

# **Planning Proposal**

## **to amend Wingecarribee Local Environmental Plan 2010 to reclassify from Community to Operational Lots 11, 12 & 13, DP 1150964, 'Calwalla' 340 Sheepwash Road, Glenquarry.**

Version 2 for Gateway Determination  
January 2021

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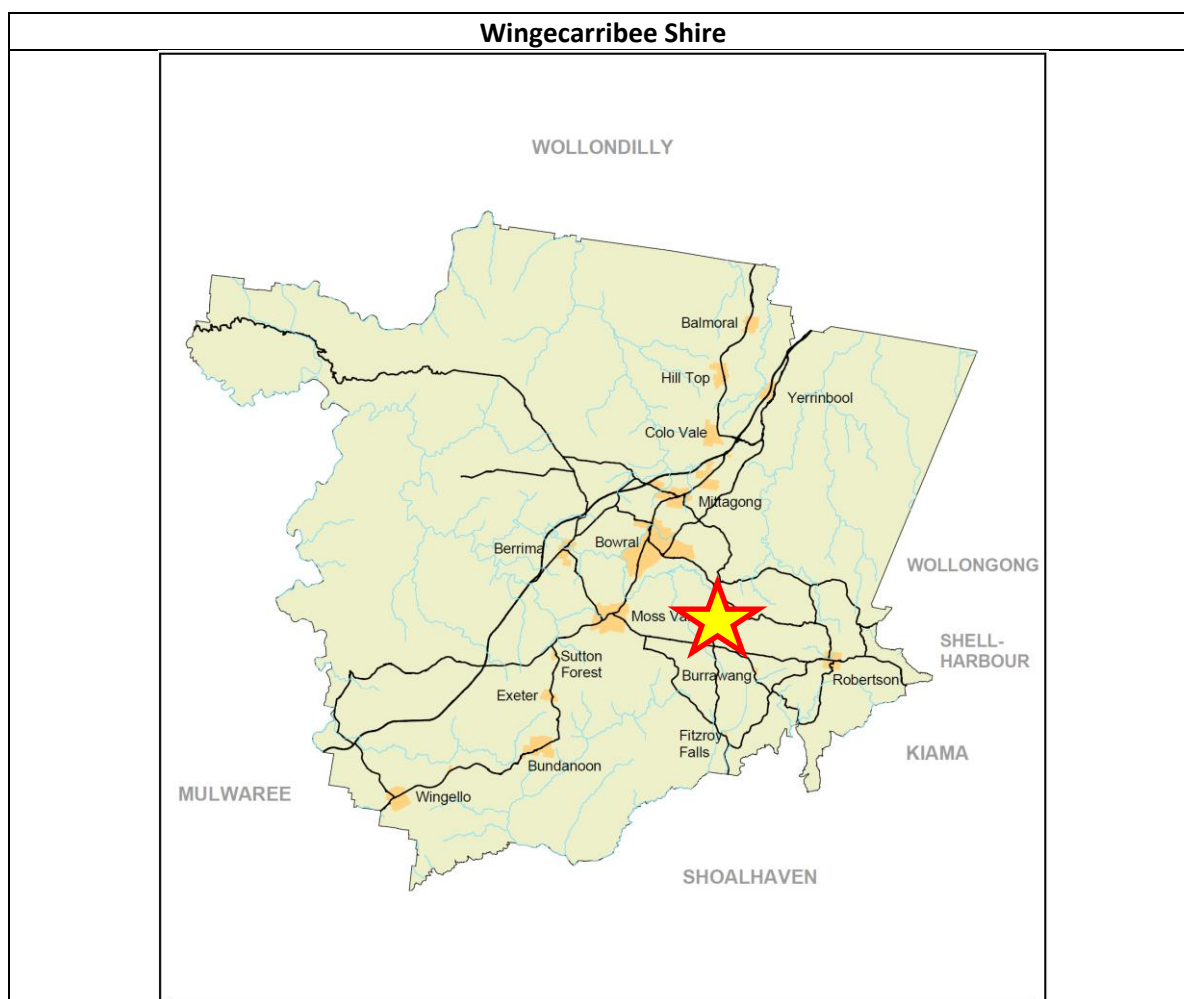


## Attachments which form part of this Planning Proposal

1	Report to Council 26 August 2020
2	Resolution of Council 26 August 2020
3	Title Search -Lot 11 DP 1150964
4	Title Search -Lot 12 DP 1150964
5	Title Search -Lot 13 DP 1150964
6	DP 1150964

