

12.1 Planning Proposal to Rezone Willow Run, 105-119 Bong Bong Road, Mittagong

Reference:	PN204300, 5901
Report Author:	Senior Strategic Land Use Planner
Authoriser:	Coordinator Strategic Land Use Planning
Link to Community Strategic Plan:	Identify and protect the unique characteristics of towns and villages to retain a sense of place

PURPOSE

To consider a Planning Proposal to amend Wingecarribee Local Environmental Plan (WLEP) 2010 to rezone a portion of the land at 105-119 Bong Bong Road, Mittagong from RU2 Rural Landscape to principally R2 Low Density Residential with a minimum lot size range from 1000m² to 4000m².

RECOMMENDATION

1. **THAT** the Planning Proposal to rezone part of Lot 115 DP 1067955, 105-119 Bong Bong Road, Mittagong from RU2 Rural Landscape to R2 Low Density Residential **NOT BE SUPPORTED**.
2. **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.
3. **THAT** a draft Precinct Plan for the subject land for inclusion in the Mittagong Township Development Control Plan be prepared and exhibited with the Planning Proposal should it receive a Gateway Determination.
4. **THAT** the proponent be informed of Resolutions 1-3 above.

VOTING ON THE MOTION

Councillors are required to record their votes on this matter.

REPORT

BACKGROUND

In February 2019 a Planning Proposal was lodged with Council by Lee Environmental Planning seeking an amendment to WLEP 2010 to rezone part of Lot 115 DP 1067955, being Willow Run, 105-119 Bong Bong Road, Mittagong, to R2 Low Density Residential.

The whole of Lot 115 covers an area of some 35.6 hectares and is zoned part RU2 Rural Landscape and part E3 Environmental Management with a minimum lot size of 40 hectares over the whole site. It is the RU2 portion which is the subject of the Planning Proposal. The RU2 portion covers an area of some 25 hectares, although only one part of that area is under consideration for rezoning, an area estimated to of some 8 hectares.

The location of the subject land and its immediate zoning context are indicated in **Figure 1** below. It is noted that the RU2 portion of the site is located opposite the Renwick Urban Release Area separated by Bong Bong Road. The subject land also contains a separate lot, (Lot 1 DP 705826) of some 275m² in area identified as a water reservoir and owned by Council, with access via a registered easement over the subject land as indicated in **Figure 2** below. The status of this facility is being investigated by the Assets team.

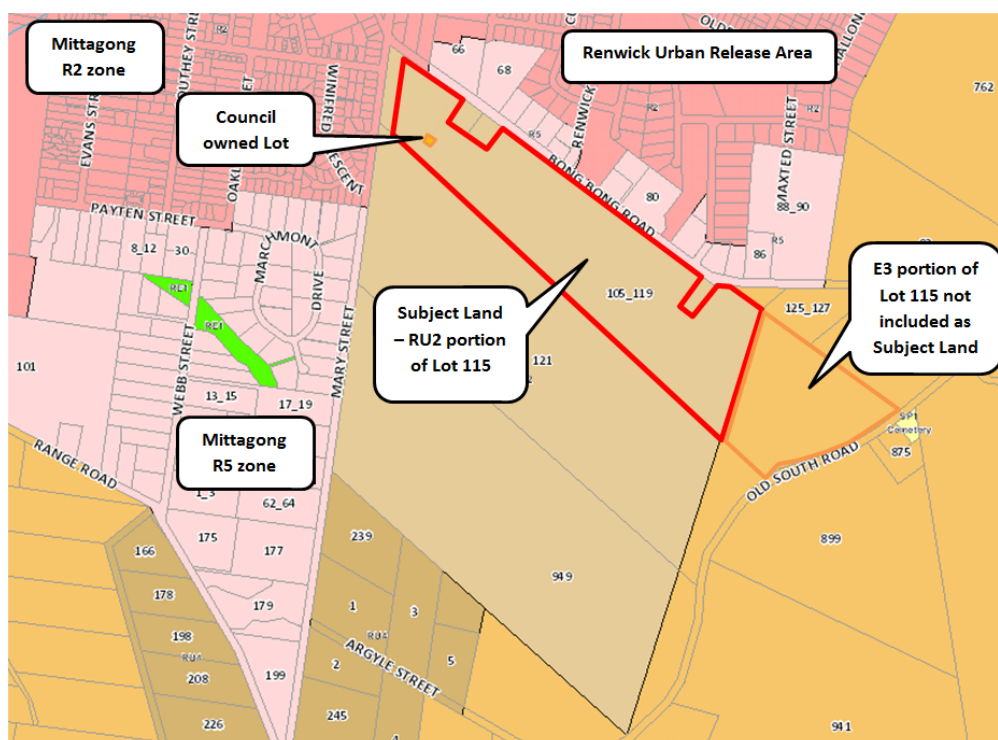


Figure 1 Location and Zoning under WLEP 2010 for subject land (enlarged at Attachment 1)



Figure 2 Location of Council owned water reservoir and easement (enlarged at Attachment 2)

The entire site, including the E3 portion, together with adjoining land, was the subject of previous rezoning applications in 2007 and 2008 during the drafting of WLEP 2010. Council resolved that the zoning and minimum lot size remain unchanged, but that the sites be included for further investigation in the Wingecarribee Local Planning Strategy (LPS) 2015-2031. At that time Council also identified the maximum extent to which it would consider any future residential development proposal, as indicated in **Figure 3** below.

