

# Planning Proposal

Planning Proposal to amend Wingecarribee Local Environmental Plan 2010 to Rezone to B4 Mixed Use, Apply a Minimum Lot Size of 700 sqm and Reclassify from Community to Operational, Part of Lot 2 DP 775152, Innes Road, Moss Vale.

Version 2 – For Gateway Determination

November 2016



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**ATTACHMENTS WHICH FORM PART OF THIS PLANNING PROPOSAL**

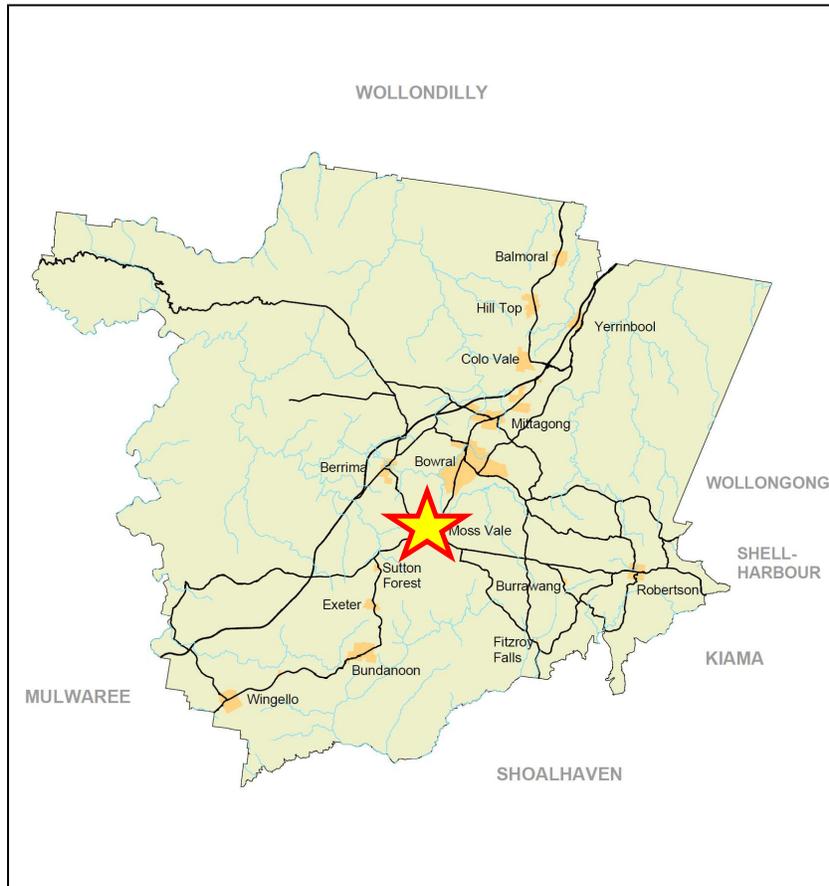
1	Title Search for Lot 2 DP775152 as at 22 August 2016
2	Deposited Plan 0775152
3	Evaluation Criteria for Delegation of Plan Making Functions
4	Report to Council of 23 September 2015
5	Resolution of Council of 23 September 2015
6	Report to Council of 10 February 2016
7	Resolution of Council of 10 February 2016
8	Pre Gateway comments from Water NSW



