

## Planning Services

### Gateway Determination Report

<b>LGA</b>	Wingecarribee LEP 2010
<b>RPA</b>	Wingecarribee Shire Council
<b>NAME</b>	Proposal to progress certain site specific proposals supported under Wingecarribee Local Planning Strategy 2015-2031 (approximately 30 residential lots, 10 new jobs)
<b>NUMBER</b>	PP_2018_WINGE_004_00
<b>LEP TO BE AMENDED</b>	Wingecarribee LEP 2010
<b>ADDRESS</b>	Various Lots as per table
<b>DESCRIPTION</b>	As above
<b>RECEIVED</b>	28 February 2018, additional versions provided 19 April and 18 May
<b>FILE NO.</b>	EF17/13539
<b>QA NUMBER</b>	IRF18/1759
<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 seeks to implement changes to zoning, minimum lot size, and other planning controls arising out of Council's adoption of the Wingecarribee Local Planning Strategy, which was partially endorsed by the Department in May 2017.

The Wingecarribee Local Planning Strategy included the natural environment, management of rural lands, broad economic considerations and strategies, and issues around the built environment, including urban design considerations and local infrastructure. It included a detailed Precinct analysis of each village and township and Chapter 4- Managing our Housing Needs.

The Department endorsed the Local Planning Strategy, except for Chapter 4 which the Department considered unnecessarily restricted the future supply of housing and housing choice across the Shire and was not endorsed. However, the Department advised Council that it would be willing to consider planning proposals for amendments to the LEP identified in the Strategy.

The planning proposal seeks to make the following changes to the Wingecarribee LEP 2010 which arose out of landowner submissions to the exhibition of the Local Planning Strategy.

- **Site 1** - Lots 55-60, 64 DP751252, Nathan Street, Berrima – amend Schedule 1 to permit development of 4 residential lots.

- **Sites 2** - Lots 194,195, 198-200, 202-207 & 208 - 214 DP 75 Odessa Street and Australia Avenue, Berrima – Rezone from E3 Environmental Management with a Minimum Lot size of 40 hectares to E4 Environmental Management with a minimum lot size of 3 hectares (to provide for an additional 4 residential lots).
- **Site 3** - Lot 109 DP 664112, 2 Wilson Drive, Hill Top – amend Schedule 1 to permit a residential dwelling.
- **Site 4** - Rezone surplus land at Mittagong railway station from SP2 Rail Infrastructure to B4 Mixed Use, apply height control of 10 metres, FSR 0.5:1 to provide for commercial markets.
- **Site 5** - Lot 15 DP 15496 (12 Gibraltar Road Bowral), Lot 114 DP 15496 (14 Gibraltar Road Bowral), Lot 112 DP 15496 (18 Gibraltar Road Bowral), Lot 103 DP 15496 (7 Gibraltar Road Bowral), Lot 105 DP 15496 (11 Gibraltar Road Bowral), Lot 106 DP 15496 (13 Gibraltar Road Bowral), Part Lot 107 DP 15496 (15 Gibraltar Road Bowral), Lot 108 DP 15496 (17 Gibraltar Road Bowral) and Lot 109 DP 15496 (19 Gibraltar Road Bowral) - apply 1 hectare minimum lot size to provide for additional residential lots.
- **Site 6** - Lot 50 DP556644, 2A Cliff Street, Bowral - amend Schedule 1 to permit a two lot residential subdivision.
- **Site 7** - Lot 22 DP792646, Wyeera, 460 Kangaloon Road, Bowral – rezone from E3 Environmental Management to RE2 Private Recreation to provide for additional recreational activities on the site.

## Site and Surrounding Areas

### Site 1 - Lots 55-60, 64 DP751252, Nathan Street Berrima

#### Site Description

The site is currently zoned E3 Environmental Management with a minimum lot size of 40 hectares and a total area of 9.4 hectares. The site is rural and rural residential in character. The site is located in the Berrima Landscape Conservation Area except for the majority of Lot 64. Refer to Figure 1- site map.

