

Planning Proposal

to amend Wingecaribee Local Environmental Plan 2010 to rezone and reduce the minimum lot size of part of Lot 115 DP 1067955 being land at Willow Run, 105-119 Bong Bong Road Mittagong.

**Version 2 for Gateway Determination
Prepared by Wingecaribee Shire Council**

June 2021

**Version 1 Initially prepared for Council assessment by Lee Environmental Planning
on behalf of Willow Run Developments, February 2019.**

Working with you

WSC.NSW.GOV.AU

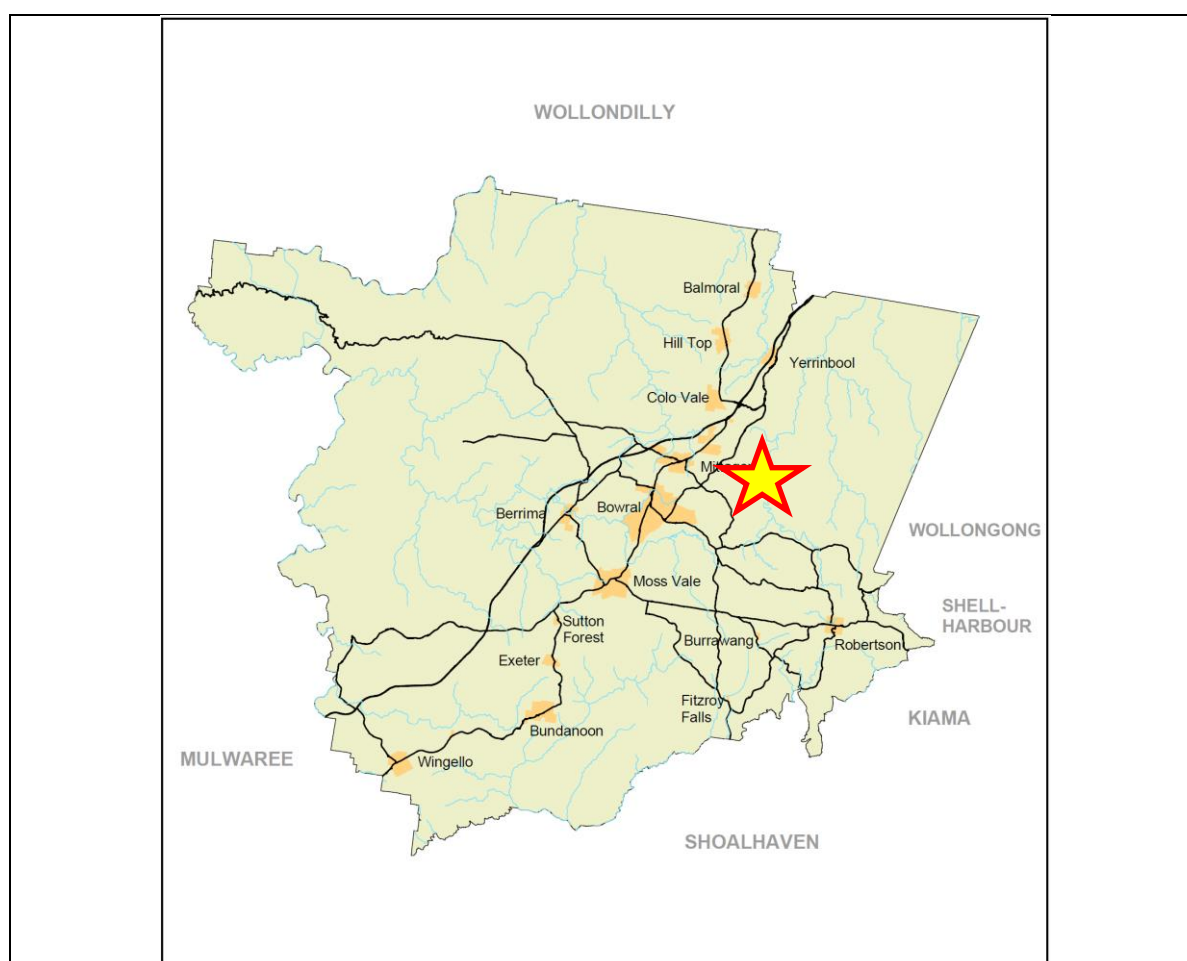


Attachments which form part of this Planning Proposal

1	Delegation Request Form
2	Report to Council 26 August 2020
3	Resolution of Council 26 August 2020
4	Ecoplanning Environmental Assessment report
5	Heritage Impact Assessment report
6	Heritage Impact Assessment photographs
7	Visual Assessment Report
8	Preliminary Site Inspection Report

Location & Description of the Subject Land

Location of the Subject Land –105-119 Bong Bong Road Mittagong



Council Resolution to Support Planning Proposal

At its Ordinary Meeting of 22 July 2020, Council considered a Planning Proposal (Version 1 for Council Assessment) submitted by the proponent and resolved (*inter alia*) as follows:

THAT the preparation of a Planning Proposal to rezone part of Lot 115 DP 1067955, 105-119 Bong Bong Road, Mittagong from RU2 Rural Landscape to R5 Large Lot Residential with a minimum lot size 4000m² under s3.33 of the Environmental Planning & Assessment Act 1979 BE SUPPORTED for progression to a Gateway Determination, subject to a Phase 1 Preliminary Site Investigation (Contamination) Report and a Heritage Impact Assessment being prepared by the proponent to Council's satisfaction in accordance with the Wingecarribee Local Housing Strategy.

This Planning Proposal responds to that Resolution and has been prepared by Council, based on information provided by the proponent in Version 1 and updated to reflect more recent strategic documents adopted by Council since the original Planning Proposal was submitted.

It is noted that only part of Lot 115 DP 1067955 is proposed for rezoning under this Planning Proposal. The proponent's Planning Proposal initially advocated rezoning a larger area of the site to R2 Low Density Residential and to a higher residential density, however Council's Resolution of 22 July 2020 supported only a portion of the site, as indicated in the Local Housing Strategy 2015-2031, with a minimum lot size of 4,000m² based on the initial site assessment.

For the purposes of this Planning Proposal, the Willow Run site is referred to as the 'subject land' and the area within the subject land proposed for rezoning referred to as 'proposed development area'. The proposed development area is indicated in **Figure 1** below. It is noted that any reference to the location of the proposed development area is 'indicative only' as no survey plan has yet been created.