**LOCAL GOVERNMENT AREA : WINGECARRIBEE SHIRE COUNCIL**

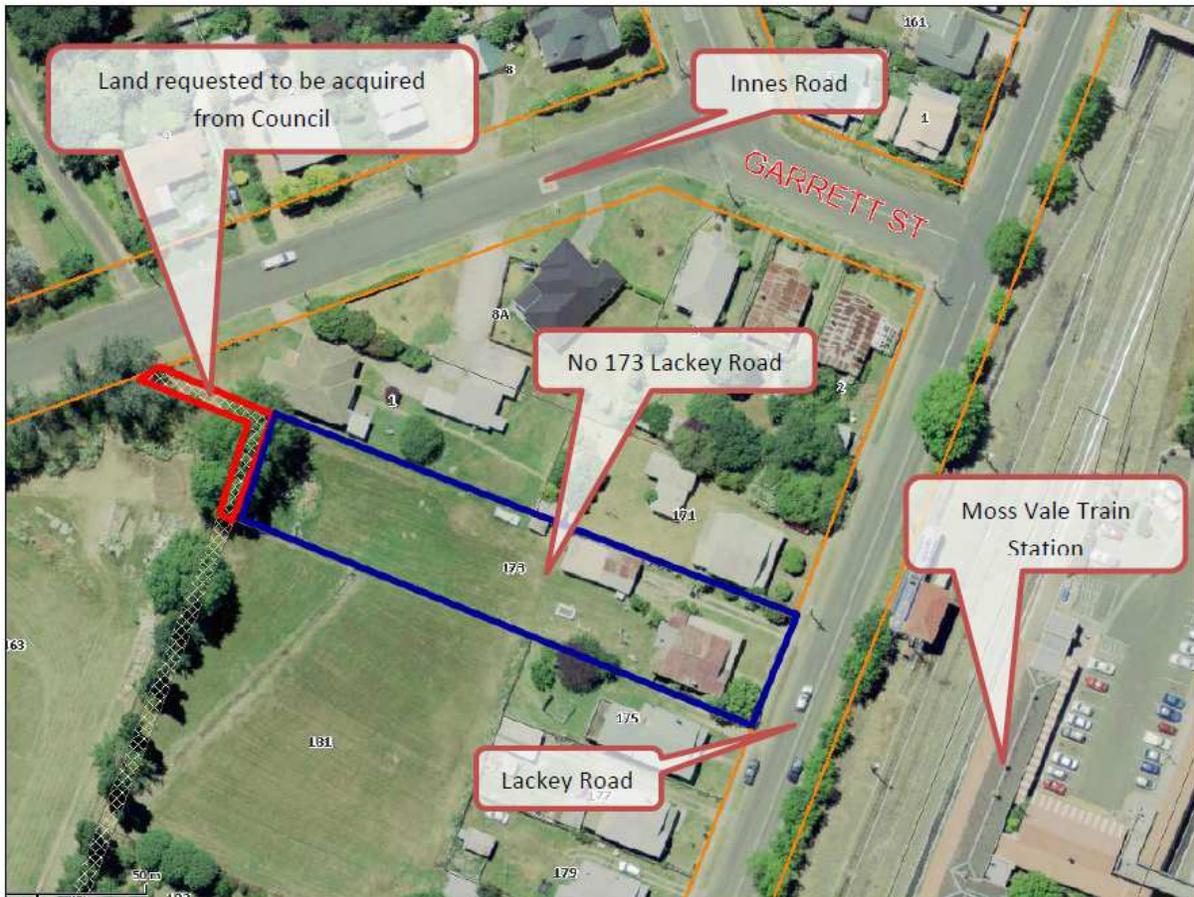
**ADDRESS OF LAND : Lot 2 DP 775152, Public Reserve, Innes Road Moss Vale**

**SHIRE WIDE LOCATION**



## SITE LOCATION & DESCRIPTION

On 24 November 2014 Council received a request from Lee Environmental Planning, representing the owners of Lot 8 Section 1 DP 975386, 173 Lackey Road, Moss Vale to potentially acquire a section (**Figure 1**) of Lot 2 DP 775152 (the subject site) and connects the rear of No 173 Lackey Road to Innes Road, Moss Vale. By acquiring this part of the laneway, the owners of Lot 8 would be able to gain direct access to Innes Road from the rear of their property.



**Figure 1: The location of the land which is the subject of the initial request**

It is noted that the frontage to Lackey Road of the subject property and adjoining sites are also shown on the WLEP 2010 land reservation acquisition map as indicated by yellow in **Figure 2**. The initial proposal observed the potential advantage of achieving future acquisition of the front portion of the subject site by means of compensation, in whole or part, by acquisition of the rear access way.