The identification of only a portion of the sites was due in large part to the visual impacts which could result from more extensive development given the topography of the land and the visual prominence of any development beyond the identified eastern boundary of the potential residential area.

It was also recognised that the property is an Item of Local Heritage under WLEP 2010 with individual Items of Heritage located in the vicinity of the subject land along Bong Bong Road.

It is noted that the area identified in Figure 3 includes adjoining land at 73 Mary Street (Lot 2 DP 157625) (identified as Lot 2 in Figure 3) to the west, and part of Rushford Park at 121 Mary Street (Lot 1 DP 1140914), the adjoining property to the south. These properties are not included in this Planning Proposal.

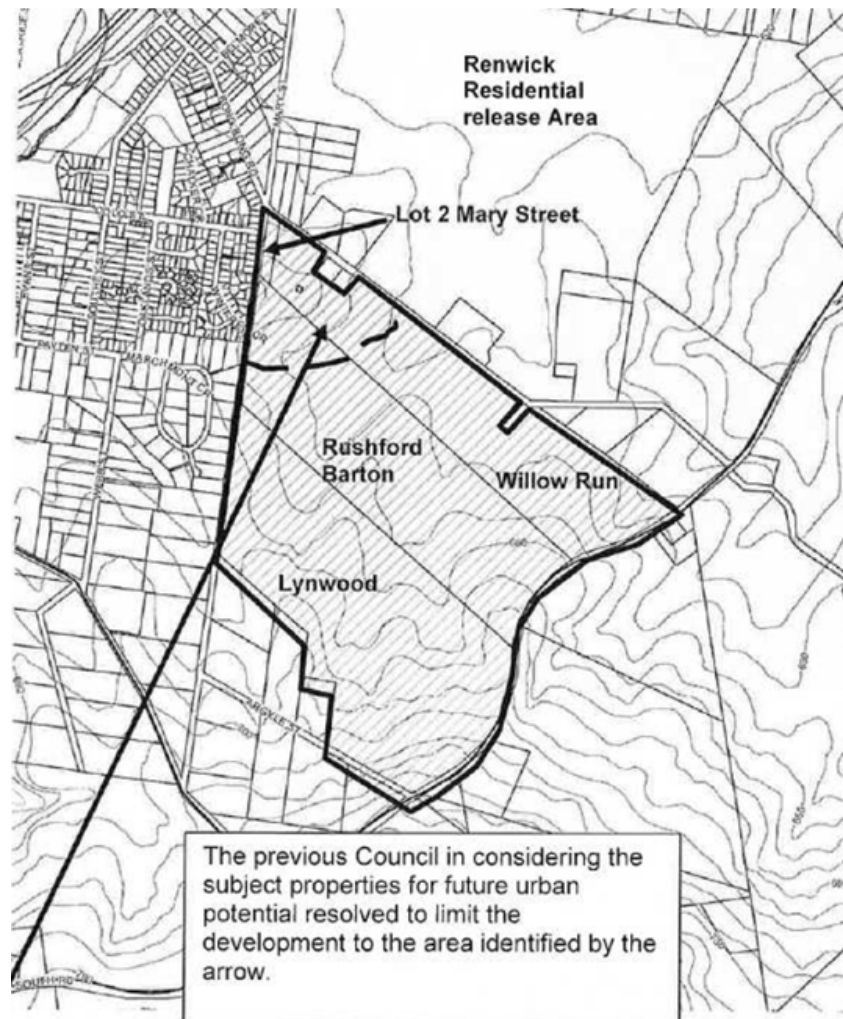


Figure 3 Original extent of potential residential development supported by Council during drafting of WLEP 2010. (enlarged at Attachment 3)

A Planning Proposal which included the subject land and adjoining sites was subsequently considered during the preparation of the Wingecarribee Local Planning Strategy 2015-2031. At its Ordinary Meeting on 23 March 2016, Council resolved as follows:

THAT Lot 115 DP 1067955, 105-119 Bong Bong Road and Lot 1 DP 1140914, 21 Mary Street, Mittagong, and Lot 11 DP 1067256, 949 Old South Road remain zoned part RU2 Rural Landscape and part E3 Environmental Management with a minimum lot size of 40 hectares under WLEP 2010, and THAT the rezoning of Lot 2 DP 157625, 19 Mary Street, Mittagong to R5 Large Lot Residential with a minimum lot size of 4,000m² be supported for inclusion in the Mittagong Precinct Plan of the adopted Wingecarribee Local Planning Strategy 2015-2031.

The resolution to permit consideration of the rezoning of the adjoining Lot 2 Mary Street, to R5 Large Lot Residential with a minimum lot size of 4000m² provides an indication of the strategic thinking at that time with regard to appropriate future residential density. No Planning Proposal to progress this resolution has yet been received by Council. The remaining lots, including the subject site were not supported for rezoning due primarily to the

fact that their entire area was proposed for rezoning rather than just the potential residential area previously identified by Council.

In October 2017, a Planning Proposal was submitted to Council for the subject land alone which again sought to rezone the entire RU2 Rural Landscape portion of the site to R2 Low Density Residential and apply minimum lot sizes ranging between 450m² and 1000m².

