

## 5.4 Proposed Rezoning of Beachcomber Hotel/Motel Site - 200 Main Road, Toukley

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TRIM REFERENCE: RZ/6/2015 - D12134290

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### SUMMARY

Council is in receipt of a request to amend Wyong Local Environmental Plan 2013 (rezoning application), which seeks to rezone 200 Main Road Toukley from SP3 Tourist to B4 Mixed Use.

This report recommends that Council support the proposal and endorse the Beachcomber Hotel/Motel as a "Key Site". It is also recommended that Council proceed to prepare a Planning Proposal to be forwarded to the Department of Planning and Environment (DP&E) for gateway determination.

Applicant	DFP Planning Pty Limited
Owners	Rifon 2 Pty Ltd
Proposal No	RZ/6/2015
Description of Land	Lots 31 & 32, DP 805021, 200 Main Road, Toukley.
Site Area	1.084Ha
Current Zoning	SP3 – Tourist
Proposed Zoning	B4 – Mixed Use
Existing Use	Hotel/Motel and Conference Facility

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### RECOMMENDATION

- 1 That Council **endorse** the designation of 200 Main Road Toukley as a "Key Site".
- 2 That Council **prepare** a planning proposal to amend the Wyong Local Environmental Plan (WLEP 2013) to rezone the land to B4 Mixed Use, and to alter the Key Site, Height and Floor Space Ratio Maps to enable the development proposed, pursuant to Section 55 of the Environmental Planning and Assessment (EP&A) Act, 1979.
- 3 That Council **forward** the planning proposal to the Department of Planning and Environment requesting a gateway determination, as well as delegation for Council to finalise and make the draft Local Environmental Plan, pursuant to Section 56 (1) of the EP&A Act, 1979.
- 4 That Council **enter** into a Voluntary Planning Agreement (VPA) which will provide for contributions by the landowner toward the provision of public benefit works in the immediate locality, to the value of 1.5 times the applicable contributions applying to the development under Section 94 of the EP&A Act, 1979.

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- 5 That Council authorise the Acting Chief Executive Officer (or delegate) to negotiate and execute all documentation in relation to the finalisation of the VPA.
- 6 That Council require, subject to the “Gateway Determination” that the landowner in conjunction with Council prepare and exhibit appropriate Development Control Plan provisions to amend Development Control Plan 2013, and that Council amend Section 94 Development Contributions Plans (if required) to support the development of the land subject to this Planning Proposal.
- 7 That Council undertake community and public authority consultation, in accordance with the “Gateway Determination” requirements, including the exhibition of the draft Voluntary Planning Agreement and draft Development Control Plan amendment and draft s.94 Development Contributions Plan amendment (if required).
- 8 That a report to Council be prepared outlining the results of the community and public authority consultation.

## BACKGROUND

The subject site is located 350m west of the Toukley Town Centre and has frontages to Main Road and Lake Budgewoi. The site is located immediately west of the “Rustrum Key Site”, and is approximately 3.5 times larger. Existing development on the site comprises the Beachcomber Hotel, conference/function facilities and tourist accommodation. The Beachcomber site is a large (1.05Ha) site, sloping away from Main Road toward Lake Budgewoi and enjoys expansive lake views.



Figure 1: Beachcomber Location Site Aerial

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The applicant has advised that increasingly there have been reports of anti-social behaviour by some persons attending the club/pub and noise complaints from the mainly residential surrounding area. These factors have contributed to a down turn in the occupancy rates of the motel component to the extent that even during peak holiday periods the occupancy rates are around 30/35%. The applicant has advised that tourist accommodation and the hotel no longer represent viable or desirable development on the site and that a mixed use zoning would enable a more viable development of the site.

### THE PROPOSAL

The objective is to allow a mixed use development (tourist apartments, residential apartments, ground floor retail) in two main buildings, to be undertaken on the site.