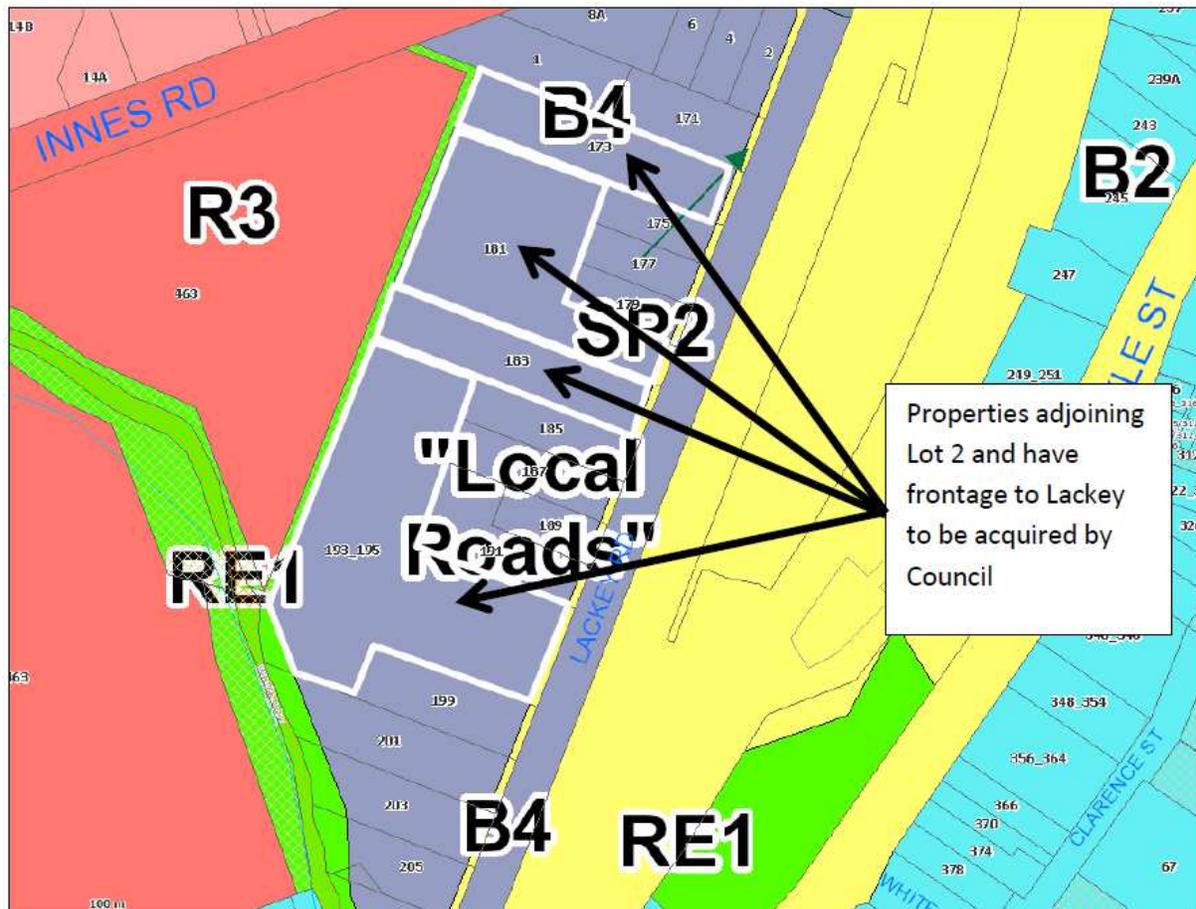


Figure 2: The location of the acquisition reservation corridor fronting Lackey Road (shown yellow) and adjoining properties.

It was further noted that the acquisition of that part of Lot 2 at the rear of 173 Lackey Road would close off the access to/from Innes Road to adjoining properties which also back on to the access way and which are also subject to the land acquisition reservation along their Lackey Road frontage.

