

# Planning Proposal

To amend Wingecarribee Local Environmental Plan 2010 to apply a zoning of R2 Low Density Residential and a minimum lot size of 2000m<sup>2</sup> to certain land at Penrose, being:

- *Lot 41 DP1058534 (873 Penrose Road, Penrose)*
- *Lot 22 DP 11288 (871 Penrose Road, Penrose)*
- *Part of Lot 42 DP 1058534 (46 Koolilabah Lane, Penrose) between Lot 13 DP 11288 and Lot 41 DP 1058534 of approximately 4000m<sup>2</sup> in area.*

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Version 1 – For Gateway Determination

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## LOCAL GOVERNMENT AREA : WINGECARRIBEE SHIRE COUNCIL

### ADDRESS OF LAND : 871 & 873 Penrose Road and 46 Koolilabah Lane Penrose



Figure 1 Shire Location

### SITE LOCATION & DESCRIPTION

The purpose of the Planning Proposal is to amend Wingecarribee Local Environmental Plan (WLEP) 2010 to rezone from E3 Environmental Management to R2 Low Density Residential and apply a minimum lot size of 2000m<sup>2</sup> to land at Penrose, being:

- Lot 41 DP1058534 (873 Penrose Road, Penrose)
- Lot 22 DP 11288 (871 Penrose Road, Penrose)
- Part of Lot 42 DP 1058534 (46 Koolilabah Lane, Penrose) between Lot 13 DP 11288 and Lot 41 DP 1058534 of approximately 4000m<sup>2</sup> in area.

It is noted that the zoning and minimum lot size amendments would extend to include that portion of Penrose Road immediately in front of the subject land, in accordance with the zoning practice adopted in the making of WLEP 2010.

Penrose village is located in the southern part of Wingecarribee Shire as indicated in Figure 1 above. The subject land is located on the north eastern edge of the village on the southern side of Penrose Road as indicated on Figure 2 below.

The area of each portion of the subject land is:

- Lot 41 DP1058534 (873 Penrose Road, Penrose) = 1,963.8 m<sup>2</sup>
- Lot 22 DP 11288 (871 Penrose Road, Penrose) = 1,11.5m<sup>2</sup>
- Part of Lot 42 DP 1058534 (46 Koolilabah Lane, Penrose) = 4000m<sup>2</sup> in area.

