use Planning Matters
- 3.4 Summary of Planning Matters

4.0 Review of Development Matters

- 4.1 Site Analysis (and Impacts of Development)
- 4.2 Summary of Development Matters

Part 3 Conclusion

Part 4 Recommendation

PART 1 – REZONING ASSESSMENT

1.0 INTRODUCTION

The site, which is the subject of this Planning Proposal, is known as “Boscobel” 453 Exeter Road, Sutton Forest (Lot 1 DP 63523; Lots 1&2 Sec 9 DP 758938; Lot 1 DP 1094302; Lots 1-19 Sec 8 DP 758938) and Lot 3 Nicholson Street, Sutton Forest (Lot 3 DP 1142493). The site is part of the low-key rural lands on the outskirts of the Sutton Forest village. The primary land uses in this locality is of rural and rural residential purposes.

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

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 proposed allotments; and
- (c) Prepare this planning proposal outlining the case for amending the LEP 2010 to enable the proposed subdivision.

Bureaucracy Busters concluded that the site can sustain the proposed subdivision/boundary realignment 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 the boundary realignment; 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 the realignment of boundaries 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

It is proposed to increase the size of the concessional allotment (Lot 3) from 650m² to 4,000m² and consolidate the residue into one allotment. The intent of the report is to obtain Council's endorsement for the subdivision/boundary realignment and therefore commence 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;
- No increase in the number of dwelling entitlements; and
- Consolidating 24 Lots resulting in a preferred planning outcome.

1.3 Reasons for Planning Proposal

The reasons for the Planning Proposal are:

- (i) *To consolidate the number of allotments with each newly created property to consist of one allotment each, whilst still maintaining dwelling entitlements;*
- (ii) *The development of the site can be realised while maintaining the setting and character of the low-key rural 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 developed and all urban services, to an appropriate level, are available to the site and locality; and*
- (v) *To increase the size of the smaller allotment to create an allotment that will maintain a curtilage around the future dwelling-house consistent with the rural residential environment.*

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 subject site is described as "Boscobel" 453 Exeter Road, Sutton Forest (Lot 1 DP 63523; Lots 1&2 Sec 9 DP 758938; Lot 1 DP 1094302; Lots 1-19 Sec 8 DP 758938) and Lot 3 Nicholson Street, Sutton Forest (Lot 3 DP 1142493) (see Maps). The subject site is irregular in shape and maintains frontage to Exeter Road, Illawarra Highway, Village Road, Vincent and Nicholson Streets.

The 24 allotments making up "Boscobel" maintain a total area of 47ha, whilst the small Lot 3 on Nicholson Street maintains an area of only 650m².

The site contains a number of small farm dams, rural outbuildings two storey historic residence.

2.2 Topography

The site is largely comprised of gently undulating grassland paddocks.

2.3 Vegetation and Water

The land generally comprises of cleared grazing land known as "Boscobel Stud". As is characteristic of rural properties in the area, pockets of vegetation are scattered throughout the property.

The site has been cleared for some time reflecting former uses for rural purposes ie agriculture. The site maintains two relatively small farm dams positioned within depressions.

2.4 Visibility and Views

The site is discrete despite being located along the arterial Exeter Road and Illawarra Highway, which is a well utilised road for the travelling. These lands do 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 reduction of one allotment by 3,350m² and the increase in the smaller allotment by 3,350m² would not have an impact on any recognised view or view line.

2.5 Improvements, Restrictions and Uses

The site is currently used for rural-residential purposes. A two storey historic dwelling is positioned on the eastern portion of the site adjacent to Exeter Road. The site contains a number of small farm dams and rural outbuildings. The site also supports well established equine facilities (stables, etc).

There are no uses (either approved uses or existing uses) and current development approvals, which relate to the site, other than those for the dwelling. The proposed subdivision/boundary realignment will not cause prejudice to the curtilage around the historic dwelling.

Public utilities, including electricity and telecommunications exist on the site. The site also maintains access to town water.

