

6 August 2021

Dear Mr May PSM,

You are kindly requested to attend the **Ordinary Meeting** of Wingecarribee Shire Council to be held remotely using audio visual link and is open to members of the community via webcast and in **Council Chambers, Civic Centre, Elizabeth Street, Moss Vale** on **Wednesday 11 August 2021** commencing at **3.30pm**.

Yours faithfully

Lisa Miscamble  
**General Manager**

---

## **Business**

- 1. OPENING OF THE MEETING**
- 2. ACKNOWLEDGEMENT OF COUNTRY**
- 3. PRAYER**
- 4. APOLOGIES**  
Nil
- 5. ADOPTION OF MINUTES OF PREVIOUS MEETING**  
Ordinary Meeting of Council held on 14 July 2021  
Extraordinary Meeting of Council held on 28 July 2021
- 6. DECLARATIONS OF INTEREST .....1**
- 7. INTERIM ADMINISTRATOR MINUTES**

---

- 8. GENERAL MANAGER**  
8.1 Appointment of the acting Deputy General Manager .....2

---

- 9. OPERATIONS FINANCE AND RISK**  
9.1 Bus Shelter Advertising Proposal.....4  
9.2 Draft Penrose Village Park Plan of Management for Public Exhibition ....9  
9.3 Community Update - Southern Highlands Innovation Park, Moss  
Vale Bypass and Berrima Road Deviation Project.....14

---

- 10. CORPORATE STRATEGY AND DEVELOPMENT SERVICES**  
10.1 Revolving Energy Fund Annual Report.....20  
10.2 Partnership Agreement with Service NSW for Business.....24  
10.3 Planning Proposal to reclassify Lots 11, 12 and 13 DP 1150964,  
"Calwalla" Sheepwash Road, Glenquarry .....46  
10.4 Planning Proposal to reclassify from Community to Operational  
Council owned land, being Lot 1 DP1246504, 7-11 Burgess Street  
Bundanoon.....52  
10.5 Planning Proposal to rezone land at 254 Centennial Road Bowral  
(Centennial Vineyards) from E3 Environmental Management to SP3  
Tourist. ....59  
10.6 Planning Proposal for Provisions Relating to Secondary Dwellings in  
Rural Zones.....68
- 11. COMMITTEE REPORTS**  
Nil
- 12. QUESTIONS WITH NOTICE**  
Nil

**AGENDA FOR THE ORDINARY MEETING OF COUNCIL**

Wednesday 11 August 2021



---

**13. NOTICES OF MOTION**

---

**14. CLOSED COUNCIL**

Nil

**15. MEETING CLOSURE**

## 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

---

## **Council Chambers**

### **Recording and Webcasting of Ordinary and Extraordinary Meetings of Council**

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.

Council requests that everyone in attendance is respectful and uses appropriate language. All speakers should refrain from making any defamatory, discriminatory or offensive comments or releasing any personal information about another individual without their consent. Council accepts no liability for any damage that may result from defamatory, discriminatory or offensive comments made by persons attending meetings – all liability will rest with the individual who made the comments.

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 without the prior written consent of Council in accordance with Council's Code of Meeting Practice.

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

**The Council Chamber has 24 Hour Video Surveillance.**

---

## **ACKNOWLEDGEMENT OF 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 Straight Islanders present here today.”

---

## **APOLOGIES**

---

Nil at time of print.

---

## **DECLARATIONS OF INTEREST**

---

101/3, 101/3.1

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 Chamber.

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.

---

## 8 GENERAL MANAGER

### 8.1 Appointment of the acting Deputy General Manager

**Report Author:** General Manager  
**Authoriser:** Interim Deputy General Manager

#### **PURPOSE**

The report advises of the appointment of Mr Malcolm Ryan as acting Deputy General Manager. This appointment will remain in place until the permanent Directors, as outlined in the structure adopted by Council at its meeting on 14 July 2021, are recruited.

#### **RECOMMENDATION**

1. **THAT Council recognise and thank Mr Richard Mooney for his dedication and efforts whilst in the acting Deputy General Manager role.**
2. **THAT Council endorse the appointment of Mr Malcolm Ryan as acting Deputy General Manager until the commencement of the new Directors as provided for in the structure adopted by Council.**

#### **REPORT**

##### **BACKGROUND**

At Council's meeting held on 14 July 2021 the revised structure was adopted. Following this resolution, the recruitment process commenced through the engagement of Judith Carpenter and Associates. This recruitment is focussed on the three (3) Director roles provided within the revised structure. Mr Richard Mooney was appointed acting Deputy, General Manager in 2020. Mr Mooney recently advised that he wished to return to his substantive role as Chief Financial Officer, effective from Monday 2 August.

In light of this, the Interim Administrator was consulted on the appointment of an acting Deputy General Manager to fill the role until the recruitment process had been completed.

##### **REPORT**

In considering the appointment of a temporary Deputy General Manager, regard was given to the current resourcing levels within the organisation, current workloads and priorities and the requisite skills and experience to fill the role, albeit on a temporary basis.

Further, in considering a temporary appointment there was the added complexity of securing a suitable qualified and experienced person at short notice who was able to travel to Wingecarribee within the restrictions of the COVID-19 Public Health Orders.

Council was fortunate to secure the services of Mr Malcolm Ryan to undertake this acting Deputy General Manager role.

Mr Ryan has extensive local government experience and holds a Bachelor of Town Planning Degree, Associate Diploma Applied Science and Diploma AICD Company Directors Course.

## **AGENDA FOR THE ORDINARY MEETING OF COUNCIL**

Wednesday 11 August 2021

### **REPORT INTERIM DEPUTY GENERAL MANAGER**



Mr Ryan undertook the review of the Planning area in his capacity of Director of Earnest Consulting, a firm specialising executive coaching, strategic planning organisational management, e-planning, systems analysis and land use planning.

Prior to this, Mr Ryan has held the following positions: General Manager, Cumberland Council (June 2016 - November 2017); Deputy President Building Professionals Board (July 2013 - December 2016) as well as several other senior positions including Deputy General Manager and Director Community and Environmental Services at Warringah Council as well as roles at Hawkesbury, Blue Mountains and Byron Shire Council's.

In the acting Deputy General Manager's role Mr Ryan will manage and lead the functions of Development and Regulatory Services, Infrastructure, Capital Works, Business Services and Assets.

Mr Ryan has committed to Council until the commencement of the new Directors as provided for in the revised structure.

---

### **CONCLUSION**

The appointment of Mr Ryan will provide additional skills and expertise to Council during this period of transition and will assist the Team as the recommendations arising from the various reviews, including the review of Planning area and the Animal Shelter are addressed. This external temporary appointment also enables a level of stability within the organisation and provides the required additional support, without the need to further disrupt the functions of the Branches, through an internal acting arrangement.

---

### **ATTACHMENTS**

There are no attachments to this report.



## 9 OPERATIONS FINANCE AND RISK

### 9.1 Bus Shelter Advertising Proposal

Report Author: Acting Manager Assets  
Authoriser: Acting Deputy General Manager

#### **PURPOSE**

To provide information on Council's current bus shelter management program and proposal to permit advertising on bus shelters.

#### **RECOMMENDATION**

##### **THAT**

1. A draft **Bus Shelter Advertising Policy** be developed including provision for advertising on bus shelters located within the CBD's of Moss Vale, Bowral, Mittagong and Bundanoon.
2. Following the adoption of the **Bus Shelter Advertising Policy** a tender be called for management of bus shelter maintenance, renewal and advertising.

#### **REPORT**

##### **BACKGROUND**

At its meeting held on 12 May 2021, Council resolved (MN 125/21, item 1(iii)):

*THAT a report be presented to Council on the calling of expressions of interest for the replacement of bus shelters, such report to address the issue of advertising.*

Currently Council does not have a program for advertising on bus shelters.

##### **REPORT**

Council owns and maintains 101 bus shelters across the Shire. They are in varying condition with the majority in moderate or better condition. The expected useful life of a bus shelter is twenty to thirty years, and Council's bus shelters are generally midway through useful life. The expectation is that approximately 13% of bus shelters will require renewal in next ten years due to age and condition.

Currently there is no annual funding allocation for the replacement of bus shelters. Historically renewal works have been funded individually through grant funding or as part of larger capital works projects.

In the past five years, Council has replaced three bus shelters and is programmed to replace one more this year. The cost of renewing a bus shelter ranges between \$20,000 to \$30,000 depending on site conditions.

In the 2020/21 financial year approximately \$30,000 was expended for bus shelter maintenance to undertake necessary repairs and improve visual amenity.

## **Bus Stop Disability Standards**

The primary issue with Council's bus stops surrounds disability compliance.

Today's best practice bus stop design includes compliance with the Disability Standards for Accessible Public Transport 2002 and consideration for Crime Prevention Through Environmental Design (CPTED).

The Australian Government published the *Disability Standards for Accessible Public Transport 2002* which refer to a range of Australian Standards related to design for access and mobility that are required to be applied across public transport systems. The legislation classes bus stops as boarding points and, as such, the standards are applied to the boarding point, rather than the bus shelter.

There is no legislative requirement to provide bus shelters at bus stops, but it is recognised they provide an important amenity for the public.

The legislation stipulates that all new boarding points must comply with the Disability Standards for Accessible Public Transport 2002. For existing boarding points, the legislation indicates full compliance is to be achieved by 31 December 2022.

Further, Transport for NSW has produced a Disability Inclusion Action Plan 2018-2022 which aligns with the legislation and its compliance schedule.

It includes the following key actions listed under the 'Liveable communities' outcome area:

### **1.03 Progressively improve the accessibility of bus stops**

Issue guidelines on bus stop design standards for accessibility and the reduction of barriers.

Investigate and develop a feasible program to accelerate upgrades to bus stops by councils.

Improve information about the accessibility of bus stops in metropolitan areas to prioritise upgrade works and help customers choose accessible journeys.

Provide raised lettering and braille to indicate bus stop numbers.

Apply inclusive design principles when upgrading and building new bus stops to maximise accessibility and customer experience.

Apply accessibility principles to customer information at bus stops.

*Transport for NSW Disability Inclusion Action Plan 2018-2022, page 24*

A compliance audit of Council's bus stops is required to quantify the level of compliance of each bus stop with the standards and to develop a compliance action plan.

Revenue earned from bus shelter advertising could be used to offset some of the costs associated with making bus stops compliant under the legislation.

## **Bus Shelter Advertisement**

Through online research and phone consultation, information was gathered to compare practices at other local government areas. While many councils do not permit bus shelter

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 11 August 2021

### REPORT GENERAL MANAGER



advertising due to concerns of visual pollution, many other councils offset the costs associated with bus stops by permitting advertising on bus shelters and seats.

This is managed in a variety of ways such as; a development control plan, through a council policy, procedure and guidelines or simply through an advertising application with associated terms and conditions.

Coordination of bus shelter advertising is managed internally in some cases, whilst other councils have engaged third parties to both manage advertisements and maintain/replace bus shelters.

Further, while some councils permit commercial advertisement, others restrict this to community advertisement only.

The following table provides information on how certain councils manage bus shelter advertising:

<b>Council</b>	<b>Controls</b>	<b>Administration</b>	<b>Advertising Limits</b>
Penrith City Council	Policy	Internally administered	Commercial and community with content restrictions
Port Stephens Council	Application with T&C's	Internally administered	Commercial and community
Sutherland Shire Council	DCP	Third Party	Commercial and community with some restrictions
Cessnock Council	Policy	Internally administered	Community only
Lake Macquarie City Council	Tender management	Third party	Commercial
Tweed Shire Council	Contract management	Third party	Commercial

The feedback provided by the LGA's with bus shelter advertising programs included:

- Recommendations to have control measures in place for type of advertising and advertising content,
- Recommendations to have advertising restrictions on location (e.g. only permitted in CBD areas),
- Recommendations to have a mechanism to control quality of the advertisement and the bus shelter (e.g. damaged/vandalised ads are replaced),
- Where advertising is being managed through a third party, recommendations to have clear levels of service and advertising limits in the contract

Currently Council's development control plans neither prohibit nor authorise advertising on bus shelters; nor does Council have a policy position on this subject. Advertising and signage may trigger development consent requirements depending on its nature, location and size.

The recommended control method is through a Council Bus Shelter Advertising Policy as this will set out the location and design requirements, the objectives for design and siting of advertising and undergoes public consultation. It can provide an avenue to control the visual amenity of bus shelters and their advertising and authorise both printed and digital formats of advertising where feasible and appropriate.

Further, a policy is reviewed and updated regularly providing periodic opportunities to assess its efficacy and undergo further public consultation.

In order to ensure bus shelters are provided at bus stops in areas of new development, it is also necessary to develop and publish bus shelter design standards in Council's suite of Engineering and Design Specifications. The appropriateness of bus shelter advertising in areas of new development should be considered as part of the policy.

To protect the rural character of the villages, it is recommended that the Policy restrict bus shelter advertising in all areas except the CBDs of Moss Vale, Bowral, Mittagong and Bundanoon. Further, the proposed Bus Shelter Advertising Policy should include appropriate restrictions to protect heritage conservation areas.

Following the development of a policy, a tender can be sought for third party management of the maintenance, renewal and advertising on bus shelters. The results of the tender will enable Council to better evaluate third party and in-house management models.

---

## **COMMUNICATION AND CONSULTATION**

### **Community Engagement**

There has been no community engagement related to this report.

### **Internal Communication and Consultation**

Assets and Strategic Planning

### **External Communication and Consultation**

A number of councils were consulted related to this report to gather information on bus shelter advertising practices.

---

## **SUSTAINABILITY ASSESSMENT**

- **Environment**

Should Council determine to permit bus shelter advertising, controls should be implemented to manage visual impacts.

- **Social**

There are no social issues in relation to this report.

- **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.

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 11 August 2021

### REPORT GENERAL MANAGER



- **Governance**

Development of a Bus Shelter Advertising Policy will be undertaken in accordance with Council's Policy Development and Review General Manager's Practice Note and Procedure.

---

#### **COUNCIL BUDGET IMPLICATIONS**

Revenue from bus shelter advertising would partially offset costs associated with replacing bus shelters and ensuring that Council achieves compliant bus stops access.

---

#### **RELATED COUNCIL POLICY**

There is no Council policy related to this report.

---

#### **CONCLUSION**

Bus shelter advertising may generate revenue to offset costs associated with maintenance and renewal of bus shelters. It is recommended that a Bus Shelter Advertising Policy be developed to control the activity and enable Council to evaluate third party and in house management models.

---

#### **ATTACHMENTS**

There are no attachments to this report.

## 9.2 Draft Penrose Village Park Plan of Management for Public Exhibition

**Report Author:** Asset Strategy Officer Sport and Recreation  
**Authoriser:** Acting Manager Assets

### **PURPOSE**

The purpose of this report is to seek Council endorsement to place the draft Penrose Village Park Plan of Management on public exhibition.

### **RECOMMENDATION**

#### **THAT**

1. The draft Penrose Village Park Plan of Management provided in Attachment 1 be placed on public exhibition from 16 August 2021 to 12 September 2021.
2. Submissions on the draft Penrose Village Park Plan of Management be accepted until 26 September 2021.
3. The draft Penrose Village Park Plan of Management incorporating community submissions be submitted to Council for adoption following the public exhibition.

### **REPORT**

#### **BACKGROUND**

Penrose Village Park is on Council owned land located at 300 Kareela Road, Penrose and is made up of 14 separate lots zoned RE 1 – Public Recreation. The land was vested in Council by the Crown on 28 May 1976. It is currently managed under the Children's Services & Community Halls Plan of Management which was adopted on 13 October 2010.

The site can be described as a village precinct with a community hall, tennis courts, children's playground, and sports oval.

Under the current Plan of Management, the southern portion of the site is categorised for General Community Use, and the remainder categorised as a Sportsground.

Under the *Local Government Act 1993* (the Act), land categorised as a Sportsground is to be used primarily for active recreation involving organised sports or the playing of outdoor games. Land categorised for General Community Use can be used for the provision of facilities such as community halls, playgrounds, and passive recreation facilities including picnic tables.

Community consultation has revealed that the site has not been used regularly for organised sporting events as it is too small, with the open space / sportsground portion of the site being primarily used by local children as an open space for informal play.

Council has recently undertaken remedial works on the community hall to remove asbestos from the building and to investigate termite damage to the structure. In completing those

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 11 August 2021

### REPORT GENERAL MANAGER



works, the kitchen area was refurbished, and the electrical system was updated to bring it into line with current standards.

### **REPORT**

The Penrose Community Association has recently received funding from the Bushfire Local Economic Recovery Fund to fund the construction of a new Penrose Hall, as the existing hall is insufficient for the community's needs. Council was aware that the community sought grant funding for the construction of the new hall, and Council staff have been working with the Penrose Hall working group to develop designs for the new hall. It is expected that the working group will be lodging a development application within weeks.