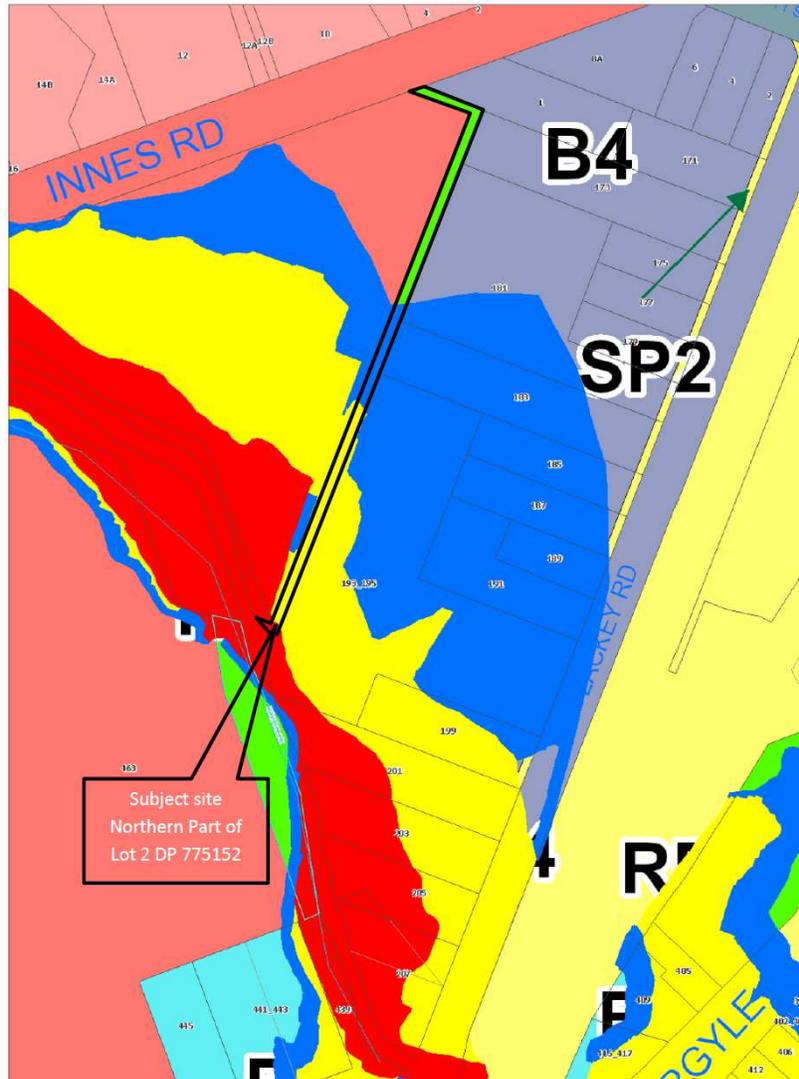
Therefore, Council reviewed the potential for adjoining properties to also be considered in the LEP amendment, noting that they have been identified for road widening under WLEP 2010 (LRA\_007A). Future acquisition of the front portion of these properties could be effected by means of compensation, in whole or part, from acquisition of that part of the rear access way within their boundary points. Interest has been expressed from all four adjoining owners in considering this potential arrangement. Accordingly, Council resolved on 23 September 2015 to proceed with a Planning Proposal to rezone and reclassify Lot 2 DP 775152.

It subsequently became apparent that Lot 2 DP 775152 comprises two sections (as indicated in **Figure 3**), only one of which (the northern section) was required to be amended to achieve the Planning Proposal's objectives. To clarify that only the northern portion of Lot 2 was to be amended, a further report was prepared for Council and a resolution accordingly obtained from Council on 10 February 2016.



Figure 3: The two parts of Lot 2 DP 775152

The land which is the subject of this Planning Proposal is identified as part of Lot 2 DP775152. The land is described as an access way, approximately 3 metres wide and 222.5 metres in length located between the common boundary at the rear of the four (4) properties identified in **Figure 2**. **Figure 4** indicates that the subject land is flood affected.



