



Attachment 5: Pre Gateway Review Response

KC/Graham Pascoe/Scott Duncan
RZ/10/2012

6 May 2013

The Executive Director
Att: Mr McGaffin
Rural and Regional Planning
Department of Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2011

Dear Mr McGaffin

REQUEST FOR PRE GATEWAY REVIEW – WOOLWORTHS, CORNER PACIFIC HIGHWAY/FIGTREE BOULEVARD, WADALBA - RZ/10/2012

I refer to your letter of 27 March, 2013 in respect of the abovementioned matter specifically inviting Council comment pertaining to the proposal and/or the reasoning as to why the original request to Council was not progressed.

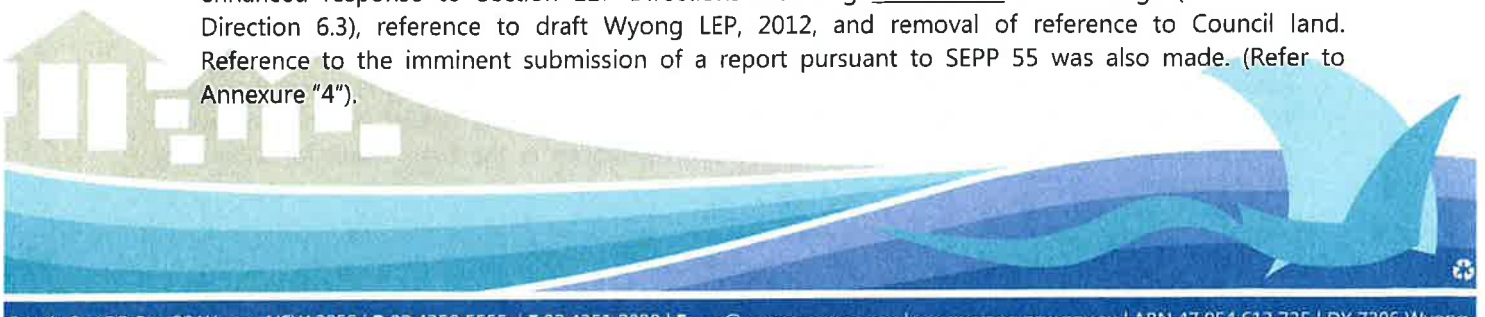
Overview-Progress of Planning Proposal Submission

A Progress Synopsis of the subject Planning Proposal is produced as Annexure "1". In summary a Planning Proposal was lodged with Council on 20 September, 2012 and was subject to a preliminary "Desk Top" review. Insufficient information was available to conclude such review.

In response Council sought to convene a meeting with the Applicant to discuss Council's preliminary review conclusions and develop a consensus strategy for advancement. Initial contact with the Applicant on 16 November, 2012 foreshadowed such a meeting. The meeting was eventually scheduled for 13 December, 2012 after some significant challenges in getting the consultant to attend a meeting at Council.

Brief background notes were prepared to inform the subject meeting and form Annexure "2". The conclusions arrived at the subject meeting formed an "Advancement Strategy" and were communicated to the Applicant on 19 December, 2012 (Refer to Annexure "3").

Numerous attempts to contact the Applicant to discuss progress in terms of the "Advancement Strategy" during January and early February, 2013 proved to be unsuccessful. On the 7 February, 2013 the Applicant contacted Council, acknowledging Council's attempted contact and furnished an amended Planning Proposal inclusive of, inter alia, a revised Economic Impact Assessment (EIA), an enhanced response to Section 117 Directions including removal of: all drawings (reference 117 Direction 6.3), reference to draft Wyong LEP, 2012, and removal of reference to Council land. Reference to the imminent submission of a report pursuant to SEPP 55 was also made. (Refer to Annexure "4").



The removal of Plans is considered to represent a very narrow interpretation of Section 117 Direction 6.3 - Site Specific Provisions and is counterproductive to attempts to progress a relevant Planning Proposal, particularly in terms of reporting to Council and meaningful consultation with the State Agencies/Authorities and the Community. It is noted that the concept plans have also been removed from the revised Planning Proposal (received 7 February 2013) inclusive of the Traffic Report and Economic Impact Assessment (EIA).

In the preceding regard it is acknowledged that a Planning Proposal would not reference Site Specific Plans. Urban Design Principles would, however, be noted, together with the need to revise DCP 2005 – Chapter 49 Warnervale East and Wadalba North West Urban Land Release Area and prepare on amendment to the prevailing Section 94 Contribution Plan; the latter two which would need to be finalised before forwarding a relevant Planning Proposal to the Minister for finalisation as an LEP amendment.

