



IRF23/2893

Gateway determination report – PP 2023-2084

Include land at 35 Elizabeth Street and 4 Old Bong Bong Way, Burradoo within Schedule 1 to enable a boundary adjustment.

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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

Council Report Dated 16 August 2023

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Wingecarribee Shire Council
PPA	Wingecarribee Shire Council
NAME	Include land at 35 Elizabeth Street and 4 Old Bong Bong Way, Burradoo in Schedule 1 to enable a boundary adjustment
NUMBER	PP-2023-2084
LEP TO BE AMENDED	Wingecarribee LEP 2010
ADDRESS	35 Elizabeth Street and Old Bong Bong Way, Burradoo
DESCRIPTION	Lot 10 DP718888 at 35 Elizabeth Street, and Lot 3 DP804385 at 4 Old Bong Bong Way, Burradoo
RECEIVED	30/10/2023
FILE NO.	IRF23/ 2893
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 objectives of the planning proposal are to:

- Include the subject land in Schedule 1 Additional Permitted Uses of Wingecarribee Local Environmental Plan (WLEP) 2010 with the intent to facilitate the subdivision (Boundary adjustment) of the two lots, to create two lots with an amended lot size for each lot.
- The intent of the boundary change is to better align each new lot with its site characteristics and capacities while providing a more productive agricultural lot. There are no proposed new dwellings.

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of 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 planning proposal seeks to amend the Wingecarribee LEP 2010 per the changes below:

Table 3 Current and proposed controls

Control	Current	Proposed
Zone	C3 Environmental Management	C3 Environmental Management, add both lots to Schedule 1.
Minimum lot size	MLS 4ha	Amend the lot boundaries so that Lot A would be rural residential in character with an area of approx. 9,300m ² .
Lot A	Lot 10- 4.16 ha	Lot 3 Bong Bong Way (Lot B) would have the remainder of the land.
Lot B	Lot 3 - 4.27 ha	

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved. The planning proposal will require mapping the subject lots in the Schedule 1 map which forms part of WLEP 2010.

1.4 Site description and surrounding area

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. Both sites have dwelling houses with other ancillary structures. The subject lots share a common boundary of 250 metres along the western Boundary of Lot 3 and the Eastern Boundary of Lot 10.

The subject land comprises two adjoining parcels in the same ownership. Lot 10 DP 718888, 35 Elizabeth Street, Burradoo (Lot A), and Lot 3 DP 804385 4 Old Bong Bong Road, Burradoo (Lot B). Both lots are zoned C3 Environmental Management with a minimum lot size of 4ha.

Lot A comprises an area of 4.16 ha and Lot B an area of some 4.27 ha, totalling 8.43 hectares. The northern boundary of Lot A is at the intersection of the R5 Large Lot Residential boundary and the C3 Environmental Management zone.

All of the subject land is within the Burradoo Landscape Conservation Area. Much of Lot A is utilised for passive agricultural purposes, with the buildings related to the agricultural use located in Lot B. The Boundary adjustment will provide for the buildings related to the agricultural use to be located in the larger Lot B on Bong Bong Way.



Figure 1 Subject site (source: Six maps)