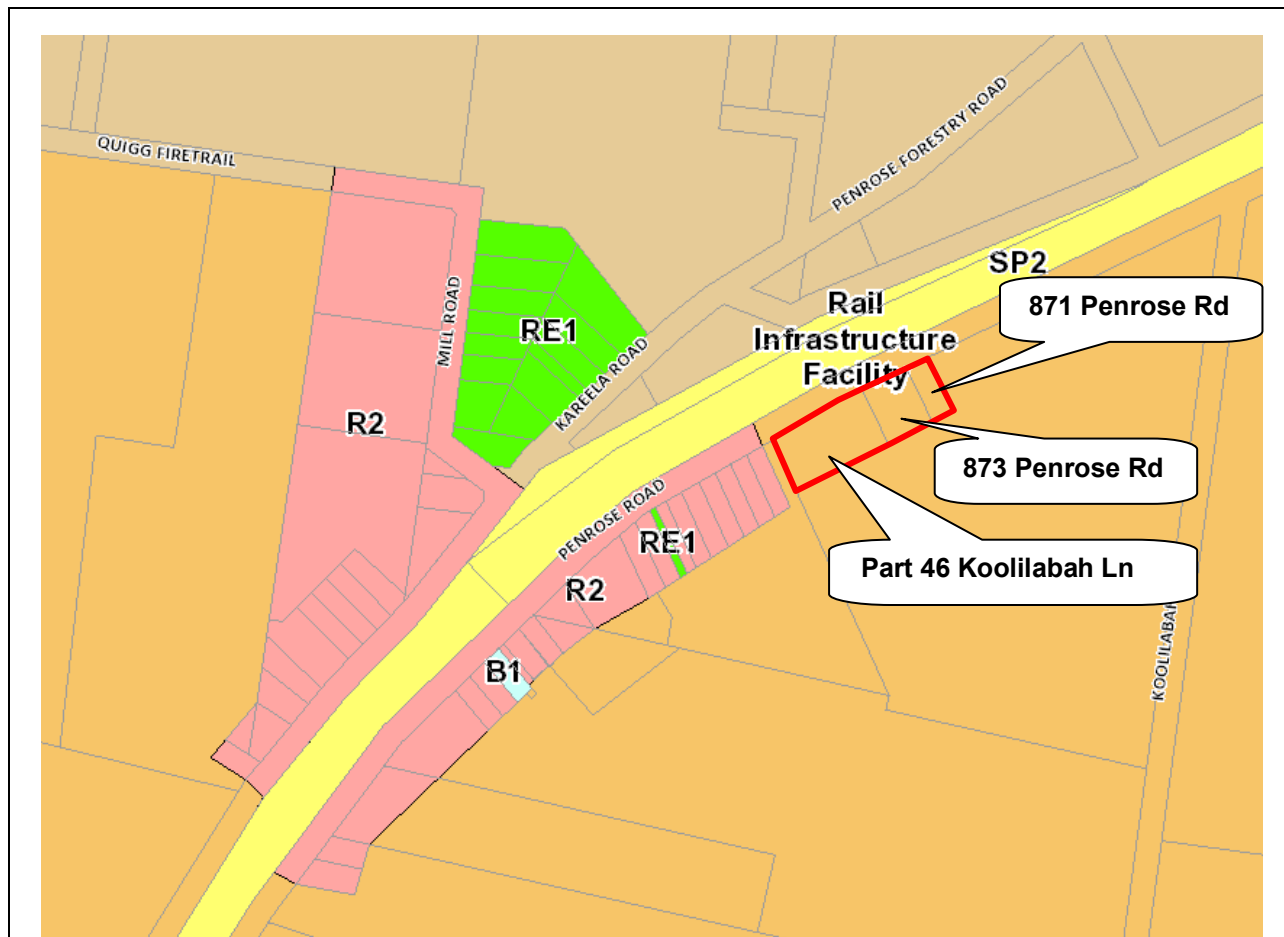


Figure 2 Local Context

The matter was reported to the Ordinary Meeting of Council on 12 July 2017 at which time it was resolved THAT

*Wingecarribee Local Environmental Plan 2010 be amended to rezone to R2 Low Density Residential and apply a minimum lot size of 2000m<sup>2</sup> to Lot 41 DP 1058534, 873 Penrose Road, Penrose and Lot 22 DP 11288, 871 Penrose Road, Penrose and to that part of Lot 42 DP 1058534, 46 Koolilabah Road, Penrose fronting Penrose Road between Lot 13 DP 11288 and Lot 41 DP 1058534, being approximately 4000m<sup>2</sup> in area.*

A copy of the Report to and Resolution Council form **Attachment 2** and **Attachment 3** to this Planning Proposal.

## PART 1 : OBJECTIVES OR INTENDED OUTCOMES

The objective of this Planning Proposal is to provide some additional residential land in the village of Penrose in line with the current level of infrastructure services.

## PART 2 : EXPLANATION OF THE PROVISIONS

To achieve the intended outcomes of the Planning Proposal the following WLEP 2010 maps will require amendment:

Map(s) to be amended	Required Amendment
Land Zoning Map	<ul style="list-style-type: none"><li>Subject land &amp; immediate road reserve be rezoned from E3 Environmental Management to R2 Low Density Residential.</li></ul>
Minimum Lot Size Map	<ul style="list-style-type: none"><li>The minimum lot size of the subject land &amp; immediate road reserve be amended from 40 hectares to 2,000m<sup>2</sup>.</li></ul>

## 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 was initiated by the owners of 46 Koolilabah Lane, Penrose who lodged a Planning Proposal with Council seeking to create two (2) residential allotments between the existing edge of the Penrose residential area on the southern side of Penrose Road, and the two smaller residential allotments to the north east. (The shaded area in Figure 3 below).

