



IRF22/4325

Gateway determination report – PP-2022-4351

Yarrowa Road Planning Proposal, Moss Vale

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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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Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Planning Proposal (Version 5, December 2022)
Council Report (20 July 2022)

Council Minutes (20 July 2022)

Wingecarribee Local Planning Panel Report (6 July 2022)

Wingecarribee Local Planning Panel Minutes (6 July 2022)

Transport for NSW submissions (31 March 2022 and 20 December 2022)

WaterNSW submissions (1 April 2022, 4 July 2022, and 16 December 2022)

Aboriginal Cultural Heritage Assessment (July 2021)

Geotechnical Assessment (June 2021)

Historical Heritage Assessment (July 2021)

Infrastructure and Servicing Report (3 May 2022)

Preliminary Site Investigation (9 August 2021)

Traffic Impact Assessment (July 2021)

Concept Plan/s (Urban Design, Lot Layout, Sewer Masterplan, Electrical Services Report, Infrastructure and Servicing Report, NBN Infrastructure Report and Stormwater Report)

Residential Subdivision (Concept Plan and Stage 1) at Chelsea Gardens and Coomungie Lands - Independent Report to the Southern Regional Planning Panel (31 May 2022)

Traffic Impact Assessment – Chelsea Gardens Stage 1 (27 April 2021)

Chelsea Gardens, Moss Vale - Traffic Study (19 July 2019)

Draft Maps

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	LGA name
PPA	Wingecarribee Shire Council
NAME	Yarrawa Road Planning Proposal, Moss Vale (~54 homes)
NUMBER	PP-2022-4351
LEP TO BE AMENDED	Wingecarribee Local Environmental Plan 2010
ADDRESS	121, 131 and 153 Yarrawa Road, Moss Vale
DESCRIPTION	Lots 4-5 DP 706194 and Lot 2 DP 610352
RECEIVED	23/12/2022
FILE NO.	IRF22/4325
POLITICAL DONATIONS	There are no donations or gifts to disclose, and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The primary objectives of the planning proposal are to:

- enable low density residential development of the site by applying zoning and minimum lot size controls consistent with the adjoining Chelsea Gardens/Coomungie Urban Release Area (URA); and
- incorporate the site within the Chelsea Gardens/Coomungie URA.

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

To achieve the objectives of the planning proposal, it is proposed to amend the Wingecarribee Local Environmental Plan 2010 (Wingecarribee LEP) as follows:

- amend the relevant Land Zoning Map to rezone the site from RU2 Rural Landscape to part R2 Low Density Residential and part RE1 Public Recreation (along the Yarrawa Road frontage of the site);
- amend the relevant Lot Size Map to reduce the minimum lot size of the proposed R2 zoned land from 40 ha to 600m²; and

- amend the relevant Urban Release Areas Map to include the subject land as part of the Chelsea Gardens/Coomungie URA.

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

1.4 Site description and surrounding area

The site comprises three separate parcels of rural land (**Figure 1**) each with frontage to Yarrawa Road, Moss Vale, including:

- Lot 4 DP706194, 121 Yarrawa Road, Moss Vale (2.2 ha);
- Lot 5 DP706194, 131 Yarrawa Road, Moss Vale (2 ha); and
- Lot 2 DP610352, 153 Yarrawa Road, Moss Vale (2 ha).

The site totals 6.2 ha in area and is located approximately 2.5 kilometres south of the Moss Vale town centre.

Each lot contains a dwelling and associated farm sheds and outbuildings. The sites comprise predominately cleared open paddocks with no remnant native vegetation besides scattered trees.

The site is currently zoned RU2 Rural Landscape under the Wingecarribee LEP.

The site is immediately surrounded by:

- the Chelsea Gardens/Coomungie URA (zoned predominantly R2) adjoining to the north (**Figure 1** and **Figure 2**);
- Yarrawa Road and broadacre farmlands (zoned RU2) to the east;
- broadacre farmlands (zoned RU2) to the south; and
- broadacre farmlands (zoned E3) to the west.