That Proposal was considered by Council at its Ordinary Meeting of 9 May 2018 when Council resolved:

THAT the Planning Proposal to rezone land at 105-119 Bong Bong Road, Mittagong from RU2 Rural Landscape to primarily R2 Low Density Residential NOT BE SUPPORTED.

That report to Council confirmed the original boundary of the area Council would be prepared to consider for potential residential development on the subject land, overlayed on to the zoning and flood mapped area under WLEP 2010, as indicated in **Figure 4** below, consistent with that originally provided at **Figure 3** above. This is an area of approximately 8 hectares.

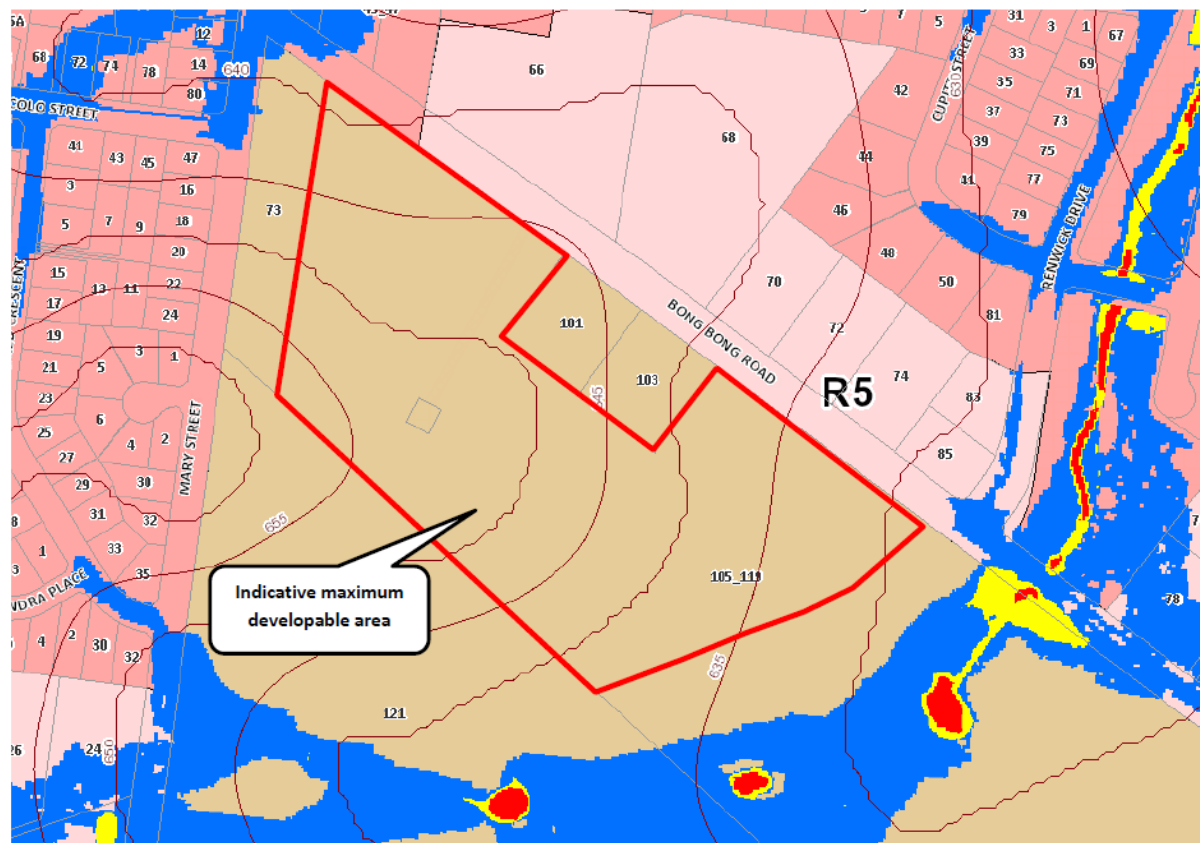


Figure 4 Extent of potential residential area over the subject land identified in 2018. (enlarged at Attachment 4)

The current Planning Proposal was submitted to Council in February 2019. The proponent subsequently requested that consideration of the Planning Proposal be deferred until the Wingecarribee Local Housing Strategy was adopted. This occurred on 24 June 2020. It is noted that a draft subdivision plan was also submitted to support an minimum lot size range of part 1000m² and part 4000m². The Planning Proposal, draft subdivision plan and other related documentation, form **Attachment 5** to this report.

REPORT

Existing Residential Context

The subject land lies on the south eastern edge of Mittagong Township. As **Figure 5** below indicates, development of Mittagong initially occurred 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.

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 original 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 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 4000m² in area.

The current 4000m² subdivision minimum contributes to the retention of the predominantly rural landscape of the road and provides a suitable setting for the several heritage listed properties fronting it (discussed below). It is noted that the recent amendment #52 to WLEP 2010 to rezone land to the rear of 66 Bong Bong Road retains the R5 zone on the Bong Bong Road frontage and a minimum lot size of 4000m². The residual lot containing the heritage item will be approximately 9000m².