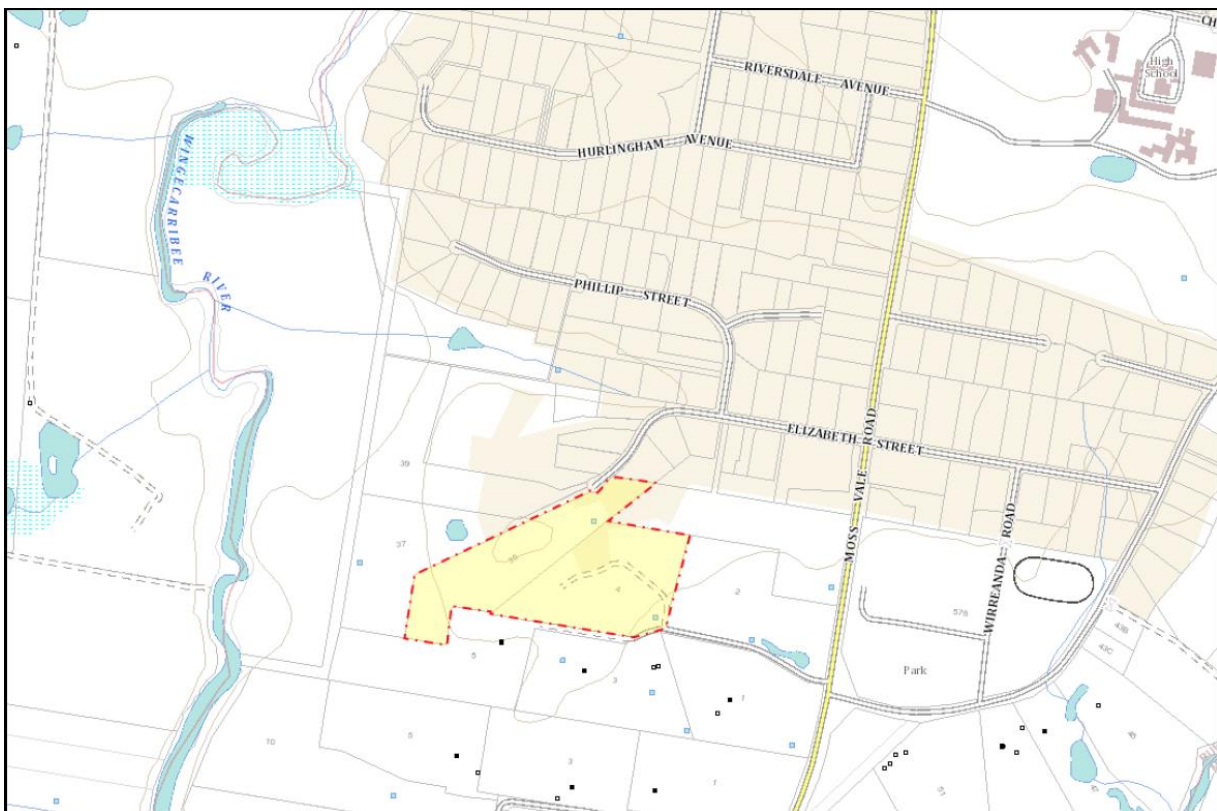


Figure 2 Site context (source: Six Maps)

1.5 Mapping

The planning proposal includes an addition to the Schedule 1 map to indicate the proposed change to the boundary between the two lots. There are no proposed amendments to the zone, or the 4 ha minimum lot size of the subject lots.

Council resolved to amend the original planning proposal to reflect the advice of the Wingecarribee Local Planning Panel (July 2023) to ensure that the proposal does not allow an additional dwelling.

The maps are suitable for community consultation.

