

Rezone land at Retford Park, Bowral to R2 and R5

Proposal Title :	Rezone land at Retford Park, Bowral to R2 and R5		
Proposal Summary :	The planning proposal involves rezoning part Lot 22, DP 1163429 to R2 Low Density Residential and rezone another part of the lot to R5 Large Lot Residential and amending the Lot Size Map to reflect appropriate lot sizes for those areas. The proposal also includes adding these lands to the Urban Release Area Map.		
PP Number :	PP_2013_WINGE_014_00	Dop File No :	13/12456-1

Proposal Details

Date Planning Proposal Received :	25-Aug-2013	LGA covered :	Wingecarribee
Region :	Southern	RPA :	Wingecarribee Shire Council
State Electorate :	GOULBURN	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	Old South Road		
Suburb :	City :	Bowral	Postcode : 2577
Land Parcel :	Lot 22, DP 1163429		

DoP Planning Officer Contact Details

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RPA Contact Details

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DoP Project Manager Contact Details

Contact Name :	Mark Parker
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Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Sydney-Canberra Corridor Regional Strategy	Consistent with Strategy :	Yes

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MDP Number :		Date of Release :	
Area of Release (Ha) :	27.00	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	151	No. of Dwellings (where relevant) :	151
Gross Floor Area :	0	No of Jobs Created :	0
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 :

This proposal involves rezoning the portions of land either side of the Retford Park house and curtilage. The western part of Lot 22 is proposed to be rezoned from E3 Environmental Management to R2 Low Density Residential to provide for a subdivision of 151 x 1,000 sqm lots. The eastern part of Lot 22 is proposed to be rezoned from E3 Environmental Management to R5 Large Lot Residential to provide for a subdivision of 21 x 8,000 sqm lots.

Council and the applicant have discussed the ongoing management of the Retford Park property. Council is requesting the applicant enter into a Voluntary Planning Agreement to dedicate the estate to public ownership and to provide for its ongoing management. The management of the property is not part of this planning proposal.

Further discussion is provided in this report about heritage impacts and the need for amendments to the heritage listing of the item in Council's LEP.

In March 2010, the Director General issued concurrence under State Environmental Planning Policy No.1 (SEPP 1) for an application for a boundary adjustment (subdivision) between two existing allotments on the site to create the current Lot 22 and Lot 23. The purpose was to identify a suitable curtilage for the Retford Park house to be contained on one lot.

In its assessment of the SEPP 1, the Department consulted with the Heritage Office which raised concerns about the extent of the heritage survey undertaken and the subsequent justification for the proposed heritage item curtilage. The Heritage Office requested further investigation be undertaken. It also identified that the item is potentially of State significance and has encouraged the land owner to nominate it for State heritage listing.

Whilst the applicant has provided an additional heritage study for the planning proposal, it is unclear if this would satisfy the concerns of the Heritage Office.

External Supporting Notes :

Adequacy Assessment

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

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

Comment : **The objective is to rezone the site to enable residential subdivision.**

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

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

Comment : **The explanation of provisions for much of the proposal is adequate, however, Council has failed to identify the required changes to the Heritage Map and Schedule 5 Environmental heritage provisions of the Wingecarribee LEP 2010.**

It has also identified to include the eastern portion of the site (Large Lot Residential) on the Urban Release Area Map which is probably not appropriate (see discussion further on in this report).

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

1.5 Rural Lands

* May need the Director General's agreement

2.1 Environment Protection Zones

2.3 Heritage Conservation

3.1 Residential Zones

3.3 Home Occupations

3.4 Integrating Land Use and Transport

4.4 Planning for Bushfire Protection

5.1 Implementation of Regional Strategies

5.2 Sydney Drinking Water Catchments

6.1 Approval and Referral Requirements

6.2 Reserving Land for Public Purposes

6.3 Site Specific Provisions

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

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

d) Which SEPPs have the RPA identified?

SEPP No 44—Koala Habitat Protection

SEPP (Rural Lands) 2008

Drinking Water Catchments Regional Environmental Plan No. 1

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

Have inconsistencies with items a), b) and d) being adequately justified? **No**

If No, explain :

s117 Direction 1.5 Rural Lands - Inconsistency with this Direction must be justified by a Strategy (which this proposal is not), or be considered of minor significance. The subject lots are considered fairly small scale (being 27 and 28 hectares each). They are located on the immediate eastern edge of East Bowral and adjoin existing residential areas.

Council considers the proposal is consistent with the objectives of the Sydney-Canberra Corridor Regional Strategy (SCCRS), even though that Strategy does not identify the subject land for future urban development.

In accordance with an action in the SCCR Council has been working with the Department to prepare a Housing Study that identifies a need for an additional 2000 dwellings in Bowral to 2030 and this proposal would go towards satisfying that demand.