The proposed new site of the community hall falls within land currently categorised as a Sportsground. The Act does not allow for the development of community halls or other similar developments on land categorised for use as a Sportsground. Therefore, Council is unable to finalise the approval of any development application for the new hall until the site is recategorised to allow the hall to be built. Council staff within Development Planning have indicated that it is possible to approve any development application in these circumstances with a condition that any Plan of Management for the site be amended to allow for the development sought.

Council has engaged specialist consultants to draft a specific Plan of Management for the site, to recategorise the land to allow for the development of a new community hall. The draft Penrose Village Park Plan of Management (the draft Plan of Management) at Attachment 1 has been drafted in accordance with the Act, and seeks to recategorise the land as follows:

- partly for General Community Use, to allow for the existing hall, the new hall, and facilities such as the children's playground;
- partly as a Sportsground, to allow for the tennis courts; and
- partly as a Park, to allow for the open spaces that the community has indicated it values.

The draft Plan of Management has been developed in consultation with Council staff and the local community, as detailed below under "Communication and Consultation". The draft Plan of Management reflects the needs and desires of the community for the use of the site.

It is recommended that the attached draft Plan of Management (Attachment 1) be placed on public exhibition to provide the community with the opportunity to provide feedback.

In accordance with the requirements of the Act, Council must give notice of a draft Plan of Management and place the Plan of Management on public exhibition for no less than 28 days. Submissions can be made to Council on the draft Plan of Management for a period of no less than 42 days from the date the draft Plan of Management is placed on exhibition.

In addition, Council must hold a public hearing in respect of this draft Plan of Management, as it is proposed to alter the categorisation of part of the land to allow for the new hall to be built. It is recommended that the public hearing take place in the early part of the public exhibition period to allow interested persons to read the draft Plan of Management and seek any clarification required prior to the end of the submission period.



---

## **COMMUNICATION AND CONSULTATION**

### **Community Engagement**

Council and its consultants conducted a community workshop with invited stakeholders from the Penrose Community (Attachment 2) prior to compiling the draft Plan of Management.

In accordance with the requirements contained in the Act, it is proposed that the draft Plan of Management be placed on public exhibition from 16 August 2021 to 12 September 2021 and that submissions be invited from the public until 26 September 2021.

In addition, a public hearing will be held in the week commencing 23 August 2021, that is, one week after the draft Plan of Management has commenced public exhibition, to allow the community to seek further clarification and information prior to making a submission.

A project page will be established on Council's Your Say Wingecarribee website ([yoursaywingecarribee.com.au](http://yoursaywingecarribee.com.au)). Residents will have the opportunity complete an online form on the Your Say Wingecarribee project page, or to make a submission by way of email or letter.

Public notice of the exhibition period will be provided by the following means:

- Notification to all registered members of Your Say Wingecarribee
- Notification to community contacts
- Weekly Community Update published on Council's website
- eNewsletter distributed to registered subscribers
- Media release.

### **Internal Communication and Consultation**

The following departments were consulted in relation to this report:

- Assets
- Property
- Development Assessment

### **External Communication and Consultation**

External communication and consultation will be carried out in accordance with the details provided above.

---

## **SUSTAINABILITY ASSESSMENT**

### **• Environment**

There are no environmental issues in relation to this report.

### **• Social**

The draft Plan of Management seeks to better reflect the community's needs and desires for the use of the public space, thereby increasing community wellbeing.



## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 11 August 2021

### REPORT GENERAL MANAGER

---



- **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**

There are no governance issues in relation to this report.

---

### **COUNCIL BUDGET IMPLICATIONS**

The cost of development of the Plan of Management has been included Council's Budget.

---

### **RELATED COUNCIL POLICY**

There is no Council policy related to this report.

---

### **CONCLUSION**

The draft Plan of Management for Penrose Village Park has been developed in accordance with all relevant legislation. It is recommended that the draft Plan of Management be placed on public exhibition in accordance with the details provided in this report.

---

### **ATTACHMENTS**

1. Draft Penrose Village Park Plan of Management - *circulated under separate cover*
2. Community Groups in attendance at workshop 13 July 2021



## Penrose Workshop 13 July 2021 attendance

<b>Name</b>	<b>Organisation</b>
Alison Duthie	Penrose Community Association
John Duffy	Penrose Community Association
Carol Princic	Penrose Hall Committee
Jeff Freeman	Penrose Hall Committee
Nigel Hartley	Penrose Tennis Club
Judy Elber	Penrose Tennis Club
Nina de Borde	Penrose P&C
Maria Dunn	Penrose P&C
Melissa Cady	Penrose Playgroup
Colette Goodwin	CGM Planning & Development
Carl Malmberg	CGM Planning & Development
Rachel Forte	Wingecarribee Shire Council
Lisa Grimshaw	Wingecarribee Shire Council

### 9.3 Community Update - Southern Highlands Innovation Park, Moss Vale Bypass and Berrima Road Deviation Project

**Report Author:** Group Manager Capital Projects  
**Authoriser:** Acting Deputy General Manager

#### **PURPOSE**

The purpose of this report is to provide Council and the broader community with a status update on the Southern Highlands Innovation Park (formerly known as the Enterprise Corridor), the Moss Vale Bypass and the Berrima Rd Deviation Project.

#### **RECOMMENDATION**

**THAT Council note the information contained within this report including the current status of the Southern Highlands Innovation Park, Moss Vale Bypass and Berrima Rd Deviation Project.**

#### **REPORT**

##### **BACKGROUND**

At the Ordinary Meeting of Council on 13 August 2008 Council adopted the *Moss Vale Enterprise Corridor Development Control Plan*. The Moss Vale Enterprise Corridor was to be developed as a sustainable employment area for the region emphasising “light and general industrial development” with the area expected “to accommodate business park commercial development and larger scale freight storage and distribution operations associated with existing rail infrastructure and a possible intermodal freight terminal.”

In 2013, Council adopted the *Section 94 Developer Contributions Plan for The Moss Vale Enterprise Corridor 2013 to 2050* which identified the major transport infrastructure needs to support the development of the Moss Vale Enterprise Zone. This includes the Moss Vale Bypass Stages 1, 2 and 3, and the Berrima Road Deviation (known in the Section 94 Plan as the Berrima Road Blue Circle Railway Overpass) as well as other key transport infrastructure needs.

Despite being identified as a local and regionally significant employment zone since 2008, the Enterprise Corridor has remained largely undeveloped. In 2020, Council adopted both the *Wingecarribee Local Strategic Planning Statement* and *Southern Highlands Destination Strategy*, which recognise and re-emphasises the importance of the Moss Vale Enterprise Corridor as a regionally significant employment precinct.

Further, the adopted strategies commit Council to working with State and Federal Government to secure funding for key enabling infrastructure to unlock the development potential of the regionally significant employment precinct.

In adopting the Destination Strategy, Council rebranded the Enterprise Corridor and the adjacent industrial land as the Southern Highlands Innovation Park (SHIP). The SHIP

## **AGENDA FOR THE ORDINARY MEETING OF COUNCIL**

Wednesday 11 August 2021

### **REPORT GENERAL MANAGER**

---



provides a unique opportunity for large scale employment generating development conveniently close to Sydney and the new Western Sydney Aerotropolis, with good distribution to most of the country. The SHIP will assist in meeting the demand for employment land in the region and creating opportunities for economic activity and employment within the Shire.

Work has recently commenced work on a Master Plan and Infrastructure Servicing Strategy for the SHIP, which will provide a vision and strategic direction for the precinct and certainty to both industry and Government in the provision of key enabling infrastructure to unlock the development potential of the SHIP.

This report provides the broader community with a timely update on the Master Plan for the Innovation Park and also the current status of the Moss Vale Bypass and Berrima Rd Deviation Project.

### **SOUTHERN HIGHLANDS INNOVATION PRECINCT MASTERPLAN**

#### **Current Status**

Work has recently commenced work on a Master Plan and Infrastructure Servicing Strategy for the SHIP, which will provide a vision and strategic direction for the precinct and certainty to both industry and Government in the provision of key enabling infrastructure to unlock the development potential of the SHIP.

The Master Plan will be completed in a number of Stages, with Stage 1 being a 'reframe' of the vision and strategic direction for the precinct. The SHIP has the potential to leverage off new and emerging employment centres (such as the new Western Sydney International Airport and the Aerotropolis) and off new and emerging transport corridors (such as the M9 Outer Sydney Orbital and a refocus on rail freight logistics) to provide a complementary employment base of regional significance.

The first stage of the master planning process will include a high level land use and competitor analysis and feasibility model, to ensure that the Master Plan capitalises on the Shire's competitive and comparative advantages to recognise the potential of the precinct.

The following stage(s) will include a detailed Master Plan, servicing strategy and viability analysis, as well as detailed funding, governance and delivery strategies to provide certainty to both industry and Government in the delivery of key enabling infrastructure to unlock this regionally significant employment precinct.

#### **Consultation**

The Master Plan and servicing strategy will be developed in consultation with industry, Government and community stakeholders throughout all stages of the process.

#### **Next steps**

Consultation on Stage 1 of this process will commence with industry and community stakeholders in the coming weeks.

---

## **MOSS VALE BYPASS**

### Current Status

In 2019, the Transport and Infrastructure Minister Andrew Constance announced a \$20 million election commitment with the Member for Goulburn for the Moss Vale Bypass project.

Following consultation with Council, a Funding Agreement for \$2.4m for the design of Stage 1 was executed between Council and Transport for NSW in September 2020.

The Project will provide substantial benefits including:

- Providing a crucial second crossing of the Main Southern Rail line for Moss Vale, critically one that is not flood affected or height restricted
- Reducing traffic congestion and delays along Argyle Street, Moss Vale (main street for Moss Vale CBD)
- More equitable distribution of traffic across the wider network
- Stage 1 (and all future stages) will assist in addressing the impacts of recent large residential rezonings
- Pedestrian and cycleway connections between Bong Bong Common and the residential areas of north west Moss Vale.

This project is not without challenges, as such Council has pursued a two phased approach to Stage 1 of the project.

This first phase is Design. This phase will focus on site constraints and opportunities in order to better understand the cost and time implications ahead of the construction phase, including the:

- presence of the Moomba to Sydney Natural Gas and Ethane Gas pipelines along (and at various points crossing) all three stages of the proposed Bypass
- requirements of constructing a single bridge across two industrial roads and the Main Southern Railway (ARTC)
- implications of the presence of a number of underground telecommunications cables (including Optus - nationally significant) and numerous locations of overhead high voltage electrical transmission line crossings.

The Tender for the site investigation and design including, service location, geotechnical investigation, and design services is currently open and is expected to be reported to the October 2021 Ordinary Council Meeting.

One of the key deliverables from this Tender will be the preparation of current Concept designs for the bypass which will be based on the detailed survey and will be made available to the community for comment.

### Consultation

At the various key stages of the inception and development of the Moss Vale Enterprise Corridor and the Moss Vale Bypass, Council has engaged with the community seeking feedback regarding the various issues, reports and plans.

## **AGENDA FOR THE ORDINARY MEETING OF COUNCIL**

Wednesday 11 August 2021

### **REPORT GENERAL MANAGER**



As part of the design phase of the project, Council has provided a project specific page on Council's [yoursaywingecarribee.com.au](http://yoursaywingecarribee.com.au) website to provide information regarding the project and developments. The webpage also has the facility to receive comments and feedback from the community to assist with the design.

Once the concept plans are prepared these will be exhibited and comments sought for consideration in the design and environmental assessment.

#### Next steps

Council is progressing with the design phase of the Stage 1 of the Moss Vale Bypass project. Following the design development and the preparation of an informed and current cost estimate, Council will seek funding opportunities with the assistance of the NSW Government and other funding mechanisms. Once funding is confirmed, Council can proceed with the construction phase of Stage 1. The development of detailed designs for Stage 2 and 3 will need to be planned for in future years.

### **BERRIMA ROAD DEVIATION**

#### Background

The required upgrade of the Berrima Rail crossing has been considered for some years as part of the Moss Vale Enterprise Corridor.

The project is intended to divert Berrima Road away from the existing level crossing near Boral Cement Works to a bridge over the train line further east. The existing T-junction intersection at Berrima Road and Taylor Avenue will be replaced with a B-triple truck capacity roundabout and approximately 600m of new road constructed to remove a sharp bend.

#### Current Status

As per the resolution at Council's meeting held on 10 April 2019, Council has progressed onsite with a reduced scope to enable the project to be in a position to be "shovel ready" for any future grant funding opportunity.

Council has progressed the following works:

- Negotiate with the relevant property owner in relation to the proposed land swap
- Complete the property acquisition from the relevant adjacent property owner
- Complete the service relocations for electrical, Telstra, and Jemena
- Topsoil and seed the southern embankment to protect it for the future

Council has been negotiating with the two relevant property owners and has completed one property acquisition. Council has proactively been working with the remaining property owner to negotiate a land swap and to obtain a construction licence (early private property access for construction activities). Negotiations have been protracted and complicated with the property owner introducing issues outside of the initial draft agreement.

Council has obtained approval from all property owners for the high voltage relocation works currently underway. At this time Council has been unsuccessful in completing the land swap negotiation and obtaining the required construction licence agreement to undertake

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 11 August 2021

### REPORT GENERAL MANAGER



the utility adjustments (Telstra and Jemena) and topsoiling/seeding of the southern embankment for protection. However, during recent conversations with the property owner Council is hopeful the construction licence will be granted to allow other onsite works to commence in the near future.

The high voltage relocation is progressing well and is expected to be completed by December/November 2021. A combination of poor ground conditions (impacting heavy truck movements onsite) and limited availability of high voltage network shutdown dates has impacted program. The 11kV network relocation is complete.

The 33kV network relocation is underway with some poles erected. It is anticipated that the 33kV network will be relocated and completed by November 2021 along with the maintenance access tracks.

#### Consultation

Council will continue to update the [yoursaywingecarribee.com.au](http://yoursaywingecarribee.com.au) website and provide information regarding the project.

#### Next steps

In relation to the ongoing land swap negotiation, Council is evaluating alternative pathways to achieve a fair outcome for both parties if recent positive conversations do not progress the land swap negotiation. Until this matter is resolved Council cannot undertake the utility adjustments (Telstra and Jemena) and topsoiling/seeding of the southern embankment for protection. In parallel and in anticipation Council has sought agreement from the utility providers to complete the relocation.

In reference to the high voltage relocation works the project is planned to be completed by December 2021.

The overall objective is for Council to have a "shovel ready" project. Land acquisitions complete and external impediments removed, leaving a grassed mound until the future completion of the project can be undertaken through future grant funding when available.

---

## **COMMUNICATION AND CONSULTATION**

### **Community Engagement**

Community Engagement have been outlined in the main section of this report.

### **Internal Communication and Consultation**

Capital Projects, Strategic Planning

### **External Communication and Consultation**

This report provides the broader community with a status update on the Southern Highlands Innovation Park (formerly known as the Enterprise Corridor), the Moss Vale Bypass and the Berrima Rd Deviation Project

---

## **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**

Council has recently commenced work on a Master Plan and Infrastructure Servicing Strategy for the Innovation Park, which will provide a vision and strategic direction for the precinct and certainty to both industry and Government in the provision of key enabling infrastructure to unlock the development potential of the Innovation Park.

- **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 direct budget implications in relation to this report.

---

## **RELATED COUNCIL POLICY**

None

---

## **CONCLUSION**

This report provides Council and the broader community with a status update on the Southern Highlands Innovation Park (formerly known as the Enterprise Corridor), the Moss Vale Bypass and the Berrima Rd Deviation Project.

---

## **ATTACHMENTS**

There are no attachments to this report.



## **10 CORPORATE STRATEGY AND DEVELOPMENT SERVICES**

### **10.1 Revolving Energy Fund Annual Report**

**Report Author:** Environmental Policy Officer  
**Authoriser:** Manager Environment and Sustainability

#### **PURPOSE**

The purpose of this report is to provide an update on the achievements of Council's Revolving Energy Fund for the 2020/21 financial year.

#### **RECOMMENDATION**

##### **THAT:**

1. Council note the energy and financial savings achieved through projects completed under the Revolving Energy Fund
2. Council approve the transfer of \$38,189.41 from Council's electricity budget to the Revolving Energy Fund for the 2020/21 financial year.

#### **REPORT**

##### **BACKGROUND**

Council established the Revolving Energy Fund (REFund) in 2012 as a mechanism to generate ongoing funding for projects that reduce Council's billed energy consumption. Savings in billed energy from REFund projects are reinvested back into the fund until the initial project cost is fully repaid. After this time the electricity budget for the particular facility benefits from the reduced energy costs. As the REFund is replenished, it is then used to fund future energy projects across Council. A report is provided to Council annually detailing project savings and recommendations on the transfer amount back into the REFund.