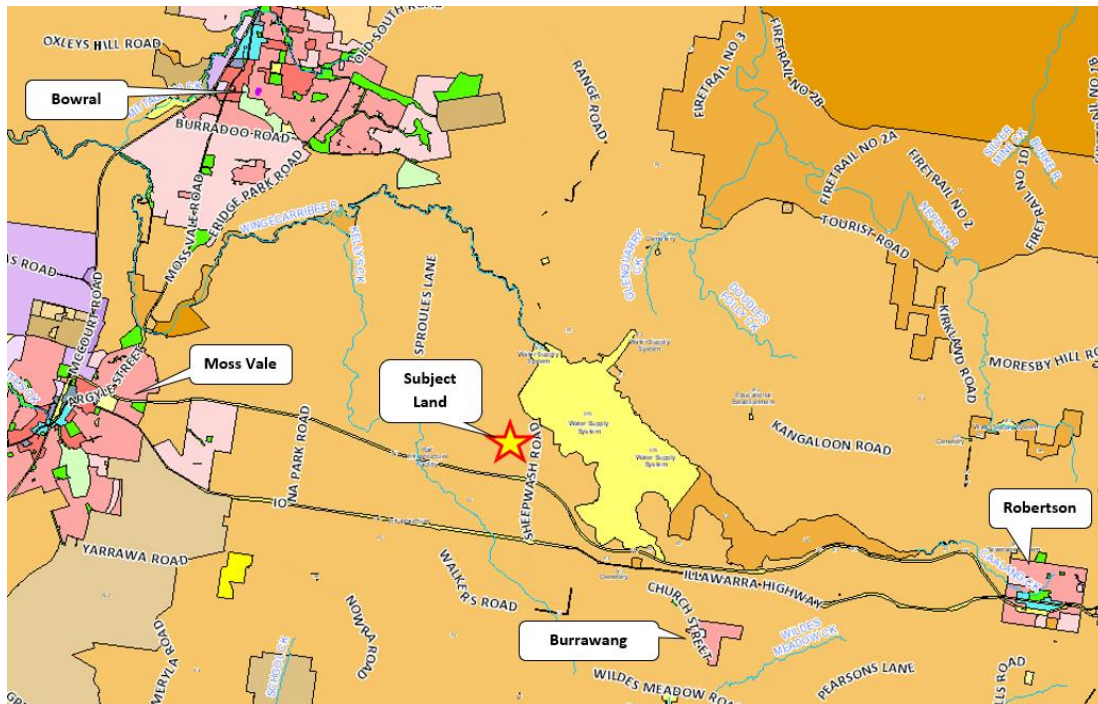
## Address & Zoning of the Land

<b>Legal Description</b>	Lots 11, 12 & 13, DP 1150964
<b>Property Address</b>	Calwalla, 340 Sheepwash Road, Glenquarry, NSW
<b>Zoning &amp; Minimum Lot Size</b>	E3 Environmental Management, 40 ha



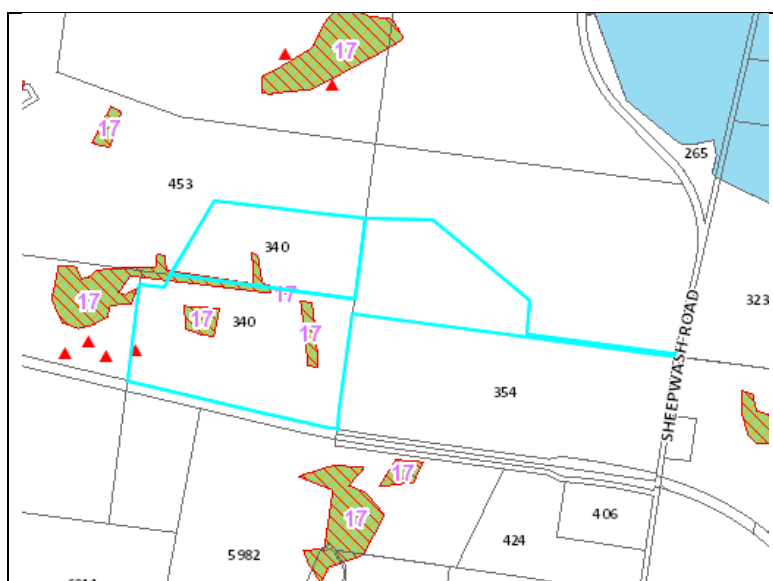
## Site Location, Description and Use

The subject land is located at 340 Sheepwash Road Glenquarry as indicated in **Figure 1** below. The land comprises three (3) lots and covers a total area of some 76.7 ha. The land is zoned E3 Environmental Management with a minimum lot size of 40 ha under Wingecarribee Local Environmental Plan (WLEP) 2010.



**Figure 1 - Regional Location of Subject Land**

Some pockets of Southern Highland Shale Woodland (indicated in green with red cross hatch and marked '17') are located on the subject land as indicated in **Figure 2** below.



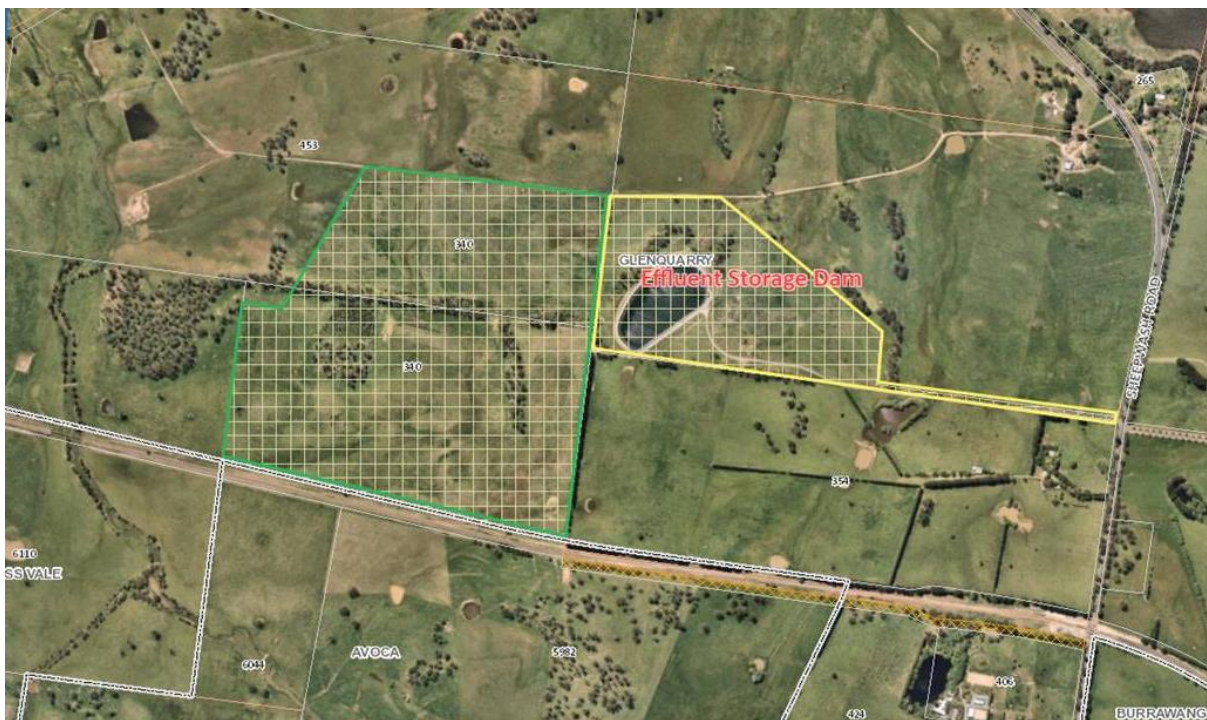
**Figure 2 – Extent of Threatened Ecological Community (Southern Highlands Shale Woodland)**

Council resolved to acquire the land in December 2009. The stated purpose of the acquisition was “to establish a reclaimed water irrigation area as part of the Robertson Sewerage Scheme within the property”. This means that the land is used for the storage and disposal of treated effluent on site.

