

# Planning Proposal to amend Wingecarribee Local Environmental Plan 2010 to create a new heritage item at 32 Kangaloon Road, Bowral

Version 1 for Gateway Determination  
September 2020

*Working with you*

[WSC.NSW.GOV.AU](http://WSC.NSW.GOV.AU)



## Attachments which form part of this Planning Proposal

1	Interim Heritage Order No. 11 published on 21 August 2020
2	Report to Council 12 August 2020
3	Resolution of Council 12 August 2020
4	Delegation Request Evaluation Form

# Address of the Land

Legal Description	Lot 40 DP 862808
Property Address	32 Kangaloon Road, Bowral

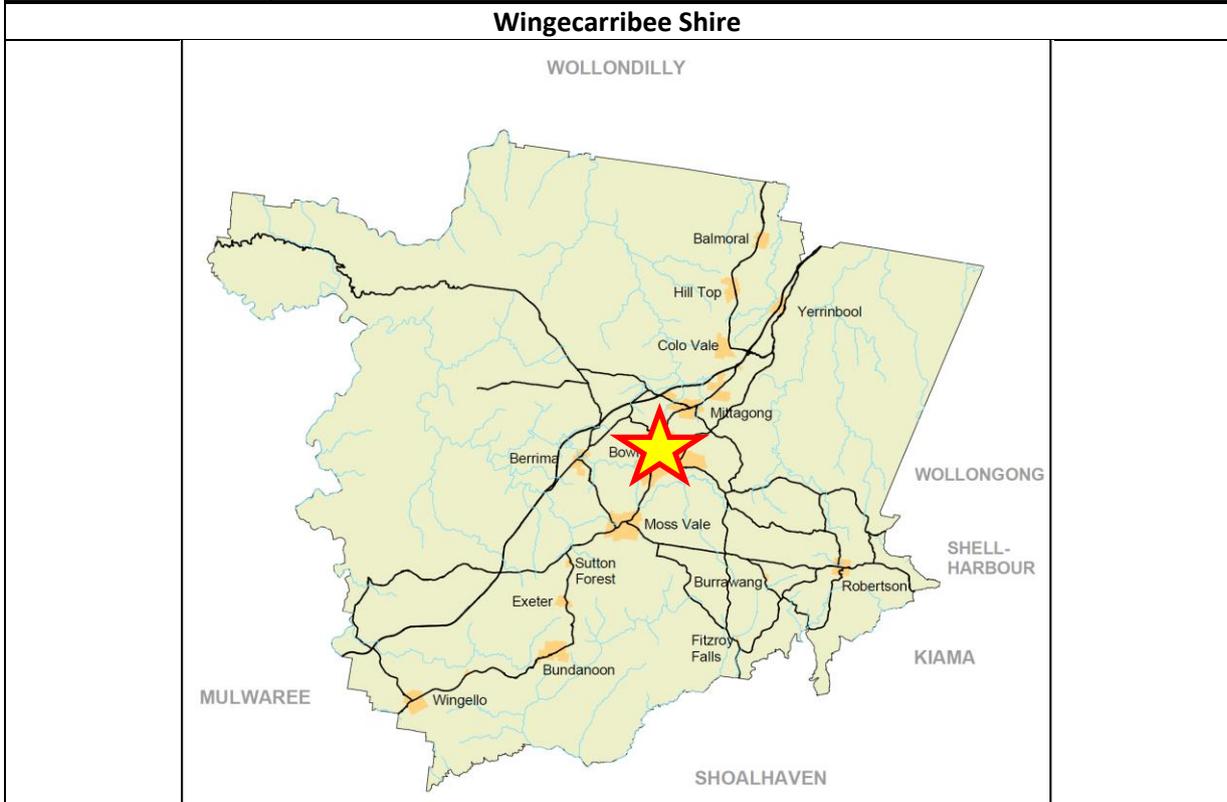


Figure 1: Location Map (Shire Wide)

