

ITEM NO. 6**FILE NO: PSC2007-02797V2****WALLALONG PLANNING PROPOSAL****REPORT OF: BRUCE PETERSEN – COMMUNITY PLANNING AND ENVIRONMENTAL
SERVICES SECTION MANAGER****GROUP: DEVELOPMENT SERVICES**

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the revised Planning Proposal at **(ATTACHMENT 6)** in respect of the proposed Wallalong Urban Release Area for the purposes of Section 55 [of the EP& A act 1979] for an initial Gateway Determination to establish the strategic merit of the proposal;
- 2) Subject to gateway determination request the proponent to provide additional strategic planning assessment as outlined in the revised planning proposal in relation to:
 - a. Site Context Report;
 - b. Infrastructure Delivery Strategy;
 - c. Housing Delivery Plan;
 - d. Housing Market Analysis;
- 3) Subject to gateway determination and following submission of additional information, undertake consultation with the community and public authorities on the strategic planning assessment;
- 4) The matter be resubmitted back to Council for review and to consider whether to resubmit to the Gateway under section 56(2)b) of the EP& A Act 1979.

**ORDINARY COUNCIL MEETING – 10 DECEMBER 2013
COMMITTEE OF THE WHOLE RECOMMENDATION**

Cr Paul Le Mottee left the meeting at 6.42pm prior to Item 6, during Committee of the Whole.

Development Services Group Manager returned at 6.42pm at the commencement of Item 6.

	Councillor Geoff Dingle Councillor Peter Kafer
	That Council refuse the Planning Proposal at (ATTACHMENT 6) and not accept the proposal.

In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Peter Kafer, Ken Jordan, Geoff Dingle and John Nell.

Those against the Motion: Mayor Bruce MacKenzie, Crs Steve Tucker, John Morello and Sally Dover.

The motion was lost on the casting vote of the Mayor.

	Councillor Steve Tucker Councillor John Morello
	That the recommendation be adopted.

In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Bruce MacKenzie, Crs Steve Tucker, John Morello, Sally Dover.

Those against the Motion: Crs Peter Kafer, Ken Jordan, Geoff Dingle and John Nell.

The motion was carried on the casting vote of the Mayor.

361	Councillor John Nell Councillor Steve Tucker
	It was resolved that Council move into Open Council to consider Items 2 and 6.

MOTION

	Councillor Geoff Dingle Councillor Peter Kafer
	That Council refuse the Planning Proposal at (ATTACHMENT 6) and not accept the proposal.

In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Peter Kafer, Ken Jordan, Geoff Dingle and John Nell.

Those against the Motion: Mayor Bruce MacKenzie, Crs Steve Tucker, John Morello and Sally Dover.

The motion was lost on the casting vote of the Mayor.

RESOLUTION

363	Councillor Bruce MacKenzie Councillor Steve Tucker It was resolved that Council: 1. Adopt the revised Planning Proposal at (ATTACHMENT 6) in respect of the proposed Wallalong Urban Release Area for the purposes of Section 55 [of the EP& A act 1979] for an initial Gateway Determination to establish the strategic merit of the proposal; 2. Subject to gateway determination request the proponent to provide additional strategic planning assessment as outlined in the revised planning proposal in relation to: a. Site Context Report; b. Infrastructure Delivery Strategy; c. Housing Delivery Plan; d. Housing Market Analysis; 3. Subject to gateway determination and following submission of additional information, undertake consultation with the community and public authorities on the strategic planning assessment; 4. The matter be resubmitted back to Council for review and to consider whether to resubmit to the Gateway under section 56(2)b) of the EP& A Act 1979.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Bruce MacKenzie, Crs Steve Tucker, John Morello and Sally Dover.

Those against the Motion: Crs Peter Kafer, Ken Jordan, Geoff Dingle and John Nell.

The motion was carried on the casting vote of the Mayor.

BACKGROUND

The purpose of this report is to present a planning proposal to Council for its consideration.

Council has received a request from the Wallalong Landowners Group to prepare a planning proposal to amend the Port Stephens LEP 2000 and or the draft Port Stephens LEP 2013 to establish a 620ha urban release area at Wallalong. The purpose

of this report is to present the Wallalong Landowners Group's request and seek Council's decision whether to submit a revised planning proposal as recommended for Gateway Determination from the NSW Department of Planning and Infrastructure to further investigate the strategic planning merit of urban release area at Wallalong.

