

(Voting on the Motion)

cw-CS4 Retford Park Planning Proposal – Lot 22 DP 1163429 Old South Road, Bowral

Reference: 5901, PN8968000
Responsible Officer: Group Manager Strategic and Assets

PURPOSE

The purpose of this report is to re-submit to Council the results of the preliminary public exhibition of two Planning Proposals for Retford Park over Lot 22 DP1163429, Old South Road Bowral, located north of David Wood Playing Fields following Council's previous decision to have further discussions.

The Planning Proposals have two separate parts to the east and west of the Heritage Item. The eastern part proposes to rezone the subject property from E3 Environmental Management to R5 Large Lot Residential (8000m² minimum lot size); and the western part proposes to rezone the subject property from E3 Environmental Management to an appropriate residential zone capable of supporting 1000m² minimum lot size, such as R2 Low Density Residential (refer to Figure 4).

This report recommends that Council endorse the Planning Proposals and prepare all relevant documentation for submission to the Department of Planning and Infrastructure (DP&I), including amendments to the zoning maps, amendments to the minimum lot size maps and amendment to the urban release area maps, for Gateway Determination.

DESCRIPTION OF PROPOSAL

BACKGROUND

The Planning Proposals were lodged with Council in November 2011 but were held in abeyance pending the completion and adoption of the Wingecarribee Demographic and Housing Study. The Study was received and accepted by Council in July 2012. However, as the previous Council entered caretaker mode for the then local government elections, it was untimely to submit the proposals to the former Council.

Council considered a report on the Planning Proposals at its Ordinary Meeting of 13 February 2013 and made the following resolution:

1. *THAT Council support the Applicant's proposal to undertake preliminary community consultation at their cost and this feedback be reported to Council at a later date.*
2. *THAT the Applicant be advised of Council's decision.*

The preliminary community consultation was undertaken by Council and the Applicant from 27 February to 22 March 2013. Further an information forum was conducted on 11 March 2013 from 1pm to 7pm, which a Council Strategic Planning staff member was present.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 12 June 2013

REPORT - DEPUTY GENERAL MANAGER CORPORATE & STRATEGY



Over 1500 property owners in proximity to the subject Land were notified in writing of the Planning Proposal, approximately 60 people attended the information forum and 10 written submissions were received by Council.

Council then considered a report following the public exhibition period at its Ordinary Meeting of 24 April 2013 where it made the following resolution:

1. *THAT Council receives the report on Retford Park Planning Proposal – Lot 22 DP 1163429 Old South Road, Bowral.*
2. *THAT prior to Council proceeding with the application, the applicant meet with Council's LEP Sunset Steering Committee to discuss a proposed Voluntary Planning Agreement*
3. *THAT discussions also resolve the handing over of Retford Park historic property to public ownership and the financial management of the heritage item via a trust account and a conservation management plan.*
4. *THAT following on the discussions with the applicant, the matter be referred back to Council.*

In accordance with the resolution, representatives of the applicant met with Council's LEP Sunset Steering Committee Working Group on 15 May 2013 to discuss a Voluntary Planning Agreement and the proposal by the applicant to eventually entrust the Heritage Site to a public trustee.

The Applicant's representatives explained to the LEP Sunset Steering Committee Working Group that a Voluntary Planning Agreement could not be entered into at this stage, especially regarding the future of Retford Park house and outbuildings, due to legal advice from the Applicant's solicitors. The LEP Sunset Steering Committee Working Group were informed that the Applicant was not prepared to provide Council with that advice as it involves matters of extreme confidential and sensitive nature.

The presentation to the Working Group was noted and it was recommended by the Working Group that the report be returned to Council on 12 June 2013 for consideration.

DETAILS OF PROPOSAL

The Planning Proposal has two separate parts to the east and west of the Heritage site. The eastern part has an area of 28.7-hectares and proposes to rezone the subject property from E3 Environmental Management to R5 Large Lot Residential (8000m² minimum lot size); and the Western part has an area of 27.35-hectares and proposes to rezone the subject property from E3 Environmental Management to an appropriate residential zone capable of supporting 1000m² minimum lot size, such as R2 Low Density Residential. Both proposed subdivisions are shown in Figure 8 below.

The proposed R5 Large Lot Residential area will yield an additional 21 large lot residential properties, while the proposed R2 Low Density Residential area will yield an additional 151 low density residential sites.

Figure 5 provides an aerial photo of the subject site and outlines the eastern and western parts of the Planning Proposal. As shown the site is located to the north of the developed residential area known as East Bowral.

