

# Planning Proposal

to amend Wingecarribee Local Environmental Plan 2010 to enable the subdivision of land at Mittagong Aerodrome and preserve an existing dwelling entitlement.

Initially prepared by Lee Environmental Planning (October 2022)  
Updated by Wingecarribee Shire Council in accordance with  
the Local Environmental Plan Making Guideline (September 2022)

Council has categorised the Planning Proposal as *Standard*

Version 2 for Public Exhibition

May 2023

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## Introduction

### Site Location & Description

**Legal Description:** Lot 11 DP1226788 and Lot 841 DP1253894

**Property Address:** Old South Road, Mittagong

**Description:** The subject site is commonly referred to as the Mittagong Airfield.

It was originally constructed in 1944 by the Royal Australian Air Force, but the site is now privately owned and maintained by Berrima District Aero Club. It is funded and maintained entirely by Club members.

The airfield serves the aviation needs of the Southern Highlands community and is used by the Rural Fire Service during bushfire emergencies, aero-medical flights, non-urgent medical transfers (e.g. Angel Flights). It is also used by the National Parks and Wildlife Service and the Australian Defence Forces, for training activities and as a base for power and gas line aerial safety survey work.

It is situated on Old South Road, Mittagong, approximately 1.5 kilometres from the intersection of Old South Road and Bong Bong Road. This places it approximately 3.5 kilometres east of the Mittagong town centre and 1 kilometre east of the Renwick urban area.

It comprises two land parcels that, when combined, accommodate the runway, club house and associated hangars. A portion of the land on the south western end of the runway is undeveloped and is covered mainly with remnant native vegetation with some cleared areas. This area has frontage to and access off Diamond Fields Road.

The smaller of the two lots is Lot 841 DP1253894. It was created as an irregular shaped parcel of approximately 4.6 hectares, specifically to accommodate the eastern extent of the runway.

The larger parcel is Lot 11 DP1226788, of approximately 37 hectares, and accommodates the remainder of the runway, the club house and the aircraft hangars that are aligned along the southern side of the runway. This lot also has remnant native vegetation areas and road frontage and existing access gate on to Diamond Fields Road.

The remnant native vegetation covers approximately 13 hectares of the site. Lot 11 has a dwelling entitlement that has not yet been taken up. This dwelling entitlement has been confirmed by Council in its letter of 13 July 2021 which accompanies the Planning Proposal.

Until recently, the Aero Club leased the land, however the Club was advised by the previous owners of Lot 11 that the airfield lease would not be renewed beyond 2024. The smaller of the two lots, Lot 841 DP1253894, was purchased in January 2020. The larger parcel, Lot 11 DP1226788, was

purchased in February 2022.

The site is within the C3 Environmental Management zone under the *Wingecarribee Local Environmental Plan 2010* and as already noted, Lot 11 DP1226788 has a dwelling entitlement that would enable a Development Application to be lodged and approved for a dwelling house under the prevailing planning regime.



