

Weekly Circular

Issue No 47

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COUNCIL WEEKLY CIRCULAR	
ITEM NO:	1
SUBJECT:	MAKING OF AMENDMENT 57 TO WLEP2010
CONTACT NAME:	Nicholas Wilton, Group Manager Development Services
FILE NUMBER	5901/73

The purpose of this Weekly Circular is to inform Councillors that Amendment 57 to Wingecarribee Local Environmental Plan (LEP) 2010 was notified on the NSW Legislation website on Friday 4 December 2020.

The LEP amendment results from Council's resolution of 30 November 2019 to prepare the Planning Proposal as recommended in the Rural Tourism Policy adopted at that meeting. A Gateway Determination was issued to Council by the Department of Planning, Industry and Environment on 12 May 2020. Following referrals and exhibition, Council resolved on 14 October 2020 to proceed with the making of the amendment.

The LEP implements the following changes:

- A 'heads of consideration' clause for function centres;
- Permitting function centres with consent in the RU2 Rural Landscape zone;
- Excluding function centres from the operation of clause 2.8-Temporary Use of Land;
- Increasing the maximum number of bedrooms in Farm Stay Accommodation to 8;
- Increasing the maximum number of bedrooms in Bed & Breakfast Accommodation to 5; and
- Permitting Artisan Food & Drink Industry with consent in the RU1, RU2, RU4 and SP3 zones.

A copy of the Amendment is attached.

Should you require any further information, please contact
Councillor.Request@wsc.nsw.gov.au



New South Wales

Wingecarribee Local Environmental Plan 2010 (Amendment No 57)

under the
Environmental Planning and Assessment Act 1979

The following local environmental plan is made by the local plan-making authority under the
Environmental Planning and Assessment Act 1979.

MARK PEPPING, DEPUTY GENERAL MANAGER, CORPORATE, STRATEGY AND
DEVELOPMENT SERVICES
WINGECARRIBEE SHIRE COUNCIL
As delegate for the local plan-making authority

Published LW 4 December 2020 (2020 No 709)

Wingecarribee Local Environmental Plan 2010 (Amendment No 57)

under the

Environmental Planning and Assessment Act 1979

1 Name of Plan

This Plan is *Wingecarribee Local Environmental Plan 2010 (Amendment No 57)*.

2 Commencement

This Plan commences on the day on which it is published on the NSW legislation website.

3 Land to which Plan applies

This Plan applies to land to which *Wingecarribee Local Environmental Plan 2010* applies.

Schedule 1 Amendment of Wingecarribee Local Environmental Plan 2010

[1] Clause 2.8 Temporary use of land

Insert after clause 2.8(5)—

- (6) Despite subclause (2), development consent may not be granted under that subclause for development for the purposes of function centres.

[2] Land Use Table

Insert “Artisan food and drink industries;” in alphabetical order in item 3 of the matter relating to Zones RU1, RU2, RU4 and SP3.

[3] Land Use Table, Zone RU2 Rural Landscape

Insert “Function centres;” in alphabetical order in item 3.

[4] Clause 5.4 Controls relating to miscellaneous permissible uses

Omit “3” from clause 5.4(1). Insert instead “5”.

[5] Clause 5.4(5)

Omit “3”. Insert instead “8”.

[6] Clause 5.19A

Insert after clause 5.19—

5.19A Function centres

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

- (a) to provide appropriate opportunities for development for functions and conferences, including weddings and corporate retreats,
- (b) to provide for function centres that are sensitively located and designed so as not to adversely impact on the agricultural production, natural resources, ecological values or visual, scenic, environmental or residential amenity values of land on which development for the purposes of function centres is carried out,
- (c) to minimise risk to life, property and the environment from bushfire events.