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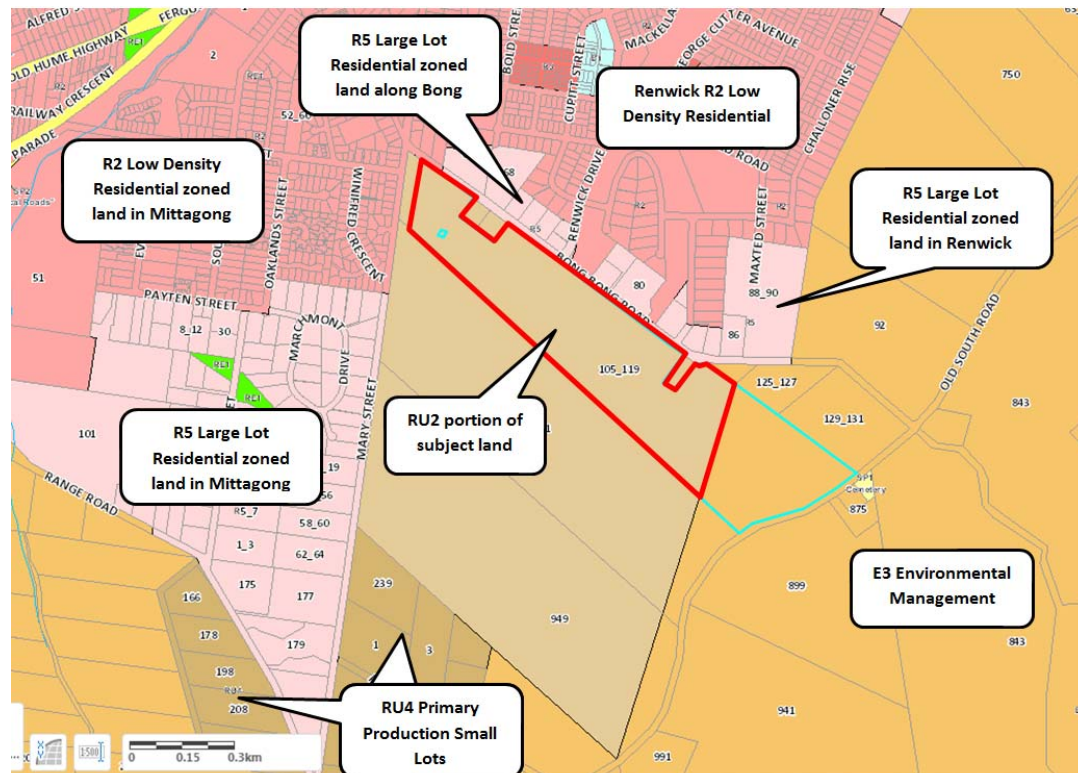


Figure 5 Zoning Context (enlarged at Attachment 6)



Figure 6 Lot Size Context (enlarged at Attachment 7)

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.

A number of heritage listed properties are located along the northern side of Bong Bong Road opposite 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.

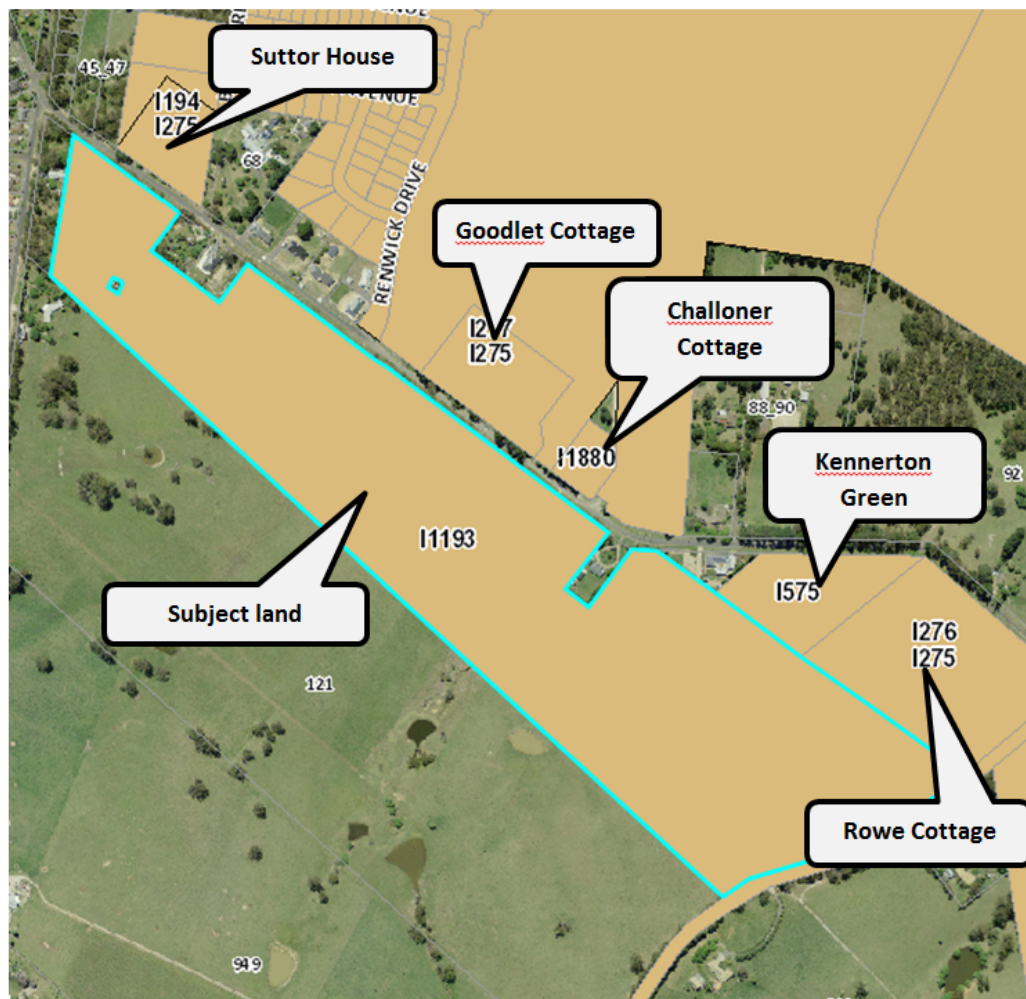


Figure 7 Items of Heritage (enlarged at Attachment 8)

