

Item No: 3.5
Title: Outcomes of Exhibition - Planning Proposal for 414 Old Maitland Road, Mardi (Old Farm)
Department: Environment and Planning



26 October 2016 Ordinary Council Meeting

D12373615

Report Purpose

The purpose of this report is for Council to consider a planning proposal, which seeks to amend the Wyong Local Environmental Plan 2013 (WLEP 2013). The planning proposal seeks to rezone parts of No. 414 Old Maitland Road Mardi to enable large lot residential development and environmental protection on the land.

This report provides an overview of the outcomes of the two periods of community consultation undertaken in respect of the Planning Proposal, Draft DCP 2013 (Chapter 6.25 – Rural Residential Development, Mardi) and draft Voluntary Planning Agreement (VPA).

This report recommends that Council support finalisation of an amended planning proposal.

Applicant	Transnational Pastoral Pty Ltd
Owner	Transnational Pastoral Pty Ltd
Application Number	RZ/14/2012
Description of Land subject of planning proposal	<p><i>Address:</i> 414 Old Maitland Road, Mardi</p> <p><i>Legal Description:</i> Lot 36 DP 755249, Lot 41 DP 123953, Lot 1 DP 229971, Lot 1 DP 120512, Lot 1 DP 554423, Lot A DP 396415, Lot 101 DP 604655, Lot 1 DP 229970</p> <p><i>Site Area:</i> 223.7 hectares (ha)</p>
Zoning and Minimum Lot Size	<p><i>Current:</i></p> <p>E2 Environmental Conservation – 40 ha E3 Environmental Management – 40 ha RU1 Primary Production – 20 ha</p> <p><i>Proposed:</i></p> <p>E2 Environmental Conservation – 40 ha E3 Environmental Management – 1,800m² R5 Large Lot Residential – 900m² to 1,800m²</p>
Land Use	<p><i>Existing:</i> Non-intensive animal agriculture (grazing).</p> <p><i>Proposed:</i> Environmental conservation, large lot residential development</p>

Recommendation

- 1 That Council support the planning proposal as amended, specifically, an amendment to the proposed minimum lot size exception, by increasing the minimum lot size from 500m² to 900m².
- 2 That Council request that the Secretary of the Department of Planning and Environment to concur that the inconsistencies of the Planning Proposal with Section 117 Ministerial Directions 2.1 Environmental Protection Zones, 4.3 Flood Prone Land, and 4.4 Planning for Bushfire Protection, be considered to be of minor significance;
- 3 That Council requests, upon receipt of the concurrence requested by resolution 2, the Chief Executive Officer to exercise the delegation issued by the Department of Planning and Environment (dated 25 September 2013) for RZ/14/2012 (PP_2013_Wyong_007_00) to proceed with the steps for drafting and making of Amendment No. 17 to Wyong Local Environmental Plan 2013.
- 4 That Council request the Chief Executive Officer to sign the Voluntary Planning Agreement (VPA) which establishes the requirements for the Proponent to undertake prior to and as part of the lodgement of a Development Application for the development of the land;
- 5 That Council adopt the amendment to Wyong Development Control Plan 2013 Chapter 6.25, Rural Residential Development, Mardi, to become effective on the date of Notification of Wyong Local Environmental Plan 2013 Amendment No. 17.
- 6 That Council prepare and apply appropriate notations on planning certificates informing future purchasers of land in the area in respect of additional applicable development standards in relation to:
 - a. Mine Subsidence; and
 - b. Acoustics.
- 7 That Council advise all those who made a submission of the decision.

ORDINARY MEETING HELD ON 26 OCTOBER 2016

Mr Brian Glendenning, Executive Manager Governance, declared a significant non-pecuniary interest in this matter for the reason that he advised a now deceased Director of the Proponent in respect to elements of the proposed rezoning when in private practice, and considered he has a professional conflict. Mr Glendenning left the meeting at 6.03pm and returned at 6.06pm and did not participate in discussions on this item.

Mr Mike Campbell, local resident, addressed Council at 5.15pm and retired at 5.18pm.

Ms Wendy Gleen, local resident, addressed Council at 5.26pm and retired at 5.28pm.

Mr Laurie Denton, local resident, addressed Council at 5.28pm and retired at 5.29pm.

RESOLVED on the motion of Mr REYNOLDS:

- 409/16** *That Council support the planning proposal as amended, specifically, an amendment to the proposed minimum lot size exception, by increasing the minimum lot size from 500m² to 900m².*
- 410/16** *That Council request that the Secretary of the Department of Planning and Environment to concur that the inconsistencies of the Planning Proposal with Section 117 Ministerial Directions 2.1 Environmental Protection Zones, 4.3 Flood Prone Land, and 4.4 Planning for Bushfire Protection, be considered to be of minor significance;*
- 411/16** *That Council request, upon receipt of the concurrence requested by resolution 2, the Chief Executive Officer to exercise the delegation issued by the Department of Planning and Environment (dated 25 September 2013) for RZ/14/2012 (PP_2013_Wyong_007_00) to proceed with the steps for drafting and making of Amendment No. 17 to Wyong Local Environmental Plan 2013.*
- 412/16** *That Council request the Chief Executive Officer to sign the Voluntary Planning Agreement (VPA) which establishes the requirements for the Proponent to undertake prior to and as part of the lodgement of a Development Application for the development of the land;*
- 413/16** *That Council adopt the amendment to Wyong Development Control Plan 2013 Chapter 6.25, Rural Residential Development, Mardi, to become effective on the date of Notification of Wyong Local Environmental Plan 2013 Amendment No. 17.*
- 414/16** *That Council consider appropriate notations on planning certificates informing future purchasers of land in the area in respect of additional applicable development standards in relation to:*
- a Mine Subsidence; and*
 - b Acoustics.*
- 415/16** *That Council advise all those who made a submission of the decision.*

**3.5 Outcomes of Exhibition - Planning Proposal for 414 Old Maitland Road,
Mardi (Old Farm) (contd)**

Background

In 1998 a rezoning request was lodged with the former Wyong Shire Council which sought to rezone the subject site to develop a rural residential hamlet/village. The application included a concept design which showed village areas, rural lots, a lake (dam), a restaurant, community facilities, accommodation, a function centre and shops. The number of dwellings provided for was approximately 400.

In 2004, a certificate (under former Section 65 provisions of the *Environmental Planning and Assessment (EP&A) Act, 1979*) to exhibit the plan was denied by the (then) Department of Planning and Infrastructure (DoPI). This was on the basis that the plan was inconsistent with the principles and objectives of the Gosford-Wyong Structure Plan (1975), Shaping the Central Coast (1999) and the Central Coast Regional Strategy (2006).

The former Wyong Shire Council (WSC) resolved to support a new planning proposal to rezone the land on 27 March 2013. A gateway determination was issued by the DP&E on 25 September 2013. The former WSC further resolved to support the preparation of a site specific Development Control Plan chapter for this proposal on 10 September 2014.

On 14 October 2016, the *Central Coast Regional Plan 2036* (CCRP 2036) was released. The proposal is consistent with CCRP 2036.

The Site:

The planning proposal relates to 414 Old Maitland Road, Mardi, having an approximate area of 223.7 hectares, comprising the following eight (8) lots:

Lot 36 DP 755249; Lot 41 DP 123953; Lot 1 DP 229971; Lot 1 DP 229970; Lot 1 DP 120512; Lot 101 DP 604655; Lot A DP 396415 and Lot 1 DP 554423 (Figure 1).



Figure 1 Locality Plan

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The subject site is located on the western side of the M1 Motorway between the Tuggerah Interchange and Yarramalong/Old Maitland Road intersection (approximately 2km from the M1 Motorway). The northern most portion of the site fronts Old Maitland Road and extends for approximately 1km from its northern to southern most boundaries along this frontage. The land is currently utilised for non-intensive animal agriculture (grazing).

The site is currently zoned as follows under WLEP 2013 (Figure 2):

- E2 Environmental Conservation – 40 hectares minimum lot size
- E3 Environmental Management – 40 hectares minimum lot size
- RU1 Primary Production – 20 hectares minimum lot size

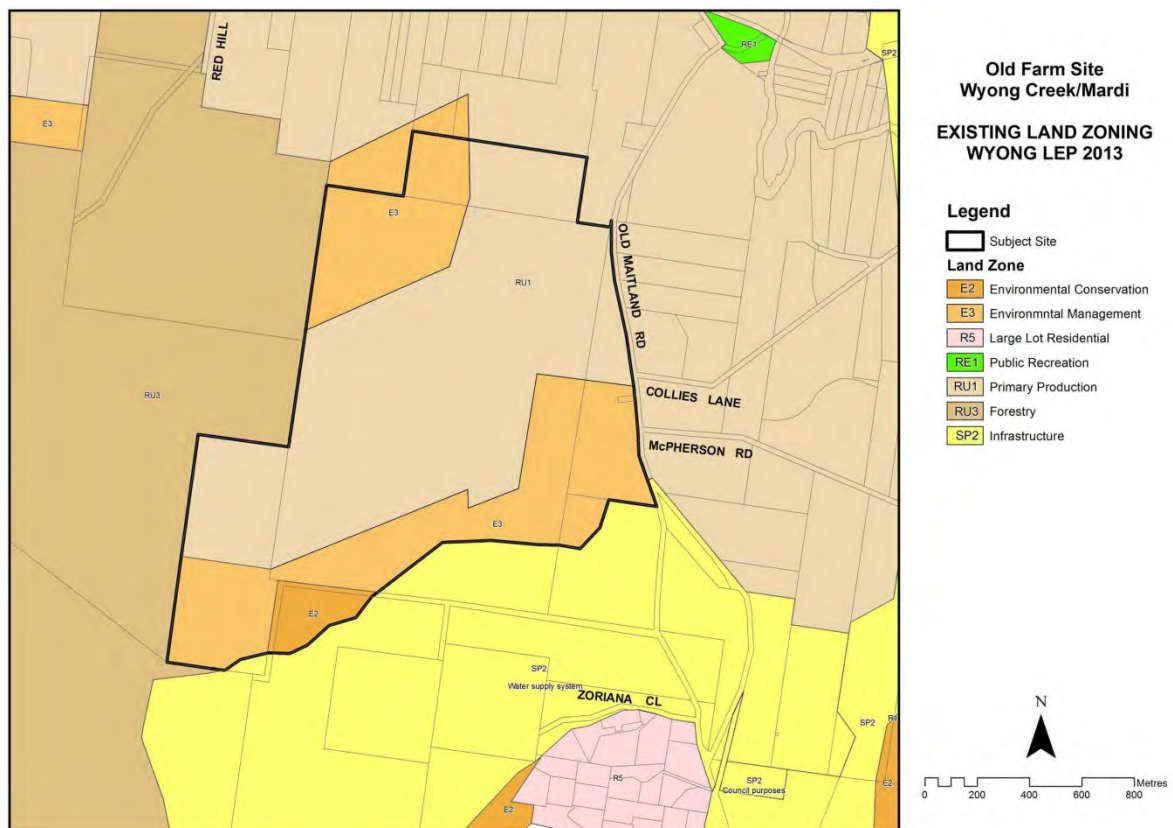


Figure 2 Zoning extract WLEP 2013

The Proposal:

The planning proposal seeks to amend the zoning under WLEP 2013 to a combination of the following zonings (Figure 3):

- E2 Environmental Conservation – 40 hectares minimum lot size
- E3 Environmental Management - 1800m² minimum lot size
- R5 Large Lot Residential – 1800m² minimum lot size

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The proposed zoning amendment is to be partnered with the following WLEP 2013 provisions which seek to facilitate and control development outcomes on the site:

- Minimum lot size exception – proposed new clause 4.1C to allow 30% of area of any lots created may be less than minimum lot size provided they are no less than 900m² in area.
- Application of a Dwelling Density (DWD) Map to restrict overall lot yield to 300 lots
- Application of an Urban Release Area (URA) Map which will apply Part 6 Urban Release Areas of Wyong LEP 2013 to any future development of the site and may require contributions to be made for the provision of state public utility infrastructure.

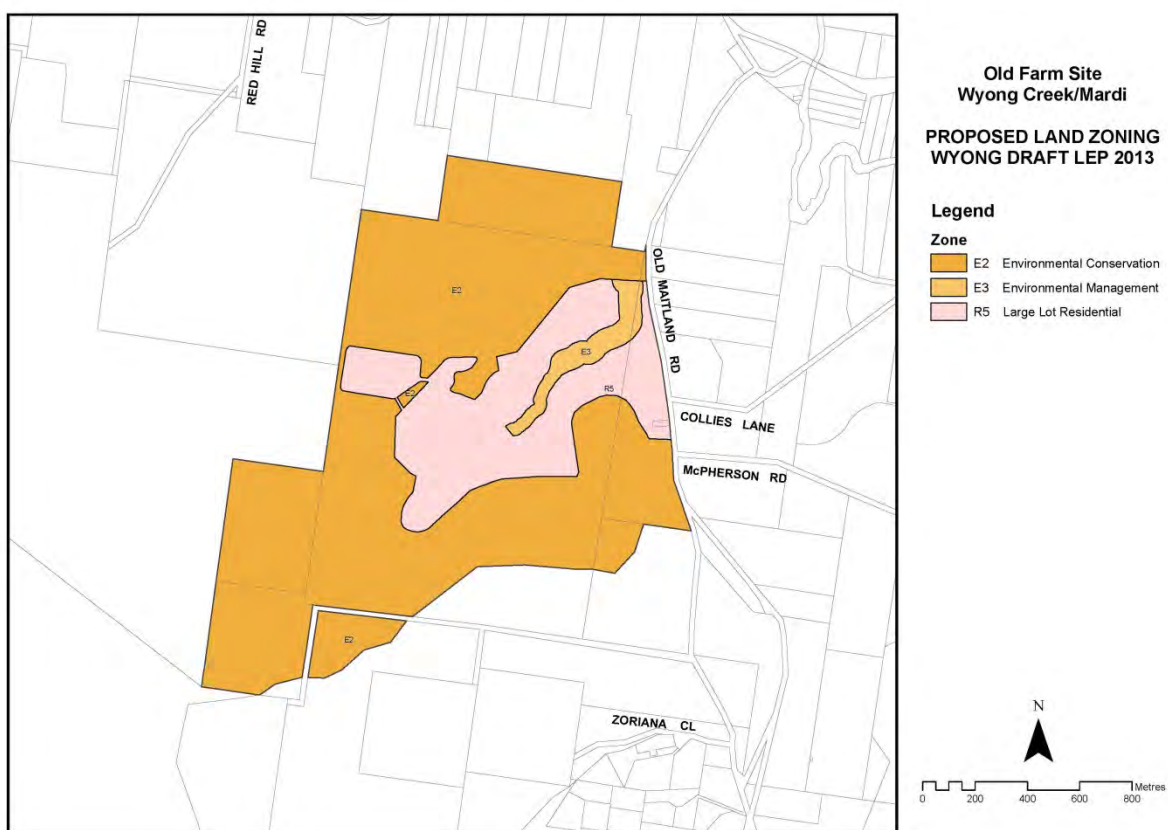


Figure 3 Proposed Zoning

In addition to the above development controls, future development will be guided by a site specific chapter to Wyong Development Control Plan (DCP) 2013, Chapter 6.25: Rural Residential Development, Mardi, to further guide development of the site. A DCP amendment has been prepared and exhibited with the planning proposal.

A draft Voluntary Planning Agreement (VPA) has been negotiated and exhibited as a mechanism to ensure that the Proponent:

- establishes a 120 hectare Biobanking site in the Mardi locality,

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- undertakes the necessary actions and works to upgrade the Potters Gully Fire Trail and the Mardi Dam West Fire Trail, including implementation of appropriate access controls,
- provides a monetary contribution to Council to construct and/or upgrade the Mardi Dam West Fire Trail where it is located on Council land and provide for implementation of appropriate access controls,
- undertakes ongoing maintenance of the Potters Gully Fire Trail and the Mardi Dam West Fire Trail, where they are on the Proponent's Land.

Consultation

The planning proposal, draft DCP 2013 amendment (locality specific Chapter 6.24 - Rural Residential Development, Mardi), and associated draft VPA have been exhibited twice, once in early 2015 and again in between April and June of this year.

First exhibition

The planning proposal was exhibited for a period of 31 days from 18 March to 17 April 2015. The exhibition was extended for an additional 14 days to 1 May 2015 in response to requests from the community.

One hundred and eighteen (118) submissions were received. These consisted of:

- six (6) public authority submissions from DPI – Ag, DoI – R&E, RMS, TfNSW, inclusive two (2) public authority objections from the RFS and OEH,
- one hundred and eight (108) community member objections (approximately 56 of which were objections by way of form letters),
- two (2) letters of support, and
- three (3) internal submissions providing further guidance and recommended amendments to land use provisions.

In order to respond to the issues raised by submissions additional information was sought from the Proponent and further liaison was undertaken with relevant State Government agencies. Consequently, the following amendments were made to the planning proposal:

- Amendment of the draft Voluntary Planning Agreement (VPA) to ensure that land in the locality will be established as in perpetuity Biobank sites under the provisions of the *Threatened Species Conservation (TSC) Act, 1995* (or any amended legislative provisions).
- The area proposed for conservation increased from 55% to 75% through zone boundary modification and removal of the proposed E4 Environmental Living zone.
- Removal of the RU5 village zone and replacement by the R5 Large Lot Residential.
- Introduction of a zoned (E3 Environmental Living) riparian corridor for those areas of the subject to high hazard overland flow post fill.
- Further amendments and clarifications to the draft site specific chapter of DCP 2013.

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Second exhibition

The amended planning proposal was further exhibited for a period of 31 days from 20 April to 20 May 2016. The exhibition was extended for an additional 21 days to 10 June 2016 in response to requests from the community.

Eighty-six (86) submissions were received in response to the exhibition. These consisted of:

- seven (7) public authority submissions from DPI – Ag, DoI – R&E, TfNSW, RFS, OEH, RMS and the Department of Primary Industries – Water (DPI – Water),
- Sixty (60) submissions objecting to the proposal (approximately 28 of which were objections by way of form letters), and
- Twenty-six (26) letters of support (approximately 12 of which were a type of form letter).

Public Authority Comments

Four (4) of the submissions received from the State Government agencies did not object to the progression of the proposal during the second exhibition. A summary of the comments received and responses is contained in the attachments. The responses from DPI – Ag, RFS and OEH raised matters for further consideration as discussed below.

Department of Industries – Agriculture (DPI-Ag) Submission:

- The subject site is mapped as biophysical strategic agricultural land.

Comment:

The site is mapped as having class 3 and 4 agricultural potential. This classification and agricultural potential is relatively low in comparison with the more valuable class 1 and 2 land located on the Kulnura/Somersby plateau area. It is in these plateau areas where the majority of viable agricultural production opportunities exist.

The rezoning of the subject land is not considered likely to result in detrimental impact on the overall agricultural potential of the LGA, provided relevant measures to mitigate land use conflicts are implemented on-site. Relevant provisions are incorporated within the site specific chapter of DCP 2013.

NSW Rural Fire Service (RFS) Submission

- The width of the proposed riparian corridor could generate additional bushfire risk.
- Unable to support proposed development area of land in the western pocket locality.

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Comment:

These concerns have been addressed through amendment of the site specific DCP chapter in consultation with the RFS and Central Coast Council Subject Matter Experts in bushfire.

The RFS have in the most recent correspondence reinstated a previously resolved objection to the proposed development in the western area of the subject site; however an overall objection to the proposal has not been maintained.

As this remains the only matter to be resolved, it is recommended that Council support the progression of the proposal, and prior to seeking preparation of a draft plan, further discussion with the Proponent, the NSW RFS and the DP&E be undertaken if necessary to resolve this matter to satisfy the relevant Section 117 Directions.

Office of Environment and Heritage (OEH) Submission:

- Proposal adequately addresses biodiversity concerns.
- Clarification required regarding protection of Aboriginal Cultural Heritage.
- Don't agree to mapping of entire site as an Urban Release Area (URA).
- Objection re flooding reinstated until DPI-Water has provided comment on current proposal.
- Requirements for further flood modelling to be undertaken for a subsequent subdivision DA address the concerns regarding the flood modelling undertaken for the rezoning, however that deferring this to the DA may create unrealistic development expectations.

Comment:

To clarify the Aboriginal Cultural Heritage requirements, OEH have been referred to the site specific DCP chapter which identifies the requirement for the preparation of an Aboriginal Heritage Management Plan for any future subdivision of the site. OEH have been included in as a consultation body during heritage plan preparation.

The site has been mapped as a URA to meet the requirements from the Department of Planning and Environment (DP&E). On this basis, the OEH have been satisfied.

The advice received from the NSW Office of Water resolves the concerns of OEH with regard to flooding. Additional detailed flood modelling will be required to be undertaken to support any future subdivision of the site, as per the requirements of the site specific chapter of WLEP 2013 Clause 7.2 and WDCP 2013.

No further objections remain.

Issues Raised in Public Submissions

The issues raised in submissions include:

Submission: *The proposal is inconsistent with the Central Coast Regional Strategy (CCRS), 2008, Wyong Shire Settlement Strategy (WSSS), 2013 and Wyong Local Environmental Plan (LEP) 2013*

Comment

Since the early 1970's, expansion of residential development west of the M1 was generally discouraged by the State government. A number of planning strategies, such as the 1998 Valleys Study, were undertaken for the former Wyong Shire Council to investigate the expansion of residential development west of the M1.

The 1998 Valleys Strategy was developed in close consultation with the Valleys community and nominated key localities for further investigation for rural (large lot) residential/rural village development potential, the subject land being one such locality.

In 2013, the Wyong Shire Settlement Strategy (WSSS) was prepared as a background document which guided the transitional zoning arrangements incorporated into WLEP 2013. The WSSS revisited and reviewed the concept of further urban expansion west of the M1 motorway. It incorporated a multi-criteria analysis of the localities previously identified within the Valleys Strategy. Through this process, the subject site was again identified as being suitable for further investigation for rural-residential/rural village development.

The WSSS provided the Department of Planning and Environment (DP&E) with the strategic justification required to support the commencement of investigations through the Planning Proposal (rezoning) process for a proposed large lot residential/rural village development on the subject site. The DP&E endorsed the Land Use Component of the Settlement Strategy in September 2013 with respect to the subject site.

The Central Coast Regional Plan (CCRP) 2036 makes provision for large lot residential development opportunities including on land west of the M1 providing that such development can meet certain principles.

The proposal seeking to rezone the Old Farm site is therefore justified by a Strategy endorsed by the DP&E. The DP&E advised, in issuing the Gateway Determination in relation to this proposal that *"the planning proposal's inconsistency with S117 Direction 5.1 Implementation of Regional Strategies is justified by the conditionally endorsed Wyong Settlement Strategy."*

Submission: Consistency with the Gateway Determination

Submissions indicated that the proposal as amended did not comply with the gateway determination issued in respect of the proposal.

Comment:

The gateway determination issued by DP&E in relation to this proposal was for “*large lot residential/rural village and environmental protection purposes.*”

The objectives of neither the current proposal, nor that exhibited in 2015 have deviated from this determination.

The primary difference between the original (2015) proposal and the current proposal is the zoning and planning mechanism proposed to be used to enable the proposed development outcome.

The extent of the E2 Environmental Conservation zone has been extended and now applies to over 75% of the site. When combined with the requirement for 120 hectares of this land to be the subject of a biobanking agreement, this provides for extensive areas of environmental protection to offset the development in a local context.

Through the application of a minimum lot size exception clause (proposed Clause 4.1C), as opposed to the original RU5 Village zone, the rural village type lots can still be achieved within the R5 Large Lot Residential Zone.

Irrespective of the lot sizes, the R5 Large Lot Residential zone objectives are considered to be achievable having regard for the overall development density likely to be created on the site. The resultant development density under the proposed controls will be comparable with the existing large lot residential developments located west of the M1 Motorway.

Submission: Inconsistency with Section 117 Direction 4.3 Flood Planning, Floodplain Development Manual, Lower Wyong River Floodplain Risk Management Plan

Submissions have raised concerns that the proposed rezoning and potential filling of floodprone land is inconsistent with Section 117 Ministerial Direction 4.3 Flood Planning, the Floodplain Development Manual (FDM), and the Lower Wyong River Floodplain Development Plan (LWRFRMP).

Comment:

The Lower Wyong River flood study identifies that the site is affected by 1% Annual Exceedance Probability (AEP) event by a break out from Wyong River into Deep Creek up to an RL of approximately 7.65m.

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The LWRFRMP, which is consistent with the provisions of the Floodplain Development Manual, enables the rezoning of land for more intensive purposes, subject to a merits based assessment (Table 16.1).

A merits based assessment of the proposal has included consideration of nominated fill pads on the subject site, and the resultant affectation of adjoining properties.

Preliminary flood modelling undertaken for the rezoning of the site indicates that areas of fill on the site can be undertaken without resulting in a significant afflux on adjoining land.

A riparian corridor has been identified within the subject site which is proposed to be rezoned E3 Environmental Management. Development of the site will be subject to assessment under flood clauses within the WLEP 2013 and additional provisions within the site specific chapter of DCP 2013. It will require a detailed flood assessment and modelling impacts of fill to be undertaken.

