

Planning Proposal

**to amend Wingecarribee Local Environmental Plan
2010 with regard to Council owned Public Reserve
Land at Retford Park Bowral and Anembo Street
Moss Vale**

**Version 1 for Gateway Determination
Prepared by Wingecarribee Shire Council**

AUGUST 2021

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Attachments which form part of this Planning Proposal

| | |
|---|---------------------------------------|
| 1 | Report to Council of 14 July 2021 |
| 2 | Resolution of Council of 14 July 2021 |
| 3 | Delegation Request Form |

Address of the Land

| | |
|--------------------------|---|
| Legal Description | (a) Lot 439 DP 1248107 (b) Lot 1266 DP 1248764 |
| Property Address | (a) 33 Sir James Fairfax Circuit, Bowral (b) 19 Anembo Street, Moss Vale |

Wingecarribee Shire

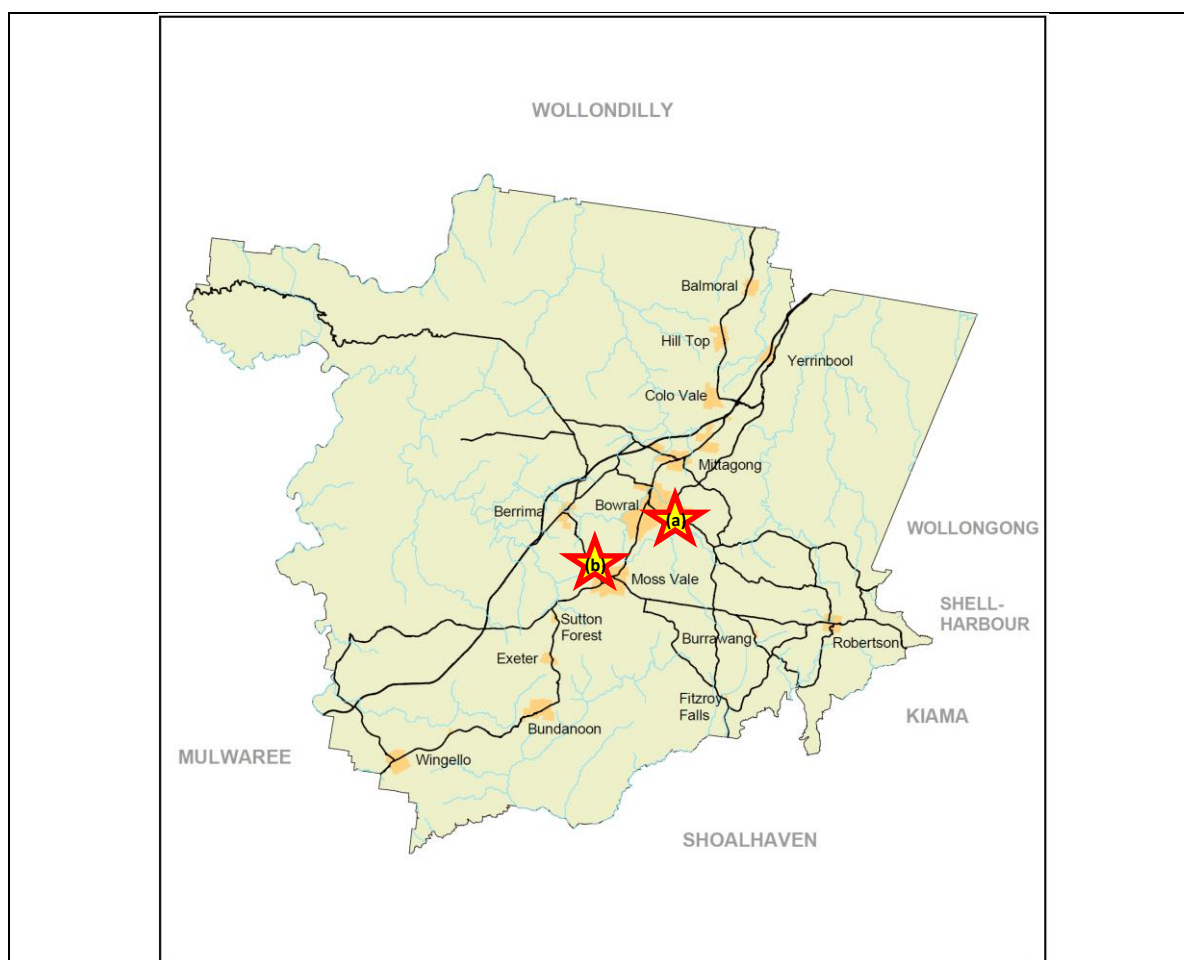


Figure 1 – Site Locations

Site Location & Description

The purpose of the Planning Proposal is to address the rezoning of two areas of Public Reserve created through the Registration of the relevant Plan of Subdivision. Site (a) is situated at Retford Park West Bowral (Lot 439 DP1248107) and Site (b) is situated at Anembo Street Moss Vale (Lot 1266 DP1248764). Each site is addressed in turn.

Site (a) - Retford Park West Bowral (Lot 439 DP1248107)

Amendment 23 to Wingecarribee Local Environmental Plan (WLEP) 2010 was made on 12 September 2014. The amendment rezoned land to either side of the State heritage property 'Retford Park' in Bowral from E3 Environmental Management to R5 Large Lot Residential on the eastern side and R2 Low Density Residential on the western side for the purposes of residential subdivision and development.

The location of Retford Park West is indicated in **Figure 2** below.

