

Planning Proposal

Amendment to *Lake Macquarie Local Environmental Plan 2004*

Land at Wyee

Local Government Area: Lake Macquarie

Name of Draft LEP: *Lake Macquarie Local Environmental Plan 2004* (Wyee)

Part 1 – Objective of the Planning Proposal

The objective of this Planning Proposal is to amend *Lake Macquarie Local Environmental Plan 2004* (LMLEP 2004) to facilitate the appropriate development and conservation of a large parcel of land (approximately 160 ha) at Wyee, including an historic paper subdivision. The Planning Proposal will also implement actions 6 and 7 from the Wyee Structure Plan, which is to complete a Local Environmental Study (LES) and rezone the subject land.

Table 1 outlines the lots that comprise the subject land.

Lot	DP	Lot	DP
17	870597 ✓	8	1020857 ✓
212	866437 ✓	4	1013240 ✓
16	870597 ✓	1	103856 ✓
1	244839 ✓	1	103857 ✓
1	785709 ✓	185	650204 ✓
215	860081 ✓	1582	1121660
202-400	7506 ✓	9	1058113
210	846801 ✓	186-189, 323-324, 428-431, 441-443, 472-473	755242 ✓

Table 1 – Lots within the Subject Land

As stated, the Planning Proposal includes a 'paper' subdivision (DP 7506). This area comprises of approximately 200 lots and is zoned mainly 1(1) Rural. The subdivision was approved by Council in 1914, preceding the legislation introduced in 1919 requiring subdivisions to construct roads, drainage etc. Owing to the relatively remote location of the land in relation to employment and services, there was little demand for development over the ensuing 40 to 50 years.

Over the following 20 years, there was an increased interest by landowners to erect dwellings. Council maintained a consistent approach of not granting development consent whilst services and formed roads were unavailable.

It is proposed to rezone the land from 1(1) Rural (Production), 5 Infrastructure, 6(1) Open Space, 7(1) Conservation (Primary), 7(2) Environmental (Secondary), and 7(5) Environmental (Living) to 2(1) Residential, 2(2) Residential (Urban Living), 6(1) Open Space, 7(1) Conservation (Primary), 7(2) Conservation (Secondary) and 7(5) Environmental Living. The rezoning also proposes the removal of an acquisition layer on Lot 429, DP 755242 and reclassifying Lot 430 DP 755242 to operational land. These lots are currently zoned 6(1) Open Space and are proposed to be zoned 2(2) Residential (Urban Living). The removal of the acquisition layer and reclassification is to enable development where appropriate and future transfer of title between Council and other landowners.

Appendix 2 identifies the existing land use zones and Appendix 3 identifies the proposed land use zones under LMLEP 2004.

Furthermore, amendments will be required to various maps in draft *Lake Macquarie Local Environmental Plan 2011* (draft LMLEP 2011). Appendix 4 identifies the proposed zones under the draft LMLEP 2011. Further explanation on the amendments are provided in the tables under Part 2.

The areas of the existing and proposed zones are as follows:

Existing Zone	Area (ha)	Proposed Zone	Area (ha)
1(1) Rural (Production)	115.1	2(1) Residential	100.8
5 Infrastructure	0.4	2(2) Residential (Urban Living)	13
6(1) Open Space	8.6	6(1) Open Space	1.6
7(1) Conservation (Primary)	7.25	7(1) Conservation (Primary)	34.3
7(2) Conservation (Secondary)	25.1	7(2) Conservation (Secondary)	10.4
7(5) Environmental (Living)	6.6	7(5) Environmental (Living)	1.5

The proposed zones, shown in the map at Appendix 3 and 4, are expected to facilitate a development yield of approximately 1400 dwellings.

Amendment to Schedule 8 of LMLEP 2004 is also required. This provision will ensure that adequate recreation facilities are provided as part of the development and will also ensure that larger lots are accommodated in appropriate areas in line with the Wyee Structure Plan. A lot layout map has been considered to accommodate this, however would prove inflexible when preparing the future subdivision layout of the area.

Part 2 – Explanation of Provisions

The amendment proposes the following changes to LMLEP 2004 instrument and map:

Amendment Applies to:	Explanation of Provision
Map	Rezone the site from 1(1) Rural (Production), 5 Infrastructure, 6(1) Open Space, 7(1) Conservation (Primary), 7(2) Environmental (Secondary), and 7(5) Environmental (Living) to 2(1) Residential, 2(2) Residential (Urban Living), 6(1) Open Space, 7(1) Conservation (Primary), 7(2) Conservation (Secondary) and 7(5) Environmental Living. Refer to Map Sheets in Appendix 3.
Clause 62 Public infrastructure in urban release areas	Add <i>Lake Macquarie Local Environmental Plan 2004</i> (Wyee) under clause (8) Interpretation, urban release area.
Schedule 3 – Reclassification of Community Land to Operational Land	Insert Wyee , 16a Tullokan Road under Column 1. Add Lot 430, DP 755242 under Column 2 and add 'Nil' under Column 3.
Schedule 8 Land subject to special development requirements	Add an additional Item 8 by adding the subject land to Column 1, with Column 2 stating the following: A development control plan must have been approved by the Council before consent is granted for any development. This development control plan must include provisions in respect of, but not limited to: 1. Adequate recreation facilities including,

- 1.1 Two parks, one in the north and one in the south of the site with a minimum area of 0.5ha each;
 - 1.2 Multi-purpose sporting facility, with a minimum area of 7ha able to provide 2 soccer fields and 1 cricket wicket, 2 netball courts;
 - 1.3 Identify the location of off-road cycleway linkages along Mannering Creek to the Wyee Railway Station, including links with the existing community facilities and proposed sporting facilities.
2. Consideration of the Wyee Structure Plan, particularly the provision of larger suburban lots consistent with the existing rural village character in the south, south-west portion of the site.

The Planning Proposal would result in the following changes to Draft *Lake Macquarie LEP 2011* (Council's Standard Instrument LEP):

Amendment Applies to:	Explanation of Provision
	Areas designated for:
	2(1) Residential zoning will be converted to R2 Low Density Residential,
	2(2) Residential (Urban Living) will be converted to R3 Medium Density Residential,
Land Zoning Map	6(1) Open Space will be converted to RE1 Public Recreation
	7(1) Conservation (Primary) will be converted to E2 Environmental Conservation,
	7(2) Conservation (Secondary) will be converted to E2 Environmental Conservation, and
	7(5) Environmental (Living) will be converted to E4 Environmental Living.
Lot Size Map	Minimum lot sizes would correspond to proposed zoning as follows: R2 – 450m ² , R3 - 900m ² , E2 – 20ha and E4 – 2ha
Height of Buildings Map	Maximum building heights would correspond to proposed zoning as follows: R2 – 8.5m, R3 – 10m, E2 – 5.5m and E4 – 5.5m
Flood Control Land Map	Update Flood Control Land Map to reflect findings identified within the Local Environmental Study.
Urban Release Area	Update Urban Release Area Map to reflect the subject land.
Part 7 Additional Local Provisions	(1) Add Item 7.16 Land at Wyee and stating the following: (2) The objective of this clause is to ensure that development of the land includes appropriate provisions for open space and recreation facilities

and is consistent with the existing rural village character of Wyee.

- (3) This clause applies to land at Wyee being Lots 17 DP 870597, Lot 212 DP 866437, Lot 16 DP 870597, Lot 1 DP 244839, Lot 1 DP 785709 and Lot 215 DP 860081.
- (4) A development control plan must be approved by the Council before consent is granted for any development. This development control plan must include provisions in respect of, but not limited to:
 - a) Adequate recreation facilities including,
 - b) Two parks, one in the north and one in the south of the site with a minimum area of 0.5ha each;
 - c) Multi-purpose sporting facility, with a minimum area of 7ha able to provide 2 soccer fields and 1 cricket wicket, 2 netball courts;
 - d) Identify the location of off-road cycleway linkages along Mannering Creek to the Wyee Railway Station, including links with the existing community facilities and proposed sporting facilities.
 - e) Consideration of the Wyee Structure Plan, particularly the provision of larger suburban lots consistent with the existing rural village character in the south, south-west portion of the site.

Part 3 – Justification for the Provisions

A. NEED FOR THE PLANNING PROPOSAL

1. Is the planning proposal a result of any strategic study or report?

Yes. On 7 November 2007, Council received a proposal from Macroplan Australia on behalf of Wyee Development Fund (WDF) to rezone approximately 105 hectares for urban and conservation purposes. To ensure appropriate land uses in the area were adequately considered, it was proposed that a number of adjoining land parcels Wyee, including the 'paper' subdivision in Wyee West, be included in the rezoning.

On 29 January 2008, Council resolved to prepare an amendment to LMLEP 2004 to rezone the land. A Local Environmental Study (LES) has been prepared and consultation undertaken with relevant government agencies in accordance with Section 62 of the *Environmental Planning and Assessment Act, 1979 (EP&A Act 1979)*, to determine the most suitable zones for the area.

