

Planning Proposal to amend Wyong LEP 2013 to rezone land at 15 Mulloway Road, Chain Valley Bay from E3 Environmental Management to E2 Environmental Conservation and R2 Low Density Residential and amend minimum lot sizes (102 dwellings)

Proposal Title :	Planning Proposal to amend Wyong LEP 2013 to rezone land at 15 Mulloway Road, Chain Valley Bay from E3 Environmental Management to E2 Environmental Conservation and R2 Low Density Residential and amend minimum lot sizes (102 dwellings)		
Proposal Summary :	The proposal is to rezone land at 15 Mulloway Road, Chain Valley Bay from E3 Environmental Management to R2 Low Density Residential and part E2 Environmental Conservation to allow residential development and environmental conservation.		
PP Number :	PP_2017_CCOAS_003_00	Dop File No :	17/06492

Proposal Details

Date Planning Proposal Received :	04-May-2017	LGA covered :	Central Coast
Region :	Hunter	RPA :	Central Coast Council
State Electorate :	SWANSEA	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	Mulloway Road		
Suburb :	Chain Valley Bay	City :	Postcode : 2259
Land Parcel :	Lot 273 DP 755266		

DoP Planning Officer Contact Details

Contact Name :	Corrine Manyweathers
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RPA Contact Details

Contact Name :	Jenny Mewing
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DoP Project Manager Contact Details

Contact Name :	
Contact Number :	
Contact Email :	

Land Release Data

Growth Centre :		Release Area Name :	
Regional / Sub Regional Strategy :	Central Coast Regional Plan 2036	Consistent with Strategy :	Yes

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MDP Number :		Date of Release :	
Area of Release (Ha) :	16.59	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	0	No. of Dwellings (where relevant) :	102
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 planning proposal was considered adequate for assessment on 4 May 2017.

External Supporting Notes : This proposal seeks to rezone the E3 Environmental Management part of the 16.59ha site to enable low density residential development, while retaining and expanding the E2 Environmental Conservation land. The subject site is identified in the North Wyong Shire Structure Plan (NWSSP) for long term future residential development and is generally consistent with the aims of the Central Coast Regional Plan (CCRP).

Future development is constrained by the presence of an Endangered Ecological Community (EEC) in the E2 zone and an indicative green corridor, identified in the NWSSP and the CCRP, a vegetation link between the coast and the foothills.

The proposal is out of sequence with the staging proposed in the NWSSP, however the surrounding sites are developed as residential, including residential dwellings on R2 and manufactured homes estates on RE1. The site can be serviced with existing water and sewer capacity.

This report concludes that the proposal has merit for further investigation.

Adequacy Assessment

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

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

Comment : Council's stated objective is to rezone part of the subject land from E3 Environmental Management to R2 Low Density Residential to enable land subdivision.

Council should amend the objective to include the conservation objectives of the proposal (corridors and EEC).

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

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

Comment :

Council seeks to amend Wyong LEP (WLEP) 2013 by:

- Extending the existing E2 Environmental Conservation zone to include the extent of the Endangered Ecological Communities on the site and a viable north-south corridor;
- Rezoning residual land (and any road reserves) from E3 Environmental Management to R2 Low Density Residential;
- Apply a minimum lot size of 450m² for Low Density Residential and 40 hectares (ha) for E2 Environmental Conservation; and
- Map the site as an Urban Release Area (URA) subject to provisions of Part 6 of WLEP 2013.

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

- 1.3 Mining, Petroleum Production and Extractive Industries**
- 2.1 Environment Protection Zones**
- 2.2 Coastal Protection**
- 2.3 Heritage Conservation**
- 3.1 Residential Zones**
- 3.4 Integrating Land Use and Transport**
- 4.1 Acid Sulfate Soils**
- 4.2 Mine Subsidence and Unstable Land**
- 4.3 Flood Prone Land**
- 4.4 Planning for Bushfire Protection**
- 6.1 Approval and Referral Requirements**
- 6.2 Reserving Land for Public Purposes**
- 5.10 Implementation of Regional Plans**

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 55—Remediation of Land**
- SEPP No 71—Coastal Protection**
- SEPP (Mining, Petroleum Production and Extractive Industries) 2007**

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 DIRECTIONS

The proposal is consistent with all relevant S117 Directions, except as identified below. Further consideration is required to demonstrate consistency or to justify any inconsistency with the following S117 Directions.

