

# Planning Proposal

To amend Wingecaribee Local Environmental Plan 2010 to address certain provisions with regard to rural tourism.

**Prepared by  
Wingecaribee Shire Council  
Strategic Land Use Planning**

Version 2 – For Gateway Determination

April 2020



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## ATTACHMENTS WHICH FORM PART OF THIS PLANNING PROPOSAL

1	Report to Council 13 November 2019
2	Resolution of Council 13 November 2019
3	Delegation Request Evaluation Form
4	Adopted Wingecarribee Rural Tourism Policy

## SITE LOCATION & DESCRIPTION

The Planning Proposal involves draft amendments to the Wingecarribee Local Environmental Plan 2010 instrument and so is of Shire-wide relevance. It is not site specific except to the extent that certain provisions relate to certain zones.

## PART 1 : OBJECTIVES OR INTENDED OUTCOMES

The objective of this Planning Proposal is to implement the following Resolution of Council of 13 November 2019:

THAT a Planning Proposal be prepared for a Gateway Determination to amend WLEP 2010 to:

- a) increase the maximum number of bedrooms in *Farm Stay Accommodation* from three (3) to five (8)
- b) increase the maximum number of bedrooms in *Bed and Breakfast Accommodation* from three (3) to five (5)
- c) permit *Artisan Food and Drink Industry* with consent in the following zones:
  - 1) RU1 Primary Production,
  - 2) RU2 Rural Landscape,
  - 3) RU4 Primary Production Small Lots, and
  - 4) SP3 Tourist
- d) permit *Function Centres* with consent in the RU Rural Landscape zone
- e) insert a new 'Heads of Consideration' clause for *Function Centres*
- f) exclude *Function Centres* from the operation of Clause 2.8 Temporary Use of Land.

This Resolution is the result of extensive consultation over a number of years between Council and various stakeholders within the agribusiness and tourism sectors as well as with rural residents. Key concerns within these groups were, on the one hand, how to increase opportunities to value-add to existing agricultural businesses and how to encourage the establishment of new agribusiness opportunities within the Shire, while at the same time protecting the natural and rural environments and ensuring that the residential amenity of the rural areas is not compromised.

Council recognises that tourism is a key economic driver for the Shire and that the economic challenges which traditionally face rural communities can in part be addressed through broader rural-based tourism opportunities.

Council's adoption of a Rural Tourism Policy, together with a resolution to progress certain draft amendments to WLEP 2010, both seek to provide opportunities to encourage rural tourism without compromising the natural and rural environment. The adopted draft amendments form the subject of this Planning Proposal, but further reference to the Rural Tourism Policy are provided where relevant in Part 3 – Justification - of the Planning Proposal.

## PART 2 : EXPLANATION OF THE PROVISIONS

To achieve the intended outcomes of the Planning Proposal the following amendments to the WLEP 2010 instrument (indicated in **bold red** below) will be required. The justification for each is contained in the flowing section of the Planning Proposal.

### 2.1 Amendments to *Clause 5.4 Controls relating to miscellaneous permissible uses*

(a) **Bed and breakfast accommodation** *If development for the purposes of bed and breakfast accommodation is permitted under this Plan, the accommodation that is provided to guests must consist of no more than (3) 5 bedrooms.*

(b) **Farm stay accommodation** *If development for the purposes of farm stay accommodation is permitted under this Plan, the accommodation that is provided to guests must consist of no more than (3) 8 bedrooms.*

### 2.2 Amendments to include certain zones in the Land Use Table

#### **Zone RU1 Primary Production**

##### **3 Permitted with consent**

Agriculture; Airstrips; Animal boarding or training establishments; **Artisan food and drink industry**; Aquaculture; Bed and breakfast accommodation; Cellar door premises; Community facilities; Dual occupancies (attached); Dwelling houses; Eco-tourist facilities; Environmental facilities; Extractive industries; Farm buildings; Farm stay accommodation; Flood mitigation works; Forestry; Health consulting rooms; Helipads; Home businesses; Home industries; Information and education facilities; Intensive livestock agriculture; Intensive plant agriculture; Landscaping material supplies; Open cut mining; Places of public worship; Plant nurseries; Recreation areas; Recreation facilities (outdoor); Roads; Rural industries; Secondary dwellings; Signage

#### **Zone RU2 Rural Landscape**

##### **3 Permitted with consent**

Agricultural produce industries; Agriculture; Airstrips; Animal boarding or training establishments; Aquaculture; **Artisan food and drink industry**; Bed and breakfast accommodation; Cellar door premises; Community facilities; Dual occupancies (attached); Dwelling houses; Eco-tourist facilities; Environmental facilities; Extractive industries; Farm buildings; Farm stay accommodation; Flood mitigation works; Forestry; **Function centres**; Health consulting rooms; Helipads; Home businesses; Home industries; Information and education facilities; Landscaping material supplies; Places of public worship; Plant nurseries; Recreation areas; Recreation facilities (outdoor); Roads; Roadside stalls; Secondary dwellings; Signage

**Zone RU4 Primary Production Small Lots**

**3 Permitted with consent**

Aquaculture; **Artisan food and drink industry**; Bed and breakfast accommodation; Cellar door premises; Centre-based child care facilities; Community facilities; Dual occupancies (attached); Dwelling houses; Eco-tourist facilities; Environmental facilities; Farm buildings; Flood mitigation works; Home businesses; Home industries; Intensive plant agriculture; Landscaping material supplies; Places of public worship; Plant nurseries; Recreation areas; Recreation facilities (outdoor); Respite day care centres; Roads; Roadside stalls; Secondary dwellings; Signage; Water storage facilities

**Zone SP3 Tourist**

**3 Permitted with consent**

Agricultural produce industries; Aquaculture; **Artisan food and drink industry**; Dwelling houses; Extensive agriculture; Food and drink premises; Intensive plant agriculture; Roads; Secondary dwellings; Tourist and visitor accommodation; Any other development not specified in item 2 or 4.

## **2.3 Amendment to Clause 2.8 Temporary use of land**

### **2.8 Temporary use of land**

- (1) The objective of this clause is to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.
- (2) Despite any other provision of this Plan, development consent may be granted for **any** development **other than Function centres** on land in any zone for a temporary use for a maximum period of 60 days (whether or not consecutive days) in any period of 12 months
- (3) Development consent must not be granted unless the consent authority is satisfied that—
  - (a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any other applicable environmental planning instrument, and
  - (b) the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and
  - (c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and
  - (d) at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.
- (4) Despite subclause (2), the temporary use of a dwelling as a sales office for a new release area or a new housing estate may exceed the maximum number of days specified in that subclause.
- (5) Subclause (3)(d) does not apply to the temporary use of a dwelling as a sales office mentioned in subclause (4).

