

**THE FOLLOWING ITEM CS-CS3 WAS DEFERRED FROM THE
ORDINARY MEETING OF COUNCIL HELD ON WEDNESDAY, 14
AUGUST 2013**

**cw-CS12 Planning Proposal to Amend WLEP 2010 to Rezone and
Reduce the Minimum Lot Size of Lot 12 DP 866036
(Chelsea Gardens) and Lot 3 DP 706194 (Coomungie)
Moss Vale**

Reference: PN1703359, PN1682700, 5901
Responsible Officer: Group Manager Strategic and Assets

PURPOSE

The purpose of this report is to present to Council a Planning Proposal to amend Wingecarribee Local Environmental Plan 2010 (WLEP 2010) to rezone and reduce the minimum lot size of Lot 12 DP 866036, Chelsea Gardens, 32 Lovelle Street, Moss Vale and Lot 3 DP 706194, Coomungie, 141 Yarrawa Road, Moss Vale, to permit the development of 1,500 residential lots and ancillary business uses. The report recommends that the rezoning not be supported at this time.

DESCRIPTION OF PROPOSAL

BACKGROUND

The two adjoining properties (the subject site) are located to the south of Moss Vale as indicated below. The subject site is zoned RU2 Rural Landscape with a minimum lot size of 40 hectares. The combined area of the two properties is 123.7 hectares.

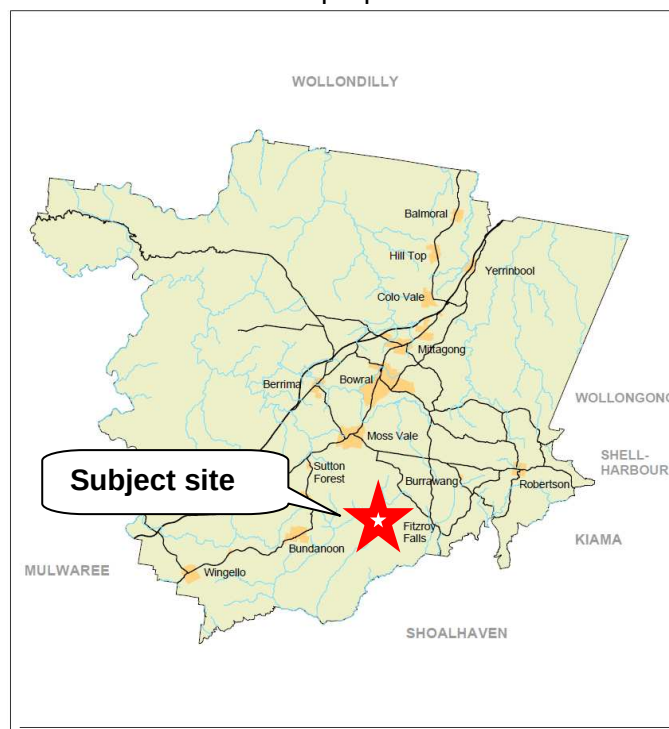
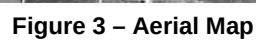
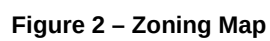


Figure 1 – Shire Map



In 2007 draft LEP 1989 Amendment 131 aimed to rezone the subject site from 1(b) Rural to 2(a) Residential and 6(a) Open Space. The estimated yield from the proposal was approximately 1,000 dwellings. This amendment resulted in two (2) public exhibitions.

Subsequently, Council resolved on 27 January 2010 to exhibit a revised Draft Plan which was placed on public exhibition during February and March 2010. There was a total of 17 submissions to the exhibition, 14 of them containing objections. It is noted that following the close of the exhibition period there was a marked increase in the level of community interest in the draft Plan.

In the meantime, WLEP 2010 was made on 16 June 2010 and the subject site was included on the Urban Release Area Map as indicated below.



Figure 4 – Urban Release Area Map WLEP 2010

The February/March 2010 public exhibition was reported to Council on 23 June 2010. A copy of the Report (with attachments) accompanies this report at **Attachment 1** as it provides a useful summary of the issues raised.

