



**Planning Proposal to amend
Wingecarribee Local Environmental Plan 2010 (WLEP 2010)
to permit development on three (3) properties
(‘Boscobel’, ‘Burrawang Hotel’ and ‘Pavilions’)**

Planning Proposal

LOCAL GOVERNMENT AREA: WINGECARRIBEE SHIRE COUNCIL

This Planning Proposal includes three (3) amendments to three (3) separate properties by two (2) separate mechanisms. They have been combined into one Planning Proposal on the basis that all amendments will affect individual properties under the Wingecarribee Local Environmental Plan (WLEP) 2010. A précis of the three (3) Parts of the proposal is provided below to enable understanding of the mapping that follows.

The properties will be identified throughout this Planning Proposal by their respective property names (alphabetically) or the corresponding letter (A, B and C) below.

ADDRESS OF LAND:

A 'Boscobel': 453 Exeter Road, Sutton Forest (Plan enclosed)

The subject land is identified as Lot 3 DP 1142493, Lot 1 DP 63523, Lot 1 DP 1094302, Lots 1-19 Sec 8 DP 758938 and Lots 1&2 Sec 9 DP 758938 and has a combined area of 47.13 Ha. There are two (2) existing dwelling entitlements for the existing holding. One dwelling entitlement is assigned to Lot 3 DP 1142493 which has an area of 650 sqm, the other is assigned to the remainder of the site. Lot 3 DP 1142493 is currently unoccupied.

The subject property is in the E3 Environmental Management zone, has an existing Minimum Lot Size of 40 Hectares and is a heritage item under Wingecarribee LEP (WLEP) 2010.

Council has resolved to support a 'boundary realignment' within the property known as 'Boscobel' (Lot 1 DP 1094302) to create two (2) new allotments within the existing holding: one of 46 hectares and one of 4,000 sqm.

A Planning Proposal is required because a development application for the use of the smaller site for residential purposes cannot currently be considered because of the operation of Clause 4.2A (3) *Erection of dwelling houses on land in certain rural and environmental protection zones* of the Wingecarribee LEP (WLEP) 2010.

The subject property is not a registered Heritage Item on the State Heritage Register however under Section 1.15(2)(b) of the Exempt and Complying (SEPP) Codes 2008, the subject land contains Southern Highlands Shale Woodland (SHSW) that is an Endangered Ecological Community (EEC), therefore the provisions of the Exempt and Complying SEPP 2008 cannot be applied.

If the Planning Proposal is allowed to proceed, an amendment will also be required to the Heritage Maps (draft attached) and Schedule 5 of WLEP 2010 to delineate the new boundary of the heritage property and revise the Lot and DP numbers.

B. 'Burrawang Hotel': 14-16 Hoddle Street, Burrawang (Plan enclosed)

Subject land comprises: Lot 1 DP 198682.

Council resolved to support the Planning Proposal on the basis that it would only be for a two lot subdivision so as to achieve the owner's objective of separating the 'Burrawang Hotel' from the remainder of the property. The lot containing the 'Burrawang Hotel' will retain the B1 Neighbourhood Centre zoning under Wingecarribee LEP 2010.

The Planning Proposal is required because the 40 Ha minimum lot size at the rear of the property currently prevents lodging of a development application for subdivision.

This part of the Planning Proposal is proceeding on the basis that an amendment to the Minimum Lot Size Map of the WLEP 2010 is required.

If the Planning Proposal is allowed to proceed, an amendment will also be required to the Heritage Map (draft attached) and Schedule 5 of WLEP 2010 to delineate the new boundary of the heritage property and revise the Lot and DP numbers.

B. 'The Pavilions': 123 Bong Bong Street, Mittagong

Subject land comprises: Lot 6 Section 7 Deposited Plan (DP) 2836

Council resolved to support the Planning Proposal so that an existing building, with various former uses (none residential), can be used as a residence (Dwelling House).

The subject land has an area of 4,047 sqm. The site is affected by one minimum lot size: AB2 (40 Ha), and split zonings between RU2 Rural Landscape and E3 Environmental Management under WLEP 2010.