**Figure 4: Flood Affection**

Red = High Hazard Floodway	Yellow = Medium Hazard Floodway	Blue = Low Hazard Floodway
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## PART 1 : OBJECTIVES OR INTENDED OUTCOMES

The original application which initiated this Planning Proposal was to acquire from Council a small section of Lot 2 identified in Figure 2 above. The intended outcome of this was to provide access to the rear of Lot 8 Section 1 DP 975386 (173 Lackey Road) from Innes Road. However, in reviewing this request, Council resolved to apply the Planning Proposal to the northern part of Lot 2 DP 775152 (the subject land) as previously discussed.

The objective of this Planning Proposal is therefore to rezone the subject land from RE1 Public Recreation to B4 Mixed Use, apply a Minimum Lot Size of 'Q' (700 sqm) and reclassify the subject land from Community to Operational. The reclassification of the subject land is intended to facilitate the acquisition of the subject land by those properties identified in Figure above through negotiation to acquire from those properties the portion of their frontage to Lackey Road identified on the Land Reservation Acquisition Map LRA\_007A.

Council confirms that there are no 'interests' in the subject land which would prevent the delegation of this Planning Proposal.

## PART 2 : EXPLANATION OF THE PROVISIONS

To achieve the intended outcomes of the Planning Proposal the following WLEP 2010 maps will require amendment:

Map to be amended	Detail of Amendment
LZN_007D	Rezone the northern part of Lot 2 from RE1 Public Recreation to B4 Mixed Use under WLEP 2010.
LSZ_007D	Apply a Minimum Lot Size of 'Q' (700 sqm) to the northern part of Lot 2 under WLEP 2010 (where none currently exists)
RPL_007	(Reclassification Part Lots Map) A Reclassification Part Lots map will be required as Council has resolved to proceed with the reclassification of Part of Lot 2.

## PART 3 : JUSTIFICATION OF OBJECTIVES, OUTCOMES & PROCESS

### Section A – Need for the Planning Proposal

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

No. The Planning Proposal was instigated by a request from an adjoining owner to use the small section of the subject site as a rear access from Innes Road to their property at 173 Lackey Road Moss Vale.

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

The best means of achieving the intended outcome is to proceed with the proposed amendment to WLEP 2010 as detailed in this Planning Proposal. The amendment to the

Wingecarribee LEP 2010 is three fold however will address and resolve a number of issues in the short and long term. Council has resolved to proceed with the amendment to the northern Part of Lot 2 only.

### Section B – Relationship to strategic planning framework

#### 3. Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including draft strategies)?

The Planning Proposal is considered consistent with the objectives and actions contained in the *Sydney-Canberra Corridor Regional Strategy 2006 to 2031* (SCCRS, 2006-31).

The Planning Proposal is aligned with Chapter 7 – Housing and Settlement of the SCCR 2006-31, as it will facilitate the disposal of land excess to Council's supply of RE1 Public Recreation in exchange for land identified for future use (SP2 Local Road).

#### 4. Is the Planning Proposal consistent with Council's local planning strategy or other local strategic plan?

##### Wingecarribee Local Planning Strategy 2015-2031

The Wingecarribee Local Planning Strategy 2015-2031 was adopted by Council on 23 March 2016 and. At the time of the preparation of this Planning Proposal, is currently with the Department of Planning and Environment for endorsement.

There is nothing in the Local Planning Strategy which would not support this Planning Proposal.

##### Wingecarribee Shire *Community Strategic Plan 2031+*

###### *Leadership*

**1.2.3** *Ensure all ideas and proposals are assessed on their life cycle impacts.* The subject Planning Proposal has been assessed against a number of strategies and has not been identified as making any future contribution to the pedestrian network of Moss Vale. It is therefore surplus to current and future community assets

**1.4.1** *Create and focus on community engagement.* The subject application will require Community engagement as required by the Gateway Determination and also a public hearing as required by the *Local Government Act, 1993*.