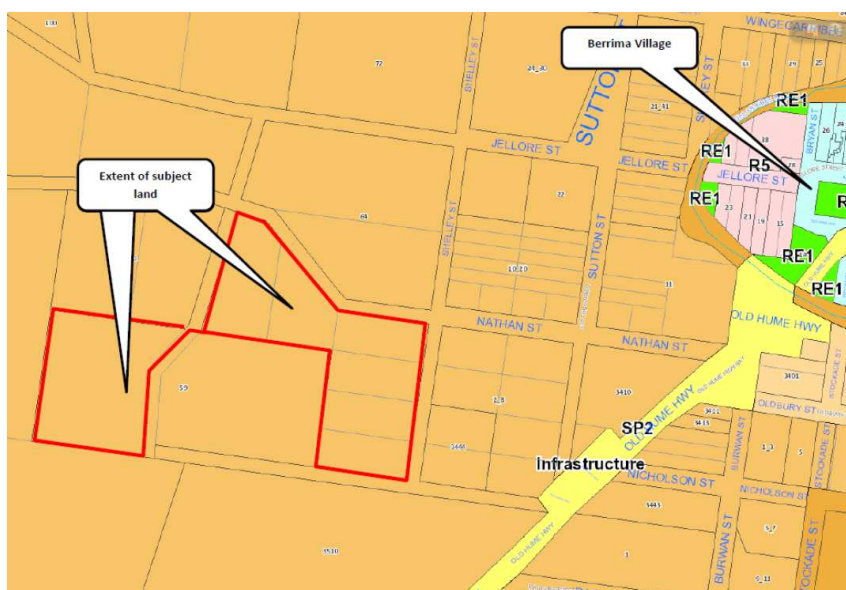


Figure 1- Location of the Subject Site within zoning context

## Surrounding Area

The area is the on the southern edge of Berrima village, west of the Old Hume Highway. The site is surrounded by rural and rural residential land uses.

### Site 2 - Lots 194,195, 198-200, 202-207 & 208 - 214 DP75 Odessa Street and Australia Avenue Berrima

## Site Description

The site is separated into 2 portions that together have an area of approximately 13.62 hectares. There are existing dwellings on Lot 202 and Lot 201, one of which, Gunyah, is a listed local heritage item. The site is zoned E3 Environmental Management with a minimum lot size of 40 hectares and is wholly located in the Berrima Landscape Conservation Area. Refer to Figure 2- site map.