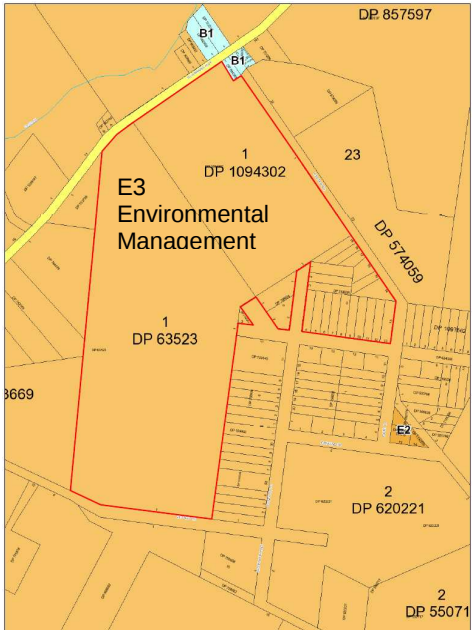
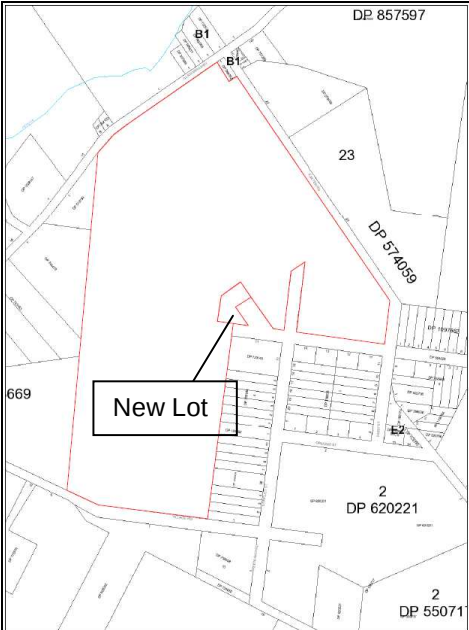
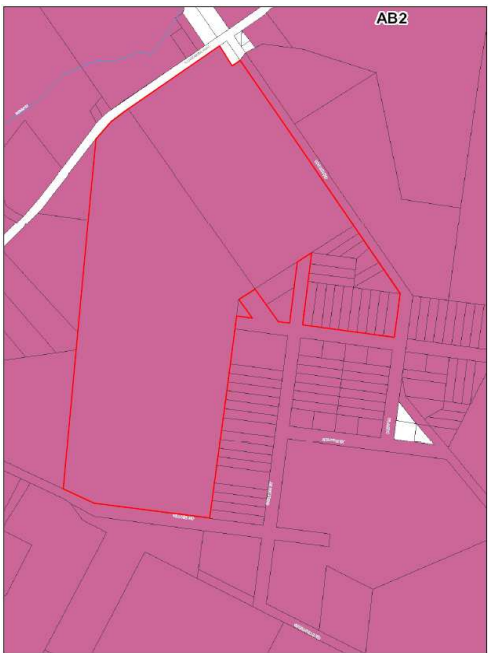
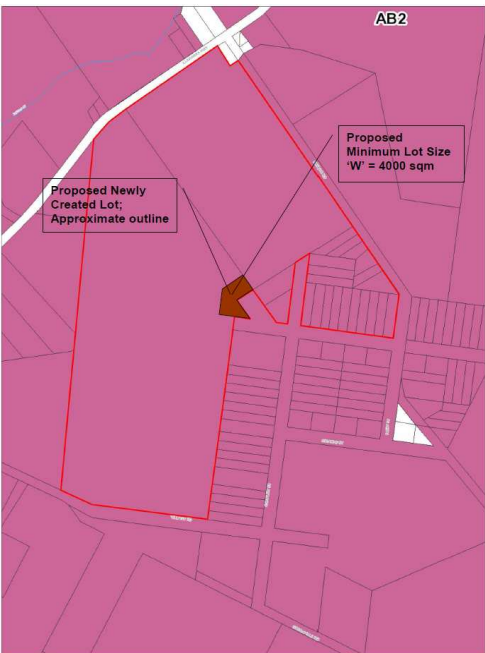
A Planning Proposal is required because a development application for the use of the site as a dwelling cannot currently be considered because of the operation of Clause 4.2A (3) *Erection of dwelling houses on land in certain rural and environmental protection zones* of the WLEP 2010. Clause 4.2A of the WLEP 2010 provides that a dwelling house may not be erected if the size of the lot is below the Minimum Lot Size of the WLEP 2010.

The subject site is affected by two land use zones and a single minimum lot size; the zones are RU2 Rural Landscape and E3 Environmental Management of the WLEP 2010 and the minimum lot size of AB2 (40 Ha) applies to the site.

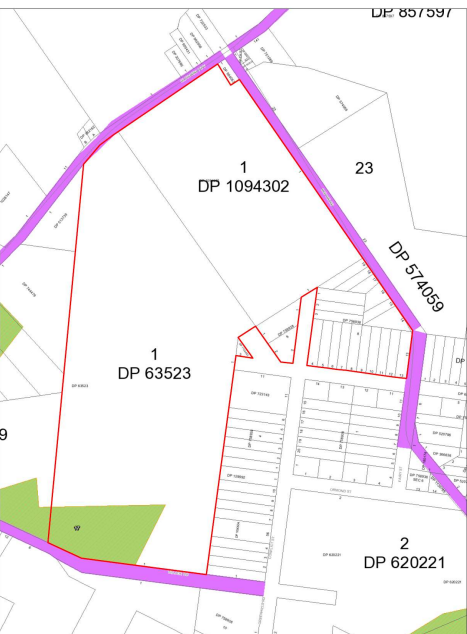
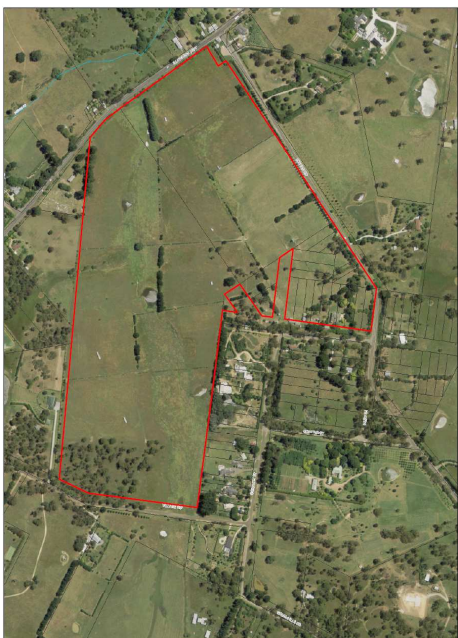
Council resolved to support the proposed development to reduce the minimum Lot Size over Lot 6 to 4,000 sqm (W) and extend the E3 Environmental Management zoning of the WLEP 2010 over the site as demonstrated by the following maps.

