

TUGGERAH, Lake Road - Pioneer Dairy Site Rezoning

Proposal Title : TUGGERAH, Lake Road - Pioneer Dairy Site Rezoning

Proposal Summary : The planning proposal seeks to enable development on part of the land for a regional sporting facility, community uses and heritage and environmental conservation. This is proposed to be achieved by rezoning the land and various mapping amendments at Lake Road, Tuggerah as follows:

- rezoning land from IN1 General Industrial and E3 Environmental Management to RE1 Public Recreation;
- amend Heritage Map for the site;
- amend Lot Amalgamation Map to exclude the subject land; and
- amend Lot Size Map to exclude the subject land.

PP Number : PP_2014_WYONG_009_00

Dop File No :

14/15027

Proposal Details

Date Planning Proposal Received : 30-Sep-2014

LGA covered :

Wyong

Region : Hunter

RPA :

Wyong Shire Council

State Electorate : WYONG

Section of the Act :

55 - Planning Proposal

LEP Type : Spot Rezoning

Location Details

Street : Lake Road

Suburb : Tuggerah

City :

Postcode : 2259

Land Parcel : Lot 1 DP 585323; Lot 7316 DP 1155188; Lots 1 - 3 DP 1186260

DoP Planning Officer Contact Details

Contact Name : Glenn Hornal

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RPA Contact Details

Contact Name : Peter Kavanagh

Contact Number : 0243505537

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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 :	
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	
No. of Lots :	0	No. of Dwellings (where relevant) :	0
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 : Additional information was requested in relation to Lot and DP numbers, cadastre, the omission of IN1 zoning, S117 Directions, a heritage assessment and proposed Agency consultation. Council provided an updated planning proposal and associated information on 25 September and 30 September 2014.

External Supporting Notes :

Adequacy Assessment**Statement of the objectives - s55(2)(a)**

Is a statement of the objectives provided? **Yes**

Comment : **Council's statement of objectives is considered adequate.**

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

Is an explanation of provisions provided? **Yes**

Comment : **Council propose to amend Wyong LEP 2013 by:**

- rezoning land from IN1 General Industrial and E3 Environmental Management to RE1 Public Recreation;
- amend the Heritage Map to exclude the area outside the identified Significant Heritage Curtilage;
- amend the Lot Amalgamation Map to exclude the subject land; and
- amend the Lot Size Map to exclude the subject land.

The proposal seeks to remove lot amalgamation provisions and minimum lot size requirements from the subject land. Presumably this is to ensure consistency with other RE1 zones in the LGA however no explanation is provided. Council should include

discussion on why current lot amalgamation and lot size provisions are being excluded from the subject land.

The explanation of provisions is considered adequate subject to the above requirements.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

- 1.1 Business and Industrial Zones**
- 2.1 Environment Protection Zones**
- 2.2 Coastal Protection**
- 2.3 Heritage Conservation**
- 2.4 Recreation Vehicle Areas**
- 3.3 Home Occupations**
- 4.1 Acid Sulfate Soils**
- 4.3 Flood Prone 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 14—Coastal Wetlands
SEPP No 44—Koala Habitat Protection

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

SEPP 55 - Remediation of Land has not been identified as applicable. Council should update the planning proposal and address the requirements of the SEPP.

SEPP 71 - Coastal Protection

The land is located within the Coastal zone however Council has not identified this SEPP as applicable. Council should update the planning proposal to include consideration of clause 8 matters before community consultation.

Have inconsistencies with items a), b) and d) being adequately justified? **Unknown**

If No, explain :

S117 DIRECTIONS

The proposal is consistent with all relevant S117 Directions except where discussed below:

1.1 Business and Industrial Zones

The proposal is inconsistent with the direction as it proposes to rezone industrial zoned land for public recreation purposes. Council has identified the industrial zoning appears to be an anomaly as the land was always part of the Dairy Estate and was never used or intended to be used for industrial purposes. The industrial zoning was carried over during the conversion of Wyong LEP 1991 to the Standard Instrument Wyong LEP 2013.