Old South Road

Retford Park West – Low Density Residential

Retford Park Heritage listed property

Retford Park East – Large Lot Residential

David Wood Playing Fields

East Bowral

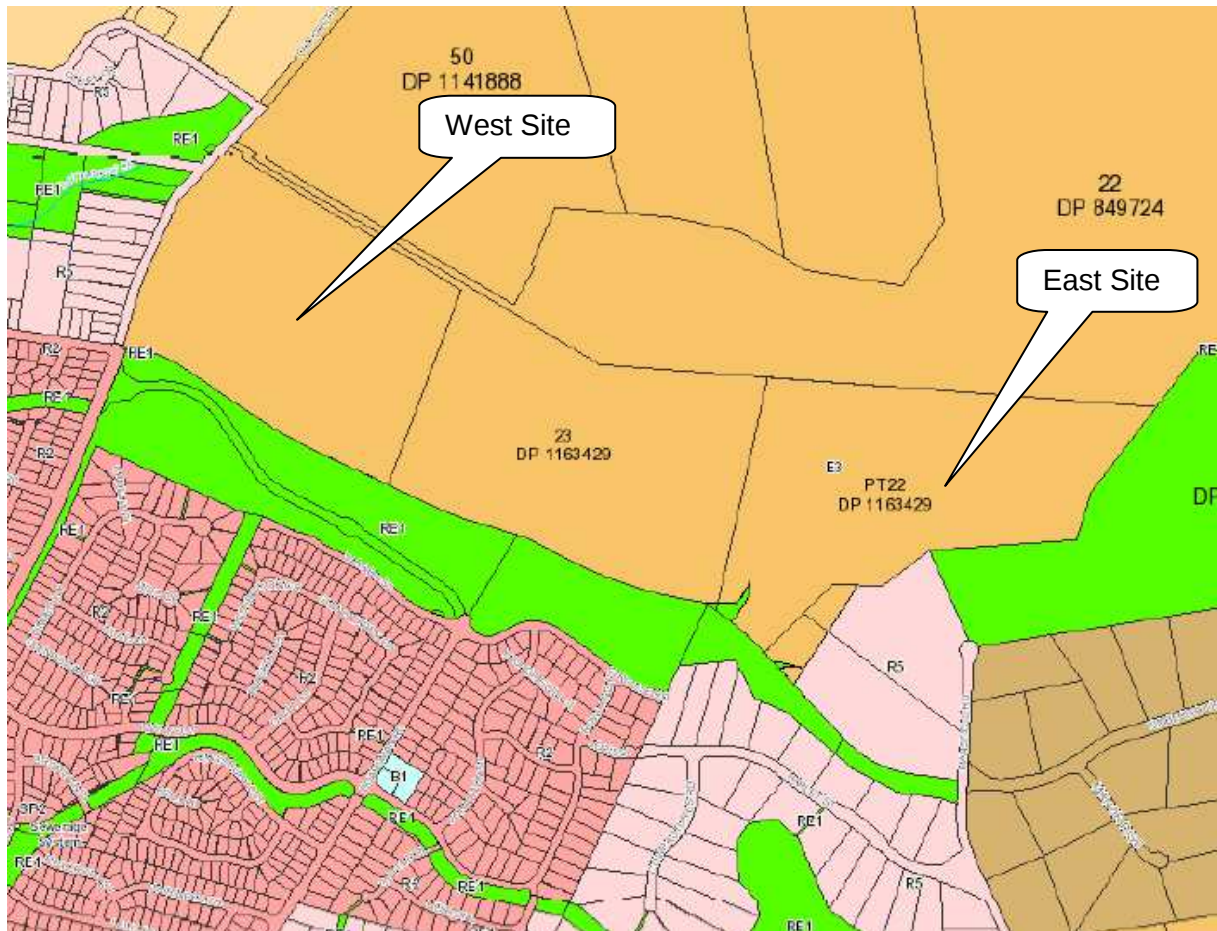
Wingecaribee Shire Council

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Figure 6 shows the current WLEP 2010 zones, while Figure 7 shows the current minimum lot sizes.

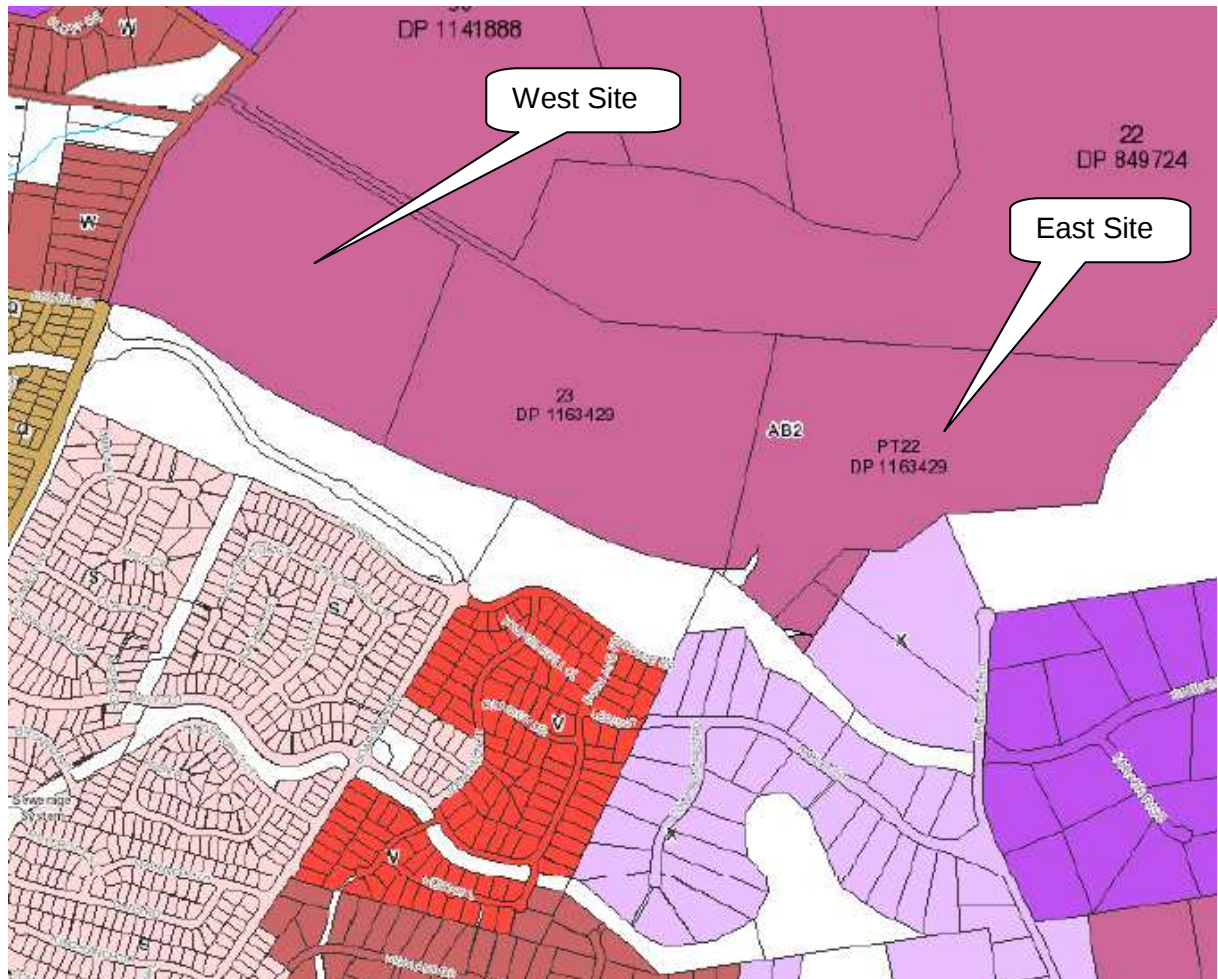
Figure 6 - Current Zones WLEP 2010



Zoning Key:

R2 Low Density Residential	B1 Neighbourhood Centre
R3 Medium Density Residential	B2 Local Centre
R5 Large Lot Residential	B4 Mixed Use
RE1 Public Recreation	B5 Business Development
RE2 Private Recreation	B7 Business Park
RU1 Primary Production	E1 National Parks and Nature Reserves
RU2 Rural Landscape	E2 Environmental Conservation
RU3 Forestry	E3 Environmental Management
RU4 Rural Small Holdings	E4 Environmental Living
SP1 Special Activities	IN1 General Industrial
SP2 Infrastructure	IN2 Light Industrial
SP3 Tourist	IN3 Heavy Industrial

Figure 7 - Minimum Lot Sizes WLEP 2010



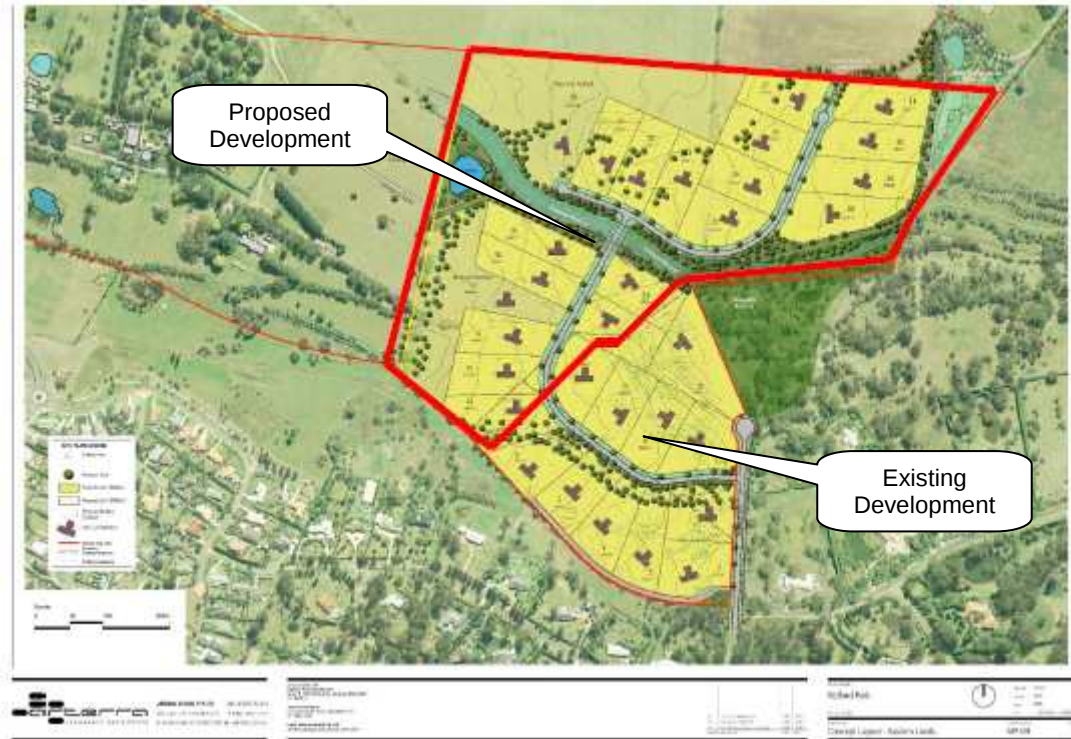
Minimum Lot Size Key: (note subject site is AB2)

