

Planning Proposal

**to amend Wingecarribee Local Environmental Plan
2010 with regard to Clause 7.2 - Requirements for
subdividing dual occupancies in Zones R2 and B1.**

Prepared in accordance with the Local Environmental Plan Making Guideline (December 2021)
Version 3 for Public Exhibition
Prepared by Wingecarribee Shire Council

Council has categorised the Planning Proposal as *Standard*

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Appendices to the main Planning Proposal report

1	Report to the Ordinary Council Meeting of 16 February 2022
2	Resolution from the Ordinary Council Meeting of 16 February 2022
3	Gateway Determination 4 May 2022
4	Agency Response – WaterNSW

Background

Clause 7.2 was introduced into the Wingecarribee Local Environmental Plan (WLEP) 2010 to enable the subdivision of dual occupancies in certain circumstances, where subdivision was not otherwise permissible under the minimum lot size provisions. A copy of Clause 7.2 is provided below (**bold** added for emphasis):

7.2 Requirements for subdividing dual occupancies in Zones R2 and B1

(1) The objectives of this clause are as follows—

(a) to provide opportunities for housing on smaller lots in suitable locations on land in Zone R2

Low Density Residential and Zone B1 Neighbourhood Centre,

(b) to protect the heritage significance of the historic village of Berrima.

*(2) **Despite any other provision of this Plan**, development consent may be granted for the subdivision of a lawfully erected dual occupancy in Zone R2 Low Density Residential, **only if** the development—*

(a) is on a corner allotment of not less than 1,000 square metres, and

(b) has access to a reticulated town water supply and sewerage system.

(3) Despite subclause (2), development consent must not be granted for the subdivision of a lawfully erected dual occupancy on land in Zone R2 Low Density Residential or Zone B1 Neighbourhood Centre if the land is located within the Berrima Conservation Area as shown on the Heritage Map.

On 1 July 2020, amendments to State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP) came into effect in the Wingecarribee Shire, which enabled the erection and subdivision of dual occupancies as complying development under the SEPP.

In response to the changes to the Codes SEPP, Council introduced two (2) new clauses into WLEP 2010, to ensure that dual occupancy developments were consistent with the established lot sizes and character of our towns and villages. The recently introduced Clauses 4.2E and 4.2F are provided below.

4.2E Minimum lot size for dual occupancies

(1) The objective of this clause is to ensure that dual occupancy development is compatible with the character of existing development within the surrounding area.

(2) This clause applies to land in the following zones—

- (a) Zone R2 Low Density Residential,*
- (b) Zone R3 Medium Density Residential.*

(3) Development consent must not be granted for development for the purposes of a dual occupancy on a lot in a zone to which this clause applies unless the area of the lot is at least 1,000 square metres.

4.2F Minimum subdivision lot sizes for dual occupancies in certain zones

(1) The objective of this clause is to ensure that dual occupancy development is compatible with the character of existing development within the surrounding area.

(2) This clause applies to land in the following zones—

- (a) Zone R2 Low Density Residential,*
- (b) Zone R3 Medium Density Residential.*

(3) Despite clause 4.1, development consent may be granted for the subdivision of land to which this clause applies if the consent authority is satisfied that—

- (a) there is an existing dual occupancy on the land that was lawfully erected under an environmental planning instrument, or*
- (b) the application for development consent also provides for the erection of a dual occupancy on the land.*

(4) In addition to the matters listed in subclause (3), the consent authority must be satisfied that—

- (a) the lot size of each resulting lot will be 50% of the minimum lot size shown on the Lot Size Map in relation to the land, and*
- (b) the lot size of each resulting lot will be at least 600 square metres, and*
- (c) there will be no more than 1 dwelling on each resulting lot.*

(5) If an application is made to which subclause (3)(b) applies, the subdivision must not occur before an occupation certificate has been issued for each dwelling forming part of the dual occupancy.

With regard to clause 7.2, it is noted that Berrima was excluded from the operation of the clause due to its high heritage status.

