



IRF25/2019

Gateway determination report – PP-2025-1745

Housekeeping Amendment No. 1 - 2025 - Permit
secondary dwellings in the R2 zone and subdivision of
Council roads as exempt development

September 25



Published by NSW Department of Planning, Housing and Infrastructure

dpie.nsw.gov.au

Title: Gateway determination report – PP-2025-1745

Subtitle: Housekeeping Amendment No. 1 - 2025 - Permit secondary dwellings in the R2 zone and subdivision of Council roads as exempt development

© State of New South Wales through Department of Planning, Housing and Infrastructure 2025. You may copy, distribute, display, download and otherwise freely deal with this publication for any purpose, provided that you attribute the Department of Planning, Housing and Infrastructure as the owner. However, you must obtain permission if you wish to charge others for access to the publication (other than at cost); include the publication in advertising or a product for sale; modify the publication; or republish the publication on a website. You may freely link to the publication on a departmental website.

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (July 25) and may not be accurate, current or complete. The State of New South Wales (including the NSW Department of Planning, Housing and Infrastructure), the author and the publisher take no responsibility, and will accept no liability, for the accuracy, currency, reliability or correctness of any information included in the document (including material provided by third parties). Readers should make their own inquiries and rely on their own advice when making decisions related to material contained in this publication.

Acknowledgment of Country

The Department of Planning, Housing and Infrastructure acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

Contents

1	Planning proposal.....	1
1.1	Overview	1
1.2	Objectives of planning proposal.....	1
1.3	Explanation of provisions.....	2
1.4	Site description and surrounding area	2
1.5	Mapping	2
2	Need for the planning proposal	2
3	Background.....	2
4	Strategic assessment	3
4.1	Regional Plan	3
4.2	Local.....	3
4.3	Section 9.1 Ministerial Directions.....	4
4.4	State environmental planning policies (SEPPs).....	4
5	Site-specific assessment	5
5.1	Environmental	5
5.2	Social and economic	5
5.3	Infrastructure	5
5.4	Community	5
5.5	Agencies	5
6	Timeframe	5
7	Local plan-making authority	6
8	Assessment summary	6
9	Recommendation.....	6

Table 1: Reports and plans supporting the proposal

Relevant reports and plans
Planning Proposal – August 2025 (Version 1)
Wingecarribee Shire Council Meeting Resolution – 20 August 2025
Wingecarribee Shire Council Meeting Report – 20 August 2025

1 Planning proposal

1.1 Overview

Table 2: Planning proposal details

LGA	Kiama
PPA	Wingecarribee Shire Council
NAME	Housekeeping Amendment No. 1 - 2025
NUMBER	PP-2025-1457
LEP TO BE AMENDED	Wingecarribee Local Environmental Plan 2010
ADDRESS	Applies to the Wingecarribee local government area
DESCRIPTION	As above
RECEIVED	9/09/2025
FILE NO.	IRF25/2019
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives of the planning proposal are to amend the Wingecarribee Local Environmental Plan 2010 (WLEP) to:

- permit secondary dwellings with consent in the R2 Low Density Residential zone; and
- include subdivision of Council public roads as exempt development.

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

To achieve the objectives of the planning proposal, the following amendments to the WLEP would be required.

1. Amend the Land Use Table to include secondary dwellings as permitted with consent in the R2 Low Density Residential zone; and
2. Amend Schedule 2 Exempt development to include subdivision of Council public roads proposed for closure under the *Roads Act 1993*.

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

1.4 Site description and surrounding area

The planning proposal is a housekeeping amendment applying to land zoned the R2 Low Density Residential and Council public roads in the Wingecarribee local government area (LGA).

1.5 Mapping

No amendments to LEP maps are required.

2 Need for the planning proposal

The planning proposal is needed to:

- provide opportunity for more diverse infill housing options in Wingecarribee consistent with current NSW planning policy and the intent of Council's *Local Housing Strategy 2021*; and
- improve Council's operational efficiency by reducing administrative development application requirements for subdivision of Council public roads proposed for closure.