Council refers to an Employment Lands and Industrial Land Audit (Feb 2013) which identifies approximately 391Ha of vacant zoned industrial land supply in the LGA which would exceed 50 years at a take up rate of 7.7Ha a year. Other strategically identified lands would provide 1270.8Ha or 164 years of industrial land supply.

Given the site is not used for industrial purposes and the rezoning of 1.92Ha of industrial land would not significantly alter the industrial land supply in the LGA the Secretary could agree the inconsistency with the direction is of minor significance.

1.3 Mining, Petroleum Production and Extractive Industries

The majority of the site is zoned E3 and permits extensive agriculture. The mining SEPP permits mining where agriculture or industry is permitted and rezoning the land to RE1 will prohibit those uses including mining and is inconsistent with the direction. Council should address the inconsistency with the Direction following consultation with NSW

Trade and Investment - Resources and Energy.**2.1 Environment Protection Zones**

The proposal is inconsistent with the direction as it reduces the environmental protection standards applying to the land by removing the E3 zoning over large parts of the site and removes the 40Ha minimum lot size applicable to the land. Council advised the existing E2 zoned land will remain unchanged while the remainder will be zoned to RE1. Given the land contains SEPP 14 wetlands and EECs Council should consult with OEH prior to addressing the inconsistency with the direction.

4.1 Acid Sulfate Soils

The land is affected by Class 2, 3 and 4 Acid Sulfate Soils. Wyong LEP 2013 contains clause 7.1 Acid Sulfate Soils to regulate development on land and Council consider this is sufficient for future development. However, where a planning proposal proposes an intensification of land uses 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. A copy of the study must be provided to the Secretary prior to community consultation. Council is required to address the requirements of the direction and seek the agreement of the Secretary for any inconsistency.

4.3 Flood Prone Land

The proposal seeks to permit a significant increase in the development of the land and is inconsistent with the direction. Council should address the inconsistency with direction by confirming the proposal is in accordance with a floodplain risk management plan or justify the provisions are of minor significance by seeking agreement of the Secretary.

4.4 Planning for Bushfire Protection

The lot is identified as being bushfire prone and consultation with NSW Rural Fire Service is required before consistency with the direction can be determined.

5.1 Implementation of Regional Strategies

Council has advised the proposal is consistent with the CCRS. However action 5.6 states that LEPs do not rezone employment lands to residential or other uses. Given the proposal will rezone industrial land it can be considered to be inconsistent with this action in the CCRS. This inconsistency with the direction is justified as the current zoning on IN1 is considered to be an anomaly. Council has advised the reduction in the industrial zoning would not have an impact on industrial land supply which is estimated to provide enough industrial land for 50 years. Council has also advised when considering other strategically identified lands the vacant zoned industrial land supply potential would provide enough capacity of the next 164 years. Given the current and potential industrial land supply it is considered the Secretary could agree the inconsistency is of minor significance.

6.2 Reserving Land for Public Purposes

The planning proposal alters the zoning for land reserved for public purposes. Council has advised the land is owned by the Crown and forms part of Reserve 1003002 for the purpose of Public Recreation and Coastal Protection. The approval of Trade and Investment - Crown Lands is required before the Secretary can approve the alteration under the terms of the direction.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

The mapping provided shows proposed zone, heritage, lot size and lot amalgamation maps. Council should prepare existing zone, heritage, lot size and lot amalgamation maps for public exhibition so the community is aware of the proposed changes.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council has proposed a 28 day exhibition period. A minimum period of 28 days is considered sufficient.**

Additional Director General's requirements

Are there any additional Director General's requirements? **Yes**

If Yes, reasons : **TIMELINE: Council anticipates finalisation in June 2015. The 9 month timeframe to make the plan is supported.**

DELEGATION: Council has requested delegation to make the plan and this is supported.

