

Rezoning part of 165 Yeramba Road, Summerland Point for residential purposes

Proposal Title : **Rezoning part of 165 Yeramba Road, Summerland Point for residential purposes**

Proposal Summary : **The planning proposal seeks to:**

-rezone part of Lot 2 DP 1005467 from 7(b) Scenic Protection Zone to 2(a) Residential by amending Wyong LEP 1991 or the equivalent zone in the draft Wyong LEP 2012.

-rezone part of Lot 1 DP 1074218 from part 7(b) Scenic Protection Zone to 2(a) Residential. This lot has a split zoning of 7(b) Scenic Protection and 2(a) Residential and adjoins Lot 2 DP 1005467.

- for the land being rezoned residential, remove any development restrictions that apply to the Summerland Point Precinct through Clause 53 & Schedule 4 of Wyong LEP 1991.

PP Number : **PP_2013_WYONG_006_00**

Dop File No :

13/08690

Proposal Details

Date Planning
Proposal Received : **20-May-2013**

LGA covered : **Wyong**

Region : **Hunter**

RPA : **Wyong Shire Council**

State Electorate : **SWANSEA**

Section of the Act : **55 - Planning Proposal**

LEP Type : **Spot Rezoning**

Location Details

Street : **165 Yeramba Road**

Suburb : **Summerland Point**

City :

Postcode : **2259**

Land Parcel : **Lot 2 DP1005467**

Street : **159 Yeramba**

Suburb : **Summerland Point**

City :

Postcode : **2259**

Land Parcel : **Lot 1 DP 1074218**

Rezoning part of 165 Yeramba Road, Summerland Point for residential purposes

DoP Planning Officer Contact Details

Contact Name : **Glenn Hornal**
Contact Number : **0243485009**
Contact Email : **glenn.hornal@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Jenny Mewing**
Contact Number : **0243505742**
Contact Email : **jlmewing@wyong.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name :
Contact Number :
Contact Email :

Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Central Coast Regional Strategy	Consistent with Strategy :	Yes
MDP Number :	N/A	Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	
No. of Lots :	4	No. of Dwellings (where relevant) :	4
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of
Conduct has been
complied with : **Yes**
If No, comment :

Have there been meetings or
communications with
registered lobbyists? : **No**
If Yes, comment :

Supporting notes

Internal Supporting
Notes :

External Supporting
Notes : **HISTORY OF SUMMERLAND POINT PRECINCT**

Council conducted a study of Gwandalan/Summerland Point which resulted in a Town Plan (TP215) being endorsed by Council in 1980 as a draft plan for future development in the area.

TP 215 identified 7(b) land in Summerland Point (which contains the site) being of high environmental and visual quality but would be suitable for low key development subject to

Rezoning part of 165 Yeramba Road, Summerland Point for residential purposes

stringent development controls.

An Interim Development Order amendment in 1983 subdivided the land into 4Ha allotments but restricted development on these allotments to one dwelling and agriculture only.

This provision was carried over into the current Wyong LEP 1991 through Clause 53 & Schedule 4 and applies to the 7(b) area identified by TP215 (referred to in Schedule 4 as the Summerland Point Precinct).

A map of the Summerland Point Precinct and a copy of cl. 53 and relevant excerpt from Schedule 4 are attached.

DELEGATIONS TO MAKE THE PLAN

Council has accepted the general delegations to make plans and has advised they will be seeking delegation to make the plan for this specific proposal. Given this is a routine proposal Council's request is supported.

Adequacy Assessment

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

Is a statement of the objectives provided? Yes

Comment : Council's stated intention is to enable the part of Lot 2 DP 1005467 that fronts Yeramba Road to be subdivided for 4 residential lots. Council also wants to remove provisions of Clause 53 & Schedule 4 of Wyong LEP 1991 that restrict development options in Summerland Point Precinct.

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

Is an explanation of provisions provided? Yes

Comment : Council proposes to achieve its aims by amending the land zoning maps and provisions in Schedule 4 of Wyong LEP 1991. Council has identified that should the standard instrument draft Wyong LEP 2012 (SI dLEP) be finalised first, then an amendment to the land zoning maps and minimum lot size maps would be required.

The explanation of provisions does not fully detail what is being proposed and what sites are affected by the planning proposal.

Lot 2 DP 1005467 is approximately 4Ha in size and is zoned 7(b) Scenic Protection. A portion of the site fronting Yeramba Road is proposed to be rezoned to 2(a) Residential or standard instrument equivalent i.e. R2 Low Density Residential.

