

3.5 Planning (Rezoning) Proposal - Permit a service station and food and drink premises at 223 Scenic Drive Colongra & permit shops and residential development at 107-111 Scenic Drive Budgewoi

TRIM REFERENCE: RZ/5/2014 - D09645350

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SUMMARY

Council is in receipt of a planning proposal involving the rezoning of two related but physically separate sites.

The proposal involves the rezoning and reclassification of land at Budgewoi to permit commercial and residential development and the rezoning of land at Colongra to permit the development of a service station and a food and drink outlet.

The proposal will facilitate the redevelopment of Halekulani Park Budgewoi for a Woolworths supermarket and medium density residential housing along with the relocation of the recreational activities from Halekulani Park to a new expanded sporting facility at Colongra.

A desktop review of the information that has been provided indicates that the proposal has merit and should be forwarded for a Gateway Determination by the Department of Planning and Environment (DP&E).

Applicant: Wyong Shire Council
Owners: Wyong Shire Council and Fabcot Pty Ltd
Proposal No.: RZ/5/2014

Site 1 - Colongra Site

Description of Land: Lot 1 DP 1049201, 223 Scenic Drive, Colongra
Site Area: 2.97 Ha
Zoning: E3 – Environmental Management
Existing Uses: Vacant

Site 2 - Budgewoi Site

Description of Land: Lot 1 DP 385077 and Lots 1026 & 1027 DP 24049, 107-111 Scenic Drive, Budgewoi
Site Area: 3.15 Ha
Zoning: RE1- Public Recreation
Existing Uses: Recreation facilities (outdoor), Community Facility

RECOMMENDATION

- 1 *That Council prepare a Planning Proposal to amend Wyong Local Environmental Plan, 2013, pursuant to Section 55 of the Environmental Planning and Assessment (EP&A) Act, 1979 requesting the rezoning of land at 107-111 Scenic Drive Budgewoi to permit shops and residential development and additional permitted uses at 223 Scenic Drive Colongra permitting a service station and a food and drink outlet.*
- 2 *That Council forward the Planning Proposal to the Department of Planning and Environment accompanied by a request for a Gateway Determination, pursuant to Section 56 of the EP&A Act 1979.*
- 3 *That Council implement the above resolution prior to 25 July 2014.*
- 4 *That Council note the Resolution of 26 March 2014 authorising the General Manager to negotiate an appropriate Memorandum of Understanding (MOU) with Woolworths*
- 5 *That Council direct the General Manager to finalise the MOU and any subsequent draft Voluntary Planning Agreement (VPA) between Council and Woolworths prior to exhibition of the Planning Proposal and any VPA.*
- 6 *That Council undertake community and government agency consultation in accordance with the requirements of the Gateway Determination. The consultation process is to include a public hearing for the reclassification of Community Land to Operational Land as required under the Local Government Act 1993.*
- 7 *That Council develop and exhibit appropriate Development Control Plan provisions where required to provide appropriate guidelines for future development.*
- 8 *That Council consider a further report on results of the community consultation.*

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BACKGROUND

At the Ordinary Meeting held on 25 September 2013, Council considered a Planning (rezoning) Proposal from Woolworths at 223 Scenic Drive Colongra. Council resolved as follows:

“RESOLVED unanimously on the motion of Councillor NAYNA and seconded by Councillor TROY:

1201/13 That Council refuse Planning Proposal RZ/8/2012, given the economic impact on surrounding business centres and the lack of strategic justification for this proposal.

1202/13 That Council inform the applicant, in accordance with the requirements of Clause 10A of the Environmental Planning and Assessment Regulation 2000, that it does not support the request to prepare a planning proposal.

1203/13 That Council direct the General Manager to instruct staff to continue to work with the applicant to find an alternative site for the proposal that will result in employment generating development.

FOR: COUNCILLORS BEST, EATON, GRAHAM, NAYNA, TAYLOR, TROY AND WEBSTER

AGAINST: NIL”

Anticipating the Council decision, the applicant lodged an application for Pre-Gateway Review with the Department of Planning and Infrastructure 6 September 2013. The Gateway Appeal was considered by the Joint Regional Planning Panel (JRPP) 23 December 2013. The JRPP recommended:

The proposed instrument should not be submitted for a Gateway determination.

