

## Planning and Assessment

IRF19/6873

### Gateway determination report

<b>LGA</b>	Wingecarribee
<b>PPA</b>	Wingecarribee Shire Council
<b>NAME</b>	Retford Park reclassification (0 homes, 0 jobs)
<b>NUMBER</b>	PP_2019_WINGE_006_00
<b>LEP TO BE AMENDED</b>	Wingecarribee Local Environmental Plan 2010
<b>ADDRESS</b>	Rowland Road, Bowral
<b>DESCRIPTION</b>	Lot 38 DP 882935
<b>RECEIVED</b>	27 November 2019 (v 4.0)
<b>FILE NO.</b>	IRF19/6873
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required.
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal.

## 1. INTRODUCTION

### 1.1 Description of planning proposal

The planning proposal seeks amend the Wingecarribee Local Environmental Plan 2010 (Wingecarribee LEP) to reclassify land off Rowland Road, Bowral from Community Land to Operational Land to enable an access road to the proposed location of the Southern Highlands Regional Art Gallery (SHRAG).

The land (Lot 38 DP 882935) would remain zoned RE1 Public Recreation and is affected by the following interests:

*“Easement for services 10 wide affecting the part(s) shown so burdened in the title diagram”*

*“Right of access 10 wide affecting the part(s) shown so burdened in the title diagram”*

It is not proposed to discharge any interests from the land as they would not be impacted by the proposed road.

The land is identified as a ‘public reserve’ on the Certificate of Title. Council proposes to remove the public reserve status of the land (as it relates to proposed road) and Governor’s approval is therefore required to finalise the proposal.

### 1.3 Site description

The subject site is located approximately 3.4km south-east of the Bowral Town Centre in the Wingecarribee local government area (LGA).

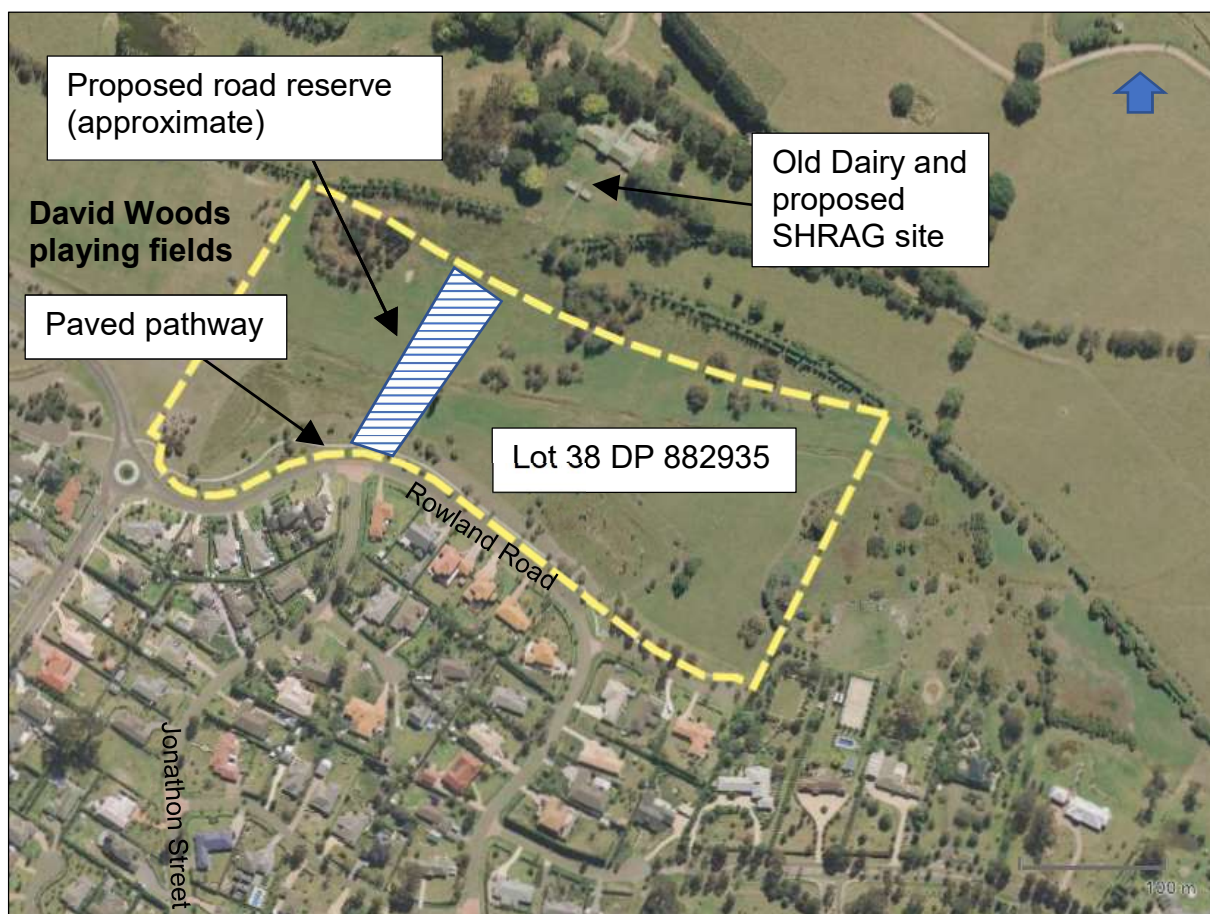
The subject site is located off Rowland Road, Bowral and forms a continuation of Jonathon Street, Bowral heading north (Figure 1).