The Lower Hunter Regional Strategy (LHRS) proposes an additional 2000 dwellings to be developed at Wyee by 2031.

The Wyee Structure Plan was adopted by Council in November 2010 and was prepared with the assistance of funding from the DoP's Planning Reform Fund.

Whilst a private developer has initiated the planning proposal, the subject land has been identified in Council's Wyee Structure Plan as Precinct 4 Wyee West. The Structure Plan has identified this Precinct as the most logical first stage for urban release in Wyee due to a

large parcel of land being in single ownership, and its location to the existing township and railway station. Furthermore, items 6 and 7 of the Implementation Plan have identified completing an LES and rezoning this land as very high importance.

A comprehensive LES has been undertaken by Council. The following detailed studies have been undertaken by Council to prepare the comprehensive LES. A summary of each study and its recommendations are also provided.

Biodiversity

The Biodiversity Study was completed in October 2010 and identified the following:

- two Endangered Ecological Communities (Freshwater Wetlands and Swamp Sclerophyll Forest);
- two Threatened flora species: Charmhaven apple (*Angophora inopina*) and Black-eyed susan (*Tetratheca juncea*); and
- six threatened fauna species: Glossy Black Cockatoo (*Calyptrorhynchus lathamii*), Squirrel Glider (*Petaurus australis*), Eastern Freetail Bat (*Mormopterus norfolkensis*), Grey-headed Flying Fox (*Pteropus poliocephalus*), Large-eared Pied Bat (*Chalinolobus dwyeri*) and Little Bent-wing Bat (*Miniopterus australis*).

The findings of the study were mapped into high, moderate and low ecological constraint areas, with high ecological constraint areas recommended as the focus for conservation zoning. All high constraint areas were identified as a 7(1) Conservation (Primary) zone except for a parcel of land adjacent to the Wyee Railway Station and land to the south west of the subject land. The justification for a proposed 2(2) Residential (Urban Living) zone on land to the west of the railway station is discussed in the attached report, "Biodiversity Issues related to Land to the West of the Wyee Railway Station. The proposed 2(1) Residential zone to land to the south, south-west is discussed further under Section C, Question 2 below.

Geotechnical & Contamination

A Preliminary Geotechnical and Contamination Assessment was prepared in July 2009 and an Additional Geotechnical Investigation was prepared in April 2010. No ground water modelling for the area was known to be available and therefore no estimates of movement of groundwater were available. This issue will require further detailed investigation as part of further studies when a subdivision layout is prepared. However, at this stage there is no information to suggest that the expected impact of urban development on the groundwater could not be managed.

A number of test bores located generally within the lower northern area of the site and around the existing creeks encountered weak soils, including firm clay and loose sand. Development of these weak areas for residential subdivision is considered to be feasible from a geotechnical viewpoint, provided appropriate drainage is installed to prevent build up of moisture content in the near surface soils to allow site improvement measures to be undertaken. It will be necessary to remove these weaker soils and either replace them with select engineered filling or moisture re-conditioned excavated soils.

It is considered that the erosion hazard within the areas proposed for residential would be within usually accepted limits which could be managed by good engineering and land management practices.

Site investigations and a site history review indicated that the site had been used primarily for rural, intensive agricultural and residential purposes, although extractive land uses (quarrying) were identified in two areas on the site. Uses included orchards, poultry farming and market gardening, which may have resulted in contamination. More localised areas of potential contamination were also identified; these included illegal dumping, workshop facilities, refuelling infrastructure and placement filling.

In summary, soil contamination risk across the site is generally low. A range of further investigations will be required to assess the actual degree of contamination present on the site at development application stage, however it is unlikely that contamination will present a constraint to development.

Stormwater and Flooding

The flood extent over the site following urban development has been estimated. There would be minor increases in the 100 year flood level as a result of urban development. The estimated 100 Year flood extent along Mannering Creek is in excess of 144m. This area is considered unsuitable for urban building development and has been identified for a conservation zone.

In terms of potential land fill opportunities, when considering flood risk management issues only, it is considered feasible to increase the area available for urban development. On the far western side of the site, land in the vicinity of the farm dams could be filled and the runoff from these areas conveyed to Mannering Creek via a system of pipes and swale drains. As a result, a proposed 2(1) Residential zone has been identified in these areas.

There are various management practices which may be suitable for the management of stormwater quantity on the site, including On-site retention or detention, detention basins, infiltration basins and floodways/engineered waterways. The recommended option will need to be further considered following the preparation of a subdivision layout.

In addition to these practices, a wide range of structural measures are available to capture gross pollutants.

Aboriginal and European Heritage

An Aboriginal and European Heritage Assessment was completed in January 2010.

Aboriginal Heritage

The Aboriginal Heritage survey identified two locations of artefact scatters along the margins of Mannering Creek, one possible stone formation and three historic blazed trees, two located on the southern margins of Mannering Creek and one in the south western corner of the study area.

The sites located within the study area have been generally located on the creek line within an area likely to be subject to periodic flooding. In general, whilst there are indigenous sites within the study area these need not constrain development and when considered in conjunction with other natural site constraints the main values of the sites could be preserved in-situ.

The LES has considered the identified items of Aboriginal cultural heritage on the site when determining the potential zones for the site.

European Heritage

Four historic features were identified on the site: an historic subdivision layout and three surveyed marked trees.

The historic subdivision dates from 1914. The names of the streets within the subdivision are of interest and may be Awabakal in origin. It is recommended that the road names be retained within any future development.

The survey trees have low archaeological potential and should be retained in situ if possible. Given the location of the survey markers it is anticipated that development could avoid them if lower lying areas of the site are not going to be developed or excluded by the use of building envelopes.

In general, whilst there are non-indigenous sites within the study area, these need not constrain development and when considered in conjunction with other natural site constraints the main values of the sites could be preserved in-situ.

Water Management

A Water Management Report was prepared in February 2010. The water management study estimated the existing and future quality of surface runoff on the site for 3 years representing a wet year, a dry year and a year of average total rainfall.

The results revealed that Total Nitrogen, Total Phosphorus and suspended solids would all increase as a result of development on the site. The estimated increase in pollutant loads assumes that no catchment management controls are implemented. The judicious selection of water sensitive urban design measures would allow the mitigation of the pollutants.

Typically, the measures would include local or regional water quality ponds, wetlands or biofilters.

Bushfire

A Bushfire Study was prepared as part of the LES in October 2010 and approximately half of the study area is mapped as Bush Fire Prone Land.

Extensive areas of bush fire prone land are located in the vicinity of the study area including bushland on both public and private lands. The bushfire risk in the study area is not expected to be reduced significantly in future years, for example through clearing of the hazard.

The major bushfire protection constraint is the provision of Asset Protection Zones (APZs) around areas of vegetation within and adjacent the study area. The bushfire assessment has identified APZs from the existing vegetation to give an indication of the likely size of APZs required to protect future development. These range from 10 m to 25 m wide within the study area, however, across the majority of the site careful design of future development will accommodate the required APZs. Exact locations and sizes of APZs required for any future development would need to be determined, once a lot layout has been finalised. This would need to be undertaken as part of the master planning process for the subject land.

Visual Impact

A Visual Assessment Report was prepared in July 2010 to identify key landscape features and recommend measures to protect the landscape quality of the locality.

Landscape features identified within the study site were defined as follows:

- ridge line along Bushells Ridge road with remnant vegetation;
- riparian vegetation along drainage corridors; and
- remnant vegetation along Gorokan road.

The measures proposed to assist the visual objectives were identified as follows:

- Retain and maintain existing vegetated ridgelines
- Retain and maintain existing site vegetation as visual screen where possible
- Ensure a screen buffer of existing vegetation is maintained along the site perimeter
- Revegetation of cleared riparian corridors
- Ensure landscape treatment of visually sensitive areas along roads are sympathetic to the existing landscape character.

The proposed addition to Schedule 8 of LMLEP 2004 regarding consideration of the Wyee Structure Plan, particularly the provision of larger suburban lots consistent with the existing rural village character in the south, south-west portion of the site will assist with the recommendations outlined in the Visual Impact Assessment.

Traffic and Transport

A Traffic and Transport Assessment was prepared in July 2010 which identified a number of intersection improvements and preferred access locations to ensure the proposed development would not adversely affect existing traffic conditions. This includes a possible signalised T-intersection at Wyee/Gorokan Road and Wyee/Gosford Road.

The location of access points from the site onto the existing road network has been assessed as follows:

Hue Hue Road/Access Road

The road alignment of Hue Hue Road permits safe access to the site generally along its full length with the exception of a horizontal curve some 300 metres from the freeway. It is recommended that the access location be provided in the form of a T-junction located some 500 metres east of the Freeway.

Bushells Ridge Road/Gorokan Road

The existing intersection location has sight distance constraints for vehicles exiting Gorokan Road sighting eastbound vehicles due to the horizontal curves immediately west of the intersection. Bushells Ridge Road needs to be realigned to remove these two horizontal curves to improve safety at the intersection.

