

Planning Proposal

Planning Proposal to amend Wingecarribee Local Environmental Plan 2010 to reclassify Part of Lots 1 and 2 DP1138229 from community to operational land for the purposes of creating a road reserve for access to Lot 6 DP1189022.

Version 2 – For Gateway Determination

October 2014



Civic Centre, Elizabeth St, Moss Vale, NSW 2577. PO Box 141, Moss Vale. t. (02) 4868 0888 f. (02) 4869 1203

www.wsc.nsw.gov.au

ATTACHMENTS WHICH FORM PART OF THIS PLANNING PROPOSAL

0	Planning Proposal
1	Evaluation Criteria for Delegation of Plan Making Functions (MS Word)
2	Report of Council 9 July 2014
3	Resolution of Council 9 July 2014
4	Sydney Catchment Authority Comments
5	

LOCAL GOVERNMENT AREA : WINGECARRIBEE SHIRE COUNCIL

ADDRESS OF LAND

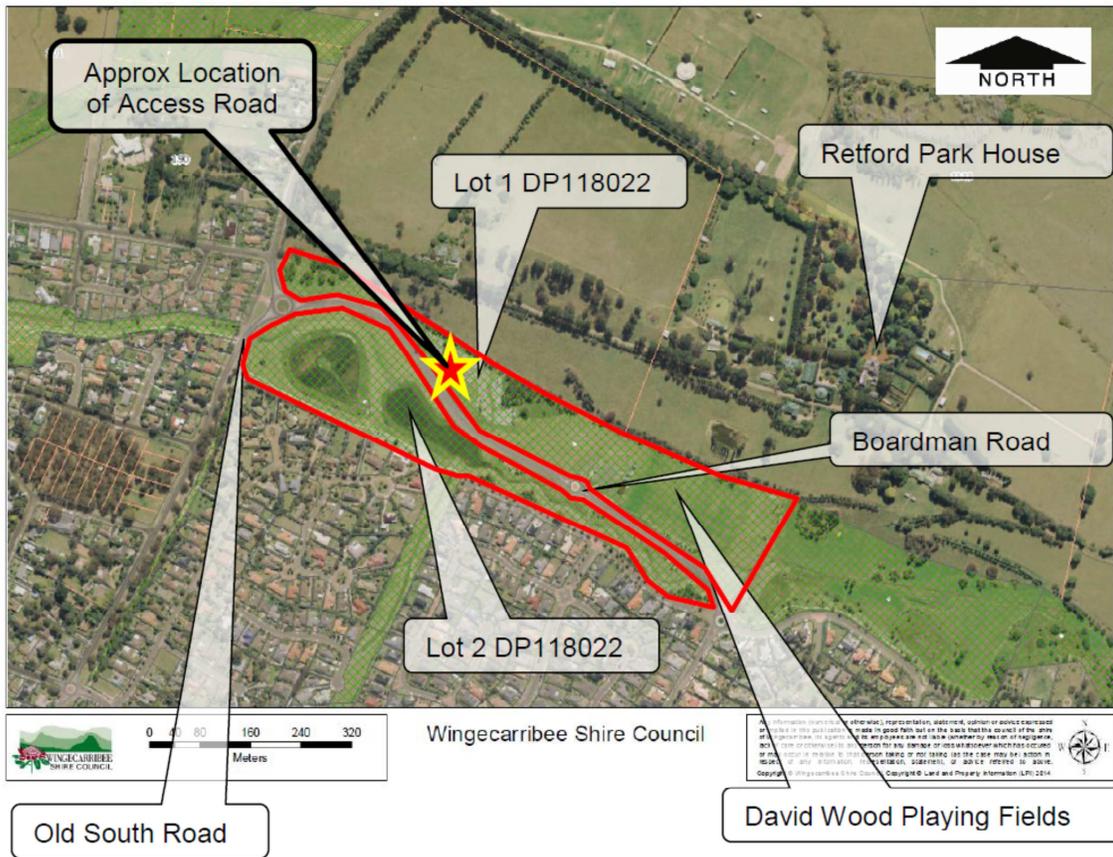
SHIRE WIDE LOCATION



SITE LOCATION & DESCRIPTION

ADDRESS OF LAND: This Planning Proposal involves community land to the north and south of Boardman Road, East Bowral, being Lots 1 and 2 DP1189022 as shown in **Figure 1:**

