

2.6 Planning Proposal - RZ/1/2012 - 'Key' Site, The Entrance

TRIM REFERENCE: RZ/1/2012 - D02993106

MANAGER: Paul Bowditch; Manager Place Management

AUTHOR: Stephen Ashton; Senior Strategic Planner

SUMMARY

Reporting on the submission of a Planning Proposal for the 'Key Site' in The Entrance.

An assessment of the proposal has been undertaken, having regard for local, regional and State strategies and policies, State Environmental Planning Policy (SEPP) 65 Design Review Panel evaluation and comments, and the applicable legislative requirements. The assessment has identified that the proposal has merit and should be supported.

Rezoning Application:	RZ/1/2012
Applicant:	Ingham Planning Pty Ltd
Owner:	Pelican Horizons Pty Ltd
Description of Land:	Lot 1 DP 513519 (2 Ocean Parade, The Entrance)/Lot 2 DP 536168 (14 The Entrance Road, The Entrance).
Proposal:	To amend <i>Wyong Local Environmental Plan 1991</i> to permit redevelopment in accordance with the proposed development described in this report.
Site Area:	3,762m ²
Zoning:	3(d) (Tourist Business)
Existing Use:	Vacant land.

RECOMMENDATION

- 1 That Council initiate the Planning Proposal to amend Wyong Local Environmental Plan (WLEP) 1991 in accordance with Section 55 of the Environmental Planning and Assessment Act 1979, by endorsing the planning proposal prepared by the applicant.**
- 2 That Council forward the Planning Proposal to the Director General, Department of Planning and Infrastructure requesting a 'Gateway' determination, pursuant to Section 56(1) of the Environmental Planning and Assessment Act 1979.**
- 3 That Council undertake community consultation on the Planning Proposal, in accordance with the Gateway Process and Director General's direction, subject to the Director General's approval.**
- 4 That Council request the Department of Planning and Infrastructure to prepare the draft Local Environmental Planning Instrument and that the Minister be requested to make the plan, subject to there being no objections received that cannot be resolved by minor amendments to the Planning Proposal.**

Council has received a Planning Proposal (RZ/1/2012) for the land comprising Lot 1 DP 513519 (2 Ocean Parade, The Entrance) and Lot 2 DP 536168 (14 The Entrance Road, The Entrance), commonly known as the 'Key' Site.

The planning proposal will amend *Wyong Local Environmental Plan (WLEP) 1991* by 'switching off' Clauses 42C, 42CA and 68 and inserting enabling provisions into Part 3, Division 6 of *Wyong Local Environmental Plan (WLEP) 1991*, including a sunset clause (for the purpose of encouraging development to commence earlier rather than later). The planning proposal will facilitate an important employment generating development (described in this report) in a strategically significant location and has been lodged in response to Council's adopted Key (Iconic) Development Site draft Development Control Plan (DCP).

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PROPOSED PLANNING PROPOSAL (WYONG LOCAL ENVIRONMENTAL PLAN 1991 AMENDMENT) DESCRIPTION

The planning proposal (LEP Amendment request) seeks to 'switch off' existing LEP Clauses 42C, 42CA and 68 relating to building height, setback and use mix (which are currently considered to be constraining development of the site and arguably a significant contributor as to why the site has remained vacant) and insert enabling provisions into Part 3, Division 6 of *WLEP 1991*, (which includes a sunset clause to require development approval to be granted within 5 years of gazettal of the proposed LEP amendments, to encourage construction to occur promptly), to facilitate the proposed development. A copy of the clauses proposed to be "switched off" is attached.

Figure 1: Site Plan.



The amendments aim to achieve the same outcomes proposed in relation to 'Key (Iconic) Development Sites' in the Composite LEP, presently awaiting S64 consideration.

Therefore the objectives of the Planning Proposal are generally the same as those for many of the Key (Iconic) Development Sites, and aim to:

- Create a vibrant/viable town centre.
- Promote viable/feasible development.
- Promote design excellence.
- Provide an appreciable community benefit.
- Encourage development that can act as a catalyst for other development.
- Encourage the development of land that has been vacant and unutilised for many years.

The proponents have considered their options in relation to whether to wait for Council's current draft Composite LEP 2012 process to be finalised or whether to submit a Planning Proposal for amendment to the *WLEP 1991*. The proponents acknowledge that, whilst the overall intent is to facilitate necessary planning changes through Council's draft Composite LEP, this is a complex process that may take significant time to resolve.