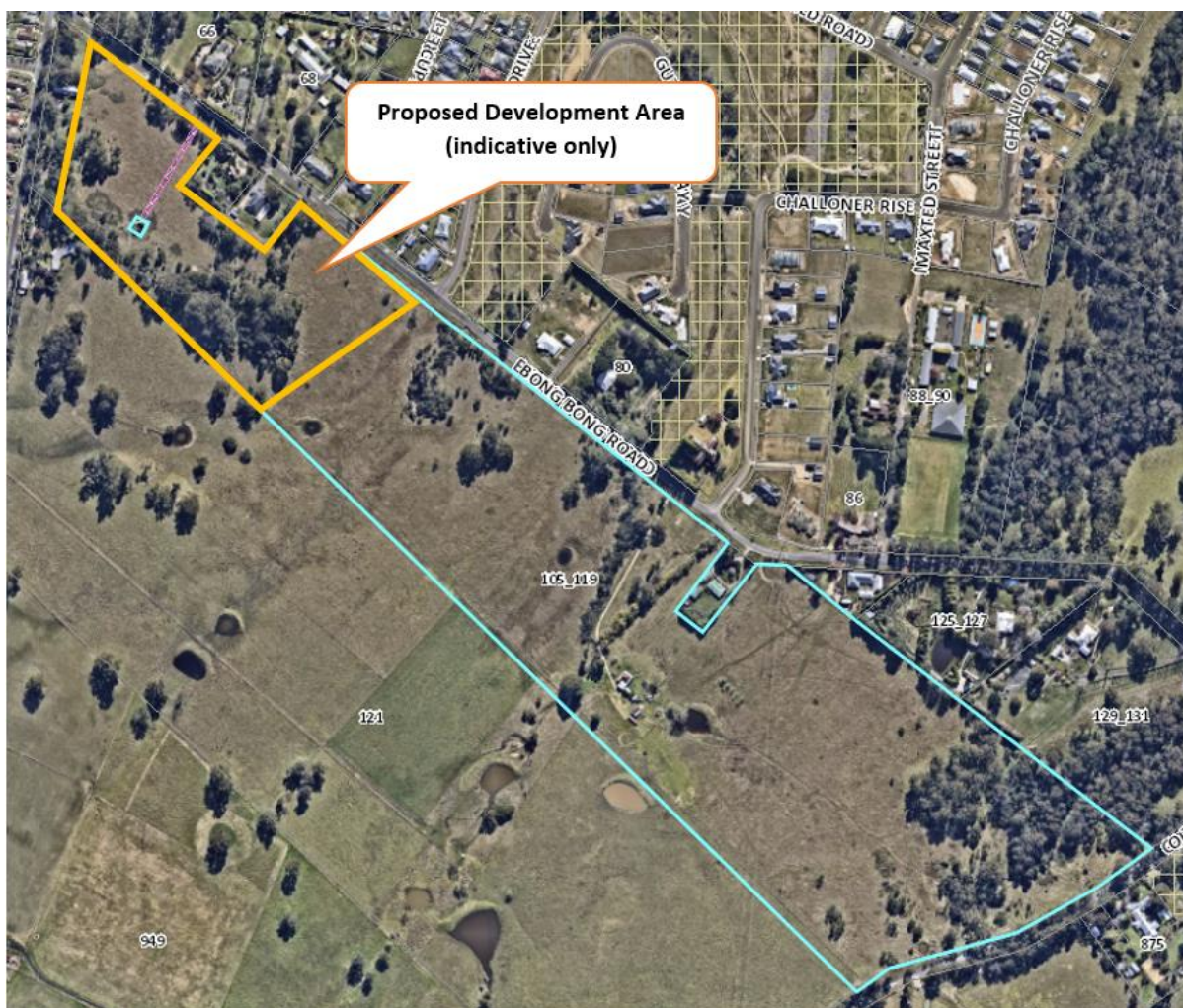


Figure 1 Proposed Development Area – Indicative only

Description of the Subject Land

The subject land lies on the south eastern edge of Mittagong Township as indicated on the Location map above and **Figure 2** below.

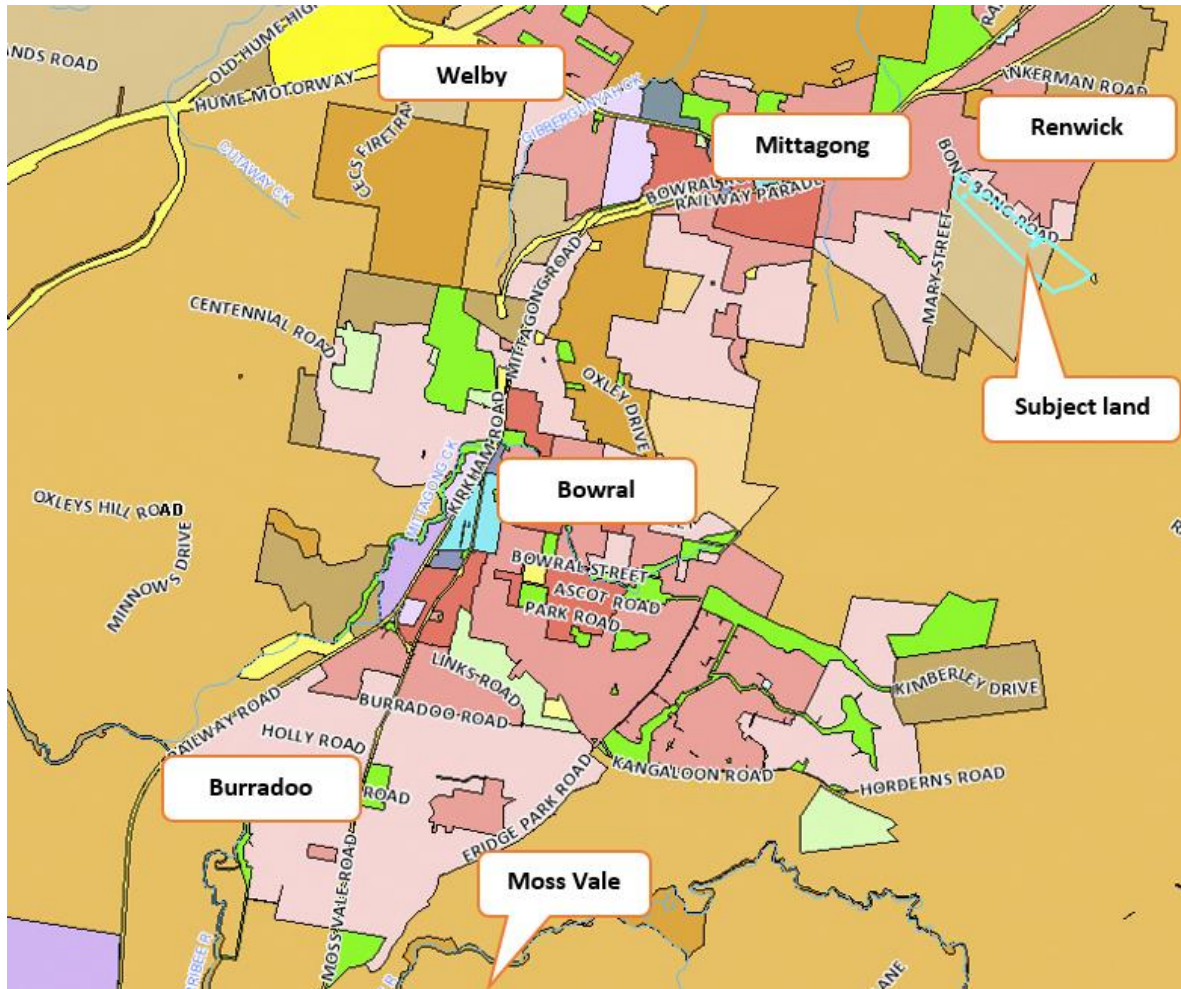


Figure 2 Site Location

The subject land is a long rectangular shape running generally on an east west alignment between Mary Street to the west and Old South Road to the east. It has a length running east west of approximately 1300 metres and a depth of approximately 260 metres as indicated in **Figure 3** below.



Figure 3 Willow Run site – the subject land

The subject land is predominately open grazing land with one older farm house, but very few other improvements. The land has a combination of Class 3 and Class 4 agricultural land classification, meaning that it is suitable for some pasture improvement and limited grazing.

The topography is gently undulating with moderate slopes rising both to the east and the west from an obvious low point towards the centre of the site almost directly opposite the intersection of Bong Bong Road and Renwick Drive. The adjoining land to the south is steeper the further south it extends and is as a result more visually prominent than the subject site. Natural drainage channels from the catchment of the higher ground continue in a northerly direction across the site and into the Renwick precinct on the opposite side of Bong Bong Road. Major storm water works are evident within Renwick.

The site is currently within both the RU2 Rural Landscape and E3 Environmental Management zones under Wingecarribee Local Environmental Plan 2010 as indicated in **Figure 4** below. The minimum lot size applicable over both zones is 40 hectares.