## **2.4 Insertion of a new ‘Heads of Consideration’ clause for *Function centres***

### ***Clause 5.20 Function centres***

*(1) The Objectives of this clause are as follows:*

- (a) To provide appropriate development opportunities for functions and conferences, such as weddings and corporate retreats, and*
- (b) To ensure that function centres are sensitively located and designed so they do not adversely impact on the agricultural production, natural resources, ecological values or visual, scenic, environmental or residential amenity values of the land.*

*(2) This clause applies if development for the purposes of a function centre is permitted with development consent under this Plan.*

*(3) The consent authority must not grant consent under this Plan to carry out development for the purposes of a Function Centre unless it is demonstrated to Council’s satisfaction that:*

- a) the location of the development does not impact on any environmentally sensitive land identified on the site, and*
- b) the construction of the development will not result in the removal of any native vegetation and will have regard to the management of biodiversity outcomes as set out in a Biodiversity Assessment Report prepared in accordance with the requirements of the Biodiversity Conservation Act 2016.*

*(4) The consent authority must not grant consent under this Plan to carry out development for the purposes of a Function Centre unless the consent authority is satisfied that:*

- (a) the development will complement the rural or environmental attributes of the land and its surrounds, and*
- (b) the development will not adversely affect the agricultural productivity of adjoining land, and*
- (c) the development will not adversely affect neighbour amenity, and*
- (d) the development is, or will be, serviced by adequate access roads taking into account the scale of the development, and*
- (a) the development has, or will have, access to adequate wastewater systems to service the land without having any adverse impact on the water quality of the area, and*
- (b) the location of the development does not impact on any environmentally sensitive land identified on the site, and*
- (c) the construction of the development will not result in the removal of any native vegetation and will have regard to the management of biodiversity outcomes, and*
- (d) the potential impacts of bushfire and/or flood have been addressed, and*
- (e) the development will not create a land use conflict due to noise, traffic, privacy, visual and other amenity impacts, and*
- (f) a management strategy will be prepared to minimise any impact on the natural environment or neighbour amenity which includes but is not limited to:*
  - (i) measures to remove any threat of serious or irreversible environmental damage, and*

- (ii) *mechanisms for monitoring and reviewing the effect of the development on the neighbour amenity including noise and traffic impacts, and*
- (iii) *any other matter deemed relevant by the consent authority.*

It is noted that no amendments to the WLEP 2010 maps will be required for this Planning Proposal.

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

The justifications for these draft amendments follow.

#### **3.1 Amendments to *Clause 5.4 Controls relating to miscellaneous permissible uses***

##### **a) Bed and Breakfast Establishments**

The public exhibition of draft amendments to WLEP 2010 in support of the draft Wingecarribee Rural Tourism Policy included the proposal to increase the maximum number of bedrooms in a *bed and breakfast establishment* from three (3) to five (5). Some submissions during the exhibition period supported this proposal, while others recommended that the number of bedrooms be increased further, or that there be no limit at all under the LEP.

Council's recommendation in response was that the proposed maximum number of five (5) bedrooms be supported to maintain a low scale 'residential dwelling style' development rather than a larger commercial style enterprise. At its Ordinary Meeting of 13 November 2019 Council resolved to amend clause 5.4 of WLEP 2010 to increase the number of bedrooms to 5. It is noted this is a maximum only, and still subject to assessment on a site specific basis at the development application stage.

##### **b) Farm Stay Accommodation**

The public exhibition of the draft amendments to WLEP 2010 in support of the draft Wingecarribee Rural Tourism Policy included the proposal to increase the maximum number of bedrooms in *farm stay accommodation* from three (3) to five (5). Some submissions supported this proposal, while others recommended that the number of bedrooms be increased to seven (7) or even ten (10).

In Council's response it was noted that the Standard Instrument definition of *farm stay accommodation* requires that the accommodation be on "a working farm" and it must operate as "a secondary business to primary production". In view of this definition, an increase to 8 bedrooms was considered more appropriate than the maximum proposed of 10 and, therefore, at its Ordinary Meeting of 13 November 2019 Council resolved to amend clause 5.4 of WLEP 2010 to increase the number of bedrooms to 8. It is noted that this is a maximum only, and still subject to assessment on a site specific basis at the development application stage.

#### **3.2 Amendments to the Land Use Table for Artisan Food & Drink Industry**

The Standard Instrument definition of *Artisan Food and Drink Industry* is a *building or place the principal purpose of which is the making or manufacture of boutique, artisan or craft food or drink products only. It must also include at least one of the following:*

- (a) *a retail area for the sale of the products,*
- (b) *a restaurant or cafe,*
- (c) *facilities for holding tastings, tours or workshops.*

In support of the draft Rural Tourism Policy, Council's Resolution of the Ordinary Meeting of 13 November 2019 included permitting with consent *Artisan Food and Drink Industry* in the RU1 Primary Production, RU2 Rural Landscape, RU4 Primary Production Small Lots, and SP3 Tourist zones. The benefit of doing so is that rural based enterprises in these zones can then take advantage of the retail component of this land use definition to expand their range of operations and value add to their rural business.

It is noted that the E3 Environmental Management zone is excluded from the list of zones because the Standard Instrument definition notes that *Artisan Food and Drink Industry* is a type of *Light industry* and the Standard Instrument mandates *Light industry* as prohibited in the E3 Environmental Management zone. Council has also resolved to liaise with the Department separately to this Planning Proposal to address this issue.

### **3.3 Amendment to Clause 2.8 Temporary use of land**

One of the key objectives of drafting a Rural Tourism Policy for the Shire was the Council's concern with the increasing frequency in applications for function centres under Clause 2.8 of WLEP 2010 and of subsequent applications to rezone these sites to SP3 Tourist.

Clause 2.8 enables Council to approve, on a temporary basis, a land use which would not otherwise be permissible in the zone. The original intention of the clause within Wingecarribee Shire was to provide for open gardens and similar events of a low scale, community related nature, hence the maximum number of days being set at 60 to allow for seasonal cycles.

Increasingly however, the clause has been used to seek approval for the temporary use of a site for a 'function centre' to operate as a wedding venue. In this case the 60 days provided, offers the opportunity for more than one function per weekend throughout the year, but instead of being low-scale community events, such functions can generate up to 100 guests or more with associated traffic and noise impacts on the amenity of the locality. Neighbours often object to the use of rural properties for function centres, especially wedding venues, due to the potential traffic generation and noise impacts.

