



IRF22/3243

Plan finalisation report – PP-2022-1345

Include land at Nos. 2, 4 and 6 Myrtle Steet, Bowral within the Bowral Conservation Area and add land at No. 26 Elizabeth Street, Moss Vale as a new local heritage item in the Wingecarribee Local Environmental Plan 2010 (Amendment No. 65)

October 2022



Published by NSW Department of Planning and Environment

dpie.nsw.gov.au

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Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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1 Introduction

Overview

1.1.1 Name of draft LEP

Wingecarribee Local Environmental Plan 2010 (Amendment No. 65).

The Local Environmental Plan (LEP) seeks to amend the Wingecarribee Local Environmental Plan 2010 to:

- include No. 26 Elizabeth Street, Moss Vale, as a new local heritage item to be named “Karingal’ Interwar bungalow and garden including brick and trachyte fence”;
- include Nos. 2, 4 and 6 Myrtle Street, Bowral, within the existing Bowral Conservation Area; and
- provide a savings provision to apply for any development application lodged but not yet determined prior to the making of the subject LEP.

1.1.2 Site description

Table 1 Site description

Site Description	The planning proposal (Attachment A) applies to land at No. 26 Elizabeth Street, Moss Vale (Lot 1 DP 986025 and Lot 110 DP 877316) and Nos. 2, 4 and 6 Myrtle Street, Bowral (Lot 1 DP 840484, Lot 1 DP 741837 and Lot C DP 157898).
Type	Site/s
LGA	Wingecarribee

Nos. 2, 4 and 6 Myrtle Street, Bowral

Nos. 2, 4 and 6 are located on the eastern side of Myrtle Street, Bowral, between Merrigang and Shepherd Streets (**Figure 1** and **Figure 2**).



Figure 1: Aerial photo of 2, 4 and 6 Myrtle Street, Bowral (Source: Planning Proposal)

Nos. 2 and 4 Myrtle Street each contain a modest rendered brick and Marseilles terracotta tile roofed dwelling surrounded by established gardens with many mature tree species. Tree species including a large pin oak, a large Liquidambar, numerous large conifers, a large Himalayan cedar, established maples and various smaller ornamental and fruit trees.

In addition to this, no. 4 contains a trachyte retaining wall and trachyte paths. No. 6 Myrtle Street contains a recently renovated house and garden. Council has advised the houses were built contemporaneously in 1949.



Figure 2: Photo of 2, 4 and 6 Myrtle Street, Bowral taken from Myrtle Street (Source: Planning Proposal)

The sites are zoned R3 Medium Density Residential with a minimum lot size of 700m².

'Karingal', No. 26 Elizabeth Street, Moss Vale

The site known as 'Karingal' is located on the southern side of Elizabeth Street between Robertson Road and Valetta Street in Moss Vale (**Figure 3**). The property comprises two allotments being Lot 1 DP 986025 which contains the house and Lot 110 DP 877316 which contains the bulk of the garden, including the site of a former tennis court.

Council has advised the house was built circa 1927 (Interwar period) in a Californian Bungalow style out of dark local bricks (Bowral bricks) on trachyte foundations with a terracotta tile roof and matching brick. The house also has a trachyte front fence that spans the width of the nearly 50 metre street frontage (**Figure 4**).

The house is substantially intact although some alterations have been made over time. The grounds are substantially intact except for several senescent trees that were removed near the rear boundary, a large oak tree removed at the front of the house after being damaged by a lightning strike in 2013, and the removal of the tennis court which has been replaced by a parterre garden immediately adjacent to the house to the east.