Council also obtained a Fee Proposal from the author of its Retail Centres Review to conduct a peer review of the EIA and communicated the same to the Applicant on 8 March, 2013. Despite numerous requests in respect of its acceptability the Applicant has not responded.

On 14 April, 2013 the Applicant also furnished a Phase 1 Environmental Site Assessment Report (SEPP 55) which apart from identifying some potentially contaminated on-site stockpiles and dumped waste material was inconclusive in the absence of intrusive investigation. It was similarly inconclusive in respect of prevailing ground conditions generally in the absence of intrusive investigation methods. The limitations of the subject report are of a nature which would not prevent an initial Report to Council.

Council Position

Council has long held a view that the Planning Proposal seeking to amend prevailing planning provisions to ultimately facilitate development of a Supermarket, Service Station, limited specialty retailing and associated landscaping and support infrastructure is potentially "supportable" at Wadalba, subject to; independent economic review and appropriate urban design outcomes (in a site specific and neighbourhood integration context).

"The proposal is deemed to have merit, but further justification is required".
(Council Background Notes – Meeting with Applicant and Proponent
13 December 2012).

However, it is stressed that a formal decision of Council to support this rezoning is yet to be obtained and would still be required even if a positive "Gateway" determination is obtained.

After the meeting of 13 December, 2012 with the Applicant and Proponent it was considered that there was consensus and enthusiasm to proceed collaboratively to develop a relevant Planning Proposal in a timely manner, as detailed in the "Advancement Strategy" dated 19 December, 2012 (Refer to Annexure "3").

With the additional information submitted by the Applicant on 7 February, 2013 and 14 April, 2013 Council believes that it is nearing a position to be able to report the Planning Proposal to Council accompanied by a positive recommendation that a Planning Proposal (based on the substantive material supplied by the Applicant) be prepared and referenced to the Department for a Gateway Determination.

It is, however, considered fundamental that a concept layout plan depicting the proposal and its integration with the immediate precinct be submitted so as to inform the report to Council and foreshadowed Gateway Referral.

More detailed urban design guidelines, a peer review of the Economic Impact Analysis and more rigorous traffic impact analysis and contamination investigations although desirable could potentially be deferred to after a Gateway Determination. (Refer to Annexure "6").

More comprehensive urban design work, traffic impact analysis and contamination investigations could potentially be deferred and completed prior to community consultation.

Pre Gateway Review

For non determination of the Planning Proposal indeed Council holds firmly to the view that it has only been in receipt of a substantive Planning Proposal since 7 February, 2013, and even now advocates the need for a Concept Layout Plan as a minimum. This being the case the 90 day time limit for Council determination is only now coming due on the date of this response.

Further, Council remains exceedingly disappointed, in the light of the meeting of 13 December, 2013 outcomes, that the Applicant and Proponent have taken the subject course of action which has only distracted from finalising submission of a relevant report to Council offering qualified endorsement of the Planning Proposal proceeding to a Gateway Determination.

Conclusion

The subject Planning Proposal from the date of its lodgement has had a range of information inadequacies. A program for advancing a relevant Planning Proposal was documented on 19 December, 2012 after meeting with the Applicant and Proponent and was understood to represent a consensus view and provide a framework for collaboratively advancing a Planning Proposal.

The Applicant has proceeded to submit additional information on 7 February, 2013 and 14 April, 2013, but has removed all plans, plans considered essential to communicating the proposal to Council, the community and State Government Agencies/Authorities.

A satisfactory Peer Review of the accompanying Revised Economic Impact Assessment (funded by the Applicant/Proponent), together with appropriate Urban Design documentation for the site and its integration into the Wadalba Village Centre would enable Council to finalise the necessary documents to publicly exhibit the Planning Proposal.

It is noted that completion of the DCP Chapter amendment (including relevant data inputs) Developer Contribution Plan amendment, and more rigorous contamination investigation will be required before forwarding the Planning Proposal to the Minister for finalisation as an LEP amendment.

I trust this information enables the Department and Joint Regional Planning Panel to understand the progress of the subject Planning Proposal and the prospects of potential imminent Council support.

Should you require clarification of any of the foregoing please do not hesitate to initially contact Scott Duncan, Senior Strategic Planner, on 4350 5547 or Graham Pascoe, Contractor, on 02 4350 1302 (Thursday – Friday).

