



Central Coast Council

Planning Proposal

Miscellaneous Amendment to WLEP 2013 & GLEP 2014

File No: F2017/01369

November 18



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Gateway Version – 3<sup>rd</sup> version

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# Miscellaneous Amendment to WLEP2013 & GLEP2014

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## **Background & Locality Context**

This document describes an amendment to the Wyong Local Environmental Plan (WLEP) 2013 and the Gosford Local Environmental Plan (GLEP) 2014, to be known as Miscellaneous Amendment.

This Planning Proposal is required as a housekeeping amendment to address specific issues and anomalies that have been identified with the ongoing operation and application of both the WLEP 2013 and GLEP 2014. The proposed amendments from this Planning Proposal will ultimately be incorporated into the consolidated Central Coast Local Environmental Plan (CCLEP).

This Planning Proposal contains a number of amendments and applies to a large area of the Central Coast Local Government Area (LGA), and should be treated as a Shire-wide amending LEP.

## **Part 1 Objectives or Intended Outcomes**

The objective of this proposal is to amend the WLEP 2013 and GLEP 2014, or depending on the timing the CCLEP, to address issues that have arisen during the operation of both plans, and to correct minor errors and anomalies. The amendments are minor housekeeping matters.

## Part 2 Explanation of Provisions

The table below identified the proposed amendments to WLEP 2013 and GLEP 2014, or depending on timing amendment to the CCLEP, as part of this Planning Proposal. All proposed clause amendments may be subject to revision during the Parliamentary Counsel drafting.

Table 1: Explanation of Map and Instrument Amendments

	Provision	Proposed Amendment	Planning instrument
1	Part 4 – Principal development standards	<p>Insert new clause to facilitate boundary adjustments on RU1, RU2 or E3 land.</p> <p>Insert provision similar to CI4.2C Lake Macquarie LEP 2014 to enable boundary adjustments for land zoned RU1, RU2 or E3 where no additional lots or dwelling entitlements are created and the resultant lots achieve a superior outcome for either agricultural or environmental protection or management.</p>	<p>Both WLEP 2013 &amp; GLEP 2014</p> <p>Or CCLEP</p>
2	Part 4 – Principal development standards	<p>Insert new clause to apply a minimum lot size for dual occupancy development.</p> <p><i>The Low Rise Medium Density Housing Code and Design Guide</i> came into effect on 6 July 2018. To undertake dual occupancy development as complying development under this code, the minimum lot size is that listed in the Council's LEP. Where the LEP does not specify a minimum lot size then the Code applies a minimum lot size of 400m<sup>2</sup>.</p> <p>At present there is no minimum lot size specified in the WLEP 2013. These controls are included in the Wyong DCP 2013. It is proposed to insert a new clause to specify the minimum lot size as 550m<sup>2</sup> for attached dual occupancy, and 700m<sup>2</sup> for detached dual occupancy, consistent with Wyong DCP 2013.</p>	<p>WLEP 2013</p> <p>or CCLEP</p>
3	Part 4 – Principal development standards	<p>Insert new clause to specify requirements for lot amalgamations.</p> <p>During preparation of the draft consolidated Central Coast LEP, it was identified that the current Clause 4.2B <i>Erection of dual occupancies and dwelling houses on land within certain rural and environmental protection zones</i> references amalgamated lots but has no provision to require</p>	<p>WLEP 2013</p> <p>or CCLEP</p>

	Provision	Proposed Amendment	Planning instrument
		<p>amalgamation of the land identified on the WLEP Lot Amalgamation Map.</p> <p>This appears to be a drafting error. When the WLEP 2013 was prepared it was intended that the lots identified on the Lot Amalgamation Map would be required to amalgamate the land upon development.</p>	
4	<p>Part 4 – Principal development standards</p> <p>Cl.4.4(2B)</p> <p>Floor Space Ratio Map</p> <p>FSR_015</p>	<p>Amend Clause 4.4(2B) to include Area 1 of the Height of Buildings (HOB) Map on the Floor Space Ratio (FSR) Map, as being subject to the bonus FSR provisions for consolidated sites with a minimum 1500m<sup>2</sup> site area.</p> <p>Previously Area 1 at The Entrance was subject to bonus FSR provisions for consolidated sites under the former Wyong Development Control Plan 2005 (DCP 2005): Chapter 64 Multiple Dwelling Residential Development.</p> <p>The bonus FSR provisions from Chapter 64 of Wyong DCP 2005 were included under Clause 4.4(2B) of WLEP 2013 and apply to certain Local Centres. However, it was an error that Area 1 at The Entrance was not included. It is therefore proposed to add Area 1 at The Entrance to Cl. 4.4(2B), with the exception of 77 Oakland Avenue and 6, 8, 15A, 17, 19 and 21 Ashton Avenue, The Entrance which have their own site specific FSR.</p>	<p>WLEP 2013</p> <p>or CCLEP</p>
5	<p>Part 6 – Urban Release Areas (URAs)</p> <p>Cl.6.3</p>	<p>Remove Cl. 6.3 which requires preparation of a DCP for most development within an URA. This control is restricting development as most of the URAs are quite small and the provisions of existing DCPs are more than adequate to guide the development of these sites. For the larger URAs the provisions under Cl. 6.1 and 6.2 address infrastructure and staging requirements.</p> <p>There is precedence to this approach with both The Hills Shire Council and Hawkesbury City Council removing Cl. 6.3 from their Local Environmental Plans (LEPs).</p>	<p>Both WLEP 2013 &amp; GLEP 2014</p> <p>or CCLEP</p>
6	<p>Schedule 1 – Additional</p>	<p>Amend Item 5 to reflect the original clause from WLEP 1991.</p>	<p>WLEP 2013</p> <p>or CCLEP</p>

	Provision	Proposed Amendment	Planning instrument
	Permitted Uses Item 5 – Use of certain land at Summerland Road, Summerland Point	<p>A drafting error during the finalisation of WLEP 2013 amended the provisions applying to Item 5 to enable community title subdivision to be created on Part A of the land without the need to be associated with a <i>managed resort facility</i>.</p> <p>This is not the intent of the clause and not consistent with the previous provisions under WLEP 1991 which specified that subdivision under the <i>Community Land Development Act 1989</i> is only permitted on Part A of the site if it is associated with a managed resort facility.</p>	
7	<p>Schedule 5 – Environmental Heritage</p> <p>Ferry Master's Cottage</p> <p>Heritage Map HER_015</p>	<p>Remove the heritage listing of the Ferry Master's Cottage (I87) from No. 101 The Entrance Road, The Entrance.</p> <p>The address of the Ferry Master's Cottage at No. 101 The Entrance Road, The Entrance is incorrect. The Ferry Master's Cottage is physically located at No. 113 The Entrance Road, The Entrance.</p> <p>Further consultation will occur with the landowners at No. 113 The Entrance Road, The Entrance to consider correctly identifying this site as part of the heritage items in WLEP 2013.</p>	WLEP 2013 or CCLEP
8	<p>Lot Size Map</p> <p>LSZ_007B</p> <p>Lot 1149</p> <p>DP 840180</p> <p>38 Woodbury Park Drive, Mardi</p>	<p>Amend the Lot Size Map Sheet 7B to remove the minimum lot size of 20 hectares (AB1) applied to 38 Woodbury Park Dr, Mardi.</p> <p>A mapping error during the finalisation of WLEP 2013 applied a minimum lot size of 40 hectares (AB2) to a small portion of Lot 1149 DP 840180 38 Woodbury Park Drive, Mardi. The minimum lot size was subsequently amended to 20 hectares (AB2) due to incorrect labelling when the Lot Size Map was amended as part of WLEP 2013 – Amendment No.3.</p> <p>The entire site is zoned RE1 Public Recreation under WLEP 2013. The zone has not changed since WLEP 2013 was notified in December 2013. No minimum lot size is applicable for RE1 land. As such, the site should be removed from the Minimum Lot Size map.</p>	WLEP 2013 or CCLEP

## Part 3 Justification

### Section A – Need for the Planning Proposal

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

There are no specific strategic studies or reports relating to the preparation of this Planning Proposal. This amendment to the Wyong LEP 2013 and Gosford LEP 2014, or depending on timing the CCLEP, is primarily a housekeeping exercise to resolve mapping errors and insert additional provisions to clarify the intent of a number of clauses.

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

All matters covered by the Planning Proposal relate to statutory issues. As such, the Planning Proposal is the only mechanism for achieving the intended outcomes.

### Section B – Relationship to strategic planning framework

#### 3. *Is the planning proposal consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategies)?*

The Planning Proposal is consistent with the objectives and actions contained within the Central Coast Regional Plan 2036 and North Wyong Shire Structure Plan. The proposed amendments are mostly administrative and will generally have little to no impact on the objectives and actions of these strategic planning documents.

#### 4. *Is the planning proposal consistent a local Council's local strategy or other local strategic plan?*

The proposal is consistent with the five focus areas of Council's Community Strategic Plan: One – Central Coast.

Objective/Requirement	Comment
<b>Belonging</b> <b>Focus Areas:</b> Our community spirit is our strength Creativity, connection and local identity	One Planning Proposal is proposed to amend both the WLEP 2013 and GLEP 2014, or depending on the timing the CCLEP, as the first step towards providing consistency between these planning instruments.
<b>Smart</b> <b>Focus Areas</b> A growing and competitive region A place of opportunity for people	The Planning Proposal will clarify provisions in some of the LEP clauses to provide greater certainty to land owners and developers.

Objective/Requirement	Comment
<b>Green</b>  <b>Focus Areas</b> Environmental resources for the future Cherished and protected natural beauty	The Planning Proposal does not alter any existing provisions that provide for the protection of the natural environment and its resources.
<b>Responsible</b>  <b>Focus Areas</b> Good governance and great partnerships Delivering essential infrastructure Balanced and sustainable development	The Planning Proposal is ensuring that both the WLEP 2013 and GLEP 2014 are updated and relevant, ultimately assisting in providing good governance.
<b>Livable</b>  <b>Focus Areas</b> Reliable public transport and connections Out and about in the fresh air Healthy lifestyles for a growing community	The Planning Proposal does not alter any existing provisions that require future development to be adequately serviced.

**5. Is the planning proposal consistent with applicable State Environmental Planning Policies?**

The proposal has been considered against the relevant State Environmental Planning Policies (SEPP). The proposal is considered to be generally consistent with the applicable SEPPs.

