

3.3 RZ/5/2012 - 7 Mingara Drive, Tumbi Umbi Rezoning Proposal

TRIM REFERENCE: RZ/5/2012 - D03131012

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SUMMARY

Council is in receipt of a rezoning application (Planning Proposal) which seeks to rezone Lot 21 DP 883318 Mingara Drive, Tumbi Umbi to the B1 Neighbourhood Centre Zone, under the draft Wyong Local Environmental Plan, 2012 (WLEP, 2012), in order to permit the development of a Medical Centre on the site. Alternatively, should the WLEP, 2012, not proceed in a timely manner, the applicant has requested that Lot 21 be rezoned to 3(a) Business Centre Zone, under the Wyong Local Environmental Plan, 1991 (WLEP, 1991), to permit the same use.

A review of the proposal has concluded that the proposal has merit and is recommended to be forwarded for a "Gateway Determination" from the Department of Planning and Infrastructure (DOPI).

Applicant:	John Stevens
Owners:	Stevens Holdings Pty Ltd
Proposal No.:	RZ/5/2012
Description of Land:	Lot 21 DP 883318
Zoning:	7(a) (Conservation). Development for the purposes of a "Car Service Centre" is currently enabled on site by Clause 60B of the Wyong LEP, 1991.
Existing Use:	Vacant Land.
Employment	
Generation	Potential to create 25 positions.
Estimated Value:	Unknown.

RECOMMENDATION

- 1 That Council initiate the Local Environmental Plan "Gateway" process, pursuant to Section 55 of the Environmental Planning and Assessment Act 1979 by preparation of a Planning Proposal to progress Option 2.**
- 2 That Council forward the Planning Proposal to the Department of Planning and Infrastructure requesting a "Gateway" determination, pursuant to Section 56 (1) of the Environmental Planning and Assessment Act.**
- 3 That Council undertake community consultation regarding the Planning Proposal, subject to the determination of the Gateway Process.**

4 That Council direct the General Manager to submit a report to Council on results of the community consultation.

ABBREVIATED HISTORY

- Lot 21 is currently zoned 7 (a) (Conservation), under Wyong LEP 1991, and is also affected by enabling Clause 60B of Wyong LEP 1991.
- The clause provides for restricted additional uses on the subject lands, if the development is, in the opinion of Council, appropriately integrated with the adjacent Mingara Club and Recreation Complex.
- In August 2005, Council received and supported a rezoning request to enable the development of Lot 21 for the Head Office of the Stevens Group by permitting "commercial premises and medical centre". Draft Amendment No. 177 was forwarded to the NSW Department of Planning (DoP, - now referred to as DoP&I).
- On 14 November 2007, the DoP advised Council that the request was declined, as it was of the opinion that there was no strategic justification for the proposed amendment.
- Council has endeavoured to progress the rezoning, however, the DoP&I has maintained that Council was required to develop a clear direction for the site, consistent with State, regional and local planning policies and strategies, most appropriately in conjunction with the Comprehensive LEP review process.
- This review has been completed and has determined a more suitable zoning arrangement on the site and for the entire 'Mingara Entry Precinct', which will be progressed through draft WLEP, 2012, having considered the advice provided by the DoP&I and Council's Retail Consultants with regard to a potential business zoning of the site.
- In the interim, the current Rezoning application seeks to accelerate the process through an amendment to the WLEP, 1991.

BACKGROUND

Lot 21 is currently zoned 7 (a) (Conservation), under Wyong LEP 1991. The land and adjoining sites are also affected by enabling Clause 60B of Wyong LEP 1991. This clause relates to Lots 4, 7 and 8 DP 863731, Lots 20 and 21 DP 883318 and Lots 100, 101 and 102 DP 1001482, Mingara Drive. The clause provides for restricted additional uses on the subject lands, if the development is, in the opinion of Council, appropriately integrated with the adjacent Mingara Club and Recreation Complex. The area affected by the enabling Clause is commonly referred to as the 'Mingara Entry Precinct'.

The locality is characterised by a service station, tyre outlet, car wash facility, drive-thru video outlet and take-away restaurants which have been developed for the convenience of Club patrons. These uses are integrated with the Club complex through coordinated access and car parking areas, restricted signage, and common urban design elements, e.g., common building materials, themes, colours and roof forms.