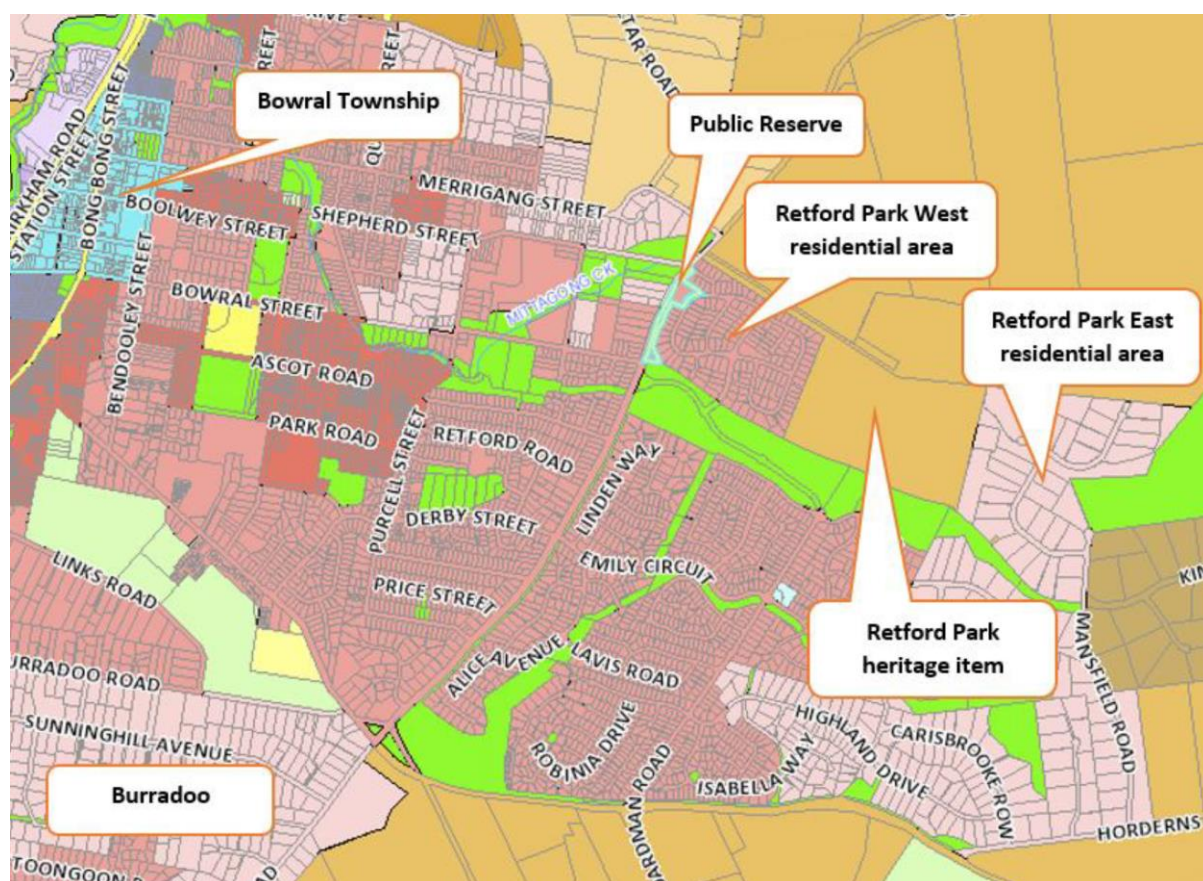
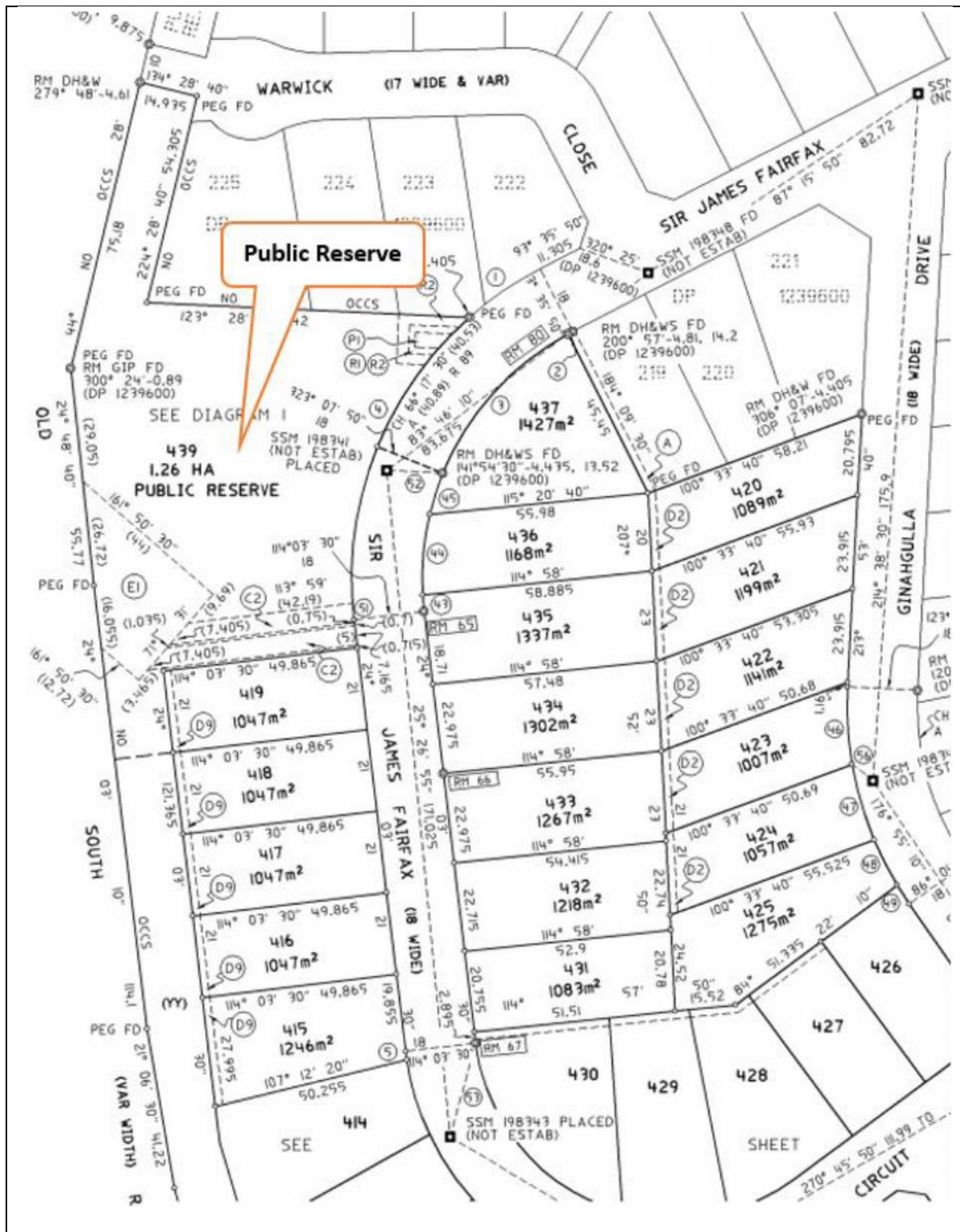


