

Planning Proposal

Planning Proposal to amend the zoning,
minimum lot size and classification of
properties relating to the 'Anthem'
Retirement Village, under Wingecarribee
Local Environmental Plan 2010

Version 2 – For Gateway Determination
December 2014

Council's reference: 5901/37

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ATTACHMENTS WHICH FORM PART OF THIS PLANNING PROPOSAL
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1. James Lovell & Associates Pty Ltd – Planning Submission – October 2013.
2. Council Report 12 Feb 2014.
3. Council Resolution 12 Feb 2014.
4. Council Report 24 September 2014 (Reclassification)
5. Council Resolution 24 September 2014 (Reclassification)

PLANNING PROPOSAL

LOCAL GOVERNMENT AREA: WINGECARRIBEE SHIRE COUNCIL

ADDRESS OF LAND: Lot 1 DP 1105017, 'Anthem' Retirement Village,
25 Retford Road Bowral.

Lot 3 and Lot 4 DP 55860, Public Land, Stephens Park,
Bowral



Figure 1: Shire Wide Location

LOCALITY MAP

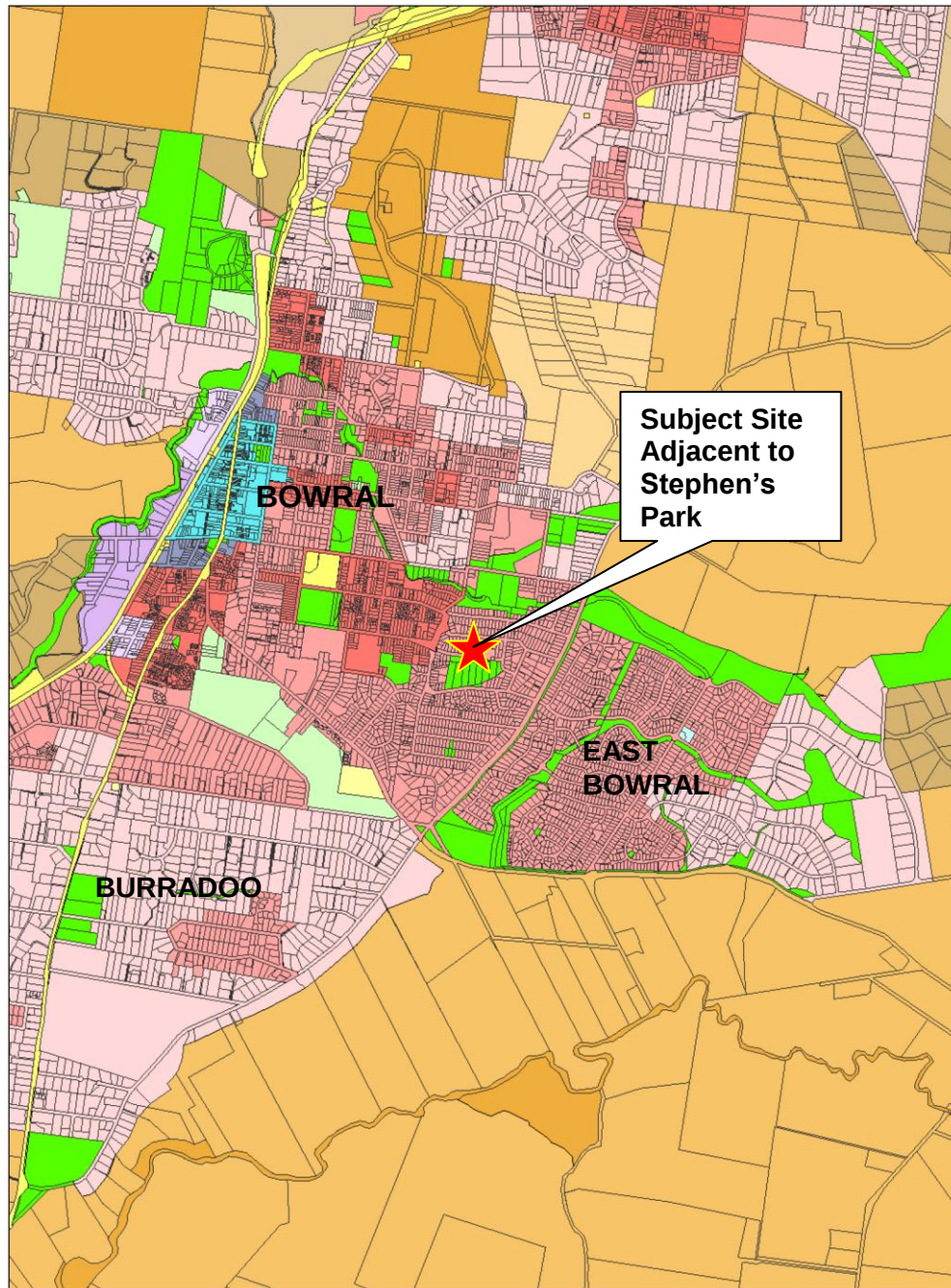


Figure 2: Locality Map

SUBJECT SITE

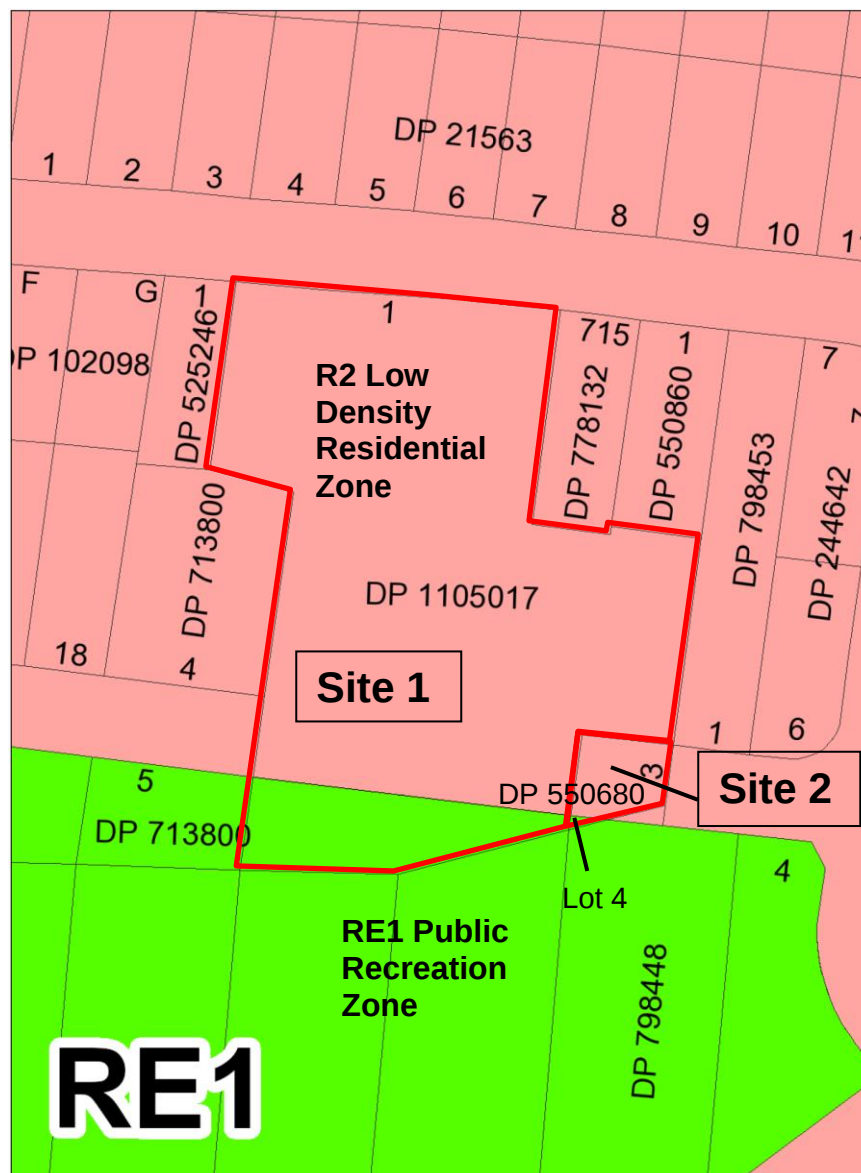


Figure 3: Subject Site

SITE DESCRIPTION

The subject site contains three lots.