These developments are especially of concern to Council when the subject land is zoned E3 Environmental Management, one of the least intensive zones, when the land use is in effect one of the most intensive. Compounding the problem is the tendency for Council to receive requests to extend the nature of the 'temporary' use by granting approvals over several years. These applications occur because the nature of weddings is that they tend to be booked several years in advance, and the 'temporary' wedding venue cannot offer the certainty potential clients want. Eventually, Council frequently receives a Planning Proposal seeking to rezone the land to SP3 Tourist.

Therefore, the current use of clause 2.8 to enable *Function Centres* is considered by Council to be a unsatisfactory approval pathway, one which does not generally serve the best interests of either the proponent, their clients, or Council. Reliance on this clause not only restricts activities and creates uncertainty for operators, it can also result in sub-standard outcomes with respect to introducing mitigating measures for noise and visual impacts.

The Standard Instrument includes the clause 2.8 Direction that '*other specific exceptions to subclause (2) may be added*'. At its Ordinary Meeting of 13 November 2019 Council resolved to exclude Function Centres from the operation of clause 2.8 of WLEP 2010 as allowed under the above Direction. The following draft clause is proposed.

### **2.8 Temporary use of land**

- (1) *The objective of this clause is to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.*
- (2) *Despite any other provision of this Plan, development consent may be granted for development on land in any zone, **except for the purposes of a Function centre**, for a temporary use for a maximum period of 60 days (whether or not consecutive days) in any period of 12 months.*
- (3) *Development consent must not be granted unless the consent authority is satisfied that—*
  - (a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any other applicable environmental planning instrument, and*
  - (b) the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and*
  - (c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and*
  - (d) at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.*
- (4) *Despite subclause (2), the temporary use of a dwelling as a sales office for a new release area or a new housing estate may exceed the maximum number of days specified in that subclause.*
- (5) *Subclause (3)(d) does not apply to the temporary use of a dwelling as a sales office mentioned in subclause (4).*

It is noted that the draft amendment as exhibited with the Draft Rural Tourism Policy proposed excluding Function Centres from the operation of the clause only in the E3 zone. However, Council resolved on 13 November 2019 that *Function Centres* be excluded from the operation of clause 2.8 across all zones.

### **3.4 Permit Function centres with consent in the RU2 Rural Landscape zone.**

To support the draft amendment to clause 2.8, and to give legislative strength to the Rural Tourism Policy, two additional draft amendments to WLEP 2010 were proposed and exhibited with the draft Policy. The first is to permit, with consent, Function Centres in the RU2 Rural Landscape zone. The second, to insert a new 'heads of consideration' clause for function centres into WLEP 2010, is discussed at 3.5 below.

With regard to the first, there are potential benefits of permitting, with consent, *Function centres* in the RU2 Rural Landscape zone. First, this draft amendment provides a rural zone within which function centres may operate other than in the E3 Environmental Management zone. Currently WLEP 2010 does not permit function centres in any of the rural or environmental protection zones. It is noted that the RU2 zone includes the objective "*To provide opportunities for employment-generating development that is compatible with, and adds value to, local agricultural production through food and beverage processing and that integrates with tourism.*"

This option may take some of the pressure off the E3 Environmental management zone. It may at least limit the extent to which an E3 zone needs to be rezoned. For example, if only a portion of an E3 is required for a function centre, that portion can be rezoned leaving the remainder of the site as the E3 Environmental management zone. The RU2 Rural Landscape zone is far more

compatible with the E3 Environmental Management zone than the SP3 Tourist zone, being far less intensive in terms of potential land uses.

These benefits, in conjunction with the proposed 'heads of consideration' clause for function centres, discussed below, are considered by Council to adequately compensate for any loss of tourist potential under the draft amendment to clause 2.8, and act to ensure that community concerns regarding environmental protection and rural amenity are addressed.

It is recognised by Council that function centres can, and do, have an important role to play in the successful development of the 'weddings destination' to which the Southern Highlands aspires. However, it is also recognised that function centres can create adverse neighbour impacts. To address these, a draft clause containing 'heads of consideration' for the assessment of a function centre in any zone where such development is permitted with consent, is included in this Planning Proposal and discussed below.

### **3.5 Insert a new 'Heads of Consideration' clause for *Function centres***

The adopted Wingecarribee Rural Tourism Policy contains 'heads of consideration' for the assessment of any application containing a function centre. Prior to the adoption of the Policy, assessment relied on a set of criteria contained within the Rural Lands Development Control Plan. There was criticism of these criteria during preparation and exhibition of the draft Policy and Council determined that a different approach was required.

In drafting the Rural Tourism Policy, Council include a set of 'heads of consideration' for function centres' based on those for eco-tourist facilities contained in clause 5.10 of the Standard Instrument and WLEP 2010. The draft clause follows:

#### **5.14 Function centres**

- 1) *The Objectives of this clause are as follows:*
  - (a) *To provide appropriate development opportunities for functions and conferences, such as weddings and corporate retreats, and*
  - (b) *To ensure that function centres are sensitively located and designed so they do not adversely impact on the agricultural production, natural resources, ecological values or visual, scenic, environmental or residential amenity values of the land.*
- 2) *This clause applies if development for the purposes of a function centre is permitted with development consent under this Plan.*
- 3) *The consent authority must not grant consent under this Plan to carry out development for the purposes of a Function Centre unless it is demonstrated to Council's satisfaction that:*
  - (a) *the location of the development does not impact on any environmentally sensitive land identified on the site, and*
  - (b) *the construction of the development will not result in the removal of any native vegetation and will have regard to the management of biodiversity outcomes as set out in a Biodiversity Assessment Report prepared in accordance with the requirements of the Biodiversity Conservation Act 2016.*
- 4) *The consent authority must not grant consent under this Plan to carry out development for the purposes of a Function Centre unless the consent authority is satisfied that:*
  - (a) *the development will complement the rural or environmental attributes of the land and its surrounds, and*

- (b) the development will not adversely affect the agricultural productivity of adjoining land, and*
- (c) the development will not adversely affect neighbour amenity, and*
- (d) the development is, or will be, serviced by adequate access roads taking into account the scale of the development, and*
- (e) the development has, or will have, access to adequate wastewater systems to service the land without having any adverse impact on the water quality of the area, and*
- (f) the location of the development does not impact on any environmentally sensitive land identified on the site, and*
- (g) the construction of the development will not result in the removal of any native vegetation and will have regard to the management of biodiversity outcomes, and*
- (h) the potential impacts of bushfire and/or flood have been addressed, and*
- (i) the development will not create a land use conflict due to noise, traffic, privacy, visual and other amenity impacts, and*
- (j) a management strategy will be prepared to minimise any impact on the natural environment or neighbour amenity which includes but is not limited to:*
  - (i) measures to remove any threat of serious or irreversible environmental damage, and*
  - (ii) mechanisms for monitoring and reviewing the effect of the development on the neighbour amenity including noise and traffic impacts, and*
  - (iii) any other matter deemed relevant by the consent authority.*

This draft local clause provides legislative support to the Rural Tourism Policy and also provides a stronger assessment framework compared with the criteria currently contained within the Rural Lands Development Control Plan.