Figure 2 – Location of Retford Park within Bowral Township – Site (a)

The Retford Park West Plan of Subdivision, registered on 16 November 2018 (DP1248107), included a lot (Lot 439) identified as Public Reserve as indicated in **Figure 3** and **Figure 4** below. This Public Reserve is owned by Council.



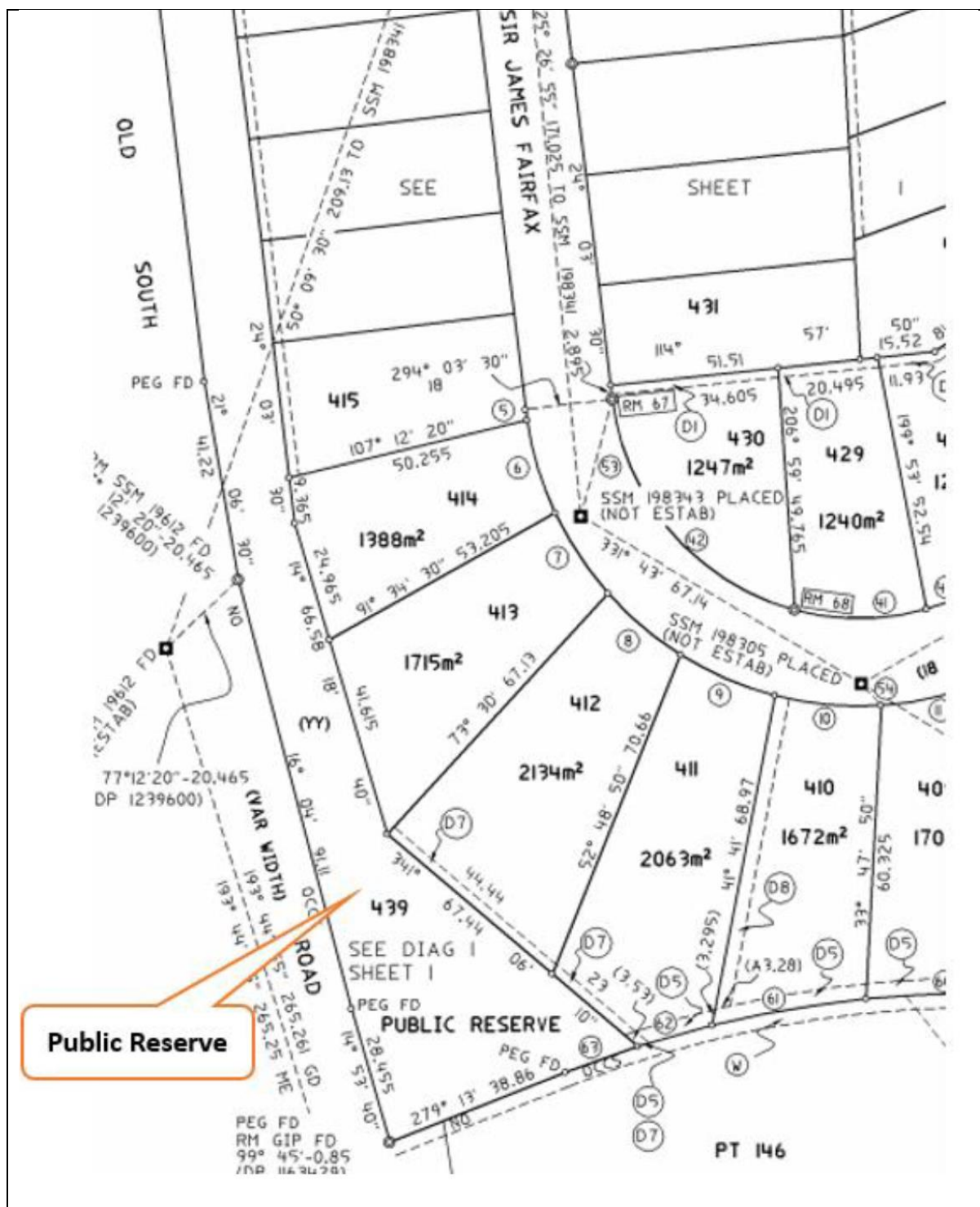


Figure 4 – Location of Public Reserve (southern section) on DP1248107

The subject land remains zoned R2 Low Density Residential with a minimum lot size of 1000m², as indicated in **Figure 5** below. In this context, the purpose of the Planning Proposal, therefore, is to rezone the designated Public Reserve lot (Lot 439 DP 1248107, being 33 Sir James Fairfax Circuit Bowral) to RE1 Public Recreation and remove the 1000m² minimum lot size applied under Amendment 23.

