
8.4 Planning Proposal to Amend Schedule 1 of Wingecarribee LEP 2010 to Enable a Boundary Adjustment to Land at 35 Elizabeth Street and 4 Old Bong Bong Way, Burradoo

Report Author: Susan Stannard
Coordinator Strategic Policy

Authoriser: Michael Park
Executive Manager Strategic Outcomes

PURPOSE

The purpose of this report is to consider a Planning Proposal to include land at 35 Elizabeth Street and 4 Old Bong Bong Way Burradoo within Schedule 1 (Additional Permitted Uses) of Wingecarribee Local Environmental Plan (WLEP) 2010 enable consideration of a boundary adjustment by means of subdivision with no further subdivision potential.

THIS MATTER WAS CONSIDERED BY THE WINGECARRIBEE LOCAL PLANNING PANEL ON 26 JULY 2023

OFFICER'S RECOMMENDATION

THAT:

- 1. The Planning Proposal to include land at 35 Elizabeth Street and 4 Old Bong Bong Way Burradoo within Schedule 1 (Additional Permitted Uses) of Wingecarribee Local Environmental Plan (WLEP) 2010, to facilitate a boundary adjustment between two (2) lots be supported, subject to proposed Lot A having a minimum lot size of at least 9,300 m² to ensure that the land continues as two (2) lots, and**
- 2. The Planning Proposal be submitted to the Department of Planning and Environment for a Gateway Determination under s.3.34 of the Environmental Planning & Assessment Act 1979.**

LOCAL PLANNING PANEL'S ADVICE

This matter was considered at the Local Planning Panel meeting of 26 July 2023 and the Panel advised as follows:

The Panel supports the Planning Proposal at 35 Elizabeth Street and 4 Old Bong Bong Way Burradoo within Schedule 1 (Additional Permitted Uses) of Wingecarribee Local Environmental Plan (WLEP) 2010, to facilitate a boundary adjustment between two (2) lots (with no further subdivision), be submitted to the Department of Planning and Environment for a Gateway Determination under s.3.34 of the Environmental Planning & Assessment Act 1979 subject to proposed Lot A having a minimum lot size of at least 9,300 sqm to ensure that the land continues as two lots.

Staff response:

The intent of the Planning Proposal was to facilitate a boundary adjustment with no additional lots being created. Staff support the Panel's advice to set a minimum lot size to ensure that no further subdivision is

**AGENDA OF THE ORDINARY MEETING OF COUNCIL
WEDNESDAY 16 AUGUST 2023**

possible. The Planning Proposal and recommendation of this report have been updated to reflect the Panel's advice.

REPORT

BACKGROUND

The subject land is located on the southern edge of Burradoo at its interface with the non-urban area between the Bowral-Burradoo township and Moss Vale as indicated by the red star in **Figure 1** below.

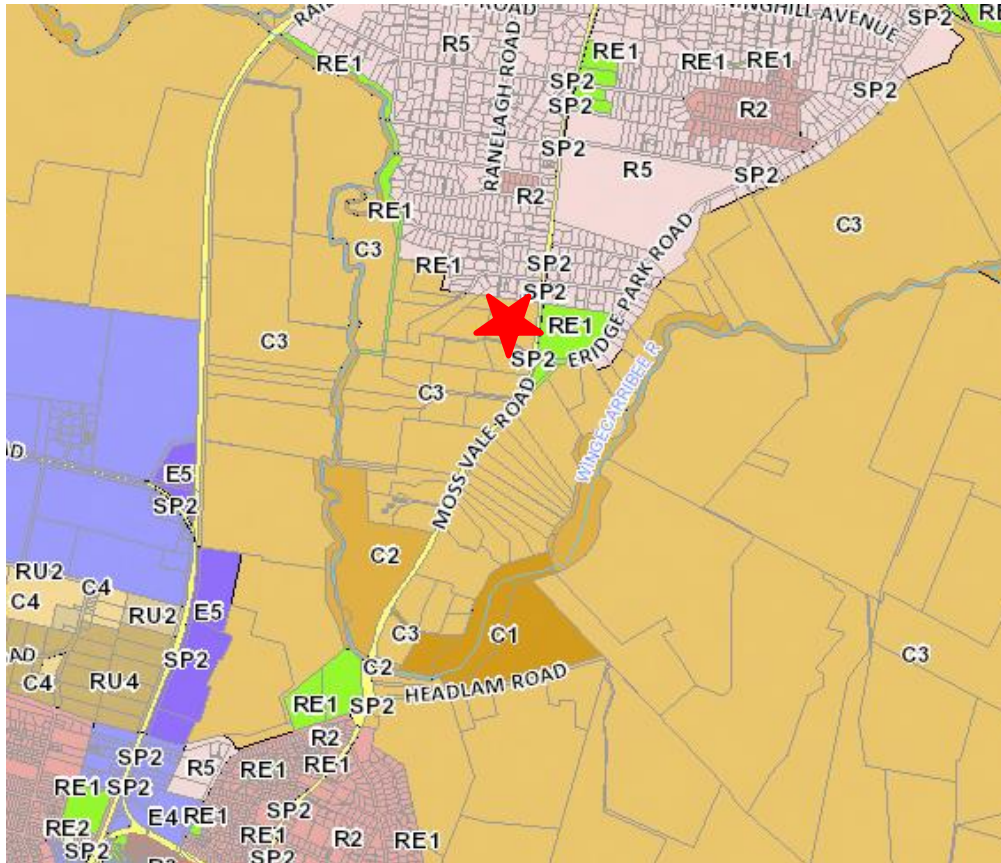


Figure 1 - Location of subject land

The subject land comprises two adjoining parcels, being Lot 10 DP718888, 35 Elizabeth Street, Burradoo, indicated as 'Lot A' in **Figure 2** below, and Lot 3 DP804385, 4 Old Bong Bong Way, Burradoo, indicated as 'Lot B' in **Figure 3** below. Both properties are in the same ownership.



Figure 2 - Lot 10 DP718888 (Lot A), 35 Elizabeth Street, Burradoo

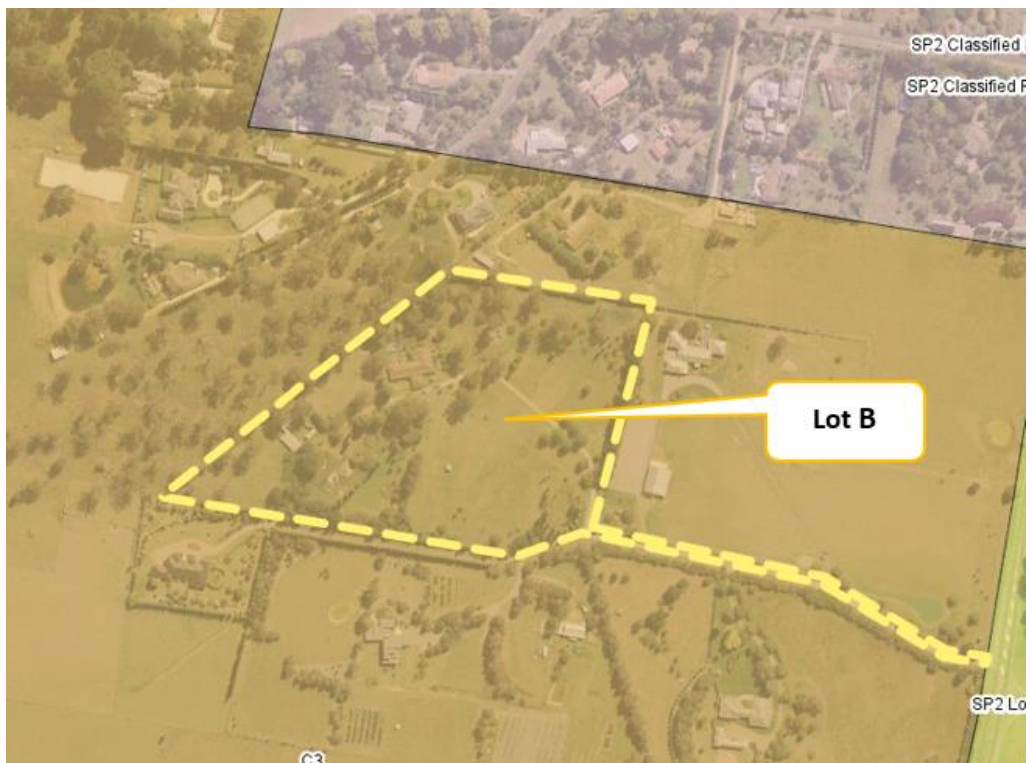


Figure 3 - Lot 3 DP804385 (Lot B), 4 Old Bong Bong Way, Burradoo

Both lots are zoned C3 Environmental Management with a minimum lot size of 4ha. Lot A comprises an area of some 4.16 ha and Lot B an area of some 4.27 ha, totalling 8.43 ha.

As indicated in **Figure 4** below, the northern boundary of Lot A lies at the intersection of the R5 Large Lot Residential boundary above and the C3 Environmental Management zone. A minimum lot size of 4,000 m² applies to the R5 zoned land. All of the subject land lies within the (green hatched) Burradoo Landscape Conservation Area.