In August 2005, Council received and supported a rezoning request on behalf of the Stevens Group to amend Clause 60B to broaden the uses permissible on Lot 100 to permit “restaurant, drive-thru restaurant, a medical centre; or commercial premises” and to enable the development of Lot 21 for the Head Office of the Stevens Group by permitting “commercial premises and medical centre”. Draft Amendment No. 177 was forwarded to the NSW Department of Planning (DoP, - now referred to as DoP&I) on 22 October 2007. This notification requested that Council be issued with Written Authorisation to Exercise Delegation under Section 65 and Section 69 of the Act to publicly exhibit the plan and in due course request the Minister to make the plan.

On 14 November 2007, the DoP advised Council that the request was declined. The reasons provided by the DoP for declining to support the proposal are as follows:

- 1 *“It seeks to provide for out of centre office and retail development which is inconsistent with the draft Central Coast Regional Strategy;*
- 2 *The proposal is not supported by Council’s recently reviewed Retail Centres Strategy;*
- 3 *The proposed development would potentially have an adverse economic impact on nearby centres;*
- 4 *There are unresolved flooding issues associated with the site;*
- 5 *The proposed uses would not appear to be compatible with the underlying 7(a) (Conservation Zone); and*
- 6 *The amendment would be inconsistent with a number of Section 117 directions.”*

Given the above reasoning, the DoP were of the opinion that there was no strategic justification for the proposed amendment. Regardless of the above, and considering the incorrect references within the clause, the DoP further advised that the anomalous lot references within Clause 60B may be suitable for amendment as a Section 73A amendment, or within a ‘house keeping’ amendment.

Following this decision, additional work was undertaken by Council, including referral of the proposal to Council’s Retail Consultant. These advices were forwarded to the DoP for further consideration. The DoP response in September 2008, identified that;

- Any proposal for the site should be able to respond to the issues raised within the previous correspondence;
- Council was required to develop a clear direction for the site, consistent with State, regional and local planning policies and strategies;
- This should be undertaken holistically, in conjunction with consideration of similar areas within the Shire;
- Such a review of the site would be able to be facilitated most appropriately in conjunction with the Comprehensive LEP review process.

At its meeting held on 10 December 2008, Council RESOLVED unanimously on the motion of Councillor EATON and seconded by Councillor WEBSTER:

- “1 That Council extinguish dLEP Amendment No. 177 and that it be removed from the Future Planning Section’s work program.*

- 2 *That Council amend Section 149 Certificates by removing notations in respect of Amendment No. 177.*
- 3 *That Council advise the Department of Planning of this decision.*
- 4 *That Council advise the Applicant of this decision and the fact that Council will not accept any "spot rezoning" under WLEP 1991 for the subject sites.*
- 5 *That Council prepare a Section 73A LEP amendment to rectify the lot identification anomaly for Lot 100.*
- 6 *That Council staff continue to liaise with the applicant to determine the appropriate zoning for the land under Council's Comprehensive LEP process.*

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON,
VINCENT, WEBSTER AND WYNN.
AGAINST: NIL."

Council subsequently sought and obtained process advice from DoP for a Section 73A LEP amendment, and looked to progress the matter through a combined LEP Bundle. However, following a further meeting with the applicant, it was determined that the proposals for the site would more appropriately be considered under the Comprehensive LEP Review. This would enable a strategic analysis to be conducted of the site, including existing land uses and possible future land uses.

This review has been completed and has determined a more suitable zoning arrangement on the site and for the entire 'Mingara Entry Precinct', which will be progressed through draft WLEP, 2012, having considered the advice provided by the DoP&I and Council's Retail Consultants with regard to a potential business zoning of the site.

CURRENT STATUS

The Site



Lot 21 is currently zoned 7 (a) (Conservation), under Wyong LEP 1991. The land and adjoining sites at the entry to the Mingara Club complex are also affected by enabling Clause 60B of Wyong LEP, 1991. This clause relates to Lots 4, 7 and 8 DP 863731, Lots 20 and 21 DP 883318 and Lots 100, 101 and 102 DP 1001482, Mingara Drive, Tumby Umbi. The clause provides for restricted additional uses on the subject lands, if the development is, in the opinion of Council, appropriately integrated with the adjacent Mingara Club and Recreation Complex. The area affected by the enabling Clause is commonly referred to as the 'Mingara Entry Precinct'.

The locality is characterised by a service station, tyre outlet, car wash facility, drive-thru video outlet and take-away restaurants which have been developed for the convenience of Club patrons. These uses are integrated with the Club complex through coordinated access and car parking areas, restricted signage, and common urban design elements, e.g., common building materials, themes, colours and roof forms.

Comprehensive LEP (WLEP, 2012)

The recommended progression of this rezoning proposal as amendment to the WLEP 1991, is based on the potentially lengthy timeframe for finalisation of the WLEP 2012, and the implementation of the desired strategic zoning arrangements for the Mingara Entry Precinct.