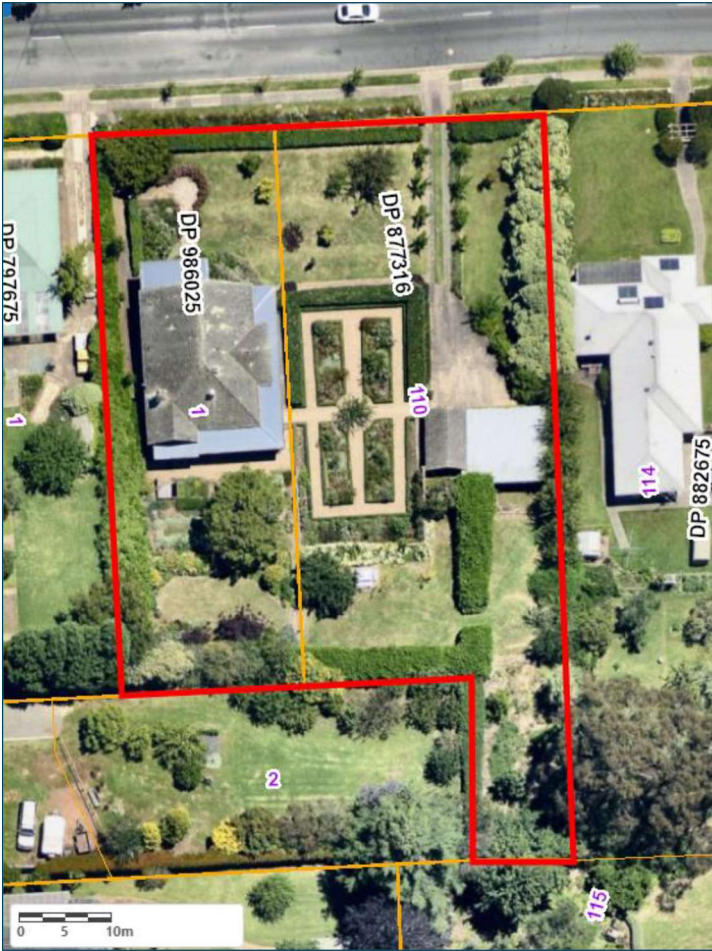


Figure 3: Aerial photo of 26 Elizabeth Street, Moss Vale (Source: Planning Proposal)



Figure 4: Photo of 26 Elizabeth Street, Moss Vale taken from the street (Source: Planning Proposal)

1.1.3 Purpose of plan

The intended outcomes of the planning proposal are to amend the Wingecarribee LEP 2010 to:

- include No. 26 Elizabeth Street, Moss Vale, as a new heritage item to be named “‘Karingal’ Interwar bungalow and garden including brick and trachyte fence”;
- include Nos. 2, 4 and 6 Myrtle Street, Bowral, within the existing Bowral Conservation Area;
- provide a savings provision to apply for any development application lodged but not yet determined prior to the making of the LEP; and
- provide protection to properties using existing heritage provisions contained in the Wingecarribee LEP 2010 (and applicable Development Control Plans).

To achieve the intended outcomes, it is proposed to amend the Wingecarribee LEP 2010 by:

- adding a new heritage item at No. 26 Elizabeth Street, Moss Vale to Schedule 5, Part 1 (Heritage items) named “‘Karingal’ Interwar bungalow and garden including brick and trachyte fence”;
- amending the relevant Heritage Maps (HER_007C and HER_007E) to identify the new heritage item and extend the existing Bowral Conservation Area; and
- adding to clause 1.8A ‘Savings provisions relating to development applications’ that this amendment does not apply to a development application made but not finally determined before the commencement of the amendment.

1.1.4 Background

In late 2021, community concern was separately expressed to Council about a complying development proposal to demolish the house at 4 Myrtle Street, Bowral, and replace it with terrace style housing, and two development applications (DAs) relating to 26 Elizabeth Street, Moss Vale, for medium density housing and subdivision. The DAs relating to No. 26 Elizabeth Street, Moss Vale have since been withdrawn.

Given the proposed developments and the potential heritage significance of these properties, Council placed two interim heritage order (IHOs) over Nos. 2 and 4 Myrtle Street, Bowral and No. 26 Elizabeth Street, Moss Vale.

Following the issue of the IHOs, the landowner of No. 26 Elizabeth Street, Moss Vale commenced legal proceedings in the NSW Land and Environment Court against the making of the IHO over the site seeking for it to be revoked over Lot 110 DP 877316.

On 16 September 2022, the Court handed down its decision on the proceedings finding that *“it is not appropriate to revoke the IHO over Lot 110, because the item has been found to be of local heritage significance and is located on both Lots 1 and 110.”* A full copy of the decision can be viewed at <https://www.caselaw.nsw.gov.au/decision/1833e81109da692d1b55db15>.

