

Planning Proposal

Planning Proposal to amend Wingecarribee Local Environmental Plan 2010 to Amend the Minimum Lot Size Map for Lot 391 DP737061 to incorporate two new areas of 2000m² lots and 8000m² lots with remainder maintaining current 4000m² lot size, which will support a subsequent 85 Lot Residential Subdivision.

Version 3 – Revised for Amended Gateway Determination

August 2014



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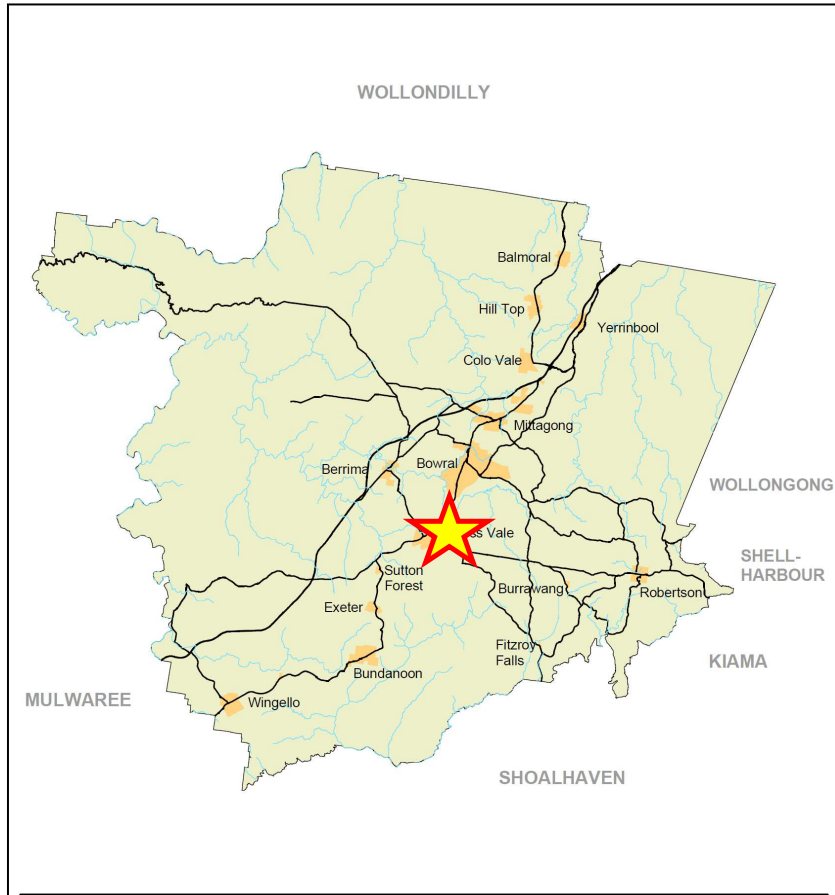
ATTACHMENTS WHICH FORM PART OF THIS PLANNING PROPOSAL

1	Cover Letter Requesting Revised Gateway Determination and Written Authorisation to Exercise Delegation
2	Report to Council of 13 August 2014 (PDF)
3	Resolution of Council of 13 August 2014 (PDF)
4	Letter by Proponent Requesting Consideration of Amended Proposal
5	Amended Gateway Determination and Written Authorisation to Exercise Delegation
6	Office of Environment and Heritage Comments – 17 July 2013
7	NSW Rural Fire Service Comments – 15 July 2013
8	Sydney Catchment Authority Comments – 19 February 2013
9	Hawkesbury Nepean Catchment Authority Comments – 5 July 2013

LOCAL GOVERNMENT AREA : WINGECARRIBEE SHIRE COUNCIL

ADDRESS OF LAND : Lot 391 DP737061 Farnborough Drive, Moss Vale

SHIRE WIDE LOCATION



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SITE LOCATION & DESCRIPTION

ADDRESS OF LAND: The Planning Proposal relates to Lot 391 DP 737061 on the Farnborough Estate in Moss Vale NSW. The subject land is located east of the Moss Vale Township and is shown red outline in **Figure 1**.

Figure 1 - Aerial Image of Subject Site



PART 1 : OBJECTIVES OR INTENDED OUTCOMES

The objective of the amended Planning Proposal is to allow an 85 lot subdivision with varying minimum lot sizes, to enable the retention of identified Ecologically Endangered Community (EEC) of Southern Highlands Shale Woodland located on the site.