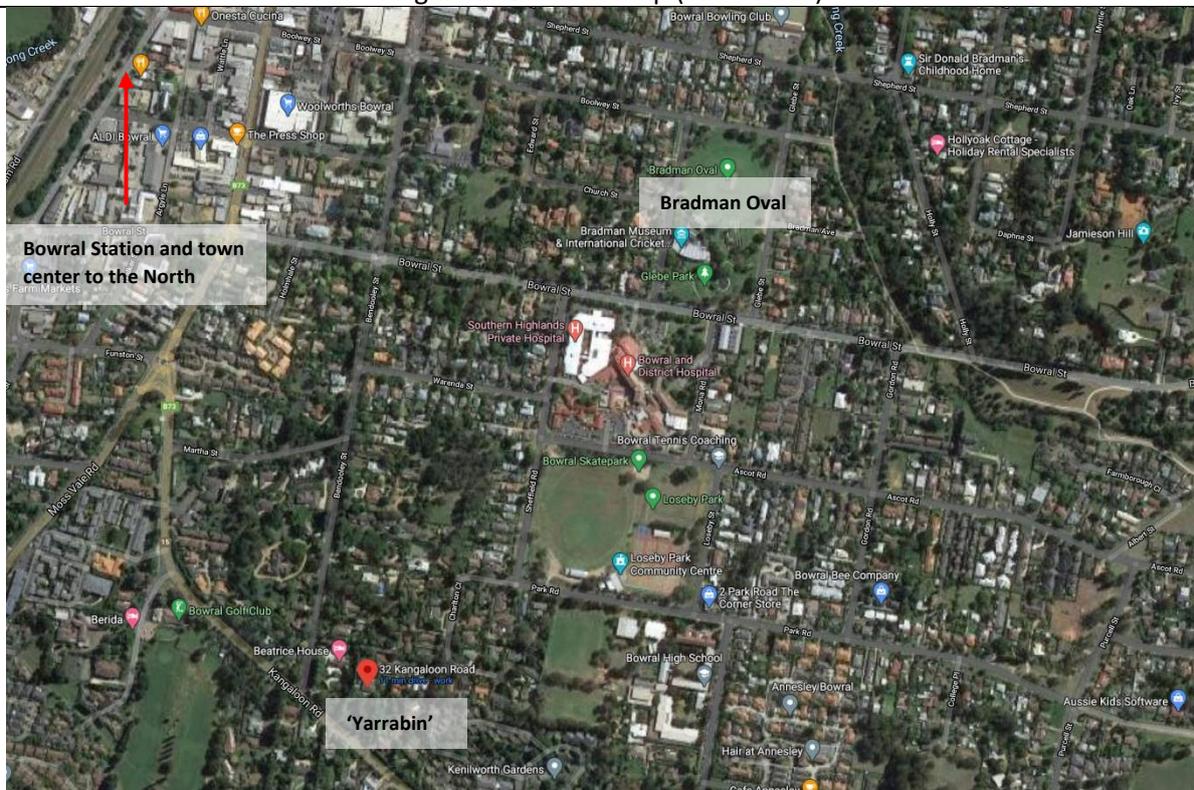


Figure 2: Locality Map – 'Yarrabin' in Bowral's Context

## Site Location & Description

The subject property is known as 'Yarrabin' and is located at 32 Kangaloon Road, Bowral, which is just to the east of the Kangaloon Road and Bendooley Street intersection and lies just outside the eastern boundary of the Bowral Conservation Area. The total site area is 5,569m<sup>2</sup>, and it is zoned R2 Low Density Residential, with a minimum lot size of 2,000m<sup>2</sup>. The site is surrounded by residential lots ranging from 2,000m<sup>2</sup> to 5,000m<sup>2</sup> in area.

The existing dwelling on the site is single storey over a basement garage built in 1951/52, set some 65 metres back from the road and which would have once afforded a view of the Bowral Golf Course. It was extended to the rear, filling in a small courtyard, in 1984, and is surrounded by a park-like selection of trees, shrubs and gardens, including a remnant orchard in the north-eastern corner of the rear yard. The property is bounded on the western side by a prominent line of Bhutan cypress trees (*Cupressus torulosa*) and on the east by a stand of Arizona cypress (*Cupressus arizonica*), which are visible from both Kangaloon Road and Bendooley Street and are a characteristic planting in the area.

Due to the mature gardens and a historic house with Moderne influence, built in the region during the Interwar and Post-war periods, 'Yarrabin' is considered to be of local heritage significance. The overall statement of significance for the proposed heritage listing is as follows:

*'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.*

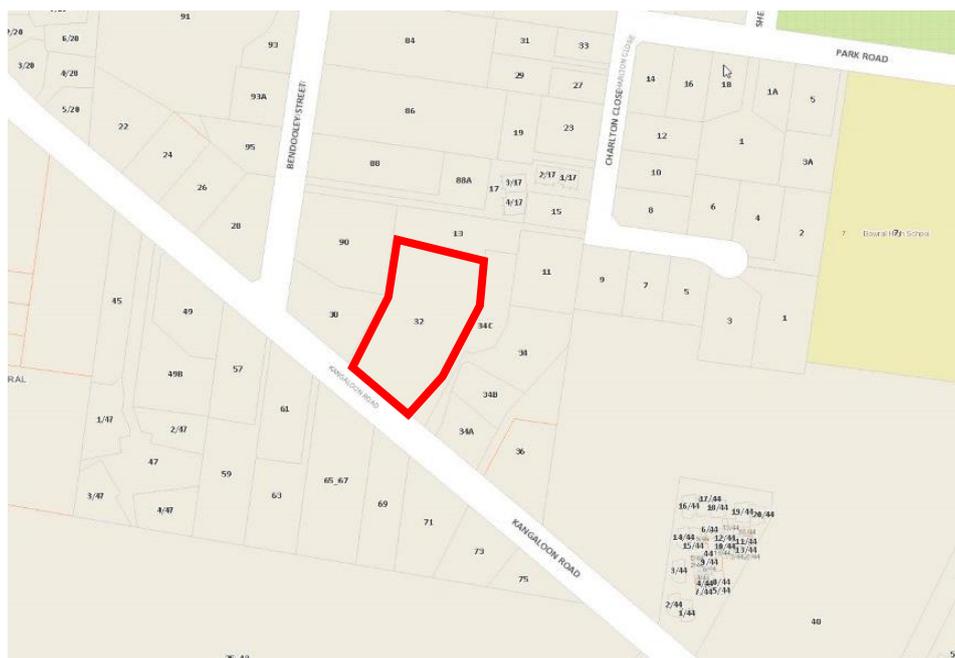


Figure 3: 'Yarrabin' site, proposed to be a new heritage item



Figure 4: Aerial photograph showing 'Yarrabin' and surrounding area

## Part 1: Objectives or Intended Outcomes

The intended outcome of this Planning Proposal is to include 32 Kangaloon Road, Bowral (Lot 40 DP 862808), as a new heritage item to be named "Yarrabin' house and garden, including horse chestnut tree (*Aesculus hippocastanum*)", and extend the boundaries of the adjacent Bowral Conservation Area to include this property. The new heritage item would be added to Schedule 5 (Part 1) of the Wingecarribee Local Environmental Plan (WLEP) 2010 and be shown as a heritage item and within the Bowral Conservation Area on the WLEP 2010 Heritage Map.