1.3 Mining, Petroleum Production and Extractive Industries

The proposal is considered consistent with this direction as the Department of Industry advised the proposal is unlikely to impact future resource extraction. The surrounding uses are also residential and are unlikely to result in land use conflict with nearby mines. Council should amend the planning proposal to reflect consistency with the direction.

2.1 Environment Protection Zones

The site is identified as a green corridor in the NWSSP and the CCRP, and contains an

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EEC. The proposal will reduce protection of the environmental land and as such is inconsistent with the direction. Council need to consult with the NSW Office of Environment and Heritage (OEH) to address impacts on biodiversity, threatened species and the green corridor and habitat networks, and to justify any inconsistency with the direction.

2.2 Coastal Protection

The site is in the Coastal Zone. Council has advised the proposal is generally consistent with the direction except for matters relating to environmental protection. Council should address the direction requirements after consultation with OEH.

2.3 Heritage Conservation

Council has advised that additional investigations, in accordance with OEH requirements, are required to identify the presence of Aboriginal cultural heritage on the site. Council should address the direction requirements after this additional work has occurred.

3.1 Residential Zones

Council advised the proposal is consistent with the direction as it is identified in the NWSSP, will result in logical urban infill and is unlikely to impact resource extraction. Further, the site can be serviced by existing water, sewer and electricity capacity. The rezoning will result in an efficient use of land by permitting a minimum lot size of 450m². URA mapping will ensure the site is adequately serviced prior to development.

4.1 Acid Sulfate Soils

The land is affected by Acid Sulfate Soils, with most the site being Class 5 and a small portion, adjacent to Karignan Creek, being Class 2. Given most of the site is Class 5, Council should satisfy itself that the proposal is consistent with the direction.

4.2 Mine Subsidence and Unstable Land

This site is located within the Swansea/North Entrance Mine Subsidence District. Consistency with this direction would need to be determined following consultation with Subsidence Advisory NSW.

4.3 Flood Prone Land

Part of the site is flood affected. Council needs to satisfy this direction once the location of residential zoned land is confirmed.

4.4 Planning for Bushfire Protection

The site is bushfire prone, while the bushfire report demonstrated compliance with Planning for Bushfire Protection, it did not consider provision of the green corridor throughout the site. Council should demonstrate consistency with the direction following a revised bushfire report and consultation with the NSW Rural Fire Service.

5.10 Implementation of Regional Plans

Council considers the proposal is generally consistent with the CCRP, however the impact on the green corridor is yet to be determined. Council need to demonstrate consistency with the direction after agency consultation and once additional investigations have been undertaken, especially with regards to the green corridor.

6.2 Reserving Land for Public Purposes

The site is not identified for acquisition. However, part of the proposal includes resolving how to manage the E2 land in perpetuity. This may involve transferring the E2 land into public ownership, to be owned and managed by either Council or National Parks and Wildlife. Council should demonstrate consistency with the direction following agency consultation and resolution of a management strategy for the E2 land.

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STATE ENVIRONMENTAL PLANNING POLICY (SEPP).

The proposal is consistent with all relevant SEPPs except as identified below. Further consideration and assessment is recommended as part of the Gateway in relation to:

SEPP 44 - Koala Habitat

At least 15% of the total number of trees on site are listed in Schedule 2 of the policy as potential koala habitat. Council proposes additional survey to determine the impact on local koala populations.

SEPP 55 - Remediation of Land

The site has previously been used for agricultural purposes. Council must ensure the site is suitable for rezoning to R2 and for the use of all permissible uses. The findings should be exhibited.

SEPP 71 - Coastal Protection

SEPP 71 applies as the site is within the coastal zone. Council needs to update its assessment against SEPP 71 which is currently incomplete.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : Council proposes a 28 day exhibition period. The Department supports a minimum exhibition period of 28 days.

Additional Director General's requirements

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

If Yes, reasons : **TIMEFRAME**

Council's proposed timeframe is 16 months. A timeframe of 12 months is recommended. This is a tight timeframe but is not unachievable.

DELEGATIONS

Central Coast Council requested delegation to make the draft LEP. As the proposal is a minor spot rezoning and is generally consistent with the Central Coast Regional Plan, Council should be authorised to use its delegation to finalise the plan.