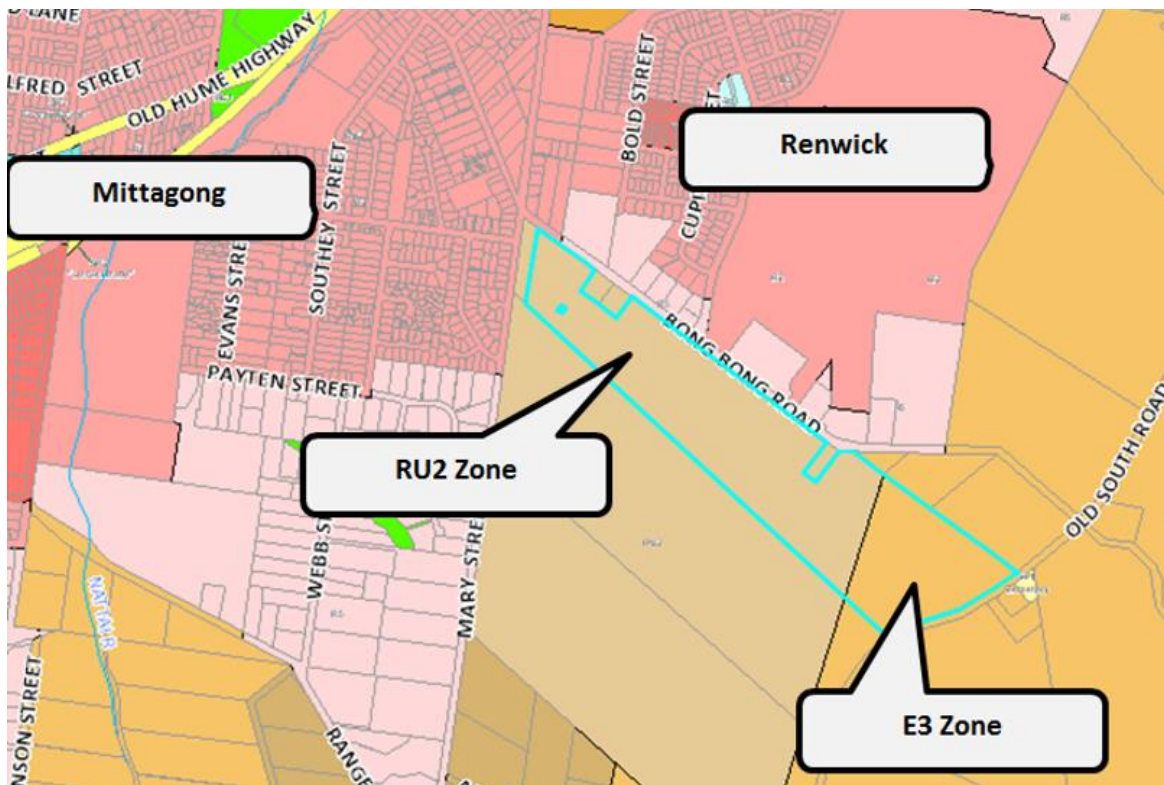


Figure 4 Zoning of the Subject Land

As **Figure 5** below indicates, the original residential development in Mittagong along either side of the Old Hume Highway and Southern Railway Line corridor around the core B2 Local Centre business zone. Under WLEP 2010, residential land closest to the B2 zone is zoned R3 Medium Density Residential with R2 Low Density Residential beyond. Subsequently, new development and expansion of the township has occurred through the R5 Large Lot Residential zone to provide a gradation of residential zones into the RU4 Primary Production Small Lots zone and E3 Environmental Management zone beyond. Figure 4 also highlights the sites proximity to other residential land. The site is less than 2 kilometres east of the Mittagong town centre and just 1.5 kilometres from the Old Hume Highway. Notably, the site is directly opposite the Renwick urban development precinct that has been developing over the past 8 years and has now reached the release of the final stages of development. At the western end of the site are the older more established residential areas of Mary Street and Colo Street.

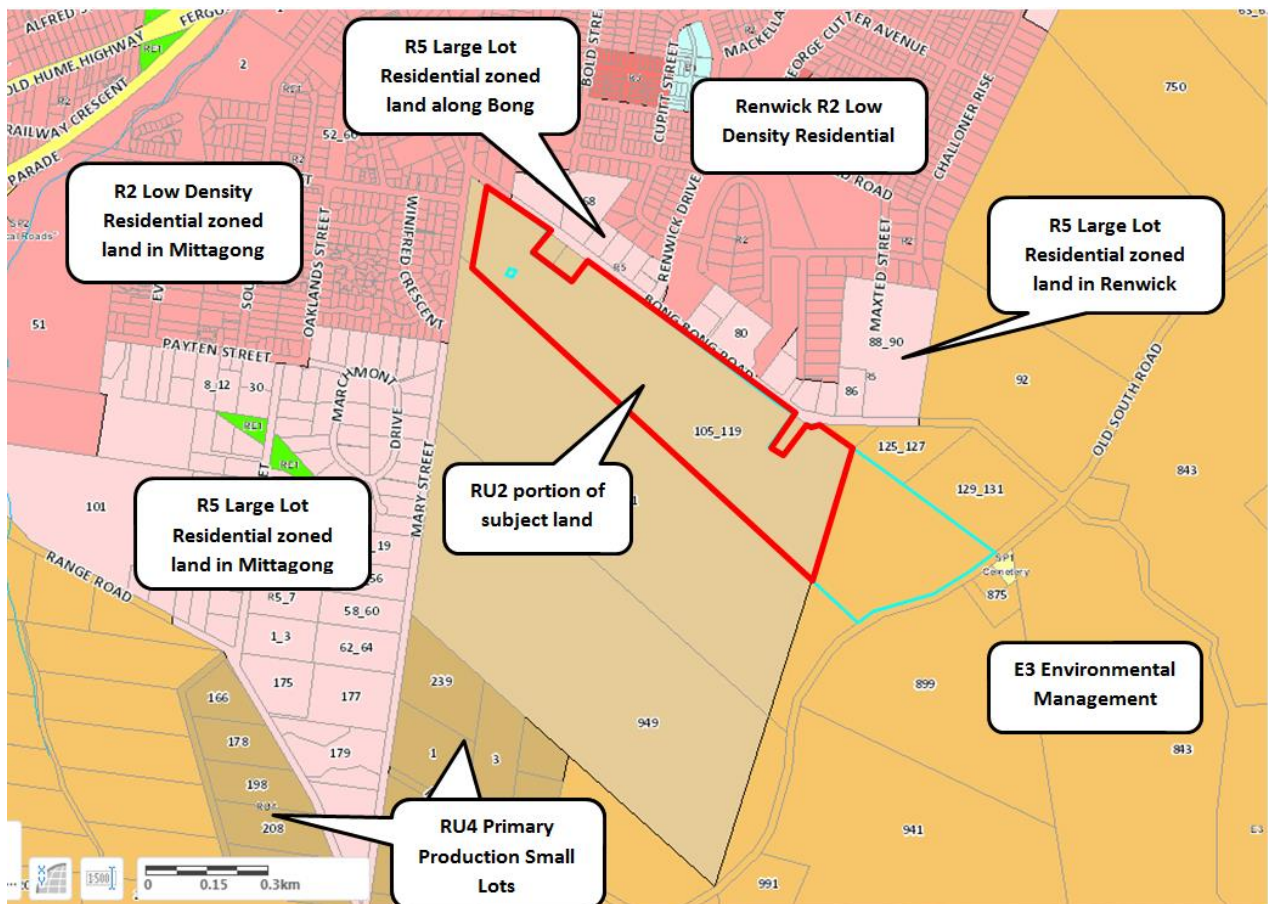


Figure 5 Surrounding zoning

The corresponding minimum lot sizes are shown in **Figure 6** below which indicates a predominantly 700m² minimum lot size for the R3 Medium Density Residential and older R2 Low Density Residential zones and a 4000m² minimum lot size for later R5 Large Lot Residential zoned land. A minimum lot size of 2 hectares applies to the RU4 Primary Production Small Lots zone.

With specific regard to Bong Bong Road, the northern side opposite the subject land is predominantly zoned R5 Large Lot Residential with a minimum lot size of 4000m², the smallest lots being at 4000m². Similarly, although the zoning is RU2 Rural Landscape, those lots fronting the southern side of Bong Bong Road which intersperse the subject land are also 4000m² in area.