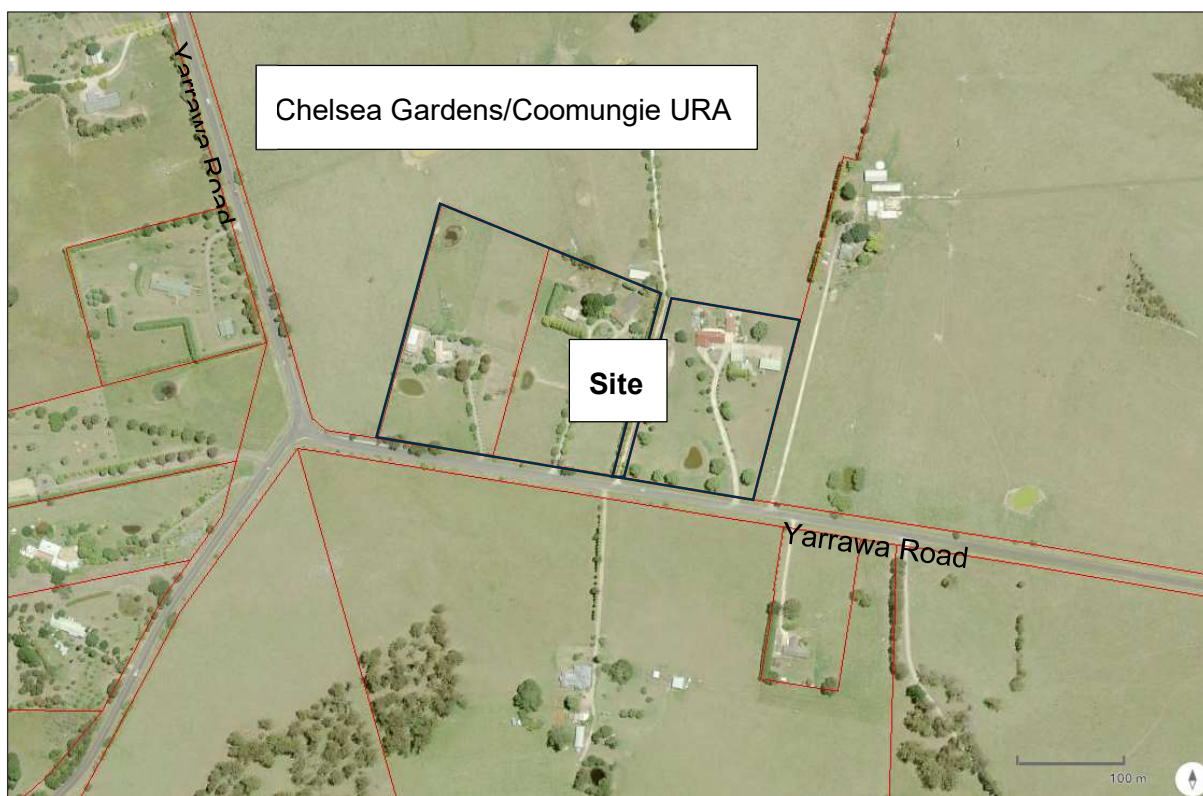


Figure 1: Site Location Map (Source: DPIE Spatial Viewer)

1.5 Mapping

Part 4 of the planning proposal includes indicative mapping showing the proposed changes to the relevant zoning, lot size and URA maps.

Draft LEP maps have also been submitted separately to accompany the planning proposal.

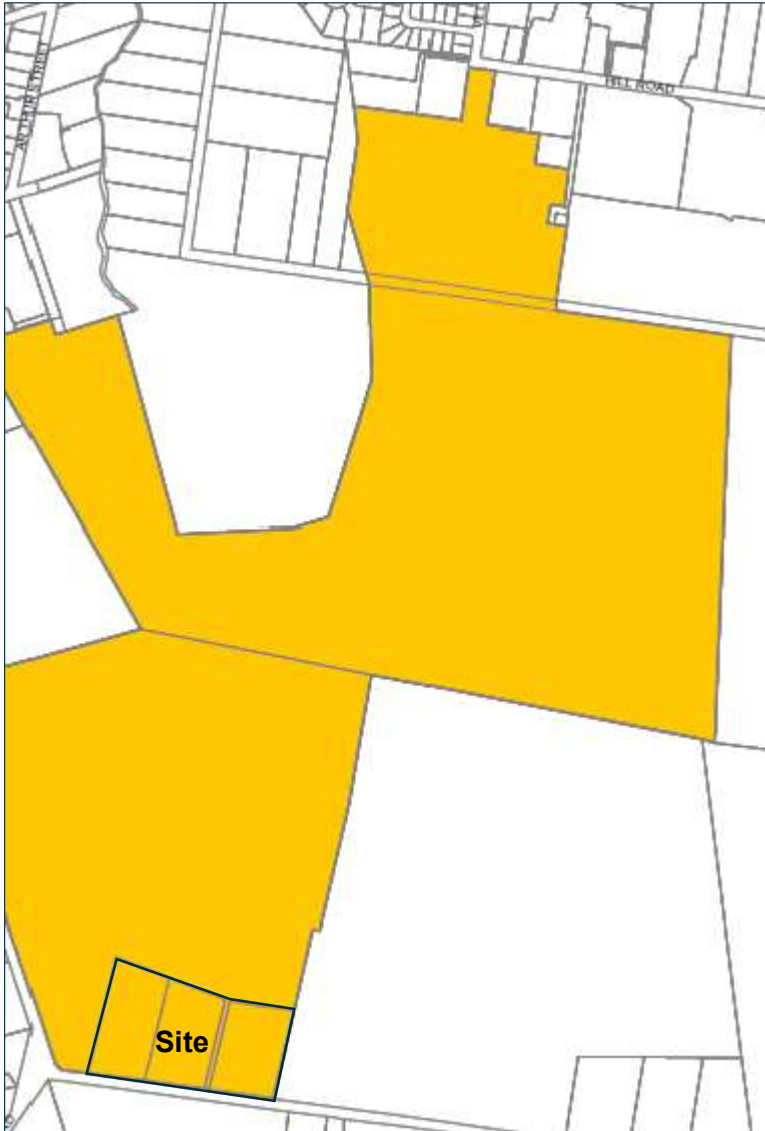


Figure 2: Proposed URA Map (Source: Planning Proposal)