Site 1: Part of Lot 1 DP 1105017 (the southern part) requires **rezoning** from RE1 Public Recreation to R2 Low Density Residential with a commensurate revision to the **Minimum Lot Size** from none (as per the RE1 Public Recreation zoning) to 'Q' (700 sqm) to be consistent with surrounding properties zoned R2 Low Density Residential.

This site is currently zoned Part R2 Low Density Residential and Part RE1 Public Recreation under Wingecarribee Local Environmental Plan 2010. It has a total area of 1.233 Hectares (Ha) and 80 metres of street frontage to Retford Road. The property extends 145 metres to the south and straddles Park Road to adjoin Stephens Park (Council land). The whole of the subject site is privately owned.

The site has recently been approved (*inter alia* LUA04/1238) and developed for 42 Assisted Living Hostel Units and Aged Care Facility.

That part of the site zoned RE1 Public Recreation is approximately 1285 sqm. Existing consents over the site require works including drainage and access works on that part of the site currently zoned RE1 Public Recreation. These works are the subject of negotiations between Council and the owner of the land (Council Report 26 February 2014).

That part of the site currently zoned RE1 Public Recreation was zoned 6(a) (Open Space (Existing Recreation) Zone) under Wingecarribee LEP 1989. Development of the site was approved under LUA04/1238 across an unformed road reserve and onto the area zoned 6(a). Under Clause 22 of the Wingecarribee LEP 1989, Council could not consent to the carrying out of development on land within Zone No 6(a) or 6(d) being land owned or controlled by Council unless consideration had been given to:

- (a) *the need for the proposed development on that land*
- (b) *the impact of the proposed development on the existing or likely future use of the land, and*
- (c) *the need to retain the land for its existing or likely future use.*

The subject land was held in private ownership and LUA04/1238 was subsequently approved. A consolidated plan (DP 1105017) was registered with the Land and Property Information Office (LPI) on 16 November 2006.

As a corollary of the approved development and the 'irregular' zoning of the subject land the subject Planning Proposal is to regularise the anomaly of the Wingecarribee LEP 1989 that was carried through to the Wingecarribee Local Environmental Plan 2010.

Site 2: Lot 3 and 4 DP 550860 require **reclassification** from 'Community' to 'Operational' land to enable the sale of the land to the owner of Site 1 for access to the redevelopment of Lot 1 DP 1105017. The reclassification of these lots will amend *Part 1 Land classified, or reclassified, as operational*

land – no interests changed of Schedule 4 of the Wingecarribee LEP 2010. Lot 4 DP 550860 also requires rezoning to R2 Low Density Residential.

Council considered a report on 26 September 2014 recommending that Lot 3 and Lot 4 of DP 550860 be reclassified from Community to Operational to allow the sale of these properties. And that Lot 4 DP 550860 be rezoned from RE1 Public Recreation to R2 Low Density residential under Wingecarribee LEP 2010. Lot 3 and Lot 4 are part of the existing road reserve and public recreation land respectively.

Council's Resolution of 26 September 2014 is attached for information and supports the reclassification of these lots from 'Community' to 'Operational' and the rezoning of Lot 4 DP 550860.