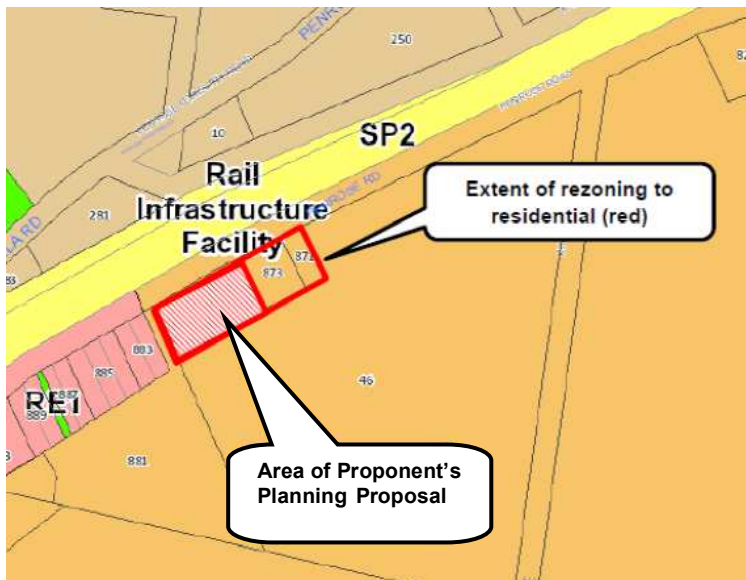


Figure 3 Subject Land

Council was supportive of this Planning Proposal and determined to also rezone and apply an appropriate minimum lot size to the two smaller residential allotments to the north east as part of the subsequent amendment to WLEP 2010 resulting from the proponent initiated Planning Proposal. (The red bounded but unshaded area in Figure 3 above)

Following assessment, Council resolved to include the subject land in the draft Wingecarribee Local Planning Strategy 2015-2031 for the purposes of public exhibition. One (1) submission of support was received and the proposal as subsequently included in the Penrose and Wingello Villages Precinct Plan of the Wingecarribee Local Planning Strategy 2015-2031 adopted by Council on 23 March 2016 and subsequently endorsed by the Department of Planning & Environment on 15 May 2017.

Because Council's resolution varied the extent of land included in the proponent's initial Planning Proposal, the Department of Planning & Environment advised Council to prepare its own Planning Proposal and attach the proponent's Planning Proposal. This has been done and forms **Attachment 1** to this Planning Proposal.

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

The only means of enabling the proposed outcome is to amend WLEP 2010 and a Planning Proposal is the only means of amending an LEP. Rezoning the subject land and applying a minimum lot size is considered the best way to achieve the outcome as the LEP then clearly establishes and planning controls and what is permitted on the land under those controls.

**Section B – Relationship to strategic planning framework**

**3. Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including draft strategies)?**

The Planning Proposal will create two additional residential allotments in Penrose Village. This is consistent with the South East and Tablelands Regional Plan which encourages Councils to provide additional residential potential where the level of infrastructure services permits. There is no water or sewer infrastructure in Penrose, therefore Council is not supportive of any more extensive rezoning, but is prepared to support two additional lots between existing smaller lots and the zoning of all for residential purposes.

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

The Planning Proposal reflects Council's resolution of 23 March to include the subject land in the Penrose and Wingello Villages Precinct Plan of the Wingecarribee Local Planning Strategy 2015-2031 endorsed by the Department of Planning & Environment on 15 May 2017.

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

The Proposal has been assessed against relevant SEPPs as indicated below.

