

## Planning and Assessment

IRF19/7021

### Gateway determination report

<b>LGA</b>	Wingecarribee
<b>PPA</b>	Wingecarribee Shire Council
<b>NAME</b>	Kirkham Street Reclassification (0 homes, 0 jobs)
<b>NUMBER</b>	PP_2019_WINGE_007_00
<b>LEP TO BE AMENDED</b>	Wingecarribee Local Environmental Plan 2010
<b>ADDRESS</b>	Kirkham Street, Moss Vale
<b>DESCRIPTION</b>	Lot 13 DP 601369
<b>RECEIVED</b>	11 February 2020 (v.4)
<b>FILE NO.</b>	IRF19/7021
<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 at Kirkham Street, Moss Vale from Community Land to Operational Land to enable its sale.

The land would remain zoned R3 Medium Density Residential and is affected by a caveat *"forbidding unauthorised dealings with public reserves"*.

Council proposes to discharge the above caveat as part of the planning proposal.

The land is also 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.

### 1.2 Site description

The subject site is located approximately 800m south-east of the Moss Vale Town Centre in the Wingecarribee local government area (LGA).

The subject site is located at the rear of 64 Kirkham Street, Moss Vale (**Figure 1**) and is 'landlocked' with no vehicular access or road frontage. The site is triangular with an area of approximately 608.1m<sup>2</sup>.

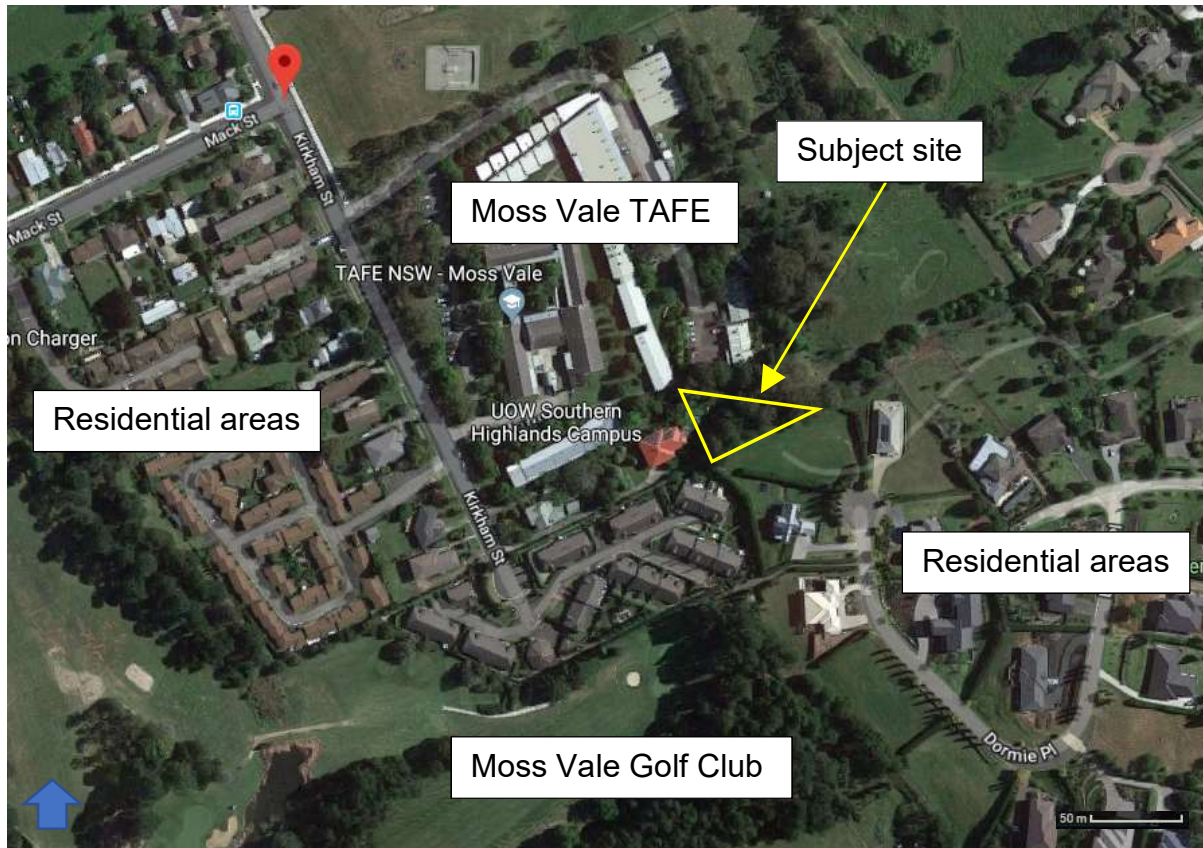
The site is currently unused due to its landlocked location and is legally described as Lot 13 DP 601369 (**Figure 2**). The site is covered in grass and some trees.

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

The land was acquired by Council upon registration of Deposited Plan No. 601369 on 30 May 1979.

The land is affected by a caveat “*forbidding unauthorised dealings with public reserves*” which Council proposes to discharge as part of the planning proposal.

