

Planning and Assessment

IRF20/4467

Gateway determination report

LGA	Wingecarribee
PPA	Wingecarribee Shire Council
NAME	'Yarrabin' Heritage Planning Proposal (0 homes, 0 jobs)
NUMBER	PP_2020_WINGE_004_00
LEP TO BE AMENDED	Wingecarribee Local Environmental Plan 2010
ADDRESS	32 Kangaloon Road, Bowral
DESCRIPTION	Lot 40 DP 862808
RECEIVED	18 September 2020
FILE NO.	IRF20/4467
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

1. INTRODUCTION

1.1 Description of planning proposal

The planning proposal seeks to amend the Wingecarribee Local Environmental Plan 2010 (Wingecarribee LEP) by listing a property known as 'Yarrabin' at 32 Kangaloon Road, Bowral as a local heritage item and the extending the Bowral Conservation Area to include the property.

1.2 Site and surrounding area

The site is legally described as Lot 40 DP 862808 and is located at 32 Kangaloon Road, Bowral in the Wingecarribee local government area (**Figure 1**).

The site is located approximately 1.2km to the south of the Bowral town centre.

The property is known as 'Yarrabin' and has an area of approximately 5,569m².

The site is surrounded by low density residential properties with minimum lot sizes ranging from approximately 2,000m² to 5,000m² in area. The site lies just outside the eastern boundary of the Bowral Conservation Area.

The site contains mature gardens and a historic house with Moderne influence, built in the region during the Interwar and Post-war periods which is considered to be of local heritage significance.

1.3 Existing planning controls

The site is zoned R2 Low Density Residential, with a minimum lot size of 2,000m² under Wingecarribee Local Environmental Plan 2010 (Wingecarribee LEP).



Figure 1: Site Map

1.4 Background

Due to concerns raised by residents about impending sale (and potential development) of the subject site, Council considered the heritage significance of the site at its 12 August 2020 meeting and resolved to support its heritage listing and issue an Interim Heritage Order (IHO).

IHO (No. 11) was published in the NSW Government Gazette on 21 August 2020.

Since that time, attempts have been made by Council to contact the owner of the site to decipher the owner's future intentions for the property.

No response had been received at time of writing the subject planning proposal and Council has advised that there are no active development applications applying to the subject site.

2. PROPOSAL

2.1 Objectives or intended outcomes

The objectives of the planning proposal are to amend Wingecarribee LEP to:

- include the site as a new local heritage item known as the 'Yarrabin house and garden, including horse chestnut tree (*Aesculus hippocastanum*)'; and
- extend the boundaries of the adjacent Bowral Conservation Area to include the site.

2.2 Explanation of provisions

The planning proposal is clear in identifying the relevant provisions and Heritage Map in the Wingecarribee LEP that will require amendment to achieve the objectives and intended outcomes of the planning proposal, including:

- Schedule 5 – Environmental Heritage, Part 1 - Heritage items; and

- Heritage Map – Sheet HER_007D.

2.3 Mapping

The planning proposal will require amendment to the relevant Heritage Map in the Wingecarribee LEP. Council has included draft maps in the planning proposal which are considered appropriate for exhibition purposes.

3. NEED FOR THE PLANNING PROPOSAL

The planning proposal is needed to protect the heritage significance of the subject site in line with local and regional strategic planning objectives.

The planning proposal is supported by a heritage assessment prepared by Council. The heritage assessment found 'Yarrabin' to be of local heritage significance for the following key reasons as outlined in the proposed statement of significance:

'Yarrabin' is significant as a representative example of a 1950s and 1960s garden in the Southern Highlands set on a large allotment and using a typical palette of trees and plants from that era. The site is associated with Tim and Keva North, authors and prominent members of the Australian Garden History Society who owned the house from the early 1980s until the early 1990s. It has social significance attached to the Open Gardens scheme and the early beginnings of the Bowral Tulip Time Festival. The house is a simple local example of a post-War simplified Moderne style which may have been built by prolific local builders, Alf Stephens & Son.