1.1.5 State electorate and local member

The site/s fall within both the Goulburn and Wollondilly state electorates. Mrs Wendy Tuckerman MP is the State Member for Goulburn and Mr Nathaniel Smith is the State Member for Wollondilly.

The site/s fall within the Whitlam federal electorate. Mr Stephen Jones MP is the Federal Member.

To the team’s knowledge, the above MPs have not made any written representations regarding the proposal.

There are no donations or gifts to disclose, and a political donation disclosure is not required.

There have been no meetings or communications with registered lobbyists with respect to this proposal.

2 Gateway determination

The Gateway determination issued on 23/05/2022 (**Attachment B**) determined that the proposal should proceed subject to conditions. Council has met all the Gateway determination conditions.

In accordance with the Gateway determination, the proposal is due to be finalised by 23/02/2023.

3 Public exhibition and post-exhibition changes

In accordance with the Gateway determination, the proposal was publicly exhibited by Council from 8/06/2022 to 8/07/2022, as required by section 29 of the *Local Government Act 1993*.

A total of 26 public submissions were received, comprising of 2 objections and 24 submissions supporting the proposal (**Attachment C**).

Submissions during exhibition

3.1.1 Submissions supporting the proposal

There were 24 public submissions received supporting the planning proposal. The main issues raised in submissions supporting the proposal (as summarised by Council in its post-exhibition report) were:

- heritage is an integral part of the distinct character of the Southern Highlands;
- loss of heritage means lost connections to the past;
- iconic and landmark homes with high build quality (especially 'Karingal') need to be preserved;
- references to the inappropriateness of the development proposals for 26 Elizabeth Street (these proposals have now been withdrawn);
- concern about inappropriate development at the expense of heritage and the loss of amenity;
- the need to protect the built and landscape character of the towns as these are valued by the community; and
- concern about Southern Highlands towns becoming like suburbs of Sydney.

3.1.2 Submissions objecting to and/or raising issues about the proposal

There were 2 public submissions received on behalf of the landowner of No. 26 Elizabeth Street, Moss Vale objecting to the planning proposal. The key issues raised in these submissions are summarised, as well as Council and the Department's response, in Table 2 below.

Full details of these submissions and Council's responses are also summarised in **Attachment C**.

Table 2 Summary of Key Issues

Issue raised	Council response and Department assessment of adequacy of response
Submission 1	
Due to an active appeal in the Land and Environment Court regarding the IHO over Lot 110 DP 877316 (the garden lot) of No. 26 Elizabeth Street, Moss Vale, the public exhibition should be extended until 14	<p><u>Council's response:</u></p> <p>The appeal against the IHO is separate to the Planning Proposal now being considered. A Planning Proposal could have been initiated without an IHO. However, an IHO provides protection while heritage significance is determined, and a Planning Proposal is prepared by Council (if Council resolves to support a heritage listing). The outcome of the appeal will not alter Council's findings on heritage significance or its</p>