Council resolved to support the extension of the E3 Environmental Management zoning of the WLEP 2010 over the subject land to align the objectives of this zoning with adjoining E3 land.

B. 'BOSCOBEL' Property

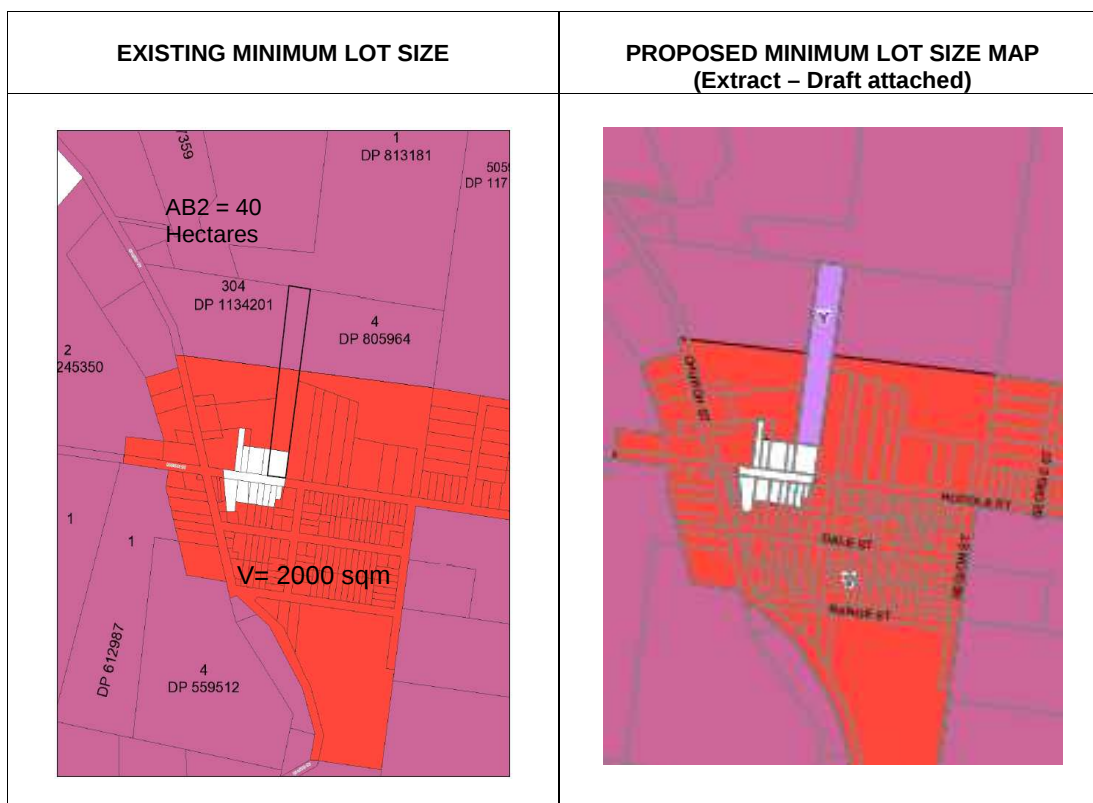
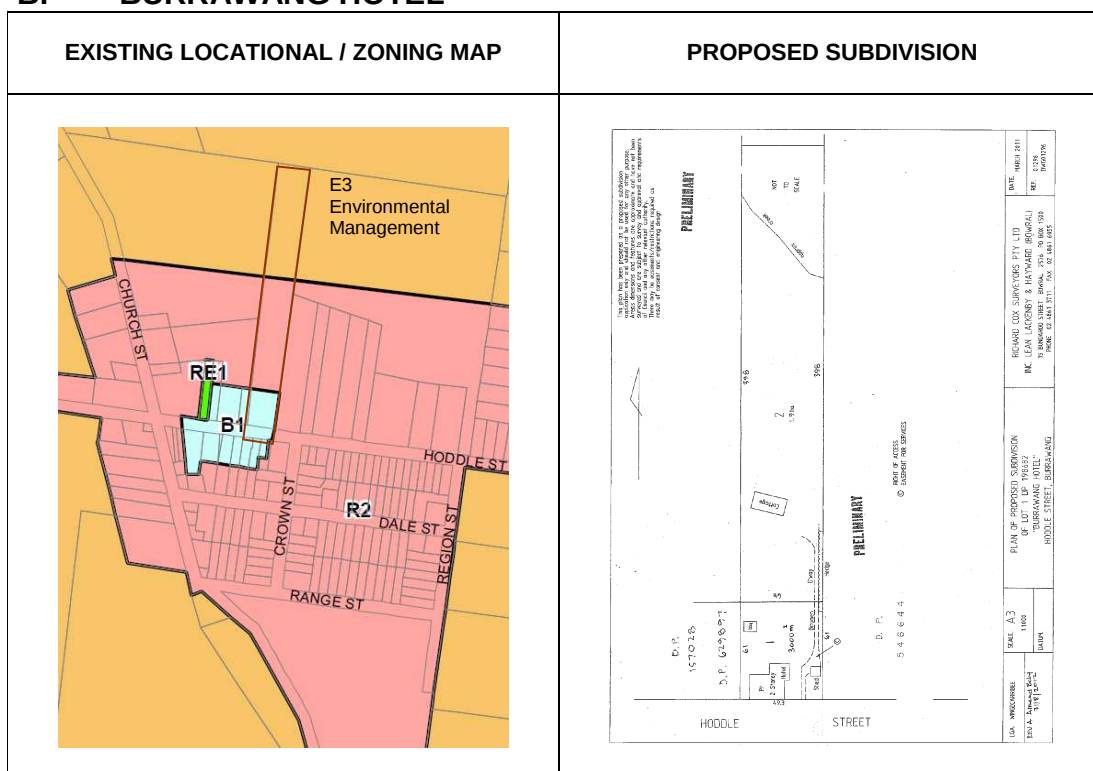
EXISTING CADASTRE / ZONING MAP (Property shown in red)	PROPOSED RECONFIGURATION (Approx)
	
