

## Planning Services

### Gateway Determination Report

<b>LGA</b>	Wingecarribee Shire Council
<b>PPA</b>	Wingecarribee Shire Council
<b>NAME</b>	To amend the Wingecarribee Local Environmental Plan 2010 to apply a zoning of R2 Low Density Residential and a minimum lot size of 2000m2 to certain land at Penrose. (2 dwellings)
<b>NUMBER</b>	PP_WINGE_2018_007_00
<b>LEP TO BE AMENDED</b>	Wingecarribee LEP 2010
<b>ADDRESS</b>	873, 871 Penrose Road Penrose, 46 Koolilabah Lane, Penrose
<b>DESCRIPTION</b>	Lot 41 DP 1058534, Lot 22 DP 11288, and Part Lot 42 DP 1058534
<b>RECEIVED</b>	August 22 2018
<b>FILE NO.</b>	IRF/4960
<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

## INTRODUCTION

### Description of planning proposal

The planning proposal will rezone the land from E3 Environmental Management to R2 Low Density Residential and apply a minimum lot size of 2000m2 with a minimum lot size of 40 hectares to land at Penrose, namely:

- Lot 41 DP 1058534, 873 Penrose Road, Penrose,
- Lot 22 DP 11288, 871 Penrose Road, Penrose, and
- Part of Lot 42 DP 1058534, 46 Koolilabah Lane, Penrose.

### Site description

Penrose village is located in the southern part of the Wingecarribee Shire. The subject land is located on the northern eastern edge of the village, with a sealed road and is about 200 metres from the village of Penrose and 400 metres to the local school. The area of each lot is:

- Lot 41- 1,963.8m2;
- Lot 22- 1,110.5 m2

- Part of Lot 42- 4,000m2.

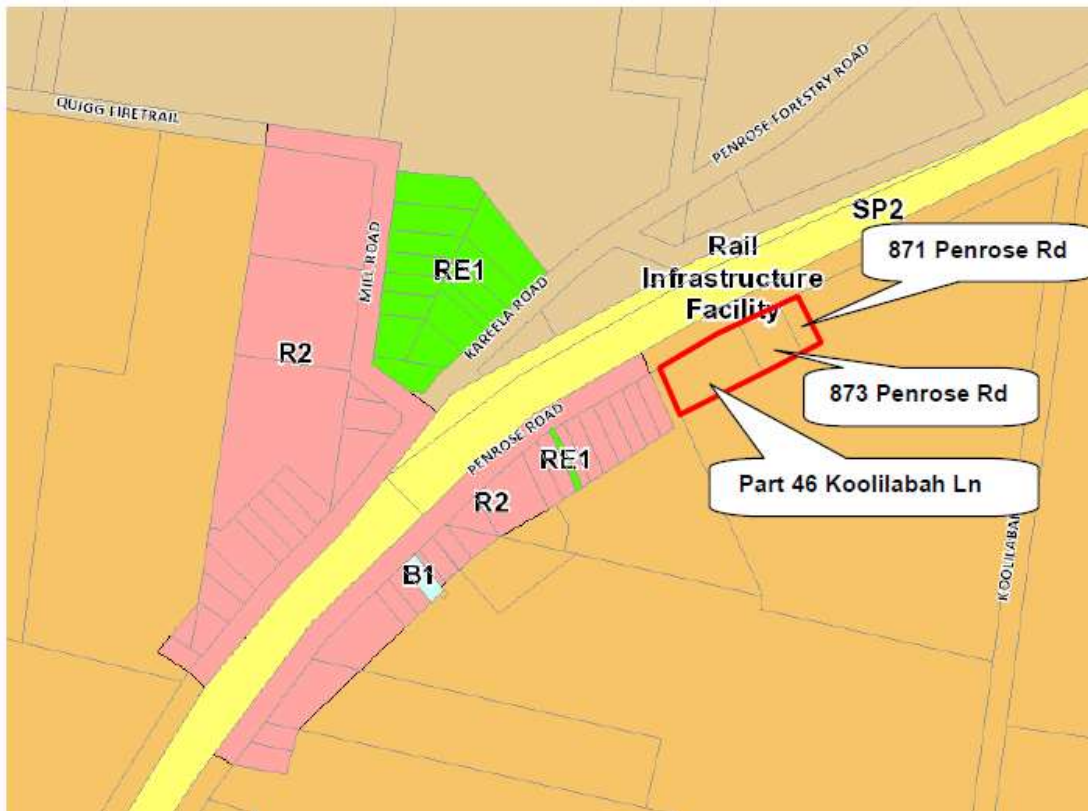


Figure 1.

