

8 March 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 13 March 2019** commencing at **3:30PM**.

Yours faithfully

Ann Prendergast  
**General Manager**

SCHEDULE

3.30pm	Council Meeting begins
5.30pm	Questions from the Public to be read out
7.40pm	Closed Council

# RUNNING SHEET

## ORDINARY MEETING OF COUNCIL

held in the Council Chambers, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 13 March 2019 at 3:30PM.

Time	Item
3.30pm	<b>Opening of meeting</b> – please remind all present that mobile phones must be switched off before the meeting and that the meeting is tape recorded and the Council Chamber now has 24 Hour Video Surveillance.
	<b>Acknowledgement of Country – Cllr I M Scandrett</b>
3.32pm	<b>Opening Prayer</b> - Reverend Doug Mcpherson, Mittagong Presbyterian Church
3.35pm	<ul style="list-style-type: none"><li>• <b>Apologies</b> Cllr G McLaughlin</li><li>• <b>Adoption of Previous Minutes</b></li><li>• <b>Business Arising</b> (<i>if any</i>)</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>Motion to move into Committee of the Whole – Cllr I M Scandrett</b></li><li>• <b>Visitor Items</b><ul style="list-style-type: none"><li>• Item 10.1 S4.55(1A) Application 18/0423.01 to Modify Development Consent 18/0423 – Subdivision of Land and Carrying out of Works to Create Two Lots, Lot 1 DP128039, 22 Caalong Street, Robertson</li><li>• Item 10.2 Planning Proposal – 15 Gibraltar Road, Bowral</li></ul></li><li>• <b>Council Reports</b></li></ul>
5.30pm	<b>Motion to move into Council and the Mayor resumes the Chair</b>
5.30pm	<b>Questions from the Public - <i>to be read</i></b> <b>Continuation of Council Reports</b> <b>General Business Questions</b> <b>Questions with Notice</b> <b>Notices of Motion</b>
7.40pm	<b>Closed Council</b>
8.00pm	<b>Meeting Closed</b>

Ann Prendergast  
General Manager



## Business

1. **OPENING OF THE MEETING**
2. **ACKNOWLEDGEMENT OF COUNTRY**
3. **PRAYER**
4. **APOLOGIES**
5. **ADOPTION OF MINUTES OF PREVIOUS MEETING**  
Ordinary Meeting of Council held on 27 February 2019  
Extraordinary Meeting of Council held on 28 February 2019
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8. **MAYORAL MINUTES**
9. **PUBLIC FORUM**

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10. **VISITOR MATTERS**  
**OPERATIONS, FINANCE AND RISK**  
Nil  
**CORPORATE, STRATEGY AND DEVELOPMENT SERVICES**
  - 10.1 S4.55 (1A) Application 18/0423.01 to Modify Development Consent  
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**Mayor to resume chair at 5.30 pm**

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Nil

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Nil

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Nil

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**22.1 Tender for Laboratory Sample Analysis for Water and Sewer**

*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.*

**22.2 Proposed Land Acquisition - Moss Vale**

*This report is referred to Closed Committee in accordance with s10A(2) of the Local Government Act, 1993, under clause 10A(2)(c) as it contains information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business and the Council considers that it would be on balance contrary to the public interest to consider this information in Open Council.*

**22.3 Proposed Land Acquisition - Bowral**

*This report is referred to Closed Committee in accordance with s10A(2) of the Local Government Act, 1993, under clause 10A(2)(c) as it contains information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business and the Council considers that it would be on balance contrary to the public interest to consider this information in Open Council.*

**22.4 CDS Refund Sharing Agreement**

*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.*

**22.5 Question with Notice 9/2019 – Staff Matter**

*This report is referred to Closed Committee in accordance with s10A(2) of the Local Government Act, 1993, under clause 10A(2)(a) as it contains personnel matters concerning particular individuals (other than councillors) and the Council considers that it would be on balance contrary to the public interest to consider this information in Open Council.*

**23. RESUMPTION OF OPEN COUNCIL**

Resumption of Open Council

Adoption of Closed Session

**24. ADOPTION OF COMMITTEE OF THE WHOLE**

**25. 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

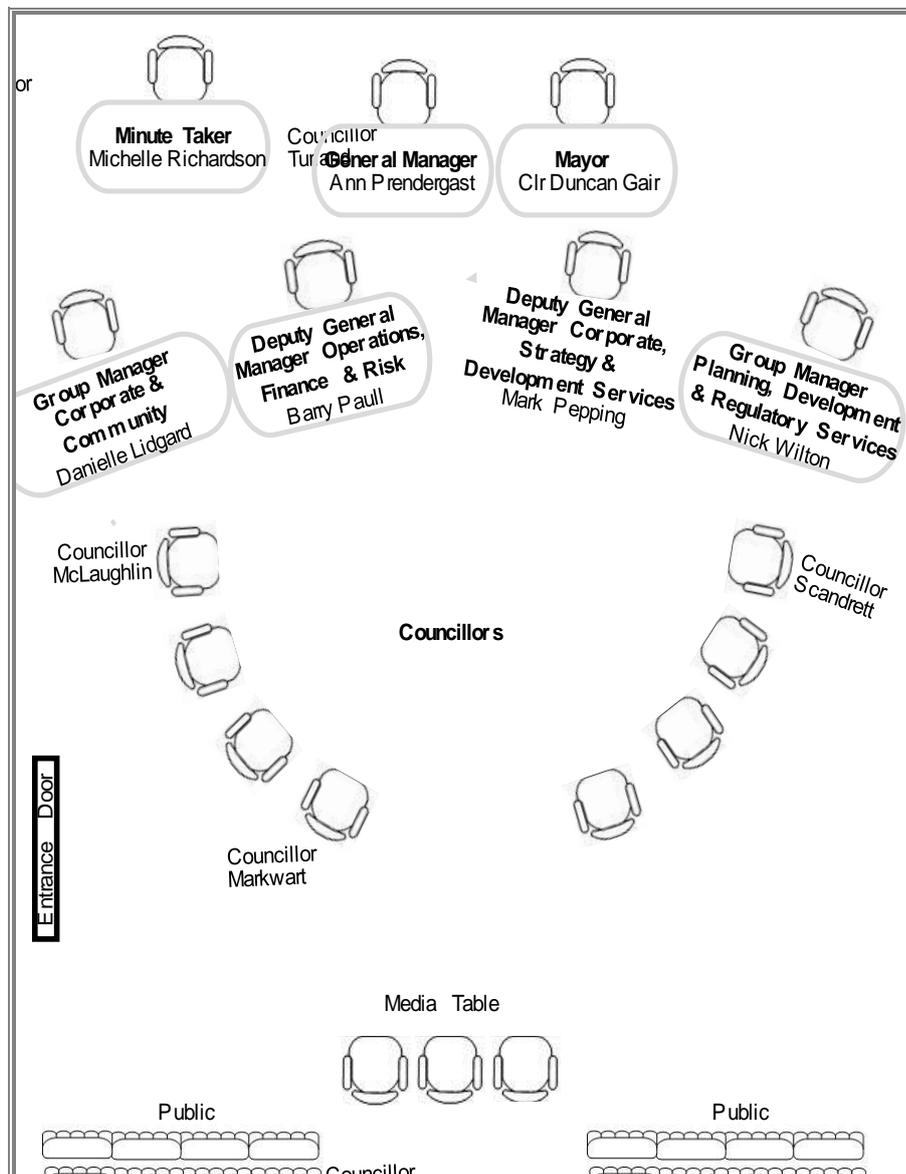
## Council Chambers

### Recording of Ordinary and Extraordinary Meetings of Council

As authorised by the *Local Government Act 1993*, Wingecarribee Shire Council records the proceedings of the Ordinary and Extraordinary Meetings of Council to ensure accurate transcription of resolutions.

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 is also not permitted. No member of the public is to use any electronic, visual or vocal recording device or instrument to record the proceedings of Council 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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### **Request for Leave of Absence – Councillor McLaughlin**

Councillor G McLaughlin intends to be absent from all Council commitments on Wednesday, 13 March 2019, including the Ordinary Meeting of Council and Briefing Sessions that day, for personal reasons.

Under Section 234 of the *Local Government Act 1993* and Clause 235A of the *Local Government Regulations 2005* leave of absence can be granted to a Councillor with Council approval.

Council's consideration of the request for leave of absence is sought.

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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.

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## COMMITTEE OF THE WHOLE

### 10 VISITOR MATTERS

#### CORPORATE STRATEGY AND DEVELOPMENT SERVICES

#### 10.1 S4.55 (1A) Application 18/0423.01 to Modify Development Consent 18/0423 - Subdivision of Land and Carrying out of Works to Create Two Lots, Lot 1 DP128039, 22 Caalong Street, Robertson

Reference:	18/0423.01
Report Author:	Senior Development Assessment Planner
Authoriser:	Group Manager Planning, Development and Regulatory Services
Applicant:	Therese Moran
Owner:	T E Moran
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 consider application 18/0423.01, which seeks modification of DA 18/0423, granted 16 August 2018 for subdivision of Lot 1 DP128039, 22 Caalong Street, Robertson to create two lots and which has been called up by councillors to be determined by full council. The report is prepared for the Council's consideration and determination of the application, and recommends APPROVAL, subject to the attached draft conditions of modified consent (**Attachment 1**).

#### VOTING ON THE MOTION

Councillors are required to record their votes on this matter.

#### RECOMMENDATION

**THAT** the section 4.55 (1A) application 18/0423.01, for modification of DA 18/0423 for subdivision of Lot 1 DP128039, 22 Caalong Street, Robertson to create two lots, be APPROVED subject to conditions as described in Attachment 1 to the report.

#### REPORT

##### Subject Site and Locality

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**Figures 1 and 2** illustrate the land's location and general layout (see also **Attachments 2 and 3**). It is a 1.052ha residential lot on the western side of Caalong Street and the northern side of North Street in Robertson, around 600m northwest of the town centre. It is accessible by vehicle from Caalong Street via a driveway across the Caalong Street frontages of the adjacent 24 and 26 Caalong Street. It is also accessible by vehicle from North Street.

At this location, Caalong Street is sealed but does not include any kerbing or paved footpath at the land frontage, whereas North Street is unformed.

The land is occupied by a dwelling house but is otherwise used for light grazing. The land slopes moderately and fairly uniformly from north to south, towards North Street. Vegetation on the land mainly comprises lightly grazed pasture, weeds, and scattered mature native and exotic trees.

Surrounding properties generally appear used for large lot and low density residential purposes.

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Figure 1: Location of 22 Caalong Street, Robertson (see also [Attachment 2](#))



Figure 2: Aerial image of 22 Caalong Street, Robertson (see also [Attachment 3](#))

### Background

On 16 August 2018, Council granted development consent 18/0423 for subdivision of the land and carrying out of works to create two lots. **Figure 3** illustrates the approved lot layout, with two irregularly shaped lots having areas of 4803m<sup>2</sup> and 5715m<sup>2</sup> (see also **Attachment 4**).

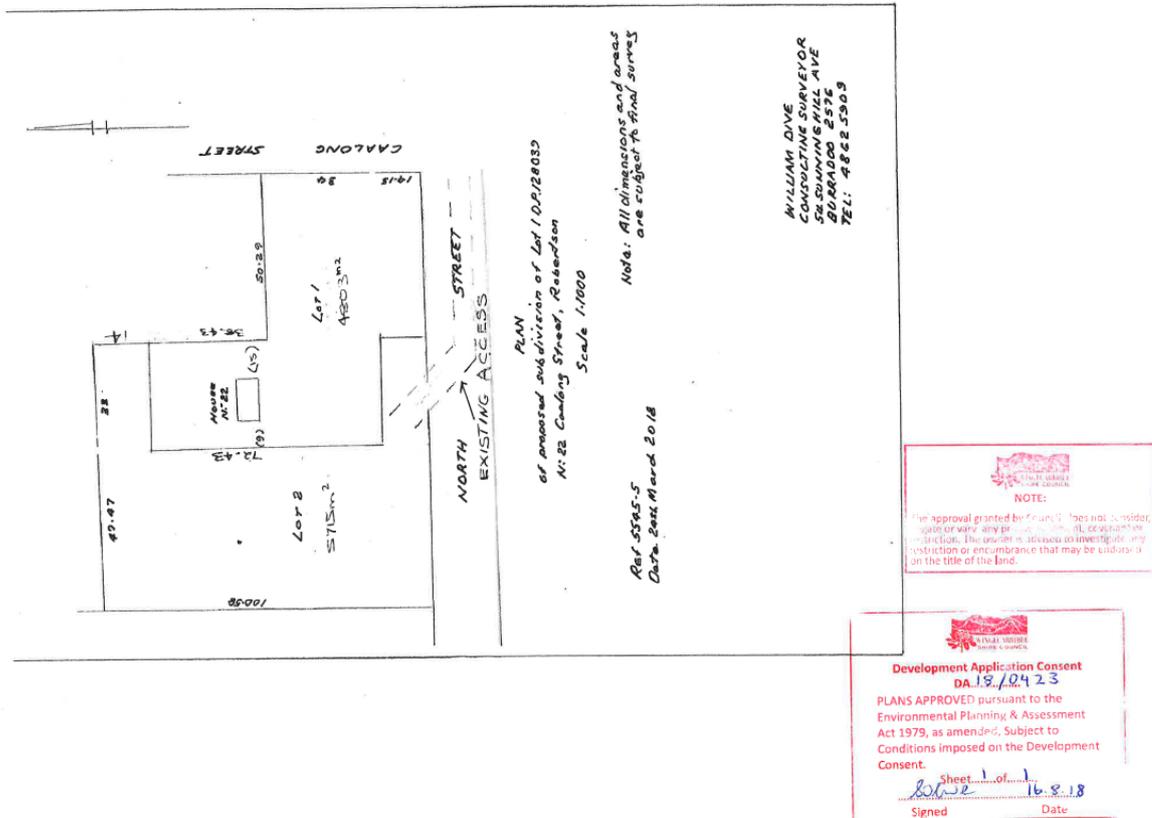


Figure 3: Original development consent 18/0423 drawings (see also [Attachment 4](#))

**Proposed Development**

On 24 October 2018, the owner made an application to modify development consent 18/0423. The proposed modification involves amendment of the boundary between the two proposed lots to make them more regular in shape. The resulting lots' proposed areas are 5915m<sup>2</sup> and 4600m<sup>2</sup>. **Figure 4** illustrates the proposed modified consent drawings (see also **Attachment 5**).

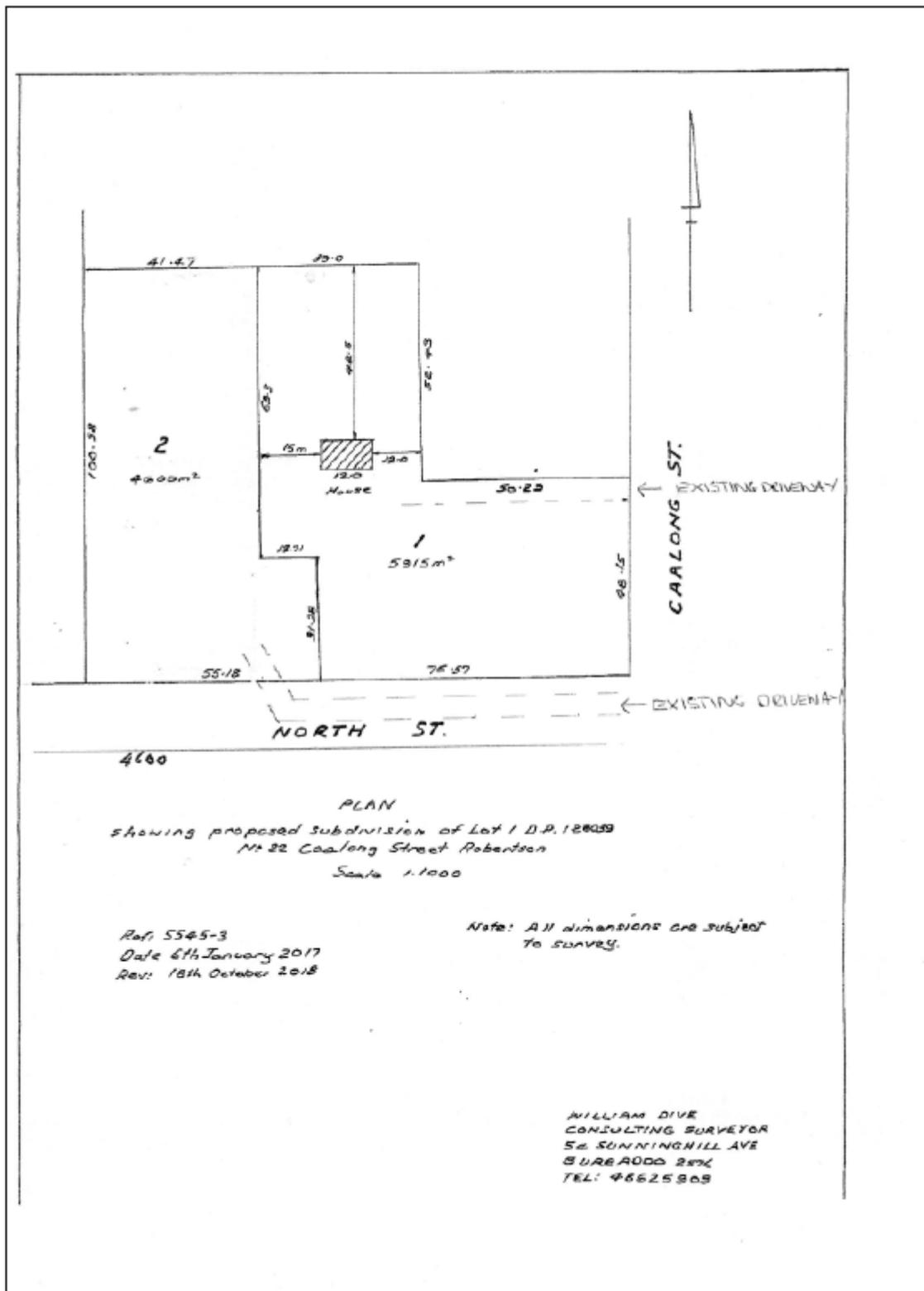


Figure 4: Proposed modified consent drawings (see also [Attachment 5](#))

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## STATUTORY PROVISIONS

### **Environmental Planning and Assessment Act 1979 – Section 4.55**

The modification application has been considered with regard to section 4.55 of the Environmental Planning and Assessment Act 1979 (the Act) including subsection (1A), which is as follows:

#### **(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.*

The proposed modification is not expected to have any significant environmental impact. The development to which the consent as modified would relate is substantially the same as that for which development consent 18/0423 was originally granted. The application was notified to surrounding land owners, attracting three submissions. The issues raised by the submissions are identified and addressed later (see Neighbour Notification/Public Participation). The proposed modification is thus considered satisfactory with respect to section 4.55 (1A) of the Act.

### **State Environmental Planning Policies**

Council favourably determined the original development application 18/0423 after giving due consideration to the relevant provisions of applicable state environmental planning instruments, including:

- State Environmental Planning Policy No 55—Remediation of Land

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- State Environmental Planning Policy (Rural Lands) 2008
- State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011.

#### 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. The proposed modification of development consent 18/0423 will not render the development unsatisfactory with respect to any provision of SEPP 55.

#### State Environmental Planning Policy (Rural Lands) 2008

The Rural Lands SEPP applies to the land due to its location in Zone R5 Large Lot Residential under Wingecarribee Local Environmental Plan 2010. It sets out to facilitate orderly and economic use and development of rural lands for rural and related purposes, identify Rural Planning Principles and Rural Subdivision Principles to assist in the proper management, development and protection of rural lands for the purpose of promoting the social, economic and environmental welfare of the State, implement measures to reduce land use conflicts. The proposed modification of development consent 18/0423 is not considered to render the development unsatisfactory with respect to any provision of the Rural Lands SEPP.

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

The land 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 1 development under the NorBE Guidelines; therefore Council has assumed concurrence to consider water quality. The NorBE Tool was used to determine that the original approved development can achieve a neutral or beneficial effect on water quality, as can the development to which the consent as modified would relate.

### Local Environmental Plans

#### Wingecarribee Local Environmental Plan 2010

The original development application 18/0423 was favourably determined after giving due consideration to LEP's relevant provisions, including:

- Clause 1.2—Aims of Plan
- Clause 1.4—Definitions
- Clause 2.3—Zone objectives and Land Use Table
- Clause 2.6—Subdivision—consent requirements
- Clause 4.1—Minimum subdivision lot size
- Clause 7.3—Earthworks.

The proposed modification of development consent 18/0423 will not render the development unsatisfactory with respect to any provision of the LEP.

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With specific respect to clauses 2.3 and 4.1, the land is in Zone R5 Large Lot Residential, and the minimum size shown on the Lot Size Map in relation to the land is 4000m<sup>2</sup>.

The objectives of Zone R5 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 modification of development consent 18/0423 is not considered to render the development inconsistent with the R5 zone objectives, and each of the proposed lots remains compliant with the applicable 4000m<sup>2</sup> minimum lot size.

### **Development Control Plans**

#### **Robertson Village Development Control Plan**

The original development application 18/0423 was favourably determined after giving due consideration to DCP's relevant provisions, including:

Section A7.1—Subdivision of land

Section A7.1.1—Minimum lot sizes

Section A9.16—Unformed roads

Section A9.16.2—Policy for the upgrading of unformed roads.

The proposed modification involves only a realignment of the boundary between the two lots in the development to provide more regular lot shapes than currently approved without offending the provisions of any applicable environmental planning instrument or the DCP. The proposed modification of development consent 18/0423 is thus not considered to render the development inconsistent with any provision of the DCP.

### **Section 79C 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*

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It has been demonstrated the proposed modification 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 that the proposed modification satisfactorily complies with the relevant controls.