Examples of REFund projects include solar installations and lighting upgrades. It should be noted that additional energy efficiency and renewable energy projects are implemented outside of the REFund and are outside of the scope of this report.

To date, REFund projects have resulted in over 1130 megawatt hours of solar generated and used onsite, saving \$206,000 on electricity bills and reducing our greenhouse gas emissions by 1017 tonnes of carbon dioxide.

As part of its COVID 19 Budget Impact Statement, Council endorsed to retain the REFund 2019/20 electricity savings of \$46,729 for one year to assist with the estimated significant budget shortfall over the 2019/20 and 20/21 financial years. However, at the Finance Committee meeting on 19 August 2020, it was resolved that if the end of financial year result was favourable the 2019/20 savings would be transferred to the REFund (MN 347/20). As the end of year result was a surplus the 2019/20 REFund savings of \$46,729 was transferred to the REFund as noted at the 21 October 2020 Finance Committee meeting.

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 11 August 2021

### REPORT GENERAL MANAGER



## REPORT

Council has implemented nine energy projects through the REFund.

Table 1 below presents an overview of the energy and resulting financial savings achieved for the 2020/21 financial year for active REFund projects. The financial savings represent the amounts to be transferred from each facility's electricity budget into the REFund.

Four REFund projects (lighting upgrades for Bowral Library, Civic Centre and Mittagong Library, and the RFS Mittagong solar project) have now been completely repaid and are not included in Table 1. This year is the final payment for the Welcome Centre solar, Bowral Library solar and Moss Vale Aquatic centre solar.

Project Name	Initial Project Completion	Initial Project Cost	Financial Savings 20/21 FY	Energy savings and solar energy generated and used on site (kWh) 20/21 FY	Greenhouse Gas savings (tCO <sup>2</sup> e) 20/21 FY
Welcome Centre Solar 9.75 kW Final Repayment 2021	2013	\$14,499	\$931.58	9,583	8.62
Bowral Library Solar 29.75 kW Final Repayment 2021	2014	\$39,633	\$2,775.51	29,325	26.39
Moss Vale Library Lighting Final Repayment 2023	2017	\$3,300	\$576.00	2,883	2.59
Moss Vale Aquatic Centre Solar 99.75 kW Final Repayment 2021	2017	\$95,233	\$26,252.89	135,962	122.37
Moss Vale Depot Solar 25kW Final Repayment 2024	2018	\$37,728	\$7,653.43	35,140	31.63
<b>Total</b>			<b>\$38,189.41</b>	<b>234,877</b>	<b>211</b>

---

## **FUTURE REVOLVING ENERGY FUND PROJECTS**

The next REFund project is the Civic Centre 99 kilowatt solar system. The system will be installed by end of 2021 in conjunction with the Civic Centre refurbishment project completion.

Future projects currently being investigated include:

- Heats pumps or solar thermal panels at aquatic facilities to reduce reliance on gas
- Further solar panel installations for other council facilities.

---

## **COMMUNICATION AND CONSULTATION**

### **Community Engagement**

No community engagement has occurred for this report.

### **Internal Communication and Consultation**

Finance branch has been informed of this report.

### **External Communication and Consultation**

No external communication has occurred for this report.

---

## **SUSTAINABILITY ASSESSMENT**

### **• Environment**

The REFund has a positive impact on the environment. The fund is a mechanism to generate ongoing funding for energy efficiency projects and increases renewable energy use.

### **• Social**

There are no social issues in relation to this report.

### **• 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**

There are no governance issues in relation to this report.

---

## **COUNCIL BUDGET IMPLICATIONS**

The transfer of \$38,189.41 to the REFund will have no budget impact. This transfer is funded through savings within the respective electricity budgets of each project facility.

**AGENDA FOR THE ORDINARY MEETING OF COUNCIL**

Wednesday 11 August 2021

**REPORT GENERAL MANAGER**



---

**RELATED COUNCIL POLICY**

Nil

---

**CONCLUSION**

Council's Revolving Energy Fund has been successfully operating since 2012. Nine projects have been completed to date.

The value of financial savings attributed to Revolving Energy Fund projects for the 2020/21 financial year is \$38,189.41. Approval is sought to transfer the total into the Revolving Energy Fund enabling further energy management projects to be implemented.

---

**ATTACHMENTS**

There are no attachments to this report.

---

## **10.2 Partnership Agreement with Service NSW for Business**

**Report Author:** Coordinator Economic Development  
**Authoriser:** Group Manager Corporate and Community

---

### **PURPOSE**

The purpose of this report is to provide background information and seek support to enter into an agreement with Service NSW and to consider future business improvement initiatives

---

### **RECOMMENDATION**

#### **THAT**

- 1 Authority be given to the General Manager to enter into an agreement with Service NSW; and**
- 2 Any necessary documents be authorised for execution under the Common Seal of Council**

---

### **REPORT**

#### **BACKGROUND**

Council currently has an agreement in place with Service NSW to promote and provide access to NSW Government information and services to better assist business owners and to support the local economy.

Council first entered into this agreement with Service NSW in March 2019 through a Memorandum of Understanding.

#### **REPORT**

Service NSW for Business provides free, personalised support to small business owners, to help them understand industry regulations, to guide them through transactions, and to access support.

The services provided to business owners include:

- Business Concierges offering over-the-phone, email and face-to-face support and case management.
- An online Business Profile to make it faster and easier for business owners to transact with NSW Government.
- Guidance and support for small business owners impacted by natural disasters or emerging issues to access a range of Government stimulus, support and information.
- Online business information hubs including how-to guides to help business owners understand key tasks and the support available when starting and running a business in NSW. A new Partnership Agreement has been developed to provide

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 11 August 2021

### REPORT GENERAL MANAGER



consistency across all councils, reflect the broader focus of Service NSW for Business and provide the opportunity for Wingecarribee Shire Council to engage with all services across Service NSW now and into the future.

The new Partnership Agreement includes further detail and clarity about the roles and responsibilities of all agencies in relation to the collection, storage and security of personal information.

The intention of the Partnership Agreement is to build awareness of specialist advice services available, ensure Council staff can direct enquiries to these services and provide applicants with the skills to be better informed and researched prior to lodging any applications.

---

## COMMUNICATION AND CONSULTATION

### Community Engagement

N/A

### Internal Communication and Consultation

Interim DGM Corporate, Strategy & Development Services

Group Manager Corporate and Community

### External Communication and Consultation

N/A

---

## 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**

The partnership agreement between Council and ServiceNSW is to promote and provide access to NSW Government information and services to better assist business owners and to support the local economy.

- **Culture**

There are no cultural issues in relation to this report.

- **Governance**

There are no governance issues in relation to this report.

## **AGENDA FOR THE ORDINARY MEETING OF COUNCIL**

Wednesday 11 August 2021

### **REPORT GENERAL MANAGER**



---

#### **COUNCIL BUDGET IMPLICATIONS**

There are no budget implications as result of this report.

---

#### **RELATED COUNCIL POLICY**

Nil

---

#### **CONCLUSION**

The partnership agreement between Service NSW and Council aims to promote and provide access to NSW Government information and services to better assist business owners and to support the local economy. It is recommended that the General Manager be authorised to enter into this agreement.

---

#### **ATTACHMENTS**

1. Service NSW Partnership Agreement



## PARTNERSHIP AGREEMENT

Between **Service NSW** (ABN 37 552 837 401) and the **LOCAL GOVERNMENT** (the  
**'Council'**)  
(the **'Parties'**)

Last Updated: 08 July 2021

### 1. Purpose

1.1. The purpose of this Agreement is to:

- A. Provide the services of Service NSW for Business, which is a division of Service NSW with a mandate of being the one front door for businesses in NSW to access government information and services.
- B. Provide the framework within which Services will be delivered
- C. Document the responsibilities of Service NSW and the Council on the provision of Services
- D. Provide mechanisms to manage the relationship between the Parties
- E. Promote a collaborative approach to working together in a timely and effective manner and to act in good faith

This Agreement is not legally binding.

### 2. Background

- 1) Service NSW is a Division of the Government Service established under the Service Act. The functions of Service NSW include the exercise of customer service functions, within the meaning of the Service Act; other functions conferred by statute; and other functions relating to the delivery of Government services, as directed by the Minister responsible for Service NSW.
- 2) Section 7 of the Service Act makes provision for customer service functions to be delegated by other NSW Government agencies to the Chief Executive Officer ('CEO').
- 3) The functions of the CEO are exercised by the staff of Service NSW.
- 4) Section 8 of the Service Act enables the CEO to enter into Agreements with local government agencies for the exercise of a non-statutory customer service function of the agency; or with respect to the exercise of a customer service function delegated to the CEO.
- 5) Subsection 8(4) of the Service Act provides that an Agreement with a council, a county council or a joint organisation within the meaning of the *Local Government Act 1993* must





be approved by a resolution of the council, county council or joint organisation, must be approved before it is entered into.

- 6) SNSW partners with the Council to promote and deliver the services of SNSW for Business to businesses across NSW.
- 7) the purpose of this collaboration is to ensure awareness and access to Government services to all businesses in NSW.
- 8) the services of SNSW for Business are free for the Council and for customers.
- 9) The PPIP Act and the HRIP Act set out information handling principles that apply to public sector agencies (as defined in section 3 of the PPIP Act). As public sector agencies, the parties must not do anything, or engage in any practice, that contravenes a privacy principle that applies to them.
- 10) Section 14 of the Service Act makes provision for the disclosure and use of information, including personal information, for the purposes of the exercise of customer service functions by the CEO. Section 14 has effect despite the provisions of any other Act, including the PPIP Act and the HRIP Act.
- 11) Section 15 of the Service Act makes provision for the collection of personal information for the purposes of the PPIP Act and the HRIP Act, by Service NSW.
- 12) Section 16 of the Service Act enables an Agreement made under the Service Act, or a delegation of a customer service function by an agency to the CEO, to provide for the exercise by Service NSW of functions relating to access to information under the Government Information (Public Access) Act 2009 and functions relating to the State Records Act 1998, in connection with the functions of the council concerned. The responsibilities of Agencies under the *State Records Act 1998* include making and keeping full and accurate records of their office.
- 13) The Parties have agreed to enter into an Agreement under section 8 of the Service Act, incorporating these Standard Terms of Engagement.

### 3. Guiding Principles

#### 3.1. The Parties will:

- A. Work collaboratively and in good faith in a timely and effective manner, with open communication to achieve shared objectives
- B. Facilitate a partnership relationship that promotes and achieves continuous improvement and accountability
- C. Ensure that each of its Personnel complies with this AGREEMENT and all applicable laws and policies relating to the Services, including the *Work Health and Safety Act 2011*
- D. Comply with the agreed timelines for meeting obligations to ensure efficient and effective delivery of Services
- E. Work together to identify and manage shared risks
- F. Work together to prioritise initiatives and enhancements, particularly where there are limitations on time and resources; and



- G. Work together to respond to the media, advise Ministers, and consult each other when developing communications that impact on Services.

## **4. Roles and Responsibilities**

### 4.1. Service NSW will:

- A. Provide the Services in accordance with this Agreement Standard Terms, subject to any Change Request
- B. Exercise the required standard of skill, care and diligence in its performance of the Services and ensure that its Personnel have appropriate qualifications and skills to provide the Services
- C. Take responsibility for the management of records it creates or holds as a result of the exercise of a customer service function, where required; and
- D. Take responsibility for performing necessary maintenance of its systems and data managing the impact on customers from Service NSW system outages and working in conjunction with the Council.

### 4.2. The Council will:

- A. Provide Service NSW with all information, inputs, resources and subject matter expertise in a timely manner as required to enable Service NSW to provide the Services as set out in the Agreement
- B. Take responsibility for the management of records it receives or holds following the exercise of a customer service function by Service NSW.

### 4.3. The Parties undertake to maintain open channels of communication by:

- A. Making available Personnel, data, reports and computer systems for the purposes of resolving customer issues
- B. Appointing a Relationship Manager with responsibility for managing the contractual and operational aspects of the Services. The Relationship Manager may be varied.

## **5. Services**

### A. Service NSW will:

- (i) provide the relevant information and contacts to Council to ensure its local businesses are aware and can access the SNSW for Business services
- (ii) provide a single point of contact for Council to ensure it can access SNSW for Business services.

### B. the Council will:

- (i) refer eligible customers to the Program
- (ii) provide guidance to Service NSW staff to assist in responding to inquiries
- (iii) inform customers and Service NSW of the outcome of relevant applications in line with privacy requirements



- (iv) provide updates on changes to local government policies, guidelines or other matters which may affect the Program
- (v) identify local opportunities to inform customers of the program
- (vi) provide Service NSW with feedback on the effectiveness and performance of the Program.

## 6. Liability

- 6.1. To the full extent permitted by law, neither Council or Service NSW will be liable to the customer for the customer's actions or responsible for any liability, loss or cost suffered directly or indirectly by the business in connection with the Service NSW for Business service.

## 7. Data and Data Security

7.1. Each party retains ownership of its Data.

7.2. Except as required by law, neither party must ensure that its Personnel will not:

- A. use the Data belonging to the other party for any purpose other than the performance of its obligations under this Agreement
- B. sell, commercially exploit, let for hire, assign rights in or otherwise dispose of any Data; or

Each party must establish and maintain safeguards against the destruction, loss or alteration of either party's Data in the possession or control of that party which are consistent with and no less rigorous than those maintained by either party to secure its own data; and comply with all applicable laws and policies.

In particular, the Parties will ensure the secure transmission and storage of data, at standards no less than those recommended by Cyber Security NSW.

## 8. Confidential Information

8.1. The Parties must, in respect of any Confidential Information:

- A. Keep the Confidential Information confidential and not disclose that information to any person without the prior written consent of the disclosing party, other than to its Personnel, professional advisors or contractors requiring access to the Confidential Information in connection with providing the Services
- B. Use the Confidential Information solely for the purpose of carrying out its obligations
- C. Not permit the Confidential Information to be reproduced except to the extent reasonably required to carry out its obligations
- D. Not do anything that would cause the disclosing party or its Personnel to breach their obligations under Privacy Law; and
- E. Notify the other party as soon as possible upon becoming aware of any breach of this clause.



## 9. Privacy

9.1 Each party and its Personnel must:

- A. Comply with Privacy Laws; and
- B. Do all that is reasonably necessary to enable the other party to comply with Privacy Laws, including the development of documentation to demonstrate compliance with Privacy Laws, as agreed between the parties

9.2. In particular, Service NSW acknowledges that:

- A. The collection of personal or health information will take place in compliance with the Privacy Laws, as modified by section 15 of the Service Act; and
- B. the use, disclosure, storage and retention of such information will be in accordance with the Privacy Laws, and in accordance with applicable policies.

Schedule 3 documents the respective responsibilities of Service NSW and the Council in relation to the collection, storage, use, retention and disclosure of personal information.

9.4 Personal and health Information collected, used, disclosed or retained between the parties will be managed and retained by the parties in accordance with the *State Records Act 1998* (NSW) and all other applicable laws, including Privacy Laws.

9.5 Once either of the Parties has reasonable grounds to believe there has been unauthorised access to, unauthorised disclosure of, or a loss of Personal or Health Information, dealt with in connection with this Agreement (**'Data Incident'**):

- A. The party must immediately (but in any event, no later than 72 hours of becoming aware of the Data Incident) notify the other party of that contravention together with all relevant information relating to the contravention
- B. Consult with the other party as to which party should have primary responsibility for investigating and dealing with the breach or possible breach
- C. Consider, having regard to the scope of the Data Incident and the nature of the personal or health information involved, together with any other relevant factors, whether the Data Incident is serious.
- D. The party with primary responsibility for the breach must notify the Privacy Commissioner as soon as practicable that a serious Data Incident has occurred; and
- E. The parties must co-operate and collaborate in relation to assessment and investigation of the Data Incident, and action required to prevent future Data Incidents.

9.6 If either of the Parties receives a complaint or request for an internal review of conduct in relation to a breach or alleged breach of a Privacy Law, including under section 53 of the PPIP Act, (a **'Complaint'**), the following will apply:

- A. It is the responsibility of the party that receives the Complaint to perform a preliminary investigation to determine the party responsible for the conduct
- B. If responsibility lies wholly with the party that received the Complaint, then that party is responsible for responding to the complaint or conducting the internal review of conduct



- C. If, after performing the investigation, the relevant party reasonably considers that the Complaint should be transferred to the other party, it will (after obtaining the consent of the customer) promptly transfer the Complaint and any further information obtained by the party from its preliminary investigation to the other party, no later than 20 days after receipt of the original Complaint
- D. If the Complaint relates jointly to the conduct of both parties, then the party that received the Complaint will (after obtaining the consent of the Customer) notify the other party no later than 20 days after its receipt of the original Complaint and provide any further information obtained by that party from its preliminary investigation. The parties will then work together to coordinate a joint response from the parties within 60 days of receipt of the Complaint. This response may include an internal review of conduct.

