

**117 Darkes Forest Rd Darkes Forest - use of former mine site for cider processing facility
(no housing)**

Proposal Title :	117 Darkes Forest Rd Darkes Forest - use of former mine site for cider processing facility (no housing)		
Proposal Summary :	The proposal will allow the use of surface buildings and hardstand areas of the former Darkes Forest Mine site for a cider processing facility and associated development including a cellar door premises, cooking school and cafe, and bed and breakfast accommodation (associated with existing an dwelling on the property). It will also rezone some land from E2 to E3 and change height of building controls.		
PP Number :	PP_2017_WOLLG_001_00	Dop File No :	17/09327

Proposal Details

Date Planning Proposal Received :	04-Jul-2017	LGA covered :	Wollongong City
Region :	Southern	RPA :	Wollongong City Council
State Electorate :	HEATHCOTE	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	117 Darkes Forest Road		
Suburb :	Darkes Forest	City :	Postcode :
Land Parcel :	Lot 86 DP 752054		

DoP Planning Officer Contact Details

Contact Name :	Louise Myler		
Contact Number :	0242249463		
Contact Email :	louise.myler@planning.nsw.gov.au		

RPA Contact Details

Contact Name :	Erina Kilpatrick		
Contact Number :	0242277111		
Contact Email :	ekilpatrick@wollongong.nsw.gov.au		

DoP Project Manager Contact Details

Contact Name :	Graham Towers		
Contact Number :	0242249467		
Contact Email :	graham.towers@planning.nsw.gov.au		

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Land Release Data

Growth Centre :	Release Area Name :
Regional / Sub Regional Strategy :	Consistent with Strategy :
MDP Number :	Date of Release :
Area of Release (Ha) :	Type of Release (eg Residential / Employment land) :
No. of Lots : 0	No. of Dwellings 0 (where relevant) :
Gross Floor Area : 0	No of Jobs Created : 0

The NSW Government Lobbyists Code of
Conduct has been
complied with : **Yes**

If No, comment :

Have there been meetings or
communications with
registered lobbyists? : **No**

If Yes, comment :

Supporting notes

Internal Supporting
Notes :

External Supporting
Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

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

Comment : **The statement of objectives clearly identify the intended outcomes of the proposal.**

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

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

Comment : **The documentation identifies changes to the Wollongong LEP 2009 that will result from the proposal:**

- * The site will be added to Schedule 1 to permit the following additional uses:**
 - agricultural produce industry (fruit crushing, fermenting and bottling)
 - information and education facility (visitor centre)
 - industrial retail outlet (cellar door)
 - food and drink premises (cooking school and cafe).
- * Rezone land around the existing dwelling, car park and mine buildings from E2 Environmental Conservation to E3 Environmental Management to reflect existing and potential future uses of these areas.**
- * Introduce a 9m height limit on land proposed to be zoned E3 Environmental**

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Management.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? No

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.3 Mining, Petroleum Production and Extractive Industries

2.1 Environment Protection Zones

2.3 Heritage Conservation

3.3 Home Occupations

4.3 Flood Prone Land

4.4 Planning for Bushfire Protection

5.1 Implementation of Regional Strategies

5.2 Sydney Drinking Water Catchments

6.1 Approval and Referral Requirements

6.3 Site Specific Provisions

Is the Director General's agreement required? Yes

c) Consistent with Standard Instrument (LEPs) Order 2006 : Yes

d) Which SEPPs have the RPA identified?

SEPP No 44—Koala Habitat Protection

SEPP No 55—Remediation of Land

SEPP (Infrastructure) 2007

SEPP (Mining, Petroleum Production and Extractive Industries) 2007

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

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

If No, explain :

Section 117 Directions

Council has identified applicable Section 117 Directions and has noted that the proposal is inconsistent or that there is insufficient information to identify consistency with the following s117 Directions:

2.1 Environment Protection Zones

This Direction states that a planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas; and must not reduce the environmental protection standards that apply to land in an environmental protection zone.

This proposal does reduce the environmental protection standards as it rezones land from E2 Environmental Conservation to E3 Environmental Management. However, the environmentally sensitive areas will be protected by limiting development to existing buildings and hardstand areas. Areas containing EECs and other environmental values will retain the E2 zone.

The Secretary's delegate may be satisfied that any inconsistency is of minor significance.

4.4 Planning for Bushfire Protection

This Direction requires consultation with the Commissioner of the NSW Rural Fire Service (RFS) prior to undertaking community consultation, and must take any comments made by the Commissioner into account.

Council has had preliminary discussions with RFS which raise no objection to the proposal. RFS has noted that a Bush Fire Safety Authority from RFS would be required as part of a development application for a bed and breakfast accommodation.

RFS will be further consulted if the proposal is supported through the Gateway process.