The land forms part of an area of extended unstructured public open space between the East Bowral residential area to the south and the “Retford Park Estate” house, grounds and outbuildings (a locally listed heritage item) to the north.

The site is currently used for passive recreation (i.e. walking) and is legally described as part Lot 38 DP 882935 (Figure 2). A paved concrete walkway is located along the southern edge of the lot providing formal pedestrian access. A Category 2 watercourse/creek runs through the site from east to west.

The land is owned by Council and is classified as Community Land under section 25 of the *Local Government Act 1993*.

Council has advised the land was dedicated to it as part of the formation of the East Bowral Residential area. The land was acquired and registered as a ‘public reserve’ on 3 February 1999 on Deposited Plan No. 882935 and the accompanying Certificate of Title.



**Figure 1:** Site plan

## 1.2 Background

At its meeting of 19 September 2019, Wingecarribee Shire Council (Council) resolved to provide in-principle support for the construction of the SHRAG in the Old Dairy on the Retford Park Estate. The Retford Park Estate is an item of local heritage significance listed in Schedule 5 of the Wingecarribee LEP.

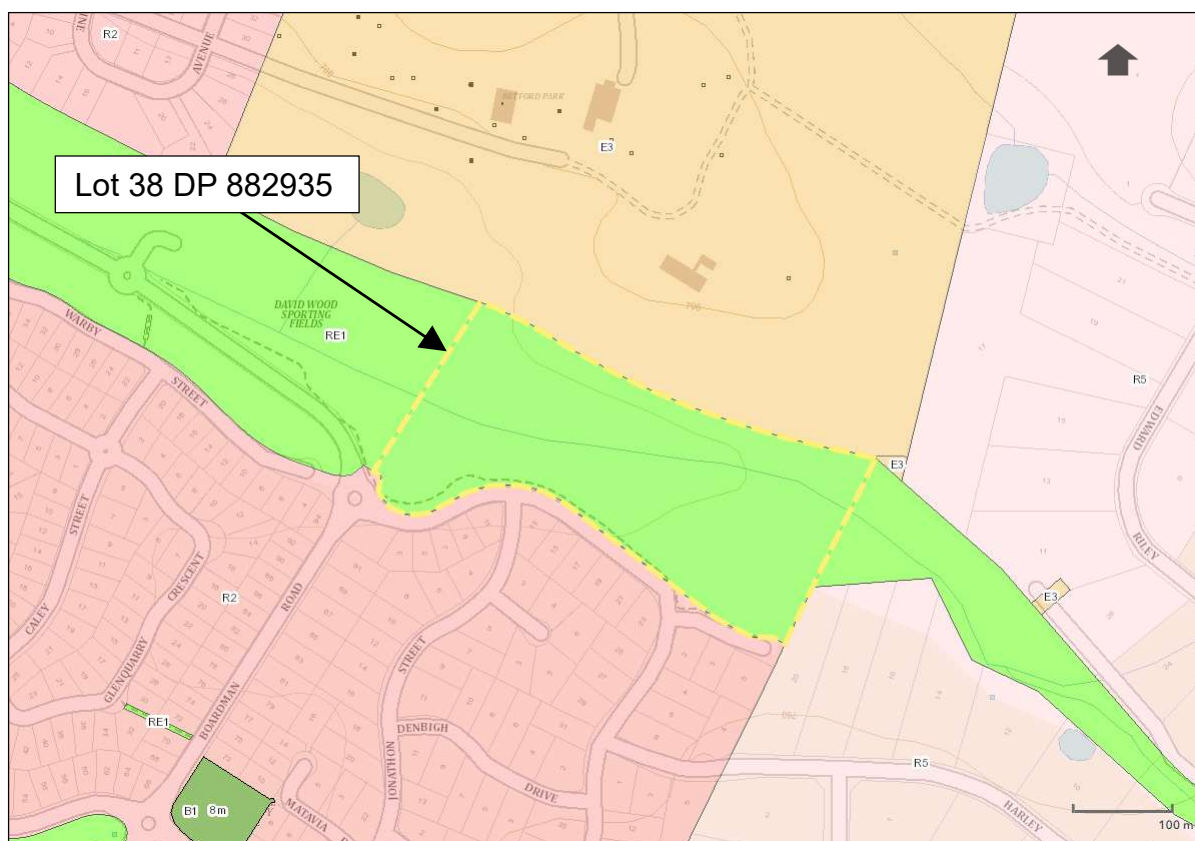
In order to provide vehicular access to the SHRAG, a public road is required off Rowland Road, Bowral, as a continuation of Jonathon Street, Bowral heading north (Figure 1 and Figure 2).

A development application (DA 20/0273) was approved by Council on 1 October 2019 to subdivide Lot 38 DP 882935 into three new lots and create the new public road reserve (see Lot 3 in Figure 2).



The site is zoned RE1 Public Recreation under the Wingecarribee LEP and no change is proposed to the existing zoning (Figure 3).

The proposed road would be used to access the Retford Park Estate (including the Old Dairy site) which is an item of local heritage significance listed in Schedule 5 of the Wingecarribee LEP.