The concept scheme provides for:

- A lake front podium which 'sits' into the slope of the land. The podium comprises 2 levels of residential apartments, fronting the underground basement parking.
- On the eastern side of the site the concept plan shows a 9 storey mixed use building comprising ground floor commercial uses (for example bar and restaurant) with 8 storeys of residential apartments above.
- On the western side of the site a 6 storey mixed use building is shown. The ground floor uses within this building as shown in the concept scheme includes community rooms associated with the residential components and a small retail outlet (for example – a convenience store).
- The area above the podium between the buildings is shown as landscaped area.
- The concept scheme provides for a minimum setback for the podium of 10m to the northern property boundary and a similar setback for the two mixed use buildings to the Main Road frontage.
- The overall FSR of the concept scheme is 1.95:1 with a maximum site coverage, excluding the podium, of 22.8%. The maximum site coverage including the podium is 36.9%.
- This compares to the existing development on the site which has an approximate FSR of 0.6:1 and a site coverage of almost 50%.

The main buildings have been deliberately angled on the site to enhance views and solar access for future apartments within the buildings and also to allow for views through the site from the public domain along Main Road. The placement of buildings as shown in the concept scheme will also provide a view corridor through the site from properties on the southern side of Main Road. The concept scheme provides for a landscaped foreshore area between the podium and the lake edge and a landscape forecourt which will extend from Main Road between the buildings and across the top of the podium at the northern edge. The concept scheme provides for the retention of some existing trees along the lake foreshore.



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Figure 2: Concept Development, viewed from Lake Budgewoi



Figure 3: Eye level and Elevated Views of the Concept Development from Main Road

**SITE CONTEXT**

The Beachcomber site is flanked to the west by medium density residential development which is generally of a 2 storey height to the Main Road frontage, and 3-4 storeys to the lake elevation. The site is located opposite a mix of vacant lands, residential properties and existing commercial uses, being within an R3 Medium Density Residential zoning. The commercial uses include 2 motels, restaurants, shops, take-away food premises, and community organisations.

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There is a synergy between the adjoining Rustrum site and the Beachcomber site. The Rustrum site was identified as a key site for an “iconic development” in recognition of its lakeside location in close proximity to Toukley Town Centre and the Toukley Gardens park adjoining. Council recognised the potential to provide significant access and amenity benefits to the community in return for bonus development potential on the amalgamated sites, which would stimulate the further development, vitality and viability of the Toukley Town Centre. The Beachcomber site is also considered capable of delivering significant public benefits, but on a much larger scale. It is also considered that a mixed use development comprising residential apartments above ground floor commercial uses, set within large areas of ground level landscaped open space providing views to Budgewoi Lake, will further assist to activate the precinct, and will represent a more attractive and appropriate development outcome having regard to the existing and likely future character of the area. The proximity of the Beachcomber site to the Rustrum Key Site presents an opportunity to provide a transition in development height and form, stepping up to form bold and iconic development at the western gateway to the Toukley town centre.

The concept scheme for the Beachcomber site has been developed with the proposed development of the Rustrum site in mind. In particular, impacts on the streetscape, cumulative overshadowing impacts, building separation and building bulk have been considered in determining the most appropriate development controls for the Beachcomber site. Identification of the land as a “key site” will enable additional development height and density, while requiring the delivery of a green building design displaying design excellence, respecting environmental constraints and the amenity of adjoining lands, as well as delivering significant public benefits to the community.

The subject land is currently serviced with electricity, telephone, water, sewerage and drainage infrastructure which can be embellished to accommodate the future “iconic development”. It is an urban in-fill redevelopment site, not contributing to the consumption of additional urban fringe land. The development of tourist and permanent residential accommodation, together with additional hospitality based commercial floorspace, is important to the economy of the region and will lead to the better utilisation of existing infrastructure and services.

