

**cw-CS2 Planning Proposal – To Amend WLEP 2010 to Allow  
Camping Ground at Moss Vale Showground 18-46  
Robertson Road, Moss Vale – Lot 1 DP738800 and Lots  
4 and 5 DP6103; and to Amend WLEP 2010 to Allow a  
Recreation Facility (Indoor) on Australian Rail Track  
Corporation Land at the Cnr of Caalong and Congewoi  
Streets, Robertson (No lot or DP Description)**

**Reference:** PN1785160, 5901

**Responsible Officer:** Coordinator Strategic Planning

**PURPOSE**

The purpose of this report is to consider requests by two separate not-for-profit community based organisations to prepare a Planning Proposal to amend Wingecarribee Local Environmental Plan 2010 (WLEP 2010) as follows:

1. Moss Vale Showground Trust – amend WLEP 2010 to enable Camping Ground at Moss Vale Showground, No 18-46 Robertson Road, Moss Vale - Lot 1 DP738800 and Lots 4 and 5 DP6103.
2. Robertson & District Swimming Pool Association Inc – amend WLEP 2010 to allow a Recreation Facility (indoor) on Australian Rail Track Corporation (ARTC) Land at the Cnr of Caalong and Congewoi Streets, Robertson (No lot or DP description).

Both non-for-profit organisations have also requested that the applicable Planning Proposal fees be waived by Council in this instance.

This report recommends that the requested amendments to WLEP 2010 be supported and a Planning Proposal be prepared and forwarded to the Department of Planning and Environment for Gateway Determination; and that charges of \$5,356 be met by Council in this instance due to the not-for-profit status of the Moss Vale Showground Trust and Robertson & District Swimming Pool Association Inc.

**DESCRIPTION OF PROPOSAL**

**BACKGROUND**

Council received separate letters of application for a Planning Proposal to amend WLEP 2010 for each of the respective sites on 18 June 2014. It is considered that both proposed amendments can be combined as one Planning Proposal for efficiency; however the merits of each will be discussed separately throughout the body of the report.

**Moss Vale Show Ground Trust (The Trust)**

The Trust has recently held discussions with Wingecarribee Shire Council staff in relation to the use of Moss Vale Show Ground for seeking approval for a limited range of onsite camping that is not related to any other use on the site.

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At present, camping can only take place within the Showground if it is ancillary to current permissible uses such as the Moss Vale Show, Rodeos, Circus and Equine events. There is no provision in WLEP 2010 under SP1 Special Activities zone to permit camping for travellers not associated with any other use on the site.

The Trust is seeking an amendment to WLEP 2010 to allow camping grounds to be permitted on the site for travellers not associated with the Showground use of the site, which would provide some income for the Trust between major events.

The details of the proposed amendment are discussed in the body of the report.

**Robertson & District Swimming Pool Association Inc (The Association)**

The Association has recently held discussions with Wingecarribee Shire Council staff in relation to rezoning ARTC Land on the corner of Caalong and Congewoi Streets Robertson for the purpose of allowing a Recreation Facility (indoor) with the intent of constructing an indoor pool facility on the land once it is rezoned.

As discussed in their cover letter, the Association has been working for over 25 years to establish an indoor heated aquatic centre and recreation facility (indoor) in Robertson, whereby the community would have year round access for fitness training and therapeutic uses.

In the past five years the Association explained that they have worked with a number of other community groups to assess available and suitable sites, which have included:

- Robertson Bowling Club
- Crown Lands associated with Scouting NSW (Hoddle St behind the Community Technology Centre)
- Crown Lands associated with the NSW Police (Hoddle St next door to Community Technology Centre and CRT)
- Hampden Park
- Robertson Show Ground
- The Anglican Church; and
- Uniting Church

For reasons discussed in their covering letter the above options have not eventuated for the Association. The Association approached the ARTC for a long term lease on the land adjacent to the rail line and Robertson Public School. The ARTC agreed to a portion of their land being used for the long term lease. However, the ARTC Land is not appropriately zoned to enable the use of land for a recreation facility (indoor). The Association has approached Council and lodged a Planning Proposal request seeking an amendment to WLEP 2010 to permit with consent the recreation facility (indoor) on the subject site.

