

Planning and Assessment

IRF20/4237

Gateway determination report

LGA	Wingecarribee
PPA	Wingecarribee Shire Council
NAME	Rochester Park heritage listing (0 homes, 0 jobs)
NUMBER	PP_2020_WINGE_003_00
LEP TO BE AMENDED	Wingecarribee Local Environmental Plan 2010
ADDRESS	102-104 Old Wingello Road, Bundanoon
DESCRIPTION	Lot 32 DP 1205423
RECEIVED	21 August 2020
FILE NO.	EF20/27104
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.

1. INTRODUCTION

1.1 Description of planning proposal

The planning proposal seeks to amend the Wingecarribee Local Environmental Plan 2010 (Wingecarribee LEP) by adding land at 102 to 104 Old Wingello Road, Bundanoon as a new heritage item and increasing the applicable minimum lot size controls.

1.2 Site description

The site is legally described as Lot 32 DP 1205423 and is located at 102-104 Old Wingello Road, Bundanoon in the Wingecarribee local government area.

The site is located approximately 800m to the north-west of the Bundanoon Village centre.

The site is 1.5ha in size and is located on the corner of Rochester Drive and Old Wingello Road (**Figure 1**).

The site contains a circa 1920s arts and craft style bungalow in the southern part of the site surrounded by gardens and mature trees (**Figure 1**).

1.3 Existing planning controls

This site is zoned R2 Low Density Residential with a minimum lot size of 700m² under the Wingecarribee LEP.

1.3 Surrounding area

The site is surrounded by:

- low density residential properties and Bundanoon Cemetery to the north;
- Warrigal Care Bundanoon and low-density residential properties to the east;

- low density residential properties to the south; and
- low density residential properties to the west.



Figure 1: Site Map

1.4 Development history

A 33-lot subdivision adjoins the southern boundary of the site. This land (on either side of Rochester Drive) used to be a part of the 'Rochester Park' site until 2005 when a subdivision development application (LUA 04/0353) excised this land.

In October 2018, a development application (DA 19/1088) was lodged with Wingecarribee Shire Council for a 12-lot subdivision of the subject site.

This application proposed to retain the 'Rochester Park' house on a 3,821m² lot and create 11 other lots throughout the garden area.

Council considered this would result in the loss of many of trees throughout the site and due to concerns raised by its staff and the community about the proposal, an Interim Heritage Order (IHO) was placed over the property on 22 February 2019 (and later extended for another six months). DA 19/1088 was subsequently withdrawn by the applicant.

The IHO over the subject site lapsed in February 2020 before this planning proposal was prepared and Council has since received another similar development application (DA 20/1139) lodged in April 2020, for a twelve (12) lot subdivision.

The applicant has commenced proceedings in the Land and Environment Court based on a deemed refusal. These matters will be considered separately by the NSW Land and Environment Court (NSW LEC). Given that this proposal could

directly affect the outcome of the case, a gateway condition has been included requiring the planning proposal to be updated to include a reference to a savings provision to apply to any development application lodged but not determined.

Additionally, it is not proposed to provide delegations to finalise the plan.

2. PROPOSAL

2.1 Objectives or intended outcomes

The objectives of the planning proposal are to amend Wingecarribee LEP to:

- include the site as a new heritage item in Schedule 5, Part 1 (Heritage items), known as the 'Rochester Park house and garden';
- increase the minimum lot size of the site from 700m² to 1 ha to prevent further subdivision of the site.

2.2 Explanation of provisions

The planning proposal is clear in identifying the relevant provisions and Heritage Map in the Wingecarribee LEP that will require amendment to achieve the objectives and intended outcomes of the planning proposal, including:

- Schedule 5 – Environmental Heritage, Part 1 - Heritage items;
- Heritage Map – Sheet HER_008A; and
- Minimum Lot Size Map – Sheet LSZ_008A.

2.3 Mapping

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

3. NEED FOR THE PLANNING PROPOSAL

The planning proposal is needed to protect the heritage significance of the subject site in line with local and regional strategic planning objectives.

The planning proposal is supported by a heritage assessment prepared by Council. The heritage assessment found (amongst other things) that Rochester Park is locally significant as a fine, rarely intact example of an Arts and Crafts style house, set within a landscape of mature gardens. Despite subdivision and shrinkage of its heritage curtilage, Rochester Park has retained a prominent position in the Southern Highlands tourism and retreat town of Bundanoon. The house is also considered to be of high aesthetic significance and is important for its many iconic features of the Arts and Crafts period style.

Council noted a planning proposal is the only way to obtain statutory listing of a local heritage item and conservation area.

The Department agrees a planning proposal is the only way to achieve the intended objectives and outcomes.

4. STRATEGIC ASSESSMENT

4.1 South East and Tablelands Regional Plan

The planning proposal seeks to protect the heritage significance of the subject site.

Key directions and actions of the Regional Plan relevant to this planning proposal include:

- Direction 23: Protect the region's heritage; and
- Action 23.3: Conserve heritage assets during local strategic planning and development.

Protecting the Wingecarribee Shire's valued heritage assets is also identified as a specific priority for the Wingecarribee LGA in the Regional Plan.

The Department is satisfied the planning proposal is consistent with heritage protection and conservation objectives of the Regional Plan

4.2 Local

Wingecarribee 2031 - Community Strategic Plan 2017 (CSP)

The CSP reflects the community's visions, aspirations and needs for Wingecarribee in to 2031.

Heritage is strongly valued by the Wingecarribee community and which is articulated through the community's vision, goals and actions in the CSP.

Wingecarribee 2040 - Local Strategic Planning Statement (LSPS)

The Wingecarribee LSPS was adopted by Council on 24 June 2020 and provides a vision to guide land use planning decisions in the Shire over the next 20 years.

