

### **3.1 Planning Proposal to revise Floor Space Ratio Provisions- 66 Oakland Avenue and 6,8,15A,17,19 and 21 Ashton Avenue, The Entrance (contd)**

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Director's Report

To the Ordinary Council Meeting

Development and Building Department

### **3.1 Planning Proposal to revise Floor Space Ratio Provisions- 66 Oakland Avenue and 6,8,15A,17,19 and 21 Ashton Avenue, The Entrance**

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TRIM REFERENCE: RZ/1/2016 - D12236125

MANAGER: Tanya O'Brien, Manager

AUTHOR: Rodney Mergan; Senior Planner

#### **SUMMARY**

Council has received an application requesting an amendment to *Wyang Local Environmental Plan (LEP) 2013*, to increase the floor space ratio (FSR) provisions from 0.9:1 to 1.85:1 for land at The Entrance.

A preliminary assessment of the information submitted indicates that the proposal has merit and this report recommends that a planning proposal be forwarded to the Department of Planning and Environment (DP&E) for a gateway determination.

|                             |                                                                           |
|-----------------------------|---------------------------------------------------------------------------|
| <b>Applicant:</b>           | Mr M F Capolupo                                                           |
| <b>Owners:</b>              | L Capolupo Pty Ltd<br>M Capolupo Pty Ltd                                  |
| <b>Proposal No.:</b>        | RZ/1/2016                                                                 |
| <b>Description of Land:</b> | 66 Oakland Avenue, 6, 8, 15A, 17, 19 and 21 Ashton Avenue<br>The Entrance |
| <b>Current Zoning:</b>      | R3 – Medium Density Residential                                           |
| <b>Existing Use:</b>        | Dwelling houses and vacant land                                           |

#### **RECOMMENDATION**

- 1 That Council prepare a planning proposal to amend *Wyang Local Environmental Plan 2013*, pursuant to Section 55 of the *Environmental Planning and Assessment (EP&A) Act 1979* to amend the *Wyang LEP 2013 Floor Space Ratio (FSR) Map* for 66 Oakland Avenue, 6, 8, 15A, 17, 19 and 21 Ashton Avenue The Entrance revising the maximum permissible FSR from 0.9:1 to 1.85:1.**
- 2 That Council forward the planning proposal to the Department of Planning and Environment accompanied by a request for a gateway determination, pursuant to Section 56 of the *EP&A Act 1979*.**
- 3 That Council request the Acting Chief Executive Officer to apply to accept plan making delegations for the planning proposal.**
- 4 That Council undertake community and government agency consultation in accordance with the requirements of the gateway determination.**
- 5 That Council consider a further report on results of the community consultation.**
- 6 That Council request that staff to review the floor space ratio provisions for land**

*identified as Area 1 on the Wyong LEP 2013 Height of Building Map and that Council be informed of the outcome of this review.*

## BACKGROUND

The site is located to the west of The Entrance Town Centre and consists of two groups of adjoining lots that are located to the north and south of Ashton Avenue, The Entrance.



Figure 1 – Locality Plan

The land is generally level and cleared of vegetation with dwellings located across the site. The site is located in an area currently undergoing transition with single dwellings approximately 50 in age being replaced by medium-density and high-rise development. The site is within walking distance to The Entrance shopping centre, services, public transport, lake and beach. The site is located in an area that is the transition between high density development to the east and lower density residential to the west, stepping down in height and density.



**Figure 2 – Street View from subject site looking south. Note: new development in the area to the south**

The application discusses the disparity between height and FSR provisions currently applicable to the site and outlines that previous controls under *Wyang LEP 1991* were more flexible. Previously under *Wyang LEP 1991* and *Development Control Plan (DCP) 2005* proposals for residential flat buildings in this vicinity were not only able to utilise significant bonus height provisions but also bonus floor space provisions where lot consolidation created development sites larger than 1800m<sup>2</sup>. The following table compares the current provisions with the previous provisions:

|                                                                    | LEP 1991 and DCP 2005 Provisions                                                | LEP 2013 Provisions |
|--------------------------------------------------------------------|---------------------------------------------------------------------------------|---------------------|
| Building Height (base)                                             | 12m                                                                             | 12m                 |
| Building Height (bonus for sites greater than 1800m <sup>2</sup> ) | 18m                                                                             | 20m                 |
| FSR (base)                                                         | 0.9:1                                                                           | 0.9:1               |
| FSR (bonus for sites greater than 1800m <sup>2</sup> )             | 1.5:1 or higher (this was a sliding scale depending on consolidated site area). | No bonus available. |



## **THE PROPOSAL**

The proponent has indicated the intention to construct six storey residential flat buildings on either side of Ashton Avenue. The intended outcome of the proposal is to enable the redevelopment of the subject land for residential flat development at a scale that reasonably reflects the currently applicable 20 metre building height provisions of *Wyang Local Environmental Plan (2013)* through an amendment to *Wyang LEP 2013* FSR map to indicate a maximum permissible FSR for each subject lot of 1.85:1. The proposed FSR reflects that of similar development previously constructed in the area.