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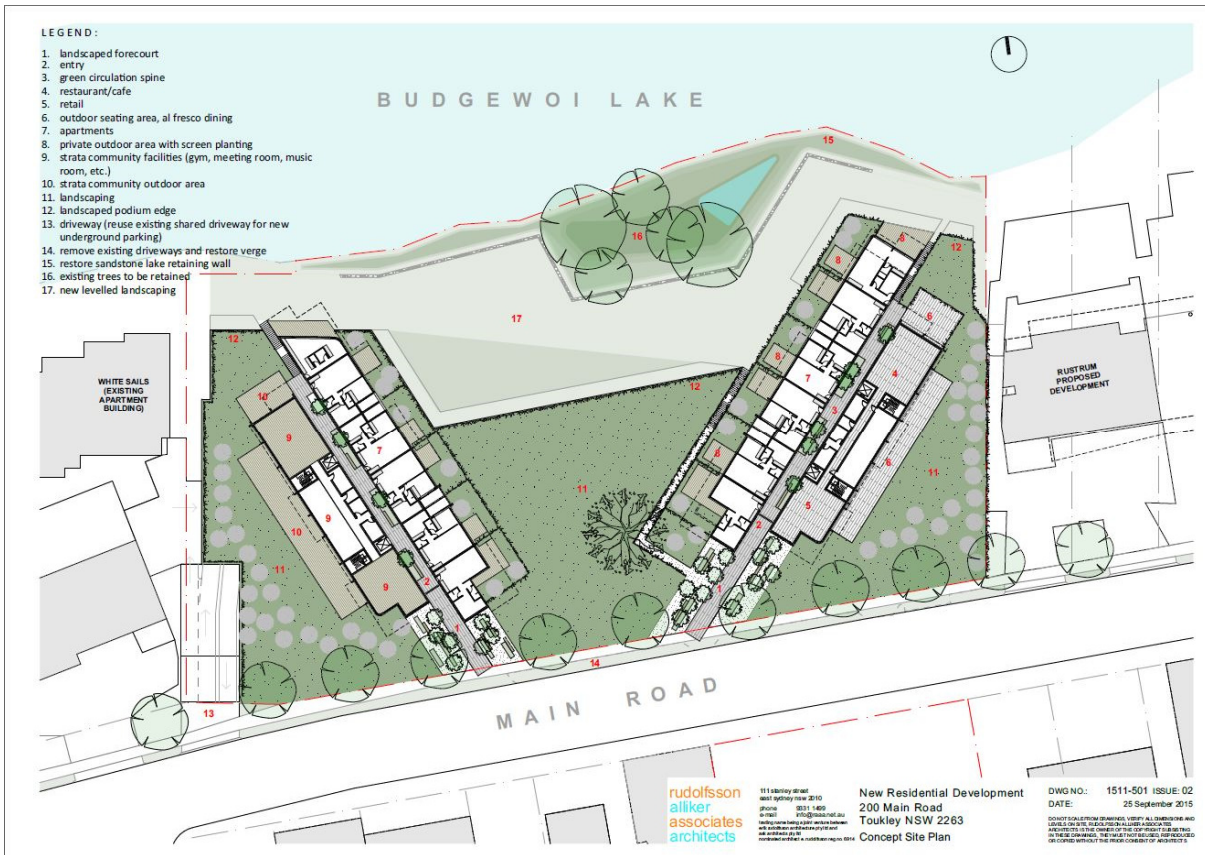


Figure 4: Development and landscape Concept

### PROPOSED WLEP 2013 AMENDMENTS

Under the existing SP3 Tourist zoning a 16m (4 – 5 storey) height limit applies to the site and a limited range of tourist and compatible uses are permissible with consent. The intended outcome is to amend the provisions of WLEP 2013, to identify the land as a "key site" for "iconic development". The amendment of WLEP provisions as they apply to the site would include:

- Rezone the land from SP3 Tourist to B4 Mixed Use (the same zone proposed for the neighbouring Rustrum site);
- Retain the 16m limit on the Height Map for development on site which cannot be determined as "iconic" (as for the Rustrum site);
- Include the land on the Key Sites Map, and indicate by the numbers 26 and 36 that the height of building controls across the site permit an "iconic development" which achieves a maximum height of 36m for the eastern half of the site and a maximum of 26m for the western half; and
- Increase the maximum permissible floor space ratio (FSR) across the site to 1.7:1 (as for the Rustrum site) and maintain the identification of the site as being within Area 2.

