

# SUPPLEMENTARY AGENDA

## Ordinary Meeting of Council



 *We're With* **YOU**

Wednesday 15 February 2023

Council Chambers, Wingecarribee Shire Council Civic Centre  
68 Elizabeth Street, Moss Vale at 3:30 pm

**AGENDA OF THE ORDINARY MEETING OF COUNCIL  
WEDNESDAY 15 FEBRUARY 2023**

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## **3 REPORTS**

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### **3.1 Grant Announcement Report**

**Report Author:** Acting Chief Financial Officer

**Authoriser:** Director Corporate Strategy and Resourcing

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#### **PURPOSE**

This report serves to notify Council of the success of two significant grant applications.

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#### **OFFICER'S RECOMMENDATION**

##### **THAT**

- 1. Council notes that it secured \$25 million funding from the NSW Accelerated Infrastructure Fund for the upgrade of Moss Vale Sewerage Treatment Plant.**
- 2. Council notes that it was awarded \$1.4 million from the NSW Fixing Local Roads initiative for the project *Sallys Corner Road, Exeter – Rehabilitation*.**

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#### **REPORT**

Council has been successful in their applications for securing grant funding for two significant projects.

#### **MOSS VALE SEWERAGE TREATMENT PLANT**

The current Moss Vale Sewerage Treatment Plant (STP) is operating near its design capacity and therefore upgrades are required to accommodate the potential growth in the catchment currently projected to the year 2046. The upgrades will be staged over several years, with the first stage anticipated to double current capacity and the second to nearly double that to 35,000 equivalent population.

The upgraded treatment infrastructure will provide improved process and operational performance, while improving the protection to the sensitive environment the STP discharges into. The design of the ultimate stage will be dependent on the timing of growth in the SHIP and the strength (concentrations) of the wastewater from this precinct to be treated.

The design is scheduled to be completed in the 2023/24 financial year with construction to commence thereafter.

The Accelerated Infrastructure Fund is part of the \$2.8 billion NSW Housing Package, announced in the 2022-2023 NSW State Budget. Council has been awarded \$25 million from this fund towards the major upgrade of the Moss Vale STP intended to increase its capacity to better service its growing community.

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This grant reduces the Council's borrowings from the Sewer Fund by \$25 million, a saving that will be passed on to residents in the form of lower than anticipated water bill increases. These revised forecasts will be factored into Council's draft 2023/24 Council Long Term Financial Plan.

### **SALLYS CORNER ROAD, EXETER – REHABILITATION**

Sallys Corner Road provides Hume Highway access to residents and visitors of Exeter and Bundanoon with minimal detour. Wineries and farm-land provide commerce to the local area and rely on safe access to encourage people to use their services. Residents use this road to access schools, shopping, and medical facilities.

Sallys Corner Road requires rehabilitation of the road pavement and renewal of the wearing surface. The roundabout carriageway will also be renewed and resurfaced, while the table drains will be cleaned and reshaped.

Fixing Local Roads is an initiative funded by the NSW government, specifically designed to help regional and rural councils carry out vital repair work and reduce maintenance backlog. Since inception, this initiative has contributed \$686 million towards 577 projects. This initiative has awarded Council \$1.4 million towards the completion of the project Sally's Corner Road, Exeter – Rehabilitation, improving the condition of that segment of road for users.

The planned treatments will improve ride quality and reduce travel time while also improving road user safety. The project will commence within the next 12 months and is anticipated to be completed within 2 years. This grant will be included in Council's draft 2023/24 Council Long Term Financial Plan.

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### **COUNCIL BUDGET IMPLICATIONS**

The Accelerated Infrastructure Fund grant of \$25 million will be applied as funding source to the Moss Vale Sewerage Treatment Plant upgrade project alongside other Council funding sources for this project to be determined in that project.

The \$1.4 million Fixing Local Roads grant will be applied to funding the Sally's Corner Road, Exeter – Rehabilitation / Maintenance alongside other existing Council funding sources for this project.

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### **RELATED COUNCIL POLICY**

There are no council policies specifically relating to this report.

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### **CONCLUSION**

It is recommended that Council receives and notes the two grants received as noted in this report.

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### **ATTACHMENTS**

Nil



## **3.2 State Government Rezoning Pathways Program**

**Report Author:** Executive Manager Strategic Outcomes

**Authoriser:** General Manager

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### **PURPOSE**

To provide Council and the community with an overview of the State Government's Rezoning Pathways Program, which provides a pathway for Planning Proposals (rezonings) to be assessed directly by the State Government in certain circumstances, removing Council from its role as the planning authority.

