



Planning Proposal RZ/6/2013

Proposed Amendments to the Wyong Local Environmental Plan, 2013, in respect of:

Tuggerah Pioneer Dairy

South Tacoma Road and Lake Road, Tuggerah

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Part 1 Objectives or Intended Outcomes

To enable development of part of the land at Tuggerah for a regional sporting facility, as well as facilitating a variety of community uses and activities on the remainder of the site, further enabling heritage and environmental conservation of the land.

The location and boundaries of the Pioneer Dairy site is shown in Figure 1 below.



Figure 1: Site Location. The area referred to as the “Pioneer Dairy Site” is within the red boundary. The area which has been acquired by Council for the Regional Sporting Facility is identified at the southern end of the site, within the fine black boundary.

Land Description:

The land the subject of this Planning Proposal (Pioneer Dairy) has been recently re-subdivided to facilitate the compulsory acquisition of part of the site (Lot 1, DP 1186260) by Council. The whole of the area within the red boundary only in Figure 2 below is affected by this Planning Proposal.

The land the subject of this Planning Proposal is currently described as Lot 1, DP 1186260 (to be used for the Regional Sporting Facility); Lot 1, DP 585323; Lot 7316, DP 1155188; Lot 2, DP 1186260; and Lot 3, DP 1186260, Lake Road, Tuggerah. Refer Figure 2 below.

The existing WLEP, 2013 Map Sheets relevant to the land are included within Attachment 1.

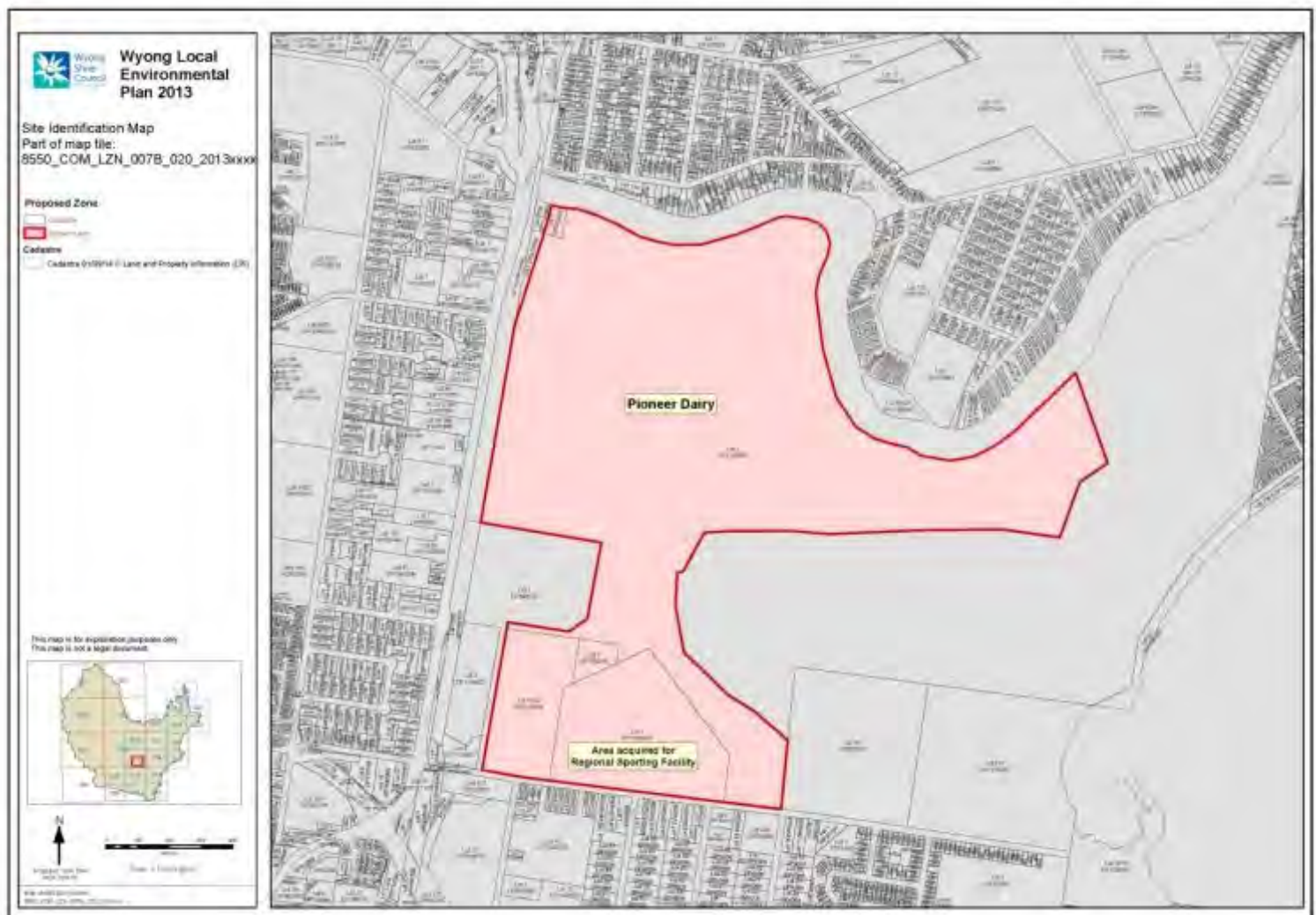


Figure 2: Site Location, indicating current cadastral description and boundaries.

Context

A broader aerial view indicating the site context adjacent to the Regional Major Centres of Tuggerah and Wyong, the F3 Freeway (M1 Motorway), Great Northern Rail Line and the Tuggerah Lakes, is shown in Figure 3 below:

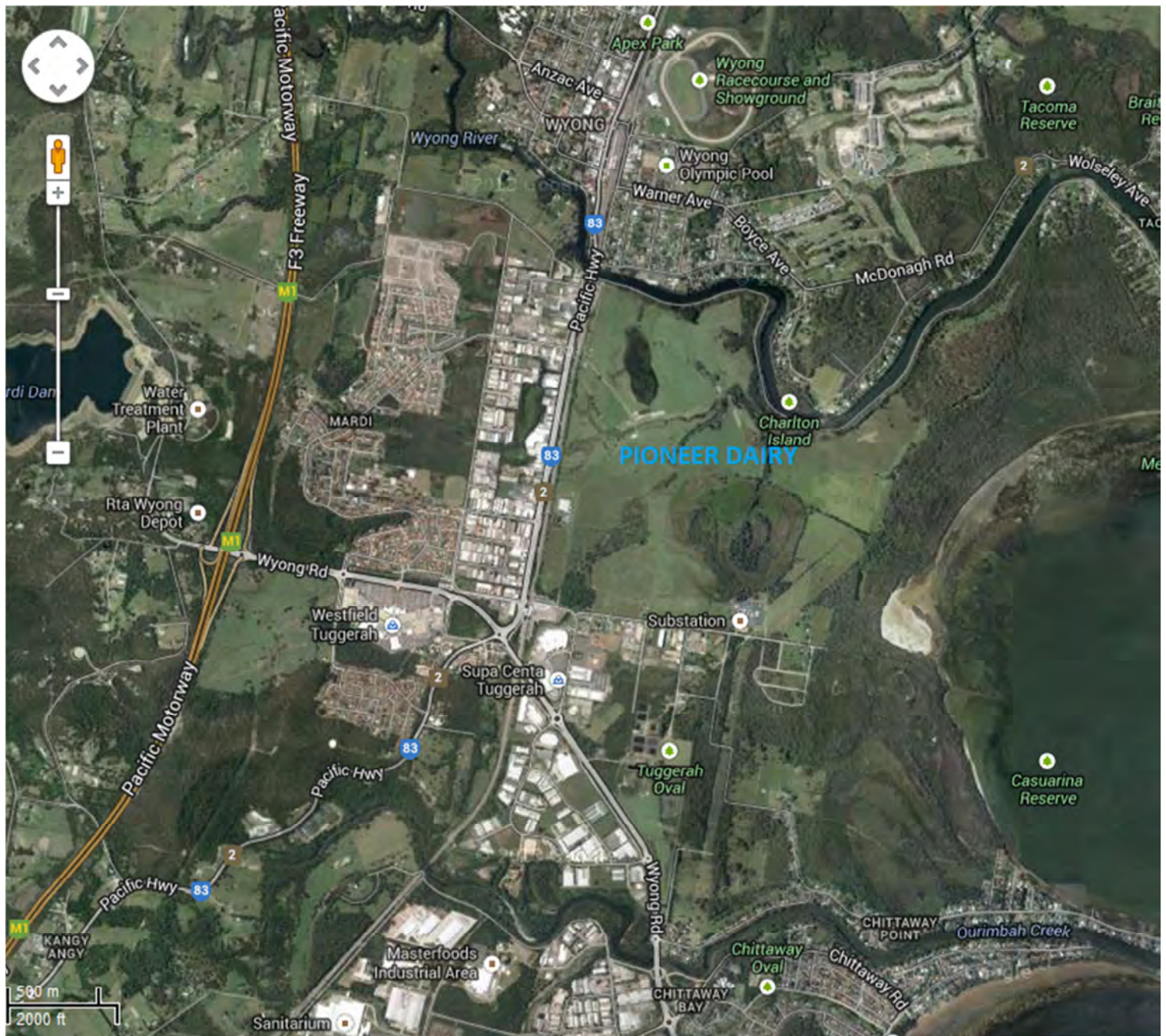


Figure 3: Regional Context, indicating the proximity of the site to the Regional Major Centres of Wyong and Tuggerah.