### Existing planning controls

The subject lots are adjacent to land zoned R2 Low Density Residential, E3 Environmental Management and SP2 Rail Infrastructure as indicated in Figure 1. The existing minimum lot size of 40 hectares applies to the E3 Zoned land and the existing R2 zoned land has a minimum lot size of 2000m2.

### Surrounding area

The surrounding area is indicated in Figure 2. The immediate land surrounding the subject lots is identified and mapped as a vegetation buffer zone for bushfire management. There is no mapped vegetation on the subject land. The SP2 Infrastructure zoned area contains the Sydney- Melbourne Railway corridor. There are two existing dwellings on Lots 41 and 22. The application of the residential zone on Part of Lot 46 will provide for an additional two dwellings on the edge of the existing village boundary.

### Summary of recommendation

It is recommended that the planning proposal should proceed as submitted as it consistent with the adopted Wingecarribee Local Planning Strategy 2015-2031 and is a modest extension of the Penrose village



Figure 2.

## PROPOSAL

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### Objectives or intended outcomes

The objective of this planning proposal is to provide additional land with the capacity for two additional dwellings adjacent to the village of Penrose. The rezoning is appropriate for the area and is consistent with the adopted local planning strategy for Penrose.

### Explanation of provisions

The following zone and minimum lot size maps in the Wingecarribee LEP 2010 require amendment so that:

- Lot 41, DP 1058534, Lot 22 DP 11288, and Part of Lot 42 DP 1058534 be rezoned from E3 Environmental Management to R2 Low Density Residential
- The Minimum Lot size for Lot 41, DP 1058534, Lot 22 DP 11288, and Part of Lot 42 DP 1058534 be amended from 40 hectares to 2,000m<sup>2</sup>.

### Mapping

Land Zoning Map **LZN\_004B\_020\_20100520** be amended

Minimum Lot Size Map **LSZ\_004B\_020\_20140410** be amended.

The current maps provided in the planning proposal are adequate for the purposes of the public exhibition.

## NEED FOR THE PLANNING PROPOSAL

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Council resolved on the July 12 2017 to proceed to amend the Wingecarribee LEP 2010, in response to submissions to the exhibition, and the subsequent report to Council of the Wingecarribee Local Planning Strategy 2015-2031.

The planning proposal achieves the intent of the Local Planning Strategy for the Penrose village and is the only means by which the outcome to provide for a small increase in the residential capacity of the village of Penrose can be achieved.

## **STRATEGIC ASSESSMENT**

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### **Regional**

The planning proposal has identified that it is consistent with the South East and Tablelands Regional Plan. This view is supported.

### **Local**

The planning proposal is consistent with the Wingecarribee Local Planning Strategy 2015-2031. In particular it is consistent with the Precinct Plans for Penrose which identified that there was an opportunity to extend the boundaries of Penrose and reduce the minimum lot size consistent with the current R2 Low Density zoned land adjacent to the subject lots.

### **Section 9.1 Ministerial Directions**

The planning proposal identifies the following Section 9.1 Directions apply to the planning proposal : 1.5 Rural Lands, 2.1 Environment Protection Zones, 3.1 Residential Zones, 4.4 Planning for Bushfire Protection, 5.2 Sydney Drinking Water Catchments, 5.10 Implementation of Regional Strategies, and 6.3 Site Specific Provisions.

- Direction 1.5 Rural Lands

This Direction does apply to the planning proposal as it will affect land within an existing or proposed rural or environmental protection zone and proposes to change the minimum lot size.

The proposal is considered to be inconsistent with this Direction as it is not considered consistent with the Rural Subdivision Principles list in *SEPP (Rural Lands) 2008*.

**RECOMMENDATION:** The Secretary can be satisfied that the inconsistency is of minor significance, is justified by a strategy that gives consideration to the objective of the Direction and is approved by the Secretary of the Department.

- Direction 2.1 Environment Protection Zones

This Direction does apply to the planning proposal as it will affect land within an environment protection zone. The proposal is considered to be inconsistent with this Direction as it reduces the environmental protection standards that apply to the land through the zone change and decreasing the minimum lot size.

The site does not contain any EEC's, neither do the subject lots have any significant environmental attributes. Two of the lots are already used for residential purposes, and the inconsistency is justified by an endorsed local strategy

**RECOMMENDATION:** The Secretary can be satisfied that the inconsistency is minor and the inconsistency is justified by an endorsed local strategic strategy.

- Direction 3.1 Residential Zones

This Direction does apply to the planning proposal as it will affect land within an existing or proposed residential zone. The planning proposal identifies that the land will be rezoned to R2 Low Density Residential.

The proposal is considered by Council to be consistent with this Direction. This view is supported.