- (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*

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 modification involves only a realignment of the boundary between the two lots in the approved development. The realignment provides more regular lot shapes than currently approved without offending the provisions of any applicable environmental planning instrument or the DCP. The proposed modification is therefore expected to have a positive impact with respect to the environment and the character and amenity of the locality.

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

None of the land's attributes is considered to render it unsuitable for the development to which the consent as modified would relate.

- (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 no overriding public interest against modification of development consent 18/0423.01 as proposed.

## Relevant State Legislation

### **CONSULTATION**

#### Pre-lodgement Meeting

The applicant did not request any pre-lodgement meeting to discuss the proposed modification with Council officers prior to the application being made.

#### External Referrals

Referrals	Advice/Response/Conditions
Water NSW	Water NSW advised that as the development is a “module 1” development under the NorBE Guidelines, NorBE concurrence is delegated to Council. Subsequent NorBE assessment confirmed the development to which the consent as modified would relate can have a neutral or beneficial effect on water quality.

#### Internal Referrals

Referrals	Advice/Response/Conditions
Development Engineer	Council’s Development Engineer raised no objection to the proposed modification, but suggested amendment of condition 5 of the consent to require North Street to be upgraded from its intersection with Caalong Street to the proposed vehicular access point to Lot 2, rather than to the land’s western boundary alignment. This suggestion is reflected by the recommended modified consent condition 5 (see <b>Attachment 1</b> ).

#### Neighbour Notification/Public Participation

The application was notified to surrounding land owners, who were invited to make submission regarding the proposed modification between 30 October and 16 November 2018. Notification attracted three (3) submissions. One (1) submission confirms no objection to modification of development consent 18/0423 as proposed. The issues raised by the remaining two (2) submissions are identified and addressed as follows:

- *Access to Lot 1 from Caalong Street*

One submission expresses concern over the proposed continued use of an existing access driveway from Caalong Street to Lot 1. As discussed earlier (see Subject Site and Locality), the land is accessible by vehicle from Caalong Street via a driveway across the Caalong Street frontages of the adjacent 24 and 26 Caalong Street.

Comment – The land is already lawfully accessible by vehicle via a minor access road within Caalong Street, which is non-exclusive public property. The land’s proposed subdivision is not expected to increase potential vehicle traffic between the land and Caalong Street, noting firstly that the land is occupied by an existing dwelling house, and secondly that vehicle access is proposed to Lot 2 from North Street.



- *Access from North Street*

One submission suggests North Street should be upgraded to facilitate access by vehicle to proposed Lot 2, including sealing and erosion control measures.

Comment – Development consent 18/0423 already includes conditions of consent requiring North Street to be upgraded to reasonable Council standards. Modification of the consent as proposed is not considered to warrant any change to the upgrade standards specified by the existing conditions of consent.

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## **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 application has been considered in accordance with the *Wingecarribee Local Environmental Plan 2010*, sections 4.55 and 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 2018 – 2019: OP181 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;

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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.

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### RELATED COUNCIL POLICY

An assessment of the proposal has been made against the *Wingecarribee Local Environmental Plan 2010* and the Robertson Village Development Control Plan.

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### OPTIONS

The options available to Council are:

#### **Option 1**

Modify development consent 18/0423 as proposed, subject to recommended conditions (see **Attachment 1**)

#### **Option 2**

Refuse to modify development consent 18/0423, specifying reasons for refusal and noting that refusal of the modification application will not remove the developer's ability to act on the original development consent.

Option 1 is the recommended option to this report.

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### CONCLUSION

The proposed modification of development consent 18/0423 is considered satisfactory with respect to sections 4.55 (1A) and 4.15 of the Environmental Planning and Assessment Act 1979, as well as the relevant provisions of applicable environmental planning instruments, development control plans and Council policies, and is not expected to have any significant impact on the environment or the character and amenity of the locality.

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### ATTACHMENTS

1. 18/0423.01 Draft conditions of modified consent
2. 18/0423.01 Location of 22 Caalong Street, Robertson
3. 18/0423.01 Aerial image of 22 Caalong Street, Robertson
4. 18/0423.01 Original development consent 18/0423 drawings
5. 18/0423.01 Proposed modified consent drawings

**10.1 S4.55 (1A) Application 18/0423.01 to Modify Development Consent 18/0423 - Subdivision of Land and Carrying out of Works to Create Two Lots, Lot 1 DP128039, 22 Caalong Street, Robertson**  
**ATTACHMENT 1 18/0423.01 Draft conditions of modified consent**



**ATTACHMENT 1**

**DRAFT CONDITIONS OF MODIFIED DEVELOPMENT CONSENT 18/0423.01**

**SUMMARY SCHEDULE OF MODIFIED CONDITIONS**

**2. Development in Accordance with Plans and Documents - Amended by modification of consent on 13 March 2019**

Except where otherwise permitted or required by conditions of consent, the development shall be carried out in accordance with the documents accompanying the development application and subsequent application to modify consent, and the stamped consent drawings set out in the following table, including any notations or amendments made by Council in red.

Drawing Title	Reference	Prepared By	Dated
Plan Showing Proposed Subdivision of Lot 1 DP128039	5545-5 (Revised)	William Dive, Consulting Surveyor	6 January 2017 (revision date 18 October 2018)

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

**5. Amendments to Approved Plans - Amended by modification of consent on 13 March 2019**

The applicant shall make the following amendments to the approved plans prior to the issue of a Subdivision Works Certificate:

- a) North Street shall be upgraded from Caalong Street to the western alignment of the vehicle access point from North Street to Lot 2.

**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 a Subdivision Works Certificate for the proposed development.

**Reason:** *To confirm and clarify the terms of Council's approval.*

**47. Upgrading Unformed Public Road - Amended by modification of consent on 13 March 2019**

Prior to the issue of the Subdivision Certificate, North Street shall be upgraded from Caalong Street to the western alignment of the access driveway from North Street to Lot 2. A turning head/cul de sac is to be provided to allow cars to turn within North Street in no more than 3 turns without entering the proposed lot.

- (a) Layout and general construction shall comply with Standard Drawing SD121. Council's minimum standard is a 4m wide gravel surfaced road. The road shall be located so as to retain the existing trees in the road reserve. All sections greater than 5% in longitudinal gradient is to be sealed.
- (b) Work shall be in accordance with Council's Engineering Policies and normal engineering standards of road construction including approval of the materials and methods proposed to be used prior to commencement of any works. Inspections by Council of critical stages of road construction will be required.
- (c) Traffic control and signage to minimum of the current version of the Roads and

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Traffic Authority document "Traffic Control at Work Sites" shall be provided while working on public roads.

- (d) The Development Engineer shall be advised in writing of the name and contact number of the proposed contractor and proposed starting date, at least five working days prior to work commencing.
- (e) The contractor shall hold current insurance policies for:
  1. Public liability for individual claims of up to \$20,000,000 in the joint names of Wingecarribee Shire Council and the Contractor;
  2. Workers compensation for all employees engaged on the work; and
  3. Third party personal and third party property for all plant and vehicles used on the work.
  4. Proof of such insurance policies shall be forwarded to the Development Control Engineer at least five working days prior to work commencing.
- (f) The work shall comply with all relevant Acts and Council policies.
- (g) For the duration of the work, all personnel on site shall comply with Council's Personal Protection Equipment Schedule (enclosed).
- (h) Any damage to private property or Council property caused by the work shall be promptly reinstated by the contractor.
- (i) The contractor shall take all necessary precautions to prevent damage to existing services, including locating all services prior to work commencing. In the event of damage to services, the contractor shall immediately arrange for repair.
- (j) All costs associated with the construction of the road shall be the responsibility of the Applicant.

**Reason:** *To ensure that there is legal and physical access to the property.*

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**SCHEDULE 1 CONDITIONS OF MODIFIED DEVELOPMENT CONSENT**

**ADMINISTRATION CONDITIONS**

**1. Development Description**

Development consent has been granted in accordance with Council's notice of determination for subdivision of land and carrying out of works to create two lots for the purpose of dwelling houses.

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

**2. Development in Accordance with Plans and Documents - Amended by modification of consent on 13 March 2019**

Except where otherwise permitted or required by conditions of consent, the development shall be carried out in accordance with the documents accompanying the development application and subsequent application to modify consent, and the stamped consent drawings set out in the following table, including any notations or amendments made by Council in red.

Drawing Title	Reference	Prepared By	Dated
Plan Showing Proposed Subdivision of Lot 1 DP128039	5545-5 (Revised)	William Dive, Consulting Surveyor	6 January 2017 (revision date 18 October 2018)

*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 Council's consent and the drawings/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 plans and documents (as amended).

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

**4. Application for a Subdivision Works Certificate**

Subdivision work in accordance with the consent shall not be commenced until a Subdivision Works Certificate has been applied for and issued by Council, pursuant to section 6.13 of the Environmental Planning and Assessment Act 1979. The application for a Subdivision Works Certificate needs to 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.

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**5. Amendments to Approved Plans - Amended by modification of consent on 13 March 2019**

The applicant shall make the following amendments to the approved plans prior to the issue of a Subdivision Works Certificate:

- a) North Street shall be upgraded from Caalong Street to the western alignment of the vehicle access point from North Street to Lot 2.

**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 a Subdivision Works Certificate for the proposed development.

**Reason:** *To confirm and clarify the terms of Council's approval.*

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

Prior to the issue of a Subdivision Works Certificate, 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 water supply work
- Carry out sewerage work.

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

**7. Section 138 Roads Act 1993 Approval**

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.

**Reason:** *Statutory requirement.*

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**8. Construction Management Plan**

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

- (a) Off-street parking for employees, contractors and sub-contractors.
- (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 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.

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

**9. Provision of Works and Services**

Prior to the issue of any Subdivision Works 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.*

**10. Submission of Plans for works within the Road Reserve**

The applicant shall submit to Council 3 copies of Civil Engineering plans for the design of all works within the road reserve, including long and cross sections, details of proposed structures and specifications.

The drawings must be approved by Council in writing and any fees and charges paid prior to the issue of any Subdivision Works Certificate.

Such design shall be:

- (a) Prepared and submitted on A1 or A3 size sheets, undertaken by a chartered professional consulting Civil Engineer, and
- (b) Approved by Council under section 138 of the *Roads Act 1993*, prior to the issue of the Subdivision Works Certificate, and
- (c) Upon completion of the works and prior to the issue of any Subdivision Certificate, the Applicant is to provide to Council 2 copies of "Work as Executed Plans" (WAE). The plans are to show relevant dimensions and finished levels and are to be certified by a surveyor. Also the Applicant is to provide to Council, in an approved format, details of all public infrastructure created as part of the works, and
- (d) All civil engineering work in the road reserve is to be supervised by Council. A maintenance period of 12 months shall apply to the work, after it has been completed

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and approved. In that period the Applicant shall be liable for any part of the work which fails to perform in the manner outlined in Council's specifications, or as would reasonably be expected under the design conditions.

**Reason:** *To ensure compliance of engineering works/Council assets are constructed to acceptable standards for engineering works.*

**11. Water and Sewer Authority Conditions**

Prior to issue of a Subdivision Works 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.

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

**12. Telecommunications Provider / Gas Provider**

Prior to the issue of any Subdivision Works 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.*

**13. 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 Subdivision Works 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 Subdivision Certificate.

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

**14. Telecommunications**

Provision shall be made for relocation of telecommunications network assets including underground placement of any existing aerial cables and infrastructure. Any costs associated with the relocation of the above are at the requestor's expense.

Details shall be submitted with the application for a Subdivision Works Certificate.

**Reason:** *To ensure appropriate access to utilities.*

**Note:** *Should you need to discuss access to or relocation of any Telstra assets please contact Telstra's Network Integrity Division ([www.telstra.com.au](http://www.telstra.com.au)) or phone 1800 810 443).*

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**15. Waste Management Plan**

A Waste Management Plan shall be completed and submitted to Council for approval, prior to the issue of the Subdivision Works 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.*

**16. 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 Subdivision Works 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.*

**17. Erosion and Sediment Control Plan**

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

- (a) Removal and/or disturbance of vegetation shall be confined to within two metres of the site of required works and the site(s) of permanent accessways.
- (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

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- 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.*

**18. Landscape Plan**

A Landscape Plan prepared by a suitably qualified professional to a scale of 1:100 or 1:200, conforming to all relevant conditions of consent shall be submitted to Council for approval prior to the issue of the Subdivision Works 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;
- 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.

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

**19. Tree Retention**

Road design and construction shall ensure preservation of existing roadside vegetation. All trees proposed to be removed within the road reservation shall be clearly identified by survey and submitted to Council for approval prior to issue of any Subdivision Works Certificate.

All trees shown on the development consent as being retained shall be appropriately marked and protected during construction works with fencing that shall be maintained throughout construction activities.

**Reason:** *To ensure retention and preservation of local vegetation.*

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

**20. 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.

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.*

**21. Commencement of Subdivision Works & Appointment of PCA**

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 Certifying Authority (PCA); and
- (c) The PCA (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 PCA'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.*

**22. 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,

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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.*

**23. 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.*

**24. 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.*

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**25. 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.*

**26. 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.

*Reason: Public safety.*

**27. Tree Retention (Marking)**

All trees shown on the development consent to be "retained" shall be appropriately marked and protected prior to the commencement of construction works.

*Reason: To ensure that trees are retained without damage.*

**28. 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.*

**CONDITIONS TO BE SATISFIED DURING THE CONSTRUCTION PHASE**

**29. 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.*

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**30. 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.*

**31. 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 an approved storm water drainage system.

**Reason:** *To ensure that natural drainage of the property and adjoining properties is not affected.*

**32. Engineering Inspections by Council**

24 hours prior to the covering of the following works, Council shall be notified by the applicant or their representative that the following works are ready for inspection:

- (a) Sewer / water main extensions (Technical Services).

**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.*

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**33. 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.*

**34. Disruption of Traffic**

During any construction work on the public road that is associated with the development, the Applicant shall provide appropriate signage and traffic control facilities as per the requirements of AS 1742.3-2009 Manual of uniform traffic control devices - Traffic control for works on roads and the RMS "Traffic Control at Works Sites" manual.

*Reason: Safety and information.*

**35. 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.*

**36. 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.*

**37. 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 requirements of Council in this regard must be complied with immediately.

*Reason: Safety and amenity.*

**10.1 S4.55 (1A) Application 18/0423.01 to Modify Development Consent 18/0423 - Subdivision of Land and Carrying out of Works to Create Two Lots, Lot 1 DP128039, 22 Caalong Street, Robertson**  
**ATTACHMENT 1 18/0423.01 Draft conditions of modified consent**



18/0423.01, Lot 1 DP 128039

**38. Dust Control**

**Small Works**

Where a dust nuisance is likely to occur, suitable screens and/or barricades shall be erected during the demolition, excavation and building works. If necessary, water sprays shall be used on the site to reduce the emission of dust. Screening shall consist of minimum 2 metres height of shade cloth or similar material secured to a chain wire fence of the like.

*Reason: Environmental amenity*

**39. Council Reserve / Street Tree Retention**

All trees in Council's road reserve are to be preserved except where removal is separately approved by Council via a permit or development consent, to ensure the continued amenity of the streetscape and to retain the ecological integrity of the roadside area.

*Advice: Reference should be made to Council's Urban Street Tree Master Plan.*

*Reason: To ensure the continued amenity of the streetscape and to retain the ecological integrity of the roadside area.*

**40. 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 the development application. Removed vegetation shall be either mulched for reuse on site or transported to an appropriately licensed waste/recycling facility.

*Reason: Environmental amenity.*

**41. Approved hours of Work**

Carrying out of subdivision works shall be limited to the following hours:

DAY	HOURS
Monday to Saturday (excluding public holidays)	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 subdivision works.*

**42. Construction Management Plan**

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

**10.1 S4.55 (1A) Application 18/0423.01 to Modify Development Consent 18/0423 - Subdivision of Land and Carrying out of Works to Create Two Lots, Lot 1 DP128039, 22 Caalong Street, Robertson**  
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**43. 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.*

**44. 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.*

**45. 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.*

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE**

**46. 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

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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.*

**47. Upgrading Unformed Public Road - Amended by modification of consent on 13 March 2019**

Prior to the issue of the Subdivision Certificate, North Street shall be upgraded from Caalong Street to the western alignment of the access driveway from North Street to Lot 2. A turning head/cul de sac is to be provided to allow cars to turn within North Street in no more than 3 turns without entering the proposed lot.

- (a) Layout and general construction shall comply with Standard Drawing SD121. Council's minimum standard is a 4m wide gravel surfaced road. The road shall be located so as to retain the existing trees in the road reserve. All sections greater than 5% in longitudinal gradient is to be sealed.
- (b) Work shall be in accordance with Council's Engineering Policies and normal engineering standards of road construction including approval of the materials and methods proposed to be used prior to commencement of any works. Inspections by Council of critical stages of road construction will be required.
- (c) Traffic control and signage to minimum of the current version of the Roads and Traffic Authority document "Traffic Control at Work Sites" shall be provided while working on public roads.
- (d) The Development Engineer shall be advised in writing of the name and contact number of the proposed contractor and proposed starting date, at least five working days prior to work commencing.
- (e) The contractor shall hold current insurance policies for:
  1. Public liability for individual claims of up to \$20,000,000 in the joint names of Wingecarribee Shire Council and the Contractor;
  2. Workers compensation for all employees engaged on the work; and
  3. Third party personal and third party property for all plant and vehicles used on the work.
  4. Proof of such insurance policies shall be forwarded to the Development Control Engineer at least five working days prior to work commencing.
- (f) The work shall comply with all relevant Acts and Council policies.
- (g) For the duration of the work, all personnel on site shall comply with Council's Personal Protection Equipment Schedule (enclosed).
- (h) Any damage to private property or Council property caused by the work shall be promptly reinstated by the contractor.
- (i) The contractor shall take all necessary precautions to prevent damage to existing services, including locating all services prior to work commencing. In the event of damage to services, the contractor shall immediately arrange for repair.
- (j) All costs associated with the construction of the road shall be the responsibility of the Applicant.

**Reason:** *To ensure that there is legal and physical access to the property.*

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**48. Site Classification**

The developer's geotechnical engineer shall provide a site classification in accordance with the current version of Australian Standard (AS2870) for each lot in the subdivision that will be built upon. The site classification shall be registered on the Section 88B Instrument under the Conveyancing Act 1919, prior to the issue of the Subdivision Certificate.

**Reason:** *To advise future landowners of the site classification.*

**49. 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.

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) <<http://www.abs.gov.au>>); Section 25I 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) <<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.*

**50. Section 88B Instrument - Various**

The original plans of subdivision shall be accompanied by a section 88B Instrument under the Conveyancing Act 1919, which requires:

- (a) New dwelling houses to include on site stormwater detention tank to the satisfaction of and in consultation with Council.

Full details, including draft Section 88B Instrument, shall be submitted for the approval of Council with the application for a Subdivision Certificate.

**Reason:** *To ensure compliance with Council policy positions.*

**10.1 S4.55 (1A) Application 18/0423.01 to Modify Development Consent 18/0423 - Subdivision of Land and Carrying out of Works to Create Two Lots, Lot 1 DP128039, 22 Caalong Street, Robertson**  
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**51. 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 Subdivision 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 Subdivision 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
To 31 October 2018	\$10,895.83	\$10,563.12	\$1,644.30
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 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).*

**Compliance Certificate**

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

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Water \$92.50 + Sewer \$92.50 + Stormwater \$92.50 = \$277.50.

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.

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.

**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.*

**52. 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 Subdivision Certificate.

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

**53. Provision of Services**

A separate access, sewer connection, storm water drainage connection, water supply service and electricity supply shall be provided to each allotment within the subdivision at the applicant's expense prior to the issue of the Subdivision Certificate.

All property services shall be located within the lots that they serve in accordance with Council's Engineering Standards. The applicant shall provide to Council written confirmation of compliance.

**Reason:** *To ensure that all available services are provided to each lot within the subdivision.*

**54. Street Name Signs and Posts**

Street signage shall be provided prior to the issue of the Subdivision Certificate in accordance with Council's Engineering Policies.

(a) Blades

150 mm Blade

White powder coated background and bracket, 100 mm high, series 'C', biscuit, class 1 reflective lettering 6 mm wide, red, class 2 reflective band applied above and below, and 6 mm from lettering.

(b) Posts

Posts shall be galvanised and installed in accordance with Standard Drawing No 119.

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

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**55. Construction of Road**

Construction of access way surfaced with gravelled surfaced for a minimum of 4 metres wide within the lots, shall be completed prior to the issue of the Subdivision Certificate.

*Reason: To ensure that adequate access is provided.*

**56. Vehicular access**

If the work involves the construction of a vehicular access point, the access point shall be completed prior to the issue of the Subdivision Certificate.

*Advice: Any works crossing the road reserve will require a Section 138 of the Roads Act application and payment of the appropriate fee.*

*Reason: To comply with Council's Engineering Standards.*

**57. Vehicle Access (Rural)**

Access to the site shall be provided by means of a vehicle crossing as per 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.*

**58. Provision of Reticulated Sewer to Each Lot**

Reticulated sewer service shall be constructed to each allotment in accordance with the approved civil engineering plans prior to the issue of the Subdivision Certificate.

Sewerage mains shall be constructed to serve the development.

*Reason: To ensure that the development is serviced.*

**59. Construction of Water Service**

A water service shall be installed to each lot in the subdivision prior to the issue of the Subdivision Certificate.

Council's application form shall be completed by the Developer and the appropriate fee paid.

*Reason: To ensure that the development is serviced.*

**60. Construction of Water Mains**

The water main shall be extended along the northern side of North Street in a westerly direction from Caalong Street to ensure Lot 2 has frontage to a water supply main prior to the issue of the Subdivision Certificate.

