

8.2 Planning Proposal to Amend Clause 4.2F - Subdivision of Land for Dual Occupancies in Zone R2 or R3

Report Author: Coordinator Strategic Policy

Authoriser: Executive Manager Strategic Outcomes

PURPOSE

The purpose of this report is to seek support for a Planning Proposal to amend Clause 4.2F - Subdivision of land for dual occupancies in Zone R2 or R3 of Wingecarribee Local Environmental Plan (WLEP) 2010, to reinstate the restrictions on subdivision of dual occupancy development within the Berrima Heritage Conservation Area.

Applicant / Proponent	Wingecarribee Shire Council
Owner	N/A
Consultants	N/A
Notification	N/A
Number Advised	N/A
Number of Submissions	N/A
Current Zoning	N/A
Proposed Amendment/s	LEP Clause 4.2F - Subdivision of land for dual occupancies in Zone R2 or R3
Political Donations	N/A
Recommendation	THAT the attached Planning Proposal to amend <i>Clause 4.2F - Subdivision of land for dual occupancies in Zone R2 or R3</i> of Wingecarribee Local Environmental Plan 2010 BE SUPPORTED and the Planning Proposal be submitted for a Gateway Determination in accordance with s.3.34 of the <i>Environmental Planning & Assessment Act 1979</i> .

THIS MATTER WAS CONSIDERED BY THE WINGECARRIBEE LOCAL PLANNING PANEL ON 24 MAY 2023.

OFFICER'S RECOMMENDATION

THAT:

1. The attached Planning Proposal to amend Clause 4.2F - Subdivision of land for dual occupancies in Zone R2 or R3 of Wingecarribee Local Environmental Plan 2010 BE SUPPORTED, and

- 2. The Planning Proposal be submitted for a Gateway Determination in accordance with 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 24 May 2023 and the Panel supported the staff recommendation.

REPORT

PLANNING PROPOSAL

Introduction

On 2 February 2022, the Wingecarribee Local Planning Panel considered a report to amend Clause 7.2 of the Wingecarribee Local Environmental Plan 2010 to remove an inconsistency between Clause 7.2- Requirements for subdividing dual occupancies in Zones R2 and B1 and Clause 4.2F- Minimum subdivision lot sizes for dual occupancies in certain zones.

Clause 7.2 was contained within WLEP from its initial gazettal on 16 June 2010. The intent of the clause was to enable the subdivision of dual occupancy development in certain circumstances where subdivision was not otherwise permissible under the minimum lot size provisions. However, the provisions of the clause excluded land within the mapped Berrima Heritage Conservation Area.

In response to amendments to State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP) which enabled the erection and subdivision of dual occupancies as complying development, Council introduced Clauses 4.2E and 4.2F into WLEP2010 in June 2020 to ensure that such dual occupancy developments were consistent with the established lot sizes and character of our towns and villages.

In October 2022, the drafting of an amendment to clause 7.2 by the Parliamentary Counsel’s Office (PCO) resulted in an inconsistency with clauses 4.2E and 4.2F, which the NSW Department of Planning & Environment sought to address with PCO resulting in a further Amendment on 12 May 2023 which amended clauses 4.2E and 4.2F and removed clause 7.2 altogether.

Prior to the introduction of clauses 4.2E and 4.2F, clause 7.2 restricted the subdivision of dual occupancies in the Berrima Heritage Conservation Area. The restriction on subdivisions within the Berrima Heritage Conservation Area provided protection to the original Hoddle subdivision plan, which contributes to the significance of Berrima and the Conservation Area. The attached Planning Proposal seeks to reinstate the restriction on subdivision within Conservation Area.

The proposed redrafting of WLEP 2010 to remedy this situation is to simply amend clause 4.2F (6) to apply to all of subclause (3) and not just subclause 3(a) as is currently the case, as indicated below:

4.2F Subdivision of land for dual occupancies in Zone R2 or R3

(1) The objectives of this clause are as follows—

- (a) to ensure development for the purposes of dual occupancies is compatible with the character of existing development in the surrounding area,*
- (b) to provide opportunities for housing on smaller lots in suitable locations on land in Zone R2 Low Density Residential and Zone R3 Medium Density Residential,*
- (c) to protect the heritage significance of the historic village of Berrima.*