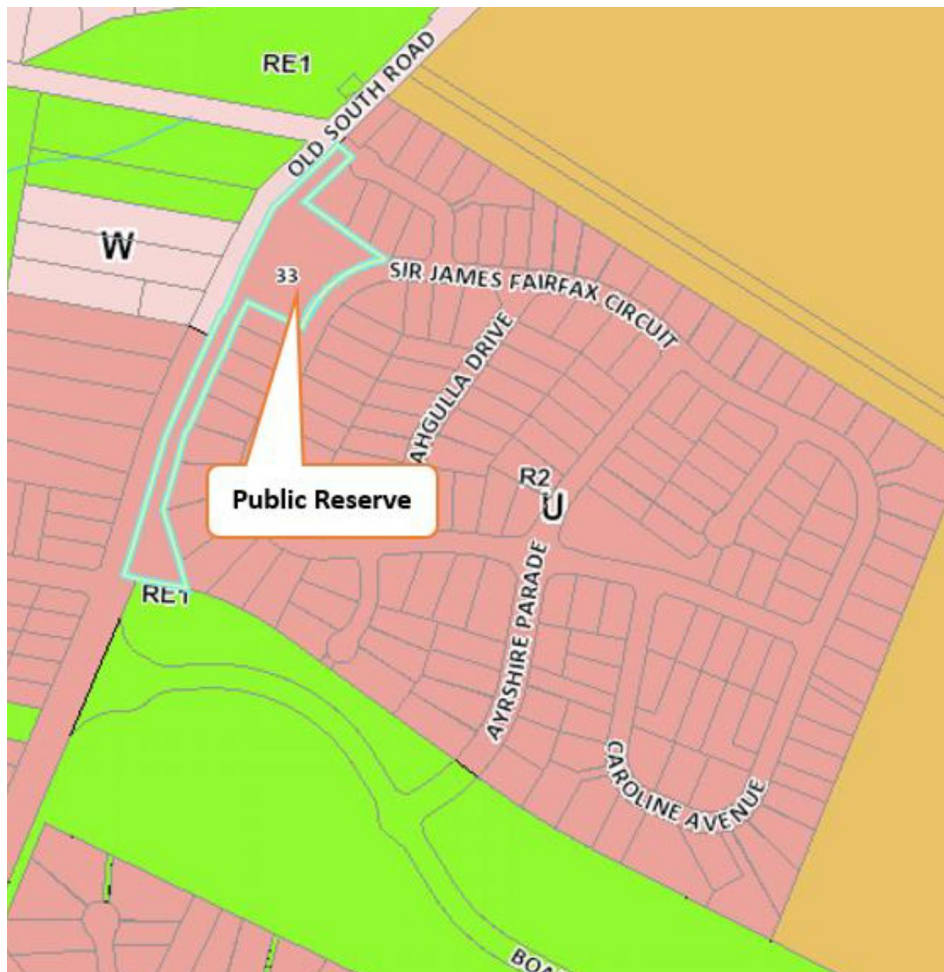


Figure 5 – Zoning of Public Reserve – Site (a)

Site (b) - Anembo Street Moss Vale (Lot 1266 DP1248764)

At its Ordinary Meeting of 12 October 2011 Council resolved to prepare a Planning Proposal to amend Wingecarribee Local Environmental Plan (WLEP) to rezone a portion of Council owned land, Lot 126 DP 263356, Anembo Street, Moss Vale, from RE1 Public Recreation to R2 Low Density Residential and apply a minimum lot size of 700m² consistent with the existing surrounding minimum lot size. The purpose of this amendment to WLEP 2010 was to enable subdivision of Lot 126 to achieve five (5) residential lots with a residual lot to be retained as a Public Reserve and subsequently rezoned back to RE1 Public Recreation. The location of the land is indicated in **Figure 6** below.