**Figure 3: Zoning plan**

## 1.5 Surrounding area

The site is surrounded by:

- David Woods playing fields to the east (zoned RE1);
- Retford Park Estate and the Old Dairy site to the north (zoned E3 Environmental Management);
- public recreation land to the west (zoned RE1); and
- Rowland Road and residential areas of Bowral to the south (zoned R2 Low Density Residential).

## 1.6 Summary of recommendation

It is recommended that the planning proposal proceed (subject to conditions) because the proposed use of the land is as a public road to provide vehicular access to the proposed location of the SHRAG (a new public cultural institution) at significant benefit to the community.

## 2. PROPOSAL

### 2.1 Objectives or intended outcomes

The intended outcome is clearly described in Part 1 of the planning proposal.

The proposal seeks to reclassify land (identified as Lot 3 in Figure 2) off Rowland Road, Bowral from Community Land to Operational Land to facilitate public road access to the proposed location of the SHRAG.



The remaining portions of Lot 38 (identified as Lot 2 and Lot 3 in Figure 2) will remain as Community Land and all three lots will remain zoned RE1.

It is not proposed to discharge any interests from the land.

Council proposes to remove the public reserve status of Lot 3 (the proposed reserve) and Governor's approval is therefore required to finalise the proposal. The remaining portions of Lot 38 (identified as Lot 2 and Lot 3 in Figure 2) would retain their public reserve status.

## **2.2 Explanation of provisions**

To achieve the intended outcome of the planning proposal, the following amendments to the Wingecarribee LEP are required:

- insert the newly created public road reserve (Lot 3) into Schedule 4 Classification and reclassification of public land, Part 2 Land classified, or reclassified, as operational land—interests changed; and
- amend the relevant Land Reclassification (Part Lots) Map/s.

The Department considers the explanation of provisions to be clear.