It is confirmed that the principal use of the subject land is the storage and dispersal of treated effluent. It is also confirmed that the majority of the site will continue to be used for effluent disposal into the future.

Most of the subject land is currently available for use for treated effluent disposal as indicated in **Figure 3** below as the area bordered by green, either by a fixed irrigation system or by travelling irrigators.

The area bordered by yellow in **Figure 3** below is not currently used for irrigation and includes the Treated Effluent Storage Dam compound, pump house and access road to the property.



**Figure 3 – Local Context of Subject Land**

It is Council’s intention to lease some 56% of the subject land, being 394,300m<sup>2</sup>, with the exception of the treated effluent storage dam compound and the areas covered by the fixed irrigation system and the Southern Highlands Shale Woodland reserve areas indicated in Figure 2 above).

The proposed lease areas are shown in blue in **Figure 4** below.



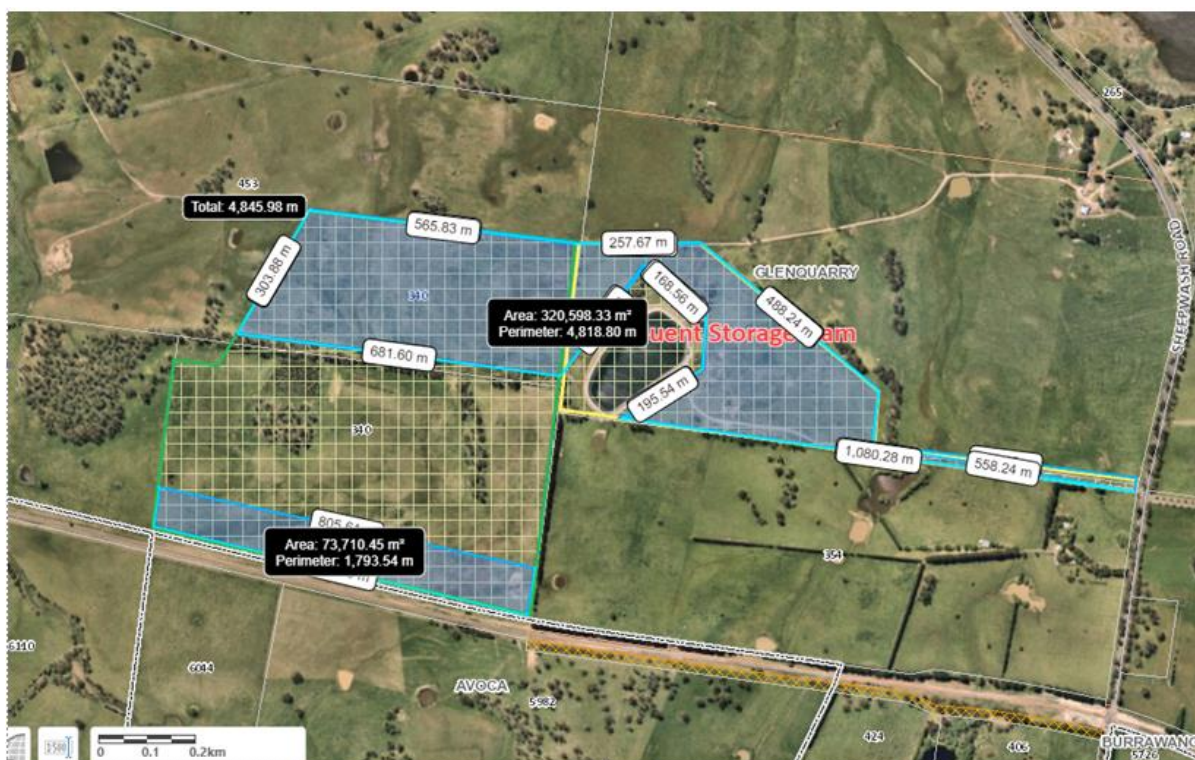


Figure 4 – Location of proposed lease areas indicated in blue.

## Part 1: Objectives or Intended Outcomes

### 1. Intended Outcome

The intended outcome of the Planning Proposal is that the subject land be reclassified from Community to Operational to ensure that the Classification of the land is in line with the current and proposed ongoing use of the land.

It is noted that public land is managed under the *Local Government Act 1993* (LG Act) based on its classification and that all public land must be classified as either Community land or Operational land (LG Act ss.25, 26). Community land is land council makes available for use by the general public, for example, parks, reserves or sports grounds. Operational land is land which facilitates the functions of council, and may not be open to the general public, for example, a works depot or council garage, or in this case, to support the operations of the Robertson Sewerage System.

It is also noted that Community land cannot be sold, exchanged or otherwise disposed of by a council. It can be leased, but a Plan of Management (PoM), adopted by Council, would be required. With regard to the subject land, there is no adopted PoM in place.

It is further noted that the classification of public land generally occurs when it is first acquired by a council and classified as either community or operational. However, a search of the Minutes of Council