Figure 1: Site locality map

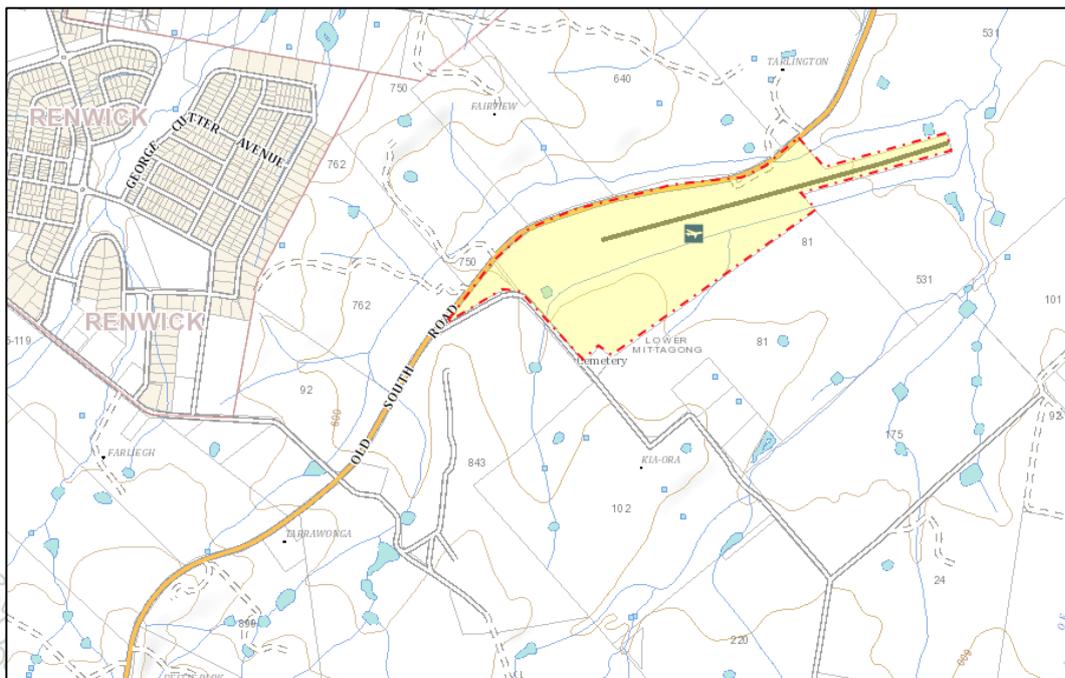


Figure 2: Current land holding of the Aero Club



Figure 3: Extent of Lot 11 DP1226788



Figure 4: Extent of Lot 841 DP1253894

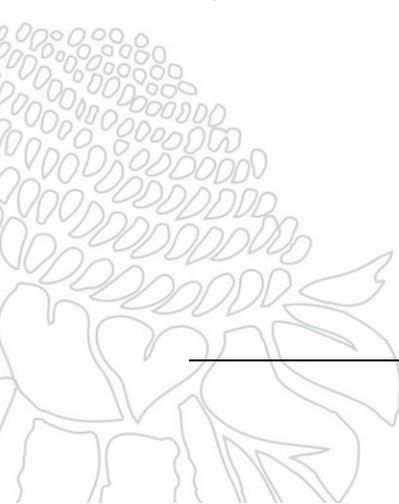




Figure 5: View of runway on approach from the east



Figure 6: Clubhouse and car parking area along Old South Road frontage



**Figure 7: Runway and hangars looking south west from the car park**



**Figure 8: Runway looking north east from the car park**



**Figure 9: View of potential dwelling site looking back towards Diamond Fields Rd**



**Figure 10: View of potential dwelling area looking south**



**Figure 11: View from Diamond Fields Road looking north to the runway and north east towards potential dwelling location**

## **Part 1 – Objectives & Intended Outcomes of the Planning Proposal**

The objective of the Planning Proposal is to enable a boundary adjustment (subdivision) between the two existing lots that comprise the Mittagong Aero Club site, so that the new lots resulting from that subdivision will be distinct in their purpose. One lot, of approximately 31 hectares, would accommodate the aerodrome, inclusive of the runway, clubhouse and hangars, whilst the existing dwelling entitlement would be applied to the other lot of approximately 10.6 hectares. Although this lot would be less than the minimum lot size development standard pursuant to Clause 4.1 of WLEP2010, one intended outcome the Planning Proposal is that the existing dwelling entitlement that currently attaches to Lot 11 DP1226788 would be retained through an amendment to Schedule 1 (Additional Permitted Uses) of Wingecarribee Local Environmental Plan (WLEP) 2010.

It is noted that the proposed 'residential' lot would be located within the boundary of the existing Lot 11 to which the dwelling entitlement applies. It is further noted that if the new lot were created, any approval for the construction of a dwelling would be the subject of a separate Development Application, as it would be under the current lot configuration.

This proposed subdivision arrangement is described on a plan prepared by Rein Warry and Co. Consulting Surveyors that has been submitted with the Planning Proposal.



Figure 12 - Lot 11 (orange boundary) & Lot 841 (green boundary)

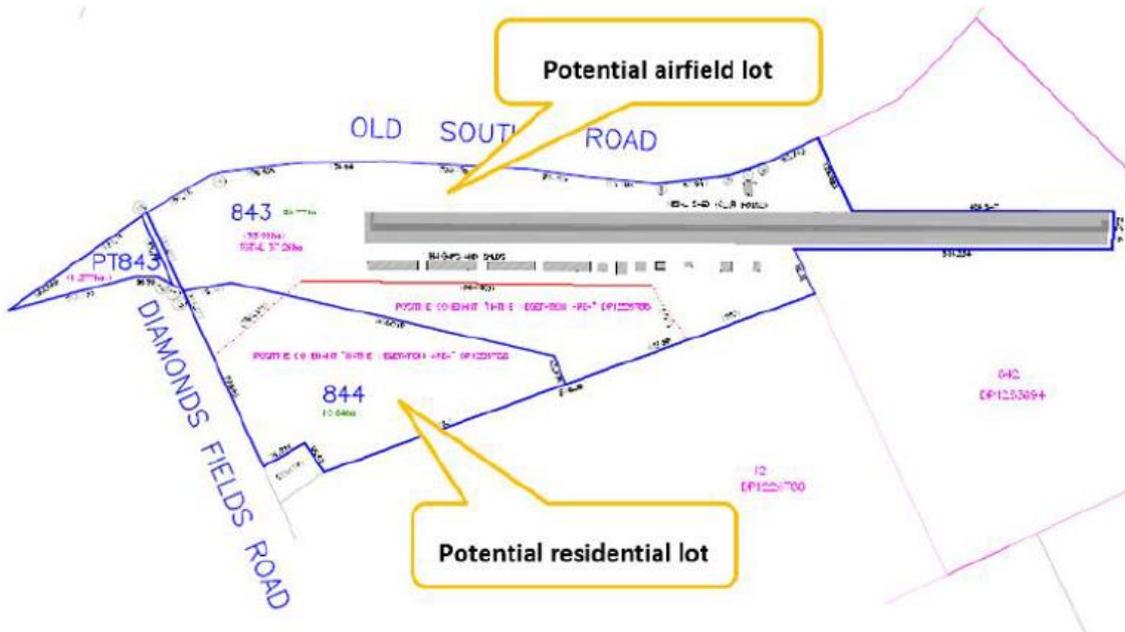


Figure 13 – Proposed lot subdivision

Figure 13 is an extract from a plan prepared by Rein Warry and Co. Consulting Surveyors. That Plan accompanies the Planning Proposal.

The subdivision of the land by a boundary adjustment could be achieved through the Development Application process, however, if a new lot were to be created that was less than 40 hectares in site area, it is possible that the relevant provisions of Clause 4.2C of WLEP2010 could be interpreted as acting to prohibit the erection of a dwelling house upon that new lot. This would effectively

relinquish the acknowledged dwelling entitlement relating to Lot 11 DP1226788. It is therefore considered necessary to amend the WLEP2010 prior to that process.

The concurrent assessment of a Planning Proposal and a Development Application is permissible under. It is noted that a Development Application (DA 23/0909) is being assessed concurrently with the Planning Proposal as enabled under Division 3.5 s.3.38, 3.39 and 3.40 of the *Environmental Planning and Assessment Act 1979*. However, the determination of that DA cannot occur until the outcome of the Planning Proposal is known and any subsequent amendment to Schedule 1 of WLEP 2010 is made.