Environment

An Ecological Constraints Assessment has been prepared for that portion of the subject land proposed for rezoning and accompanied the Planning Proposal (included with Attachment

5). A 'validated vegetation map' was included in that Assessment and a detail from that map has been overlayed with the boundary of the potential residential area, at **Figure 8** below. The reference in the index to HBTs means 'hollow bearing trees', of importance to the support of various wildlife including mammals, birds and reptiles.

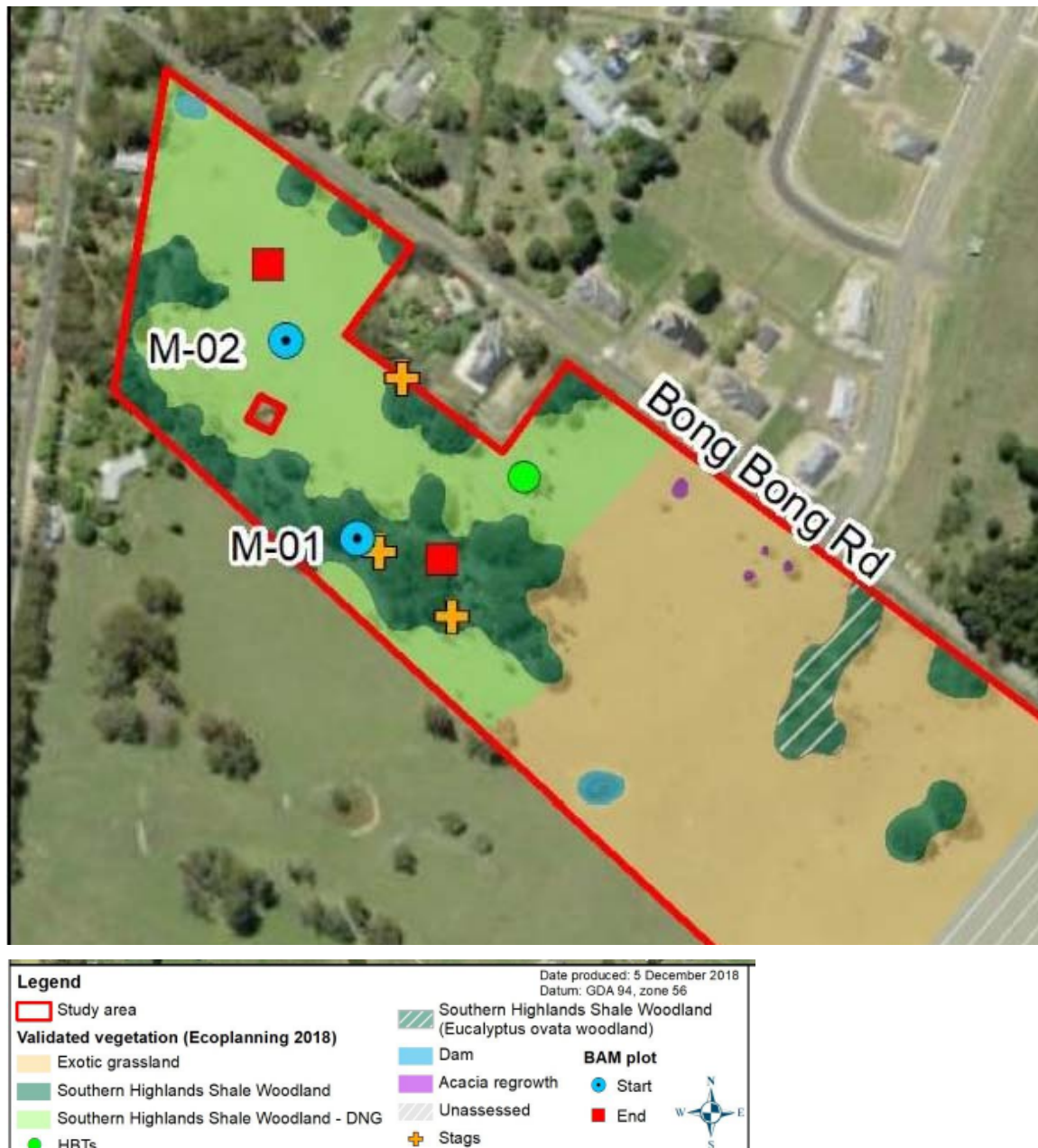


Figure 8 Extract from Ecological Constraints assessment Map (enlarged at Attachment 9)

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.

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It is noted that three 'condition classes' of Southern Highlands Shale Woodland (SHSW) were found on the site within, or in the vicinity of, the proposed residential area (as indicated on Figure 11 above):

- (1) SHSW 'modified',
- (2) SHSW – DNG ('derived native grassland'), and
- (3) SHSW – *Eucalyptus ovata* woodland.