The Secretary's delegate may be satisfied that the Gateway Determination requirement for consultation with the RFS prior to exhibition will ensure consistency with this Direction.

5.2 Sydney Drinking Water Catchments

This Direction aims to protect water quality in the Sydney drinking water catchment. The Direction requires a neutral or beneficial effect (NorBE) on water quality. Planning proposals must be consistent with State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011. The relevant planning authority must consult with the relevant authority and provide advice from the authority to the Department when seeking a gateway determination.

The northern part of the subject land (area north of Darkes Forest Road) is within the Sydney Drinking Water Catchment.

Council has undertaken preliminary consultation with Water NSW. Water NSW advised that it did not object to the proposal. However, it did not support the bed and breakfast component of the proposal and identified that a NorBE assessment is required to support the use of the site for bed and breakfast accommodation.

It is appropriate that, if supported, the Gateway determination include a requirement for additional information on potential water quality impacts prior to exhibition of the proposal.

The proposal is considered to be consistent with the other applicable s117 Directions:

- 1.3 Mining, Petroleum Production and Extractive Industries
- 1.5 Rural Lands
- 2.3 Heritage Conservation
- 2.4 Recreation Vehicle Areas
- 3.2 Caravan Parks and Manufactured Home Estates
- 3.3 Home Occupations
- 4.3 Flood Prone Land
- 5.10 Implementation of Regional Plans
- 6.1 Approval and Referral Requirements
- 6.2 Reserving Land for Public Purposes
- 6.3 Site Specific Provisions

The Secretary's approval is not required in relation to these Directions.

RECOMMENDATION

It is recommended that the Secretary's delegate be satisfied that any inconsistency with s117 Direction 2.1 Environmental Protection Zones is of minor significance.

It is recommended that the Secretary's delegate be satisfied that the proposal will be consistent with 4.4 Planning for Bushfire Protection following consultation with the NSW Rural Fire Service.

It is recommended that the Secretary's delegate note that additional information will be required to determine consistency with 5.2 Sydney Drinking Water Catchment.

State Environmental Planning Policies (SEPPs)

The proposal is consistent with relevant SEPPs with the exception of SEPP Sydney Drinking Water Catchment 2011 and Greater Metropolitan Regional Environmental Plan No.2 - Georges River Catchment.

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Additional information on water quality will be required as a condition of the Gateway determination, if supported.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : Mapping clearly identifies proposed changes to zones and heights.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : Council has recommended a 28 day exhibition period. This is considered appropriate.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

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

If No, comment :

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : The Wollongong LEP 2009 is in operation.

Assessment Criteria

Need for planning proposal :

The site is currently zoned E2 Environmental Protection so the use of the site for the cider processing operation and associated facilities will require changes to the Wollongong LEP.

Council considered various options - such as rezoning the property to a rural zone that permits proposed uses, or rezoning to E3 Environmental Management and adding proposed uses to the land use table for that zone. It was determined that this proposal which rezones part of the site to E3 and permits the specific additional uses through Schedule 1 is the most appropriate approach.

This will preserve the environmental values of the site and restrict proposed uses to this site rather than allowing them broadly across all E3 zoned land.

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Consistency with strategic planning framework :

The proposal is consistent with the Illawarra Shoalhaven Regional Plan as it will protect areas of high environmental value while supporting a strong and diversified economy. This proposal supports a local business and provides alternative activities for visitors to the region.

Council has advised that the proposal is consistent with Wollongong 2022.

As discussed in this report, the proposal is generally consistent with relevant state policies and directions. Additional information will be required to demonstrate consistency with s117 Direction 5.2 Sydney Drinking Water Catchments and SEPP Sydney Drinking Water Catchment 2011 and Greater Metropolitan Regional Environmental Plan No.2 - Georges River Catchment.

Environmental social economic impacts :

The proposal supports an existing local food producer - Glenburnie Orchard - by enabling it to process cider in one location. Currently the operation involves processing in 3 separate - and far flung - locations: crushing at Thirlmere, fermenting at Sutton Forest, and bottling in Western Sydney. Processing in a single location will make the operation more efficient and will also achieve environmental benefits by reducing food miles associated with the cider production.

The additional uses - such as cooking school and cellar door - will attract visitors to the area and provide economic benefits.

This proposal provides for the re-use of unused former mine buildings that are currently vacant and subject to ongoing vandalism.

