

Report: Making of Local Environmental Plan: Amendment No. 59

S3.36 of EP&A Act 1979, as amended

Planning Proposal to which this Report applies:

PP_2020_WINGE_003_00: to amend Wingecarribee Local Environmental Plan 2010 by adding land at 102-104 Old Wingello Road, Bundanoon (Lot 32 DP 1205423) as a new heritage item and increasing the applicable minimum lot size controls.

April 2021

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1.0 Introduction

Purpose of the Planning Proposal	The purpose of the Planning Proposal is to recognise the heritage significance of the property at 102-104 Old Wingello Road, Bundanoon (Lot 32 DP 1205423) by including it as a new heritage item to be known as “Rochester Park’ house and garden”. In addition, the Planning Proposal intends to increase the minimum lot size of the site from the current lot size of 700m ² to 1 hectare.
Intended Amendments to WLEP 2010	<p>To achieve this, a new heritage item will be added to the list of heritage items contained in Part 1 of Schedule 5 of the Wingecarribee Local Environmental Plan (WLEP) 2010 and the WLEP 2010 Heritage Map will be amended to indicate the location of the new heritage item. In addition, the WLEP 2010 Lot Size Map will be amended to indicate the change in lot size from 700m² (indicated as ‘Q’ on the Lot Size Map) to 1 hectare (indicated as ‘Y’ on the Lot Size Map).</p> <p>As required by the Gateway Determination, a sub-clause will be added to clause 1.8A of the WLEP 2010 that will ensure that any development application lodged prior to the date of the Gateway Determination but not yet determined will be determined as if the Amendment had not yet commenced.</p>

2.0 Gateway Determination

Date Gateway Determination issued	17 September 2020.
Timeframe for completion of Planning Proposal	The Gateway Determination provided 12 months for completion of the Planning Proposal. This timeframe ends on 17 September 2021.
Delegation details	Delegation to be the plan-making authority was not given for this Planning Proposal. This is confirmed by the Department’s letter to Council dated 17 September 2020 and the omission of delegation authorisation from the Gateway Determination provided at Attachment 5 to this report.
Compliance with Gateway Conditions (as follows):	<p>Consultation was required with the authorities listed at Section 3.0, below, where responses are also summarised.</p> <p>A requirement that there be reference to a savings provision within the Planning Proposal was provided in the second public exhibition held from 18 November 2020 to 20 January 2021 as it was inadvertently omitted from the first public exhibition (held from 14 October to 17 November 2020). Consistent with the recent publishing of Amendment No. 56 to the WLEP 2010, this savings provision will be effected through an amendment to clause 1.8A of the WLEP 2010.</p> <p>The Planning Proposal (as amended) was publicly exhibited for the required period and notified in the required manner set out</p>

	<p>in the Gateway Determination. Details of public exhibition are contained at 4.0 of this report.</p> <p>A Public Hearing was not required.</p>
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3.0 Responses from Public Authorities

Water NSW	<p>The response from Water NSW forms Attachment 6 to this report. The response raised no objection to the Planning Proposal and:</p> <ul style="list-style-type: none"> acknowledged the limitation of opportunities for exempt and complying development should the site be heritage listed which would enable a more rigorous assessment of future development (through the development application process), recommended expansion of Council's response to the applicability of State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011 to note that future development would need to have a neutral or beneficial effect on water quality under the SEPP, recommended acknowledgement that the site is sewered and expansion of Council's response to section 9.1 Direction 5.2 Sydney Drinking Water Catchment in relation to the reduction in development potential proposed by the Planning Proposal and the corresponding protection of water quality. <p>The recommended changes to the responses to the SEPP and section 9.1 Direction were made to the Planning Proposal placed on public exhibition.</p>
Department of Premier & Cabinet (Heritage NSW)	<p>The response from Heritage NSW forms Attachment 7 to this report. The response noted that Council's heritage assessment indicated that the property met the criteria for listing at a local level and supported the identification and listing of new heritage items provided all necessary due diligence, assessments and notifications have been undertaken.</p> <p>The heritage assessment was undertaken with reference to the Heritage NSW publication <i>Assessing Heritage Significance</i> and it is considered that this best practice approach to assessing heritage satisfies Heritage NSW's submission.</p>
NSW Rural Fire Service	<p>The response from NSW Rural Fire Service forms Attachment 8 to this report. The NSW RFS raised no concerns or issues regarding the proposal in relation to bush fire.</p>
Amendments to Planning Proposal as a result of any Agency response.	<p>As previously indicated, the Planning Proposal was updated in relation to responses to the Drinking Water SEPP and section 9.1 Direction as recommended by Water NSW, and a summary of the Agency Responses was also included for the version(s) of the Planning Proposal placed on public exhibition.</p>