The principal concerns included the inappropriateness of a business zone on the site, traffic generation, the loss of rural character and the loss of neighbourhood amenity.

On 28 July 2010 Council resolved as follows:

1. THAT Council reinforce the need to undertake a demographic and housing survey and prepare a demographic and housing strategy as a priority.
2. THAT the future urban release area designation contained within the Wingecarribee LEP 2010 be removed from the Chelsea Gardens/Coomungie properties and the future zoning of these properties be considered further on the completion of the housing and demographic strategy.

With regard to item 1 from that resolution, the Demographic and Housing Study was received and noted by Council on 11 July 2012 and subsequently made available to the public.

With regard to item 2 from that resolution a Planning Proposal was prepared and forwarded to the Department of Planning on 27 August 2010 seeking a Gateway Determination to proceed with the removal of the subject site from the Urban Release Area Map remand

In response to the Planning Proposal, the Department of Planning issued a Gateway Determination on 6 September 2010 advising that the Planning Proposal **should not proceed** for the following reasons:

- 1. The proposal is not consistent with the requirements of the Sydney Canberra Regional Corridor Strategy which has identified this site as an integral component to achieve housing targets;***
- 2. The proposal does not reflect the potential of the site to provide for the future housing needs of the Wingecarribee Shire as identified in Council's current Wingecarribee Our Future 2002 Strategic Plan;***
- 3. The proposal is not consistent with the NSW State Plan priorities of "increasing the number of jobs close to home", "Growing cities and centres as functional and attractive places to live, work and visit", and "improving housing affordability".***

DETAILS OF PROPOSAL

On 6 May 2013 Council received a new Planning Proposal seeking to rezone and reduce the minimum lot size of the subject site in order to permit development of some 1,500 residential lots. A copy of the Submission accompanies this report at **Attachment 2**.

The proposed outcome of the submission will be achieved through rezoning of the site to predominantly R2 Low Density Residential with portions of RE1 Public Recreation throughout the site. It is also intended to create an area of R3 Medium Density Residential on the Yarrawa Road frontage adjacent to a small area of land zoned B1 Neighbourhood Centre.

It is also intended to reduce the minimum lot size from 40 hectares to principally from 450m² to 700m² with pockets of 300m² and 1,000m² as outlined in the following Concept Master Plans for zoning and lot layout. The Submission also proposes a maximum height of nine (9) metres across the site. It is noted that Council does not currently apply height restrictions in residential areas through the LEP, but does for B1 zoned land. Nine metres equates to a two (2) storey building height.



Figure 5 – Proposed zonings



Figure 6 – Proposed Lot Layout

PLANNING CONSIDERATIONS

Council's Demographic and Housing Study, prepared by SGS Economics and Planning and received and noted by Council on 11 July 2012, assessed potential dwelling demand to 2031 and compared it with the estimated existing and future dwelling capacity of land suitably zoned for residential development.

The study estimates a demand to 2031 of some 6,284 dwellings compared with a potential capacity of 28,965 extra dwellings based on existing zoning and development opportunities. This assessment indicates ample capacity to 2031 and beyond.

The distribution of this supply across the Shire is indicated in the following table.

Location	Role	Capacity
Bowral	Major centre	2,979
Mittagong	Major centre	4,811
Moss Vale	Major centre	5,818
Berrima	Small centre	381
Bundanoon	Small centre	2,138
Burradoo	Small centre	363
Robertson	Small centre	827
Colo Vale	Village	106
Exeter	Village	97
Hill Top	Village	625
Wingello	Village	134
Yerrinbool	Village	60
Rural Balance	Remainder	10,626
Total		28,965

Source: Wingecarribee Demographic and Housing Study, 2011, SGS Economics and Planning.

It is noted that Council's internal estimates indicate a current capacity for an additional 8,959 lots on land zoned R2 Low Density Residential, R3 Medium Density Residential and R5 Large Lot Residential and a further 355 lots on RU4 Primary Production Small Lots zoned land.