## **Section A – Need for the Planning Proposal**

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

The draft amendments contained in the Planning Proposal result from the preparation, exhibition and subsequent adoption by Council of the Wingecarribee Rural Tourism Policy. The Policy seeks to establish a balance between the acknowledged benefits of tourism and the potential adverse impacts on the environment, landscape quality and rural amenity by providing a framework within which both Council and the tourism industry can address large scale rural tourism proposals at a strategic level, to ensure that any negative impacts can be identified and appropriately mitigated. Specifically, the objectives of the Policy are as follows:

- to provide a direct 'line of sight' between the South East and Tablelands Regional Plan, the Destination Management Plan, the Community Strategic Plan and Council's planning framework as it relates to rural tourism development*
- to outline a clear approval pathway for certain rural tourism related developments in the Wingecarribee Shire*
- to provide greater certainty and consistency in the assessment of rural tourism related development proposals for both the industry and the broader community, and*
- to set out criteria for determining when Council will consider a Planning Proposal to rezone land to SP3 Tourist.*

- *to limit opportunistic tourism development in rural locations.*

The Policy notes that the E3 Environmental Management zone accounts for some 49% of all land within the Shire. Development of the rural weddings tourist market is restricted in the E3 Environmental Management zone due to function centres, restaurants and cafes being prohibited in the zone. It is also noted that the Wingecarribee Local Environmental Plan (WLEP) 2010 allows for a range of small scale and boutique tourism uses in our rural areas, and the Wingecarribee Development Control Plans (DCPs) contain controls to mitigate the impacts of these uses.

The Rural Tourism Policy provides broader framework for large scale rural tourism uses that are not currently permissible under the WLEP 2010 supported by a stronger set of legislative controls within WLEP 2010. Specifically, the Rural Tourism Policy provides the following pathway for consideration of any Planning proposal to rezone E3 Environmental Management land to SP3 Tourist.

- 1) Council shall not consider a Planning Proposal for the purposes of rezoning land to SP3 Tourist if the subject land is within any Landscape Conservation Area mapped under Wingecarribee Local Environmental Plan 2010.
- 2) Council shall not consider a Planning Proposal for the purposes of rezoning rural land to SP3 Tourist without supporting evidence which demonstrates to Council's satisfaction that a tourist facility has been operating on the subject land for at least three (3) years. The intent of this restriction is to limit opportunistic tourism development in rural locations.
- 3) Council shall not consider a Planning Proposal for the purposes of rezoning land to SP3 Tourist unless accompanied by a Concept Master Plan which:
  - a) indicates the intended extent of the tourist development proposed for the subject site, and
  - b) is sufficient to allow consideration of the cumulative impacts of each land use type proposed for the site at the strategic planning level including assessments at (4) and (7) below.
- 4) Any Planning Proposal for the purposes of rezoning land to SP3 Tourist shall demonstrate to Council's satisfaction that the development will not occur on land that:
  - a) contains any mapped Threatened Ecological Community, or
  - b) will not impact on any mapped Threatened Ecological Community.
- 5) Compliance with (4) above shall be by means of a Biodiversity Development Assessment Report (BDAR) prepared by an accredited assessor as required under the *Biodiversity Conservation Act 2016*. Where a Threatened Ecological Community is indicated on the subject land, the BDAR must demonstrate to Council's satisfaction how the proposal will avoid this area.
- 6) If Council determines that the proposed development will likely result in a serious and irreversible impact on any mapped Threatened Ecological Community, Council will not support the Planning Proposal.
- 7) Any Planning Proposal for the purposes of rezoning land to SP3 Tourist shall demonstrate to Council's satisfaction that any mapped High Value Agricultural Land on the subject land shall avoided in any proposed development.
- 8) Should a property contain either High Value Environmental Land or High Value Agricultural Land, this may result in only a portion of the subject land being considered by Council for rezoning to SP3 Tourist.

- 9) Any land supported for rezoning to SP3 Tourist in accordance with (7) above would also have a minimum lot size applied to it to ensure that only one principal dwelling, and one secondary dwelling, as permitted in the zone, could be constructed on the rezoned area. The purpose of this is to prevent further subdivision of the site for residential development.
- 10) Any Planning Proposal for the purposes of rezoning land to SP3 Tourist involving a Function Centre shall demonstrate to Council's satisfaction compliance with the following provisions, the intent of which is to ensure that any Function Centre is sensitively located and designed so it does not adversely impact on the ecological values, agricultural production, natural resources, or visual, scenic, environmental or residential amenity values of the land. The provisions are:
- (a) the development will complement the rural or environmental attributes of the land and its surrounds, and
  - (b) the development will not adversely affect the agricultural productivity of adjoining land, and
  - (c) the development will not adversely affect neighbour amenity, and
  - (d) the development is, or will be, serviced by adequate access roads taking into account the scale of the development, and
  - (e) the development has, or will have, access to adequate wastewater systems to service the land without having any adverse impact on the water quality of the area, and
  - (f) the location of the development does not impact on any environmentally sensitive land identified on the site, and
  - (g) the construction of the development will not result in the removal of any native vegetation and will have regard to the management of biodiversity outcomes, and
  - (h) the potential impacts of bushfire and/or flood have been addressed, and
  - (i) the development will not create a land use conflict due to noise, traffic, privacy, visual and other amenity impacts, and
  - (j) a management strategy will be prepared to minimise any impact on the natural environment or neighbour amenity which includes but is not limited to:
    - (i) measures to remove any threat of serious or irreversible environmental damage, and
    - (ii) mechanisms for monitoring and reviewing the effect of the development on the neighbour amenity including noise and traffic impacts, and
    - (iii) any other matter deemed relevant by the consent authority.

To support these Policy initiatives, draft amendments to WLEP 2010, as set out in the Planning proposal, have been identified.

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

A Planning Proposal is the only means of achieving the proposed amendments to WLEP 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)?