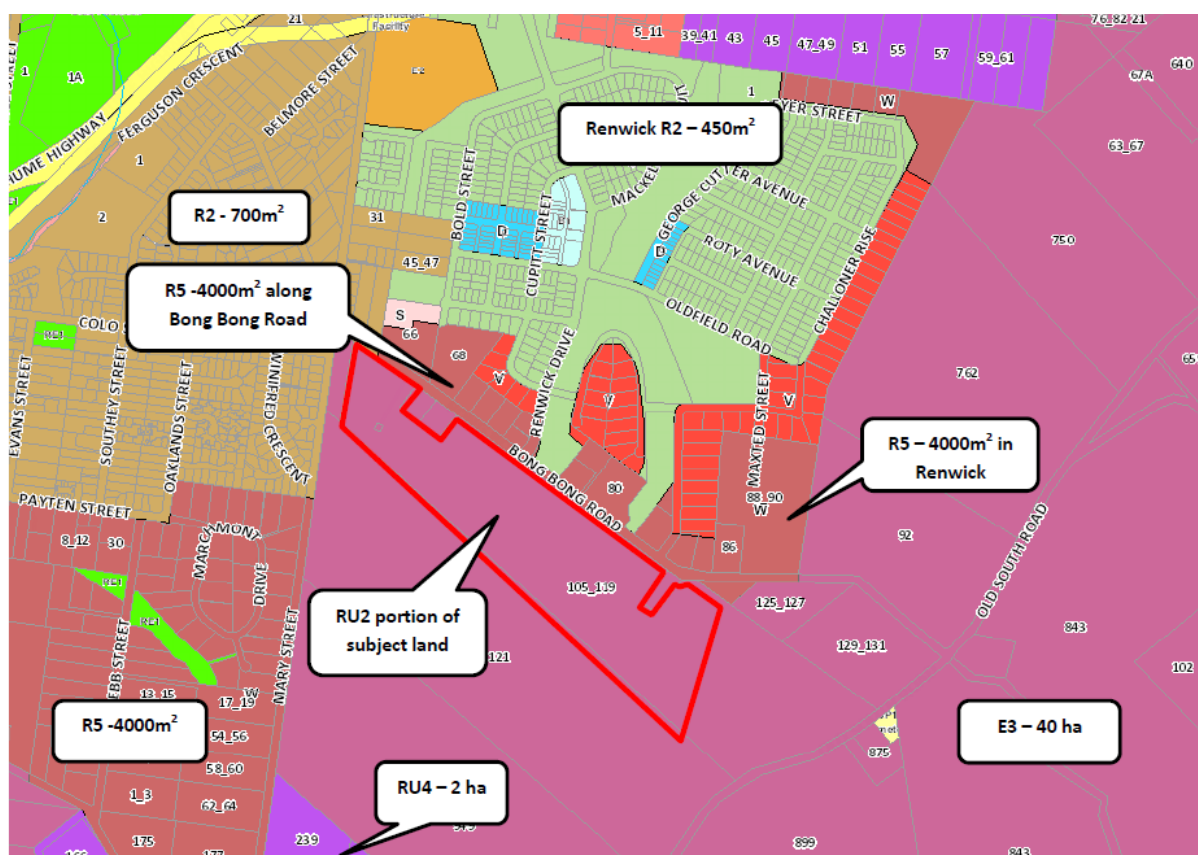


Figure 6 Site Location and surrounding minimum lot size

Rural Heritage Context

The subject land is listed as an Item of Local Heritage under Schedule 5 of WLEP 2010. The identified heritage features are the “wells, barn and outbuildings” which are located further east, away from the proposed residential area. It is understood that the barn has not been present on the site for some years having fallen into a state of dilapidation and becoming unsafe.

The heritage listing should not be considered significant to the assessment of the Planning Proposal but if a Gateway Determination were to be made in favour of the rezoning, then incorporating the remaining heritage aspects of the property into any future development scheme would be necessary. This would be done in conjunction with a review of the extent to which the current heritage listing should be retained.

The development of Renwick is a case in point where there were a number of local items within the Renwick site as well as adjoining the site, all of which have been successfully integrated into the broader development scheme without detriment to their heritage value.

In addition to heritage items on the site, a number of heritage listed properties are located along the northern side of Bong Bong Road opposite and adjacent to the subject land as indicated in **Figure 7** below. These items, combined with their location within the rural landscape, create an informal local heritage precinct along Bong Bong Road. Rowe Cottage, Challoner Cottage and Goodlet Cottage all relate to the Former Renwick Institution of which the silos will remain heritage listed even after the remainder of the Renwick Urban Release Area is developed. Bong Bong Road itself

retains a predominantly rural character which contributes to the rural-residential & heritage context of the locality. The current 4000m² subdivision minimum contributes to the retention of the predominantly rural landscape of the road and provides a suitable setting for the heritage listed properties fronting it.

It is noted that amendment 52 to WLEP 2010 (20 March 2020) to rezone land to the rear of 66 Bong Bong Road retains the R5 zone on the Bong Bong Road frontage with its minimum lot size of 4000m². The residual lot containing the heritage item will be approximately 9000m², more than twice the minimum lot size.

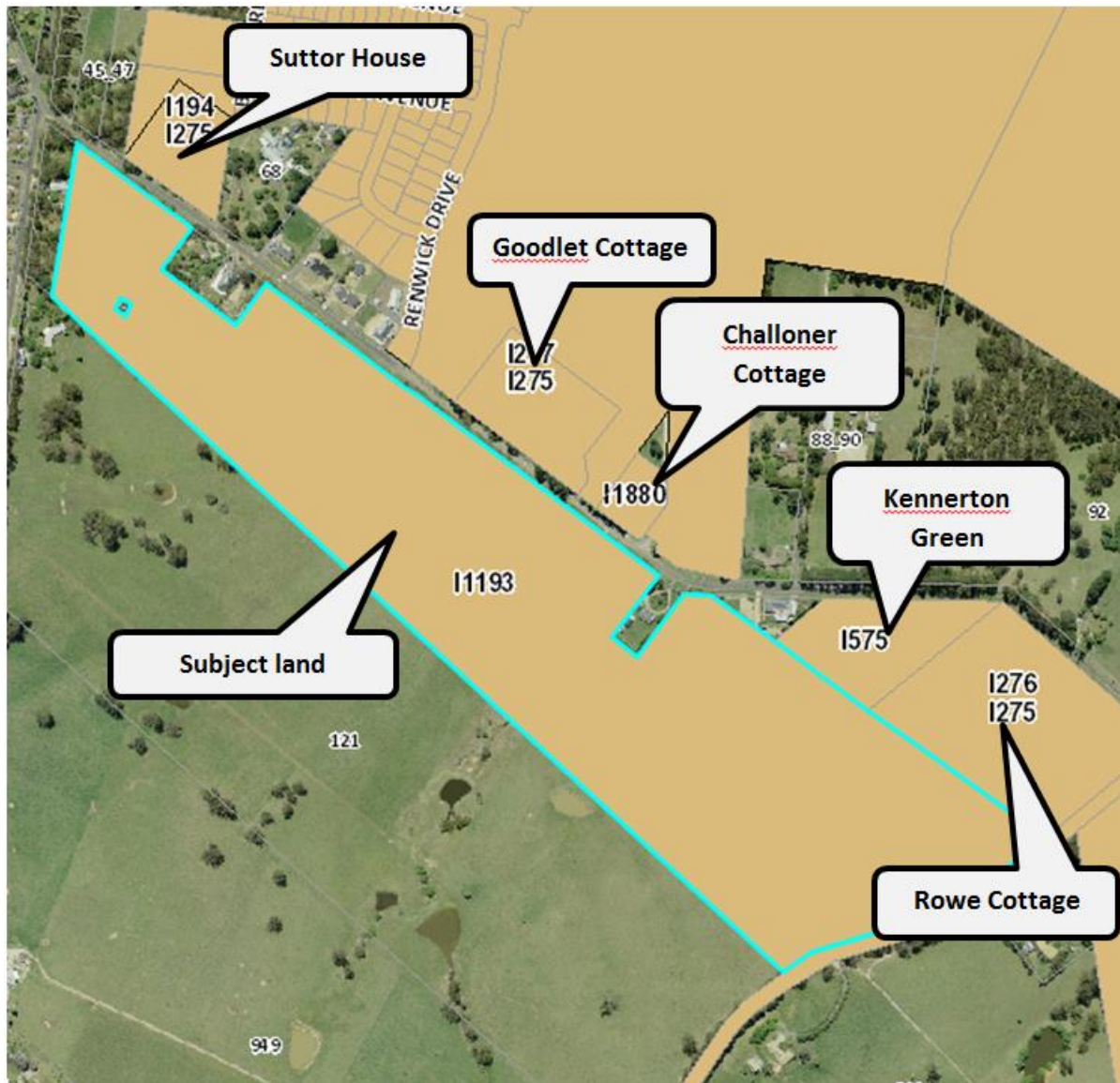


Figure 7 Items of Heritage fronting Bong Bong Road

Environment

An Ecological Constraints Assessment has been prepared for that portion of the subject land proposed for rezoning and accompanies the Planning Proposal. A 'validated vegetation map' is included in that Assessment and a detail from that map is overlaid with the boundary of the proposed development area, at **Figure 8** below. The reference in the index to HBTs means 'hollow bearing trees', of importance to the habitat support of various wildlife including mammals, birds and reptiles.

