

cw-CS7 Planning Proposal to permit development for the purposes of a service station and associated retail facilities and a 30 unit Motel on Lot 104 DP 1085033, Boardman Road, Bowral.

Reference: PN1756030, 5901
Responsible Officer: Group Manager Strategic and Assets

PURPOSE

The purpose of this report is to discuss a Planning Proposal submitted to Council for a Service Station and Associated Retail Facilities and a Motel on Lot 104 DP1085033, Boardman Road, Bowral.

DESCRIPTION OF PROPOSAL

BACKGROUND

A Planning Proposal was submitted to Council on 2 July 2013 for a Service Station and Associated Retail Facilities, together with a 30 unit Motel on Lot 104 DP1085033, 37 Boardman Road South, Bowral. Following comments from Roads and Maritime Services (RMS) a revised development concept plan removing the entry/exit points off Kangaloon Road is currently being finalised by the applicant to replace the one in the original submission. The proposal as originally submitted is provided in **Attachment 1** to this report. (circulated separately)

The site is located on the south-eastern corner of the intersection of Kangaloon Road and Boardman Road, as indicated on Figures 1 and 2 below.



Figure 1 – Regional location of the subject site.

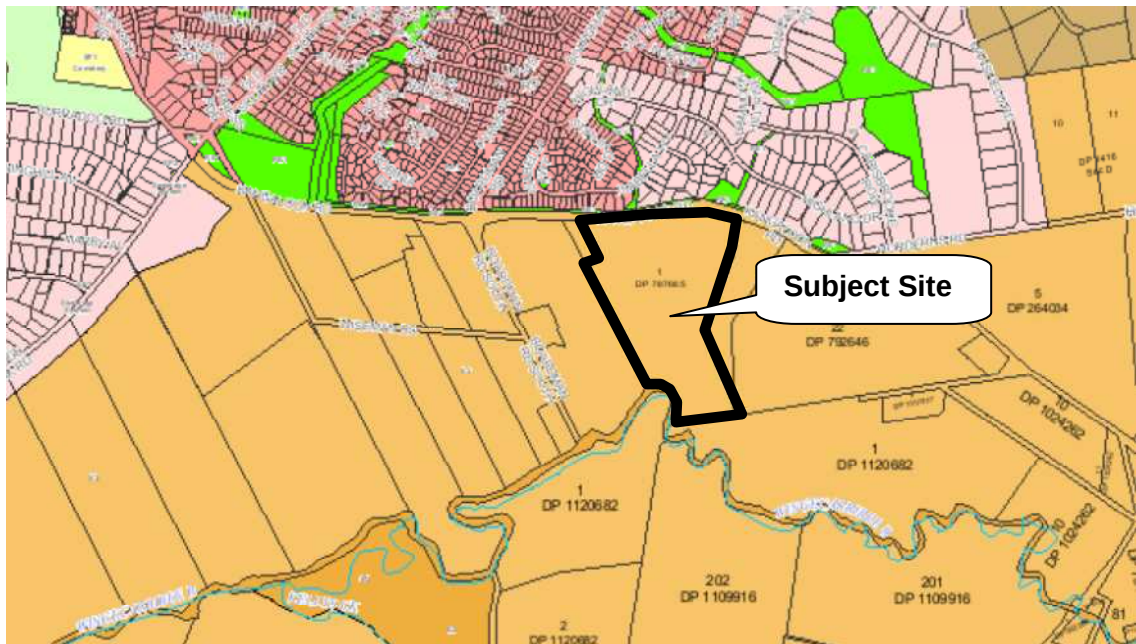


Figure 2 – Location of the subject site on Kangaloon Road

Only a portion of the site of some 2 hectares is intended to be included in the proposed development, as indicated in Figure 3 below. The total area of the site is 22.66 hectares.