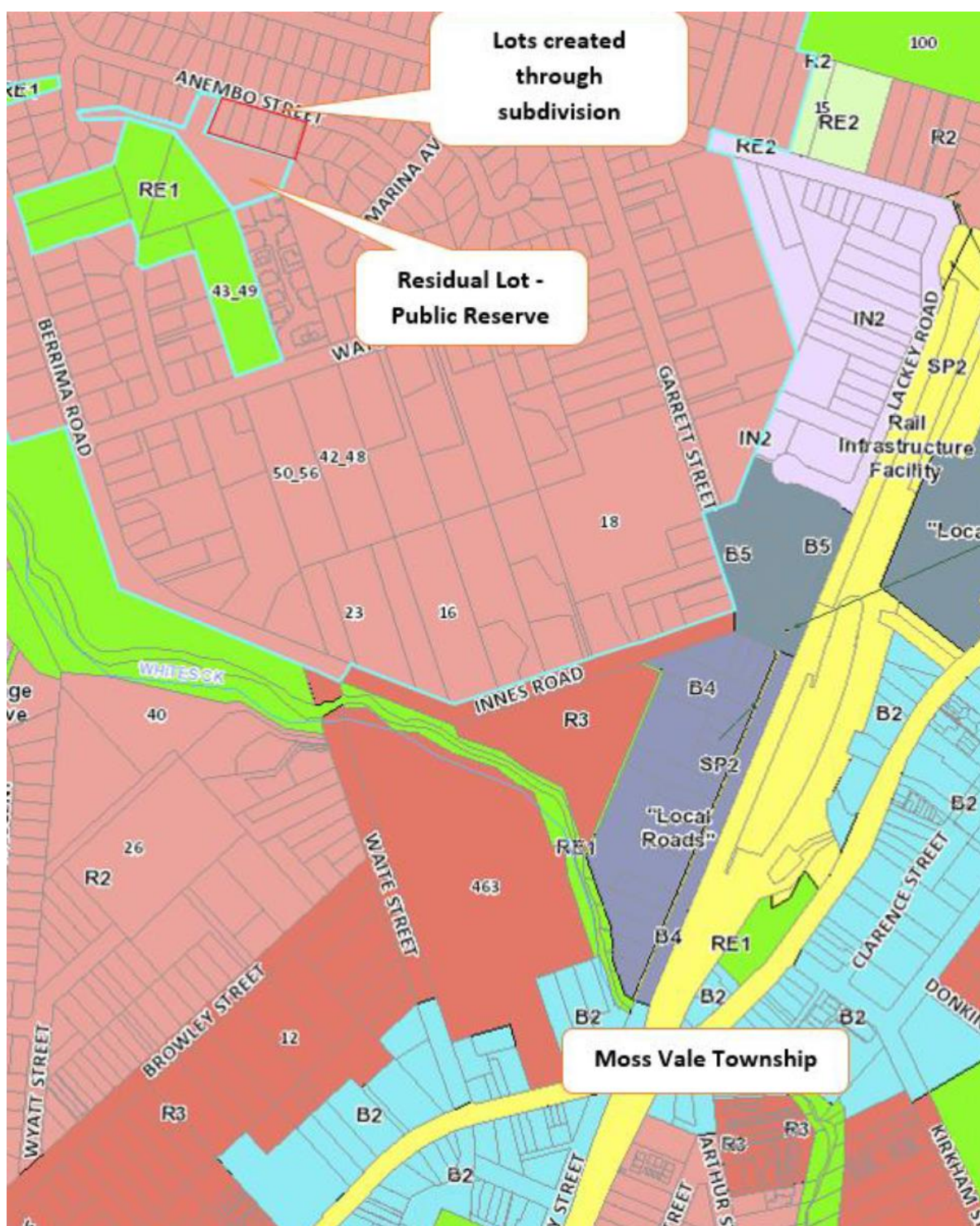
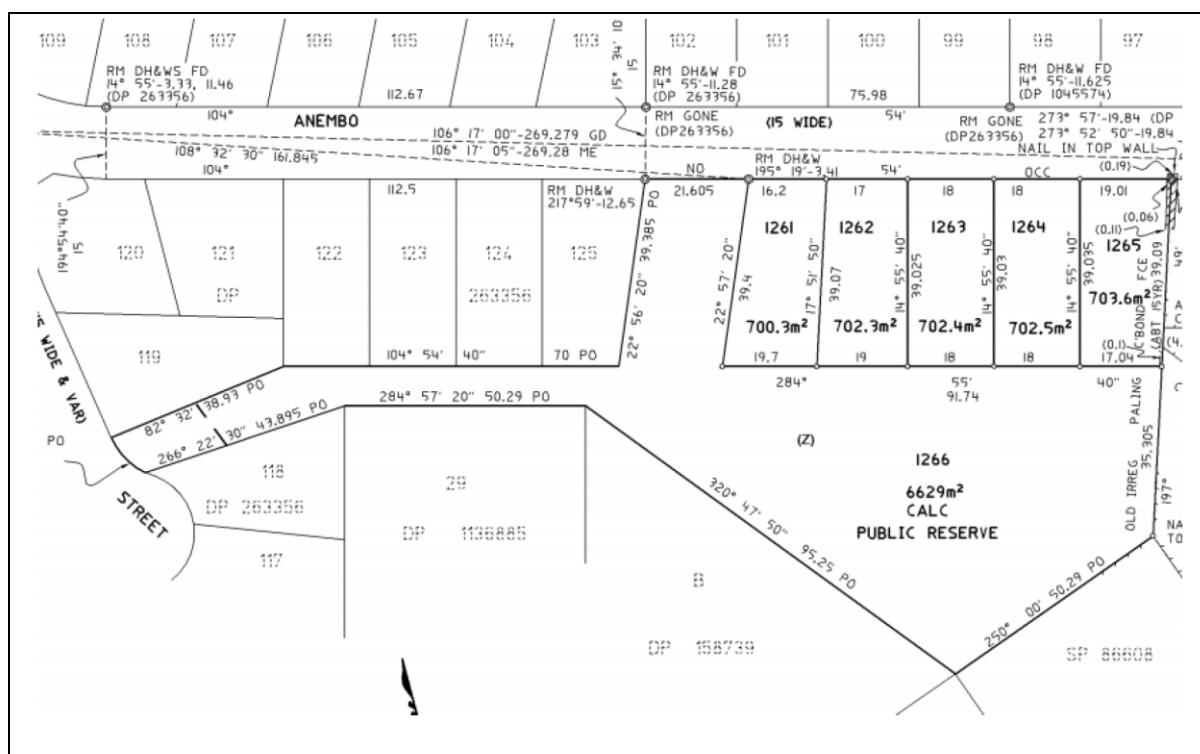


Figure 6 – Location and Zoning of Site (b)

Amendment 36 to Wingecarribee Local Environmental Plan (WLEP) 2010 was made on 22 January 2016, resulting in the proposed map amendments described above and the inclusion of Lot 126 DP 263356 in Schedule 4 Part 2 (Land classified, or reclassified, as Operational land—interests changed) of the WLEP 2010 instrument.

DA16/1290 was subsequently approved by Council staff and a six (6) lot subdivision was registered on 20 December 2018, comprising five (5) residential lots of approximately 700m² each and one (1) residual lot (Lot 1266 DP 1248764) of 6,629m² to be dedicated as Public Reserve. The Registered Plan of Subdivision is contained in **Figure 7** below. The five (5) newly created lots have subsequently been sold and are now in private ownership.



Part 2: Explanation of the Provisions

- To achieve the intended outcomes of the Planning Proposal the following amendments to the WLEP 2010 instrument will be required:
 - a) rezone to RE1 Public Recreation Council owned Public Reserves at Retford Park West Bowral (Lot 439 DP1248107) and Anembo Street Moss Vale (Lot 1266 DP 1248764), and
 - b) remove the current minimum lot size provision of 1000m² for the Council owned Public Reserve at Retford Park West Bowral (Lot 439 DP1248107) and 700m² for the Council owned Public reserve at Anembo Street Moss Vale (Lot 1266 DP 1248764).
- To achieve the intended outcomes of the Planning Proposal the following amendments to WLEP 2010 maps will be required:

Site (a) Amend Land Zoning Map LZN_007D to zone the subject land RE1 Public Recreation, and amend Lot Size Map LSZ_007D to remove the minimum lot size currently applied to the subject land.

Site (b) Amend Land Zoning Map LZN_007J to zone the subject land RE1 Public Recreation, and amend Lot Size Map LSZ_007J to remove the minimum lot size currently applied to the subject land.

Part 3: Justification of Objectives, Outcomes & Process

Section A – Need for the Planning Proposal

1. Is the Planning Proposal a result of any strategic study or report?

The Planning Proposal is not the result of any strategic study or report. It is the result of the need to finalise the intention of identifying the subject sites as public open space as indicated in the relevant Registered Plan of Subdivision through rezoning to RE1 Public Recreation and amending the relevant lot size map to remove current provisions.