In addition the JRPP provided the following Advice and Justification for Recommendation:

- 1. The Panel has considered the supporting information provided for the proposal, as well as the views of the Council, the proponent and the Department of Planning & Infrastructure, and has visited the site.***
- 2. Council advised the Panel an alternative site was available at Halekulani Oval, Budgewoi for the supermarket development and was prepared to expeditiously progress a planning proposal in conjunction with the proponent to reclassify community land to operational and rezone the site to B2 Local Centre.***
- 3. The Panel was satisfied there is sufficient demand for the supermarket development at Budgewoi. However, there are substantial town planning benefits in consolidating retail activities in the existing commercial precinct in Budgewoi. An alternative location out of centre would split retail activities into three nearby but not contiguous areas, leading to a less than ideal outcome. Relocation of the Halekulani Oval would allow the playing fields to be expanded, which would be a benefit to an expanding local***

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community. The current proposal was therefore not supported given the alternative site adjacent to the existing centre.

- 4. The Panel encourages the proponent and Council to prepare a planning proposal for the Halekulani Oval site at Budgewoi which would include reclassification from community to operational land and rezoning to B2 Local Centre to enable the supermarket development.*
- 5. The Panel considers the preparation of the Halekulani Oval planning proposal should be treated as a high priority by Council given the existing demand for new retail development and the proponent's readiness to progress a development to meet this demand.*

To date, the Pre-Gateway Appeal is yet to be determined by the Minister for Planning. In a letter of 5 March 2014, DP&E have indicated the Pre-Gateway Appeal would be further considered once an "in principle" agreement was reached with Woolworths (refer to attachment 1).

Recent correspondence from DP&E has indicated that a decision on the Pre-Gateway Review is likely to occur shortly after this report is considered by Council (refer to attachment 3). Given that the decision has been withheld, there is a possibility that the initial Woolworths proposal at Colongra will be approved for Gateway Determination by DP&E, if this report is not supported.

Following preliminary discussions between Woolworths and Council, at the Ordinary Meeting held on 26 March 2014, Council resolved:

"RESOLVED on the motion of Councillor EATON and seconded by Councillor TROY:

- 279/14 That Council note that it does not support the proposal by Woolworths to rezone land at Colongra.*
- 280/14 That Council acknowledge that it would prefer that Woolworths establish a new supermarket within the retail centre of Budgewoi.*
- 281/14 That Council note that preliminary discussions have occurred between the Mayor, Senior Council Officers and representatives from Woolworths over the possibility of facilitating a land swap between both parties as it relates to land holdings at Colongra and Budgewoi.*
- 282/14 That Council note that any possible land swap will be subject to significant public engagement and will only proceed if all appropriate approvals are received.*
- 283/14 That Council note that any proposal to rezone or reclassify the Halekulani Oval will require approval from the NSW Department of Planning and Infrastructure.*

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284/14 That Council authorise the General Manager to negotiate an appropriate Memorandum of Understanding with Woolworths that will include but not be limited to the following principles:

- a Woolworths will withdraw its Planning Proposal – Pre-Gateway Review for its land at Colongra (Lot 1 DP 1049201 Scenic Drive).
- b Woolworths will offer its land at Colongra referred to above to Council in exchange for a portion of the existing Council owned Halekulani Oval subject to Council's land being rezoned and reclassified to operational land.
- c Woolworths agree to develop a new supermarket on the Halekulani Oval site subject to gaining appropriate planning approvals.
- d Woolworths will make a contribution (works and/or cash) towards the establishment of a regional sporting complex on the land at Colongra and the adjoining Council and Delta owned land.
- e Council is successful in negotiating ownership or a long term lease of the Delta lands (Lots 500 and 501 DP 755266) for use as sporting fields.

285/14 That Council commence the process to reclassify Lot 1 DP 385077 Scenic Drive, Budgewoi (being Halekulani Oval) from Community Land to Operational Land.”

Pursuant to Resolution 284/14, staff have been continuing negotiations with Woolworths to with regard to the terms of the MOU and a subsequent VPA. The MOU and VPA will need to be resolved prior to the public exhibition of the Planning Proposal. This report responds to the other actions to be addressed under this Council Resolution.