*Reason: To ensure that the development is serviced.*

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Consent 18/0423 - Subdivision of Land and Carrying out of Works  
to Create Two Lots, Lot 1 DP128039, 22 Caalong Street,  
Robertson



ATTACHMENT 1 18/0423.01 Draft conditions of modified consent

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18/0423.01, Lot 1 DP 128039

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

**61. 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**



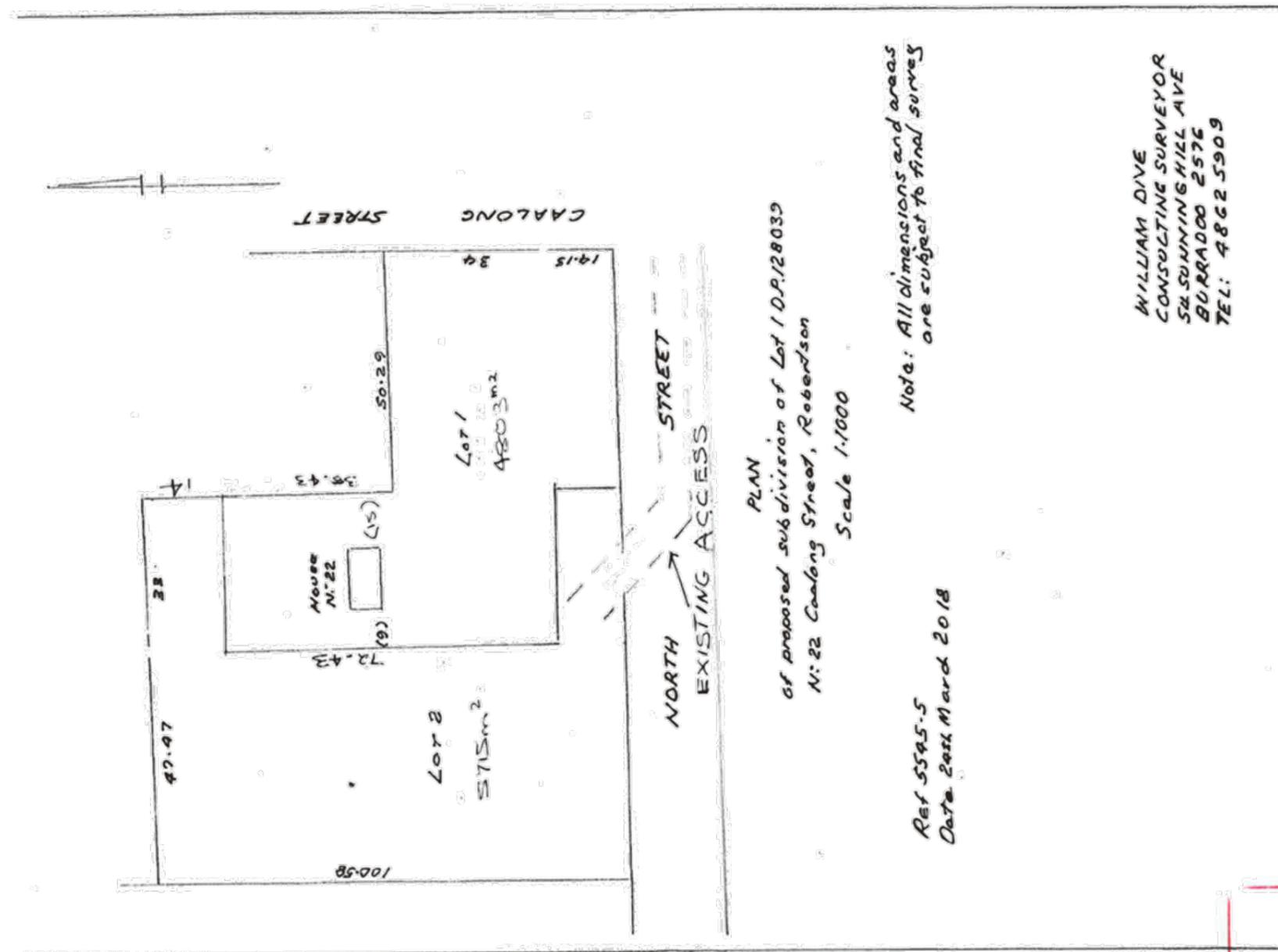
ATTACHMENT 2







ATTACHMENT 4



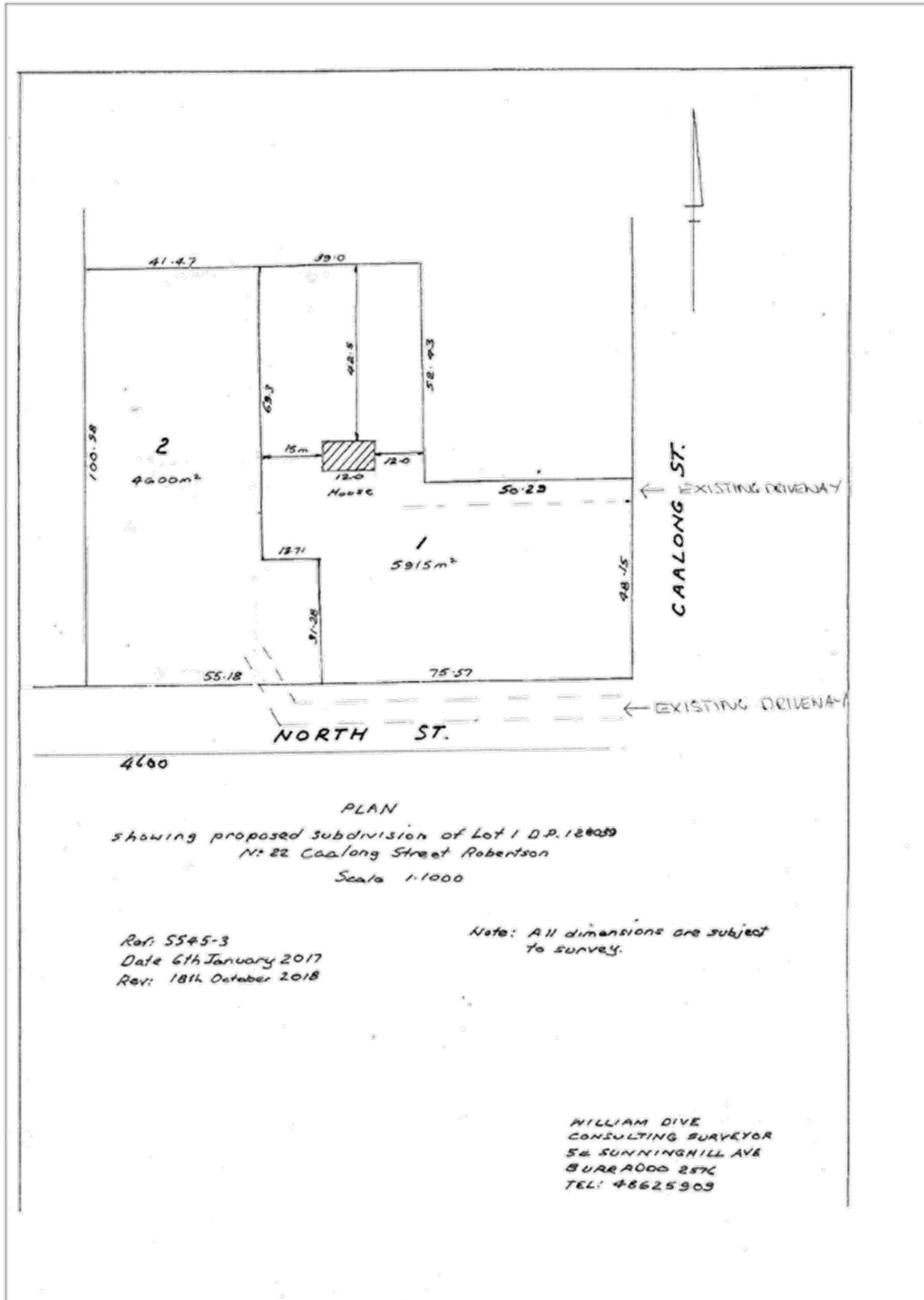
  
NOTE:  
The approval granted by Council does not constitute a warranty, guarantee or vary, any provisions of the Environmental Planning & Assessment Act 1979, as amended. The owner is advised to investigate any restriction or encumbrance that may be contained on the title of the land.

  
Development Application Consent  
DA 18/0423  
PLANS APPROVED pursuant to the Environmental Planning & Assessment Act 1979, as amended. Subject to Conditions imposed on the Development Consent.

Sheet 1 of 1  
Signed *W.Dive* Date 16.8.18



ATTACHMENT 5





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## 10.2 Planning Proposal - 15 Gibraltar Road, Bowral

Reference:	PN578200, 5901/52
Report Author:	Senior Strategic Land Use Planner
Authoriser:	Coordinator Strategic Land Use Planning
Link to Community Strategic Plan:	Maintain inter-urban breaks (i.e. the green between) and rural landscape between towns

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### PURPOSE

The purpose of this report is to inform Council of the outcome of the public exhibition of a Planning Proposal to amend Schedule 1 (Additional Permitted Uses) of WLEP 2010 to enable consideration of a development application for a two lot subdivision of land at 15 Gibraltar Road Bowral (Lot 107 DP15496).

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### VOTING ON THE MOTION

Councillors are required to record their votes on this matter.

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### RECOMMENDATION

1. **THAT** the Planning Proposal for the subdivision of Lot 107 DP15496 (15 Gibraltar Road, Bowral) by means of Schedule 1 (Additional Permitted Uses) of WLEP 2010 in order to create one (1) lot of one (1) hectare containing the existing dwelling house adjacent to Gibraltar Road, and one (1) lot containing the remainder of the subject land be finalised under s.3.36 of the *Environmental Planning & Assessment Act 1979*.
2. **THAT** a restriction be placed on the title of any newly created lot to limit the total number of dwellings on that site to one (1).

---

### REPORT

#### **BACKGROUND**

##### Location and Description

The subject land is identified as Lot 107 DP15496, 15 Gibraltar Road Bowral. Gibraltar Road is located between two areas of large lot residential development in Bowral to the south and Mittagong to the north. Mt Gibraltar Reserve is located to the west with rural land to the east as indicated in **Figure 1** below.

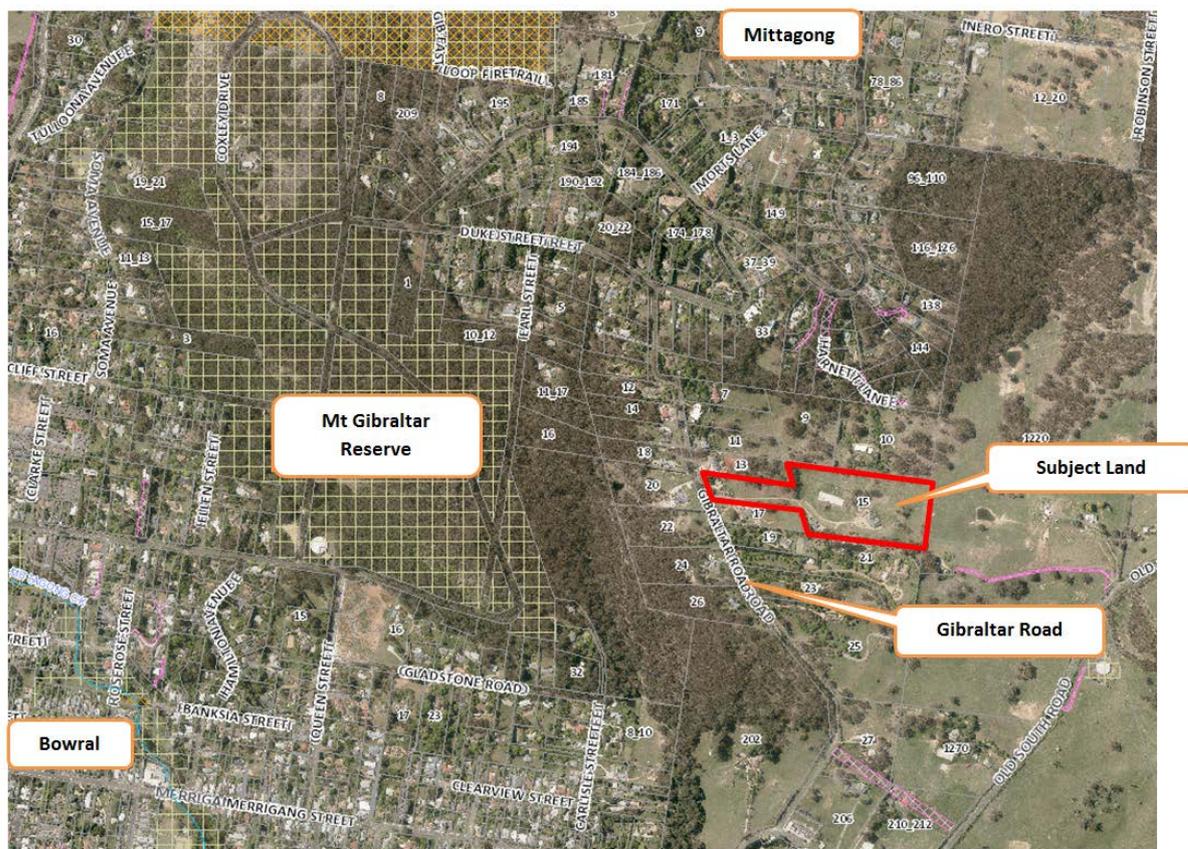


Figure 1 – Location of Gibraltar Road (enlarged at Attachment 1)

The subject land and its immediate locality were zoned 1(c) Rural (Smallholdings) under WLEP 1989 with a minimum lot size of 4ha. The area is now zoned E4 Environmental Living under WLEP 2010 (that being the equivalent 1(c) under WLEP 1989) as indicated in **Figure 2** below. The 4 ha minimum lot size remains.

The key objectives of the E4 Environmental Living zone are:

- *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.*

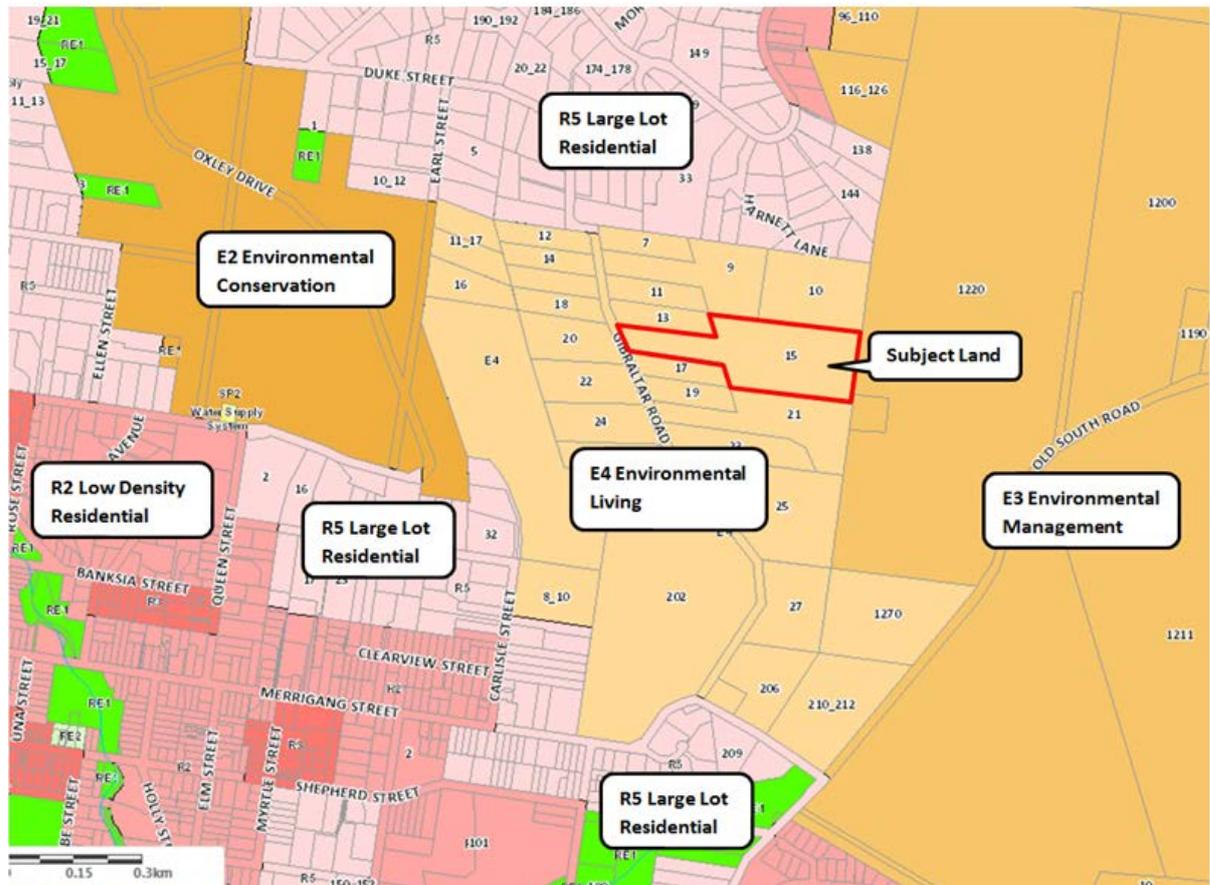


Figure 2 – Zoning Context (enlarged at Attachment 2)

In the case of Gibraltar Road, the zone provides a buffer between R5 Large Lot Residential zoned land to both the north and south and to the Mt Gibraltar Reserve, which contains the former trachyte quarries, to the west. The site is of both environmental and heritage significance, being listed on the State Heritage Register, and is also of State significance as a major koala habitat. The location of the Reserve in relation to the subject site is indicated in **Figure 3** below.

The E4 zoning and 4ha minimum lot size also reflect the significant slope constraints of an area known for its geotechnical instability. WLEP 1989 identified the land south of Duke Street, where the subject land is located, as subject to slip or subsidence.

The 4ha minimum lot size also reflects the lack of sewerage infrastructure on Gibraltar Road and the limited access capacity of the Road due to its width, slope and environmental sensitivities in the southern section.

The subdivision pattern of Gibraltar Road comprises lots of approximately 1ha fronting the road. This pattern originates from the 1928 subdivision of a property known as Whinstone Park Estate and its heritage integrity has been maintained since that time. One further purpose of the E4 zoning and 4ha minimum lot size is to ensure that the existing subdivision pattern remains within this historical context and not used as a basis for the future subdivision of any lot on Gibraltar Road larger than 1ha.

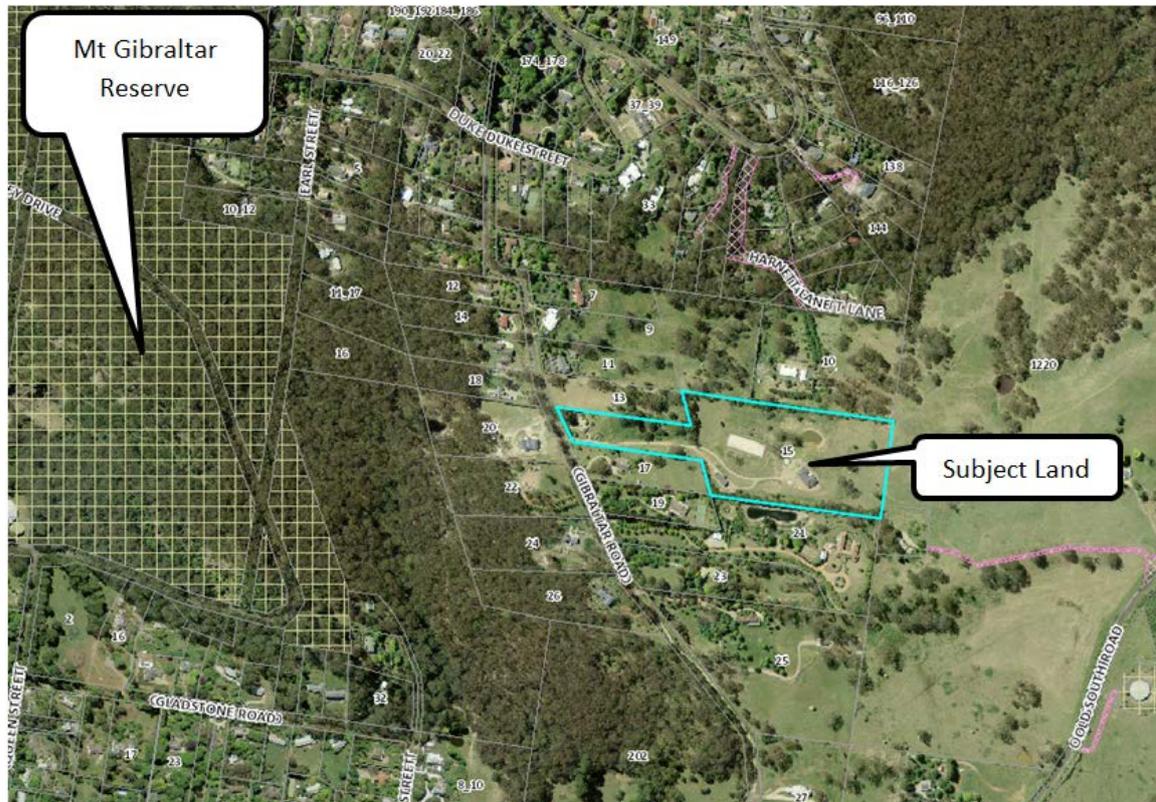


Figure 3 – Location of the subject land on Gibraltar Road (enlarged at Attachment 3)

The subject site is the largest on the street being some 6.8ha in area. It comprises a narrow portion of approximately 1ha fronting Gibraltar Road, consistent with the traditional street pattern, with the remaining 5.8 ha behind it.

The site contains two dwellings, the original dwelling within the front narrow portion of the site and a newer dwelling in the broader rear portion as indicated in **Figure 4** below.