Bushells Ridge Rd/Access Road

Bushells Ridge Road is characterised by a number of vertical curves along the frontage of the development which restricts some sections of the road from providing a safe access point. Similarly near the western and eastern boundary edges of the site are horizontal curves which result in unsuitable locations for access points. Given these constraints the most suitable location is approximately 100 metres east of the western boundary of the site.

Wyee Road Access via Gorokan Road/Dillabirra Road

Two alternative options were considered for access to Wyee Road, namely a northern connection via to Gorokan Road and a southern connection utilizing the existing road reserve of Dillabirra Street, connection to Gorokan Road at the rail station.

The northern connection via Gorokan Road potentially provides a more appropriate connection from a transport perspective, allowing development of a legible collector road network in the development area, however, it has the potential to have a more significant environmental impact than the southern connection via Dillabirra Street/Gorokan Road at the rail station.

Providing a connection via Dillabirra Road/Gorokan Road has the potential to impact less environmentally, and provide an opportunity for activation of Gorokan Road and the rail station precinct. This alternative also allows development of a pedestrian/cycle link directly to the rail station. Currently, access driveways to the rail station carpark are located in locations likely to conflict with intersection turning movements and these should be relocated should this alternative be pursued.

Infrastructure Services

Wyee is currently unsewered. The absence of reticulated sewer has been a major constraint to the growth of Wyee. An Infrastructure Services Report was prepared in July 2010, the report examines the availability and capacity of existing services in the area to service the site. The report also looked at staging and likely infrastructure costs.

Sewer

Several options to service the development at Wyee with sewer have been investigated previously by Hunter Water Corporation (HWC), Patterson Britton and Partners and MacroPlan Australia.

These options include:

1. Transfer wastewater flows to Dora Creek WWTW (Waste Water Treatment Works).
2. Transfer wastewater flows to Charmhaven WWTP in Wyong Local Government Area.
3. Construct new WWTP at Wyee to service development in the local area.
4. Transfer dry weather flows to Wyee Point and store peak wet weather flows onsite at Wyee for off-peak disposal.

HWC have advised that Option 1 is their preferred option and that they do not support options 2, 3 or 4.

Transfer of waste flows to Charmhaven (Option 2) is problematic due to the complex agreements required to be entered into between Wyong Council and HWC regarding income, developer charges, and trade waste charges.

The construction of an on-site waste-water treatment plant (option 3) is not favoured by HWC due to its location within the catchment of Lake Macquarie and the possible environmental impacts on the lake system. There is a significant planning and approval phase required for the construction of a new WWTW, which typically takes between 2 to 3 years to implement.

Option 4 is not seen as a long-term solution for development at Wyee due to the limited capacity of the Wyee Point system.

HWC are proceeding with a major upgrade of the Dora Creek WWTW to accommodate population growth in the Dora Creek, Cooranbong and Morriset catchments. The upgrade is based on HWC's population projections in the catchment to 2030 which includes an allowance for development at Wyee consistent with Lower Hunter Regional Strategy objectives. The upgrade is programmed to be completed by 2011. In order to deliver effluent from the study area to Dora Creek WWTW, a local pump station and approximately 12.5km of rising main will be required.

Funding Options

A significant investment for the required sewer infrastructure is required in order to deliver sewer to Wyee.

The proponent and Council, with HWC's support, have submitted two applications to seek funding for the sewer infrastructure required for Wyee, namely:

- an application to the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) for the Housing Affordability Fund (HAF), and
- an application to the NSW Department of Planning for the Local Infrastructure Fund.

Unfortunately, both applications were not successful. The feedback provided by FAHCSIA in relation to reasons why the HAF application was not successful, included:

- the timeframe for construction of the sewer was longer than the timeframe required for the spending of the funding, and
- the site was not rezoned resulting in uncertainty of the timing of the rezoning, release of land and development of the land for affordable housing.

The first reason could be addressed and dealt with in any new application.

It should be noted that Clause 106 of State Environmental Planning Policy (Infrastructure) 2007 provides that development associated with sewage treatment plants and water-recycling facilities may be carried out by or on behalf of a public authority without development consent under Part 4 of the EP&A Act. Sewerage reticulation systems may be carried out by or on behalf of a public authority on any land without development consent.

For Wyee to be successful in obtaining any future Federal or State funding for the provision of sewer, it is critical that the subject site be rezoned to demonstrate that the land is identified for release. This provides certainty that if the funding is provided, the site can be developed as it has the appropriate zoning to deliver affordable housing.

The refusal of the Planning Proposal at Gateway because the timing of the provision of services is unknown would mean that Wyee is unlikely to obtain sewer, as no commitment for funding would be made without certainty of a rezoned site.

It is noted that under Clause 62 Public infrastructure in urban release areas of LMLEP 2004, section (6) outlines that development consent must not be granted for land in an urban release area unless public utility infrastructure essential for the proposed development is available or adequate arrangements for the availability of the infrastructure have been made.

Similarly, Section 7.8 Utility infrastructure availability clause in draft LMLEP 2011 provides that adequate arrangements for infrastructure, including disposal and management of sewerage, be made prior to development consent.

In addition to applying for future Federal and State funding grants, the proponent has also been liaising with HWC. HWC has agreed to an arrangement of a 50/50 capital funding split between them and the proponent (subject to Board, IPART and Government direction). The proponent is willing to commit funding 50% of the capital costs, based on a pro rata basis of the ultimate capacity of the land and the capital payment being made at subdivision stage.

Water

HWC has advised that there is insufficient capacity with the existing supply system to service any loads from proposed development at Wyee. A new 3.0ML reservoir will be required to supply the development at Wyee for population growth in the area to the 2031 horizon.

Connection to the Gosford-Wyong trunk water main (which is located adjacent to the F3 Freeway at either Hue Hue Road at Bushells Ridge Road) has been identified by HWC as a suitable off-take point to supply the new reservoir. The new reservoir would ideally be sited at the top of the ridge within the study area adjacent to Bushells Ridge Road with a lead in main from the Gosford-Wyong trunk situated along Bushells Ridge Road. It is expected that the easement required to site the reservoir and associated access roads would be in the order of 0.3 to 0.5 ha.

HWC has advised that as the new reservoir required for the study area will improve water supply to the surrounding development in Wyee, they will contribute to the costs for implementation of the required infrastructure. The funding has been allocated in the Forward Capital Works program for 2012/13. The quantum of funding will be determined following finalisation of the water servicing strategy.

Electricity

Electrical supply to the existing village is from the Morisset Zone substation. Energy Australia have made provisions in their long term planning for future development at Wyee and have allocated spare capacity for this purpose at the Morisset zone substation and programmed the construction of a second High Voltage (HV) feeder to Wyee in anticipation of the increased demand.

The electrical reticulation with future development on the site will be delivered to dwellings via underground cables within the road reserve either within their own trench or in a shared trench with telecommunications and gas services.

Telecommunications

Telstra have advised that the existing services will need to be upgraded to supply future development at Wyee. The existing exchange will need to be upgraded and new fibre optic cables will need to be installed from the exchange to and throughout the development.

Funding for these upgrades are formally subject to a commercial analysis by Telstra however, in all but exceptional cases standard telecommunications upgrades are typically subsidised by Telstra.

Staging

In order to manage upfront capital development costs, it is recommended that consideration be given to developing the northern portion of the site adjacent to Wyee Road and Hue Hue Road first due to the proximity of this area to the proposed lead-in utility infrastructure works required to service the wider development.

It is noted that the proposed location for potable water supply is located on the southern side of the site and development of the northern portion of the site first would involve water main extensions through future stages from the reservoir.

Subsequent stages should focus on development of land progressively south in order to take advantage of trunk infrastructure installed to the stage immediately north to minimise high

upfront capital costs associated with the installation of large distances of trunk infrastructure to stages remote from the main lead-in entry points to the site.

Based on the findings of the geotechnical investigation carried out for the subject LES and the flat nature of Gorokan Road at the eastern boundary of the site it is expected that significant rock excavation will be required to drain waste water from the south eastern portion of the site (land within the paper subdivision). Consideration should be given to developing this portion of the site last due to this issue and its relative remoteness from trunk lead in infrastructure.

Social and Economic Impact Analysis

This section has been summarised in Section C, Question 3.

The primary objective of the LES was to identify the existing biophysical and socio-cultural features of the study area, assess the suitability of the study area to support a mixture of urban development and conservation uses and identify the appropriate zones for the subject site.

The LES demonstrates that the site has environmental constraints which need to be managed in an appropriate manner. Consideration was afforded to the environmental, economic and social impacts of rezoning the site for urban development to ensure a balanced outcome was achieved.

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

The land is currently predominantly zoned 1(1) Rural (Production). The LES concluded that the land is an unviable parcel of land for rural production and the Wyee Structure Plan identified this land as the first land release area for future residential development.