Yours sincerely

A handwritten signature in black ink, appearing to be 'MJ' followed by a long, sweeping horizontal line.

Martin Johnson

Acting Manager

STRATEGIC DEVELOPMENT

ANNEXURE "1"

WOOLWORTHS PLANNING PROPOSAL – WADALBA (RZ/10/2012)

(Progress Synopsis) as at 8/3/13

Lodgement

Planning Proposal lodged with Council (20/9/12)

Internal Referrals

Issued 16/10/12

Comments received October/November, 2012

Progress Update with Proponent Consultant

Foreshadowed meeting to discuss overview in December, 2012. (16/11/12)

Meeting Co-ordination

23/11/12

Meeting Between Council, Proponent and Proponent Consultant

13/12/12 (Refer to background briefing at Annexure "2")

Advancement Strategy

Strategy developed having regard to abovementioned meeting outcomes and issued on 19/12/12. Focus on a collaborative approach. (Refer to Annexure "3" inclusive of Attachment "A")

Attempted Contact with Proponent Consultant

Numerous phone and email attempts to contact Proponent Consultant (acknowledged by Consultant):- mid/late January and February, 2013. (Refer to Attachment "3" pages 2 and 3)

Planning Proposal Amendment

Submission of amended Planning Proposal by Proponent's Consultant (7/2/13)

Principle amendments included:

- Revised Economic Assessment (EIA), removal of all plans, revised response to Section 117 Directions, update having regard to DWyong LEP, amended mapping and removal of reference to Council land.
- Foreshadowed submission of SEPP 55 Report.

(Refer to Annexure "4" Page 1)

Acknowledgment of Amended Documentation

Receipt of amended documentation communicated accompanied by advice feedback would be provided shortly.

Securing of a fee proposal for review of the EIA was communicated by Council.

Commitment by the Proponent to the suggested Design Workshop was questioned.
(8/2/13)

Progress Update

Proponent consultant was advised that a proposal to review the EIA would be communicated shortly. Removal of all plans and "narrow" interpretation of 117 Direction 6.3 questioned by Council.

Question posed again in respect of commitment to design workshop. (22/2/13) (Refer to Annexure "5")

Proposed peer review of EIA submitted to Proponent Consultant for endorsement, together with requested response to email of 22/2/13 cited above. (8/3/13)

ANNEXURE "2"

Woolworths Wadalba Shopping Centre Proposal

(Background Notes for meeting – 13 December 2012)

1.0 Introduction

Several matters will need to be addressed to advance the Planning Proposal, generally they do not require final resolution before the report is submitted to Council. However work can commence on these pre "Gateway" to progress the rezoning in the event of a positive determination.

Some of the additional design work mentioned below will need to be undertaken collaboratively with Council.

2.0 Strategic Context/Economic Impact

- The accompanying economic assessment and peer review is dated (2009) and prepared in respect of a different proposal (2000m² supermarket, 500m² specialty shops, a service station).
- Further, Council's Draft Retail Strategy Review referring to the former proposal identifies the prospect of 2,000m² supermarket and 500m² of speciality shops as potentially supportable after 2016.
- The timing relationship relative to Woolworths Warnervale Town Centre commitment requires clarification, as to does the impact upon Lakehaven and potentially Wadalba East in particular.

Actions

- **Need for revised economic impact assessment, potentially via Council's current Retail Review.**
- **Consultant need for clarification of timing of proposal.**

3.0 Urban Design/Masterplan

- The site planning produces some on-site conflicts and challenges in respect of service infrastructure and integration with the broader neighbourhood; including
 - Suburb/Centre entry statement
 - Service vehicle conflicts on site.
 - Potential traffic queuing to enter service station.
 - Pedestrian vehicle conflicts.
 - Location of bus stop.
 - Interface with surrounding development.
 - Potential stormwater management
- The proposal also provides the prospect of contributing positively to revised masterplanning of the broader precinct.

Actions

- **Review design and better integrate with an enhanced precinct masterplan.**
(Potentially undertake collaboratively with Council)

4.0 Enhancement Opportunities

The Proposal provides prospects of:

- Contributing to an enhanced precinct masterplan
- Implementation of water sensitive urban design practices.
- Upgraded integration with surrounding precinct, including alternative movement means.
- Exploring infrastructure rationalisation.