SEPP	Policy Aims	Comment
SEPP 19 Bushland in Urban Areas	Aims to protect and preserve bushland within urban areas because of its value to the community as part of the natural heritage; its aesthetic value; and its value as a recreational, educational and scientific resource.	The Planning Proposal is consistent with the aims and provisions of the SEPP.
SEPP 21 Caravan Parks	Encourages orderly and economic use of caravan parks for residents. Encourage the provision of community facilities for caravan parks and aims to protect the environment near caravan parks.	The Planning Proposal does not impact any caravan parks and is consistent with the aims and provisions of the SEPP.
SEPP 30 Intensive Agriculture	Provides provisions relating to cattle feedlots and piggeries.	The Planning Proposal is consistent with the aims and provisions of the SEPP.
SEPP 33	Defines hazardous and offensive industries and	The Planning Proposal does

SEPP	Policy Aims	Comment
Hazardous & Offensive Development	requires development consent for hazardous or offensive development.	not propose or impact hazardous or offensive development and is consistent with the aims and provisions of the SEPP.
SEPP 36 Manufactured Home Estates	Facilitates the establishment of manufactured home estates as an alternative to traditional housing arrangements.	The Planning Proposal is consistent with the aims and provisions of the SEPP.
SEPP 44 Koala Habitat Protection	Encourage the conservation and management of areas of natural vegetation that provide habitat for koalas.	The Planning Proposal is consistent with the aims and provisions of the SEPP.
SEPP 50 Canal Estate Development	Prohibits canal estate development to ensure that the environment is not adversely affected by the creation of new development of this kind.	The Planning Proposal does not propose canal estate development and is consistent with the aims and provisions of the SEPP.
SEPP 55 Remediation of Land	Provide a State-wide planning approach to the remediation of contaminated land.	The Planning Proposal does not impact any potentially contaminated land and is consistent with the aims and provisions of the SEPP.
SEPP 62 Sustainable Aquaculture	Encourages sustainable aquaculture and makes aquaculture development permissible in certain zones.	The Planning Proposal is consistent with the aims and provisions of the SEPP.
SEPP 64 Advertising & Signage	Aims to ensure that signage is compatible with the desired amenity and visual character of an area; provides effective communication in suitable locations; and is on high quality design and finish.	The Planning Proposal is consistent with the aims and provisions of the SEPP.
SEPP 65 Design Quality of Residential Apartment Development	Aims to improve the design quality of residential flat development and recognises the economic, environmental, cultural and social benefits of high quality design.	The Planning Proposal is consistent with the aims and provisions of the SEPP.
SEPP Affordable Rental Housing (2009)	Provides for affordable rental housing and facilitates its delivery by providing incentives. Aims to facilitate the retention and mitigate the loss of existing affordable rental housing.	The Planning Proposal is consistent with the aims and provisions of the SEPP.

SEPP	Policy Aims	Comment
SEPP Building Sustainability Index BASIX (2004)	To ensure consistency in the implementation of the BASIX scheme throughout the State.	The Planning Proposal is consistent with the aims and provisions of the SEPP.
SEPP Coastal Management (2018)	Aims to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with objects of the <i>Coastal Management Act 2016</i> .	The Planning Proposal is consistent with the aims and provisions of the SEPP.
SEPP Educational Establishments & Child Care Facilities (2017)	Aims to facilitate the effective delivery of educational establishments and early education and care facilities.	The Planning Proposal is consistent with the aims and provisions of the SEPP.
SEPP Exempt & Complying Development Codes (2008)	Identifies exempt development of minimal environmental impact that may be carried out without development consent, and identifies types of complying development that may be carried out with a complying development certificate.	The Planning Proposal is consistent with the aims and provisions of the SEPP.
SEPP Housing for Seniors or People with a Disability (2004)	Sets design principles for housing for seniors or people with a disability to achieve built form that responds to the site. Encourages support services for seniors or people with a disability.	The Planning Proposal is consistent with the aims and provisions of the SEPP.
SEPP Infrastructure (2007)	Facilitate the effective delivery of infrastructure; provides greater flexibility in the location of infrastructure and service facilities; and allows for the efficient development, redevelopment or disposal of surplus government owned land.	The Planning Proposal is consistent with the aims and provisions of the SEPP.
SEPP Mining, Petroleum Production & Extractive Industries 2007	Provides for the management and the economic use and development of land containing mineral, petroleum and extractive material resource. Establishes planning controls to encourage ecologically sustainable development.	The Planning Proposal is consistent with the aims and provisions of the SEPP.
SEPP (Vegetation in Non-Rural Areas) 2017	Aims to establish the process for assessing and identifying sites as urban renewal precincts; and facilitate the orderly and economic development and redevelopment of sites in and around urban renewal precincts.	The Planning Proposal is consistent with the aims and provisions of the SEPP.

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**6. Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?**

The proposal has been considered against the relevant Ministerial Section 9.1 Directions as summarised below. Pending the outcomes of consultation with relevant government agencies, it is considered that the proposal will either be consistent with these Directions, or any inconsistencies are of minor significance.

Table 2: S9.1 Ministerial Direction Compliance

No.	Direction	Applicable	Consistent
<b>Employment &amp; Resources</b>			
1.1	Business & Industrial Zones	Y	Y
1.2	Rural Zones	Y	Y
1.3	Mining, Petroleum Production and Extractive Industries	Y	Y
1.4	Oyster Aquaculture	N	N/A
1.5	Rural Lands	N	N/A
<b>Environment &amp; Heritage</b>			
2.1	Environmental Protection Zones	Y	Y
2.2	Coastal Protection	Y	Y
2.3	Heritage Conservation	Y	Y
2.4	Recreation Vehicle Areas	Y	Y
2.5	Application of E2 & E3 Zones and Environmental Overlays in the Far North Coast LEPS	N	N/A
<b>Housing, Infrastructure &amp; Urban Development</b>			
3.1	Residential Zones	Y	Y
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	Y	Y
3.6	Shooting Ranges	N	N/A

No.	Direction	Applicable	Consistent
<b>Hazard &amp; Risk</b>			
4.1	Acid Sulfate Soils	Y	Y
4.2	Mine Subsidence and Unstable Land	Y	Y
4.3	Flood Prone Land	Y	Y
4.4	Planning for Bushfire Protection	Y	Y
<b>Regional Planning</b>			
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
5.8	Sydney's Second Airport: Badgery's Creek:	N	N/A
5.9	North West Rail Link Corridor Strategy	N	N/A
5.10	Implementation of Regional Plans	Y	Y
<b>Local Plan Making</b>			
6.1	Approval and Referral Requirements	Y	Y
6.2	Reserving Land for Public Purposes	Y	Y
6.3	Site Specific Provisions	Y	Y
<b>Metropolitan Planning</b>			
7.1	Implementation of A Plan for Growing Sydney	N	N/A
7.2	Implementation of Greater Macarthur Land Release Investigation	N	N/A
7.3	Parramatta Road Corridor Urban Transformation Strategy	N	N/A
7.4	Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	N	N/A
7.5	Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	N	N/A

No.	Direction	Applicable	Consistent
7.6	Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	N	N/A
7.7	Implementation of Glenfield to Macarthur Urban Renewal Corridor	N	N/A

#### **Direction 1.1: Business & Industrial Zones**

Aims to encourage employment growth in suitable locations; protect employment land in business and industrial zones; and to support the viability of identified strategic corridors. Applies when a Planning Proposal affects land within an existing or proposed business or industrial zone.

There are no changes proposed to the land use tables for business and industrial zoned land. It is therefore considered the proposal is consistent with this Direction.

#### **Direction 1.2: Rural Zones**

Aims to protect the agricultural production value of rural land. Applies when a Planning Proposal affects land within an existing or proposed rural zone.

A new clause is proposed to enable boundary adjustments for land zoned RU1, RU2 or E3 where no additional lots or dwelling entitlements are created and the resultant lots achieve a superior outcome for either agricultural or environmental protection or management. Given the proposed clause requires development to provide an improved outcome for agricultural protection or management; it is considered the proposal is consistent with this Direction.

#### **Direction 1.3: Mining, Petroleum Production & Extractive Industries**

Aims to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.

The Planning Proposal does not propose any changes that would have an effect on mining, petroleum production and/or extractive industries.

#### **Direction 2.1: Environmental Protection Zones**

Aims to protect and conserve environmentally sensitive areas and applies when the relevant planning authority prepares a Planning Proposal.

A new clause is proposed to enable boundary adjustments for land zoned RU1, RU2 or E3 where no additional lots or dwelling entitlements are created and the resultant lots achieve a superior outcome for either agricultural or environmental protection or management. Given the proposed clause requires development to provide an improved outcome for environmental protection or management; it is considered the proposal is consistent with this Direction.

### ***Direction 2.2: Coastal Protection***

Aims to implement the principles from the NSW Coast Policy. Applies when a Planning Proposal applies to land in the coastal zone as defined in the Coastal Protection Act 1979. Any change to land within the Coastal zone is the result of errors or anomalies during the preparation of WLEP 2013. No additional risk to the Coastal zone is envisioned through rectifying these anomalies.

The Planning Proposal is considered consistent with the NSW Coastal Policy Objectives (e.g. "to protect and conserve the coast for future generations"). It is therefore considered the proposal is consistent with this Direction.

### ***Direction 2.3: Heritage Conservation***

Aims to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance. Applies when the relevant planning authority prepares a Planning Proposal.

The Planning Proposal does not impact on any items, objects or places of heritage significance and as such, it is considered that the Planning Proposal is consistent with this Direction.

### ***Direction 2.4: Recreational Vehicle Areas***

Aims to protect sensitive land or land with significant conservation values from adverse impacts from recreational vehicles. Applies when the relevant planning authority prepares a Planning Proposal.

This Direction is applicable, however, there are no Recreational Vehicle Areas within the Wyong LGA. It is therefore considered the proposal is consistent with this Direction.

### ***Direction 3.1: Residential Zones***

Encourages a variety of housing types to provide for housing needs. Aims to ensure that new housing has appropriate access to infrastructure and services, and to minimise the impact of residential development on the environment. Applies when a Planning Proposal affects land within a residential zone, and any other zone in which significant residential development is permitted or proposed to be permitted.

No changes are proposed to the land use tables for residential zones. It is therefore considered the proposal is consistent with this Direction.