Minimum Lot size (sq m)

D	300
G	450
Q	700
S	800
U	1000
V	2000
W	4000
X	8000
Y	10000 (1 ha)
Z1	20000 (2 ha)
Z2	40000 (4 ha)
AA	80000 (8 ha)
AB1	100000 (10 ha)
AB2	400000 (40 ha)

Figure 8 - Concept plans of subdivision

East Site



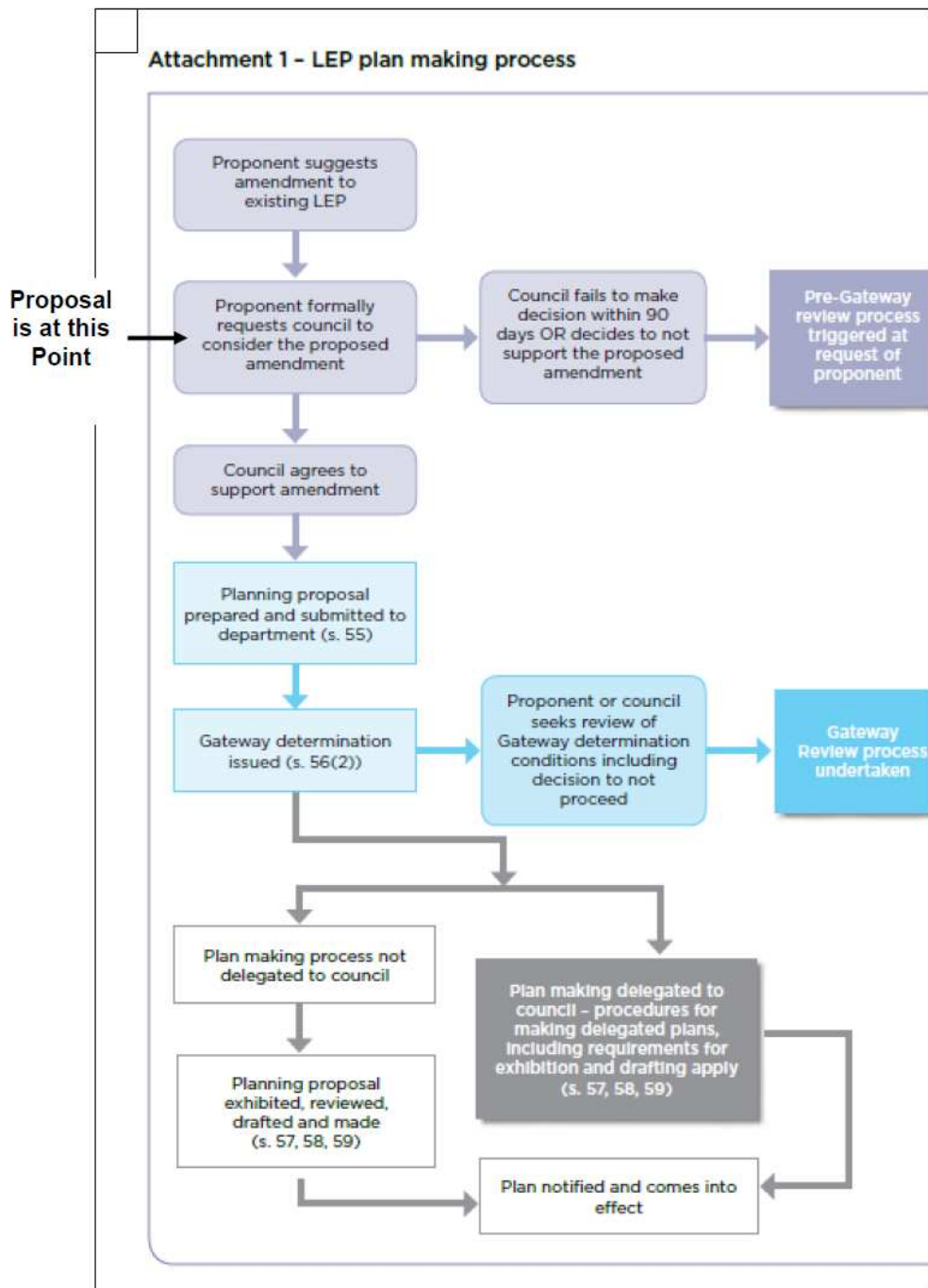
West Site



STATUTORY PROVISIONS

PLANNING PROPOSAL PROCESS

A flowchart of the Planning Proposal Process is provided below:



AGENDA FOR THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 12 June 2013

REPORT - DEPUTY GENERAL MANAGER CORPORATE & STRATEGY



This Planning Proposal is at the very initial stage of the process (Step 2 in flowchart), where Council considers the Planning Proposal lodged by the applicant and whether or not to proceed. If Council decides to proceed then the process will follow through to Step 5, where a Gateway Determination is issued either in favour or not in favour of the Planning Proposal, which will either end it or continue the process.

Should Council or the Gateway Determination end the process, the applicant does have appeal rights that were introduced in November 2012. Those appeal rights are summarised as follows:

1. If an applicant is not satisfied with the outcome of a determination by Council with regard to the rezoning request, or if the request is not determined within 90 days, the applicant may seek a 'pre-Gateway' review through the DP&I who may decide to forward it to the JRPP (Joint Regional Planning Panel) to make a final determination on the matter.
2. If Council does resolve to support the Planning Proposal, but the Gateway Determination is not supportive, or is considered too restrictive by either the Council or the applicant, a review of the Gateway Determination may be sort through the JRPP via DP&I.

Protection of the Heritage Site and Potential Voluntary Planning Agreement

As discussed elsewhere in the report, the owner of Retford Park wishes to hand over the property to the public via transferring ownership to an appropriate body such as the Historic Houses Trust of NSW or the National Trust, following his death or prior to. However, this is dependent on the rezoning of the particular properties being approved and subsequently sold at anticipated values, so that a Trust Account can be established. The future body then in charge of the property would be able to fund the maintenance of that property from the interest earned from the Trust Account.

There are many legal avenues available to the Applicant, including the potential to enter into Voluntary Planning Agreements with Council in accordance with Section 93F of the Environmental Planning and Assessment Act, to ensure the preservation of the Historic Site. Further the Applicant may wish to negotiate Voluntary Planning Agreements on the manner in which the sites are to be developed.