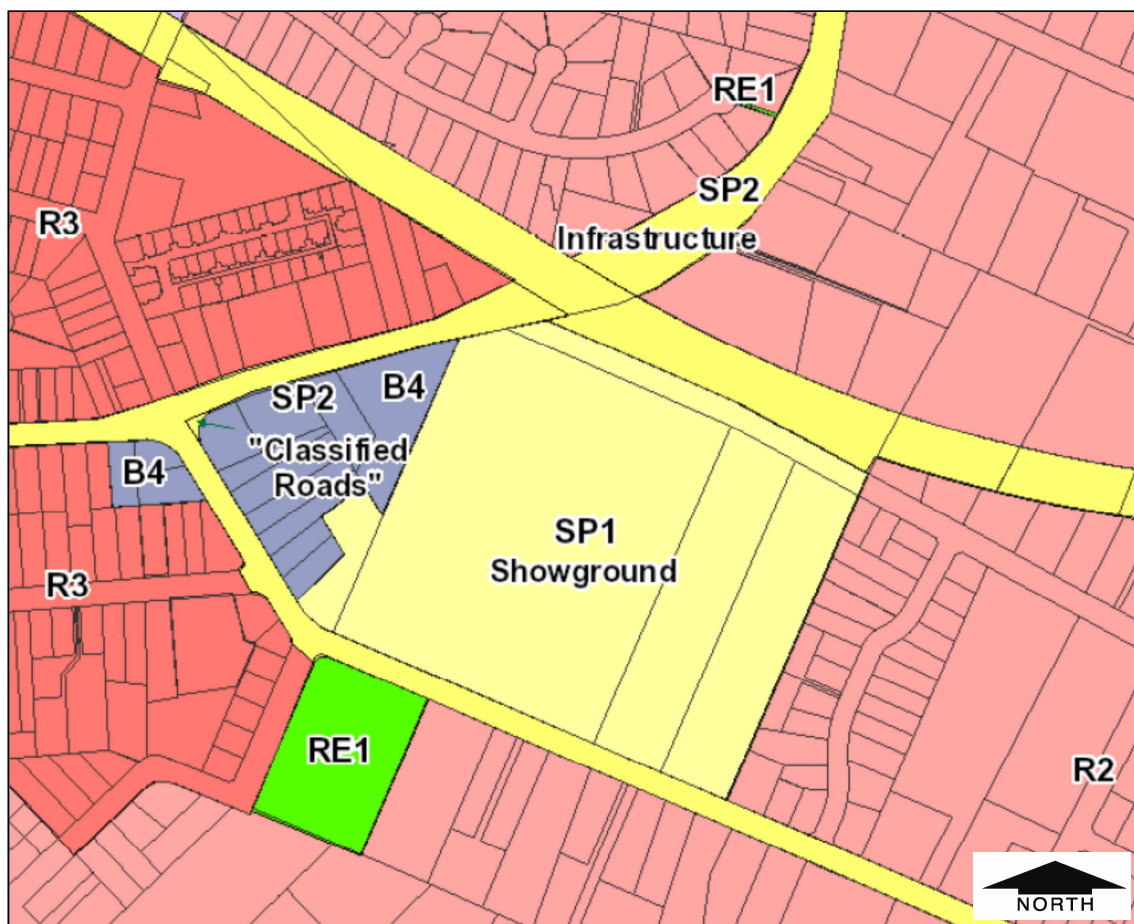
The details of the proposed amendment are discussed in the body of the report.

**DETAILS OF PROPOSAL**

**Moss Vale Show Ground Trust (The Trust)**

The Moss Vale Show Ground is currently zoned SP1 Special Activities "Showground" as shown in **Figure 1** below:

**Figure 1 – Extract of zone Maps, Moss Vale Showground**



The SP1 Special Activities land use table from WLEP 2010 is reproduced as follows:

**Zone SP1 Special Activities**

**1 Objectives of zone**

- To provide for special land uses that are not provided for in other zones.
- To provide for sites with special natural characteristics that are not provided for in other zones.
- To facilitate development that is in keeping with the special characteristics of the site or its existing or intended special use, and that minimises any adverse impacts on surrounding land.