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### **OFFICER'S RECOMMENDATION**

#### **THAT:**

1. Council re-state its commitment to providing housing supply in accordance with the adopted Wingecarribee Local Housing Strategy and not consider rezoning proposals for residential release areas outside of the New Living Areas identified in the Strategy on the basis that the Strategy:
  - a. Is underpinned by a robust evidence base
  - b. Was undertaken with broad community consultation, and
  - c. Is being implemented to align with infrastructure provision and ensure the provision of new housing
2. Council seek an urgent meeting with the Minister for Planning to seek an exemption from the Rezoning Pathways Program given that Council has an adopted Local Housing Strategy that is meeting the NSW Department of Planning and Environment's housing objectives.
3. Council write to the Department of Planning and Environment formally opposing any State-led or State-assessed rezonings within the Wingecarribee Shire for the reasons outlined in this report.
4. Council not engage with any landowners / developers who have made nominations under the Rezoning Pathways Program prior to the announcement of accepted nominations by the Department of Planning and Environment.
5. A further report be provided to Council following the meeting with the Minister and / or further response from the Department of Planning and Environment.

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### **REPORT**

#### **BACKGROUND**

On 6 December 2022, the State Government announced a new Rezoning Pathways Program which provides a pathway for Planning Proposals (rezonings) to be assessed directly by the State Government in certain circumstances, removing Council from its role as the planning authority.

Under the program, the department has created two (2) pathways for Planning Proposals to be either led or assessed by the State Government, being:

**State-led rezoning** – when the department leads a rezoning in large geographic areas or in precincts of state significance.

**State-assessed Planning Proposal** – when the department assesses a planning proposal of state significance or regional environmental planning significance.

Under the program, landowners and/or developers were able to nominate rezoning proposals that could potentially be assessed by the State Government if they deliver:

- more than 1,000 dwellings in metropolitan NSW
- at least 300 dwellings in regional NSW.

The Department of Planning and Environment (Department) will use four (4) key criteria to assess and determine the rezoning pathway for a proposal. The criteria cover:

- how well the proposal demonstrates public benefits, including through housing supply, and alignment with state policies and land use strategies
- an assessment of the proposal's contribution to affordable and social housing outcomes
- how well impediments to delivery are understood and whether there is a pathway to resolution
- if infrastructure is available, or if funding is committed to fund critical infrastructure.

It should be noted that the criteria provided does not include specific reference nor alignment to Councils adopted Local Housing Strategies.

Under the program, landowners / developers had until 22 January 2023 to nominate rezoning proposals that meet the criteria outlined above. Details of the Rezoning Pathways Program, including the program guidelines, are provided on the Department's website at the following link: <https://www.planning.nsw.gov.au/Plans-for-your-area/Rezoning-Pathways-program>

It is noted that Council was not directly informed of the Rezoning Pathways Program by the Department. Rather, Council was made aware through the media in the days following the announcement of the program.

### **REPORT**

After being made aware of the Rezoning Pathways Program, Council sought immediate clarification from the Department, and between 14 and 16 December 2022 called for a number of urgent meetings with the Department and State Local Members of Parliament (Local Members) to raise concerns about the program. On 19 December 2022, Council wrote directly to the Department and Local Members opposing the Rezoning Pathways Program and a copy of the correspondence is provided as **Attachment 1** to this report.

Following this, both State Members advised they will also be making representations to the Minister for Planning.

### **OPPOSITION TO THE REZONING PATHWAYS PROGRAM**

Council has raised significant concerns about the Rezoning Pathways Program to the Local Members and directly to the Department.

Council is concerned about the potential impact this Program will have in undermining the Council's adopted Local Housing Strategy, and the work that Council is doing to expedite housing supply (not simply rezonings).

Council adopted its Local Housing Strategy in 2021, which includes six (6) new living areas and two (2) additional investigation areas (in the case the population growth exceeded expectations).

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Council has tested the Local Housing Strategy against the most recent population forecasts and implied dwelling figures in the draft Regional Plan and are confident that the implied housing demand can be accommodated in accordance with the Strategy.

Council is committed to implementing the Local Housing Strategy and is proactively undertaking key projects to unlock housing supply in accordance with the adopted Strategy.

The first of the New Living Areas (Chelsea Gardens / Ashbourne) has a Development Approval and it is anticipated that construction of Stage 1 will commence shortly.

Council is also reviewing its medium density housing controls which will unlock housing supply in and around the town centres and provide much needed housing diversity throughout the Shire. Council is also working directly with local housing providers to increase the stock of social and affordable housing in the short term.

The Shire has significant limitations in the local infrastructure networks (particularly in water and wastewater/ sewerage) that will impact the timing of new housing within the identified New Living Areas. Major upgrades to the Bowral, Moss Vale and Mittagong Sewerage Treatment Plants are anticipated to be completed and operational in 2026, 2027 and 2028 respectively, and will unlock housing supply within the identified New Living Areas.

Council has committed to using this time to undertake detailed master plans and servicing strategies for the New Living Areas, to ensure that the land is truly development ready (not simply zoned) when capacity is available. This process will ensure that the New Living Areas are well planned and supported by essential infrastructure that is delivered in an efficient and coordinated way (reducing development costs and the ongoing maintenance costs).