However, due to the preliminary nature of the proposal no negotiations have occurred in respect of potential Voluntary Planning Agreements and would only likely occur post Gateway Determination, due the legal drafting costs involved, but only if the Applicant is willing to enter into such agreements.

ASSESSMENT - KEY ISSUES

Wingecarribee LEP2010

Both sections of Retford Park proposed to be rezoned are currently zoned E3 Environmental Management under the Wingecarribee Local Environmental Plan 2010 (WELP 2010), with a minimum lot size of 40 hectares. Further, the house, ground and gardens of Retford Park are listed as Items of Local Heritage under Schedule 5 of WLEP 2010.

The Planning Proposal documents submitted by the applicant discuss the Heritage Significance of the site in detail and include a Heritage Report by Tanner and Associates in the Appendices.

To enable the proposed subdivision patterns for residential and rural residential development as shown in Figure 8, the Planning Proposals require the E3 zone to be changed to R5 Large Lot Residential for the eastern Part of the site and, probably, R2 Low Density Residential for the western part of the site. Ultimately the Planning Proposals will involve a change of zoning from rural to residential.

In considering the location and proposed end use of each of the sites, the change of zoning from E3 to R5 on the eastern site will have the least amount of impact upon the landscape. This is because the eastern site proposal is an extension of the existing large lot residential land use pattern and will not be highly visible from any prominent localities, such as the elevated sections of Old South Road to the north west of the site. The western proposal to change from E3 to R2 Low Density Residential is also not highly visible from Old South Road, due to the line of mature trees to the north of the site, which form the formal entrance to Retford Park.

Essentially, neither site will have adverse impacts upon the visual amenity of the locality should they be rezoned for residential development, as long as the current tree lines surrounding the sites remain post development and are maintained should the mature trees require replacement. However, this cannot be guaranteed as the mature trees are mapped as a bushfire hazard, which may require some to be removed to help form asset protection zones (APZs) to protect proposed development on the site. Therefore it is recommended that a Bushfire Study be carried out and that the Rural Fire Service be consulted should Council wish to proceed with the matter following initial community consultation by the applicant.

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.
7. Metropolitan Planning

In consideration of the 117 Directions, Council must address whether or not the Planning Proposal is consistent, justifiably inconsistent, inconsistent or not relevant to each of the Directions listed above and their sub parts.

A comprehensive assessment of the 117 Directions is provided as follows:

1.5 Rural Lands – Justifiably Inconsistent

This Direction applies as the Planning Proposal will affect the boundary of, and will change the minimum lot size on, the land that is currently zoned E3 Environmental Management. In the case of this Planning Proposal, Council must determine whether it is consistent with the Rural Planning Principles and Rural Subdivision Principles contained in *State Environmental Planning Policy (Rural Lands) 2008*. An assessment of the SEPP is provided in the section below. Notwithstanding, the Planning Proposals are considered to be justifiably inconsistent as Council can satisfy the Director General (DG) of DP&I or a nominated Officer of the DG that the Planning Proposals can be justified by the *Sydney-Canberra Corridor Regional Strategy 2006-2031* that gives consideration to the objectives of this Direction, in that the Planning Proposals will fulfil in part some of the new housing demand predicted for the Wingecarribee local government area (LGA) by the strategy without having a significant impact on the rural landscapes between Bowral and Mittagong.

Further, the *Sydney-Canberra Corridor Regional Strategy 2006-2031* gives significant consideration to the protection of Heritage in the Region. The Planning Proposals, should they be approved should result in the gifting of the Heritage listed Retford Park to a publicly owned Trust and a method of financing the maintenance and up keep of the property by that Trust.

2.1 Environment Protection Zones – Justifiably Inconsistent

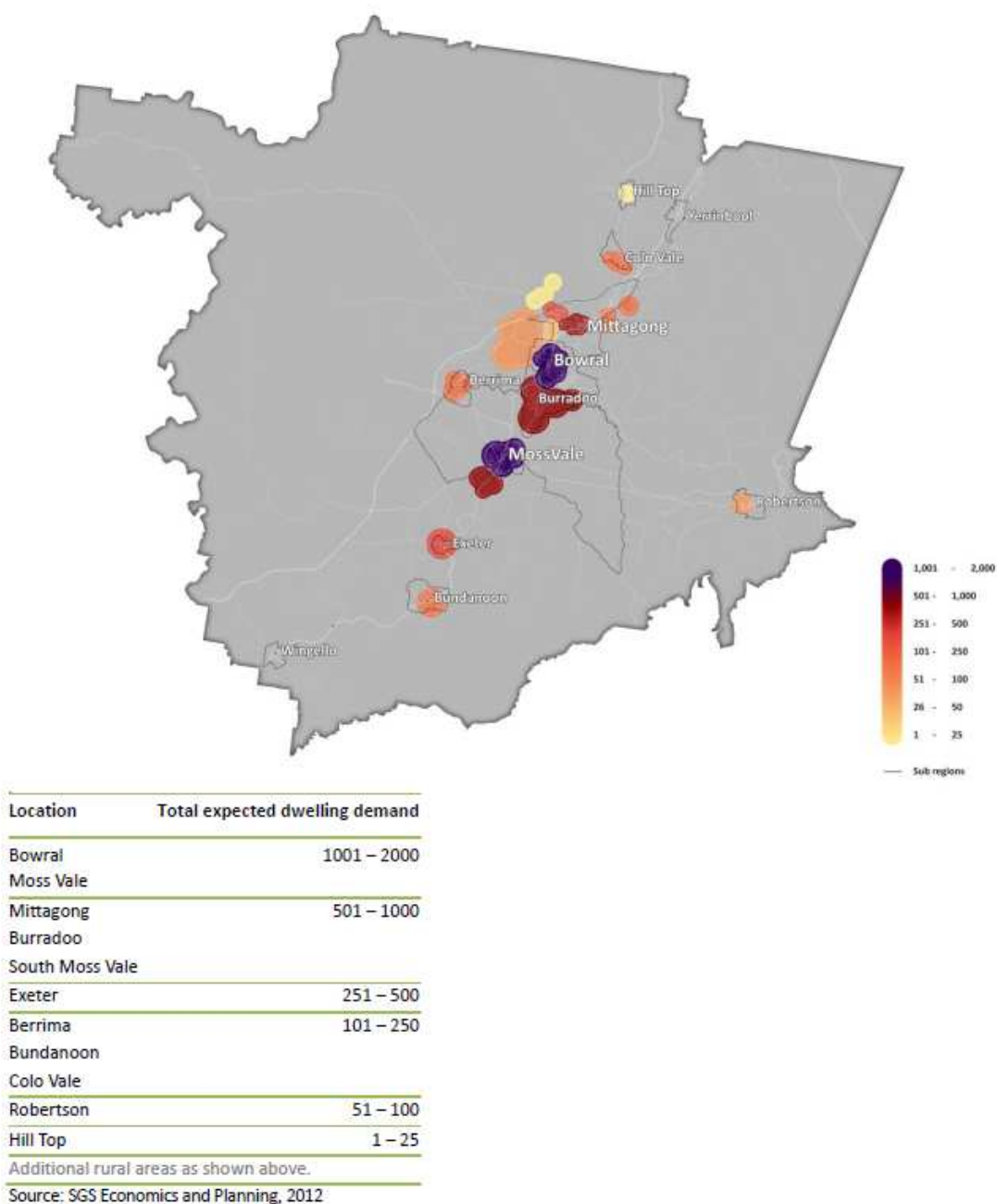
This Direction applies as the subject land is zoned E3 Environmental Management. When this Direction applies Council must ensure that the environmental protection standards that apply to the land must not be reduced. The Planning Proposal by changing the zoning will reduce the environmental protection standards as previously prohibited uses, namely low density residential subdivision and related uses would become permitted with consent. Therefore the Planning Proposal is not consistent with this Direction.