## **2.3 Mapping**

The planning proposal will require amendment to the relevant Land Reclassification (Part Lots) Map/s in the Wingecarribee LEP. A Gateway condition has been recommended requiring draft maps to be exhibited with the planning proposal.

## **3. NEED FOR THE PLANNING PROPOSAL**

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The planning proposal arose from Council's resolution of 19 September 2019 to provide in-principle support for the construction of the Southern Highlands Regional Art Gallery (SHRAG) in the Old Dairy on the Retford Park Estate.

The proposal is needed to facilitate public road access to the proposed location of the SHRAG.

A planning proposal of this nature is the only way to achieve the intended outcomes.

## **4. STRATEGIC ASSESSMENT**

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### **4.1 South East and Tablelands Regional Plan**

Key goals, directions and actions of the South East and Tablelands Regional Plan relevant to the planning proposal include:

- Goal 3: Healthy and connected communities;
- Direction 9: Grow Tourism in the region;
- Direction 23: Protect the region's heritage; and
- Action 23.5: Acknowledge cultural heritage assets where appropriate and consider how these assets can add value to a development.

Direction 9 of the regional plan provides narrative around growing tourism in the region by providing a diversity of experiences to attract visitors. The proposal would facilitate public road access to the proposed location of the SHRAG (a new public cultural institution) and likely visitor drawcard to Wingecarribee. The proposal would

also contribute to the broader goal of providing healthy and connected communities through new opportunities to experience public art and related activities.

The proposal would also increase awareness of, and add value to, the Retford Park Estate (and Old Dairy site) which is an item of local heritage significance listed in Schedule 5 of the Wingecarribee LEP.

The Department is therefore satisfied the proposal is consistent with key goals, directions and actions in the regional plan.

## **4.2 Wingecarribee Local Planning Strategy**

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

The LPS provides a similar narrative to the regional plan around the importance of tourism and heritage management in the Wingecarribee local government area.

Noting the findings of section 4.1 of this report, the Department is satisfied the proposal is generally consistent with the overall intent the LPS regarding tourism and heritage.

## **4.3 Section 9.1 Ministerial Directions**

The planning proposal lists applicable section 9.1 Directions and Council does not consider that the proposal is inconsistent with relevant Directions.

Directions of particular relevance are discussed below:

### Direction 4.4 Planning for Bushfire Protection

Land in proximity to the site on the Retford Park Estate is mapped as bushfire prone land. Consultation has not occurred with the NSW Rural Fire Service (NSW RFS) and consistency with Direction 4.4 remains unresolved at this stage. A Gateway condition has therefore been recommended requiring consultation the NSW RFS.

### Direction 5.2 Sydney Drinking Water Catchment

This Direction aims to protect water quality in Sydney's Drinking Water Catchment, including land within the Wingecarribee LGA. This Direction requires consultation with the Sydney Catchment Authority (now Water NSW) prior to Gateway determination.

No significant or adverse water quality impacts are anticipated by providing the proposed access road. Council has committed to consulting with Water NSW prior to public exhibition of the proposal.

It is recommended that Council consult with Water NSW and provide further information demonstrating it has addressed the requirements of this Direction, prior to finalising the planning proposal.

### Direction 6.2 Reserving Land for Public Purposes

The relevant objective of this Direction is to facilitate the provision of public services and facilities by reserving land for public purposes.

The Direction states that a planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the public authority and the Secretary of the Department.

The proposal involves the reclassification of Community Land zoned RE1 Public Recreation to Operational Land to enable public road access to the proposed SHRAG. No rezoning is proposed.

Council has advised the primary use of the land is for passive recreation (i.e. walking) and does not provide any key connection to shops or services. Further, the approved plan of subdivision for DA 20/0273 (Figure 2) indicates the formal pedestrian access (i.e. the concrete walkway) located along the southern edge of the lot would be retained, except for the section where the new road (Lot 3) would be provided.

The proposed use of the land is as a public road to provide vehicular access to the proposed location of the SHRAG (a new public cultural institution) at significant benefit to the community. The proposal would also increase public awareness of, and add value to, the Retford Park Estate (and Old Dairy site) which is an item of local heritage significance.