### ***Direction 3.1: Caravan Parks & Manufactured Home Estates***

Aims to provide for a variety of housing types and provide opportunities for caravan parks and manufactured home estates. Applies when the relevant planning authority prepares a Planning Proposal.

WLEP 2013 and GLEP 2014 retain provisions that permit development for the purposes of a caravan park to be carried out. It is therefore considered the proposal is consistent with this Direction.

### ***Direction 3.2: Home Occupations***

Aims to encourage the carrying out of low impact small business in dwelling houses. Applies when the relevant planning authority prepares a Planning Proposal.

Home occupations will remain permissible without consent in the majority of zones of both planning instruments. It is therefore considered the proposal is consistent with this Direction.

### ***Direction 3.4: Integrating Land Use & Transport***

Aims to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve improving access to housing, jobs and services by walking, cycling and public transport; increasing choice of available transport and reducing transport on cars; reducing travel demand; supporting efficient and viable public transport services; and provide for efficient movement of freight.

It is considered the proposal is consistent with this Direction.

### ***Direction 3.5: Development near Licensed Aerodromes***

Aim to ensure the effective and safe operation of aerodromes, and that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft. Ensures that development for residential purposes or human occupation, if situated on land within the Australian Noise Exposure Forecast (ANEF) contours of between 20 and 25, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.

The proposed amendments are mostly administrative and no changes are proposed for any land in close proximity to the Warnervale Aerodrome. It is therefore considered the proposal is consistent with this Direction.

### ***Direction 4.1: Acid Sulphate Soils***

Aims to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils. Applies when a Planning Proposal applies to land having a probability of containing acid sulphate soils on the Acid Sulphate Soils Planning Maps.

This issue is addressed via an appropriate LEP Clause triggering compliance with the Acid Sulfate Soils Guidelines in the assessment of development proposals. These controls will not be altered by this Planning Proposal. It is therefore considered the proposal is consistent with this Direction.

### ***Direction 4.2: Mine Subsidence & Unstable Land***

Aims to prevent damage to life, property and the environment, on land identified as unstable or potentially subject to mine subsidence. Applies when a Planning Proposal permits development on land which is within a mine subsidence district, or identified as unstable in a study or assessment undertaken by or on behalf of the relevant planning authority or other public authority and provided to the relevant planning authority.

Any future development within identified Mine Subsidence Districts will trigger referral to the Mine Subsidence Board / DARZL for assessment. Council will consult with the Mine Subsidence Board to ascertain any inconsistency with this Direction.

#### ***Direction 4.3: Flood Prone Land***

Aims to ensure development on flood prone land is consistent with NSW Government's Flood Prone Land Policy and principles of the Floodplain Development Manual 2005. Provisions of an LEP on flood prone land are to be commensurate with flood hazard and include consideration of the potential flood impacts both on and off the subject land. Applies when a Planning Proposal creates, removes or alters a zone or provision that affects flood prone land.

Clauses relating to flood planning and floodplain risk management are included within both planning instruments. Councils most up-to-date flood modelling has been utilised to prepare our flood maps.

It is therefore considered any inconsistency with this Direction is of minor significance.

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

Aims to protect life, property and the environment from bushfire hazards, and encourage sound management of bushfire prone areas. Applies when a planning proposal affects or is in proximity to land mapped as bushfire prone land.

Any future development on bushfire prone land is required to comply with the relevant sections of Planning for Bushfire Protection 2006. It is therefore considered that the proposal is consistent with this Direction.

#### ***Direction 5.10: Implementation of Regional Plans***

The objective of this direction is to ensure draft LEPs are consistent with regional plans such as the Central Coast Regional Plan 2036.

The Planning Proposal has consideration for the CCRP. The CCRP provides a framework to ensure adequate land is available and appropriately located to accommodate projected housing needs and promote employment opportunities over the next 25 years. It is considered the proposal is consistent with this Direction.

#### ***Direction 6.1: Approval and Referral Requirements***

This direction aims to ensure that LEP provisions encourage the efficient and appropriate assessment of development.

The Planning Proposal does not seek to include provisions which require concurrence from other agencies. It is therefore considered the proposal is consistent with this Direction.

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

This direction aims to facilitate the provision of public services and facilities by reserving land for public purposes, and facilitate the removal of reservations of land for public purposes where land is no longer required for acquisition. Applies when the relevant planning authority prepares a Planning Proposal.

The Planning Proposal does not propose the removal of reservations of land for public purposes. It is therefore considered that the proposal is consistent with this Direction.

### **Direction 6.3: Site Specific Provisions**

This direction aims to discourage unnecessarily restrictive site specific planning controls. Applies when the relevant planning authority prepares a Planning Proposal to allow particular development to be carried out.

The proposal does not seek to include any site specific provisions, standards or requirements. It is therefore considered that the proposal is consistent with this Direction.

## **Section C – Environmental, Social and Economic Impact**

### **7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

The proposal is mostly administrative and will have no detrimental effects upon critical habitats, threatened species or ecological communities.

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

The Planning Proposal is predominantly a housekeeping exercise to rectify anomalies. The Planning Proposal provides an opportunity to clarify existing provisions within the WLEP 2013 and GLEP 2014 and provide greater certainty for affected landowners as a result.

## **Section D – State and Commonwealth Interests**

### **9. Is there adequate public infrastructure for the planning proposal?**

The Planning Proposal is predominantly a housekeeping exercise to rectify anomalies and issues associated within the operation of WLEP 2013 and GLEP 2014. The Planning Proposal does not need to address public infrastructure requirements.

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

Consultation with the following agencies is proposed, based on the identified triggers and site constraints:

Table 3: Agency Consultation

Agency	Trigger/Constraint
Department of Planning and Environment	<ul style="list-style-type: none"> <li>- s.9.1 Direction 6.2 reserving Land for Public Purposes;</li> <li>- s.9.1 Direction 6.3 Site Specific Provisions.</li> </ul>
Mine Subsidence Board	<ul style="list-style-type: none"> <li>- s.9.1 Direction 4.2 Mine Subsidence &amp; Unstable Land</li> </ul>

Agency	Trigger/Constraint
NSW Department of Industry – Resources and Energy	- s.9.1 Direction 1.3 Mining, Petroleum & Extractive Industries
NSW Rural Fire Service	- s.9.1 Direction 4.4 Planning for Bushfire Protection
Office of Environment & Heritage	- s.9.1 Direction 2.1 Environmental Protection Zones

\* NOTE: Section 3.25 of the EP&A Act requires the RPA to consult with the Chief Executive of the Office of Environment & Heritage (OEH) if, in the opinion of the RPA, critical habitat or threatened species, populations or ecological communities, or their habitats may be adversely affected by the proposed instrument.

- The consultation is to commence after a Gateway Determination is issued unless the Regulations specify otherwise.
- The period for consultation is 21 days unless agreed differently between the RPA & the DG or by the Regulations.

## Part 4 Mapping

Table 4: Existing and Proposed Provisions

Map	Map Title
<b>Existing Provisions WLEP 2013</b>	
A.	Floor Space Ratio FSR_015
B.	Heritage Map HER_ 015
C.	Lot Size Map LSZ_ 007B
<b>Proposed Provisions WLEP 2013</b>	
D.	Floor Space Ratio FSR_015
E.	Height of Building Map HER_ 015
F.	Lot Size Map LSZ_ 007B

## Part 5 Community Consultation

The proposal will be made available for **28** days for community consultation and undertaken in accordance with any determinations made by the Gateway.

It is expected that the proposal will be made available at Council's website: <http://www.haveyoursaycentralcoast.com.au>

## Part 6 Project Timeline

Table 5: Key Project Timeframes

Action	Period	Start Date	End Date
Anticipated commencement date (date of Gateway Determination)	6 weeks	September 2018	October 2018
Anticipated timeframe for the completion of required technical information	4 weeks		November 2018
Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)	21 days	December 2018	February 2019
Commencement and completion dates for public exhibition	4 weeks	March 2019	April 2019
Dates for public hearing (if required)	N/A		
Timeframe for consideration of submissions	4 weeks	May 2019	June 2019
Timeframe for consideration of a proposal post exhibition	2 weeks	June 2019	June 2019
Date of submission to the Department to finalise LEP	4 weeks	July 2019	August 2019
Anticipated date RPA will make the plan (if delegated)	2 weeks	August 2019	August 2019
Anticipated date RPA will forward to the Department for notification	4 weeks	August 2019	September 2019

## Supporting Documentation

Table 6: Supporting Documentation to the Planning Proposal

No.	Document
<b>01 Assessment and Endorsement</b>	
A.	Council Report and Minutes – 26 March 2018
B.	Council Supplementary Report and Minutes – 27 August 2018
C.	Gateway Determination - TBC
D.	Agency Responses - TBC

No.	Document
<b>02 Mapping</b>	
<b>WLEP 2013 Map Tiles</b>	
A.	Proposed change to Floor Space Ratio Map FSR_015
B.	Proposed change to Heritage Map HER_ 015
C.	Proposed change to Lot Size Map LSZ_ 007B

# 01

## **Assessment & Endorsement**



**Item No:** 1.1  
**Title:** Miscellaneous Amendment to GLEP2014 and WLEP2013  
**Department:** Environment and Planning

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26 March 2018 Ordinary Council Meeting

Trim Reference: F2017/01369 - D12920752

Author: Lynda Hirst, Senior Strategic Planner

Manager: Gary Hamer, Section Manager

Executive: Scott Cox, Director Environment and Planning

### **Report Purpose**

The purpose of this report is for Council to consider a Planning Proposal to amend the *Gosford Local Environmental Plan 2014* and the *Wyong Local Environmental Plan 2013* to address a number of minor issues and anomalies with the operation of these plans.

The report recommends that Council prepare a Planning Proposal to amend both the *Gosford Local Environmental Plan 2014* and *Wyong Local Environmental Plan 2013*.

### **Background**

Under Division 3.21 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), Councils are required to keep their local environmental plans under regular review to ensure the objectives of the EP&A Act continue to be achieved.

Council staff are currently preparing a Planning Proposal for the consolidated Central Coast Local Environmental Plan which will consolidate the existing *Gosford Local Environmental Plan 2014* (GLEP 2014), *Gosford Planning Scheme Ordinance* (GPSO), *Interim Development Order Number 122 – Gosford* (IDO) and the *Wyong Local Environmental Plan 2013* (WLEP 2013) into one (Local Environmental Plan). A consolidated Central Coast Local Environmental Plan will however only merge the existing plans and will only address issues where provisions within the existing planning instruments differ.