It is further noted, with regard to clause 7.2, that the original intent of the wording ‘*despite any other provision of this plan*’ and ‘*only if*’, as highlighted in subclause (2) above, was to overcome the minimum lot size provisions otherwise applicable to the site and which would thereby prevent such development.

In the absence of any other provisions relating to dual occupancy subdivision, this was not an issue, but with the introduction of clauses 4.2E and 4.2F, clause 7.2 became an impediment to the efficient operation of any of the clauses. And, although the provisions of the Codes SEPP enable the subdivision of dual occupancies as complying development in accordance with Clause 4.2F, the current wording of clause 7.2 creates an inconsistency between the two approval pathways thereby encouraging applicants to utilise the complying development option.

Therefore, Council are seeking to amend Clause 7.2, by removing the words 'only if', as indicated above, to ensure that the clause enables an approval pathway for the subdivision of dual occupancies additional to Clause 4.2F, rather than conflicting with and overriding Clause 4.2F. Removing 'only if' changes the intent of the clause from a restrictive one, meaning that only clause 7.2 allows for dual occupancy subdivision, to an enabling one, allowing dual occupancy subdivisions under clause 7.2 as well as under clauses 4.2E and 4.2F.

Council are also seeking to amend Clause 7.2 to apply to the R3 Medium Density zone instead of the B1 Neighbourhood Centre zone. It is considered appropriate to include the R3 zone within the clause, and it is noted that the Department of Planning and Environment (the Department) is currently undertaking a transition of all B (Business) zones across to E (Employment) zones and the removal of the references to the current B1 zone avoids further confusion and potential conflict. The application of the clause to the R2 Low Density Residential zone will remain.

These proposed changes to Clause 7.2 will:

- Remove the overlap of clauses in WLEP 2010
- Allow the subdivision of dual occupancy development in accordance with Clause 7.2 and Clause 4.2F.
- Provide consistency across approval pathways
- Provide for infill development in accordance with the Planning Priorities outlined in the Wingecarribee Local Housing Strategy.

In accordance with the Gateway Determination, a new savings and transition provision has been drafted to ensure the proposed amendments do not affect any development applications lodged and not determined, or appeal processes, as follows:

Clause 1.8A (5) An amendment made to this Plan by *Wingecarribee Local Environmental Plan 2010 (Amendment No xx)* does not apply to a development application made but not finally determined or any appeal process before the commencement of the amendment.

Part 1 - Objectives & Intended Outcomes of the Planning Proposal

The intended outcome of this Planning Proposal is to amend Clause 7.2 of the Wingecarribee Local Environmental Plan 2010 to remove an inconsistency between *Clause 7.2 Requirements for subdividing dual occupancies in Zones R2 and B1* and *Clause 4.2F Minimum subdivision lot sizes for dual occupancies in certain zones*.

Part 2 - Explanation of the Provisions

To achieve the intended outcomes of the Planning Proposal the following amendments to Clause 7.2 of WLEP 2010 instrument will be required, with changes shown in red:

7.2 Requirements for subdividing dual occupancies in Zones R2 and ~~B1~~ R3

(1) The objectives of this clause are as follows –

- (a) to provide opportunities for housing on smaller lots in suitable locations on land in Zone R2 Low Density Residential and Zone ~~B1 Neighbourhood Centre~~ R3 Medium Density Residential,*
- (b) to protect the heritage significance of the historic village of Berrima.*

(2) Despite any other provision of this Plan, development consent may be granted for subdivision of a lawfully erected dual occupancy in Zone R2 Low Density Residential and ~~Zone B1 Neighbourhood Centre~~ R3 Medium Density Residential ~~only if where the development –~~

- (a) is on a corner allotment of not less than 1,000 square metres, and*
- (b) has access to a reticulated town water supply and sewerage system.*

(3) Despite subclause (2), development consent must not be granted for the subdivision of a lawfully erected dual occupancy ~~on land in Zone R2 Low Density Residential or Zone B1 Neighbourhood Centre~~ if the land is located within the Berrima Conservation Area as shown on the Heritage Map.