A Proposal to change the land use zones is the only appropriate means of implementing the outcomes of the Wyee Structure Plan by ensuring the land is zoned according to its ultimate capabilities. The proposed residential, conservation and open space zones reflect the site's strategic location and natural attributes.

3. Is there a net community benefit?

The Proposal will deliver a significant net community benefit. It will facilitate the development of a site identified in the Wyee Structure Plan as the first stage of development to accommodate the dwelling target set by the LHRS of 2000 dwellings in Wyee by 2031.

The table below assesses the Proposal against relevant criteria listed in the Draft Centres Policy for determining a Proposal's merits.

Net Community Benefit Test

Criteria	Planning Comment
Will the LEP be compatible with agreed State and regional strategic direction for development in the area (e.g. land release, strategic corridors, development within 800 metres of a transit node)?	The proposal is compatible with agreed state and regional strategic direction for development in the area. Wyee is identified in the Lower Hunter Regional Strategy as providing an additional 2000 dwellings by 2031. The Wyee Structure Plan has been prepared to identify suitable land to house this development. The subject land is identified in the Wyee Structure Plan as the first logical urban land release due to its location within 800m of the Wyee Train Station and the existing Wyee Township. Development of the site would also assist in resolving a long-standing paper subdivision that is in fragmented ownership.
Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/subregional strategy?	As mentioned above, the LEP is located within Wyee, which has been identified in the Lower Hunter Regional Strategy as a local growth area, accommodating an additional 2000 dwellings by 2031.
Is the LEP likely to create a precedent, or create or change the expectations of the landowner or other landholders?	It is not likely that the proposal will set a precedent or change the expectations of landowners, as there are currently no existing land use rights to develop under the current zones.
Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?	Only one other rezoning proposal is in the locality. This is to allow for some minor development of Precinct 3 and is focussed on aged care. This proposal will not have a cumulative effect on this rezoning.
Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?	The LEP will not facilitate a permanent employment generating activity or result in the loss of employment lands. The proposal will increase the number of households at Wyee ensuring the existing village centre, which serves the existing community more viable. The Wyee Structure Plan and the Economic Analysis prepared as part of the LES investigated the possibility of requiring additional employment lands for the proposed development. It was concluded that the nearby Morisset Town Centre to the north and the Wyong Employment Zone to the south would provide sufficient employment opportunities for the future growth planned at Wyee. The proposed 2(2) zone in land near the railway station permits a "general store" which could service the future population and create local

	employment opportunities.
Will the LEP impact upon the supply of residential land and therefore housing supply and affordability?	The proposal will enable an increase in the available stock of residential land. It is anticipated that approximately 1000 additional dwellings could be constructed on the site. The Wyee Structure Plan outlines that Wyee is likely to continue to serve a market niche for larger suburban lots, with smaller lots and medium density housing located adjacent to the railway station, which should assist with affordability. This proposal is consistent with this consideration.
Is the existing public infrastructure (roads, rail, utilities) capable of servicing the proposed site? Is there good pedestrian and cycling access? Is public transport currently available or is there infrastructure capacity to support future public transport?	Wyee township is currently unsewered. The cost of providing reticulated sewer to the area is substantial and as a result, requires the identification of funding. Council has previously applied for numerous State and Federal funding grants, however has been unsuccessful due to the timeline of the project. It is envisaged that rezoning the land will increase opportunities to secure funding for sewer. The LES has indicated that existing infrastructure for water, electricity and gas is capable of accommodating the proposed development with some upgrades. Public transport is available in the locality, and the land is less than 800m from Wyee Train Station. There are good opportunities to provide excellent pedestrian and cycle access through the site and this will be required during the preparation of a site specific DCP for the subject land.
Will the proposal result in changes to the car distances travelled by customers, employees and suppliers? If so, what are the likely impacts in terms of greenhouse gas emissions, operating costs and road safety?	The subject proposal seeks to change the existing zoning of the land to enable urban development in close proximity to the existing railway station. If the additional development makes a general store a viable proposition in the vicinity of the railway station, the local community would have better access to shopping facilities that provide for everyday needs, reducing the kilometres travelled by residents to buy milk, bread, newspapers etc.
Are there significant Government investments in infrastructure or services in the area whose patronage will be affected by the proposal? If so, what is the expected impact?	There are no significant Government investments in infrastructure or services in the area.
Will the proposal impact on land that the Government has identified a need to protect (e.g. land with high biodiversity values) or have other environmental impacts? Is the land constrained by environmental factors such as flooding?	There are a number of large areas of the site with high ecological values, which are proposed to be protected through an appropriate conservation zoning. There is a parcel of land (approximately 12.5ha) directly west of the railway station that has ecological

	value, however due to its proximity to the railway station it has been proposed to be zoned medium density with a focus of ecological conservation in other areas, such as Mannering Creek and where Endangered Ecological Communities are located. Further discussion on this land is provided in the attached report. Areas affected by other environmental factors such as flooding and Acid Sulphate Soils, have been identified in the LES and been allocated a conservation zoning.
Will the LEP be compatible/complementary with surrounding land uses? What is the impact on amenity in the location and wider community? Will the public domain improve?	The LEP will be compatible with the surrounding land uses, being the existing Wyee township, the Railway Station, and the conservation areas in the Wyong Shire Council area. The proposed development is an extension of the existing Wyee township and has been identified as the most logical first stage land release in the Wyee Structure Plan. As a result of this development, the public domain will improve through a Site Specific DCP, which is required under Part 6 of the Standard LMLEP 2011 Instrument relating to Urban Release Areas. This will be required to identify detailed landscaping requirements for both the public and private domain.
Will the proposal increase choice and competition by increasing the number of retail and commercial premises operating in the area?	The LEP amendment seeks to rezone the subject property for future urban development. The subject proposal will increase the viability of the nearby commercial precinct within the township of Wyee.
If a stand-alone proposal and not a centre, does the proposal have the potential to develop into a centre in the future?	As stated above, Wyee has been identified in the Lower Hunter Regional Strategy as providing an additional 2000 by 2031. The Wyee Structure Plan has identified the subject land as the first logical urban release area in the area. The proposal is for residential development in the local township and is not likely to develop into a centre in the future.
What are the public interest reasons for preparing the draft plan? What are the implications of not proceeding at that time?	The LEP amendment is being prepared to meet the growth targets set by the Lower Hunter Regional Strategy and will provide affordable housing in a location that has excellent access to public transport. The LEP amendment will also assist in securing funding to provide reticulated sewer services to Wyee, improving the community's health and the environment. If the LEP amendment does not proceed at this point in time, the land will remain rural and the township will not capitalise on its position close to the railway station. The environmental risks of the existing pump-out system will also continue. Additionally, due to

	the fragmented ownership of the site, land of significant environmental value will remain in private ownership. Furthermore, the proposal aims to clarify community expectations on a 100 year old paper subdivision.
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B. RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

The following LEP Pro-forma Evaluation Criteria demonstrates consistency with State Policies

1. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The Planning Proposal is consistent with the objectives and outcomes of the Lower Hunter Regional Strategy (LHRS). The Urban Development Program in the LHRS identifies Wyee as a major release area accommodating up to 2000 dwellings.

The subject land will provide access to jobs, centres and public transport choice, utilising existing rail infrastructure in walking distance and reducing the need for commuting by car to the station. Higher densities around the railway would also facilitate a range of housing choice to provide for different needs and different incomes, another planning principle of the LHRS.

The subject land also supports the transport action in the LHRS that identifies the need to concentrate employment and residential development in proximity to public transport to maximise transport access.

The development of the subject site will also support the growth of the nearby emerging regional centre of Morisset, the new Warnervale Town Centre, and the existing township of Wyee by providing easy access to major town centres via public transport networks.

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

The Planning Proposal fulfils a number of aims of Lake Macquarie City Council's Lifestyle 2020 Strategy (LS 2020), including:

- To guide the development of urban communities which are compact, distinct, and diverse with a range of housing types and activities.
- To achieve a strong sense of positive community identity, through the development of local communities which are safe and liveable and offer a diversity of use, economic opportunity, and ready access to services.
- To integrate land use with the efficient provision of public and private movement systems.

It is also consistent with a number of strategic directions including:

5.2 A Well Serviced and Equitable City – the subject land is able to maximise existing opportunities by providing more efficient use of land in close proximity to existing public transport infrastructure.

5.5 An Easily Accessible City – the subject land has the capability to facilitate the provision of the existing public transport system by providing medium density development within a 5 minute walk of a transport node.

Section 6.1.1 Urban Areas of LS 2020 also outlines that medium density housing is promoted within a ten minute walk of major public transport nodes, such as railway stations. The subject land is within a ten minute walk to the Wyee railway station.

LS 2020 identifies Wyee as a future "transport node" whereby development would capitalise on its railway station. As a result, the subject land will benefit from the location of the railway

station.

The draft *Lifestyle 2020 – A Strategy for our Future* stated that:

In the long term (post 2020) Wyee, including the historic Wyee West subdivision, is seen as a logical centre for urban expansion. Its location on the railway line and being adjacent to major future urban development areas in Wyong means that it can support moderate long-term growth.