The Proposal is therefore not inconsistent with the Wyong River Floodplain Risk Management Study.

The DPI-Water have reiterated that they have no objection to the proposed rezoning however activities on water front land may require additional approval if proposed by a subsequent development application.

The OEH have removed previous objections to the proposal on these grounds and have advised that the inconsistency of the proposal with Section 117 Ministerial Direction 4.3 – Flood Prone Land is of minor significance.

Submission: Scale and potential lot numbers

Submissions raised concerns with the proposed scale of the development, in terms of potential number of lots, as well as the potential for smaller village type residential dwelling lots. Many indicated that a proposal for the site which provided for dwelling lots of comparable size to those in traditional large lot residential subdivisions within the locality would be less objectionable than the current proposal.

Comment:

The Dwelling Density (DWD) Map specifies a maximum lot yield (300). This places a restrictive cap on the overall number of lots on the site. The current proposal has not increased the overall development cap of 300 lots on the subject site. This number is not directly reflective of the final lot yield, as the actual lot yield may be lower due to detailed assessment to be taken into consideration during the development application and subdivision process.

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A comparison of large lot residential developments also located west of the M1 Motorway has been undertaken to assist in assessment of whether the density proposed is appropriate. Within the Jilliby (Hue Hue Road) locality, the lot density over the entirety of the area is approximately 1.25 lots per ha. The lot density over the entirety of the Mardi locality (south of Mardi Dam) is approximately 1.18 lots per ha.

The proposed lot density over the subject site, irrespective of minimum lot size is approximately 1.3 lots per ha. This density is considered comparable with the existing large lot residential developments located west of the M1 Motorway.

Connectivity to reticulated water and sewer services is an advantage that this site has over existing and other large lot residential developments west of the M1. As such the minimum lot size for development of this site is not dictated by the need to achieve adequate onsite sewerage management arrangements. It is possible therefore for the smaller lot sizes to be provided. The general minimum lot size sought for the R5 Large Lot Residential zone is therefore proposed to be 1,800m².

The proposal still seeks to provide for some flexibility for lots smaller than this minimum to enable development of village style lots. This is in accordance with the objectives of the gateway determination.

This is proposed to be achieved by an exceptions clause within WLEP 2013. The draft clause (Clause 4.1C) proposed would seek to enable subdivision of the site for the creation of lots less than the minimum lot size (1,800m²), provided that they are no smaller than 500m². To ensure that the character of the site will be predominantly large lot residential in nature, the draft clause also specifies that the area proposed for these 'exception lots' is to be no greater than 30% of the land zoned R5 Large Lot Residential, and does exceed the lot cap of 300.

Whilst the proposed draft clause does enable smaller lots, the objectives of the R5 Large Lot Residential zone can still be satisfied as it enables the provision of 'residential housing in a rural setting'. The objective does not stipulate that all lots created within the setting are to be homogenous, only that the rural setting is maintained.

Further, enabling smaller lot sizes on the subject land having regard for this consideration, promotes the objects of the *EP&A Act, 1979*, being "*the promotion and co-ordination of the orderly and economic use and development of land*".

Submission: Land use conflict – amenity and traffic generation

Submissions raised concerns with the proposed scale of the development and potential land uses (including dual occupancy developments and secondary dwellings), in terms of potential traffic generation, and the impact this would have on land uses within close proximity to the subject site, as well as users of Old Maitland Road.

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Comment:

In response to submissions relating to this issue, the Proponent has been requested to undertake an assessment of the traffic impacts for a range of lot yield scenarios (200, 250 and 300 lots) on the subject site. This study has been required to demonstrate the impacts on the operation of the intersections of Old Maitland Road/Yarramalong Road and Old Maitland Road/M1 Pacific Motorway Tuggerah Interchange (Attachment 3).

The study, which has been reviewed by Council's Transportation Engineers, concludes that that an intersection upgrade/treatment will be required at the Old Maitland Road/Yarramalong Road intersection.

Relevant provisions based on the outcomes of this study have also been incorporated within the VPA relating to this land to ensure that any upgrades or treatment works are undertaken at the expense of the Proponent.

Concerns regarding the capacity of Wyong Road are being rectified by works planned and currently being undertaken by the RMS.

Additionally, any subdivision application is required to be supported by an acoustic assessment. This would be required to demonstrate that traffic generation from the proposed development, including the outcomes of any mitigation measures does not have a detrimental impact on adjoining landholders, particularly residential dwellings.

The site specific Chapter of DCP 2013 has been amended to include reference to and application of the NSW Road Noise Policy (2011, Department of Environment, Climate Change and Water) to require the above. Such requirements must be cumulative for each stage of the development.

The site specific Chapter of DCP also seeks to address amenity impacts through the objectives for the masterplan design:

"To ensure that subdivision design has regard for and responds to the amenity and character of existing development and land uses immediately adjoining and those in close proximity to the land, including residential dwellings and existing agricultural operations".

Requirements within the site specific DCP chapter require that proposed residential allotments are sited to avoid potential conflicts with existing agricultural or rural landscape land uses (including dwellings) or values, including scenic amenity and privacy.

A development application seeking subdivision of the land is required to be supported by justification that the proposed residential allotments are sited to avoid potential conflicts with existing agricultural or rural landscape land uses (including dwellings) or values, including scenic amenity and privacy.

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Like other R5 Large Lot Residential zones under WLEP 2013, dual occupancy and secondary dwelling developments would be permissible on the subject land. Prohibition of these land uses through a further WLEP clause would result in the creation of a sub zone. The DP&E are not supportive of deviating in this manner from the Standard Instrument (SI) template.

It should be noted that where each dual occupancy development is subdivided, this would subtract two lots from the overall number of total permissible lots on the subject site.

Submission: Water and Sewer Provision/Servicing and Road upgrades

Many submissions raised concerns that development of the subject site will place additional pressure on existing ratepayers to fund new, or upgrade existing, supporting infrastructure to service the development. Such concerns related to the provision of water and sewer, upgrades to the existing road networks to cater for increased utilisation (Old Maitland Road and Wyong Road in particular) and the availability of existing community services and facilities (including public transportation and associated parking availability).

Comment:

Council's Water and Sewer (W&S) Planning Unit have advised that the existing water supply system and the Wyong South Sewerage Treatment Plant have the capacity to provide and manage the potable water demands and wastewater generated by additional population which would be associated with the development of the subject land.

Any associated costs required to provide the infrastructure to connect the subject site to these services will be borne directly by any future developer of the subject site in accordance with the Development Servicing Plan.

The site is proposed to be serviced via one metered connection, which is to be transferred into the ownership of Council to facilitate consistency of supply. Any infrastructure to service individual lots within the subject site will be directly borne by any developer (or future Community Title Management Trust) of the subject site. These requirements have been incorporated into the draft site specific chapter of DCP 2013.

The Wyong District Development Contributions Plan (No. 1) and Shire-wide Infrastructure, Services and Facilities Development Contributions Plan (No. 11) will be applied to any future development that occurs on the subject site. Contributions paid in accordance with these plans enable Council to provide services and infrastructure available to the community.

The site is also nominated as an Urban Release Area (URA), meaning that it may be subject to state infrastructure contributions to aid funding of state infrastructure, including potential public transport infrastructure.

Further to the above, any application to develop the subject site would be required to be supported by a Traffic Study, consistent with the requirements of both Council and the Roads and Maritime Service (RMS). This study will identify the capacity of existing road infrastructure and identify any upgrade requirements and intersection treatments. Any

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upgrades required would be at the costs of the developer. Furthermore, standard subdivision consent requirements include provisions to rectify any dilapidation to the existing road network and infrastructure caused by construction works associated with the development. Existing concerns regarding the capacity of Wyong Road are being rectified by works planned and currently being undertaken by the RMS.

It is noted that the amended VPA requires the Proponent to undertake any necessary upgrades or treatments to the local road network/infrastructure impacted by the Development required by a Development Consent.

Submission: Environmental Impacts – Vegetation Removal

Submissions raised concerns with the large scale remove of endangered flora and fauna on the subject site.

Comment:

Approximately 75% of the site is identified for an E2 Environmental Conservation zoning. The area identified for further development is restricted primarily to the central portion of the site, where clearing and past grazing practices have caused substantial modification to the native landscape. This figure has increased by 20% from that proposal exhibited in 2015.

Any application for the subdivision of the site will require any further modification of this landscape to be quantified and assessed against the relevant provisions of the *EP&A Act, 1979*, *Native Vegetation Act, 2003*, *Threatened Species Conservation Act, 1995* as well as local provisions within Wyong Local Environmental Plan (LEP) 2013 and Development Control Plan (DCP) 2013.

The amended Voluntary Planning Agreement (VPA) requires the Proponent to establish Biodiversity Bank (Biobank) sites consisting of at least 120 hectares of land which incorporates specific plant community types within the Mardi locality. In the event that the Biobanking system is amended through recently exhibited Biodiversity Reforms, the VPA requires compliance with any new system and supporting methodology.

The rezoning of predominantly cleared land, combined with a commitment by the Proponent to establish a Biobank site, has at the rezoning stage, demonstrated an avoidance of impact on vegetation and habitat, as agreed by the OEH.

Submission: Broader water catchment area pollution (sewage overflow, groundwater contamination)

Many submissions identified the potential impact on the region's water supply resulting from sewage overflow during the 1% Annual Exceedance Probability (AEP) Event. Contamination of the Mardi Dam storage through groundwater was also raised as a concern.

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Comment:

The site is not located within the Drinking Water Catchment, nor the catchment for Mardi Dam.

During the 1% Annual Exceedance Probability (AEP) Event, backwaters from the Wyong River encroach onto the site up to an RL of 7.65m. This is primarily the north western portion of the site.

Any future development of the subject site will be required to be connected to Council's reticulated sewerage system (at the future Developer's expense). This connection avoids the risk of overflow of sewage associated with on-site sewage management systems, which exist in other localities zoned R5 Large Lot Residential.

Submission: Bushfire Risk

Submissions have identified that the development of the subject land would result in increased bushfire risk to human life.

Comment:

The bushfire risk associated with the development site has been assessed at a strategic level for rezoning purposes.

The NSW RFS have removed previous objections to the progression of the proposal on the basis of the following:

- Removal of the RU5 Village zone, to reduce potentially high risk land uses;
- Additional bushfire protection measures surrounding the site, including upgrades to the Potters Gully and Mardi Dam South fire trails; and
- Detailed design requirements within the site specific Chapter of DCP 2013, including requirements for the establishment of perimeter roads and Asset Protection Zones.

Additional provisions to address the management of bushfire risks associated with internal riparian corridors have been incorporated within the site specific Chapter of DCP 2013.

Submission: Disturbance of contaminated structures and acid sulphate soils

Comment:

The site is known to contain Class 4 and 5 acid sulphate soils and a number of potential Contaminants and Areas of Environment Concern (COPC & AEC) were identified by the contaminated land assessment. The assessment of acid sulphate soils determined that although the soils may be acidic in nature, they do not constitute potential or actual acid sulphate soils (PASS/ASS).

3.5 Outcomes of Exhibition - Planning Proposal for 414 Old Maitland Road, Mardi (Old Farm) (contd)

The investigation did not identify the potential for gross or widespread contamination which would prevent the rezoning. It has been recommended that a Detailed Site Investigation (DSI) be undertaken to support any future redevelopment of the subject site to address the AECs identified and a management plan be implemented.

A Hazardous Building Material Survey (HBMS) is required to be undertaken prior to the demolition of any existing structures and redevelopment of the site.

The above requirements have been incorporated into the site specific chapter of DCP 2013 and satisfy the Department of Urban Affairs and Planning (DUAP) Guidelines for Contaminated Land (1998) with regard to the rezoning of the land for an alternate land use.

No further investigations or actions are required in this regard at the rezoning stage.

Submission: Target market not guaranteed

Submissions identified that the intended market (being professionals and higher income earners) for the proposed future development would not be a guaranteed outcome.

Comment:

Research regarding the populations within the rural areas of the former Wyong Shire has been undertaken as part of the *Draft Wyong Rural Lands Review and Strategy*. Analysis of the demographics (ABS Census of Population and Housing 2001-2011) of the study area identifies in comparison to the urban areas of the former Wyong Shire that:

- The general population is more stable in terms of frequency of migration;
- The population generally have higher levels of education, higher incomes, proportionally more are of working age (15-65 years), and have higher workforce participation rates;
- The industries of employment are dominated by public servants (including health care and social assistance), construction and retail industries; and
- Family structure is predominantly childless couples or the traditional nuclear family.

It is noted that whilst the characteristics of any future population within this locality cannot be pre-determined, existing data and trends suggest that similarities could occur. Further increases in the minimum lot size have strengthened this capacity. Recent market demand data from the *Draft Wyong Rural Lands Review and Strategy* suggests that housing proposed to be enabled by this proposal is in demand within the region.

Submission: Access Control – Mardi Dam and Ourimbah State Forest

Many submissions identified that there may be greater potential for illegal trespass onto adjoining properties by future populations of the subject site.

Comment:

The majority of the Mardi Dam Fire Trail is located on land which is subject to this proposal. The Proponent will be required to install Access Control Works in localities along the Mardi Dam Fire Trail to prevent unauthorised access into adjoining property, namely, Mardi Dam.

The draft VPA provides further protection for the state forest land interface. Not only will the Proponent be required to upgrade the Potters Gully Fire Trail, the Proponent will also be required to install and maintain Access Control Works where the land adjoins this trail.

The subject land which directly adjoins the State Forest is proposed to be zoned E2 Environmental Conservation. In addition to the restrictive nature of this zone in terms of land use permissibility, any land within this zone on the subject site which is not part of a Biobank site will be required to be subject to a management plan, as per the draft provisions of the site specific DCP Chapter.

This plan is required to:

- establish the regulatory framework and specify the lifespan and review mechanisms for its operation;
- establish the management strategies for (but not limited to) the following matters:
 - vegetation clearing;
 - weed management;
 - bushfire management;
 - feral and domesticated animals;
 - rubbish dumping;
 - firewood collection;
 - prohibited uses, public access, fencing and signage;
 - the management of stormwater structures;
 - fauna habitat enhancement;
 - revegetation and rehabilitation of cleared land; and
 - habitat tree retention.
- Detail the monitoring program and reporting framework to assess the adequacy of the adopted management strategies. Any such plan will form part of the consent conditions for any future development of the site.

Any E2 Environmental Conservation land on the site which does form part of any biobanking agreement will have similar binding requirements for its conservation, rehabilitation and management.

Submission: Complexity and Language of Documentation on Exhibition

Some submissions identified that the documentation available for comment was too voluminous and complex.

Comment:

The exhibition material consisted of the Proposal, supported by relevant background studies and agency commentary, in addition to planning controls in the form of a draft site specific chapter of WDCP 2013 and a draft VPA.

The "Planning Proposal" document, prepared in accordance with the DP&E Guidelines to Preparing Planning Proposals (October 2012) provided an overview of the intent of the proposal, the strategic justification and the outcomes of agency consultation and investigative studies.

Whilst all efforts are made to make the Proposal itself as reader friendly as possible, it is still required to be substantial enough in nature to ensure that the issues have been considered and addressed. The level of detail provided is commensurate with the complexity of the proposed amendment/rezoning. It is noted that customers were able to contact the planning officer and Councils duty planner to discuss enquiries throughout the public exhibition periods.

Assessment

Having regard for the submissions of public authorities and those of the interested community members, the proposal is considered to have satisfied relevant statutory requirements applicable to the rezoning process.

It is considered that in order to achieve a larger lot rural residential development outcome, and to respond to the submissions received regarding this issue, the proposed minimum lot size of 500m² as exhibited should be increased to approximately 900m².

The proposed exception clause will facilitate such an outcome, whilst still enabling the objects of the *EP&A Act* and the objectives of the R5 Large Lot Residential zone to be achieved. Such an amendment further reduces the potential density to approximately 1 lot/ha.

It is noted that in order to achieve a future subdivision outcome on the site, further more extensive and detailed studies will be required, particularly in relation to biodiversity, flooding, drainage and bushfire. Consideration and assessment of the impacts of such constraints may result in significantly fewer lots being produced on the site than those currently estimated by the Proponent.

Statutory Compliance and Strategic justification

The DP&E in May 2016 issued guidance for merged Councils on planning functions. In accordance with these guidelines, merged Councils are to continue to progress planning proposals with strategic merit. This planning proposal is appropriate to be progressed in that it is in line with the Wyong Shire Settlement Strategy and is considered to have merit.

The proposal has been assessed having regard for all State Environmental Planning Policies, Ministerial s.117 Directions and the relevant guidelines set out within the regional plans including the Central Coast Regional Strategy (2008) and the North Wyong Shire Structure Plan. It is noted that the proposed rezoning for the non-urban use of rural-residential development is not inconsistent with the Central Coast Regional Strategy (2008) (CCRS) direction of not promoting additional urban land uses west of the M1 Motorway.

The proposal has been assessed against the Central Coast Regional Plan 2036. It is noted that rural-residential development is a non-urban land use and is identified in the Central Coast Regional Plan 2036 (2016). In particular, Direction 23 acknowledges the potential for future rural residential development in certain locations and directs that such development will need to be *"managed to avoid impacts on the viability of agricultural enterprises, biodiversity values and future potential urban expansion opportunities."* It is considered the proposal is not inconsistent with this direction.

Transfer of Delegation

At the Ordinary Meeting of 27 March 2013 the former Wyong Council resolved as follows:

- 317/13 *That Council accept the delegation to councils of the functions of the Minister for Planning and Infrastructure under section 59 of the Environmental Planning and Assessment Act 1979 for the making of Local Environmental Plans (LEPs).*
- 318/13 *That in accordance with the provisions of Section 381(3) of the Local Government Act 1993, Council sub-delegate the functions of the Minister for Planning and Infrastructure under section 59 of the Environmental Planning and Assessment Act 1979 for the making of Local Environmental Plans (LEPs), to the General Manager.*
- 319/13 *That the Department of Planning and Infrastructure be advised of Council's decision.*

On 11 November 2015 the Department of Planning and Environment acknowledged advice from the former Wyong Council that Mr. Rob Noble had been appointed as Acting Chief Executive Officer of Wyong Shire Council and has assumed this sub-delegation.

3.5 Outcomes of Exhibition - Planning Proposal for 414 Old Maitland Road, Mardi (Old Farm) (contd)

Clause 18 (2) the *Local Government (Council Amalgamations) Proclamation 2016*, states that:

“A delegation by a former council to the general manager of that council that was in force immediately before the amalgamation day is taken to be a delegation by the new council to the interim general manager and may be revoked or amended accordingly”.

Council's current Chief Executive Officer, Rob Noble, therefore has the appropriate delegations under Section 59 of the *Environmental Planning and Assessment Act, 1979*.

Conclusion

The objectives of the proposal and rezoning of the subject site to enable the intended outcomes is supported by a land use strategy endorsed by the DP&E, being the Wyong Settlement Strategy.

The investigations undertaken and the outcomes of agency and community consultation have informed and modified the proposal as discussed within this report. Further, these factors have led to the development of site specific controls for the future development of the site. Legally binding commitments have also been negotiated and secured through a VPA which require the Proponent to manage potential impacts associated with the development, relating to biodiversity, bushfire and traffic.

It is considered that the proposal as presented is consistent with relevant strategies and future development of the site can be adequately managed through the development assessment process.

Attachments

1	Draft DCP 2013 - Chapter 6.25	D12344830
2	Draft Voluntary Planning Agreement	D12438512
3	Traffic Impact Assessment Report (Cardno 2016)	D12433222
4	Public Agency Comments and Responses	D12490673

Public Authority Comments and Responses

Public Authority	Comment	Response
Department of Primary Industries - Agriculture	The mapped biophysical strategic agricultural land incorporates the subject land	The classification and agricultural potential of the land is relatively low in comparison with the more valuable class 1 and 2 land located on the Kulnura/Somersby plateau area. It is in these areas where the majority of agricultural production opportunities exist, and where the economic benefits of agricultural land uses can be best realised. The transition of zoning is not considered likely to result in detrimental impact on the overall agricultural potential of the LGA, provided relevant measures to mitigate land use conflicts are implemented on-site. Relevant provisions are incorporated within the site specific chapter of DCP 2013.
NSW Rural Fire Service	Concerns that the width of the proposed riparian corridor could generate additional bushfire risk. Reinstatement of objection to western development area.	These concerns have been addressed through amendment of the site specific DCP chapter in consultation with the RFS and Central Coast Council Subject Matter Experts in bushfire. The proposed zoning has not altered from that exhibited and commented upon during the second exhibition. It is recommended that Council support the progression of the proposal, and prior to seeking preparation of a draft plan, further discussion with the Proponent, the NSW RFS and the Department of Planning be undertaken to resolve this matter to satisfy the relevant Section 117 Directions.
Office of Resources and Energy	The GSNSW advice on this matter remains unchanged - will need to follow MSB guidelines to cater for potential first workings	A recommendation to apply a notation to the Section 149 certificates applying to the land regarding the existing of a potential resource is proposed to be applied to the site.
Office of Environment & Heritage	Proposal adequately addresses biodiversity concerns. Further clarification around protection of Aboriginal Cultural Heritage required. No agreement to mapping of entire site as an Urban Release Area (URA). Objection re flooding maintained until DPI-Water has provided comment on current proposal	OEH referred to site specific DCP chapter re Aboriginal Cultural Heritage. OEH to be included in section 2.10(a) as a consultation body during heritage plan preparation. Response dated 30 May 2016 (D12349051) indicates the provisions address this concern. Further advice sought from Department of Planning and Environment - advice received (D12356756) that on the basis of existing precedent, the URA map should apply to the entirety of the site. OEH's preference remains for mapping to apply only to developable area, however concedes to the DP&E position (D12366095).

Public Authority	Comment	Response
		<p>OEH have advised (D12383700) that the advice received from DPI-Water (D12381754) resolves the concerns of OEH with regard to flooding. No further objections remain.</p> <p>OEH further advises that the requirements for further flood modelling to be undertaken for a subsequent subdivision DA address the concerns regarding the flood modelling undertaken for the rezoning, however that deferring this to the DA may create unrealistic development expectations.</p>
Transport for NSW	No further comments	Noted.
Department of Primary Industries - Office of Water	<p>No further comments.</p> <p>Advice issued in November 2013 is applicable.</p> <p>Development within 40m of waterfront land may require a controlled activity approval</p>	<p>Noted.</p> <p>This advice addresses the concerns of the OEH.</p> <p>The advice regarding waterfront land has been replicated within the site specific DCP chapter.</p>
Roads and Maritime Services	<p>No objections or requirements at rezoning stage.</p> <p>Agency would require at DA additional modelling of traffic impacts and a subdivision/masterplan</p>	<p>Noted.</p> <p>Relevant requirements included within site specific DCP chapter.</p> <p>On the basis of advice from the Administrator, the Proponent was requested to undertake this modelling prior to the rezoning being determined.</p>

Item No: 2.6

Title: Revised Gateway Determination - Planning Proposal in Respect of Land at 414 Old Maitland Road, Mardi (Old Farm)

Department: Environment and Planning

26 July 2017 Ordinary Council Meeting

MANAGER: Group Leader

AUTHORS: Strategic Planner

Section Manager Land Use and Policy

Report Purpose

The purpose of this report is to advise Council of the revised Gateway Determination issued by the Department of Planning and Environment in regards to the planning proposal for the "Old Farm" site, Mardi.

As a result of the revised Gateway Determination by the Department of Planning and Environment, a number of Council resolutions in relation to this planning proposal are now redundant and this report seeks Council's endorsement to rescind a number of those Council resolutions relating to the planning proposal for "Old Farm".

The report recommends that Council rescind the resolutions of 22 March 2017 for item number 2.8 based on the revised Gateway Determination and that staff implement the original Council resolutions made on 26 October 2016 relating to the "Old Farm" site.

Recommendation

- 1 That Council note that the NSW Minister for Planning has issued a revised Gateway Determination for the Planning Proposal (PP_2013_WYONG_007_00; RZ/14/2012) for the Old Farm site which reinstates land referred to as "The Meadows".**
- 2 That Council note that the revised Gateway Determination is a result of the removal by NSW Rural Fire Service of a previously held objection to the inclusion of land referred to as "The Meadows" from the Planning Proposal (PP_2013_WYONG_007_00; RZ/14/2012) for the Old Farm site.**
- 3 That Council rescind the resolutions made on 22 March 2017 in relation to item 2.8 (resolution no's 148/17, 149/17 and 150/17) as contained in Attachment 3 to re-exhibit amendments to Chapter 6.25 – (Rural Residential Development, Mardi) to "Development Control Plan 2013 Development Controls for the Wyong Shire" and the Voluntary Planning Agreement in respect of land at 414 Old Maitland Road, Mardi.**

- 4 That Council re-confirm that the resolutions of Council made on 26 October 2016 as contained in Attachment 6 in relation to item 3.5 remain relevant and are to be implemented by the Chief Executive Officer.**
- 5 That Council note that resolutions No's. 410/16, 413/16 and 415/16 of Council made on 26 October 2016 No's. 410/16, 413/16 and 415/16 as contained in Attachment 6 have been actioned.**
- 6 That Council proceed with the implementation of the remainder of the resolutions of Council made on 26 October 2016 as contained in Attachment 6 in relation to item 3.5 (No's. 409/16, 411/16, 412/16 and 414/16).**

Background

On 27 January 2017, the Department of Planning and Environment (DP&E), issued an amended Gateway Determination (Attachment 1) in respect of the Planning Proposal (PP_2013_WYONG_007_00; RZ/14/2012) for land at Mardi (Old Farm). This was based in an objection to the proposal made by the NSW Rural Fire Service (RFS). The DP&E granted an extension of time for the completion of this Gateway Determination, dated 26 February 2017 (Attachment 2).

