

Permit a service station, retail facilities & motel on Part of Lot 104, DP 1085033, Boardman Rd, Bowral

Proposal Title : **Permit a service station, retail facilities & motel on Part of Lot 104, DP 1085033, Boardman Rd, Bowral**

Proposal Summary : **Amend Schedule 1 of the Wingecarribee LEP 2010 to permit a service station, associated retail facilities and motel on the subject land.**

PP Number : **PP_2014_WINGE_001_00** Dop File No : **14/01266-1**

Proposal Details

Date Planning Proposal Received : **13-Jan-2014** 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 : **Boardman Road**

Suburb : **Bowral** City : **Bowral** Postcode : **2576**

Land Parcel : **Lot 104 DP1085033**

DoP Planning Officer Contact Details

Contact Name : **Meredith McIntyre**

Contact Number : **0262297912**

Contact Email : **meredith.mcintyre@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Susan Stannard**

Contact Number : **0268480854**

Contact Email : **susan.stannard@wsc.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name : **Mark Parker**

Contact Number : **0242249468**

Contact Email : **mark.parker@planning.nsw.gov.au**

Land Release Data

Growth Centre : **N/A** Release Area Name : **N/A**

Regional / Sub Regional Strategy : **Sydney-Canberra Corridor** Consistent with Strategy : **Yes**

Regional Strategy : **Regional Strategy**

Permit a service station, retail facilities & motel on Part of Lot 104, DP 1085033, Boardman Rd, Bowral

MDP Number :	0	Date of Release :	
Area of Release (Ha) :	0.00	Type of Release (eg Residential / Employment land) :	N/A
No. of Lots :	0	No. of Dwellings (where relevant) :	0
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 : **The proposal submitted by Council has been prepared by an external consultant and adopted by Council for it's purposes of submitting a planning proposal to the Department under s55 of the Act. However, there are shortcomings with the applicant's planning proposal. These will be outlined in the report and identified in the letter back to Council with the Gateway determination for any necessary amendment of the planning proposal prior to consultation.**

The proposal is a local matter and the Department is able to provide justification against policies and strategies where necessary to enable the Gateway determination to be issued.

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 enable the development of a service station and retail facilities and a motel on part of the subject lot. It is intended to service the residents of East and South Bowral and tourists.**

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

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

Comment : **However, the explanation of provisions is incorrect. The proposal is to amend Schedule 1 and the Scedule 1 Map to permit the proposal on part of the lot, however, the explanation of provisions instead identifies amending the Land Zoning Map, which would not be required as the proposal does not include rezoning of the subject land.**

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.1 Business and Industrial Zones

2.1 Environment Protection Zones

4.1 Acid Sulfate Soils

4.3 Flood Prone Land

4.4 Planning for Bushfire Protection

5.1 Implementation of Regional Strategies

5.2 Sydney Drinking Water Catchments

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 No 64—Advertising and Signage

SEPP (Building Sustainability Index: BASIX) 2004

Drinking Water Catchments Regional Environmental Plan No. 1

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

The Applicant/Council's planning proposal incorrectly lists s117 Directions that don't apply to the proposal and fails to address s117 Directions that do apply to the proposal.

The proposal identifies the following s117 Directions that do not apply:

1.1 Business and Industrial Zones does not apply as the land is zoned E3 Environmental Management and the proposal does not involve rezoning the site.

4.1 Acid Sulphate Soils does not apply as the subject land is not identified on the Acid Sulphate Soils Planning Maps.

4.3 Flood Prone Land does not apply as the land is not identified as subject to flooding.

4.4 Planning for Bushfire Protection does not apply as the land is not mapped as bushfire prone land.

The proposal also fails to adequately address the following s117 Directions:

2.1 Environment Protection Zones requires that the environmental protection standards must not be reduced. The proposal intends to reduce the standards to enable more intensive development of the site than is currently permitted. Therefore the proposal is inconsistent with this Direction. The proposal does not request the Director General to justify the inconsistency.

RECOMMENDATION: The Director General can be satisfied that the inconsistency of the planning proposal with the Direction is of minor significance.

5.2 Sydney Drinking Water Catchment requires the relevant planning authority to consult with the Sydney Catchment Authority (SCA) and include any consultation outcomes with it's s55 submission requesting a Gateway determination. This consultation has not been undertaken, therefore the proposal is inconsistent with this Direction. Council intends to consult with the SCA and the SCA has previously advised that consultation after s56 is appropriate.

RECOMMENDATION: The Director General can be satisfied that the planning proposal will be consistent once the SCA has been consulted.

6.3 Site Specific Provisions also applies to the proposal and has not been addressed. The proposal is considered consistent with this Direction as no additional development standards are proposed to be applied to the subject land, other than permitting the proposed development.

The proposal identifies a number of State Environmental Planning Policies (SEPPs) that are not relevant to the proposal:

SEPP (Building Sustainability Index: BASIX 2004) does not apply as the proposal does not involve 'residential development'. It would also only apply at the development consent stage of a development, not the planning proposal stage.

SEPP No. 64 - Advertising and Signage does not apply as it relates to the development consent stage of development, not the planning proposal stage.

SEPP No. 44 - Koala Habitat Protection does not apply as it relates to the development consent stage of development, not the planning proposal stage.