Figure 1 - Subject site locality



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PART 1 : OBJECTIVES OR INTENDED OUTCOMES

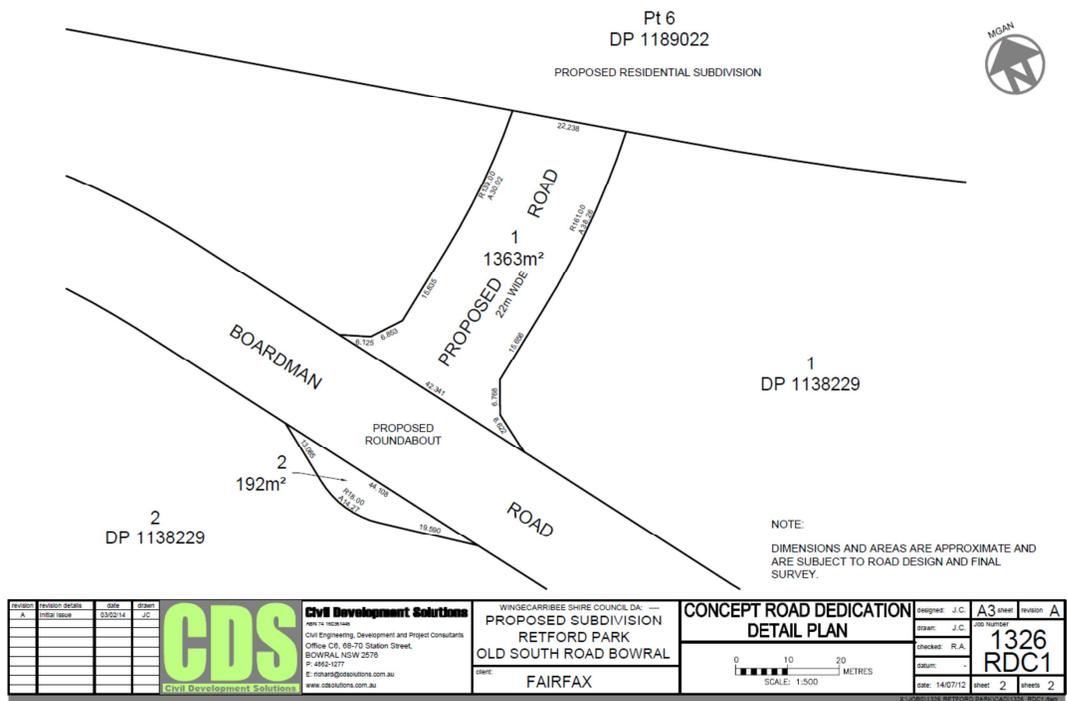
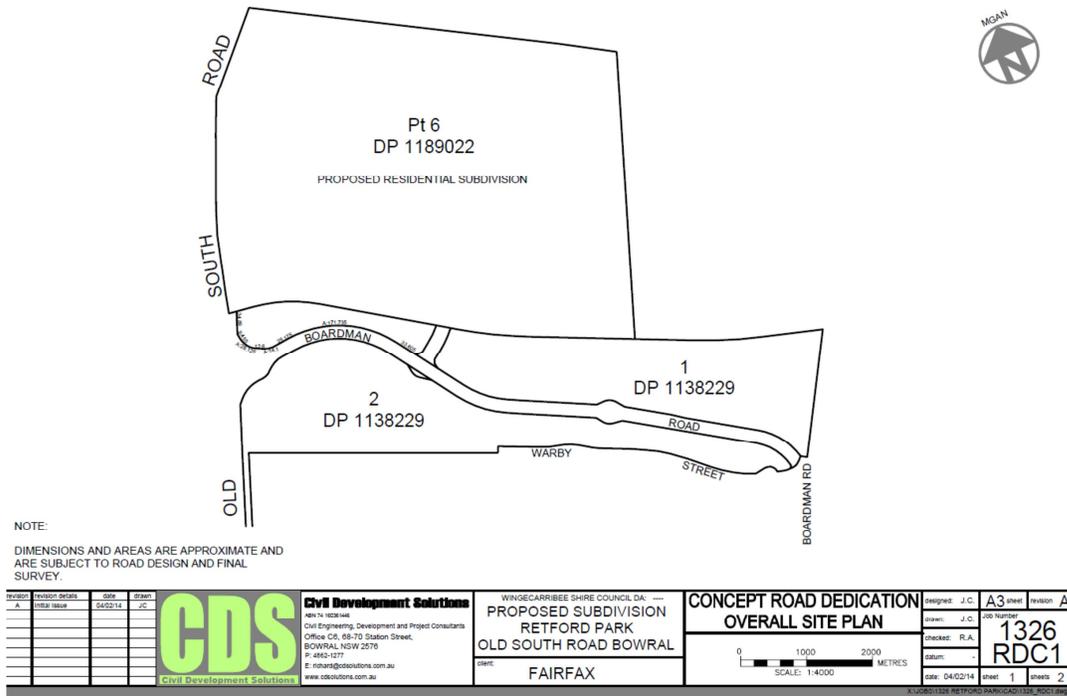
The objective of the Planning Proposal is to enable access through community land to the development site as shown in **Figure 2** and **Figure 3**.