Title of Planning Proposal:	Wallalong Urban Release Area (WURA)
Proponent:	Wallalong Landowners Group
Date Lodged:	11 October 2013
Subject Land:	Refer to Location Map at (ATTACHMENT 1)
Total Land Area:	620 hectares (potential 3,200 to 3,700 dwellings)
Existing Zoning:	1(a) Rural Agriculture (under LEP 2000) RU1 Primary Production and RU2 Rural Landscape (under Draft LEP 2013)
Proposed Land Uses (as submitted by Proponent):	Refer to Preliminary Concept Plan at (ATTACHMENT 2)
Recommended Zoning:	Refer to Proposed Zoning Maps at (ATTACHMENT 3)

The full copy of the Proponent's summary Urban Design and Planning Report is included at **(ATTACHMENT 4)**.

The Port Stephens Planning Strategy 2011-2036 (page 117) notes that Council resolved in 2009 to support the identification of Wallalong as a new town. The site is not currently identified in the Lower Hunter Regional Strategy, however, is identified in the Port Stephens Planning Strategy as a Category 3 Potential Urban Release Area and subject to the resolution of infrastructure delivery.

The Port Stephens Planning Strategy was adopted by Council in December 2011. Council has not received endorsement of Wallalong as an Urban Release Area by the NSW Department of Planning and Infrastructure.

Due to the regional planning significance of Wallalong as a potential urban area and the proposed State infrastructure requirements, further direction from the NSW Department of Planning on whether they support this proposal through a Gateway Determination is recommended before any more investigations are initiated.

Planning Review

Planning consultants City Plan Services were engaged to undertake an Independent Review of the planning proposal as submitted by the proponent. The City Plan Services review is included at **(ATTACHMENT 5)**. In summary, if consideration of the Planning Proposal is to progress the Independent Review recommends the following two steps:

- 1) Seek an initial Gateway Determination from the NSW Department of Planning and Infrastructure to further investigate the strategic planning merit of the Planning Proposal; and
- 2) Re-submit the Planning Proposal for an updated Gateway Determination so that the matter can be reviewed.

Step 1 – Seek an Initial Gateway Determination

Under Step 1 the Independent Review identifies further information required to demonstrate the strategic merit and justification for the Planning Proposal as follows:

- **Site Context Report:** to identify the role of Wallalong in the Lower Hunter and Port Stephens LGA, including the influence on existing centres and release areas and the implication for the identification of other areas within an infrastructure servicing or community catchment;
- **Infrastructure Delivery Strategy:** to detail the transport and essential local infrastructure required to service the release area, as well as the staging related to development milestones and costing for the infrastructure. Information should be provided on implications of infrastructure provision to this site for other urban development areas in the Lower Hunter, including capacity of networks, capital works programs, funding and financial arrangements;
- **Housing Delivery Plan:** including expected dwelling production and development feasibility assessment (with consideration of other urban development areas in the Lower Hunter);
- **Housing Market Analysis:** to identify the likely market for dwellings in Wallalong, cost of living impacts, and a comparison against other sites in Port Stephens and the Lower Hunter.

Completing the above will clearly establish whether there is strategic planning merit for pursuing the Wallalong Urban Release Area at this time.

This information would be sought after an initial Gateway Determination. The Independent Review (page 12) relevantly states when this information is to be provided:

"It is recommended that this information be prepared and assessed after an initial Gateway Determination, but that the matter be re-submitted to the Gateway under section 56(2)(b) [of the EP & A Act 1979] so that the matter can be reviewed. It is recommended that the proponent be given a 9 month period to demonstrate the strategic planning merit of the proposal and the initial Gateway determination be conditioned accordingly. Consultation with the community and public authorities on the strategic planning assessment should be undertaken and completed within this timeframe."

The request for additional information is consistent with Section 1.3 *How much information should be in a Planning Proposal?* of the Department of Planning and Infrastructure's *A Guide to Preparing Planning Proposal's* (pages 5-6) which notes the following:

"To prevent unnecessary work prior to Gateway stage, specific information nominated as being necessary would not be expected to be completed prior to the submission of the planning proposal. In such circumstances, it would be sufficient to identify what information may be required to demonstrate the proposal's strategic merit or compliance with a relevant statutory consideration such as a section 117 Direction."