## Part 2: Explanation of the Provisions

- To achieve the intended outcomes of the Planning Proposal the following amendments to the WLEP 2010 instrument will be required:

Add to Schedule 5, Part 1 (Heritage Items) the following new item:

Suburb	Item Name	Address	Property description	Significance	Item No.
Bowral	'Yarrabin' house and garden, including horse chestnut tree ( <i>Aesculus hippocastanum</i> )	32 Kangaloon Road	Lot 40, DP 862808	Local	17532

- To achieve the intended outcomes of the Planning Proposal, amendments to the following WLEP 2010 maps will be required:

Map(s) to be Revoked	Map(s) to be Adopted
Heritage Map – Sheet HER_007D 8350_COM_HER_007D_020_20170123*	Heritage Map – Sheet HER_007D (as amended)

*\*Note that this map is to be amended by the Aitken Road Heritage Planning Proposal.*

## 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?

The Planning Proposal is the result of an in-house assessment of the heritage significance of 'Yarrabin house and garden' following a request for consideration of an Interim Heritage Order for the site due to concerns about its imminent sale and threat of development which would adversely impact on its heritage significance. Council considered the heritage assessment a report to its 12 August 2020 meeting and it resolved to support the heritage listing and issue an Interim Heritage Order (IHO) over the site. IHO No. 11 was subsequently published in the NSW Government Gazette on 21 August 2020.

The assessment, which was undertaken in accordance with the NSW Heritage Manual and the NSW Heritage publication "Assessing Heritage Significance", concluded that the house and its garden was significant in five out of seven of the heritage assessment criteria, namely associational, aesthetic/technical, social, rarity and representativeness. As a result, the heritage assessment recommends that this property is included as a new heritage item, in the Wingecarribee Local Environmental Plan 2010. Furthermore, as it is located adjacent to the Bowral Conservation Area and displays characteristics consistent with this conservation area, it is proposed that the eastern boundary of the conservation area be adjusted to include 'Yarrabin'.

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

The Planning Proposal is the only way of achieving the statutory local listing of an item of heritage and to include a property within a Heritage Conservation Area.

**Section B – Relationship to the 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 Wingecarribee Shire is within the Sydney South East and Tablelands region. In its vision, the Regional Plan recognises that there are areas of distinct character and heritage that are celebrated by their communities. Identification of areas and sites of cultural heritage provides greater certainty for property owners and developers. Direction 24 of the Regional Plan focuses on delivery of greater housing supply and choice which should be achieved while protecting areas of high value, including high cultural heritage value. ‘Yarrabin’ house and its garden are identified as one of these areas of high cultural value which should be protected. Therefore, the Planning Proposal is consistent with this Regional Plan.

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

The *Wingecarribee 2031 Community Strategic Plan (CSP)* (June 2017) reflects the community’s aspirations and needs for the future. The community’s vision for Wingecarribee 2031 is “A healthy and productive community, learning and living in harmony, proud of our heritage and nurturing our environment”. Heritage is strongly valued by the Wingecarribee community and this is articulated through the community’s vision, goals and actions under the five key areas of Leadership, People, Places, Environment and Economy in the Wingecarribee 2031 CSP.

In addition to the CSP, Council has recently adopted its Local Strategic Planning Statement and its Local Housing Strategy. *The Wingecarribee 2040: Local Strategic Planning Statement (LSPS)* was adopted by Council on 24 June 2020. The following Planning Priorities and Actions under the umbrella of “Our Places” in the LSPS are relevant to this Planning Proposal. A comment on each is provided.

LSPS Priority & Action	Comment
<b>Planning Priority 6.1: Maintain the unique character of our towns and villages, separated by rich natural areas and rural landscapes</b>	
Action i. Adopt a place-based approach to planning in local towns and villages to ensure that their special character is preserved.	The identification of elements within towns and villages that require protection and place-based controls is consistent with this action.

<b>Planning Priority 6.2: Identify, protect and promote our cultural and built heritage</b>	
Action i. Continue to implement best practice management and assessment of both Aboriginal Cultural Heritage and Non-Aboriginal Heritage sites in collaboration with the community.	Best practice management of heritage sites commences with identification and assessment in accordance with the heritage assessment criteria and subsequent listing, if warranted. The listing of 'Yarrabin' house and garden is consistent with this action.
Action ii. Review and maintain heritage listings in Wingecarribee LEP to facilitate the conservation of the Shire's heritage.	The Planning Proposal is consistent with this action to ensure that the list of heritage items is dynamic and is added to and reviewed regularly and as potential items are identified.

Furthermore, the Bowral Precinct Plan contained in the LSPS identifies "Heritage precincts and individual items of Heritage" as contributory elements in the character assessment of Bowral. 'Yarrabin' will be adding to the contributory elements of Bowral.

The Wingecarribee Local Housing Strategy: *Housing Our Community* (LHS) was adopted by Council on 24 June 2020. It identifies the needs, demand, constraints and opportunities for housing throughout the Wingecarribee Shire. It identifies potential new areas for housing and potential within existing towns and villages. The Planning Proposal is consistent with the LHS which seeks, among other things, to "promote infill development and increased densities in appropriate locations, and facilitate a greater mix of housing types to ensure our housing stock is reflective of the needs of our community" (Planning Priority 1). Currently, the minimum lot size for the lot is 2000m<sup>2</sup>, which can allow a two lot subdivision of the subject property as the area of the lot is a little over 5500m<sup>2</sup>. Heritage listing of the site will not preclude subdivision as there is no proposed change to the minimum lot size at this time, but listing will help ensure protection of the heritage significant elements of the site and help prevent unsuitable development.