It is also noted that the applicant's Submission considers the SGS Report has "certain limitations as an accurate base for projecting future housing needs. Its significant focus on housing for retirees appears to be at the expense of understanding the needs and demonstrated demand for detached housing for all ages and stages of residential lifecycle."

The Submission continues with the view that the SGS Report "contains no detailed analysis of the needs and desires of young families, although the report infers young families will continue to comprise at least 50% of households arriving in the area and identifies a strong demand in the community generally for traditional detached housing, as is reinforced by reference to the local Real Estate Agent consultation. Indeed, the Study makes several references to free-standing cottage development being the main type of housing sought by all ages and stages of home-seeking".

Council does not agree with these comments. The SGS Report refers to housing demand from retirees because retirees comprise a significant proportion of the Wingecarribee population and the needs of that group are therefore highly pertinent in the review of future housing demands and opportunities. However, the SGS Report also considers all other age groups and family structures within the community, as does Council's LEP which is the principal policy for guiding future housing in the Shire.

WLEP 2010's zoning and minimum lot size controls provide a wide range of housing locations and choices across the Shire, including detached dwellings on a range of lots from 4,000m² down to 450m², as well as medium density development including villas, town houses and apartment housing. Only seniors living housing is specifically intended for the

'over 55 age group'. All other housing options are available to all age groups and family structures within the community – younger or older singles or couples, and families.

Nor does Council agree with the Submission's conclusion that "the existing capacity analysis has a disproportionate focus on medium density housing (MDH), but is silent on the reality of all land that permits residential development, particularly in the form of MDH in centres, ever being developed for this purpose."

The following table indicates the SGS Report's allocation of demand and capacity across various development types indicating that single residential dwellings are expected to account for over 77% of total residential development.

Dwelling Capacity for Shire

Category	Single residential	Semi-detached	Apartments	Total demand	Total capacity	Remaining capacity
Major centre	2,591	1,083	147	3,821	13,608	9,787
Small centre	799	9	9	817	3,709	2,892
Village	522	4	0	526	1,022	496
Remainder	955	161	4	1,120	10,626	9,506
Total	4,867	1,257	160	6,284	28,965	22,681

Source: SGS Economics and Planning, 2012

Therefore, the SGS Report has considered all types of demand for all types of housing in all types of locality.

It is noted that the Sydney Canberra Corridor Regional Strategy (SCCRS) expects the population of the Shire to grow to 58,700 by 2031. This is higher than the SGS Report estimate of 55,136. However, even if the higher DP&I estimate were used, the SGS Report indicates there is still more than sufficient capacity to 2031 and beyond.

Council has met with both the Director General of DP&I and the Minister for Planning to brief them on the preparation of the Demographic and Housing Study. Both the Minister and Director-General were supportive of Council's Study and approach and confirmed that, given the detailed work undertaken, they saw no reason why the results should not be utilised by the Department in future population calculations and projections for the Shire. Therefore Council is confident that the SGS Report projections form a sound basis for determining current supply and future demand.

STATUTORY PROVISIONS

Wingecarribee LEP2010 (WLEP 2010)

A Planning Proposal would be required to amend WLEP 2010 to rezone and reduce the minimum lot sizes as outlined in the Submission. All Planning Proposals are required to follow the Gateway process introduced in July 2009 by the Department of Planning and Infrastructure. The gateway process contains the following steps:

Planning Proposal - the relevant planning authority (Council) is responsible for the preparation of a planning proposal, which explains the effect of and justification for the plan. If initiated by the Minister (rather than the local council which is mostly the case) the Minister can appoint the Director-General of the Department of Planning or a joint regional planning panel to be the relevant planning authority.

Gateway - The Minister (or delegate) determines whether the planning proposal is to proceed. This gateway acts as a checkpoint to ensure that the proposal is justified before further studies are done and resources are allocated to the preparation of a plan. A community consultation process is also determined at this time. Consultations occur with relevant public authorities and, if necessary, the proposal is varied.