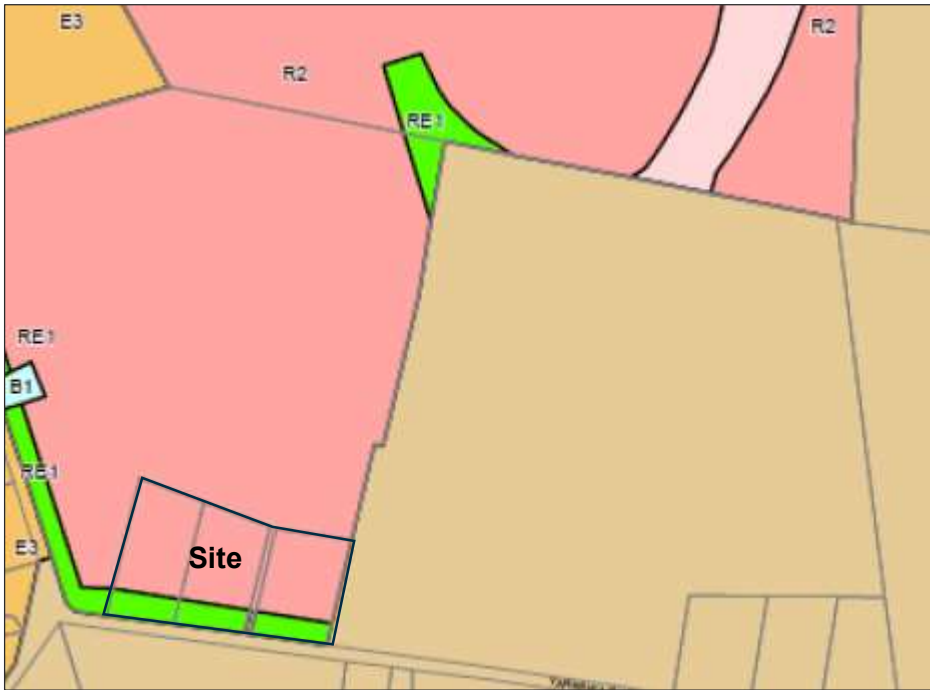


Figure 3: Proposed Zoning Map (Source: Planning Proposal)

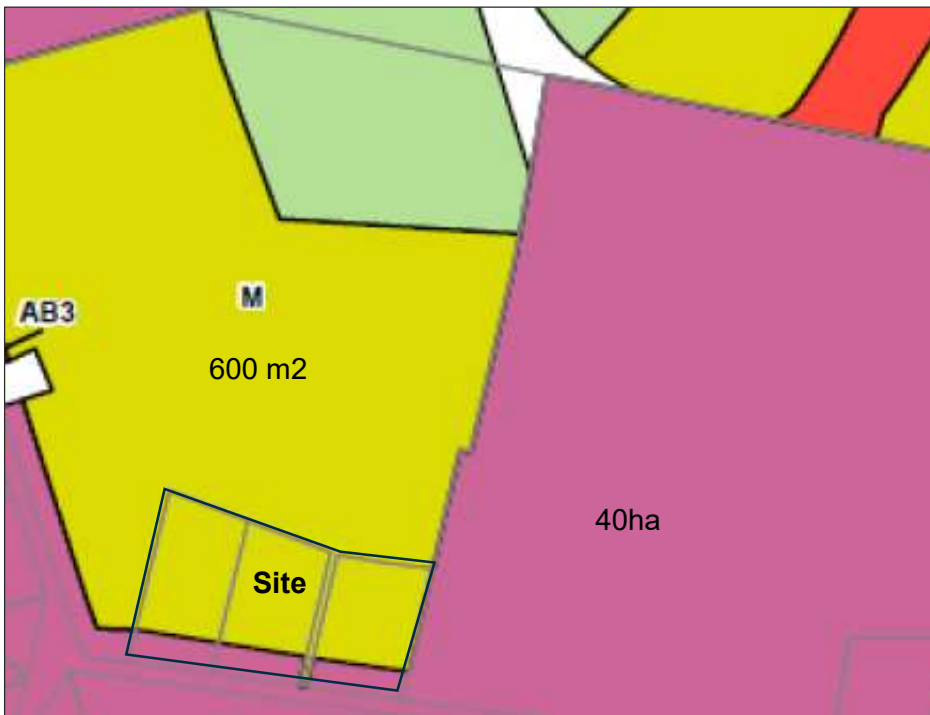


Figure 4: Proposed Lot Size Map (Source: Planning Proposal)

A Gateway condition is recommended requiring the planning proposal to be updated prior to public exhibition so that indicative maps throughout the planning proposal (particularly in Part 4) include an outline of the site and map keys.