EXISTING MINIMUM LOT SIZE (40 Ha)	PROPOSED MINIMUM LOT SIZE MAP (Draft attached)
	

PLANNING PROPOSAL TO AMEND THE WINGECARRIBEE LEP 2010 OVER THREE (3) PROPERTIES:
 'BOSCOBEL', 'BURRAWANG HOTEL' AND 'THE PAVILIONS'

EXISTING HERITAGE MAP	DRAFT HERITAGE MAP (EXTRACT) (Draft attached)
	
VEGETATION MAPPING 17 = Southern Highlands Shale Woodland (EEC)	AERIAL MAP
	

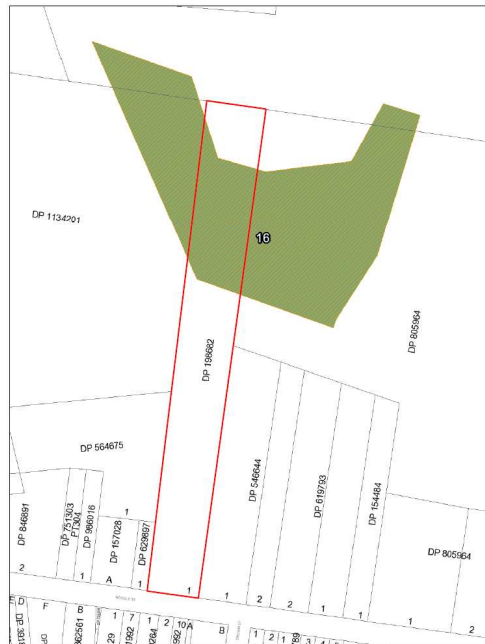
PLANNING PROPOSAL TO AMEND THE WINGECARRIBEE LEP 2010 OVER THREE (3) PROPERTIES:
'BOSCobel', 'BURRAWANG HOTEL' AND 'THE PAVILIONS'

B. 'BURRAWANG HOTEL'



PLANNING PROPOSAL TO AMEND THE WINGECARRIBEE LEP 2010 OVER THREE (3) PROPERTIES: 'BOSCobel', 'BURRAWANG HOTEL' AND 'THE PAVILIONS'

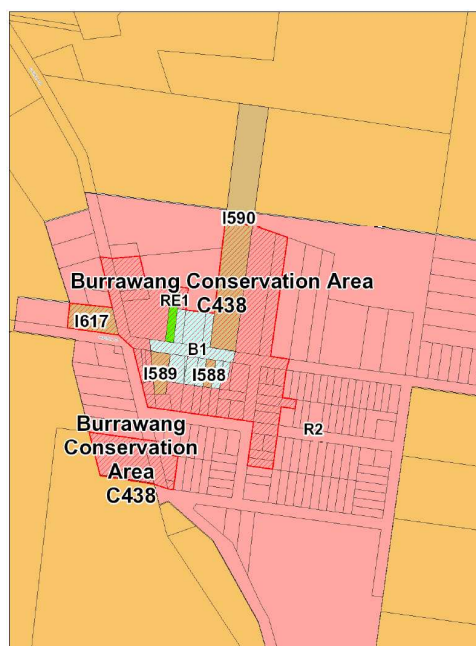
BURRAWANG HOTEL VEGETATION MAP
16 = Robertson Basalt Tall Open Forest (EEC)