- No WLEP 2010 map amendments will be required.

Part 3 - Justification of Strategic & Site-specific Merit

Section A – Need for the Planning Proposal

1 - Is the Planning Proposal a result of an endorsed LSPS, strategic study or report?

The Planning Proposal is the result of several amendments to the Standard Instrument and the introduction of the Low Rise Housing Diversity Code which have resulted in anomalies and potential confusion with regard to the operation of the subject Clause.

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

A Planning Proposal is the only means of achieving the objectives and intended outcomes.

Section B – Relationship to the Strategic Planning Framework

3 - Will the Planning Proposal give effect to the objectives and actions of the SE & Tablelands Regional Plan (including any draft plans or strategies)?

References to ‘housing’ appear throughout the Regional Plan, beginning with the Minister’s *Foreward* which addresses both housing choice and infrastructure implications.

Goal 4: Environmentally sustainable housing choices, specifically addresses these matters in more detail. The introduction to This Section of the Regional Plan (page 49) notes that *new housing must be located to take account of the character, environmental and agricultural qualities and capacity of the land, with an emphasis on resident access to services, jobs and transport*.

Direction 24 of the Regional Plan – *deliver greater supply and choice*, references the importance of ensuring the delivery of greater housing supply and choice. Direction 24 specifically notes: *greater housing choice in existing centres is needed to cater for the decrease in the average household size. Planning will need to cater for a rise in the number of single person households, a decrease in the number of occupants in each household, more affordable housing, the needs of tourists and an ageing population. Focusing growth in existing centres rather than isolated land releases is a sustainable option because it takes advantage of existing job markets, commercial and retail opportunities, and infrastructure such as public transport*.

A set of Actions relating to Direction 24 are contained within the Regional Plan (page 51), specifically:

24.1 Prepare guidelines for local housing strategies.

24.2 Prepare local housing strategies consistent with the Settlement Planning Principles to provide a surplus supply of residential land to meet projected housing needs.

24.3 Promote increased housing choice, including townhouses, villas and apartments in strategic centres and locations close to existing services and jobs.

24.4 Promote opportunities for retirement villages, nursing homes and similar housing for seniors in local housing strategies.

The Planning Proposal is considered to address all of these matters in clarifying the framework for the implementation of clauses 7.2, 4.2E and 4.2F of Wingecarribee Local Environmental Plan 2010, with specific regard to Action 24.3, noting that the draft amendment to Clause 7.2 of the WLEP 2010 intends to:

- Remove the overlap of clauses in WLEP
- Allow the subdivision of dual occupancy development in accordance with Clause 4.2F and Clause 7.2
- Provide consistency across approval pathways
- Provide for infill development in accordance with the Planning Priorities outlined in the Wingecarribee Local Housing Strategy.

Direction 25 of the Regional Plan is also considered to be directly relevant, being *Focus housing growth in locations that maximise infrastructure and services* with specific reference to Action 25.1: *Focus future settlement to locations that:*

- *maximise existing infrastructure and services and minimise the need for new services; and*
- *prioritise increased densities within existing urban areas; and*

Action 25.2 - *Plan for and prioritise services and infrastructure investment to maximise cost efficiencies, coordinate the delivery of different infrastructure assets, and achieve equitable sharing of responsibility, including funding, procurement and ongoing maintenance.*

The Planning Proposal is also considered to be consistent with Direction 27 of the Regional Plan – *Deliver more opportunities for affordable housing*, and the associated Actions:

27.1 Deliver greater housing affordability by incorporating policies and tools into local housing strategies and local planning controls that will enable a greater variety of housing types and incentivise private investment in affordable housing.

27.2 Facilitate greater housing diversity, including studios and one- and two-bedroom dwellings, to match forecast changes in household sizes.

Direction 28 – *Manage rural lifestyles* - is also supported through this Planning Proposal by ensuring that rural locations are not unnecessarily used for residential development because existing urban areas were not efficiently and effectively used to reduce potential demand for and impact on more rural locations.