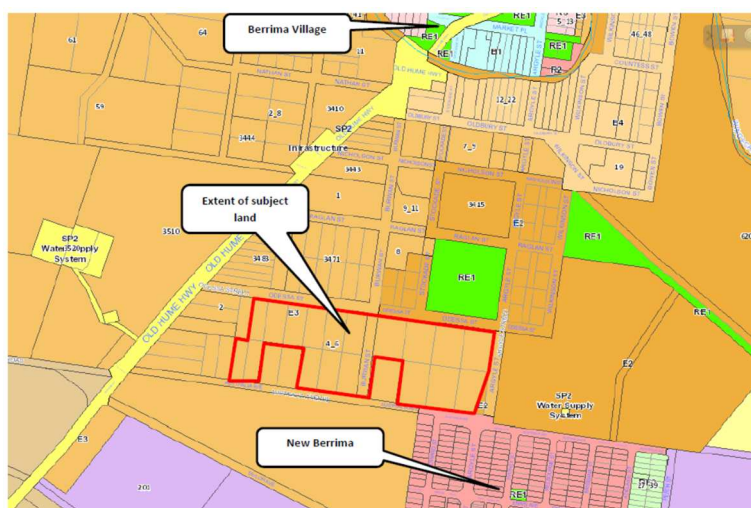


Figure 2- Location of the Subject Site within zoning context

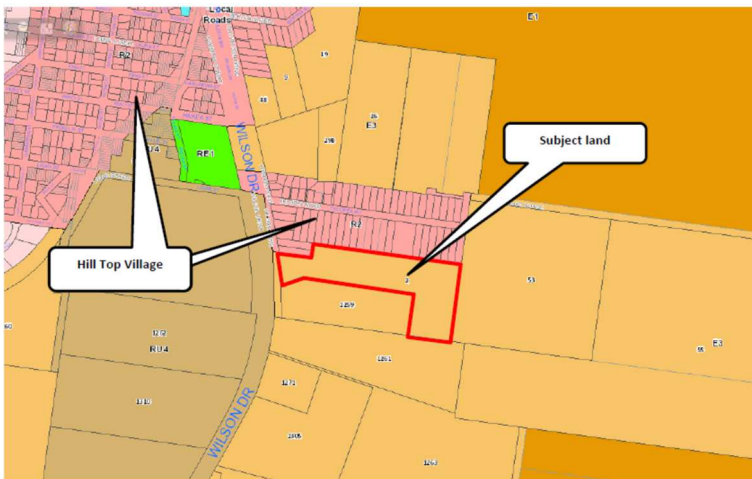
## Surrounding Area

The property is located to the south east of the main Berrima township, and adjacent to the New Berrima residential area and Cement works. As with the Nathan Street site, the site is rural and rural residential in character. The historic township of Berrima is 600m to 1km from the site. The site is open grassland which is used for grazing, with some scattered trees on site. To the north and east of the site is native woodland.

### Site 3 - Lot 109 DP 664112, 2 Wilson Drive, Hill Top

## Site Description

The site adjoins the southern urban area of Hill Top and has an area of 6.25 hectares. It is zoned E3 Environmental Management with a minimum lot size of 40 hectares. Access is via Old Wilson Drive. Refer to Figure 3- site map.



**Figure 3- Location of the Subject Site within zoning context.**

## Surrounding Area

The site is adjacent to an area of R2 Low Density Residential with a minimum lot size of 1,000m<sup>2</sup>. Lots to the east and south of the subject site all currently have dwellings. The planning proposal will provide for a dwelling on Lot 109. The western portion of the property at Old Wilson Drive is vegetated, with grassland over the majority of the site.

## Site 4 - Mittagong railway station fronting Regent Street Mittagong

### Site Description

The subject site has an area of 14,117m<sup>2</sup> and is zoned SP2 Rail Infrastructure. The site is approximately 35m wide for its entire length along Regent Street. Refer to Figure 9 - site map. The site comprises two portions of land east and west of the Railway station, bounded by Regent Street to the north and the south by the Sydney Melbourne rail lines. The site is located adjacent to the Mittagong railway station and spans Mittagong centre from Princess Street in the West to the Range Road railway overpass.



**Figure 4- Site map and Lease Boundaries**



## Surrounding Area

The site is immediately adjacent to the Mittagong town centre and is part of the Mittagong Railway Station State Heritage listing within the Mittagong Heritage precinct.

**Site 5 - Lot 15 DP 15496 (12 Gibraltar Road Bowral), Lot 114 DP 15496 (14 Gibraltar Road Bowral), Lot 112 DP 15496 (18 Gibraltar Road Bowral), Lot 103 DP 15496 (7 Gibraltar Road Bowral), Lot 105 DP 15496 (11 Gibraltar Road Bowral), Lot 106 DP 15496 (13 Gibraltar Road Bowral), Part Lot 107 DP 15496 (15 Gibraltar Road Bowral), Lot 108 DP 15496 (17 Gibraltar Road Bowral) and Lot 109 DP 15496 (19 Gibraltar Road Bowral).**

## Site Description

The sites are zoned E4 Environmental Living with an existing MLS of 4 hectares. The 9 lots, the subject of the planning proposal, are proposed to have a minimum lot size of 1ha. Lot 107 is 6.5 hectares in area, the other 8 lots are approximately 2 hectares each. Refer to Figure 10-site map.