The rezoning is required as the minimum subdivision size on land zoned 7(b) is 20Ha whereas the 2(a) zone permits a minimum lot size of 450m².

Lot 1 DP 1074218 adjoins Lot 2 DP 1005467 and also has frontage to Yeramba Road. This lot has a split 2(a) and 7(b) zoning and it is proposed in the zoning maps (although not discussed in the planning proposal) to remove the split zone and rezone this lot to 2(a) Residential. The SI dLEP as exhibited proposed to zone this site to R2 Low Density Residential and the planning proposal will simply bring forward this rezoning should it be finalised in advance of the SI dLEP.

The provisions in Schedule 4 apply to an area identified as Summerland Point Precinct and includes the subject site. These provisions restrict development options on 7(b) land within the Precinct to dwelling-houses or agriculture plus a guest house on one lot (which is over 1 km from the land the subject of the rezoning in this planning proposal).

Council's planning proposal suggests removing the Summerland Point Precinct provisions in Schedule 4 however this will have unintended consequences and over-complicates this planning proposal.

Rezoning part of 165 Yeramba Road, Summerland Point for residential purposes

Council's SI dLEP rezones the 7(b) land in the Summerland Point Precinct to E3 and removes the development restrictions currently in Schedule 4. The E3 zone is Council's conversion zone for 7(b) land but there is some difference in the uses permitted.

Were this PP to be finalised in advance of the SI dLEP and the development restrictions removed across the entire Precinct, all permissible uses in 7(b) would be permitted in the Precinct however some of these uses would then not be permitted once the SI dLEP was finalised (eg. caravan parks are not permitted now, would be permitted in 7(b), and then not permitted in E3).

This would also mean this PP was effectively rezoning the entire Precinct as the permitted uses would expand from the current limited set to all uses in 7(b). The PP would need to consider the effect of this on all land in the Precinct which it has not done. The above scenario would also create the situation where Council had two contrary directions for the land in the Summerland Point Precinct (eg. SI dLEP and this PP).

This matter has been discussed and Council has confirmed its intention is only to ensure that Schedule 4 does not create any restrictions on the land being rezoned residential by this PP.

The PP should be updated to reflect this intention for any relevant consideration during legal drafting.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.3 Mining, Petroleum Production and Extractive Industries

2.1 Environment Protection Zones

2.3 Heritage Conservation

2.4 Recreation Vehicle Areas

3.1 Residential Zones

3.2 Caravan Parks and Manufactured Home Estates

3.3 Home Occupations

3.4 Integrating Land Use and Transport

4.1 Acid Sulfate Soils

4.2 Mine Subsidence and Unstable Land

4.4 Planning for Bushfire Protection

5.1 Implementation of Regional Strategies

6.1 Approval and Referral Requirements

6.2 Reserving Land for Public Purposes

6.3 Site Specific Provisions

Is the Director General's agreement required? **Unknown**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 44—Koala Habitat Protection

SEPP No 55—Remediation of Land

SEPP No 71—Coastal Protection

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

As discussed earlier, the submitted proposal would require further assessment of 117s and SEPPs given that it would have the effect of removing development restrictions across the whole Summerland Point precinct. If Council does not amend the PP as recommended, then the PP will need to be updated to reflect the introduction of an expanded set of uses to the Summerland Point Precinct.

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

If No, explain :

See discussion in the assessment section.

Rezoning part of 165 Yeramba Road, Summerland Point for residential purposes

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : The quality of the mapping could be improved by a locality plan showing the site location in context with the rest of the LGA.

The zoning maps although sufficient for assessment could be improved for community consultation. LEP standard maps would better indicate existing and proposed zones.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : Council has recommended exhibition for 14 days. The planning proposal is a routine spot rezoning and a 14 day exhibition is considered sufficient.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

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

If No, comment : The planning proposal could be clearer regarding the lots that are affected.

Although not identified in the text of the planning proposal, part of Lot 1 DP 1074218 is shown on the zoning maps to be rezoned to 2(a) Residential should it proceed in advance of the SI dLEP.

In addition, as discussed earlier, Council's proposal as contained in the PP would have unintended consequences and should be amended before exhibition.

Proposal Assessment

Principal LEP:

Due Date : **September 2013**

Comments in relation to Principal LEP : Council intends to submit the draft Wyong LEP 2012 to the Department for finalisation in the near future.

The rezoning of part of Lot 2 DP 1005467 to a residential zone was not included in the SI dLEP and was publicly exhibited as an E3 Environmental Management zone.