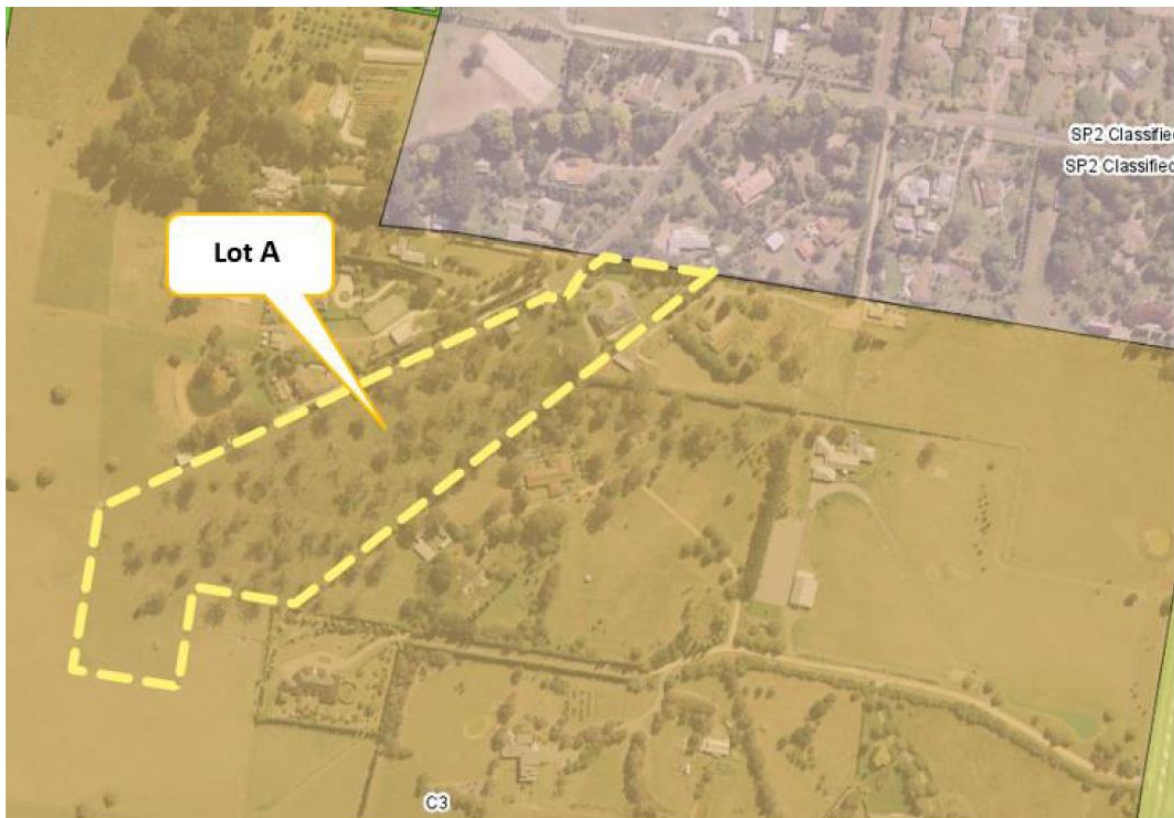


Figure 3 Current lot A- 35 Elizabeth Street, Burradoo- Source NSW Planning Portal

