

# Planning Proposal

to amend the provisions of Schedule 2 (exempt development) of Wingecarribee Local Environmental Plan 2010 to enable public events on bush fire prone land as exempt development

Prepared by Wingecarribee Shire Council in accordance with the Local Environmental Plan Making Guideline (August 2023)

The Planning Proposal has been categorised as *Standard*

Version 3 for Gateway Determination

25 June 2024

*We're with you*

## Introduction

### Description

To amend Schedule 2 of Wingecarribee Local Environmental Plan 2010 to enable events on public bush fire prone land as exempt development. Bush fire prone land is currently excluded from the operation of Schedule 2.

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

### Objective & Intended Outcome

The purpose of the Planning Proposal is to amend the ‘public events’ provisions of Schedule 2 of WLEP 2010 to remove subclause (c). Schedule 2 of the Wingecarribee Local Environmental Plan (WLEP) 2010, which contains exempt development provisions additional to those specified within the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*. One of these additional provisions relates to events on public land and states:

#### **Public events**

*Use of public land (including a public reserve or public road) for public events, including stalls, meetings, exhibitions, entertainment or similar community, cultural or commercial purposes—*

- (a) proposed event must be consistent with any applicable plan of management under the Local Government Act 1993 for the land,*
- (b) development must be carried out in accordance with a licence or hire agreement granted by the Council,*
- (c) must not be located on bush fire prone land.*

Because of these current provisions a Development Application (DA) is required for a proposed event on bush fire prone land.

In preparing the Planning Proposal, Council engaged with the NSW Rural Fire Service (RFS) and was advised that the removal of subclause (c) could be supported by RFS subject to inclusion of the provision that no overnight accommodation would occur and that Council also prepare a formal procedure for the closure of public assets due to bush fire risk. The draft amendment has been altered to reflect this advice and Council’s adopted *Closure of Public Facilities due to Bush fire Risk Operational Management Standard* is attached to the Planning Proposal. This document has been considered by the RFS Manager Planning & Environment Services (South) and the District Manager Southern Highlands. Each has advised Council by email that *I am satisfied with the proposed wording and have no objections*. It is also noted that formal consultation would still be undertaken as required by a Gateway Determination. Further comments from RFS are contained later in the Planning Proposal.

## Part 2 - Explanation of the Provisions

- To achieve the intended outcomes of the Planning Proposal Council is seeking to amend *Schedule 2, Exempt Development of Wingecarribee Local Environmental Plan (WLEP) 2010* as indicated below, noting the addition to subclause (b) requiring a bush fire risk assessment and evacuation plan, and the amendment to subclause (c) to replace *must not be located on bush fire prone land* with *must not involve overnight accommodation*.

### **Public events**

*Use of public land (including a public reserve or public road) for public events, including stalls, meetings, exhibitions, entertainment or similar community, cultural or commercial purposes—*

- (a) *proposed event must be consistent with any applicable plan of management under the [Local Government Act 1993](#) for the land,*
- (b) *development must be carried out in accordance with a licence or hire agreement granted by the Council, accompanied by a bush fire risk assessment and evacuation plan if located on bush fire prone land, and*
- (c) ~~*must not be located on bush fire prone land*~~
- (c) *must not involve overnight accommodation*

These proposed amendments reflect advice received from the NSW RFS as indicated above and discussed further below.

- No map amendments would result from the Planning Proposal.

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

### Strategic Merit

The current exclusion of 'bush fire prone land' (BFPL) from the exempt development provisions of Schedule 2 of WLEP 2010 results in the need for the community to prepare a Development Application in order to hold an event on Council owned land which is identified as being bush fire prone. This creates community frustration and expense and the diversion of staff resources to undertake the development assessment process.

In preparing the Planning Proposal, Council engaged with the NSW RFS with a view to amending Schedule 2 (exempt development) of the Wingecarribee Local Environmental Plan (WLEP) 2010 to remove 'bush fire prone land' from the existing provision. In response, Council was advised that *NSW RFS is prepared to consider exempting events on BFPL where the risk can be adequately mitigated, or is insignificant to the point that no bush fire protection measures would likely be required (ie small scale events)*. However, NSW RFS also advised that it would be unlikely to support an LEP amendment

that exempts any public events on BFPL that include overnight accommodation, including camping which would require a s100B approval under the *Rural Fires Act*.