SEPP	Relevance to Planning Proposal
No.1 Development Standards	<b><u>NOT RELEVANT</u></b> – The SEPP was replaced by Clause 4.6 of WLEP2010 as the mechanism for any variation to development standards.
No.14 Coastal Wetlands	<b><u>NOT RELEVANT</u></b> – There are no Coastal Wetlands within the Shire.
No.19 Bushland in Urban Areas	<b><u>NOT RELEVANT</u></b> – The SEPP does not apply to Wingecarribee Shire.
No.21 Caravan Parks	<b><u>NOT RELEVANT</u></b> – The Planning Proposal will not result in any development addressed in the SEPP.
No.26 Littoral Rainforests	<b><u>NOT RELEVANT</u></b> – The SEPP does not apply to Wingecarribee Shire.
No.30 Intensive Agriculture	<b><u>NOT RELEVANT</u></b> – The Planning Proposal will not result in any development addressed in the SEPP.
No.33 Hazardous and Offensive Development	<b><u>NOT RELEVANT</u></b> – The Planning Proposal will not result in any development addressed in the SEPP.
No.36 Manufactured Home Estates	<b><u>NOT RELEVANT</u></b> – The Planning Proposal will not result in any development addressed in the SEPP.
No.44 Koala Habitat Protection	<b><u>CONSISTENT</u></b> - the subject land is either cleared of vegetation or already contains residential development.
No. 47 Moore Park Showground	<b><u>NOT RELEVANT</u></b> – The SEPP does not apply to Wingecarribee Shire.
No.50 Canal Estate Development	<b><u>NOT RELEVANT</u></b> – The Planning Proposal will not result in any development addressed in the SEPP.
No.52 Farm Dams and Other Works in Land and Water Management Plan Areas	<b><u>NOT RELEVANT</u></b> – The SEPP does not apply to Wingecarribee Shire.
No.55 Remediation of Land	<b><u>NOT RELEVANT</u></b> – The Planning Proposal will not result in any activity addressed in the SEPP.
No. 62 Sustainable Aquaculture	<b><u>NOT RELEVANT</u></b> – The Planning Proposal will not result in any development addressed in the SEPP.
No.64 Advertising and Signage	<b><u>CONSISTENT</u></b> - Any signage resulting from the Planning proposal would be the subject of a Development Application if not already exempt development under WLEP or the relevant Penrose & Wingello Villages Development Control Plan.

No.65 Design Quality of Residential Apartment Development	<b><u>NOT RELEVANT</u></b> – The Planning Proposal will not result in any development addressed in the SEPP.
No.70 Affordable Housing (Revised Schemes)	<b><u>NOT RELEVANT</u></b> – The SEPP does not apply to Wingecarribee Shire.
No.71 Coastal Protection	<b><u>NOT RELEVANT</u></b> – The SEPP does not apply to Wingecarribee Shire.
Affordable Rental Housing 2009	<b><u>CONSISTENT</u></b> - Any development for the purposes of a secondary dwelling would be the subject of a Development Application and assessed in accordance with the provisions of the Penrose & Wingello Villages Development Control Plan.
Building Sustainability Index: Basix 2004	<b><u>CONSISTENT</u></b> - All BASIX assessment will occur at the Development Application or Certification stage.
Educational Establishments and Child Care Facilities 2017	<b><u>CONSISTENT</u></b> - Any development under the SEPP would be the subject of a Development Application and assessed in accordance with the provisions of the Penrose & Wingello Villages Development Control Plan.
Exempt and Complying Development Codes 2008	<b><u>CONSISTENT</u></b> - The Planning Proposal contains nothing which prevents the SEPP applying to the proposed lots and development.
Housing for Seniors or People with a Disability 2004	<b><u>CONSISTENT</u></b> - The land uses addressed in the SEPP are permitted with consent in the R2 zone. Any subsequent application for such development would be assessed against the provisions of the Penrose & Wingello Villages Development Control Plan.
Infrastructure 2007	<b><u>CONSISTENT</u></b> - Any development under the SEPP would be the subject of a Development Application and assessed in accordance with the provisions of the Penrose & Wingello Villages Development Control Plan.
Integration and Repeals 2016	<b><u>NOT RELEVANT</u></b> – The SEPP does not apply to Wingecarribee Shire.
Kosciuszko National Park - Alpine Resorts 2007	<b><u>NOT RELEVANT</u></b> – The SEPP does not apply to Wingecarribee Shire.
Kurnell Peninsula 1989	<b><u>NOT RELEVANT</u></b> – The SEPP does not apply to Wingecarribee Shire.
Mining, Petroleum Production and Extractive Industries 2007	<b><u>CONSISTENT</u></b> - Any development under the SEPP would be the subject of a Development Application and assessed in accordance with the provisions of the Penrose & Wingello Villages Development Control Plan.