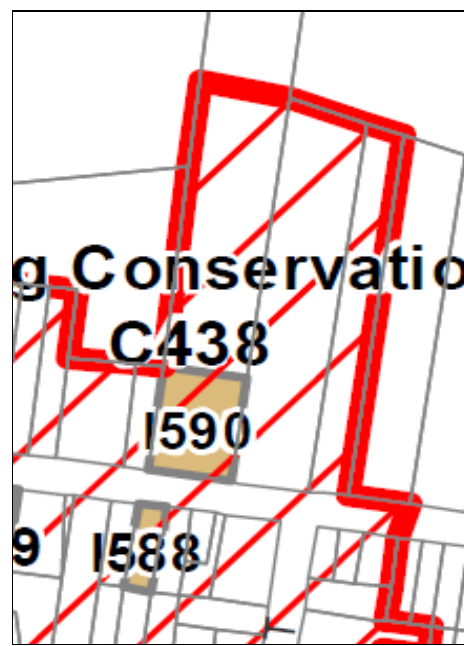
AERIAL PHOTO DETAIL



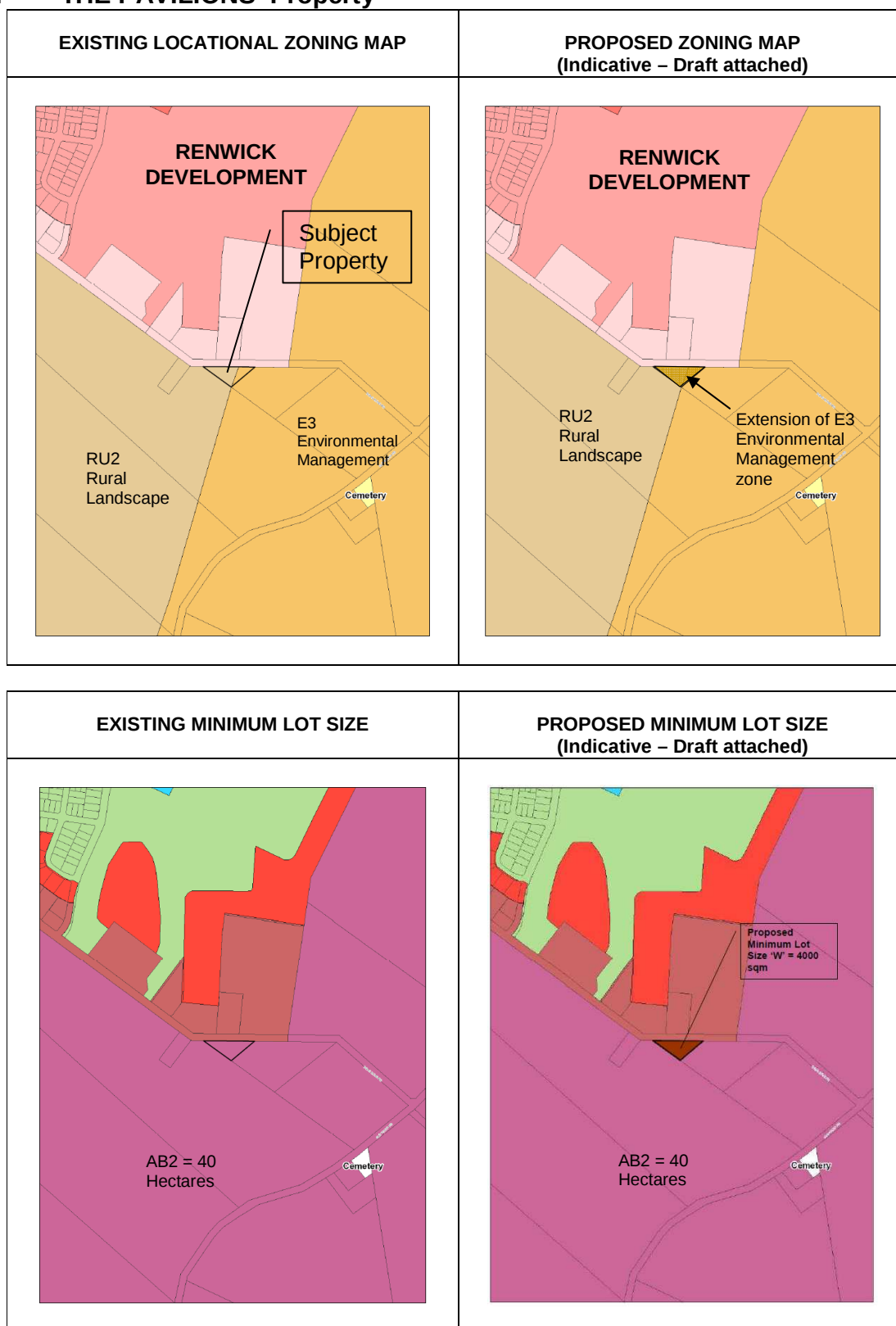
EXISTING HERITAGE MAP



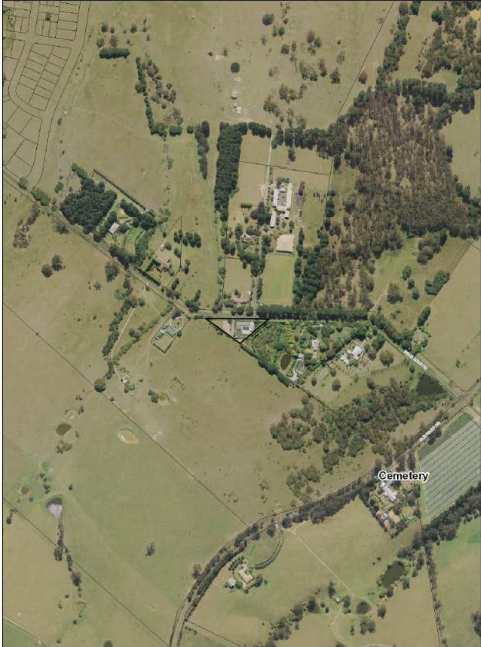
PROPOSED HERITAGE MAP
(Extract – Draft attached)



C. 'THE PAVILIONS' Property



PLANNING PROPOSAL TO AMEND THE WINGECARRIBEE LEP 2010 OVER THREE (3) PROPERTIES:
 'BOSCOBEL', 'BURRAWANG HOTEL' AND 'THE PAVILIONS'

PAVILIONS AERIAL PHOTO	EXISTING HERITAGE (No change required)
	

PART 1 - OBJECTIVES OR INTENDED OUTCOMES OF PLANNING PROPOSAL

The purpose of the Planning Proposal is to amend the Wingecarribee Local Environmental Plan 2010 (WLEP 2010) for three (3) sites to allow Council to consider separate development applications for the types of development as detailed above: A boundary adjustment, a subdivision and dwelling permissibility.

The mechanisms chosen are based on the Department of Planning & Infrastructure support for Clause 3(1) of Amendment 4 to the WLEP 2010 (No.2012/192 published 11 May 2012).

The intended outcomes, for each of the three (3) sites, of the Planning Proposal are:

A. 'BOSCOBEL' PROPERTY

The intended outcome of this part of the Planning Proposal is to create a lot of 4,000 sqm (see attached plan) and allow construction of a dwelling on the newly created lot. This newly created lot would be an extension of Lot 3 DP 1142493 that has an existing dwelling entitlement. The further outcome of this Planning Proposal is to consolidate the lots upon which the heritage item (I013) 'Boscobel' is located. These lots are Lots 1 and 2, Sec 9, DP 758938; Lots 1-19, Sec 8, DP 758938; Lot 1, DP 1094302; Lot 1, DP 63523.