Figure 4

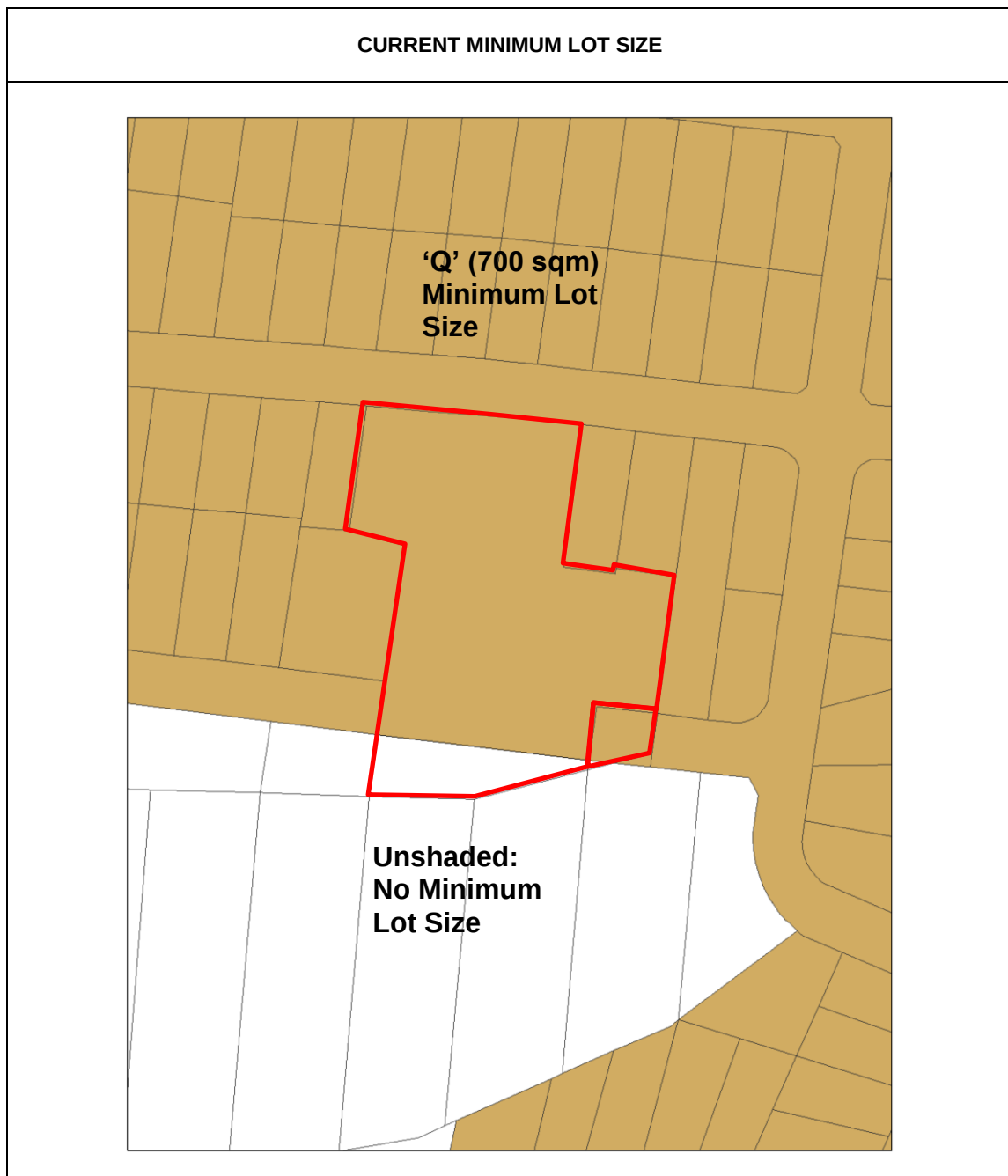


Figure 5

AERIAL IMAGE (Circa 2009)



Figure 6

PART 1 - OBJECTIVES OR INTENDED OUTCOMES OF PLANNING PROPOSAL

The purpose of the Planning Proposal is to address an anomalous zoning and minimum lot size notation on Site 1, and replace it with an R2 Low Density Residential zoning and Minimum Lot Size of 'Q' (700 sqm) under Wingecarribee LEP 2010. The intention of these amendments is to enable a further Development Application to be submitted to Council facilitating the future use of the land for purposes associated with the aged care facility (*Anthem*).

The reclassification of Site 2, comprising Lots 3 and 4 of DP 550860, will allow the sale and integration of land that is unsuitable for any recreational purpose or public improvement, into the site (Site 1).