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

**(NB: SEPPs which do not apply to Wingecarribee Shire have been excluded)**

<b>SEPP No 21 – Caravan Parks</b>
(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.
<b>Assessment – Consistent</b> - the Planning Proposal applies to land which is within the R2 Low Density Residential zone. Caravan Parks are prohibited in the R2 zone under WLEP 2010.

### SEPP No 33 - Hazardous & Offensive Development

This Policy aims—

- (a) to amend the definitions of hazardous and offensive industries where used in environmental planning instruments, and
- (b) to render ineffective a provision of any environmental planning instrument that prohibits development for the purpose of a storage facility on the ground that the facility is hazardous or offensive if it is not a hazardous or offensive storage establishment as defined in this Policy, and
- (c) to require development consent for hazardous or offensive development proposed to be carried out in the Western Division, and
- (d) to ensure that in determining whether a development is a hazardous or offensive industry, any measures proposed to be employed to reduce the impact of the development are taken into account, and
- (e) to ensure that in considering any application to carry out potentially hazardous or offensive development, the consent authority has sufficient information to assess whether the development is hazardous or offensive and to impose conditions to reduce or minimise any adverse impact, and
- (f) to require the advertising of applications to carry out any such development.

**Assessment – Consistent** - The Planning Proposal applies to land within the R2 Low Density Residential zone. Hazardous and offensive industries are prohibited in the R2 zone.

### SEPP No 36 – Manufactured Home Estates

(1) The aims of this Policy are—

- (a) to facilitate the establishment of manufactured home estates as a contemporary form of medium density residential development that provides an alternative to traditional housing arrangements, and
- (b) to provide immediate development opportunities for manufactured home estates on the commencement of this Policy, and
- (c) to encourage the provision of affordable housing in well designed estates, and
- (d) to ensure that manufactured home estates are situated only in suitable locations and not on land having important resources or having landscape, scenic or ecological qualities that should be preserved, and
- (e) to ensure that manufactured home estates are adequately serviced and have access to essential community facilities and services, and
- (f) to protect the environment surrounding manufactured home estates, and
- (g) to provide measures which will facilitate security of tenure for residents of manufactured home estates.

**Assessment – Consistent** – The SEPP does not apply to land within a water catchment (as prescribed by Schedule 2). The subject land is within the Sydney Drinking Water Catchment Area and therefore the SEPP does not apply.

### SEPP No 50 – Canal Estate Development

This Policy aims to prohibit canal estate development as described in this Policy in order to ensure that the environment is not adversely affected by the creation of new developments of this kind.

**Assessment – Consistent** - The SEPP does not apply to land within a water catchment (as prescribed by Schedule 2). The subject land is within the Sydney Drinking Water Catchment Area and therefore the SEPP does not apply.

#### SEPP No 55 - Remediation of Land

- (1) The object of this Policy is to provide for a Statewide planning approach to the remediation of contaminated land.
  - (2) In particular, this Policy aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment—
    - (a) by specifying when consent is required, and when it is not required, for a remediation work, and
    - (b) by specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular, and
    - (c) by requiring that a remediation work meet certain standards and notification requirements.
- NB: This SEPP was amended & a new 9.1 Direction (2.6) created in April 2020. Please ensure you comply with the new requirements. This may require submission of a Preliminary Site Inspection report with the Planning Proposal.*

**Assessment – Consistent** – the Planning Proposal does not apply to the land that is or is likely to be contaminated

#### SEPP No 64 – Advertising & 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** - The Planning Proposal does not specifically apply to signage. However, it is acknowledged that the opportunities for signage will be restricted on the subject land resulting from this Planning Proposal due to the change in heritage status.

#### SEPP No 65 – Design Quality of Residential Apartment Development

- (1) This Policy aims to improve the design quality of residential apartment development in New South Wales.
- (2) This Policy recognises that the design quality of residential apartment development is of significance for environmental planning for the State due to the economic, environmental, cultural and social benefits of high quality design.
- (3) Improving the design quality of residential apartment development aims:
  - (a) to ensure that it contributes to the sustainable development of New South Wales:
    - (i) by providing sustainable housing in social and environmental terms, and
    - (ii) by being a long-term asset to its neighbourhood, and
    - (iii) by achieving the urban planning policies for its regional and local contexts, and
  - (b) to achieve better built form and aesthetics of buildings and of the streetscapes and the public spaces they define, and
  - (c) to better satisfy the increasing demand, the changing social and demographic profile of the community, and the needs of the widest range of people from childhood to old age,

- including those with disabilities, and
  - (d) to maximise amenity, safety and security for the benefit of its occupants and the wider community, and
  - (e) to minimise the consumption of energy from non-renewable resources, to conserve the environment and to reduce greenhouse gas emissions, and
  - (f) to contribute to the provision of a variety of dwelling types to meet population growth, and
  - (g) to support housing affordability, and
  - (h) to facilitate the timely and efficient assessment of applications for development to which this Policy applies.
- (4) This Policy aims to provide:
- (a) consistency of policy and mechanisms across the State, and
  - (b) a framework for local and regional planning to achieve identified outcomes for specific places.

**Assessment – Consistent** - The Planning Proposal applies to land within the R2 Low Density Residential zone. Developments like residential flat building, shop top housing and mixed use development are prohibited on R2 Low Density Residential.