This initial feedback from RFS has framed the draft wording of the proposed amendment, as follows:

### **Public events**

*Use of public land (including a public reserve or public road) for public events, including stalls, meetings, exhibitions, entertainment or similar community, cultural or commercial purposes—*

*(a) proposed event must be consistent with any applicable plan of management under the [Local Government Act 1993](#) for the land,*

*(b) development must be carried out in accordance with a licence or hire agreement granted by the Council, accompanied by a bush fire risk assessment and evacuation plan if located on bush fire prone land, and*

*(c) must not involve overnight accommodation.*





It is noted that Council already has in place mechanisms for assessing bush fire risk for public events on Council owned land through Council's online booking process. In addition, the bush fire danger status of all Council owned bush fire prone land has now been assessed and is indicated on Council's website page for each facility. There is also a link on that page to the RFS website page which indicates current fire danger ratings and fire ban status across the State. Further detail is provided later in the Planning Proposal.

The home page for each venue which can be hired includes the following statement and diagram:

*This facility may be closed depending on the current bushfire danger rating from the Rural Fire Service for the Illawarra/Shoalhaven district. Please refer to the [RFS website](#) for the current fire danger rating.*

*If you hire this facility, you must demonstrate that you have a contingency plan to relocate your event to another location in the event of increased bushfire danger.*

*Please note that the rating below overrides any general facility opening status shown due to wet weather or other conditions.*

Moderate	High	Extreme	Catastrophic
			
Open	Caution	Closed	Closed

An example of this revised procedure may be viewed using the following link to the Canyonleigh Community Hall booking page -

<https://www.wsc.nsw.gov.au/facilities/halls/canyonleigh-community-hall>

Council has also now adopted (November 2023) an Operational Management Standard for the closure of public assets due to bush fire risk. This document outlines, among other matters, the assessment of sites and the triggers for closure, summarised in a table which indicates the closure 'status' (open/caution/closed) for Council owned land on which sports fields, pools, halls and cemeteries are located, as well as bushland reserves. This matrix is based on their fire danger ratings status as published on the NSW RFS website (<https://www.rfs.nsw.gov.au/fire-information/fdr-and-tobans>). This document accompanies the Planning Proposal. It is noted that this is a 'working document' and will be regularly reviewed and updated as necessary.

The provisions of Schedule 2 relating to (a) the event being consistent with an applicable Plan of Management, and (b) being carried out in accordance with a licence or hire agreement granted by the Council will remain and, as discussed above, these procedures have been updated and enhanced to meet RFS requirements.

The proposed amendment would not remove any requirements under s138 of the *Roads Act 1993* or s68 of the *Local Government Act 1993*. Council is redrafting its events procedures in support of this Planning Proposal to ensure that the community is aware of all remaining approvals which would be required, even though a DA would not be.

The proposed amendment would appear to bring WLEP 2010 into line with other LEPs and state policies, including the new exempt provisions for agritourism.

The proposed amendment would benefit both the community and the visitor economy through enabling more opportunities for events on public owned land, enhancing community engagement and experiences and attracting visitors to the Shire with flow-on additional business opportunities.

### Site-specific Merit

The Planning Proposal is 'site specific' to the extent that it would apply to all Council owned land where public events can be held. The prime intent of the proposed amendment is to enable community events to occur in an efficient and cost-effective manner for both the community and Council while also ensuring the protection of the community and Council assets in the event of a bush fire emergency. In identifying which sites are appropriate for community hire, the qualities of each site have been considered to ensure that all sites can be safely used by the community with no adverse environmental impacts.

## Section A – Need for the Planning Proposal

### 1 - Is the Planning Proposal a result of an endorsed LSPS, strategic study or report?

The proposed amendment reflects Council's ongoing commitment to supporting community engagement and local business to build resilience and inclusion. The proposed amendment reflects increasing frustrations within the community with regard to using Council owned land for community events. Council recognises that frustration and agrees that Council owned land should be more easily

available for the community to book for events that benefit both the community and the economy while ensuring that appropriate safety measures are in place in case of adverse bush fire conditions.