Overall adequacy of the proposal

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

If No, comment :

Proposal Assessment

Principal LEP:

Due Date : **May 2017**

Comments in relation to Principal LEP : **The proposal seeks to amend Wyong LEP 2013 by rezoning land from E3 Environmental Management to R2 Low Density Residential and part E2 Environmental Conservation.**

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Assessment Criteria

Need for planning proposal :

NORTH WYONG SHIRE STRUCTURE PLAN (NWSSP)

The subject site is identified in the NWSSP as Precinct 19, which is earmarked for long term future residential development. Early release will be supported if there is demand for additional land and funding for infrastructure.

PROPOSED ZONES AND LOT SIZES

The proposal will amend the minimum lot size to 450m², this is consistent with other low density urban areas in the Central Coast north region.

URBAN RELEASE AREA MAP (URA)

Council proposes to include the site in the Urban Release Area (URA) Map of the Wyong LEP 2013. As such the developer must provide appropriate public infrastructure prior to subdivision approval to meet the future needs of urban development.

Consistency with strategic planning framework :

NORTH WYONG SHIRE STRUCTURE PLAN (NWSSP)

The proposed site is identified as Precinct 19 in the NWSSP, earmarked for residential development in the long term (15 years). The precinct is identified for long term development but can be accelerated if there is demand, the development is logical and can be serviced, and the release can be forward funded.

Despite being out of sequence with the NWSSP, the proposal results in logical urban infill as the surrounding sites have been developed for residential uses, including dwellings and manufactured home estates. There is available water, sewer and electricity capacity, access to transport and commercial services in Lake Munmorah. Further, the site does not impact future mining subject to satisfactory consultation with Subsidence Advisory NSW.

Council's assessment did not consider rezoning Precinct 19 in its entirety. A precinct wide rezoning could result in a more efficient planning outcome, as well as provide certainty for the green corridor through appropriate zoning. However, up zoning the RE1 sites may also result in redevelopment of the MHE and a loss of affordable housing stock in the area.

The site adjoins existing residential to the east, west and north west. The southern portion of the site and Precinct 19 is 'Indicative Green Corridor' and 'Green Corridor and Habitat Networks' and the precinct has networks to the north west, south and east and National Park to the north. While more detailed work on corridors needs to occur the corridor is generally consistent with the CCRP indicative biodiversity corridor.

The Planning Proposal should be amended to discuss rezoning Precinct 19 in its entirety. The proposal is generally consistent with the NWSSP, while consultation is required with OEH to determine the location of the green corridor.

CENTRAL COAST REGIONAL PLAN (CCRP)

Council's assessment against the directions found it was generally consistent with the Plan. Further investigation is required to determine consistency with directions relating to environmental protection of the biodiversity corridor and the relevant S117 directions.

WYONG SHIRE SETTLEMENT STRATEGY

The site was not identified in the Strategy, however acknowledges there are other opportunities for rezoning investigation.

Environmental social economic impacts :

ENVIRONMENTAL IMPACTS

ENVIRONMENT

The indicative green corridor (NWSSP and CCRP) and EEC are the primary environmental constraints to the future development. However, the site itself may act as a corridor from the EEC to the National Park, which would be significantly impacted by the proposal.

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Consultation with OEH is required to determine a more precise location for the corridor, and to determine the viability of the proposed north-south corridor which traverses the site including an updated bushfire assessment.

Council should also determine the appropriate management mechanism for the E2 EEC land. Council advised the E2 land should be maintained in perpetuity, further investigation is required to determine whether this would best take the form of Council or National Park ownership, a VPA or Biodiversity Stewardship Agreement.

The final lot layout will be dependent on the outcome of consultation and additional studies, to ensure the long term viability of the green corridor.

SOCIAL

The proposal will result in an additional 102 lots within an existing urban area.

WATER AND SEWER

The site can be serviced with existing water and sewer capacity.

TRAFFIC AND TRANSPORT

The Traffic Report indicates there is generally sufficient capacity within the local road network for the additional vehicle movements.

The intersection of Pacific Highway/Chain Valley Bay currently has unsatisfactory delays and the intersection would require upgrades should the proposal go ahead.