## Part 2 - Explanation of the Provisions

- To achieve the intended outcomes of the Planning Proposal the following amendments to the *Wingecarribee Local Environmental Plan 2010* instrument will be required:
  - Schedule 1 Additional permitted uses, *Wingecarribee Local Environmental 2010*, will be amended by the inclusion of the following Clause:

*38. Use of certain land at Old South Road, Mittagong*  
*(1) This clause applies to the Mittagong Aero Club on Old South Road, Mittagong, being Lot 11 DP1226788 and Lot 841 DP1253894.*  
*(2) Subdivision of the land through a boundary adjustment to create two new lots, is permitted with consent. The subdivision is to create one lot that will accommodate the Mittagong Aero Club clubhouse, runway and associated aircraft hangers and one vacant lot.*  
*(3) Any vacant lot created in accordance with Subclause (2), shall assume the dwelling entitlement that is currently recognised for Lot 11 DP1226788, with approval of any dwelling house being the subject of a Development Approval for that purpose.*
- To achieve the intended outcomes of the Planning Proposal, the following amendments to *Wingecarribee Local Environmental 2010* maps will be required:
  - The subject land (Lot 11 DP1226788 and Lot 841 DP1253894) will be identified upon the *Wingecarribee Local Environmental Plan 2010* Schedule 1 Map

These amendments would enable Council to assess and, subject to that assessment, approve a Development Application for the subdivision (boundary adjustment) of Lot 11 DP1226788 and Lot 841 DP1253894. Further, that subdivision would retain the existing dwelling entitlement that attaches to Lot 11 DP1226788 that might otherwise be lost because of the limitations of Clause 4.2C.

## Part 3 - Justification of Strategic & Site-specific Merit

### Strategic Merit

The subject land accommodates the Mittagong Aero Club, the only such club within the Wingecarribee Shire. It is recognised that the airfield serves not only the interests of the individual members of the Club, but also provides an essential community service through providing air support to the Southern Highlands community through its use by the Rural Fire Service during bush fire emergencies, emergency and non-urgent medical transfers (e.g. Angel Flights), the National Parks and Wildlife Service as well as the Australian Defence Forces for training activities, and as a base for power and gas line aerial safety survey work. It also serves as a base for business and tourism flights.

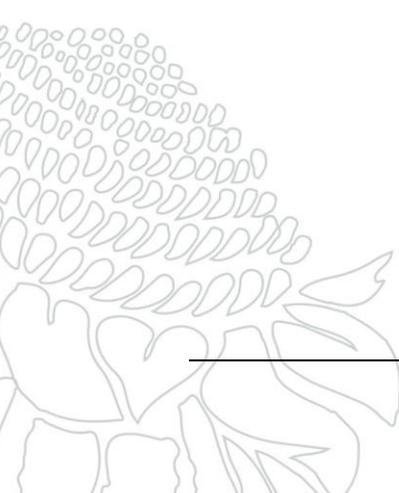
Currently, the aerodrome and associated facilities occupy two lots of land, both owned by the Club. One lot has a dwelling entitlement. The primary intent of the Planning Proposal is to enable a subdivision which makes more efficient use of each lot by containing each land use, the aerodrome and a potential dwelling on their own individual lot.

From a strategic land use perspective it is logical for each land use to be located on its own lot. The proposed lot to which the dwelling entitlement would apply would be located within the existing lot to which this entitlement is attached. A dwelling approval is, and would remain, the subject of a separate Development Application. The activities of the aero club could then continue on their own separate lot and would enable more efficient management of the club and its infrastructure into the future. It is therefore deemed that the Proposal has strategic specific merit.

### Site-specific Merit

The rationale underpinning the Planning Proposal is considered sound as discussed above. No change to either existing or future permitted land uses is proposed. The proposed dwelling site is located within the boundary of the existing lot to which a dwelling entitlement already applies.

Although any dwelling approval would be the subject of a separate Development Application, the proponent has provided technical assessments which address the suitability of the site for a future dwelling, including a bush fire assessment report, an on-site effluent disposal report and a review of the site's native vegetation. These accompany the Planning Proposal. It is therefore deemed that the Proposal has 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 an owner initiated proposal that is based upon the contention that the land has a capacity for development that, in order to achieve the optimum outcome, requires a realignment of the current lot subdivision arrangement. The Proposal is deemed to have both strategic and site-specific merit as discussed above.

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

Yes. Whilst a subdivision (boundary adjustment) could be possible prior to an amendment of the WLEP2010, the result could be the loss of the existing dwelling entitlement that currently attaches to Lot 11 DP1226788. Therefore, a Planning Proposal is considered the only way of obtaining the desired outcome while protecting and promoting all other relevant features of Council's planning instruments.

Because the site is within the C3 Environmental Management zone, and the Minimum Lot size maps require 40 hectares for the creation of new lots, the establishment of a dwelling entitlement is not automatic if the new lot is not at or above 40 hectares. Because the proposed new dwelling lot would be less than 40 hectares and would not be able to satisfy any of the other subclauses of 4.2C that can provide for a dwelling entitlement, the Proposal seeks to retain the existing entitlement.

Such an outcome, in addition to being environmentally achievable, is a logical separation of the aerodrome use from future residential use. The development of the residential lot for a new dwelling house would be a development outcome completely consistent with existing development patterns on the immediately surrounding lands.

The proposed residential lot has the environmental capacity to accommodate future residential development based on the submitted bush fire, waste water and vegetation reports. The aerodrome lot is suitable to accommodate the existing runway, club house and associated hangers.

## 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)?

The South East Tablelands Regional Plan respects and reflects the objectives contained in s1.3 of the *Environmental Planning & Assessment Act 1979*. The following are considered to specifically apply to the Planning Proposal:

- (c) to promote the orderly and economic use and development of land,
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,

- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,
- (j) to provide increased opportunity for community participation in environmental planning and assessment.