Miscellaneous Consent Provisions 2007	<b><u>NOT RELEVANT</u></b> – The Planning Proposal will not result in any activity addressed in the SEPP.
Penrith Lakes Scheme 1989	<b><u>NOT RELEVANT</u></b> – The SEPP does not apply to Wingecarribee Shire.
Rural Lands 2008	<p><b><u>CONSISTENT</u></b> – The provisions of the Rural Lands SEPP were considered in the assessment of the proponent's Planning Proposal as required under clause 10 (2) of the SEPP.</p> <p>The requirements of clause 10 (3) (below left) are addressed below right.</p>
<p>(a) the existing uses and approved uses of land in the vicinity of the development,</p> <p>(b) whether or not the development is likely to have a significant impact on land uses that, in the opinion of the consent authority, are likely to be preferred and the predominant land uses in the vicinity of the development,</p> <p>(c) whether or not the development is likely to be incompatible with a use referred to in paragraph (a) or (b),</p> <p>(d) if the land is not situated within a rural residential zone, whether or not the development is likely to be incompatible with a use on land within an adjoining rural residential zone,</p> <p>(e) any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c) or (d).</p>	<p>Both 871 &amp; 873 Penrose Road are already well below the 40 ha minimum lot size and contain dwelling houses. The Planning Proposal will not enable further subdivision.</p> <p>46 Koolilabah Lane is currently cleared and is of minimal agricultural value. The area included in the Proposal is sufficient to provide only two (2) additional dwellings.</p> <p>All of the subject land would be considered more in the nature of rural residential land than rural land with any real agricultural potential. There are visual impacts associated with the remained of 46 Koolilabah Lane beyond 873 Penrose Road, but that land does not form part of this Planning Proposal.</p>
State and Regional Development 2011	<b><u>NOT RELEVANT</u></b> – The Planning Proposal will not result in any activity addressed in the SEPP.
State Significant Precincts 2005	<b><u>NOT RELEVANT</u></b> – The Planning Proposal will not result in any activity addressed in the SEPP.
Sydney Drinking Water Catchment 2011	<b><u>CONSISTENT</u></b> – The Planning Proposal will be referred to Water NSW under the Gateway Determination requirements. The Water NSW response will be included when the Planning Proposal is exhibited.
Sydney Region Growth Centres 2006	<b><u>NOT RELEVANT</u></b> – The SEPP does not apply to Wingecarribee Shire.
Three Ports 2013	<b><u>NOT RELEVANT</u></b> – The SEPP does not apply to Wingecarribee Shire.
Urban Renewal 2010	<b><u>NOT RELEVANT</u></b> – The SEPP does not involve to any urban renewal development.
Vegetation in Non-Rural Areas 2017	<b><u>NOT RELEVANT</u></b> – The SEPP does not apply to Wingecarribee Shire.

Western Sydney Employment Area 2009	<b><u>NOT RELEVANT</u></b> – The SEPP does not apply to Wingecarribee Shire.
Western Sydney Parklands	<b><u>NOT RELEVANT</u></b> – The SEPP does not apply to Wingecarribee Shire.

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

The Planning Proposal has been assessed against applicable Directions issued by the Minister for Planning under section 9.1 of the *Environmental Planning & Assessment Act 1979*. These assessments are reproduced below. Directions not applicable to Wingecarribee Shire have been excluded.

1. Employment & Resources	Assessment
1.1 Business & Industrial Zones	<b><u>CONSISTENT</u></b>  The subject land is not located in a Business or Industrial zone.
1.2 Rural Zones	<b><u>CONSISTENT</u></b>  The objective of this direction is to protect agricultural production land. The subject land is either already used for residential development, or forms an opportunity for modest infill as appropriate for land without water or sewer infrastructure. The remainder of the land which forms 46 Koolilabah Lane is not of high agricultural value although it does have a visual value which will not be impacted by the proposal.
1.2 Mining, Petroleum Production & Extractive Industries	<b><u>CONSISTENT</u></b>  The Planning Proposal will have no effect on the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials.
1.4 Oyster Aquaculture	<b><u>CONSISTENT</u></b>  The Planning Proposal does not involve oyster aquaculture.
1.5 Rural Lands	<b><u>CONSISTENT</u></b>  The objective of this direction is to protect agricultural production land. The subject land is either already used for residential development, or forms an opportunity for modest infill as appropriate for land without water or sewer infrastructure. The remainder of the land which forms 46 Koolilabah Lane is not of high agricultural value although it does have a visual value which will not be impacted by the proposal.