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*.

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.

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 9** below.

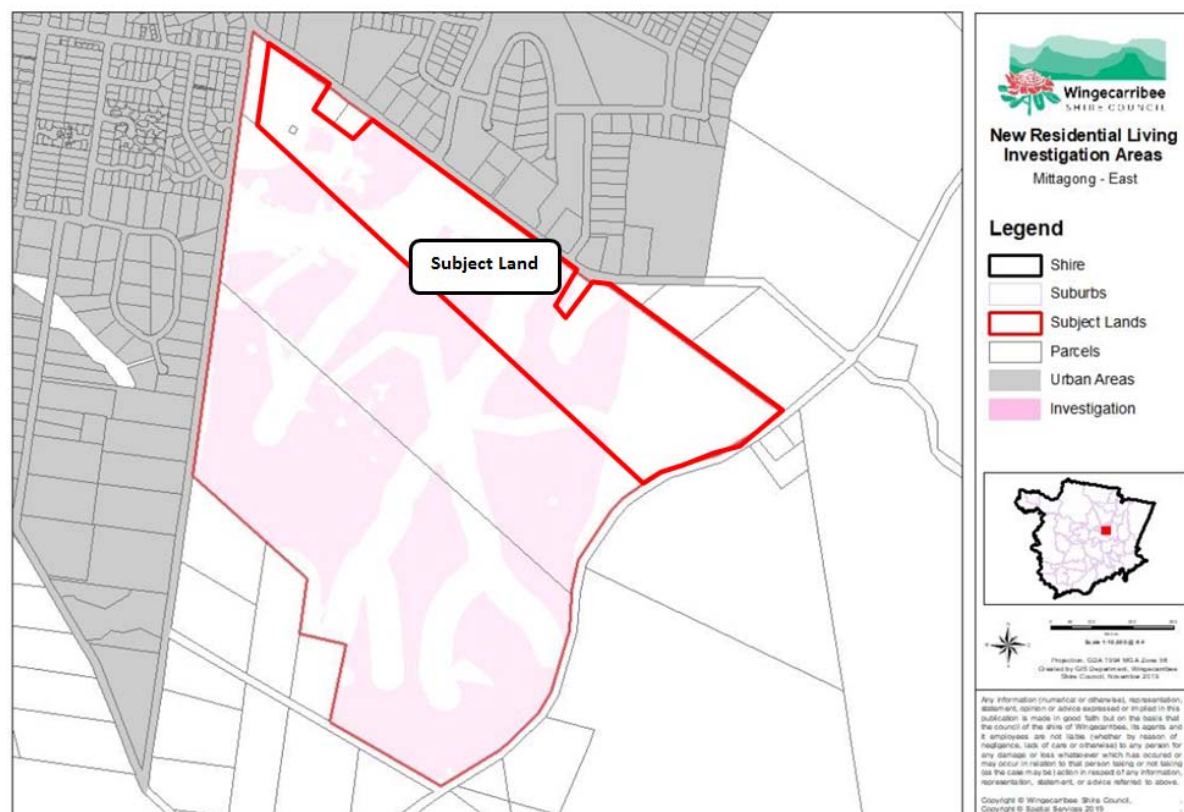


Figure 9 Mittagong East Investigation Area from LHS (enlarged at Attachment 10)

The LHS analysis (mapped at **Figure 10** 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 Local Housing Strategy 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 11** below, and it is noted that the ‘pink’ areas are not limited to the subject land, nor do they cover all of it.

In conclusion, the Local Housing Strategy recommended 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.*

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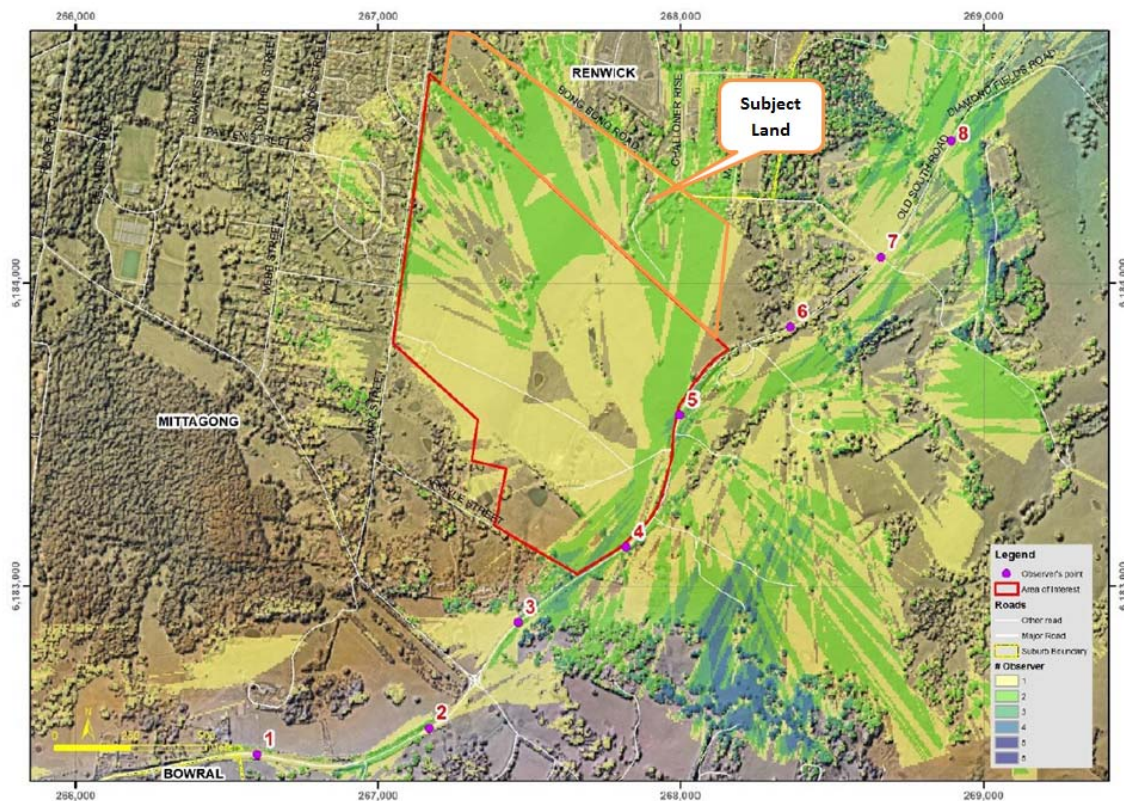