## **ASSESSMENT**

### **Strategic Considerations**

In accordance with the *EP&A Act 1979*, assessment against the relevant strategic considerations of Council is required in the preparation of Planning Proposals. The proposal has been considered against the *Central Coast Regional Strategy (CCRS)*, the *Draft Central Coast Regional Plan*, the *Wyang Community Strategic Plan* and the *Wyang Settlement Strategy*. Most notably the “Actions” under the CCRS indicate that Councils should “provide for a mix of housing types, including housing that will accommodate an ageing population and smaller household sizes” and to “investigate the potential for land located within and around centres for future housing opportunities consistent with the centres hierarchy and the dwelling and employment capacity targets” With regard to this issue, The *Wyang Settlement Strategy* indicates that “both greenfield and in-fill residential development will be required to accommodate expected population growth over the next 20 years” and envisages “a significant population increase at The Entrance of over 16,000 residents”. The proposal is considered to be consistent with these documents.

Attachment 1 – Draft Planning Proposal: Part 3B – Relationship to strategic planning framework, details the assessment of the proposal against the relevant Strategic Considerations.

### **The Entrance Peninsula Planning Strategy**

In addition to the considerations mentioned above, the proposal has been assessed against *The Entrance Peninsula Planning Strategy 2009 (TEPPS)*. The intent of the *TEPPS* was to “review *The Entrance Strategy 2000* and to carry out comprehensive strategic planning for the Long Jetty and The Entrance North areas, which has not previously been undertaken”. The *TEPPS* divides the strategy area into 16 distinct precincts and provided a group of recommendations for the implementation of the development strategy for each of these areas.

The *TEPPS* provided a group of objectives and recommendations for each precinct to be considered in the implementation of the Strategy. The implementation of the *TEPPS* required the development of the specific planning controls and the consequent document, *Planning Controls for The Entrance Peninsula 2011* was created and was used in the drafting of *Wyang LEP 2013* and *Wyang DCP 2013* controls.

With regard to the subject land and FSR provisions, *Planning Controls for The Entrance Peninsula (2011)* states:

*“Development bonuses are an established element of DCP Chapter 64 which applies to The Entrance Peninsula. At present, bonuses apply to residential developments upon sites which are larger than 1,800m<sup>2</sup>, and allow additional building height but do not provide for any increase in the standard FSR or site cover limits which apply.”*

This information was used to establish the FSR provisions for the subject land and did not consider:

- Provisions under *DCP 2005: Chapter 64 - Section 6.0* which provided for site area bonuses for consolidated sites.
- Provisions under *DCP 2005 Chapter 60 – The Entrance* which increased the base FSR provisions for land in the locality from 0.9:1 to 1.5:1.

The request seeks to increase the allowable FSR on the site with a view to achieving a similar development yield to that previously allowable and comparable to that already developed on nearby adjacent lots.

No change in the proposed 20 metre height limit is proposed. The proposed 20 metre height map is considered to be appropriate to the site and consistent with the height of other residential flat buildings that have been approved in nearby sites (see Table 1).

### Comparisons

A sample of developments of similar scale approved in The Entrance area between 2002 and 2006 indicates that the current FSR provisions of 0.9:1 with a 20m height limit is mismatched.