4 - Is the Planning Proposal consistent with Council's adopted and endorsed Local Strategic Planning Statement and Local Housing Strategy?

The Planning Proposal is recognised as being consistent with the Wingecarribee Local Housing Strategy 2020, specifically, Planning Priority 1 – *Promote infill development and increased densities in appropriate locations, and facilitate a greater mix of housing types, to ensure our housing stock is reflective of the needs of our community (p.21).* The proposed amendment to Clause 7.2 will facilitate the provision of infill development in accordance with this Planning Priority.

The Planning Proposal is also recognised as being consistent with the Wingecarribee Local Strategic Planning Statement 2020, specifically *Chapter 4 Our Housing* through the following priorities & actions.

- *Priority 4.1 of the LSPS is to promote infill development and increased densities in appropriate locations, and facilitate a greater mix of housing types to ensure our housing stock is reflective of the needs of our community through:*
 - a diverse mix of housing choice and types to meet current and future housing needs & provide certainty to the community and developers.
 - Provision of an increase in smaller housing options
 - Facilitate ageing in place
- *Provide a greater mix of price points in the housing market to improve housing affordability, and work with community housing providers to increase the stock of social and community housing throughout the Shire through:*

- a diverse range of housing options and price points across the housing continuum, to ensure that our community has access to housing that meets their needs, aspirations and capacities
- supporting affordable housing opportunities via collaboration and partnership arrangements between developers, State Government, local community housing providers, Local Aboriginal Land Councils and community based groups
- incentives to promote affordable housing in our strategic centres of Bowral, Mittagong and Moss Vale, including potential bonus floor space provisions for affordable housing.

5 - Is the Planning Proposal consistent with any other applicable State and regional studies or strategies?

No other state or regional studies apply to the Planning Proposal.

6 - Is the Planning Proposal consistent with applicable SEPPs?

SEPP (Housing) 2021

to deliver a sufficient supply of safe, diverse and affordable housing
<https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0714>

Assessment – Consistent

By facilitating the application of the Low Rise Housing Diversity Code, the Planning Proposal will directly support the following principles of this SEPP:

- *enabling the development of diverse housing types, including purpose-built rental housing,*
- *encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability,*
- *promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services,*
- *minimising adverse climate and environmental impacts of new housing development,*
- *reinforcing the importance of designing housing in a way that reflects and enhances its locality,*
- *supporting short-term rental accommodation as a home-sharing activity and contributor to local economies, while managing the social and environmental impacts from this use,*
- *mitigating the loss of existing affordable rental housing.*

SEPP (Transport and Infrastructure) 2021

The intent of this SEPP is to provide well-designed and located transport and infrastructure integrated with land use
<https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0732>

Assessment – Consistent

By facilitating the application of the Low Rise Housing Diversity Code, the Planning Proposal will directly support this SEPP by ensuring that existing infrastructure and transport services are

optimised through appropriate higher density development. New development under the draft provisions would occur within existing towns and villages thereby reducing the need for greenfields development with consequent demand for additional infrastructure services.

SEPP (Primary Production)

The intent of this SEPP is to support and protect the productivity of important agricultural lands. They enhance rural and regional economies through a sustainable, diverse and dynamic primary production sector that can meet the changing needs of a growing NSW.

<https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0729>

Assessment – Consistent

By facilitating the application of the Low Rise Housing Diversity Code, the Planning Proposal will directly support this SEPP reducing the need for additional greenfields development with its consequent impacts on rural land.

SEPP (Biodiversity and Conservation) 2021

The intent of this SEPP is to preserve, conserve and manage NSW's natural environment & heritage

<https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0722>

Assessment – Consistent

By facilitating the application of the Low Rise Housing Diversity Code, the Planning Proposal will directly support this SEPP reducing the need for additional greenfields development with its potential consequent impacts on environmentally sensitive land.