Part 2 Explanation of Provisions

Amendment of Wyong LEP 2013

- Amendment of the Wyong Local Environmental Plan, 2013 (WLEP 2013) Land Zoning Map (Sheet LZN_007B) in accordance with the proposed zoning map shown at Attachment 2. The change in zoning affects land currently zoned E3 Environmental Management Zone, to be zoned RE1 – Public Recreation Zone in two separate areas, as well as a triangular portion of land zoned IN1 – General Industrial, which is to be rezoned E3 Environmental Management Zone. The areas of the land zoned E2 Environmental Conservation Zone remain unchanged.
- Amendment of the WLEP 2013 Heritage Map (Sheet HER_007B) to exclude the area outside the identified “Significant Heritage Curtilage”, as shown at Attachment 2. This includes the exclusion of the land within Lot 1 DP 1186260, intended for the development of the Regional Sporting Facility.
- Amendment of the WLEP 2013 Lot Amalgamation Map (Sheet LAM_007B) to exclude the subject land, refer Attachment 2.
- Amendment of the WLEP 2013 Lot Size Map (Sheet LSZ_007B) to exclude the areas to be rezoned to RE1 Public Recreation while retaining the area subject to the E3 Environmental Management zone, refer Attachment 2.

Part 3 Justification

Section A – Need for the Planning Proposal

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

No, the need for the Planning Proposal has arisen in the context of a desire to develop new regional sporting and community facilities, while facilitating identified compatible uses which will provide income streams to assist with the heritage and environmental conservation of the land formerly comprising the Tuggerah Pioneer Dairy. The land is owned by the Crown and managed by the Tuggerah Lake Reserve Trust (“the Trust”).

The land is identified as Reserve 1003002 for the purpose of Public Recreation and Coastal Environmental Protection (notified 22nd June, 2001). Ongoing use of the land and the statutory obligations of the Trust are supported and regulated by a detailed Plan of Management (PoM), adopted by the NSW Department of Lands on 3rd October, 2007.

Section 8 of the PoM and the Action Plan (Section 9) set out the priorities for the management of the Reserve. These actions include upgrading access arrangements, improving facilities for visitors, interpretive and directional signage as well as maintenance and improvement of buildings. The PoM excludes the area proposed for the Regional Sporting Facility and identifies that land as Reserve No. 1003003 for Future Public Requirements (also notified on 22nd June, 2001). This Planning Proposal is designed to implement these arrangements.

Council commissioned an Environmental Heritage Curtilage Assessment (Refer Attachment 3) to examine the significance of the structures and surrounding grazing land, which defines an appropriate surrounding "Significant Heritage Curtilage" for the Heritage Precinct and remaining structures. This reflects the historic usage of the land, and has determined the extent of affectation of the revised WLEP 2013 Heritage Map layer proposed for the land.

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

NOTE: *The **Recommended Option** detailed below on pages 8-9 and within Attachment 2, is considered to be the most appropriate and best means of achieving the objectives and intended outcomes for the land. The Recommended Option has been identified, refined, detailed and addressed to become the Planning Proposal, in response to comments and submissions from relevant stakeholders. Notwithstanding, the following discussion details the process of refinement of this Planning Proposal to its current recommended form:*

The Original Option:

The WLEP, 2013 (SI LEP), became effective on 23 December, 2013. Under this instrument the land is zoned partly E2 Environmental Conservation and partly E3 Environmental Management.

Originally, the simplest method of permitting a variety of community, cultural, recreation and environmental management activities on the land was considered to be an amendment to the WLEP, 2013, to change the area of the site zoned E3 Environmental Management (majority of the land, excepting the areas of wetland and vegetation zoned E2 Environmental Conservation) to the RE1 Public Recreation Zone, including an amendment to the Heritage map layer to more accurately define the heritage curtilage.

The RE1 zone would provide opportunities for recreational and environmental conservation and tourism, which would generate funding opportunities for the ongoing maintenance of the site and its facilities. It was noted that the RE1 zone has been applied to similar sensitive sites, e.g., Centennial Park in Sydney.

This concept is identified within Figure 4 below:

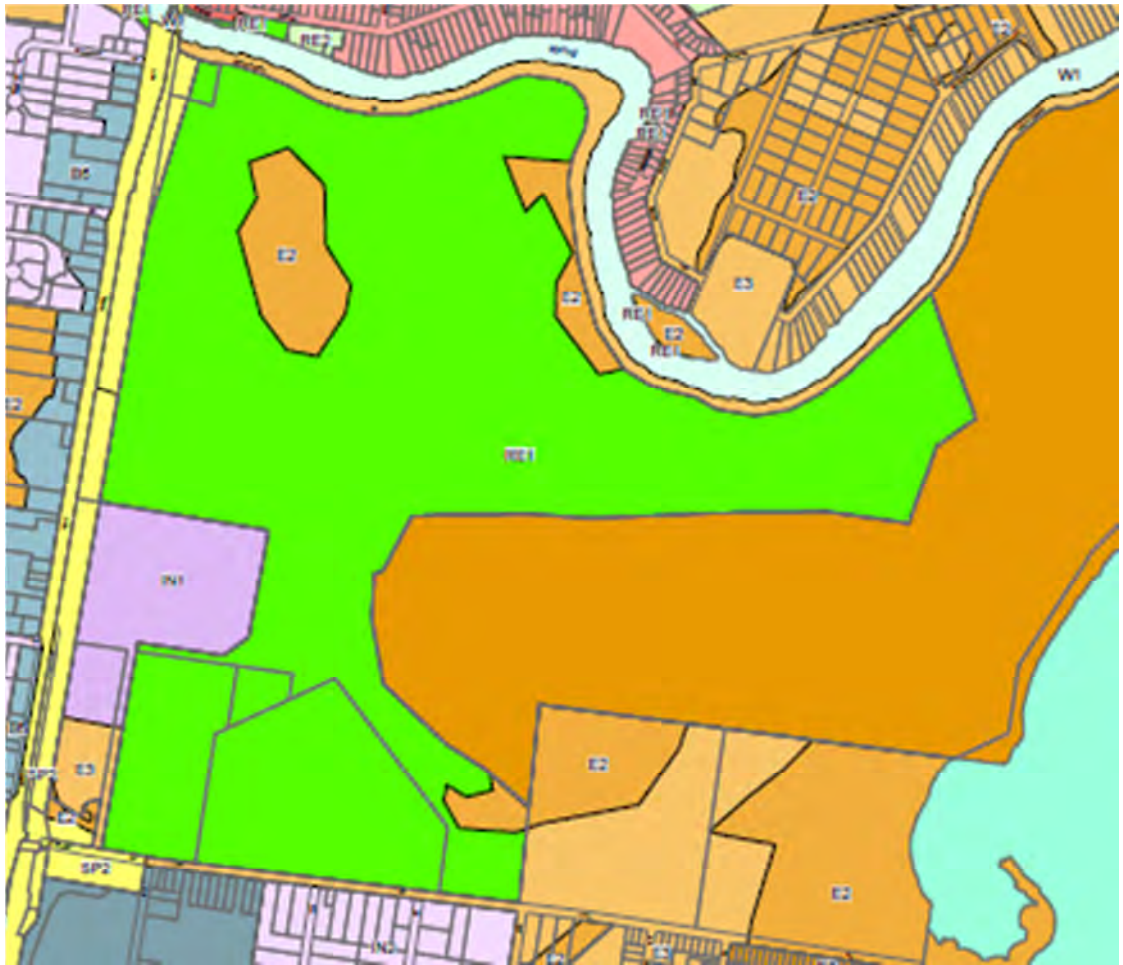


Figure 4: Original Zoning Option: Rezone the whole of the E3 zoned land to RE1 Public Recreation, and retain the E2 Environmental Conservation Zones.