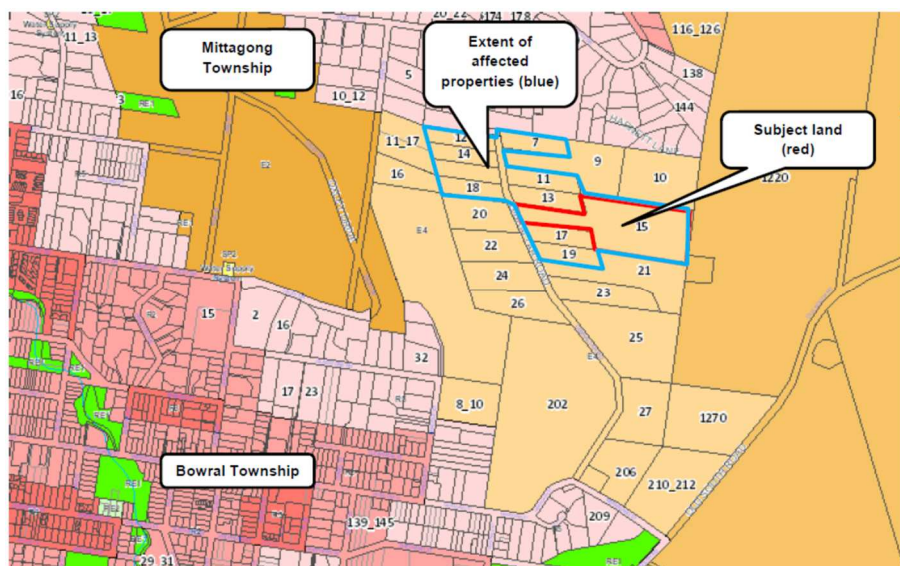


Figure 5- Location of the Subject Site within zoning context

## Surrounding Area

The lots are located along Gibraltar Road, Bowral and on the southern boundary of Mittagong township urban area. The existing street pattern is of 1 and 2 hectare lots, as well as larger lots that already have dwellings of 3.4 hectares. There is a well established residential area adjacent to R5 zoned land.

**Site 6 - Lot 50 DP556644, 2A Cliff Street, Bowral**

## Site Description

The subject site is located on the northern corner of Cliff Street and Mittagong Road, Bowral approximately 1 kilometre north of the Bowral town centre. The subject site is 700m<sup>2</sup> in area and is within the R5 Large Lot Residential Zone. It contains one residential building that is subdivided into two separate dwellings. Refer to Figure 11- site map.

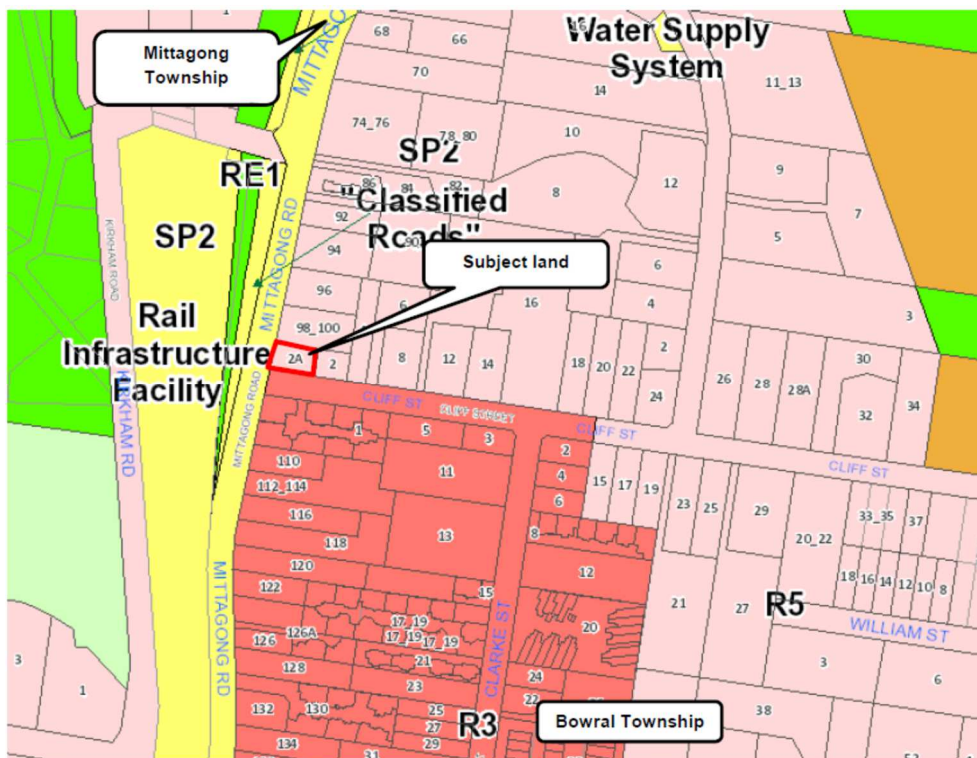


Figure 6 Location of the Subject Site within zoning context

## Surrounding Area

The surrounding area is predominantly standard residential housing on various lots well below 4,000m<sup>2</sup>. The lot adjoins the northern urban boundary of Bowral.