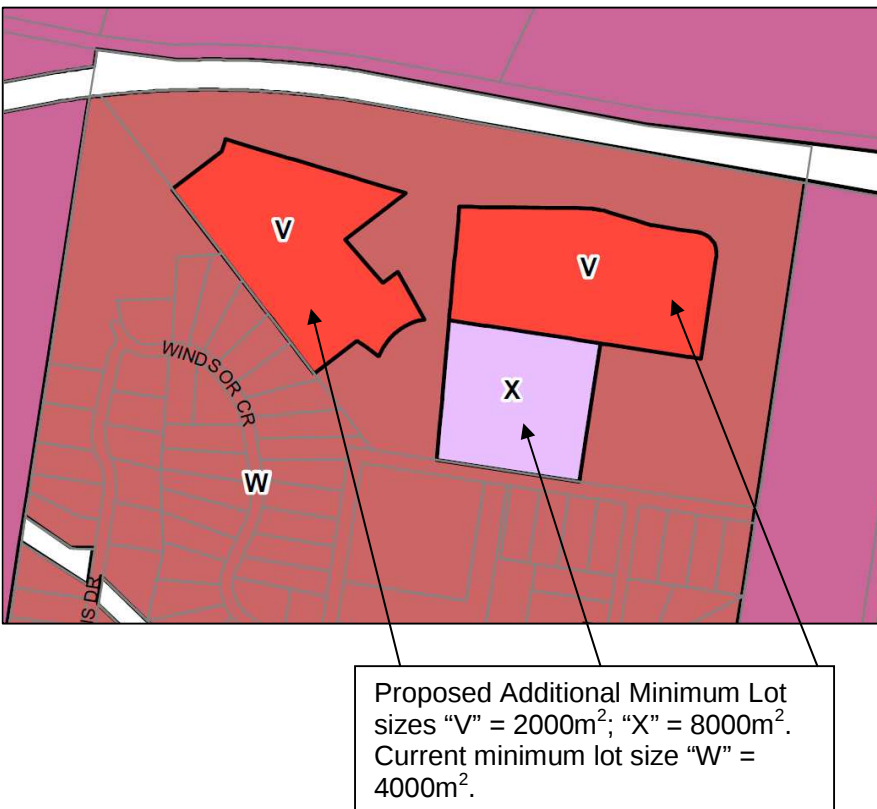
Larger 8000m² Minimum Lot Size (4 lots in total) are proposed to protect the EEC, and a reduced area of 2000m² lots are proposed to compensate for the loss of yield from the larger 8000m² lots to create 85 lot subdivision.

PART 2 : EXPLANATION OF THE PROVISIONS

The provisions of the Planning Proposal will amend Wingecarribee Local Environmental Plan 2010 by changing the Minimum Lot Size Map for the subject site follows:

Map to be amended	Detail of amendment
Lot Size Map: LSZ_007H	To delineate a range of Minimum Lot Sizes of 2,000m ² , 4,000m ² , and 8000m ² within Lot 391 DP 737061, as shown in Figure 2 .

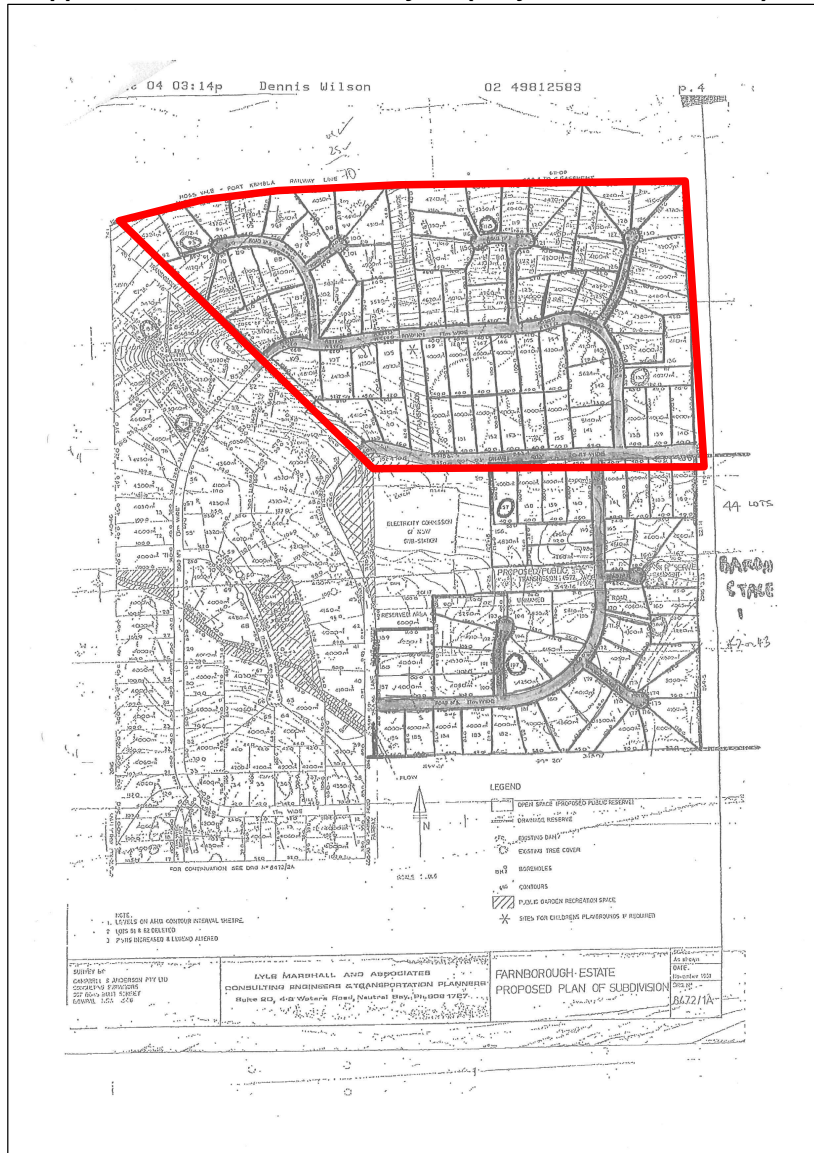
Figure 2 - Proposed changes to zoning Map (extract and zoomed)