**2 Permitted without consent**

*Nil*

**3 Permitted with consent**

*The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose.*

**4 Prohibited**

*Any development not specified in item 2 or 3*

Only activities that are shown on the map, in this case a 'Showground' or activities which are ordinarily incidental or ancillary to development for the purpose of a 'Showground' are permissible with consent. Therefore camping not associated with any other use of the Showground cannot be considered to be ordinarily incidental or ancillary to development for the purpose of a 'Showground'. This has been confirmed with the Department of Planning and Environment, i.e. that camping facilities not associated with any other use of the site are not ordinarily incidental or ancillary to the use as a 'Showground'.

To enable camping facilities on the subject site between major events for the purposes of travellers, it is recommended that the zoning map be amended to permit camping grounds , i.e. the notation on the map would be amended to read:

### **SP1 Showground & Camping Grounds**

This method of amendment allows all existing approved uses to continue and limits the site to one additional use, being Camping Grounds with the consent of Council via a subsequent development application. As such other uses such as a Caravan Park would remain prohibited. The Trust has clearly stated in their submission that they do not wish to seek approval for a Caravan Park.

The difference between a Camping Ground and Caravan Park is that Caravan Parks may contain permanent residential sites, where a Camping Ground cannot. The definition of each from WLEP 2010 is reproduced as follows:

***camping ground*** means an area of land that has access to communal amenities and on which campervans or tents, annexes or other similar portable and lightweight temporary shelters are, or are to be, installed, erected or placed for short term use, but does not include a caravan park.

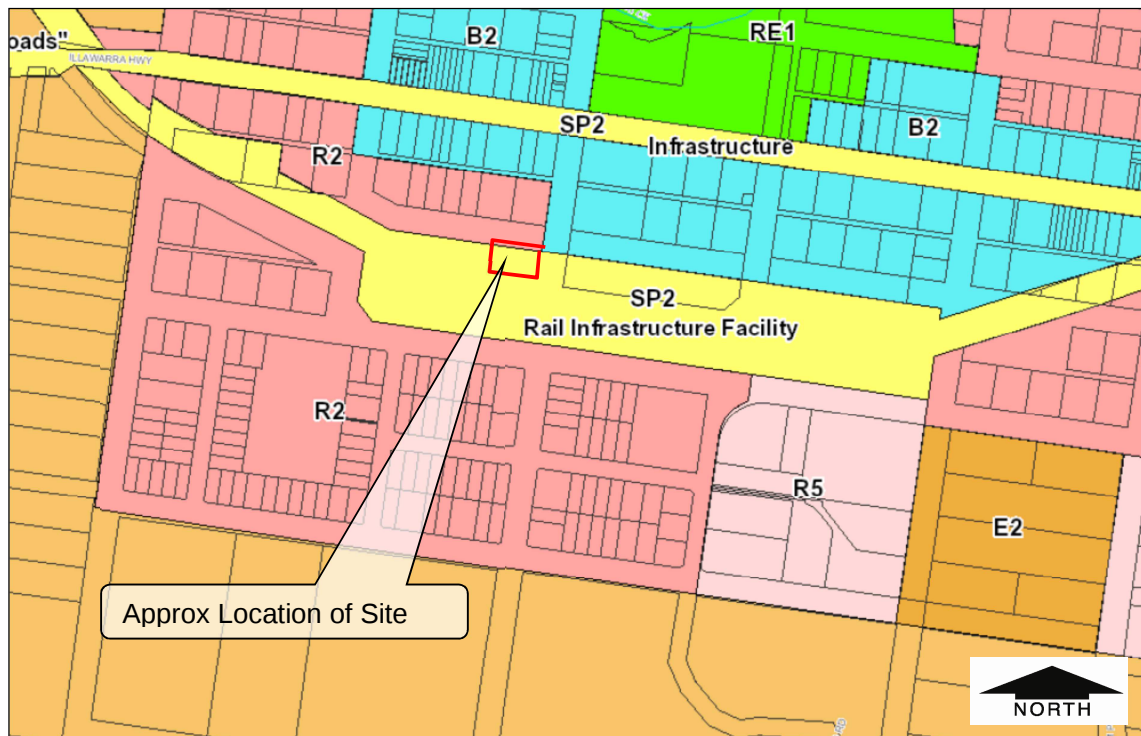
***caravan park*** means land (including a camping ground) on which caravans (or caravans and other moveable dwellings) are, or are to be, installed or placed.