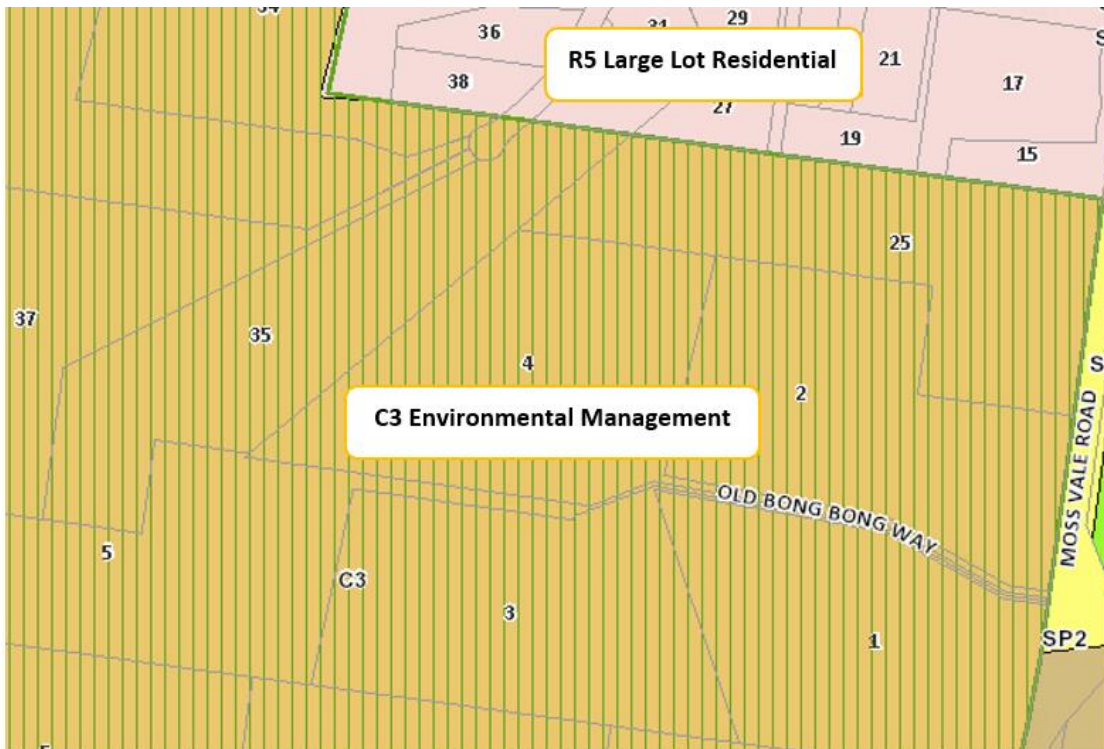


Figure 4 – Zoning & Landscape Conservation Area

As indicated in **Figure 5** below, residential development is clustered around the R5 Large Lot Residential - C3 Environmental Management interfaces, or presents, as large lot residential development within the C3 zone.



Figure 5 – Aerial view of current land use development (Near Maps)

AGENDA OF THE ORDINARY MEETING OF COUNCIL WEDNESDAY 16 AUGUST 2023

Much of Lot A is utilised for passive agricultural purposes, as permitted within the C3 Environmental Management zone which complements the rural landscape of the Landscape Conservation Area. However, the buildings supporting this agricultural use are located on Lot B.

A Scoping Proposal was submitted to Council to amend Schedule 1 (Additional Permitted Uses) of the Wingecarribee Local Environmental Plan (WLEP) 2010 to enable a boundary adjustment between the two lots by means of subdivision to create two new lots, one being a property of predominantly residential character when viewed from Elizabeth Street, with the consolidation of the rural land uses on to the second lot. After consultation with Council, a Planning Proposal was prepared and submitted to Council for further consideration.

A Planning Proposal is necessary because the provisions of Clause 4.1 (Minimum subdivision lot size) would not allow for the proposed boundary adjustment as the minimum lot size for both lots is 4ha. Clause 4.2B (Boundary changes between lots in certain rural, residential and environment protection zones) of WLEP 2010 would also not allow for the proposed boundary adjustment because one of the resulting lots would be below the requirement of 4.2B(3)(c) that the resulting lots be at least 2ha in area. The Planning Proposal itself also sets out these explanations.

The Planning Proposal is considered to have strategic merit as its primary intention aligns with several key objectives of the *Environmental Planning & Assessment Act 1979*, namely:

(c) to promote the orderly and economic use and development of land

(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage)

(g) to promote good design and amenity of the built environment

The proposed new subdivision enables the rural related activities of the site to be consolidated on to the proposed Lot B, thereby promoting the orderly use of the land while supporting the design and amenity of the built environment. It is also considered that the proposal would support the sustainable management of the built and cultural heritage, given that the land is within the Burradoo Landscape Conservation Area.

The Planning Proposal is also considered to have site-specific merit as no rezoning of the subject land is proposed and therefore no change to current permissible uses would result. No additional dwellings or dwelling entitlements are intended to be created through the Planning Proposal.

The Planning Proposal nominates an area for the new Lot A of 7,600 square metres, utilising an existing fence to the rear of the residential component of the lot. The remainder of Lot A, together with all of Lot B would achieve a larger rural residential lot of some 7.67ha, connecting the associated outbuildings with the rural portion of Lot A in a larger rural residential lot consistent with surrounding lot sizes and uses. The smaller proposed Lot A is indicated in **Figure 6** below and the larger proposed Lot B is indicated in **Figure 7** below.



Figure 6 – Aerial view of the proposed smaller Lot A



Figure 7 – Aerial view of proposed larger Lot B

One concern with the draft new lot layout is that the proposed Lot B could theoretically enable a further subdivision under Clause 4.6(6)(b) of WLEP 2010. Clause 4.6 relates to exceptions to development standards and subclause (6) states as follows. Subclause (b) has been highlighted:

AGENDA OF THE ORDINARY MEETING OF COUNCIL WEDNESDAY 16 AUGUST 2023

Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—

(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or

(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

The area of Lot B proposed in the Planning Proposal is 7.67ha. The minimum lot size is 4ha. A subsequent application under clause 4.6 could result in a lot of 4ha (meeting the minimum lot size) and a lot of 3.67ha which, at 91.75% of 4ha would be greater than the 90% minimum required to consider a further subdivision.

To overcome this potential, it would be necessary for Lot B to be no greater than 7.5ha. However, to achieve this, the area of the proposed Lot A would need to be increased from 7,600m² to some 9,300m², somewhat compromising one of the primary strategic justifications for the Planning Proposal of optimising the co-location of the rural based activities on the one lot.

In considering how best to address this potential further subdivision, the Wingecarribee Local Planning Panel, at its meeting of 26 July 2023 provided advice that, although it supported the Planning Proposal, the area of the proposed Lot A should be no less than 9.300m².

The Planning Proposal which forms **Attachment 1** to this report has been amended to reflect this advice.

COMMUNICATION AND CONSULTATION

Pre-lodgement Scoping Meeting

A Scoping Proposal was submitted by the proponent and after consultation within the Strategic Outcomes Team, it was concluded that a Planning Proposal could be supported to progress to a Gateway Determination. That Planning Proposal accompanies this report as Attachment A.

Community Engagement

If the Proposal is supported to progress to a Gateway Determination, public exhibition would be undertaken for a period of at least 28 days with the Planning Proposal notified on Council's primary website as well as on the Your Say Wingecarribee website. Neighbour notification would also occur seeking submissions from adjoining and neighbouring property owners.

Internal Communication and Consultation

No internal consultation has occurred at this stage.

External Communication and Consultation

External consultation would occur as required in the Gateway Determination.

**AGENDA OF THE ORDINARY MEETING OF COUNCIL
WEDNESDAY 16 AUGUST 2023**

SUSTAINABILITY ASSESSMENT

Environment

There are no environmental impacts in relation to this report.

Social

There are no social issues in relation to this report.

Broader Economic Implications

There are no broader economic implications in relation to this report.

Culture

There are no cultural issues in relation to this report **Governance**

The Planning Proposal would be processed in accordance with relevant legislation and Departmental guidelines.

RELATIONSHIP TO CORPORATE PLANS

There are no related corporate plans associated with the Planning Proposal.

COUNCIL BUDGET IMPLICATIONS

There are no budget implications associated with the Planning Proposal.

RELATED COUNCIL POLICY

There are no related council policies associated with the Planning Proposal.

CONCLUSION

The Planning Proposal is considered to have both strategic and site-specific merit as it would enable a more logical and efficient use of the subject land. The proposed lots sizes will ensure no further subdivision potential results.

ATTACHMENTS

1. Planning Proposal Elizabeth St Burradoo - v 2 for Cncl Gateway [**8.4.1** - 40 pages]



Planning Proposal

to amend Wingecarribee Local Environmental Plan 2010 to include land at 35 Elizabeth Street and 4 Bong Bong Way Burradoo within Schedule 1 (Additional Permitted Uses) to enable consideration of a boundary adjustment by means of subdivision.

Initially prepared by Lee Environmental Planning in accordance with the Local Environmental Plan Making Guideline (September 2022)

Version 2 for Council endorsement for Gateway Determination -
Updated by Council to reflect the advice of the
Wingecarribee Local Planning Panel (July 2023)

Council has categorised the Planning Proposal as *Standard*

Date: August 2023

We're with you

 Civic Centre
68 Elizabeth Street
Moss Vale
Gundungurra Country

 PO Box 141 Moss Vale
NSW 2577

ABN 49 546 344 354

 02 4868 0888

@ mail@wsc.nsw.gov.au

Introduction

Site Location & Description

Wingecarribee Shire

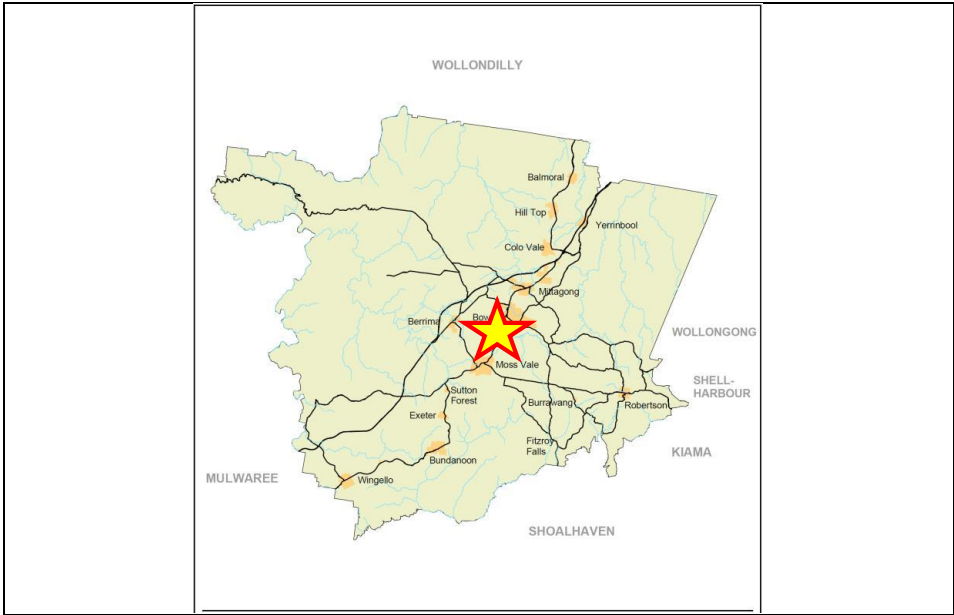
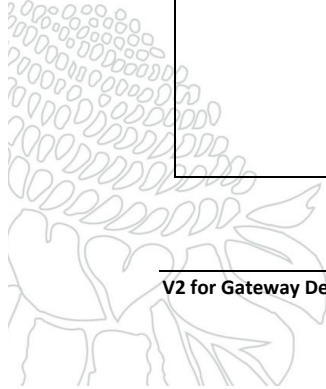