THE PROPOSAL

The proposal seeks to rezone Lot 21 DP 883318 to the B1 Neighbourhood Centre Zone, under WLEP 2012, in order to permit the development of a Medical Centre on the site. This request is in isolation from the rest of the 'Mingara Entry Precinct', covered by Clause 60B of the Wyong LEP, 1991, however, has triggered a strategic review of the zoning of surrounding lands.

It is considered that the proposal for a medical centre is worthy of Council's support as it will generate approximately 25 local jobs, provide services to support local residents, patrons of the adjacent Club, and patrons of the adjacent recreation facilities. In consideration of the site and surrounding lands, a zoning strategy has been determined for the progression of the Planning Proposal as part of the draft WLEP, 2012 (Option 1).

Alternatively (Option 2), the applicant has requested that in the interim Lot 21 be rezoned to 3(a) Business Centre Zone, under the WLEP 1991, to permit the same use, as the proponents are keen to develop the site which has remained vacant since the original enabling Clause was applied in 1994. It is noted that recent amendments to WLEP 1991, have not utilised the existing zone types (i.e., 3(a)), and have instead adopted the Standard Instrument zones and definitions, e.g., the rezoned Gwandalan and Warnervale Town Centre sites. In this instance, the equivalent zoning sought is the B1 Neighbourhood Centre Zone.

Therefore the rezoning strategy which is supported to progress the Alternative Proposal (amend WLEP, 1991) would be to:

- Amend "the map" to show Lot 21, DP 863731 only, as B1 Neighbourhood Centre;
- The remaining lands retain the 7(a) Conservation Zone; and
- Clause 60B amended to remove the reference to the land now described as Lot 21.

In this regard it is noted that the existing references to Lots, and to approved developments referred to within Clause 60B, are currently incorrect. There is also an opportunity to correct these references through this draft LEP process.

REVIEW OF THE PROPOSAL

Issues Analysis

The following issues have been identified as being relevant to the planning proposal.

Bushfire Hazard

A significant corridor of vegetation 50-60m wide remains along the eastern boundary of the subject site, and will continue to do so as this land is owned by Council and zoned for conservation and open space purposes (E3 under the draft WLEP 2012). The majority of this land is classified "Community – Wetlands Management " under the Local Government Act, 1993. An additional portion of land will be added to this reserve system when the residential subdivisions to the south are completed.

This will result in a continuous permanent corridor of riparian vegetation (orientated north - south) along Tumby Creek. This vegetation structure is classified as forest and therefore Category 1 Vegetation for the purposes of bushfire assessment. The eastern part of this vegetation is also categorised as an Endangered Ecological Community (EEC) referred to as River Flat Eucalypt Forest on Coastal Floodplain (RFEFCF).

The Rural Fire Service (RFS) document, Planning for Bushfire Protection (2006) specifically requires that principles of bushfire hazard management must be applied to commercial and industrial development at the rezoning stage. Development of Lot 21 should incorporate an area (within the lot) along the eastern boundary to provide a minimum setback and access for emergency services personnel. This should be sized accordingly to reflect the relatively low hazard of the vegetation. This assessment relates to the narrow width of the vegetation corridor adjoining, which will limit the ability of a bushfire to impact on the subject site.

Therefore, as part of the proposed rezoning, the developer should be required to exclude any development from an area of 10m width along the eastern boundary of Lot 21. This 10m wide strip will need to be reserved for bushfire protection measures including the incorporation of an access trail and maintenance of vegetation to provide for a reduction in available fuels.

The NSW RFS requires access trails to be a minimum of 4m width construction and an additional 1m of cleared area on each side. The trail therefore, would take up the western 6m of the proposed 10m reservation, and this would leave 4m to incorporate suitable WSUD drainage measures and landscaping to manage development impacts on the adjoining public land having conservation values. Suitable easements to this effect should be placed on the title of Lot 21 as a precondition to the approval of any LEP amendment.

It is noted that the development concept provides for access, carparking and landscaping within the area referred to, which will enable the required setback and access for fire vehicles.

Mine Subsidence

The land is not within a Mine Subsidence District.

Aboriginal and European Cultural Heritage Items

There are no items of Aboriginal or European cultural heritage significance located within the site or will be affected by the proposed land uses.

Contaminated Land

Current and past land uses have been unlikely to result in any contamination on the subject land. There are no notations on the property identifying any land uses which would cause contaminated land. To meet the objectives outlined under SEPP 55, the proponent will be required to undertake a Level 1 Contaminated Land Assessment to determine the existence of any contaminating material that has or may be present on the subject property.