- (2) The consent authority must not grant development consent to development for the purposes of a function centre unless the consent authority is satisfied the development—

- (a) will not result in the clearing of native vegetation, and
- (b) will be carried out having regard to the management of biodiversity outcomes set out in a biodiversity assessment report, and
- (c) will complement the rural or environmental attributes of the land and its surrounds, and
- (d) will not adversely affect the agricultural productivity of adjoining land, and
- (e) will not adversely affect the amenity of the neighbourhood, and
- (f) will be serviced by adequate access roads taking into account the scale of the development, and

- (g) will provide for access to adequate wastewater systems to service the land without having an adverse impact on the water quality of the area, and
 - (h) will have adequate provision for stormwater management measures to service the land without having an adverse impact on the water quality of the area, and
 - (i) if the function centre has a gross floor area of more than 500 square metres—will not be carried out in an isolated area that is accessed by traversing—
 - (i) through rugged and heavily timbered country, or
 - (ii) along bushland for more than 200 metres on a dead-end road, and
 - (j) will address the potential impacts of bushfires and floods, and
 - (k) will not create a land use conflict due to visual impact or impact on noise, traffic, privacy or other amenities, and
 - (l) will provide for, or will be subject to a management strategy for minimising the development's impact on the natural environment or neighbourhood amenity that will provide for, the following—
 - (i) measures to remove threats of serious or irreversible environmental damage,
 - (ii) mechanisms for monitoring and reviewing the effect of the development on the amenity of the neighbourhood, including impact on noise or traffic.
- (3) In this clause—
biodiversity assessment report has the same meaning as in the *Biodiversity Conservation Act 2016*.

COUNCIL WEEKLY CIRCULAR

ITEM NO:	2
SUBJECT:	BUSHFIRE PRE-SEASON BRIEFING
CONTACT NAME:	Barry Arthur, Manager Environment and Sustainability
FILE NUMBER:	

Pre-Season Fire Briefing 2020/21

Due to past and ever changing COVID-19 restrictions, pre-season briefings that are generally held across the State by the Rural Fire Service were unable to be conducted at the beginning of this season. Local arrangements were being made for briefings to be conducted using online platforms, but these have not been conducted to date. However, general briefings were recorded and provided to all stakeholders giving a comprehensive overview of the 2020/21 long range climate outlook as well as other relevant information and supporting documentation.

Climatic outlook Dec to Feb 2020/21

The December to February climate outlook, issued 26 Nov 2020, is suggesting a wet few months with ***rainfall likely to be above average across most of Australia***, which is consistent with BOM predictions made earlier in the season and typical of conditions associated with La Nina which is well underway in the tropical pacific.

Both ***daytime and night time temperatures are likely to be above the long-term average***.

In addition to the natural drivers such as La Nina, Australian climate patterns are being influenced by the long-term increasing trend in global air and ocean temperatures.

More information on Climate outlooks and influences is available at:
<http://www.bom.gov.au/climate/ahead/outlooks/>

Community Preparedness – Essential Council Messaging for this Season

Bushfire hazard reduction programs delivered by Council and other agencies across the Shire continue to be delivered in a timely and co-ordinated manner in accordance with set targets. A summary of hazard reduction activities undertaken so far in 2020 is provided at the end of this circular.

There are simple things that can be undertaken by residents to prepare their properties. It is also vital that residents have a conversation with their families to decide what to do in the event of a fire by making a bush fire survival plan.

The Rural Fire Service provides excellent resources for residents which comprehensively cover advice and guidance on personal and property protection from bushfire threats. These resources are available from both the RFS and Council websites
<http://www.rfs.nsw.gov.au/plan-and-prepare> and <http://www.wsc.nsw.gov.au/preparing-your-property-for-bushfire-season>.

How fireproof is your plan? For those residents that already have a fire plan in place, it might be timely to **take five minutes to review that plan to ensure it will withstand the test of a bush fire**. This can be done at the following link: <https://www.myfireplan.com.au/>

Councillors are urged to promote these initiatives by actively talking about the programs and directing community members to the webpages noted above.

Wingecarribee Shire Council managed lands Hazard Reduction Activities - 2020

Council's bushfire management activities continue to be implemented across its bushland reserves in accordance with the Regional Bush Fire Risk Management Plan and Council Reserve specific fire management plans. Copies of Council Bushland Reserve Fire Management Plans are available at: <http://www.wsc.nsw.gov.au/reserve-fire-management-plans>

Scheduled condition audits (biannual) of the Council's 103 Asset Protection Zones (APZ) and 74km of Fire trails are running to schedule, with ongoing maintenance and repair works implemented as required.