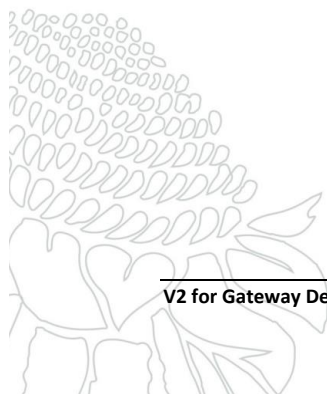
Figure 1: General site location within the Shire context

<p>Legal Description & Addresses</p>	<ul style="list-style-type: none"> • Lot 10 DP718888, 35 Elizabeth Street, Burradoo (4.16 ha) • Lot 3 DP804385, 4 Old Bong Bong Way, Burradoo (4.27 ha)
<p>Description</p>	<p>Both sites accommodate established dwelling houses with other ancillary structures. The two parcels share a common boundary of approximately 250 metres along the western boundary of Lot 3 and the eastern boundary of Lot 10 with a total area of 8.43 ha.</p> <p>The Elizabeth Street property (Lot 10) is a long narrow parcel, with the existing dwelling being situated directly off the cul de sac at the end of Elizabeth Street. It has a residential character when viewed from the street, with the dwelling sitting in a landscaped garden setting, similar to other dwellings along Elizabeth Street. It has a driveway access onto</p>



**AGENDA OF THE ORDINARY MEETING OF COUNCIL
WEDNESDAY 16 AUGUST 2023**

	<p>Elizabeth Street and has a common boundary to the north with a similar large lot residential property (33 Elizabeth Street).</p> <p>Existing site fencing approximately 50 metres south west of the dwelling provides a demarcation between the 'residential' portion of the site of approximately 7600 square metres, and the remaining 3.4 hectares that can be considered to be the 'rural' portion of the site.</p> <p>The Old Bong Bong Way property (Lot 3) is squarer in shape. It has a site area of approximately 4.27 hectares. It is accessed via Old Bong Bong Way, off Moss Vale Road near its intersection with Eridge Park Road. Old Bong Bong Way is a private road shared by four properties, inclusive of the subject site. This property has common boundaries with other larger rural style lots.</p> <p>This site accommodates an existing dwelling house and farm buildings. There are alterations and additions being undertaken to this dwelling under an approval issued by Council (DA22/1290).</p> <p>The dwelling on Lot 3 has a rural setting, enhanced by the lane way access and its relationship with the other adjoining larger rural parcels.</p> <p>It also relates directly to the rural portion of the Elizabeth Street property.</p> <p>By contrast, the dwelling on the Elizabeth Street property (Lot 10) is physically separated from the rural portion of that lot and it clearly has a residential ambience and character, enhanced by both its Elizabeth Street frontage and its proximity and similarity to adjoining residential properties.</p> <p>Both properties have a C3 Environmental Management zoning under <i>Wingecarribee Local Environmental Plan 2010</i> and are within an area with a minimum lot size for subdivision of 4 hectares.</p> <p>Figures 2 & 3 below provide map references and Figures 4-14 provide a photographic record of the subject land.</p>
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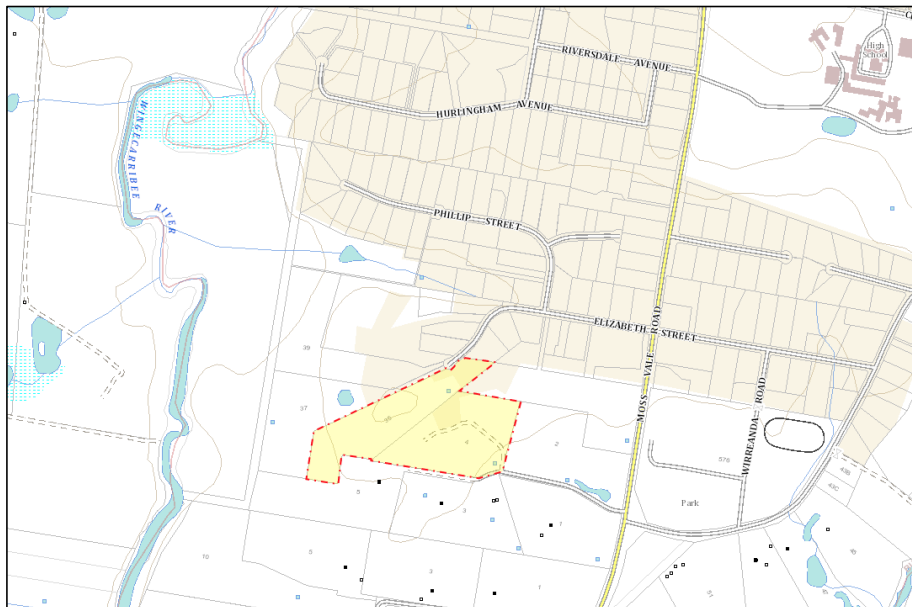


Figure 2: Site Identification and Context of both lots (Source: Six Maps)



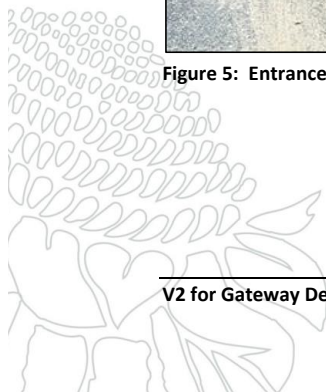
Figure 3: Aerial view of site and its context both lots (Source: Six maps)



Figure 4: Old Bong Bong Way off Moss Vale Road providing access to one of the properties



Figure 5: Entrance to 4 Old Bong Bong Way



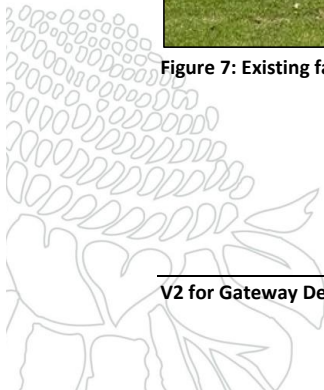
**AGENDA OF THE ORDINARY MEETING OF COUNCIL
WEDNESDAY 16 AUGUST 2023**



Figure 6: Eastern portion of 4 Old Bong Bong Way



Figure 7: Existing farm buildings on 4 Old Bong Bong Way



**AGENDA OF THE ORDINARY MEETING OF COUNCIL
WEDNESDAY 16 AUGUST 2023**



Figure 8: View from from 4 Old Bong Bong Way, looking south west across the rear of the Elizabeth St property

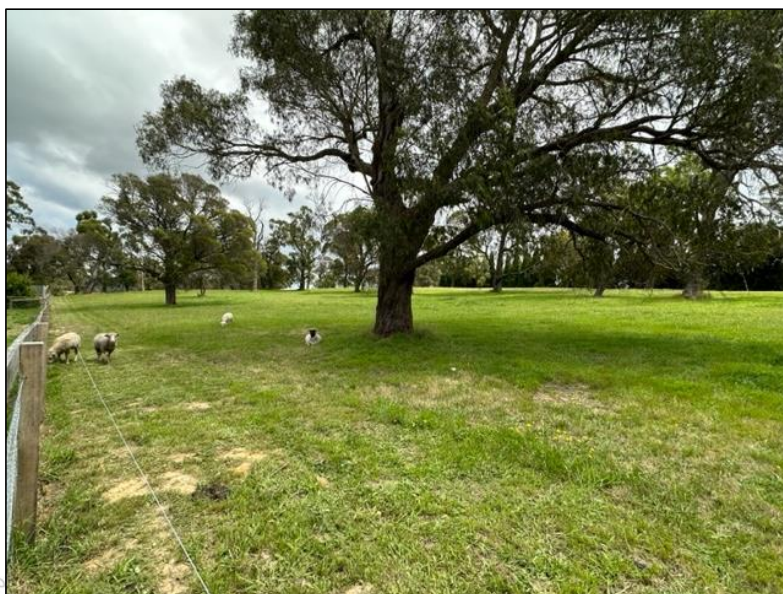
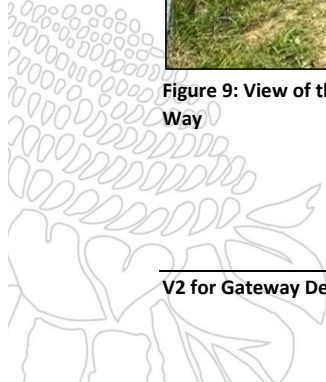


Figure 9: View of the rural rear of the Elizabeth St property showing dividing fence with 4 Old Bong Bong Way



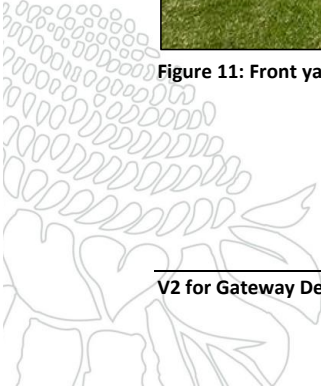
**AGENDA OF THE ORDINARY MEETING OF COUNCIL
WEDNESDAY 16 AUGUST 2023**



Figure 10: View of 35 Elizabeth Street



Figure 11: Front yard of 35 Elizabeth Street



**AGENDA OF THE ORDINARY MEETING OF COUNCIL
WEDNESDAY 16 AUGUST 2023**



Figure 12: Rear yard of 35 Elizabeth Street



Figure 13: Looking south across the rear yard of 35 Elizabeth Street towards the rural portion

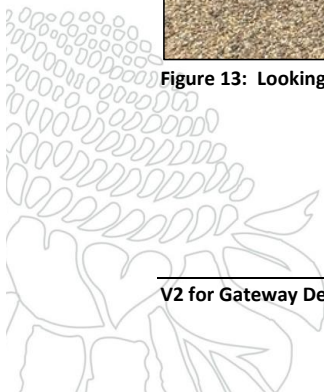
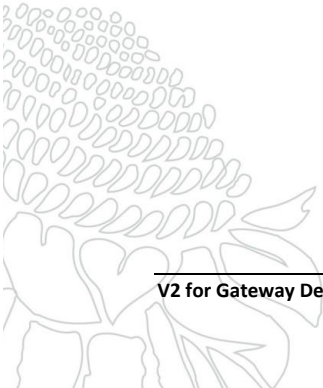




Figure 14: Existing fence that separates the residential yard of 35 Elizabeth Street from the rural area beyond



Part 1 – Objectives & Intended Outcomes of the Planning Proposal

Scope of the Proposal:

The proposal seeks to include the subject land into Schedule 1 Additional Permitted Uses of *Wingecarribee Local Environmental Plan 2010*, with the intent to facilitate the subdivision (boundary adjustment) of the two lots, that would create two new lots.