PART 2 – EXPLANATION OF PROVISIONS

The provisions of the Planning Proposal will amend Wingecarribee Local Environmental Plan 2010 by rezoning 1285 sqm of Lot 1 DP 1105017 and Lot 4 DP 550860 currently zoned RE1 Public Recreation to R2 Low Density Residential.

The subject Planning Proposal will also amend the Wingecarribee LEP 2010 by imposing a Minimum Lot Size notation of 'Q' (700 sqm), that is consistent with the surrounding Minimum Lot Size for that part of the subject site currently unencumbered by a Minimum Lot Size notation under Wingecarribee LEP 2010.

The provisions of the Planning Proposal will also include amendments to Part 1 Schedule 4 of the Wingecarribee LEP 2010 that identifies properties that have been reclassified, *inter alia*, from 'Community' to 'Operational' land with no interests changed.

Map to be amended	Map to be Revoked	Map to be Adopted
LZN_007G	8350_COM_LZN_007G_020_20120625	8350_COM_LZN_007G_020_20140925
LSZ_007G	8350_COM_LSZ_007G_020_20120625	8350_COM_LSZ_007G_020_20140925

PART 3 - JUSTIFICATION

Part of Site 1 and Lot 4 of DP 550860 (Part of Site 2) were zoned 6(a) Public Recreation under the former Wingecarribee LEP 1989. The zone delineation was unintentionally 'carried through' as part of the implementation of the Wingecarribee LEP 2010 to the Standard Instrument Template.

As stated above, development of Lot 1 DP 1105017 was approved under LUA04/1238 across an unformed road reserve (Park Road) and onto the area zoned 6(a). Under Clause 22 of the Wingecarribee LEP 1989, Council could not consent to the carrying out of development on land within Zone No 6(a) or 6(d) being land owned or controlled by Council unless consideration had been given to:

- (a) the need for the proposed development on that land*
- (b) the impact of the proposed development on the existing or likely future use of the land, and*
- (c) the need to retain the land for its existing or likely future use.*

The subject land was held in private ownership and LUA04/1238 was subsequently approved. A consolidated plan (DP 1105017) was registered with the Land and Property Information Office (LPI) on 16 November 2006.

Section A – Need for the Planning Proposal

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

The proposed amendment is not the result of a specific strategic study or report, but is requested by the applicant in identifying an anomalous zoning and minimum lot size applying to the land and is intended to remove these zoning anomalies accordingly.

Further the rezoning will enable a Development Application to be submitted to Council facilitating the future use of the land for residential purposes associated with the aged care facility of 'Anthem' occupying the remainder of the site.

The rezoning is required to the Wingecarribee LEP 2010 because, unlike 6(a) zoning of the Site 1 under Wingecarribee LEP 1989, the previous application was able to be considered under Clause 22 of the Wingecarribee LEP 1989. There is however no equivalent clause operating in the current Wingecarribee LEP 2010.

The permissibility of aged care facilities is therefore left to the operation of the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* or the permissible land uses in the RE1 Public Recreation zoning under Wingecarribee LEP 2010. A development application for the extension of the existing aged care facility is unable to be considered under either of these provisions.

The reclassification of Site 2 is intended to allow the sale of this land to provide a more suitable access to the existing site.

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

The subject Planning Proposal is considered the most appropriate means of achieving the objective and intended outcome.

There is no other means of addressing the identified anomalies in the Wingecarribee LEP 2010.

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 *Sydney-Canberra Corridor Regional Strategy (the SCCRS)* was prepared by the NSW Department of Planning and Infrastructure in 2008. The SCCRS provides the framework to manage and direct growth in housing and employment, and to protect the environment to 2031.

The SCCRS notes that the Wingecarribee Local Government Area (LGA) is projected to grow by almost 40 percent from 42,300 to 58,700 people by 2031. Further, Bowral is identified as a “major centre” and the preferred location for infill development, providing developments with a greater range of housing choice.

In the circumstances, the Planning Proposal will ultimately contribute to additional housing growth, contribute to a greater range of housing choice, and assist in addressing a forecast shortfall in the future supply of housing specifically for older residents.