The report notes that two (2) vegetation communities were identified as occurring within the study area, namely Southern Highlands Shale Woodland (SHSW) and Exotic Grassland. SHSW is listed as a Critically Endangered Ecological Community under the Commonwealth *Environmental Protection and Biodiversity Conservation (EPBC) Act 1999*, and as an Endangered Ecological Community under the State *Biodiversity Conservation Act 2016*.

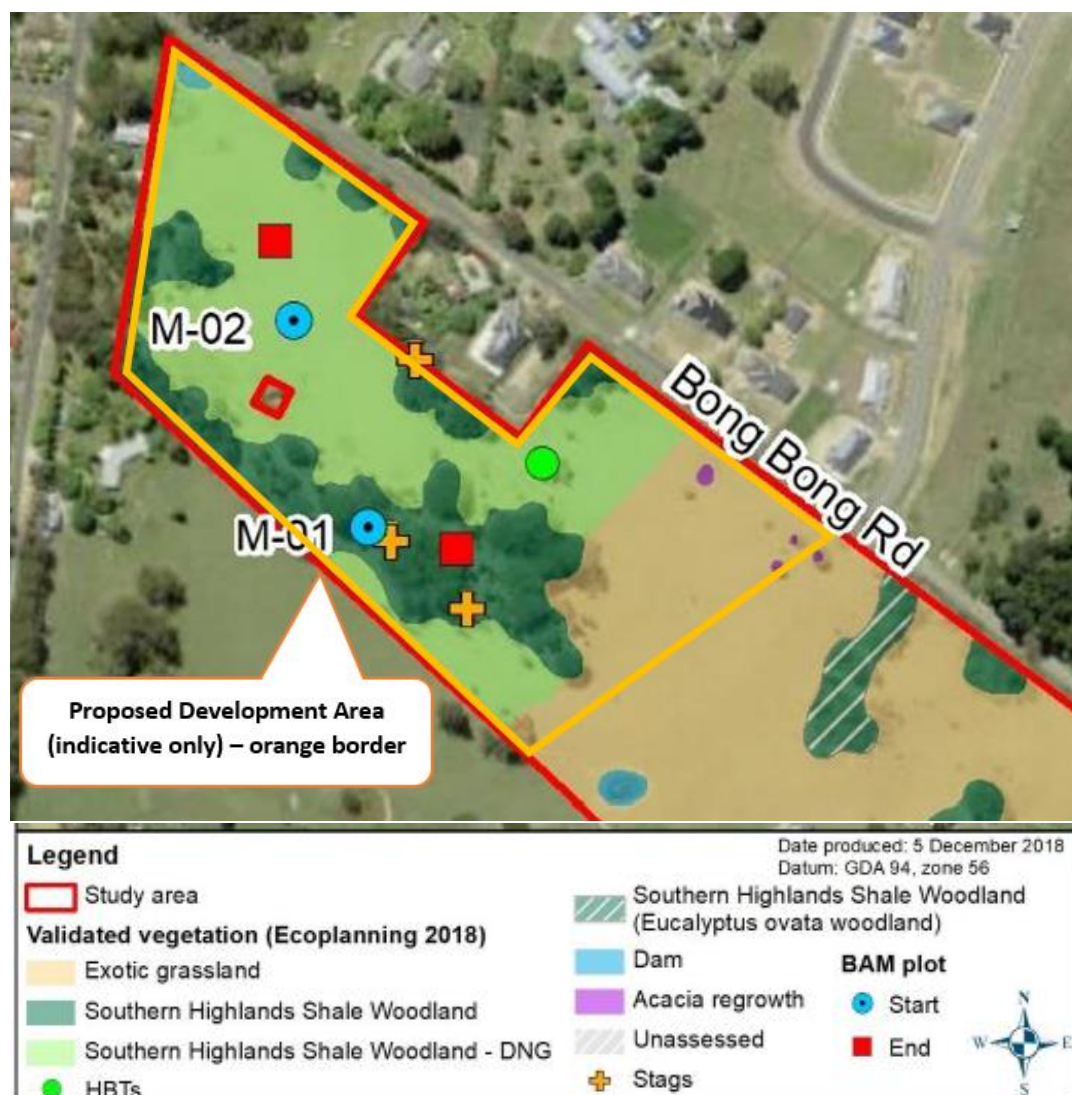


Figure 8 Extract from Ecological Constraints Assessment Map

It was determined in the Ecological Constraints Assessment that no referral to the Commonwealth Department of the Environment and Energy is required for the identified areas of SHSW because “less than 50% of the perennial understorey vegetation cover is made up of native species, and the patch lacks connectivity to a native vegetation area”.

However, the report does conclude that, as the proposed subdivision would remove more than 0.5 ha of native vegetation, a Biodiversity Development Assessment Report (BDAR) prepared by a suitably qualified ecologist would be required to identify opportunities for the avoidance of areas of high ecological constraint (and minimise impacts to moderate constraints. The Ecological Constraints assessment also noted that additional targeted surveys may be required during the preparation of the BDAR to identify potential fauna.

Bushfire

The extent to which the subject and is mapped as bushfire prone land is indicated in **Figure 9** below. The extent of the bushfire prone land on the western edge contained within the proposed development area is consistent with the extent of identified vegetation community. Referral to NSW Rural Fire Service would occur should a Gateway Determination be received.



Figure 9 Mapped Bushfire Prone Land

Flood Liable Land

The extent to which the subject and is mapped as flood prone is indicated in **Figure 10** below. The proposed development area has been located to exclude the mapped flood liable land and explains the angle of the eastern boundary.

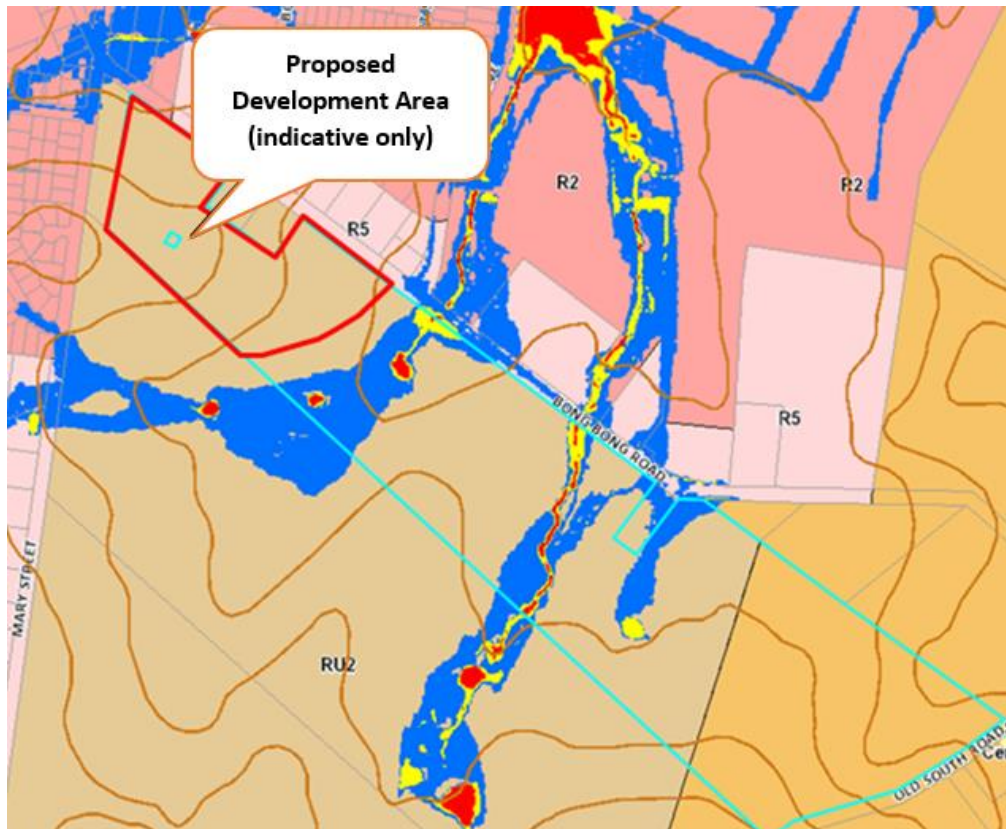


Figure 10 Mapped Flood Liable Land

Part 1: Objectives or Intended Outcomes

The objectives and intended outcomes from this Planning Proposal are as follows:

- To amend the relevant Land Zoning Map of WLEP2010 to rezone part of Lot 115 DP 1067955, 105-119 Bong Bong Road Mittagong to R5 Large Lot Residential.
- To amend the relevant Lot Size Map of WLEP2010 to apply a minimum lot size of 4,000m² to part of Lot 115 DP 1067955, 105-119 Bong Bong Road Mittagong.

The area to which the proposed amendments would apply is indicated in **Figure 11** below.



These map amendments would be prepared prior to exhibition should a Gateway Determination be received.

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 responds to Council's Local Planning Strategy 2015 -2031, adopted on 23 March 2016. It is noted that the chapter addressing the Shire's future housing needs was not endorsed by the Department of Planning with the Department advising that reliance on meeting the Shire's future housing needs should not rest with infill development alone. The Department recommended that further consideration be given to additional 'greenfield' development. It is noted that the Local Planning Strategy 2015-2031 did support residential development of a portion of the site, to the extent indicated in **Figure 11** above.

The Planning Proposal is prepared on the basis of the need for Council to consistently review its position in relation to land availability from a long term strategic perspective. The change of zoning in this case is argued to provide Council with an opportunity to achieve its strategic planning goals of providing additional housing opportunities across the Shire, including both infill and green field development opportunities.

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 objectives and intended outcomes. It is not possible to achieve the objectives and outcomes without a Planning Proposal. Council could not accept, nor support a Development Application for the subdivision of the land without such a Proposal being first assessed and supported and the necessary amendments to WLEP 2010 in place.

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 South East and Tablelands Regional Plan 2036 is the relevant sub regional strategy. In broad terms, the Strategy seeks to cater for continued growth within the region, without impacting adversely upon the character of the region. This Planning Proposal in accordance with Council's Resolution seeks to reflect this strategic intent.

Chapter 4 of the Strategy addresses environmentally sustainable housing choices. The Planning Proposal supports that broad objective.

Direction 24 of the Strategy seeks to deliver greater housing supply and choice, noting that local housing strategies need to consider community aspirations. The Planning Proposal supports this objective and would be consistent with the community aspirations as put forward in previous community workshops that show support for well located housing options within the Southern Highlands.

Direction 25 of the Strategy focusses on housing growth in locations that maximise infrastructure and services in particular to achieve sustainable urban outcomes that do not undermine existing strategic and local centres. The site's proximity to Renwick is ideal in the opportunity it provides to leverage off infrastructure and services already introduced or embellished in this locality, while at the same time being close enough to Mittagong to encourage the use of all existing services that it has to offer.

The Strategy's broad aim of protecting the sensitive elements of the natural environment is supported through this Planning Proposal.

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

Wingecarribee Local Housing Strategy

The subject land formed part of the Mittagong (East) 'investigation area' in the Wingecarribee Local Housing Strategy (LHS) adopted by Council on 24 June 2020. The review of this investigation area commences on page 51 of the LHS. The extent of the investigation area is indicated in **Figure 12**.

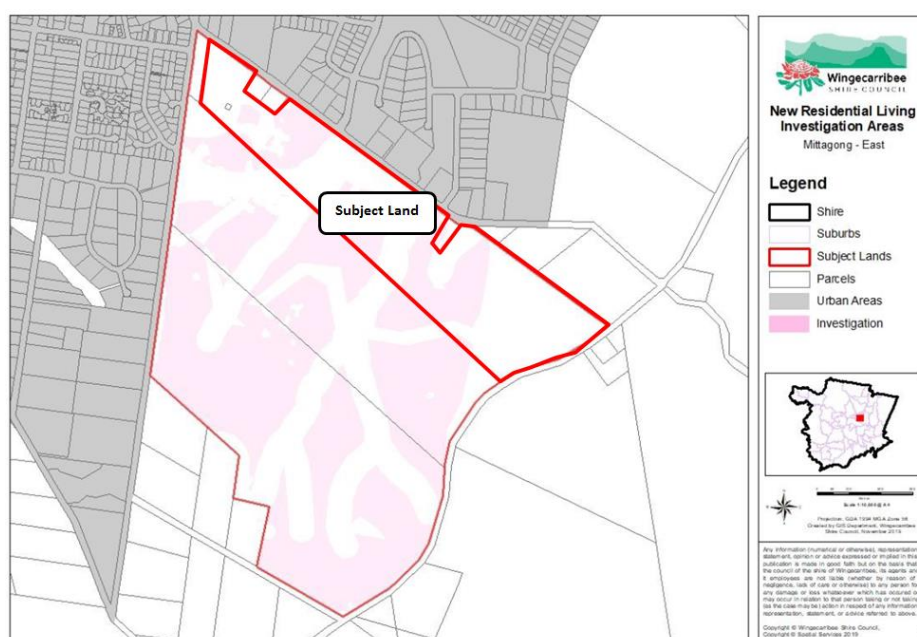



Figure 12 Mittagong East Investigation Area from LHS



The LHS analysis (mapped at **Figure 13** below) confirmed that there were several constraints across parts of the investigation area, as previously considered in this report, “including riparian areas, Endangered Ecological Communities, flooding, a heritage item and potentially contaminated land”, and although other parts of the investigation area were not so constrained, they were “highly visible from Old South Road and the Renwick residential area”.

Based on the limitations identified in the constraints analysis, the investigation area was ultimately deemed unsuitable as a future living area. However, the Wingecarribee Local Housing Strategy 2015-2031 acknowledged that “a small area has previously been identified for residential development in the north western corner of the site and this Strategy maintains this area as a potential residential area.”

This area is identified pink in **Figure 14** below, and it is noted that the ‘pink’ areas are not limited to the subject land, nor do they cover all of it. With regard to the extent of the supported area within the subject land, the area corresponds with the area identified at **Figure 11** above in the Local Planning Strategy 2015-2031.

In conclusion, the Local Housing Strategy recommends that:

- *any future planning proposal to rezone the land for residential purposes would need to be supported by:*
 - *A Phase 1 Preliminary Site Investigation (Contamination)*
 - *An ecological assessment*
 - *A Heritage Impact Assessment.*

These documents accompany the Planning Proposal.

