**Planning Services**

Gateway Determination Report

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| **LGA** | Wingecarribee Shire Council |
| **PPA**  | Wingecarribee Shire Council |
| **NAME** | To remove the Our Lady of the Sacred Heart (OLSH) site from Schedule 1 (Seniors Housing) and from the Land Reservation Acquisitions map. Loss of 135 independent seniors dwellings. Loss of 30 jobs (based on the information provided in the current DA before Council). |
| **NUMBER** | PP\_2018\_WINGE\_003\_00  |
| **LEP TO BE AMENDED**  | Wingecarribee LEP 2010 |
| **ADDRESS** | 2-18 Centennial Road, Bowral |
| **DESCRIPTION** | Lots 4-11, DP 1109214 and Lots 1 and 2, DP 1101892 |
| **RECEIVED** | Additional information to Planning Proposal received 16 February 2018 |
| **FILE NO.** | IRF18/3873 IRD18/13445 |
| **POLITICAL DONATIONS** | There are no donations or gifts to disclose and a political donation disclosure is not required. |
| **LOBBYIST CODE OF CONDUCT** | 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 remove Seniors Housing as a permissible use on the Our Lady of the Sacred Heart (OLSH) site under Schedule 1 of the Wingecarribee LEP 2010, and remove the site from the Land Reservation Acquisition Map.

**Site description**

The subject land has an area of 17 hectares, is located on the western side of the main railway line and is a former school site. The site has well developed landscape features, including an open space area, an avenue of established trees, and a number of buildings that were part of the former Our Lady of the Sacred Heart School.



**Figure 1- Subject Land (Source- Council Planning Proposal, pg 4)**

**Existing planning controls**

The site is zoned R5 Large Lot Residential, with a minimum lot size of 4,000m2 with a portion of the site zoned RE1 Public Recreation in the Wingecarribee LEP 2010. An interim Heritage Order has been issued by Council under Section 25 of the *Heritage Act 1977* for the entire site which was gazetted on the 19th January 2018.

A Site Compatibility Certificate(SCC) for Seniors housing was issued for the site in 2007. The proposal at the time the SCC was issued was for 160 independent living dwellings and a 102 bed residential care facility. At the time of the SCC being issued, the site was zoned primarily for special uses (5(a) School), and urban areas (2(a1) Residential). Seniors housing was permissible on the site under the then Seniors housing SEPP.

The Department directed Council to include Seniors housing in Schedule 1 at the time of the making of the standard template LEP to ensure consistency with the former WLEP 1989. Seniors housing does not apply under the Seniors housing SEPP as the area is identified as part of the Sydney Drinking Water catchment.

A development application for a seniors housing development was lodged on the site on the 22/12/2017. The Development application is proposing 135 free standing single level houses, supported by on site facilities and services located within a central building that is part of a proposed adaptive reuse of existing buildings on site (Pg 16- Statement of Environmental Effects, December 2017, Lee Environmental Planning).

**Surrounding area**

The site is approximately 400 metres from the commercial core of Bowral, and adjoins open space and club facilities. The site is surrounded by well established dwellings on large lots, is close to the Bowral train station and a public golf course. Pedestrian access to the site across the railway line is available from the commercial area of Bowral. Council has indicated that this access will be part of the East West cycleway and pedestrian access for Bowral. There is an established avenue of exotic trees, and open space adjacent to Kirkham Road and the railway line.

**Summary of recommendation**

It is recommended that the planning proposal not proceed for the following reasons:

The planning proposal is not supported to proceed for the following reasons:

1. The planning proposal removes the opportunity to provide seniors housing on the site which has been identified as being suitable for that use. Continuity for seniors housing on the site was secured through seniors housing being a permitted use in Schedule 1 of the WLEP 2010.
2. Should the site be developed for large lot residential as allowed in the zone this would reduce the capacity for local economic benefits from new residents living in the area, the loss of 30 direct jobs associated with the operation of seniors housing development on the site and reduced construction related employment.
3. More than 27% of residents in the Wingecarribee Local Government Area are projected in the South East and Tablelands Regional Plan to be over 65 by 2036. The planning proposal if it proceeds will result in a net reduction in the potential for seniors housing on a site that is suitable for that purpose.
4. There is an active development application for Seniors Housing with an estimated cost of $37,642,000.00 (135 independent seniors dwellings on the site).
5. The planning proposal was not the subject of a study, or a strategic consideration of the best locations for seniors housing; and
6. No strategic justification has been provided that addresses inconsistencies with s 9.1 Directions 3.1 Residential Zone and 5.10 Implementation of Regional Plans or adequately addresses any of the matters by Council noted above.