PART 3 : JUSTIFICATION OF OBJECTIVES, OUTCOMES & PROCESS

There is an approved development consent for residential subdivision over the subject site (Lot 391) known as File No. 32/28/290/82 dating back to the early 1980's that permits development of the site for approximately 76 lots as shown in **Figure 3**.

Figure 3 - Current Approved 1980's subdivision layout (subject site outlined red)



The original lot configuration as shown in **Figure 3** has undergone various amendments overtime with a later development consent D4226-252-S1 issued in 1993. As both consents were activated they are both considered to be substantially commenced with the last amendment being issued by Council on the 1982 consent under File Number LUA11/0656. That amendment approved a stage of the subdivision as shown in **Figure 4**.

Figure 4 - Approved Plan for LUA11/0656 being an amendment of Original DA 32/28/290/82

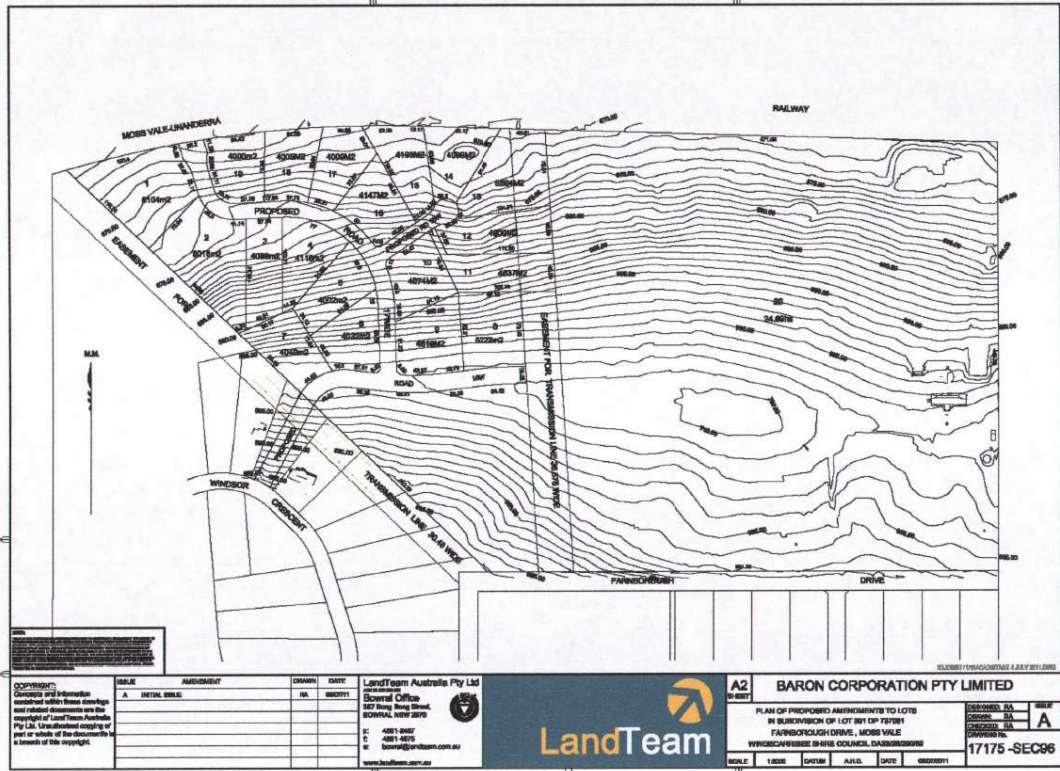
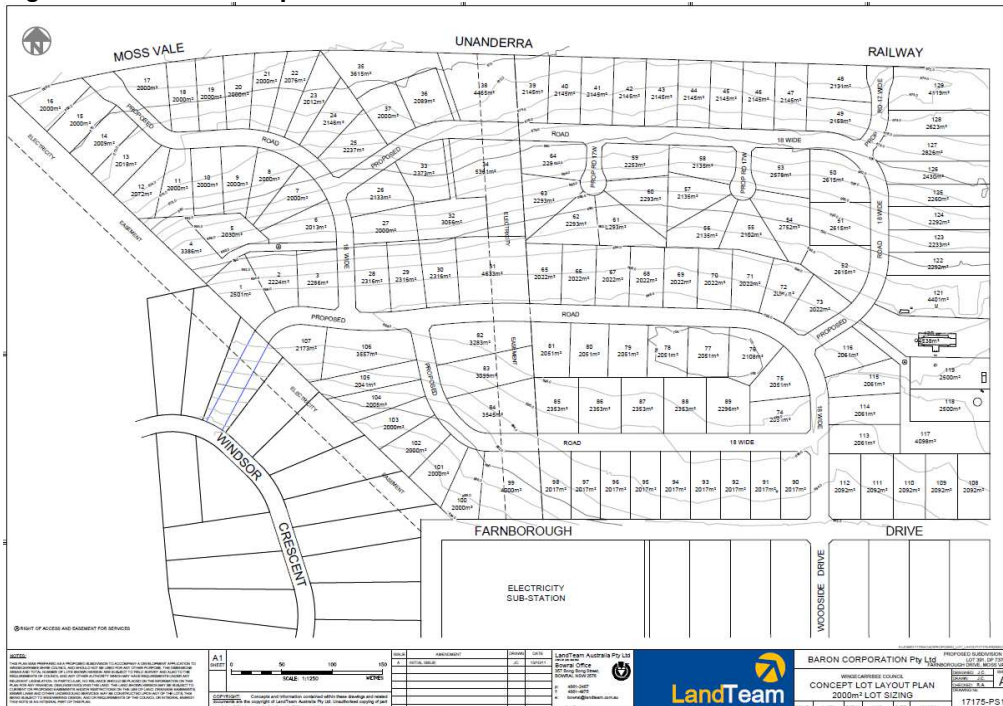