The Planning Proposal would therefore be facilitated by the insertion of a provision that reads:

'To the extent that this Plan realigns the boundaries between two (2) parcels of land to create one (1) property of 4,000 sqm and one (1) property of 46 Hectares (see plan Ref 07136 DWGHALIS2 drawn by Richard Cox Surveyors on 11/11/11 - enclosed), this plan applies to Lot 3 DP 1142493, Lot 1 DP 63523, Lot 1 DP 1094302, Lots 1-19 Sec 8 DP 758938 and Lots 1&2 Sec 9 DP 758938, 'Boscobel', Nicholson Street, Sutton Forest'.

This provision will also include an amendment to the Minimum Lot Size map of the WLEP 2010 (Draft attached).

The proposed amendment will allow development applications for the purpose of consolidation and boundary adjustment and construction of a residential dwelling to be considered.

The maps to be amended for this part of the Planning Proposal under Wingecarribee LEP 2010 are map numbers:

8350_COM_LSZ_008B_020_20111104
8350_COM_HER_008B_020_20100520

B. 'BURRAWANG HOTEL'

The subject land is identified as Lot 1 DP 198682 and has a site area of 2.25 Hectares.

The objective of the Planning Proposal is to amend Wingecarribee LEP 2010 to facilitate a two lot subdivision. This could be achieved by including the following provision in amendment to the Wingecarribee LEP 2010.

'To the extent that this Plan permits development for the purpose of a two (2) lot subdivision, it applies to Lot 1 DP 198682 (Burrawang Hotel) Hoddle Street, Burrawang.'

The intended outcome of this part of the Planning Proposal is to separate the existing heritage listed 'Burrawang Hotel' from the remainder of the property by locating the Burrawang Hotel heritage item on its own lot.