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

A Planning Proposal is the only means of achieving both the rezoning and the removal of lot size controls

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 Planning Proposal is acknowledged as being consistent with the South East and Tablelands Regional Plan 2036.

As an overview, the Regional Plan aspires to ensure the realisation of a collaborative and borderless region that is prosperous, diverse, healthy and sustainable. This central vision is thus intended to be realised through four key goals, which are outlined within the Regional Plan. Whereby, the Planning Proposal is recognised as being consistent with two of the principal objectives outlined within the South East and Tablelands Regional Plan:

- Goal 2: Aligns with the direction to ensure the preservation of environmental assets and green networks.
- Goal 3: The third objective seeks the development of healthy and connected communities via the 'design and location of recreation facilities, sporting infrastructure, parks and public buildings' (2017, p.46).

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

The Planning Proposal is recognised as being consistent with the Wingecarribee 2040 Local Strategic Planning Statement (LSPS).

Planning Priority 6.3 - Enhance the liveability of our towns and villages, with facilities and services to support a healthy, culturally rich and socially connected Wingecarribee community.

It is noted that the Planning Proposal aligns with Planning Priority 6.3 in the LSPS, which outlines the importance of enhancing the liveability of the towns and villages throughout the Shire. Whereby, the proposed rezoning of the subject land (Lot 439 DP1248107 & Lot 1266 DP 1248764) to RE1 Public Recreation will support this key objective. This is primarily due to the way in which the identified land will continue to offer the community recreational spaces that promote 'healthy, culturally rich and socially connected' communities (2015, p.62).

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

SEPP (Affordable Rental Housing) SEPP

The aims of this Policy are as follows—

- (a) to provide a consistent planning regime for the provision of affordable rental housing,
- (b) to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards,
- (c) to facilitate the retention and mitigate the loss of existing affordable rental housing,
- (d) to employ a balanced approach between obligations for retaining and mitigating the loss of existing affordable rental housing, and incentives for the development of new affordable rental housing,

- (e) to facilitate an expanded role for not-for-profit-providers of affordable rental housing,
- (f) to support local business centres by providing affordable rental housing for workers close to places of work,
- (g) to facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation.

Assessment – Consistent – This SEPP does not apply to the Planning Proposal.

SEPP (Building Sustainability Index : BASIX) 2004

- (1) Regulations under the Act have established a scheme to encourage sustainable residential development (**the BASIX scheme**) under which:
 - (a) an application for a development consent, complying development certificate or construction certificate in relation to certain kinds of residential development must be accompanied by a list of commitments by the applicant as to the manner in which the development will be carried out, and
 - (b) the carrying out of residential development pursuant to the resulting development consent, complying development certificate or construction certificate will be subject to a condition requiring such commitments to be fulfilled.
- (2) The aim of this Policy is to ensure consistency in the implementation of the BASIX scheme throughout the State.
- (3) This Policy achieves its aim by overriding provisions of other environmental planning instruments and development control plans that would otherwise add to, subtract from or modify any obligations arising under the BASIX scheme.

Assessment – Consistent

The SEPP would apply at any subsequent Development Application stage.

The SEPP does not apply to this Planning Proposal because no further development of the subject land would result.

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 – This SEPP does not apply to the Planning Proposal.

SEPP (Exempt & Complying Development Codes) 2008

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

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

Assessment – Consistent – The Planning Proposal would return the subject land to RE1 Public Recreation, which was the former zone prior to the residential subdivision of the areas. Therefore, it has no impact on this SEPP.

SEPP (Infrastructure) 2007

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

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

Assessment – Consistent – The Planning Proposal addresses the rezoning of two (2) areas of Public Reserve land that were created through the Registration of the relevant Plan of Subdivision. The

provision of adequate infrastructure was determined through a prior assessment of the Plan of Subdivision, therefore, it is considered that this SEPP has been appropriately addressed.

SEPP (Koala Habitat Protection) 2020 & 2021

The SEPP (Koala Habitat Protection) 2020 aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline—

- (a) by requiring the preparation of plans of management before development consent can be granted in relation to areas of core koala habitat, and
- (b) by encouraging the identification of areas of core koala habitat, and
- (c) by encouraging the inclusion of areas of core koala habitat in environment protection zones.

The Policy applies to land within Wingecarribee Shire zoned RU1 Primary Production, RU2 Rural Landscape and RU3 Forestry.

The SEPP (Koala Habitat Protection) 2021 aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline.

‘Koala SEPP 2021’ provides for three different development assessment processes:

1. Development on land to which the Policy and an approved koala plan of management applies (clause 10);
2. Development on land to which the Policy applies, has an area of at least 1 hectare and to which no approved koala plan of management applies (clause 11);
3. Other land to which no approved koala plan of management applies and where the council is satisfied that the land is not core koala habitat (clause 12).

Koala Plans of Management approved under any previous Koala SEPP are taken to be an approved Koala Plan of Management under the Koala SEPP 2021.

Assessment – Consistent – This SEPP does not apply to the Planning Proposal.

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 – This SEPP does not apply to the Planning Proposal.

SEPP No 21 – Caravan Parks

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 – This SEPP does not apply to the Planning Proposal.

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 – This SEPP does not apply to the Planning Proposal.

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 – This SEPP does not apply to the Planning Proposal.

SEPP No 55 - Remediation of Land

The object of this Policy is to provide for a Statewide planning approach to the remediation of contaminated land. 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 – It is not considered that either site is contaminated.

The Anembo Street site was zoned for recreation purposes under both the 1989 and 2010 Wingecarribee Local Environmental Plans and was only zoned R2 to enable some subdivision of residential lots. The purpose of the Planning Proposal is to rezone the residual lot back to RE1. With regard to the Retford Park site, the land was previously used for agricultural purposes but any potential contamination of the land was considered at the subdivision stage.

SEPP No 64 – Advertising & Signage

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 – This SEPP does not apply to the Planning Proposal.