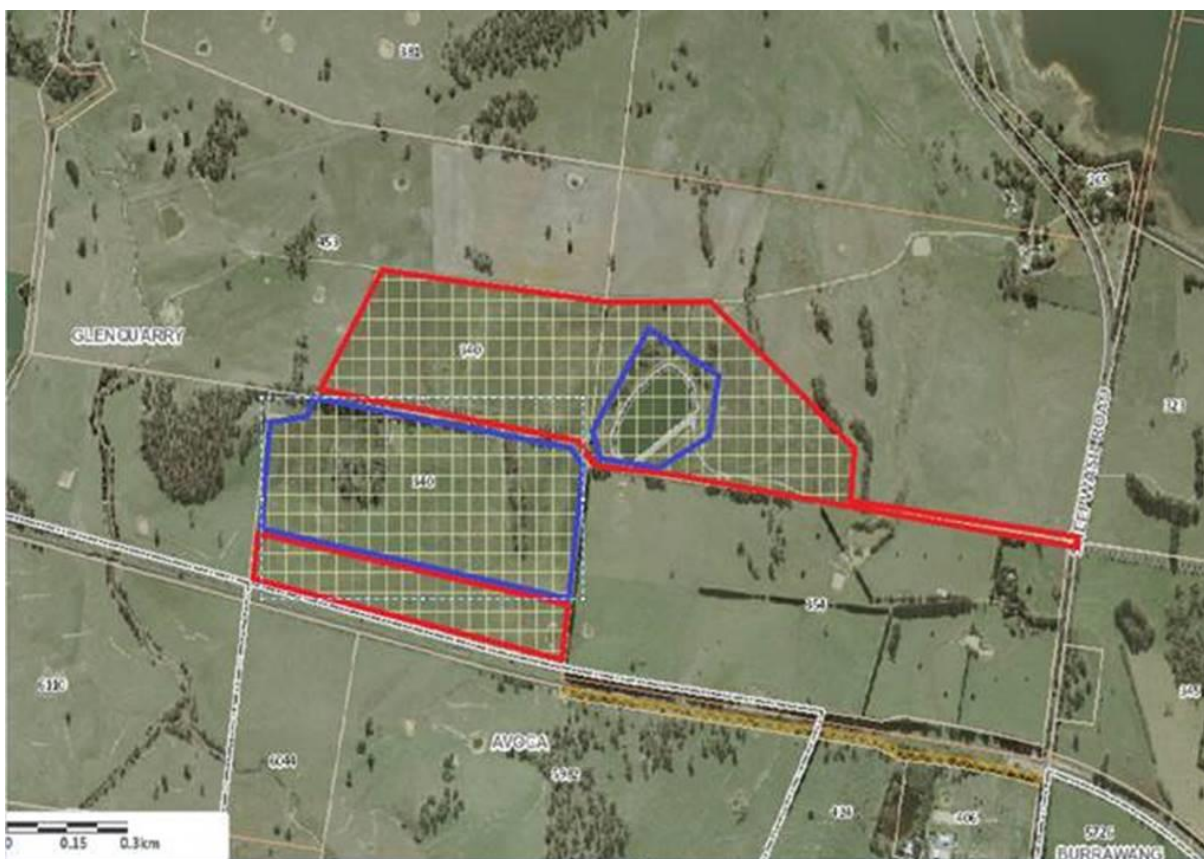
in connection with the purchase of the property has failed to find any resolution of Council classifying the land as Operational. Consequently, the land was automatically classified as Community land three (3) months after the date of acquisition in accordance with s31 of the LG Act. Reclassification of the land must now occur to change this classification from Community to Operational.

In accordance with s30 of the LG Act, Council resolved at its Ordinary Meeting of 26 August 2020:

***THAT a Planning Proposal be prepared and submitted to the NSW Department of Planning, Industry and Environment for a Gateway Determination to reclassify Lots 11, 12 and 13 DP 1150964, being Council property "Calwalla", Sheepwash Road, Glenquarry from Community to Operational.***

A copy of the report to Council and Council's resolution accompany this Planning Proposal.

The intended outcome of the reclassification is to enable some 56% of the subject land, or 394,300 m<sup>2</sup> to be leased for a compatible agricultural purpose. These are shown in red in **Figure 5** below, noting that the treated effluent storage dam compound and the areas covered by the fixed irrigation system and the Southern Highlands Shale Woodland reserve areas (shown in blue) are excluded.



**Figure 5 – The area in red would be available for lease. The area in blue contains the fixed irrigators, Southern Highlands Shale Woodlands reserve, storage dam compound, and pump house.**

While Council has received interest in leasing available land for bee keeping, no detailed consideration of any additional potential future land uses has yet been undertaken. It is noted however, that in any such consideration Council would at least insist on retaining the right to irrigate in order to ensure

that the storage dam did not overflow. Any other potential land management responsibilities would need to be negotiated at the time of considering any future formal lease request.

## 2. Interests in the Land

It is confirmed that no interests will be discharged or changed in any way as a result of this Planning Proposal.

It is noted that 'interests in land' refers to property ownership as well as rights and privileges affecting land, such as leasehold, easements, covenants and mortgages. For the purpose of reclassification through an LEP, 'interests' means trusts, estates, dedications, conditions, restrictions and covenants affecting the land.

It is further noted that a legal owner of land may not be the only person with an interest in the land. For example, one person may have the benefit of an easement for services, such as water, electricity or sewerage over someone else's land. Certain interests are registered on title to ensure they are on record and cannot be disregarded if sold to a new owner. An electronic title search is generally conducted to determine the land owner, correct land description and the type of interests which may affect the land

## 3. Public Reserve

It is further confirmed that the land is not a Public Reserve as defined in the LG Act.

It is noted that public reserve is defined in the LG Act and includes a public park and land declared or dedicated as a public reserve.

## Part 2: Explanation of the Provisions

*Clause 5.2—Classification and reclassification of public land* in Standard Instrument LEPs enables councils to classify or reclassify public land as operational land or community land in accordance with the LG Act. The land to be reclassified or classified is described in Schedule 4 of the LEP.

To achieve the intended outcomes of the Planning Proposal the following amendments to the WLEP 2010 instrument will be required:

- Insert Lots 11, 12 and 13 DP 1150964 into *Schedule 4 (Classification and reclassification of public land) Part 2 (Land classified, or reclassified, as operational land – no interests changed)* as required under *clause 5.2 of WLEP 2010*.

To achieve the intended outcomes of the Planning Proposal the following map amendments will be required:

- a new Land Reclassification (Part Lots) Map will need to be created as there is currently no map tile covering the subject land. Council is liaising with the Department of Planning, Industry and Environment's GIS Team to create this map.

## 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.

As stated above, Council resolved to acquire the land in December 2009 “to establish a reclaimed water irrigation area as part of the Robertson Sewerage Scheme within the property”.

It is noted that the classification of public land generally occurs when it is first acquired by a council and classified as either community or operational. However, a search of the Minutes of Council in connection with the purchase of the property has failed to find any resolution of Council classifying the land as Operational. Reclassification of the land must now be undertaken to change the classification from Community to Operational.

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

The options for the reclassification of land are either by a resolution of Council under ss.31, 32, or 33 (through LG Act s.27(2)), or a Planning Proposal to amend an LEP under the *Environmental Planning and Assessment Act* (through LG Act s.27(1)).

It is noted that the Department of Planning, Industry and Environment (the Department) encourages councils to classify or reclassify land by council resolution where suitable. Therefore, the Planning Proposal is considered the most appropriate means of achieving the intended outcome for the subject land under the current legislative framework.