This planning proposal is required in the interim as a separate housekeeping amendment to address specific issues and anomalies that have been identified with the ongoing operation of both the WLEP 2013 and GLEP 2014. The proposed amendments from this planning proposal, if supported, will ultimately be incorporated into the consolidated Central Coast Local Environmental Plan.

### **Recommendation**

- 1 That Council prepare a Planning Proposal to amend *Gosford Local Environmental Plan 2014* and *Wyong Local Environmental Plan 2013* to address minor issues and correct anomalies, pursuant to Section 55 of the *Environmental Planning and Assessment Act*,

1979.

- 2 *That Council forward the Planning Proposal to the NSW Minister for Planning requesting a Gateway Determination, as well as requesting delegation for Council to finalise and make the draft Local Environmental Plans, pursuant to Section 56(1) of the Environmental Planning and Assessment Act, 1979.*
- 3 *That Council undertake community and public authority consultation, in accordance with the Gateway Determination requirements, pursuant to Sections 56 and 57 of the Environmental Planning and Assessment Act, 1979.*
- 4 *That Council consider a further report on results of the agency and community consultation.*

**ORDINARY COUNCIL MEETING OF 26 MARCH 2018**

**Moved: Mayor Smith**

**Seconded: Councillor Best**

**Resolved**

**202/18 That Council defer this meeting pending a briefing for Councillors.**

**For:**

**Unanimous**

**The Proposal**

The planning proposal seeks to amend GLEP 2014 and WLEP 2013 to address issues and anomalies identified with the operation of both plans. These amendments are minor housekeeping matters that will address issues that have arisen with the operation and application of both GLEP 2014 and WLEP 2013. The planning proposal will correct these anomalies.

**Assessment**

**Proposed amendments to GLEP 2014**

1. Part 4 – Principal Development Standards – insert new clause to facilitate boundary adjustments in RU1, RU2 or E3 land that achieve better environmental outcomes.

A submission was received during the preparation of Miscellaneous Amendment No.2 to WLEP 2013 in 2015 requesting that Council insert an additional clause to enable boundary adjustments for land zoned RU1, RU2 or E3 where no additional lots or dwelling entitlements are created and the resultant lots achieve a superior outcome for either agricultural or environmental protection or management.

The proposed new clause was considered to have merit but was too late for inclusion in the previous Miscellaneous Amendment. A similar provision is included in the Lake Macquarie Local Environmental Plan 2014, Clause 4.2C.

2. Part 6 – Urban Release Areas (URAs) – Amend Part 6 to remove Clause 6.3.

Recent development enquiries have raised concern with the requirement under Clause 6.3 for a Development Control Plan (DCP) to be prepared for most development proposed within an Urban Release Area (URA). This control is restricting development as most of the URAs are quite small and the provisions of existing DCPs are more than adequate to guide the development of these sites. As such, the requirement for a DCP is considered onerous.

3. Schedule 5 – Environmental Heritage – Update existing heritage listed items to ensure they are listed and addressed correctly.

During Council's annual review of existing heritage items it has been highlighted that a number of heritage items have undergone changes to property description and/or address.

The list of heritage items in the GLEP 2014 needs to be updated to ensure correct description of properties to enable easy identification.

### **Proposed amendments to WLEP 2013**

1. Part 4 – Principal Development Standards – insert new clause to facilitate boundary adjustments in RU1, RU2 or E3 land that achieve better environmental outcomes.

A submission was received during the preparation of Miscellaneous Amendment No.2 to WLEP 2013 in 2015 requesting that Council insert an additional clause to enable boundary adjustments for land zoned RU1, RU2 or E3 where no additional lots or dwelling entitlements are created and the resultant lots achieve a superior outcome for either agricultural or environmental protection or management.

The proposed new clause was considered to have merit but was too late for inclusion in the previous Miscellaneous Amendment. A similar provision is included in the Lake Macquarie Local Environmental Plan 2014, Clause 4.2C.

2. Part 4 – Principal Development Standards – insert new clause to specify requirements for lot amalgamations.

During preparation of the draft consolidated Central Coast LEP, it was identified that the current Clause 4.2B *Erection of dual occupancies and dwelling houses on land within certain rural and environmental protection zones* includes a reference to

amalgamated lots but has no provision to require amalgamation of the land identified on the WLEP Lot Amalgamation Map.

This appears to be a drafting error. When the WLEP 2013 was prepared in 2013 it was intended that the lots identified on the Lot Amalgamation Map would be required to amalgamate the land upon development.

3. Part 4 – Principle Development Standards – Amend Clause 4.4(2B) to include Area 1 of the Height of Buildings Map on the Floor Space Ratio (FSR) Map as being subject to the bonus FSR provisions for consolidated sites with a minimum 1500m<sup>2</sup> site area.

At its Ordinary Meeting on 11 May 2016 the former Wyong Shire Council resolved:

*That Council request that staff review the floor space ratio provisions for land identified as Area 1 on the Wyong Local Environmental Plan 2013 (WLEP 2013) Height of Building Map and that Council be informed of the outcome of this review.*

Previously Area 1 at The Entrance was subject to bonus FSR provisions for consolidated sites with a minimum 1500m<sup>2</sup> site area under the former Wyong Development Control Plan 2005 (DCP 2005): Chapter 64 Multiple Dwelling Residential Development. The FSR bonus was on a sliding scale with a 7.5% increase to site area for 1500m<sup>2</sup> sites, up to 20% increase to site area for sites 4000m<sup>2</sup> or greater.

The bonus FSR provisions from Chapter 64 of Wyong DCP 2005 were included under Clause 4.4(2B) of WLEP 2013 and apply to certain Local Centres including Wyong and Toukley. However, it appears to have been an anomaly that Area 1 at The Entrance was not included. It is therefore proposed to add Area 1 at The Entrance to Clause 4.4(2B), with the exception of 77 Oakland Avenue and 6, 8, 15A, 17, 19 and 21 Ashton Avenue, The Entrance which have their own site specific FSR.

4. Part 6 – Urban Release Areas (URAs) – Amend Part 6 to remove Clause 6.3.

Recent development enquiries have raised concern with the requirement under Clause 6.3 for a Development Control Plan (DCP) to be prepared for most development proposed within an Urban Release Area (URA). This control is restricting development as most of the URAs are quite small and the provisions of existing DCPs are more than adequate to guide the development of these sites. As such, the requirement for a DCP is considered onerous.

5. Schedule 1 – Additional Permitted Uses – Amend Item 5 to reflect the original clause from WLEP 1991.

A drafting error during the finalisation of WLEP 2013 amended the provisions applying to Item 5 "Use of certain land at Summerland Road, Summerland Point." The error enables community title subdivision to be created on Part A of the land without the need to be associated with a *managed resort facility*.

This is not the intent of the clause and not consistent with the previous provisions under WLEP 1991 which specified that subdivision under the *Community Land Development Act 1989* is only permitted on Part A of the site if it is associated with a managed resort facility.

6. Schedule 5 – Environmental Heritage – remove the listing of the Ferry Master's Cottage from No. 101 The Entrance Road, The Entrance.

A landowner enquiry has identified that the heritage listing of the Ferry Master's Cottage at No. 101 The Entrance Road, The Entrance is incorrect. The Ferry Master's Cottage is physically located at No. 113 The Entrance Road, The Entrance.

Schedule 5 of the WLEP 2013 and the Heritage Map will be amended to remove the incorrect listing at No. 101 The Entrance Road, The Entrance. Further consultation will occur with the landowners at No. 113 The Entrance Road, The Entrance to consider correctly identifying this site as part of the heritage items in WLEP 2013.

7. General – Insert new clause to apply a minimum lot size for Dual Occupancy Development.

The Low Rise Medium Density Housing Code and Design Guide have been adopted by the government and will come into effect on 6 July 2018. To undertake dual occupancy development, as complying development under this code, the minimum lot size is that listed in the Council's LEP. Where the LEP does not specify a minimum lot size then the Code applies a minimum lot size of 400m<sup>2</sup>.

At present there is no minimum lot size specified in the WLEP 2013. These controls are included in the Wyong Development Control Plan 2013 (DCP) as this was considered the relevant instrument at the time of drafting. As a result of the introduction of the Low Rise Medium Density Housing Code and to ensure the lot sizes currently applicable remain in force the minimum lot sizes for dual occupancy will need to be specified in the LEP.

8. Key Site Map – Amend the map to include the land formerly known as Glovers Lane as part of the Key Site for Lakeside Plaza, The Entrance.

A request was received from the landowner of Lakeside Plaza, The Entrance to include adjoining land, recently transferred into their ownership, on the LEP Key Site Map as part of the Key Site for Lakeside Plaza.

When the Key Site Map was initially prepared Glovers Lane was owned by Council and as such, was not included as part of the adjoining Key Site for Lakeside Plaza. Since that time the road has been officially closed, ownership transferred to Lakeside Plaza and is zoned B2 Local Centre. As such, it is appropriate to include the former lane as part of the Key Site for Lakeside Plaza.

9. Lot Size Map – Amend the map to remove the minimum lot size of 20 hectares (AB1) from 38 Woodbury Park Drive, Mardi

A mapping error during the finalisation of WLEP 2013 applied a minimum lot size of 40 hectares (AB2) to a small portion of Lot 1149 DP 840180 38 Woodbury Park Drive, Mardi. The minimum lot size was subsequently amended to 20 hectares (AB2) due to incorrect labelling when the Lot Size Map was amended as part of WLEP 2013 – Amendment No.3.

The entire site is zoned RE1 Public Recreation under WLEP 2013. The zone has not changed since WLEP 2013 was notified in December 2013. No minimum lot size is applicable for RE1 land. As such, the site should be removed from the Minimum Lot Size map.

### **Consultation**

Internal consultation for the planning proposal has been undertaken to date and has informed the configuration of the proposed amendments.