Figure 4 – Subject Land and Dwelling Locations (enlarged at Attachment 4)



Strategic Planning History

In September 2003, and again in July 2005, the owners of the subject land sought approval from Council to subdivide their land. Council records confirm that, on both occasions, neither request was supported.

In 2011, during the preparation of the Wingecarribee Local Planning Strategy 2015-2031, Council received a request from the owner of the subject land that the Strategy support amending WLEP 2010 to enable consideration of a development application to create a two lot subdivision to locate each of two existing dwellings on the site on its own lot.

In considering the request, Council noted that the proposal would not result in any additional dwelling entitlements and that, although it would result in one lot below the 4ha minimum, it would be in a location that maintained the current 1ha lot size pattern fronting Gibraltar Road where there are already some nine (9) lots of approximately 1ha. It was further noted that the remaining 5.8ha of the site which would be included in the second lot would be above the 4ha minimum lot size under WLEP 2010.

The Department of Planning and Environment (the Department) prefers to use development standards, such as zoning and minimum lot size, to establish dwelling permissibility through the LEP. The Department noted that, due to the historic 1ha subdivision pattern, virtually all lots on Gibraltar Road were below the 4ha minimum and that the application of a 1ha minimum lot size on Gibraltar Road would establish dwelling permissibility for those existing 1ha lots through WLEP 2010.

Following public exhibition of the draft Strategy, the site was subsequently supported by Council for inclusion in the Mittagong Precinct Plan, adopted by Council on 23 March 2016 and endorsed by the Department on 15 May 2017.

In response to this endorsement, a Planning Proposal was submitted by the proponents to progress an amendment to WLEP 2010 to enable consideration of an application to subdivide the subject land. On 12 July 2017 Council resolved to progress several sites supported in the Strategy, including the subject site, through lodgement of a comprehensive Proposal with the Department. With regard to the subject land, Council's intent was to pursue enabling the two lot subdivision of the subject land, as originally requested by the owner, as well as applying a 1ha minimum lot size to certain neighbouring lots to establish dwelling permissibility through WLEP 2010 as supported by the Department. Council's comprehensive Proposal confirmed that no additional dwelling entitlements were intended from this variation.

A Gateway Determination was issued by the Department on 18 June 2018. In August 2018, the proponent contacted Council advising that the intent of their Planning Proposal was to apply the proposed 1ha minimum lot size to the whole of their lot, thereby enabling subsequent consideration of an application for subdivision of up to six (6) lots.

At its Ordinary Meeting of 14 November 2018 Council considered a report which assessed the strategic merit of three subdivision options – six (6) lots, three (3) lots and two (2) lots. The report also noted the confusion which had resulted from the use of the 1ha minimum lot size mechanism to achieve the intended outcome of the Local Planning Strategy.

At its Ordinary Meeting of 14 November 2018 Council resolved as follows:

1. THAT Council amend WLEP 2010 to enable an application for a two (2) lot subdivision on the subject land to be considered to locate each of (2) two existing dwellings on its own lot.
2. THAT a restriction be placed on the title of any newly created lot to limit the number of dwellings on that allotment to one (1).

The proposed subdivision boundaries included in that report are indicated in **Figure 5** below.

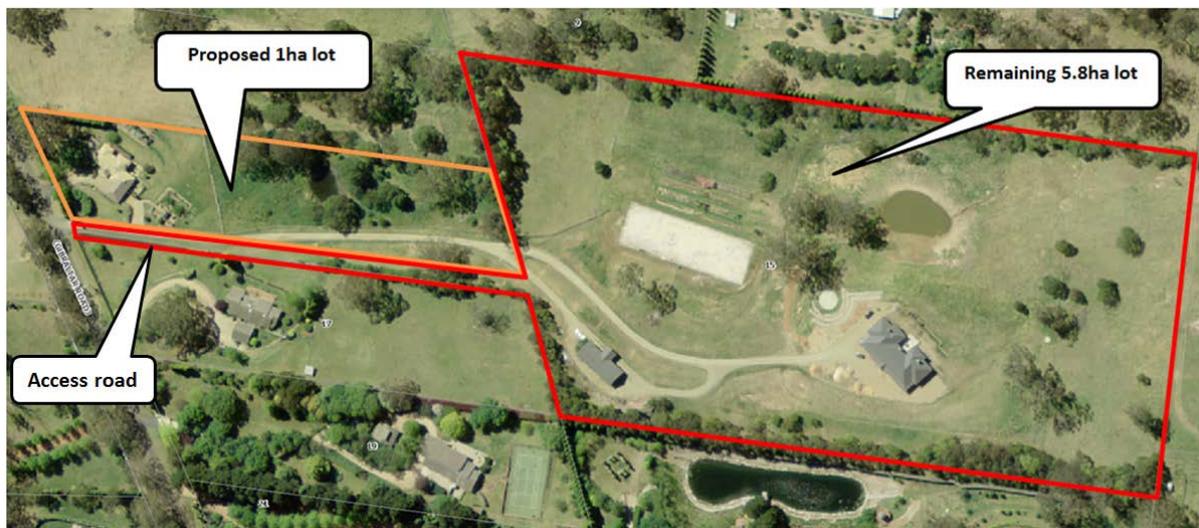


Figure 5 Proposed 2 lot Subdivision (enlarged at Attachment 5)

The Department was informed of this Resolution and subsequently confirmed that both the Council's Planning Proposal lodged with the Department and the resulting Gateway Determination of 18 June 2018, which described the Planning Proposal as *Implementing changes to zoning, minimum lot size, and other planning controls arising from the Wingecarribee Local Planning Strategy*, remain valid and that referrals and community consultation as set out in the Determination could proceed.

The Department also confirmed that there is no further opportunity for Departmental review of the proponent's original Planning Proposal seeking a 1ha minimum across the entire area of the 15 Gibraltar Road Bowral site.

## **REPORT**

### **Agency Referrals**

The Gateway Determination required referral to Water NSW, the NSW Rural Fire Service (RFS) and the NSW Office of Environment & Heritage (OEH). The Department confirmed that the OEH referral applied only to the two Berrima sites included in the Planning Proposal and did not apply to the subject site. Responses with regard to the subject site (Site 5) are summarised below.

### **Water NSW**

Two referrals were sent to Water NSW and two responses received. The initial response acknowledged the intent of the Planning Proposal to amend WLEP 2010 to allow consideration of a two (2) lot subdivision of the subject land, stating:

*Site 5 Gibraltar Road Bowral: It is noted the proposal will amend the MLS on the land fronting Gibraltar Rd to 1 hectare to allow for a dwelling entitlement on each of the lots, except Lot 107 DP 15496*

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 13 March 2019

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



*(6.5ha) where two dwelling entitlements would be created. The SLWCA for Residential Unsewered 4,000m<sup>2</sup> to 2ha is Low-Extreme (mostly Moderate). (NB: SLWCA means Strategic Land and Water Capability Assessments and is applied to land within the Sydney Catchments).*

With regard to all matters included in the Planning Proposal, the Water NSW response was:

*It should be noted that all future development must have a neutral or beneficial effect on water quality. This will include, but not be limited to, the potential impacts to water quality from any works to subdivide land or to construct dwelling houses.*

*Water NSW requests Council considers the above issues when taking forward this Planning Proposal and for any future developments on the sites. We also request that Council continue to refer planning proposals and other matters that have the potential to impact on water quality to us for comment.*

The second referral to Water NSW was made to address the option of a six (6) lot subdivision in order to include that response in the report to Council of 14 November 2018. The response provided the same comment as had been provided initially. The Department of Planning and Environment confirmed that no further consultation with either it, or Water NSW, was required with regard to this site. It is noted that the Water NSW issues raised would be addressed in any subsequent development application for subdivision.

#### NSW Rural Fire Service

The initial response from RFS advised that it did not support the Planning Proposal with regard to the subject site (Site 5) and that further detail would be required. Council sought clarification from RFS, providing additional information and specifically requesting a response based on a potential six (6) lot subdivision, again to address that option in the 14 November 2018 report. NSW RFS responded stating:

*NSW RFS raises no objections to the proposal subject to a requirement that the future subdivision of the land complies with 'Planning for Bush Fire Protection 2006'.*

The Department of Planning and Environment again confirmed that no further consultation with either it, or NSW RFS, was required with regard to this site. It is noted that the NSW RFS issues raised would be addressed in any subsequent development application for subdivision.

With these referrals completed and the Department satisfied that community consultation could proceed, the Planning Proposal was placed on public exhibition. It is noted that the community consultation was only in relation to amending WLEP 2010 to enable consideration of a two lot subdivision option based on Council's Resolution of 14 November 2018.

The NSW Rural Fire Service referral also included the comment that, should any further residential development occur on Gibraltar Road, an upgrade to the road may be necessary. It is noted that this comment addressed a entirely hypothetical scenario which has never been put forward in any Planning Proposal for the site.

#### Community Engagement

Public exhibition was undertaken for a period of 31 days between Wednesday 21 November and Friday 21 December 2018. The Planning Proposal and associated documentation was

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available for inspection at Council's Customer Service Centre as well as at the Mittagong, Bowral and Moss Vale Libraries. Exhibition material was also available on Council's website.

Notification letters were sent to the proponent and to all property owners in Gibraltar Road. A total of 29 letters was sent. The receipt of these letters prompted a large number of enquiries to Council and a request from residents that Council's Strategic Planning staff attend an information session convened by them. Strategic Planning staff met with some 25 residents of Gibraltar Road on 3 December 2018. The proponents were advised of the information session but did not attend.

Written submissions were received from 19 property owners. Several owners sent multiple submissions. No submission was received from the proponent.

It is noted that many residents appear to remain concerned that the proposal could result in a six lot subdivision, or even more. Whenever this misunderstanding was communicated to Council, Council confirmed the Resolution of 14 November 2018 was for a two (2) lot subdivision only.

All submissions were consistent in the concerns they raised and these issues are summarised below and a Council response provided. Only one (1) submission expressed no opposition to the proposed two lot subdivision, but did express concern that a potential precedent could still be set.

Issue	Council response
The proposed subdivision would compromise the environmental sensitivities of the area and the buffer that the E4 zone currently provides.	Council is particularly aware of the important role of the E4 Environmental Living zone and the 4ha minimum lot size. For this reason it was always Council's intent to restrict the proposed amendment to WLEP 2010 to enable consideration of a two lot subdivision, one of approximately 1ha containing the existing dwelling close to Gibraltar Road and the other containing the second dwelling and associated buildings on a lot of some 5.8ha which is above the 4ha minimum.
Council should not be giving special treatment to one site which could set a precedent for further subdivision pressure either for this site or nearby sites.	The historic street frontage pattern of 1ha lots and the location of the two existing dwellings provided the only real justification for consideration of the proposed amendment to enable a two lot subdivision. The proposal would replicate the original existing street pattern while retaining a larger lot above the 4 ha minimum lot size, without creating any additional dwelling entitlement.
The proposed subdivision is not a need that benefits the wider community, or adds value to the Mr Gibraltar precinct or assists in the protection of the sensitive environment in which the land is located.	These comments are noted. During the preparation of the draft Local Planning Strategy 2015-2031 over 200 site specific requests for Council to consider amending WLEP 2010 were received. All were assessed against broad strategic criteria and considered by Council.

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Issue	Council response
<p>The proposal should not proceed because the RFS response indicates that further subdivision may require an extension of Gibraltar Road.</p>	<p>This RFS comment was in response to the six (6) lot subdivision option which was not supported by Council. The RFS response was also predicated on additional future development resulting from the subdivision.</p> <p>Council’s resolution of 14 November 2018 confirmed that any amendment to WLEP 2010 would limit subdivision potential to 2 lots which would not require any upgrade to Gibraltar Road.</p>
<p>There is insufficient water and sewer infrastructure to support subdivision of the site.</p>	<p>There is reticulated water although it is understood that pressure is poor. There is no sewer infrastructure. The proposed subdivision would not result in any additional water or sewer usage as no new dwellings would result.</p>
<p>The proposed subdivision will adversely impact adjoining properties as a new access road will need to be constructed.</p>	<p>This concern would be addressed as a Condition of Consent should a two lot subdivision be approved by Council. Approval would require demonstration of sufficient space to provide an access handle and adequate side setbacks as required in the Rural Living Development Control Plan.</p>
<p>If Council allows the two lots this will set a precedent for the land owners to apply for more.</p> <p>Even two lots allows for dual occupancy or a secondary dwelling.</p> <p>Please confirm that only two lots are proposed.</p>	<p>Council’s Resolution of 14 November 2018 confirms that the proposed amendment is to allow each of two existing dwellings to have its own allotment, as originally requested by the owners and as supported in the Local Planning Strategy.</p> <p>The use of Schedule 1 clarifies exactly what is permitted and the requirement that a restriction be placed on the title will prevent additional dwellings.</p>
<p>The main house and the barn building are rented out on the internet and cause a lot of additional traffic and inconvenience for residents in Gibraltar Road as well as endangering wildlife most of which is nocturnal.</p> <p>These rentals are not in keeping with an environmental living zone.</p>	<p>These matters are not relevant to the consideration of the proposed amendment.</p> <p>WLEP 2010 permits the use of any approved dwelling for short term holiday letting (STHL) without consent. New legislation and provisions associated with STHL are currently being introduced by the state government and Council continues to monitor the state government’s intent in this regard.</p>

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Issue	Council response
<p>Buildings on the site don't have the correct approvals and certain works have been undertaken without consent.</p>	<p>All compliance matters contained in submissions received have been referred to Council's Coordinator Regulatory Services and are being investigated.</p> <p>These matters are not relevant to the consideration of the proposed amendment. The development status of the 'barn' on the site was relevant to the report considered by Council on 14 November 2018 because the request to amend WLEP 2010 to enable consideration of a three (3) lot subdivision was based on the proponent's claim that there were three (3) approved dwellings on the site. Council subsequently resolved to support a two (2) lot subdivision therefore the status of that building is not relevant to the current report.</p>
<p>Why weren't residents advised of this when it was first proposed in the Local Planning Strategy or when it went to Council?</p> <p>Can previous decisions of Council be amended or reversed?</p>	<p>The draft Local Planning Strategy was exhibited for a period of eight (8) weeks prior to it being reported back to Council for adoption by Council, in accordance with standard procedure. Advertisements were placed in the Southern Highland News during each week of the exhibition period and documentation was provided on Council's website as well as at the Customer Service counter, in local libraries including the mobile library, and at the Exeter, Robertson and Canyonleigh General Stores.</p> <p>The proponents of individual Planning Proposals supported for inclusion in the Local Planning Strategy were notified.</p> <p>Prior to endorsing the Local Planning Strategy, the NSW Department of Planning &amp; Environment reviewed all aspects of the Strategy including advertising, exhibition and consultation. The Department was satisfied with all aspects of the adopted Strategy.</p> <p>It is noted that a planning strategy is a working document, intended to provide a vehicle for the progression of matters deemed to have broad strategic merit. Through a more detailed assessment process, they can be, and often are, amended. In some cases, Council may decide, after due consideration, to not proceed at all.</p> <p>The Department of Planning and Environment is the authority which determines whether a Planning Proposal can proceed and sets out, through the Gateway Determination, the procedure to be followed.</p> <p>The correct procedure has been followed with regard to the Strategy, the Planning Proposal and the Gateway Determination.</p>

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Issue	Council response
	It is further noted that the <i>Environmental Planning &amp; Assessment Act 1979</i> provides for Councils to resolve to not continue to support any matter in, or aspect of, a Planning Proposal for which a Gateway Determination has been issued.

### IMPACT ON COUNCIL'S FIT FOR THE FUTURE IMPROVEMENT PLAN

There are no Fit for Future impacts resulting from this report.

### COMMUNICATION AND CONSULTATION

#### Community Engagement

Community engagement occurred as described in the body of this report.

#### Internal Communication and Consultation

No further consultation has occurred regarding the subject site.

#### External Communication and Consultation

Consultation with Water NSW and the NSW Rural Fire Service was undertaken as required by the Gateway Determination and responses included with the exhibition material. Responses are summarised previously in this report.

### SUSTAINABILITY ASSESSMENT

- **Environment**

The environmental sensitivities of the locality were addressed in considering potential subdivision options for the subject land.

- **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**

The heritage sensitivities of the locality have been addressed in considering potential subdivision options for the subject land.

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- **Governance**

The Planning Proposal is being administered in accordance with the Gateway Determination and all relevant legislative requirements.

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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 related Council policies associated with this report.

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### OPTIONS

The options available to Council are:

#### Option 1

THAT Council support the recommendation to finalise, under s3.36 of the *Environmental Planning & Assessment Act 1979*, the Planning Proposal to permit subdivision of Lot 107 DP15496 (15 Gibraltar Road, Bowral) by means of Schedule 1 (Additional Permitted Uses) of WLEP 2010 in order to create one (1) lot of one (1) hectare containing the existing dwelling house adjacent to Gibraltar Road, and one (1) lot containing the remainder of the subject land, and THAT a restriction be placed on the title of any newly created lot to limit the total number of dwellings on that site to one (1).

#### Option 2

THAT Council resolve to not proceed with the Planning Proposal under s3.35 of the *Environmental Planning & Assessment Act 1979*

Option 1 is the recommended option to this report.

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### CONCLUSION

The Wingecarribee Local Planning Strategy 2015-2031 clearly states that the inclusion of the subject land in the Strategy is limited to supporting a potential subdivision to enable a separate lot for each of two existing dwellings on the site.

This intent reflects the owner's original request and Council's assessment that the two dwellings are already constructed, and that the proposed subdivision would respect the original existing subdivision pattern of Gibraltar Road while retaining a residual lot above the 4ha minimum.

The proposed amendment to the minimum lot size contained in the Local Planning Strategy, while supporting Departmental preferences for the management of dwelling permissibility through LEP mapping has, in this instance, created confusion. The use of Schedule 1 as recommended is now considered more appropriate. The recommendation to limit the number of dwellings on each lot to the one (1) existing dwelling ensures no further dwelling potential will be available.

S.3.35 of the *Environmental Planning & Assessment Act 1979* provides for Council to vary or not proceed with any aspect of a Planning Proposal. It is noted that, if Council were to resolve to not proceed with the recommendation to this report, the proponents could lodge a new Planning Proposal with Council which, if not supported by Council, could be submitted to the Department of Planning and Environment for a Pre-Gateway review.

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**ATTACHMENTS**

1. Figure 1 - Location of Gibraltar Road - *circulated under separate cover*
2. Figure 2 - Zoning Context - *circulated under separate cover*
3. Figure 3 - Location of the subject land on Gibraltar Road - *circulated under separate cover*
4. Figure 4 - Subject Land and Dwelling Locations - *circulated under separate cover*
5. Figure 5 - Proposed 2 Lot Subdivision - *circulated under separate cover*

Mark Pepping

**Deputy General Manager Corporate, Strategy and Development Services**

Friday 8 March 2019

## 12 OPERATIONS FINANCE AND RISK

### 12.1 Tender Report - Laboratory Sample Analysis for Water and Sewer

Reference:	6330/18.11
Report Author:	Operations Technical Officer - Quality and Projects
Authoriser:	Manager Water & Sewer
Link to Community Strategic Plan:	Manage and plan for future water, sewer and stormwater infrastructure needs

#### PURPOSE

The purpose of this report is to present the evaluation of the Request for Tender for the Laboratory Sample Analysis program for Water and Sewer operations.

#### RECOMMENDATION

1. **THAT Council adopt the recommendations contained in closed report concerning Tender for Laboratory Sample Analysis for Water and Sewer**
2. **THAT the report concerning Tender for Laboratory Sample Analysis for Water and Sewer - be considered in Closed Council – Item 22.1.**

**This report is confidential in accordance with s10A(2) of the Local Government Act, 1993, as it contains commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.**

**Note:** In accordance with Council's Code of Meeting Practice, immediately after a motion to close part of a meeting to the public has been moved and seconded, debate on the motion should be suspended to allow the public to make representations to Council as to why the item should not be considered in Closed Council.

#### REPORT

##### **BACKGROUND**

It is essential that Council's water, sewer treatment and supply networks engage a National Association of Testing Authorities (NATA) accredited laboratory for compliance with our legislative and regulatory obligations. It is a key element under the quality assurance procedures outlined in Councils adopted Drinking Water Management System (DWMS), the Public Health Act 2010 and the Australian Drinking Water Guidelines (ADWG).

Engagement of an external NATA accredited laboratory service for the Wingecarribee Shire, demonstrates Councils commitment to independent testing and analysis that will ensure the safe and reliable supply of its water and sewer services to the community.

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#### **REPORT**

Council has sought tenders from suitably qualified service providers to supply a schedule of rates for the scope of works associated with accredited analysis for Councils water and sewer schemes. The full scope of works was detailed in the tender documents.

In accordance with the *Local Government (General) Regulation 2005* part 7, section 163(1), Council is required to invite tenders where estimated expenditure is greater than \$150,000 (GST inclusive).

This report presents the assessment relating to the advertised tender.

#### **ADVERTISING**

The tender advertising period was from the 7<sup>th</sup> August 2018 to 28<sup>th</sup> August 2018 (21 days).

The tender was advertised as follows:

<b>Newspaper / Website</b>	<b>Date Advertised</b>
Newspaper – Sydney Morning Herald	7 <sup>th</sup> August 2018
Newspaper – Southern Highlands News	8 <sup>th</sup> and 15 <sup>th</sup> August 2018
Newspaper – Other	Nil
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 three (3) tender submissions were received:

<b>Company Name</b>	<b>Location</b>	<b>Postcode</b>
Australian Laboratory Services Pty Ltd	Smithfield NSW	2164
Australian Water Quality Centre	Adelaide SA	5000
Sydney Water corporation	West Ryde NSW	2114

#### **LATE TENDERS**

There were no late tender submissions.