### Section B – Relationship to the Strategic Planning Framework

#### 3. Is the Planning Proposal consistent with the objectives and actions contained within the applicable South East & Tablelands Regional Plan?

Several Directions within the South East & Tablelands Regional Plan relate either directly or indirectly to the Planning Proposal, specifically:

**Direction 5: Promote agricultural innovation, sustainability and value-add opportunities** - the current and intended continued use of the subject land is to establish a reclaimed water irrigation area as part of the Robertson Sewerage Scheme. Irrigation systems utilising reclaimed water directly support this Direction. Further compatible agricultural uses through lease arrangements will enhance environmental sustainability and value-adding opportunities.



**Direction 8: Protect important agricultural land** – the use of the subject land to both support the Robertson Sewerage Scheme and offer value added land use opportunities support this Direction through enhancing the value of agricultural land and thereby protecting it.

**Direction 14: Protect important environmental assets** - the current and intended continued use of the subject land is to establish a reclaimed water irrigation area as part of the Robertson Sewerage Scheme. Irrigation systems utilising reclaimed water directly support this Direction. Further compatible agricultural uses through lease arrangements will enhance environmental sustainability and value-adding opportunities.

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

##### **4.1 Wingecarribee Community Strategic Plan**

The Planning Proposal is consistent with the following Goals and Strategies of the Wingecarribee Community Strategic Plan:

**1.1 Our Council has the trust of the community and well informed decisions are made to ensure long term sustainability of our Shire** – the reclassification process through a Planning proposal offers transparency and the opportunity for full community engagement through community consultation and an independent public hearing.

**1.1.2 Effective financial and asset management ensure Council's long term sustainability** - Irrigation systems utilising reclaimed water directly support efficient and effective asset management. Further compatible agricultural uses through lease arrangements will enhance economic sustainability and value-adding opportunities.

**3.4 We have safe, maintained and effective assets and Infrastructure** – Irrigation systems utilising reclaimed water directly support efficient and effective asset management. Further compatible agricultural uses through lease arrangements will enhance economic sustainability and value-adding opportunities.

**3.4.2 Manage and plan for future water, sewer and stormwater infrastructure needs** - Irrigation systems utilising reclaimed water directly support efficient and effective asset management. Further compatible agricultural uses through lease arrangements will enhance economic sustainability and value-adding opportunities.

**4.1 Wingecarribee's distinct and diverse natural environment is protected and enhanced** – Irrigation systems utilising reclaimed water directly support this Goal. Further compatible agricultural uses through lease arrangements will enhance environmental sustainability and value-adding opportunities.

**4.1.4 Sustainably manage natural resources for broader community benefit** - Irrigation systems utilising reclaimed water directly support efficient and effective asset management. Further compatible agricultural uses through lease arrangements will enhance economic sustainability and value-adding opportunities.

## 4.2 Wingecarribee Local Strategic Planning Statement

The Planning Proposal is considered consistent with the Wingecarribee Local Strategic Planning Statement (LSPS) due to the intent of the reclassification being to enable an appropriate agricultural use for the subject land to be achieved while maintaining its primary function of supporting the operation of the Robertson sewerage System. This function in itself supports the environmental as well as the economic goals of the Wingecarribee LSPS.

The following table provides links between various Regional Plan priorities and relevant sections within the LSPS. Of particular relevance are - *Protecting high value environmental lands*, *Protecting important agricultural lands* and *Value adding to the Shire's agricultural base*.

The Planning Proposal supports all of these priorities through the current and intended continued use of the subject land is to establish a reclaimed water irrigation area as part of the Robertson Sewerage Scheme. Irrigation systems utilising reclaimed water directly support agricultural land uses. Enabling further compatible agricultural uses through lease arrangements also enhance the environmental sustainability of land and provide important value-adding opportunities.

South East and Tablelands - Regional Plan - Planning Priorities	
Regional Plan Priority for Wingecarribee	Corresponding Planning Priority in LSPS
Protect high environmental value lands including regionally significant biodiversity corridors.	P1.2, P1.3, P1.4
Protect the Sydney Drinking Water Catchment.	P1.5, P5.1 & P5.2
Protect important agricultural lands as a resource for food security.	P2.1
Protect the Shire's valued heritage assets.	P6.2
Provide ongoing access to high quality health and education services.	P3.1 & P6.3
Capitalise on economic opportunities arising from the area's proximity to Sydney.	P3.1 & P3.2
Capitalise on the land availability in the Moss Vale Enterprise Corridor to attract industry and investment.	P3.1
Grow and diversify the area's agricultural base, including value-added activities, and capitalise on access to national and international markets in Sydney.	P2.1 & P2.3
Promote the Shire as a destination and encourage visitors to Canberra to also visit Wingecarribee Shire.	P3.1
Strategically plan for residential growth in existing urban areas and greenfield areas.	P4.1 and P4.3
Increase housing in Moss Vale, Bowral and Mittagong.	P4.1 and P4.3
Protect the unique character of the Shire's village and rural lifestyle.	P4.1, P4.2 and P4.3
Enhance the variety of housing options to cater for an ageing population.	P4.1, P4.2 and P4.3

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

NB: SEPPs which do not apply to Wingecarribee Shire have been excluded.

SEPP No 21 – Caravan Parks
(1) The aim of this Policy is to encourage -

- (a) the orderly and economic use and development of land used or intended to be used as a caravan park catering exclusively or predominantly for short-term residents (such as tourists) or for long-term residents, or catering for both, and
- (b) the proper management and development of land so used, for the purpose of promoting the social and economic welfare of the community, and
- (c) the provision of community facilities for land so used, and
- (d) the protection of the environment of, and in the vicinity of, land so used.

**Assessment – Consistent** – The Planning Proposal will not result in the use of the subject land for a caravan park as such a use is prohibited in the E3 zone under WLEP 2010.

#### 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** - The Planning Proposal will not result in the use of the land for any hazardous or offensive development as such land uses are prohibited in the E3 zone under WLEP 2010.

#### 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** - The Planning Proposal will not result in the use of the subject land for a canal estate development as such a use is prohibited in the E3 zone under WLEP 2010.

