

## Planning Services

IRF19/2249

### Gateway determination report

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| <b>LGA</b>                      | Wingecarribee  |
| <b>PPA</b>                      | Wingecarribee Shire Council  |
| <b>NAME</b>                     | Rezoning and reduction in minimum lot size on the corner of Old South Road and Bowral Street, Bowral (23-28 dwellings) |
| <b>NUMBER</b>                   | PP_2019_WINGE_002_00   |
| <b>LEP TO BE AMENDED</b>        | Wingecarribee Local Environmental Plan 2010  |
| <b>ADDRESS</b>                  | Various lots on the corner of Old South Road and Bowral Street, Bowral   |
| <b>DESCRIPTION</b>              | Refer to site description in report  |
| <b>RECEIVED</b>                 | 29 April 2019 (v. 2.1)   |
| <b>FILE NO.</b>                 | IRF19/2249   |
| <b>POLITICAL DONATIONS</b>      | There are no donations or gifts to disclose and a political donation disclosure is not required.                       |
| <b>LOBBYIST CODE OF CONDUCT</b> | There have been no meetings or communications with registered lobbyists with respect to this proposal.                 |

### INTRODUCTION

#### Description of planning proposal

The planning proposal seeks to amend the Wingecarribee Local Environmental Plan 2010 (Wingecarribee LEP) to rezone land on the corner of Old South Road and Bowral Street, Bowral from R5 Large Lot Residential to R2 Low Density Residential and reduce the minimum lot size from 4,000 m<sup>2</sup> to 1,000 m<sup>2</sup>.

#### Site description

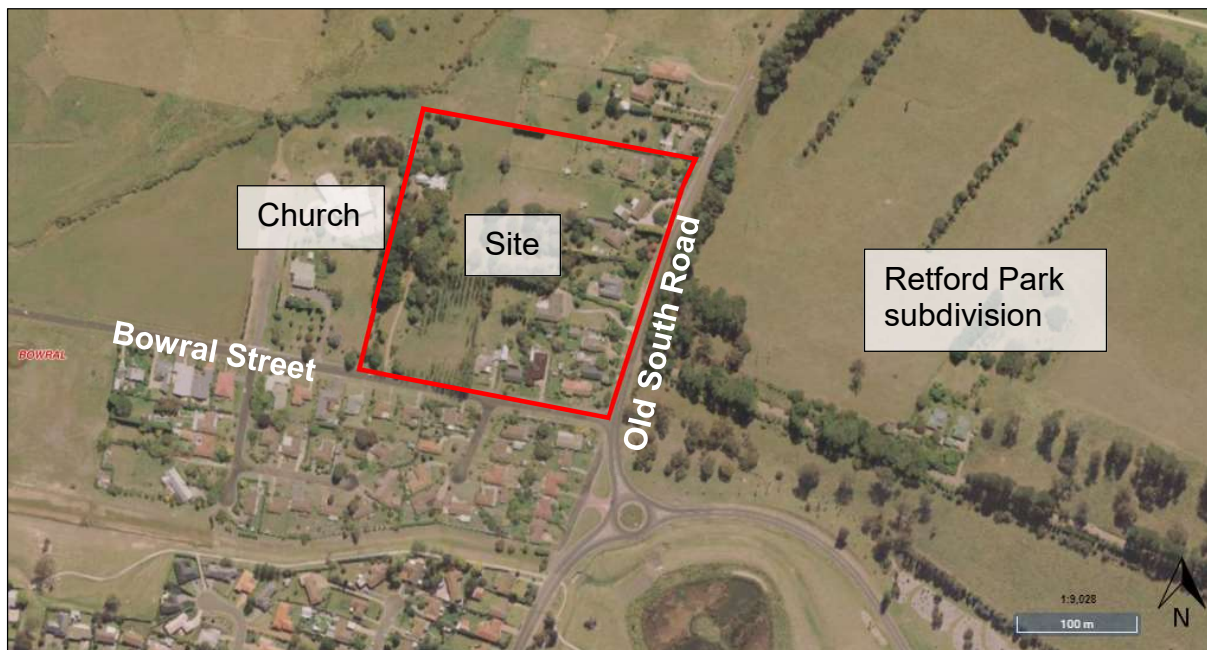
The site is located on the eastern side of Bowral on the corner of Old South Road and Bowral Street, Bowral (Figure 1). The land is legally described as:

- 190 Bowral Road, Bowral – Lots 13 and 22, Section D, DP 192732 and Lot 131 DP 524470;
- 196 Bowral Street, Bowral – Lot 1 DP 708665;
- 198 Bowral Street, Bowral – Lot 2 DP 708665;
- 200 Bowral Street, Bowral – Lot 3 DP 708665;
- 202 Bowral Street, Bowral – Lot 4 DP 708665;
- 146 Old South Road, Bowral – Lot 5 DP 708665;
- 148 Old South Road, Bowral – Lot 6 DP 708665;
- 150 Old South Road, Bowral – Lot 1 DP 626821;
- 152 Old South Road, Bowral – Lot 2 DP 626821;
- 158 Old South Road, Bowral – Lot 8 DP 770871;
- 160 Old South Road, Bowral – Lot 7 DP 786212; and
- 164 Old South Road, Bowral – Lot 1 DP 782827.

The total combined area of the lots is estimated to be 4.6 hectares (ha). The lots range in size from approximately 1,000 m<sup>2</sup> to 4,000 m<sup>2</sup>. The largest lot is located at 190 Bowral Road with an area of 1.6 ha (approximately 16,000 m<sup>2</sup>).

The land contains several dwellings with the majority fronting Old South Road to the east. Land to the east of the site is comprised of predominantly grass paddocks. Utility services (gas, water etc) are available on site.

A recent flood study adopted by Council identifies that a small portion of the site in the north-west corner is flood affected, although this is not shown on Council's flood mapping. The land is generally flat and falls to the north and is not mapped as bushfire prone.



**Figure 1 – Site map**

### **Existing planning controls**

The site is currently zoned R5 Large Lot Residential and has a minimum lot size of 4,000 m<sup>2</sup> under the Wingecarribee LEP.

### **Surrounding area**

The site is surrounded by:

- large lot residential dwellings and open space to the north (zoned R5);
- the recently completed Retford Park residential subdivision to the east (zoned R2);
- Bowral Street and residential dwellings further beyond to the south (zoned R2);
- large lot residential dwellings and open space to the north (zoned R5); and
- the Seventh Day Adventist Church and an associated child care centre bounding the site to the west (zoned R5).



**Figure 2 – Site and locality map**

### **Summary of recommendation**

It is recommended that the planning proposal proceed as submitted as it is consistent with the Regional Plan and the Wingecarribee Local Planning Strategy by providing greater housing supply and choice in suitable locations which are close to (and utilise) existing infrastructure and services.

## **PROPOSAL**

### **Objectives or intended outcomes**

The objective of the planning proposal is to amend the Wingecarribee LEP to enable low density residential development on the site (shown Figure 1).

It is estimated that up to 28 dwelling lots could be created from the proposal.

### **Explanation of provisions**

The planning proposal is clear in identifying the relevant Minimum Lot Size and Land Zoning changes and relevant Maps in the Wingecarribee LEP that will require amendment to achieve the objectives and intended outcomes of the planning proposal, including:

- Land Zoning Map – Sheet LZN\_007J; and
- Lot Size Map – Sheet LSZ\_007J.



## **Mapping**

The proposal will require the amendment of the relevant Minimum Lot Size and Land Zoning Maps in the Wingecarribee LEP. Council has included draft maps in the planning proposal which are considered appropriate for exhibition purposes.

## **NEED FOR THE PLANNING PROPOSAL**

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The planning proposal is needed to enable low density residential development of the site consistent with local and regional strategic planning objectives to provide greater housing supply and choice in suitable locations which are close to (and utilise) existing infrastructure and services.

Council has considered a range of alternative options to achieve the intended outcomes of the planning proposal such as:

- Development application and Clause 4.6 variation – however a minimum lot size variation from 4,000 m<sup>2</sup> to 1,000 m<sup>2</sup> was considered too significant; and
- Schedule 1 amendment – however the proposal seeks to amend the land use and minimum lot size controls applying to multiple sites and this avenue was therefore deemed inappropriate.

The Department agrees a planning proposal of this nature is the best way to achieve the intended objectives and outcomes.

## **STRATEGIC ASSESSMENT**

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### **South East and Tablelands Regional Plan**

Key goals and directions of the Regional Plan relevant to the proposal include:

- Goal 4: Environmentally sustainable housing choices;
- Direction 24: Deliver greater housing supply and choice; and
- Direction 25: Focus housing growth in locations that maximise infrastructure and services.