## 10. Intellectual Property

- 10.1 Each party will retain the Intellectual Property Rights in its Existing Material.
- 10.2 Each party agrees to grant to the other party a non-exclusive and royalty free licence to use, sublicense, adapt, or reproduce:
  - A. Their Existing Material; and
  - B. All methodologies, processes, techniques, ideas, concepts and know-how embodied in their Existing Material,
  - C. To the extent their Existing Material is required for use by the other party, solely in connection with provision of the Services.
- 10.3 Each party represents and warrants to the other party that it has all required rights and consents for its Existing Material to be used for the Services.
- 10.4 Intellectual Property Rights in all New Contract Material will vest in the Council.
- 10.5 The Council grants a perpetual, worldwide, irrevocable and royalty free licence to the Intellectual Property Rights in all New Contract Material to Service NSW for the purpose of performing the Services.
- 10.6 Subject to clauses 10.1 and 10.4, Service NSW will own all Intellectual Property Rights in the provision of the Services, including any solution and service design.

## 11. Performance Management and Continuous Improvement

- 11.1 Service NSW for Business does not require any provisions in relation to performance management
- 11.2 Service NSW for Business will work collaboratively with Council to ensure continuous improvement of its services to Council
- 11.3 Any future extension of this Agreement by Service NSW with Council will specify the relevant performance management and continuous improvement provisions required.



## 12. Reporting

- 12.1 Service NSW for Business does not require any reporting arrangements
- 12.2 Any future arrangements that require reporting will be outlined in a Schedule to this Agreement.

## 13. Change Management

- 13.1 Each party will comply with the Change Management Process set out in Schedule 4.
- 13.2 The parties agree to complete a Change Request in the form set out in Schedule 4 to add to or vary the Services.

## 14. Governance

- 14.1 The parties agree to comply with the Governance Framework.

## 15. Business Continuity and Disaster Recovery

- 15.1 Each party will maintain Business Continuity and Disaster Recovery Plan arrangements to ensure that each party is able to continue to perform its obligations under this Agreement, or where performance is not possible, resume performance as soon as reasonably practicable in the event of a Disaster.

## 16. Dispute Resolution

- **16.1** In the event of a dispute between the parties, a party will:
  - Raise the dispute with the other party's Relationship Manager and use best efforts to resolve the dispute
  - If the dispute is not resolved within a reasonable period, the Chief Executive of the Council or their delegate will meet with the Chief Executive Officer of Service NSW (or their delegate) with a view to resolving the dispute.
  - If the dispute is not resolved under clauses 16.1(b) within a reasonable period, attempt to resolve any dispute in accordance with the Premier's Memorandum M1997-26.
- **16.2** Despite the existence of a dispute, each party must continue to perform its obligations.

## 17. Termination



- 17.1 Either party may terminate this Agreement in whole or in part by giving the other party 90 days written notice or as otherwise agreed.
- 17.2 On notice of termination or where Service NSW is otherwise required to cease to perform some or all of the Program, the parties will work together in good faith to finalise and agree a transition out plan to facilitate smooth and orderly transition of the relevant Program to the Council or the Council's nominated third party. Where the parties cannot agree, the dispute resolution provisions in clause 16 will apply.
- 17.3 Upon termination, each party agrees to return all Data and property belonging to the other party within 30 days of the termination date and comply with the transition out plan agreed under clause 17.2.

## **18. Miscellaneous**

### 18.1 Entire Agreement

This Agreement supersedes all previous Agreements, understandings, negotiations, representations and warranties and embodies the entire Agreement between the Parties about its subject matter.

### 18.2 Survival

The following clauses survive termination or expiry of the Agreement: Clauses 4, 6, 7, 8, 9, 14, 15, 16, 17, 18, 19 and any other clause which by its nature is intended to survive termination or expiry of the Agreement.

### 18.3 Notices

A notice under this Agreement Standard Terms must be in writing and delivered to the address or email address of the recipient party.

### 18.4 Variation

All variations to this Agreement and all consents, approvals and waivers made under this Agreement must be evidenced in writing and variations signed by both parties.

### 18.5 Waiver

If a party does not exercise (or delays in exercising) any of its rights, that failure or delay does not operate as a waiver of those rights.

### 10.6. Applicable law

The Agreement is governed by, and is to be construed in accordance with, the laws in force in NSW.

### 18.7 Counterparts

The Agreement may consist of a number of counterparts and if so, the counterparts taken together constitute one and the same instrument.





## 19. Execution

Wingecarribee Shire Council has reviewed and accepts this Agreement

Signed for and on behalf of <b>Wingecarribee Shire Council</b> by its authorised signatory	Signed for and on behalf of <b>Service NSW</b> by its authorised signatory
Name:	Name:
Title:	Title:
Date:	Date:
Signature:	Signature:
Witness:	Witness:
Signature:	Signature:





## Schedules

### Schedule 1 - Definitions

In these Standard Terms, except where a contrary intention appears:

**Business Continuity and Disaster Recovery Plan** means a business continuity and disaster recovery plan which documents the back-up and response actions each of the parties will take to continue its obligations if a Disaster occurs

**Change Request** means the request for a change to the scope of Services in the form set out in Schedule 2

**Commencement Date** means the date of start of this Agreement.

**Confidential Information** of a party means any written or oral information of a technical, business or financial nature disclosed to the other party, including its employees or agents, by the disclosing Party (whether orally or in writing) whether before or after the Commencement Date, that:

- A. is by its nature confidential; or
- B. is designated as confidential; or
- C. the other party knows or ought to know is confidential,
- D. but does not include information which:
  - a. is or becomes public knowledge other than by breach of these Standard Terms; or
  - b. is in the lawful possession of the Party without restriction in relation to disclosure before the date of receipt of the information; or
  - c. is required to be disclosed by Law, government policy or legal process.

**Contact Centre** has the meaning set out in Schedule 1

**Continuous Improvement Principles** have the meaning set out in Schedule 1

**Continuous Improvement Process** has the meaning set out in Schedule 1

**Data** means the data of each party and all data and information relating to their operations, Personnel, assets, customers and systems in whatever form that may exist, including Confidential Information

**Disaster** means an event that causes, or is likely to cause, a material adverse effect on the provision of the Services that cannot be managed within the context of normal operating procedures including interruption, destruction or other loss of operational capacity

**Existing Material** means any material that is developed prior to entering into a Project Agreement or Service Agreement, or developed independently of a Project Agreement or Service Agreement, and includes any enhancements and modifications to its Existing Material created as part of a Project Agreement or Service Agreement

**Governance Framework** means the governance arrangements set out in the Service Agreement

**HRIP Act** means the *Health Records and Information Privacy Act 2002* (NSW);

**Instrument of Delegation** means the instruments of delegation (including its terms and



conditions) made by the Council in relation to the Delegated Functions.

**Intellectual Property Rights** includes patent, knowhow, copyright, moral right, design, semi-conductor, or circuit layout rights, trademark, trade, business or company names or other proprietary rights and any rights to registration of such rights, whether created before or after the Commencement Date, in Australia or elsewhere

**Middle Office** has the meaning set out in Schedule 1

**Moral Rights** means the right of integrity of authorship and the right not to have authorship falsely attributed, as confined by the *Copyright Act 1968* (Cth) and the rights of similar nature anywhere in the world, whether in existence before or after the Commencement Date

**New Contract Material** means new data created, other than the solution or service design

**Personal Information** has the meaning given to it in the Privacy Laws, as amended from time to time

**Personnel** means the person or persons employed or otherwise contracted by either party under these Standard Terms, as the context requires

**PIIP Act** means the *Privacy and Personal Information Protection Act 1998* (NSW)

**Privacy Law** means any law that applies to either or both of the parties which affect privacy or any personal information or any health information (including its collection, storage, use or processing) including:

- A. the PPIP Act; and
- B. the HRIP Act.

**Program** means the Easy to do Business program

**Quarterly Forecast** has the meaning set out in Schedule 1

**Relationship Manager** means the nominated relationship managers of either party, as set out in the Service Agreement, or as otherwise nominated by a party from time to time

- A. **Service Act** means the *Service NSW (One-stop Access to Government Services) Act 2013* (NSW);

**Service Centre** has the meaning set out in Schedule 1

**Service NSW Standard Operating Conditions** means the standard operating conditions met by Service NSW in the usual course of its performance of the Services set out in Schedule 1

**Service Levels** means the service levels, operating conditions and service levels relating to the Services as set out in the Service Agreement

**Standard Terms of Engagement** or **Standard Terms** means these terms and conditions and includes Schedules 1 and 2

**Subcontractor** means a third party to which Service NSW has subcontracted the performance or supply of any Services



## Schedule 2

### 1. Service NSW Standard Operating Conditions

In addition to the Project Agreement, Service Agreement or Research Agreement, this section covers the standard omnichannel service inclusions.

#### 1.1. Service Centre

Similar services as those available at Service Centres may be offered through Mobile Service Centres. The Mobile Service Centre timetable is published regularly on the Service NSW website.

Inclusion	Description
Concierge and digital assisted services	A Service NSW Concierge will greet and direct customers to the appropriate channel and dispense a ticket where applicable. If the transaction can be completed online, a Digital Service Representative will assist the customer to complete the transaction
Customer sentiment surveys	Before leaving the centre, customers will be offered the option of leaving feedback via a digital terminal

#### 1.2. Contact Centre

Similar services (to that of phone-based) may be offered through a web chat feature accessible via the Service NSW website.

Inclusion	Description
Virtual hold call back system	During high volume periods, customers will be offered the option of leaving their details with an Interactive Voice Response (IVR) auto attendant. Customers can hang up while holding their place in the queue. Their call will be returned by the next available operator
Inbound number	Service NSW will answer all inbound enquiries on 13 77 88 as 'Service NSW'
Call coding	A Customer Service Representative will record the customer's reason for calls and the outcome
Customer sentiment	Once the call is complete, customers will be offered the option of leaving feedback via an automated IVR system



surveys	
---------	--

1.3. Middle Office

Inclusion	Description
Enquiry triage	<p>Service NSW will triage enquiries received to <a href="mailto:info@service.nsw.gov.au">info@service.nsw.gov.au</a> or via Service NSW website 'Contact Us' page and</p> <ul style="list-style-type: none"> <li>- Resolve these enquiries or</li> <li>- Refer it to the appropriate business area at the Agency</li> </ul>
Enquiry coding	A Customer Service Representative will record the customer's reason for enquiring and the outcome

1.4. Service NSW Website and Mobile App

Inclusion	Description
Scheduled maintenance and planned outages	<p>Service NSW will conduct regularly scheduled maintenance of the website and mobile app. 10 business days of notice will be provided regarding outages from planned and scheduled maintenance</p> <p>Maintenance activities with negligible impact or outage, such as enhancements to optimise for cybersecurity or performance, may occur without notification to the Agency</p>

1.5. Service NSW for Business

Service NSW for Business provides a multi-channel service including digital, phone and face-to-face services for metro and regional businesses in NSW and develops relationships with councils and business associations to promote the offering to local businesses.

Inclusion	Description
Relationship management	Business Customer Service staff initiate and maintain relationships with councils and business associations to promote awareness and use of the service offering by such stakeholders and their local business community. It may include, but is not limited to, information sharing, regular liaison at events and stakeholder premises and issue of surveys.



Scheduled Maintenance and Planned Outages	Digital products controlled by Service NSW for Business will be regularly updated, upgraded and maintained without any outages.
---	---

1.6. Training

Service NSW will provide appropriately trained Personnel to deliver the Services.

1.7. Language

Service NSW will provide services in English and may arrange translation and interpreter services for customers from non-English speaking backgrounds if required.

1.8. Branding

Unless otherwise set out in the Project Agreement, Service Agreement or Research Agreement, Service NSW channels are singularly branded. Marketing communication is limited to Service NSW led or co-led campaigns and programs.

1.9. Contractors and Agents

Service NSW may use contractors and agents in connection with the delivery of Services. Such agents and contractors are approved persons under Part 2 Section 12 of the Service Act.

1.10. Out of Scope Services

Any item, service or deliverable that is not specified in a Project Agreement, Service Agreement or Research Agreement is deemed to be out of scope for Service NSW.

**2. Operational Framework**

Service NSW operational framework outlines how operations are managed on a day-to-day basis.

Operational Support	Description
Knowledge Management	Service NSW creates and maintains support material (knowledge articles) for serving customers. These will be sent to the Agency for endorsement of content accuracy bi-annually
Complaints Management	Service NSW will record complaints and its supporting information unless resolved at the outset. Service NSW will contact the Agency where assistance is required



Operational Support	Description
Issues Management	<p>Issues relating to existing products and services should be raised via <a href="mailto:partnerships@service.nsw.gov.au">partnerships@service.nsw.gov.au</a> or directly with the Relationship Manager</p> <p>The Relationship Manager will assess the issue and facilitate a resolution within Service NSW, providing regular updates</p>
Quality control framework/compliance	<p>Service NSW has a quality control framework that governs transactional activities in line with risk assessment at the time of onboarding</p> <p>The framework includes:</p> <ul style="list-style-type: none"> <li>- Regular review of contact centre calls, including being assessed against procedure and process used by the agent during the call</li> <li>- Daily quality checks of transactions undertaken by the service centre</li> <li>- Quarterly compliance reviews and certifications provided by all service delivery channels</li> </ul>

2.1. IT Operations & Support

Service NSW runs a 24/7, 365 days a year service desk. Unplanned interruptions or degradations in quality of service should be raised to the Service NSW Service Desk on 1300 697 679 (option 2) or [servicedesk@service.nsw.gov.au](mailto:servicedesk@service.nsw.gov.au)

Incident response times in our production environment are prioritised based upon urgency and impact, with associated response and resolution times.

Priority Code	Service Level Target Response/Resolution Time
P1 - Critical	Response: Immediate response, action/update within 15 minutes Resolution: 2 hours
P2 - High	Response: Immediate response, action/update within 30 minutes Resolution: 4 hours
P3 - Medium	Response: 8 hours Target Resolution: 10 working days



Priority Code	Service Level Target Response/Resolution Time
P4 - Low	Response: Email notification of call being logged within 2 days. Response by email or phone within 2 working days Target Resolution: 20 working days

Where vendors or other government platforms are involved, Service NSW utilises a best practice vendor governance framework for service level Agreements and for priority 1 and 2 incidents.

## 2.2. System and Security Maintenance

Service NSW complies with the NSW Government Cyber Security Policy and operates an information security management system that is certified against ISO 27001. These engagement Terms do not extend the certification scope to the Agency's specific activities.

## 3. Customer Payments

Service NSW will collect payments from customers for transactions set out in the Service Agreement. Cash, cheque, money order, credit or debit card may be accepted and merchant fees plus GST will be recovered.

Service NSW will provide remittances and reconciliation files to the Agency which include:

- A. Credit T+2 value for cash, cheques\* and bank card payments
- B. Credit T+2 value for AMEX payments
- C. Debit any cheques dishonoured
- D. Debit any card payment chargebacks
- E. Debit any refunds processed on behalf of the Agency

Cheque payments received over \$50,000 will be remitted back to the Agency once the funds clear the Service NSW remitting bank account.

## 4. Business Continuity and Disaster Recovery

Service NSW will maintain an Enterprise Risk Management Framework focused on managing risks to Service NSW, including mitigation of the likelihood and impact of an adverse event occurring. As a function of risk management, business continuity management will enable Service NSW to minimise disruptive risks and restore and recover its business-critical services within acceptable predefined timeframes should an adverse event or other major business disruption occur.

Recovery and timeframes may be impacted when events or disruptions are related to dependencies on partner Agencies. The Parties will agree on Recovery Point Objectives and Recovery Time Objectives and associated charges prior to designing the system and will periodically review these objectives.

All systems and technology provided by Service NSW internally and through third-party vendors, operate through multiple data centres to achieve high availability. Service NSW systems are architected, where practicable and possible, to ensure continuity of service in the event of a data centre disruption or outage.





## Definitions

**Recovery Point Objectives** means the age of files that must be recovered from backup storage for normal operations to resume if a computer, system, or network goes down because of a hardware, program, or communications failure.

**Recovery Time Objectives** means the targeted duration of time and a service level within which a business process must be restored after a disaster (or disruption) to avoid unacceptable consequences associated with a break in business continuity.