Actions

- **Examine opportunities to contribute towards enhanced urban outcomes.**

5.0 Section 117 Directions

A more rigorous review of Section 117 Directions and in particular:

- 1.1 Business and Industrial Zones
- 3.4 Integrating Landuse and Transport
- 4.2 Mine subsidence and Unstable Land
- 5.1 Implementation of Regional Strategies

Actions

- **Enhance commentary in respect of the above mentioned 117 Directions.**

Other Issues

- There are a number of traffic matters which require further clarification, at a future point in time including; interalia, revised traffic counts, modelling and manoeuvring.
- A Phase 1 Contaminated lands investigation should be undertaken at a future point in time.
- Revised development guidelines consistent with the new masterplanning outcomes will need to be addressed at a future point in time. These will be incorporated into DCP 2005 – Chapter 49 – Warnervale and Wadalba East Urban Land Release Area.

Conclusion

The proposal is deemed to have merit, but further justification is required. A collaborative masterplanning phase should potentially be commenced as a priority, but need not be finalised before reporting the Planning Proposal Submission to Council.

A limited number of additional (actions will also need to be undertaken to progress the Planning Proposal, both "pre Gateway" and "post Gateway).

ANNEXURE “3”



KC/Scott Duncan
RZ/10/2012

19 December 2012

Att: Marian Higgins
TPG
PO Box 1612
NORTH SYDNEY NSW 2059

Dear Marian

RE: PLANNING PROPOSAL WOOLWORTHS, WADALBA RZ/10/12

May we initially thank you for your attendance at the recent meeting to discuss Council's preliminary review of the subject Planning Proposal (PP) and the development of a collaborative approach for advancing the PP inclusive of the masterplanning of the immediate precinct.

The salient conclusions of the meeting are summarised as follows:

The Proponents undertake

- To prepare an updated Economic Impact Assessment (and Peer Review if desired) (End January, 2013).
- To fund a review of the revised assessment by Council's current Retail Planning consultant Don Fox Planning (Beginning February, 2013).
- To resource a Council/Proponent workshop on Council premises to advance the conceptual design and masterplanning of the immediate precinct to support the upgrading of the existing Wadalba 'neighbourhood' centre to a village centre.

Note 1

Council will provide a venue to meet which will include a cross-section of staff representing town planning/urban design, traffic/transport/accessibility planning, social planning, stormwater/hydraulic design. The Proponent will provide urban design/masterplanning, town planning, stormwater management traffic/transport/accessibility and project design expertise.

Note 2

- The subject conceptual design/masterplanning exercise does not need to be completed, prior to reporting the Planning Proposal to Council.
- Relevant Section 117 Directions need to be embellished as discussed at our meeting.
- Phase 1 Contaminated Lands investigation required prior to public exhibition of the Planning Proposal.

Additionally, the Proponents foreshadow a commitment to assist in resourcing reasonable requirements that may attach to a positive Gateway Determination.

Council undertake

- To refer the revised Economic Impact Assessment to Don Fox Planning for review (subject to Proponent funding).
- To target a report to Council for consideration of advancing the PP (subject to a positive statement from Don Fox Planning) in mid/late March, 2013.
- To address all relevant statutory matters to provide a planning framework to facilitate consideration of a relevant Development Application (excluding DCP amendment).
- To forward preliminary traffic review comments in respect of the current PP submission (Refer to Attachment "A").
- To check the designation of the drainage reserve.
- To facilitate forwarding the PP to the Department of Planning and Infrastructure for a Gateway Determination in a timely manner, in the event of a positive Council decision (a potential target date in April, 2013, all other things being equal, would appear to be reasonable).
- Additionally, Council foreshadows an amendment to the prevailing DCP, based on the Concept/Masterplanning work.

Future Funding

It is noted that the Phase 2 funding amounts to \$8,808.00 (equivalent of 60 hours) plus a bond of \$8,808.00. The Phase 3 funding is noted to be \$5,873.50 (equivalent of 40 hours) plus a bond of \$5,873.50.

You are further advised that in the event that the Phase 2 bond is not fully expended the residual value will be assigned to the Phase 3 payment and bond requirements.

At the project conclusion if all monies are not fully expended, a reconciliation will occur and reimbursement will occur. Should the progress instalments and bond not meet the full costs incurred by Council, additional time expended will be charged out in accordance with the prevailing fee in Council's adopted schedule of Fees and Charges.

A copy of Council's Funding Agreement will be provided early next year.

It should be noted that the preceding information, particularly indicative timeframes, has been provided in good faith.

Council looks forward to working with yourself and your client in a collaborative manner in pursuit of a mutually acceptable outcome.