There were very few hazard reduction burns undertaken earlier in the year during the typical Autumn burning season due to unfavorable weather conditions and exhausted emergency services personnel requiring a well-earned break following the disastrous "Black Summer" bushfire season. However, two strategic hazard reduction burns were undertaken and successfully completed on Council owned/managed land at Penrose and Welby. We also have three more HR burns proposed to go ahead within council reserves (Gibbergunyah, Mount Gibraltar and Riverbend) before Christmas if favorable weather conditions persist. Council continues to work closely with both fire agencies, with ongoing joint inspections and fuel loading measurements captured to inform direct strategic hazard reduction burn priorities.

Anyone can also now obtain specific information ***including the mapped extent of hazard reduction burns (scheduled within the next 14 days)*** at this new RFS website: <https://www.rfs.nsw.gov.au/fire-information/hazard-reductions>. If a burn is rescheduled, the new proposed burn date will appear on this website.

Wingecarribee-Wollondilly Bush Fire Management Committee

All fire management activities are coordinated by the Wollondilly / Wingecarribee Bushfire Management Committee (BFMC) who plan, approve and monitor all fire management activities across the region to ensure delivery of the Regional Bush Fire Management Plan.

Of the 270,000 hectares of native vegetation in Wingecarribee Shire, 1% is managed by Council, 33% is managed by National Parks and Wildlife Service, 7% is managed by Forests NSW, 3% is managed by Department of Lands, 54% is in private ownership and 2% is managed by others.

As a member of the BFMC, Wingecarribee Shire Council works closely with at least 15 other agencies and land managers to develop and deploy a strategic approach to fire management across the Wingecarribee Shire.

Copies of the Regional Bushfire Risk Management plan are available from Council's website at: <http://www.wsc.nsw.gov.au/bushfire-risk-management-plan>

COUNCIL WEEKLY CIRCULAR	
ITEM NO:	3
SUBJECT:	ERF HOSPICE FOUNDATION V WINGECARRIBEE SHIRE COUNCIL – LAND AND ENVIRONMENT COURT PROCEEDINGS – 11 EDWARD STREET BOWRAL
CONTACT NAME:	Ian Lacy- General Counsel
FILE NO:	18/0538

As Councillors are no doubt aware, the proponent for this development took Land and Environment Court proceedings appealing Council's deemed refusal of Development Application 18/0538 for a seniors living development comprising 16 Dwelling at 11 Edward Street Bowral.

The appeal attracted significant (even international) media attention and public interest as the proposal involved the demolition of an existing cricket pitch identified as an item of local heritage significance.

In defending the proceedings, Council officers engaged Marsdens Law Group and a number of experts of varying disciplines.

Officers are pleased to confirm that Council's defence of the proceedings has been successful. The Commissioner dismissed the appeal and refused the development application.

In short, the Commissioner found that the development application should be refused firstly due to the impact of the proposed development on the part of the Bowral Heritage Conservation Area comprising Edward and Church Streets, and secondly based on an assessment of the likely environmental impacts of the proposed footpath and drainage works within the Edward Street road reserve on the broader locality.

Whilst the cricket pitch was certainly considered, the appeal was ultimately dismissed for the reasons directly above (and not necessarily because of the proposed removal of the pitch).

It is important to appreciate that any potential subsequent development applications (whether they also propose removal of the pitch or not) will be assessed on their own merits and design.

The refusal of this application though does have the effect of maintaining of the status quo of the vacant site and the retention of the cricket pitch for now.

If Councillors are interested in reading the entire decision, it can be found by clicking the link below;

<https://www.caselaw.nsw.gov.au/decision/176204269fd8dbc6c87a24b0>

It is also noteworthy to observe that, in an earlier decision in respect of a Notice of Motion by the applicant to rely on amended plans, Council was awarded some of its costs (those being in respect of the costs incurred as a result of the amendments).