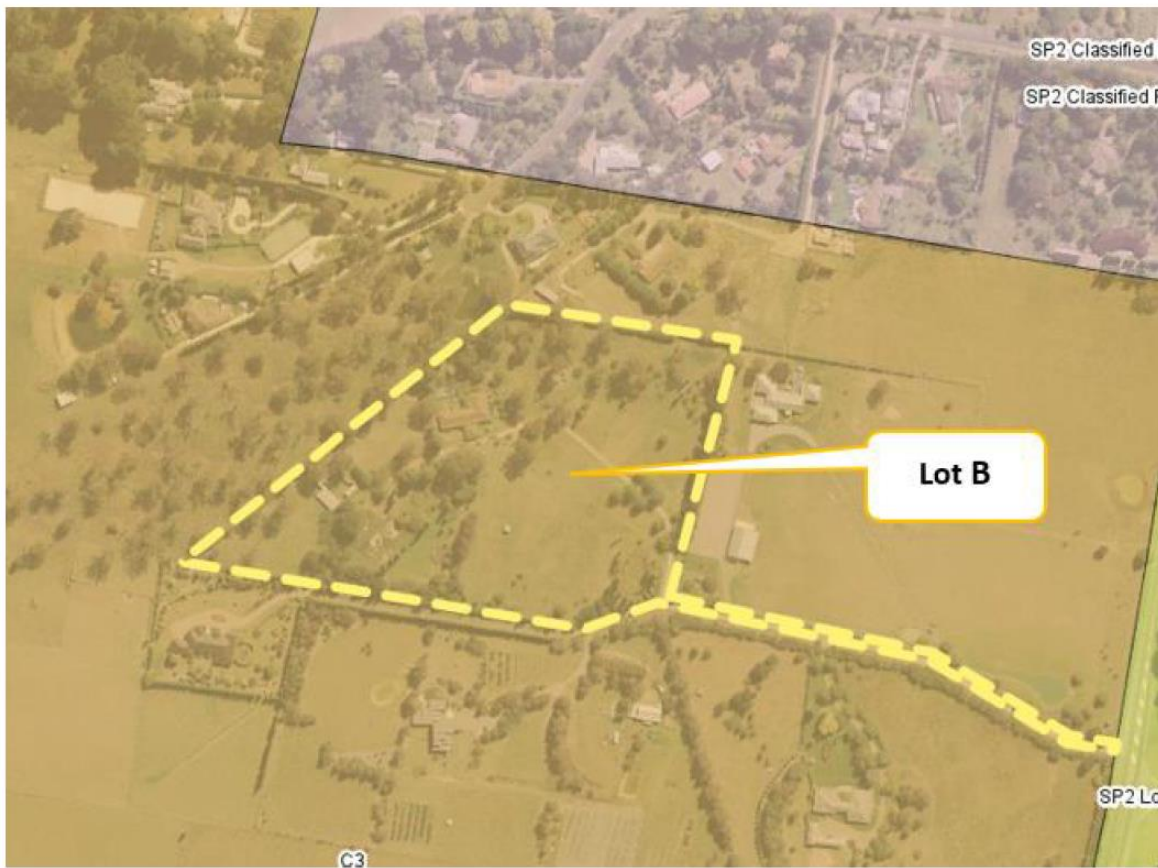


Figure 4 Current lot B- 4 Old Bong Bong Way, Burradoo- Source NSW Planning Portal



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



Figure 6 Current Minimum Lot A size- 4 Hectares- Source NSW Planning Portal



Figure 7 Current Minimum Lot size B- 4 Hectares- Source NSW Planning Portal



Figure 8-Potential smaller 'residential' lot for 35 Elizabeth Street, Burradoo



Figure 9 Potential 'rural residential' lot for 4 Bong Bong Way, Burradoo of approximately 9.3 hectares

1.6 Background

The first iteration of the planning proposal submitted to Council was amended to reflect the advice of the local Planning Panel and is identified as **Planning Proposal v2**. This was done to specifically ensure that the amended boundaries of both lots did not provide for an additional dwelling entitlement on either lot.

Figures 8 and 9 identify the proposed boundary changes arising out of the Planning Panels' advice.

'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.' (Page 15, Planning Proposal V2).

2 Need for the planning proposal

The planning proposal provides for the subdivision through a boundary adjustment of the subject lots, without amending the C3 Environmental Management Zone, or the 4ha minimum lot size, and also providing for the agricultural structures to be located on the Bong Bong Way Lot B. This is the most efficient means to provide for the consolidation of the agricultural uses on one lot (B), while providing for the lot on Elizabeth Street to retain its rural residential qualities, appropriate to the surrounding R5 Large Lot dwellings.

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 WLEP 2010. 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 at present but proposed Lot A would be beneath 2 hectares in area.

While the planning proposal is not a result of any strategic studies, plans or directions, it provides for a modest change utilising the flexibility provided by the use of Schedule 1 Additional Permitted Use.

3 Strategic assessment

3.1 Regional Plan

Being a site specific proposal that is seeking to utilise the 'exceptions' clause of the Wingecarribee LEP 2010, (WLEP) the planning proposal is not of a type that has been influenced by any strategic plans, nor does it have significant strategic implications.

However, the planning proposal is not inconsistent with the broader objectives of the South East and Tablelands Regional Plan 2036, and the draft South East and Tablelands Regional Plan 2041.

The planning proposal is considered to have strategic merit in so far as its primary intention is consistent with several key objectives of the Environmental Planning and Assessment Act 1979 being:

- (c) to promote the orderly and economic use 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.

3.2 Local

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.

There will be no impact on the provision of housing or the planning priorities in general, other than for providing for the better alignment and use of the two subject lots of the boundary adjustment. Neither does the planning proposal have a direct impact on the Local Housing Strategy given that single dwelling houses already exist on each subject lot.

3.3 Local planning panel (LPP) recommendation

The planning proposal was referred to the Local Planning Panel, who identified that although the property owner has stated that they have no intention of seeking additional dwellings on the site, the Panel resolved to amend the original planning proposal to include a change to ensure that no future dwellings could be approved on either lot.

The Panel provided the following advice:

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.

