



IRF22/934

Gateway determination report – PP-2022-933

Reduce the minimum lot size of land at Villiers Road
and Hill Road, 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 2, March 2022)
Local Planning Panel Resolution (16 February 2022)
Council Meeting Minutes (16 February 2022)
Coomungie Chelsea Gardens Joint Regional Planning Panel recommendation (7-8 November 2013)
Delegation request form

1 Planning proposal

1.1 Overview

Table 2: Planning proposal details

LGA	LGA name
PPA	Wingecarribee Shire Council
NAME	Villiers Road and Hill Road Planning Proposal (~5 additional homes)
NUMBER	PP-2022-933
LEP TO BE AMENDED	Wingecarribee Local Environmental Plan 2010
ADDRESS	37 Villiers Road, Moss Vale 39 Villiers Road, Moss Vale 41 Villiers Road, Moss Vale 8 Hill Road, Moss Vale 10 Hill Road, Moss Vale
DESCRIPTION	Lots 8-9 DP 875224 Lot 3-5 DP 844943
RECEIVED	29/03/2022
FILE NO.	IRF22/934
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 objective of the planning proposal is to amend Wingecarribee Local Environmental Plan 2010 to reduce the minimum lot size of the subject land at Villiers Road and Hill Road, Moss Vale to create a lot size pattern that is generally consistent with land to the north and south.

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

To achieve the intended outcomes of the planning proposal, amendment to the relevant Lot Size Map (LSZ_007H) would be required to reduce the minimum lot size of the subject land from 8,000m² to 2,000m².

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 subject land is located at Nos. 37, 39 and 41 Villiers Road, Moss Vale and Nos. 8 and 10 Hill Road, Moss Vale in the Wingecarribee local government area (**Figure 1**).



Figure 1: Subject site (source: DPE Spatial Viewer)

The subject land is currently zoned R5 Large Lot Residential under the Wingecarribee LEP 2010, with a minimum lot size of 8,000m², and is bounded by:

- the Moss Vale Golf Course to the west;
- the northern part of the Chelsea Gardens Coomungie Urban Release Area (URA) to the south which has a minimum lot size of 2,000m² (**Figure 2**);
- land zoned RU2 Rural Landscape to the east; and
- an established residential area to the north with a minimum lot size of between 700m² and 2,000m² (**Figure 2**).

1.5 Mapping

The planning proposal does not include mapping showing the proposed changes to the relevant Lot Size Map (LSZ_007H). A Gateway condition is therefore recommended requiring the planning proposal to be updated prior to public exhibition to include any proposed mapping changes.

2 Need for the planning proposal

The planning proposal is needed to enable a modest increase in housing and the delivery of a more logical lot size pattern that is consistent with the adjoining Chelsea Gardens Coomungie URA to the south and the existing established residential area to the north (**Figure 2**).

The planning proposal states Council's Local Housing Strategy identified the need to better define the urban boundary of the Chelsea Gardens Coomungie URA and recommended that several small allotments surrounding the site be rezoned to provide a more logical urban edge.

The planning proposal states it is needed to undertake an administrative rationalisation of the minimum lot size provisions for the subject land on Hill Road and Villiers Road along the Chelsea Gardens Coomungie URA northern boundary.