#### **TENDER EVALUATION**

A Procurement Evaluation Plan (PEP) 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
Professional Indemnity - \$20 million
Quality Management Systems (QMS)
National Association of Testing Authorities (NATA) accreditation

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 – relevant	5%
Specifications	5%
Service and support	10%
Community & Social (including local content)	10%
Work Health and Safety	5%
Environment	5%
<b>Total</b>	<b>50%</b>

**Summary of Selection Criteria & Weighting:**

Selection Criteria	
Criteria	Weighting
Total Non-Cost Criteria	50%
Total Cost Criteria	50%
<b>Total</b>	<b>100%</b>

**NON-COMPLIANT TENDERS**

There were no non compliant tender submissions.



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## **IMPACT ON COUNCIL'S FIT FOR THE FUTURE IMPROVEMENT PLAN**

Funding for Laboratory Sample Analysis for Water and Sewer has been included in Council's adopted Operational plan

Consideration was given to the impact of this project on Council's Improvement Plan at the time of adopting Council's Operational Plan and Budget.

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## **CONSULTATION**

### **Community Engagement**

Tenders are part of a commercial arrangement and therefore no community engagement is required.

### **Internal Consultation**

Considerable internal consultation was done with other Council departments and staff members that included:

- Manager of Water and Sewer
- Co-ordinator of Sewer
- Co-ordinator of Water
- Water Headworks Engineer
- Co-ordinator of Procurement and Fleet
- Co-ordinator of Workplace Systems
- Environmental Monitoring Officer
- Water & Sewer Plant Operators
- General Counsel Officer

### **External Consultation**

Tenders are part of a commercial arrangement and therefore no external consultation occurred.

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## **SUSTAINABILITY ASSESSMENT**

### **• Environment**

A NATA accredited laboratory analysis of Council's water and sewer treatment plants and supply network is an essential requirement of our EPA licence conditions, the Public Health Act 2010 and Councils adopted DWMS.

Without certified analysis there will be an increased risk to both the drinking water quality in the distribution network and/or any treated effluent discharges to the environment potentially breaching our EPA licences.

### **• Social**

There are no social implications.

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- **Broader Economic Implications**

There are no broader economic implications.

- **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.

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#### **CONCLUSION**

The tender evaluation summary and recommendations are documented in the report to Council's Closed Committee.

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#### **ATTACHMENTS**

There are no attachments to this report.



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## 12.2 Proposed Land Acquisition - Moss Vale

Reference:	PN 1705957 PN 1075956
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

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### PURPOSE

The purpose of this report is to seek Council approval for the General Manager to be delegated the authority to negotiate the proposed acquisition of property in Moss Vale for the purposes of road widening.

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### RECOMMENDATION

1. **THAT** in relation to the report concerning Proposed Land Acquisition - Moss Vale - Council adopts the recommendation contained within the Closed Council report.

OR

2. **THAT** the report concerning Proposed Land Acquisition - Moss Vale – be considered in Closed Council. This report is confidential in accordance with s10A(2) of the Local Government Act, 1993, under clause 10A(2)c as it contains information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.

**Note:** In accordance with Council's Code of Meeting Practice, immediately after a motion to close part of a meeting to the public has been moved and seconded, Council may allow members of the public to make representations to the meeting, before any part of the meeting to why the item should not be considered in Closed Council.

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### ATTACHMENTS

There are no attachments to this report.



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## 12.3 Proposed Land Acquisition - Bowral

Reference:	PN 1750290
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

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### PURPOSE

The purpose of this report is to seek Council approval for the General Manager to be delegated the authority to negotiate the proposed acquisition of property in Bowral for the purposes of parking.

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### RECOMMENDATION

1. **THAT** the report concerning Proposed Compulsory Land Acquisition – Bowral – be considered in Closed Council Item No. 22.3. This report is confidential in accordance with s10A(2) of the Local Government Act, 1993, under clause 10A(2)c as it contains information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.

**Note:** In accordance with Council's Code of Meeting Practice, immediately after a motion to close part of a meeting to the public has been moved and seconded, Council may allow members of the public to make representations to the meeting, before any part of the meeting to why the item should not be considered in Closed Council.

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### ATTACHMENTS

There are no attachments to this report.



## 12.4 Post Exhibition Report - Grant of Easement over Community land at 142 Mittagong Road, Bowral

Reference:	PN 964400 PN 1756000, PN 964700, PN 1750380
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 advise Council of the submissions received during the period of public notice of the intention to grant an Easement for Stormwater (2 metres wide) over Council Community land at 142 Mittagong Road, Bowral (Bowral Pool). The period of public notification was from 19 December 2018 to 31 January, 2019.

### RECOMMENDATION

1. ***THAT Council refer the issue of the grant of Easement over Council Community Land to the Minister for Local Government for consent as required pursuant to Section 47(5) of the Local Government Act 1993 as written objections to the proposed Easement have been submitted during the public notice period.***
2. ***THAT if the Minister grants consent of the Easement, the General Manager and Mayor be delegated authority to execute the easement referred to in Resolution 1 above and to affix the Common Seal of Council to any document required to be sealed in respect of the Easement for Stormwater.***
3. ***THAT if the Minister does not grant consent to the Easement a further report be forwarded to a future Ordinary Meeting of Council for consideration.***
4. ***THAT Council write to those residents who lodged a written objection advising them that the easement will now be referred to the Minister for Local Government.***



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## **REPORT**

### **BACKGROUND**

At its meeting 12 December 2018 Council resolved to negotiate with the owner/developer of 164-178 Mittagong Road, Bowral in respect of the grant of an Easement for Stormwater (2 metres wide) over Council property.

It was resolved by Council (MN 537/18):

1. *THAT the General Manager be delegated authority to negotiate with the owner/developer of 164-178 Mittagong Road, Bowral in respect of compensation payable to Council for the grant of the Easement for Stormwater (2 metres wide) over Council property Lot 1 in Deposited Plan 85220 being part 142 Mittagong Road, Bowral AND THAT the compensation payable to Council be negotiated within a 10% range of the formal valuation obtained.*
2. *THAT it be noted that all costs of creation of the Easement for Stormwater (referred to in resolution 1 above) are borne by the owner/developer of 164-178 Mittagong Road, Bowral.*
3. *THAT Council gives public notice to the end of January 2019 of its intention to grant an Easement for Stormwater over Council property (referred to in Resolution 1 above) as authorised within the Plan of Management for Bowral Swimming Centre adopted by Council on 10 March, 2004.*
4. *THAT Council affix the Common Seal of Council to any document required to be sealed in respect of the Easement for Stormwater referred to in Resolution 1 above AND THAT authority be delegated to the Mayor and General Manager to execute those documents.*
5. *THAT authority be delegated to the General Manager to execute on behalf of Council any documents associated with the Easement for Stormwater referred to in Resolution 1 above not requiring affixing the Common Seal of Council.*

### **REPORT**

Bowral Pool is classified as Community Land pursuant to Section 26 of the *Local Government Act, 1993*.

Following the resolution made by Council on 12 December, 2018, the proposed grant of Easement over Council Community land was placed on public exhibition from 19 December, 2018 to the close of business on 31 January, 2019 (a period exceeding the necessary 28 day notice period to take into account the Christmas shutdown period).

Council must consider all submissions duly made. During the notice period a total of eight (8) objections were received as outlined in **Attachment 1** to this report.

In accordance with Section 47(5) of the *Local Government Act, 1993* council must not grant the lease, licence or other estate except with the Minister's consent, if:

- (a) a person makes a submission by way of objection to the proposal, or

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- (b) in the case of a lease or licence, the period (including any period for which the lease or licence could be renewed by the exercise of an option) of the lease or licence exceeds 21 years.

On receipt of the application by Council, the Minister must request the Secretary of the Department of Planning and Environment to furnish a report concerning the application within such period as the Minister specifies.

After considering the application and any report of the Secretary of the Department of Planning and Environment, the Minister, if satisfied the relevant legislation has been complied with and that such consent would not contravene section 46 of the *Local Government Act, 1993*, may consent to the grant of the Easement in respect of the whole or part of the land to which the application relates, subject to such terms and conditions as the Minister specifies.

The Minister's consent is conclusive evidence that Council has complied with its legislative requirements.

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### IMPACT ON COUNCIL'S FIT FOR THE FUTURE IMPROVEMENT PLAN

The subject of this report does not affect Council's fit for the future improvement plan.

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### COMMUNICATION AND CONSULTATION

#### Community Engagement

Council provided Public Notice of its intention to issue an Easement over Council Community Land at Bowral Pool in accordance with the resolution of Council made on 12 December, 2018.

#### Internal Communication and Consultation

There has been no internal consultation during this period of public notice.

#### External Communication and Consultation

The proposed grantee's representative (architect) was advised that the Council would be giving a minimum 28 days public notice of its intention to grant the Easement.

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### SUSTAINABILITY ASSESSMENT

- **Environment**

There are no environmental issues in relation to this report.

- **Social**

There are no social issues in relation to this report.

- **Broader Economic Implications**

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

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### REPORT DEPUTY GENERAL MANAGER OPERATIONS, FINANCE AND RISK



- **Culture**

There are no cultural issues in relation to this report.

- **Governance**

Due to the public submissions received Council must refer the matter to the Minister for Local Government in accordance with Section 47(5) of the *Local Government Act, 1993*.

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#### COUNCIL BUDGET IMPLICATIONS

There are no budgetary implications arising from this report.

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#### RELATED COUNCIL POLICY

None identified.

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#### OPTIONS

The options available to Council are:

##### **Option 1**

Decline the request to grant an easement to the property owner of 164 -178 Mittagong Road, Bowral.

##### **Option 2**

Refer the granting of the Easement to the Minister for Local Government for consent as required pursuant to Section 47(5) of the *Local Government Act, 1993* for approval.

**Option 2 is the recommended option.**

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#### CONCLUSION

As submissions have been received during the period of public notice for this proposed Easement for Stormwater, it is recommended that Council refer the issue of the Grant of Easement over Council Community land to the Minister for Local Government for consent as required pursuant to Section 47(5) of the *Local Government Act, 1993*.

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#### ATTACHMENTS

1. Attachment 1 - submissions for easement at 142 Mittagong Road, Bowral
2. Attachment 2 - Aerial map approx location of proposed easement

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**12.4 Post Exhibition Report - Grant of Easement over Community land at 142 Mittagong Road, Bowral**

**ATTACHMENT 1 Attachment 1 - submissions for easement at 142 Mittagong Road, Bowral**



NO.	SUMMARY OF SUBMISSION	OFFICER RESPONSE TO SUBMISSION
1.	<ul style="list-style-type: none"> <li>• Incomprehensible and defies logic that this development (Holland Park) which is surrounded by flood indicator level signs indicating previous major flooding events will channel masses of stormwater shed from this development into Mittagong creek, it cannot cope as it is as evidenced by past experienced inundations.</li> <li>• Require significant hydrology examination and remedial engineering to offset the threat to surrounding properties, life and limb.</li> <li>• Development if left to go ahead with the current easement proposal will ultimately end in a future catastrophic event.</li> </ul>	<ul style="list-style-type: none"> <li>• This issue before Council is the issue of the grant of an easement over community property, not approval of the adjoining development which has already been assessed and a deferred commencement consent through the land and Environment Court.</li> </ul>
2.	<ul style="list-style-type: none"> <li>• Why is there no mention in the neighbour notification that the easement is directly related to the DA on the corner of Victoria Street and Mittagong Road.</li> <li>• ‘Hidden’ notification that was placed in a position where no-one would even notice it. Advertising through the Christmas period when most residents are away or busy doing other things. Happens with monotonous regularity to the point where it is expected and laughable. Notification sign disappeared prior to notification period deadline.</li> <li>• \$5,400 being charged to developer for grant of easement is ludicrous. The developer is dependent on approval in order for the development to proceed, so the value is far greater and he is basically being “given” the land for a token amount to garner huge profit from the development, to the detriment of its surroundings.</li> </ul>	<ul style="list-style-type: none"> <li>• Public notice was to advise of the issue of an easement over Council land. The map attached to the notice on Council’s website clearly showed the development site and advertising referred to the property the easement was granted in favour of.</li> <li>• The sign was placed in what was deemed the most appropriate area, being the approximate location of the proposed easement. The sign was moved to a more prominent position immediately after concerns regarding sign placement were raised. Additional notice time was given to allow for the Christmas shutdown period. The sign was moved but as far as Council is aware was not removed prior to deadline.</li> <li>• A valuation was obtained from an independent reputable valuer to ascertain compensation payable for grant of easement and is consistent with the compensation paid for grant of similar easements over community land in the shire.</li> <li>• The developer will not take ownership of the land but will be</li> </ul>

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	<ul style="list-style-type: none"> <li>If a member of the public wished to purchase a similar parcel of land, the value would be far greater and charged at actual market value.</li> </ul>	<p>given an easement over Council land benefiting the development site. The price was determined by a registered valuer and the process followed has been the same as it would be for any resident requiring an easement over Council community land.</p>
	<ul style="list-style-type: none"> <li>The creek is well known for its unpredictable flooding. The existing Floria development on the opposite corner of Victoria Street, which is further away from the creek, often floods in the basement and the excess water needs to be pumped away by the Fire Brigade.</li> <li>Should flooding occur on the new development site, the overflow from the easement will spill into the creek and cause water to build and disperse upstream. This will directly affect houses in Victoria Street.</li> <li>Many recent incidents of flooding on the main road near the pool, across adjoining reserve and into the backyards of houses in Victoria Street, particularly in 2016 with fatal results.</li> <li>Flood markers have been installed to show likelihood of flooding before this development/easement is even built.</li> <li>Added pressure from the huge development looming over the creek and the wildlife that live within will prove disastrous. How many trees will be removed in the process?</li> <li>Other residents in the area have had to build at least a metre above the flood line level to aid with floodwater escaping, let alone basement parking. Double standards being applied to approval?</li> </ul>	<ul style="list-style-type: none"> <li>The purpose of the easement is to drain water from the development site to the creek.</li> <li>Erection of flood markers is unrelated to the issue of granting of the easement.</li> <li>Council is not currently aware of any trees requiring removal for the easement.</li> <li>Consideration of flood levels and development standards were assessed at DA stage.</li> </ul>
3.	<ul style="list-style-type: none"> <li>Deceptions being used to support the drainage of storm water/flood water from the Holland Park apartment development DA directly to the Mittagong Rivulet.</li> <li>Excess water will be piped to the rivulet from storage/sullage pits in the basement car park of the Holland Park development. This in turn will create a backwash effect at times of extreme flood.</li> </ul>	<ul style="list-style-type: none"> <li>No land will be sacrificed for the development, the pipes are laid underground and the park will not change. The Development Application is not the subject of this report.</li> <li>Potential for any floor affectation from the development on the adjoining site was taken into account at the development</li> </ul>

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NO.	SUMMARY OF SUBMISSION	OFFICER RESPONSE TO SUBMISSION
	<ul style="list-style-type: none"> <li>• Floria on the corner of Victoria Street, continues to have problems in times of extreme wet weather. Water also overflows into the rivulet.</li> <li>• With new development such as Retford Park adding storm water to the rivulet plus in the future it is understood the former OLSH convent is earmarked for an over 55's housing development, so too this excess rainwater will also drain into the rivulet in turn causing more water to flow back rather than down toward Burradoo.</li> <li>• In 2016 the power of the water coming down was evident which resulted in the death of a local man whose car was carried down the rivulet and overturned in the current.</li> </ul>	<p>application stage. This report is to deal with an easement to drain water from the site to the creek.</p>
	<ul style="list-style-type: none"> <li>• If water does not get away quickly enough it can cause the 'liquefaction' effect.</li> <li>• Not been made aware of how many more trees and how much more park land will be sacrificed for the easement to aid the Holland Park Development.</li> <li>• The development is too large, taking up far too much free land for natural rain soakage and also goes against the building protocols set by WSC.</li> <li>• The land has been stated as 60% flood prone. In previous extreme weather event the flood water was above knees and half way down block in Victoria Street and Police were unable to attain a safe access to the rivulet from the rear or land sharing same boundary in part with the new development.</li> <li>• Vietnam Cherry Tree walk and Memorial wall would be in danger of being damaged from excess flood water, the last large flood in 2016 and again in 2017 resulted in flood water flowing around the memorial.</li> </ul>	
4.	<ul style="list-style-type: none"> <li>• Flooding in the area between Bundaroo Street and Oxley Drive along Mittagong Road including the fatal flood of the Mittagong Rivulet in June 2016 that contributed to the death of a local resident.</li> <li>• The flooding in the area closes vehicular and pedestrian access to and from</li> </ul>	<ul style="list-style-type: none"> <li>• This issue before Council is the issue of the grant of an easement over community property, not approval of the adjoining development.</li> </ul>

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	<p>Bowral. The only vehicular access to Victoria Street is from Mittagong Road. Pedestrian access from the eastern end of Victoria Street is blocked in times of flooding as the Mittagong Rivulet passes along the eastern end of Victoria Street.</p> <ul style="list-style-type: none"> <li>• Flooding also affects Settlers Park and some 60% of the area of land on 164-178 Mittagong Road Bowral, the owner of which Councillor Turland has made request to be granted an easement on Community land in order to comply with conditions of consent imposed by Land and Environment with regards to 47 apartment development on DA 16/1079.</li> <li>• Original DA was opposed by WSC and refused by JRPP, one of the grounds being the location of the development in a High Flood Risk area.</li> <li>• In relation to the Bowral Floodplain Risk Management Study plan, the flood plan study was published in 2009 and recommends that flood warnings and depth indicators be erected in High Risk Flood area aforementioned.</li> <li>• Flood warning signage was erected by Council and depth of water measurement signs erected on Bowral/Mittagong Road, one is a meter or so from where these pipes will enter Mittagong Rivulet and the development because it is a High Risk Flood area.</li> <li>• The reason for objection to granting easement is that the extra storm water piped, instead of naturally running off, into Mittagong Rivulet by means of this easement from this development will increase the occurrence and rate of flooding in this area in times of storms and periods of heavy rainfall closing the main access and exit from Bowral and access to surrounding</li> </ul>	<p>Implementation of the Bowral Floodplain Risk Management Study and Plan recommendations are not the subject of this report.</p>

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	<p>properties together with increased flooding of the development site.</p> <ul style="list-style-type: none"> <li>• In the storm of 12 January 2019 a large volume of storm water would have been piped into the Mittagong rivulet instead of natural run off from the development site. There is a very good chance local flooding would have occurred had the stormwater from this development been piped into the Mittagong Rivulet on this date.</li> <li>• The proposed easement will run from the boundary of the applicant’s property to the existing discharge point at the creek within Council’s property (which is considered to be a legal point of discharge). When was the legal point of discharge approved? Was any updated study carried out to calculate the effects of flooding in this area by excess storm water piped to the Mittagong Rivulet at the legal point of discharge at the present time or at any time in the past?</li> <li>• Misgivings about the length of time or lack taken in preparing the report prepared for Councillors and the time allowed for a decision to be made on the matter – how was the significant amount of work required to be done finished, presented to Councillors for consideration and voted on in 10 days on 12 December 2018 instead of early 2019? Residents continually hear how snowed under Council’s staff are overloaded with DA’s some being in Council for many months.</li> </ul>	<ul style="list-style-type: none"> <li>• The impact of stormwater drainage run-off was considered as part of the Development Application submitted for the adjoining property and is not the subject of this report.</li> <li>• No preference was given to the preparation of this report.</li> </ul>

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NO.	SUMMARY OF SUBMISSION	OFFICER RESPONSE TO SUBMISSION
	<ul style="list-style-type: none"> <li>• Were points concerning surface and stormwater taken into proper consideration to determine the amount of water that would be piped into the Mittagong Rivulet as part of conditions of consent?</li> <li>• The report prepared for the Council meeting on 12 December 2018 states 'the cost of any future maintenance and or/upgrade of pipes must be borne by the owner/applicant, this condition will be incorporated in a section 88B instrument registered against the property. When the present owner/applicant has sold all the apartments in the block who will be responsible for maintenance of the pipes and upgrades? Any such work would be expensive, strata fees would have to be high to cover such works. Will potential purchasers be clearly advised of this fact prior to purchase?</li> <li>• If works are needed and the Owners Corporation cannot afford to pay, will this fall back on ratepayers to carry the burden and expense which is of no benefit to the general community?</li> </ul>	<ul style="list-style-type: none"> <li>• The impact of stormwater drainage run-off was considered as part of the Development Application submitted for the adjoining property and is not the subject of this report.</li> <li>• The section 88B instrument will be registered on the title to the development property. Any contract for sale would contain a title search which would include a copy of the registered 88B instrument.</li> <li>• If upgrade was required and the strata levies were not adequate to cover the expense, a special levy could be set by the owner's corporation to cover costs.</li> </ul>
5.	<ul style="list-style-type: none"> <li>• The proposed development will involve hundreds of square metres of hardstand that doesn't currently exist. In times of heavy rain huge quantities of runoff will travel to the creek through the easement. No study into the effect of this runoff to water levels upstream during heavy rainfall appears to have been done in the original DA. The increased water volume flowing into the small creek will have severe consequences for properties upstream of the site, particularly the properties immediately adjacent to the development site.</li> <li>• Concerns expressed regarding consequences for access to the parkland the easement affects. Currently heavy Council vehicles and recreational users of the park access the land through a driveway that goes directly over the</li> </ul>	<ul style="list-style-type: none"> <li>• The subject before Council is the grant of the easement, not the development application.</li> <li>• From inspection the area of the easement would only normally be traversed on foot and not by vehicle and will continue to be able to be traversed on foot.</li> </ul>