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

- (a) Zone R2 Low Density Residential,*
- (b) Zone R3 Medium Density Residential.*
- (3) Land on which a dual occupancy is, or will be, erected may be subdivided if the consent authority is satisfied—*
 - (a) for land that is a corner lot—the lot has an area of at least 1,000m², or*
 - (b) otherwise—the area of each lot resulting from the subdivision will be—*
 - (i) at least 50% of the minimum lot size shown for the land on the Lot Size Map, and*
 - (ii) at least 600m².*
- (4) Development consent must not be granted to the subdivision of land under subclause (3) unless the consent authority is satisfied—*
 - (a) there will be no more than 1 dwelling on each resulting lot, and*
 - (b) each resulting lot will be serviced by a water reticulation system and sewage reticulation system.*
- (5) Subdivision permitted under this clause must not occur before an occupation certificate is issued for each dwelling forming part of the dual occupancy.*
- (6) Subclause (3) ~~(a)~~ does not apply to land in the Berrima Conservation Area as shown on the Heritage Map.*

It is noted that both the Department of Planning and Environment and the Parliamentary Counsel's Office have indicated their willingness to consider this Planning Proposal.

Strategic Merit

The intent of the Planning Proposal is to reinstate the protection of the Berrima Heritage Conservation Area from dual occupancy subdivision which was contained under clause 7.2 of the WLEP 2010 when it was originally made in 2010.

As summarised above, this protection remained until Council introduced two new clauses into WLEP 2010, clauses 4.2E and 2.4F in 2020. Council considers this further amendment to be essential and urgent due to the high heritage value of Berrima. The original Hoddle subdivision plan for Berrima remains largely intact and conservation area contains many Items of Heritage, several of which are of State significance. The Community Strategic Plan recognises the significance of heritage properties and landscapes across the Shire and in Berrima especially.

The Planning Proposal will not dilute the general provisions of clauses 4.2E and 4.2F which support opportunities for dual occupancy development and subdivision as provided for within those clauses. The only change to these provisions is the exclusion of the Berrima Heritage Conservation Area which has been excluded from dual occupancy subdivision since 2010 due to the acknowledged high heritage value of this area.

CONSULTATION

Consultation has already occurred with the NSW Department of Planning and Environment and the Parliamentary Counsel's Office. Council was advised that the use of s.3.22 (*Expedited amendments of environmental planning instruments*) of the *Environmental Planning & Assessment Act 1979* was not an option in this case, but that consideration would be given to a Planning Proposal. Discussions have also been held with the Town Planning Team.

It is anticipated that referral to Water NSW, the NSW Rural Fire Service as well as the Heritage Team within the Department of Planning and Environment would be required under any Gateway Determination.

If a Gateway Determination is received to proceed with the Planning Proposal, public exhibition will be undertaken for a period of 20 days in accordance with the NSW Department of Planning & Environment's Guidelines for Planning Proposals.

SUSTAINABILITY ASSESSMENT

- **Environment**

The reinstatement of the provision which prevents subdivision of dual occupancy developments within the Berrima Heritage Conservation Area would enhance preservation of the existing urban landscape and surrounding rural landscape.

- **Social**

The reinstatement of the provision which prevents subdivision of dual occupancy developments within the Berrima Heritage Conservation Area would also assist in preservation of its existing heritage character and value.

- **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

No Corporate Plans are impacted by this Proposal.

COUNCIL BUDGET IMPLICATIONS

No Council budgets are impacted by this Proposal.

RELATED COUNCIL POLICY

No other Council Policies are impacted by this Proposal.

CONCLUSION

The intent of the Planning Proposal is to reinstate the protection of the Berrima Heritage Conservation Area from dual occupancy subdivision which was contained within *Wingecarribee Local Environmental Plan 2010* when it was originally made in 2010. Council considers this further amendment to be essential and urgent due to the high heritage value of Berrima.

ATTACHMENTS

1. Planning Proposal Clause 4.2 F - v 1 for Council [**8.2.1** - 16 pages]



Planning Proposal

**to amend Wingecarribee Local Environmental Plan 2010 with regard
to Clause 4.2F – Subdivision of land for dual occupancies in Zone R2
and R3**

Prepared by Wingecarribee Shire Council in accordance with
the Local Environmental Plan Making Guideline (September 2022)

Council has categorised the Planning Proposal as *Standard*

Version 1 for Gateway Determination

May 2023

We're with you

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Part 1 – Objectives & Intended Outcomes of the Planning Proposal

The objective of the Planning Proposal is to reinstate the protection of the Berrima Heritage Conservation Area from dual occupancy subdivision which was contained within the Wingecarribee Local Environmental Plan 2010 when it was originally made in 2010. The original Hoddle subdivision plan for Berrima remains largely intact and the conservation area contains many Items of Heritage, several of which are of State significance. The Community Strategic Plan recognises the significance of heritage properties and landscapes across the Shire and in Berrima especially.