Government agency and public consultation requirements for the planning proposal will be detailed in the Gateway Determination and conducted accordingly. It is anticipated that the following agencies will need to be consulted:

- NSW Department of Planning and Environment (DP&E)
- NSW Office of Environment and Heritage (OEH)
- NSW Roads and Maritime Services (RMS)
- NSW Rural Fire Service (RFS)
- Transport for NSW

### **Statutory Compliance and Strategic Justification**

The planning proposal will be prepared having regard for the relevant State Environmental Planning Policies (SEPP), Ministerial Section 117 directions, and the relevant guidelines set out in the regional plans, including the Central Coast Regional Plan 2036. A preliminary assessment of the proposed amendments has considered that they are consistent with these considerations.

### **Financial Impact**

There are no immediate budget impacts as the preparation and progression of the planning proposal will be undertaken in house by Council staff.

### **Social Impacts**

The planning proposal is predominantly a housekeeping exercise to rectify issues and anomalies that have been created within the Local Environmental Plans. The planning

proposal provides an opportunity to resolve errors and provide greater certainty for affected landowners as a result.

### **Environmental Considerations**

The proposed amendments are mostly administrative and it is anticipated they will have little to no environmental impact. Consultation will be undertaken with the NSW Office of Environment and Heritage to ensure compliance with the relevant federal and state environmental legislation and policies.

### **Risk Management**

The progression of the planning proposal will consider and mitigate any corporate risks through ensuring:

- Appropriate consultation is undertaken with public authorities during the initial preparation stage
- The community consultation process is open and transparent
- All legislative procedures for planning proposals have been followed.

### **Critical Dates or Timeframes**

Given the minor nature of the planning proposal it is anticipated that the following deadlines will be achieved:

- 1 Gateway determination – May 2018
- 2 Agency consultation – July 2018
- 3 Public Exhibition – September 2018
- 4 Finalisation of the draft plans – December 2018

### **Conclusion**

The preparation of a planning proposal is required to address minor housekeeping matters within the GLEP 2014 and the WLEP 2013 that are not appropriate for inclusion as part of the Consolidated Central Coast Local Environmental Plan, and need to be expedited prior to the preparation of the Comprehensive Central Coast Local Environmental Plan.

It is therefore recommended that a planning proposal be prepared and forwarded to the Minister for Planning for a Gateway Determination.

### **Attachments**

Nil



**Item No:** 4.1  
**Title:** Deferred Item - Miscellaneous Amendment to GLEP2014 and WLEP2013  
**Department:** Environment and Planning

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27 August 2018 Ordinary Council Meeting

Trim Reference: F2018/00020-03 - D13305710

Author: Lynda Hirst, Senior Strategic Planner

Manager: Matthew Prendergast, Unit Manager, Strategic Planning

Executive: Scott Cox, Director, Environment and Planning

## **Summary**

Council, at its meetings held 13 August 2018 resolved:

*That Council defer matters 2.2, 5.2, 6.1, 8.3, 8.4 and 10.1 to the next Ordinary Meeting of Council being held 27 August 2018 in accordance with the adopted Code of Meeting Practice.*

## **Recommendation**

- 1 *That Council note the deferred Miscellaneous Amendment to GLEP2014 and WLEP2013 report which is Attachment 1 to this report.*
- 2 *That Council prepare a planning proposal to amend Gosford Local Environmental Plan 2014 and Wyong Local Environmental Plan 2013 to address minor issues and correct anomalies, pursuant to Section 3.33 of the Environmental Planning and Assessment Act, 1979.*
- 3 *The planning proposal include the recommended amendments to Gosford Local Environmental Plan 2014 and Wyong Local Environmental Plan 2013, as outlined in the report to Council of 26 March 2018, subject to the following changes:*
  - *A new clause to specify a minimum lot size for dual occupancy development in Wyong Local Environmental Plan 2013.*
  - *Removal of the proposed listing of Glover's Lane as part of the Lakeside Plaza Key Site in Wyong Local Environmental Plan 2013;*
  - *Removal of the proposed amendment to update the property addresses in Schedule 5 – Environmental Heritage of Gosford Local Environmental Plan 2014; and*
  - *Removal of the proposed amendment to delete clause 6.3 of Gosford Local Environmental Plan 2014 and Wyong Local Environmental Plan 2013.*

#### **4.1                   Deferred Item - Miscellaneous Amendment to GLEP2014 and WLEP2013 (contd)**

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- 4     *That Council forward the planning proposal to the NSW Minister for Planning requesting a Gateway Determination, as well as requesting delegation for Council to finalise and make the draft Local Environmental Plans, pursuant to Section 3.34 of the Environmental Planning and Assessment Act, 1979.*
- 5     *That Council undertake community and public authority consultation, in accordance with the Gateway Determination requirements, pursuant to Schedule 1 cl 4 and Section 3.35 of the Environmental Planning and Assessment Act, 1979.*
- 6     *That Council consider a further report on results of the agency and community consultation.*

#### **ORDINARY COUNCIL MEETING OF 27 AUGUST 2018**

**Moved:**               **Councillor Gale Collins**

**Seconded:**       **Councillor Marquart**

#### **Resolved**

- 1/18       *That Council note the deferred Miscellaneous Amendment to GLEP2014 and WLEP2013 report which is Attachment 1 to this report.***
- 2/18       *That Council prepare a planning proposal to amend Gosford Local Environmental Plan 2014 and Wyong Local Environmental Plan 2013 to address minor issues and correct anomalies, pursuant to Section 3.33 of the Environmental Planning and Assessment Act, 1979.***
- 3/18       *That Council include in the planning proposal the recommended amendments to Gosford Local Environmental Plan 2014 and Wyong Local Environmental Plan 2013, as outlined in the report to Council of 26 March 2018, subject to the following changes:***
  - *A new clause to specify a minimum lot size for dual occupancy development in Wyong Local Environmental Plan 2013.***
  - *Removal of the proposed listing of Glover's Lane as part of the Lakeside Plaza Key Site in Wyong Local Environmental Plan 2013.***
  - *Removal of the proposed amendment to update the property addresses in Schedule 5 – Environmental Heritage of Gosford Local Environmental Plan 2014.***
  - *Remove Clause 6.3 from Gosford Local Environmental Plan 2014 and Wyong Local Environmental Plan 2013***

**4.1                      Deferred Item - Miscellaneous Amendment to GLEP2014 and WLEP2013  
(contd)**

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**4/18                      *That Council forward the planning proposal to the NSW Minister for Planning requesting a Gateway Determination, as well as requesting delegation for Council to finalise and make the draft Local Environmental Plans, pursuant to Section 3.34 of the Environmental Planning and Assessment Act, 1979.***

**5/18                      *That Council undertake community and public authority consultation, in accordance with the Gateway Determination requirements, pursuant to Schedule 1 cl 4 and Section 3.35 of the Environmental Planning and Assessment Act, 1979.***

**6/18                      *That Council consider a further report on results of the agency and community consultation.***

***For:  
Mayor Smith and Councillors Vincent,  
Burke, Greenaway, Pilon, Matthews,  
Sundstrom, Gale Collins, Marquart and  
Mehrtens***

***Against:  
Councillor MacGregor***

***Abstain:  
Councillor McLachlan***

**Attachments**

**1    Miscellaneous Amendment to GLEP2014 and WLEP2013                      D13217500**

**Item No:** 5.2  
**Title:** Miscellaneous Amendment to GLEP2014 and WLEP2013  
**Department:** Environment and Planning

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13 August 2018 Ordinary Council Meeting

Trim Reference: F2010/00500 - D13217500

Author: Lynda Hirst, Senior Strategic Planner  
Manager: Matthew Prendergast, Unit Manager Strategic Planning  
Executive: Scott Cox, Director Environment and Planning

## Report Purpose

The purpose of this report is for Council to consider a supplementary report for a Planning Proposal to amend the *Gosford Local Environmental Plan 2014* and the *Wyong Local Environmental Plan 2013* to address a number of minor issues and anomalies with the operation of these plans.

The report recommends that Council prepare a planning proposal to amend both the *Gosford Local Environmental Plan 2014* and *Wyong Local Environmental Plan 2013*.

## Recommendation

- 1 *That Council prepare a planning proposal to amend Gosford Local Environmental Plan 2014 and Wyong Local Environmental Plan 2013 to address minor issues and correct anomalies, pursuant to Section 3.33 of the Environmental Planning and Assessment Act, 1979.*
- 2 *The planning proposal include the recommended amendments to Gosford Local Environmental Plan 2014 and Wyong Local Environmental Plan 2013, as outlined in the report to Council of 26 March 2018, subject to the following changes:*
  - *A new clause to specify a minimum lot size for dual occupancy development in Wyong Local Environmental Plan 2013.*
  - *Removal of the proposed listing of Glover's Lane as part of the Lakeside Plaza Key Site in Wyong Local Environmental Plan 2013;*
  - *Removal of the proposed amendment to update the property addresses in Schedule 5 – Environmental Heritage of Gosford Local Environmental Plan 2014; and*
  - *Removal of the proposed amendment to delete clause 6.3 of Gosford Local Environmental Plan 2014 and Wyong Local Environmental Plan 2013.*
- 3 *That Council forward the planning proposal to the NSW Minister for Planning requesting a Gateway Determination, as well as requesting delegation for Council to finalise and*

*make the draft Local Environmental Plans, pursuant to Section 3.34 of the Environmental Planning and Assessment Act, 1979.*

- 4 *That Council undertake community and public authority consultation, in accordance with the Gateway Determination requirements, pursuant to Schedule 1 cl 4 and Section 3.35 of the Environmental Planning and Assessment Act, 1979.*
- 5 *That Council consider a further report on results of the agency and community consultation.*

#### **ORDINARY COUNCIL MEETING OF 13 AUGUST 2018**

**Moved:** **Councillor Matthews**

**Seconded:** **Councillor MacGregor**

#### **Resolved**

- 1/18** ***That Council defer this matter to the next Ordinary Meeting of Council to be held 27 August 2018.***

**For:**

**Unanimous**

#### **Background**

At its meeting of 26 March 2018, Council resolved to defer consideration of a housekeeping Planning Proposal for *Gosford Local Environmental Plan (GLEP 2014)* and *Wyang Local Environmental Plan (WLEP 2013)* for a Councillor Briefing. A presentation on the content and background of the planning proposal was given to the Councillors on 16 April 2018. This supplementary report responds to matters discussed at that Councillor Briefing and proposed changes to the planning proposal.