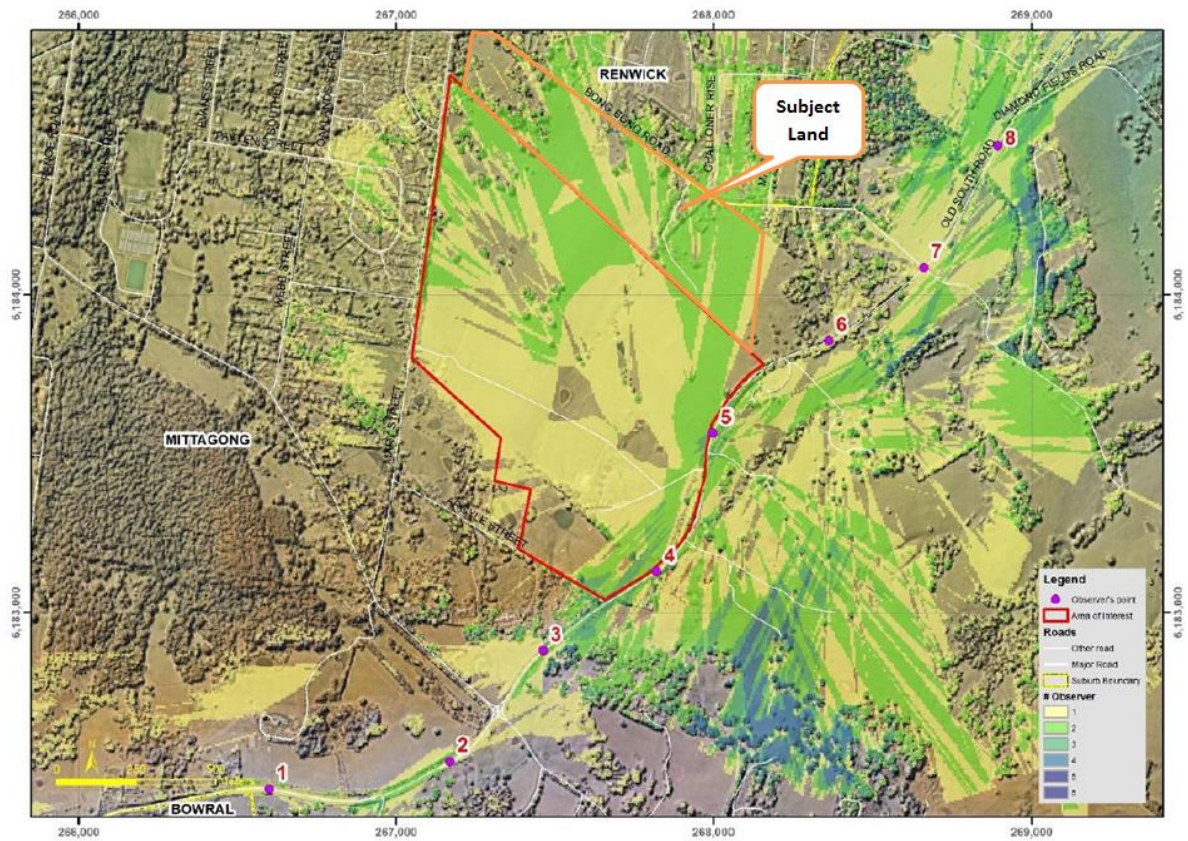


Figure 13 Mittagong East Investigation Area constraints analysis from LHS

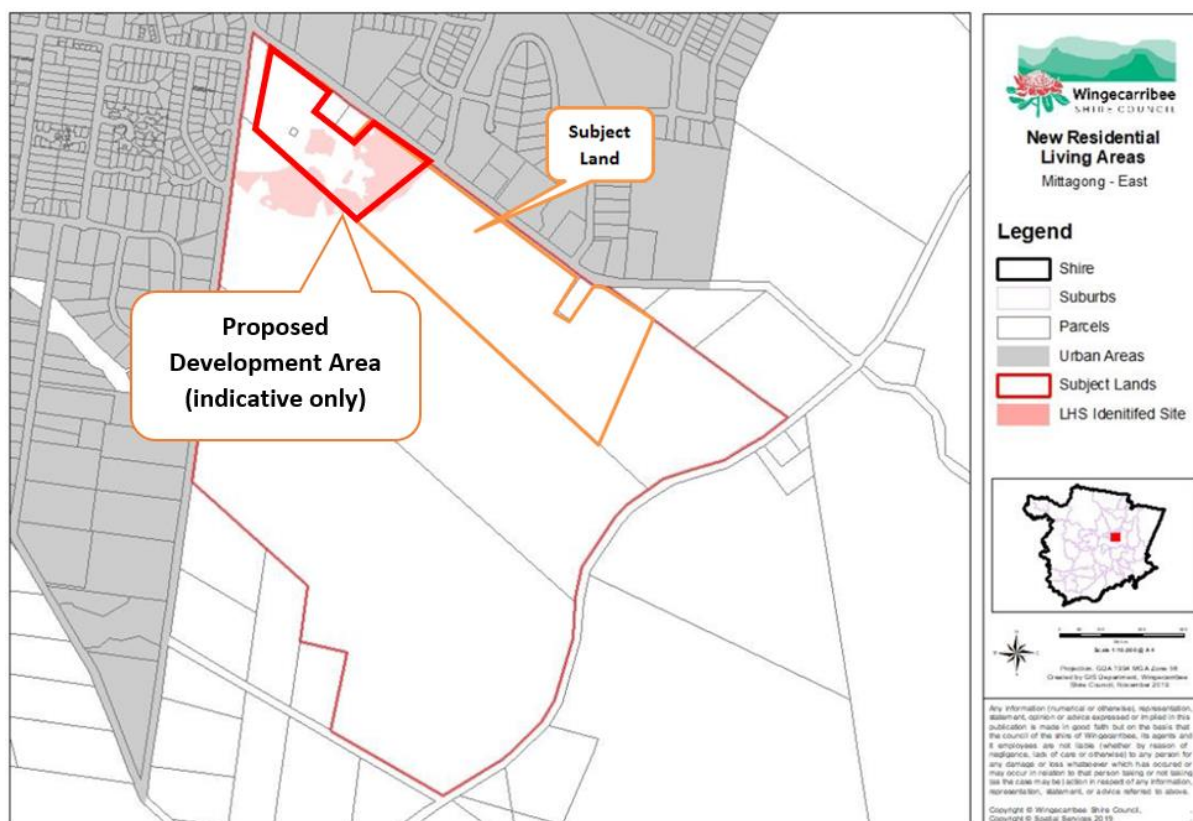


Figure 14 Adopted Mittagong East 'New Residential Living Area' from LHS

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.)

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 – The Planning Proposal seeks to rezone land to R5 Large Lot Residential, a zone which would prohibit caravan parks.

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 – No intended development of the subject land would be impacted by this Policy.

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 – No intended development of the subject land would be impacted by this Policy.

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.

Assessment – Consistent – At this time Council does not consider there to be any contamination issues. A Preliminary Site Investigation report has been prepared and accompanies the Planning Proposal.

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 – Any future development of the subject land would require demonstration of compliance with this Policy.

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

<ul style="list-style-type: none"> (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. <p>(4) This Policy aims to provide:</p> <ul style="list-style-type: none"> (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.
<p>Assessment – Consistent – The proposed R5 zoning would not permit residential flat development.</p>

SEPP (Affordable Rental Housing) SEPP
<p>The aims of this Policy are as follows—</p> <ul style="list-style-type: none"> (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.
<p>Assessment – Consistent – The SEPP would not apply to this proposal.</p>

SEPP (Building Sustainability Index : BASIX) 2004
<p>(1) Regulations under the Act have established a scheme to encourage sustainable residential development (<i>the BASIX scheme</i>) under which:</p> <ul style="list-style-type: none"> (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

<p>condition requiring such commitments to be fulfilled.</p> <p>(2) The aim of this Policy is to ensure consistency in the implementation of the BASIX scheme throughout the State.</p> <p>(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.</p>
<p>Assessment – Consistent – The provisions of the SEPP would apply at any subsequent Development Application stage.</p>

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 provisions of the SEPP do not apply in the R5 zone.

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 provisions of the SEPP would apply at any subsequent Development Application stage.

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 provisions of the SEPP would apply at any subsequent Development Application stage.

SEPP (Koala Habitat Protection) 2020 and 2021

These Policies aim 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 land is not identified as being existing or 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 land is not identified as containing mineral, petroleum or extractive material resources.

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 land has been used for agricultural production. Only a portion of the site is proposed for rezoning and this would leave the remainder of the site and adjoining land available and suitable for ongoing agricultural use.

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 is not of state significance.

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 – It is considered that WaterNSW would not object to the proposal if adequate sewer infrastructure were provided. It is noted that the Local Housing Strategy requires the provision of adequate infrastructure prior to any future development approval. This assessment will be updated to reflect the Water NSW Gateway response should a positive Gateway Determination be issued.

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 provisions of this Policy do not apply to this land.

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 subject land is not zoned business or industrial.

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 subject land is currently zoned RU2 Rural Landscape and the land has been used for agricultural production. Only a portion of the site is proposed for rezoning and this would leave the remainder of the site and adjoining land available and suitable for ongoing agricultural use.

