

4 December 2019

Dear Councillor,

You are kindly requested to attend the **Ordinary Meeting** of Wingecarribee Shire Council to be held in **Council Chambers, Civic Centre, Elizabeth Street, Moss Vale** on **Wednesday 11 December 2019** commencing at **2.00pm**.

Yours faithfully

Ann Prendergast  
**General Manager**

SCHEDULE

|        |                        |
|--------|------------------------|
| 2.00pm | Council Meeting begins |
| 5.40pm | Closed Council         |

| Time   | Item  |
|--------|---|
| 2.00pm | <b>Opening of the Meeting</b> – please remind all present that mobile phones must be switched off before the meeting and that the meeting is tape recorded <b>AND that the Council Chamber now has 24 hour Video Surveillance.</b>  |
| 2.01pm | <b>Acknowledgement of Country – Clr P Nelson</b>  |
| 2.02pm | <b>Opening Prayer – Pastor Donna Jensen Connect Church, Moss Vale</b>   |
| 2.05pm | <ul style="list-style-type: none"><li>• <b>Apologies</b></li><li>• <b>Adoption of Previous Minutes</b></li><li>• <b>Declarations of Interest</b> (<i>if any</i>)</li><li>• <b>Mayoral Minute</b> (<i>if any</i>)</li><li>• <b>Public Forum</b> (<i>if any</i>)</li><li>• <b>Visitor Item</b> (<i>if any</i>)</li><li>• <b>Council Reports</b></li></ul> |
| 4.00pm | <b>Questions with Notice</b><br><b>Notices of Motion</b>  |
| 5.40pm | <b>Closed Council</b>   |
| 6.00pm | <b>Meeting Closed</b>   |

Ann Prendergast  
**General Manager**



## Business

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*This report is referred to Closed Committee in accordance with s10A(2) of the Local Government Act, 1993, under clause 10A(2)d(i) as it contains commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it and the Council considers that it would be on balance contrary to the public interest to consider this information in Open Council.*

**19.2 Tender for Biosolids Removal, Transport and Beneficial Reuse**

*This report is referred to Closed Committee in accordance with s10A(2) of the Local Government Act, 1993, under clause 10A(2)d(i) as it contains commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it and the Council considers that it would be on balance contrary to the public interest to consider this information in Open Council.*

**19.3 Tender for Construction of Stormwater Drainage at Hill Top, NSW**

*This report is referred to Closed Committee in accordance with s10A(2) of the Local Government Act, 1993, under clause 10A(2)d(i) as it contains commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it and the Council considers that it would be on balance contrary to the public interest to consider this information in Open Council.*

**19.4 Tender Outcome - Electronic Document Record Management System**

*This report is referred to Closed Committee in accordance with s10A(2) of the Local Government Act, 1993, under clause 10A(2)d(i) as it contains commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it and the Council considers that it would be on balance contrary to the public interest to consider this information in Open Council.*

**20. RESUMPTION OF OPEN COUNCIL**

Resumption of Open Council  
Adoption of Closed Session

**21. 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

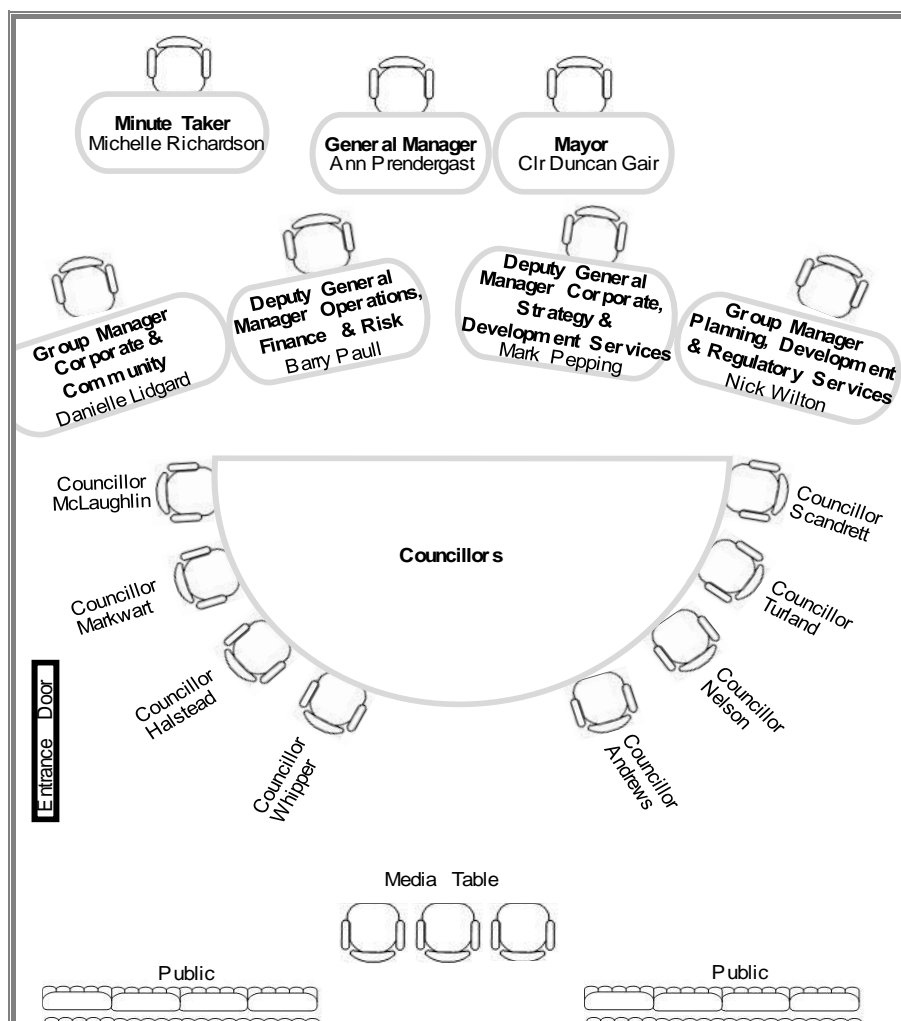
## Council Chambers

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

As required under its Code of Meeting Practice, Wingecarribee Shire Council records and webcasts the proceedings of the Council meetings and Finance Committee meetings for public viewing, with the exception of any part of the meeting that is held in closed session. Members of the public attending and speaking at these meetings will be recorded and publicly broadcast. Council does not accept liability for any defamatory, discriminatory or offensive comments that are made during the course of the meeting.

Sound recording of meetings by members of the media is permitted only for the purpose of verifying the accuracy of any report concerning such meeting. Broadcasting of any sound recording is not permitted. Video recording or live streaming is also not permitted. No member of the public is to live stream or use an audio recorder, video camera, mobile phone or any other device to make a recording of the meeting without prior permission of the Council.

The Council Chamber now has 24 Hour Video Surveillance.



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## ACKNOWLEDGEMENT OF COUNTRY

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I would like to acknowledge the Traditional Custodians of this land and pay my respect to Elders both past and present. I would also like to extend that respect to all Aboriginal and Torres Strait Islanders present here today.

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## APOLOGIES

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Leave of absence for this meeting was previously granted to Councillor G Markwart.

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## DECLARATIONS OF INTEREST

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101/3, 101/3.1

The provisions of Chapter 14 of the *Local Government Act 1993* regulate the way in which Councillors and 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.



## 7 MAYORAL MINUTES

### 7.1 Renew Our Libraries, Phase Two

Reference: 100  
Report Author: Mayor T D Gair  
Authoriser:  
Link to Community  
Strategic Plan:

#### PURPOSE

The purpose of this Mayoral Minute is to seek support from Councillors to formally endorse the New South Wales Public Libraries Association's campaign to secure a sustainable funding model for NSW public libraries in perpetuity from the State Government.

#### RECOMMENDATION

1. **THAT Council make representation to the local State Member(s), Mr Nathaniel Smith and Mrs Wendy Tuckerman, in relation to the need for a sustainable State funding model for the ongoing provision of public library services.**
2. **THAT Council write to the Hon. Don Harwin, Minister for the Arts and the Hon. Walt Secord, Shadow Minister for the Arts, calling for bi-partisan support for Consumer Price Index (CPI) indexation of State funding for NSW public libraries, as well as legislation of all elements of the 2019-20 to 2022-23 NSW State funding model.**
3. **THAT Council take a leading role in lobbying for sustainable State government funding for libraries.**
4. **THAT Council continues to endorse the distribution of the NSW Public Libraries Association NSW library sustainable funding advocacy information in Council libraries, as well as involvement in any actions proposed by the Association.**

#### REPORT

The NSW Public Libraries Association and Local Government NSW library funding Renew Our Libraries campaign was a spectacular success, with an increase of \$60m in State funding for NSW public libraries over the quadrennial period 2019-20 to 2022-23. It is the largest single increase in State funding since the NSW Library Act was introduced in 1939.

This outcome was achieved as a result of the remarkable support of councils, libraries and communities across the State. Over 80% of NSW councils formally endorsed Renew Our Libraries through council resolutions.

Well known media and advocacy company Essential Media has been engaged to manage the Renew Our Libraries Phase Two campaign which has recently been launched at NSW Parliament House on the 12 November 2019. <https://renewourlibraries.com.au/>

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 11 December 2019

### MAYORAL MINUTES



The main objectives of this campaign are to:

- Index the total increased State funding contribution to the Consumer Price Index (CPI) in perpetuity. Without indexation the actual value of State funding for NSW libraries will decline over time, leaving NSW councils to either meet the shortfall or reduce services.
- Protect the new funding commitment by including all elements of the new State funding model in legislation through the Library Act and/or the Library Regulation. Currently, only the per-capita component of the funding model (increasing from \$1.85 per capita to \$2.85 per capita over the 4-year period 2019-20 to 2022-23) is included in library legislation, leaving 46% of the total funding for NSW libraries at risk.

#### Index the Funding - Protect the Funding

These two simple measures will ensure that NSW councils will continue to receive a significantly increased State government contribution to the operation of public libraries, which will be protected by legislation and not subjected to cost of living attrition over time.

This will also mean that the NSW Public Libraries Association, its member councils and libraries across the State can direct their funds and efforts to the ongoing support and development of high-quality library services for NSW communities, rather than engaging in expensive and time-consuming future funding campaigns.

This is an opportunity to lock in the historic 2019 State funding increase for NSW libraries thereby ensuring the future prosperity of the NSW public library network.

Accordingly, it is recommended that Council supports the NSW Public Libraries Association by formally endorsing Renew Our Libraries Campaign Phase Two to secure a sustainable funding model for NSW public libraries in the future.



Clr Duncan Gair  
**Mayor**

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### ATTACHMENTS

There are no attachments to this report.

## 9 VISITOR MATTERS

### CORPORATE STRATEGY AND DEVELOPMENT SERVICES

#### 9.1 DA 17/1679 - S.8.2 Review of Refused Boarding House Development - 2 Walker Street, Bowral

|                                   |  |
|-----------------------------------|--|
| Reference:                        | 17/1679.01   |
| Report Author:                    | Development Assessment Planner   |
| Authoriser:                       | Group Manager Planning, Development and Regulatory Services  |
| Applicant:                        | Martin O'Toole Architects  |
| Owner:                            | KND Nominees PTY LTD   |
| Link to Community Strategic Plan: | Provide a mixture of housing types that allow residents to meet their housing needs at different stages of their lives and support affordable living |

#### PURPOSE

The purpose of this report is to consider S.8.2 Review Application 17/1679.01, being a review of Development Application 17/1679 which refused a proposed boarding house at Lot 2 DP 625407, being 2 Walker Street Bowral. The applicant has made a number of modifications to address Council's previous reasons for refusal. This report is prepared for determination and recommends **APPROVAL** subject to conditions contained in Attachment 1.

#### VOTING ON THE MOTION

Councillors are required to record their votes on this matter.

#### RECOMMENDATION

**THAT** review of Development Application 17/1679. under S.8.2 of the *Environmental Planning and Assessment Act* for a proposed Boarding House at Lot 2 DP 625407, No 2 Walker Street, Bowral be **APPROVED** subject to conditions as described in Attachment 1 to the report.

#### REPORT

##### **Subject Site and Locality**

The subject site is legally described as Lot 2 DP625407. It is commonly known as 2 Walker Street, Bowral. The total site area is approximately 1026 square metres. The site is an irregular shape, being wider at the rear than at the street frontage. The site rises from the front to the rear significantly. The site frontage to Walker Street is approximately 15 metres, whereas the rear boundary is approximately 27 metres. It has a depth of approximately 43 metres. Currently situated upon the site is an existing single dwelling house towards the street frontage and two sheds behind.

The location of the site (**Attachment 2**) is a mixed-use precinct undergoing transformation close to Bowral town centre. It is characterised by a range of single detached housing and



commercial and retail developments of a range of styles and age. The site is orientated east west, with a frontage to Walker Street to the west. To the north is a single storey commercial development that accommodates a range of medical and professional suites. To the south is a single storey commercial development with professional offices. Directly opposite is an older style commercial development with a range of professional suites and retail shop. Further south along Walker Street the predominant form remains single dwelling houses on individual allotments.

### **Refused Development**

1. Development Application 17/1679 sought approval for the construction of a 3 storey boarding house development consisting of 20 units at Lot 2 DP 625407, 2 Walker Street Bowral. Development Application 17/1679 was refused under delegation on 9 November 2018 for the following reasons: *The proposal is deemed to not be located within an accessible location as defined within the State Environmental Planning Policy (Affordable Rental Housing) 2009. As such, concessions offered to accessible locations cannot be relied upon. The proposal seeks to only provide 4 car parking spaces based on accessible location car parking rates. The proposal should be providing car parking based on non-accessible locations as is therefore 4 spaces deficient in this regard as required by Clause 29(e).* **(Section 4.15(1)(a)(i) Environmental Planning and Assessment Act 1979)**
2. *Insufficient information has been provided to demonstrate that minimum gross floor area for individual rooms has been achieved throughout the entire scheme. Assessment indicates that a number of rooms will not achieve the minimum space requirement of 12m<sup>2</sup> as required by Clause 29(f)(i) and 30(1)(b) of State Environmental Planning Policy (Affordable Rental Housing) 2009.* **(Section 4.15(1)(a)(i) Environmental Planning and Assessment Act 1979)**
3. *Insufficient bicycle parking spaces have been provided in accordance with Clause 30(1)(h) of State Environmental Planning Policy (Affordable Rental Housing) 2009. Five spaces are required to be provided, with only four shown within submitted documentation.* **(Section 4.15(1)(a)(i) Environmental Planning and Assessment Act 1979)**
4. *The proposed boarding house is not in character with the existing or desired future character of the surrounding area in accordance with Clause 30A of State Environmental Planning Policy (Affordable Rental Housing) 2009. B15 of the Bowral Town Plan DCP details the desired future character of the Southern Entrance Precinct. Recent commercial development to north of the site is single storey in form, with zero to shallow setbacks from street. Car parking is set off to the side, with hipped or gabled roofs and parapets dominant. The proposed 3 storey building form is not consistent with the recent commercial development, nor the existing low density residential character located to the south of the site.* **(Section 4.15(1)(a)(i) and Section 4.15(1)(a)(iii) Environmental Planning and Assessment Act 1979)**
5. *The design does not respond to the site conditions, with extensive earthworks proposed, comprising excavations up to a depth of 3 meters to achieve height controls. Insufficient information has been provided to enable Council to adequately satisfy the matters for consideration required under Clause 7.3 of the Wingecarribee*



*Local Environmental Plan 2010 or controls detailed at A6.4 of the Bowral Town Plan DCP.*

**(Section 4.15(1)(a)(i) and Section 4.15(1)(a)(iii) Environmental Planning and Assessment Act 1979)**

6. *Insufficient information in the form of a geotechnical report has been provided to inform substrate conditions and hence the design of footings and structure.*

**(Section 4.15(1)(a)(iii) Environmental Planning and Assessment Act 1979)**

7. *The impacts of the development on the surrounding land uses are not supported. The design of the site, with the building setback 20m from street with car parking in front, will not create a positive interface between the site and the public domain resulting in an adverse precedent for the remainder of Walker Street.*

**(Section 4.15(1)(b) Environmental Planning and Assessment Act 1979)**

8. *The site is not suitable for the proposed development. The development will result in traffic impacts, does not achieve the desired local character and includes excessive excavation.*

**(Section 4.15(1)(c) Environmental Planning and Assessment Act 1979)**

9. *Numerous public submissions were received in regards to the proposed development that align with the numerous deficiencies identified throughout Council's assessment. The application has not adequately addressed these concerns.*

**(Section 4.15(1)(d) Environmental Planning and Assessment Act 1979)**

10. *Approval of the proposal would not be in the public interest as:*
  - a. *The proposal will create adverse impacts due to a lack of car parking both within the site and in the surrounding area*
  - b. *The proposal significantly impacts on the existing and desired future character of the area*
  - c. *There is potential for excessive excavations to negatively impact on adjoining properties and the public domain.*

**(Section 4.15(1)(e) Environmental Planning and Assessment Act 1979)**

**Section 8.2 Review**

The Section 8.2 Review Application 17/1679.01 was lodged on 8 May 2019. The Section 8.2 Review was considered by Council at its meeting held on 14 August 2019 and Council resolved:

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 11 December 2019

### REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



*THAT review of determination Application 17/1679.01 under s. 8.2 of the Environmental Planning and Assessment Act for a proposed Boarding House at Lot 2 DP 625407, No 2 Walker Street, Bowral be DEFERRED to enable the applicant and staff to continue to seek ways to amend the proposal to comply with planning requirements such as pedestrian footpaths to the Argyle Laneway; carparking and overshadowing.*

Plans submitted for the revised s.8.2 review application 17/1679.01 comprise substantially the same development as that previously refused by DA 17/1679, comprising a 3 storey building. The number of units has been reduced to sixteen (16) individual one-bedroom accommodation units (down from 20 units) including building four (4) accessible units. The development also provides a site manager's office, communal lounge area, driveway, car parking and bicycle space as shown in **Attachments 4 - 6**.

#### **Land and Environment Court Case No. 2019/00143860**

Notwithstanding the Section 8.2 Review Application before Council as part of this report, the applicant has also commenced legal proceedings against Council's refusal in the Land and Environment Court to be within the legislation timeframes to appeal against a council determination. A conciliation conference under s34 of the Land and Environmental Court Act has been set down for 29 January 2020. Should Council approve the development the applicant would have the option to discontinue the Court proceedings.

## **STATUTORY PROVISIONS**

### **State Environmental Planning Policies**

#### **State Environmental Planning Policy No 55 – Remediation of Land**

Clause 7 of SEPP 55 requires the consent authority to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land, and to be satisfied that the land is suitable for the proposed use. After undertaking a desktop search using Council's Property and Rating database, Council is satisfied the land is not a site of possible contamination and therefore no further assessment is required.

#### **State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011**

The site is located within the Wingecarribee River Sub-catchment. Compliance with the provisions of the SEPP and associated guidelines is therefore required to consider water quality. The development is a Module 5 under the NorBE Guidelines and therefore Council has assumed concurrence to consider water quality. The proposed development satisfies the requirements of State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011.

#### **State Environmental Planning Policy (Affordable Rental Housing) 2009**

Under State Environmental Planning Policy (Affordable Rental Housing) 2009 Division 3 Boarding Houses is relevant to this application. Division 3 is provided as follows:

#### **29 Standards that cannot be used to refuse consent**

(1) *A consent authority must not refuse consent to development to which this Division applies on the grounds of density or scale if the density and scale of the buildings when expressed as a floor space ratio are not more than:*

*(a) the existing maximum floor space ratio for any form of residential accommodation permitted on the land, or*



- (b) *if the development is on land within a zone in which no residential accommodation is permitted—the existing maximum floor space ratio for any form of development permitted on the land, or*
  - (c) *if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register—the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus:*

    - (i) *0.5:1, if the existing maximum floor space ratio is 2.5:1 or less, or*
    - (ii) *20% of the existing maximum floor space ratio, if the existing maximum floor space ratio is greater than 2.5:1.*
- (2) *A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:*
- (a) **building height**

*if the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land,*
  - (b) **landscaped area**

*if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located,*
  - (c) **solar access**

*where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,*
  - (d) **private open space**

*if at least the following private open space areas are provided (other than the front setback area):*

    - (i) *one area of at least 20 square metres with a minimum dimension of 3 metres is provided for the use of the lodgers,*
    - (ii) *if accommodation is provided on site for a boarding house manager—one area of at least 8 square metres with a minimum dimension of 2.5 metres is provided adjacent to that accommodation,*
  - (e) **parking**

*if:*

    - (i) *in the case of development carried out by or on behalf of a social housing provider in an accessible area—at least 0.2 parking spaces are provided for each boarding room, and*



- (ii) *in the case of development carried out by or on behalf of a social housing provider not in an accessible area—at least 0.4 parking spaces are provided for each boarding room, and*
  - (iia) *in the case of development not carried out by or on behalf of a social housing provider—at least 0.5 parking spaces are provided for each boarding room, and*
  - (iii) *in the case of any development—not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site,*
- (f) *accommodation size*
- if each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least:*
- (i) *12 square metres in the case of a boarding room intended to be used by a single lodger, or*
  - (ii) *16 square metres in any other case.*
- (3) *A boarding house may have private kitchen or bathroom facilities in each boarding room but is not required to have those facilities in any boarding room.*
- (4) *A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (1) or (2).*
- (5) *In this clause:*
- social housing provider*** *does not include a registered community housing provider unless the registered community housing provider is a registered entity within the meaning of the Australian Charities and Not-for-profits Commission Act 2012 of the Commonwealth.*

Clause 29 of SEPP (Affordable Rental Housing) 2009 requires the consent authority to consider building height, landscaped area solar access, private open space, parking and accommodation size is appropriate prior to granting consent to the carrying out of any development on that land, and to be satisfied that the land is suitable for the proposed use.

The application is seeking consideration in accordance with a number of definitions detailed within this clause 4 of the SEPP. The application is reliant upon the following definitions:

**Accessible area** means land that is within:

- a) **800 metres walking distance of a public entrance to a railway station** or a wharf from which a Sydney Ferries ferry service operates, or
- b) 400 metres walking distance of a public entrance to a light rail station or, in the case of a light rail station with no entrance, 400 metres walking distance of a platform of the light rail station, or
- c) 400 metres walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.

**Walking Distance** means the shortest distance between two points measured along a route that may be **safely walked** by a pedestrian using, as far as reasonably practicable, public footpaths and pedestrian crossings.



As evidenced in this assessment, the application is reliant on residents utilising Argyle Lane to reach Bowral Train Station. In the original assessment it was determined this route did not satisfy the **walking distance** definition above as Argyle Lane does not have any footpath or pedestrian crossing and is contrary to above definition. Council has determined that the shortest safe route to Bowral Train Station would utilise Station Street or Bong Bong Street which are both approximately 800m distance apart.

After undertaking assessment via site inspection and using a measuring wheel to measure the distance between the subject property and Bowral Railway Station, Council is satisfied the land is in an accessible location as to mitigate the parking requirements of the SEPP.

### **Car Parking**

The original concern with the proposed Boarding House development was that only four car parking spaces were provided, and the requirement was ten car parking spaces. There was a short fall of six parking spaces.

SEPP (ARH) 2009, clause 29 subclause (2)(e)(iia) requires that, in the case of development not carried out by or on behalf of a social housing provider—at least 0.5 parking spaces are provided for each boarding room.

16 x 0.5 parking spaces require 8 spaces. 8 spaces are now proposed with the modified proposal.

The proposal **does** comply with the above clause.

### **Character of Local Area**

The site currently has a single storey commercial development to the north with varying setback of between zero to 30 metres to the street interspersed with car parking. Hipped and gabled roofs and parapets are dominant. Massing is simple and building sizes do not require variations in façade fenestration to reduce perceived bulk.

South of the site are smaller and predominantly detached single storey dwellings with simple massing. Car parking and garages predominantly are behind the façade or at the rear of the dwelling. Hipped and gabled roofs are predominant.

Both building typologies north and south of the site either entirely or partially face the street with no car parking spaces or driveways in between that part fronting the street.

Notwithstanding the above, WLEP 2010 permits 10m height limit. As such the revised proposed three storey development complies with the Instrument and meets the objectives of the zone. The building has been setback 20m from the street and landscaped to reduce the bulkiness with having an articulated façade does not compromise the existing character of the local area. The image below demonstrates how the subject development will look from the street once completed.



The precinct is zoned B4 Mixed Use and is likely to go through significant redevelopment and transformation in the coming years. The Bowral Town Centre DCP establishes desired future character and controls for development designs to be compatible with the future character of the local area.

### **Building Height**

Maximum building height on site is 10m. Plans indicate proposed development has maximum height of 9.4m. the proposed building well-articulated and neutral colour schedule which assimilates within the character of the locality.

### **Local Environmental Plans**

#### **Wingecarribee Local Environmental Plan 2010**

The relevant provisions of the LEP are discussed as follows.

#### **Clause 2.3 Zone objectives and land use table**

The site is zoned B4 Mixed Use under the Wingecarribee Local Environmental Plan 2010 and in this zone, a Boarding House is permissible with development consent.

The objectives of the ZONE are as follows:

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations to maximise public transport patronage and encourage walking and cycling.
- To ensure that new development has regard to the character and amenity of adjacent and nearby residential areas.

The proposed boarding house development is permissible in the B4 Mixed Use zone, and is compatible with the commercial and residential land uses in this part of Bowral and along Walker Street.

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By setting the proposed boarding house significantly back from the street with car parking and landscaping in between, the development demonstrates a reasonable sympathetic character of the subject site.

#### Clause 7.3 Earthworks

Clause 7.3 (3) requires Council to consider a number of matters before development consent can be granted for a development application. This proposal includes significant amounts of cut along the eastern boundary of the site to accommodate the 3 storey building height within the height control for the site. The proposal does not address the following matters:

- The likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,
- The quality of the fill or of the soil to be excavated, or both,
- The effect of the proposed development on the existing and likely amenity of adjoining properties,
- The source of any fill material of the destination of any excavated material.

The proposal with clause 7.3 of Wingecarribee Local Environmental Plan 2010 subject to conditions 14 and 17 listed in attachment 1.

#### Development Control Plans

##### Bowral Town Development Control Plan

The Bowral Town Plan Development Control Plan contains numerous provisions including preferred development outcomes, objectives, and numerical controls.

Bowral Town Plan Development Control Plan – **Section A2.2.6 – Visual Amenity** in particular all new development should:

- a) Demonstrate an appreciation of the existing streetscape.
- b) Enhance the character of individual streets within the town through appropriate built form design.
- c) Provide areas of private open space which can make a positive contribution to the overall visual amenity of the locality.

The proposal **complies** with the Bowral Town Plan Development Control Plan section A2.2.6 requirement. The 3-storey building design and placement of the proposed development 20m away from the street with a driveway, carpark and landscaping will create a positive impact on Walker Street and is likely to be a desirable precedent for future development along Walker Street as per the design controls contained in the Bowral Town Centre DCP.

Bowral Town Plan Development Control Plan – **Section A7.4 – Cut and Fill:**

Significant cut is proposed towards the rear of the lot external to the building to achieve compliance with building height development standard. Cut appears to be some 2.0m.

The conditions of consent including conditions addressing cut and fill measures are contained within attached conditions of consent (Attachment 1 - **Condition 14 and 17**).



**Bowral Town Plan Development Control Plan – Section B5.2 – Loading Facilities and Waste & Resources Recovery Storage and Collection:**

The domestic waste collection had been proposed to be achieved by using Council services from kerb side collection.

**Bowral Town Plan Development Control Plan – Section B11.2 – Residential Development in Business Areas.**

The proposal is not contrary in demonstrating compliance of the objectives listed below:

- a) To integrate new development into established areas by maintaining streetscape and building quality.
- b) To ensure new development preserves the quality of the built environment for all existing and future residents.
- c) To encourage development of a high standard of architectural merit and design.

The proposal complies with the Bowral Town Plan Development Control Plan section B11.2 requirement as the design is not contrary to the character of the area.

**Bowral Town Plan Development Control Plan – Section B12 – Southern Entrance Precinct**

The site is located within the residential and professional sub-area of the precinct. The desired future character of this area is to retain the low density residential character. This is envisaged to be achieved through multi-dwelling housing style development. The boarding house with its articulation and landscaping resembles the appearance of a multi-unit development which is in keeping with this desired character. Car parking has been provided on site with total of 8 spaces.

The proposal **is deemed to comply** with the Bowral Town Plan Development Control Plan section B11.2 requirement.

**Section 4.15 Evaluation**

*(1) Matters for consideration—general*

*In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:*

*(a) the provisions of:*

*(i) any environmental planning instrument, and*

A Boarding House development is permissible within the B4 Mixed Use zone under Wingecarribee Local Environmental Plan 2010.

*(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority*



*that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*

Not applicable.

(iii) *any development control plan, and*

The proposed development complies with a number of different provisions within the Bowral Town Plan Development Control Plan relating to character, streetscape, compatibility, and building height and mass design guidelines.

(iiia) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*

Not applicable.

(iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and*

Not applicable.

(v) *any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates,*

Not applicable.

(b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*

The impacts of the proposed development are discussed within the body of this report.

(c) *the suitability of the site for the development,*

The site is considered suitable for a boarding house development. The building has been articulated and landscaped to be in character with the locality. Also, the upper level windows and balconies have been placed to address privacy and amenity issues of the adjoining allotments.

(d) *any submissions made in accordance with this Act or the regulations,*

Refer to the Consultation section of this report.

(e) *the public interest.*

The boarding house development is not in contrary to public interest, it is considered to be in character of the locality and complies to zone objectives.

## **CONSULTATION**

### **External Referrals**

| <b>Referrals</b> | <b>Advice/Response/Conditions</b>   |
|------------------|---|
| Water NSW        | Development proposed by the application requires a concurrence from Water NSW pursuant to section 62 of the Water NSW Act 2014.<br>As such, the application has been referred to the water NSW for comment and concurrences. General terms of approval have |

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| Referrals | Advice/Response/Conditions  |
|-----------|---|
|           | been provided dated 01/11/2019 and are included as <b>Condition 71 in Attachment 1.</b> |

#### Internal Referrals

| Referrals            | Advice/Response/Conditions   |
|----------------------|--|
| Accredited Certifier | Council's Accredited Certifier comments that:<br><br>The plans submitted with the application for review are consistent with those originally lodged (albeit reduction in four boarding room to 16 in total and additional car parking). In addition to memorandum dated on the 18.10.2019 the proposal seems satisfactory subject to conditions.  |
| Development Engineer | Development Engineer comments that:<br><br>The proposal is for 16 boarding rooms with provision for 8 on-site car parking spaces. In accordance with SEPP (Affordable Rental Housing) 2009 Clause 29(e), a minimum of 8 on-site parking spaces are required (0.5 parking spaces for each boarding room). Therefore, the proposal is supported in its current form subject to conditions. |

#### Neighbour Notification (or Advertising)/Public Participation

The received plans submitted under the S.8.2 Review of Development Application was Neighbour Notified for a period of 28 days between 21/10/2019 and 20/11/2019 and Council received 3 submissions.

The issues raised in the submissions have been summarised as follows together with a Planning response:

- concern about the potential worsening of on street parking,

#### Comment

For the size of the development and location, the carparking requirements have been met on site. Council cannot require more carparking than that required in accordance with the State Policy.

- traffic congestion

#### Comment

The development is not expected to generate any traffic congestion as it does not involve a use that will see customers and patients constantly arriving and leaving the site as occurs with several of the existing surrounding developments.

- visual impact

#### Comment

The development has been setback and excavated into the site which reduces its visual impact as viewed from the street. The development as designed is within the height limits for the location as included within Wingecarribee LEP 2010.

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- bulk and height of the building,

#### Comment

As per comments above.

- noise during construction

#### Comment

Construction noise is an unavoidable occurrence with any construction activity. **Condition 48** limits construction activity to 7am-5pm Monday to Saturday.

- overshadowing and overlooking.

#### Comment

Given the excavation that is proposed on site, the amount of overshadowing has been reduced. Notwithstanding, the development to the south will receive the required minimum 3hours of sunlight during the winter solstice.

## SUSTAINABILITY ASSESSMENT

### • Environment

Impacts of the proposed development upon the built environment and character of the Walker Street have been discussed within the body of this report.

### • Social

The proposed Boarding House development provides options of affordable housing within the Shire which has been demonstrated is in need to meet the housing demands of current and future population.

### • 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 development application has been considered in accordance with the *Wingecarribee Local Environmental Plan 2010*, section 4.15 of the *Environmental Planning and Assessment Act 1979* and any other matters relevant to the development.

## RELATIONSHIP TO CORPORATE PLANS

Operational Plan 2019/20: OP168 Assess and certify applications related to development.

## COUNCIL BUDGET IMPLICATIONS

The financial implications of Council's decision in this matter are directly related to the legal implications. The possibilities are detailed as follows:

- Should the applicant choose to appeal a refusal, or pursue a deemed refusal, by Council through the Land and Environment Court and lose, the question of cost with

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- regard to Council's legal representation would be determined by the extent of the reasons for refusal;
- Should the applicant choose to appeal a refusal, or pursue a deemed refusal, by Council through the Land and Environment Court and win, the question of cost would be dependent upon the extent of the reasons for refusal;
  - Should any person choose to take out Class 4 proceedings against Council to the Land and Environment Court and lose, the question of cost with regard to Council's legal representation would be calculated at the appropriate time;
  - Should any person choose to take out Class 4 proceedings against Council to the Land and Environment Court and win, the question of cost would still be calculated at the appropriate time;
  - Should the applicant make no appeal, or proceedings not be taken out by another party, to the Land and Environment Court regardless of the determination, the application would result in no further financial implication to Council.

### RELATED COUNCIL POLICY

An assessment of the proposal has been made against the *Wingecarribee Local Environmental Plan 2010*, *State Environmental Planning Policy (Affordable Rental Housing) 2009*, *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011* and the Bowral Town Development Control Plan.

### OPTIONS

The options available to Council are:

#### **Option 1**

Approve the application subject to conditions of consent provided in **Attachment 1**

#### **Option 2**

Refuse the development application in which case Councillors would need to provide reasons for refusal.

**Option 1** is the recommended option to this report.

### CONCLUSION

Boarding House developments under State Environmental Planning Policy (Affordable Rental Housing) 2009 are aimed at providing housing choice for lower income workers and private renters with limited financial capacity to rent traditional housing accommodation. Providing such accommodation within town centres of the Shire is appropriate and meets Council's obligations of providing housing to meet the needs of the community.

Therefore, it is **recommended** that the s.8.2 Review Application 17/1679.01, being a review of Development Application 17/1679, which refused a proposed Boarding House at Lot 2 DP 625407, being 2 Walker Street Bowral, be APPROVED subject to conditions as described in **Attachment 1** to the report.

### ATTACHMENTS

1. Attachment 1: Draft Condition of Consent



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2. Attachment 2: Site Location
3. Attachment 3: Zoning
4. Attachment 4: Site Plan
5. Attachment 5: Elevations and Section Plans
6. Attachment 6: Shadow Diagram



**Attachment 1 – Draft Condition of Consent**

**ADMINISTRATION CONDITIONS**

**1. Development Description**

Development consent has been granted in accordance with this notice of determination for the purposes of Boarding House.

**Reason:** *To confirm the use of the approved development.*

**2. Development in Accordance with Plans and Documents**

The development shall be implemented in accordance with the approved plans and supporting documents set out in the following table except where modified by any conditions of development consent.

| Plan Title / Supporting Document | Reference / Version | Prepared By              | Dated   |
|----------------------------------|---------------------|--------------------------|---------|
| Site and Ground Floor Plan       | A02 'D'             | Martin Otoole Architects | 09/2019 |
| Floor Plans & Elevations         | A03 'D'             | Martin Otoole Architects | 09/2019 |
| Elevations & Section             | A04 'D'             | Martin Otoole Architects | 09/2019 |
| Shadow Diagrams                  | A05                 | Martin Otoole Architects | 09/2019 |
| Landscape Plan                   | L01 'D'             | Martin Otoole Architects | 09/2019 |

**Reason:** *To ensure the development is carried out in accordance with the approved plans and documentation.*

**3. Inconsistency between documents**

In the event of any inconsistency between the conditions of this consent and the drawings/documents referred to above, the conditions of this consent shall prevail to the extent of the inconsistency.

**Reason:** *To ensure that the development is undertaken in accordance with the submitted plans and documents (as amended).*

**4. Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989**

- (a) That the work must be carried out in accordance with the requirements of the National Construction Code.
- (b) In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

**Reason:** *The condition is prescribed under clause 98 of the Environmental Planning and Assessment Regulation 2000.*

**5. Erection of Signs**



A sign must be erected in a prominent position on any site on which building work, is being carried out:

- (a) Showing the name, address and telephone number of the principal certifying authority for the work, and
- (b) Showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) Stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

**Reason:** *The condition is prescribed under clause 98A of the Environmental Planning and Assessment Regulation 2000.*

#### 6. Compliance with Disability Discrimination Act 1992

This approval does not protect or guarantee against a possible claim of discrimination (intentional or unintentional) under the *Disability Discrimination Act 1992*, and the applicant/owner is therefore advised to investigate their liability under this Act.

**Reason:** *To inform of relevant access requirements for persons with a disability.*

**Note:** *Disability (Access to Premises - Buildings) Standards 2010 -As of 1 May 2011, if access is provided to the extent covered by this Standard, then such access cannot be viewed as unlawful under the Disability Discrimination Act 1992.*

### CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

#### 7. Application for a Construction Certificate (Building Works)

The applicant shall apply to Council or an Accredited Certifier for a Construction Certificate to carry out the relevant building works in accordance with this consent. The details to be included in the application for a Construction Certificate are:

- (a) Architectural plans and building specifications complying with the National Construction Code (NCC) relevant Australian Standards, and the development consent and conditions.
- (b) If Council or a private accredited certifier issues the Construction Certificate, engineering details must be submitted for approval for all structural elements, including but not limited to, piers, footings, reinforced concrete slab, first floor joist layout, roof trusses, steel beams and the like. The details must be prepared by a qualified chartered professional practicing consulting structural engineer. Also a certificate from the engineer must be included certifying that the design fully complies with appropriate SAA Codes and Standards and the Building Code of Australia requirements.
- (c) Geotechnical report for the site, prepared by a qualified geotechnical engineer detailing the foundation conditions of the site and solutions for consideration by a structural Engineer.
- (d) Essential services plan outlining the existing and proposed fire safety measures.
- (e) Disabled access provisions to common and public areas in accordance with AS1428 Design for Access and Mobility and the Premises Code.



- (f) If an alternative solution to the “deemed to satisfy” provisions of National Construction Code is proposed, the following details must be lodged:
- Performance requirements that the alternative solution intends to meet.
  - Assessment methods used to determine compliance with the performance requirements, including if and how each performance objective impacts on other requirements of the BCA; and
  - A statement about the person who prepared the alternate solution, indicating qualifications, experience, insurance details, and membership of an approved accreditation body.

**Reason:** *A requirement under the provisions of the Environmental Planning and Assessment Act 1979.*

**Note:** *Construction work may only commence upon the issue of a Construction Certificate, appointment of a Principal Certifying Authority (PCA), and lodgement of Notice of Commencement.*

**Note:** *Please note that if demolition works forms part of the extent of works approved in the same application, then demolition must not commence prior to the issue of a Construction Certificate.*

**8. Appointment of Principal Certifying Authority**

No work shall commence in connection with this Development Consent until:

- (a) A Construction certificate for the building work has been issued by:
- (i) the consent authority; or
  - (ii) an accredited certifier; and
- (b) the person having the benefit of the development consent has:
- (i) appointed a principal certifying authority for the building work, and
  - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
- (b1) the principal certifying authority has, no later than 2 days before the building work commences:
- (i) notified the Council of his or her appointment, and
  - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- (b2) the person having the benefit of the development consent, if not carrying out the work as an owner builder, has:
- (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
  - (ii) notified the principal certifying authority of such appointment, and
  - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- (c) the person having the person having the benefit of the development consent has given at least 2 days’ notice to the Council of the person’s intention to commence the erection of the building.



**Reason:** *To ensure that there is certainty as to the consent applying to the land.*

**9. Access for People with Disabilities**

Access for people with disabilities shall be provided in accordance with the requirements of the Building Code of Australia, relevant Australian Standards and with regard to the *Disability Discrimination Act 1992*.

Prior to the issue of a Construction Certificate, the plans shall demonstrate compliance.

**Note:** *Disability (Access to Premises - Buildings) Standards 2010 - As of 1 May 2011, if access is provided to the extent covered by this Standard, then such access cannot be viewed as unlawful under the Disability Discrimination Act 1992.*

**Reason:** *To inform of relevant access requirements for persons with a disability.*

**10. Developer to provide photos of damage to Council property**

The developer must provide Council and the PCA with photos of any damage of Council property adjoining the development prior to the issue of the Construction Certificate.

Photos should include any damage to footpaths, road furniture, landscaping/trees, drainage, water, sewer, kerb and gutter and road pavement and the like.

Failure to identify existing damage will result in all damage detected after completion of the building work being repaired at the developer/owners/proponents expense.

The construction supervisor is responsible to ensure that all contractors, sub-contractors, and delivery trucks use a designated access point to prevent damage to Council's property. Repairs to damaged Council property are to be carried out by the contractor/builder to Council's specification and supervision prior to issue of any Occupation Certificate.

**Reason:** *To ensure that Councils assets are protected.*

**11. Section 68 Local Government Act 1993 Approvals**

Prior to the issue of a Construction Certificate, an application under section 68 of the *Local Government Act 1993* shall be made to, and issued by, Wingecarribee Shire Council, for the following approvals:

- carry out sanitary drainage, water supply and stormwater drainage works

**Reason:** *A requirement under the provisions of the Local Government Act 1993.*

**12. Section 7.12 Contributions (formerly Section 94A)**

Under section 7.12 of the *Environmental Planning and Assessment Act 1979* (as amended), Council has satisfactorily determined that Development Contributions are applicable to this development consent, as the development is likely to require the provision of or increase the demand for public amenities and public services within the Wingecarribee Local Government Area.

The following Wingecarribee Shire Council Developer Contributions Plan is applicable to the Development:

- Section 7.12 Contributions Plan

A Developer Charges - Notice of Payment is attached to the back of this consent and outlines



monetary contributions and unit rates applicable at the time of issue of this consent. The contributions listed in the Notice of Payment must be paid prior to the release of [Subdivision/Construction/Occupation] Certificate.

All contributions are indexed quarterly in accordance with upward movements in the Producer Price Index (Tables 15. Output of the General Construction Industry, Index Numbers and Percentage Changes - Index Number; Non-residential Building Construction (3020) New South Wales) as published by the Australian Bureau of Statistics ([www.abs.gov.au](http://www.abs.gov.au) <<http://www.abs.gov.au>>); Section 25J(4) of the *Environmental Planning and Assessment Regulation 2000*; and Council's Developer Contributions Plans.

Copies of the Contributions Plans are available at Wingecarribee Shire Council's Administration building Moss Vale or are available for download from Council's website [www.wsc.nsw.gov.au](http://www.wsc.nsw.gov.au) <<http://www.wsc.nsw.gov.au>>.

**Reason:** *To retain a level of service for the existing population and to provide the same level of service to the population resulting from new developments.*

**13. Water Management Act - Certificate of Compliance**

A Certificate of Compliance under Division 5 of Part 2 of Chapter 6 of the *Water Management Act 2000* shall be obtained **prior to the issue of Construction Certificate**.

**Note:** *Section 64 of the Local Government Act 1993 authorises Council to issue Certificates of Compliance under Section 306 of the Water Management Act 2000. Section 64 of the Local Government Act 1993 also authorises Council to impose pre-conditions to the issuing of Certificates of Compliance.*

As a precondition to the issuing of a Certificate of Compliance Council requires the payment of Developer Charges **prior to the issue of Construction Certificate** as prescribed by Wingecarribee Shire Council's Development Servicing Plans:

- Water Supply Development Servicing Plan;
- Sewerage Development Servicing Plan; and
- Stormwater Development Servicing Plan.

A developer Charges - Notice of Payment is attached to the back of this consent and outlines monetary contributions and unit rates applicable at the time of issue of this consent.

The water, sewer and stormwater headworks levies are indexed quarterly in accordance with upward movements in the Consumer Price Index (All Groups, Sydney) as published by the Australian Bureau of Statistics ([www.abs.gov.au](http://www.abs.gov.au) <<http://www.abs.gov.au>>); and Council's Development Servicing Plans.

Copies of Development Servicing Plans are available at Wingecarribee Shire Council's Administration building Moss Vale or are available for download from Council's website [www.wsc.nsw.gov.au](http://www.wsc.nsw.gov.au) <<http://www.wsc.nsw.gov.au>>.

The Water and Sewerage Development Servicing Plans (DSP's) were adopted by Council and came into effect on 15 September 2017. The Stormwater DSP was adopted on 9 November 2010 and came into effect on 8 December 2010. The current charges under these Plans are listed as follows:

| CPI Period  | Water DSP | Sewer DSP | Stormwater DSP |
|---|-----------|-----------|----------------|
|   |           |           |                |
| Note: The charges shown above are amounts applicable during the stated time period. These amounts will be subject to adjustment quarterly in accordance with upward movements in the Consumer Price Index (CPI) once they become operational. The CPI |           |           |                |



is published quarterly by the Australian Bureau of Statistics, [www.abs.gov.au](http://www.abs.gov.au)  
<<http://www.abs.gov.au>>.

Should new DSP's be prepared, it is possible that the charges may increase significantly. Draft DSP's must be advertised by Council for a period of 30 days prior to adoption.

**Note:** *Payment of the above charges is to be by BANK CHEQUE OR CASH and is to be accompanied by the attached sheet entitled "Notice of Payment - Developer Charges & Section 7.11". Should the Applicant pay by personal or company cheque the plans subject to this approval will not be available for collection until such time as the cheque has been honoured (i.e., a minimum of 10 days).*

**Compliance Certificate**

Compliance Certificate fees, in accordance with Council's Revenue Policy are as follows and shall be paid prior to the issue of **Construction** Certificate:-

Water \$----- + Sewer \$----- + Stormwater \$----- = \$-----

Prior to final release, you will need to contact Council's Infrastructure Services Division for an inspection to ensure that Council will accept the infrastructure constructed. In response the Manager of Water and Sewer will specify requirements which will have to be met.

In the case of subdivision, the title plan of subdivision will not be certified and released by Council until the *Water Management Act 2000* charges have been paid and/or secured and the approval of Council has been obtained for all works related to this infrastructure. In the case of other forms of development, the Construction Certificate will not be issued until the *Water Management Act 2000* charges have been paid and/or secured and the approval of Council has been obtained.

**Reason:** *To retain a level of service for the existing population and to provide the same level of service to the population resulting from new developments.*

**14. Dilapidation Report**

A Dilapidation Report shall be undertaken on all properties, which in the opinion of a suitably experienced professional and chartered qualified engineer, could be potentially affected by the construction of the project. The Dilapidation Report shall be carried out taking into account civil infrastructure and submitted to Council prior to the issue of the Construction Certificate.

The Report shall cover structural and geotechnical factors likely to arise from the development.

The person having the benefit of the development consent shall, at their own cost, rectify any damage caused to other properties during the construction of the project to the satisfaction of Council.

**Reason:** *To ensure the structural stability of neighbouring buildings.*

**15. Building within Vicinity of Sewer Main**

Where a building is constructed within the zone of influence of the sewer main, the weight of the building shall be distributed away from the sewer main by pier and beam construction. The piers shall be designed by a suitably qualified experienced professional and chartered Engineer and shall be embedded on firm foundation at least 300mm below the zone of influence with a minimum horizontal clearance from the pipe of 600mm.

The area of influence of the sewer main is considered that area within the angle of repose of



45° for normal loam/clay/sand foundations, or 60° for rock foundations measured 600mm from the outside of the pipe from the trench bottom.

Notwithstanding the above, a building shall not be erected within 1.2m of the outside edge of a sewer manhole and unobstructed personal access of minimum width of 900mm shall be provided to any manhole located upon private property.

The relocated sewer main shall be concrete encased from manhole to manhole.

**Reason:** *To protect public infrastructure.*

#### 16. Structural Engineer's Details

Structural engineering plans are to be prepared by an experienced professional chartered practicing Structural Engineer for the following work shall be lodged with the Principal Certifying Authority and approved prior to commencing the works in accordance with a Construction Certificate:

- (a) retaining walls.
- (b) piling.
- (c) sewer main encasement

**Advice:** *The name, address and qualifications of the practising Structural Engineer certifying the design shall be clearly indicated on the plans and any accompanying documentation. Such engineer is to hold qualifications appropriate to the project as defined in the Building Code of Australia. The design shall relate to the particular site.*

**Advice:** *Any such Certificate is to set forth the extent to which the Engineer has relied on relevant Specifications, Rules, Codes of Practice or Publications in respect of the construction.*

**Reason:** *To ensure the structural integrity of the building is achieved.*

#### 17. Geotechnical Survey

The applicant shall submit a Geotechnical Survey report prepared by a suitably professional chartered experienced qualified Geotechnical Engineer certifying the structural adequacy of the site for the proposed development prior to the issue of the Construction Certificate.

**Reason:** *To certify the structural adequacy of the site for the proposed development.*

#### 18. Construction Traffic Management Plan

To undertake development works including demolition, earthworks and construction a Construction Traffic Management Plan (CTMP) is required to be submitted and approved by Council prior to issue of the Construction Certificate. The CTMP shall indicate measures to be implemented to protect the environment as well as public health, safety and convenience. The CTMP must include the following:

- a) Details of site security;
- b) Off-street parking for employees, contractors and sub-contractors.
- c) Site access for construction vehicles and equipment purposes.
- d) Public safety in the use of roads and footpaths where development activities adjoin such facilities.





- e) The storage and removal, on a regular frequency, of builder's rubble and waste by trade waste contractors.
- f) Provision for loading and unloading materials;
- g) Location of all building materials, structures, plant and equipment to be stored or placed within the construction site;
- h) How materials are to be loaded/unloaded and potential impact on Council infrastructure (including but not limited to footpaths and street trees)
- i) Public risk policies and management for all contractors' employees using or gaining access over public footpaths and roads.
- j) External lighting and security alarms proposed for the construction site.
- k) Firefighting measures to be available on site during development and construction.
- l) Sanitary amenities proposed on site during development and construction.
- m) Ensuring the safety of members of the public and Council staff who may have occasion to enter and be in attendance on the site;
- n) Details of management of storm water run-off and the propose sediment and erosion control measures including the location of any rubble grids;
- o) Details of any air and dust management;
- p) Details of noise and vibration controls;
- q) Anticipated staging and duration of works
- r) Provision of Traffic Management Plan (TMP) and Traffic Control Plans (TMP)

**Reason:** *To ensure the safety, amenity and protection of public infrastructure and the environment.*

**19. Stormwater - Control of Peak Discharge**

Adequate and suitable infrastructure shall be provided to ensure the peak discharge from the site is no greater than the pre-developed peak discharge. This infrastructure shall be designed in accordance with Council's Engineering Policies. Calculations to demonstrate that the post-development peak discharge will not exceed the pre-development peak discharge shall be provided with the application for a Construction Certificate.

Any stormwater temporarily stored onsite shall be done in a manner that does not jeopardise public safety. In this regard the development shall provide a risk assessment with the Construction Certificate documentation.

**Reason:** *To ensure the peak discharge from the site is no greater than the pre-developed peak discharge.*

**20. Detailed Stormwater Drainage System Design**

Prior to the issue of the Construction Certificate, a detailed storm water hydraulic drainage plan for the disposal of storm water from the site, prepared in accordance with Council's Design Standards shall be submitted to Council and approved by Council's Development Engineer.



Should any changes be required to the approved storm water drainage plan, the amended design shall achieve equivalent performance standards in accordance with Design Specifications.

**Note:** *Construction Certificate Approval does not include approval for works external to the property or civil works.*

Where the proposed design extends beyond the property boundary, separate approval under Section 138 of the *Roads Act 1993*, must be obtained from Council prior to the commencement of works.

The applicant is advised to contact Council for clarification of proposed works for which approval under Section 138 of the *Roads Act 1993* applies.

**Reason:** *To ensure adequate storm water management.*

#### 21. Accessible Car Parking Spaces

One (1) of the car parking spaces provided as part of the total requirement shall be reserved for disabled persons.

These spaces shall be constructed and identified in accordance with Volume 1 of the National Construction Code (NCC) and AS/NZS 2890.6 - Parking Facilities; Off-street parking for people with disabilities.

Details to demonstrate compliance shall be submitted to and approved by the Certifying Authority prior to the issue of the Construction Certificate.

**Reason:** *To inform of relevant access requirements for persons with a disability.*

#### 22. Off Street Parking Provision - General

Eight (8) off-street car parking spaces suitably marked in accordance with the approved plans (unless elsewhere specified) shall be provided. Each space shall have minimum dimensions in accordance with Australian Standard AS2890.1 Off Street Car Parking.

Details shall be submitted to the Accredited Certifier prior to the issue of a Construction Certificate showing compliance with this condition.

**Reason:** *To ensure adequate parking and access.*

#### 23. Water and Sewer Modelling

The developer shall undertake water and sewer modelling to determine the impact of the development on the existing water and sewer infrastructure. The developer to contact Council's Modelling Engineer to complete the modelling and development assessment. Council will quote the modelling works at cost, on a case by case basis. The developer is required to complete the Water/Sewer Development Assessment Application form which is available from Council's website. Any upstream development potential must be included to ensure a comprehensive assessment can be completed. A copy of master plans and/or design plans will assist with the assessment. Upon receipt of the application form, Council's Modelling Engineer will send a quotation to the applicant to undertake the modelling works. Typically, the modelling will be completed within 6-8 weeks of approval of the quotation. The modelling report will be issued via email and an invoice will follow. The outputs of the modelling will determine if and where upgrades of the existing networks are required. Any upgrades required will be designed and constructed at the developer's cost.

**Reason:** *Ensure appropriate servicing of water and sewer reticulation.*

#### 24. Water and Sewer Assets Identification and Location



The site plan as per the water or sewer engineering design shall include the detailed locations, materials, sizes and depths of any water mains or water services, rising mains private or Council owned, or sewer mains, manholes, sewer sidelines, sewer junctions and or boundary traps. The site plans that include these water and sewer assets are to be approved by the Council's Group Manager Planning, Development and Regulatory Services before any demolition works can commence.

**Reason:** *Ensure appropriate servicing of sewer and water reticulation.*

#### 25. Waste Management Plan

A Waste Management Plan shall be completed and submitted to Council for approval, prior to the issue of the Construction Certificate for the development.

Requirements of the approved Waste Management Plan shall be complied with during site preparation and throughout demolition and construction. Waste management and its storage must not pose a threat to public health or the environment.

**Reason:** *To minimise the amount of waste going to landfill.*

#### 26. Erosion and Sediment Control Plan

An Erosion and Sediment Control Plan shall be prepared in accordance with "Landcom's Blue Book" for sedimentation and erosion control plan by a suitably qualified person, and approved by Council prior to issue of the Construction Certificate.

The Erosion and Sediment Control Plan shall include scaled drawings and detailed specifications which can be referred to onsite by project management staff or project construction supervisor. Items to be shown on the Plan shall include:

- (a) Locality of the site, a north point and scale.
- (b) Existing contours of the site including catchment area boundaries and indications of direction of fall.
- (c) Location of and basic description of existing vegetation.
- (d) Diversion of uncontaminated up-slope run-off around the disturbed sites.
- (e) Location of significant natural areas requiring special planning or management including waters, floodplains, seasonally wet areas, areas prone to ponding/water logging, unstable slopes etc.
- (f) Nature and extent of earthworks, including cut and fill roadworks.
- (g) Location of all soil and material stockpiles.
- (h) Location of site access, proposed roads and other impervious areas.
- (i) Existing and proposed drainage patterns.
- (j) Location and type of proposed erosion and sediment control measures.
- (k) Site rehabilitation proposals, including final contours.
- (l) Time of placement of sediment controls.
- (m) Staging of works and how the plan is to be implemented for each stage or activity on site.



- (n) Maintenance schedule.

**Reason:** *To minimise soil erosion and sediment movement during construction.*

**27. Erosion and Sediment Control Plan**

To minimise soil erosion and sediment movement during construction, the following measures shall be implemented:-

- (a) Erosion and sediment controls are to be in place before the disturbance of any soils on the site, and are to be maintained during the works and for as long as necessary after the completion to prevent sediment and dirty water leaving the site and/or entering the surface water system outside the worksite boundaries.
- (b) Topsoil stripped from the construction site shall be stockpiled and protected from erosion until re-use during landscaping. Soil is to be retained within the property.
- (c) Stockpiles of construction and landscaping materials, and of site debris shall be located clear of drainage lines and in such a position that they are protected from erosion and do not encroach upon any footpath, nature strip or roadway.
- (d) Final site spoil shall be disposed of to conform to the specifications and standards quoted and to any conditions of approval of those measures and must comply with any relevant NSW Department of Planning and Environment requirements.
- (e) Trenches shall be backfilled, capped with topsoil and compacted to a level at least 75mm above adjoining ground level.
- (f) Vehicular access shall be controlled so as to prevent tracking of sediment onto adjoining roadways, particularly during wet weather or when the site is muddy. Where sediment is deposited on adjoining roadways the same shall be removed by means other than washing. All material is to be removed as soon as possible and the collected material is to be disposed of in a manner which will prevent its mobilisation.
- (g) All disturbed areas shall be progressively stabilised and/or revegetated so that no areas remain exposed to potential erosion damage for more than 14 days or such other period as may be approved after earthworks cease. All driveways and parking areas shall be stabilised with compacted sub-grade as soon as possible after their formation.

**Reason:** *To minimise soil erosion and sediment movement during construction.*

**CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORK**

**28. Notice of Commencement**

No work shall commence until a notice of commencement form has been submitted (form will be attached with issue of a Construction Certificate or Subdivision Works Certificate or available from Council's website), giving the PCA:

- (a) Not less than two (2) days' notice of the date on which it is proposed to commence work associated with this Development Consent;
- (b) Details of the appointment of a Principal Certifying Authority (either Wingecarribee Council or another Accredited Certifier)
- (c) Details of the Principal Contractor or Owner Builder.
  - Name



- Builders Licence Number or Owner Builder Permit Number
  - Principal Contractor Company Name
  - Principal Contractor ABN
  - Address of Principal Contractor or Owner Builder
  - Email Address
- (d) Copy of the HBCF Insurance Certificate (if residential building works exceed \$20,000) or Owner Builder Permit;
- (e) Details demonstrating compliance with development consent conditions relevant prior to commencement of the development been satisfied.

**Reason:** *Statutory requirement.*

**Advice:** *Attached Notice of Commencement form to be completed.*

**29. Developers Representative during Construction of Works**

A minimum of 48 hours prior to commencement of any construction works on site the Developer shall nominate to Council in writing their representative (Construction Supervisor) who will be responsible for all aspects of construction and site control, including Traffic Control, Sediment and Erosion Control and liaison with Council Officers and all other Authorities.

Details to be submitted include:-

- 1 Name of Representative:
- 2 Company:
- 3 Position:
- 4 Contact phone:
- 5 Contact fax:
- 6 After Hours Contact:
- 7 Signature of Representative:
- 8 Signature & Acceptance of representative by the Developer:
- 9 Council requires that the nominated " Construction Supervisor" either hold qualifications acceptable for Corporate Membership of the Institute of Engineers, Australia, or be Approved by the Director and/or has proven experience and suitable relevant qualifications for the control, supervision and management of civil engineering works as required for carrying land development.

Prior to commencing any works on site the representative shall:

- 10 Inform Council in writing of their intention 7 days before entering the site.
- 11 Submit to Council a proposed Schedule of Works.

The Developer may be required to arrange for Council to peruse all other contract documentation prior to the contractor arriving on site to commence work (Schedule of Works, Specifications Bill of Quantity, traffic control plan and Soil and water management plan).

Failure to comply with the requirements as set out above will result in an immediate stop work order.

**Reason:** *Statutory requirement.*

**30. Approval Required for Work within Road Reserve - Section 138 Roads Act 1993**

Where works are proposed within the road reserve, the Developer must obtain approval from Council (as the Roads Authority and / or as required under Section 138 of the *Roads Act 1993*) before any works are undertaken. Works within the road reserve may include activities such as erect a structure, dig up or disturb the surface of a public road, remove or interfere



with a structure, or any other activities as defined within the *Roads Act 1993*.

The following details must be submitted to Council in order to obtain the Section 138 approval:

- A copy of approved design plans related to the development and proposed works to be undertaken.
- Traffic Control Plan (TCP) to provide protection for those within and adjacent to the work site, including the travelling and pedestrian public. The TCP must comply with the Roads and Traffic Authority's manual "Traffic Control at Work Sites". Warning and protective devices shall comply with the provisions of AS1742.3 - 2002 Traffic Control Devices for Works on Roads. The plan must be prepared and certified by a person holding the appropriate Roads and Traffic Authority accreditation, a copy of which is to be submitted with the plan.
- Insurance details - Public Liability Insurance to an amount of \$20 million, to be held by applicant / contractor undertaking the works.

**Advice:** *Where works are required within a Classified Road, the Developer must obtain the concurrence and / or the approval of the Roads and Traffic Authority for engineering design plans, Traffic Control Plans and approvals under Section 138 of the Roads Act 1993.*

**Reason:** *Statutory requirement.*

**31. Relocation of Existing Services**

Any existing services that may be required to be relocated as a result of the development shall be completed at Developer's cost prior to the commencement of work.

**Reason:** *Statutory requirement.*

**32. Fencing of the Construction Site**

A temporary hoarding or temporary construction site fence must be erected between the work site and adjoining lands before the works begin and must be kept in place until after the completion of the works if the works:

- (a) could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic, or
- (b) could cause damage to adjoining lands by falling objects, or
- (c) involve the enclosure of a public place or part of a public place.

**Reason:** *To ensure that the safety of the public is not compromised.*

**33. Developer to advise of damage to Council property**

The developer must advise Council of any damage to property controlled by Council which adjoins the site including kerbs, gutters, footpaths, walkways, reserves and the like, prior to commencement of any work on the site (dilapidation report). Failure to identify existing damage will result in all damage detected after completion of the building work being repaired at the Developer's expense.

The construction supervisor is responsible to ensure that all contractors, sub-contractors, and delivery trucks use a designated access point to prevent damage to Council's property. Repairs to damaged grass verges, concrete footpath, kerb and gutter are to be carried out by the contractor/builder to Council's specification and supervision prior to occupation of the development.



**Reason:** *Public safety.*

#### 34. Erosion and Sediment Control

Erosion and sediment control measures (as per the approved Erosion and Sediment Control Plan) shall be installed prior to the commencement of works.

**Reason:** *To ensure that sediment does not leave the site as a result of the construction of the development.*

#### 35. Wheel Wash

A vehicle wheel wash, cattle grid, wheel shaker or other appropriate device, shall be installed in accordance with the approved Erosion and Sediment Control Plan prior to the commencement of any site works, to prevent mud and dirt leaving the site and being tracked.

**Reason:** *To minimise soil being trucked off site.*

### CONDITIONS TO BE SATISFIED DURING THE CONSTRUCTION PHASE

#### 36. Approved Plans to be available on site

Endorsed Council approved plans, specifications, documentation and the consent shall be made available on site at all times during construction.

**Reason:** *To ensure compliance with approved plans.*

#### 37. Imported 'Waste-derived' Fill Material

The only waste derived fill material that may be received at the development site is:

- Virgin excavated natural material (VENM) within the meaning of the *Protection of the Environment Operations Act 1997* (POEO); or
- Any other waste-derived material the subject of a resource recovery exemption under clauses 91 & 92 of the *Protection of the Environment Operations (Waste) Regulation 2014* that is permitted to be used as fill material

**Note:** *Any waste-derived fill material the subject of a resource recovery exemption received at the development site must be accompanied by documentation as to the material's compliance with the exemption conditions and must be provided to the Principal Certifying Authority.*

The application of waste-derived material to land is an activity that may require a licence under the *Protection of the Environment Operations Act 1997*. However, a licence is not required if the only material applied to land is virgin excavated natural material or waste-derived material that is the subject of a resource recovery exemption under clauses 91 & 92 of the *Protection of the Environment Operations (Waste) Regulation 2014*.

Resource recovery exemptions are available on the NSW EPA website at <http://www.epa.nsw.gov.au/waste/>.

**Reason:** *To ensure that imported fill is of an acceptable standard for environmental protection purposes.*

#### 38. Survey Report - Minor Development



In order to ensure compliance with approved plans, a Survey Certificate to Australian Height Datum shall be prepared by a Registered Surveyor as follows:

- (a) At the completion of the first structural floor level indicating the level of that floor and the relationship of the building to the boundaries.
- (b) At the completed height of the building, prior to the placement of concrete in form work, or the laying of roofing materials.
- (c) At completion, the relationship of the building and any penetrations thereto, to the boundaries.

Progress certificates in response to points (a) through to (c) shall be provided to the Council or the Principal Certifying Authority at the time of carrying out relevant progress inspections. Under no circumstances will work be allowed to proceed should such survey information be unavailable or reveal discrepancies between the approved plans and the proposed works.

**Reason:** *To ensure compliance with approved plans.*

### 39. Demolition Requirements

The building/structures shall be demolished in accordance with the requirements of AS2601-2001 "The Demolition of Structures".

Amongst others, precautions to be taken shall include compliance with the requirements of the SafeWork NSW and Council's Water and Sewer Asset Protection, including:-

- (a) Protection of site workers and the general public.
- (b) Erection of hoardings where appropriate.
- (c) Asbestos removal handling and disposal where applicable by licensed contractors.
- (d) Ensuring only licensed demolition contractors are used as required pursuant to Occupational Health and Safety Legislation.
- (e) Appropriate precautions are taken in regard to lead based paints.
- (f) Water and Sewer Asset Protection

All water and sewer assets on the site or on adjacent road reserve or lands that may be affected by the demolition works are to be clearly identified on site and protected from damage. Those water and sewer protection measures are to be shown on the site plan and are to be approved by Council's Water and Sewer Planning and Development Engineer before any demolition works can commence.

- (g) Sewer Assets Temporary Disconnection or Closure

The site sanitary drainage is to be temporarily disconnected or closed off by a suitably qualified Plumber from any of Council's sewer sidelines, sewer junctions and or boundary traps that are to be retained and reused to prevent ingress contaminants into Council's sewer mains. This work shall be sited and approved by Council's Water and Sewer Development Engineer before demolition works can commence.

- (h) Removal of Redundant Council Sewer Assets and Water Services

The site sanitary drainage is to be temporarily disconnected or closed off by a suitably qualified Plumber from any of Council's sewer sidelines, sewer junctions and or boundary traps that are to be disconnected by Council to prevent ingress of contaminants into Council's sewer mains. This work shall be sited and approved by Council's Water and Sewer





Development Engineer before demolition works can commence.

Make application and pay fees for the removal of redundant sewer assets and or water services. These fees shall be paid before any demolition works can commence.

Redundant water meter shall not be removed to allow for final readings and removal by Council staff.

(i) Temporary Use of Council Sewer Junctions and Water Services

During demolition or building works Council may permit temporary use of sewer junctions and water services. Details of the proposed use shall be shown on the site plan and are to be approved by the Water and Sewer Planning and Development Engineer before any demolition works can commence.

Water services that are to be temporarily retained shall not have the water meter disconnected or removed. An approved backflow prevention device shall be installed. Details shall be shown on the site plan and are to be approved by the Water and Sewer Planning and Development Engineer before any demolition works can commence.

The disposal of refuse is to occur at an approved location. Council will require documentary proof of destination for hazardous materials such as asbestos and contaminated soils and may request evidence on disposal of other demolition materials - refer approved Waste Management Plan.

**Reason:** *To comply with statutory requirements.*

#### 40. Engineering Inspections by Council

24 hours prior to the covering of the following works, Council shall be notified by the licensed builder, owner builder or licensed plumber/drainer that the following works are ready for inspection:

- (a) Piers associated with external drainage designed to distribute weight of structure away from sewer main prior to pouring of concrete.
- (b) Concrete encasement of realigned sewer main.
- (c) Sewer main works.
- (d) Works in relation to road reserves, footpath, kerb and gutter, road shoulder and drainage within public lands or road reserves.
- (e) Final inspection of footpath, driveway, stormwater and utility construction works within the road reserve.

**Note:** *The subject building is not to be occupied until an Interim or Final Occupation Certificate is issued.*

**Note:** *An accredited certifier may not be substituted for Council in respect of these inspections, as Council remains the sole responsible authority for these matters.*

**Reason:** *Statutory requirement.*

#### 41. Stormwater - Connection to Kerb

All stormwater connections to the kerb shall be done using minimum 2mm thick galvanised steel section in accordance with Wingecarribee Shire Council's Standard Drawing No SD102.



**Reason:** *To comply with Council standards.*

#### 42. Stormwater - Construction

The applicant shall provide adequate storm water drainage infrastructure (pits/pipes/open channels/detention storage) for the conveyance of storm water passing through the site from upstream, and sourced from the development to a discharge outlet to be approved by Council. The point of discharge shall be clearly depicted and the legal right to discharge at that point to be justified. Status of the point of discharge is to be made clear (i.e. provision of drainage easements).

**Reason:** *To assist in the prevention of erosion of the site from storm water.*

#### 43. Stormwater - Discharge

All stormwater runoff from the development shall be collected within the property and discharged to an approved stormwater management system.

**Reason:** *To ensure that stormwater is appropriately disposed of.*

#### 44. Earthworks, retaining walls and structural support

Any earthworks (including any structural support or other related structure for the purposes of the development):

- (a) must not cause a danger to life or property or damage to any adjoining building or structure on the lot or to any building or structure on any adjoining lot, and
- (b) must not redirect the flow of any surface or ground water or cause sediment to be transported onto an adjoining property, and
- (c) that is fill brought to the site-must contain only virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 to the *Protection of the Environment Operations Act 1997*, and
- (d) that is excavated soil to be removed from the site-must be disposed of in accordance with any requirements under the *Protection of the Environment Operations (Waste) Regulation 2005*.

Any excavation must be carried out in accordance with *Excavation Work: Code of Practice* (ISBN 978-0-642-785442), published in October 2013 by Safe Work Australia.

**Reason:** *Structural safety.*

#### 45. Damage to Adjoining Properties

All precautions shall be taken to prevent any damage likely to be sustained to adjoining properties. Where damage occurs to adjoining property all necessary repair or suitable agreement for necessary repairs shall be undertaken by the applicant in consultation with, and with the consent of, the affected property owner.

**Reason:** *Structural safety.*

#### 46. Erosion and Sediment Control Plan Compliance

All site works shall be carried out in accordance with the approved Erosion and Sediment Control Plan. Implementation of the Erosion and Sediment Control Plan shall be supervised by personnel with appropriate qualification and experience in erosion and sediment control.

**Note:** *In the event of non-compliance with the approved plan, Council Officers have*



*the ability to issue Penalty Notices, being an on the spot fine and/ or orders.*

**Reason:** *To ensure that the environment is protected.*

**47. Prevention of Nuisance**

All possible and practical steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from windblown dust, debris and noise during the demolition, excavation and building works.

**Reason:** *Health and amenity.*

**48. Approved hours of Construction/Demolition**

Construction/demolition activities shall be limited to the following hours:

| DAY                | HOURS            |
|--------------------|------------------|
| Monday to Saturday | 7:00am to 5:00pm |
| Sunday             | Nil              |
| Public Holidays    | Nil              |

**Reason:** *To ensure that the amenity of the surrounding area is not compromised as a result of the construction of the proposal.*

**Note:** *Any variation to these hours shall require Council consent via the lodgment of an application under section 4.55 of the Environmental Planning and Assessment Act 1979.*

**49. Construction Traffic Management Plan**

All development activities and traffic movements shall be carried out in accordance with the approved Construction Traffic Management Plan.

All controls in the Plan shall be maintained at all times. A copy of the Plan must be kept on site at all times and made available to the Accredited Certifier and Council on request.

**Reason:** *Compliance with condition of consent.*

**50. Building Operations**

Building operations such as brick cutting, washing tools or brushes and mixing mortar are not permitted on public roadways or footways or in any other locations which could lead to the discharge of materials into the storm water drainage system.

**Reason:** *To ensure that building materials are not washed into storm water drains.*

**51. Maintenance of the site**

All materials and equipment shall be stored wholly within the work site.

Waste materials (including excavation, demolition and construction waste materials) shall be managed on the site and then disposed of at a waste management facility.

Any run-off and erosion control measures required shall be maintained within their operating capacity until the completion of the works to prevent debris escaping from the site into drainage systems, waterways, adjoining properties and roads.

During construction:



- (a) all vehicles entering or leaving the site shall have their loads covered, and
- (b) all vehicles, before leaving the site, shall be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.

At the completion of the works, the work site shall be left clear of waste and debris.

**Reason:** *Environmental amenity.*

**52. Temporary Onsite Toilet**

Toilet facilities shall be available or provided at the work site prior to the commencement of works and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

Each toilet shall:

- (a) be a standard flushing toilet connected to a public sewer, or
- (b) have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
- (c) be a temporary chemical closet approved under the *Local Government Act 1993*.

**Reason:** *To ensure that there are appropriate facilities on-site for construction workers.*

**53. Waste Management**

The provision of a metal waste skip with self-closing lid or secure covering on-site for the duration of the construction to ensure that all wastes are contained on the site. The receptacle shall be emptied periodically to reduce the potential for rubbish to leave the site.

Sorting of waste materials shall occur on site in accordance with the approved Waste Management Plan.

**Reason:** *To ensure that all wastes generated from the construction of the development are contained on the site.*

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF AN INTERIM OR FINAL OCCUPATION CERTIFICATE**

**54. Occupation Certificate**

In accordance with Section 6.9 of the *Environmental Planning and Assessment Act 1979*, an application for an Occupation Certificate, shall be made on completion of the works and the relevant application fee paid. All works specified in the development consent and approved Construction Certificate plans shall be completed and all development consent conditions complied with prior to the issue of the Occupation Certificate.

The Principal Certifying Authority (PCA) is required to be satisfied, amongst other things, that:

- All required inspections (including each applicable mandatory critical stage inspection) have been carried out; and
- Any preconditions to the issue of the certificate required by a development consent have been met.

**Reason:** *To comply with the provisions of the Environmental Planning and*



*Assessment Act 1979*

**Note:** *A person must not commence occupation or use (or change of use where an existing building) of the whole or any part of a new building (within the meaning of Section 6.10 of the Environmental Planning and Assessment Act 1979 unless an Occupation Certificate has been issued in relation to the building or part.*

**Note:** *The applicant is to ensure that works associated with the Section 138 (Roads Act) approval and Section 68 (Local Government Act) approval are completed and inspected by Council.*

**55. Section 138 Roads Act Final**

The applicant is to ensure that the works associated with the Section 138 approval for this development be completed and inspected by Council prior to the issue of any Occupation Certificate.

**Reason:** *To ensure that the development is completed as per this consent and the approved plans.*

**56. Section 68 Local Government Act Final**

The applicant is to ensure that the works associated with the Section 68 approval for this development be completed and inspected by Council prior to the issue of any Occupation Certificate.

**Reason:** *To ensure that the development is completed as per this consent and the approved plans.*

**57. Council Property**

The applicant shall rectify any damage to Council property (including footpaths, road furniture, landscaping/trees, drainage, water, sewer, kerb and gutter, road pavement and the like) as a result of the development, prior to the issue of any Occupation Certificate at no cost to Council.

**Reason:** *To ensure that Councils assets are protected.*

**58. Works as Executed Drainage Diagram**

The applicant shall submit to Council a copy of the works as executed plans for the both internal and external drainage (Sewer Service Diagram) prior to the issue of an Occupation Certificate. These plans shall be drawn to scale including all relevant details in accordance with the requirements of the NSW Fair Trading. The requirements of the Plumbing Act are to be complied with also in this regard.

**Reason:** *So that Council may ensure that the construction is in accordance with Council's requirements, and so that a permanent record of the drainage details may be held by Council, to assist in future maintenance.*

**59. Works as Executed Plans - Building Works**

Prior to the issue of the Occupation Certificate, one full set of work-as-executed drawings shall be submitted to and retained by Council. Sufficient details including locations and levels of the below ground infrastructure are required in order to enable a complete check of the work as executed as compared to the original approved design. Any deviation from the approved engineering plans shall be shown on the work-as-executed drawings. Each sheet of the drawings shall carry the certification of the developers supervising engineer.



**Reason:** *To ensure that there is a record of final works carried out on the site.*

#### 60. Civil Engineering works and services

All civil engineering works and services are to be constructed in accordance with the Wingecarribee Shire Council Engineering Plans and Specifications, relevant Standards and approved engineering plans prior to the issue of the Occupation Certificate.

**Reason:** *To ensure that the works and services are constructed in accordance with the approved plans.*

#### 61. Certification of Internal Civil Works

On completion of the works and prior to the issue of the Occupation Certificate, certification from a practicing appropriately qualified engineer, shall be submitted to Council detailing that all the internal civil works (i.e. internal driveways, paths, retaining walls and stormwater drainage system, including any onsite detention) are in accordance with the approved plans and specifications.

**Reason:** *Asset management.*

#### 62. Vehicle Access

Access to the site shall be provided by means of a vehicle crossing as per Standard Drawing **SD107** and approved by Council prior to the issue of the Occupation Certificate. A copy of the Standard Drawing can be obtained from Council's offices.

**Reason:** *To ensure that the driveway is constructed to Councils standard specification.*

#### 63. Vehicle Manoeuvring

All vehicles shall enter and leave the site in a forward direction to ensure traffic/pedestrian safety. A sign worded "No Reversing Across Footpath" is to be provided adjacent to the vehicular entry and clearly visible to users of the car park to inform drivers of this requirement prior to the issue of the Occupation Certificate. Sign to be to the satisfaction of the Group Manager Planning, Development and Regulatory Services and of approximate dimensions 0.3m x 0.6m.

**Reason:** *To comply with Engineering Standards.*

#### 64. Maintenance and Bond for Public Assets - Civil Works

The developer shall at their own expense maintain all building works constructed by them and which will fall into Councils care with respect to the development for a period of 12 months after the date of issue of the Occupation Certificate. Prior to the issue of any Occupation Certificate the developer shall lodge a cash bond with regard to maintenance of the public assets constructed in an amount equal to 5% of the total building works with a minimum bond value of \$1,000. The bond shall be assessed by Council for release after the 12 month period on request by the developer.

**Reason:** *To ensure appropriate warranty periods apply for defect liability.*

#### 65. Asset Management

Prior to the issue of the Occupation Certificate, the developer shall provide a detailed summary of the Assets that will be handed over to Council at the end of the maintenance period. The details shall be provided in a tabular form so as to allow Council to update its Assets register.



The assets to be identified include:

- Roadways length and width and type of surface
- Drainage systems length and size of pipes, number of pits, total area (m<sup>2</sup>)
- Sewer
- Water
- Open Space and total area being dedicated (m<sup>2</sup>)

**Reason:** *To ensure appropriate details are held for asset management.*

#### 66. Engineering Details in DXF Format

The Developer shall provide a copy of the Work As Executed information on disk in DXF format prior to the issue of the Occupation Certificate. The developer may contact Council's GIS Officer for further details and technical specifications.

**Reason** *To ensure appropriate records are held and asset management.*

**Note:** *The successful handover of constructed assets to Council resulting from new developments must be accompanied by the work as executed (WAE) documents specified on the Council Website: <http://www.wsc.nsw.gov.au/engineering-standards>.*

Failure to provide completed documents in this format will result in a delay in the issue of the Occupation Certificate and retention of bonds held until such time as Council have deemed the WAE information to be complete in the required format. The standards are updated as required; please ensure you are using the correct version. Please note the work as executed information requirements include providing surveyed levels for all underground assets. WAE Information submitted must be checked and signed off by a Registered Surveyor or suitably qualified Engineer.

#### 67. Fire Safety Certificate

A final Fire Safety Certificate shall be obtained in accordance with Part 9, Division 4 of the *Environmental Planning and Assessment (Amendment) Regulation 2000*, prior to the issue of the Occupation Certificate for the building.

A copy of the Fire Safety Certificate and Fire Safety Schedule shall be:

- Forwarded to Wingecarribee Shire Council;
- Forwarded to the Fire Commissioner; and
- Prominently displayed in the building.

**Reason:** *To ensure the safety of the building.*

#### 68. Stormwater Facilities Alterations

A "Restriction as to User" shall be included on the plan of subdivision and title of the proposed development to prevent any change in shape or alteration in structure of the proposed storm water facilities after the final approval of the structure has been given by Council. Details shall be provided for the approval of Council prior to the issue of the Occupation Certificate.

**Reason:** *To provide appropriate storm water management.*

#### 69. Storm water Facilities Maintenance

A "Positive Covenant" shall be included on the plan of subdivision and title of the proposed development and requiring that the proposed storm water facilities be maintained in a safe and functional manner. In addition, the Section 88B Instrument (*Conveyancing Act 1919*)



shall make provision for Council to conduct maintenance on the subject storm water facilities at the owner's expense if the storm water facilities are not maintained to the agreed standard. Details shall be provided for the approval of Council prior to issue of the Occupation Certificate.

**Reason:** *To provide appropriate storm water management.*

#### CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE OF THE DEVELOPMENT

##### 70. Annual Fire Safety Statement

Each year, the owner of a building to which an essential fire safety measure is applicable shall cause the Council to be given an annual fire safety statement for the building. Such a fire safety statement:

- (a) shall deal with each essential fire safety measure in the building premises; and
- (b) shall be given within twelve months after the last such statement was given, or if no such statement was given, within twelve months after a final fire safety certificate was first issued for the building.

As soon as practicable after a final fire safety certificate is issued, the owner of the building to which it relates:-

- (a) shall cause a copy of the certificate (together with a copy of the current fire safety schedule) to be given to the Commissioner of New South Wales Fire Brigades; and
- (b) shall cause a further copy of the certificate (together with a copy of the current fire safety schedule) to be permanently displayed in the building.

**Reason:** *To ensure compliance with fire safety requirements.*

#### CONCURRENCE CONDITIONS

##### 71. Concurrence - Water NSW

Concurrence has been granted by Water NSW for the development pursuant to *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011*. The conditions provided by Water NSW are provided below and form part of this Notice of Determination.

##### General

1. The site layout and works shall be as specified in the Statement of Environmental Effects prepared by Lee Environmental Planning (dated October 2017) and shown on the Site & Floor Plans (Project No. 17-426; Dwg. No. A02 to A04; Rev. D, dated 09/2019) prepared by Martin O'Toole Architects. No revisions to site layout, staging or external works that will have any impacts on water quality, shall be permitted without the agreement of Water NSW.

*Reason for Condition 1 - Water NSW has based its assessment under State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011 on this version of the development.*

##### Stormwater Management

2. All stormwater treatment and management measures shall be located, installed and constructed as specified in the Water Cycle Management Study (dated 1 October 2019) and shown on the Stormwater Plans (Dwg. Nos. 17058-CI-010 and 17058-CI-011; Rev 5, dated 09/10/2019) both prepared by Cubo Consulting Pty Ltd. The stormwater management measures shall include:





- Pits and pipes
  - Rainwater tank
  - On-site detention tank, and
  - Cartridge filtration system.
3. No variation to stormwater treatment or management that will have any impacts on water quality shall be permitted without the agreement of Water NSW.
  4. A suitably qualified stormwater consultant or engineer shall certify in writing to Water NSW and Council prior to issuance of an Occupation Certificate that all stormwater management structures have been installed as per these conditions of consent and are in a functional state.

#### **Operational Environmental Management Plan**

5. An Operational Environmental Management Plan shall be prepared in consultation with Water NSW by a person with knowledge and experience in the preparation of such plans prior to the issuance of an Occupation Certificate. The Plan shall:
  - include details about the location and nature of stormwater management structures such as pits, pipes, on-site detention, cartridge filtration system, and rainwater collection system
  - outline the responsibilities and detailed requirements for the inspection, monitoring and maintenance of all stormwater management structures, including the frequency of such activities
  - identify the individuals or positions responsible for inspection and maintenance activities including a reporting protocol and hierarchy, and
  - include checklists for recording inspections and maintenance activities.
6. All stormwater management structures shall be inspected, maintained and managed as per the Operational Environmental Management Plan.

*Reason for Conditions 2 to 6 – To ensure appropriate stormwater treatment and quality control measures are designed, implemented and maintained so as to achieve a sustainable neutral or beneficial impact on water quality, particularly during wet weather, over the longer term.*

#### **Construction Activities**

7. The Sedimentation and Erosion Control Plan & Details (Dwg. No. 17058-CI-025; Rev 5, dated 09/10/2019) prepared by Cubo Consulting Pty Ltd shall be updated by a person with knowledge and experience in the preparation of such plans for all works required as part of the development. The Plan shall:
  - meet the requirements outlined in Chapter 2 of NSW Landcom's Soils and Construction: Managing Urban Stormwater (2004)
  - be prepared prior to issuance of a Construction Certificate and be to the satisfaction of Council, and
  - include controls to prevent sediment or polluted water leaving the construction area or entering any stormwater drain or natural drainage system.
8. The Erosion and Sediment Control Plan shall be implemented, and no works shall commence until effective erosion and sediment controls have been installed. The controls shall be regularly inspected, maintained and retained until works have been completed and groundcover established.

*Reason for Conditions 7 & 8 - To manage adverse environmental and water quality impacts during the construction phase of the development and to minimise the risk of erosion, sedimentation and pollution within or from the site during this construction phase.*

#### **END CONDITIONS**

- 1.

Figure 1: Locality of the subject site

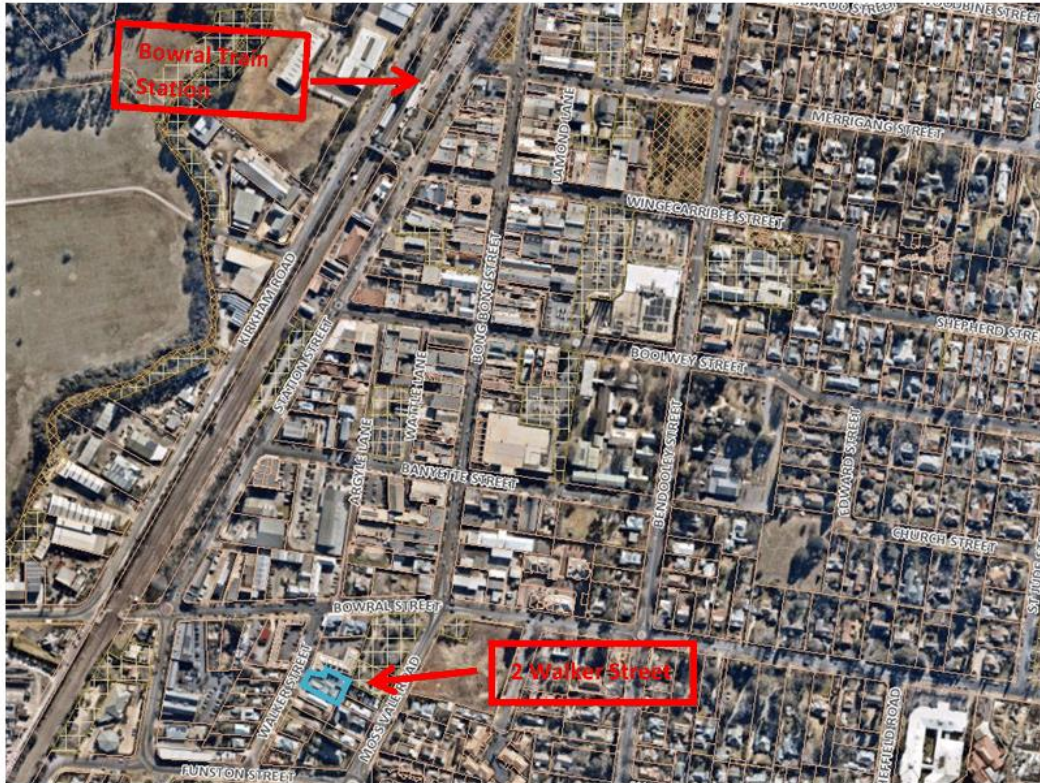


Figure 2: Aerial View of the Subject Site



ATTACHMENT 3 – ZONING

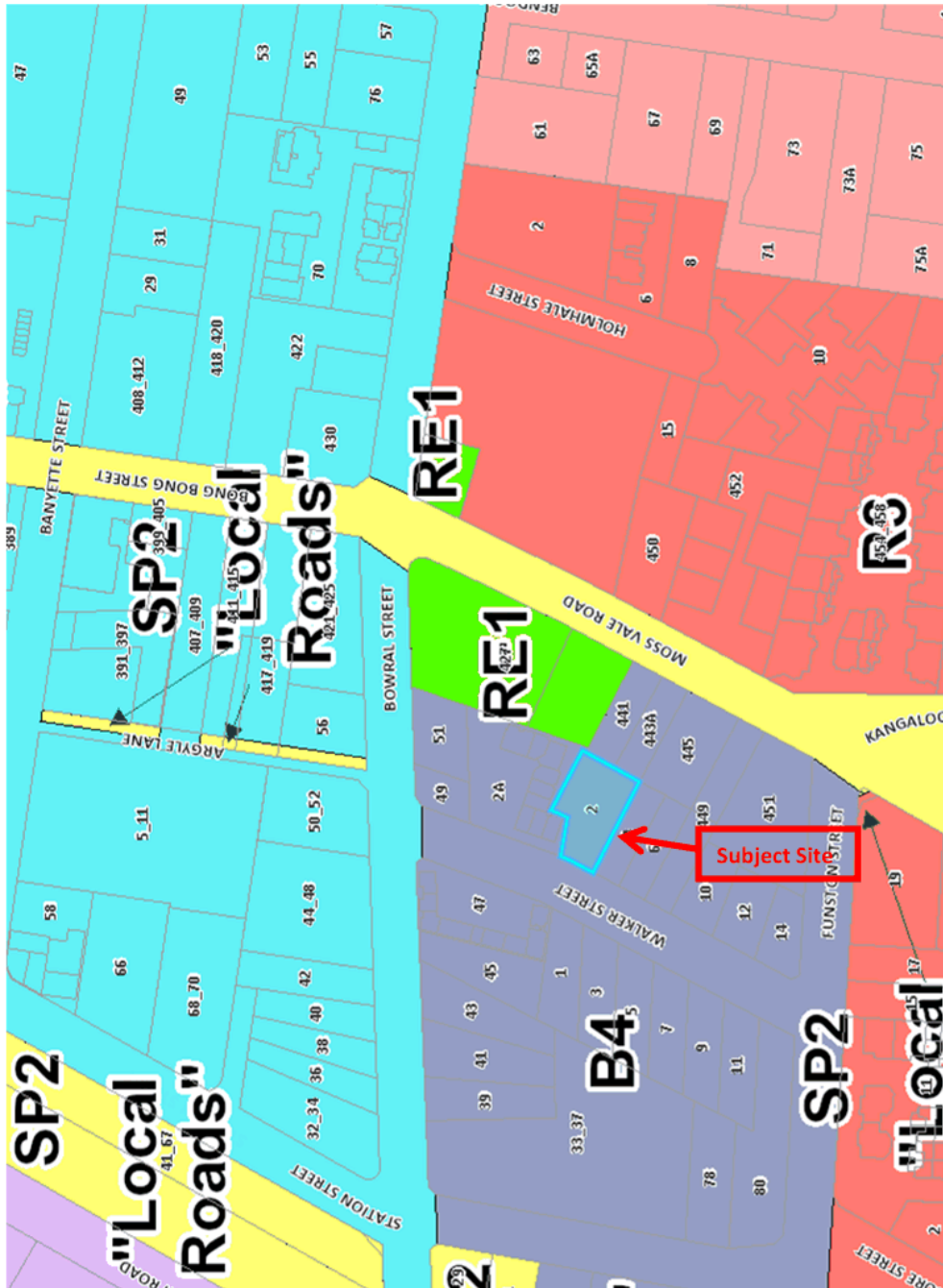


Figure 1: B4 Mixed Use



ATTACHMENT 6 – ELEVATIONS & SECTION PLAN



Figure 1: East Elevation



Figure 2: Western/ Street Elevation



Figure 3: Northern Elevation

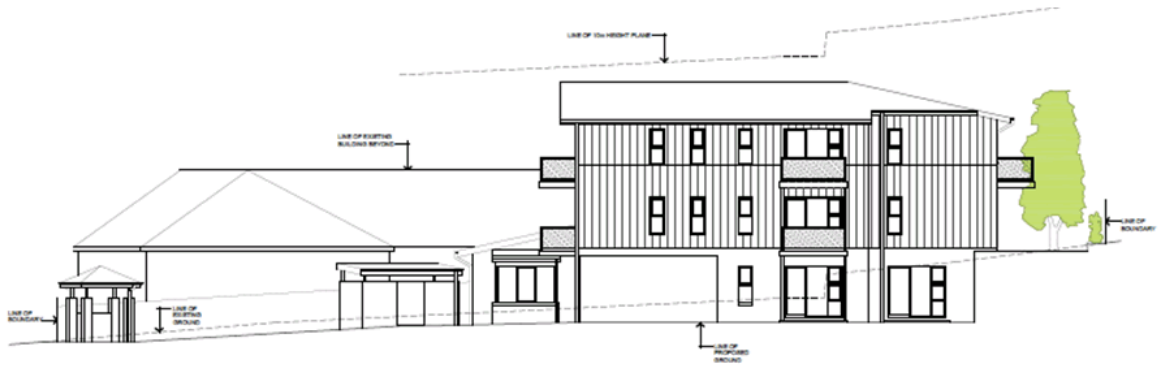


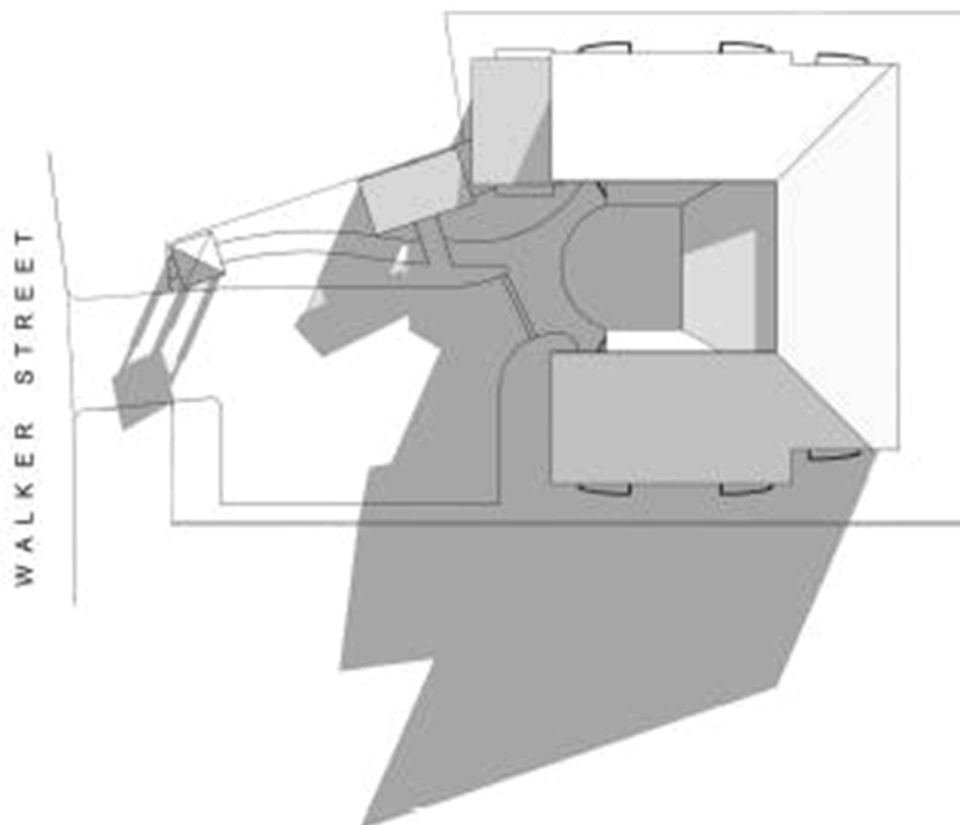
Figure 4: Southern Elevation



Figure 5: Section Plan



ATTACHMENT 7 – SHADOW DIAGRAM

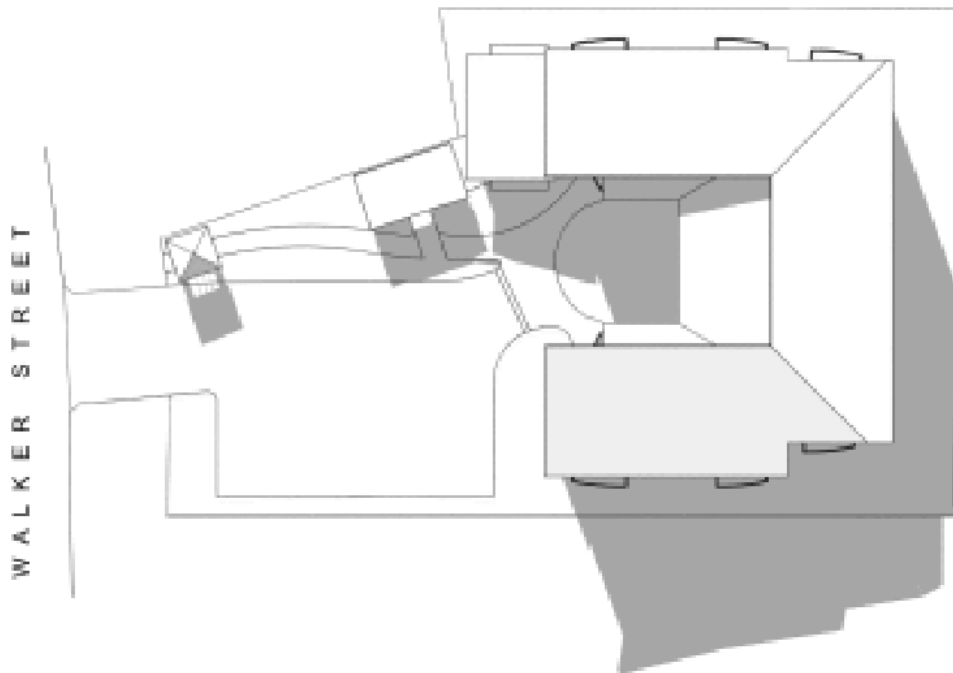


DATE - 22nd JUNE  
TIME - 9:00am

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ATTACHMENT 7 – SHADOW DIAGRAM

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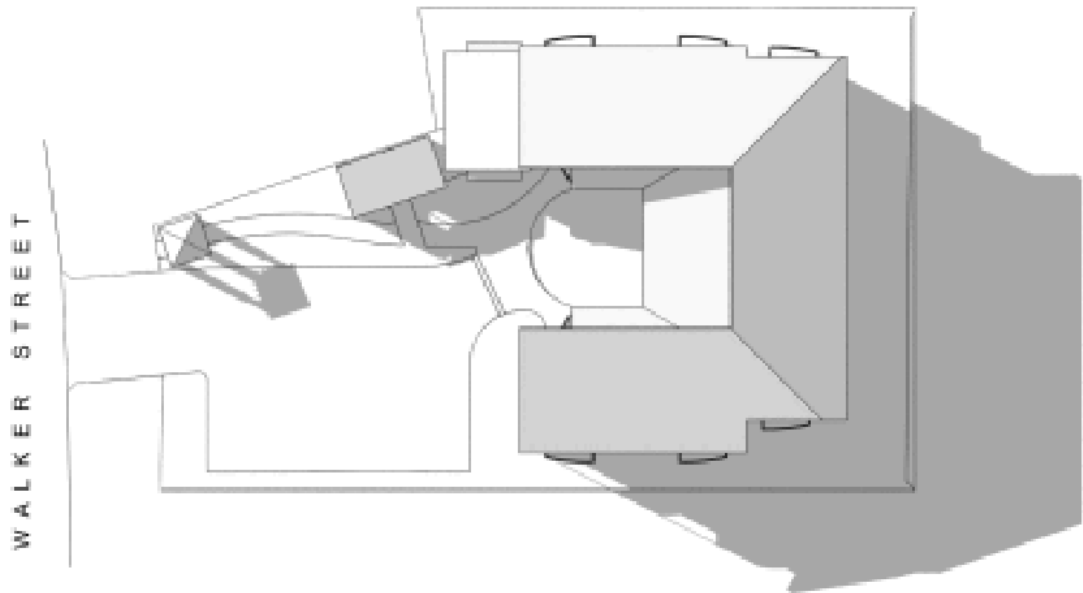


DATE - 22nd JUNE

TIME - 12:00pm



ATTACHMENT 7 – SHADOW DIAGRAM



DATE - 22nd JUNE

TIME - 3:00pm

## 9.2 17/1822.04 - Waterbrook Seniors Housing - Stage 2A of Concept Consent 17/1822 2-18 Centennial Road, Bowral

|                                      |  |
|--------------------------------------|--|
| Reference:                           | DA17/1822.04DA   |
| Report Author:                       | Senior Development Assessment Planner  |
| Authoriser:                          | Group Manager Planning, Development and Regulatory<br>Services Group Manager Planning Development and<br>Regulatory Services                               |
| Applicant:                           | Waterbrook Bowral Pty Ltd  |
| Owner:                               | Waterbrook Bowral Pty Ltd  |
| Link to Community<br>Strategic Plan: | Provide a mixture of housing types that allow residents to<br>meet their housing needs at different stages of their lives<br>and support affordable living |

### PURPOSE

The purpose of this report is to consider a section 4.22 Concept Plan application, being DA17/1822.04, for Stage 2A of approved Concept Consent (DA17/1822), being for 28 self-care seniors housing dwellings at 2-18 Centennial Road, Bowral.