Should you require clarification of any of the foregoing please do not hesitate to contact Mr Graham Pascoe on 4350 1302 in the first instance, or in Graham's absence myself on 4350 5547.

Yours sincerely



19/12/2012

Scott Duncan
Senior Strategic Planner
SUSTAINABILITY

Transport Planning Comments on RZ/10/2012

1 Figtree Boulevard, Wadalba
22 October 2012

1. The northern access to the petrol filling station is approximately 15 metres from the intersection of Pacific Highway and Figtree Boulevard. This access must be deleted as vehicles waiting to access the fuel pumps will most likely queue out of the site and possibly onto Pacific Highway. Council will not permit any access to the site within 50 metres of Pacific Highway.
2. The Traffic counts accompanying the report were undertaken on Friday afternoon and Saturday at midday. Council requires that traffic counts for these types of developments are undertaken for the morning and afternoon peak hours on a Thursday and for the morning Saturday peak hour. Council requires a copy of the raw traffic count data either electronically or in hard copy. It is to include traffic volume counts for a period of 1 week, which is to include the days of the intersection counts.
3. An intersection count is required at the intersection of Pacific Highway and Figtree Boulevard to confirm existing traffic movements to which traffic generated by the development can be added for modelling.

The Sidra modelling for the intersection of Pacific Highway and Figtree Boulevard should be calibrated for the existing (2012) by undertaking observations of queue lengths and delay in the morning and afternoon periods. The intersection is also to be modelled to include a 10 year projection of background traffic growth at 1.5% per annum, plus traffic generated by the proposed development. The Sidra modelling must use the existing traffic signal phasing arrangements. This information can be obtained from Roads and Maritime Services (RMS).

4. Council requires an electronic copy of the Sidra files for both the existing and future scenarios.
5. The eastern end of the southern carpark should be closed to prevent conflict between passenger vehicles and trucks manoeuvring in the loading dock.
6. Truck turning templates are required for the Figtree Boulevard/Orchid Way roundabout for the largest anticipated vehicle likely to access the development.
7. Turning templates are also required for vehicles egressing the east-west dock.
8. This re-zoning application must be referred to RMS for comment as the traffic generated by the development will have a direct impact on the efficiency of the traffic signals at the intersection of Pacific Highway and Figtree Boulevard.

Steve McDonald/Bob Burch
Transport Planning Unit

ANNEXURE “4”

Comber, Kristy

From: Marian Higgins <marian.higgins@tpgnsw.com.au>
Sent: Thursday, 7 February 2013 1:19 PM
To: Pascoe, Graham
Cc: Duncan, Scott; Rumble Michael; Craig Schulman
Subject: RE: Progress of Woolworths Planning Proposal -Wadalba-RZ/10/2012
Attachments: 213 054 Wadalba PP - Final with Appendices.pdf; img-129155324-0001.pdf

Dear Graham,

Thanks for your emails and calls.

The final EIA has been issued – refer to Appendix C of the attached Planning Proposal.

Woolworths is in the process of obtaining a report to assist with addressing SEPP 55 and this will be issued as soon as it is available.

TPG has also adjusted the PP based on Council's feedback, specifically to address the S117 directions in more detail.

In doing so, it became apparent that S117 Direction 6.3 Site Specific Provisions (copy attached) at subclause (5) states:

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

Therefore, the drawings have been removed from the PP, as have all references to DCP matters.

In addition, all references to the Council lot have been removed.

As the draft LEP has commenced exhibition, this is also referenced in relation to the site.

Mapping amendments have now been included at Appendix H.

Three hard copies are being sent in the mail tonight.

Regards,

Marian Higgins
Director



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AND URBAN DESIGN

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From: Pascoe, Graham [<mailto:GGPascoe@wyong.nsw.gov.au>]
Sent: Thursday, 7 February 2013 9:24 AM
To: Marian Higgins
Cc: Duncan, Scott
Subject: FW: Progress of Woolworths Planning Proposal -Wadalba-RZ/10/2012

Dear Marian,

We are planning for the potential advancement of the subject Planning Proposal and need to be updated on your progress.

Please advise accordingly ,at your convenience.

Regards Graham

From: Pascoe, Graham
Sent: Thursday, 24 January 2013 11:52 AM
To: 'Marian Higgins'
Cc: Duncan, Scott
Subject: FW: Progress of Woolworths Planning Proposal -Wadalba-RZ/10/2012

Dear Marian,

Any progress?