The SE & Tablelands Regional Plan has similar board objectives. The orderly use of land is key to many of them, which is the primary intent of this Planning Proposal.

**4 - Is the Planning Proposal consistent with Council’s adopted and endorsed Local Strategic Planning Statement (LSPS) and Local Housing Strategy(LHS)?**

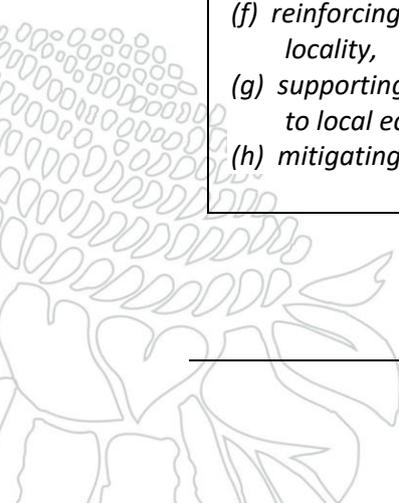
As above, the basis of both the LSPS and the LHS is the orderly use of land.

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

There are no other State and regional studies or strategies that are relevant.

**6 - Is the Planning Proposal consistent with applicable SEPPs?**

<b>SEPP (Housing) 2021</b>	<i>The intent of this SEPP is to deliver a sufficient supply of safe, diverse and affordable housing</i>  <a href="https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0714">https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0714</a>
<p><b>Assessment – Consistent</b></p> <p><i>The principles of this Policy are:</i></p> <ul style="list-style-type: none"> <li>(a) enabling the development of diverse housing types, including purpose-built rental housing,</li> <li>(b) 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,</li> <li>(c) ensuring new housing development provides residents with a reasonable level of amenity,</li> <li>(d) promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services,</li> <li>(e) minimising adverse climate and environmental impacts of new housing development,</li> <li>(f) reinforcing the importance of designing housing in a way that reflects and enhances its locality,</li> <li>(g) 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,</li> <li>(h) mitigating the loss of existing affordable rental housing.</li> </ul>	



The Planning Proposal does not seek to change the prevailing land use zoning of the land and therefore will have no impact upon the how the State Policy applies to the land. The Planning Proposal has the intended outcome of ensuring an existing dwelling entitlement, attached to Lot 11 DP1226788, can be relied upon notwithstanding a boundary adjustment between the two existing lots would create two new lots.

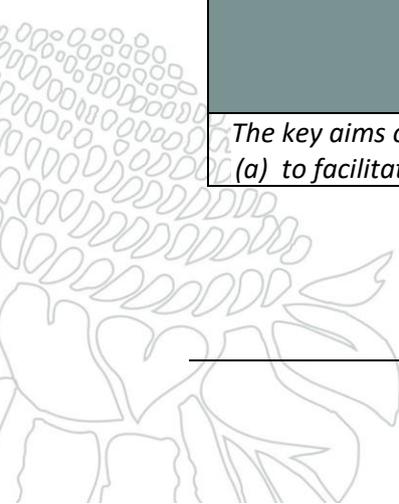
The retention of one existing dwelling entitlement, that Council has formally acknowledged, and to allow that one single dwelling to be located on its own parcel and not on land occupied by the airfield, is not an outcome consistent with the State Policy.

<b>SEPP (Transport and Infrastructure) 2021</b>	<i>The intent of this SEPP is to provide well-designed and located transport and infrastructure integrated with land use</i>  <a href="https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0732" style="color: white;">https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0732</a>
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<b>Assessment – Consistent</b>	
<p><i>The key intentions of this SEPP include:</i></p> <ul style="list-style-type: none"> <li><i>(a) improving regulatory certainty and efficiency through a consistent planning regime for infrastructure and the provision of services, and</i></li> <li><i>(b) providing greater flexibility in the location of infrastructure and service facilities, and</i></li> <li><i>(c) allowing for the efficient development, redevelopment or disposal of surplus government owned land, and</i></li> <li><i>(d) identifying the environmental assessment category into which different types of infrastructure and services development fall (including identifying certain development of minimal environmental impact as exempt development), and</i></li> <li><i>(e) identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and</i></li> <li><i>(f) providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing, and</i></li> <li><i>(g) providing opportunities for infrastructure to demonstrate good design outcomes.</i></li> </ul> <p>By definition, the Mittagong Aero Club facility is an airstrip and not an air transport facility. Therefore, this proposal does not propose or impact on any of the land uses outlined in this State Policy. It is not of a scale that would have any impact upon any infrastructure.</p>	

<b>SEPP (Primary Production)</b>	<i>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.</i>  <a href="https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0729" style="color: white;">https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0729</a>
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<p><i>The key aims of this SEPP are:</i></p> <ul style="list-style-type: none"> <li><i>(a) to facilitate the orderly economic use and development of lands for primary production,</i></li> </ul>	
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- (b) to reduce land use conflict and sterilisation of rural land by balancing primary production, residential development and the protection of native vegetation, biodiversity and water resources,
- (c) to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations,
- (d) to simplify the regulatory process for smaller-scale low risk artificial waterbodies, and routine maintenance of artificial water supply or drainage, in irrigation areas and districts, and for routine and emergency work in irrigation areas and districts,
- (e) to encourage sustainable agriculture, including sustainable aquaculture,
- (f) to require consideration of the effects of all proposed development in the State on oyster aquaculture,
- (g) to identify aquaculture that is to be treated as designated development using a well-defined and concise development assessment regime based on environment risks associated with site and operational factors.