## Site 7 - Lot 22 DP792646, Wyeera, 460 Kangaloon Road, Bowral

### Site Description

The site is located on Kangaloon Road opposite Hardens Road adjacent to the east edge of Bowral East. The site is zoned RE2 Private Recreation and has an approximate area of 35 hectares. The land is developed as a race course and equestrian facility. Refer to Figure 12- site map.

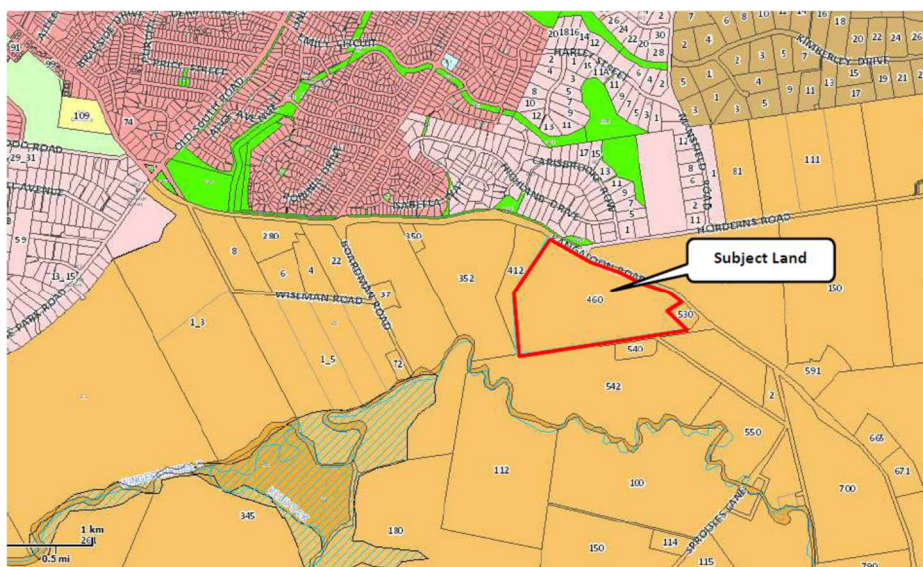


Figure 7- Location of the Subject Site within zoning context

## **Surrounding Area**

Surrounding land uses are predominantly rural and rural residential. The site is a venue for a range of equestrian related activities, concerts and expos, polocrosse and dressage activities as well as the regionally significant Bong Bong Races.

## **Summary of Recommendation**

It is recommended that the Planning proposal should proceed as submitted as it is generally consistent with the adopted Wingecarribee Local Planning Strategy.

## **PROPOSAL**

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### **Objectives or Intended Outcomes**

The objective of the planning proposal is to progress certain site specific proposals supported under Wingecarribee Local Planning Strategy 2015-2031. This includes rezoning a number of sites, amending Schedule 1 to permit a number of additional uses, amending the Height of Building map and FSR for site 4 - Mittagong Railway Station, and reducing the minimum lot size for some sites.

### **Explanation of Provisions**

The explanation of provisions in the planning proposal adequately describes the proposed amendment to the LEP.

Council has identified the following amendments to the Wingecarribee LEP 2010:

1. Lots 55-60, 64 DP751252, Nathan Street Berrima – amend Schedule 1 to permit development of 4 residential lots.
2. Lots 194,195, 198-200, 202-207 & 208 - 214 DP75 Odessa Street and Australia Avenue Berrima – be rezoned to E4 Environmental Living with a minimum lot size of 3 hectares.
3. Lot 109 DP 664112, 2 Wilson Drive, Hill Top – amend Schedule 1 to permit one residential dwelling.
4. Rezone land at Mittagong railway station from SP2 Rail Infrastructure to B4 Mixed Use, height 10 metres, FSR 0.5:1.
5. Lot 15 DP 15496 (12 Gibraltar Road Bowral), Lot 114 DP 15496 (14 Gibraltar Road Bowral), Lot 112 DP 15496 (18 Gibraltar Road Bowral), Lot 103 DP 15496 (7 Gibraltar Road Bowral), Lot 105 DP 15496 (11 Gibraltar Road Bowral), Lot 106 DP 15496 (13 Gibraltar Road Bowral), Part Lot 107 DP 15496 (15 Gibraltar Road Bowral), Lot 108 DP 15496 (17 Gibraltar Road Bowral) and Lot 109 DP 15496 (19 Gibraltar Road Bowral) – apply minimum lot size of 1 hectare.
6. Lot 50 DP556644, 2A Cliff Street, Bowral - amend Schedule 1 to permit development for the purposes of a two lot residential subdivision.
7. Lot 22 DP792646, Wyeera, 460 Kangaloon Road, Bowral – rezone from E3 Environmental Management to RE2 Private Recreation.

