

## Planning and Assessment

IRF20/3052

### Gateway determination report

<b>LGA</b>	Wingecarribee
<b>PPA</b>	Wingecarribee Shire Council
<b>NAME</b>	50A Bulwer Road Planning Proposal (2 homes)
<b>NUMBER</b>	PP_2020_WINGE_002_00
<b>LEP TO BE AMENDED</b>	Wingecarribee Local Environmental Plan 2010
<b>ADDRESS</b>	50A Bulwer Road, Moss Vale
<b>DESCRIPTION</b>	Lots 8-10, Section F, DP 2810
<b>RECEIVED</b>	7 July 2020 (v.3)
<b>FILE NO.</b>	IRF20/3052
<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 to rezone the subject site from RU2 Rural Landscape to E4 Environmental Living with a minimum lot size of 2 hectares (ha).

The site was identified for consideration for rezoning in the Moss Vale Precinct Plan, which formed part of the Wingecarribee Local Planning Strategy 2015-2031.

### 1.2 Site description

The subject site comprises 50A Bulwer, Moss Vale in the Wingecarribee Local Government Area and is legally described as Lots 8, 9 and 10, Section F in DP 2810 (**Figure 1**). The site is in the north-western portion of Moss Vale known as the North-West Moss Vale area.

The site is predominantly cleared open paddocks with scattered trees. There is an existing dwelling located on lot 8 in the south-eastern corner. Each of the lots is approximately 2 ha in size.

The site is accessed by vehicle off Bulwer Road via a long driveway that runs along the boundary of 50 Bulwer Road.

### 1.3 Existing planning controls

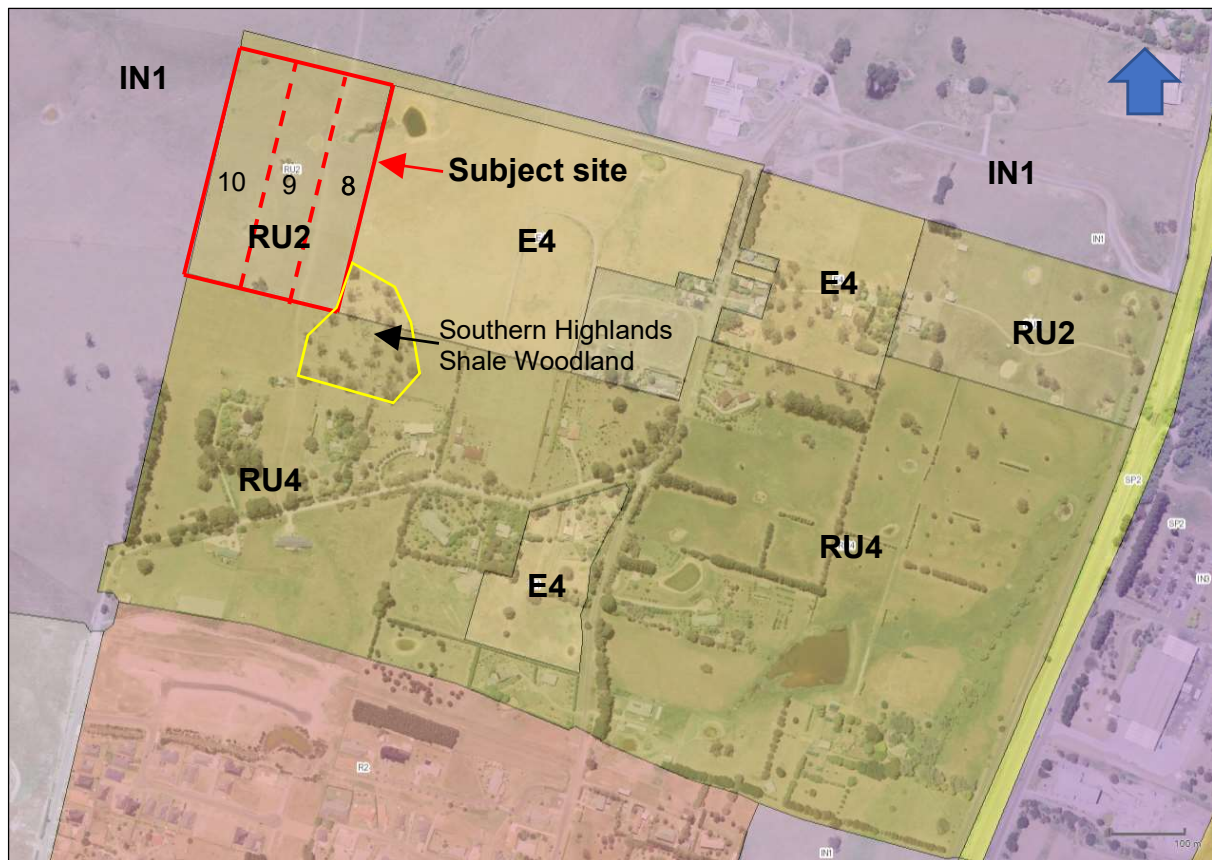
The site is zoned RU2 Rural Landscape with a minimum lot size of 40ha under the Wingecarribee LEP 2010 (**Figure 1**).