Given Council's arguments and the nature of the proposal, it is considered that this proposal is of minor significance for the purposes of Direction 1.5.

s117 Direction 2.1 Environment Protection Zones - A similar discussion applies to the applicability of this Direction. Therefore the proposal is considered of minor significance for the purpose of that Direction.

s117 Direction 2.3 Heritage Conservation - It is unlikely that the proposal is consistent with this Direction as Council has not proposed any change to the listing of the heritage item and as such, the proposal currently involves rezoning parts of the heritage item for residential development.

Whilst Council's argument is that the heritage item is actually constrained to the new Lot 23 between the two parts of Lot 22, Council has not proposed a change to the heritage listing in Schedule 5 or the associated Heritage Map. Rezoning the heritage item for residential development is not considered to be of minor significance. The Heritage Office has indicated support for the item being listed on the NSW State Heritage Register, should the applicant nominate it.

Therefore, the proposal is **INCONSISTENT** with this s117 Direction. Council should be required to amend the heritage listing in Schedule 5 of the LEP and the associated maps to reflect the required heritage curtilage of the item prior to exhibition of the draft LEP.

s117 Direction 3.1 Residential Zones - The proposal is inconsistent with this Direction, however, this is considered justified as there was a study prepared for the proposal that gives consideration to the objectives of the Direction and it is also considered consistent with the SCCRS (see above under s117 1.5).

s117 Direction 4.4 Planning for Bushfire Protection - The proposal will require consideration by the NSW Rural Fire Service as the land is bushfire prone.

All other s117 Directions are either not relevant or the proposal is considered to be consistent or of minor significance.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **Mapping suitable for public exhibition has been provided. Final maps will need to be undertaken after exhibition.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council is proposing to exhibit the proposal for 42 days and proposes to consult with the NSW Rural Fire Service and the Department of Environment and Heritage.**

Additional Director General's requirements

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

If Yes, reasons : **Council has requested use of its delegations for this matter and has proposed a timeline for completion in September 2014 (12 months).**

The Gateway should consider requiring Council to appropriately amend Schedule 5 of the LEP and the associated maps to reflect the revised curtilage of Retford Park as part of this proposal.

The NSW Heritage Office should be consulted to obtain its views about the proposal as the Office has shown an interest in this site before when the applicant was granted a SEPP 1 approval to consolidate and subdivide the land into the current two lots.

Overall adequacy of the proposal

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

If No, comment : **The proposal is considered adequate. There are a number of supporting documents to this proposal including heritage and flora and fauna studies.**

Proposal Assessment**Principal LEP:**

Due Date :

Comments in relation to Principal LEP : **Council's LEP was notified in 2010.**

Assessment Criteria

Need for planning proposal : **The planning proposal is required to achieve the objectives of subdividing the land for residential development.**

Consistency with strategic planning framework : **Council believes the proposal is consistent with the Sydney-Canberra Corridor Regional Strategy in relation to the issues of heritage conservation, provision of housing in appropriate urban locations and housing choice.**

Council's local strategy does not identify this area for future residential development, however, Council has been working with the Department to prepare a Housing Study in accordance with an action in the the Sydney Canberra Corridor Regional Strategy. This work identifies a need for an additional 2000 dwellings in Bowral to 2030 and this proposal would go towards satisfying that demand.

Environmental social economic impacts : **The issue for consideration is whether the proposed residential rezonings will negatively impact on the Retford Park house and curtilage. The applicant's heritage advisor, Tanner Architects, has advised that the current curtilage of Lot 23 is sufficient to protect the heritage values of the property and that potential impacts from residential development can be managed through vegetation planting and screening.**

There is a social and economic benefit to the Bowral community in providing for a range of housing types (both large residential and large rural residential lots).

The Retford Park site is currently protected as a heritage item under Council's LEP. It's ongoing management and potential dedication or listing as a State Heritage item is not a matter for this planning proposal.

The two subject sites are not directly affected by threatened species.

Assessment Process

Proposal type : **Routine** Community Consultation Period : **28 Days**

Timeframe to make LEP : **12 months** Delegation : **RPA**

Public Authority Consultation - 56(2) (d) :

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

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

If no, provide reasons : **The proposal is appropriate to proceed subject to conditions.**

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

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

No additional studies required.

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **Yes**

If Yes, reasons : **Council has requested that the two sites be added to the Urban Release Area Map in the LEP. It is not considered appropriate to include the 21 R5 Large Lot Residential lots on the URA Map and Council should be advised of this in the Gateway determination. The URA provisions are not intended to apply to land uses other than more intensive development than large lot residential. The 21 lots are also of a scale that is not considered to warrant consideration for State infrastructure. The proposed 21 x R5 lots are also a continuation of an existing approved R5 development adjoining the site that is not included on the URA Map.**

The proposal to include the 151 R2 Low Density Residential lots is agreed, however, it is unlikely that the proposal would generate any demand for State infrastructure. The Regional Office will discuss this matter with Council separately to this planning proposal as it may be appropriate to repeal clause 6.1 of the LEP that requires contributions to the provision of infrastructure if it is unlikely that any future residential developments would be of a scale to require such a contribution.