A planning proposal is considered the most efficient and only means to achieve the intended objectives and outcomes.

3 Background

Secondary dwellings

Secondary dwellings are currently prohibited in the R2 zone in the WLEP.

Secondary dwellings are permitted in the R2 zone in most LEPs across NSW. Chapter 3, Part 1 of *State Environmental Planning Policy (Housing) 2021* also permits secondary dwellings in residential zones where dwellings houses are permissible and allows secondary dwellings as complying development under certain conditions.

The proposal would update the WLEP so that it is consistent with contemporary NSW planning policy regarding permissibility of secondary dwellings in the R2 zone.

Subdivision of Council roads for road closure

Council has advised that until recently, the NSW Land Registry Office (LRS) would accept a Plan of Road Closure prepared by a surveyor and signed by Council to enable registration.

However, LRS now requires Council to sign the Subdivision Certificate on the Deposited Plan Administration Sheet as the consent authority. For this consent to be obtained, a development application is required under the current provisions of WLEP.

The amendment would not exempt Council from following the relevant requirements/procedures outlined in Part 4, Division 3 of the *Roads Act 1993*, but would streamline planning approval.

Exempt development provisions as proposed by Council are contained in several NSW LEPs such as the *Bega Valley Local Environmental Plan 2013* and *Camden Local Environmental Plan 2010*.

4 Strategic assessment

4.1 Regional Plan

South East and Tablelands Regional Plan 2036

Key Directions of the South East and Tablelands Regional Plan relevant to the proposal include:

- Direction 24 - deliver greater housing supply and choice;
- Direction 25 - focus housing growth in locations that maximise infrastructure and services; and
- Direction 27 - deliver more opportunities for affordable housing.

The proposal would deliver more diverse and affordable housing infill housing in the form of secondary dwellings making efficient use of existing infrastructure and services.

The proposal is consistent with the above Directions in the Regional Plan.

Draft South East & Tablelands Regional Plan 2041

Key objectives of this Draft Regional Plan relevant to the proposal include:

- Objective 17 – Plan for housing supply in appropriate locations;
- Objective 18 – Plan for more affordable, low-cost and social housing; and
- Objective 21 - Provide efficient access to infrastructure and services.

For the reasons outlined above regarding the current Regional Plan, the proposal is considered consistent with key objectives in the Draft Regional Plan.

4.2 Local

Consistency with key local strategic plans is summarised in Table 3 below.

Table 3: Local strategic plans assessment

Local Plan	Consistency	Reasons for Consistency or Inconsistency
Wingecarribee 2040 – Wingecarribee Local Strategic Planning Statement (LSPS)	Consistent	The planning proposal is consistent with key planning and housing priorities (4.1 and 4.2) in Council's LSPS around providing a greater mix of housing typologies and infill development.
Wingecarribee Local Housing Strategy 2021 (LHS)	Consistent	The planning proposal is consistent with key housing priorities (1 to 3) in Council's LHS related around providing a greater mix of housing typologies and infill development supported by adequate infrastructure.

4.3 Section 9.1 Ministerial Directions

The planning proposal's consistency with section 9.1 Ministerial Directions is discussed in detail in Section 7 of the planning proposal.

Consistency with key relevant directions is summarised in Table 4 below.