2.6 The Site's Locality

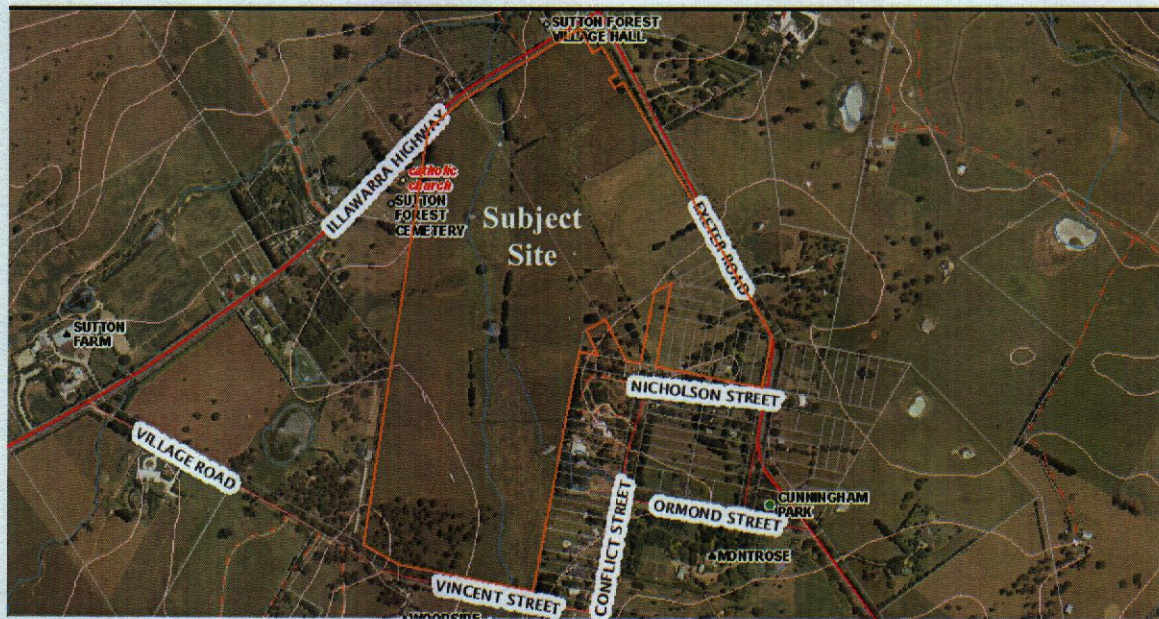
Historically, the locality is farming land. Now the locality is characterised as rural-residential hobby farms.

Key features of the site/locality are:

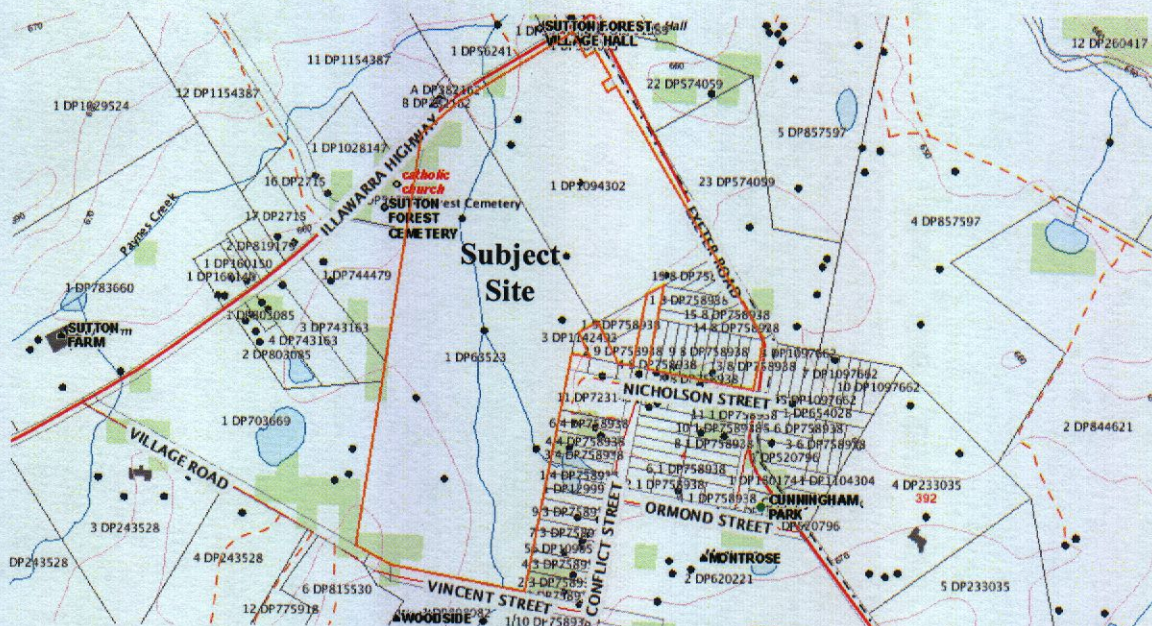
- (i) It is part of the western outer approach to Moss Vale, being the closest significant Town and forms part of the tourist route to the Southern Highlands;
- (ii) Its further development can be realised while maintaining its setting and character (open) by providing clear separation from neighbouring properties;
- (iii) It is within easy access to the Sutton Forest village and the Moss Vale Township for services and facilities; and
- (iv) There are no environmental constraints that would prevent the subdivision and the ability to accommodate a dwelling house on proposed Lot 2.