However, a Planning Proposal may be justifiably inconsistent with this Direction if Council is able to satisfy the DG or a nominated Officer of the DG that Planning Proposal is justified by a Regional Strategy prepared by the DP&I such as the *Sydney-Canberra Corridor Regional Strategy 2006-2031*.

The Planning Proposal is justified by the *Sydney-Canberra Regional Strategy 2006-2031*, as it is considered to meet part of the housing demands for the Shire as predicted in the strategy, without having a significant impact on the rural and bush landscapes identified to be of significant in the Strategy between the towns of Bowral, Mittagong and Moss Vale. The protection of a Heritage Listed item is also consistent with the Strategy.

Further, Council also commissioned and adopted a *Housing and Demographic Study – Final Report May 2012* by SGS, that concludes that Bowral is likely to have demand for up to approximately 2000 new dwellings by the year 2031. The Figure below is an extract from the SGS Study.

FIGURE 13. LOCATIONS OF EXPECTED DEMAND TO 2031 (NO. OF DWELLINGS)



The Figure shows that Bowral and Moss Vale are expected to experience the highest demands. Whilst Moss Vale currently has the Greenfield release area at the western end of Broughton Street, known as “Darraby” (approx 300 lots), there are no Greenfield release areas available or currently proposed in the WLEP 2010 for Bowral. The Retford Park Planning Proposal would to some extent meet those housing demands.

The Planning Proposal is therefore considered to be justifiably inconsistent with this Direction.

2.3 Heritage Conservation – Consistent

This Direction is relevant as the subject land is listed under Schedule 5 of WELP 2010, as it contains a local heritage significant house, grounds and out buildings known as “Retford Park”.

In accordance with this direction Council must ensure that the Planning Proposal contains provisions that facilitate the conservation of the heritage significant house, grounds and outbuildings. As the Planning Proposal does not impact on these items, but only the adjoining rural paddocks, it is considered to be consistent with the terms of this Direction at this stage in the process. Should Council resolve to endorse the Planning Proposal and it is supported by the Gateway, the proposal will need to be assessed by Council’s Heritage Advisor and the Department of Environment and Heritage. It is noted a comprehensive heritage report has been submitted by qualified heritage consultants as part of the Planning Proposal application.

3.1 Residential Zones – Justifiably Inconsistent

This Direction is relevant as the Planning Proposal, if supported, will affect the alteration of two residential zone boundaries being R5 Large Lot Residential (Eastern Proposal) and R2 Low Density Residential (Western Proposal).

The Planning Proposal is considered to be consistent with this direction in so far that it:

- Will broaden the choice of building types and locations available in the Bowral housing market,
- Make efficient use of existing infrastructure and service,
- Is of good design; and
- Will not contain provisions that will reduce the permissible residential density of land.

However, the Direction also states that Council must ensure that a Planning Proposal reduces the consumption of land for housing and associated urban development on the urban fringe. As this particular Planning Proposal will consume land on the urban fringe that is currently not zoned residential, it is not consistent with this requirement of the Direction. As the Planning Proposal could be justified by the *Sydney-Canberra Corridor Regional Strategy 2006-2031*, as discussed previously, Council can satisfy the DG or a nominated Officer of the DG that this Planning Proposal is justifiably inconsistent with this Direction.

3.3 Home Occupations – Consistent

This Direction applies as the Planning Proposal will extend R5 Large Lot Residential zone and R2 Low Density Residential Zone. The Planning Proposal is considered consistent with this Direction as it does not proposed any restrictions on home occupations.

3.4 Integrated land Use and Transport – Consistent

This Direction applies as the Planning Proposal will create new residential zoned land. The Planning Proposal is considered to be consistent with this Direction as the Master Plan of subdivision will allow for the circulation of buses within the subsequent development and will likely incorporate bike paths linking in with an existing network.

4.4 Planning for Bushfire Protection – Justifiably Inconsistent

This Direction applies as the subject land is identified as being partly bushfire prone. This Direction requires that following Gateway Determination the Planning Proposal is to be referred to the NSW Rural Fire Service (NSW RFS) for comment. Following comment from the NSW RFS Council can determine if the Planning Proposal is consistent, inconsistent or justifiably inconsistent with this Direction.

5.1 Implementation of Regional Strategies – Consistent

This direction applies to the Planning Proposal in respect of the Sydney-Canberra Corridor Regional Strategy 2006-2031. The Planning Proposal is considered consistent with the Strategy as it goes some way to meeting the housing needs identified and will not have a detrimental impact on the rural, bushland and flood prone areas separating Moss Vale, Bowral and Mittagong.

5.2 Sydney Drinking Water Catchment – Consistent

This Direction applies as the subject land is located within the Sydney drinking water catchment. The application will need to be referred to the Sydney Catchment Authority should Council resolve to support the Planning Proposal.

6.1 Approval and Referral Requirements – Consistent

This direction applies to all Planning Proposals. The Planning Proposal is considered consistent with this Direction as it will not create designated development or allow development that will require significant concurrence, consultation or referral to the Minister of Planning and Infrastructure.

6.2 Reserving Land for Public Purposes – Consistent

This direction applies to all Planning Proposals. The Planning Proposal is considered consistent with this direction as it will not result in the loss of any public land. A subsequent result of the Planning Proposal, should it be approved, will be a gain of public land. However that will occur via the development application process as the subdivisions are developed.

6.3 Site Specific Provisions – Consistent

This Direction applies to the Planning Proposal as rezoning is required. The Planning Proposal is considered consistent with this Direction as the rezoning and changes to the minimum lot size maps are the same as those already contained in WLEP 2010, i.e. the Planning Proposal will not be imposing any further development standards that are not already contained in WLEP 2010.

Development Control Plans (DCP)

Should the Planning Proposals be supported the Urban Release Area Maps of the WLEP 2010 will need to be amended to incorporate the subject land as release areas. In turn, under the WLEP 2010, this will require site specific DCPs to be developed for Retford Park. These DCPs would incorporate development controls in relation to subdivision and the future residential development of the lots. Controls in respect of proximity to the Heritage listed Retford Park would also be incorporated into the DCPs. The DCPs will only need to be drafted should the Planning Proposals be supported by Council and subsequently supported via a Gateway Determination.

State Environmental Planning Policies

State Environmental Planning Policy No. 44 – Koala Habitat Protection (SEPP 44)

SEPP 44 requires Council to consider, for any application where the SEPP applies, whether or not the land is a potential koala habitat. Flora and Fauna reports were conducted by Joy Hafey Environmental Consultant for both sites in September and October 2011 and are included in the Appendices of both proposals. Both reports found that neither site contains potential Koala Habitat.

