

Rezoning to permit retail development at 1 Figtree Boulevard, Wadalba

Proposal Title : **Rezoning to permit retail development at 1 Figtree Boulevard, Wadalba**

Proposal Summary : **The proposal seeks to rezone a 1.5Ha site from 2(e) Urban Release Area to 3(a) Business Centre to allow development for the purposes of a 3200m2 supermarket, 80m2 specialty shop and service station under Wyong LEP 1991. The proposal also seeks to amend provisions under clause 59 of Wyong LEP 1991 that limit shopping centres in Wadalba.**

The draft Wyong LEP 2012 proposes to zone the site R2 Low Density Residential and the planning proposal would rezone the site to B2 Local Centre should the draft LEP be finalised in advance of the planning proposal.

PP Number : **PP_2013_WYONG_009_00**

Dop File No :

13/12119

Proposal Details

Date Planning Proposal Received : **18-Jul-2013**

LGA covered :

Wyong

Region : **Hunter**

RPA :

Wyong Shire Council

State Electorate : **WYONG**

Section of the Act :

55 - Planning Proposal

LEP Type : **Spot Rezoning**

Location Details

Street : **Corner of Pacific Highway & Figtree Boulevard**

Suburb : **Wadalba**

City :

Postcode : **2259**

Land Parcel : **Lot 195 DP1006789**

DoP Planning Officer Contact Details

Contact Name : **Glenn Horal**

Contact Number : **0243485009**

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RPA Contact Details

Contact Name : **Melati Lye**

Contact Number : **0243505526**

Contact Email : **MLye@wyong.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name :

Contact Number :

Contact Email :

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Land Release Data

Growth Centre :		Release Area Name :	
Regional / Sub Regional Strategy :	Central Coast 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 :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	371

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 : **HISTORY**
The proponent submitted a pre Gateway Review on 26 February 2013 as Council had not indicated its support 90 days after the proponent submitted a request to prepare a planning proposal.

On 20 May 2013 the Deputy Director-General agreed to recommend the proposal proceed to review by the JRPP subject to the payment of the review fee.

Council resolved to progress the planning proposal at the Council meeting on 12 June 2013 and the planning proposal was lodged with the Department on 18 July 2013.

COUNCIL REQUIREMENTS

Council has recommended the proponent prepares a concept plan and also requires a peer review of Council's draft retail strategy and proponent's Economic Impact Assessment (EIA)(Appendix C of Attachment 6).

Preparation of a concept plan before community consultation is considered unnecessary as the rezoning will not only permit the supermarket development but potentially any uses permitted in a 3(a) Business Centre zone. Details of concept plans and the eventual development would be subject to a future development application and are not required for the rezoning and may create community expectations of a final development outcome.

Council has further advised that its current DCP will require updating and resolved to exhibit it to ensure consistency with the planning proposal. A concept plan could be included in this material if Council considers it to be sufficient to broaden community understanding of the proposal.

A peer review of Council's own draft retail strategy and the proponent's EIA are not considered necessary prior to community consultation.

External Supporting
Notes :

Adequacy Assessment

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

Is a statement of the objectives provided? **Yes**

Comment : **Council's stated objective is to rezone the land and remove restrictions under the Wyong LEP 1991 to enable retail development on the site.**

The objectives detail specific floor areas of the proposed development and the number of parking spaces which are considered unnecessary. It is acknowledged the proponent has specific commercial requirements in terms of the proposed development however these would be better placed in the justification section of the planning proposal.

The objectives and the explanation of provisions form the basis for legal drafting of the instrument and unless specifically designed to restrict future development it may have the unintended consequences of locking in a singular development outcome with specific floor space requirements.