###### *People*

**2.1.3** *Council actively facilitates and supports the coordinated use of existing public and private facilities to ensure equitable access.* The subject Planning Proposal has been extended to include the northern part of Lot 2 DP 775152 to enable the integration of surplus land into private land management and to allow the exchange of required land (zoned SP2 Local Roads) for its intended purpose.

## **Places**

**3.1.4** Provide safe and efficient road, cycle, and where appropriate, walking paths between and within towns and villages, and conveniently located parking areas for cars and bicycles. Ideally, all road reserves to include provision for safe walking and cycling. The proposed amendment will allow, not only the disposal of surplus land identified with characteristics inconsistent with CPTED (Crime Prevention Through Environmental Design) principles, being isolated and unmaintained, but also the acquisition of land identified as SP2 Local Roads for the purpose of widening Lackey Road and thereby providing safe and efficient walking and cycling routes.

**3.3.1** Strengthen the connectivity, liveability and vibrancy of towns and villages. It is envisaged that the proposed amendment to the Wingecarribee LEP 2010 will encourage the provision of walking and cycling routes and therefore the vibrancy and liveability of our communities.

## **Moss Vale Master Plan**

The *Moss Vale Master Plan* does not identify the northern part of Lot 2 as part of the Moss Vale pedestrian access network nor is the site identified in Council's Bicycle Strategy for Moss Vale.

## **Plan of Management: Recreational land (Parks and Property)**

The subject site is considered a Linear Reserve. Council has no Plans of Management for the management and maintenance of linear reserves. It is understood that applications have been lodged for pedestrian access ways using alternative routes.

The site is unmaintained, isolated and through access is not possible due to overgrown vegetation and the need for a creek crossing. The subject site has dimensions and characteristics that are not conducive to the use of the site for recreational opportunities or public access (it is inconsistent with CPTED Principles).

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

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

### *SEPP 44 Koala Habitat Protection*

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

### *SEPP Sydney Drinking Water Catchment 2011*

In accordance with the Section 117 Directions the planning proposal was referred to the Water NSW on 10 August 2016 for comment. Comments from Water NSW are attached.

As the SEPP applies, Council must ensure any future development results in a neutral or beneficial effect on water quality resulting from the site if and when it is integrated into

adjoining properties. Such detail will likely be submitted with future development applications for each of the site.

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

Yes. The Planning Proposal has specific features where Section 117 Directions have been considered and are addressed as follows:

### EMPLOYMENT AND RESOURCES

#### Direction 1.1 – Business and Industrial zones

The Planning Proposal is consistent with this Direction as it will reclassify existing redundant Community Land to Operational, thereby allowing the transfer of ownership to adjoining owners. The land to which it is intended to be joined is zoned B4 Mixed Use along the common boundary. In addition the adjoining properties have part of their properties identified for acquisition for the purpose of ‘Local Roads’. The outcome of the Planning Proposal thereby has the potential to shift the boundaries of the adjoin lands about three (3) metres (the width of the existing laneway) to the west, allowing for a widening of Lackey Road and the ability for the existing owners to reconfigure their sites without the uncertainty of having unrealised front and rear boundaries.

The subject Planning Proposal therefore is considered consistent with the objectives of this Direction, in particular:

- a) *To encourage employment growth in suitable locations* by allowing existing businesses in these locations to adjust their (front and rear) boundaries so that more efficient use of their land can be planned in the certainty of their reconfigured boundaries and to allow improved access to these properties.
- b) *Protect employment land in business and industrial zones* by retaining the existing zoning of adjoining properties while increasing the (adjoining) land available for development permissible in the existing B4 Mixed zone, and
- c) *Support the viability of identified strategic lands* by improving the access to these identified lands through the widening of Lackey Road (from the use intended of SP2 Local Road zoning at the front boundary of the adjoining properties), improving access to the rear of 173 Lackey Road and the exchange of the unused Community land at the rear of the adjoining properties for the SP2 Local Road along the front boundary (thereby minimising the costs to Council and the landowners).

### HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT

#### Direction 3.1 – Residential Zones

The subject site is not within a residential zone however there are residential uses on the adjoining properties. Further all types of *Residential Accommodation* are permitted with consent in the B4 Mixed Use zone. It is therefore considered that the Planning Proposal is consistent with the objectives of this Direction.

### **Direction 3.4 – Integrated Transport and Land Use**

The Planning Proposal is considered consistent with the objectives of this Direction.

### **HAZARD AND RISK**

#### **Direction 4.3 – Flood Prone Land**

Part of the subject site is located within a floodway (**Figure 4**). The proposed amendment to the Wingecarribee LEP 2010 however will not increase the impact of flooding on either the subject site or adjoining properties. The subject Planning Proposal is therefore considered consistent with the Objectives (1) of the Direction because:

- a) Any future development of the site will require consent and therefore will be consistent with the NSW Government's Flood Prone Land Policy and the principles of the *Floodplain Development Manual 2005* and Council's Flood Plain Development Policy
- b) Council has considered the potential impact of flooding on and off the subject site and determines that the extension of the B4 Mixed Use zoning and adjoining land uses onto the narrow strip of land along the common boundary will be commensurate with the flood hazard.

In response to (5), the proposed amendment will rezone land from recreational (RE1 Public Recreation) zone to a business (B4 Mixed Use) zone however it is considered that the extension of the adjoining land uses onto the subject site will allow any flood mitigation measures that the adjoining land uses will seek to implement can be accommodated on the site without disrupting their existing land uses.

In response to (6), the subject Planning Proposal will not:

- (a) permit development which is not already permitted within the zone,
- (b) result in significant additional flood impact on adjoining properties,
- (c) permit a significant increase in the development of the land,
- (d) not result in any increase government spending on flood mitigation measures, infrastructure or services, or
- (e) permit development without development within the B4 Mixed Use zone, except those already permitted without consent in the zone (Environmental Protection works, Home based child care and Home Occupations).

In response to (7), the Planning Proposal will not impose flood related development controls above the residential flood planning level for residential development (freeboard) in accordance with any flood assessment submitted with any future development application.

In response to (8), for the purpose of this Planning Proposal Council as the relevant planning authority, will not impose a flood planning level that is inconsistent with the *Floodplain Development Manual 2005*.

### **REGIONAL PLANNING**

#### **Direction 5.2 - Sydney Drinking Water Catchments**

The Planning Proposal is considered consistent with this Direction in that the Planning Proposal, and any future development application, can meet the Neutral or Beneficial Effect

(NorBE) test on water quality. It is considered that any non-compliance with the NorBE test can be addressed by implementing Water NSW Current Recommended Practices (CRP's) that can be incorporated into any future development of the subject land and adjoining properties. Notwithstanding, the subject Planning Proposal has been referred to Water New South Wales for comment (see Section 11) and the disposal of stormwater and sewerage will be addressed, in accordance with WNSW requirements, in any future Development Application.

## LOCAL PLAN MAKING

### Direction 6.1 – Approval and Referral Requirements

The subject Planning Proposal will not increase the referral requirements to any Minister or Public Authority in addition to the referral requirements currently in place under the Environmental Planning & Assessment Act, 1979

### Direction 6.2 – Reserving Land for Public Purposes

Council's property officer confirms that there are no 'interest' over the property.

### Direction 6.3 – Site Specific Provisions

It is considered that the subject Planning Proposal is consistent with these Directives because it will not require unnecessarily restrictive Site Specific provisions in addition to those contained in existing environmental planning instruments that apply to the land.