Alternative Option:

At that time an alternative option was also identified for consideration within the Planning Proposal. This would be to rezone only Lot 1, DP 1186260, Lake Road (to be used for the Regional Sporting Facility) to RE1 Public Recreation, and to retain the E2 Environmental Conservation and E3 Environmental Management Zones over the remainder of the site. This option was preferred above the Original Planning Proposal by a number of NSW Agencies.

The amendment to the Heritage Map sheet to more accurately define the heritage curtilage would still be required as proposed, as would the removal of the sites from the Minimum Lot Size Map and the Lot Amalgamation Map, as these are considered unnecessary in the context of public ownership and management of the site. The E3 Environmental Management zone would still enable a variety of community, cultural, passive recreational, environmental and educational functions for the remainder of the Pioneer Dairy site, however, would not permit the organic produce market and entertainment facility proposals identified by the Reserve Trust and the Plan of Management as desirable income generating activities for the site.

This alternative concept is identified within Figure 5 below:

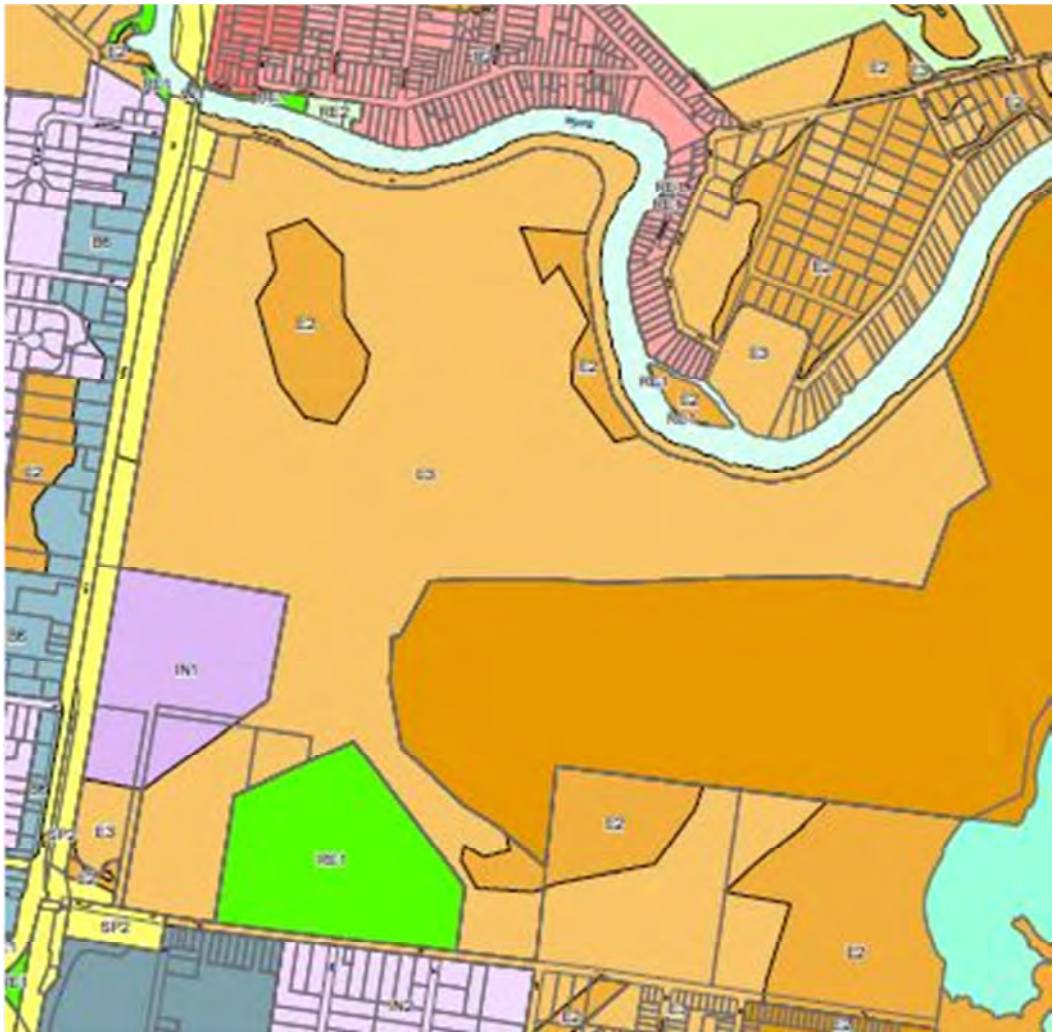


Figure 5: Alternative Zoning Option: Rezone only Lot 1, DP 1186260, Lake Road (to be used for the Regional Sporting Facility) to RE1 Public Recreation, and retain the E2 Environmental Conservation and E3 Environmental Management Zones over the remainder of the site.

Recommended Option

Following NSW Government Agency consultations and further discussions with stakeholders, Council has revised the Planning Proposal to reduce the area proposed to be rezoned to RE1 Public Recreation to 2 separate smaller focal areas, as indicated on the draft Land Zoning Map Sheet LZN_007B (refer Attachment 2). These proposed RE1 areas comprise 31.02Ha surrounding and including the Historic Dairy buildings, and 18.34Ha adjacent to Lake Road to be used for the Regional Sporting Facility (Total 49.36Ha).

The revised Proposal enables large areas of the site (116.21Ha) to retain the E3 Environmental Management Zone (with the 40Ha minimum subdivision requirement maintained) and for the existing E2 Environmental Conservation Zoned areas (12.57Ha) to be retained unchanged. Further, an area of land zoned IN1 General Industrial (1.92Ha) is to be rezoned and added to the E3 Environmental Management zone.

This recommended concept is considered to be the best means of achieving the objectives and intended outcomes of the Planning Proposal, as identified within Figure 6 below:

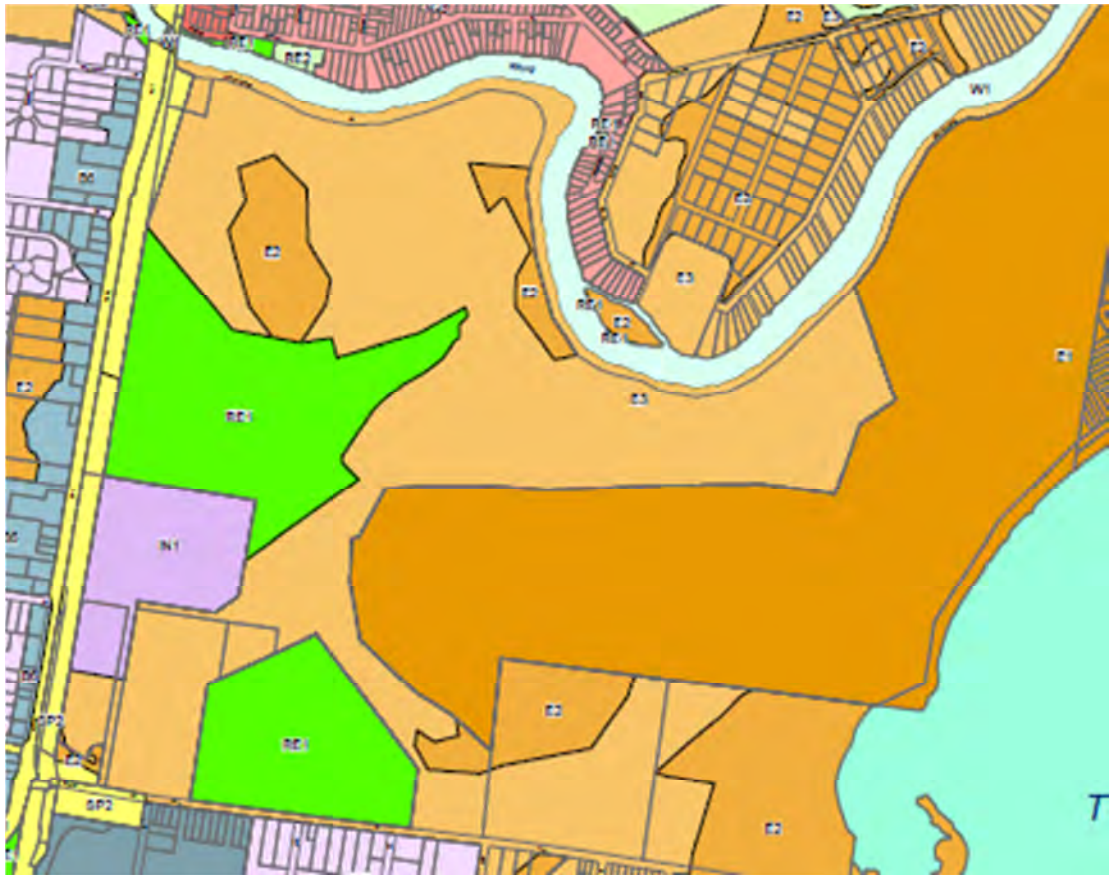


Figure 6: Recommended Option. Rezone the two separate focal areas to RE1 – Public Recreation Zone, retain the majority of the site as E3 Environmental Management Zone, rezone land zoned IN1 – General Industrial to E3 Environmental Management Zone and retain areas zoned E2 Environmental Conservation Zone unchanged.

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)?*

The Central Coast Regional Strategy identifies the Tuggerah-Wyong Major Centre as performing vital roles in relation to economic, employment, social, cultural, entertainment and recreation for the local population and region. The Tuggerah Pioneer Dairy site is adjacent to and spans the eastern extent of the floodplain connecting the major centre, with access for visitors to the M1 Motorway, the Pacific Highway and the Great Northern Rail Line at both Tuggerah and Wyong Railway Stations. The Strategy provides under the key economic opportunities for the region, that 'the regions tourism advantages are also likely to increase' and identifies the conservation of environmental heritage, environmental assets and landscape values as a key employment and recreation opportunity. Support for tourism and the economic benefits both direct and indirect are key objectives of the applicable actions for the Wyong-Tuggerah area.

The proposal addresses the following Actions identified within the Strategy:

Action 4.18: the land provides an open space, recreation and community resource in close proximity to the Wyong and Tuggerah town centre urban areas and is consistent with the maintenance of the ecological values of the land;

Action 4.22: the proposal will assist in addressing State Plan priority E5 'jobs closer to home';

Action 5.1: the proposal will contribute to economic and employment growth and the principle of 'self-containment' on the Central Coast;

Action 6.18: the proposal will improve the provision of local open space;

Action 6.20: the proposal will address the review and protection of cultural heritage values;

Action 6.21: the proposal will enable tourism facilities to be appropriately managed to minimise impacts on natural resources and the natural environment;

Action 6.22: the proposal will be compatible with heritage conservation objectives;

Action 7.1: the proposal will minimise pressures for increased development density over the land, having regard to the likelihood of flooding affecting the land.

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

The Community Strategic Plan identifies eight (8) priority objectives, each supported by a range of actions. The Planning Proposal is assessed as follows.

1. Communities will be vibrant, caring and connected.

The proposal will enable a wider variety of land-uses, designed to enhance the capacity of the land to support activities which nurture a vibrant community culture. Such activities may include community meetings and functions, organic produce and craft markets, artist/sculptor exhibits and musical performances, community gardens, wetland education and sustainability centre, picknicking, bird-watching, and so on.

The Proposal represents a unique opportunity to preserve the environmental values of the land and remaining heritage structures, providing a community connection to dairying practices which were widespread in the Wyong district from the 1830s. The opportunity to provide educational tours regarding the history and environmental values of the wetlands on the site will be supplemented by opportunities for passive recreation, picnics, cycling, etc. Facilitating low-scale tourism, community, creative and cultural usage will provide funding sources for the upkeep of the land.

The Planning Proposal is consistent with the Wyong Shire-wide Settlement Strategy and the Central Coast Regional Strategy.

2. There will be ease of travel.

Rail access to the site is available from both the Wyong and Tuggerah Stations. The Tuggerah Station is a short walk from the site. An off-road cycleway network is also available, linking to the local road system. A cycleway for passive recreation is also to be developed within the site.

Vehicle access to the site is currently available via gravel access road from South Tacoma Road, and also a gravel track extends northward from Lake Road in the South. However, the South Tacoma Road access is restricted to passenger vehicles only, due to the available clearance under the bridge over the Wyong River. The development of the Regional Sporting Facility off Lake Road will include the provision of a new access road to the Heritage Precinct from Lake Road, which will likely include the provision of a small bridge for a minor creek crossing. This road is intended to be suitable for buses for community groups, to enhance the ease of bringing groups to the site for community and education purposes. It will also provide an alternative early egress for South Tacoma residents in times of flood.

The increased use of the Pioneer Dairy Precinct of the land may marginally increase traffic movements on River Road. Lake Road and Bryant Drive may see some increased usage (dependant on the timing of the new access), however, these roads are well serviced by the existing roundabout access from the intersection with Wyong Road. Any major impacts likely to arise as a result of the development of the Regional Sporting Facility will be addressed during the assessment of the development application for that proposal.

3. Communities will have a range of facilities and services.

The Planning Proposal will enable the development of new educational, cultural and community facilities, active and passive open spaces, together with a new regional sports and recreation facility. It will also result in fuller utilisation of existing facilities, one of Council's goals.

4. Areas of natural value will be enhanced and maintained.

A significant landscape conservation link to the adjacent National park land alongside the Wyong River and Tuggerah Lake will be preserved as a result of the planning proposal. Restoration and management of this land will be achieved.

5. There will be a sense of community ownership of the natural environment.

The development will result in greater public access to and better enjoyment of this key landscape. In time, this access will generate greater "community ownership and identity" with the land.

6. There will be a strong sustainable business sector.

The Proposal will assist in job creation opportunities, particularly within the tourism, educational and service sectors. The Trust currently accesses grant funding for projects and facilitates employment utilising "Work for the Dole" programs and is seeking to offer apprenticeship opportunities.

7. Information and communication technology will be world's best.

Not currently relevant to this Proposal.

8. The community will be educated, innovative and creative.

Each of the initiatives for the site, such as those identified under Priority 1 above, will work toward this goal.

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

State Environmental Planning Policy No 14 – Coastal Wetlands

This SEPP aims to preserve and protect coastal wetlands in the environmental and economic interests of the State. The SEPP identifies the Tuggerah Wetland on the adjoining NP&WS estate (Lot 32, DP 1096069), which is zoned E1 National Parks and Nature Reserves Zone.

Whilst there is a small entrant area to this coastal wetland identified by the SEPP within the southern area of the site, that area is not affected by the Planning Proposal, i.e., it will remain zoned E2 Environmental Conservation with no development proposed in this area. Further, Council proposes a constructed wetland as part of the Sporting Facility project, to ensure that any stormwaters entering the E2 land are filtered through a preliminary wetland system.

State Environmental Planning Policy No 55 – Remediation of Land

This SEPP aims to provide a State-wide approach to the investigation and remediation of contaminated land. Current and past land uses on the site have been unlikely to result in any contamination on the subject land. Whilst the proposal does not indicate the presence of Contaminated Land, an Initial Site Contamination Investigation Report has been completed by Council to satisfy the requirements of SEPP 55 Remediation of Land (refer Attachment 6).

State Environmental Planning Policy No 44 – Koala Habitat Protection

This SEPP aims to encourage the proper conservation and management of koala habitat in areas in order to maintain the viability of koala populations. The SEPP requires an assessment of the site to determine if it is potential koala habitat. Potential koala habitat is defined as areas of native vegetation where at least 15% of the total number of trees are prescribed koala feed trees. The land is predominantly cleared pastureland with a perimeter of trees along the river and creeks. The land does not contain potential koala habitat.

State Environmental Planning Policy No 71 – Coastal Protection

This SEPP aims to implement the principles in the NSW Coastal Policy, including the preservation and improvement of public access to foreshore areas, preservation of the scenic qualities of the Coast, the preservation of water quality, wildlife and cultural sites.