CURRENT STATUS

Site 1 - Colongra

The site is bounded by Delta Electricity land to the west and north and residential development to the east. There is a relatively small lot to the south-east of the site zoned SP2 Telecommunications Network which houses telecommunications infrastructure.

The site is currently vacant with the southern end of the site generally cleared and exhibiting some remains of a demolished dwelling. Council records indicate that the site was used for residential purposes and grazing from around the 1950's to the late 1990's. The northern section of the site is covered by native vegetation with a disturbed understorey.

Site 2 - Budgewoi

The site is generally bound by residential development excepting the land to the south east that is zoned B2 Local Centre and comprises of a supermarket and a number of essential services and specialty shops.

The site is known as Halekulani Park and is comprised of Halekulani Community Hall, a small playground, multi-purpose courts, skate ramp, oval, cricket pitch, amenities building toilet block and informal car park.

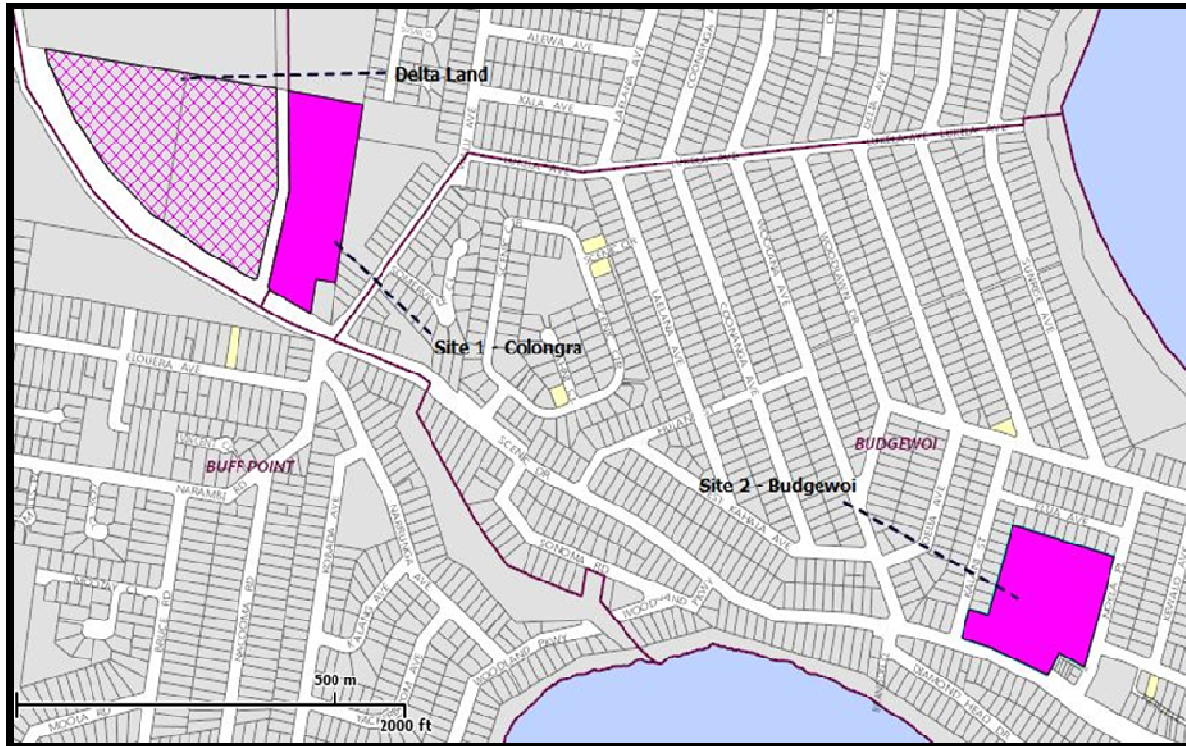


Figure 1 – Subject land

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THE PROPOSAL

It is proposed that a Planning Proposal prepared in accordance with the requirements of the EP&A Act 1979 be forwarded to the DP&E requesting a Gateway Determination.