The Planning Proposal will have no impact upon any primary production, either existing or potential, on the land or on any adjoining 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**

*The aims of this SEPP are:*

- (a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and
- (b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

*It is noted that 2.3(1)(b) of the SEPP identifies land within the R3 Medium Density Residential zone as land to which the SEPP applies.*

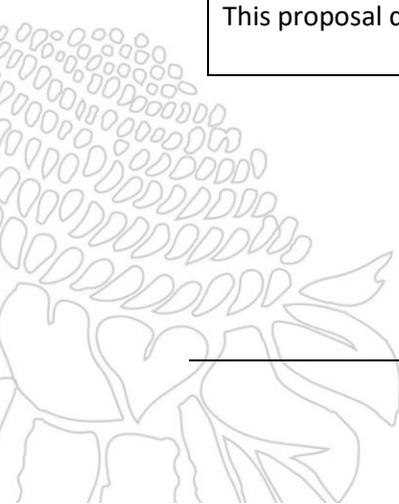
The Planning Proposal is consistent with the objectives of this State Policy and will have no significant impact upon any biodiversity values of the land.

Potential environmental impacts that could arise as a consequence of the Planning Proposal are limited to those associated with the construction of a new dwelling house upon the proposed 'dwelling' lot. These issues have been considered in the supporting reports for bushfire, waste water and native vegetation. However, it is noted that the existing Lot 11 DP DP1226788 already has the benefit of a dwelling entitlement and in that context, the Planning Proposal does not provide for additional development rights. A dwelling on Lot 11 DP1226788 would be constructed in the same location as a dwelling on a newly subdivided lot under this Planning Proposal.

<b>SEPP (Resilience and Hazards) 2021</b>	<i>The intent of this SEPP is to manage risks and building resilience in the face of hazards</i>  <a href="https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0730" style="color: white;">https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0730</a>
<p><b>Assessment – Consistent</b></p> <p><i>The key aims of that part of the SEPP applicable to the Shire include:</i></p> <ul style="list-style-type: none"> <li><i>(d) to ensure that in determining whether a development is a hazardous or offensive industry, any measures proposed to be employed to reduce the impact of the development are taken into account, and</i></li> <li><i>(e) to ensure that in considering any application to carry out potentially hazardous or offensive development, the consent authority has sufficient information to assess whether the development is hazardous or offensive and to impose conditions to reduce or minimise any adverse impact</i></li> </ul> <p>This proposal does not propose or impact on any of the land uses outlined in this SEPP. The subject site has no history of contaminating land uses.</p>	

<b>SEPP (Industry and Employment) 2021 –</b>	<i>The intent of this SEPP is to grow a competitive and resilient economy that is adaptive, innovative and delivers jobs</i>  <a href="https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0723" style="color: white;">https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0723</a>
<p><b>Assessment – Consistent</b></p> <p><i>The provisions of Chapter 3 (Advertising &amp; Signage) are the only part of this SEPP applicable to land in Wingecarribee Shire.</i></p> <p>The Planning Proposal is considered consistent with this SEPP because it does not affect the provisions of the SEPP.</p>	

<b>SEPP (Resources and Energy) 2021</b>	<i>The intent of this SEPP is to promote the sustainable use of NSW's resources and transitioning to renewable energy</i>  <a href="https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0731" style="color: white;">https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0731</a>
<p><b>Assessment – Consistent</b></p> <p><i>The provisions of Chapter 2 (Mining, petroleum production &amp; extractive industries) are the only part of this SEPP applicable to land in Wingecarribee Shire.</i></p> <p>This proposal does not propose or impact on any of the land uses outlined in this SEPP.</p>	



<b>SEPP (Planning Systems) 2021</b>	<p><i>The intent of this SEPP is to provide a strategic and inclusive planning system for the community &amp; the environment</i></p> <p><a href="https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0724">https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0724</a></p>
<p><b>Assessment – Consistent</b></p> <p><i>The provisions of this SEPP address State significant development and land owned by an Aboriginal Land Council and are therefore not relevant to this Planning Proposal.</i></p>	

<b>SEPP (Regional Precincts) 2021</b>	<p><i>The intent of this SEPP is to consider State significant precincts, Activation precincts and other specific precincts including the Southern Highlands Regional Shooting Complex</i></p> <p><a href="https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0727">https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0727</a></p>
<p><b>Assessment – Consistent</b></p> <p><i>The only provisions of this SEPP which apply to Wingecarribee Shire relate to the Southern Highlands Regional Shooting Complex and is therefore not relevant to this Planning Proposal.</i></p>	

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

<b>Focus Area 1 Planning Systems</b>	<p><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></p>
<b>1.1 Implementation of Regional Plans</b>	
<p><b>Assessment – Consistent</b></p> <p><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></p> <p>As already noted, the Planning Proposal is not inconsistent with any regional plans and of no specific relevance to any regional plans. This is a reflection of the exceptional circumstances involved.</p>	
<b>1.2 Development of Aboriginal Land Council land</b>	
<p><b>Assessment – Consistent</b></p> <p><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></p> <p>The Planning Proposal is considered consistent with this Direction because no Aboriginal Land Council land is involved.</p>	

### 1.3 Approval and Referral Requirements

#### Assessment – Consistent

*The objective of this Direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.*

The purpose of the Planning Proposal is to ensure that a Development Application for the subdivision (boundary adjustment) between Lot 11 DP1226788 and Lot 841 DP1253894 can be lodged and assessed without losing the existing dwelling entitlement that Council acknowledges for Lot 11 DP1226788.

Currently, if a new lot were to be created that was less than 40 hectares in site area, the relevant provisions of Clause 4.2C of WLEP2010 could prohibit the erection of a dwelling house upon that new lot because it would not be at or above 40 hectares site area. This would effectively relinquish the acknowledged dwelling entitlement relating to Lot 11 DP1226788.

### 1.4 Site Specific Provisions

#### Assessment – Consistent

*The objective of this Direction is to discourage unnecessarily restrictive site-specific planning controls.*

The Planning Proposal is site specific, but it does not contain any restrictive site specific planning controls.