State Environmental Planning Policy (Rural Lands) 2008

Section 117 Direction 2.1 requires Council to consider whether or not the Planning Proposal is consistent with the Rural Planning Principles and Rural Subdivision Principles of the Rural Lands SEPP. The Planning Proposals are not consistent with the principles of the Rural Lands SEPP, as the Land is to be rezoned from E3 Environmental Management to R5 Large Lot Residential and R2 Low Density Residential. However, the discussions under the 117 Directions explain that the Planning Proposal is justifiably inconsistent with the SEPP Principles, as it meets the objectives of the Sydney-Canberra Corridor Regional Strategy 2006-2031.

Further, the *Sydney-Canberra Corridor Regional Strategy 2006-2031* gives significant consideration to the protection of Heritage in the Region. The Planning Proposals, should they be approved, should result in the gifting of the heritage listed Retford Park to a publicly owned Trust and a method of financing the maintenance and up keep of the property by that Trust.

State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011

This SEPP came into force on 1 March 2011 and applies to the subject site. As such, should Council resolve to proceed with the Planning Proposal, it would be referred to the Sydney Catchment Authority, which is also required by the Section 117 Directions, prior to being sent to the DP&I for a Gateway determination.

Further should the WLEP 2010 subsequently be amended a Development Application would also need to be lodged with Council and referred to the SCA under the provisions of the SEPP for a final determination.

Essentially 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.

Relevant State and Commonwealth Legislation

Should the Planning Proposal be endorsed by Council and sent to the Department of Planning and Infrastructure for a Gateway Determination, the Determination may require additional information and reports to be prepared addressing other legislation requirements.

CONSULTATION

COMMUNITY ENGAGEMENT

Internal and External Referrals

Council's Transportation Planning Engineer has been consulted regarding the Planning Proposal. At this preliminary stage no objections were raised to the proposal as the road network is considered to have sufficient capacity to cater for the proposed number of additional lots.

Further internal and external referrals/consultation will need to take place post Gateway Determination should Council decide to endorse the Planning Proposal. Such referrals sort would likely be:

- NSW Rural Fire Service
- Department of Environment and Heritage
- Council's Heritage Advisor
- Council's Environment and Sustainability Division
- Council's Development Assessment Engineers
- Any other public authority directed by the Gateway Determination

Notwithstanding, the Department of Education Communities received a notification of the Planning Proposal and made the following comments:

"The Department does not oppose the proposed rezoning of the fore mentioned land.

However, I wish to bring to your attention that the proposed rezoning and 159 dwelling development is located in Bowral Public School's intake area. The school is built on an undersized site which is split by Banyette Street. The school is also operating over its permanent teaching space capacity requiring the supplementation of demountable classrooms.

This development will result in increased enrolments at the school requiring additional demountables reducing the schools ability to operate outdoor activities on site. This could result in the Department seeking additional land to provide adequate space to run programs outdoors."

Comment: According to profile.id, Council's census data provider, in the census year 2011 Bowral had 1,324 households with children. This number of households constituted 33.1% of the number of households in Bowral. It can only be assumed that should the Planning Proposal be approved, the resulting 172 lots will constitute a similar demographic. Therefore approximately 57 new households in the resulting subdivisions will have children. This is

considered to be a minor figure considering the net migration figures for the Shire provided below:

Migration by age group 2011

Wingecarribee Shire			
	In migration	Out migration	Net migration
5 to 11 years	+834	-575	+259
12 to 17 years	+539	-515	+24
18 to 24 years	+377	-1,338	-961
25 to 34 years	+931	-919	+12
35 to 44 years	+1,210	-815	+395
45 to 54 years	+858	-705	+153
55 to 64 years	+1,124	-595	+529
65 years and over	+1,290	-716	+574
Total	+7,163	-6,178	+985

Source: Australian Bureau of Statistics, [Census of Population and Housing, 2011 \(Usual Residence Data\)](#). Compiled and presented in profile.id by [.id](#), the population experts.

As shown by the data, since the 2006 Census the Shire (not Bowral alone) experienced a net increase of 283 persons aged between 5 to 17 years. Further, as the subdivisions are developed over time, it would be unreasonable to expect 57 new households will be imposed on Bowral public school all at once. Further, it is likely, according to the statistics for Bowral (profile.id) that about 50% of school children will attend either a Catholic or other Independent school that are highly regarded in the Shire, again placing less pressure on the public system.

Further, as the population of the Region grows towards the figures as identified in the *Sydney-Canberra Corridor Regional Strategy 2006-2031*, it is the responsibility of the State to ensure that public services such as schools are adequately resourced to meet the demands arising from growing populations.

Neighbour Notification, Advertising and Public Participation

As discussed previously a preliminary community consultation was undertaken by Council and the Applicant from 27 February to 22 March 2013, during which an information forum was conducted on 11 March 2013 from 1pm to 7pm at Briars Country Lodge, at which a Council Strategic Planning staff member was present. Approximately 60 people attended the information forum.

Further over 1500 property owners in proximity to the subject land were notified in writing of the Planning Proposal, and advertisements were included in the Southern Highlands News for each week of the exhibition period, as well as an article on the matter included on page 3 of the 6 March 2013 edition of the paper.

Upon closing of the exhibition period 11 written submissions were received by Council and are summarised as follows:

Issue: Loss of amenity due to dust, noise and commercial traffic

Comment: Many of the objections raised issues arising from their experience with the construction of the current subdivision approved by Council LUA11/0771 off Mansfield Road. The Eastern proposal, if approved, will result in a further 21 allotments to complete the rural residential subdivision. The construction issues being experienced by residents are

short term, i.e. for the duration of the subdivision construction of roads, drainage and other infrastructure. It is acknowledged that the proposal, should it be approved will create further loss of amenity during construction, but once again this will be short term.

Issue: Loss of rural amenity surrounding Bowral

Comment: Should the Planning Proposals be supported it will result in two separate subdivisions. The eastern proposal will be a rural residential development limited to 8000m² minimum lots, with much larger lots proposed on the boundaries to Retford Park and the northern rural landscapes. The larger rural residential lots contained in the eastern proposal will provide a significant buffer/progression from the adjoining residential development to the rural lands (north) and the Heritage Listed grounds of Retford Park (west).

In respect of the western proposal, which will have higher densities with 1000m² minimum lot sizes, the significant line of trees and other vegetation surrounding the site is proposed to be retained and improved. Currently much of the site is not highly visible from prominent viewing points, such to the north looking south from higher elevations on Old South Road. On the basis that the surrounding vegetation is to remain and be improved, much of the development will not be highly visible.

Issue: Increased Traffic Noise and Loss of enjoyment of quiet property and safety

Comment: It is recognised that should the Planning Proposals be approved the subsequent developments will result in additional housing. In relation to noise, the additional traffic movements that will be generated, especially in regard to the eastern proposal would be minor and would not increase ambient noise levels to those than are currently experienced in the locality.

Further, concerns are raised in regard to the ability of Loris Street, Harley Street, Mansfield Road and Hordens Road, in relation to the eastern proposal having sufficient capacity for traffic generated during and post construction. Should the development be approved conditions of consent will be imposed restricting the route of construction related traffic. However, post development the current road network is considered to have sufficient capacity to cater for the additional traffic.

Further, there is also concern raised in respect of the western site joining into Boardman Road. Issues include that the road itself will sever community land, require a roundabout and introduce over 300 more cars a day to Boardman Road. Boardman Road is considered to have sufficient capacity to cater for the additional traffic generated from the 151 lots. However, negotiations will need to occur between Council and the applicant in respect of the loss of some of the community land for the access road. The Planning Proposal does provide for other community space; however other public benefits will need to be negotiated in respect of bike path links and play grounds etc, should the application be supported.