## 5. Continuous Improvement

Service NSW regularly reviews improvement ideas from employees and customers. We will provide you with any ideas relevant to your agency for consideration.

'Continuous Improvement' refers to identifying a process, system or policy opportunities that will deliver a benefit for our people, our customers or the NSW government. These improvements may be delivered in house where possible or by engaging our partnering agencies where further input or decisions are required under policy or legislation. A Continuous Improvement:

- A. Puts the customer first
- B. Makes the customer service job easier
- C. Improves a step in a process
- D. Changes the way a task is completed so that it doesn't take as long
- E. Reduces handling time and is cost effective
- F. Allows others to benefit from best practices
- G. Allows us to do things better locally, regionally or organisation-wide
- H. Is a low-investment process change and not a policy change
- I. Improves accountability within the various stages of the process
- J. Removes steps that don't add any value to a process

Service NSW will consider several factors such as cost to implement, cost savings, customer experience, team member experience and operational efficiency in prioritising continuous improvements.

### 5.1. Continuous Improvement Process

The parties will identify new continuous improvement initiatives on an annual basis, with a 6-monthly check-in on ongoing continuous improvement initiatives.

When establishing a new continuous improvement initiative, the parties will classify the initiative based on whether it can be implemented as:

- A. part of the ongoing 'business as usual' services (cost and resourcing to be absorbed by Service NSW; or
- B. a new project initiative (cost and resourcing to be agreed by the parties).

A prioritisation process will be agreed upon between the parties to prioritise initiatives (for Service NSW, this will be performed by the Partnerships team).

The Agency may be required to effect policy, system or regulatory changes to assist in delivering the service process improvement, as agreed with Service NSW. Where a review of Agency policy, system or regulatory changes is requested by Service NSW from the





Agency, these should be conducted within timeframes agreed between the respective Relationship Managers.

### **Schedule 3 – Privacy and Data Security**

#### **(a) General**

(i) Service NSW may collect, use, disclose, store and retain personal information when exercising functions for the Council:

(iv) Where Service NSW exercises functions for the Council, Service NSW can share information it obtains with the Council without separately requesting the customer's consent. Service NSW can also share the information it obtains with any person that the Council is authorised or required to disclose the information to in accordance with the Service Act.

#### **(c) Collection of information**

(i) Service NSW will collect the following information when exercising functions for the Council:

(ii) Service NSW will take reasonable steps to ensure that the personal or health information it collects on behalf of the Council is accurate, up-to-date and complete.

(iii) Service NSW will provide a privacy collection notice to customers whenever it collects their information.

(iv) If Service NSW collects personal information for its own internal purposes, when exercising functions for the Council, it will ensure that the privacy collection notice meets the requirements of section 10 of the *PIPA Act* in light of section 15(3) of the *Service Act*.

(v) The notice will address each of the matters that a privacy collection notice is, by law, required to address. Service NSW will develop the content of the notice in consultation with Wingecarribee Shire Council.

#### **(d) Internal records maintained by Service NSW**

(i) Under the *Service Act*, Service NSW is permitted to collect, maintain and use the following records for its internal administrative purposes, including for the purposes of its interactions with customers for whom functions are exercised:

- Details of transactions between customers and Service NSW
- The preferences of customers for transacting matters with Service NSW and Wingecarribee Shire Council, and
- Other information about customers.

(ii) Service NSW collects, maintains and uses the following information for its internal administrative purposes:

- Details of transactions between customers and Service NSW



- The preferences of customers for transacting matters with Service NSW and Wingecarribee Shire Council, and
- Other information about customers.

**(e) Use of information**

- (i) Service NSW can use information in accordance with the *Service Act*, PPIP Act and HRIP Act.

**(f) Disclosure**

- (i) Service NSW can disclose information in accordance with the *Service Act*, PPIP Act and HRIP Act.

(ii) Where Service NSW performs a transaction for a customer, when exercising functions for the Council, it will ask the customer for consent before sharing that information with a different agency, unless there is another legal basis for Service NSW sharing the information.

**(g) Privacy Management plans**

The parties agree to update and periodically review their privacy management plans or other relevant policy documents so that any person can ascertain whether Service NSW or the Council holds personal information relating to that person and if so, the nature of the information, the main purposes for which it is used and the person's entitlement to access the information, in relation to the services covered by this Agreement.

**(h) Access to and amendment of**

- (i) Service NSW agrees that it will provide any individual who requests it with access to their own personal information without excessive delay and without any expense, in relation to information it holds as a result of exercising functions for the Council.

**(i) Privacy Officer**

The parties have nominated a Privacy Officer who is the point of contact for dealing with complaints, applications for internal reviews, data breaches, employee education and other privacy matters.

Privacy Officers can be contacted as follows:

**Service NSW:**

Privacy Officer  
Service NSW  
2-24 Rawson Place, Sydney NSW 2000  
Phone: 13 77 88  
Email: [privacy@service.nsw.gov.au](mailto:privacy@service.nsw.gov.au)

**Wingecarribee Shire Council:**



## 10.3 Planning Proposal to reclassify Lots 11, 12 and 13 DP 1150964, "Calwalla" Sheepwash Road, Glenquarry

Report Author: Senior Strategic Land Use Planner  
 Authoriser: Manager Strategic Land Use Planning

**THIS ITEM WAS CONSIDERED AT THE LOCAL PLANNING PANEL MEETING OF 4 AUGUST 2021.**

### PURPOSE

The purpose of this report is to seek a Resolution of Council to finalise the Planning Proposal to reclassify Lots 11, 12 and 13 DP 1150964 being Council owned property at "Calwalla", Sheepwash Road, Glenquarry from "Community" land to "Operational" land.

Applicant / Proponent	Wingecarribee Shire Council
Owners	Wingecarribee Shire Council
Consultants	N/A
Notification	24 March to 30 April 2021
Number Advised	14
Number of Submissions	Nil
Current Zoning / MLS	E3 Environmental Management, 40 hectares.
Proposed LEP Amendment/s	a) Insert Lots 11, 12 and 13 DP 1150964 into Schedule 4 (Classification and reclassification of public land) Part 1 (Land classified, or reclassified, as operational land – no interests changed) as required under clause 5.2 of WLEP 2010. b) Replace Land Reclassification (Part Lots) Map Sheet RPL_007L of WLEP 2010 to reflect the amendment.
Political Donations	N/A
Recommendation	Finalisation of the Planning Proposal BE SUPPORTED

### RECOMMENDATION

- THAT** the Planning Proposal to insert Lots 11, 12 and 13 DP 1150964, being Council property "Calwalla", Sheepwash Road, Glenquarry, into *Schedule 4 (Classification and reclassification of public land) Part 1 (Land classified, or reclassified, as operational land – no interests changed)* of WLEP 2010, in accordance with clause 5.2 of WLEP 2010, be finalised under s3.36 of the *Environmental Planning & Assessment Act 1979*, and
- THAT** Land Reclassification (Part Lots) Map Sheet RPL\_007L be amended to reflect the reclassification.

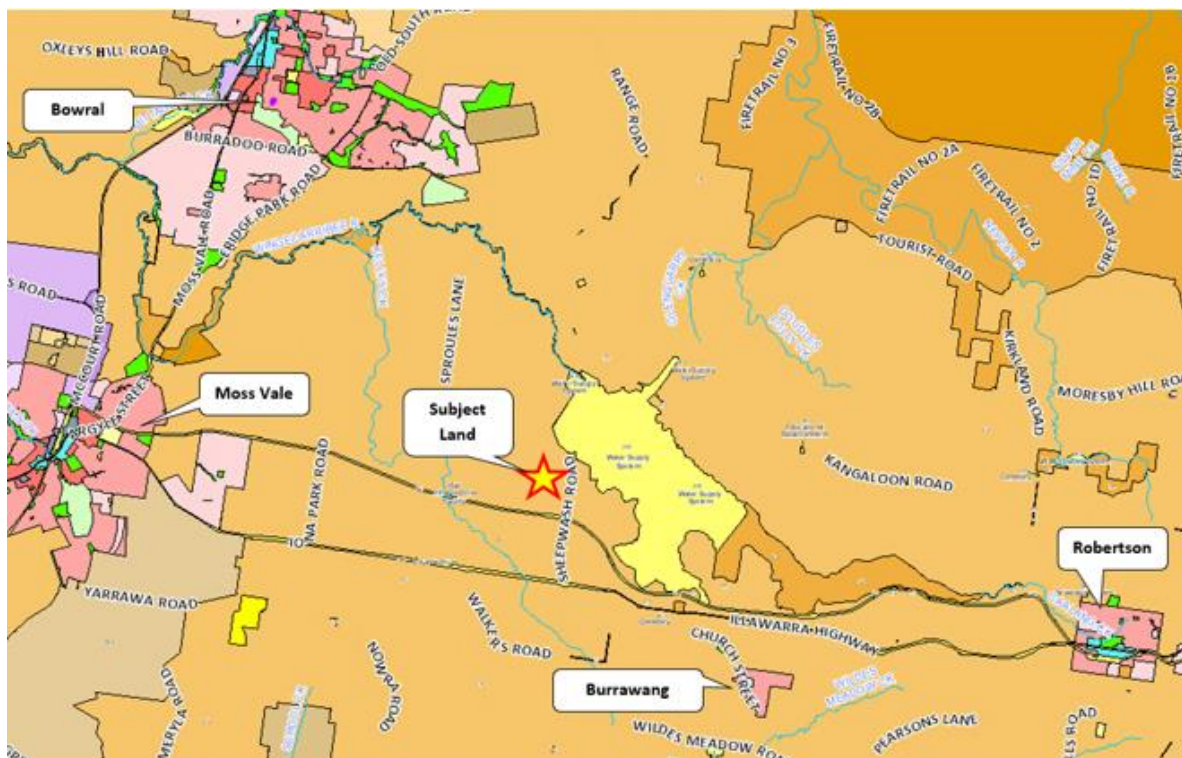
**PANEL ADVICE**

This item was considered at the Local Planning Panel meeting of 4 August 2021. The Panel agreed with the staff recommendation, with a minor typographical change which has been reflected in the recommendation of this report.

**BACKGROUND**

Lots 11, 12 and 13 DP 1150964 (the subject land) were acquired by Council in 2009 to establish a reclaimed water irrigation area (an area for the storage and disposal of treated effluent) in conjunction with the Robertson Sewage Treatment Plant. The majority of the site is, and will continue to be, used for effluent disposal.

The subject land occupies a total area of some 76.7 hectares and is zoned E3 Environmental Management under WLEP 2010 with a minimum lot size of 40 ha. **Figure 1** below shows the location of the subject land while **Figure 2** indicates the configuration of the lots.



**Figure 1** Location of subject property





**Figure 2 Property configuration**

The majority of the subject land is currently used for treated effluent disposal as indicated in **Figure 2** above. The area bordered by green being used for this purpose either by a fixed irrigation system or by travelling irrigators. The area bordered by yellow in **Figure 2** is not currently used for irrigation and includes the Treated Effluent Storage Dam compound, pump house and road access to the property.

Should the land be reclassified, it is Council's intention to lease some 56% of the subject land, being 394,300m<sup>2</sup>, as indicated by the red bordered land in **Figure 3** below.



**Figure 3 Proposed Lease Areas, indicated in red. The areas in blue would be excluded.**

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 11 August 2021

### REPORT GENERAL MANAGER



It is confirmed that no interests will be discharged or changed in any way as a result of this Planning Proposal. It is further confirmed that the land is not a Public Reserve as defined in the *Local Government Act 1993* (LG Act).

In order to proceed with these lease arrangements, the subject land needs to be classified as Operational under the provisions of sections 25 and 26 of the LG Act. A search of the Minutes of Council in connection with the purchase of the land has failed to find any resolution of Council classifying the land as "Operational". Accordingly, the land was automatically classified as "Community" land three (3) months after the date of acquisition. It is therefore necessary for the land be reclassified by means of a Planning Proposal.

A report to this effect was considered by Council at its Ordinary Meeting of 26 August 2020 where it was resolved:

***THAT a Planning Proposal be prepared and submitted to the NSW Department of Planning, Industry and Environment for a Gateway Determination to reclassify Lots 11, 12 and 13 DP 1150964, being Council property "Calwalla", Sheepwash Road, Glenquarry from Community to Operational.***

### **REPORT**

In accordance with the above resolution, a Planning Proposal was submitted to the Department of Planning, Industry and Environment and a Gateway Determination to proceed was issued on 27 January 2021.

The Gateway Determination required that the Planning Proposal be referred to WaterNSW and NSW Rural Fire Service. Agency referrals were completed with no objections to the Planning Proposal proceeding.

The Gateway Determination required that the Planning Proposal and supporting documentation be placed on public exhibition for a period of at least 28 days. The public exhibition occurred for a period of 37 days from Wednesday 24 March to Friday 30 April 2021 inclusive. The Planning Proposal and supporting documentation were included on Council's 'Your Say Wingecarribee' website and notified on Council's Community Update page on its website for each week of the exhibition period. The Community Update is also emailed weekly to over 3,500 recipients. Notification letters were also sent to 14 neighbours and surrounding land owners. No written submissions were received.

Under s.29 of the *Local Government Act, 1993* a Public Hearing is required as part of the community consultation process when land is being reclassified from Community to Operational.

In this case, a Public Hearing, to be held at 6.00pm on 22 June 2021, was notified on the Community Update page on Council's website between 26 May and 16 June 2021. Neighbouring properties notified during the exhibition period were also notified in writing of the Public Hearing. The Hearing was facilitated by Mr Ian Sinclair, an independent Planning Consultant, and held on-line and live broadcast via YouTube. There were no registrations to address the Hearing on this matter, and no one sought to speak on the night. A copy of the Public Hearing Report forms **ATTACHMENT 1** to this report.

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 11 August 2021

### REPORT GENERAL MANAGER



It is therefore the recommendation of this report that the Planning Proposal now be completed under s.3.36 of the *Environmental Planning and Assessment Act 1979*. It is noted that the Gateway was conditioned for Council to be authorised as the local plan-making authority.

---

## COMMUNICATION AND CONSULTATION

### Community Engagement

Community Engagement was undertaken through public exhibition of the Planning Proposal and the holding of an independently facilitated Public Hearing in accordance with legislative requirements.

### Internal Communication and Consultation

Communication occurred with Council's Property Branch.

### External Communication and Consultation

Agency consultation was undertaken as required under the Gateway Determination.

---

## 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 implications in relation to this report.

- **Culture**

There are no cultural issues in relation to this report.

- **Governance**

The Planning Proposal and Public Hearing were undertaken in accordance with legislative requirements under the *Environmental Planning and Assessment Act 1979* and the *Local Government Act, 1993*.

---

## COUNCIL BUDGET IMPLICATIONS

There are no budget implications associated with this report.

---

## RELATED COUNCIL POLICY

None have been identified.

**AGENDA FOR THE ORDINARY MEETING OF COUNCIL**

Wednesday 11 August 2021

**REPORT GENERAL MANAGER**



---

**CONCLUSION**

The subject land is currently used for Operational purposes as part of the Robertson Sewage Scheme, and it is recommended that Council reclassify the property from “Community” to “Operational” to ensure consistency with the property’s use.

---

**ATTACHMENTS**

There are no attachments to this report.



## 10.4 Planning Proposal to reclassify from Community to Operational Council owned land, being Lot 1 DP1246504, 7-11 Burgess Street Bundanoon

Report Author: Senior Strategic Land Use Planner  
Authoriser: Manager Strategic Land Use Planning

**THIS ITEM WAS CONSIDERED AT THE LOCAL PLANNING PANEL MEETING OF 4 AUGUST 2021.**

### PURPOSE

The purpose of this report is to seek a Resolution of Council to finalise the Planning Proposal to reclassify Lot 1, DP 1246504, being Council owned land at 7-11 Burgess Street Bundanoon, from “Community” land to “Operational” land.