Council has commenced work on the Bowral South New Living Area and has recently secured grant funding from the Department to complete the remaining strategic work required to ensure the New Living Area is development ready.

Council's aim is to deliver real housing supply in a strategic and coordinated way, that will build confidence in the planning system and deliver housing on the ground sooner to meet the demand for local supply.

The proposed rezoning pathways will only undermine Councils efforts to expedite housing supply and will erode community confidence in the planning system.

Further, given the limitations in the local infrastructure networks, any rezoning would not result in an increase in housing supply as critical enabling infrastructure has not yet been delivered. Rather, it would divert Council and the State Government resources away from the essential work that is required to unlock housing supply in the Shire.

Both State Members made representations on Council's behalf directly to the Minister for Planning and Housing. **Attachment 2** provides the Ministers response.

### **REZONING PATHWAYS PROGRAM ASSESSMENT PROCESS**

Following the closing of nominations on the Rezoning Pathways Program, Council made further representations to the Department to clarify Council's role (if any) in assessing the nominated rezoning proposals.

Council was advised that the assessment process would be outlined in written correspondence in January 2023. Council was further advised that all staff within the Department who were involved in the assessment were required to sign confidentiality agreements and could not discuss the sites or provide any information on the nominations to Council.

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On Friday 3 February, Council met with Local Members to again raise significant concerns about the Rezoning Pathways Program, and to seek clarification of Council's role in the assessment of nominated rezonings.

Following representations made on Council's behalf, the Minister for Planning and Housing wrote to the Member for Goulburn advising that under the State-assessed Planning Proposal pathway, nominations will be assessed against four (4) criteria. The first of these criteria is the consideration of the proposal's public benefit and consistency with state policies and local land use strategies, such as Council's Local Housing Strategy.

Council was also advised that a letter dated 20 January 2023 was sent to all Councils providing an update on the process of the program, and outlining how councils will be engaged with throughout the assessment of nominations.

Council has undertaken a comprehensive search of all incoming correspondence, and this letter was not received by Council. Following further enquiries, Council received the letter dated 20 January 2023 via email on 6 February 2023 and a copy of this letter is provided as **Attachment 3** to this report.

Further correspondence was received on 6 February 2023 advising that four (4) nominations were being considered under the Rezoning Pathways Program within the Wingecarribee Shire and a copy of this correspondence is provided as **Attachment 4** to this report.

### **COUNCIL'S ROLE IN THE ASSESSMENT PROCESS**

In the letter dated 20 January 2023, the Department advised that all projects submitted under the rezoning pathways program must pass a two-step process and meet strict eligibility criteria and strongly demonstrating alignment to the merit-based criteria. Not all projects submitted will pass these two stages.

Proponents were required to ensure the projects submitted meet the following eligibility criteria:

1. The project is not the subject of an active planning proposal
2. The Applicant will be ready to lodge a planning proposal formally in the planning portal, within 2 months of being notified that the project was successful in proceeding as a state-assessed planning proposal
3. The rezoning will enable at least:
  - 1,000 residential dwellings in metropolitan NSW, or
  - 300 residential dwellings in regional NSW
4. The project is compliant with all relevant planning legislation, policies and section 9.1(2) of the Environmental Planning and Assessment Act 1979 Ministerial Directions.

If the proposal meets the eligibility criteria, an assessment panel of department senior executives and an independent external representative with industry experience will consider the proposal against merit-based criteria. The Department states that the four (4) criteria provide a transparent evidence-base to assess whether a proposal should be recommended for a state-assessed planning proposal pathway and that a probity advisor will attend all panel meetings to ensure integrity, fairness and accountability are upheld.

If a project is found to be eligible following the two-step assessment, a recommendation will be made to the Department's Secretary for a state-assessed planning proposal pathway.

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All applicants found to be eligible will be notified and asked to submit their planning proposal to the Department within 2 months of this notification, to commence the assessment process under the Environmental Planning and Assessment Act 1979.

If one or more of the four (4) nominated sites within the Wingecarribee is found to be eligible to be assessed as a State-assessed Planning Proposal, the Department will make contact with Council's Planning staff. It is anticipated that this contact will occur in mid-late February.

Council will be asked to review the application/s and provide any advice to inform the decision-making process, before a recommendation is made to the Secretary. It is considered critical that, if the Department intend to proceed with any nominations within the Shire, Council provide input at this stage of the process, to reinforce the Local Housing Strategy, highlight the significant limitations in the local infrastructure networks and advocate on behalf of the local community.

It is noted that any Council staff involved in this process will be required to sign confidentiality agreements, limiting their ability to communicate and consult both within Council and the community during the initial assessment process. However, while Council has a strong preference for openness and transparency, it is nevertheless critical for Council representatives to be able to raise specific concerns about a site (or sites) rather than just general concerns about the program.