#### SEPP No 55 - Remediation of Land

- (1) The object of this Policy is to provide for a Statewide planning approach to the remediation of contaminated land.
- (2) In particular, this Policy aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment—
  - (a) by specifying when consent is required, and when it is not required, for a remediation work, and
  - (b) by specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular, and
  - (c) by requiring that a remediation work meet certain standards and notification requirements.

**Assessment – Consistent** - The Planning Proposal will not result in any use of the subject land which would require remediation of land.

#### SEPP No 64 – Advertising & Signage

- (1) This Policy aims -
  - (a) to ensure that signage (including advertising):
    - (i) is compatible with the desired amenity and visual character of an area, and
    - (ii) provides effective communication in suitable locations, and
    - (iii) is of high quality design and finish, and
  - (b) to regulate signage (but not content) under Part 4 of the Act, and
  - (c) to provide time-limited consents for the display of certain advertisements, and
  - (d) to regulate the display of advertisements in transport corridors, and
  - (e) to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.

**Assessment – Consistent** - The Planning Proposal will not result in the use of the subject land for any land use affected by SEPP64.



#### SEPP No 65 – Design Quality of Residential Apartment Development

- (1) This Policy aims to improve the design quality of residential apartment development in New South Wales.
- (2) This Policy recognises that the design quality of residential apartment development is of significance for environmental planning for the State due to the economic, environmental, cultural and social benefits of high quality design.
- (3) Improving the design quality of residential apartment development aims:
  - (a) to ensure that it contributes to the sustainable development of New South Wales:
    - (i) by providing sustainable housing in social and environmental terms, and
    - (ii) by being a long-term asset to its neighbourhood, and
    - (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.
- (4) This Policy 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** - The Planning Proposal will not result in the use of the subject land for residential apartment development as such a use is prohibited in the E3 zone under WLEP 2010.

#### 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** - The Planning Proposal will not result in the use of the subject land for affordable rental housing.

**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 Planning Proposal will not result in the use of the subject land for any development to which this SEPP would apply.

**SEPP (Educational Establishments & Child Care Facilities) 2017**

The aim of this Policy is to facilitate the effective delivery of educational establishments and early education and care facilities across the State by—

- (a) improving regulatory certainty and efficiency through a consistent planning regime for educational establishments and early education and care facilities, and
- (b) simplifying and standardising planning approval pathways for educational establishments and early education and care facilities (including identifying certain development of minimal environmental impact as exempt development), and
- (c) establishing consistent State-wide assessment requirements and design considerations for educational establishments and early education and care facilities to improve the quality of infrastructure delivered and to minimise impacts on surrounding areas, and
- (d) allowing for the efficient development, redevelopment or use of surplus government-owned land (including providing for consultation with communities regarding educational establishments in their local area), and
- (e) providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing, and
- (f) aligning the NSW planning framework with the National Quality Framework that regulates early education and care services, and
- (g) ensuring that proponents of new developments or modified premises meet the applicable requirements of the National Quality Framework for early education and care services, and of the corresponding regime for State regulated education and care services, as part of the planning approval and development process, and
- (h) encouraging proponents of new developments or modified premises and consent authorities to facilitate the joint and shared use of the facilities of educational establishments with the community through appropriate design.

**Assessment – Consistent** - The Planning Proposal will not result in the use of the subject land for any development under this SEPP.

#### **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** – If the Planning Proposal results in the use of the subject land for any development to which this SEPP applies, the SEPP will prevail.

#### **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** - If the Planning Proposal result in the use of the subject land for any development to which this SEPP applies, the SEPP will prevail.

#### **SEPP (Koala Habitat Protection) 2019**

This Policy 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.

**Assessment – Consistent** – The subject land is not known to support koala habitat but if it does, the SEPP would prevent any future land use that would compromise this status.

#### 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** - If the Planning Proposal results in the use of the subject land for any development to which this SEPP applies, the SEPP will prevail.

#### 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** – Reclassification of the subject land will not limit the agricultural potential of the land.

#### 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** - If the Planning Proposal results in the use of the subject land for any development to which this SEPP applies, the SEPP will prevail.

#### 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** – Any future land use will need to be consistent with the provision of this SEPP as required under the SEPP. Should the Planning Proposal receive a Gateway Determination, it will be updated to reflect comment from WaterNSW prior to public exhibition, as required.

#### SEPP (Urban Renewal) 2010

The aims of this Policy are -

- (a) to establish the process for assessing and identifying sites as urban renewal precincts,
- (b) to facilitate the orderly and economic development and redevelopment of sites in and around urban renewal precincts,
- (c) to facilitate delivery of the objectives of any applicable government State, regional or metropolitan strategies connected with the renewal of urban areas that are accessible by public transport.

**Assessment – Consistent** – The Planning Proposal will not result in urban renewal.

## 6. Is the Planning Proposal consistent with applicable Section 9.1(2) Directions?

### 1. Employment & Resources

#### 1.1 Business & Industrial Zones

This Direction applies when a planning proposal affects land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary). The objectives of this Direction are:

- (a) encourage employment growth in suitable locations,
- (b) protect employment land in business and industrial zones, and
- (c) support the viability of identified centres.

**Assessment – Consistent** – The subject land is zoned E3 Environmental Management and this Direction does not therefore apply.

### 1.2 Rural Zones

This Direction applies when a planning proposal affects land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary). The objective of this Direction is to protect the agricultural production value of rural land. This Direction applies when a Planning Proposal will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary).

**Assessment – Consistent** – The subject land is zoned E3 Environmental Management and this Direction does not therefore apply. No future land use will limit the agricultural productivity of the site.

### 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** – No future land use will limit the mining potential of the site.

### 1.4 Oyster Aquaculture

**Assessment – Consistent** – This Direction does not apply to Wingecarribee Shire.

### 1.5 Rural Lands

This Direction applies when a planning proposal:

(a) will affect land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary) or

(b) changes the existing minimum lot size on land within a rural or environment protection zone.

**Note:** Reference to a rural or environment protection zone means any of the following zones or their equivalent in a non-Standard LEP: RU1, RU2, RU3, RU4, RU6, E1, E2, E3, E4.

The objectives of this Direction are to:

(a) protect the agricultural production value of rural land,

(b) facilitate the orderly and economic use and development of rural lands for rural and related purposes,

(c) assist in the proper management, development and protection of rural lands to promote the social, economic and environmental welfare of the State,

(d) minimise the potential for land fragmentation and land use conflict in rural areas, particularly between residential and other rural land uses,

(e) encourage sustainable land use practices and ensure the ongoing viability of agriculture on rural land

(f) support the delivery of the actions outlined in the New South Wales Right to Farm Policy.