SEPP No 65 – Design Quality of Residential Apartment Development

This Policy aims to improve the design quality of residential apartment development in the State. The 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. Improving the design quality of residential apartment development aims:

- (a) to ensure that it contributes to the sustainable development of New South Wales:
 - (i) by providing sustainable housing in social and environmental terms, and
 - (ii) by being a long-term asset to its neighbourhood, and
 - (iii) by achieving the urban planning policies for its regional and local contexts, and
- (b) to achieve better built form and aesthetics of buildings and of the streetscapes and the public spaces they define, and
- (c) to better satisfy the increasing demand, the changing social and demographic profile of the community, and the needs of the widest range of people from childhood to old age, including those with disabilities, and
- (d) to maximise amenity, safety and security for the benefit of its occupants and the wider community, and
- (e) to minimise the consumption of energy from non-renewable resources, to conserve the environment and to reduce greenhouse gas emissions, and
- (f) to contribute to the provision of a variety of dwelling types to meet population growth, and
- (g) to support housing affordability, and
- (h) to facilitate the timely and efficient assessment of applications for development to which this Policy applies.

The Policy also aims to provide:

- (a) consistency of policy and mechanisms across the State, and
- (b) a framework for local and regional planning to achieve identified outcomes for specific places.

Assessment – Consistent – This SEPP does not apply to the Planning Proposal.

SEPP – Primary Production & Rural Development (2019)

The aims of this Policy are as follows—

- (a) to facilitate the orderly economic use and development of lands for primary production,
- (b) to reduce land use conflict and sterilisation of rural land by balancing primary production, residential development and the protection of native vegetation, biodiversity and water resources,
- (c) to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations,
- (d) to simplify the regulatory process for smaller-scale low risk artificial waterbodies, and routine maintenance of artificial water supply or drainage, in irrigation areas and districts, and for routine and emergency work in irrigation areas and districts,
- (e) to encourage sustainable agriculture, including sustainable aquaculture,
- (f) to require consideration of the effects of all proposed development in the State on oyster aquaculture,
- (g) to identify aquaculture that is to be treated as designated development using a well-defined and concise development assessment regime based on environment risks associated with site and operational factors.

Assessment – Consistent – This SEPP does not apply to the Planning Proposal.

SEPP (State & Regional Development) 2011

The aims of this Policy are as follows—

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

Assessment – Consistent – This SEPP does not apply to the Planning Proposal.

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 - Most of Wingecarribee Shire is within the area covered by the Policy. Should a Gateway Determination be received, referral to WaterNSW would occur as required under this Policy and Ministerial Direction 5.2 (Sydney Drinking Water Catchments). Should the Planning Proposal proceed to public exhibition, the WaterNSW response would be included and this Assessment updated accordingly.

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 – This SEPP does not apply to the Planning Proposal.

SEPP (Vegetation in Non-Rural Areas) 2017

The aims of this Policy are -

- (a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and
- (b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

Assessment – Consistent – The Planning Proposal would see the rezoning of the two (2) Public Reserve sites located at Bowral and Moss Vale back to RE1 Public Recreation, therefore it will have no impact on this SEPP.

6. Is the Planning Proposal consistent with applicable Local Planning Directions (S.9.1(2) of EP&A Act)?

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 – It is not considered that the provisions would adversely impact this Direction.

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 – It is not considered that the provisions would adversely impact this Direction.

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 – It is not considered that the provisions would adversely impact this Direction.

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: 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 – It is not considered that the provisions would adversely impact this Direction.

2. Environment & Heritage

2.1 Environmental Protection Zones

The objective of this Direction is to protect and conserve environmentally sensitive areas. This Direction requires that:

- a) A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas, and
- b) 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 – It is not considered that the provisions would adversely impact this Direction.

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. Under this Direction 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 – Both Public Reserves at Retford Park West Bowral (Lot 439 DP1248107) and Anembo Street Moss Vale (Lot 1266 DP1248764) are not identified as being situated within a Heritage Conservation Area, nor are they recognised as a listed item of heritage within Schedule 5 of the WLEP 2010.

It should be noted that Retford Park West Bowral (Lot 439 DP1248107) is located in close proximity to the State heritage property 'Retford Park' and Old South Road, which is a listed heritage item. However, it is considered that the provisions of the Planning Proposal will not adversely impact this Direction.

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. Under this Direction a planning proposal must not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the Recreation Vehicles Act 1983):

- (a) where the land is within an environmental protection zone,
- (b) where the land comprises a beach or a dune adjacent to or adjoining a beach,
- (c) where the land is not within an area or zone referred to in paragraphs (4)(a) or (4)(b) unless the relevant planning authority has taken into consideration:
 - (i) the provisions of the guidelines entitled *Guidelines for Selection, Establishment and Maintenance of Recreation Vehicle Areas, Soil Conservation Service of New South Wales, September, 1985*, and
 - (ii) the provisions of the guidelines entitled *Recreation Vehicles Act, 1983, Guidelines for Selection, Design, and Operation of Recreation Vehicle Areas, State Pollution Control Commission, September 1985*.

Assessment – Consistent – It is not considered that the provisions would adversely impact this Direction.

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. This direction applies to:

- (a) land that is within an investigation area within the meaning of the *Contaminated Land Management Act 1997*,
- (b) land on which development for a purpose referred to in Table 1 (refer to Direction itself) to the contaminated land planning guidelines is being, or is known to have been, carried out,
- (c) the extent to which it is proposed to carry out development on it for residential, educational, recreational or childcare purposes, or for the purposes of a hospital – land:
 - (i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and
 - (ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).

Assessment – Consistent – It is not considered that either site is contaminated.

The Anembo Street site was zoned for recreation purposes under both the 1989 and 2010 Wingecarribee Local Environmental Plans and was only zoned R2 to enable some subdivision of residential lots. The purpose of the Planning Proposal is to rezone the residual lot back to RE1. With regard to the Retford Park site, the land was previously used for agricultural purposes but any potential contamination of the land was considered at the subdivision stage.

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 Planning Proposal would see the rezoning of the two (2) Public Reserve sites located at Bowral and Moss Vale back to RE1 Public Recreation and the removal of the current minimum lot size. Therefore, it is considered that the provisions of the Planning Proposal will not adversely impact this Direction.