The subject land is not located on the open Pacific Ocean Coast. However, it is partly within the “Coastal Zone” (as defined under the Coastal Protection Act, 1979), with parts of the land also classified as a “Sensitive Coastal Location”, within the meaning of SEPP 71 – Coastal Protection (see Attachment 7).

It is instead located on the landward side of a Coastal Lagoon (Tuggerah Lake) and is also located adjacent to a tidal river (Wyong River) which flows into that lagoon. The land is of a significant size (178.14Ha), and is separated from the Wyong River by South Tacoma Road, which includes a river foreshore reserve. It is also separated from Tuggerah Lake by a large undeveloped land parcel, being NPWS State Conservation Area land.

The majority of the Pioneer Dairy land is included within the “Coastal Zone”, however Lot 1 DP 1186260 (the area to be rezoned to RE1 Public Recreation for the Regional Sporting Facility) is outside the Coastal Zone. The parts of the site classified as “Sensitive Coastal Location” include land adjacent to the northern boundary with South Tacoma Road near the Wyong River, and part of the buffer area to the Tuggerah Wetland on the southern boundary

with the NPWS estate). There is no change in zoning proposed for the areas classified as within a "Sensitive Coastal Location", and they are not affected by this Planning Proposal.

The proposal does not compromise and is not inconsistent with the Policy Objectives of SEPP 71 Coastal Protection, e.g., "to protect and conserve the coast for future generations".

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

The Planning Proposal has been considered against the relevant Ministerial Section 117 Directions and is considered to be generally consistent with the relevant Directions. Notwithstanding, the NSW Department of Planning and Environment (DP&E) "Gateway" determined that several Directions were considered inconsistent, and has requested these inconsistencies be addressed in consultation with NSW Agencies, and that Council seek the approval of the DP&E Secretary in relation to any unresolved inconsistencies.

The following Summary Table (Figure 7) therefore reflects the "Gateway Determination".

Prior to the period of Public Consultation, Council has consulted with relevant NSW Agencies and has determined their position on these matters. This has resulted in a revised Planning Proposal (the Recommended Option). Council has provided revised documentation to the NSW DP&E and sought and gained the approval of the Secretary to proceed to Public Exhibition.

The detailed assessment of the Directions provided in the "Discussion Regarding Inconsistencies" hereunder (and within Attachment 5 to this Planning Proposal), reflects reconsideration of s.117 Directions as endorsed by the DP&E Secretary.

Number	Direction	Applicable	Consistent
Employment & Resources			
1.1	Business & Industrial Zones	Yes	No
1.2	Rural Zones	No	Yes
1.3	Mining, Petroleum Production and Extractive Industries	Yes	No
1.4	Oyster Aquaculture	No	NA
1.5	Rural Lands	No	NA
Environment & Heritage			
2.1	Environmental Protection Zones	Yes	No
2.2	Coastal Protection	Yes	Yes
2.3	Heritage Conservation	Yes	Yes
2.4	Recreation Vehicle Areas	Yes	Yes
Housing, Infrastructure & Urban Development			
3.1	Residential Zones	No	NA
3.2	Caravan Parks and Manufactured Home Estates	No	NA
3.3	Home Occupations	Yes	Yes
3.4	Integrating Land Use & Transport	No	NA
3.5	Development Near Licensed Aerodromes	No	NA
3.6	Shooting Ranges	No	NA

Hazard & Risk			
4.1	Acid Sulfate Soils	Yes	No
4.2	Mine Subsidence and Unstable Land	No	NA
4.3	Flood Prone Land	Yes	No
4.4	Planning for Bushfire Protection	Yes	No
Regional Planning			
5.1	Implementation of Regional Strategies	Yes	Yes
5.2	Sydney Drinking Water Catchments	No	NA
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	No	NA
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	No	NA
5.5 to 5.7	Revoked	No	NA
5.8	Second Sydney Airport: Badgerys Creek	No	NA
Local Plan Making			
6.1	Approval and Referral Requirements	Yes	Yes
6.2	Reserving Land for Public Purposes	Yes	No
6.3	Site Specific Provisions	Yes	Yes
Metropolitan Planning			
7.1	Implementation of the Metropolitan Strategy	No	NA

Figure 7: Section 117 Ministerial Directions Assessment Summary.

Discussion Regarding Inconsistencies:

- **Direction 1.1: Business and Industrial Zones:**

Notably, the proposal is not consistent with Direction 1.1: Business and Industrial Zones, as it seeks to rezone an area of 1.92Ha of land currently zoned IN1 – General Industrial to E3 – Environmental Management. This is to enable environmental protection of this riparian area and the buffer it provides to the adjacent EECs (Endangered Ecological Community), being the River Flat or Swamp Sclerophyll Forest EEC and the Sydney Freshwater Wetlands EEC. The IN1 zoning currently over the land was a direct conversion in the WLEP, 2013, from the 4(a) General Industrial Zone which applied under the Wyong LEP, 1991.

However, the land was always part of the Dairy estate (never owned by the adjoining industrial undertaking), and was never used, or intended to be used, for industrial purposes. The zoning therefore appears as an anomaly from the previous Environmental Planning Instrument. This element of the Planning Proposal (rezoning to E3) is in recognition that the subject area of land on the western side of the EEC is part of the Dairy estate, and that significant government funding and labour by volunteers in recent years has seen the intensive planting and rehabilitation of this riparian area to the cadastral boundary.

In the context of available land for employment lands in suitable locations in Industrial zones within the Shire, the Wyong Employment Lands and Industrial Land Audit (Feb, 2013) indicates that with a pro-rata demand figure of 7.7Ha per year, the Shire has a vacant zoned industrial land supply of 391Ha - exceeding 50 years demand (Best Practice is considered to

be 8-10 years). When considering other strategically identified lands, this potential increases to 164 years, or 1270.80Ha.

Council has consulted with NSW Trade and Investment – Resources and Energy, as well as NSW Department of Primary Industries – Agriculture, who have each advised that they have no issues to raise in relation to this Planning Proposal.

It is therefore considered that the inconsistency created by the rezoning of 1.92Ha of IN1 land to E3 for environmental protection, is of minor significance (1.1(5)(d)).

Note: Council sought and gained the approval of the NSW DP&E Secretary, so that the Planning Proposal could proceed to the Public Exhibition phase.

- **Direction 1.3: Mining, Petroleum Production and Extractive Industries:**

The majority of the site is used for cattle grazing ("extensive agriculture"). This use remains permissible within the E3 Environmental Management zoned areas of the site and may continue as an "existing use" within the proposed (reduced) RE1 Public Recreation zoned area.

As the current E3 Environmental Management zone permits "extensive agriculture", the mining SEPP (SEPP (Mining, Petroleum Production and Extractive Industries) 2007) permits "mining" where agriculture or industry is permitted. It is noted that rezoning parts of the land to RE1 will prohibit those uses (including mining). The proposal is therefore determined to be inconsistent with the Direction.

In relation to this matter, Council has consulted with NSW Trade and Investment - Resources and Energy, who advised that they have no issues to raise in relation to the Original Planning Proposal.

The Planning Proposal (Recommended Option) will rezone less E3 land than the original proposal. A total of 49.36Ha of land currently zoned E3 Environmental Management is to be rezoned to RE1 Public Recreation. This is within a site where 116.21Ha (over 70%) will remain zoned E3 Environmental Management Zone (with the 40Ha minimum subdivision requirement maintained).

Further, as the land is a Public Reserve for the purpose of Public Recreation and Coastal Environmental Protection, owned by the Crown and managed by the Tuggerah Lake Reserve Trust, it is considered highly unlikely that it would be identified/required or appropriate for use for mining purposes.

Having regard to the matters raised above, it is considered that the inconsistency is of minor significance (1.3(6)).

Note: Council sought and gained the approval of the NSW DP&E Secretary, so that the Planning Proposal could proceed to the Public Exhibition phase.

- **Direction 2.1: Environmental Protection Zones:**

The most significant environmentally sensitive areas of the Pioneer Dairy site are currently zoned E2 Environmental Conservation (12.57Ha), with the majority of the site zoned E3 Environmental Management (163.65Ha), and part of the site zoned IN1 – General Industrial (1.92Ha - to be rezoned to E3 Environmental Management), under the WLEP, 2013. Other sensitive adjacent lands are protected under the E1 National Parks and Nature Reserves

Zone, and are on separate adjacent landholdings under the ownership and management of the NP&WS (exceeding 211.88Ha). A small area (1.54Ha) of variable, entrant extent to the "Tuggerah Lagoon" SEPP 14 wetland (located on land within the adjoining National Park estate), encroaches the land at the south-eastern corner of the site and is zoned E2 Environmental Conservation. Identified EECs within the site are mapped on Council's database. The Proposal does not alter the number of Ha within any of the E1 or E2 zonings.