The Traffic Report was undertaken based on a higher development yield, an amended Traffic Report is required to address the revised lot yield.

ENVIRONMENTAL HAZARDS (Flood and Bushfire)

The site is Category 1 Bushfire Prone and Vegetation Buffer.

The Bushfire Report was based on a scenario where all trees would be removed from the R2 zone. However, the lot layout has since been revised to retain a green corridor of native vegetation through the site.

An amended Bushfire Report will be required to determine the final lot layout.

Council recommended a flood assessment be undertaken for Karignan Creek. Given the riparian corridor requirements for building setbacks future development on site will likely be located outside of the flood level. However, Council should satisfy itself that future residential areas will not be affected by flooding.

Assessment Process

Proposal type :	Consistent	Community Consultation Period :	28 Days
Timeframe to make LEP :	18 months	Delegation :	RPA
Public Authority Consultation - 56(2)(d) :	Office of Environment and Heritage Mine Subsidence Board Office of Environment and Heritage - NSW National Parks and Wildlife Service NSW Rural Fire Service Transport for NSW - Roads and Maritime Services		

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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. :

Fauna

Heritage

Bushfire

Flooding

Other - provide details below

If Other, provide reasons :

Traffic and infrastructure report - Update traffic counts

Flora and Fauna - Connectivity study and Koala Habitat Study

Aboriginal Heritage Report

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 : **The Department's Contributions Team has been consulted on URA mapping.**

Documents

Document File Name	DocumentType Name	Is Public
00 Planning Proposal.pdf	Proposal	Yes
01 Assessment & Endorsement - Council Report.pdf	Proposal	Yes
02 Land Use Provisions.pdf	Proposal	Yes
03 Agency Responses.pdf	Proposal	Yes
04 Mapping.pdf	Map	Yes
05 Studies (Part 1).pdf	Study	Yes
05 Studies (Part 2).pdf	Study	Yes
05 Studies (Part 3).pdf	Study	Yes

Planning Team Recommendation

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

S.117 directions:

- 1.3 Mining, Petroleum Production and Extractive Industries**
- 2.1 Environment Protection Zones**
- 2.2 Coastal Protection**
- 2.3 Heritage Conservation**
- 3.1 Residential Zones**
- 3.4 Integrating Land Use and Transport**
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- 5.10 Implementation of Regional Plans**

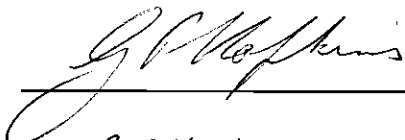
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Additional Information : The planning proposal should proceed subject to the following conditions:

1. Council is to update the planning proposal prior to exhibition to:
 - Include discussion about the potential for a Precinct 19 wide rezoning;
 - Include discussion on the green corridor; and
 - Amend the proposal to reflect consistency with S117 Direction 1.3 Mining, Petroleum Production and Extractive Industries.
2. Council should satisfy itself that sufficient information has been provided to address the following matters prior to exhibition:
 - Impacts on biodiversity, green corridor and connectivity;
 - Koala habitat
 - Amended Bushfire Reports for revised plan;
 - Traffic, transport and access;
 - Flooding, drainage and stormwater;
 - Preliminary contaminated land study;
 - Aboriginal cultural heritage; and
 - Acid Sulfate Soils.
4. Council is required to demonstrate consistency with or justify inconsistency with the following S117 Directions after supporting information has been obtained and/or following agency consultation:
 - 2.1 Environmental Protection Zones
 - 2.2 Coastal Protection
 - 2.3 Heritage Conservation
 - 4.2 Mine Subsidence and Unstable land
 - 4.3 Flood Prone Land
 - 4.4 Planning for Bushfire Protection
 - 5.10 Implementation of Regional Plans
 - 6.2 Reserving Land for Public Purposes
5. Council is to demonstrate that the planning proposal satisfies the requirements of the following State Environmental Planning Policies:
 - SEPP 44 - Koala Habitat
 - SEPP 55 - Remediation of Land
 - SEPP 71 - Coastal Protection
6. Minimum 28 day exhibition period.
7. The timeframe for completing the LEP is to be 12 months.
8. Council is granted delegation to make the plan.

Supporting Reasons : *

Signature:



Printed Name:

G P HOPKINS

Date:

25 / 5 / 2017