The rezoning of the site is consistent with the LS 2020 Strategy as it will provide for future residential development that is accessible to public and private transport, community facilities, and existing infrastructure.

Under the Green Systems Map, the subject land is identified as mainly Semi-Rural/Open and Agricultural Landscapes, with high value habitat identified along Mannering Creek to the north, and the wetland identified within the area of the unnamed creek to the south-west.

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

An assessment has been undertaken to determine the level of consistency the proposal has with relevant State Environmental Planning Policies (SEPPs). The assessment is provided below.

SEPP	Relevance	Implications	Consistent
SEPP 19 – Bushland in Urban Areas	Aims to prioritise the conservation of bushland in urban areas, and requires consideration of aims in preparing a draft amendment.	The proposal identifies the protection of Mannering Creek and an existing wetland containing Endangered Ecological Communities. Any development on the site will also have to address the 'improve and maintain' test. Further discussion on bushland directly to the west of the railway station is discussed in the attached report.	Yes
SEPP 44 – Koala Habitat Protection	Aims to encourage the proper conservation and management of areas of natural vegetation that provide koala habitat.	Flora and fauna studies conducted for the local environmental study (LES) did not reveal any koala habitat or Potential habitat.	Yes
SEPP 55 – Remediation of Land	Establishes planning controls and provisions for the remediation of contaminated land.	A geotechnical and contamination has been conducted across the subject site. It is considered that all remaining geotechnical issues identified within the report will be addressed at the DA stage.	Yes
SEPP – Major Development	This SEPP provides guidelines and benchmarks as to when a project is considered to be 'regional development' or 'state significant development'.	This SEPP may apply to the subject land at the DA stage, depending on the size of any future subdivision and development.	Yes

SEPP (Infrastructure) 2007	The SEPP aims to provide a consistent planning regime for the delivery of infrastructure. It also provides provision for consultation and assessment.	This SEPP will be of relevance to the proposal during the approvals process for the construction of water and sewage infrastructure and would also be regarded as traffic-generating development under clause 104 of the SEPP, requiring consultation with the RTA.	Yes
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	The SEPP aims to manage the development of land for mining, petroleum, and extractive development in a manner that provides social and economic welfare of the State, and provides controls to promote ecologically sustainable development.	The subject land is not within a Mine Subsidence District, and the Mine Subsidence Board and the Department of Primary Industries (DPI) have previously been consulted in this regard. The DPI has noted that the site is located within Petroleum Exploration Licence (PEL) 5 held by Sydney Gas Operations Pty Ltd and has very high Coal Seam Methane potential. Further consultations should occur with the DPI at the appropriate stage.	Yes

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

An assessment has been undertaken to determine the level of consistency the proposal has with relevant Ministerial Directions. The assessment is provided below.

Ministerial Direction	Relevance	Consistency
1.2 – Rural Zones	The objective of this direction is to protect the agricultural production value of rural land. It applies where a draft LEP affects land within an existing or proposed rural zone.	A significant portion of the land is currently zoned for rural purposes. During agency consultation, the DPI noted that there are limited opportunities for agricultural development due to the restricted size and location of the existing holdings and the surrounding zones. This planning proposal is consistent with this direction. NOT <i>consistent</i>
1.3 – Mining, Petroleum Production and Extractive Industries	This direction aims to protect the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials and requires consultation with the Department of Primary Industries.	The subject land is not within a Mine Subsidence District, however is located within a PEL licence. Consultation with the DPI and the Mine Subsidence Board has indicated that the proposed amendment would not be inconsistent with this direction. Further consultation with DPI will occur at the relevant stages.

Ministerial Direction	Relevance	Consistency
1.5 – Rural Lands	The objectives of this Direction are to protect the agricultural production value of rural land and facilitate the orderly and economic development of rural lands for rural related purposes.	As outlined above, the subject land has limited agricultural production capabilities. The proposed rezoning is also consistent with the Lower Hunter Regional Strategy, as outlined earlier.
2.1 – Environmental Protection Zones	This direction aims to protect and conserve environmentally sensitive land by requiring appropriate provisions in a draft LEP and no reduction in environmental protection standards.	An ecological assessment has been prepared for the subject land with identified flora and fauna issues, and made recommendations for conservation areas and corridors. The preferred land use strategy within the LES identifies an area for environmental protection, which contains all EEC's on the site. From a planning perspective, the preferred land use strategy is not inconsistent with this Direction, although it is considered appropriate that additional consultation should occur with DECCW in regards to any required offsets. Further discussion on bushland directly to the west of the railway station is discussed in the attached report.
2.3 – Heritage Conservation	Aims to conserve items of environmental heritage by requiring a draft LEP to include provisions to facilitate the protection and conservation of Aboriginal and European heritage items.	The Indigenous heritage survey identified two locations of artefact scatters, one possible stone formation, and three historic blazed trees. Four historic features of Non-Indigenous heritage were located on the site: an historic subdivision layout and three survey marked trees, The LES concluded that in general, whilst there are indigenous and Non-Indigenous sites within the study area, these need not constrain development. The proposed Planning Proposal is consistent with the objectives of the Direction.
2.4 – Recreation Vehicle Areas	The direction restricts a draft LEP from enabling land to be developed for a recreation vehicle area.	This Planning Proposal does not propose any recreation vehicle areas and is consistent with this Direction.
3.1 – Residential Zones	The direction requires a draft LEP to include provisions that facilitate housing choice, efficient use of infrastructure, and reduce land consumption on the urban fringe.	It is considered that the Planning Proposal is consistent with the objectives of this Direction. The site is in close proximity to the existing township and can easily access

Ministerial Direction	Relevance	Consistency
		available services. The social and economic impact assessments prepared as part of the LES investigated the appropriate mix of housing on the site and the infrastructure assessment investigated the capacity of existing services.
3.2 – Caravan Parks and Manufactured Home Estates	The direction requires a draft LEP to maintain provisions and land use zones that allow the establishment of Caravan Parks and Manufactured Home Estates.	This proposal will not affect provisions relating to Caravan Parks or Manufactured Home Estates.
3.3 – Home Occupations	The direction requires that a draft LEP include provisions to ensure that Home Occupations are permissible without consent.	The Planning Proposal will not affect provisions relating to this, and will retain the provisions of the principal LEP in this regard.
3.4 – Integrating Land Use and Transport	The direction requires consistency with State policy in terms of positioning of urban land use zones.	The Planning Proposal provides residential land with easy access to jobs and services by walking, cycling, and existing public transport. The location of this land supports the efficient and viable operation of existing public transport services. The subject land is adjacent to the existing township of Wyee and the Wyee Railway Station. Appropriate bus stops can be provided at the DA stage to facilitate private bus operator routes. A number of cycles and walkways are likely to be provided which provide linkages to the existing township and public transport nodes.
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.	The preliminary geotechnical and contamination assessment concluded that the presence of acid sulphate soils on the site is unlikely, however further detailed testing would need to confirm this at development application stage. Should any development take place in areas identified as containing acid sulphate soils than an Acid Sulphate Soil Management Plan will also be required.
4.3- Flood prone land	Aims to ensure that development of flood prone land is consistent with the NSW Government Flood Prone Land Policy and the Principles of the Floodplain Development Manual 2005 and to ensure that the provision of an LEP on flood prone land is commensurate with flood hazard and includes consideration	The LES has mapped the 100 year Annual Recurrence Interval. All of this area has been identified for future conservation with the exception of a small area to the south west of the site which has been proposed residential. The LES noted that this area in the

Ministerial Direction	Relevance	Consistency
	of the potential flood impacts both on and off the subject land.	vicinity of the farm dams could be filled and the runoff from these areas conveyed to Mannering Creek via a system of pipes and swale drains. The drainage lines in this locality are ephemeral, wide, and shallow. Therefore depending upon whether there are other limiting constraints, some landfill that includes the farm dams may be feasible.
4.4 – Planning for Bushfire Protection	Aims to reduce risk to life and property from bushfire. Requires an LEP to have regard for <i>Planning for Bushfire Protection</i> , amongst other matters. Applies to land that has been identified as bushfire prone, and requires consultation with the NSW Rural Fire Service, as well as the establishment of Asset Protection Zones.	Consultation has occurred with the Rural Fire Service who have not raised any objection to the proposed Planning Proposal. A Bushfire Study was prepared for the subject land which considered Planning for Bushfire Protection, however, a bushfire threat assessment will need to be prepared as part of any development application on the subdivision of the site.
5.1 – Implementation of Regional Strategies	Aims to give legal effect to regional strategies, by requiring draft LEPs to be consistent with relevant strategies. The direction requires a draft amendment to be consistent with the relevant State strategy that applies to the Local Government Area.	The residential development of the subject land supports this directive as it implements the Lower Hunter Regional Strategy, which identifies Wyee as a growth area accommodating an additional 2000 dwellings by 2031. Furthermore, the subject land has been identified in the Wyee Structure Plan as the first land release to accommodate this growth.
6.1 – Approval and Referral Requirements	Prevents a draft LEP from requiring concurrence from, or referral to, the Minister or a public authority unless approval is obtained from the Minister and public authority concerned. Also restricts the ability of a Council to identify development as designated development without the Director General's agreement.	The draft amendment does not contain any provisions that require concurrence from, or referral to, the Minister or a public authority. The planning proposal is consistent with this Direction.
6.2 – Reserving Land for Public Purposes	Aims to facilitate the reservation of land for public purposes, and to facilitate the removal of such reservations where the land is no longer required for acquisition. A Council must seek the Minister's or public authority's agreement to create, alter, or reduce existing zonings or reservations in an LEP. A Council can also be requested to rezone or remove a reservation by the above.	The proposal recommends the removal of approximately 8ha of existing 6(1) Open Space and a proposed area of 6(1) Open Space land totalling 1.57ha. The existing 6(1) land has been discussed in further detail in the attached report. The proposed 6(1) land is adjacent to the existing community facilities in Wyee and is proposed as an ideal location to extent the existing facilities with a park.