The sole purpose of the Planning Proposal is to ensure that, in realigning the boundaries between the two existing lots that accommodate the aerodrome infrastructure (runway, club house and hangers) into an aerodrome lot and a dwelling lot, the acknowledged dwelling entitlement is retained.

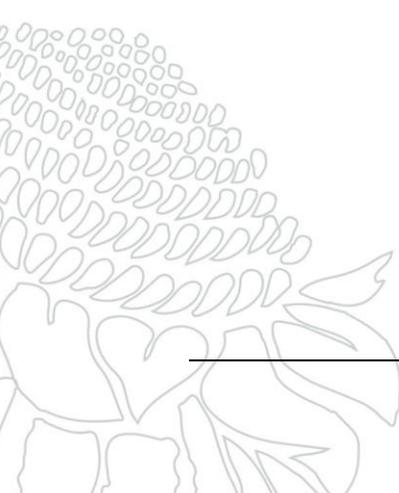
### 1.5 – 1.22 – Planning Systems Place Based

#### Assessment – Consistent

*None of these place-based Directions apply to Wingecarribee Shire.*

<b>Focus Area 2 Design &amp; Place</b>	<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>
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*NB: This Focus Area is not included in the current Ministerial Directions.*



<b>Focus Area 3 Biodiversity &amp; Conservation</b>	<p><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></p>
<b>3.1 Conservation Zones (previously 2.1 Environment Protection Zones)</b>	
<p><b>Assessment – Consistent</b>  <i>The objective of this Direction is to protect and conserve environmentally sensitive areas.</i></p> <p>The Planning Proposal is consistent because the proposal will not contravene any intended outcomes of this Direction.</p> <p>The proposal is aimed at ensuring that an existing dwelling entitlement is maintained if the existing land parcel (Lot 11 DP1226788) becomes a new allotment as a result of a boundary adjustment with the second parcel that is owned and managed by the Mittagong Aero Club (Lot 841 DP1253894). Such an outcome would allow development in keeping with surrounding parcels of land. Dwelling houses are a permissible use within the C3 Environmental Management zone and the Planning Proposal does not alter this.</p> <p>Any subsequent residential development can be located on suitable areas of the site without adverse impact to any identified native vegetation areas. This contention is supported by the bushfire, waste water and vegetation reports submitted with the Planning Proposal.</p>	
<b>3.2 Heritage Conservation</b>	
<p><b>Assessment – Consistent</b>  <i>The objective of this Direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</i></p> <p>The Planning Proposal is considered consistent with this Direction because the provisions of the SEPP do not apply to this Planning Proposal.</p>	
<b>3.3 Sydney Drinking Water Catchments</b>	
<p><b>Assessment – Consistent</b>  <i>The objective of this Direction is to provide for healthy catchments and protect water quality in the Sydney Drinking Water Catchment. This Direction requires that a Planning Proposal must be prepared in accordance with the general principle that water quality within the Sydney drinking water catchment must be protected, and in accordance with the following specific principles:</i></p> <ul style="list-style-type: none"> <li><i>(a) new development within the Sydney drinking water catchment must have a neutral or beneficial effect on water quality (including groundwater), and</i></li> <li><i>(b) future land use in the Sydney drinking water catchment should be matched to land and water capability, and</i></li> <li><i>(c) the ecological values of land within a Special Area should be maintained.</i></li> </ul> <p><i>The Direction also requires that, when preparing a Planning Proposal, Council must:</i></p>	

- *consult with WaterNSW, describing the means by which the planning proposal gives effect to the water quality protection principles of this direction, and*
- *ensure that the proposal is consistent with Part 6.5 of Chapter 6 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021, and*
- *identify any existing water quality (including groundwater) risks to any waterway occurring on, or adjacent to the site, and*
- *give consideration to the outcomes of the Strategic Land and Water Capability Assessment prepared by WaterNSW, being the series of land use capability maps and GIS data prepared by WaterNSW and provided to councils in June 2009, and*
- *include a copy of any information received from WaterNSW as a result of the consultation process in its planning proposal prior to the issuing of a gateway determination under section 3.34 of the EP&A Act.*

The objective of this Direction is to give effect to protect water quality in the Sydney Drinking Water Catchment. The Planning Proposal will not increase the number of dwellings that could be developed on the land. Any DA for dwelling approval would be referred to WaterNSW for assessment. The Planning Proposal is not seeking dwelling approval.

The Planning Proposal was referred to WaterNSW in accordance with the Gateway requirements. The WaterNSW response accompanies the Planning Proposal. It is noted that “WaterNSW supports the intention of the Planning Proposal to deliver a boundary adjustment that better aligns lot boundaries with land use”. Other comments from WaterNSW are contained in the relevant sections below.

### **3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs**

#### **Assessment – Consistent**

*This Direction is not applicable to Wingecarribee Shire.*

### **3.5 Recreation Vehicle Areas**

#### **Assessment – Consistent**

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

The Planning Proposal is considered consistent with this Direction because it does not apply to this Direction.

#### **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**

#### **Assessment – Consistent**

*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.*

The Planning Proposal is considered consistent with this Direction because land is not mapped as flood prone. Further assessment of flood risk would be considered in any future DA for dwelling approval.

#### **4.2 Coastal Management**

**Assessment – Consistent** -*This Direction is not applicable to Wingecarribee Shire.*

#### **4.3 Planning for Bush fire Protection (previously 4.4)**

##### **Assessment – Consistent**

*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.*

The site is mapped as bushfire prone land under the relevant mapping, containing Vegetation Category 1 and vegetation buffer.