### VOTING ON THE MOTION

Councillors are required to record their votes on this matter.

### RECOMMENDATION

**THAT Concept Development Application 17/1822.04 under Section 4.22 of the Environmental Planning and Assessment Act 1979 for Stage 2A of approved Concept Plan (DA17/1822) for 28 Seniors housing dwellings at 2-18 Centennial Road Bowral be APPROVED subject to conditions as described in Attachment 1 to the report.**

### REPORT

#### *Subject Site and Locality*

The wider site is known as Lots 1-2 DP1101892 and Lots 4-11 DP1109214, being 2-18 Centennial Road, Bowral (**Figures 1 and 2**). The site has three road frontages to Centennial Road, Kirkham Road and Mount Road and is the former site of our Lady of the Sacred Heart School and Convent. The site has been disused for this purpose for approximately a decade.

The site is bisected by Mittagong Creek, separating the site into two uneven parts. The larger portion of the site is located to the northwest of Mittagong Creek and forms the developable portion of the site. The second portion of the site is located to the southeast and forms floodplains along the creek. The southwest portion is currently grassed land and is not proposed for development.



The northwest portion has a general fall from west to east towards the creek and is the site of the former school and convent buildings. Additional ancillary structures are also present. These include the former playing fields and various other outbuildings. The site's main access is from Centennial Road and enters the site from the north-eastern corner of the site. To the west of the site is the heritage listed 'Neerim' Homestead. The site is surrounded by large lot residential development to the north and west. To the south is the industrial area. To the east of the site is the Main Southern Railway Line, with Mittagong Road further beyond. The total site area is approximately 17.05 hectares.

Stage 2A will occupy the site's western portion to the west of the main amenities buildings. It is a roughly rectangular in shape with a common boundary with "Neerim" to its west and 20 Centennial Road to the north.

The majority of the land is cleared with a scattering of individual trees. Adjacent to the southern boundary of Stage 2A is heavily vegetated land which forms a component of the identified endangered ecological community Southern Highlands Shale Woodland.

### ***Background***

The Development Application has been lodged as a component of a Concept Development Consent 17/1822 approved under clause 4.22 of the Environmental Planning and Assessment Act 1979 by the Southern Joint Regional Planning Panel (JRPP) at its meeting of 7 May 2019. The approval granted Concept Consent for Seniors Housing and Stage 1 with the Stage 2 identified in the approval:

*"Stage 1 Partial demolition, refurbishment and construction works within the main facilities building including the retention of the Priest's Cottage and construction of fifty two (52) self-contained seniors housing dwellings. Associated landscaping, restoration embellishment of the Riparian Corridor site infrastructure and road works and construction of shared pathway and associated traffic safety measures.*

*Stage 2 Construction of eighty three (83) self-contained seniors housing dwellings comprising twenty eight (28) dwellings generally in the western portion of the site and fifty five (55) dwellings generally in the eastern portion of the site."*



**Figure 1: Layout of Concept Development Consent (Attachment 2)**

Stage 1 included substantive work associated with the refurbishment of existing buildings for use as offices and community facilities together with the infrastructure and access that will serve the whole development.

### ***Proposed Development***

The Applicant has elected to progress the approved Concept Consent by way of two separate stages. This Development Application relates to the element of Stage 2 that is within the “western portion of the site” and seeks approval for the twenty eight (28) dwellings identified in the Concept Consent (DA17/1822) together with associated landscaping, private open space access and infrastructure. This stage is referred to as Stage 2A.

#### Access and car parking

There is a single central road provided at Stage 1 of which driveways and shared paths for the twenty eight (28) dwellings will gain access. Each dwelling has an attached garage directly off the driveway. In addition to these car spaces, there is also space in front of garages for further parking when family/friends are visiting residents.

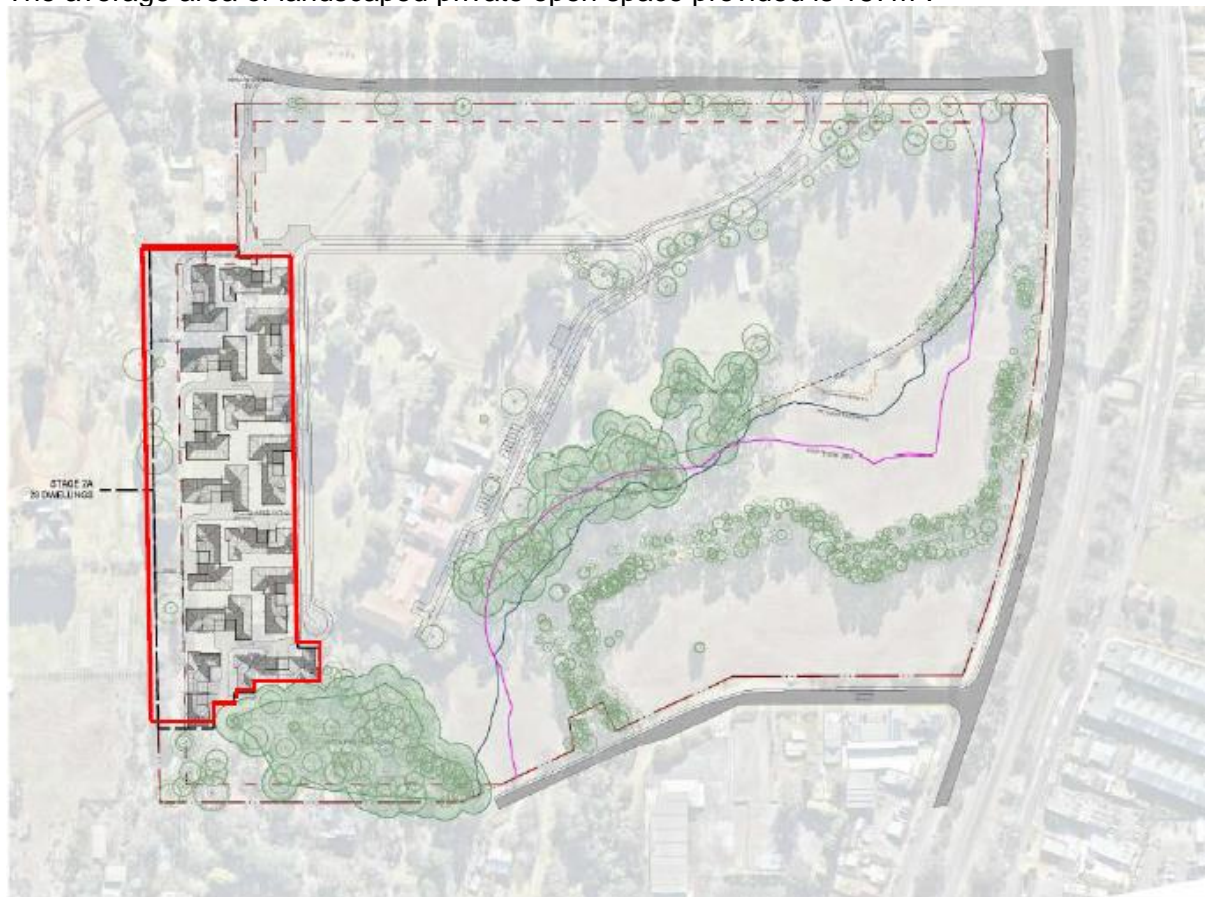
The dwellings are all single storey and arranged in fourteen pairs with five different dwelling types. Each dwelling type is provided with a garage that is designed as an attached component of each pair.

#### Dwellings

Of the twenty eight (28) dwellings proposed there is range of dwelling types and configuration. These are set out as follows:

- 9 x Type A: 155m<sup>2</sup> and 3 bedrooms with double garage
- 9 x Type B: 171m<sup>2</sup> and 3 bedrooms with double garage
- 1 x Type C: 125m<sup>2</sup> and 2 bedrooms double garage
- 6 x Type D: 210m<sup>2</sup> and 4 bedrooms + study with double garage
- 3 x Type E: 107m<sup>2</sup> and 2 bedrooms with single garage

The average area of landscaped private open space provided is 187m<sup>2</sup>.



**Figure 2: Stage 2A (Attachment 3)**

## **STATUTORY PROVISIONS**

### ***State Environmental Planning Policies***

#### **State Environmental Planning Policy No 55 – Remediation of Land**

Clause 7 of SEPP 55 requires the consent authority to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land, and to be satisfied that the land is suitable for the proposed use. Under DA17/1822 initial assessment by Council staff and the site visit undertaken with the JRPP identified areas of imported fill that may be contaminated. A Preliminary Site Investigation was undertaken by the applicant to determine the potential for soil contamination to exist within the overall site.

The outcomes of this investigation identified Asbestos Containing Material in a number of the soil samples collected. Further, Heavy Metal exceedances were identified in a number of locations for lead, arsenic and zinc. The report concluded with a number of recommendations that will need to be achieved prior to a Construction Certificate being



issued for Stage 2 works. **Condition 37** will require the recommended further works be undertaken.

State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011

The development is located on land to which SEPP (Sydney Drinking Water Catchment) applies and is Module 5 development. The application was referred to Water NSW for its concurrence. Water NSW has issued its concurrence by letter dated 11 November 2019. Water NSW advised that they do not object to Stage 2A subject to attached conditions which supplement their previous concurrence dated 24 June 2016. **Condition 92** requires compliance with Water NSW's General Terms of Approval.

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

The Seniors Housing SEPP does not apply to this site as the land is not zoned primarily for urban purposes or land that adjoins land zoned primarily for urban purposes. Clause 4 of the Seniors Housing SEPP excludes land zoned R5 Large Lot Residential. Consequently, the SEPP does not apply to the assessment of the application.

The proposed development is permissible on the site under Schedule 1 of the Wingecarribee Local Environment Plan 2010.

**Local Environmental Plans**

Wingecarribee Local Environmental Plan 2010

2.3 Zone objectives and land use table

The land occupied by Stage 2A is zoned R5 Large Lot Residential under the *Wingecarribee Local Environmental Plan 2010*.

Whilst seniors housing is prohibited in the R5, clause 2.5 of the LEP deals with additional permitted uses for particular land. Schedule 1 Subclause 4 of the LEP is specific to the Centennial Road site and is expressed in the following terms:

**4 Use of certain land at Centennial Road, Bowral**

(1) *This clause applies to land at Centennial Road, Bowral, being Lots 4–11, DP 1109214 and Lots 1 and 2, DP 1101892.*

(2) *Development for the purposes of seniors housing is permitted with consent.*

Notwithstanding the above, Council must have regard to the objectives for development in a zone when determining an application, pursuant to clause 2.3 of the LEP. The objectives of the R5 – Large Lot Residential zone are:

- *To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.*
- *To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.*
- *To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*



- *To provide a restricted range of opportunities for employment development and community facilities and services that do not unreasonably or significantly detract from:*

*(a) the primary residential function, character and amenity of the neighbourhood, and*

*(b) the quality of the natural and built environments.*

The proposed development would be consistent with these objectives as:

- The proposed development is consistent with the Concept Consent and has been designed to reflect the predominate housing form when viewed externally. Further, the proposed housing form will be single storey whilst also continuing to provide a variety of residential housing options, predominantly for seniors or persons with a disability;
- Stage 1 of the Concept Consent will provide a range of community services and facilities internal to the site thereby not unreasonably increasing demand on local infrastructure;
- The development would be suitably landscaped ensuring consistency in scenic quality, which is a dominant feature of the locality; and
- The primary function of the locality i.e. residential, would be upheld and not adversely impacted by the development.

#### 2.5 Additional permitted uses for particular land

As raised above, the site is permitted to be used for the purposes of seniors housing in accordance with this clause of the LEP.

#### 2.7 Demolition requires development consent

In facilitating the proposed development demolition is considered as part of Stage 2A. This is by reason of a small metal shed. Demolition associated with Stage 2A will be managed in accordance with **Condition 33**.

#### 5.10 Heritage conservation

The wider site is not listed as a Heritage Item nor is it located in a Heritage Conservation Area under the WLEP 2010 nor is there any State Heritage register items located within the vicinity of the site. The site is located adjacent to two locally listed heritage items. These being;

- “Neerim” House and Garden (Items I535 and I536) – Located adjacent the western boundary of the site at 24 Centennial Road, Bowral. The site is defined by the house and its surrounding garden. The garden curtilage extending to conifer windbreaks located on both boundaries and the extensive woodland planting to the front of the house.
- Centennial Park (Item I538) – Located opposite the site at 17 Centennial Road, Bowral. The site is deemed significant as it was the first public open space established in Bowral and is associated with the commemoration of the centennial of settlement in Australia.



### *Adjacent Heritage Items*

Clause 5.10 (5) (c) provides provision for a consent authority to require an applicant to prepare a Heritage Assessment if it is deemed that impacts may occur to heritage items located adjacent to the site. These aspects have not required the preparation of a Heritage assessment.

The western boundary adjacent to “Neerim” has been appropriately treated through the proposed scheme by increasing setbacks of built form to 15m from the boundary and with an extensively landscaped buffer between the sites. This outcome has been negotiated by the applicant with the adjacent landowner.

### *Aboriginal Heritage*

The wider site is known to contain a number of Aboriginal Heritage items. An Aboriginal Cultural Heritage Assessment provided in September 2018 and remains relevant for Stage 2A. This report confirmed that Aboriginal Heritage is present on site and that further work is required to be undertaken prior to any site works commencing.

The original concept application was referred to the Office of Heritage and Environment for comment. Conditions were placed requiring that a full assessment of the site occurs prior to any works commencing. This process will require consultation with local Aboriginal communities, the undertaking of test excavations and the application for an Aboriginal Heritage Impact Permit if any impacts to known items is required due to proposed works.

The recommendations of the Office and Heritage and Environment remain relevant and conditions (**18 and 23**) will require an assessment included at Stage 2A.

### *Interim Heritage Order*

Stage 2A falls outside the area of the site which the now lapsed Interim Heritage Order related.

### 7.3 Earthworks

The proposal requires Council to consider the earthworks proposed within the site and grant consent for this aspect of the application as greater than 2,500 square meters of the site will be impacted by earthworks within an area covered by *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011*.

The proposed earthworks within the Stage 2A site will not result in any significant impacts subject to the required measures contained within the conditions of consent are adhered to. The proposal will be required to employ adequate Sediment and Erosion control measures throughout all works undertaken as part of Stage 2A (**Condition 57**). Further, additional investigation are required to be undertaken before any site works commence to ensure that any potential for Aboriginal Heritage present are identified and appropriately managed (**Condition 18**).

### 7.5 Natural resources sensitivity – water

The Stage 2A site contains a number of corridors classified as riparian land under the WLEP 2010. These corridors are two category 3 watercourses.

The two category 3 watercourses are proposed to be treated in a number of ways, the watercourse within the south-western corner of the site is largely retained and rehabilitated due to its location within an area of Endangered Ecological Community located within the site. Its western most extent will be impacted by the proposed development and will be incorporated into the stormwater management infrastructure for the proposed development.





The second category 3 watercourse running along the northern boundary of the site is proposed to be entirely incorporated into the stormwater infrastructure of the site. This watercourse is noted as not having a clearly defined top of bank and more closely represents a drainage depression. It is only noted to flow in times of rain, being dry for the majority of the year.

The proposed works have been assessed by Water NSW to ensure that a Neutral or Beneficial impact to water quality will result, with Water NSW providing concurrence for the proposal subject to a number of requirements contained within **Condition 92**.

7.9 Flood Planning

Stage 2A is not mapped as being flood affected.

7.10 Public Utility Infrastructure

As the site is within R5 Large Lot Residential, this clause requires consideration. Development consent must not be granted for development on land to which this clause applies unless Council is satisfied that any public utility infrastructure that is essential for the proposed development is available, or that adequate arrangements have been made to make that infrastructure available when it is required. As part of the original application modelling undertaken identified that the site is capable of accessing the required potable water and sewer.

The sewer system located in this location has been identified as having significant surcharging issues, which have been programmed to be rectified by Council in 2019. However, **Condition 89** will require that the existing sewer main will be upgraded and that satisfactory connection to Council’s infrastructure. The development can be adequately serviced by sewer and water.

Stormwater for the overall site will be managed as detailed in the submitted Stormwater Assessment Report and managed as per Water NSW’s concurrence conditions contained at **Condition 92**.

Utilities such as power, telecommunications and gas are also in the vicinity of the site, and available for connection.

***Development Control Plans***

Bowral Town Plan Development Control Plan

| <b>DCP Control</b>                    | <b>Assessment</b>  | <b>Compliance</b>                     |
|---------------------------------------|--|---------------------------------------|
| <i>Part A – All Land</i>              |  |                                       |
| <i>Section 1 – Introduction</i>       | The site is within the Bowral Town Plan DCP boundary and therefore this DCP applies to the assessment of the application   | Yes                                   |
| <i>Section 2 – General Objectives</i> | The development is consistent with the economic function, urban function, residential amenity and diversity, visual amenity, environmental sustainability and public domain general objectives of the DCP.   | Yes                                   |
| <i>Section 3 – Biodiversity</i>       | A Flora and Fauna assessment was prepared in support of the Concept Consent. The wider site contains areas of known Endangered Ecological Communities (Southern Highlands Shale Woodland), with the submitted assessment investigating any potential impacts to these areas. | Yes, subject to <b>Condition 11</b> . |

**AGENDA FOR THE ORDINARY MEETING OF COUNCIL**

Wednesday 11 December 2019

**REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES**



|   |   |  |
|---|---|--|
|   | <p>At the southern end of Stage 2A the proposed dwellings are planned to occur within proximity of the mapped boundary of the EEC areas on site. Further, works associated with infrastructure and earthworks will occur directly adjacent to these areas. These works need to be undertaken in a manner which will not have detrimental impacts on the viability of trees located near the extremity. To achieve this <b>Condition 11</b> of this application requires the approval of landscaping and tree protection details be approved.</p>  |  |
| <p><i>Section 4 – Water Management</i></p>                      | <p><u>A4.1 Protection of Watercourses and Riparian Lands</u><br/>See discussion above in respect to cl 7.5 Natural resources sensitivity – water of the WLEP 2010.</p> <p><u>A4.2 Vegetation Management Plan for Riparian Corridors</u><br/>See discussion above in respect to cl 7.5 Natural resources sensitivity – water of the WLEP 2010.</p> <p><u>A4.3 Development in Sydney’s Drinking Water Catchments</u><br/>The proposal has been granted concurrence from Water NSW with conditions (<b>Condition 92</b>) to ensure the development can achieve a neutral or beneficial effect on water quality.</p> <p><u>A4.4 Water Cycle Management Study</u><br/>A Water Cycle Management Study was prepared by the applicant in support of the proposed development. This was assessed by Water NSW as detailed above.</p> <p><u>A4.5 Stormwater Management Plan</u><br/>A Stormwater Management Plan was prepared by the applicant in support of the proposed development. Council’s development engineers as well as Water NSW have reviewed the submitted documentation and have incorporated a number of conditions to ensure that the proposed works are enacted within the site.</p> <p><u>A4.6 Erosion and Sediment Control Plans</u><br/>The submitted documentation did not include any detailed proposed sediment and erosion control plans for Stage 2A works. This information will be required to be provided by the applicant to Council prior to issue of a Construction Certificate as detailed within <b>Condition 34</b>.</p> <p><u>A4.7 Water Sensitive Urban Design</u><br/>Water Sensitive Urban Design measures have been incorporated into the Water Cycle Management Study discussed above.</p> <p><u>A4.8 Water Treatment Train</u><br/>A Water Treatment Train has been identified within the submitted Water Cycle Management Study and is discussed above.</p> | <p>Yes, subject to <b>Conditions 34 and 92</b></p> |
| <p><i>Section 5 – Flood liable land</i></p>                     | <p>Land at Stage 2A is not mapped as being flood prone. This has been discussed above in respect of cl. 7.9 Flood planning of the WLEP 2010.</p>  | <p>N/A</p>   |
| <p><i>Section 6 – Vegetation Management and Landscaping</i></p> | <p>The proposed landscaping is consistent with Stage 1 and in respect of the overall masterplan. A number of conditions have been imposed to ensure that required outcomes are achieved.</p>  | <p>Yes, subject to <b>Condition 11</b></p>         |

**AGENDA FOR THE ORDINARY MEETING OF COUNCIL**

Wednesday 11 December 2019

**REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES**



|  |  |  |
|--|--|--|
| <p><i>Section 7 – Subdivision, Demolition, Siting and Design</i></p>                   | <p>The proposal includes demolition of a shed. Demolitions works will be required to be undertaken in accordance with Australian Standards through the imposition of <b>Condition 33</b>.</p> <p>A site analysis was submitted with the application and is satisfactory in this instance.</p> <p>The proposed development proposes some cut and fill works across the site, with the only areas where levels won't be altered located immediately adjacent to the existing buildings.</p>  | <p>Yes, subject to <b>Condition 33</b></p> |
| <p><i>Section 8 – Safer by Design</i></p>  | <p>In terms of the proposed Master Plan, the development would be suitable in terms of space and activity management and passive surveillance.</p>   | <p>Yes</p>                                 |
| <p><i>Section 9 – Construction Standards and Procedures</i></p>                        | <p><u>A9.4 Building over two or more Allotments</u><br/> <u>A9.8 Stormwater Disposal</u><br/>                 See discussion above under cl. 7.10 Public utility infrastructure of the WLEP 2010.</p> <p><u>A9.12 Waste Management and Disposal</u><br/>                 To minimise the volume of waste generated during demolition and construction phases, <b>Condition 33</b> shall require the lodgement and approval of a Waste Management Plan.</p>   | <p>Yes, subject to <b>Condition 33</b></p> |
| <p><i>Section 10 – Signage and outdoor advertising</i></p>                             | <p>Not applicable to this application.</p>   | <p>N/A</p>                                 |
| <p><i>Section 11 – Outdoor Lighting</i></p>  | <p>An indicative outdoor lighting plan has been submitted with the application. <b>Conditions 15</b> shall require a lighting plan to be integrated with Stage 1 respectively and provided prior to the issue of a construction certificate.</p>   | <p>Yes, subject to <b>Condition 15</b></p> |
| <p><i>Section 12 – Development near Rail Corridors &amp; Busy Roads</i></p>            | <p>The original application was referred to the Australian Rail Track Corporation (ARTC) as the leaseholder for the rail line located adjacent to the site. ARTC have advised that the assessment of the application should consider the potential for noise impacts to proposed dwellings, especially those located within 80m of the rail corridor.</p> <p>The Stage 2A is not located within this distance and is therefore is not considered susceptible to noise and vibration impacts from the adjacent rail corridor. :</p> | <p>Yes</p>                                 |
| <p><i>Section 13 – Tele-communications and radio-communications infrastructure</i></p> | <p>Not applicable to this application.</p>   | <p>N/A</p>                                 |
| <p><u>Part B – Business Zoned Land</u></p>   |  |  |

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|  | The proposed development is not located on business zoned land. As such, controls contained within Part B do not apply to this application.   | N/A |
| <i>Part C – Residential Zoned Land</i> |   |     |
| <i>Section 1 – Introduction</i>        | The development does not propose the use of zincalume or galvanised steel materials.  | Yes |
| <i>Section 8 – Seniors Housing</i>     |   |     |
| <i>C8.1 Introduction</i>               | The controls for Seniors Housing are drawn from the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.   |     |
| <i>C8.2 General Objectives</i>         | <p><i>The purpose of these controls is to encourage the provision of seniors housing, including residential care facilities that will:</i></p> <ul style="list-style-type: none"> <li><i>(a) increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and</i></li> <li><i>(b) make efficient use of existing infrastructure and services, and</i></li> <li><i>(c) be of good design.</i></li> </ul> <p>The proposed development will increase the supply and diversity of seniors housing residences in Bowral. The site is well located in respect to its proximity to Bowral and is capable of connection to all required services. The design has been determined to compatible with the surrounding land uses. The proposal provides an adequate transition from the Bowral township character to the surrounding large residential development characteristic of west Bowral. The proposal will require some earthworks for the individual dwelling sites to provide adequate grades for roadways throughout the site to provide access to all facilities proposed throughout the site.</p> | Yes |

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| <p><b>C8.3</b><br/><i>Neighbourhood Amenity and Streetscape</i></p> | <p><i>The proposed development should:</i></p> <ul style="list-style-type: none"> <li>(a) <i>recognise the desirable elements of the location's current character so that new buildings contribute to the quality and identity of the area;</i></li> <li>(b) <i>retain, complement and sensitively harmonise with Items of Heritage or Conservation Areas;</i></li> <li>(c) <i>maintain reasonable neighbourhood amenity and appropriate residential character by:</i> <ul style="list-style-type: none"> <li>(i) <i>providing building setbacks to reduce bulk and overshadowing,</i></li> <li>(ii) <i>using building form and siting that relates to the site's land form,</i></li> <li>(iii) <i>adopting building heights at the street frontage that are compatible in scale with adjacent development, and</i></li> <li>(iv) <i>considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and</i></li> <li>(v) <i>be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line,</i></li> </ul> </li> <li>(d) <i>embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape,</i></li> <li>(e) <i>retain, wherever reasonable, major existing trees,</i></li> <li>(f) <i>be designed so that no building is constructed in a riparian zone.</i></li> </ul> <p>Stage 2A is consistent with the Concept Consent. The Southern Region Planning Panel found that the development had been designed to integrate into the existing residential character of the surrounding area. The proposed dwellings are all shown to be single storey and provide sufficient setbacks so as to be respectful of the extensively landscaped gardens surrounding the built form.</p> <p>The proposal has avoided the areas identified as containing Endangered Ecological Communities.</p> | <p>Yes</p> |
| <p><b>C8.4</b><br/><i>Visual and Acoustic Privacy</i></p>           | <p><i>The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by:</i></p> <ul style="list-style-type: none"> <li>(a) <i>appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and</i></li> <li>(b) <i>ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.</i></li> </ul> <p>The proposed dwellings are of single storey. The fall of the land together with proposed earthworks will result in dwellings adjacent to site boundaries being constructed at or slightly below ground levels of adjacent homes. Further, the setbacks from site boundaries are adequate to ensure acoustic and visual impacts are further minimised through the proposed landscaping treatments surrounding the site.</p> <p>The proposed dwellings have all been designed to address small groupings of buildings to limit exposure to general movement corridors throughout the site. The design of the site will lessen internal impacts associated with overlooking or acoustic issues.</p>  | <p>Yes</p> |

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| <p><i>C8.5 Solar Access and Design for Climate</i></p> | <p><i>The proposed development should:</i></p> <ul style="list-style-type: none"> <li><i>(a) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and</i></li> <li><i>(b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting by locating the windows of living and dining areas in a northerly direction.</i></li> </ul> <p>The proposal will not impact on solar access to surrounding properties.</p> <p>The majority of proposed dwellings located within Stage 2A have orientations and private open space provision that provides adequate solar access to living areas. The few dwellings that don't achieve solar access to living and dining spaces generally have private open space that will receive adequate solar access. All proposed dwellings achieve BASIX requirements for energy efficiency.</p> | <p>Yes</p> |
| <p><i>C8.6 Crime Prevention</i></p>                    | <p><i>The proposed development should provide personal property security for residents and visitors and encourage crime prevention by:</i></p> <ul style="list-style-type: none"> <li><i>(a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and</i></li> <li><i>(b) where shared entries are required, providing shared entries that serve a small number of dwellings and that are able to be locked, and</i></li> <li><i>(c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.</i></li> </ul> <p>The proposal accords with these requirements. The dwelling types proposed have been approved at Stage 1 and found to meet these controls.</p>   | <p>Yes</p> |
| <p><i>C8.7 Accessibility</i></p>                       | <p><i>The proposed development should:</i></p> <ul style="list-style-type: none"> <li><i>(a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and</i></li> </ul> <p>The proposal includes connections to the wider site and through to the floodplain to the south east of the site towards the Bowral township. This pathway will include the construction of an accessible pathway to the community facilities and through to Kirkham Road.</p> <p>Under the Concept Consent pathways will be constructed along the road frontage from the main site entry on Centennial Road, down the length of Kirkham Road to Mount Road. Further, a pedestrian island will be constructed on Kirkham Road to aid in its safe crossing for access to Bowral.</p> <ul style="list-style-type: none"> <li><i>(b) provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors.</i></li> </ul>           | <p>Yes</p> |

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|   | <p>The site has been designed to ensure that the entire site is accessible for both residents and their guests. All car parking is provided internal to the site, with spaces for visitors provided in reasonably close proximity to dwellings.</p>   |            |
| <p><i>C8.8 Standards for Hostels and Self contained Dwellings</i></p> | <p><i>A development application made for the purpose of a hostel or self-contained dwelling shall comply with the following standards:</i></p> <ul style="list-style-type: none"> <li><i>(a) The size of the site must be at least 1,000sqm.</i></li> <li><i>(b) The site frontage must be at least 20 metres wide measured at the building line.</i></li> <li><i>(c) If the whole of the site has a gradient of less than 1:10, 100% of the dwellings must have wheelchair access by a continuous accessible path of travel (within the meaning of AS 1428.1) to an adjoining public road.</i></li> <li><i>(d) If the whole of the site does not have a gradient of less than 1:10:</i> <ul style="list-style-type: none"> <li><i>(e) the percentage of dwellings that must have wheelchair access must equal the proportion of the site that has a gradient of less than 1:10, or 50%, whichever is the greater, and</i></li> <li><i>(f) the wheelchair access provided must be by a continuous accessible path of travel (within the meaning of AS 1428.1) to an adjoining public road or an internal road or a driveway that is accessible to all residents.</i></li> </ul> </li> <li><i>(g) Where the site has a variable gradient, the principle identified in clauses (a) and (b) above applies. For example, if 70% of the site has a gradient of less than 1:10, then 70% of the dwellings must have wheelchair access as required by clause (a).</i></li> <li><i>(h) If more than 50% of the site has a gradient greater than 1:10, development for the purposes of seniors housing is unlikely to be possible.</i></li> </ul> <p>The site complies with the minimum 1000sqm site area and site width of a minimum 20m. The site satisfies the provisions for the entire site having a gradient of less than 1 in 10. It is not a steep site and site gradients are within the DCP limitations.</p> | <p>Yes</p> |

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| <p><i>C8.9 Height Controls</i></p> | <p><i>The proposed development must comply with the standards specified below:</i></p> <p><i>(a) If the development is proposed in a residential zone where residential flat buildings are not permitted:</i></p> <p><i>(i) the height of all buildings in the proposed development must be 8 metres or less, and</i></p> <p>The proposal is located within a residential zone where residential flat buildings are not permitted. The submitted plans show that all proposed dwellings will be single storey in height and will not exceed 8m from the existing ground levels of the site.</p> <p><i>(ii) a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this control applies) must be not more than 2 storeys in height, and</i></p> <p>No buildings are proposed to be greater than one storey.</p> <p><i>(iii) a building located in the rear 25% area of the site must not exceed 1 storey in height.</i></p> <p>The rear boundary is considered to be the western boundary in this case. Stage 2A is located along the western end of the site. Only single storey dwellings will be constructed in this area of the site. Further, the proposed earthworks shows cutting along this boundary which will also reduce the height of any built form along this boundary. A 15m setback is proposed along this boundary which is to be extensively landscaped to provide a vegetated buffer to the adjacent heritage listed item.</p> | <p>Yes</p>   |
| <p><i>C8.10 Site Design</i></p>    | <p><i>(a) Access must be provided in accordance with AS 1428.1 so that a person using a wheelchair can use common areas and common facilities associated with the development.</i></p> <p><i>(b) Pathway lighting must</i></p> <p><i>(i) be designed and located so as to avoid glare for pedestrians and adjacent dwellings, and</i></p> <p><i>(ii) provide at least 20 lux at ground level.</i></p> <p><i>(c) Letterboxes must:</i></p> <p><i>(i) be situated on a hard standing area and have wheelchair access and circulation by a continuous accessible path of travel (within the meaning of AS 1428.1), and</i></p> <p><i>(ii) be lockable, and</i></p> <p><i>(iii) be located together in a central location adjacent to the street entry or, in the case of self-contained dwellings, must be located together in one or more central locations adjacent to the street entry.</i></p> <p>The application package advises that the Stage 2A will be fully accessible compliant with AS1428.1, with all dwellings designed to accommodate wheelchairs if required. All pathways throughout the site are designed to a gradient to allow accessible access. <b>Condition 15</b> would require compliance with (b).</p>   | <p>Yes, subject to <b>Conditions 9, 15, 16, 17, 88</b></p> |
| <p><i>C8.11 On</i></p>             | <p><i>If car parking (not being car parking for employees) is provided:</i></p>   | <p>Yes, subject to</p>                                     |



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| <p><i>Site Car Parking</i></p>            | <p>(a) <i>car parking spaces must comply with the requirements for parking for persons with a disability set out in AS 2890,</i></p> <p>(b) <i>5% of the total number of car parking spaces must be designed to enable the width of the spaces to be increased to 3.8 metres, and</i></p> <p>(c) <i>any garage must have a power-operated door, or there must be a power point and an area for motor or control rods to enable a power-operated door to be installed at a later date.</i></p> <p><b>Condition 29</b> would ensure car parking spaces comply with AS 2890 and the DCP.</p>   | <p><b>Condition 29</b></p>                |
| <p><i>C8.12 Entry &amp; Corridors</i></p> | <p>(a) <i>Every entry (whether a front entry or not) to a dwelling, not being an entry for employees, must comply with clauses 4.3.1 and 4.3.2 of AS 4299.</i></p> <p>(b) <i>Widths of internal corridors and circulation at internal doorways must comply with AS 1428.1.</i></p> <p>An assessment of Stage 2A plans demonstrates the development can comply with these controls. Each of the above items can be achieved by way of <b>Condition 9</b> with each subsequent DA and construction certificate stage requiring demonstration of compliance.</p>   | <p>Yes, subject to <b>Condition 9</b></p> |
| <p><i>C8.13 Bedrooms</i></p>              | <p><i>At least one bedroom within each dwelling must have:</i></p> <p>(a) <i>an area sufficient to accommodate a wardrobe and a bed sized as follows:</i></p> <p>(i) <i>in the case of a dwelling in a hostel—a single-size bed,</i></p> <p>(ii) <i>in the case of a self-contained dwelling—a queen-size bed, and</i></p> <p>(b) <i>a clear area for the bed of at least:</i></p> <p>(i) <i>1,200 millimetres wide at the foot of the bed, and</i></p> <p>(ii) <i>1,000 millimetres wide beside the bed between it and the wall, wardrobe or any other obstruction, and</i></p> <p>(c) <i>2 double general power outlets on the wall where the head of the bed is likely to be, and</i></p> <p>(d) <i>at least one general power outlet on the wall opposite the wall where the head of the bed is likely to be, and</i></p> <p>(e) <i>a telephone outlet next to the bed on the side closest to the door and a general power outlet beside the telephone outlet, and</i></p> <p>(f) <i>wiring to allow a potential illumination level of at least 300 lux.</i></p> <p>An assessment of Stage 2A plans demonstrates the development can comply with these controls. Each of the above items can be achieved with construction certificate stage requiring demonstration of compliance.</p> | <p>Yes</p>                                |
| <p><i>C8.14 Bathrooms</i></p>             | <p><i>At least one bathroom within a dwelling must be on the ground (or main) floor and have the following facilities arranged within an area that provides for circulation space for sanitary facilities in accordance with AS 1428.1:</i></p> <p>(a) <i>a slip-resistant floor surface,</i></p> <p>(b) <i>a washbasin with plumbing that would allow, either immediately or in the future, clearances that comply with AS 1428.1,</i></p> <p>(c) <i>a shower that complies with AS 1428.1, except that the</i></p>  | <p>Yes</p>                                |

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|  | <p><i>following must be accommodated either immediately or in the future:</i></p> <ul style="list-style-type: none"> <li><i>(i) a grab rail,</i></li> <li><i>(ii) portable shower head,</i></li> <li><i>(iii) folding seat,</i></li> <li><i>(d) a wall cabinet that is sufficiently illuminated to be able to read the labels of items stored in it,</i></li> <li><i>(e) a double general power outlet beside the mirror.</i></li> </ul> <p>An assessment of Stage 2A plans demonstrates the development can comply with these controls. Each of the above items can be achieved by way of compliance with plans and construction certificate stage requiring demonstration of compliance.</p>  |            |
| <p><b>C8.15 Other Requirements</b></p> | <ul style="list-style-type: none"> <li><i>(a) A dwelling must have at least one toilet on the ground (or main) floor and be a visitable toilet that complies with the requirements for sanitary facilities of AS 4299.</i></li> <li><i>(b) Balconies and external paved areas must have slip-resistant surfaces. Advice regarding finishes may be obtained from AS1428.1.</i></li> <li><i>(c) Door handles and hardware for all doors (including entry doors and other external doors) must be provided in accordance with AS4299.</i></li> <li><i>(d) Switches and power points must be provided in accordance with AS4299.</i></li> <li><i>(e) The standards contained in subclause (e) to (n) below apply to any seniors housing consisting of self-contained dwellings and are in addition to the standards set out subclause (a) to (d) above.</i></li> <li><i>(f) A living room in a self-contained dwelling must have:</i> <ul style="list-style-type: none"> <li><i>(i) a circulation space in accordance with clause 4.7.1 of AS 4299, and</i></li> <li><i>(ii) a telephone adjacent to a general power outlet.</i></li> </ul> </li> <li><i>(g) A living room and dining room must have wiring to allow a potential illumination level of at least 300 lux.</i></li> <li><i>(h) A kitchen in a self-contained dwelling must have:</i> <ul style="list-style-type: none"> <li><i>(i) a circulation space in accordance with clause 4.5.2 of AS 4299, and</i></li> <li><i>(ii) a width at door approaches complying with clause 7 of this Schedule, and</i></li> <li><i>(iii) the following fittings in accordance with the relevant subclauses of clause 4.5 of AS 4299:</i> <ul style="list-style-type: none"> <li><i>(iv) benches that include at least one work surface at least 800 millimetres in length that comply with clause 4.5.5 (a),</i></li> <li><i>(v) a tap set (see clause 4.5.6),</i></li> <li><i>(vi) cook tops (see clause 4.5.7), except that an isolating switch must be included,</i></li> <li><i>(vii) an oven (see clause 4.5.8), and</i></li> <li><i>(viii) "D" pull cupboard handles that are located towards the top of below-bench cupboards and towards the bottom of overhead cupboards, and</i></li> </ul> </li> <li><i>(ix) general power outlets:</i> <ul style="list-style-type: none"> <li><i>(i) at least one of which is a double general power outlet within 300 millimetres of the front of a work surface, and</i></li> <li><i>(ii) one of which is provided for a refrigerator in such a position as to be easily accessible after the refrigerator is installed.</i></li> </ul> </li> </ul> </li> </ul> | <p>Yes</p> |

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|   | <ul style="list-style-type: none"> <li>(i) <i>In a multi-storey self-contained dwelling, the kitchen, main bedroom, bathroom and toilet must be located on the entry level.</i></li> <li>(j) <i>In a multi-storey building containing separate self-contained dwellings on different storeys, lift access must be provided to dwellings above the ground level of the building by way of a lift complying with clause E3.6 of the Building Code of Australia.</i></li> <li>(k) <i>A self-contained dwelling must have a laundry that has:</i> <ul style="list-style-type: none"> <li>(i) <i>a width at door approaches that complies with clause 7 of this Schedule,</i></li> <li>(ii) <i>provision for the installation of an automatic washing machine and a clothes dryer,</i></li> <li>(iii) <i>a clear space in front of appliances of at least 1,300 millimetres,</i></li> <li>(iv) <i>a slip-resistant floor surface,</i></li> <li>(v) <i>an accessible path of travel to any clothes line provided in relation to the dwelling.</i></li> </ul> </li> <li>(l) <i>A self-contained dwelling must be provided with a linen storage in accordance with clause 4.11.5 of AS 4299.</i></li> <li>(m) <i>A garbage storage area must be provided in an accessible location.</i></li> <li>(n) <i>Despite the provisions above, a self-contained dwelling, or part of such a dwelling, that is located above the ground floor in a multi-storey building does not have to comply with the requirements of those provisions if the development application is made by, or by a person jointly with, a social housing provider.</i></li> </ul> <p>An assessment of Stage 2A plans demonstrates the development can comply with these controls. Each of the above items can be achieved by way of compliance with plans and construction certificate stage requiring demonstration of compliance.</p> |            |
| <b>Section 20 – OLSH Precinct</b>                             |  |            |
| <p><b>C20.1</b><br/><i>Location and Character</i></p>         | <p>The proposed development is located wholly within the area referenced in section C20 of the Bowral Town DCP. The proposed development is required to fully consider these controls in the design of the site.</p>   | <p>Yes</p> |
| <p><b>C20.2</b><br/><i>Preferred Development Outcomes</i></p> | <p><i>Any future development within this Precinct for the purposes of Housing for Seniors or People with a Disability shall address the following objectives:</i></p> <ul style="list-style-type: none"> <li>a) <i>ensure the scale and character of development is respectful of the low density residential character of the Bowral west area.</i></li> <li>b) <i>ensure important existing landscape and natural vegetation features of the site and adjoining land, including Council land, are recognised, protected and embellished, particularly the Eucalyptus macarthurii located on the corner of Kirkham and Centennial Roads.</i></li> <li>c) <i>provide a management plan for the connection of the two EEC stands through appropriate plantings.</i></li> <li>d) <i>ensure that any existing buildings on the site with recognised heritage values are examined for their potential for adaptive reuse as part of any redevelopment scheme</i></li> <li>e) <i>minimise potential traffic impacts on surrounding local roads</i></li> </ul>   | <p>Yes</p> |

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|  | <p>f) <i>avoid development encroaching upon the flood plain of Mittagong Creek</i></p> <p>g) <i>minimise the potential impacts on the environment and on the amenity of local residents associated with lengthy construction periods</i></p> <p>The proposal has been designed in accordance with the Concept Consent which the Southern Joint Regional Planning Panel considered to be sympathetic to the surrounding built form character, whilst also providing a denser form of housing as a transition to the Bowral Township.</p> <p>The EEC areas have been assessed in detail and in accordance with the Concept Consent will be appropriately managed. Stage 2A is consistent with the Concept Consent.</p> <p>Traffic impacts have been assessed within submitted documents, with this reviewed by Council's Traffic and Transport engineers.</p> <p>The site is large and the development timeframe will extend for a number of years. However, the site is large with the majority of works occurring internal to the site. Impacts to surrounding residents will be minimal, with construction times to be controlled as detailed in <b>Condition 64</b>, with Construction Management Plans put in place as detailed by <b>Condition 12</b> and through the staging of the development.</p> |                     |
| <p><i>C20.3 Development Concepts</i></p> | <p><i>C20.3.1 Character</i><br/> <i>The site needs to become part of the local area rather than a site that is simply driven past. It cannot afford to turn its back on Centennial Road. Therefore, it is essential that the character of the development, as viewed from passing traffic on Centennial Road, be similar to the low density residential character of the area in general. That is, individual dwellings in large garden settings. Higher density components of proposed development can be achieved behind this low density frontage.</i></p> <p><i>Centennial Road frontage must have dwellings that address and have vehicular and pedestrian access directly on to Centennial Road and have the appearance of separate dwelling houses, although they may contain more than one dwelling.</i></p> <p>As discussed above at Section C20.2, the proposal has been designed to meet the character requirements of the site.</p>   | <p>Yes</p>          |
|  | <p><i>C20.3.2 Access</i><br/> <i>No vehicular access to the site from Mount Road</i></p> <p><i>At least two access roads into the site from Centennial Road (see Map) that promote the integration of the site as part of the local network. Roads within the site can remain private roads rather than being dedicated to Council.</i></p> <p>Stage 2A gains access via Stage 1. Stage 1 does not have vehicle access from Mount Road. Two access points are located on Centennial Road.</p>   | <p>Yes</p>          |
|  | <p><i>C20.3.3 Landscape</i><br/> <i>The two stands of existing EEC on the site must be retained and</i></p>   | <p>Yes, subject</p> |

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|  | <p><i>embellished (Refer to Figure C20.2).</i></p> <p><i>An arborist's report must accompany any Development Application and provide:</i></p> <ul style="list-style-type: none"> <li><i>a) a detailed plan for connecting the two EEC stands through the planting of appropriate species, and</i></li> <li><i>b) a survey of all other existing tree cover on the site and on adjacent land, including Council land. The location and condition of the Eucalyptus macarthurii, located on the corner of Centennial and Kirkham Roads is to be particularly addressed.</i></li> </ul> <p><i>Council will consider the Safe Useful Life Expectancy rating of existing trees on the site, with a preference for retention of trees that can be accommodated into a comprehensive replanting scheme for the site that is focused on embellishing both the native vegetation and the plantings of deciduous species to reflect the Southern Highlands character of the site.</i></p> <p>Stage 2A is consistent with the Concept Consent for the site. Measures are in place to ensure that the interface of development and the EEC.</p>   | <p><b>Condition 48</b></p>                         |
|  | <p><b>C20.3.4 Heritage</b><br/> <i>Any Development Application must be supported by a Heritage Impact Statement that fully canvases the value of the existing buildings, gardens and formal plantings on the site as local items of heritage (Refer to Figure C20.2). This includes the Chapel, Convent, Boarding College, War Memorial Hall and tree lined driveway. The statement must fully explore the options for adaptive reuse of the identified buildings and retention of landscape elements. The statement must also include a survey of Aboriginal Heritage, particularly of Lot 4 on the corner of Centennial and Kirkham Roads.</i></p> <p>The Concept Consent was informed by an extensive Heritage Impact Statement which assessed the heritage value of the all the built elements on site. Stage 2A does not contain any built heritage.</p> <p>Aboriginal Heritage was assessed under the Concept Consent, The assessment identified that Aboriginal heritage is present on site, with areas of further potential for archaeological deposits identified. This assessment identified a number of actions that would be required to be undertaken prior to any works commencing on site. The Office of Environment and Heritage have identified a number of items that will be required to be completed prior to any construction works commencing as part of stage 1 and further requirements before works take place for stage 2. <b>Conditions 18 and 23</b> detail these requirements.</p> | <p>Yes, subject to <b>conditions 18 and 23</b></p> |
|  | <p><b>C20.3.5 Protection of the Night Sky</b><br/> <i>All lighting on the site will be designed to ensure that it does not impact on the quality of the night sky or in any other way adversely impact on surrounding residential development. Further detail on this objective may be found in Section A8 of this Plan.</i></p> <p>The proposal will be required to provide lighting that does not impact</p>  | <p>Yes, subject to <b>Condition 15</b></p>         |

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|  | <p>on the enjoyment of the night sky for the wider community.</p> <p>The submitted concept plan for street and outdoor lighting demonstrates compliance with this this control. <b>Condition 15</b> of this consent requires that a detailed lighting plan is provided for Stage 2A .</p>   |     |
|  | <p><i>C20.3.6 Non Residential Facilities</i><br/> <i>Non residential uses that may be proposed on the site must at all times remain ancillary to the residential nature of the development and be primarily for the benefit of residents of the development. A scale of non residential activity that relies for commercial viability on the custom of the general public will not be supported. Such uses could include, but would not be limited to, gymnasium, pool, hairdresser, beautician, medical/health practitioners. Any development application must provide comprehensive details of any proposed non residential uses.</i></p> <p>Stage 2A does not include non-residential uses. Prospective residents of Stage 2A will have access the site's facilities.</p>  | N/A |
|  | <p><i>C20.3.7 Staging and Construction</i><br/> <i>As the site is very large, the construction phase of any proposal is likely to extend over many years. Any development application must be supported by a comprehensive staging plan and Construction Management Plan. This will assist in</i></p> <ul style="list-style-type: none"> <li><i>a) ensuring the potential disruption to local residents is minimised</i></li> <li><i>b) ensuring the potential impacts to the natural environment are minimised</i></li> <li><i>c) ensuring the timing of development contributions are appropriate</i></li> </ul> <p><i>Major clearing and earthworks must be consistent with the approved staging plan.</i></p> <p>As discussed above at Section C20.2, the proposal has been designed to limit construction impacts for works within the site.</p> | Yes |
|  | <p><i>C20.3.8 Voluntary Planning Agreement</i><br/> <i>A Voluntary Planning Agreement is the preferred mechanism for the establishment of appropriate development contributions arising as a result of development of the site.</i></p> <p>The applicant has not sought to enter into a Voluntary Planning Agreement for the site. The proposal will be charged standard development charges under section 7.12 of the Environmental Planning and Assessment Act 1979. The draft Notice of Payment is included as an attachment to the draft Notice of Determination at Attachment 1.</p>   | N/A |

**Section 4.22 Concept development applications**

The application has been submitted under Section 4.22 'Concept Development Applications' of the Environmental Planning and Assessment Act 1979.

- (1) For the purposes of this Act, a concept development application is a development application that sets out concept proposals for the development of a site, and for



*which detailed proposals for the site or for separate parts of the site are to be the subject of a subsequent development application or applications.*

- (2) *In the case of a staged development, the application may set out detailed proposals for the first stage of development.*

Development Application 17/1822, was a development application lodged and approved under the provisions of Section 4.22 as a Concept Consent for seniors housing.

Development Application 17/1822 included detail for the first stage (Stage 1) of development being the construction of fifty two (52) dwellings and the substantive work associated with the refurbishment of existing buildings for use as on site offices and community facilities.

Stage 2A, the subject of this report, forms a subsequent development application.

- (3) *A development application is not to be treated as a concept development application unless the applicant requests it to be treated as a concept development application.*

Development Application 17/1822 was treated as a concept development application at the request of the applicant. The subject application, 17/1822.04, is subject to the requirement as per subsection (4) of Section 4.22 as follows:

- (4) *If consent is granted on the determination of a concept development application, the consent does not authorise the carrying out of development on any part of the site concerned unless—*
- (a) *consent is subsequently granted to carry out development on that part of the site following a further development application in respect of that part of the site, or*
- (b) *the concept development application also provided the requisite details of the development on that part of the site and consent is granted for that first stage of development without the need for further consent.*

*The terms of a consent granted on the determination of a concept development application are to reflect the operation of this subsection.*

As set out above, Concept Consent 17/1822 also approved Stage 1 with subsequent stages to be the subject of further Development Applications.

The Concept Consent is structured in accordance with 4.22(4) and the subject application has been submitted in accordance with 4.22(4)(a).

- (5) *The consent authority, when considering under section 4.15 the likely impact of the development the subject of a concept development application, need only consider the likely impact of the concept proposals (and any first stage of development included in the application) and does not need to consider the likely impact of the carrying out of development that may be the subject of subsequent development applications.*

Development Application 17/1822 was assessed under Section 4.15 in terms of the likely impact and site's suitability for seniors housing together with the other provisions.



In the assessment of likely impact the Southern Joint Region Planning Panel considered the overall concept development in relation to strategic issues such as traffic generation, site capacity, distribution and density of development and access together with other matters such as impacts upon riparian areas, native vegetation and heritage. Architectural style and built form impacts were also considered.

The second development application, now lodged for Stage 2A, requires the consent authority to assess the detail of Stage 2A and ensure its consistency with the Concept Consent.

#### **4.24 Status of concept development applications and consents**

Section 4.24(2) states that “*while any consent granted on the determination of a concept development application for a site remains in force, the determination of any further development application in respect of the site cannot be inconsistent with the consent for the concept proposals for the development of the site.*”

Section 4.24(5) requires that details applied for under Stage 2A in line with the Concept Consent, including any conditions attached to the Consent which direct what issues need to be assessed.

In this case, it is considered that Stage 2A, as put forward in this current Development Application, is consistent with development shown on the concept plans for this portion of the site. In addition, the subject development application addresses the requirements of the relevant conditions which relate to matters such as design, aboriginal cultural heritage and open space.

#### **Section 4.15 Evaluation**

##### **(1) Matters for consideration—general**

*In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:*

##### *(a) the provisions of:*

##### *(i) any environmental planning instrument, and*

The proposed development satisfies the requirements of the *Wingecarribee Local Environmental Plan 2010* and applicable State Environmental Planning Policies including Sydney Drinking Water SEPP.

##### *(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*

Not applicable.





*(iii) any development control plan, and*

The development satisfactorily complies with the relevant controls of the Bowral Town Development Control Plan.

*(iiia) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and*

Not applicable.

*(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and*

Wingecarribee is not a coastal Council therefore the Government Coastal Policy does not apply. Further the application does not propose any temporary structures.

Demolition work to remove a small shed is required. As such **Condition 33** has been imposed.

*(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*

#### Ecology

The overall site is recorded as having significant ecological value. Two substantial areas of Southern Highlands Shale Woodland are mapped as being located within the overall site. This vegetation community is listed as a Critically Endangered Ecological Community (CEEC) under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999. These areas are located directly to the east and to the south of the existing buildings. Both these locations fall outside the location of Stage 2A.

The southern end of Stage 2A abuts the subject vegetation community located to the south of the existing former school buildings. Section C20 of the Bowral Town DCP requires that these areas be rehabilitated and protected.

It is assessed no development would occur within 10m of any tree trunks located within the CEEC areas. To achieve this requirement and ensure the protection of vegetation, a condition (**Condition 48**) is recommended to ensure construction impacts within 10m of the mapped CEEC boundary (including all earthworks, gardens and supporting infrastructure) are managed to ensure protection.

*(c) the suitability of the site for the development,*

The proposed development is consistent with the Concept Consent which determined that the site was suitable for seniors housing. At the concept development application stage it was determined that the site was suitable in terms of compatibility with adjacent developments, specifically relating to character and traffic impacts. The site has demonstrated compliance with the specific development controls contained at Section C20 that relate solely to seniors housing development on the site. There are



adequate utilities and services available to the existing and proposed development. The air quality and microclimate are appropriate for the development, there are no hazardous land uses or activities nearby, and ambient noise levels are suitable for the development.

The site, upon which Stage 2A relates, is not subject to natural hazards including flooding, slip, mass movement and bushfire. The soil characteristics are appropriate for the development, and there are no critical habitats, or threatened species, populations, ecological communities or habitats known on the site that have not been appropriately managed through mitigation measures identified through submitted studies and addressed in this report.

*(d) any submissions made in accordance with this Act or the regulations,*

Eleven (11) submissions were received during the notification period. Please refer to the Consultation section of this Report below.

*(e) the public interest.*

The proposal is considered to be in the public interest. It will increase the provision of housing choice in the locality, protect Critically Endangered Ecological Community and place underutilised land and historic buildings into a use which will benefit the local community.

Staff are not aware of any policy statements from either Federal or State Government that are relevant to this proposal, nor any planning studies or strategies. There is no management plan, planning guideline or advisory document that is applicable to a development of this nature. Also, there are no covenants, easements, or agreements that affect the proposal. As such, the proposal would not contravene the public interest.

### ***Relevant State Legislation***

As outlined under the section 4.15 Evaluation, conditions are in place to ensure the development does not have an adverse impact on trees and vegetation with ecological value. Accordingly, the proposal is consistent with the Biodiversity Conservation Act.

### ***Relevant Commonwealth Legislation***

As outlined under the section 4.15 Evaluation, conditions are in place to ensure the development does not have an adverse impact on trees and vegetation with ecological value. Accordingly, the proposal is consistent with the Environment Protection and Biodiversity Conservation Act

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## **CONSULTATION**

### ***External Referrals***

| <b>Referrals</b> | <b>Advice/Response/Conditions</b>                               |
|------------------|---|
| Water NSW        | The application was referred to Water NSW as the site is within |

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| Referrals                         | Advice/Response/Conditions   |
|-----------------------------------|--|
|                                   | the Warragamba Catchment and therefore requires concurrence under <i>State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011</i> . Their concurrence was provided and conditions shall be imposed accordingly ( <b>Condition 92</b> )   |
| Roads and Maritime Services       | The application was referred to Roads and Maritime Services to determine if any impact would occur to the nearby Mittagong Road, which is deemed to be a classified road. RMS has provided approval to the application and has indicated that no conditions need be imposed to satisfy their requirements.   |
| Natural Resource Access Regulator | The application was referred to the Natural Resource Access Regulator (NRAR) as Integrated Development as works require a Controlled Activity Approval to be granted. NRAR have reviewed the submitted documentation and have provided General Terms of Approval which are included at <b>Condition 91</b> . |

#### *Internal Referrals*

| Referrals                | Advice/Response/Conditions   |
|--------------------------|--|
| Accredited Certifier     | Council's Accredited Certifier raised no objection to the proposed development subject to the inclusion of a number of conditions of consent. These are incorporated into the draft Notice of Determination contained at Attachment 1.   |
| Strategic Planner        | The Notice of Payment has been included at Attachment 3 to the draft Notice of Determination detailing the contributions payable.  |
| Water and Sewer Engineer | Water and Sewer modeling was undertaken previously and is conditioned within the original Concept and Stage 1 approval. The modeling report requires a sewer main to be upsized by the developer to accommodate the development. The report only considers the ultimate development, and does not consider staging. Therefore it is unknown at what level of demand the sewer is actually required to be upsized and therefore the upgrade must be considered a requirement of this DA even though it is only for 28 dwellings.<br>Appropriate conditions have been placed into the draft Notice of Determination contained at Attachment 1. |
| Development Engineer     | Council's Development Engineer has reviewed the application to assess the proposals consistency and integration with Stage 1 A raft of conditions have been incorporated into the draft Notice of Determination contained at Attachment 1.   |

#### *Neighbour Notification (or Advertising)/Public Participation*

The proposed development was notified to 22 adjoining neighbours and surrounding landowners and advertised in the Southern Highland News from 2 October 2019 to 1 November 2019. During this time, eleven (11) submissions were received from ten (10)

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properties. The issues raised in all received submissions are summarised and addressed below:

#### The proposal is not in keeping with local character and is overdevelopment

The submissions raised concern about the potential over development of the site as proposed. Submissions identified that the site was located within an area zoned R5 – Large Lot Residential. Submissions stated that this density of development would not be in keeping with the local character.

*Comment:* The density, character and built form of the development were approved under Concept Consent DA17/1822 by the Southern Joint Regional Planning Panel (JRPP). The proposal (Stage 2A) is consistent with the Concept Consent. To achieve consistency Stage 2A is compliant with Section C20 of the Bowral Development Control Plan.

#### Impact on water infrastructure

Concern was raised that the existing water capacity was not adequate to support the proposed development given its significant scale.

*Comment:* Council requires that all new developments be assessed to determine if existing infrastructure has capacity to support the proposed increase in demand. As such, this application was referred to Council's Water and Sewer engineer to assess the impacts on Council's infrastructure. As discussed above within the internal referral table, the sewer system has previously been identified as being inadequate and requiring upgrade. Conditions were attached to the Concept Consent to ensure that infrastructure is in place before the development increases demand. Additional conditions are to be placed on the subject application to ensure that the development is adequately serviced.

#### Traffic and safe access to town centre

A number of submissions received by Council identified traffic and access as issues. These related to issues external to the site.

Externally, concern was raised about increased traffic congestion around the two rail crossing points north and south from Centennial Road. Concern was also raised about the residents would navigate the walk to the town centre.

*Comment:* The Southern Joint Region Planning Panel found traffic impacts and access to be satisfactory subject to upgrade works to the road corridors of Centennial and Kirkham Roads. Stage 2A does not impact or relate to external access and is consistent with the Concept Consent.

#### The Southern Joint Regional Planning Panel decision to approve the Concept Development Application was incorrect

A source of objection related to the decision made by the Southern Joint Regional Planning Panel, in particular that it was not based on accurate information.

*Comment:* Council is content that the application was determined in accordance with the Environmental Planning and Assessment Act 1979.

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#### Waterbrook's facilities are not open to the public

A reason for objection was that the community facilities approved under Stage 1 would not be open to the public.

The Concept Consent included approval for a range of community facilities

*Comment:* Stage 2A does not relate to the approved community facilities.

For context, the Concept Consent included approval for a range of community facilities. Section C20.3.6 of the Bowral Township DCP sets out Council's policy on the utilisation of the site's non-residential facilities. It states that facilities *"must at all times remain ancillary to the residential nature of the development and be primarily for the benefit of residents of the development"*.

In conformity with the DCP, Condition 139 of the Concept Consent advises that only residents and their guests are permitted to use the facilities.

#### Setback from trees

Concern is raised that the southern end of the proposed development (Stage 2A) is close to protected trees and may impact upon them.

*Comment:* The proposal is consistent with the Concept Consent. In approving the application the impact on trees was assessed. Conditions were placed to ensure protection. Additional conditions to ensure an appropriate interface between the development and protected trees and vegetation are incorporated into the draft Notice of Determination contained at Attachment 1.

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## SUSTAINABILITY ASSESSMENT

- **Environment**

The proposed development does not raise any additional environmental impacts to those considered in this report.

- **Social**

The development is considered to be positive in terms of its provision of additional housing supply for seniors and people with a disability

- **Broader Economic Implications**

The development is considered to be positive in terms of providing stimulus to the local building industry and employment of local builders and the need for additional services through the lifetime of the development.

- **Culture**

There are no envisaged cultural issues in relation to this development (Stage 2A).

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- **Governance**

The development application has been considered in accordance with the LEP, the Environmental Planning and Assessment Act 1979 and any matters relevant to the proposal.

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#### **RELATIONSHIP TO CORPORATE PLANS**

Operational Plan 2019/20: OP168 Assess and certify applications related to development.

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#### **COUNCIL BUDGET IMPLICATIONS**

The financial implications of Council's decision in this matter are directly related to the legal implications. The possibilities are detailed as follows:

- Should the applicant choose to appeal a refusal, or pursue a deemed refusal, by Council through the Land and Environment Court and lose, the question of cost with regard to Council's legal representation would be determined by the extent of the reasons for refusal;
- Should the applicant choose to appeal a refusal, or pursue a deemed refusal, by Council through the Land and Environment Court and win, the question of cost would be dependent upon the extent of the reasons for refusal;
- Should any person choose to take out Class 4 proceedings against Council to the Land and Environment Court and lose, the question of cost with regard to Council's legal representation would be calculated at the appropriate time;
- Should any person choose to take out Class 4 proceedings against Council to the Land and Environment Court and win, the question of cost would still be calculated at the appropriate time;
- Should the applicant make no appeal, or proceedings not be taken out by another party, to the Land and Environment Court regardless of the determination, the application would result in no further financial implication to Council.

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#### **RELATED COUNCIL POLICY**

An assessment of the proposal has been made against the *Wingecarribee Local Environmental Plan 2010*, *State Environmental Planning Policy No. 55 – Remediation of Land*, *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011* and the Bowral Town Plan Development Control Plan.

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#### **OPTIONS**

The options available to Council are:

##### **Option 1**

Approve the Application subject to conditions as included in Attachment 1 of the report.

## **Option 2**

Refuse the application (Council will be required to provide reasons for refusal).

Option 1 is the recommended option to this report.

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## **CONCLUSION**

DA17/1822.04 seeks consent for Stage 2A of Concept Consent DA17/1822 for 28 self-care seniors housing dwellings, 2-18 Centennial Road, Bowral.

All relevant matters have been addressed, and/or conditions imposed to ensure that any potential impacts are negated by way of recommended conditions or highlighted as requirements for future development applications. On balance, it is considered that this report adequately addresses the impacts of the development in terms of the proposal's consistency with the Concept Consent, suitability of the site, services and utilities, ecology, and the other areas identified above.

The development application has been assessed in accordance with the matters for consideration under sections 4.15 and 4.22 of the *Environmental Planning & Assessment Act 1979*, and all relevant environmental planning instruments and Council policies, and is considered to comply with all relevant items. It is recommended that the development application be approved, subject to appropriate conditions including those identified in the assessment.

Issues raised in submissions have been examined, considered and commented upon. The proposal is considered to be in the public interest.

It is recommended the application be determined by way of approval, subject to the conditions nominated in **Attachment 1**.

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## **ATTACHMENTS**

1. Attachment 1 - Draft Conditions of Consent
2. Attachment 2 - Layout of Concept Development Consent
3. Attachment 3 - Stage 2A



13 December 2019

WATERBROOK BOWRAL PTY LIMITED  
 LEVEL 8  
 43 BRIDGE STREET  
 HURSTVILLE NSW 2220

**NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION**

Pursuant to section 4.16 of the Environmental Planning and Assessment Act 1979

|                                 |  |
|---------------------------------|--|
| <b>APPLICATION NO:</b>          | 17/1822.04   |
| <b>APPLICANT:</b>               | WATERBROOK BOWRAL PTY LIMITED  |
| <b>OWNER:</b>                   | WATERBROOK BOWRAL PTY LIMITED  |
| <b>PROPERTY DESCRIPTION:</b>    | Lot 1 DP 1101892<br>Lot 2 DP 1101892<br>Lot 4 DP 1109214<br>Lot 5 DP 1109214<br>Lot 6 DP 1109214<br>Lot 7 DP 1109214<br>Lot 8 DP 1109214<br>Lot 9 DP 1109214<br>Lot 10 DP 1109214<br>Lot 11 DP 1109214 |
| <b>PROPERTY ADDRESS:</b>        | 2-18 CENTENNIAL ROAD BOWRAL NSW 2576   |
| <b>PROPOSED DEVELOPMENT:</b>    | Stage 2A of Concept Consent for Seniors Housing  |
| <b>DETERMINATION:</b>           | Determined by granting of APPROVAL.  |
| <b>CONSENT TO OPERATE FROM:</b> | 13 December 2019   |
| <b>CONSENT TO LAPSE ON:</b>     | 13 December 2024   |

**Rights of Appeal**

Pursuant to Section 8.7 of the *Environmental Planning and Assessment Act 1979*, an applicant for development consent who is dissatisfied with the determination of the application by Council authority may appeal to the Court against the determination. Pursuant to Section 8.10, an appeal may be made only within 6 months after the date the decision appealed against is notified.

**Review of Determination**

You have the right to request a review of determination under section 8.2 of the *Environmental Planning and Assessment Act 1979*, subject to the provisions of Division 8.2 Reviews.





Nicholas Wilton  
**Group Manager**  
 Planning Development and Regulatory  
 Services

13 December 2019  
**Date of Determination**

**STAGE 2A CONDITIONS OF CONCEPT DEVELOPMENT CONSENT 17/1882**

**ADMINISTRATION CONDITIONS**

**1. Development Description**

Development consent has been granted in accordance with this Notice of Determination for Stage 2A for Seniors Housing pursuant to section 4.22 of the *Environmental Planning and Assessment Act 1979*. Stage 2A of Concept and Stage 1 Consent (DA17/1882) is as follows:

Stage 2A the construction of twenty eight (28) self-contained seniors housing dwellings together with associated access and infrastructure.

**Reason:** *To confirm the use of the approved development.*

**Reason:** *To ensure the development is carried out in accordance with the approved plans and documentation.*

**2. Separate Development Approvals**

The Developer shall seek separate development consent for the purposes of Stage 2B (as per Condition 1) of the Concept and Stage 1 Consent DA17/1822.

**Reason:** *To control the future development of the site.*

**3. Development in Accordance with the Plans and Documents**

The development shall be implemented in accordance with the approved plans and supporting documents set out in the following table except where modified by any conditions of development consent.

| Plan Title / Supporting Document | Reference / Version         | Prepared By       | Dated      |
|----------------------------------|-----------------------------|-------------------|------------|
| Compliance Statement             | Compliance Statement_211217 | Marchese Partners | undated    |
| Cover Sheet                      | 16104 DA.G.0.00 Rev J       | Marchese Partners | 11/09/2018 |
| Site Analysis                    | 16104 DA.S.1.02 Rev F       | Marchese Partners | 11/09/2018 |



|                                |                          |                                    |            |
|--------------------------------|--------------------------|------------------------------------|------------|
| Demolition Plan                | 16104 DA.S.1.04 Rev F    | Marchese Partners                  | 11/09/2018 |
| Proposed External Lighting     | 18008                    | Altura Solutions                   | 15/11/2019 |
| Staging Plan – DA Stage-2A     | 16104 DA.M.1.03<br>Rev I | Marchese Partners                  | 12/02/2019 |
| Combined Elevations            | 16104 SK.0.00 B          | Marchese Partners                  | 03/07/2019 |
| Villa Type A                   | 16104 DA.H.1.01<br>Rev F | Marchese Partners                  | 11/09/2018 |
| Villa Type A.1                 | 16104 DA.H.1.02<br>Rev F | Marchese Partners                  | 11/09/2018 |
| Villa Type B                   | 16104 DA.H.1.03<br>Rev F | Marchese Partners                  | 11/09/2018 |
| Villa Type C                   | 16104 DA.H.1.04<br>Rev F | Marchese Partners                  | 11/09/2018 |
| Villa Type C.1                 | 16104 DA.H.1.05<br>Rev F | Marchese Partners                  | 11/09/2018 |
| Villa Type D                   | 16104 DA.H.1.06<br>Rev F | Marchese Partners                  | 11/09/2018 |
| Villa Type D.1                 | 16104 DA.H.1.07<br>Rev F | Marchese Partners                  | 11/09/2018 |
| Villa Type E                   | 16104 DA.H.1.08<br>Rev H | Marchese Partners                  | 03/04/2019 |
| External View                  | 16104 DA.H.2.01<br>Rev F | Marchese Partners                  | 11/09/2018 |
| Solar Access Statement Stage 2 | Steve Zappia             | Marchese Partners International PL | 15/11/2019 |
| Material Board                 | 16104 DA.H.2.02<br>Rev F | Marchese Partners                  | 11/09/2018 |



|   |                          |                                  |            |
|---|--------------------------|----------------------------------|------------|
| Adaptable Units Type A&A.1  | 16104 DA.H.3.01<br>Rev F | Marchese Partners                | 11/09/2018 |
| Adaptable Units Type B, C&C.1                                     | 16104 DA.H.3.02<br>Rev F | Marchese Partners                | 11/09/2018 |
| Adaptable Units Type D&D.1  | 16104 DA.H.3.03<br>Rev F | Marchese Partners                | 11/09/2018 |
| Access Assessment Report  | 108893-Access-r2/mk      | BCA Logic                        | 15/12/2019 |
| Title Sheet and Locality Plan                                     | 16104 DA-C-001<br>Rev P  | Marchese Partners Engineering PL | 24/04/2019 |
| Legend, Abbreviations and drawing List                            | 16104 DA-C-002<br>Rev M  | Marchese Partners Engineering PL | 08/03/2019 |
| General Notes   | 16104 DA-C-003<br>Rev M  | Marchese Partners Engineering PL | 08/03/2019 |
| Survey Plans  | 16104 DA-C-004<br>Rev M  | Marchese Partners Engineering PL | 08/03/2019 |
| Civil Works Erosion and Sediment Control Plan – Sheet 1           | 16104 DA-C-011<br>Rev N  | Marchese Partners Engineering PL | 08/03/2019 |
| Civil Works Erosion and Sediment Control Plan – Sheet 3           | 16104 DA-C-013<br>Rev N  | Marchese Partners Engineering PL | 08/03/2019 |
| Civil Works Erosion and Sediment Control Details                  | 16104 DA-C-021<br>Rev N  | Marchese Partners Engineering PL | 08/03/2019 |
| Site Works Site Plan  | 16104 DA-C-100<br>Rev Q  | Marchese Partners Engineering PL | 03/04/2019 |
| Site Works Site Grading and bulk earthworks levels Plan – Sheet 1 | 16104 DA-C-101<br>Rev Q  | Marchese Partners Engineering PL | 08/03/2019 |
| Site Works Site Grading and bulk earthworks levels Plan – Sheet 3 | 16104 DA-C-103<br>Rev R  | Marchese Partners Engineering PL | 14/12/2017 |



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| Civil Works Internal Roads Longitudinal Sections – Sheet --4    | 16104 DA-C-122-124<br>Rev N     | Marchese Partners Engineering PL | 14/12/2017 |
| Civil Works Internal Roads Longitudinal Sections–Sheets 2,3,4,8 | 16104 DA-C-122-124,128<br>Rev N | Marchese Partners Engineering PL | 08/03/2019 |
| Civil Works Typical Road cross sections                         | 16104 DA-C-130<br>Rev P         | Marchese Partners Engineering PL | 08/03/2019 |
| Civil Works internal Roads Cross Sections – Sheet 7-12          | 16104 DA-C-137-142<br>Rev N     | Marchese Partners Engineering PL | 08/03/2019 |
| Civil Works Typical Road Cross Sections                         | 16104 DA-C-151<br>Rev A         | Marchese Partners Engineering PL | 17/04/2019 |
| Civil Works Bulk Earthworks Site Sections – Sheet 1-3           | 16104 DA-C-161-163<br>Rev M     | Marchese Partners Engineering PL | 08/03/2019 |

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|--|------------------------------|----------------------------------|------------|
| Civil Works Site Stormwater Drainage Plan – Sheet 1,3    | 16104 DA-C-201, 203<br>Rev N | Marchese Partners Engineering PL | 08/03/2019 |
| Civil Works Site Stormwater Catchment Plan – Sheet 1,3   | 16104 DA-C-2051207<br>Rev A  | Marchese Partners Engineering PL | 08/03/2019 |
| Civil Works Stormwater Longitudinal Sections – Sheet 1-6 | 16104 DA-C-221-226<br>Rev A  | Marchese Partners Engineering PL | 08/03/2019 |
| Title Page   | 1080 L00<br>Rev E            | Site Design + Studios            | 25/04/2019 |
| Design Intent  | 1080 LP01<br>Rev E           | Site Design + Studios            | 25/04/2019 |
| Landscape Masterplan                                     | 1080 LP02<br>Rev F           | Site Design + Studios            | 03/04/2019 |
| Stage 2 to EEC   | 1080 L16                     | Site Design + Studios            | 18/11/2019 |
| Planting Schedule  | 1080 LP09                    | Site Design + Studios            | 25/04/2019 |



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|   | Rev E                       |  |                |
| Typical Details   | 1080 LP10<br>Rev E          | Site Design + Studios                  | 25/04/2019     |
| Existing tree plan  | 1080 LP11<br>Rev G          | Site Design + Studios                  | 03/04/2019     |
| Statement of Environmental Effects                        | SEE Seniors Housing Stage 2 | Lee Environmental Planning             | July 2019      |
| Stormwater Management Report                              | 2017-1356<br>Rev C          | Marchese Partners Engineering          | 10/09/2018     |
| Arboricultural Impact Assessment                          | 18SUT-11544 V6              | Eco Logical Australia                  | 18/04/2019     |
| Assessment of Environmental Constraints and Opportunities | -                           | Anne Clements & Associates Pty Limited | 19/12/2017     |
| Vegetation Management Plan                                | -                           | Anne Clements & Associates Pty Limited | 19/09/2018     |
| Threatened Species Test of Significance – Stages 1 and 2  | -                           | Anne Clements & Associates Pty Limited | 18/01/2019     |
| Waste Management Plan                                     | -                           | Waste Audit                            | September 2018 |
| Access Assessment Report                                  | 108893-Access-r2            | BCA Logic                              | 15/11/2019     |
| NCC Section J report                                      | 1971                        | BCA Energy                             | 21/12/2017     |
| Detailed Site Investigation                               | 10025626RP01 Rev 2          | Arcadis                                | 21/03/2019     |
| Hazardous Materials Survey                                | E23933.E10_Rev0             | EI Australia                           | 19/07/2018     |
| Flood Assessment Report                                   | J1802_R3                    | FloodMit                               | Sep 2018       |
| Heritage Covering Letter                                  | -                           | Paul Davies Pty Ltd                    | 20/12/2017     |
| Heritage Assessment Report                                | Draft                       | Paul Davies Pty Ltd                    | Dec 2012       |



|   |                            |                                  |            |
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| Concept Construction Management Plan annotated by Waterbrook Bowral | 16104 JRPP-STG-00          | Waterbrook Bowral                | 13/02/19   |
| Stage 2A villa numbers plan   | DA.M.1.01 H                | Waterbrook Bowral                | 2019/02/12 |
| Aboriginal Heritage   | Letter prepared Lance Syme | Kayandel Archaeological Services | 18/11/2019 |
| Aboriginal Heritage Assessment Report                               | -                          | Kayandel Archaeological Services | Sept 2018  |

**Reason:** To ensure the development is carried out in accordance with the approved plans and documentation.

#### 4. Inconsistency between Documents

In the event of any inconsistency between the conditions of this consent and the drawings/documents referred to above, the conditions of this consent shall prevail to the extent of the inconsistency.

**Reason:** To ensure that the development is undertaken in accordance with the submitted plans and documents (as amended)

#### 5. Compliance with *Disability Discrimination Act 1992*

This approval does not protect or guarantee against a possible claim of discrimination (intentional or unintentional) under the *Disability Discrimination Act 1992*, and the applicant/owner is therefore advised to investigate their liability under this Act.

**Reason:** To inform of relevant access requirements for persons with a disability.

**Note:** *Disability (Access to Premises - Buildings) Standards 2010 -As of 1 May 2011, if access is provided to the extent covered by this Standard, then such access cannot be viewed as unlawful under the Disability Discrimination Act 1992.*

#### 6. Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989

(a) That the work must be carried out in accordance with the requirements of the National Construction Code.

(b) In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

**Reason:** The condition is prescribed under clause 98 of the *Environmental Planning and Assessment Regulation 2000*.



## 7. Erection of Signs

A sign must be erected in a prominent position on any site on which building work, is being carried out:

- (a) Showing the name, address and telephone number of the principal certifying authority for the work, and
- (b) Showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) Stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

**Reason:** *The condition is prescribed under clause 98A of the Environmental Planning and Assessment Regulation 2000.*

## 8. Notification of Home Building Act 1989 Requirements

- (1) Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
  - (a) In the case of work for which a principal contractor is required to be appointed:
    - (i) the name and license number of the principal contractor, and
    - (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
  - (b) In the case of work to be done by an owner-builder:
    - (i) the name of the owner-builder, and
    - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- (2) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (1) becomes out of date, further work must not be carried out unless the principal certifying authority (PCA) for the development to which the work relates (not being the council) has given the council written notice of the updated information.

**Reason:** *The condition is prescribed under Clause 98B of the Environmental Planning and Assessment Regulation 2000.*




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**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE**
**9. Application for a Construction Certificate (Building Works)**

The applicant shall apply to Council or an Accredited Certifier for a Construction Certificate to carry out the relevant building works in accordance with this consent. The details to be included in the application for a Construction Certificate are:

- (a) Architectural plans and building specifications complying with the National Construction Code (NCC) relevant Australian Standards (including AS4299) and the development consent and conditions.
- (b) If Council or a private accredited certifier issues the Construction Certificate, engineering details must be submitted for approval for all structural elements, including but not limited to, piers, footings, reinforced concrete slab, first floor joist layout, roof trusses, steel beams and the like. The details must be prepared by a qualified chartered professional practicing consulting structural engineer. Also a certificate from the engineer must be included certifying that the design fully complies with appropriate SAA Codes and Standards and the Building Code of Australia requirements.
- (c) Geotechnical report for the site, prepared by a qualified geotechnical engineer detailing the foundation conditions of the site and solutions for consideration by a structural Engineer.
- (d) Essential services plan outlining the existing and proposed fire safety measures.
- (e) Disabled access provisions to common and public areas in accordance with AS1428 Design for Access and Mobility and the Premises Code.
- (f) If an alternative solution to the “deemed to satisfy” provisions of National Construction Code is proposed, the following details must be lodged:
  - Performance requirements that the alternative solution intends to meet.
  - Assessment methods used to determine compliance with the performance requirements, including if and how each performance objective impacts on other requirements of the BCA; and
  - A statement about the person who prepared the alternate solution, indicating qualifications, experience, insurance details, and membership of an approved accreditation body

**Reason:** *A requirement under the provisions of the Environmental Planning and Assessment Act 1979.*

**Note:** *Construction work may only commence upon the issue of a Construction Certificate, appointment of a Principal Certifying Authority (PCA), and lodgement of Notice of Commencement.*

**Note:** *Please note that if demolition works forms part of the extent of works approved in the same application, then demolition must not commence prior to the issue of a Construction Certificate.*





## 10. Appointment of Principal Certifying Authority

No work shall commence in connection with this Development Consent until:

- (a) A Construction certificate for the building work has been issued by:
  - (i) the consent authority; or
  - (ii) an accredited certifier; and
- (b) the person having the benefit of the development consent has:
  - (i) appointed a principal certifying authority for the building work, and
  - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
- (b1) the principal certifying authority has, no later than 2 days before the building work commences:
  - (i) notified the Council of his or her appointment, and
  - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- (b2) the person having the benefit of the development consent, if not carrying out the work as an owner builder, has:
  - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
  - (ii) notified the principal certifying authority of such appointment, and
  - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- (c) the person having the person having the benefit of the development consent has given at least 2 days' notice to the Council of the person's intention to commence the erection of the building.

**Reason:** *To ensure that there is certainty as to the consent applying to the land.*

## 11. Landscape and Open Space Plan, Riparian and Ecological Restoration Works

Prior to the issue of the Construction Certificate a Landscape and Open Space Plan shall be submitted to Council for approval which is consistent with the Landscape Master Plan and includes:

- Detailed landscaping for the subject stage including
  - Location of all existing and proposed landscape features including materials to be used;
  - Delineate and identify all trees to be retained, removed or transplanted;
  - Existing and proposed finished ground levels;
  - Detailed plant schedule which includes proposed species listed by botanical (genus and species) and common names, height and spread at maturity, quantities of each species, pot sizes and the estimated size at maturity;



- Pot size ant planting out stage
- Soil treatment prior to planting out, fertilizing and water maintenance schedule.
- Landscaping, design and screening of infrastructure such as electricity substations, taking into consideration easements and underground assets;
- Means of barrier protection between public places, vehicle access ways, parking areas and the surrounding landscaped areas, to prevent vehicular movement on any landscaped area;
- Detail of earthworks and landscaping structures to ensure the ongoing protection of the mapped Endangered Ecological Community located on the southern boundary of Stage 2A.
- All proposed passive/recreational open space areas.

**Reason:** *To ensure consistency with the Landscape Master Plan and protection of vegetation.*

## 12. Construction Traffic Management Plan

A Construction Traffic Management Plan (CTMP) is required to be submitted and approved by Council prior to issue of the Construction Certificate. The CTMP shall indicate measures to be implemented to protect the environment as well as public health, safety and convenience. The CTMP must include the following:

- a) Details of site security;
- b) Off-street parking for employees, contractors and sub-contractors.
- c) Site access for construction vehicles and equipment purposes involving details of site access from Centennial Road.
- d) Public safety in the use of roads and footpaths where development activities adjoin such facilities.
- e) The storage and removal, on a regular frequency, of builder's rubble and waste by trade waste contractors.
- f) Provision for loading and unloading materials;
- g) Location of all building materials, structures, plant and equipment to be stored or placed within the construction site;
- h) How materials are to be loaded/unloaded and potential impact on Council infrastructure (including but not limited to footpaths and street trees)
- i) Public risk policies and management for all contractors' employees using or gaining access over public footpaths and roads.
- j) External lighting and security alarms proposed for the construction site.
- k) Firefighting measures to be available on site during development and construction.
- l) Sanitary amenities proposed on site during development and construction.



m) Ensuring the safety of members of the public and Council staff who may have occasion to enter and be in attendance on the site;

n) Details of management of storm water run-off and the propose sediment and erosion control measures including the location of any rubble grids;

o) Details of any air and dust management;

p) Details of noise and vibration controls;

q) Anticipated staging and duration of works

r) Provision of Traffic Management Plan (TMP) and Traffic Control Plans (TMP)

**Reason: To ensure the safety, amenity and protection of public infrastructure and the environment.**

### 13. Appearance of Development

A materials board shall be submitted and approved by Council prior the issue of the construction Certificate demonstrating each Stage 2A's consistency with that approved for Stage 1.

*Reason: To ensure the materials, colours and finishes of new buildings are compatible with new buildings on the site and the general character of the neighbourhood.*

### 14. Stormwater - Control of Peak Discharge

Adequate and suitable infrastructure shall be provided to ensure the peak discharge from the site is no greater than the pre-developed peak discharge. This infrastructure shall be designed in accordance with Council's Engineering Policies and consistent with Concept and Stage 1 Consent. Calculations to demonstrate that the post-development peak discharge will not exceed the pre-development peak discharge shall be submitted and approved by council prior to the issue of the construction certificate.

**Reason:** *To ensure the peak discharge from the site is no greater than the predeveloped peak discharge.*

### 15. Outdoor Lighting Plan

An Outdoor Lighting Plan shall be submitted to and approved by the PCA prior to the issue of a construction certificate which is consist with the Concept Outdoor Lighting Plan dated 15 November 2019. The Plan shall demonstrate sound compliance with Part A Section 10 of the Bowral Development Control Plan and pedestrian area lighting in accordance with AS/NZS 1158.3.1 (category P).

**Reason:** *To ensure compliance with the Bowral Development Control Plan.*

### 16. Access for People with Disabilities

Access for people with disabilities shall be provided in accordance with the requirements of the Building Code of Australia, relevant Australian Standards and with regard to the *Disability Discrimination Act 1992*.



Prior to the issue of a Construction Certificate, the plans shall demonstrate compliance.

**Note:** *Disability (Access to Premises - Buildings) Standards 2010 - As of 1 May 2011, if access is provided to the extent covered by this Standard, then such access cannot be viewed as unlawful under the Disability Discrimination Act 1992.*

**Reason:** *To inform of relevant access requirements for persons with a disability.*

#### 17. Continuous Accessible path design plan

A plan demonstrating provision of a continuous, accessible pedestrian pathway network compliant with *AS/NZ Standard 1428.4.1 (2009) Design for Access and Mobility* is to be submitted for approval by the Principal Certifying Authority prior to the issue of the Construction Certificate. The continuous accessible pathway shall provide links between all accessible dwellings and all communal facilities. At any point where the accessible path crosses the internal roadway, details of the crossing are to be indicated on the plans submitted with the Construction Certificate. Where a pathway runs adjacent to an internal roadway it is to be safely separated from that roadway in a manner consistent with *AS/NZ Standard 1428.4.1 (2009) Design for Access and Mobility* and details are to be indicated on the plans submitted with the Construction Certificate to the satisfaction of the Principal Certifying Authority.

**Reason:** *To ensure the provision of safe accessible pathways throughout the site.*

#### 18. Aboriginal Cultural Heritage Assessment

Prior to the issue of a Construction Certificate or any earthworks, whichever comes first, the following requirements must be satisfied to ensure appropriate investigations have occurred in respect of Aboriginal Cultural Heritage that may exist within the site. Assessment is to occur over the entire site footprint, with particular focus on areas where development works are envisaged to occur. This assessment shall include:

- An updated archaeological survey in accordance with OEH guidelines be conducted.
- Test excavations in accordance with OEH guidelines are required.
- Test excavations should be conducted at an early stage to provide certainty about the Aboriginal heritage management requirements.
- The test excavations for Stage 2A must occur before any ground disturbance or issue of the first construction certificate, whichever occurs earlier.
- Aboriginal community consultation in accordance with OEH guidelines must occur before starting test excavations.
- No harm to Aboriginal objects may occur unless an Aboriginal Heritage Impact Permit has been issued by OEH.
- The applicant must develop measures to avoid and prevent harm to Aboriginal objects through the proposed works.
- If Aboriginal objects are found during works, the work must stop and OEH must be contacted by calling 131 555.

**Reason:** *A requirement under the National Parks and Wildlife Act 1974*



## 19. Section 68 *Local Government Act 1993* Approvals

Prior to the issue of a Construction Certificate, an application under section 68 of the *Local Government Act 1993* shall be made to, and issued by, Wingecarribee Shire Council, for the following approvals:

- Water Supply works
- Storm water drainage works
- Sanitary Drainage works

**Reason:** *A requirement under the provisions of the Local Government Act 1993.*

## 20. Section 7.11 Contributions (formerly Section 94 Contributions)

Under section 7.11 of the *Environmental Planning and Assessment Act 1979* (as amended), Council has satisfactorily determined that Development Contributions are applicable to this development consent, as the development is likely to require the provision of, or increase the demand for, public amenities and public services within the Wingecarribee Local Government Area.

The following Wingecarribee Shire Council Section 7.11 Developer Contributions Plans are applicable to the development:

- Roads & Traffic Management Facilities
- Open Space, recreation, culture and community
- Central Library
- Resource Recovery Centre 2009
- Section 94 Administration 2011 to 2031

A "Developer Charges – Notice of Payment" is attached to the back of this consent, and outlines monetary contributions and unit rates applicable at the time of issue of this consent. The contributions listed in the Notice of Payment must be paid prior to the issue of the Construction Certificate.

All contributions are indexed quarterly in accordance with upward movements in the Consumer Price Index (All Groups, Sydney) as published by the Australian Bureau of Statistics ([www.abs.gov.au](http://www.abs.gov.au)); Section 251 of the *Environmental Planning and Assessment Regulation 2000*; and Council's Developer Contributions Plans.