As all the key stakeholders in the process, including the land owner, Council, State Government and the local community, want to see prompt, positive and real action to implement the stated vision for The Entrance, the proponents have decided that the preferred course of action is to put forward the planning proposal to amend Council's current LEP.

The proponent's genuine commitment to the development of this vacant site, (which has been unused for around 20 years), is demonstrated by their intention to lodge the planning proposal initially, followed by a development application in the near future, to enable both applications to be exhibited concurrently, should the "Gateway" process determine to allow the proposal to proceed.

The proponents will also submit a voluntary planning agreement with the planning proposal, prior to public consultation, which will contain an offer of \$1.55m in commitments to fund public benefit, largely in the form of public domain improvements adjacent to the site, in exchange for increased development potential, which complies with all planning merit considerations (eg. overshadowing, impact on neighbouring properties and town centre). It should be noted that such an offer of "public benefit" is in accordance with Council's Iconic Development Site Process and has been reviewed by an Internal Governance Panel established to review such offers.

PROPOSED DEVELOPMENT DESCRIPTION

The Planning Proposal is intended to facilitate the construction of a mixed use building comprising a 2 to 4 storey podium of primarily tourist retail and commercial uses and a 17 storey residential tower above. The building is intended to provide:

- 1,565m² of Gross Floor Area (GFA) for retail/food outlets
- 690m² of GFA for commercial premises
- 178 car spaces and a loading/unloading area
- 93 apartments comprising 8 x 1 bedroom, 52 x 2 bedroom and 33 x 3 or 4 bedrooms
- 218-247 full-time and part time construction jobs for one year.
- 120 retail/commercial jobs in perpetuity.

The total GFA is 14,645m², which equates to a Floor Space Ratio (FSR) of 3.9:1

Figure 2: Artist's Impression of the Proposed Future Development, when viewed from The Entrance Road/Marine Parade Junction.



SITE CONTEXT

Description

The site has been vacant for a number of years and is presently grassed, with a large Norfolk Island Pine tree being the only other vegetation on the site. The land falls consistently from the southern to the northern boundary, dropping around 5m from Ocean Parade to the Marine Parade frontage. The subject site has an irregular (essentially L shaped) shape, and a total area of approximately 3,762m².

The site is located in the heart of The Entrance Town Centre and is bounded by retail and commercial development to the south-west including a two storey restaurant/take-away (KFC) building and ancillary car parking directly to the south-west along The Entrance Road, at 16 The Entrance Road.

The current owners maintain they have previously held 'options' to purchase the KFC site, however they considered the asking price greatly exceeded the relevant market price and was one of the reasons why previous proposals have not proceeded. The option to purchase this site was not renewed when it expired.

The site has direct frontage to The Entrance Road to the west of the site, Ocean Parade to the south, and Marine Parade to the north. Further to the north is the Memorial Park, a major open space area in The Entrance Town Centre. A mixed use development adjoins the site to the east along Marine Parade and further east along Marine Parade is residential development. Residential development adjoins the site along Ocean Parade to the east.

The site is located in an existing developed area that is well provisioned in relation to normal service infrastructure (electricity, telecommunications, water, sewer and drainage).

A traffic and carparking assessment report demonstrates that the site has good vehicular access to abutting roads (Marine and Ocean Parades) and future traffic generation and movements. Carparking can be catered for without unreasonable impact on the local network. The cumulative impacts from all Key (Iconic) Development Sites in The Entrance have been analysed and further analysis based on proposed changes to the local road network envisaged in The Entrance Town Centre Masterplan are currently being considered by Council's Transportation Engineer.

Environmental, Social and Economic Impact

Environmental

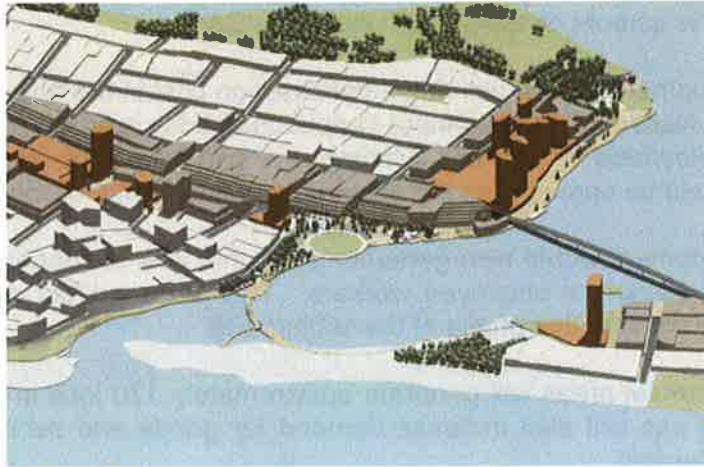
There are no critical habitat or threatened species, populations or ecological communities, or habitats on or near the site. There is only one tree on the site, a Norfolk Island Pine, which has previously been recommended for removal due to poor condition.