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

The Wingecarribee Demographic and Housing Study 2012 (“the Study”) notes that *“Population forecasts prepared by the NSW Department of Planning & Infrastructure indicate that the number of residents aged 55 years and over is expected to grow by more than 70 percent between 2011 and 2036. Over the same period, the number of residents aged over 85 is expected to more than triple. ... Using DoPI population projections and in the absence of additional aged care facilities, SGS forecast a shortfall in the future supply of housing specifically for older resident”*.

Further, the Wingecarribee Our Future Strategic Plan 2002 (the Strategic Plan), notes that *“The level of public open space in Bowral is relatively high at approximately 8 hectares per 1000 people”*.

The Wingecarribee Community Strategic Plan 2031+ identifies two growth objectives:

- *Goal 2.3 Services and facilities are provided locally to meet the needs of our community*
- *Goal 3.4 Wingecarribee housing options are diverse*

In the circumstances, the Planning Proposal is consistent with relevant strategic studies on the basis that it will assist in addressing a forecast shortfall in the future supply of housing specifically for older residents, in a locality already well serviced by public open space.

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

Several SEPPs apply to the subject site as follows:

SEPP 44 Koala Habitat Protection

All land within the Wingecarribee Shire Local Government Area is covered by the provisions of SEPP 44. The subject site is located in an urban area and is specifically intended to have a minimum impact on the landscape. Therefore, it is considered to be consistent with the SEPP.

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

The subject site contains an existing approved 'Seniors Housing' development and is intended to facilitate the expansion of this facility. The Planning Proposal is therefore considered satisfactory in this regard.

SEPP Sydney Drinking Water Catchment 2011

The SEPP (Drinking Water Catchment) 2011 applies to the subject site. The Planning Proposal was referred to the SCA on 1 October 2014. The response from the SCA is provided at Section 11.

Provided the site was to be connected to the reticulated sewer as part of any development approval, the SCA advised there would be minimal risk to water quality.

SEPP 55 – Remediation of Land

SEPP 55 requires that any Planning Proposal must consider whether the subject land is contaminated, and if so, how it is to be remediated. Initial investigations indicated that there are no contamination issues on the subject site. This will be confirmed at the Land Use Application stage should the Planning Proposal be supported and the LEP amendment subsequently made.

State Environmental Planning Policy (Infrastructure) 2007

The subject site development is not of a scale that requires referral of any future development application to the Roads and Maritime Services as a development that is included in Schedule 3 of the SEPP (Infrastructure) 2007.

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

It is anticipated that the proposed use of the site for the purpose of an extension to the existing (Housing for Senior's or People with a Disability) SEPP is not a use that would be assessable under the Codes SEPP 2008.

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

The following underlined Directions issued by the Minister for Planning to relevant planning authorities under section 117(2) of the *Environmental Planning and Assessment Act 1979* apply to this Planning Proposal.

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	Not Relevant
2.2 Coastal Protection	Not Relevant
2.3 Heritage Conservation	Not Relevant
2.4 Recreation Vehicle Areas	Not Relevant
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	The objective and intended outcome of the Planning Proposal is to provide additional accommodation as an extension to an existing approved aged care facility. The subject Planning Proposal will broaden the housing choice for these segments of society and is therefore considered consistent with this Local Planning Direction.
3.2 Caravan Parks and Manufactured Home Estates	Not Relevant
3.3 Home Occupations	Not Relevant
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 Land	Not Relevant
4.3 Flood Prone Land	Not Relevant
4.4 Planning for Bushfire	The subject land is not affected by a bushfire