An amendment to the Minimum Lot Size map of the Wingecarribee LEP 2010 is required to support this Part of the Planning Proposal.

The maps to be amended for this part of the Planning Proposal under Wingecarribee LEP 2010 are map numbers:

8350_COM_LSZ_011A_020_20100520

8350_COM_HER_011A_020_20100520

C. 'THE PAVILIONS' PROPERTY

The objective and intended outcome of this part of the Planning Proposal is to permit the use of the site for the purpose of a residential dwelling. This is to be achieved by the insertion of the following provision into the Wingecarribee LEP 2010.

'To the extent that this Plan permits the use of the site for a residential purpose, it applies to Lot 6 Section 7 DP 2836 (Pavilions) Bong Bong Road, Mittagong.'

The proposed amendment will require an amendment to the minimum lot size map over the subject land to provide a minimum lot size of 'W' (4,000 sqm) and an amendment to extend the existing E3 Environmental Management zoning to cover the whole of the site.

The intended outcome of this Planning Proposal is so that a development application for the use of an existing building as a residence under *Clause 4.2A (3) Erection of dwelling houses on land in certain rural and environmental protection zones* of the Wingecarribee LEP 2010 can be processed.

The maps to be amended for this part of the Planning Proposal under Wingecarribee LEP 2010 are map numbers:

8350_COM_LSZ_007J_020_20100520

8350_COM_LZN_007J_020_20100520

PART 2 – EXPLANATION OF PROVISIONS

The Planning Proposal will amend the Wingecarribee Local Environmental Plan 2010 for the following properties.

Map to be amended	Nature of map amendment
A. Boscobel 8350_COM_LSZ_008B_020_20111104 8350_COM_HER_008B_020_20100520	The area of the smaller of the newly created lots will need to be amended to provide a Minimum Lot Size of 'W' (4000 sqm) in the Wingecarribee LEP 2010. The Heritage Map and Schedule 5 of the Wingecarribee LEP 2010 will also require amendment.
B. Burrawang Hotel 8350_COM_LSZ_011A_020_20100520 8350_COM_HER_011A_020_20100520	The area at the rear of the Burrawang Hotel site will require an amendment to the Minimum Lot Size Map (copy attached) of the Wingecarribee LEP 2010 by reducing the Minimum Lot Size to a minimum lot size of 'Y' that equals 1 Hectare. The Heritage Map (copy attached) and Schedule 5 of the Wingecarribee LEP 2010 will also require amendment to delineate the revised property boundaries following subdivision of the subject land.
C. The Pavilions 8350_COM_LSZ_007J_020_20100520 8350_COM_LZN_007J_020_20100520	The area of the subject site affected by the AB2 40 Ha Minimum Lot Size of the Wingecarribee LEP 2010 will need to be amended to provide a Minimum Lot Size of 'W' (4000 sqm). The Zoning Map of the Wingecarribee LEP 2010 will also require amendment to extend the E3 Environmental Management zoning over the subject site.

PART 3 - JUSTIFICATION

Section A – Need for the Planning Proposal

1. Is the Planning Proposal the result of any strategic study or report?	The proposals are in response to site specific requests from each of the properties owners for Council to amend the Wingecarribee LEP 2010. The separate parts of the Planning Proposal are considered consistent with Councils Community Strategic Plan 2031+. The Planning Proposal is
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	required because the current planning controls do not support the proposed developments. A. In a Strategic context, the Boscobel proposal, will present minimal change to the existing pattern of development. The proposal will likely result in construction of an additional dwelling on the smaller of the newly created properties. The dimensions of the proposed lot is consistent with the existing property sizes in the locality B. In a Strategic context the Burrawang Hotel proposal will not at all impact on the existing urban environment or the character of the locality. C. In a Strategic context, the Pavilions proposal will maintain the existing pattern of development. For all of the subject properties, the required amendments are piecemeal but are consistent with Council's Development Strategy.
2. Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?	The proposed amendments are the best means of achieving the desired outcomes of the respective owners. For Part 'A', The alternative methods of achieving Council's Resolution would be by adjusting the boundary between Lot 3 DP 1142493 and Lot 1 DP 63523 only as exempt development. This could be achieved by Section 2.75 of the Exempt and Comply SEPP. However Lot 1 DP 63523 is occupied by Southern Highlands Shale Woodlands (SHSW). This is an Endangered Ecological Community (EEC, therefore proceeding by this method would be contrary to Section 1.15(2)(b) of the Exempt and Comply SEPP. Further, if the boundary adjustment was processed in this way the current dwelling entitlements would be lost from the 'old' Lot 3 DP 1142493. Without an amendment to the Minimum Lot Size Map under WLEP 2010, the new smaller lot would still be undersized, and as