Part 2 - Explanation of the Provisions

To achieve the intended outcomes of the Planning Proposal the following amendment to the WLEP 2010 instrument will be required:

4.2F Subdivision of land for dual occupancies in Zone R2 or R3

- (1) *The objectives of this clause are as follows—*
- (a) *to ensure development for the purposes of dual occupancies is compatible with the character of existing development in the surrounding area,*
 - (b) *to provide opportunities for housing on smaller lots in suitable locations on land in Zone R2 Low Density Residential and Zone R3 Medium Density Residential,*
 - (c) *to protect the heritage significance of the historic village of Berrima.*
- (2) *This clause applies to land in the following zones—*
- (a) *Zone R2 Low Density Residential,*
 - (b) *Zone R3 Medium Density Residential.*
- (3) *Land on which a dual occupancy is, or will be, erected may be subdivided if the consent authority is satisfied—*
- (a) *for land that is a corner lot—the lot has an area of at least 1,000m², or*
 - (b) *otherwise—the area of each lot resulting from the subdivision will be—*
 - (i) *at least 50% of the minimum lot size shown for the land on the Lot Size Map, and*
 - (ii) *at least 600m².*
- (4) *Development consent must not be granted to the subdivision of land under subclause (3) unless the consent authority is satisfied—*
- (a) *there will be no more than 1 dwelling on each resulting lot, and*
 - (b) *each resulting lot will be serviced by a water reticulation system and sewage reticulation system.*
- (5) *Subdivision permitted under this clause must not occur before an occupation certificate is issued for each dwelling forming part of the dual occupancy.*

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(6) Subclause (3) ~~to~~ does not apply to land in the Berrima Conservation Area as shown on the Heritage Map.

No map amendments are required.

Part 3 - Justification of Strategic & Site-specific Merit

Strategic Merit

On 2 February 2022, the Wingecarribee Local Planning Panel considered a report to amend Clause 7.2 of the Wingecarribee Local Environmental Plan 2010 to remove an inconsistency between *Clause 7.2-Requirements for subdividing dual occupancies in Zones R2 and B1* and *Clause 4.2F-Minimum subdivision lot sizes for dual occupancies in certain zones*.

Clause 7.2 was contained within WLEP from its initial gazettal on 16 June 2010. The intent of the clause was to enable the subdivision of dual occupancy development in certain circumstances where subdivision was not otherwise permissible under the minimum lot size provisions. However, the provisions of the clause excluded land within the mapped Berrima Heritage Conservation Area.

In response to amendments to *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP)* which enabled the erection and subdivision of dual occupancies as complying development, Council introduced Clauses 4.2E and 4.2F into WLEP2010 in June 2020 to ensure that such dual occupancy developments were consistent with the established lot sizes and character of our towns and villages.

In October 2022, the drafting of an amendment to clause 7.2 by the Parliamentary Counsel's Office (PCO) resulted in an inconsistency with clauses 4.2E and 4.2F, which the NSW Department of Planning & Environment sought to address with PCO resulting in a further Amendment on 12 May 2023 which amended clauses 4.2E and 4.2F and removed clause 7.2 altogether.

Prior to the introduction of clauses 4.2E and 4.2F, clause 7.2 afforded the Berrima Heritage Conservation Area complete protection from the subdivision of dual occupancy subdivision. The attached Planning Proposal seeks to reinstate that original protection to the Berrima Heritage Conservation Area created through clause 7.2 in 2010.

The Planning Proposal will not dilute the general provisions of clauses 4.2E and 4.2F which support opportunities for dual occupancy development and subdivision as provided for within those clauses. The only change to these provisions is the exclusion of the Berrima Heritage Conservation Area which has been excluded from dual occupancy subdivision since 2010 due to the acknowledged high heritage status of this area.

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Site-specific Merit

The Planning Proposal is not site specific except to the extent that it applies to the already mapped Berrima Heritage Conservation Area. As stated above, the intent of the Planning Proposal is to reinstate that protection of the Berrima Heritage Conservation Area from dual occupancy subdivision which was contained within Wingecarribee Local Environmental Plan 2010 when it was originally made in 2010.