Acid Sulfate Soils

There is a probability of acid sulphate soils on the site. The site is within Land Class 4 as defined within Clause 15 of the WLEP, 1991. Any works proposed beyond 2 metres from the natural ground surface, or works by which the water table would be likely to be lowered to any point beyond 2 metres below the natural ground surface would need to address Clause 15(4) of the WLEP, 1991. The site has been previously filled. Excavation to the depth prescribed would be unlikely, however, this would be assessed at Development Application stage.

Noise

There is an easement for landscaping and acoustic protection 13.0m wide along the southern boundary of the site which incorporates the 5.9m wide drainage easement. The easement appears as a grassed swale and contains screen vegetation atop the banks with a lapped and capped paling noise attenuation fence on its northern side. This fence is designed to provide noise attenuation to the adjacent residences to the south of the site. The condition of this fence and its ongoing maintenance will need to be assessed at Development Application stage.

Flooding and Drainage

Council's Floodplain and Stormwater Management (FSM) Unit has reviewed the rezoning proposal, advising that it supports the proposal in principle, and offers the following comments:

- *'Tumbi Umbi creek runs along the rear eastern boundary of the site. A drainage easement/corridor also exists along the southern boundary. Based on Council's GIS and flood information the lot is partly flood affected and therefore development on this lot will be subject to flood related development controls.'*
- *Stormwater runoff from the lot is to be managed in accordance with Wyong Shire Council's 'Urban Stormwater Quality Management Plan – July 1999'.*

Traffic and Transport

Council's Transport Planning Engineers have reviewed the rezoning proposal and offers the following comments:

"In general, this application needs to be submitted to NSW Roads and Maritime Services (RMS) for comment during the rezoning process. Concerns are raised with regard to the proposed increase in traffic and the affect it will have on the already congested Wyong Road intersection. The RMS will need to identify what, if any, upgrading of the Wyong Road intersection will be required. In this regard it is noted that referral to the RMS would be conducted as part of Government Agency consultation, following a Gateway Determination regarding the proposal."

Other comments provided on the proposal (which would apply as conditions of any Development Consent) included:

- *'Access to Mingara Drive is to be denied. Access to Lot 21 is to be only via the ROW through Lot 20 with an egress through Lot 8 DP 863731.'*
- *A ROW is required across Lot 8 DP 863731 in favour of Lot 21 to accommodate the egress onto Mingara Drive.*
- *The size of the Medical Centre, if approved, would need to be restricted in size to ensure there is sufficient parking on site. The 85 parking spaces identified at present appear to be adequate for normal use of the development.*
- *Constraints need to be placed on the site coverage permitted to ensure there will not be overdevelopment of the site. There is concern that if the site is overdeveloped there will be an ultimate shortfall in number of parking spaces provided.*

- *The roundabout at the service station egress needs to be upgraded to improve safety to Council's requirements. It will require placement of raised pavement markers around the perimeter of the roundabout and for them to be maintained. A concrete median separator at the entry off Mingara Drive leading to the roundabout is also required.*
- *External works will be required to connect the development to public transport. These requirements can be identified and conditioned at time of Development Assessment/Consent'.*

Servicing

Water supply and sewer services is currently available to the property. Contributions for water supply and sewer infrastructure will be applicable at development stage.

Consultation with relevant service providers, including Energy Australia will need to be undertaken.

Retail Strategy

In 1996 Council adopted the Wyong Retail Centres Strategy to guide floorspace increases in the recognised retail centres of the Shire, having regard to population projections. The Strategy has been reviewed on several occasions having regard to NSW Government policy directions. Recently Council has engaged a consultant to conduct a review of the Strategy and Development Control Plan due to the release of the Central Coast Regional Strategy and North Wyong Shire Structure Plan, which provide additional information on the timing and location of future urban land release, particularly new centres within Wyong Shire.

Having regard to the current review, and to the Draft LEP 2012 (which proposed a B1 zone for the entire area covered by Clause 60B), Council's consultant was requested to provide comments on this rezoning proposal. The comments received included opposition to a medical centre at this location, due to vacant lands at Killarney Vale. Further:

"In our opinion, this land (the "Mingara Entry Precinct") should not be zoned B1 (and thus given the status of a "centre" – contrary to the Central Coast Regional Strategy). A B1 zoning effectively opens the door to a range of retail and commercial activities whereas the provisions of the enabling clause are very specific and require the uses to have a connection with the adjacent recreation facility. If a centre was established in this location, it could impact on the capacity of the Killarney Vale local centre to continue to trade effectively, particularly if a supermarket was proposed. It is considered that the most appropriate zoning for the club and these adjacent existing uses would be RE2. This zoning however would not permit a medical centre."