The proposal involves two physically separated sites being dealt with under one Planning Proposal as the terms of the MOU shall require all the relevant land being considered suitable for rezoning and/or reclassification. As the proposal involves several site specific issues, for the purposes of this report the Colongra site currently owned by Fabcot Pty Ltd (Woolworths) is referred to as **Site 1-Colongra** and the Budgewoi site currently owned by Wyong Shire Council is referred to as **Site 2-Budgewoi**. The land identified as **Delta Land** in figure 1 forms part of a consolidated proposal at Colongra, discussed elsewhere in this report.

Site 1 - Colongra

It is proposed that the site at Colongra and the adjoining land to the west, owned by Delta Electricity be developed into a sporting complex.

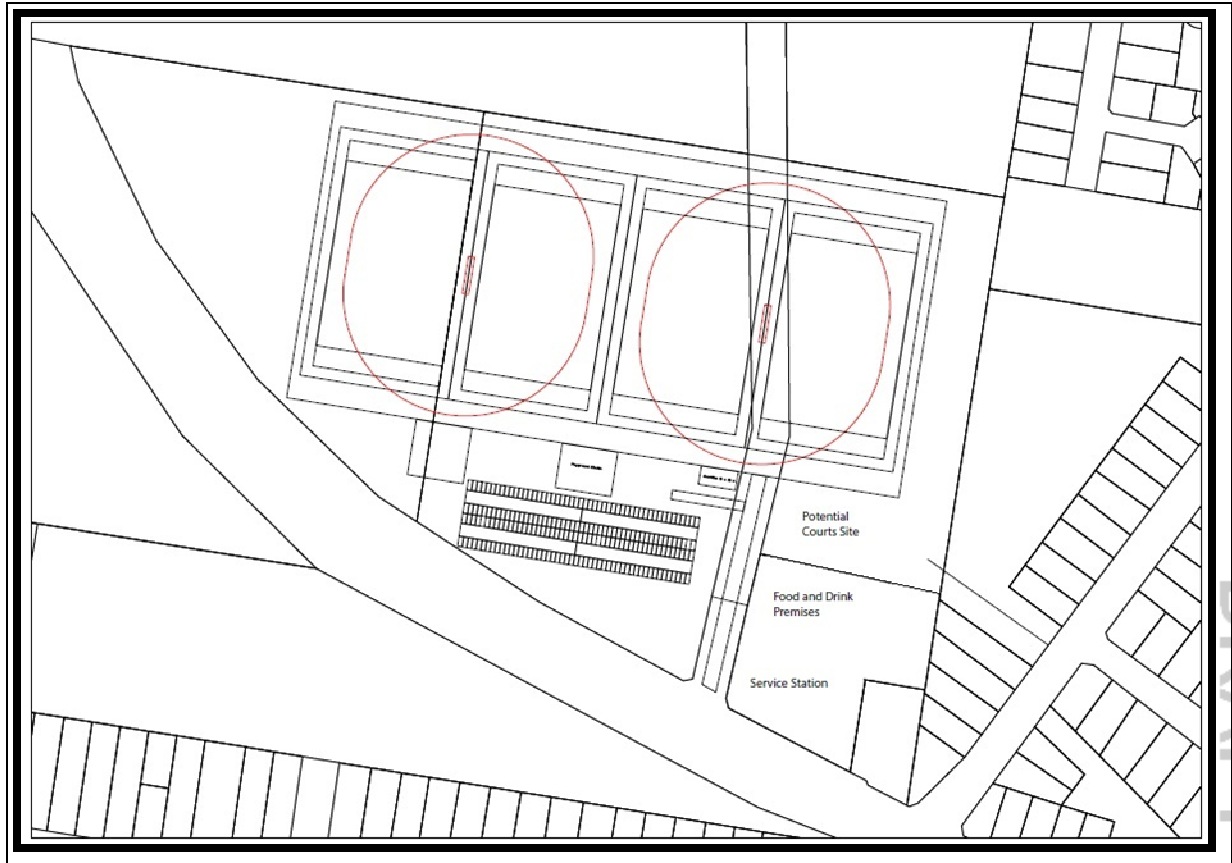


Figure 2 – Colongra Proposal (including Delta land)

All of the land allocated for the sports fields is currently zoned E3–Environmental Management. The sporting field development would be either defined as a recreation area or outdoor recreation facility under Wyong LEP 2013, both of which are permissible on E3 land with consent.