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 – It is not considered that the provisions would adversely impact this Direction.

3.3 Home Occupations – Revoked 9 November 2020

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 – It is not considered that the provisions would adversely impact this Direction.

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 – It is not considered that the provisions would adversely impact this Direction.

3.6 Shooting Ranges

This Direction applies when a relevant planning authority prepares a planning proposal that will affect, create, alter or remove a zone or a provision relating to land adjacent to and/ or adjoining an existing shooting range. 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 – It is not considered that the provisions would adversely impact this Direction.

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:

- 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 – It is not considered that the provisions would adversely impact this Direction.

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 – Both Public Reserves at Retford Park West Bowral (Lot 439 DP1248107) and Anembo Street Moss Vale (Lot 1266 DP1248764) are not identified as being located between the flood planning area or within a probable maximum flood zone.

4.4 Planning for Bushfire Protection

This Direction applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land. 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 - Anembo Street Moss Vale Public Reserve (Lot 1266 DP1248764): Is not recognised as being located in bushfire prone land. Retford Park West Bowral Public Reserve (Lot 439 DP1248107): The site is partially constrained by bushfire prone land.

NB: Referral to NSW Rural Fire Service would occur in accordance with any such Gateway Determination and this assessment will be updated to reflect RFS response prior to exhibition.

5. Regional Planning

5.1 Implementation of Regional Strategies – Revoked 17 October 2017

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. A planning proposal must be prepared in accordance with the general principle that water quality within the Sydney drinking water catchment must be protected.

Assessment – Consistent – The proposed change of zone and minimum lot size would not impact upon the requirements of the State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011. Referral to WaterNSW would occur in accordance with any Gateway Determination.

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 – It is not considered that the provisions would adversely impact this Direction.

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 is seeking to rezone two (2) Public Reserves situated at Anembo Street Moss Vale Public Reserve (Lot 1266 DP1248764) and Retford Park West Bowral Public Reserve (Lot 439 DP1248107) to RE1 Public Recreation and to remove the current minimum lot size provisions. Therefore, the Planning Proposal is identified as being consistent with the Direction.

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 would see the rezoning of the two (2) Public Reserve sites located at Bowral and Moss Vale back to RE1 Public Recreation and the removal of the current minimum lot size. Therefore, it is considered that the provisions of the Planning Proposal will not adversely impact this Direction.

6.3 Site Specific Provisions

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

Assessment – Consistent – The Planning Proposal would see the rezoning of the two (2) Public Reserve sites located at Bowral and Moss Vale back to RE1 Public Recreation and the removal of the current minimum lot size. Therefore, it is considered that the provisions of the Planning Proposal are consistent with the Direction.

7. Metropolitan Planning

7.1 -7.10

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

Section C – Environmental, Social & Economic Impacts

6. 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?

As both sites were formally identified as Public Reserve land and later rezoned to R2 Low Density Residential for the purpose of subdivision, it is unlikely that the rezoning of both sites at Bowral (Lot 439 DP 1248107) and Moss Vale (Lot 1266 DP 1248764) to RE1 Public Recreation and the removal of current minimum lot provisions will significantly impact upon critical habitat or threatened species, populations or ecological communities.

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

Former amendments to the WLEP 2010 were introduced in order to enable the residential subdivision of two (2) sites located at Bowral and Moss Vale. Moreover, in both instances the subdivision in turn retained a lot for the purpose of Public Reserve land, therefore, the Planning Proposal is seeking to rezone 33 Sir James Fairfax Circuit Bowral (Lot 439 DP 1248107) and 19 Anembo Street Moss Vale (Lot 1266 DP 1248764) to RE1 Public Recreation and additionally remove the current minimum lot size provisions. Whereby, it is believed that there are likely no adverse environmental effects that may arise as a result of the Planning Proposal.

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

The Planning Proposal has adequately addressed the social and/or economic effects surrounding the rezoning of the subject land to RE1 Public Recreation and the removal of the current minimum lot size provisions. Whereby, it is considered that the Planning Proposal will have a positive social and/or economic impact that is supportive of regional and local strategic planning goals. This is primarily due to the way in which the rezoning of the subject land (Lot 439 DP1248107 & Lot 1266 DP 1248764) will contribute to the character and overall liveability of the context, as the identified land will continue to offer the community public recreational spaces.

Section D – State and Commonwealth Interests

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

The Planning Proposal addresses the rezoning of two (2) areas of Public Reserve land that was created through the Registration of the relevant Plan of Subdivision. On its own the Planning Proposal would not generate any public infrastructure impacts, however, if additional infrastructure analysis was considered necessary then this could be a condition of a Gateway approval, to be carried out prior to any formal change to the WLEP 2010.

Part 4: Mapping

The following WLEP 2010 maps are required to be amended as indicated below.

| Location | Maps to be Amended | Detail of Amendment |
|--|----------------------------|---|
| 33 Sir James Fairfax Circuit Bowral (Lot 439 DP 1248107) | Land Zoning Map – LZN_007J | Rezone to RE1 Public Recreation Council owned Public Reserves. |
| | Lot Size Map – LSZ_007J | Remove the current minimum lot size provision of 1000m ² for the Council owned Public Reserve. |
| 19 Anembo Street Moss Vale (Lot 1266 DP 1248764) | Land Zoning Map – LZN_007D | Rezone to RE1 Public Recreation Council owned Public Reserves. |
| | Lot Size Map – LSZ_007D | Remove the current minimum lot size provision of 700m ² for the Council owned Public Reserve. |

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.

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

Part 6: Timeline

| MILESTONE | INDICATIVE /ACTUAL DATE |
|---|-------------------------|
| Gateway Determination | August 2021 |
| Agency Consultation | September 2021 |
| Public Exhibition | October 2021 |
| Report to Council on exhibition of Planning Proposal. | November 2021 |
| S.3.36 Documents to DP&E & PCO. | December 2021 |
| Approximate completion date | December 2021 |

Delegation

A Delegation Request Form accompanies the Planning Proposal.

END OF PLANNING PROPOSAL