The site is not subject to inundation from current flood levels or levels having regard to climate change scenarios.

There are no other potential hazards that the site may be subject to with the exception of acid sulfate soils, which can be suitably addressed at DA stage.

In relation to visual impact, the Planning Proposal will facilitate a development of far greater visual quality than is likely to occur under the existing controls (the existing controls limit height of the building to 24 metres). The quality of existing development approved under these controls will be able to be seen from the surrounding area. While higher in form than existing development in the vicinity, the iconic quality that Council is encouraging in its Key (Iconic) Development Sites process and Town Centre Masterplan has been demonstrated in Councillor Briefings and by the Planning Proposal documentation. In terms of height, the proposed building is consistent with the overall vision for The Entrance Town Centre, where buildings of similar height on other Key (Iconic) Development Sites will be established (Refer Figure 3).

The proponents also took the opportunity to present their proposal to the SEPP 65 Design Review Panel. This Panel comprises independent design experts and was established by the Minister to review and provide comment on multi-storey developments. The Panel provided feedback to the proponents that could further enhance the building design. Ultimately, any future development application submitted for the site will be forwarded to the SEPP 65 Panel for comment.

Figure 3: Overall Vision for The Entrance Town Centre

In relation to impacts on surrounding properties, the Planning Proposal will not facilitate development that will unreasonably or adversely impact neighbouring properties. The normal planning merit controls remain unchanged in the LEP and State Planning Legislation and any future development must comply with such controls. A mooted development concept (refer Figure 2) demonstrates that a development design can comply with the Planning Proposal (proposed LEP amendments) without having unreasonable impact on neighbouring properties.

The analysis of this development concept shows that:

- All properties in the immediate vicinity will retain sufficient mid-winter sun to relevant solar access standards.
- Views from neighbouring properties will not be unreasonably impacted, as they will still retain views to Memorial Park, The Entrance Channel, Tuggerah Lake and/or Pacific Ocean.
- Future development potential of the KFC site is respected, commensurate with existing planning controls.
- Near, mid and distant views to the development from important viewpoints around The Entrance and The Entrance North are acceptable, particularly taking into account the overall vision for The Entrance Town Centre (refer Figure 3)

Social

The Planning Proposal indicates that it will not result in any adverse social issues as the proposed development remains consistent with the existing zoning of the land. The proposal forms part of Council's overall revitalisation strategy for The Entrance Town Centre that has been widely workshopped and discussed with the local community, business owners and stakeholder groups. The proposal is seen as a major catalyst in this revitalisation and therefore will be of great social benefit.

Economic

The Planning Proposal indicates that it will not result in any negative economic impacts, as the proposed development remains consistent with the existing zoning of the land. No major retail space is provided, ensuring that the development will not compete with the role of the more central precincts of the Town Centre.

The proposal will result in a significant number of local jobs both during construction and in the longer term, attracting more permanent residents to the area and catering for tourists which will increase the amount of spending in the Town Centre.

The proposed development has an estimated construction cost in the order of \$40-45 million. Using the Australian National Accounts Input-Output data, this construction investment would generate direct employment of 218-247 full-time and part time jobs for one year. These construction jobs would be spread over the development timeframe for the subject site.

The proposed development would also generate additional jobs in supporting industries and other businesses servicing the employed workers. This is an indirect employment benefit generated during the construction phase of the subject site.

The proposed commercial areas will generate approximately 120 jobs in perpetuity and the proposed residential use will also increase demand for goods and services and therefore create indirect employment.

STRATEGIC CONTEXT

The NSW Government and Council have prepared a number of strategic documents that relate to The Entrance Town Centre, which provide the planning context for the Planning Proposal.

The Planning Proposal:

- Furthers the future strategic direction for Town Centres in the Central Coast Regional Strategy
- Furthers the future strategic direction for and character of Precinct 6 in The Entrance Peninsula Planning Strategy 2009
- Contributes to the vision and is consistent with the provisions of The Entrance Town Centre Masterplan 2011
- Is consistent with all applicable State Environmental Planning Policies
- Is consistent with all applicable Section 117 Directions
- Is consistent with the Department of Planning and Infrastructure's (DoPI's) criteria for spot rezonings

LEP AMENDMENT PROCESS - The Gateway Process

The current LEP Amendment Process, known as the Gateway Process, was introduced via changes to the *Environmental Planning and Assessment Act* (EP&A Act) 1979, effective 1 July 2009. The process has been implemented in order to streamline the LEP amendment process, reduce timeframes for undertaking LEP amendments and increase the transparency of the process.