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 proposed development would not impact on potential mining activity any more than any other residential development would create.

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 subject land is currently zoned RU2 Rural Landscape and the land has been used for agricultural production. Only a portion of the site is proposed for rezoning and this would leave the remainder of the site and adjoining land available and suitable for ongoing agricultural use.

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 subject land is zoned RU2 Rural Landscape.

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 subject land is identified as an Item of Local heritage under Schedule 5 of WLEP 2010. Because only a portion of the site is proposed for rezoning, a full heritage assessment would be undertaken at the development stage to identify the exact location of specified heritage items should the Planning Proposal proceed.

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– There is no intention that the Planning proposal would result in the use of recreation vehicles on the land.

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.

Assessment – Consistent – Council is not aware of any contamination issues on the subject land. A Preliminary Site Assessment report accompanies the Planning Proposal.

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– The proposed R5 Large Lot Residential zone with a minimum lot size of 4000m² reflects the provisions applying to land within the Renwick residential release area fronting Bong Bong Road. These provisions enable some housing compatible with both adjoining housing and also adjoining rural land.

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 intends to rezone the land to R5 Large Lot Residential. Caravan Parks and Manufactured Home Estates are prohibited in the R5 zone.

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 occupation*.

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 proposed rezoning and minimum lot size provisions are consistent with those on the Renwick residential release area located opposite the subject land. The Wingecarribee Local Housing Strategy includes the subject land.

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 proposed amendments will not impact airports or airfields in the vicinity of the subject land.

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 – There are no shooting ranges in the vicinity of the subject land.

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 currently appear to be 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 subject land is not identified as unstable.

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 area proposed for amendment is not identified as flood prone. Any further assessment would be undertaken at the development stage should the Planning Proposal proceed.

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 – The subject land does contain mapped bushfire prone land. Should a positive Gateway be received referral to NSW RFS would be required and the Planning Proposal updated to reflect the RFS response prior to exhibition.

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.

Assessment – Consistent – The subject land is not considered to be in a location where development would adversely impact on water quality. Should a positive Gateway be received referral to Water NSW would be required. This assessment would then be updated to reflect the Water NSW response prior to exhibition.

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 goals and actions of the South East & Tablelands Regional Plan as discussed in section B3 above.

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 seeks to rezone land and apply a minimum lot size consistent with the Renwick residential release area opposite and sympathetic to surrounding Items of Heritage and rural land.

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 restrict any of the objectives of this Direction.

6.3 Site Specific Provisions

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

Assessment – Consistent – There are no site specific controls associated with the Planning Proposal.

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?

This issue has been considered in the report from Ecoplanning, previously discussed. The site is not environmentally constrained to the extent that residential development could not be achieved. It is mainly cleared grazing land with the remaining remnant native vegetation being contained within the eastern area to be retained under the environmental zoning with a scattered area to the west where residential development is proposed. This vegetation has been assessed in the Ecoplanning report. Although Southern Highlands Shale Woodland was present it was predominately in the form of derived native grassland, not in high quality condition. The report concluded that the areas of SHSW – modified condition – did not meet the condition threshold for listing under the Environment Protection and Biodiversity Conservation Act 1999 because:

- Condition Class B1 - less than 50% of the perennial understorey vegetation cover is made up of native species; and
- Condition Class B2 - the patch lacks connectivity to a native vegetation area and less than 30% of the perennial understorey vegetation cover is made up of native species.

Those parts of the site that contain remnant native vegetation will be either safeguarded within the retained E3 Environmental Management zone at the eastern portion of the site or is of low ecological value and can be offset as part of any future detailed subdivision layouts. This can be thoroughly assessed as part of the Biodiversity Assessment Method and the Biodiversity Development Assessment Report, both of which will be required under the NSW Biodiversity Conservation Act 2016 with any subsequent Development Application.

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 likely to be no adverse environmental effects that arise as a result of the Planning Proposal. The development of the site that would result from the Planning Proposal would be similar to development that has occurred directly opposite at Renwick. Although the Planning Proposal would allow an increased number of lots to be created, the development type would be compatible with the capacity of the land and the development footprint would be restricted by exclusion from the more sensitive eastern portion of the site. Development management techniques would be brought to bear on the development as it proceeded.

If the Planning Proposal is supported and the site rezoned with a lower minimum lot size, then the lodgement of a Development Application for subdivision will be required to be assessed on its merits. Any potential environmental effects arising from a specific development proposal can be managed through that process. It is also possible, perhaps likely, that a positive Gateway Determination could be made with instruction and/or requirement that the formal LEP amendment be only publicly exhibited with the support of more detailed design and infrastructure assessments.

The range of issues to be managed under a rezoning and development scenario would include

issues such as:

- stormwater flows on site, retention and treatment and connection with downstream systems
- traffic and access, assessing potential impact from a development at the increased dwelling numbers afforded by the Planning Proposal. The main desired travel routes and the impacts on environmental capacity of the road system and of particular intersections to maintain acceptable levels of service would be identified
- ecological issues with reference to the vegetation on site and the Council's vegetation mapping, noting that this issue has already been considered in the report from Ecoplanning
- bushfire threat with assessment of future dwelling construction standards, noting that the bushfire prone nature of the land, which is limited in any event, would be non-existent within the vicinity of the residential component of the site once development proceeded
- general utility services such as water and sewer to be assessed for their capacity to accommodate the proposed development under the increased demand scenario with a conclusion that there is no impediment to servicing the site subject to standard upgrading as identified and if required
- heritage assessment given the sites Schedule 5 listing and other adjoining items in combination, all of the above reports will need to indicate that there are no environmental issues that arise as a result of the Planning Proposal that cannot be adequately managed. All of the above issues will also be able to be thoroughly assessed as part of the Development Application process.

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

It is considered that the Planning Proposal will have a positive social and economic effect that is supportive of Council's strategic planning goals as they relate to the provision of housing across the Shire. The Planning Proposal will assist in ensuring development of the land is undertaken with a positive economic return. In terms of residential development, there are three benefits.

Section D – State and Commonwealth Interests

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

In this case, the Planning Proposal could only proceed to the development stage if adequate servicing and infrastructure can be provided for the site and the development of it. The site is in direct proximity to the residential development of Renwick. Water, sewer and power can all be provided and upon more detailed analysis the exact requirements for this will become known. It has frontage to Bong Bong Road and certain road upgrade work will be required. These are Development Application issues.

It is acknowledged that further detailed studies will be required to justify the final determination and yield of any development. The Gateway process recognises this likelihood, including the need for agency consultation. If such studies concluded that there was inadequate public infrastructure and such infrastructure could not be provided, then the Gateway process would allow termination of the

Proposal at that point. The Planning Agreement regime also provides the mechanism for the negotiation of appropriate infrastructure and material public benefits

Part 4: Mapping

The following map(s) will require amendment as indicated below:

The Planning Proposal will be given effect by a change to the WLEP2010 Land Zoning Map and in due course a change to the Lot Size Maps.

Sheet LZN_007J will need to be amended by identifying the subject land as being partly within the R5 Large Lot Residential zone with the remainder of the site retaining either the existing RU2 Rural Landscape zone or the E3 Environmental Management zone for the eastern portion. There will be a consequential change to the Sheet LSZ_007J showing minimum lot sizes potentially of 600 m² and 2000 m² for the strip fronting Bong Bong Road to provide compatibility with the existing streetscape.

No other WLEP2010 maps are required to be amended. Draft amendments to the zoning and minimum lot size maps for the subject land will be included with the exhibition material.

Part 5: Consultation – Agency Referrals

Council will conduct Agency referrals as required under legislation should a Gateway Determination be obtained.

Part 5: Consultation - Community

Council will undertake community consultation in accordance with the Gateway Determination.

Part 6: Timeline

MILESTONE	INDICATIVE /ACTUAL DATE
Gateway Determination	July 2021
Agency Consultation	August 2021
Public Exhibition	September 2021
Report to Council on exhibition of Planning Proposal	October 2021

S.3.36 Documents to DP&E & PCO	November 2021
Approximate completion date	November 2021

Delegations

A Delegation request form accompanies this Planning Proposal.

END OF PLANNING PROPOSAL