**Note:** *Copies of the Contributions Plans are available at Wingecarribee Shire Council's Administration building Moss Vale or are available for download from Council's website [www.wsc.nsw.gov.au](http://www.wsc.nsw.gov.au).*

**Note:** *Payment of the attached contributions is to be by BANK CHEQUE OR CASH and is to be accompanied by the attached sheet entitled "Notice of Payment – Developer Charges & Section 94". Should the Applicant pay by personal or company cheque the plans subject to this approval will not be available for collection until such time as the cheque has been honoured (i.e. a minimum of 10 days).*

**Reason:** *To retain a level of service for the existing population and to provide the same level of service to the population resulting from new developments.*



**21. Water Management Act - Certificate of Compliance**

A Certificate of Compliance under Division 5 of Part 2 of Chapter 6 of the *Water Management Act 2000* shall be obtained **prior to the issue of Construction Certificate**.

**Note:** *Section 64 of the Local Government Act 1993 authorises Council to issue Certificates of Compliance under Section 306 of the Water Management Act 2000. Section 64 of the Local Government Act 1993 also authorises Council to impose pre-conditions to the issuing of Certificates of Compliance.*

As a precondition to the issuing of a Certificate of Compliance Council requires the payment of Developer Charges **prior to the issue of Construction Certificate** as prescribed by Wingecarribee Shire Council’s Development Servicing Plans:

- Water Supply Development Servicing Plan;
- Sewerage Development Servicing Plan; and
- Stormwater Development Servicing Plan.

A developer Charges - Notice of Payment is attached to the back of this consent and outlines monetary contributions and unit rates applicable at the time of issue of this consent.

The water, sewer and stormwater headworks levies are indexed quarterly in accordance with upward movements in the Consumer Price Index (All Groups, Sydney) as published by the Australian Bureau of Statistics ([www.abs.gov.au](http://www.abs.gov.au) <<http://www.abs.gov.au>>); and Council’s Development Servicing Plans.

Copies of Development Servicing Plans are available at Wingecarribee Shire Council’s Administration building Moss Vale or are available for download from Council’s website [www.wsc.nsw.gov.au](http://www.wsc.nsw.gov.au) <<http://www.wsc.nsw.gov.au>>.

The Water and Sewerage Development Servicing Plans (DSP’s) were adopted by Council on 15 September 2017. The Stormwater DSP was adopted on 9 November 2010 and came into effect on 8 December 2010. The current charges under these Plans are listed as follows:

| CPI Period   | Water DSP          | Sewer DSP          | Stormwater DSP    |
|--|--------------------|--------------------|-------------------|
| To 31 January 2020   | \$11,077.43 per ET | \$10,739.17 per ET | \$3,626.22 per ET |
| Note: The charges shown above are amounts applicable during the stated time period. These amounts will be subject to adjustment quarterly in accordance with upward movements in the Consumer Price Index (CPI) once they become operational. The CPI is published quarterly by the Australian Bureau of Statistics, <a href="http://www.abs.gov.au">www.abs.gov.au</a> < <a href="http://www.abs.gov.au">http://www.abs.gov.au</a> >. |                    |                    |                   |

Should new DSP’s be prepared, it is possible that the charges may increase significantly. Draft DSP’s must be advertised by Council for a period of 30 days prior to adoption.

**Note:** *Payment of the above charges is to be by BANK CHEQUE OR CASH and is to be accompanied by the attached sheet entitled "Notice of Payment - Developer Charges & Section 7.11". Should the Applicant pay by personal or company cheque the plans subject to this approval will not be available for collection until such time as the cheque has been honoured (i.e., a minimum*



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of 10 days).

### Compliance Certificate

Compliance Certificate fees, in accordance with Council's Revenue Policy are as follows and shall be paid prior to the issue of Construction Certificate:-

Water \$250.00 + Sewer \$250.00 + Stormwater = \$750.00

Prior to final release, you will need to contact Council's Infrastructure Services Division for an inspection to ensure that Council will accept the infrastructure constructed. In response the Manager of Water and Sewer will specify requirements which will have to be met.

In the case of subdivision, the title plan of subdivision will not be certified and released by Council until the *Water Management Act 2000* charges have been paid and/or secured and the approval of Council has been obtained for all works related to this infrastructure.

In the case of other forms of development, the Construction Certificate will not be issued until the *Water Management Act 2000* charges have been paid and/or secured and the approval of Council has been obtained.

**Reason:** *To retain a level of service for the existing population and to provide the same level of service to the population resulting from new developments.*

### 22. Energy Service Provider Requirements

Documentary evidence shall be provided from the Energy Service Provider qualifying that the requirements of that provider have been obtained.

**Reason:** *To ensure appropriate infrastructure is provided to the development.*

### 23. Aboriginal Cultural Heritage

For Stage 2A it shall be demonstrated that all requirements for the protection of Aboriginal Cultural Heritage has been fulfilled. **Condition 33 of the Concept Consent** requires that a full Aboriginal Cultural Heritage Assessment for the entire site be undertaken before a Construction Certification be issued for Stage 1 works. All findings from this assessment that relates to Stage 2A should be adopted in full, with all possible measures employed to ensure that Aboriginal Heritage is appropriately managed and protected.

**Reason:** *To ensure Aboriginal Heritage is protected*

### 24. Structural Engineer's Details

Structural engineering plans are to be prepared by an experienced professional chartered practicing Structural Engineer for the following work shall be lodged with the Principal Certifying Authority and approved prior to commencing the works in accordance with a Construction Certificate:

- (a) retaining walls.
- (b) the existing structure is to be certified as being structurally adequate to carry out the proposed additional loadings.



**Advice:** *The name, address and qualifications of the practising Structural Engineer certifying the design shall be clearly indicated on the plans and any accompanying documentation. Such engineer is to hold qualifications appropriate to the project as defined in the Building Code of Australia. The design shall relate to the particular site.*

**Advice:** *Any such Certificate is to set forth the extent to which the Engineer has relied on relevant Specifications, Rules, Codes of Practice or Publications in respect of the construction.*

**Reason:** *To ensure the structural integrity of the building is achieved.*

## 25. Provision of Works and Services

Prior to the issue of the Construction Certificate the Developer shall obtain approval for the works to be undertaken by submitting adequate documentation including plans, standard notes and completed design checklists, calculations and specifications, to Council which justify that the proposed works are in accordance with all Council's standards and all other relevant Codes and guidelines.

**Reason:** *Statutory requirement.*

## 26. Detailed Stormwater Drainage System Design

Prior to the issue of the Construction Certificate, a detailed storm water hydraulic drainage plan consistent with Concept and Stage 1 Consent for the disposal of storm water from the site, prepared in accordance with Council's Design Standards shall be submitted and approved by Council's Development Engineer.

Should any changes be required to the approved storm water drainage plan, the amended design shall achieve equivalent performance standards in accordance with Design Specifications.

**Note:** *Construction Certificate Approval does not include approval for works external to the property or civil works.*

Where the proposed design extends beyond the property boundary, separate approval under section 138 of the *Roads Act 1993*, must be obtained from Council prior to the commencement of works.

The applicant is advised to contact Council for clarification of proposed works for which approval under Section 138 of the *Roads Act 1993* applies.

**Reason:** *To ensure adequate storm water management.*

## 27. Road and Shared Footpath Design - Site Access and Movement

The road shall be designed to accommodate the turning movements of the largest vehicle accessing the development. The road design shall incorporate the following:

- (a) The site shall accommodate the turning movements and clearance envelope of a 12.5m pantech vehicle.





- (b) Access for emergency vehicles requires assessment and approval from Agencies, especially NSW Fire Brigade.
- (c) No vehicles over 12.5m to access the site.
- (d) Vehicle swept paths up to 8.8m service vehicle to manoeuvre through the site without encroaching on opposing vehicle paths.
- (e) The vehicle swept path shall be reflected on the engineering design plans at a suitable scale to enable clear assessment.
- (h) Maximum number of movements in a cul-de-sac for the largest vehicle accessing the site is a three (3) point turn with no encroachment beyond the kerb line.

**Reason:** *To ensure that the site access and movement corridors are constructed to Council requirements.*

## 28. Internal Access Roads

Internal Roads shall be designed in accordance with the Council specifications (or AS/NZS 2890.1-2004; Austroads Guide to Road Design) in terms of minimum width and in accordance with the swept path analysis and internal road layouts indicated on the plans submitted with the Construction Certificate to the satisfaction of the Principal Certifying Authority prior to the issue of the Construction Certificate.

The size of all roundabouts and turning cul de sacs and turning heads within the site should enable the largest vehicle to manoeuvre using one turn point (for turning circles and cul de sacs) and two movements for turning heads. Fully dimensioned details design of all roundabouts, cul de sacs and turning heads are to be included in the engineering design plans submitted with the Construction Certificate to the satisfaction of the Principal Certifying Authority.

**Reason:** *To ensure internal roads are constructed consistent with Council's requirements and relevant standards.*

## 29. Off Street Parking Provision - General

All off-street car parking spaces suitably marked in accordance with the approved plans (unless elsewhere specified) shall be provided. Each space shall have minimum dimensions in accordance with Australian Standard AS2891.1 Off Street Car Parking.

Any garage must have a power-operated door, or there must be a power point and an area for motor or control rods to enable a power-operated door to be installed at a later date.

5% of the total number of car parking spaces must be designed to enable the width of the spaces to be increased to 3.8 metres.

Details shall be submitted to the Accredited Certifier prior to the issue of a Construction Certificate showing compliance with this condition.

**Reason:** *To ensure adequate parking and access.*



### 30. Water and Sewer Authority Conditions

Prior to issue of a Construction Certificate, the developer shall obtain approval from Council (as the Water Supply Authority and/or as required under Section 68 of the Local Government Act 1993) for the works to be undertaken by submitting adequate documentation including plans, calculations and specifications which justify that the required works are in accordance with all Council's standards and all other relevant codes and guidelines.

Recommendations within Water & Sewer Development Assessment OLSH Seniors Living Report dated 2/3/2018 shall be included in the scope of the Section 68 application.

**Reason:** *To ensure water and sewer reticulation are in accordance with Council's standards.*

### 31. Telecommunications Provider / Gas Provider

Prior to the issue of the Construction Certificate, the applicant shall obtain the requirements of the Telecommunications Service / Gas Provider to service the development.

**Note:** *The Developer is also advised to contact the National Broadband Network Company Ltd (NBN) in regard to the installation of fibre in all new developments.*

**Reason:** *To ensure that telephone and gas infrastructure is provided to service the development.*

### 32. Energy Service Provider Requirements

The provision of underground electricity to service the development in accordance with the requirements of the Energy Service Provider. The Developer prior to release of a Construction Certificate shall submit to Council documentary evidence from the Energy Service Provider qualifying that the requirements of that provider have been obtained. The requirements of the supply authority will need to be met prior to the issue of the Occupation Certificate or Subdivision Certificate.

**Reason:** *To ensure appropriate infrastructure is provided to the development.*

### 33. Demolition and Construction Waste Management Plan

A Waste Management Plan shall be completed and submitted to Council for approval, prior to the issue of the Construction Certificate for the development.

Requirements of the approved Waste Management Plan shall be complied with during site preparation and throughout demolition and construction. Waste management and its storage must not pose a threat to public health or the environment.

**Reason:** *To minimise the amount of waste going to landfill.*

### 34. Erosion and Sediment Control Plan

An Erosion and Sediment Control Plan shall be prepared in accordance with "Landcom's Blue Book" for sedimentation and erosion control plan by a suitably qualified person, and



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approved by Council prior to issue of the Construction Certificate.

The Erosion and Sediment Control Plan shall include scaled drawings and detailed specifications which can be referred to onsite by project management staff or project construction supervisor. Items to be shown on the Plan shall include:

- (a) Locality of the site, a north point and scale.
- (b) Existing contours of the site including catchment area boundaries and indications of direction of fall.
- (c) Location of and basic description of existing vegetation.
- (d) Diversion of uncontaminated up-slope run-off around the disturbed sites.
- (e) Location of significant natural areas requiring special planning or management including waters, floodplains, seasonally wet areas, areas prone to ponding/water logging, unstable slopes etc.
- (f) Nature and extent of earthworks, including cut and fill roadworks.
- (g) Location of all soil and material stockpiles.
- (h) Location of site access, proposed roads and other impervious areas.
- (i) Potential for the development of acid sulphate soil.
- (j) Existing and proposed drainage patterns.
- (k) Location and type of proposed erosion and sediment control measures.
- (l) Site rehabilitation proposals, including final contours.
- (m) Time of placement of sediment controls.
- (n) Staging of works and how the plan is to be implemented for each stage or activity on site.
- (o) Maintenance schedule.

**Reason:** *To minimise soil erosion and sediment movement during construction.*

### 35. Protection of Existing Trees and Native Vegetation

Prior to the issue of any Construction Certificate, trees and native vegetation proposed for retention and those approved for removal must be clearly identified on all the final engineering and landscaping plans. All fenced tree protection areas must be clearly marked as "No Go Area" on all plans. The location of any threatened species, endangered populations or ecological communities must also be marked on all plans.

**Reason:** *To clearly articulate trees and vegetation to be removed and retained.*



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**36. Detailed Landscape Plan**

A detailed Landscape Plan prepared by a suitably qualified professional to a scale of 1:100 or 1:200, conforming to all relevant conditions of consent and consistent with the approved plans shall be submitted to Council for approval prior to the issue of the Construction Certificate.

The plan shall include the following information:

- Location of all existing and proposed landscape features including materials to be used;
- Delineate and identify all trees to be retained, removed or transplanted;
- Existing and proposed finished ground levels;
- Top and bottom wall levels for both existing and proposed retaining and free standing walls and
- Detailed plant schedule which includes proposed species listed by botanical (genus and species) and common names, quantities of each species, pot sizes and the estimated size at maturity.
- Pot size at planting out stage
- Soil treatment prior to planting out, fertilizing and water maintenance schedule.

Consideration within the design should be given to the scale of planting in proportion to the proposed development, consistency with the existing landscape character of the area, potential views, solar access and privacy for neighbouring development.

The detailed Landscape Plan submitted with the Construction Certificate shall include detail of the regular inspection of grass swales and landscape strips adjacent to the internal vehicle access roads and commitments for regular maintenance (including grass cover and de-compaction of soils) and replacement of landscaping.

The Landscape Maintenance Schedule and Detailed Landscape Plan shall be included in the ongoing Operational Management Plan and landscaping shall be maintained at all times in accordance with these plans to ensure ongoing tree and landscaping retention, maintain the health of mature trees retained as part of this consent and protect and manage areas of Southern Highlands Shale Woodland and the riparian area in accordance with the approved Vegetation Management Plan.

**Reason:** *To ensure appropriate landscaping treatments are applied to facilitate amenity.*

**37. Contaminated Land Investigation Requirements**

The recommendation contained within the Stage 1 Preliminary Investigation of the site (Arcadis, Preliminary Site Investigation and limited Soil Sampling, 10025626RP01, Rev 1, Dated 8/10/2018) shall be extended to Stage 2A and carried out in accordance with the Managing Contaminated Land Planning Guidelines under State Environmental Planning Policy No. 55 - Remediation of Land and the *Contaminated Land Management Act 1997* and relevant Office of Environment and Heritage guidelines. These Required works shall be carried out by a suitably qualified environmental auditor and shall be submitted to Council prior to the issue of the Construction Certificate.

**Reason:** *Compliance with Statutory Requirements*



### 38. Contaminated Land Requirements

The recommendations contained within the Detailed Site Investigation Report by Arcadis, dated the 19th March 2019 shall be carried out as follows; the preparation of a Construction Environmental Management Plan (CEMP) and an Asbestos Management Plan (AMP) should be undertaken for Stage 2A.

The CEMP should include an unexpected finds protocol in the event that additional fill material, waste etc. is identified during construction/civil activities.

The fill material within the NPF berm should be either disposed of off-site, capped on-site or additional assessment undertaken to further understand the volume of asbestos.

On-site capping will require the preparation of an EMP that will sit with the property title.

These Required works shall be carried out by a suitably qualified environmental auditor and shall be submitted to Council prior to the issue of the Construction Certificate.

**Reason:** *Compliance with Statutory Requirements*

## CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORK

### 39. Notice of Commencement

No work shall commence until a notice of commencement (form will be attached with issue of a Construction Certificate or available from Council's website is submitted) giving Council:

- (a) Not less than two (2) days' notice of the date on which it is proposed to commence work associated with this Development Consent;
- (b) Details of the appointment of a Principal Certifying Authority (either Wingecarribee Council or another Accredited Certifier)
- (c) Details of the name, address and licence details of the Builder.

**Reason:** *Statutory requirement.*

**Advice:** *Attached Notice of Commencement form to be completed.*

### 40. Principal Certifying Authority Sign

Prior to commencement of any work, signage must be erected in a prominent position on the work site identifying:

- The Principal Certifying Authority (PCA) by showing the name, address and telephone number of the PCA;
- The Principal Contractor by showing the Principal Contractor's name, address and telephone number (outside of work hours) for that person.
- The sign must state that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the work is being carried out, but must be removed when the work has been completed.



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This clause does not apply to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

**Advice:** Where Council is the PCA, signage is available from Council.

**Reason:** Statutory requirement.

#### 41. Developers Representative during Construction of Works

A minimum of 48 hours prior to commencement of any construction works on site the Developer shall nominate to Council in writing their representative (Construction Supervisor) who will be responsible for all aspects of construction and site control, including Traffic Control, Sediment and Erosion Control and liaison with Council Officers and all other Authorities.

Details to be submitted include:-

- Name of Representative:
- Company:
- Position:
- Contact phone:
- Contact fax:
- After Hours Contact:
- Signature of Representative:
- Signature & Acceptance of representative by the Developer:
- Council requires that the nominated "Construction Supervisor" either hold qualifications acceptable for Corporate Membership of the Institute of Engineers, Australia, or be Approved by the Director and/or has proven experience and suitable relevant qualifications for the control, supervision and management of civil engineering works as required for carrying land development.

Prior to commencing any works on site the representative shall:

- Inform Council in writing of their intention 7 days before entering the site.
- Submit to Council a proposed Schedule of Works.

The Developer may be required to arrange for Council to peruse all other contract documentation prior to the contractor arriving on site to commence work (Schedule of Works, Specifications Bill of Quantity, traffic control plan and Soil and water management plan).

Failure to comply with the requirements as set out above will result in an immediate stop work order.

**Reason:** Statutory requirement.

#### 42. Approval Required for Work within Road Reserve – Section 138 Roads Act 1993

Where works are proposed within the road reserve, the Developer must obtain approval from Council (as the Roads Authority and / or as required under Section 138 of the Roads Act 1993) before any works are undertaken. Works within the road reserve may include activities such as erect a structure, dig up or disturb the surface of a public road, remove or interfere with a structure, or any other activities as defined within the Roads Act 1993.



The following details must be submitted to Council in order to obtain the Section 138 approval:

- A copy of approved design plans related to the development and proposed works to be undertaken.
- Traffic Control Plan (TCP) to provide protection for those within and adjacent to the work site, including the travelling and pedestrian public. The TCP must comply with the Roads and Traffic Authority's manual "Traffic Control at Work Sites". Warning and protective devices shall comply with the provisions of AS1742.3 – 2002 Traffic Control Devices for Works on Roads. The plan must be prepared and certified by a person holding the appropriate Roads and Traffic Authority accreditation, a copy of which is to be submitted with the plan.
- Insurance details – Public Liability Insurance to an amount of \$20 million, to be held by applicant / contractor undertaking the works.

**Advice:** *Where works are required within a Classified Road, the Developer must obtain the concurrence and / or the approval of the Roads and Traffic Authority for engineering design plans, Traffic Control Plans and approvals under Section 138 of the Roads Act 1993.*

**Reason:** *Statutory requirement.*

#### 43. Fencing of the Construction Site

A temporary hoarding or temporary construction site fence must be erected between the work site and adjoining lands before the works begin and must be kept in place until after the completion of the works if the works:

- (a) could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic, or
- (b) could cause damage to adjoining lands by falling objects, or
- (c) involve the enclosure of a public place or part of a public place.

**Reason:** *To ensure that the safety of the public is not compromised.*

#### 44. Developer to advise of damage to Council property

The developer must advise Council of any damage to property controlled by Council which adjoins the site including kerbs, gutters, footpaths, walkways, reserves, street trees, drainage pits and the like, prior to commencement of any work on the site. Failure to identify existing damage will result in all damage detected after completion of the building work being repaired at the developer/owners/proponents expense.

The construction supervisor is responsible to ensure that all contractors, sub-contractors, and delivery trucks use a designated access point to prevent damage to Council's property. Repairs to damaged grass verges, concrete footpath, kerb and gutter, street trees, drainage pits are to be carried out by the contractor/builder to Council's specification and supervision prior to occupation of the development.



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**Reason:** *Public safety.*

**45. Erosion and Sediment Control**

Erosion and sediment control measures (as per the approved Erosion and Sediment Control Plan) shall be installed prior to the commencement of works.

**Reason:** *To ensure that sediment does not leave the site as a result of the construction of the development.*

**46. Wheel Wash**

A vehicle wheel wash, cattle grid, wheel shaker or other appropriate device, shall be installed in accordance with the approved Erosion and Sediment Control Plan prior to the commencement of any site works, to prevent mud and dirt leaving the site and being tracked.

**Reason:** *To minimise soil being trucked off site.*

**47. Tree Protection Measures**

Protective fencing is to be installed around the tree to be retained in line with the dripline or per direction of the site arborist. This fencing is to be constructed of chain wire mesh 1.8m high, which is supported by steel stakes or piping and braced to resist impacts and as per the requirements detailed in AS4970-2009 "Protection of Trees on Development Sites", the installation of which is carried out under the supervision of the arborist.

**Note:** *Removal of the protective fencing during construction work will affect bonds and may result in fines or legal proceedings being instigated by Council against the applicant and/or builder.*

**Reason:** *To ensure the identified tree/s to be retained as appropriately protected*

**48. Protection of Trees**

Prior to any work commencing, certification of the installation and inspection of the required tree protection works is to be provided to Council and the Principal Certifying Authority by the arborist. A copy of the certificate is to be provided to Council within 7 days of the inspection and prior to any works commencing.

Prior to the commencement of construction the supervising Arborist is to mark out all trees and vegetation representative of the Southern Highlands Shale Woodlands (SHSW) located along the southern perimeter of Stage 2A which is to be retained. A registered surveyor in collaboration with the supervising Arborist shall then mark out a distance of 10m from the base of these identified trees for the location of protective fencing to physically separate all building and site preparation impact works from the trees and vegetation to be protected. Protective tree fencing is to be installed prior to the commencement of any approved works on site. Written verification of the installation of the protective fencing is to be provided jointly by the supervising Arborist and the registered surveyor and a copy of this verification retained by the Principal Certifying Authority. The protective fencing is to remain in place until the issue of the final Occupation Certificate at the completion of Stage 2A.

**Reason:** *To ensure the identified tree/s to be retained as appropriately protected.*





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## CONDITIONS TO BE SATISFIED DURING THE CONSTRUCTION PHASE

### 49. Approved Plans to be available on site

Endorsed Council approved plans, specifications, documentation and the consent shall be made available on site at all times during construction.

**Reason:** *To ensure compliance with approved plans.*

### 50. Imported 'Waste-derived' Fill Material

The only waste derived fill material that may be received at the development site is:

- Virgin excavated natural material within the meaning of the *Protection of the Environment Operations Act 1997* (POEO); or
- Any other waste-derived material the subject of a resource recovery exemption under cl.51A of the *Protection of the Environment Operations (Waste) Regulation 2014* that is permitted to be used as fill material

**Note:** *Any waste-derived fill material the subject of a resource recovery exemption received at the development site must be accompanied by documentation as to the material's compliance with the exemption conditions and must be provided to the Principal Certifying Authority.*

The application of waste-derived material to land is an activity that may require a licence under the *Protection of the Environment Operations Act 1997*. However, a licence is not required if the only material applied to land is virgin excavated natural material or waste-derived material that is the subject of a resource recovery exemption under cl.51A of the *Protection of the Environment Operations (Waste) Regulation 2005*.

Resource recovery exemptions are available on the NSW EPA website at <http://www.epa.nsw.gov.au/waste/>.

**Reason:** *To ensure that imported fill is of an acceptable standard for environmental protection purposes.*

### 51. Ground Levels

Natural ground levels shall not be altered or adjusted other than shown on the approved plans or where varied by the conditions of consent without the prior consent of Council.

Finished ground levels shall be graded away from the buildings and adjoining properties must achieve natural drainage. The concentrated flows are to be dispersed down slope or collected and discharged to the storm water drainage system.

**Reason:** *To ensure that natural drainage of the property and adjoining properties is not effected*

### 52. Excavations and Backfilling

All excavations and backfilling associated with the erection or demolition of a building shall be executed safely and in accordance with appropriate professional standards properly guarded and protected to prevent them from being dangerous to life or property.



**Reason:** *To ensure the safety of life and property.*

### 53. Engineering Inspections by Council

24 hours prior to the covering of the following works, Council shall be notified by the licensed builder, owner builder or licensed plumber/drainer that the following works are ready for inspection:

- (a) Sewer main upgrade (Technical Services).

**Note:** *The subject building is not to be occupied until an Interim or Final Occupation Certificate is issued.*

**Note:** *An accredited certifier may not be substituted for Council in respect of these inspections, as Council remains the sole responsible authority for these matters.*

**Reason:** *Statutory requirement.*

### 54. Stormwater - Construction

The applicant shall provide adequate storm water drainage infrastructure (pits/pipes/open channels/detention storage) for the conveyance of storm water passing through the site from upstream, and sourced from the development to a discharge outlet to be approved by Council. The point of discharge shall be clearly depicted and the legal right to discharge at that point to be justified. Status of the point of discharge is to be made clear (i.e. provision of drainage easements).

The provision of stormwater drainage infrastructure shall incorporate measures outlined in;

- Stormwater Management Plan – RevC prepared by Marchese Partners Engineering P/L dated 29 September 2018
- Flood Assessment Report prepared by FloodMit Pty Ltd dated September 2018 incorporating Option 4.

**Reason:** *To assist in the prevention of erosion of the site from storm water.*

### 55. Stormwater - Discharge

All stormwater runoff from the development shall be collected within the property and discharged to an approved stormwater management system.

**Reason:** *To ensure that stormwater is appropriately disposed of.*

### 56. Earthworks, retaining walls and structural support

- (1) Any earthworks (including any structural support or other related structure for the purposes of the development):



- 
- (a) must not cause a danger to life or property or damage to any adjoining building or structure on the lot or to any building or structure on any adjoining lot, and
  - (b) must not redirect the flow of any surface or ground water or cause sediment to be transported onto an adjoining property, and
  - (c) that is fill brought to the site—must contain only virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 to the *Protection of the Environment Operations Act 1997*, and
  - (d) that is excavated soil to be removed from the site—must be disposed of in accordance with any requirements under the *Protection of the Environment Operations (Waste) Regulation 2005*.
- (2) Any excavation must be carried out in accordance with *Excavation Work: Code of Practice* (ISBN 978-0-642-785442), published in October 2013 by Safe Work Australia.

**Reason:** *Structural safety.*

#### 57. Erosion and Sediment Control Plan Compliance

All site works shall be carried out in accordance with the approved Erosion and Sediment Control Plan. Implementation of the Erosion and Sediment Control Plan shall be supervised by personnel with appropriate qualification and experience in erosion and sediment control.

**Note:** *In the event of non-compliance with the approved plan, Council Officers have the ability to issue Penalty Notices, being an on the spot fine and/ or orders.*

**Reason:** *To ensure that the environment is protected.*

#### 58. Prevention of Nuisance

All possible and practical steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from windblown dust, debris and noise during the demolition, excavation and building works.

**Reason:** *Health and amenity.*

#### 59. Noise & Vibration

The construction of the development and preparation of the site, including operation of vehicles, shall be conducted so as to avoid unreasonable noise or vibration and cause no interference to adjoining or nearby occupations. Special precautions shall be taken to avoid nuisance in neighbouring residential areas, particularly from machinery, vehicles, warning sirens, public address systems and the like.

In the event of a noise or vibration problem arising, the person in charge of the premises shall, when instructed by an authorised officer of Council or the Accredited Certifier, cease work and carry out an acoustical survey and/or investigation by an appropriately qualified acoustical engineer or qualified and experienced professional consultant and submit the results to Council. The person in charge of the site shall implement any or all of the recommendations of the consultant and any additional requirements of Council. Any



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requirements of Council in this regard must be complied with immediately.

**Reason:** *Safety and amenity.*

#### 60. Dust Control

The following measures must be taken to control the emission of dust on site:

- (a) Dust screens must be erected around the perimeter of the site and be kept in good repair for the duration of the work.
- (b) All dusty surfaces must be wet down and any dust created must be suppressed by means of a fine water spray. Water used for dust suppression must not be allowed to enter the stormwater system.
- (c) All stockpiles of materials that are likely to generate dust must be kept damp or covered.

**Reason:** *Environmental amenity*

#### 61. Disposal of Vegetation

Any trees removed with Council consent and any other vegetation cleared in association with this development shall be disposed of in accordance with the Waste Management Plan approved with this development application. For minor additions and outbuildings removed vegetation shall be either mulched for reuse on site or transported to an appropriately licensed waste/recycling facility.

**Reason:** *Environmental amenity.*

#### 62. Tree Removal/Tree Preservation

No trees shall be pruned, removed, damaged or destroyed without the prior written consent of Council. Failure to comply with this requirement will result in prosecution by Council in accordance with the provisions of *Wingecarribee Local Environmental Plan 2010* and associated Development Control Plans.

**Advice:** *Tree removal should be carried out by a level 3 and above professional arborist to avoid any risk to life or damage to property. This person should have adequate public liability insurance cover.*

**Reason:** *To comply with the Wingecarribee Local Environmental Plan 2010.*

#### 63. Supervising Arborist

An arborist qualified to at least Australian Qualifications Framework (AQF) Certificate Level 4 shall be retained throughout all construction work to ensure to proper protection and management of the trees and vegetation required to be retained and that any necessary pruning/root pruning is carried out in accordance with AS4973-1996 "Pruning of Amenity Trees" and AS4970-2009 "protection of Trees on Development Sites". This includes on site supervision of the erection of tree protection measures and, where approved, any works that are required within the Tree Protection Zone (TPZ) or Structural Root Zone (SRZ).

**Reason:** *To ensure to proper protection and management of the trees required to be retained and that any necessary pruning/root pruning is carried out in accordance with the relevant Australian Standards.*



**64. Approved hours of Construction/Demolition**

Construction/demolition activities shall be limited to the following hours:

| DAY              | HOURS            |
|------------------|------------------|
| Monday to Friday | 7:00am to 6:00pm |
| Saturday         | 8:00am to 1:00pm |
| Sunday           | Nil              |
| Public Holidays  | Nil              |

**Reason:** *To ensure that the amenity of the surrounding area is not compromised as a result of the construction of the proposal.*

**Note:** *Any variation to these hours shall require Council consent via the lodgment of an application under section 4.55 of the Environmental Planning and Assessment Act 1979.*

**65. Construction Traffic Management Plan**

All development activities and traffic movements shall be carried out in accordance with the approved Construction Traffic Management Plan.

All controls in the Plan shall be maintained at all times. A copy of the Plan must be kept on site at all times and made available to the Accredited Certifier and Council on request.

**Reason:** *Compliance with condition of consent.*

**66. Maintenance of the site**

All materials and equipment shall be stored wholly within the work site.

Waste materials (including excavation, demolition and construction waste materials) shall be managed on the site and then disposed of at a waste management facility.

Any run-off and erosion control measures required shall be maintained within their operating capacity until the completion of the works to prevent debris escaping from the site into drainage systems, waterways, adjoining properties and roads.

During construction:

- (a) all vehicles entering or leaving the site shall have their loads covered, and
- (b) all vehicles, before leaving the site, shall be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.

At the completion of the works, the work site shall be left clear of waste and debris.

**Reason:** *Environmental amenity.*

**67. Storage of Building Materials, Plant and Equipment**

All building materials, plant and equipment are to be placed on the site of the development so



as to ensure that pedestrian and vehicular access in public places is not restricted and also so that the road reserve is not damaged.

No storage, or placing of any building materials to occur on adjacent public roads or footpath areas in association with the construction, maintenance or use of the development or site.

**Reason:** *To ensure that pedestrian and vehicular access in public places is not restricted and also so that the road reserve is not damaged.*

#### 68. Site requirements during demolition and construction

All of the following shall be satisfied/complied with during demolition, construction and any other site works:

- (a) All demolition shall be carried out in accordance with Australian Standards AS 2601-2001.
- (b) Demolition shall be carried out by a registered demolition contractor.
- (c) A single entrance shall service the site for demolition and construction. The footway and nature strip at the service entrance must be planked out with close boarded, hardwood timber footpath protection pads. The pad shall cover the entire width of the footpath opening for the full width of the fence.
- (d) No blasting shall be carried out at any time during construction of the building.
- (e) Care shall be taken during demolition/ excavation/ building/ construction to prevent any damage to adjoining buildings.
- (f) Adjoining owner property rights and the need for owner's permission shall be observed at all times, including the entering onto land for the purpose of undertaking works.
- (g) Any demolition and excess construction materials shall be recycled wherever practicable.

**Reason:** *To ensure that the works are carried out in accordance with the approval and relevant legislation and to ensure that there is no disturbance to neighbouring properties.*

#### 69. Construction and delivery vehicles

The nominated entry point off Centennial Road shown on Civil Works Dwg no. C-021 shall be utilised by construction and delivery vehicles. The entry point shall be located so that the possibility of damage to Councils property is minimised during construction. The access point shall be surfaced with all-weather materials of a minimum of 40mm in size.

**Reason:** *To minimize the potential for damage to Councils assets.*

#### 70. Temporary Onsite Toilet

Toilet facilities shall be available or provided at the work site prior to the commencement of works and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.



Each toilet shall:

- (a) be a standard flushing toilet connected to a public sewer, or
- (b) have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
- (c) be a temporary chemical closet approved under the *Local Government Act 1993*.

**Reason:** *To ensure that there are appropriate facilities on-site for construction workers.*

## 71. Waste Management

The provision of a metal waste skip with self-closing lid or secure covering on-site for the duration of the construction to ensure that all wastes are contained on the site. The receptacle shall be emptied periodically to reduce the potential for rubbish to leave the site.

Sorting of waste materials shall occur on site in accordance with the approved Waste Management Plan.

**Reason:** *To ensure that all wastes generated from the construction of the development are contained on the site.*

## CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF AN INTERIM OR FINAL OCCUPATION CERTIFICATE

### 72. Occupation Certificate

In accordance with Section 6.9 of the *Environmental Planning and Assessment Act 1979*, an application for an Occupation Certificate, shall be made on completion of the works and the relevant application fee paid. All works specified in the development consent and approved Construction Certificate plans shall be completed and all development consent conditions complied with prior to the issue of the Occupation Certificate.

The Principal Certifying Authority is required to be satisfied, amongst other things, that:

- All required inspections (including each applicable mandatory critical stage inspection) have been carried out; and
- Any preconditions to the issue of the certificate required by a development consent have been met.

**Reason:** *To comply with the provisions of the Environmental Planning and Assessment Act 1979*

**Note:** *A person must not commence occupation or use (or change of use where an existing building) of the whole or any part of a new building (within the meaning of Section 6.10 of the Environmental Planning and Assessment Act 1979 unless an Occupation Certificate has been issued in relation to the building or part.*



### 73. Site remediation and verification

The recommendations of the Detailed Site Investigation Report for 2-18 Centennial Road, Bowral, NSW prepared by Arcadis, dated 19 March 2019 are to be implemented in full prior to the issue of an Interim or Final Occupation Certificate.

The Remedial Action Plan verified by an Independent Site Auditor is to be fully implemented and completed and a Site Audit verifying the land is suitable for residential use and the uses approved with this consent shall be submitted to the Principal Certifying Authority and to Council prior to the issue of any Interim or Final Occupation Certificate.”

*Reason: To ensure the site is made suitable for the proposed use.*

### 74. Public Infrastructure

The applicant shall rectify any damage to public infrastructure (including roads, gutters, footpaths, street trees, etc.) prior to the issue of an Occupation Certificate at no cost to Council.

*Reason: To ensure that public infrastructure is protected from damage as a result of the development.*

### 75. Works as Executed Plans - Building Works

Prior to the issue of the Occupation Certificate, one full set of work-as-executed drawings shall be submitted to and retained by Council. Sufficient details including locations and levels of the below ground infrastructure are required in order to enable a complete check of the work as executed as compared to the original approved design. Any deviation from the approved engineering plans shall be shown on the work-as-executed drawings. Each sheet of the drawings shall carry the certification of the developers supervising engineer.

*Reason: To ensure that there is a record of final works carried out on the site.*

### 76. Civil Engineering works and services

All approved civil engineering works and services as per the approved engineering plans are to be constructed prior to the issue of the Occupation Certificate.

*Reason: To ensure that the works and services are constructed in accordance with the approved plan.*

### 77. Certification of Engineering Works

Prior to issue of the Occupation Certificate, the following documents shall be submitted to the Principal Certifying Authority. These documents are:

- a) A Certificate from a suitably Qualified Engineer, with Corporate Membership standing in the Institution of Engineers, Australia, and registered on the National Professional Engineers Register (NPER) under the appropriate professional category, and
- b) A “Work - As - Executed” (WAE) plans of the engineering and/or drainage works.

The abovementioned Certificate shall certify that:





- (i) the stormwater drainage system, and/or
- (ii) the car parking arrangement and area, and/or
- (iii) any related footpath crossing works, and/or
- (iv) the proposed basement pump and well system, and/or
- (v) the proposed driveway and layback, and/or
- (vi) other civil works have been constructed in accordance with the approved plans and details, satisfies the design intent and complies with appropriate SAA Codes relevant Standards and Councils Policies and Specifications.

Where Council is not the Principal Certifying Authority, two (2) copies of the above documents are to be provided to Council prior to the issue of any Occupation Certificate. These documents are to be retained on Council's Construction Certificate file.

**Reason:** *Asset management.*

#### 78. Maintenance and Bond for Public Assets - Civil Works

The developer shall at their own expense maintain all civil works constructed by them and which will fall into Council's care with respect to the development for a period of 12 months after the date of the signing of the Subdivision Certificate or approval for occupation of the development. Prior to the issue of any Subdivision or Occupation Certificate the Developer shall lodge a cash bond with regard to maintenance of the public assets constructed in an amount equal to 5% of the total engineering works with a minimum bond value of \$1,000. The bond shall be assessed by Council for release after the 12 month period on request by the developer.

**Reason:** *To ensure appropriate warranty periods apply for defect liability.*

#### 79. Asset Management

Prior to the issue of the Occupation Certificate, the developer shall provide a detailed summary of the Assets that will be handed over to Council at the end of the maintenance period. The details shall be provided in a tabular form so as to allow Council to update its Assets register.

**Reason:** *To ensure appropriate details are held for asset management.*

#### 80. Engineering Details in DXF Format

The developer shall provide a copy of the Work As Executed information on disk in DXF format prior to the issue of the Occupation Certificate. The developer must contact Council's GIS Officer for further details and technical specifications.

**Reason:** *To ensure appropriate records are held and asset Management.*

**Note:** *The successful handover of constructed assets to Council resulting from new developments must be accompanied by the work as executed (WAE) documents specified on the Council website:  
<http://www.wsc.gov.au/engineering-standards>*

Failure to provide completed documents in this format will result in a delay in the issue of the Occupation Certificate and retention of bonds held until such time as Council have deemed the WAE information to be complete in the required format. The standards are updated as



required; please ensure you are using the correct version. Please note the work as executed information requirements include providing surveyed levels for all underground assets. WAE Information submitted must be checked and signed off by a Registered Surveyor or suitable qualified Engineer.

#### 81. Verification of Tree Protection

Prior to the issue of the final Occupation Certificate for Stage 2A, written verification from the supervising Arborist shall be provided to the Principal Certifying Authority confirming that the protective fencing for the Southern Highlands Shale Woodlands vegetation has remained satisfactorily intact and all required measures have been implemented for the protection of this vegetation in accordance with approved plans and the Vegetation Management Plan.

**Reason:** *To ensure protective measures are appropriately maintained for the full duration of construction activities.*

#### 82. Final Arborist Report

The arborist engaged to ensure the proper protection and management of the tree required to be retained is to provide a final report to Council prior to the issue an Occupation Certificate, concerning the health and condition of the tree and if necessary any remedial works required. Any remedial works required shall be carried out and completed prior to the issuing of the Occupation Certificate, and included in the final report. The report shall also provide documentary evidence in the form of site notes and photographs that the tree protection conditions were complied with throughout all construction phases and any approved pruning works, root pruning, and remedial works were carried out as per AS4973 and AS4970. If Council **is not** the PCA, a copy of the certification is to be provided to Council with the lodgement of the Occupation Certificate.

**Reason:** *To ensure the proper protection and management of any trees required to be retained.*

#### 83. Landscape Certification

Certification is to be provided to the Principal Certifying Authority (PCA) from the designer of the landscape plan that all tree planting/landscape works have been carried out in accordance with the Council endorsed landscape plan. If Council **is** the PCA, the certification is to be submitted to Council prior to or at the final landscape inspection. If Council **is not** the PCA, a copy of the certification is to be provided to Council with the lodgement of the Occupation Certificate.

**Reason:** *To ensure that the landscaping has been carried out in accordance with the Council endorsed landscape plan.*

#### 84. Irrigation

Certification is to be provided to the Principal Certifying Authority from a suitably qualified and licensed contractor that the specified fully automatic commercial grade irrigation system has been designed and installed to all common planted areas in accordance with the requirements of the current relevant Australian Standards, any relevant water authority regulations and current best practices. If Council **is not** the PCA, a copy of the certification is to be provided to Council with the Occupational Certificate.

**Reason:** *To ensure that an appropriate irrigation system has been installed.*

**85. Fire Safety Certificate**

A final Fire Safety Certificate shall be obtained in accordance with Part 9, Division 4 of the *Environmental Planning and Assessment (Amendment) Regulation 2000*, prior to the issue of the Interim or Final Occupation Certificate for the buildings.

A copy of the Fire Safety Certificate and Fire Safety Schedule shall be:

- Forwarded to Wingecarribee Shire Council;
- Forwarded to the Commissioner of the New South Wales Fire Brigade; and
- Prominently displayed in the building.

**Reason:** *To ensure the safety of the building.*

**86. Storm water Facilities Alterations**

A "Restriction as to User" shall be included on the linen plan and title of the proposed development to prevent any change in shape or alteration in structure of the proposed storm water facilities after the final approval of the structure has been given by Council. Details shall be provided for the approval of Council prior to the issue of the Occupation Certificate.

**Reason:** *To provide appropriate storm water management.*

**87. Storm water Facilities Maintenance**

A "Positive Covenant" shall be included on the linen plan and title of the proposed development showing the location of storm water facilities and requiring that the proposed storm water facilities be maintained in a safe and functional manner. In addition, the Section 88B Instrument (*Conveyancing Act 1919*) shall make provision for Council to conduct maintenance on the subject storm water facilities at the owner's expense if the storm water facilities are not maintained to the agreed standard. Details shall be provided for the approval of Council prior to issue of the Occupation Certificate.

**Reason:** *To provide appropriate storm water management.*

**88. Construction of Road**

Construction of internal access roads, turning areas, footpaths, parking areas shall be completed prior to the issue of the occupation certificate.

- (a) Construction of access roads and turning areas shall be provided with an all-weather surface of asphaltic concrete.
- (b) Construction of minimum 2.0m wide shared pathways shall be provided with an all-weather surface of concrete including pedestrian area lighting to be designed in accordance with AS/NZS 1158.3.1 (category P).
- (c) Construction of parking areas shall be provided with an all weather surface of asphaltic concrete with parking spaces permanently marked

**Reason:** *To ensure that adequate access is provided.*



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**89. Renewal of Sewerage**

Prior to occupation certificate the existing sewer main shall be upsized in accordance with Wingecarribee Shire Council modelling report dated 02<sup>nd</sup> March 2018. All superseded mains and structures are to be removed from site and disposed at a facility that is licensed to accept such waste. Details to be submitted to Council (as the Water Authority) with Section 68 Application.

**Reason:** *To ensure that the development is serviced.*

**Advice:** *Council understands that this requirement is likely to be dealt with at Stage 1, however to ensure infrastructure is in place the development cannot be occupied until the upgrade has been undertaken.*

**90. Construction of Water Service**

A water service shall be installed to the development by Council at the applicant's cost prior to the issue of the Occupation Certificate.

A metered fire service shall be installed to service the development at the applicant's cost prior to the issue of Occupation Certificate.

Council's application form shall be completed by the Developer and the appropriate fee paid.

**Advice:** *A water meter should be installed prior to occupation.*

**Reason:** *To ensure that the development is serviced.*

**INTEGRATED DEVELOPMENT CONDITIONS****91. General Terms of Approval – Natural Resource Access Regulator**

General Terms of Approval has been granted by the Natural Resource Access Regulator for the Concept and Stage 1 Consent development pursuant to *Water Management Act 2000* are applicable to the subject development (Stage 2A) The conditions provided by the Natural Resource Access Regulator are provided at Attachment 1 and form part of this Notice of Determination.

**CONCURRENCE CONDITIONS****92. Concurrence - Water NSW**

Concurrence has been granted by Water NSW for the development pursuant to *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011*. The conditions set out below provided by Water NSW form part of this Notice of Determination.



**Water NSW's Concurrence Conditions**  
**DA No 17/1822.04; Lot 1 DP 1101892; 2-18 Centennial Road, Bowral**

**General**

1. The site layout, works and staging of the Seniors Housing development shall be as specified in the Statement of Environmental Effects (dated July 2019) prepared by Lee Environmental Planning and shown on the Staging Plan (Dwg No. DA.M.1.03, Rev. I, dated 2019.09.11) prepared Marchese Partners International Pty Ltd. No revisions to layout, works or staging of the development that will have any impact on water quality, shall be permitted without the agreement of Water NSW.

*Reason for Condition 1 - Water NSW has based its assessment under State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011 on this version of the development.*

**Stormwater Management**

2. All stormwater management measures as specified in the Stormwater Management Report prepared by Marcheses Partners International Pty Ltd (dated 10 September 2018) and shown on the Site Stormwater Drainage Plan (Dwg Nos. DA-C-201 & 203, Rev. N, dated 2019.03.08) prepared by Marchese Partners International Pty Ltd; the hand annotated stormwater management on the staging plan (email dated 18 October 2019) prepared by Richard Anderson and as specified in the MUSIC model assessment report (Ref No. 1731, dated 14/12/17) prepared by Civil Development Solutions shall be incorporated in the final stormwater drainage plan. The final stormwater drainage plan shall be finalised in consultation with Water NSW prior to an issuance of a Construction Certificate and be submitted to and approved by Council. The stormwater management measures shall include:
  - pits, pipes and gross pollutants traps
  - 2,500 litre rainwater tanks for each dwelling
  - a bioretention basin with surface area of 150 and filter area of 100 square metres.
3. The bioretention basin shall:
  - be designed consistent with Adoption Guidelines for Stormwater Biofiltration Systems Version 2 (Payne *et al*, 2015, Melbourne, CRC for Water Sensitive Cities)
  - have an extended detention depth of 400 mm
  - have a filter depth (excluding transition layers) of 500 mm above the underdrain



- 
- have a filter media consisting of a clean sandy loam with a certified median particle diameter of 0.5 mm, a maximum orthophosphate concentration of 40 mg/kg and a maximum total nitrogen concentration of 400 mg/kg
  - be planted with appropriate deep-rooted, moisture-tolerant vegetation protected by rock mulch (grass and turf is not appropriate vegetation and organic mulch is not suitable)
  - direct all discharge and overflow to Mittagong Creek via armoured discharge points such that discharge does not cause erosion
  - be accessible from the Mount Road by machinery to facilitate cleaning, monitoring and maintenance of the structures
  - ensure the discharge outlets are consistent with the requirements of any Controlled Activity Approval under the *Water Management Act (2000)* from the Natural Resources Access Regulator (NRAR)
    - be permanently protected from vehicular damage by bollards, fences, castellated kerbs or similar structures, with a sign to be erected to advise of its nature and purpose in water quality management, and
    - be protected by sediment and erosion control measures during any construction and post-construction phase until the ground surface is revegetated or stabilised.
4. No changes to stormwater treatment and management that will have any impact on water quality, shall be permitted without the agreement of Water NSW.
5. A suitably qualified stormwater consultant or engineer shall certify in writing to Water NSW and Council prior to the issuance of an Occupation Certificate for this stage of the development that all stormwater management structures have been installed as per these conditions of consent and are in a functional state.
6. An Operational Environmental Management Plan shall be prepared in consultation with Water NSW by a person with knowledge and experience in the preparation of such plans. The Plan shall be prepared prior to the issuance of an Occupation Certificate, of this stage of the development and be provided to Owners' Corporation for implementation. The Plan shall:
- include details about the location and nature of stormwater management structures such as pits, pipes, inlet filters, gross pollutant traps, bioretention basins
  - outline the responsibilities and detailed requirements for the inspection, monitoring and maintenance of all stormwater management structures, including the frequency of such activities
  - identify the persons responsible for inspection and maintenance activities including a reporting protocol and hierarchy, and
  - include checklists for recording inspections and maintenance activities, particularly for bioretention basins.
-



7. All stormwater treatment measures shall be inspected, monitored, maintained and managed in accordance with the Operational Environmental Management Plan.

*Reason for Conditions 2 to 7 - To ensure stormwater runoff from the future dwellings and associated infrastructure is appropriately managed and maintained so as to ensure an overall and sustainable neutral or beneficial impact on water quality over the longer term.*

#### **Construction Activities**

8. A Soil and Water Management Plan shall be prepared for all works of the development, required for the proposed development by a person with knowledge and experience in the preparation of such plans. The Plan shall:
- meet the requirements outlined in Chapter 2 of NSW Landcom's Soils and Construction: Managing Urban Stormwater (2004)
  - be prepared prior to issuance of a Construction Certificate and to the satisfaction of Council, and
  - include controls to prevent sediment or polluted water leaving the construction site or entering any natural drainage lines or stormwater drain.
9. The Soil and Water Management Plan shall be implemented, and effective erosion and sediment controls shall be installed prior to any construction activity. The

controls shall be regularly inspected, monitored and maintained until works have been completed and groundcover established.

*Reason for Conditions 8 & 9 – To manage adverse environmental and water quality impacts during the construction phase of the development so as to minimise the risk of erosion, sedimentation and pollution within or from the site during this phase.*

#### **END OF CONDITIONS**

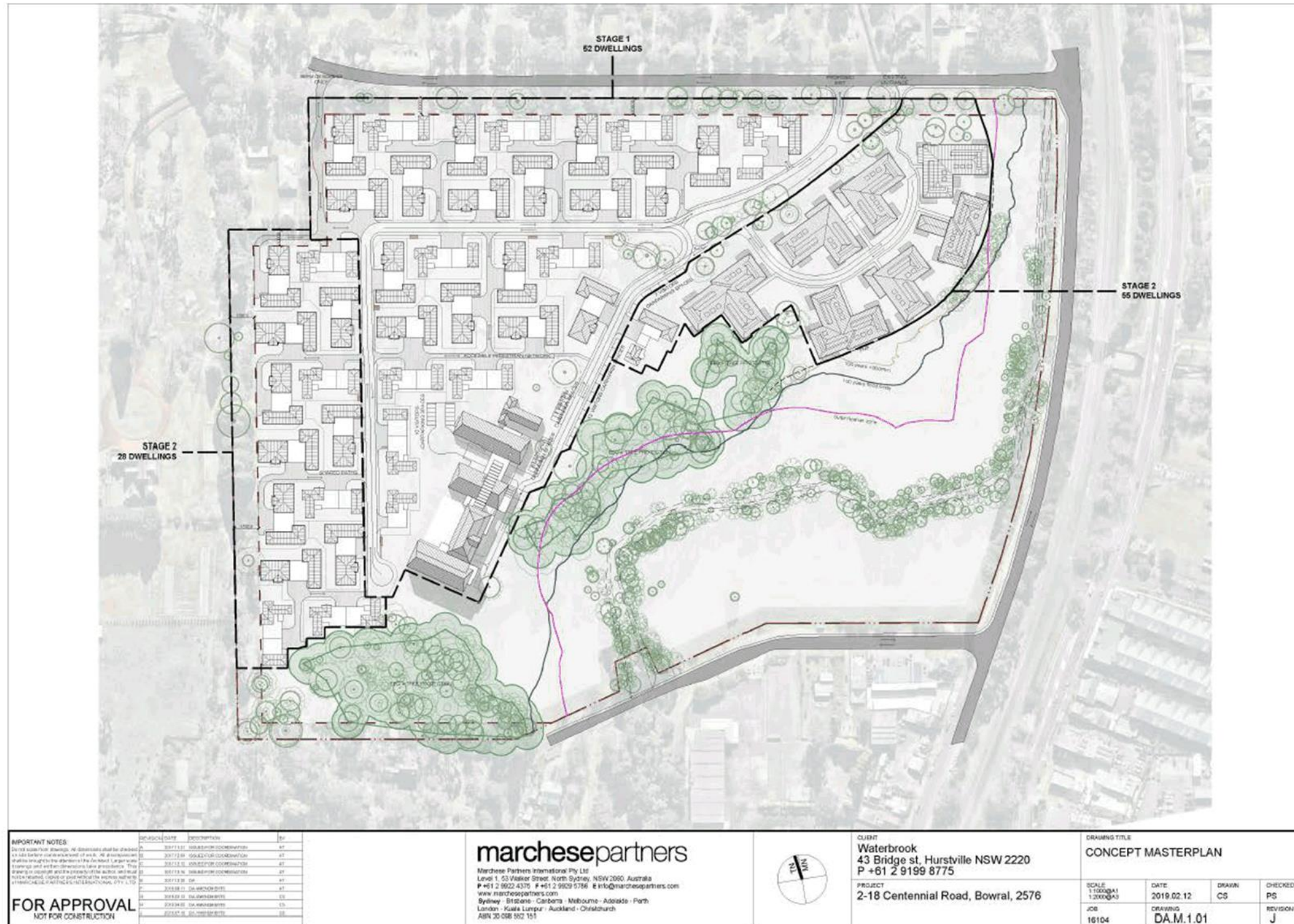


Figure 1: Layout of Concept Development Consent (Attachment 2)



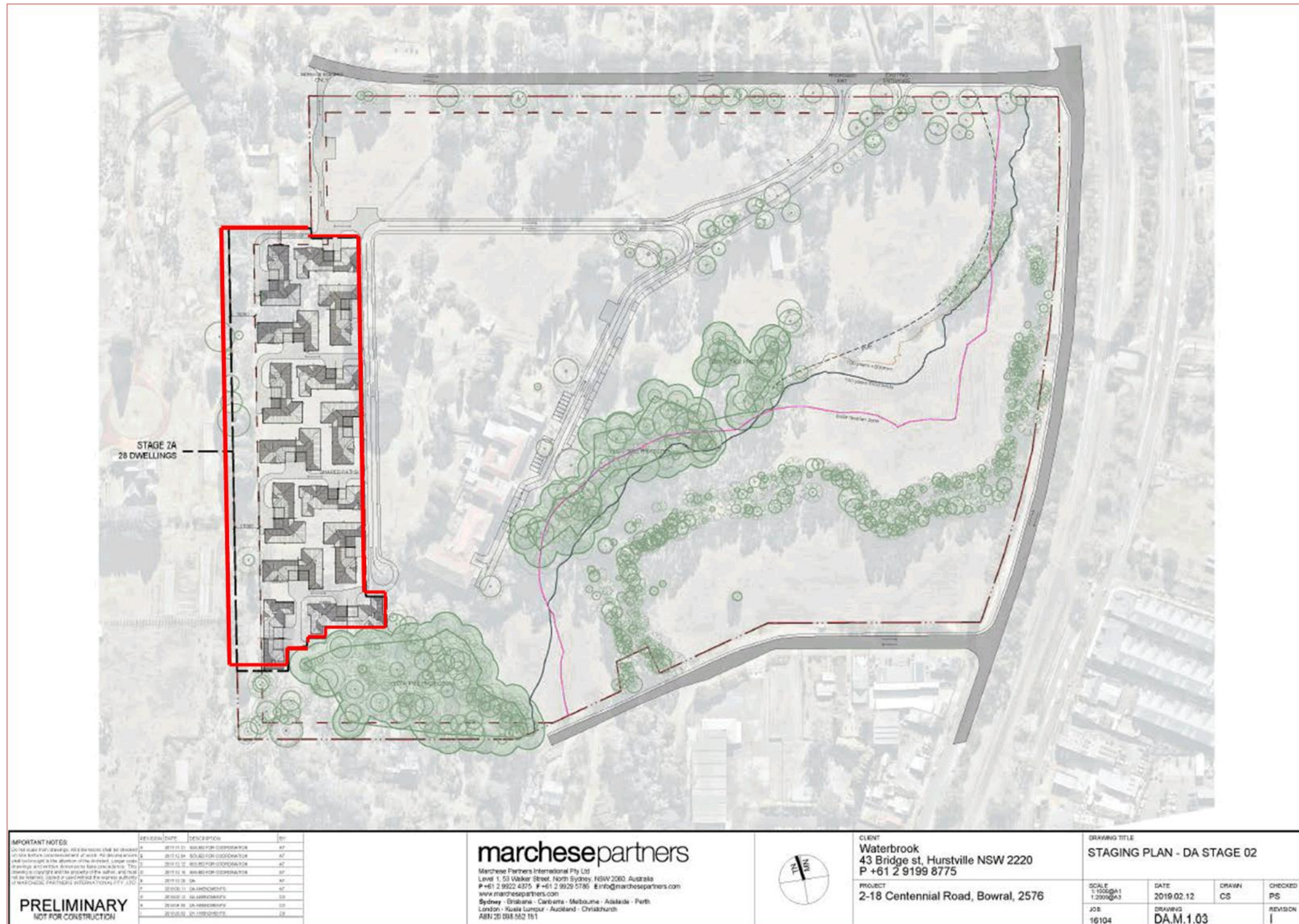


Figure 2: Stage 2A (see copy at Attachment 3)

### 9.3 DA 20/0074 - Subdivision of Land and Carrying out of Works to Create Two Lots, Lot 1 DP1118652, 278 Golden Vale Road, Sutton Forest

|                                   |   |
|-----------------------------------|---|
| Reference:                        | 20/0074DA   |
| Report Author:                    | Senior Development Assessment Planner   |
| Authoriser:                       | Group Manager Planning, Development and Regulatory Services<br>Group Manager Planning Development and Regulatory Services |
| Applicant:                        | National Trust of Australia (NSW)   |
| Owner:                            | National Trust of Australia (NSW)   |
| Link to Community Strategic Plan: | Conserve the key natural resources of the Shire and minimise the impact from development                                  |

#### PURPOSE

The purpose of this report is to present development application 20/0074 for the Council's consideration, and recommends APPROVAL subject to the conditions specified in Attachment 1.

#### VOTING ON THE MOTION

Councillors are required to record their votes on this matter.

#### RECOMMENDATION

**THAT development application 20/0074 for a proposed subdivision of land to create two lots at Lot 1 DP 1118652, No 278 Golden Vale Road, Sutton Forest be APPROVED subject to conditions as described in Attachment 1 to the report.**

#### REPORT

##### *Subject Site and Locality*

Attachments 2 and 3 illustrate the land's location and layout. It is a developed 87.77ha rural lot on the northeastern side of Golden Vale Road in the locality of Sutton Forest, around 6km west of the Moss Vale town centre. The land is accessible by vehicle from Golden Vale Road. It is occupied by "Golden Vale", a historical farming and grazing property and homestead complex of State heritage significance.

The homestead complex includes the homestead itself (built 1870), a stone meathouse, a two-storey sandstone barn/stable building, a weatherboard woolshed, several machinery sheds, a double garage, a single garage, and a carriage house. The land is also occupied by clusters of mature native and exotic tree species amid agricultural pastures, and agricultural improvements such as farm fencing, dams and internal access roads.

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The land has gently undulating topography, falling generally from south to north towards the adjoining Medway Rivulet. Surrounding properties appear to be mainly used for agricultural purposes, with scattered residential accommodation developments.

The land is identified on the NSW State Heritage Register (SHR), which includes the following description:

*“The property nestles between Oldbury and Newbury farms at the foot of Mt Gingenbullen (to its south-south-west) near the Medway Rivulet. It is cleared and grazed Southern Tableland country, surrounded by rural properties. The farm is treed and dammed”.*

The land is an 87.77ha remnant of the holdings of Benjamin Carter, who discovered the Joadja Kerosene Shale deposits. In the 1870s Carter’s holdings – including the subject land – had comprised some 16,000ha.

#### **Background**

In 1984 the “Golden Vale” property was owned by The Hon W G Keighley, who requested the Heritage Council place an order over the property under the Heritage Act 1977. Keighley noted “Golden Vale”, which apparently comprised a parcel of several individual lots, had now “dwindled” to around 560ha.

In 2002 one of the lots comprising “Golden Vale” – Lot 12 DP1044116 including the existing homestead complex – was further subdivided, and in 2004 the Keighley family gifted the remaining 125.6ha “Golden Vale” property to the National Trust of Australia (NSW).

The subject land was created in 2007, when the National Trust further subdivided the abovementioned gifted Lot 12 DP1044116 to create two lots pursuant to Council’s development consent 06/0601. Council had granted development consent 06/0601 in 2006 for creation of the subject lot and the adjoining Lot 2 DP1118652; the latter of the two lots being 37.83ha in area. Noting the then-applicable Wingecarribee Local Environmental Plan 1989 specified a minimum subdivision lot size of 40ha in relation to the land, development application 06/0601 was made and favourably determined pursuant to State Environmental Planning Policy 1—Development Standards as it proposed contravention of the applicable minimum subdivision lot size development standard. The subject land was thus created by a subdivision of land that itself resulted in creation also of a lot smaller than the minimum lot size applicable at the time. The National Trust subsequently auctioned the 37.83ha Lot 2 DP1118652, which is now occupied by a dwelling house in separate ownership.

#### **Proposed Development**

The application seeks consent to subdivide the land and carry out works to create two lots. **Attachment 4** illustrates the proposed development drawings.

The two proposed lots are numbered Lot 3 and Lot 4 on the drawings accompanying the application. Proposed Lot 3 has an area of 51.77ha and is occupied by the existing “Golden Vale” homestead complex and a number of agricultural paddocks. The proposed vacant 36ha Lot 4 comprises agricultural paddocks.

Both proposed Lots adjoin Golden Vale Road. Proposed Lot 3 is accessible by vehicle via the land’s existing Golden Vale Road access driveway. The drawings indicate two possible vehicle access points from Golden Vale Road to proposed Lot 4. Recommended consent **conditions 13 and 25** specify requirements for a vehicular access driveway to be provided



to each lot in accordance with applicable Council standards and with Council's prior approval under section 138 of the Roads Act 1993.

The proposed development includes reservation of a wetland for wildlife conservation ("water wilderness") on proposed Lot 4, by way of a positive covenant.

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## STATUTORY PROVISIONS

### *State Environmental Planning Policies (SEPPs)*

#### SEPP 44—Koala Habitat Protection

- Part 1—Preliminary
  - Clause 3—Aims, objectives etc

SEPP 44 aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline.

- Clause 4—Definitions

Clause 4 defines core koala habitat and potential koala habitat as follows:

**core koala habitat** means an area of land with a resident population of koalas, evidenced by attributes such as breeding females (that is, females with young) and recent sightings of and historical records of a population.

**potential koala habitat** means areas of native vegetation where the trees of the types listed in Schedule 2 constitute at least 15% of the total number of trees in the upper or lower strata of the tree component.

- Part 2—Development control of koala habitats
  - Clause 6—Land to which this Part applies

Clause 6 (a)-(c) effectively confirms Part 2 of SEPP 44 applies to the land.

- Clause 7—Step 1—Is the land potential koala habitat?

Documents accompanying the application do not directly address any of the provisions of SEPP 44, although the submitted statement of environmental effects makes the following assertions:

*"The site contains little evidence of any remnant native vegetation, the site having been cleared for grazing many years ago."*

*"The site is not sensitive in terms of native vegetation..."*

*"...the proposed new lot is cleared grazing land and therefore not sensitive to the issues of vegetation management."*

*"Future development would not impact upon native vegetation..."*



*“There are no trees or vegetation on site that are significant or protected and the removal of some vegetation for future residential development will not have a significant impact in the locality.”*

The above aside, the land does include areas of native vegetation that may comprise potential koala habitat as defined by clause 4 of SEPP 44. The application has therefore been considered also with regard to clause 8, discussed below.

- Clause 8—Step 2—Is the land core koala habitat?

As discussed above, documents accompanying the application do not directly address the provisions of SEPP 44, and therefore do not facilitate confirmation as to whether any areas of the land include a resident koala population. However, drawings accompanying the application indicate a building envelope on proposed Lot 4 that is substantially devoid of mature native trees, and it is considered practicable to provide vehicular access from Golden Vale Road to that building envelope with minimal or no necessary vegetation removal. Furthermore, recommended consent **condition 3** specifies Council’s consent does not permit removal of any vegetation other than indicated on the stamped consent drawings or specified by an environmental planning instrument as not requiring prior consent.

Provided all recommended consent conditions are complied with, the proposed development is not expected to have any significant impact on koala habitat.

#### SEPP 55—Remediation of Land

- Clause 2—Object of this Policy

SEPP 55 aims to promote remediation of contaminated land for the purpose of reducing risk of harm to human health or any other aspect of the environment.

- Clause 7—Contamination and remediation to be considered in determining development application

The application does not propose any change of use of the portion of the land comprised by proposed Lot 3, but in proposing creation of Lot 4 for the purpose of residential accommodation, it effectively proposes a change of use of the latter portion of the land.

Proposed Lot 4 is considered unlikely to be significantly contaminated and is not considered to require remediation to be made suitable for future development for the purpose of residential accommodation.

#### SEPP (Sydney Drinking Water Catchment) 2011

- Clause 3—Aims of Policy

The Catchment SEPP aims:



- (a) to provide for healthy water catchments that will deliver high quality water while permitting development that is compatible with that goal
  - (b) to provide that a consent authority must not grant consent to a proposed development unless it is satisfied that the proposed development will have a neutral or beneficial effect on water quality
  - (c) to support the maintenance or achievement of the water quality objectives for the Sydney drinking water catchment.
- Clause 10—Development consent cannot be granted unless neutral or beneficial effect on water quality

In accordance with clause 10, the NorBE Tool has been used to establish that the proposed development would have no identifiable potential impact on water quality, noting the proposed development principally comprises subdivision of land and any future development of either of the proposed lots would also need to demonstrate a neutral or beneficial effect on water quality.

### ***Local Environmental Plans***

#### **Wingecarribee Local Environmental Plan 2010 (the LEP)**

The application has been considered with regard to the LEP's relevant provisions, discussed below.

- Clause 1.2—Aims of Plan

As discussed later regarding clauses 4.1 and 4.6, the application proposes subdivision of the land to create a lot smaller than the 40ha minimum subdivision lot size applicable to the land.

The land's 87.77ha area is conducive to subdivision to create two lots exceeding 40ha. Furthermore, as discussed earlier, the land was created by subdivision of land that itself also created a lot smaller than the 40ha minimum subdivision lot size that applied to the land at the time.

Overall, the development as proposed is considered contrary to the particular aim specified by clause 1.2 (2) (i) of the LEP:

- (i) *to protect the primary production potential of suitable rural land, and prevent the fragmentation of agricultural holdings...*

Recommended consent **conditions 6 and 20** therefore require amendment of the proposed development by enlarging the proposed vacant Lot 4 to at least 40ha, without reducing the area of proposed Lot 3 – occupied by the “Golden Vale” homestead complex – to less than 40ha.

- Clause 1.4—Definitions

The proposed development comprises subdivision of land and carrying out of works to create two lots for the purpose of *dwelling houses*.

- Clause 2.3—Zone objectives and Land Use Table



The land is in Zone E3 Environmental Management. The LEP Land Use Table specifies development (including subdivision to create lots) for the purpose of *dwelling houses* is permitted with consent in Zone E3.

However, as discussed earlier regarding clause 1.2, the proposed development involves subdivision of the land to create a lot smaller than the minimum subdivision lot size specified by clause 4.1, despite the land's area being conducive to creation of two lots of at least 40ha each. Furthermore, the subject land was created by subdivision of land that itself produced a lot smaller than the 40ha minimum subdivision lot size that applied to the land at the time, which is now occupied by a dwelling house. The proposed undersized lot is not expected to assist in preventing or discouraging fragmentation of rural land, nor the proliferation of dwellings in rural localities historically characterised by agricultural enterprise.

Noting the above, the proposed contravention of clause 4.1 is considered contrary to the following E3 zone objectives:

- *To minimise the proliferation of buildings and other structures in these sensitive landscape areas.*
- *To provide for a restricted range of development and land use activities that provide for rural settlement, sustainable agriculture, other types of economic and employment development, recreation and community amenity in identified drinking water catchment areas.*
- *To protect significant agricultural resources (soil, water and vegetation) in recognition of their value to Wingecarribee's longer term economic sustainability.*

Recommended consent **conditions 6 and 20** therefore require amendment of the proposed development by enlarging the proposed vacant Lot 4 to at least 40ha, without reducing the area of proposed Lot 3 – occupied by the “Golden Vale” homestead complex – to less than 40ha.

- Clause 2.6—Subdivision—consent requirements

Clause 2.6 (1) confirms the proposed development may only be carried out with consent.

- Clause 4.1—Minimum subdivision lot size

Clause 4.1 (3) specifies the size of any lot resulting from subdivision of the subject land is not to be less than the minimum size shown on the LEP Lot Size Map in relation to the land, which is 40ha. The proposed development involves subdivision of the land to create proposed Lot 3 with an approximate area of 51.77ha, and proposed Lot 4 with an approximate area of 36.0ha. Proposed Lot 4 thus contravenes clause 4.1 (3). In this regard, the application is accompanied by a written request seeking to justify the contravention of the development standard specified by clause 4.1 (3), which is discussed below regarding clause 4.6.



The above aside, the broader locality and much of Wingecarribee Shire's rural area are subject to a 40ha minimum subdivision lot size. As discussed earlier, the land's 87.77ha area is conducive to subdivision to create two lots exceeding 40ha in area, and the land was created by a subdivision of land that itself produced a lot smaller than the 40ha minimum subdivision lot size that applied to the land at the time. Further subdivision of the land to create an additional lot smaller than the applicable 40ha minimum lot size is considered inconsistent with the intended character of the locality and the Shire's broader rural areas, and therefore contrary to the minimum subdivision lot size objective specified by clause 4.1 (1) (b):

- (b) *to ensure that the subdivision of land to create new lots is compatible with the character of the surrounding land and does not compromise existing development or amenity.*

Given the above, recommended consent **conditions 6 and 20** require amendment of the proposed development by enlarging the proposed vacant Lot 4 to at least 40ha, without reducing the area of proposed Lot 3 – occupied by the “Golden Vale” homestead complex – to less than 40ha.

- Clause 4.6—Exceptions to development standards

The application seeks an exception from the 40ha minimum lot size development standard specified by clause 4.1 (3), mentioned above. Subclauses (1)-(4) and (6) of clause 4.6 are relevant to Council's consideration of the proposed exception, and are as follows:

#### **4.6 Exceptions to development standards**

- (1) *The objectives of this clause are as follows—*
- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—*
- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*



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- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless—*

  - (a) *the consent authority is satisfied that—*

    - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
    - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
  - (b) *the concurrence of the Secretary has been obtained.*
- (6) *Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if—*

  - (a) *the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
  - (b) *the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*



Subclause (1)

With respect to the objectives specified by clause 4.6 (1), noting firstly that the broader locality and much of Wingecarribee Shire's rural area are subject to a 40ha minimum subdivision lot size, secondly that the land's 87.77ha area is conducive to subdivision to create two lots exceeding 40ha in area, and thirdly that the land was created by a subdivision of land that itself produced a lot smaller than the 40ha minimum subdivision lot size that applied to the land at the time, further subdivision of the land to create an additional lot smaller than the applicable 40ha minimum lot size is considered inconsistent with the intended character of the locality and the Shire's broader rural areas, and is not expected to assist to discourage or prevent undesirable fragmentation of rural land. The proposed contravention of the minimum subdivision lot size standard specified by clause 4.1 (3) is thus considered likely to produce an avoidably undesirable development outcome and, in turn, is considered contrary to the objective specified by clause 4.6 (1) (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Subclause (3)

With respect to clause 4.6 (3) (a), the application is accompanied by a written request seeking to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. The written request asserts that the proposed subdivision creating a lot smaller than 40ha:

- Will not compromise the character of surrounding land and therefore does not offend the minimum subdivision lot size objective specified by clause 4.1 (1) (b) of the LEP
- Will not cause any significant negative impacts on adjoining properties
- Will facilitate better management and continuing maintenance of the heritage character of "Golden Vale" by maximising the area of the lot it would occupy and providing revenue (presumably from the sale of the proposed vacant 36ha Lot 4)
- Will not affect the location of future built development on the proposed vacant 36ha Lot 4
- Will facilitate achievement of the objects specified by section 1.3 (a) and (f) of the Environmental Planning and Assessment Act 1979:

**1.3 Objects of Act**

*The objects of this Act are as follows—*

- (a) *to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (f) *to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*

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whereas strict compliance with clause 4.1 (3) of the LEP would hinder achievement of the Act's objects

- Will avoid imposition of a “disproportionate burden on the community” associated with:
  - “a less appropriate relationship” between the proposed vacant 36ha lot and “Golden Vale”
  - a potential loss of opportunity to provide “much needed revenue for the ongoing management and maintenance” of “Golden Vale”

With respect to clause 4.6 (3) (b), the written request accompanying the application also sets out to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard specified by clause 4.1 (3) of the LEP, asserting:

- The proposed development is a positive response to Council's strategic vision for large rural lot development in the locality through subdivision of a lot in excess of 80ha to create two lots
- The applicable 40ha minimum subdivision lot size envisages development as proposed, which is not greater than could have been anticipated.
- The proposed lots will be indistinguishable in terms of overall site area, with the smaller of the two lots maintaining a 700m frontage to Golden Vale Road so it will not be perceived as a smaller lot
- A development that complies with the applicable minimum subdivision lot size would result in a less desirable heritage outcome through the loss of more curtilage of “Golden Vale” than considered necessary
- If the proposed development were compliant with the applicable minimum subdivision lot size, it would likely impede the proper long term management of “Golden Vale”
- The proposed development maintains the objectives of the applicable minimum subdivision lot size, maintains the objectives of Zone E3 Environmental Management, and increases opportunity for appropriate long term management of an important heritage resource.

#### Subclause (4)

As discussed earlier, the land was created by a subdivision of land that itself created, pursuant to the ten-applicable SEPP 1—Development Standards, a lot smaller than the 40ha minimum subdivision lot size applicable to the land at the time. In addition, the land's 87.77ha area is conducive to subdivision to create two lots that at least meet the applicable 40ha minimum subdivision lot size. Subdivision of the land to create an additional lot smaller than the applicable minimum subdivision lot size is considered likely to undesirably and avoidably contribute to cumulative fragmentation of rural land. In short, the written request accompanying the application is not



considered to demonstrate that compliance with clause 4.1 (3) of the LEP is unreasonable or unnecessary in the circumstances of the case, nor that there are sufficient environmental planning grounds to justify contravening clause 4.1 (3).

In addition, and as discussed earlier, the proposed contravention of clause 4.1 (3) of the LEP is considered contrary not only to the minimum subdivision lot size objective specified by clause 4.1 (1) (b) and several of the E3 zone objectives specified by the LEP Land Use Table, but is also considered contrary to the particular aim specified by clause 1.2 (2) (i) of the LEP:

- (i) *to protect the primary production potential of suitable rural land, and prevent the fragmentation of agricultural holdings.*

Based on the above, clause 4.6 (4) of the LEP specifies consent must not be granted for the proposed contravention of clause 4.1 (3).

Recommended consent **conditions 6 and 20** therefore:

- Specify that Council's consent does not permit subdivision of the land to create a lot smaller than the 40ha minimum subdivision lot size applicable to the land
- Require amendment of the proposed development by enlargement of the proposed vacant Lot 4 without reducing proposed Lot 3 – occupied by the "Golden Vale" homestead complex – to less than 40ha
- Specify no subdivision certificate shall be granted for the proposed development unless the certifying authority is satisfied by documents accompanying the application for subdivision certificate that each of the two lots to be created is at least 40ha in area.
- Clause 5.10—Heritage conservation

Schedule 5 to the LEP identifies the land as including the "Golden Vale" house, grounds and outbuildings – a heritage item of State significance.

The application was referred to Council's Heritage Advisor, who suggests the proposed development, essentially involving further reduction of the "Golden Vale", may diminish or compromise the item's heritage significance. The Heritage Advisor nonetheless recommends a condition of consent requiring creation of a restriction under the Conveyancing Act 1919 specifying no further subdivision of proposed Lot 3 – containing the "Golden Vale" homestead complex – shall be permitted.

The application was also referred to the NSW Department of Premier and Cabinet (P&C), which responded, "...the proposed subdivision is located outside of the heritage curtilage [of the "Golden Vale" house, grounds and outbuildings] and therefore does not require approval under the [Heritage Act 1977] and therefore would not trigger integrated development". In short, P&C have not expressed any objection or concern with respect to any potential heritage impact of the proposed development.



Overall, the proposed development is considered satisfactory with respect to the relevant objectives and controls specified by clause 5.10.

- Clause 5.16—Subdivision of, or dwellings on, land in certain rural, residential or environment protection zones

Clause 5.16 (1), (2) (h), (3) (a) and (4) is as follows:

**5.16 Subdivision of, or dwellings on, land in certain rural, residential or environment protection zones**

- (1) *The objective of this clause is to minimise potential land use conflict between existing and proposed development on land in the rural, residential or environment protection zones concerned (particularly between residential land uses and other rural land uses).*
- (2) *This clause applies to land in the following zones—*
  - (h) *Zone E3 Environmental Management,*
- (3) *A consent authority must take into account the matters specified in subclause (4) in determining whether to grant development consent to development on land to which this clause applies for either of the following purposes—*
  - (a) *subdivision of land proposed to be used for the purposes of a dwelling*
- (4) *The following matters are to be taken into account—*
  - (a) *the existing uses and approved uses of land in the vicinity of the development,*
  - (b) *whether or not the development is likely to have a significant impact on land uses that, in the opinion of the consent authority, are likely to be preferred and the predominant land uses in the vicinity of the development,*
  - (c) *whether or not the development is likely to be incompatible with a use referred to in paragraph (a) or (b),*
  - (d) *any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c).*

A common objective of minimum subdivision lot sizes in rural areas is – similarly to clause 5.16 (1) – to reduce potential for land use conflict between lots used for rural residential purposes and nearby lots used for agriculture. Minimum rural subdivision lot sizes can also improve the likelihood of agricultural viability of lots created by subdivision. The proposed subdivision of land to create a residential lot smaller than the applicable 40ha minimum lot size specified by clause 4.1 is not considered in keeping with these principles, and therefore is not considered consistent with the objective specified by clause 5.16 (1).



With respect to the matters specified by clause 5.16 (4), properties surrounding the subject land appear predominantly used for extensive agriculture. Subdivision of the subject land may itself be unlikely to significantly impact upon preferred and predominant land uses in the locality. However, the proposed creation of a lot smaller than the applicable 40ha minimum lot size, with dwelling permissibility, may be more likely to reduce that lot's potential to be viably used for agriculture and also increase the likelihood that it will be used predominantly as a rural residential lifestyle property. This can create expectations of residential amenity in an agricultural locality, in turn leading to compromise of agricultural viability of surrounding agricultural enterprises. Noting it is practicable to subdivide the land to create two lots exceeding 40ha, the proposed creation of a smaller lot is considered unsatisfactory with respect to the matters specified by clause 5.16 (4).

The above further justifies recommended consent **conditions 6 and 20** requiring amendment of the proposed development by enlarging the proposed vacant Lot 4 to at least 40ha, without reducing the area of proposed Lot 3 – occupied by the “Golden Vale” homestead complex – to less than 40ha.

- Clause 7.5—Natural resources sensitivity—water

The land adjoins the Medway Rivulet, which is identified by the LEP Natural Resources Sensitivity Map as category 1 riparian land (environmental corridor within 50m from top of stream bank on each side). Noting documents accompanying the application indicate a proposed building envelope some distance from mapped riparian land, the proposed subdivision of the land is considered satisfactory with respect to the objective and matters for consideration specified by clause 7.5.

- Clause 7.9—Flood planning

No Council flood study has been carried out in relation to the subject land. The land slopes gently to the adjoining Medway Rivulet. It is therefore likely to be at least partially below the flood planning level. Recommended consent **condition 22** therefore specifies no subdivision certificate shall be granted for the proposed development unless the certifying authority is satisfied by documents accompanying the subdivision certificate application that an instrument under section 88B of the Conveyancing Act 1919 has been submitted to and approved by Council, prohibiting the erection of any building on any part of the land located below the level of a 1:100 average recurrent flood event plus 500mm freeboard.

### ***Development Control Plans***

#### Wingecarribee Shire Rural Lands Development Control Plan (the DCP)

The application has been considered with regard to the DCP's relevant provisions, including those identified and discussed below.

- Part A—Managing our rural lands
  - Section 2—Classification and distribution of rural lands
    - Section A2.7—Subdivision of rural land



Section A2.7 specifies that the LEP applies a 40ha minimum lot size to all land the subject of the DCP. It states:

*“...The maintenance of this minimum is essential in order to protect its ecological value, retain the agricultural value of the land and retain the visual amenity of the Shire’s rural landscape.*

*“Many rural properties across the Shire are less than this 40ha minimum, but these smaller lots reflect the historical development of the Shire and are not to be considered a precedent for making application to Council for ad hoc rezoning and subdivisions outside of the context of WLEP 2010.”*

The above supports recommended consent **conditions 6 and 20** requiring amendment of the proposed development by enlarging the proposed vacant Lot 4 to at least 40ha, without reducing the area of proposed Lot 3 – occupied by the “Golden Vale” homestead complex – to less than 40ha.

- Section 4—Vegetation management

As discussed earlier regarding clause 8 of SEPP 44, recommended consent **condition 3** specifies Council’s consent does not permit removal of any vegetation other than indicated on the stamped consent drawings or specified by an environmental planning instrument as not requiring prior consent.

- Section 8—Heritage and landscape conservation

As discussed earlier regarding clause 5.10 of the LEP, provided all recommended consent conditions are complied with, the proposed development is not expected to have any significant negative heritage impact.

#### **Section 4.15 Evaluation**

##### *(1) Matters for consideration—general*

*In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:*

*(a) the provisions of:*

- (i) any environmental planning instrument, and*

The application has been considered with regard to the relevant provisions of SEPP 44—Koala Habitat Protection, SEPP 55—Remediation of Land, SEPP (Sydney Drinking Water Catchment) 2011, and Wingecarribee LEP 2010 as discussed in detail above.

- (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority*

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*that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*

Not applicable.

*(iii) any development control plan, and*

The application has been considered with regard to the relevant provisions of the Wingecarribee Shire Rural Lands Development Control Plan, as discussed above.

*(iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*

Not applicable.

*(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and*

No provisions of Division 8 of Part 6 of the Environmental Planning and Assessment Regulation 2000 are relevant to the proposed development.

*(v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates,*

Not applicable.

*(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*

Provided all recommended consent conditions are complied with, the proposed development is not expected to have any significant negative environmental, social or economic impact.

*(c) the suitability of the site for the development,*

Provided all recommended consent conditions are complied with (including a requirement for amendment of the proposed development to create two lots of at least 40ha), the proposed development is considered unlikely to have any significant negative impact on the character and amenity of the locality. No site attributes are considered to render the land unsuitable for subdivision to create two lots of at least 40ha.

*(d) any submissions made in accordance with this Act or the regulations,*

Refer to the Consultation section of this report.

*(e) the public interest.*

There is not considered to be any overriding public interest in favour of permitting the proposed creation of a lot smaller than the 40ha minimum lot size applicable to the land under clause 4.1 of the LEP. A recommended consent condition therefore requires the proposed development's amendment to create two lots of at least 40ha.

Provided all recommended consent conditions are complied with, there is not considered to be any overriding public interest against granting consent for subdivision of the land to create two lots of at least 40ha in area.



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## CONSULTATION

### *Pre-lodgement Meeting*

There is no apparent record of any formal pre-lodgement meeting or correspondence between Council officers and the applicant.

### *External Referrals*

| Referrals                           | Advice/Response/Conditions  |
|-------------------------------------|---|
| NSW Department of Premier & Cabinet | <p>The application proposes development in relation to land occupied by building works and/or relics subject to listing on the State Heritage Register. Despite this, the NSW Department of Premier and Cabinet (P&amp;C) provided written confirmation that the proposed development does not require approval under the Heritage Act 1977, and is therefore not integrated development.</p> <p>P&amp;C has not raised any concerns regarding the proposed development, and has not expressed any objection to it.</p> |

### *Internal Referrals*

| Referrals  | Advice/Response/Conditions   |
|--|--|
| Development Engineer                             | Council's Development Engineer raised no concerns regarding the proposed development, subject to various recommended consent conditions.   |
| Strategic Planning (re: Developer Contributions) | Council's Coordinator Strategic Land Use Planning has confirmed the proposed development invokes requirements for payment of developer contributions, which are conveyed by recommended consent <b>conditions 26 and 27</b> .  |
| Heritage Advisor                                 | <p>Council's Heritage Advisor suggested the proposed development, essentially involving further reduction of the "Golden Vale", may diminish or compromise the item's heritage significance. The Heritage Advisor nonetheless recommended a condition of consent requiring creation of a restriction under the Conveyancing Act 1919 specifying no further subdivision of proposed Lot 3 – containing the "Golden Vale" homestead complex – shall be permitted.</p> <p>Subdivision of the land, carried out in compliance with all recommended consent conditions, will result in "Golden Vale" occupying a lot of no greater than 47.77ha in area. Noting the 40ha minimum lot size applicable to the land, if a development application were made for consent to further subdivide that lot, Wingecarribee LEP 2010 would compel the consent authority to determine it by refusal.</p> <p>Additionally, noting the heritage listing of "Golden Vale" relates only to the "Golden Vale" house, grounds and outbuildings, it should not be assumed that any remotely possible future subdivision will detract from the heritage significance of the item.</p> <p>Given the above, it is not considered necessary to impose a</p> |

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| Referrals | Advice/Response/Conditions  |
|-----------|---|
|           | condition of consent to prohibit any further subdivision of the land. |

#### ***Neighbour Notification (or Advertising)/Public Participation***

Council advertised the application and notified it to surrounding land owners, and erected a notice of the proposed development adjacent to the land's vehicle access point, inviting submissions from 30 July to 28 August 2019. Council did not receive any submissions from the public regarding the proposed development.

#### **SUSTAINABILITY ASSESSMENT**

- ***Environment***

There are no environmental impacts 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 development application has been considered in accordance with the *Wingecarribee Local Environmental Plan 2010*, section 4.15 of the *Environmental Planning and Assessment Act 1979* and any other matters relevant to the development.

#### **RELATIONSHIP TO CORPORATE PLANS**

Operational Plan 2019/20: OP168 Assess and certify applications related to development.

#### **COUNCIL BUDGET IMPLICATIONS**

The financial implications of Council's decision in this matter are directly related to the legal implications. The possibilities are detailed as follows:

- Should the applicant choose to appeal a refusal, or pursue a deemed refusal, by Council through the Land and Environment Court and lose, the question of cost with regard to Council's legal representation would be determined by the extent of the reasons for refusal;
- Should the applicant choose to appeal a refusal, or pursue a deemed refusal, by Council through the Land and Environment Court and win, the question of cost would be dependent upon the extent of the reasons for refusal;
- Should any person choose to take out Class 4 proceedings against Council to the Land and Environment Court and lose, the question of cost with regard to Council's legal representation would be calculated at the appropriate time;

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- Should any person choose to take out Class 4 proceedings against Council to the Land and Environment Court and win, the question of cost would still be calculated at the appropriate time;
- Should the applicant make no appeal, or proceedings not be taken out by another party, to the Land and Environment Court regardless of the determination, the application would result in no further financial implication to Council.

#### RELATED COUNCIL POLICY

An assessment of the proposal has been made against the *Wingecarribee Local Environmental Plan 2010*, SEPP 44—Koala Habitat Protection, SEPP 55—Remediation of Land, SEPP (Sydney Drinking Water Catchment)2011 and the Wingecarribee Shire Rural Lands Development Control Plan.

#### OPTIONS

The options available to Council are:

##### Option 1

Determine development application 20/0074 by granting consent subject to the conditions specified by **Attachment 1**.

##### Option 2

Determine development application 20/0074 by refusing consent and specify the reasons for refusal.

Option 1 is the recommended option to this report.

#### CONCLUSION

Subdivision of the land to create a lot smaller than the 40ha minimum lot size applicable under Wingecarribee LEP 2010 is considered avoidably unsatisfactory with regard to the LEP's relevant provisions and those of the Wingecarribee Shire Rural Lands Development Control Plan. Recommended **conditions 6 and 20** therefore specify requirements for the proposed development to be amended and carried out so as to produce two lots of at least 40ha in area.

Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the relevant provisions of applicable environmental planning instruments, development control plans and Council policies, and is not expected to have any significant negative environmental, social or economic impact, nor any significant negative impact on the character and amenity of the locality.

#### ATTACHMENTS

1. 20/0074 Draft Conditions of Consent
2. 20/0074 Locality Map - *circulated under separate cover*
3. 20/0074 Aerial Image - *circulated under separate cover*
4. 20/0074 Proposed Development Drawings - *circulated under separate cover*

**9.3 DA 20/0074 - Subdivision of Land and Carrying out of Works to  
Create Two Lots, Lot 1 DP1118652, 278 Golden Vale Road,  
Sutton Forest**



**ATTACHMENT 1 20/0074 Draft Conditions of Consent**

**20/0074 DRAFT CONDITIONS OF DEVELOPMENT CONSENT**

**ADMINISTRATION CONDITIONS**

**1. Development Description**

Council's consent is granted in accordance with this notice of determination for subdivision of land and carrying out of works to create two lots.

**Reason:** *To confirm the use of the approved development.*

**2. Development in Accordance with Plans and Documents**

Except where otherwise specified by conditions of development consent, the development shall be carried out in accordance with the documents accompanying the development application, and the stamped consent drawings set out in the following table including any notations or amendments made by Council.

| Drawing Title  | Reference | Prepared By | Dated        |
|--|-----------|-------------|--------------|
| Proposed Subdivision of Lot 1 in DP1118652 (Including Covenants) | N/A       | Unknown     | 26 June 2019 |

**Reason:** *To ensure the development is carried out in accordance with the approved plans and documentation.*

**3. Consent does not permit vegetation removal**

Council's consent does not permit removal of any vegetation other than indicated on the stamped consent drawings or specified by an environmental planning instrument as not requiring prior consent.

**Reason:** *To prevent unauthorised vegetation removal.*

**4. Inconsistency between documents**

In the event of any inconsistency between conditions of consent and the drawings and documents referred to above, the conditions of consent shall prevail to the extent of the inconsistency.

**Reason:** *To ensure that the development is undertaken in accordance with the submitted drawings and documents (as amended).*

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ATTACHMENT 1 20/0074 Draft Conditions of Consent



**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE SUBDIVISION WORKS CERTIFICATE**

5. **Application for a Subdivision Works Certificate**

No subdivision work in the development shall be permitted to commence unless a Subdivision Works Certificate has been applied for and issued by Council or a suitably accredited certifier, pursuant to Section 6.13 of the *Environmental Planning and Assessment Act 1979*. The application for a Subdivision Works Certificate shall be accompanied by detailed engineering plans and specifications and completed design checklists found in Council's Engineering Policies.

**Reason:** *A requirement under the provisions of the Environmental Planning and Assessment Act 1979.*

6. **Amendments to Approved Plans**

Council's consent does not permit subdivision of the subject land to create a lot smaller than the 40ha minimum size shown on the Wingecarribee Local Environmental Plan 2010 Lot Size Map in relation to the land.

No subdivision works certificate shall be granted for the development unless the application for subdivision works certificate is accompanied by amended drawings substantially consistent with the stamped development consent drawings, with the exception that the amended drawings shall indicate:

- (a) Creation of a vacant lot (Lot 4 as identified by the stamped development consent drawings) with an area not less than 40ha, and
- (b) Creation of a lot occupied by the existing "Golden Vale" house, grounds and outbuildings on the land (Lot 3 as identified by the stamped development consent drawings), also having an area not less than 40ha.

**Note:** *This involves a change to the Development Application plans as submitted to and approved by Council.*

**Reason:** *To ensure compliance with clause 4.1 (3) of Wingecarribee Local Environmental Plan 2010 (the LEP), in the absence of Council being satisfied in accordance with clause 4.6 (4) of the LEP that compliance with clause 4.1 (3) is unreasonable or unnecessary in the circumstances of the case, that there are sufficient environmental planning grounds to justify contravening clause 4.1 (3), and that the development as proposed by the application will be in the public interest because it is consistent with the objective specified by clause 4.1 (1) (b) of the LEP and the objectives specified by the Land Use Table at the end of Part 2 of the LEP for development within Zone E3 Environmental Management.*

7. **Appointment of Principal Certifier**

No subdivision work in the development shall commence unless:

- (a) A Subdivision Works Certificate for the subdivision work has been issued by:
  - (i) the consent authority; or

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**ATTACHMENT 1 20/0074 Draft Conditions of Consent**

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- (ii) an accredited certifier; and
- (b) the person having the benefit of the development consent has:
  - (i) appointed a principal certifier for the subdivision work, and
  - (ii) notified the principal certifier that the person will carry out the subdivision work as an owner-builder, if that is the case, and
- (b1) the principal certifier has, no later than 2 days before the building work commences:
  - (i) notified the Council of his or her appointment, and
  - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the subdivision work, and
- (b2) the person having the benefit of the development consent, if not carrying out the work as an owner builder, has:
  - (i) appointed a principal contractor for the subdivision work who must be the holder of a contractor licence if any residential building work is involved, and
  - (ii) notified the principal certifier of such appointment, and
  - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the subdivision work, and
- (c) the person having the person having the benefit of the development consent has given at least 2 days' notice to the Council of the person's intention to commence the subdivision work.

**Reason:** *To ensure that there is certainty as to the consent applying to the land.*

**8. Energy Service Provider Requirements**

No subdivision works certificate shall be granted for the development unless the certifying authority is satisfied by documents accompanying the application for subdivision works certificate that the requirements of the energy service provider have been obtained for provision of underground electricity to service the development.

**Reason:** *To ensure appropriate infrastructure is provided to the development.*

**9. Erosion and Sediment Control Plan**

No subdivision works certificate shall be granted for the development unless the certifying authority is satisfied by documents accompanying the application for subdivision works certificate that an Erosion and Sediment Control Plan has been prepared in accordance with "Landcom's Blue Book" for sedimentation and erosion control plan by a suitably qualified person, and approved by Council.

The Erosion and Sediment Control Plan shall include scaled drawings and detailed specifications which can be referred to onsite by project management staff or project construction supervisor. Items to be shown on the Plan shall include:

- (a) Locality of the site, a north point and scale.