While the Planning Proposal retains the three areas of E2 zone unchanged, and the majority of the E3 zone over the site, two (2) separate areas are to be zoned RE1 Public Recreation (a total of 49.36Ha), which will enable recreation, community and tourism uses whilst also aiming to protect and enhance the natural environment for recreational purposes. The RE1 Public Recreation zone will provide opportunities for recreation and environmental conservation and tourism, which will generate funding opportunities for the ongoing maintenance of the site and its facilities. It is noted that the RE1 Public Recreation zone has also been applied to similar sensitive sites, e.g., Centennial Park in Sydney.

The DP&E Gateway determined that the original proposal (to rezone the whole site to RE1) was inconsistent with Direction 2.1, as it "would have reduced the environmental protection standards applying to the land by removing the E3 zoning which applied to large parts of the site and removing the 40Ha minimum lot size applicable to the land. Further, that given the land contains SEPP 14 wetlands and EECs Council should consult with OEH prior to addressing the inconsistency with the Direction".

Council has had regard for this view (in consultation with OEH) and whilst recognising that the SEPP 14 wetland is not located within the site, has modified the proposal to reduce the extent of RE1 zone to cover only the two separate focal areas, and to retain the E3 Environmental Management zone (and the 40Ha minimum lot size applicable) over the remainder of the land (116.21Ha).

The two areas of RE1 Public Recreation are represented on the Land Zoning Map (8550_COM_LZN_007B_20150316.pdf); one including the open paddocks surrounding the buildings of European Heritage (31.02Ha, within Lot 3, DP1186260), and the other relating to the separate land parcel (18.34Ha, being the whole of Lot 1, DP 1186260) acquired by Council for the provision of Regional Sporting Facilities, adjacent to Lake Road.

The aims of the RE1 zone include environmental protection, viz:

- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes, and
- To provide linked open space for ecosystem continuity, public access, local community recreation and waterway protection.

Additionally, the Pioneer Dairy site is land owned by the Crown and managed under a Plan of Management (adopted 3/10/2007) by the Tuggerah Lake Reserve Trust for the purposes of Public Recreation and Coastal Environmental Protection.

Sufficient opportunities for the consideration of environmental matters will remain available within the RE1 and E3 zones for new proposals under Part IV (Section 79C) and under Part V of the EP&A Act, ensuring the protection of the sensitive areas of the land.

Further, NSW OEH have advised that "the proposed changes to the zone footprint are welcomed, in particular the limitation of the RE1 Public Recreation Zone to disturbed parts of

the site and the exclusion of the riparian EEC and other patches of environmentally sensitive land from the RE1 Public Recreation zone”.

It is also noted that the reduction of E3 zoned land generally is partly offset by the rezoning of 1.92Ha of IN1 General Industrial land to E3 Environmental Management, for environmental protection purposes.

The removal of the Lot Amalgamation affectation over Lot 1 DP 1186260 is essentially a “housekeeping” matter, as this provision is not applied to RE zones, or to lands in public ownership. Council has now refined its original concept such that the area required for the sporting facilities is contained within the area it has now acquired (Lot 1), and does not require the other lands originally identified for possible inclusion. The remaining land is owned by the Crown and managed by a Trust for the purposes of Public Recreation and Coastal Environmental Protection.

Council has had regard for the objectives of this Direction, has modified the Planning Proposal accordingly, has received the endorsement of NSW Office of Environment and Heritage, and is of the view that if any inconsistency remains, then that inconsistency is justified as of minor significance (2.1(6)(d)).

Note: Council sought and gained the approval of the NSW DP&E Secretary, so that the Planning Proposal could proceed to the Public Exhibition phase.

- **Direction 4.1: Acid Sulphate Soils:**

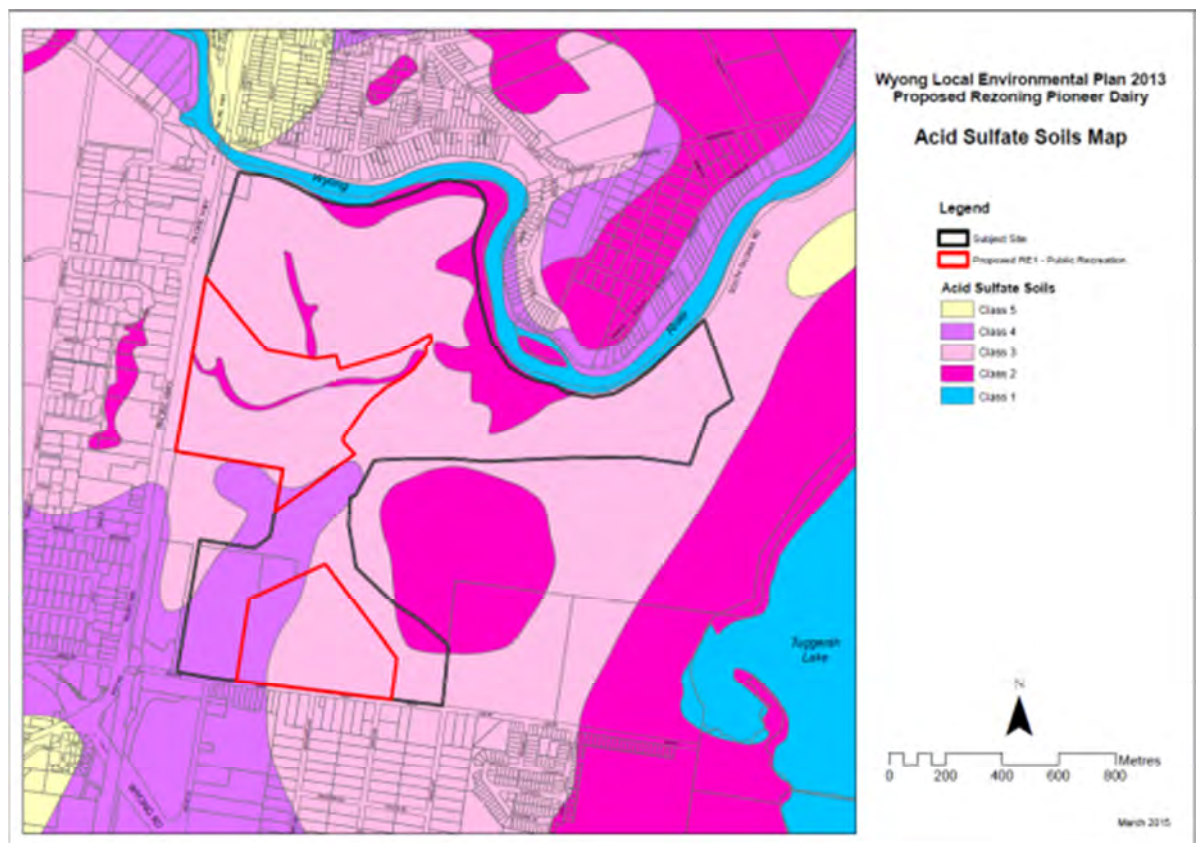
The potential for Acid Sulfate Soils on the land has been studied, defined and mapped in the WLEP 2013, and is addressed via an appropriate Clause (7.1), triggering compliance with the Acid Sulfate Soils Guidelines in the assessment of development proposals. These controls will not be altered by this Planning Proposal and remain applicable to future development proposals.

The Direction indicates that where a planning proposal proposes an intensification of land uses (can be considered applicable to the proposed Regional Sporting Facility at the southern end of the site, as no new buildings are proposed for the Dairy Precinct), Council is to consider an Acid Sulfate Soils Study assessing the appropriateness of the change of land use given the presence of Acid Sulfate Soils. Council is required to seek the agreement of the Secretary for any inconsistency with this requirement.

The future Sporting Complex at the southern extent of the site will involve the placement of fill material for the proposed fields, and minimal excavation, and is considered not inconsistent with this Direction. However, the design of this facility will ensure that any likelihood of significant adverse environmental impacts from the use of the land are avoided.