The explanation of provisions in the Planning proposal adequately describes the proposed changes to the LEP.

## Mapping

The planning proposal requires amendments to the Wingecarribee LEP 2010 Land Zone, Minimum Lot Size, Floor Space Ratio, Height of Building maps and Schedule 1 maps. The Planning proposal includes zoning and aerial maps for each site.

It is considered that the mapping provided is suitable for the purposes of public consultation. Suitable LEP zoning, Height of Building, FSR, Schedule 1 and Minimum Lot Size maps will need to be prepared that meet the Department's technical requirements for LEP maps prior to the finalisation of the planning proposal.

## NEED FOR THE PLANNING PROPOSAL

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Council resolved on the 11 October 2017 to prepare a planning proposal to implement the agreed site specific amendments to the LEP arising out of the adoption by Council of the Local Planning Strategy 2015-2031.

A planning proposal is considered to be the appropriate means to facilitate the amendments to Wingecarribee LEP 2010, and achieve the endorsed outcomes identified in Wingecarribee Council's Local Planning Strategy.

## STRATEGIC ASSESSMENT

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### Regional – South East and Tablelands Regional Plan

The planning proposal has identified that it is consistent with the Directions and Actions of the former Sydney Corridor Regional Strategy which was current at the time of exhibition of the strategy document, and the South East and Tablelands Regional Plan.

Specifically, the planning proposal is consistent with **Goal 1 - A connected and prosperous economy**, **Goal 3 Healthy and connected Communities** - Direction 23 – *Protect the region's heritage*; and **Goal 4** Environmentally sustainable housing choices - Direction 24 – *Deliver greater housing supply & choice* and Direction 28 – *Manage rural lifestyles*.

In relation to **Goal 1 - A connected and prosperous economy** – the proposals for the Mittagong Railway site and the future potential for markets on that site, and the greater flexibility provided to the Wyeera Site near Bowral which will make new events easier to organise in this popular location achieve this goal.

In respect to **Goal 3**, Direction 23 Council considers that the proposal will not adversely impact on heritage qualities. The Nathan and Odessa Street sites in Berrima are not undermined by the proposed additional dwellings on the subject lots. Development is permitted in the Berrima Landscape Conservation area and the DCP and other controls will need to be considered. The planning proposal also applies to Site 4 the Mittagong Railway site which is within the Mittagong Railway Station State Heritage Register.

In respect to **Goal 4** – Environmentally sustainable housing choices- Direction 24 - *deliver greater housing choice*; and Direction 28 - *Manage rural lifestyles* - the planning proposal seeks to provide for housing choice through additional dwellings proposed at the Odessa



Street and Australia Avenue sites, the Hilltops site, the Gibraltar Road sites and the Cliff Street Bowral site which collectively provide for a modest increase in a range of housing options.

## **Local**

The planning proposal is consistent with the Wingecarribee Local Planning Strategy 2015 -2031, adopted by Council in March 2016, and conditionally endorsed by the Department in May 2017. The planning proposals arise out of the Precinct Plans which were adopted by Council.

Sites 1 and 2 at Nathan Street and Odessa Street, Berrima, are both part of the mapped Berrima Landscape Conservation Area. In response to Council's Local Planning Strategy, the Berrima Residents Association raised concerns about the potential impacts of the proposed additional dwellings at these sites on the heritage significance of Berrima Village. It is considered that Council's DCP contains detailed controls that should ensure the integrity of Berrima Village and its landscape are maintained. However, it is also considered important that the potential visual impacts of the proposals can be managed and a condition is recommended on the Gateway to address this.

Site 1, Nathan Street Berrima, and Site 3, Wilson Drive, Hill Top, are identified and mapped as Bushfire Prone Land. Site 3 also contains an area of Hawkesbury Sandstone Woodland to the front of the site which is not classified as an EEC and is not classified in Council's Natural Resources Sensitivity mapping. Site 6 - Cliff Street Bowral, is in a R5 Zone with a minimum lot size of 4000m<sup>2</sup>. The subject land is 700m<sup>2</sup> which corresponds to the adjoining R3 Medium Density zoned land to the immediate south of the lot.