#### **Assessment**

The key matters discussed at the Councillor briefing include:

*Why is the Ferry Master's Cottage not being listed as a Heritage Item at the correct address as part of this amendment?*

The *Wyang Shire-wide Heritage Review* prepared by David Scobie (Heritage consultant) was publicly exhibited from 15 December 2010 to 16 February 2011. The former Wyong Shire Council resolved on 13 July 2011, to adopt the *Wyang Shire-wide Heritage Review*, subject to the inclusion of an additional heritage item being the Ferry Masters Cottage at The Entrance.

Following the Council resolution, David Scobie prepared a Heritage Inventory sheet for the Ferry Masters Cottage which correctly identified the location of the heritage item at No.113 The Entrance Road, The Entrance. However, the site was incorrectly mapped as 101 The Entrance Road, The Entrance on the WLEP 2013 Heritage Map and subsequently incorrectly listed in Schedule 5 of WLEP 2013 when it was prepared in 2013.

This planning proposal seeks to amend Schedule 5 of the WLEP 2013 and the Heritage Map, to remove the Ferry Master's Cottage from the incorrect listing at No. 101 The Entrance Road, The Entrance.

Council will commence the process to correct the listing at No. 113 The Entrance Road, The Entrance in accordance with the standard process for listing heritage properties, as outlined below. It is recommended that this process be undertaken separate to the Miscellaneous Amendment to enable Council's Heritage Officer to review the nomination and undertake consultation with the land owner prior to Council resolving to include the site as a heritage item in the WLEP 2013.

The process for listing an item on Council's Heritage Schedule under either GLEP2014 or WLEP2013 is as follows:

- 1 A heritage nomination has been identified through a heritage study or has been nominated by Council's Heritage Officer, landowner, community member or the Central Coast Heritage Advisory Committee.
- 2 The heritage nomination is reviewed by Council's Heritage Officer. A Heritage Inventory entry on the Council database is then prepared.
- 3 The Heritage Officer will make an initial assessment of the nomination. This will include a site visit to assess potential significance.
- 4 If there is evidence of potential harm, the Interim Heritage Order process may be activated.
- 5 Nominated items will be grouped until there are sufficient items listed to warrant the preparation of a planning proposal. This is approximately every two years.
- 6 The Heritage Advisory Committee will review the nominations and will provide research into the history and architectural merit of the nominations. This information will be included on the Heritage Inventory Database. The Heritage Officer will report whether to proceed with a heritage listing.
- 7 The owners of the potential heritage items will be contacted to discuss the proposal, provide information and to make a submission on the heritage listing.
- 8 The submissions will be reviewed and a report to Council prepared with recommendations on the listing and a request to proceed to prepare a planning proposal.
- 9 The planning proposal will be sent to Department of Planning and Environment for a Gateway Determination. If Gateway approval is provided the planning proposal will be placed on public exhibition for a minimum period of 28 days

- 10 A report is prepared for Council in response to Government agency and community feedback and a final recommendation for the proposed heritage listing.
- 11 Council or the Department of Planning & Environment (dependant on the terms of the Gateway) will finalise the making of the amendment to Schedule 5 of relevant planning instrument.

In order for a property to be heritage listed, it must meet one or more of the significance criteria described by the Heritage Division of the Office of Environment and Heritage (OEH):

- 1 An item is important in the course, or pattern, of NSW's cultural or natural history (or the cultural or natural history of the local area)
- 2 An item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history (or the cultural or natural history of the local area)
- 3 An item is important in demonstrating aesthetic characteristics and /or a high degree of creative or technical achievement in NSW (or the local area)
- 4 An item has strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons
- 5 An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (of the cultural or natural history of the local area)
- 6 An item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history (or the cultural or natural history of the local area)
- 7 An item is important in demonstrating the principal characteristic of a class of NSW's cultural or natural places, or cultural or natural environments.

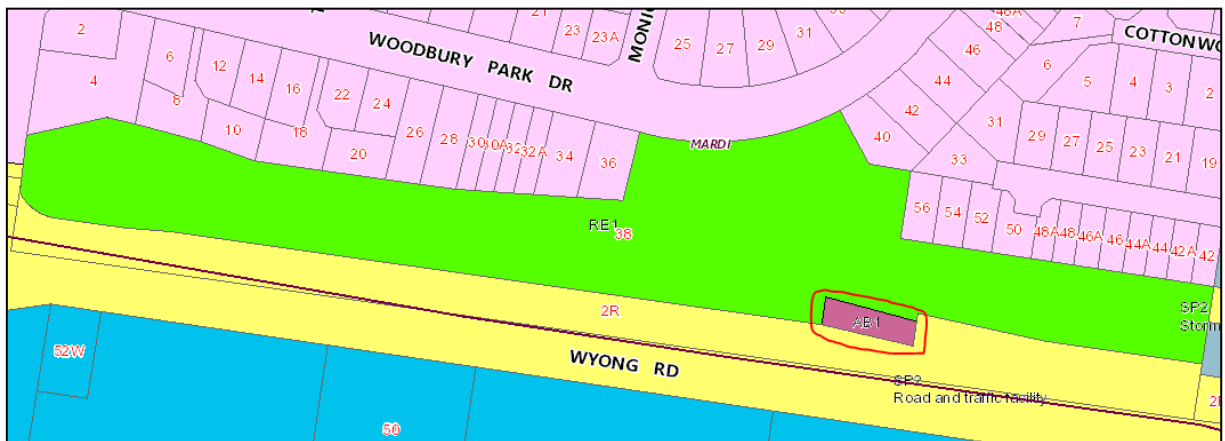
*Why is the amendment to the Key Site Map for Glovers Lane required when development consent has already been issued for development of Lakeside Plaza at The Entrance?*

Following the Councillor Briefing, Council staff have reviewed the need to include Glovers Lane, The Entrance as part of the Lakeside Plaza Key Site under clause 7.11 of the *Wyang Local Environmental Plan 2013* (Key Sites Clause).

Clause 7.11 of the *Wyang Local Environmental Plan 2013* expires on 23 December 2018. Furthermore, as Development Application DA 1080/2014 for the development of this site as a Key Site was approved by Council on 14 December 2015, there is no need to amend the WLEP 2013 Key Sites Map to include Glovers Lane.

*Please provide a map to highlight the mapping error for the minimum lot size at 38 Woodbury Park Drive, Mardi*

A small portion of this property is incorrectly labelled as AB1 with a minimum lot size of 20 hectares. This is incorrect as the entire property is zoned RE1 Public Recreation and the RE1 zone has no minimum lot size (refer Figure 1).