Figure 5 is a further developed concept of the latest amendment provided by the applicant.

Figure 5 - Latest Concept Plan



However, due to the presence of the Southern Highlands Shale Woodland EEC on the site as shown in **Figure 6**, the applicant has proposed a new Master Plan of Subdivision (**Figure 7**) to preserve some of the EEC via creating four (4) large Residential Lots greater than 8000m², yet maintain a viable lot yield of 85 lots.

Figure 6 - Southern Highlands Shale Woodland (EEC)



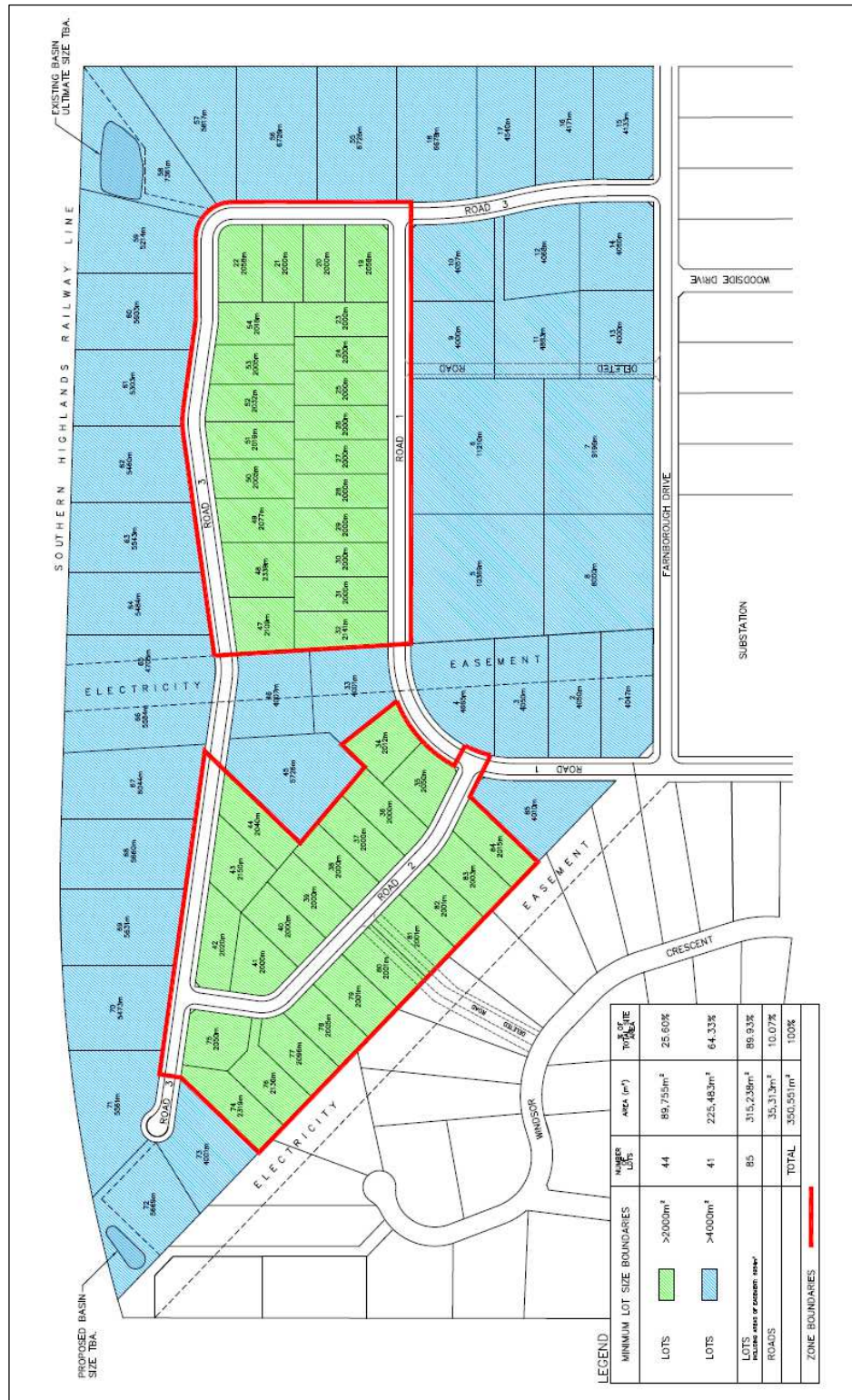
Essentially, the original consents have no regard for the EEC and if continued to be acted upon would likely result in the demise of the identified EEC.