Protection	notation.
5. Regional Planning	
5.1 Implementation of Regional Strategies NB: This Direction has been revised to include previous Directions 5.6 and 5.7.	The subject Planning Proposal is considered consistent with the Objectives and Actions contained in the Sydney Canberra Corridor Regional Strategy (SCCRS) and Sub-Regional Strategies as described in Section 3.
5.2 Sydney Drinking Water Catchments	This Direction applies as the subject land is located within the Sydney Drinking Water catchment. The subject planning proposal has been referred to the SCA as part of the Section 117 Directions. Comments received from the SCA will be attached.
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	This Direction applies to all Planning Proposals. The Planning Proposal is considered consistent with this Direction as the objective or intended outcome will not generate additional concurrence, consultation or referral to the Minister of Planning and Infrastructure.
6.2 Reserving Land for Public Purposes	The subject Planning Proposal is intended to correct a zoning of RE1 Public Recreation, inadvertently applied to private land
6.3 Site Specific Provisions	This Direction requires that a Planning Proposal must not impose further development standards on the site that is the subject of the planning proposal. That part of the site that currently has no minimum lot size will be revised to a minimum lot size of (Q=700 sqm) to be consistent with adjoining properties. This will not increase the referral requirement of any development application lodged over the site and is therefore considered to be consistent with this direction.
7. Metropolitan Planning	
7.1 Implementation of the Metropolitan Plan for Sydney 2036	Not Relevant

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?

No critical habitats or threatened species, populations or ecological communities or their habitats have been identified on the site using existing mapping resources.

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

There are considered to be minimal environmental effects as a result of the Planning Proposal.

Council's Parks and Property staff have had discussions with the applicant regarding drainage of Stephen's Park immediately adjoining the subject site. The proponent is aware of the drainage issues and is prepared to work with P&P staff to address this issue, including the creation of a drainage easement over their land in proximity to the common boundary. This is an issue that can be addressed at the development application stage.

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

The Planning Proposal will adequately address social and economic effects by correcting an anomalous zoning of RE1 Public Recreation over privately owned land to a zoning R2 Low Density Residential that is consistent with the remainder and ongoing use of the site and with the existing adjoining private properties.

The reclassification of land supports the intended amendment to the Wingecarribee LEP 2010.

Section D – State and Commonwealth interests

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

The existing development of the site (LUA04/1238) required drainage works to be undertaken on the subject land. That part of the site where the drainage works are to be undertaken is the same area currently identified as zoned RE1 Public Recreation.

It is considered that there is no requirement to extend the capacity or coverage of existing infrastructure as a result of the amendment to the Wingecarribee LEP 2010 or reclassification of the subject site.

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

The SCA have advised that, provided the development of the site is connected to the reticulated sewer, there will be minimal impact from the development. The SCA have also advised that stormwater management issues also need to be addressed on the site. In consultation with Council's Parks and Property staff, stormwater issues will be addressed at the development application stage.

Further public authority consultation will occur with agencies as identified in the Gateway Determination, prior to the exhibition period as required in the Gateway Determination.

PART 4 – MAPPING

ZONING AND MINIMUM LOT SIZE MAP

The following identifies the proposed amendment to the zoning and the minimum lot size of the subject land (NB. Colour palette is approximate).



