



**Wyong
Shire
Council**
CENTRAL COAST

Planning Proposal

165 Yeramba Road, Summerland Point

File No. RZ/12/2012

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Part 1 Objectives or Intended Outcomes

The intended outcomes of this proposal are to:

- enable Lot 2 DP 1005467 to be subdivided to create an additional four (4) residential lots fronting Yeramba Road, and
- remove the provisions of Clause 53, Schedule 4 of Wyong Local Environmental Plan (LEP) 1991, as they relate to land zoned 7(b) at Summerland Point.

Part 2 Explanation of Provisions

The intended outcome will be achieved by an amendment to the Wyong LEP 1991 land zoning maps and Schedule 4.

Depending on the timing of the progression of the proposal, the intended outcome will be achieved by an amendment to Council's Standard Instrument (SI) LEP, including amendments to the Land Zoning and Minimum Lot Size Maps.

Part 3 Justification

Section A – Need for the Planning Proposal

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

North Wyong Shire Structure Plan

The site is identified as a long term land release area for residential purposes within the North Wyong Shire Structure Plan (NWSSP) – refer to discussion in Section B, 3(a).

Wyong Shire Council Broad Brush Study

Council conducted a broad brush study of the Gwandalan/Summerland Point area in the late 70's and early 80's. This study resulted in Town Plan (TP 215) which was endorsed by Council in September 1980 as a draft plan for future development in the area.

TP 215 identifies the 7(b) land in Summerland Point (which contains the subject site) being of high environmental and visual quality, however would be suitable for low key development, provided it was subject to stringent development controls.

An amendment to Interim Development Order (IDO) number 58, gazetted in 1983 enabled, the subdivision of land fronting Yeramba and Summerland Roads into four (4) hectare allotments, the subject site being one of these allotments. In addition to this subdivision, the amendment specified that development of these allotments should be restricted to one dwelling and agriculture.

This requirement has been carried over into Wyong LEP 1991 as Clause 53 and applies to that entire 7(b) area identified by TP 215, referred to in Schedule 4 as the Summerland Point Precinct.