That Gateway Determination required the removal of that portion of the site referred to as "The Meadows" from the Planning Proposal. The removal of this portion of the site from the proposal was based on advice received from the NSW RFS. This advice objected to the zoning of the locality for residential purposes as it would be unable to comply with the provisions of *Planning for Bushfire Protection (PBP) 2006*.

To ensure compliance with the revised Gateway Determination, Council resolved at its meeting of 22 March 2017 (Attachment 3) to exhibit amendments to the endorsed site specific Chapter 6.25 – Rural Residential Development, Mardi of *Wyong Development Control Plan 2013* (WDCP 2013) and the Voluntary Planning Agreement (VPA) in respect of land at 414 Old Maitland Road, Mardi. The amendments involved the removal of provisions and amendment of diagrams relating to "The Meadows".

On 1 June 2017 the NSW RFS advised Council by letter (Attachment 4), that the Agency's objection to "The Meadows" had been resolved. This advice relied on supporting documentation prepared by the Proponent's consultant, Travers Bushfire and Ecology (Attachment 5).

The Site

The site is 414 Old Maitland Road, Mardi, located west of Old Maitland Road between the M1 Pacific Motorway Tuggerah interchange and Yarramalong Road (Figure 1).

"The Meadows" is a cleared portion of the site, located on the western side of Deep Creek (Figure 2).



Figure 1 Locality Plan

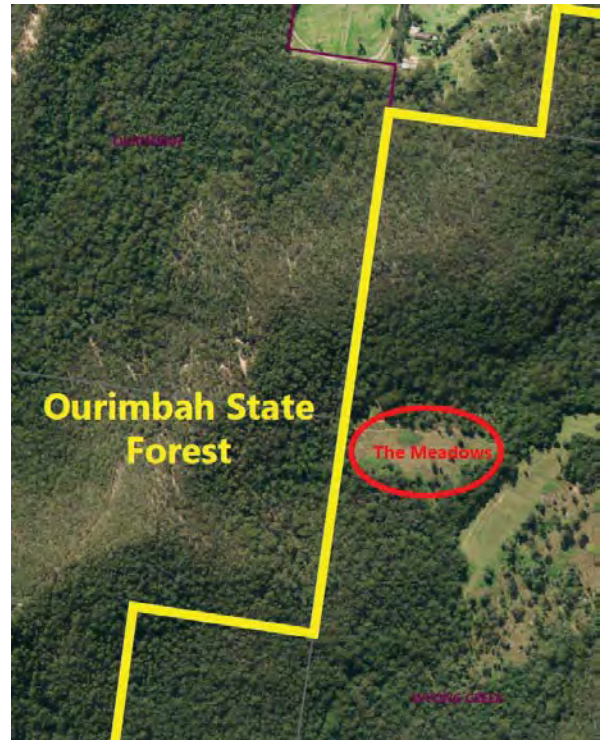


Figure 2 The Meadows

Proposal

The planning proposal as considered by Council on 26 October 2016 (as contained in Attachment 6) can now proceed as intended by Council as a result of the removal of the NSW RFS objection and revised Gateway Determination from the DP&E (Attachment 7).

Strategic Justification and Statutory Compliance

The planning proposal was considered and supported by Council at the meeting of 26 October 2016, as being consistent with the NSW Department of Planning and Environment *Guidance for merged Councils on planning functions* (May 2016).

Conclusion

As a result of the revised Gateway Determination, it is appropriate to rescind the Council resolutions of 22 March 2017 (item 2.8) and implement the resolutions of Council of 26 October 2016 (item 3.5).

Attachments

1	Gateway Determination - 27 January 2017	D12630326
2	Gateway Determination Extension - 26 February 2017	D12630815
3	Council Resolutions - 22 March 2017	D12742421
4	NSW RFS Objection Removal - 1 June 2017	D12739534
5	Travers Bushfire and Ecology Supporting Documentation - 15 May 2017	D12739529
6	Council Resolutions - 26 October 2016	D12742420
7	Gateway Determination - 10 July 2017	D12760682



Planning &
Environment

Mr Rob Noble
Chief Executive Officer
Central Coast Council
PO Box 20
Wyong NSW 2259

Our ref: 13/08907
Your ref: 14/2012

Dear Mr Noble

Planning Proposal PP_2013_WYONG_007_00 – Alteration of Gateway Determination

I refer to your correspondence of 9 November 2016 in relation to inconsistencies with S117 Directions for Planning Proposal PP_2013_WYONG_007_00 for the rezoning of land at 'Old Farm', Mardi for large lot residential and environmental protection purposes.

I have agreed, as delegate of the Secretary, the Planning Proposal's inconsistencies with S117 Directions 1.2 Rural Zones, 2.1 Environment Protection Zones, 3.4 Integrating Land Use and Transport, 4.3 Flood Prone Land, and 5.10 Implementation of Regional Plans are of minor significance or have been justified.

I do not consider the inconsistency with S117 Direction 4.4 Planning for Bushfire Protection is of minor significance given NSW Rural Fire Service advised it does not support rezoning part of the site known as 'The Meadows' to the proposed R5 Large Lot Residential zone. On this basis I consider it is appropriate to apply an E2 Environmental Zone on part of the site known as 'The Meadows' and that the Planning Proposal be updated accordingly prior to the plan being finalised before I can agree the inconsistency with 4.4 Planning for Bushfire Protection has been justified.

I have determined as the delegate of the Minister, in accordance with section 56(7) of the Environmental Planning and Assessment Act 1979 to alter the Gateway determination dated 25 September 2013 for PP_2013_WYONG_007_00 (as altered). The Alteration of the Gateway Determination is enclosed.

If you have any questions in relation to this matter, I have arranged for Mr Glenn Hornal to assist you. Mr Hornal can be contacted on 02 4348 5009.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Marcus Ray'.

Marcus Ray
Deputy Secretary
Planning Services

Encl: Alteration of Gateway Determination

27/01/2017
Department of Planning & Environment

320 Pitt Street Sydney NSW 2000 | GPO Box 39 Sydney NSW 2001 | www.planning.nsw.gov.au



Planning &
Environment

Alteration of Gateway Determination

Planning proposal (Department Ref: PP_2013_WYONG_007_00)

I, the Deputy Secretary, Planning Services at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(7) of the *Environmental Planning and Assessment Act 1979* (the Act) to alter the Gateway determination dated 25 September 2013 (as since altered) for the proposed amendment to the *Wyong Local Environmental Plan 2013* as follows:

1. Insert new condition:

9. The 'explanation of provisions' and the planning proposal is to be updated before the plan is finalised to identify the western part of the site known as 'The Meadows' will be rezoned to E2 Environmental Conservation.

Dated 27 day of January 2017

A handwritten signature in black ink, appearing to read 'Marcus Ray'.

Marcus Ray
Deputy Secretary
Planning Services
Department of Planning and Environment

Delegate of the Minister for Planning



Planning &
Environment

Mr Rob Noble
Chief Executive Officer
Central Coast Council
PO Box 20
Wyong NSW 2259

Our ref: 13/08907
Your ref: RZ/14/2012

Attention: Jenny Mewing

Dear Mr Noble

Planning Proposal PP_2013_WYONG_007_00 – Alteration of Gateway Determination

I refer to Council's correspondence of 20 February 2017 seeking an extension of time to complete Planning Proposal PP_2013_WYONG_007_00 to rezone land at the 'Old Farm' site at Mardi for large lot residential and environmental protection purposes and issue an Alteration of Gateway determination.

I have determined as the delegate of the Minister, in accordance with section 56(7) of the *Environmental Planning and Assessment Act 1979* to alter the Gateway determination dated 25 September 2013 for PP_2013_WYONG_007_00 (as altered) and extend the timeframe for completion by 6 months until 1 September 2017.

If you have any questions in relation to this matter, please contact Mr Glenn Hornal at the Department's Gosford office on 4345 4400.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Monica Gibson'.

26/2/2017

Monica Gibson

Director Regions, Hunter and Central Coast
Planning Services

MINUTES OF THE ORDINARY COUNCIL MEETING OF COUNCIL 22 MARCH 2017 contd

- 145/17 That Council requests that the Secretary of the Department of Planning and Environment to concur that the Planning Proposal complies with relevant Section 117 Ministerial Directions including: 1.2 Rural Zones, 2.1 Environmental Protection Zones, 2.3 Heritage Conservation and 5.1 Implementation of Regional Strategies.
- 146/17 That upon receipt of the concurrence requested by resolution 2, Council requests the Chief Executive Officer to exercise the delegation issued by the Department of Planning and Environment 16 April 2015 for PP 16/2014 to proceed with the steps for drafting and making of Amendment No. 28 to Gosford Local Environmental Plan 2014;
- 147/17 That Council advise all those who made a submission of the decision.

2.8 Exhibition of Amended Chapter 6.25 to the Wyong Development Control Plan - Rural Residential Development and Voluntary Planning Agreement in respect of Land at Mardi

RESOLVED on the motion of Mr REYNOLDS:

- 148/17 That Council endorse the proposed amendments to Chapter 6.25 – (Rural Residential Development, Mardi) to "Development Control Plan 2013 Development Controls for the Wyong Shire" and the Voluntary Planning Agreement in respect of land at 414 Old Maitland Road, Mardi, for the purposes of community consultation.
- 149/17 That Council undertake community consultation, for a period of 28 days in respect to those proposed amendments.
- 150/17 That Council consider a further report on results of the community consultation.

3.1 Classification of Land, Lots 63 and 64 DP 13019 at 326-328 Tuggerawong Road, Tuggerawong

RESOLVED on the motion of Mr REYNOLDS:

- 151/17 That Council adopt the classification of land known as Lots 63 and 64 DP 13019 at 326-328 Tuggerawong Road, Tuggerawong as Operational Land.
- 152/17 That Council note:
- a Nothing in the above resolution authorises the sale of the subject land (section 377(1)(h) of the Local Government Act 1993 provides that any sale of land can only be by resolution of Council).
 - b Section 31 (3) of the Local Government Act 1993 provides that Council must not resolve that land be classified as operational land if the resolution is

**NSW RURAL FIRE SERVICE**

The General Manager
Central Coast Council
PO Box 20
WYONG NSW 2259

Your reference: RZ/14/2012
Our reference: L14/0001
1 June 2017

Attention: Jenny Mewing

Dear Sir/Madam,

Planning Proposal for 414 Old Maitland Road (Old Farm), Mardi

Reference is made to further information received on 15 May 2017 seeking comments in relation to the above Planning Proposal which seeks to rezone the property to part E2 Environmental Conservation, E3 Environmental Management and R5 Large Lot Residential.

Based on the information prepared by Travers Bushfire & Ecology, ref. no. A14051B:JT, dated 15 May 2017, the New South Wales Rural Fire Service has no objections to the proposed rezoning of the area known as 'The Meadows' to R5 Large Lot Residential.

If you have any queries regarding this advice, please contact Simon Derevnin on 1300 NSW RFS.

Yours sincerely,

Nika Fomin
Manager, Planning & Environment Services (East)

Postal address

NSW Rural Fire Service
Records Management
Locked Bag 17
GRANVILLE NSW 2141

Street address

NSW Rural Fire Service
Planning and Environment Services (East)
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Our Ref: A14051B: JT
Council Ref: RZ/14/2012
RFS Ref: L14/0001

15 May 2017

Nika Fomin / Jason Maslen
NSW Rural Fire Service
Lamb Street
Glendenning NSW 2761



Dear Jason

**Re: Response to NSW Rural Fire Service
Rezoning application 'The Old Farm' 414 Old Maitland Road, Mardi**

On 21st April 2017 I, along with my clients Laurie & Tenille Denton, met in your offices for the purpose of discussing the rezoning process occurring for proposed community title development at The Old Farm at 414 Old Maitland Road Mardi. We thank you for that opportunity.

Issue

On 29th February 2016 the RFS advised Central Coast Council by email that the RFS no longer had objections to the rezoning. I can only assume that this was on the advice of Catherine Ryland and Garth Bladwell (and I believe Iona Cameron as well) who visited the site in late 2015.

Despite this in September 2016 the RFS changed its position. In correspondence to Central Coast Council dated 15th September 2016 the RFS advised that the area of land known as *The Meadows* should not be rezoned due to bushfire concerns. As a result the Department of Planning (DOP), on Central Coast Council advice, removed The Meadows from the Gateway approval.

This was a major change to the Gateway approval and was undertaken without the knowledge of the Proponent despite a very hands-on relationship between Central Coast Council (CCC) and the Proponent over many years. Indeed the correspondence on this matter was only brought to the Proponent's attention in March this year following a long awaited GIPA application being approved.

The RFS advised that The Meadows was *surrounded by the proposed E2 Environmental Conservation Zone*. The letter then advised that the Proponent had not adequately addressed the "minimisation of the perimeters" and as a result advised that The Meadows should consider a 'more suitable use'.

The visit by the RFS officers in late 2015 noted the sites characteristics and dealt with The Meadows issue by acknowledging the double creek crossing suggestion and the familiarity gained from noting the vegetation being rainforest for the additional crossing with no ground or surface fuels.

I provided comment at that meeting that The Meadows had the following advantages to support adherence to PBP and thus gain RFS consent for the S117 Direction required by the rezoning process; and ultimately to achieve a section 100B *bushfire safety authority* at subdivision application stage.

ABN 64 083 086 677
PO Box 7138
Kariang NSW 2250

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Mt Penang Parklands
Central Coast Highway
Kariang NSW 2250

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e: info@traverseecology.com.au
www.traverseecology.com.au

For example;

1. The Meadows is located on the valley floor and is not affected by any downslope gradients.
2. The Meadows is already cleared of native vegetation and currently contains irregularly managed grasslands and regrowth with occasional mature trees.
3. The central road concept allowed for a very low radiant heat affectation upon evacuating persons as the vegetation was at least 77m from the centre of that road and (modelling shows that radiant heat flux would be $<5 \text{ k/Wm}^2$ and BAL is 12.5 on that evacuation route).
4. The existing access trail that traverses Deep Creek was also already cleared.
5. Deep Creek is a dense rainforest landscape and this vegetation formation provides a lower expectation of fire behaviour particularly arising from the short steep sides of the creek banks. No vegetation will occur on each side of the creek as that will be developed as R5 within The Meadows area or R5 within in the central development zone.

The result of the RFS inspection was the correspondence (29/2/16) advising Council they had no further concerns with the rezoning. This was assumed by the Proponent on the basis of a second road access across the Deep Creek. This is illustrated in Figure 1 below.



Figure 1 – Location of The Meadows (red circle)

Following that advice we then prepared a plan (see Figure 2 below) which showed the access over the creek, and specifically;

- The main access road had a width of 14 metres and a peripheral APZ of 25 metres measured off the road centre.
- The secondary access had a width of 6 metres and a peripheral APZ of 10 metres, thus 16m so 8m measured off the fire trail road centre.

Figure 3 shows the proposed zoning for the greater development area. This plan also depicted the access locations for the road and the fire trail across Deep Creek.



Figure 2 – Vegetation affecting The Meadows and the valley floor landscapes

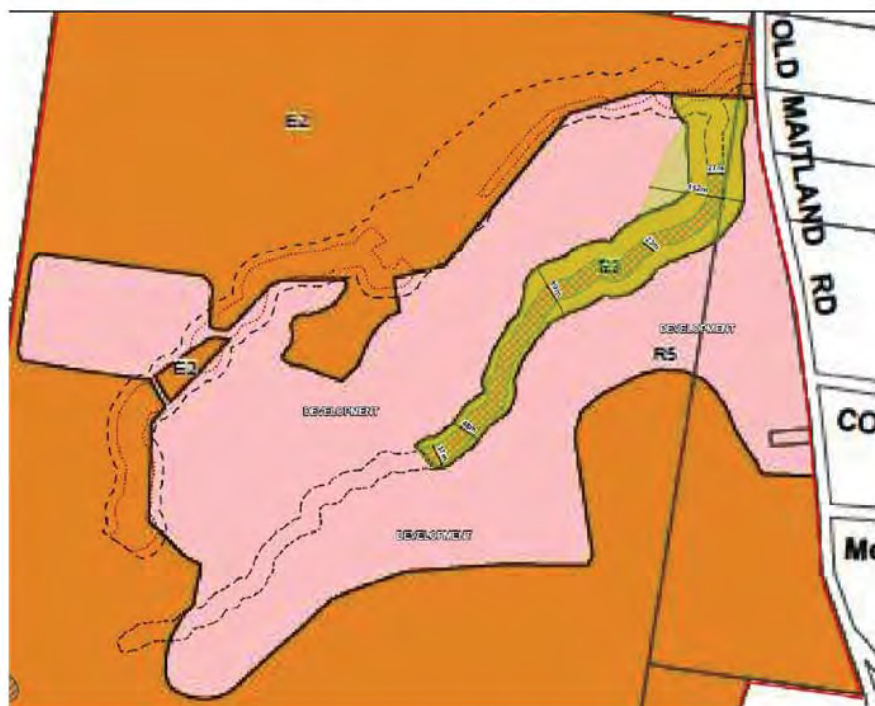


Figure 3 – Proposed rezoning plan showing R5, E3 & E2 lands

In 2016 we also had what we believed was the final consultation with the RFS and that was in regard to the E3 land and its possible affectation upon the development from unmanaged lands.

We advised that the central E3 zone would be set aside as managed land with a central vegetated waterway. On 10th August 2016 I provided advice in that regard and after a period of time this was accepted by the RFS after advice of support from Council.

Whilst no final development plan has been submitted to Council or the RFS for The Meadows I can advise that we have prepared a plan to which the RFS can consider. Figure 4 has been prepared to illustrate how the bushfire planning of The Meadows can manifest into a safe development design.

The development design will utilise;

- Potentially ten or eleven R5 allotments (2,600-4,700m²) Fig 4 shows twelve lots but that number is unlikely.
- A BAL affectation upon each dwelling no greater than 29k/Wm²
- A 14m wide straight road ending with a 24m culdesac head.
- A perimeter fire trail 4m in width within a 6m wide fire trail reserve.
- A main access road across Deep Creek and a supporting fire trail access across the creek being 4-6m in width.



Figure 4 – Indicative lot and road layout May 2015

Indicative bushfire protection measures

In accord with PBP the design of The Meadows as illustrated in Figure 4 shall exhibit the following bushfire protection measures

1. Asset protection zones

The landscape of the lands to which The Meadows is proposed is predominately cleared and currently contains irregularly slashed grass and regrowth trees and shrubs. This whole area inclusive of the perimeter fire trail area will be constructed to accord with an asset protection zone (inner protection zone).

2. Access (Road Construction)

The main access road will be constructed in accord with *Planning for bushfire protection (PBP)*. The road will be 14m in width within a cleared corridor of 25m whilst the perimeter fire trail will be constructed in accord PBP. The trail will be 4m in width within a 6m wide cleared zone.

3. Building protection

All dwellings will be constructed in accord with *AS3959 Construction of buildings in bushfire prone areas* and the auxiliary requirements of PBP Appendix 3. Any subordinate buildings such as sheds will be individually assessed at the time to determine if the structure is in accord with PBP or may diminish any previously approved AS3959 structures (i.e. within 10m of a dwelling).

4. Landscaping design

Landscaping design will be required to accord with Appendix 5 of PBP.

5. Emergency planning

An emergency egress plan would be prepared specifically for The Meadows area and out to Mardi Road.

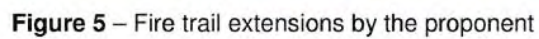
6. Water

Water, electricity and gas supply is to comply with Section 4.3.5 of *PBP*. Water will be supplied to each allotment by way of water tanks. Town reticulated water is also available with water hydrants located in accord with PBP.

Note:

The applicant and Central Coast Council have agreed to a Voluntary Planning Agreement proposed by the applicant that will see an integrated fire trail network constructed within the E4 lands at a cost of approximately \$140,000. This enables Central Coast Council, State Forests and other emergency agencies to access the more remote landscape to the south and west. This was agreed to in consultation with the CCC, RFS and State Forests¹ in 2015.

¹ The land external (west) to The Meadows is managed by State Forests and is not managed as a conservation landscape.



Yours faithfully

John Travers - BA Sc. / Ass Dip / Grad Dip / BPAD-Level 3-15195 (FPA)
Director – **Travers bushfire & ecology**

MINUTES OF THE Ordinary Council Meeting OF COUNCIL 26 October 2016 contd**3.5 Outcomes of Exhibition - Planning Proposal for 414 Old Maitland Road, Mardi (Old Farm)**

Mr Brian Glendenning, Executive Manager Governance, declared a significant non-pecuniary interest in this matter for the reason that he advised a now deceased Director of the Proponent in respect to elements of the proposed rezoning when in private practice, and considered he has a professional conflict. Mr Glendenning left the meeting at 6.03pm and returned at 6.06pm and did not participate in discussions on this item.

Mr Mike Campbell, local resident, addressed Council at 5.15pm and retired at 5.18pm.

Ms Wendy Gleen, local resident, addressed Council at 5.26pm and retired at 5.28pm.

Mr Laurie Denton, local resident, addressed Council at 5.28pm and retired at 5.29pm.

RESOLVED on the motion of Mr REYNOLDS:

409/16 That Council support the planning proposal as amended, specifically, an amendment to the proposed minimum lot size exception, by increasing the minimum lot size from 500m² to 900m².

410/16 That Council request that the Secretary of the Department of Planning and Environment to concur that the inconsistencies of the Planning Proposal with Section 117 Ministerial Directions 2.1 Environmental Protection Zones, 4.3 Flood Prone Land, and 4.4 Planning for Bushfire Protection, be considered to be of minor significance;

411/16 That Council request, upon receipt of the concurrence requested by resolution 2, the Chief Executive Officer to exercise the delegation issued by the Department of Planning and Environment (dated 25 September 2013) for RZ/14/2012 (PP_2013_Wyong_007_00) to proceed with the steps for drafting and making of Amendment No. 17 to Wyong Local Environmental Plan 2013.

412/16 That Council request the Chief Executive Officer to sign the Voluntary Planning Agreement (VPA) which establishes the requirements for the Proponent to undertake prior to and as part of the lodgement of a Development Application for the development of the land;

413/16 That Council adopt the amendment to Wyong Development Control Plan 2013 Chapter 6.25, Rural Residential Development, Mardi, to become effective on the date of Notification of Wyong Local Environmental Plan 2013 Amendment No. 17.

414/16 That Council consider appropriate notations on planning certificates informing future purchasers of land in the area in respect of additional applicable development standards in relation to:

- a Mine Subsidence; and**
- b Acoustics.**

415/16 That Council advise all those who made a submission of the decision.



Mr Rob Noble
Chief Executive Officer
Central Coast Council
PO Box 20
Wyang NSW 2259

Our ref: 13/08907

Dear Mr Noble

Planning Proposal PP_2013_WYONG_007_00 – Alteration of Gateway Determination

I refer to your correspondence requesting an Alteration to the Gateway determination for Planning Proposal PP_2013_WYONG_007_00 in response to updated advice from the NSW Rural Fire Service.

I have determined as the delegate of the Minister, in accordance with section 56(7) of the *Environmental Planning and Assessment Act 1979* to alter the Gateway determination dated 25 September 2013 for PP_2013_WYONG_007_00 (as altered). The Alteration of the Gateway determination is enclosed.

I have also agreed as delegate of the Secretary, that the Planning Proposal's inconsistency with section 117 Direction 4.4 Planning for Bushfire Protection is justified in accordance with the terms of the Direction.

If you have any questions in relation to this matter, I have arranged for Mr Glenn Horal to assist you. Mr Horal can be contacted on 02 4345 4409.

Yours sincerely

A handwritten signature in black ink that reads 'Anthea Sargeant'.

Anthea Sargeant 10/7/17
Acting Executive Director
Regions

Encl: Alteration of Gateway Determination



**Planning &
Environment**

Alteration of Gateway Determination

Planning proposal (Department Ref: PP_2013_WYONG_007_00)

I, the Acting Executive Director, Regions at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(7) of the *Environmental Planning and Assessment Act 1979* (the Act) to alter the Gateway determination dated 25 September 2013 (as since altered) for the proposed amendment to the Wyong Local Environmental Plan 2013 as follows:

1. Delete condition 9:

"9. The 'explanation of provisions' and the planning proposal is to be updated before the plan is finalised to identify the western part of the site known as 'The Meadows' will be rezoned to E2 Environmental Conservation".

And replace with new condition 9:

"9. The 'explanation of provisions' and the planning proposal is to be updated before the plan is finalised to identify the western part of the site known as 'The Meadows' will be rezoned to R5 Large Lot Residential".

Dated 10 day of July 2017

A handwritten signature in black ink that reads 'A Sargeant'.