Figure 2 - Latest Revision of Proposed Subdivision



Location of Proposed Access on community land

Figure 3 - Proposed Subdivision of Community Land for Road Reserve



PART 2 : EXPLANATION OF THE PROVISIONS

The provisions of the Planning Proposal will amend Wingecarribee Local Environmental Plan 2010 as follows:

New Map to be Made	Details of Amendment
Land Reclassification (Part Lots) Map New Sheet 8350_COM_RPL_011_007K	Outline in Red proposed Road Reserve lots on Lots 1 and 2 DP 1138229 as shown in Figure 3 .

This area is intentionally blank

PART 3 : JUSTIFICATION OF OBJECTIVES, OUTCOMES & PROCESS**Section A – Need for the Planning Proposal****1. Is the Planning Proposal a result of any strategic study or report?**

The Planning Proposal results from a recent Planning Proposal on the land to the north to permit R2 Low Density Residential Development, as shown in **Figure 2**, which was notified on 12 September 2014 as Amendment 23 to WLEP 2010. Whilst the proposed subdivision plan always showed a main access road through the community land, it was not requested with the original Planning Proposal.

Hence, Council considered a report (Attachment 2) on the matter at its Planning and Strategic Peak Committee of the Whole meeting 9 July 2014 and made the following Resolution (Attachment 3):

THAT the Planning Proposal to amend Wingecarribee Local Environmental Plan 2010 to reclassify Part of Lots 1 and 2 DP1138229, as per Figure 4 of the report, from community to operational land for the purposes of creating a road reserve for access to Lot 6 DP1189022, be prepared and forwarded to the NSW Department of Planning and Environment for a Gateway Determination under Section 55 of the Environmental Planning and Assessment Act 1979.

This Planning Proposal report results from the above resolution.

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

A Planning Proposal is the best means of achieving the intended outcome of providing a road reserve through community land. Alternatives to a Planning Proposal to reclassify the land are:

- The Minister administering the Road Act publishes an order in the Gazette, classifying the road under Division 1 of Part 5 of the Roads Act, or
- The Council adopts a Plan of Management which authorises the creation of that road.

In respect of the above options, it would be difficult for Council to obtain a Gazette under Division 1 of Part 5 of the Roads Act, as an order can only be made on recommendation of the Roads and Maritime Services (RMS) (s54(1) of the Roads Act). Whilst Council could apply to the RMS to make a recommendation to the Minister, it is doubtful the RMS would make such a recommendation, as the proposed road will be a local road.