As part of the MOU with Woolworths, the proposal will involve the retention of part of 223 Scenic Drive for the construction of a petrol station which is currently not permissible in the E3 zone. Schedule 1 of Wyong LEP 2013 lists additional permitted uses for particular land. It is proposed that the Planning Proposal request that an Additional Permitted Use - *service station*, be added to the land uses permissible on Lot 1 DP 1049201, 223 Scenic Drive Colongra, through an addition to Schedule 1.

In addition Council has identified that the land could support an additional land use, *food and drink outlet* and still maintain adequate site area to allow for the proposed sporting fields. It is proposed that this use also be added as an additional permitted use on Lot 1 DP 1049201, 223 Scenic Drive Colongra.

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Site 2 – Budgewoi

It is proposed that a section of the existing sporting fields at Budgewoi be redeveloped for the purposes of a Woolworths supermarket and the northern part of the site redeveloped for medium density residential housing. The land is currently zoned RE1- Public Recreation with a strip of land approximately 11 metres wide fronting Scenic Drive zoned SP2 Road and Traffic facility. Both commercial and residential development is prohibited in the RE1 zone under Wyong LEP 2013.



Figure 3 – Site plan – Budgewoi proposal

It is proposed that the subject site be rezoned part B2 – Local Centre and part R1- General Residential. The proposal also involves the reclassification of the land from Community Land to Operational Land to permit the sale of the land and better reflect the future use of the land. It is proposed that the Community Hall be retained in its current location.



Figure 4 – Budgewoi- proposed rezoning

ASSESSMENT

In accordance with the EP&A Act 1979, assessment against the relevant strategic considerations of Council is required in the preparation of Planning Proposals. The following plans and policies provide the relevant considerations:

- Wyong Shire Council Strategic Plan
- Wyong Community Strategic Plan (CSP) 2030
- Budgewoi Masterplan
- Central Coast Regional Strategy
- North Wyong Shire Structure Plan
- Wyong Settlement Strategy
- Wyong Shire Retail Centres Strategy
- Relevant State Environmental Planning Policies
- Applicable Ministerial (Section 117) Directions

The proposal is considered to be generally consistent with these documents. Attachment 2 – *Draft Planning Proposal: Relationship to strategic planning framework*, details the assessment of the proposal against these considerations. This assessment indicates that the proposal has merit. In summary it is noted:

- That the proposal is consistent with the Central Coast Regional Strategy and Wyong Shire Retail Strategy by providing for the expansion of “in-centre” retail development at Budgewoi.

- That the proposal is generally consistent with the relevant SEPP's and Ministerial Section 117 Directions. It is noted that as the proposal will alter the zoning of land reserved for public purposes the approval of the Secretary of DP&E (formerly the role of the Director General) will be required. As there will be a net gain in land to be used for recreational purposes as part of the proposal it is considered there is justification for the alterations to publically reserved land.
- The Budgewoi Masterplan will be reviewed to reflect the expansion of the town centre. This may result in the development and public exhibition of site specific provisions in Wyong DCP 2013.

OPTIONS

Option 1 - Submission of a Planning Proposal over both sites with additional permitted uses at Site 1 – Colongra

Recommended option as described in this report.