**Assessment – Consistent** – The subject land is zoned E3 Environmental Management, but no future land use will limit the agricultural productivity of the site.

## 2. Environment & Heritage

### 2.1 Environmental Protection Zones

The objective of this Direction is to protect and conserve environmentally sensitive areas. A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas. A planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with clause (5) of Direction 1.5 “Rural Lands”.

**Assessment – Consistent** – The subject land is zoned E3 Environmental Management, but no future land use will limit the agricultural productivity of the site.

### 2.2 Coastal Management

**Assessment – Consistent** – This Direction does not apply to Wingecarribee Shire.

### 2.3 Heritage Conservation

The objective of this Direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance. A planning proposal must contain provisions that facilitate the conservation of: (a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area, (b) Aboriginal objects or Aboriginal places that are protected under the *National Parks and Wildlife Act 1974*, and (c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.

**Assessment – Consistent** – No heritage sensitivities will be affected by this Planning Proposal

### 2.4 Recreation Vehicle Areas

The objective of this Direction is to protect sensitive land or land with significant conservation values from adverse impacts of recreation vehicles.

**Assessment – Consistent** – No use of recreational vehicles will result from this Planning Proposal.

### 2.5 Application of E2 & E3 Zones and Environmental Overlays in Far North Coast LEPs.

**Assessment – Consistent** – This Direction does not apply to Wingecarribee Shire.

## 2.6 Remediation of Contaminated Land

The objective of this Direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.

**Assessment – Consistent** – The Council is of the opinion that the site is not contaminated.

## 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 will not result in any residential development.

### 3.2 Caravan Parks & Manufactured Home Estates

The objectives of this Direction are:

- (a) to provide for a variety of housing types, and
- (b) to provide opportunities for caravan parks and manufactured home estates.

**Assessment – Consistent** – The Planning Proposal will not result in any caravan park or manufactured home estate development.

### 3.3 Home Occupations

The objective of this Direction is to encourage the carrying out of low impact small businesses in dwelling houses. Planning proposals must permit home occupations to be carried out in dwelling houses without the need for development consent.

**Assessment – Consistent** – The current provisions of WLEP 2010 with regard to *home occupation* will not apply under this Planning Proposal.

### 3.4 Integrating Land Use & Transport

The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:

- (a) improving access to housing, jobs and services by walking, cycling and public transport, and
- (b) increasing the choice of available transport and reducing dependence on cars, and



- (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and
- (d) supporting the efficient and viable operation of public transport services, and
- (e) providing for the efficient movement of freight.

This Direction applies when a planning proposal creates, alters or removes a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.

**Assessment – Consistent** – The Planning Proposal will not require any development addressed in 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** – The Planning Proposal does not apply to any development near regulated airports or airfields.

### 3.6 Shooting Ranges

The objectives are:

- (a) to maintain appropriate levels of public safety and amenity when rezoning land adjacent to an existing shooting range,
- (b) to reduce land use conflict arising between existing shooting ranges and rezoning of adjacent land,
- (c) to identify issues that must be addressed when giving consideration to rezoning land adjacent to an existing shooting range.

**Assessment – Consistent** – The Planning Proposal will not result in development addressed under 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: (i) by or on behalf of the relevant planning authority, or (ii) by or on behalf of a public authority and provided to the relevant planning authority.

**Assessment – Consistent** – The subject land has not been identified as land which is subject to mine subsidence or unstable.

#### 4.3 Flood Prone Land

The objectives of this Direction are:

- (a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and
- (b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.

**NB:** A planning proposal must not rezone land within any flood planning area from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone. A planning proposal must not contain provisions that apply to the flood planning areas which: (a) permit development in floodway areas, (b) permit development that will result in significant flood impacts to other properties, (c) permit a significant increase in the development of that land, (d) are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, or (e) permit development to be carried out without development consent except for the purposes of agriculture (not including dams, drainage canals, levees, buildings or structures in floodways or high hazard areas), roads or exempt development.

**Assessment – Consistent** – The subject land is not identified as being flood prone land. No development is proposed on the subject land which would be adversely affected by any flood event.

#### 4.4 Planning for Bushfire Protection

The objectives of this Direction are:

- (a) to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and
- (b) to encourage sound management of bush fire prone areas.

**Assessment – Consistent** – The subject land is identified as being partly bushfire prone land. No development is proposed on the subject land which would be adversely affected by any bushfire event. Should the Planning Proposal receive a Gateway Determination, it will be updated to reflect comment from NSW RFS prior to public exhibition, as required.

## 6. Regional Planning

### 5.1 Implementation of Regional Strategies

**Assessment – Consistent** – The above Direction has been revoked.

### 5.2 Sydney Drinking Water Catchment

The objective of this Direction is to give effect to protect water quality in the Sydney Drinking Water Catchment.

**Assessment – Consistent** – No proposed development of the subject land will occur which would have a negative impact on Water NSW objectives or controls. Should the Planning Proposal receive a Gateway Determination, it will be updated to reflect comment from WaterNSW prior to public exhibition, as required.

### 5.3 Farmland of State and Regional Significance on the NSW Far North Coast

### 5.4 Commercial and Retail Development along the Pacific Highway, North Coast

### 5.5 Development in the Cessnock LGA

### 5.6 Sydney to Canberra Corridor

### 5.7 Central Coast

### 5.8 Second Sydney Airport – Badgerys Creek

### 5.9 North West Rail Link Corridor Strategy

**Assessment – Consistent** – The above Directions have either been revoked or do not apply in Wingecarribee Shire.

### 5.10 Implementation of Regional Plans

The objective of this Direction is to give legal effect to vision, land use strategy, goals, directions and actions contained in Regional Plans. The Planning Proposal must demonstrate consistency with the SE & Tablelands Regional Plan.

**Assessment – Consistent** – The Planning Proposal is consistent with the South East and Tablelands Regional Plan as addressed previously.

### 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** – No development to which this Direction applies would occur under this Planning Proposal.

### 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 seeks to reclassify land from Community to Operational to enable a more productive, but low intensity land use in keeping with its E3 zone and role in the support of the Robertson Sewerage System.