**PROPOSAL**

**Objectives or intended outcomes**

The objective of the planning proposal is to remove the opportunity for a seniors housing development to be constructed on the subject land.

**Explanation of provisions**

The planning proposal is seeking approval to amend the WLEP 2010 by:

* Amend Schedule 1 to remove Item 4;
* Remove the subject land (Item 4) from the Local Clauses- Schedule 1 Map;
* Remove that portion of the subject site shown on the Land Reservation Acquisitions Map.

**Mapping**

The planning proposal requires amendments to the Local Clauses Map and the Land Reservation Acquisition map.

The maps provided with the planning proposal are suitable for the purposes of public consultation should the planning proposal proceed to a Gateway determination.

**NEED FOR THE PLANNING PROPOSAL**

The planning proposal achieves the intent of the Council resolution to remove the permissibility of seniors housing on the OLSH site. Council proposes this as it considers that the site is not suitable for the use for the following reasons:

1. The land is not zoned for seniors housing.

Council has identified that the OLSH site is zoned R5 Large Lot Residential under WLEP 2010, which does not permit Seniors housing. The Seniors SEPP does not apply as the site is within a drinking water catchment. Seniors housing was permitted under the former 2(a1) Residential Zone under the Wingecarribee LEP 1989. A Site Compatibility Certificate was granted in 2007 under the SEPP of the time. The Department ensured that Seniors Housing was permitted on the OLSH site by directing Council to include the use on the site in Schedule 1 with the making of the WLEP 2010.

1. Access to the site is limited and constrained

Council identified that the access to the site is limited. Whilst the site is separated from Bowral by the Main Southern Railway line, safe pedestrian access is provided across the rail line, and this links in with the recreational area which will form part of upgraded bike and pedestrian access linking west Bowral to east Bowral. There are two vehicular access points that link the site to the Bowral shopping centre, and the site is walking distance of the Bowral railway station. Council has also raised the concern that the main road access, Kirkham Road, is flood affected by its location along Mittagong Creek. Much of the area to the west of Kirkham Road is also affected by the Kirkham Road flood area and vehicular access is available through other road access points during flooding to the north of the site.

1. Heritage significance of the site.

Council amended the WLEP Heritage Schedule- a process which commenced in 2009, in response to submissions from Council and the community during a review of heritage items in WLEP 1989. At the time 40 properties were included in the LEP 1989 review and these were adopted in LEP 2010. Amendment no 40 reviewed over 700 properties which required additional investigation after the LEP 2010 consultation process, and consultants prepared a detailed report on the properties that were identified as having unique heritage significance. Amendment no 40 was notified on March 3 2017. The OLSH site was not included in the Amendment no 40 heritage schedule changes. The Interim Heritage Order was initiated as a result of the notice of motion and covers the entire site.

1. Environmental constraints

Council has indicated that the site has flood constraints that could reduce access during flooding. The portion of the site that is flood affected is zoned RE1 Recreation and would not be developed. This flood affectation is not unique to the OLSH site, and in fact affects areas of greater residential density to the west and east of the site.

**STRATEGIC ASSESSMENT**

**Regional / District**

Council argues that the planning proposal is consistent with the South East & Tablelands Regional Plan Direction 23 *Undertake and implement heritage studies* and Direction 24*: Deliver greater housing supply and choice.*

The planning proposal is not consistent with the South East and Regional Plan. In respect to Direction 23*: undertake and implement heritage studies* it is considered by Council to be consistent because they have placed an Interim Heritage Order on the entire site.

In the case of Direction 24- *Deliver greater housing supply and choice* Council believes that the planning proposal is consistent because it intends to prepare a housing strategy in 2018 consistent with the Regional Strategy. However, the loss of potential seniors housing on the site is inconsistent with the intent of the strategy as it reduces both housing supply and housing choice.

**Local**

The Wingecarribee Local Planning Strategy 2015-2031 was adopted by Council on the 23 March 2016, and partly endorsed by the Department on the 15 May 2017, except for the section dealing with Council’s Housing Strategy. Council’s view is that the planning proposal is consistent with the local planning strategy as the Local Strategy addresses the growing population of seniors, and the suitability of Bowral as a location for infill housing, including housing for seniors.

The local strategy seeks to address the supply of new housing through infill housing. The removal of seniors housing from the OLSH site is contrary to Council’s policy of supporting infill development in suitable locations, and providing for housing choice while recognising Bowral as a Major Regional Centre. This planning proposal if it proceeds will remove the potential for seniors housing within walking distance of the Bowral town centre.

**Section 9.1 Ministerial Directions**

S 9.1 Directions 2.3 Heritage Conservation,3.1 Residential Zones, 3.4 Integrating Land Use and Transport, 5.1 Sydney Drinking Water Catchments, 5.10 Implementation of Regional Plans all apply to the planning proposal.