#### SEPP (Affordable Rental Housing) SEPP

The aims of this Policy are as follows—

- (a) to provide a consistent planning regime for the provision of affordable rental housing,
- (b) to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards,
- (c) to facilitate the retention and mitigate the loss of existing affordable rental housing,
- (d) to employ a balanced approach between obligations for retaining and mitigating the loss of existing affordable rental housing, and incentives for the development of new affordable rental housing,
- (e) to facilitate an expanded role for not-for-profit-providers of affordable rental housing,
- (f) to support local business centres by providing affordable rental housing for workers close to places of work,
- (g) to facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation.

**Assessment – Consistent** - The subject land is more than a 400 metre walking distance from a B2 Business Centre or B4 Mixed Use zone (clause 10). In addition, the subject land does not contain any existing boarding houses or other affordable rental housing.

#### SEPP (Building Sustainability Index : BASIX) 2004

- (1) Regulations under the Act have established a scheme to encourage sustainable residential development (*the BASIX scheme*) under which:
- (a) an application for a development consent, complying development certificate or construction certificate in relation to certain kinds of residential development must be accompanied by a list of commitments by the applicant as to the manner in which the development will be carried out, and
  - (b) the carrying out of residential development pursuant to the resulting development consent, complying development certificate or construction certificate will be subject to a condition requiring such commitments to be fulfilled.
- (2) The aim of this Policy is to ensure consistency in the implementation of the BASIX scheme

throughout the State.

- (3) This Policy achieves its aim by overriding provisions of other environmental planning instruments and development control plans that would otherwise add to, subtract from or modify any obligations arising under the BASIX scheme.

**Assessment – Consistent** – The provisions of the SEPP would apply at any subsequent Development Application stage.

#### SEPP (Educational Establishments & Child Care Facilities) 2017

The aim of this Policy is to facilitate the effective delivery of educational establishments and early education and care facilities across the State by—

- (a) improving regulatory certainty and efficiency through a consistent planning regime for educational establishments and early education and care facilities, and
- (b) simplifying and standardising planning approval pathways for educational establishments and early education and care facilities (including identifying certain development of minimal environmental impact as exempt development), and
- (c) establishing consistent State-wide assessment requirements and design considerations for educational establishments and early education and care facilities to improve the quality of infrastructure delivered and to minimise impacts on surrounding areas, and
- (d) allowing for the efficient development, redevelopment or use of surplus government-owned land (including providing for consultation with communities regarding educational establishments in their local area), and
- (e) providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing, and
- (f) aligning the NSW planning framework with the National Quality Framework that regulates early education and care services, and
- (g) ensuring that proponents of new developments or modified premises meet the applicable requirements of the National Quality Framework for early education and care services, and of the corresponding regime for State regulated education and care services, as part of the planning approval and development process, and
- (h) encouraging proponents of new developments or modified premises and consent authorities to facilitate the joint and shared use of the facilities of educational establishments with the community through appropriate design.

**Assessment – Consistent** - The Planning Proposal does not apply to any existing educational establishments or child care facilities. Educational establishments are prohibited in the R2 Low Density Residential zone but there are opportunities for home-based and centre-based child care facilities as either exempt development or permissible with consent on the subject land, in which case the SEPP would continue to apply.

#### SEPP (Exempt & Complying Development Codes) 2008

This Policy aims to provide streamlined assessment processes for development that complies with specified development standards by—

- (a) providing exempt and complying development codes that have State-wide application, and
- (b) identifying, in the exempt development codes, types of development that are of minimal environmental impact that may be carried out without the need for development consent, and
- (c) identifying, in the complying development codes, types of complying development that may be carried out in accordance with a complying development certificate as defined in the Act, and
- (d) enabling the progressive extension of the types of development in this Policy, and
- (e) providing transitional arrangements for the introduction of the State-wide codes, including the amendment of other environmental planning instruments.

**Assessment – Consistent** - The Planning Proposal does not specifically apply to any development applicable under this SEPP. However, it is acknowledged that the opportunities for exempt and complying development will be restricted on the subject land resulting from this Planning Proposal due to the change in heritage status.

#### SEPP (Infrastructure) 2007

The aim of this Policy is to facilitate the effective delivery of infrastructure across the State by—

- (a) improving regulatory certainty and efficiency through a consistent planning regime for infrastructure and the provision of services, and
- (b) providing greater flexibility in the location of infrastructure and service facilities, and
- (c) allowing for the efficient development, redevelopment or disposal of surplus government owned land, and
- (d) identifying the environmental assessment category into which different types of infrastructure and services development fall (including identifying certain development of minimal environmental impact as exempt development), and
- (e) identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and
- (f) providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing, and
- (g) providing opportunities for infrastructure to demonstrate good design outcomes.

**Assessment – Consistent** - The Planning Proposal does not specifically apply to any development applicable under this SEPP. However, it is acknowledged that should any provisions of the SEPP be of future relevance to the subject land, the applicability of the provisions may change as a result of the Planning Proposal (e.g. heritage restrictions and considerations will apply).

#### 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** – The majority of the site is mapped within the area identified as suitable koala habitat on the Koala Development Application Map. However, the site is less than the 1 hectare prescribed by the SEPP. In any case, the Planning Proposal seeks to protect existing landscape within the property which may or may not be potential koala habitat.

#### SEPP (Mining, Petroleum Production & 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** - The Planning Proposal does not affect the application of this SEPP. However, certain types of exempt development under this SEPP will be restricted by the change in heritage status anticipated by this Planning Proposal.

#### SEPP – Primary Production & 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** – The Planning Proposal applies to the land zoned R2 Low Density Residential, and is already a developed site. Therefore, the SEPP does not specifically apply to this Planning Proposal.