**Anthea Sargeant
Acting Executive Director
Regions
Department of Planning and Environment**

Delegate of the Minister for Planning

- c. *To allow for merit assessment of solar access to public open spaces to ensure that solar access to Kibble Park, Graham Park (Central Coast Stadium) and Gosford City Park/Leagues Club Park during the winter solstice is reasonable.*

460/17 *That Council request that:*

- a. *The Department of Planning and Environment proceed with the steps for drafting and making of Gosford Local Environmental Plan 2014 (Amendment No. 29); and*
b. *The Minister be requested to make the Plan under section 59 of the Environmental Planning and Assessment Act 1979.*

461/17 *That Council endorse the proposed amendments to draft Chapter 4.1 – Gosford City Centre of the draft Gosford Development Control Plan 2013 for the purposes of community consultation and re-exhibit the amended development controls for a minimum of 28 days.*

462/17 *That Council advise all those who made a submission of the decision.*

2.6 **Revised Gateway Determination - Planning Proposal in Respect of Land at 414 Old Maitland Road, Mardi (Old Farm)**

Mr Mike Campbell addressed Council in relation to item 2.6 – Revised Gateway Determination - Planning Proposal in Respect of Land at 414 Old Maitland Road, Mardi (Old Farm) at 5.14pm and retired at 5.19pm.

RESOLVED on the motion of Mr REYNOLDS:

463/17 *That Council note that the NSW Minister for Planning has issued a revised Gateway Determination for the Planning Proposal (PP_2013_WYONG_007_00; RZ/14/2012) for the Old Farm site which reinstates land referred to as "The Meadows".*

464/17 *That Council note that the revised Gateway Determination is a result of the removal by NSW Rural Fire Service of a previously held objection to the inclusion of land referred to as "The Meadows" from the Planning Proposal (PP_2013_WYONG_007_00; RZ/14/2012) for the Old Farm site.*

465/17 *That Council rescind the resolutions made on 22 March 2017 in relation to item 2.8 (resolution no's 148/17, 149/17 and 150/17) as contained in Attachment 3 to re-exhibit amendments to Chapter 6.25 – (Rural Residential Development, Mardi) to "Development Control Plan 2013 Development Controls for the Wyong Shire" and the Voluntary Planning Agreement in respect of land at 414 Old Maitland Road, Mardi.*

- 466/17 *That Council re-confirm that the resolutions of Council made on 26 October 2016 as contained in Attachment 6 in relation to item 3.5 remain relevant and are to be implemented by the Chief Executive Officer.*
- 467/17 *That Council note that resolutions No's. 410/16, 413/16 and 415/16 of Council made on 26 October 2016 No's. 410/16, 413/16 and 415/16 as contained in Attachment 6 have been actioned.*
- 468/17 *That Council proceed with the implementation of the remainder of the resolutions of Council made on 26 October 2016 as contained in Attachment 6 in relation to item 3.5 (No's. 409/16, 411/16, 412/16 and 414/16).*

2.7 Planning Proposal 83/2015 - 47 Carolina Park Road Avoca Beach

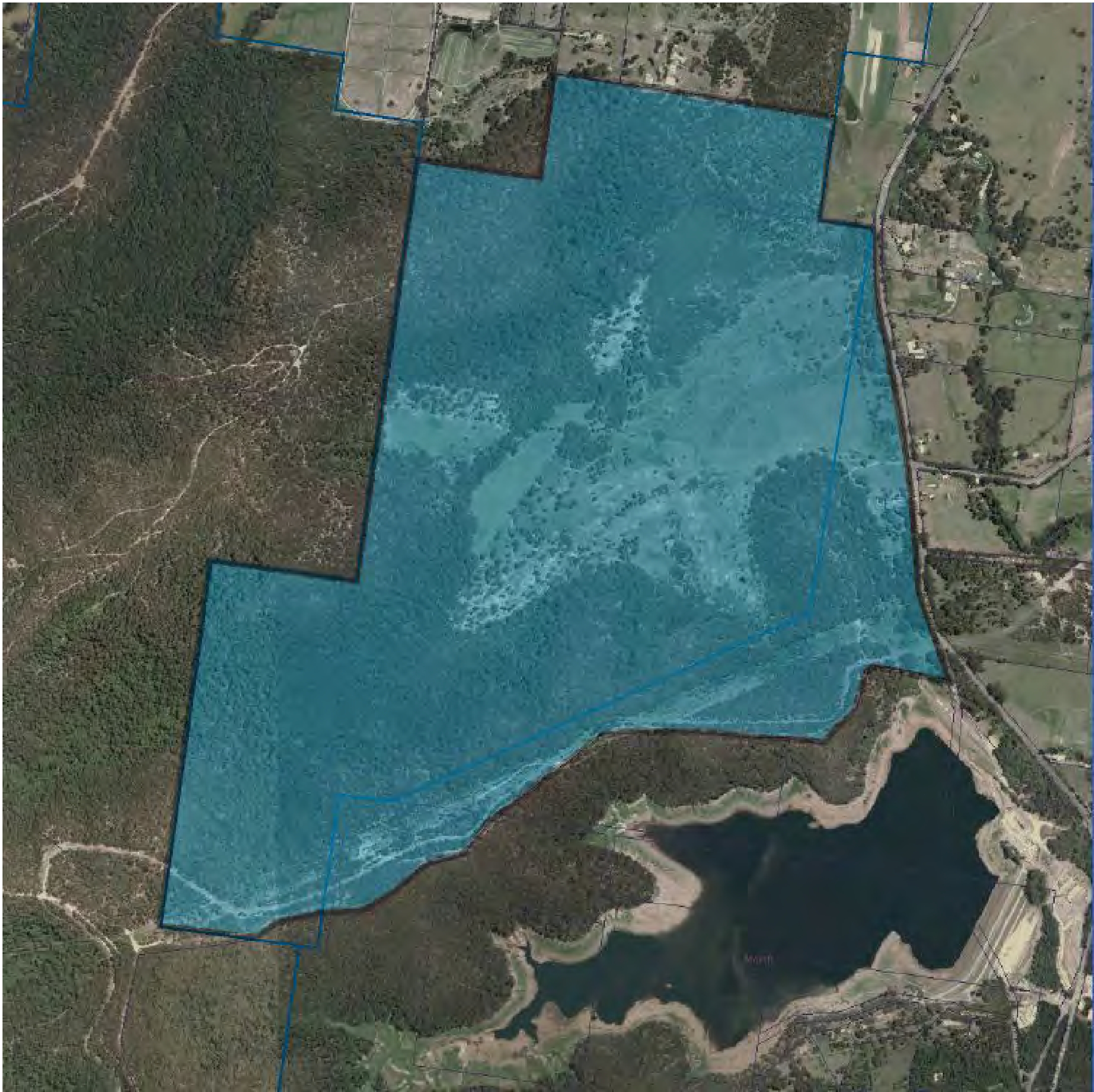
RESOLVED on the motion of Mr REYNOLDS:

- 469/17 *That Council support the planning proposal as exhibited.*
- 470/17 *That Council seek the concurrence of the Secretary of the Department of Planning and Environment to determine that the inconsistencies of the planning proposal with Section 117 Ministerial Direction 4.3 Flood Prone Land are considered to be of minor significance.*
- 471/17 *That Council request, upon receipt of the concurrence requested by resolution 2, the Chief Executive Officer to exercise the delegation issued by the Department of Planning and Environment (2 June 2016) for PP/83/2015 and proceed with the steps for drafting and making of Amendment No. 30 to Gosford Local Environmental Plan 2014.*
- 472/17 *That Council advise those who made public submissions of its decision.*

3.1 Community Grants and Sponsorship Management

RESOLVED on the motion of Mr REYNOLDS:

- 473/17 *That Council note the Community Grants and Sponsorship Program Project Report (Attachment 1).*
- 474/17 *That Council adopt the Policy for Community Grants (Attachment 2).*
- 475/17 *That Council adopt the Policy for Sponsorship Management (Attachment 3).*
- 476/17 *That Council adopt the Terms of Reference and establish a Grants and Sponsorship Review Panel (Attachment 4).*
- 477/17 *That Council note the guidelines for the Community Development Grants Program (Attachment 5).*



**'OLD FARM' MARDI
LOCALITY MAP**



Jenny Mewing

From: Jenny Mewing <Jenny.Mewing@centralcoast.nsw.gov.au>
Sent: Thursday, 7 December 2017 3:35 PM
To: parliamentary.counsel@pco.nsw.gov.au
Cc: centralcoast@planning.nsw.gov.au
Subject: Section 59 Request - Wyong LEP 2013 (Amendment No. 17) - RZ/14/2012; PP_WYONG_2013_007_00 - 414 Old Maitland Road, Mardi (Email 1 of 2)
Attachments: Planning Proposal - Plan Making.pdf; 01 Assessment & Endorsment.pdf

Dear Sir/Madam,

At the Ordinary Meeting of 26 October 2016, Council's (former) Administrator resolved to take steps to finalise the making of Wyong Local Environmental Plan (LEP) 2013 (Amendment No. 17). In accordance with this resolution, it is requested that a draft instrument be prepared under Section 59(1) of the Act, and, that an Opinion be issued that the plan can be legally made.

The following information is provided/attached to assist with this drafting process as per Department of Planning and Environment's *Guide to Preparing Local Environmental Plans* (August 2016) and *Council Information for drafting, making and notification of LEP's delegated to Councils* (January 2016) issued by the NSW Parliamentary Counsel's Office:

1. The Planning Proposal and supporting documentation. The proposal has been revised post-exhibition to incorporate:
 - (a) comments received during Agency and Community Consultation;
 - (b) the Council reports and minutes of 26 October 2016, 22 March 2017 and 27 July 2017 which:
 - Reported on the outcomes of formal and ongoing agency consultation (formally undertaken between 14 October 2013 and 8 November 2013); and
 - community consultation (undertaken between 18 March 2015 and 1 May 2015 and 20 April 2016 and 10 June 2016); and
 - Confer delegation of authority to Council's Chief Executive Officer to make the amending LEP and development provisions.
 - (c) An assessment of the compliance of the proposal & process with the Gateway determination (see Attachment 01 – Assessment and Endorsement).
 - (d) An assessment of compliance with the Goals, Directions and Actions contained within the Central Coast Regional Plan 2036 (see Attachment 01 – Assessment and Endorsement).

Please note that the supporting investigative studies for this proposal have not been submitted to reduce the file size of this request. Should this information be required, please advise so alternative arrangements for its provision can be made.

The objectives/intended outcomes of the Planning Proposal have not been revised as a result of the agency or community consultation process.

2. The original Gateway Determination dated 25 September 2013 as well as subsequent extensions and alterations (see Attachment 01 – Assessment and Endorsement, documents F, H, I, J, K, L, M & N); and
3. Written Authorisation to Exercise Delegation dated 25 September 2013 (see Attachment 01 – Assessment and Endorsement, item G);

Mapping has been uploaded to the Department's Planning Portal as required by the *Guide to Preparing Local Environmental Plans* (August 2016). PDF copies of these maps will be forwarded to the Regional DP&E office under separate cover.

The contact Officer for the Proposal is Jenny Mewing, Principal Strategic Planner, email: Jenny.Mewing@centralcoast.nsw.gov.au or phone (02) 4350 5547. Should I be unavailable, please contact Scott Duncan, Section Manager Land Use and Policy, email: Scott.Duncan@centralcoast.nsw.gov.au or phone (02) 4350 5547.

Kind regards

Jenny Mewing

Principal Strategic Planner
Land Use and Policy

Central Coast Council

P.O. Box 20, WYONG NSW 2259

t: 02 4350 5742

m: 0437 747 660

e: Jenny.Mewing@centralcoast.nsw.gov.au



PLEASE CONSIDER THE ENVIRONMENT BEFORE PRINTING THIS EMAIL



Central Coast Council

Planning Proposal
414 Old Maitland Road, Mardi

RZ/14/2012; PP_2013_WYONG_007_00
November 2017



Planning Proposal
414 Old Maitland Road, Mardi
RZ/14/2012; PP_2013_WYONG_007_00
FINAL Version

Date: December 2017

Central Coast Council

Wyong Office: 2 Hely St / PO Box 20 Wyong NSW 2259 | **P** 02 4350 5555

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ABN 73 149 644 003

Opening Hours 8.30am - 5.00pm

Old Farm Site

414 Old Maitland Road, Mardi

File No. RZ/14/2012; PP_2013_WYONG_007_00

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Background & Locality Context

The subject site is located on the western side of the M1 Motorway between the Tuggerah Interchange and Alison Road/Old Maitland Road intersection. The northern most portion of the site fronts Old Maitland Road and extends for approximately 1km from its northern to southern most boundaries along this frontage. It is located approximately 2km from the M1 Motorway.

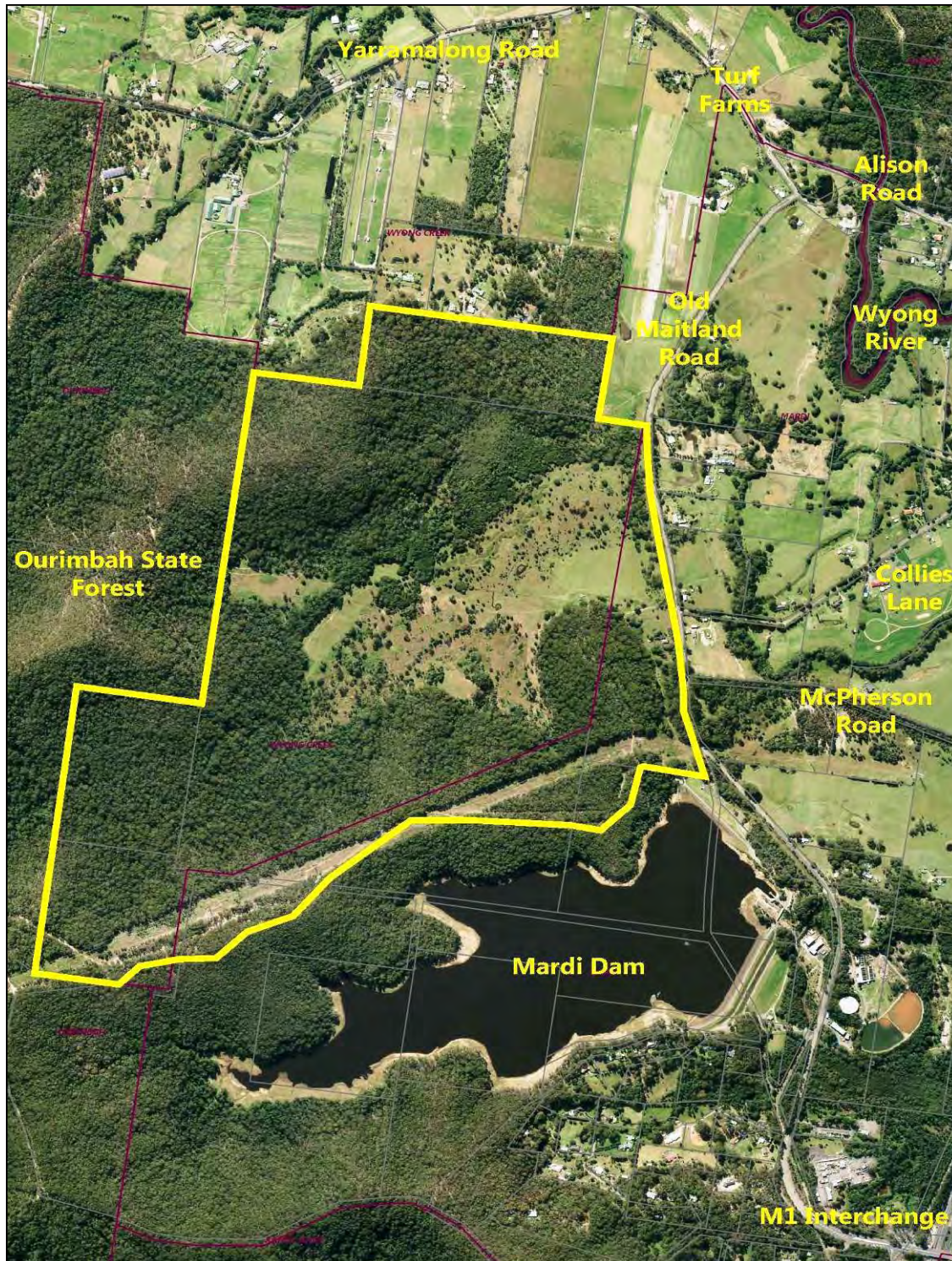


Figure 1 Contextual Locality Plan

The site is characterised by a treed ridgeline to the south, (partially cleared for the purposes of a 330kv transmission line) which extends into adjoining properties to the west. The western boundary is bordered by the Ourimbah State Forest. Land to the north of the site is in private ownership, whilst Mardi Dam (part of the Shire's water supply system) is directly south of the site, on the other side of the treed ridgeline.

The centre of the site is predominantly cleared and slopes down to the north at approximately 5° from the tree line at the base of the southern ridge.

A small creek (which forms part of the Deep Creek system) borders the north-western tree line of the clearing, whilst natural drainage channels form from the southern ridgeline which then flow northwards across the site. These two drainage features meet in the north-eastern corner of the site and traverse Old Maitland Road via a drainage culvert.

A Planning Proposal relating to the subject site was previously exhibited between 18 March and 1 May 2015. In order to address concerns identified by the community, and to resolve government agency objections, a number of amendments have been made to the proposal.

The revised proposal is detailed in the following pages. The amendments made to the proposal as a result of the previous exhibition are documented in Part 5.

Part 1 Objectives or Intended Outcomes

The objective of this proposal is to rezone Lot 36 DP 755249; Lot 41 DP 123953; Lot 1 DP 229971; Lot 1 DP 229970; Lot 1 DP 120512; Lot 101 DP 604655; Lot A DP 396415 and Lot 1 DP 554423 (414 Old Maitland Road, Mardi) from RU1 Primary Production, E2 Environmental Conservation and E3 Environmental Management to R5 Large Lot Residential and E2 Environmental Conservation and E3 Environmental Management.

The intended outcome of the proposal is to enable future large lot residential and rural village scale residential development.

Part 2 Explanation of Provisions

The outcome will be facilitated by an amendment to Wyong Local Environmental Plan (LEP) 2013. The following table identifies the proposed amendments:

Existing Provision	Proposed Amendment
Part 4 Principle development standards	<ul style="list-style-type: none"> - Insert a new Clause: <i>4.1C Exceptions to minimum subdivision lot size for certain large lot residential development</i>
Clause 4.6 Exceptions to development standards	<ul style="list-style-type: none"> - Amend Clause 4.6(8)(ca) to include the proposed Clause 4.1C
Clause 5.3 Development near zone boundaries	<ul style="list-style-type: none"> - Amend clause to enable application of provision to land affected by the Dwelling Density Map (Lot 36 DP 755249; Lot 41 DP 123953; Lot 1 DP 229971; Lot 1 DP 229970; Lot 1 DP 120512; Lot 101 DP 604655; Lot A DP 396415 and Lot 1 DP 554423)
Dwelling Density Map (New Maps DWD__007 & DWD__007B)	<ul style="list-style-type: none"> - Prepare a new map which identifies the site in its entirety as having a maximum 'Restricted Lot Yield' of 300 and the site as being subject to Clause 4.1C
Zone Map (Amendment of existing maps LZN_007 & LZN_007B)	<ul style="list-style-type: none"> - Rezone parts of Lot A, DP 369415, Lot 1, DP 120512 and Lot 1, DP 554423 to R5 Rural Residential and E3 Environmental Management - Rezone parts of Lot 1, DP 120512 and Lot 1, DP 554423 to E2 Environmental Conservation - Rezone Lot 41, DP 123953, Lot 36, DP 755249, Lot 101, DP 604655, Lot 1, DP 229970, Lot 1, DP 229971 to E2

Existing Provision	Proposed Amendment
	Environmental Conservation
Minimum Lot Size Map (Amendment of existing maps LSZ_007 & LSZ_007B)	- Amend the minimum lot size maps as per the following for each zone identified above: <ul style="list-style-type: none"> ▪ R5 – 1,800m² ▪ E3 – 1,800m² ▪ E2 – 40 hectares
Urban Release Area Map (New Maps URA_007 & URA_007B)	- Prepare a new map which identifies the site in its entirety as being an urban release area (Lot 36 DP 755249; Lot 41 DP 123953; Lot 1 DP 229971; Lot 1 DP 229970; Lot 1 DP 120512; Lot 101 DP 604655; Lot A DP 396415 and Lot 1 DP 554423)

Table 1: Explanation of Map and Instrument Amendments

The Dwelling Density Map is proposed to relate a new clause within Part 4 of Wyong Local Environmental Plan (LEP) 2013, being Clause 4.1C - *Exceptions to minimum submission lot size for certain large lot residential development*. The intent of this clause is to restrict the density of development of the site, yet enable some of the lots created to be less than the minimum lot size.

It is recommended that during the drafting of any such clause, relevant objectives are incorporated which may include the following:

- To provide an alternative method to clause 4.1 for the subdivision of land to which this clause applies;
- To ensure that subdivision of the land to which this clause applies retains a predominant rural/ large lot residential character; and
- To enable the subdivision of a minority of the land to which this clause applies to a smaller lot size than that shown on the applicable Lot Size Map to provide for a range of lot sizes consistent with those of a rural village.

The clause would enable subdivision of the land provided the overall lot yield does not exceed the lot yield restriction specified in the Dwelling Density Map (being 300 lots).

The clause would specify that no more than 30% of the area of lots created could be below the minimum lot size under the applicable Lot Size Map, which is proposed to be set at 1,800m².

The clause would specify that any lots created be below the minimum lot size shown on the applicable Lot Size Map, must have a minimum of no less than 900m².

Clause 4.6(8) is proposed to be amended to ensure that the provisions of the proposed clause 4.1C and the Dwelling Density Map are not subject to variation, i.e. to ensure that the ratio of smaller allotments and the maximum lot yield cannot be varied.

An amendment is also proposed to Clause 5.3. This clause enables the zone provisions of one zone to be applied to an adjacent zone, provided it is located within 20m of the zone boundary. This clause currently doesn't apply to land zoned E3 Environmental Management.

A corridor on the subject land has been identified for this zoning which is the modelled 1% Annual Exceedance Probability (AEP) extent, post-development based on preliminary flooding investigations.

The topography and drainage patterns within this locality have been substantially modified by past land use practices in an effort to increase the arable area of land available for grazing. Noting this, the final corridor location is an estimate of where the original or natural flow path across the site may have been located, and where it should be restored to as part of any future subdivision of the site. Further detailed flood study and design work will be required to support any subsequent subdivision application, which may include adjustment to the current location of the corridor.

To ensure that the area available for future development is not impacted by this zoning, the application of Clause 5.3 to the E3 Environmental Management zone on a site specific basis is proposed to be applied.

This issue exists with a number of recently rezoned sites utilising the provisions of the Standard Instrument Order, 2006, for example, Precinct 7A in Warnervale. Whilst Clause 5.3 was an optional clause within the SI LEP for adoption, the zones therein to which the clause applied were not able to be modified. The former provisions of Wyong LEP 1991 allowed application of a clause with similar effect within the comparable E3 Environmental Management zone formats e.g. 7(a) and 7(c).

Part 3 Justification

Section A – Need for the Planning Proposal

1. Is the Planning Proposal a result of any Strategic Study or report?

The site is identified for future large lot residential and rural village development in both the Wyong Valleys Study, 1998 and Council's Settlement Strategy, 2013.

Wyong Valleys Study, 1998

The Wyong Valleys Study was undertaken in 1998 with the intent of developing a planning strategy for the Yarramalong and Dooralong Valley areas. The subject site is identified as being suitable for consideration for rural residential development, subject to further investigation.

This identification was based on an analysis of constraints, including (but not limited to) flooding, slopes, 'at risk' vegetation communities, landscape quality, agricultural potential and proximity to services.

A review of land within the Wyong Local Government Area (LGA) zoned for rural and large lot residential living purposes is currently being undertaken to inform a revision to the Wyong Valleys Study.

Wyong Shire Settlement Strategy, 2013

The Wyong Shire Settlement Strategy (WSSS) was prepared to support the preparation of Council's Standard Instrument (SI) LEP 2013. The land use component of this strategy has been endorsed by the Department of Planning and Environment (DP&E).

The WSSS incorporated an updated assessment of land capability and suitability for additional rural residential subdivision. This assessment has identified that the subject site has a *moderate suitability to support future settlement due to the effect of a range of "land suitability" considerations* for rural residential development.

The land use strategy within the WSSS identifies that:

'those areas which achieved a high or medium rating will be given a priority for closer examination for their potential to support greenfield or infill development. Further investigations including detailed studies on environmental and development constraints will need to be undertaken to determine whether these areas are capable and suitable for greenfield or infill development opportunities. It should be noted that by identifying these sites that may be potentially suitable for development, Council is not aiming to raise the expectations of landowners that this land will at some stage be rezoned to permit subdivision for greenfield or infill development'.

The proposal is consistent with the aims and objectives of the WSSS as demonstrated by the supporting investigative studies.