Council noted a planning proposal is the only way to obtain statutory listing of a local heritage item and conservation area.

The Department agrees a planning proposal is the only way to achieve the intended objectives and outcomes.

4. STRATEGIC ASSESSMENT

4.1 South East and Tablelands Regional Plan

The planning proposal seeks to protect the heritage significance of the subject site.

Key directions and actions of the Regional Plan relevant to this planning proposal include:

- Direction 23: Protect the region's heritage; and
- Action 23.3: Conserve heritage assets during local strategic planning and development.

Protecting the Wingecarribee Shire's valued heritage assets is also identified as a specific priority for the Wingecarribee LGA in the Regional Plan.

The Department is satisfied the planning proposal is consistent with heritage protection and conservation objectives of the Regional Plan

4.2 Local

Wingecarribee 2031 - Community Strategic Plan 2017 (CSP)

The CSP reflects the community's visions, aspirations and needs for Wingecarribee to 2031.

Heritage is strongly valued by the Wingecarribee community which is articulated through the community's vision, goals and actions in the CSP.

Wingecarribee 2040 - Local Strategic Planning Statement (LSPS)

The Wingecarribee LSPS was adopted by Council on 24 June 2020 and provides a vision to guide land use planning decisions in the Shire over the next 20 years.

The LSPS contains key relevant planning priorities, including:

- Planning Priority 6.1: Maintain the unique character of our towns and villages, separated by rich natural areas and rural landscapes; and
- Planning Priority 6.2: Identify, protect and promote our cultural and built heritage.

The proposal is consistent with the LSPS as it would help protect the unique character and heritage significance of the site in line with the above priorities.

Wingecarribee Local Planning Strategy (LPS)

The Department has endorsed Council's LPS, excluding Chapter 4 – Managing Housing Needs, because sufficient potential greenfield housing release areas to meet housing needs across the LGA were not identified.

Chapter 6 of the Local Planning Strategy (Managing Our Built Environment) reinforces the strong heritage conservation focus of the LGA and reiterates the controls for heritage conservation under clause 5.10 of the Wingecarribee WLEP.

The planning proposal seeks to introduce a new heritage item in the Wingecarribee LEP.

The Department is satisfied the proposal is consistent with the heritage conservation and management focus of the LPS.

4.3 Section 9.1 Ministerial Directions

The planning proposal has identified applicable section 9.1 Directions.

Directions of particular relevance are discussed below:

Direction 2.3 – Heritage Conservation

This Direction seeks to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance. The Direction states (inter alia) planning proposals must contain provisions to facilitate the conservation of heritage items and/or precincts.

The planning proposal seeks to insert new controls in the Wingecarribee LEP to protect the heritage significance of the site in line with local and regional strategic planning objectives.

The proposal is therefore considered to be consistent with this Direction.

Direction 3.1 Residential Zones

This Direction applies to planning proposals affecting residential zones and other zones on which significant residential development is permitted or proposed.

The Direction aims to encourage housing to meet local demand, ensure new housing makes efficient use of existing infrastructure and services and minimise the impact of residential development on the environment.

The planning proposal does not seek alter the residential zoning applying to the subject site. While the proposed heritage controls may restrict further development of the site, these impacts are outweighed by Council's desire to protect the heritage value of the item in line with local and regional strategic planning objectives.

The Secretary's delegate may therefore be satisfied that any potential inconsistency with this Direction is of minor significance.

Direction 4.4 Planning for Bushfire Protection

The site is in proximity to some bushfire prone land.

Consultation has not occurred with the NSW Rural Fire Service (NSW RFS) and consistency with Direction 4.4 remains unresolved at this stage. A Gateway condition has therefore been recommended requiring consultation the NSW RFS.

Direction 5.2 Sydney Drinking Water Catchment

This Direction aims to protect water quality in Sydney's Drinking Water Catchment, including land within the Wingecarribee LGA.

This Direction requires consultation with the Sydney Catchment Authority (now Water NSW) prior to Gateway determination.