SEPP (Resilience and Hazards) 2021

The intent of this SEPP is to manage risks and building resilience in the face of hazards

<https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0730>

Assessment – Consistent

The provisions of Chapter 3 (Hazardous and Offensive Development) and Chapter 4 (Remediation of Land) SEPP are the only part of this SEPP applicable to Wingecarribee Shire. The Planning Proposal does not generate any requirement for these activities.

SEPP (Industry and Employment) 2021 –

The intent of this SEPP is to grow a competitive and resilient economy that is adaptive, innovative and delivers jobs

<https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0723>

Assessment – Consistent

The provisions of Chapter 3 (Advertising & Signage) are the only part of this SEPP applicable to land in Wingecarribee Shire. This Planning Proposal does not relate to any advertising or signage.

SEPP (Resources and Energy) 2021

The intent of this SEPP is to promote the sustainable use of NSW's resources and transitioning to renewable energy

<https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0731>

Assessment – Consistent

This SEPP principally provides for the proper management and development of mineral, petroleum and extractive industries. The Planning Proposal does not relate to these activities.

SEPP (Planning Systems) 2021	<i>The intent of this SEPP is to provide a strategic and inclusive planning system for the community & the environment</i> https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0724
Assessment – Consistent <i>This SEPP relates to State or Regionally Significant development or infrastructure and to development of Aboriginal Land. The provisions of this SEPP do not relate to this Planning Proposal.</i>	

SEPP (Regional Precincts) 2021	<i>The intent of this SEPP is to manage State significant precincts, Activation precincts and other specific precincts including the Southern Highlands Regional Shooting Complex</i> https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0727
Assessment – Consistent <i>This Planning Proposal does not relate to any of the precincts addressed in this SEPP, including the Southern Highlands Regional Shooting Complex.</i>	

7 - Is the Planning Proposal consistent with applicable s9.1 Ministerial Directions?

Focus Area 1 Planning Systems	<i>The intent of this Focus Area is to support the broader NSW planning framework, including its processes and collaborative approaches to strategic and land use planning and decision making. They seek to achieve long-term, evidence-based, strategically led planning that is inclusive, democratic, responsive to the community and the environment, and ensures decisions are transparent and prompt.</i>
1.1 Implementation of the Minister's Planning Principles	
<i>The objectives of this direction are to:</i> <i>(a) give legal effect to the Minister's Planning Principles and ensure the document, including the concept of sustainable development, is given regard in the assessment of planning proposals, and</i> <i>(b) support improved outcomes through consideration of planning principles that are relevant to the particular planning proposal.</i>	
Assessment – Consistent The Planning Proposal recognises and responds to the relevant Minister's Planning Principles as well as to the thematic SEPPs and the following Ministerial Directions.	
1.2 Implementation of Regional Plans (previously 5.10)	
<i>The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.</i>	
Assessment – Consistent The Planning Proposal is consistent with the South East and Tablelands Regional Plan as set out in Part 3 Section B -3 above.	

1.3 Development of Aboriginal Land Council land (previously 5.11)
<i>The objective of this direction is to provide for the consideration of development delivery plans prepared under Chapter 3 of the State Environmental Planning Policy (Planning Systems) 2021 when planning proposals are prepared by a planning proposal authority.</i>
Assessment – Consistent The Planning Proposal enables more efficient delivery of infrastructure and services to residential development locations across the Shire.
1.4 Approval and Referral Requirements (previously 6.1)
<i>The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.</i>
Assessment – Consistent The Planning Proposal seeks to amend clause 7.2 <i>Requirements for subdividing dual occupancies in Zones R2 and B1</i> to better achieve dual occupancy development within the Shire. The draft amendment will thereby improve the efficiency and efficacy of the assessment process for such applications.
1.5 Site Specific Provisions (previously 6.3)
<i>The objective of this direction is to discourage unnecessarily restrictive site-specific planning controls.</i>
Assessment – Consistent The Planning Proposal seeks to amend clause 7.2 <i>Requirements for subdividing dual occupancies in Zones R2 and B1</i> to better achieve dual occupancy development within the Shire. The draft amendment will thereby remove the current restrictions on such development.
1.6 Parramatta Road Corridor Urban Transformation Strategy 1.7 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan 1.8 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan 1.9 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation 1.10 Implementation of Glenfield to Macarthur Urban Renewal Corridor 1.11 Implementation of the Western Sydney Aerotropolis Plan 1.12 Implementation of Bayside West Precincts 2036 Plan 1.13 Implementation of Planning Principles for the Cooks Cove Precinct 1.14 Implementation of St Leonards and Crows Nest 2036 Plan 1.15 Implementation of Greater Macarthur 2040 1.16 Implementation of the Pyrmont Peninsula Place Strategy 1.17 North West Rail Link Corridor Strategy
None of these place-based Directions apply to Wingecarribee Shire