1.6 Background

The Department previously issued a Gateway determination on 6 November 2020 to rezone the subject site/s from RU2 Rural Landscape to part R2 Low Density Residential and part RE1 Public Recreation, reducing the minimum lot size controls and including the land as part of the Chelsea Gardens/Coomungie URA (PP_2020_WINGE_005_00).

On 1 April 2022, WaterNSW advised Council that it did not support the proposal because the Moss Vale Sewerage Treatment Plant (STP) is at capacity and the proposal would place pressure for the use of a package treatment plant on the site which was not desirable in terms of potential water quality/catchment impacts. On 31 March 2022, Transport for NSW (TNSW) also requested further traffic assessment to assist in its assessment of the proposal (e.g. a traffic study to consider the implications of the rezoning on the external road network).

On 4 May 2022, Council requested the planning proposal be withdrawn because:

- finalisation of the proposal has been delayed due to the time taken by the proponent to provide technical studies required by the Gateway determination;
- submissions from WaterNSW and Transport for NSW (TNSW) indicated they did not support the proposal in its current form; and
- (due to the above) the Gateway finalisation timeframe of 6 May 2022 was unlikely to be met.

Consequently, on 5 May 2022, the Department supported Council's request and agreed to alter the Gateway determination for the planning proposal (PP_2020_WINGE_005_00) not to proceed. This was to allow Council to work with WaterNSW, TNSW and the Department (where required) to resolve outstanding agency issues, prior to lodgement of a fresh planning proposal.

Since then, Council has consulted with both WaterNSW and TNSW to resolve their concerns through the revised planning proposal (the subject of this report).

Council has consulted extensively with WaterNSW and provided further information about infrastructure and servicing, and the operation of clauses 6.2 and 7.10 of the Wingecarribee LEP which require a site-specific Development Control Plan (DCP) and seek to ensure suitable public utility infrastructure is in place, prior to issue of development consent.

On 16 December 2022, WaterNSW confirmed it has no concerns with the planning proposal proceeding to a Gateway determination, subject to minor wording changes. This is on the basis the site is added as part of the Chelsea Gardens Coomungie URA to facilitate better planning and servicing, including reticulated sewer across the entire site.

WaterNSW also noted:

- the revised proposal clearly explains how the Yarrawa site will attract the operation of both clauses 6.2 and 7.10 of the Wingecarribee LEP;
- Clause 7.10 of the LEP concerns requirements regarding having suitable public utility infrastructure in place; and
- Clause 6.2 requires the preparation of a development control plan (DCP). The DCP requirement presents an additional stage in the planning process and will facilitate better regulation of development on the site, including for sewer and water.

On 20 December 2022, TNSW also confirmed it had no objections to the revised planning proposal. TNSW advised it is supportive of the inclusion of this site in the URA and Council utilising the traffic impact study for the Chelsea Gardens Coomungie URA to proceed with revised planning proposal, subject to the following:

- satisfactory arrangements for State infrastructure contributions being included in the planning proposal; and

- any matters outstanding raised in TNSW's previous letter dated 31 March 2022 being addressed prior to any consent being issued for subdivision of land at Yarrowa Road Moss Vale.

Council has updated the subject planning proposal to address residual issues raised by WaterNSW and TNSW.

The planning proposal has also been reviewed by the Wingecarribee Local Planning Panel and Council has updated the planning proposal to incorporate the Panel's advice where relevant (refer to Section 3.3 of this report).

2 Need for the planning proposal

The site has been identified in both Council's adopted Local Strategic Planning Statement and Local Housing Strategy as a potential/proposed new living area to be incorporated into the Chelsea Gardens/Coomungie URA to help meet the Shire's housing needs over the next approximately 20 years.

The proposal is consistent with local and regional strategic planning objectives regarding the provision of housing as outlined in detail in Section 3 of this report (below).

The Department concurs the proposal would contribute to meeting the Shire's future housing needs and considers the rezoning provides an appropriate outcome for the south-eastern corner of the Chelsea Gardens/Coomungie URA.

3 Strategic assessment

3.1 Regional Plan

South East and Tablelands Regional Plan

Key Directions of the South East and Tablelands Regional Plan relevant to the proposal include:

- Direction 24 - deliver greater housing supply and choice;
- Direction 25 - focus housing growth in locations that maximise infrastructure and services; and
- Direction 27 - deliver more opportunities for affordable housing.

The proposal would deliver a modest amount of additional, more diverse, and affordable housing in Wingecarribee, close to existing services and is consistent with the above Directions in the Regional Plan.