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

Is an explanation of provisions provided? **Yes**

Comment : **Council proposes to amend Wyong LEP 1991 to rezone the land and amend provisions in Clause 59(1)(b) where it limits the number of local shopping centres within Wadalba so as not to apply to the subject site. Depending on timing, the planning proposal could amend the draft Wyong LEP 2012 zoning maps.**

Council has specifically identified the cl. 59(1)(b) provision however it may be more appropriate to generally identify cl. 59 in the Explanation of Provisions to allow for alternatives in the drafting of the instrument should it be finalised in advance of the SI draft LEP.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

**1.1 Business and Industrial Zones
1.3 Mining, Petroleum Production and Extractive Industries
3.1 Residential Zones
3.4 Integrating Land Use and Transport
4.2 Mine Subsidence and Unstable Land
5.1 Implementation of Regional Strategies
6.1 Approval and Referral Requirements
6.3 Site Specific Provisions**

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

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

d) Which SEPPs have the RPA identified?

**SEPP No 55—Remediation of Land
SEPP (Infrastructure) 2007**

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

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

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : The mapping provided is adequate however a locality plan showing the location of the site in context with the rest of the LGA, including other nearby centres, would assist in clarifying the site's location for community consultation.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : Council has identified a 28 day exhibition period in the project timeline. Given the proposal is a low impact proposal a 14 day exhibition period is considered to be sufficient.

Additional Director General's requirements

Are there any additional Director General's requirements? **Yes**

If Yes, reasons : **PROJECT TIMELINE**
Council's timeline anticipates submission to the Department for finalisation in January 2014 (approx 6 months) and does not account for the 6 week period for drafting of the instrument or the holiday period in late December and January.

Council has also resolved for the General Manager to provide Council with a further report on the results of the consultation phase and preparation of LEP and DCP amendments.

It is recommended that 9 months would be a realistic timeframe to complete the plan and this does not prevent Council from finalising a plan in a shorter timeframe.

DELEGATION AUTHORISATION
Council has accepted plan-making delegation for planning proposals generally and has requested delegation for this specific proposal. Given the proposal is a minor spot rezoning it is recommended delegation be granted to Council to make the plan.

Overall adequacy of the proposal

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

If No, comment :

Proposal Assessment

Principal LEP:

Due Date : **September 2013**

Comments in relation to Principal LEP : Council submitted the standard instrument draft Wyong LEP 2012 (dLEP 2012) to the Department to be made on 31 May 2013, (with subsequent submissions on 19 June and 3 July 2013), and it is expected the plan will be finalised in September/October 2013.

Assessment Criteria

Need for planning proposal : Council has referenced its Draft Review of Retail Centres 2012, currently under consideration by Council, which concluded there was capacity for the Wadalba Centre to expand retail floor space in the short term. Council advises the capacity increase for Wadalba was based on an additional 2000m2 supermarket and not the 3200m2 supermarket the subject of this proposal.

Council refers to the proponent's Economic Impact Assessment (EIA) which demonstrates the additional supermarket floor space will not unreasonably affect development proposed

in Wadalba East Village Centre, Warnervale District Town Centre or other existing retailing.

Council also highlights there has been no review of the EIA or reconsideration of its draft Retail Strategy based on the higher floor space proposed by the development and Council recommends this be undertaken.

It is considered that peer review of the EIA and reconsideration of the draft Retail Strategy before community consultation as proposed by Council is not necessary given the proposal is to rezone land to a zone that would allow a number of uses and no restrictions on floor space are proposed.

The draft Wyong LEP 2012 proposes to zone the site R2 Low Density Residential and although it permits neighbourhood shops Council advise they are restricted to a maximum floor area of 125m². R2 would also prohibit service stations thereby precluding the proposal.

Council has advised a concept plan is fundamental in communicating with the community and statutory authorities and could inform a future DCP amendment. Council has identified deficiencies with its current DCP for Wadalba and proposes to refine this DCP to accompany progression of the planning proposal.

While a concept plan may provide some assistance to the community in terms of what is proposed, it is not required and may create an expectation of a final development outcome. Council can still prepare an amendment to the DCP containing a concept plan to exhibit concurrently with the planning proposal should this assist community understanding however it is considered unnecessary to include a requirement for a concept plan in the Gateway Determination.