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- (b) Existing contours of the site including catchment area boundaries and indications of direction of fall.
- (c) Location of and basic description of existing vegetation.
- (d) Diversion of uncontaminated up-slope run-off around the disturbed sites.
- (e) Location of significant natural areas requiring special planning or management including waters, floodplains, seasonally wet areas, areas prone to ponding/water logging, unstable slopes etc.
- (f) Nature and extent of earthworks, including cut and fill roadworks.
- (g) Location of all soil and material stockpiles.
- (h) Location of site access, proposed roads and other impervious areas.
- (i) Existing and proposed drainage patterns.
- (j) Location and type of proposed erosion and sediment control measures.
- (k) Site rehabilitation proposals, including final contours.
- (l) Time of placement of sediment controls.
- (m) Staging of works and how the plan is to be implemented for each stage or activity on site.
- (n) Maintenance schedule.

**Reason:** *To minimise soil erosion and sediment movement during construction.*

**CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORK**

**10. Notice of Commencement**

No subdivision work in the development shall be permitted to commence unless a notice of commencement form has been submitted (form will be attached with issue of a Subdivision Works Certificate or available from Council's website), giving the certifying authority:

- (a) Not less than two (2) days' notice of the date on which it is proposed to commence work associated with this Development Consent;
- (b) Details of the appointment of a Principal Certifier (either Wingecarribee Council or another Accredited Certifier)
- (c) Details of the Principal Contractor or Owner Builder.
  - Name
  - Builders Licence Number or Owner Builder Permit Number
  - Principal Contractor Company Name
  - Principal Contractor ABN
  - Address of Principal Contractor or Owner Builder

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- Email Address

- (d) Copy of the HBCF Insurance Certificate (if residential building works exceed \$20,000) or Owner Builder Permit;
- (e) Details demonstrating compliance with development consent conditions relevant prior to commencement of the development been satisfied.

**Reason:** *Statutory requirement.*

**Advice:** *Attached Notice of Commencement form to be completed.*

**11. Principal Certifier Sign**

No subdivision work in the development shall be permitted to commence unless signage has been erected in a prominent position on the work site identifying:

- The Principal Certifier's name, address and telephone number;
- The Principal Contractor's name, address and telephone number (outside of work hours) for that person.
- The sign must state that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the work is being carried out, but must be removed when the work has been completed.

**Advice:** *Where Council is the certifying authority, signage is available from Council.*

**Reason:** *Statutory requirement.*

**12. Subdivision Works Certificate & Appointment of Principal Certifier**

Subdivision work in accordance with a consent must not commence until:

- (a) A Subdivision Works Certificate has been issued.
- (b) The person having the benefit of the development consent has appointed the Principal Certifier.
- (c) The Principal Certifier (if not Council) has, no later than two (2) days before the subdivision work commences, notified the Council (or other consent authority where applicable) of the Principal Certifier's appointment.
- (d) The person having the benefit of the consent has given at least two (2) days' notice to the Council of the person's intention to commence the subdivision work.

**Reason:** *Statutory requirement.*

**13. Approval Required for Work within Road Reserve - Section 138 Roads Act 1993**

Where works are proposed within the road reserve, the Developer must obtain approval from Council (as the Roads Authority and / or as required under Section 138 of the *Roads Act 1993*) before any works are undertaken. Works within the road reserve may include activities such as erect a structure, dig up or disturb the surface of a public road, remove or interfere



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with a structure, or any other activities as defined within the *Roads Act 1993*.

The following details must be submitted to Council in order to obtain the Section 138 approval:

- A copy of approved design plans related to the development and proposed works to be undertaken.
- Traffic Control Plan (TCP) to provide protection for those within and adjacent to the work site, including the travelling and pedestrian public. The TCP must comply with the Roads and Traffic Authority's manual "Traffic Control at Work Sites". Warning and protective devices shall comply with the provisions of AS1742.3 - 2002 Traffic Control Devices for Works on Roads. The plan must be prepared and certified by a person holding the appropriate Roads and Traffic Authority accreditation, a copy of which is to be submitted with the plan.
- Insurance details - Public Liability Insurance to an amount of \$20 million, to be held by applicant / contractor undertaking the works.

**Advice:** *Where works are required within a Classified Road, the Developer must obtain the concurrence and / or the approval of the Roads and Traffic Authority for engineering design plans, Traffic Control Plans and approvals under Section 138 of the Roads Act 1993.*

**Reason:** *Statutory requirement.*

**14. Relocation of Existing Services**

Where existing services including drainage, sewerage and water may be required to be relocated as a result of the development, a plumber's permit is required from Council prior to commencing work. Inspection of these works by Council as the Water Supply Authority is required.

**Reason:** *Statutory requirement.*

**15. Erosion and Sediment Control**

No subdivision work in the development shall be permitted to commence unless erosion and sediment control measures have been installed in accordance with the approved Erosion and Sediment Control Plan.

**Reason:** *To ensure that sediment does not leave the site as a result of the carrying out of subdivision works in the development.*

**CONDITIONS TO BE SATISFIED DURING THE CONSTRUCTION PHASE**

**16. Erosion and Sediment Control Plan Compliance**

All site works shall be carried out in accordance with the approved Erosion and Sediment Control Plan. Implementation of the Erosion and Sediment Control Plan shall be supervised by personnel with appropriate qualification and experience in erosion and sediment control.

**Reason:** *To ensure that the environment is protected.*

9.3 DA 20/0074 - Subdivision of Land and Carrying out of Works to Create Two Lots, Lot 1 DP1118652, 278 Golden Vale Road, Sutton Forest



ATTACHMENT 1 20/0074 Draft Conditions of Consent

17. **Approved hours of Subdivision Work**

The carrying out of subdivision work in the development shall be limited to the following hours:

| DAY                | HOURS            |
|--------------------|------------------|
| Monday to Saturday | 7:00am to 5:00pm |
| Sunday             | Nil              |
| Public Holidays    | Nil              |

**Reason:** *To ensure that the amenity of the surrounding area is not compromised as a result of the carrying out of subdivision works in the development.*

18. **Temporary Onsite Toilet**

Toilet facilities shall be available or provided at the work site prior to the commencement of subdivision works in the development and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

Each toilet shall:

- (a) be a standard flushing toilet connected to a public sewer, or
- (b) have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
- (c) be a temporary chemical closet approved under the *Local Government Act 1993*.

**Reason:** *To ensure that there are appropriate facilities on-site for workers.*

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE**

19. **Subdivision Certificate**

An application for a Subdivision Certificate shall be lodged with Council or an Accredited Certifier (in accordance with Section 6.15 of the *Environmental Planning and Assessment Act 1979*) for approval to enable the subdivision plans to be submitted to and registered with NSW Land Registry Services. Should the Subdivision Certificate application be lodged with Council, a final plan of subdivision and 3 copies shall be included with the application.

All works specified in Council's development consent and approved Subdivision Works Certificate plans shall be completed and all development consent conditions complied with prior to issue of the Subdivision Certificate.

The application for a Subdivision Certificate is to be accompanied by supporting documentation outlining how each condition of consent has been complied with.

**Reason:** *To comply with the provisions of the Environmental Planning and Assessment Act 1979.*

**Note:** *The applicant is to ensure that works associated with the Section 138 (Roads Act) approval and Section 68 (Local Government Act) approval are completed and inspected by Council.*

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20. **Minimum Lot Size**

No subdivision certificate shall be granted for the development unless the certifying authority is satisfied by documents accompanying the application for subdivision certificate that each of the two lots to be created is at least 40ha in area.

**Reason:** *To ensure compliance with clause 4.1 (3) of Wingecarribee Local Environmental Plan 2010 (the LEP), in the absence of Council being satisfied in accordance with clause 4.6 (4) of the LEP that compliance with clause 4.1 (3) is unreasonable or unnecessary in the circumstances of the case, that there are sufficient environmental planning grounds to justify contravening clause 4.1 (3), and that the development as proposed by the application will be in the public interest because it is consistent with the objective specified by clause 4.1 (1) (b) of the LEP and the objectives specified by the Land Use Table at the end of Part 2 of the LEP for development within Zone E3 Environmental Management.*

21. **Council Property**

The applicant shall rectify any damage to Council property (including roads, gutters, footpaths, street trees and the like) as a result of the development, prior to the issue of the Subdivision Certificate at no cost to Council.

**Reason:** *To ensure that Councils assets are protected.*

22. **Flood Prone Land Restrictions 88B**

No subdivision certificate shall be granted for the proposed development unless the certifying authority is satisfied by documents accompanying the subdivision certificate application that an instrument under section 88B of the Conveyancing Act 1919 has been submitted to and approved by Council, prohibiting the erection of any building on any part of the land located below the level of a 1:100 average recurrent flood event plus 500mm freeboard.

**Reason:** *To ensure that future purchases are aware of flood liability and restrictions.*

23. **Energy Service Provider Requirements**

The provision of underground electricity to service the development in accordance with the requirements of the Energy Service Provider. The Developer shall submit to Council documentary evidence from the Energy Service Provider qualifying that the requirements of that provider have been obtained in the form of a Notification of Arrangement (NOA). The requirements of the supply authority will need to be met prior to the issue of the Subdivision Certificate.

**Reason:** *To ensure appropriate infrastructure is provided to the development.*

24. **Permanent Road Survey Marks**

Permanent road survey marks shall be provided to the satisfaction of the Group Manager Planning, Development and Regulatory Services prior to the issue of the Subdivision Certificate.

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ATTACHMENT 1 20/0074 Draft Conditions of Consent

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**Reason:** *Engineering Requirements.*

25. **Vehicle Access (Rural)**

The existing access driveway to proposed Lot 3 and the access driveway to proposed Lot 4 shall be provided by means of a vehicle crossing as per Council's Standard Drawing No SD110 and approved by the Development Engineer prior to the issue of the Subdivision Certificate.

**Reason:** *To comply with Council's Engineering Standards.*

26. **Section 7.11 Contributions (formerly Section 94)**

Under Section 7.11 of the *Environmental Planning and Assessment Act 1979* (as amended), Council has satisfactorily determined that Development Contributions are applicable to this development consent, as the development is likely to require the provision of, or increase the demand for, public amenities and public services within the Wingecarribee Local Government Area.

The following Wingecarribee Shire Council Section 94 Developer Contributions Plans are applicable to the development:

- Roads & Traffic Management Facilities
- Resource Recovery Centre 2009
- Central Library Facility
- Section 94 Administration 2011 to 2031
- Open Space & Recreation Facilities

A "Developer Charges - Notice of Payment" is attached to the back of this consent, and outlines monetary contributions and unit rates applicable at the time of issue of this consent. The contributions listed in the Notice of Payment must be paid prior to the issue of the Subdivision Certificate.

All contributions are indexed quarterly in accordance with upward movements in the Consumer Price Index (All Groups, Sydney) as published by the Australian Bureau of Statistics ([www.abs.gov.au](http://www.abs.gov.au)); Section 251 of the *Environmental Planning and Assessment Regulation 2000*; and Council's Developer Contributions Plans.

**Note:** *Copies of the Contributions Plans are available at Wingecarribee Shire Council's Administration building Moss Vale or are available for download from Council's website [www.wsc.nsw.gov.au](http://www.wsc.nsw.gov.au).*

**Note:** *Payment of the attached contributions is to be by BANK CHEQUE OR CASH and is to be accompanied by the attached sheet entitled "Notice of Payment - Developer Charges & Section 94". Should the Applicant pay by personal or company cheque the plans subject to this approval will not be available for collection until such time as the cheque has been honoured (i.e. a minimum of 10 days).*

**Reason:** *To retain a level of service for the existing population and to provide the same level of service to the population resulting from new developments.*

**CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE OF THE DEVELOPMENT**

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27. **Erosion Control on Completed Developments**

Adequate erosion and sediment control measures shall be maintained in place where necessary until site stabilisation and revegetation is finalised.

**Reason:** *To protect the environment.*

**END OF CONDITIONS**



## 9.4 Application 03/0786.09 - Request for Review of Determination of Application 03/0786.08 to Modify Development Consent 03/0786 - 106 Unit Self Care Retirement Complex and Associated Facilities, Lot 2345 DP1110446, 133 Bowral Road, Bowral

|                                   |   |
|-----------------------------------|---|
| Reference:                        | 03/0786DA   |
| Report Author:                    | Senior Development Assessment Planner   |
| Authoriser:                       | Group Manager Planning, Development and Regulatory Services<br>Group Manager Planning Development and Regulatory Services |
| Applicant:                        | Old Bowral Estate   |
| Owner:                            | Old Bowral Estate Pty Limited   |
| Link to Community Strategic Plan: | Conserve the key natural resources of the Shire and minimise the impact from development                                  |

### PURPOSE

This report presents application 03/0786.09 for Council's consideration, and recommends APPROVAL subject to the draft conditions of modified consent specified in **Attachment 1**.

### VOTING ON THE MOTION

Councillors are required to record their votes on this matter.

### RECOMMENDATION

**THAT**, pursuant to sections 8.4 and 4.55 (1A) of the *Environmental Planning and Assessment Act 1979*, Application 03/0786.09 is determined by changing Council's determination of Application 03/0786.08 to allow the proposed modification of development consent 03/0786 for a 106 unit self-care retirement complex and associated facilities at Lot 2345 DP 1110446, No 133 Bowral Road, Bowral, subject to conditions as described in Attachment 1 to the report.

### REPORT

#### *Subject Site and Locality*

**Attachments 2 and 3** illustrate the land's location and layout. It is a 7.774ha residential lot on the western side of Old Bowral and Mittagong Roads, adjacent to their intersection. The land is accessible by vehicle from Old Bowral Road north of the intersection, and from Mittagong Road south of the intersection, and is under development for the purpose of a 106 unit self-care retirement complex.

Surrounding properties are located in various land use zones, including Environmental Management, Rural Landscape, Special Purposes (Rail Infrastructure and Roads), Small Lot Primary Production, and Large Lot Residential zones. Surrounding land uses also vary,

but predominantly comprise dwelling houses on large lots. The Main Southern Railway also adjoins the land's western boundary.

### ***Background***

The previous application 03/0786.08 was made to Council on 26 April 2019. It proposed modification of development consent 03/0786, which permits development for the purpose of a 106 unit self-care retirement complex and associated facilities on the land. The proposed modification involved deletion of a requirement of condition 56 of the consent (as most recently modified on 28 February 2019) for a 4,500L stormwater storage tank for each unit. The modification was proposed on the basis of condition 33 of the consent specifying a Water NSW requirement for a minimum 522,000L end of pipe underground rainwater tank for all dwellings in the western catchment of the site, rendering the requirement of condition 56 unnecessary.

The Council considered a staff report regarding application 03/0786.08 at its Ordinary Meeting of 24 July 2019. The report recommended the Council favourably determine the application, but the Council resolved as follows:

***THAT** s.4.55 modification application 03/0786.08 which seeks approval to modify the approved 106 Unit Self Care Retirement Complex at Lot 2345 DP 1110446, being 133 Old Bowral Road Bowral, specifically to modify dot point 2 of Condition 56 to delete the requirement for a 4,500 litre stormwater storage tank for each unit be REFUSED for the following reasons:*

- 1. The modification application 03/0786.08 is inconsistent with the existing policy of this Council which requires the installation of rainwater tanks in all new residential development within the Shire.*
- 2. The proposed amendment will discourage household re-use of stormwater within the dwellings including washing machines toilets and landscaping.*
- 3. The reduced household re-use of stormwater will likely lead to an overall reduction in on site stormwater detention.*
- 4. A reduction in on site detention will likely lead to unmanageable stormwater impacts downstream of the development during prolonged rainfall events.*
- 5. The removal of the stormwater tanks will reduce the development's ability to effectively re-use stormwater onsite, particularly in an environmentally sustainable manner within the dwellings.*
- 6. The proposal is not within the public interest.*

The Council thus determined application 03/0786.08 by refusing to modify development consent 03/0786 as proposed.



### ***Description of Proposal***

Division 8.2 of the Environmental Planning and Assessment Act 1979 (the Act) provides for an applicant for modification of consent to request a review of the consent authority's determination of their modification application.

On 19 August 2019 application 03/0786.09 was made to Council, requesting review of Council's determination of modification application 03/0786.08 by refusal. As discussed earlier, application 03/0786.08 proposed modification of development consent 03/0786 by deletion of a requirement of condition 56 of the consent for a 4,500L stormwater storage tank for each unit, on the basis that condition 33 of the consent specifies a Water NSW requirement for a minimum 522,000L end of pipe underground rainwater tank for all dwellings in the western catchment of the site, rendering the requirement of condition 56 unnecessary.

The current request for review of Council's determination of modification application 03/0786.08 does not propose amendment of any other condition of development consent 03/0786, nor any other amendment to the development the subject of the consent as provided for by section 8.3 (3) of the Act.

The application is accompanied by a supporting letter, reproduced in **Attachment 4**.

### **STATUTORY PROVISIONS**

#### ***Division 8.2 of the Environmental Planning and Assessment Act 1979 (the Act)***

- Section 8.2—Determination and decisions subject to review

Section 8.2 (1) (b) and (3), reproduced below, is relevant to the subject application:

- (1) *The following determinations or decisions of a consent authority under Part 4 are subject to review under this Division—*
  - (b) *the determination of an application for the modification of a development consent by a council, by a local planning panel, by a Sydney district or regional planning panel or by any person acting as delegate of the Minister (other than the Independent Planning Commission or the Planning Secretary),*
- (3) *A determination or decision reviewed under this Division is not subject to further review under this Division.*

- Section 8.3—Application for and conduct of review

Section 8.3 (1)-(3) and (6) specifies:

- (1) *An applicant for development consent may request a consent authority to review a determination or decision made by the consent authority. The consent authority is to review the determination or decision if duly requested to do so under this Division.*
- (2) *A determination or decision cannot be reviewed under this Division—*



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- (a) *after the period within which any appeal may be made to the Court has expired if no appeal was made, or*
- (b) *after the Court has disposed of an appeal against the determination or decision.*
- (3) *In requesting a review, the applicant may amend the proposed development the subject of the original application for development consent or for modification of development consent. The consent authority may review the matter having regard to the amended development, but only if it is satisfied that it is substantially the same development.*
- (6) *The review of a determination or decision made by a council is to be conducted by the council and not by a delegate of the council.*

Noting the Council determined modification application 03/0786.08 on 24 July 2019, an important effect of section 8.3 (2) (a) and (6) is to specify that the Council must review its determination no later than 24 January 2020.

As discussed earlier, the subject application does not amend the proposed development the subject of the previous application 03/0786.08 for modification of development consent 03/0786 as provided for by section 8.3 (3).

- Section 8.4—Outcome of review

Section 8.4 specifies:

*After conducting its review of a determination or decision, the consent authority may confirm or change the determination or decision.*

#### ***Division 12B of Part 6 of the Environmental Planning and Assessment Regulation 2000 (the Regulation)***

- Clause 123I—Review of modification decision

In accordance with clause 123I (2), Council notified the subject application to owners and occupiers of surrounding properties and erected notices of the application on site, inviting submissions from 18 September to 18 October 2019. Notification of the application did not attract any submissions from the public.

#### ***Section 4.55 of the Environmental Planning and Assessment Act 1979 (the Act)***

Section 4.55 (1A) and (3) of the Act is relevant to Council's review of its determination of modification application 03/0786.08, and is as follows:

##### **4.55 Modification of consents—generally**

- (1A) ***Modifications involving minimal environmental impact*** *A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent*



*authority and subject to and in accordance with the regulations, modify the consent if—*

- (a) it is satisfied that the proposed modification is of minimal environmental impact, and*
- (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (c) it has notified the application in accordance with—*
  - (i) the regulations, if the regulations so require, or*
  - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

*Subsections (1), (2) and (5) do not apply to such a modification.*

- (3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.*

With respect to section 4.55 (1A) (a) and (b), the proposed modification is not expected to have any significant negative environmental impact, and is not considered to materially change the development to which the proposed modified consent would relate.

With respect to section 4.55 (1A) (c) and (d), neither the Regulation nor any development control plan specifies any requirement for notification of modification application 03/0786.08. Despite this, Council notified modification application 03/0786.08 to 50 surrounding properties, which did not attract any submissions. In addition the current application requesting review of Council's determination of modification application 03/0786.08 was notified pursuant to clause 123I of the Regulation. Notification of application 03/0786.09 also did not attract any submissions.

In accordance with section 4.55 (3), review of Council's determination of modification application also includes consideration of the matters specified by section 4.15 (1) of the Act, as discussed below.

***Section 4.15 (1) of the Environmental Planning and Assessment Act 1979 (the Act)***

Section 4.15 (1) (a)-(e) specifies matters a consent authority must consider in determining a development application.

- **Section 4.15 (1) (a) (i)—The provisions of any environmental planning instrument that apply to the land**

State environmental planning policies (SEPPs)

Council's consideration of modification application 03/0786.08 has been reviewed with regard to the provisions of SEPPs that are relevant to the proposed modification, discussed as follows.

- SEPP (Sydney Drinking Water Catchment) 2011

Council's original development consent 03/0786 included a condition specifying advice received from the Sydney Catchment Authority (now Water NSW) in response to referral of development application 03/0786.

In accordance with clause 120 (1) of the Environmental Planning and Assessment Regulation, Council forwarded a copy of modification application 03/0786.08 to Water NSW. In response, Water NSW confirmed condition 56 of the consent duplicates the rainwater capture and reuse requirement of condition 33. Water NSW raised no objection to the proposed modification, subject to amendment of condition 33 to ensure its timely implementation.

The current application 03/0786.09 requesting review of Council's determination of modification application 03/0786.08 was also referred to Water NSW. Having considered the subject application and its accompanying documents, as well as documents considered in assessment of previous applications to modify development consent 03/0786, Water NSW advised:

*“Water NSW is satisfied that the proposed modification can achieve a neutral or beneficial effect on water quality provided appropriate conditions are included in any development consent and are subsequently implemented.*

*“Water NSW therefore does not object to the modification subject to the concurrence conditions provided in Water NSW's previous advice to Council [in response to referral of modification application 03/0786.08]”.*

Recommended modified consent **condition 33** therefore conveys the revised concurrence conditions specified by Water NSW.

Provided all recommended modified consent conditions are complied with, the proposed modification is considered satisfactory with respect to the Catchment SEPP's relevant provisions.



Local environmental plans (LEPs)

- Wingecarribee Local Environmental Plan 2010 (the LEP)

Council's consideration of modification application 03/0786.08 has been reviewed with regard to the provisions of the LEP that are relevant to the proposed modification, discussed as follows.

- Clause 1.2—Aims of Plan

The proposed modification of development consent 03/0786 as proposed by application 03/0786.08 is considered satisfactory with respect to particular aims specified by clause 1.2 (2).

- Clause 1.4—Definitions

The development to which the proposed modified development consent would relate comprises erection of buildings and carrying out of works for the purpose of *seniors housing* as defined by the LEP:

***seniors housing*** means a building or place that is—

- (a) a residential care facility, or
- (b) a hostel within the meaning of clause 12 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, or
- (c) a group of self-contained dwellings, or
- (d) a combination of any of the buildings or places referred to in paragraphs (a)–(c),

and that is, or is intended to be, used permanently for—

- (e) seniors or people who have a disability, or
- (f) people who live in the same household with seniors or people who have a disability, or
- (g) staff employed to assist in the administration of the building or place or in the provision of services to persons living in the building or place,

but does not include a hospital.

- Clause 2.3—Zone objectives and Land Use Table

The land occupies two zones: Zone R5 Large Lot Residential and Zone SP2 Infrastructure (Classified Roads). Development consent 03/0786, as most recently modified, permits development of the land's R5 zoned majority portion for the purpose of seniors housing.



The Land Use Table at the end of Part 2 of the LEP specifies development for the purpose of seniors housing is prohibited in Zone R5. However, Council lawfully granted the original development consent 03/0786 in 2004, before the LEP commenced. Building, engineering and/or construction work was physically commenced in accordance with Council's consent before it otherwise would have lapsed, and remains in progress. Therefore, pursuant to section 4.53 (4) of the Environmental Planning and Assessment Act 1979, the consent will not lapse. In turn, the development the subject of development consent 03/0786 as most recently modified is for the purpose of an existing use as defined by section 4.65 of the Act. The modification of development consent 03/0786 does not alter the land's existing use rights. In short, the current LEP's prohibition of development of the land for the purpose of seniors housing is of no consequence to the proposed modification.

▪ **Clause 7.5—Natural resources sensitivity—water**

The land includes "Category 3" riparian land (Bank Stability and water Quality within 10m from the top of stream bank on each side) identified on the LEP Natural Resources Sensitivity Map.

As acknowledged by Water NSW (see earlier discussion regarding SEPP (Sydney Drinking Water Catchment) 2011), condition 56 of development consent 03/0786 as most recently modified duplicates the rainwater capture and reuse requirement of condition 33. Provided all recommended modified consent conditions are complied with, including amendment of **condition 33** to reflect the concurrence conditions of Water NSW, the proposed modification of development consent 03/0786 to remove that duplication is not expected to change the development's impact with respect to the objective or matters for consideration specified by clause 7.5 (1), (3) and (4).

• **Section 4.15 (1) (a) (ii)—The provisions of any proposed instrument that apply to the land**

No proposed instrument is applicable to the land or to the proposed modification.

• **Section 4.15 (1) (a) (iii)—The provisions of any development control plan that apply to the land**

Bowral Town Plan Development Control Plan (the DCP)

Modification of development consent 03/0786 as proposed by application 03/0786.08 does not offend any provision of the DCP.

• **Section 4.15 (1) (a) (iiia)—The provisions of any planning agreement or any draft planning agreement that apply to the land**

Modification of development consent 03/0786 as proposed by application 03/0786.08 does not affect any planning agreement or draft planning agreement.



- **Section 4.15 (1) (a) (iv)—the provisions of the regulations (to the extent that they prescribe matters for the purposes of section 4.15 (1)) that apply to the land**

No provisions of Division 8 of Part 6 of the Environmental Planning and Assessment Regulation 2000 are relevant to modification of development consent 03/0786 as proposed by application 03/0786.08.

- **Section 4.15 (1) (b)—the likely impacts of the development, including environmental, social and economic impacts**

Provided all recommended modified consent conditions are complied with, including the recommended amended **condition 33** reflecting concurrence advice received from Water NSW, modification of development consent 03/0786 as proposed by application 03/0786.08 is not expected to have any significant negative environmental, social or economic impact.

- **Section 4.15 (1) (c)—the suitability of the site for the development**

Modification of development consent 03/0786 as proposed by application 03/0786.08 is not expected to render the development incompatible with the character and amenity of the locality, and no site attributes are considered to render the land unsuitable for the development to which the consent as modified would relate.

- **Section 4.15 (1) (d)—any submissions made in accordance with the Act or the regulations**

As discussed earlier, modification application 03/0786.08 was notified to owners and occupiers of surrounding properties despite neither the Environmental Planning and Assessment Regulation 2000 nor any development control plan requiring it. Additionally, the current application 03/0786.09 requesting review of Council's determination of application 03/0786.08 was notified pursuant to clause 123I (2) of the Regulation.

Council did not receive any submissions in response to notification of either modification application 03/0786.08 or the current application 03/0786.09.

- **Section 4.15 (1) (e)—the public interest**

There is not considered to be any overriding public interest against modifying development consent 03/0786, as proposed by application 03/0786.08, to remove the duplication by condition 56 of the consent of rainwater capture and reuse requirements already specified by condition 33.

## CONSULTATION

### External Referrals

| Referrals                    | Advice/Response/Conditions  |
|------------------------------|---|
| NSW Rural Fire Service (RFS) | The RFS raises no objection to modification of development consent 03/0786 as proposed, subject to compliance with conditions specified by the RFS' Bush Fire Safety Authority advice of 18 December 2013. See recommended modified consent <b>condition 34</b> .   |
| Water NSW                    | Water NSW confirms condition 56 of development consent 03/0786 duplicates the rainwater capture and reuse requirement of condition 33, and raises no objection to modification of development consent 03/0786 as proposed, subject to amendment of <b>condition 33</b> to ensure its timely implementation. |

### Internal Referrals

| Referrals            | Advice/Response/Conditions   |
|----------------------|--|
| Development Engineer | <p>The current application 03/0786.09 to review Council's Council's determination of modification application 03/0786.08 was referred to Council's Development Engineer. In response, the Development Engineer reiterated their response to referral of the previous modification application 03/0786.08:</p> <p><i>"As the Section 4.55 is to remove the conflict between the two conditions of consent (56(2) and 33) I have no objections to the request as the intent of condition 56 is covered by condition 33 as detailed within the letter accompanying the submission."</i></p> |

### Neighbour Notification (or Advertising)/Public Participation

As discussed earlier, neither the Environmental Planning and Assessment Regulation 2000 nor any development control plan specifies any requirement for notification of the previous modification application 03/0786.08. Despite this, Council notified modification application 03/0786.08 to 50 surrounding properties, and notification did not attract any submissions regarding the proposed modification.

In addition, Council notified the current application 03/0786.09 requesting review of Council's determination of modification application 03/0786.08 pursuant to clause 1231 of the Regulation, inviting submissions from 18 September to 18 October 2019. Notification of application 03/0786.09 also did not attract any submissions.

## SUSTAINABILITY ASSESSMENT

- **Environment**

There are no environmental impacts in relation to this report.

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- **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 development application has been considered in accordance with the *Wingecarribee Local Environmental Plan 2010*, section 4.15 of the *Environmental Planning and Assessment Act 1979* and any other matters relevant to the development.

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#### RELATIONSHIP TO CORPORATE PLANS

Operational Plan 2019/20: OP168 Assess and certify applications related to development.

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#### COUNCIL BUDGET IMPLICATIONS

The financial implications of Council's decision in this matter are directly related to the legal implications. The possibilities are detailed as follows:

- Should the applicant choose to appeal a refusal, or pursue a deemed refusal, by Council through the Land and Environment Court and lose, the question of cost with regard to Council's legal representation would be determined by the extent of the reasons for refusal;
- Should the applicant choose to appeal a refusal, or pursue a deemed refusal, by Council through the Land and Environment Court and win, the question of cost would be dependent upon the extent of the reasons for refusal;
- Should any person choose to take out Class 4 proceedings against Council to the Land and Environment Court and lose, the question of cost with regard to Council's legal representation would be calculated at the appropriate time;
- Should any person choose to take out Class 4 proceedings against Council to the Land and Environment Court and win, the question of cost would still be calculated at the appropriate time;
- Should the applicant make no appeal, or proceedings not be taken out by another party, to the Land and Environment Court regardless of the determination, the application would result in no further financial implication to Council.

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#### RELATED COUNCIL POLICY

No Council policies are relevant to Council's consideration of the current application 03/0786.09.

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#### OPTIONS

The options available to Council are:





### **Option 1**

The Council determines the current application 03/0786.09 by changing its determination of application 03/0786.08, to permit the proposed modification of development consent 03/0786 for a 106 unit self-care retirement complex and associated facilities at Lot 2345 DP 1110446, No 133 Bowral Road, Bowral, subject to conditions as described in **Attachment 1** including amended **conditions 33, 34 and 56**.

### **Option 2**

The Council determines the current application 03/0786.09 by confirming its determination of application 03/0786.08, to refuse the proposed modification of development consent 03/0786 for a 106 unit self-care retirement complex and associated facilities at Lot 2345 DP 1110446, No 133 Bowral Road, Bowral, for the reasons specified by the Council's resolution of 24 July 2019:

1. *The modification application 03/0786.08 is inconsistent with the existing policy of this Council which requires the installation of rainwater tanks in all new residential development within the Shire.*
2. *The proposed amendment will discourage household re-use of stormwater within the dwellings including washing machines toilets and landscaping.*
3. *The reduced household re-use of stormwater will likely lead to an overall reduction in on site stormwater detention.*
4. *A reduction in on site detention will likely lead to unmanageable stormwater impacts downstream of the development during prolonged rainfall events.*
5. *The removal of the stormwater tanks will reduce the development's ability to effectively re-use stormwater onsite, particularly in an environmentally sustainable manner within the dwellings.*
6. *The proposal is not within the public interest.*

Option 1 is the recommended option to this report.

## **CONCLUSION**

Council's determination of application 03/0786.08 to modify development consent 03/0786 has been reviewed in accordance with the relevant provisions of Division 8.2 of the Environmental Planning and Assessment Act 1979 (the Act) and Division 12B of Part 6 of the Environmental Planning and Assessment Regulation 2000 (the Regulation).

Provided all recommended modified consent conditions are complied with, the modification of development consent 03/0786 as proposed by application 03/0786.08 is considered satisfactory with respect to the relevant provisions of applicable environmental planning instruments, development control plans and Council policies, and is not expected to have any significant negative environmental, social or economic impact, nor any significant negative impact on the character and amenity of the locality.

## **ATTACHMENTS**

1. 03/0786.09 Draft Conditions of Modified Consent

**AGENDA FOR THE ORDINARY MEETING OF COUNCIL**

Wednesday 11 December 2019

**REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY  
AND DEVELOPMENT SERVICES**



2. 03/0786.09 Locality Map - *circulated under separate cover*
3. 03/0786.09 Aerial Image - *circulated under separate cover*
4. 03/0786.09 Supporting letter accompanying application

Mark Pepping

**Deputy General Manager Corporate, Strategy and Development Services**

Wednesday 4 December 2019

**9.4 Application 03/0786.09 - Request for Review of Determination of Application 03/0786.08 to Modify Development Consent 03/0786 - 106 Unit Self Care Retirement Complex and Associated Facilities, Lot 2345 DP1110446, 133 Bowral Road, Bowral**



**ATTACHMENT 1 03/0786.09 Draft Conditions of Modified Consent**

**Draft Conditions of Modified Development Consent**

**SUMMARY SCHEDULE OF MODIFIED CONSENT CONDITIONS**

**33. Sydney Catchment Authority - AMENDED by modification of consent on 14 May 2014, 28 February 2019 and 11 December 2019**

**General**

1. The layout of the development, the staging and the location of units/buildings shall be as shown on the plan titled Site Plan Gibraltar Park Lot 2345 DP 1110446 Old Bowral Road Bowral (2013-0123 DA01-DA05, DA 06.1-DA06.3; dated May 2013) prepared by Campbell Luscome Architects. Any revised layout or works or staging of the development that have the potential to affect water quality shall be agreed to by the Water NSW.

*Reason for Condition 1 - Water NSW has based its assessment under State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011 on this version of the development.*

**Stormwater Management**

2. As relevant to each stage of the development, all stormwater treatment and management measures shall be implemented as specified in the Stormwater Management and Water Quality Treatment Report (dated 8 August 2013, Version 2) and Stormwater Drainage Management Plan (Project SY13.0117, Dwg. SK03.01; Reissue A; dated 8 August 2013) both prepared by ACOR Consultants Pty Ltd, except where varied by the below conditions.
3. Onsite detention basins shall be constructed in both sub-catchments, as specified in Section 3 of the Stormwater Management and Water Quality Treatment Report (dated 8 August 2013 Version 2) prepared by ACOR Consultants Pty Ltd.
4. A hydraulically-sized gross pollutant trap (Rocla Cleans All 600 Unit or Water NSW endorsed equivalent) shall be installed in Catchment 2 to capture and treat all surface runoff from the site prior to discharge to the rainwater tanks.
5. A rainwater collection and reuse system shall be installed to collect all runoff from impervious area in Catchment 2 prior to an Occupation Certificate being issued for Buildings 08 to 17 inclusive, and shall include:
  - rainwater tank(s) with a minimum total capacity of 522,000 litres above any volume require for mains top-up
  - roofs and gutters of the buildings designed such that all roof runoff is captured in the rainwater tank(s)
  - a suitably filtered and sized stormwater reuse pump system
  - the tank(s) plumbed to toilets and other areas of non-potable use, including landscape irrigation, and

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- all overflow from rainwater tanks directed to the bioretention basin.
6. A bioretention basin shall be constructed as shown on the Stormwater Drainage Management Plan (Project SY13.0117, Dwg. SK03.01; Reissue A; dated 8 August 2013) prepared by ACOR Consultants Pty Ltd, prior to an Occupation Certificate being issued for Buildings 08 to 17 inclusive. The bioretention basin shall:
- be consistent with *WSUD Engineering Procedures: Stormwater* (Melbourne Water) and *Adoption Guidelines for Stormwater Biofiltration Systems* (FAWB 2009)
  - include:
    - a minimum surface and filter area of 300 square metres
    - a minimum filter media depth of 600mm
    - an extended detention depth of 300mm metres above the filter surface
    - a series of underdrains located at a minimum depth of 600mm
    - a filter media consisting of clean sandy loam with a median particle diameter of 0.5mm, an orthophosphate content of less than 40mg/kg, and a total nitrogen content of less than 400mg/kg
    - a saturated zone below the underdrain with a minimum depth of 100mm that incorporates 10% by volume of hardwood chips, and
    - a 2-metre wide overflow weir with an armoured discharge point such that discharges to the onsite detention basin.
  - be designed such that underdrain discharge is directed past the onsite detention basin to the west
  - be planted with appropriate moisture-tolerant deep-rooted vegetation (grass or turf is not suitable deep rooted vegetation)
  - erect a sign on it advising of its design and nature in stormwater quality management
  - be accessible from road or driveway by machinery to facilitate cleaning, monitoring and maintenance of the structures
  - be permanently protected from vehicular damage by bollards, guard rails, high slotted kerbs or similar permanent structures, and
  - the bioretention basin shall be protected by sediment and erosion control measures during any construction phase until the ground surface is stabilised or revegetated.

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7. No variation to stormwater treatment and management shall be allowed without prior agreement from Water NSW.
8. As relevant to each stage of the development, ACOR Consultants Pty Ltd (or other Water NSW endorsed stormwater consultant or suitably qualified engineer) shall certify in writing to Water NSW and Council, prior to issuance of an Occupation Certificate for that stage of the development, that all stormwater management structures have been installed as per these conditions of consent and are in a fully functional state.

*Reason for Conditions 2 to 8 - To ensure that the proposed stormwater quality management measures are appropriately designed, located and installed so as to ensure a sustainable neutral or beneficial impact on water quality over the longer term.*

**Access Road**

9. The internal access road shall be constructed in accordance with Council's engineering standards.

*Reason for Condition 9 - To ensure that the proposed access road and associated infrastructure will have a sustainable neutral or beneficial impact on water quality during the operational phase of the development.*

**Wastewater Management**

10. There shall be no on-site wastewater management system on the site and all wastewater shall be connected to Council's sewerage system.

*Reason for Condition 10 - To ensure that all wastewater generated is disposed of and treated via Council's sewerage system so as to ensure a sustainable neutral or beneficial effect on water quality over the longer term.*

**Operational Environmental Management Plan**

11. An Operational Environmental Management Plan shall be developed in consultation with Water NSW and Council prior to the issuance of an Occupation Certificate for each stage of the development. The Plan shall:
  - include the details about location and nature of all stormwater management structures, including the pits, pipes, gross pollution traps, bioretention basin, rainwater tanks, and on-site detention basins
  - specifies the detailed requirements and responsibilities for inspection, monitoring, and maintenance of all stormwater management measures, including the frequency of such activities
  - identify the persons responsible for inspection and maintenance activities including a reporting protocol and hierarchy, and
  - include checklists for recording inspections and maintenance activities.
12. All stormwater treatment and management devices shall be monitored, maintained and managed as per the Operational Environmental Management Plan.

*Reason for Conditions 11 & 12 - To ensure stormwater quality management measures are*

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*appropriately maintained so as to ensure a sustainable neutral or beneficial impact on water quality over the longer term.*

**Construction Activities**

13. The Soil and Water Management Plan (Ref: 13111E4; Sheets 2 & 3 of 24; Rev. A, dated 15/07/2015 and 10/07/2015) prepared by JMD Development Consultants shall be updated by a person with knowledge and experience in the preparation of such plans for all works required as part of the development. The Plan shall:
  - meet the requirements outlined in Chapter 2 of NSW Landcom's Soils and Construction: Managing Urban Stormwater (2004)
  - be updated in consultation with Water NSW and Council and submitted to Water NSW and Council within six weeks of any approval for modification LUA 03/0786.06 granted by Council, and
  - include controls to prevent sediment or polluted water leaving the site or entering any stormwater drain or natural drainage system.
14. A suitably qualified, certified professional shall oversee the implementation of the Soil and Water Management Plan for the development and shall certify in writing to Water NSW and Council that erosion and sediment controls have been installed and maintained at the site in accordance with the Soil and Water Management Plan for each stage of the development. The erosion and sediment controls shall be regularly inspected, maintained and retained until works have been completed and ground surface stabilised or groundcover re-established.

*Reason for Conditions 13 & 14 - To manage adverse environmental and water quality impacts during the construction phase of the development so as to minimise the risk of erosion, sedimentation and pollution within or from the site during this phase.*

34. **NSW Rural Fire Service - AMENDED by modification of consent on 14 May 2014 and 11 December 2019**
  1. NSW RFS raises no objection to the proposed amendment to rainwater tank configuration subject to compliance with the conditions within the Bush Fire Safety Authority issued for the development dated 18 December 2013 our ref: D13/1418.

**Note:** The conditions specified by the NSW Rural Fire Service's abovementioned Bush Fire Safety Authority advice of 18 December 2013 are set out below.

**Asset Protection Zones**

The intent of measures is to provide sufficient space for fire fighters and other emergency services personnel, ensuring radiant heat levels permit operations under critical conditions of radiant heat, smoke and embers, while supporting or evacuating occupants. To achieve this, the following conditions shall apply:

- (i) At the commencement of building works and in perpetuity the entire property shall be managed as an inner protection area (IPA) as outlined within Appendices 2 and 5 of the 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Services document 'Standards for asset protection zones'.

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**Water and Utilities**

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and other assisting fire fighting activities. To achieve this, the following conditions shall apply:

- (ii) The provision of water, electricity and gas supplies shall comply with sections 4.1.3 and 4.2.7 of 'Planning for Bush Fire 2006'.

The intent of measures for internal roads is to provide safe operations access for emergency services personnel in suppressing a bush fire, while residents are accessing or egressing an area. To achieve this, the following conditions shall apply:

- (iii) Internal roads shall comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006'.

**Evacuation and Emergency Management**

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions shall apply:

- (iv) A Bush Fire Emergency Evacuation Plan shall be prepared and shall comply with the NSW Rural Fire Service document 'Guide for Developing a Bush Fire Emergency Evacuation Plan'.

**Design and Construction**

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

- (v) The existing dwelling to be retained shall be upgrade to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable this includes any sub floor areas, openable windows, vents, weepholes and eaves. External doors are to be fitted with draft excluders.
- (vi) All proposed units within 100 metres of the site boundaries shall comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection 2006'.

**Landscaping**

- (vii) Landscaping to the site shall comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

**56. Construction of Stormwater/Water Re-Use - AMENDED by modification of consent on 11 December 2019**

- Provision of adequate stormwater drainage infrastructure (pits/pipes/open channels/detention storage) for the conveyance of stormwater passing through the site from upstream, and sourced from the development to a discharge outlet to be approved by the Development Control Engineer. The point of discharge is to be clearly depicted and the legal right to discharge at that point to be justified. Status of the point of

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discharge is to be made clear, ie provision of drainage easements.

- For water conservation and quality control, a 4,500 litre storage tank is to be provided for each unit. The tank is to be designed to capture and retain runoff from roof areas after which runoff by passes the tank and reverts to the main property drainage system. The collected rainwater is to be used for garden irrigation and internal toilet flushing. Design drawings are to be prepared in accordance with AS 3500.3.2 - 1998 and "Interim Guidelines for the Installation of Rainwater Tank Systems in Urban Areas where a Reticulated Potable Water Supply is Installed" dated 11 June 2002 produced by the Committee on Uniformity of Plumbing and Drainage Regulations in NSW and by a suitable and experienced hydraulic/stormwater engineer and submitted for approval by the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate.



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**SCHEDULE 1 CONDITIONS OF MODIFIED DEVELOPMENT CONSENT**

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**ADMINISTRATION AND COMPLIANCE**

**1. Planning Agreement - ADDED 14.5.2014**

Pursuant to section 80A(1) of the Environmental Planning and Assessment Act 1979, prior to the issuing of the first construction certificate for the development subject of this consent, modified by the Section 96 Modification LUA03/0786.01 for an additional 40 Units, the draft planning agreement the subject of the offer made by Old Bowral Real Estate Pty Ltd to the Council by letter dated 21 March 2014, must be entered into.

**Compliance**

**2. Compliance**

Development is to take place in accordance with the approved plans and documentation submitted with the application and subject to the conditions below, to ensure the development is consistent with Council's consent.

**3. Use not to Commence - Modified 28 February 2019**

The approved use of each stage of the development is not to commence until it has been completed in accordance with this consent and any other Council approvals which may be required, and a final inspection carried out and approved by Council staff.

**4. Qualifications and Responsibility for Documentation**

Council requires that design plans be prepared to Council's standards by a person, who has proven experience and suitable relevant qualifications in the preparation of plans specifications and any other relevant documentation for land development. All of these requirements are outlined in Council's Development Control Plan No 41.

The Developer shall be responsible for the correctness of all information contained in the drawings, specifications or any other documentation. The Council will not accept responsibility for any errors or inaccuracies that may be found in such documents, regardless of whether these documents have been checked and/or approved by Council.

**5. Responsibility for Works**

The Council will hold the Developer (Applicant/Owner), to whom the development approval was issued, solely responsible for constructing the required development works to Council's satisfaction and maintaining them during any specified period.

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**6. Developers Representative during Construction of Works**

A minimum of 48 hours prior to commencement of any construction works on site the Developer must nominate to Council in writing their representative (Construction Supervisor) who will be responsible for all aspects of construction and site control, including Traffic Control, Sediment and Erosion Control and liaison with Council Officers and all other Authorities.

Details to be submitted include:-

- Name of Representative:
- Company:
- Position:
- Contact Ph:
- Contact Fax:
- After Hours Contact:
- Signature of Representative:
- Signature & Acceptance of representative by the Developer:
- Council requires that the nominated " Construction Supervisor" either hold qualifications acceptable for Corporate Membership of the Institute of Engineers, Australia, or be Approved by the Director and/or has proven experience and suitable relevant qualifications for the control, supervision and management of civil engineering works as required for carrying land development.

Prior to commencing any works on site the representative shall:-

- Inform Council in writing of their intention 7 days before entering the site.
- Submit to Council a proposed Schedule of Works.

The Applicant may be required to arrange for Council to peruse all other contract documentation PRIOR TO THE CONTRACTOR ARRIVING ON SITE TO COMMENCE WORK. (Schedule of Works, Specifications Bill of Quantity, traffic control plan and Soil and water management plan).

Failure to comply with the requirements as set out above will result in an immediate stop work order.

**7. Hours of Construction Works**

In order to minimise impacts upon the locality construction activities shall be limited to between 7.00am - 5.00pm Monday to Friday and 8.00am to 12.00 midday Saturdays with no work on Sundays and public holidays. Any variation of these hours may only occur with Council's consent.

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**8. Workers Compensation & Public Liability**

It is the Developer's Responsibility to ensure that Contractors engaged to carry out works indicated on the Approved Plans carries current Workers Compensation Insurance and hold Public Liability Insurance for \$10,000,000 cover.

**9. Management of Construction - ADDED 14.5.2014**

A detailed Construction Management Report and Associated Plans is required to be SUBMITTED TO COUNCIL WITH ANY APPLICATION FOR A CONSTRUCTION CERTIFICATE. The required Construction Management Report and Associated Plans SHALL indicate the measures to be implemented to protect the environment as well as public health, safety and convenience. The report SHALL detail provisions for but not limited to:

- (i) An overview of the construction and how potential issues arising will be dealt with eg: Traffic Management issue being located in a busy corner site;
- (ii) Working hours clearly specified;
- (iii) Construction Programme clearly indicating timing of works at different phases of construction;
- (iv) Outline of the Construction Methodology;
- (v) Waste Management Plan addressing the waste managed both within the construction site and offsite;
- (vi) Off-street parking for employees, contractors and sub-contractors;
- (vii) Define locations of site access for construction vehicles and equipment purposes;
- (viii) Public safety in the use of roads and footpaths where development activities adjoin such facilities;
- (ix) The storage and removal, on a regular frequency, of builder's rubble and waste by trade waste contractors;
- (x) Storage of ALL building materials and equipment wholly within the construction site;
- (xi) Public risk policies and management for all contractors' employees using or gaining access over public footpaths and roads;
- (xii) External lighting and security alarms proposed for the construction site;
- (xiii) Fire fighting measures to be available on site during development and construction;
- (xiv) Sanitary amenities and ablutions proposed on site during development and construction;
- (xv) Ensuring the safety of members of the public and Council staff who may have on occasion to enter and be in attendance on the site;
- (xvi) Maintaining access to properties who share a common access with the site during construction.

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**10. Prior to Commencement of Work - ADDED 14.5.2014**

(a) Fencing of Building Site

The building site shall be fenced in accordance with the submitted fencing proposal prior to any building works commencing on site.

**11. Lighting**

Intensity, period of intermittency and hours of illumination shall be varied if, in the opinion of the Council, injury is being caused to the amenity of the neighbourhood.

**12. Advertising Signs**

No signs are to be displayed on the public footway or any external pedestrian areas, to maintain the visual amenity of the locality and to ensure public safety.

**13. Construction Certificate**

The building works are not to commence until an updated Construction Certificate has been issued in accordance with the *Environmental Planning and Assessment Act 1979*. A Building Code of Australia assessment has not been undertaken on the proposal. For further advice you may contact Council's Building Surveyors.

**14. Other Approvals**

Prior to any work commencing, approval under Section 68 of the Local Government Act 1993 will need to be obtained for stormwater drainage, sanitary drainage and water plumbing.

**15. Occupation Certificate - Modified 28 February 2019**

Prior to the issue of an Occupation Certificate for any dwelling, an inspection by the Principal Certifying Authority shall be undertaken and the Principal Certifying Authority shall be satisfied that the conditions of Council's Development Consent No.03/0786 have been satisfied.

**16. Compliance with Relevant Legislation**

Compliance with the Environmental Planning & Assessment Act 1979 and Local Government Act 1993. The Building Code of Australia, SAA Codes and adopted Local Policies shall be observed.

**17. Ground Levels**

Natural ground levels are not to be altered or adjusted other than shown on the approved plans without the prior consent of Council.

**18. Protection of Council's Road Reserve. Kerb and Gutter and Footpath**

The building supervisor is responsible to ensure that all contractors, sub-contractors, and delivery trucks use a designated access point to prevent damage to Council's property. Repairs to damaged grass verges, concrete footpath, kerb and gutter are to be carried out by the builder to Council's specification and supervision prior to occupation of the development.

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**19. Occupation Certificate**

The building, or part of the building, shall not be occupied or used until such time as an Occupation Certificate has been issued in respect of it.

**20. Building Location**

All building work shall be constructed wholly within the boundaries of the property. The location of the boundary shall be verified by survey prior to construction commencing.

**Land Title**

**21. Site Consolidation**

The site being consolidated BEFORE RELEASE OF ANY CONSTRUCTION CERTIFICATE to ensure the use of the land as one allotment is legally recognised and to prevent separate dealings in the existing allotments after the use commences.

**22. Management Statement**

The creation of a "Positive Covenant" on the title to consolidated lot requiring that any proposed detention basin be maintained in a safe and functional manner. In addition, the Section 88B Instrument is to make provision for Council to conduct maintenance on the subject basin at the owner's expense if the basin is not maintained to the agreed standard. Details to be provided for the approval of the Director Environment and Planning PRIOR TO RELEASE OF THE OCCUPATION CERTIFICATE.

NOTE: A standard format is available from Council.

**23. Detention Basin Alterations**

The creation of a "Restriction as to User" on the title to consolidated lot to prevent any change in shape or alteration in structure of the proposed detention basin after the final approval of the structure has been given by Council. Details to be provided for the approval of the Director Environment and Planning PRIOR TO RELEASE OF THE OCCUPATION CERTIFICATE.

**24. Dedication of Road Widening/Easements - Modified 28 February 2019**

The creation or obtaining by the Applicant of the following drainage easements at the Applicant's expense PRIOR TO OCCUPATION OF THE DEVELOPMENT:

- (a) Deleted 28 February 2019
- (b) Stormwater drainage easements over lots downstream of the subject land in favour of proposed lots as necessary from Rail Infrastructure Corporation.

**Protection of Council Assets**

**25. Property Services Within Lots - Modified 28 February 2019**

All property services are to be located within the lots that they serve in accordance with Development Control Plan No 41. The developer is to provide to Council written confirmation of this PRIOR TO RELEASE OF THE OCCUPATION CERTIFICATE.

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**26. Community Asset Bond**

The Builder shall at no cost to Council enter into an agreement secured by cash or irrevocable bank guarantee for the sum of \$2000, to ensure that the community assets of Council are not damaged during construction. Should any community assets be damaged, Council would have the right to carry out the work by day labour or contract and deduct the cost of work from the bond. The bond will then need to be renewed to the amount of \$2000.

**27. Maintenance and Bond for Public Assets - ADDED 14.5.2014 - Modified 28 February 2019**

The Developer shall at their own expense maintain all road, and other civil works constructed by them with respect to the development for a period of twelve (12) months after the date of the signing of the approval for occupation of the development. Prior to the issue of any Occupation Certificate the Developer shall lodge a cash bond with regard to maintenance of the public assets constructed in an amount equal to 5% of the total engineering works with a minimum bond value of \$1,000. The bond shall be assessed by Council for release after the twelve (12) month period on request by the Developer.

**28. Storage Materials**

No storage, or placing of any building materials to occur on adjacent public roads or footpath areas in association with the construction, maintenance or use of the development or site.

**29. Applicant Must Advise of Damage to Property**

The Applicant or the Applicant's agent must advise Council of any damage to property controlled by Council which adjoins the site including kerbs, gutters, footpaths, walkways, reserves and the like, prior to commencement of any work on the site. Failure to identify existing damage will result in all damage detected after completion of the building work being repaired at the Applicants expense.

**30. Vehicular Access Point**

A suitable entry point is to be nominated on site and utilised by construction and delivery vehicles. This entry point is to be located so that the possibility of damage to Council's property is minimised during construction. The access point is to be surfaced with all weather materials of a minimum of 100mm in size.

**31. Deleted 28 February 2019**

**GOVERNMENT AGENCIES**

**32. Department Infrastructure, Planning and Natural Resources (formerly DLWC)**

The Department Infrastructure, Planning and Natural Resources has requested Council to include the following in any consent:

- (a) A vegetated riparian zone is to be established within the subject property for a horizontal distance of 5m measured at right angles to the flow of the stream and from the top of banks. The riparian zone is to consist of a diverse range of appropriate native plant species local to the area and is to be densely planted and fully structured (groundcovers, shrubs and trees). The riparian zone is to extend along the entire length of the property. Trees and shrubs are to be planted at a density of one plant per square metre and at a proportion of 1 tree to 3 shrubs. Groundcover species are

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to be planted at an average density of at least four plants per square metre in addition to the trees and shrubs. The riparian zone is to be free of any new development (including roads, services, retaining walls, impermeable fences etc).

- (b) A building setback of 10m measured at right angles to the flow of the stream and from the pond foreshore is to be maintained. At present the closest residence is 6m from the pond foreshore.

The General Terms of Approval form Annexure "1" to this consent.

**33. Sydney Catchment Authority - AMENDED by modification of consent on 14 May 2014, 28 February 2019 and 11 December 2019**

**General**

1. The layout of the development, the staging and the location of units/buildings shall be as shown on the plan titled Site Plan Gibraltar Park Lot 2345 DP 1110446 Old Bowral Road Bowral (2013-0123 DA01-DA05, DA 06.1-DA06.3; dated May 2013) prepared by Campbell Luscombe Architects. Any revised layout or works or staging of the development that have the potential to affect water quality shall be agreed to by the Water NSW.

*Reason for Condition 1 - Water NSW has based its assessment under State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011 on this version of the development.*

**Stormwater Management**

2. As relevant to each stage of the development, all stormwater treatment and management measures shall be implemented as specified in the Stormwater Management and Water Quality Treatment Report (dated 8 August 2013, Version 2) and Stormwater Drainage Management Plan (Project SY13.0117, Dwg. SK03.01; Reissue A; dated 8 August 2013) both prepared by ACOR Consultants Pty Ltd, except where varied by the below conditions.
3. Onsite detention basins shall be constructed in both sub-catchments, as specified in Section 3 of the Stormwater Management and Water Quality Treatment Report (dated 8 August 2013 Version 2) prepared by ACOR Consultants Pty Ltd.
4. A hydraulically-sized gross pollutant trap (Rocla Cleans All 600 Unit or Water NSW endorsed equivalent) shall be installed in Catchment 2 to capture and treat all surface runoff from the site prior to discharge to the rainwater tanks.
5. A rainwater collection and reuse system shall be installed to collect all runoff from impervious area in Catchment 2 prior to an Occupation Certificate being issued for Buildings 08 to 17 inclusive, and shall include:
  - rainwater tank(s) with a minimum total capacity of 522,000 litres above any volume require for mains top-up
  - roofs and gutters of the buildings designed such that all roof runoff is captured in the rainwater tank(s)
  - a suitably filtered and sized stormwater reuse pump system

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- the tank(s) plumbed to toilets and other areas of non-potable use, including landscape irrigation, and
  - all overflow from rainwater tanks directed to the bioretention basin.
6. A bioretention basin shall be constructed as shown on the Stormwater Drainage Management Plan (Project SY13.0117, Dwg. SK03.01; Reissue A; dated 8 August 2013) prepared by ACOR Consultants Pty Ltd, prior to an Occupation Certificate being issued for Buildings 08 to 17 inclusive. The bioretention basin shall:
- be consistent with *WSUD Engineering Procedures: Stormwater* (Melbourne Water) and *Adoption Guidelines for Stormwater Biofiltration Systems* (FAWB 2009)
  - include:
    - a minimum surface and filter area of 300 square metres
    - a minimum filter media depth of 600mm
    - an extended detention depth of 300mm metres above the filter surface
    - a series of underdrains located at a minimum depth of 600mm
    - a filter media consisting of clean sandy loam with a median particle diameter of 0.5mm, an orthophosphate content of less than 40mg/kg, and a total nitrogen content of less than 400mg/kg
    - a saturated zone below the underdrain with a minimum depth of 100mm that incorporates 10% by volume of hardwood chips, and
    - a 2-metre wide overflow weir with an armoured discharge point such that discharges to the onsite detention basin.
  - be designed such that underdrain discharge is directed past the onsite detention basin to the west
  - be planted with appropriate moisture-tolerant deep-rooted vegetation (grass or turf is not suitable deep rooted vegetation)
  - erect a sign on it advising of its design and nature in stormwater quality management
  - be accessible from road or driveway by machinery to facilitate cleaning, monitoring and maintenance of the structures
  - be permanently protected from vehicular damage by bollards, guard rails, high slotted kerbs or similar permanent structures, and
  - the bioretention basin shall be protected by sediment and erosion control measures during any construction phase until the ground surface is stabilised or revegetated.



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7. No variation to stormwater treatment and management shall be allowed without prior agreement from Water NSW.
8. As relevant to each stage of the development, ACOR Consultants Pty Ltd (or other Water NSW endorsed stormwater consultant or suitably qualified engineer) shall certify in writing to Water NSW and Council, prior to issuance of an Occupation Certificate for that stage of the development, that all stormwater management structures have been installed as per these conditions of consent and are in a fully functional state.

*Reason for Conditions 2 to 8 - To ensure that the proposed stormwater quality management measures are appropriately designed, located and installed so as to ensure a sustainable neutral or beneficial impact on water quality over the longer term.*

**Access Road**

9. The internal access road shall be constructed in accordance with Council's engineering standards.

*Reason for Condition 9 - To ensure that the proposed access road and associated infrastructure will have a sustainable neutral or beneficial impact on water quality during the operational phase of the development.*

**Wastewater Management**

10. There shall be no on-site wastewater management system on the site and all wastewater shall be connected to Council's sewerage system.

*Reason for Condition 10 - To ensure that all wastewater generated is disposed of and treated via Council's sewerage system so as to ensure a sustainable neutral or beneficial effect on water quality over the longer term.*

**Operational Environmental Management Plan**

11. An Operational Environmental Management Plan shall be developed in consultation with Water NSW and Council prior to the issuance of an Occupation Certificate for each stage of the development. The Plan shall:
  - include the details about location and nature of all stormwater management structures, including the pits, pipes, gross pollution traps, bioretention basin, rainwater tanks, and on-site detention basins
  - specifies the detailed requirements and responsibilities for inspection, monitoring, and maintenance of all stormwater management measures, including the frequency of such activities
  - identify the persons responsible for inspection and maintenance activities including a reporting protocol and hierarchy, and
  - include checklists for recording inspections and maintenance activities.

12. All stormwater treatment and management devices shall be monitored, maintained and managed as per the Operational Environmental Management Plan.

*Reason for Conditions 11 & 12 - To ensure stormwater quality management measures are*

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*appropriately maintained so as to ensure a sustainable neutral or beneficial impact on water quality over the longer term.*

**Construction Activities**

13. The Soil and Water Management Plan (Ref: 13111E4; Sheets 2 & 3 of 24; Rev. A, dated 15/07/2015 and 10/07/2015) prepared by JMD Development Consultants shall be updated by a person with knowledge and experience in the preparation of such plans for all works required as part of the development. The Plan shall:
- meet the requirements outlined in Chapter 2 of NSW Landcom's Soils and Construction: Managing Urban Stormwater (2004)
  - be updated in consultation with Water NSW and Council and submitted to Water NSW and Council within six weeks of any approval for modification LUA 03/0786.06 granted by Council, and
  - include controls to prevent sediment or polluted water leaving the site or entering any stormwater drain or natural drainage system.
14. A suitably qualified, certified professional shall oversee the implementation of the Soil and Water Management Plan for the development and shall certify in writing to Water NSW and Council that erosion and sediment controls have been installed and maintained at the site in accordance with the Soil and Water Management Plan for each stage of the development. The erosion and sediment controls shall be regularly inspected, maintained and retained until works have been completed and ground surface stabilised or groundcover re-established.

*Reason for Conditions 13 & 14 - To manage adverse environmental and water quality impacts during the construction phase of the development so as to minimise the risk of erosion, sedimentation and pollution within or from the site during this phase.*

34. **NSW Rural Fire Service - AMENDED by modification of consent on 14 May 2014 and 11 December 2019**
1. NSW RFS raises no objection to the proposed amendment to rainwater tank configuration subject to compliance with the conditions within the Bush Fire Safety Authority issued for the development dated 18 December 2013 our ref: D13/1418.

**Note:** The conditions specified by the NSW Rural Fire Service's abovementioned Bush Fire Safety Authority advice of 18 December 2013 are set out below.

**Asset Protection Zones**

The intent of measures is to provide sufficient space for fire fighters and other emergency services personnel, ensuring radiant heat levels permit operations under critical conditions of radiant heat, smoke and embers, while supporting or evacuating occupants. To achieve this, the following conditions shall apply:

- (i) At the commencement of building works and in perpetuity the entire property shall be managed as an inner protection area (IPA) as outlined within Appendices 2 and 5 of the 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Services document 'Standards for asset protection zones'.

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**Water and Utilities**

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and other assisting fire fighting activities. To achieve this, the following conditions shall apply:

- (ii) The provision of water, electricity and gas supplies shall comply with sections 4.1.3 and 4.2.7 of 'Planning for Bush Fire 2006'.

The intent of measures for internal roads is to provide safe operations access for emergency services personnel in suppressing a bush fire, while residents are accessing or egressing an area. To achieve this, the following conditions shall apply:

- (iii) Internal roads shall comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006'.

**Evacuation and Emergency Management**

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions shall apply:

- (iv) A Bush Fire Emergency Evacuation Plan shall be prepared and shall comply with the NSW Rural Fire Service document 'Guide for Developing a Bush Fire Emergency Evacuation Plan'.

**Design and Construction**

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

- (v) The existing dwelling to be retained shall be upgrade to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable this includes any sub floor areas, openable windows, vents, weepholes and eaves. External doors are to be fitted with draft excluders.
- (vi) All proposed units within 100 metres of the site boundaries shall comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection 2006'.

**Landscaping**

- (vii) Landscaping to the site shall comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

**35. Roads & Traffic Authority**

- (a) the Roads & Traffic Authority considers that the recommendations made in the applicants Traffic Report (prepared by Transport & Traffic Planning Association) are acceptable and that the proposed improvements to the southern junction of Old Bowral Road and Bowral Road be included as part of the conditions of consent should the application be approved. The design of the proposed improvements will

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however, need to be approved by the Roads & Traffic Authority prior to construction.

- (b) The Roads & Traffic Authority recommends that the proposed access point onto Old Bowral Road be upgraded to a minimum 'BAL' 'BAR' treatment to safely cater for traffic entering and leaving the facility.

**36. Rail Estate - Modified 28 February 2019**

The stormwater requirements of the Rail Estate form Annexure 2 of this consent.

**SUPPORT SERVICES & FACILITIES SEPP NO 5 AS REQUIRED BY CLAUSES 12 & 13 OF SEPP NO 5. - MODIFIED 14.5.2014 and further modified 28 February 2019**

**37. The development of this project shall provide all relevant support services and facilities as stipulated under Part 2 Clause 12 of SEPP No 5. - Modified 28 February 2019**

- (i) To ensure that all residents of the Development have access to support and facilities, the following shall form part of the Development:

- Lounge Rooms
- Function Room
- Office Facilities
- Professional Consulting Rooms
- Medical Monitoring
- Indoor Heated Pool
- Community Bus
- Men's Shed

- (ii) The following defined management responsibilities shall be incorporated as either an article of association / covenant upon title or by laws associated with possible Strata subdivision. Responsibility and controls shall include:-

- Collection of garbage and waste storage. Residents will not be able to place individual bins on the kerb side for collection.
- No onsite incineration of waste.
- Provision of internal security lighting and lighting shall be adequate for pedestrian safety.
- Maintenance of common or utility facilities and amenities.
- Speed restrictions within the development.
- Internal property identification.

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- Location of clothes lines, both private and those belonging to the development.
  - Erection of additional structures for the garden cottages ie pergolas.
  - A courtesy car, mini-bus or other vehicle including Berrima Buslines Service as required by Clause 12 (1) of SEPP No 5 shall be made available to the residents.
- (iii) The property owner/management will be required to enter into an agreement:-
- (a) Indemnifying Council from any liability for damages incurred on and within the property having regard to the part that Council's vehicles and personnel would be required as a result of such an agreement to enter upon the property.
  - (b) Providing access with and to the property for the collection of services.
  - (c) Acceptance of all charges incurred in providing a service.
- (iv) The operator shall assist in making arrangements for suitable nursing home accommodation off-site as and when required.
- (v) Title Restrictions and Contractual Commitments
- Prior to occupation of any stage of the development, proof of registration of restriction on title to provide the facilities referred to and support services required under SEPP (Housing for Seniors or People with a Disability) 2004.
  - Occupation of the development shall be restricted to "Older People or People with a Disability" who are defined as
 

"older people" means people aged 55 years or over

"people with a disability" means people of any age who, as a result of having an intellectual, physical, psychiatric or sensory impairment, either permanently or for an extended period, have substantially limited opportunities to enjoy a full and active life.
  - Domiciliary assistance such as meals, laundry and home help shall be available to all residents as and when required. Details are to be provided by letter at Stage 1 to demonstrate this.
  - Arrangements satisfactory to Council shall be made for the provision of medical and home nursing services to residents as and when required. A consulting room shall be provided within the Administration and Community Centre for use by medical practitioners, allied health services and the like.
  - All self-care units shall be equipped with an emergency communication device connected to a 24 hour external provider.
  - A suitably experienced administrator shall be responsible for the full time co-ordination of the village to develop community access programs as necessary for the residents. Other suitably experienced staff shall be engaged for extended or after hours assistance.

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- The proposed development is to comply with Clause 13 of SEPP No 5, regarding provisions of wheelchair access to self-contained units, and resident facilities within Gibraltar House.

NOTE: Depending on the form of title for each unit Council would also accept the above being incorporated into "By-Laws" should the site be Strata subdivided.

**LAND AFFECTATION**

**Geotechnical**

38. **Geotechnical Risk Assessment Report Compliance- MODIFIED 14.5.2014**

The implementation of the recommendations of the Geotechnical Risk Assessment Report shall be updated to reflect the modified development, and a copy to be provided to Council prior to the commencement of construction, and carried out to the satisfaction of the Council's Building Surveyor and/or Development Control Engineer.

**GEOTECHNICAL RISK ASSESSMENT REPORT:**

Report Reference: R/03-060.A

Prepared By: Davies Geotechnical Pty Ltd

Date of Report: 4 August 2003

39. **Geotechnical Engineer Supervision of Dam Works**

Where land filling of dams and depressions is to occur filling shall be supervised by a Council approved Geotechnical Engineer.

40. **Site Classification**

The developer's geotechnical engineer is required to provide a site classification in accordance with the current version of AS2870.

41. **Placement of Fill on the Development Site**

All fill placed on the site shall be placed in a controlled manner in accordance with the requirements of Development Control Plan No 41.

**ENVIRONMENTAL MANAGEMENT**

**Sediment and Erosion Control**

42. **Erosion and Sediment Control Plan Approval**

An Erosion and Sediment Control Plan shall be prepared in accordance with Council's Development Control Plan No 41 by a suitably qualified person, and approved by Council and/or Department of Infrastructure Planning and Natural Resources PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE.

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**43. Erosion and Sediment Control Plan Inclusions**

The Erosion and Sediment Control Plan shall include scaled drawings and detailed specifications which can be readily understood and applied on-site by supervisory staff. Items to be shown on the Plan shall include:

- (a) Locality of the site, a north point and scale.
- (b) Existing contours of the site including catchment area boundaries and indications of direction of fall.
- (c) Location of and basic description of existing vegetation.
- (d) Diversion of uncontaminated up-slope run-off around the disturbed sites.
- (e) Location of significant natural areas requiring special planning or management including waters, floodplains, seasonally wet areas, areas prone to ponding/water logging, unstable slopes etc.
- (f) Nature and extent of earthworks, including cut and fill roadworks.
- (g) Location of all soil and material stockpiles.
- (h) Location of site access, proposed roads and other impervious areas.
- (i) Potential for the development of acid sulphate soil.
- (j) Existing and proposed drainage patterns.
- (k) Location and type of proposed erosion and sediment control measures.
- (l) Site rehabilitation proposals, including final contours.
- (m) Time of placement of sediment controls.
- (n) Staging of works and how the plan is to be implemented for each stage or activity on site.
- (o) Maintenance schedule.

**44. Erosion and Sediment Control Plan Compliance**

All site works shall be carried out in accordance with the Erosion and Sediment Control Plan. Implementation of the Erosion and Sediment Control Plan shall be supervised by personnel with appropriate training or demonstrated knowledge or experience in erosion and sediment control.

In the event of non-compliance with the approved plan, Council Officers have the ability to issue Penalty Notices, being an on the spot fine.

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**Landscaping and Vegetation**

**45. Burning of Vegetation**

Any trees removed with Council consent and any other vegetation cleared in association with this development shall not be burnt except in accordance with an approval issued by Council under Clause 9(2) of the Protection of the Environment (Control of Burning) Regulation 2000. Council encourages the mulching of cleared vegetation.

**46. Large Development Landscaping- MODIFIED 14.5.2014 and further modified 28 February 2019**

A detailed landscape plan shall be submitted for Council approval prior to the commencement of works for each stage. The plan shall identify species to be planted and those to be retained or relocated on site. The landscape plan shall also be consistent with the requirements of the Rural Fire Service.

Perimeter landscaping shall be established at the site to coincide with the completion of Stage 1.

*Reason: To provide a degree of amenity for neighbours during construction.*

Approved landscaping is to be maintained at all times to the satisfaction of the Director Environment and Planning. Detailed landscaping plans to indicate the proposed species to be used, height and spread at maturity, and a specification for soil preparation, drainage, weed control, watering, fertilising and general maintenance during establishment.

**47. Deleted 28 February 2019**

**Air/Noise/Water Pollution Controls**

**48. Dust Suppression**

The Applicant shall use (water cart, vegetation etc) to control dust from the site when ever conditions are favourable to dust formation.

**49. Noise Pollution**

The premises being used and operated without excessive noise {namely noise sufficient to provoke justifiable public complaint, having regard to the provisions of the Protection of the Environment Operations Act 1997) or other nuisance/pollution, to maintain the amenity of the locality.

**50. Burning of Builders Waste**

The burning of builder's waste on site is prohibited. (Clause 73 Control of Burning Regulations 2000.)

**Waste Management**

**51. Recycling**

A regular recycling collection service shall be arranged and carried out in conjunction with normal garbage collection to the satisfaction of the Director Environment and Planning.



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**52. Waste Management Plan**

Section 2 of Council's standard Waste Management Plan is to be completed in accordance with Development Control Plan 49 to the satisfaction of Council's Director Environment and Planning, prior to the issue of the Construction Certificate for the development.

**CIVIL ENGINEERING WORKS AND SERVICES**

**53. Provision of Works and Services - Modified 28 February 2019**

The provision, by the Applicant, at their expense, of the following works and services to be documented and constructed in accordance with Council's Engineering Standards/Specifications and Planning Guidelines, to the satisfaction of the Development Control Engineer. PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE the Developer must obtain approval for the works to be undertaken by submitting adequate documentation including plans, calculations and specifications, to Council which justify that the proposed works are in accordance with all Council's standards and all other relevant Codes and guidelines.

**54. Water and Sewer Authority Conditions - MODIFIED 23 January 2018**

Prior to issue of a Construction Certificate, the Applicant must obtain approval from Council (as the Water Supply Authority and/or as required under Section 68 of the Local Government Act) for sewer lead out infrastructure. The Section 68 Consent will provide approval for only the sewer lead out works that have not been constructed as at 11/12/2017. All other sewer lead out works constructed prior to this date will require certification from a suitably qualified engineer that they have been constructed in accordance with Wingecarribee Shire Council's Construction Specification and Water Services Australia Sewerage Code. The developer shall submit adequate documentation including plans, calculations and specifications which justify that the required works are in accordance with all Council's standards and all other relevant codes and guidelines.

**55. Modified 28 February 2019**

Council requests the applicant seek to undertake the re-use of water on this site by measures such as roof stormwater collection for use in toilets, washing machines and watering of landscaping. A 'Water Cycle' Plan of Management is to be prepared and submitted for approval by Council's Development Engineer for approval prior to release of any construction certificate.

**Stormwater Drainage**

**56. Construction of Stormwater/Water Re-Use - AMENDED by modification of consent on 11 December 2019**

- Provision of adequate stormwater drainage infrastructure (pits/pipes/open channels/detention storage) for the conveyance of stormwater passing through the site from upstream, and sourced from the development to a discharge outlet to be approved by the Development Control Engineer. The point of discharge is to be clearly depicted and the legal right to discharge at that point to be justified. Status of the point of discharge is to be made clear, ie provision of drainage easements.
- ~~For water conservation and quality control, a 4,500 litre storage tank is to be provided for each unit. The tank is to be designed to capture and retain runoff from roof areas after which runoff by passes the tank and reverts to the main property drainage system. The~~

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~~collected rainwater is to be used for garden irrigation and internal toilet flushing. Design drawings are to be prepared in accordance with AS 3500.3.2, 1998 and "Interim Guidelines for the Installation of Rainwater Tank Systems in Urban Areas where a Reticulated Potable Water Supply is Installed" dated 11 June 2002 produced by the Committee on Uniformity of Plumbing and Drainage Regulations in NSW and by a suitable and experienced hydraulic/stormwater engineer and submitted for approval by the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate.~~

**57. Roof/Impervious/Stormwater**

All stormwater runoff from the development shall be collected within the property and discharged in a manner approved by the Development Control Engineer and/or Council's Building Surveyor.

**58. Control of Peak Discharge - MODIFIED 14.5.2014**

Updated adequate and suitable infrastructure is to be provided to ensure the peak discharge from the site is no greater than the pre-developed peak discharge. This infrastructure shall be designed for the 1:10 year ARI design storm and Council's Development Control Plan No 41. Any stormwater temporarily stored on site shall be done in a manner that does not jeopardise public safety. In this regard the Applicant shall provide a risk assessment with the Construction Certificate Application.

**59. Control of Water Quality**

Provision of adequate infrastructure (gross pollutant traps / trash racks / water quality ponds) is to be provided to guarantee satisfactory discharge quality from the site.

**60. Existing Drainage Augmentation**

The augmentation of the existing drainage system to accommodate drainage from the proposed development and to protect other property to the satisfaction of the Development Control Engineer.

**61. Detention Systems**

Any open drainage system which is designed to reduce peak flows shall be designed in accordance with the requirements of the current edition of the Australian Rainfall & Runoff. All batters shall be in accordance with Council's Development Control Plan No 41 to facilitate maintenance and provide a safe environment.

**62. Infrastructure Maintenance Considerations**

The design of all infrastructure shall take into consideration the maintenance aspects and costs associated with the techniques being proposed.

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**Parking, Loading, Access and Roadworks**

**63. Driveways and Parking - MODIFIED 14.5.2014**

Internal driveways, turning areas and at least 16 visitor/staff vehicular parking spaces are to be constructed with an all-weather surface of asphaltic concrete or reinforced concrete.

The parking spaces are to be line marked. These spaces will also be available for staff and are to be centred around Gibraltar House. No parking is permitted on Old Bowral Road.

Notes:

- (a) Construction of a minor roundabout at the intersection of the main access road and proposed additional driveway; and
- (b) Provision of concrete blisters and signage at the junction of the main access way and the side internal road near the main access point to ban left turn movement into the side internal road.

**64. Construction of Road Pavement, Shoulder and Entrance - MODIFIED 14.5.2014**

All road pavement and shoulder construction is to be in accordance with Development Control Plan No 41 and to the satisfaction of the Director Technical Services and Director Environment and Planning.

- (a) Construction of road pavement and shoulder surfaced with asphaltic concrete in Old Bowral Road on the frontage to the development as required for any turning lanes to the entrance / exit.

NOTE: Construction details (ie: cross sections and pavement thickness and make up) for the road widening works in Old Bowral Road are to be provided and approved by Council prior to the issue of the updated Construction Certificate.

- (b) Construction of a left turn deceleration lane at the access to the development in Old Bowral Road.
- (c) Upgrading the slope stability of the road embankment in Old Bowral Road on the frontage to the development.
- (d) Construction at the entrance to preclude right hand turns out of the site.

**65. Approval Required for Work within Road Reserve - Section 138 Roads Act 1993**

Where works are proposed within the road reserve, the Developer must obtain approval from Council (as the Roads Authority and / or as required under Section 138 of the Roads Act 1993) before any works are undertaken. Works within the road reserve may include activities such as erect a structure, dig up or disturb the surface of a public road, remove or interfere with a structure, or any other activities as defined within the Roads Act 1993.

The following details must be submitted to Council in order to obtain the Section 138 approval:

- A copy of approved design plans related to the development and proposed works to be undertaken.

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- Traffic Control Plan (TCP) to provide protection for those within and adjacent to the work site, including the travelling and pedestrian public. The TCP must comply with the Roads and Traffic Authority's manual "Traffic Control at Work Sites". Warning and protective devices shall comply with the provisions of AS1742.3 - 2002 Traffic Control Devices for Works on Roads. The plan must be prepared and certified by a person holding the appropriate Roads and Traffic Authority accreditation, a copy of which is to be submitted with the plan.
- Insurance details - Public Liability Insurance to an amount of \$20 million, to be held by applicant/ contractor undertaking the works.

*Note:*

*Where works are required within a Classified Road, the Developer must obtain the concurrence and / or the approval of the Roads and Traffic Authority for engineering design plans, Traffic Control Plans and approvals under Section 138 of the Roads Act 1993.*

**66. Traffic Control Plan**

A minimum of seven (7) days prior to the commencement of work, the developer shall submit to Council a Certified Traffic Management Plan for each activity of work in accordance with the current version of Roads and Traffic Authority document "Traffic Control at Work Sites". This plan must include each construction activity that involves works on or adjacent to public land. If the work site alters, further plans are to be submitted to Council. A copy of the plan(s) is to be kept on site at all times.

**Sewer Mains**

**67. Construction of Sewer Mains -- MODIFIED 23 January 2018**

Construction of sewer mains from the existing main in Lyell Street, along Old Bowral Road to the frontage of the site.

**68. Construction of Private Rising Main - modified 28 February 2019**

Construction of private rising main from the private pumping station to the (new) discharge manhole in Old Bowral Road fronting the site

A high level vent will be required at the end of the rising main connecting to the discharge manhole in Old Bowral Road.

The Sewer Rising main will not be inherited by Council.

**69. Construction of Sewage Pumping Station- modified 28 February 2019**

Sewage Pumping Station to serve the development with an all weather vehicle access for maintenance.

The sewage pumping station and rising main will not be inherited by Council.

The design of the pump station and rising main should comply with conditions of this consent, Council's Development Control Plan and relevant Australian standards.

The applicant will need to obtain an approval to operate (in addition to an approval to construct) the sewerage system under Section 68 of the Local Government Act. Council

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advises that should a discharge to the environment occur, the Managing Committee may be liable for prosecution and/or issue of fines.

70. Deleted 28 February 2019

71. Deleted 28 February 2019

**72. Commissioning of Sewage Pump Station- modified 28 February 2019**

Prior to commissioning pump station the following items are to be provided:

- (a) Sign permanently fixed to pump station indicating that:
  - 1. "This is Not Council Property.
  - 2. In an emergency Contact your own Plumber.
  - 3. Contact Details: ....."
- (b) Sign permanently fixed to pump station indicating that it is a:
  - " Confined Space, Entry by Permit only."
- (c) Copy of owners operating and maintenance manual to be provided to Council and to the applicant.
- (d) Pressure Test results certifying satisfactory performance of rising main.
- (e) Certification from the applicant's supervising engineer that installation of sewer pump station complies with the design requirements in regard to foundations, backfilling and separation to other structures and pipe work.
- (f) Certification from professionally qualified personnel regarding other aspects of the work as considered necessary.
- (g) Deleted 28 February 2019.

**73. Occupation Certificate- modified 28 February 2019**

Prior to issue of an occupation certificate the following is required:

- Pump Station is to be commissioned
- A copy of the full system maintenance schedule and manual is to be provided to Council.
- A performance bond of 5% of the cost of the works or \$10,000 whichever is the greater is to be lodged with Council The performance bond will be held for the pump station and rising main as well as the gravity main in Old Bowral Road and Lyell Street which Council will inherit.

**74. Operation, Maintenance Schedule and Emergency Response Plan**

The applicant will be required to provide an operation, maintenance and emergency response plan for each aspect of the sewerage system owned by the development. The plans are to be prepared by an appropriately qualified consultant and include but not be

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limited to the following details:

Details of the contract Plumber responsible for general maintenance and available 24 hours a day in case of emergencies are to be included in a prominent position.

**75. Annual Return**

Prior to the 31st October each year, the Managing Body is to submit an Annual Return to Council. The Annual Return is to cover the period from the 1st October the previous year to the 30th September in the reporting year. It will be in a format acceptable to Council and include, but not be limited to, the following information:

- Details of contracted Plumber.
- Dates as to when each item listed in the regular maintenance schedule was completed.
- Details of any incidents or emergencies in relation to the operation of the pump station and rising main.
- Details of measures taken to reduce the likelihood and impact of re-occurrence of any incident or emergency.
- Records of daily flow for each pump in the pump station.

In conjunction with the Annual Return Council may carry out an inspection of the pumping station. Such inspections will incur a fee as listed in Council's Revenue Policy for on-site sewerage management inspection fee (currently \$72).

(Note the dates for the reporting period and submission of Annual Return shall be confirmed in any approval to operate issued under Section 68 of the Local Government Act.)

**Water Mains Supply**

**76. Construction of Water Service**

Water service installation to serve the development. Application form to be completed and appropriate fee paid. Note the applicant will be charged actual cost for any connections to the water main in Old Bowral Road and not standard connection fees listed in Council's Revenue Policy.

**General**

**77. Integral Energy Requirements**

The provision of underground electricity to service the development in accordance with the requirements of Integral Energy. The Applicant prior to release of a Construction Certificate will be required to submit to Council documentary evidence qualifying that the requirements of Integral energy have been obtained. The requirements of the supply authority will need to be met prior to occupation of the development.

**78. Telstra/ AGL - Where Applicable**

The Applicant is to contact Telstra / AGL to ascertain the requirements of the organisations for the development. The objective of this condition is to minimise the cost of providing such

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a service at the construction stage. Written advice is to be submitted to Council **PRIOR TO THE RELEASE OF THE CONSTRUCTION CERTIFICATE/ SUBDIVISION CERTIFICATE.**

**79. Works as Executed Plans - modified 28 February 2019**

Following completion of any Public Assets, one full set of work- as-executed drawings shall be submitted to and retained by Council. All work-as-executed drawings shall include details of any below ground infrastructure and levels. Any deviations from the approved engineering plans shall be shown on the work-as- executed drawings. Each sheet of the drawings shall carry the certification of the Developer's supervising engineer.

**80. Relocation of Existing Services**

Where existing services including drainage, sewerage and water may be required to be relocated as a result of the development, a plumber's permit is required from Council prior to commencing work. Inspection of these works by Council's Building Surveyor is required.

**81. Asset Management - modified 28 February 2019**

The Applicant is to provide a detailed summary of the Assets that will fall into Council's care and control at the end of the maintenance period. The details are to be provided in a tabular form so as to allow Council to update its Assets register. The assets to be identified include:

- Roadways length and width and type of surface
- Sewer

**82. Certification of Internal Civil Works- modified 28 February 2019**

On completion of each stage of the works and prior to the issue of Occupation, Certificate for that particular stage, certification shall be provided to the Principal Certifying authority and Council confirming that all internal civil and infrastructure works have been completed in accordance with the approved plans and specifications.

**BUILDINGS - Prescribed Conditions**

**83. Compliance with Building Code of Australia**

All building work must be carried out in accordance with the provisions of the Building Code of Australia.

**84. Excavations and Backfilling**

All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards properly guarded and protected to prevent them from being dangerous to life or property.

**85. Retaining Walls and Drainage**

If the soil conditions require it:

- (a) retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided, and
- (b) adequate provision must be made for drainage.

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**86. Support for Neighbouring Buildings**

- A. If an extension associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
- (a) must preserve and protect the building from damage, and
  - (b) if necessary, must underpin and support the building in an approved manner, and
  - (c) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- B. The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.
- C. In this case, allotment of land includes a public road and any other public place.

**87. Protection of Public Places**

- A. If the work involved in the erection or demolition of a building:
- (a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
  - (b) building involves the enclosure of a public place
- a hoarding or fence must be erected between the work site and the public place.
- B. If necessary, an awning is to be erected, sufficient to prevent any substance from, in or in connection with, the work falling into the public place.
- C. The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- D. Any such hoarding, fence or awning is to be removed when the work has been completed.

**88. Signs to be Erected on Building and Demolition Sites**

- A. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
- (a) stating that unauthorised entry to the work site is prohibited, and
  - (b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.



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- B. Any such sign is to be removed when the work has been completed.
- C. This clause does not apply to:
  - (a) building work carried out inside an existing building, or
  - (b) building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.

**89. Toilet Facilities**

Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

**Design and Components**

**90. Sample Materials**

Details of all samples of all new external building materials and finishes, including their proposed colours, to be submitted to the satisfaction of Council prior to issue of Construction Certificate.

The Construction Certificate documentation will be provided re-assessing elevational treatments, materials and finishes to avoid total duplication Council requires the applicant to develop variations to give a themed development; to be generally in accordance with but not limited to the approved building envelope. Details of any changes shall be submitted to Council for approval prior to the release of the Construction Certificate.

The development shall be completed in accordance with the Council approved detail for all external claddings and finishes.

**91. Energy Efficient Housing**

Development shall take place in accordance with the requirements of Development Control Plan No 39. In this regard, plans and specifications showing compliance with the Development Control Plan shall be submitted to the Consent Authority/ Accredited Certifier prior to release of the Construction Certificate. All work shall be completed prior to occupation of the building.

**CONTRIBUTIONS & DEDICATIONS**

**92. Section 94 Contributions**

Payment to Council of contributions levied in respect of Sec 94 of the E P & A Act subject of this development consent to be made **PRIOR TO THE ENDORSEMENT AND RELEASE OF THE CONSTRUCTION CERTIFICATE**, or as elsewhere specified.

NOTE: This clause does not override the provisions of the condition relating to supervisory charges and those connected with engineering works listed elsewhere on this consent. This clause has been applied in accordance with Council's adopted policy.

**93. Compliance Certificate - MODIFIED 9.5.2014**

A Certificate of Compliance under Division 5 of Part 2 of Chapter 6 of the Water Management

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Act 2000 just be obtained prior to the issue of Occupation Certificate for each Stage of the development.

Compliance Certificate fees, in accordance with Council's Revenue Policy are as follows and shall be paid prior to the issue of Construction Certificate:-

Water \$90.00 + Sewer \$90.00 + Stormwater \$90.00 = \$270.00

Prior to the final release, you will need to contact Council's Environmental Assessment Branch for an inspection to ensure that Council will accept the infrastructure constructed. In response, the Development Engineer of Water and Sewer will specify requirements which will have to met.

In the case of this development, the Construction Certificate will not be issued until the Water Management Act charges have been paid and/or secured and the approval of Council has been obtained.

94. POPE Requirements - DELETED 3.11.2014

95. Deleted 28 February 2019

96. **Disabled Persons Access and Facilities**

(a) Detailed working drawings for the fitout to the disabled persons facilities shall be submitted with the construction certificate application. (Details shall be in accordance with AS 1428.1 Design for Access and Mobility).

(b) No work is to commence on disabled persons access routes until details of the routes are submitted to and approved by the Principal Certifying Authority. The details shall include a site plan clearly identifying the proposed route for access by disabled persons. It is noted that access from the allotment boundary, carpark and any other building on the allotment which access for people with disabilities is required, to the entrance of the subject building. Access shall be in accordance with AS 1428.1 Design for Access and Mobility.

(c) Access for people with disabilities must be provided to and within buildings as set out in Table D3.2 of the Building Code of Australia by means of a continuous path of travel in accordance with AS1428.1:-

(i) from the allotment boundary at the main points of entry; and

(ii) from any carparking space on the allotment (whether within or outside the building) provided in accordance with D3.5; and

(iii) from any adjacent and associated accessible building on the allotment; and

(iv) through the principal public entrance.

(d) Identification of Accessible Facilities, Services and Features

In every building required to be accessible, clear and legible Braille and tactile signage complying with Specification D3.6 and incorporating the international symbol of access or deafness or other symbol as appropriate in accordance with AS1428.1 must identify all items as specified in Clause D3.6 of the Building Code of Australia.

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(e) Tactile Indicators

- (a) For a building required to be accessible, tactile ground surface indicators must be provided to warn people with a vision impairment that they are approaching any area as specified in Clause D3.8 of the Building Code of Australia.
- (b) Tactile ground surface indicators required by (a) must be Type B indicators in accordance with AS1428.4.
- (c) A hostel for the aged, nursing home for the aged or a residential aged care building, need not comply with (a) (i) of D3.8 of the Building Code of Australia if handrails incorporating a raised dome button in accordance with AS1428.1 are provided to warn people with impaired vision that they are approaching a stairway or ramp.

(f) Disabled Sanitary Facility

The sanitary facility shall be constructed in accordance with the requirements of AS1428.1 Design for Access and Mobility General Requirements for Access.

(g) **Advisory Note**

- (i) The Applicants/property owner should note that the Commonwealth Disability Discrimination Act 1992 provides opportunity for public complaint potentially leading to legal action if access to premises by people with disabilities or their carers is precluded. This may require action to provide or improve access in addition to the minimum requirements of the Building Code of Australia, particularly if such work would not cause "unjustifiable hardship" for the proprietors or owners.
- (ii) The Human Rights and Equal Opportunity Commission can provide further information on this issue).

**97. Disabled Carparking**

Carparking spaces shall be provided at the rate of not less than one disabled carparking space for each 100/50 spaces or part thereof in a carpark required to be accessible, and a carparking area on the same allotment as a building required to be accessible. The spaces are not required to be signposted where there is a total of not more than 5 carparking spaces, so as to restrict the use of the carparking space only for people with disabilities.

The spaces shall comply with the requirements for parking in the current version of AS 2890.1 for people with disabilities.

**98. Early Fire Hazard Indices**

Any material used in the building shall comply with the requirements for the "flammability" index, "smoke developed" and "spread of flame" index required by Clause C1.10 and Specification C1.10 of the Building Code of Australia. Details for each material shall be submitted to the Principal Certifying Authority for approval before occupation of the building.

**99. Fire Hose Reels**

- (a) Except for classrooms and associated corridors in a primary or secondary school, a

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fire hose reel system must be provided:

- (i) to serve the whole building where one or more internal hydrants are installed; or
  - (ii) where internal fire hydrants are not installed, to serve any fire compartment with a floor area greater than 500m<sup>2</sup>, and for the purposes of this clause, a sole occupancy unit in a Class 2 or 3 building or a Class 4 part is considered to be a fire compartment.
- (b) The fire hose reel system must:
- (i) have fire hose reels installed in accordance with AS2441; and
  - (ii) provide fire hose reels to serve only the storey at which they are located, except a sole occupancy unit.

**100. Emergency Lighting/Exit Signs**

- (a) Emergency lighting must comply with AS 2293.1.

**101. Access to Fire Protection Equipment**

Access to fire protection equipment is not to be impeded in any way.

**102. Noise Levels from Premises - MODIFIED 3.11.2014**

- (i) When measured at the boundaries of the nearest affected premises, noise levels are not to exceed 5dB(A) above background level noise from 6.00 pm to midnight. When measured from the same position, the noise level is not to exceed the background level from 12 midnight to 6.00 pm.

- (ii) Community Centre - MODIFIED 3.11.2014

The Community Centre will be used predominantly by residents and their guest only. The Community Centre will provide village administration, residents lounge and dining facilities, snooker room, library and internet.

**103. Demolition Approval**

The fibre cottage shall only be demolished in accordance with the requirements of AS2601-2001 "The Demolition of Structures".

Amongst others, precautions to be taken shall include compliance with the requirements of the WorkCover Authority of New South Wales and Council's Water and Sewer Asset Protection, including:-

- (a) Protection of site workers and the general public.
- (b) Erection of hoardings where appropriate.
- (c) Asbestos removal handling and disposal where applicable by licensed contractors.
- (d) Ensuring only licensed demolition contractors are used as required pursuant to Occupational Health and Safety Legislation.

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- (e) Appropriate precautions are taken in regard to lead based paints
- (f) Water and Sewer Asset Protection

All water and sewer assets on the site or on adjacent road reserve or lands that may be affected by the demolition works are to be clearly identified on site and protected from damage. Those water and sewer protection measures are to be shown on the site plan and are to be approved by Council's Water and Sewer Planning and Development Engineer before any demolition works can commence.

- (g) Sewer Assets Temporary Disconnection or Closure

The site sanitary drainage is to be temporarily disconnected or closed off by a suitably qualified Plumber from any of Council's sewer sidelines, sewer junctions and or boundary traps that are to be retained and reused to prevent ingress contaminants into Council's sewer mains. This work shall be sited and approved by Council's Water and Sewer Planning and Development Engineer before demolition works can commence.