The Planning was referred to the NSW Rural Fire Service and the following comments are noted:

*The NSW RFS has considered the information submitted and provides the following comments.*

*Based upon an assessment of the information provided, NSW RFS raises no objections to the proposal subject to a requirement that the future subdivision/development of the land complies with *Planning for Bush Fire Protection 2019*.*

*With regard to these requirements, the following comments are made:*

- Where the proposal creates or transfers a building entitlement the approval authority should be satisfied that the proposal can meet the specific objectives for residential subdivision as outlined in Chapter 5.2 of *Planning for Bushfire Protection 2019*.*
- Where the proposal relies on the terms of the Positive Covenant to permit additional clearing for APZ purposes the APZ distances are to be commensurate with Table A1.12.2 of *Planning for Bushfire Protection 2019*.*
- Where reticulated water is not provided a minimum 20,000l Static Water Supply will be required.*

The RFS response accompanies the Planning Proposal. A Bush fire Assessment Report has been prepared for the site by Sowdes and also accompanies the Planning Proposal. The report has undertaken a review of the site against all relevant legislation and the *Planning for Bushfire Protection 2019* guidelines. The conclusion of the report indicates the following:

- the Planning Proposal does not seek to create a new dwelling entitlement, it simply retains the existing entitlement*
- a building envelope has been identified where asset protection zones can be achieved and a future dwelling can attain BAL29*
- the potential building envelope is just 50 metres from the public road (Diamond Fields Road)*

#### 4.4 Remediation of Contaminated Land

##### Assessment – Consistent

*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.*

There is no site history to suggest that the location of any new dwelling has been subject to potentially contaminating land uses. Matters discussed in the WaterNSW response are noted and are considered more appropriately addressed in any subsequent DA seeking dwelling approval, given that a dwelling entitlement exists within the same location as the proposed dwelling lot.

#### 4.5 Acid Sulphate Soils

##### Assessment – Consistent

*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.*

There currently appear to be no mapped acid sulphate soils in Wingecarribee Shire.

#### 4.6 Mine Subsidence & Unstable Land

##### Assessment – Consistent

*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.*

The Planning Proposal is considered consistent with this Direction because it does not impact the objectives of this Direction.

#### 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

##### Assessment – Consistent

*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:*

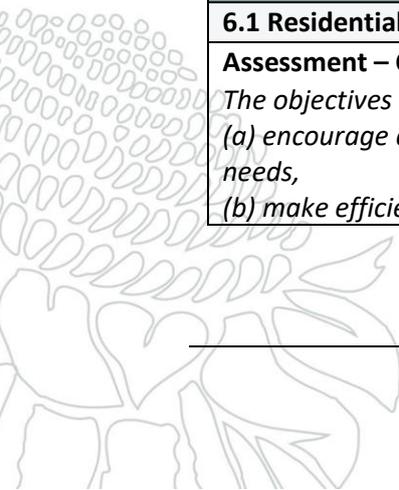
- (a) improving access to housing, jobs and services by walking, cycling and public transport, and*
- (b) increasing the choice of available transport and reducing dependence on cars, and*
- (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and*
- (d) supporting the efficient and viable operation of public transport services, and*
- (e) providing for the efficient movement of freight.*

*The Planning Proposal is considered consistent with this Direction because The proposal will have no impact upon any transport infrastructure or transport usage patterns*

<p><b>5.2 Reserving Land for Public Purposes</b></p> <p><b>Assessment – Consistent</b></p> <p><i>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 reservations of land for public purposes where the land is no longer required for acquisition.</i></p> <p>The Planning Proposal is considered consistent with this Direction because it does not impact the objectives of this Direction.</p>
<p><b>5.3 Development Near Regulated Airports and Defence Airfields</b></p> <p><b>Assessment – Consistent</b></p> <p><i>The objectives of this Direction are to:</i></p> <p><i>(a) ensure the effective and safe operation of regulated airports and defence airfields;</i></p> <p><i>(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</i></p> <p><i>(c) ensure development, if situated on noise sensitive land, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.</i></p> <p>The Planning Proposal is consistent with this Direction because it does not impact the objectives of this Direction. The site is a privately owned airfield and not a regulated airport.</p>
<p><b>5.4 Shooting Ranges</b></p> <p><b>Assessment – Consistent</b></p> <p><i>The objectives of this Direction are to:</i></p> <p><i>(a) maintain appropriate levels of public safety and amenity when rezoning land adjacent to an existing shooting range,</i></p> <p><i>(b) reduce land use conflict arising between existing shooting ranges and rezoning of adjacent land,</i></p> <p><i>(c) identify issues that must be addressed when giving consideration to rezoning land adjacent to an existing shooting range.</i></p> <p>The Planning Proposal is considered consistent with this Direction because it does not impact the objectives of this Direction.</p>

<p><b>Focus Area</b></p> <p><b>6 Housing</b></p>	<p><i>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.</i></p>
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<p><b>6.1 Residential Zones</b></p> <p><b>Assessment – Consistent</b></p> <p><i>The objectives of this Direction are to:</i></p> <p><i>(a) encourage a variety and choice of housing types to provide for existing and future housing needs,</i></p> <p><i>(b) make efficient use of existing infrastructure and services and ensure that new housing has</i></p>
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*appropriate access to infrastructure and services, and  
(c) minimise the impact of residential development on the environment and resource lands.*

The Planning Proposal is considered consistent with this Direction because it does not seek to vary existing housing opportunities.

## **6.2 Caravan Parks and Manufactured Home Estates**

### **Assessment – Consistent**

*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.*

The Planning Proposal is considered consistent with this Direction because it does not impact the objectives of this Direction.

## **Focus Area 7 Resilient Economies**

*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.*

### **7.1 Business and Industrial Zones**

#### **Assessment – Consistent**

*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.*

The Planning Proposal is considered consistent with this Direction because it does not impact the objectives of this Direction.