Wingecarribee Shire forms part of the South East and Tablelands Region. The 2036 Regional Plan includes 'Narratives' for each Local Government Area, noting in the introduction to this section that :

*This section includes priorities for individual councils to guide further investigation and implementation. The priorities build on the directions and actions in this Plan to achieve desired outcomes on the ground. Planning will encourage infrastructure delivery and target the needs of communities. It will also encourage more efficient allocation of resources and investment to improve the liveability and sustainability of the region. The NSW Government will assist councils to translate these priorities into local plans.*

The priorities of specific relevance to Wingecarribee are contained on page 66 of the Regional Plan and include:

- *Protect high environmental value lands including regionally significant biodiversity corridors*
- *Protect the Sydney Drinking Water Catchment*
- *Protect important agricultural lands as a resource for food security*

The Wingecarribee 'Narrative' also identifies the following key economic and employment goals:

- *Grow and diversify the area's agricultural base, including value added activities and capitalise on access to national and international markets in Sydney.*
- *Promote the Shire as a destination and encourage visitors to Canberra to also visit Wingecarribee Shire.*

This Planning Proposal supports these priorities and objectives.

With regard to protecting high value environmental lands and the Sydney Drinking Water catchment, the key purpose of the Rural Tourism Policy is to ensure that the E3 Environmental Management zone is protected from inappropriate tourism related development Planning Proposals to rezone the land to SP3 Tourist, thereby rezoning from one of the least intensive zones to one of the most intensive. The Policy does not support any rezoning where threatened ecological communities have been identified. The Planning Proposal seeks to do this by permitting, with consent, function centres in the RU2 zone which may enable only a portion of an E3 zone to be rezoned, as well as introducing a heads of consideration clause for function centres to apply to all function centre development regardless of zoning. Removing function centres from the operation of clause 2.8 enables Council to ensure that a more accountable and robust assessment pathway is required to establish such a facility.

With regard to protecting important agricultural lands and growing and diversifying the area's agricultural base, the inclusion of Artisan food and drink industry in the RU1, RU2 and RU4 zones provides additional opportunity for diversification and value-adding to existing agricultural enterprises. So too, does the increase in farm stay accommodation to a maximum of 8 bedrooms from the current 3.

It is recognised that the natural and rural landscapes of the Shire are integral to its tourist appeal and the Planning Proposal, in protecting these environments, is also ensuring that this key priority is supported.

Directions and Actions throughout the Regional Plan which specifically support these 'narrative' priorities and which relate to this Planning Proposal follow:

***Direction 5 – Promote agricultural innovation, sustainability and value add opportunities.***

***5.1 Promote commercial, tourism and recreational activities that support the agricultural sector.***

***5.2 Encourage value-add agricultural opportunities through flexible planning provisions in local strategies and local environmental plans.***

The Planning Proposal addresses this Direction by:

- *Permitting with consent Artisan Food & Drink Industry in the RU1, RU2 and RU4 zones to value-add by enabling agribusiness to promote and sell farm produce.*
- *Permitting with consent Function centres in the RU2 zone to enable E3 sites to potentially rezone a portion of their site for a function centre rather than seek to rezone the entire site to SP3 Tourist.*
- *Introducing a 'heads of consideration' clause into WLEP to provide a rigorous assessment framework for function centre applications.*
- *Increasing the maximum number of bedrooms in Farmstay accommodation from 3 to 8 to offer more opportunity to value add to an existing agribusiness.*

***Direction 8 – Protect important agricultural land***

***8.2 Protect identified important agricultural land from land use conflict and fragmentation and manage the interface between important agricultural land and other land uses through local environmental plans.***

The Planning Proposal addresses this Direction by:

- *Supporting the Rural Tourism Policy which excludes high value agricultural land from potential development for tourism purposes.*
- *Excluding function centres from the operation of clause 2.8 which Council believes does not provide a sufficient robust assessment process for such development in rural locations.*
- *Introducing a 'heads of consideration' clause into WLEP to provide a rigorous assessment framework for function centre applications in all zones.*
- *Increasing the maximum number of bedrooms in Farmstay accommodation from 3 to 8 to offer more opportunity to value add to an existing agribusiness.*

***Direction 9 – Grow tourism in the region***

***9.2 Encourage tourism development in natural areas that support conservation outcomes.***

**9.3 Align local strategies with the relevant destination management plan.**

The Planning Proposal addresses this Direction by:

- *Supporting the Rural Tourism Policy which excludes high value agricultural and high value environmental land from potential tourist development which would reduce the intrinsic tourist value of that land.*
- *Permitting with consent Artisan Food & Drink Industry in the RU1, RU2 and RU4 zones to value-add by enabling agribusiness to promote and sell farm produce to enhance the tourist experience in rural areas.*
- *Permitting with consent Function centres in the RU2 zone and introducing a 'heads of consideration' clause into WLEP to offer wedding venue opportunities in rural areas while also protecting the environmental qualities of these locations and their intrinsic value to tourists.*
- *Increasing the maximum number of bedrooms in Farmstay accommodation from 3 to 8 to offer more opportunity to value add to an existing agribusiness.*

**Direction 14 – Protect important environmental assets**

**14.1** *Develop and implement a comprehensive Koala Plan of Management for ... the Wingecarribee local government area.*

**14.2** *Protect the validated high environmental value lands in local environmental plans.*

**14.3** *Minimise potential impacts arising from development on areas of high environmental value, including groundwater-dependent ecosystems and aquatic habitats, and implement the 'avoid, minimise and offset' hierarchy.*

The Planning Proposal addresses this Direction by:

- *Supporting the Rural Tourism Policy which excludes high value environmental land from potential tourist development and permits consideration of tourist development in the E3 zone only where there is no significant or irreversible damage identified.*
- *Excluding function centres from the operation of clause 2.8 which Council believes does not provide a sufficient robust assessment process for such development in rural locations.*
- *Permitting with consent Function centres in the RU2 zone and introducing a 'heads of consideration' clause into WLEP to offer tourism opportunities in rural areas while also protecting the environmental qualities of these locations and any identified koala habitat.*

**Direction 15 – Enhance biodiversity connections**

**15.1** *Protect and enhance the function and resilience of biodiversity corridors in local strategies.*

The Planning Proposal addresses this Direction by:

- *Supporting the Rural Tourism Policy which excludes high value environmental land from potential tourist development and permits consideration of tourist development in the E3 zone only where there is no significant or irreversible damage identified.*
- *Excluding function centres from the operation of clause 2.8 which Council believes does not provide a sufficient robust assessment process for such development in rural locations.*
- *Permitting with consent Function centres in the RU2 zone and introducing a 'heads of consideration' clause into WLEP to offer tourism opportunities in rural areas while also protecting the biodiversity qualities of these locations.*

#### **Direction 18 –Secure water resources**

**18.1** *Locate, design, construct and manage new developments to minimise impacts on water catchments, including downstream impacts and groundwater sources.*

**18.4** *Incorporate water sensitive urban design into development that is likely to impact water catchments, water quality and flows.*

The Planning Proposal addresses this Direction by:

- *Supporting the Rural Tourism Policy which excludes high value environmental land from potential tourist development and permits consideration of tourist development only where there is no significant or irreversible impacts identified.*
- *Excluding function centres from the operation of clause 2.8 which Council believes does not provide a sufficient robust assessment process for such development in rural locations.*
- *Maintain the prohibition of function centres in the E3 Environmental Management zone while permitting with consent Function centres in the RU2 zone.*
- *Introducing a 'heads of consideration' clause into WLEP to offer tourism opportunities in rural areas while also protecting the biodiversity qualities of these locations.*

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

The Planning Proposal is consistent with Council's adopted Community Strategic Plan (CSP), especially with the strategies identified under the Economy goals of "our shire attracts people to work, live and visit". These strategies are:

- 5.1.2 – increase local employment opportunities for people of all stages of life.*
- 5.1.4 – provide diversity in tourist attractions and experiences.*
- 5.1.5 – promote Southern Highlands' unique brand identity.*

The way in which these goals are addressed is reflected in responses to the 2036 Regional Plan above. It is noted that strategy 5.1.3 is *ensure tourism balances the economic benefits with impact on environment and community.*

This Planning Proposal also seeks to address this CSP expectation that Council will balance tourism and economic needs against potential adverse impacts on the natural and rural environments. The need for such a balance is also reflected in the 2036 Regional Plan.

The Planning Proposal also supports the Wingecarribee Rural Tourism Policy as outlined previously.

## 5. Is the Planning Proposal consistent with applicable State Environmental Planning Policies (SEPPs)?

The following SEPPs have been determined to have relevance to this Planning Proposal and have been assessed as follows.

### SEPP No 21 – Caravan Parks

- (1) The aim of this Policy is to encourage -
- (a) the orderly and economic use and development of land used or intended to be used as a caravan park catering exclusively or predominantly for short-term residents (such as tourists) or for long-term residents, or catering for both, and
  - (b) the proper management and development of land so used, for the purpose of promoting the social and economic welfare of the community, and
  - (c) the provision of community facilities for land so used, and
  - (d) the protection of the environment of, and in the vicinity of, land so used.

**Assessment – Consistent** - because the draft amendments contained in the Planning Proposal do not adversely impact on the operation of this SEPP which also tourist related development.

### SEPP No 64 – Advertising and Signage

- (1) This Policy aims -
- (a) to ensure that signage (including advertising):
    - (i) is compatible with the desired amenity and visual character of an area, and
    - (ii) provides effective communication in suitable locations, and
    - (iii) is of high quality design and finish, and
  - (b) to regulate signage (but not content) under Part 4 of the Act, and
  - (c) to provide time-limited consents for the display of certain advertisements, and
  - (d) to regulate the display of advertisements in transport corridors, and
  - (e) to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.

**Assessment – Consistent** - because the draft amendments contained in the Planning Proposal do not adversely impact on the operation of this SEPP. Council also considers appropriately located and designed advertising to be of high importance in maintaining the amenity and visual character of an area especially the rural and environmental protection areas where rural tourism businesses would be most prevalent.

### SEPP (Koala Habitat Protection ) 2019

This Policy aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline.

**Assessment – Consistent** - because the draft amendments contained in the Planning Proposal do not adversely impact on the operation of this SEPP. Any development application resulting from the Planning Proposal would need to address whether any existing or potential koala habitat would be adversely impacted by such development. This would be undertaken in accordance with the requirements of the SEPP.

#### **SEPP (Mining, Petroleum Production and Extractive Industries) 2007**

The aims of this Policy are, in recognition of the importance to New South Wales of mining, petroleum production and extractive industries -

- (a) to provide for the proper management and development of mineral, petroleum and extractive material resources for the purpose of promoting the social and economic welfare of the State, and
- (b) to facilitate the orderly and economic use and development of land containing mineral, petroleum and extractive material resources, and
- (b1) to promote the development of significant mineral resources, and
- (c) to establish appropriate planning controls to encourage ecologically sustainable development through the environmental assessment, and sustainable management, of development of mineral, petroleum and extractive material resources, and
- (d) to establish a gateway assessment process for certain mining and petroleum (oil and gas) development -
  - (i) to recognise the importance of agricultural resources, and
  - (ii) to ensure protection of strategic agricultural land and water resources, and
  - (iii) to ensure a balanced use of land by potentially competing industries, and
  - (iv) to provide for the sustainable growth of mining, petroleum and agricultural industries.

**Assessment – Consistent** - because the draft amendments contained in the Planning Proposal do not adversely impact on the operation of this SEPP. It is recognised that much of the land affected by the SEPP would be located within rural and environmental protection zones where tourism related development would also occur. None of the draft amendments in the Planning Proposal would impact on continuing mining or other activities covered by the SEPP.

#### **SEPP – Primary Production and Rural Development (2019)**

The aims of this Policy are as follows—

- (a) to facilitate the orderly economic use and development of lands for primary production,
- (b) to reduce land use conflict and sterilisation of rural land by balancing primary production, residential development and the protection of native vegetation, biodiversity and water resources,
- (c) to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations,
- (d) to simplify the regulatory process for smaller-scale low risk artificial waterbodies, and routine maintenance of artificial water supply or drainage, in irrigation areas and districts, and for routine and emergency work in irrigation areas and districts,
- (e) to encourage sustainable agriculture, including sustainable aquaculture,
- (f) to require consideration of the effects of all proposed development in the State on oyster aquaculture,
- (g) to identify aquaculture that is to be treated as designated development using a well-defined and concise development assessment regime based on environment risks associated with site and operational factors.

**Assessment – Consistent** - because the draft amendments contained in the Planning Proposal strongly support the aims of the SEPP. The Planning Proposal aims to provide additional tourist related land uses which might assist primary producers to maintain a viable business enterprise which enhances the agricultural value of the land through complementary and supporting land uses.

#### SEPP (Sydney Drinking Water Catchments) 2011

The aims of this Policy are -

- (a) to provide for healthy water catchments that will deliver high quality water while permitting development that is compatible with that goal, and
- (b) to provide that a consent authority must not grant consent to a proposed development unless it is satisfied that the proposed development will have a neutral or beneficial effect on water quality, and
- (c) to support the maintenance or achievement of the water quality objectives for the Sydney drinking water catchment.

**Assessment – Consistent** - because the draft amendments contained in the Planning Proposal strongly support the aims of the SEPP. Much of the Shire is within the Sydney drinking water catchment so referral to Water NSW will occur once a Gateway determination has been issued. The Water NSW response will be included in the exhibition material.

## 6. Is the Planning Proposal consistent with applicable Section 9.1(2) Directions?

The Planning Proposal has been assessed against applicable Directions issued by the Minister for Planning under section 9.1(2) of the *Environmental Planning & Assessment Act 1979*.