The intent of the boundary change between the two existing lots is to better align each new lot with its site characteristics and capacities; one lot to accommodate a single dwelling on a large residential parcel that is characteristic of Burradoo residential properties and consistent with its immediate neighbours; and one larger rural parcel that can be more productive from an agricultural perspective and is more consistent with the characteristics of its immediate neighbours.

It is not intended to rezone any of the land from the prevailing C3 Environmental Management zone. No additional dwelling entitlements are intended to result from the Planning Proposal.

The amendment to the WLEP2010 would entail:

- An addition to Schedule 1 Additional Permitted Uses, to list the subject properties and identify that the development for the purpose of a subdivision (boundary adjustment) would be permitted with development consent.

Background context and current situation

Both lots are identified in **Figures 15 and 16**, which are extracts from the NSW Planning Portal WLEP2010 Zoning Maps. Both land parcels are within the C3 Environmental Management zone of WLEP2010 with the Elizabeth Street property adjoining the R5 Large Lot Residential zone applicable to the north. Both lots are above the minimum lot size of 4ha, covering a total area of some 8.43 ha:

- Lot 10 DP718888, 35 Elizabeth Street, Burradoo has an area of approximately 4.16 ha
- Lot 3 DP804385, 4 Old Bong Bong Way, Burradoo has an area of approximately 4.27 ha

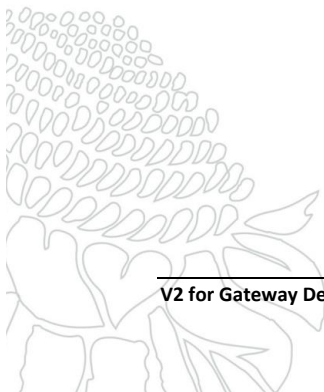
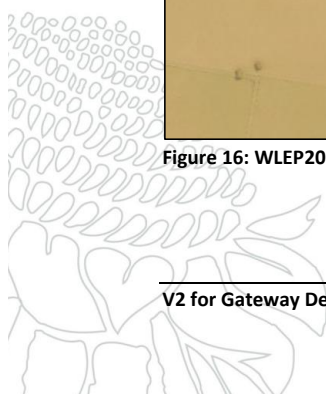




Figure 15: WLEP2010 Zoning Map showing 35 Elizabeth Street



Figure 16: WLEP2010 Zoning Map showing 4 Old Bong Bong Way



**AGENDA OF THE ORDINARY MEETING OF COUNCIL
WEDNESDAY 16 AUGUST 2023**

Figures 17 and 18 are extracts from the NSW Planning Portal WLEP2010 Lot Size Maps and show the minimum 4 hectare minimum lot size for subdivision that applies to the subject land and the 4000square metre minimum lot size that applies to the adjoining residential properties.

The land is on the southern interface between the large lot residential area of Burradoo (Elizabeth Street and Philip Street) and the small rural lots that fringe the Bong Bong Common (Old Bong Bong Way, Songline Place).

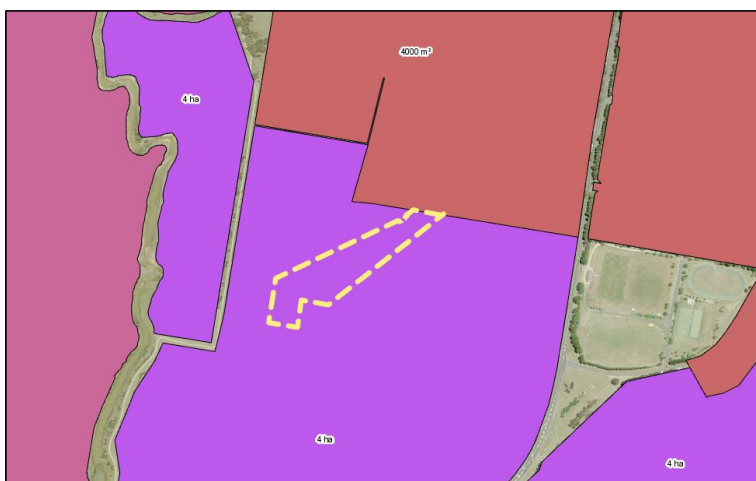


Figure 17: WLEP2010 Lot Size Maps showing 35 Elizabeth Street



Figure 18: WLEP2010 Lot Size Maps showing 4 Old Bong Bong Way

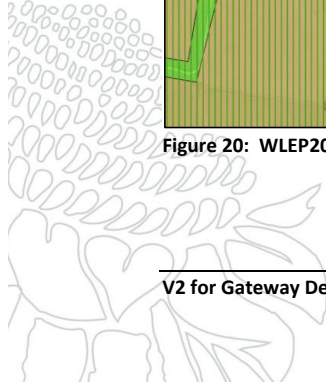
Figures 19 and 20 are extracts from the NSW Planning Portal WLEP2010 Heritage Maps that show the sites location within the Burradoo Landscape Conservation Area. Neither of the properties are prominent areas within the broader landscape conservation area. Neither dwelling is visible from the Bong Bong Common or from any point along the shared public pathway along the Wingecarribee River. The Planning Proposal will have no affect upon the built from within the landscape conservation area.



Figure 19: WLEP2010 Heritage maps showing extent of Burradoo Landscape Conservation area



Figure 20: WLEP2010 Heritage maps showing extent of Burradoo Landscape Conservation area



The current management of the land is clearly based upon the dwelling house off Elizabeth Street being a distinct residential portion that has fenced off the rural area from the remainder of the land, which is more aligned with the second dwelling off Old Bong Bong Way.

As already described, the two subject properties have different characters and purposes – one residential and one rural. This can be reinforced to allow for the more useful long term management of the land if the current property boundaries were adjusted through a subdivision (boundary adjustment).

The intended outcome is a more logical property management arrangement for the land owner and their land holdings. One lot will be exclusively for large lot residential purposes and one for rural residential with an improved capacity for viable rural uses consistent with the land use zone.

The final proposed subdivision arrangement could be described on a plan of proposed subdivision that would form part of a subsequent Development Application for subdivision.

Part 2 - Explanation of the Provisions

To achieve the intended outcomes of the Planning Proposal, it would be necessary to include the subject land within Schedule 1 (Additional Permitted Uses) of the *Wingecarribee Local Environmental Plan 2010* instrument and also include the land on the Schedule 1 map which forms part of WLEP 2010.

The intent of the written amendment would be that it applies to land at 35 Elizabeth Street Burradoo (Lot 10 DP718888) and 4 Bong Bong Way, Burradoo (Lot 3 DP804385) and that its inclusion in Schedule 1 would be to enable with development consent, *Subdivision of the land through a boundary adjustment to create two new lots, each to accommodate one of the existing dwelling houses and with the dwelling at 35 Elizabeth Street Burradoo to be accommodated upon a lot no less than 4000sqm, and with no further subdivision of the lot created at Bong Bong Way Burradoo.*

The minimum lot size of the Elizabeth Street lot is stipulated at no less than 4,000m² in order to be consistent with the 4,000m² minimum lot size of the adjoining R5 Large Lot Residential zoned land.

Figures 21 and 22 indicate the potential subdivision boundaries that could be achieved if the current fence line located on the land at 35 Elizabeth Street were used, resulting in the Elizabeth Street lot having an area of some 7,600m² and the Bong Bong Way lot having an area of some 7.6ha.

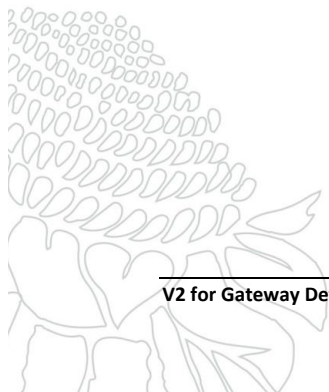




Figure 21: Potential 'residential' lot for 35 Elizabeth Street, Burradoo of approximately 7600sqm



Figure 22: Potential 'rural residential' lot for 4 Bong Bong Way, Burradoo of approximately 7.6 hectares

While this would achieve a generous residential lot at 35 Elizabeth Street, the resulting area of 7.6 ha for the newly created lot at 4 Bong Bong Way, would, theoretically, have subdivision potential under clause 4.6(6) of WLEP 2010. This subclause states:

(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production

**AGENDA OF THE ORDINARY MEETING OF COUNCIL
WEDNESDAY 16 AUGUST 2023**

Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—

- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
- (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*

The current minimum lot size of the land on Bong Bong Way is 4 ha. Applying subclause (6) above to the proposed Bong Bong Way lot of 7.6 ha would result in the achievement of one lot of 4 ha and one lot of 3.6 ha. Because 3.6 is 90% of 4ha, under clause 4.6(6)(b), subdivision could theoretically be achieved.