### **Robertson & District Swimming Pool Association Inc (The Association)**

The ARTC Land that the Association wishes to use for the Recreation Facility (Indoor), is currently zoned SP2 Infrastructure – Rail Infrastructure Facility as shown in **Figure 2** over page:

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**Figure 2 – Extract of zone Maps – ARTC Rail Land Robertson**



An aerial image of the subject site showing the approximate location of the Recreation Facility (indoor) is provided in Figure 3 over page and a draft Survey Plan is provided as Figure 4 over pages.

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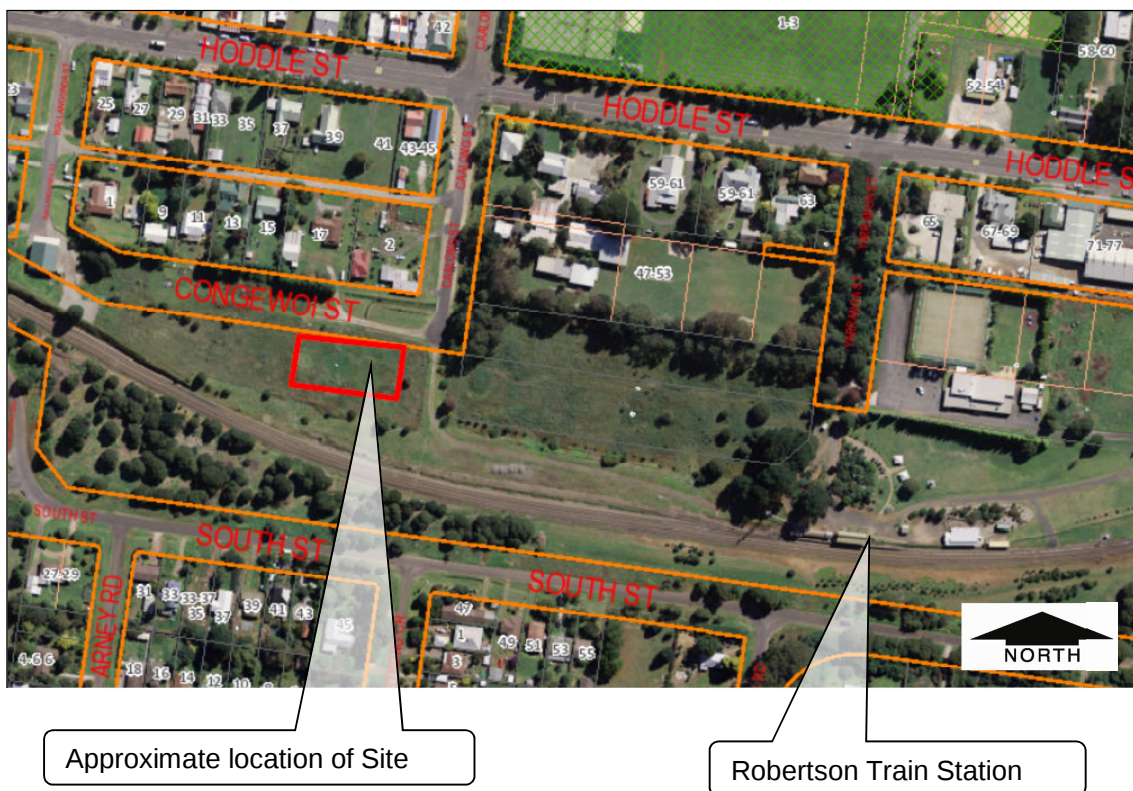
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**Figure 3 – Aerial image showing proposed location of Recreation Facility (indoor)**