- (h) Removal of Redundant Council Sewer Assets and Water Services

The site sanitary drainage is to be temporarily disconnected or closed off by a suitably qualified Plumber from any of Council's sewer sidelines, sewer junctions and or boundary traps that are to be disconnected by Council to prevent ingress of contaminants into Council's sewer mains. This work shall be sited and approved by Council's Water and Sewer Asset Inspector before demolition works can commence.

Make application and pay fees for the removal of redundant sewer assets and or water services. These fees shall be paid before any demolition works can commence.

Redundant water meter shall not be removed to allow for final readings and removal by Council staff.

- (i) Temporary Use of Council Sewer Junctions and Water Services

During demolition or building works Council may permit temporary use of sewer junctions and water services. Details of the proposed use shall be shown on the site plan and are to be approved by the Water and Sewer Planning and Development Engineer before any demolition works can commence.

Water services that are to be temporarily retained shall not have the water meter disconnected or removed. An approved backflow prevention device shall be installed. Details shall be shown on the site plan and are to be approved by the Water and Sewer Planning and Development Engineer before any demolition works can commence.

The disposal of refuse is to be to approved locations . Council will require documentary proof of destination for hazardous materials such as asbestos and contaminated soils and may request evidence on disposal of other demolition materials - refer approved Waste Management Plan.

**END CONDITIONS**

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**ATTACHMENT 4 03/0786.09 Supporting letter accompanying application**



**HOGAN PLANNING**  
TOWN PLANNING CONSULTANTS

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30 July 2019

General Manager  
Wingecarribee Shire Council  
PO Bo 141  
MOSS VALE NSW 2577

Attention: Mr. Peter Malloy

Dear Peter,

**Proposed Modification to LUA 03/0786.06 – No. 133 Old Bowral Road, Bowral  
106 Unit Self Care Retirement Complex and Associated Facilities**

This Statement of Support has been prepared to support an application made pursuant to Section 4.55(1A), of the Environmental Planning and Assessment Act 1979, in relation to the subject Land Use Application.

This Statement satisfies the requirements of Clause 115 of the Environmental Planning and Assessment Regulation 2000 in providing the appropriate information to enable Council to appropriately assess and determine the application.

This Statement of Support provides the appropriate consideration of a proposed modification to the conditions of the governing development consent as assessed against the relevant planning legislation. This will allow Council to be satisfied pursuant to s4.55(1A) of the EPA Act 1979, that the development as modified would be substantially the same development as originally approved and of minimal environmental impact.

This conclusion is based on the fact that the development as modified will occupy the same land, does not contemplate any change to the approved land use and proposes a change to only one (1) condition of development consent identified in this Statement. All other conditions of consent will remain unchanged. The modification will have no adverse environmental impacts.

With direct reference to the provisions of Clause 115 of the Regulations, the following information is provided:

- (1) An application for modification of a development consent under section 4.55 (1), (1A) or (2) or 4.56 (1) of the Act must contain the following information:

*(a) the name and address of the applicant: - Old Bowral Estate Pty Ltd.*



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*(b) a description of the development to be carried out under the consent (as previously modified): -*

The approval issued under 03/0786.06 was for: -

106 Unit Self Care Retirement Complex and Associated Facilities.

*(c) the address, and formal particulars of title, of the land on which the development is to be carried out: -*

The land is legally described as Lot 2345 in Deposited Plan No. 1110446 (previously Lots 2, 3, 4, and 5 in Deposited Plan No. 1010734) – No. 133 Old Bowral Road, Bowral.

*(d) a description of the proposed modification to the development consent: -*

The proposed modification seeks to delete dot point 2 of condition No. 56 of the governing consent.

Discussion on why this condition should be either deleted or modified is outlined later in this Statement.

*(e) a statement that indicates either:*

*(i) that the modification is merely intended to correct a minor error, misdescription or miscalculation,*

*Or*

*(ii) that the modification is intended to have some other effect, as specified in the statement*

It does not correct a minor error, misdescription or miscalculation.

The modification is to have the effect of addressing a contradiction between two conditions. If the modification application is supported, the approved development of the site will remain fundamentally the same as that approved under LUA 03/0786.06.

*(f) a description of the expected impacts of the modification: -*

It is expected that the proposed modification will result in no impacts greater than the impacts that would result by proceeding with the development under the current conditions of development consent.

The previous application for modification was accompanied with correspondence from Acor Consulting Pty Ltd (dated 27 May 2013). Unfortunately, this correspondence was excluded from the documentation Council referred to Water NSW when assessing the previous application for modification. Water NSW advise that without receipt of the supporting documentation from Acor Consulting Pty Ltd, the request could not be previously supported. It is anticipated the Acor Consulting correspondence will form part of the referral package to Water NSW.



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*(g) an undertaking to the effect that the development (as to be modified) will remain substantially the same as the development that was originally approved: -*

The development, as to be modified, will remain substantially the same as that originally approved.

There will be no off-site impacts arising as a result of the modification because the proposed modification addresses a condition of consent considered not to be necessary in order to secure the appropriate environmental outcomes. All other conditions of consent will be retained.

*(h) if the applicant is not the owner of the land, a statement signed by the owner of the land to the effect that the owner consents to the making of the application (except where the application for the consent the subject of the modification was made, or could have been made, without the consent of the owner): -*

Refer to letter of authority accompanying the application form.

*(i) a statement as to whether the application is being made to the Court (under section 96) or to the consent authority (under section 96AA), and, if the consent authority so requires, must be in the form approved by that authority: -*

Not relevant to this application.

**Description of the Modifications being sought: -**

The proposed modification is to amend condition 56 of the consent as issued.

The following paragraphs provide comment as justification for this modification application.

**Category of Modification: -**

The proposed modification to the existing consent is considered to be within the ambit of Section 4.55 of the Environmental Planning and Assessment Act 1979 (the Act).

The modification application has been lodged pursuant to Section 4.55(1A) of the Act, which states:

*(1A) Modifications involving minimal environmental impact A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:*

*(a) it is satisfied that the proposed modification is of minimal environmental impact, and*

*(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*



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(c) it has notified the application in accordance with:

(i) the regulations, if the regulations so require, or

(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.

**Assessment of Proposed Modification: -**

The proposed modification to the issued consent is not considered to be a major change to the approved development, it is suitable to the circumstances of the case and can be supported.

Conditions of development consent need to relate to the development proposed, be for a planning purpose and be fair and reasonable. In this case, the planning reasons for the imposition of the condition in question have not been substantiated or alternatively the condition is not a fair or reasonable condition.

The matter appears to be quite straight forward as the development consent maintains two conditions requiring the reuse of water but requiring different tank solutions. The purpose of this modification is to highlight the conflict between Council and Water NSW imposed conditions and seek Council to remove their condition (56 - 2<sup>nd</sup> dot point).

Based on my review of the Water NSW letter dated 4 December 2018, this matter has apparently been considered in a previous application to modify the consent, however the documentation provided to Water NSW did not contain the correspondence prepared by Acor Consulting Pty Td dated 27 May 2013.

The current hydraulic engineer (JMD Pty Ltd) believes the matter is quite straight forward. Condition 33 (5) requires the construction of at least 1 tank with a capacity of 522,000 L to capture roof water off the western catchment (Catchment 2) of the development with the water being reused for toilet flushing and irrigation. This has been provided for in the civil plans drawn to date. The tank has not been constructed at this point in time as the site is still in construction phase and the tank would simply fill with sediment and be of no benefit. Once the site has been stabilised, the tank, GPT and rain garden as required by Condition 33 will be retrofitted to the stormwater outlet. The site is being reticulated with recycled water mains so that the toilets and outdoor taps can be fed from the recycled water system.

Dot point 2 of Condition 56 requires the installation of 4,500L tanks on each unit for reuse in toilet flushing and irrigation. The consent is for 106 units. 106 units x 4,500L/unit = 477,000 litres total re-use capacity. The requirements of Condition 33 require the provision of a larger reservoir for water reuse and for the water to be reused for toilet flushing and irrigation.

Thus, both condition 33 and dot point 2 of Condition 56 require the reuse of water. Condition 56 requires the water to be stored in individual tanks (total min. storage volume – 477,000L) whereas Condition 33 requires the water to be collected in a collective tank (total min. storage volume – 522,000L). Both conditions have the same intent, that is the reuse of collected stormwater for toilet flushing and irrigation. The only differences between the conditions is the volume of the storage and the method of storage and reticulation.

I understand that the development is to be provided with the single tank option in accordance with the Water NSW condition 33 and as such the individual tanks referred to in dot point 2 of Condition 56 are not required. The tank to be provided will: -



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- have a capacity of at least 522,000L,
- capture stormwater of the western catchment,
- have the captured water reticulated around the units on site for reuse in toilet flushing and irrigation, and
- an overflow which discharges to the adjacent raingarden/detention pond.

Accordingly, this application to modify the consent seeks to delete dot point 2 from Condition 56 as the intent of this condition is covered by condition 33. The deletion of dot point 2 from Condition 56 will avoid any confusion about whether the reuse of stormwater is being achieved by multiple 4,500L tanks or a combined 522,000L tank.

Conclusion: -

The requested modification to the approved LUA03/0786.06 is not considered to be significant and is well within the ambit of Section 4.55(IA) of the Environmental Planning and Assessment Act 1979.

There are no adverse impacts arising from the proposed modification and it is justified on the basis that the original conditions are not fair and reasonable and that their modification or deletion would not give rise to a situation where adverse impacts arise from the approved development of the land.

In the event you need to discuss this matter, please contact me directly.

Yours truly,

Principal



## 11 OPERATIONS FINANCE AND RISK

### 11.1 Tender for the Civic Centre Refurbishment

|                   |   |
|-------------------|---|
| Reference:        | RFT6330/19.25   |
| Report Author:    | Project Manager   |
| Authoriser:       | Group Manager Capital Projects  |
| Link to Community |   |
| Strategic Plan:   | Create welcoming and accessible community facilities that support opportunities for people to meet and connect with one another |

#### PURPOSE

The purpose of this report is to present the evaluation of the Request for Tender for the Civic Centre Refurbishment.

#### RECOMMENDATION

1. **THAT** in relation to the report concerning Civic Centre Refurbishment - Council adopts the recommendations contained within the Closed Council report – Item 19.1.

OR

2. **THAT** the report concerning Tender for Civic Centre Refurbishment - be considered in Closed Council – Item 19.1. This report is confidential in accordance with s10A(2) of the Local Government Act, 1993, under clause 10A(2)d(i) as it contains commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it.

**Note:** The Council, or a committee of the Council, may allow members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed (15.9 – Code of Meeting Practice).

Where the matter has been identified in the agenda of the meeting under clauses 3.21 as a matter that is likely to be considered when the meeting is closed to the public, in order to make representations under clause 15.9, members of the public must first make an application to the Council in the approved form. Applications must be received by close of business (4.30pm) two (2) business days prior to the meeting at which the matter is to be considered (15.11 – Code of Meeting Practice).



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## **REPORT**

### **BACKGROUND**

Wingecarribee Shire Council was formed from the merger of the former Bowral Municipal Council, Mittagong Shire Council and Wingecarribee Shire Council. Council's offices are now based in the Civic Centre at Moss Vale which was originally constructed in the early 1970's. Subsequent to the original build, the Civic Centre building has been subject to additions (alterations and additions) in 1983, 1990 and 1997.

Council is proposing to undertake a significant refurbishment of the Civic Centre building as a consequence of ongoing maintenance, energy inefficiencies, access and egress issues, floor area limitations for resource growth and an inconsistent position with current Workplace Health & Safety (WHS) standards.

It is proposed to undertake a refurbishment of the Civic Centre building to include a new library area with additional office/storage space above, electrical upgrades, construction of new roof which will enclose the existing building envelope and internal courtyard, new air conditioning, the installation of an accessible lift and an upgrade to fire protection measures.

Council is intending to maintain the operation of the Civic Centre during construction.

### **REPORT**

Council sought tenders from suitably qualified contractors to provide a lump sum/schedule of rates tender for the scope of works. The full scope of works was detailed in the design drawings and tender documents.

In accordance with the *Local Government Act 1993* part 3, section 55(3)(n), Council is required to invite tenders where estimated expenditure is greater than \$250,000 (GST inclusive).

### **Expression of Interest and Early Tenderer Involvement**

At the Ordinary Meeting of Council held 24 April 2019, Council adopted the following resolution:

MN 183/19

1. THAT Council undertakes a selective tender process in accordance with Clause 168 of the Local Government (General) Regulation, 2005 for Moss Vale Civic Centre refurbishment.

2. THAT the following companies who responded to the Expression of Interest (EOI) for the Moss Vale Civic Centre Refurbishment be invited to submit a tender:

- Degnan Constructions P/L
- Matrix Group Co. P/L
- Novati Constructions P/L
- Pacific Services Group Holdings P/L
- Patterson Building Group P/L

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The Expression of Interest tender advertising period was from the 26 February 2019 to 19 March 2019 (21 days).

Invitation Letter for Early Tenderer Involvement was issued on 21 June 2019.

The Early Tenderer Involvement Workshop was held on 12 July 2019.

The Select Tender was Released on the 17 October 2019 and Closed on 19 November 2019.

### **TENDERS RECEIVED**

A total of four (4) tender submissions were received:

| Company Name                 | Location   | Postcode |
|------------------------------|------------|----------|
| Degnan Constructions P/L     | Mortdale   | 2223     |
| Matrix Group Co P/L          | Newington  | 2127     |
| Novati Constructions P/L     | Crows Nest | 2065     |
| Patterson Building Group P/L | Mascot     | 2020     |

### **LATE TENDERS**

There were no late tender submissions received.

### **TENDER EVALUATION**

A Procurement Evaluation Plan was developed which outlined the pre-determined selection criteria, the criteria weightings, and members of the tender evaluation panel.

Each submission was evaluated against the specified criteria by the tender evaluation panel with a scoring system based from 0 to 10 and weighted according to the pre-determined criteria.

### **SELECTION CRITERIA**

The pre-determined criteria used to evaluate the tender were as follows:

#### **Mandatory Criteria:**

| Criteria  |
|---|
| Public Liability - \$20 million   |
| Workers Compensation OR [Self Employed] Personal Accident and Illness Insurance or Personal Income Protection |
| Motor Vehicle – Comprehensive   |
| Bank Guarantee (5%)   |
| Financial Capacity – External Checks (Financial Check to occur following determining preferred Tenderer)      |

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Tenderers were required to meet the mandatory criteria to be eligible to be shortlisted and progress any further in the evaluation process.

#### Non-Cost Selection Criteria & Weighting:

| Criteria  | Weighting        |
|---|------------------|
| Capability & Experience<br>Key Personnel & Experience   | 10%              |
| Specifications, Service & Support, Fit for Purpose<br>Methodology<br>Construction Program<br>Staging Plan | 10%<br>5%<br>20% |
| <b>Total</b>  | <b>45%</b>       |

#### Summary of Selection Criteria & Weighting:

| Criteria                | Weighting   |
|-------------------------|-------------|
| Total Non-Cost Criteria | 45%         |
| Total Cost Criteria     | 55%         |
| <b>Total</b>            | <b>100%</b> |

#### **NON-COMPLIANT TENDERS**

Upon evaluation a total of two (2) tender submissions were determined to be non-compliant:

| Company Name                 | Reason for Non-Compliance |
|------------------------------|---------------------------|
| Degnan Construction P/L      | Below weighted Threshold  |
| Patterson Building Group P/L | Below weighted Threshold  |

#### **CONSULTATION**

##### **Community Engagement**

Tenders are part of a commercial arrangement and therefore no community engagement is required.

##### **Internal Consultation**

Extensive consultation has taken place between Council's Procurement, Assets and Project Delivery Departments. This consultation included scope, technical requirements and evaluation methodologies.

##### **External Consultation**

Tenders are part of a commercial arrangement and therefore no external consultation is required.

---

## **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**

This tender has been conducted in accordance with Part 7 of the *Local Government (General) Regulation 2005*.

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## **RELATED COUNCIL POLICY**

Council's Procurement Guidelines have been used to inform the tender process.

---

## **CONCLUSION**

The tender evaluation summary and recommendation are documented in the report to Council's Closed Committee.

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## **ATTACHMENTS**

There are no attachments to this report.

## 11.2 Tender for Biosolids Removal, Transport and Beneficial Reuse

|                   |  |
|-------------------|--|
| Reference:        | 6686   |
| Report Author:    | Coordinator Sewer  |
| Authoriser:       | Manager Water & Sewer                                    |
| Link to Community |  |
| Strategic Plan:   | Maximise the recovery of resources from the waste stream |

### PURPOSE

The purpose of this report is to present the evaluation of the Request for Tender for Biosolids removal, transport and beneficial reuse from Council's Sewage Treatment Plants (STP).

### RECOMMENDATION

1. **THAT** in relation to the report concerning the Tender for Biosolids Removal, Transport and Beneficial Reuse - Council adopts the recommendations contained within the Closed Council report – Item 19.2.

OR

2. **THAT** the report concerning Tender for Biosolids Removal, Transport and Beneficial Reuse - be considered in Closed Council – Item 19.2. This report is confidential in accordance with s10A(2) of the Local Government Act, 1993, under clause 10A(2)d(i) as it contains commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it and the Council considers that it would be on balance contrary to the public interest to consider this information in Open Council.

*Note: The Council, or a committee of the Council, may allow members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed (15.9 – Code of Meeting Practice).*

*Where the matter has been identified in the agenda of the meeting under clauses 3.21 as a matter that is likely to be considered when the meeting is closed to the public, in order to make representations under clause 15.9, members of the public must first make an application to the Council in the approved form. Applications must be received by close of business (4.30pm) two (2) business days prior to the meeting at which the matter is to be considered (15.11 – Code of Meeting Practice).*

### REPORT

#### **BACKGROUND**

Sewage solids or sludge is produced during sewage treatment primarily as part of a dewatering process. A contract for biosolids removal, transport and beneficial reuse is required.



The contract will be for an initial two years from 1 January 2020, with the option of a further two years to be agreed annually following satisfactory performance and operational requirements. The contract agreement is separated into two areas as follows:

1. Dewatering of sludge lagoons at Mittagong, Bowral and Moss Vale STP's including transport and beneficial reuse of biosolids
2. Transport and beneficial reuse of dewatered biosolids from Moss Vale STP storage area and other STP sites as required

## **REPORT**

Council sought tenders from suitably qualified contractors to provide a schedule of rates tender for the scope of works. The full scope of works was detailed in the tender documents.

In accordance with the *Local Government Act 1993* part 3, section 55(3)(n), Council is required to invite tenders where estimated expenditure is greater than \$250,000 (GST inclusive).

## **ADVERTISING**

The tender advertising period was from the 8 October 2019 to 5 November 2019 (28 days).

The tender was advertised as follows:

| <b>Newspaper / Website</b>          | <b>Date Advertised</b>                     |
|-------------------------------------|--|
| Newspaper – Sydney Morning Herald   | 8 October 2019                             |
| Newspaper – Southern Highlands News | 9 and 16 October 2019                      |
| Council's Website                   | For the duration of the advertising period |
| Council's eTendering Website        | For the duration of the advertising period |

## **TENDERS RECEIVED**

A total of five (5) tender submissions were received:

| <b>Company Name</b>                  | <b>Location</b> | <b>Postcode</b> |
|--------------------------------------|-----------------|-----------------|
| Arkwood (Gloucester) Pty Ltd         | Gatton          | 4343            |
| Australian Native Landscapes Pty Ltd | Terry Hills     | 2084            |
| Epsom Environmental Services Pty Ltd | Epsom           | 3551            |
| Family Farm Composts Pty Ltd         | Canyonleigh     | 2577            |
| Loop Organics Pty Ltd                | Berry           | 2353            |

## **LATE TENDERS**

There were no late tender submissions received.

## **TENDER EVALUATION**

A Procurement Evaluation Plan was developed which outlined the pre-determined selection criteria, the criteria weightings, and members of the tender evaluation panel.

Each submission was evaluated against the specified criteria by the tender evaluation panel with a scoring system based from 0 to 10 and weighted according to the pre-determined criteria.

## **SELECTION CRITERIA**

The pre-determined criteria used to evaluate the tender were as follows:

### **Mandatory Criteria:**

| Criteria   |
|--|
| Public Liability - \$20 million                                |
| Workers Compensation   |
| Motor Vehicle – comprehensive/market value                     |
| Environmental management system                                |
| WH&S management system   |
| Contractor licences as appropriate (crane, truck, loader etc.) |

Tenderers were required to meet the mandatory criteria to be eligible to be shortlisted and progress any further in the evaluation process.

### **Non-Cost Selection Criteria & Weighting:**

| Criteria   | Weighting  |
|--|------------|
| Capability & Experience                              | 15%        |
| Specifications, Service & Support, Fit for Purpose   | 15%        |
| Community & Social (including local content)         | 10%        |
| Work Health and Safety, Environment & Sustainability | 10%        |
| <b>Total</b>   | <b>50%</b> |

### **Summary of Selection Criteria & Weighting:**

| Criteria                | Weighting   |
|-------------------------|-------------|
| Total Non-Cost Criteria | 50%         |
| Total Cost Criteria     | 50%         |
| <b>Total</b>            | <b>100%</b> |

## **NON-COMPLIANT TENDERS**

Upon evaluation a total of one (1) tender submission was determined to be non-compliant:

| <b>Company Name</b>          | <b>Reason for Non-Compliance</b> |
|------------------------------|----------------------------------|
| Family Farm Composts Pty Ltd | Mandatory Items                  |

## **CONSULTATION**

### **Community Engagement**

Tenders are part of a commercial arrangement and therefore no community engagement is required.

### **Internal Consultation**

Asset Engineer - Water and Sewer

Coordinator Business Services (use of RRC weigh bridge for loads)

### **External Consultation**

N/A

## **SUSTAINABILITY ASSESSMENT**

- **Environment**

The tender will ensure 100% beneficial reuse of biosolids to minimise waste to landfill.

- **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.

- **Cultural**

There are no cultural issues in relation to this report.

- **Governance**

This tender has been conducted in accordance with Part 7 of the *Local Government (General) Regulation 2005*.

## **RELATED COUNCIL POLICY**

Council's Procurement Guidelines have been used to inform the tender process.

## **CONCLUSION**

The tender evaluation summary and recommendation are documented in the report to Council's Closed Committee.

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**ATTACHMENTS**

There are no attachments to this report.



## 11.3 Tender for Construction of Stormwater Drainage at Hill Top, NSW

|                   |   |
|-------------------|---|
| Reference:        | RFT6330/19.33                                     |
| Report Author:    | Project Manager                                   |
| Authoriser:       | Group Manager Capital Projects                    |
| Link to Community |   |
| Strategic Plan:   | Work in partnership to ensure a safe road network |

### PURPOSE

The purpose of this report is to present the evaluation of the Request for Tender for the Construction of Stormwater Drainage – Hill Top.

### RECOMMENDATION

1. **THAT** in relation to the report concerning Tender for the Construction of Stormwater Drainage – Hill Top - Council adopts the recommendations contained within the Closed Council report – Item 19.3.

OR

2. **THAT** the report concerning Tender for the Construction of Stormwater Drainage – Hill Top - be considered in Closed Council – Item 19.3. This report is confidential in accordance with s10A(2) of the Local Government Act, 1993, under clause 10A(2)d(i) as it contains commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it and the Council considers that it would be on balance contrary to the public interest to consider this information in Open Council.

**Note:** *The Council, or a committee of the Council, may allow members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed (15.9 – Code of Meeting Practice).*

*Where the matter has been identified in the agenda of the meeting under clauses 3.21 as a matter that is likely to be considered when the meeting is closed to the public, in order to make representations under clause 15.9, members of the public must first make an application to the Council in the approved form. Applications must be received by close of business (4.30pm) two (2) business days prior to the meeting at which the matter is to be considered (15.11 – Code of Meeting Practice).*

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## REPORT

### BACKGROUND

Wingecarribee Shire Council sought tenders from appropriately qualified and experienced contractors for the Construction of Stormwater Drainage – Hill Top.

### REPORT

Council sought tenders from suitably qualified contractors to provide a lump sum tender for the scope of works. The full scope of works was detailed in the design drawings and tender documents.

In accordance with the *Local Government Act 1993* part 3, section 55(3)(n), Council is required to invite tenders where estimated expenditure is greater than \$250,000 (GST inclusive).

### ADVERTISING

The tender advertising period was from the 22 October 2019 to 12 November 2019 (21 days).

The tender was advertised as follows:

| Newspaper / Website                 | Date Advertised                            |
|-------------------------------------|--|
| Newspaper – Sydney Morning Herald   | Tuesday, 22 October 2019                   |
| Newspaper – Southern Highlands News | Wednesday, 23 October 2019                 |
| Council's Website                   | For the duration of the advertising period |
| Council's eTendering Website        | For the duration of the advertising period |

### TENDERS RECEIVED

A total of six (6) tender submissions were received:

| Company Name                     | Location     | Postcode |
|----------------------------------|--------------|----------|
| EL Civil Engineering Pty Ltd     | Croydon Park | 2133     |
| Josluk Pty Ltd                   | Jamberoo     | 2533     |
| Motorway Civil Pty Ltd           | Hornsby      | 2077     |
| Planet Civil Pty Ltd             | Arncliffe    | 2205     |
| PND Civil Group Pty Ltd          | Chatswood    | 2057     |
| Stefanutti Constructions Pty Ltd | Unanderra    | 2526     |

### LATE TENDERS

No late tender submissions were received (therefore non-conforming).

## **TENDER EVALUATION**

A Procurement Evaluation Plan was developed which outlined the pre-determined selection criteria, the criteria weightings, and members of the tender evaluation panel.

Each submission was evaluated against the specified criteria by the tender evaluation panel with a scoring system based from 0 to 10 and weighted according to the pre-determined criteria.

## **SELECTION CRITERIA**

The pre-determined criteria used to evaluate the tender were as follows:

### **Mandatory Criteria:**

| Criteria  |
|---|
| Public Liability - \$20 million   |
| Workers Compensation OR [Self Employed] Personal Accident and Illness Insurance or Personal Income Protection |
| Motor Vehicle - Comprehensive   |
| Works Insurance   |

Tenderers were required to meet the mandatory criteria to be eligible to be shortlisted and progress any further in the evaluation process.

**Non-Cost Selection Criteria & Weighting:**

| Criteria   | Weighting  |
|--|------------|
| Capability   | 10%        |
| Experience   | 10%        |
| Specifications, Service & Support, Fit for Purpose | 5%         |
| Quality Assurance & Innovation                     | 5%         |
| Community & Social(including local content)        | 10%        |
| Work Health and Safety,                            | 5%         |
| Environment & Sustainability                       | 5%         |
| <b>Total</b>                                       | <b>50%</b> |

**Summary of Selection Criteria & Weighting:**

| Criteria                | Weighting   |
|-------------------------|-------------|
| Total Non-Cost Criteria | 50%         |
| Total Cost Criteria     | 50%         |
| <b>Total</b>            | <b>100%</b> |

**NON-COMPLIANT TENDERS**

Upon evaluation a no tender submissions were determined to be non-compliant.

**CONSULTATION**

**Community Engagement**

Tenders are part of a commercial arrangement and therefore no community engagement is required.

**Internal Consultation**

Consultation has taken place between Council's Assets, Procurement and Project Delivery Areas.

**External Consultation**

Tenders are part of a commercial arrangement and therefore no external consultation is required.

**SUSTAINABILITY ASSESSMENT**

- **Environment**

There are no environmental issues in relation to this report.

- **Social**

There are no social issues in relation to this report.



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- **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**

This tender has been conducted in accordance with Part 7 of the *Local Government (General) Regulation 2005*.

---

#### **RELATED COUNCIL POLICY**

Council's Procurement Guidelines have been used to inform the tender process.

---

#### **CONCLUSION**

The tender evaluation summary and recommendation are documented in the report to Council's Closed Committee.

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#### **ATTACHMENTS**

There are no attachments to this report.



## 11.4 Wingecarribee Shire Road Maintenance Policy

|                   |   |
|-------------------|---|
| Reference:        | 7810/30   |
| Report Author:    | Coordinator Assets - Roads and Traffic            |
| Authoriser:       | Manager Assets                                    |
| Link to Community |   |
| Strategic Plan:   | Work in partnership to ensure a safe road network |

### PURPOSE

The purpose of this report is to seek Council approval to adopt the Draft Wingecarribee Shire Road Maintenance Policy.

### RECOMMENDATION

1. **THAT Council adopt the Draft Wingecarribee Shire Roads Maintenance Policy included as Attachment 1 AND THAT Council write to all submission makers, confirming Council's decision.**
2. **THAT Council rescind the Unmaintained Roads Policy.**

### REPORT

#### **BACKGROUND**

At the Council Meeting of 26 June 2019 Council approved the Draft Wingecarribee Shire Road Maintenance Policy to be placed on public exhibition. The Policy was on exhibition for 28 days and a total of eight submissions were received and acknowledged.

The Unmaintained Road Policy was adopted by Council in 2013 and limited Council's ability to undertake works on roads defined as Unmaintained. The policy excluded the maintenance of approximately 128Kms of roads which were unformed or not made to Council standard.

The exclusion of unformed roads, being roads not constructed to Council standards, from any maintenance interventions restricts the ability of Council to deal with safety or access issues that are raised by the community, and this is not considered best practice.

The proposed 'Draft Wingecarribee Shire Road Maintenance Policy' provides Council the ability to undertake works on all Council roads and strengthens Council's defence against civil liability claims ultimately reducing risks to Council and the community. The policy has been prepared after thorough investigation and research of relevant industry practices.

#### **REPORT**

The Draft Wingecarribee Shire Policy was placed on public exhibition from Wednesday 28 August to Sunday 30 September. A total of eight submissions were received and are summarised in Attachment 2 – Policy Feedback.



---

## **AMENDMENTS TO THE DRAFT POLICY**

No amendments have been proposed to Draft Wingecarribee Shire Road Maintenance Policy based on the feedback received. The residents have generally supported the policy and all other specific road maintenance requests will be investigated and responded to accordingly.

---

## **COMMUNICATION AND CONSULTATION**

### **Community Engagement**

The policy was placed on public exhibition for a period of 28 days. Consultation was also undertaken using Wingecarribee Today, E newsletters and Your Say Wingecarribee.

### **Internal Communication and Consultation**

Assets, Governance, Organisation Development and Infrastructure Services have been engaged during the development of the policy.

### **External Communication and Consultation**

Staff engaged with other councils and external industry partners, including IPWEA, during the development of the policy.

---

## **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 Draft Wingecarribee Shire Road Maintenance Policy will enhance Council's ability to meet its civil liability obligations.

---

## **COUNCIL BUDGET IMPLICATIONS**

The implementation of this policy will be within current budget allocations. Works that cannot be undertaken within the available budget will be prioritised accordingly and where determined appropriate programmed to be delivered in future financial years. Any works considered to be carried out on lower order roads will be based on risk not ride quality and will be funded through existing maintenance budgets.

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#### RELATED COUNCIL POLICY

- Asset Management Policy
- Unmaintained Road Policy

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#### OPTIONS

The options available to Council are:

##### **Option 1**

1. THAT Council adopt the 'Draft Wingecarribee Shire Road Maintenance Policy' and THAT Council write to all submission makers, confirming Council's decision.
2. THAT Council rescind the Unmaintained Road Policy.

##### **Option 2**

THAT Council does not adopt the 'Draft Wingecarribee Shire Road Maintenance Policy'.

Option No.1 is the recommended option to this report.

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#### CONCLUSION

The adoption of 'Draft Wingecarribee Shire Road Maintenance Policy' will be better aligned with Council's responsibilities under *Civil Liability Act 2002* and provide wider community benefit by including all Council managed roads within the maintenance management framework.

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#### ATTACHMENTS

1. Road Maintenance Policy Final
2. Policy Feedback
3. Unmaintained Road Policy



# Road Maintenance Policy

## MAIN CATEGORY

Places

## SUB CATEGORY

We have safe, maintained and effective assets and infrastructure

|                                     |  |
|-------------------------------------|--|
| Adoption Date:                      | (Governance to insert)   |
| Council Reference:                  | (Governance to insert)   |
| Policy Owner:                       | Manager Assets   |
| Next review date:                   | Four years from date of adoption   |
| File Reference:                     | (Departmental File Number)   |
| Related Policies/Legislation:       | Local Government Act 1993<br>Local Government Regulation<br>Roads Act 1993<br>Civil Liability Act 2002 |
| Related Documents:                  | Road Maintenance Procedure   |
| Superseded Policy/GM Practice Note: | Unmaintained Road Policy No 3.51   |

## OBJECTIVES

The objectives of this Policy are to:

- o ensure a framework for the risk management of Council/s road network is developed;
- o reduce exposure to potential public liability claims relating to the condition of roads, including claims against council and the community it represents;
- o establish a criteria and hierarchy of roads;
- o ensure a defined level of service and treatment options for roads based on their hierarchy and condition is developed
- o ensure a systematic approach is established for the inspection, prioritisation and response to risks;
- o promote awareness of legislative requirements with respect to acceptance by the community and the Court, of the shared duty of care for road users to take reasonable care for their own safety when using the road network;
- o facilitate safer local and regional roads.

## POLICY STATEMENT

Wingecarribee Shire Council, as the roads authority under the Roads Act 1993, must take reasonable steps to protect the public from any foreseeable dangers on its road network, as resources allow, to adequately address risks of which it is aware.





## Road Maintenance Policy

The Civil Liability Act 2002 (the Act) provides special nonfeasance protection for roads authorities such as Council. Section 45 of the Act stipulates that a roads authority is not liable for harm arising from a failure to act in respect of maintenance of its roads, unless at the time of the alleged failure the authority had actual knowledge of the particular risk which resulted in the harm. The importance of this defence is that a roads authority, such as Council, can in some circumstances avoid liability for injuries or damage related to the state of repair or maintenance of its roads.

Section 42 of the Act also makes allowance for Council's ability to carry out its duty of care as being limited by the financial and other resources which are reasonably available to exercise its functions. To rely on this defence, Council is required to show evidence of its compliance with the general procedures and applicable standards for the exercise of its functions, such as risk management of its road network.

### SCOPE

This Policy considers all residents and guests in the Shire, who utilise the roads as a means of transportation. This includes motorists, cyclists and pedestrians.

The Road Maintenance Policy provides council the ability to undertake works on all council roads and strengthens Council's defence against civil liability claims ultimately reducing risks to council and the community. The Policy applies to all council managed road infrastructure within the Shire. The policy excludes Crown Roads and Roads and Maritime Services managed roads.

### Management System and Risk Assessments

All council roads are to be managed according to the policy and that council develops and implements a systematic and documented approach for reducing risks associated with maintenance of sealed and unsealed roads.

The Management System includes:

- Maintaining the roads maintenance category and roads functional hierarchy
- Assessing the condition of roads through routine, planned and reactive condition inspections,
- Identifying and evaluating risks associated with the condition of road,
- Risk assessments associated with lower order roads will be safety and access focused not ride quality,
- Prioritising and scheduling maintenance works within available resources,
- Implementing suitable treatments to rectify defects and minimise risks,
- Development and implementation of a long-term capital works program,
- Reference to relevant standard and specifications.

The Management System does not intend to, nor is it reasonable to expect that it will, result in removal of all potential risks to road users from the road network. Rather, it provides a basis





# Road Maintenance Policy

for identifying and managing long term plans within the limited resources available to the Council and a mechanism to prioritise and improve level of service.

## DEFINITIONS

|                           |   |
|---------------------------|---|
| Maintained Road           | A road that is included in Council's Road Register and maintained by Council.   |
| Lower order Roads         | A road that does not have gravel paving, but which is formed using a grader so that storm water will drain off laterally and/or A road with no geometry that has been cleared and open to use by the public.                                      |
| Maintenance               | Physical works to maintain the asset without increase in the service potential.   |
| Routine Maintenance       | Maintenance which occurs based on a scheduled time period or date. The difference in routine maintenance periods occur based on road functional hierarchy.  |
| Road Functional Hierarchy | A class or division of roads which have been grouped together based on their traffic, current use, requirement and location. The categories are placed into a hierarchy from one to eight and define the maintenance required for each road type. |
| Management System         | A systematic and documented approach for reducing risks associated with road infrastructure.  |
| Road maintenance category | Road maintenance category lists the applicable road maintenance treatment for every road, or section of road, to which this policy applies.   |
| Reactive maintenance      | Reactive maintenance is the response to work requests or identified need usually through operations or customer requests.   |

## RESPONSIBILITIES

Responsibilities for implementing this Policy are shared between Councillors, Executive and staff as follows:

| Position              | Responsibility   |
|-----------------------|--|
| Mayor/<br>Councillors | To lead Councillors in their understanding of, and compliance with, this Policy.   |
| Executive             | To implement this Policy and related procedures; To lead staff in their understanding of, and compliance with this Policy. |
| Responsible Officer   | Managers at all levels are responsible for the implementation and maintenance of the policy.                               |
| All Council Staff     | To comply with this Policy and related procedures.   |

## PERFORMANCE MEASURES

The success of this Policy will be measured by:





## Road Maintenance Policy

- Reduction in number of complaints associated to road condition
- Reduction in public liability claims associated to road condition

### BREACHES OF THE POLICY

Breaches of this Policy should be reported to the Manager Assets.

The Manager Assets will investigate alleged breaches and determine the appropriate course of action to resolve the matter.

### APPROVED BY:

WINGECARRIBEE SHIRE COUNCIL

(Insert Date)

### ATTACHMENTS

1. *No attachments*

Approved By:

WINGECARRIBEE SHIRE COUNCIL

(Insert Date)







| Feedback   | Council Response  |
|--|---|
| <p>Support was received from residents for a proactive stance regarding the maintenance of all Council Roads including lower order roads.</p>  | <p>Support noted.</p>   |
| <p>Comments were received from resident who live on the currently unmaintained road, extending their support for the policy.</p> <p>Road and drainage issues were requested to be addressed after implementation of the policy.</p>                        | <p>Noted. The new policy will enable council to undertake maintenance on roads previously categorised as “unmaintained roads”.</p>  |
| <p>Council received some submissions requesting specific road upgrades.</p>  | <p>The submissions will be investigated on case by case basis and residents will be updated of the outcome.</p>   |
| <p>Some residents expressed their concerns regarding the Draft Roads Policy.</p> <p>The residents explained council’s protection through Civil Liability Act 2002 and Roads Act and advised Council to opt for State-wide Mutual Best Practice Manual.</p> | <p>The Policy will enable council to undertake risk-based maintenance on all roads including those previously categorised as unmaintained roads.</p> <p>The Policy was developed in consideration with Civil Liability Act 2002 and Roads Act 1993.</p> |



**POLICY**

**UNMAINTAINED ROADS POLICY [No 3.51]**

**POLICY STATEMENT:**

**DEFINITIONS**

|                    |  |
|--------------------|--|
| Maintained Road:   | A road that is included in Council's Road Register and maintained by Council.  |
| Unmaintained Road: | A road that is not included in Council's Road Register and not maintained by Council.  |
| Constructed Road:  | A road constructed to Council's standards and generally as per Council's drawing SD121.  |
| Formed Road:       | A road that does not have gravel paving, but which is formed using a grader so that stormwater will drain off laterally.   |
| Unformed Road:     | A road reserve that has been cleared and open to use by the public.  |
| Unmade Road:       | A road reserve that has had no capital improvement including clearing, formation and gravel paving. An unmade road may be trafficable or un-trafficable in all weathers. |

**Section A: Responsibility for unmaintained roads:**

- Council only maintains the roads that are included in Council's Road Segment Ledger (Roads Register). Approximately 1150km of roads have been listed in the Road Register in 2011/12. Maintained Roads have been constructed by Council or by another party to Council standards and formally handed to and accepted by Council.
- The cost of maintenance of the unmaintained roads whether formed, unformed or unmade road reserve are the responsibility of the land owners who use the road for access to private properties.

**Section B: Upgrading unmaintained roads by land owners:**

- Council will accept written applications to construct a formed road by the applicants. Applications will be assessed and may be granted conditional approval based on conditions outlined in the policy guidelines.
- The formation/construction of a road to Council standards does not automatically imply that Council will maintain the road. Council as a rule will only take over maintenance of the road if it provides a wider community benefit.
- Following construction of the road in accordance with conditional approval and its acceptance by the authorised Council officer, Council may assume responsibility for its maintenance, subjected to conditions stated above.

**RELATED LEGISLATION, CIRCULARS OR GUIDELINES:**

- *Local Government Act 1993 No. 30 and Regulation*



**POLICY**

|  |
|--|
| <ul style="list-style-type: none"> <li>▪ Roads Act 1993</li> </ul>   |
| <p><b>DOES THIS DOCUMENT REPLACE ANY EXISTING POLICY, PROCEDURE OR PLAN?</b></p> <p>Yes, this document replaces Council's:</p> <ul style="list-style-type: none"> <li>▪ Upgrading of Unformed Roads Policy, June 1996</li> </ul>   |
| <p><b>RELATED COUNCIL POLICY OR PROCEDURE:</b></p> <ul style="list-style-type: none"> <li>▪ Unmaintained Road Policy Guidelines</li> <li>▪ Asset Management Strategy</li> </ul> <p><b>SUSTAINABILITY ASSESSMENT:</b></p> <ul style="list-style-type: none"> <li>• <b>Environment</b><br/>Upgrading Unmaintained Council owned public roads to current standards will have an impact on existing trees, habitat and biodiversity, as most of these roads are in rural areas and have vegetation encroachments along the road reserves. In many cases, these Unmaintained road reserves represent the last remnants of undisturbed natural vegetation in the area.</li> <li>• <b>Social</b><br/>Road maintenance is an area where Council has to manage limited funds to maintain the entire road network. It is often mentioned by residents living on Council unmaintained sections of road about the rates they pay. It is important to ensure road maintenance expenditure is managed equitably based on the functional hierarchy of the network and to ensure optimal community benefits are achieved.</li> <li>• <b>Broader Economic Implications</b><br/>The level of funding available to Council to undertake required level of maintenance and rehabilitation/renewal is a major constraint. Taking over the responsibility for upgrading and maintaining more roads currently not maintained by Council will require additional funds and the benefits to affected land owners need to be balanced against wider community benefits, reduction in service levels of the Council maintained roads and reduced financial sustainability.</li> </ul> |
| <p><b>APPLICATION AND DISTRIBUTION</b></p> <p><b>It is mandatory for all Council officials to comply with this Policy.</b></p> <p>This Policy and Guidelines are available on Council's website under Council Policies.</p>  |
| <p><b>APPROVED BY:</b></p> <p>Council: 22 May, 2013 CW87/13<br/>[Meeting date &amp; Resolution No]</p>   |



**POLICY**

|   |                                  |
|---|----------------------------------|
| <b>EFFECTIVE:</b> 22 May, 2013                                | <b>REVIEW DATE:</b> 22 May, 2017 |
| <b>DISTRIBUTION:</b> All Staff                                |                                  |
| <b>RESPONSIBLE COUNCIL DEPARTMENT/OFFICER:</b> Manager Assets |                                  |
| <b>VERSION HISTORY TABLE:</b> Version 1                       |                                  |

**KEY RESPONSIBILITIES**

| <i>Position</i>                              | <i>Responsibility</i>   |
|--|---|
| Mayor  | To lead Councillors in their understanding of, and compliance with, this Policy and Guidelines.   |
| General Manager                              | To lead staff (either directly or through delegated authority) in their understanding of, and compliance with, this Policy and Guidelines.<br><br>To approve resources to develop, implement and review this Policy and Guidelines.   |
| Responsible Officer                          | Senior Asset Engineer (Roads and Drainage) and Manager Assets to prepare works programs and plans in compliance with this policy.   |
| Deputy General Managers                      | To communicate, implement and comply with this Policy and related Guidelines.   |
| Deputy General Manager Corporate & Strategic | To ensure (directly or through delegation) the distribution and communication of the Policy and Guidelines to specified persons.<br>To ensure (directly or through delegation) the approved Policy and Guidelines are available in hard copy and electronically on Council's website. |
| Manager Organisational Development           | Facilitate the provision of regular training to all Council officials on their role and responsibilities in relation to this Policy, Guidelines and related procedures.   |
| Executive and Managers                       | To implement this Policy, Guidelines and related procedures.<br>To lead staff in their understanding of, and compliance with, this Policy and Guidelines  |
| Manager Information Services                 | To assist with the development of access methods to support public access to this Policy, Guidelines and related information.   |
| All Council officials                        | To comply with this Policy, Guidelines and related procedures.  |



**POLICY GUIDELINES**

**UNMAINTAINED ROADS POLICY GUIDELINES**

**DIVISION:** Corporate Services

**SECTION:** Assets

**SUBJECT:** Unmaintained Roads

**FILE NOS:** 7810/3, 7810/7

**APPROVAL DATE:** 22 May, 2013

**MINUTE NO:** CW87/13

**BACKGROUND** – Wingecarribee Shire Council has an estimated 200 km of roads not maintained by Council throughout the Shire. These roads are called 'unmaintained roads'. Approximately 80% of these roads are unformed rural roads and the balance is partially formed to Council standards. In addition to this there are hundreds of kilometres of unmaintained paper roads and Crown roads.

**Legal Framework:**

The relevant legal framework is contained in the Roads Act 1993.

- Council has no statutory duty to carry out works of construction or repair of public roads or to keep them in repair.
- It is an offence to carry out any work on a public road without the consent of Council (Section 138).
- Council can give this consent subject to conditions (Section 139).

**Principles:**

The principles behind the policy are:

- Council has an obligation to ensure that legal access is available to all lots.
- Council has no obligation to provide physical access to lots.
- Owners of land on an unformed road who wish to build on the land should be able to do so at a reasonable cost of provision of vehicular access.
- Council needs to minimise its exposure to subsequent complaints and requests for construction and sealing of the formed access road, by ensuring that it is built to an appropriate standard.
- Owners or developers of multiple lots located on an unformed road who intend to develop and resell the lots should be required to provide access to a standard that would apply to subdivisions. In such cases, the developer should be prevented from the sequential extension of the road and sale of the lots one at a time, by 'bending' the policy.

**OBJECTIVE:**

The objectives of this policy are to specify

- a) The responsibility for maintaining 'unmaintained' roads.
- b) The process for upgrading 'unmaintained' roads by landowners, and



**POLICY GUIDELINES**

**SCOPE** – This policy covers

- Responsibility for 'unmaintained' roads.
- Upgrading 'unmaintained' roads by land owners and
- Requests for upgrade and Council takeover of maintenance of 'unmaintained' roads.

**POLICY**

- a) The cost of Maintenance of the Unmaintained roads whether Formed, Unformed or Unmade are the responsibility of the land owners who use the road for access to private properties.
- b) Council will accept written applications to construct/upgrade an Unmaintained road. Applications will be assessed as per the procedure and conditions outlined in this policy guidelines. The construction of a road to Council standards does not automatically imply that Council will maintain the road. Council as a rule will only take over maintenance of the road, if it provides wider community benefits.

Procedures and Conditions:

Upgrading Unmaintained Road by Land Owners

1. A written application to construct a formal road must be lodged, stating the reasons for the proposal.
2. The application will be assessed and written conditional approval may be granted.
3. Conditions and standard of construction will be as per attached drawing SD121 and relevant development guidelines.
4. Following construction and acceptance by the authorised Council officer, Council may assume responsibilities for its maintenance, if it provides wider community benefits.
5. In the case of access to multiple lots in the same ownership, the access will be conditioned as if the application was a subdivision to create the existing lots.

**DEFINITIONS/RELATED INFORMATION:**

|                    |  |
|--------------------|--|
| Maintained Road:   | A road that is included in Council's Road Register and maintained by Council.  |
| Unmaintained Road: | A road that is not included in Council's Road Register and not maintained by Council.  |
| Constructed Road:  | A road constructed to Council's standards and generally as per Council's drawing SD121.  |
| Formed Road:       | A road that does not have gravel paving, but which is formed using a grader so that stormwater will drain off laterally.   |
| Unformed Road:     | A road reserve that has been cleared and open to use by the public.  |
| Unmade Road:       | A road reserve that has had no capital improvement including clearing, formation and gravel paving. An unmade road may be trafficable or un-trafficable in all weathers. |



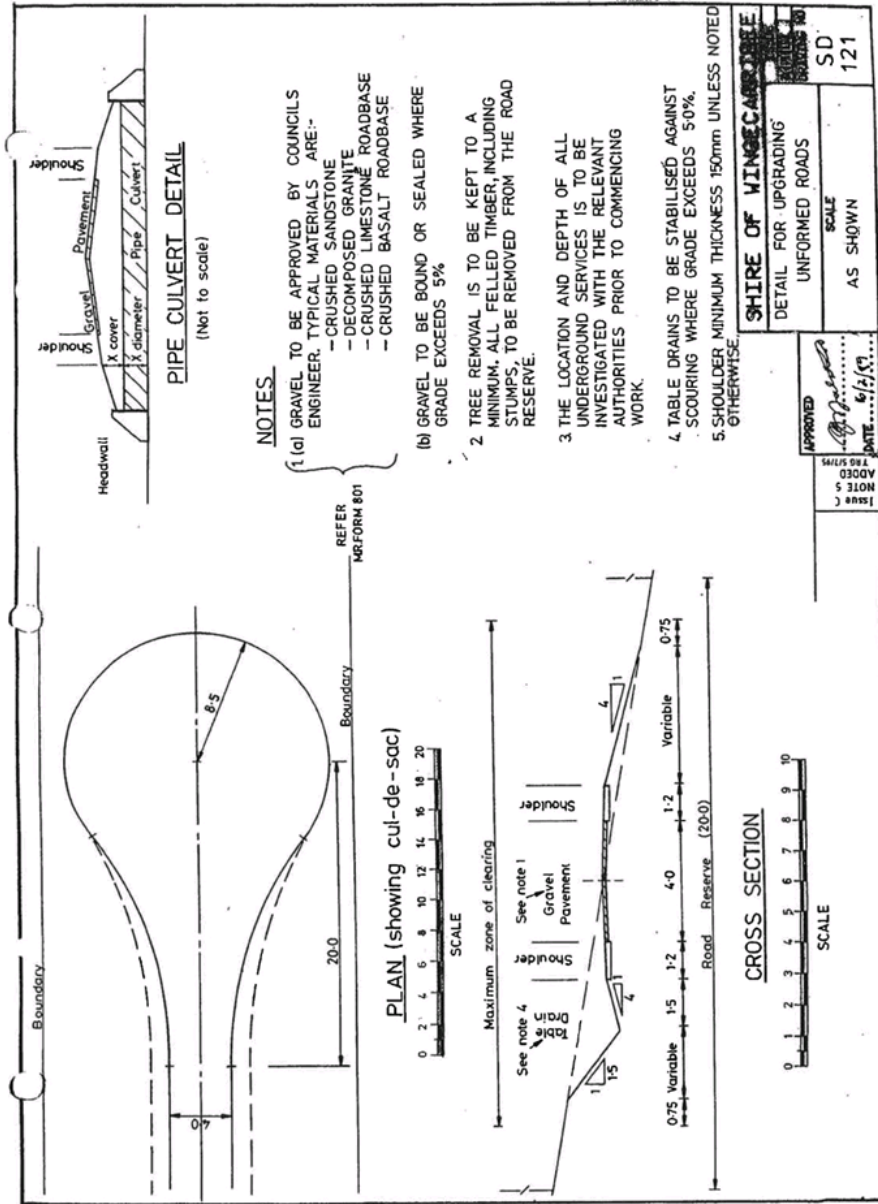
**POLICY GUIDELINES**

**CONTACT** – Manager Assets

**REVIEW** – Every Four Years



# POLICY GUIDELINES





## 11.5 Proposed Road Closure of Part Road Reserve - Nicholson Street, Berrima

|                   |  |
|-------------------|--|
| Reference:        | PN 169300, RD 4711   |
| Report Author:    | Property and Projects Officer  |
| Authoriser:       | Chief Financial Officer  |
| Link to Community |  |
| Strategic Plan:   | Effective financial and asset management ensure Council's long term sustainability |

### PURPOSE

The purpose of this report is to seek Council approval to invite an application to close part of the road reserve of Nicholson Street, Berrima adjoining 15 Oldbury Street, Berrima.

### RECOMMENDATION

1. **THAT** Council invite a formal Application for the road closure of part Nicholson Street, Berrima from the applicant (being the owner of 15 Oldbury Street, Berrima) **AND THAT** it be noted that all costs in relation to the closure and potential future sale of the road are to be paid by the applicant.
2. **THAT** Council give a minimum twenty eight (28) days public notice of its intention to close the portion of Council Public Road Reserve adjoining 15 Oldbury Street, Berrima **AND THAT** if any objections are received, a further report be forwarded to a future Ordinary Meeting of Council for determination.
3. **THAT** if there are no objections received by Council during the period of public exhibition, that pursuant to Part 4 Division 4 of the *Roads Act 1993*, Council as roads authority formally approve the closure of the portion of Council Public Road Reserve referred to in Resolution 1 above.
4. **THAT** the General Manager and Mayor be delegated authority to execute under the Common Seal of Council any agreement, plan or real property dealing in respect of the proposed closure of the portion of Council Public Road Reserve referred to in Resolution 1 above.
5. **THAT** authority be delegated to the General Manager to execute on behalf of Council any other document associated with the road closure referred to in Resolution 1 above which does not require the affixing of the Common Seal of Council.
6. **THAT** following the closure and sale of the portion of Council Public Road Reserve, the applicant is required to consolidate the newly created lot (being the former segment of closed road) with the applicant's respective property.

---

## **REPORT**

### **BACKGROUND**

Council has been approached by the owner of 15 Oldbury Street, Berrima, requesting that Council consider the closure and sale of part of the road reserve adjoining their property. The portion of road reserve which is subject of this report is unformed and approximately 30 metres in width, and directly adjoins the applicant's property as shown in **Attachment 1**.

### **REPORT**

Council approval is sought to invite an application for the closure of part Nicholson Street, Berrima adjoining 15 Oldbury Street, Berrima. The area of the proposed closure is approximately 4,350 square meters (subject to final survey).

The relevant Council Officers have been consulted in relation to the proposed closure and sale of the unformed road. Council's Strategic Planning Section have provided the following comments:

*As the area of road reserve to be closed is in part E2 Environmental Conservation, and part E4 Environmental Living, the area of closure is to retain its appearance and be kept "as is" to protect and maintain vegetation with no encroachment of any residential uses in to the area of closure.*

These comments are supported by zoning legislation in the *Wingecarribee Local Environmental Plan 2010*.

The area of the applicant's property is 7,931 square meters. The total area of the property after consolidation would be approximately 12,280 square meters. As the applicant's property is zoned E3 – Environmental Management, with a minimum allotment of 40 ha, the property would not be able to be subsequently subdivided.

### **LEGISLATIVE REQUIREMENTS**

Part 4, Division 4 of the *Roads Act 1993* outlines the statutory requirements regarding the closure of public roads by Council.

NSW Department of Planning, Industry & Environment ("the Crown") no longer has the power to close constructed or unconstructed Council public roads. This means that all applications for the closure of public roads must be processed by Council as the roads authority. Only constructed (formed) Council public roads remain vested in the ownership of Council upon closure. Unconstructed (unformed) Council public roads become vested in the Crown upon closure.

In this case the area of closure is unformed, therefore upon closure the land will vest in the Crown.

If the closure of part of the road reserve proceeds, a new title will be created following registration of the Plan of Road Closure at NSW Land Registry Services. The newly created lot (being the segment of closed road) will be required to be consolidated with the applicant's adjoining property at the applicant's cost.



---

## **COMMUNICATION AND CONSULTATION**

### **Community Engagement**

Following receipt of the formal request for the part-road closure from the applicant, Council will issue a public notice of its intention to close part road reserve at Nicholson Street, Berrima adjoining 15 Oldbury Street, Berrima. This notice will be advertised for a minimum twenty eight days.

Council will also issue a notice of proposed road closure to property owners in the vicinity of the road reserve.

### **Internal Communication and Consultation**

The relevant Council Officers have been consulted and invited to comment in relation to the closure and sale of the unformed road.

### **External Communication and Consultation**

Adjoining owner (applicant)

---

## **SUSTAINABILITY ASSESSMENT**

- **Environment**

Council's Strategic Planning Section has provided comment, that the area of proposed closure is to remain "as is" to protect and maintain vegetation with no encroachment of any residential uses in to the area of closure. These comments are supported by zoning legislation in the *Wingecarribee Local Environmental Plan 2010*.

- **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 adjoining owner as applicant will be responsible for the payment of all fees and charges in relation to the road closure. Fees will include an initial application fee to Council for road closure, along with surveying and registration fees. The area of closed road will vest in the Crown Lands and monies paid for the area of closed road will be paid to the Crown.

**AGENDA FOR THE ORDINARY MEETING OF COUNCIL**

Wednesday 11 December 2019

**REPORT DEPUTY GENERAL MANAGER OPERATIONS, FINANCE  
AND RISK**



---

**RELATED COUNCIL POLICY**

None identified.

---

**CONCLUSION**

It is recommended that Council support the proposed closure of part road reserve, Nicholson Street, Berrima, and that the applicant be invited to submit a formal application for road closure and sale.

---

**ATTACHMENTS**

1. Aerial Map



Wingecarribee Shire Council

Any information (numerical or otherwise), representation, statement, opinion or advice expressed or implied in this publication is made in good faith but on the basis that the council of the shire of Wingecarribee, its agents and its employees are not liable (whether by reason of negligence, lack of care or otherwise) to any person for any damage or loss whatsoever which has occurred or may occur in relation to that person taking or not taking (as the case may be) action in respect of any information, representation, statement, or advice referred to above.



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## 11.6 Application to be Appointed as Reserve Trust Manager of Various Crown Reserves Being Cemeteries Within the Shire

**Reference:** R7160, E1016110, R1016209, R1021848, R1023208, R1030929, R1032168, R1032668  
**Report Author:** Property and Projects Officer  
**Authoriser:** Chief Financial Officer  
**Link to Community Strategic Plan:** Effective financial and asset management ensure Council's long term sustainability

### PURPOSE

The purpose of this report is to seek Council approval to lodge an application with the NSW Department of Planning, Industry and Environment – Crown Lands to be appointed as Reserve Trust Manager for a number of Crown reserves which are currently managed as cemeteries by Council.

### RECOMMENDATION

**THAT Council formally lodge an application with the NSW Department of Planning, Industry and Environment – Crown Lands to be appointed as Reserve Trust Manager for the following Crown Reserves:**

| Reserve No. | Lot/Deposited Plan No.   | Location                |
|-------------|--|-------------------------|
| 7160        | Lot 51 DP 751298   | Wingello Cemetery       |
| 1016110     | Lot 6 DP 668361, Lot 1 DP 668444, Lot 1 DP 668445, Lot 1 DP 1101763, Lots 7310-7311 DP 1132681 | Welby Cemetery          |
| 1016209     | Lot 7029 DP 1032086  | Berrima Cemetery        |
| 1021848     | Lot 7300 DP 1143831  | Penrose Cemetery        |
| 1023208     | Lot 1 DP 665909  | Moss Vale Cemetery      |
| 1030929     | Lot 7007 DP 1032260  | Bundanoon Cemetery      |
| 1032168     | Lot 7010 DP 1001536  | Robertson Cemetery      |
| 1032668     | Lot 1 DP 668349, Lot 7305 DP 1165936   | East Kangaloon Cemetery |

### REPORT

#### **BACKGROUND**

The Crown Reserves the subject of this report are all categorised as cemeteries within the Wingecarribee Shire Local Government Area. The Cemeteries are managed by Council. The subject Crown Reserves are all classified as Cemeteries and are devolved to Council under Section 48 of the *Local Government Act, 1993*.

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 11 December 2019

### REPORT DEPUTY GENERAL MANAGER OPERATIONS, FINANCE AND RISK



#### **REPORT**

Although Council has not been appointed as Reserve Trust Manager for the Crown Reserves which are the subject of this report, Council currently oversees the management and operations of the Cemeteries and has done so for many years.

The list of Crown Reserves Council is seeking approval to lodge an application to become Reserve Trust Manager is provided below:

| <b>Reserve No.</b> | <b>Lot/Deposited Plan No.</b>  | <b>Location</b>         |
|--------------------|--|-------------------------|
| 7160               | Lot 51 DP 751298   | Wingello Cemetery       |
| 1016110            | Lot 6 DP 668361, Lot 1 DP 668444, Lot 1 DP 668445, Lot 1 DP 1101763, Lots 7310-7311 DP 1132681 | Welby Cemetery          |
| 1016209            | Lot 7029 DP 1032086  | Berrima Cemetery        |
| 1021848            | Lot 7300 DP 1143831  | Penrose Cemetery        |
| 1023208            | Lot 1 DP 665909  | Moss Vale Cemetery      |
| 1030929            | Lot 7007 DP 1032260  | Bundanoon Cemetery      |
| 1032168            | Lot 7010 DP 1001536  | Robertson Cemetery      |
| 1032668            | Lot 1 DP 668349, Lot 7305 DP 1165936   | East Kangaloon Cemetery |

As the Reserves are devolved to Council, Council must obtain the consent of the NSW Department of Planning, Industry and Environment – Crown Lands, as owner of the land for any works requiring development approval.

If Council is appointed as Reserve Trust Manager, this will then enable Council to proceed with works within those Reserves without requiring the consent of the Crown.

Council is currently progressing plans to undertake works at a number of these cemeteries which would require the consent of the NSW Department of Planning, Industry and Environment – Crown Lands if Council is not appointed Reserve Trust Manager.

It is important to note that in accordance with Section 2.23 of the *Crown Land Management Act 2016*, there will still be a requirement to seek consent from the Crown for certain works which require development approval.

#### **COMMUNICATION AND CONSULTATION**

##### **Community Engagement**

No community engagement is required to be undertaken by Council as this is an administrative matter between Council and NSW Department of Planning, Industry and Environment – Crown Lands.

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

Assets

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

No external consultation is required.

---

## **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**

There are no governance issues in relation to this report.

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## **COUNCIL BUDGET IMPLICATIONS**

There are no budget implications in relation to this report.

---

## **RELATED COUNCIL POLICY**

There are no policy issues in respect of this report.

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## **CONCLUSION**

At present Council is not the Reserve Trust Manager of the Crown Reserves the subject of this report. Any proposed works on these Reserves currently require the consent of the NSW Department of Planning, Industry and Environment – Crown Lands.

This report seeks formal approval to lodge an application to be appointed Reserve Trust Manager for the subject Reserves which will then permit Council to proceed with works within those Reserves without requiring the consent of the Crown, subject to Section 2.23 of the *Crown Land Management Act 2016*.

---

## **ATTACHMENTS**

There are no attachments to this report.





## 11.7 Extension of Licenced Area for Car Park to Bundanoon Community Association, Bundanoon Men's Shed and Bundanoon Highland Gathering - Part 7-11 Burgess Street, Bundanoon

|                                   |  |
|-----------------------------------|--|
| Reference:                        | PN279500   |
| Report Author:                    | Property and Project Officer   |
| Authoriser:                       | Chief Financial Officer  |
| Link to Community Strategic Plan: | Effective financial and asset management ensure Council's long term sustainability |

### PURPOSE

The purpose of this report is to seek Council approval to extend the licensed area to Bundanoon Men's Shed, Bundanoon Community Association and Bundanoon Highland Gathering for the occupation of part Council owned land at part 7-11 Burgess Street, Bundanoon for the purpose of a car park.

### RECOMMENDATION

1. **THAT** the Licence Agreement between Council, Bundanoon Community Association, Bundanoon Men's Shed and Bundanoon Highland Gathering be amended to include the extended area of part Lot 1 in Deposited Plan 577713 for the purpose of car park.
2. **THAT** the General Manager and Mayor be delegated authority to execute the amendments in the existing Licence Agreement to include the extension of area under the Common Seal of Council (if required).

### REPORT

#### **BACKGROUND**

Bundanoon Community Association, Bundanoon Highland Gathering Inc. and Bundanoon Men's Shed ("the current Licensees") are local community-based groups who hold a current Licence Agreement for the use of Council property being part 7-11 Burgess Street Bundanoon ("Council Property").

Each community group has their own designated and defined boundaries of area for use within the boundaries of the property.

The current Licensees have approached Council requesting an extension of the licensed area to incorporate part of Lot 1 in Deposited Plan 577713 to establish a car park for the licensees. This will alleviate issues with parking on site and to ensure adequate parking for all licensees.



---

## **REPORT**

The Current Licensees have been in occupation of the Council Property for more than 20 years. The Bundanoon Men's Shed currently has a Development Application lodged with Council for the extension of their building within the Council Property.

Car parking has been considered through the Development Application process, however, it has been raised that there is insufficient parking within the site and on the street to accommodate the members of all three organisations.

Extending the licensed area will give the current Licensees an opportunity to create extra parking to alleviate traffic congestion due to lack of parking space.

It will be a requirement in the Licence Agreement that a Development Application be lodged (if necessary) with Council as consent authority for the works. Construction and fencing of the car park will be at the Licensees cost.

The land is zone RE1 and is classified as Operational Land. The area of land required for the car park is approximately 365 square meters.

---

## **COMMUNICATION AND CONSULTATION**

### **Community Engagement**

The land is classified as Operational Land. As such this is considered an administrative matter between Council and the Licensees.

### **Internal Communication and Consultation**

Departmental Managers

Assets

### **External Communication and Consultation**

Bundanoon Community Association

Bundanoon Men's Shed

Bundanoon Highland Gathering

---

## **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.

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 11 December 2019

### REPORT DEPUTY GENERAL MANAGER OPERATIONS, FINANCE AND RISK



- **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.

---

#### **RELATED COUNCIL POLICY**

None.

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#### **CONCLUSION**

It is recommended that Council approve the extension of the licensed area to the Bundanoon Community Association, Bundanoon Men's Shed and Bundanoon Highland Gathering over part 7-11 Burgess Street, Bundanoon being part Lot 1 in Deposited Plan 577713 to enable parking improvements to be undertaken.

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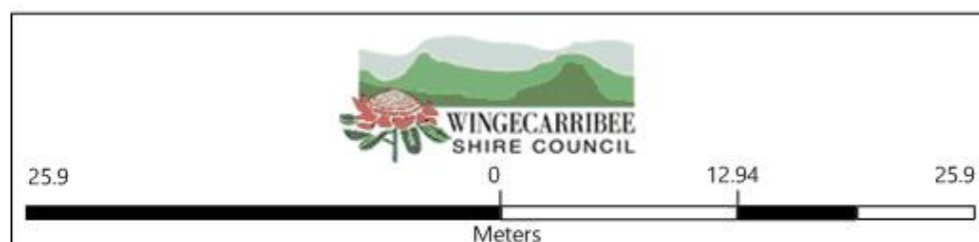
#### **ATTACHMENTS**

1. Aerial Map

Barry W Paull

**Deputy General Manager Operations, Finance and Risk**

Wednesday 4 December 2019



### 7-11 Burgess Street, Bundanoon

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## 12 CORPORATE STRATEGY AND DEVELOPMENT SERVICES

### 12.1 Development Applications Determined from 29 October 2019 to 24 November 2019

**Reference:** 5302  
**Report Author:** Team Leader Business Support  
**Authoriser:** Group Manager Planning, Development and Regulatory Services

**Link to Community Strategic Plan:** Provide a mixture of housing types that allow residents to meet their housing needs at different stages of their lives and support affordable living

#### PURPOSE

The purpose of this report is to update Councillors on Development Applications Determined for the period 29 October 2019 to 24 November 2019.

#### RECOMMENDATION

**THAT** the information relating to the lists of Development Applications Determined for the period 29 October 2019 to 24 November 2019 be received and noted.

#### APPROVED APPLICATIONS BY DATE RANGE Date Range: 29 October 2019 to 24 November 2019

|   | Application ID | Primary Property   | Owner                  | Description  | Date Lodged | Days Stopped | Assess Days | Total Days | Date Finalised |
|---|----------------|--|------------------------|--|-------------|--------------|-------------|------------|----------------|
| 1 | 20/0269        | 75 Park Avenue<br>Aylmerton NSW 2575<br>Lot 8 Sec 2 DP 10484 | TA Hams,<br>SM Hams    | Residential Alterations and Additions (Extensions) | 04/09/2019  | 0            | 61          | 61         | 05/11/2019     |
| 2 | 20/0519        | 9 Cascabel Close<br>Balaclava NSW 2575<br>Lot 15 DP 1255186  | Katael Pty Ltd         | Dwelling House                                     | 29/10/2019  | 0            | 7           | 7          | 06/11/2019     |
| 3 | 20/0379        | 4 Truro Place Balmoral<br>NSW 2571 Lot 207 DP<br>1240094     | AG Reason,<br>M Reason | Dwelling House                                     | 27/09/2019  | 7            | 26          | 33         | 31/10/2019     |
| 4 | 19/1726        | 48 Oldbury Street<br>Berrima NSW 2577 Lot<br>11 DP 1244255   | GM Pulley,<br>B Pulley | Dwelling House                                     | 06/06/2019  | 106          | 41          | 147        | 01/11/2019     |

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 11 December 2019

### REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



|    | Application ID | Primary Property   | Owner   | Description  | Date Lodged | Days Stopped | Assess Days | Total Days | Date Finalised |
|----|----------------|--|---|--|-------------|--------------|-------------|------------|----------------|
| 5  | 20/0347        | Public Square - 2<br>Market Place Berrima<br>NSW 2577 Lot 1 DP<br>1152987                        | Wingecarribee<br>Shire Council                                    | Recreation Area  | 20/09/2019  | 0            | 51          | 51         | 11/11/2019     |
| 6  | 20/0483        | 18 Argyle Street<br>Berrima NSW 2577 Lot<br>18 Sec 37 DP 758098                                  | JD Laufer,<br>R Robertson   | Residential<br>Alterations and<br>Additions (Swimming<br>Pool and Deck)  | 18/10/2019  | 0            | 34          | 34         | 22/11/2019     |
| 7  | 20/0551        | 'Castle Bend' 3051 Old<br>Hume Highway<br>Berrima NSW 2577 Lot<br>4 DP 262907                    | VMC Corp Pty Ltd  | Farm Building  | 07/11/2019  | 0            | 5           | 5          | 13/11/2019     |
| 8  | 17/1174.01     | Bendooley Court 16 -<br>24 Bendooley Street<br>Bowral NSW 2576 Lot<br>1 DP 1003910               | Wingecarribee<br>Shire Council                                    | Section 4.55<br>Modification<br>(Addition of roof top<br>mechanical platform,<br>smoke exhaust &<br>external wall) | 21/08/2019  | 36           | 40          | 76         | 06/11/2019     |
| 9  | 17/1773.01     | Southern Highlands<br>Botanic Gardens 1 Old<br>South Road Bowral<br>NSW 2576 Lot 1 DP<br>1231536 | Wingecarribee<br>Shire Council                                    | Section 4.55<br>Modification (Plant<br>Nursery)  | 30/07/2019  | 8            | 90          | 98         | 06/11/2019     |
| 10 | 18/0153.05     | 63 Bendooley Street<br>Bowral NSW 2576 Lot<br>1 DP 211068  | PC Symons,<br>JAE Kropf   | Section 4.55<br>Modification<br>(External Alterations)   | 01/10/2019  | 0            | 37          | 37         | 08/11/2019     |
| 11 | 18/0719.05     | 24 Soma Avenue<br>Bowral NSW 2576 Lot<br>152 DP 551920<br>Lot 153 DP 551920                      | K Smith   | Section 4.55<br>Modification<br>(Boundary<br>Adjustment)   | 28/10/2019  | 0            | 13          | 13         | 11/11/2019     |
| 12 | 19/0217.05     | 72 Woodbine Street<br>Bowral NSW 2576 Lot<br>10 DP 996069  | V Webb  | Section 4.55<br>Modification<br>(Extensions)   | 25/10/2019  | 0            | 28          | 28         | 22/11/2019     |
| 13 | 19/1319.07     | 2 Sir James Fairfax<br>Circuit Bowral NSW<br>2576 Lot 200 DP<br>1239600                          | JN Vassallo   | Section 4.55<br>Modification (Alter<br>Site Levels. Privacy<br>Screen)   | 25/10/2019  | 0            | 20          | 20         | 14/11/2019     |
| 14 | 20/0060.03     | 2 Purcell Street Bowral<br>NSW 2576 Lot 2 DP<br>504121   | V Mumford, S Bell   | Section 4.55<br>Modification<br>(Extension)  | 13/11/2019  | 0            | 1           | 1          | 15/11/2019     |
| 15 | 20/0274        | 1/20 Kangaloon Road<br>Bowral NSW 2576 Lot<br>1 DP 1010913                                       | E.F.A.S.<br>Investments Pty<br>Ltd,<br>S.S.E.C.C.U.S. Pty<br>Ltd, | Residential<br>Alterations and<br>Additions (Swimming<br>Pool)   | 05/09/2019  | 0            | 62          | 62         | 06/11/2019     |

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 11 December 2019

### REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



|    | Application ID | Primary Property   | Owner                                     | Description   | Date Lodged | Days Stopped | Assess Days | Total Days | Date Finalised                       |
|----|----------------|--|---|---|-------------|--------------|-------------|------------|--------------------------------------|
| 16 | 20/0327        | 9 Bloomfield Close<br>Bowral NSW 2576 Lot<br>5 DP 1231895          | Hammock Hill<br>Properties Pty<br>Limited | Dwelling House  | 16/09/2019  | 19           | 28          | 47         | 02/11/2019                           |
| 17 | 20/0342        | 75 Bowral Street<br>Bowral NSW 2576 Lot<br>1 DP 362634             | D Clark                                   | Residential<br>Alterations and<br>Additions (Internal)                            | 19/09/2019  | 0            | 54          | 54         | 13/11/2019                           |
| 18 | 20/0399        | 41 Price Street Bowral<br>NSW 2576 Lot 820 DP<br>566175            | A Moodley                                 | Dwelling House  | 03/10/2019  | 0            | 45          | 45         | 17/11/2019                           |
| 19 | 20/0447        | 18 Ayrshire Parade<br>Bowral NSW 2576 Lot<br>330 DP 1234848        | R Berbic                                  | Dwelling House  | 11/10/2019  | 7            | 31          | 38         | 19/11/2019                           |
| 20 | 20/0451        | 107 Kangaloon Road<br>Bowral NSW 2576 Lot<br>4 DP 866291           | Wingecarribee<br>Shire Council            | Demolish Existing<br>Dwelling House &<br>Garage                                   | 14/10/2019  | 0            | 30          | 30         | 13/11/2019                           |
| 21 | 20/0453        | 12 Edward Riley Drive<br>Bowral NSW 2576 Lot<br>103 DP 1227641     | J Opalenko,<br>B Opalenko                 | Residential<br>Alterations and<br>Additions (Shed)                                | 14/10/2019  | 0            | 22          | 22         | 05/11/2019                           |
| 22 | 20/0481        | 'Bulwarra' 27 Gibraltar<br>Road Bowral NSW<br>2576 Lot 9 DP 631955 | G McLaughlin,<br>D McLaughlin             | Residential<br>Alterations and<br>Additions (Swimming<br>Pool & Deck)             | 18/10/2019  | 19           | 12          | 31         | 19/11/2019                           |
| 23 | 20/0575        | 9 Alice Avenue Bowral<br>NSW 2576 Lot 28 DP<br>792830              | T Bonner,<br>IM Bonner                    | Residential<br>Alterations and<br>Additions<br>(Extensions and<br>Deck)           | 12/11/2019  | 0            | 7           | 7          | 19/11/2019                           |
| 24 | 19/1530.04     | 10 Tyree Place<br>Braemar NSW 2575<br>Lot 2 DP 1225697             | Tycan Australia<br>Pty Ltd                | Section 4.55<br>Modification<br>(Impose condition<br>relating to dry<br>industry) | 11/10/2019  | 0            | 31          | 31         | 11/11/2019                           |
| 25 | 20/0184        | 13 Mimosa Place<br>Braemar NSW 2575<br>Lot 106 DP 1204085          | KA Gellel,<br>JFC Gellel                  | Residential<br>Alterations and<br>Additions (Shed)                                | 15/08/2019  | 13           | 76          | 89         | 13/11/2019                           |
| 26 | 15/0710.05     | 12 Rochester Drive<br>Bundanoon NSW 2578<br>Lot 6 DP 1220012       | Rochester Estate<br>Pty Ltd               | Section 4.55<br>Modification (Alter<br>Roof Colour)                               | 30/08/2019  | 0            | 80          | 80         | Approved by<br>Council<br>18/11/2019 |
| 27 | 20/0220        | 48 Nerrim Street<br>Bundanoon NSW 2578<br>Lot 10 DP 9331           | T Vonhoff,<br>RA McFadden                 | Residential<br>Alterations &<br>(Extensions)                                      | 26/08/2019  | 0            | 87          | 87         | 22/11/2019                           |
| 28 | 20/0308        | 8 Evelyn Avenue<br>Bundanoon NSW 2578<br>Lot 6 DP 877525           | SA Morony,<br>KE Morony                   | Continued Use<br>(Deck, Pergola)  | 12/09/2019  | 0            | 68          | 68         | 19/11/2019                           |

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 11 December 2019

### REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



|    | Application ID | Primary Property   | Owner   | Description  | Date Lodged | Days Stopped | Assess Days | Total Days | Date Finalised |
|----|----------------|--|---|--|-------------|--------------|-------------|------------|----------------|
| 29 | 20/0414        | 28 Blue Gum Road<br>Bundanoon NSW 2578<br>Lot 20 DP 1232533                      | KM Booth,<br>AH Booth                         | Dwelling House   | 08/10/2019  | 0            | 35          | 35         | 13/11/2019     |
| 30 | 19/1345.05     | 6 Sutherland Park<br>Drive Burradoo NSW<br>2576 Lot 14 DP<br>1220167             | KT Collins,<br>J Collins                      | Section 4.55<br>Modification<br>(Reduce Floor Area)                                    | 01/11/2019  | 0            | 12          | 12         | 13/11/2019     |
| 31 | 19/1788        | Chevalier College 566<br>Moss Vale Road<br>Burradoo NSW 2576<br>Lot 12 DP 748370 | Society Of<br>Missionaries Of<br>Sacred Heart | Advertising Structure  | 21/06/2019  | 8            | 124         | 132        | 01/11/2019     |
| 32 | 20/0174        | 16 Elizabeth Street<br>Burradoo NSW 2576<br>Lot 151 DP 1252728                   | KR Tregenza                                   | Dwelling House   | 13/08/2019  | 18           | 71          | 89         | 11/11/2019     |
| 33 | 20/0182        | 34 Holly Road<br>Burradoo NSW 2576<br>Lot 4 DP 505098                            | S Vilo, AR Vilo                               | Residential<br>Alterations and<br>Additions (Garage,<br>Swimming Pool)                 | 14/08/2019  | 56           | 43          | 99         | 22/11/2019     |
| 34 | 20/0187        | 29a Links Road<br>Burradoo NSW 2576<br>Lot 242 DP 1235909                        | JM Poole,<br>JE Poole                         | Subdivision (2 Lots)   | 16/08/2019  | 58           | 18          | 76         | 01/11/2019     |
| 35 | 20/0469        | 25a Links Road<br>Burradoo NSW 2576<br>Lot 262 DP 1004482                        | AW Dean                                       | Residential<br>Alterations and<br>Additions (Awning)                                   | 16/10/2019  | 0            | 20          | 20         | 05/11/2019     |
| 36 | 20/0410        | 24 Dale Street<br>Burrawang NSW 2577<br>Lot B DP 344435                          | JD Watts                                      | Residential<br>Alterations and<br>Additions (Deck and<br>Internal Alterations)         | 08/10/2019  | 0            | 40          | 40         | 17/11/2019     |
| 37 | 19/0460.08     | 2400 Canyonleigh<br>Road Canyonleigh<br>NSW 2577 Lot 14 DP<br>806293             | Noah Retail<br>Group Pty Ltd                  | Section 4.55<br>Modification<br>(Upgrade Onsite<br>Wastewater<br>Management<br>System) | 29/10/2019  | 0            | 20          | 20         | 18/11/2019     |
| 38 | 15/1144.05     | 133 McCallum Road<br>Colo Vale NSW 2575<br>Lot 5 DP 1010323                      | WO Mussett,<br>C Mussett                      | Section 4.55<br>Modification (Alter<br>Floor Plan and<br>Attached Garage)              | 04/11/2019  | 0            | 6           | 6          | 10/11/2019     |
| 39 | 19/1203.01     | 410 Colo Road Colo<br>Vale NSW 2575 Lot 1<br>DP 634813                           | CS Peachey,<br>J Peachey                      | Section 4.55<br>Modification (Alter<br>Onsite Wastewater<br>Management<br>System)      | 14/11/2019  | 0            | 7           | 7          | 22/11/2019     |



## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 11 December 2019

### REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



|    | Application ID | Primary Property  | Owner                    | Description   | Date Lodged | Days Stopped | Assess Days | Total Days | Date Finalised |
|----|----------------|---|--------------------------|---|-------------|--------------|-------------|------------|----------------|
| 40 | 20/0241        | 5 Stringybark Close<br>Colo Vale NSW 2575<br>Lot 219 DP 1245987                     | MK Piper                 | Residential<br>Alterations and<br>Additions (Shed)  | 29/08/2019  | 0            | 63          | 63         | 31/10/2019     |
| 41 | 20/0562        | 9 Elm Street Colo Vale<br>NSW 2575 Lot 4 Sec 17<br>DP 2944<br>Lot 17 Sec 17 DP 2944 | IA Stokes,<br>DM Stokes  | Residential<br>Alterations and<br>Additions (Retaining<br>Wall)   | 08/11/2019  | 0            | 4           | 4          | 13/11/2019     |
| 42 | 20/0567        | 65 Drapers Creek Road<br>Colo Vale NSW 2575<br>Lot 22 DP 1078767                    | K Kordic                 | Farm Building   | 11/11/2019  | 0            | 4           | 4          | 15/11/2019     |
| 43 | 20/0526        | Rockleigh Road Exeter<br>NSW 2579 Lot 1 DP<br>1174493                               | IS Ritchie,<br>JA Connor | Residential<br>Alterations and<br>Additions (Swimming<br>Pool)  | 31/10/2019  | 0            | 7           | 7          | 07/11/2019     |
| 44 | 20/0356        | 150 Sheepwash Road<br>Glenquarry NSW 2576<br>Lot 4 DP 241697                        | RD Ashbolt               | Residential<br>Alterations and<br>Additions (Internal)  | 23/09/2019  | 0            | 61          | 61         | 23/11/2019     |
| 45 | 15/0428.03     | 60 Charcoal Lane High<br>Range NSW 2575 Lot 2<br>DP 1165092                         | RS Hooke,<br>CT Hooke    | Section 4.55<br>Modification (Alter<br>Onsite Wastewater<br>Management<br>System)   | 10/10/2019  | 13           | 27          | 40         | 19/11/2019     |
| 46 | 20/0158        | 21 Wyong Street Hill<br>Top NSW 2575 Lot 1<br>DP 809063                             | G Barnes,<br>WM Barnes   | Residential<br>Alterations and<br>Additions (Garage<br>and Carport)   | 07/08/2019  | 0            | 85          | 85         | 01/11/2019     |
| 47 | 20/0172        | 5 Ashley Place Hill Top<br>NSW 2575 Lot 5 DP<br>778055                              | J Jones                  | Residential<br>Alterations and<br>Additions (Shed)  | 13/08/2019  | 13           | 87          | 100        | 22/11/2019     |
| 48 | 20/0523        | 35 West Parade Hill<br>Top NSW 2575 Lot 10<br>DP 812832                             | A Wilson, W Gow          | Residential<br>Alterations and<br>Additions (Shed)  | 30/10/2019  | 0            | 8           | 8          | 07/11/2019     |
| 49 | 17/1444.10     | 6-10 Owen Street<br>Mittagong NSW 2575<br>Lot 1 DP 1250647                          | Owen Street Pty<br>Ltd   | Section 4.55<br>Modification<br>(Industrial<br>Development –<br>Reduce Floor Area,<br>Realign Buildings and<br>Car Parking) | 17/09/2019  | 0            | 58          | 58         | 15/11/2019     |
| 50 | 19/1281.05     | 52 Bessemer Street<br>Mittagong NSW 2575<br>Lot 2 DP 26366                          | CS Maldon-Myers          | Section 4.55<br>Modification<br>(Extensions)  | 15/11/2019  | 0            | 8           | 8          | 23/11/2019     |

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 11 December 2019

### REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



|    | Application ID | Primary Property   | Owner   | Description  | Date Lodged | Days Stopped | Assess Days | Total Days | Date Finalised |
|----|----------------|--|---|--|-------------|--------------|-------------|------------|----------------|
| 51 | 20/0069        | 94 Buckmans Lane<br>Mittagong NSW 2575<br>Lot 4 DP 1005101   | RC Krebs,<br>BC Krebs                                 | Residential<br>Alterations and<br>Additions<br>(Extensions, Shed &<br>Swimming Pool) | 17/07/2019  | 64           | 42          | 106        | 02/11/2019     |
| 52 | 20/0153        | 25 Robinson Street<br>Mittagong NSW 2575<br>Lot 136 DP 1247015   | S Moule, E Mahr                                       | Dwelling House   | 06/08/2019  | 64           | 19          | 83         | 29/10/2019     |
| 53 | 20/0254        | 7 Hood Street<br>Mittagong NSW 2575<br>Lot 8 Sec 8 DP 111201   | A Browning,<br>KC Browning                            | Secondary Dwelling   | 30/08/2019  | 65           | 13          | 78         | 18/11/2019     |
| 54 | 20/0290        | 5 Bong Bong Road<br>Mittagong NSW 2575<br>Lot 1 DP 568204  | MA Traill,<br>CA Traill-John                          | Subdivision (2 Lots)   | 06/09/2019  | 8            | 51          | 59         | 05/11/2019     |
| 55 | 20/0350        | Works Depot - 9<br>Cavendish Street<br>Mittagong NSW 2575<br>Lot 9 Sec 39 DP 1374<br>Lot 10 Sec 39 DP 1374 | Wingecarribee<br>Shire Council                        | Depot - New<br>Colorbond Shed  | 20/09/2019  | 41           | 19          | 60         | 21/11/2019     |
| 56 | 20/0391        | 4 Apple Gate Close<br>Mittagong NSW 2575<br>Lot 9 DP 614099  | NP Cummins,<br>J Cummins                              | Residential<br>Alterations and<br>Additions (Shed)                                   | 01/10/2019  | 0            | 30          | 30         | 31/10/2019     |
| 57 | 20/0473        | 38 Railway Parade<br>Mittagong NSW 2575<br>Lot 3 Sec 14 DP 1289  | H Herm  | Residential<br>Alterations and<br>Additions (Shed)                                   | 17/10/2019  | 0            | 14          | 14         | 31/10/2019     |
| 58 | 20/0011        | Church & Community<br>Activity Centre 18<br>Spring Street Moss<br>Vale NSW 2577 Lot 90<br>DP 751253        | Connect Christian<br>Church<br>T/A Southlands<br>Care | Change of Use<br>(Shop)  | 03/07/2019  | 0            | 121         | 121        | 01/11/2019     |
| 59 | 20/0154        | 3a Stables Place Moss<br>Vale NSW 2577 Lot 54<br>DP 1069034  | OP Finch, AC Page                                     | Dual Occupancy<br>(Detached)   | 07/08/2019  | 0            | 85          | 85         | 01/11/2019     |
| 60 | 20/0288        | 60a Argyle Street<br>Moss Vale NSW 2577<br>Lot 3 DP 1031966  | J Anderson,<br>JA Anderson                            | Residential<br>Alterations and (Dual<br>Occupancy -<br>Attached)                     | 06/09/2019  | 0            | 62          | 62         | 07/11/2019     |
| 61 | 20/0459        | 58 Baker Street Moss<br>Vale NSW 2577 Lot<br>4019 DP 1242576   | D Smith,<br>CR Boyde                                  | Dwelling House   | 15/10/2019  | 28           | 7           | 35         | 20/11/2019     |
| 62 | 20/0460        | 10 Twickenham Place<br>Moss Vale NSW 2577<br>Lot 18 DP 774426  | LM Morrison   | Demolition of<br>Existing Dwelling.<br>New Dwelling House                            | 15/10/2019  | 0            | 39          | 39         | 23/11/2019     |

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 11 December 2019

### REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



|    | Application ID | Primary Property  | Owner                            | Description  | Date Lodged | Days Stopped | Assess Days | Total Days | Date Finalised |
|----|----------------|---|----------------------------------|--|-------------|--------------|-------------|------------|----------------|
| 63 | 19/1774        | 20 Solomon Street<br>Renwick NSW 2575<br>Lot 1321 DP 1234992                                    | Sampol Pty Ltd                   | Dual Occupancy (Detached) and Subdivision (2 Lots)   | 19/06/2019  | 63           | 86          | 149        | 15/11/2019     |
| 64 | 20/0167        | 14 Solomon Street<br>Renwick NSW 2575<br>Lot 1324 DP 1234992                                    | RS Manku                         | Dwelling House & Retaining Wall  | 12/08/2019  | 92           | 7           | 99         | 19/11/2019     |
| 65 | 20/0482        | 10 Windeyer Street<br>Renwick NSW 2575<br>Lot 1394 DP 1234992                                   | S Singh, A Kaur                  | Dwelling House   | 18/10/2019  | 15           | 2           | 17         | 05/11/2019     |
| 66 | 20/0496        | 61 Challoner Rise<br>Renwick NSW 2575<br>Lot 1343 DP 1234992                                    | Jarvisfield Holdings Pty Limited | Dwelling House   | 22/10/2019  | 16           | 1           | 17         | 08/11/2019     |
| 67 | 20/0506        | 4 Plumb Street<br>Renwick NSW 2575<br>Lot 1375 DP 1234992                                       | JMN Wray,<br>A Wray              | Dwelling House   | 25/10/2019  | 7            | 11          | 18         | 13/11/2019     |
| 68 | 20/0511        | 52 Challoner Rise<br>Renwick NSW 2575<br>Lot 1258 DP 1221207                                    | DJ Drewe,<br>RE Drewe            | Residential Alterations and Additions (Shed)   | 28/10/2019  | 0            | 8           | 8          | 05/11/2019     |
| 69 | 20/0521        | 7 Jefferis Avenue<br>Renwick NSW 2575<br>Lot 58 DP 1221206                                      | JC Priestland,<br>MR Priestland  | Dwelling House   | 30/10/2019  | 0            | 7           | 7          | 06/11/2019     |
| 70 | 20/0569        | 60 Challoner Rise<br>Renwick NSW 2575<br>Lot 1254 DP 1221207                                    | DG Bird,<br>J Martinek (Jnr)     | Dwelling House   | 11/11/2019  | 0            | 2           | 2          | 14/11/2019     |
| 71 | 20/0585        | 68 Challoner Rise<br>Renwick NSW 2575<br>Lot 1250 DP 1221207                                    | R Gray, PR Gray                  | Residential Alterations and Additions (Cabana and Spa)   | 14/11/2019  | 0            | 6           | 6          | 20/11/2019     |
| 72 | 20/0592        | 50 Challoner Rise<br>Renwick NSW 2575<br>Lot 1259 DP 1221207                                    | JR Downie,<br>G Downie           | Dwelling House   | 15/11/2019  | 0            | 7           | 7          | 22/11/2019     |
| 73 | 19/0955.03     | Reserve 88235 58-60<br>Illawarra Highway<br>Robertson NSW 2577<br>Lots 8-19 Sec 18 DP<br>758882 | The State of NSW                 | Section 4.55 Modification (Re-orientation of Approved Men's Shed Building)   | 01/10/2019  | 16           | 21          | 37         | 08/11/2019     |
| 74 | 20/0378        | 74-76 Illawarra<br>Highway Robertson<br>NSW 2577 Lot 8 Sec 19<br>DP 758882                      | SR Chowdhury,<br>N Karim         | Market comprising 9 stalls for artisans and 1 BBQ / food stall, operating for 6 hours on 2 November 2019 only, in association with the broader "Arts Trail" event. | 26/09/2019  | 0            | 34          | 34         | 31/10/2019     |

**AGENDA FOR THE ORDINARY MEETING OF COUNCIL**

Wednesday 11 December 2019

**REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES**

|    | Application ID | Primary Property   | Owner                                      | Description  | Date Lodged | Days Stopped | Assess Days | Total Days | Date Finalised |
|----|----------------|--|--|--|-------------|--------------|-------------|------------|----------------|
| 75 | 20/0384        | 135 Pearsons Lane<br>Robertson NSW 2577<br>Lot 91 DP 1209872       | DK Handley,<br>R Handley                   | Residential<br>Alterations and<br>Additions<br>(Extensions)                                    | 30/09/2019  | 0            | 36          | 36         | 05/11/2019     |
| 76 | 20/0541        | 65 North Street<br>Robertson NSW 2577<br>Lot 1 Sec 22 DP<br>758882 | CA Vizcarra,<br>JA Vizcarra                | Residential<br>Alterations and<br>Additions (Shed)   | 05/11/2019  | 0            | 6           | 6          | 11/11/2019     |
| 77 | 20/0577        | 26C May Street<br>Robertson NSW 2577<br>Lot 54 DP 1252290          | Common Ground<br>Property (NSW)<br>Pty Ltd | Demolition of<br>Existing Dwelling<br>House  | 12/11/2019  | 0            | 6           | 6          | 18/11/2019     |
| 78 | 19/1741        | 2 Mandemar Street<br>Welby NSW 2575 Lot 6<br>Sec B DP 3242         | RT Economos,<br>BJ Feld                    | Dual Occupancy<br>(Detached) and<br>Strata Subdivision (2<br>Lots)                             | 11/06/2019  | 0            | 159         | 159        | 18/11/2019     |
| 79 | 19/1784        | 17 Joadja Street Welby<br>NSW 2575 Lot 12 Sec<br>17 DP 257004      | M Schwarze,<br>Y Schwarze                  | Residential<br>Alterations and<br>Additions (Garage)   | 20/06/2019  | 104          | 26          | 130        | 30/10/2019     |
| 80 | 20/0191        | 9 Kell Crescent Welby<br>NSW 2575 Lot 49 DP<br>249064              | J Surace                                   | Residential<br>Alterations and<br>Additions (Shed)   | 16/08/2019  | 58           | 33          | 91         | 15/11/2019     |
| 81 | 20/0105        | 34 Forest Road<br>Wingello NSW 2579<br>Lot 4 DP 1103842            | WA Bolton                                  | Dwelling House   | 29/07/2019  | 15           | 86          | 101        | 08/11/2019     |
| 82 | 20/0406        | 16 Watkins Drive Moss<br>Vale NSW 2577 Lot 23<br>DP 263854         | NB Cowley,<br>RA Cowley                    | Residential<br>Alterations and<br>Additions (Internal<br>Alterations)                          | 08/10/2019  | 0            | 26          | 29         | 17/11/2019     |
| 83 | 20/0435        | 16 Braeside Drive<br>Bowral NSW 2576 Lot<br>42 DP 711066           | K Bugler,<br>PVW Bugler                    | Residential<br>Alterations and<br>Additions<br>(Extensions and<br>Internal Alterations)        | 10/10/2019  | 0            | 31          | 31         | 19/11/2019     |
| 84 | 20/0464        | 3 Elizabeth Street<br>Moss Vale NSW 2577<br>Lot 1 DP 199388        | AL Cronin,<br>ME Cronin                    | Residential<br>Alterations and<br>Additions (Internal)<br>and Demolition of<br>Garage and Shed | 15/10/2019  | 0            | 25          | 25         | 24/11/2019     |
| 85 | 20/0589        | 11 Rosemary Crescent<br>Bowral NSW 2576 Lot<br>32 DP 792830        | RC Travers                                 | Residential<br>Alterations and<br>Additions (Internal &<br>External Alterations)               | 14/11/2019  | 0            | 7           | 7          | 21/11/2019     |

**ATTACHMENTS**

There are no attachments to this report.