Applicant / Proponent	Wingecarribee Shire Council
Owners	Wingecarribee Shire Council
Consultants	N/A
Notification	24 March to 30 April 2021
Number Advised	20
Number of Submissions	2
Current Zoning / MLS	R3 Medium Density Residential, 700m <sup>2</sup> .
Proposed LEP Amendment/s	a) Insert Lot 1 DP1246504 into Schedule 4 (Classification and reclassification of public land) Part 1 (Land classified, or reclassified, as operational land – no interests changed) as required under clause 5.2 of WLEP 2010. b) Replace Land Reclassification (Part Lots) Map Sheet RPL_008A of WLEP 2010 to reflect the amendment.
Political Donations	N/A
Recommendation	Finalisation of the Planning Proposal BE SUPPORTED

### RECOMMENDATION

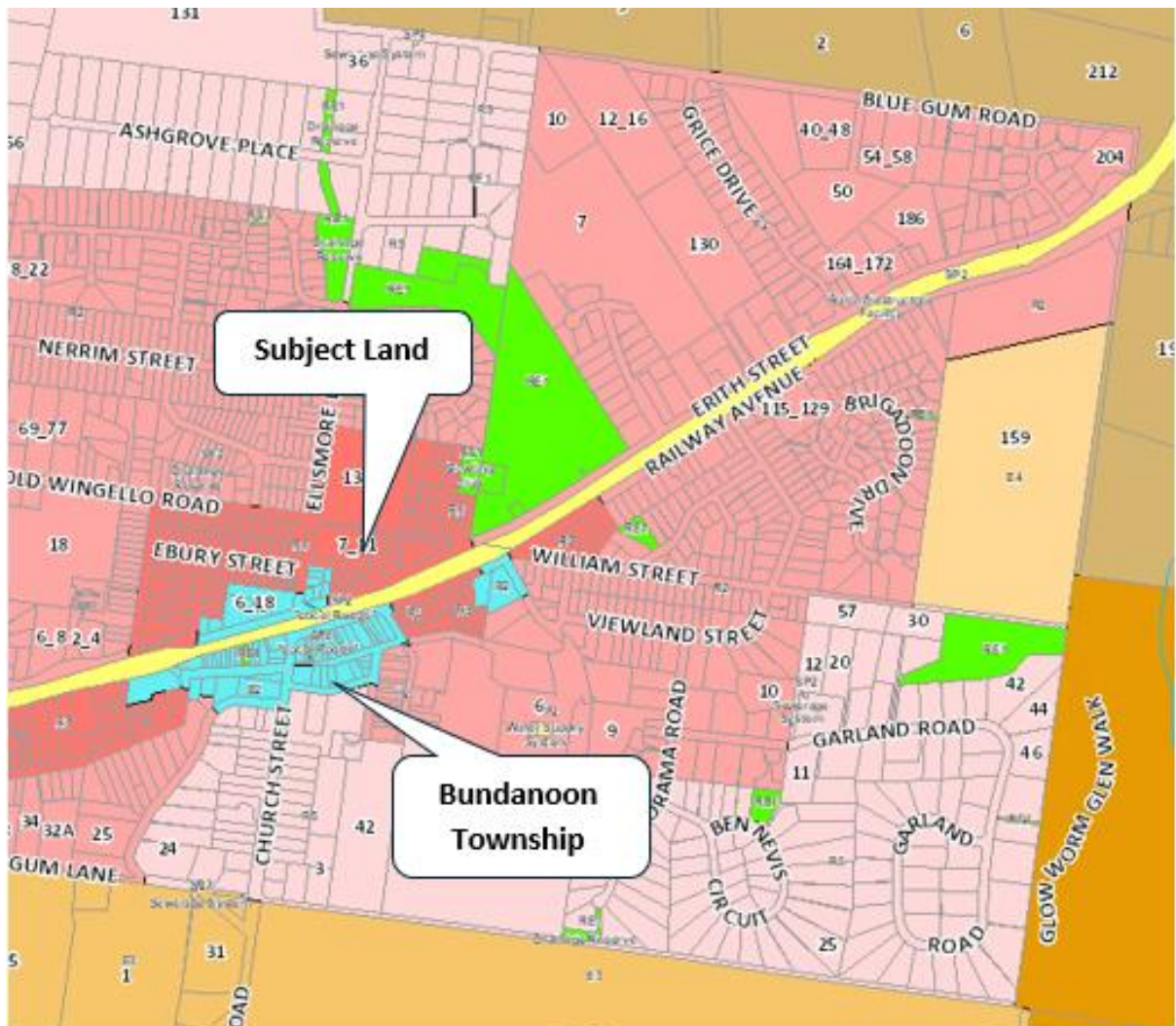
- 1. THAT** the Planning Proposal to insert Lot 1 DP1246504, being Council owned land at 7-11 Burgess Street, Bundanoon, into *Schedule 4 (Classification and reclassification of public land) Part 1 (Land classified, or reclassified, as operational land – no interests changed)* of WLEP 2010, in accordance with clause 5.2 of WLEP 2010, be finalised under s3.36 of the *Environmental Planning & Assessment Act 1979*, and
- 2. THAT** Land Reclassification (Part Lots) Map Sheet RPL\_008A be amended to reflect the reclassification.

## PANEL ADVICE

This item was considered at the Local Planning Panel meeting of 4 August 2021. The Panel agreed with the staff recommendation, with a minor typographical change which has been reflected in the recommendation of this report.

## BACKGROUND

The subject land is located at 7-11 Burgess Street in the southern township of Bundanoon as indicated in **Figure 1** below. The land is zoned R3 Medium Density Residential with a minimum lot size of 700m<sup>2</sup>. The subject land is an unformed closed road of rectangular shape with an area of 406.4 m<sup>2</sup>.



**Figure 1 – Local Context of Subject Land**

The property is owned by Council and Council formally resolved on 12 April 2017 (MN126/17) to close this segment of Council road reserve to facilitate a request to extend the licenced area available to the Community Groups who currently have formal Licence



Agreements with Council to occupy the adjoining Council 'Operational' Land". The lot should have been classified as Operational Land at time of the Council Resolution on 12 April 2017, however, instead, the land was classified as 'Community' Land. The subject land is identified in red in **Figure 2** below.



**Figure 2 – Detail of Subject Land**

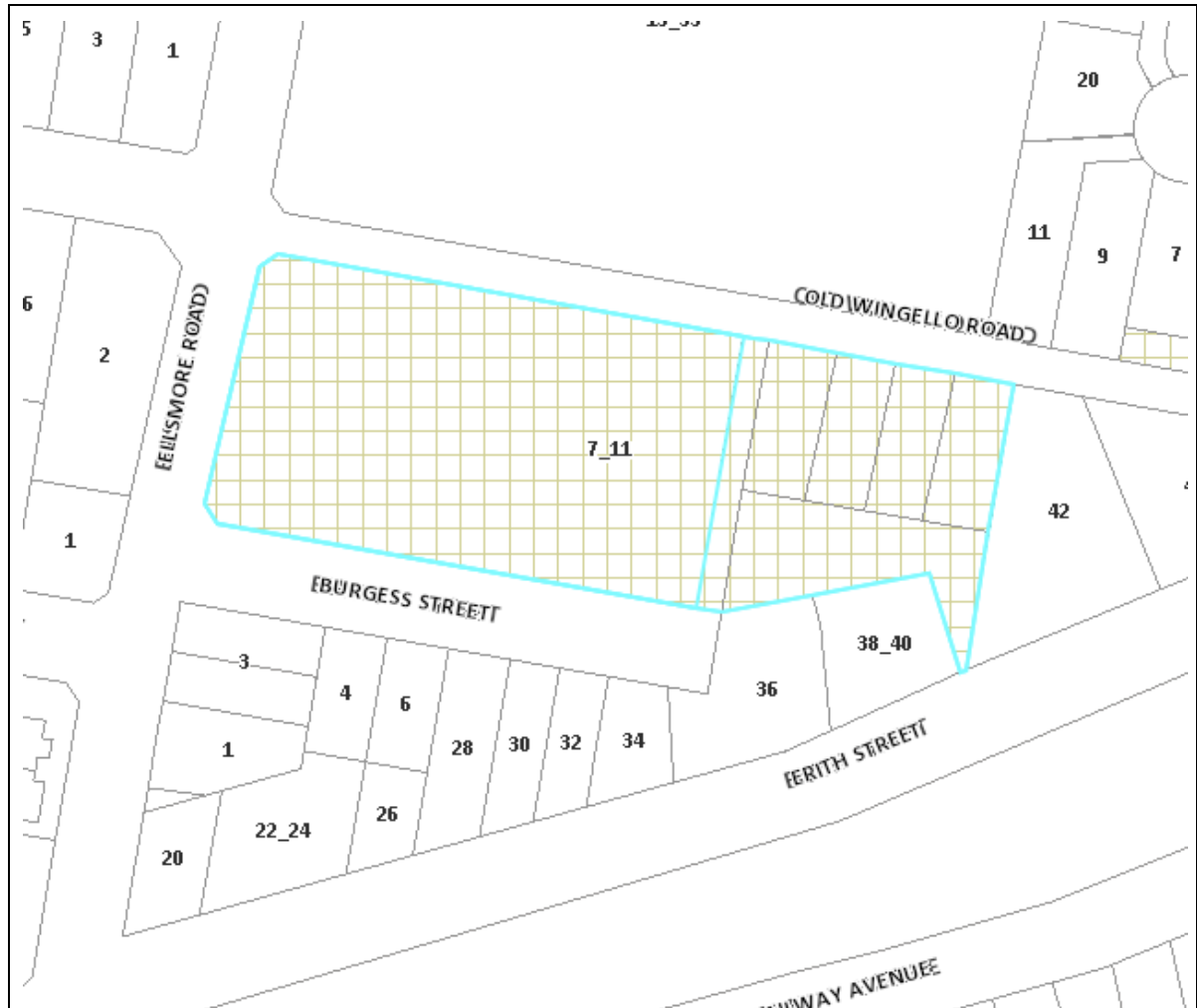
**Figure 2** above also identified the following licensed areas :

- **Green** - Bundanoon Preschool is party to a 21 year lease agreement and is run as a not for profit organisation. The preschool is open to the community and their children to accommodate childcare needs.
- **Purple** - Rural Fire Service (RFS) Bundanoon branch. Although there is no lease or licence agreement in place for their occupation, pursuant to *State Emergency Service Act 1989 Part 4 Section 17*, Council has obligations to provide adequate accommodation and space for the local commander to undertake training and related activities. This occupancy is ongoing.
- **Yellow** – shared by Bundanoon Community Association, Bundanoon Men's Shed and Bundanoon Highlands Gathering are all local 'not for profit' community groups who provide ongoing support and services to the local community. Each group is run by local community members voluntarily from the Burgess Street site with all three groups accommodating the buildings and outdoor space in this area jointly. Their joint Licence Agreement is for a 5-year term, renewed with the approval of Council every 5 years.

The portion of former road located within the licensed area is not currently publicly accessible from Burgess Street and is only utilised by the current Licensed users of the adjoining land, namely the Bundanoon Community Association, the Bundanoon Men's Shed and the Bundanoon Highland Gathering.

The rear portion of the former road is part of the public open space located to the rear of the licensed areas. Apart from the unformed road which is the subject of this reclassification, the remainder of this passive recreation open space with access from Ellsmore Road is

classified 'Operational' land. The full extent of the Council owned land at 7-11 Burgess Street is indicated by the cross hatched, blue bordered land in **Figure 3** below.



**Figure 3 – Extent of Council owned land at 7-11 Burgess Street**

The public benefit of the reclassification will be to offer the three local not-for-profit community organisations a larger licensed area, affording them the opportunity to expand their operations on site as needed. In turn, this benefit will flow on to the local community who will be party to the expanded services and support networks these community groups currently offer.

In view of this, it is confirmed that there is no intention of Council to dispose of or sell the land to any third party. In fact, it is intended that all lots be consolidated to enable a more efficient use of the subject land. It is also confirmed that no interests will be discharged or changed in any way as a result of this Planning Proposal.

Therefore, in accordance with *s30 of the Local Government Act 1993*, Council resolved at its Ordinary Meeting of 10 June 2020:

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 11 August 2021

### REPORT GENERAL MANAGER



***THAT a Planning Proposal be prepared and submitted to the NSW Department of Planning Industry and Environment for a Gateway Determination to reclassify Lot 1 DP 1246504, part 7-11 Burgess Street Bundanoon, from Community to Operational.***

#### **REPORT**

A Planning Proposal was submitted to the Department of Planning, Industry and Environment and a Gateway Determination to proceed was issued on 27 January 2021.

The Gateway Determination required that the Planning Proposal be referred to WaterNSW and NSW Rural Fire Service. Agency referrals were completed with no objections to the Planning Proposal proceeding.

The Gateway Determination required that the Planning Proposal and supporting documentation be placed on public exhibition for a period of at least 28 days. The public exhibition occurred for a period of 37 days from Wednesday 24 March to Friday 30 April 2021 inclusive. The Planning Proposal and supporting documentation were included on Council's 'Your Say Wingecarribee' website and notified on Council's Community Update page on its website for each week of the exhibition period. The Community Update is also emailed weekly to over 3,500 recipients. Two (2) written submissions were received.

One submission, from the Bundanoon Community Association (BCA), was supportive of the Planning Proposal and reclassification, noting that "*Council agreed to a request from the BCA, Bundanoon Highland gathering Inc and Bundanoon Men's Shed to extend the licensed area to facilitate a fair use of the land by the three community groups that hold the license. The reclassification, and later consolidation of lots, will enable this to happen*".

The second submission was from a private resident who expressed concern with the constant flow of traffic in the street and lack of adequate parking, especially with, but not limited to, the pre-school. These current traffic safety issues were anticipated to be exacerbated with the more intensive use of the leased land.

The submission included the suggestion that consideration be given to the reconfiguration of Burgess Street to provide egress on to Ellsmore Road via the unformed Old Wingello Road. These concerns are noted and have been passed on to Council's Coordinator Assets Roads and Traffic for consideration and response.

A copy of both submissions were provided to each member of the Independent Advisory Planning Assessment Panel.

Under s.29 of the *Local Government Act, 1993* a Public Hearing is required as part of the community consultation process when land is being reclassified from Community to Operational.

In this case, a Public Hearing, to be held at 6.00pm on 22 June 2021, was notified on the Community Update page on Council's website between 26 May and 16 June 2021. The Planning Proposal and supporting documentation were included on Council's 'Your Say Wingecarribee' website and notified on Council's Community Update page on its website for each week of the exhibition period. The Community Update is also emailed weekly to over 3,500 recipients. Some 14 neighbouring properties notified during the exhibition period were also notified in writing of the Public Hearing. The Hearing was facilitated by Mr Ian Sinclair, an independent Planning Consultant, and held on-line and live streamed on YouTube.

There was one registration to address the Hearing on this matter and this occurred. It subsequently became apparent that a second speaker had wanted to address the Hearing. This was arranged for 3.00PM on Thursday 1 July 2021. The original speaker at the Hearing of 22 June was invited to listen to the second speaker and again the Hearing was live streamed on YouTube. The Facilitator's report forms ATTACHMENT 1 to this report and includes both speakers' comments.

It is therefore the recommendation of this report that the Planning Proposal now be completed under s.3.36 of the *Environmental Planning and Assessment Act 1929*. It is noted that the Gateway was conditioned for Council to be authorised as the local plan-making authority.

---

## **COMMUNICATION AND CONSULTATION**

### **Community Engagement**

Community Engagement was undertaken through public exhibition of the Planning Proposal and the holding of an independently facilitated Public Hearing in accordance with legislative requirements.

### **Internal Communication and Consultation**

Communication occurred with Council's Property Branch and Assets Branch.

### **External Communication and Consultation**

Agency consultation was undertaken as required under the Gateway Determination.

---

## **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 implications in relation to this report.

- **Culture**

There are no cultural issues in relation to this report.

- **Governance**

The Planning Proposal and Public Hearing were undertaken in accordance with legislative requirements under the *Environmental Planning and Assessment Act 1979* and the *Local Government Act, 1993*.

## **AGENDA FOR THE ORDINARY MEETING OF COUNCIL**

Wednesday 11 August 2021

### **REPORT GENERAL MANAGER**



---

#### **COUNCIL BUDGET IMPLICATIONS**

There are no budget implications associated with this report.

---

#### **RELATED COUNCIL POLICY**

None have been identified.

---

#### **CONCLUSION**

Due to the current uses of the land and the current license agreements with those users, it is recommended that the Planning Proposal proceed to reclassify the subject land to 'Operational' to provide consistency with the classification of surrounding land.

---

#### **ATTACHMENTS**

There are no attachments to this report.



## 10.5 Planning Proposal to rezone land at 254 Centennial Road Bowral (Centennial Vineyards) from E3 Environmental Management to SP3 Tourist.

Report Author: Senior Strategic Land Use Planner  
Authoriser: Manager Strategic Land Use Planning

**THIS ITEM WAS CONSIDERED AT THE LOCAL PLANNING PANEL MEETING OF 4 AUGUST 2021.**

### PURPOSE

The purpose of this report is to seek a Resolution of Council to finalise the Planning Proposal to amend Wingecarribee Local Environmental Plan (WLEP) 2010 to rezone land at 252-254 Centennial Road Bowral from E3 Environmental Management to SP3 Tourist.