Documents

Document File Name	DocumentType Name	Is Public
Wingecarribee Shire Council_25-07-2013_Planning Proposal - to rezone Lot 22 DP 1163429 Old South Road Bowral.pdf	Proposal Covering Letter	Yes
Retford Park Report Council Meeting 12 June 2013.pdf	Proposal	Yes
Retford Park Report - Council Resolution 12 June 2013.pdf	Proposal	Yes
11140 Rezoning report Eastern Part Lot 22.pdf	Study	Yes
11141 Rezoning Report Western Part Lot 22.pdf	Proposal	Yes
Appendix 6 - Heritage Report.pdf	Study	Yes
Planning Proposal Version 2 for Gateway Determination[2].pdf	Proposal	Yes

Planning Team Recommendation

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

S.117 directions:

- 1.5 Rural Lands**
- 2.1 Environment Protection Zones**
- 2.3 Heritage Conservation**
- 3.1 Residential Zones**
- 3.3 Home Occupations**

3.4 Integrating Land Use and Transport
4.4 Planning for Bushfire Protection
5.1 Implementation of Regional Strategies
5.2 Sydney Drinking Water Catchments
6.1 Approval and Referral Requirements
6.2 Reserving Land for Public Purposes
6.3 Site Specific Provisions

Additional Information :

It is recommended that the Deputy Director General as delegate of the Minister for Planning and Infrastructure determine under section 56(2) of the EP&A Act, that an amendment to the Wingecarribee LEP 2010 to rezone part Lot 22, DP 1163429 to R2 Low Density Residential and R5 Large Lot Residential; amend the Lot Size Map from AB2 40 ha to 1,000sqm and 8,000sqm respectively; and amend the Urban Release Area Map to include part Lot 22, DP 1163429 as it applies to the western part of the lot, should proceed subject to the following conditions:

1. Prior to public exhibition Council should be requested to:

(a) resolve to amend Schedule 5 and the associated Heritage Map sheet of the Wingecarribee LEP 2010 to reflect the current lot and DP changes to the site and the amended curtilage of the heritage item to only apply to Lot 23, DP 1163429, and

(b) amend the planning proposal to not include the proposed R5 Large Lot Residential area (eastern part Lot 22, DP 1163429) on the Urban Release Area Map as it is not of a scale to warrant inclusion, these provisions are not intended to apply to R5 Large Lot Residential development and the adjoining R5 subdivision is not included on the Map.

2. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:

(a) the planning proposal is to be made publicly available for at least 28 days; and
(b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing local environmental plans (Department of Planning and Infrastructure 2013).

3. Consultation is required with:

- NSW Rural Fire Service in relations to s117 Direction 4.4; and
- Office of Environment and Heritage in relation to the heritage aspects of the proposal.

4. No public hearing is required to be held into the matter under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing.

5. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway Determination.

6. Council be authorised to exercise the Minister's plan making delegation under sections 59(2),(3)&(4) of the Environmental Planning and Assessment Act 1979.

7. SECTION 117 DIRECTIONS - It is recommended that:

(a) The Director General can be satisfied that the Planning Proposal is consistent with s117 Directions 3.4 Integrating land Use and Transport, 5.1 Implementation of Regional Strategies, 5.2 Sydney Drinking Water Catchment, 6.3 Site Specific Provisions;

(b) The Director General can be satisfied that the inconsistencies with s117 Direction 1.5 Rural Lands, 2.1 Environmental Protection Zones, 3.1 Residential Zones are justified as they are considered of minor significance or justified by a study supporting the proposal;

(c) The Director General can be satisfied that the planning proposal is consistent with s117 Direction 2.3 Heritage Conservation when Council amends Schedule 5 and the associated Heritage Map sheet of the Wingecarribee LEP 2010 to reflect the restricted heritage curtilage of Retford Park to only Lot 23;

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(d) The Director General can be satisfied that the planning proposal is consistent with all other relevant s117 Directions or that any inconsistencies are only of minor significance; and

(e) no further consultation or referral is required in relation to s117 Directions while the planning proposal meets the conditions of the Gateway Determination.

8. The planning proposal is considered to be consistent with all relevant SEPPs.

Supporting Reasons :

The planning proposal is considered to be inconsistent with s117 Direction Heritage Conservation as Council is currently proposing to rezone a heritage item for residential development. Council has argued that the curtilage of the item is justifiably restricted to only the new Lot 23, but it has not proposed to amend Schedule 5 and the associated heritage maps of the LEP. Without the amendments to the heritage provisions of the LEP, the proposal will remain inconsistent with the s117 Direction. In addition, the heritage listing of the item will be technically incorrect in the LEP as the lot and DPs no longer exist.

Signature:



Printed Name:

MARK PARKER
Local Planning Manager

Date:

7th August 2013