Figure 10 Mittagong East Investigation Area constraints analysis from LHS (enlarged at Attachment 11)

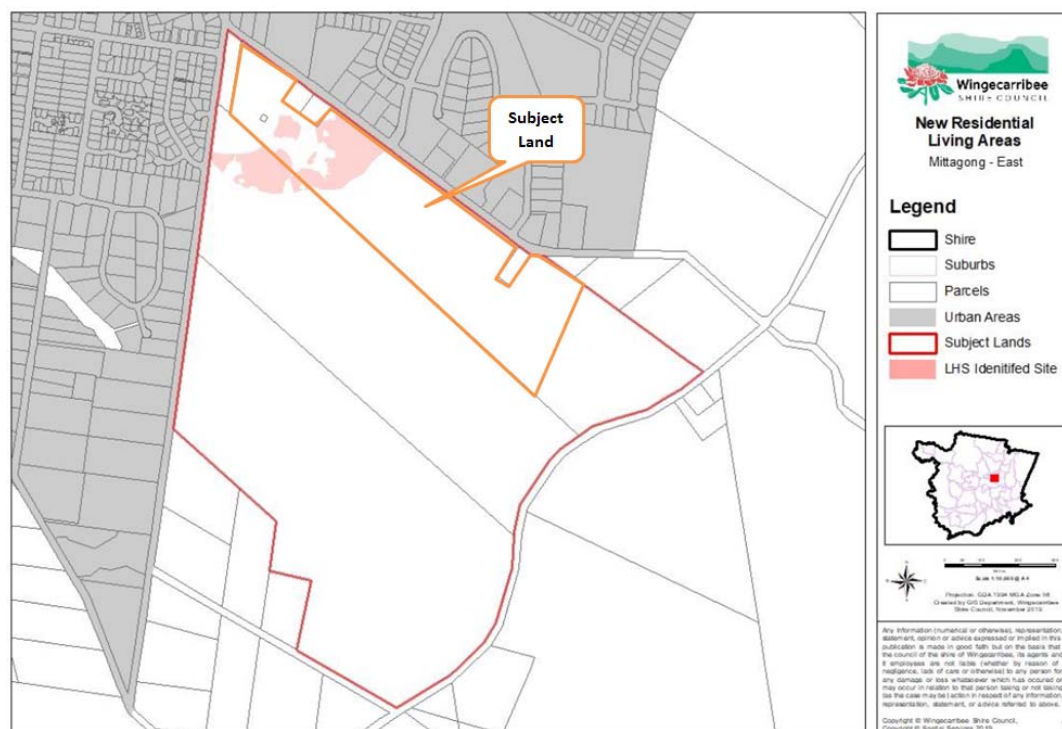


Figure 11 Adopted Mittagong East 'New Residential Living Area' from LHS (enlarged at Attachment 12)

Zoning & Minimum Lot Size Potential

The Planning Proposal recommends rezoning part of the subject land to R2 Low Density Residential.

It is noted that, under the provisions of WLEP 2010, the R2 Low Density Residential zone has the potential to also contain an attached or detached dual occupancy development, or a secondary dwelling up to 1/3 the size of the principal dwelling, and it is Council's experience that these options are increasingly being sought through DA consents.

While such an increase in residential density may not be so significant within an established urban area, to create such opportunities within a green-field site requires very careful consideration. Progression of the development of the subject area, or any area within the Local Housing Strategy, still requires consideration of the most appropriate level of residential development for the site, given location and identified constraints.

An R5 Large Lot Residential zone still permits, with consent, an attached dual occupancy, although not a detached one, and still permits, with consent, a secondary dwelling although only to a maximum area of 60m², thereby minimising the impact on the existing rural-residential & heritage landscape.

Under WLEP 2010, the most appropriate minimum lot size for the R5 Large Lot Residential zone is deemed to be 4000m². This scale of development would still enable residential development while better maintaining the context of the locality.

Furthermore, a lower density of development would also assist in achieving the recommendation of the Ecological Constraints Assessment Report that "future development of the site should avoid areas of high ecological constraint, minimise impact to areas of moderate constraint, and concentrate future development in low and unconstrained areas".