Community Consultation - the proposal is publicly exhibited (generally low impact proposals for 14 days, others for 28 days). A person making a submission may also request a public hearing be held.

Assessment - The relevant planning authority (Council) considers public submissions and the Proposal is varied as necessary. It is noted that clause 58 of the EP&A Act allows Council to vary, at any time, its Proposal as a consequence of its consideration of any submission or report during community consultation or for any other reason. Council may also resolve to not proceed with the Planning Proposal under this clause.

If the Planning Proposal does proceed, Parliamentary Counsel then prepares a draft local environmental plan (the legal instrument).

Decision - With the Minister's (or delegate's) approval the plan becomes law and is published on the NSW Legislation website.

Review of Decisions - On 29 October 2012, the Minister for Planning and Infrastructure announced that proponents seeking a rezoning can now request an independent review of decisions through the local Joint Regional Planning Panel. These changes came into effect on 2 November 2012 and allow an independent body to review some decisions by Councils and the Department, in the various situations, including :

(1) Pre-Gateway reviews

If a proponent (e.g. developer, landowner) has requested that a Council prepare a Planning Proposal for a proposed instrument, the proponent may ask for a pre-Gateway review if:

- a) the council has notified the proponent that the request to prepare a Planning Proposal is not supported, or
- b) the council has failed to indicate its support 90 days after the proponent submitted a request accompanied by the required information.

Therefore, if Council resolves to not support the Planning Proposal at this stage, the applicant could seek a review of its decision by the Department.

Development Control Plans (DCPs)

If the Planning Proposal were supported a new DCP would be prepared to manage future development of the site.

State Environmental Planning Policies (SEPPs)

State Environmental Planning Policies (SEPPs) are a set of Environmental Planning Instruments with which Council must comply, where relevant, when considering amendments to WLEP 2010.

The *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011* SEPP came into force on 1 March 2011 and applies to all land in Wingecarribee Shire. The SEPP requires that a consent authority must not grant consent to any development under Part 4 of the EPA Act unless it is satisfied that the development will have a neutral or beneficial effect on water quality.

Should Council resolve to support the Submission and prepare a Planning Proposal, a review of all relevant SEPPs would occur.

Section 117 Directions

The Minister for Planning, under section 117(2) of the EP&A Act issues Directions that Council must follow when preparing Planning Proposals. The Directions cover the following broad categories:

1. Employment and Resources
2. Environment and Heritage
3. Housing, infrastructure and urban development
4. Hazard and risk
5. Regional planning
6. Local plan making.
7. Metropolitan Planning

Should Council resolve to support the Submission and prepare a Planning Proposal, a review of all relevant Section 117 Directions would occur.

Relevant State Legislation

No other State legislation is relevant at this stage.

CONSULTATION

External Referrals

The Gateway Determination would identify what referrals to public authorities are required. Council is required to consult with the Sydney Catchment Authority prior to lodging a formal Planning Proposal with DP&I.

Internal Referrals

No internal referrals have yet occurred but would be done during the community consultation phase should Council resolve to proceed with the Planning Proposal.

Community Consultation

Community consultation will occur as set out in the Gateway Determination.

SUSTAINABILITY ASSESSMENT

ENVIRONMENT

Loss of rural character, loss of views and vistas and loss of agricultural land featured strongly in the comments received from the 2010 exhibition of the earlier proposed LEP amendment. The decision to not support this proposal at this stage would avoid these issues.

SOCIAL

The proposed amendments to the subject land would create the opportunity to provide a larger supply of residential land within the Shire which may result in more affordable housing. However there is no certainty that the rezoning will result in development of all or even part of the site within a specific time frame.

BROADER ECONOMIC IMPLICATIONS

The proposed amendments to the subject land are intended to create up to 1,500 new dwellings. If the site is fully developed this additional housing construction and population growth would generate a multiplier effect through the local economy. As noted above, there is no certainty that the rezoning will result in development of all or even part of the site within a specific time frame.

CULTURE

During the initial studies undertaken on the site associated with previous rezoning proposals, Aboriginal Cultural Heritage investigations were undertaken. This report still stands.