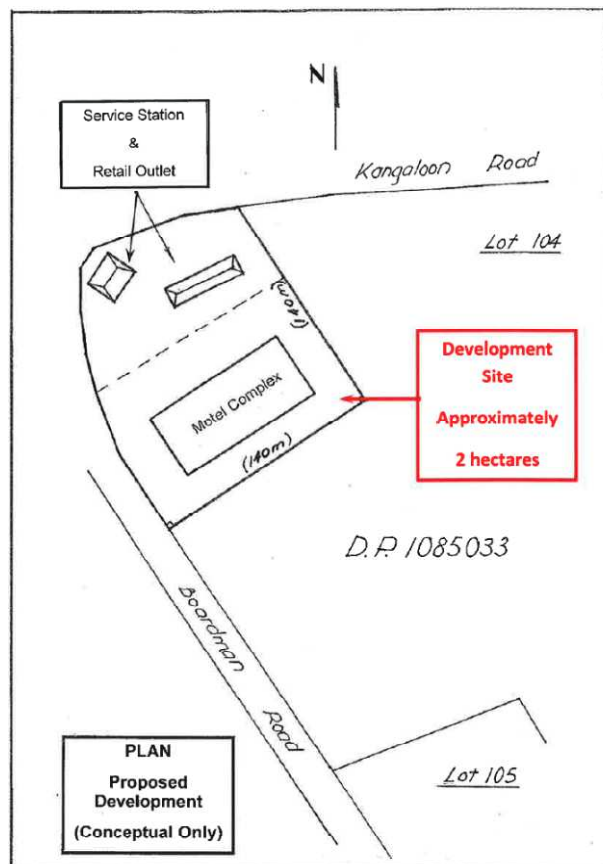


Figure 3 – Conceptual Development Plan

The site is currently vacant. The Southern Highlands Christian School is located to the west across Boardman Road South. The Pepperfield Seniors Living development is located

further to the west on Wiseman Road. The residential area known locally as East Bowral is located to the north.



Figure 4 – Surrounding Land Uses

Planning Considerations

The applicant is seeking to amend WLEP 2010 to permit development of a service station and retail shops and a 30 unit motel on the site. The site is zoned E3 Environmental Management and the proposed uses are prohibited in the E3 zone. The Planning Proposal is seeking an amendment to Schedule 1 to permit these specific uses on the site without amending the E3 Environmental Management zone.

The Department of Planning and Infrastructure is generally not supportive of Schedule 1 amendments if an alternative option, such as a change of zone is able to achieve the desired outcome. The only possible zones are B1 Neighbourhood Centre and SP3 Tourist. The B1 zone permits the service station, but not the proposed shops or the motel. The SP3 Tourist zone would not permit the service station. Given that only a small portion of the site is to be developed – 2 hectares out of 22.66 hectares, it is considered there is a strong argument for the use of Schedule 1.

The Planning Proposal was referred to Roads and Maritime Services (RMS) for comment. The RMS response included several recommendations with regard to ingress and egress and pedestrian access and the proponent is finalizing revised concept plans which will be submitted for a Gateway Determination.

The proponent presented the matter to the Local Planning Strategy Steering Committee Sunset Working Group on 21 August 2013 and it was recommended that “the matter be reported to Council clarifying the intended uses for the site and options for pre-lodgement consultation. Options for proceeding are to be included”. (Proposed Cllr McLuaghlin, seconded Cllr Scandrett). The other Councillors attending the meeting were Cllrs Gair, Clark, Campbell, McLaughlin, Scandrett, Turland, Whipper and Arkwright.

With regard to that recommendation, the intended uses haven been clarified in the revised concept development plan which forms part of the attachment to this report.

Pre-lodgement options are considered in the Community Consultation section later in this report. Options for proceeding are considered in the Options section later in this report.

STATUTORY PROVISIONS

Wingecarribee Local Environmental Plan 2010 (WLEP 2010)

In order to amend WLEP 2010 a Planning Proposal is required under the Gateway process introduced in July 2009. 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 following situations:

(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.

(2) Gateway reviews

A council or proponent may request the Minister (or delegate) to alter a Gateway determination, when a Gateway determination is made that:

- a) the planning proposal should not proceed,
- b) the planning proposal should be resubmitted to the Gateway, or
- c) imposes requirements (other than consultation requirements) or makes variations to the proposal that the council or proponent thinks should be reconsidered.

Development Control Plans (DCPs)

Should the Planning Proposal proceed and ultimately result in permission to lodge a Land Use Application, the relevant provisions of the Rural Lands DCP would apply, assuming the site is not rezoned.

State Environmental Planning Policies (SEPPs)

Should Council resolve to proceed with the Planning Proposal various SEPPs would need to be considered in the preparation of the Planning Proposal for lodgement with DP&I. All Planning Proposals within Wingecarribee Shire need to address the following SEPPs:

SEPP 44 Koala Habitat Protection

All land within the Wingecarribee Shire Local Government Area is covered by the provisions of SEPP 44. The cleared nature of the subject site suggests that this SEPP would not apply to this Planning Proposal.

SEPP Sydney Drinking Water Catchment 2011

The Sydney Drinking Water SEPP applies to the site as it is located within the Sydney Drinking Water Catchment and all Planning Proposals must seek comment from the Sydney Catchment Authority (SCA) prior to being forwarded to DP&I.

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

Relevant State Legislation

No other State legislation is relevant at this stage.

CONSULTATION

External Referrals

The RMS has already been consulted and has provided a response which the proponent has used to amend the original concept development plan. The Gateway Determination may require further referral to the RMS as well as other public authorities and these referrals would be undertaken.

Internal Referrals

Internal referrals to other sections of Council would occur as part of the public exhibition process.