The LSPS contains key relevant planning priorities, including:

- Planning Priority 6.1: Maintain the unique character of our towns and villages, separated by rich natural areas and rural landscapes; and
- Planning Priority 6.2: Identify, protect and promote our cultural and built heritage.

The proposal is consistent with the LSPS as it would help protect the unique character and heritage significance of the site in line with the above priorities.

Wingecarribee Local Planning Strategy (LPS)

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

Chapter 6 of the Local Planning Strategy (Managing Our Built Environment) reinforces the strong heritage conservation focus of the LGA and reiterates the controls for heritage conservation under clause 5.10 of the Wingecarribee WLEP.

The planning proposal seeks to introduce a new heritage item in the Wingecarribee LEP.

The Department is satisfied the proposal is consistent with the heritage conservation and management focus of the LPS.

4.3 Section 9.1 Ministerial Directions

The planning proposal has identified applicable section 9.1 Directions.

Directions of particular relevance are discussed below:

Direction 2.3 – Heritage Conservation

This Direction seeks to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance. The Direction states (inter alia) planning proposals must contain provisions to facilitate the conservation of heritage items and/or precincts.

The planning proposal seeks to insert new controls in the Wingecarribee LEP to protect the heritage significance of the site in line with local and regional strategic planning objectives.

The proposal is therefore considered to be consistent with this Direction.

Direction 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, ensure new housing makes efficient use of existing infrastructure and services and minimise the impact of residential development on the environment.

The planning proposal does not seek alter the residential zoning applying to the subject site. While the proposed minimum lots size controls restrict further subdivision of the site, these impacts are outweighed by Council's desire to protect the heritage value of the item in line with local and regional strategic planning objectives.

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

Direction 4.4 Planning for Bushfire Protection

Part of the site is mapped as bushfire prone.

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 the planning proposal would maintain the existing zoning and land use of the subject site, thereby helping to protect water quality.

Notwithstanding this, 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.

4.4 State environmental planning policies (SEPPs)

Relevant SEPPs have been identified in Section 5 of the planning proposal.

The planning proposal is not inconsistent with relevant SEPPs.

SEPP Sydney Drinking Water Catchment

As noted above, consultation is recommended with Water NSW prior to public exhibition to confirm the proposal would not adversely impact on the Sydney Drinking Water Catchment consistent with the aims of SEPP (Sydney Drinking Water Catchment) 2011.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social and Economic

The planning proposal acknowledges it could result in social and economic impacts on individual property owners due to the heritage listing.

Heritage controls can restrict what property owners can do with their property, and assessment requirements potentially causing negative economic impacts.

However, Council considers there could be some positive social and economic benefits for the owners (and the broader public) resulting from the heritage protection of this site and its surrounding landscape.

Council considers some individual economic and social impact is reasonable in the context of protecting the heritage significance of the area for the broader community.

5.2 Environmental

The planning proposal applies to existing low density residential zoned land which has previously been developed for residential purposes. As such, no adverse environmental impacts are anticipated.

Heritage

Heritage listing of the site was recommended by the heritage consultants which undertook the Heritage Survey Project in 2009 on behalf of Council.

As noted earlier in this report, a heritage assessment was then prepared by Council which gave rise to the need for the planning proposal.

The Department has reviewed the heritage assessment which found (amongst other things) that Rochester Park is locally significant as a fine, rarely intact example of an Arts and Crafts style house, set within a landscape of mature gardens. Despite subdivision and shrinkage of its heritage curtilage, Rochester Park has retained a prominent position in the Southern Highlands tourism and retreat town of Bundanoon. The house is also considered to be of high aesthetic significance and is important for its many iconic features of the Arts and Crafts period style.

The Department is supportive in principle of proposals to protect local heritage items identified by Councils.

To ensure all potential heritage issues are thoroughly considered, the Department recommends consultation be undertaken with the Department of Premier and Cabinet (Heritage).

6. CONSULTATION

6.1 Community

Council has proposed an exhibition period of at least 28 days, which is appropriate considering the nature of the proposal. Councils community consultation normally also includes notification by letter/email to affected and adjoining property owners and weekly advertising on Council's website.

Council would undertake its consultation in accordance with the Gateway determination.

6.2 Agencies

Consultation is recommended with:

- the NSW RFS;
- the Department of Premier and Cabinet (Heritage); and
- Water NSW.

A Gateway condition has been recommended accordingly.

7. TIME FRAME

Council anticipates a 10-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.

8. LOCAL PLAN-MAKING AUTHORITY

The Department has considered Council's request to be the local plan-making authority. While the proposed listing is primarily a local matter, it has been determined not to condition the Gateway for Council to be the local plan-making authority for the following reasons:

- there is a dispute between at least one landowner and Council in relation to the heritage listing; and
- retaining the plan making function will allow the Department to independently finalise the proposal taking into consideration all views.

9. CONCLUSION

The planning proposal is consistent with local and regional strategic planning objectives to protect heritage.

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

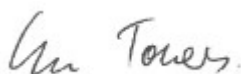
10. RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Direction 3.1 Residential Zones 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. Prior to public exhibition, the planning proposal is to be updated to include a reference to a savings provision to apply to any development application lodged prior to the date of this Gateway determination but not yet determined.
2. The planning proposal should be made available for community consultation for a minimum of 28 days.
3. Consultation is required with the following public authorities:
 - NSW RFS;
 - the Department of Premier and Cabinet (Heritage); and
 - Water NSW.
4. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.
5. Given the nature of the planning proposal, Council should not be authorised to be the local plan-making authority to make this plan.



16/09/20

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17/09/2020

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