## 12.2 Development Applications Received from 29 October 2019 to 24 November 2019

**Reference:** 5302  
**Report Author:** Team Leader Business Support  
**Authoriser:** Group Manager Planning, Development and Regulatory Services

**Link to Community Strategic Plan:** Effective and efficient Council service delivery is provided within a framework that puts the customer first

### PURPOSE

The purpose of this report is to update Councillors and Development Applications Received in the period of 29 October 2019 to 24 November 2019

### RECOMMENDATION

**THAT the information relating to Development Applications Received from 29 October 2019 to 24 November 2019 be received and noted.**

#### RECEIVED APPLICATIONS BY DATE RANGE Date range: 29 October 2019 to 24 November 2019

|   | Application ID | Primary Property   | Owner                     | Description  | Date Lodged | Council | Decision  | Determined Date | Weekly Circular |
|---|----------------|--|---------------------------|--|-------------|---------|-----------|-----------------|-----------------|
| 1 | 20/0519        | 9 Cascabel Close<br>Balaclava NSW<br>2575 Lot 15 DP<br>1255186                   | Katael Pty Ltd            | Dwelling House                                     | 29/10/2019  |         | #APPROVED | 06/11/2019      |                 |
| 2 | 20/0598        | 5 Crane Street<br>Balaclava NSW<br>2575 Lot 21 Sec 6<br>DP 841                   | W Moore                   | Residential<br>Alterations and<br>Additions (Shed) | 18/11/2019  |         | #PENDING  |                 |                 |
| 3 | 20/0516        | 192 Birchalls Lane<br>Berrima NSW<br>2577 Lot 5 DP<br>736655                     | RJ Adamson,<br>D Vortouni | Secondary Dwelling                                 | 29/10/2019  |         | #PENDING  |                 |                 |
| 4 | 20/0551        | 'Castle Bend'<br>3051 Old Hume<br>Highway Berrima<br>NSW 2577 Lot 4<br>DP 262907 | VMC Corp Pty<br>Ltd       | Farm Building                                      | 07/11/2019  |         | #APPROVED | 13/11/2019      |                 |

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 11 December 2019

### REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



|    | Application ID | Primary Property  | Owner   | Description   | Date Lodged | Council | Decision  | Determined Date | Weekly Circular |
|----|----------------|---|---|---|-------------|---------|-----------|-----------------|-----------------|
| 5  | 20/0581        | 214 Greenhills Road Berrima NSW 2577 Lot 2 DP 584423                  | Bong Bong Pty Limited                             | Commercial Alterations and Additions (Shed)   | 13/11/2019  |         | #PENDING  |                 |                 |
| 6  | 16/0670.04     | 7 Hamilton Avenue Bowral NSW 2576 Lot 82 DP 1065886                   | Rosemary Pty Limited                              | Section 4.55 Modification (Extensions)  | 18/11/2019  |         | #PENDING  |                 |                 |
| 7  | 19/0095.03     | The Coach House 91a Bendooley Street Bowral NSW 2576 Lot 51 DP 880942 | R Neuhold   | Section 4.55 Modification (Swimming pool)   | 07/11/2019  |         | #PENDING  |                 |                 |
| 8  | 20/0060.03     | 2 Purcell Street Bowral NSW 2576 Lot 2 DP 504121                      | VA Mumford, S Bell                                | Section 4.55 Modification (Extensions)  | 13/11/2019  |         | #APPROVED | 15/11/2019      |                 |
| 9  | 20/0518        | Retford Park Old South Road Bowral NSW 2576 Lot 221 DP 1206897        | The National Trust Of Australia (New South Wales) | Regional Art Gallery  | 29/10/2019  |         | #PENDING  |                 | ✓               |
| 10 | 20/0522        | 33 Alice Avenue Bowral NSW 2576 Lot 802 DP 1010801                    | S King  | Residential Alterations and Additions (Shed)  | 30/10/2019  |         | #PENDING  |                 |                 |
| 11 | 20/0575        | 9 Alice Avenue Bowral NSW 2576 Lot 28 DP 792830                       | T Bonner, I Bonner                                | Residential Alterations and Additions (Extensions and Deck)                             | 12/11/2019  |         | #APPROVED | 19/11/2019      |                 |
| 12 | 20/0587        | 6/310-318 Bong Bong Street Bowral NSW 2576 Lot 6 S/P 41585            | F Scarcella, H Scarcella, RS Scarcella            | Advertising Structure   | 14/11/2019  |         | #PENDING  |                 | ✓               |
| 13 | 20/0591        | 10 Soma Avenue Bowral NSW 2576 Lot 110 DP 1112590                     | ER Granada, L Granada, D Carroll, DT Carroll      | Residential Alterations and Additions (Swimming Pool)                                   | 15/11/2019  |         | #PENDING  |                 |                 |
| 14 | 20/0609        | 93-95 Kirkham Road Bowral NSW 2576 Lot 15 DP 846332                   | CA Robson   | Continued Use - Information and Education Facility (Extend Approved Hours of Operation) | 18/11/2019  |         | #PENDING  |                 |                 |

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 11 December 2019

### REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



|    | Application ID | Primary Property  | Owner                     | Description  | Date Lodged | Council | Decision | Determined Date | Weekly Circular |
|----|----------------|---|---------------------------|--|-------------|---------|----------|-----------------|-----------------|
| 15 | 20/0620        | 60 Bendooley Street Bowral NSW 2576 Lot A DP 342460                                   | G Bullard                 | Residential Alterations and Additions (Alterations to Existing Dual Occupancy (Attached) to create one Dwelling House) | 21/11/2019  |         | #PENDING |                 |                 |
| 16 | 20/0626        | The Coach House 91a Bendooley Street Bowral NSW 2576 Lot 51 DP 880942                 | R Neuhold                 | Residential Alterations and Additions (Shed, Cabana)   | 22/11/2019  |         | #PENDING |                 |                 |
| 17 | 20/0627        | 9 Kimberley Drive Bowral NSW 2576 Lot 21 DP 749890                                    | M Money                   | Continued Use - Secondary Dwelling and Residential Alterations & Additions (Extensions)                                | 22/11/2019  |         | #PENDING |                 |                 |
| 18 | 20/0628        | 9 Parmenter Court Bowral NSW 2576 Lot 107 DP 1043085                                  | RS Westaway, K Bergin     | Residential Alterations and Additions (Garage, Studio)   | 22/11/2019  |         | #PENDING |                 |                 |
| 19 | 20/0543        | 3 Braemar Avenue Braemar NSW 2575 Lot 4 DP 1248930                                    | KI Fitzpatrick            | Residential Alterations and Additions (Swimming Pool)  | 06/11/2019  |         | #PENDING |                 |                 |
| 20 | 20/0586        | 36 Old Hume Highway Braemar NSW 2575 Lot 17 Sec 1 DP 792                              | A Sawaqed                 | Residential Alterations and Additions (Garage, Studio)   | 14/11/2019  |         | #PENDING |                 |                 |
| 21 | 15/1288.03     | 128 Erith Street Bundanoon NSW 2578 Lot 2 DP 1212031                                  | SD MacGraw, B MacGraw     | Section 4.55 Modification (Extensions)   | 14/11/2019  |         | #PENDING |                 |                 |
| 22 | 20/0578        | Respite House - Quest For Life 13-33 Ellsmore Road Bundanoon NSW 2578 Lot 8 DP 833392 | Quest For Life Foundation | Commercial Alterations and Additions (Extensions)  | 12/11/2019  |         | #PENDING |                 |                 |

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 11 December 2019

### REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



|    | Application ID | Primary Property   | Owner                     | Description  | Date Lodged | Council | Decision  | Determined Date | Weekly Circular |
|----|----------------|--|---------------------------|--|-------------|---------|-----------|-----------------|-----------------|
| 23 | 20/0583        | 330 Ferndale Road Bundanoon NSW 2578 Lot 9 DP 629141                 | LM Bonavia                | Residential Alterations and Additions (Extensions and Detached Dual Occupancy) | 13/11/2019  |         | #PENDING  |                 |                 |
| 24 | 20/0604        | 63 Greasons Road Bundanoon NSW 2578 Lot 4 DP 1241467                 | S Bidewell, MN Thorpe     | Dwelling House   | 18/11/2019  |         | #PENDING  |                 |                 |
| 25 | 20/0629        | 2 Blue Gum Road Bundanoon NSW 2578 Lot 20 DP 263733                  | DF Thyrd                  | Residential Alterations and Additions (Shed)                                   | 22/11/2019  |         | #PENDING  |                 |                 |
| 26 | 19/1345.05     | 6 Sutherland Park Drive Burradoo NSW 2576 Lot 14 DP 1220167          | KT Collins, J Collins     | Section 4.55 Modification (Reduce Floor Area)                                  | 01/11/2019  |         | #APPROVED | 13/11/2019      |                 |
| 27 | 20/0534        | Briars Inn & Lodge Moss Vale Road Burradoo NSW 2576 Lot 2 DP 1176315 | Dh Bi Pty Ltd             | Business Premises (Alterations and Additions)                                  | 01/11/2019  |         | #PENDING  |                 | ✓               |
| 28 | 19/0460.08     | 2400 Canyonleigh Road Canyonleigh NSW 2577 Lot 14 DP 806293          | Noah Retail Group Pty Ltd | Section 4.55 Modification (Upgrade Onsite Wastewater Management System)        | 29/10/2019  |         | #APPROVED | 18/11/2019      |                 |
| 29 | 20/0520        | 541 Tugalong Road Canyonleigh NSW 2577 Lot 11 DP 1013769             | S Nasser                  | Residential Alterations and Additions (Swimming Pool)                          | 29/10/2019  |         | #PENDING  |                 |                 |
| 30 | 15/1144.05     | 133 McCallum Road Colo Vale NSW 2575 Lot 5 DP 1010323                | WO Mussett, C Mussett     | Section 4.55 Modification (Alter Floor Plan. Attached Garage)                  | 04/11/2019  |         | #APPROVED | 10/11/2019      |                 |
| 31 | 19/0739.07     | 7 Stringybark Close Colo Vale NSW 2575 Lot 220 DP 1245987            | IB Walker, MA Walker      | Section 4.55 Modification (Tree Removal)                                       | 30/10/2019  |         | #PENDING  |                 |                 |
| 32 | 19/1203.01     | 410 Colo Road Colo Vale NSW 2575 Lot 1 DP 634813                     | CS Peachey, J Peachey     | Section 4.55 Modification (Alter Onsite Wastewater Management System)          | 14/11/2019  |         | #APPROVED | 22/11/2019      |                 |



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### REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



|    | Application ID | Primary Property   | Owner   | Description   | Date Lodged | Council | Decision  | Determined Date | Weekly Circular |
|----|----------------|--|---|---|-------------|---------|-----------|-----------------|-----------------|
| 33 | 20/0546        | 2 Orchid Street<br>Colo Vale NSW<br>2575 Lot 2 DP<br>1241233   | MT Graham,<br>KM Graham,<br>JG Graham,<br>G Graham          | Seniors Housing   | 07/11/2019  | ✓       | #PENDING  |                 | ✓               |
| 34 | 20/0562        | 9 Elm Street Colo<br>Vale NSW 2575<br>Lot 4 Sec 17 DP<br>2944<br>Lot 17 Sec 17 DP<br>2944                                  | IA Stokes,<br>DM Stokes                                     | Residential<br>Alterations and<br>Additions<br>(Retaining Wall)   | 08/11/2019  |         | #APPROVED | 13/11/2019      |                 |
| 35 | 20/0567        | 65 Drapers Creek<br>Road Colo Vale<br>NSW 2575 Lot 22<br>DP 1078767  | K Kordic  | Farm Building   | 11/11/2019  |         | #APPROVED | 15/11/2019      |                 |
| 36 | 16/1056.03     | Rockleigh Road<br>Exeter NSW 2579<br>Lot 21 DP<br>1154427  | M Maloney,<br>C Maloney                                     | Section 4.55<br>Modification (Alter<br>External Finish)   | 04/11/2019  |         | #PENDING  |                 |                 |
| 37 | 20/0526        | Rockleigh Road<br>Exeter NSW 2579<br>Lot 1 DP 1174493  | I Ritchie,<br>J Connor                                      | Residential<br>Alterations and<br>Additions<br>(Swimming Pool)  | 31/10/2019  |         | #APPROVED | 07/11/2019      |                 |
| 38 | 20/0530        | 431 Old Argyle<br>Road Exeter NSW<br>2579 Lot 21 DP<br>532017<br>Lot 2 DP 877253<br>Lot 12 DP<br>1191350                   | R Sparks,<br>Boambolo<br>Pastoral<br>Company Pty<br>Limited | Farm Building   | 01/11/2019  |         | #PENDING  |                 |                 |
| 39 | 20/0548        | 100 Old Argyle<br>Road Exeter NSW<br>2579 Lot 41 DP<br>811984  | SW Jones,<br>LE Jones                                       | Residential<br>Alterations and<br>Additions<br>(Extensions)   | 07/11/2019  |         | #PENDING  |                 |                 |
| 40 | 20/0617        | 'Bromsgrove' 11<br>Exeter Road<br>Exeter NSW 2579<br>Lots 13-14 Sec 5<br>DP 3373 & Lot 1<br>DP 776902 & Lot<br>2 DP 856583 | IW Pitt,<br>RC Pitt   | Subdivision (6 Lots)  | 19/11/2019  |         | #PENDING  |                 |                 |
| 41 | 20/0619        | 530 Redhills Road<br>Fitzroy Falls NSW<br>2577 Lot 1 DP<br>1162070   | IA Clubb,<br>KE Clubb                                       | Residential<br>Alterations and<br>Additions (Internal<br>Alterations.<br>Demolition of toilet<br>structure) | 21/11/2019  |         | #PENDING  |                 |                 |

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### REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



|    | Application ID | Primary Property  | Owner  | Description   | Date Lodged | Council | Decision  | Determined Date | Weekly Circular |
|----|----------------|---|--|---|-------------|---------|-----------|-----------------|-----------------|
| 42 | 20/0593        | 931 Range Road<br>Glenquarry NSW<br>2576 Lot 210 DP<br>812823                   | W De Murtas,<br>G De Murtas                                | Residential<br>Alterations and<br>Additions<br>(Extensions, Shed,<br>Secondary<br>Dwelling)   | 15/11/2019  |         | #PENDING  |                 |                 |
| 43 | 20/0612        | Wombaroo 162<br>Black Spring Road<br>High Range NSW<br>2575 Lot 1 DP<br>1158096 | The Outdoor<br>Education<br>Group<br>C/- Charlie<br>Hurrey | Temporary Use of<br>Land (Camping<br>Event, 15-19 April<br>2020)  | 19/11/2019  |         | #PENDING  |                 |                 |
| 44 | 20/0523        | 35 West Parade<br>Hill Top NSW<br>2575 Lot 10 DP<br>812832                      | A Wilson,<br>WA Gow  | Residential<br>Alterations and<br>Additions (Shed)  | 30/10/2019  |         | #APPROVED | 07/11/2019      |                 |
| 45 | 20/0571        | 61 Ella Street Hill<br>Top NSW 2575<br>Lot 44 Sec 1 DP<br>10173                 | M Morgan,<br>M Turner                                      | Dwelling House  | 12/11/2019  |         | #PENDING  |                 |                 |
| 46 | 20/0622        | 90 Kia-Ora Lane<br>Kangaloon NSW<br>2576 Lot 1 DP<br>709327                     | SLB Thomas,<br>DHB Thomas                                  | Residential<br>Alterations and<br>Additions (Garage,<br>Internal<br>Alterations)  | 21/11/2019  |         | #PENDING  |                 |                 |
| 47 | 20/0625        | 1801 Kangaloon<br>Road Kangaloon<br>NSW 2576 Lot<br>103 DP 617717&<br>Ep 171258 | LME Jensen   | Demolish existing<br>Dwelling. Construct<br>new Dwelling  | 22/11/2019  |         | #PENDING  |                 |                 |
| 48 | 20/0597        | 172 Mandemar<br>Lane Mandemar<br>NSW 2575 Lot 5<br>DP 261133                    | A McCormick,<br>M McCormick                                | Residential<br>Alterations and<br>Additions<br>(Extensions)   | 18/11/2019  |         | #PENDING  |                 |                 |
| 49 | 15/0434.03     | 96 Bowral Road<br>Mittagong NSW<br>2575 No Related<br>Land                      | Nusun Pty Ltd  | Section 4.55<br>Modification<br>(Service Station –<br>Rotate site 90<br>degrees. Delete 1<br>dispenser. Alter<br>shop size to<br>200m2) | 06/11/2019  |         | #PENDING  |                 | ✓               |
| 50 | 15/1265.05     | 44 Waverley<br>Parade Mittagong<br>NSW 2575 Lot 3<br>DP 1087566                 | J Maxwell  | Section 4.55<br>Modification (Tree<br>Removal and Tree<br>Pruning)  | 08/11/2019  |         | #PENDING  |                 | ✓               |

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|    | Application ID | Primary Property   | Owner   | Description  | Date Lodged | Council | Decision  | Determined Date | Weekly Circular |
|----|----------------|--|---|--|-------------|---------|-----------|-----------------|-----------------|
| 51 | 16/1153.04     | 2 Hood Street<br>Mittagong NSW<br>2575 Lot 10 DP<br>608592           | R Herborn                                     | Section 4.55<br>Modification (Alter<br>Roof Design)  | 08/11/2019  |         | #PENDING  |                 |                 |
| 52 | 19/1106.01     | 199 Range Road<br>Mittagong NSW<br>2575 Lot 23 Sec 5<br>DP 2133      | EA Mackie,<br>DE Mackie                       | Section 4.55<br>Modification<br>(Remove Condition<br>pertaining to<br>Vegetation<br>Management Plan)   | 01/11/2019  |         | #PENDING  |                 |                 |
| 53 | 19/1281.05     | 52 Bessemer<br>Street Mittagong<br>NSW 2575 Lot 2<br>DP 26366        | C Maldon-<br>Myers                            | Section 4.55<br>Modification<br>(Extensions)   | 15/11/2019  |         | #APPROVED | 23/11/2019      |                 |
| 54 | 20/0544        | 31 Murchison<br>Street Mittagong<br>NSW 2575 Lot 1<br>Sec 25 DP 1338 | NA Jones,<br>HA Jones                         | Subdivision (2 Lots)   | 06/11/2019  |         | #PENDING  |                 |                 |
| 55 | 20/0558        | 34 Waverley<br>Parade Mittagong<br>NSW 2575 Lot 1<br>DP 567515       | RH Kwong                                      | Dual Occupancy<br>(Detached)   | 08/11/2019  |         | #PENDING  |                 |                 |
| 56 | 20/0566        | 7 Bessemer<br>Street Mittagong<br>NSW 2575 Lot 1<br>DP 547363        | K Grew  | Residential<br>Alterations and<br>Additions<br>(Extensions)  | 11/11/2019  |         | #PENDING  |                 |                 |
| 57 | 20/0610        | 233 Range Road<br>Mittagong NSW<br>2575 Lot 10 Sec 4<br>DP 2133      | P Walters,<br>C Walters                       | Residential<br>Alterations and<br>Additions (Deck)   | 18/11/2019  |         | #PENDING  |                 |                 |
| 58 | 19/0699.01     | 6570 Illawarra<br>Highway Moss<br>Vale NSW 2577<br>Lot 41 DP 130173  | Common<br>Ground<br>Property<br>(NSW) Pty Ltd | Section 4.55<br>Modification<br>(Remove<br>Conditions<br>pertaining to<br>Vegetation<br>Management Plan<br>& Construction of<br>Kerb and Gutter) | 29/10/2019  |         | #PENDING  |                 |                 |
| 59 | 20/0536        | 4 Warrawong<br>Drive Moss Vale<br>NSW 2577 Lot<br>138 DP 1232222     | K Nicholson,<br>T Hope                        | Change of Building<br>Envelope   | 04/11/2019  |         | #PENDING  |                 |                 |
| 60 | 20/0564        | 21a Young Road<br>Moss Vale NSW<br>2577 Lot 6 DP<br>1222061          | E Smith,<br>J Smith                           | Residential<br>Alterations and<br>Additions (Shed)   | 11/11/2019  |         | #PENDING  |                 |                 |

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|    | Application ID | Primary Property   | Owner                           | Description   | Date Lodged | Council | Decision  | Determined Date | Weekly Circular |
|----|----------------|--|---------------------------------|---|-------------|---------|-----------|-----------------|-----------------|
| 61 | 20/0594        | 45 Narellan Road<br>Moss Vale NSW<br>2577 Lot 134 DP<br>1232222      | C Young,<br>LJ Young            | Residential<br>Alterations and<br>Additions<br>(Retaining Wall)                         | 15/11/2019  |         | #PENDING  |                 | ✓               |
| 62 | 20/0599        | 77 Parkes Road<br>Moss Vale NSW<br>2577 Lot 9 DP<br>569475           | G McLaren,<br>J McLaren         | Demolish Existing<br>Shed. Construct<br>New Shed  | 18/11/2019  |         | #PENDING  |                 |                 |
| 63 | 20/0603        | 31 Throsby Street<br>Moss Vale NSW<br>2577 Lot 18 Sec 1<br>DP 975495 | A Hans                          | Residential<br>Alterations and<br>Additions<br>(Extensions,<br>Internal<br>Alterations) | 18/11/2019  |         | #PENDING  |                 |                 |
| 64 | 20/0605        | 16 Peppermint<br>Drive Moss Vale<br>NSW 2577 Lot 17<br>DP 1252867    | P Bettar                        | Dwelling House  | 18/11/2019  |         | #PENDING  |                 |                 |
| 65 | 20/0613        | 71 Iona Park<br>Road Moss Vale<br>NSW 2577 Lot 1<br>DP 623251        | Cl Morrissey                    | Farm Stay<br>Accommodation  | 19/11/2019  |         | #PENDING  |                 |                 |
| 66 | 20/0521        | 7 Jefferis Avenue<br>Renwick NSW<br>2575 Lot 58 DP<br>1221206        | JC Priestland,<br>MR Priestland | Dwelling House  | 30/10/2019  |         | #APPROVED | 06/11/2019      |                 |
| 67 | 20/0569        | 60 Challoner Rise<br>Renwick NSW<br>2575 Lot 1254 DP<br>1221207      | DG Bird,<br>J Martinek<br>(Jnr) | Dwelling House  | 11/11/2019  |         | #APPROVED | 14/11/2019      |                 |
| 68 | 20/0579        | 26 George Cutter<br>Avenue Renwick<br>NSW 2575 Lot 83<br>DP 1221206  | M Herrera,<br>K Herrera         | Dwelling House  | 12/11/2019  |         | #PENDING  |                 |                 |
| 69 | 20/0585        | 68 Challoner Rise<br>Renwick NSW<br>2575 Lot 1250 DP<br>1221207      | R Gray, P Gray                  | Residential<br>Alterations and<br>Additions (Cabana<br>and Spa)                         | 14/11/2019  |         | #APPROVED | 20/11/2019      |                 |
| 70 | 20/0592        | 50 Challoner Rise<br>Renwick NSW<br>2575 Lot 1259 DP<br>1221207      | JR Downie,<br>G Downie          | Dwelling House  | 15/11/2019  |         | #APPROVED | 22/11/2019      |                 |

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|    | Application ID | Primary Property   | Owner                                       | Description   | Date Lodged | Council | Decision  | Determined Date | Weekly Circular |
|----|----------------|--|---|---|-------------|---------|-----------|-----------------|-----------------|
| 71 | 20/0621        | 15 Solomon Street Renwick NSW 2575 Lot 1319 DP 1234992       | G Pasricha                                  | Dwelling House  | 21/11/2019  |         | #PENDING  |                 |                 |
| 72 | 16/0357.01     | 151 McEvilly Road Robertson NSW 2577 Lot 3 DP 860218         | Zack Property Pty Ltd                       | Section 4.55 Modification (Increase number of days 'truffle hunts' can be undertaken)                       | 06/11/2019  |         | #PENDING  |                 |                 |
| 73 | 19/1548.03     | 43 Old Kangaloon Road Robertson NSW 2577 Lot 5 DP 244410     | Woodson Accessories Pty Ltd                 | Section 4.55 Modification (Alterations)   | 22/11/2019  |         | #PENDING  |                 |                 |
| 74 | 20/0541        | 65 North Street Robertson NSW 2577 Lot 1 Sec 22 DP 758882    | CA Vizcarra, JA Vizcarra                    | Residential Alterations and Additions (Shed)  | 05/11/2019  |         | #APPROVED | 11/11/2019      |                 |
| 75 | 20/0557        | 218 Wallaby Hill Road Robertson NSW 2577 Lot 4 DP 731833     | W Andrews, C Andrews, C Andrews, MA Andrews | Alterations & Additions to Existing Dwelling. New Dwelling to create Dual Occupancy (Attached)              | 08/11/2019  |         | #PENDING  |                 |                 |
| 76 | 20/0576        | 4491 Illawarra Highway Robertson NSW 2577 Lot 8 DP 877138    | PF McDonell                                 | Residential Alterations and Additions (Extensions)  | 12/11/2019  |         | #PENDING  |                 |                 |
| 77 | 20/0577        | 26C May Street Robertson NSW 2577 Lot 54 DP 1252290          | Common Ground Property (NSW) Pty Ltd        | Demolish Existing Dwelling  | 12/11/2019  |         | #APPROVED | 18/11/2019      |                 |
| 78 | 15/0110.04     | 190 Hanging Rock Road Sutton Forest NSW 2577 Lot 6 DP 241054 | L Jeffers, D Jeffers                        | Section 4.55 Modification (Extension and Internal Alteration)   | 05/11/2019  |         | #PENDING  |                 |                 |
| 79 | 20/0525        | 89 Berrima Street Welby NSW 2575 Lot 32 DP 1120194           | B Norman, A Norman                          | Alterations & Additions to Existing Dwelling and Construct New Dwelling to create Dual Occupancy (Attached) | 31/10/2019  |         | #PENDING  |                 |                 |

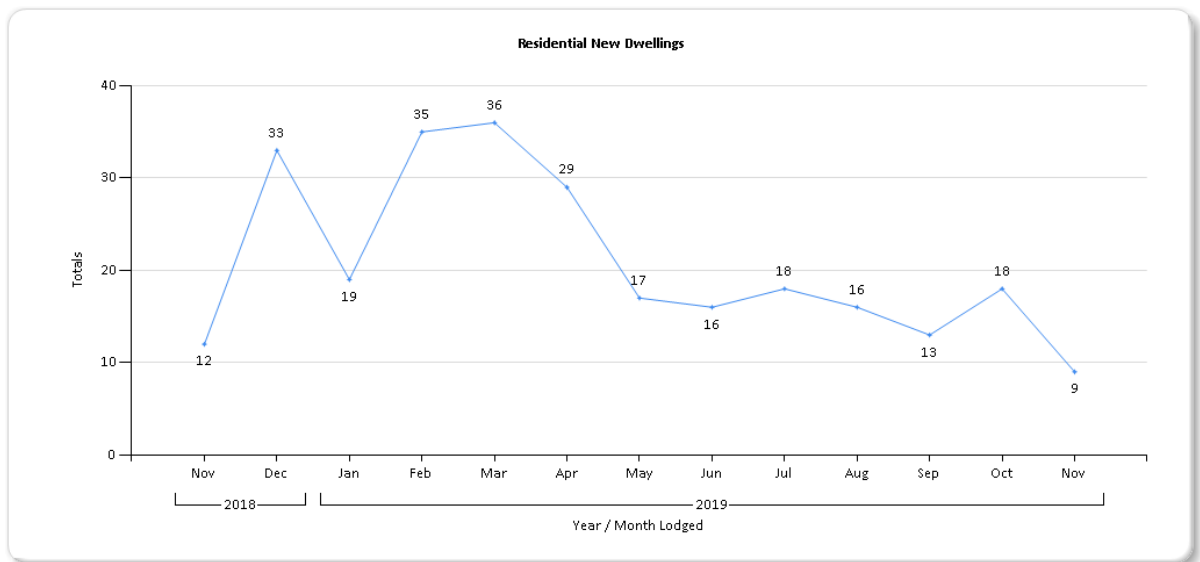
**AGENDA FOR THE ORDINARY MEETING OF COUNCIL**

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**REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES**



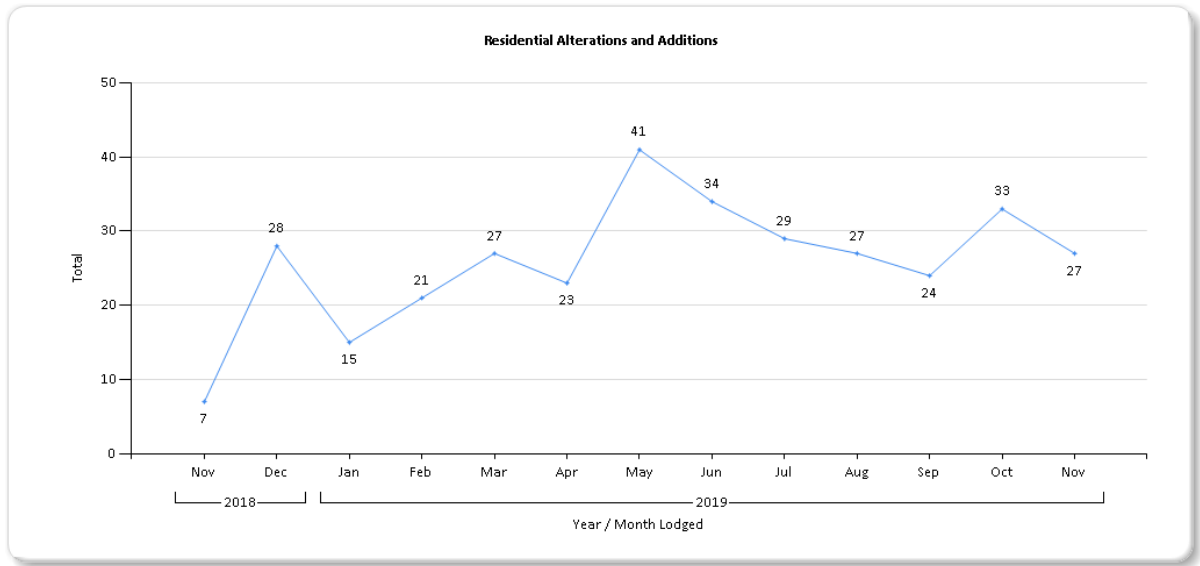
|    | Application ID | Primary Property  | Owner                            | Description   | Date Lodged | Council | Decision | Determined Date | Weekly Circular |
|----|----------------|---|----------------------------------|---|-------------|---------|----------|-----------------|-----------------|
| 80 | 20/0623        | 'Werai Park' 506 Greenhills Road Werai NSW 2577 Lot 106 DP 625826                                       | J Stock                          | Secondary Dwelling  | 22/11/2019  |         | #PENDING |                 |                 |
| 81 | 19/0963.01     | 'Myravale' 421 Myra Vale Road Wildes Meadow NSW 2577 Lot 1 DP 725832 Lot 14 DP 661321 Lot 14 DP 1080826 | Lasovase Pty Ltd                 | s. 82A Review Subdivision (Boundary Adjustment)                         | 12/11/2019  |         | #PENDING |                 |                 |
| 82 | 20/0590        | 49 Bumballa Road Wingello NSW 2579 Lot 2 DP 1243618   | Lute Street Developments Pty Ltd | Subdivision (9 Lots)  | 15/11/2019  |         | #PENDING |                 |                 |
| 83 | 20/0589        | 11 Rosemary Crescent Bowral NSW 2576 Lot 32 DP 792830   | RC Travers                       | Residential Alterations and Additions (Internal & External Alterations) | 15/11/2019  |         | #PENDING |                 |                 |



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**ATTACHMENTS**

There are no attachments to this report.

## 12.3 DA 14/0737.06 Section 4.55 Modification Application - 10 Dwelling Houses, Lot 12 DP 180812, 13 Clarke Street Bowral - Proposed Changes to Floor Levels.

|                                   |  |
|-----------------------------------|--|
| Reference:                        | DA14/0737.06   |
| Report Author:                    | Development Assessment Planner   |
| Authoriser:                       | Group Manager Planning, Development and Regulatory Services<br>Group Manager Planning Development and Regulatory Services                            |
| Applicant:                        | GMP Constructions Pty Ltd  |
| Owner:                            | G & M Petkovic   |
| Link to Community Strategic Plan: | Provide a mixture of housing types that allow residents to meet their housing needs at different stages of their lives and support affordable living |

### PURPOSE

This report details consideration of Modification Application 14/0737.06 under Section 4.55 of the *Environmental planning and Assessment Act 1979*. This report is prepared for determination and recommends APPROVAL subject to conditions contained in **Attachment 1**.

### VOTING ON THE MOTION

Councillors are required to record their votes on this matter.

### RECOMMENDATION

**THAT** Modification Application 14/0737.06 under Section 4.55 (2) of the *Environmental Planning and Assessment Act 1979* to:

- a) Unit 4 – 10: Changes to floor levels to mostly lower the floor level. The proposed changes are:
  1. Unit 4 – Garage floor lowered by 290mm;
  2. Unit 5 – Floor level raised by 10mm;
  3. Unit 6 – Floor level raised by 340mm;
  4. Unit 7 – Garage floor lowered by 480mm;
  5. Unit 8 – Floor level lowered by 100mm;
  6. Unit 9 – Floor level lowered by 100mm
  7. Garage floor lowered by 200mm;
  8. Unit 10 – Floor level lowered by 200mm
  9. Garage floor lowered by 160mm;
- b) Unit 4 – 10: General adjustments to courtyard levels to suit above
- c) Unit 1 – 3: General adjustments to courtyard levels and retaining walls
- d) Unit 1 – 10: Common area and courtyards: general adjustments to stormwater drainage and levels to suit above

at Lot 12 DP 1080812, 13 Clarke Street Bowral be APPROVED subject to conditions as described in Attachment 1 to the report.



---

**REPORT**

***Subject Site and Locality***

The site is known as Lot 12 DP 1080812, 13 Clarke Street Bowral. The land is located on the western side of Clarke Street, Bowral as shown in Figure 1 below.



**Figure 1: Proposed site** (see copy at Attachment 2).

***Background***

Council approved DA14/0737 on 22 June 2015 for the erection of 10 Villa Multi Dwelling Housing Units. Substantial earthworks have been undertaken on the site.

The applicant has submitted a Modification Application to make minor amendments to the application that will have minimal impacts on the adjoining properties.

***Proposed Development***

The proposed amendments to the plans are as detailed below:

- (a) Unit 4 – 10: Changes to floor levels to mostly lower the floor level. The proposed changes are:
  1. Unit 4 – Garage floor lowered by 290mm;
  2. Unit 5 – Floor level raised by 10mm;
  3. Unit 6 – Floor level raised by 340mm;
  4. Unit 7 – Garage floor lowered by 480mm;

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

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### REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



5. Unit 8 – Floor level lowered by 100mm;
  6. Unit 9 – Floor level lowered by 100mm  
Garage floor lowered by 200mm;
  7. Unit 10 – Floor level lowered by 200mm  
Garage floor lowered by 160mm;
- (b) Unit 4 – 10: General adjustments to courtyard levels to suit above
- (c) Unit 1 – 3: General adjustments to courtyard levels and retaining walls
- (d) Unit 1 – 10: Common area and courtyards: general adjustments to stormwater drainage and levels to suit above.

The proposed amendments are of a minor nature and will have a minimal impact on adjoining properties and will not impact overshadowing or overlooking.

## STATUTORY PROVISIONS

### ***State Environmental Planning Policies***

#### State Environmental Planning Policy No 55 – Remediation of Land

Clause 7 of SEPP 55 requires the consent authority to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land, and to be satisfied that the land is suitable for the proposed use. After undertaking a desktop search using Council's Property and Rating database, Council is satisfied the land is not a site of possible contamination and therefore no further assessment is required.

#### State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011

The development is located on land to which SEPP (Sydney Drinking Water Catchment) applies and is Module 5 development. The application was referred to Water NSW for its concurrence. Water NSW has issued its concurrence by letter dated 13 November 2019. Water NSW advised that they do not object to the Modification subject to attached conditions which replace their previous concurrence dated 22 October 2014. The draft conditions have been provided in Attachment 1.

### ***Local Environmental Plans***

#### Wingecarribee Local Environmental Plan 2010

The assessment for compliance with the R3 Medium Density Zone was assessed under the original application (DA14/0737) and the proposed modifications do not change the permissible use.

### ***Development Control Plans***

#### Bowral Township Development Control Plan

Consideration was originally made in 2015 under determination of DA14/0737.

### ***Section 4.15 Evaluation***

#### *(1) Matters for consideration—general*

*In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:*

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(a) *the provisions of:*

(i) *any environmental planning instrument, and*

It has been demonstrated the DA complies with the *Wingecarribee Local Environmental Plan 2010*.

(ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*

Not applicable.

(iii) *any development control plan, and*

It has been demonstrated the development satisfactorily complies with the relevant controls.

(iiia) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*

Not applicable.

(iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and*

Not applicable.

(v) *any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates,*

Not applicable.

(b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*

The likely impacts of the development (Modification) are minimal.

(c) *the suitability of the site for the development,*

The site is suitable for the development.

(d) *any submissions made in accordance with this Act or the regulations,*

Refer to the Consultation section of this report.

(e) *the public interest.*

The proposed development is in the public interest.

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### REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



## CONSULTATION

### *External Referrals*

| Referrals | Advice/Response/Conditions   |
|-----------|--|
| Water NSW | As noted in the report above the Modification has been referred to Water. Water NSW correspondence has been submitted as a part of this application and included as conditions of consent. |

### *Neighbour Notification (or Advertising)/Public Participation*

The Modified Application was Neighbour notified for the period from 09 October 2019 to 08 November 2019 and also advertised in the local paper and during this time Council received no submissions.

## SUSTAINABILITY ASSESSMENT

- **Environment**

There are no environmental impacts 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 Modification application has been considered in accordance with the *Wingecarribee Local Environmental Plan 2010*, section 4.55 of the *Environmental Planning and Assessment Act 1979* and any other matters relevant to the development.

## RELATIONSHIP TO CORPORATE PLANS

Operational Plan 2019/20: OP168 Assess and certify applications related to development.

## COUNCIL BUDGET IMPLICATIONS

The financial implications of Council's decision in this matter are directly related to the legal implications. The possibilities are detailed as follows:

- Should the applicant choose to appeal a refusal, or pursue a deemed refusal, by Council through the Land and Environment Court and lose, the question of cost with regard to Council's legal representation would be determined by the extent of the reasons for refusal;

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

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- Should the applicant choose to appeal a refusal, or pursue a deemed refusal, by Council through the Land and Environment Court and win, the question of cost would be dependent upon the extent of the reasons for refusal;
- Should any person choose to take out Class 4 proceedings against Council to the Land and Environment Court and lose, the question of cost with regard to Council's legal representation would be calculated at the appropriate time;
- Should any person choose to take out Class 4 proceedings against Council to the Land and Environment Court and win, the question of cost would still be calculated at the appropriate time;
- Should the applicant make no appeal, or proceedings not be taken out by another party, to the Land and Environment Court regardless of the determination, the application would result in no further financial implication to Council.

#### RELATED COUNCIL POLICY

An assessment of the proposal has been made against the *Wingecarribee Local Environmental Plan 2010*, and the Bowral Township Development Control Plan. No other Council policies apply to the subject development.

#### OPTIONS

The options available to Council are:

##### Option 1

Approve the Modification Application subject to conditions in Attachment 1.

##### Option 2

Refuse the application (Council will be required to provide reasons for refusal).

Option 1 is the recommended option to this report.

#### CONCLUSION

All relevant matters have been addressed. It is considered this report adequately considers the merits of the development in terms of legislative compliance and its potential impact on the locality. The development application has been assessed in accordance with the matters for consideration under section 4.55 of the *Environmental Planning & Assessment Act 1979*, and all relevant environmental planning instruments and Council policies.

Issues raised in submissions have been examined, considered and commented upon.

On balance, it is recommended the application be determined by way of approval, subject to the conditions nominated in **Attachment 1**.

#### ATTACHMENTS

1. Draft Conditions of Consent
2. Site Plan

12.3 DA 14/0737.06 Section 4.55 Modification Application - 10 Dwelling Houses, Lot 12 DP 180812, 13 Clarke Street Bowral - Proposed Changes to Floor Levels.

ATTACHMENT 1 Draft Conditions of Consent



Our Ref: 14/0737.06  
 Contact: Ross Jauncey

TBA

GMP CONSTRUCTIONS PTY LTD  
 Z PETKOVIC  
 PO BOX 230W  
 FAIRFIELD WEST NSW 2165

**NOTICE OF DETERMINATION OF A MODIFICATION APPLICATION**  
 Pursuant to section 4.55 of the *Environmental Planning and Assessment Act 1979*

|                                    |  |
|------------------------------------|--|
| <b>DEVELOPMENT APPLICATION NO:</b> | 14/0737  |
| <b>APPLICATION NO:</b>             | 14/0737.06   |
| <b>PROPOSED MODIFICATION:</b>      | Multi Dwelling Housing - 10 Dwellings  |
| <b>APPLICANT:</b>                  | GMP CONSTRUCTIONS PTY LTD<br>Z PETKOVIC                                      |
| <b>OWNER:</b>                      | G PETKOVIC & M PETKOVIC  |
| <b>PROPERTY DESCRIPTION:</b>       | Lot 12 DP 1080812  |
| <b>PROPERTY ADDRESS:</b>           | 13 CLARKE STREET BOWRAL NSW 2576   |
| <b>APPROVED DEVELOPMENT:</b>       | DA - 10 Residential Villa Homes  |
| <b>DA APPROVAL DATE:</b>           | 24 June 2015   |
| <b>CONSENT TO OPERATE FROM:</b>    | 24 June 2015   |
| <b>CONSENT TO LAPSE ON:</b>        | 24 June 2020   |
| <b>DETERMINATION:</b>              | <b>Approved</b> subject to conditions attached in schedule 1 of this consent |
| <b>DATE OF DETERMINATION:</b>      | TBA  |

**Inconsistencies**

In the event of any inconsistency between the conditions of this modified consent and the plans / supporting documents referred to in this notice, the conditions of this development consent shall prevail.

**Rights of Appeal**

Pursuant to Section 8.9 of the *Environmental Planning and Assessment Act 1979*, an applicant for the modification of a development consent who is dissatisfied with the determination of the application by the consent authority may appeal to the Court against the determination. Pursuant to

Civic Centre, Elizabeth St, Moss Vale, NSW 2577. PO Box 141, Moss Vale. t. (02) 4868 0888 f. (02) 4869 1203  
 e. mail@wsc.nsw.gov.au ABN 49 546 344 354

www.wsc.nsw.gov.au

*Working with you*

12.3 DA 14/0737.06 Section 4.55 Modification Application - 10 Dwelling Houses,  
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Levels.



ATTACHMENT 1 Draft Conditions of Consent

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14/0737.06, Lot 12 DP 1080812

Section 8.10, an appeal may be made only within 6 months after the date the decision appealed against is notified.

**Review of determination**

You have the right to request a review of determination under section 8.2 of the *Environmental Planning and Assessment Act 1979*, subject to the provisions of Division 8.2 Reviews.

\_\_\_\_\_  
**Ross Jauncey**  
Development Assessment Planner

TBA  
Date of Issue.

DRAFT



**SUMMARY SCHEDULE OF MODIFIED CONDITIONS**

**PLANS**

**Development in Accordance with Plans and Documents  
 Modified Application 14/0737.06 dated TBA to read**

The development shall be implemented in accordance with the approved plans and supporting documents set out in the following table except where modified by any conditions of development consent.

| <b>Modified Drawings (Modified 14/0737.06) – dated TBA</b> |   |                                     |              |
|--|---|-------------------------------------|--------------|
| <b>Plan Title / Supporting Document</b>                    | <b>Reference / Version</b>                                | <b>Prepared By</b>                  | <b>Dated</b> |
| Site Plan & Ground Floor Plans                             | Project No: P2077,<br>Job No:1305-13<br>Sheet A01 Issue B | Algorry Zappia & Associates Pty Ltd | 07.06.19     |
| Elevation Plan   | Project No: P2077,<br>Job No:1305-13<br>Sheet A02 Issue B | Algorry Zappia & Associates Pty Ltd | 07.06.19     |
| Section Plan & Elevation Plan                              | Project No: P2077,<br>Job No:1305-13<br>Sheet A03 Issue B | Algorry Zappia & Associates Pty Ltd | 07.06.19     |
| Shadow Diagram   | Project No: P2077,<br>Job No:1305-13<br>Sheet A04 Issue B | Algorry Zappia & Associates Pty Ltd | 07.06.19     |
| Stormwater Drainage Concept Plan                           | Project No: P2077,<br>Job No:1305-13<br>Sheet D01 Issue F | Algorry Zappia & Associates Pty Ltd | 12.07.19     |
| Sections A-A, B-B, & C-C                                   | Project No: P2077,<br>Job No:1305-13<br>Sheet D02 Issue F | Algorry Zappia & Associates Pty Ltd | 12.07.19     |
| Sediment Control Concept Plan                              | Project No: P2077,<br>Job No:1305-13<br>Sheet D03 Issue F | Algorry Zappia & Associates Pty Ltd | 12.07.19     |
| Supporting Statement                                       | Not Referenced  | Algorry Zappia & Associates Pty Ltd | 04.09.19     |

**Reason:** *To ensure the development is carried out in accordance with the approved plans and documentation.*

**A. Amendments to Approved Plans  
 Modified Application 14/0737.06 dated TBA to read**

The applicant shall make the following amendments to the approved plans prior to the issue of an Amended Construction Certificate:

- Note:** Water NSW has undertaken a site inspection and notes the following:
- That the excavation and site levelling works are being undertaken on-site, and
  - Water NSW was not consulted on the soil and water management plan prior to works commencing as required by Consent Condition 68(x) for DA 14.0737.



12.3 DA 14/0737.06 Section 4.55 Modification Application - 10 Dwelling Houses,  
Lot 12 DP 180812, 13 Clarke Street Bowral - Proposed Changes to Floor  
Levels.

ATTACHMENT 1 Draft Conditions of Consent



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14/0737.06, Lot 12 DP 1080812

Water NSW consider that the sediment control plan provided with the modification documents is inadequate for the site constraints such as steepness. Water NSW is concerned that the erosion and sediment controls installed on the site are unlikely to withstand medium to heavy rainfall events and the sediment laden water is likely to leave the property.

- i. Update the sediment control plan as part of the amended Construction Certificate;
- ii. Upgrade existing erosion and sediment controls including using area of the proposed bioretention basin as sediment basin during construction stage to capture sediment laden water and convert to bioretention basin at the end of construction.

**Note:** This involves a change to the Development Application plans as submitted to and approved by Council.

Any changes in this regard shall be reflected as amended plans to be submitted to the Principal Certifying Authority prior to the issue of an amended Construction Certificate for the proposed development.

**Reason:** To confirm and clarify the terms of Council's approval.

68. WaterNSW

**Modified Application 14/0737.06 dated TBA to read**

The following are the requirements of the WaterNSW with regard to Sydney Drinking Water Catchment SEPP 2011:

**General**

- (i) The layout of the multiple dwelling development shall be as shown on the Site Plan & O/A Grd. FI Plan (Dwg. 1305-13, Sheet No. A01, Issue B, Dated 07/06/2019) prepared by Algorry Zappia & Associates Pty Ltd. No revised layout or works of the development that will impact on water quality, shall be permitted without the agreement of Water NSW.

**Reason for Condition (i) -** *The Sydney Catchment Authority has based its assessment under State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011 on this version of the development.*

**Stormwater Management**

- (ii) All stormwater management measures as shown on the Stormwater Drainage Concept Plan (Dwg NO. 1305-13, Sheet DO1, Issue F, Dated 12/07/19) prepared by Algorry Zappia & Associates Pty Ltd, shall be implemented.
- (iii) The bioretention basin shall be located as per shown on the Stormwater Drainage Concept Plan (Dwg NO. 1305-13, Sheet DO1, Issue F, Dated 12/07/19) and constructed as per the Bioretention Basin Section Plan (Dwg No. 1305-13 Sheet DO2, Revision F, Dated 12.07.19) both prepared by Algorry Zappia & Associates Pty Ltd, to capture and treat all runoff from the development. The bioretention basin shall also:
  - be designed consistent with Adoption Guidelines for Stormwater Biofiltration Systems Version 2 (Payne *et al*, 2015, Melbourne, CRC for Water Sensitive Cities), and

12.3 DA 14/0737.06 Section 4.55 Modification Application - 10 Dwelling Houses,  
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14/0737.06, Lot 12 DP 1080812

- be protected by sediment and erosion control measures during any construction and post-construction phase until the ground surface is re-vegetated or stabilized.
- (iv) The proposed vegetated swale on the southern boundary of the property shall be constructed with a series of rock check dams such that slopes do not exceed 4%.
- (v) A rainwater collection and reuse system for the building roof shall be installed for each unit that have:
- rainwater tanks with a minimum capacity of 2,000 litres per unit above any volume required for mains top-up
  - roofs and gutters designed to maximise the capture of rainwater in the tanks
  - the tanks plumbed to toilets and other areas for non-potable use including use for landscape watering, and
  - direct all rainwater tank overflow to the drainage system on the site.
- (vi) No variation to stormwater treatment or management that will have any impacts on water quality shall be permitted without the agreement of Water NSW.
- (vii) A suitably qualified stormwater consultant or engineer shall certify in writing to Water NSW and Council prior to issuance of an Occupation Certificate that all stormwater management structures have been installed as per these conditions of consent and are in a functional state.
- (viii) An Operational Environmental Management Plan (OEMP) shall be prepared in consultation with Water NSW prior to the issue of an Occupation Certificate by a person with knowledge and experience in the preparation of such plans. The OEMP shall:
- include details on the location and nature of stormwater management structures such as pits, pipes, inlet filters, swale, bioretention basin, detention tank, and any other stormwater structures and drainage works
  - outline the responsibilities and detailed requirements for the inspection, monitoring and maintenance of all stormwater management structures, including the frequency of such activities
  - identify the individuals or positions responsible for inspection and maintenance activities including a reporting protocol and hierarchy, and
  - include checklists for recording inspections and maintenance activities.
- (ix) All stormwater treatment devices shall be monitored, maintained and managed as per the Operational Environmental Management Plan.

**Reason for Conditions (ii) to (ix)** – *To ensure appropriate stormwater treatment and quality control measures are designed, implemented and maintained to achieve a sustainable neutral or beneficial impact on water quality, particularly during wet weather, over the longer term.*

**Construction Activities**

- (x) A Soil and Water Management Plan shall be prepared by a person with knowledge and experience in the preparation of such plans for all proposed works. The Plan can incorporate recommendations included of the Sediment Control Concept Plan (Dwg No. 1305-13, Sheet D03, Issue A, dated 12 July 2019) prepared by Algory Zappia & Associates Pty Ltd. The Plan shall:



- meet the requirements outlined in Chapter 2 of NSW Landcom's Soils and Construction: Managing Urban Stormwater (2004)
  - be developed in consultation with the Water NSW prior to issuance of a modified construction certificate for the development, and
  - include controls to prevent sediment or polluted water leaving the construction site or entering any natural drainage lines or stormwater drain.
- (xi) The Soil & Water Management Plan shall be implemented, and effective erosion and sediment controls shall be installed prior to any construction activity. The controls shall be regularly inspected, monitored and maintained until works have been completed and groundcover established.

**Reason for Conditions (x) & (xi) –** *To manage adverse environmental and water quality impacts during the construction phase of the development and to minimise the risk of erosion, sedimentation and pollution within or from the site during this construction phase*

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12.3 DA 14/0737.06 Section 4.55 Modification Application - 10 Dwelling Houses,  
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14/0737.06, Lot 12 DP 1080812

SCHEDULE 1 CONDITIONS OF MODIFIED DEVELOPMENT CONSENT

GENERAL – DEVELOPMENT CONSENT CONDITIONS

ADMINISTRATION AND COMPLIANCE

PLANS

Development in Accordance with Plans and Documents  
 Modified Application 14/0737.06 dated TBA to read

The development shall be implemented in accordance with the approved plans and supporting documents set out in the following table except where modified by any conditions of development consent.

| Modified Drawings (Modified 14/0737.06) – dated TBA |   |                                     |          |
|---|---|-------------------------------------|----------|
| Plan Title / Supporting Document                    | Reference / Version                                       | Prepared By                         | Dated    |
| Site Plan & Ground Floor Plans                      | Project No: P2077,<br>Job No:1305-13<br>Sheet A01 Issue B | Algorry Zappia & Associates Pty Ltd | 07.06.19 |
| Elevation Plan                                      | Project No: P2077,<br>Job No:1305-13<br>Sheet A02 Issue B | Algorry Zappia & Associates Pty Ltd | 07.06.19 |
| Section Plan & Elevation Plan                       | Project No: P2077,<br>Job No:1305-13<br>Sheet A03 Issue B | Algorry Zappia & Associates Pty Ltd | 07.06.19 |
| Shadow Diagram                                      | Project No: P2077,<br>Job No:1305-13<br>Sheet A04 Issue B | Algorry Zappia & Associates Pty Ltd | 07.06.19 |
| Stormwater Drainage Concept Plan                    | Project No: P2077,<br>Job No:1305-13<br>Sheet D01 Issue F | Algorry Zappia & Associates Pty Ltd | 12.07.19 |
| Sections A-A, B-B, & C-C                            | Project No: P2077,<br>Job No:1305-13<br>Sheet D02 Issue F | Algorry Zappia & Associates Pty Ltd | 12.07.19 |
| Sediment Control Concept Plan                       | Project No: P2077,<br>Job No:1305-13<br>Sheet D03 Issue F | Algorry Zappia & Associates Pty Ltd | 12.07.19 |
| Supporting Statement                                | Not Referenced  | Algorry Zappia & Associates Pty Ltd | 04.09.19 |

**Reason:** To ensure the development is carried out in accordance with the approved plans and documentation.

A. Amendments to Approved Plans  
 Modified Application 14/0737.06 dated TBA to read

The applicant shall make the following amendments to the approved plans prior to the issue of an Amended Construction Certificate:

12.3 DA 14/0737.06 Section 4.55 Modification Application - 10 Dwelling Houses,  
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- Note:** Water NSW has undertaken a site inspection and notes the following:
- That the excavation and site levelling works are being undertaken on-site, and
  - Water NSW was not consulted on the soil and water management plan prior to works commencing as required by Consent Condition 68(x) for DA 14.0737.

Water NSW consider that the sediment control plan provided with the modification documents is inadequate for the site constraints such as steepness. Water NSW is concerned that the erosion and sediment controls installed on the site are unlikely to withstand medium to heavy rainfall events and the sediment laden water is likely to leave the property.

- iii. Update the sediment control plan as part of the amended Construction Certificate;
- iv. Upgrade existing erosion and sediment controls including using area of the proposed bioretention basin as sediment basin during construction stage to capture sediment laden water and convert to bioretention basin at the end of construction.

**Note:** This involves a change to the Development Application plans as submitted to and approved by Council.

Any changes in this regard shall be reflected as amended plans to be submitted to the Principal Certifying Authority prior to the issue of an amended Construction Certificate for the proposed development.

**Reason:** *To confirm and clarify the terms of Council's approval.*

1. Inspections by Council

24 hours prior to the covering of the following works, Council must be notified by the licensed builder, owner builder or licensed plumber/drainer that the following works are ready for inspection:

- (a) stormwater drains. (Note Council only inspects stormwater drains for residential outbuildings, detached single dwellings and additions thereto. Internal stormwater drainage for medium density residential, commercial and industrial developments will need to be inspected and certified by the developer's Hydraulic Consultant. Any drainage works on Council property must be inspected by Council. **Stormwater connection is a mandatory critical stage inspection**);
- (b) piers associated with external drainage designed to distribute weight of structure away from sewer main prior to pouring of concrete.
- (c) Sewer / water main extensions (Technical Services).
- (d) final inspection of water plumbing, sanitary drainage and stormwater drainage.
- (e) Works in relation to road reserves, footpath, kerb and gutter, road shoulder and drainage within public lands or road reserves;

2. Inspections by the Principal Certifying Authority - **Mandatory Critical Stage Inspections**

24 hours prior to the covering of the following works, the Principal Certifying Authority appointed pursuant to Section 81(2)(b) of the *Environmental Planning and Assessment Act 1979* must be notified that works are ready for inspection. (Note that all inspections below

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must be booked in and those in **bold type** are mandatory critical stage inspections under the Act and must be carried out by the Principal Certifying Authority. If these inspections are not carried out by the Principal Certifying Authority an Occupation Certificate cannot be issued.)

**General compliance with plans and conditions of DA and Construction Certificate (if any) will be checked during each inspection (on-site facilities including builder's toilet, erosion control measures and shoring).**

- (a) **Piers (if any) prior to pouring of concrete;**
- (b) **Footing trenches with reinforcement prior to pouring of concrete;**
- (c) Retaining walls and reinforcement (if any) prior to pouring of concrete;
- (d) **Concrete slab formwork with reinforcement prior to pouring of concrete;**
- (e) **Structural framework; including roof members. When completed prior to the fixing of any internal sheeting;**
- (f) **Wet area, damp proofing and flashing before lining;**
- (g) **Swimming pool safety fence prior to filling the pool with water;**
- (h) Foundation material before installation of the swimming pool or laying of any bedding material;
- (i) This inspection transferred to Inspections by Council Condition No 1001 Selection (I).
- (j) **Bearers and joist inspection, including tie down requirements and ant capping. When completed and prior to the laying of the floor;**
- (k) Concrete formwork with reinforcement prior to pouring of concrete;
- (l) **Final inspection prior to use of the building;**

**Compliance**

3. Compliance

Development is to take place in accordance with the approved plans and documentation submitted with the application and subject to the conditions below, to ensure the development is consistent with Council's consent.

Full compliance shall be given to the approved stamped plans including any annotations made in red ink on the drawings.

4. Use not to Commence

The approved use is not to commence until the proposed development has been completed in accordance with this consent and any other Council approvals which may be required, and a final inspection carried out and approved by Council staff.



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5. Building Works

No building works or structural alterations are approved by this development application.

6. Qualifications and Responsibility for Documentation

Council requires that all design plans be prepared to Council's standards by a person, who has proven experience and suitable relevant qualifications in the preparation of plans specifications and any other relevant documentation for the approved development. All of these requirements are outlined in Council's Engineering Policies.

The Developer will be responsible for the correctness of all information contained in the drawings, specifications or any other documentation. The Council will not accept responsibility for any errors or inaccuracies that may be found in such documents, regardless of whether these documents have been checked and/or approved by Council.

7. Responsibility for Works

The Council will hold the Developer (Applicant/Owner), to whom the development approval was issued, solely responsible for constructing the required development works to Council's satisfaction and maintaining them during any specified period.

8. Developers Representative during Construction of Works

A minimum of 48 hours prior to commencement of any construction works on site the Developer must nominate to Council in writing their representative (Construction Supervisor) who will be responsible for all aspects of construction and site control, including Traffic Control, Sediment and Erosion Control and liaison with Council Officers and all other Authorities.

Details to be submitted include:-

- Name of Representative:
- Company :
- Position:
- Contact Ph:
- Contact Fax:
- After Hours Contact:
- Signature of Representative:
- Signature & Acceptance of representative by the Developer:
- Council requires that the nominated " Construction Supervisor" either hold qualifications acceptable for Corporate Membership of the Institute of Engineers, Australia, or be Approved by the Director and/or has proven experience and suitable relevant qualifications for the control, supervision and management of civil engineering works as required for carrying land development.

Prior to commencing any works on site the representative shall:-

- Inform Council in writing of their intention 7 days before entering the site.
- Submit to Council a proposed Schedule of Works.

The Developer may be required to arrange for Council to peruse all other contract documentation **PRIOR TO THE CONTRACTOR ARRIVING ON SITE TO COMMENCE WORK** (Schedule of Works, Specifications, Bill of Quantities, Traffic Control Plan and Soil

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and Water Management Plan).

Failure to comply with the requirements as set out above will result in an immediate stop work order.

9. Hours of Demolition and Construction Works

In order to minimise impacts upon the locality demolition and construction activities must be limited to between 7.00am - 6.00pm Monday to Friday and 8.00am to 1.00pm Saturdays with no work on Sundays and public holidays. Any variation of these hours will only occur with Council's consent.

10. Workers Compensation & Public Liability

It is the Developer's responsibility to ensure that Contractors engaged to carry out works indicated on the approved plans carries current Workers Compensation Insurance and hold Public Liability Insurance for \$20,000,000 cover.

11. Separate Approval Required for Subdivision

Separate development application must be made to Council for the strata subdivision of the subject development. No subdivision approval is granted by this consent.

12. Construction Certificate

The building works are not to commence until a Construction Certificate has been issued in accordance with the *Environmental Planning and Assessment Act 1979*. A Building Code of Australia assessment has not been undertaken on the proposal. For further advice you may contact Council's Building Surveyors.

13. Other Approvals

Prior to any work commencing, written approval under Section 68 of the *Local Government Act 1993* must be obtained for stormwater drainage, sanitary drainage and water plumbing, from the Council as the appropriate Water Supply Authority.

Separate approval by the Roads Authority is required pursuant to Section 138 of the *Roads Act 1993* for any works within the road reserve.

14. Occupation Certificate

Prior to Occupation Certificate being issued, an inspection by the Principal Certifying Authority must be undertaken to ensure that all conditions of this development consent have been complied with.

15. Management of Construction

A detailed Construction Management Plan is required to be **SUBMITTED TO COUNCIL WITH ANY APPLICATION FOR A CONSTRUCTION CERTIFICATE**. The required Construction Management Plan **MUST** indicate the measures to be implemented to protect the environment as well as public health, safety and convenience. The plans **MUST** detail provisions for:

- (a) Off-street parking for employees, contractors and sub-contractors.





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- (b) Site access for construction vehicles and equipment purposes.
- (c) Public safety in the use of roads and footpaths where development activities adjoin such facilities.
- (d) The storage and removal, on a regular frequency, of builder's rubble and waste by trade waste contractors.
- (e) Storage of ALL building materials and equipment wholly within the construction site.
- (f) Public risk policies and management for all contractors' employees using or gaining access over public footpaths and roads.
- (g) External lighting and security alarms proposed for the construction site.
- (h) Fire fighting measures to be available on site during development and construction.
- (i) Sanitary amenities and ablutions proposed on site during development and construction.
- (j) Ensuring the safety of members of the public and Council staff who may have occasion to enter and be in attendance on the site.

16. Compliance with Relevant Legislation

Compliance with the *Environmental Planning & Assessment Act 1979* and *Local Government Act 1993*. The Building Code of Australia, SAA Codes and adopted Local Policies shall be observed.

17. Protection of Council's Road Reserve, Kerb and Gutter and Footpath

The building supervisor is responsible to ensure that all contractors, sub-contractors, and delivery trucks use a designated access point to prevent damage to Council's property. Repairs to damaged grass verges, concrete footpath, kerb and gutter are to be carried out by the builder to Council's specification and supervision prior to occupation of the development.

18. Occupation Certificate

The building, or part of the building, shall not be occupied or used until such time as an Occupation Certificate has been issued in respect of it.

19. Building Location

All building work shall be constructed wholly within the boundaries of the property. The location of the boundary shall be verified by survey prior to construction commencing.

**Land Title**

20. Drainage Pipeline Easement

Protection of the development and/or property by provision, within an easement, of underground drainage pipelines and fail-safe above ground flowpaths to cater for stormwater

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flooding from all roofed and paved areas of the site and to connect to the on site detention system and discharge to the existing stormwater system.

21. Grass Swale, Overland Flowpaths, Rainwater Tanks and Detention Basin Maintenance

The creation of a "Positive Covenant" on the linen plan and title of the proposed development showing the location of stormwater facilities and requiring that the proposed stormwater facilities be maintained in a safe and functional manner. In addition, the Section 88B Instrument is to make provision for Council to conduct maintenance on the subject stormwater facilities at the owner's expense if the stormwater facilities are not maintained to the agreed standard. Details shall be provided for the approval of the Director Environment and Planning **PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE.**

NOTE: A standard format is available from Council.

22. Grass Swale, Overland Flowpaths, Rainwater Tanks and Detention Basin Alterations

The creation of a "Restriction as to User" on the linen plan and title of the proposed development to prevent any change in shape or alteration in structure of the proposed stormwater facilities after the final approval of the structure has been given by Council. Details to be provided for the approval of the Director Environment and Planning **PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE.**

23. Title Restrictions Re Drainage

Details of function, form and levels of essential earth or other surface works, shall be legally attached to the titles of affected land to help ensure the permanency and designed operation of such facilities.

**Protection of Council Assets**

24. Storage Materials

No storage or placing of any building materials to occur on adjacent public roads or footpath areas in association with the construction, maintenance or use of the development or site, without prior Council approval.

25. Structure not to be built over Easements

No portion of any structure may be erected over any existing sillage or stormwater disposal drains, easements, sewer mains, or proposed sewer mains.

26. Developer Must Advise of Damage to Property

The Developer must advise Council of any damage to property controlled by Council which adjoins the site including kerbs, gutters, footpaths, walkways, reserves and the like, prior to commencement of any work on the site. Failure to identify existing damage will result in all damage detected after completion of the building work being repaired at the Developer's expense.

27. Vehicular Access Point

A suitable entry point is to be nominated on site and utilised by construction and delivery vehicles. This entry point is to be located so that the possibility of damage to Council's



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property is minimised during construction. The access point is to be surfaced with all weather materials of a minimum of 75mm in size.

28. Guarantee for Civil Works

Prior to allowing occupation of the building a cash bond or irrevocable bank guarantee is to be lodged for a period of twelve (12) months for a sum equal to five (5) % of the engineering works or a minimum of \$1,000 that are to become the property of Council to ensure the effective performance of these works.

**LAND AFFECTATION**

**Geotechnical**

29. Identification of Fill on Site

Prior to application for the Occupation Certificate the Applicant is to submit to council for its approval a plan detailing the extent of fill, with engineering certification identifying the specification of the filling operation in terms of the level of compaction achieved for each layer of fill placed. The certification shall be completed by a Council approved Geotechnical Engineer. A Restriction as to User shall be created over the extent of filling, which ensures that any structure placed over that area is constructed with a suitable footing system.

30. Geotechnical Survey

The submission, at the Applicant's expense, of a Geotechnical Survey report prepared by an approved Geotechnical Engineer certifying the structural adequacy of the site for the proposed development. The report is to be prepared in accordance with Council's "Guidelines to Developers for Presentation of Stability Reports - Land Subdivision/Building", for assessment with the Construction Certificate.

31. Site Classification

The developer's geotechnical engineer is required to provide a site classification in accordance with the current version of AS2870 for each lot in the subdivision that will be built upon. The site classification shall be registered on the 88B Instrument.

32. Placement of Fill on the Development Site

All fill placed on the site shall be placed in a controlled manner in accordance with the requirements of Council's Engineering Policies.

33. Retaining Wall(s)

All retaining walls must be designed suitably qualified Civil and/or Structural Engineer and shall be detailed on engineering plans which include, but is not limited to the following:

- (a) A plan of the wall showing location and proximity to property boundaries.
- (b) An elevation of the wall showing ground levels, maximum height of the wall, materials to be used and details of the footing design and longitudinal steps that may be required along the length of the wall.



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- (c) Details of fencing to be erected on top of the wall.
- (d) Sections of the wall showing wall and footing design, property boundaries and backfill material. Sections shall be provided at sufficient intervals to determine the impact of the wall on existing ground levels. The designer must note that the retaining wall and footing schedule must be contained wholly within the subject property.
- (e) The proposed method of subsurface and surface drainage, including water stormwater disposal.

**Land Contamination**

34. Imported Fill Material

Fill material shall not be obtained from contaminated land (as defined in Part 7A of the *Environmental Planning & Assessment Act 1979*). All imported fill shall be validated in accordance with NSW Department of Environment and Climate Change guidelines prior to it being brought onto the site.

35. Occupational Health & Safety Compliance

All site works shall comply with the occupational health and safety requirements of WorkCover NSW.

*Reason: To ensure that safe work/site conditions and practices are afforded to site workers and the surrounding community.*

**ENVIRONMENTAL MANAGEMENT**

**Sediment and Erosion Control**

36. Erosion and Sediment Control Plan Approval

An Erosion and Sediment Control Plan shall be prepared in accordance with Council's Engineering Policies by a suitably qualified person, and approved by Council and / or Department of Environment, Climate Change and Water **PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE.**

37. Erosion and Sediment Control Plan Inclusions

The Erosion and Sediment Control Plan shall include scaled drawings and detailed specifications which can be readily understood and applied on-site by supervisory staff. Items to be shown on the Plan shall include:

- (a) Locality of the site, a north point and scale.
- (b) Existing contours of the site including catchment area boundaries and indications of direction of fall.
- (c) Location of and basic description of existing vegetation.
- (d) Diversion of uncontaminated up-slope run-off around the disturbed sites.



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- (e) Location of significant natural areas requiring special planning or management including waters, floodplains, seasonally wet areas, areas prone to ponding/water logging, unstable slopes etc.
- (f) Nature and extent of earthworks, including cut and fill roadworks.
- (g) Location of all soil and material stockpiles.
- (h) Location of site access , proposed roads and other impervious areas.
- (i) Existing and proposed drainage patterns.
- (j) Location and type of proposed erosion and sediment control measures.
- (k) Site rehabilitation proposals, including final contours.
- (l) Time of placement of sediment controls.
- (m) Staging of works and how the plan is to be implemented for each stage or activity on site.
- (n) Maintenance schedule.

38. Erosion and Sediment Control Plan Compliance

All site works shall be carried out in accordance with the Erosion and Sediment Control Plan. Implementation of the Erosion and Sediment Control Plan shall be supervised by personnel with appropriate training or demonstrated knowledge or experience in erosion and sediment control.

In the event of non-compliance with the approved plan, Council Officers have the ability to issue Penalty Notices, being an on the spot fine.

39. Erosion and Sediment Control

The following control measures shall be installed to minimise the effect of site disturbance and soil erosion:-

- (a) The strategic placement of bales of hay or a geotextile fabric fence to contain soil infiltration and runoff from sites (refer to Council's guidelines for "Erosion and Sediment Control on Building Sites". Sediment control devices shall be installed immediately after any site works have been carried out and prior to construction work commencing and remain in position until disturbed soils are turfed, 70% vegetated or otherwise stabilised.
- (b) Restricting vehicles access to one designated point.
- (c) The installation of gutters, downpipes, and the connection of downpipes to the stormwater disposal system prior to the fixing of the roof cladding.

40. Erosion Control on Completed Development

Adequate erosion and sediment control measures are to be maintained in place on the development to the satisfaction of Council until site stabilisation and revegetation is finalised.



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41. Soil and Water Management - Stockpiles

Stockpiles of topsoil, sand, aggregate, soil or other material are not to be located on any drainage line or easement, natural watercourse, footpath or roadway and shall be protected with adequate sediment controls.

*Reason: To ensure that building materials are not washed into stormwater drains.*

42. Soil and Water Management - Building Operations

Building operations such as brick cutting, washing tools or brushes and mixing mortar are not permitted on public roadways or footways or in any other locations which could lead to the discharge of materials into the stormwater drainage system.

*Reason: To ensure that building materials are not washed into stormwater drains.*

43. Soil and Water Management - Wheel Wash

A vehicle wheel wash, cattle grid, wheel shaker or other appropriate device, shall be installed in accordance with the approved site Soil & Water Management Plan before the commencement of any site works or activities, to prevent mud and dirt leaving the site and being deposited on the street. The device shall be maintained at all times to Council's satisfaction.

*Reason: To minimise soil being trucked off site.*

44. Soil and Water Management - Site Maintenance

Roads servicing the construction site shall be maintained in a condition free of mud, soil and other construction/demolition materials at all times.

*Reason: To minimise construction / demolition materials being trucked off site.*

45. Soil and Water Management - Landscape Materials

Landscaping materials (including woodchips, bark etc) are to be stabilised and secured on site to avoid being eroded by stormwater runoff. Alternatively, stormwater protection measures shall be put in place to protect stormwater drains so as not to contravene the *Protection of the Environment Operations Act, 1997*.

*Reason: To ensure the landscape materials used are not washed into stormwater drains.*

**Landscaping, Vegetation and Privacy Screening**

46. Large Development Landscaping

Landscaping of the development shall be in accordance with Landscape Concept Plan prepared by Vision Dynamics PTT LTD Drawing No. 13070 DA1 Revision A dated 28/01/2014.

Approved landscaping is to be maintained at all times to the satisfaction of the Deputy General Manager - Operations.

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**ADVISING:**

Council advises that new tree plantings should be a minimum of 3m horizontal distance from the line of buildings or underground services to reduce risk of future damage by limbs, roots, etc. Specialist advice should be sought in regard to appropriate distances for different species.

47. Council Reserve / Street Tree Retention

All trees in Council's road reserve are to be preserved except where removal is separately approved by Council, to ensure the continued amenity of the streetscape and to retain the ecological integrity of the roadside area.

**ADVISING:**

Reference should be made to Council's Roadside Vegetation Management Plan.

48. Tree Removal/Tree Preservation

No trees to be pruned, removed, damaged or destroyed without the prior written consent of Council. Failure to comply with this requirement will result in prosecution by Council - in accordance with the provisions of Clause 5.9 of Wingecarribee Local Environmental Plan 2010 and associated Development Control Plans.

**ADVISING:**

Tree removal should be carried out by a competent person to avoid any risk to life or damage to property. This person should have adequate public liability insurance cover.

49. Disposal of Vegetation

Any trees removed with Council consent and any other vegetation cleared in association with this development shall be disposed of in accordance with the Waste Management Plan approved with this land use application. For minor additions and outbuildings removed vegetation shall be either mulched for reuse on site or transported to an approved waste/recycling facility.

**NOTE:** No vegetation shall be burnt except with an approval issued by Council under Clause 6G (2) of the *Protection of the Environment (Clean Air) Regulation 2002*.

50. Waste Management

An approved litter receptacle with a tight fitting lid shall be provided on site for the disposal of builder refuse that may be wind blown (all polystyrene waste must be bagged and securely contained). The bin shall be onsite during all demolition and construction works. Sorting of waste materials shall occur on site in accordance with the approved Waste Management Plan.

51. Waste Management Plan

The approved Waste Management Plan must be displayed on site and implemented during construction and ongoing operation of the development. Evidence of recycling/disposal actions and waste management contracts are to be maintained for three years from the date of commencement of work.

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**CIVIL ENGINEERING WORKS AND SERVICES**

52. Provision of Works and Services

The provision, by the Developer, at their expense, of the following works and services to be documented and constructed in accordance with Council's Engineering Policies, to the satisfaction of the Development Control Engineer. **PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE** the Developer must obtain approval for the works to be undertaken by submitting adequate documentation including plans, standard notes and completed design checklists, calculations and specifications, to Council which justify that the proposed works are in accordance with all Council's standards and all other relevant Codes and guidelines.

53. Water and Sewer Authority Conditions

Prior to issue of a Construction Certificate, the Developer must obtain approval from Council (as the Water Supply Authority and/or as required under Section 68 of the *Local Government Act*) for the works to be undertaken by submitting adequate documentation including plans, calculations and specifications which justify that the required works are in accordance with all Council's standards and all other relevant codes and guidelines.

(a) **Stormwater Drainage**

(i) Construction of Stormwater

Provision of adequate stormwater drainage infrastructure (pits/pipes/open channels/detention storage) for the conveyance of stormwater passing through the site from upstream, and sourced from the development to a discharge outlet to be approved by the Development Control Engineer. The point of discharge is to be clearly depicted and the legal right to discharge at that point to be justified. Status of the point of discharge is to be made clear, ie provision of drainage easements.

(ii) Roof/Impervious/Stormwater

All stormwater runoff from the development shall be collected within the property and discharged in a manner approved by the Development Control Engineer and/or Council's Building Surveyor.

(iii) Control of Peak Discharge

Adequate and suitable infrastructure is to be provided to ensure the peak discharge from the site is no greater than the pre-developed peak discharge. This infrastructure shall be designed in accordance with Council's Engineering Policies. Calculations to demonstrate that the post-development peak discharge will not exceed the pre-development peak discharge **SHALL BE PROVIDED WITH THE APPLICATION FOR A CONSTRUCTION CERTIFICATE.**

(iv) Existing Drainage Augmentation

The augmentation of the existing drainage system to accommodate drainage from the proposed development and to protect other property to the satisfaction of the Development Control Engineer.

(v) Detention Systems



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Any open drainage system which is designed to reduce peak flows shall be designed in accordance with the requirements of the current edition of the Australian Rainfall & Runoff. All batters shall be in accordance with Council's Engineering Policies to facilitate maintenance and provide a safe environment.

(vi) Infrastructure Maintenance Considerations

The design of all infrastructure shall take into consideration the maintenance aspects and costs associated with the techniques being proposed.

(b) **Parking, Loading, Access and Roadworks**

(i) Driveways and Parking

Internal driveways, turning areas and off street vehicular parking spaces are to be constructed with an all-weather surface of concrete.

(ii) Restoration of Footway and Kerb and Gutter

All redundant vehicle crossings and stormwater outlets shall be removed. The footway and kerb and gutter are to be restored. All damaged kerb and gutter and footpath shall be replaced.

(iii) Vehicle Manoeuvring - Minor Developments

All vehicles to enter and leave the site driving forwards to ensure traffic / pedestrian safety. Internal driveways and parking are to be designed such that all vehicles are able to manoeuvre and leave the development driving forwards.

(iv) Approval Required for Work within Road Reserve - Section 138 Roads Act 1993

Where works are proposed within the road reserve, the Developer must obtain approval from Council (as the Roads Authority and / or as required under Section 138 of the *Roads Act 1993*) before any works are undertaken. Works within the road reserve may include activities such as erect a structure, dig up or disturb the surface of a public road, remove or interfere with a structure, or any other activities as defined within the *Roads Act 1993*.

The following details must be submitted to Council in order to obtain the Section 138 approval:

- A copy of approved design plans related to the development and proposed works to be undertaken.
- Traffic Control Plan (TCP) to provide protection for those within and adjacent to the work site, including the travelling and pedestrian public. The TCP must comply with the Roads and Traffic Authority's manual "*Traffic Control at Work Sites*". Warning and protective devices shall comply with the provisions of AS1742.3 - 2002 *Traffic Control Devices for Works on Roads*. The plan must be prepared and certified by a



person holding the appropriate Roads and Traffic Authority accreditation, a copy of which is to be submitted with the plan.

- Insurance details - Public Liability Insurance to an amount of \$20 million, to be held by applicant / contractor undertaking the works.

(v) Residential Driveway

A standard concrete vehicular gutter layback and concrete footpath crossing 6 metres wide at the property boundary and across the road reserve, shall be constructed at the driveway entrance in accordance with Council's Plan Nos SD107 and SD123.

(vi) Visitor Parking

A minimum of 4 visitor car spaces are to be provided on site. An additional visitor space could be provided in the area designated 'common landscaped area' east of Dwelling No. 6.

(c) **Sewer Mains**

(i) Construction of Sewer Sidelines

Sidelines and junctions shall be installed for sewer connections to the development by Council at the Developer's cost.

Council's application form shall be completed by the applicant and the appropriate fee paid.

If sideline is to be extended from a sewer main in adjoining property, written permission of affected landowner allowing work to be undertaken, is to be submitted with the application form.

(d) **Water Mains Supply**

(i) Construction of Water Service

A water service shall be installed to the development by Council at the Developer's cost.

Council's application form shall be completed by the Developer and the appropriate fee paid.

**General**

54. Energy Service Provider Requirements

The provision of underground electricity to service the development in accordance with the requirements of the Energy Service Provider. The Developer prior to release of a Construction Certificate will be required to submit to Council documentary evidence from the Energy Service Provider qualifying that the requirements of that provider have been obtained. The requirements of the supply authority will need to be met prior to occupation of the development or the application for a Subdivision Certificate.

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**55. Telecommunications Provider / Gas Provider - Where Applicable**

The Developer is to obtain the Telecommunications Provider / Gas Provider to ascertain the requirements of the organisations for the development.

**Advisory Note:**

The Developer is also requested to contact the National Broadband Network Company Ltd in regard to the installation of fibre in all new developments.

**56. Works as Executed Plans**

Following the completion of the work, one full set of work-as-executed drawings shall be submitted to and retained by Council. Sufficient details including locations and levels of the below ground infrastructure are required in order to enable a complete check of the work as executed as compared to the original approved design. Any deviation from the approved engineering plans shall be shown on the work-as-executed drawings. Each sheet of the drawings shall carry the certification of the developers supervising engineer.

**57. Asset Management**

The Developer is to provide a detailed summary of the Assets that will fall into Council's care and control at the end of the maintenance period. The details are to be provided in a tabular form so as to allow Council to update its Assets register.

The assets to be identified include;

- Sewer

**58. Certification of Internal Civil Works**

On completion of works and prior to occupation, certification from a practising appropriately qualified Engineer shall be submitted to Council detailing that all internal civil works (ie, internal driveways, paths and stormwater drainage systems including any onsite detentions) are in accordance with the approved plans and specifications.

**MONETARY CONTRIBUTIONS AND DEVELOPER CHARGES****59. Section 94 Contributions**

Under Section 94 of the Environmental Planning and Assessment Act 1979 (as amended), Council has satisfactorily determined that Development Contributions are applicable to this development consent, as the development is likely to require the provision of or increase the demand for public amenities and public services within the Wingecarribee Local Government Area.

The following Wingecarribee Shire Council Developer Contributions Plans are applicable to the Development:

- **Roads & Traffic Facilities 2012 to 2031**
- **Resource Recovery Centre 2009**
- **Central Library Facility**
- **Section 94 Administration 2011 to 2031**
- **Open Space, Recreation, Community & Cultural Facilities 2013 to 2036**

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A Developer Charges – Notice of Payment is attached to the back of this consent and outlines monetary contributions and unit rates applicable at the time of issue of this consent. The contributions listed in the Notice of Payment must be paid prior to the release of **Construction** Certificate.

All contributions are indexed quarterly in accordance with upward movements in the Indices as specified in each of the above listed plans; and Section 25I of the Environmental Planning and Assessment Regulation 2000.

Copies of the Contributions Plans are available at Wingecarribee Shire Council's Administration building Moss Vale or are available for download from Council's website [www.wsc.nsw.gov.au](http://www.wsc.nsw.gov.au).

60. Certificate of Compliance

A Certificate of Compliance under Division 5 of Part 2 of Chapter 6 of the Water Management Act 2000 must be obtained prior to the issue of **Occupation** Certificate.

**Notes:**

Section 64 of the Local Government Act 1993 authorises Council to issue Certificates of Compliance under Section 306 of the Water Management Act 2000. Section 64 of the Local Government Act 1993 also authorises Council to impose pre-conditions to the issuing of Certificates of Compliance.

As a precondition to the issuing of a Certificate of Compliance Council requires the payment of Developer Charges, prior to the issue of **Construction** Certificate, as prescribed by Wingecarribee Shire Council's Development Servicing Plans:

- **Water Supply Development Servicing Plan;**
- **Sewerage Development Servicing Plan; and**
- **Stormwater Development Servicing Plan**

A developer Charges – Notice of Payment is attached to the back of this consent and outlines monetary contributions and unit rates applicable at the time of issue of this consent.

The water, sewer and stormwater head works levies are indexed quarterly in accordance with upward movements in the Consumer Price Index (All Groups, Sydney) as published by the Australian Bureau of Statistics ([www.abs.gov.au](http://www.abs.gov.au)); and Council's Development Servicing Plans

Copies of Development Servicing Plans are available at Wingecarribee Shire Council's Administration building Moss Vale or are available for download from Council's website [www.wsc.nsw.gov.au](http://www.wsc.nsw.gov.au).

The Water and Sewerage Development Servicing Plans (DSP's) were adopted by Council on 22 November 2006 and came into effect on 1 January 2007. The Stormwater DSP was adopted on 9 November 2010 and came into effect on 8 December 2010. The current charges under these Plans are listed as follows:

| CPI Period   | Water DSP      | Sewer DSP      | Stormwater DSP    |
|--|----------------|----------------|-------------------|
| 1 February 2015 to 30 April 2015   | \$6,353 per ET | \$8,085 per ET | \$3,341.42 per ET |
| Note: The charges shown above are amounts applicable during the stated time period. These amounts will be subject to adjustment quarterly in accordance with upward movements in the |                |                |                   |



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Consumer Price Index (CPI) once they become operational. The CPI is published quarterly by the Australian Bureau of Statistics, [www.abs.gov.au](http://www.abs.gov.au).

Should new DSP's be prepared, it is possible that the charges may increase significantly. Draft DSP's must be advertised by Council for a period of 30-days prior to adoption.

61. Compliance Certificate

Compliance Certificate fees, in accordance with Council's Revenue Policy are as follows and shall be paid prior to the issue of **Construction** Certificate:-

Water \$90 + Sewer \$90 + Stormwater \$90 = \$270.00

Prior to final release, you will need to contact Council's Environmental Assessment Branch for an inspection to ensure that Council will accept the infrastructure constructed. In response, the Development Engineer of Water and Sewer will specify requirements which will have to be met.

In the case of other forms of development, the Construction Certificate will not be issued until the Water Management Act charges have been paid and/or secured and the approval of Council has been obtained.

62. Compliance with Building Code of Australia

All building work must be carried out in accordance with the provisions of the Building Code of Australia.

63. Residential Building Work

A. Building work that involves residential building work (within the meaning of the *Home Building Act 1989*) must not be carried out unless the principal certifying authority for the development to which the work relates:

- (a) in the case of work to be done by a licensee under that Act:
  - (i) has been informed in writing of the licensee's name and contractor licence number, and
  - (ii) is satisfied that the licensee has complied with the requirements of Part 6 of that Act, or
- (b) in the case of work to be done by any other person:
  - (i) has been informed in writing of the person's name and owner-builder permit number, or
  - (ii) has been given a declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of **owner-builder work** in Section 29 of that Act,

B. A certificate purporting to be issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.

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**64. Excavations and Backfilling**

All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards properly guarded and protected to prevent them from being dangerous to life or property.

**65. Retaining Walls and Drainage**

If the soil conditions require it:

- (a) retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided, and
- (b) adequate provision must be made for drainage.

**66. Erection of Signs**

A sign shall be prominently displayed on any site on which building, subdivision or demolition work is being carried out by the builder / developer:

- (a) showing the name, address and telephone number of the principal certifying authority for the work;
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
- (c) stating that unauthorised entry to the work site is prohibited.

**67. BASIX Commitments**

Under Clause 97A of the *Environmental Planning & Assessment Regulation 2000*, it is a condition of this Development Consent that all the commitments listed in each relevant BASIX Certificate for the development are fulfilled.

In this condition:

- (a) Relevant BASIX Certificate means:
  - (i) a BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under Section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
  - (ii) if a replacement BASIX Certificate accompanies any subsequent application for a Construction Certificate, the replacement BASIX Certificate; and
- (b) BASIX Certificate has the meaning given to that term in the *Environmental Planning & Assessment Regulation 2000*.

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68. WaterNSW

**Modified Application 14/0737.06 dated TBA to read**

The following are the requirements of the WaterNSW with regard to Sydney Drinking Water Catchment SEPP 2011:

**General**

- (xii) The layout of the multiple dwelling development shall be as shown on the Site Plan & O/A Grd. FI Plan (Dwg. 1305-13, Sheet No. A01, Issue B, Dated 07/06/2019) prepared by Algorry Zappia & Associates Pty Ltd. No revised layout or works of the development that will impact on water quality, shall be permitted without the agreement of Water NSW.

**Reason for Condition (i) -** *The Sydney Catchment Authority has based its assessment under State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011 on this version of the development.*

**Stormwater Management**

- (xiii) All stormwater management measures as shown on the Stormwater Drainage Concept Plan (Dwg NO. 1305-13, Sheet DO1, Issue F, Dated 12/07/19) prepared by Algorry Zappia & Associates Pty Ltd, shall be implemented.
- (xiv) The bioretention basin shall be located as per shown on the Stormwater Drainage Concept Plan (Dwg NO. 1305-13, Sheet DO1, Issue F, Dated 12/07/19) and constructed as per the Bioretention Basin Section Plan (Dwg No. 1305-13 Sheet DO2, Revision F, Dated 12.07.19) both prepared by Algorry Zappia & Associates Pty Ltd, to capture and treat all runoff from the development. The bioretention basin shall also:
- be designed consistent with Adoption Guidelines for Stormwater Biofiltration Systems Version 2 (Payne *et al*, 2015, Melbourne, CRC for Water Sensitive Cities), and
  - be protected by sediment and erosion control measures during any construction and post-construction phase until the ground surface is re-vegetated or stabilized.
- (xv) The proposed vegetated swale on the southern boundary of the property shall be constructed with a series of rock check dams such that slopes do not exceed 4%.
- (xvi) A rainwater collection and reuse system for the building roof shall be installed for each unit that have:
- rainwater tanks with a minimum capacity of 2,000 litres per unit above any volume required for mains top-up
  - roofs and gutters designed to maximise the capture of rainwater in the tanks
  - the tanks plumbed to toilets and other areas for non-potable use including use for landscape watering, and
  - direct all rainwater tank overflow to the drainage system on the site.
- (xvii) No variation to stormwater treatment or management that will have any impacts on water quality shall be permitted without the agreement of Water NSW.

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- (xviii) A suitably qualified stormwater consultant or engineer shall certify in writing to Water NSW and Council prior to issuance of an Occupation Certificate that all stormwater management structures have been installed as per these conditions of consent and are in a functional state.
- (xix) An Operational Environmental Management Plan (OEMP) shall be prepared in consultation with Water NSW prior to the issue of an Occupation Certificate by a person with knowledge and experience in the preparation of such plans. The OEMP shall:
- include details on the location and nature of stormwater management structures such as pits, pipes, inlet filters, swale, bioretention basin, detention tank, and any other stormwater structures and drainage works
  - outline the responsibilities and detailed requirements for the inspection, monitoring and maintenance of all stormwater management structures, including the frequency of such activities
  - identify the individuals or positions responsible for inspection and maintenance activities including a reporting protocol and hierarchy, and
  - include checklists for recording inspections and maintenance activities.
- (xx) All stormwater treatment devices shall be monitored, maintained and managed as per the Operational Environmental Management Plan.

**Reason for Conditions (ii) to (ix) –** *To ensure appropriate stormwater treatment and quality control measures are designed, implemented and maintained to achieve a sustainable neutral or beneficial impact on water quality, particularly during wet weather, over the longer term.*

**Construction Activities**

- (xxi) A Soil and Water Management Plan shall be prepared by a person with knowledge and experience in the preparation of such plans for all proposed works. The Plan can incorporate recommendations included of the Sediment Control Concept Plan (Dwg No. 1305-13, Sheet D03, Issue A, dated 12 July 2019) prepared by Algorry Zappia & Associates Pty Ltd. The Plan shall:
- meet the requirements outlined in Chapter 2 of NSW Landcom's Soils and Construction: Managing Urban Stormwater (2004)
  - be developed in consultation with the Water NSW prior to issuance of a modified construction certificate for the development, and
  - include controls to prevent sediment or polluted water leaving the construction site or entering any natural drainage lines or stormwater drain.
- (xxii) The Soil & Water Management Plan shall be implemented, and effective erosion and sediment controls shall be installed prior to any construction activity. The controls shall be regularly inspected, monitored and maintained until works have been completed and groundcover established.

**Reason for Conditions (x) & (xi) –** *To manage adverse environmental and water quality impacts during the construction phase of the development and to minimise the risk of erosion, sedimentation and pollution within or from the site during this construction phase*



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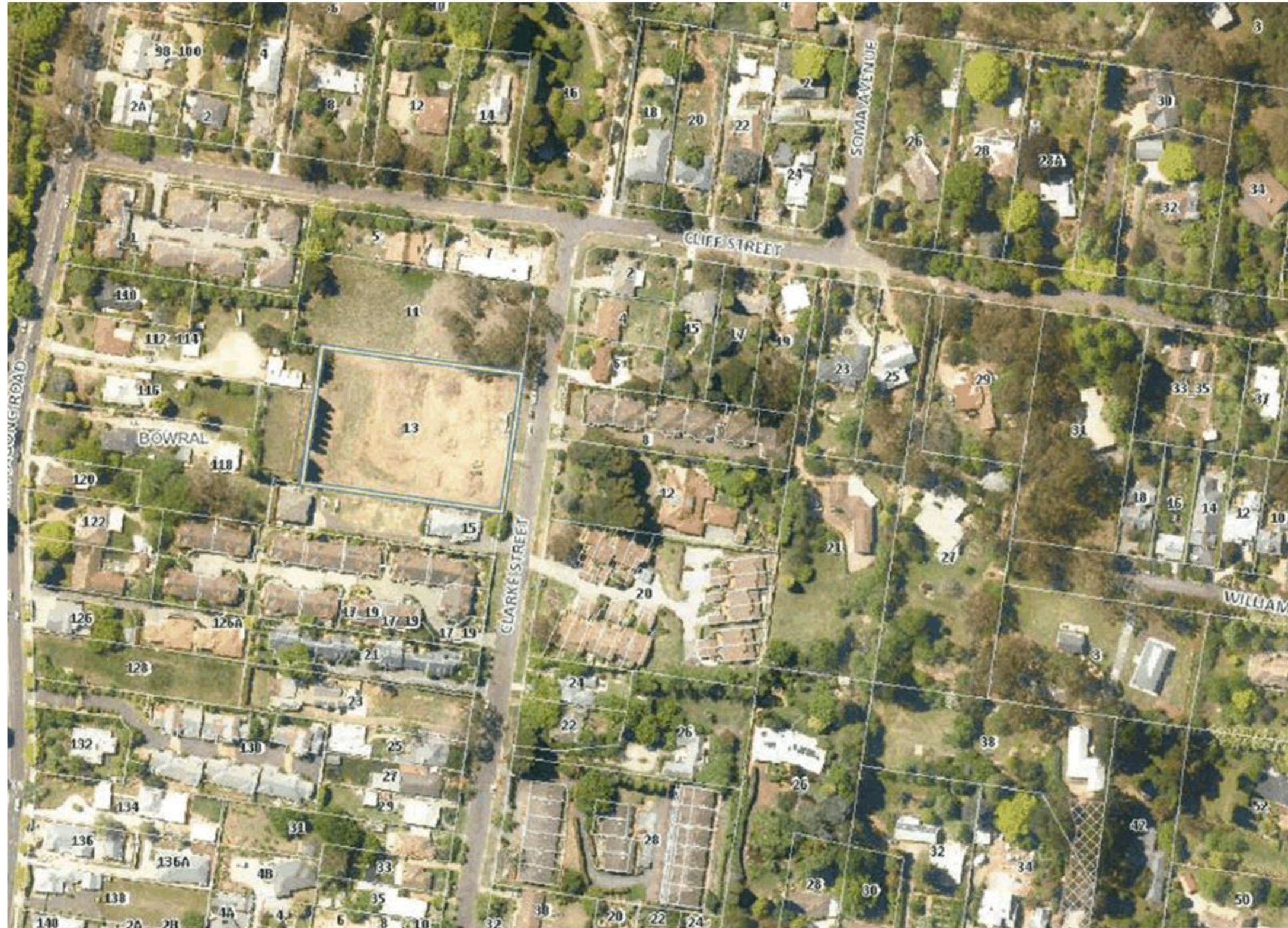
**NOTES:**

1. To ascertain the date from which this development consent operates, refer to Section 83 of the *Environmental Planning and Assessment Act 1979*.
2. Development consent will lapse five (5) years after the date from which it operates. In the case of staged development, consent will lapse five (5) years after the date from which it operates. (Refer Section 95 (2) of the *Environmental Planning & Assessment Act 1979*).
3. Section 97 of the *Environmental Planning and Assessment Act 1979* confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court exercisable within six (6) months after receipt of this notice.
4. The approval granted by the Council does NOT consider nor negate or vary any private easement, covenant or restriction. The owner is advised to investigate any encumbrance or restriction that may be noted on the title to the land.
5. All conditions on this consent have been imposed having regard to all matters listed for consideration under Section 79C of the *Environmental Planning & Assessment Act 1979*.
6. An applicant may request pursuant to Section 82A of the *Environmental Planning & Assessment Act 1979* Council to review a determination of the application where that application is of a type referred to in that Section of the Act within six (6) months after receipt of this notice.