It is acknowledged that the proponent has no stated intention of seeking any further subdivision, however, the advice provided by the Wingecarribee Local Planning Panel, in considering the Planning Proposal on 26 July 2023, was that the area of proposed Lot A should be increased to ensure that the remaining area of proposed Lot B was below the current 90% of 4 ha. This would require Lot A to be increased to 9.300m², some 1,700m² larger than originally proposed. The revised boundary needed to achieve this outcome is indicated in **Figure 23** below.

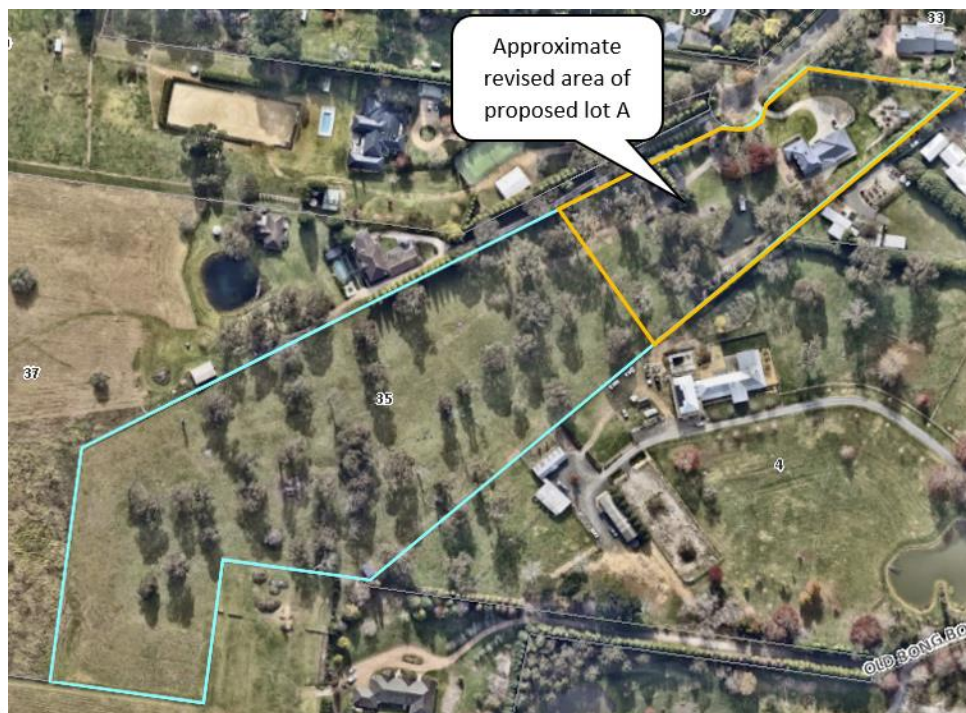


Figure 23: Approximate revised area of proposed Lot A

Part 3 - Justification of Strategic & Site-specific Merit

Strategic Merit

The proposal is not of a type that has significant strategic implications. However, it is also fair to say that it would not undermine any of the Council's major strategy documents.

The Planning Proposal is, nonetheless, considered to have strategic merit as its primary intention aligns with several key objectives of the *Environmental Planning & Assessment Act 1979*, namely:

- (c) to promote the orderly and economic use and development of land*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage)*
- (g) to promote good design and amenity of the built environment*

The proposal would be benign in terms of its impact upon strategic planning across the Shire. This is generally the case with amendments to the local planning instrument that fall within the category of a Schedule 1 Additional permitted use (also referred to as the 'exceptions' clause). By definition, these types of amendments deal with exceptional circumstances affecting specific properties, with the amendments not being strategic. Nor do they carry any weight in terms of precedent.

The principal local strategic planning document is the Wingecarribee 2040 Local Strategic Planning Statement. There are no specific strategic priorities that would be offended by this proposal.

The proposal would be benign in terms of environmental or ecological impacts; benign in terms of housing because both lots already accommodate dwelling houses; benign in terms of demand and impact on infrastructure.

In terms of management of rural land it can be a positive outcome by aggregating land with some rural capacity and thereby providing opportunity for more productive use of that rural land.

The use of Clause 2.5 Additional permitted uses, of the WLEP2010, is a clear indication that the issues involved and the outcome being sought, are not of a strategic nature but are very particular to the circumstances of the case.

Clause 2.5 is also referred to as the 'exceptions' clause, because it is used to deal with exceptions to the rule, or exceptional circumstances that could not reasonably be catered for by the broader based zoning and/or development standards that dictate outcomes for the majority of land and development across the Shire.

The local planning instrument is a statutory document, so when the relevant Planning Authority, in this case Wingecarribee Shire Council, is asked to assess a Planning Proposal to amend that document, the following questions are relevant:

AGENDA OF THE ORDINARY MEETING OF COUNCIL WEDNESDAY 16 AUGUST 2023

- Are the existing planning controls appropriate for the circumstances of the site?
- Are they required to achieve the right land use outcomes?
- Are appropriate outcomes achievable under a different set of rules?
- What distinguishes this land from other land that has different land use rules?
- Will the proposed amendment to the local plan adversely impact upon or conflict with, other strategic planning outcomes as expressed in State policies or local strategies?

In this case, the initial discussions with Council staff, based on the submission of a Scoping Report, reached an agreement that the re-subdivision of the two existing lots to create a residential lot and a rural lot could be a positive outcome. However, it was also agreed that the current regulatory framework provided by Clause 4.2B of WLEP2010 would not operate to allow that outcome simply through the Development Application process.

Therefore the current planning provisions are not suitable to provide the most desirable land use outcome for the land.

Finally, Council should acknowledge that making a decision to support this proposal, based on the merits and circumstances pertaining to the subject land, will not be in conflict with any other relevant State or local strategic planning outcome.

Site-specific Merit

The Planning Proposal can demonstrate site specific merit.

In contrast to the consideration of strategic merits, amendments to the local planning instrument that fall within the category of a Schedule 1 Additional permitted use, are by definition, types of amendments that deal with exceptional site circumstances. Generally they are sites where reasonable development is being thwarted by the limitations of the planning instrument that has been designed to cover the majority of circumstances. There will always be an exception to the rule, hence the need for Schedule 1 amendments.

The site is located on the southern edge of the Burradoo urban area.

It adjoins residential zoned land, with the dwelling situated upon the Elizabeth Street property being indistinguishable from adjoining and adjacent residential properties that are characteristic of the Burradoo locale.

Both lots have suitable existing vehicular access, one to the residential local road of Elizabeth Street and the other off Old Bong Bong Way, which is a private rural laneway shared by a small number of other rural based properties adjacent to the Bong Bong Common and overlooking the Wingecarribee River.

The two existing lots currently accommodate dwelling houses and in the case of the Old Bong Bong Way property, there are ancillary rural outbuildings.

AGENDA OF THE ORDINARY MEETING OF COUNCIL WEDNESDAY 16 AUGUST 2023

The rationale underpinning the Planning Proposal is sound. In their current configuration, neither lot is provided with the optimum rural opportunities that the zoning of the land allows. Both lots have already taken up the residential opportunity and now the key is to unlock the rural opportunity.

Through the previously submitted Scoping Report, it has generally been agreed that the two distinct uses can be optimised for both properties through the separation of the land into two new distinct properties that will improve long term management of the land. The location of dwelling houses is already established and there is no need to change that as a consequence of the Planning Proposal. There would be no change to the C3 Environmental Management zoning of the land nor to the permissible land uses within that zone, noting that dwelling houses are permissible within the C3 Environmental Management zone.

As a Development Application for subdivision would be required to give effect to the proposed realignment of boundaries, information generally submitted with a Development Application, inclusive of a plan of proposed subdivision and a bushfire assessment report, is not necessary prior to a resolution to support the Planning Proposal.

An existing fence line on the Elizabeth Street property was initially proposed as a future boundary line between the two new lots. However, as discussed previously, the use of that fence as the property boundary resulted in the Bong Bong Way lot being potentially capable of further subdivision under clause 4.6(6)(b) of WLEP 2010. It was the advice of the Wingecarribee Local Planning Panel that the size of Lot A be increased from 7,600m² to 9,300m² to overcome this potential outcome. If a future owner of the new 35 Elizabeth Street lot were amenable, it may be possible for the fence line to remain and that portion of the proposed Lot A utilised for ongoing rural activities being undertaken on proposed Lot B.



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 has not been generated out of any specific strategic planning imperatives. However, it is not detrimental to, or strategically inconsistent with, any identified long term planning outcomes for the Wingecarribee Shire.

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 an amendment to the current planning regime.

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

It is noted that a reliance on Clause 4.1 (Minimum subdivision lot size) of WLEP2010 for a two lot subdivision is not possible because the relevant development standard for the creation of new lots in a subdivision for these properties is 4 hectares. Because the land is within the E3 Environmental Management zone, the ability to vary that development standard pursuant to Clause 4.6(6) (Exceptions to development standards) of WLEP210 is also restricted.

Similarly, a boundary adjustment between the two lots could be pursued, but it cannot be achieved because of the limitations of Clause 4.2B of WLEP2010, that is set out in full below. The Clause would not allow a new lot to be created if it were to be less than 2 hectares in site area if each lot is at least 2 hectares before the subdivision. Both lots are in excess of 2 hectares.

4.2B Boundary changes between lots in certain rural, residential and environment protection zones

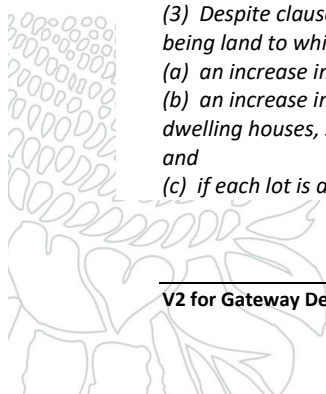
(1) The objective of this clause is to permit the boundary between 2 lots to be altered in certain circumstances, to give landowners a greater opportunity to achieve the objectives of a zone.