Several goals of the Community Strategic Plan (CSP) align with this Planning Proposal, including seeking to achieve:

- *an inclusive community where everyone can participate in community life,*
- *a place where people want to visit, live and invest, and*
- *a supported and connected local business community.*

The basic intent of this Planning Proposal is to make it easier for communities to gather and celebrate and for businesses to build awareness and customer base. The event planning process will continue to require all necessary approvals to ensure community safety and wellbeing is not compromised, but will remove the current impediment in the form of a resource-intensive development application process.

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

The proposed amendment to the relevant exempt development provisions is considered the most effective solution to an identified problem.

## Section B – Relationship to the Strategic Planning Framework

## 3 - Will the Planning Proposal give effect to the objectives and actions of the SE & Tablelands Regional Plan (including any draft plans or strategies)?

The Proposal also aligns with several of the draft South East and Tablelands Regional Plan 2041 (the Regional Plan) Themes and Objectives including:

- Theme 1 – Recognising Country, people and place
  - Objective 3 – support diverse, vibrant and socially active communities

The Regional Plan recognises that a sense of belonging and shared values can lift and unite people. *Meeting and gathering places ... events, festivals and cultural infrastructure all enable a sense of belonging.* The Regional Plan further recognises that the NSW planning system can be utilised to respond to community needs, *ensuring flexibility that allows for adaptation, re-use and creativity.* Facilitating the use of public land for community purposes would make a significant contribution to achieving this objective.

- Theme 3 – Leveraging diverse economic identities
  - Objective 12 – Promote a year round visitor economy

Events on public land can attract a range of local businesses, from stalls and mobile food and drink outlets to representations from established business seeking to expand their client base. Businesses specialising in the provision of facilities such as marquees and portable toilets also

benefit. The proposed amendment, by facilitating such events, also facilitates opportunities for the local economy to expand and prosper.

It is concluded therefore that the Proposal offers opportunities which fully align with the draft Regional Plan.

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

The proposed amendment falls outside of the main remit of the LSPS and LHS, but is considered consistent because it seeks to facilitate the efficient management of Council's business to the benefit of the community. Serving the community as efficiently and effectively as possible underpins all Council's strategic documents and this Proposal is a good example of how this can be achieved.

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

No other state or regional studies are considered applicable.

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

##### SEPP (Housing) 2021

*The intent of this SEPP is to deliver a sufficient supply of safe, diverse and affordable housing*

<https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0714>

##### Assessment – Consistent

*The principles of this Policy are:*

- (a) enabling the development of diverse housing types, including purpose-built rental housing,*
- (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,*
- (c) ensuring new housing development provides residents with a reasonable level of amenity,*
- (d) promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services,*
- (e) minimising adverse climate and environmental impacts of new housing development,*
- (f) reinforcing the importance of designing housing in a way that reflects and enhances its locality,*
- (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,*
- (h) mitigating the loss of existing affordable rental housing.*

*The Planning Proposal is considered consistent with this SEPP because community events provide one genuine opportunity for people who are otherwise not able to socialise to do so in a way that supports the social fabric of the community.*



<b>SEPP (Transport and Infrastructure) 2021</b>	<p><i>The intent of this SEPP is to provide well-designed and located transport and infrastructure integrated with land use</i></p> <p><a href="https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0732">https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0732</a></p>
<p><b>Assessment – Consistent</b></p> <p><i>The key intentions of this SEPP include:</i></p> <ul style="list-style-type: none"> <li><i>(a) improving regulatory certainty and efficiency through a consistent planning regime for infrastructure and the provision of services, and</i></li> <li><i>(b) providing greater flexibility in the location of infrastructure and service facilities, and</i></li> <li><i>(c) allowing for the efficient development, redevelopment or disposal of surplus government owned land, and</i></li> <li><i>(d) identifying the environmental assessment category into which different types of infrastructure and services development fall (including identifying certain development of minimal environmental impact as exempt development), and</i></li> <li><i>(e) identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and</i></li> <li><i>(f) providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing, and</i></li> <li><i>(g) providing opportunities for infrastructure to demonstrate good design outcomes.</i></li> </ul> <p><i>The Planning Proposal seeks to provide increased opportunities for the community to utilise the social infrastructure of public land to engage and socialise. Therefore, the Planning Proposal is considered consistent with this SEPP.</i></p>	