- Direction 4 .4 Planning for Bushfire Protection

Council has indicated that this direction does apply to the subject lots as it is mapped as a vegetation buffer zone for bushfire management and is adjacent to an area mapped as bush fire prone land. While the subject lots are not in a bushfire risk zone, it is immediately adjacent to a mapped bushfire risk zone.

RECOMMENDATION: That a Gateway condition be included so that Council be required to consult with the NSW Rural Fire Service in accordance with this Direction.

- Direction 5.2 Sydney Drinking Water Catchments

The site is located within an area mapped as part of Sydney Drinking Catchment. Council has advised that the planning proposal will be referred to Water NSW for advice and the response will be exhibited along with the planning proposal. This is supported.

The proposal is considered by Council to be CONSISTENT with this Direction. This view is supported.

- Direction 5.10 Implementation of Regional Strategies

The planning proposal states that it consistent with the South East & Tablelands Regional Plan.

The planning proposal achieves Direction 22- Build Socially inclusive, safe and healthy communities through the modest growth of the village of Penrose. This view is supported.

The proposal is considered by Council to be consistent with this Direction. This view is supported.

- Direction 6.3 Site Specific Provisions

The planning proposal is consistent with this Direction as it provides Council with the opportunity to achieve a specific strategy articulated in the Local Planning Strategy 2015-2031 which provides for a modest and manageable growth of Penrose within the constraints of available services for the village. This view is supported.

The proposal is considered by Council to be consistent with this Direction. This view is supported.

## **State environmental planning policies**

The Rural Lands SEPP and the Sydney Drinking Water Catchment SEPP both apply to the planning proposal.

In respect to the Rural Lands SEPP - The planning proposal is inconsistent with Part 3, Clause 10 of the SEPP. This specifically identifies matters for consideration where there is an intention to allow for dwellings on land in a rural, rural residential, or environmental zoned land. The matters for consideration ensure that the proposed development is not incompatible with a use of the land that may be preferred in the vicinity of the development.

The inconsistency is minor and can be justified by an endorsed Local Planning Strategy. The subject lands both 871 and 873 Penrose Road are well below the required minimum lot size for rural zoned land and have existing dwellings on each lot. The portion of the lot at 46 Koolilabah Lane which is the subject of the planning proposal is of minimal agricultural value. The area of this subject lot is sufficient to provide for 2 additional dwellings only.

In this case the inconsistencies with the Rural Lands SEPP are minor and can be justified by an endorsed local planning strategy.

**RECOMMENDATION:** The Secretary can be satisfied that the inconsistency with the Rural lands SEPP is minor and the inconsistency is justified by an endorsed local strategic strategy.

## **SITE-SPECIFIC ASSESSMENT**

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### **Social**

Penrose is a small village with limited available land close to the village for new dwellings. The planning proposal will provide for two new dwellings only which will provide for a small increase in population given the limited growth potential.

### **Environmental**

The planning proposal will not negatively impact on the environmental attributes of the subject lots or the surrounding area. The lots are cleared of native vegetation, have existing dwellings on two of the lots, and the potential new dwellings will not undermine the quality of the water catchment or have negative environmental impacts.

### **Economic**

There may be a modest increase in local economic activity as a result of extending the R2 Low Density Residential zone. The existing and future lots are not serviced by sewerage or town water and the proposed increase in dwellings will have no impact on the availability of services.

## **CONSULTATION**

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### **Community**

Council has proposed a 28 day exhibition period which is considered to be appropriate.

### **Agencies**

Council has indicated in the planning proposal that Water NSW will be consulted as per the requirement of the relevant SEPP and s1.9 Direction, and a referral to the NSW Rural Fire Service will also be made given the location of the subject sites in a



vegetation buffer zone for bushfire management and in an area adjacent to bush fire prone land. The proposed agency consultation is considered to be appropriate.

## **TIME FRAME**

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Council has proposed that the completion of the LEP will be within 6 months of receiving a Gateway determination which is appropriate.

## **LOCAL PLAN-MAKING AUTHORITY**

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Council has requested to use its delegations to finalise the planning proposal. Given the local significance of the proposal and the consistency with the Local Planning Strategy it is considered that Council's request should be supported.

## **CONCLUSION**

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The planning proposal is recommended to be supported as it facilitates the implementation of the Local Planning Strategy 2015-2031 for the Penrose and Wingello precinct which was endorsed by the Department in May 2017.

## **RECOMMENDATION**

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It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Directions 2.1 Environment Protection Zones and 5.2 Sydney Drinking Water Catchment, and the Rural Lands SEPP 2008 are minor and justified by an adopted Local Planning Strategy.

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

1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. Consultation is required with the following public authorities:
  - Water NSW
  - NSW Rural Fire Service.
3. The time frame for completing the LEP is to be 6 months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should be the local plan-making authority.



18/09/18

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