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

- (a) Zone RU1 Primary Production,*
- (b) Zone RU2 Rural Landscape,*
- (c) Zone RU3 Forestry,*
- (d) Zone RU4 Primary Production Small Lots,*
- (e) Zone R5 Large Lot Residential,*
- (f) Zone E2 Environmental Conservation,*
- (g) Zone E3 Environmental Management,*
- (h) Zone E4 Environmental Living.*

(3) Despite clause 4.1(3), development consent may be granted to the subdivision of 2 adjoining lots, being land to which this clause applies, if the subdivision will not result in—

- (a) an increase in the number of lots, and*
- (b) an increase in the number of dwelling houses, secondary dwellings or dual occupancies on, or dwelling houses, secondary dwellings or dual occupancies that may be erected on, any of the lots, and*
- (c) if each lot is at least 2 hectares before the subdivision—a lot that is less than 2 hectares.*



**AGENDA OF THE ORDINARY MEETING OF COUNCIL
WEDNESDAY 16 AUGUST 2023**

- (4) Before determining a development application for the subdivision of land under this clause, the consent authority must consider the following—
- (a) the existing uses and approved uses of other land in the vicinity of the subdivision,
 - (b) whether or not the subdivision is likely to have a significant impact on land uses that are likely to be preferred and the predominant land uses in the vicinity of the development,
 - (c) whether or not the subdivision is likely to be incompatible with a use referred to in paragraph (a) or (b),
 - (d) whether or not the subdivision is likely to be incompatible with a use on land in any adjoining zone,
 - (e) any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c) or (d),
 - (f) whether or not the subdivision is appropriate having regard to the natural and physical constraints affecting the land,
 - (g) whether or not the subdivision is likely to have an adverse impact on the environmental values or agricultural viability of the land.
- (5) This clause does not apply—
- (a) in relation to the subdivision of individual lots in a strata plan or a community title scheme, or
 - (b) if the subdivision would create a lot that could itself be subdivided in accordance with clause 4.1.
- Whilst the provisions of Clause 4.2B allows for boundary adjustments, in this case the outcome that is the most suitable for the land cannot be accommodated because the new 'residential' lot would be less than 2 hectares in site area. Therefore the optimum boundary adjustment would not comply with Subclause (3)(c). All other provisions of the Clause can be complied with.

A Planning Proposal is therefore considered necessary in order to allow for what is considered to be a positive land management outcome and that an 'exception to the rule' in this case would not undermine the objectives of Clause 4.2B.

The Planning Proposal reflects the most efficient way of obtaining the desired outcome while protecting and promoting all other relevant features of councils planning instruments.

As discussed with Council through the submission of the initial Scoping Report prior to the lodgement of this Planning Proposal, it is not possible to achieve the objectives and outcomes of the property owner through a Development Application, hence the need for a Planning Proposal.

Because the site is within the C3 Environmental Management zone and the Minimum Lot size maps require 4 hectares for the creation of new lots, a variation to the development standard of minimum lot sizes would fail because of the limitations of the provisions of Clause 4.6(6). Whilst the larger rural lot would be in excess of 4 hectares and therefore compliant, the smaller residential lot would be less than 90% of the 4 hectare development standard and thus outside of the discretion allowed to be exercised by Council for rural subdivisions.

If a Development Application were to be lodged now, the limitations of Clause 4.2B of WLEP2010 would be exposed because the proposed subdivision (boundary adjustment) would result in one lot that is less than 2 hectares. When neither of the two existing lots are less than 2 hectares, the Development Application would then fail the test put under Clause 4.2B (3)(c).

Therefore, the submitted Planning Proposal is clearly the best and most appropriate means of achieving both the land owner's strategic objectives and intended outcomes as well as providing Council with the ability to deal with a Development Application that will provide reasonable development.

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)?

Being a site specific proposal that is seeking to utilise the 'exceptions' clause of the WLEP2010, the Planning Proposal has little to no relevance to the South East Tablelands Regional Plan.

However, it is not inconsistent with or offensive to the broader objectives of that Plan.

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

Council's Local Strategic Planning Statement (Wingecarribee 2040) has no direct relevance to this matter.

The Statement sets eighteen (18) broad planning priorities across following land use themes:

- Environment
- Rural lands
- Economy
- Housing
- Infrastructure
- Places

The land use themes that have some alignment with this Planning Proposal would be rural lands and housing.

None of the specific Planning Priorities identified have any direct impact upon the site other than the positive benefit of amalgamating two smaller rural areas into one larger area that will have a greater capacity to be utilised for rural activity. There will be no impact on housing development.

The Planning Proposal and the resultant development would have no impact upon any of the stated Planning Priorities. For each Planning Priority there is a set of Actions that could be undertaken either by Government, business or private land owners.

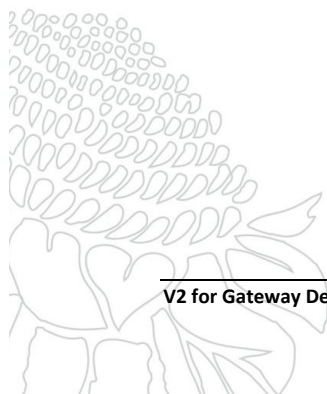
The Planning Proposal has no particular relevance in the context of the Local Housing Strategy. Single dwellings already exists on each of the lots and the Planning Proposal does not seek to change this.

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?

SEPP (Housing) 2021	<i>The intent of this SEPP is to deliver a sufficient supply of safe, diverse and affordable housing</i>
https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0714	
<p>Assessment – Consistent</p> <p><i>The principles of this Policy are:</i></p> <ul style="list-style-type: none"> <i>(a) enabling the development of diverse housing types, including purpose-built rental housing,</i> <i>(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,</i> <i>(c) ensuring new housing development provides residents with a reasonable level of amenity,</i> <i>(d) promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services,</i> <i>(e) minimising adverse climate and environmental impacts of new housing development,</i> <i>(f) reinforcing the importance of designing housing in a way that reflects and enhances its locality,</i> <i>(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,</i> <i>(h) mitigating the loss of existing affordable rental housing.</i> <p>This Policy provides a planning framework for the assessment of various residential development types.</p> <p>The subject land is zoned C3 Environmental Management and this zone already allows for limited residential opportunities. Dwelling houses are permissible with consent.</p> <p>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 will have no impact upon the fact that both lots (existing and proposed) will continue to accommodate a single dwelling.</p>	



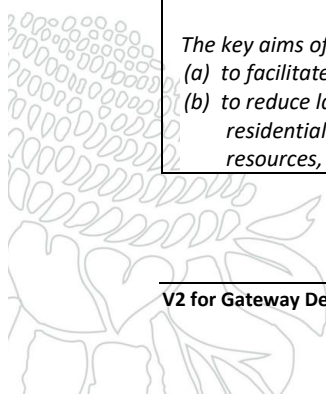
**AGENDA OF THE ORDINARY MEETING OF COUNCIL
WEDNESDAY 16 AUGUST 2023**

SEPP (Transport and Infrastructure) 2021	<i>The intent of this SEPP is to provide well-designed and located transport and infrastructure integrated with land use</i> https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0732
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Assessment – Not inconsistent
<p><i>The key intentions of this SEPP include:</i></p> <ul style="list-style-type: none"> <i>(a) improving regulatory certainty and efficiency through a consistent planning regime for infrastructure and the provision of services, and</i> <i>(b) providing greater flexibility in the location of infrastructure and service facilities, and</i> <i>(c) allowing for the efficient development, redevelopment or disposal of surplus government owned land, and</i> <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> <i>(e) identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and</i> <i>(f) providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing, and</i> <i>(g) providing opportunities for infrastructure to demonstrate good design outcomes.</i> <p>The Planning Proposal is not inconsistent with this SEPP that contains planning provisions for:</p> <ul style="list-style-type: none"> • infrastructure in NSW, such as hospitals, roads, railways, air transport facilities, emergency services, water supply and electricity delivery. • for child-care centres, schools, TAFEs and Universities • planning controls and reserves land for the protection of three corridors (North South Rail Line, South West Rail Link extension and Western Sydney Freight Line) • the land use planning and assessment framework for appropriate development at Port Kembla, Port Botany and Port of Newcastle. <p>This proposal does not propose or impact on any of the land uses that are outlined in this State Policy. It is not of a scale that would have any impact upon any infrastructure.</p>

SEPP (Primary Production)	<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> https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0729
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Assessment – Consistent
<p><i>The key aims of this SEPP are:</i></p> <ul style="list-style-type: none"> <i>(a) to facilitate the orderly economic use and development of lands for primary production,</i> <i>(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,</i>



**AGENDA OF THE ORDINARY MEETING OF COUNCIL
WEDNESDAY 16 AUGUST 2023**

- (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 is considered consistent with this SEPP, because the Planning Proposal will have no adverse impact upon any primary production, either existing or potential, on the land or on any adjoining land. By allowing the amalgamation of some rural land into one larger holding rather than two smaller holdings, it is far more likely that the land can be utilised for a viable rural purpose.

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:

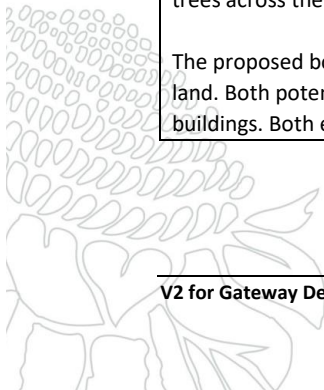
- (a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and
- (b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

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 considered consistent with this SEPP because it will have no significant impact upon any biodiversity values of the land.

It is noted that the Biodiversity Values Maps prepared by the Department of Environment and Heritage and found on the NSW Planning Portal, have recently been amended to highlight existing trees across the site.

The proposed boundary adjustment would not result in any impacts to any vegetation upon the land. Both potential new lots will accommodate existing dwelling houses and other ancillary buildings. Both existing dwelling houses already are serviced by appropriate driveway access.



**AGENDA OF THE ORDINARY MEETING OF COUNCIL
WEDNESDAY 16 AUGUST 2023**

There would be no work involved to facilitate a boundary adjustment. There would be no impact upon any critical habitats, threatened species, populations or communities.

The boundary adjustment itself will have no physical impacts as no work is required to give effect to the boundary adjustment. Potential environmental impacts that could arise as a consequence of the Planning Proposal are limited to those associated with future development on the land that would be limited to residential improvements on the smaller residential lot and permissible agricultural uses on the larger rural lot.