Table 1: Approved FSR and Heights for residential flat buildings

| Application No. | Address           | Approved FSR | Approved Height  |
|-----------------|-------------------|--------------|------------------|
| DA/3010/2002    | 8-12 Copner Ave   | 1.67:1       | 6 Storey (18.9m) |
| DA/795/2004     | 46-48 Oakland Ave | 1.76:1       | 6 Storey (17.9m) |
| DA/2026/2006    | 1-5 Armidale St   | 1.77:1       | 6 Storey (17.7m) |
| DA/2539/2004    | 1-9 Beach St      | 2:1          | 6 Storey (18m)   |
| DA/892/2002     | 15-19 Torrens Ave | 2.03:1       | 6 Storey (18.1m) |

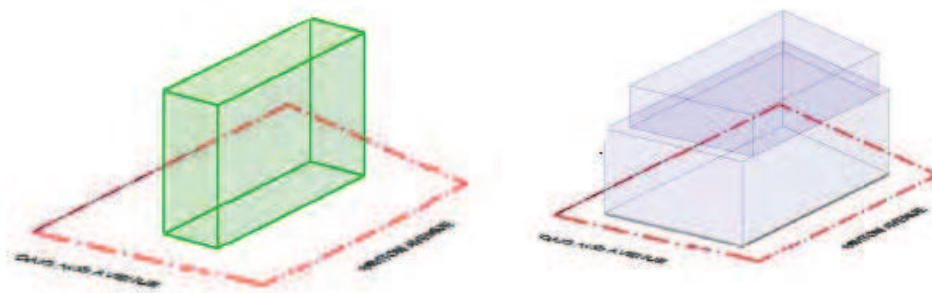
A comparison of provisions with other areas has been undertaken which indicates that:

- under Gosford LEP 2014 residential areas of West Gosford where there is an 18m height limit there is a maximum FSR of 2:1 and in the North Gosford area this FSR is increased to 2.25:1.
- land to the east of the subject site is identified as part of The Entrance Town Centre and has a maximum building height of 23m and FSR of 2.75:1. This higher comparative FSR is due to increased potential site coverage for commercial and mixed-use development.

In addition Part 2D of the *Apartment Design Guide (ADG)* which is to be read in conjunction with *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (SEPP 65)* provides the following as a guide:

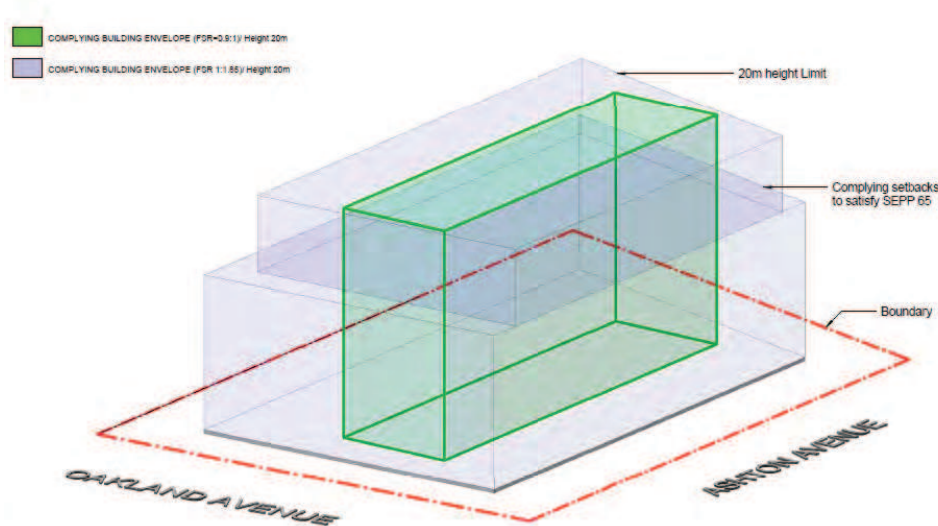
- 3 storey (10 to 12 m) development with an FSR of 1:1 and
- 6 -7 storey (19 to 23 m) development with an FSR of approximately 2:1.

The indicative plan below shows the site coverage of an indicative building that complies with current planning provisions, with an FSR of 0.9:1 and a building height of 20m is shown in Figure 3. It is apparent that this type of building design is not appropriate or practical in this instance. It is an uneconomic form of building construction which is too narrow and poorly utilises available land area in terms of site coverage.



**Figure 3 – Diagram showing a building 20m in height with an FSR of 0.9:1 and FSR 1.85:1**

Figure 4 provides a graphic representation of a notional building with a 20m building height and a FSR of 0.9:1 (current provisions (shown in green)) compared to a notional building with a 20m building height and FSR 1:1.85 (as proposed (shown in purple)). As can be seen, an FSR of 1:1.85 provides for a more effective use of site and more economic form of building construction to take place on the land. It is also consistent with other building heights and FSR's already approved and constructed on nearby sites and is consistent with the achievement of population densities and growth of The Entrance CBD.