Direction 3.1 Residential Zone*s* applies as the proposal will affect land within an existing residential zone in which significant residential development is permitted. The planning proposal is inconsistent with the Direction as it does not broaden the choice of housing or make more efficient use of existing infrastructure. In fact, it reduces the development potential of the site.

In respect to Direction 5.10 Implementation of Regional Plans the planning proposal is not consistent with the South East and Regional Plan. In respect to Direction 24 of the Regional Plan - *Deliver greater housing supply and choice.*

The Department in considering the Wingecarribee Local Planning Strategy 2015-2031 did not endorse Chapter 4 which dealt specifically with housing supply issues.

The reduction of development potential on the OLSH site is inconsistent with the intent of the Regional Plan.

Recommendation: The Secretaries delegate forms the view that the proposal is inconsistent with s9.1 Directions 3.1 Residential Zoneand 5.10 Implementation of Regional Plans.

**State environmental planning policies**

SEPP 44 Koala Habitat Protection applies across the whole Local Government Area. All planning proposals are considered to be consistent with the SEPP as it requires the preparation of a Local Environmental Study at the development application stage.

SEPP Sydney Drinking Water Catchment 2011 applies across over 86% of the Wingecarribee Local Government Area including the subject site. Council has not sought the views of Sydney Catchment Authority as the planning proposal seeks to remove the permissibility of seniors living from the site which is impacted upon by the SEPP, reducing the potential impacts of future development on the catchment. Any impacts arising from a future development on the site would be assessed at the DA stage.

Recommendation: The Secretary’s delegate can be satisfied that the planning proposal is consistent with SEPP 44 and the Sydney Drinking Water SEPP.

**SITE-SPECIFIC ASSESSMENT**

**Social**

The growing demographic trend across the entire local government area is for an ageing community. The removal of seniors housing from the OLSH site will reduce the potential senior’s housing options in the Bowral area. This which will make it harder for aging residents to live in the Bowral and Burradoo area.

**Environmental**

The OLSH site includes an established avenue of exotic trees, a riparian zone, and includes an area subject to flooding which is zoned Public Recreation. These matters must be addressed in any future development of the site, including for large lot residential but do not render the site unsuitable for seniors housing.

# Economic

There is an active DA for seniors housing on the site with an estimated cost of $37,642,000.00. Should the site be developed for large lot residential as allowed in the zone this would reduce the potential for local economic benefits from new residents living in the area, and from construction related employment.

The loss of 30 direct jobs associated with the operation of seniors housing development on the site is a lost local employment opportunity.

**CONSULTATION**

**Community**

Council has proposed an exhibition period of 28 days which is adequate if the planning proposal proceeds to exhibition.

**Agencies**

Council proposes to consult with Water NSW before the planning proposal goes to public exhibition which is appropriate.

**TIME FRAME**

Council identifies a time frame to complete the planning proposal using its delegated authority to be 9 months.

**LOCAL PLAN-MAKING AUTHORITY**

Council has sought the use of plan making delegations for finalising the planning proposal.

**CONCLUSION**

The planning proposal is not supported to proceed for the following reasons:

1. Council has not adequately justified why the OLSH site is not a suitable use for Seniors housing.
2. The planning proposal is not consistent with the South East and Regional Plan. The removal of seniors housing as a permissible use on the site is inconsistent with the intent of the strategy as it reduces both housing supply and housing choice.
3. More than 27% of residents in the Wingecarribee Local Government Area are projected in the South East and Tablelands Regional Plan to be over 65 by 2036. The planning proposal if it proceeds will result in a net reduction in the potential for seniors housing on a site that is suitable for that purpose.
4. There is an active DA for Seniors housing on the site with an estimated cost of $37,642,000.00. Should Seniors living not be permitted on the site there is a significant opportunity cost for local economic development and associated benefits from new residents living in the area, the loss of 30 direct jobs associated with the operation of seniors housing development on the site and from construction related employment.
5. The planning proposal was not the subject of a study, or a strategic consideration of the best locations for seniors housing; and
6. No strategic justification has been provided that addresses inconsistencies with s9.1 Directions 3.1 Residential Zone*s* and 5.10 Implementation of Regional Plans or addresses any of the matters noted above.

**RECOMMENDATION**

It is recommended that the delegate of the Secretary:

1. note that the inconsistency with section 9.1 Directions 3.1 Residential Zones and 5.10 Implementation of Regional Plans are unresolved.

It is recommended that the delegate of the Minister for Planning determine that the planning proposal should not proceed to exhibition.

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