Ministerial Direction	Relevance	Consistency
		Further recreational facilities will be required on the subject land, however these will be identified during the development of a site-specific DCP. Under this direction, agreement is required by the Minister to reduce the existing zonings.
6.3 – Site Specific Provisions	Aims to reduce restrictive site-specific planning controls where a draft LEP amends another environmental planning instrument in order to allow a particular development proposal to proceed. Draft LEPs are encouraged to use existing zones rather than have site-specific exceptions.	The amendment does not propose site-specific zones or planning provisions. The proposal is consistent with this Direction.

C. Environmental, Social and Economic Impact

1. 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?

There is a possibility that threatened species and their habitat may be affected by this proposal. Further discussion on the impact of the Planning Proposal on environmentally sensitive land is discussed in the attached report, 'Biodiversity Issues Related to Land to the West of the Wyee Railway Station'. This report concluded:

The subject land is a logical area for residential development due to its proximity to the existing township and the railway station. The subject land has the capacity to provide a transport oriented development centred around an existing train station at Wyee that provides easy access to the emerging major centres of Morisset and Warnervale.

Consideration needs to be given to the impact of future development proposed around the subject land, should it not be developed. The introduction of additional roads, domestic pets and other associated activities linked with urban development on the fringe of bushland, such as illegal rubbish dumping may result in significant deterioration of the existing corridor function. Evidence of this is already occurring in this area.

While it is apparent the land has high conservation value, housing pressures in the area will continue to rise, and the value of this land from a strategic perspective outweighs the conservation value in this instance.

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

There will be some loss of native vegetation and hollow bearing trees if development proceeds. The Proponent is in discussions with DECCW about the need for offsets on the site to the south - southwest. This site contains a large number of large hollow bearing trees as well as threatened flora Charmhaven Apple (*Angophora inopina*) and fauna Squirrel Glider (*Petaurus norfolcensis*). However, it is an isolated patch from the corridor network. This area has been identified for 2(1) Residential as the proponent is investigating a number of strategies to provide suitable offsets for the development of this land, including:

- Purchasing and retiring of biobank credits;
- Transfer of land to Council or DECCW;
- Biocertification;
- Retention of Charmhaven Apple (*Angophora inopina's*) and hollow bearing trees along Bushells Ridge Road; and
- Preparation, implementation and funding of a Vegetation Management Plan for conservation areas, areas retaining Charmhaven Apple (*Angophora inopina's*) and hollow bearing trees.

Further discussions are being held with the proponent, particularly the option of biocertifying the site. The proponent is currently preparing a feasibility report on the above options and recommending a preferred option to satisfy offset requirements. Following the development of this report, Council and the proponent will re-commence consultation with DECCW.

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

A Social Impact Assessment (SIA) and Economic Impact Assessment (EIA) was completed as part of the LES.

The SIA considered demographic change, community facilities and social infrastructure, accessibility, integration with the local area and the 'paper' subdivision.

The SIA noted that Wyee has a comparatively young population, particularly young families, compared to the broader LGA. It highlighted that although the proposal will cater for other market segments, such as empty nesters and seniors, Council has developed policies, such as the Social Plan, to adequately address the potential change in demographics.

The SIA outlined the services and facilities required by the future population including sports fields, parks, children's services and a multipurpose centre. The NSW Department of Education stated that a new primary school is not required and Hunter New England NSW Health advised that the development of up to 1000 dwellings is not likely to increase significant demand for health services. It is envisaged that the facilities required will be funded through a Development Contribution Plan or a Voluntary Planning Agreement.

The SIA stated that the Wyee area is highly car dependent with households having high levels of car ownership and multiple car ownership. It was concluded that the level of car dependence could be reduced by this proposal by providing additional cycleways, pedestrian pathways and higher density near the train station. This has been incorporated in this Planning Proposal by providing a 2(2) Residential (Urban Living) zone adjacent to the railway station and requiring the preparation of a Development Control Plan prior to granting consent to any future subdivision application on the land.

The EIA stated that given there is only around 1,000m² of retail floorspace existing in Wyee, by 2031 there will be demand for some form of expanded local or village centre, possibly anchored by a large supermarket. A shopping centre of around 6,000m² to 7,000m² could be supported by the local population in Wyee, depending upon retail mix, however it would need to capture the majority of regular or "chore" shopping trade generated.

Morisset, Bushells Ridge, Charmhaven, Hakone Employment Corridor, North Wyong, and the Wyong Employment Zone are all within close proximity to Wyee, totalling some 1,229ha of employment lands. As a result, employment opportunities are limited in Wyee itself. Morisset (as well as Lake Haven, Tuggerah and Warnervale in the future) provides a more attractive location for agglomeration of higher order retail, industrial and business employment uses and community services and will continue to do so in the foreseeable future.

Given the size and population of Wyee, its proximity to Morisset, Warnervale, Charmhaven, and Lake Haven, and given the scale of future employment lands planned for in these areas, there is no need to provide industrial or business park type development in Wyee.

Part of the proposal will result in the urban development of land originally subdivided in 1914. The proposed residential areas will have a positive economic impact on the viability of the existing Wyee commercial area and the existing public rail infrastructure. The site has access to existing community facilities, public transport, and open space.

The identification of further residential development will also assist Council in applying for State and Federal Government grants that are announced from time to time to identify funding for the construction of reticulated sewer infrastructure to service the existing and future residents of Wyee. This would result in improved economic and social conditions for Council and the community.

D. State and Commonwealth interests

1. Is there adequate public infrastructure for the planning proposal?

Wyee is currently unsewered and the cost of providing sewer is substantial. As a result, Council and the Proponent have applied for a number of grants administered by both State and Federal Governments such as the Housing Affordability Fund and the Local Infrastructure Fund. Council has been unsuccessful with its applications thus far, primarily due to the timeframe required prior to the construction of housing. It is anticipated that the progression of the rezoning for further residential development in the township will assist in further applications to secure funding for sewer infrastructure.

The identification of additional residential development in the "paper" subdivision (DP 7506) will also assist in reducing the cost of sewer infrastructure for each landowner if the costs are borne by a larger number of residents.

Consultation undertaken with the relevant authorities by Council and as part of the LES has determined that the land can be adequately serviced to accommodate the proposed development of the subject land.

The subject land is identified as an "urban release area" and as a result, will be subject to Clause 62 of the LMLEP 2004. This clause ensures that development consent must not be granted on the subject land until the consent authority is satisfied that essential public utility infrastructure, including the disposal and management of sewage, is provided.

Similarly, Section 7.8 Utility infrastructure availability clause in draft LMLEP 2011 provides that adequate arrangements for infrastructure, including disposal and management of sewerage, be made prior to development consent.

Once funding has been identified for the sewer infrastructure, it will take approximately two years to design and construct.

Further information on provision of adequate public infrastructure is discussed above under Part 3 Justification for the provisions.

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

The Proposal has not previously been to Gateway for determination. The following consultation has been undertaken with the relevant public authorities in accordance with the *EP&A Act 1979*. Agency comments and responses are also outlined in the LES.

DEPARTMENT OF ENVIRONMENT & CLIMATE CHANGE (Now Department of Environment Climate Change & Water

- Mindful of the need to maintain important sub regional corridors through the subject site from the regional corridor to the south (in Wyong Council)

Wildlife corridors have been maintained through the site.

- Existing conservation zones on site – these corridors should be maintained and enhanced

Existing conservation zones on the site have been maintained and extended where appropriate.

- Impacts on areas of native vegetation, with special reference to threatened or regionally significant flora and fauna species, populations and ecological communities. Where impacts are proposed on areas of biodiversity value, the proponent should clearly demonstrate how they propose to offset any loss in biodiversity value to meet the 'improve or maintain' threshold.

An ecological assessment has been prepared for the site. The LES has balanced up the environmental, economic, and social impacts of the development in proposing land use zones for the site. Whether any proposed future development meets the 'maintain and improve' test would need to be ascertained.