The Planning Proposal is required as the proposed Master Plan (**Figure 7**) contains 2000m² lots that are smaller than the minimum allowable 4000m² lot size currently imposed on the site by Wingecarribee Local Environmental Plan 2010 (WLEP 2010). Therefore an amendment is required to WLEP 2010 to permit the proposed subdivision via subsequent development consent.

The addition of the 8000m² restriction as shown in **Figure 2** is proposed to ensure no further subdivision of those lots to protect the EEC.

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Figure 7 - 85 Lot Subdivision the subject of this Planning Proposal Report



Section A – Need for the Planning Proposal

1. Is the Planning Proposal a result of any strategic study or report?

The Planning Proposal is the result of several reports considered by Council on the matter, which are outlined in Attachment 2 - report of 13 August 2013 to Planning and Strategic Peak Committee of the Whole Meeting; and Attachment 3 - Resolution of Council 13 August 2013 in respect of the matter. This Planning Proposal is an amended Version of the original Planning Proposal following on from the previous reports and community consultation process. The following documents also relate to the amended proposal:

- Letter by Developer requesting consideration of amended Planning Proposal (Attachment 4)
- Amended Gateway Determination and Written Authorisation to Exercise Delegation (To be provided)

Nevertheless, Council recently adopted a Housing and Demographic Study by SGS. The Study essentially concludes that Moss Vale will experience demand for approximately 2000 additional dwellings up to the year 2031. The proposed Master Plan of subdivision goes some way to assisting in the provision of residential lots to meet that demand by providing a variety of different lot sizes to suite the varying housing needs currently experienced by the market. In that sense the proposal provides greater variety to the market, which may assist with housing affordability issues and providing housing options to a more diverse demographic.

2. Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The Planning Proposal is the only means achieving the intended outcomes of the 85 lot Residential subdivision, as the current minimum lot size map limits subdivision to a minimum of 4000m², hence without an amendment to the minimum lot size map the 2000m² lots could not be achieved.

Section B – Relationship to strategic planning framework

3. Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including draft strategies)?

The Planning Proposal is consistent with the *Sydney – Canberra Corridor Regional Strategy 2006 to 2031* that applies to the Wingecarribee Local Government Area. The Planning Proposal is considered consistent with the Strategy for the following reasons:

- The NSW Dept. of Planning's Fact Sheet, July 2008, for the Wingecarribee in respect of the Strategy states:

"Wingecarribee's anticipated population growth of 16,400 and the resulting demand for 8,700 new dwellings will be accommodated primarily through infill and redevelopment opportunities in Bowral and Greenfield areas in Mittagong and Moss Vale.

Through local planning measures, the future housing mix will be better matched to the needs of smaller households and aged residents."

The proposed Master Plan of Subdivision is consistent with the above statement as it will provide a higher yield of housing within an identified Greenfield urban release area and a greater variety of housing types due to the range of proposed lot sizes.