Land use zonings in the locality in relationship to the site is primarily E3 – Environmental Management,.

Map (1) – The Site and its Locality



Map (2) – The Site, its land parcel & landholding



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 the proposed subdivision/boundary realignment. It investigates those issues of relevance and importantly shows that the proposal development would be consistent with Council's strategic directions.

3.1 Planning Background and Context

Wingecaribee 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.

Sutton Forest is strategically located on the Illawarra Highway, which is a principal road in the road network linking the three main towns of the area (ie. Mittagong, Bowral and Moss Vale) to the Hume Highway and to the greater Illawarra Region based around Wollongong.

3.2 Wingecaribee Rural Lands

There are extensive areas of land within the Shire that display a general rural or agricultural land use character. Typical land uses would include grazing; vineyards; orchards; potato farming; turf farming and other cropping; dams; rural – residential development (on holdings generally between 1-40 hectares); some rural industries such as wineries and intensive livestock keeping; pine forestry plantations; limited tourism accommodation and recreation activities; and a small number of extractive industries. They are also typified by larger scale land holdings, compared to say the town and village areas. These areas can also sometimes display significant remnant stands of bushland, often in locations that are unsuitable for agricultural uses. These areas are more likely to retain naturally occurring streams and other watercourses, although the condition/character of stream beds, banks and riparian areas could be expected to vary.

3.3 Strategic Land Use Planning Matters

The subdivision/boundary realignment of the site must be determined in the wider strategic planning context for Wingecaribee 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. It is shown that there are no strategic planning reasons why the boundary realignment could not be supported.

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;
- (c) 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 state-wide 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 proposal would not increase dwelling entitlements than that existing and therefore the RTA would not need to be consulted about the development of the site.

The boundary realignment/subdivision would not be inconsistent with SEPP No. 11.

(b) SEPP No. 44

This policy introduced state-wide 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 been in its modified state for sometime and a site inspection revealed the site has limited potential for the presence of native vegetation habitat for koalas. 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 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 remediated for that use in the zone before the use commences.

The site has been used for agriculture. Further investigation at the LES stage should be undertaken.

(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 is mainly cleared and well clear of any vegetation.

The proposal 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 is largely cleared and would not require development consent to clear native vegetation to enable a dwelling to be positioned on the smaller allotment.

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. Given that the site is cleared there are no issues identified for the tourist development of the site in terms of this Act.

The proposal 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.

3.3.2 Regional Planning Provisions

Regional planning policies that apply to the site and have relevance to the proposal are:

(a) *Drinking Water Catchments* – Regional Environmental Plan No. 1

Comment

The Drinking Water REP commenced on 1st January 2007 and repealed SEPP 58. The aims of the Drinking Water REP are:-

(a) to create healthy water catchments that will deliver high quality water while sustaining diverse and prosperous communities, and

- (b) to provide the statutory components in Sustaining the Catchments that, together with the non-statutory components in Sustaining the Catchments, will achieve the aim set out in paragraph (a), and*
- (c) to achieve the water quality management goals of:-*
- (i) improving water quality in degraded areas and critical locations where water quality is not suitable for the relevant environmental values, and*
 - (ii) maintaining or improving water quality where it is currently suitable for the relevant environmental values.*

Any development or activity proposed to be carried out on land to which the Drinking Water REP applies should incorporate any current recommended practices and performance standards endorsed or published by the Sydney Catchment Authority (SCA) that relate to the protection of water quality. If any development or activity does not incorporate the SCA's current recommended practices and standards, the development or activity should demonstrate how the practices and performance standards proposed to be adopted will achieve outcomes not less than the SCA's current recommended practices and standards.

3.3.3 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 the boundary realignment.

