

AGENDA

of the
Local Planning Panel
held in
Council Chambers,
Wingecarribee Shire Council Civic Centre,
68 Elizabeth Street, Moss Vale
on

Wednesday 22 February 2023

The meeting will commence at **2:00 pm**

Table Of Contents

1 OPENING OF THE MEETING	5
2 ACKNOWLEDGEMENT OF COUNTRY	5
3 APOLOGIES.....	5
4 DECLARATIONS OF INTEREST.....	5
5 PLANNING PROPOSALS.....	6
5.1 Planning Proposal - Events On Bush Fire Prone Land	6
6 DEVELOPMENT APPLICATIONS	11
7 MEETING CLOSURE	11

Our Mission, Our Vision, Our Values

OUR MISSION

To create and nurture a vibrant and diverse community growing and working in harmony with our urban, agricultural and natural environments

OUR VISION

Leadership: *'An innovative and effective organisation with strong leadership'*

People: *'A vibrant and diverse community living harmoniously, supported by innovative services and effective communication with Council'*

Places: *'Places that are safe, maintained, accessible, sympathetic to the built and natural environment, that supports the needs of the community'*

Environment: *'A community that values and protects the natural environment enhancing its health and diversity'*

Economy: *'A strong local economy that encourages and provides employment, business opportunities and tourism'*

OUR VALUES

Integrity, trust and respect

Responsibility and accountability

Communication and teamwork

Service quality

Recording and Webcasting of Local Planning Panel Meetings

This meeting is being recorded and webcast via Council's website and a person's image and/or voice may be publicly broadcast. Attendance at the meeting is to be taken as consent by a person to their image and/or voice being webcast. Any part of the meeting that is held in closed session will not be webcast.

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Individuals acting in a disorderly manner can be asked by the Chairperson to leave the meeting under the Council's Code of Meeting Practice.

The recording will be available for viewing on the internet for 12 months and retained as a Council record. The recording is subject to copyright.

The meeting must not be recorded by others.

Please ensure that all electronic devices including mobile phones are switched to silent.

The Council Chamber has 24 Hour Video Surveillance.

1 OPENING OF THE MEETING

The Chairperson opened the meeting and welcomed members of the public and the press.

2 ACKNOWLEDGEMENT OF COUNTRY

The Chairperson acknowledged country:

“Wingecarribee Shire Council acknowledge the Gundungurra and Tharawal people as the traditional custodians of this land we now call the Wingecarribee Shire. I pay my respect to Elders both past, present and emerging. I would also like to extend that respect to all Aboriginal and Torres Strait Islanders present here today.”

3 APOLOGIES

Nil at time of print.

4 DECLARATIONS OF INTEREST

The provisions of Chapter 14 of the Local Government Act 1993 regulate the way in which nominated staff of Council conduct themselves to ensure that there is no conflict between their private interests and their public trust.

The Act prescribes that where a member of Council (or a Committee of Council) has a direct or indirect financial (pecuniary) interest in a matter to be considered at a meeting of the Council (or Committee), that interest and the reasons for declaring such interest must be disclosed as soon as practicable after the start of the meeting.

As members are aware, the provisions of the Local Government Act restrict any member who has declared a pecuniary interest in any matter from participating in the discussions or voting on that matter and further require that the member vacate the meeting.

Council’s Code of Conduct provides that if members have a non-pecuniary conflict of interest, the nature of the conflict must be disclosed. The Code also provides for a number of ways in which a member may manage non pecuniary conflicts of interest.

5 PLANNING PROPOSALS

5.1 {Planning Proposal – Public Events on Bush Fire Prone Land}

Report Author: Senior Strategic Land Use Planner

Authoriser: Executive Manager Strategic Outcomes

PURPOSE

The purpose of this report is to seek endorsement of a Planning Proposal to remove the requirement for a Development Application for an event/s on public land that is bushfire prone.

While the Planning Proposal would remove the need for a Development Application, the assessment of the suitability of a public event on bushfire prone land would still occur through Council's lease / licencing processes for the use of public land.

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	To amend Schedule 2 Exempt development of WLEP 2010 to remove the exclusion of bush fire prone land from the provisions for public events as exempt development.
Political Donations	N/A
Recommendation	That a Planning Proposal to amend Schedule 2 (Exempt development) of Wingecarribee Local Environmental Plan 2010 to remove the exclusion of bush fire prone land from the provisions of exempt development for events on public land be supported and the Planning Proposal be submitted for a Gateway determination under s.3.34 of the <i>Environmental Planning & Assessment Act 1979</i> and processed in accordance with the Gateway requirements.

OFFICER'S RECOMMENDATION

THAT

- 1. The Planning Proposal to amend Schedule 2 (Exempt development) of Wingecarribee Local Environmental Plan 2010 to remove the exclusion of bush fire prone land from the provisions of exempt development for events on public land be supported; and**
- 2. The Planning Proposal be submitted for a Gateway determination under s.3.34 of the *Environmental Planning & Assessment Act 1979* and processed in accordance with the Gateway requirements.**

REPORT

Schedule 2 of the Wingecarribee Local Environmental Plan (WLEP) 2010 contains exempt development provisions additional to those specified within the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*. One of these additional provisions relates to public events and states:

Public events

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

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

It is noted that these provisions prevent the use of public land for events as exempt development on bush fire prone land and, therefore, a Development Application (DA) is required in these circumstances.