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



- (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 seeks to facilitate the increased use of public land for events which have the opportunity to build awareness of and support for local businesses including local agricultural producers. The Planning Proposal is therefore considered consistent with this SEPP.*

**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 although a development application will not be required, the need to meet other requirements including assessment of any adverse impact on public land will remain. Individual sites with environmental constraints have been identified by Council and permitted activities prescribed accordingly.*

**SEPP (Resilience and Hazards) 2021**

*The intent of this SEPP is to manage risks and building resilience in the face of hazards*

<https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0730>

**Assessment – Consistent**

*The key aims of that part of the SEPP applicable to the Shire include:*

- (d) to ensure that in determining whether a development is a hazardous or offensive industry, any measures proposed to be employed to reduce the impact of the development are taken into account, and
- (e) to ensure that in considering any application to carry out potentially hazardous or offensive development, the consent authority has sufficient information to assess whether the development is hazardous or offensive and to impose conditions to reduce or minimise any adverse impact

<i>The Planning Proposal does not propose any development of a hazardous or offensive nature and, therefore, the Proposal is considered consistent with this SEPP.</i>	
<b>SEPP (Industry and Employment) 2021 –</b>	<i>The intent of this SEPP is to grow a competitive and resilient economy that is adaptive, innovative and delivers jobs</i>  <a href="https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0723">https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0723</a>
<b>Assessment – Consistent</b> <i>The provisions of Chapter 3 (Advertising &amp; Signage) are the only part of this SEPP applicable to land in Wingecarribee Shire. These provisions are not considered relevant to the Planning Proposal. Any signage associated with an event would be considered as part of the booking process for the site.</i>	
<b>SEPP (Resources and Energy) 2021</b>	<i>The intent of this SEPP is to promote the sustainable use of NSW's resources and transitioning to renewable energy</i>  <a href="https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0731">https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0731</a>
<b>Assessment – Consistent</b> <i>The provisions of Chapter 2 (Mining, petroleum production &amp; extractive industries) are the only part of this SEPP applicable to land in Wingecarribee Shire. The SEPP is not considered relevant to this Planning Proposal.</i>	
<b>SEPP (Planning Systems) 2021</b>	<i>The intent of this SEPP is to provide a strategic and inclusive planning system for the community &amp; the environment</i>  <a href="https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0724">https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0724</a>
<b>Assessment – Consistent</b> <i>The provisions of this SEPP address State significant development and land owned by an Aboriginal Land Council and are therefore not relevant to this Planning Proposal.</i>	
<b>SEPP (Regional Precincts) 2021</b>	<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>  <a href="https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0727">https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0727</a>
<b>Assessment – Consistent</b> <i>The only provisions of this SEPP which apply to Wingecarribee Shire relate to the Southern Highlands Regional Shooting Complex and is therefore not relevant to this Planning Proposal.</i>	