Step 2 – Matters to be investigated if strategic planning merit is justified

The Independent Review identifies more detailed planning matters that will require further investigation under Step 2. They are:

- **Site Contamination:** as the land has been used for agricultural purposes and is proposed to be zoned for residential development;
- **River and Stormwater Flooding:** as the land is partly flood prone and Wallalong is isolated from major centres in a range of flood events. It is recommended that there be an assessment of impacts on the residential community from flood isolation and costed recommendations to minimise these effects;
- **Impact on Extractive Resources:** as the site is mapped in the LHRS close to non-coal extractive resources;
- **Flora and Fauna Assessment:** as the site contains remnant native vegetation and potential loss of threatened species, communities or habitats may require offsetting;
- **Aboriginal Heritage Assessment:** as the site has a high likelihood of the presence of archaeological evidence;
- **Impact on Agricultural Land:** as the site is currently zoned for agricultural activities and the loss of agricultural and rural land has not been strategically considered;
- **Community Integration;**
- **Commercial and Employment Land Analysis;**
- **Transport and Access Assessment:** The Independent Review recommends that a third party report be prepared on transport and access issues, including: trip generation, distribution and containment rates; impact on local, sub-regional, regional and State roads (especially capacities at intersections and bridges); strategies to improve public transport services for the area; consideration of active transport (including walking and cycling connections with local and regional networks); consultation with road authorities (including NSW Roads and Maritime Authority, Maitland City Council and Transport NSW).

Undertaking Step 2 relies upon receiving a revised Gateway Determination from the Minister (or Minister's Delegate) that allows the Planning Proposal to proceed for further investigation.

Recommended Planning Proposal

The request to prepare a planning proposal, as submitted, is not recommended. A revised Planning Proposal is recommended with this report (**ATTACHMENT 6**) for forwarding to the NSW Department of Infrastructure and Planning. It identifies additional information and review that is required and is based upon a staged approach. First it seeks to clearly establish the strategic merit of the proposal by requiring the completion of a Site Context Report, Infrastructure Delivery Strategy, Housing Delivery Plan and Housing Market Analysis. This would be followed by more detailed planning matters to be investigated if the broader strategic planning merit is established. The recommended approach is consistent with the Independent Review.

FINANCIAL/RESOURCE IMPLICATIONS

There are no direct financial implications if Council resolves to adopt the recommendation to forward the Planning Proposal to the Department for a Gateway Determination.

Financial implications resulting from infrastructure delivery to support an urban release area at Wallalong will need to be identified and further considered as part of the ongoing assessment process following a Gateway Determination.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Section 94			Funding (\$) to be determined. Should the Planning Proposal proceed, infrastructure funding through Section 94 will be required.
External Grants	No		
Rezoning Fee	Yes	73,333	Paid stage 1 rezoning fees Stage 2 and 3 fees will apply if the Planning Proposal progresses.
Voluntary Planning Agreement	Yes		Funding (\$) to be determined. The Proponent has indicated a preparedness to enter into Voluntary Planning Agreements for the provision of infrastructure.
Other	No		The Proponent has indicated other sources of funding may be available such as State Infrastructure Contributions, the Hunter Infrastructure Fund, Housing Acceleration Fund and Special Rate Levy. The ability to use these sources of funding needs further investigation.

LEGAL, POLICY AND RISK IMPLICATIONS

Environmental Planning and Assessment Act 1979

The Planning Proposal has been formally requested by the Proponent for consideration by Council under Part 3 of the Environmental Planning and Assessment Act 1979 (the Act). It seeks to amend the Port Stephens Local Environmental Plan 2000 or Draft Port Stephens Local Environmental Plan 2013 (the Planning Proposal will amend whichever plan is in force at the time of adoption). Council has an obligation to consider the request under the Act.

The NSW Department of Planning Gateway Determination process and guidelines provide requirements for making a Planning Proposal.

Council may resolve to initiate a Planning Proposal for Wallalong as the Relevant Planning Authority (RPA). The NSW Minister for Planning and Infrastructure (or a delegate of the Minister) is the responsible authority for making a local environmental plan following a process set out under Part 3 of the Act and relevant regulations and guidelines.