A significant portion of the Shire is mapped as 'bushfire prone' land, resulting in many small scale community events requiring a Development Application for an event to proceed. Council is aware of the community frustration and expense this creates for community groups, as well as the staff resources required as a consequence.

Council is now seeking to amend the provisions of WLEP 2010 to remove the requirement for a Development Application for an event/s on public land that is bushfire prone, to support community groups in running small scale events on public land.

Council has consulted with the NSW Rural Fire Service in this regard and has been advised that the removal of subclause (c) would be supported by RFS. Therefore, the Planning Proposal specifically seeks to amend these provisions of Schedule 2 of WLEP 2010 to remove subclause (c). At the same time Council proposes to amend the heading for this part of the LEP to the more accurate Events on Public Land instead of Public Events. The Planning Proposal forms **Attachment 1** to this report.

To support the proposed amendment, Council is also developing an alternative approach to the management of public events on bush fire prone land which would continue to manage public safety and protect the environment, while also providing a more streamlined, less expensive pathway for public event approvals. It is noted that Council already has in place some mechanisms for assessing bush fire risk for public events on Council owned land. The bush fire danger status of all Council owned community halls on bush fire prone land has already been assessed and is indicated on Council's website page for each facility. There is also a link on that page to the RFS website page which indicates current fire danger ratings and fire ban status across the State.

Council's Assets and Risk Assessment Teams are currently reviewing the booking and hiring procedures to simplify the process for the community while ensuring that Council's and the community's risk is appropriately managed, including a greater consideration of bushfire threats. These revised processes would improve safety and risk management across all Council owned facilities. A further advantage of this approach is that additional specific requirements can also be included for Council facilities which are also Items of Heritage, such as Glebe Park in Bowral which is on the State Heritage Register and the Market Place reserve at Berrima.

STRATEGIC ASSESSMENT

Strategic Merit

The Planning Proposal seeks to provide a more efficient process for the hiring of Council's facilities while appropriately managing risk. It is noted that Council has informal confirmation from the NSW Rural Fire Service that it supports the Proposal. Formal confirmation has been sought and would accompany the Planning Proposal when submitted to the Department of Planning & Environment for a Gateway determination. Further consultation would also occur with RFS as part of the Gateway requirements.

The exempt development provisions in the Wingecarribee Local Environmental Plan have been in place since it was made in 2010 and perhaps no longer reflect current standards. It is noted that the blanket exclusion of bush fire prone land is at odd with similarly affected Council's (Shoalhaven, Bega etc) and that certain events can already be undertaken as exempt development under the State Environmental Planning Policy (Exempt & Complying Development Codes) (the SEPP).

Therefore, the Planning Proposal would provide greater consistency between WLEP 2010, similar Council LEPs, and the Codes SEPP. However, removing the requirement for a Development Application does not and should not remove the requirement for proper consideration of the suitability of a public event on bushfire prone land.

As outlined above, Council has existing mechanisms in place to consider the risk of an event on public land, and these mechanisms are being strengthened to provide a higher level of public safety and environmental protection than the SEPP provisions allow. One key consideration for Council is that of risk management and this is also being attended to through revisions to the booking and hire process to ensure that appropriate risk assessments are undertaken.

CONSULTATION

External Referrals

Referral to external agencies would occur as required under the Gateway determination. This would include, as a minimum, NSW RFS and Water NSW.

Internal Referrals

Discussions have already occurred with relevant Council staff responsible for Council owned land and for the hiring of Council premises. These would continue throughout the processing of the Planning Proposal to ensure that an appropriate alternative system is developed which assists both customers and staff to more efficiently manage the venue booking and hiring process for events on public land.

Public Exhibition

If a Gateway Determination is received to proceed with the Planning Proposal, public exhibition would be undertaken for a period of at least 28 days with the Planning Proposal notified on Council's Your Say Wingecarribee website and included in other Council community communications.

SUSTAINABILITY ASSESSMENT

- **Environment**

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

- **Social**

The proposed amendment would be replaced by a simpler and more efficient booking and hiring process thereby facilitating more community events and social interaction.

- **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 affected by this report

COUNCIL BUDGET IMPLICATIONS

There are no Council budget implications associated with this report.

RELATED COUNCIL POLICY

There are no related Council Policies

CONCLUSION

Currently, certain community events cannot be considered as exempt development on 'bush fire prone' public land resulting in increased cost, time and staff resources to assess a Development Application. The purpose of the Planning Proposal is to enable events to be allowed as exempt development on bush fire prone land in accordance with a proper risk assessment undertaken as part of Council's booking and hiring processes. This approach would continue to manage public safety and protect environmentally sensitive land, while also providing an easier, less expensive pathway for event approvals on public land.

ATTACHMENTS

1. Attachment 1 - Planning Proposal Events on public land-v 1 Gateway [5.1.1 - 17 pages]

6 DEVELOPMENT APPLICATIONS

No Development Applications listed for meeting

7 MEETING CLOSURE