### 1. Employment & Resources

#### 1.1 Business & Industrial Zones

The objectives of this Direction are:

- (a) encourage employment growth in suitable locations,
- (b) protect employment land in business and industrial zones, and
- (c) support the viability of identified centres.

**Assessment – Consistent** - because the Planning Proposal includes provisions which specifically seek to provide a broader economic base for rural businesses, which, although not themselves located in a business or industrial zone, often interact with complementary businesses in these zones.

#### 1.2 Rural Zones

The objective of this Direction is to protect the agricultural production value of rural land.

**Assessment – Consistent** - because the Planning Proposal includes provisions which specifically seek to provide a broader economic base for rural businesses relieving pressure for potential subdivision and/or more intensive land uses. It is noted that the Planning Proposal includes enabling Function centres in the RU2 zone and amending WLEP 2010 to permit, with consent, artisan food and drink industry in the RU1, RU2 and RU4 zones thereby broadening the economic base of these zones.

<p><b>1.3 Mining, Petroleum Production and Extractive Industries</b></p>
<p>The objective of this Direction is to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.</p>
<p><b>Assessment – Consistent</b> - because the Planning Proposal will not impact on these land uses.</p>
<p><b>1.4 Oyster Aquaculture</b></p>
<p>The objectives of this direction are:                  (a) to ensure that Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area are adequately considered when preparing a planning proposal,                  (b) to protect Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area from land uses that may result in adverse impacts on water quality and consequently, on the health of oysters and oyster consumers.</p>
<p><b>Assessment – Consistent</b> - because the Planning Proposal will not impact on any of these activities.</p>
<p><b>1.5 Rural Lands</b></p>
<p>The objectives of this direction are to:                  (a) protect the agricultural production value of rural land,                  (b) facilitate the orderly and economic use and development of rural lands for rural and related purposes,                  (c) assist in the proper management, development and protection of rural lands to promote the social, economic and environmental welfare of the State,                  (d) minimise the potential for land fragmentation and land use conflict in rural areas, particularly between residential and other rural land uses,                  (e) encourage sustainable land use practices and ensure the ongoing viability of agriculture on rural land                  (f) support the delivery of the actions outlined in the New South Wales Right to Farm Policy.</p>
<p><b>Assessment – Consistent</b> - because the Planning Proposal includes provisions which specifically seek to provide a broader economic base for rural businesses relieving pressure for potential subdivision and/or more intensive land uses. It is noted that the Planning Proposal includes specific Heads of Consideration for Function centres to preserve the farming rights of rural and environmental protection lands while also providing a broader range of economic activities.</p>

## 2. Environment and Heritage

### 2.1 Environment Protection Zones

The objective of this Direction is to protect and conserve environmentally sensitive areas.

**Assessment – Consistent** - because the Planning Proposal specifically seeks to remove the opportunity for ad hoc tourist related development which could significantly impact on the environment protection zones. Should the Planning Proposal receive a Gateway Determination it would be referred to Water NSW for comment.

### 2.2 Coastal Management

The objective of this Direction is to protect and manage coastal areas of NSW.

**Assessment – Consistent** - because the Planning Proposal does not apply to any coastal areas.

### 2.3 Heritage Conservation

The objective of this Direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.

**Assessment – Consistent** - because the Planning Proposal at this stage is not site specific. Any subsequent development resulting from this Planning Proposal would require appropriate studies to be completed if items and places of heritage or environmental significance are deemed present.

### 2.4 Recreation Vehicle Areas

The objective of this Direction is to protect sensitive land or land with significant conservation values from adverse impacts of recreation vehicles.

**Assessment – Consistent** - because the Planning Proposal does not address the use of recreation vehicles. Any subsequent application for such a land use would be further subject to the requirements of this direction.

### 2.5 Application of E2 & E3 Zones and Environmental Overlays in Far North Coast LEPs

The objective of this Direction is to ensure that a balanced and consistent approach is taken when applying environmental protection zones and overlays to land on the NSW Far North Coast.

**Assessment – Consistent** - because the Planning Proposal does not apply to land on the NSW Far North Coast.

### 3. Housing, Infrastructure and Urban Development

#### 3.2 Caravan Parks and Manufactured Home Estates

The objectives of this direction are:

- (a) to provide for a variety of housing types, and
- (b) to provide opportunities for caravan parks and manufactured home estates.

**Assessment – Consistent** - because the Planning Proposal does not apply to these developments.

#### 3.3 Home Occupations

The objective of this Direction is to encourage the carrying out of low impact small businesses in dwelling houses.

**Assessment – Consistent** - because the Planning Proposal supports home based business activities appropriate to their location, especially within the rural areas.

#### 3.4 Integrating Land Use and Transport

The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:

- (a) improving access to housing, jobs and services by walking, cycling and public transport, and
- (b) increasing the choice of available transport and reducing dependence on cars, and
- (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and
- (d) supporting the efficient and viable operation of public transport services, and
- (e) providing for the efficient movement of freight.

**Assessment – Consistent** - because the Planning Proposal does not impact on these goals.

#### 3.5 Development Near Regulated Airports and Defence Airfields

The objectives of this direction are:

- (a) to ensure the effective and safe operation of regulated airports and defence airfields;
- (b) to ensure that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity; and
- (c) to ensure development, if situated on noise sensitive land, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.

**Assessment – Consistent** - because the Planning Proposal does not impact on these locations.

### 3.6 Shooting Ranges

The objectives are:

- (a) to maintain appropriate levels of public safety and amenity when rezoning land adjacent to an existing shooting range,
- (b) to reduce land use conflict arising between existing shooting ranges and rezoning of adjacent land,
- (c) to identify issues that must be addressed when giving consideration to rezoning land adjacent to an existing shooting range.

**Assessment – Consistent** - because the Planning Proposal does not address this land use.

### 3.7 Reduction in non-hosted short term rental accommodation period

The objectives of this direction are to:

- (a) mitigate significant impacts of short-term rental accommodation where non-hosted short term rental accommodation period are to be reduced, and
- (b) ensure the impacts of short-term rental accommodation and views of the community are considered.

**Assessment – Consistent** – because, although it is noted that this Direction applies only to Byron Bay, the Planning Proposal seeks to limit the use of rural properties for wedding venues and to introduce stronger controls for function centres in rural areas. A key concern with such uses is their impact on local communities where short term holiday rental accommodation is either provided on site or in the immediate vicinity.

## 4. Hazard and Risk

### 4.1 Acid Sulphate Soils

The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils.

**Assessment – Consistent** – because the Planning Proposal is not site specific and any subsequent development application would address the potential for acid sulphate soil.

### 4.2 Mine Subsidence and Unstable Land

The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.