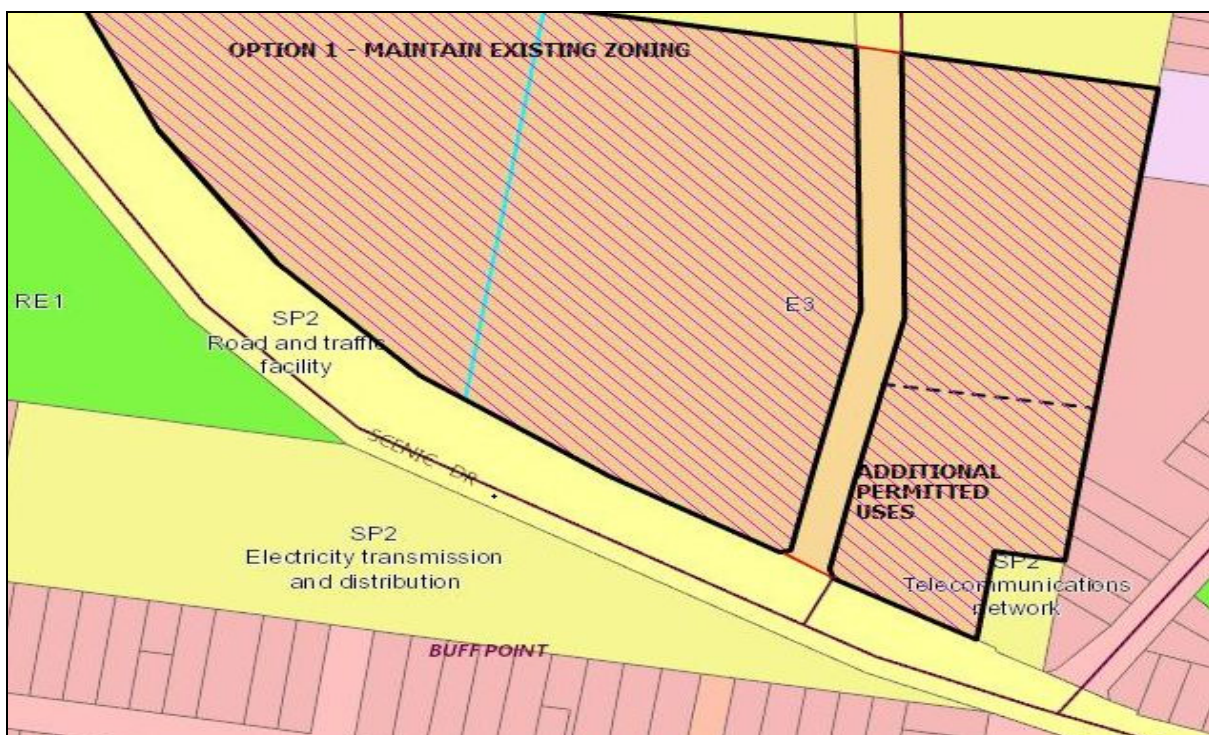


Figure 5 – Colongra – Option 1 - additional permitted uses and maintain the existing zoning over the proposed sports field land.

Option 2 - Submission of a Planning Proposal that rezones the entire Colongra/Delta site

