

3.4 Wyong Local Environmental Plan 2013 - Major Amendment 1

TRIM REFERENCE: F2013/01345 - D08937637

MANAGER: Steven Mann, Manager

AUTHOR: Kathryn Heintz; Senior Strategic Planner

SUMMARY

On 23 December 2013, Wyong Local Environmental Plan (WLEP) 2013 was made by the Director General of the then Department of Planning & Infrastructure, as delegate of the then Minister for Planning & Infrastructure. In January 2014, Council commenced preparation of Major Amendment 1 to the new Wyong LEP 2013.

This report recommends the formal commencement of the proposed WLEP 2013 – Major Amendment 1 under Section 55 of the Environmental Planning and Assessment Act, 1979 (EP&A Act).

RECOMMENDATION

- 1 ***That Council initiate the Local Environmental Plan “Gateway” process by the preparation of a Planning Proposal, pursuant to Section 55 of the Environmental Planning and Assessment Act, 1979.***
- 2 ***That Council forward the Planning Proposal to the Department of Planning and Environment requesting a “Gateway” determination, pursuant to Section 56(1) of the Environmental Planning and Assessment Act, 1979.***
- 3 ***That Council advise the Department of Planning & Environment that it does not intend to apply for plan making delegations for the rezoning, pursuant to Section 23 of the Environmental Planning and Assessment Act, 1979.***
- 4 ***That Council refer the project to appropriate public authorities for comment, subject to the determination of the Gateway Process, pursuant to Section 56(2) of the Environmental Planning and Assessment Act, 1979.***
- 5 ***That Council undertake community consultation regarding the Planning Proposal, subject to the determination of the Gateway Process, pursuant to Section 57 of the Environmental Planning and Assessment Act, 1979.***
- 6 ***That Council direct the General Manager to submit a further report to Council to report on the results of the public authorities’ consultation and community consultation phase.***
- 7 ***That Council update its Section 149 Certificates accordingly.***

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BACKGROUND

On 23 December 2013, WLEP 2013 was made by the Director General of the then Department of Planning & Infrastructure, as delegate of the then Minister for Planning & Infrastructure. Under Section 73 of the EP&A Act, Councils are required to keep their local environmental plans and development control plans under regular review for the purpose of ensuring that the objectives of the EP&A Act continue to be achieved. Accordingly, Council commenced preparation of Major Amendment 1 to the new Wyong LEP 2013, in January 2014. Major Amendment 1 is predominantly a housekeeping exercise, with the bulk of the proposed amendments involving rectification of anomalies and errors arising from the process of preparing Wyong LEP 2013. The remainder of the proposed amendments involve the incorporation of provisions from adopted Strategies/Plans that were not finalised in time to be incorporated into Wyong LEP 2013. These strategies include the Affordable Housing Study and Retail Study.

THE PROPOSAL

It is important that Council keeps our LEP under regular review for the purpose of ensuring that the objectives of the EP&A Act continue to be achieved. It was apparent in the lead-up to gazettal of WLEP 2013, and upon review post-gazettal, that a number of amendments were required to be made to WLEP 2013 in order to rectify errors and anomalies. As the process to amend WLEP 2013 is lengthy, it is also considered an opportune time to incorporate provisions from adopted Strategies/Plans that were not finalised in time to be incorporated into WLEP 2013, as well as other minor amendments that have been identified since gazettal of WLEP 2013.

It is proposed that WLEP 2013 – Major Amendment 1 is progressed in accordance with the following indicative timeframes:

Task	Duration	Start	Finish	Status
Phase 1 - Project Commencement (S.55)	51 days	03/03/14	14/05/14	Complete
Phase 2 - Preliminary Endorsement (S.55)	49 days	15/05/14	23/07/14	Underway
Phase 3 - Planning Proposal (S.56)	28 days	24/07/14	01/09/14	Not Started
Phase 4 - Public Authority Consultation (S.56)	48 days	02/09/14	07/11/14	Not Started
Phase 5 - Community Consultation (S.57)	73 days	10/11/14	24/02/15	Not Started
Phase 6 - Planning Proposal Amendments (S.58)	39 days	25/02/15	20/04/15	Not Started
Phase 7 - Making and Notification (S.59)	47 days	21/04/15	24/06/15	Not Started

Note: Comments in brackets refer to EP&A Act requirements.

Additional studies may be required. In this case, a new Phase 4 will need to be inserted, and may result in the timeframes for completion of this project being lengthened by approximately 40 days.

A complete list of proposed amendments to WLEP 2013 as part of Major Amendment 1 can be found at Attachment 1.

OPTIONS

Option 1 – Progress Proposal as Proposed

This report recommends preparation of a Planning Proposal and referral to the Department of Planning & Environment for a Gateway Determination. Major Amendment 1 is predominantly a housekeeping exercise, rectifying anomalies and errors arising from the process of preparing Wyong LEP 2013. It is therefore important to property owners within the LGA that this amendment be progressed in a timely manner

Accordingly, this option is recommended.