Applicant / Proponent	Lee Environmental Planning
Owners	Windbelt Pty Ltd
Consultants	Lee Environmental Planning
Notification	26 May to 25 June 2021
Number Advised	52
Number of Submissions	1
Current Zoning / MLS	E3 Environmental Management, 40 hectares.
Proposed LEP Amendment/s	Rezone land at 252-254 Centennial Road Bowral (Centennial Vineyards), being Lot 1 DP 126196, Lot 1 DP 435373, Lot 5A DP 16192 and part Lot 1 DP 16192, from E3 Environmental Management to SP3 Tourist.
Political Donations	N/A
Recommendation	Finalisation of the Planning Proposal BE SUPPORTED

### RECOMMENDATION

1. **THAT** the Planning Proposal to rezone land at 254 Centennial Road Bowral (Centennial Vineyards), being Lot 1 DP 126196, Lot 1 DP 435373, Lot 5A DP 16192 and part Lot 1 DP 16192 from E3 Environmental Management to SP3 Tourist be finalised under s 3.36 of the *Environmental Planning & Assessment Act 1979*, and
2. **THAT** any future Development Application over the SP3 Tourist zoned land provide a Concept Master Plan, as required under the Rural Tourism Policy, and demonstrate to Council's satisfaction that no clearing of native vegetation will be required.



## **PANEL ADVICE**

This item was considered at the Local Planning Panel meeting of 4 August 2021 and the Panel agreed with the staff recommendation.

---

## **BACKGROUND**

The subject land is located at 254 Centennial Road Bowral, to the west of Bowral Township, as indicated in **Figure 1** below, and is known as Centennial Vineyards. The land comprises Lot 1 DP126196, Lot 1 DP435373, Lot 1 DP16192 and Lot 5A DP16192 and covers an area of almost 91 hectares. All lots front the northern side of Centennial Road as indicated in **Figure 2** below.



**Figure 1 – Location of the Subject Land**

The land is currently zoned E3 Environmental Management under Wingecarribee Local Environmental Plan 2010. It adjoins Crown land zoned E2 Environmental Conservation to the north and north east, with RU4 Primary Production Small Lots zoned land (minimum lot size 2 ha) to the east and south east, and R5 Large Lot Residential zoned land (minimum lot size 4,000m<sup>2</sup>) further to the east as shown in **Figure 2** below.

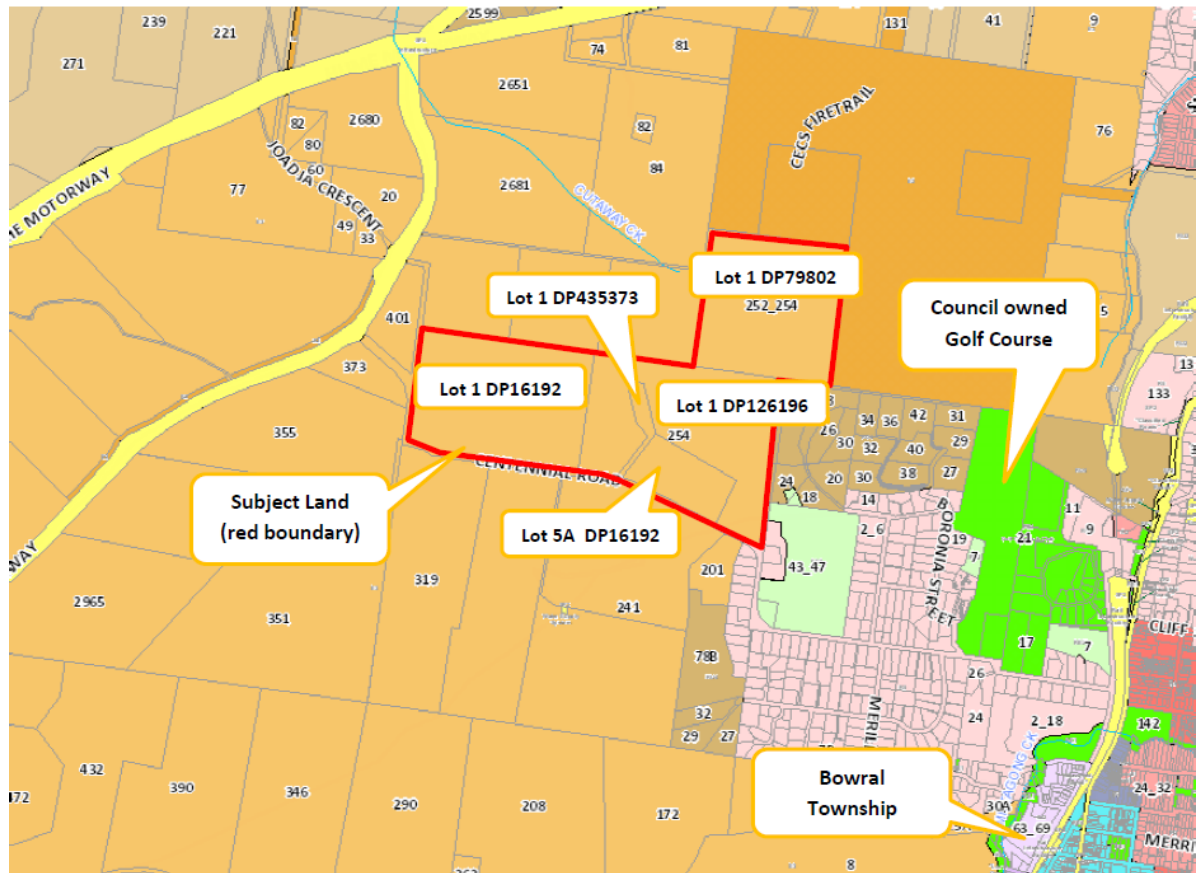


Figure 2 – Lot identification & Zoning

The initial Planning Proposal proposed to rezone all of the subject land as well as an adjoining lot to the north as indicated in **Figure 2** above. However, on the basis of mapped Threatened Ecological Community (TEC) (Southern Highlands Shale Woodland), shown in **Figure 3** below, Council resolved to exclude the most northern lot (Lot 1 DP79802) and those areas of most significant TEC, resulting in a proposed rezoning area as indicated in **Figure 4** below.





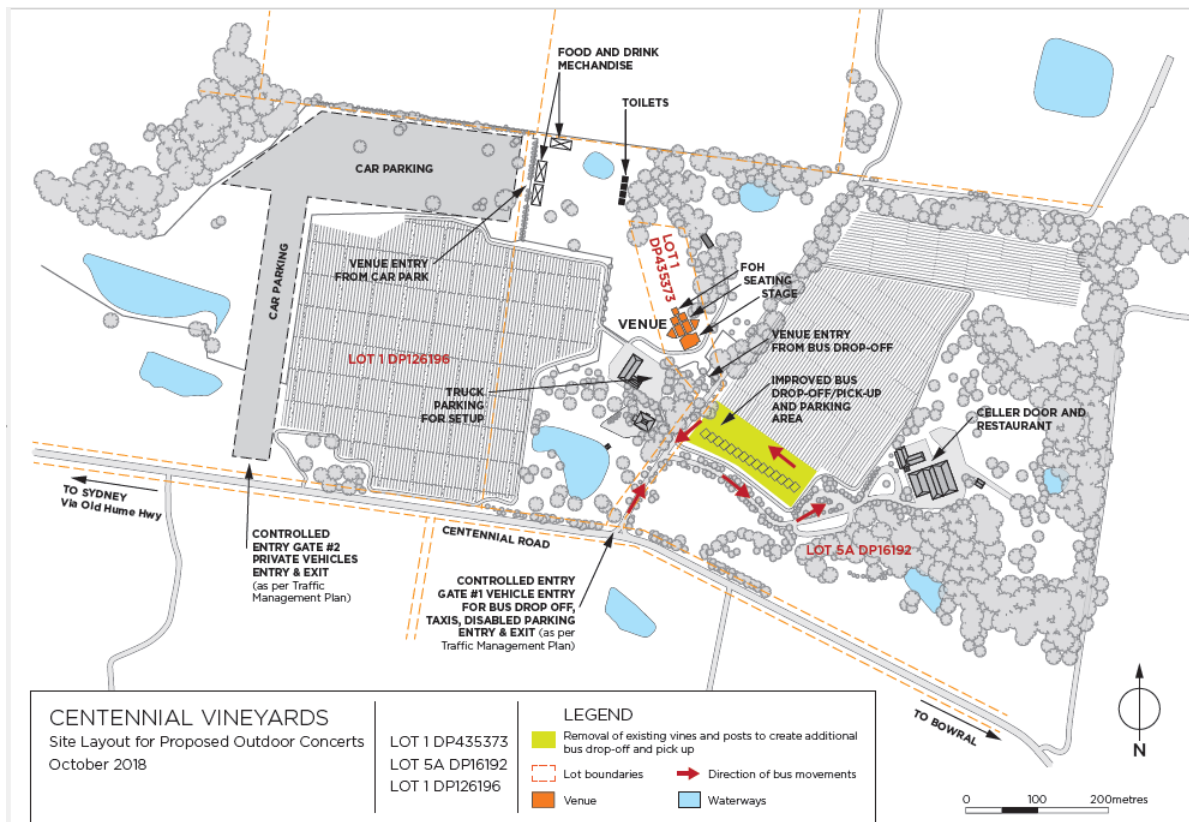
Figure 3 – Extent of Mapped TEC



Figure 4 – Extent of Proposed Rezoning



The site has access to all utilities including gas, electricity, town water and sewer and supports a well-established vineyard covering some 30 hectares, a winery, cellar door and restaurant. The site has a long history of tourist related activity. Prior to the planting of the vineyard in 1998, the property was known as ‘Maple Downs’. It contained a trout ‘fish out’ dam and numerous other dams that were utilised for the propagation of trout. The site also contained a horse-riding school and horse-riding trails. The improvements upon the site are associated with the vineyards, winery, cellar door, restaurant, storage sheds and farm buildings and car park area. Current approved uses are indicated in **Figure 5** below.



**Figure 5: Current approved uses**

The objectives intended outcomes of the Planning Proposal are:

- To rezone the identified portions of land from E3 Environmental Management to SP3 Tourist in order to better reflect its current usage as a long established and approved winery, cellar door and restaurant, while excluding those areas of high value environmental land which remain connected to more extensive vegetation corridors.
- To provide a zoning for the land that will enable Council to consider future applications for additional development permitted with consent in the SP3 Tourist zone. It is noted that Council’s resolution to support the Planning Proposal includes the requirement that a Concept Master Plan be prepared to support any future Development Application should the rezoning proceed.

The SP3 Tourist zone was introduced into the Shire with the making of WLEP 2010. This zone permits, with Council consent, a broad range of tourist related development. The objectives of the SP3 Tourist zone are:

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 11 August 2021

### REPORT GENERAL MANAGER



- to provide for a variety of tourist-oriented development and related uses, and
- to ensure that development is sympathetic with the rural setting and landscape features of the site and minimises impact on the scenic values of nearby development and land use activity.

In relation to the Minimum Lot Size Maps the current maps require a minimum 40 hectares to create any new allotment. It is not intended that the Lot Size map be amended. It is noted that pursuant to Clause 2.6 of the Wingecarribee Local Environmental Plan 2010, subdivision of land would be permissible within the SP3 Tourist zone and therefore maintenance of the larger lot size at this point in time is considered appropriate, without compromising the potential tourist related development options for the land.

The Wingecarribee Rural Tourism Policy was adopted by Council at its Ordinary Meeting of 13 November 2019. The objectives of the adopted Policy are:

- *to provide a direct 'line of sight' between the South East and Tablelands Regional Plan, the Destination Management Plan, the Community Strategic Plan and Council's planning framework as it relates to rural tourism development*
- *to outline a clear approval pathway for certain rural tourism related developments in the Wingecarribee Shire*
- *to provide greater certainty and consistency in the assessment of rural tourism related development proposals for both the industry and the broader community, and*
- *to set out criteria for determining when Council will consider a Planning Proposal to rezone land to SP3 Tourist.*

Council recognises that tourism is a key economic driver for the Shire. Tourism is a key employer for 'first job' and 'part time' job opportunities for the young, as well as full time jobs for across a broad age range and across a broad range of skill sets. It is also recognised that the Shire can provide opportunities for year-round tourism.

Council also recognises the economic challenges that traditionally face rural communities and that rural based tourism provides the potential for a broader economic base in such communities to add diversity to the economy.

The benefits of tourism are acknowledged in the Wingecarribee Shire Community Strategic Plan (CSP) (June 2017), however, the CSP also acknowledges that these goals and strategies need to be balanced against community and environmental impacts which are not always positive (Strategy 5.1.3 - *ensure tourism balances the economic benefits with impact on environment and community*).

The South East and Tablelands Regional Plan (page 66) also acknowledges this need for balance, identifying the highest priorities for the Shire as including:

- *Protect high environmental value lands including regionally significant biodiversity corridors*
- *Protect the Sydney Drinking Water Catchment*
- *Protect important agricultural lands as a resource for food security*
- *Protect the shire's valued heritage assets*

Therefore, the adopted Policy provides a framework for both Council and the tourism industry to consider large scale rural tourism proposals at a strategic level and to ensure that any negative impacts are identified, managed and mitigated appropriately.

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 11 August 2021

### REPORT GENERAL MANAGER



The Planning Proposal was initially considered and assessed within this context and subsequently reported to Council on 22 July 2020 at which time it was resolved as follows;

- 1. THAT the Planning Proposal to rezone land at 252-254 Centennial Road Bowral / (Centennial Vineyards) from E3 Environmental Management to SP3 Tourist BE SUPPORTED for progression to a Gateway Determination for the following lots: Lot 1 DP 126196, Lot 1 DP 435373, Lot 5A DP 16192 and part of Lot 1 DP 16192, and**
- 2. THAT any future Development Application for the rezoned portion of the subject land shall provide a Concept Master Plan, as required under the Rural Tourism Policy, and shall demonstrate to Council's satisfaction that no clearing of native vegetation will be required.**

### **REPORT**

A Gateway Determination to proceed with the Planning Proposal was issued by the Department of Planning, Industry & Environment on 8 March 2021. The Gateway authorised Council to act as the local plan making authority for the Planning Proposal under s.3.36 of the *Environmental Planning & Assessment Act 1979*.

The Gateway required preparation of a Preliminary Site Investigation, to be approved by the Department prior to, and included in, the public exhibition. The Gateway also required referral to WaterNSW, NSW Rural Fire Service and DPIE-Environment, Energy and Science Division. These referrals were undertaken and there were no objections from these agencies.

The Planning Proposal and supporting documentation were placed on public exhibition on Council's 'Your Say Wingecarribee' website for a period of 30 days from Wednesday 26 May to Friday 25 June 2021. The Planning Proposal was notified on Council's Community Update page on its website for each week of the exhibition period. The Community Update is also emailed weekly to over 3,500 recipients. Notification letters were also sent to the owners of 52 adjacent and surrounding properties.

One (1) submission was received in support of the Planning Proposal noting that such development "would bring tourists to the region and generate urgently needed jobs for the Highlands". No other submissions were received. A copy of the submission has been provided to the Panel members.

It is the recommendation of this report, therefore, that the Planning Proposal to rezone the subject land to the extent identified, be finalised and WLEP be amended accordingly.

---

### **COMMUNICATION AND CONSULTATION**

#### **Community Engagement**

Community consultation was undertaken as described in the report.

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

Internal consultation with the Environment and Sustainability Branch was undertaken.

---

### **External Communication and Consultation**

Agency referrals were undertaken in accordance with the Gateway Determination as described in the report.

---

### **SUSTAINABILITY ASSESSMENT**

- **Environment**

Environmental concerns were considered and addressed as described in the report.

- **Social**

The report addresses potential community impacts of rural tourism.

- **Broader Economic Implications**

The report addresses the broader economic benefits of tourism.

- **Culture**

There are no cultural issues in relation to this report.

- **Governance**

The Planning Proposal has been processed in accordance with the Gateway Determination and guidelines as provided by the Department of Planning, Industry and Environment.

---

### **COUNCIL BUDGET IMPLICATIONS**

There are no budget implications associated with this report.

---

### **RELATED COUNCIL POLICY**

The report has been prepared with reference to the adopted Rural Tourism Policy.

---

### **CONCLUSION**

The Planning Proposal to rezone the property known as Centennial Vineyards Bowral was assessed against the adopted Rural Tourism Policy. Assessment of the subject land indicated that certain areas of the site constitute High Value Environmental Land by virtue of containing the Southern Highlands Shale Woodland ecological community listed as threatened on both state and federal registers.

The Rural Tourism Policy provides that High Value Environmental Land can be considered for rezoning to SP3 Tourist provided the proponent can demonstrate that such land won't be included in the development or won't be impacted by the development. In the case of the subject land, which already contains tourist related development, the recommended approach is to exclude from rezoning the most vegetated areas of the site, but support rezoning of those areas of the site already developed for tourist related activity, or where impacts on TEC of future development can be minimised.