Council advises the site is not currently zoned to enable the development and the intended objectives cannot be achieved by any other mechanism.

Council has not considered other potential zones which could be appropriate for the site and intended uses (e.g the B4 zone under the draft SI Principal LEP).

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Consistency with strategic planning framework :

CENTRAL COAST REGIONAL STRATEGY (CCRS)

Council has identified the site is located in a village, will provide an appropriate mix of retail floor space and is located on a strategic bus corridor. Council further states the proposal has the potential to create 228 jobs with a further 55 direct and 88 indirect jobs during the construction phase. It is noted the EIA identifies 432 direct and indirect jobs would likely be provided by the proposal, a difference of 61 which is not accounted for in the planning proposal.

Council states the proposal is consistent with the CCRS and the potential to be consistent with Action 4.21 and Action 5.11 which relate to integrated land use and transport planning and locating new retail development in centres.

The proposal is considered to be generally consistent with the CCRS and would assist in meeting regional employment targets for the Central Coast by locating retail development in an existing village centre with good public transport links. Wadalba is identified as a village in the CCRS centres hierarchy and the rezoning of this land is not inconsistent with Wadalba's role as a village.

NORTH WYONG SHIRE STRUCTURE PLAN (NWSSP)

Council has stated the NWSSP identifies where and when development is planned to occur to ensure sufficient land exists to meet regional housing and employment targets. Council further states the growth in the Wadalba Centre in response to the proposal is not likely to prejudice the establishment of a centre at Wadalba East or the program for development of Warnervale Centre (both are identified in the structure plan for future centre development). The rezoning is not inconsistent with the NWSSP.

LOCAL STRATEGIES

Council has identified the proposal is consistent with a number of priority objectives of its community strategic plan.

STATE ENVIRONMENTAL PLANNING POLICIES (SEPPs)

SEPP (Infrastructure) 2007

Council has identified the development of a supermarket, specialty shop and service station is traffic generating and will require consultation with the NSW Roads and Maritime Services. The site fronts the Pacific Highway and is constrained by a drainage reserve on Orchid Way and access from Figtree Boulevard is separated by a vegetated median strip. Consultation with NSW Roads and Maritime Services may assist in addressing potential impacts on the road hierarchy.

SEPP 55 (Remediation of Land)

Council has advised the proponents submitted a Phase 1 Environmental Site assessment which indicated the potential for contamination due to stockpiles on site and illegally dumped waste. Council advised further investigation would be required. Council should ensure the planning proposal satisfies the requirements of State Environmental Planning Policy (SEPP) 55 - Remediation of Land and demonstrates that the site is suitable for the rezoning once further information on contamination has been obtained.

S117 DIRECTIONS

The planning proposal is considered to be consistent with all S117 Directions except where discussed below:

1.3 Mining, Petroleum Production and Extractive Industries

Currently the uses are permitted by the Mining SEPP which provides that the uses can occur where agriculture is permitted (the 2(e)(Urban Release Area Zone) under Wyong LEP 1991 permits agriculture with consent). However, mining and agriculture are prohibited uses in the proposed 3(a) Business Centre zone. Council should consult with the Department of Primary Industries to satisfy the requirements and demonstrate consistency with the direction.

4.2 Mine Subsidence and Unstable Land

The site is located in Swansea North Entrance No 1 Mine Subsidence District and as such

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the planning proposal is inconsistent with the direction as no consultation with the Mine Subsidence Board has been undertaken.

Council has identified consultation will occur with the Mine Subsidence Board following a Gateway Determination. It is considered the S117 should be addressed following agency consultation.

Environmental social
economic impacts :

Environmental

The site has been largely cleared of vegetation and Council states there is no likelihood of critical habitat or threatened species.

Social & Economic

Council has advised the proposal will generate employment opportunities for local residents while also providing retail choice and competition in the local market and will have a positive social impact.

Council identifies its DCP for Wadalba needs refinement and this is supported. This could include consideration of how future development on this site will be integrated with the rest of the centre.