Should the planning proposal be finalised before the SI dLEP, part of Lot 2 DP 1005467 and part of Lot 1 DP 1074218 would be rezoned to 2(a) Residential as well as removing specific provisions in Schedule 4 that restrict development options by amending the existing Wyong LEP 1991. If finalised afterwards, part of Lot 2 DP 1005467 would be rezoned to R2 Low Density Residential.

Assessment Criteria

Need for planning proposal : The planning proposal was initiated due to a request from the landowner to facilitate a four lot subdivision for residential development on Lot 2 DP 1005467. In response, Council proposes to rezone part of the lot from 7(b) Scenic Protection Zone to a 2(a) Residential Zone or the equivalent R2 Low Density Residential if the SI dLEP is finalised first.

Consistency with
strategic planning
framework :

CENTRAL COAST REGIONAL STRATEGY (CCRS)

The site is identified in the CCRS as Rural and Resource Lands.

Action 6.9 states "Ensure LEPs do not rezone rural and resource lands for urban purposes or rural residential uses unless agreement from the Department of Planning is first reached regarding the value of these resources".

The potential of future development to impact coal extraction is unlikely given that Council states it received in-principal support from the Mine Subsidence Board. Agency consultation with the Mine Subsidence Board and NSW Department of Primary Industries - Minerals and Petroleum would be required should the proposal proceed.

Council has provided an assessment against Appendix 3 - Sustainability Criteria for New Land Release - Central Coast in the CCRS and has found the proposal to be consistent with this criteria.

NORTH WYONG SHIRE STRUCTURE PLAN

The site is identified in North Wyong Shire Structure Plan as part of Precinct 20 - Summerland Point South, an area identified for future long term land release. Bringing forward a small portion of infill development is not inconsistent with the Structure Plan provided future resource extraction is not impacted by the proposal.

LOCAL STRATEGIES

Council advises the planning proposal is consistent the Wyong Shire Community Strategic Plan.

STATE ENVIRONMENTAL PLANNING POLICIES (SEPPs)

SEPP 44 Koala Habitat - Council has advised an assessment under SEPP 44 will be required should the proposal proceed to Gateway as the site size is greater than 1 Ha and triggers the SEPP. Council should confirm if this is necessary given the provisions of the SEPP referenced are for development applications.

SEPP 55 - Contaminated Land

Council has advised no formal assessment has been made and an assessment will be required to comply with the provisions of the SEPP should the planning proposal receive a Gateway Determination.

SEPP 71 Coastal Protection

Council considers the proposal is consistent with the policy.

S117 DIRECTIONS

The planning proposal is consistent with all relevant directions except where discussed below.

1.3 Mining, Petroleum Production and Extractive Industries

Council has advised the proposal is consistent with the direction as they consulted and received in-principal support from the Mine Subsidence Board. However the planning proposal is inconsistent with this direction as it would have the effect of prohibiting the uses covered by this direction.

Currently the uses are permitted by the Mining SEPP which provides that the uses can occur where agriculture is permitted and agriculture is a prohibited use in the 2(a) Residential zone. Council should consult with the Department of Primary Industries to satisfy the requirements and demonstrate consistency with the direction.

2.1 Environment Protection Zones

The planning proposal is inconsistent with the direction as it would reduce the environmental protection standards applying to the land by rezoning it from 7(b) Scenic Protection to 2(a) Residential.

Council advised that the planning proposal submitted by the proponent identified it was unlikely any critical habitat, threatened species or EECs would be adversely affected by the proposal. However Council could not verify this was the case as no report/study was provided in support of the planning proposal. Council identified there may be some potential for threatened flora and fauna on the site.

The information provided is not justified by a study prepared in support of the planning proposal and it is therefore not possible to determine if the inconsistency with the direction can be justified or is of minor significance. Council recommends a flora and fauna study be prepared which could support its further consideration of this direction.

4.1 Acid Sulfate Soils

Council advised the potential for acid sulfate soil on site is unknown and recommends should the proposal be endorsed by Gateway an acid sulfate soil assessment will be undertaken.

The Acid Sulfate Soils Maps for the SI dLEP show the land to be on the outer fringe of Class 5 land (approximately 500 metres from land with potential acid sulfate soils). Therefore any inconsistency with the direction is considered to be of minor significance.

4.2 Mine Subsidence and Unstable Land

Council has advised the proposal is consistent with the direction. However the direction requires consultation with the Mine Subsidence Board. The proposal is currently inconsistent with the direction and should be addressed after agency consultation.

4.4 Planning for Bushfire Protection

Council has advised the proposal is consistent with this direction however consistency with the direction can only be determined following consultation with the NSW Rural Fire Service. This matter should be addressed following agency consultation.