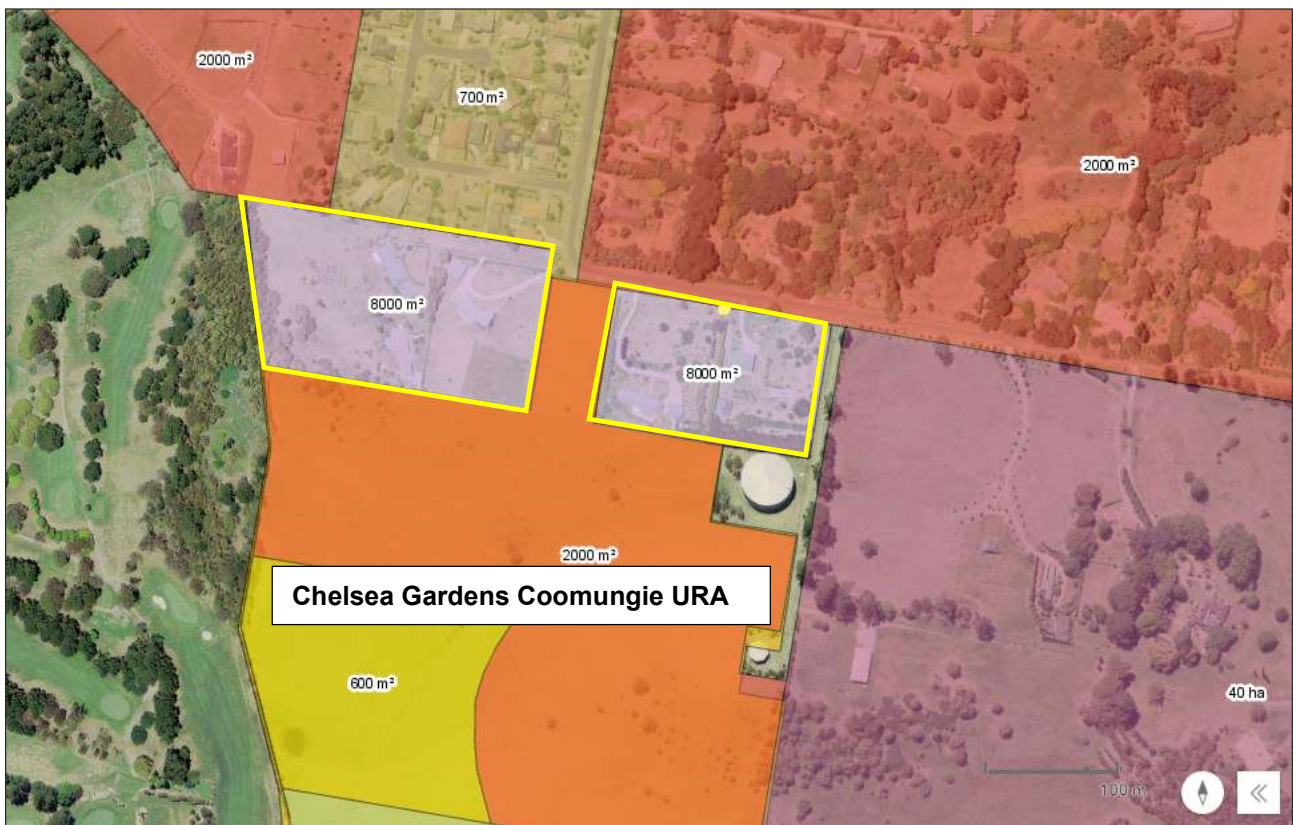


Figure 2: Lot Size Map (source: DPE Spatial Viewer)

The Department is of the view the proposed changes would fix an anomaly in the existing minimum lot size provisions and allow a more suitable lot size/development pattern on the subject land which is generally consistent with land to the north and south (including the Chelsea Gardens Coomungie URA).

3 Strategic assessment

3.1 Regional Plan

Key Directions of the 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;

- Direction 27 - deliver more opportunities for affordable housing; and
- Direction 28 – manage rural lifestyles.

The proposal seeks to reduce the minimum lot size requirements of the subject land enabling a modest increase in infill housing on land already zoned for residential uses. The subject land is also located adjacent to an established residential area to the north. It is therefore considered the proposal would provide greater housing supply and choice on land that is close to existing services consistent with the above Directions in the Regional Plan.

3.2 Local

Wingecarribee Local Strategic Planning Statement

The Wingecarribee LSPS, which was 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-planning new urban release areas and ensure communities are supported by essential infrastructure.

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

Wingecarribee Local Housing Strategy

The Wingecarribee Local Housing Strategy (LHS) provides a long-term planning framework to meet the housing needs of the Wingecarribee community.