Overall adequacy of the proposal

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

If No, comment :

Proposal Assessment

Principal LEP:

Due Date :

Comments in
relation to Principal
LEP :

The planning proposal amends Wyong LEP 2013.

Assessment Criteria

Need for planning
proposal :

The planning proposal is not the result of a strategic study or report.

Council has advised the planning proposal came from a desire to develop new regional sporting and community facilities and identify compatible uses to provide income streams to assist with the heritage and environmental conservation of the Tuggerah Pioneer Dairy site (a heritage item identified in Wyong LEP 2013). Council has advised the Pioneer Dairy site contains approximately 170ha of Crown Land which forms part of Reserve 1003002 for the purpose of Public Recreation and Coastal Environmental Protection and is managed by Tuggerah Lake Reserve Trust. Council has advised the land has been recently subdivided to facilitate the compulsory acquisition of Lot 1 DP 1186260 which will be used for the Regional Sporting Facility.

An Environmental Heritage Curtilage Assessment was commissioned by Council to reflect the historic use of the site, the extent of the affectation in the Heritage Map layer over the land and to more accurately define the heritage curtilage of the land.

The land also contains a number of environmental constraints (i.e bushfire prone, flood prone, wetlands, sensitive coastal location and acid sulfate soils). Given the environmental constraints and heritage significance of the land it is considered there is planning merit in the planning proposal progressing.

Consistency with strategic planning framework :

Central Coast Regional Strategy (CCRS)

Council has advised the proposal is consistent with an number of actions identified in the CCRS. However action 5.6 states that LEPs do not rezone employment lands to residential or other uses. Given the proposal seeks to rezone some industrial land it can be considered to be inconsistent with this action in the CCRS. The industrial zoned land is approximately 1.91Ha and is not used for industrial purposes. Given the availability of existing and potential employment lands in the LGA as discussed in S117 Direction 1.1 Business and Industrial Zones and 5.1 Implementation of Regional Strategies, and subject to the Secretary's agreement, the inconsistency is considered to be justified.

Community Strategic Plan

Council has reviewed a number of key objectives and found the proposal is consistent with its plan.

Environmental social economic impacts :

ENVIRONMENTAL

Threatened Species

Council has advised future impacts on critical habitat and threatened species would be assessed at the DA stage and do not anticipate any additional impacts through the rezoning. Council has identified the site contains Endangered Ecological Communities (River Flat or Swamp Sclerophyll Forest and Sydney Freshwater Wetlands). Given the RE1 zoning will permit additional uses for recreation facilities in close proximity to significant vegetation corridors, wetlands and land zoned E1, Council should consult with OEH and the National Parks and Wildlife Service.

Mine Subsidence

Council proposed consultation with the Mine Subsidence Board (MSB) however the land is not located in a Mine Subsidence District or has been identified by Council as unstable land. However the land is underlain by coal resources and therefore there is no objection to Council consulting with the MSB.

Roads/Traffic

The proposal for a regional sporting facility may have potential impacts on the regional road network (Wyong Road) and Council's proposed consultation with Transport for NSW - Roads and Maritime Services is supported.

Indigenous Heritage

Council has proposed to consult with the Darkinjung Local Aboriginal Land Council and Guringai Tribal Link Aboriginal Consultative Group. Although no specific Indigenous heritage matters have been identified in the planning proposal consultation is supported given the history of Aboriginal occupation in the Wyong area prior to non-indigenous settlement.

SOCIAL/ECONOMIC

Employment

Council has advised the Regional Sporting Facility will comprise of a number of facilities including: 9 sporting fields, grandstand, clubhouse, childrens playground, cycling track, fitness track, amenities and coach and car parking. The proposal is considered to have beneficial social and economic impacts and will result in potential employment opportunities for local residents to service the facility.

Agriculture

Council has proposed to consult with NSW Department of Primary Industries - Agriculture. The land is currently leased for grazing activities and although Council has identified S117 Direction 1.2 Rural Zone does not apply give the current Environmental zoning there is no objection to the proposed consultation given the rural history associated with the site.