	there are no provisions in the Standard Instrument LEP for dwellings to be approved under the Standard Instrument LEP, a development application for a dwelling house could not be assessed under Clause 4.2A of the Wingecarribee LEP 2010. This would therefore also require an Amendment to Schedule 1 <i>Additional Permitted Uses</i> of the Wingecarribee LEP 2010 to permit the use of the newly created lot for the purpose of a dwelling and the Department of Planning & Infrastructure has advised that amendments to Schedule 1 are not encouraged. For property 'B', an alternative would be to amend the Minimum Lot Size map specifically for the portion of the site zoned E3 Environmental Management located at the rear of the subject land. This has potential implications by allowing further subdivision of the both the R2 Low Density Residential portion and the creation of a separate lot at the rear. Development of both these portions of the site would have highly undesirable implications for both the watercourses (see SCA comments) and the noted Endangered Ecological Community (EEC). For Part 'C' amending the alternative method of amending Schedule 1 of the Wingecarribee LEP 2010 to permit residential development is possible however the Department of Planning & Infrastructure have previously indicated that the use of Schedule 1 <i>Additional Permitted Uses</i> is not encouraged. Further, Council resolved to extend the E3 Environmental Management zoning of the Wingecarribee LEP 2010 over the site to align the zone objectives of the subject site with the E3 Environmental Management zoning of adjoining land currently under Wingecarribee LEP 2010.
3. Will the net community benefit outweigh the cost of implementing and administering the Planning Proposal?	There will be minimal community benefit in proceeding with the proposals as they relate to individual properties. There will be minimal cost in implementing and administering the Planning Proposal. The applicant will be charged a fee for processing the proposed amendments. The Planning Proposals will also conversely have

	minimal impact on the character of the localities. The intentions are to regularise existing patterns of development with the combined result of all three (3) Parts on the Wingecarribee LEP 2010 being the possibility of constructing only one (1) additional dwelling. A. Yes B. Yes C. Yes
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Section B – Relationship to strategic planning framework

4. Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (included draft strategies)?	The proposal is consistent with the objectives and actions of the Sydney Canberra Corridor Regional Strategy (SCCRS). Of the three (3) parts of the subject Planning Proposal, one (1) has the potential for the construction of an additional dwelling. None of the (3) Parts has the potential to detract from the objectives of the SCCRS.
5. Is the Planning Proposal consistent with Council's Community Strategic Plan, or other local strategic plan?	The proposal is consistent with the Wingecarribee Community Strategic Plan 2031+.
6. Is the Planning Proposal consistent with applicable State Environmental Planning Policies?	The subject Planning Proposal is considered consistent with all applicable SEPP's specifically the following: 1. Rural Lands 2008. The subject Planning Proposal is considered consistent with the Aims of the Rural Lands SEPP (2008) and follows the Rural Planning and Rural Subdivision principles contained in the SEPP. 2. Sydney Drinking Water Catchment 2011; It is considered that the subject Planning Proposal will adopt Sydney Catchment Authority Current Recommended Practices where relevant and any part of this Planning Proposal is able to meet or exceed the Neutral or Beneficial Effects (NorBE) Test. Comments have been requested from the Sydney

	Catchment Authority and these are attached for your information.
7. Is the Planning Proposal consistent with applicable Ministerial Directions (s.117 directions)?	Yes. An assessment of the proposal with respect to s.117 Directions is attached.

Section C – Environmental, social and economic impact

8. 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?	A. No, not by the method of amendment proposed. As shown in the above Vegetation Plan, the site is occupied by Southern Highlands Shale Woodland (SHSW) and this is an Endangered Ecological Community (EEC). The location of the EEC however is well away from the area of proposed development. B. Potentially. As shown in the attached vegetation plan, the site is occupied by Southern Highlands Shale Woodland (SHSW) and this is an Endangered Ecological Community (EEC). The intention of the proposed amendment is to protect the area of EEC from further development. C. No
9. Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?	A. No detrimental environmental impacts are anticipated as a result of the proposal proceeding as intended. B. No detrimental environmental impacts are anticipated as a result of the proposal proceeding as intended. C. No detrimental environmental impacts are anticipated as a result of the proposal proceeding. See attached Strategic Land and Water Capability Assessment (SLWCA) response from the Sydney Catchment Authority.
10. How has the Planning Proposal adequately addressed any social	A. Minimal social or economic effects beyond the property boundary.

and economic effects?	B. The subject proposal will generate minimal economic or social impacts beyond the property boundary. Council's resolution to support only the 2 Lot subdivision of the subject site will minimise these impacts. C. Minimal social or economic affects beyond the property boundary.
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Section D – State and Commonwealth interests

11. Is there adequate public infrastructure for the Planning Proposal?	A. No additional public infrastructure required. B. No additional public infrastructure required. C. No additional public infrastructure required.
12. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway Determination?	SCA Response attached. Further public authority consultation will occur through the exhibition period as required in the Gateway Determination.

PART 4 – COMMUNITY CONSULTATION

The Planning Proposal would be placed on public exhibition for a period of 28 days or as required by the Gateway Determination. Identified stakeholders will be notified, unless otherwise advised in the Gateway Determination.