Page 37 of the LHS states the proposed new residential areas are shown in Figure 14 and provide an opportunity to integrate the proposed areas into the broader Chelsea Gardens Coomungie URA to provide an improved urban outcome, a better rural interface in the north-east and a logical southern edge of town along Yarrawa Road.

The subject land is identified on the new living area figure (14) of the LHS for large lot residential development adjoining the Chelsea Gardens Coomungie URA to the north-east (refer to page 39).

The planning proposal seeks to undertake an administrative rationalisation of the minimum lot size provisions for the subject land on Hill Road and Villiers Road along the Chelsea Gardens Coomungie URA northern boundary. This would allow a better rural interface at the north-east section of the Chelsea Gardens Coomungie URA and better integration in line with the LHS.

Council also notes when the Joint Regional Planning Panel (JRPP) conducted a Pre-Gateway Review for the Chelsea Gardens Coomungie URA in November 2013, the Panel recommended that land in separate ownership at the north eastern corner of Chelsea be considered by Council for urban development.

The Department is of the view the proposed changes would address a potential anomaly in the existing minimum lot size provisions and allow a more suitable lot size/development pattern on the subject land, which is generally consistent with, and would better integrate with, land to the north and south (including the Chelsea Gardens Coomungie URA). This is best illustrated in **Figure 2**.

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. The LHS also states that 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.

The LHS requires any future planning proposal to rezone land for residential purposes to be supported by:

- an assessment of the capacity of the Moss Vale Sewerage Treatment Plant (STP) 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 Department sought further advice from Council as to whether it would require each of these studies for this planning proposal.

Council has confirmed that these requirements primarily relate to properties on Yarrawa Road and a larger area of RU2 Rural Landscape zoned land further east along Hill Road.

Council considered these site-specific studies are not necessary for this proposal as it would only result in a modest increase in housing and these requirements were not intended to apply to the subject land. In this regard, it was noted that no rezoning is proposed, the land already forms part of an established residential area (to the north) and it is not anticipated that subdivision would result in more than approximately 5 additional lots. Council considered it highly unlikely the lots would be amalgamated for further subdivision, noted current site constraints such as lot configurations and shared access arrangements would further limit subdivision potential.

The Department accepts Council's advice the proposal is likely to result in a modest increase in dwellings and notes Council has provided assessment of potential infrastructure, Aboriginal cultural heritage, and steep lands impacts in the planning proposal (as summarised in Section 4 of this report).

It is noted the planning proposal document does not include an approximate dwelling yield anticipated from the subdivision of the subject land. A Gateway condition is recommended requiring the planning proposal to be updated with this information including justification.

Minister's Planning Principles

The planning proposal addresses the previous Minister's Planning Principles on page 10 (Section B, Part 5) which have now been discontinued. A Gateway condition is therefore recommended to remove this section of the planning proposal.

3.3 Local planning panel (LPP) recommendation

Wingecarribee Local Planning Panel considered the matter at a Panel meeting on 2 February 2022 and supported the staff recommendation for the planning proposal to be submitted to the Department seeking a gateway determination.

3.4 Ministerial Directions

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

Key applicable Directions are discussed in detail below.

1.2 Implementation of 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 this Direction.

3.1 Conservation Zones

The objective of this direction is to protect and conserve environmentally sensitive areas.

An Endangered Ecological Community (EEC) and Threatened Ecological Community (TEC) is situated at 37 and 39 Villiers Road Moss Vale, with a portion of the subject land containing Southern Highlands Shale Woodland and Robertson Basalt Tall Open Forest.

Council noted this vegetation is located on the western boundary of these lots and can be avoided by any building envelope. Potential impacts would be considered in further detail at the development application (DA) stage.

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

Notwithstanding this, a Gateway condition is recommended requiring consultation with the Department's Environment and Heritage Division to ensure any unforeseen issues may be considered.

3.2 Heritage Conservation

The subject land is not within a conservation area and does not contain listed local heritage items.

Council advised it is not aware of any Aboriginal cultural heritage impacts which might result from the proposal.