**Figure 4 – Diagram showing a building 20m in height and differences in building form resulting from an FSR of 0.9:1 (current provisions) and FSR 1:1.85 (as proposed)**

## OPTIONS

### Option 1 - Proceed with the Planning Proposal as requested (recommended)

This involves requesting a Gateway Determination to increase in floor space ratio for each of the subject lots from 0.9:1 to 1.85:1. This will facilitate the timely development of the site as proposed by the proponent. It is recommended that this planning proposal be advanced to DP&E to allow the development of the subject sites to occur as soon as possible.

### Option 2 – Defer Consideration of this request to be informed by a review of the whole precinct (not recommended)

It is noted that the FSR limitations do not only apply to the subject site but may also be impacting on the potential development of surrounding land that is subject to the same controls. Council could potentially defer consideration of this application while a broader review of FSR provisions in this area is undertaken. However it is likely that this could unfairly delay development of these sites.

It is recommended that a review of the FSR controls for sites shown as “Area 1” where the potential mismatch between FSR and height provisions exist be undertaken and form part of a separate strategic review process.

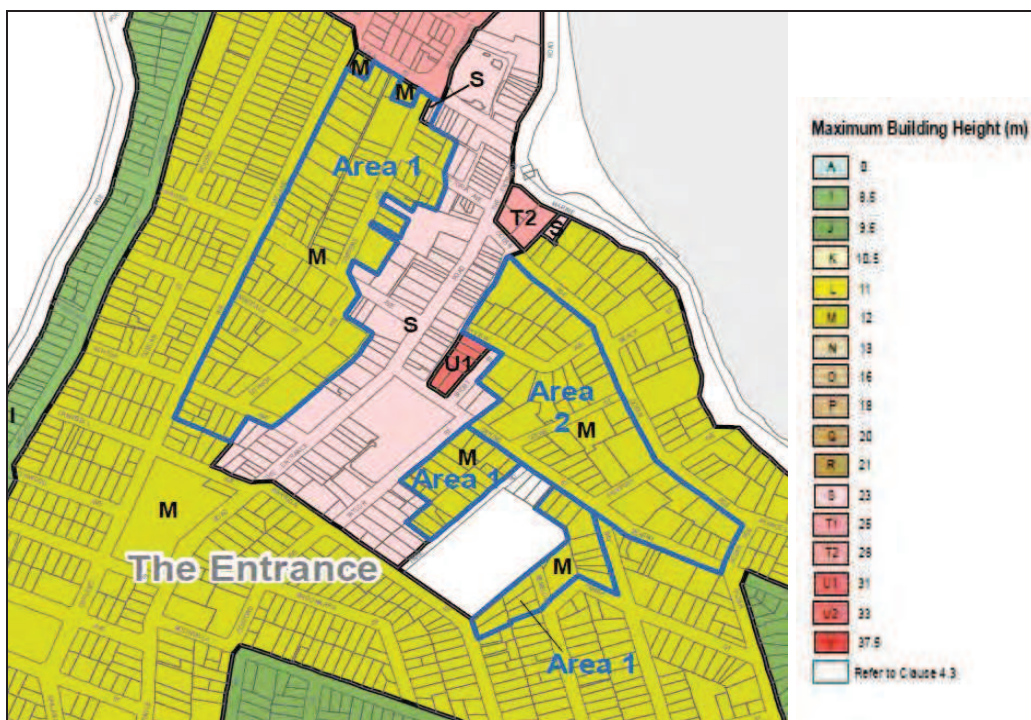


Figure 5 – Wyong LEP 2013 Height of building map extract. Areas 1 & 2 receive height bonuses for lot consolidation



**Option 3 - Lodge DA's with Council (not recommended)**

As the land use residential flat building is permissible on the site the applicant could lodge development applications for the site at any time however would require over 100% variation to the FSR provisions of *Wyang LEP 2013* which cannot be justified without the appropriate strategic assessment.

This approach was taken by the applicant for a significant development within the Gosford CBD (Spurbest site) where comparable percentage variations were sought and were rejected by the Hunter Central Coast Joint Regional Planning Panel in September 2015, requiring the preparation of a planning proposal and undue delay to the development.

**CONSULTATION**

**External Referrals**

The gateway determination will provide the requirements for external consultation and public exhibition. The results of the consultation process will be reported to Council.