GOVERNANCE

The proposal has been brought to Council within the 90 day period within which Council must respond under the Department's directive of 29 October 2012. If Council resolves to not support the Planning Proposal at this stage, the applicant could seek a review of its decision by the Department.

RELATIONSHIP TO CORPORATE PLANS

Two Goals of the 2031+ Community Strategic Plan are relevant.

3.4 Wingecarribee housing options are diverse – The proposal seeks to provide the Moss Vale area with an additional 1,500 dwellings through low density and medium density development of the subject land. While such development would contribute to achievement of this goal, it is also noted that the Shire, including the Moss Vale area, already provides a broad range of residential development options which would meet projected demand to 2031 and beyond.

4.1 Wingecarribee's distinct and diverse natural environment is protected and enhanced - The proposal would require the rezoning of land which is currently zoned RU2 Rural Landscape. Previous community consultation indicates that the proposal may conflict with this goal.

BUDGET IMPLICATIONS

There are no budget implications associated with this proposal.

RELATED COUNCIL POLICY

There are no related Council Policies other than those already considered.

OPTIONS

Three (3) options are available to Council:

Option 1

Resolve to proceed with the Planning Proposal to amend the rezoning and minimum lot size of the subject land.

Comment: This option is not recommended for the reasons outlined in the report.

Option 2

Resolve to not proceed with the Planning Proposal to amend the rezoning and minimum lot size of the subject land and seek to have the Urban Release Area designation removed from the subject land.

Comment: This option is not recommended as the Department of Planning and Infrastructure has already decided to not support such a request.

Option 3

Resolve to not proceed with the Planning Proposal to amend the rezoning and minimum lot size of the subject land and to retain the Urban Release Area designation for further review during the preparation of the Local Planning Strategy.

Comment: This option is recommended. This option does not support the Planning Proposal at this time and provides for a review of the Urban Release Area designation at a later stage.

CONCLUSION

Feedback from the public exhibition of a previous proposal for the subject land which would create 1,000 dwellings, raised the following principal concerns - the inappropriateness of a business zone on the site, traffic generation, the loss of rural character and the loss of neighbourhood amenity. Based on this feedback Council resolved on 28 July 2010 to remove the Urban Release Area designation over the subject land. The Department of Planning did not support Council's resolution and the designation remains.

Council's Demographic and Housing Study (DHS) undertaken by SGS Economics and Planning assessed potential dwelling demand to 2031 and compared it with the estimated existing and future dwelling capacity of land suitably zoned for residential development.

The study estimates a demand to 2031 of some 6,284 dwellings compared with a potential capacity of 28,965 extra dwellings based on existing zoning and development opportunities. This assessment indicates ample capacity to 2031 and beyond.

It is also noted that there is already significant residential potential (over 1,500 lots) in recent release areas (Renwick 600 lots), or Planning Proposals either recently resolved by Council to proceed or recently made by the Department of Planning and Infrastructure. These include two sites in Moss vale - Broughton Street (300 lots) and Farnborough (100 lots), as well as Braemar (Nattai Ponds and Braemar Garden World – 350 lots) and Bowral (Retford Park 170).

Therefore, in view of the community concern resulting from the exhibition of the 2010 Planning Proposal (which was for 1,000 lots rather than the 1,500 currently proposed) and considering the SGS Report's conclusion that there is adequate supply of residential land to meet expected growth to 2031 and beyond, it is concluded to not support this Planning Proposal at this stage.

Through the preparation of capability and suitability studies undertaken in 2009/2010, it was determined that the site is capable of supporting future residential development.

It is therefore recommended that the site remain included in WLEP 2010 as a potential urban release area for possible consideration should the local housing demand and supply situation alter in the next decade or two.

Notwithstanding the above, it is not recommended that Council rezone the land for residential development at this point in time.

ATTACHMENTS

There are two (2) attachments to this report, which have been circulated separately:

1. Report to Council of 23 June 2010 regarding the public exhibition of draft LEP 1989 Amendment 131.
2. Applicant's Submission lodged with Council on 6 May 2013.