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

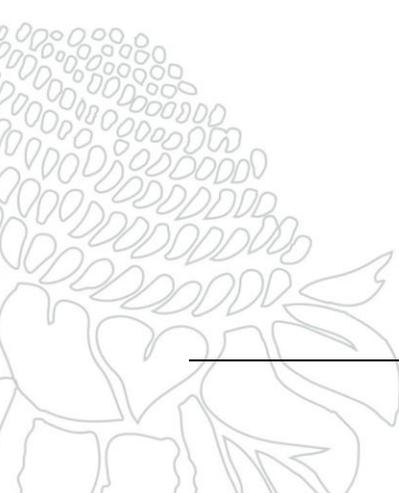
#### **Assessment – Consistent**

*Not applicable to Wingecarribee Shire.*

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

#### **Assessment – Consistent**

*Not applicable to Wingecarribee Shire.*



<b>Focus Area 8 Resources &amp; Energy</b>	<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>
<b>8.1 Mining, Petroleum Production &amp; Extractive Industries</b>	
<b>Assessment – Consistent</b> <i>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.</i>  The Planning Proposal is considered consistent with this Direction because it does not impact the objectives of this Direction.	

<b>Focus Area 9 Primary Production</b>	<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>
<b>9.1 Rural Zones</b>	
<b>Assessment – Consistent</b> <i>The objective of this Direction is to protect the agricultural production value of rural land and identifies requirements for a Planning Proposal seeking to rezone Rural zoned land to a residential, business, industrial, village or tourist zone.</i>  The Planning Proposal will have no impact upon any primary production, either existing or potential, on the land or on any adjoining land.	
<b>9.2 Rural Lands</b>	
<b>Assessment – Consistent</b> <i>This Direction applies when a Planning Proposal will either affect land within an existing or proposed rural or conservation zone or changes the existing minimum lot size on land within a rural or conservation zone. The objectives of this Direction are to:</i> <i>(a) protect the agricultural production value of rural land,</i> <i>(b) facilitate the orderly and economic use and development of rural lands for rural and related purposes,</i> <i>(c) assist in the proper management, development and protection of rural lands to promote the social, economic and environmental welfare of the State,</i> <i>(d) minimise the potential for land fragmentation and land use conflict in rural areas, particularly between residential and other rural land uses,</i> <i>(e) encourage sustainable land use practices and ensure the ongoing viability of agriculture on rural land,</i> <i>(f) support the delivery of the actions outlined in the NSW Right to Farm Policy.</i>	

The Planning Proposal is considered consistent with this Direction because it does not impact the objectives of this Direction.

### 9.3 Oyster Aquaculture

#### Assessment – Consistent

*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.*

The Planning Proposal is considered consistent with this Direction because there are no ‘Priority Oyster Aquaculture Areas’ in Wingecarribee Shire.

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

#### Assessment – Consistent

*The Planning Proposal is considered consistent with this Direction because it is 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?

The purpose of the Planning Proposal is to facilitate a subdivision (boundary adjustment) between two existing lots.

The proposed aerodrome lot would not result in any impacts. This lot would accommodate the existing runway, club house and hangers that would continue to operate in the existing manner. There would be no impact upon any critical habitats, threatened species, populations or communities.

Potential impacts arising from the proposed dwelling lot would be related to the construction of a dwelling house. This would relate to driveway access, the clearing required around a suitable building envelope in order to provide required bushfire asset protection zones and effluent disposal areas. These matters would be considered during the assessment of any subsequent DA for a dwelling. The right to submit such a DA already exists.

Nonetheless, a review of vegetation on the proposed dwelling lot undertaken by Arboricultural Consultancy Australia accompanies the Planning Proposal. The relevant conclusion is that a dwelling erected within the envelopes described within the bushfire and waste water reports would not be an adverse impact upon ecological or biodiversity values of the site.

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

There are considered to be no other likely environmental effects.

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

The Planning Proposal would not alter the current land uses of the site and therefore, would make no change to any existing or potential social or economic impacts. It can be argued that retention of the airfield and associated infrastructure provide a highly valued community resource, especially in time of weather threats such as bush fire or flood, both of which the Shire has experienced in recent years with devastating consequences for the community and property.

**Section D – Infrastructure (Local, State & Commonwealth)**

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

The Planning Proposal would not give rise to any specific increase in demand for any public infrastructure because the Aero Club use is already in place and a dwelling entitlement already exists. The requirements for any new dwelling would be assessed at the DA stage of any dwelling application.

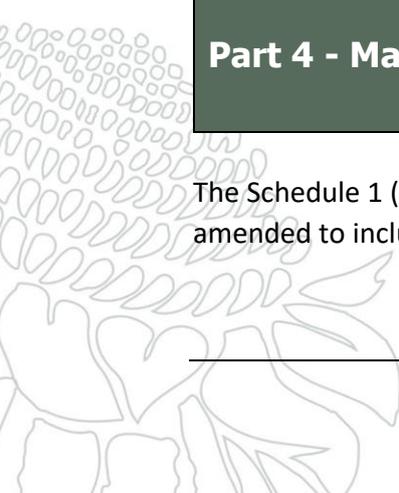
**Section E – State and Commonwealth Interests**

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

These responses have been addressed in the relevant sections of the Planning Proposal and those responses accompany the Planning Proposal.

**Part 4 - Maps**

The Schedule 1 (Additional Permitted Uses) layer of WLEP 2010 maps would need to be amended to include the subject land.



## Part 5 - Community Consultation

Community consultation is undertaken in accordance with the provisions of the Department of Planning & Environment's Guidelines.

## Part 6 - Project Timeline

<b>MILESTONE</b>	<b>INDICATIVE /ACTUAL DATE</b>
Gateway Determination	16 February 2023
Agency Consultation	March-April 2023
Public Exhibition	May 2023
Drafting Request	
Notification Request & approximate completion date	

**END OF PLANNING PROPOSAL**