3.4 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

Table 7 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.1 Implementation of Regional Plans	Consistent	The planning proposal is a reflection of the circumstance of the subject lots and their location.
1.3 Approval and Referral requirements	Consistent	The planning proposal enables a future DA for a boundary adjustment to be undertaken.
3.2 Heritage Conservation	Consistent	The boundary adjustment does not alter the physical features of each subject lot or the lands within the Burradoo Landscape Conservation Area.
6.1 Residential Zones	Consistent	The planning proposal is considered consistent because it makes efficient use of the existing infrastructure and will have no impact on the environment.
9.1 Rural Zones	Consistent	The planning proposal does not seek to rezone rural land but does seek to make for efficient use of land with rural capacity.
9.2 Rural Lands.	Consistent	The planning proposal is considered to be consistent with this Direction as it will allow an amalgamation of two small rural land parcels into one larger parcel, providing for a more efficient rural use of the land.

3.5 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs as discussed in the table below.

Table 8 Assessment of planning proposal against relevant SEPPs

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
SEPP Housing (2021)	Intent is to deliver a sufficient supply of safe, diverse and affordable housing.	Yes	No change in the number of houses (2) currently on each lot.
SEPP (Transport and Infrastructure)	To provide well designed and located transport and infrastructure.	Yes	The planning proposal will have no impact on the existing or future transport and infrastructure.

SEPP Primary Production	Support and protect the productivity of important agricultural lands.	Yes	The planning proposal will make the lot on Bong Bong Way more useable for small scale agriculture.
SEPP Biodiversity and Conservation (2021)	Preserve, conserve and Manage NSWs natural environment and heritage	Yes	Does not impact on the Burradoo Landscape Conservation Zone which protects the rural and landscape character of the area.
SEPP Resources and Energy (2021)	Promotes the sustainable use of NSWs resources and transitioning to renewable energy	Yes	The proposal does not affect or impact any of the land uses outlined in the SEPP.

4 Site-specific assessment

4.1 Environmental, social and economic

The purpose of the planning proposal is to facilitate a subdivision by way of a boundary adjustment between two existing lots. The proposed boundary adjustment will have no impacts on any vegetation, both lots already have dwelling houses and ancillary structures relevant to the existing small scale rural use. There is no construction or groundworks required, and no impact on critical habitats, existing vegetation, threatened species, populations or communities.

The planning proposal will not impact on surrounding dwellings, will not impact on roads or other transport facilities, and will not have a visual impact on the surrounding area. There are no additional utilities required. The function of each new lot will be more efficient from a small scale farming perspective, and no new dwellings will be possible. There are no works or other activities that may have a negative impact on the Burradoo Landscape Conservation Area

5 Consultation

5.1 Community

Council proposes a community consultation period of 28 days.

The exhibition period proposed is considered appropriate , and forms to the conditions of the Gateway determination.

5.2 Agencies

The proposal does not specifically raise which agencies will be consulted. Due to the nature of the proposal no agency consultation is required.

6 Timeframe

Council proposes a 12 month time frame to complete the LEP.

The LEP Plan Making Guidelines (August 2023) establishes maximum benchmark timeframes for planning proposal by category. This planning proposal is categorised as a standard

The Department recommends an LEP completion date of 11 November 2024 in line with its commitment to reducing processing times and with regard to the benchmark timeframes. A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

As the planning proposal is consistent with the requirements of the Act, and there are no inconsistencies with SEPPs and s 9.1 Ministerial Directions, the Department recommends that Council be authorised to be the local plan-making authority for this proposal.

8 Assessment summary

The planning proposal is supported to proceed as it will result in the efficient use of an existing rural lot, without negative environmental, social or economic impact on the local community or the Burradoo Landscape Conservation Area.

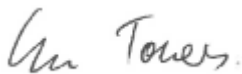
9 Recommendation

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

The following conditions are recommended to be included on the Gateway determination:

1. The planning proposal should be made available for community consultation for a minimum of 20 working days.

Given the nature of the planning proposal, it is recommended that the Gateway authorise council to be the local plan-making authority and that an LEP completion date of 11 November 2024 be included on the Gateway.



20/11/23

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20/11/2023

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