The land is identified as a ‘public reserve’ on the Certificate of Title which Council also proposes to remove as part of the planning proposal.



**Figure 1:** Site plan

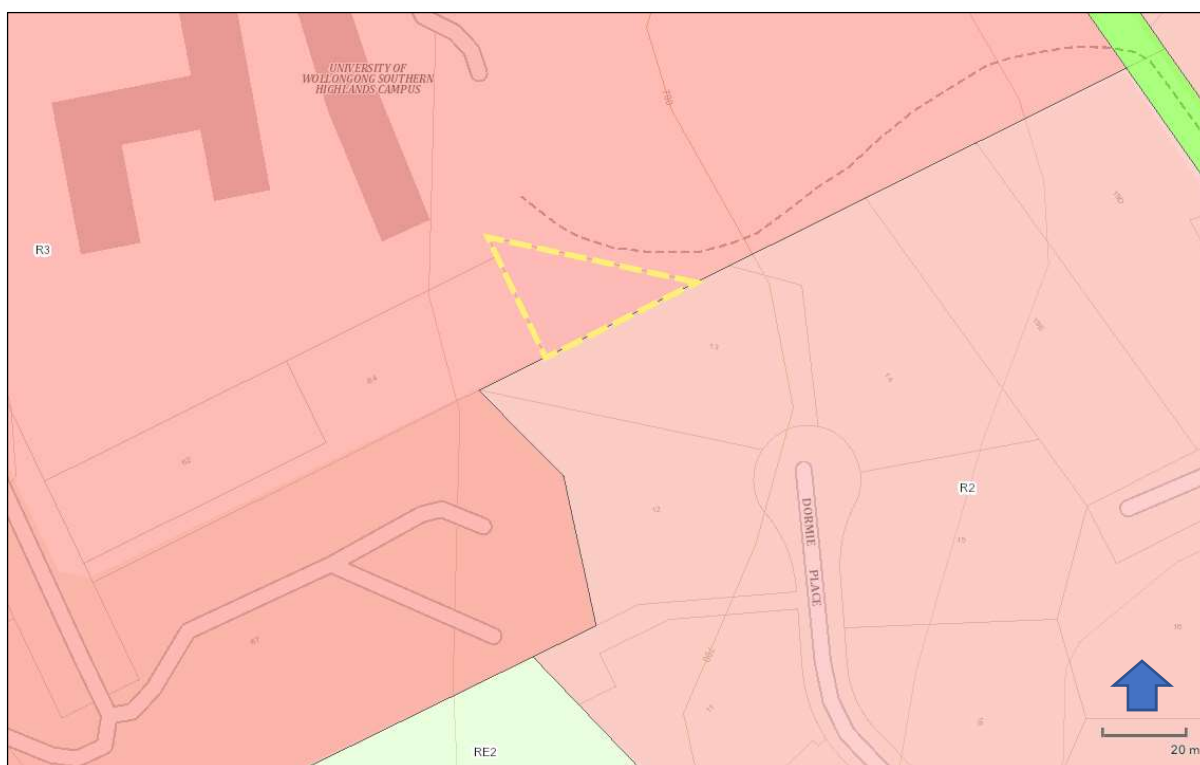
### 1.3 Existing planning controls

The site is zoned R3 Medium Density Residential with a minimum lot size of 700m<sup>2</sup> under the Wingecarribee LEP (**Figure 2**). No floor space ratio or maximum building height controls apply to the site.

### 1.4 Surrounding area

The site is surrounded by (**Figure 1**):

- Moss Vale TAFE to the north (zoned R3 Medium Density Residential);
- the University of Wollongong Southern Highlands Campus to the west (zoned R3);
- residential areas of Moss Vale (zoned R2 Low Density Residential) to the south and the Moss Vale Golf Course further beyond (zoned RE2 Private Recreation); and
- residential areas of Moss Vale to the east (zoned R2) and the Moss Vale High School further beyond.



**Figure 2: Zoning plan**

## 1.5 Summary of recommendation

It is recommended that the planning proposal proceed (subject to conditions) because the land has been identified as surplus lands by Council and is not used actively as Community Land. The income generated through the sale of the property will be used to reduce Council debt owing on the Moss Vale War Memorial Aquatic Centre. This could in turn could free up Council funds for other important community services in Wingecarribee.

## 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 Lot 13 DP 601369 at Kirkham Street, Moss Vale from Community Land to Operational Land to enable its sale.

Council proposes to remove a caveat *“forbidding unauthorised dealings with public reserves”* from the land. Council also proposes to remove the public reserve status of the land and Governor’s approval is therefore required to finalise the proposal.

The land would remain zoned R3 Medium Density Residential with a minimum lot size of 700m<sup>2</sup>.

### 2.2 Explanation of provisions

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

- insert Lot 13 DP 601639 into Schedule 4 Classification and reclassification of public land, Part 2 Land classified, or reclassified, as operational land—interests changed; and
- insertion of a new Land Reclassification (Part Lots) Map/s.

The Department considers the explanation of provisions to be clear and notes a planning proposal of this nature is the only way to achieve the intended outcomes.