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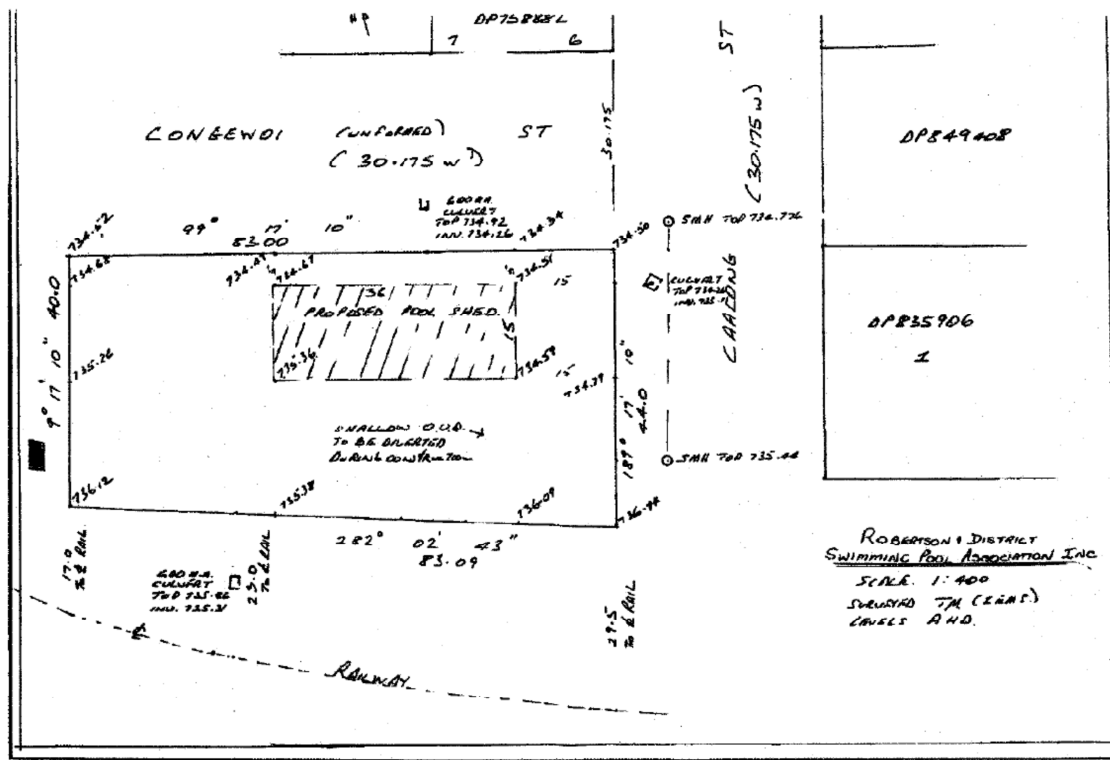
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**Figure 4 – Draft Survey Plan of Subject land and Recreation Facility (indoor)**



The SP2 Infrastructure land use table is reproduced from WLEP 2010 as follows:

**Zone SP2 Infrastructure**

**1 Objectives of zone**

- To provide for infrastructure and related uses.
- To prevent development that is not compatible with or that may detract from the provision of infrastructure.
- To ensure that the scale and character of infrastructure is compatible with the landscape setting and built form of surrounding development.

**2 Permitted without consent**

Nil

**3 Permitted with consent**

The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose; Roads

**4 Prohibited**

Any development not specified in item 2 or 3

Only activities which are shown on the map, in this case a 'Rail Infrastructure Facility' or are ordinarily incidental or ancillary to development for the purpose of a 'Rail Infrastructure Facility' are permissible with consent. Therefore a Recreation Facility (indoor) cannot be considered to be ordinarily incidental or ancillary to development for the purpose of 'Rail Infrastructure Facility'.

To enable the Recreation Facility (indoor) to be permissible on the site, a Planning Proposal is required to amend WLEP 2010 via rezoning the part of the land as surveyed in **Figure 4** to RE2 Private Recreation which permits Recreation Facilities (indoor) with Council's consent.

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## **STATUTORY PROVISIONS**

### **WINGECARRIBEE LEP2010 (WLEP 2010)**

Both subject sites are currently zoned in a manner under WLEP 2010 that do not permit the desired end use of the sites by the respective applicants. A Planning Proposal is required to amend WLEP 2010 appropriately to enable the end uses that have been discussed in the previous section. A Planning Proposal must be processed under the Gateway process introduced in July 2009 by the Department of Planning and Environment. The Gateway process has the following steps:

**Planning Proposal** - the relevant planning authority (Council) is responsible for the preparation of a planning proposal, which explains the effect of and justification for the plan. If initiated by the Minister (rather than the local council which is mostly the case) the Minister can appoint the Secretary of the Department of Planning and Environment or a joint regional planning panel to be the relevant planning authority.

**Gateway** - The Minister (or delegate) determines whether the planning proposal is to proceed. This gateway acts as a checkpoint to ensure that the proposal is justified before further studies are done and resources are allocated to the preparation of a plan. A community consultation process is also determined at this time. Consultations occur with relevant public authorities and, if necessary, the proposal is varied.

**Community Consultation** - the proposal is publicly exhibited (generally low impact proposals for 14 days, others for 28 days). A person making a submission may also request a public hearing be held.