**END OF CONDITIONS**



Attachment 2: Proposed Site Plan



**12.4 S8.2 Review 10/0414.05 - Section 4.55 - Residential Alterations and Additions - Extensions, Shed, Entry Gates - Lot 1, DP 804846 144 Mt Broughton Road Werai**

Reference: 10/0414.03  
Report Author: Consultant Planner  
Authoriser: Group Manager Planning, Development and Regulatory Services

Link to Community Strategic Plan: Maintain inter-urban breaks (i.e. the green between) and rural landscape between towns

**PURPOSE**

The purpose of this report is to seek Council's determination of a Section 8.2 review application (review). This review relates to the refusal of a Modification Application to modify development consent 10/0414 which seeks approval for Residential Alterations and Additions – (extensions to existing residence, shed and entry gates) at 144 Mt Broughton Road, Werai.

**VOTING ON THE MOTION**

Councillors are required to record their votes on this matter.

**RECOMMENDATION**

**THAT Review of Modification Application 10/0414.05 for proposed residential alterations and additions – (Extensions to the existing dwelling, shed and entry gates) at Lot 1 DP804846, No 144 Mt Broughton Street, Werai be REFUSED for the reasons included in (Attachment 1)**

**REPORT**

**Subject Site and Locality**

The subject site is an irregular shaped lot which slopes from north to south. The site has two clusters of buildings, one of which includes the existing residence, and the other a cottage with two sheds and one dairy shed.

The existing residence is set near the northern boundary and can be accessed from a private road off Mt Broughton Road. The site is approximately 46 hectares. The area is largely rural, and the surrounding developments consist of residential and agricultural developments.

The site is zoned E3 Environmental Management under Wingecarribee Local Environmental Plan 2010 (WLEP). Land across the road on Mt Broughton Road is zoned RU2 Rural Landscape under WLEP.

The context of the site is illustrated in the following aerial photo and map.



**Figure 1:** Aerial of subject site, outlined in red. (**Attachment 2**) Source: Nearmap.

**Proposed Development**

Modification Application 10/0414.03 was lodged with Council seeking consent for modifications to the residential alterations and additions – extensions to existing cottage, shed, and entry gates.

The proposed modification is mostly a re-orientation of the existing approved shed. The current proposal is to align the shed with the boundary line to a 10m setback. The shed has also been increased in size from 435<sup>2</sup> to 684m<sup>2</sup>, with of 18m by 38m dimensions.

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This Section 8.2 Review of Determination does not seek to make any changes to that refused by Council on 12 June 2019.

#### **Background and History**

The subject site has a long history of Applications that are relevant for consideration of this Section 8.2 Review. Table 1 below outlines the history of applications.

| <b>Table 1 – Relevant Application History</b> |             |                      |   |
|---|-------------|----------------------|---|
| <b>Application</b>                            | <b>Date</b> | <b>Determination</b> | <b>Development Details</b>  |
| DA09/1157                                     | 04/03/2010  | Approved             | Alterations and Additions to Existing Dwelling, New Shed, Cabana, Stables, Swimming Pool and Tennis Court                 |
| Modification 09/1157.02                       | 20/12/2016  | Approved             | Modification to Alterations and Additions to Existing Dwelling, New Shed, Cabana, Stables, Swimming Pool and Tennis Court |
| DA10/0414                                     | 24/10/2010  | Approved             | Alterations and Additions to cottage, shed and entry gates  |

| <b>Table 1 – Relevant Application History (cont.)</b> |             |                      |   |
|---|-------------|----------------------|---|
| <b>Application</b>                                    | <b>Date</b> | <b>Determination</b> | <b>Development Details</b>  |
| Modification 10/0414.02                               | 24/06/2011  | Approved             | Alterations and Additions to cottage, shed and continued use of entry gates and stone wall<br>Modification: shed location rotated and as stone wall already constructed continued use of structure. |
| DA18/0775   | 18/10/2018  | Approved             | Farm Building - Shed  |
| Modification 10/0414.03                               | 14/06/2019  | Refused by Council   | Alterations & Additions to cottage, shed and entry gates. The Modification related to the relocation of the farm shed closer to the northern property boundary and increasing the footprint.        |

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The history of the Modification Application 10/0414.03 the subject of this s8.25 Review Application is as follows:

- a) Modification application was considered by full Council on 13 February 2019 and Councillors resolved at the meeting to defer any decision on the application pending a peer review.
- b) Resolution minute 19/19 states:
  1. *THAT Modification Application 10/0414.03 under section 4.55 (1A) of the Environmental Planning and Assessment Act 1979 for proposed residential alterations and additions – (extensions to the existing dwelling, shed and entry gates) at Lot 1 DP804846, No 144 Mt Broughton Street, Werai be DEFERRED for a peer review and following the peer review the matter be reported back to Council for consideration.*
  2. *THAT the future trees to be planted on the northern side of the shed wall, adjoining the northern boundary, shall be established trees of 75 litre pot size.*
  3. *THAT a report be brought back to Council to determine whether earthworks already undertaken are compliant with relevant planning instruments and subject to the findings in that report Council consider what action, if any, to take.*
- c) On 15 February 2019, Council staff referred the subject application to Goulburn Mulwaree Council (GM Council) for peer review to give effect to resolution 1.
- d) On 12 June 2019, the Modification application was considered by full Council following a peer review by GM Council.
- e) Goulburn Mulwaree Council concluded that:
  - i) *A section 4.55(2) application should have been made rather than Section 4.55 (1A) of the EP & A Act given the extent of change proposed to the shed height/size/location in relation to the original application. The development as proposed is considered to be substantially the same as originally approved and a Section 4.55 can be considered on this basis.*
  - ii) *The combination of the additional size/height and the reduced setback of the shed to the northern boundary would result in an increased negative impact on the visual amenity of 102 Mt Broughton Road and would be more visible from Mt Broughton Road.*
  - iii) *The originally approved shed location would have a lesser visual impact than that proposed by this application. The original shed site is lower than the proposed shed site and located further from the boundary, and, combined with the orientation, a shed in the original approved location would appear less bulky from the main view from Mt Broughton Road.*
  - iv) *The impact of the additional shed height would be mitigated to some degree if located further downslope in the original location also. The increased shed size should not be supported in the location proposed. In Baevski v Wingecarribee Shire Council [2009] NSWLEC 1014, Commissioner Brown stated in relation to landscaping proposed to screen an enclosed horse area:  
  
"I do not accept that landscaping should be a means of hiding an inappropriate design, particularly considering it would take at least 8*



*years for the landscaping to reach a level of maturity that would provide some screening of the enclosure”*

- v) *The above comment would be equally applicable in this case given the proposed height of the modified shed and the proximity to the boundary as proposed.*
- f) On 12 June 2019 Council resolved to refuse the Modification Application for the following reasons:
- i) The combination of the additional size, height and the reduced setback of the shed to the northern boundary would result in an increased negative impact on the visual amenity of 102 Broughton Road and would be more visible from Mount Broughton Road.
- ii) the size of the shed is more than the maximum floor space permitted under DCP Rural Lands for a rural building.

### **Response to Reasons for Refusal**

The following discussion provides how the applicant has responded to the reasons for refusal.

1. The combination of the additional size, height and the reduced setback of the shed to the northern boundary would result in an increased negative impact on the visual amenity of 102 Broughton Road and would be more visible from Mount Broughton Road.  
Comment

The applicant has provided the following comments in support of their Review to Reasons for Refusal 1 as follows:

- *The development for 102 Mt Broughton Road (the neighbouring property) was the subject of Development Application 08/0037, approved 11 years ago, but not constructed. It is questionable whether there is substantial commencement of this development. The owner relies on his installation of an electrical connection to the proposed building site, whereas in fact it was replacement of an existing power supply for an existing bore and for a water tank for stock. There are contradictory letters regarding the substantial commencement on the files at Council; originally it was disallowed as the application called up the proposal to be powered by solar power. In light of this it is doubtful whether there will be any residential development in that position on that land, and if there is, it would likely need to be the subject of a new development application.*
- *Even if there is substantial commencement, the proposed residence has not been built and may never be built as it is now an old Development Application.*
- *The proposed residence on 102 Mt Broughton Road is oriented to the north, whereas the proposed shed on 144 Mt Broughton Road is to the south of this position, and further east. There is a ridgeline between the main residential part of the proposed residence and the proposed shed, and the proposal on 102 Mt Broughton Road also includes a stable, a garage and a shed which would obscure any views from the residence back towards the south. Required in this approval was substantial landscaping on the south and east side of that development, which would further obscure views to the south. There is a row of large evergreen trees along the dividing boundary between these properties (located on the 144 Mt Broughton Road side) that will be extended along that boundary as well, further obscuring any views to the shed. Given all of the above, and as shown in the accompanying site plan*



*showing both properties, it is impossible to imagine that there could possibly be a negative impact on visual amenity with the construction of this shed.*

***(A copy of accompanying site plan is provided as Attachment 3)***

2. the size of the shed is in excess of the maximum floor space permitted under DCP Rural Lands for a rural building.

Comment

The applicant has provided the following comments in support of their Review to Reason for Refusal 2 as follows:

- *In the original submission, the position of the shed was indicative and had not been considered in detail. Upon obtaining further survey information, it became apparent that the original position would require the removal of a substantial 120 year old tree. This is not desirable for either the owners or Council, and required the shed to be moved to the north to be free of the tree and its curtilage.*
- *Also as a result of obtaining further survey information, it became apparent that there was insufficient room for the manoeuvring of trucks to the southern side and eastern end of the shed for loading and unloading between the existing driveway, the row of trees on the eastern side (between the cottage and the shed) and the shed itself, therefore also requiring the shifting towards the northern boundary.*
- *With the current drought, the requirement for storage of a significant amount of feed for the livestock has become necessary, which is the reason for the increase in size of the shed. A footprint of 684sqm is quite common in rural outbuildings all around the shire, including the substantially larger arena structure on the property directly opposite this property on the eastern side of Mt Broughton Road.*

**Modification of Consents**

The modification was lodged as a Section 4.55(1A) (Formally called Section 96(1A) application.

Section 4.55(1A) are modifications involving minimal environmental impact. An assessment of the application against Section 4.55(1A) of the Environmental Planning and Assessment Act 1979 is provided below:

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—

- (a) it is satisfied that the proposed modification is of minimal environmental impact, and

Comment – The modification is considered not of minimal environmental impact. The shed is proposed to increase from 435m<sup>2</sup> to 684m<sup>2</sup>, an increase of 249m<sup>2</sup>, which is an increase of 57%. The shed has also been relocated from that originally approved and is closer to the side boundary than that approved. The application should have been lodged as a 4.55(2) application.

- (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and



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Comment – The application is considered to be substantially the same development, however it should have been lodged as a 4.55 (2) application.

- (c) it has notified the application in accordance with—
- (i) the regulations, if the regulations so require, or
  - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

Comment - Refer to the Consultation section of this report.

- (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan.

Comment - Refer to the Consultation section of this report.

## **STATUTORY PROVISIONS**

### **State Environmental Planning Policies**

#### **State Environmental Planning Policy No 55 – Remediation of Land**

Clause 7 of SEPP 55 requires the consent authority to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land, and to be satisfied that the land is suitable for the proposed use. After undertaking a desktop search using Council's Property and Rating database, Council is satisfied the land is not a site of possible contamination and therefore no further assessment is required.

#### **State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011**

The site is located within the Wingecarribee River Sub-catchment. Compliance with the provisions of the SEPP and associated guidelines is therefore required to consider water quality. The development is a Module 2 under the NorBE Guidelines and therefore Council has assumed concurrence to consider water quality. The NorBE Tool was used to determine that the development can achieve a neutral or beneficial effect on water quality.

### **Local Environmental Plans**

#### **Wingecarribee Local Environmental Plan 2010**

The relevant provisions of the LEP are discussed as follows.

#### **Clause 2.3 Zone objectives and land use table**

The site is zoned E3 – Environmental Management and the use is permissible with consent.

The objectives of the zone E3 are as follows:

- *To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.*
- *To provide for a limited range of development that does not have an adverse effect on those values.*
- *To encourage the retention of the remaining evidence of significant historic and social values expressed in existing landscape and land use patterns.*
- *To minimise the proliferation of buildings and other structures in these sensitive landscape areas.*

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- *To provide for a restricted range of development and land use activities that provide for rural settlement, sustainable agriculture, other types of economic and employment development, recreation and community amenity in identified drinking water catchment areas.*
- *To protect significant agricultural resources (soil, water and vegetation) in recognition of their value to Wingecarribee’s longer term economic sustainability.*

**Comment**

The proposed development does not satisfy the objectives of the E3 Environmental Management zone. Objective 4 states *“To minimise the proliferation of buildings and other structures in these sensitive landscape areas.”*

The zone is not a rural zone but rather an environmental management zone. Council’s DCP specifies maximum building footprints for both single rural buildings and total area of all buildings which the proposed development does not comply with.

**Development Control Plans**

**Rural Lands Development Control Plan**

The application has been considered with regard to the DCP’s applicable provisions, in particular Section 3 Ecologically Sustainable Development.

Table 2 below is a detailed assessment of A3.7 Siting of Rural Buildings.

| Table 2 - Rural Lands DCP   |   |   |
|---|---|---|
| Standard  | Required  | Compliance  |
| <i>Part A, Managing our Rural Lands, Section 3 Ecologically Sustainable Development</i> |   |   |
| A3.7 Siting of Rural Buildings  | (a) The maximum height of any non-residential building shall be determined by Council staff with reference to the objectives of the zone, the location of the proposed development and any relevant environmental and amenity considerations. | <b>No.</b> The proposed shed has a 4.8m height to the eaves and 7.2.12m to the ridgeline.<br><br>If the application complied with the maximum footprint area the height of the proposed shed would be supportable.<br><br>It is noted a reduced shed would have a reduced height. |

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|  |   |  |
|--|---|--|
|  | <p>(b) No single rural building or structure shall generally occupy a ground level building footprint of more than 600 square metres (except as permitted in Section B6.5.2 – Equine Facilities). The building footprint excludes any area on which works, or structures are carried out or constructed beneath the natural ground level, provided disturbance of the natural ground surface is kept to a minimum and there is no adverse visual or environmental impact.</p> | <p><b>No.</b> The proposed shed at 684 exceeds this control by 84m<sup>2</sup> (14%).<br/>See further in this report for further comments.</p>   |
|  | <p>(c) The total area of all land occupied by the ground level building footprint of all rural buildings and other structures shall not generally exceed a total ground level footprint of 1000 square metres (except as permitted in Section B6.5.2 – Equine Facilities), excluding any area on which works, or structures are carried out or constructed beneath the natural ground level.</p>  | <p><b>No.</b> The total area of all land occupied by rural buildings exceeds 1000 square metres.<br/>The applicant has not addressed this Section of the DCP.<br/>An assessment has been undertaken based on available information.<br/>It is estimated that the total ground level footprint would exceed the 1000sqm limit.<br/>See further in this report for further comments.</p> |
|  | <p>(d) All rural buildings are generally to be within building envelopes that are separated from each other by a distance of not more than 30 metres and not less than 5 metres.</p>  | <p><b>No.</b> The proposed shed is located approximately 26m from the carport section of the cottage additions as approved with the original DA.</p>   |
|  | <p>(e) No rural building or structure is to be located closer than 20 metres from any public road, unless assessed by Council as appropriate due to site constraints</p>  | <p><b>Yes.</b> All rural buildings and structures are located at least 20m from Mount Broughton Road.</p>  |
|  | <p>(f) Rural buildings and structures shall be constructed from non-reflective materials. Zincolume is not permissible.</p>   | <p><b>Yes.</b> External materials can be conditioned as part of any consent.</p>   |
|  | <p>(g) Have regard to applicable Landscape Conservation controls.</p>   | <p>NA.</p>   |

### A3.7 Siting of Rural Buildings

As identified in Table 2 above, the proposed development does not comply with the maximum ground level building footprint of 600 square metres. In addition, the total area of all land occupied by the ground level building footprint of all rural buildings and other structures exceeds the 1000 square metre maximum.

#### Comment

The non-compliance with control (a), (b) and (c) is not supported for the following reasons:

- The land is not zoned rural, but rather Environmental Management (E3) and the proposed development does not satisfy objective 4, which state *“to minimise the proliferation of buildings and other structures in these sensitive landscaped areas.”*
- The placement of the shed is relevant to determine whether an increase in the size of a shed above Council’s maximum DCP control is acceptable. The proposed setback is 10m from the side boundary. Whilst the applicant has proposed additional landscaping, to minimise any impact on adjoining properties, this takes time to establish. Given that the land is approximately 47 hectares the location, in addition to the size is considered unacceptable.
- The shed will result in the total area of building footprint of all buildings exceeding 1000 square metres. The applicant has not provided any information or justification for this non-compliance. Again, this results in the proposed development not satisfying objective 4, which state *“to minimise the proliferation of buildings and other structures in these sensitive landscaped areas.”*

### Section 4.15 Evaluation

#### *(1) Matters for consideration—general*

*In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:*

##### *(a) the provisions of:*

##### *(i) any environmental planning instrument, and*

It has been demonstrated the DA does not satisfy relevant objectives within the E3 Environmental Management zone of *Wingecarribee Local Environmental Plan 2010*.

##### *(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*

Not applicable.

##### *(iii) any development control plan, and*

It has been demonstrated the development does not comply with the relevant controls.

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- (iia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and  
Not applicable.
- (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and  
Not applicable.
- (v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates,  
Not applicable.
- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,  
The proposed development does not satisfy objective 4 of the E3 Environmental Management zone which states “to minimise the proliferation of buildings and other structures in these sensitive landscape areas.”
- (c) the suitability of the site for the development,  
The site is considered unsuitable for the type, scale and nature of development. As proposed, the development does not satisfy objective 4 of the E3 Environmental Management zone which states “to minimise the proliferation of buildings and other structures in these sensitive landscape areas.”
- (d) any submissions made in accordance with this Act or the regulations,  
Refer to the Consultation section of this report.
- (e) the public interest.  
The proposed development is contrary to the public interest.

## COMMUNICATION AND CONSULTATION

### Internal Referrals

| Referrals            | Advice/Response/Conditions   |
|----------------------|--|
| Accredited Certifier | The application is considered to be satisfactory in relation to building matters subject to conditions being imposed in the notice of determination. |

### External Referrals

| Referrals/Notice | Advice/Response/Conditions  |
|------------------|---|
| Water NSW        | Water NSW has indicated that it is Module 2. A Module 2 development for the purposes of the Neutral or Beneficial Effect on Water Quality Assessment Guideline and therefore Council has delegated authority to determine water quality. NORBE Assessment outcome was satisfactory. |



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**Neighbour Notification (or Advertising)/Public Participation**

The development application was Neighbour Notified for a period of 14 days between 09/09/2019 and 25/09/2019, one (1) objection was received. The issues raised in the submissions have been summarised below with a comment provided:

- Modification is not a 1(A) minor modification, but rather a 4.55(2) application;
- No attempt has been made to address reasons for refusal;
- Size;
- Elevation;
- Location;
- Orientation and setback;
- Zoning; and
- Negative Visual and Economic Impact.

**Comment**

The comments are agreed with, as discussed previously in the report, the non-compliances with Council's DCP are not supported and the proposed development does not satisfy objective 4 of the Environmental Management E3 zone which states "*To minimise the proliferation of buildings and other structures in these sensitive landscape areas.*"

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**SUSTAINABILITY ASSESSMENT**

- **Environment**

Potential environmental impacts have been assessed as part of this report.

- **Social**

There are no social impacts from the proposed development.

- **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 development application has been considered in accordance with the *Wingecarribee Local Environmental Plan 2010*, section 8.2 of the *Environmental Planning and Assessment Act 1979* and any other matters relevant to the development.

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**COUNCIL BUDGET IMPLICATIONS**

The financial implications of Council's decision in this matter are directly related to the legal implications. The possibilities are detailed as follows:

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- Should the applicant choose to appeal a refusal, or pursue a deemed refusal, by Council through the Land and Environment Court and lose, the question of cost with regard to Council's legal representation would be determined by the extent of the reasons for refusal;
- Should the applicant choose to appeal a refusal, or pursue a deemed refusal, by Council through the Land and Environment Court and win, the question of cost would be dependent upon the extent of the reasons for refusal;
- Should any person choose to take out Class 4 proceedings against Council to the Land and Environment Court and lose, the question of cost with regard to Council's legal representation would be calculated at the appropriate time;
- Should any person choose to take out Class 4 proceedings against Council to the Land and Environment Court and win, the question of cost would still be calculated at the appropriate time;
- Should the applicant make no appeal, or proceedings not be taken out by another party, to the Land and Environment Court regardless of the determination, the application would result in no further financial implication to Council.

#### RELATIONSHIP TO CORPORATE PLANS

Operational Plan 2018 – 2019: OP181 Assess and certify applications relating to development

#### RELATED COUNCIL POLICY

An assessment of the proposal has been made against the *Wingecarribee Local Environmental Plan 2010*, and the Rural Lands Development Control Plan.

#### OPTIONS

The options available to Council are:

##### **Option 1**

Refuse the Review of Determination Application, in accordance with the Refusal Notice of Determination included in **Attachment 1**.

##### **Option 2**

Approve the Review of Determination Application 10/0414.05 and delegate to the General Manager to prepare the Approval Notice of Determination.

**Option 1** is recommended.

#### CONCLUSION

All relevant matters have been addressed. It is considered this report adequately considers the merits of the development in terms of legislative compliance and its potential impact on the locality. This Section 8.2 Review of Determination has been assessed in accordance with the 4.55(1A) Modifications involving minimal environmental impact and Section 4.15 of the Environmental Planning & Assessment Act 1979, and all relevant environmental planning instruments and Council policies.

Issues raised in the submission have been examined, considered and commented upon. On balance, it is recommended the review application be determined by way of refusal.

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**ATTACHMENTS**

1. 10/0414.05 Draft Refusal
2. 10/0414.05 Aerial of Subject Site
3. 10/0414.05 Site Plan – *circulated under separate cover*



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11 December 2019

Kathy Barnsley Architect Pty Ltd  
558 ARGYLE STREET  
MOSS VALE NSW 2577

#### NOTICE OF DETERMINATION OF A REVIEW OF DETERMINATION Pursuant to section 8.2 of the *Environmental Planning and Assessment Act 1979*

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|                               |   |
|-------------------------------|---|
| <b>APPLICATION NO:</b>        | 10/0414.05  |
| <b>DA NO:</b>                 | 10/0414   |
| <b>DA DETERMINATION DATE:</b> | 26 May 2010   |
| <b>APPLICANT:</b>             | Kathy Barnsley Architect Pty Ltd                      |
| <b>OWNER:</b>                 | IM SCANDRETT & JA SCANDRETT                           |
| <b>PROPERTY DESCRIPTION:</b>  | Lot 1 DP 804846                                       |
| <b>PROPERTY ADDRESS:</b>      | 144 MT BROUGHTON ROAD WERAI NSW<br>2577               |
| <b>PROPOSED DEVELOPMENT:</b>  | Alterations & Additions to Dwelling Shed and<br>Gates |
| <b>DETERMINATION:</b>         | Determined by way of <b>REFUSAL</b>                   |
| <b>DATE OF DETERMINATION:</b> | 11 December 2019                                      |

**Note:** The reasons for refusal are listed in Schedule 1.

#### Rights of Appeal

If you are dissatisfied with the determination of Council (including determination of a review under section 8.2 of the *Environmental Planning and Assessment Act 1979*, you may appeal to the New South Wales Land and Environment Court within 6 months after the date on which you receive the notice of determination or review, if your application was lodged after 27<sup>th</sup> February 2011. Otherwise the right to appeal is exercisable in accordance with the rules of the New South Wales Land and Environment Court.

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Nick Wilton

**Group Manager**  
**Planning Development and Regulatory Services**

11 December 2019

**Date of Issue**



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**SCHEDULE 1 Reasons for Refusal**

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1. The Modification 4.55(1A) Application is not of minimal environmental impact.
2. The Modification application does not satisfy objective 4 of the E3 Environmental Management zone in Wingecarribee Local Environmental Plan 2010 which states *“to minimise the proliferation of buildings and other structures in these sensitive landscape areas.”*
3. The modification to the proposed shed does not comply with the maximum ground level building footprint of 600m<sup>2</sup> in that the proposed shed is 684m<sup>2</sup> or 14% of Control A3.7 – Siting of Rural Buildings (b); Part A Managing our Rural Land; Section 3 Ecologically Sustainable Development of Wingecarribee Rural Lands DCP 2010.
4. The modification to the proposed shed does not comply with the total area of all land occupied by the ground level building footprint of all rural buildings and other structures of 1000m<sup>2</sup> in that the total area exceeds 1000m<sup>2</sup> of Control A3.7 – Siting of Rural Buildings (c); Part A Managing our Rural Land; Section 3 Ecologically Sustainable Development of Wingecarribee Rural Lands DCP 2010.
5. The combination of the additional size, height and reduced setback to the northern boundary will result in an increased negative impact on the amenity of 102 Broughton Road.



Figure 1: Aerial of subject site, outlined in red. (Attachment 1) Source: Nearmap.

## 12.5 Wingecarribee Local Housing Strategy

|                                   |  |
|-----------------------------------|--|
| Reference:                        | 5600/8   |
| Report Author:                    | Coordinator Strategic Land Use Planning  |
| Authoriser:                       | Group Manager Planning, Development and Regulatory Services                                      |
| Link to Community Strategic Plan: | Identify and protect the unique characteristics of towns and villages to retain a sense of place |

### PURPOSE

To seek Council endorsement of the draft Wingecarribee Local Housing Strategy – *Housing our Community* for public exhibition.

### VOTING ON THE MOTION

Councillors are required to record their votes on this matter.

### RECOMMENDATION

1. **THAT** the draft Wingecarribee Local Housing Strategy – *Housing Our Community* be endorsed for public exhibition
2. **THAT** the draft Wingecarribee Local Housing Strategy be publicly exhibited for a minimum period of three (3) months commencing no sooner than mid January 2020
3. **THAT** staff hold public information kiosks throughout the Shire during the consultation period to coincide with the exhibition of the Local Strategic Planning Statements
4. **THAT** during the exhibition period of the draft Local Housing Strategy, a site specific environmental constraints assessment be undertaken for each of the identified new residential living areas to provide greater certainty in relation to the extent of the potential developable areas, and
5. **THAT** the draft Local Housing Strategy and site-specific constraints assessment be reported back to Council following the public exhibition period.

### REPORT

#### **BACKGROUND**

The Wingecarribee Local Planning Strategy (LPS) 2015-2031 was adopted by Council on 23 March 2015 and conditionally endorsed by the (then) Department of Planning and Environment on 15 May 2017. The LPS sets a context and policy framework to guide the management of environmental, rural, housing, economic, built environment and infrastructure outcomes across the Shire.

However, in conditionally endorsing the LPS, the Department did not endorse Chapter 4 - Managing Housing Needs under the Strategy, as it relied solely on infill development to



meet the housing supply needs across the Shire. The Department recommended that Council identify potential greenfield release housing areas to ensure the Strategy provides a range of opportunities for new housing supply. Therefore, Council does not currently have an endorsed housing strategy.

Not having an endorsed housing strategy leaves Council vulnerable to spot rezonings and speculative development proposals being supported by the State Government and / or Regional Planning Panel. Therefore, it is critically important for Council to develop a housing strategy that facilitates new development areas in appropriate locations, to meet the housing needs of our community.

## **REPORT**

### **Draft Wingecarribee Local Housing Strategy – Housing Our Community**

The draft Wingecarribee Local Housing Strategy (LHS) 'Housing our Community' provides a long-term planning framework to meet the housing needs of our community. The Strategy takes into account the State and regional planning framework, as well as the communities needs and expectations to provide a long-term plan for housing in the Wingecarribee.

The LHS is intended to provide localised input into the review of regional planning policies and provide a framework for future amendments to the Wingecarribee Local Environmental Plan (LEP) and Development Control Plans (DCP). The Housing Strategy will also inform future infrastructure planning and investment decisions by Council, State Government agencies and service providers.

A set of eight (8) guiding principles were used to inform the analysis and decision making process in the preparation of the LHS. The guiding principles include:

- Ensure our housing stock meets the needs of our community, both now and into the future
- Ensure our residents have equity in access to housing, services and infrastructure, by facilitating new development in appropriate locations
- Plan for housing as a fundamental element of society, and not a speculative asset
- Manage growth in a manner which endorses and promotes community values and protects our natural areas and rural landscapes
- Ensure new living areas enhance lifestyle quality and choice for our existing and future residents
- Promote sustainable communities that build on and utilise existing services and infrastructure and reduce dependency on private motor vehicles
- Provide certainty in how our Shire will grow to facilitate informed investment decisions for both Council and the development industry, and
- Maintain inter-urban breaks and rural landscapes between our towns and villages and provide a defined edge of town

The Strategy is broken up into four (4) chapters as outlined below:

**Chapter 1 Introduction** - Establishes the purpose of the Strategy and provides an overview of the Wingecarribee Shire and the policy context.

**Chapter 2 Drivers of Change** - Provides an overview of population and housing forecasts and drivers of change that will influence the future housing needs of the Shire.

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**Chapter 3 Housing Strategy** - Provides planning priorities and a long-term strategy to meet the housing needs of our community, including specific objectives, actions and performance indicators.

**Chapter 4 New Residential Living Areas** - Identifies new living areas to support our growing communities, as well as design principles and infrastructure requirements for the new living areas.

A copy of the draft LHS is provided as Attachment 1 (under separate cover) to this report.

The draft LHS will be graphically designed prior to public exhibition.

#### **Limitations of the Strategy**

The draft LHS has been developed with information and data sets available within the timeframes provided to prepare the Strategy. Therefore, there may be limitations and / or vulnerabilities associated with the constraints mapping used in the analysis.

All sites identified within the Strategy as potential new residential living areas will be required to undertake a full environmental assessment in support of any future planning proposal to rezone the land for residential purposes. Being identified in the Strategy does not remove the requirement for a full environmental assessment as part of the planning proposal process, and does not guarantee that land is free of constraints that may limit development potential on the site.

#### **Local Strategic Planning Statement**

A draft Local Strategic Planning Statement (LSPS) is currently being prepared that will provide a wholistic land use planning framework for the Shire over the next 20 years. The draft LHS will directly inform the LSPS process, with the outcomes of the LHS reflected in the LSPS.

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## **COMMUNICATION AND CONSULTATION**

#### **Community Engagement**

The draft LHS will be publicly exhibited for a minimum period of three (3) months commencing in mid-January 2020. As part of the exhibition process, Council will facilitate joint information kiosks throughout the Shire for both the LHS and LSPS which will be exhibited during February and March 2020.

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

The draft LHS was developed with assistance from Council's GIS team, providing critical input into the constraints mapping, multi-criteria analysis and view shed analysis undertaken to inform the Strategy.

Council's traffic and transport, sewer and water, and stormwater teams provided input into the suitability and serviceability of identified new residential living areas, and identified infrastructure upgrades required to support our growing communities.

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

A copy of the draft Housing Strategy will be sent to the Department of Planning, Industry and Environment and relevant Government agencies for comments during the exhibition period.

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## **SUSTAINABILITY ASSESSMENT**

- **Environment**

The draft LHS seeks to manage growth in a way that protects our natural areas and rural landscapes.

- **Social**

The draft LHS seeks to provide equitable access to housing for our community now and into the future.

- **Broader Economic Implications**

The intent of the Local Housing Strategy is to provide certainty in the location of future development areas and will allow Council and the development industry to make informed investment decisions based on an adopted strategy of the Council.

- **Culture**

There are no cultural issues in relation to this report.

- **Governance**

The draft LHS provides an evidence based process for identifying future proposed new living areas to meet the housing needs of our Shire. Once adopted, the LHS will provide the long term strategic framework to inform future LEP and DCP amendments.

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## **COUNCIL BUDGET IMPLICATIONS**

The intent of the Local Housing Strategy will provide certainty in the location of future development areas and will allow Council to make informed investment decisions in relation to new or augmented infrastructure.

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## **RELATED COUNCIL POLICY**

Not applicable in the context of this report.

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## **OPTIONS**

The options available to Council are:

### **Option 1**

Adopt the recommendations of this report.

This will allow staff to begin consulting with the broader community on this important planning strategy for the future of the Shire.

### **Option 2**

THAT Council defer the matter and reconsider the draft Local Housing Strategy when the draft Local Strategic Planning Statement is reported to Council for exhibition.

While this will delay the draft Local Housing Strategy, it will allow housing to be considered as part of the broader strategic planning framework

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#### **Option 3**

THAT Council not endorse the draft Local Housing Strategy for public exhibition, and a revised Strategy be reconsidered at a later meeting.

Option No.1 is the recommended option to this report.

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#### **CONCLUSION**

The draft Wingecarribee Local Housing Strategy '*Housing our Community*' provides a long-term planning framework to meet the housing needs of our community. The LHS will provide certainty to the community in relation to the location of future residential living areas and will facilitate informed investment decisions for both Council and the development industry.

The LHS is intended to provide localised input into the review of regional planning policies and provide a framework for future amendments to the Wingecarribee Local Environmental Plan (LEP) and Development Control Plans (DCP). The Housing Strategy will also inform future infrastructure planning and investment decisions by Council, State Government agencies and service providers.

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#### **ATTACHMENTS**

1. Wingecarribee Local Housing Strategy - *circulated under separate cover*



## 12.6 Planning Proposal - Development Standards for Strata and Community Title Subdivision and Dual Occupancy Development Under WLEP2010.

|                                   |  |
|-----------------------------------|--|
| Reference:                        | 5901/61  |
| Report Author:                    | Senior Strategic Land Use Planner  |
| Authoriser:                       | Coordinator Strategic Land Use Planning  |
| Link to Community Strategic Plan: | Identify and protect the unique characteristics of towns and villages to retain a sense of place |

### PURPOSE

The purpose of this report is to inform Council of the outcome of the public exhibition of a Planning Proposal to amend certain clauses in Wingecarribee Local Environmental Plan (WLEP) 2010 regarding development standards for strata and community title subdivision and dual occupancy development and subdivision.

### VOTING ON THE MOTION

Councillors are required to record their votes on this matter.

### RECOMMENDATION

**THAT Council finalise the Planning Proposal to amend clauses 4.1A and 4.1AA of Wingecarribee Local Environmental Plan 2010 to include the E3 Environmental Management and E4 Environmental Living zones and to clarify that the clauses do not apply to strata or community title subdivisions, and to introduce a new clause 4.2AA to address the erection and subdivision of dual occupancies including the provision of a minimum lot size of 1,000m<sup>2</sup> for such development.**

### REPORT

#### **BACKGROUND**

This Planning Proposal is in response to certain amendments introduced by the Department of Planning, Industry and Environment as part of the shift in the focus of the state planning system to up-front strategic planning through amendments made to the *Environmental Planning and Assessment Act 1979* in March 2018.

On 20 April 2018, *Clause 4.1 – Minimum subdivision lot size*, of the Standard Instrument was amended. This amendment automatically amended Wingecarribee Local Environmental Plan (WLEP) 2010 which is based on the Standard Instrument.

Prior to the amendment clause 4.1 read as follows:

#### **4.1 Minimum subdivision lot size**

(1) *The objectives of this clause are as follows:*

(a) *to identify minimum lot sizes,*

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*(b) to ensure that the subdivision of land to create new lots is compatible with the character of the surrounding land and does not compromise existing development or amenity.*

*(2) This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.*

*(3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.*

*(4) This clause does not apply in relation to the subdivision of individual lots in a strata plan or community title scheme.*

The amendment applied to subclause (4) which now states:

*(4) This clause does not apply in relation to the subdivision of any land:*

*(a) by the registration of a strata plan or strata plan of subdivision under the Strata Schemes Development Act 2015, or*

*(b) by any kind of subdivision under the Community Land Development Act 1989.*

The effect of this amendment is to make any subdivision under a strata or community title plan exempt from the provisions of the minimum lot size under WLEP 2010.

As a consequence of the 'standard instrument' amendment and consequent amendment to WLEP 2010, further amendment was required to two other clauses in WLEP 2010 - *Clause 4.1A Minimum subdivision lot size for strata plan schemes in certain rural and residential zones* and *Clause 4.1AA - Minimum subdivision lot size for community title schemes*. The intent of both these clauses is to ensure that the minimum lot size under WLEP 2010 still applies, even to community and strata subdivisions.

Firstly, the provisions of both clauses needed to be extended to apply to both the E3 Environmental Management and E4 Environmental Living zones. Secondly, a subclause needed to be inserted into each clause to so that these clauses prevailed over clause 4.1.

The resulting clauses, with draft amendments highlighted, follow.

#### **• 4.1A Minimum subdivision lot size for strata plan schemes in certain rural and residential zones**

*(1) The objective of this clause is to ensure that land to which this clause applies is not fragmented by subdivisions that would create additional dwelling entitlements.*

*(2) This clause applies to land in the following zones that is used, or is proposed to be used, for residential accommodation or tourist and visitor accommodation:*

*(a) Zone RU1 Primary Production,*

*(b) Zone RU2 Rural Landscape,*

*(c) Zone RU4 Primary Production Small Lots,*

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*(d) Zone E3 Environmental Management,*

*(e) Zone E4 Environmental Living,*

*(f) Zone R5 Large Lot Residential.*

*but does not apply to a subdivision by the registration of a community plan.*

*(3) The size of any lot resulting from a subdivision of land to which this clause applies for a strata plan scheme (other than any lot comprising common property within the meaning of the Strata Schemes (Freehold Development) Act 1973 or Strata Schemes (Leasehold Development) Act 1986) is not to be less than the minimum size shown on the Lot Size Map in relation to that land.*

*(4) This clause applies despite clause 4.1.*

*Note. Part 6 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 provides that strata subdivision of a building in certain circumstances is specified complying development.*

#### • **4.1AA Minimum subdivision lot size for community title schemes**

*(1) The objective of this clause is as follows:*

*(a) to ensure that land to which this clause applies is not fragmented by subdivision that would create additional dwelling entitlements.*

*(2) This clause applies to a subdivision (being a subdivision that requires development consent) under the Community Land Development Act 1989 of land in any of the following zones:*

*(a) Zone RU1 Primary Production,*

*(b) Zone RU2 Rural Landscape,*

*(c) Zone RU4 Primary Production Small Lots,*

*(d) Zone E3 Environmental Management,*

*(e) Zone E4 Environmental Living,*

*(f) Zone R5 Large Lot Residential.*

*but does not apply to a subdivision by the registration of a strata plan.*

*(3) The size of any lot resulting from a subdivision of land to which this clause applies (other than any lot comprising association property within the meaning of the Community Land Development Act 1989) is not to be less than the minimum size shown on the Lot Size Map in relation to that land.*

*(4) This clause applies despite clause 4.1.*

Council resolved at its Ordinary Meeting of 9 May 2019 to prepare a Planning Proposal to initiate these draft amendments. It is noted that the resulting Planning Proposal also contained a further draft amendment to WLEP 2010 to introduce a new clause (4.2AA) to address standards for dual occupancy development under the Low Rise Medium Density Development provisions of *State Environmental Planning Policy (Exempt & Complying Development Codes)* (Codes SEPP) which are intended to come into effect on 1 July 2020. This draft clause is now explained.



The new Codes SEPP provisions apply to Dual Occupancy (either side by side, or one above the other), Manor Houses and Terraces. Two (2) residential zones are affected: R2 Low Density Residential, where Dual Occupancies are permitted with consent, and R3 Medium Density Residential, where Dual Occupancies, Manor Houses and Terraces are permissible with consent.

Development under the Codes SEPP does not require any application to Council, therefore it is important to ensure that any opportunity for Council to manage development outcomes needs to be considered and attended to before the SEPP commences. The only exclusions will be development in Heritage Conservation Areas or to individual properties identified as Items of Heritage in WLEP 2010.

The only real opportunity Council has to manage the potential impact of the Codes SEPP is through amending WLEP 2010 to set a minimum lot size for Dual Occupancy development and subdivision.

A Dual Occupancy constructed under the Codes SEPP is capable of either Strata or Torrens subdivision, and the minimum lot size for a Dual Occupancy development under the SEPP is 400m<sup>2</sup> or *the minimum lot size specified in a Council's Local Environmental Plan*, whichever is the greater. Council wants to be certain that such development does not detrimentally impact on the prevailing residential amenity of a locality, or set an inappropriate standard of development in any new residential area, therefore it was recommended that Council utilise the opportunity to amend WLEP 2010 to nominate a minimum lot size for Dual occupancy development.

Currently, under Wingecarribee Development Control Plan (DCP) provisions, construction of a Dual Occupancy is not permitted on a lot less than 1,000m<sup>2</sup> in area. Therefore, to maintain consistency with this current standard, and to afford some protection from inappropriate Dual occupancy development and subdivision under the SEPP, it was recommended that a clause be inserted into WLEP 2010 to set the minimum lot size for Dual Occupancy development at 1,000m<sup>2</sup>.

The Codes SEPP requires that, in order for a Dual Occupancy to be Torrens title subdivided, the site must have an area of at least 120% of the minimum lot size. A minimum lot size of 1,000m<sup>2</sup> would therefore require a site with an area no less than 1,200m<sup>2</sup>, to enable subdivision to create two 600m<sup>2</sup> lots. It is noted that a Strata subdivision only requires a site to meet the minimum lot size so would result in individual lot sizes of 500m<sup>2</sup>.

To address these issues, a report was considered by Council at its Ordinary Meeting of 10 October 2018 when it was resolved:

1. ***THAT*** Council prepare a Planning Proposal to amend Wingecarribee Local Environmental Plan 2010 to introduce a minimum lot size of 1,000m<sup>2</sup> for dual occupancy development.
2. ***THAT*** the Planning Proposal be submitted to the Department of Planning and Environment for Gateway determination.

The Planning Proposal included the following draft clause, provisionally nominated as clause 4.2AA.

**4.2AA Erection and subdivision of dual occupancies on land in certain residential zones**

- (1) *The objectives of this clause are as follows:*
  - (a) *to identify a minimum lot size for dual occupancy development,*

*(b) to identify a minimum lot size for the subdivision of dual occupancy development, and*

*(c) to ensure that dual occupancy development is compatible with the character of existing development within the surrounding area.*

*(2) This clause applies to land in the following zones:*

*(a) Zone R2 Low Density Residential*

*(b) Zone R3 Medium Density Residential*

*(3) Development consent must not be granted for the erection of a dual occupancy on a lot in a zone to which this clause applies, and on which no dwelling house or dual occupancy has been erected, unless the lot is a lot that is at least 1000m<sup>2</sup>.*

*(4) Development consent must not be granted for the Torrens title subdivision of a dual occupancy to which this clause applies, unless the size of any lot resulting from the subdivision:*

*a) is not less than 50% of the minimum size shown on the Lot Size Map in relation to that land, or*

*b) is not less than 600m<sup>2</sup>,*

*whichever is the greater.*

**Clause 7.2 Requirements for subdividing dual occupancies in Zones R2 and B1.**

It is noted that, with regard to dual occupancy subdivision, the Planning Proposal only addresses new provisions which would apply under the 'Exempt and Complying' State Environmental Planning Policy (SEPP) as discussed above.

The Planning Proposal does not address the current provisions under clause 7.2 of WLEP 2010 which enable, subject to Council consent, the subdivision of an approved and constructed dual occupancy development on a corner lot of at least 1,000m<sup>2</sup> in the R2 Low Density Residential and B1 Neighbourhood Centre zones (except in Berrima) where there is reticulated water and sewer.

The progression of the Planning Proposal which is the subject of this report, does not alter the current operation of clause 7.2.

It is intended to review the operation of this clause in a future review of WLEP 2010 resulting from the drafting of the Local Strategic Planning Statement.

**REPORT**

A Planning Proposal was prepared addressing draft amendments to clauses 4.1A and 4.1AA and draft clause 4.2AA and submitted to the Department of Planning, Industry and Environment (the Department) for a Gateway Determination. On 17 September 2019 the Department confirmed that the Planning Proposal could proceed to public exhibition.

The Gateway Determination required referral to WaterNSW and the NSW Rural Fire Service (RFS). WaterNSW supported the Planning Proposal, noting the proposed amendments would "reduce overall development intensity and risks to water quality in the subject zones". NSW RFS raised no objections to the Planning Proposal.

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The Planning Proposal was placed on public exhibition for a period of 31 days from 25 September to 25 October 2019. The Planning Proposal and associated documentation was available for inspection at Council's Customer Service Counter in the Civic Centre, as well as at the Bowral, Moss Vale and Mittagong Libraries. Exhibition material was also available to view via the 'What's on Exhibition' page of Council's website and details were included in the mail out of some 4,000 'e-newsletters'. The public exhibition was advertised in the Southern Highland News for each week of the exhibition period.

No submissions were received.

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## COMMUNICATION AND CONSULTATION

### Community Engagement

Community consultation occurred as discussed above.

### Internal Communication and Consultation

Internal consultation was undertaken with the Town Planning and Accredited Certifiers teams.

### External Communication and Consultation

External consultation occurred as described above.

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## SUSTAINABILITY ASSESSMENT

- **Environment**

The draft amendments will ensure that the current development standards prevail in the environmentally sensitive zones.

- **Social**

The draft amendments will provide opportunities for a broader range of housing choice while also protecting current residential amenity.

- **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 draft amendments will ensure that the current development standards in WLEP 2010 are maintained.

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## COUNCIL BUDGET IMPLICATIONS

There are no budget implications associated with this report.

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#### RELATED COUNCIL POLICY

There are no other Council related policies associated with this report.

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#### OPTIONS

The options available to Council are:

##### Option 1

Adopt the recommendation outlined in this report. This will allow Council to maintain the current minimum lot size for dual occupancies throughout the Shire and maintain current provisions for strata and community title subdivisions.

##### Option 2

Not adopt the recommendation outlined in this report. If Council does not introduce a minimum lot size for dual occupancy development in the LEP, the minimum lot size specified in the Codes SEPP (400m<sup>2</sup>) would apply.

Option No. 1 is the recommended option to this report.

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#### CONCLUSION

Wingecarribee Local Environmental Plan 2010 is the principal statutory document governing development within the Shire and the intent of all three draft clauses is to maintain the minimum lot sizes provided under WLEP 2010.

Although the draft clause for development and subdivision of a dual occupancy could result in lots below the minimum in WLEP 2010, the draft clause does provide a measure of protection. It is noted that development under the Codes SEPP does not require any application to Council therefore it is important to ensure that any opportunity for Council to manage development outcomes needs to be considered.

The draft amendments will maintain, as much as possible, the current development standards within WLEP 2010 to ensure that new development is in keeping with the expectations of Council and the community.

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#### ATTACHMENTS

There are no attachments to this report.

## 12.7 Adoption of the Wingecarribee Animal Shelter Alternatives to Euthanasia Policy - Post Exhibition

|                                   |  |
|-----------------------------------|--|
| Reference:                        | 5501/8.7   |
| Report Author:                    | Group Manager Planning, Development and Regulatory Services  |
| Authoriser:                       | Group Manager Planning, Development and Regulatory Services  |
| Link to Community Strategic Plan: | An enhanced culture of positive leadership, accountability and ethical governance that guides well informed decisions to advance agreed community priorities |

### PURPOSE

The purpose of this report is to consider submissions received during the exhibition of the draft 'Wingecarribee Animal Shelter Alternatives to Euthanasia Policy' policy and to seek final adoption of the draft policy position.

### RECOMMENDATION

1. **THAT Council adopt the draft 'Wingecarribee Animal Shelter Alternatives to Euthanasia' Policy as per Attachment 1 to this report.**
2. **THAT the 'Wingecarribee Animal Shelter Alternatives to Euthanasia' Policy take effect from 7 days following its adoption by Council.**

### REPORT

#### BACKGROUND

At its meeting of the 26 June 2019 Council considered a revised draft policy position 'Wingecarribee Animal Shelter Alternatives to Euthanasia' following a renewed commitment to maximising all opportunities of companion animals that are re-homable to have the best chance of finding a new home whilst also responding to calls to have a policy position that aligned with legislation surrounding the euthanasia of feral or infant animals.

Over the past four (4) years of its operation, the policy has provided positive outcomes for the responsible rehoming of companion animals including:

- Increasing foster care opportunities;
- Providing transfer opportunities to breed specific rehoming agencies;
- Increasing opportunities for behavioural intervention to maximise re-homability.
- Increasing opportunities for veterinary intervention to ensure that animals that have injuries, minor health issues or ailments are provided with treatment to enable the best available opportunity for rehoming where possible.
- Decreasing preventable stress and negative outcomes on feral and infant animals.



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Council endorsed the draft policy under minute number MN303/19 and resolved to place the document on public exhibition for a period of 28 days. The resolution also required a further report be submitted to Council following public exhibition and this report seeks to comply with that resolution.

#### **REPORT**

The draft Wingecarribee Animal Shelter Alternatives to Euthanasia Policy was placed on public exhibition for a period of not less than 28 days between 28 July 2019 and 04 September 2019. During the exhibition period, Council received four (4) submissions, two (2) submissions supported the draft policy in its current form and provided positive feedback on Council's ongoing management of the Animal Shelter. Two (2) submissions, broadly supported the draft policy however sought the following considerations:

- (i) Greater protection of vulnerable dogs;
- (ii) More effort and consultation should be considered for the animals, including second opinions on behavioural and health issues, ; and
- (iii) Programs of reduced cost or free de-sexing of animals for low income community members be considered.

In response to the substance of the submissions received and a review of the draft policy it determined that Council were actively addressing these concerns.

Council already transfer dogs to rescue organisations and where practical these options are regularly utilised. The minimal euthanasia policy aims to clarify the process Council considers when caring for or rehoming animals that are in a shelter environment. While the assessment of animals within the care facility is varied, it includes conducting temperament tests, seeking veterinary advice and advice from external stakeholders to ensure that Council is responsibly rehoming suitable animals from the shelter. There are unfortunately circumstances where the need arises for an animal to be euthanised, the draft policy aims to clarify the process taken to minimise this.

Council Staff are currently exploring the viability of implementing a program to provide reduced cost or free de-sexing of animals to low socioeconomic community members.

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#### **COMMUNICATION AND CONSULTATION**

##### **Community Engagement**

The draft Wingecarribee Animal Shelter Alternatives to Euthanasia Policy was placed on public exhibition from the 28 July 2019 and 04 September 2019

The community was notified of the public exhibition period through public notices in the Southern Highlands News, Council's 'What's on Exhibition' web page and 'Your Say Wingecarribee' email subscription list between 28 July 2019 and 04 September 2019. Four submissions were received during the exhibition period.

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

Internal consultation was undertaken with Council's Governance Unit, Ranger Services and Animal Shelter Staff.



### **External Communication and Consultation**

External consultation was undertaken with Friends of the Wingecarribee Animal Shelter (FOWAS).

### **SUSTAINABILITY ASSESSMENT**

- **Environment**

There are no expected environmental issues in relation to this report.

- **Social**

The responsible rehoming of animals and also the use of alternatives to euthanasia shall have a positive social impact throughout the Local Government Area. Previous surveys of Council that have been undertaken re-affirm the community's position that the shelter and minimal euthanasia has a positive social impact on the community.

- **Broader Economic Implications**

There are no expected broader economic implications in relation to this report.

- **Culture**

There are no expected cultural issues in relation to this report.

- **Governance**

The draft policy provides accessible and consistent criteria for Council, the community and external or internal operators of the Wingecarribee Animal Shelter.

### **COUNCIL BUDGET IMPLICATIONS**

It is likely that the implications of this draft Policy will be an increased operating cost of the animal shelter. Increased operating costs are likely to result from the extended periods of holding companion animals in addition to the prescribed minimum holding periods.

Given the known historical operating costs of the animal shelter over the past four (4) financial years, it is not expected that such costs will be beyond the operational budget allocation for the shelter.

### **RELATED COUNCIL POLICY**

There are no related Council policies or procedures.

### **OPTIONS**

The options available to Council are:

#### **Option 1**

1. THAT Council adopt the amended draft 'Wingecarribee Animal Shelter Alternatives to Euthanasia' Policy as per **Attachment 1** to this report.

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2. THAT the 'Wingecarribee Animal Shelter Alternatives to Euthanasia' Policy take effect from 7 days following its adoption by Council.

#### **Option 2**

THAT Council not adopt the draft Wingecarribee Animal Shelter Alternatives to Euthanasia Policy in **Attachment 1** and provide direction on an alternative policy position.

**Option 1** is the recommended option to this report.

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#### **CONCLUSION**

The revised policy updates Council's existing policy, affirms its position to a minimal euthanasia animal shelter and ensures that companion animals within its care will be afforded the greatest potential to be rehomed where appropriate.

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#### **ATTACHMENTS**

1. Draft Wingecarribee Animal Shelter Alternatives to Euthanasia Policy

## 12.7 Adoption of the Wingecarribee Animal Shelter Alternatives to Euthanasia Policy - Post Exhibition

## ATTACHMENT 1 Draft Wingecarribee Animal Shelter Alternatives to Euthanasia Policy



## Wingecarribee Animal Shelter Alternatives to Euthanasia Policy

### MAIN CATEGORY LEADERSHIP

**SUB CATEGORY** Developing community leadership, strong networks and shared responsibility for the Shire, promotes and enhances community capacity.

Adoption Date: *(Governance to insert)*  
 Council Reference: *(Governance to insert)*  
 Owner/Contact officer: Group Manager Planning Development and Regulatory Services  
 Next review date: TBA  
 File Reference: TBA  
 Related Policies/Legislation: *Companion Animals Act 1998*  
*Companion Animals Regulation 2018*  
 Related Documents:

### OBJECTIVES

The purpose of this policy is to ensure that management of companion animals impounded at the Wingecarribee Animal Shelter, and where necessary the euthanasia of those animals, complies with the *Companion Animals Act 1998* (the Act), the *Companion Animals Regulation 2018* (the Regulation) and any guidelines as issued by the Departmental Chief Executive.

### POLICY STATEMENT

Wingecarribee Shire Council:

- Is committed to rehoming all healthy, behaviourally sound companion animals impounded at the Wingecarribee Animal Shelter
- aims to minimise the euthanasia of companion animals impounded at the Wingecarribee Animal Shelter by considering all possible alternatives to euthanasia and where practicable adopting these alternatives
- recognises that euthanasia of feral and infant companion animals within the legislated holding period may be necessary under veterinary advice.

**12.7 Adoption of the Wingecarribee Animal Shelter Alternatives to Euthanasia Policy - Post Exhibition****ATTACHMENT 1 Draft Wingecarribee Animal Shelter Alternatives to Euthanasia Policy**

## Wingecarribee Animal Shelter -- Alternatives to Euthanasia Policy

**Feral and infant animals**

In accordance with Section 64(2) of the Act, Council authorises the humane euthanasia of feral and infant animals that are unsuitable for rehoming or where it is considered to be in the best interest for the welfare of the animal following any advice provided by a veterinarian, prior to the standard holding period as set out in Section 64(1) of the Act.

**All other companion animals**

Section 64(5) of the Act requires that, before euthanasing a seized animal, Council considers whether there is a possible alternative and, if practicable, adopt this alternative. It is Council's policy to comply with Section 64(5) wherever possible, however, Council accepts some animals may not be suitable or safe to rehome for health or behavioural reasons. At the conclusion of the applicable holding period required under the Act all animals impounded at the Wingecarribee Animal Shelter will be health checked by a veterinarian and temperament assessed by a qualified behavioural assessor to determine suitability for rehoming. Healthy, behaviourally sound animals will be made available for adoption or placed with a suitable rescue organisation.

Council's appointed qualified, professional and registered Veterinarian must recommend euthanasia for an animal if the animal is suffering and that suffering is not able to be adequately minimised or managed. Euthanasia is the act of inducing humane death with the minimum of pain, fear or distress to the animal involved. It is most often used with terminally unwell or injured animals, where the prognosis is considered hopeless, and should also be considered for animals with intractable behaviour problems.

All euthanasia of impounded animals at the Wingecarribee Animal Shelter will be undertaken by lethal injection only and be administered by a Veterinarian professional.

**SCOPE**

This policy applies to all animals which are impounded at the Wingecarribee Animal Shelter whether it is operated under the management of Council or an external third party. Should any future contract be entered into this policy document shall form part of any contractual terms.

The Wingecarribee Animal Shelter accepts stray companion animals from members of the public and those that are impounded by Council's Regulatory Services Unit. The shelter may accept surrenders of animals according Companion Animals Act and Regulation, Council's adopted procedures and at the discretion of the Team Leader of Shelter Operations.

**12.7 Adoption of the Wingecarribee Animal Shelter Alternatives to Euthanasia Policy - Post Exhibition****ATTACHMENT 1 Draft Wingecarribee Animal Shelter Alternatives to Euthanasia Policy**

## Wingecarribee Animal Shelter -- Alternatives to Euthanasia Policy

Feral animals, usually cats, may be trapped by members of the public and transported humanely to the shelter. Feral animals suffer from significant stress when caged and this stress is considered by animal welfare organisations to be inhumane.

As feral animals are aggressive and difficult to handle, impounding these animals for any period of time poses a significant WHS risk to shelter staff and also the welfare of the animal. Feral animals are not suitable for rehoming and may be euthanased in accordance with Council's adopted procedures.

Litters of stray kittens / puppies can be found without a mother and are transported to the shelter for impounding. In some instances these kittens / puppies may be too young to survive without their mother especially within an animal shelter environment. Council will attempt to place such animals into foster care where available, however if the animals are likely to suffer, they will be euthanased in accordance with Council's procedures and on veterinary advice.

### DEFINITIONS

**Companion animal:** means either a dog or cat.

**Infant animal:** Is an animal generally under 6 weeks of age and still totally reliant on its mother for sustenance and evacuations.

**Feral animal:** Is an animal in wild state showing no signs of domestication.

12.7 Adoption of the Wingecarribee Animal Shelter Alternatives to Euthanasia Policy - Post Exhibition

ATTACHMENT 1 Draft Wingecarribee Animal Shelter Alternatives to Euthanasia Policy



Wingecarribee Animal Shelter --  
Alternatives to Euthanasia Policy

**RESPONSIBILITIES**

|   |   |
|---|---|
| <p>Councillors</p>  | <p>Councillors should ensure that all new proposals that are brought to their attention have the appropriate community engagement completed (or specified as part of the project report). Councillors should encourage a positive attitude to involving the community at the appropriate level.</p> <p>A Councillor’s role is to listen to the community and consider various views when making decisions at Council. Community engagement processes provide valuable opportunities for Councillors to hear and understand the voice of the community and ensure that this voice is properly represented when Council meets and makes resolutions which impact the future of our community.</p> |
| <p>Executive</p>  | <p>Executive should support the community engagement process and encourage the appropriate level of engagement by all staff.</p>  |
| <p>Staff<br/>(Contractors and consultants undertaking engagement on behalf of Council are deemed employees for the purposes of this policy)</p> | <p>Council employees need to be aware of the importance of community engagement and people directly involved in major projects should be trained to the appropriate level of the community engagement techniques and practices (or have access to trained advisers).</p> <p>A Council staff member’s role in community engagement is to organise and facilitate the discussion, record, provide feedback, evaluate the engagement and consider the community’s views when making unbiased recommendations to Council or committees.</p>   |
| <p>All</p>  | <p>Both Councillors and Council staff are encouraged not to dominate or direct community discussions, nor to dismiss the community’s input. Instead, Councillors and staff should allow discussions to move forward in an open, respectful and inclusive way.</p>   |

**12.7 Adoption of the Wingecarribee Animal Shelter Alternatives to Euthanasia Policy - Post Exhibition**

**ATTACHMENT 1 Draft Wingecarribee Animal Shelter Alternatives to Euthanasia Policy**



Wingecarribee Animal Shelter  
Alternatives to Euthanasia Policy

**MEASURES**

*The success of this policy will be measured by increasing rehoming rates based on each previous years rehoming data. The success of the policy will also be measured on full compliance with the policy position.*

**APPROVED BY:**

**(For Council Policies)  
WINGECARRIBEE SHIRE COUNCIL**

**(Insert Date)**

**ATTACHMENTS**

1. Nil

**Approved By: TBA**

**WINGECARRIBEE SHIRE COUNCIL**

**Date - TBA**



## **12.8 Tender Outcome - Electronic Document Record Management System**

**Reference:** 6630/19.26  
**Report Author:** Chief Information Officer  
**Authoriser:** Deputy General Manager Corporate, Strategy and Development Services

**Link to Community Strategic Plan:** Effective and efficient Council service delivery is provided within a framework that puts the customer first

### **PURPOSE**

The purpose of this report is to present the evaluation of the Request for Tender for the Electronic Document Record Management System (EDRMS).

### **RECOMMENDATION**

1. **THAT** in relation to the report concerning Electronic Document Management System - Council adopts the recommendations contained within the Closed Council report – Item 19.4.

OR

2. **THAT** the report concerning Tender for Electronic Document Management System - be considered in Closed Council – Item 19.4. This report is confidential in accordance with s10A(2) of the Local Government Act, 1993, under clause 10A(2)d(i) as it contains commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it.

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**Note:** *The Council, or a committee of the Council, may allow members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed (15.9 – Code of Meeting Practice).*

*Where the matter has been identified in the agenda of the meeting under clauses 3.21 as a matter that is likely to be considered when the meeting is closed to the public, in order to make representations under clause 15.9, members of the public must first make an application to the Council in the approved form. Applications must be received by close of business (4.30pm) two (2) business days prior to the meeting at which the matter is to be considered (15.11 – Code of Meeting Practice).*

## REPORT

### **BACKGROUND**

Council currently has an electronic document and records management system, DataWorks. This system was implemented 15 years ago with the last upgrade occurring in 2012. The functionality and capabilities of the current system have not kept up with the changes in technology and does not provide Council with a compliant records and information management tool.

Council in adopting the 2017-2021 Delivery Plan at the beginning of its term adopted 7 Strategic Priorities one of which is as follows:

***Business transformation*** *We recognise that the community has an expectation that the way we interact with them should reflect modern business processes utilising modern technologies. We are committed to ensuring the systems and process that support service delivery and the way we interact with our customers is responsive and provides a variety of methods for interaction.*

The implementation of a new Electronic Document and Records Management System will enable Council to, in part, deliver this Strategic Policy. It will also enable Council to streamline business processes, improve Council's risk profile for information management and increase transparency and accountability to the public in line with the NSW Digital Government Strategy. A new system will also enable compliance with the Council's legislative obligations under the *State Records Act 1998*, the *Government Information (Public Access) Act 2009* and associated standards and policies.

Council went to market for a system that would enable access, sharing and management of all documents/records, regardless of format, across Council which will assist in the digital transformation journey.

### **REPORT**

Council sought tenders from suitably qualified and experienced contractors to provide a lump sum tender for the provision of an electronic document and records management system. The Request for Tender process was undertaken through public advertisement. The full scope of works was detailed in the tender specifications.

In accordance with the *Local Government Act 1993* part 3, section 55(3)(n), Council is required to invite tenders where estimated expenditure is greater than \$250,000 (GST inclusive).

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## **ADVERTISING**

The tender advertising period was from the 24 September 2019 to 29 October 2019 (42 days).

The tender was advertised as follows:

| Newspaper / Website                 | Date Advertised                            |
|-------------------------------------|--|
| Newspaper – Sydney Morning Herald   | 24 September 2019                          |
| Newspaper – Southern Highlands News | 25 September and 2 October 2019            |
| Council's Website                   | For the duration of the advertising period |
| Council's eTendering Website        | For the duration of the advertising period |

## **TENDERS RECEIVED**

A total of thirteen (13) tender submissions were received:

| Company Name  | Location       | Postcode |
|---|----------------|----------|
| Aten Systems Pty Ltd                                | Bella Vista    | 2153     |
| Bar360 Pty Ltd                                      | Sydney         | 2000     |
| Datacom Systems (AU) Pty Ltd                        | North Ryde     | 2113     |
| Grace Records Management (Australia) Pty Ltd        | Seven Hills    | 2147     |
| iCognition Pty Ltd                                  | Braddon        | 2612     |
| Informotion Pty Ltd                                 | Sydney         | 2000     |
| Kapish Services Pty Ltd                             | Melbourne      | 3000     |
| Knowledgeone Corporation Pty Ltd                    | North Sydney   | 2060     |
| Konica Minolta Business Solutions Australia Pty Ltd | Macquarie Park | 2113     |
| Objective Corporation Limited                       | North Sydney   | 2060     |
| Proficiency Group Pty Ltd                           | Midland        | 6056     |
| Ricoh Australia Pty Ltd                             | North Ryde     | 2113     |
| Technology One Limited                              | North Sydney   | 2060     |

## **TENDER EVALUATION**

A Procurement Evaluation Plan was developed which outlined the pre-determined selection criteria, the criteria weightings, and members of the tender evaluation panel.

Each submission was evaluated against the specified criteria by the tender evaluation panel with a scoring system based from 0 to 10 and weighted according to the pre-determined criteria.

## **SELECTION CRITERIA**

The pre-determined criteria used to evaluate the tender were as follows:

### **Mandatory Criteria:**

| <b>Criteria</b>                         |
|---|
| Public Liability - \$20 million         |
| Cyber Security Insurance - \$10 million |

Tenderers were required to meet the mandatory criteria to be eligible to be shortlisted and progress any further in the evaluation process.

### **Non-Cost Selection Criteria & Weighting:**

| <b>Criteria</b>                             | <b>Weighting</b> |
|---|------------------|
| Community & Social(including local content) | 10%              |
| Capability & Experience                     | 15%              |
| Service & Support                           | 10%              |
| Quality Assurance                           | 5%               |
| Other Clarification Information             | 10%              |
| <b>Total</b>                                | <b>50%</b>       |

### **Summary of Selection Criteria & Weighting:**

| <b>Criteria</b>         | <b>Weighting</b> |
|-------------------------|------------------|
| Total Non-Cost Criteria | 50%              |
| Total Cost Criteria     | 50%              |
| <b>Total</b>            | <b>100%</b>      |

## **NON-COMPLIANT TENDERS**

Upon evaluation a total of nine (9) tender submissions were determined to be non-compliant:

| <b>Company Name</b>                                 | <b>Reason for Non-Compliance</b> |
|---|----------------------------------|
| Aten Systems Pty Ltd                                | Did not meet required Threshold  |
| BAR360  | Did not meet required Threshold  |
| Datacom Systems (AU) Pty Ltd                        | Did not meet required Threshold  |
| Grace Record Management (Australia) Pty Ltd         | Did not meet required Threshold  |
| Knowledge Corporation Pty Ltd                       | Did not meet required Threshold  |
| Konica Minolta Business Solutions Australia Pty Ltd | Did not meet required Threshold  |
| Objective Corporation Limited                       | Did not meet required Threshold  |
| Proficiency Group Pty Ltd                           | Did not meet required Threshold  |
| Ricoh Australia Pty Ltd                             | Did not meet required Threshold  |

## **CONSULTATION**

### **Community Engagement**

Tenders are part of a commercial arrangement and therefore no community engagement is required.

### **Internal Consultation**

Various Branches across the organisation who utilise IT systems specific to the subject of the tender.

### **External Consultation**

Tenders are part of a commercial arrangement and therefore no external consultation is required.

## **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.

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- **Governance**

This tender has been conducted in accordance with Part 7 of the *Local Government (General) Regulation 2005*.

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#### **RELATED COUNCIL POLICY**

Council's Procurement Guidelines have been used to inform the tender process.

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#### **CONCLUSION**

The tender evaluation summary and recommendation are documented in the report to Council's Closed Committee.

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#### **ATTACHMENTS**

There are no attachments to this report.

## 12.9 Request for a Refund of Development Fees by Southern Highland Artisans Collective (The SHAC)

Reference: 20/0378  
Report Author: Development Assessment Planner  
Authoriser: Group Manager Planning, Development and Regulatory Services

Link to Community Strategic Plan: Support and promote the creative and cultural sector

### PURPOSE

The purpose of this report is to consider a request by the Southern Highlands Artisans Collective (The SHAC) for a refund of Development Application Fees pertaining to DA 20/0378.

As the application relates to a not for profit organisation, Council's adopted revenue policy provides via Council resolution a partial refund of the development fees upon application. Refunds of fees for charitable and not for profit organisations are sourced from the Council Contingency Fund.

### RECOMMENDATION

**THAT** Council with regard to the request by The Southern Highlands Artisans Collective (The SHAC) for a refund of Development Application Fees pertaining to DA 20/0378 refund \$142.50 being 50% of Development Application fee from the Council's Contingency Fund.

### REPORT

#### **BACKGROUND**

Southern Highlands Artisans Collective (The SHAC) is a charitable organisation which provides general community support.

In 2019 The Southern Highlands Artisans Collective lodged Development Application 20/0378, for the purposes of seeking approval for a Temporary Use of Land (Market comprising 9 stalls for artisans and 1 BBQ / food stall, operating for 6 hours on 2 November 2019 only, in association with the broader "Arts Trail" event).

#### **REPORT**

The Southern Highlands Artisans Collective (The SHAC) has made written request to Council dated 18 November 2019 seeking to have the development fees associated with 20/0378 refunded (**Attachment 1**).

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Council's adopted policy position for refund of development fees associated with a Not for Profit Community Organisations is prescribed within its Revenue Policy (Fees and Charges 2019/2020) under clause 23.5 which provides inter alia:

*Registered Charities and not for profit organisations may be refunded the following fees subject to Council resolution:*

*(a) Development Application Fee:*

*(i) Half the Development Application fee.*

*(b) Construction Certificate Fee:*

*(ii) Half the Construction Certificate fee.*

*(iii) Half the Inspection Fee*

*Application fees are required to be paid in full at the time of lodgement of the application and requests for refunds in accordance with this clause need to be made in writing and will be presented to a Council meeting for consideration and if resolved a refund may be made in accordance with the provisions of this section. Associated fees would be paid from Council's contingency fund if resolved to be supported.*

*Evidence of Registered Charities and / or not for profit organisations shall be provided to Council upon application (**Attachment 2**).*

On the basis of the policy position, the applicant has paid the DA20/0378 development fees in full at time of lodgement and is now seeking an appropriate refund. The calculated eligibility for refund based on clause 23.5 is 50% of the DA Fee.

| <b>Application</b> | <b>Fee</b> | <b>50% Discount</b> |
|--------------------|------------|---------------------|
| DA 20/0378         | \$285.00   | \$142.50            |

The total eligible refund amount totals = **\$142.50**

## COMMUNICATION AND CONSULTATION

### Community Engagement

No community consultation is required.

### Internal Communication and Consultation

Internal consultation has taken place with the Group Manager Planning Development and Regulatory Services.

### External Communication and Consultation

No external consultation is required.

## SUSTAINABILITY ASSESSMENT

- **Environment**

There are no environmental issues in relation to this report.



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- **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.

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### COUNCIL BUDGET IMPLICATIONS

The current balance of the Contingency Fund as at 5 December 2019 is \$28,658. This balance does not take into account financial commitments made as part of any other reports contained within this business paper.

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### RELATED COUNCIL POLICY

Revenue Policy (Fees and Charges – 2019/2020).

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### OPTIONS

The options available to Council are:

#### **Option 1**

That Council approve a refund to The Southern Highlands Artisans Collective (The SHAC) of \$142.50 being 50% of Development Application fees for DA20/0378 by way of a donation sourced from Council's Contingency Fund.

#### **Option 2**

That Council refund an alternate amount to The Southern Highlands Artisans Collective (The SHAC) nominated by Council, by way of a donation sourced from Council's Contingency Fund.

#### **Option 3**

That Council not approve a refund.

**Option 1** is recommended to Council.

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### CONCLUSION

The application for the partial refund of development application fees paid by The Southern Highlands Artisans Collective (The SHAC) complies with the requirements of section 23.5 of the Revenue Policy (Fees and Charges 2019/2020) and the request is submitted to Council for determination.

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AND DEVELOPMENT SERVICES**



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**ATTACHMENTS**

1. Attachment 1: Request for development fees Refund
2. Attachment 2: Evidence of registered Charities and/or not for profit organisation

## 12.9 Request for a Refund of Development Fees by Southern Highland Artisans Collective (The SHAC)

## ATTACHMENT 1 Attachment 1: Request for development fees Refund



**From:** Chris [<mailto:chris@theshac.com.au>]  
**Sent:** Monday, 18 November 2019 11:35 AM  
**To:** Ann Prendergast  
**Cc:** Nicholas Wilton; Patsy Peacock  
**Subject:** Application for refund of fees for 20/0378 Approved DA Consent

Dear Ann

I hope you are well.

The purpose of this email is to make a formal request for a refund of the SHAC Robertson's, development application fees.

I have searched through the guidelines for applying for a development application refund but I can't see anything with regards to limiting a refund to only one DA and request. As a not for profit, we would like to run a number of events over the course of 2019/20 to generate interest in The SHAC, bring additional tourism and business to Robertson and the Shire more generally and to support local and emerging artists and artisans in the area. As an example, when we ran the last market stall, subject to this request for a refund on the development application fee, we were provided feedback from the Robertson Hotel, all of the local cafes, the local supermarket and fruit market and all indicated more numbers coming through their door and an increase in revenue. Clearly it promoted tourism to the area.

I have undertaken a review of WSC's guidelines for fees and charges and in this section it does not state it only applies to one application (see below).

Under the Moss Vale DCP, Section 1.8.1 it allows for registered not for profits to obtain a 50% discount on development applications, yet the Robertson DCP is silent on refunds.

One other observation I would make is that many other DCP's in NSW allow Councils to completely waive DA fees for not for profits so policy seems to be inconsistent state wide.

Please see the SHAC's formal request for a refund. I look forward to hearing from you.

Kind regards

Secretary - the SHAC at Robertson  
Phone: 0474 500 658

Begin forwarded message:

**From:** Development Support <[Development.Support@wsc.nsw.gov.au](mailto:Development.Support@wsc.nsw.gov.au)>  
**Subject:** 20/0378 Approved DA Consent Lot 8 Sec 19 DP 758882 Illawarra Highway Robertson  
**Date:** 31 October 2019 at 4:54:14 pm AEDT  
**To:** "[chris@theshac.com.au](mailto:chris@theshac.com.au)" <[chris@theshac.com.au](mailto:chris@theshac.com.au)>

**Disclaimer:** This message is intended for the addressee named and may contain confidential information. If you are not the intended recipient, please notify the sender and delete the message. Views expressed in this message are those of the individual sender and are not necessarily the views of Wingecarribee Shire Council. This email may be made available to third parties in accordance with the Government Information (Public Access) Act 2009.

## 12.9 Request for a Refund of Development Fees by Southern Highland Artisans Collective (The SHAC)

## ATTACHMENT 2 Attachment 2: Evidence of registered Charities and/or not for profit organisation



Our Ref: N5142690

RICHARD DARIN ABEL  
UNIT 1/74-76 HODDLE STREET  
ROBERTSON NSW 2577

Registry Services  
PO Box 22  
Bathurst NSW 2795

Toll Free 1800 502 042 Ph 6333 1400  
TTY 1300 723 404

ABN 81 913 830 179

Email: [registryinquiries@finance.nsw.gov.au](mailto:registryinquiries@finance.nsw.gov.au)  
[www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au)

Dear Mr Abel

**Re: SOUTHERN HIGHLANDS ARTISANS COLLECTIVE (THE SHAC) INCORPORATED - INC1801533**

I refer to your Application for registration under the *Associations Incorporation Act 2009* (the Act) that was lodged with NSW Fair Trading on 26/10/2018.

The above Association was registered on 26 October 2018.

Please ensure that the name of the Association appears correctly on the enclosed Certificate of Incorporation.

It should be noted that if the association has adopted its own constitution, this constitution has not been reviewed by NSW Fair Trading. The Association is responsible for ensuring its constitution complies with the requirements of the Act and the law generally.

The Association's constitution must address certain matters. These are set out in the fact sheet titled "About the Constitution", which is available on the Fair Trading website.

If an association's constitution fails to address any of the required matters, the provisions of the model constitution with respect to that matter are taken to be part of the Association's constitution.

The Model constitution may be updated from time-to-time. The updates will apply to the constitution of any Association that has adopted the Model constitution, or where the updated clause is taken as part of the Association's constitution.

Fair Trading will monitor the association's ongoing suitability for incorporation under the Act.

The Association is reminded of some key requirements of the Act:

#### **Annual General Meetings (AGM) and Reporting Obligations**

An association's reporting obligations under the Act depend on its status as either a Tier 1 (large) or Tier 2 (smaller) association.

The committee must, as soon as practical after the end of its financial year, cause statements for the association, and any trust for which the association acts as a trustee, to be prepared. Tier 1 Associations must have their financial statements audited.

The financial statements (and for Tier 1 associations the auditor's report) must be submitted to the AGM. The association's first AGM is required to be held within 18 months after incorporation and within 6 months after the end of its first financial year.

**Department of Finance, Services and Innovation**

12.9 Request for a Refund of Development Fees by Southern Highland Artisans Collective (The SHAC)

ATTACHMENT 2 Attachment 2: Evidence of registered Charities and/or not for profit organisation



Within one month of the AGM and no later than 7 months after the end of the Association's financial year a person authorised by the committee is required to lodge with Fair Trading an:

- Annual summary of financial affairs - Tier 1 (Form A12-T1) or
- Annual summary of financial affairs - Tier 2 (Form A12-T2).

Information concerning the financial reporting obligations of incorporated associations is available on the Fair Trading website.

**Public Officer**

The association's public officer is the official contact point for the association. If there is a vacancy in the office of public officer, the committee must fill that vacancy within 28 days.

The public officer, who must reside in NSW, is required to lodge Form A9 – Notice of appointment of public officer and Notice of change of association address within 28 days of becoming public officer or of any change in the association's official address.

The official address of the association must be an address in NSW:

- at which the public officer can generally be found; and
- at which documents can be served on the association by post.

The official address cannot be a post office box.

**Association Records**

The association is required to keep and maintain various records including:

- financial records that correctly record and explain its financial transactions and financial position.
- minutes of meetings
- Register of committee members and a Register of members
- A record of any disclosure of conflict of interest by a committee member.

**Constitution**


The constitution of an incorporated association is a contract between the association and its members, who agree to adhere to the provisions in the constitution. The committee is responsible for ensuring the association operate in accordance with its constitution and the Act.

An incorporated association may, by special resolution, alter its objects or its constitution.

An application to register change of objects or constitution (Form A6) must be lodged within 28 days of the special resolution being passed. Any alteration of the Association's objects or constitution takes effect when the alteration is registered by Fair Trading.

If you require any further information please review the fact sheets on the Fair Trading website [www.fairtrading.nsw.gov.au/ftw/Cooperatives\\_and\\_associations.page](http://www.fairtrading.nsw.gov.au/ftw/Cooperatives_and_associations.page) prior to contacting Registry Services.

Yours sincerely

  
XXXXXXXXXX  
XXXXXXXXXXXXXXXXXXXX

~~XXXXXX~~  
**Customer Service Officer**  
**Registry Services**  
26 October 2018

**Department of Finance, Services and Innovation**

## 12.10 Request for a Refund of Development Fees by Hill Top Men's Shed Inc.

Reference: 19/1207  
Report Author: Development Assessment Planner  
Authoriser: Group Manager Planning, Development and Regulatory Services

Link to Community Strategic Plan: Encourage all members of the community, especially older residents, to share their knowledge and experience with younger members

### PURPOSE

The purpose of this report is to consider a request by the Hill Top Men's Shed for a refund of Development Application Fees pertaining to DA 19/1207 and a refund of Construction Certificate fees for Building/Certificate fees pertaining to Construction Certificate Application 19/1207.01 and associated inspection fees.

As the application relates to a not for profit organisation, Council's adopted revenue policy provides via Council resolution a partial refund of the development fees upon application. Refunds of fees for charitable and not for profit organisations are sourced from the Council Contingency Fund.

### RECOMMENDATION

**THAT** with regard to the request by Hill Top Men's Shed for a refund of Development Application Fees pertaining to DA 19/1207, a total refund of \$494.05 made up of \$97.30 being 50% of the Development Application fee, \$221.75 being 50% of the Construction Certificate fee, and \$175 being 50% of the Inspection Fees be granted by way of a donation sourced from the Council's Contingency Fund.

### REPORT

#### BACKGROUND

The Hill Top Men's Shed is a not for profit community organisation which advances the health and wellbeing of its members, including the pursuit of hobbies, skills, and mentoring. In 2019 the Hill Top Men's Shed lodged a Development Application 19/1207, for the purposes of a new shed at 3 Bertha Street Hill Top, and a Construction Certificate Application 19/1207.01.

In lodging the Applications, the Hill Top Men's shed paid \$194.60 in Development Application fees and \$443.50 in Construction Certificate fees and \$350 in Inspection fees.

#### REPORT

The Hill Top Men's Shed has made written request to Council dated 16 August 2019 seeking to have the development fees associated with Development Application 19/1207

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refunded and the fees associated with Construction Certificate Application 19/1207.01 refunded (**Attachment 1**).

Council's adopted policy position for refund of development fees associated with not for profit community organisation is prescribed within its Revenue Policy (Fees and Charges 2018/2019) under clause 23.5 which provides inter alia:

*Registered Charities and not for profit organisations may be refunded the following fees subject to Council resolution:*

(a) *Development Application Fee:*

(i) *Half the Development Application fee.*

(b) *Construction Certificate Fee:*

(ii) *Half the Construction Certificate fee.*

(iii) *Half the Inspection Fee*

*Application fees are required to be paid in full at the time of lodgement of the application and requests for refunds in accordance with this clause need to be made in writing and will be presented to a Council meeting for consideration and if resolved a refund may be made in accordance with the provisions of this section. Associated fees would be paid from Council's contingency fund if resolved to be supported.*

*Evidence of Registered Charities and / or not for profit organisations shall be provided to Council upon application (**Attachment 2**).*

On the basis of the policy position, the applicant has paid the DA19/1207 development fees and 19/1207.01 construction certificate fees and inspection fees in full at time of lodgement and is now seeking an appropriate refund. The calculated eligibility for refund based on clause 23.5 is 50% of the DA, CC and Inspection Fee.

| <b>Application</b> | <b>Fee</b> | <b>50% Discount</b> |
|--------------------|------------|---------------------|
| DA 19/1207         | \$194.60   | \$97.30             |
| CC 19/1207.01      | \$443.50   | \$221.75            |
| Inspection Fees    | \$350.00   | \$175.00            |

The total eligible refund amount totals = **\$494.05**

## **CONSULTATION**

### **Community Engagement**

No community consultation has taken place in relation to this request.

### **Internal Consultation**

Internal consultation has taken place with the Group Manager Planning Development and Regulatory Services.

### **External Consultation**

No external consultation has taken place in relation to this request.

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#### SUSTAINABILITY ASSESSMENT

- **Environment**

There are no expected environmental issues in relation to this report.

- **Social**

There are no expected social implications 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.

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#### COUNCIL BUDGET IMPLICATIONS

The current balance of the Contingency Fund as at 5 December 2019 is \$28,658. This balance does not take into account financial commitments made as part of any other reports contained within this business paper.

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#### RELATED COUNCIL POLICY

Revenue Policy (Fees and Charges - 2019/2020).

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#### OPTIONS

The following options are available for Council:

##### **Option 1**

THAT with regard to the request by Hill Top Men's Shed for a refund of Development Application Fees pertaining to DA 19/1207, a total refund of \$494.05 made up of \$97.30 being 50% of the Development Application fee, \$221.75 being 50% of the Construction Certificate fee, and \$175 being 50% of the Inspection Fees be granted by way of a donation sourced from the Council's Contingency Fund.

##### **Option 2**

That Council refund an alternate amount to Hill Top Men's Shed nominated by Council, by way of a donation sourced from Council's Contingency Fund.

##### **Option 3**

That Council not approve a refund.

**Option 1** is recommended



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#### **CONCLUSION**

The application for the partial refund of DA and CC application fees and Inspection fees by the Hill Top Men's Shed complies with the requirements of section 23.5 of the Revenue Policy (Fees and Charges 2019/2020) and the request is submitted to Council for determination.

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#### **ATTACHMENTS**

1. 19/1207 - Applicant Request For Refund
2. 19/1207 - Evidence of Non for Profit Organisation



## The Hill Top Men's Shed Inc.

23 Ligar Street

Hill Top NSW 2575

16<sup>th</sup> August 2019.

The General Manager

Wingecarribee Shire Council,

Re D/A 19/1207

We are building our new Men's Shed as per D/A 19/1207. On advice, we are requesting that Council consider refunding some of the D/A costs paid to Council for this shed.

We would appreciate any refunds that Council are able to make. We are a not for profit body and all funds are welcome for our main project, the shed.

Thank you for your consideration of this matter.

John Matters

Hon. Secretary

The Hill Top Men's Shed Inc.

**All correspondence to be directed to the secretary at**



ASIC

Australian Securities & Investments Commission

Association

HILLTOP CHURCH INC

Extracted from ASIC's database at AEST 09:40:19 on 16/09/2019

**Association Summary**

Name: HILLTOP CHURCH INC

ABN:

Registration Number: Y1638122

Registered State: New South Wales

Registration Date: 22/12/1992

Status: Registered

Type: Associations

Regulator: Office of Fair Trading, New South Wales

## 12.11 Post Exhibition Report on Community Engagement Strategy including Community Participation Plan

|                                   |  |
|-----------------------------------|--|
| Reference:                        | 5704/9   |
| Report Author:                    | Coordinator Community Engagement   |
| Authoriser:                       | Group Manager Corporate and Community  |
| Link to Community Strategic Plan: | Improve opportunities for people to 'have their say' and take an active role in decision making processes that affect our Shire through diverse engagement opportunities |

### **PURPOSE**

To report on submissions received during the public exhibition of a draft Community Engagement Strategy, including community participation plan requirements, and seek adoption of an updated version.

### **RECOMMENDATION**

**THAT the Community Engagement Strategy included in Attachment 1 be adopted.**

### **REPORT**

#### **BACKGROUND**

The Community Engagement Strategy is due for a review. This coincides with an amendment to the *Environmental Planning and Assessment Act 1979* (the Act) which requires councils to prepare a Community Participation Plan (CPP) for land use planning matters by 1 December 2019.

Section 2.23(4) of the Act gives Councils the option to prepare a standalone CPP or include the requirements in a community engagement strategy prepared under section 402 of the *Local Government Act 1993*. Council's CPP has been incorporated into the Community Engagement Strategy.

A report considered by Council on 25 September 2019 outlined how the review had been conducted and what changes had been made to create a new draft strategy.

Council subsequently endorsed the public exhibition of the draft strategy, incorporating the CPP, over a minimum 28 day period.

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#### **REPORT**

This report details submissions and comments received during the recent public exhibition of Council's draft Community Engagement Strategy (the Strategy) which includes information to satisfy the Act requirements for community participation planning.

Responses to the issues raised have been reported and where required some changes are recommended for the Strategy or internal procedures.

Adoption of the updated Strategy is recommended, it is noted the 1 December 2019 deadline set by the Department of Planning, Industry and Environment for community participation requirements has passed, however Council made contact with the Department and it was conveyed that adoption in December would be satisfactory.

#### **EXHIBITION DETAILS**

The draft Community Engagement Strategy was placed on public exhibition for a total of 36 days between 2 October and 6 November 2019.

The draft strategy, associated information and an online submission form was hosted at [www.yoursaywingecarribee.com.au/community-engagement-strategy](http://www.yoursaywingecarribee.com.au/community-engagement-strategy). Printed copies were also available for viewing at libraries and the Civic Centre.

324 visits to the online consultation hub were made by 206 individuals. 249 downloads of documents were also recorded.

#### **SUBMISSION SUMMARY**

A total of eight (8) individual submissions were received during public exhibition of the draft Community Engagement Strategy. Submissions were received from WaterNSW, Berrima Residents Association, Friends of Bowral and five (5) residents.

A summary of topics covered in submissions is provided in Table 1 alongside notes identifying any changes recommended for the Strategy or supporting procedures.

**Table 1**

| <b>Submission Theme</b>   | <b>Action</b>     | <b>Response and Recommendation</b>   |
|---|-------------------|--|
| 1. Inconsistency of approach to consultation about planning matters | Update procedures | <p>Several examples were cited in one submission as evidence of inconsistency. However, given the broad range of planning matters that are dealt with by Council, it is not considered reasonable or appropriate for all matters to be dealt with in the same manner.</p> <p>The CPP will set the minimum consultation requirements for different planning matters, however, the method and length of consultation on a planning matter will be reflective of the significance of the project, rather than a one size fits all approach.</p> <p>The planning team will review their processes and ensure that notifications clearly outline what is being exhibited, and what input the community can provide into the process.</p> <p>Following the completion of the CPP process, the planning team have offered to conduct community information sessions in early 2020 for improved community understanding of planning legislation.</p> |
| 2. Handling of submissions by                                       | Update procedures | <p>A submission alleged that groups which represent large memberships are being recorded as "one objection" and that</p>   |

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| Submission Theme  | Action            | Response and Recommendation   |
|---|-------------------|---|
| groups and experts  |                   | <p>the opinions of “experts” are ignored.</p> <p>All views, discussions and submissions are recorded and considered. Where something new or unknown is identified this may warrant further investigation which will be documented in associated reports to Council.</p> <p>Submissions based on fact which are supported by a large membership are carefully considered alongside those of individuals.</p> <p>It is further noted that ALL petitions are reported and tabled at a Council meeting following their receipt.</p> <p>It is recommended that procedures supporting the Community Engagement Strategy be updated to encourage the following optional processes:</p> <ul style="list-style-type: none"> <li>• Where individual submissions are based on inaccurate information Council officers will contact the submitter to advise where inaccuracies exist and offer the opportunity to adjust the content of the submission.</li> <li>• Where petitions are based on inaccurate information Council officers will contact the submitter to advise where inaccuracies exist, record receipt and table in a report for Council’s information.</li> </ul> |
| 3. Encouragement of creative approaches to engagement, tailored to maximise participation by hard to reach groups | Noted             | <p>Each community engagement plan is tailored to the nature of the project. Examples during the last few years include playground consultations at pools and parks, a shopfront drop-in centre open a variety of hours, demographically representative telephone surveys, online consultation platforms used for time-poor residents or the thoughts of passers-by captured via staffed marquees at local markets and town centres.</p> <p>Creative approaches will continue to be utilised to encourage the participation of a broad representation of the community as well as those directly affected by a proposal. This is addressed in the objectives of the strategy.</p>  |
| 4. Transparency in engagement and decision making processes   | Revised           | <p>A theme in three submissions was an interest in how Council plans and conducts consultations. They asked “<i>Who decides which processes to use? Who is trained in the most recent and professional methods? How are the results presented to councillors? Who makes decisions on priorities?</i>”</p> <p>There were also clear requests for more face to face engagement opportunities and a response to submission makers so they know how their involvement has contributed to decisions made.</p> <p>To provide clarity it is recommended that a new section called ‘OUR APPROACH’ be inserted into the Strategy which provides an overview of how Council plans for consultation, considers responses and makes decisions.</p>  |
| 5. Council should clearly state the scope   | Update procedures | It is important to be clear <u>before</u> engaging the community on what is being asked and where adjustments can be made to  |

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| Submission Theme   | Action            | Response and Recommendation  |
|--|-------------------|--|
| and objectives of its consultations i.e. what are the negotiables and how community participation is likely to affect decision making  |                   | <p>a proposal. In a local government context it is rare to have regular opportunities for the community to be 'empowered' to develop a solution or decide on an outcome.</p> <p>It is recommended that procedures supporting the Strategy be updated to ensure clarity is provided with regard to the level of engagement planned and how community participation may affect decision making.</p>  |
| 6. Dissatisfaction with draft Strategy and Council's approach to consultation, indicating that differing opinions are not valued by Council                                    | Update procedures | <p>Where a submission maker opposes a proposal or recommends an alternative but Council decides to support another approach, the person in opposition may feel that their thoughts have not been heard, sometimes leading them to become disillusioned with processes and Council.</p> <p>Care is required to respond to submissions makers with information that explains the decision made and the reasons behind it.</p> <p>Comments expressing general dissatisfaction with the Strategy and Council have been noted.</p> <p>It is recommended that procedures supporting the Strategy be updated to ensure submission makers are informed of decisions made and the reasons for this.</p> |
| 7. Requesting clarification on how the Community Participation Plan (CPP) requirement is addressed in the Community Engagement Strategy including public exhibition timeframes | Revised           | <p>Sections have been updated to clarify that the Strategy has been prepared to meet the requirements of the <i>Local Government Act</i> and to concurrently serve as a CPP for the purposes of s2.23(4) of the <i>EP&amp;A Act</i>.</p> <p>Schedule 1 from the <i>Notification of Development Proposals Policy</i> (14 November 2018) has been inserted as Table 2 to confirm the various types of notification and submission periods required for development matters.</p>  |

The updated strategy is included in **Attachment 1** to this report. Amendments and additions made as a result of submissions are highlighted in orange.

### **IMPLEMENTATION OF THE STRATEGY**

Council will employ a variety of techniques to ensure all relevant staff are aware of:

- Strategy objectives and their role in achieving these,
- Council's commitment to public participation in decision making,
- how to plan, conduct and finalise consultations, and
- the Community Participation Plan and associated responsibilities within the planning context.



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## **COMMUNICATION AND CONSULTATION**

### **Community Engagement**

Public feedback was sought over a 36 day exhibition period. A comprehensive communication plan ensured widespread notification of the opportunity to view and comment on the draft Strategy.

### **Internal Communication and Consultation**

All staff were notified of the public exhibition. Feedback was especially sought from Corporate and Community team members.