Issue: Loss of Property Values due to loss of rural views

Comment: There is no evidence that the proposed developments will cause a devaluation of properties adjacent the subject site. It is noted that there is significant evidence in the Land and Environment Court supporting the fact that views cannot be owned.

Issue: The rezoning if approved will create a precedent for other properties to be rezoned from rural to residential.

Comment: It is unlikely that the Planning Proposal, if approved, would create a precedent to rezone other environmental management or rural zoned land for residential purposes. Each Planning Proposal is assessed on its merits in accordance with planning legislation such as State Environmental Plans, the Wingecarribee Local Environmental Plan 2010 and the Section 117 Directions. At some point in the past, most residential development resulted from a rezoning of rural land for residential purposes following due process. Therefore, it is not logical to ascertain that one particular rezoning will result in a *'fait accompli'* for all other applications seeking a similar outcome. It is Council's role to determine which applications have the greatest amount of merit verses other applications, as the population grows over time and produces a demand for houses.

Issue: Over Development of Heritage Site

Comment: Some concern is raised that the Heritage Site will lose some of its significance if the surrounding rural paddocks, formerly used for grazing, will be lost to residential development. The reports submitted with the Planning Proposal discuss the impact on Heritage as follows:

"The curtilage of Retford Park has been determined by Tanner and Associates, Architects with special expertise in heritage matters. The curtilage of Retford Park has been determined following discussion and negotiation with Council officers and the Heritage Office of NSW.

The report by Tanner and Associates was included in the Appendix to the Planning Proposals, previously circulated to Councillors and made available during the public exhibition period. The report concluded that the proposed subdivisions did not impact upon the determined curtilage of Retford Park and will contain sufficient landscaping to minimise impacts on the Heritage Items and Grounds.

Further, the report states the loss of rural land surrounding the heritage items and grounds has been an ongoing process of land sales and accretions taking place during the 1980's and 1990's. Hence, much of the creation of the residential area known as East Bowral has been part of this process.

Issue: 'Conditional Gift' of Retford Park is dictating Council decision and there are other means of gifting such properties to the public

Comment: Whilst the applicant has made their offer of possibly 'gifting' Retford Park to a Community Trust in the future, should the resulting developments produce sufficient returns, Council is aware there are no such guarantees offered by the Applicant. The gift is discussed in no uncertain terms that it will offered, at the Applicant's discretion, if the development meets certain financial goals, as part of the Planning Proposal. As such the two sites proposed for rezoning have been examined entirely on their merits in respect of planning legislative requirements (refer to SEPP and Section 117 Directions), regardless of the offer.

It is certainly not correct to assume Council is being dictated to as part of this proposal, as Council will not be a beneficiary of the Heritage Items and Grounds, nor should Council take

on such a responsibility, as there are other appropriate Trusts resourced appropriately to manage such properties.

In relation to other means of gifting the Heritage Site, essentially it is the owner's choice. Whilst there may be a myriad of other methods of gifting and financing the future upkeep of the property, being privately owned it is not Council's role to dictate the terms of the hand over, especially in the sense that Council will not be the recipient of the property.

Issue: WLEP 2010 and Rural Lands DCP will be undermined

Comment: The Planning Proposal process is a legislative process in place under the Environmental Planning and Assessment Act 1979, which ensures rigorous assessment, is undertaken by both Council and the Department of Planning and Infrastructure prior to the WLEP 2010 being amended. Therefore, should the WLEP 2010 be amended it will not be undermined or made less relevant as a result of the process.

In respect of the Rural Lands Development Control Plan (DCP), the Planning Proposal will not require any significant amendments of the DCP, other than it no longer applying to the subject property, should Planning Proposals be supported.

Issue: Inadequate Water Supply Infrastructure

Comment: Concern is raised that there will be inadequate water pressure to supply the proposed subdivision developments. Council is not aware of any issues that would result in inadequate water pressure for the proposed subdivisions. Notwithstanding, it will be requirement of the developer to ensure the required infrastructure is in place to service the proposed developments.

Issue: Water quality reduced due to runoff from resulting development

Comment: Should the Planning Proposal be supported it will need to be referred to the Sydney Catchment Authority for comment in accordance with the Section 117 Directions and the Sydney Drinking Water Catchment SEPP. Essentially 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.

Therefore, should the application be supported the Applicant/Developer will need to comply with strict condition of consent to ensure runoff during and post development has either a neutral or beneficial effect on local riparian corridors and water quality.

Issue: The Development will result in additional traffic in Bowral Town Centre

Comment: It is acknowledged that potential new residents of the proposed subdivisions, should they be approved, will commute to Bowral and other towns within the Southern Highlands. The population of Bowral and Wingecarribee Shire is expected to grow regardless of this rezoning. Whilst this may add to further traffic, it will also increase the economic viability of the current and future business/services located in the Town Centres. Council recently adopted a Bowral Traffic, Parking and Transport Strategy that demonstrates how the traffic network of Bowral can be modified over time to cater for increased volumes of traffic. The resulting developments from the Planning Proposals, should they be approved, will have minor impacts on the traffic network currently serving Bowral and into the future.

Issue: Bowral Public Hospital is inadequate and unable to cope with growth in population

Comment: Bowral Public Hospital is part of the Southern Sydney Area Health Network. Council is aware of some of the medical inadequacies of the region and actively represents the community's concerns in this respect to the State Government. Council can only act in an advocacy role in this respect. Under the Sydney-Canberra Corridor Regional Strategy 2006 to 2031 the State Government has recognised that there will be growth in the Wingecarribee Local Government Area and will need to monitor the services it offers to the area in respect of health and other state funded and managed services.

Issue: Lack of "off-leash" dog exercise areas

Comment: The issue has been raised that there are not enough areas to exercise dogs in East Bowral, off the leash and the Retford Park Planning Proposal, if approved will exacerbate the issue. The respondent has been contacted by Council's Parks Assets Coordinator and is currently working toward possible solutions.

SUSTAINABILITY ASSESSMENT

ENVIRONMENT

The Planning Proposals, should they be supported will have environmental impacts on matters such as heritage, habitat disturbance, biodiversity, water quality, material consumption/waste, energy consumption, transport and air quality. However, these are yet to be fully assessed. At this stage as preliminary consultation only has been undertaken, these impacts have not been fully explored. Should Council decide to proceed the Planning Proposals to a Gateway determination, these issues may need to be further addressed following any such determination.

SOCIAL

The Planning Proposals offer a significant social benefit in respect of handing over Retford Park to the Public via either the National Trust or Historic Houses Trust NSW and the creation of a Trust Account to financially manage the heritage item, grounds and outbuildings. However, there is no guarantee that this may occur. As such the merits of the Planning Proposals have been considered on planning grounds in respect of Section 117 Directions, State Environmental Planning Policies and Regional Strategies. If the Planning Proposals did not have substantial merit in respect of planning grounds, the offer of the Heritage Listed property alone would not be of substantial public benefit alone to support the Planning Proposals.

Other social benefits offered by the Planning Proposals will be further community land in respect of parks and diverse housing choice.