Council considered the planning proposal to be consistent with the Regional Plan for the following reasons:

- the land is in the Bowral urban area and the resultant subdivision pattern is likely to be similar to adjacent residential areas;
- the proposal will enable additional housing supply and choice in Bowral;
- the proposal will not have any impact on the amenity and character of the Bowral;
- the planning proposal will enable the efficient use of land without requiring any significant augmentation of utilities, roads or public transport; and
- the land is near Bowral Town Centre, Bowral Train Station and Bowral Hospital and other services.

The Department also notes that planning for residential growth in existing urban areas and increasing housing in Bowral are specific priorities identified for the Wingecarribee Shire in the Regional Plan.

The Department agrees with Council and is satisfied the proposal is consistent the Regional Plan.

## **Wingecarribee Local Planning Strategy**

The Department has endorsed Council's Local Planning Strategy (LPS) excluding Chapter 4 – Managing Housing Needs, because sufficient potential greenfield housing release areas to meet housing needs across the LGA were not identified.

Council considers the planning proposal to be consistent with Chapter 4 of the LPS as it constitutes infill development which will rely on connections to existing infrastructure and services and require minimal augmentation. Council notes the land does not have significant environmental constraints (like most R5 zoned land) and is capable of low-density development.

Council considers the planning proposal to be consistent with the LPS (Part 2 – Bowral Township) by providing new housing in the Bowral township. Council notes the planning proposal is supported by a Social Economic Impact Assessment which concludes the proposal will have a positive socio-economic impact on the Bowral locality by providing greater housing supply and choice to meet the needs of the community and creating additional jobs.

The Department agrees with Council and considers the proposal to be generally consistent with the LPS.

### **Section 9.1 Ministerial Directions**

The planning proposal has identified applicable section 9.1 Directions.

Directions of particular relevance are discussed below:

#### **3.1 Residential Zones**

This Direction applies to planning proposals affecting residential zones and other zones on which significant residential development is permitted or proposed. The Direction aims to encourage housing to meet local demand, ensuring new housing makes efficient use of existing infrastructure and services and minimise the impact of residential development on the environment.

The Department is satisfied the planning proposal is consistent with the aims of this Direction.

#### **4.3 Flood Prone Land**

The objectives of this Direction are to ensure development of flood prone land is consistent with NSW Government policy and LEP provisions suitably capture flood hazards.

The site is not mapped by Council as flood prone land but is known to be partially flood affected through a recent study endorsed by Council. The flood study found that a small portion of the site in the north-west corner is flood affected during a 1 in 100-year flood event. The study also found recent road upgrades and stormwater works on the eastern side of Old South Road are likely to have reduced overland flows.

Given the minor nature of flood affectation, the Department is satisfied the site is capable of low-density residential development without significant flooding impacts. Assessment of future development applications would require any dwelling to be sited outside of the relevant flood planning level.

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

#### 4.4 Planning for Bushfire Protection

Land to the north-west of the site is mapped as bushfire prone land.

Consultation has not occurred with the NSW Rural Fire Service (NSW RFS) and consistency with Direction 4.4 remains unresolved at this stage.

A Gateway condition has therefore been recommended requiring consultation the NSW RFS.

#### Direction 5.2 Sydney Drinking Water Catchment

This Direction aims to protect water quality in Sydney's Drinking Water Catchment, including land within the Wingecarribee LGA.

This Direction requires consultation with the Sydney Catchment Authority (now Water NSW) prior to Gateway determination.

Council noted that any subdivision of land would need to demonstrate a neutral or beneficial effect to water quality. Council considered the subdivision of the land (and associated augmentation of the town sewerage system) would benefit the proposed development and surrounding properties which are not currently connected to town sewer.

Noting the site has already largely been developed for residential purposes, the Department is of the view that any potential water catchment/quality issues are likely to be minor and may be suitably addressed through the development assessment process. However, the planning proposal is currently inconsistent with the Direction because Council has not yet consulted with Water NSW.

It is recommended that Council consult with Water NSW and provide further information demonstrating it has addressed the requirements of this Direction, prior to finalising the planning proposal.