Community Consultation

The recommendation of the Local Planning Strategy Steering Committee at its meeting on 21 August 2013 included the request that the report to Council consider "options for pre-lodgement consultation".

There are basically two options, to undertake community consultation prior to deciding whether to proceed with the Planning Proposal, or submit the Planning Proposal to DP&I and, if supported by the Gateway, undertake community consultation in accordance with the Gateway Determination.

The latter approach is recommended. The benefit of submitting the Planning Proposal to the Department before undertaking community consultation is that this process can result in a number of changes to the Proposal as initially considered by Council or even lodged with the Department. The Gateway may not support the Planning Proposal, or recommend alternative means of achieving the intended outcomes of the Planning Proposal, or require additional studies prior to public exhibition. Any of these possible changes can cause confusion in the community if consultation occurs prior to such matters being confirmed. The minimum time required for public exhibition can be extended and can include other consultation mechanisms including a public information session. Therefore, post-Gateway consultation is preferred.

SUSTAINABILITY ASSESSMENT

- **Environment**

The subject site is located on relatively cleared land and would appear to carry no environmental concerns. Any service station must comply with legislative requirements to ensure that safety standards are maintained. These matters would be considered at the LUA stage.

- **Social**

The site is located near to residential development in east Bowral and near to a school and seniors living development providing improved access to local retail facilities.

- **Broader Economic Implications**

The proposed motel would contribute to the tourist accommodation base of the Shire and all aspects of the development would offer additional employment opportunities.

- **Culture**

There are no likely cultural implications associated with this proposal.

- **Governance**

The correct procedure for processing the Planning proposal would be followed should Council resolve to proceed.

RELATIONSHIP TO CORPORATE PLANS

The Community Strategic Plan 2031+ identifies several goals to which the proposed development could contribute:

Goal 2.3 - Services and facilities are provided locally to meet the needs of our community.

Goal 5.2 - The 'Southern Highlands' is a recognised tourist destination throughout Australia.

Goal 5.4 - Sustainable business and industry thrive in Wingecarribee.

Goal 5.5 - Wingecarribee's diverse economy drives a wide range of job and career opportunities.

BUDGET IMPLICATIONS

A fee in accordance with the adopted fees and charges for Planning Proposals would be payable should Council resolve to proceed with the Planning 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 not proceed with the Planning Proposal.

Comment: This option is not recommended as there would appear to be merit in the proposed development. It is noted that the proponent does have the option of applying to DP&I for a pre-Gateway review from the JRPP.

Option 2

Resolve to seek community comment on the Planning Proposal prior to deciding whether to support submitting the Planning Proposal to DP&I for a Gateway Determination.

Comment: This option is not recommended for the reasons discussed in this report. Again, this option allows the proponent to apply to DP&I for a pre-Gateway review from the JRPP.

Option 3

Resolve to submit the Planning Proposal to DP&I for a Gateway Determination and, if supported, conduct community consultation in accordance with the Gateway requirements.

Comment: This option is referred and recommended. Council retains the option of withdrawing the Planning Proposal should the community consultation feedback warrant this action. Again, this option allows the proponent to apply to DP&I for a JRPP review.

CONCLUSION

The following features of the Planning Proposal are noted. Only 10% of the site is intended to be developed, leaving the bulk of the site undeveloped. There is no development intended in the vicinity of the Wingecarribee River on the southern edge of the site. The site is within a 'precinct' which contains the Southern Highlands Christian School and the Pepperfield Seniors Living Development and is accessible via Boardman Road from the East Bowral residential development to the north. The site is located on Kangaloon Road which carries traffic from the eastern and southern areas of the Shire into Bowral and therefore offers the opportunity to provide service station and associated retail facilities to these residents also.

The Planning Proposal has been amended to reflect feedback from RMS.

There would appear to be merit in allowing the Planning Proposal to proceed to a Gateway Determination and, if supported, providing community consultation opportunities as part of the Gateway requirements.

ATTACHMENTS

There is one (1) attachment to this report to be circulated under separate cover.

1. Planning Proposal as originally submitted to permit a service station and associated retail facilities and a motel for 30 units on part of Lot 104 DP 1085033, Boardman Road South, East Bowral. **(issued under separate cover)**

RECOMMENDATION

1. **THAT** the Planning Proposal to permit development for the purposes of a Service Station and Associated Retail Facilities, and a 30 unit Motel on Lot 104 DP1085033, 37 Boardman Road South, Bowral. be prepared and forwarded to the NSW Department of Planning and Infrastructure for a Gateway Determination under section 55 of the Environmental Planning and Assessment Act 1979.
2. **THAT** the applicant be advised of Council's decision made in 1 above.

(Voting on the Motion)