#### SEPP (State & Regional Development) 2011

The aims of this Policy are as follows—

- (a) to identify development that is State significant development,
- (b) to identify development that is State significant infrastructure and critical State significant infrastructure,
- (c) to identify development that is regionally significant development.

**Assessment – Consistent** - The Planning Proposal does not affect the application of this SEPP.

#### 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.

(The assessment will be updated to reflect WaterNSW response.)

**Assessment – Consistent** - The Planning Proposal does not affect the application of this SEPP. Should a Gateway Determination be issued, referral to WaterNSW would occur.

#### SEPP (Urban Renewal) 2010

The aims of this Policy are -

- (a) to establish the process for assessing and identifying sites as urban renewal precincts,
- (b) to facilitate the orderly and economic development and redevelopment of sites in and around urban renewal precincts,
- (c) to facilitate delivery of the objectives of any applicable government State, regional or metropolitan strategies connected with the renewal of urban areas that are accessible by public transport.

**Assessment – Consistent** - The subject land is not within a potential urban renewal precinct identified by the SEPP, therefore the SEPP does not apply to the subject land and the Planning Proposal.

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

### 1. Employment & Resources

#### 1.1 Business & Industrial Zones

This Direction applies when a planning proposal affects land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary). 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** – The Planning Proposal applies to existing R2 Low Density Residential zoned land and, therefore, does not affect employment lands.

#### 1.2 Rural Zones

This Direction applies when a planning proposal affects land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary). The objective of this Direction is to protect the agricultural production value of rural land. This Direction applies when a Planning Proposal will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary).

**Assessment – Consistent** – The Planning Proposal applies to existing R2 Low Density Residential zoned land and, therefore, does not affect any agricultural production on rural lands.

#### 1.3 Mining, Petroleum Production & Extractive Industries

This direction applies when a planning proposal would have the effect of: (a) prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or  
(b) restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.

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.

**Assessment – Consistent** – The Planning Proposal does not seek to alter any existing opportunities for mining, petroleum production or extractive industries.

#### 1.4 Oyster Aquaculture

**Assessment – Consistent** – This Direction does not apply to Wingecarribee Shire.

#### 1.5 Rural Lands

This Direction applies when a planning proposal:

(a) will affect land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary) or

(b) changes the existing minimum lot size on land within a rural or environment protection zone.

**Note:** Reference to a rural or environment protection zone means any of the following zones or their equivalent in a non-Standard LEP: RU1, RU2, RU3, RU4, RU6, E1, E2, E3, E4.

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.

**Assessment – Consistent** – The Planning Proposal applies to R2 Low Density Residential zoned, proposing no change of zoning and, therefore, does not affect rural lands.

## 2. Environment & Heritage

### 2.1 Environmental Protection Zones

The objective of this Direction is to protect and conserve environmentally sensitive areas. A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas. A planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with clause (5) of Direction 1.5 “Rural Lands”.

**Assessment – Consistent** – The Planning Proposal does not affect any environmental protection zones as it applies to R2 Low Density Residential zoned land and does not propose a change of zoning. The property has been previously developed for residential purposes.

### 2.2 Coastal Management

**Assessment – Consistent** – This Direction does not apply to Wingecarribee Shire.

### 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. A planning proposal must contain provisions that facilitate the conservation of: (a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area, (b) Aboriginal objects or Aboriginal places that are protected under the *National Parks and Wildlife Act 1974*, and (c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.

**Assessment – Consistent** – The Planning proposal seeks to add a new heritage item to the existing schedule of heritage items contained in Part 1 of Schedule 5 of the WLEP 2010 and an extension of an existing heritage conservation area listed in Part 2 of Schedule 5, to include the subject property. WLEP 2010 is a standard instrument LEP which adopts compulsory clause 5.10 for heritage conservation and the new item and area will be subject to existing heritage provisions.

### 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** – The Planning Proposal does not seek to enable land to be developed for a recreation vehicle area.

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

**Assessment – Consistent** – This Direction does not apply to Wingecarribee Shire.

### 2.6 Remediation of Contaminated Land

The objective of this Direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.

**NB: The provisions of this Direction may require the lodgement of a Preliminary Site Investigation report in order for Council to be satisfied that the site is not contaminated.**

**Assessment – Consistent** – The Planning proposal affects land which has long been developed for residential use and the provisions of the Direction are considered to not apply.

## 3. Housing, Infrastructure and Urban Development

### 3.1 Residential Zones

The objectives of this Direction are:

- (a) to encourage a variety and choice of housing types to provide for existing and future housing needs,
- (b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and
- (c) to minimise the impact of residential development on the environment and resource lands.

This direction applies when a planning proposal affects land within:

- (a) an existing or proposed residential zone (including the alteration of any existing residential zone boundary),
- (b) any other zone in which significant residential development is permitted or proposed to be permitted.

**Assessment – Consistent** – This Direction applies as the Planning Proposal affects existing R2 Low Density Residential zoned land. The Planning Proposal does not seek to alter the boundaries of the existing zone or the minimum lot size. However, it seeks to include the subject property (house and garden) as a new heritage item, in order to protect the local heritage of Wingecarribee, which will restrict any future development on the property.

### 3.2 Caravan Parks & 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** – The Planning Proposal does not identify land suitable for caravan parks nor alter existing opportunities for caravan park development.

### 3.3 Home Occupations

The objective of this Direction is to encourage the carrying out of low impact small businesses in dwelling houses. Planning proposals must permit home occupations to be carried out in dwelling houses without the need for development consent.