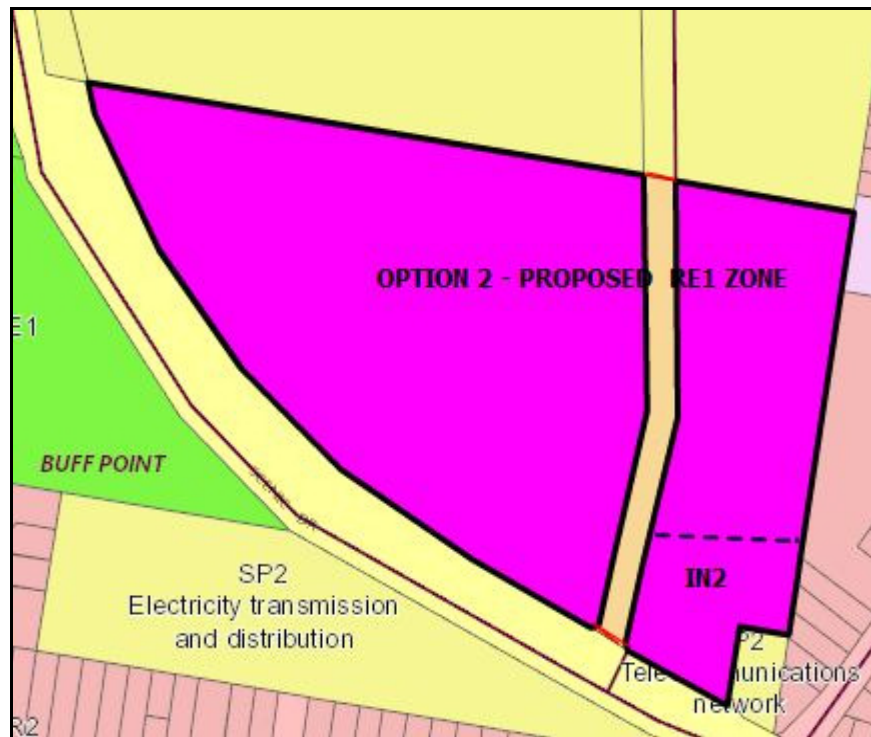


Figure 6 – Colongra – Option 2 rezoning as opposed to additional permitted uses

Rezoning considerations of the Delta land from E3 to RE1 or RE2 will raise potential complications such as Section 117 Direction inconsistencies requiring Ministerial approval. The Delta land is well vegetated and will require the completion of an environmental study to identify any site constraints. This process has been commenced by Council and will take 12 months to complete due to issues such as seasonal flowering/species identification. This timeframe does not align with those of DP&E who have requested that the rezoning process be completed by the end of 2014 (refer to attachment 1) and will better align with the timing of assessment under the development application process for the sporting fields.

Option 3 – Submission of two separate Planning Proposals

While this option would ensure that assessment issues for one site will not be delayed by issues of the other site, for the terms of the MOU and any subsequent VPA to be feasible, the development of both sites must be dealt with as a single proposal and allows Council to maintain satisfactory control of the proposal.

CONSULTATION

External Consultation

The Gateway Determination will provide the requirements for external consultation and public exhibition. It is likely that the Gateway Determination will require that authorities such as Roads and Maritime Services (RMS) and the Mines Subsidence Board be consulted during the public exhibition process. The results of the consultation process will be reported to Council.

Internal Consultation

Site 2 Budgewoi - Transportation Engineer

Council's Transportation Engineer has undertaken preliminary traffic modelling of the intersection of Central Coast Highway and Noela Place, which included traffic generated by the proposed supermarket development and background traffic growth to 2024.

The results of the modelling indicate that the existing roundabout would continue to operate at a satisfactory level of service for the next 10 years if the development proposal proceeds. The traffic modelling results have been referred to Roads and Maritime Services (RMS) for confirmation.

Any re-zoning and subsequent development application will require RMS concurrence in accordance with SEPP "Infrastructure". Any advice received by RMS at this stage cannot be taken as concurrence and may be subject to change as part of the formal referral process.

Site 2 Budgewoi - Development Engineering

There is significant fall across the proposed supermarket site that will need to be considered for any development proposal and may impact on parking, existing services and fill requirements. Water, sewer and drainage upgrades also need to be considered in development costs.

Site 2 Budgewoi – Water and Sewer Comments

The proposed supermarket carpark site is currently traversed by a 380mm diameter trunk water main. This main would likely require relocation as part of bulk earthworks required for the site. This relocation would be designed and constructed by the developer, subject to approvals and supervision by Council staff.

Connections to the existing reticulation mains would be required for the proposed residential subdivision and the proposed commercial space. A hydraulic consultant would be required to determine requirements for fire-fighting provisions at the commercial space.

The site drains to a Sewage Pumping Station which has adequate capacity to accept the associated loads.

Additional reticulation infrastructure will be required to service the proposed sites and an assessment of downstream pipe capacities would be made once connection points were nominated as part of the development application review process.

Site 1 Colongra - Traffic and Transport (Relevant comments from previous assessment RZ/8/2012)

Access to the site is via Scenic Drive only, which is a classified road and will require consultation with Road & Maritime Services (RMS). Approximately 26.0 metres of road reserve is available to the north of Scenic Drive for road widening to accommodate right and left deceleration turn bays and access to the development site. An unformed road adjacent to the site is owned by the Crown and could provide access to the site.

Site 1 Colongra – Servicing (Relevant comments from previous assessment RZ/8/2012)

The initial servicing report by consultants Mott MacDonald has identified a point of connection via an existing water main that currently terminates outside the existing adjacent Telstra property. Subject to a confirmation of proposed loading (both commercial usage and fire flow requirements) it is likely that the development could be serviced from this main following some localised upgrade work (note: this comment was based on a larger proposal for a full-line supermarket and service station).

The initial servicing report by consultants Mott MacDonald has identified two points of connection to existing gravity sewerage. Both connection points contribute to Sewerage Pump Station T27, which currently has spare capacity for future growth before any upgrades are required.

Site 1 Colongra & Delta Land - Flora and Fauna (Relevant ecologist comments from previous assessment RZ/8/2012)

The northern section of the site contains significant areas of vegetation. The site sits on the periphery of a Regional Vegetation Corridor identified under the North Wyong Shire Structure Plan (NWSSP) and the vegetation on site provides connectivity to a defined stream to the east.