**Assessment** - The relevant planning authority (Council) considers public submissions and the Proposal is varied as necessary. It is noted that clause 58 of the EP&A Act allows Council to vary, at any time, its Proposal as a consequence of its consideration of any submission or report during community consultation or for any other reason. Council may also resolve to not proceed with the Planning Proposal under this clause.

If the Planning Proposal does proceed, Parliamentary Counsel then prepares a draft local environmental plan (the legal instrument).

**Decision** - With the Minister's (or delegate's) approval the plan becomes law and is published on the NSW Legislation website.

### **REVIEW OF DECISIONS**

On 29 October 2012, the Minister for Planning and Infrastructure (at that time) announced that proponents seeking a rezoning can now request an independent review of decisions through the local Joint Regional Planning Panel. These changes came into effect on 2 November 2012 and allow an independent body to review some decisions by councils and the department, in the following situations:

### **(3) Pre-Gateway reviews**

If a proponent (e.g. developer, landowner) has requested that a council prepare a planning proposal for a proposed instrument, the proponent may ask for a pre-Gateway review if:

- a) the council has notified the proponent that the request to prepare a planning proposal is not supported, or
- b) the council has failed to indicate its support 90 days after the proponent submitted a request accompanied by the required information.

### **(4) Gateway reviews**

A council or proponent may request the Minister (or delegate) to alter a Gateway determination, when a Gateway determination is made that:

- b) the planning proposal should not proceed,
- b) the planning proposal should be resubmitted to the Gateway, or
- c) imposes requirements (other than consultation requirements) or makes variations to the proposal that the council or proponent thinks should be reconsidered.

### **DEVELOPMENT CONTROL PLANS (DCPs)**

No changes to Council's DCPs would be required as a result of the Planning Proposal.

### **STATE ENVIRONMENTAL PLANNING POLICIES (SEPPs)**

State Environmental Planning Policies (SEPPs) are a set of Environmental Planning Instruments with which Council must comply, where relevant, when considering amendments to WLEP 2010.

The following SEPPs are relevant to the Planning Proposal:

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

The *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011* SEPP came into force on 1 March 2011 and applies to all land in Wingecarribee Shire. The SEPP requires that a consent authority must not grant consent to any development under Part 4 of the EPA Act unless it is satisfied that the development will have a neutral or beneficial effect on water quality.

The Sydney Catchment Authority (SCA) is consulted in respect of the SEPP prior to Council seeking Gateway Determination.

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

SEPP 44 requires Council to consider, for any application where the SEPP applies, whether or not the land is a potential koala habitat. Neither applicant has provided any assessment in respect of Koalas or any other flora or fauna.

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## **SECTION 117 DIRECTIONS**

The Minister for Planning, under section 117(2) of the Environmental Planning and Assessment Act 1979 (EP&A Act) issues Directions that Council must follow when preparing Planning Proposals. The Directions cover the following broad categories:

1. employment and resources
2. environment and heritage
3. housing, infrastructure and urban development
4. hazard and risk
5. regional planning
6. local plan making.

An assessment of these broad categories will be undertaken and included in the Planning Proposal report to be submitted by Council for Gateway Determination.

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## **CONSULTATION**

### **EXTERNAL REFERRALS**

The Gateway Determination will identify what referrals to public authorities are required, however the SCA will be consulted prior to Gateway Determination being sought, should Council support the Planning Proposal.

### **INTERNAL REFERRALS**

No internal referrals have yet occurred but would be done during the community consultation phase should Council resolve to proceed with the Planning Proposal.

### **COMMUNITY CONSULTATION**

Community consultation will occur as set out in the Gateway Determination, which is likely to be 28 days of public exhibition including notifying adjoining neighbours of each of the subject sites.

Further, it should be noted that the Robertson & District Swimming Pool Association Inc submission included letters of support from the following entities:

- Robertson Public School
- Avoca Public School
- Kangaloon Public School
- Kangaloon Public School P&C Association
- Two Residents of Robertson
- Robertson Village Pharmacy
- Robertson & Burrawang Rovers Soccer Club
- Robertson Hockey Club
- Robertson & Community Senior Citizens Group
- Robertson Heritage Railway Station Inc

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## **SUSTAINABILITY ASSESSMENT**

- **Environment**

There is likely to be minimal environmental impacts resulting from the Planning Proposal, as camping occurs regularly with events at the Moss Vale Showground; and the ARTC Land in Robertson on face value does not appear to have any environmental constraints.