The introduction of the Gateway process has resulted in a number of changes to terminology and processes involved in LEP amendments. In short, any submission a Council makes to the DoPI to amend an existing LEP must be supported by a Planning Proposal prepared in accordance with the DoPI guidelines.

Planning Proposals under this process must document the objectives, proposed provisions, justification and proposed community consultation processes to be undertaken for each proposal.

Prior to community consultation being undertaken, the Planning Proposal must be supported by the local DoPI office, the LEP Review Panel and the Gateway (generally the Minister). The Gateway determination can endorse the proposal, require amendments to the proposal or refuse the proposal in its entirety. If endorsed for consultation, the Gateway will also determine timeframes for completing procedures within the process. Council no longer has delegation to approve a draft LEP for public exhibition.

The legislative amendments also provide for a feedback loop to the Gateway should a Council decide to amend a Planning Proposal for any reason during the process.

This enables the Gateway to determine any additional consultation requirements considered necessary.

CONSULTATION

Under the Gateway process the State and Commonwealth public authorities to be consulted are nominated by the Gateway determination and the views of these authorities are, therefore, not known until after the initial Gateway determination.

Under the Gateway process the level of community consultation is tailored for each Planning Proposal by the initial Gateway determination.

The Planning Proposal will be updated accordingly following this consultation.

CONCLUSION

This LEP Amendment request, in respect of WLEP 1991, for the purpose of 'switching off' Clauses 42C, 42CA and 68 and inserting enabling provisions into Part 3, Division 6 of the *Wyang Local Environmental Plan (WLEP) 1991*, to permit the proposed development described above, has been assessed and is supported for the following reasons:

- It provides for an employment generating development at a strategically significant location that is considered important for the evolution of The Entrance Town Centre and has significant potential to provide the catalyst to stimulate further economic development and growth and revitalise The Entrance Town Centre.
- It is consistent with Council's strategic planning, The Entrance Peninsula Planning Strategy and The Entrance Town Centre Masterplan.
- It is consistent with State Government strategic planning, The Central Coast Regional Strategy.
- The site is not affected by any significant hazards that could not be mitigated.
- The site does not possess any known significant environmental sensitivities that could not be mitigated.
- The site has access to all relevant infrastructure and services.
- The site can be provided with adequate access arrangements.
- The future development/use of a mixed use development on the site could comply with all the relevant Chapters of Wyong Development Control Plan (DCP) 2005.
- The future development/use of a mixed use development on the site could comply with all the relevant provisions of the Wyong Retail Centres Strategy.
- It is consistent with all relevant State Environmental Planning Policies (SEPPs).
- It is consistent with all relevant s117 (Ministerial) Directions.
- It is consistent with all of the DoPI's criteria for spot rezonings.

This Planning Proposal can be seen as the next step in the planning process that aims to achieve the revitalisation of The Entrance Town Centre. It follows a significant undertaking by Council in the preparation of The Entrance Peninsula Planning Strategy, the draft Iconic Sites DCP and The Entrance Town Centre Master Plan. This process has involved extensive consultation with the local community, business owners and relevant stakeholders. As discussed in detail in this report, the Planning Proposal is fully consistent with these documents and also the relevant regional planning strategies and state policies.

It is therefore recommended that LEP Amendment request, RZ/1/2012, be supported for assessment through the Gateway Process (see above for a description of this process) for the purpose of 'switching off' Clauses 42C, 42CA and 68 and inserting enabling provisions into Part 3, Division 6 of the *Wyong Local Environmental Plan (WLEP) 1991*, to permit the proposed development described above.