- Page 32 – Housing and Settlement – This part of the Strategy discusses the roles the Bowral, Mittagong and Moss Vale will play in the development of the Wingecarribee Shire, however emphasises that the distinctive character of each of the towns needs to be reinforced through the separation of their extensive bushland, flood plain and rural lands. The Planning Proposal is consistent with this statement as it is a redevelopment of an existing Greenfield residential release area and will not encroach on the extensive bushland, flood plains and rural lands separating Moss Vale and Bowral. Further, the proposal intends to preserve some of the identified EEC Southern Highlands Shale Woodland located on the site.
- Pages 22 to 28 – Economic development and employment growth – The Planning Proposal is consistent with this section of the Strategy as it does not propose any loss of key identified employment land in Moss Vale. In some respects the Planning Proposal may result in meeting some of the demand for housing generated from employment opportunities, as the Moss Vale Enterprise Corridor develops.

4. Is the Planning Proposal consistent with a council's local strategy or other local strategic plan?

The Planning Proposal is considered to be consistent with the following Strategic Plans that have either been adopted by Council or endorsed as strategic reference documents:

- Wingecarribee our Future 2002
- Wingecarribee Community Strategic Plan 2031+
- Wingecarribee Housing and Demographic Study - Final Report (May 2012)

The above documents contain common themes including:

- The need to accommodate demand for housing into the future through and combination of infill and Greenfield development options
- The need to preserve the distinctiveness of Mittagong, Bowral and Moss Vale by maintaining the 'green space' between those towns, being the retention of bushland, flood plains and rural lands
- Creating employment opportunities through appropriate development within identified employment lands

These common themes are closely aligned with the strategies contained in the *Sydney – Canberra Corridor Regional Strategy 2006 to 2031* as discussed in Item 3 above. Thus for the same reasons the Planning Proposal is consistent with the *Sydney – Canberra Corridor Strategy*, the Planning Proposal is considered consistent with the above listed local strategies.

5. Is the Planning Proposal consistent with applicable State Environmental Planning Policies?

State Environmental Planning Policy No. 44 – Koala Habitat Protection

SEPP 44 applies to all land with the Wingecarribee Shire Local Government Area and the site contains an Endangered Ecological Community (EEC) consisting of Southern Highland Shale Woodland. As previously discussed the Planning Proposal wishes to preserve a significant section of the EEC via the creation of a public reserve and preservation of certain identified trees (marked in green on **Error! Reference source not found.**).

The applicant has also provided a Flora & Fauna Assessment by Travers (February 2012), that identifies species found on the site. The survey results for Flora (p. 10) did not identify any Koala feed tree species as listed in Schedule 1 of SEPP44. Further the Fauna study (P.16) did not identify any Koalas as being present on the site.

Notwithstanding, the Planning Proposal is considered to be consistent with the SEPP as the EEC is proposed to be preserved and rehabilitated as part of the proposal. Whilst, no Koalas or food trees are present, the vegetation proposed to be retained could provide refuge for Koalas should they wander from their usual habitat, although there are no known Koala habitat areas in close proximity to the subject site.

Further, as a Plan of Management for EEC land is likely to be required post Gateway determination, but prior to the issue of any subsequent Development Consent for subdivision, it should be of interest for Council to require that the Plan of Management investigates the opportunity for creating potential Koala habitat if it is consistent with the existing EEC.

State Environmental Planning Policy (Affordable Rental Housing) 2009

The Planning Proposal is considered to be consistent with the SEPP as the proposed Master Plan of Subdivision provides opportunities for the different housing types, namely secondary dwellings as permitted by the SEPP in the R5 Large Lot Residential zone.

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

The Planning Proposal is considered consistent with the SEPP as the proposed Master Plan of subdivision may provide opportunities for the types of housing permissible under the SEPP.

State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011

The Planning Proposal is considered to be consistent with the SEPP as it has been referred to the Sydney Catchment Authority (SCA) for comment. The SCA raised no objections to the proposal as the residential development on Lot 391 would be connected to Council's reticulated sewer system, thus posing a low risk. The SCA also mentions that as existing dams on the site will be retained within individual lots, their management will be easier when the lots are eventually developed.

In closing the SCA will require a neutral or beneficial effect on water quality assessment to be undertaken prior to the development stage.

