



**Planning Proposal
To Amend
Wingecarribee Local Environmental Plan 2010
to insert a Local Clause to permit consideration of
Boundary Changes between Lots in Certain Rural,
Residential and Environmental Protection Zones.**

Planning Proposal

LOCAL GOVERNMENT AREA: WINGECARRIBEE SHIRE COUNCIL

ADDRESS OF LAND: Shire-wide

PART 1 - OBJECTIVES OR INTENDED OUTCOMES OF PLANNING PROPOSAL

The purpose of the Planning Proposal is to amend Wingecarribee Local Environmental Plan 2010 (WLEP 2010) to insert a clause which allows Council to consider boundary adjustments between one or more undersized lots in certain rural, residential and environment protection zones by means of a Land Use Application for subdivision instead of a Planning Proposal.

PART 2 – EXPLANATION OF PROVISIONS

The provisions of the Planning Proposal will amend Wingecarribee Local Environmental Plan 2010 (WLEP 2010) to insert the following Local Clause:

Boundary changes between lots in certain rural, residential and environmental protection zones

- (1) The objective of this clause is to permit the boundary between 2 lots to be altered in certain circumstances, to give landowners a greater opportunity to achieve the objectives of a zone.
- (2) This clause applies to land in any of the following zones:
 - a) Zone RU1 Primary Production,
 - b) Zone RU2 Rural Landscape,
 - c) Zone RU3 Forestry,
 - d) Zone RU4 Primary Production Small Lots,
 - e) Zone R5 Large Lot Residential,
 - f) Zone E1 National Parks and Nature Reserves,
 - g) Zone E2 Environmental Conservation,
 - h) Zone E3 Environmental Management,
 - i) Zone E4 Environmental Living.
- (3) Despite clause 4.1 (3), development consent may be granted to the subdivision of 2 adjoining lots, being land to which this clause applies, if the subdivision will not result in:
 - a) an increase in the number of lots, and
 - b) an increase in the number of dwellings, secondary dwellings or dual occupancies on, or dwellings, secondary dwellings or dual occupancies that may be erected on, any of the lots, and
 - c) an allotment of less than two (2) hectares.

- (4) Before determining a development application for the subdivision of land under this clause, the consent authority must consider the following:
- a) the existing uses and approved uses of other land in the vicinity of the subdivision,
 - b) whether or not the subdivision is likely to have a significant impact on land uses that are likely to be preferred and the predominant land uses in the vicinity of the development,
 - c) whether or not the subdivision is likely to be incompatible with the use referred to in paragraph (a) or (b),
 - d) whether or not the subdivision is likely to be incompatible with a use on land in any adjoining zone,
 - e) any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c) or (d),
 - f) whether or not the subdivision is appropriate having regard to the natural and physical constraints affecting the land,
 - g) whether or not the subdivision is likely to have an adverse impact on the environmental values or agricultural viability of the land.
- (5) This clause does not apply:
- a) in relation to the subdivision of individual lots in a strata plan or a community title scheme, or
 - b) if the subdivision would create a lot that could itself be subdivided in accordance with clause 4.1.

PART 3 - JUSTIFICATION

Section A – Need for the Planning Proposal

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

The Planning Proposal originates from a request from the NSW Department of Planning & Infrastructure (DP&I) on 22 March 2013 (ATTACHMENT 1) to consider including a 'boundary adjustment' clause in WLEP 2010 to enable the consideration, by means of a Land Use Application (LUA), of the subdivision of adjoining allotments in certain zones when at least one is undersized.

The DP&I request follows refusal by Council of a Planning Proposal submission to permit a boundary adjustment between two adjoining lots on Trig Station Lane at Kangaloon and a subsequent appeal by the applicants to the Department for a pre-Gateway Review.

Council could not respond to the DP&I request within the required time frame due to the matter needing to go before the Local Planning Strategy Steering Committee and then be reported to Council, so the applicants' request progressed to consideration by the

Joint Regional Planning Panel (JRPP). The decision of the JRPP was issued to Council on 20 September 2013. (ATTACHMENT 2)

The JRPP decision requires Council to progress with a Planning Proposal to insert the local clause into WLEP 2010. Concurrently, Council resolved on 9 October 2013 to proceed with a Planning Proposal to insert a 'boundary adjustment' local clause into WLEP 2010. The Council report and resolution are attached. (ATTACHMENTS 3 and 4).