2. Environment & Heritage	Assessment
2.1 Environment Protection Zones	<p><b><u>CONSISTENT</u></b></p> <p>The objective of this direction is to protect and conserve environmentally sensitive area. Although the subject land is zoned E3 Environmental Management, it is either already used for residential development, or forms an opportunity for modest infill as appropriate for land without water or sewer infrastructure. The remainder of the land which forms 46 Koolilabah Lane does have a visual value which will not be impacted by the proposal.</p>
2.2 Coastal Management	<p><b><u>CONSISTENT</u></b></p> <p>The subject land is not located in a coastal area.</p>
2.3 Heritage Conservation	<p><b><u>CONSISTENT</u></b></p> <p>The subject land is not known to be an area of heritage significance or to contain items of heritage.</p>
2.4 Recreation Vehicle Areas	<p><b><u>CONSISTENT</u></b></p> <p>The subject land will not be used as a recreational vehicle area.</p>
2.5 E2 & E3 zones in Far North Coast LEPs	<p><b><u>CONSISTENT</u></b></p> <p>The Planning Proposal does not address land on the Far North Coast.</p>

3. Housing, Infrastructure & Urban Development	Assessment
3.1 Residential Zones	<p><b><u>CONSISTENT</u></b></p> <p>The objective of this direction is to encourage a variety and choice of housing types, to make efficient use of infrastructure and to minimise impacts on environmental or resource lands.</p> <p>The Planning Proposal intends to rezone the subject land to R2 Low Density Residential and forms an opportunity for modest infill as appropriate for land without water or sewer infrastructure.</p>
3.2 Caravan Parks & Manufactured Home Estates	<p><b><u>CONSISTENT</u></b></p> <p>The objective of this direction is to encourage a variety and choice of housing types and to provide opportunities for caravan parks and manufactured home estates.</p>

3. Housing, Infrastructure & Urban Development	Assessment
	The Planning Proposal will provide two additional residential lots but, because there is no water or sewer infrastructure, there is not considered to be any further residential potential beyond that in the short term.
3.3 Home Occupations	<b><u>CONSISTENT</u></b>  The Planning Proposal will in no way prevent the carrying out of low impact small businesses in dwelling houses.
3.3 Integrating Land Use & Transport	<b><u>CONSISTENT</u></b>  The subject land is located near to Penrose Railway Station.
3.5 Development near Licensed Aerodromes	<b><u>CONSISTENT</u></b>  The subject land is not located near a licensed aerodrome.
3.6 Shooting Ranges	<b><u>CONSISTENT</u></b>  The subject land is not located near a shooting range.
4. Hazard & Risk	Assessment
4.1 Acid Sulphate Soils	<b><u>CONSISTENT</u></b>  The subject land does not contain acid sulphate soils.
4.2 Mine Subsidence & Unstable Land	<b><u>CONSISTENT</u></b>  The subject land is not known to be subject to mine subsidence or instability.
4.3 Flood Prone Land	<b><u>CONSISTENT</u></b>  The subject land is not known to be flood liable.
4.4 Planning for Bushfire Protection	<b><u>CONSISTENT</u></b>  The subject land is mapped to be in a vegetation buffer zone for bushfire management. There is no mapped vegetation on the subject land.