Figure 7: Proposed Zoning

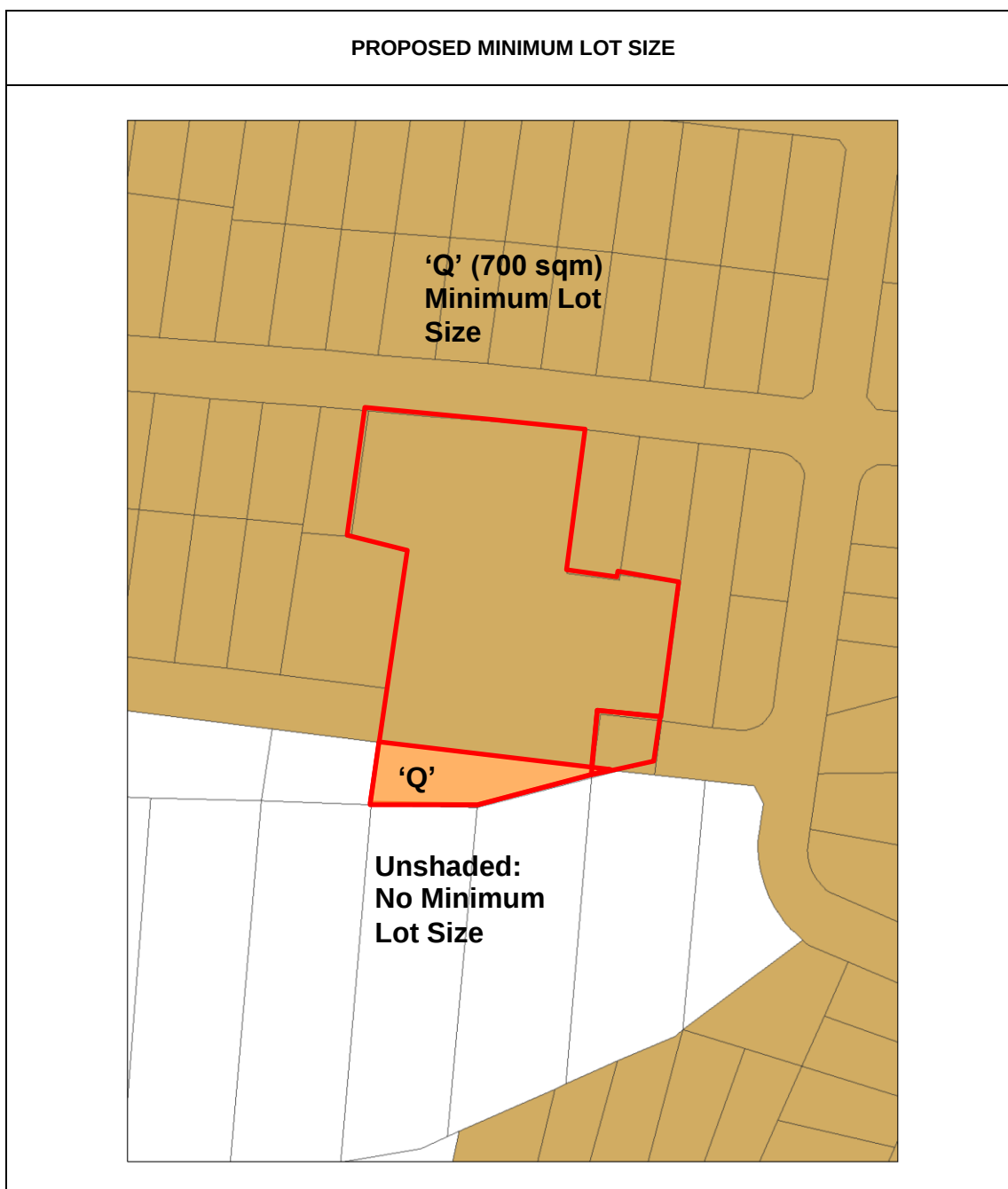


Figure 8: Proposed Minimum Lot Size

Draft LEP Maps are currently being prepared for both the above rezoning and minimum lot size amendment. Maps are not required for the reclassification of whole lots (Lots 3 and 4).

PART 5 – COMMUNITY CONSULTATION

Agency referrals will be forwarded as required by the Gateway Determination.

It is considered that 28 days would be required for public exhibition. Council intends to place the planning proposal on public exhibition by advertising in the local newspaper, making it available on Council's website, and notifying by mail adjoining and immediately affected property owners.

Council will hold a public hearing in accordance with the provisions of the Local Government Act, 1980 for the reclassification of Sites 3 and 4.

PART 6 – PROJECT TIMELINE

The Timeline for this project is as shown below:

ACTION	INDICATIVE DATE
Gateway Determination	tba
Completion of technical studies if required	
Revised/updated Planning Proposal (if required)	
Public Exhibition/Consultation with government agencies	
Public hearing – if required (if not exclude)]	
Report to Council on exhibition of Planning Proposal.	
Documents to DP&I & PCO.	
Approximate completion date	

DELEGATIONS

Council is not applying to use its delegation to complete this proposal as the land requires reclassification.

ATTACHMENTS

1. Notification to DP&E that Council will act as RPA.
2. James Lovell & Associates Pty Ltd – Planning Submission – October 2013.
3. Council Report 12 February 2014.
4. Council Resolution 12 February 2014.
5. Council Report 26 September 2014 (Reclassification)
6. Council Resolution 26 September 2014 (Reclassification)