The purpose of the local clause is to permit the consideration, by means of an LUA rather than a Planning Proposal, of a boundary adjustment between two parcels of land, when either one or both are below the minimum lot size, provided the adjustment does not adversely affect the objectives of the zone and would not create additional lots or dwelling opportunities.

The specific zones to which the proposed clause would apply are RU1 Primary Production, RU2 Rural Landscape, RU3 Forestry, RU4 Primary Production Small Lots, R5 Large Lot Residential, E1 National Parks and Nature Reserves, E2 Environmental Conservation, E3 Environmental Management, and E4 Environmental Living.

It is also noted that Council has inserted an additional subclause into the draft clause provided by DP&I, that the clause could not create an allotment of less than 2 hectares.

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 only means of inserting a new Local Clause into WLEP 2010 in the absence of any amendment to that effect to the Standard Instrument. In view of the JRPP determination no other options are considered.

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 not site-specific and does not, in itself, result in any development potential beyond which already exists. Therefore it is considered that no regional or sub-regional strategies are impacted by this Proposal.

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

The Planning Proposal is not site-specific and does not, in itself, result in any development potential beyond which already exists. Therefore it is considered that this Proposal has no impact on any of Council's local strategies.

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

SEPP1 – Development Standards	The Planning Proposal is considered consistent with this SEPP because it is not site-specific. Further assessment would occur during any subsequent site-specific LUA.
SEPP44 – Koala Habitat Protection	The Planning Proposal is considered consistent with this SEPP because it is not site-specific. Further assessment would occur during any subsequent site-specific LUA.
SEPP (Rural Lands) 2008	The Planning Proposal is considered consistent with this SEPP because it is not site-specific. Further assessment would occur during any subsequent site-specific LUA.

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

2.1 Environmental Protection Zones	The proposed clause applies to the Environmental Protection zones therefore this Direction applies. The clause provides several heads of consideration which would ensure that any subdivision resulting from an application of the clause was consistent with this Direction.
5.1 Implementation of Regional Strategies.	It is considered that any application of the proposed clause would be consistent with regional and local strategies through consideration of the various assessment heads of consideration at the LUA stage.
5.2 Sydney Drinking Water Catchment	No consultation with the SCA has occurred regarding this Planning Proposal as no specific land is involved. Referral to the SCA will occur if directed through the Gateway Determination.
6.1 Approval and Referral Requirements	The Planning Proposal is considered consistent with this Direction because no concurrence is required.

6.2 Reserving Land for Public Purposes	The Planning Proposal is considered consistent with this Direction because no public lands are affected.
6.3 Site Specific Provisions	The Planning Proposal is considered consistent with this Direction because no site specific provisions apply.

Section C – Environmental, social and economic impact

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 proposed clause provides several heads of consideration which ensure that no adverse environmental impacts result from its application. Detailed assessment would occur at the site-specific LUA stage.

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

The proposed clause provides several heads of consideration which ensure that no adverse environmental impacts result from its application. Detailed assessment would occur at the site-specific LUA stage.

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

The proposed clause provides the opportunity for property owners to undertake boundary adjustments to improve the economic return and viability of their property.

Section D – State and Commonwealth interests

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

The Planning Proposal would not impact on public infrastructure.

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

No consultation with the SCA has occurred regarding this Planning Proposal as no specific land is involved. Referral to the SCA will occur if directed through the Gateway Determination.

PART 4 – MAPPING

No maps are affected by this Planning Proposal.

PART 5 – COMMUNITY CONSULTATION

It is recommended that the Planning Proposal be publicly exhibited for a period of 28 days. During this period Council intends to advertise in the local newspaper and make the Planning Proposal available on its website and at the Customer Service Centre.

PART 6 – PROJECT TIMELINE

ACTION	INDICATIVE DATE
Gateway Determination	November 2013
Completion of technical studies if required	
Revised/updated Planning Proposal (if required)	
Public Exhibition/Consultation with government agencies	December 2013
Report to Council on exhibition of Planning Proposal.	February 2014
Documents to DP&I & PCO.	March 2014
Approximate completion date	May 2014

DELEGATIONS

Delegation is sought and the completed Evaluation Form follows as ATTACHMENT 5.

ATTACHMENTS

Attachment 1 – Letter from DP&I dated 22 March 2013 regarding boundary adjustments clause.

Attachment 2 – Response from DP&I dated 20 September 2013 regarding the outcome of the JRPP review.

Attachment 3 – Report to Council 9 October 2013.

Attachment 4 – Resolution of Council 9 October 2013.

Attachment 5 – Completed Delegation Evaluation Form.