A Constraints Report by Ecobiological was submitted with the (original Woolworths) proposal. The report is not conclusive as to the impact that development would have on the entire site though there would be little constraint to development of the land already cleared (this is generally consistent with the area where the service station and food outlet are proposed). The report identified that additional field work would be required due to the presence of hollow bearing species as 36 hollow bearing trees and the potential for some threatened plant species to be present on the site that have flowering (identification) periods outside of the times this survey.

Delta Land – Hydrology

This site is considered to act as an informal detention basin, which if lost will be negative flooding impacts downstream. It appears that stormwater builds up in the south-east corner of the site to depths of about 2m. This results in a total ponded area of about 1.05 ha, with about 0.7 ha on the site itself. The footprint of the proposed sports field car park covers this depressed area, which would require filling. It is not feasible to satisfactory upgrade the downstream existing stormwater system, however it may be feasible to construct a new pipe

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system within Scenic Drive to divert this stormwater runoff to the adjacent catchment to the east.

Site 2 Budgewoi – Hydrology

Development of the site will increase the stormwater runoff in Noela Place, in terms of peak flow and volume. The existing 375mm pipe would need to be upgraded.

GOVERNANCE AND POLICY IMPLICATIONS

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

Rezoning of the land is undertaken by preparing an amendment to the LEP through progressing of a Planning Proposal under sections 55-59 of the Environmental Planning and Assessment Act 1979.

Section 55 requires Council to prepare a Planning Proposal that explains the intended effect of the amendment to the LEP and sets out the justification for the amendment. Section 55 specifies matters to be included in the Planning Proposal.

Section 56 provides that Council submit the Planning Proposal to the Minister for a Gateway Determination who will advise whether or not the matter should proceed (with or without variation), and may specify further studies or modifications to the proposal, community and government agency consultation requirements and other matters.

Provisions introduced in 2012 now permit Council to request delegation from the Minister for Planning for the determination of locally significant planning proposals. As this proposal involves Council as the proponent it is unlikely that Delegation would be granted.

As the proposal involves the reclassification of land from Community to Operational Land, in accordance with the requirements of the Local Government Act 1993 a Public Hearing will be required as part of the consultation process.

MATERIAL RISKS AND ISSUES

The rezoning process is one of several steps in the process of the proposal proceeding as proposed. Public Exhibition of the Planning Proposal will not be commenced until a satisfactory agreement between Council and Woolworths is in place. Any VPA will need to be placed on public exhibition. Any such agreement will need to consider several issues, including but not limited to contingency for:

- **Budgewoi** - Roadworks – most significantly intersection upgrades
- **Delta land** - Drainage – detention basin work
- **Colongra** (and Delta land) – Outcome of environmental assessments
- **Budgewoi** – Trunk main relocation

CONCLUSION

Subject to the Gateway Determination and public exhibition, the proposed development of a shopping centre on the existing sporting fields at Budgewoi and redevelopment of land at Colongra as sporting fields was recommended by the JRPP. The proposal will increase the shopping and employment opportunities in Budgewoi and provide a new and improved sporting complex for the area. Initial assessment indicates that there is merit in the proposal subject to costs being contained and appropriately shared.

The option of Submission of a Planning Proposal over both sites with additional permitted uses at Site 1 – Colongra provides the most appropriate means to ensure that the proposal can be dealt with expeditiously.

The Gateway Determination will provide Council with referral requirements and any further information that is to be provided prior to public exhibition. The results of the public exhibition and the consultation process will provide Council with the appropriate information to determine the application, in a report that will be provided following the conclusion of the exhibition process.

ATTACHMENTS

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|----------|--|-----------|
| 1 | DP&E - Currently considering recommendation Joint Regional Planning Panel - Ask details alternative site Halekulani Oval - Pre Gateway Review 223 Scenic Dr Colongra - Planning Infrastructure | D06138651 |
| 2 | Draft Planning Proposal - Section B - Relationship to Strategic Planning Framework - 2 July 2014 - RZ-5-2014 | D09886069 |
| 3 | DP&E - request the submisison of a Planning Proposal | D09984486 |

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