**Assessment – Consistent** – The Planning Proposal does not seek to amend the current provisions of WLEP 2010 with regard to *home occupations*. The current WLEP 2010 permits home occupations within R2 Low Density Residential zone, without development consent.

### 3.4 Integrating Land Use & 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.

This Direction applies when a planning proposal creates, alters or removes a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.

**Assessment – Consistent** – The Planning Proposal seeks to provide heritage protection for a discrete site in the town of Bowral. This action would not create additional infrastructure demands, as the subject site is already developed for residential use.

### 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** – The land subject to the Planning Proposal is not located near a regulated airport or defence field.

### 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** – The land subject to the Planning Proposal is not in the vicinity of an existing shooting range.

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

**Assessment – Consistent** – This Direction does not apply to Wingecarribee Shire.

## 4. Hazard & 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** – There are no mapped acid sulphate soils within Wingecarribee Shire.

### 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.

**NB1:** When a planning proposal would permit development on land that is within a Mine Subsidence District a relevant planning authority must: (a) consult the Mine Subsidence Board to ascertain: (i) if the Mine Subsidence Board has any objection to the draft Local Environmental Plan, and the reason for such an objection, and (ii) the scale, density and type of development that is appropriate for the potential level of subsidence, and (b) incorporate provisions into the draft Local Environmental Plan that are consistent with the recommended scale, density and type of development recommended under (4)(a)(ii), and (c) include a copy of any information received from the Mine Subsidence Board with the statement to the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act.

**NB2:** A planning proposal must not permit development on land that has been identified as unstable in a study, strategy or other assessment undertaken: (i) by or on behalf of the relevant planning authority, or (ii) by or on behalf of a public authority and provided to the relevant planning authority.

**Assessment – Consistent** – The land subject to the Planning Proposal is not known to be located within a mapped Mine Subsidence area.

#### 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.

NB: A planning proposal must not rezone land within any flood planning area from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone. A planning proposal must not contain provisions that apply to the flood planning areas which: (a) permit development in floodway areas, (b) permit development that will result in significant flood impacts to other properties, (c) permit a significant increase in the development of that land, (d) are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, or (e) permit development to be carried out without development consent except for the purposes of agriculture (not including dams, drainage canals, levees, buildings or structures in floodways or high hazard areas), roads or exempt development.

**Assessment – Consistent** – The land subject to the Planning Proposal is not located within a flood prone area, as identified in any flood study or within a flood planning area on the Flood Planning Area Map that forms part of the WLEP 2010.

#### 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.

The assessment will be updated to reflect RFS response prior to exhibition.

**Assessment – Consistent** – The land subject to the Planning Proposal is not located in a fire prone area.

## 6. Regional Planning

### 5.1 Implementation of Regional Strategies

**Assessment – Consistent** – The above Direction has been revoked.

### 5.2 Sydney Drinking Water Catchment

The objective of this Direction is to give effect to protect water quality in the Sydney Drinking Water Catchment. (The assessment will be updated to reflect WaterNSW response.)

**Assessment – Consistent** – Although the Planning Proposal applies to land within the Sydney Drinking Water Catchment, it seeks to maintain the existing zoning and land use of the subject land, thereby helping to protect water quality, limiting any future development on the land. Should a gateway Determination be issued, referral to WaterNSW would be undertaken.

- 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

**Assessment – Consistent** – The above Directions have either been revoked or do not apply in Wingecarribee Shire.

#### 5.10 Implementation of Regional Plans

The objective of this Direction is to give legal effect to vision, land use strategy, goals, directions and actions contained in Regional Plans. The Planning Proposal must demonstrate consistency with the SE & Tablelands Regional Plan.

**Assessment – Consistent** – The Planning Proposal is consistent with the current Regional Strategy—being the South East and Tablelands Regional Plan 2036—which recognises the distinctive character and heritage values in the region. Direction 23 of this plan articulates how the region’s heritage should be protected and prioritises conservation of heritage assets (action 23.3), which is consistent with the aims of this Planning Proposal.

#### 5.11 Development of 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** – Currently this Direction does not apply to Wingecarribee Shire.

### 6. Local Plan Making

#### 6.1 Approval & Referral Requirements

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

**Assessment – Consistent** – The Planning Proposal does not include any new provisions nor identifies any development as designated development.

#### 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** – The Planning Proposal does not apply to any land or zonings identified for public purposes.

#### 6.3 Site Specific Provisions

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

**Assessment – Consistent** – The Planning Proposal does not include any site specific provisions.

## 7. Metropolitan Planning

### 7.1 -7.10

**Assessment – Consistent** – These Directions do not apply to Wingecarribee Shire.

## 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 Planning Proposal applies to existing low density residential zoned land which has previously been developed for residential purposes. No critical habitat or endangered vegetation is known to be identified on the subject land, and the Planning Proposal seeks to protect and retain the existing vegetation on the land.

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

There are not likely to be any environmental effects as a result of the Planning Proposal. In fact, the heritage listing of the site and extension of the Heritage Conservation Area to include the subject property will restrict development potential, thereby reducing negative environmental impacts, including loss of trees and potential loss of habitat, as it is proposed to retain the existing mature gardens on the property.

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

There are possible social and economic effects on the new property owner as any future development of the site will be restricted due the Heritage status of the property. However, there are social benefits and potential economic benefits for the surrounding property owners resulting from the protection of this site and its mature gardens.

Some individual economic and social impact is considered to be reasonable in the context of protecting a site of local heritage significance.

## Section D – State and Commonwealth Interests

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

Yes. The Planning Proposal will not result in any additional burden on existing public infrastructure. In fact, the reduction in development potential will alleviate future infrastructure burden.