The Sporting Complex project is proposed on ASS soils Classified as Class 3 & 4. It is unlikely that any of the development proposal will require excavation below 1 metre (trigger for Class 3), and definitely not below 2 metres (trigger for Class 4). The project is also unlikely to lower the water table more than 1 metre (trigger for Class 3) below the natural ground surface, with filling being more likely. Proposals for service infrastructure would require more detailed analysis, dependant on design.

An Acid Sulfate Soils Study, assessing the land area proposed to be used for the Regional Sporting Facility, is currently being undertaken by Consultants undertaking the design development for the Regional Sporting Facility Complex, in preparation for the DA submission.



Council has had regard for the objectives of this Direction, has analysed the soil conditions applicable to the development site, has modified the Planning Proposal to reduce the area of land to be rezoned to include only the land areas with any potential for future development, has engaged Contractors to provide a suitable detailed study with the development proposal, and is of the view that if any inconsistency remains, then that inconsistency is justified as of minor significance (4.1(8)(b)).

Note: Council sought and gained the approval of the NSW DP&E Secretary, so that the Planning Proposal could proceed to the Public Exhibition phase.

- **Direction 4.3: Flood Prone Land:**

The land is relatively flat, open pastureland which is dissected by creek and wetland systems. Parts of the land are subject to affectation by the 1% AEP Flood Level. Flood related development controls would apply to any new development in accordance with *Wyong Development Control Plan 2013: Chapter 3.3 – Floodplain Management (DCP 2013)*. The Proposal was not considered to be inconsistent with this Direction.

However, the DP&E Gateway has determined that the proposal seeks to permit a significant increase in the development of the land (assumed to be referring to the proposed Regional Sporting Facility at the southern end of the site) and is inconsistent with the Direction. Council was requested to address the inconsistency by confirming the proposal is in accordance with a floodplain risk management plan or by justifying that the provisions are of minor significance by seeking agreement of the Secretary.

Council's Senior Planning Engineer - Hydrology has confirmed that the proposed development, as detailed in the 2013 Concept Plan, is compatible with the flood hazard on the site. His report included the following:

"The Lower Wyong River Floodplain Risk Management Plan was completed in July 2010 and adopted by Council; it covers this site. The plan was developed in accordance with the NSW Government's gazetted Floodplain Management Manual (2005). The flood mapping, hazard mapping and hydraulic categorisation from the Floodplain Risk Management Plan has been recently updated by the Wyong River Flood Study, which was completed in November 2014, and was also prepared in accordance with the same gazetted Manual.

The south-western corner of the site is flood free in the 1% AEP flood, which represents 33% of the overall site for the Regional Sporting Facility. The proposed land use on this area (fields, grandstand, clubhouse, public car park) is compatible with the flood hazard, as defined by WSC DCP 2013: Chapter 3.3 – Floodplain Management.

Filling would be allowable in this area if required (refer maps following).



1% AEP Flood affect over Lot 1 DP 1186260



Flood Hazard and Hydraulic Categorisation

Most of the site is categorised as Precinct 2, where filling is allowable under DCP 2013 Ch 3.3 (from a flooding perspective) as it would not have an impact on surrounding flood levels. The dark blue area (Precinct 4) to the north east covers 6% of the site. This is categorised as high hazard, given that flood depths exceed 1m in a 1% AEP flood event. The mid-blue colour (Precinct 3) is categorised as flood storage area, which covers another 5% of the site."

These low lying areas on the site are located 0.5km from SEPP 14 wetland to the east. The land-use proposal is to build a formal wetland in this area, to provide semi-natural filtration of stormwaters, which is compatible with the flood hazard. Filling encroaching into these areas associated with some of the proposed sports fields are not likely to have any flood impacts, but would need further assessment at the DA stage."

Council is therefore of the view that the proposal addresses the requirements of the Direction. Council is also of the view that if any inconsistency remains, then that inconsistency is justified as of minor significance (4.3(9)(b)).

Note: Council sought and gained the approval of the NSW DP&E Secretary, so that the Planning Proposal could proceed to the Public Exhibition phase.

- **Direction 4.4: Planning for Bushfire Protection:**

The land is identified on Council's map as Bush Fire Prone Land, with parts of the land containing Vegetation Categories 1 & 2 and therefore Vegetation Buffer areas also.

Council considered that the Proposal was not inconsistent with this Direction, however, the DP&E Gateway determined that consultation with NSW Rural Fire Service was required before consistency with the Direction could be determined.

In this regard, Council has consulted with NSW Rural Fire Service, which has advised that it has no concerns to raise in relation to this Planning Proposal. The Proposal is therefore considered consistent with the Direction.

Note: Council sought and gained the approval of the NSW DP&E Secretary, so that the Planning Proposal could proceed to the Public Exhibition phase.

- **Direction 6.2 Reserving Land for Public Purposes:**

The Proposal does not reserve land for public purposes, or affect any reservations of land for public purposes where land is no longer required for acquisition.

The Proposal was therefore considered consistent with this Direction. However, the DP&E Gateway determined that as the planning proposal alters the zoning for land reserved for public purposes (Lots 2 & 3 DP 1186260 are within Reserve 1003002 for the purpose of Public Recreation and Coastal Protection), the approval of NSW Trade and Investment - Crown Lands is required before the DP&E Secretary can approve the alteration under the terms of the Direction.

In this regard, Council has consulted with NSW Trade and Investment - Crown Lands who have advised that they have no issues to raise in relation to this Planning Proposal. The DP&E Secretary can therefore approve the alteration.

Therefore, the inconsistency considered to be of minor significance (6.2(8)(d)).

Note: Council sought and gained the approval of the NSW DP&E Secretary, so that the Planning Proposal could proceed to the Public Exhibition phase.

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?*

No. The areas to be rezoned to RE1 Public Recreation have been drafted to include areas of open cleared paddocks and to exclude areas of recognised existing Endangered Ecological Communities. The Planning Proposal will enable the use of existing buildings and the open areas of the site for community, recreation and cultural uses. The land use compatibility or potential for impact on critical habitat or threatened species, populations or ecological communities, or their habitats, would be matters for consideration should any Development Application for other buildings, or uses on the site be proposed in the future. There will be no additional impacts directly created through this Planning Proposal.

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

There will be no additional impacts directly created through this amendment. The land use compatibility or potential for environmental effects would be matters for consideration should any Development Application for other buildings, or uses on the site be proposed in the future. It should be noted that the intent of the Trust is to manage the land in a sustainable way for the purposes of environmental protection and public environmental education.

9. *How has the planning proposal adequately addressed any social and economic effects?*

Social

The rezoning proposal will facilitate environmental and heritage conservation, through funds generated by sub-leases for tourism, community, recreation and cultural events on the site.

The land is identified as an item (I103) of Local Heritage significance by Schedule 5 of the WLEP, 2013 (Clause 5.10) – Tuggerah Pioneer Dairy. The proposal, to change part of the land to the RE1 Public Recreation Zone (excepting the EECs and sensitive wetlands, which are zoned E2 Environmental Conservation), includes the retention of the identification of the majority of the land on the LEP Heritage Map (Sheet HER_007B). In order to consider and determine whether the rezoning proposal and subsequent development proposals would be likely to impact the heritage values of the site, a *Heritage Curtilage Assessment* was contracted to CoAssociates Pty Ltd (Refer Attachment 3).

The assessment analysed the significance of the Pioneer Dairy to the history of Wyong and the Region, the condition and heritage significance of the structures on site, and their relationship to the surrounding land. The analysis determined that the area of "Significant Heritage Curtilage" can be defined as the area of the land depicted by the red boundary in Figure 8 below. This assessment has been utilised to define the area for I103 now represented on the WLEP 2013 Heritage Map Sheet HER_007B, (refer Attachment 2).



Figure 8: The area of *Significant Heritage Curtilage* in the North of the site is defined by the red boundary depicted on the aerial photograph, and is located within Lot 3 DP 1186260 (see Figure 9 below).