Nevertheless, should the Planning Proposal be supported environmental impacts will be assessed in detail as part of any subsequent development applications sought for the camping grounds and Recreation Facility (indoor).

- **Social**

The Planning Proposal, if supported, is likely to result in positive social impacts for the Community of Robertson in respect of the indoor aquatic centre; and for the Moss Vale Showground Trust being able to derive additional income to support the ongoing maintenance of the Showground for the community.

- **Broader Economic Implications**

Being Community based not-for-profit organisations, neither Planning Proposal will result in a cost to the community. However, there is opportunity for economic flow on effects to be generated from additional visitors to the Shire.

- **Culture**

There is unlikely to be any adverse impacts upon European and Aboriginal Culture resulting from the Planning Proposal.

- **Governance**

Should a positive Gateway Determination be issued by the Department of Planning and Environment, compliance with the requirements of the Environmental Planning & Assessment Act 1979 (EP&A Act), EP&A Regulations and the requirements of the Gateway Determination will ensure that due process is followed by Council in implementing the proposed amendment to WLEP 2010.

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## **RELATIONSHIP TO CORPORATE PLANS**

The Planning Proposal has no relationship with Council's Operational and Delivery Plans, as the amendments sought to WLEP 2010 have been made by non-for-profit community organisations, which Council has no responsibility or interest in respect of land ownership, management or financially.

Nevertheless, the Wingecarribee Shire Community Strategic Plan 2031+ contains Themes and Objectives, which can be related to the Planning Proposal as follows:

### **Leadership**

Goal 1.3.3 – Foster and support diverse interest groups to harness the skills, passion, time and commitment of community members and organisations, and to leverage effective participation.

### **People**

Goal 2.1 – Wingecarribee community has access to a variety of cultural, recreational and sporting facilities.

Goal 2.2 – Wingecarribee people have a healthy lifestyle and inclusive community'

Goal 2.3 – Services and facilities are provided locally to meet the needs of our community

### **Economy**

Goal 5.2 – The 'Southern Highlands' is a recognised tourist destination throughout Australia.

The Planning Proposal meets the above Goals contained in the Community Strategic Plan as it supports not-for-profit community groups, will result in accessible sporting facilities, and will help promote an alternative 'overnight' stay option for visitors to the Shire.

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### **BUDGET IMPLICATIONS**

Whilst Council has the option to charge appropriate Planning Proposal fees and charges, it is recommended that those charges of \$5,356 be met by Council in this instance due to the not-for-profit status of the Moss Vale Showground Trust and Robertson & District Swimming Pool Association Inc. As such Council bears the cost of staff time in the preparation of the Planning Proposal and all public exhibition costs.

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### **RELATED COUNCIL POLICY**

There are no other Council policies relevant to the Planning Proposal other than those previously discussed in the report.

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### **OPTIONS**

There are three (3) Options available to Council:

#### **Option 1**

Support both WLEP 2010 amendments as discussed in the body of the report.

#### **Option 2**

Support only one amendment to WLEP 2010 and not the other.

#### **Option 3**

Support neither amendment to WLEP 2010.

Option 1 is recommended as it will enable the Planning Proposal to proceed to Gateway Determination, where should both be supported, public exhibition and comment can be sought for each amendment and reported back to Council for further consideration.

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### **ATTACHMENTS**

There are no attachments to this report.

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**RECOMMENDATION**

1. **THAT** the Planning Proposal to amend Wingecarribee Local Environmental Plan 2010 to permit with consent development for the purposes of a *camping ground* on No 18-46 Robertson Road, Moss Vale Lot 1 DP738800 and Lots 4 and 5 DP6103, and to permit with consent development for the purposes of *recreation facility (indoor)* on Australian Rail Track Corporation Land on the Corner of Caalong and Congewoi Streets, Robertson be prepared and forwarded to the NSW Department of Planning and Environment for a Gateway Determination under section 55 of the Environmental Planning & Assessment Act 1979.
  2. **THAT** Council make a donation equivalent to the Planning Proposal fees (\$5,356) from the Contingency Fund.
  3. **THAT** the applicants be informed of Council's decision.
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***(Voting on the Motion)***