6. Is the Planning Proposal consistent with applicable Section 117 Directions?

Local Direction	Assessment
1. Employment and Resources	
1.1 Business and Industrial Zones	Not Relevant
1.2 Rural Zones	Not relevant

1.3 Mining, Petroleum Production and Extractive Industries	Not Relevant
1.4 Oyster Aquaculture	Not Relevant
1.5 Rural Lands	Not Relevant
2. Environment and Heritage	
2.1 Environment Protection Zones	Consistent - This Direction applies as the land is otherwise identified for environmental protection, as there is a community of identified EEC Southern Highlands Shale Woodland on the site. The Planning Proposal is considered consistent with this Direction, as the proposed Master Plan of subdivision protects a significant section of the EEC that was previously not considered for protection under older development consent. Should this Planning Proposal proceed there is a likely chance that the EEC will be managed and preserved.
2.2 Coastal Protection	Not Relevant
2.3 Heritage Conservation	Not Relevant
2.4 Recreation Vehicle Areas	Not Relevant
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	Consistent - The Planning Proposal is considered to be consistent with this Direction as it broadens the choice of building types and locations available in the housing market, compared to what is currently permissible on the site, due to a mixture of different proposed lot sizes. Further, the proposal is contained within land currently zoned R5 Large Lot Residential and makes a more efficient use of the land by containing a varying amount of lot sizes and protects an identified EEC.
3.2 Caravan Parks and Manufactured Home Estates	Not Relevant
3.3 Home Occupations	Consistent – The Planning Proposal is considered consistent as it does not propose any changes that would limit home occupations.
3.4 Integrating Land Use and Transport	Consistent – The Planning Proposal is considered consistent as the proposed subdivision layout will enable circulation of alternative transport methods such as buses.
3.5 Development Near Licensed Aerodromes	Not Relevant
3.6 Shooting Ranges	Not Relevant

4. Hazard and Risk	
4.1 Acid Sulfate Soils	Not Relevant
4.2 Mine Subsidence and Unstable Land	Not Relevant
4.3 Flood Prone Land	Not Relevant
4.4 Planning for Bushfire Protection	Not Relevant
5. Regional Planning	
5.1 Implementation of Regional Strategies NB: This Direction has been revised to include previous Directions 5.6 and 5.7.	This Direction applies to the Planning Proposal in respect of the Sydney – Canberra Corridor Regional Strategy 2006 to 2031. The Planning Proposal is considered consistent with this Direction as discussed previously in this report under Section A (3).
5.2 Sydney Drinking Water Catchments	This Direction applies to the Planning Proposal as the Wingecarribee Shire local government area falls within the Sydney Drinking Water catchment. The planning proposal is considered consistent with this Direction as the SCA has been consulted and raised no objections to the proposal. The SCA considered the proposal to be of minimal impact because the proposed subdivision will be connected to Council's reticulated sewerage system and runoff post development will need to meet the NORBE test.
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Not relevant
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Not Relevant
5.8 Second Sydney Airport: Badgerys Creek	Not Relevant
5.9 North West Rail Link Corridor Strategy	Not Relevant
6. Local Plan Making	
6.1 Approval and Referral Requirements	This Direction applies to all Planning Proposals. The Planning Proposal is considered to be substantially consistent with this clause, as the proposed resulting development application will not require concurrence, consultation or referral to the Minister. Although the resulting development application may require

	referral to various other public authorities such as the NSW Rural Fire Service, Sydney Catchment Authority and others as seen fit at the time of lodgement of such application. However, such referrals will not be a result of any proposed changes the WLEP contained in this Planning Proposal. The referrals will be required as result of existing site constraints and requirements of the Environmental Planning and Assessment Act 1979. Further, this Planning Proposal will not result in designated development.
6.2 Reserving Land for Public Purposes	Not Relevant
6.3 Site Specific Provisions	This Direction applies to the Planning Proposal as it amends an Environmental Planning Instrument (WLEP 2010) to allow particular lot sizes on the subject, without changing the residential zoning. The Planning Proposal is considered to be consistent with this Direction as the development standards that will be imposed by the Planning Proposal are already contained in the environmental planning instrument to be amended and are of minor significance.

Section C – Environmental, Social & Economic Impacts

7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the Planning Proposal?

The Flora and Fauna report by Travers (Feb 2012) identified threatened species, on the land (Site A) as follows:

Threatened flora

- Eucalyptus aggregate
- Eucalyptus macarthurii

Endangered ecological communities

- Southern Highlands Shale Woodlands

Threatened fauna

- Gang-gang Cockatoo
- Glossy Black-Cockatoo
- Powerful Owl
- Varied Sittella
- Scarlet Robin
- Flame Robin
- Grey-headed Flying-fox
- Eastern Falsistelle
- Eastern Bentwing-bat
- Large-footed Myotis

There is a likelihood these threatened species could be adversely affected as a result of the Planning Proposal, due to subsequent clearing of native vegetation. The amended Master Plan of Subdivision on which the planning Proposal is based proposes to maintain and manage a significant portion of the Southern Highlands Shale Woodlands that contain habitat for much of the threatened flora and fauna. However, this land is no longer to be dedicated as public reserve, but will be maintained on larger residential lots.