Infrastructure implications - Bong Bong Road

The Local Housing Strategy identified infrastructure constraints, particularly with regard to the road network and potential traffic implications associated with this potential residential area. These have been considered further in the assessment of the Planning Proposal.

Preliminary comments from Council's Assets team indicates that the smaller 1000m² lots in particular could impact significantly on traffic safety and road design. Of particular concern are:

- Achieving safe sight lines due to the crest of the road.
- Safe ingress and egress to lots fronting Bong Bong Road.
- Demand for additional on-street parking created by smaller lots.
- Potential impact on the shared path between Renwick and Mittagong (as indicated in **Figure 12** below) which has just been constructed and, if impacted by the development, would need to be reconstructed.
- The proposed smaller lots facing Bong Bong Rd would most likely require pavement widening and kerb and gutter construction (and associated piped drainage) to collector road standard, creating the need to construct kerb and gutter along the southern side of Bong Bong Road. If the lots were 4000m², the rural cross section of Bong Bong Road could be maintained.



Figure 12 Location of shared pathway (enlarged at Attachment 13)

It is noted there were further concerns with the specific design of the subdivision, but they would be addressed in any future subdivision plan lodged at DA stage should the Planning Proposal proceed.

Recommendation

In view of the above assessment, it is recommended that the proposed residential area of the subject land not be supported for rezoning to R2 Low Density Residential, but that instead it be supported for rezoning to R5 Large Lot Residential with a minimum lot size of 4000m².

It is also recommended that all necessary studies identified as required within the Local Housing Strategy be prepared to Council's satisfaction prior to a Planning Proposal being submitted to the Department of Planning, Industry & Environment for a Gateway Determination. It is further recommended that a draft Precinct Plan be prepared for inclusion into the Mittagong Township Development Control Plan and exhibited with the Planning Proposal should it receive a Gateway Determination. This Precinct Plan would provide an indicative draft Plan of Subdivision and specific controls as requested by Council.

IMPACT ON COUNCIL'S FIT FOR THE FUTURE IMPROVEMENT PLAN

There are no implications for Council's Fit for the Future Improvement Plan resulting from this report.

COMMUNICATION AND CONSULTATION

Community Engagement

If the recommendation is supported by Council community consultation would occur in accordance with any Gateway requirements.

Internal Communication and Consultation

Consultation with heritage staff and roads and traffic staff was undertaken as part of the strategic assessment of the proposal.

External Communication and Consultation

If the recommendation is supported by Council the Planning Proposal would be externally referred to relevant agencies for comment as required by the Gateway Determination prior to community consultation.

SUSTAINABILITY ASSESSMENT

- **Environment**

If the recommendation is supported, potential environmental impacts from residential development would be addressed at the Development Application as recommended in the Ecological Constraints Assessment Report which accompanied the Planning Proposal.

- **Social**

There are no social issues in relation to this report.

- **Broader Economic Implications**

There are no broader economic implications in relation to this report.

- **Culture**

If the recommendation to the report is supported any future development application for subdivision and residential development should include a Heritage Impact Statement to address the fact that the subject land is an Item of Heritage and certain residential development would be in the vicinity of adjoining Items of Heritage.

Governance

The Planning Proposal has been considered in accordance with guidelines provided by the Department of Planning.

COUNCIL BUDGET IMPLICATIONS

There are no budget implications associated with this report.

RELATED COUNCIL POLICY

There are no other Council related policies.

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OPTIONS

The options available to Council are:

Option 1

That Council support the recommendation as follows:

1. THAT the Planning Proposal to rezone part of Lot 115 DP 1067955, 105-119 Bong Bong Road, Mittagong from RU2 Rural Landscape to R2 Low Density Residential NOT BE SUPPORTED.
2. 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.
3. THAT a draft Precinct Plan for the subject land for inclusion in the Mittagong Township Development Control Plan be prepared and exhibited with the Planning Proposal should it receive a Gateway Determination.

Option 2

Council not support the recommendation to this report.

Option 1 is the recommended option to this report.

CONCLUSION

The Planning Proposal has been assessed and a recommendation made based on the content and intended outcome of the Planning Proposal within the context of the adopted Local Housing Strategy and other strategic assessment criteria. The report continues to support Council's position that only a portion of the site is appropriate for development, a position reinforced by the outcome of the Local Housing Strategy.

ATTACHMENTS

1. Location & Zoning under WLEP 2010 for subject land - *circulated under separate cover*
2. Location of Council owned water reservoir and easment - *circulated under separate cover*
3. Original extent of potential residential development supported by Council during drafting of WLEP 2010 - *circulated under separate cover*

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4. Extent of potential residential area over the subject land identified in 2018 - *circulated under separate cover*
5. Planning Proposal & Related Documentation - *circulated under separate cover*
6. Zoning Context - *circulated under separate cover*
7. Lot Size Context - *circulated under separate cover*
8. Items of Heritage - *circulated under separate cover*
9. Extract from Ecological Constraints Assessment Map - *circulated under separate cover*
10. Mittagong East Investigation Area from LHS - *circulated under separate cover*
11. Mittagong East Investigation Area constraints analysis from LHS - *circulated under separate cover*
12. Adopted Mittagong East 'New Residential Living Area' from LHS - *circulated under separate cover*
13. Location of shared pathway - *circulated under separate cover*