In the absence of an updated and adopted Rural Lands Study and Strategy (currently being undertaken), DP&E has advised that the WSSS is suitable, at a high level, to support the current planning proposal for the subject site (see Supporting Documentation – *Assessment & Endorsement*).

2. *Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

The site is not currently zoned in a manner which enables large lot rural residential/rural village development; therefore the intended objectives cannot be achieved by any other mechanism than a planning proposal.

Section B – Relationship to strategic planning framework

3. *Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?*

Central Coast Regional Strategy and Central Coast Regional Plan 2036

The proposal has been assessed against the provisions of both the Central Coast Regional Strategy (CCRS) and the Central Coast Regional Plan (CCRP) 2036.

The subject site was not specifically identified within the Central Coast Regional Strategy (CCRS) for future development. It is also located west of the M1 Motorway, which the CCRS did not recommend for further settlement expansion purposes.

The inconsistency of the proposal with the former CCRS was justified by the endorsed land use component of the Wyong Settlement Strategy by the Secretary (then Director-General) of the Department of Planning and Environment (DP&E - see Supporting Documentation – *Assessment & Endorsement*).

Further, the CCRS provided for the consideration of rezoning proposals for additional greenfield development sites not already nominated by the strategy '*if it can be demonstrated that the proposal satisfies the (CCRS) Sustainability Criteria*'.

The proposal was assessed against and was consistent with the sustainability criteria within the CCRS (see Supporting Documentation – *Assessment & Endorsement*).

Notwithstanding the recommendations of the CCRS, the CCRP 2036 (October 2016), does not restrict the provision of additional rural residential development west of the M1 Pacific Motorway. It makes provision for additional rural residential development opportunities providing that such development is "managed to avoid impacts on the viability of agricultural enterprises, biodiversity values and future potential urban expansion opportunities" (Direction 23). It is considered the proposal is not inconsistent with this direction, as demonstrated through the analysis of issues detailed in Part C of this proposal.

The proposal is consistent with the Wyong Valleys Study/Strategy (1998) and Council's WSSS and is considered to have strategic merit, in terms of its location and intended purpose.

The site is in close proximity to (and has the ability to utilise) existing infrastructure with available capacity, and supporting road networks including the M1 Motorway. It is expected that the nature and product of future development of the subject site will encourage the relocation of professional/corporate executives to the local area. These circumstances favour the subject site over other areas for potential rural residential development.

The proposal has also been assessed against relevant State Environmental Planning Policies (SEPPs) and Section 117 Ministerial Directions, as required by the DP&E *Guidelines for Preparing Planning Proposals* (August 2016). This assessment is provided within Sections 5 and 6, as well as the supporting documentation – *Assessment & Endorsement*.

4. Is the planning proposal consistent with the local Council's Community Strategic Plan, or other local strategic plan?

Wyong Shire Council Community Strategic Plan 2030

An assessment of the proposal against the 8 objectives and key actions of the Wyong Shire Council *Community Strategic Plan 2030* has been undertaken (see Supporting Documentation – *Assessment & Endorsement*).

The proposal is consistent with relevant objectives of the plan.

5. Is the planning proposal consistent with applicable state environmental planning policies?

The proposal has been considered against the relevant State Environmental Planning Policies (SEPP) as summarised below and detailed in the supporting documentation (*Assessment & Endorsement*)

State Environmental Planning Policy	Applicable	Consistent
SEPP No. 44 – Koala Habitat	Y	Y
SEPP 55 – Remediation of Land	Y	Y
Mining, Petroleum & Extractive Industries	Y	Y

Table 2: SEPP Assessment

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The proposal has been considered against the relevant Ministerial Section 117 Directions as summarised below. The full assessment of these Directions is contained within the Attachments of this proposal.

No.	Direction	Applicable	Consistent
Employment & Resources			
1.1	Business & Industrial Zones	N	N/A
1.2	Rural Zones	Y	N*

No.	Direction	Applicable	Consistent
1.3	Mining, Petroleum Production and Extractive Industries	Y	Y
1.4	Oyster Aquaculture	N	N/A
1.5	Rural Lands	N	N/A
Environment & Heritage			
2.1	Environmental Protection Zones	Y	N*
2.2	Coastal Protection	N	N/A
2.3	Heritage Conservation	Y	Y
2.4	Recreation Vehicle Areas	Y	Y
2.5	Application of E2 and E3 Zones and Environmental Overlays in NSW Far North Coast LEPs	N	N/A
Housing, Infrastructure & Urban Development			
3.1	Residential Zones	Y	Y
3.2	Caravan Parks and Manufactured Home Estates	Y	Y
3.3	Home Occupations	Y	Y
3.4	Integrating Land Use & Transport	Y	Y
3.5	Development Near Licensed Aerodromes	N	N/A
3.6	Shooting Ranges	N	N/A
Hazard & Risk			
4.1	Acid Sulfate Soils	Y	Y
4.2	Mine Subsidence and Unstable Land	Y	Y
4.3	Flood Prone Land	Y	N*
4.4	Planning for Bushfire Protection	Y	Y
Regional Planning			
5.1	Implementation of Regional Strategies	Y	N*
5.2	Sydney Drinking Water Catchments	N	N/A

No.	Direction	Applicable	Consistent
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	N	N/A
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	N	N/A
5.8	Sydney's Second Airport: Badgery's Creek:	N	N/A
5.9	North West Rail Link Corridor Strategy	N	N/A
5.10	Implementation of Regional Plans	Y	Y
Local Plan Making			
6.1	Approval and Referral Requirements	Y	Y
6.2	Reserving Land for Public Purposes	Y	Y
6.3	Site Specific Provisions	Y	Y
Metropolitan Planning			
7.1	Implementation of A Plan for Growing Sydney	N	N/A
7.2	Implementation of Greater Macarthur Land Release Investigation	N	N/A

Table 3: S117 Ministerial Direction Compliance

* The delegate of the Secretary of the DP&E has determined that the inconsistency of the Planning Proposal with these Directions is of minor significance or has been justified

Section C – Environmental, Social and Economic Impact

7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

Flora and Fauna investigations of the subject site and assessment of potential impact of future development have been undertaken by Biosis 2014 (see Supporting Documentation – *Studies*). These investigations have incorporated the outcomes of previous ecological investigations undertaken on the site since 1999.

An exclusionary approach has been adopted whereby areas of the site which contain valuable or significant vegetation or habitat have been avoided where practicable for the purposes of identifying future development footprints.

The proposal has been amended from that exhibited previously in response to the advice of the Office of Environment and Heritage. The amendments have included:

- Modification of the area proposed for future development to avoid stands of *Melaleuca biconvexa*; and
- the extension of the E2 Environmental Conservation Zone to include that area previously proposed to be zoned E4 Environmental Living.

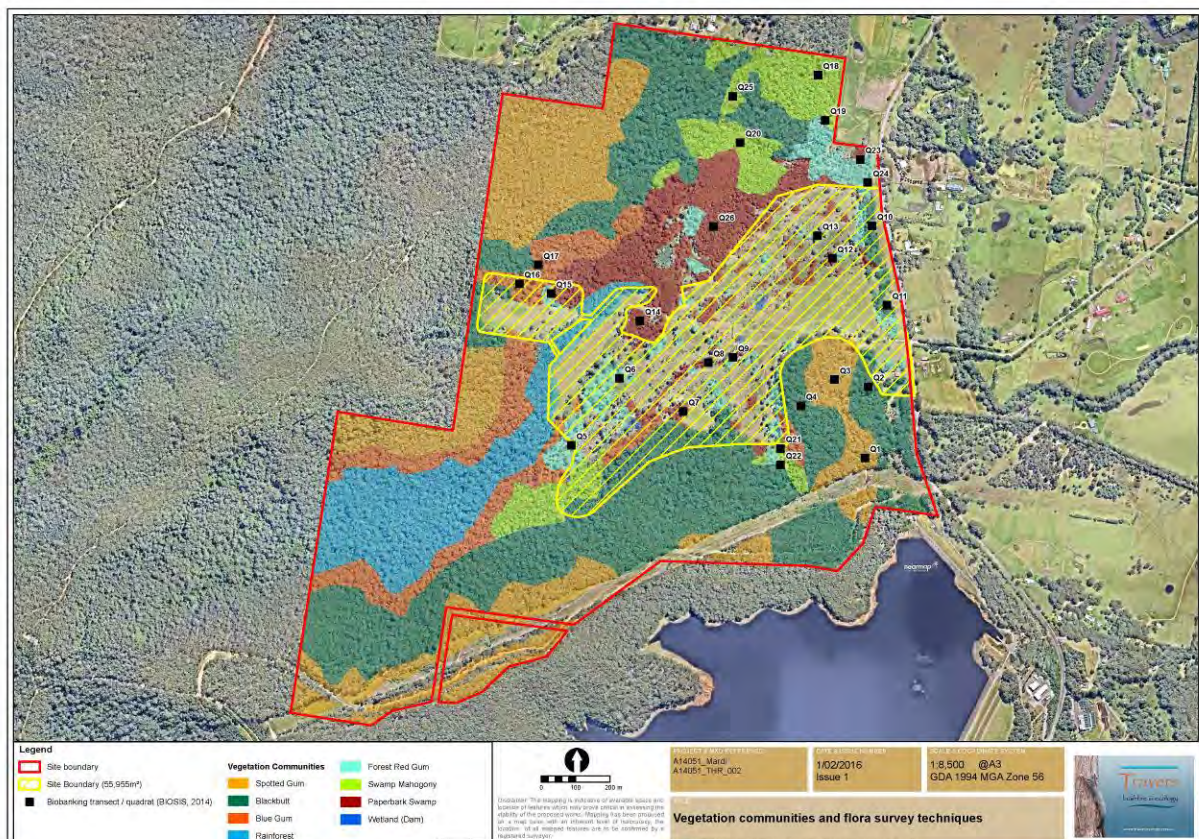


Figure 2 – Vegetation Types and proposed development footprint

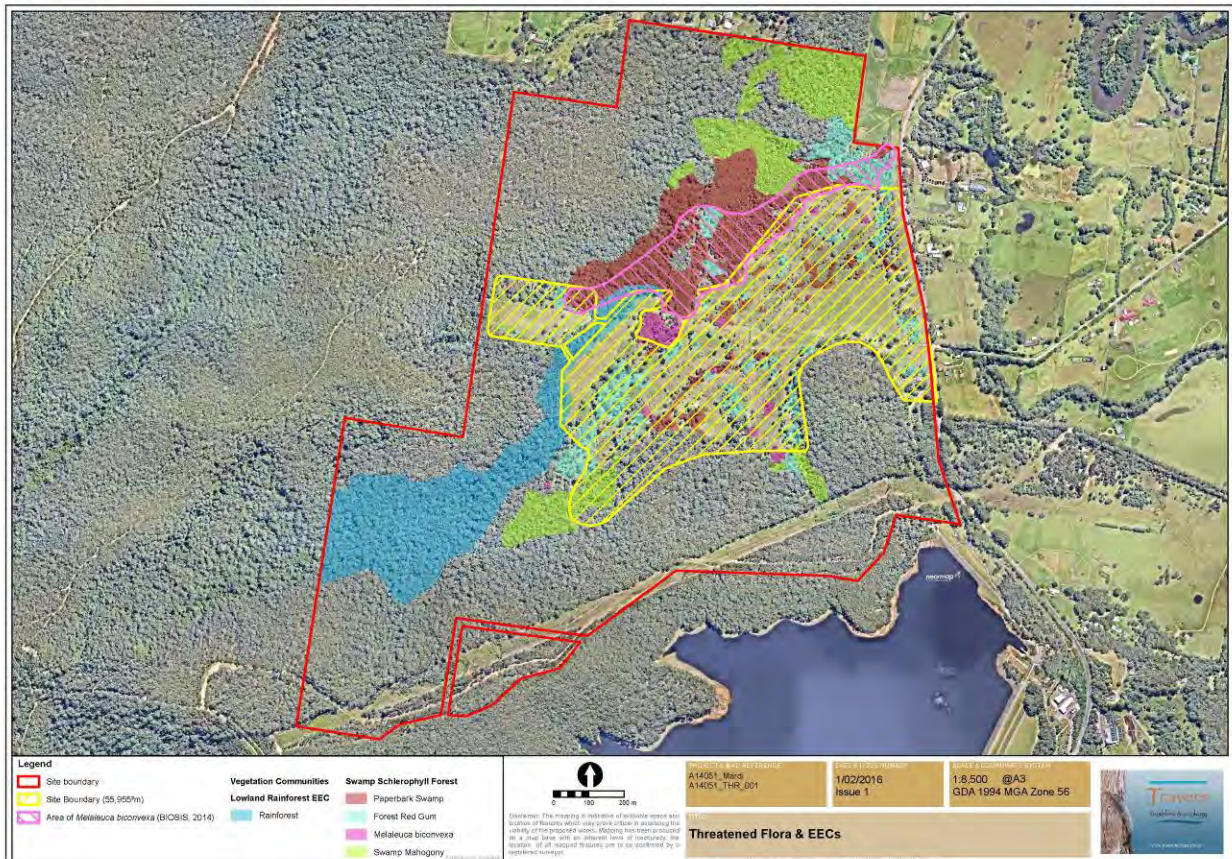


Figure 3 – Endangered Ecological Communities and proposed development footprint

Approximately 75% of the site is now proposed to be zoned E2 Environmental Conservation. The remainder of the site, predominantly the interior valley floor, is proposed to be utilised for the intended purposes of the proposal.

In addition, the Proponent has offered to enter into a Voluntary Planning Agreement (VPA) with Council (see Supporting Documentation – *Land Use Provisions*) to ensure that Biobank sites will be established to ensure 'in perpetuity' conservation of specific plant and community vegetation types in the locality.

Updated ecological assessments and investigations will be required to be undertaken prior to the lodgement of a Development Application (DA) for the subdivision of the site in accordance with the requirements of the Biobanking Assessment Methodology under the provisions of the *Threatened Species Conservation (TSC) Act, 1995*.

The Office of Environment and Heritage (OEH) have supported this approach (see Supporting Documentation – *Agency Responses*).

8. ***Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?***

Bushfire

The majority of the subject site is classified as Category 2 bushfire prone vegetation and associated buffers.

An assessment of the proposal in terms of Bushfire Risk has been undertaken (see Supporting Documentation – *Studies*) in accordance with [*Planning for Bushfire Protection*](#) (PBP) 2006. This assessment was based on the development footprint identified in Figure 2.

Risks to the site are reduced through the presence of Mardi Dam and the transmission easement south of the site.

The largest threat to future development comes from the forest vegetation west of the site within the Ourimbah State Forest, extending into those areas of the site proposed for E2 Environmental Conservation zoning, resulting in possible ember attack, radiant heat and potential flame attack.

The proposal has been amended from that exhibited previously in response to the NSW Rural Fire Service (RFS) advice. The amendments have included:

- Extension of the E2 Environmental Conservation Zone to include that area previously proposed to be zoned E4 Environmental Living; and
- Introduction of an R5 Large Lot Residential zone over the proposed development area (valley floor), consequently removing the proposed RU5 Village zone.

The above amendments have removed the range of extensive land uses permissible on the site enabled by the RU5 Village zone, as well as reducing the potential concentration of dwellings to the bushfire risk to the south west.

The site specific chapter of DCP 2013 includes relevant provisions (see Supporting Documentation – *Land Use Provisions*) to require best practice standards for bushfire risk management for future development of the site. Additional development controls have been incorporated into the DCP chapter following the previous exhibition including the need for future development applications to provide for multiple vehicular access and egress routes within and to and from the site to cater for responses to any emergency situation. Additional controls for management of riparian corridors have also been incorporated within the site specific DCP chapter.

The Proponent has also maintained their offer to enter into a Voluntary Planning Agreement (VPA - see Supporting Documentation – *Land Use Provisions*) which will require the upgrade of the Potters Gully Fire Trail (adjoining the site and within Ourimbah State Forest), in addition to the construction of a new Fire Trail adjoining Mardi Dam. The VPA also establishes a requirement for the registration on title, ownership and management arrangements for, and locations of APZ's.

The NSW RFS have removed previous objections (see Supporting Documentation – *Agency Consultation*).

Natural Resources

Agriculture

The intent of current zoning of the subject site (RU1 Primary Production) is to permit land uses which are, or encourage, rural primary industry development, which effectively includes plant and animal agricultural land uses or farming practices.

The impact of the proposal on the capacity of the land to support such land uses has been considered based on the Agricultural Classification and current and past land uses, including how the proposal will affect the economic viability of the agricultural industry in the Wyong LGA. Consultation has also been undertaken with the Department of Primary Industries – Agriculture regarding the proposal (see Supporting Documentation – *Agency Responses*).

The site has been identified as consisting of Class 3 (being land suited to cropping but not continuous cultivation) and Class 4 (being land suited to grazing but not cultivation (based on native pastures and/or improved pastures). These classes have limited agricultural potential based on the physical and chemical properties of soil and other constraints such as weeds or existing timber.

The classification and agricultural potential of the land is relatively low in comparison with the more valuable class 1 and 2 land located on the Kulnura/Somersby plateau area. It is in these areas where the majority of agricultural production opportunities exist, and where the economic benefits of agricultural land uses can be best realised.

Past land uses of the site have included a former dairy and non-intensive grazing. The site is currently utilised for non-intensive grazing, serving approximately eight (8) head of cattle. It therefore is currently not being utilised for the existing highest and best potential agricultural use. Furthermore, limitations of the site due to its landform, which consist of a low plain (subject to localised inundation) and rocky slopes and outcrops (which consist of significant vegetation) are restrictive to the future agricultural development of the site.

Advice from the Department of Primary Industries – Agriculture identifies that the proposal should be consistent with existing strategic planning, including the Wyong Valleys Study, and that adequate separation will be required from existing agricultural operations, including local turf farms. To address these requirements, the site specific chapter for the site (see Supporting Documentation – *Land Use Provisions*) has incorporated provisions to address potential land use conflicts and incorporate appropriate management strategies.

Further advice from the Department of Primary Industries - Agriculture has recommended that additional measures to specify processes for addressing complaints and information for potential residents about living in a rural locality may assist in minimising land use conflicts. Relevant provisions have subsequently been included in the DCP chapter.

Having regard for the above, the transition of zoning is not considered likely to result in detrimental impact on the overall agricultural potential of the LGA, provided relevant measures to mitigate land use conflicts are implemented on-site.

Mineral Resources - Extraction & Subsidence

The subject site is located within the Wyong Mine Subsidence District.

Both the Mine Subsidence Board (MSB) and Department of Industry – Resources and Energy (Geological Survey NSW) have commented on the proposal.

It has been identified that resources with future extraction potential within the Fassifern Seam (in the upper/middle split) are located underneath the subject site.

Full longwall extraction of the resource is unlikely given its proximity to Mardi Dam (part of the Central Coast potable water supply system), however future mine plans for other areas of the Upper/Middle Fassifern seam may result in first workings (headings and access tunnels) occurring under the subject site. Some mine subsidence may be possible.

Neither the MSB nor Department of Industry – Resources and Energy (Geological Survey NSW) have objected to the proposal. It is noted that future development will require concurrence from the MSB.

Water Supply

The subject site is not located within the designated water catchment area. Under non-flood conditions, any runoff which may come from the site would enter Wyong River downstream of the weir. The Gosford/Wyong Water Supply Corporation operates an extraction pump above this weir to supplement the region's potable water supply. The water supply relies on extracting large volumes of water during flood events.

Notwithstanding this, under flood conditions (i.e. 1% Annual Exceedance Probability (AEP) – see discussion on Flooding), the subject site would be connected to Wyong River upstream of the weir. Noting the above, contamination sources during floods are a risk to the region's water supply. To mitigate the risk of failure of on-site sewerage management systems, future development of the subject site will be required to be connected to Council's reticulated sewer system. This has been investigated and adequate servicing capacity is available. Relevant provisions have been incorporated in the site specific chapter of DCP 2013 for this purpose (see Supporting Documentation – *Land Use Provisions*) with regard to these issues.

Aboriginal and European Cultural Heritage Items

In accordance with advice from the Office of Environment and Heritage (OEH), an Aboriginal Heritage Due Diligence assessment of the subject site has been undertaken.

The assessment, undertaken by Mary Dallas Consulting Archaeologists (see Supporting Documentation – *Studies*), identified that *'the most likely surviving evidence of past Aboriginal use within the subject land will be rock shelters with art and/or occupation deposit and axe grinding grooves, both associated with outcropping sandstone in the upper slopes of ridge areas'* and that *'the low-lying areas of the subject land are regarded as retaining Low Archaeological Potential'*.

Field investigations of the site to determine the existence, condition and validity of previously recorded sites and was also undertaken in consultation with the Darkinjung Local Aboriginal Land Council (DLALC) and Guringai Tribal Link Corporation (GTL). The assessment, consultation and reporting was

undertaken in accordance with the OEH *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales* (2010).

The Aboriginal Heritage Information Management System (AHIMS) Register identifies approximately eight (8) recorded Aboriginal sites within a 1km radius of the subject site, two of which are identified as occurring within the site. Both sites have been previously recorded and assessed.

AHIMS site #45-3-1103/45-3-1276 is a rock shelter with art and deposit in the north-western corner of the subject land.

AHIMS site #45-3-1104 (Wyong Creek) are four axe grinding grooves in the south-western portion of the subject land.

AHIMS site #45-3-1103/45-3-1276 was relocated during recent field investigations remains in good condition; however AHIMS site #45-3-1104 was not relocated during field investigations due to inaccessibility.

The above sites are within the proposed E2 zone and therefore will not be directly impacted by future development.

The report concludes that the areas proposed for future development are considered to have low archaeological potential and further investigation is not warranted at the rezoning stage. It is identified however that Aboriginal Heritage Management Plans are required to be prepared by a suitably qualified archaeologist in consultation with OEH, the DLALC and GTL as part of the development application process. This requirement has been incorporated into the site specific chapter of DCP 2013 (see Supporting Documentation – *Land Use Provisions*). Additionally, the site specific DCP chapter requires an inspection of the site by the DLALC and GTL post earthworks associated with any future subdivision of the site.

The subject site is also the site of the former Woodbury Farm Dairy, which operated during the early 1900's. The shire wide heritage review undertaken in 2010 did not identify this as being of local or state heritage significance.

Contaminated Land and Acid Sulfate Soils

The site was the location of the former Woodbury Farm Dairy, circa 1900. Whilst a dairy farm is not listed within Table 1 of the State Environmental Planning Policy (SEPP) 55 Guidelines for Managing Land Contamination as a potentially contaminating activity, additional agricultural land uses may have been undertaken in association with its operation. Furthermore, other activities have been undertaken on the site (e.g. illegal dumping) or as part of other land uses, which may have resulted in contamination.

The site is also identified as containing Class 4 and 5 acid sulphate soils.

To address the requirements of SEPP 55 and Section 117 Direction 4.1 Acid Sulphate Soils, a Stage 1 Contaminated Land Assessment and review of previous acid sulphate soils investigations (Douglas Partners, 1999) was undertaken by JBS&G (see Supporting Documentation – *Studies*).

A number of potential Contaminants and Areas of Environment Concern (COPC & AEC) were identified by the contaminated land assessment (see table below), which included a review of past title

ownership details, historical aerial imagery and property conditions (Section 149 Certificates) as well as a field investigation.

Area of Environmental Concern (AEC)	Contaminants of Potential Concern (COPC)
Potential historical application of pesticides associated with agricultural land use	Heavy metals and Organochlorine Pesticides (OCPs)
Potential for fill materials used to in fill dams, and areas of disturbed ground (motor bike track area and land adjacent site structures)	Heavy metals, Polycyclic aromatic hydrocarbons (PAHs), Total Petroleum Hydrocarbons (TPH)/ Benzene, Toluene, Ethylbenzene and Xylenes (BTEX), OCPs/ Polychlorinated Biphenyl (PCBs) and asbestos
Potential off-site impacts from neighbouring turf farm	Heavy metals, OCPs, nutrients and herbicides
Fibre cement sheet fragments identified on the ground surface	Asbestos
Existing and former site structures	Lead and asbestos
Stockpiled and/or dumped materials along the northern property boundary	Heavy metals, PAHs, TPH/ BTEX, OCPs/PCBs and asbestos
Storage of chemicals, fuels, oils and plant associated with past agricultural land use activities	Heavy metals, PAHs, TPH/ BTEX, OCPs and asbestos
Transmission towers	Lead

Table 5 – Areas of and Contaminants of Concern (Source: JBS&G 2014)

Whilst the investigation identified the potential for soil impacts to be present, it did not identify the potential for gross or widespread contamination which would prevent the rezoning. However, it has been recommended that a Detailed Site Investigation (DSI) be undertaken to support any future redevelopment of the subject site to address the AECs identified and a management plan be implemented. A Hazardous Building Material Survey (HBMS) is also required to be undertaken prior to the demolition of any existing structures and redevelopment of the site. These provisions have been incorporated into the site specific chapter of DCP 2013 (see Supporting Documentation – *Land Use Provisions*). These requirements satisfy the DUAP Guidelines for Contaminated Land (1998) with regard to the rezoning of the land for an alternate land use.

The assessment of acid sulphate soils determined that although the soils may be acidic in nature, they do not constitute potential or actual acid sulphate soils (PASS/ASS). As such, the site is suitable for the intended zoning and no further investigations or actions are required in this regard.