### **External Communication and Consultation**

The opportunity to review and comment on the draft Strategy was promoted using a wide variety of tools and networks. This included weekly advertising in the Southern Highlands News throughout the exhibition period, emails to community groups and associations, digital imagery, media release, Radio 2ST and Highlands FM mentions, an e-newsletter emailed to 1664 subscribers, Weekly Circular item and 2313 registered users of [www.yoursaywingecarribee.com.au](http://www.yoursaywingecarribee.com.au) were alerted about the consultation.

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## **SUSTAINABILITY ASSESSMENT**

- **Environment**

There are no environmental issues in relation to this report.

- **Social**

The strategy seeks to provide equity, access, participation and equal rights.

- **Broader Economic Implications**

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

- **Culture**

The strategy seeks to provide equality of participation regardless of cultural background.

- **Governance**

If adopted the updated Community Engagement Strategy would supersede the 2014 version and address *Environmental Planning and Assessment Act* requirements.

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## **COUNCIL BUDGET IMPLICATIONS**

There are no implications for the current community engagement allocations within Council's budget however specific funding may be sought in the future to manage resourcing issues and enable the take up of emerging technology or approaches.

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## **RELATED COUNCIL POLICY**

- Community Engagement Policy (10 April 2019)



## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 11 December 2019

### REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



- Notification of Development Proposals Policy (14 November 2018)

#### OPTIONS

The option available to Council is to adopt the updated Community Engagement Strategy.

It is emphasised that a deadline of 1 December 2019 was set by the Department of Planning, Industry and Environment for Community Participation Plans (CPP). Whilst the date of 1 December has passed, the Department has confirmed that the CPP should be adopted as soon as practicable after 1 December 2019. This is the first opportunity to do so and the last until February 2020. Not adopting the CPP may put Council's planning processes at risk.

#### CONCLUSION

This report and its attachment seeks to ensure that Council's Community Engagement Strategy incorporating a Community Participation Plan is updated to meet statutory requirements and allow for effective, proactive and consistent implementation.

#### ATTACHMENTS

1. Community Engagement Strategy (showing changes made since exhibition in orange)

Mark Pepping

**Deputy General Manager Corporate, Strategy and Development Services**

Wednesday 4 December 2019



# Wingecarribee Shire Council

# Community Engagement Strategy

(incorporating Community Participation Plan)



12.11 Post Exhibition Report on Community Engagement Strategy including  
Community Participation Plan

ATTACHMENT 1 Community Engagement Strategy (showing changes made  
since exhibition in orange)



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This Community Engagement Strategy has been prepared by Wingecarribee Shire Council to meet the requirements of the Local Government Act 1993 and concurrently serve as a Community Participation Plan for the purposes of s2.23(4) of the Environmental Planning and Assessment Act 1979.

It has been written in conjunction with the Communications Strategy. Both of these documents can be accessed at [www.wsc.nsw.gov.au](http://www.wsc.nsw.gov.au)

For further information contact the Community Engagement Coordinator via email to [mail@wsc.nsw.gov.au](mailto:mail@wsc.nsw.gov.au) or by writing to Wingecarribee Shire Council, PO Box 141, Moss Vale NSW 2527.

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# 01/ INTRODUCTION

Community engagement is an umbrella term that covers information sharing, consultation and active participation between government and communities. It seeks to ensure people have an opportunity to participate in decisions that affect them.

In a local government context community engagement can take many forms, ranging from receiving a letter about a neighbour’s development application or responding to a “have your say” advertisement, to attending a facilitated workshop on a major project.

Community engagement helps Council:

- provide opportunities for the community to voice an opinion on proposals, plans, services and activities;
- work more closely with the community to shape policy options and priorities.

Community engagement does not necessarily mean achieving consensus. However, community input into Council’s decision-making process provides the potential for a better, more informed decision for everyone. This results in:

- Improving the relationship between the community and Council;
- Enhancing community ownership of decisions;
- Adding value to Council’s decision-making processes by drawing on the skills and wisdom of people and groups in the community;
- Maximising the possible positive impacts of Council decision and minimising the possible negative impacts.





## 02/ OUR ENGAGEMENT

Wingecarribee Shire Council has an active program of community engagement, ranging from informal community feedback to structured consultation events.

Council’s Community Engagement Coordinator works with all branches of Council to ensure the community is consulted at an appropriate level on key projects, decisions, events and activities. While community engagement is the responsibility of everyone in Council, the Community Engagement Coordinator manages the implementation of this Strategy and is not directly responsible for every specific consultation.



## 03/ CONTEXT

The Community Engagement Strategy reflects the vision and principles of the Community Strategic Plan, Wingecarribee 2031. It is strongly aligned with Council’s Communication Strategy as many engagement activities link closely with broader communication. Engagement activities will reflect Council’s key messages as set out in the Communication Strategy.

The Community Engagement Policy outlines the principles and commitments that will guide the planning, design, implementation and evaluation of community engagement practices at Council.

## 04/ ROLES

### Elected councillors

A Councillor’s role in community engagement is to participate as an elected member, listen to the views of the community and consider those views when making decisions.

### Council staff

A Council staff member’s role in community engagement is to organise and facilitate the discussion, record, provide feedback, evaluate the engagement and consider the community’s views when making unbiased recommendations to Council.



## 05/ INCLUDING EVERYONE

When undertaking community engagement, Council will make every effort to:

- Attract and reach a cross section of the community by using a wide range of communication methods;
- Invite specific community interest and user groups as identified in particular projects;
- Accommodate participants’ cultural, language and other specific needs;
- Involve community groups and individuals who may otherwise be difficult to reach.



## 06/ OUR APPROACH

Planning for public participation in decision-making is broadly guided by practices advocated by the NSW Government and International Association for Public Participation (IAP2).

Community engagement is mainly planned for decisions and major projects which may have a significant impact on stakeholders. Smaller projects of a lesser impact and fewer resources benefit from a similar but less formal approach.

### When we will engage

Council often seeks public participation during the planning stages of projects or initiatives; when a change in service, activity or infrastructure is considered; or when more information and evidence is required.

In the engagement planning process, consideration is given to the complexity of the decision and the optimal time needed for people to respond. Whilst legislation sets out minimum requirements for some specific consultations, each engagement process is considered on its individual basis and merit.

### Decision making

The decision process can be complex. Feedback from the community will be considered in the final decision made by Council.

At times the community will have limited opportunity to have a say but when this happens, Council will clearly explain why.

Reasons that may limit the ability to inform a decision include safety, legislative requirements or other factors Council cannot influence. For example, sometimes Council will collect comments on behalf of the State Government. When this happens we can only forward your comments on.

In other cases, Council is given a target – such as a housing development target over five years – which we cannot change. When this happens we can only consider comments about how to meet the target, but not about whether the target itself is right.





## Planning for engagement

Project managers are responsible for following key steps in preparing Community Engagement Plans:

1. **Define and scope the project** – review Council resolution or Executive requirements. Confirm the purpose and objectives, consider the context, review risk, consider resource constraints and identify the negotiables and non-negotiables. Determine the levels of participation required at various stages of the project.
2. **Identify key stakeholders** – consider individuals and organisations who could be affected by a decision on the issue. Consider decision making processes, regulations and levels of authority. Gather contact details and prepare to record interactions.
3. **Plan consultation approach** – offer a range of ways for stakeholders to learn about the topic and share their thoughts and ideas. Anticipate the details they will require to participate in an informed way. Tailor the approach - consider creative tools and interactive methodologies.
4. **Seek approval of the plan** - plans for community engagement are usually authorised by management and then endorsed by Councillors as part of Ordinary Meetings of Council. Council reports are required to outline planned consultation as well as record subsequent results.
5. **Implement the plan** – conduct communication and engagement with stakeholders as described in the plan. Adhere to timeframes and budget. Develop relationships and record interactions or outcomes. Monitor process and adjust if required.
6. **Consider response** – collate, analyse and identify how engagement outcomes will be utilised in decision making.
7. **Close the loop** – provide feedback, articulate to participants how their input has been or will be utilised in decision making.
8. **Review and report** – evaluate success of the engagement plan. Consider degree of stakeholder interaction and achievement of objectives.

**Council will employ tools and techniques to hear from those who can be difficult to reach and ensure that all viewpoints are considered.**

## IAP2 SPECTRUM

Council's community engagement activities are linked to the International Association of Public Participation (IAP2) spectrum.

Council acknowledges that engagement may fall within five broad levels of participation and different approaches are required for each:

**Inform** - To provide the public with balanced and objective information to assist them in understanding the problem, alternatives, opportunities and/or solutions, e.g fact sheet or letter.

**Consult** - To obtain public feedback on analysis, alternatives and/or decisions. This level is selected when Council asks and listens to the community about ideas to improve a particular proposal, understand what would happen if Council made a certain decision, or when a number of options are provided for community preferencing, e.g. providing feedback on a draft plan to upgrade a nearby park.

**Involve** - To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered. This level is selected when Council wants to include the community early in the planning process to ensure concerns and aspirations are both heard and understood, e.g. the community are engaged to help identify aspirations and solutions to create a CBD Strategy. Initial input and local knowledge is used to inform the development of the Strategy, which is then presented for further feedback before being finalised.

**Collaborate** - To partner with the public in the each aspect of the decision including the development of alternatives and the identification of the preferred solution. This level is selected where issues and solutions are unclear and Council works with equal power and partnership to find solutions that lead to an agreed outcome, e.g. Council works closely with a demographically representative group of people to review the Community Strategic Plan and ensure it still reflects the values and aspirations of the community.

**Empower** - To place final decision making in the hands of the public. This level is selected when the community and stakeholders are provided with the skills, information, authority and resources in order to make the final decision.



### How we will engage

To ensure a successful consultation, careful consideration is given to the appropriate tools and timing for the project or decision.

Attention is given to aspects of community and stakeholder interest, political sensitivity, opportunities for partnerships, the level of social, economic and environmental impact, legislative requirements, accessibility, time, resources and monetary constraints.

A range of tailored approaches are then considered.

Some of the options available include:

- Interviews and one-to-one meetings
- Surveys and polls - online, intercept and phone
- Storytelling and submissions
- Mapping and drawing
- Briefings and presentations
- Displays and information sessions
- Listening posts and drop-in events
- Focus groups, field trips and walking tours
- Brainstorming idea generation
- Moderated online forums
- Committees and working groups
- Workshops and forums
- Appreciative Inquiry
- Dotmocracy and World Cafe
- Community group meeting attendance
- Committees and working groups
- Online consultation hub  
[www.yoursaywingecarribee.com.au](http://www.yoursaywingecarribee.com.au)



### Who we will engage with

Our stakeholders include but are not limited to those groups broadly described in the table below.

| COMMUNITY       | SERVICE PROVIDERS          | GROUPS                      | GOVERNMENT                             | COUNCIL        |
|-----------------|----------------------------|-----------------------------|--|----------------|
| PROPERTY OWNERS | TRANSPORT                  | VILLAGE & TOWN ASSOCIATIONS | OTHER COUNCILS AND JOINT ORGANISATIONS | COUNCILLORS    |
| RESIDENTS       | NBN/COMMS                  | SPORTING CLUBS              | STATE/FEDERAL: PLANNING                | COMMITTEES     |
| BUSINESSES      | EDUCATION                  | COMMUNITY GROUPS            | ENVIRONMENT                            | WORKING GROUPS |
| VISITORS        | ENERGY                     | BUSINESS CHAMBERS           | HEALTH                                 | EMPLOYEES      |
| WORKERS         | COMMUNITY SUPPORT AGENCIES | INDUSTRY                    | TRANSPORT                              | VOLUNTEERS     |
| STUDENTS        |                            |                             | ROADS                                  |                |
|                 |                            |                             | RECREATION                             |                |
|                 |                            |                             | INFRASTRUCTURE                         |                |
|                 |                            |                             | REGIONAL DEVELOPMENT                   |                |
|                 |                            |                             | SOCIAL SERVICES                        |                |





## 07/ OBJECTIVES

While Council clearly has a strong program of communication and engagement activities, there are opportunities to build on relationships with key audiences and improve the consistency of communication across the organisation. To do this, it is proposed that Council pursues four objectives and associated actions over the life of this strategy. Each action will require more specific tasks and a timeframe for achievement.

### 01. Manage a proactive program of community engagement, ensuring all sectors of the community are included

- 1.1 - Face to face engagement** - Conduct information sessions, drop in kiosks or shopfronts to promote and engage with the community
- 1.2 - Technology** - Use technological advancements to reach further into the community and ensure feedback gathered is integrated into Council projects and decisions.
- 1.3 - Inclusive and accessible** - Ensure a broad mix of engagement channels are used including events, newspaper advertising, media releases, radio, website, public meetings, surveys and individual consultations in order to make public participation in decision making convenient.
- 1.4 - Stakeholder Database** - Maintain a database of community contacts for representative groups, venues and communication opportunities.

### 02. Ensure engagement at an appropriate level is built into all key projects and decisions

- 2.1 - Project planning** - Implement a process to determine the level of engagement appropriate for each project and the techniques to be used.
- 2.2 - Community engagement coordinator services** - Implement a formal internal process for requesting the services of Council's Community Engagement Coordinator, to ensure community engagement work can be prioritised and appropriately resourced.
- 2.3 - Councillor and Committee briefings** - Provide information about the tools and techniques used to undertake community engagement so recommendations and/or resolutions are appropriate.

### 03. Ensure Council staff have the tools they need for effective communication

- 3.1 - Staff training** - Ensure Council staff are appropriately trained in community engagement techniques and are informed about community engagement policies and guidelines.
- 3.2 - Council reports** - Ensure the 'community engagement' section in the Council Business Paper template is completed for each key decision and project.
- 3.3 - Report on the outcome**; Ensure the outcome of each community engagement activity is reported to participants in an appropriate way. This may include individual letters/emails or broad media releases or social media posts as required.

### 04. Strengthen Council's partnership with the community through effective engagement

- 4.1 - Community engagement database** - Create and maintain a database of community engagement activities to ensure valuable information about community engagement projects is collected for future reference.
- 4.2 - Surveys on engagement and communication** - Regularly seek feedback from the community on appropriate channels for engagement and communication, and refine activities accordingly.





## 08/ COMMUNITY PARTICIPATION PLAN

Council has a responsibility to deliver the objectives of the *Environmental Planning and Assessment Act 1979 (EP&A Act)* which stipulates mandatory and minimum requirements for community participation in decision making.

Community participation is an overarching term covering how Council engages with the community under the EP&A Act, including strategy development, plan making and making decisions on proposed development.

The level and extent of community participation will vary depending on the location, scope of the proposal under consideration and potential impact of the decision.

Council's discretion over types and levels of engagement is limited to some extent.

Schedule 1 of the EP&A Act identifies minimum requirements for the public exhibition of strategic planning and policy documents, as well as applications submitted to Council for determination. These minimum requirements are set out in **Table 1**.

Local Environmental Plans (ie: rezoning and alternative use) Development Control Plans and Development Contributions Plans must be advertised for a minimum of 28 days and submissions considered. But where relevant, Council will seek to extend this timeframe and also use additional forms of engagement in accordance with this Strategy.

Some Development Applications (DAs) are classified as 'Exempt' or 'Complying' Development, and may be assessed by private Certifiers rather than Council staff. In these cases there can be little or no consultation.

Consultation on other DAs is carried out in accordance with **Table 2 Notification Requirements** and varies according to the scale and expected impacts of each proposal. Typically, these DAs are **neighbour notified for at least 14 days or advertised for 30 days, with submissions then considered before decisions are made** – usually by a senior member of staff acting under delegated authority. However, for a small percentage of applications Councillors may require further public consultation and/or call up the matter to a Council meeting in order to make the decision itself.

Proposals for very large and/or costly developments are determined by the Joint Regional Planning Panel or by the State government. Consultation on these proposals is normally guided by the minimum statutory requirements.

Division 2.6, Section 2.23 of the EP&A Act lists community participation principles which complement the intent of this strategy.

- The community has a right to be informed about planning matters that affect it.
- Planning authorities should encourage effective and on-going partnerships with the community to provide meaningful opportunities for community participation in planning.
- Planning information should be in plain language, easily accessible and in a form that facilitates community participation in planning.
- The community should be given opportunities to participate in strategic planning as early as possible to enable community views to be genuinely considered.
- Community participation should be inclusive and planning authorities should actively seek views that are representative of the community.
- Members of the community who are affected by proposed major development should be consulted by the proponent before an application for planning approval is made.
- Planning decisions should be made in an open and transparent way and the community should be provided with reasons for those decisions (including how community views have been taken into account).
- Community participation methods (and the reasons given for planning decisions) should be appropriate having regard to the significance and likely impact of the proposed development.

### Submission process

Well founded, balanced and factual submissions can inform and influence assessment processes and Council can obtain valuable information on localised issues that may apply to the matter being considered.

Making a submission is not mandatory however it is helpful to receive supportive as well as critical feedback.

Submissions made in response to notification or advertisement of a development application, strategic plan or policy document must:

- Be made in writing
- Identify the Application Number and Property Address of the development application
- Clearly indicate the name, address, email and phone number of the party making the submission
- Clearly state the reasons or grounds for support of or objection to the proposal.

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since exhibition in orange)



Objections should not be focussed on civil disputes and should be based on planning grounds generally related to detrimental effects or unmanageable impacts such as:

- Ground levels or views to and from the land
- Privacy, overshadowing and solar access
- Amenity impacts (such as potential noise, traffic, access, odour, light or other impacts)
- Visual aspects of the building in relation to streetscape including heritage considerations
- Other localised issues such as natural hazards and stormwater / drainage

Council will acknowledge receipt of any submissions received at the conclusion of the assessment process and advise that the submission has been taken into account. Basic information on the outcome may also be provided.

**Reporting outcomes**

In relation to applications for development consent, and applications for the modification of a development consent which was publicly exhibited, Council will publish details of:

- the land parcel and a description of the proposed development
- the decision and date on which it was made
- the reasons for the decision (having regard to any statutory requirements applying to the decision)
- how community views were taken into account in making the decision.

**TABLE 1 - MINIMUM EXHIBITION TIMEFRAMES**

| PLAN MAKING<br>MANDATORY REQUIREMENTS   | (Schedule 1, Part 1, Division 1 (1) of the EP&A Act, 1979)   |
|---|--|
| Draft community participation plans   | 28 days public exhibition  |
| Draft local strategic planning statements   | 28 days public exhibition  |
| Planning proposals for local environmental plans subject to a gateway determination   | 28 days public exhibition or:<br>a) if a different period of public exhibition is specified in the gateway determination for the proposal—the period so specified, or<br>b) if the gateway determination specifies that no public exhibition is required because of the minor nature of the proposal—no public exhibition. |
| Draft development control plans   | 28 days public exhibition  |
| Draft contribution plans  | 28 days public exhibition  |
| DEVELOPMENT ASSESSMENT<br>MANDATORY REQUIREMENTS  | (Schedule 1, Part 1, Division 2 (2) of the EP&A Act, 1979)   |
| Application for development consent (other than for complying development certificate, for designated development or for State significant development) | 14 days public exhibition or:<br>a) if a different period of public exhibition is specified for the application in <b>Table 2</b> —the period so specified, or b) if <b>Table 2</b> specifies that no public exhibition is required for the application—no public exhibition.  |
| Application for development consent for designated development  | 28 days public exhibition  |
| Application for modification of development consent that is required to be publicly exhibited by the regulations  | 14 days or the period (if any) determined in <b>Table 2</b> .  |
| Environmental impact statement obtained under Division 5.1  | 28 days public exhibition  |

Notes:

1. Clause 17 in Schedule 1 to the Act states that if a particular matter has a different exhibition or notification period that applies under Part 1 of Schedule 1, the longer period applies.
2. Division 3 (18) states a public authority is not required to make available for public inspection any part of an environmental impact statement whose publication would, in the opinion of the public authority, be contrary to the public interest because of its confidential nature or for any other reason.
3. Public exhibition involves a) giving notice to individual landowners, b) setting an appropriate exhibition timeframe, c) advertising the exhibition and how submissions can be made, and d) making documents publicly available.
4. The period between 20 December and 10 January (inclusive) is excluded from the calculation of a period of public exhibition.
5. Submissions relating to applications and other exhibited documents must be made in writing and be lodged with the Council within the period specified in the notice (the exhibition period).

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**TABLE 2 - NOTIFICATION REQUIREMENTS**

| DEVELOPMENT TYPE   | Neighbour Notification (14 days) | Advertised * Development (30 days) | No notification or exhibition requirements |
|--|----------------------------------|------------------------------------|--|
| <b>DEVELOPMENT TYPE</b>  |                                  |                                    |  |
| New Residential Single Storey Dwellings.   |                                  |                                    | ●  |
| New Residential Single Storey Dwelling (and Residential alterations and additions) with change in ground level >600mm and not in an urban release area and has identifiable impacts on adjoining or adjacent properties in the opinion of a Council assessing officer. | ●                                |                                    |  |
| New Residential Two Storey Dwellings or ancillary two storey buildings in all residential zones (and two storey residential alterations and additions) unless the subject site is located within a mapped urban release area.  | ●                                |                                    |  |
| Outbuildings that are ancillary to a residential usage of the land (eg sheds, pools, garage and carports).   |                                  |                                    | ●  |
| Residential accommodation where there is two or more dwellings being proposed on any one site (includes secondary dwellings and dual occupancies)  | ●                                |                                    |  |
| Residential accommodation where there is three or more additional dwellings being proposed (Including Boarding Houses, Multi Dwelling Housing and Residential Flat Buildings)  | ●                                | ●                                  |  |
| Demolition (unless in a heritage conservation area or an item of heritage)   |                                  |                                    | ●  |
| <b>COMMERCIAL</b>  |                                  |                                    |  |
| New Commercial Premises  | ●                                |                                    |  |
| New Commercial and Industrial premises where it is considered by the assessing officer to have a potential impact on adjoining land or where the proposed development is either adjoining or adjacent to a Residential Zoning.   | ●                                | ●                                  |  |
| Additions and Alterations to a Commercial Premises   | ●                                |                                    |  |
| Change of Use  | ●                                |                                    |  |
| First Occupancy of a new premises  | ●                                |                                    |  |
| Signage  | ●                                |                                    |  |
| <b>SUBDIVISION</b>   |                                  |                                    |  |
| Subdivision of land into two or more lots  | ●                                |                                    |  |
| Boundary Adjustments   |                                  |                                    | ●  |
| Strata Subdivision   |                                  |                                    | ●  |
| <b>TOURIST AND VISITOR ACCOMMODATION</b>   |                                  |                                    |  |
| New Facilities or alterations and additions to existing facilities or a change of use  | ●                                | ●                                  |  |
| <b>RURAL INDUSTRIES</b>  |                                  |                                    |  |
| Rural Industries   | ●                                |                                    |  |

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**TABLE 2 - NOTIFICATION REQUIREMENTS (cont.)**

|   | Neighbour Notification (14 days) | Advertised * Development (30 days) | No notification or exhibition requirements |
|---|----------------------------------|------------------------------------|--|
| <b>INDUSTRIES / STORAGE</b>   |                                  |                                    |  |
| New Industry / Factory Buildings  | ●                                |                                    |  |
| Alterations and Additions to Buildings  | ●                                |                                    |  |
| Change of use   | ●                                |                                    |  |
| Tower used to site telecommunication facilities   | ●                                | ●                                  |  |
| <b>EXTRACTIVE INDUSTRIES</b>  |                                  |                                    |  |
| Extractive Industries - Not designated  | ●                                | ●                                  |  |
| Extractive Industries - Designated Development  | ●                                | ●                                  |  |
| <b>HOSPITAL / RELIGIOUS / EDUCATION ESTABLISHMENTS</b>  |                                  |                                    |  |
| New   | ●                                | ●                                  |  |
| Alterations and Additions   | ●                                | ●                                  |  |
| <b>TEMPORARY USE OF LAND</b>  |                                  |                                    |  |
| Uses under Clause 2.8 of the Wingecarribee Local Environmental Plan   | ●                                | ●                                  |  |
| <b>OTHER DEVELOPMENT TYPES</b>  |                                  |                                    |  |
| Applications where a variation to Council's policies are being proposed (which is greater than 10%), e.g. building lines, setbacks and height, excluding controls relating to cut and fill. | ●                                |                                    |  |
| All new development in Heritage Conservation Areas or upon the site of a Heritage Item, where the proposed works are visible  | ●                                |                                    |  |

**OTHER DEVELOPMENT NOT LISTED** - All other development types that are not required by legislation to be notified will not be notified. However subject to assessment of impacts by Council's assessing officer, where it is found to have uncontrolled or unmanageable impacts on surrounding properties the assessing officer shall determine the level of notification required.

\* Advertised development includes an advertisement in the Newspaper circulating the Local Government Area and also a sign on the development site in a prominent location.

**Notes:**

Any notification provides for fourteen (14) days for written submissions to be received by Council from the date of the notice of proposed development. In the case of advertised development, the advertisement period is 30 days.

Council will provide an additional two (2) weeks to the standard notification period where Council notifies or advertises a development proposal between 20 December and 10 January.

**Notification of amendments to Plans and Documentation (cl.55), Modifications (s.4.55) to Development Consent and Requests for Review (s8.2).**

The plans for a proposed development may be amended by the applicant prior to its determination under clause 55 of the Environmental Planning and Assessment Regulation 2000 or modified in the case where an application is determined by way of approval. Amended plans can also be considered by Council following a request for review of determination under section 8.2 of the Environmental Planning and Assessment Act 1979.

**a) Amendments** - The applicant may submit amended plans in order to address concerns raised by Council or to address concerns raised by an objector in a submission in response to the notification process. In these circumstances

it is not expected that Council will renotify the development proposal. Where issues have not been addressed through the submission of amended plans and supporting documentation, or where there is a significant change in the proposed application which will create detrimental or unmanageable impacts, Council's assessing officers may at their discretion re-notify the proposal.

**b) Modifications following determining an application by way of consent** - For applications that have been determined by way of approval, a section 4.55 modification application may be submitted to Council for consideration. These applications can be of a minor nature (s4.55(1) and s4.55(1A)) of the Environmental Planning and Assessment Act 1979 involving minimal environmental impact or addressing an error or mis-description in an application. More significant modifications will be considered under (s4.55(2)). Council will generally not notify applications made under section 4.55(1) and s4.55(1A), however in the case of a s4.55(2) or a s4.55(AA) modification, if the original development application was previously notified or advertised, any future modification involving environmental impact will be notified or advertised in the same manner.

**c) Review of determination** - In the case of where an application has been determined by way of refusal or in the case of an approval where a condition(s) of consent have been imposed, a proponent may request a review of determination under section 8.2 of the Environmental Planning and Assessment Act 1979. Where a request is made under this section, Council shall notify the section 8.2 application in the same manner as the original development application was notified or advertised.



## 09/ REVIEW AND REPORT

Along with the Communication Strategy, it is proposed this Strategy is reviewed annually and formally assessed three years after its adoption.

Biannual and annual reporting records community engagement activity. Reports can be found at [www.wsc.nsw.gov.au/council/council-reports](http://www.wsc.nsw.gov.au/council/council-reports)

## 10/ REFERENCES

- Social Justice Principles
- IAP2 Framework
- Wingecarribee Communications Strategy
- Community Strategic Plan
- Community Satisfaction Survey 2017
- Wingecarribee Disability Inclusion Action Plan
- *The Privacy Act 1988*
- NSW Information Commissioner’s Charter for Public Participation
- *Crown Land Management Act 2016*
- *Environmental Planning and Assessment Act 1979*
- *Local Government Act 1993*

12.11 Post Exhibition Report on Community Engagement Strategy including  
Community Participation Plan

ATTACHMENT 1 Community Engagement Strategy (showing changes made  
since exhibition in orange)



[www.wsc.nsw.gov.au](http://www.wsc.nsw.gov.au)





## 13 GENERAL MANAGER

### 13.1 Exclusion of Notice of Motions from Business Paper 27 November 2019

|                                   |  |
|-----------------------------------|--|
| Reference:                        | 503/60   |
| Report Author:                    | Group Manager Corporate and Community  |
| Authoriser:                       | General Manager  |
| Link to Community Strategic Plan: | An enhanced culture of positive leadership, accountability and ethical governance that guides well informed decisions to advance agreed community priorities |

#### PURPOSE

To advise Council of the exclusions of three (3) item from the Ordinary Meeting of Council dated 27 November 2019.

The Code of Meeting Practice (adopted 12 June 2019) Clause 3.20 states:

*“the General Manager must not include in the agenda for a meeting of the Council any business of which due notice has been given if, in the opinion of the General Manager, the business is, or the implementation of the business would be, unlawful. The General Manager must report, without giving details of the item of business, any such exclusion to the next meeting of Council”.*

As required the General Manager advises that three (3) submitted Notices of Motion were excluded in accordance with Clause 3.20 above. Further details are provided below:

1. This item was excluded because the information requested is not required for councillors to effectively discharge their official functions in accordance with section 223 of the *Local Government Act 1993*.
2. This item was excluded because in accordance with Section 335 (h) of the *Local Government Act 1993* as it is the function of the General Manager to appoint staff.
3. This item was excluded because the information requested is not required for councillors to effectively discharge their official functions in accordance with section 223 of the *Local Government Act 1993*.

#### RECOMMENDATION

**THAT** the report be noted.

#### ATTACHMENTS

There are no attachments to this report.

Ann Prendergast  
General Manager  
Wednesday 4 December 2019





## 15 PETITIONS

### 15.1 Petition 7/2019 - Climate Emergency

|                                   |  |
|-----------------------------------|--|
| Reference:                        | 100  |
| Report Author:                    | Administration Officer (Meetings)  |
| Authoriser:                       | Deputy General Manager Corporate, Strategy and Development Services  |
| Link to Community Strategic Plan: | An enhanced culture of positive leadership, accountability and ethical governance that guides well informed decisions to advance agreed community priorities |

#### **PURPOSE**

The purpose of this report is to present Council with a petition declaring a Climate Emergency.

The petition contains over 2000 signatures.

A copy of the Petition has been placed in the Councillors' Room and will be tabled at the Ordinary Meeting of Council.

#### **RECOMMENDATION**

**THAT Petition 7/2019 relating to Climate Emergency be received and noted by Council.**

#### **ATTACHMENTS**

There are no attachments to this report.



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## 15.2 Petition 8/2019 - Children's Services

|  |   |
|--|---|
| <b>Reference:</b>                        | <b>100</b>  |
| <b>Report Author:</b>                    | <b>Administration Officer (Meetings)</b>  |
| <b>Authoriser:</b>                       | <b>Deputy General Manager Corporate, Strategy and Development Services</b>  |
| <b>Link to Community Strategic Plan:</b> | <b>An enhanced culture of positive leadership, accountability and ethical governance that guides well informed decisions to advance agreed community priorities</b> |

---

### **PURPOSE**

The purpose of this report is to present Council with a petition to keep children's services with Council.

The petition contains over 275 signatures.

A copy of the Petition has been placed in the Councillors' Room and will be tabled at the Ordinary Meeting of Council.

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### **RECOMMENDATION**

**THAT Petition 8/2019 relating to Children's Services be received and noted by Council.**

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### **ATTACHMENTS**

There are no attachments to this report.

## 16 COMMITTEE REPORTS

### 16.1 Minutes of the Traffic Committee held on Thursday 14 November 2019

Reference: 107/6  
Report Author: Administration Officer

#### PURPOSE

This report provides the Minutes of the Traffic Committee Meeting held on Thursday 14 November 2019.

#### SUMMARY OF RECOMMENDATIONS AND ACTIONS FOR COUNCILLORS' ATTENTION AND ADOPTION

Item 5.1 Police report on recent crashes in the Shire

TC53/19

THAT the information be received and noted.

Item 5.2 Traffic Management Arrangements for 2020 Australia Day Parade

TC54/19

THAT there is no objection to the traffic arrangements proposed for 2020 Australia Day Parade on Sunday 26 January 2020 subject to the completion of all requirements detailed in the Guild to Traffic and Transport Management for Special Events for a class 2 event.

Item 5.3 Traffic and Speeding – Renwick Drive, Renwick

TC55/19

THAT

1. The double barrier lines and pavement markers be extended from Langley Avenue to Bong Bong Road in accordance with AS1742.2 manual of uniform traffic control devices.
2. The edge lines be installed from Langley Avenue to Bong Bong Road in accordance with AS 1742.2 Manual of Uniform Traffic Control Devices.
3. The 50 km/h speed signs along Renwick Drive be reviewed and consolidated to provide a more effective message with double signage provided at the entry to the Renwick development from Old Hume Highway and Bong Bong Road.
4. Officers investigate the establishment of a new permanent base site for the "Speed Busters" variable message speed display sign.
5. The Southern Highlands Highway Patrol be supplied with the speed and traffic data and requested to continue enforcement activities as and when resources permit.
6. A raised concrete median in Renwick Drive at the intersection with Bong Bong Road be installed.

Item 5.4 Proposed new signage on Redhills Road, Fitzroy Falls

TC56/19

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 11 December 2019

### COMMITTEE REPORTS



THAT “Narrow bridge” (W4-1), and “Give Way” (R1-2) signage be installed on Redhills Road and Nowra Road, Fitzroy Falls in accordance with AS1742.2 Manual of uniform traffic control devices with supplementary “On side road” signage on Nowra Road.

Item 5.5 Proposed No Stopping signs at the Ascot Road intersections with Loseby Street and Mona Road, Bowral

TC57/19

1. THAT No Stopping signs be installed at the T intersection of Ascot Road and Loseby Street, and the eastern side of Ascot Road at the T intersection of Ascot Road and Mona Road, Bowral in accordance with Australian Standard AS1742.11 Manual of uniform traffic control devices Part 11: Parking controls.
2. The double barrier line at the intersection of Loseby Street and Ascot Road be shortened.
3. Extending the proposed “No Stopping” on the Eastern side of Loseby Street to 15m from the kerb.

Item 5.6 Proposed Give Way signage at the T intersection of Ringwood Road and Badgerys Way, Exeter

TC58/19

THAT Give Way signage and line marking be installed at the T intersection of Ringwood Road and Badgerys Way, Exeter in accordance with Australian Standard AS1742.2 Manual of uniform traffic control devices Part 2: Traffic control devices for general use.

Item 5.7 Review of Accessible Parking at the Moss Vale War Memorial Aquatic Centre, Moss Vale

TC59/19

1. THAT the addition of one accessible parking space for the disabled in the Moss Vale War Memorial Aquatic Centre, Moss Vale is supported.
2. THAT the mobility parking permit conditions be printed and made available at the Moss Vale War Memorial Aquatic Centre.
3. THAT the mobility parking permit conditions be advertised in the Council page of the Southern Highlands News and in Councils’ Newsletter “Wingecarribee Today”.

Item 5.8 Review of Heavy Vehicle Access on Innes Road, Moss Vale

TC60/19

THAT

1. The installation of 4.5 tonne limit signage on Innes Road, Moss Vale during gazetted school zone times is not supported at this time.
2. The Southern Highlands Highway Patrol be supplied with the speed and traffic data and requested to continue enforcement activities as and when resources permit.

Item 5.9 Bridge Load Limits

TC61/19

THAT Council installs gross load limit signs of 8t, 15t, 17t, 20t, 26t, 26t, 27t, 29t and 33t respectively on Nowra Road-Yarrunga Creek Bridge, The Old Highway-Sutton Forest Bridge, Kangaloon Road-Glenquarry Cut Bridge, Shepherd Street Bridge, Golden Vale

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 11 December 2019

### COMMITTEE REPORTS



Road Bridge, Redhills Road Bridge, Tourist Road-Nepean River Bridge, Tourist Road-Follys Creek Bridge and Oxleys Hill Road Bridge.

#### Item 5.10      Traffic Committee Action Sheet

TC62/19

THAT the information be received and noted.

---

### RECOMMENDATION

**THAT recommendations Nos TC53/19 to TC62/19 – as detailed in the Minutes of the Traffic Committee Meeting held on 14 November 2019 be adopted, save for any items which have budgetary implications AND THAT any item with budgetary implications and which is unfunded, be referred to the Finance Committee for consideration.**

---

### ATTACHMENTS

1. Minutes of the Traffic Committee Meeting on 14 November 2019



# MINUTES

## of the Traffic Committee Meeting

held in the

Nattai Room

Civic Centre, Elizabeth Street, Moss Vale

on

**Thursday 14 November 2019**

The meeting commenced at 9:34am

*File No. 107/6*



**MINUTES OF THE TRAFFIC COMMITTEE MEETING**

Thursday 14 November 2019



**1. WELCOME AND APOLOGIES**

**2. ACKNOWLEDGEMENT OF COUNTRY**

**3. ADOPTION OF MINUTES OF PREVIOUS MEETING**

**4. DECLARATIONS OF INTEREST**

---

**5. AGENDA REPORTS ..... 3**

5.1 Police report on recent road crashes in the Shire..... 3

5.2 Traffic Management Arrangements for 2020 Australia Day Parade ..... 4

5.3 Traffic and Speeding - Renwick Drive, Renwick..... 5

5.4 Proposed new signage Redhills Road Fitzroy Falls ..... 6

5.5 Proposed No Stopping signs at the Ascot Road intersections with Loseby Street and Mona Road, Bowral..... 7

5.6 Proposed Give Way signage at the T intersection of Ringwood Road and Badgerys Way, Exeter ..... 8

5.7 Review of Accessible Parking at the Moss Vale War Memorial Aquatic Centre, Moss Vale ..... 9

5.8 Review of Heavy Vehicle Access on Innes Road, Moss Vale .....10

5.9 Bridge load limits .....11

5.10 Traffic Committee Action Sheet .....12

**6. DATE OF NEXT MEETING .....13**

**7. MEETING CLOSURE .....13**



**MINUTES OF THE TRAFFIC COMMITTEE MEETING**

Thursday 14 November 2019



**MINUTES OF THE TRAFFIC COMMITTEE MEETING OF WINGECARRIBEE SHIRE COUNCIL HELD IN NATTAI ROOM, CIVIC CENTRE, ELIZABETH STREET, MOSS VALE ON THURSDAY 14 NOVEMBER 2019 COMMENCING AT 9:34AM.**

**Present:** Clr Ken Halstead Chair  
 Mrs Jayd Marsh Roads and Maritime Services  
 Senior Constable Scott Ferguson NSW Police  
 Mrs Katherine Wood Representing Member for Goulburn

**In Attendance:** Mr Matthew White Roads and Maritime Services

**Council Staff:** Ms Daria Chen Traffic Engineer  
 Mr Naif Ahmed Coordinator Assets Roads & Traffic  
 Mr Frank Iacono Transportation Planning Engineer

**Agency representative:** Mr Chris Moule Berrima Buslines

**Minutes:** Mrs Liz de Graaf Administration Assistant

**Absent:** Mr Ian Armstrong Representing Member for Wollondilly

**1. WELCOME AND APOLOGIES**

Nil

**2. ACKNOWLEDGEMENT OF COUNTRY**

I would like to acknowledge the Traditional Custodians of this land and pay my respect to Elders both past and present. I would also like to extend that respect to all Aboriginal and Torres Strait Islanders present here today.

**3. ADOPTION OF MINUTES OF PREVIOUS MEETING**

MINUTES OF THE TRAFFIC COMMITTEE MEETING HELD ON THURSDAY 31 OCTOBER 2019

**RECOMMENDATION**

***THAT the minutes of the Traffic Committee Meeting held on Thursday 22 August 2019 TC32/19 to TC48/19 inclusive, copies of which were forwarded to Councillors, be adopted as a correct record of the proceedings of the meeting.***

PASSED

Unanimous support





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**MINUTES OF THE TRAFFIC COMMITTEE MEETING**

Thursday 14 November 2019



---

**4. DECLARATIONS OF INTEREST**

Nil



MINUTES OF THE TRAFFIC COMMITTEE MEETING

Thursday 14 November 2019



5. AGENDA REPORTS

5.1 Police report on recent road crashes in the Shire

|                   |  |
|-------------------|--|
| Reference:        | 7410   |
| Report Author:    | Traffic Engineer (Contractor)  |
| Authoriser:       | Manager Assets   |
| Link to Community |  |
| Strategic Plan:   | Provide safe and efficient road, cycle and where appropriate, walking paths between and within town and villages, and conveniently located parking areas for cars and bicycles. Ideally, all road reserves to include provision for safe walking and cycling |

PURPOSE

Reporting on recent road crashes in the Shire recorded by Police.

RECOMMENDATION

*THAT the information be received and noted*

TC53/19

Unanimous support



MINUTES OF THE TRAFFIC COMMITTEE MEETING

Thursday 14 November 2019



**5.2 Traffic Management Arrangements for the 2020 Australia Day Parade**

Reference: 7420/3  
 Report Author: Traffic Engineer (Contractor)  
 Authoriser: Manager Assets  
 Link to Community  
 Strategic Plan: Work in partnership to ensure a safe road network

**PURPOSE**

Reporting on the traffic arrangements for the 2020 Australia Day Parade in Berrima.

**RECOMMENDATION**

*THAT there is no objection to the traffic arrangements proposed for the 2020 Australia Day Parade on Sunday 26 January 2020 subject to the completion of all requirements detailed in the Guild to Traffic and Transport Management for Special Events for a class 2 event.*

TC54/19

Unanimous support



MINUTES OF THE TRAFFIC COMMITTEE MEETING

Thursday 14 November 2019



**5.3 Traffic and Speeding - Renwick Drive, Renwick**

Reference: 7460/39  
 Report Author: Traffic Engineer (Contractor)  
 Authoriser: Deputy General Manager Operations, Finance and Risk  
 Link to Community  
 Strategic Plan: Work in partnership to ensure a safe road network

**PURPOSE**

To consider measures to manage traffic and speeding on Renwick Drive, Renwick.

**RECOMMENDATION**

**THAT**

1. *The double barrier lines and pavement markers be extended from Langley Avenue to Bong Bong Road in accordance with AS1742.2 manual of uniform traffic control devices.*
2. *The edge lines be installed from Langley Avenue to Bong Bong Road in accordance with AS 1742.2 Manual of Uniform Traffic Control Devices.*
3. *The 50 km/h speed signs along Renwick Drive be reviewed and consolidated to provide a more effective message with double signage provided at the entry to the Renwick development from Old Hume Highway and Bong Bong Road.*
4. *Officers investigate the establishment of a new permanent base site for the "Speed Busters" variable message speed display sign.*
5. *The Southern Highlands Highway Patrol be supplied with the speed and traffic data and requested to continue enforcement activities as and when resources permit.*
6. *A raised concrete median in Renwick Drive at the intersection with Bong Bong Road be installed.*

TC55/19

Unanimous support



MINUTES OF THE TRAFFIC COMMITTEE MEETING

Thursday 14 November 2019



**5.4 Proposed new signage on Redhills Road, Fitzroy Falls**

Reference: 7460/17  
 Report Author: Traffic Engineer (Acting)  
 Authoriser: Manager Assets  
 Link to Community  
 Strategic Plan: Work in partnership to ensure a safe road network

**PURPOSE**

To consider signage for the Redhills Road Bridge, Redhills Road, Fitzroy Falls.

**RECOMMENDATION**

*THAT "Narrow bridge" (W4-1), and "Give Way" (R1-2) signage be installed on Redhills Road and Nowra Road, Fitzroy Falls in accordance with AS1742.2 Manual of uniform traffic control devices with supplementary "On side road" signage on Nowra Road.*

TC56/19

Unanimous support



MINUTES OF THE TRAFFIC COMMITTEE MEETING

Thursday 14 November 2019



**5.5 Proposed No Stopping signs at the Ascot Road intersections with Loseby Street and Mona Road, Bowral**

Reference: 7453  
 Report Author: Traffic Engineer (Contractor)  
 Authoriser: Manager Assets  
 Link to Community  
 Strategic Plan: Work in partnership to ensure a safe road network

**PURPOSE**

To consider the installation of No Stopping signs at the T intersection of Ascot Road and Loseby Street, Bowral

**RECOMMENDATION**

1. *THAT No Stopping signs be installed at the T intersection of Ascot Road and Loseby Street, and the eastern side of Ascot Road at the T intersection of Ascot Road and Mona Road, Bowral in accordance with Australian Standard AS1742.11 Manual of uniform traffic control devices Part 11: Parking controls.*
2. *The double barrier line at the intersection of Loseby Street and Ascot Road be shortened.*
3. *Extending the proposed "No Stopping" on the Eastern side of Loseby Street to 15m from the kerb.*

TC57/19

Unanimous support



MINUTES OF THE TRAFFIC COMMITTEE MEETING

Thursday 14 November 2019



**5.6 Proposed Give Way signage at the T intersection of Ringwood Road and Badgerys Way, Exeter**

Reference: 7415/2  
 Report Author: Traffic Engineer (Contractor)  
 Authoriser: Manager Assets  
 Link to Community  
 Strategic Plan: Work in partnership to ensure a safe road network

**PURPOSE**

To authorise the installation of prescribed traffic management devices (Give Way signage and line marking, and sight boards) at the T intersection of Ringwood Road and Badgerys Way, Exeter.

**RECOMMENDATION**

*THAT Give Way signage and line marking be installed at the T intersection of Ringwood Road and Badgerys Way, Exeter in accordance with Australian Standard AS1742.2 Manual of uniform traffic control devices Part 2: Traffic control devices for general use.*

TC58/19

Unanimous support



MINUTES OF THE TRAFFIC COMMITTEE MEETING

Thursday 14 November 2019



**5.7 Review of Accessible Parking at the Moss Vale War Memorial Aquatic Centre, Moss Vale**

Reference: 7455  
 Report Author: Traffic Engineer (Contractor)  
 Authoriser: Deputy General Manager Operations, Finance and Risk  
 Link to Community  
 Strategic Plan: Work in partnership to ensure a safe road network

**PURPOSE**

To review the allocation of accessible parking at the Moss Vale War Memorial Aquatic Centre as recommended by the Local Traffic Committee at its meeting of 22 August 2019.

**RECOMMENDATION**

*THAT the addition of one accessible parking space for the disabled in the Moss Vale War Memorial Aquatic Centre, Moss Vale is supported.*

*THAT the mobility parking permit conditions be printed and made available at the Moss Vale War Memorial Aquatic Centre.*

*THAT the mobility parking permit conditions be advertised in the Council page of the Southern Highlands News and in Councils' Newsletter "Wingecarribee Today".*

TC59/19

Unanimous support





MINUTES OF THE TRAFFIC COMMITTEE MEETING

Thursday 14 November 2019



**5.8 Review of Heavy Vehicle Access on Innes Road, Moss Vale**

Reference: 7453  
 Report Author: Traffic Engineer (Contractor)  
 Authoriser: Manager Assets  
 Link to Community  
 Strategic Plan: Work in partnership to ensure a safe road network

**PURPOSE**

To review the installation of timed 4.5 tonne limit signage on Inners Road, Moss Vale as recommended by the Local Traffic Committee at its meeting of 22 August 2019.

**RECOMMENDATION**

**THAT**

1. *The installation of 4.5 tonne limit signage on Innes Road, Moss Vale during gazetted school zone times is not supported at this time.*
2. *The Southern Highlands Highway Patrol be supplied with the speed and traffic data and requested to continue enforcement activities as and when resources permit.*

TC60/19

Unanimous support



MINUTES OF THE TRAFFIC COMMITTEE MEETING

Thursday 14 November 2019



**5.9 Bridge load limits**

Reference: 7850  
 Report Author: Traffic Engineer (Contractor)  
 Authoriser: Manager Assets  
 Link to Community  
 Strategic Plan: Work in partnership to ensure a safe road network

**PURPOSE**

To consider implementing gross load limit restrictions on 9 road bridges.

**RECOMMENDATION**

*THAT Council installs gross load limit signs of 8t, 15t, 17t, 20t, 26t, 26t, 27t, 29t and 33t respectively on Nowra Road-Yarrunga Creek Bridge, The Old Highway-Sutton Forest Bridge, Kangaloon Road-Glenquarry Cut Bridge, Shepherd Street Bridge, Golden Vale Road Bridge, Redhills Road Bridge, Tourist Road-Nepean River Bridge, Tourist Road-Follys Creek Bridge and Oxleys Hill Road Bridge.*

TC61/19

Unanimous support



MINUTES OF THE TRAFFIC COMMITTEE MEETING

Thursday 14 November 2019



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**5.10 Traffic Committee Action Sheet**

Reference: 107/6  
Report Author: Administration Officer  
Authoriser: Manager Assets  
Link to Community  
Strategic Plan: Work in partnership to ensure a safe road network

---

**PURPOSE**

Reporting on the Traffic Committee Action Sheet.

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**RECOMMENDATION**

*THAT the information be received and noted.*

TC62/19

Unanimous support



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**MINUTES OF THE TRAFFIC COMMITTEE MEETING**

Thursday 14 November 2019



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**6. DATE OF NEXT MEETING**

The next meeting will be held on Thursday 13 February 2020 in the Nattai Room, Civic Centre, Elizabeth Street, Moss Vale commencing at 9:30 am.

**7. MEETING CLOSURE**

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 11:35 AM

## 16.2 Minutes of the Finance Committee Meeting held on Wednesday, 20 November 2019

Reference: 107/21  
Report Author: Administration Officer (Meetings)  
Authoriser: Deputy General Manager Corporate, Strategy and Development Services

Link to Community Strategic Plan:

An enhanced culture of positive leadership, accountability and ethical governance that guides well informed decisions to advance agreed community priorities

### PURPOSE

This report provides the Minutes of the Finance Committee Meeting held on Wednesday, 20 November 2019.

### SUMMARY OF RECOMMENDATIONS AND ACTIONS FOR COUNCILLORS' ATTENTION AND ADOPTION

#### Item 3 Apologies

FC 34/19

*THAT the apologies of Cllr G McLaughlin, Cllr Scandrett and Cllr G Andrews be accepted and leave of absence granted.*

#### Item 4 Confirmation of Minutes

FC 35/19

*THAT the minutes of the Finance Committee Meeting held on Wednesday 16 October 2019 MN FC26/19 to MN FC31/19 inclusive, copies of which were forwarded to Councillors, be adopted as a correct record of the proceedings of the meeting.*

#### Item 6.1 Agenda Reports - Budget Review to 30 September 2019

FC 36/19

- THAT Council approve the budget variations reported at the September Quarterly Review as listed in Attachment 1 to the report.*
- THAT the projected surplus of \$22,071 be transferred to the Capital Projects Reserve for consideration as part of the 2020/21 Budget.*

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 11 December 2019

### COMMITTEE REPORTS



Item 6.2 Quarterly Operational Plan 2019/20 Progress Report, 1 July to 30 September 2019

FC 37/19

*THAT the Quarterly Progress Report on Operational Plan 2019/20, 1 July to 30 September 2019, be noted.*

Item 6.3 Belmore Falls Road, Burrawang Creek Bridge Side Track

FC 38/19

*THAT Council approve the allocation of up to \$150,000 from the Capital Projects Reserve for the construction of a side track at Belmore Falls Road, Burrawang Creek Bridge in the 2019/20 Budget.*

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### RECOMMENDATION

**THAT recommendations Nos FC 34/19 to 38/19 – as detailed in the Minutes of the Finance Committee Meeting held on Wednesday, 20 November 2019 be adopted.**

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### ATTACHMENTS

1. Minutes of Finance Committee Meeting held on 20 November 2019



# MINUTES

## of the Finance Committee Meeting

held in

Council Chambers

Civic Centre, Elizabeth Street, Moss Vale

on

**Wednesday 20 November 2019**

The meeting commenced at 9.00am.

*File No. 107/21*

16.2 Minutes of the Finance Committee Meeting held on Wednesday, 20 November 2019

ATTACHMENT 1 Minutes of Finance Committee Meeting held on 20 November 2019



MINUTES OF THE FINANCE COMMITTEE MEETING

Wednesday 20 November 2019



|   |          |
|---|----------|
| <b>1. OPENING OF THE MEETING</b>  |          |
| <b>2. ACKNOWLEDGEMENT OF COUNTRY</b>  |          |
| <b>3. APOLOGIES</b>   |          |
| Leave of absence for this meeting was previously granted to Councillor G Markwart.        |          |
| <b>4. ADOPTION OF MINUTES OF PREVIOUS MEETING</b>   |          |
| Finance Committee Meeting held on 16 October 2019   |          |
| <b>5. DECLARATIONS OF INTEREST .....</b>  | <b>2</b> |
| <b>6. AGENDA REPORTS .....</b>  | <b>3</b> |
| 6.1 Budget Review to 30 September 2019.....   | 3        |
| 6.2 Quarterly Operational Plan 2019/20 Progress Report, 1 July to 30 September 2019 ..... | 4        |
| 6.3 Belmore Falls Road, Burrawang Creek Bridge Side Track .....                           | 5        |
| <b>7. CLOSED COMMITTEE .....</b>  | <b>6</b> |
| Nil   |          |
| <b>8. DATE OF NEXT MEETING .....</b>  | <b>6</b> |
| <b>9. MEETING CLOSURE .....</b>   | <b>6</b> |





**MINUTES OF THE FINANCE COMMITTEE MEETING**

Wednesday 20 November 2019



**MINUTES OF THE FINANCE COMMITTEE MEETING OF WINGECARRIBEE SHIRE COUNCIL HELD IN COUNCIL CHAMBERS, CIVIC CENTRE, ELIZABETH STREET, MOSS VALE ON WEDNESDAY 20 NOVEMBER 2019 COMMENCING AT 9.00AM**

**Present:** Mayor Clr T D Gair (Chair)  
Clr K J Halstead  
Clr P W Nelson  
Clr G M Turland  
Clr L A C Whipper

|                       |  |                        |
|-----------------------|--|------------------------|
| <b>In Attendance:</b> | General Manager  | Ms Ann Prendergast     |
|                       | Deputy General Manager Operations,<br>Finance and Risk                 | Mr Barry Paul          |
|                       | Deputy General Manager Corporate,<br>Strategy and Development Services | Mr Mark Pepping        |
|                       | Chief Financial Officer  | Mr Richard Mooney      |
|                       | Group Manager Corporate and Community                                  | Ms Danielle Lidgard    |
|                       | Group Manager Project Delivery   | Mr Ned Tripkovic       |
|                       | Chief Information Officer  | Mr John Crawford       |
|                       | Deputy Chief Financial Officer   | Mr Damien Jenkins      |
|                       | Management Accountant  | Mr Peter Dunn          |
|                       | Administration Officer   | Ms Michelle Richardson |

**1. OPENING OF THE MEETING**

The Mayor Clr T D Gair opened the meeting and welcomed members of the public and the press.

**2. ACKNOWLEDGEMENT OF COUNTRY**

The Mayor Clr T D Gair acknowledged country:

*"I would like to acknowledge the Traditional Custodians of this land and pay my respect to Elders both past and present. I would also like to extend that respect to all Aboriginal and Torres Strait Islanders present here today."*



MINUTES OF THE FINANCE COMMITTEE MEETING

Wednesday 20 November 2019



**3. APOLOGIES**

PERS

**FC 34/19**

**MOTION** moved by Clr P W Nelson and seconded by Clr L A C Whipper

**THAT** the apologies of Clr G McLaughlin, Clr Scandrett and Clr G Andrews be accepted and leave of absence granted.

**PASSED**

**4. ADOPTION OF MINUTES OF PREVIOUS MEETING**

MINUTES OF THE FINANCE COMMITTEE MEETING HELD ON WEDNESDAY 16 OCTOBER 2019

**FC 35/19**

**MOTION** moved by Deputy Mayor G M Turland and seconded by Clr L A C Whipper

**THAT** the minutes of the Finance Committee Meeting held on Wednesday 16 October 2019 MN FC26/19 to MN FC31/19 inclusive, copies of which were forwarded to Councillors, be adopted as a correct record of the proceedings of the meeting.

**PASSED**

**5. DECLARATIONS OF INTEREST**

101/3, 101/3.1

That where necessary any Councillor now disclose any interest and the reason for declaring such interest in the matters under consideration by the Finance Committee at this Meeting and to complete the appropriate form to be handed up at the Meeting.

Nil.



MINUTES OF THE FINANCE COMMITTEE MEETING

Wednesday 20 November 2019



6. AGENDA REPORTS

6.1 Budget Review to 30 September 2019

Reference: 2120/19  
 Report Author: Management Accountant  
 Authoriser: Chief Financial Officer  
 Link to Community  
 Strategic Plan: Effective financial and asset management ensure Council's long term sustainability

**PURPOSE**

The purpose of this report is to inform Council of the results of the budget review undertaken for the period ending 30 September 2019 and to seek approval to make the necessary adjustments to the 2019/20 budget.

The Quarterly Review of the Budget is reported to Council at the end of each quarter in accordance with Section 203 of the *Local Government (General) Regulation 2005*.

The Chief Financial Officer addressed Council on this item.

The Deputy General Manager Operations Finance and Risk addressed Council on this item

**FC 36/19**

**MOTION** moved by C/r P W Nelson and seconded by C/r K J Halstead OAM

1. **THAT** Council approve the budget variations reported at the September Quarterly Review as listed in Attachment 1 to the report.
2. **THAT** the projected surplus of \$22,071 be transferred to the Capital Projects Reserve for consideration as part of the 2020/21 Budget.

**PASSED**



MINUTES OF THE FINANCE COMMITTEE MEETING

Wednesday 20 November 2019



**6.2 Quarterly Operational Plan 2019/20 Progress Report, 1 July to 30 September 2019**

Reference: 501/2019  
Report Author: Internal Audit and Legal Support Officer  
Authoriser: A/Coordinator Corporate Strategy and Governance  
Link to Community  
Strategic Plan: An enhanced culture of positive leadership, accountability and ethical governance that guides well informed decisions to advance agreed community priorities

**PURPOSE**

This report provides an overview of Council's progress towards delivering its annual Operational Plan 2019/20.

The Group Manager Corporate and Community addressed Council on this item

The Chief Information Officer addressed Council in relation to this item

The General Manager addressed Council on this item

**FC 37/19**

**MOTION** moved by Cllr L A C Whipper and seconded by Cllr P W Nelson

**THAT** the Quarterly Progress Report on Operational Plan 2019/20, 1 July to 30 September 2019, be noted.

**PASSED**



MINUTES OF THE FINANCE COMMITTEE MEETING

Wednesday 20 November 2019



**6.3 Belmore Falls Road, Burrawang Creek Bridge Side Track**

Reference: 7850/6  
Report Author: Manager Assets  
Authoriser: Deputy General Manager Operations, Finance and Risk  
Link to Community  
Strategic Plan: Provide an accessible, efficient and interconnected public transport system within and out of the Shire

**PURPOSE**

The purpose of this report is to seek Council approval to fund the construction of a side track adjacent to the Belmore Falls Road, Burrawang Creek Bridge.

The Deputy General Manager Operations Finance and Risk addressed Council on this item

**FC 38/19**

**MOTION** moved by Cllr K J Halstead OAM and seconded by Deputy Mayor G M Turland

**THAT** Council approve the allocation of up to \$150,000 from the Capital Projects Reserve for the construction of a side track at Belmore Falls Road, Burrawang Creek Bridge in the 2019/20 Budget.

**PASSED**



**MINUTES OF THE FINANCE COMMITTEE MEETING**

Wednesday 20 November 2019



**7. CLOSED COMMITTEE**

Nil

**8. DATE OF NEXT MEETING**

The next meeting will be held on 19 February 2020 in Council Chambers commencing at 9.00am.

**9. MEETING CLOSURE**

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 9.55am

In accordance with the provisions of Section 375(2) of the Local Government Act, these Minutes of the Meeting held Wednesday 20 November 2019 numbered M/N 34/19 to M/N 38/19 were signed by me hereunder at the Council Meeting held on Wednesday 19 February 2020 .

\_\_\_\_\_  
CHAIRMAN

**READ AND CONFIRMED ON**

\_\_\_\_\_  
CHAIRMAN

\_\_\_\_\_  
PUBLIC OFFICER

## 16.3 Minutes of the Traffic Committee Meeting held electronically on 20 November 2019

|                   |   |
|-------------------|---|
| Reference:        | 107/6   |
| Report Author:    | Traffic Engineer (Contractor)                     |
| Authoriser:       | Manager Assets                                    |
| Link to Community |   |
| Strategic Plan:   | Work in partnership to ensure a safe road network |

### PURPOSE

This report provides the Minutes of the Traffic Committee Meeting held electronically on Wednesday 20 November 2019.

### SUMMARY OF RECOMMENDATIONS AND ACTIONS FOR COUNCILLORS' ATTENTION AND ADOPTION

Item 1 Review of 2019-2020 Southern Highlands Cycling Club Race Program

TC 63/19

*THAT* approval be granted to Southern Highlands Cycling Club Inc. to conduct their 2019-2020 Summer and Winter Race Program subject to the satisfactory completion of all requirements of the NSW Guidelines for Bicycle Road Races for a Class 2 Race Event.

### RECOMMENDATION

**THAT recommendation No TC 63/19 – as detailed in the Minutes of the Traffic Committee Meeting held electronically on 20 November 2019 be adopted.**

### ATTACHMENTS

1. Minutes of the Traffic Committee Meeting held electronically on 20 November 2019



# MINUTES

of the  
Traffic Committee Meeting  
held electronically on

**Wednesday 20 November 2019**

*File No. 107/6*



16.3 Minutes of the Traffic Committee Meeting held electronically on 20 November 2019

ATTACHMENT 1 Minutes of the Traffic Committee Meeting held electronically on 20 November 2019



MINUTES OF THE TRAFFIC COMMITTEE MEETING

Wednesday 20 November 2019




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|   |          |
|---|----------|
| <b>1. AGENDA REPORTS .....</b>  | <b>2</b> |
| 1.1 Review of 2019-2020 Southern Highlands Cycling Club Race Program..... | 2        |

16.3 Minutes of the Traffic Committee Meeting held electronically on 20 November 2019

ATTACHMENT 1 Minutes of the Traffic Committee Meeting held electronically on 20 November 2019



MINUTES OF THE TRAFFIC COMMITTEE MEETING

Wednesday 20 November 2019



MINUTES OF THE TRAFFIC COMMITTEE MEETING OF WINGECARRIBEE SHIRE COUNCIL HELD ELECTRONICALLY ON WEDNESDAY 20 NOVEMBER 2019.

- Present:**
- |                                 |                                     |
|---------------------------------|-------------------------------------|
| Clr Ken Halstead                | Chair                               |
| Mrs Jayd Marsh                  | Roads and Maritime Services         |
| Chief Inspector John Klepczarek | NSW Police                          |
| Mr Ian Armstrong                | Representing Member for Wollondilly |
| Mrs Katherine Wood              | Representing Member for Goulburn    |
- Council Staff:**
- |                |                                    |
|----------------|------------------------------------|
| Mr Stace Lewer | Manager Assets                     |
| Ms Daria Chen  | Acting Traffic Engineer            |
| Mr Naif Ahmed  | Coordinator Assets Roads & Traffic |

1. AGENDA REPORTS

1.1 Review of 2019-2020 Southern Highlands Cycling Club Race Program

- Reference:** 7420/2
- Report Author:** Traffic Engineer (Contractor)
- Authoriser:** Coordinator Assets – Water, Sewerage and Drainage
- Link to Community Strategic Plan:** Provide safe and efficient road, cycle and where appropriate, walking paths between and within town and villages, and conveniently located parking areas for cars and bicycles. Ideally, all road reserves to include provision for safe walking and cycling

PURPOSE

To review the application for 2019-2020 Southern Highlands Cycling Club Race Program.

RECOMMENDATION

*THAT approval be granted to Southern Highlands Cycling Club Ins. To conduct their 2019-2020 Summer and Winter Race Program subject to the satisfactory completion of all requirements of the NSW Guidelines for Bicycle Road Races for a Class 2 Race Event.*

TC63/19  
Unanimous

16.3 Minutes of the Traffic Committee Meeting held electronically on 20 November 2019

ATTACHMENT 1 Minutes of the Traffic Committee Meeting held electronically on 20 November 2019



MINUTES OF THE TRAFFIC COMMITTEE MEETING

Wednesday 20 November 2019



**2. MEETING CLOSURE**

THERE BEING NO FURTHER BUSINESS, THE MEETING WAS CLOSED

## 16.4 Minutes of the Environment and Sustainability Advisory Committee Meeting held on Wednesday, 20 November 2019

|                                   |   |
|-----------------------------------|---|
| Reference:                        | 107/25  |
| Report Author:                    | Administration Officer (Meetings)                                   |
| Authoriser:                       | Deputy General Manager Corporate, Strategy and Development Services |
| Link to Community Strategic Plan: | Sustainably manage natural resources for broader community benefit  |

### PURPOSE

This report provides the Minutes of the Environment and Sustainability Advisory Committee meeting held on Wednesday, 20 November 2019.

It is noted the Environment and Sustainability Advisory Committee recommendation Item 5.4(3) ES21/19 which reads “**THAT** Council make a Climate Emergency Declaration” cannot be considered by Council as the recommendation would be in breach of Clause 18.7 of Council’s Code of Meeting Practice which states:

*If a motion to alter or rescind a resolution has been lost, or if a motion which has the same effect as a previously lost motion is lost, no similar motion may be brought forward within three (3) months of the meeting which it was lost. This clause may not be evaded by substituting a motion differently worded, but in principle the same.*

A rescission motion of the same matter was lost at the Council meeting held on 25 October 2019. In effect this matter cannot be considered by Council again until after 25 December 2019.

### SUMMARY OF RECOMMENDATIONS AND ACTIONS FOR COUNCILLORS’ ATTENTION AND ADOPTION

#### Item 1 Welcome and Apologies

ES 15/19

*THAT* the apologies of Cllr G Markwart, Mr Malcolm Hughes and Ms Jennifer Slattery be accepted and leave of absence granted.

#### Item 3 Adoption of Minutes of Previous Meeting

ES 16/19

*THAT* the minutes of the Environment and Sustainability Advisory Committee Meeting held on Wednesday 21 August 2019 MN 11/19 to MN 14/19 inclusive, copies of which were forwarded to Councillors, be adopted as a correct record of the proceedings of the meeting.

ES 17/19

*MOTION* moved by Ms P Hall and seconded by Mr C West

*THAT* the verbal report offered to the Committee by Barry Arthur and Richard Mooney on the outcomes of the Councillor briefing session (13 November 2019) regarding the

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 11 December 2019

### COMMITTEE REPORTS



*Environment Levy Administration and Coordination Costs be noted.*

Item 5.1 Agenda Reports – Southern Highlands Koala Habitat Tender  
ES 18/19

*THAT the report be noted.*

Item 5.2 Southern Highlands Nature Map  
ES 19/19

*THAT the report be noted.*

Item 5.3 Environment and Sustainability Updates  
ES 20/19

*THAT the report be noted.*

Item 5.4 Climate Change Emergency Declaration  
ES 21/19

1. *THAT the report be noted.*
2. *THAT Council recognises the latest climate change science from the IPCC and acknowledges that the Wingecarribee region is vulnerable to the impacts of climate change such as heatwaves, bushfires, severe storms and changes in rainfall.*
3. *THAT Council make a Climate Emergency Declaration.*

### RECOMMENDATION

**THAT recommendations Nos ES15/19 to ES21/19 excluding ES21/19 Item 3 – as detailed in the Minutes of the Environment and Sustainability held on 20 November 2019 be adopted, save for any items which have budgetary implications AND THAT any item with budgetary implications and which is unfunded, be referred to the Finance Committee for consideration.**

### ATTACHMENTS

1. Minutes of the Environment and Sustainability Committee meeting held on 20 November 2019



# MINUTES

## of the Environment and Sustainability Advisory Committee Meeting

held in

Nattai Room

Civic Centre, Elizabeth Street, Moss Vale

on

**Wednesday 20 November 2019**

The meeting commenced at 10.30am

*File No. 107/25*

16.4 Minutes of the Environment and Sustainability Advisory Committee Meeting held on Wednesday, 20 November 2019

ATTACHMENT 1 Minutes of the Environment and Sustainability Committee meeting held on 20 November 2019



MINUTES OF THE ENVIRONMENT AND SUSTAINABILITY ADVISORY COMMITTEE MEETING

Wednesday 20 November 2019




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- 1. WELCOME AND APOLOGIES
- 2. ACKNOWLEDGEMENT OF COUNTRY
- 3. ADOPTION OF MINUTES OF PREVIOUS MEETING
- 4. DECLARATIONS OF INTEREST

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- 5. AGENDA REPORTS ..... 3
  - 5.1 Southern Highlands Koala Habitat Tender ..... 3
  - 5.2 Southern Highlands Nature Map ..... 5
  - 5.3 Environment and Sustainability Updates..... 6
  - 5.4 Climate Change Emergency Declaration ..... 8
- 6. DATE OF NEXT MEETING ..... 9
- 7. MEETING CLOSURE ..... 9

16.4 Minutes of the Environment and Sustainability Advisory Committee Meeting held on Wednesday, 20 November 2019

ATTACHMENT 1 Minutes of the Environment and Sustainability Committee meeting held on 20 November 2019



MINUTES OF THE ENVIRONMENT AND SUSTAINABILITY ADVISORY COMMITTEE MEETING

Wednesday 20 November 2019



MINUTES OF THE ENVIRONMENT AND SUSTAINABILITY ADVISORY COMMITTEE MEETING OF WINGECARRIBEE SHIRE COUNCIL HELD IN NATTAI ROOM, CIVIC CENTRE, ELIZABETH STREET, MOSS VALE ON WEDNESDAY 20 NOVEMBER 2019 COMMENCING AT 10.30AM.

**Present:**

**Councillors:** Clr L A C Whipper *Chair*

**Community Representatives:** Ms Patricia Hall  
Ms Lyndall Dalley  
Mr Paul Shanahan  
Mr Clive West

**In Attendance:** Mr Barry Arthur *Manager Environment & Sustainability*  
Mr Richard Mooney *Chief Financial Officer (in part)*  
Dr Karen Guymmer *Acting Natural Resource Project Coordinator*  
Ms Cecilia Kemp *Coordinator Environment and Health Systems*  
Ms Gillian Sutherland-Harris *Environmental Policy Officer*  
Ms Michelle Richardson *Administration Officer*

**1. WELCOME AND APOLOGIES**

It was noted that apologies were received from Clr G Markwart and Mr Malcolm Hughes and Ms Jennifer Slattery.

**ES 15/19**

**MOTION** moved by Ms L Dalley and seconded by Ms P Hall

**THAT the apologies of Clr G Markwart, Mr Malcolm Hughes and Ms Jennifer Slattery be accepted and leave of absence granted.**

**PASSED**

**2. ACKNOWLEDGEMENT OF COUNTRY**

Clr L Whipper acknowledged country:

I would like to acknowledge the Traditional Custodians of this land and pay my respect to Elders both past and present. I would also like to extend that respect to all Aboriginal and Torres Strait Islanders present here today.



16.4 Minutes of the Environment and Sustainability Advisory Committee Meeting  
held on Wednesday, 20 November 2019

ATTACHMENT 1 Minutes of the Environment and Sustainability Committee  
meeting held on 20 November 2019



MINUTES OF THE ENVIRONMENT AND SUSTAINABILITY ADVISORY  
COMMITTEE MEETING

Wednesday 20 November 2019



**3. ADOPTION OF MINUTES OF PREVIOUS MEETING**

MINUTES OF THE ENVIRONMENT AND SUSTAINABILITY ADVISORY COMMITTEE  
MEETING HELD ON WEDNESDAY 21 AUGUST 2019

**ES 16/19**

**MOTION** moved by Ms P Hall and seconded by Ms L Dalley

**THAT** the minutes of the Environment and Sustainability Advisory Committee Meeting held on Wednesday 21 August 2019 MN 11/19 to MN 14/19 inclusive, copies of which were forwarded to Councillors, be adopted as a correct record of the proceedings of the meeting.

**PASSED**

**ES 17/19**

**MOTION** moved by Ms P Hall and seconded by Mr C West

**THAT** the verbal report offered to the Committee by Barry Arthur and Richard Mooney on the outcomes of the Councillor briefing session (13 November 2019) regarding the Environment Levy Administration and Coordination Costs be noted.

**PASSED**

**4. DECLARATIONS OF INTEREST**

Nil

16.4 Minutes of the Environment and Sustainability Advisory Committee Meeting held on Wednesday, 20 November 2019

ATTACHMENT 1 Minutes of the Environment and Sustainability Committee meeting held on 20 November 2019



MINUTES OF THE ENVIRONMENT AND SUSTAINABILITY ADVISORY COMMITTEE MEETING

Wednesday 20 November 2019



5. AGENDA REPORTS

5.1 Southern Highlands Koala Habitat Tender

Reference: 5453/4.1  
 Report Author: Environment Officer – Bushcare and Citizen Science

**PURPOSE**

The Acting Natural Resource Project Coordinator addressed the committee on this item.

To provide an overview of the Southern Highlands Koala Habitat Tender.

Following six years of strategic planning and project delivery and collaboration with internal and external stakeholders and the community, the Southern Highlands Koala Conservation Project has achieved a significant outcome for biodiversity conservation in Wingecarribee Shire.

The recent announcement of the Southern Highlands Koala Tender by the NSW Biodiversity Conservation Trust (BCT) is the culmination of many years of work by the Natural Resources team and provides an important opportunity for long-term Koala habitat and biodiversity conservation protection on private land in Wingecarribee Shire. A small initial investment from the Environment Levy has led to significant and multiple investments from the NSW Government, through the purchase and creation of the new National Park, and through the announcement of the Koala tender.

This tender provides an exceptional and perhaps one-off opportunity for landholders with freehold title to conserve Koala habitat on their property in perpetuity under a conservation agreement, and to obtain an annual management payment to do this. Expressions of Interest will be accepted between 4-29 November 2019.

The fine-scale native vegetation mapping project, the private land conservation program and the SOS Southern Highlands Koala Conservation Project have all contributed to this opportunity.

The BCT held landholder information sessions during the first two weeks of November, in the Civic Centre at Moss Vale, Bowral, Canyonleigh, High Range and Penrose. These were very well attended, and expressions of interest have already been received by the BCT.

Council is now working on a strategy to deliver NRM services (including Land for Wildlife and Koala Action Plans) to those landholders that miss out on moving into Stage 2 of the Koala tender process.

The BCT web site shows a map of eligible properties and has additional information including a fact sheet and landholder information package.

Time will be allocated during the meeting for further discussion of this exciting milestone.

16.4 Minutes of the Environment and Sustainability Advisory Committee Meeting  
held on Wednesday, 20 November 2019

ATTACHMENT 1 Minutes of the Environment and Sustainability Committee  
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MINUTES OF THE ENVIRONMENT AND SUSTAINABILITY ADVISORY  
COMMITTEE MEETING

Wednesday 20 November 2019



**ES 18/19**

**MOTION** moved by Ms L Dalley and seconded by Mr C West

**THAT the report be noted.**

**PASSED**

**16.4 Minutes of the Environment and Sustainability Advisory Committee Meeting  
held on Wednesday, 20 November 2019****ATTACHMENT 1 Minutes of the Environment and Sustainability Committee  
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COMMITTEE MEETING**

Wednesday 20 November 2019

**5.2 Southern Highlands Nature Map**

**Reference:** 6800  
**Report Author:** Environment Officer – Bushcare and Citizen Science

**PURPOSE**

The Acting Natural Resource Project Coordinator addressed the committee on this item

To provide an overview of the **Southern Highlands Nature Map (SHNM)** and the **NatureMapr** app.

The **SHNM** is Council's new flagship biodiversity monitoring tool and citizen science platform. The website is live with 82 users, 3448 species and over 290 sightings to date.

Dedicated volunteer experts' moderate sightings and sound recordings to help identify plants, animals, insects, fungi and other life forms.

The **SHNM** has a lot of features including field guides for species and places. It also has a handy mapping tool so that you can see records that have been submitted for a place you are interested in such as a locality, Nature Reserve, or National Park. Private landholders can ask to have their property added to the map database.

By collecting biodiversity information via the **SHNM**, Council and other end users such as citizen scientists, the general community, government agencies and research institutions can learn a lot about what lives where and compare historic data and distribution maps.

Council is the data custodian and administrator and will be holding staff and community information sessions during November and into next year. The community, institutions and researchers can use this data and information for day-to-day decision-making, planning future biodiversity projects, and long-term strategic land use planning.

Anyone can register to use the platform online at [www.southern-highlands.naturemapr.org](http://www.southern-highlands.naturemapr.org) and the app is free to download and is updated regularly. The Council-led Citizen Science Program has funded this software as a service for an initial trial period of two years.

Time will be allocated during the meeting for further discussion and a demonstration of the web site.

**ES 19/19**

**MOTION** moved by Ms P Hall and seconded by Ms L Dalley

**THAT the report be noted.**

**PASSED**

**16.4 Minutes of the Environment and Sustainability Advisory Committee Meeting  
held on Wednesday, 20 November 2019**

**ATTACHMENT 1 Minutes of the Environment and Sustainability Committee  
meeting held on 20 November 2019**



**MINUTES OF THE ENVIRONMENT AND SUSTAINABILITY ADVISORY  
COMMITTEE MEETING**

Wednesday 20 November 2019



### **5.3 Environment and Sustainability Updates**

**Reference:** 107/25  
**Report Author:** Environment Officer – Bushcare and Citizen Science

#### **PURPOSE**

The Manager Environment & Sustainability addressed the Committee on this item.

To provide the committee with some updates within Environment and Sustainability on activities and outcomes over the past six months that are additional to the other reports presented today.

#### **Schools' Environment Day**

Approximately 600 students and 19 schools attended a beautiful day at Lake Alexandra and participated in 25 different activities. The informal feedback received has been overwhelmingly positive. A review of risk and promotion has been undertaken by E&S staff.

#### **Environment Levy Promotion**

Council's thirty-second promotional film on the Environment Levy is currently being screened at the Empire Cinema in Bowral for the next six months, until the first week in May 2020.

#### **Environment Assessment Training**

Recently, nine new project management staff were trained in environmental assessment best practice. These staff are now equipped to undertake Review of Environmental Factors (REFs) for any Council projects.

#### **Climate Change Adaptation Plan**

The CCAP was adopted by Council in October 2019. This is a significant achievement as the plan provides practical steps and action Council can take to both reduce carbon emissions (mitigate) and adapt to a changing climate. As actions are implemented and outcomes achieved, it is hoped that the additional risk climate change poses to Council operations and the community will be mitigated to some extent. For more information refer to the *Climate Change Adaptation Plan Summary* document on Council's web site.

#### **Roadside Management Plan**

Council's recently adopted Roadside Management Plan has been announced as a finalist in the 2019 Local Government NSW Excellence in the Environment Awards in the Roadside Environmental Management category. The awards will be judged on the 3 December 2019.

#### **New Staff and Recruitment**

The Coordinator Environment and Health Systems and Environment Officer – Bushfire Management recently joined the branch. Two positions within the branch are presently being recruited, the Environment Officer – Biodiversity Projects and Community Education and Environment Officer – Sustainability. These positions have both attracted a very strong field of applicants.

#### **Bushcare & Citizen Science Programs**

**16.4 Minutes of the Environment and Sustainability Advisory Committee Meeting  
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Wednesday 20 November 2019



The Bushcare and Citizen Science Programs are progressing well, with a refined induction process for new volunteers and the successful roll out of mandatory Corporate and WH&S training including Safe Systems of Work and site inductions over the past 12 months. Most Bushcare volunteers have now completed this training.

The Bushcare Team and E&S staff recently attained skills and knowledge through targeted training in *The National Standards for the Practice of Ecological Restoration in Australia* and the *Recovery Wheel* by Dr Tein McDonald, a leader in this field and a co-author of the standards. Two case studies were explored in detail at Gibbergunyah Creek, Welby, and Mansfield Reserve. The Recovery Wheel will be used to monitor and evaluate ecological restoration projects in the shire.

Time will be allocated within the meeting to view the short promotional film and to discuss these updates.

***ES 20/19***

***MOTION*** moved by Ms P Hall and seconded by Mr C West

***THAT the report be noted.***

***PASSED***

16.4 Minutes of the Environment and Sustainability Advisory Committee Meeting  
held on Wednesday, 20 November 2019ATTACHMENT 1 Minutes of the Environment and Sustainability Committee  
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COMMITTEE MEETING

Wednesday 20 November 2019

**5.4 Climate Change Emergency Declaration**

Reference: 5450/22  
Report Author: Manager Environment and Sustainability

**PURPOSE**

The Manager Environment & Sustainability addressed the committee on this item.

On 11 September 2019, Council considered a notice of motion to consider a Climate Emergency Declaration. Council ultimately resolved to have a Councillor briefing on the subject. Councillors have received two briefings on the subject of Climate Change Action. Elements from both these briefings will be presented to the Environment and Sustainability Advisory Committee for information and discussion.

This matter has generated a significant public interest. Included as attachments are two items submitted via the chair of the Environment and Sustainability Advisory Committee. Time has been allocated in the meeting to discuss this matter in detail.

**ES 21/19**

**MOTION** moved by Ms L Dalley and seconded by Mr P Shanahan

1. **THAT** the report be noted.
2. **THAT** Council recognises the latest climate change science from the IPCC and acknowledges that the Wingecarribee region is vulnerable to the impacts of climate change such as heatwaves, bushfires, severe storms and changes in rainfall.
3. **THAT** Council make a Climate Emergency Declaration.

**PASSED**

**16.4 Minutes of the Environment and Sustainability Advisory Committee Meeting  
held on Wednesday, 20 November 2019**

**ATTACHMENT 1 Minutes of the Environment and Sustainability Committee  
meeting held on 20 November 2019**



**MINUTES OF THE ENVIRONMENT AND SUSTAINABILITY ADVISORY  
COMMITTEE MEETING**

Wednesday 20 November 2019



**6. DATE OF NEXT MEETING**

The next meeting will be held on Wednesday 19 February 2020 in Council Chambers  
Civic Centre, Elizabeth Street, Moss Vale commencing at 10.30am.

**7. MEETING CLOSURE**

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 12.40 PM



## 17 QUESTIONS WITH NOTICE

### 17.1 Question with Notice 25/2019 - Water Transfer Tunnel

|  |   |
|--|---|
| <b>Reference:</b>                        | <b>100</b>  |
| <b>Report Author:</b>                    | <b>Administration Officer (Meetings)</b>  |
| <b>Authoriser:</b>                       | <b>Deputy General Manager Corporate, Strategy and Development Services</b>  |
| <b>Link to Community Strategic Plan:</b> | <b>An enhanced culture of positive leadership, accountability and ethical governance that guides well informed decisions to advance agreed community priorities</b> |

---

**To:** General Manager  
**From:** Cllr L Whipper  
**Received:** 20 November 2019

---

**Subject:** Water Transfer Tunnel

**Question:**

I have heard concerns raised about a water transfer tunnel to be constructed through Wildes Meadow and Burrawang to transport water to Avon Dam. This proposal appears to be well advanced.

Why have council and councillors not been informed?

**Response:**

Council staff met with representatives of Water NSW in July 2019 who introduced Council to the proposed project. Council officers recommended to Water NSW that consultation be conducted with the local community regarding the aims of the project and the potential impact of the project on the local community. A request was also made for a briefing with the elected Council which was held on 4 December 2019.

Water NSW has indicated that they are proposing significant capital investment over the next four years in network infrastructure which will likely include the Avon tunnel project.

---

**RECOMMENDATION**

**THAT the information in relation to Question with Notice 25/2019 - Water Transfer Tunnel - be noted.**

---

## 17.2 Question with Notice 26/2019 - Finance Committee Meeting 20.11.19

**Reference:** 100  
**Report Author:** Administration Officer (Meetings)  
**Authoriser:** Deputy General Manager Corporate, Strategy and Development Services

**Link to Community Strategic Plan:** An enhanced culture of positive leadership, accountability and ethical governance that guides well informed decisions to advance agreed community priorities

---

**To:** General Manager

**From:** Clr Turland

**Received:** 2 December 2019

---

**Subject:** Finance Committee Meeting 20/11/19

**Question:**

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|  |           |
|--|-----------|
| Deputy General Manager Corporate Strategy and Development Services | \$371,867 |
| The Deputy General Manager Operations Finance and Risk             | \$666,720 |
| General Manager (contract \$330,000)                               | \$567,807 |

1. How are these amount cost broken down including each contract and is the bonuses paid?
2. How are bonuses paid and who approves them and is their KPI to measure performance to all council employees?
3. Has the General Manager received bonuses each year?
4. How much and who approves these payments and on what KPI or basis?

**Response:**

The information provided in the attachment to the September Quarterly Review of the 2019/20 Budget includes a net cost of service statement. This statement presents a high level summary of expenditure and income for all activities contained in Council's Budget.

The expenditure disclosed in relation to the Executive activities presented on page 43 of the Finance Committee Business Paper consists of the total remuneration packages for Council's senior staff. It also includes the cost of ancillary staffing, program expenditure including grant funded projects and other specific allocations in relation to the operation of senior staff operational areas.

In accordance with the *Local Government (General) Regulation 2005* cl 217(1)(b and c) the Total Remuneration Package of the General Manager and Senior Staff is reported on an annual basis through Council's Annual Report.

No bonuses have been paid to the General Manager or any other Council employees.

**AGENDA FOR THE ORDINARY MEETING OF COUNCIL**

Wednesday 11 December 2019

**QUESTIONS WITH NOTICE**



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All payments to the General Manager are in accordance with the “Standard Contract of Employment – General Managers of Local Councils in NSW” – Clause 8.

---

**RECOMMENDATION**

**THAT the information in relation to Question with Notice 26 /2019 – Finance Committee Meeting 20/11/19 - be noted.**

---

### 17.3 Question with Notice 27/2019 - Refusal of Notice of Motions of Council Meeting 27.11.19

**Reference:** 100  
**Report Author:** Administration Officer (Meetings)  
**Authoriser:** Deputy General Manager Corporate, Strategy and Development Services

**Link to Community Strategic Plan:** An enhanced culture of positive leadership, accountability and ethical governance that guides well informed decisions to advance agreed community priorities

---

**To:** General Manager

**From:** Clr G Turland

**Received:** 2 December 2019

---

**Subject:** Question with Notice 27/2019 - Refusal of Notice of Motions of Council Meeting 27.11.19

**Question:**

The General Manager refused two of my Notices of Motions for the Council meeting 27/11/19. 3.20 of the Code of Meeting Practice resumes the General Manager must respond without giving details of the form of business. Any such exclusion to the next meeting of council.

Can you give reason to which the General Manager failed to abide to 3.20 of the COMP?

**Response:**

The General Manager has complied with the Code of Meeting Practice which states that the General Manager must report without giving details of the item of business any such exclusion to the **next** Council meeting which is the meeting of 11 December 2019. Please refer to Item No. 13.1.

---

**RECOMMENDATION**

**THAT** the information in relation to Question with Notice 27 /2019 - Refusal of Notice of Motions of Council Meeting 27.11.19 - be noted.

## 18 NOTICES OF MOTION

### 18.1 Notice of Motion 43/2019 - Frankland Street Proceeds of Sale

**Reference:** 100  
**Report Author:** Administration Officer (Meetings)  
**Authoriser:** Deputy General Manager Corporate, Strategy and Development Services

**Link to Community Strategic Plan:** An enhanced culture of positive leadership, accountability and ethical governance that guides well informed decisions to advance agreed community priorities

#### PURPOSE

Councillor Turland has given notice that it is his intention to move the following motion at the Ordinary Meeting of Council on 11 December 2019:

1. THAT Council use these funds to rebuild and renovate the playhouse building in Mittagong as a matter of urgency.
2. THAT Council considers allocating these funds to build Berrima District Heritage Society a new location in the Shire.
3. THAT Council not use these funds for Station Street, Civic Centre renovations nor Berrima Overpass Projects.

#### RECOMMENDATION

**Submitted for determination.**

#### **COMMENT FROM STAFF**

In accordance with Section 377(1)(g) of the *Local Government Act 1993*, the allocation of the proceeds from the sale of the Frankland Street Site will be a matter for Council to determine.

Council's standing policy is that all matters that require an allocation of budget funding are to be referred to the Finance Committee. It is therefore recommended that consideration of the funding for the above projects be considered as part of council's 2020/21 budget deliberations.

---

## **18.2 Notice of Motion 44/2019 - Council Strategic Planning Day, Peppers Craigieburn, Bowral on 6.11.19**

**Reference:** 100  
**Report Author:** Administration Officer (Meetings)  
**Authoriser:** Deputy General Manager Corporate, Strategy and Development Services

**Link to Community Strategic Plan:** An enhanced culture of positive leadership, accountability and ethical governance that guides well informed decisions to advance agreed community priorities

---

### **PURPOSE**

Councillor Turland has given notice that it is his intention to move the following motion at the Ordinary Meeting of Council on 11 December 2019:

1. THAT Council prepares a report to be presented to council on the information provided to councillors at the staff presentation on that day 6.11.19.
2. THAT this report is not to include any confidential information.

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### **RECOMMENDATION**

**Submitted for determination.**

### **COMMENT FROM STAFF**

The strategic planning day is held on an annual basis and provides an opportunity for Councillors and senior management to discuss the challenges and priorities for the upcoming Operational Plan and Budget.

The discussions held on 6 November 2019 will be taken into consideration as part of the review of the 2020/21 Operational Plan and Budget which will be presented to Council in draft format in March 2020.

The Draft 2020/21 Operational Plan and Budget will then be placed on public exhibition for public comment in April and May 2020.

This process ensures that Council officers have sufficient time to consider the financial and operational implications in relation to the challenges and priorities discussed at the strategic planning day; and present options to Council for progressing these priorities through the Operational Plan and Budget process.

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## 18.3 Notice of Motion 45/2019 - Internal Council Ombudsman

**Reference:** 100  
**Report Author:** Administration Officer (Meetings)  
**Authoriser:** Deputy General Manager Corporate, Strategy and Development Services

**Link to Community Strategic Plan:**

**An enhanced culture of positive leadership, accountability and ethical governance that guides well informed decisions to advance agreed community priorities**

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### PURPOSE

Councillor Turland has given notice that it is his intention to move the following motion at the Ordinary Meeting of Council on 11 December 2019:

1. THAT Council direct the General Manager to bring a report to Councillors and Council on the benefits to the public on the possibility of a internal council ombudsman.
2. THAT the General Manager is to research other councils on the roles and procedures the ombudsman would undertake in reviewing the community concerns.

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### RECOMMENDATION

#### **Submitted for determination.**

Council has in place a Complaints Handling Policy which is supported by a detailed Complaints Handling Procedure:

The Policy commits Council to providing excellent customer service in accordance with the Model Code of Conduct and Council's Service Excellence Charter.

The Policy provides customers with an avenue to make a complaint should those standards not be met, with the objective of ensuring:

- **Objectivity** – complaints are addressed in a fair, transparent, equitable, appropriate, professional and impartial manner through the complaint handling process;
- **Confidentiality** – complaints are managed by respecting complainant's privacy wherever possible to avoid prejudicing any investigation, subject to the provisions of the Government Information (Public Access) Act 2009; and
- **Improvement** – using complaints to identify areas of Council operations where action can be taken to assist in improving performance and practices.

Complaints are regularly reviewed and managed by Council's Executive Team.



## **19. CLOSED COUNCIL**

### **MOVING INTO CLOSED SESSION**

Section 10A of the *Local Government Act 1993*, empowers Council and Committees of which all the members are Councillors to close a part of a meeting in certain circumstances in accordance with the requirements of the Act, and relevant Regulations and Guidelines.

Subject to the provisions of Section 10 of the Act, so much of a meeting may be closed as comprises certain information as outlined in Section 10A(2).

However, the Act also contains the following provisions qualifying the use of Section 10A(2).

#### Section 10B

1. *[Time spent closed to be minimised] A meeting is not to remain closed during the discussion of anything referred to in section 10A(2):*
  - a. *Except for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security, and*
  - b. *If the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret-unless the council or committee concerned is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.*
2. *[Qualification of 10A(2)(g)] A meeting is not to be closed during the receipt and consideration of information or advice referred to in section 10A(2)(g) unless the advice concerns legal matters that:*
  - a. *are substantial issues relating to a matter in which the council or committee is involved, and*
  - b. *are clearly identified in the advice, and*
  - d. *are fully discussed in that advice.*
3. *[Qualification of 10A(3)] If a meeting is closed during the discussion of a motion to close another part of the meeting to the public (as referred to in section 10A(3)), the consideration of the motion must not include any consideration of the matter or information to be discussed in that other part of the meeting (other than consideration of whether the matter concerned is a matter referred to in section 10A(2)).*
4. *[Irrelevant matters] For the purpose of determining whether the discussion of a matter in an open meeting would be contrary to the public interest, it is irrelevant that:*
  - a. *a person may misinterpret or misunderstand the discussion, or*
  - b. *the discussion of the matter may:*
    - (i) *cause embarrassment to the council or committee concerned, or to Councillors or to employees of the council, or*
    - (ii) *cause a loss of confidence in the council or committee.*

Attention is also drawn to provisions contained in Part 15 of Council's Code of Meeting Practice.

Section 10B(5) of the Act requires that council have regard to these guidelines when considering resolving into Closed Session.



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**RECOMMENDATION**

1. **THAT Council moves into Closed Council in accordance with the requirements of Section 10A(2) of the *Local Government Act 1993* as addressed below to consider the following reports that are confidential for the reasons specified below:**

**19.1 Tender for the Civic Centre Refurbishment**

Relevant Legal Provisions

This report is referred to Closed Committee in accordance with s10A(2) of the Local Government Act, 1993, under clause 10A(2)d(i) as it contains commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it and the Council considers that it would be on balance contrary to the public interest to consider this information in Open Council.

Brief description

The purpose of this report is to present the evaluation of the Request for Tender for the Civic Centre Refurbishment.

**19.2 Tender for Biosolids Removal, Transport and Beneficial Reuse**

Relevant Legal Provisions

This report is referred to Closed Committee in accordance with s10A(2) of the Local Government Act, 1993, under clause 10A(2)d(i) as it contains commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it and the Council considers that it would be on balance contrary to the public interest to consider this information in Open Council.

Brief description

The purpose of this report is to present the evaluation of the Request for Tender for Biosolids removal, transport and beneficial reuse from council's Sewage Treatment Plants (STP).

**19.3 Tender for Construction of Stormwater Drainage at Hill Top, NSW**

Relevant Legal Provisions

This report is referred to Closed Committee in accordance with s10A(2) of the Local Government Act, 1993, under clause 10A(2)d(i) as it contains commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it and the Council considers that it would be on balance contrary to the public interest to consider this information in Open Council.

**AGENDA FOR THE ORDINARY MEETING OF COUNCIL**

Wednesday 11 December 2019

**CLOSED COUNCIL**



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Brief description

The purpose of this report is to present the evaluation of the Request for Tender for the Construction of Stormwater Drainage – Hill Top.

**19.4 Tender Outcome - Electronic Document Record Management System**

Relevant Legal Provisions

This report is referred to Closed Committee in accordance with s10A(2) of the Local Government Act, 1993, under clause 10A(2)d(i) as it contains commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it and the Council considers that it would be on balance contrary to the public interest to consider this information in Open Council.

Brief description

The purpose of this report is to present the evaluation of the Request for Tender for the Electronic Document Management System (EDRMS).

2. **THAT the minutes of the Closed Council part of the meeting (being the Council's resolution) be made public.**
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Ann Prendergast  
**General Manager**

Wednesday 4 December 2019