Any contact with the Department will be limited to key staff from the Strategic Outcomes and Assets departments within Council to review the applications and provide advice to the Department to assist in the assessment process. Advice will be limited to strategic and technical advice, and ensure that Council's concerns are appropriately considered prior to any decision being made:

This will allow Council to provide detailed advice on the Local Housing Strategy, community expectations and limitations within existing infrastructure networks. It will also ensure the General Manager and other Council staff can continue to advocate on behalf of the local community without being bound by confidentiality agreements.

If the Department selects a project to proceed under the state-assessed planning proposal pathway, the proposal/s will be publicly exhibited for community feedback, including from Council.

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### **COMMUNICATION AND CONSULTATION**

#### **Community Engagement**

The Rezoning Pathways Program was announced by the Department without any public consultation. If the Department selects a project to proceed under the state-assessed planning proposal pathway, the proposal/s will be publicly exhibited by the Department for community feedback.

#### **Internal Communication and Consultation**

As outlined above, it is recommended that Council nominate staff from the Strategic Outcomes, Development Assessment and Assets departments within Council to review the nominations, to ensure that relevant groups of Council are represented in the assessment process.

#### **External Communication and Consultation**

External communication and consultation will only occur if a project is supported by the Department. In this instance, the proposal/s will be publicly exhibited by the Department for a minimum period of 28 days.



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## **SUSTAINABILITY ASSESSMENT**

### **Environment**

There are no environmental issues in relation to this report.

### **Social**

There are no social issues in relation to this report.

### **Broader Economic Implications**

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

### **Culture**

There are no cultural issues in relation to this report.

### **Governance**

There are no governance issues in relation to this report.

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## **COUNCIL BUDGET IMPLICATIONS**

Council has committed significant funding to plan for and deliver essential infrastructure to manage growth in accordance with the Local Housing Strategy. Any proposal that is supported on land outside of the Local Housing Strategy will have a significant impact on Council's ability to fund and deliver the key infrastructure required to support our growing communities.

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## **RELATED COUNCIL POLICY**

Not applicable in the context of this report.

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## **CONCLUSION**

This report provides Council and the community with an overview of the State Government's Rezoning Pathways Program, which provides a pathway for Planning Proposals to be assessed directly by the State Government in certain circumstances, removing Council from its role as the planning authority.

Council has significant concerns about the program, and it is recommended that Council continue to advocate on behalf of the local community to reinforce the Local Housing Strategy and oppose inappropriate rezoning proposals within the Wingecarribee Shire.

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## **ATTACHMENTS**

1. Rezoning Pathways Program Correspondence [3.2.1 - 3 pages]
2. Ministerial Response to Member for Goulburn [3.2.2 - 1 page]
3. DPE Correspondence [3.2.3 - 2 pages]
4. Additional Correspondence From DPE [3.2.4 - 2 pages]

# AGENDA OF THE ORDINARY MEETING OF COUNCIL WEDNESDAY 15 FEBRUARY 2023



Contact:



19 December 2022

Civic Centre  
68 Elizabeth Street Moss Vale  
PO Box 141 Moss Vale NSW 2577

The Hon Wendy Tuckerman  
Member of Goulburn  
Via email:

02 4868 0888  
mail@wsc.nsw.gov.au  
ABN 49 546 344 354

Dear Mrs Tuckerman,

**Re: NSW DPE State-assessed planning proposal pathway: Guideline and invitation for applications for the pilot round**

I am writing in relation to the NSW Department of Planning and Environment's recently released State-Assessed Planning Proposal Pathway Program and to seek your support in having the criteria amended.

Council has significant concerns about this Program, which was announced on 6 December 2022.

Under this program the DPE have advised that:

*The program will see \$73.5 million invested over the next two years, to unlock land for 70,000 new homes in fast growing areas across the state by 2024. It will facilitate the development of a housing pipeline that will be actively managed to create more opportunities to rezone land for residential use and better meet the needs of our growing population.*

And further

*'the department invites interested eligible parties (applicants) to apply for their rezoning proposal (project) to be selected to progress under a state-assessed planning proposal pathway. This occurs when a planning proposal of state significance or regional environmental planning significance, is lodged directly with and determined by the department... The successful applicants will have their projects progressed to the department for assessment'.*

Full details of the program are provided via this link on the Department of Planning's website:

<https://www.planning.nsw.gov.au/Plans-for-your-area/Rezoning-Pathways-program>

Council is concerned about the potential impact this Program will have in undermining the Council's adopted Local Housing Strategy, and the work that Council are doing to expedite housing supply (not just rezonings).

Council adopted its Local Housing Strategy in 2021, which includes six (6) new living areas and two (2) additional investigation areas (in the case the population growth exceeded expectations).

*Working with you*

WSC.NSW.GOV.AU

WINGECARRIBEE - A COAL MINING FREE SHIRE

## **AGENDA OF THE ORDINARY MEETING OF COUNCIL WEDNESDAY 15 FEBRUARY 2023**

Council has tested the Local Housing Strategy against the most recent population forecasts and implied dwelling figures in the draft Regional Plan, and we are confident that we can accommodate in excess of the nominated 9,544 dwellings in accordance with the Strategy.