The land is already used for residential purposes and is mostly cleared. As such, adverse Aboriginal cultural heritage impacts are considered unlikely and could be considered in detail at the DA stage.

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

Notwithstanding this, a Gateway condition is recommended requiring consultation with the Department's Environment and Heritage Division to ensure any unforeseen issues may be considered

3.3 Sydney Drinking Water Catchments

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

Direction 5.2 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.

Council proposes to consult with WaterNSW and update its assessment against Direction 3.3 in the planning proposal accordingly.

The planning proposal is currently inconsistent with the Direction because Council has not yet consulted with Water NSW. It is recommended that Council consult with Water NSW prior to public exhibition and provide further information demonstrating it has addressed the requirements of this Direction.

4.3 Planning for Bushfire Protection

Parts of the subject land are bushfire prone and/or in proximity to bushfire prone land.

Consultation has not occurred with the NSW Rural Fire Service (NSW RFS) and consistency with Direction 4.4 remains unresolved.

A Gateway condition has therefore been recommended requiring consultation with the NSW RFS prior to exhibition as required by the Direction.

4.4 Remediation of Contaminated Land

Council has considered potential contamination and advised no remediation of land is expected because of any prior use of the land or the proposed amendments.

The proposal does not propose rezoning and therefore a Preliminary Site Investigation is not required in accordance with the terms of the Direction.

A detailed assessment of contamination would occur at the development assessment stage.

6.1 Residential Zones

Key aims of Direction 3.1 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 proposal would allow a modest increase in dwellings on the subject land which would provide more housing choice for Wingecarribee's future housing needs. The land is also adjacent an established residential area ensuring efficient use of, and access to, existing infrastructure and services

The Secretary's delegate may be satisfied the planning proposal is consistent with Direction 6.1.

3.5 State environmental planning policies (SEPPs)

The planning proposal is not inconsistent with relevant SEPPs. SEPPs of particular relevance are discussed below.

SEPP (Resilience and Hazards) 2021 – Chapter 4 – Remediation of Land

Potential contamination issues to ensure consistency with Chapter 4 of this SEPP are addressed in Section 3.4 of this report.

Council has considered potential contamination and advised no remediation of land is expected because of any prior use of the land or the proposed amendments.

A detailed assessment of contamination would occur at the development assessment stage.

SEPP (Biodiversity and Conservation) 2021 – Chapter 8 – Sydney Drinking Water Catchment

Potential water catchment issues to ensure consistency with Chapter 8 of this SEPP are addressed in Section 3.4 of this report.

Consultation is recommended with Water NSW prior to public exhibition to ensure the proposal does not adversely impact on the Sydney Drinking Water Catchment consistent with the aims of Chapter 8 of the SEPP.

Chapter 4 of the Resilience and Hazards SEPP and Chapter 8 of the Biodiversity and Conservation SEPP are not specifically discussed in the planning proposal. A Gateway condition is therefore recommended requiring the planning proposal be updated to specifically address these.

4 Site-specific assessment

4.1 Environmental

Council does not consider the proposal would adversely impact this critical habitat or threatened species, populations or ecological communities, or their habitats.

Vegetation

Council noted an Endangered Ecological Community (EEC) and Threatened Ecological Community (TEC) is situated at 37 and 39 Villiers Road Moss Vale, with a portion of the subject land containing Southern Highlands Shale Woodland and Robertson Basalt Tall Open Forest.

Council noted this vegetation is located on the western boundary of these lots and can be avoided by any building envelope. Potential impacts would be considered in further detail at the development application (DA) stage.

A Gateway condition is recommended requiring consultation with the Department's Environment and Heritage Division to ensure any unforeseen issues may be considered.

Aboriginal cultural heritage

Council advised it is not aware of any Aboriginal cultural heritage impacts which might result from the proposal.

The land is already used for residential purposes and is mostly cleared. As such, adverse Aboriginal cultural heritage impacts are considered unlikely and could be considered in detail at the DA stage.