## **Section 9.1 Ministerial Directions**

The planning proposal identifies that the Section 9.1 Directions 2.1 Environment and Protection Zones, 2.3 Heritage Conservation, 3.1 Residential Zones, 3.4 Integrating Land Use and Transport, 4.4 Planning for Bushfire Protection, 5.1 Implementation of Regional Strategies, 5.2 Sydney Water Catchment and 6.3 Site Specific Provisions apply.

### **2.1 Environment and Protection Zones.**

This Direction applies to the planning proposal as it will affect land within an environment protection zone. This Direction applies to the Nathan Street (Site 1) and Odessa Street site in Berrima (Site 2), the Hill Tops site (Site 3), and the Wyeera Bowral (Site 7) which are all currently zoned E3 Environmental Management.

The proposal is considered to be inconsistent with this Direction as it reduces the environmental protection standards that apply to the land by allowing increased development potential.

The inconsistency can be justified as the lots in question are zoned E3 Environmental Management on the basis that they are located within the Sydney Water Catchment Area. The sites do not contain Endangered Ecological Communities or threatened species and development assessment will consider any environmental impacts. Additionally, the inconsistency is justified by an endorsed strategy that gives consideration to the objective of the Direction and is endorsed by the Secretary of the Department.

RECOMMENDATION: The Secretary can be satisfied that the inconsistency is of minor significance and is justified by a strategy endorsed by the Secretary of the Department.

### 2.3 Heritage Conservation

This Direction applies to the planning proposal as it affects areas of environmental heritage significance. In particular this Direction applies to Site 1, Site 2, Nathan Street and Odessa Streets Berrima that are affected by the Berrima Landscape Conservation Area, and Site 4 Mittagong Railway site which is within the Mittagong Railway Station identified in the State Heritage Register.

The proposal is considered to be generally consistent with this Direction. Council will be required to consider potential visual impacts on the Heritage and Landscape Conservation Areas at Berrima as part of its consideration of the planning proposal. Impacts on heritage will also be considered in the assessment of development applications.

### 3.1 Residential Zones

This Direction applies to the planning proposal as it will affect land within an existing or proposed residential zone or any other zone in which significant residential development is permitted or proposed to be permitted.

The proposal is considered to be consistent with this Direction as the proposed changes to the residential areas will be minor and there is an overall net gain in residential dwellings arising out of the planning proposal.

### 4.4 Planning for Bushfire Protection

This Direction applies to the planning proposal as it affects and is in close proximity to land mapped as bushfire prone land, being Site 1 Nathan Street Berrima, and Site 3- Hill Tops. At this stage of the Planning Proposal, it is neither consistent nor inconsistent as the Direction requires consultation with the RFS post Gateway determination and prior to exhibition.

RECOMMENDATION: The Secretary can be satisfied that the requirements of the Direction have been met. A condition should be included in the Gateway determination that consultation should be undertaken with the Rural Fire Service in accordance with the Direction.

### 5.10 Implementation of Regional Plans

The planning proposal states that it is consistent with the applicable South East and Tablelands Regional Plan and with the Direction. This view is supported.

### 5.2 Sydney Drinking Water Catchment

This Direction does apply to the planning proposal as the land is within the Sydney Drinking Water catchment. The proposal is considered to be inconsistent with this Direction as Council has not consulted with the Sydney Catchment Authority and has not included a copy of information received from the SCA as a result of consultation prior to the Gateway determination.

RECOMMENDATION: The Secretary can be satisfied that the inconsistency is of minor significance. WLEP 2010 requires any future development of the land to consider the

requirements of the Sydney Drinking Water SEPP, and WaterNSW will be required to be consulted prior to the exhibition of the planning proposal.

### **6.3 Site Specific Provisions**

The planning proposal is consistent with this Direction as it allows the additional land use on the land without imposing any development standards or requirements in addition to those already contained in the local environmental plan.

The planning proposal contains a number of Schedule 1 amendments to achieve the implementation of the Local Strategic Plan, endorsed by the Department. Whilst the Strategy could also be achieved through the use of an appropriate zone or the site specific reduction in the minimum lot size on the site, the use of Schedule 1 to achieve this does not set any undesirable precedents or undermine any state or regional planning policies.