Council is committed to implementing the Local Housing Strategy and is already undertaking a number of key projects to unlock housing supply in accordance with the adopted Strategy.

The first of our New Living Areas has a Development Approval and it is anticipated that construction of Stage 1 will commence imminently.

Council is also reviewing its medium density housing controls which will unlock housing supply in and around our town centres and provide much needed housing diversity throughout the Shire. Council is also working directly with local housing providers to increase the stock of social and affordable housing in the short term.

The Shire has significant limitations in the local infrastructure networks (particularly in water and waste water) that will impact the timing of new housing within the identified New Living Areas. Major upgrades to the Bowral, Moss Vale and Mittagong Sewer Treatment Plants are anticipated to be completed and operational in 2026, 2027 and 2028 respectively, and will unlock housing supply within the New Living Areas.

Council has committed to using this time to undertake detailed master plans and servicing strategies for the New Living Areas, to ensure that the land is truly development ready (not just zoned) when capacity is available. This process will ensure that the new living areas are well planned and supported by essential infrastructure that is delivered in an efficient and coordinated way (reducing development costs and the ongoing maintenance costs).

Council has commenced work on the Bowral South New Living Area and has secured grant funding recently from the DPE to complete the remaining strategic work required to ensure the New Living Area is development ready.

Council's aim is to deliver real housing supply in a strategic and coordinated way, that will build confidence in the planning system and deliver housing on the ground sooner (again, not just zoned land).

The proposed rezoning pathways, as explained in the DPE website will only undermine Council's efforts to expedite housing supply, and will erode community confidence in the planning system.

Further, given the limitations in the local infrastructure networks, any rezoning would not result in an increase in housing supply as critical enabling infrastructure has not yet been delivered. Rather, it would divert Council and the State Government resources away from the essential work that is required to unlock housing supply in the Shire.

Council is intending to provide an Addendum to the Local Housing Strategy to demonstrate how the additional population growth can be managed in a strategic and coordinated way. The Addendum will highlight the work that Council has completed to date and is currently undertaking, to fast track housing supply, the significant supply that has been provided since the adoption of the Strategy and build on the work that is already being undertaken within the identified New Living Areas.

While it is acknowledged that the population and dwelling projections have increased since the adoption of the Local Housing Strategy, the update via the Addendum will demonstrate how that is being addressed.

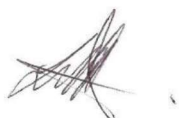
**AGENDA OF THE ORDINARY MEETING OF COUNCIL  
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If the Department want to meet its objective of increasing regional housing supply, then I would strongly encourage you to work with Council to fast track the key strategic work that is required to deliver real housing within the identified New Living Areas and support the provision of capital investment in capital projects that will assist in accelerating housing supply, such as the water and waste water infrastructure.

We are seeking urgent confirmation that the program will *only consider land for possible rezoning that are in accordance with Council's adopted Local Housing Strategy, that is identified as a new living area.*

If you require further information in the meantime, please let me know.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Lisa Miscamble', with a small mark to the right.

Lisa Miscamble  
**General Manager**

**AGENDA OF THE ORDINARY MEETING OF COUNCIL  
WEDNESDAY 15 FEBRUARY 2023**



**The Hon. Anthony Roberts MP**  
Minister for Planning  
Minister for Homes

MDPE23/48

Ms Wendy Tuckerman MP  
Member for Goulburn  
Minister for Local Government  
PO Box 168  
GOULBURN NSW 2580

Via email: [goulburn@parliament.nsw.gov.au](mailto:goulburn@parliament.nsw.gov.au)

Dear Ms  Tuckerman

Thank you for your correspondence on behalf of Wingecarribee Shire Council (Council) regarding the Department of Planning and Environment's (the Department) Rezoning Pathways Program (the program).

I commend Council for its commitment to implementing Council's Local Housing Strategy (LHS) and delivering more housing and infrastructure in the Wingecarribee local government area (LGA).

I am confident the Department's new program will complement Council's existing efforts to deliver housing supply in a strategic and coordinated way. The program aims to support strategically important rezonings, enabling a continual pipeline of housing supply across NSW.

I am advised that under the state-assessed planning proposal pathway, the Department will assess eligible applications against 4 criteria. The first of these is consideration of the proposal's public benefit and consistency with state policies and local land use strategies, such as Council's LHS.

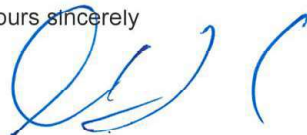
I am further advised that once the application period closes, the Department will seek input from Council about applications in its LGA. This will ensure Council's local expertise is fully considered in the assessment process.

The Department will also continue to work with Council on its LHS and strategic planning for housing delivery in the region.

Should Council staff have any questions, they are welcome to contact Mr Daniel Thompson, Director, Southern Region, at the Department on 4221 6912.