SEPP (Resilience and Hazards) 2021	<i>The intent of this SEPP is to manage risks and building resilience in the face of hazards</i> https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0730
<p>Assessment – Not Inconsistent</p> <p>The provisions of Chapter 3 (Hazardous and Offensive Development) and Chapter 4 (Remediation of Land) SEPP are the only parts of this SEPP applicable to Wingecarribee Shire.</p> <p>This SEPP contains planning provisions:</p> <ul style="list-style-type: none"> • for land use planning within the coastal zone, in a manner consistent with the objects of the Coastal Management Act 2016. • to manage hazardous and offensive development. • which provides a state-wide planning framework for the remediation of contaminated land and to minimise the risk of harm <p>This proposal does not propose or impact on any of the land uses outlined in this SEPP.</p> <p>The subject site has no history of contaminating land uses.</p>	

SEPP (Industry and Employment) 2021 –	<i>The intent of this SEPP is to grow a competitive and resilient economy that is adaptive, innovative and delivers jobs</i> https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0723
<p>Assessment – Not Inconsistent</p> <p>This proposal does not propose or impact on any of the land uses outlined in this SEPP.</p>	



**AGENDA OF THE ORDINARY MEETING OF COUNCIL
WEDNESDAY 16 AUGUST 2023**

SEPP (Resources and Energy) 2021	<p><i>The intent of this SEPP is to promote the sustainable use of NSW's resources and transitioning to renewable energy</i></p> <p>https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0731</p>
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Assessment – Consistent
The provisions of Chapter 2 (Mining, petroleum production & extractive industries) are the only part of this SEPP applicable to land in Wingecarribee Shire.

The Planning Proposal is considered consistent with this SEPP that contains planning provisions:

- for the assessment and development of mining, petroleum production and extractive material resource proposals in NSW.
- which aim to facilitate the development of extractive resources in proximity to the population of the Sydney Metropolitan Area by identifying land which contains extractive material of regional significance.

This proposal does not propose or impact on any of the land uses outlined in this SEPP.

SEPP (Planning Systems) 2021	<p><i>The intent of this SEPP is to provide a strategic and inclusive planning system for the community & the environment</i></p> <p>https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0724</p>
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Assessment – Consistent

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.

SEPP (Regional Precincts) 2021	<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>https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0727</p>
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Assessment – Consistent

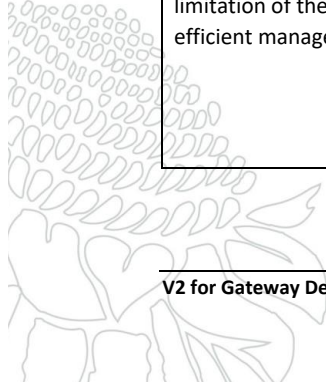
The only provisions of this SEPP which apply to Wingecarribee Shire relate to the Southern Highlands Regional Shooting Complex and is therefore not relevant to this Planning Proposal.



**AGENDA OF THE ORDINARY MEETING OF COUNCIL
WEDNESDAY 16 AUGUST 2023**

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

Focus Area 1 Planning Systems	<i>The intent of this Focus Area is to support the broader NSW planning framework, including its processes and collaborative approaches to strategic and land use planning and decision making. They seek to achieve long-term, evidence-based, strategically led planning that is inclusive, democratic, responsive to the community and the environment, and ensures decisions are transparent and prompt.</i>
1.1 Implementation of Regional Plans	
<p>Assessment – Consistent <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>	
1.2 Development of Aboriginal Land Council land	
<p>Assessment – Consistent <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	
<p>Assessment – Consistent <i>The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.</i></p> <p>The purpose of the Planning Proposal is to ensure that a future Development Application for the subdivision (boundary adjustment) between Lot 10 DP718888 and Lot 3 DP804385 can be lodged, assessed and be capable of being approved, within the provisions of the WLEP2010.</p> <p>Currently, a boundary adjustment resulting in one of the lots being less than 2 hectares in site area cannot be dealt with by Council under the provisions of Clause 4.1, Clause 4.2B and Clause 4.6(6) of WLEP2010.</p> <p>Through a positive response to the initial Scoping Report, it is agreed between Council and the proponent that the lodgement of this Planning Proposal is the prudent pathway to avoid the limitation of the relevant Clauses of WLEP2010 and to achieve the desired outcome of a more efficient management of the two existing lots.</p>	

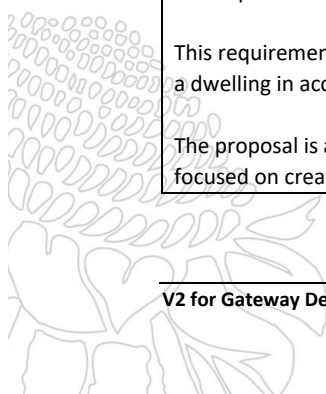


**AGENDA OF THE ORDINARY MEETING OF COUNCIL
WEDNESDAY 16 AUGUST 2023**

1.4 Site Specific Provisions	
Assessment – Consistent	
<i>The objective of this Direction is to discourage unnecessarily restrictive site-specific planning controls.</i>	
The Planning Proposal is site specific but it does not contain any unnecessarily restrictive site specific planning controls.	
The sole purpose of the Planning Proposal is to ensure that it is possible for a Development Application to come forward to adjust the boundaries between the two subject lots.	
1.5 – 1.22 – Planning Systems Place Based	
Assessment – Consistent	
None of these place-based Directions apply to Wingecarribee Shire.	

Focus Area 2 Design & Place	<i>The intent of this Focus Area is to establish quality design approaches for new development, public spaces and the environment. They promote the design of places that are healthy, sustainable, prosperous, and supportive of people, the community and Country.</i>
<i>NB: This Focus Area is not included in the current Ministerial Directions.</i>	

Focus Area 3 Biodiversity & Conservation	<i>The intent of this Focus Area is to recognise the fundamental importance of protecting, conserving and managing NSW’s natural environment and heritage. They help balance the needs of built and natural environments, respecting both the innate and economic value of the state’s biodiversity and natural assets.</i>
3.1 Conservation Zones (previously 2.1 Environment Protection Zones)	
Assessment – Consistent	
<i>The objective of this Direction is to protect and conserve environmentally sensitive areas.</i>	
It is noted that the C3 Environmental Management zone is not an environment protection zone.	
A Planning Proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas. A planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land).	
This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with clause (5) of Direction 1.5 “Rural Lands”.	
The proposal is aimed at facilitating a boundary adjustment between two existing lots and is not focused on creating development options that do not already exist.	



Dwelling houses are a permissible use within the C3 Environmental Management zone and this fact is not altered by the Planning Proposal because both lots already accommodate a dwelling house.

A boundary adjustment between the two existing lots will have no adverse impact upon the land because it can be achieved without any work and without any change to the physical characteristics of existing development on the land.

Any subsequent development on either of the lots can be assessed for their suitability on the site to ensure development proceeds without adverse impact to any identified native vegetation areas.

3.2 Heritage Conservation

Assessment – Not Inconsistent

The objective of this Direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.

The Planning Proposal is not inconsistent with this Direction because the boundary adjustment will not alter the lands physical features or the lands place within the Burradoo Landscape Conservation Area.

3.3 Sydney Drinking Water Catchments

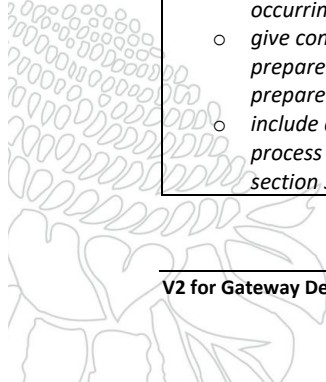
Assessment – Consistent

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:

- (a) new development within the Sydney drinking water catchment must have a neutral or beneficial effect on water quality (including groundwater), and*
- (b) future land use in the Sydney drinking water catchment should be matched to land and water capability, and*
- (c) the ecological values of land within a Special Area should be maintained.*

The Direction also requires that, when preparing a Planning Proposal, Council must:

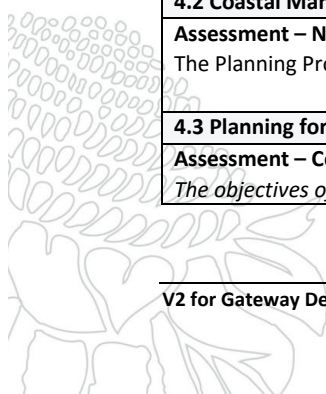
- o consult with WaterNSW, describing the means by which the planning proposal gives effect to the water quality protection principles of this direction, and*
- o ensure that the proposal is consistent with Part 6.5 of Chapter 6 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021, and*
- o identify any existing water quality (including groundwater) risks to any waterway occurring on, or adjacent to the site, and*
- o 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*
- o 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.*



**AGENDA OF THE ORDINARY MEETING OF COUNCIL
WEDNESDAY 16 AUGUST 2023**

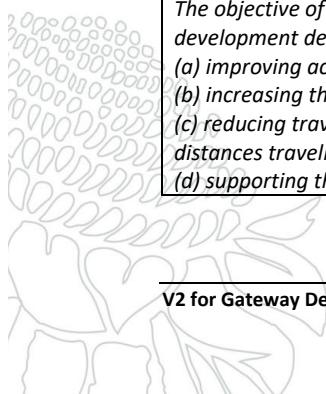
<p>Consultation with WaterNSW can occur prior to submission of the Planning Proposal for a Gateway Determination, however, it is considered consistent with this Direction because the objective of this Direction is to give effect to protect water quality in the Sydney Drinking Water Catchment.</p> <p>The proposed Planning Proposal will not increase the number of dwellings that could be developed on the land.</p> <p>In terms of water quality issues, there is nothing different between the subject land and adjoining residential sites. All of these sites have successfully managed water quality issues without incident or the need for any specific requirements over or above standard Council conditions.</p>
<p>3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs</p> <p>Assessment – Consistent <i>This Direction is not applicable to Wingecarribee Shire.</i></p>
<p>3.5 Recreation Vehicle Areas</p> <p>Assessment – Consistent <i>The objective of this Direction is to protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.</i></p> <p>This Direction does not apply to this Planning Proposal.</p>