Land Services

Council has proposed to consult with Local Land Services - Greater Sydney Region which is accountable for delivering services that add value to local industries, enhance natural resources, protect industries from pests and disease and help communities respond to emergencies like flood, fire and drought. There is no objection should Council wish to consult with this agency.

Assessment Process

Proposal type : **Routine** Community Consultation Period : **28 Days**

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

Public Authority Consultation - 56(2)(d) : **Office of Environment and Heritage
NSW Department of Primary Industries - Agriculture
Department of Trade and Investment
Mine Subsidence Board
NSW Rural Fire Service
Transport for NSW - Roads and Maritime Services**

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
Council Covering Letter.pdf	Proposal Covering Letter	Yes
Planning Proposal (Rev).pdf	Proposal	Yes
Proposed Heritage Map.pdf	Map	Yes
Proposed Land Zoning Map.pdf	Map	Yes
Proposed Lot Amalgamation Map.pdf	Map	Yes
Proposed Lot Size Map.pdf	Map	Yes
Project Timeline.pdf	Proposal	Yes
Council Resolution.pdf	Proposal	Yes
Council Report .pdf	Proposal	Yes
Significance and Curtilage Report.pdf	Study	Yes
S 117 Ministerial DirectionAssessment (Rev) - Pioneer Dairy.pdf	Proposal	Yes

Planning Team Recommendation

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

S.117 directions: **1.1 Business and Industrial Zones
2.1 Environment Protection Zones**

- 2.2 Coastal Protection
- 2.3 Heritage Conservation
- 2.4 Recreation Vehicle Areas
- 3.3 Home Occupations
- 4.1 Acid Sulfate Soils
- 4.3 Flood Prone 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

Additional Information : The Planning Proposal should proceed subject to the following conditions:

1. Council update the planning proposal prior to community consultation to:

a) include discussion on why existing lot sizes and lot amalgamation are being removed from the subject land.

b) include existing zone, heritage, lot size and lot amalgamation maps for public exhibition.

c) ensure Figure 2 and Figure 6 in the planning proposal are at an appropriate scale to be legible.

d) include further discussion on the Tuggerah Lake Reserve Trust and any relevant Plans of Management governing the use of the land.

2. Council is to update the planning proposal to include sufficient information to adequately demonstrate consistency or justify any inconsistency with the following S117 Directions:

- 1.3 Mining, Petroleum Production and Extractive Industries
- 2.1 Environment Protection Zones
- 4.1 Acid Sulfate Soils
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection.
- 6.2 Reserving Land for Public Purposes

3. The Secretary agrees the inconsistency with S.117 Directions 1.1 Business and Industrial Zones and 5.1 Implementation of Regional Strategies are of minor significance.

4. Council is to satisfy the requirements of State Environmental Planning Policy (SEPP) 55 - Remediation of Land and demonstrate the site is suitable for rezoning once information on contamination has been obtained.

5. State Environmental Planning Policy (SEPP 71) - Coastal Protection is applicable to the proposal. Council should include consideration of clause 8 matters and update the planning proposal accordingly before community consultation.

6. The planning proposal be made publicly available for a minimum of 28 days.

7. Consultation with:

- Office of Environment and Heritage
- NSW National Parks and Wildlife Service
- NSW Department of Primary Industries - Agriculture
- NSW Trade and Investment - Crown Lands
- Tuggerah Lake Reserve Trust
- NSW Trade and Investment - Resources and Energy
- Mine Subsidence Board
- NSW Rural Fire Service
- Transport for NSW
- Transport for NSW - Roads and Maritime Services
- Darkinjung Local Aboriginal Land Council

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- Guringai Tribal Link Aboriginal Consultative Group
- Local Land Services - Greater Sydney Region

8. 9 months timeframe to make the plan.

9. Plan-making delegation should be delegated to Council for this planning proposal.

Supporting Reasons : *

Signature:



Printed Name:

DATE:

10.10.2014

NAME:

Date:

G HOPKINS