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	<p>land affected by the easement. Access will no longer exist.</p> <ul style="list-style-type: none"> <li>• Community not getting a fair value for the proposed easement. Valuation assessing compensation for \$5,400 excluding GST - this seems a remarkably small amount of money for an easement that is essential for the building of a multi-million dollar development. Basic low density residential allotment 700m2 sells for \$400,000 – therefore \$571/m2 Easement for high density residential development site assume 20 metres long by 3 metres wide 60m2 @ \$571m2 = \$34,260</li> <li>• The developer was trying to sell the site years ago for millions of dollars (\$REDACTED) prior to the development being approved. The site must now be worth considerably more and believe a fairer calculation of value would be 60m2 @ \$1,500/m2 = \$90,000 – request easement be revalued to reflect fair market value to the residents of the Southern Highlands.</li> </ul>	<ul style="list-style-type: none"> <li>• The area of the easement will be still able to be crossed by pedestrians to gain access to Mittagong Road.</li> <li>• The land is not being sold or transferred and the value is therefore different. Council retains ownership of the land but grants rights over the land in favour of the adjoining property.</li> <li>• A valuation was obtained from an independent valuer and is consistent with compensation payable for other easements granted over Council land within the shire (ie. Mittagong Golf Course, Oval at Elizabeth Street, Moss Vale).</li> </ul>
6.	<ul style="list-style-type: none"> <li>• Piping of stormwater from the Holland Park Development directly to the Mittagong Rivulet will increase the risk of the area being affected by flooding. Periods of heavy rain have resulted in flooding of the Floria complex in Victoria Street.</li> <li>• If the easement is granted, Victoria Street will be inundated during storms and extended periods of heavy rainfall as the stormwater drains will be overwhelmed. The flooding will restrict vehicular access to and exit from Floria and increase the chance of flood water entering the building.</li> <li>• Flooding of the garage area would result in significant damage to cars and other property and potentially cause injury to any person trapped in the</li> </ul>	<ul style="list-style-type: none"> <li>• The subject before Council is the grant of the easement, not the development application.</li> </ul>

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NO.	SUMMARY OF SUBMISSION	OFFICER RESPONSE TO SUBMISSION
	flooded garage.	
7.	<ul style="list-style-type: none"> <li>• Resolution 1 – to ensure probity, good governance and transparency, any negotiation which would benefit a Councillor should be conducted by an independent Valuer who is independently appointed at arm’s length from the General Manager or any other employee of the same Council.</li> <li>• Resolution 3 pre-supposes that no notice will be taken by Council of any objection or comment in response to the public notice. The public notice on Council’s website fails to identify the person or persons to benefit from the grant of easement, although the first paragraph of the notice say “to the persons listed below” the notice nominates “benefited by grant of easement: 164-176 Mittagong Road, Bowral”. This is not a person nor a corporation. This failure to disclose the person to benefit perpetuates secrecy with which Council has afforded its Deputy General Mayor, who is the developer of the land to be benefited.</li> <li>• The agenda, under “Sustainability Assessment” says there is no Environmental Issue in relation to this report. This is not accurate as the LEP Natural Resources Map identifies the site of the proposed easement as Riparian Land – Category 2 Aquatic and Terrestrial Habitat (within 30 metres of top of stream bank on either side). The Land &amp; Environment Court’s consent in assessing LEP Clauses 7.3 to 7.9 only considered the development site 164-178 Mittagong Road, not the adjoining site at 142 Mittagong Road. Hence the environment impact of the proposed easement is not included in the consent granted by the Court and must be assessed independently by Council before granting any consent to a drainage easement. In relation to the grant of Easement, the L&amp;E Court’s judgement</li> </ul>	<ul style="list-style-type: none"> <li>• An independent valuation was obtained by Council.</li> <li>• The Public notice published on Council’s website clearly states the property benefited by the grant of the easement is 164-176 Mittagong Road Bowral. Landowner details are never given in public notifications. The easement is for the benefit of property, not personal to the owner of the property.</li> <li>• A formal written request for grant of the easement was received from the developer’s architect representative together with a plan of proposed easement prepared by a registered surveyor.</li> <li>• Comments in relation to the decision of the Land and Environment Court are noted. Any permits required from State Government Agencies to construct the stormwater pipe within the easement will be applied for if the easement is granted.</li> </ul>

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NO.	SUMMARY OF SUBMISSION	OFFICER RESPONSE TO SUBMISSION
	<p>says at item 51: <i>“There was no dispute regarding deferred commencement conditions A1 requiring the applicant to obtain an easement over the Council’s Reserve for stormwater drainage and A2 requiring ground water monitoring for a minimum of three months and the provision of a groundwater report to Council including whether or not a licence for ground water abstraction is required and any groundwater management requirements to be incorporated into the management of the site. I accept the agreement of the parties that these two deferred commencement conditions are appropriately imposed on the consent as deferred commencement conditions, because A1 is a substantive matter to create rights and obligations between the parties and it is a matter that should be fulfilled before the consent is enlivened.”</i></p> <ul style="list-style-type: none"> <li>• The Court’s determination says <i>“requiring the applicant to obtain an easement over the Council’s Reserve for stormwater drainage”</i>. This confirms that the Court’s consent for 164-178 Mittagong Road directs the applicant to obtain an easement, not that the easement is a right under the consent, nor that the Council should initiate approval without an application by the developer. Questions that arise from this determination are: was there a formal application for easement? In what form has the application been made? What supporting documentation has been submitted for this application? Has Council simply taken the words in the consent and acted on them without an application by the developer, Garry Turland, the Deputy Mayor of Wingecarribee Shire? Is this an example of preferential treatment being exercised by Council in favour of the Council’s elected official?</li> <li>• The form of the works in the proposed easement as depicted on the plan in the meeting agenda of 12<sup>th</sup> December 2018 shows that there would be no continuous pipe buried within the easement from the pit at the northern</li> </ul>	<ul style="list-style-type: none"> <li>• A formal written request for grant of the easement was received from the developer’s architect representative together with a plan of proposed easement prepared by a registered surveyor.</li> <li>• Proposed material to be used for development and traffic issues during construction of development do not relate to the grant of the easement.</li> </ul>

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NO.	SUMMARY OF SUBMISSION	OFFICER RESPONSE TO SUBMISSION
	<p>boundary of 164 Mittagong Road to the pipe near Mittagong Creek. Only a short length of 0.375mm diameter pipe is shown exiting the southern pit will discharge onto the surface and the easement will carry overland water flow from the pipe across the park towards the creek. The Conditions of Consent issued by the Land &amp; Environment Court requires that <i>“The details design of the proposed stormwater treatment and management structures shall address (inter alia) the following:</i></p> <ul style="list-style-type: none"> <li>▪ <i>be located such that the operation of the flood storage does not interfere with its functioning of the treatment system and prevent groundwater and flood storage water ingress.</i></li> <li>▪ <i>direct all discharge and overflow to Mittagong Creek via an armoured discharge point such that discharge does not cause erosion; and</i></li> <li>▪ <i>ensure the discharge point is consistent with the requirements of any Controlled Activity Approval under the Water Management Act (2000) from the Natural Resource Access Regulator (NRAR).”</i></li> </ul> <ul style="list-style-type: none"> <li>• These requirements are not evident in the design drawing attached to the meeting agenda. The overland flow route would need to be in the form of a channel or swale to contain the water flow within the easement boundaries, and is required to be “armoured”, ie. treated with riprap or similar to prevent scouring. This treatment is not pedestrian-friendly and will inhibit the public’s use of an access into this section of the park.</li> <li>• There is no need for an easement in Settlers Park. An underground pipe to convey water from the development property into Mittagong Creek already exists. It is referred on page 19 of the FloodMit “Flood Assessment Report”</li> </ul>	<ul style="list-style-type: none"> <li>• Comments are noted.</li> <li>• The installation of the existing pipe was carried out many years ago. Since then requirements involving easements have changed significantly and have become more formal.</li> </ul>

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NO.	SUMMARY OF SUBMISSION	OFFICER RESPONSE TO SUBMISSION
	<p>dated October 2016, submitted with the DA and now part of the Court-approved DA consent. This report advises that the pipe is approximately 375mm diameter and could be used “to drain the excavated area”. The fact that this pipe has been in existence for many years without an easement is a major oversight in Council’s management and its proposal to grant an easement for the new stormwater outflow from the proposed development, when an easement should already exist for the existing pipe.</p> <ul style="list-style-type: none"> <li>• There is no need for an easement in Settlers Park. The outflow from the development site should be directed into the stormwater system that exists along the eastern side of Mittagong Road, as evidenced by three road gully inlet pits, two of which are outside the development site and one is outside 142 Mittagong Road (the park). In the event that this stormwater system is not of sufficient capacity to accept the overflow from the development site, it could be upgraded at the developer’s cost and hence also provide a community benefit in this sign posted flood-affected roadway area.</li> <li>• Before Council determines this matter it must also confirm that all the relevant pre-construction requirements (including pre-construction certificate matters) of the Land &amp; Environment Court’s determination, which includes Appendix A, the Conditions of Consent, have been fully satisfied. A particular requirement is Condition B4 – 2 on page 7: “<i>The final stormwater management plans shall be prepared by a qualified stormwater professional in consultation with Water NSW and approved by Council prior to the issuance of a Construction Certificate</i>”. There is no evidence in this motion of the required design or approval of the stormwater system. Without the required final stormwater plans and the implied concurrence by WaterNSW, this motion has been initiated within Council without any application by the developer, is premature and unlawful. The motion to</li> </ul>	<ul style="list-style-type: none"> <li>• Comments are noted.</li> <li>• Handling of the development approvals, such as the construction certificate is unrelated to the grant of the easement.</li> </ul>

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NO.	SUMMARY OF SUBMISSION	OFFICER RESPONSE TO SUBMISSION
	<p>approve an easement for the outflow of the un-designed and un-approved system is the putting the cart before the horse.</p>	
8.	<ul style="list-style-type: none"> <li>• Grant of the Easement is not in the interest of Bowral residents, have not been shown to have zero impact on the environment and may be in breach of the Rivers and Foreshore Act.</li> <li>• It is an obscenity firstly that a Developer can sit on Council and secondly that a Council officer can be delegated to negotiate with his Deputy Mayor over the amount of compensation payable.</li> <li>• If the granting of the easement is proved to be legal and the easement works are not in breach of any Act, and the SW proposal will not damage the ecology of the creek and finally if all of that can be proved satisfactorily that there will be no alteration to the 1 in 100 year flood levels then the compensation payable by the Developer should be assessed and set by an independent licensed and registered valuer. Suggest the current proposal to “negotiate” compensation is not in Council’s interest and does not pass “the pub test”.</li> <li>• All previous objections raised to date to the development in its previous form still stands and are relevant to the current form. If the development raises the flood level beyond the current 1 in 100 year line there will be legal action taken against involved.</li> <li>• Extreme concerned about the effect the construction works will have on Victoria Street traffic before and after school. Evidence of proposed</li> </ul>	<ul style="list-style-type: none"> <li>• No evidence has been provided as to how grant of the easement may be in breach of the Rivers and foreshore Act.</li> <li>• Council has followed due process in relation to the grant of the easement.</li> <li>• The report to Council refers to the grant of the easement, not the approval of the development. An independent valuation was obtained by Council.</li> <li>• Traffic congestion is not related to grant of the easement.</li> <li>• The handling of the construction certificate is a separate matter and not the subject of this report.</li> </ul>

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NO.	SUMMARY OF SUBMISSION	OFFICER RESPONSE TO SUBMISSION
	<p>material handling, especially during excavation works and concrete pouring should be provided.</p> <ul style="list-style-type: none"><li>• Handling the approval process for construction certificate extremely important and Council must ensure that the potential for conflict and injunctions is kept to an absolute minimum.</li></ul>	



**ATTACHMENT 2**



Approximate location of easement over Council property

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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## 12.5 Post Exhibition Report - Proposed Lease of Council property, Part Memorial Hall, 114 Main Street, Mittagong

Reference:	PN698900
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 advise Council of the submissions received during the period of public notice of intention to issue a 21 year Lease to Berrima District Historical & Family History Society for occupation of part of 114 Main Street, Mittagong being the Mittagong Memorial Hall. The period of public notification was from the 12 December 2018 to 31 January 2019.

### RECOMMENDATION

1. **THAT Council enter in to a twenty one (21) year Lease with Berrima District Historical & Family History Society.**
2. **THAT the General Manager and Mayor be delegated authority to execute the twenty one year (21) Lease referred to in Resolution 1 above and to affix the Common Seal of the Council to the Lease and any supporting documents.**
3. **THAT the persons who made a submission in respect of the proposed lease be notified in writing of Resolution 1 above.**

### REPORT

#### **BACKGROUND**

At its meeting 28 November 2018, Council considered a report to enter in to a twenty one (21) year Lease with Berrima District Historical and Family History Society.

It was resolved as follows (MN 499/18):

1. ***THAT Council note the current lease agreement of the property known as Memorial Hall, 114 Main Street, Mittagong will expire on 31 December 2018.***
2. ***THAT the General Manager be delegated authority to negotiate with Berrima District Family & Historical Society Inc. for a new Lease of the property known as part Memorial Hall, 114 Main Street Mittagong, for a maximum of twenty one (21) years, on similar terms and conditions to the current agreement.***

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3. *THAT the rental for the Lease of the property referred to in Resolution 1 be set at the rate of \$1 per annum, in accordance with Council's Policy for the Lease & Licence of Council Property (Not-for-Profit organisations).*
4. *THAT Council will give public notice to the end January 2019 of its intention to enter into the Lease referred to in Resolution 2 above.*
5. *THAT, if there are no objections received by Council during the period of public notice, the General Manager and Mayor be delegated authority to execute the Lease referred to in Resolution 2 above under the Common Seal of the Council (if required) AND THAT, if any objections are received, a further report will be forwarded to a future Ordinary Meeting of Council*

### **REPORT**

Berrima District Historical & Family History Society has been in existence since 1960 and has occupied rooms in part of the Mittagong Memorial Hall, 114 Main Street Mittagong for 36 years. The Society has established substantial permanent archive collections and provided research services for the wider community.

A floor plan of the leased are is provided as **Attachment 1**.

A letter of support for the 21 year lease was provided by the Society which outlines the activities that they provide the community – **Attachment 2**.

Following the resolution of Council made on 28 November 2018, the proposed form of Lease was drafted and placed on public notification from 12 December, 2018 to the close of business on 31 January, 2019 (a period exceeding the necessary 28 day notice period to take into account the Christmas shutdown period).

Nine (9) submissions were received. Concerns raised within the submissions in relation to the lease are set out in **Attachment 3**.

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### **IMPACT ON COUNCIL'S FIT FOR THE FUTURE IMPROVEMENT PLAN**

The subject of this report does not affect Council's fit for future improvement plan.

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### **COMMUNICATION AND CONSULTATION**

#### **Community Engagement**

The Council property is classified as Operational Land; therefore there is no legislative requirement relating to public notice of the Lease. However, in the interests of transparency and good governance, public notice of the lease was exhibited for a minimum twenty eight (28) days.

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

Assets

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

Berrima District Historical & Family History Society



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## **SUSTAINABILITY ASSESSMENT**

- **Environment**

There are no environmental issues in relation to this report.

- **Social**

There are no social issues in relation to this report.

- **Broader Economic Implications**

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

- **Culture**

There are no cultural issues in relation to this report.

- **Governance**

As the premise is classified as Operational Land under the Local Government Act 1993, Council is able to determine the lease without the need to refer the matter to the Minister for Local Government.

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## **COUNCIL BUDGET IMPLICATIONS**

There are no budgetary implications arising from this report.

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## **RELATED COUNCIL POLICY**

The proposed Lease for the occupation of 114 Main Street, Mittagong to Berrima District Historical & Family History Society is in accordance with Council's adopted Policy for the Leasing and Licensing of Council Property (Non-for-Profit and Community Based Organisations).

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## **OPTIONS**

The options available to Council are:

### **Option 1**

Approve a 21 year lease to Berrima District Historical & Family History Society.

### **Option 2**

Not approve the lease to the Berrima District Historical & Family History Society and undertake further consultation to determine an alternate location for the Society.

### **Option 3**

Approve a reduced term for the lease with Berrima District Historical & Family History Society and that within the term, Council work with Berrima District Historical & Family History Society to seek an alternate suitable location. This term would need to be determined by Council.

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**Option No. 1 is the recommended option to this report.**

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#### CONCLUSION

As the premise is classified as Operational Land under the Local Government Act 1993, Council is able to determine the lease without the need to refer the matter to the Minister for Local Government.

It is recommended that the Lease be executed by the General Manager and Mayor and that the Common Seal of the Council be affixed to the Lease and any supporting documents.

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#### ATTACHMENTS

1. Attachment 1 - Floor Plan of Leased area
2. Attachment 2 - Letter of Support - Berrima District Historical & Family History Society
3. Attachment 3 - Submissions and comments

12.5 Post Exhibition Report - Proposed Lease of Council property,  
Part Memorial Hall, 114 Main Street, Mittagong  
ATTACHMENT 1 Attachment 1 - Floor Plan of Leased area

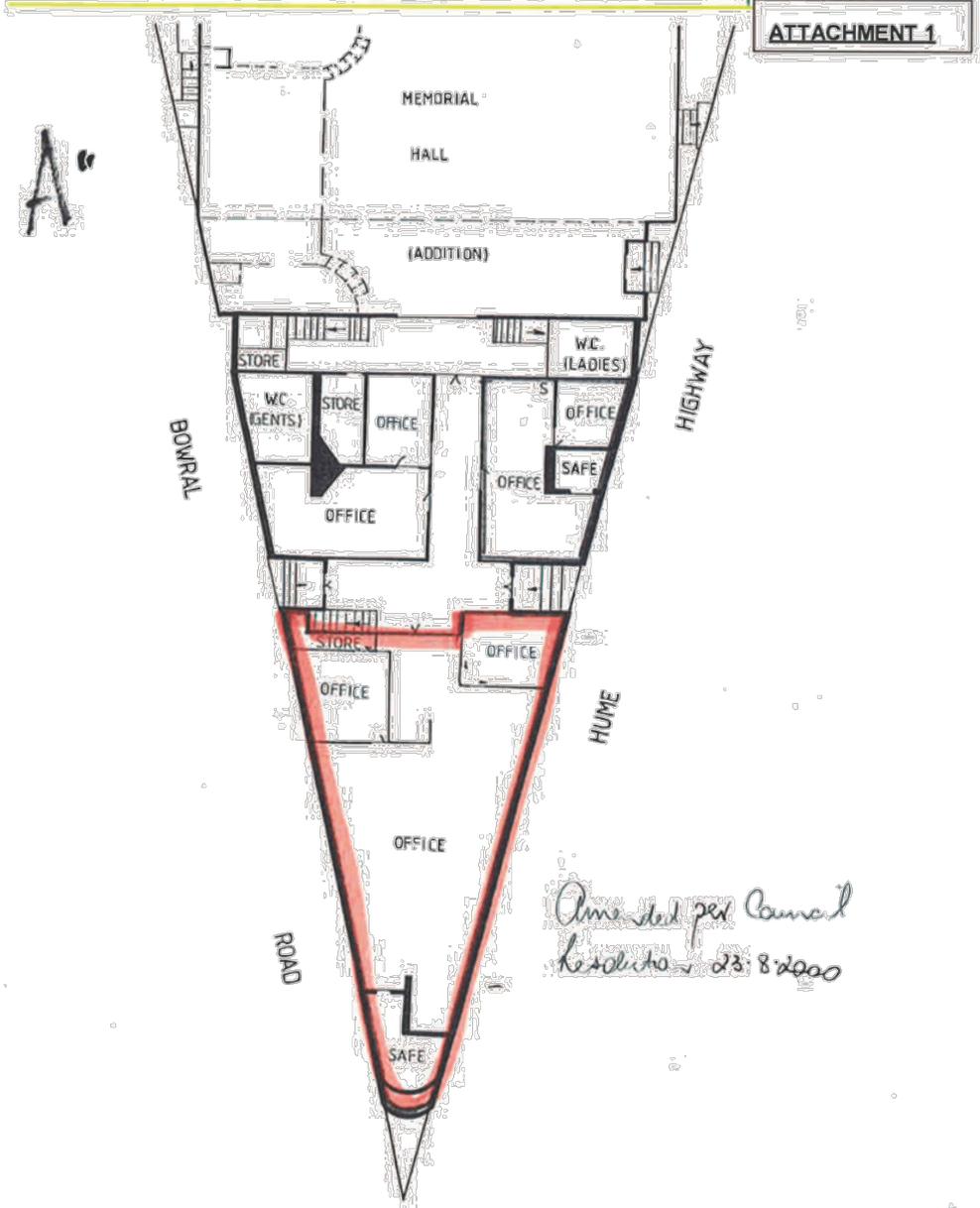


12.1 Proposed Lease of Council property, Part Memorial Hall, 114 Main  
Street Mittagong

ATTACHMENT 1 Attachment 1 - Floor Plan



ATTACHMENT 1



GROUND FLOOR PLAN

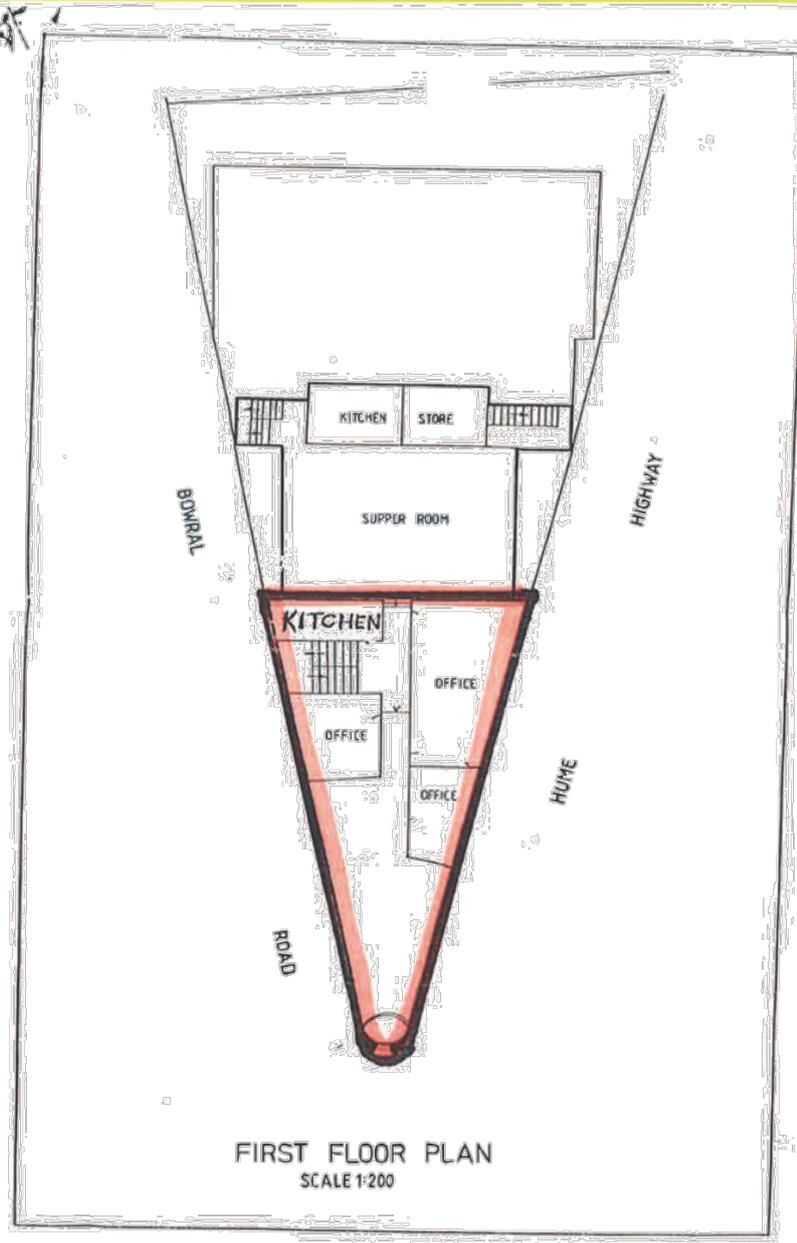
SCALE 1:200

12.5 Post Exhibition Report - Proposed Lease of Council property,  
Part Memorial Hall, 114 Main Street, Mittagong  
ATTACHMENT 1 Attachment 1 - Floor Plan of Leased area