Focus Area 2 Design & Place	<i>The intent of this Focus Area is to establish quality design approaches for new development, public spaces and the environment. They promote the design of places that are healthy, sustainable, prosperous, and supportive of people, the community and Country.</i>
This Focus Area was blank when the Directions were made.	
Focus Area 3 Biodiversity & Conservation	<i>The intent of this Focus Area is to recognise the fundamental importance of protecting, conserving and managing NSW's natural environment and heritage. They help balance the needs of built and natural environments, respecting both the innate and economic value of the state's biodiversity and natural assets.</i>
3.1 Conservation Zones (previously 2.1 Environment Protection Zones)	
<i>The objective of this direction is to protect and conserve environmentally sensitive areas.</i>	
Assessment – Consistent The Planning Proposal applies to land within current R2 Low Density and R3 Medium Density zones and is most likely will continue within the Towns and Villages where environmentally sensitive land is minimal. The draft amendment will not alter the current assessment procedures which address environmentally sensitive land.	
3.2 Heritage Conservation (previously 2.3)	
<i>The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</i>	
Assessment – Consistent The Planning Proposal will continue to restrict dual occupancy development within the Berrima Village Heritage Conservation Area.	
3.3 Sydney Drinking Water Catchments (previously 5.2)	
<i>The objective of this direction is to protect water quality in the Sydney drinking water catchment.</i>	
Assessment – Justifiably Inconsistent Most of Wingecarribee Shire is within the area covered by the Policy. The Planning Proposal will support the assessment of dual occupancy developments within the R2 Low Density and R3 Medium Density zones, potentially increasing demand for such development and consequent demands on infrastructure and services across the Shire. These services, especially sewer and stormwater are currently at or near capacity in some locations and there could be cumulative adverse impacts on these services by facilitating dual occupancy infill development. However, service upgrades are planned and infill development is supported under Council's Local Housing Strategy, LSPS and the Housing SEPP. The Gateway Determination required referral to WaterNSW. This was undertaken and the response from WaterNSW was that "WaterNSW has no objection to the Planning Proposal". This response accompanies the exhibition material.	
3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	
Not applicable to Wingecarribee Shire	

3.5 Recreation Vehicle Areas (previously 2.4)

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

Assessment – Consistent

This Direction is not relevant to the Planning Proposal.

Focus Area 4 Resilience & Hazards

The intent of this Focus Area is to improve responses to natural and development-related hazards, and climate change. They support methods to consider and reduce risk. The principles promote healthy, resilient and adaptive communities, urban areas and natural environments.

4.1 Flooding (previously 4.3)

The objectives of this direction are to:

- (a) 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) ensure that the provisions of an LEP that apply to flood prone land are commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.*

Assessment – Consistent

This Direction is not relevant to the Planning Proposal.

4.2 Coastal Management (previously 2.2)

Not applicable to Wingecarribee Shire

4.3 Planning for Bushfire Protection (previously 4.4)

The objectives of this direction are to:

- (a) 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) encourage sound management of bush fire prone areas.*

Assessment – Consistent

The Planning Proposal would enable dual occupancy development in established residential areas where bushfire affectation would be minimal. The Gateway Determination required referral to NSWRFs. This was undertaken but no response was received from NSWRFs.