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The “iconic development” would achieve a maximum 2.0:1 FSR (due to the size of the development parcel and the FSR bonus available to large sites under Cl. 4.4(2B) of the WLEP 2013). These changes will enable an “iconic development” (Cl.7.11) which has regard for the adjoining 10 storey Rustrum development and “steps down” in two buildings (from 9 to 6 storeys) toward the lower density developments (3 – 4 storeys) to the west of the site.

This will provide a better transition of urban forms and an interesting gateway to Toukley Town Centre. The development will be a catalyst to further economic growth and business activity.

### **STATUTORY COMPLIANCE - LOCAL PLANS POLICIES AND STRATEGIES**

#### **State Environmental Planning Policies**

The proposal has been assessed having regard for all State Environmental Planning Policies and has been found to be consistent with those Policies. Compliance with the SEPPs is addressed in Attachment 1.

#### **Central Coast Regional Strategy**

The Central Coast Regional Strategy (CCRS) was released by the DP&E in July 2008. The CCRS identifies the population potential of the Central Coast expected by 2031, expected employment capacity targets and the likely phasing of release areas. The strategy also identifies actions and principles to ensure ongoing growth and prosperity of the region, including actions for centres and housing, economy and employment, environment and natural resources, natural hazards, water supply, regional infrastructure and regional transport.

The population potential as expressed by the CCRS is expected to be an additional 71,100 people in the Shire at 2031, distributed as defined by the Strategy. This urban in-fill redevelopment site within 350m of the Toukley Town Centre and on a main road frontage has the potential to contribute strongly to the provision and variety of housing in the locality. As a Shire, the strategy anticipates that Wyong will be required to create an additional 27,000 jobs. The construction and ongoing operational jobs which will be created by a development of this nature (approx. \$52.8M construction cost) addresses this aspect of the Strategy.

The CCRS provides under the “Key Economic Opportunities for the Region”, that “the regions tourism advantages are also likely to increase”. The Planning Proposal will enable a development which will attract and accommodate tourists, who will contribute to the fuller utilisation of local cultural and community facilities, open space, sports and recreation facilities. Such proposals also result in job creation in the management and service industries. Support for tourism and the economic benefits both direct and indirect are key objectives of the Strategy to the Wyong LGA.

### **North Wyong Shire Structure Plan**

The broad strategies within the CCRS were further developed and refined in the release of the North Wyong Shire Structure Plan (NWSSP) in October, 2012. The Plan seeks the provision of approximately 7,970 additional dwellings and 1360 jobs in the north of the Wyong LGA during the medium term years to 2027.

The Proposal will increase the permissible residential density of the land (approximately 160 residential apartments) and lead to job creation in the local community and is therefore consistent with the structure plan.

### **Ministerial Directions under Section 117 of the Environmental Planning Assessment Act 1979**

Section 117 of the EP&A Act 1979 provides for the Minister for Planning and Environment to issue directions to Council specifying principles, aims, objectives or policies that must be considered when preparing a local environmental plan. The current s.117 directions that apply to the preparation of an LEP associated with this Planning Proposal are addressed in Attachment 2. The proposal is generally consistent with the relevant Directions.

### **BUDGET IMPACT**

The Planning Proposal is privately funded. Phase 1 fees were paid at lodgement, for preliminary assessment and the preparation of a report, to gauge whether there is merit for Council to support the Proposal. Subject to any "Gateway Determination," the proponent would be required to pay Phase 2 fees, and any subsequent fee invoices where the estimated hours are exceeded, in accordance with Council's Planning Proposal Procedure in order to recover the costs involved in further progressing the proposal.

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### **CONSULTATION**

Government Agency and Public Consultation requirements for the Planning Proposal will be established by the "Gateway" determination, and will be conducted accordingly.

It is likely that the Gateway Determination may require the following groups and NSW Public Authorities to be consulted:

- Mine Subsidence Board;
- NSW Trade and Investment - Minerals and Petroleum;
- NSW Office of Environment & Heritage;
- NSW Roads and Maritime Services; and
- NSW Planning and Environment.