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

<b>Focus Area 1 Planning Systems</b>	<p><i>The intent of this Focus Area is to support the broader NSW planning framework, including its processes and collaborative approaches to strategic and land use planning and decision making. They seek to achieve long-term, evidence-based, strategically led planning that is inclusive, democratic, responsive to the community and the environment, and ensures decisions are transparent and prompt.</i></p>
<b>1.1 Implementation of Regional Plans</b>	
<p><b>Assessment – Consistent</b></p> <p><i>The objective of this Direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans. Section B3 of the Proposal considers the alignment of the Proposal with the draft South East &amp; Tablelands Regional Plan 2041.</i></p> <p><i>The Planning Proposal is considered consistent with this Direction because it seeks to facilitate the efficient management of Council’s business to the benefit of the community. Serving the community as efficiently and effectively as possible underpins all Council strategic documents and this matter is a good example of how this can be achieved.</i></p>	
<b>1.2 Development of Aboriginal Land Council land</b>	
<p><b>Assessment – Consistent</b></p> <p><i>The objective of this Direction is to provide for the consideration of development delivery plans prepared under Chapter 3 of the State Environmental Planning Policy (Planning Systems) 2021 when planning proposals are prepared by a planning proposal authority.</i></p> <p><i>The Planning Proposal is considered consistent with this Direction because the proposal applies to Council owned and managed land and does not affect any Aboriginal Land Council land.</i></p>	
<b>1.3 Approval and Referral Requirements</b>	
<p><b>Assessment – Consistent</b></p> <p><i>The objective of this Direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.</i></p> <p><i>The Planning Proposal is considered consistent with this Direction because, although removing the requirement for a Development Application, Council still requires that events be carried out in accordance with a hire agreement and that due consideration be given to certain relevant matters such as traffic and parking, and emergency procedures.</i></p>	
<b>1.4 Site Specific Provisions</b>	
<p><b>Assessment – Consistent</b></p> <p><i>The objective of this Direction is to discourage unnecessarily restrictive site-specific planning controls.</i></p>	

*The intent of the Planning Proposal is to reduce the burden on both community and the Council of unnecessarily onerous applications by replacing the DA process with appropriate but simplified procedures.*

## **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**

*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.*

*NB: This Focus Area is not included in the current Ministerial Directions.*

### **Focus Area 3 Biodiversity & Conservation**

*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.*

## **3.1 Conservation Zones (previously 2.1 Environment Protection Zones)**

### **Assessment – Consistent**

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

*The Planning Proposal is considered consistent with this Direction because the procedures which have been developed through the hiring agreement process ensure that appropriate land use activities are supported in a way that is safe for the community and advantageous to the ongoing use of Council owned land.*

## **3.2 Heritage Conservation**

### **Assessment – Consistent**

*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 considered consistent with this Direction because the procedures which have been developed through the hiring agreement process ensure that appropriate land use activities are supported in a way that enhance community benefit from land which is identified as being of heritage significance, such as Bradman Oval and Marketplace Berrima.*

## **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 Planning Proposal is considered consistent with this Direction because the proposed amendment maintains and does not alter the current uses permitted on the land or the way in which they are managed with regard to water quality. Where relevant, the booking process will require appropriate consideration of environmental protection measures.*

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

#### **Assessment – Consistent**

*This Direction is not applicable to Wingecarribee Shire.*

### **3.5 Recreation Vehicle Areas**

#### **Assessment – Consistent**

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

*The provisions of this Direction are not applicable to the Planning Proposal.*

## **Focus Area 4 Resilience & Hazards**

*The intent of this Focus Area is to improve responses to natural and development-related hazards, and climate change. They support methods to consider and reduce risk. The principles promote healthy, resilient and adaptive communities, urban areas and natural environments.*

### **4.1 Flooding**

#### **Assessment – Consistent**

*The objectives of this Direction are to:*

- (a) ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and*
- (b) ensure that the provisions of an LEP that apply to flood prone land are commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.*

*No land use changes are intended through this Planning Proposal.*

### **4.2 Coastal Management**

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

### **4.3 Planning for Bushfire Protection (previously 4.4)**

#### **Assessment – Consistent**

*The objectives of this Direction are to:*

- (a) protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and  
(b) encourage sound management of bush fire prone areas.

The Planning Proposal has been drafted in consultation with the NSW RFS which has provided in principle support for the Proposal to proceed. The RFS has indicated support for both the proposed clause amendment as well the supporting procedures in relating to the hire agreement and event management. These procedures seek to ensure that no bush fire prone Council land is used for a public event when the NSW RFS has declared it dangerous to do so.

#### 4.4 Remediation of Contaminated Land

##### **Assessment – Consistent**

The objective of this Direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.

The provisions of this Direction are not applicable to this Planning Proposal.