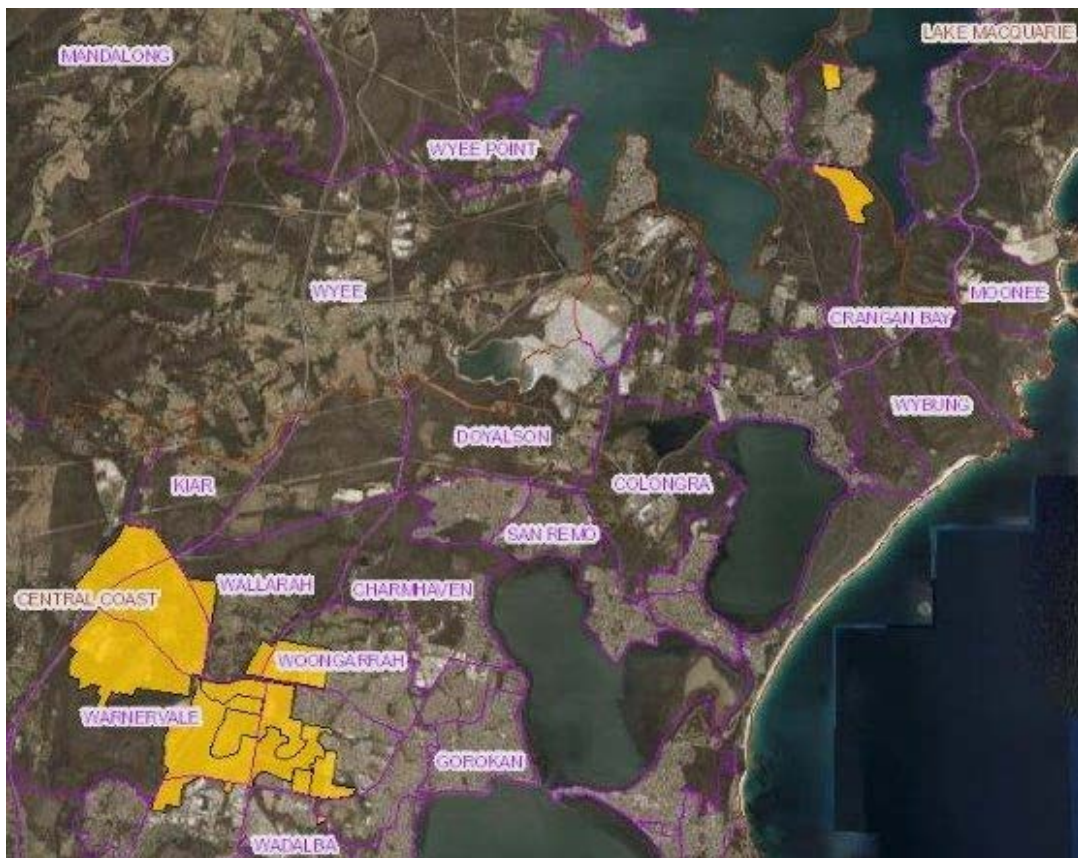


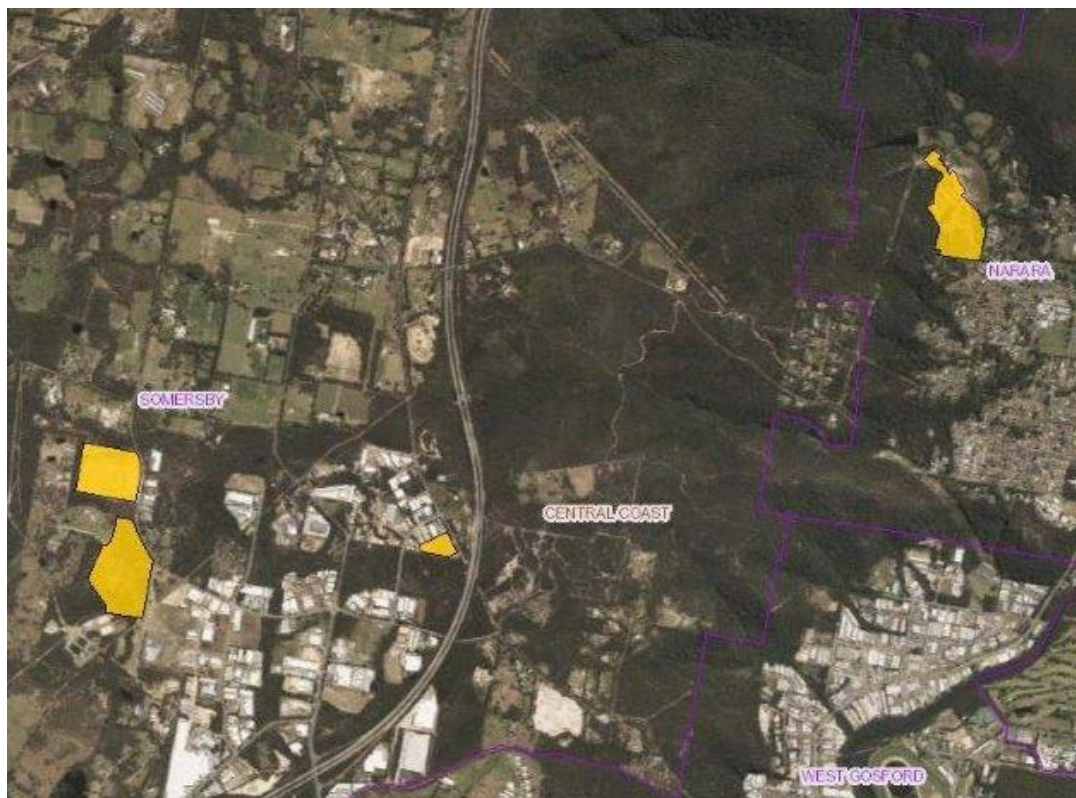
**Figure 1: Minimum lot size for 39 Woodbury Park Drive, Mardi**

*What land do the Urban Release Areas (URAs) apply to? How do URA's prevent development?*

In WLEP 2013, the seven identified URAs (refer Figure 2) are the Wyong Employment Zone (WEZ), Warnervale South, Warnervale Town Centre, Louisiana Road, Hamlyn Terrace, Wadalba, Gwandlan (North) and Gwandlan (South).

In GLEP 2014, there are four identified URAs (refer Figure 3), three in Somersby and one in Narara.



**Figure 2: URAs in WLEP2013****Figure 3: URAs in GLEP2014**

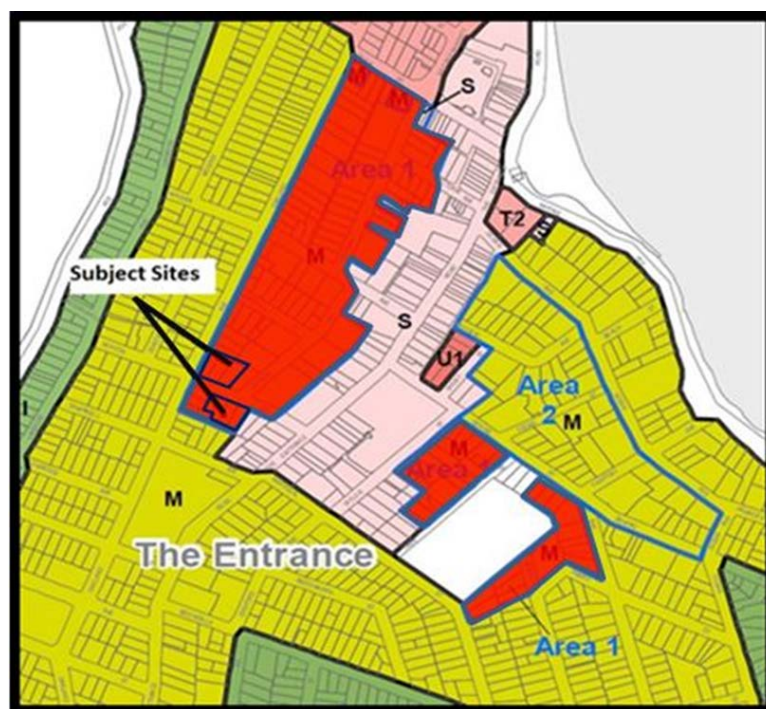
Urban Release Areas (URAs) are subject to additional controls to ensure the development of land provides adequate infrastructure and occurs in a logical, cost-effective manner. Development within the URAs is required to occur in accordance with a staging plan, as well as a site specific development control plan (DCP) that responds to precinct level planning issues such as infrastructure provision, transport, recreation, urban design and environmental constraints. The requirement to prepare a staging plan and DCP are identified in clause 6.3 of the WLEP2013 and GLEP2014.

The Miscellaneous Amendment initially intended to delete clause 6.3 of WLEP 2013 and GLEP 2014. However, it is now recommended that Council prepare site specific Development Control Plans for the existing urban release areas as a response to the requirements of clause 6.3 of the WLEP 2013 and GLEP 2014. In the interim this will still be an issue for the submission of a Development Application (DA) in existing URAs that are not yet fully developed. However, it is considered more timely and efficient to prepare a Development Control Plan than amend both WLEP 2013 and GLEP 2014. On this basis, the deletion of clause 6.3 of the WLEP 2013 and GLEP 2014 is not required and is not recommended to be included in this planning proposal.

*Provide examples of Development Applications that have utilised the bonus floor space ratio (FSR) provisions under Clause 4.4(2B) of WLEP 2013*

This amendment responds to an identified error in the drafting of the Floor Space Ratio (FSR) bonus provisions under *Clause 4.4(2B)* of WLEP 2013. The outcome of the error is that land known as Area 1 at The Entrance has a mismatch between the maximum height of 20m and the maximum FSR of 0.9:1. This amendment is required to resolve this issue and reflect the intention of Council which was to carry across the bonus FSR provisions from *Wyong Development Control Plan (WDCP) 2005: Chapter 64 Multiple Dwelling Residential Development* when creating WLEP 2013.

Amendment No.27 to WLEP 2013 came into effect on 14 July 2017 and amended the FSR from 0.9:1 to 1.85:1 for land located in Area 1 at 77 Oakland Avenue and 6, 8, 15A, 17, 19 and 21 Ashton Avenue, The Entrance. The FSR for this site was increased as it was impracticable for development to achieve a 20m height (permitted for lots greater than 1800m<sup>2</sup>) with a maximum FSR of 0.9:1.



**Figure 4: Building Height map with Area 1 of the Height of Buildings Map highlighted in red**

The Gateway Determination issued by the NSW Department of Planning and Environment (DP&E) for the Planning Proposal for Amendment No.27 dated 10 August 2016 required Council to undertake a broader review of the FSR provisions applying to similar areas within The Entrance. The Planning Proposal and subsequent review of FSR provisions highlighted that it was an error that Area 1 at The Entrance was not included when the bonus FSR provisions transferred from *WDCP 2005: Chapter 64* to *Clause 4.4(2B)* of the WLEP 2013.

Supporting the need to correct this error is that Part 2D of the *Apartment Design Guide (ADG)* which is to be read in conjunction with *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (SEPP 65)* provides the following as a guide:

- 3 storey (10 to 12m) development with an FSR of 1:1 and
- 6 -7 storey (19 to 23m) development with an FSR of approximately 2:1.

A review of approved residential development within Area 1 of the Entrance has also shown that the current maximum height of 20m is mismatched to the maximum FSR of 0.9:1.

Application No.	Address	Approved FSR	Approved Height
DA/69/2002	6-9 Copner Ave	1.07:1	6 storey (18m)
DA/3010/2002	8-12 Copner Ave	1.67:1	6 Storey (18.9m)
DA/795/2004	46-48 Oakland Ave	1.76:1	6 Storey (17.9m)
DA/2026/2006	1-5 Armidale St	1.77:1	6 Storey (17.7m)
DA/2539/2004	1-9 Beach St	2:1	6 Storey (18m)
DA/892/2002	15-19 Torrens Ave	2.03:1	6 Storey (18.1m)
DA/736/2010	31-33 Ocean Pde 11-13 Bayview Ave	1.74:1	6-8 storey (24m)
DA/25/2006	9-13 Armidale St	1.62:1	6 storey (18m)
DA/3202/2002	9 Copner Ave	1.1:1	6 storey (17.98m)

*Table 1: Approved FSR and Heights for residential flat buildings*

Note: building heights shown are from approvals under previous provisions and do not include roof top structures. These structures must be included within height limitations under *WLEP 2013*.

A review of approved residential development in areas at Toukley and Wyong subject to the FSR bonus under Clause 4.4(2B) was also undertaken. For the 10 year period from 2008 to 2018, no development applications have been approved in these areas using the FSR bonus clause.

Existing development in The Entrance shows that the FSR bonus works in conjunction with the building height bonus to provide a better design outcome (i.e. taller, less bulky buildings with less site coverage) and provides a transition between high density development to the east, and lower density residential development to the west. As such, the bonus FSR provisions should be reinstated for Area 1 through an amendment to Clause 4.4(2B) of *WLEP 2013*.

### **Additional amendments to the planning proposal**

- 1 Councillors were also advised of the potential impacts of including a new clause to *WLEP 2013* for dual occupancy development. This amendment is a new requirement not considered in the previous report to Council, however, it is a response to the NSW Government's *Low Rise Medium Density Housing Code* (the Code) and *Design Guide*. Under this Code, where a Local Environmental Plan (LEP) does not specify a minimum lot size then the Code applies a minimum lot size of 400m<sup>2</sup>.

This would result in a significant variation to minimum lot sizes for dual occupancy development within the former Wyong Shire Council under Wyong Development Control Plan 2013 (DCP). It is noted that the new Code will not affect dual occupancy development within the former Gosford City Council, as a minimum lot size of 550m<sup>2</sup> is prescribed in the GLEP 2014.

The Code came into effect for most Council areas on 6 July 2018. However, on 25 June 2018 Central Coast Council formally sought an exemption from the Code for 12 months. The Department of Planning and Environment (DP&E) advised on 6 July 2018 that the Code will be deferred in the Central Coast local government area until 1 July 2019 to provide time for Council to align the controls in WLEP 2013 with those prescribed in the Wyong DCP 2013 and GLEP 2014.