Thank you for taking the time to bring this matter to the NSW Government's attention.

Yours sincerely



**The Hon. Anthony Roberts MP**  
Minister for Planning  
Minister for Homes

GPO Box 5341 Sydney NSW 2001 ■ P: (02) 8574 5600 ■ W: [nsw.gov.au/ministerroberts](http://nsw.gov.au/ministerroberts)





## Department of Planning and Environment

Our ref: IRF23/27

EMAIL: [mail@wsc.nsw.gov.au](mailto:mail@wsc.nsw.gov.au)

Wingecarribee Shire Council

20 January 2023

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Subject: Rezoning Pathways Program – pilot process for the state-assessed planning proposal pathway

Dear Ms Lisa Miscamble

I am writing to clarify how councils will be engaged with, as part of the state-assessed planning proposal pathway pilot process, under the Department of Planning and Environment's Rezoning Pathways Program.

The Rezoning Pathways Program aims to boost housing supply by unlocking an extra 70,000 new homes across NSW by 30 June 2024. One of the program's pathways to achieve this is a pilot process through which industry can nominate projects that meet eligibility and merit-based criteria. If selected, the project may be assessed by the department as a state-assessed planning proposal.

This program complements extensive work already occurring across the department and local government sector, to strengthen access to housing that is affordable.

### **How the pilot process will work**

All projects submitted via the pilot must pass a two-step process by meeting strict eligibility criteria and strongly demonstrating alignment to the merit-based criteria. Not all projects submitted will pass these two stages.

All projects found to be eligible and submitted as a state-assessed planning proposal will still be assessed under the *Environmental Planning and Assessment Act 1979*.

### **Proponents must ensure the projects they submit meet the following eligibility criteria:**

1. The project is not the subject of an active planning proposal
2. The applicant will be ready to lodge a planning proposal formally in the planning portal, within 2 months of being notified that the project was successful in proceeding as a state-assessed planning proposal
3. The rezoning will enable at least:
  - 1,000 residential dwellings in metropolitan NSW, or
  - 300 residential dwellings in regional NSW
4. The project is compliant with all relevant planning legislation, policies and section 9.1(2) of the *Environmental Planning and Assessment Act 1979* Ministerial Directions.

If the proposal meets the eligibility criteria, an assessment panel of department senior executives and an independent external representative with industry experience will consider the proposal against merit-based criteria. The 4 criteria provide a transparent evidence-base to assess whether a proposal should be recommended for a state-assessed planning proposal pathway. A probity advisor will attend all panel meetings to ensure integrity, fairness and accountability are upheld.



## Department of Planning and Environment

### **The merit-based criteria the panel will consider the project against is:**

1. How well the proposal demonstrates public benefits, including through housing supply, and alignment with other state policies and land use strategies
2. An assessment of the proposal's contribution to affordable and social housing outcomes
3. How well impediments to delivery are understood and whether there is a pathway to resolution
4. If infrastructure is available, or if funding is committed to fund critical infrastructure to support the rezoning.

### **Determining which applications proceed as state-assessed planning proposals**

If a project is found to be eligible following these two steps, a recommendation will be made to the department's Secretary for a state-assessed planning proposal pathway.

All applicants found to be eligible will be notified and asked to submit their planning proposal to the department within 2 months of this notification, to commence the assessment process under the *Environmental Planning and Assessment Act 1979*.

### **The important role of councils**

Council's planning team will be contacted by the department if a submitted proposal is in its local government area and is found to be eligible to be assessed as a state-assessed planning proposal. This contact is expected to occur between 30 January and 10 February. Councils will be asked to review the application/s and provide any advice to inform the decision-making process, before a recommendation is made to the Secretary.

If the department selects a project to proceed under the state-assessed planning proposal pathway, the proposal/s will be publicly exhibited for community feedback, including from council.

### **Further information**

The latest information can be found on the [Rezoning Pathways Program webpage](#). If your teams have any queries, please direct them to the Rezoning Pathways mailbox at [rezoningpathways@dpie.nsw.gov.au](mailto:rezoningpathways@dpie.nsw.gov.au). This mailbox is being monitored by a dedicated team which will provide consistent information in response to queries to ensure probity provisions are adhered to.

We look forward to continuing to work collaboratively with you throughout this pilot and pursuing our shared objective of enabling more people in NSW to access diverse, affordable housing.

Yours sincerely,

A handwritten signature in blue ink that reads "Marcus Ray".

Marcus Ray  
Deputy Secretary  
NSW Planning

## AGENDA OF THE ORDINARY MEETING OF COUNCIL WEDNESDAY 15 FEBRUARY 2023

**From:** "Danielle Bijen" <danielle.bijen@dpie.nsw.gov.au> on behalf of "DPE Rezoning Pathways Mailbox" <rezoningpathways@dpie.nsw.gov.au>  
**Sent:** Mon, 6 Feb 2023 09:17:59 +1100  
**To:** "Lisa Miscamble" <Lisa.Miscamble@wsc.nsw.gov.au>  
**Cc:** "Wingecarribee Shire Council" <mail@wsc.nsw.gov.au>; "Wingecarribee Shire Council" <mail@wsc.nsw.gov.au>  
**Subject:** Update on the state-assessed planning proposal industry pilot

**External Email:** This email was sent from outside the organisation, please be cautious with links and attachments in the email.