#### 4.5 Acid Sulphate Soils

##### **Assessment – Consistent**

The objective of this Direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils. There currently no mapped acid sulphate soils in Wingecarribee Shire.

#### 4.6 Mine Subsidence & Unstable Land

##### **Assessment – Consistent**

The objective of this Direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence. No Council owned land subject to subsidence is made available for public use.

#### **Focus Area 5 Transport & Infrastructure**

The intent of this Focus Area is to support innovative, integrated and coordinated transport and infrastructure, that is well-designed, accessible and enduring. They seek to optimise public benefit and value by planning for modern transport and infrastructure in the right location and at the right time.

#### 5.1 Integrating Land Use and Transport

##### **Assessment – Consistent**

The objective of this Direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:

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



*The Planning Proposal does not involve the provisions of this Direction.*

## **5.2 Reserving Land for Public Purposes**

### **Assessment – Consistent**

*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.*

*The Planning Proposal does not affect the intent or provisions of this Direction.*

## **5.3 Development Near Regulated Airports and Defence Airfields**

### **Assessment – Consistent**

*The objectives of this Direction are to:*

- (a) ensure the effective and safe operation of regulated airports and defence airfields;*
- (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*
- (c) ensure development, if situated on noise sensitive land, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.*

*The Planning Proposal does not affect the intent or provisions of this Direction.*

## **5.4 Shooting Ranges**

### **Assessment – Consistent**

*The objectives of this Direction are to:*

- (a) maintain appropriate levels of public safety and amenity when rezoning land adjacent to an existing shooting range,*
- (b) reduce land use conflict arising between existing shooting ranges and rezoning of adjacent land,*
- (c) identify issues that must be addressed when giving consideration to rezoning land adjacent to an existing shooting range.*

*The Planning Proposal does not affect the intent or provisions of this Direction.*

## **Focus Area 6 Housing**

*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.*

## **6.1 Residential Zones**

### **Assessment – Consistent**

*The objectives of this Direction are to:*

- (a) encourage a variety and choice of housing types to provide for existing and future housing 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 the provisions of this Direction are not applicable to this Proposal.*

## 6.2 Caravan Parks and Manufactured Home Estates

### **Assessment – Consistent**

*The objectives of this Direction are to:*

- (a) provide for a variety of housing types, and*
- (b) provide opportunities for caravan parks and manufactured home estates.*

*The Planning Proposal does not affect the intent or provisions of this Direction.*

## **Focus Area 7 Resilient Economies**

*The intent of this Focus Area is to support diverse, inclusive and productive employment opportunities across the state to make NSW more economically competitive. They promote the supply of strategic employment lands, innovative industries and centres as a focus for activity and accessibility.*

### 7.1 Business and Industrial Zones

#### **Assessment – Consistent**

*The objectives of this Direction are to:*

- (a) encourage employment growth in suitable locations,*
- (b) protect employment land in business and industrial zones, and*
- (c) support the viability of identified centres.*

*The facilitation of community events on public land can foster improved connections between local communities and business as well as stimulate the visitor economy. The Planning Proposal is therefore considered consistent with this Direction.*

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

#### **Assessment – Consistent**

*Not applicable to Wingecarribee Shire.*

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

#### **Assessment – Consistent**

*Not applicable to Wingecarribee Shire.*

## **Focus Area 8 Resources & Energy**

*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.*

### 8.1 Mining, Petroleum Production & Extractive Industries

#### **Assessment – Consistent**

*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 affect the intent or provisions of this Direction.*

<b>Focus Area 9 Primary Production</b>	<i>The intent of this Focus Area is to support and protect the productivity of important agricultural lands. They enhance rural and regional economies through a sustainable, diverse and dynamic primary production sector that can meet the changing needs of a growing NSW.</i>
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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 any land and therefore does not affect the intent or provisions of this Direction.*

#### **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 does not affect any rural or conservation zone, nor does it seek to change the minimum lot size of such a zone.*