Table 4: Section 9.1 Ministerial Direction assessment

Directions	Consistency	Reasons for Consistency or Inconsistency
1.1 Implementation of Regional Plan	Consistent	As outlined in Section 3.2 of this report, the proposal is consistent with the South East and Tablelands Regional Plan (and Draft Regional Plan) and this Direction.
1.3 Approval and Referral Requirements	Consistent	The proposal would reduce development approval requirements for subdivision of Council public roads proposed for closure.
3.3 Sydney Drinking Water Catchments	Inconsistent but of minor significance	The proposal would affect land in the Sydney Drinking Water Catchment. The Direction requires consultation with WaterNSW when preparing the planning proposal which has not been undertaken. The proposal is therefore inconsistent with this Direction. However, closure/subdivision of Council roads is unlikely to result in significant adverse water quality impacts. Further, the water quality impacts of secondary dwellings would be assessment in detail at the DA stage. As such, the Secretary's delegate may be satisfied any inconsistency with this Direction is of minor significance. Notwithstanding this, consultation with WaterNSW is recommended during public exhibition.
4.3 Planning for Bushfire Protection	To be determined	The proposal impacts bushfire prone land. Consultation has not occurred with the NSW Rural Fire Service (NSW RFS) on the planning proposal and consistency with this Direction remains unresolved. A Gateway condition is recommended requiring consultation with the NSW RFS, prior to public exhibition.
6.1 Residential Zones	Consistent	The proposal would deliver a more diverse and affordable housing infill housing in the form of secondary dwellings making efficient use of existing infrastructure and services.

4.4 State environmental planning policies (SEPPs)

Section 6 of the planning proposal assesses the consistency of the proposal with key relevant SEPPs. The planning proposal is largely administrative in nature and is not considered inconsistent with key applicable SEPPs.

SEPP (Housing) 2021

Chapter 3, Part 1 of this SEPP permits secondary dwellings in residential zones where dwelling houses are permissible and allows secondary dwellings as complying development under certain conditions.

The proposal would update the WLEP to align with the SEPP and contemporary NSW planning policy regarding permissibility of secondary dwellings in the R2 zone.

5 Site-specific assessment

5.1 Environmental

It is considered unlikely that any negative environmental effects will occur because of the proposed changes.

The environmental impacts of secondary dwellings would be appropriately assessed in detail at the DA stage.

5.2 Social and economic

Reducing administrative development application requirements for subdivision of Council public roads proposed for closure would result in positive economic impacts.

Further, providing opportunity for more diverse and affordable infill housing in Wingecarribee is likely to have positive social and economic impacts.

5.3 Infrastructure

Secondary dwellings would generally make efficient use of existing infrastructure and services. Infrastructure and servicing requirements would be appropriately assessed in detail at the DA stage.

5.4 Community

A minimum exhibition period of 28 days (20 working days) is considered appropriate, and forms a part of the conditions of the Gateway determination.

5.5 Agencies

It is recommended the following agencies be consulted on the planning proposal and given 30 working days to comment:

- WaterNSW; and
- NSW Rural Fire Service (prior to public exhibition).

6 Timeframe

Council proposes a 8 month time frame to complete the LEP which is in line with the Department's commitment to reducing processing times and LEP Making Guideline benchmark timeframes. A condition reflecting the above effect is recommended in the Gateway determination.

7 Local plan-making authority

Council has advised that it would like to exercise its functions as a local plan-making authority (LPMA).

The planning proposal is of minor local significance and categorised as standard, and therefore, the Department recommends that Council be authorised to be the LPMA for this proposal.

8 Assessment summary

The planning proposal is supported to proceed with conditions for the following key reasons:

- it is consistent with relevant housing objectives in local and regional plans;
- there would be no adverse social, economic, or environmental impacts; and
- it would promote more diverse and affordable infill housing options (i.e. secondary dwellings) in Wingecarribee and improve the operational efficiency of Council.

9 Recommendation

It is recommended the delegate of the Secretary:

- Note that the consistency with section 9.1 Direction 4.3 Planning for Bushfire Protection is unresolved and will require justification.

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

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

1. Consultation is required with the following public authorities:
 - Water NSW; and
 - NSW Rural Fire Service (prior to public exhibition).
2. The planning proposal should be made available for community consultation for a minimum of 20 working days.
3. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.
4. The LEP should be completed on or before 15 May 2026.

Assessment officer

Andrew Hartcher

Senior Planning Officer, Southern, Western and Macarthur Region