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

If No, explain : **See comments above.**

Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment : **The proposal includes an extract of the Land Zoning Map with the subject land incorrectly identified. Additional land has also been shown.
RECOMMENDATION: Council will have to prepare a new map sheet CL1_007K identifying the exact extent of the part of the lot subject to the proposal and its inclusion in Schedule 1.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **However, the extent of the consultation proposed is from the applicant's position, not the Council proposing a particular time period or agencies requiring consultation.**

Additional Director General's requirements

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

If Yes, reasons : **The planning proposal is barely adequate to enable the consideration of a Gateway determination. However, it should be made clear in the letter to Council that there are a number of shortcomings with the planning proposal and Council should ensure that any future planning proposals address the appropriate information and level of assessment.**

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **No**

If No, comment : **Generally the proposal meets some of the adequacy criteria but the level of detail is inadequate, the s117 Directions and SEPPs were not adequately addressed, the mapping information provided was not adequate to identify the part of the lot subject of the proposal, there was no timeline provided as part of the proposal and Council has not requested to use its delegation to complete the proposal, even though it is considered suitable for delegation.**

The applicant is proposing to use part of Lot 104 to develop a service station and associated retail facilities to service the local economic needs of the East and South Bowral residents. Appendix H to the planning proposal includes a town planning consultant's view that the subject land is a suitable location for the provision of retail services. It appears reasonable.

The proposal also includes the development of a 30 unit motel complex behind the service station. There is no consideration in the proposal of the forecast demand for this type of development in this location. The proposal includes detailed studies and consideration of noise and traffic impacts of the proposed developments but does not adequately justify the proposed motel complex.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **Wingecarribee LEP 2010**

Assessment Criteria

Need for planning proposal : **The subject land is zoned E3 Environmental Management and as such, both the service station and the motel complex would not be permissible on the site. There isn't a straightforward option for rezoning the site, as a B1 Neighbourhood Centre Zone would permit the service station but prohibit the motel accommodation, and the SP3 Tourist Zone would permit tourist and visitor accommodation, but prohibit the service station.**

Council does not support amending the land use tables of either the B1 or the SP3 Zones to accommodate these general uses and it would have other implications for similar zoned land throughout the Shire.

Therefore, the use of Schedule 1 to permit the specific development is considered appropriate in this instance.

Consistency with strategic planning framework : **The proposal is not inconsistent with the strategic planning framework. It is considered a relatively minor scale and the location is not strategically important.**

Environmental social economic impacts : **The environmental, social and economic impacts have been briefly considered in the planning proposal. As mentioned, the economic justification for both the service station and the motel are lacking detail.**

Assessment Process

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

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

Public Authority Consultation - 56(2)(d) : **Sydney Catchment Authority**

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

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

If no, provide reasons :

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

If Yes, reasons :

Identify any additional studies, if required. :

Permit a service station, retail facilities & motel on Part of Lot 104, DP 1085033, Boardman Rd, Bowral

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Planning Proposal Boardman Road.pdf	Proposal	Yes
Council Resolution 11 December 2013.pdf	Proposal	Yes
Boardman Road Report 11 December 2013.pdf	Proposal	Yes

Planning Team Recommendation

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

S.117 directions:

- 1.1 Business and Industrial Zones**
- 2.1 Environment Protection Zones**
- 4.1 Acid Sulfate Soils**
- 4.3 Flood Prone Land**
- 4.4 Planning for Bushfire Protection**
- 5.1 Implementation of Regional Strategies**
- 5.2 Sydney Drinking Water Catchments**

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 amend Schedule 1 to permit the development of a service station, associated retail facilities and a motel on part of Lot 104, DP 7085033, Boardman Road, Bowral should proceed subject to the following conditions:

1. It is noted that the council has adopted the proponent's planning proposal verbatim. While it is generally appropriate for councils to adopt a well written and adequate planning proposal prepared by an applicant as Council's own, in this instance the planning proposal was not considered adequate in a number of areas. The planning proposal should be amended prior to consultation to address:

- an adequate explanation of provisions;
- appropriate mapping to adequately identify the subject land and the proposed map amendment. The Schedule 1 Map is being amended not the Land Zoning Map. The maps will need to comply with the Department's 'Standard technical requirements for LEP maps' when the plan is submitted for finalisation;
- detail in identifying and assessing the proposal against the relevant section 117 Directions;
- a project timeline to be included in the proposal; and
- Council did not comment on the use of or apply to use its delegation to complete the LEP.

If Council is considering adopting an applicant's planning proposal, it should include an appropriate addendum addressing any issues and other requirements not adequately covered by the applicant.

In future an inadequate planning proposal may be returned to the council prior to Gateway determination.

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 must be made publicly available for 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 the Sydney Catchment Authority (SCA) under section 56(2)(d) of the EP&A Act in accordance with s117 Direction 5.2 Sydney Drinking Water Catchments. This consultation can occur as part of the overall consultation process.

The SCA is to be provided with a copy of the planning proposal and any relevant supporting material and is to be given at least 21 days to comment on the proposal, or to indicate that it will require additional time to comment on the proposal. The SCA may request additional information or additional matters to be addressed in the planning 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 (for example in response to a submission or if reclassifying land).

5. The timeframe for completing the LEP is to be 9 months from the week following the date of the Gateway determination.

6. Council be authorised to use 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 Direction 5.1 Regional Strategies and 6.3 Site Specific Provisions;

(b) The Director General can be satisfied that inconsistency with s117 Direction 2.1 Environmental Protection Zones is of minor significance;

(c) The Director General can be satisfied that the planning proposal will be consistent with s117 Direction 5.2 Sydney Drinking Water Catchments when Council has consulted with the SCA; and

(d) No further consultation or referral is required in relation to s117 Directions while the planning proposal remains in its current form.

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

Supporting Reasons :

To expedite the process, the Regional Team identified the shortcomings of the planning proposal and was able to compose a report to meet the minimum requirements of the LEP Panel. However, Council should be advised that the inadequacy of this planning proposal should not be repeated for future proposals.

The proposal is considered a relatively minor matter that is appropriate to proceed to Gateway determination and for Council to use its delegations to complete it.

Signature:



Printed Name:

MARK PARKER
Local Planning Manager

Date:

31st January 2014