### 1.4 Surrounding area

The site is surrounded by:

- land zoned IN1 Light Industrial to the west and north associated with the Moss Vale Enterprise Corridor;

- land recently rezoned E4 Environmental Living to the east; and
- land zoned RU4 Primary Production Small Lots to the south.



**Figure 1:** Subject site and surrounds

## 2. PROPOSAL

### 2.1 Objectives or intended outcomes

The objective of the proposal is to rezone the subject site to E4 Environmental Living with a minimum lot size of 2ha.

The intended outcome is to allow (subject to obtaining development consent) subdivision of the site into three 2ha lots and permit two new dwellings on the vacant lots (lots 8 and 9).

This would constitute a modest increase in rural-residential dwellings in the North-West Moss Vale area with appropriate access to infrastructure and services.

The objectives and intended outcomes outlined in the planning proposal are clear and adequate for exhibition purposes.

### 2.2 Explanation of provisions

To achieve the intended objectives and outcomes of the planning proposal, the following changes will be required to the Wingecarribee LEP:

- Land Zoning Maps (Sheet LZN\_007C and 7D) – subject site to be shown as zoned E4 Environmental Living; and
- Lot Size Maps (Sheet LZN\_007C and 7D) – subject site to be shown with a minimum lot size of 2ha.

The planning proposal does not require amendment to the land use table or clauses in the Wingecarribee LEP.

### **2.3 Mapping**

As above, the relevant Land Zoning Maps and Lot Size Maps will need to be amended as a result of the proposal.

Draft maps are not provided in the planning proposal and a Gateway condition is therefore recommended requiring the planning proposal to be updated with these maps prior to public exhibition.

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

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The planning proposal is needed to provide a modest increase in rural-residential dwellings in the North-West Moss Vale area. The proposal is consistent with regional and local strategic plans and the site is located close to existing services and infrastructure.

During the preparation of the Wingecarribee Local Planning Strategy 2015-2031, Council received proposals to rezone and reduce the minimum lot sizes of three sites in North-West Moss Vale locality (**Figure 2**). The intent of these proposals was to allow additional housing.