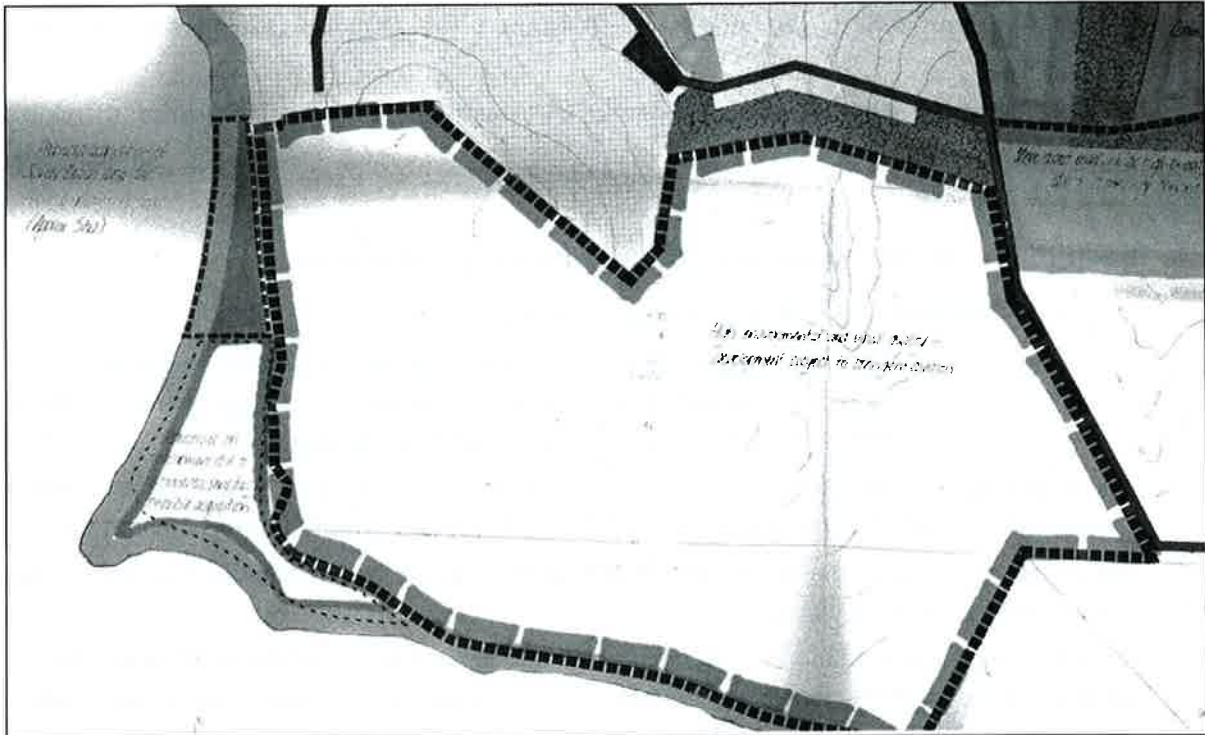


Figure 1 – Summerland Point Precinct (TP215)

The application of the clause restricts development options to dwelling houses or agriculture only. Should this proposal be supported and the restrictions remain, dual occupancies will not be permissible, nor will any other land use permissible in the 2(a)/R2 zone on the subject site.

The rigour of legislation pertaining to environmental protection and development assessment has significantly increased since the adoption of TP215 and the associated development restriction. Having regard for this, the need to provide a variety of housing choice, as well as the nature of development surrounding the subject site (particularly that land adjacent on Yeramba Road and opposite on Summerland Road), it is considered that the intent of this clause as it relates to applicable land at Summerland Point, is outdated and should be removed from Schedule 4 of Wyong LEP 1991.

The Schedule also includes Lot 21 DP 708344 (185 Cams Boulevard) which enables development for the purposes of tourist accommodation within the existing guesthouse building, beyond dwelling houses and agriculture (as per Schedule 4). This enabling clause was gazetted in 2006, with a Development Application approved for this purposes in 2007. Removal of this clause will result in existing use rights for the guesthouse on Lot 21.

It should be noted that this clause is not proposed to be carried over into Council's SI LEP, therefore once gazetted, there will be no restrictions relating to land use applying to the area, apart from those applicable under legislation and zoning.

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

As an alternative to a stand alone Planning Proposal, the intended outcomes could be achieved by incorporating the rezoning into Council's SI LEP process. However, as there are a number of additional

studies recommended to be undertaken to support the proposal (see Section C), this is not appropriate.

It is considered the intended objectives cannot be achieved by any other mechanism than a planning proposal.

Section B – Relationship to strategic planning framework

3. (a) Where a sub-regional strategy is in place:

(i) 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)?

The proposal is subject to the Central Coast Regional Strategy (CCRS) and North Wyong Shire Structure Plan (NWSSP). Further discussion of the CCRS is provided within Attachments 1 and 2.

The proposal is located within the boundaries of the NWSSP and is identified as a long term land release area for residential purposes.

According to the description for this timeframe, land will not be zoned before 15 years, the timing of which will be impacted by future coal extraction potential, future use of power station sites and access to services and employment opportunities.

The NWSSP also provides that while staging according to the identified timeframes is preferred, *'The Government and Wyong Council may decide to accelerate the release of land if satisfactory arrangements are in place to forward fund the appropriate infrastructure and other factors.'*

Consultation has been undertaken with the Wyong Mine Subsidence (MSB) District Manager, who has agreed in principle to the proposal. It is therefore considered that the impacts of coal extraction in the future will not adversely affect the site, or the proposal.

Additionally, Council's Transportation and Design Engineers have identified that the required services (water, sewer, power, roads etc) for the intended purpose of the proposal are available to the site. It will be the responsibility of the proponent to fund the provision of this infrastructure at development application/subdivision stage.

Having regard for the outcomes of consultation with relevant professionals, it is considered that the proposal is consistent with the requirements and recommendations of the NWSSP.

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

The Wyong Shire Community Strategic Plan (CSP) was adopted in 2010 and identifies what the Shire Strategic Vision is, how the Vision was created through the community, the importance of the community, Council, state and federal government working together to achieve the Shire's Vision, and how the Shire Strategic Vision integrates with Council's Asset Management Strategy and long-term Financial Strategy.