Draft South East and Tablelands Regional Plan 2041

The Draft South East and Tablelands Regional Plan 2041 is currently on exhibition until 31 January 2023.

Key objectives and strategies of this Draft Regional Plan relevant to the proposal include:

- Objective 17 – Plan for housing supply in appropriate locations;
- Strategy 17.2 – Strategic and local plans are to focus new housing development in existing centres, where supported by strategic land use plans such as local housing strategies;
- Objective 18 – Plan for more affordable, low-cost and social housing; and
- Objective 21 - Provide efficient access to infrastructure and services.

For the reasons outlined above in regard to the current Regional Plan, the proposal is considered consistent with key objectives and strategies in the Draft Regional Plan.

3.2 Local

Wingecarribee Local Strategic Planning Statement (LSPS)

The Wingecarribee LSPS adopted by Council on 24 June 2020 provides a vision to guide land use planning decisions in the Shire over the next 20 years.

The LSPS contains key Planning Priorities (4.1, 4.2, 4.3 and 5.2) which seek to promote infill development in appropriate locations to provide a greater mix of housing types, improve housing affordability, provide for well-planned new URAs and ensure communities are supported by essential infrastructure.

The site has been identified in the Moss Vale Precinct Plan in the LSPS as part of the Chelsea Gardens/Coomungie URA.

The proposal would contribute to achievement of the above Planning Priorities and aligns with the LSPS.

Wingecarribee Local Housing Strategy (LHS)

The site is identified in the LHS as a potential new living area to help meet the Shire housing needs over the next 20 years, subject to additional studies. The LHS has not been endorsed by the Department.

The LHS includes relevant design principles requiring the proposed new living area to be integrated into the existing Chelsea Gardens/Coomungie URA and for Yarrawa Road to form the long-term southern edge of the Moss Vale township.

The LHS states there are significant limitations in the capacity of the infrastructure networks in Moss Vale, particularly in relation to the local and State Road networks and the Moss Vale sewerage treatment plant. Any future planning proposal will need to demonstrate that future development will not create unacceptable impacts on the local and State Road network and can be fully serviced by town water and sewer.

In this regard, the LHS requires any future planning proposal to rezone land to be supported by:

- an assessment of the capacity of the Moss Vale Sewerage Treatment Plant and water supply;
- an assessment of the traffic impacts of the proposed rezoning;
- an Aboriginal Cultural Heritage Due Diligence assessment; and
- a geotechnical assessment of steep lands.

The planning proposal is supported by an infrastructure and servicing report, traffic assessment, Aboriginal cultural heritage due diligence assessment and geotechnical assessment as required by the LHS (refer to Section 4.1 of this report). The planning proposal is also supported by additional studies, including a stormwater report, NBN infrastructure report, electrical services report and concept masterplan (refer to Section 3.3 and Section 4.1 of this report).

The Department is satisfied the proposal is generally consistent with the Draft LHS and has been identified as a potential new living area.

It is also noted the site would be incorporated into the Chelsea Gardens/Coomungie URA as part of this proposal and would therefore be subject to the requirements of Part 6 of the Wingecarribee LEP in relation to satisfactory arrangements for the provision of State public infrastructure and preparation of a Development Control Plan.

As outlined in Section 1.6 of this report, WaterNSW and TNSW's key concerns with the previous planning proposal regarding traffic, infrastructure and servicing have been addressed in this revision. A Gateway condition is recommended requiring further consultation with these agencies to ensure any residual/unforeseen issues are addressed, prior to finalisation of the LEP.

3.3 Local Planning Panel Recommendation

The planning proposal was considered at the Wingecarribee Local Planning Panel meeting on 6 July 2022.

The Panel generally agreed with Council recommendations and provided the following advice (paraphrased):

- supported the planning proposal to be submitted for Gateway determination to the Department;
- considered the planning proposal to be a logical extension of the Chelsea Gardens/Coomungie URA;
- recommended that prior to the gateway determination, the applicant prepare a concept masterplan that demonstrates how the planning proposal land might be developed in a way that integrates that land with the Chelsea Gardens/Coomungie URA in terms of water, sewer, roads, drainage, landscape design, open space, pedestrian networks and character. The concept Masterplan should also address retention of significant vegetation, access to Yarrawa Road and show an indicative layout;
- recommended that Council not prepare a Development Control Plan (DCP) for the land until there is certainty about upgrading of the Moss Vale Sewerage Treatment Plant (STP) to accommodate residential development on the subject land. The Panel noted that Clause 6.2 Wingecarribee LEP 2010 prevents development consent being granted for any residential subdivision of the land unless a development control plan has been prepared for the land addressing the matters in Clause 6.2(3) Wingecarribee LEP 2010.
- noted that Clause 7.10 Wingecarribee LEP 2010 also requires Council to be satisfied that any public utility infrastructure that is essential for the proposed subdivision is available or that adequate arrangements have been made to make that infrastructure available when it is required. The Panel considered this clause is an added security that the land will not be developed for residential purposes until adequate infrastructure, particularly sewer, is available; and
- otherwise considered that the planning proposal has strategic and site-specific merit for the reasons outlined in the Council officer's report.