Zone Considerations

Option 1 (WLEP, 2012):

DoPI does not favour the use of enabling clauses within new Standard Instrument LEPs, therefore the determination of appropriate land use zone(s) is required. It is considered that whilst the RE2 zone would address the permissibility of the take away food and drink premises on the western side of Mingara Drive (due to their complimentary nature with the Mingara Club), it is noted that the broad application of the RE2 zone to the Clause 60B area would firstly not permit the requested land use, and secondly would also create new “existing use” rights as the other uses on the Eastern side of Mingara Drive would become “non-conforming existing uses”, potentially widening opportunities for redevelopment in the future due to the nature of the “existing use right” provisions of the Act. This is not a desirable outcome.

The uses on the Eastern side of Mingara Drive would be better addressed by a B1 zone, so that these uses become lawful, thereby not opening any new “existing use” rights. The small area of B1 zone confined to the medical centre and automotive uses sites on the Eastern side of Mingara Drive would not create a competitive “centre”, as they are unlikely to be redeveloped to shop or shop top housing uses in the short to medium term, and not without significant costs in decontamination, consolidation and redevelopment – a disincentive.

The only anomaly created by this proposal would be the “existing use right” created by the RE2 zone for the video shop on the western side of Mingara Drive, however, the shop has a gross floor space of only 264m². Any proposal for change of use would be subject to merit consideration via a Development Application, as Exempt Development under the SEPP does not apply to “existing uses”, and the consideration of that Development Application would need to have regard for the objectives of the zone.

It is therefore considered appropriate to recommend the WLEP, 2012, proceed with a B1 zone for the eastern side of Mingara Drive and the RE2 zone for the western side of Mingara Drive, also incorporating the Club lands.

Option 2 (WLEP, 1991):

It is noted that recent amendments gazetted to the WLEP, 1991, have not utilised the existing zone types within the LEP (i.e., the 3(a) Zone, as requested), and have instead adopted the SI zones and definitions, e.g., the Gwandalan and Warnervale Town Centre sites. The equivalent zoning sought is the B1 Neighbourhood Centre Zone. Further, that the existing references to Lots, and to approved developments within this Clause, are currently incorrect. There is an opportunity to correct these references through this draft LEP process.

Therefore the rezoning strategy applied to progress an amendment to the WLEP, 1991, to facilitate the proposal would be to:

- Amend “The Map” to show Lot 21, DP 863731, only, as B1 Neighbourhood Centre;
- The remaining lands affected by Clause 60B remain within the 7(a) Conservation Zone; and
- Clause 60B be amended to include the additional words as shown in **bold** below:

“60B Development of certain land—Mingara Drive, Tumbi Umbi

(1) This clause applies to the land, being lot **20, DP 883318 and lots 4, 7, and 8, DP 863731, and lots 100, 101 and 102, DP 1001482**, Mingara Drive, Tumbi Umbi, as shown edged heavy black on the map marked “Wyong Local Environmental Plan 1991 (Amendment No **XX**)”.

(2) Nothing in this plan prevents a person, with the consent of the Council, from carrying out development on:

(a) Lots 4, 7, and 8, DP 863731 and Lots 101 and 102, DP 1001482 - for the purpose of a service station, a car wash facility and restaurants, and

(b) Lot 20, DP 863731 - for the purpose of a car service centre, and

(c) Lot 100, DP 1001482 - for the purpose of a drive-thru video outlet and restaurant,

if the development is, in the opinion of the Council, appropriately integrated with development for which consent has been granted in accordance with clause 60A.”

Option 2 is the option recommended to proceed as the Planning Proposal to DoP&I for a Gateway Determination.

STATUTORY COMPLIANCE

State Environmental Planning Policies

The proposal has been assessed having regard for State Environmental Planning Policies. The following policy has been determined to be applicable to this planning proposal:

- State Environmental State Environmental Planning Policy No. 55 – Remediation of Land.

Current and past land uses have been unlikely to result in any contamination on the subject land. There are no notations on the property identifying any land uses which would cause contaminated land. Whilst the proposal does not indicate the presence of Contaminated Land, it would be considered necessary for a preliminary Contaminated Land Study to be undertaken on the subject site to satisfy the requirements of SEPP 55 Remediation of Land prior to the proposal being progressed.