The steps in considering a Planning Proposal and making a relevant plan are set out below:

- 1) The Planning Proposal - the relevant planning authority (Council) is responsible for the preparation of a planning proposal, which explains the effect of and justification for the plan;
- 2) Gateway Determination - If Council resolves to adopt the Planning Proposal it will be forwarded to the Minister (or his delegate) of the NSW Department of Infrastructure and Planning to determine whether the Planning Proposal is to proceed. This gateway acts as a checkpoint to ensure the proposal is justified before further studies are done and resources are allocated to the preparation of a plan. A community consultation process is also determined at this time. Consultations occur with relevant public authorities and, if necessary, the Planning Proposal is varied and/or resubmitted back to Gateway for further assessment;
- 3) Community consultation - the Planning Proposal is publicly exhibited (generally low impact proposals for 14 days, others for 28 days). A person making a submission may also request a public hearing be held;
- 4) Assessment - The relevant planning authority considers public submissions and the proposal is varied as necessary. Parliamentary Counsel then prepares a draft local environmental plan – the legal instrument;
- 5) Decision - With the Minister's (or delegates) approval the plan becomes law and is published on the NSW.

Under Section 58 of the Act, the RPA may, at any time, vary its proposal or request the minister not to proceed as a consequence of its consideration of any submission or report during community consultation or for any other reason.

The additional information identified in the revised planning proposal as recommended is consistent with Section 1.3 of the Department of Planning and Infrastructure's A Guide to Preparing Planning Proposal's.

Given the need for additional investigations it is recommended the Planning Proposal be required to be resubmitted back to Council and Gateway under section 56(2)(b) [of the EP & A Act 1979] so that the matter can be reviewed prior to exhibition to determine sufficient justification to continue, amend or not proceed.

LEP 2000 and Draft LEP 2013

The Port Stephens Local Environmental Plan 2000 is currently in force and the replacement Draft Port Stephens Local Environmental Plan 2013 is with the Department of Planning and Infrastructure for final consideration. The Planning Proposal will need to be considered as an amendment to the Draft Port Stephens Local Environmental Plan 2013 if it proceeds. In the interim the Planning Proposal has been prepared to account for both local environmental plans.

Landowners within the WURA

The Planning Proposal was lodged by a group of nine major landowners referred to as the Wallalong Landowners Group (the Proponent). Consultation needs to be undertaken with those landholders whose land is within the proposed WURA, but who are not part of the Wallalong Landowners Group, to determine whether they endorse the inclusion of their land in the Planning Proposal.

At this stage it is recommend that Council seek a Gateway Determination for all of the land that is identified within the Wallalong Urban Release Area under the PSPS, and consult with those landowners not in the Wallalong Landowners Group after a Gateway Determination.

It should be noted that prior to any formal public exhibition Council has already received written objection from the owner of 468 Clarence Town Road (Lot 3 DP 1009098) of the seeking the removal of this lot from the Planning Proposal. This Lot is located on the western edge of the WURA and is shown in **(ATTACHMENT 7)**. Council has the option of excluding this Lot from the Planning Proposal at this time.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that the Planning Proposal is not considered by Gateway due to insufficient	Medium	Ensure that all planning issues are identified and addressed as part of the Planning	Yes

information.		Proposal.	
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SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The social, economic and environmental implications of proceeding with the WURA are addressed in greater detail in the recommended Planning Proposal and other supporting information (including the proposal and supporting information submitted by the Wallalong Landowners Group, and the Independent Review). It is important to note that if the Planning Proposal proceeds to the next stage of investigation additional information on the implications of proceeding will be provided. The Independent Review and recommended Planning Proposal identify the information that needs to be provided and a Gateway Determination will also provide further guidance.

The Planning Proposal has potentially significant social implications if it proceeds. The character of the area will transition from rural/rural residential to urban with the large increase in the number of dwellings (3,200 to 3,700) and population (up to 10,000 people). Many members of the existing community at Wallalong have already expressed their concerns about the Planning Proposal changing the character of the area and a range of other concerns. The community group Voices of Wallalong and Woodville (VOWW) has also been formed.

The Planning Proposal will need to demonstrate the ability to fund infrastructure items (including but not limited to upgrades to the road network). A Delivery Strategy is required to firmly establish infrastructure requirements, identify the timing for its provision and funding mechanisms. This is critical to the delivery of the WURA and a principal planning issue. The economic viability of establishing the WURA is required to be demonstrated following consultation with govt authorities and critical to demonstrating the strategic merit of the proposal.