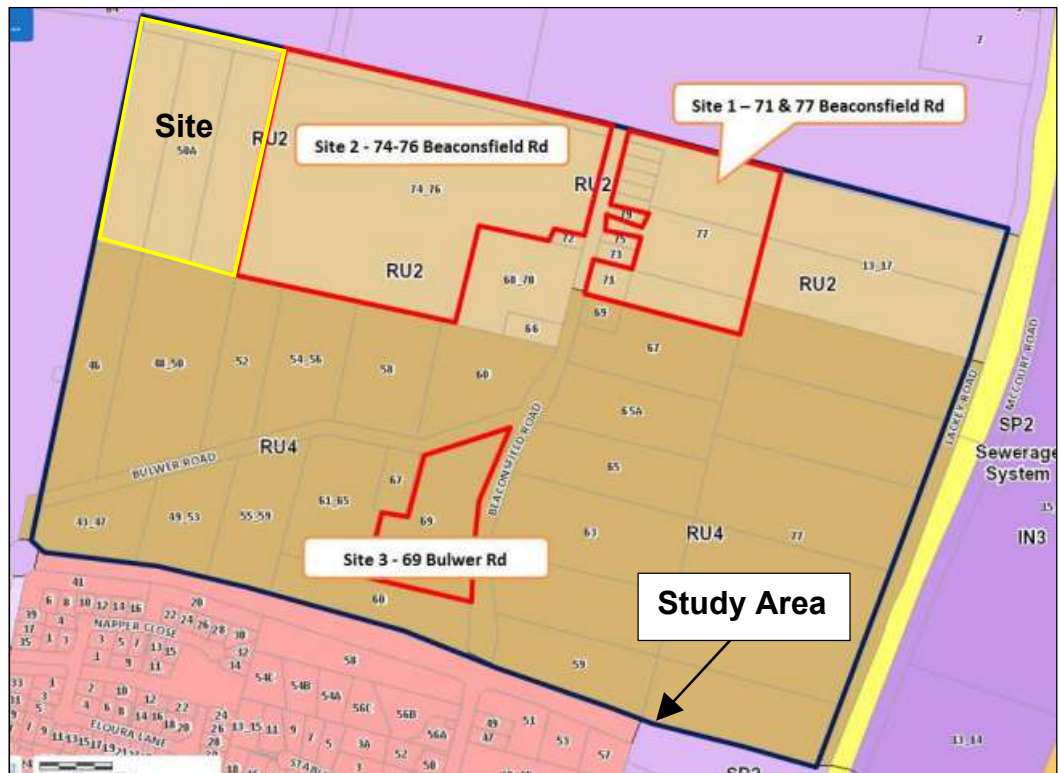
Council sought to undertake a more strategic/wholistic approach by reviewing the appropriateness of planning controls applying to the broader locality establishing the North-West Moss Vale study area (**Figure 2**).

Council's strategic review found that the study area was no longer an area of active primary production and is now a rural-residential area where the E4 Environmental Living zone may be more appropriate. The review found the E4 zone provides a gradual transition in lot size from small lots within the R2 zone in the south, and a buffer between the residential area and the industrial precinct to the north. The review also found 1ha and 2ha minimum lot sizes would be more appropriate in the study area (**Figure 3**)

The three sites identified in **Figure 2** have received a Gateway determination (PP\_2019\_WINGE\_003\_00) and have been rezoned to E4 Environmental Living with a minimum lot size of 2ha (Site 1 and Site 2) and 1ha (Site 3) consistent with the findings of Council's strategic review.

The subject proposal seeks to further implement the findings of Council's strategic review for the study area. The subject site adjoins Site 2 and proposes the same E4 zoning and 2ha minimum lot size controls which would provide an appropriate bookend to the north-western corner of the study area. This is best illustrated in **Figure 1**.

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



**Figure 2:** North-West Moss Vale strategic review study area showing the three sites with a Gateway determination



**Figure 3:** North-West Moss Vale strategic review proposed lot sizes for the study area (Note: Z1 = 2ha and Y= 1ha)



## **4. STRATEGIC ASSESSMENT**

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### **4.2 Regional**

#### South East and Tablelands Regional Plan

Key Directions of the Regional Plan relevant to the proposal include:

- Direction 24 - deliver greater housing supply and choice;
- Direction 25 - focus housing growth in locations that maximise infrastructure and services; and
- Direction 27 - deliver more opportunities for affordable housing.

The proposal would amend zoning and reduce lots sizes to provide a modest amount of additional housing in Wingecarribee close to existing services and is consistent with the above Directions in the Regional Plan.

### **4.3 Local**

#### Wingecarribee Local Strategic Planning Statement 2020 (Wingecarribee LSPS)

The Wingecarribee LSPS adopted by Council on 24 June 2020 provides a vision to guide land use planning decisions in the Shire over the next 20 years.

The LSPS contains narrative and actions about promoting infill development close to existing services whilst protecting the character of existing towns.