The assessment of the impacts of the proposal can be identified as a 'Principal Activity.'

Responsibilities under the Environment and Land Use Principal Activity include *enhancing the natural and built environment on both private and public land. This is done by providing strategic planning and*

policy as well as controls over land-use in order to maintain a high quality of life and natural environment. Through this activity Council seeks to promote sustainable use of natural resources on the Central Coast.

The proposal is considered to be consistent with the Wyong Shire C&S.

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 detailed below.

Subject to the findings of further investigative fauna studies being undertaken, consideration of the proposal against SEPP 44 – Koala Habitat may be required to be undertaken. Additionally, a Stage 1 Contaminated Land Assessment is also recommended to be undertaken.

SEPP	Comment
SEPP No. 44 – Koala Habitat	
Aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline: (a) by requiring the preparation of plans of management before development consent can be granted in relation to areas of core koala habitat, and (b) by encouraging the identification of areas of core koala habitat, and (c) by encouraging the inclusion of areas of core koala habitat in environment protection zones	As the area proposing the additional 4 lots is less than 1 hectare, the provisions of State Environmental Planning Policy 44 – Koala Habitat have not been triggered. The site area in its entirety does trigger the SEPP. Should the proposal be supported by the Gateway, an assessment under SEPP 44 will be required to be undertaken by the proponent.
SEPP No. 55 – Contaminated Land	
Aims: to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment (a) by specifying when consent is required, and when it is not required, for a remediation work, and (b) by specifying certain considerations that are relevant in rezoning land and in determining	Whilst the preliminary desktop mapping/assessment exercise has not identified any contamination of the site, this issue still requires formal assessment. Should the proposal proceed beyond a Gateway determination, the proponent will be required to undertake a contaminated land assessment to comply with the provisions of this SEPP.

SEPP	Comment
development applications in general and development applications for consent to carry out a remediation work in particular, and (c) by requiring that a remediation work meet certain standards and notification requirements.	
SEPP No. 71 Coastal Protection	
Aims: (a) to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and (b) to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore, and (c) to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore, and (d) to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and (e) to ensure that the visual amenity of the coast is protected, and (f) to protect and preserve beach environments and beach amenity, and (g) to protect and preserve native coastal vegetation, and (h) to protect and preserve the marine environment of New South Wales, and (i) to protect and preserve rock platforms, and (j) to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the Protection of the Environment Administration Act 1991),	The proposal is consistent with the aims and objectives of the SEPP 71 Policy. The proposal seeks to enable additional infill residential development adjoining an existing residential area. The proposal does not affect access to and along coastal foreshores, nor is the site affected by coastal processes such as erosion. It is not considered that an increased density of a minor nature may adversely affect the scenic quality of the environment, particularly as the remainder of the site is to retain its 7(b) (or comparative E3) zoning.

SEPP	Comment
and (k) to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and (l) to encourage a strategic approach to coastal management.	

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. The proposal can be consistent with these Directions subject to the outcomes of further investigative studies.

Number	Direction	Applicable	Consistent
Employment & Resources			
1.1	Business & Industrial Zones	N	N/a
1.2	Rural Zones	N	N/a
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	Y
2.2	Coastal Protection	N	N/a
2.3	Heritage Conservation	Y	Y
2.4	Recreation Vehicle Areas	Y	Y
Housing, Infrastructure & Urban Development			
3.1	Residential Zones	Y	N/a
3.2	Caravan Parks and Manufactured Home Estates	Y	Y
3.3	Home Occupations	Y	Y

Number	Direction	Applicable	Consistent
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	TBA
4.2	Mine Subsidence and Unstable Land	Y	Y
4.3	Flood Prone Land	N	N/a
4.4	Planning for Bushfire Protection	Y	Y
Regional Planning			
5.1	Implementation of Regional Strategies	Y	Y
5.2	Sydney Drinking Water Catchments	N	N/a
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
5.5	Development in the Vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	N	N/a
5.6	Second Sydney Airport: Badgerys Creek	N	N/a
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 the Metropolitan Strategy	N	N/a

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?