Issue raised	Council response and Department assessment of adequacy of response
<p>days after the proceedings are determined.</p>	<p>intention to heritage list both lots that comprise 26 Elizabeth Street, Moss Vale.</p> <p>Furthermore, extending the public exhibition and final reporting of this matter may jeopardise Council's ability to complete the amendment in the timeframe set by the Department of Planning and Environment (NSWDPE) in the Gateway Determination and leave the four lots the subject of the Planning Proposal vulnerable.</p> <p><u>Department's response:</u></p> <p>Council's response to the issue is considered reasonable. The Court proceedings have now been finalised (refer to Section 1.1.4).</p>
<p>Extension of the public exhibition presents no-risk because a DA cannot be approved while the IHO remains in force (until 19 November 2022).</p>	<p><u>Council's response:</u></p> <p>Disagree that there is no risk. The Planning Proposal applies to one other lot in Elizabeth Street (the IHO and heritage significance of which is not being contested) as well as three other properties in Bowral. Delay of the Planning Proposal could put 4 out of 5 affected lots at risk because should the IHOs lapse, DAs can be lodged before the amendment is finalised and any DA would benefit from the proposed savings provision in clause 1.8A of the Wingecarribee LEP 2010. Should the Court find that the IHO should be revoked over 110, then the revocation would likely be immediate, and a DA could be lodged immediately after.</p> <p><u>Department's response:</u></p> <p>Council's response to the issue is considered reasonable.</p>
<p>Should the Court find that Lot 110 is not of local heritage significance then Council would be expected to conclude that the planning proposal lacks merit.</p>	<p><u>Council's response:</u></p> <p>Keeping in mind that the Planning Proposal applies to five lots comprising four properties, should the Court determine that the IHO is not valid over part of the Elizabeth Street property and the heritage assessment should not include part of the determined curtilage of 'Karingal', then those findings can be presented to the NSWDPE who is the plan-making authority for this Planning Proposal. The Court judgment, either way, would not invalidate the whole Planning Proposal.</p> <p><u>Department's response:</u></p> <p>It is noted the Court found Lot 110 to be of local heritage significance (refer to Section 1.1.4).</p>
<p>The IHO and planning proposal are a knee-jerk reaction in response to public submissions.</p>	<p><u>Council's response:</u></p> <p>Part of the role of a Council is to advocate for its community. The Wingecarribee community strongly value their heritage character, as articulated in the <i>Wingecarribee 2031 Community Strategic Plan</i>. The community concern about the longevity of these properties coincided with internal studies being undertaken that identified these properties for heritage protection. The community concerns voiced in 2021 prompted</p>

Issue raised	Council response and Department assessment of adequacy of response
	<p>the use of IHOs to provide immediate protection while the process of heritage listing could be expedited for these sites.</p> <p><u>Department's response:</u></p> <p>Council's response to the issue is considered reasonable.</p>
<p>As DAs have been withdrawn, there is no need to expedite the public exhibition process and progress the planning proposal where no current threat exists.</p>	<p><u>Council's response:</u></p> <p>While the immediate threat to these properties may not still exist, heritage significance has been established, the Planning Proposal initiated and the pathway to finalisation of the Planning Proposal now needs to be followed. Council officers are keenly aware that the IHO mechanism is only available once for a property so if an IHO lapses and a future threat appears before a property is fully protected, Council is limited in its ability to provide further protection.</p> <p><u>Department's response:</u></p> <p>Council has completed the consultation required under the Gateway.</p>
<p>Not agreeing to the extension of public exhibition is a serious failure of Council in carrying out its obligations in preparing the planning proposal in a satisfactory manner.</p>	<p><u>Council's response:</u></p> <p>Council has prepared, consulted and exhibited the Planning Proposal in accordance with the NSW DPE's <i>Local Environmental Plan Making Guideline</i> (December 2021) and the Gateway Determination issued by the Department in May 2022. It is considered that the proper process has been followed.</p> <p><u>Department's response:</u></p> <p>Council's response to the issue is considered reasonable.</p>
<p>The 2009 Heritage Study (Heritage Survey 2009) does not support that Lot 110 has any heritage significance.</p>	<p><u>Council's response:</u></p> <p>An error in the description of the site as a small site has led to this conclusion by the solicitor. Other documents (dating back to 2012) confirm that it was always Council's intention to include both lots in the listing. The inclusion of the garden lot as part of the curtilage of the house is consistent with the determination of a heritage curtilage articulated in the Heritage NSW publication <i>Heritage Curtilages</i> (Heritage Office and Department of Urban Affairs and Planning 1996).</p> <p><u>Department's response:</u></p> <p>Council's response to the issue is considered reasonable.</p>
<p>Associational significance to the builder (Alf Stephens) is not warranted as there is no evidence that this was an important example of his work.</p>	<p><u>Council's response:</u></p> <p>The workmanship and craftsmanship of houses built by Alf Stephens & Sons builders is recognised in the Southern Highlands and Canberra where the company completed many public and private, commercial and residential buildings. The heritage assessment does not indicate that Karingal is one of his most important works, but it is of high calibre and quality in terms of materials and design and helps to demonstrate the breadth of buildings produced by this family firm of builders.</p>