The proposal is consistent with the LSPS as it would enable infill development which better utilises under-used parcels of land located in proximity to existing services and infrastructure. The proposal would enable a zoning and minimum lot size which is better reflective of the emerging rural-residential character of the area.

#### Wingecarribee Local Planning Strategy 2015-2031

The North-West Moss Vale strategic review was born out of three rezoning submissions received during the preparation of the Wingecarribee Local Planning Strategy 2015-2031.

As above, Council undertook a strategic review of the broader locality (rather than specific sites) and found it was no longer an area of primary production.

The subject site, while not identified specifically in the Strategy, was identified as suitable for rezoning consideration as a result of the Strategy and subsequent review.

The proposal is therefore considered consistent with the overall intent of the Strategy and Council's on-going commitment to provide infill housing to meet community needs.

### **4.4 Section 9.1 Ministerial Directions**

Relevant Section 9.1 Directions have been identified in the planning proposal.

The planning proposal is not site-specific and as such, while many Section 9.1 Directions technically apply, they are not relevant. Key applicable Directions are discussed in detail below.

#### 1.2 Rural Zones

The objective of this Direction is to protect the agricultural production value of rural land. The planning proposal seeks to rezone rural land and is inconsistent with this Direction.

However, these changes were identified and justified by the North-West Moss Vale strategic review which was born out of the Wingecarribee Local Planning Strategy 2015-2031. The review found the land was no longer an area of active primary production.

As noted earlier in this report, the proposal is also consistent with the South East and Tablelands Regional Plan.

The Secretary's delegate may therefore be satisfied any inconsistency with this Direction has been justified in accordance with the terms of the Direction.

### 1.5 Rural Lands

Key objectives of this Direction are to protect the agricultural production value of rural land, facilitate the orderly and economic use and development of rural lands for rural and related purposes and encourage sustainable land use practices and ensure the ongoing viability of agriculture on rural land.

As noted above, the planning proposal is the result of a strategic review born out of the Wingecarribee Local Planning Strategy 2015-2031 which found the land was no longer an area of active primary production.

The Secretary's delegate may therefore be satisfied that any inconsistency with this Direction is of minor significance.

### 2.6 Remediation of Contaminated Land

Council has advised historical land uses suggest potentially contaminating practices. Council noted a dwelling already exists on Lot 8 and contamination did not appear to be a critical issue at the time of approval. Council is therefore of the view potential contamination issues on site can be managed.

Council has committed to undertaking a Preliminary Site Investigation (PSI) and exhibiting it with the planning proposal.

It is recommended that a PSI prepared in accordance with *Managing Land Contamination: Planning Guidelines* (1998) be exhibited with the planning proposal.

Consistency with this Direction remains unresolved until the PSI has been prepared and the Department can be satisfied the land is (or can be made suitable) suitable for uses permitted in the E4 zone.

It is recommended that Council submit the PSI to the Department for review and approval prior to proceeding to public exhibition.

### 4.4 Planning for Bushfire Protection

The south-eastern corner of the site is mapped as bushfire prone land (vegetation buffer).

The bushfire prone land mainly covers the southern portion of lot 8 which already contains a dwelling. As such, the provision of housing further away to the west on lots 9 and 10 with appropriate bushfire measures (e.g. Asset Protection Zones) is likely to be achievable. These impacts would be assessed and managed through the development assessment process.

Consultation has not occurred with the NSW Rural Fire Service (NSW RFS) and consistency with Direction 4.4 remains unresolved.

A Gateway condition has therefore been recommended requiring consultation with the NSW RFS prior to exhibition.

## 5.2 Sydney Drinking Water Catchments

The planning proposal will affect land in the drinking water catchment.

Direction 5.2 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.

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

The planning proposal seeks to allow two new dwellings on lots 9 and 10. Any subsequent development application to Council would need to fully address potential impacts on the water catchment. It is considered potential impacts from the development of two dwellings are likely to be minor and manageable.

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

It is recommended that Council consult with Water NSW prior to exhibition of the planning proposal.

## 5.10 Implementation of Regional Plans

This Direction gives legal effect to the vision, directions and actions contained in regional plans. Planning proposals must be consistent with the relevant Regional Plan.