RECOMMENDATION

1. **THAT** the Planning Proposal to amend WLEP 2010 to rezone and reduce the minimum lot size of Lot 12 DP 866036, Chelsea Gardens, 32 Lovelle Street, Moss Vale and Lot 3 DP 706194, Coomungie, 141 Yarrawa Road, Moss Vale, not be supported at this point in time for reasons outlined in the report.
 2. **THAT** the applicant be advised of Council's decisions made at 1 and 2 above.
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cw-CS13 Supplementary Report - Planning Proposal to amend WLEP 2010 to rezone and reduce the minimum lot size of Lot 12 DP 866036 (Chelsea Gardens) and Lot 3 DP 706194 (Coomungie) Moss Vale.

Reference: PN1703359, PN1682700, 5901
Responsible Officer: Group Manager Strategic and Assets

PURPOSE

To provide further supplementary information in relation to a Planning Proposal to amend Wingecarribee Local Environmental Plan 2010 (WLEP 2010) to rezone and reduce the minimum lot size of Lot 12 DP 866036, Chelsea Gardens, 32 Lovelle Street, Moss Vale and Lot 3 DP 706194, Coomungie, 141 Yarrawa Road, Moss Vale, to permit the development of 1,500 residential lots and ancillary business uses.

REPORT

This supplementary report is to be read in conjunction with the preceding report listed as Item cw-CS12 in this Agenda which was deferred from the meeting of 14 August 2013 ("the previous report").

This matter was deferred at the Ordinary meeting of Council on 14 August 2013 pending a briefing to Councillors. This briefing occurred at the Local Planning Strategy Sunset Steering Committee Working Group on 18 September 2013 attended by Councillors Gair, Clarke, Scandrett, Turland and McLaughlin. At that meeting it was recommended that the matter be reported back to Council with the following supplementary information.

In August 2013 the Department of Planning & Infrastructure (DP&I) published "*New South Wales in the future: Preliminary 2013 population projections – Special release of NSW state and local government population projections*".

The report provides the following population estimates for Wingecarribee Shire (page 40), indicating a total population change for 2011-2031 of 10.8%, being an annual average change of 0.5%.

2016	47 600
2021	49 000
2026	50 100
2031	51 000

These estimates are a significant reduction on the estimate of 58 700 contained in the Sydney-Canberra Corridor Regional Strategy prepared by DP&I in 2006 and are now more in line with the estimate of 52 901 contained in the Demographic and Housing Study prepared for Council by SGS Economics & Planning.

In fact, DP&I now estimates a population growth of almost 2 000 fewer than the SGS estimate.

CONCLUSION

Based on the SGS population estimates, a dwelling demand to 2031 of some 6,284 dwellings is predicted. The SGS study identifies a potential capacity of 28,965 additional dwellings based on existing residential zonings and development opportunities.

The DP&I revised estimates of a population growth of almost 2,000 less than the SGS estimates indicate that the Shire is even better prepared for future growth than was previously assessed.

The previous report to Council on this matter noted that there is already significant residential potential (over 1,500 lots) in recent release areas (Renwick 600 lots), or Planning Proposals either recently resolved by Council to proceed or recently made by the Department of Planning and Infrastructure. These include Broughton Street, Moss Vale (300 lots), Nattai Ponds and Braemar Garden World, Braemar (350 lots) and Retford Park, Bowral (170 lots).

The revised DP&I population estimates for Wingecarribee Shire validate the conclusion that there is already a more than adequate residential potential without the need for further land releases at this stage.

ATTACHMENTS

There are no attachments to this report.

RECOMMENDATION

1. **THAT** this supplementary report be noted.
 2. **THAT** the recommendation of the previous report titled “Planning Proposal to amend WLEP 2010 to rezone and reduce the minimum lot size of Lot 12 DP 866036 (Chelsea Gardens) and Lot 3 DP 706194 (Coomungie) Moss Vale”, originally submitted to Council on 14 August 2013 be adopted.
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