[Note: The red boundary appears orange where it overlays yellow cadastral boundaries]

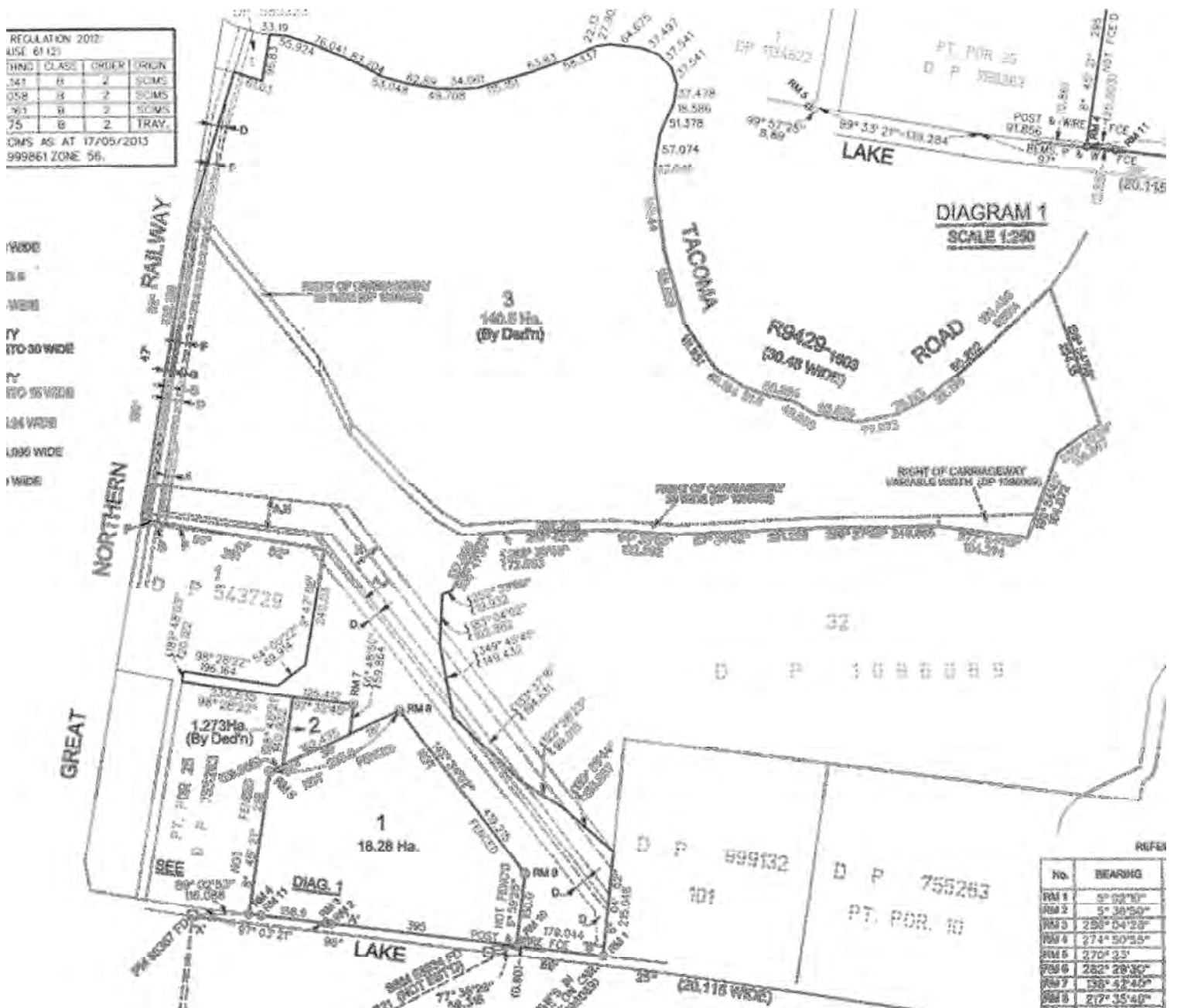


Figure 9: Displays the relationship and separation between Lot 1 DP 1186260, acquired by Council for sporting and recreational facilities, and the area of *Significant Heritage Curtilage*, located to the North of the land, within Lot 3 DP 1186260, and depicted by red boundary on Figure 8 above.

Economic

The rezoning proposal will facilitate the development of Lot 1, DP 1186260 Lake Road, for a Regional Sporting Facility, comprising 9 international standard sporting fields, grandstand, clubhouse, indoor sporting complex (basketball), childrens' playground, criterium cycling track, fitness track and stations, amenities, coach and car parking. This land was acquired by Council from the Crown and was formerly part of Reserve 1003003 for Future Public Requirements (for which no trust was created). Reserve 1003003 is not part of Reserve 1003002 for the purpose of Public Recreation and Coastal Environmental Protection, known as Pioneer Dairy. Lot 1 is located at the southern portion of the land (refer Figure 1), accessed directly from Lake Road.

The heritage and environmental assets of the Tuggerah Pioneer Dairy land will be enhanced through the injection of the additional funding sources the Planning Proposal will facilitate. The accessibility of the land for these uses will also be enhanced through the provision of a new entry statement and sealed accessway from Lake Road adjacent to the sporting facility, northward through the site to the Heritage Precinct, as well as formal carparking areas.

Section D – State and Commonwealth Interests**10. Is there adequate public infrastructure for the planning proposal?**

The Proposal is expected to be able to address the demand for public recreation services, for which adequate public infrastructure is available and can be augmented through appropriate design of the facilities.

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

In accordance with the DP&E Gateway Determination dated 10 October, 2014, the views of the following Public Authorities were sought in relation to the Planning Proposal:

- Local Land Services – Greater Sydney Region;
- Transport for NSW;
- Transport for NSW – Roads and Maritime Services;
- NSW Rural Fire Service (S117 Direction 4.4 Planning for Bushfire Protection);
- Department of Primary Industries – Agriculture (S117 Direction 1.2 Rural Zones);
- Office of Environment and Heritage (S117 Direction 2.1 Environment Protection Zones & Direction 2.3 Heritage Conservation);
- Mine Subsidence Board (S117 Direction 4.2 Mine Subsidence and Unstable Land);
- NSW National Parks and Wildlife Services;
- NSW Trade and Investment – Resources and Energy (S117 Direction 1.3 Mining, Petroleum Production and Extractive Industries);

- NSW Trade and Investment Crown Lands (S117 Direction 6.2 Reserving Land for Public Purposes);
- Darkinjung Local Aboriginal Land Council (S117 Direction 2.3 Heritage Conservation);
- Guringai Tribal Link Aboriginal Consultative Group (S117 Direction 2.3 Heritage Conservation); and
- The Tuggerah Lake Reserve Trust.

The responses of the above Authorities were taken into account and resulted in variation of the original concept to the current Planning Proposal. The views of public authorities are contained within Attachment 8.

Part 4 Community Consultation

The proposal will be publicly exhibited for a period of 28 days.

Notification of the public exhibition will be placed in the Central Coast Express Advocate and written notification sent to owners adjacent to the site.

The Planning Proposal, Gateway Determination, and supporting studies will be made available on Council's website, and will be available for inspection at Council's Administration Building in Hely Street Wyong.

A public hearing is considered unlikely to be necessary.

Attachments and Supporting Documentation

Document	Attached
1. Existing Wyong Local Environmental Plan, 2013, Map Sheets:	
• Wyong Local Environmental Plan, 2013, Land Zoning Map (Sheet LZN_007B)	
• Wyong Local Environmental Plan, 2013, Heritage Map (Sheet HER_007B)	Yes
• Wyong Local Environmental Plan, 2013, Lot Size Map (Sheet LSZ_007B)	
• Wyong Local Environmental Plan, 2013, Lot Amalgamation Map (Sheet LAM_007B)	
2. Proposed Wyong Local Environmental Plan, 2013, Map Sheets:	
• Wyong Local Environmental Plan, 2013, Land Zoning Map (Sheet LZN_007B)	
• Wyong Local Environmental Plan, 2013, Heritage Map (Sheet HER_007B)	Yes
• Wyong Local Environmental Plan, 2013, Lot Size Map (Sheet LSZ_007B)	
• Wyong Local Environmental Plan, 2013, Lot Amalgamation Map (Sheet LAM_007B)	
3. <i>Significance and Heritage Curtilage Assessment for Future Uses at Tuggerah Pioneer Dairy, Co-Associates Pty. Ltd, May 2014</i>	Yes
4. Council Report and Minutes	Yes
5. Section 117 Ministerial Directions Assessment	Yes
6. Initial Site Contamination Investigation Report	Yes
7. State Environmental Planning Policy (SEPP) 71 – Coastal Protection	Yes
8. Responses from Government Authorities	Yes