ATTACHMENTS

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|---|--|-----------|
| 1 | Existing Clauses to be Switched Off by the Planning Proposal - RZ/1/2012 - 'Key' Site, The Entrance | D02997950 |
| 2 | Planning Proposal - The Key Site - 14 The Entrance Road & 2 Ocean Parade, The Entrance - Ingham Planning (distributed under sperate cover) | |

EXISTING CLAUSES TO BE "SWITCHED OFF" BY THE PLANNING PROPOSAL

As mentioned above, the Planning Proposal seeks to switch off Clauses 42C, 42CA and 68 of WLEP 1991. These clauses are reproduced as follows:

Clause 42C - Development in Zones Nos 3 (a) and 3 (d) at The Entrance

- (1) This clause applies to the land within Zone No 3 (a) or 3 (d) shown edged heavy black on the building height map.
- (2) The objective of this clause is to control the impact of development within the commercial area of The Entrance.
- (3) In the case of development on land within Zone No 3 (d), any permanent residential accommodation to be provided within the buildings on that land is to occupy less than fifty percent of the gross floor area of all of the buildings on that land.
- (4) For the purposes of this clause, a **building height** is the vertical distance from natural ground level at any point within a building to the top-most ceiling of the building directly above that point.
- (5) The Council may grant consent to the erection of a building on the land to which this clause applies, no building height of which at any point exceeds the height nominated for the land at that point on the building height map, but only where it is satisfied that:
 - (a) Having regard to the future neighbourhood character, the proposed building will not be visually intrusive by way of its bulk, scale, design or colour; and
 - (b) The proposed building will not unreasonably overshadow any public space or adjacent residential area or significantly impact on privacy or views; and
 - (c) Any roof structure over and above the height nominated for the land beneath it on the building height map is designed and incorporated into the building in a way that is both interesting and attractive; and
 - (d) An assessment of the effects (including cumulative effects) of wind tunneling has been made and that the wind impacts will be within acceptable limits; and
 - (e) The development incorporates appropriate measures for convenient, sheltered access for pedestrians, including access to other land; and
 - (f) The development makes appropriate provision for the supply of parking space demanded by the proposed development, whether on the same land as the development or other land, or both, taking into account the characteristics of the proposed development, possible future changes of use of the land and the capacity of the street system serving the land on which the development is to be carried out; and
 - (g) The proposed uses will complement or reinforce the retail functions of the town centre, particularly at street level or where associated with pedestrian accessways; and
 - (h) The development does not by its design or siting preclude any necessary traffic improvement works; and
 - (i) Due regard has been given in the design to any other matters that may be specified in a development control plan applying to the land.

- (6) State Environmental Planning Policy No.1 – Development Standards does not apply to height requirements for buildings on land to which this clause applies.

Clause 42CA - Setbacks for certain buildings fronting The Entrance Road

- (1) Buildings erected on land to which Building Profile A, B, C or D applies, as shown on the building height map, must not protrude beyond the profile established for those buildings on that map, despite any other provision in this plan.
- (2) State Environmental Planning Policy No.1 – Development Standards does not apply to a requirement made by this clause.

Clause 68 - Managed resort facilities—The Entrance

- (1) This clause applies to:
- (a) Lots 1 and 2, DP 536168 and Lot 1, DP 513519, being land within Zone No 3 (d) and having frontage to Marine Parade, The Entrance Road and Ocean Parade, The Entrance, and
 - (b) Lot 5, DP 790801, Lots A, C and D, DP 382461, Lots 1–4, SP 20363, Lots 1 and 2, DP 517291 and Lot 1, DP 25611, being land within Zone No 2 (g) and having frontage to Wilfred Barrett Drive, The Entrance Road West, Oakland Avenue and Bent Street, The Entrance, and
 - (c) Lots 1, 2 and 3, DP 571197, Lots 1–4, DP 367602, Lot 10–12, DP 23428 and Lot 15, DP 832013, being land within Zone No 2 (g) and having frontage to The Entrance Road West, Oakland Avenue and Clifford Street, The Entrance.
- (2) In this clause, **managed resort facility** means an establishment providing for holiday accommodation or recreation and may include permanent accommodation, entertainment facilities, recreation facilities, a boat shed, boat loading facilities, a general store, convention facilities, holiday cabins, a hotel, house boat facilities, a marina, a motel, restaurants, tourist shops ancillary to the establishment or a club used in conjunction with any such facilities.
- (3) Despite the provisions of clause 10 of this plan, a person may, with the consent of the Council, carry out development for the purpose of a managed resort facility on the land to which this clause applies.
- (4) The Council may consent to the use for permanent residence of up to seventy-five per cent of the accommodation provided by a managed resort facility. In determining the proportion concerned, the Council must have regard to the nature of the facility and its relationship to surrounding land uses, and must be satisfied that the granting of the consent will not result in the dominant use of the land on which the facility is located being for a purpose other than that of a managed resort facility.
- (5) **Note:** Subclause (5) (including the Table) as contained in draft *Wyang Local Environmental Plan 1991 (Amendment No 118)* is excluded and comprises deferred matter as referred to in section 70 (4) and (5) of the Environmental Planning and Assessment Act 1979.