Regards Graham

From: Pascoe, Graham
Sent: Friday, 18 January 2013 9:35 AM
To: 'Marian Higgins'
Cc: Duncan, Scott
Subject: Progress of Woolworths Planning Proposal -Wadalba-RZ/10/2012

Dear Marian,

Welcome back--I assume you are hard at it again.

Do you have any questions in respect of the 'Advancement Strategy" provided subsequent to our meeting late last year?
or perhaps equally importantly how are you and your client progressing with your immediate actions?

Could you also please provide details of the Party (Proponent) who will be entering the Funding Agreement?
(Name of entity and contact address,Name of empowered person/person authorised to sign and Title of such person.)

Should you require clarification of any aspect of this note please do not hesitate to contact me or in my absence Scott.

Regards Graham

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ANNEXURE "5"

From: Pascoe, Graham
Sent: Friday, 22 February 2013 4:33 PM
To: 'Marian Higgins'
Cc: Duncan, Scott
Subject: Woolworths Wadalba-Planning Proposal (RZ/10/2012)
Dear Marian,

I refer to my recent email communication of 8 February, 2013 in respect of the subject matter and wish to confirm that Council recently requested a Fee Proposal from Don Fox Planning to review the Amended Economic Impact Assessment.
We will provide it to you when it is to hand.

We note in your covering advice and from our initial review of the Amended documentation that you have deleted the reference to your draft layout plan. Further your specialist consultants do not reference such a plan either.

Your interpretation of Section 117 Direction 6.3 and in particular subclause (5) is considered to be a particularly narrow interpretation.
It is fundamental that a plan is attached to the Planning Proposal to enable Council to, as a minimum, more fully communicate with Council and the community in simple spatial terms.
It is not Council's intent to "tie" any potential rezoning to a particular plan, as would appear to be the underlying intent of subclause (5).
It is, however, Council's intent to reference the need for a DCP amendment and indeed prepare same for concurrent exhibition with the Planning Proposal, should it be advanced.

Council would, however, like a response to the previously raised opportunity/desire for a design/masterplan workshop. Could you please respond accordingly?

Regards Graham

ANNEXURE "6"

INFORMATION REQUIRED PRIOR TO EXHIBITION OF PLANNING PROPOSAL

1. Preparation of Urban Design Guidelines

The proponent has been requested to prepare Urban Design Guidelines (preferably after consulting with nearby landowners through a stakeholder workshop). The rezoning will expand the Wadalba area from a 'neighbourhood centre' to a 'Village Centre' with the increase in retail floorspace. Council has offered to provide a venue for this to occur. It will be important for the proponent to demonstrate how the shopping centre can be integrated with nearby retail developments (e.g. nearby speciality shops, and existing Coles Supermarket), high school and existing/planned residential developments and drainage channels. This will require the development of supporting Urban Design Guidelines to enable Council to make revisions to DCP 2005 - Chapter 49. This will need to be publicly exhibited with any rezoning proposal and it is Council's expectation that the proposal will contribute towards the public domain and address pedestrian connectivity issues between different land uses outside of the area. No information has been submitted to demonstrate how the proponent will address urban design, public domain and landscape treatment issues. The site is also on the corner of Figtree Boulevard and Pacific Highway which is a visually prominent site. There is a need to ensure that the site is treated with the appropriate landscaping and/or public art/signage to establish a high quality entry statement for this significant site.

2. Retail Review

Council is in the process of conducting a Retail Centres Review for Wyong Shire by Don Fox Planning. There are some aspects where the proposal does not strictly meet the draft recommendations of the report in terms of timing and retail floorspace with the increase in floorspace proposed from 2,000m² to 5,300m². To this end, Council requested a Peer Review of the Economic Impact Assessment and requested that this be funded by the Applicant/Proponent. A quote was obtained for this to be conducted for \$4,180 GST inclusive).

NOTE: It would be preferable to have the above mentioned information before seeking Council's support for the Planning Proposal, as it will be difficult to answer many reasonable questions that Councillor and the community might have about the proposal. However no objection is raised to the proposal proceeding to obtain a Gateway Determination providing that the above mentioned information is provided to Council prior to the Planning Proposal being publicly exhibited.

3. Information required prior to finalisation of Draft LEP

A more rigorous assessment of potential contamination pursuant to SEPP 55 shall be undertaken. The inclusion of appropriate intrusive techniques shall be employed in respect of the on-site stockpiles and dumped waste material and appropriate techniques in respect of the prevailing ground conditions. In the latter regard gross cover is not considered to be an impediment to a preliminary investigation.