Issue raised	Council response and Department assessment of adequacy of response
	<p><u>Department's response:</u></p> <p>Council's response to the issue is considered reasonable.</p>
Submission 2	
<p>Due to an active appeal in the Land and Environment Court regarding the Interim Heritage Order (IHO) over Lot 110 DP 877316 (the garden lot) of No. 26 Elizabeth Street, Moss Vale, the public exhibition should be extended until after the proceedings are determined.</p>	<p><u>Council's response:</u></p> <p>Refer to the first Council response in this table.</p> <p><u>Department's response:</u></p> <p>Council's response to the issue is considered reasonable. The Court proceedings have now been finalised (refer to Section 1.1.4).</p>
<p>Objects to the listing of No. 26 Elizabeth Street, Moss Vale on the basis that Lot 110 should not be included in any future heritage listing of the site.</p>	<p><u>Council's response:</u></p> <p>In accordance with the Heritage NSW publication <i>Heritage Curtilages</i> (Heritage Office and Department of Urban Affairs and Planning 1996), the type of curtilage that has been defined for 26 Elizabeth Street is a lot boundary curtilage that comprises 2 adjoining lots that have been in joint ownership for more than 90 years. The garden lot was purchased by the owner of 'Karingal' in 1929. Council's sewer diagram of 1938 shows the two lots and the tennis court being in existence at that time, demonstrating the strong association between the two lots since at least the 1930s.</p> <p><u>Department's response:</u></p> <p>Council's response to the issue is considered reasonable. It is also noted the Court found Lot 110 to be of local heritage significance (refer to Section 1.1.4).</p>
<p>The heritage inventory sheet has several inaccuracies, including:</p> <p>a) The description includes Lot 110 without mentioning it's a separate lot.</p>	<p><u>Council's response:</u></p> <p>The description in the inventory sheet can be amended to include a reference to two lots. However, the heritage database held online by Heritage NSW is currently being upgraded so existing entries cannot be altered at this time.</p> <p><u>Department's response:</u></p> <p>Council's response to the issue is considered reasonable.</p>
<p>b) The description of the site as being 'medium-sized' by a previous 'drive-by' heritage study completed in 2009.</p>	<p><u>Council's response:</u></p> <p>There are numerous inaccuracies within the 2009 study, which has prompted the review of several hundred deferred potential heritage items, currently being done. Reference to the medium sized size can be removed or amended from the inventory sheet.</p>

Issue raised	Council response and Department assessment of adequacy of response
	<p><u>Department's response:</u> Council's response to the issue is considered reasonable.</p>
<p>c) Although the house is relatively intact, the garden has been altered over time, including the removal of the tennis court.</p>	<p><u>Council's response:</u> It is acknowledged that houses and particularly gardens change over time. However, the relationship between the house and garden and former tennis court is still evident, despite the changes.</p> <p><u>Department's response:</u> Council's response to the issue is considered reasonable.</p>
<p>d) The two lots were acquired separately by the original owner. Recognition of two separate lots is more historically accurate.</p>	<p><u>Council's response:</u> The inventory sheet can be amended to make reference to the two lots. It is not considered that this has a material effect on the heritage assessment that has been undertaken.</p> <p><u>Department's response:</u> Council's response to the issue is considered reasonable.</p>
<p>e) Alf Stephens was not involved with Lot 110.</p>	<p><u>Council's response:</u> It is acknowledged that Alf Stephens & Sons builders would not have been involved in the establishment of any garden. However, it is unknown whether they built the garage or the front fence.</p> <p><u>Department's response:</u> Council's response to the issue is considered reasonable.</p>
<p>f) Associational significance related to Alfred and Sons builders is not supported. Comparative analysis is required.</p>	<p><u>Council's response:</u> While a full comparative analysis of Alf Stephens houses has not been undertaken, a book outlining the work of the firm was produced by local historians Bud and Maureen Townsing in 2020, called <i>A Brief History of Alf Stephens & Sons</i>. The book provides an overview rather than a complete inventory of works but demonstrates the breadth of the body of work, displaying photographs of around 60 buildings in the Southern Highlands built by the firm. The reference to Alf Stephens in the heritage assessment is an indication of quality rather than rarity.</p> <p><u>Department's response:</u> Council's response to the issue is considered reasonable.</p>
<p>g) The parterre garden, which replaced the tennis court, is not of any heritage significance. There is no justification that the tennis court, shed or garage should be</p>	<p><u>Council's response:</u> The heritage significance of the garden is intrinsically linked to the house as part of its curtilage and setting. The location of the tennis court (and some infrastructure related to the tennis court such as the walls) still remains, as does the front fence which ties the two lots together. Council's heritage assessment does not highlight the garage or shed as having significance independent of the house and its setting.</p>