### **2.3 Mapping**

The planning proposal will require the insertion of a new 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 need for the proposal is clearly explained in Part 3 of the planning proposal.

This site is 'landlocked', unused and has been identified by Council as being surplus to Council's needs and community needs.

Council has advised the land is difficult to maintain due to its inaccessibility and has become a site for vermin and reptiles posing potential concerns for neighbours. Council also noted a small fire occurred on (or near) the land during recent bushfires.

Council has advised reclassification of the land will enable consideration of future options for the sale of the property. Council have determined that the lot is unused by the general public, has no potential future use to serve community needs and incurs unnecessary maintenance burdens for Council.

Council has identified that reclassifying and (likely) selling to an adjoining neighbour is the most cost-effective option for the land.

Council proposes to remove a caveat "*forbidding unauthorised dealings with public reserves*" from the land. Council also proposes to remove the public reserve status of the land and Governor's approval is therefore required to finalise the proposal.

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**

The South East and Tablelands Regional Plan does not provide specific strategies or actions that directly relate to the reclassification and sale of the subject site.

The land size and location limit its practical use as Community Land. If reclassified and sold, the land would most likely be used to expand adjoining educational facilities or provide infill housing. This would be generally consistent with key directions in the regional plan to increase access to education services (Direction 21) and/or provide greater housing choice (Direction 24).

The Department is satisfied the proposal is not inconsistent with the overall intent and objectives of 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.

Council has advised the LPS supports the regional plan in seeking ways to provide infill development for housing choice or to extend existing adjoining educational facilities.

Noting the land could be used to expand adjoining educational facilities or provide infill housing, the Department is satisfied the proposal is generally consistent with the overall intent of the LPS.

## **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 3.1 Residential Zones**

This Direction applies to planning proposals affecting residential zones and other zones on which significant residential development is permitted or proposed. The Direction aims to encourage housing to meet local demand, ensuring new housing makes efficient use of existing infrastructure and services and minimise the impact of residential development on the environment.

The planning proposal seeks to enable the sale of the site which is inaccessible and is not currently used for any particular purpose. If reclassified and sold, the land would most likely be used to expand adjoining educational facilities or provide infill housing.

The Department is therefore satisfied the planning proposal is not inconsistent with the aims of this Direction.

### **Direction 4.4 Planning for Bushfire Protection**

Part of the site and land to the south is mapped as bushfire prone land (Vegetation Buffer). Council committed to consulting with the NSW Rural Fire Service (NSW RFS).

Mapped bushfire prone land to the south already contains residential development and any bushfire issues associated with development of the site would need to be addressed in detail at the development application stage. The Department therefore considers potential bushfire issues associated with developing the site are likely to be manageable.

However, consultation has not occurred with the NSW RFS and consistency with Direction 4.4 remains unresolved at this stage. It is recommended that Council consult with the NSW RFS and provide further information demonstrating it has addressed the requirements of this Direction, prior to finalising the planning proposal.

### **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 Water NSW prior to Gateway determination.



The site is surrounded by development and any water quality issues associated with its development would need to be addressed in detail at the development application stage. The Department considers potential water quality issues associated with developing the site are likely to be minor.

As consultation with Water NSW has not occurred prior to Gateway, the proposal is considered to be inconsistent with this Direction. However, a planning proposal may be inconsistent with this Direction if the inconsistency is of minor significance.

It is recommended that the Secretary's delegate be satisfied that any inconsistency with this Direction is of minor significance.

In addition, it is recommended that Council consult with Water NSW before exhibition of 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 R3 Medium Density Residential to Operational Land to enable its sale. No rezoning is proposed.

This site is 'landlocked', unused by the public, presents a maintenance burden and has been identified by Council as being surplus to Council's needs and community needs.

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**

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

There are no significant social or economic impacts anticipated as a result of the proposal.

#### **5.2 Environmental**

Council has advised there are no critical habitats or threatened species, populations or ecological communities located on the subject site and that there would be no environmental effects resulting from the planning proposal.

#### **5.3 Infrastructure**

The planning proposal would not involve any significant public infrastructure impacts or issues.

### **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; and
- NSW Rural Fire Service.

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 six-month timeframe to finalise and notify the plan. It is recommended that a 12-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 the proposal will remove interests/caveats 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 land is unused by the general public, has no potential future use to serve community needs and incurs unnecessary maintenance burdens for Council. The income generated through the sale of the property will be used to reduce Council debt owing on the Moss Vale War Memorial Aquatic Centre. This could in turn could free up Council funds for other important community services in Wingecarribee.

## **10. RECOMMENDATION**

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It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Directions 6.2 Reserving Land for Public Purposes and 5.2 Sydney Drinking Water Catchment are minor or justified; and
2. note that the consistency with section 9.1 Directions 4.4 Planning for Bushfire Protection will be determined following Council's consultation with NSW Rural Fire Service as required by the Gateway determination.

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; and

- NSW Rural Fire Service.
3. The time frame for completing the LEP is to be 12 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.



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19/02/20

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