12.1 Proposed Lease of Council property, Part Memorial Hall, 114 Main  
Street Mittagong

ATTACHMENT 1 Attachment 1 - Floor Plan



12.5 Post Exhibition Report - Proposed Lease of Council property,  
Part Memorial Hall, 114 Main Street, Mittagong  
ATTACHMENT 2 Attachment 2 - Letter of Support - Berrima  
District Historical & Family History Society



ATTACHMENT 2



**BERRIMA DISTRICT HISTORICAL  
& FAMILY HISTORY SOCIETY INC.**

PO Box 131 MITTAGONG NSW 2575

Founded 1960

ABN: 29 362 616 937

Archives: Phone/Fax 02 4872 2169  
email: [bdhsarchives@gmail.com](mailto:bdhsarchives@gmail.com)

Museum: Phone 02 4877 1130  
email: [bdmuseum@bigpond.com](mailto:bdmuseum@bigpond.com)

[www.berrimadistricthistoricalsociety.org.au](http://www.berrimadistricthistoricalsociety.org.au)

14 January 2019

Ms Ann Prendergast  
General Manager  
Wingecarribee Shire Council  
PO Box 141  
MOSS VALE NSW 2577

Dear Ms Prendergast,

Re: Intention to Issue a Lease PN 698900

We wish to make a submission in support of Council's decision issue a 21 year lease to Berrima District Historical & Family History Society. We are most grateful to Wingecarribee Shire Council for this decision and their continued support.

The Society has been in existence since 1960 and has occupied rooms in the Old Council Chambers at Mittagong since 1982. During our 36 years in this building, we have built our substantial permanent archive collection and provided research services for the whole shire. Among the many services and activities we provide are:

- We open the archives to the public three days per week and at other times by appointment.
- The archives are totally staffed by a regular group of around 25 volunteers. Our volunteers not only answer queries from the general public, but also undertake individual research and indexing projects based on our collections which add immensely to the knowledge of our area.
- On days on which we are not open to the public, members and volunteers regularly work in the archives on specific projects.
- Management Committee meetings are held in the archives.
- Monthly general meetings which are free and open to the public are held in the upstairs meeting room. Guest speakers lecture on a broad range of historical subjects, ranging from local, family and oral history, to wider Australian history.
- We estimate that our rooms are used in some way on at least 220 days per year.
- We work closely with the Local Studies Librarian at Bowral Library on matters relating to the history of the Shire. Our collections have a different focus, but complement each other well.
- We have a representative on the WSC Heritage Advisory Committee, where we have been able to provide valuable research and information to support Council officers, especially in relation to the history of properties.

**12.5 Post Exhibition Report - Proposed Lease of Council property,  
Part Memorial Hall, 114 Main Street, Mittagong  
ATTACHMENT 2 Attachment 2 - Letter of Support - Berrima  
District Historical & Family History Society**



- A dedicated area for undertaking conservation works on important and fragile material, thus ensuring their future survival. Our newspaper collection from the late 1800s is unexampled.
- Our specialist library of local and Australian history is the most extensive available in the shire.
- We provide a repository for the papers and records of discontinued community organisations, to ensure their preservation into the future, for example, the collections of the Mittagong Bowling Club, Southern Highlands Olympic Committee and the Vietnam Veterans Cherry Tree Walk.

Our collection is extensive, and growing, and occupies the total space we have available. The building is ideal for our purposes. The sandstone structure provides excellent insulation, guaranteeing relatively even year-round temperatures, essential for an archive. The highly secure fire-proof safe protects our most valuable collections, such as the largest collection in the world of photographs and images of the German Internment Camp at Berrima. The important AVJ Parry Collection of more than 40 boxes of local archival material was returned to the shire from The Mitchell Library in Sydney, on the basis that we were able to properly house it in our safe.

We are not aware of any other premises in the shire which are suitable for our collection, in such a central location. It is a known point of contact for researchers and the general public.

We cannot stress enough the value we place on being able to occupy these premises. We would welcome a visit by yourself and Councillors for a tour of the archives and research centre at any time, so that you can gain an understanding of the extent and significance of our work.

Yours faithfully,

  
President

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**12.5 Post Exhibition Report - Proposed Lease of Council property, Part Memorial Hall, 114 Main Street, Mittagong**  
**ATTACHMENT 3 Attachment 3 - Submissions and comments**



NO.	SUMMARY OF SUBMISSION	OFFICER RESPONSE TO SUBMISSION
1.	<ul style="list-style-type: none"> <li>• Term of 21 years is too long</li> <li>• Volunteers of the BDH&amp;FHS take up valuable parking spaces blocking shopper and damaging revenue of shop keepers who pay fair rent</li> <li>• Lessee should not be able to assign or sublet the premises</li> <li>• Premises should be leased to far more deserving causes such as children &amp; adult education.</li> <li>• The society does not need a prominent position to store records</li> </ul>	<ul style="list-style-type: none"> <li>• Comments noted</li> <li>• Council will review the Lease with regards to dedicated number of parking spaces for the Lessee</li> <li>• The Conditions of the Lease are between Council as property owner and the Lessee.</li> <li>• Comments noted.</li> </ul>
2.	<ul style="list-style-type: none"> <li>• The lessee’s occupation of the property is not in sync with the buildings intended purpose and there may be a tenant that could use the building in a manner that is entirely appropriate.</li> <li>• Many spaces under-utilised</li> <li>• No other dedicated venue for theatre in the Southern Highlands</li> <li>• Areas used by the Lessee are essential for ongoing success of the performing arts industry in the Southern Highlands.</li> <li>• To grant Lease it would deny the Southern Highlands of an exciting and desperately needed cultural venue focused on performing arts</li> </ul>	<ul style="list-style-type: none"> <li>• Comments noted.</li> <li>• Council has been working with a local theatre group with possible theatre workshop shed for performances.</li> </ul>
3.	<ul style="list-style-type: none"> <li>• The Mittagong Playhouse (portion of 114-116 Main Road, Mittagong) is the only viable performing space for local and visiting groups in the highlands and is severely restricted by the lack of front of house room for patrons. The area in question in the proposed lease would be an ideal location and possible source of revenue for the building, much greater than received now.</li> </ul>	<ul style="list-style-type: none"> <li>• Comments are noted.</li> <li>• Council has been working with a local theatre group with possible theatre workshop shed for performances.</li> </ul>

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**12.5 Post Exhibition Report - Proposed Lease of Council property, Part Memorial Hall, 114 Main Street, Mittagong**  
**ATTACHMENT 3 Attachment 3 - Submissions and comments**



NO.	SUMMARY OF SUBMISSION	OFFICER RESPONSE TO SUBMISSION
4.	<ul style="list-style-type: none"> <li>• A 21 year lease on such an important cultural and community asset is too long to grant without a comprehensive review and meaningful consultations on the available options and assessment of the future needs of the Berrima District Historical &amp; Family History Society.</li> <li>• Proposed ‘peppercorn’ rent of \$1 per annum seems an anomaly in this day and age, especially when other non-profit community groups using the building pay substantially more in charges for their use. Council does not get a reasonable return on the asset.</li> <li>• The ending of the current lease after 21 years represents an opportunity to engage in a property planning process for the future of the building and review available options.</li> </ul>	<ul style="list-style-type: none"> <li>• Comments noted.</li> <li>• The Lease is in line with Council’s Policy for Leases &amp; Licences of Council property – Not-for-Profit Organisations.</li> </ul>
5.	<ul style="list-style-type: none"> <li>• Some volunteers of the Berrima District Historical &amp; Family History Society have difficulty accessing the upper floor and that installation of a lift may soon be required.</li> <li>• Valuable archive files, maps &amp; papers would be much better accommodated in one of the local libraries or similar storage facility with climate and dust control, which is an ongoing problem in the current situation in an old building surrounded by 2 main roads.</li> <li>• Community is poorly served with inadequate facilities, particularly at the front of the building where overcrowding occurs often when the Mittagong Playhouse holds events &amp; shows.</li> </ul>	<ul style="list-style-type: none"> <li>• Council has reviewed alternate Council property for the Berrima District Historical &amp; Family History Society and confirm at this stage there is no alternate location for the group.</li> <li>• Comments noted.</li> </ul>
6.	<ul style="list-style-type: none"> <li>• Overcrowding at front of house when Mittagong Playhouse</li> </ul>	<ul style="list-style-type: none"> <li>• Comments noted</li> </ul>

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**12.5 Post Exhibition Report - Proposed Lease of Council property, Part Memorial Hall, 114 Main Street,**

**Mittagong**

**ATTACHMENT 3**

**Attachment 3 - Submissions and comments**

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**ATTACHMENT 3**

NO.	SUMMARY OF SUBMISSION	OFFICER RESPONSE TO SUBMISSION
	<p>hold stage productions.</p> <ul style="list-style-type: none"> <li>The Generous terms of the current Lease has operated suggest an uneven playing field .</li> <li>Previous agenda papers note that the facility is open 7 days, however, the publicly advertised hours are Monday and Tuesday 10am – 4pm</li> </ul>	<ul style="list-style-type: none"> <li>As well as opening the facility 3 days a week, the Berrima District Historical &amp; Family History Society takes numerous amounts of private appointments outside these operating hours.</li> </ul>
7.	<ul style="list-style-type: none"> <li>Housing Berrima District Historical &amp; Family History Society in one end of a building with the theatre and performing arts in the balance of the building has not worked to anyone’s advantage.</li> <li>Wingecarribee lacks a performance space capable of holding mid-sized local theatre productions; as a result, local residents miss out on these performances. If the building is focused solely on performance and theatre, improvements can be planned, evaluated &amp; funds raised to enhance the building.</li> <li>Archives and storage will be better suited to a single level building.</li> <li>Granting lease will condemn the building to another 20 years of steady decline and sub-optimal utilisation.</li> </ul>	<ul style="list-style-type: none"> <li>Comments noted.</li> </ul>
8.	<ul style="list-style-type: none"> <li>There may be a tenant that could use the building in a manner that is fit-for-purpose being the Mittagong Playhouse and reception area. Currently theatre goers are crushed in to cold inhospitable corridors.</li> <li>There is no dedicated venue for theatre in the Southern Highlands.</li> <li>There is a growing appeal in the Southern Highlands for its art</li> </ul>	<ul style="list-style-type: none"> <li>Comments noted.</li> <li>Council have been working with a local theatre group with possible theatre workshop shed for performances. Council has also allocated funding to the refurbishment of the Bowral Memorial Hall.</li> </ul>

**AGENDA FOR THE ORDINARY MEETING OF COUNCIL**

**12.5 Post Exhibition Report - Proposed Lease of Council property, Part Memorial Hall, 114 Main Street, Mittagong**  
**ATTACHMENT 3 Attachment 3 - Submissions and comments**

Wednesday 13 March 2019



NO.	SUMMARY OF SUBMISSION	OFFICER RESPONSE TO SUBMISSION
	<p>and cultural offering for residents, visitors and relatives and other tourists. The building would be well suited for this purpose. This is demonstrated by the successful southern Highlands Arts Festival (and studio trail).</p> <ul style="list-style-type: none"> <li>• Berrima District Historical &amp; Family History Society do not require the layout and format of the building and their work could be conducted elsewhere.</li> <li>• Building is underutilised in the heart of Mittagong.</li> </ul>	
9.	<ul style="list-style-type: none"> <li>• The entrance and interval space for patrons during performances is inadequate which causes overcrowding.</li> <li>• The building is in need of a renovation. Council hasn't been able to justify the spending money on the building other than maintenance due to the sole income generated by the building. From the hire of the School of Arts and Playhouse. Ways need to be found to generate more invoices which can be used for renovations.</li> <li>• Mittagong Playhouse in the building is the only regularly available facility suitable for theatre in the highlands, the area used by the Lessee can be better utilised for theatre. There is also no adequate facilities for patrons to sit in a suitably sophisticated environments when productions are on and during intervals, which is hardly benefitting of a tourist attraction.</li> </ul>	<ul style="list-style-type: none"> <li>• Comments noted.</li> <li>• There are currently no plans to renovate the interior of the premise and funding is not currently included in Council's adopted Budget and Capital Works Program.</li> </ul>



## 12.6 Post Exhibition Report - Lease to Southern Highlands Bridge Club Inc. - Part David Woods Playing Fields, East Bowral

Reference:	PN1807820
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 advise Council of the submissions received following a period of public notice of intention to issue a 21 year Lease to Southern Highlands Bridge Club Incorporated for part David Woods Playing Fields, East Bowral. The period of public notification was from 12 December 2018 to 31 January 2019.

### RECOMMENDATION

1. ***THAT Council refer the Lease to the Minister for Local Government for consent as required pursuant to Section 47(5) of the Local Government Act 1993 as written objections to the proposed lease have been submitted during the public notice period.***
2. ***THAT if the Minister grants consent to the Lease, the General Manager and Mayor be delegated authority to execute the Lease referred to in Resolution 1 above and to affix the Common Seal of Council to the Lease and any supporting documents.***
3. ***THAT if the Minister does not grant consent to the lease a further report be forwarded to a future Ordinary Meeting of Council for consideration.***
4. ***THAT Council write to those residents who lodged a written objection advising them that the Lease will now be referred to the Minister for Local Government.***



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## **REPORT**

### **BACKGROUND**

At its meeting 24 October 2018, Council resolved to enter in to a twenty one (21) year lease with Southern Highlands Bridge Club Incorporated for the occupation of part of the David Woods Playing Fields to construct a clubhouse.

It was resolved by Council (MN 435/18):

1. *THAT Council confirms its intention to enter into a lease of part of the Council property known as David Wood Playing Fields (being Part Lot 146 Deposited Plan 1231974) Boardman Road East Bowral to Southern Highlands Bridge Club Incorporated for a term of 21 years.*
2. *THAT Council's General Manager gives owner's consent in respect of a Development Application by the Southern Highlands Bridge Club Inc. for the construction of a clubhouse on the Council property referred to in Resolution 1 above.*
3. *THAT pursuant to Section 47(1) and (2) of the Local Government Act 1993, Council publicly exhibit the draft proposed lease referred to in Resolution 1 above for a minimum twenty eight (28) day period AND THAT if no objections are received, the General Manager and Mayor be delegated authority to execute the Lease under the Common Seal of the Council.*
4. *THAT if there is any written objection/s to the proposed lease referred to in Resolutions 2 & 3 above, Council will refer the Lease to the Minister for Local Government for consent as required pursuant to Section 47(5)(a) of the Local Government Act 1993 AND THAT if the Minister does not grant consent to the lease a further report will be forwarded to a future Ordinary Meeting of Council for consideration.*

### **REPORT**

The proposed location of the leased area is classified as Community Land pursuant to section 26 of the *Local Government Act 1993*.

Following the resolution of Council made on 24 October 2018, the proposed form of lease was drafted and placed on public notification from 12 December 2018 to the close of business 31 January 2019 (a period exceeding the necessary 28 day notice period to take into account the Christmas shutdown period).

Council must consider all submissions duly made. During the notice period a total of ten (10) objections were received as outlined in **Attachment 1** to this report.

In accordance with Section 47(5) of the *Local Government Act, 1993* council must not grant the lease, licence or other estate except with the Minister's consent, if:

- (a) a person makes a submission by way of objection to the proposal, or
- (b) in the case of a lease or licence, the period (including any period for which the lease or licence could be renewed by the exercise of an option) of the lease or licence exceeds 21 years.

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On receipt of the application by Council, the Minister must request the Secretary of the Department of Planning and Environment to furnish a report concerning the application within such period as the Minister specifies.

After considering the application and any report of the Secretary of the Department of Planning and Environment, the Minister, if satisfied the relevant legislation has been complied with and that such consent would not contravene section 46 of the *Local Government Act, 1993*, may consent to the grant of the Lease in respect of the whole or part of the land to which the application relates, subject to such terms and conditions as the Minister specifies.

The Minister's consent is conclusive evidence that Council has complied with its legislative requirements.

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### IMPACT ON COUNCIL'S FIT FOR THE FUTURE IMPROVEMENT PLAN

The subject of this report does not affect Council's fit for future improvement plan.

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### COMMUNICATION AND CONSULTATION

#### Community Engagement

Public notice of the revised leased area was exhibited for more than the minimum twenty eight (28) day period.

#### Internal Communication and Consultation

None

#### External Communication and Consultation

Southern Highlands Bridge Club Inc.

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### SUSTAINABILITY ASSESSMENT

- **Environment**

There are no environmental issues in relation to this report.

- **Social**

There are no social issues in relation to this report.

- **Broader Economic Implications**

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

- **Culture**

There are no cultural issues in relation to this report.

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### REPORT DEPUTY GENERAL MANAGER OPERATIONS, FINANCE AND RISK



- **Governance**

Due to the public submissions received Council must refer the matter to the Minister for Local Government in accordance with Section 47(5) of the *Local Government Act, 1993*.

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#### **COUNCIL BUDGET IMPLICATIONS**

There are no budgetary implications arising from this report.

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#### **RELATED COUNCIL POLICY**

None identified.

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#### **OPTIONS**

The options available to Council are:

##### **Option 1**

Determine an alternate term for a Lease to the Southern Highlands Bridge Club Inc.

##### **Option 2**

Refer the Lease to the Minister for Local Government for consent as required pursuant to Section 47(5) of the *Local Government Act 1993* for approval.

**Option 2 is the recommended option to this report.**

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#### **CONCLUSION**

As submissions have been received during the period of public notice for this lease, it is recommended that Council refer the Lease to the Minister for Local Government for consent as required pursuant to *Section 47(5) of the Local Government Act 1993*.