Wallalong is not within the Watagan-Stockton Green Corridor (p12/13) of the Lower Hunter Regional Strategy nor is it a "Proposed Urban Area" (p12/13), or mapped as regionally significant agricultural land (p32). The large majority of the site is cleared however parts of the site contain significant environmental values. The Preliminary Concept Plan indicates it is likely that environmental issues are able to be managed. The design of the development can be refined through the planning process and there may also be opportunity to provide offsets to compensate for the loss of any biodiversity.

Council commissioned an independent consultant to review the Wallalong Landowners Group Flora and Fauna Assessment. It identifies matters that require further investigation and review that may lead to the alteration of the Planning Proposal; however at this stage the Planning Proposal is sufficient to proceed and further investigation of environmental implications will occur during the planning process.

CONSULTATION

A Gateway Determination will set formal consultation requirements. Recommendations for consultation, including for referral to relevant authorities and for public exhibition, are also included in the Planning Proposal. Consultation with Maitland City Council will be important considering the proximity of Wallalong to Maitland and the potential likelihood that future residents would access services and use infrastructure within that LGA.

It is proposed to prepare a Community Engagement Plan to outline how the public can participate and identify project steps and timelines, opportunities for participation, how the information will be made available, and when decisions will be made. This plan will be developed following a Gateway Determination. A higher standard of community consultation is proposed for this Planning Proposal given that the site is not included in the Lower Hunter Regional Strategy, is for a large urban release area in an existing community, and significant infrastructure upgrades are needed to support the development.

As stated earlier in this report, there is significant public interest in the Planning Proposal from the existing community at Wallalong and Council has already received written objections. If the Planning Proposal progresses there will be a period of formal community consultation to enable the community to make further submissions. A post-exhibition report would be prepared for consideration by Council.

OPTIONS

- 1) **Council forward the planning proposal as submitted requesting Gateway determination.** This is not recommended as the planning review has identified the need for further information and further consultations with Government authorities. This additional information is required to demonstrate the strategic merit of the proposal. This is important having regard for the fact Wallalong is a new release area of regional planning significance and the need to fully
- 2) establish local and State infrastructure requirements before further consideration is made;
- 2) **Council request additional studies are undertaken before further consideration. Under this option Council would not support the planning proposal as submitted.** Additional information identified by the planning review would need to be undertaken by the Proponents and resubmitted back to Council for further consideration. This is not the preferred option as the purpose of the Gateway is to ensure that a proposal is justified before further studies are done and resources are allocated to the preparation of a plan. This is particularly relevant under the circumstances as the proposal is of regional planning significance and the Department have not provided formal endorsement of Wallalong as an urban release area as identified in the Port Stephens Planning Strategy. This

would also prolong uncertainty regarding the Department's position in relation to Wallalong for both the local community and Proponent;

- 3) **Council nominate additional information to be undertaken as part of the planning proposal and request a Gateway determination to further investigate (Recommended Option).** Under this option the planning proposal as submitted is amended to prescribe the additional investigations and preliminary consultations to be undertaken to demonstrate the strategic merit of the release area. The revised planning proposal demonstrates to the Gateway compliance with the Department's guidelines to prevent unnecessary work prior to Gateway stage-specific information has been nominated that is required. Should a Gateway Determination be made an updated planning proposal or request not to proceed can be re-submitted for further determination by Gateway. This is the recommended option;
- 4) **Council not proceed.** This is not the preferred option as the Port Stephens Planning Strategy identifies the need to further investigate Wallalong as an urban release area and infrastructure requirements.

ATTACHMENTS – All listed below are provided under separate cover.

- 1) Location Map;
- 2) Proponent's Preliminary Concept Plan;
- 3) Recommended Zoning Maps (LEP 2000 and Draft LEP 2013);
- 4) Urban Design and Planning Report (submitted by Proponent);
- 5) Independent Review (City Plan Services);
- 6) Recommended Planning Proposal;
- 7) Map of 468 Clarence Town Road (Lot 3 DP 1009098).

COUNCILLORS ROOM

- 1) Urban Design and Planning Report and supporting documents (submitted by Proponent).

TABLED DOCUMENTS

Nil.