To meet the objectives outlined under SEPP 55 the proponent will be required to undertake a Level 1 Contaminated Land Assessment to determine the existence of any contaminating material that has or may be present on the subject property. A satisfactory assessment is to be provided prior to referral for Gateway Determination.

Central Coast Regional Strategy

The Central Coast Regional Strategy (CCRS) was released by the Department of Planning (DoP) in July 2008. The CCRS identifies the population potential of the Central Coast expected over the next 25 years, expected employment capacity targets and the regional retail hierarchy. The strategy also identifies actions to ensure ongoing growth and prosperity of the region, including actions for centres and housing, economy and employment, environment and natural resources, natural hazards, water supply, regional infrastructure and regional transport.

The population potential as expressed by the CCRS is expected to be an additional 71,100 people in the Shire at 2031, distributed through the Shire's Centres Hierarchy as defined by the Strategy. As a Shire, the strategy anticipates that Wyong will be required to create an additional 27,000 jobs.

This proposal is within an existing entry precinct (developed in 1996) to a major recreation and sporting Club, i.e., not located within a recognised centre, or within the North Wyong Shire Structure Plan (NWSSP) area, which is recognised by the Strategy as the key area of the Shire to provide the majority of new population.

Concerns have been raised that any proposal to rezone the entry precinct land to a Business zone would identify the location as a centre not identified by, and therefore contrary to, the CCRS (refer to the detailed discussion above regarding 'Zone Considerations'). However, this Planning Proposal involves the identification of a small area of B1 zone (approximately half the area of the entry precinct) on the eastern side of Mingara Drive, and confined to the proposed medical centre site and the existing automotive uses sites. This is not considered to create a competitive "centre" as the sites are small, are unlikely to be redeveloped to shop or shop top housing uses in the short to medium term, and without significant costs in decontamination, consolidation and redevelopment – a supermarket is highly unlikely at this location.

It is therefore considered appropriate to recommend the WLEP, 2012 proceed with B1 Neighbourhood Centre zone for the eastern side of Mingara Drive and the RE2 Private Recreation zone for the western side of Mingara Drive, incorporating the entry precinct fast food premises with all of the lands owned by the Club. The area then retains its neighbourhood focus, thus not establishing a competing "centre" with those identified by the CCRS.

It is considered that adoption of the above measures will ensure that the dLEP is not inconsistent with the Central Coast Regional Strategy.

Ministerial Directions under Section 117 of the EPA Act 1979

Section 117 of the EPA Act 1979 provides for the Minister for Planning and Infrastructure to issue directions to Council specifying principles, aims, objectives or policies that must be considered when preparing a local environmental plan. The current 117 directions that apply to the preparation of an LEP associated with this Planning Proposal are addressed in Attachment 1.

OPTIONS

Option 1:

Option 1 is to progress the request as part of the draft WLEP, 2012. This is supported through strategic analysis and is being progressed through the draft WLEP, 2012.

Option 2:

Option 2 is to progress the request as an amendment to the WLEP, 1991. This is the recommended action, supported through strategic analysis and involves both a map and clause amendment to the WLEP, 1991. The Planning Proposal is consistent with the CCRS and consistent with all relevant 117 directions. The Proposal is considered to be justified and recommended for submission to DoPI for a Gateway Determination.

Option 3:

Option 3 is to decline the request to progress the Planning Proposal and advise the Applicant of Council's decision.

STRATEGIC LINKS

Wyong Shire Council Strategic/ Annual Plan

The Annual Plan and 4 Year Delivery Plan are Council's short to medium term plans outlining the strategic role that Council will play in delivering the community's strategic vision. Council has 12 Principal Activities, each activity provides a set of services to the community and the Delivery Plan and Annual Plan show the net cost of each service.

The 12 Principal Activities which identifies any relevant service and related key actions and objectives is found in Attachment 2.

Contribution of Proposal to the Principal Activity

Long term Financial Strategy

The Long Term Financial Strategy recognises that operating revenue (excluding capital grants) has not covered operating expenditure to maintain existing services and levels of service. Additionally, the required maintenance and renewals of existing assets cannot be funded. The Long Term Financial Strategy is aimed at providing a framework in which Council "can assess its revenue building capacity to meet the activities of and level of services outlined in the Community Strategic Plan."

Under the Financial Strategy, it is essential that this Planning Proposal achieves the following funding arrangements:

1. The cost of processing the rezoning is to be fully funded by the developer. This is able to be satisfied through the entering into of a funding agreement with the Proponent, prior to the commencement of Phase 2 of the Council's Rezoning Procedure.
2. The development is to contribute to the cost recovery or funding of any services and or facilities that will be utilised by the development. This is expected to be satisfied through existing developer contributions plans.