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 proposed subdivision/boundary realignment 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 floodway 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 effected area. The 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 development 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 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 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. Both properties are zoned E3 Environmental Management under Wingecarribee LEP 2010 and maintain areas of 47ha and 650m² respectively. The primary objectives of the zone are to provide suitable land for agricultural uses (and rural industries). Subsequent uses include retention of natural vegetation, protection of the rural scenic landscape and tourism and recreational activities.

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. Council has the opportunity to "tidy up" the contiguous number of parcels making up the property which is a desired outcome consistent with basic planning principals.

The proposed subdivision will not create any additional dwelling entitlements and will increase the 650m² allotment to 4,000m², therefore providing an allotment which will maintain greater amenity consistent with the objectives of the land use zone. The reduction of the 47ha allotment by 3,350m² will not have any significant detrimental harm to the visual character of the locality or detract from the agricultural viability of the property.

3.4 Summary of Planning Matters

This section of the report has investigated the strategic planning matters of relevance to the development of 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.

An amendment to WLEP 2010 to permit the subdivision/boundary realignment 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. There are other lands and rural zoned precincts throughout the Shire that do this much better than the site will ever do.

The amendment of WLEP 2010 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 is 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 can be developed, 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 boundary realignment cannot be supported.

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 the proposed development. Once Council decides to permit the boundary realignment/subdivision, formal requirements for further environmental investigation will need to be undertaken. However, the Site Analysis provide sufficient information for Council to make a decision about supporting the proposal 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 with any increase in land use. |
| (iv) Flora & Fauna | <u>Minimal impact and no risk to development.</u> Site cleared with scattered trees or trees associated with riparian zone (which cannot be developed). Unlikely to be threatened species etc on site which can be confirmed with NPWS at next stage. No native vegetation to be cleared. |
| (v) Bushfire | <u>Minimal impact and no risk to development.</u> The site is primarily cleared. 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 in a relatively discrete location when viewed from the public domain. |

(b) Development Constraints and Opportunities

- (i) Site Zonings Potential constraint and therefore risk to development. The additional schedule use of the site needs to be in place before any development proposal can take place.
- (ii) Adjacent Zonings No constraint but potential risk to development. Adjacent properties have consistent zones to that of the subject site.
- (iii) Contamination No constraint and no risk to development. The land use history revealed no obvious contamination issues that would need to be remediate for a change in land use, however a contamination assessment would be undertaken if required.
- (iv) Restrictions No constraint and no risk to development. There are no identified easements and the like that prevent the development. The subdivision will maintain acceptable curtilage around the heritage item.
- (v) Geotechnical No constraint and no risk to development. Standard development standards suitable.
- (vi) Access No constraint and no risk to development. The public road network is to a standard to support the development. The local road network can cater for any increase in movements.
- (vii) Utility Services No constraint but potential risk to development. Electricity and telecommunications are available to the site. Effluent is disposed of on-site. Town water is available to the site.
- (viii) Heritage Items No constraint and no risk to development. The site maintains a built heritage item. Adequate curtilage is provided for around the item. The subdivision will not detract from the heritage item.
- (ix) Pollution No constraint and no risk to development. The site is not exposed to any pollution risks.
- (x) Services & Facilities No constraint and no risk to development. The development will not place an unreasonable demand on services and facilities in the Shire.
- (xi) Safety No constraint and no risk to development. There are no foreseeable issues. Crime Prevention Through Environmental Design principles should be applied to the layout design and building design at the subdivision and housing DA stages.

4.2 Summary of Development Matters

Overall, the site has the capacity to sustain the proposed development 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 CONCLUSION

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

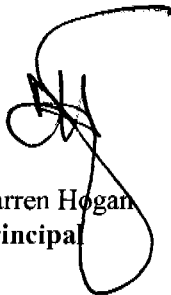
Given the contiguous number of allotments making up this property and the two existing dwelling entitlements (one being on a very restrictive 650m²), the landowner considers that the site could be better developed by increasing the smaller allotment to 4,000m² consistent with surrounding allotments and consolidating the residue into some 46 odd hectares. 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. Overall, the site is not highly sensitive or constrained and therefore is a "minor site" in the scheme-of-things. The site can however be better used to provide for development which will result in a rural-residential allotment that will be more conducive to the objectives of the governing land use zone. There are no real reasons why the site could not be further developed from the strategic and development points of view.

Bureaucracy Busters is of the opinion that the site can accommodate the proposal. There are no real reasons why the Site could not be granted a schedule 1 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 the proposed subdivision/boundary realignment development 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
Principal

M.P.I.A; C.P.P