- Any potential landuse conflicts associated with air, noise and odour impacts are adequately addressed, particularly in relation to premises scheduled under the POEO Act 1997.

Significant air, noise, or odour impacts are not anticipated as a result of any future development.

- Proposed LEP adequately considered the relevant threatened species provisions of the EP&A Act 1979, SEPP 44 and SEPP 71, and the Native Vegetation Act.

The ecological assessment prepared for the site has reviewed the relevant threatened species legislation applying to the site.

- An appropriate level of Aboriginal cultural heritage assessment has been undertaken, and the proposed LEP is not likely to impact on areas of cultural significance to the Aboriginal community. Also it important that the view of the Aboriginal community groups be sought and fully considered in regard to the preparation of the LEP.

An archaeological assessment was undertaken for the site, which identifies the significance and management options for the archaeological items identified on the site.

- Potential and direct impacts on DECC estate, wilderness areas, wild rivers and recognised areas of high conservation value have been adequately considered and avoided, ameliorated or compensated as appropriate.

No DECC estates will be impacted by the proposal.

- Any areas of contamination of the site are identified and managed in accordance with the CLM Act 1997

A contamination assessment has been prepared for the site. Any contamination issues can be addressed at DA stage.

- Stormwater emanating from the area must be managed in a sustainable manner to prevent any impacts on the adjacent rivers, wetlands, or estuaries.

A water management study has been prepared for the subject site.

- If proposed LEP affects any species listed under the EPBC Act, then consultation may be required with the Australian Government Department of the Environment, Water, Heritage and the Arts.

Two threatened species listed under the EPBC Act were identified.

- Future (overall) development in Wyee, especially in the future residential development of Areas A and B is anticipated to require additional land for a new primary school in this instance.
- The LES will consider appropriate land use zones to facilitate identification of a 3ha government primary school site.
- Refer also requirements for new school sites

The Section 62 response identified a requirement for a new primary school to cater for future development in Wyee. Since this advice, however, DET have advised that a new primary school will not be required in Wyee. In an email dated 5 July 2010, DET's Manager of Service Planning stated:

"On balance, and taking into consideration current and proposed urban developments elsewhere in the Lower Hunter, Sydney and other metropolitan and regional areas, it is unlikely that there will be justifiable demographic demand in the next 20-30 years to identify an additional primary school site in Wyee and it is becoming less likely that the DET would consider relocating its existing operational school. We will continue to monitor residential development in the area as it progresses and will review the DET's position at that time, if there is a significant change to anticipated population and enrolment trends."

A specific site has not been identified in the preferred land use strategy, however should the need arise in the future, a location for the school would be best determined at the master planning stage.

In addition, there are a number of land use zones under LMLEP 2004 that permit educational establishments, including 2(1) Residential and 2(2) Residential (Urban Living) zones. The State Environmental Planning Policy (Infrastructure) 2007 also identifies the development of educational establishments in a suite of land use zones, including residential, business and mixed use zones.

DEPARTMENT OF WATER & ENERGY (Now Department of Environment Climate Change & Water)

- Objectives and regulatory requirements of Water Act 1912 and Water Management Act 2000

The Water Management Report, ecological assessment and Geotechnical Report have considered relevant legislation and policies in relation to groundwater, water quality and impacts on waterways and riparian vegetation.

No groundwater works are proposed at this stage and adverse impacts are not anticipated, however further investigations would be required at DA stage.

- If site is within a gazetted WSP area, proposal is to demonstrate consistency with the rules of the WSP

The site is not located within a gazetted Water Sharing Plan (WSP).

- Assessment required to take into consideration relevant NSW policies in relation to Groundwater, Wetlands, Rivers/Estuaries, Weirs etc (refer response for full list)
- Assessment required to take into account DWE Guideline for controlled activities – Riparian Corridors (& associated Vegetation Management Plans). In particular, must provide Core riparian zones plus vegetated buffers.

Surface water has been investigated in the water management and geotechnical investigations. The proposed conservation zones surrounding Mannering Creek and the tributary will provide sufficient riparian zones to comply with DWE Guidelines in terms of core riparian zones.

- Assessment required to identify key groundwater issues & potential degradation to the groundwater source (refer response for list of specific requirements)

- Where potential impacts identified, assessment will need to identify limits to the level of impact and contingency measures that would remediate, reduce or manage potential impacts to the existing groundwater resource and any dependent ground water environment or water users (refer response for specific requirements)
- Any proposed groundwater works, including bores for the purposes of investigation extraction, testing or monitoring, must be identified and an approval obtained from DWE prior to their installation

Groundwater, the potential impacts of future development and contamination on groundwater and the implications on any future development was investigated as part of the geotechnical and water investigations. Impacts on groundwater were not considered likely and monitoring not necessary.

- Any assessment is required to identify any impacts of Groundwater Dependant Ecosystems

No Groundwater Dependent Ecosystems have been identified in the investigations.

- Any assessment is required to consider the impact of the proposal on the watercourses and associated riparian vegetation within the site, by providing:
 - Identification of the sources of surface water
 - Details of stream order using the Strahler system
 - Details of any proposed surface water extraction, including purpose, location of existing and proposed pumps, dams, diversions, cuttings and levees
 - Detailed description of any proposed methods of excavation, construction and material placement
 - A detailed description of all potential environmental impacts of any proposed development in terms of riparian vegetation, sediment movement, water quality, and hydraulic regime.
 - a description of the design features and measures to be incorporated into any proposed development to guard against long term actual and potential environmental disturbances, particularly in respect of maintaining the natural hydrological regime and sediment movement patterns and the identification of riparian buffers
- DWE recommends the following core riparian zones (CRZ) (in their Guidelines for Controlled Activities – Riparian Corridors):
 - CRZ of 10m for any first order watercourse where there is a defined channel where water flows intermittently or permanently
 - CRZ of 20m for any permanently flowing first order watercourse, or
 - Any second order watercourse where there is a defined channel where water flows intermittently or permanently
 - CRZ of 20-40m where there is a define channel where water flows intermittently or permanently. Includes estuaries, wetlands and any parts of rivers influenced by tidal waters (merits assessment based)
 - An additional 10m vegetated buffer from the outer edge of the CRZ.
- Assessment must address provision of a sustainable water supply for any proposed development, with minimal reliance on accessing valuable surface and groundwater resources. Through the implementation of BASIX, Integrated Water Cycle Management and Water Sensitive Urban Design, proposed development must also be able to exhibit high water use efficiency.

Water supply, farm dams and stormwater management has been considered as part of the LES. Detailed water management will be a consideration at DA stage.

DEPARTMENT OF PRIMARY INDUSTRIES (Now Industry and Investment)

- Adequate buffer zones of at least 50m around any waterways should be incorporated into any rezoning. Any development of the site should have regard for stormwater runoff and the need to detain and treat any run off generated by a more impervious catchment.

Significant conservation areas are proposed around Mannering Creek and tributary. These are sufficient to satisfy the 50m DPI requirement.

- Petroleum extraction is to be permissible in the subject area

Any future petroleum extraction on the site would be dealt with through the Petroleum (Onshore) Act 1991. NSW Industry and Investment should be consulted during exhibition.

HERITAGE COUNCIL

- Investigations must be undertaken to determine the location of any heritage items within the subject area or in the vicinity and any required measures to facilitate their protection, conservation and ongoing management

The heritage study has identified four historic features -

- an historic subdivision layout, and
- three surveyed marked trees.
- If any heritage items are identified on the land, Council should ensure that any rezoning will permit uses that are compatible with the heritage significant site or item and that it will allow for the continued use and conservation of the heritage item in an appropriate manner. Identified significant views, vistas, cultural landscapes and settings should be maintained and conserved when planning for new development areas.

The main recommendation in relation to the subdivision layout is to retain the road names of the subdivision within any future development. The survey trees have low archaeological potential and should be retained in situ if possible. It is also recommended that the survey trees be listed on Lake Macquarie City Council's Local Environmental Plan. If the trees are to be impacted by the proposed development it is recommended that more detailed photographic recording be taken of the trees prior to impact.

NSW HEALTH

- Provision of reticulated water and sewerage supply is recommended.
- Reticulated water supply must be of sufficient quantity and quality for the population size. An increase in population reinforces the need for the water supply to meet water quality standards in the Australian Drinking Water Guidelines.

Reticulated water and sewerage supply is proposed and was investigated as part of the LES.

- Ensure minimal impact on the water quality of surrounding natural waterways, particularly from stormwater runoff

The Water Management Report has identified suitable stormwater management options to ensure protection of the waterways on the site.

- Address the issue of environmental noise as exposure levels to the community may be high compared to existing levels

Environmental noise will also be addressed at DA stage. It is not expected to be a significant issue.