3. Any new transport, water or sewer services infrastructure, required to service the development that is not identified in an existing developer contribution plan, is to be fully funded by the developer, unless it is reasonably able to be added to an existing contribution plan as essential infrastructure.
4. Development density should be optimised to achieve cost recovery for services and facilities (water, sewer, drainage, waste) through rate and annual levy charges. This is a development design consideration addressed at development application stage.
5. New assets required to service the development should be minimised as far as possible. With the exception of the possibility of upgraded road and access assets, it is unlikely that development of the existing serviced lot will generate the need for new assets.
6. The proposal should demonstrate and achieve net community benefits resulting from the future development of the land. The development proposed (medical centre and Pharmacy) will contribute to net community benefits.

If approval to forward the proposal to Gateway is granted, it is proposed to discuss these issues with the developer to ensure the funding arrangements are satisfied prior to further progress of the rezoning.

Asset Management Strategy

Council's long term Asset Management Strategy specifies objectives and outcomes for asset management over the next 10 years. The desired outcomes are ensuring the right assets are built, ensuring existing assets are managed well, ensuring a balance between Council operations, new assets and existing assets and ensuring future budgets reflect the asset requirements. In general terms, the intention is to ensure Council has the financial capacity to maintain the asset, renew the asset at the end of its life cycle, or to decommission the asset when it is no longer required.

The proposed rezoning will result in business development of an existing serviced parcel of land. Existing water, sewerage and stormwater drainage assets service the site, built by the developer and dedicated to Council.

The ongoing maintenance of water supply services, sewerage services, drainage services and stormwater management are funded through annual charges levied by Council.

The location of the land, being adjacent to existing businesses, minimises the length of lead in infrastructure, and is able to utilise existing major infrastructure of roads, sewerage treatment and water supply. Provided the existing major infrastructure has the capacity to cater for the additional load, it is considered the proposal has a high potential to provide sustainable assets.

Workforce Management Strategy

Nil. The cost of processing the rezoning is to be fully funded by the developer.

Link to Community Strategic Plan (2030)

The Community Strategic Plan identifies 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.

Increase in business activity and in particular medical related uses will be beneficial to the community.

The Planning Proposal is not inconsistent with the Wyong Shire-wide Settlement Strategy and the Central Coast Regional Strategy.

2. There will be ease of travel.

Any negative impact on local traffic conditions will be dealt with as part of the assessment of the proposal. Any upgrading required as a result of the proposal will be funded by the proponent.

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

The proposal has the potential to increase the range of services and facilities available to the public.

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

The assessment of the proposal indicates nil impact on natural areas and that access can be made available to address any impacts from the natural environment (potential for bushfire). Any existing contamination and drainage issues will be dealt with in the assessment of the proposal.

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

The proposed development will not impact natural areas or the community's sense of ownership of the natural environment.

6. There will be a strong sustainable business sector.

The proposal will promote business in an area where there is an expectation of population growth likely to have increased needs for support.

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

While the proposal is unlikely to contribute to this objective the land use likely to take up this land will demand high levels of communication be available.

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

The proposal will provide jobs and as a consequence education opportunities.

Budget Impact

The processing of the Planning Proposal is being funded by the developer in accordance with the requirements of Council's Strategic Plan – Statement of Revenue Policy and is intended to be "budget neutral".

CONSULTATION

Council has to date conducted a "Desktop Review" of the Rezoning Proposal. This involved review of the proposal by Council's Flood Engineer, Transport Engineer, Bushfire Planner and Strategic Planner, as well as the views of Consultants currently engaged to review Council's Retail Strategy. There is no external consultation requirement at this stage of the process.

Should the Gateway Panel determine to support the Planning Proposal, formal referrals to NSW Government Agencies and a public engagement process will be undertaken in accordance with that determination. A subsequent report would be provided for Council's consideration of the outcomes of that consultation process.

GOVERNANCE AND POLICY IMPLICATIONS

The processing of the Planning Proposal is being undertaken in accordance with Council's adopted procedure.

Rezoning of the land is undertaken by preparing an amendment to the local environmental plan (currently Wyong LEP 1991) through progressing of a Planning Proposal under sections 55-59 of the Environmental Planning and Assessment Act 1979.

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 for Council to submit the Planning Proposal to the Minister (DoPI) for a Gateway Determination. DoPI will advise whether or not the matter should proceed (with or without variation), and may specify further studies or modification to the Proposal, community and government agency consultation requirements and other matters.