In regards to a Plan of Management, other than taking some time to produce, including community consultation, it would also be difficult to argue that a public road purpose of which is to provide access to residential development, would be consistent with the core objectives of any category of community land. Thus there could be public objection from

the community consultation period of the draft plan of management and it may well be argued that the Council would be acting unreasonably or otherwise unlawfully in adopting such a plan. If so, there could be a legal doubt about the validity of the Plan of Management.

Therefore, reclassifying the land by a Planning Proposal appears to be the most transparent and time efficient process to enable the road through the community land.

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 generally consistent with the objectives and actions contained within the *Sydney-Canberra Corridor Regional Strategy 2006-2031*, as the subject community land is required to provide safe access to land zoned R2 Low Density Residential land (Amendment 23 of WLEP 2010).

Access to Old South Road to the west of the new Residential zoned land is not supported by Council's Engineers due to safety concerns involving, site distance, speed, curvature, incline and drainage. Therefore the proposed access is considered most appropriate, due to lower speeds and good sight distance. This is generally consistent with the Actions contained on Page 31 of the Strategy, being to ensure development has appropriate access points and to enable the circulation of alternative transport such as buses.

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

The Planning Proposal is consistent with *the Wingecarribee Shire Community Strategic Plan 2031+* as follows:

Leadership

Goals 1.1 to 1.5 encourage community participation, mutual trust, networking, utilising community assets, and building on common interests.

Comment: A Planning Proposal to reclassify Community land to Operational land is a transparent method of fostering community trust on the matter, via the public exhibition requirements and a public hearing.

People

Goals 2.1 to 2.4 encourage community to have access to a variety of cultural, recreational and sporting opportunities; that the community be inclusive and healthy lifestyles encouraged; that services and facilities are provided locally to

meet needs of the community; that the community fosters a diverse, creative and vibrant community.

Comment: The loss of the community land, the subject of this Planning Proposal, is to be offset by land to be dedicated as part of the Retford Park Subdivision, which is currently under Voluntary Planning Agreement negotiations. Notwithstanding, land to be dedicated, but not limited to, includes the Central Park, a landscape corridor along Old South Road (including drainage lands), historical service driveway corridor (refer to **Figure 2**).

Places

Goals 3.1 to 3.5 encourage integrated and efficient transport networks; that towns remain distinct and separated; that urban design is inspiring and creates places people want to live; that housing options are diverse; that heritage is recognised and protected.

Comment: The Planning Proposal will reclassify community land to provide road access to a new subdivision, which meets the above goals and objectives.

Environment

Goals 4.1. to 4.3 recognise that the distinct and diverse nature of the natural environment is to be protected and enhanced; people live sustainably; waste generation is reduced; and the community becomes carbon neutral.

Comment: The reclassification of the community land will not have any adverse impact on the natural environment. Sustainable living within the subdivision, which the land will service as a road way will be promoted through planning controls, such as the housing code and Development Control Plans.

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

The Planning Proposal is generally consistent with the following relevant State Environmental Planning Policies (SEPP):

SEPP 44 Koala Habitat Protection

SEPP 44 applies to all land within the Wingecarribee Shire Local Government Area. The subject site is not known to maintain any Koala populations or food trees. Nevertheless, should the Planning Proposal proceed to amend WLEP 2010, a subsequent Development Application will need to address the environmental impacts of the proposed subdivision and road construction.

SEPP Sydney Drinking Water Catchment 2011

In accordance with the Section 117 Directions the planning proposal was referred to the Sydney Catchment Authority (SCA) on 14 September 2014 for comment. The SCA replied on 24 October 2014 (Attachment 4) and raised no objection to the Planning Proposal.

As the SEPP applies, Council must ensure any future development results in a neutral or beneficial effect on water quality resulting from the site once developed. Such detail will likely be submitted with future development applications for each of the site.