4.4 Remediation of Contaminated Land (previously 2.6)

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 Planning Proposal is not site specific and so these provisions would not apply. Any future development resulting from this Proposal would occur on land with dwelling approval.

4.5 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 sulfate soils.

Assessment – Consistent

The Planning Proposal is not site specific and so these provisions would not apply. Any future development resulting from this Proposal would occur on land with dwelling approval. There currently appear to be no mapped acid sulphate soils within Wingecarribee Shire.

4.6 Mine Subsidence & 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.

Assessment – Consistent

The Planning Proposal is not site specific and so these provisions would not apply. Any future development resulting from this Proposal would occur on land with dwelling approval.

Focus Area 5 Transport & Infrastructure

The intent of this Focus Area is to support innovative, integrated and coordinated transport and infrastructure, that is well-designed, accessible and enduring. They seek to optimise public benefit and value by planning for modern transport and infrastructure in the right location and at the right time.

5.1 Integrating Land Use and Transport (previously 3.4)

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.*

Assessment – Consistent

The Planning Proposal seeks to enable dual occupancy development and subdivision within existing R2 Low Density and R3 Medium Density zones. This would provide additional housing in locations where it could use existing transport infrastructure.

5.2 Reserving Land for Public Purposes (previously 6.2)

The objectives of this direction are to:

- (a) facilitate the provision of public services and facilities by reserving land for public purposes, and*
- (b) facilitate the removal of reservation*

Assessment – Consistent

This Direction is not relevant to the Planning Proposal.

5.3 Development Near Regulated Airports and Defence Airfields (previously 3.5)

The objectives of this direction are to:

- (a) ensure the effective and safe operation of regulated airports and defence airfields;*
- (b) 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) 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

This Direction is not relevant to the Planning Proposal.

5.4 Shooting Ranges (previously 3.6)

The objectives are to:

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

Assessment – Consistent

This Direction is not relevant to the Planning Proposal.

**Focus Area 6
Housing**

The intent of this Focus Area is to foster long-term, strategic-led and evidence-based approaches to guide a strong supply of well-located homes. They support the delivery of safe, diverse, affordable and quality designed housing that meets the needs of Aboriginal and local communities.

6.1 Residential Zones (previously 3.1)

The objectives of this direction are to:

- (a) encourage a variety and choice of housing types to provide for existing and future housing needs,*
- (b) make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and*
- (c) minimise the impact of residential development on the environment and resource lands.*

Assessment – Consistent

By facilitating the application of the Low Rise Housing Diversity Code, the Planning Proposal will directly support the following principles of this SEPP:

- enabling the development of diverse housing types, including purpose-built rental housing,
- encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability,
- promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services,
- minimising adverse climate and environmental impacts of new housing development,
- reinforcing the importance of designing housing in a way that reflects and enhances its locality,
- supporting short-term rental accommodation as a home-sharing activity and contributor to local economies, while managing the social and environmental impacts from this use,
- mitigating the loss of existing affordable rental housing.

6.2 Caravan Parks and Manufactured Home Estates (previously 3.2)

The objectives of this direction are to:

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

Assessment – Consistent

This Direction is not relevant to the Planning Proposal.

Focus Area 7 Resilient Economies	<i>The intent of this Focus Area is to support diverse, inclusive and productive employment opportunities across the state to make NSW more economically competitive. They promote the supply of strategic employment lands, innovative industries and centres as a focus for activity and accessibility.</i>
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7.1 Business and Industrial Zones (previously 1.1)

The objectives of this direction are to:

- (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

By facilitating the application of the Low Rise Housing Diversity Code, the Planning Proposal will provide opportunities for additional population within towns and villages thereby providing a broader economic base for businesses in those locations.

7.2 Reduction in non-hosted short-term rental accommodation period

Not applicable to Wingecarribee Shire

7.3 Commercial and Retail Development along the Pacific Highway, North Coast

Not applicable to Wingecarribee Shire

Focus Area 8 Resources & Energy	<i>The intent of this Focus Area is to promote the sustainable development of resources in strategic areas and a transition to low carbon industries and energy. They support positive environmental outcomes and work towards the net zero emissions target and continued energy security, while also promoting diversified activity in regional economies.</i>
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8.1 Mining, Petroleum Production & Extractive Industries

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

This Direction is not relevant to the Planning Proposal.