5. Regional Planning	Assessment
<b>5.1 / 5.10 Implementation of Regional Strategies/Plans</b>	<p><b><u>CONSISTENT</u></b></p> <p>The objective of this direction is to ensure that the Planning Proposal is in accord with the relevant Regional Plan, being the South East &amp; Tablelands Regional Plan. Of particular relevance to this Planning Proposal are the goals and actions relating to housing supply and choice.</p> <p>The Planning Proposal will provide two additional residential lots but, because there is no water or sewer infrastructure, there is not considered to be any further residential potential beyond that in the short term.</p>
<b>5.2 Sydney Drinking Water Catchments</b>	<p><b><u>CONSISTENT</u></b></p> <p>The Planning Proposal will be referred to Water NSW under the Gateway Determination requirements. The Water NSW response will be included when the Planning Proposal is exhibited.</p>
6. Local Plan Making	Assessment
<b>6.1 Approval &amp; Referral Requirements</b>	<p><b><u>CONSISTENT</u></b></p> <p>The development proposed in this Planning Proposal will not be integrated development or require concurrence.</p>
<b>6.2 Reserving Land for Public Purposes</b>	<p><b><u>CONSISTENT</u></b></p> <p>The Planning Proposal will not affect any land for public purposes.</p>
<b>6.3 Site Specific Provisions</b>	<p><b><u>CONSISTENT</u></b></p> <p>The Planning Proposal will achieve the intended outcome through rezoning and varying the minimum lot size to the subject land.</p> <p>The Planning Proposal does not contain any specific plans or drawings.</p>
7. Metropolitan Planning	Assessment
	<p><b><u>CONSISTENT</u></b></p> <p>None of the Metropolitan Planning directions apply to Wingecarribee Shire.</p>

## 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 subject land is mostly cleared of vegetation. Two sites are already used for residential development and the remainder is cleared land which will provide infill between the R2 Low Density residential zone and the two smaller lots beyond it.

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

There are not considered to be any other environmental impacts associated with the development. The extent of development does not impact on the visual value of the remainder of the land addressing Koolilabah Lane.

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

The Planning Proposal will provide two additional residential lots which is appropriate for land without water or sewer infrastructure. Such development can provide modest social and economic benefits to a small rural village.

## Section D – State and Commonwealth Interests

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

There is no water or sewer infrastructure in the village however the addition of two residential lots can be managed through on site water storage and effluent management systems, the adequacy of which would be confirmed when the dwelling applications are assessed.

## PART 4 – MAPPING

To achieve the intended outcomes of the Planning Proposal the following WLEP 2010 maps will require amendment:

Map(s) to be amended	Required Amendment
Land Zoning Map	<ul style="list-style-type: none"><li>Subject land &amp; immediate road reserve be rezoned from E3 Environmental Management to R2 Low Density Residential.</li></ul>
Minimum Lot Size Map	<ul style="list-style-type: none"><li>The minimum lot size of the subject land &amp; immediate road reserve be amended from 40 hectares to 4,000m<sup>2</sup>.</li></ul>

## PART 5 – COMMUNITY CONSULTATION

Community consultation will occur as directed in the Gateway Determination and in accordance with the Department's *Guide to Preparing LEPs*. Council provides at least 28 days of public exhibition which includes, as relevant, notification by letter/email to adjoining property owners and weekly advertising in the Southern Highland News for the duration of the exhibition period.

Copies of the Planning Proposal and relevant documentation are provided on Council's website, at the Customer Service Counter at the Civic Centre and at all relevant libraries including Council's Rural Outreach & Delivery Service (ROADS) Mobile Library.

Prior to community consultation any referrals required by the Gateway Determination will be done. This will include referral to Water NSW under the relevant SEPP and Ministerial Directions. Referral to the NSW Rural Fire Service is generally required as part of the Gateway Determination.

## PART 6 – TIMELINE

It is anticipated that the Planning Proposal will progress in accordance with the following key timeline milestones.

MILESTONE	INDICATIVE DATE
Gateway Determination	August 2018
Agency Consultation	September 2018
Public Exhibition	October 2018
Report to Council on exhibition of Planning Proposal	November 2018
S.3.36 Documents to Parliamentary Counsel's Office	November 2018
Anticipated completion date	December 2018

## DELEGATIONS

Council is applying to use its delegations to complete this Proposal. The Department's form *Evaluation Criteria for Delegation of Plan Making Functions* has been included for consideration as **ATTACHMENT 4**.

**\*\*\*END\*\*\***