Assessment Process

Proposal type : **Routine** Community Consultation Period : **14 Days**

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

Public Authority Consultation - 56(2)(d) : **NSW Department of Primary Industries - Minerals and Petroleum
Mine Subsidence Board
Transport for NSW - Roads and Maritime Services**

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

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

If no, provide reasons :

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

If Yes, reasons :

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 :

Documents

Document File Name	DocumentType Name	Is Public
Council Letter.pdf	Proposal Covering Letter	Yes
Planning Proposal.pdf	Proposal	Yes

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Planning Proposal Attachment 1 Council Report and Minutes.pdf	Proposal	Yes
Planning Proposal Attachment 2 Planning Provisions Extract.pdf	Proposal	Yes
Planning Proposal Attachment 3 S117 Directions.pdf	Proposal	Yes
Planning Proposal Attachment 4 SEPPs.pdf	Proposal	Yes
Planning Proposal Attachment 5 Council pre Gateway Response.pdf	Proposal	Yes
Planning Proposal Attachment 6 TPG Planning Proposal - Economic Impact Assessment - Traffic Report.pdf	Proposal	Yes
Planning Proposal Attachment 7 Phase 1 Environmental Site Assessment Report copy.pdf	Proposal	Yes
Planning Proposal Attachment 8 Letter of Objection.pdf	Proposal	Yes
Planning Proposal Attachment 9a - Aerial Plan.pdf	Photograph	Yes
Planning Proposal Attachment 9b - Zone Map WLEP 1991.pdf	Map	Yes
Planning Proposal Attachment 9c Zone Map Draft LEP 2012.pdf	Map	Yes
Planning Proposal Attachment 9d Proposed Zone under Wyong LEP 1991.pdf	Map	Yes
Planning Proposal Attachment 9e Proposed Zone under draft Wyong LEP 2012.pdf	Map	Yes
Attachment_4_-_Evaluation_criteria_for_the_delegation_of_plan_.doc	Determination Document	No

Planning Team Recommendation

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

S.117 directions:

- 1.1 Business and Industrial Zones
- 1.3 Mining, Petroleum Production and Extractive Industries
- 3.1 Residential Zones
- 3.4 Integrating Land Use and Transport
- 4.2 Mine Subsidence and Unstable Land
- 5.1 Implementation of Regional Strategies
- 6.1 Approval and Referral Requirements
- 6.3 Site Specific Provisions

Additional Information :

- The planning proposal be updated to:
 - remove items 1 - 4 which identify floor area and parking spaces in the Objectives or Intended Outcomes Section and relocate them to the Justification section.
 - amend the explanation of provisions to generally identify clause 59 provisions to allow for alternatives in the drafting of the instrument should it be finalised in advance of the SI draft LEP.
 - The maps be improved for community consultation with a location map showing the context of the site in relation to the LGA and nearby centres.
 - A concept layout plan is not required for exhibition of the planning proposal however Council may exhibit such material concurrently with its updated DCP should it consider it will aid community understanding of the proposed development.
 - Council is to demonstrate that the planning proposal satisfies the requirements of State Environmental Planning Policy (SEPP) 55 - Remediation of Land and demonstrate that the site is suitable for the rezoning once information on contamination has been obtained.
 - Council is to update the planning proposal to include sufficient additional information to adequately demonstrate consistency or justify any inconsistency with the following S117 Directions once it has undertaken consultation with public authorities:

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- 1.3 Mining, Petroleum Production and Extractive Industries
- 4.2 Mine Subsidence and Unstable Land

-Agency Consultation with:

- NSW Department of Primary Industries - Minerals and Petroleum
- Mine Subsidence Board
- Transport for NSW - Roads and Maritime Services

-14 days community consultation period.

-9 month timeframe to complete the plan.

-Council be granted delegation to make the plan.

Supporting Reasons : *

Signature:



Printed Name:

GARRY HOPKINS

Date:

26.7.2013