Council noted the planning proposal would maintain the existing zoning and land use of the subject site, thereby helping to protect water quality.

Notwithstanding this, the planning proposal is currently inconsistent with the Direction because Council has not yet consulted with Water NSW. It is recommended that Council consult with Water NSW and provide further information demonstrating it has addressed the requirements of this Direction, prior to finalising the planning proposal.

Direction 5.10 Implementation of Regional Plans

This Direction gives legal effect to the vision, directions and actions contained in regional plans. Planning proposals must be consistent with the relevant Regional Plan.

As identified earlier in this report, the planning proposal is consistent with the South East and Tablelands Regional Plan and this Direction.

4.4 State environmental planning policies (SEPPs)

Relevant SEPPs have been identified in Section 5 of the planning proposal.

The planning proposal is not inconsistent with relevant SEPPs.

SEPP Sydney Drinking Water Catchment

As noted above, consultation is recommended with Water NSW prior to public exhibition to confirm the proposal would not adversely impact on the Sydney Drinking Water Catchment consistent with the aims of SEPP (Sydney Drinking Water Catchment) 2011.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social and Economic

The planning proposal acknowledges it could result in social and economic impacts on individual property owners due to the heritage listing.

Heritage controls can restrict what property owners can do with their property, and assessment requirements potentially causing negative economic impacts.

However, Council considers there could be some positive social and economic benefits for the owners (and the broader public) resulting from the heritage protection of this site and its mature gardens.

Council considers some individual economic and social impact is reasonable in the context of protecting the heritage significance of the area for the broader community.

5.2 Environmental

The planning proposal applies to existing low density residential zoned land which has previously been developed for residential purposes. As such, no adverse environmental impacts are anticipated.

Heritage

As noted earlier in this report, a heritage assessment was then prepared by Council which gave rise to the need for the planning proposal.

The Department has reviewed the heritage assessment which found (amongst other things) that 'Yarrabin' is significant as a representative example of a 1950s and 1960s garden in the Southern Highlands.

The site is associated authors and prominent members of the Australian Garden History Society and has social significance attached to the Open Gardens scheme and the early beginnings of the Bowral Tulip Time Festival.

The house is also considered to be a simple local example of a post-War simplified Moderne style which may have been built by prolific local builders.

The Department is supportive in principle of proposals to protect local heritage items identified by Councils.

To ensure all potential heritage issues are thoroughly considered, the Department recommends consultation be undertaken with the Department of Premier and Cabinet (Heritage).

6. CONSULTATION

6.1 Community

Council has proposed an exhibition period of at least 28 days, which is appropriate considering the nature of the proposal. Council's community consultation normally also includes notification by letter/email to affected and adjoining property owners and weekly advertising on Council's website.

Council would undertake its consultation in accordance with the Gateway determination.

6.2 Agencies

Consultation is recommended with:

- the NSW RFS;
- the Department of Premier and Cabinet (Heritage); and
- Water NSW.

A Gateway condition has been recommended accordingly.

7. TIME FRAME

Council anticipates a 9-month time frame to finalise the LEP. It is recommended that a 12-month period be provided to enable a buffer in case issues arise during consultation or any other part of the process.

8. LOCAL PLAN-MAKING AUTHORITY

Council has asked for plan-making authority in relation to this proposal. This is considered appropriate, as the proposal is minor in nature, is of local significance and is not inconsistent with local or regional strategic planning.

9. CONCLUSION

The planning proposal is consistent with local and regional strategic planning objectives to protect heritage.

It is therefore recommended that the planning proposal should progress as submitted.

10. RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Direction 3.1 Residential Zones is minor or justified; and
2. note that the consistency with section 9.1 Direction 4.4 Planning for Bushfire Protection and Direction 5.2 Sydney Drinking Water Catchment remain unresolved and will require justification.

It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. Consultation is required with the following public authorities:
 - NSW RFS;
 - Water NSW;
 - Department of Premier and Cabinet (Heritage).
3. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should be the local plan-making authority.



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