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 is based on advice from the Department of Planning and Environment and the Parliamentary Counsel's Office.

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

The Planning Proposal is the only means of achieving this outcome. This assessment is based on advice from the Department of Planning and Environment and the Parliamentary Counsel's Office.

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 Planning Proposal will not dilute the general provisions of the Housing SEPP on which clauses 4.2E and 4.2F are based. These clauses support opportunities for dual occupancy development and subdivision as provided for within those clauses. The only change to these provisions is the exclusion of the Berrima Heritage Conservation Area which has been excluded from dual occupancy subdivision since 2010 due to the acknowledged high heritage status of this area.

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

The Planning Proposal is considered to be consistent with the Wingecarribee Local Housing Strategy 2020, specifically, Planning Priority 1 – *Promote infill development and increased densities in appropriate locations, and facilitate a greater mix of housing types, to ensure our housing stock is reflective of the needs of our community (p.21)*. The proposed amendment to Clause 4.2F does not restrict the provision of infill development other than within the Berrima Heritage Conservation Area which is recognised within the LSPS as being of high heritage value and an important contributor to local tourism.

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

No other state or regional studies apply to the Planning Proposal.

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>
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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 clauses 4.2E and 4.2F continue to support the application of the Low Rise Housing Diversity Code, but not in Berrima.

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>
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Assessment – Consistent

The key intentions of this SEPP include:

- (a) improving regulatory certainty and efficiency through a consistent planning regime for infrastructure and the provision of services, and*
- (b) providing greater flexibility in the location of infrastructure and service facilities, and*
- (c) allowing for the efficient development, redevelopment or disposal of surplus government owned land, and*
- (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*
- (e) identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and*
- (f) providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing, and*
- (g) providing opportunities for infrastructure to demonstrate good design outcomes.*

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The Planning Proposal is considered consistent with this SEPP, other than for land within the Berrima Heritage Conservation Area, it continues supports all of these objectives and outcomes.

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>
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The key aims of this SEPP are:

- (a) to facilitate the orderly economic use and development of lands for primary production,*
- (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,*
- (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 it does not impact any of these objectives and outcomes.

SEPP (Biodiversity and Conservation) 2021	<i>The intent of this SEPP is to preserve, conserve and manage NSW's natural environment & heritage</i>
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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 excluding land within the Berrima Heritage Conservation Area from dual occupancy subdivision will also assist in protecting existing biodiversity.

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SEPP (Resilience and Hazards) 2021	<i>The intent of this SEPP is to manage risks and building resilience in the face of hazards</i>
Assessment – Consistent <i>The key aims of that part of the SEPP applicable to the Shire include:</i> <i>(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</i> <i>(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> <i>The Planning Proposal is considered consistent with this SEPP because it does not impact any of these provisions.</i>	

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>
Assessment – Consistent <i>The provisions of Chapter 3 (Advertising & Signage) are the only part of this SEPP applicable to land in Wingecarribee Shire. The Planning Proposal is considered consistent with this SEPP because it does not impact any of these provisions.</i>	

SEPP (Resources and Energy) 2021	<i>The intent of this SEPP is to promote the sustainable use of NSW's resources and transitioning to renewable energy</i>
Assessment – Consistent <i>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 because it does not impact any of these provisions.</i>	

SEPP (Planning Systems) 2021	<i>The intent of this SEPP is to provide a strategic and inclusive planning system for the community & the environment</i>
Assessment – Consistent <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>	

SEPP (Regional Precincts) 2021	<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>
Assessment – Consistent <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>	

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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	
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> <i>The Planning Proposal is considered consistent with this Direction because it does not restrict the overall operation of the Regional Plan.</i>	
1.2 Development of Aboriginal Land Council land	
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> <i>The Planning Proposal is considered consistent with this Direction because no Aboriginal Land Council land is involved.</i>	
1.3 Approval and Referral Requirements	
Assessment – Consistent <i>The objective of this Direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.</i> <i>The Planning Proposal is considered consistent with this Direction because it seeks to exclude the Berrima Heritage Conservation Area from the provisions of clause 4.2F thereby providing clear direction within the LEP rather than relying on DCP controls at the DA stage.</i>	
1.4 Site Specific Provisions	
Assessment – Consistent <i>The objective of this Direction is to discourage unnecessarily restrictive site-specific planning controls.</i> <i>The Planning Proposal is considered consistent with this Direction because even though it seeks to exclude the Berrima Heritage Conservation Area from the application of clause 4.2F it is considered justified due to the high heritage status of the Area.</i>	
1.5 – 1.22 – Planning Systems Place Based	
Assessment – Consistent <i>None of these place-based Directions apply to Wingecarribee Shire.</i>	