Council has updated the planning proposal to incorporate the Panel's advice where relevant. The planning proposal is supported by a concept masterplan covering urban design (road hierarchy, zoning, indicative masterplan, and rural edge interface plan), conceptual lot, road, and sewer layout, as well as several other technical studies (heritage, geotechnical, infrastructure and servicing, contamination, traffic, servicing, and stormwater).

3.4 Section 9.1 Ministerial Directions

Relevant Section 9.1 Directions have been identified in the planning proposal.

Key applicable Directions are discussed below:

Direction 1.1 – Implementation of the Regional Plans

This Direction gives legal effect to the vision, directions and actions contained in regional plans. Planning proposals must be consistent with the relevant Regional Plan.

As identified earlier in this report, the planning proposal is consistent with the South East and Tablelands Regional Plan (and Draft Regional Plan) and this Direction.

Direction 3.3 – Sydney Drinking Water Catchments

The entire Wingecarribee local government area is within the drinking water catchment.

Direction 3.3 aims to protect water quality in Sydney's Drinking Water Catchment, including land within the Wingecarribee LGA. This Direction requires consultation with Water NSW prior to Gateway determination.

The planning proposal is consistent with this Direction because consultation has occurred with WaterNSW who have advised that it has no issue with the planning proposal proceeding to a Gateway determination, subject to minor wording changes.

The Department is satisfied suitable mechanisms are or can be in place to ensure appropriate water and sewer infrastructure would be available prior to the issue of any development consent (refer to Section 4.3 of this report). This, along with a detailed assessment of these issues at the development application stage, would ensure potential water and drinking water catchment impacts are appropriately managed.

Notwithstanding this, a Gateway condition is recommended requiring further consultation with WaterNSW to ensure any residual issues are addressed, prior to finalisation of the LEP.

Direction 4.3 Planning for Bushfire Protection

The site is in proximity to bushfire prone land across Yarrawa Road to the south.

Consultation has not occurred with the NSW Rural Fire Service (NSW RFS) on the revised planning proposal and consistency with this Direction remains unresolved.

A Gateway condition has therefore been recommended requiring consultation with the NSW RFS prior to public consultation.

Direction 4.1 – Flooding

Council has advised the site has not been identified as being within a flood planning area, nor being between a flood planning area and the probable maximum flood level and is not subject to flood related development controls.

The Secretary's delegate may therefore be satisfied the planning proposal is consistent with this Direction.

Direction 4.4 Remediation of Contaminated Land

In accordance with the Direction, a Preliminary Site Investigation report has been prepared for the proposal which concludes that any contamination present is unlikely to preclude redevelopment of the site.

The Secretary's delegate may therefore be satisfied the planning proposal is consistent with this Direction.

Direction 6.1 Residential Zones

Key aims of Direction 6.1 are to encourage a variety and choice of housing types to provide for existing and future housing needs, make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services.

The Direction applies to planning proposals affecting a proposed residential zone.

The proposed R2 Low Density Residential zoning and 600m² minimum lot size of reflect the provisions applying to the adjoining land within the Chelsea Gardens Coomungie URA. These controls seek to provide a variety of housing types to meet future housing needs.

Suitable arrangements would be in place to ensure the new residences have appropriate access to infrastructure and services (refer to 4.3 of this report).

The Secretary's delegate may be satisfied the planning proposal is consistent with this Direction.

Direction 9.1 Rural Zones and 9.2 Rural Lands

The objective of this Direction 9.1 is to protect the agricultural production value of rural land. The planning proposal seeks to rezone rural land and is inconsistent with this Direction.

Key objectives of Direction 9.2 are to protect the agricultural production value of rural land, facilitate the orderly and economic use and development of rural lands for rural and related purposes and encourage sustainable land use practices and ensure the ongoing viability of agriculture on rural land.

Council has advised the subject land no longer contributes to sustainable agricultural production as they are concessional allotments (total area of only 6.2ha) which are not available for agriculture and contains three dwellings.

Further, the land shares an eastern boundary with the southern extent of the Chelsea Gardens/Coomungie URA which has already been rezoned. As such, significant additional agricultural impacts, and land use conflicts with adjoining RU2-zoned land to the east are considered unlikely.

The Secretary's delegate may therefore be satisfied any potential inconsistency with this Direction is of minor significance.

3.5 State environmental planning policies (SEPPs)

Relevant SEPPs have been considered in Section B, Part 6 of the planning proposal.

The planning proposal is not inconsistent with relevant SEPPs.

SEPP (Resilience and Hazards) 2021

Potential contamination issues to ensure consistency with the SEPP are addressed in Section 3.4 of this report.

SEPP (Biodiversity and Conservation) 2021

Council notes there are no mapped critical habitat or threatened species, populations or ecological communities or their habitats anywhere on the subject land. As such, significant adverse biodiversity impacts are considered unlikely.