Given the above, it is recommended that the Secretary's delegate be satisfied that any potential inconsistency with this Direction is of minor significance.

#### **4.4 State environmental planning policies (SEPPs)**

Key relevant SEPPs have been identified and addressed in the planning proposal.

The Department is satisfied the proposed is not inconsistent with applicable SEPPs.

### **5. SITE-SPECIFIC ASSESSMENT**

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#### **5.1 Social and Economic**

The proposed road reserve intersects an area of RE1 zoned land for public recreation. However, Council has advised the primary use of the land is for passive recreation (i.e. walking) and does not provide any key connection to shops or services.

Further, the proposed use of the land is as a public road to provide vehicular access to the proposed location of the SHRAG (a new public cultural institution) and would help increase awareness of, and add value to, the Retford Park Estate (and Old Dairy site) which is an item of local heritage significance.

Council is therefore of the view the proposal would result in positive social and economic impacts to the community.

#### **5.2 Environmental**

Council has advised there are no critical habitats or threatened species, populations or ecological communities located on the subject site.

The development application for the subdivision of the proposed road reserve has been approved by Council. Council has advised there would be no environmental effects resulting from the planning proposal.

In terms of potential traffic impacts, the planning proposal is supported by a Traffic Report which found the new road could accommodate traffic from the proposed SHRAG without unacceptable impacts on the local road network. The Department questioned why existing local roads to the north could not be used to access the SHRAG.

Council has advised the proposed road represents a good access option, being the most direct route to the proposed art gallery minimising traffic impacts on residential areas.

In terms of potential heritage impacts, the new road would be constructed to access the Retford park Estate (and Old Dairy site) which is an item of local heritage significance. Council is of the view the proposal would increase awareness of, and add value to, this item.

The Department is satisfied the proposed road is unlikely to result in adverse heritage impacts and has recommended a Gateway condition requiring consultation with the Department of Premier and Cabinet (Heritage).

### **5.3 Infrastructure**

The proposal would facilitate new public road infrastructure enabling vehicular access to the proposed SHRAG.

## **6. CONSULTATION**

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### **6.1 Community**

Council proposes to exhibit the planning proposal for 28 days, notify the community of the exhibition in local newspapers, notify affected property owners, place the exhibition materials on Council's website and at its Civic Centre in Moss Vale. It is considered that Council's proposed consultation on the planning proposal is appropriate.

### **6.2 Agencies**

Council has proposed to consult the following government agencies on the planning proposal:

- Water NSW;
- NSW Rural Fire Service; and
- Department of Premier and Cabinet (Heritage).

Consultation with these agencies is considered appropriate and a Gateway condition has been recommended accordingly.

## **7. TIME FRAME**

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Council has sought a four-month timeframe to finalise and notify the plan. It is recommended that a 6-month timeframe be granted to provide a buffer should any issues arise through the process, including the need to gain the Governor's approval.

## **8. LOCAL PLAN-MAKING AUTHORITY**

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Council has asked to be issued with plan making delegations for the planning proposal, as the proposal is minor in nature. This request is not able to be supported as it is proposed to remove the public reserve status of land which requires Governor's approval. Proposals requiring Governor's approval may not be delegated to council.



## 9. CONCLUSION

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It is recommended that the planning proposal proceed (subject to conditions) because the proposed use of the land is as a public road to provide vehicular access to the proposed location of the SHRAG (a new public cultural institution) at significant benefit to the community.

## 10. RECOMMENDATION

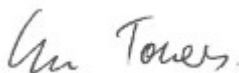
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It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Direction 6.2 Reserving Land for Public Purposes are minor or justified; and
2. note that the consistency with section 9.1 Directions 4.4 Planning for Bushfire Protection and 5.2 Sydney Drinking Water Catchment is unresolved and will require justification.

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

1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. Consultation is required with the following public authorities:
  - Water NSW;
  - NSW Rural Fire Service; and
  - Department of Premier and Cabinet (Heritage).
3. The time frame for completing the LEP is to be 6 months from the date of the Gateway determination.
4. The planning proposal shall be updated prior to public exhibition to include Draft Land Reclassification Maps.



11/12/2019

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12/12/2019

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