<p>Focus Area 4 Resilience & Hazards</p>	<p><i>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.</i></p>
<p>4.1 Flooding</p> <p>Assessment – Consistent <i>The objectives of this Direction are to:</i> <i>(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</i> <i>(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.</i></p> <p>The Planning Proposal does not relate to flood prone land.</p>	
<p>4.2 Coastal Management</p> <p>Assessment – Not Inconsistent -<i>This Direction is not applicable to Wingecarribee Shire.</i> The Planning Proposal does not relate to coastal land.</p>	
<p>4.3 Planning for Bushfire Protection (previously 4.4)</p> <p>Assessment – Consistent <i>The objectives of this Direction are to:</i></p>	



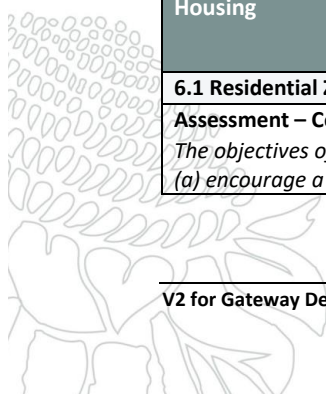
<p>(a) protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and (b) encourage sound management of bush fire prone areas.</p> <p>The Planning Proposal is considered consistent with this Direction because it does not increase the level of risk from bushfire. Any future application for a subdivision (boundary adjustment) of the land will be supported by a bushfire assessment report in order to secure the necessary Bushfire Safety Authority pursuant to Section 100B of the <i>Rural Fires Act 1997</i>.</p>
<p>4.4 Remediation of Contaminated Land</p> <p>Assessment – Consistent <i>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.</i></p> <p>The Planning Proposal is considered consistent with this Direction because it does not impact the objectives of this Direction. There is no site history to suggest that the location of any new dwelling has been subject to potentially contaminating land uses</p>
<p>4.5 Acid Sulphate Soils</p> <p>Assessment – Consistent <i>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.</i></p> <p>There currently appear to be no mapped acid sulphate soils in Wingecarribee Shire.</p>
<p>4.6 Mine Subsidence & Unstable Land</p> <p>Assessment – Consistent <i>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.</i></p> <p>The Planning Proposal is considered consistent with this Direction because it does not impact the objectives of this Direction. The land is not a mine subsidence area.</p>

<p>Focus Area 5 Transport & Infrastructure</p>	<p><i>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.</i></p>
<p>5.1 Integrating Land Use and Transport</p> <p>Assessment – Consistent <i>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:</i> (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</p>	



<p><i>(e) providing for the efficient movement of freight.</i></p> <p>The Planning Proposal is considered consistent with this Direction because it will have no impact upon any transport infrastructure or transport usage patterns</p>
<p>5.2 Reserving Land for Public Purposes</p> <p>Assessment – Consistent</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 involve any public purposes</p>
<p>5.3 Development Near Regulated Airports and Defence Airfields</p> <p>Assessment – Not inconsistent</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 does not involve any land associated with regulated airports or defence airfields.</p>
<p>5.4 Shooting Ranges</p> <p>Assessment – Consistent</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 does not involve any land associated with a shooting range.</p>

<p>Focus Area 6 Housing</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>
<p>6.1 Residential Zones</p> <p>Assessment – Consistent</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</i></p>	



**AGENDA OF THE ORDINARY MEETING OF COUNCIL
WEDNESDAY 16 AUGUST 2023**

needs,
 (b) make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and
 (c) minimise the impact of residential development on the environment and resource lands.

The Planning Proposal is considered consistent with this Direction because it makes efficient use of existing infrastructure and will have no impact upon the environment

6.2 Caravan Parks and Manufactured Home Estates

Assessment – NA
 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 does not involve the opportunity for caravan park or manufactured homes

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

Assessment – NA
 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 does not involve land within a business or industrial zone.

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

Assessment – NA
 Not applicable to Wingecarribee Shire.

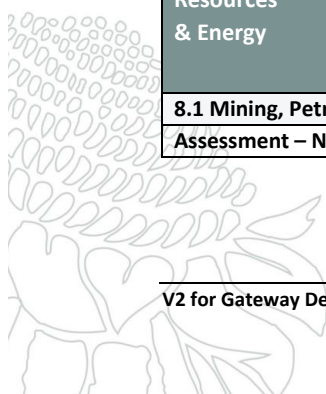
7.3 Commercial and Retail Development along the Pacific Highway, North Coast

Assessment – NA
 Not applicable to Wingecarribee Shire.

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

Assessment – NA



**AGENDA OF THE ORDINARY MEETING OF COUNCIL
WEDNESDAY 16 AUGUST 2023**

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.

The Planning Proposal does not involve mining, petroleum or extractive industry.

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

Assessment – Consistent

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.

The Planning Proposal does not seek to rezone rural land, but to does seek to allow a rearrangement of property boundaries that can assist in the efficient use of land with rural capacity.

9.2 Rural Lands

Assessment – Consistent

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:

- (a) protect the agricultural production value of rural land,*
- (b) facilitate the orderly and economic use and development of rural lands for rural and related purposes,*
- (c) assist in the proper management, development and protection of rural lands to promote the social, economic and environmental welfare of the State,*
- (d) minimise the potential for land fragmentation and land use conflict in rural areas, particularly between residential and other rural land uses,*
- (e) encourage sustainable land use practices and ensure the ongoing viability of agriculture on rural land,*
- (f) support the delivery of the actions outlined in the NSW Right to Farm Policy.*

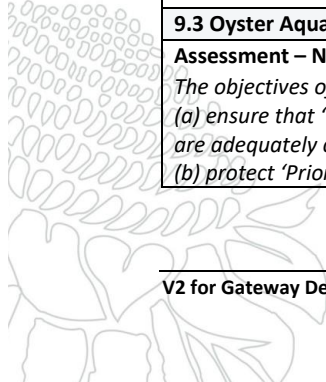
The Planning Proposal is considered consistent with this Direction because it will allow an amalgamation of two small existing rural land parcels into one larger single parcel that will improve the ability of the land to be used effectively for rural purposes.

9.3 Oyster Aquaculture

Assessment – NA

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.

There are no 'Priority Oyster Aquaculture Areas' in Wingecarribee Shire.

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

Assessment – NA

This Direction 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.

It is noted that the Biodiversity Values Maps prepared by the Department of Environment and Heritage and found on the NSW Planning Portal, have recently been amended to highlight existing trees across the site. Refer to Figure 23.

The proposed boundary adjustment would not result in any impacts to any existing vegetation. Both existing lots already accommodate dwelling houses and ancillary structures and the creation of potential new lots will not change this. Both existing dwelling houses already are serviced by appropriate driveway access. There would be no work involved to facilitate a boundary adjustment. There would be no impact upon any critical habitats, threatened species, populations or communities.

This contention can be further examined through the Development Application process that can be run concurrently under the provisions of Division 3.5 of the Act.

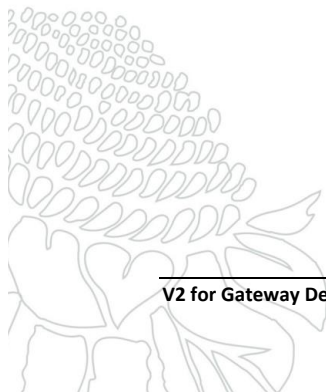




Figure 23: Extract from NSW Planning Portal Biodiversity Values map

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

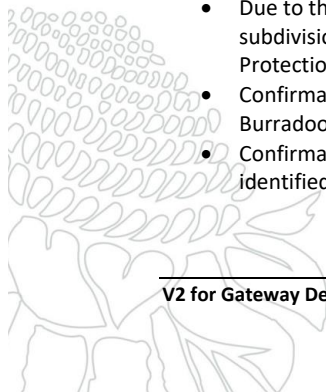
As noted above, both proposed lots resulting from a boundary adjustment will be designed to accommodate the existing dwelling houses - one on a smaller residential lot characteristic of large lot residential development across Burradoo and one larger lot that will be more efficient from a rural land perspective.

Impacts arising from future development of new lots generally relate to locating and constructing a dwelling house. In this case both lots already have established dwelling houses.

In support of a subsequent Development Application for a boundary adjustment, all of the relevant issues can be examined. This could include bushfire and a review of site vegetation.

Environmental considerations for the Development Application could include:

- Confirmation of servicing for each new lot - including water, wastewater, stormwater, and utilities nothing that there does not need to be any change to the existing arrangements
- Due to the land being identified as bushfire prone land, confirmation that any future subdivision (boundary adjustment), can comply with the provisions of Planning for Bushfire Protection 2019
- Confirmation that the new boundary alignments will not adversely impact upon the Burradoo Landscape Conservation Area
- Confirmation that the new boundary alignments will not adversely impact upon the areas identified upon the Biodiversity Values Maps



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

It is considered that the Planning Proposal is site specific and impacts do not extend outside of the site. Nor do they extend to any other member of the community, either individual or group.

In terms of economic impacts, these can be considered to be positive for the proponent. It will allow the land owner to more efficiently manage their land assets in a way that is consistent with and complementary to the one objectives and the characteristics of the land.

Section D – Infrastructure (Local, State & Commonwealth)

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

Yes there is adequate infrastructure. The Planning Proposal will not give rise to any specific increase in demand for any public infrastructure because both lots already have dwellings in place and the boundary adjustment will not lead to any increase in the demand on services.

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?

In this case, no government agencies have yet been consulted.

The proposed subdivision (boundary adjustment) of the two existing lots that would be facilitated by this Planning Proposal, would need to be referred to relevant authorities in accordance with a Gateway Determination.

Any future Development Application would be supported by appropriate reports such as bushfire and ecology.

Therefore, it has not been considered necessary to consult with any government agencies prior to the lodgement of the Planning Proposal.



Part 4 - Maps

All existing and proposed mapping will be submitted to the Department by Council.

Part 5 - Community Consultation

Community consultation will be undertaken in accordance with the Gateway Determination.

Part 6 - Project Timeline

To be completed if the Planning Proposal progresses.

MILESTONE	INDICATIVE /ACTUAL DATE
Gateway Determination	
Agency Consultation	
Public Exhibition	
Drafting Request	
Notification Request & approximate completion date	

END OF PLANNING PROPOSAL