### 6.3 Site Specific Provisions

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

**Assessment – Consistent** – No site specific planning controls apply.

## 7. Metropolitan Planning

### 7.1 - 7.10

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

## Section C – Environmental, Social & Economic Impacts

### 7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the Planning Proposal?

The Planning Proposal does not relate to any built development. The reclassification of the subject land is intended to enable the ongoing use of the land to support the efficient operation of the Robertson sewerage System.

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

No additional environmental effects have been identified as resulting from this Planning Proposal.



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

No additional social or economic effects have been identified as resulting from this Planning Proposal.

### Section D – State and Commonwealth Interests

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

No additional public infrastructure has been identified as resulting from this Planning Proposal. In fact, the Planning Proposal will support the efficient operation of the Robertson sewerage System.

### Section E – Reclassification of Land

## 11. PN 16-001 Responses

The following responses address the checklist provided at Attachment 1 to the LEP practice note *PN 16-001 – Classification and reclassification of public land through a local environmental plan*. It is noted that many of the responses have already been addressed previously in the Planning proposal.

### a) The current and proposed classification of the land

- The land is currently classified as Community and the proposed classification is Operational.

### b) whether the land is a 'public reserve' (defined in the LG Act)

- The land is not a public reserve.

### c) the strategic and site specific merits of the reclassification and evidence to support this

- The subject land is classified as Community Land and as such prevents any additional use of the land that is not consistent with its Community classification.
- The current use of the land for the storage and dispersal of treated effluent is therefore currently not an 'authorised' use.
- There is no Plan of Management in place for the land so reclassification of the subject land is the most appropriate mechanism.

### d) whether the planning proposal is the result of a strategic study or report

- The Planning proposal addresses this question at Section A1 above.

### e) whether the planning proposal is consistent with council's community plan or other local strategic plan

- The Planning Proposal addresses this question at Sections B3 and B4 above.

### f) a summary of council's interests in the land, including:

- 1) how and when the land was first acquired (e.g. was it dedicated, donated, provided as part of a subdivision for public open space or other purpose, or a developer contribution)
- 2) if council does not own the land, the land owner's consent
- 3) the nature of any trusts, dedications etc

- The land was acquired by Council by Agreement in 2010.
  - There are no Trusts or Dedications associated with the land.
- g) whether an interest in land is proposed to be discharged, and if so, an explanation of the reasons why**
- No interests will be discharged.
- h) the effect of the reclassification (including, the loss of public open space, the land ceases to be a public reserve or particular interests will be discharged)**
- The effect of the reclassification will be to enable leasing of the land for an appropriate compatible agricultural purpose.
  - The land is not used for public open space and therefore there will be no loss of open space.
  - The land is not a public reserve and so will not cease to be a public reserve.
  - No interests will be discharged.
- i) evidence of public reserve status or relevant interests, or lack thereof applying to the land (e.g. electronic title searches, notice in a Government Gazette, trust documents)**
- Electronic Title Search results for each lot are attached.
- j) current use(s) of the land, and whether uses are authorised or unauthorised**
- The land was acquired by Council to establish a reclaimed water irrigation area as part of the Robertson Sewerage Scheme within the property.
  - The current classification of the land as Community means that this current use is unauthorised.
  - The proposed reclassification will enable both the current use and future proposed use to be authorised.
- k) current or proposed lease or agreements applying to the land, together with their duration, terms and controls**
- There are no current or proposed lease arrangements at this stage.
- l) current or proposed business dealings (e.g. agreement for the sale or lease of the land, the basic details of any such agreement and if relevant, when council intends to realise its asset, either immediately after rezoning/reclassification or at a later time)**
- There are no current or proposed business dealings. Following reclassification, Council would consider potential appropriate land uses compatible with the current uses.
- m) any rezoning associated with the reclassification (if yes, need to demonstrate consistency with an endorsed Plan of Management or strategy)**
- There is no rezoning associated with this Planning Proposal.
- n) how council may or will benefit financially, and how these funds will be used**
- The intention is to lease a section of the land for an appropriate low intensity use compatible with the current primary purpose of the land.
  - The land is not intended to be sold, but to remain in Council's ownership to support the operation of the Robertson Sewerage System.

- o) how council will ensure funds remain available to fund proposed open space sites or improvements referred to in justifying the reclassification, if relevant to the proposal**
  - Council has a long standing resolution to apply any funds obtained from the sale or lease of public land for an appropriate community purpose.
- p) a Land Reclassification (part lots) Map, in accordance with any standard technical requirements for spatial datasets and maps, if land to be reclassified does not apply to the whole lot**
  - A new Land Reclassification (Part Lots) Map will need to be created as there is currently no map tile covering the subject land. Council is liaising with the Department of Planning, Industry and Environment's GIS Team to create this map.
- q) preliminary comments by a relevant government agency, including an agency that dedicated the land to council, if applicable.**
  - Responses from relevant authorities will be provided at exhibition stage in accordance with the Gateway Determination.

## Part 4: Mapping

A new Land Reclassification (Part Lots) Map will need to be created as there is currently no map tile covering the subject land. Council is liaising with the Department of Planning, Industry and Environment's GIS Team to create this map.

## 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](http://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.

Council understands that it must hold a public hearing when reclassifying public land from community to operational (EP&A Act s.57 & LG Act s.29). This gives the community an opportunity to expand on written submissions and discuss issues with an independent person in a public forum.

After the exhibition period has ended, at least 21 days public notice is to be given before the hearing. This allows the person chairing the hearing sufficient time to consider written submissions and all issues raised. Council understands that there are specific requirements for the independence of the person chairing the hearing, their preparation of a public hearing report and council making the report publicly available (LG Act s.47G).

All relevant consultation requirements will be complied with as required under legislation.

## Part 6: Timeline

MILESTONE	INDICATIVE /ACTUAL DATE
Gateway Determination	February 2021
Agency Consultation	March 2021
Public Exhibition	April 2021
Public Hearing	May 2021
Report to Council on exhibition of Planning Proposal.	June 2021
Documents to DP&E.	July 2021
Approximate completion date	October 2021

## Delegation

Council understands that it is unable to use its delegation for a reclassification Planning Proposal.

**END OF PLANNING PROPOSAL**