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

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>	
<i>The Planning Proposal is considered consistent with this Direction because excluding the Berrima Heritage Conservation Area from the application of clause 4.2F will also protect environmentally sensitive areas.</i>	
3.2 Heritage Conservation	
Assessment – Consistent	
<i>The objective of this Direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</i>	
<i>The Planning Proposal is considered consistent with this Direction because even though it seeks to exclude the Berrima Heritage Conservation Area from the application of clause 4.2F it is considered justified due to the high heritage status of the Area.</i>	
3.3 Sydney Drinking Water Catchments	
Assessment – Consistent	
<i>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:</i>	
<ul style="list-style-type: none"> <i>(a) new development within the Sydney drinking water catchment must have a neutral or beneficial effect on water quality (including groundwater), and</i> <i>(b) future land use in the Sydney drinking water catchment should be matched to land and water capability, and</i> <i>(c) the ecological values of land within a Special Area should be maintained.</i> 	
<i>The Direction also requires that, when preparing a Planning Proposal, Council must:</i>	
<ul style="list-style-type: none"> ○ <i>consult with WaterNSW, describing the means by which the planning proposal gives effect to the water quality protection principles of this direction, and</i> 	

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<ul style="list-style-type: none"> 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. <p>Consultation with WaterNSW will occur prior to submission of the Planning Proposal for a Gateway Determination, however, it is considered consistent with this Direction because there will be no resulting adverse impacts.</p>
3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs
<p>Assessment – Consistent</p> <p><i>This Direction is not applicable to Wingecarribee Shire.</i></p>
3.5 Recreation Vehicle Areas
<p>Assessment – Consistent</p> <p><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><i>The Planning Proposal is considered consistent with this Direction because it does not apply to this Direction.</i></p>

Focus Area 4 Resilience & Hazards	<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>
4.1 Flooding	
<p>Assessment – Consistent</p> <p><i>The objectives of this Direction are to:</i></p> <p><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></p> <p><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><i>The Planning Proposal is considered consistent with this Direction because it does not impact any of these Directions.</i></p>	
4.2 Coastal Management	
Assessment – Consistent	<i>-This Direction is not applicable to Wingecarribee Shire.</i>

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4.3 Planning for Bushfire Protection (previously 4.4)	
Assessment – Consistent <i>The objectives of this Direction are to:</i> <i>(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</i> <i>(b) encourage sound management of bush fire prone areas.</i> <i>The Planning Proposal is considered consistent with this Direction because it does not impact the objectives of this Direction.</i>	
4.4 Remediation of Contaminated Land	
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> <i>The Planning Proposal is considered consistent with this Direction because it does not impact the objectives of this Direction.</i>	
4.5 Acid Sulphate Soils	
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. There currently appear to be no mapped acid sulphate soils in Wingecarribee Shire.</i>	
4.6 Mine Subsidence & Unstable Land	
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> <i>The Planning Proposal is considered consistent with this Direction because it does not impact the objectives of this Direction.</i>	

Focus Area 5 Transport & Infrastructure	<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>
5.1 Integrating Land Use and Transport	
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> <i>(a) improving access to housing, jobs and services by walking, cycling and public transport, and</i> <i>(b) increasing the choice of available transport and reducing dependence on cars, and</i> <i>(c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and</i>	

*(d) supporting the efficient and viable operation of public transport services, and
(e) providing for the efficient movement of freight.*

The Planning Proposal is considered consistent with this Direction because it does not impact the objectives 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 is considered consistent with this Direction because it does not impact the objectives 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 is consistent with this Direction because it does not impact the objectives of this Direction.

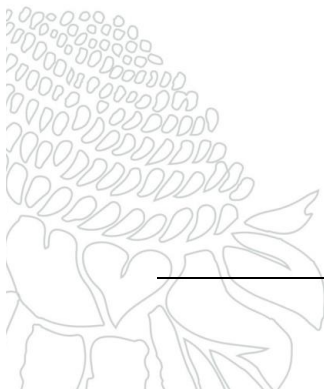
5.4 Shooting Ranges

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 is considered consistent with this Direction because it does not impact the objectives of this Direction.