As noted above, consultation prior to Gateway determination has already occurred with Water NSW who are satisfied with the revised planning proposal and approach proposed.

Further consultation is recommended with Water NSW during public exhibition to ensure any residual issues are addressed prior to finalisation, and that the proposal does not adversely impact on the Sydney Drinking Water Catchment, consistent with the objectives of Part 6.5 of the SEPP.

SEPP (Primary Production) 2021

This SEPP aims (inter alia) to facilitate orderly and economic development of lands for primary production land for primary production, reduce land use conflict and sterilisation of rural land and to identify State significant agricultural land.

Council has advised the subject land no longer contributes to sustainable agricultural production as they are concessional allotments (total area of only 6.2ha) which are not available for agriculture.

Further, the land shares an eastern boundary with the southern extent of the Chelsea Gardens/Coomungie URA which has already been rezoned. As such, significant additional agricultural impacts and land use conflicts with adjoining RU2-zoned land to the east are considered unlikely.

4 Site-specific assessment

4.1 Environmental

Biodiversity

Council notes the site/s are predominately cleared open paddocks with no remnant native vegetation other than a few scattered trees with some established introduced site landscaping. Council also notes there are no mapped critical habitat or threatened species, populations or ecological communities or their habitats anywhere on the subject land. As such, significant adverse biodiversity impacts are considered unlikely.

Traffic

The planning proposal is supported by a Traffic Impact Assessment which concludes the proposal would not have adverse impacts on traffic conditions.

TNSW (31 March 2022) requested further traffic assessment to assist in its assessment of the proposal (eg. a traffic study consider the implications of the rezoning on the external road network).

Council has consulted further with TNSW and suggested the relevant traffic studies prepared for the approved concept and Stage 1 subdivision for the Chelsea Gardens/Coomungie URA (Stage 1 Traffic Impact Assessment and Concept Plan Traffic Study) could be relied upon to provide the additional detail sought by TNSW.

The Department understand this was on the basis that it is unlikely that another approximately 54 lots would make a significant difference to the conclusions of existing traffic reports prepared for the Chelsea Gardens Coomungie URA.

On 20 December 2022, TNSW confirmed it had no objections to the revised planning proposal. TNSW advised it is supportive of the inclusion of this site in the URA and Council utilising the traffic impact study for the Chelsea Gardens Coomungie URA.

A Gateway condition is recommended requiring further consultation with TNSW to ensure any unforeseen/residual issues are addressed, prior to finalisation of the LEP.

It is also noted a more detailed assessment of traffic issues would occur at the Development Application stage.

Heritage

The application is supported by an Aboriginal Cultural heritage Due Diligence Assessment which concludes no further investigation of the subject site/area is necessary.

The application is also supported by a Historical Heritage Assessment which concludes the subject site does not hold significance at a local and/or state level. The assessment concludes, as there are no items of heritage significance, the impacts resulting from the proposed works are considered acceptable.

It is noted a detailed assessment of heritage issues would occur at the Development Application stage.

Contamination and Geotechnical

The Preliminary Site Investigation provided in support of the application concludes any contamination present on the site is unlikely to preclude redevelopment of the site, subject to specified recommendations.

The Geotechnical Assessment provided in support of the application concludes the geotechnical issues for the proposal are typical on sloping land and can be managed by established hillside construction practice (as well as regular construction review by a geotechnical engineer).

It is noted a detailed assessment of contamination and geotechnical issues would occur at the Development Application stage.

Concept Plan

As required by the Wingecarribee Local Planning Panel, the planning proposal is supported by a concept plan which demonstrates how the planning proposal land might be developed in a way

that integrates that land with the Chelsea Gardens Coomungie URA in terms of water, sewer, roads, drainage, landscape design, open space, pedestrian networks, and character.

The concept lot layout provides for a total of 54 lots over the site.

It is noted these are concept plans only for the purposes of the planning proposal and more detailed plans would be prepared at the subsequent Development Application stage.

4.2 Social and economic

Council considers the proposal will have a positive social and economic impact by providing additional housing supply in Wingecarribee, which contributes to increased housing affordability (eg. providing housing on smaller lots meeting community demand), is well located and enhances efficient economic and infrastructure provision by integrating with the existing Chelsea Gardens/Coomungie URA.

Council also noted concept plans provided in support of the application include landscaping, which retains significant vegetation, provides open space and pedestrian networks. These aspects are likely to contribute to the positive social impacts of the proposal.

4.3 Infrastructure

The planning proposal is supported by electrical services, NBN, stormwater and infrastructure and servicing reports which generally conclude the site can be serviced following the southern development of current Chelsea Gardens/Coomungie URA (i.e. the Ashbourne development).

Traffic infrastructure

TNSW (31 March 2022 and 20 December 2022) sought additional information on road infrastructure and mechanisms for the financing of any required upgrades. TNSW requested that satisfactory arrangements for State infrastructure contributions be included in the planning proposal.