The Planning Proposal is considered to have no other impact on any of the remaining Section 117 Directions as shown in the table below:

Direction	Assessment
<b>1. Employment and Resources</b>	
1.1 Business and Industrial Zones	Consistent see above
1.2 Rural Zones	Not applicable
1.3 Mining, Petroleum Production and Extractive Industries	Not applicable
1.4 Oyster Aquaculture	Not applicable
1.5 Rural Lands	Not applicable
<b>2. Environment and Heritage</b>	
2.1 Environment Protection Zones	Not applicable
2.2 Coastal Protection	Not applicable
2.3 Heritage Conservation	Not applicable
2.4 Recreation Vehicle Areas	Not applicable
<b>3. Housing, Infrastructure and Urban Development</b>	
3.1 Residential Zones	Consistent – See above
3.2 Caravan Parks and Manufactured Home Estates	Not applicable
3.3 Home Occupations	Not applicable
3.4 Integrating Land Use and Transport	Consistent – See above
3.5 Development Near Licensed Aerodromes	Not applicable
3.6 Shooting Ranges	Not applicable
<b>4. Hazard and Risk</b>	
4.1 Acid Sulfate Soils	Not applicable
4.2 Mine Subsidence and Unstable Land	Not applicable
4.3 Flood Prone Land	Consistent – As above

4.4 Planning for Bushfire Protection	Not applicable
<b>5. Regional Planning</b>	
5.1 Implementation of Regional Strategies NB: This Direction has been revised to include previous Directions 5.6 and 5.7.	Not applicable
5.2 Sydney Drinking Water Catchments	Consistent – As above
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable
5.8 Second Sydney Airport: Badgerys Creek	Not applicable
5.9 North West Rail Link Corridor Strategy	Not applicable
<b>6. Local Plan Making</b>	
6.1 Approval and Referral Requirements	Consistent
6.2 Reserving Land for Public Purposes (cont...)	Consistent
6.3 Site Specific Provisions	Consistent

### Section C – Environmental, Social & Economic Impacts

**7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the Planning Proposal?**

No environmental assessment has yet been undertaken. This will occur as part of the consultation process.

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

No environmental assessment has yet been undertaken. This will occur as part of the consultation process. Any environmental impacts identified will be managed in accordance with an agreed management plan.

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

The intended outcome of the Planning Proposal is to enable acquisition of the subject land by those properties which back on to it in return (in part or full) for the acquisition by Council of a part of those properties fronting Lackey Road in accordance with the Land Reservation Acquisition Map LRA\_007A. This can then facilitate better access to the adjoining properties but also allow traffic management along this part of Lackey Road, which currently services part of the eastern part of the Moss Vale Enterprise Corridor to be improved.

It is therefore considered that the social and economic effects of the proposed amendment to the WLEP 2010 will, on balance, be substantially positive for Council and the adjoining properties. The Planning Proposal will however be exhibited in accordance with Gateway Determination requirements for consultation with the local community and also in accordance with the Local Government Act (requiring a public hearing) for the reclassification of land.

## Section D – State and Commonwealth Interests

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

No public Infrastructure is required for this Planning Proposal.

## PART 4 – MAPPING

The following maps are currently being prepared:

### Existing Map to be replaced

#### Zoning Map

8350\_COM\_LZN\_007D\_020\_20150914

#### Lot Size Map

8350\_COM\_LSZ\_007D\_020\_20150914

### New maps to be created

Reclassification (Part Lots) Map

Covering the subject site (Map identifier to be determined)

## PART 5 – COMMUNITY CONSULTATION

Community Consultation will occur in accordance with the requirements of any Gateway Determination and the Local Government Act for the Reclassification of land.

## PART 6 – TIMELINE

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

MILESTONE	INDICATIVE DATE
Gateway Determination	November 2016
Public Exhibition/Consultation with government agencies	December 2016
Public Hearing as required for reclassification of Land	February 2017
Report to Council on exhibition of Planning Proposal.	March 2017
Documents to DPE & PCO.	April 2017
Approximate completion date	April 2017

## DELEGATIONS

Council is applying to use its delegations to complete this Planning Proposal. The Department's form *Evaluation Criteria for Delegation of Plan Making Functions* has been attached for consideration.

\*\*\*END\*\*\*