**Internal Consultation**

- **Engineering Assessments**

An internal engineering assessment has indicated that the redevelopment of the site is generally supported with services such as water, sewer and electricity available and can be suitably upgraded as required. The assessment identified some minor overland flooding issues that will need to be addressed at development application stage. A *Traffic and Parking Impact Report* by Motion Traffic Engineers (2015) provided in support of the application concludes that additional trips generated by the redevelopment of the site can be accommodated by the existing road system.

- **Strategic and Environmental Planning**

Council's Strategic and Environmental Planning Department have indicated support for forwarding the proposal for Gateway Determination and indicated that the review of the strategy and provisions for the area will be added to their future work program.

**GOVERNANCE AND POLICY IMPLICATIONS**

The processing of the planning proposal is being undertaken in accordance with Council's adopted planning proposal procedure.

Rezoning of the land is undertaken by preparing an amendment to the LEP through progressing of a planning proposal under sections 55-59 of the *Environmental Planning & Assessment Act 1979*.

Section 55 requires Council to prepare a planning proposal that explains the intended effect of the amendment to the LEP and sets out the justification for the amendment. Section 55 specifies matters to be included in the planning proposal.



Section 56 provides that Council submit the planning proposal to the Minister for a gateway determination who will advise whether or not the matter should proceed (with or without variation), and may specify further studies or modifications to the proposal, community and government agency consultation requirements and other matters.

Council may request delegation from the Minister for Planning for the determination of locally significant planning proposals. Given the nature of this proposal it is recommended that in this instance delegation be sought.

The requirements for public exhibition would be set out under the gateway determination.

It is noted that a further report will be prepared outlining the results of the State agency and public exhibition.

#### **Consideration of s.23A guidelines**

The Chief Executive of the NSW Office for Local Government has issued guidelines titled "*Council Decision Making during Merger Proposal Periods*" pursuant to s.23A(1) of the *Local Government Act 1993* ("LG Act"). The Council must consider those guidelines when making decisions during the "merger proposal period", which commenced on 6 January 2016 and will conclude on the date on which a proclamation is made to amalgamate the Wyong and Gosford local government areas or the Minister for Local Government determines that he will not proceed with the proposal for that amalgamation: s.23A (3) of the LG Act. Councillors have been provided with a copy of those guidelines and have been given advice concerning those guidelines. The decisions that are proposed as part of this report comply with those guidelines.

#### **CONCLUSION**

The review of the FSR provisions for the subject land is considered to have merit and the alteration of the FSR for the site from 0.9:1 to 1.85:1 is considered appropriate. This will allow the land to be developed appropriately to the building heights provided for under *Wyong LEP 2013* and promote new development in this locality which is in keeping with existing development in this locality. It is recommended that a planning proposal be prepared for the consideration of the DP&E requesting a gateway determination be issued.

In addition it is recommended that a review of the appropriateness of the floor space provisions for the surrounding land (Area 1) be undertaken in the future but this review should be a separate process so as not to delay the development of the subject land.

**3.1 Council Report - Planning Proposal to revise Floor Space Ratio Provisions- 66 Oakland Avenue and 6,8,15A,17,19 and 21 Ashton Avenue, The Entrance**

Councillor Best left the meeting at 6.20 pm and returned to the meeting at 6.21 pm during consideration of this item.

***RESOLVED unanimously on the motion of Councillor TROY and seconded by Councillor WEBSTER:***

- 443/16**      ***That Council prepare a planning proposal to amend Wyong Local Environmental Plan 2013, pursuant to Section 55 of the Environmental Planning and Assessment (EP&A) Act 1979 to amend the Wyong LEP 2013 Floor Space Ratio (FSR) Map for 66 Oakland Avenue, 6, 8, 15A, 17, 19 and 21 Ashton Avenue The Entrance revising the maximum permissible FSR from 0.9:1 to 1.85:1.***
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- 445/16**      ***That Council request the Acting Chief Executive Officer to apply to accept plan making delegations for the planning proposal.***
- 446/16**      ***That Council undertake community and government agency consultation in accordance with the requirements of the gateway determination.***
- 447/16**      ***That Council consider a further report on results of the community consultation.***
- 448/16**      ***That Council request that staff to review the floor space ratio provisions for land identified as Area 1 on the Wyong LEP 2013 Height of Building Map and that Council be informed of the outcome of this review.***

**FOR:**           CRS GB BEST, DE EATON, B G GRAHAM, KG GREENWALD, LM MATTHEWS, LT TAYLOR, AT TROY, DV VINCENT AND LW WEBSTER

**AGAINST:**      NIL