Flooding and Drainage

A small creek (which is part of the Deep Creek system) borders the north-western tree line of the clearing, whilst natural drainage channels form from the southern ridgeline which then flow northwards across the site. These channels are identified as designated 'blue lines'.

The drainage features meet in the north-eastern corner of the site and traverse under Old Maitland Road via a drainage culvert.

The site is affected by 1% Annual Exceedance Probability (AEP) event by a break out from Wyong River into Deep Creek up to an RL of approximately 7.65m. This covers the north-eastern portion of the site.

The north-western drainage channels of the clearing of the central portion of the site have been modified by man-made earthen culverts, being ephemeral in nature which overlay the site during flood or intense rainfall events. This area is identified for R5 Large Lot Residential zoning.

These areas are proposed to be the subject of cut and fill to enable future development of the site. Modelling indicates that flows from the south-eastern drainage features can be contained within a channel of 20m in width (see Supporting Documentation – *Studies*).

To address concerns identified by the OEH, and resolve inconsistencies with the Ministerial Section 117 Directions, those areas of the site which are indicated as being flood affected post fill are proposed to be zoned E3 Environmental Management, in addition to zoning of supporting vegetation corridor widths consistent with the guidelines of the NSW Office of Water.

It is noted that any proposed modification of the drainage features may constitute a Controlled Activity, therefore require further approval from the Office of Water under the provisions of the *Water Management Act 2000*.

In addition to this zoning, development controls for the future subdivision/development of the site have been incorporated within the supporting site specific chapter of DCP 2013 (see Supporting Documentation – *Land Use Provisions*). The controls specifically require a detailed site-specific overland flood study to determine the nature and extent of existing flooding, and an assessment of the flood impacts of any proposed development.

The outcomes of such study will further inform the developable area of the site.

Mine Subsidence

The subject site is located within the Wyong Mine Subsidence District.

Both the Mine Subsidence Board (MSB) and Department of Industry – Resources and Energy (Geological Survey NSW) have commented on the proposal.

It has been identified that resources with future extraction potential within the Fassifern Seam (in the upper/middle split) are located underneath the subject site.

Full longwall extraction of the resource is unlikely given its proximity to Mardi Dam (part of the Central Coast potable water supply system), however future mine plans for other areas of the Upper/Middle

Fassifern seam may result in first workings (headings and access tunnels) occurring under the subject site. Some mine subsidence may be possible.

Neither the MSB nor Department of Industry – Resources and Energy (Geological Survey NSW) have objected to the proposal. It is noted that future development will require concurrence from the MSB.

9. *Has the planning proposal adequately addressed any social and economic impacts?*

Social Issues

Impact & Amenity

The intended purpose of the proposal is to enable the provision a variety of residential products, including smaller lot village type housing, and large lot rural residential lots. The intent of the differing lot styles is to produce a development that will cater for a 'high end' market.

An assessment of the impact of future development of the site in terms of adjoining neighbours and demand/pressure on existing services and facilities has been undertaken by Sarah George Consulting (see Supporting Documentation – *Studies*). This assessment sought input and commentary from residents located in close proximity to the subject site as well as an analysis of the demographic data for the area.

The study indicates that whilst impacts associated from development noise and traffic movement may be present in the short term, the surrounding neighbours who were consulted were generally supportive of the proposal.

The demographic of the Wyong Valleys area is characterised as having high incomes, low unemployment, high rates of home ownership and high rates of employment in managerial and professional occupations. The intended market for site is consistent with the existing demographic base.

Future subdivision is to be in the form of community title and managed by a Community Plan of Management. It is expected that community facilities in the form of open space (formal and informal) will be provided on site to cater for the needs of future residents, therefore impact on existing Council community facilities will be minimised. Management works and costs would be the responsibility of the Community Title Trust. Notwithstanding this, any future development will still remain subject to applicable contributions to Council infrastructure under the applicable Section 94 Plans.

Additional requirements have also been incorporated in the site specific chapter of DCP 2013 (see Supporting Documentation – *Land Use Provisions*) to ensure that consideration is given to the location and design of community facilities on site, including their accessibility by the broader population.

Odour

Operating turf farms are located to the north of the property and along Yarramalong Road. That area of the site closest to operating farms is proposed to be zoned R5 Large Lot Residential and is located approximately 120m from this operation at the closest point. As yet, a final Masterplan has not been prepared for the subject site, therefore the location of future buildings and their proximity to other land uses is not yet determined.

Routine operational and management practices associated with the turf farm (including regular applications of pesticides and fertilisers) may result in odours being experienced by landholders in close proximity.

The Department of Primary Industries (Agriculture) advice ([Planning for Turf Farms, February 2014](#)) recommends a nominal buffer distance of 100m between operating turf farms, dwellings and other developments. Other additional management measures may also be required to be provided on the development site to prevent windborne dust and noise. Relevant provisions have been incorporated in the site specific Chapter of DCP 2013 in this regard (see Supporting Documentation – *Land Use Provisions*).

Noise and Acoustics

The site is located approximately 1km from the Sydney to Newcastle M1 Motorway.

An acoustic assessment of traffic noise by SLR Consulting (see Supporting Documentation – *Studies*) has been undertaken to determine the impact on future residential development. This assessment identified that additional construction requirements may be required for any future dwellings located along Old Maitland Road, where bedrooms are proposed to be facing this road.

Provisions have been incorporated the site specific Chapter of DCP 2013 to require the above (see Supporting Documentation – *Land Use Provisions*).

Section D – State and Commonwealth Interests

10. Is there adequate public infrastructure for the planning proposal?

Traffic

Access to the subject site is proposed by Old Maitland Road. In accordance with Roads and Maritime Services (RMS), Wyong Shire Council Civil Design Specification and Austroads Standards a channelised intersection will be required at this intersection. A secondary access onto Old Maitland Road for emergency purposes only will also be required. No individual allotment will be permitted direct access to Old Maitland Road.

A Traffic Impact Assessment prepared for the proposal. This concludes that that an intersection upgrade/treatment will be required at the Old Maitland Road/Yarramalong Road intersection.

Relevant provisions based on the outcomes of this study have been incorporated within the VPA relating to this land to ensure that any upgrades or treatment works are undertaken at the expense of the Proponent.

Additional information including further modelling of traffic impacts, final intersection designs, road safety audits and development of a Transport Management Plan will be required at subsequent development application stages.

Consultation has been undertaken with Transport for New South Wales (TfNSW) with regard to buses servicing the development. TfNSW has advised that given the isolated nature of the site and its size, it is unlikely that future development will warrant a separate frequent bus service (see Supporting Documentation – *Agency Responses*). The future site Masterplan however will be required to be designed to have regard for the recommendations of TfNSW with regard to the safe and efficient movement of buses, pedestrians and cyclists.

The RMS did not raise objections to the progression of the proposal however require that additional modelling of traffic impacts be undertaken prior to the lodgement of a subdivision/Masterplan for the future development of the site.

Provisions have been incorporated in the site specific chapter of DCP 2013 in regard to the matters identified by TfNSW and RMS (see Supporting Documentation – *Land Use Provisions*).

Services (Water, Sewer, Gas & Electricity)

Future development within the subject site is proposed to be connected to reticulated water and sewerage management infrastructure. The existing network has the capacity to cater for the proposed development.

A single connection/meter at the entrance of the site is proposed, with all infrastructure within the subject site being the responsibility of the Community Title Trust.

A proposal to provide sewer and water mains within the road reserves have 'in principle' support of Council. Two servicing options are available including from the site via Collies Lane or via Macphersons Road to connect to existing supply mains and pumping stations. The Collies Lane option will enable the potential connection of a number of other dwellings along the same alignment.

Servicing alignments along Old Maitland Road are not supported due to the existence of large critical trunk mains being located within the area.

Additional concept design and option assessment would need to be completed as part of a future development application for subdivision of the subject site. Additionally, any future sewerage pump station (SPS) would need to be designed to ensure 'fail safe' mitigation solutions to ensure that during the 1% AEP event, the SPS would not overflow into floodwaters which feed into Wyong River.

Power (electricity) is currently connected to the site. Servicing plans for the future provision of power and/or gas are required to be submitted as part of a future development application for subdivision of the subject site.

11. *What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?*

The gateway determination dated 25 September 2013 required consultation to be undertaken with the following government agencies, specifically requesting comment on relevant Section 117 Directions:

- Local Land Services (LLS)
- Transport for NSW – Roads and Maritime Services (RMS)
- NSW Rural Fire Service (RFS) regarding Section 117 Direction 4.4 Planning for Bushfire Protection)
- Department of Primary Industries – Agriculture (DPI-Ag) regarding Section 117 Direction 1.2 Rural Zones
- Office of Environment and Heritage (OEH) regarding S117 Directions 2.1 Environmental Protection Zones and 2.3 Heritage Conservation
- Mine Subsidence Board (MSB) regarding Section 117 Direction 4.2 Mine Subsidence and Unstable Land)
- Department of Industry – Resources and Energy (Geological Survey NSW) regarding Section 117 Direction 1.3 Mining, Petroleum Production and Extractive Industries
- Darkinjung Local Aboriginal Land Council (DLALC) regarding Section 117 Direction 2.3 Heritage Conservation
- Guringai Tribal Link Aboriginal Consultative Group (GTL) regarding Section 117 Direction 2.3 Heritage Conservation.

These agencies were requested via email/letter dated 14 October 2013 to provide comment regarding the proposal by 8 November 2013, in addition to defining the scope of further investigations to be completed by the Proponent. Agency comment was also sought during the exhibition of the proposal in 2015 and again in 2016, with comment.

The following table summarises the responses received and action taken to address any issues raised. The responses in full are provided within the supporting documentation (*Agency Responses*).

Agency	Submission Date/Doc	Advice	Response
Department of Planning and Environment (DP&E)	6 May 2014 D07512494	Subject site to be identified as an urban release area (URA), mapped accordingly and future development subject to the provisions of Part 6 of Wyong LEP 2013	Subject site mapped as URA and exhibited as such.
	28 July 2015 D12025512	Advice that further state agency consultation is being undertaken by DP&E	
	18 September 2015 D12090527	Subject site continue to be identified as an urban release area	
Guringai Tribal Link	Nil	No response received	Nil The agency was involved in the preparation of the Heritage Impact Assessment of the site.
Local Land Services	Nil	No response received	Further consultation has been undertaken with this agency following exhibition of the proposal to determine the role the <i>Native Vegetation Act 2003</i> would play in any future subdivision of the site in the event that it was not be addressed by the provisions of the <i>Threatened Species Conservation Act 1995</i> . Through discussions with the LLS, the VPA has been revised to ensure that any requirements for a Property Vegetation Plan (PVP) required by the agency will be established prior to a Development Application being lodged for the subdivision of the site.
Department of Primary Industries (Agriculture)	25 October 2013 D04181124	Subject site located in an area identified for intensive horticulture (Wyong Valleys Study). Potential land use conflicts with existing agricultural (horticultural – turf farms) operations, in terms of noise,	The classification and agricultural potential of the land is relatively low in comparison with the more valuable class 1 and 2 land located on the Kulnura/Somersby plateau area. It is in these areas where the majority of agricultural

Agency	Submission Date/Doc	Advice	Response
		<p>odour and dust impacts:</p> <p>Requires maintenance of adequate separation distances between development area and turf farms to be determined through and appropriate odour assessment.</p> <p>The proposal should not remove important agricultural resources and restrict opportunities for agricultural development if standard practices.</p>	<p>production opportunities exist, and where the economic benefits of agricultural land uses can be best realised. The transition of zoning is not considered likely to result in detrimental impact on the overall agricultural potential of the LGA, provided relevant measures to mitigate land use conflicts are implemented on-site. Existing vegetation to the north of the site between proposed development areas and existing operational agricultural land uses is proposed to be retained as E2 Environmental Conservation Zone.</p>
	<p>19 March 2015</p> <p>D11889958</p>	<p>Vegetation to the north of the site should be maintained and access to this area restricted.</p> <p>A process for addressing complaints and providing information to future residents regarding existing land uses should be developed and implemented. Site design and staging should maximise distances between potential land use conflict sources.</p>	<p>Provisions incorporated into the site specific chapter of DCP 2013 which require issues identified to be mitigated on the subject site through the location of dwellings/buildings and vegetative screening. Additionally, the site specific controls will require the Community Plan of Management to incorporate a process for addressing complaints and providing information to future residents regarding existing land uses in addition to additional objective to require consideration of the impacts of existing agricultural land uses within the locality.</p>
	<p>26 March 2016</p> <p>D12331192</p>	<p>The mapped biophysical strategic agricultural land incorporates the subject land</p>	

Agency	Submission Date/Doc	Advice	Response
Forestry Corporation	25 October 2013 D04153068	<p>Potential negative implications for Ourimbah State Forest:</p> <ul style="list-style-type: none"> - Increase in domestic pets predating on local wildlife (particularly Yellow bellied glider) - Increase in feral animals (particularly cats) which result in damage to small mammal, reptile and bird populations - Land use conflicts in terms of expectation of visual amenity, peace and quiet impacted by forestry operations including timber harvesting (and associated impacts e.g. dust and noise) and recreational/tourism uses - Expectations of maintenance of forestry roads to Council/RMS standards - Increases in forestry road usage by trail bikes, four wheels drives which increase maintenance costs for erosion and sedimentation control and environmental damage through the creation of unauthorised accesses and tracks. - Edge effects of residential development including illegal clearing and rubbish dumping - High bushfire risks to proposed development area from the east and limited emergency access opportunities - High bushfire risk to proposed western development area. Recommend exclusion. - No boundary fire trails currently exist in the adjoining area of forest. 	<p>The area which is proposed to contain the highest concentration of dwellings is located in the low lying plain of the site, and is surrounded by land which is proposed to be retained in Community Title Ownership. Provisions have been incorporated into the site specific Chapter of DCP 2013 which identifies the specific matters to be included within any Community Plan of Management to address these concerns.</p> <p>A Bushfire Assessment of the proposal and the site has been undertaken.</p> <p>This assessment concludes that future development on site will be able to comply with <i>Planning for Bushfire Protection 2006</i>.</p> <p>The Voluntary Planning Agreement supporting this proposal specifies that the Proponent will be required to upgrade Potters Gully Fire Trail in addition to the construction of a new Fire Trail adjoining Mardi Dam. Although no longer a signatory to the VPA, the Forestry Corporation has <i>consented to the upgrade of the fire trail</i>.</p>

Agency	Submission Date/Doc	Advice	Response
	3 March 2015 D11873179	Agreement to be a signatory to a VPA which includes upgrade of the Potters Gully Fire Trail located in the Ourimbah State Forest	
	14 April 2015 (duplicated 28 July 2015) D1191331	No longer requests to be signatory to VPA – request removal	
	28 August 2015 D12065818	Acknowledgement of removal of Forestry Corporation from VPA. Consent to upgrade of fire trail works (subject to necessary approvals and licences etc)	
Roads and Maritime Services	5 November 2013 D04288220	No objections or requirements	The site specific Chapter of DCP 2013 requires a number of matters to be addressed during the preparation of the site Development Application and Masterplan, including a requirement to undertake a Traffic Study to determine/address any traffic impacts. Additionally, consultation has been undertaken with Transport for NSW.
	30 April 2014 D07323809	Issues relating to Bus Servicing are to be considered by Transport for NSW, not RMS	
	7 May 2015 D11937257	No objections or requirements at the rezoning stage. Additional modelling of traffic impacts and a subdivision/Masterplan would be required at the development application stage	
	18 July 2016 D12403988	No objections or requirements at the rezoning stage. Additional modelling of traffic impacts and a subdivision/Masterplan would be required at the development application stage	
Darkinjung LALC	6 November	Revised due diligence assessment required to be	The Darkinjung LALC was involved in the preparation of

Agency	Submission Date/Doc	Advice	Response
	2013 D04277499	undertaken for Aboriginal Archaeology	an additional Heritage Impact Assessment of the site. Recommendations of the Darkinjung LALC have been incorporated into the requirements of the site specific Chapter of DCP 2013
Office of Resource & Energy (R&E)	7 November 2013 D04290326	Objection Concerns regarding the proposed rezoning due to the potential for future underground mining.	Further advice received from Department of Industry – Resources and Energy (Geological Survey NSW) which clarified the nature and extent of underlying resource which resolved this issue. Any future development of the land will be integrated development, therefore require the concurrence of the MSB. Notation of Section 149(5) certificates regarding this issue may be required to be undertaken should the amending instrument be made.
	27 March 2014 D06578897	Objection lifted Full extraction mining is discounted from occurring beneath the site; however future mine plans may require first workings in the form of headings and access tunnels in the area. Appropriate building guidelines to be adopted in accordance with Mine Subsidence Board guidelines.	
	8 May 2015 D11938663	Due to geological and surface constraints, full extraction mining is discounted from occurring beneath the Mardi Farm site, however future mine plans may require first workings in the form of headings and access tunnels in this area. GSNSW require that appropriate building guidelines and standards are adopted as per Mine Subsidence Board guidelines to cater for potential first workings	
	23 May 2016 D12344103	The GSNSW advice on this matter remains unchanged - will need to follow MSB guidelines to cater for potential first workings	
Mine Subsidence	24 October	Objection - Based on advice from Department of Industry	Further advice received from Department of Industry –

Agency	Submission Date/Doc	Advice	Response
Board	2013 D04290951	– Resources and Energy (Geological Survey NSW) anticipated vertical subsidence is in excess of 1m. Proposal does not take into account effect of flood levels at the property. Concern of proposed density – mine subsidence tilt and strain will be likely to damage structures. Development guidelines would limit the number and type of structures.	Resources and Energy (Geological Survey NSW) which clarified the nature and extent of underlying resource which resolved this issue. Any future development of the land will be integrated development, therefore require the concurrence of the MSB. Notation of Section 149(5) certificates regarding this issue may be required to be undertaken should the amending instrument be made.
	9 May 2014 D07706126	Objection lifted - Based on advice from MRB Future subdivision and surface development will require approval by the MSB	
NSW Rural Fire Service	8 November 2013 D04339833	Proposal unable to be assessed as a Bushfire Assessment Report is not available for consideration.	The proposed E4 Environmental Living Zones as previously exhibited have been replaced by E2 Environmental Conservation, leaving only the central portion of the site available for development/subdivision. The RU5 Village zone has also been replaced by the R5 Large Lot Residential zone. These amendments address the RFS concerns as: <ol style="list-style-type: none"> 1. It removes the additional sensitive land uses permissible under the RU5 Village Zone; and 2. It further allows regulatory authorities and the Proponent to respond more appropriately to the site constraints when considering the subdivision design and layout. Additional provisions for the establishment of internal perimeter roads and multiple access and egress
	20 February 2014 D05825053	Objection	
	9 January 2015 D11817664	Bushfire Assessment Report is not available for consideration. Supports rezoning of central development zone, however not has concerns with the rezoning of the Environmental Living Zone based on risks associated with proposed lot	

Agency	Submission Date/Doc	Advice	Response
		size, boundaries with National Park and conservation zones and steep slopes.	emergency routes have been incorporated within the site specific chapter of DCP 2013.
	10 March 2015 D11886616	As above	Additionally, the Voluntary Planning Agreement (VPA) will require the upgrade of the Potters Gully Fire Trail (adjoining the site and within Ourimbah State Forest), in addition to the construction of a new Fire Trail adjoining Mardi Dam. The VPA also establishes a requirement for the registration on title the ownership and management arrangements for, and locations of APZ's on the site.
	2 June 2015 D11967582	<p>Two unrestricted vehicular access points are to be provided to Old Maitland Road. A second alternative access to the R5 zoned land west of the creek line is also required to create an effective perimeter road.</p> <p>An 8m wide perimeter road to be provided to central development area (R5 zoned area) and RU6 Village areas. Such a road is also to be required for the R5 zoned land west of the creek line.</p> <p>Access roads, asset protection zones and dwellings within the E4 Environmental Living Zone are to be limited within 70m of the R5 or RU5 zone and not located on land which slopes in excess of 18° or ridges.</p> <p>Dwellings within the E4 zone are required to achieve a BAL Rating not exceeding 29.</p> <p>Proposed RU5 in the south-west and north-west enable a higher density of development in the interface with the bushfire hazard and allow land uses which are classified as Special Fire Protection Purpose (SFPP) Developments and require larger APZs. The uses may not be able to comply with the requirements of the PBP.</p>	Additional provisions incorporated as required within site specific DCP chapter to address riparian corridor concerns.
	20 October 2015	RFS remains opposed to location of RU5 Village zoning interfacing with the bushfire hazard due to the greater	

Agency	Submission Date/Doc	Advice	Response
	D12119812	density of people exposed to a higher risk	
	22 & 29 February 2016 D12243594 & D12252633	Objection removed. Recommendation that smaller lots should not be permissible with western development area. Minor amendments to DCP Chapter identified.	
	15 September 2016 D12471647 & 11 October 2016 D12492803	Following submission of additional detail to address verbal concerns regarding proposed riparian corridor, RFS advised this matter could be satisfactorily managed through relevant development control plan provisions. No objection to overall proposal, however western development portion (as proposed to be zoned R5) unable to be supported.	
	1 June 2017 D12739534	Objection removed based on additional information supplied by Proponent's bushfire consultant.	Refer to Supporting Documentation - <i>Studies</i>
Office of Water	12 November 2013 D04451187	No objections Any work within 40 of waterfront land may require a controlled activity approval.	Consultation with internal staff from Council's Water Supply Unit with regard to this issue have been undertaken to ensure that the proposal will not have a detrimental impact on Mardi Dam or the water supply system. Additional notation has been included in the site specific chapter of DCP 2013 which identifies that any modification of designated watercourses will require approval under the provisions of the <i>Water Management Act, 2000</i> .
	28 June 2016 D12381754	No detailed comments. Advice of 12 November still relevant.	

Agency	Submission Date/Doc	Advice	Response
Office of Environment and Heritage	19 November 2013 D04452877	<p>The Planning Proposal should avoid impacts on high conservation values. Residual impacts which cannot be mitigated should be offset. The proposal should achieve an 'improve or maintain' outcome utilising the Biodiversity Assessment Calculation methodology.</p> <p>Private conservation as proposed is unlikely to lead to coherent and ongoing management of environmental assets – provision for protection in perpetuity (ref measures in Section 126L TSC Act).</p> <p>The proposal is inconsistent with Section 117 Direction 2.1 Environment Protection Zones - areas zoned E3 are proposed to be zoned R5, presenting a reduction in environmental protection.</p> <p>Flooding is likely to be a significant constraint – additional investigation is required.</p> <p>Revised due diligence assessment required to be undertaken for Aboriginal Archaeology in accordance with <i>Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW</i> (September 2010).</p> <p>An active Aboriginal cultural heritage management strategy should be put in place to ensure sites are protected from any impacts associated with future development.</p>	<p>The Darkinjung LALC and Guringai Tribal Link were involved in the preparation of an additional Heritage Impact Assessment of the site. Those areas of high archaeological significance are not within the vicinity of the land proposed for future development.</p> <p>Recommendations of the Darkinjung LALC were incorporated into the requirements of the site specific Chapter of DCP 2013.</p> <p>The E4 area as previously exhibited have been changed to an E2 zone, inclusive of the larger areas that contain individuals of <i>Melaleuca biconvexa</i>. Riparian corridors have also been identified on the revised zoning plan as E3 Environmental Management zones.</p> <p>The Voluntary Planning Agreement has been amended to require the Proponent to secure appropriate offsets prior to the lodgement of a Development Application for the subdivision of the site using the BioBanking Assessment Methodology, as well complying with any requirements of the <i>Native Vegetation Act, 2003</i> or other legislation that is effective at the time.</p> <p>The original flood report prepared for the site was not included within the material exhibited with the original proposal on the basis that the accuracy of the modelling was not supported. The Proponent has since undertaken revised flood modelling utilising additional groundtruthed site specific survey data to provide a revised report.</p> <p>This report, which assesses the impacts of indicative fill</p>
	5 May 2015 D11933855	The inclusion of the proposed E4 zoning, the proposed minimum lot size, and the development that is proposed to occur within the zone will not achieve an 'improve or maintain'.	