The proposal as submitted has identified that *'it is unlikely that 'critical habitat or threatened species, populations or ecological communities or their habitats will be adversely affected as a result of the proposal' as the site is cleared with minimal trees. However, a report verifying this has not been provided.*

A site inspection undertaken on 15 January 2013 confirmed the cleared nature of the site.



Figure 2 View of the site from Yeramba Road frontage facing southeast

Council's Development Ecologist has identified that the vegetation on the site is part of the Narrabeen Doyalson Coastal Woodland (Bell 2008) community and is unlikely to qualify as a Threatened Ecological Community.

Threatened Flora

The threatened plant Black-eyed Susan (*Tetratheca juncea*), a low shrub, is known to occur east/north-east of the site across Summerland Road within Tunkuwallin Reserve and approximately 150m to the north within the undeveloped portion of the 'Old School Site' (Lot 1 DP 555602). This species is usually found in low open forest/woodland with a mixed shrub understorey and grassy groundcover (Office of Environment and Heritage Species Profile 2005). Given the well maintained and cleared nature of the site, there is a low likelihood of occurrence for Black-eyed Susan within the area proposed for four (4) residential lots.

The threatened Charmhaven Apple (*Angophora inopina*), a tree, has been recorded less than 1km south-east of the subject site. As trees remain on site, there is potential for the Charmhaven Apple to occur.

The threatened *Corunastylis* sp. Charmhaven (a newly listed orchid) is considered to have a low likelihood of occurrence as the site occurs 13km north-east of the orchid's known location, does not support the same soil landscape, and does not have any understorey vegetation. Whilst the new orchid was discovered in an open space subject to regular mowing, it was immediately adjacent to heathland. Even if the subject site contained a heathy understorey at one stage in the past, the site has been cleared of the understorey and subject to mowing. Although this species may persist underground for a time, given that considerable time has elapsed since the site may have contained a natural understorey, this species is considered to have a low likelihood of occurrence.

Desktop mapping shows a large portion of Lot 2 DP 1004567 as supporting habitat for a locally uncommon orchid - *Caladenia holmesii*. The area proposed for four (4) residential lots was not mapped as potentially supporting habitat for this species.

Threatened Fauna

The following threatened animals have been recorded within 1km of the subject site: Squirrel Glider, Glossy Black-cockatoo, Grey-headed Flying-fox, Powerful Owl, Wallum Froglet, Little Lorikeet, Eastern Freetail Bat and Eastern Bentwing-bat. All but the Wallum Froglet have the potential to utilise habitats in the subject site.

Some of the trees on the site may be hollow-bearing and may provide habitat for the Eastern Freetail Bat, Squirrel Glider, Little Lorikeet and Glossy Black-cockatoo, depending on hollows of suitable dimensions being present. If hollows of suitable size are present for the Powerful Owl, this species is unlikely to breed in them as they require a structured understorey for their fledglings. As previously mentioned, the site has been cleared of all understorey.

The Powerful Owl may forage over the study area for mammal prey; the Grey-headed Flying-fox may forage on fruiting and nectarivorous trees from time to time; and, the Eastern Bentwing-bat may forage for insects throughout the subject site.

The site is mapped as a "minor" habitat fragment within Council's Squirrel Glider Conservation Management Plan (CMP) (Smith 2002). The site would likely qualify as the 'Disturbed Vegetation' modifier within the CMP, and therefore would not be subjected to the impact assessment 'classes' within the CMP.

As the area proposing the additional 4 lots is less than 1hectare, the provisions of State Environmental Planning Policy 44 – Koala Habitat have not been triggered. The site area in its entirety does trigger the SEPP..

Recommendation - Prior to Community Consultation Occurring:

1. The proponent:
 - (a) Undertake a survey of the trees on the subject area of the site to identify if any Charmhaven Apple are present;
 - (b) Undertake a survey of the trees on subject area of the site to identify any hollow-bearing trees (noting their dimensions) and determine if any provide potential habitat for the Eastern Freetail Bat, Squirrel Glider, Little Lorikeet

and Glossy Black-cockatoo. Should hollows suitable for threatened fauna be present, undertake spotlighting and/or Anabat surveys. Undertake an the preparation of a Seven Part Test (species listed on the TSC Act) and Significant Impact Criteria Assessment (species listed on the Environment Protection Biodiversity Conservation (EPBC) Act) following field surveys;

- (c) Undertake an assessment in accordance with SEPP 44 – Koala Habitat; and
- (d) Undertake an assessment in accordance with Appendix 1 of Council's Squirrel Glider CMP.