Option 2 – Delay Progression until Additional Information/Studies Completed

As an alternative to Option 1, Council could delay progression of Major Amendment 1 until further studies have been completed and proposed amendments available for incorporation into WLEP 2013.

This option is not recommended, as the 3 major studies that were not finalised in time to be incorporated into Wyong LEP 2013 have now been completed and are proposed to be implemented as part of WLEP 2013 – Major Amendment 1. Delaying progress of Major Amendment 1 will not add any significant value from completion of additional studies.

Option 3 – Do not progress the Proposal

Choosing not to progress Major Amendment 1 will result in the suite of proposed changes to WLEP 2013 not being implemented. This will have an impact on a number of property owners across the LGA, as Major Amendment 1 is predominantly a housekeeping exercise, rectifying anomalies and errors arising from the process of preparing Wyong LEP 2013.

This option is not recommended.

STRATEGIC LINKS

Wyong Shire Council Strategic Plan 2013-2017

The project is consistent with Wyong Shire Council Strategic Plan 2013-2017. The Strategic Plan notes that Council will undertake a major renovation of the WLEP 2013 “as the leading document in determining development potential in Wyong Shire”. WLEP 2013 replaced the 20 year old WLEP 1991, and modernises the controls over use and flexibility of all land in the Shire to promote development.

Adoption of the WLEP 2013 is identified in the Wyong Shire Council Strategic Plan 2013 – 2017 as a ‘Major Project’ for Council. WLEP 2013 was gazetted on 23 December 2013, however under Section 73 of the EP&A Act, Councils are required to keep their local environmental plans under regular review for the purpose of ensuring that the objects of the EP&A Act continue to be achieved. Accordingly, Council commenced preparation of Major Amendment 1 to the new Wyong LEP 2013, in January 2014. Major Amendment 1 will assist Council in ensuring that the WLEP 2013 continues to respond “to current challenges and opportunities, as well as establishing direction for the Shire for the next 20 years”, in accordance with the Strategic Plan.

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Contribution of Proposal to the Principal Activity

Nil.

Long term Financial Strategy

Nil.

Asset Management Strategy

Nil.

Workforce Management Strategy

Nil.

Link to Community Strategic Plan (2030)

Nil.

Budget Impact

Nil, with the exception of costs associated with carrying out the public exhibition period.

CONSULTATION

The proposal has been referred to a cross section of Council staff representing diverse specialty areas. Comments received have informed the configuration of proposed amendments. Future community and government agency consultation requirements will be outlined by the Gateway Determination, should a positive Gateway Determination be made.

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GOVERNANCE AND POLICY IMPLICATIONS

Amending WLEP 2013 will be undertaken by way of preparation of a Planning Proposal, and progressing of that Planning Proposal under Sections 55-59 of the EP&A Act. This process is in accordance with Council's adopted procedures.

Section 55 requires Council to prepare a Planning Proposal that explains the intended effect of the amendment to the LEP and sets out the justification for the amendment. Section 55 specifies matters to be included in the Planning Proposal.

Section 56 provides that Council submit the Planning Proposal to the Minister for Planning & Environment (or his delegate) for a Gateway Determination. Council will then be advised whether or not the matter should proceed (with or without variation), and may specify further studies or modifications to the Proposal, community and government agency consultation requirements and any other matters deemed relevant.

MATERIAL RISKS AND ISSUES

Corporate risks to be addressed for the Planning Proposal are:

1. Infrastructure Provision and/or Service Capacity:
 - a) Ensure future development of any land affected by this Planning Proposal is subject to an updated Contribution Plan under Section 94 of the EP&A Act; OR
 - b) Ensure existing water and sewer headworks and mains have capacity to cater for the increased load.
2. Political
 - a) Ensure the community consultation process is open and transparent; AND
 - b) Ensure Councillors are adequately briefed.
3. Certification/Governance
 - a) Ensure appropriate consultation with other public authorities during the consultation phase; AND
 - b) Ensure legislative procedures for Planning Proposals are followed.

CONCLUSION

This report seeks Council's endorsement to prepare a Planning Proposal for the suite of amendments proposed as part of WLEP 2013 – Major Amendment 1. This report also seeks endorsement to submit this Planning Proposal to the Department of Planning & Environment.

The Planning Proposal for WLEP 2013 – Major Amendment 1 will ensure that errors and anomalies associated with preparation of WLEP 2013 are rectified in a timely manner, in order to limit inconvenience to affected landowners within the LGA.

ATTACHMENTS

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|---|--|-----------|
| 1 | Council - Wyong LEP 2013 Major Amendment 1 - 23 July 2014 - Page 1 | D10495724 |
| 2 | Council - Wyong LEP 2013 Major Amendment 1 - 23 July 2014 - Page 2 | D10495725 |
| 3 | Council - Wyong LEP 2013 Major Amendment 1 - 23 July 2014 - Page 3 | D10495727 |
| 4 | Council - Wyong LEP 2013 Major Amendment 1 - 23 July 2014 - Page 4 | D10495728 |
| 5 | Council - Wyong LEP 2013 Major Amendment 1 - 23 July 2014 - Page 5 | D10495730 |