- Incorporation of best practice design principles in future developments include energy, water saving strategies and grey water reuse with appropriate approval and monitoring process in place to prevent risks to public health and environment contamination

- Consideration should be given to encouraging the installation of rainwater tanks on dwellings within the proposed township, for non-potable sources.
- Transport assessment to determine availability (including frequency) and access to rail and bus networks that connect Wyee residents to other services and employment. This should be conducted with specific reference to the emerging regional centre of Morisset and the new Warnervale town centre.

Access to public transport has been assessed on the traffic study.

- Planning and designing the residential development should have consideration of
 - Street design that minimises distance between residential lots, neighbourhood facilities and the emerging regional centre
 - Provision of safe and convenient footpath and gateways for residents to access nearby facilities and the emerging regional centre regional centre, through active transport
 - Provision of safe and convenient public transport to enable access from residential lots to the emerging regional centre
 - The availability of affordable/healthy food within the established township of Wyee
 - Safety by design principles in regard to the positioning of connectivity to open space.

Detailed design in terms of subdivision layout, energy and water saving strategies will be addressed at DA stage.

HUNTER WATER

- A new developer funded water reservoir will be required to be constructed.
- New reservoir be supplied from either DN 375mm water main offtakes from the DN 600mm Gosford/Wyong Pipeline
- Developer funded water supply and servicing wastewater strategies to be prepared, which presents water supply, wastewater transport and possible recycled water supply options, as well as timing, staging and security of supply. There should be prepared in consultation with Hunter water.

The Infrastructure Report has investigated suitable locations for a water reservoir to supply future development on the site. Consultation was undertaken with Hunter Water as part of the preparation of the LES. Water and wastewater supply and servicing strategies should be prepared following the rezoning.

RURAL FIRE SERVICE

- Retention of vegetation within the site in the form of conservation areas may retain the bushfire risk and the appropriate bush fire protection measures for residential development will be required commensurate with the hazard

A Bushfire Assessment has been prepared to assess the proposed rezoning. Further assessments will be required at DA stage.

ROADS AND TRAFFIC AUTHORITY

- Traffic study to be prepared in accordance with RTA Guide to Traffic Generating Developments (refer their response for details to be included)
- Traffic study to consider other development proposals in the surrounding area – cumulative impact
- Developer should take into account DIPNRs Integrating Land Use Transport Planning Policy and Draft SEPP 66 – Integration of Land Use and Transport

A traffic study has been prepared in accordance with the RTA guidelines.

- Identified road infrastructure improvements required on the state road network (subject to RTA approval) as a result of the traffic generated by the proposed development is to be included as part of a Voluntary Planning Agreement, which is to be entered into by the developers prior to the gazettal of the proposed LEP amendment.

Modelling has been undertaken to determine impacts (including cumulative impacts) on the surrounding area and required upgrades have been identified.

- Developer will be required to provide monetary contribution towards the classified road network to offset the cumulative traffic impact of this development and other developments in the area. Works-in-kind is preferred over cash contribution where works are deemed to be of community benefit.
- No direct access from the subject site onto the F3 Freeway or Wyee Road. All access shall be via the local road network to Council's requirements.

No additional direct access onto Wyee Road has been proposed as part of the LES.

- RTA objects to the draft amendment to the LEP due to limited information and will not withdraw objection until after a details traffic and transport study is undertaken.

The traffic report has been provided to the RTA, who have subsequently lifted their objection to the proposed rezoning and exhibition of the draft is now possible. In correspondence of 13 August 2010, the RTA provided the following comments:

- Council should ensure that the applicants are aware of the potential for road traffic noise to impact on any future development of the area. In this regard, the applicant, not the RTA, is responsible for providing noise attenuation measures in accordance with the EPAs Environmental Criteria for Road Traffic Noise.

Noise will need to be considered in future development applications.

WYONG SHIRE COUNCIL

- Council would be appreciative of the opportunity to be consulted with, particularly in relation to the following matters:
 - Provision of infrastructure
 - Traffic impacts (particularly Bushells Ridge Rd) and upgrade requirements
 - Proposed zonings and how they might link with development opportunities/conservation areas in Wyong LGA
 - Assessment of requirements for provision of community facilities and services
 - Potential land use conflicts with mining operations
 - Consultation with Aboriginal Land Councils
 - Consideration Nth Wyong Structure Plan & Draft Central Coast Regional Strategy

The LES has considered the cross boundary issues with the Wyong LGA, as outlined above.

A meeting was also held on 10/03/2009 with representatives from Wyong Shire Council, Department of Planning, Department of Environmental, Climate Change and Water and Lake Macquarie City Council to discuss cross-boundary issues in relation to the North Wyong Structure Plan and the Wyee Structure Plan.

MINE SUBSIDENCE BOARD

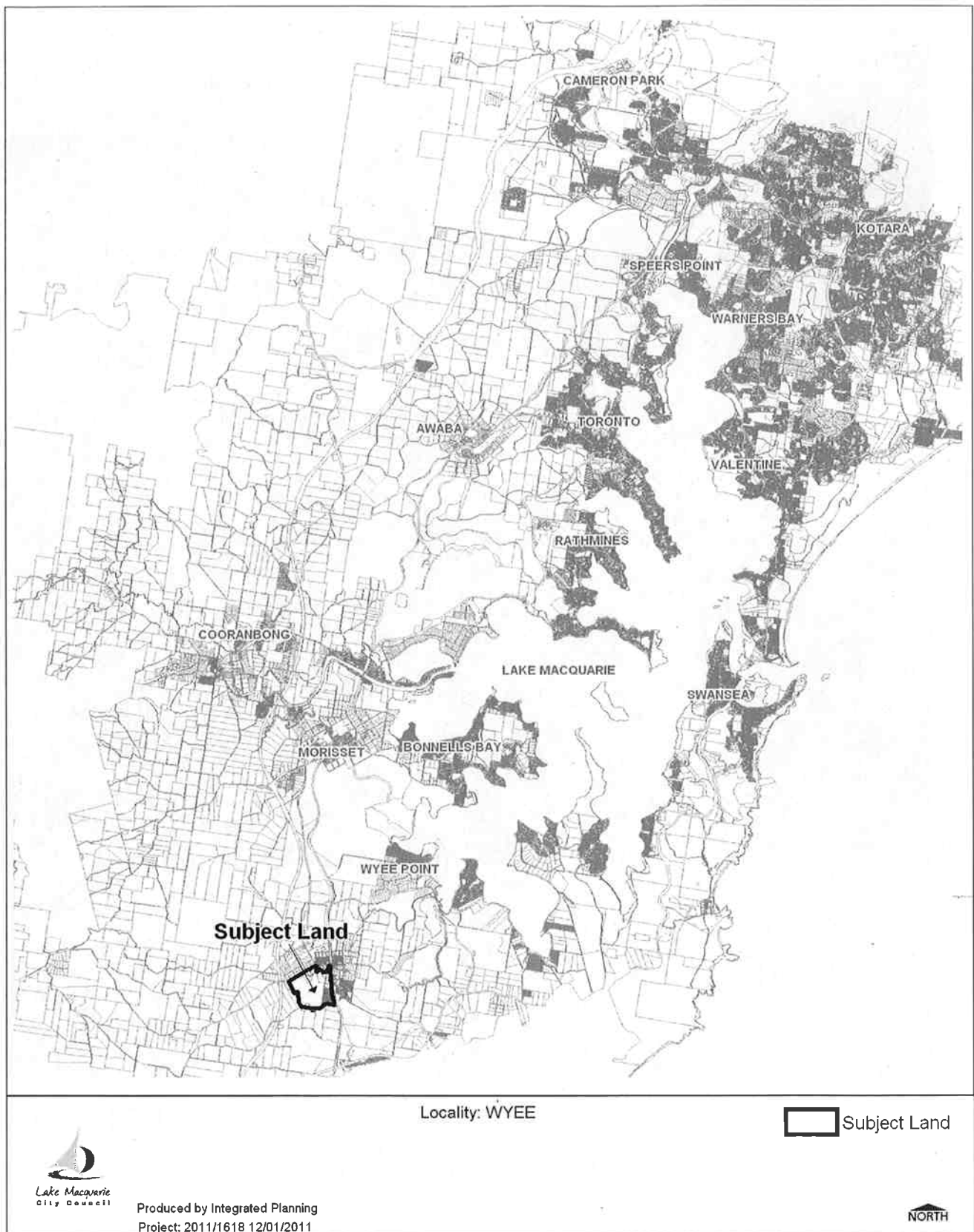
- MSB have no objection to the proposed rezoning. The area is not within a proclaimed Mine Subsidence District.

Part 4 – Details of Community Consultation

It is anticipated that the public will have the opportunity to comment on the proposed Planning Proposal after a Gateway determination. It is submitted that the Planning Proposal

does not fit the definition of a 'Low Impact Planning Proposal' and should therefore be exhibited for a minimum of 28 days.

Appendix 1 – Locality Map



Appendix 2 – Existing Zoning



Locality: WYEE

 Subject Land

EXTRACT FROM EXISTING LMCC LEP2004 ZONINGS
SKM AusImage 2010 Aerial Photography

100 0 100 200
 Metres

 NORTH



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