Issue raised	Council response and Department assessment of adequacy of response
included in the heritage listing.	<p><u>Department's response:</u></p> <p>Council's response to the issue is considered reasonable. It is also noted the Court found Lot 110 (site of the former tennis court) to be of local heritage significance (refer to Section 1.1.4).</p>
h) Lot 110 was bought later.	<p><u>Council's response:</u></p> <p>This is acknowledged. However, Lot 110 was bought within a few years of the purchase of the original lot and Council plans show the tennis court being in existence in 1938 suggesting that the lot was specifically bought to expand the garden and recreation areas of the property.</p> <p><u>Department's response:</u></p> <p>Council's response to the issue is considered reasonable.</p>
i) The fence was constructed after the dwelling as it continues over Lot 110.	<p><u>Council's response:</u></p> <p>Acknowledged. However, this provides evidence that the original owner always intended that the lots remain together as house and garden.</p> <p><u>Department's response:</u></p> <p>Council's response to the issue is considered reasonable.</p>
j) The existing dwelling is not constructed on a hilltop, ridge or rise and that it has not been assessed to have any current and continued significant view corridors or vistas that should be conserved.	<p><u>Council's response:</u></p> <p>The dwelling is sited on the side of a hill and has views to the north over Elizabeth Street toward the railway. Neighbourhood or distant views to the east (across the garden) may have been available at a point in history but are not currently considered significant. It is considered unlikely that any conclusion can be drawn that because there are no views east then the land is not valuable. The original owner may have been more interested in having views over his garden rather than to distant places.</p> <p><u>Department's response:</u></p> <p>Council's response to the issue is considered reasonable.</p>
Concludes that Lot 110 has no contributing heritage significance to the Interwar bungalow, with the exception of the fence, no archaeological research potential, there are no significant views to or from the east that contribute to its setting, there is no remnant fabric of heritage significance and does not contribute to setting outside incidental layout.	<p><u>Council's response:</u></p> <p>The heritage assessment undertaken by Council has found that: the garden lot, although altered over time, has historical attachment to the house as being in common ownership since at least 1929 and part of its curtilage; the two lots together are significant as a fine house in a large garden setting; there is significant fabric in the fence that spans both lots; no archaeological research potential has been identified.</p> <p><u>Department's response:</u></p> <p>Council's response to the issue is considered reasonable. It is also noted the Court found Lot 110 to be of local heritage significance (refer to Section 1.1.4).</p>

Advice from agencies

In accordance with the Gateway determination, Council was required to consult with agencies listed below in Table 3 who have provided the following feedback.

Table 3 Advice from public authorities

Agency	Advice raised	Council response
Water NSW	<p>Raised no objection and made the following comments:</p> <ul style="list-style-type: none"> the amendments have few implications for water quality. However, the minimisation of opportunities for complying development is acknowledged and future development will be subject to full development assessment with the need to comply with State Environmental Planning Policy (Biodiversity and Conservation) 2021 in relation to water quality; and the Proposal has given due consideration to section 9. 1 Ministerial Direction 3.3 relating to the Sydney Drinking Water Catchment. WaterNSW concurs with Council's conclusion that heritage provisions will likely have a subduing effect on development potential of the sites, thereby protecting water quality. 	<p>Council noted Water NSW raised no objection to the proposal and the key issues raised in its submission.</p> <p>Council also advised a copy of the submission was included in the exhibited planning proposal, as well as the amendments required by the Gateway determination (i.e. that the exhibited planning proposal be updated to address any issues raised by Water NSW).</p>
Heritage NSW	<p>Acknowledges Council's heritage assessments have been undertaken in accordance with the Heritage Council of NSW's criteria for listing at a local level.</p> <p>Encourages the identification and listing of the new heritage item.</p>	<p>Council noted the key issues raised by Heritage NSW in its submission. Council also advised that a copy of the submission was included in the exhibited planning proposal.</p>
NSW Rural Fire Service	<p>The NSW RFS has considered the information submitted and raised no concerns or issues in relation to bush fire (Attachment RFS).</p> <p><i>Note: Council gave NSW RFS at least 30 days to comment on the proposal as required by the Gateway conditions. Council has advised that referral was made to the NSW RFS on 15 April 2022 and a response was not received until 28 August 2022.</i></p>	<p>As the NSW RFS did not raise any concerns or issues with the planning proposal, Council notes the submission and comments.</p>