Dear Ms Miscamble,

The Department of Planning and Environment invited industry to submit project nominations for consideration of inclusion in the state-assessed planning proposal pathway, under the Rezoning Pathways program. This industry nomination process is being piloted.

Applications closed on 22 January 2023. A significant amount of interest was received across NSW.

- Wingecarribee Shire Council received 4 submissions for this consideration.

All projects submitted via this nomination pilot must pass a two-step process by meeting strict eligibility criteria and strongly demonstrating alignment to the merit-based criteria. Not all projects submitted will pass these two stages.

Any project selected to proceed under the state-assessed planning proposal pathway will be assessed by the Department under the *Environmental Planning and Assessment Act 1979*.

### Next steps

Relevant planning teams from the department will contact Council planning teams to invite them to provide responses to questions to inform the project selection process.

Because of the large volume of applications received, this will occur mid-late February, rather than 30 January - 10 February as previously communicated to the General Manager/Chief Executive on 20 January.

### Probity requirements

Anyone who views information relating to the applications is required to sign a Confidentiality Deed Poll and Conflict of Interest Declaration before access is granted to information.

We will provide these documents to your planners shortly to complete.

Should you have any questions, please do not hesitate to contact us at our central mailbox [rezoningpathways@dpie.nsw.gov.au](mailto:rezoningpathways@dpie.nsw.gov.au).

Kind regards,

### Rezoning Pathways

Delivery, Coordination, Digital and Insights | NSW Planning

Department of Planning and Environment

E [rezoningpathways@dpie.nsw.gov.au](mailto:rezoningpathways@dpie.nsw.gov.au)

**AGENDA OF THE ORDINARY MEETING OF COUNCIL  
WEDNESDAY 15 FEBRUARY 2023**



*The Department of Planning and Environment acknowledges that it stands on Aboriginal land.*

*We acknowledge the traditional custodians of the land and we show our respect for elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.*

### **3.3 Station Street**

**Report Author:**                   **Manager Project Delivery**  
**Authoriser:**                       Director Service and Project Delivery

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#### **PURPOSE**

The purpose of this report is to provide an update on an unexpected hazardous material find and to propose a methodology to expedite the construction and the re-opening of Station Street. This report also seeks endorsement to proceed with these works and endorse the funding to manage the removal of the material as well as expediting the construction.

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#### **OFFICER'S RECOMMENDATION**

##### **THAT:**

- 1. Council resolves to endorse an additional \$2,000,000.00 to manage the unexpected hazardous material from site as per EPA and legislative requirements and to expedite the construction works; and**
- 2. Council resolves to adopt the staged road closures in order to expedite the construction and re-opening of Station Street.**

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#### **REPORT**

##### **BACKGROUND**

Construction of Station Street has to date focussed on the installation of subsoil drainage, stormwater utilities and reconstruction of kerb and guttering in preparation for complete reconstruction of the pavement. Whilst undertaking these works it has been identified that there is a presence of coal tar in the pavement and sub pavement. Coal tar is a carcinogenic substance that is activated when heated via the process of road milling and has strict controls under the Protection Of Environment Operations act. Legislatively, coal tar containing road material cannot be classified as Excavated Public Road Material (EPRM) and cannot be removed from site and reused elsewhere. It can be reworked and reused at the location of its origin under strict safe work methodologies, although this would present WH&S risks as well as take considerable time to achieve given the time needed to revise the pavement design.

Coal tar is a waste product most likely produced from the old Bowral Gasworks and was often used in road works as a discrete water proof layer in road pavements and could have been used anywhere in the pavement profile from the subgrade to below the wearing course or asphalt.

The original testing undertaken did not discover the presence of coal tar and Councils GIS mapping did not indicate the likely presence of this substance. Further detailed analysis following the opening of the pavement, has determined that varying levels of coal tar are present throughout most of the proposed work zone and the most efficient and effective way of dealing with the hazardous material is to conventionally excavate, remove and dispose of the material at a licensed



disposal facility. This is in accordance with Transport for NSW procedure for managing Coal Tar (Technical Direction 21 – Coal Tar Asphalt).

### **REPORT**

Council acknowledges the inconvenience to road users and businesses of the current construction works on Station Street and is working with contractors, Transport for NSW, authorities and business owners to complete the works and restore traffic conditions. Unexpected latent site conditions such as the current coal tar issue are an unfortunate reality of road construction. Council used the most up to date information at hand and undertook additional testing prior to works commencing which did not flag any concerns. Coal tar is inherently clustered in hot spots and as such not always readily found during testing. The identification of this hazardous material has in turn affected the progress of the project with resources being diverted to adjacent areas. To ensure continuation of the works it was decided to maintain the current road restrictions so that safe and controlled advancement of the road pavement enabling works could continue. This has delayed the completion and Council is engaging with affected businesses.