Agency	Submission Date/Doc	Advice	Response
		<p>There are no details of what 'intensive searches' for Koala activity is considered to be and what methodology was applied and where.</p> <p>The proposal should be modified to avoid impacts to the individuals of <i>Melaleuca biconvexa</i>.</p> <p>No mechanism for securing the proposed offsets has been proposed within the planning proposal.</p> <p>OEH does not support any development impacts to the known Aboriginal sites and is only supportive of the proposed rezoning if these three sites are protected from any development impacts.</p> <p>No information was provided as part of the Planning Proposal that indicates the extent of floodprone land on this site. Council needs to satisfy itself that the proposed rezoning will not result in an intensification of land use within the floodprone area and ensure consistency with the Local Planning Direction 4.3. No suitable comment can be provided on the Planning Proposal until additional information is received on the floodplain management components on the proposal.</p>	<p>pads, identifies that the filling proposed will have a negligible impact on adjoining land and that overland flood impacts can be adequately managed or contained on-site.</p> <p>The OEH have advised that this information is satisfactory to address the inconsistencies with Section 117 Direction 4.3 – Flood Prone Land.</p> <p>The NSW Office of Water has not objected to the progression of the proposal, however will be provided with the opportunity to make further comments on the proposal during its re-exhibition.</p> <p>OEH was referred to site specific DCP chapter re Aboriginal Cultural Heritage. OEH to be included in section 2.10(a) as a consultation body during heritage plan preparation. Response dated 30 May 2016 (D12349051) indicates the provisions address this concern.</p> <p>Further advice sought from Department of Planning and Environment -advice received (D12356756) that on the basis of existing precedent, the URA map should apply to the entirety of the site. OEH's preference remains for mapping to apply only to developable area, however concedes to the DP&E position (D12366095).</p> <p>On the basis of advice from Office of Water (D12381754) objections to proposal removed (D12383700).</p>
	13 July 2015 D12008201	<p>Advice provided which indicates difficulties in achieving a retrospective Biocertification of the site, including discretionary powers of the Minister and the potential 'red flags' on the site.</p> <p>Issues regarding biodiversity, Aboriginal cultural heritage, and flooding that do not appear to have been addressed.</p>	

Agency	Submission Date/Doc	Advice	Response
	21 September 2015 D12093265	OEH agree to remove objection provided the E4 zone is changed to an E2 zone, and Council and the Proponent enter into a planning agreement which requires the Proponent to quantify and retire the credits for the biodiversity values present within the revised developable areas using the BioBanking Assessment Methodology.	
	19 October 2015 D12118222	It would be more appropriate to have zone boundaries aligned with constraints. The proposed RU5 zoned area adjacent to Old Maitland Road in the north-west of the site, is almost wholly located on floodprone land and thus is not a considered suitable land use for this area. The NSW Office of Water should be further consulted. The rezoning proposal is not supported on floodplain management grounds	
	3 December 2015 D12169587	For the purposes of rezoning with the proposal in its current form, the flood impacts are considered manageable and the inconsistencies with Section 117 Direction 4.3 to be of minor significance. Advice: <ol style="list-style-type: none">1. The NSW Office of Water should be further consulted.2. Council should consider a zoning of the site which is more suitable to the constraints of the area and intended use.	
	30 May 2016 D12348871	Proposal adequately addresses biodiversity concerns. Further clarification around protection of Aboriginal	

Agency	Submission Date/Doc	Advice	Response
	30 May 2016 D12349051 15 June 2016 D12366198 29 June 2016 D12383700	Cultural Heritage required No agreement to mapping of entire site as an Urban Release Area (URA) and objection re flooding maintained until DPI-Water has provided comment on current proposal. Objection re flooding removed	
Transport for NSW (TNSW)	1 May 2014 D07480690	No objection. Due to isolated nature if site/proposal bus services not likely to be generated. Proposal should consider S117 Direction 3.4 Integrating Land Use & Transport. Road width & design should enable bus access and operation.	Provisions incorporated into site specific DCP Chapter 2013 in relation to Masterplan street layouts and design considerations for bus and pedestrian 'friendly' roads and accesses. Further detail has been incorporated within the proposal to demonstrate how the considerations of Section 117 Direction 3.4 have been addressed.
	17 April 2015 D11918475	Proposal needs to demonstrate how Section 117 Direction 3.4 Integrated Land Use Transport is addressed.	
	9 May 2016 D12331392	No further comments	

Table 4: Agency Consultation

Part 4 Mapping

The mapping of existing land use development controls and those proposed to be implemented through the amendment are identified below and provided in the supporting documentation (*Mapping*).

Map	Map Title
A.	Locality Plan
B.	Current Zoning – Wyong LEP 2013 (Extracts of LZN_007&_LZN_007B)
C.	Current Minimum Lot Size – Wyong LEP 2013 (Extracts of LSZ_007 & LSZ_007B)
D.	Proposed Zoning – Wyong LEP 2013 (Extracts from amendments LZN_007 & LZN_007B)
E.	Proposed Minimum Lot Size – Wyong LEP 2013 (Extracts from amendments to LSZ_007 & LSZ_007B)
F.	Proposed Dwelling Density Map – Wyong LEP 2013 (Extracts from new maps LAZ_007 & LAZ_007B)
G.	Proposed Urban Release Area – Wyong LEP 2013 (Extracts from new maps URA_007 & URA_007B)

Table 5: Existing and Proposed Provisions

Part 5 Community Consultation

The Proposal, Development Control Plan (DCP) 2013 amendment (locality specific Chapter 6.24 - Rural Residential Development, Mardi) and associated Voluntary Planning Agreement (VPA) have been exhibited for community consultation purposes twice, once in early 2015 and again between April and June of 2016. The period for exhibition was extended on both occasions in response to requests from the community.

The Proposal was exhibited initially from 18 March - 15 May 2015. One hundred and eighteen (118) submissions were received in response to the exhibition of the Proposal, DCP Chapter and VPA during this period.

These consisted of:

- six (6) public authority submissions from DPI – Ag, DoI – R&E, RMS, TfNSW, inclusive two (2) public authority objections from the RFS and OEH;
- one hundred and eight (108) community member objections (approximately 56 of which were objections by way of form letters); and
- two (2) letters of support.

Three (3) submissions providing further guidance and recommended amendments to land use provisions were also received from staff of the former WSC.

In order to respond to the issues raised by submissions additional information was sought from the Proponent and further liaison undertaken with relevant State Government agencies. Consequently, the following amendments were made to the proposal:

- Amendment of the Voluntary Planning Agreement (VPA) to ensure that land in the locality will be established as in perpetuity Biobank sites under the provisions of the Threatened Species Conservation (TSC) Act, 1995 (or any amended legislative provisions).
- The area proposed for conservation increased from 55% to 75% through zone boundary modification and removal of the proposed E4 Environmental Living zone.
- Removal of the RU5 village zone and replacement by the R5 Large Lot Residential.
- Introduction of a zoned (E3 Environmental Living) riparian corridor for those areas of the subject to high hazard overland flow post fill.
- Further amendments and clarifications to the site specific chapter of DCP 2013.

On the basis of the extent of the above amendments, the Proposal was further exhibited from 20 April - 10 June 2016. Ninety-one (91) submissions were received in response to the exhibition of the Proposal, DCP Chapter and VPA during this period.

These consisted of:

- seven (7) public authority submissions from DPI – Ag, DoI – R&E, TfNSW, RFS, OEH, RMS and the Department of Primary Industries – Water (DPI – Water).
- Sixty (60) submissions objecting to the proposal (approximately 28 of which were objections by way of form letters); and
- Twenty-six (26) letters of support (approximately 12 of which were a type of pre-drafted form letter).The planning proposal has previously been publicly exhibited between 18 March and 1 May

2015. Both the site specific Chapter of DCP 2013, Voluntary Planning Agreement (VPA) were also exhibited during this period.

Notifications of the exhibitions were printed in the Central Coast Express Advocate, in addition to direct notification by letter of approximately 134 properties in the Alison, Mardi and Wyong Creek areas. Those who previously commented on the proposal in 2015 were also notified of the exhibition which occurred in 2016.

The proposal, supporting documentation, DCP 2013 and VPA were available for download from Council's website and a hardcopy was available to view in Council's Civic Centre, Hely Street Wyong and at Tuggerah Library and Information Centre, Westfields Shopping Complex, Tuggerah during the exhibition period.

Detailed responses to the issues raised by submissions from the community, including how the proposal addresses these issues or has been amended to do so, is provided within the supporting documentation (*Assessment & Endorsement*). In summary, the following issues were identified:

- Consistency with the Central Coast Regional Plan (2008), Wyong Shire Settlement Strategy (2013) and Wyong Local Environmental Plan (2013);
- Consistency with the Gateway determination;
- Consistency with Section 117 Ministerial Direction 4.3 Flood Planning, Floodplain Development Manual, Lower Wyong River Floodplain Risk Management Plan;
- Scale and potential lot numbers;
- Land use conflict – amenity and traffic generation;
- Water and sewer provision/servicing and road upgrades;
- Environmental impacts – vegetation removal;
- Broader water catchment area pollution (sewage overflow, groundwater contamination);
- Bushfire risk;
- Disturbance of contaminated structures and acid sulfate soils;
- Market targeted not guaranteed;
- Access control – Mardi Dam and Ourimbah State Forest;
- Complexity and language of documentation on exhibition

It is considered that the proposal as documented within the foregoing detail, demonstrates that the issues raised have been adequately addressed.

Part 6 Project Timeline

Action	Period	Start Date	End Date
Anticipated commencement date (date of Gateway Determination)	N/a	6 June 2013	25 September 2013
Anticipated timeframe for the completion of required technical information	12 months	30 September 2013	28 February 2015
Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)	21 days	14 October 2013	8 November 2013
Commencement and completion dates for public exhibition	43 days	18 March 2015	1 May 2015
Dates for public hearing (if required)	N/a	N/a	N/a
Timeframe for consideration of submissions	60 weeks	18 March 2015	20 April 2016
Re-exhibition	43 days	20 April 2016	10 June 2016
Timeframe for consideration of a proposal post exhibition ¹	28 weeks	20 April 2016	9 November 2016
Date of submission to the Department to finalise LEP ²	56 weeks	9 November 2016	5 December 2017
Anticipated date RPA will make the plan (if delegated) ³	8 weeks	5 December 2017	25 January 2018
Anticipated date RPA will forward to the Department for notification	1 day	1 February 2018	1 February 2018

Table 6: Key Project Timeframes

¹ Period includes further consideration of proposal by Council

² Period includes signoff of Section 117 Directions, issuing and consideration of alterations to the Gateway Determination (by Council and other agencies) and amendments to the proposal as required

³ Period includes drafting of instrument and obtaining PC Opinion & plan making by CEO

Supporting Documentation

No.	Document
01 Assessment and Endorsement	
A.	Council Report and Minutes – 27 March 2013
B.	Council Report ¹ and Minutes – 26 October 2016
C.	Council Report and Minutes – 22 March 2017
D.	Council Report and Minutes – 26 July 2017
E.	Wyong Shire Settlement Strategy – Letter of Endorsement – 17 September 2013
F.	Gateway Determination – 25 September 2013
G.	Written Authorisation to Exercise Delegation – 25 September 2013
H.	Gateway Extension – 16 April 2015
I.	Gateway Extension – 12 March 2016
J.	Gateway Extension – 13 September 2016
K.	Gateway Alteration – 27 January 2017
L.	Gateway Extension – 26 February 2017
M.	Gateway Alteration – 10 July 2017
N.	Gateway Extension – 6 September 2017
O.	Central Coast Regional Strategy Sustainability Assessment
P.	Section 117 Ministerial Direction Assessment
Q.	State Environmental Planning Policy Assessment
R.	Wyong Shire Council Community Strategic Plan Assessment
S.	Submission Issues and Responses
T.	Gateway Condition Compliance Check Sheet
02 Land Use Provisions	
A.	Land Use Tables - Wyong LEP 2013
B.	Development Control Plan 2013: Chapter 6.25 – Rural Residential Development (As endorsed 26 October 2016)
C.	Voluntary Planning Agreement (As endorsed 26 October 2016 – not yet executed)

No.	Document
03 Agency Responses	
A.	Darkinjung Local Aboriginal Land Council
B.	Department of Industry - Resources & Energy (Geological Survey NSW)
C.	Department of Planning & Environment
D.	Department of Primary Industries (Agriculture)
E.	Forestry Corporation
F.	Mine Subsidence Board
G.	NSW Office of Environment & Heritage
H.	NSW Roads & Maritime Services
I.	NSW Rural Fire Service
J.	Office of Water
K.	Transport for NSW
04 Mapping	
A.	Locality Plan
B.	Current Zoning – Wyong LEP 2013 (Extracts of LZN_007&_LZN_007B)
C.	Current Minimum Lot Size – Wyong LEP 2013 (Extracts of LSZ_007 & LSZ_007B)
D.	Proposed Zoning – Wyong LEP 2013 (Extracts from amendments LZN_007 & LZN_007B)
E.	Proposed Minimum Lot Size – Wyong LEP 2013 (Extracts from amendments to LSZ_007 & LSZ_007B)
F.	Proposed Dwelling Density Map – Wyong LEP 2013 (Extracts from new maps DWD_007 & DWD_007B)
G.	Proposed Urban Release Area – Wyong LEP 2013 (Extracts from new maps URA_007 & URA_007B)
05 Supporting Studies	
A.	Biosis (2014) Flora and Fauna Report & Offsetting Investigations

No.	Document
B.	Cardno (2014) Water and Sewer Servicing Strategy
C.	Cardno (2016) Traffic Impact Assessment
D.	JBS & G (2014) Preliminary Phase 1 Contamination and Acid Sulfate Soil Investigation
E.	Mary Dallas Consulting Archaeologists (2014) Heritage Impact Assessment
F.	Paterson Consultants (2014) Flood Report
G.	Paterson Consultants (2015) Flood Report
H.	Sarah George Consulting (2014) Social Impact Assessment
I.	SLR Consulting (2014) Traffic Noise Impact Assessment
J.	Travers (2014) Bushfire Assessment Report and Travers (2017) Letter to RFS
06 Project Management	
A.	Project Timeline

Table 7: Supporting Documentation to the Planning Proposal

Notes:

¹ To avoid duplication of material and reduce electronic file sizes, attachments 1, 2 and 3 of this report are contained within the relevant Supporting Documentation sections of this proposal (i.e. 02 Land Use Provisions in respect of Attachments 1 and 2, and 05 in respect to Attachment 3)

Drafting Process for WLEP 2013 Amendment No. 17

Draft Instrument Version (PC reference)	Date	Issues/Amendments Requested
e2017-321.d03	14 December 2017	Update of clause to address the following matters: <ul style="list-style-type: none"> - Reference to community title schemes - Application of the clause to land zoned R5 Low Density Residential - Character of the subdivision - Subsequent use of the clause - removal of the E3 zone from the existing clause (Cl 5.3(a))
e2017-321.d04	6 March 2018	Update of clause to address the following matters: <ul style="list-style-type: none"> - Clause Objective - Subsequent use of the clause - Deleted Clause 5.3
e2017-321.d05	12 April 2018	Update of clause to address the following matters: <ul style="list-style-type: none"> - Ordering of Application of / Exceptions to the Clause (Cl. 7.19)
e2017-321.d07	17 April 2018	Update of clause to address the following matters: <ul style="list-style-type: none"> - Application and purpose of the Dwelling Density (DWD) map <p>(Note: e2017-321.d06 was not received by Council)</p>
e2017-321.d09	23 April 2018	Update of clause to address the following matters: <ul style="list-style-type: none"> - No amendment of DWD maps proposed <p>(Note: e2017-321.d08 was not received by Council)</p>
e2017-321.d13	30 April 2018	Final instrument issued with PC opinion. Further opportunity to comment on subsequent amendments (or comment on amendments made to reflect updates were not afforded to Council prior to the issue of PC opinion. (Note: e2017-321.d10 - 12 were not received by Council)



New South Wales

Wyong Local Environmental Plan 2013 (Amendment No 17)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*.

Minister for Planning

Wyong Local Environmental Plan 2013 (Amendment No 17)

under the

Environmental Planning and Assessment Act 1979

1 Name of Plan

This Plan is *Wyong Local Environmental Plan 2013 (Amendment No 17)*.

2 Commencement

This Plan commences on the day on which it is published on the NSW legislation website.

3 Land to which Plan applies

This Plan applies to the land to which *Wyong Local Environmental Plan 2013* applies.

4 Maps

The maps adopted by *Wyong Local Environmental Plan 2013* are amended or replaced, as the case requires, by the maps approved by the Minister on the making of this Plan.

Schedule 1 Amendment of Wyong Local Environmental Plan 2013

[1] Clause 4.1C

Insert after clause 4.1B:

**4.1C Exceptions to minimum subdivision lot size for certain large lot residential
development**

- (1) The objective of this clause is to enable appropriate subdivision of certain land, so as to provide for a range of lot sizes consistent with those of a rural village.
- (2) Despite clause 4.1, development consent may be granted under this clause for the subdivision of land shown on the Dwelling Density Map in relation to the land if:
 - (a) any lot created by the subdivision that has an area that is less than the minimum lot size shown on the Lot Size Map in relation to the land has a minimum area of 900m², and
 - (b) no more than 30% of the area of lots created by the subdivision has an area that is less than the minimum lot size shown on the Lot Size Map in relation to the land, and
 - (c) the development will not result in there being a total number of more than 300 lots comprising land shown on the Dwelling Density Map, and
 - (d) the consent authority is satisfied that the carrying out of the development is consistent with the character of the locality as a rural village.

[2] Clause 4.6 Exceptions to development standards

Insert “4.1C,” after “4.1A,” in clause 4.6 (8) (ca).

[3] Clause 5.3 Development near zone boundaries

Omit clause 5.3 (2). Insert instead:

- (2) This clause applies to:
 - (a) so much of any land that is within 20 metres of a boundary between any 2 zones, and
 - (b) land shown on the Dwelling Density Map.

[4] Clause 5.3 (3) (a)

Omit “, Zone E3 Environmental Management”.

[5] Dictionary

Insert in alphabetical order:

Dwelling Density Map means the Wyong Local Environmental Plan 2013 Dwelling Density Map.

From: Jenny Mewing
Sent: Wednesday, 21 February 2018 10:13 AM
To: 'Soula Papadopoulos'; Jenny Mewing
Cc: 'Scott Duncan (Scott.Duncan@centralcoast.nsw.gov.au)'
Subject: TRIM: RE: Wyong Local Environmental Plan 2013 (Amendment No 17) [e2017-321 d]

HP TRIM Record Number: D13162534

Soula,

Apologies for the delay in providing a response. This is a particularly difficult site and has required some further detailed discussions internally.

1. Schedule of Amendments [1] Clause 4.1C

Issue A: Reference to community title schemes

Issue:

The Planning Proposal identifies that in order to resolve issues relating to biodiversity bushfire management etc. future subdivision of the land needs to be a community title subdivision.

Clause 4.1AA of specifies that "The size of any lot resulting from a subdivision of land to which this clause applies (other than any lot comprising association property within the meaning of the Community Land Development Act 1989) is not to be less than the minimum size shown on the Lot Size Map in relation to that land" meaning that the intent of the draft instrument (i.e. small lot subdivision) cannot be achieved.

Amendments required:

- i) The title of Clause 4.1C is to be amended to the following "*Exceptions to minimum subdivision lot size under community title schemes for certain large lot residential development*"
- ii) Subclause 4.1C(2) is to include reference to clause 4.1AA, i.e. "*Despite clauses 4.1 and 4.1AA*"
- iii) Subclause 4.1C(2) is to include a new subsection (a) and renumbering of subsequent subsections, i.e. *(a) all lots created are within a community title scheme, under the Community Land Development Act, 1989*

Issue B: Application of the clause to land zoned R5 Low Density Residential

Issue:

It is the intent of the proposal that only that land which is wholly zoned R5 Large Lot Residential should be the subject of development. The draft clause does not make this distinction.

Amendments required:

- i) Subclause 4.1C(2) is to be amended to reference the R3 zone, i.e. "*Despite clauses 4.1 and 4.1AA, development consent may be granted under this clause for the subdivision of land shown on the Dwelling Density Map in relation to land wholly zoned R5 if:*"

Issue C: Character of the subdivision

Issue:

The Planning Proposal identifies that the character of the subdivision is to be consistent with and retain a predominant rural/large lot residential character. The wording at present identifies a rural village character - this does not accurately define the type of development intended for the site. The rural/large lot residential character is more easily identifiable as lost comprising large frontages and road setbacks, scattered canopy cover, rural fencing etc. etc. It is only the lot sizes that are consistent with a rural village, i.e. the smaller lots.

Amendments required:

- i) Subclause 4.1C(2)(e) (as renumbered) is to be amended, i.e. *“the consent authority is satisfied that the subdivision of land to which this clause applies retains a predominant rural/large lot residential character”*.

Issue D: Subsequent use of the clause

Issue:

It is the intent of the Planning Proposal to restrict the total yield of the site to 300 lots. This can only be enforced through the “call up” of the Dwelling Density (DWD) map. The draft clause does not prevent a secondary subdivision application being made under the provisions of Clause 4.1 to further subdivide the land without having reference to the DWD Map, thus more than 300 lots could be created on the land.

Amendments required:

- i) A new Subclause 4.1C(4) is required i.e. *“Any lots created using the provisions of the clause cannot be further subdivided”*

2. Schedule of Amendments [4] Clause 5 (3) (a)

Issue A: removal of the E3 zone from the existing clause

Issue:

It is not the intent of the Planning Proposal to apply the provisions of 5.3 Development Near Zone Boundaries to all land subject to WLEP 2013 and zoned E3 Environmental Management. The Planning Proposal only seeks to enable the application of this provision to the land subject to the draft instrument. The Schedule of Amendments [3] achieves this intent.

Amendments required:

- i) Delete amendment [4] Clause 5 (3) (a)

Should you require additional information, please advise.

Kind regards

From: Soula Papadopoulos [<mailto:SOULA.PAPADOPOULOS@PCO.NSW.GOV.AU>]

Sent: Thursday, 14 December 2017 6:26 PM

To: Jenny Mewing

Subject: TRIM: Wyong Local Environmental Plan 2013 (Amendment No 17) [e2017-321 d]

Jenny,

A draft plan is attached, for your consideration.

Please contact me if you have any questions or comments.

Regards,

Soula Papadopoulos
Assistant Parliamentary Counsel

NSW Parliamentary Counsel's Office | Level 1, 60 Elizabeth Street, Sydney NSW 2000 | GPO Box 4191, Sydney NSW 2001



New South Wales

Wyong Local Environmental Plan 2013 (Amendment No 17)

under the

Environmental Planning and Assessment Act 1979

The following local environmental plan is made by the local plan-making authority under the *Environmental Planning and Assessment Act 1979*.

.....

Wyang Local Environmental Plan 2013 (Amendment No 17)

under the

Environmental Planning and Assessment Act 1979

1 Name of Plan

This Plan is *Wyang Local Environmental Plan 2013 (Amendment No 17)*.

2 Commencement

This Plan commences on the day on which it is published on the NSW legislation website.

3 Land to which Plan applies

This Plan applies to the land to which *Wyang Local Environmental Plan 2013* applies.

4 Maps

The maps adopted by *Wyang Local Environmental Plan 2013* are amended or replaced, as the case requires, by the maps approved by the local plan-making authority on the making of this Plan.

Schedule 1 Amendment of Wyong Local Environmental Plan 2013

[1] Clause 4.1C

Insert after clause 4.1B:

4.1C Exceptions to minimum subdivision lot size under community title schemes for certain large lot residential development

- (1) The objective of this clause is to enable appropriate subdivision of certain land, so as to provide for a range of lot sizes consistent with those of a rural village.
- (2) This clause applies to land that is:
 - (a) shown on the Dwelling Density Map, and
 - (b) wholly within Zone R5.
- (3) Despite clauses 4.1 and 4.1AA, development consent may be granted for the subdivision of land to which this clause applies if:
 - (a) the land was not previously subdivided under this clause, and
 - (b) any lot created by the subdivision is within a community title scheme under the *Community Land Development Act 1989*, and
 - (c) any lot created by the subdivision that has an area that is less than the minimum lot size shown on the Lot Size Map in relation to the land has a minimum area of 900m², and
 - (d) no more than 30% of the lots created by the subdivision have an area that is less than the minimum lot size shown on the Lot Size Map in relation to the land, and
 - (e) the development will not result in there being a total number of more than 300 lots comprising land shown on the Dwelling Density Map, and
 - (f) the consent authority is satisfied that the subdivision of land will not affect the retention of the predominantly rural/large lot residential character of the locality.

[2] Clause 4.6 Exceptions to development standards

Insert “4.1C,” after “4.1A,” in clause 4.6 (8) (ca).

[3] Dictionary

Insert in alphabetical order:

Dwelling Density Map means the Wyong Local Environmental Plan 2013 Dwelling Density Map.

Jenny Mewing

From: Jenny Mewing
Sent: Tuesday, 20 March 2018 11:54 AM
To: 'Soula Papadopoulos (SOULA.PAPADOPOULOS@PCO.NSW.GOV.AU)'
Cc: 'Scott Duncan (Scott.Duncan@centralcoast.nsw.gov.au)'
Subject: TRIM: RE: Wyong Local Environmental Plan 2013 (Amendment No 17) [e2017-321 d]

HP TRIM Record Number: D13184340

Dear Soula,

Please find below further revisions required to the draft instrument for Wyong Local Environmental Plan 2013 (Amendment No 17) [e2017-321 d]

1. Schedule of Amendments [1] Clause 4.1C

Issue A: Clause Objective

Issue:

The Planning Proposal identifies that the character of the subdivision is to be consistent with and retain a predominant rural/large lot residential character. The wording at present identifies a rural village character - this does not accurately define the type of development intended for the site. The rural/large lot residential character is more easily identifiable as lost comprising large frontages and road setbacks, scattered canopy cover, rural fencing etc. etc.