## **AGENDA FOR THE ORDINARY MEETING OF COUNCIL**

Wednesday 11 August 2021

### **REPORT GENERAL MANAGER**

---



It is also a requirement of the Rural Tourism Policy that the proponent provide a Concept Master Plan to accompany any future development application to enable Council to consider the cumulative impacts of development on the site and surrounding locality.

Progression of the Planning Proposal was supported by Council and, following community consultation it is now recommended that the Planning Proposal be finalised and WLEP 2010 be amended by rezoning the identified portion of the subject land to SP3 Tourist.

---

### **ATTACHMENTS**

There are no attachments to this report.



## 10.6 Planning Proposal for Provisions Relating to Secondary Dwellings in Rural Zones

**Report Author:** Senior Strategic Land Use Planner  
**Authoriser:** Manager Strategic Land Use Planning  
**Link to Community Strategic Plan:** Maintain inter-urban breaks (i.e. the green between) and rural landscape between towns

**THIS ITEM WAS CONSIDERED AT THE LOCAL PLANNING PANEL MEETING OF 4 AUGUST 2021.**

### PURPOSE

The purpose of this report is to seek a Resolution of Council to finalise the Planning Proposal to introduce a new control within the Wingecarribee Local Environmental Plan 2010 related to secondary dwellings within rural zones. This amendment was necessitated by a recent amendment to the Standard Instrument Local Environmental Plan which affects Wingecarribee Local Environmental Plan 2010.

Applicant / Proponent	Wingecarribee Shire Council
Owners	N/A
Consultants	N/A
Notification	9 June to 9 July 2021
Number Advised	Shire wide
Number of Submissions	One (1)
Current Zoning / MLS	N/A
Proposed LEP Amendment/s	Insert into WLEP 2010 optional clause 5.5 <i>Controls relating to secondary dwellings on land in a rural zone.</i>
Political Donations	N/A
Recommendation	Finalisation of the Planning Proposal BE SUPPORTED

### RECOMMENDATION

**THAT the Planning Proposal to insert the Standard Instrument optional clause 5.5 into the *Wingecarribee Local Environmental Plan 2010* to provide development standards for secondary dwellings in rural zones be finalised under s3.36 of the *Environmental Planning & Assessment Act 1979*.**

---

## **PANEL'S ADVICE**

This item was considered at the Local Planning Panel meeting of 4 August 2021 and the Panel agreed with the staff recommendation.

---

## **BACKGROUND**

On 18 December 2020, the *Standard Instrument (Local Environmental Plans) Amendment (Secondary Dwellings) Order 2020* was published. A copy of the Order is provided as **ATTACHMENT 1**.

This order amended the Standard Instrument Local Environmental Plan, on which Wingecarribee Local Environmental Plan (WLEP) 2010 is based and made a mandatory and automatic amendment to the controls for secondary dwellings contained in *subclause 9 of clause 5.4 (Controls relating to miscellaneous permissible uses)*. These amendments came into force on 1 February 2021.

The amendment makes a change to the development standards in place for secondary dwellings to specifically exclude secondary dwellings in rural zones. Currently, secondary dwellings are permissible in the following rural zones: RU1 Primary Production, RU2 Rural Landscape and RU4 Primary Production Small Lots.

The wording of the amended subclause is reproduced below with the changes indicated in red.

### **5.4 Controls relating to miscellaneous permissible uses**

- (9) **Secondary dwellings on land other than land in a rural zone** If development for the purposes of a secondary dwelling is permitted under this Plan **on land other than land in a rural zone**, the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—
- (a) 60 square metres,
  - (b) 33% of the total floor area of the principal dwelling.

It is important to note that this new clause—which is now in force—only excludes the rural zones (RU1, RU2 and RU4) and not any of the environmental protection zones, which make up the majority of the recognised rural and pastoral areas of the Shire.

Accompanying the mandatory change to clause 5.4(9) of the WLEP, the Order provides for a Standard Instrument (SI) optional clause which, if adopted, would be inserted as clause 5.5 of the WLEP 2010) as follows:

### **5.5 Controls relating to secondary dwellings on land in a rural zone [optional]**

*If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—*

- (a) *the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—*
- (i) *[insert number] square metres,*
  - (ii) *[insert number]% of the total floor area of the principal dwelling, and*
- (b) *the distance between the secondary dwelling and the principal dwelling must not exceed [insert number] metres.*

This SI amendment has created an anomaly under WLEP 2010 where there are no controls for the size of secondary dwellings in the rural zones. In order to rectify this situation, it is necessary to adopt the optional clause 5.5 and populate it with the provisions which applied

prior to the SI amendment and which remain in WLEP 2010 for secondary dwellings in the environmental protection zones. To maintain this consistency the following numerical standards would apply:

- **60** square metres
- **33%** of the total floor area of the principal dwelling

It is noted that clause 5.5 also provides for a maximum distance between the principal and secondary dwelling, a control which is currently not included in the Standard Instrument clause 5.4(9). A nominated distance of 50 metres has been contained within the Rural Lands Development Control Plan (DCP) (applicable to RU1 and RU2 zones) and the Rural Living DCP (applicable to the RU4 zone) since they were adopted at the time of commencement of the WLEP in 2010.

Therefore, in order to restore the development standards for secondary dwellings in the rural zones as they were prior to the SI amendment, and as they remain for the environmental protection zones, and to meet the new SI clause requirement for a nominated maximum distance between the principal and secondary dwelling, a draft clause 5.5 has been prepared as follows.

***5.5 Controls relating to secondary dwellings on land in a rural zone [optional]***

*If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—*

- (a) the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—*
  - (i) 60 square metres,*
  - (ii) 33% of the total floor area of the principal dwelling, and*
- (b) the distance between the secondary dwelling and the principal dwelling must not exceed 50 metres.*

Council considered this draft clause at its Ordinary Meeting of 10 March 2021 and resolved as follows:

- THAT*** a Planning Proposal be prepared and submitted to the Department of Planning, Industry and Environment for a Gateway Determination under section 3.33 of the Environmental Planning and Assessment Act 1979, to insert a new clause 5.5 in the Wingecarribee Local Environmental Plan 2010 to provide development standards for secondary dwellings in rural zones in accordance with the Standard Instrument (Local Environmental Plans) Amendment (Secondary Dwellings) Order 2020 and consistent with Council's established standards for size and separation of secondary dwellings.
- THAT*** a Councillor Information Session be held following the exhibition period.

The progression of that Resolution is now addressed.

---

**REPORT**

A Planning Proposal in accordance with the Resolution of 10 March 2021 was submitted to the Department of Planning, Industry and Environment and a Gateway Determination to proceed was issued on 22 April 2021.

The Gateway Determination required that the Planning Proposal be referred to WaterNSW and NSW Rural Fire Service. Agency referrals were completed with no objections received.

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 11 August 2021

### REPORT GENERAL MANAGER



The Gateway Determination required that the Planning Proposal and supporting documentation be placed on public exhibition for a period of at least 28 days. This public exhibition occurred for a period of 30 days from Wednesday 9 June to Friday 9 July 2021 inclusive. The Planning Proposal and supporting documentation were included on Council's 'Your Say Wingecarribee' website and notified on Council's Community Update page on its website for each week of the exhibition period. The Community Update is also emailed weekly to over 3,500 recipients.

One (1) written submission was received. The submission does not support the Planning Proposal, principally on the basis of the 50 metre separation standard.

It is noted that the submission states the intent of the Planning Proposal is to *"amend the provisions of Wingecarribee Local Environmental Plan 2010 as they relate to secondary dwellings, by including the 50 metre separation distance between a principal and secondary dwelling into clause 5.4(9), as a development standard."*

However, the actual intent of the Planning Proposal, as described in the background to this report, is to insert the optional SI clause 5.5 into WLEP 2010 as a result of the SI Amendment to clause 5.4(9) which removed the previous controls for secondary dwellings on rural zoned land.

The SI clause 5.5 includes the requirement to nominate a maximum distance between the principal and secondary dwelling. To maintain consistency with the current 50 metre standard which has applied under the Rural Lands and Rural Living DCPs since their adoption in 2010, a 50 metre separation was included in draft clause 5.5.

Nonetheless, it is understood that the submission does not support the 50 metre separation distance between a principal and secondary dwelling, regardless of the mechanism (LEP or DCP) through which it is applied and specific comments in this regard are addressed below. A copy of the submission has been provided to all members of the Panel.

	Comments & Staff Responses
1	<p><b>Comment</b> – The 50 metre distance is completely arbitrary and has never been justified by the Council. Nothing in the Planning Proposal justifies the 50 metre standard.</p> <p><b>Response</b> - <i>The Planning Proposal 'justifies' the 50 metre standard on the basis that it has been the adopted 'secondary dwelling' standard in all Rural Lands and Rural Living DCPs since their introduction with the making of Wingecarribee LEP in 2010. At that time the Council of the day wanted to ensure that the location of dwellings in the rural landscape achieved a cluster effect typical of traditional rural development within the Shire, thereby helping to limit the impacts of residential development within the rural areas.</i></p> <p><i>The Planning Proposal is primarily an administrative matter to ensure that the existing development standards for secondary dwellings are maintained.</i></p>
2	<p><b>Comment</b> – Experience with the 50 metre distance separation standard over many years has led to a conclusion that it is a blunt instrument, as often irrelevant to a suitable outcome as it is useful. One size does not fit all.</p> <p><b>Response</b> – <i>It is acknowledged that any nominated maximum distance will encounter criticism and opposition and there may well be situations when it genuinely does not provide the best development outcome. However, it is the SI clause which has created</i></p>

<b>Comments &amp; Staff Responses</b>	
	<p><i>the requirement to include the 50 metre standard in the LEP, not Council, and the purpose of this Planning Proposal is to respond to the SI amendment and consequent need for a new clause.</i></p>
3	<p><b>Comment</b> – The proper analysis of view impacts, bushfire protection, vehicle access, protection of native vegetation, avoidance of water courses are all far better measures of the reasonableness of a Development Application (DA) than the enforcement of an arbitrary 50 metres separation distance.</p> <p><b>Response</b> – <i>The Planning Proposal was discussed with the Town Planning and Accredited Certifier staff. There is the view that the standard has served the rural environment of the Shire well over the years and its removal or dilution would not be supported. Council has generally sought to ensure that the standard has been consistently applied in interests of maintaining the relevance and legitimacy of the DCPs and their controls, both within the community and before the Court.</i></p> <p><i>The view has also been expressed that the standard can, in specific circumstances, not necessarily result in the best development outcome with regard to views and or environmental impacts, and that, on those occasions, a DCP variation may be warranted. It is noted that this option would be removed in the rural zones with the adoption of the draft clause, but the clause’s requirement to nominate a maximum separation distance was not initiated by the Council and for consistency with the application of the secondary dwelling controls in the environmental protection zones, the 50 metre standard needs to be included.</i></p>
4	<p><b>Comment</b> – The 50 metre distance ignores the reality of the needs and wants of the property owners who have a myriad of reasons why they seek approval for a secondary dwelling in the first instance, reflecting who in fact may end up residing in them.</p> <p><b>Response</b> – <i>As stated above, it is acknowledged that there may be occasions when the rigid application of the standard would not achieve the best outcome with regard to views or environmental impacts. The opportunity to seek a variation in these circumstances is addressed at (5) below.</i></p>
5	<p><b>Comment</b> – With regard to the role of the DCPs in assessing a DA, s4.15 (3A)(b) of the Environmental Planning &amp; Assessment (EP&amp;A) Act 1979 states that the consent authority “<i>is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards...</i>”.</p> <p>Council therefore is obliged to be flexible, in respect of the 50 metre separation distance (and) if there are no demonstrable or substantiated impacts, Council needs to be supportive of the development rather than object purely on the basis of a variance to an arbitrary numerical standard.</p> <p>If the control is transferred into WLEP, “Council will be inundated with clause 4.6 variation requests because the chosen development standard is not appropriate”.</p> <p><b>Response</b> – <i>The objective of the 50 metre separation standard is to ensure that rural buildings are grouped and complementary in design and construction.</i></p>



## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 11 August 2021

### REPORT GENERAL MANAGER



Comments & Staff Responses	
	<p><i>As stated above, it is the general view of assessing staff that over the 11 years that the standard applied through the DCPs has served the Shire well in achieving its objective. It is also recognised by staff that where a genuine adverse environmental outcome can be demonstrated, a variation can, and has been, considered.</i></p> <p><i>As stated in the submission, a clause 4.6 variation could be considered. Although clause 4.6 does not permit variations to clause 5.4, it would allow a request to vary the standards under the new Clause 5.5. Therefore, the opportunity would remain for Council to consider any request under clause 4.6 if the proponent could demonstrate that its application would genuinely result in a poor development outcome.</i></p> <p><i>In its assessment, Council would be guided by the proposed Departmental amendments to the provisions of clause 4.6 which would limit its application to situations where “the consent authority must be directly satisfied that the applicant’s written request demonstrates the following essential criteria in order to vary a development standard:</i></p> <ul style="list-style-type: none"><li><i>• the proposed development is consistent with the objectives of the relevant development standard and land use zone; and</i></li><li><i>• the contravention will result in an improved planning outcome when compared with what would have been achieved if the development standard was not contravened. In deciding whether a contravention of a development standard will result in an improved planning outcome, the consent authority is to consider the public interest, environmental outcomes, social outcomes and economic outcomes”.</i></li></ul>
6	<p><b>Comment</b> – The submission concludes by stating that, if the Planning Proposal is to proceed, a ‘more realistic’ separation distance of 100 metres is recommended.</p> <p><b>Response</b> - This comment is noted.</p>

The need to amend WLEP 2010 arose with an unexpected amendment to the Standard Instrument introduced without consultation and at short notice. It leaves WLEP 2010 without any development standard at all, including size, for secondary dwellings in the rural zones. Council has had to act quickly to reinstate the same provisions as applied under clause 5.4(9) before the amendment was made, and which still apply for secondary dwellings in the environmental protection zones.

Council recognises the anomaly of including the 50 metre maximum distance separation standard within the LEP for secondary dwelling development on rural zoned land while it remains a DCP for such development in environmental protection zones. However, the format of the SI clause gives Council no alternative but to do so.

No other separation distance can be considered at this time without also amending the relevant DCPs because there can be no inconsistency between the LEP and the DCP standards. A more appropriate time to consider further any variation to the current maximum distance separation standard would be when the Development Control Plans themselves are reviewed.

It is therefore the recommendation of this report that the Planning Proposal as exhibited be finalised.

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 11 August 2021

### REPORT GENERAL MANAGER



It is noted that the Resolution of 10 March 2021 also included that the matter be brought back to a Councillor Information Session. In lieu of this, the report was discussed with the Independent Planning Advisory Panel in a briefing session prior to the report being formally considered by the Panel.

---

## COMMUNICATION AND CONSULTATION

### Community Engagement

Community Engagement was undertaken in accordance with the Gateway Determination as described in this report.

### Internal Communication and Consultation

Internal consultation was undertaken with Town Planning and accredited Certifier staff.

### External Communication and Consultation

External consultation was undertaken in accordance with the Gateway Determination as described in this report.

---

## SUSTAINABILITY ASSESSMENT

- **Environment**

The proposed amendment to the WLEP 2010 will ensure that consistent development controls are applied to secondary dwelling applications.

- **Social**

There are no social issues in relation to this report.

- **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**

There are no governance issues in relation to this report.

---

## COUNCIL BUDGET IMPLICATIONS

There are no budget implications in relation to this report. The preparation of the Planning Proposal will be undertaken with existing staff resources.

---

## RELATED COUNCIL POLICY

There are no related Council policies.

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 11 August 2021

### REPORT GENERAL MANAGER



---

#### CONCLUSION

While the majority of our recognised rural areas are not actually within a rural zone, it is important that there are consistent standards in place for secondary dwellings within the RU1 Primary Production, RU2 Rural Landscape and RU4 Primary Production Small Lots zones.

The amendment to clause 5.4 and the creation of a new clause 5.5 in a specific format require Council to also include the current 50 metres distance separation as an LEP standard for rural zoned land. Council acknowledges the anomaly between the application of controls for rural zoned land and environmental protection zones, but considers the adoption of the draft clause into WLEP 2010 as the most expedient means of addressing the SI amendment.

This report recommends therefore that Council proceed to finalise a Planning Proposal to adopt the optional clause for secondary dwellings in rural zones with appropriate numerical standards consistent with those consistently applied by Council since 2010.

---

#### ATTACHMENTS

There are no attachments to this report.

Lisa Miscamble  
**General Manager**

Friday 6 August 2021