A Gateway condition is recommended requiring consultation with the Department's Environment and Heritage Division to ensure any unforeseen issues may be considered.

Steep lands

Council noted both 8 and 10 Hill Road appear relatively flat and are unlikely to be affected by slope issues. The remainder of the land slopes downwards approximately 20m (over a distance of approximately 170m) in a westerly direction from the centre of 41 Villiers Road to the eastern boundaries of 37 and 39 Villiers Road.

Council considered potential slope constraints would be managed through subdivision and any subsequent DA consideration.

Traffic impacts

Noting the modest increase in housing anticipated because of the proposal, traffic impacts are likely to be minor and manageable. Potential impacts would be considered in further detail at the DA stage.

A Gateway condition is recommended requiring Council to provide further assessment on the anticipated traffic impacts in the planning proposal prior to exhibition.

4.2 Social and economic

It is considered the proposal will have a positive social and economic impact by providing increased housing in Wingecarribee on smaller lots than currently available on the site (meeting community demand) that are well located and contribute (albeit marginally) to increased housing affordability.

4.3 Infrastructure

Council noted that additional studies to demonstrate infrastructure capacity would be required at the DA stage.

Council has also advised that the capacity of the Moss Vale STP is likely to be able to accommodate a modest increase in dwellings (~5) as its capacity has considered standard background infill growth.

Noting the above and the modest increase in housing anticipated, the Department may be satisfied suitable measures would be in place to service the infrastructure needs arising from development of the land.

It is however noted the above information regarding the capacity of the Moss Vale STP has not been included in the planning proposal document. A Gateway condition is therefore recommended for the planning proposal to be updated prior to exhibition to include further

information/assessment on the capacity of the Moss Vale STP to cater for subdivision and development of the land.

5 Consultation

5.1 Community

The Department's Local Environmental Plan Making Guideline recommends a maximum public exhibition period of 20 working days for a standard category proposal.

A Gateway condition is recommended requiring the proposal to be made publicly available for a minimum of 20 days.

5.2 Agencies

It is recommended the following agencies be consulted on the planning proposal:

- NSW Rural Fire Service
- Water NSW
- Transport for NSW; and
- the Department's Environment and Heritage Division.

6 Timeframe

Council proposes a 5 month time frame to complete the LEP.

The Department recommends a time frame of 9 months to allow the planning proposal to be updated in accordance with the Gateway conditions and in case any unforeseen issues arise.

A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

Council has asked for plan-making authority in relation to this proposal. This is considered appropriate, as the proposal would result in a modest increase in housing and is not inconsistent with local or regional strategic planning objectives.

8 Assessment summary

The proposed changes would address an apparent anomaly in the existing minimum lot size provisions and allow a more suitable lot size/development pattern on the subject land, which is generally consistent with, and would better integrate with, land to the north and south (including the Chelsea Gardens Coomungie URA).

The proposal is also consistent with local and regional planning objectives regarding provision of housing.

9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any potential inconsistencies with section 9.1 Directions are minor or justified (except those outlined below); and

- Note that consistency with section 9.1 Direction 4.3 Planning for Bushfire Protection and Direction 3.3 Sydney Drinking Water Catchments are 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. Prior to public exhibition, the planning proposal is to be updated to:
 - include further information/assessment on the capacity of the Moss Vale STP to cater for subdivision and development of the land;
 - include an approximate dwelling yield anticipated from the proposal;
 - include draft LEP maps showing proposed mapping changes;
 - address consistency with Chapter 4 - Remediation of Land of *State Environmental Planning Policy (Resilience and Hazards) 2021* and Chapter 8 - Sydney Drinking Water Catchment of *State Environmental Planning Policy (Biodiversity and Conservation) 2021*; and
 - remove the section addressing the Minister's planning principles in Section B, Part 5.
2. Consultation is required with the following public authorities:
 - NSW Rural Fire Service
 - Water NSW
 - Transport for NSW; and
 - the Department's Environment and Heritage Division.
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.



11/4/2022

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12/4/22

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