Amendments required:

- i) Subclause 4.1C(2) is to be amended to reflect this object, i.e. *"The objective of this clause is to enable appropriate subdivision of certain land, so as to provide for a range of lot sizes, whilst retaining a predominant rural/large lot residential character"*

Issue B: Subsequent use of the clause

Issue:

It is the intent of the Planning Proposal to restrict the total yield of the site to 300 lots. This can only be enforced through the "call up" of the Dwelling Density (DWD) map. The draft clause does not prevent a secondary subdivision application being made under the provisions of Clause 4.1 to further subdivide the land without having reference to the DWD Map, thus more than 300 lots could be created on the land. The current wording of 4.1C(3)(a), based on the potential interpretation of "land" is insufficient to address this issue.

Amendments required:

- i) Subclause 4.1C(3)(a) is to be amended e.g. *"the land was not created by a previous subdivision under this clause"*

2. Schedule of Amendments [X] Clause

Issue A: Deleted Clause

Issue:

Schedule of Amendments [3] Clause of the previous draft instrument (dated 14/12/17) has been deleted in full.

The Planning Proposal seeks to enable the application Wyong Local Environmental Plan 2013 Clause 5.3 to the land (in particular land within 20 metres of a boundary zoned E3 and R5) subject to the draft instrument.

Amendments required:

- i) Redrafting of a revised **Clause 5.3 Development near zone boundaries** to reflect the intent of the Planning Proposal.

Kind regards

From: Jill Wayment [<mailto:jill.wayment@pco.nsw.gov.au>]

Sent: Tuesday, 6 March 2018 4:41 PM

To: Jenny Mewing

Subject: TRIM: Wyong Local Environmental Plan 2013 (Amendment No 17) [e2017-321 d]

Dear Jenny

Soula Papadopoulos has asked me to send you the attached draft as her computer has been having problems with attachments today.

Kind regards

Jill Wayment

A/Executive Assistant to the PC

NSW Parliamentary Counsel's Office | Level 1, 60 Elizabeth Street, Sydney NSW 2000 | GPO Box 4191, Sydney NSW 2001

T 02 9321 3315 | **E** jill.wayment@pco.nsw.gov.au



New South Wales

Wyong Local Environmental Plan 2013 (Amendment No 17)

under the

Environmental Planning and Assessment Act 1979

The following local environmental plan is made by the local plan-making authority under the *Environmental Planning and Assessment Act 1979*.

.....

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under the

Environmental Planning and Assessment Act 1979

1 Name of Plan

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2 Commencement

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Schedule 1 Amendment of Wyong Local Environmental Plan 2013

[1] Clause 4.1C

Insert after clause 4.1B:

4.1C Exceptions to minimum subdivision lot size under community title schemes for certain large lot residential development

- (1) The objective of this clause is to enable appropriate subdivision of certain land, so as to provide for a range of lot sizes whilst retaining a predominantly rural and large lot residential character.
- (2) This clause applies to land that is wholly within Zone R5 and is shown on the Dwelling Density Map as land to which this clause applies.
- (3) Despite clauses 4.1 and 4.1AA, development consent may be granted for the subdivision of land to which this clause applies if:
 - (a) none of the lots being subdivided was created by a previous subdivision under this clause, and
 - (b) any lot created by the subdivision is within a community title scheme under the *Community Land Development Act 1989*, and
 - (c) any lot created by the subdivision that has an area that is less than the minimum lot size shown on the Lot Size Map in relation to the land has a minimum area of 900m², and
 - (d) no more than 30% of the lots created by the subdivision have an area that is less than the minimum lot size shown on the Lot Size Map in relation to the land, and
 - (e) the development will not result in there being a total number of more than 300 lots comprising land shown on the Dwelling Density Map, and
 - (f) the consent authority is satisfied that the subdivision of land will not affect the retention of the predominantly rural/large lot residential character of the locality.

[2] Clause 4.6 Exceptions to development standards

Insert “4.1C,” after “4.1A,” in clause 4.6 (8) (ca).

[3] Clause 5.3

Omit the clause. Insert instead:

5.3 Development near zone boundaries

[Not adopted]

[4] Clause 7.19

Insert after clause 7.18:

7.19 Development near zone boundaries

- (1) The objective of this clause is to provide flexibility where the investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone.

- (2) This clause applies to so much of any land that is within the relevant distance of a boundary between any 2 zones. The relevant distance is 20 metres.
- (3) This clause does not apply to land in Zone E3 Environmental Management unless the land is shown on the Dwelling Density Map as land to which clause 4.1C applies.
- (4) This clause does not apply to:
 - (a) land in Zone RE1 Public Recreation, Zone E1 National Parks and Nature Reserves, Zone E2 Environmental Conservation or Zone W1 Natural Waterways, or
 - (b) land within the coastal zone, or
 - (c) land proposed to be developed for the purpose of sex services or restricted premises.
- (5) Despite the provisions of this Plan relating to the purposes for which development may be carried out, development consent may be granted to development of land to which this clause applies for any purpose that may be carried out in the adjoining zone, but only if the consent authority is satisfied that:
 - (a) the development is not inconsistent with the objectives for development in both zones, and
 - (b) the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.
- (6) This clause does not prescribe a development standard that may be varied under this Plan.

[5] Dictionary

Insert in alphabetical order:

Dwelling Density Map means the Wyong Local Environmental Plan 2013 Dwelling Density Map.

Jenny Mewing

From: Jenny Mewing
Sent: Tuesday, 17 April 2018 10:50 AM
To: 'Soula Papadopoulos'
Subject: TRIM: RE: Wyong Local Environmental Plan 2013 (Amendment No 17) [e2017-321 d]

HP TRIM Record Number: D13205499

Hi Soula,

I'm supportive of the amendments made and the general approach proposed in relation to clause 5.3 provisions. However, further comments are provided below in relation to the draft instrument for Wyong Local Environmental Plan 2013 (Amendment No 17) [e2017-321 d], Cl. 7.19.

1. Schedule of Amendments [4] Clause 7.19

Issue A: *Ordering of Application of / Exceptions to the Clause*

Issue:

It would be preferable that the local clause proposed (Cl. 7.19) identified firstly where the clause did not apply, then identify the exceptions thereafter. This would require the E3 zone to be reinstated as a general exclusion for the application of the clause. This will make general interpretation of the clause much clearer and more consistent with the current operation of clause 5.3.

Amendments required:

- i) Subclause 7.19 is to be amended to re-order the application and exceptions, i.e. reorder subclause (3) & (4) e.g.:

"(3) This clause does not apply to:

- (a) land in Zone RE1 Public Recreation, Zone E1 National Parks and Nature Reserves, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone W1 Natural Waterways, or*
- (b) land within the coastal zone, or*
- (c) land proposed to be developed for the purpose of sex services or restricted premises.*

(4) Notwithstanding subclause(3)(a), this clause applies to land in Zone E3 Environmental Management to which clause 4.1C applies as shown on the Dwelling Density Map".

Kind regards

From: Soula Papadopoulos [<mailto:SOULA.PAPADOPOULOS@PCO.NSW.GOV.AU>]
Sent: Thursday, 12 April 2018 4:16 PM
To: Jenny Mewing
Subject: TRIM: Wyong Local Environmental Plan 2013 (Amendment No 17) [e2017-321 d]

Jenny,

A revised instrument is attached, for your consideration.

I apologise for the delay in revising the instrument.

I also apologise for misunderstanding the operation of amendments to clause 5.3.

Even though clause 5.3 of the Standard Instrument is optional, once it is adopted it has to be expressed in the mandatory form.

The solution to this, as shown in the draft, is to repeal the existing clause 5.3 and mark it as “not adopted” and then repeat the clause (with the amendments that are required) in the Part about local provisions.

You will notice that I have also amended clause 4.1C (2) to say that the land is shown on the Dwelling Density Map as being land to which clause 4.1C applies. I used the words in the new clause 7.19. Is that you the Map is now marked? Do you think it is satisfactory?

Please contact me if you have any further questions or comments.

Regards,

Soula Papadopoulos
Assistant Parliamentary Counsel

NSW Parliamentary Counsel's Office | Level 1, 60 Elizabeth Street, Sydney NSW 2000 | GPO Box 4191, Sydney NSW 2001

T 02 9321 3311 | **F** 02 9232 4796 | **E** soula.papadopoulos@pco.nsw.gov.au



New South Wales

Wyong Local Environmental Plan 2013 (Amendment No 17)

under the

Environmental Planning and Assessment Act 1979

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.....

Wyong Local Environmental Plan 2013 (Amendment No 17)

under the

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2 Commencement

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This Plan applies to the land to which *Wyong Local Environmental Plan 2013* applies.

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The maps adopted by *Wyong Local Environmental Plan 2013* are amended or replaced, as the case requires, by the maps approved by the local plan-making authority on the making of this Plan.

Schedule 1 Amendment of Wyong Local Environmental Plan 2013

[1] Clause 4.1C

Insert after clause 4.1B:

4.1C Exceptions to minimum subdivision lot size under community title schemes for certain large lot residential development

- (1) The objective of this clause is to enable appropriate subdivision of certain land, so as to provide for a range of lot sizes whilst retaining a predominantly rural and large lot residential character.
- (2) This clause applies to land that is wholly within Zone R5 Large Lot Residential and is shown on the Dwelling Density Map as land to which this clause applies.
- (3) Despite clauses 4.1 and 4.1AA, development consent may be granted for the subdivision of land to which this clause applies if:
 - (a) none of the lots being subdivided was created by a previous subdivision under this clause, and
 - (b) any lot created by the subdivision is within a community title scheme under the *Community Land Development Act 1989*, and
 - (c) any lot created by the subdivision that has an area that is less than the minimum lot size shown on the Lot Size Map in relation to the land has a minimum area of 900m², and
 - (d) no more than 30% of the lots created by the subdivision have an area that is less than the minimum lot size shown on the Lot Size Map in relation to the land, and
 - (e) the development will not result in there being a total number of more than 300 lots comprising land shown on the Dwelling Density Map, and
 - (f) the consent authority is satisfied that the subdivision of land will not affect the retention of the predominantly rural/large lot residential character of the locality.

[2] Clause 4.6 Exceptions to development standards

Insert “4.1C,” after “4.1A,” in clause 4.6 (8) (ca).

[3] Clause 5.3

Omit the clause. Insert instead:

5.3 Development near zone boundaries

[Not adopted]

[4] Clause 7.19

Insert after clause 7.18:

7.19 Development near zone boundaries

- (1) The objective of this clause is to provide flexibility where the investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone.

- (2) This clause applies to so much of any land that is within the relevant distance of a boundary between any 2 zones. The relevant distance is 20 metres.
- (3) This clause does not apply to:
 - (a) land in Zone RE1 Public Recreation, Zone E1 National Parks and Nature Reserves, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone W1 Natural Waterways, or
 - (b) land within the coastal zone, or
 - (c) land proposed to be developed for the purpose of sex services or restricted premises.
- (4) Despite subclause (3) (a), this clause applies to land in Zone E3 Environmental Management only if the land is shown on the Dwelling Density Map as land to which this clause applies.
- (5) Despite the provisions of this Plan relating to the purposes for which development may be carried out, development consent may be granted to development of land to which this clause applies for any purpose that may be carried out in the adjoining zone, but only if the consent authority is satisfied that:
 - (a) the development is not inconsistent with the objectives for development in both zones, and
 - (b) the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.
- (6) This clause does not prescribe a development standard that may be varied under this Plan.

[5] Dictionary

Insert in alphabetical order:

Dwelling Density Map means the Wyong Local Environmental Plan 2013 Dwelling Density Map.

Jenny Mewing

From: Jenny Mewing
Sent: Tuesday, 17 April 2018 1:20 PM
To: Soula Papadopoulos
Subject: TRIM: RE: Wyong Local Environmental Plan 2013 (Amendment No 17) [e2017-321 d]
Attachments: 8550_COM_DWD_007_040_20180207.pdf; 8550_COM_DWD_007B_020_20180207.pdf; 8550_COM_LZN_007_020_20180207.pdf; 8550_COM_LZN_007B_020_20180207.pdf
HP TRIM Record Number: D13206858

Hi Soula,

The principal purpose of the Dwelling Density (DWD) (draft mapping attached) is to identify that land which is subject to additional provisions of Wyong Local Environmental Plan 2013 (WLEP 2013), i.e. cl. 4.1C and cl.5.3/cl.7.19. This land is the only land within the WLEP 2013 Land Application area which is subject to the DWD.

Cl. 4.1C then specifies the circumstances under which additional/different subdivision provisions can be undertaken on this land, i.e. by specifying the applicable zones within the DWD area, zone boundaries etc. In this regard, the DWD map works in conjunction with the applicable Land Zoning (LZN) map.

At this point in time, there is no intention to utilise the DWD for any other site within the land application area of the WLEP 2013.

I trust this assists with the interpretation.

If there are concerns, please give me a call.

Kind regards

Jenny Mewing
Principal Strategic Planner
Land Use and Policy
Central Coast Council
P.O. Box 20 Wyong, NSW 2259
t: 02 4350 5742
m: 0437 747 660
e: Jenny.Mewing@centralcoast.nsw.gov.au



 Please consider the environment before printing this email

From: Soula Papadopoulos [<mailto:SOULA.PAPADOPOULOS@PCO.NSW.GOV.AU>]
Sent: Tuesday, 17 April 2018 11:46 AM
To: Jenny Mewing
Subject: Wyong Local Environmental Plan 2013 (Amendment No 17) [e2017-321 d]

Jenny,

I have attached a revised LEP, but there is some confusion about how proposed clauses 4.1C and 7.19 apply and how the Dwelling Density Map will be annotated.

In this draft, clause 4.1C only applies to land that is both within Zone R5 and is marked as such on the Dwelling Density Map and clause 7.19 applies to land in Zone E3 if it is also on the Dwelling Density Map and is marked as such.

That is different to the last draft I sent and does not exactly accord with your most recent instructions.

Is it correct that the Dwelling Density Map will show two types of land and show them differently, that land that is within Zone R5 (which will be marked as land to which clause 4.1C applies) and land that is within Zone E3 (which will be marked as land to which clause 7.19 applies)?

Regards,

Soula Papadopoulos
Assistant Parliamentary Counsel

NSW Parliamentary Counsel's Office | Level 1, 60 Elizabeth Street, Sydney NSW 2000 | GPO Box 4191, Sydney NSW 2001

T 02 9321 3311 | **F** 02 9232 4796 | **E** soula.papadopoulos@pco.nsw.gov.au



New South Wales

Wyong Local Environmental Plan 2013 (Amendment No 17)

under the

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The following local environmental plan is made by the local plan-making authority under the *Environmental Planning and Assessment Act 1979*.

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under the

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4 Maps

The maps adopted by *Wyong Local Environmental Plan 2013* are amended or replaced, as the case requires, by the maps approved by the local plan-making authority on the making of this Plan.

Schedule 1 Amendment of Wyong Local Environmental Plan 2013

[1] Clause 4.1C

Insert after clause 4.1B:

4.1C Exceptions to minimum subdivision lot size under community title schemes for certain large lot residential development

- (1) The objective of this clause is to enable appropriate subdivision of certain land, so as to provide for a range of lot sizes whilst retaining a predominantly rural and large lot residential character.
- (2) This clause applies to land that is wholly within Zone R5 Large Lot Residential and is shown on the Dwelling Density Map as land to which this clause applies.
- (3) Despite clauses 4.1 and 4.1AA, development consent may be granted for the subdivision of land to which this clause applies if:
 - (a) none of the lots being subdivided were created by a previous subdivision under this clause, and
 - (b) any lot created by the subdivision is within a community title scheme under the *Community Land Development Act 1989*, and
 - (c) any lot created by the subdivision that has an area that is less than the minimum lot size shown on the Lot Size Map in relation to the land has a minimum area of 900 square metres, and
 - (d) no more than 30% of the lots created by the subdivision have an area that is less than the minimum lot size shown on the Lot Size Map in relation to the land, and
 - (e) the development will not result in there being a total number of more than 300 lots comprising land shown on the Dwelling Density Map, and
 - (f) the consent authority is satisfied that the subdivision of land will not affect the retention of the predominantly rural/large lot residential character of the locality.

[2] Clause 4.6 Exceptions to development standards

Insert “4.1C,” after “4.1A,” in clause 4.6 (8) (ca).

[3] Clause 5.3

Omit the clause. Insert instead:

5.3 Development near zone boundaries

[Not adopted]

[4] Clause 7.19

Insert after clause 7.18:

7.19 Development near zone boundaries

- (1) The objective of this clause is to provide flexibility where the investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone.

- (2) This clause applies to so much of any land that is within the relevant distance of a boundary between any 2 zones. The relevant distance is 20 metres.
- (3) This clause does not apply to:
 - (a) land in Zone RE1 Public Recreation, Zone E1 National Parks and Nature Reserves, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone W1 Natural Waterways, or
 - (b) land within the coastal zone, or
 - (c) land proposed to be developed for the purpose of sex services or restricted premises.
- (4) Despite subclause (3) (a), this clause applies to land in Zone E3 Environmental Management only if the land is shown on the Dwelling Density Map as land to which this clause applies.
- (5) Despite the provisions of this Plan relating to the purposes for which development may be carried out, development consent may be granted to development of land to which this clause applies for any purpose that may be carried out in the adjoining zone, but only if the consent authority is satisfied that:
 - (a) the development is not inconsistent with the objectives for development in both zones, and
 - (b) the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.
- (6) This clause does not prescribe a development standard that may be varied under this Plan.

[5] Dictionary

Insert in alphabetical order:

Dwelling Density Map means the Wyong Local Environmental Plan 2013 Dwelling Density Map.

Jenny Mewing

From: Jenny Mewing
Sent: Tuesday, 24 April 2018 9:45 AM
To: 'Soula Papadopoulos'
Subject: TRIM: RE: Wyong Local Environmental Plan 2013 (Amendment No 17) [e2017-321 d]
Attachments: TRIM: Wyong Local Environmental Plan 2013 (Amendment No 17) [e2017-321 d]
HP TRIM Record Number: D13210844

Hi Soula,

I have reviewed the draft instrument together with the maps and discussed the operation/application with a few planners here. The following advice is provided.

1. Schedule of Amendments [1] Clause 4.1C & [4] 7.19

Issue A: amendment of DWD maps

Issue:

It is not proposed to amend the DWD to include reference to clauses 4.1C or 7.19 as the first section of both subclauses 4.1C(2) and 7.19(4) (i.e. "*This clause applies to and that is wholly within Zone R5 Large Lot Residential and is shown on the Dwelling Density Map*") make reference, by virtue of the attributes of the DWD and LZN maps to the subject land. As advised, this is the only land within the LEP LAP which is included on the DWD.

Perhaps the draft subclauses 4.1C(2)(a) and (b) as dated 6 March 2018 (as attached) more accurately reflects this. I'm not entirely sure why this was reworded in the subsequent versions and apologise for not picking it up earlier.

Amendments Required:

- i) Delete subclause 4.1C(2). Reinstate clause 4.1C(2)(a) and (b) as per 6 March 2018 draft i.e.
 - (2) *This clause applies to land that is:*
 - (a) *shown on the Dwelling Density Map, and*
 - (b) *wholly within zone R5 Large Lot Residential*
- ii) Delete "*as land to which this clause applies*" from subclause 7.19(4).

Kind regards

From: Soula Papadopoulos [<mailto:SOULA.PAPADOPOULOS@PCO.NSW.GOV.AU>]
Sent: Monday, 23 April 2018 11:50 AM
To: Jenny Mewing
Subject: TRIM: Wyong Local Environmental Plan 2013 (Amendment No 17) [e2017-321 d]

Jenny,

I apologise for the delay and for changing the provisions again, but in the attached draft clause 4.1C (2) says that the clause applied to land shown on the DDM as land to which clause 4.1C applies and clause 7.19 (4) says that that clause applies to land in Zone E3 shown on the DDM as land to which clause 7.19 applies.

If that is acceptable to you, you will need to ensure that the maps reflect the provisions.

If that is appropriate, I will get the instrument signed out in this form.

Regards,

Soula Papadopoulos
Assistant Parliamentary Counsel

NSW Parliamentary Counsel's Office | Level 1, 60 Elizabeth Street, Sydney NSW 2000 | GPO Box 4191,
Sydney NSW 2001

T 02 9321 3311 | **F** 02 9232 4796 | **E** soula.papadopoulos@pcn.nsw.gov.au



New South Wales

PARLIAMENTARY COUNSEL

Opinion

Environmental Planning and Assessment Act 1979
Proposed Wyong Local Environmental Plan 2013 (Amendment No 17)

Your ref: Jenny Mewing
Our ref: e2017-321.d13

In my opinion the attached draft environmental planning instrument may legally be made.

When the environmental planning instrument is made, a map cover sheet that lists the final form of the maps adopted by the instrument should be signed by the person making the instrument.

A handwritten signature in black ink, appearing to be 'R Hodge'.

(R HODGE)
Acting Parliamentary Counsel
30 April 2018



New South Wales

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under the

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The maps adopted by *Wyong Local Environmental Plan 2013* are amended or replaced, as the case requires, by the maps approved by the local plan-making authority on the making of this Plan.

Schedule 1 Amendment of Wyong Local Environmental Plan 2013

[1] Clause 4.1C

Insert after clause 4.1B:

4.1C Exceptions to minimum subdivision lot size under community title schemes for certain large lot residential development

- (1) The objective of this clause is to enable appropriate subdivision of certain land, so as to provide for a range of lot sizes whilst retaining a predominantly rural and large lot residential character.
- (2) This clause applies to land that is:
 - (a) shown edged by a heavy red line on the Dwelling Density Map, and
 - (b) wholly within Zone R5 Large Lot Residential.
- (3) Despite clauses 4.1 and 4.1AA, development consent may be granted for the subdivision of land to which this clause applies if:
 - (a) none of the lots being subdivided were created by a previous subdivision under this clause, and
 - (b) any lot created by the subdivision is within a community title scheme under the *Community Land Development Act 1989*, and
 - (c) any lot created by the subdivision that has an area that is less than the minimum lot size shown on the Lot Size Map in relation to the land has a minimum area of 900 square metres, and
 - (d) no more than 30% of the lots created by the subdivision have an area that is less than the minimum lot size shown on the Lot Size Map in relation to the land, and
 - (e) the development will not result in there being a total number of more than 300 lots comprising land shown on the Dwelling Density Map, and
 - (f) the consent authority is satisfied that the subdivision of land will not affect the retention of the predominantly rural and large lot residential character of the locality.

[2] Clause 4.6 Exceptions to development standards

Insert “4.1C,” after “4.1A,” in clause 4.6 (8) (ca).

[3] Clause 5.3

Omit the clause. Insert instead:

5.3 Development near zone boundaries

[Not adopted]

[4] Clause 7.19

Insert after clause 7.18:

7.19 Development near zone boundaries

- (1) The objective of this clause is to provide flexibility where the investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site

and be compatible with the planning objectives and land uses for the adjoining zone.

- (2) This clause applies to so much of any land that is within the relevant distance of a boundary between any 2 zones. The relevant distance is 20 metres.
- (3) This clause does not apply to:
 - (a) land in Zone RE1 Public Recreation, Zone E1 National Parks and Nature Reserves, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone W1 Natural Waterways, or
 - (b) land within the coastal zone, or
 - (c) land proposed to be developed for the purpose of sex services or restricted premises.
- (4) Despite subclause (3) (a), this clause applies to land in Zone E3 Environmental Management only if the land is shown edged by a heavy red line on the Dwelling Density Map.
- (5) Despite the provisions of this Plan relating to the purposes for which development may be carried out, development consent may be granted to development of land to which this clause applies for any purpose that may be carried out in the adjoining zone, but only if the consent authority is satisfied that:
 - (a) the development is not inconsistent with the objectives for development in both zones, and
 - (b) the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.
- (6) This clause does not prescribe a development standard that may be varied under this Plan.

[5] Dictionary

Insert in alphabetical order:

Dwelling Density Map means the Wyong Local Environmental Plan 2013 Dwelling Density Map.

Jenny Mewing

From: Soula Papadopoulos <SOULA.PAPADOPOULOS@PCO.NSW.GOV.AU>
Sent: Friday, 17 August 2018 2:19 PM
To: Jenny Mewing
Cc: legis@dc1lpcodb.pco.nsw.gov.au
Subject: Correction to Wyong Local Environmental Plan (Amendment No 17) [e2017-321]

Jenny

I have discussed the matter with the Deputy Parliamentary Counsel.

He did not think that the substantive change that I emailed you this morning was necessary. He would be satisfied with a very minor amendment, at least as an interim measure, which moves the transposed words from after "lots created by the subdivision" to before that phrase, as follows:

Amendment of Wyong Local Environmental Plan 2013

Clause 4.1C Exceptions to minimum subdivision lot size under community title schemes for certain large lot residential development

Omit "lots created by the subdivision have an area that is" from clause 4.1C (3) (d).

Insert instead "area of the lots created by the subdivision consists of lots that are".

I also asked Jonathon Schipp of the Department of Planning and Environment what the correct procedure is for a matter to be dealt with under section 3.22 of the Environmental Planning and Assessment Act 1979 (formerly section 73A).

He advised that your council should contact the regional team of the Department to see if the change is appropriate. If the Department instructs us to prepare an amending LEP I can do that very quickly and have an opinion signed.

Regards,

Soula Papadopoulos
Assistant Parliamentary Counsel

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