All of the above can be done within one report by one consulting ecologist.

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 site has been identified as consisting of Category 2 Bushfire Prone Vegetation as well as being within a bushfire buffer zone.

The proposal was accompanied by a Bushfire assessment report, a review of which has been undertaken by Council's Senior Environment and Natural Resources Planner. Bushfire is not considered a significant risk to the proposal.

The report however fails to acknowledge that if the applicant seeks to rely on managed lands to the south for an Asset Protection Zone (APZ), there will have to be an easement created on the title of the large residue lot at subdivision stage. Similarly, building controls for bushfire prone land will also need to be addressed at subdivision stage.

The site is located within a Rural Fire District and primary fire and other incident coverage is provided by the Rural Fire Service (RFS). The RFS are ultimately substantially funded by WSC so increased demand will impact Council's budget over time.

Climate Change

It is not considered that the proposal will significantly contribute to climate change. Having regard for the assessment of the proposal undertaken, it is not considered that the impacts of climate change will significantly affect development resulting from this rezoning. Controls at Development Application stage will require compliance with appropriate sustainability measures.

Aboriginal and European Cultural Heritage Items

A desktop mapping/assessment exercise has not identified the site as containing any Aboriginal or European cultural heritage items. Given the scale of the proposal it is not considered necessary to undertake a formal Aboriginal and European cultural heritage study as such matters can be managed through the subdivision/development application process should the proposal proceed.

Contaminated Land and Acid Sulfate Soils

A desktop mapping/assessment exercise has not identified the site being the subject of any contamination material. This mapping exercise further identified that the status of the acid sulfate soils is unknown.

Recommendation - Prior to Community Consultation Occurring:

1. The proponent:
 - (a) undertake a Stage 1 contaminated land assessment; and
 - (b) undertake an acid sulfate soil assessment.

Flooding and Drainage

A desktop mapping/assessment exercise has not identified the site as being the subject of flooding risks; however the site is identified as a Sensitive Coastal Location under State Environmental Planning Policy No. 71. Refer to discussion in Section B, item 5.

Noise and Acoustics

A desktop mapping/assessment exercise has not identified the site being affected by any activities likely to be detrimental to residential development in this regard.

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

Social Impact & Amenity

By extending development east along Yeramba Road within the subject site, a more cohesive residential development pattern is achieved, particularly when the newly completed subdivision of the Old School site (Lot 1 DP 555602) is taken into consideration.

The site is considered to be well located for accessibility to local education and recreation facilities, in addition to local and regional shopping amenities. The proposed residential development is a logical infill for the local neighbourhood.

In general the following facilities are provided within 2km of the subject site:

- General Store;
- Local Shopping Centre (containing post office, newsagent, supermarket, bottle shop, hairdresser, Takeaway Food outlet and mower repair shop);
- Preschool/childcare centre; and
- Primary schools (both public and private).

Odour

Council's Design Engineers have identified that development of the site is restricted by a Section 88b instrument as part of the site is within the current odour buffers for the Gwandalan/Summerland Point Sewerage Treatment Plant.

Council's Water and Sewerage Unit has advised that the subject site, while currently encumbered on the deposited plan, is marginally outside the nominal 400m 'typical buffer zone' described in NSW Planning Circulars and NSW Water Directorate documentation.

Having regard for this, the unit has indicated their support for the proposal. It is considered that the restriction on the DP and the 7(b)/E3 zoning of the remainder of the site will be sufficient to avoid further development encroachment into the odour buffer.

It should be noted that if the proposal is supported, an amendment may be required to be made to the Deposited Plan for the site to remove the building restriction on that portion of the site subject to the rezoning footprint.

Economic Viability

The proposal has identified that the development of four additional lots/dwellings in this locality has the potential to provide for local short term employment opportunities.