BROADER ECONOMIC IMPLICATIONS

Should the Planning Proposals be supported and the two sites developed in time, the additional residents will support the growth of economy via utilising local services. Further, should Retford Park become public property and managed via a Trust Account, depending upon how the property is managed and opened to the public, it could certainly be an

attraction to bring tourists to the Shire, which would also have trickle down effects in the local economy.

CULTURE

The Planning Proposals will have a significant positive impact on the non-indigenous heritage of the shire through the preservation of and public ownership of Retford Park. The proximity of the proposed residential developments to Retford Park, as preliminary concepts, do not appear to have significant visual impacts on the site and will help establish the Trust Account to manage the site into the future.

No adverse impacts on indigenous culture are expected at this time.

GOVERNANCE

Preliminary consultation by the Applicant and Council has been completed. It is now Council's decision to decide whether it should proceed with the Planning Proposals, by sending them to the DP&I for a Gateway Determination; or not proceed with the Planning Proposals and inform the applicant of either decision. Should Council decide not to proceed with the Planning Proposals the Applicant may seek a review by the DP&I who may then forward them the JRPP for final determination.

RELATIONSHIP TO CORPORATE PLANS

Wingecarribee Community Strategic Plan 2031+

The Planning Proposals could be considered to be consistent with the goals of the Community Strategic Plan 2031+ as follows:

People

Goal 2.1.3 – Council actively facilitates and supports the coordinated use of existing public and private facilities to ensure equitable access.

Comment: The Planning Proposals, should they be supported, will help facilitate Retford Park, a significant heritage item being handed over to the public in trust, which would also result in controlled public access to the site.

Goal 2.4.1 – Proactively value, attract and hold a diverse population of young people, families, cultures and socio-economic backgrounds to the Shire to ensure a balance community.

Comment: Greenfield residential land of larger lot sizes will attract families to the locality and other persons looking for a lifestyle offered by larger residential allotments.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 12 June 2013

REPORT - DEPUTY GENERAL MANAGER CORPORATE & STRATEGY



Places

Goal 3.2.3 – Ensure the growth of towns and villages does not compromise separation distance between those towns and villages.

Comment: The two sites proposed to be used for residential development will not compromise the separation distance between Bowral and other Towns and Villages as they are located adjacent to current residential development to the south and west and will fill in an area within the natural town boundary and will also not be visually prominent.

Goal 3.3.2 - Ensure future development respects the character of the area in which it is located, and reinforce that character with appropriately sited and designed new development.

Comment: The eastern site respects the character of the area in which is located as it proposes to extent the existing large lot rural residential area and provides blocks with paddock area backing onto the boundary of Retford Park (Lot 23) and the adjoining E3 Environmental Management lands. These larger blocks with paddocks effectively form a buffer between the proposed rural residential development and the adjoining land uses effectively forming the township boundary that would unlikely be extended.

The western site respects the character of the area in which it is located as it proposes larger residential lots (minimum 1000m²) adjacent to residential areas to the south (800m² minimum), west (4000m² minimum) and southwest (700m² minimum). The 1000m² minimum provides a good transition between these adjacent residential localities. Further, the larger lots will also provide for the ability for larger setbacks between dwellings and greater areas of landscaping to fit into the park land setting of Retford Park.

Goal 3.4 – Wingecarribee housing options are diverse

Comment: The Planning Proposals are offering two types of Greenfield residential development, large lot rural residential (8000m² minimum) and low density residential (1000m² minimum).

Goal 3.5.3 - Recognise where the Shire's cultural heritage contributes to its character and manage change appropriately to reinforce local distinctiveness.

Comment: Should the Planning Proposal be supported and the subdivision of the two sites commenced, it is proposed by the Applicant that Retford Park will be handed over to either the National Trust or Historic Houses Trust of NSW and a Trust Account established to fund the maintenance of the property. This should ensure this significant Heritage Item is preserved, reinforcing local distinctiveness of Bowral and the Southern Highlands.

Environment

Goal 4.2.2 – Ensure that no development takes place in the Wingecarribee that would threaten the underpinning natural resources of the area as a water catchment, food bowl, and tourist and recreational attraction.

Comment: The subdivision of the two sites is unlikely to have an adverse impact upon natural resources of the Shire, water catchment and tourist and recreational attractions. In fact, if Retford Park came into public ownership, the tourist and recreational attractiveness of the Shire could be enhanced as it would likely become a major attraction for the area.

Economy

Goal 5.5.2 – Council to develop and implement a plan to give full support to social and economic flourishing in the Shire, both directly and as a significant factor in its own right, and indirectly through facilitating broad based community actions to drive social and economic development.

Comment: Part of economic development is ensuring growth in the housing sector. Council is a significant facilitator in respect of housing approvals and land release (green field) sites. The Planning Proposal offers a green field housing release area offering a choice not currently available in Bowral, other than infill development.

BUDGET IMPLICATIONS

The Planning Proposals do not propose any budget implications for Council as they will be carried out by Council Staff and the Department of Planning and Infrastructure does not impose fees on the Gateway process. However, the applicant will have to pay an application fee to Council should Council resolve to proceed with the Planning Proposals.

RELATED COUNCIL POLICY

There are no related Council Policies other than those discussed in this report related to the proposal.

OPTIONS

The options to Council are:

Option 1

Council resolve to endorse the as lodged Planning Proposals and submit for Gateway determination.

Option 2

Council resolves not to support the Planning Proposal.

Option 3

Council resolves to support Western Planning Proposal only.

Option 4

Council resolves to support the Eastern Planning Proposal only.

Option 1 is recommended as it would allow both the Planning Proposals to progress to the DP&I for further assessment and ultimately a Gateway determination either supporting or not supporting the proposals. Should the Gateway determination be supportive of the Planning Proposals it will also require further community consultation following consultation with other public authorities who are stakeholders in the matter such as the NSW Rural Fire Service and the Department of Environment and Heritage. Further, Council will also have the opportunity to request further information and investigate the possibility of Voluntary Planning Agreements with the Applicant in respect of developer contributions, public benefits and bequeathing of the Heritage item to a Public Trust.

Should Council choose Option 2, 3 or 4 the Applicant will have the opportunity to seek a review of Council's decision by the JRPP via DP&I.

CONCLUSION

It is concluded that the issues of concern raised in the preliminary consultation can be addressed through the Planning Proposal process and through the preparation of a site specific Development Control Plan to apply to any development of the site for residential purposes.

ATTACHMENTS

There are no attachments to this report.

RECOMMENDATION

1. THAT a Planning Proposal be prepared in accordance with the Department of Planning and Infrastructure Guidelines to amend Wingecarribee Local Environmental Plan 2010, for the property identified as Retford Park, Lot 22 DP1163429, Old South Road Bowral, to:
 - (a) Rezone the western part of the site to R2 Low Density Residential and reduce the minimum lot size to 1000m²; and
 - (b) Rezone the eastern part of the site to R5 Large Lot Residential and reduce the minimum lot size to 8000m²
 - (c) Amend the Urban release Area Map to include the subject lands.
2. THAT a Draft Retford Park Development Control Plan incorporating the Masterplans of Subdivision for the subject site, as provided in Figure 4 in the report, be brought to Council for consideration following Gateway Determination.
3. THAT the owner of the subject site be informed of Council's decision.
4. THAT the persons who made submissions be advised of Council's decision.
5. THAT at the appropriate time Council seek with the proponent to enter into a Voluntary Planning Agreement for the development of the site.

(Voting on the Motion)