### **Draft Development Control Plan**

The applicant has submitted a draft DCP Chapter, identifying the design quality issues for the site, as required by Clause 7.11 of the WLEP 2013. The provisions require a “green” or “sustainable building design”. That means a building that incorporates design, construction and operational practices that significantly reduce or eliminate the negative impact of development on the environment and its occupants. This includes strategies for addressing:

- energy efficiency;
- greenhouse gas emission abatement;
- water conservation;
- waste avoidance, reuse and recycling;
- pollution prevention – noise, water, air, soil and light;
- enhanced biodiversity;
- reduced natural resource consumption;
- productive and healthier environments; and
- flexible and adaptable spaces.

In addition the draft DCP Chapter also incorporates amenity, siting, public domain, parking and access requirements. The draft DCP is considered to incorporate most elements however is being reviewed. It is proposed that the draft DCP be placed on public exhibition for comment, subject to the determination of Council and the gateway conditions.

### **Developer Contributions**

Developer contributions for water and sewer services are applicable under the Toukley District Development Servicing Plan (DSP), and will be payable prior to the issue of a Construction Certificate for any development on the site. Further, development contributions toward the provision of public works and services are also applicable. These are levied in accordance with s.94 of the EP&A Act (e.g., open space, community facilities and drainage works), and s.94A (e.g., contributions toward the Art house and the Cycleway Network). Should there be any need for amendment of these plans to accommodate the development, they can be reviewed and exhibited in conjunction with public exhibition of the proposal.

### **Draft Voluntary Planning Agreement**

The applicant has requested recognition of the site as a “key site” and has offered to provide additional contributions towards improvements in the Toukley town centre, as noted in the Toukley Town Centre Masterplan and identified within DCP 2013: Chapter 6.1 - Key Sites. Clause 2.11: “Other Public Benefits” requires that “iconic development” as identified is required to contribute payment of 1.5 x s.94 charges applying to the development proposal. This effectively means that an additional dollar amount equal to half the required total contributions is provided toward “public benefit” works.

The proponent is keen to ensure that the benefits that are provided are those which are most valued and desired by Council and the community, and will engage with Council to determine the scope of potential public benefits which can be facilitated through those contributions, via Voluntary Planning Agreement (VPA). The proposed VPA (and amendments to WLEP, WDCP and (if necessary) applicable s.94 Development Contributions Plans) will be exhibited concurrently to maximise clarity and certainty for the community. The suite of planning controls will be site specific to deliver quality built outcomes and secure substantial public benefit.

## GOVERNANCE

### Consideration of s.23A guidelines

The Chief Executive of the NSW Office for Local Government has issued guidelines titled “*Council Decision Making during Merger Proposal Periods*” pursuant to s.23A(1) of the *Local Government Act 1993* (“LG Act”). The Council must consider those guidelines when making decisions during the “merger proposal period”, which commenced on 6 January 2016 and will conclude on the date on which a proclamation is made to amalgamate the Wyong and Gosford local government areas or the Minister for Local Government determines that he will not proceed with the proposal for that amalgamation: s.23A(3) of the LG Act. Councillors have been provided with a copy of those guidelines and have been given advice concerning those guidelines. The decisions that are proposed as part of this report comply with those guidelines.

## CONCLUSION

An assessment of the request to rezone 200 Main Road Toukley, the Beachcomber Site, has been undertaken. The proposal is considered to have merit and would facilitate additional development of iconic and architectural value which will encourage further investment within the Toukley area. The ‘significant public benefit’ offer that the owner has proposed will be secured through the Voluntary Planning Agreement and draft Development Control Plan provisions, which are to be developed by Council in conjunction with the applicant. It is considered that the proposal should be supported and be forwarded to the DP&E for a gateway determination.

## ATTACHMENTS

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| 1 | Attachment 1 - State Environmental Planning Policy Assessment - RZ_6_2015 | D12135152 |
| 2 | Attachment 2 - Ministerial Section 117 Directions - RZ62015               | D12135158 |

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