## Part 4: Mapping

The following maps will require amendment:

Heritage Map –Sheet HER\_007D (8350\_COM\_HER\_007D\_020\_20170123)

Figure 5 below provides an indication of the changes required in the heritage map for the subject property.

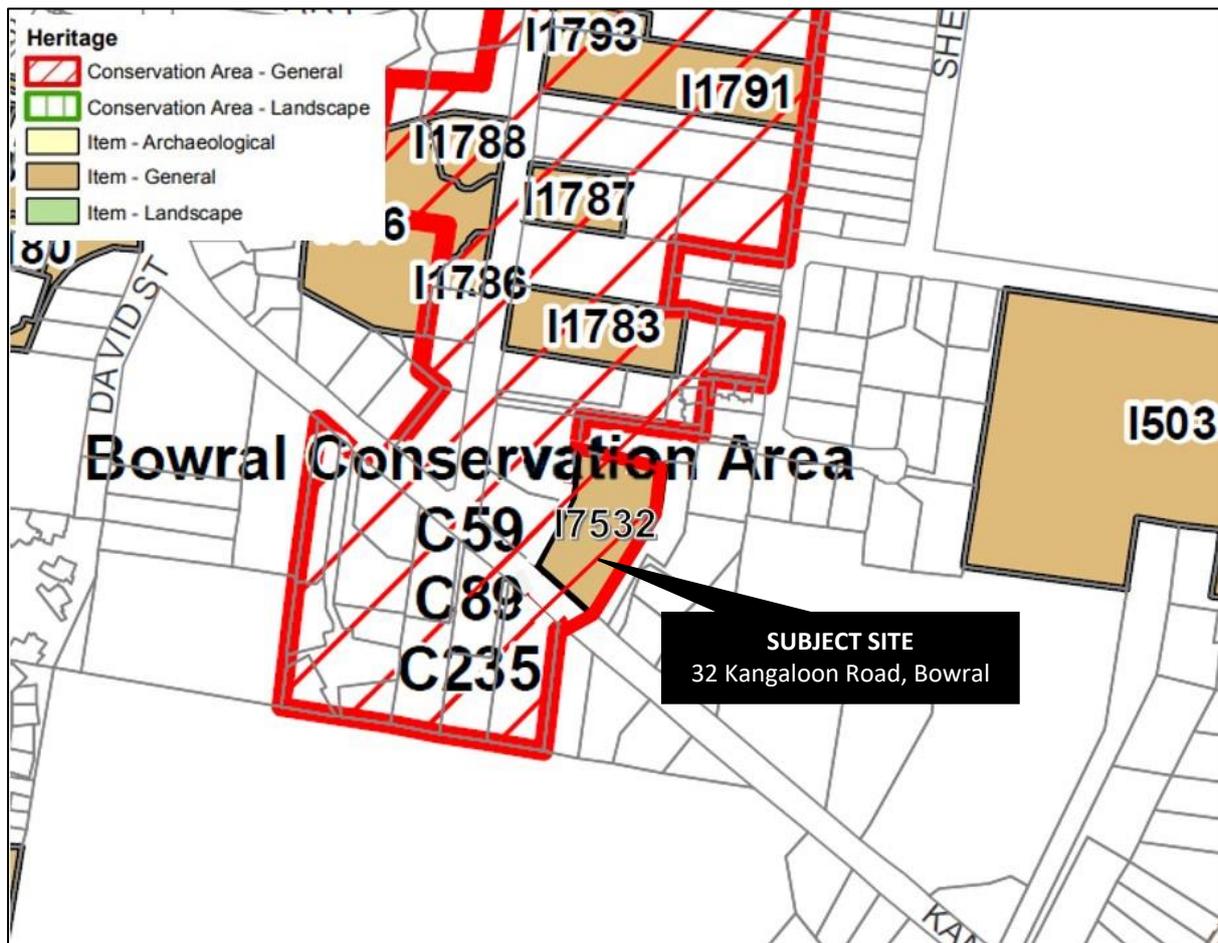


Figure 5: Indicative amendment to Heritage map (Sheet HER\_007D)

## Part 5: Consultation – Agency Referrals

Council will conduct Agency referrals as required under legislation should a Gateway Determination be obtained. However, it is anticipated that referrals to Heritage NSW and Water NSW will be required.

## Part 5: Consultation - Community

Council will undertake community consultation in accordance with the Gateway Determination. Council normally provides 30-31 days of public exhibition which includes, as relevant, notification by letter/email to affected and adjoining property owners and weekly advertising on Council's website. The Planning Proposal will also be listed on Council's What's On Exhibition page, Your Say Wingecarribee page and notification of exhibition will be included in Council's E-Newsletter sent to 3,500 recipients.

While COVID-19 restrictions remain in force, the principal place of public exhibition will be Council's website, [www.wsc.nsw.gov.au](http://www.wsc.nsw.gov.au) with copies of all documentation also available at the Customer Service Counter at the Civic Centre, 68 Elizabeth Street, Moss Vale, NSW 2577 unless current health conditions prevent this.

## Part 6: Timeline

MILESTONE	INDICATIVE /ACTUAL DATE
Gateway Determination	OCTOBER 2020
Agency Consultation	OCTOBER/NOVEMBER 2020
Public Exhibition	DECEMBER 2020 TO FEBRUARY 2021
Report to Council on exhibition of Planning Proposal.	MARCH 2021
S.3.36 Documents to DP&E & PCO.	APRIL/MAY 2021
Approximate completion date	JUNE/JULY 2021

## Delegation

A Delegation request form accompanies this Planning Proposal.

**END OF PLANNING PROPOSAL**