The proposal will protect environmental values by restricting development to existing disturbed/developed areas of the site.
Environmental impacts will be further considered as part of the planning proposal process through additional studies into bushfire, water quality and contamination.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	28 Days
Timeframe to make LEP :	12 months	Delegation :	RPA
Public Authority Consultation - 56(2)(d) :	Sydney Catchment Authority Office of Environment and Heritage Office of Environment and Heritage - NSW National Parks and Wildlife Service NSW Rural Fire Service Transport for NSW - Roads and Maritime Services		

Is Public Hearing by the PAC required? No

(2)(a) Should the matter proceed ? Yes

If no, provide reasons :

Resubmission - s56(2)(b) : No

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Council considers that additional information is required as follows:

* Potable water and waste water assessment

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- * Bushfire
- * Aboriginal Cultural heritage
- * Ecological impact assessment
- * Contamination assessment

Council has asked that these studies be required as a condition of the Gateway determination.

In order to satisfy Ministerial directions and State policies relating to water quality and bushfire, it is appropriate to require additional information on these issues - and to include this requirement as a Gateway condition.

Potential contamination is a significant issue - given the site's previous use as a mine - so additional information should be sought on this issue.

It is not considered necessary to include a requirement for investigations into Aboriginal cultural heritage or ecological impacts as a condition of the Gateway. This is because the proposal relates to parts of the site that are already disturbed or developed and as these issues would need to be undertaken as part of any development application for use of the site.

Regardless, Council will need to be satisfied that it has sufficient information on these issues, including to address any concerns/questions that may arise during Agency consultation in order to progress the planning proposal. There is no obstacle to Council requiring additional information on any issue it considers relevant.

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
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Planning Team Recommendation

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

- S.117 directions:
- 1.3 Mining, Petroleum Production and Extractive Industries
 - 2.1 Environment Protection Zones
 - 2.3 Heritage Conservation
 - 3.3 Home Occupations
 - 4.3 Flood Prone Land
 - 4.4 Planning for Bushfire Protection
 - 5.1 Implementation of Regional Strategies
 - 5.2 Sydney Drinking Water Catchments
 - 6.1 Approval and Referral Requirements
 - 6.3 Site Specific Provisions

Additional Information : It is recommended that the Director Regions, as delegate of the Minister for Planning, determine under section 56(2) of the EP&A Act that an amendment to the Wollongong Local Environmental Plan 2009 to:

- * rezone part of Lot 86 DP 752054 (117) Darkes Forest Road, Darkes Forest from E2 Environmental Conservation to E3 Environmental Management;
- * add Lot 86 DP 752054 (117) Darkes Forest Road, Darkes Forest to Schedule 1 to permit:
 - agricultural produce industry (fruit crushing, fermenting and bottling)
 - information and education facility (visitor centre)
 - industrial retail outlet (cellar door premises) and
 - food and drink premises (cooking school and cafe); and

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* apply a maximum building height of 9m to the proposed E3 zoned areas

should proceed subject to the following conditions:

1. Prior to community consultation the planning proposal is to be updated to:

a) include the information on the following issues to address potential impacts of the proposal:

- water quality;
- bushfire; and
- contamination.

Council shall consult with the Department of Planning and Environment's Director, Southern Region once water quality investigations have been completed to determine the proposal's consistency with s117 Direction 5.2 Sydney Drinking Water Catchments.

2. Consultation is required with the following public authorities under Section 56(2)(d) of the Act and to comply with the requirements of relevant Section 117 Directions:

- * Office of Environment and Heritage
- * Office of Environment and Heritage (NPWS)
- * NSW Rural Fire Service
- * Transport for NSW - Roads and Maritime Services
- * Water NSW
- * Endeavour Energy
- * Illawarra Aboriginal Land Council

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material and given at least 21 days to comment on the proposal. Any agency advice received and Council's proposed response to this advice should be placed on public exhibition with the planning proposal.

3. Community consultation is required under Sections 56(2)(c) and 57 of the Act as follows:

- a) the planning proposal must be made publicly available for a minimum of 28 days; and
- b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in Section 5.5.2 of A Guide to Preparing Local Environmental Plans (Department of Planning and Environment 2016).

4. A public hearing is not required to be held into the matter by any person or body under Section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example if reclassifying land).

5. The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination.

SECTION 117 DIRECTIONS

6. The Secretary's delegate can be satisfied that inconsistency with s117 Direction 2.1 Environmental Protection Zones is of minor significance.

7. The Secretary's delegate can be satisfied that the planning proposal will be consistent with s117 Direction 4.4 Planning for Bushfire Protection following consultation with the NSW Rural Fire Service.

8. The Secretary's delegate will be consulted once water quality investigations have

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been done to determine consistency with s117 Direction 5.2 Sydney Drinking Water Catchments.

9. The Secretary's delegate can be satisfied that the planning proposal is consistent with other relevant s117 Directions, or that any inconsistencies are of minor significance.

Supporting Reasons :

This proposal will support a local business, provide for re-use of existing buildings and infrastructure, provide a local tourism operation, while retaining protection for environmentally sensitive areas.

Signature:



A / TEAM LEADER, Southern

Printed Name:

GRAHAM TOWERS

Date:

18/7/17.