**Assessment – Consistent** – because the Planning Proposal does not affect land stability. Any potential land instability issues would be identified and assessed at the development application stage on a site specific basis.

#### 4.3 Flood Prone Land

The objectives of this direction are:

- (a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and
- (b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.

**Assessment – Consistent** – because the Planning Proposal does not specifically affect flood prone land. Any potential land flood issues would be identified and assessed at the development application stage on a site specific basis.

#### 4.4 Planning for Bushfire Protection

The objectives of this direction are:

- (a) to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and
- (b) to encourage sound management of bush fire prone areas.

**Assessment – Consistent** – because the Planning Proposal does not specifically affect bushfire prone land. Any potential land bushfire issues would be identified and assessed at the development application stage on a site specific basis and where relevant referred to NSW Rural Fire Service.

### 5. Regional Planning

#### 5.1 Implementation of Regional Strategies

The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.

**Assessment – Consistent** – because the Planning Proposal

#### 5.2 Sydney Drinking Water Catchment

The objective of this Direction is to protect water quality in the Sydney drinking water catchment.

**Assessment – Consistent** – because the Planning Proposal specifically seeks to remove the opportunity for ad hoc tourist related development which could significantly impact on the environmental protection zones. Should the Planning Proposal receive a Gateway Determination it would be referred to Water NSW for comment. Any subsequent site specific development application would also be referred to water NSW for comment.

5.3 Farmland of State and Regional Significance on the NSW Far North Coast  
5.4 Commercial and Retail Development along the Pacific Highway, North Coast  
5.5 Development in the Cessnock LGA  
5.6 Sydney to Canberra Corridor  
5.7 Central Coast  
5.8 Second Sydney Airport – Badgerys Creek  
5.9 North West Rail Link Corridor Strategy

The above Directions have either been revoked or do not apply to Wingecarribee Shire.

#### 5.10 Implementation of Regional Plans

The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.

**Assessment – Consistent** – All draft amendments contained in this Planning Proposal seek to expand land use opportunities or to provide stronger heads of consideration to allow more flexibility in assessing land use applications.

The only constraint on current land use permissibility relates to the removal of function centres from the operation of clause 2.8 of WLEP 2010. As discussed above, Council's experience is that this clause is not the most appropriate mechanism to enable the operation of function centres, neither from the perspective of the community, though Council, nor the business operation itself. The use of this clause has been principally to enable wedding venues to be established on rural properties. These uses often create neighbour conflict and their 'temporary' nature is not conducive to facilitating the forward bookings and planning that a wedding generally entails. Inevitably, pressure is then placed on Council to extend the 'temporary' time frame, or to make the development a permanent one through rezoning.

This limitation however is offset through the Planning Proposal also seeking to include function centres in the RU2 Rural Landscape zone, with consent, in order to offer more opportunity for a permanent business operation.

#### 5.11 Development of Aboriginal Land Council Land

The objective of this direction is to provide for the consideration of development delivery plans prepared under State Environmental Planning Policy (Aboriginal Land) 2019 when planning proposals are prepared by a planning proposal authority.

**Assessment – Consistent** – because the Planning Proposal does not specifically affect any Aboriginal land Council land. Should a site specific development application be assessed, the provisions of this Direction would be considered.

## 6. Local Plan Making

### 6.1 Approval and Referral Requirements

The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.

**Assessment – Consistent** – because the Planning Proposal extends the land use table for certain land uses and certain zones and also proposes a ‘heads of consideration’ clause for function centres, enabling the more efficient assessment of this type of land use where permissible.

### 6.2 Reserving Land for Public Purposes

The objectives of this direction are:

- (a) to facilitate the provision of public services and facilities by reserving land for public purposes, and
- (b) to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.

**Assessment – Consistent** – because the Planning Proposal does not affect any land reserved for a public purpose.

### 6.3 Site Specific Provisions

The objective of this direction is to discourage unnecessarily restrictive site specific planning controls

**Assessment – Consistent** – because the Planning Proposal does not impose any site specific planning controls.

## 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?

The Rural Tourism Policy specifically addresses the priority of protecting such habitats and communities through restricting development where such conflicts might occur. This Planning Proposal supports and provides legislative strength to the Rural Tourism Policy.

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

The Planning Proposal seeks to balance opportunities for tourist related and primary production value-adding businesses to be established within appropriate rural areas. Any

subsequent development application would need to fully address any potential environmental impacts especially those relating to TEC areas and potential adverse impacts.

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

One key benefit of the Planning Proposal is that it contains initiatives to broaden the economic base of the Shire especially in rural areas where business opportunities might otherwise be limited. This in turn can provide improved social outcomes for those communities. The draft controls seeks to provide a balance between economic opportunity and the potential for impact on social amenity.

### **Section D – State and Commonwealth Interests**

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

No public infrastructure is required under this Planning Proposal.

### **PART 4 – MAPPING**

No maps will require amendment under this Planning Proposal.

### **PART 5A – AGENCY REFERRALS**

Agency referrals will occur as directed in the Gateway Determination. Council has not yet referred the Planning Proposal to WaterNSW as this is always a requirement of the Gateway and, to avoid duplication of effort, Council prefers to undertake all referrals once all Gateway requirements are known. Generally, the Gateway Determination also requires referral to the NSW Rural Fire Service.

### **PART 5B – COMMUNITY CONSULTATION**

Community consultation will occur as directed in the Gateway Determination. Council normally provided 30-31 days of public exhibition which includes, as relevant, notification by letter/email to adjoining property owners and weekly advertising in the Southern Highland News for the duration of the exhibition period. The Planning Proposal will also be listed on Council's What's On Exhibition page and notification of the exhibition will included in Council E-Newsletters sent to over 3,500 recipients.

The principal place of public exhibition is usually the Customer Service Counter at the Civic Centre, 68 Elizabeth Street, Moss Vale, NSW 2577 unless current health conditions prevent this. Regardless, the Planning Proposal and all related documentation will also available for view on Council's website.

### **PART 6 – TIMELINE**

Should Council resolve to proceed with the Planning Proposal, it is anticipated that it will progress in accordance with the following key timeline milestones.

<b>MILESTONE</b>	<b>INDICATIVE DATE</b>
Gateway Determination	May 2020
Agency Consultation	May 2020
Public Exhibition	June 2020
Report to Council on exhibition of Planning Proposal.	July 2020
S.3.36 Documents to DP&E & PCO.	July 2020
Approximate completion date	August 2020

## **DELEGATIONS**

It is noted that Council seeks delegation for the processing of this Planning Proposal. A copy of the Delegation Request Form has been lodged.

**END OF PLANNING PROPOSAL  
VERSION 2 FOR GATEWAY DETERMINATION**