Council notes in the planning proposal that Clause 6.1 in Part 6 of the Wingecarribee LEP requires satisfactory arrangements for the provision of State public infrastructure to be finalised prior to the subdivision of land in an URA (and not at the rezoning stage).

The planning proposal clarifies that this clause (in the same way that it has for the existing Chelsea Gardens/Coomungie URA and associated State Voluntary Planning Agreement) would be relied upon to ensure satisfactory arrangements (including specific lot contribution amounts) for the provision of State public road infrastructure are provided for the subject site (as part of the URA), prior to the issue of any development consent for subdivision.

The planning proposal indicates that TNSW has reviewed the proposed approach and had no additional comments (23 December 2023).

The Department is satisfied suitable mechanisms are in place to ensure appropriate State infrastructure (including road infrastructure) would be provided and funded, prior to subdivision.

A Gateway condition is recommended requiring further consultation with TNSW to ensure any unforeseen/residual issues are addressed, prior to finalisation of the LEP.

Water and sewer infrastructure

As outlined in Section 1.6 of this report, on 1 April 2022 WaterNSW advised it did not support the previous proposal because the Moss Vale STP is at capacity and the proposal would place pressure for the use of a package treatment plant on the site which was not desirable in terms of potential water quality/catchment impacts.

Council has since consulted extensively with WaterNSW to allay these concerns by providing further information about infrastructure and servicing, and the operation of clauses 6.2 and 7.10 of the Wingecarribee LEP.

Clause 6.2 requires that a site-specific Development Control Plan must be approved by Council, prior to development consent being granted for any land within a URA. In particular, the DCP must provide a staging plan for the timely and efficient release of urban land making provision for necessary infrastructure and sequencing.

The Wingecarribee Local Planning Panel has also recommended that Council not prepare a site-specific DCP for the subject site until there is certainty about upgrading of the Moss Vale STP to accommodate residential development on the subject land. The Department's understands an upgrade to this STP is not expected to be operational until 2027.

Clause 7.10 also ensures that development consent is not granted for development on land in URAs unless the Council is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when it is required.

On 16 December 2022, WaterNSW confirmed it has no issue with the planning proposal proceeding to a Gateway determination (subject to minor wording changes) and acknowledged the requirements of clauses 6.2 and 7.10 of the Wingecarribee LEP

The Department is satisfied suitable mechanisms are in place to ensure appropriate water and sewer infrastructure would be available prior to the issue of any development consent. This, along with a detailed assessment of these issues at the development application stage, would ensure potential water and drinking water catchment impacts are appropriately managed.

A Gateway condition is recommended requiring further consultation with WaterNSW to ensure any residual issues are addressed, prior to finalisation of the LEP.

5 Consultation

5.1 Community

Council proposes a community consultation as required by the Gateway determination.

It is recommended the planning proposal be made publicly available for a minimum of 20 days in accordance with the Department's *Local Environmental Plan Making Guidelines* (2021).

5.2 Agencies

Consultation is recommended with:

- the NSW Rural Fire Service;
- Transport for NSW;
- the Department's Environment, Energy and Science Division (in case of unknown biodiversity or flooding issues); and
- WaterNSW.

A Gateway condition has been recommended accordingly.

6 Timeframe

Council anticipates it will take approximately 4 months to make the LEP.

The Department recommends a timeframe of 9 months to complete the LEP to allow some contingency for unforeseen issues that may impact on finalisation.

7 Local plan-making authority

It is recommended that Council be the plan-making authority for this proposal. This is considered appropriate, as the proposal comprises a relatively modest addition to an existing URA and is consistent with local or regional strategic planning objectives regarding housing provision.

8 Assessment summary

The Department concludes the proposal would contribute to meeting the Shire's future housing needs, is consistent with local and regional strategic planning objectives and provides an appropriate bookend to the south-eastern corner of the Chelsea Gardens/Coomungie URA.


9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Direction 9.1 Rural Zones and Direction 9.2 Rural Lands are minor or justified; and
- Note that the consistency with section 9.1 Direction 4.3 Planning for Bushfire Protection is unresolved and will require justification.

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

1. The planning proposal is to be updated prior to public exhibition so that indicative maps throughout the planning proposal (particularly in Part 4) include an outline of the site and map keys.
2. Consultation is required with the following public authorities:
 - the NSW Rural Fire Service
 - Transport for NSW;
 - the Department's Environment, Energy and Science Division; and
 - WaterNSW.
3. The planning proposal should be made available for community consultation for a minimum of 20 days.
4. The timeframe for completing the LEP is to be 9 months from the date of the Gateway determination.
5. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.



3/2/23

Graham Towers
Manager, Southern Region



5/2/2023

Daniel Thompson
Director, Southern Region
Local and Regional Planning

Assessment officer

Andrew Hartcher
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Southern Region