It is therefore recommended that Council include a further amendment to the WLEP 2013, to insert a new clause that applies a minimum lot size for dual occupancy development.

- 2 It was proposed to amend Schedule 5 – Environmental Heritage of GLEP 2014 to update the property description for a number of listed heritage items due to changes to their property address. This amendment will now be considered as part of a separate planning proposal which will also nominate new draft heritage items resulting from community nominations across the Central Coast region.

### **Link to Community Strategic Plan**

Theme 2: Smart

### **Goal C: A growing and competitive region**

C1: Target economic development in growth areas and major centres and provide incentives to attract businesses to the Central Coast.

### **Critical dates or timeframes**

The following revised deadlines are anticipated for the Planning Proposal:

- 1 Gateway determination – September 2018
- 2 Agency consultation – October 2018
- 3 Public Exhibition – November/December 2018
- 4 Finalisation of the draft plans – February 2019

**Conclusion**

It is recommended that Council endorse preparation of a planning proposal to amend the *Gosford Local Environmental Plan 2014* and the *Wyong Local Environmental Plan 2013*, as outlined in the report to Council of 26 March 2018 (Attachment 1).

As a result of the Councillor Briefing, the following changes to the planning proposal are proposed:

- Include a new clause to specify a minimum lot size for dual occupancy development in *Wyong Local Environmental Plan 2013*.
- Remove the proposed listing of Glover's Lane as part of the Lakeside Plaza Key Site in *Wyong Local Environmental Plan 2013*.
- Remove the proposed amendment to update the property addresses in *Schedule 5 – Environmental Heritage of Gosford Local Environmental Plan 2014*; and
- Remove the proposed amendment to delete *clause 6.3 of Gosford Local Environmental Plan 2014* and *Wyong Local Environmental Plan 2013*.

It is recommended that a planning proposal as amended above, be prepared and forwarded to the Minister for Planning for Gateway Determination.

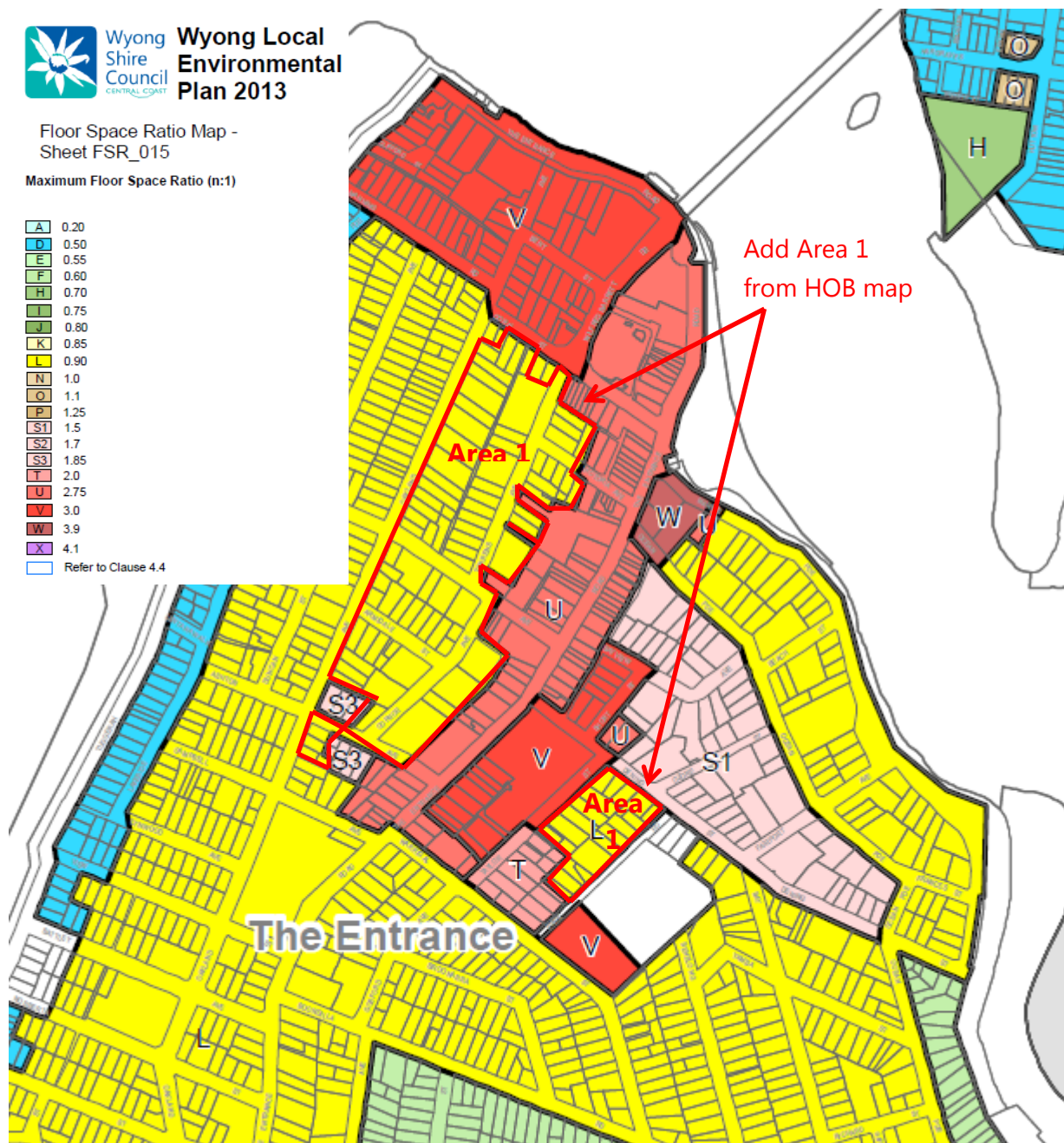
**Attachments**

- 1** Original Council Report 26 March 2018      D13218617

# 02

## Mapping

## ATTACHMENT 2A – PROPOSED CHANGE TO WLEP 2013 FLOOR SPACE RATIO MAP (FSR\_015)



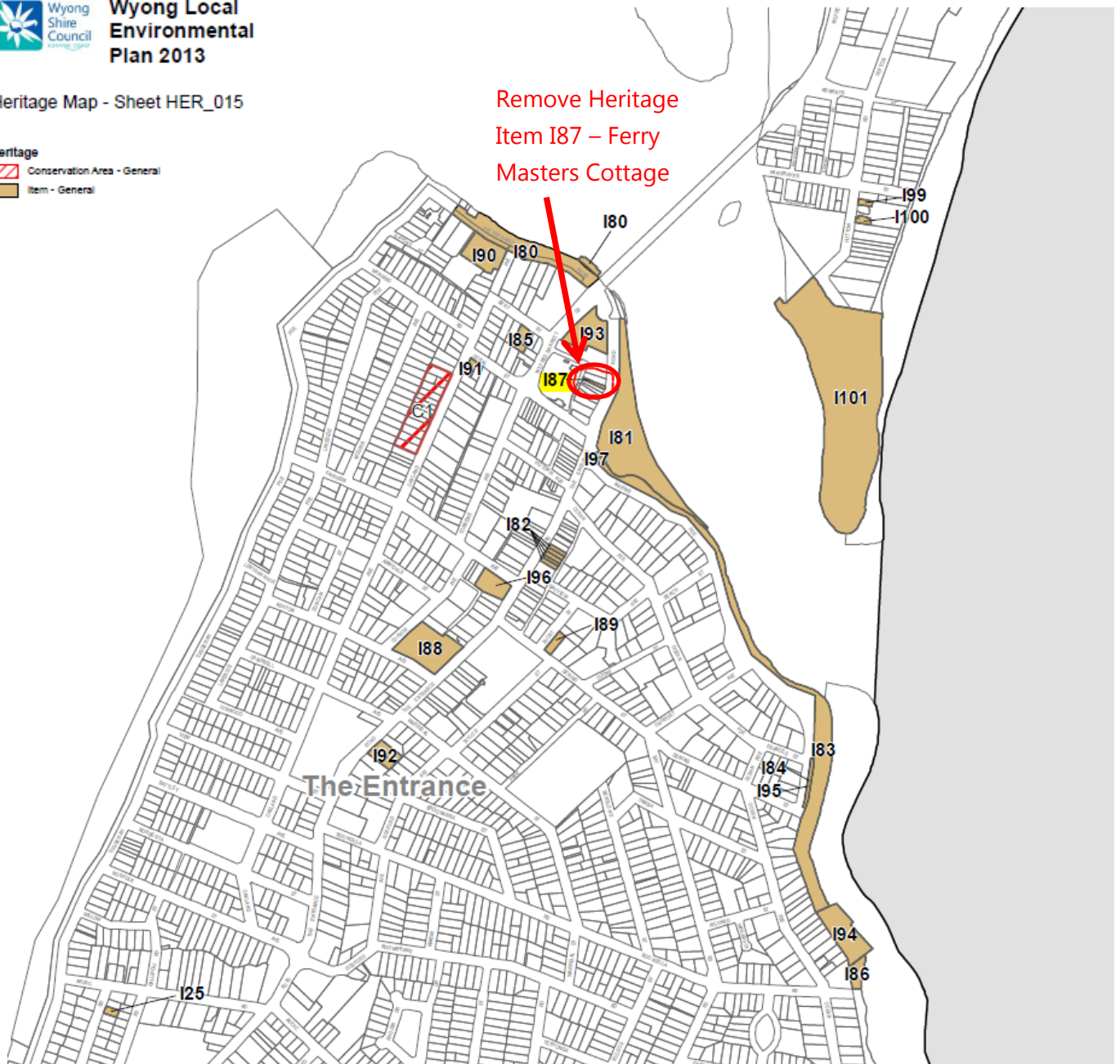
## ATTACHMENT 2B – PROPOSED CHANGE TO WLEP 2013 HERITAGE MAP (HER\_015)



Wyong Local  
Environmental  
Plan 2013

Heritage Map - Sheet HER\_015

Heritage  
Conservation Area - General  
Item - General



## ATTACHMENT 2C – PROPOSED CHANGE TO WLEP 2013 LOT SIZE MAP (LSZ\_007B)



### Wyong Local Environmental Plan 2013

#### Lot Size Map - Sheet LSZ\_007B

##### Minimum Lot Size (sq m)

G	450
U	1800
V	2500
W	4000
Z	2 ha
AA	8 ha
AB1	20 ha
AB2	40 ha