4.0 Community Consultation

Gateway exhibition requirements	The Gateway Determination required that the Planning Proposal be made publicly available for a period of 28 days.
Dates of exhibition	Initial exhibition was conducted from 14 October to 17 November 2020 (34 days). However, it was identified that the requirement for a reference to a savings provision had been omitted from the Planning Proposal originally exhibited. The Planning Proposal was subsequently amended and public re-exhibition was conducted from 18 November 2020 to 20 January 2021 (41 days excluding the period 20 December to 10 January inclusive).
Number of submissions received	4
Issues raised & responses	Of the four submissions received, two were from or prepared on behalf of the property owner of 'Rochester Park' and were in objection to deficiencies in the exhibition and the Planning Proposal in general, but particularly in relation to the proposed minimum lot size. The other two submissions were in support of the Planning Proposal. Attachment 9 contains a table summarising all the submissions and provides a response to each. This table was included in the post-exhibition report to Council of 24 February 2021 (contained at Attachment 10).
Re-exhibition details (if relevant)	The Planning Proposal was amended and re-exhibited from 18 November 2020 to 20 January 2021.
Resulting amendments	Nil.
Reporting back to Council	The exhibition of the Planning Proposal was reported back to Council at its Ordinary Meeting of 24 February 2021. The report forms Attachment 10 to this report. Council resolved to proceed with the Amendment as exhibited. The Resolution forms Attachment 11 to this report.

5.0 Recommendation

At its Ordinary Meeting of Council on 24 February 2021 Council resolved as follows:

MN 41/21

MOTION moved by Clr G McLaughlin and seconded by Clr P W Nelson

1. **THAT** Council endorse the Planning Proposal to amend Wingecarribee Local Environmental Plan 2010 to add a new heritage item called “‘Rochester Park’ house and garden” at 102-104 Old Wingello Road, Bundanoon (Lot 32 DP 1205423) into Schedule 5 (Environmental heritage) Part 1 (Heritage items); and increase the minimum lot size of this property from 700m² to 1 hectare on the Lot Size Map.
2. **THAT** the Planning Proposal be forwarded to the Department of Planning, Industry and Environment for completion.

VOTING ON THE MOTION

For the motion: Deputy Mayor Clr G J Andrews, Mayor Clr T D Gair, Clr K J Halstead OAM, Clr G McLaughlin, Clr P W Nelson, and Clr L A C Whipper and Clr I M Scandrett

Against the motion: Clr G M Turland

6.0 Attachments to this Report

1	Interim Heritage Order No. 10 (22 February 2019)
2	Report to Council – Heritage Assessment of ‘Rochester Park’ (14 August 2019)
3	Resolution of Council – Heritage Assessment of ‘Rochester Park’ (14 August 2019)
4	Justification & Intended Outcomes
5	Gateway Determination (17 September 2020)
6	Water NSW Response (7 October 2020)
7	Heritage NSW (Department of Premier & Cabinet) (13 October 2020)
8	NSW Rural Fire Service Response (28 October 2020)
9	Summary of submissions
10	Report to Council – Post exhibition report for ‘Rochester Park’ PP (24 February 2021)
11	Resolution of Council – Post exhibition report for ‘Rochester Park’ PP (24 February 2021)