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Focus Area 6 Housing	<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>
6.1 Residential Zones	
Assessment – Consistent <i>The objectives of this Direction are to:</i> <i>(a) encourage a variety and choice of housing types to provide for existing and future housing needs,</i> <i>(b) make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and</i> <i>(c) minimise the impact of residential development on the environment and resource lands.</i> <i>The Planning Proposal is considered consistent with this Direction because it will not dilute the general provisions of clauses 4.2E and 4.2F which support opportunities for dual occupancy development and subdivision as provided for within those clauses. The only change to these provisions is the exclusion of the Berrima Heritage Conservation Area which has been excluded from dual occupancy subdivision since 2010 due to the acknowledged high heritage status of this area.</i>	
6.2 Caravan Parks and Manufactured Home Estates	
Assessment – Consistent <i>The objectives of this Direction are to:</i> <i>(a) provide for a variety of housing types, and</i> <i>(b) provide opportunities for caravan parks and manufactured home estates.</i> <i>The Planning Proposal is considered consistent with this Direction because it does not impact the objectives of this Direction.</i>	

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>
7.1 Business and Industrial Zones	
Assessment – Consistent <i>The objectives of this Direction are to:</i> <i>(a) encourage employment growth in suitable locations,</i> <i>(b) protect employment land in business and industrial zones, and</i> <i>(c) support the viability of identified centres.</i> <i>The Planning Proposal is considered consistent with this Direction because it does not impact the objectives of this Direction.</i>	
7.2 Reduction in non-hosted short-term rental accommodation period	
Assessment – Consistent <i>Not applicable to Wingecarribee Shire.</i>	

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7.3 Commercial and Retail Development along the Pacific Highway, North Coast
Assessment – Consistent <i>Not applicable to Wingecarribee Shire.</i>

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>
8.1 Mining, Petroleum Production & Extractive Industries	
Assessment – Consistent <i>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.</i> <i>The Planning Proposal is considered consistent with this Direction because it does not impact the objectives of this Direction.</i>	

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>
9.1 Rural Zones	
Assessment – Consistent <i>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.</i> <i>The Planning Proposal is considered consistent with this Direction because it does not impact the objectives of this Direction.</i>	
9.2 Rural Lands	
Assessment – Consistent <i>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:</i> <i>(a) protect the agricultural production value of rural land,</i> <i>(b) facilitate the orderly and economic use and development of rural lands for rural and related purposes,</i> <i>(c) assist in the proper management, development and protection of rural lands to promote the social, economic and environmental welfare of the State,</i> <i>(d) minimise the potential for land fragmentation and land use conflict in rural areas, particularly between residential and other rural land uses,</i> <i>(e) encourage sustainable land use practices and ensure the ongoing viability of agriculture on rural land,</i> <i>(f) support the delivery of the actions outlined in the NSW Right to Farm Policy.</i>	

The Planning Proposal is considered consistent with this Direction because it does not impact the objectives of this Direction.

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.*

The Planning Proposal is considered consistent with this Direction because 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

The Planning Proposal is considered consistent with this Direction because 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?

No, it is not considered that there will be any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the Proposal. The intent of the Planning Proposal is to continue to support the Low Rise Housing Diversity Code, which applies to land within existing towns and villages, other than Berrima, on land which already has a dwelling entitlement.

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

No, it is not considered that there will be any other likely environmental impacts.

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

Clause 4.2F will continue to support the application of the Low Rise Housing Diversity within existing town and villages, other than Berrima.

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Section D – Infrastructure (Local, State & Commonwealth)

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

Clause 4.2F will continue to support the application of the Low Rise Housing Diversity within existing town and villages, other than Berrima, on land which generally has infrastructure and 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?

The Department of Planning & Environment has indicated its willingness to consider this Planning Proposal.

Part 4 - Maps

No map amendments are required for this Planning Proposal.

Part 5 - Community Consultation

Community consultation will occur as required by the Department's Guidelines.

Part 6 - Project Timeline

MILESTONE	INDICATIVE /ACTUAL DATE
Gateway Determination	June 2023
Agency Consultation	June 2023
Public Exhibition	July 2023
Drafting Request	August 2023
Notification Request & approximate completion date	August 2023

END OF PLANNING PROPOSAL