Consideration has not been given to associated development costs including subdivision/development application lodgement, Council contributions or service provision by the proponent.

Section D – State and Commonwealth Interests

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

Traffic and Transport

The subject site is located on the corner of Yeramba Road and Summerland Road, which is the primary access to Summerland Point. Details of how additional traffic resulting from the proposal will be managed haven't been provided, however the scale of likely flow on development is considered to have minimal impact on the existing road network and can be further assessed at development application/subdivision stage.

Council's Transportation Engineers have advised there is no objection to the proposal in principal. Access to the remainder of the site will need to be relocated to Summerland Road and addressed in any development application for the site.

The site is directly adjacent to an existing bus stop which is regularly serviced by Busway Buses. Taxi transportation is also available.

The site is not within walking distance to a train station.

Council's Transportation Engineers have requested that access to and the provision of facilities to encourage the use of public transport by occupants of the proposed residential lots be considered in conjunction with any development application for the site.

Servicing

A desktop mapping/assessment exercise and consultation with Council's Development Engineer has identified that the site is able to be serviced by water and sewer; however an extension of the sewer main along Yeramba Road would be required. Both would be required to be undertaken at the proponent's expense and in accordance with the provisions of Chapter 67: Engineering Requirements for Development of Development Control Plan (DCP) 2005: Development Controls for Wyong Shire.

The four proposed lots drain to the street therefore no drainage easements would be required. Council would require the street frontage to be formalised with kerb and guttering and infill pavement works. Such requirements, in addition to the provision of electricity of telephone services would be further determined at development application stage and also subject to the provisions of Chapter 67 DCP 2005.

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

Preliminary consultation has been undertaken with the MSB as the site is located within the Swansea North Entrance Mine Subsidence District.

The proponent has entered into correspondence with the MSB regarding the proposed rezoning of the site which has been submitted with the rezoning proposal. This correspondence identifies that the MSB would not '*object to the four (4) lot residential subdivision along the Yeramba Road property boundary.*' This advice has been confirmed by further email correspondence and phone conversations between Council's Strategic Planner and the Wyong MSB District Manager. MSB have advised however that they would object to a rezoning of the entire site to the proposed 2(a) General Residential zone as this could potentially lead to exceedence of the surface development guidelines.

Formal consultation with the MSB and other government agencies will be undertaken in accordance with any determinations made by the Gateway.

Part 4 Mapping

Map No.	Map Title
1	Aerial Locality Plan
2	Cadastral Locality Plan
3	Land Use Zoning - Wyong LEP 1991
4	Land Use Zoning - Draft Wyong SI LEP 2012
5	Current Development Standards – Lot Size – Draft Wyong SI LEP 2012
6	Proposed Alternative Zone
7	Proposed Development Standards – Lot Size

Part 5 Community Consultation

It is expected that the proposal will be made available for 14 days for community/agency consultation. This will be undertaken in accordance with any determinations made by the Gateway.

Part 6 Project Timeline

Action	Period	Start Date	End Date
Anticipated commencement date (date of Gateway Determination)	N/a	24 June 2013	24 June 2013
Anticipated timeframe for the completion of required technical information	2 months	25 June 2013	18 September 2013
Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)	N/a	N/a	N/a
Commencement and completion dates for public exhibition	14 days	28 October 2013	26 November 2013
Dates for public hearing (if required)	N/a	N/a	N/a
Timeframe for consideration of submissions	2 weeks	18 November 2013	10 December 2013
Timeframe for consideration of a proposal post exhibition	2 weeks	18 November 2013	10 December 2013
Date of submission to the Department to finalise LEP	N/a	12 February 2014	12 February 2014
Anticipated date RPA will make the plan (if delegated)	N/a	N/a	N/a
Anticipated date RPA will forward to the Department for notification	N/a	N/a	N/a

Supporting Documentation

No.	Document
1	Central Coast Regional Strategy Sustainability Assessment (4 pages)
2	Section 117 Ministerial Direction Assessment (8 pages)
3	Council Report and Minutes – 27 March 2013 (20 pages)
4	Project Timeline Gantt Chart (2 pages)