#### Direction 5.10 Implementation of Regional Plans

This Direction gives legal effect to the vision, directions and actions contained in regional plans. Planning proposals must be consistent with the relevant Regional Plan.

As identified earlier in this report, the planning proposal is consistent with the South East and Tablelands Regional Plan and this Direction.

#### **State environmental planning policies (SEPPs)**

The planning proposal identifies State Environmental Planning Policies (SEPPs) applying to the site. Key relevant SEPPs are detailed below.

#### State Environmental Planning Policy No. 44 – Koala Habitat Protection

The site contains several dwellings and some grass paddocks.

Council has advised that the land is unlikely to contain potential koala habitat and no koalas have been recorded on the site. As such, Council concluded the proposal will not impact on any koala habitat or food species.

The Department is satisfied the proposal is not inconsistent with SEPP 44.

#### State Environmental Planning Policy No. 55 – Remediation of Land

SEPP 55 provides a state-wide approach to the management of contaminated land and outlines the relevant considerations in preparing an environmental planning instrument to rezone land.

Council is of the view that historical land uses may give rise to contamination issues, but any potential contamination issues associated with the subject sites can be managed.

Therefore, Council has advised it will require a Preliminary Site Investigation to be provided prior to public exhibition of the planning proposal.

#### State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011.

As noted earlier in this report, it is considered that water catchment/water quality issues associated with the planning proposal are likely to be minor.

Notwithstanding this, Council has not yet consulted with Water NSW and potential water quality/catchment issues remain unresolved and will require further justification. A condition has therefore been included on the Gateway Determination requiring consultation with NSW Water.

This will ensure potential water quality/catchment issues are resolved prior to the plan being finalised.

It is concluded that the planning proposal is not inconsistent with relevant SEPPs.

### **SITE-SPECIFIC ASSESSMENT**

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#### **Social and Economic**

The planning proposal is supported by a Social Economic Impact Assessment which concludes that the proposal will have a positive socio-economic impact on the Bowral locality by providing greater housing supply and choice to meet the needs of the community and creating additional jobs.

The assessment found any construction impacts from noise, traffic and the like would be modest, can be mitigated and would be short-term in duration. The assessment concludes the proposal would result in an overall socio-economic benefit.

#### **Environmental**

Council has advised the land does not contain any known critical habitat, threatened species, populations or ecological communities or their habitats. Council is also of the view that potential contamination issues associated with the subject sites can be managed.

Additionally, as noted earlier in this report, the Department is satisfied potential flooding issues can be dealt with through the development assessment process and are of minor significance.

#### **Infrastructure**

Council has advised the planning proposal will enable the efficient use of land without requiring any significant augmentation of utilities, roads or public transport.

## **CONSULTATION**

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### **Community**

Council has proposed a 28-day community consultation period which is considered adequate having regard to the nature of the planning proposal.

### **Agencies**

It is recommended that agency consultation be undertaken with Water NSW and the NSW RFS to ensure that any potential water quality/catchment or bushfire issues are suitably resolved prior to the plan being made.

## **TIME FRAME**

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Council anticipates a 5-month time frame to finalise the LEP. It is recommended that a 12-month period be provided to enable a buffer in case issues arise during consultation or any other part of the process.

## **LOCAL PLAN-MAKING AUTHORITY**

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Council has asked for plan-making authority in relation to this proposal. This is considered appropriate, as the proposal is minor in nature, is of local significance and is not inconsistent with regional and local strategic planning.

## **CONCLUSION**

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The planning proposal is consistent with the Regional Plan and the Wingecarribee Local Planning Strategy as it would provide greater housing supply and choice in suitable locations which are close to (and utilise) existing infrastructure and services.

It is therefore recommended that the planning proposal should progress as submitted.

## **RECOMMENDATION**

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It is recommended that the delegate of the Secretary:

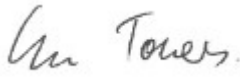
1. agree that any inconsistencies with section 9.1 Direction 4.3 Flood Prone Land is minor or justified; and
2. note that the consistency with section 9.1 Direction 4.4 Planning for Bushfire Protection and Direction 5.2 Sydney Drinking Water Catchment remain unresolved and will require justification.

It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. Consultation is required with the following public authorities:
  - Water NSW; and
  - NSW Rural Fire Service.
3. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.



4. Given the nature of the planning proposal, Council should be the local plan-making authority.



15/5/19

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23/5/19

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