### **OPTIONS**

Council has been working with the Contractor and authorities since the identification of the presence of hazardous material on site. Considering the legislative requirements around treatment of coal tar and to expediently resolve the issue so that works can continue, Council have considered two main options with subsequent methodologies for consideration.

1. Undertake further targeted testing in an attempt to reclassify and minimise the quantity of hazardous material disposal. This is an exhaustive and time-consuming exercise with exorbitant costs associated with the individual sampling along the entire route. For Council to consider this option, delays to the project would be in the order of 6-8 weeks. There is no guarantee that this would change the outcome.
2. Accept the current level of testing and treat the material as hazardous waste. Works could almost immediately commence for the excavation and disposal of all the material. This option presents the most risk adverse and timely outcome in relation to the treatment of the hazardous material.

Considering the two options, and the key driver for the project being the timely delivery and reopening of the road, option 2 is the most feasible solution.

The other element that needs consideration is the effect to the program. The current methodology of keeping one lane closed and managing the traffic and intersections constrains the timely removal of the material and completion of construction. Revising the current delivery methodology and program to incorporate the removal and disposal of the hazardous material indicates a completion date of late May. This timeframe presents an unacceptable situation considering the impact the current traffic conditions are having on road users and businesses. It is proposed that to expedite the works and the reopening of Station Street that a staged approach with complete road closures is required. The stages and timing proposed are as follows:

- Full road closure between Boolwey Street to Wingecarribee Street for a period of 8 working days to complete pavement works;
- Full road closure between Wingecarribee Street to Merrigang Street for a further 8 working days to complete pavement works; and

- Closure of intersection at Station Street and Wingecarribee Street for 8 working days to complete pavement works.

Incorporating the above methodology, a total of 24 working days would be required inclusive of day and night works. This methodology indicates that the program of works required to reopen Station Street to two way traffic would be completed prior to the Good Friday Easter period. It has been highlighted by the businesses impacted that the Easter period is extremely important for them. If further difficulties are experienced during the paving works and disposal of material, the intersection works will be deferred to after Easter, still allowing for two-way traffic on Station Street during this busy period. A key input for the determination of this proposal is reliant on Transport for NSW concurrence to the proposed road closures. Further consultation with businesses will be undertaken to ensure that their operational needs are met.

Other efficiencies and design related inputs are being further considered to effectively minimise and further improve impacts to the program and budget.

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## **COMMUNICATION AND CONSULTATION**

### **Community Engagement**

Ongoing community and business engagement will be maintained.

### **Internal Communication and Consultation**

Communication and consultation is ongoing with the Executive, Assets and Project Delivery.

### **External Communication and Consultation**

Consultation is ongoing with transport for NSW.

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## **SUSTAINABILITY ASSESSMENT**

### **Environment**

EPA legislation has been considered in the preparation of this report.

### **Social**

There are no social issues in relation to this report.

### **Broader Economic Implications**

There are no broader economic implications to this report.

### **Culture**

There are no cultural issues in relation to this report.

### **Governance**

There are no governance issues in relation to this report.

### **COUNCIL BUDGET IMPLICATIONS**

There are no Capital Projects that can be deferred in the current financial year that have appropriate funding sources. To be able to allocate the required funding to this project, proposed projects in the 2023/24 capital works program will need to be deferred or funded through alternate means to a value of \$2M to fund this shortfall.

- Funding from Round 4 of the LRCI program be allocated towards the Range Road reseal program in the 23/24 financial year. This will release \$1.15 million of SRV or General Revenue Funds in the 23/24 financial year.
- Ella Street Drainage project be deferred in the 2023/24 financial year into 2024/25. This will release \$950K in the 23/24 financial year.

In proposing this option, there is a risk that Council's SRV reserve may temporarily be in deficit at the end of the 30 June 2023.

If SRV reserve deficit eventuates, a one-off transfer to this reserve will need to be made to replenish the reserve and then re-released in the 2023/24 financial year.

This will be included in the next quarterly budget review.

### **CONCLUSION**

Resulting from the unexpected hazardous material finds on Station Street, Council has worked with the relevant agencies, designers and contractors to consider options in relation to management of the hazardous materials. Of the options considered the option to completely remove and dispose of the material is preferred from a risk management perspective as well as from a timeliness perspective. This will require adjustment to the budget as reported. Additionally, to further reduce impacts of time and to create the opportunity to return the traffic conditions to normal it is proposed to undertake full road closures in a staged fashion. As such urgent resolution of these items is requested in order to mobilise the proposed methodology effective immediately.

### **ATTACHMENTS**

1. Overall Staging - Full Shutdown - Station St [3.3.1 - 1 page]