As such it is recommended that the amended Planning Proposal be referred to the Office of Environment and Heritage (OEH) for further consideration, as their previous comments are based upon the EEC land being dedicated as public land to be managed by Council into the future. The OEH previous comments are included as Attachment 6.

8. Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

Other than the potential environmental impacts discussed in Item 7 above, subject is affected by bushfire. The amended Planning Proposal is likely to require referral back the NSW RFS due to the amended subdivision layout, and the fact that no land is to be dedicated to Council, i.e. Asset Protection Zones (APZs) are to privately managed. The NSW RFS's comments on the original proposal are included as Attachment 7.

No other natural environmental risks such as land slip and flooding have been identified on the site.

9. Has the Planning Proposal adequately addressed any social and economic effects?

The Planning Proposal should not result in any adverse impacts upon European or Aboriginal Culture. Notwithstanding the OEH has requested that the following be undertaken:

- *An archaeological assessment – involving the identification and assessment of Aboriginal objects (often referred to as 'sites') and their management based on archaeological criteria; and*
- *A cultural heritage assessment – involving consultation with Aboriginal stakeholders (groups and individuals) and can include historical and oral history assessment and broader values assessment (eg. Landscape and spiritual values).*

The above studies are not necessary for the Planning Proposal, however will be required for a subsequent development application for subdivision, should the Planning Proposal result in an amendment to WLEP 2010 minimum lot size maps.

Section D – State and Commonwealth Interests

10. Is there adequate public infrastructure for the Planning Proposal?

This proposal is less than 150 lots and is therefore not considered to be of a scale that would affect public infrastructure. Council's services such as water, sewer and stormwater are capable of supporting the proposed number of lots. Further Council has a range of S94/S64 Contributions Plans to cater for new capital works as a result of growth in the Shire and on the subject site.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway Determination?

A previous version of the Planning Proposal was sent to the following Authorities and their comments are attached as described:

- Sydney Catchment Authority (Attachment 8)
- NSW Rural Fire Service (Attachment 7)
- Department of Environment and Heritage (Attachment 6)
- Hawkesbury Nepean Catchment Authority (Attachment 9)

All of the above authorities, except the Department of Environment and Heritage, did not raise any significant concerns regarding the Planning Proposal. The OEH primary concerns were the conflict between EEC land as APZ and the need for archaeological assessment to determine if there are any Aboriginal sites. Whilst it is recommended these issues could be dealt with at the development application stage, as the amended proposal does not involve any land being dedicated as public land (as originally proposed), it is recommended that the Planning Proposal be referred, at least to the OEH for further assessment.

PART 4 – MAPPING

The following maps require amendment as indicated below:

Map to be amended	Detail of amendment
Lot Size Map: LSZ_007H	To delineate a range of Minimum Lot Sizes of 2,000m ² , 4,000m ² , and 8000m ² within Lot 391 DP 737061, as shown in Figure 2 .

Full size (A4) version of draft Lot Size Map LSZ_007H is included as **Figure 8**.

Wingecarribee Local Environmental Plan 2010

Lot Size Map - Sheet LSZ_007H

Minimum Lot size (sq m)

300
450
600
750
900
1000
1500
2000
3000
4000
5000
6000
7000
8000
9000
10000 (1 ha)
15000 (2 ha)
20000 (4 ha)
30000 (6 ha)
40000 (8 ha)
50000 (10 ha)
60000 (12 ha)
70000 (14 ha)
80000 (16 ha)
90000 (18 ha)
100000 (20 ha)
120000 (24 ha)
140000 (28 ha)
160000 (32 ha)
180000 (36 ha)
200000 (40 ha)

Cadastral

05/06/11 © Land and Property Information

Scale 1:25,000 @ A3

Wingecarribee Local Environmental Plan 2010

Map created by: Wingecarribee Local Council

05/06/11

PART 5 – COMMUNITY CONSULTATION

Previous version of the Planning Proposal was exhibited in accordance with the original Gateway Determination. Notwithstanding the Amended Planning Proposal will be placed on public exhibition in accordance with the amended Gateway Determination and Council Resolution of 13 August 2014.

PART 6 – TIMELINE

It is anticipated that the Planning Proposal will progress in accordance with the following key timeline milestones.

MILESTONE	INDICATIVE DATE
Amended Gateway Determination	September 2014
Completion of technical studies if required	N/A
Revised/updated Planning Proposal (if required)	N/A
Public Exhibition/Consultation with government agencies	October 2014
Public hearing – if required (if not exclude)	N/A
Report to Council on exhibition of Planning Proposal.	November 2014
Documents to DP&I & PCO.	December 2014
Approximate completion date	Jan/Feb 2015

DELEGATIONS

An amended Gateway Determination and Written Authorisation to Exercise Delegations has been requested for this amended Planning Proposal.