RECOMMENDATION: The Secretary's delegate can be satisfied that the S 9.1 Directions: 2.3 Heritage Conservation, 3.1 Residential Zones, 3.4 Integrating Land Use and Transport, 5.1 Implementation of Regional Strategies, 5.2 Sydney Water Catchment provisions and 6.3 Site Specific Provisions apply and the planning proposal is consistent with these Directions.

In respect to 2.1 Environment and Protection Zones the inconsistencies are minor and justified by an endorsed Local Planning Strategy.

### **State Environmental Planning Policies**

The planning proposal identifies that SEPP 44 Koala Habitat Protection applies, as it does to all land in the Shire. All planning proposals are considered to be consistent with the SEPP as the SEPP provides for the preparation of a Local Environmental Study at the development application stage.

RECOMMENDATION: The Secretary's delegate can be satisfied that the planning proposal is consistent with SEPP 44.

## **SITE SPECIFIC ASSESSMENT**

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### **Social**

The proposals were part of an endorsed Local Planning Strategy that assessed the social, environmental and economic opportunities and constraints for the future development and growth of the Shire. There will be direct social benefits from the additional housing choice from the sites that are providing for new dwellings across the shire, and increased employment, recreational and cultural activity arising out of the rezoning of the Wyeera site and the markets at the Mittagong Railway site.

### **Environmental**

The planning proposal will have no significant impacts on the environment, critical habitat or threatened species. In respect to Sites 1 – Nathan Street, 2 Odessa Street Berrima, Site 3 Wilson Drive, Hill Top, Site 7, the Wyeera site in Bowral, all of which are currently zoned E3 Environmental Management, there are no specific environment attributes or EECs on the sites.

## **Economic**

The provision of the Recreation Zone for the Wyeera site in Bowral, the potential for markets at the Mittagong Railway site and the construction of additional dwellings that will be provided on the subject sites across the shire will provide for additional local employment opportunities and positive economic outcomes.

## **CONSULTATION**

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### **Community**

Council proposes to exhibit the planning proposal for 28 days. Public notification of the exhibition will include local newspaper notifications, notice on Council's website and hard copies will be available at Council's administration buildings.

It is considered that the proposed community consultation period for the planning proposal is appropriate.

### **Agencies**

The planning proposal identifies consultation with the following agencies:

- Water NSW
- NSW Rural Fire Service
- Office of Environment and Heritage.

The proposed agency consultation is considered to be adequate.

RECOMMENDATION: That agency consultation is required on the planning proposal as described above.

## **TIMEFRAME**

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Council has sought a 12 month timeframe to finalise and notify the plan. This timeframe is considered appropriate.

## **DELEGATION**

Council has sought the use of plan making delegations for the planning proposal. Given the proposal is consistent with Council's Local Planning Strategy as endorsed by the Department in May 2017 it is considered that Council's request should be supported.

## **CONCLUSION**

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The planning proposal addresses the Department's "A guide to preparing planning proposals" and is considered adequate for a Gateway Determination with conditions.

The planning proposal is facilitating the implementation of the Council adopted Wingecarribee Local Planning Strategy 2015-2031 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 any inconsistencies with Section 9.1 Direction 2.1 Environment and Protection Zones is of minor significance and can be justified by an endorsed 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 shall be updated prior to consultation to include assessment of potential visual and heritage impacts on the Heritage Conservation Area and Landscape Conservation Area at Berrima.
2. The planning proposal should be made available for public consultation for a minimum of 28 days.
3. Agree that any inconsistencies in respect to 4.4 Planning for Bushfire Protection which applies to the Hill Top site, that consultation should be undertaken with the Rural Fire Service in accordance with the Direction
4. Agree that any inconsistencies in respect to 5.2 Sydney Water Catchment, that Water NSW be consulted prior to the exhibition of the planning proposal.
5. Consultation is required with the following public authorities:
  - Water NSW
  - NSW Rural Fire Service
  - Office of Environment and Heritage- Office of Heritage
6. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.
7. Given the nature of the planning proposal, Council should be authorised to exercise delegation to make this plan.



15/6/18

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18 June 2018

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