The Department considers Council has met the gateway conditions and adequately addressed matters raised in submissions from public authorities.

4 Department's assessment

The proposal has been subject to detailed review and assessment through the Department's Gateway determination (**Attachment B**) and subsequent planning proposal processes. It has also been subject to public consultation and engagement.

The following reassesses the proposal against relevant Section 9.1 Directions, SEPPs, the South East and Tablelands Regional Plan and Council's Local Strategic Planning Statement. It also reassesses any potential key impacts associated with the proposal.

As outlined in the Gateway determination report (**Attachment E**), the planning proposal submitted to the Department for finalisation:

- complies with key conditions in the Gateway determination;
- remains consistent with heritage protection objectives of the South East and Tablelands Regional Plan;
- remains consistent with the Wingecarribee Local Strategic Planning Statement;
- remains not inconsistent with the Wingecarribee Local Housing Strategy;
- remains consistent with the Wingecarribee Community Strategic Plan;
- remains consistent, or justifiably inconsistent, with all relevant Section 9.1 Directions (note: Council demonstrated consistency with Direction 4.3 Planning for Bushfire Protection post Gateway determination after consulting with the NSW RFS); and
- remains not inconsistent with relevant SEPPs.

The following tables identify whether the proposal is consistent with the assessment undertaken at the Gateway determination stage.

Table 4 Summary of strategic assessment

	Consistent with Gateway determination report Assessment	
South East and Tablelands Regional Plan	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Wingecarribee Local Strategic Planning Statement	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Wingecarribee Local Housing Strategy	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Wingecarribee Community Strategic Plan	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Local Planning Panel (LPP) recommendation	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Section 9.1 Ministerial Directions	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
State Environmental Planning Policies (SEPPs)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

Table 5 Summary of site-specific assessment

Site-specific assessment	Consistent with Gateway determination report Assessment	
Social and economic impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Environmental impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Infrastructure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

5 Assessment consultation

The Department consulted with the following stakeholders as a part of finalising its assessment.

Table 6 Consultation in finalising the Department's assessment

Stakeholder	Consultation	The Department is satisfied with the draft LEP
Mapping	Two maps have been prepared by Council and reviewed by the Department's ePlanning team and meet the technical requirements.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Council	Council was consulted on the terms of the draft instrument under clause 3.36(1) of the <i>Environmental Planning and Assessment Act 1979 (Attachments C1-C1A)</i> . Council confirmed on 18/10/2022 (and reconfirmed on 24/10/22) that the plan is acceptable and should be made (Attachments D1-D1A).	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Parliamentary Counsel Opinion	On 21/10/2022, Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at Attachment PC .	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

6 Recommendation

It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act because:

- the draft LEP has strategic merit being consistent with heritage protection objectives of the South East and Tablelands Regional Plan, Council's Local Strategic Planning Statement and Council's Community Strategic Plan;
- it is consistent with the Gateway Determination; and
- issues raised during consultation have been addressed, and there are no outstanding agency objections to the proposal.

A letter to Council advising the plan has been made is provided for signature in **Attachment Council**.

Graham Towers
28/10/22

Graham Towers
Manager, Southern Region

D Thompson
30/10/2022

Daniel Thompson
Director, Southern Region

Assessment officer

Andrew Hartcher
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4247 1823

Attachments

Attachment	Document
A	Planning Proposal
B	Gateway Determination
C	Section 3.36 Report
C1-C1A	Section 3.36(1) consultation with Council
D1-D1A	Council comments on draft LEP
E	Gateway Determination Report
Council	Letter to Council
RFS	NSW RFS Submission