It is recommended that a Planning Proposal be submitted the Minister (DoPI) for a Gateway determination.

MATERIAL RISKS AND ISSUES

Corporate risks to be addressed for the Planning Proposal are:

1. Infrastructure Provision:
 - a. Ensure future development of the land is subject to existing Contributions Plans,

- b. Ensure any new infrastructure required to service the development is funded by the developer or able to be recovered through developer contributions (depending whether infrastructure is already identified in Contributions Plan/s, or the Contributions Plan/s require updating),

2. Service Capacity

- a. Ensure existing water and sewer headworks and mains have capacity to cater for the increased load, and if not, identify any necessary upgrades required,
- b. Ensure any upgrades are funded by the developer,

3. Sustainability

- a. Ensure road and stormwater/drainage infrastructure is designed to cater for increased storm intensities predicted to occur as a result of climate change,

4. Political

- a. Ensure the community consultation process is open and transparent,
- b. Ensure Councillors are adequately briefed,

5. Certification/Governance

- a. Ensure appropriate consultation with other levels of government during the consultation phase,
- b. Ensure legislative procedures for Planning Proposals are followed,

6. Asset Management

- a. Assess long term maintenance requirements and renewal costs of proposed new assets and the capacity for rate/levy income to fund these costs.

CONCLUSION

The proposed rezoning and clause amendments appear to have considerable merit given the location of the site near a regionally significant integrated sporting and recreation complex, a large aged persons housing development and extensive adjoining residential areas. While there are issues that will need to be resolved prior to public exhibition of the proposal, no issues have been raised during the assessment of the Planning Proposal that are unlikely to be resolved.

Subject to the preparation of a formal Planning Proposal the proposed rezoning is suitable for submission to the Minister (DoPI) for a Gateway Determination.

ATTACHMENTS

- | | | |
|---|--------------------------------------|-----------|
| 1 | Section 117 Directions Summary Table | D03177779 |
| 2 | Principal Activity Table | D03177783 |

Section 117 Directions Summary Table – RZ/5/2012

Number	Direction	Applicable	Consistent
Employment & Resources			
1.1	Business & Industrial Zones	Y	Y
1.2	Rural Zones	N	N/A
1.3	Mining, Petroleum Production and Extractive Industries	N	N/A
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	N	N/A
3.2	Caravan Parks and Manufactured Home Estates	Y	Y
3.3	Home Occupations	Y	Y
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	Y
4.2	Mine Subsidence and Unstable Land	N	N/A
4.3	Flood Prone Land	Y	Y
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

Number	Direction	Applicable	Consistent
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	N	N/A
Metropolitan Planning			
7.1	Implementation of the Metropolitan Plan for Sydney 2036	N	N/A

Principal Activity	Service	Key Action and Objectives	Funding Source and Description	Impact on Key Performance Indicators/ Service Performance Indicators
1 Community & Education	1.01 Community Cultural Development	Provide and maintain community facilities across the Shire		Proposal is for new business activity. Community facilities exist in this area.
2 Community Recreation	2.01 Open Space 2.02 Sport, Leisure & Recreation	Provide and maintain open space, sports fields and recreation facilities across the Shire	Developer Contributions	The location may result in marginal increase in utilisation of adjacent facilities.
3 Economic & Property Development		There will be a strong sustainable business sector		The development of this site provides opportunity for new business premises.
4 Council Enterprises	None relevant			
5 Regulatory	None relevant			
6 Environment & Land Use	6.02 Environment & Natural Resources	Preparation/implementation of Natural Resources Strategy and Biodiversity Management Plan	Various	Strategies still in preparation – KPIs to be developed
	6.03 Land Use Planning & Policy Development	Increase revenue from full cost recovery and rezoning fees	Developer Funded	No net cost to Council in assessing this proposal.

Principal Activity	Service	Key Action and Objectives	Funding Source and Description	Impact on Key Performance Indicators/ Service Performance Indicators
7 Waste	7.01 Waste	Provide regular domestic waste & recycling service	Revenue	Marginal increase in number of collections per week when developed.
8 Roads & 9 Drainage	None relevant	Ease of Travel	Developer Funded	Potential upgrade of roads and drainage required
10 Water & 11 Sewerage Services	10.01 Water & Sewerage	Provide safe & reliable drinking water and the treatment and disposal of sewerage collected. Provide essential community services in cost effective & sustainable manner	Developer funded Contributions Revenue	Head works contributions will be collected
12 Administration	None relevant			