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

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 Planning Proposal does not change any environmental protection standards in WLEP 2010.
2.2 Coastal Protection	Not Relevant
2.3 Heritage Conservation	Consistent – This Planning Proposal does not alter any heritage conservation standards, or land affected by heritage items contained in WLEP 2010
2.4 Recreation Vehicle Areas	Not Relevant
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	Consistent – The land the subject of this Planning Proposal will provide road access to land recently zoned R2 Low Density residential for the purposes of providing greater housing choice and land release in Bowral (Amendment 23 to WLEP 2010)
3.2 Caravan Parks and Manufactured Home Estates	Consistent – This Planning Proposal does not reduce the development standards for caravan parks in WLEP 2010.
3.3 Home Occupations	Consistent – This Planning Proposal does not effect the development standards contained in WLEP 2010 for Home Occupations.
3.4 Integrating Land Use and Transport	Not Relevant
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	Not Relevant

Land	
4.3 Flood Prone Land	Not Relevant
4.4 Planning for Bushfire Protection	Not Relevant
5. Regional Planning	
5.1 Implementation of Regional Strategies	Consistent – refer to Section B (3) of this report.
5.2 Sydney Drinking Water Catchments	Consistent – refer to Section B (5) of this report.
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	Consistent – This Planning Proposal will not result in any development applications that will require concurrence, consultation, or referral to a Minister or public authority and/or designated development.
6.2 Reserving Land for Public Purposes	Inconsistent – This Planning Proposal is inconsistent with this Direction, as the subject land is being reclassified from community to operational for the purposes of a road reserve. Rezoning is not required as Roads are permissible in the RE1 zone. Although the Planning Proposal is inconsistent with this direction, the inconsistency is considered to be of a minor significance, as the amount of land to be reclassified is limited to the proposed road reserve and Council will gain significantly more community land through dedication of lands from the subdivision that the road reserve will provide access to (refer to Figure 2).
6.3 Site Specific Provisions	Not Relevant

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 subject site is not known to contain critical habitat or threatened species, populations or ecological communities, or their habitats. Notwithstanding, the developer will be required to address any such environmental impacts as part of any development application that includes construction of the proposed entrance road.

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

Other likely environmental impacts would result during the construction phase of road, which will be mitigated by replacement tree and vegetation planting and sediment and erosion controls; and any other matter raised during the development assessment process.

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

The Planning Proposal is unlikely to have any impact on any known European and Aboriginal heritage. In respect to the loss of community land, the Retford Park subdivision shown in **Figure 2** will dedicate significant areas of land to the community free of cost (up front – ongoing maintenance cost will result) greater in area than the land being taken up for the road reserve.

Section D – State and Commonwealth Interests

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

The Planning Proposal results in community land being made operational to allow for a road reserve to service a new residential subdivision adjoining the land to the north, which other adequate infrastructure such as water, sewer, electricity, communications exist. The surrounding road network is capable and has sufficient capacity for the proposed subdivision, however the proposed road link through the community land is assessed as being the safest and most efficient means providing access to the new residential development site.

PART 4 – MAPPING

The Planning Proposal will result in the addition of the following map to WLEP 2010:



Note: Part lot reclassification here in red

Wingecarribee Local Environmental Plan 2010

Land Reclassification
(Part Lots) Map - Sheet RPL_007A

Operational Land
Cadastre

Cadastre 040714 6 Land and Property Information (LPI)

Scale 1:25,000 @ A3

Projection: MGA
Map Information Centre 8885, 10000, 10000, 10000, 10000

PART 5 – COMMUNITY CONSULTATION

The Planning Proposal will be exhibited in accordance with the requirements of the Gateway Determination. A Public Hearing will also be held as land is to be reclassified.

PART 6 – TIMELINE

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

MILESTONE	INDICATIVE DATE
Gateway Determination	November 2014
Completion of technical studies if required	N/A
Revised/updated Planning Proposal (if required)	N/A
Public Exhibition/Consultation with government agencies	December/January 2014/15
Public hearing – if required (if not exclude)	February 2015
Report to Council on exhibition of Planning Proposal.	March 2015
Documents to DP&I & PCO.	March 2015
Approximate completion date	April 2015

DELEGATIONS

Council is applying to use its delegations to complete this Proposal.