Focus Area 9 Primary Production	<i>The intent of this Focus Area is to support and protect the productivity of important agricultural lands. They enhance rural and regional economies through a sustainable, diverse and dynamic primary production sector that can meet the changing needs of a growing NSW.</i>
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9.1 Rural Zones (previously 1.2)

The objective of this direction is to protect the agricultural production value of rural land.

Assessment – Consistent

By facilitating the application of the Low Rise Housing Diversity Code, the Planning Proposal will directly support this SEPP reducing the need for additional greenfields development with its consequent impacts on rural zones.

9.2 Rural Lands (previously 1.5)

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 NSW Right to Farm Policy.*

Assessment – Consistent

By facilitating the application of the Low Rise Housing Diversity Code, the Planning Proposal will directly support this SEPP reducing the need for additional greenfields development with its consequent impacts on rural land.

9.3 Oyster Aquaculture (previously 1.4)

The objectives of this direction are to:

- (a) ensure that ‘Priority Oyster Aquaculture Areas’ and oyster aquaculture outside such an area are adequately considered when preparing a planning proposal, and*
- (b) protect ‘Priority Oyster Aquaculture Areas’ and oyster aquaculture outside such an area from land uses that may result in adverse impacts on water quality and consequently, on the health of oysters and oyster consumers.*

Assessment – Consistent

This Direction is not relevant to the Planning Proposal.

9.4 Farmland of State & Regional Significance on the NSW Far North Coast

Not applicable to Wingecarribee Shire

Section C – Environmental, Social & Economic Impacts

8 - Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the Proposal?

No, it is considered that there will be no likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the Proposal. The intent of the Planning Proposal is to facilitate the application of the Low Rise Housing Diversity Code, which applies to land within existing town and villages on land which already has a dwelling entitlement.

9 - Are there any other likely environmental effects of the planning proposal and how are they proposed to be managed?

No.

10 - Has the planning proposal adequately addressed any social and economic effects?

Yes. The Planning Proposal will facilitate implementation of the Low Rise Housing Diversity Code, a State Policy supported by the Minister's Planning Principles.

Section D – Infrastructure (Local, State & Commonwealth)

11 - Is there adequate public infrastructure for the Planning Proposal?

The Low Rise Housing Diversity Code applies to land within existing town and villages on land which generally has infrastructure and services. Where these are not available, or where they are at current capacity, proposals are in place to extend and increase that capacity.

Section E – State and Commonwealth Interests

No State or Commonwealth interests are affected by this Planning Proposal.

12 - What are the views of state and federal authorities and government agencies consulted in order to inform the Gateway determination?

Agency referrals have been undertaken as directed in the Gateway Determination to:

1. WaterNSW
2. NSW Rural Fire Service

In accordance with the Gateway Determination, Council has provided a copy of the Planning Proposal to those agencies and given them 30 days in which to provide a response.

A response from WaterNSW was received 30 May 2022, with no objections to the proposed amendment being raised and a copy of the response is included as an attachment to the Planning Proposal.

No response has yet been received from NSW Rural Fire Service prior to public exhibition.

Part 4 - Maps

No map amendments will result from this Planning Proposal.

Part 5 - Community Consultation

It is noted that Council provides at least 28 days of public exhibition. As this is not a site-specific Planning Proposal it will be notified through Council's website and e-newsletters.

The principal place of public exhibition will be Council's website, 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 restrictions prevent this.

Part 6 - Project Timeline

MILESTONE	INDICATIVE /ACTUAL DATE
Gateway Determination	May
Agency Consultation	May
Public Exhibition	July-August
Report to Panel & Council on exhibition of Planning Proposal.	August & September
S.3.36 Documents to DP&E & PCO.	October
Approximate completion date	November

END OF PLANNING PROPOSAL