Environmental social
economic impacts :

Environmental

Council has advised that no report was submitted with the planning proposal verifying whether critical habitat, threatened species, populations or ecological communities, or their habitats will be adversely affected by the proposal.

Council's ecologist conducted a site inspection and recommended that further studies be undertaken as there may be some potential for threatened flora and fauna on the site.

The site is located in the vicinity of a sewage treatment plant. Council has identified there is a restriction of development on the deposited plan however the site is outside of the typical odour buffer zone. It proposed to retain the restriction on the remainder of the lot (i.e. not the rezoned part) and future E3 zoning will be sufficient to avoid development encroachment into this buffer zone.

Social & Economic

The proposal extends development east along Yeramba Road and Council states the residential development is a logical infill for the neighbourhood. Council considers the site to be well located for accessibility to local education and recreation facilities and local and regional shopping amenities all within 2km of the site.

A regularly serviced bus stop is also located adjacent to the site. Council has stated the site is able to be serviced with water and sewer subject to a sewer extension provided at the applicant's expense. The proposal is also likely to provide short term employment opportunities should the site be developed and assist in provision of regional housing targets.

Rezoning part of 165 Yeramba Road, Summerland Point for residential purposes

Assessment Process

Proposal type : **Routine** Community Consultation Period : **14 Days**

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

Public Authority **NSW Department of Primary Industries - Minerals and Petroleum**
Consultation - 56(2)(d) **Mine Subsidence Board**
NSW Rural Fire Service

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

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

If no, provide reasons :

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

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

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

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Planning Proposal.pdf	Proposal	Yes
Council Letter.pdf	Proposal Covering Letter	Yes
Mapping.pdf	Map	Yes
Supporting Docs.pdf	Proposal	Yes
Precinct Map.pdf	Map	Yes
Extract from Wyong LEP 1991.pdf	Proposal	Yes

Planning Team Recommendation

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

S.117 directions:

- 1.3 Mining, Petroleum Production and Extractive Industries**
- 2.1 Environment Protection Zones**
- 2.3 Heritage Conservation**
- 2.4 Recreation Vehicle Areas**
- 3.1 Residential Zones**
- 3.2 Caravan Parks and Manufactured Home Estates**
- 3.3 Home Occupations**
- 3.4 Integrating Land Use and Transport**
- 4.1 Acid Sulfate Soils**
- 4.2 Mine Subsidence and Unstable Land**

Rezoning part of 165 Yeramba Road, Summerland Point for residential purposes

4.4 Planning for Bushfire Protection
5.1 Implementation of Regional Strategies
6.1 Approval and Referral Requirements
6.2 Reserving Land for Public Purposes
6.3 Site Specific Provisions

Additional Information :

-The planning proposal be amended prior to community consultation to retain the Clause 53 Schedule 4 provisions until the gazettal of the new SI Draft Wyong LEP 2012.

-The provisions under Clause 53 & Schedule 4, as they relate to the Summerland Point Precinct be amended, if required, to remove any development restrictions imposed by the clause from the proposed 2(a) Residential zoned lands should the planning proposal be finalised in advance of the SI dLEP.

-A locality plan be provided showing the site's location in context with the rest of the LGA.

-LEP standard maps showing existing and proposed zones and minimum lot size maps to be included in planning proposal for community consultation.

-Council is to update the planning proposal's consideration of SEPP 55 Contaminated Land once information on Contaminated Land has been obtained.

-Council is to update the planning proposal's consideration of SEPP 44 Koala Habitat.

-Council is required to address consistency with S117 Directions 1.3 Mining, Petroleum Production and Extractive Industries, 4.2 Mine Subsidence and Unstable Land and 4.4 Planning for Bushfire Protection following consultation with the relevant Agencies.

-The Director General agrees the planning proposal's inconsistency with S117 Direction 4.1 Acid Sulfate Soils is of minor significance.

-Council is to update the planning proposal's consideration of S117 Direction 2.1 Environment Protection Zones once information on Flora and Fauna has been obtained.

-Agency consultation with NSW Rural Fire Service, Mine Subsidence Board and NSW Department of Primary Industries - Minerals and Petroleum.

-14 day exhibition

-9 month timeframe

-Council be issued with delegation to make the plan.

Supporting Reasons :

It is not necessary to remove provisions in Schedule 4 for the entire Summerland Point Precinct to progress the spot rezoning, as discussed in this report.

Signature:



Printed Name:

G P HOPKINS

Date:

31.5.2013