As identified earlier in this report, the planning proposal is consistent with the South East and Tablelands Regional Plan and this Direction.

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

Relevant SEPPs have been identified in Section B of the planning proposal.

The planning proposal is not inconsistent with relevant SEPPs.

#### SEPP 55 – Remediation of Land

Potential contamination issues to ensure consistency with SEPP 55 are addressed in Section 4.4 of this report.

#### SEPP Sydney Drinking Water Catchment

As noted above, consultation is recommended with Water NSW prior to public exhibition to ensure the proposal does not adversely impact on the Sydney Drinking Water Catchment consistent with the aims of SEPP (Sydney Drinking Water Catchment) 2011.

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

### **5.1 Environmental**

The site is predominantly cleared paddocks, except for scattered landscaping trees and as such, the proposal is not anticipated to result in any significant or adverse environmental impacts.

There are some Category 3 watercourses traversing the site, requiring a 10m setback under the Wingecarribee LEP. Given the site of each lot, these setbacks could be easily accommodated. Residual water quality issues can be managed through the development assessment process and consultation (as recommended) with Water NSW.

There is also an area of scattered Southern Highlands Shale Woodland (a threatened ecological community) within and adjoining the south-east corner of lot 8 (**Figure 1**). Lot 8 contains the existing dwelling and a buffer is therefore provided between the vegetation and lots 9 and 10 to the west where the new houses would be located. As such, adverse impacts to the woodland are considered unlikely.

As a safeguard, consultation is recommended with the Department's Environment, Energy and Science Division to ensure potential ecology impacts are thoroughly considered as part of the rezoning process.

## **5.2 Social and Economic**

The subject site is located close to the Moss Vale township. The planning proposal will provide for a modest increase in the availability of housing choice close to services. This is likely to result in positive social and economic impacts.

## **6. CONSULTATION**

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### **6.1 Community**

Council has proposed a 28-day exhibition period, which is appropriate considering the nature of the proposal.

### **6.2 Agencies**

Consultation is recommended with:

- the NSW RFS;
- the Department's Environment, Energy and Science Division; and
- Water NSW.

A Gateway condition has been recommended accordingly.

## **7. TIME FRAME**

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Council anticipates a 5-month time frame to finalise the LEP. It is recommended that a 12-month period be provided to enable a buffer in case issues arise during consultation or any other part of the process.

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

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Council has asked for plan-making authority in relation to this proposal. This is considered appropriate, as the proposal is minor in nature, is of local significance and is not inconsistent with local or regional strategic planning.

## **9. CONCLUSION**

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It is recommended the proposal should proceed to a Gateway determination as it provides for a modest increase in rural-residential dwellings in the North-West Moss Vale area located in proximity to existing services and infrastructure and is consistent with local and regional strategic planning objectives, including:

- the findings of the North-West Moss Vale strategic review (which was born out of the preparation of the Wingecarribee Local Planning Strategy 2015-2031); and
- the South East and Tablelands Regional Plan.



## 10. RECOMMENDATION

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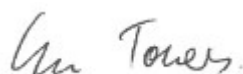
It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Direction 1.2 Rural Zones and Direction 1.5 Rural Lands are minor or justified; and
2. note that the consistency with section 9.1 Direction 2.6 Remediation of Contaminated Land, Direction 4.4 Planning for Bushfire Protection and Direction 5.2 Sydney Drinking Water Catchment are unresolved and will require justification.

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

1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. Consultation is required with Water NSW, the NSW RFS and the Department's Environment, Energy and Science Division.
3. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should be the local plan-making authority.
5. Draft Land Zoning and Lot Size Maps shall be prepared and exhibited as part of the planning proposal.
6. A Preliminary Site Investigation must be prepared in accordance with *Managing Land Contamination: Planning Guidelines* (1998) and exhibited with the planning proposal.

The Preliminary Site Investigation must be submitted to the Department for review and approval prior to proceeding to public exhibition.



27/07/2020



28/07/2020

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### Attachments

Attachment A – Planning Proposal

Attachment B – Gateway Determination

Attachment C – Letter to Council