#### **9.3 Oyster Aquaculture**

##### **Assessment – Consistent**

*The objectives of this direction are to:*

- (a) ensure that ‘Priority Oyster Aquaculture Areas’ and oyster aquaculture outside such an area are adequately considered when preparing a planning proposal, and*
- (b) protect ‘Priority Oyster Aquaculture Areas’ and oyster aquaculture outside such an area from land uses that may result in adverse impacts on water quality and consequently, on the health of oysters and oyster consumers.*

*There are no ‘Priority Oyster Aquaculture Areas’ in Wingecarribee Shire.*

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

##### **Assessment – Consistent**

*This Direction it is not applicable to Wingecarribee Shire.*

### Section C – Environmental, Social & Economic Impacts

#### **8 - Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the Proposal?**

It is not anticipated that the proposed amendment would result in any adverse impacts on critical habitat or threatened species, populations or ecological communities, or their habitats. In identifying which sites are appropriate for community hire, the qualities of each site have been considered to ensure that all sites can be safely used by the community with no adverse environmental impacts.

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

The proposed amendment would enable public events on bush fire prone land subject to certain procedures which ensure that appropriate bush fire management procedures are in place to minimise bush fire potential and associated vegetation loss.

To support the proposed amendment, Council has already developed an alternative approach to the management of public events on bush fire prone land which would continue to manage public safety and protect the environment. It is noted that Council already has in place mechanisms for assessing bush fire risk for public events on Council owned land. These processes address and support safety and risk management across all Council owned facilities.

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

The proposed amendment would be supported by a simpler and more efficient booking and hiring process underpinned by an operational management standard for the closure of public facilities due to bush fire risk, thereby facilitating more community events and social interaction while ensuring appropriate risk management.

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

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

No public infrastructure would be affected by the Planning Proposal.

## 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?

The most relevant state agency would be the NSW Rural Fire Service (RFS). Following consideration of the draft Planning Proposal by the Wingecarribee Local Planning Panel on 22 February 2023, RFS was consulted and provided the following advice by email on 23 March 2023:

*1 - provided that no overnight accommodation was associated with the exempt provisions in the LEP the NSW RFS does not object to council proceeding to gateway based on the previously discussed risk matrix based approach to holding events on their sites.*

*2 - the details of the bush fire risk emergency and evacuation plans would not need to be prepared prior to gateway. The content of such documents and respective authors are a matter for council to determine. The NSW RFS would advise that council should suitably consider matters such as the level of bush fire risk to the site, the vulnerability of occupants/attendees, access, services and emergency response etc in their planning proposal documents.*

In response to this advice, Council has amended its website to update the risk assessment process for the hiring of all Council owned properties and prepared and adopted an Operational Management Standard (OMS) for the Closure of Public Facilities. The OMS was provided to the RFS along with a draft Planning Proposal. Both the RFS Manager Planning & Environment Services (South) and the District Manager Southern Highlands have advised Council by email that *“I am satisfied with the proposed wording and have no objections”*. RFS has also thanked Council by email *“for working with the RFS in a meaningful way”* to achieve this outcome. Formal referral to RFS would also occur post Gateway.

Formal referral to WaterNSW would also occur post Gateway if required.

## Part 4 - Maps

No map amendments are required for this Planning Proposal.

## Part 5 - Community Consultation

Community consultation would be undertaken in accordance with the Gateway determination and Council's Community Engagement Strategy. This would involve exhibition for a period of at least 28 days with notification through Council's website and community e-newsletters.

## Part 6 - Project Timeline

Stage	Timeframe and/or date
Consideration by Council	Council Resolution 15 March 2023
Pre gateway consultation & preparation	March – April 2023
Finalisation of amendments to Council documentation	May 2023 – May 2024
Further consultation with RFS	May 2024
Gateway Determination	July 2024
Agency referrals	August 2024
Public Exhibition	September 2024
Consideration of submissions	October 2024
Reporting of Planning Proposal to LPP	November 2024
Reporting of Planning Proposal to Council	December 2024
Drafting Request / submission to DPE	December 2024
Gazettal of LEP amendment	January 2025

## Delegation

A Written Request to Exercise Delegation accompanies this Proposal.

**END OF PLANNING PROPOSAL**