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#### **ATTACHMENTS**

1. Attachment 1 - submissions for lease to Southern Highlands Bridge Club
2. Attachment 2 - Aerial Map

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**12.6 Post Exhibition Report - Lease to Southern Highlands Bridge Club Inc. - Part David Woods Playing Fields, East Bowral**

**ATTACHMENT 1 Attachment 1 - submissions for lease to Southern Highlands Bridge Club**



NO.	SUMMARY OF SUBMISSION	OFFICER RESPONSE TO SUBMISSION
1.	<ul style="list-style-type: none"> <li>• Object to construction of the Bridge Club building for exclusive use of the Bridge Club which meets for only 9 hours a week.</li> <li>• Positioning of clubhouse may cause traffic congestion and parking issues when soccer club and bridge club hold events at same time (in particular Saturday afternoons).</li> <li>• Proposed clubhouse may interfere with the natural runoff feeding the watercourse which flows into the wetland of the Latham Snipe breeding grounds.</li> </ul>	<ul style="list-style-type: none"> <li>• Comments noted.</li> <li>• Any traffic and parking issues regarding any development are dealt with through the Development Application process. The Agreement to lease is conditional upon the Lessee submitting a Development Application for the clubhouse building and parking facilities.</li> <li>• Any possibility of interference to the natural runoff feeding the watercourse which flows in to the wetland of the Latham Snipe breeding grounds would be dealt with in the Statement of Environmental Effects in the Development Application. The significance of the runoff has to be proven in the Statement of Environmental Effects.</li> </ul>
2.	<ul style="list-style-type: none"> <li>• Enquiring about monies gifted by Fairfax to Council to build park near David Woods soccer field where the Bridge Club is proposed to go. How can the park go ahead in the same location as the Bridge Club?</li> </ul>	<ul style="list-style-type: none"> <li>• A monetary contribution was required under the Voluntary Planning Agreement for Retford Park. Council will take in to account the proposal for the park when submitting the application to the Minister.</li> </ul>
3.	<ul style="list-style-type: none"> <li>• Clubhouse position sits in the middle of a large open space which is used by rate payers &amp; residents, animal walkers, kite flyers, soccer warm ups and extra parking when large soccer events are on.</li> <li>• No services available to site i.e. water, gas, electricity.</li> <li>• Position is within a catchment for water to feed the wetland in which Latham Snipe has a breeding ground.</li> <li>• Site is very wet after rain &amp; will necessitate more hard surfaces for building and hard surfaces.</li> <li>• Bowral is the green environment which must be preserved – LEP states ‘to protect and enhance the natural environment’.</li> </ul>	<ul style="list-style-type: none"> <li>• Comments noted.</li> <li>• Connectivity of services is dealt with through the Development Application stage. The Agreement to lease is conditional upon the Lessee submitting a Development Application. The building will need to comply with Bowral Development Control Plan and building codes.</li> <li>• The site location is a proposed area and not a confirmed location.</li> <li>• David Woods Playing Fields (lot 146 DP1231974) has an area of 7.757ha. By adding the building which is proposed (taking in to account setbacks) to be approx 60m<sup>2</sup>, it would not impact the natural environment of the space.</li> </ul>

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**ATTACHMENT 1 Attachment 1 - submissions for lease to Southern Highlands Bridge Club**



NO.	SUMMARY OF SUBMISSION	OFFICER RESPONSE TO SUBMISSION
4.	<ul style="list-style-type: none"> <li>Playing fields well used and at times the car park is not big enough. There will be a demand for bigger car park and more substantial playground in that area.</li> </ul>	<ul style="list-style-type: none"> <li>Car parking is determined through the development application process depending on size and demand of the building.</li> </ul>
5.	<ul style="list-style-type: none"> <li>Proposed clubhouse position has already been dedicated as part of the Retford Park Development.</li> <li>Monetary contribution was made to complete the re-embellishment of the David Woods Park.</li> </ul>	<ul style="list-style-type: none"> <li>A monetary contribution was required under the Voluntary Planning Agreement for Retford Park. Council will take in to account the proposal for the park when submitting the application to the Minister.</li> </ul>
6.	<ul style="list-style-type: none"> <li>Lack of community consultation</li> <li>Low optimisation of existing assets and space at David Woods Playing Fields for future sport and recreational uses.</li> <li>Increased maintenance costs to the community for a standalone clubhouse.</li> <li>No consideration indicated for access road way or parking.</li> </ul>	<ul style="list-style-type: none"> <li>Council publicly exhibited the Lease for more than the 28 days legislative requirement under the <i>Local Government Act 1993</i>.</li> <li>The proposed lease is in accordance with Council's Policy for leasing to Not for Profit Organisations and it is not expected that it would create an excessive maintenance burden on Council's existing budgets.</li> <li>Parking is a consideration of the Development Application.</li> </ul>
7.	<ul style="list-style-type: none"> <li>Monetary contribution was made to complete the re-embellishment of the David Wood Park.</li> <li>Bowral need another substantial park for growing number of families in the area.</li> </ul>	<ul style="list-style-type: none"> <li>Comments Noted.</li> <li>A monetary contribution was required under the Voluntary Planning Agreement for Retford Park. Council will take in to account the proposal for the park when submitting the application to the Minister.</li> </ul>
9.	<ul style="list-style-type: none"> <li>If clubhouse is built, there is no option to build park as previously proposed at a later date.</li> </ul>	<ul style="list-style-type: none"> <li>Comments Noted.</li> <li>Council will take in to account the proposal for the park under the Retford Park Planning Agreement when submitting the application to the Minister.</li> </ul>

**AGENDA FOR THE ORDINARY MEETING OF COUNCIL**

Wednesday 13 March 2019

**12.6 Post Exhibition Report - Lease to Southern Highlands Bridge Club Inc. - Part David Woods Playing Fields, East Bowral**

**ATTACHMENT 1 Attachment 1 - submissions for lease to Southern Highlands Bridge Club**



NO.	SUMMARY OF SUBMISSION	OFFICER RESPONSE TO SUBMISSION
10.	<ul style="list-style-type: none"> <li>• Proposal will result in a significant adverse impact on the valued amenity of the area enjoyed by many residents and larger community.</li> <li>• Development would not comply with Bowral DCP with regards to visual impact.</li> <li>•</li> <li>• Not clear whether alternate options have been given for bridge club location.</li> <li>• Proposed location is inappropriate.</li> </ul>	<ul style="list-style-type: none"> <li>• Area of proposal is approximately 60m<sup>2</sup> within a 7.757ha area.</li> <li>• Compliance with the Development Control Plan is dealt with through the development application process which will be dealt with by Council as consent authority. The proposed lease is currently being considered by Council as property owner and should be treated as two separate sections to avoid any conflict.</li> <li>• The Agreement for lease is conditional upon the lessee obtaining development approval for the building.</li> <li>• Council has consulted with the Southern Highlands Bridge Club Inc. with regard to locations for their Bridge Club activities. The location at David Woods Playing Fields was proposed by them and the club is aware that public consultation is required under the Local Government Act 1993 to ultimately proceed with the location.</li> <li>• The public consultation period allows any concerns that are raised with the proposal and is taken in to account with the decision making process.</li> <li>• The proposed location is not final and the matter will be required to be forwarded to the Minister of Local Government for review.</li> </ul>



AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 24 October 2018

12.4 Proposed Lease of Council Property to Southern Highlands Bridge Club Inc

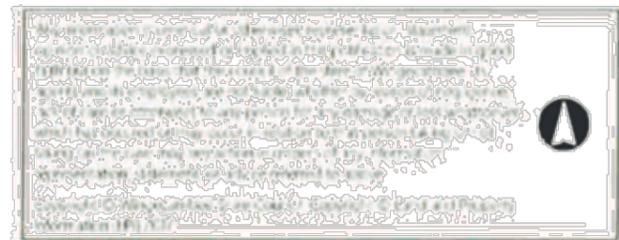
ATTACHMENT 1 Aerial Map



ATTACHMENT 1



Wingecarribee Shire Council





## 12.7 Post Exhibition Report - Proposed lease to Highlands Golf Club Limited, Old Hume Highway, Mittagong

Reference:	PN 1766240
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 advise Council of the submissions received during the period of public notice of intention to issue a 21 year Lease to Highlands Golf Club Limited, Old Hume Highway, Mittagong. The period of public notification was from 19 December 2018 to 31 January, 2019.

### RECOMMENDATION

1. ***THAT Council refer the Lease to the Minister for Local Government for consent as required pursuant to Section 47(5) of the Local Government Act 1993 as written objections to the proposed lease have been submitted during the public notice period.***
2. ***THAT if the Minister grants consent to the Lease, the General Manager and Mayor be delegated authority to execute the Lease referred to in Resolution 1 above and to affix the Common Seal of Council to the Lease and any supporting documents.***
3. ***THAT if the Minister does not grant consent to the lease a further report be forwarded to a future Ordinary Meeting of Council for consideration.***
4. ***THAT Council write to those residents who lodged a written objection advising them that the Lease will now be referred to the Minister for Local Government.***



---

## **REPORT**

### **BACKGROUND**

At its meeting 12 December 2018 Council resolved to enter into a new lease with the current Lessee being Highlands Golf Club Limited for a term of 21 years for the Highlands Golf Course at Old Hume Highway, Mittagong.

It was resolved by Council (MN 538/18):

1. *THAT in respect of the proposed Lease of the Highlands Golf Course premises, the annual rental shall be increased by 4% or the percentage rate set by the Consumer Price Index (Sydney All Groups) whichever is the greater.*
2. *THAT the current agreement be held over pending execution of the new Lease of the Highlands Golf Course premises Old Hume Highway Mittagong.*
3. *THAT pursuant to Section 47(1) and (2) of the Local Government Act 1993, Council publicly exhibit the draft proposed lease to Highlands Golf Club Limited of the Highlands Golf Course, Old Hume Highway Mittagong until the end of January 2019 AND THAT if no objections are received, the General Manager and Mayor be delegated authority to execute the Lease under the Common Seal of the Council.*
4. *THAT if there is any written objection/s to the proposed lease, Council will refer the Lease to the Minister for Local Government for consent as required pursuant to Section 47(5)(a) of the Local Government Act 1993 AND THAT if the Minister does not grant consent to the lease a further report will be forwarded to a future Ordinary Meeting of Council for consideration.*

### **REPORT**

The Highlands Golf Course premise is classified as Community Land pursuant to Section 26 of the *Local Government Act, 1993*.

Following the resolution of Council made on 12 December, 2018, the proposed form of Lease was drafted and placed on public notification from 19 December, 2018 to the close of business on 31 January, 2019 (a period exceeding the necessary 28 day notice period to take into account the Christmas shutdown period).

Council must consider all submissions duly made. During the notice period a total of three (3) objections were received as outlined in **Attachment 1** to this report.

In accordance with Section 47(5) of the *Local Government Act, 1993* council must not grant the lease, licence or other estate except with the Minister's consent, if:

- (a) a person makes a submission by way of objection to the proposal, or
- (b) in the case of a lease or licence, the period (including any period for which the lease or licence could be renewed by the exercise of an option) of the lease or licence exceeds 21 years.

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 13 March 2019

### REPORT DEPUTY GENERAL MANAGER OPERATIONS, FINANCE AND RISK



On receipt of the application by Council, the Minister must request the Secretary of the Department of Planning and Environment to furnish a report concerning the application within such period as the Minister specifies.

After considering the application and any report of the Secretary of the Department of Planning and Environment, the Minister, if satisfied the relevant legislation has been complied with and that such consent would not contravene section 46 of the *Local Government Act, 1993*, may consent to the grant of the Lease in respect of the whole or part of the land to which the application relates, subject to such terms and conditions as the Minister specifies.

The Minister's consent is conclusive evidence that Council has complied with its legislative requirements.

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### IMPACT ON COUNCIL'S FIT FOR THE FUTURE IMPROVEMENT PLAN

The subject of this report does not affect Council's fit for future improvement plan.

---

### COMMUNICATION AND CONSULTATION

#### Community Engagement

Council provided Public Notice of its intention to issue a Lease to the Highlands Golf Club Limited in accordance with the resolution of Council made on 12 December, 2018.

#### Internal Communication and Consultation

None

#### External Communication and Consultation

Highlands Golf Club Limited

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### SUSTAINABILITY ASSESSMENT

- **Environment**

There are no environmental issues in relation to this report.

- **Social**

There are no social issues in relation to this report.

- **Broader Economic Implications**

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

- **Culture**

There are no cultural issues in relation to this report.

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 13 March 2019

### REPORT DEPUTY GENERAL MANAGER OPERATIONS, FINANCE AND RISK



- **Governance**

Due to the public submissions received Council must refer the matter to the Minister for Local Government in accordance with Section 47(5) of the *Local Government Act, 1993*.

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#### **COUNCIL BUDGET IMPLICATIONS**

There are no budgetary implications arising from this report.

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#### **RELATED COUNCIL POLICY**

None identified.

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#### **OPTIONS**

The options available to Council are:

##### **Option 1**

Determine an alternate term for a lease to Highlands Golf Club Limited.

##### **Option 2**

Refer the Lease to the Minister for Local Government for consent as required pursuant to Section 47(5) of the *Local Government Act, 1993* for approval.

**Option 2 is the recommended option.**

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#### **CONCLUSION**

As submissions have been received during the period of public notice for this lease, it is recommended that Council refer the Lease to the Minister for Local Government for consent as required pursuant to *Section 47(5) of the Local Government Act 1993*.

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#### **ATTACHMENTS**

1. Attachment 1 - submissions for lease to Highlands Golf Limited
2. Attachment 2 - Aerial map Highlands Golf Course Mittagong

**AGENDA FOR THE ORDINARY MEETING OF COUNCIL**

**12.7 Post Exhibition Report - Proposed lease to Highlands Golf Club Limited, Old Hume Highway, Mittagong**

**ATTACHMENT 1 Attachment 1 - submissions for lease to Highlands Golf Limited**

Wednesday 13 March 2019

**ATTACHMENT 1**



NO.	SUMMARY OF SUBMISSION	OFFICER RESPONSE TO SUBMISSION
1.	<ul style="list-style-type: none"><li>• The property currently used by the Highlands Golf Club is a large (more than 30 hectares) and a valuable parcel of land, zoned for Public Recreation and positioned at the entry point to the Southern Highlands from Sydney it represents a unique opportunity to provide much needed public recreation facilities in an easily accessible location. To dedicate this land for the unique use by a small group of residents, to the exclusion of others, in order to support a past-time which is reducing in both popularity as well as participation seems problematic at best.</li><li>• WSC should utilise any short-term income from this property to develop a detailed master plan for this land to provide a community precinct incorporating multiuse sports and recreation facilities which would benefit the entire community. Such a facility could concentrate sporting, leisure arts and entertainment resources in a single precinct easily accessible from the Hume Highway as well as the rest of the Highlands.</li><li>• With the property lease currently due for renewal, suggest that WSC contemplates an alternative lease period of 5 years with the option to renew and conduct yearly financial reviews to ensure Highlands Golf Club meets their fiscal responsibilities regarding their lease payments.</li></ul>	<ul style="list-style-type: none"><li>• Membership to the Golf Club is not exclusive. Any resident of the Wingecarribee Shire can apply to become a member of the Club.</li><li>• A number of other sporting facilities exist in the precinct including rugby league playing fields, tennis courts, swimming centre and PCYC.</li><li>• Comments are noted.</li><li>• The length of the proposed lease is recommended to ensure that the club has certainty regarding its tenure.</li></ul>

**AGENDA FOR THE ORDINARY MEETING OF COUNCIL**

**12.7 Post Exhibition Report - Proposed lease to Highlands Golf Club Limited, Old Hume Highway, Mittagong**

**ATTACHMENT 1 Attachment 1 - submissions for lease to Highlands Golf Limited**

Wednesday 13 March 2019

**ATTACHMENT 1**



NO.	SUMMARY OF SUBMISSION	OFFICER RESPONSE TO SUBMISSION
2.	<ul style="list-style-type: none"> <li>• Do not believe that Council should be offering any organisation/community group leases that extend beyond 7 years at the maximum.</li> <li>• Southern Highlands are well endowed with golf courses – with Moss Vale, Bowral and Gibraltar and Mt Broughton being the main 18 hole courses, all of which have reasonable membership and ‘casual player’ rates. In contrast, at best, Highlands has a membership of approximately 200. Clubs regularly compete for memberships as the average age of players increases, and the domestic allowances for leisure activities comes under pressure.</li> <li>• Unlikely that the take up rate for golfing will increase significantly in the coming years, particularly as, industry wide, alarm bells are ringing for the future of the sport.</li> <li>• In a population of some 50,000 people, retaining a golf facility on Council land for such a small minority seems a very questionable use of the resource.</li> <li>• The expanse of land at Highlands, the ‘gateway’ to the Southern Highlands for visitors from the North, would lend itself well to different sporting/leisure opportunities, particularly as it is so close to the existing pool and other recreational facilities.</li> </ul>	<ul style="list-style-type: none"> <li>• The length of the proposed lease is recommended to ensure that the club has certainty regarding its tenure. The Local Government Act enables leases on community land up to 21 years.</li> <li>• This is the only golf course in Mittagong, other courses in the Wingecarribee Shire are located in Bowral and Moss Vale.</li> <li>• Comments are noted.</li> <li>• Comments are noted.</li> <li>• Comments are noted.</li> </ul>

**AGENDA FOR THE ORDINARY MEETING OF COUNCIL**

Wednesday 13 March 2019

**12.7 Post Exhibition Report - Proposed lease to Highlands Golf Club Limited, Old Hume Highway, Mittagong**

**ATTACHMENT 1 Attachment 1 - submissions for lease to Highlands Golf Limited**

**ATTACHMENT 1**



NO.	SUMMARY OF SUBMISSION	OFFICER RESPONSE TO SUBMISSION
3.	<ul style="list-style-type: none"> <li>• The incumbent has enjoyed the benefit of the site for a long lease period already. In that time, the needs of the community have changed and it is negligent to simply re-offer the lease, and for such a long period again.</li> <li>• The site is in a strategic gateway location to the Southern Highlands, exceeding 30 hectares in area. The site can add greater value to Mittagong and the region than it currently does.</li> <li>• The use of the land for purpose built, multiuse arts and entertainment and recreation (indoor and outdoor) use is an obvious consideration. Patronage is guaranteed locally, and from a large catchment given it is approx. 1.5 hours from the centre of Sydney (less from South West and Western Sydney).</li> <li>• The public land would benefit a greater number of people than it does at the moment.</li> <li>• Long term planning is required and expected by the community for vision and leadership from elected representatives. A business case should be developed to ensure excellent return on any initial investment.</li> <li>• There are two member owned, one privately owned, two council leased and one nine hole golf course in the Shire.</li> <li>• The non-council courses are at a commercial disadvantage due to the subsidy (through the lease) provided to Highlands Golf Club.</li> <li>• It is documented that golf is reducing in popularity and participation. Due Diligence Investigation by Council would inform whether use of the strategic site is best allocated to golf. In supporting an organisation that may not</li> </ul>	<ul style="list-style-type: none"> <li>• The length of the proposed lease is recommended to ensure that the club has certainty regarding its tenure.</li> <li>• Comments are noted.</li> <li>• Comments are noted.</li> <li>• Membership to the Golf Club is not exclusive. Any resident of the Wingecarribee Shire can apply to become a member of the Club.</li> <li>• The Proposed Lease will not require any investment from Council beyond the Lease of the subject land.</li> <li>• This is the only golf course in Mittagong, other courses in the Wingecarribee Shire are located in Bowral and Moss Vale.</li> <li>• Comments are noted.</li> <li>• Comments are noted.</li> </ul>

**AGENDA FOR THE ORDINARY MEETING OF COUNCIL**

**12.7 Post Exhibition Report - Proposed lease to Highlands Golf Club Limited, Old Hume Highway, Mittagong**

**ATTACHMENT 1 Attachment 1 - submissions for lease to Highlands Golf Limited**

Wednesday 13 March 2019

**ATTACHMENT 1**



<p>otherwise be viable, an appropriate use of ratepayer funds, particularly when future sustainability of Highland Golf Club (over 21 years) is likely to be compromised further given the demise of the golf game.</p> <ul style="list-style-type: none"><li>• Support offering the lease for community use but object to the lease being offered to the incumbent leaseholder.</li><li>• Council should begin the process of master planning for the site and engage community consultation about its use.</li><li>• Suggest fair to offer a five year lease with a five year option.</li></ul>	<ul style="list-style-type: none"><li>• Comments are noted.</li><li>• The purpose of the public notification of the proposed Lease is to seek community comment on the proposal.</li><li>• The length of the proposed lease is recommended to ensure that the club has certainty regarding its tenure.</li></ul>
---	--



ATTACHMENT 2



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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## 12.8 Notice to Minister for Lands and Forestry - Native Title Manager

Reference:	5300/1
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 for the appointment of a Native Title Manager to satisfy the requirements of the *Crown Land Management Act 2016*.

### RECOMMENDATION

1. **THAT Council appoint the Acting Coordinator of Property Services as Native Title Manager.**
2. **THAT Council give notice to the Minister for Lands and Forestry of contact details of Council's Acting Coordinator Property Services as Council's Native Title Manager as required under Section 8.8 of the *Crown Land Management Act 2016*.**

### REPORT

#### **BACKGROUND**

The management of Crown Land has changed significantly as a result of the *Crown Land Management Act 2016* (CLM Act) which came into force on 1 July, 2018. To comply with the requirements of CLM Act written advice from a Native Title Manager must be obtained for any dealing by Council on Crown Land to ensure those dealings can be validated under Native Title legislation.

#### **REPORT**

A Native Title Manager is a person who has undertaken approved training facilitated by the Crown Solicitors Office and the Department of Industry – Lands and Water and who holds the necessary qualification issued by Department of Industry – Lands and Water. Council's Acting Coordinator of Property Services has attended this training and therefore has attained the Native Title Manager qualification for the purposes of the CLM Act.

Given the nature of the investigations required to be undertaken by a Native Title Manager, this role is primarily being allocated to either Property sections and/or legal sections at councils across NSW.

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 13 March 2019

### REPORT DEPUTY GENERAL MANAGER OPERATIONS, FINANCE AND RISK



In addition to attendance at the compulsory Crown Solicitors training, Council has engaged Dr Lindsay Taylor of Lindsay Taylor Lawyers to provide specialist advice in relation to Native Title on a case by case basis. Dr Taylor and his firm have extensive experience in advising Government Agencies and councils on Native Title Legislation namely, the *Native Title Act 1993 (Cth)* and the *Native Title (New South Wales) Act 1994 (NSW)*.

Councils have been encouraged to appoint a number of Native Title Managers, therefore it is intended that the Chief Financial Officer will also attend the required training to become a Native Title Manager as soon as additional training is conducted by Crown Solicitors Office and the Department of Industry – Lands and Water.

Council will be required to provide written notice on an annual basis of the name and contact details of its Native Title Manager(s) to the Minister for Lands and Forestry.

### IMPACT ON COUNCIL'S FIT FOR THE FUTURE IMPROVEMENT PLAN

None identified.

### COMMUNICATION AND CONSULTATION

#### Community Engagement

Not required.

#### Internal Communication and Consultation

Deputy General Manager Operations Finance & Risk

#### External Communication and Consultation

Office of Local Government

Crown Solicitors Office

### 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.

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 13 March 2019

### REPORT DEPUTY GENERAL MANAGER OPERATIONS, FINANCE AND RISK



- **Governance**

Providing written notice to the Minister for Lands and Forestry of Council's appointed Native Title Manager is a requirement under Section 8.8 of the *Crown Land Management Act 2016*.

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#### **COUNCIL BUDGET IMPLICATIONS**

There are no budget implications in this appointment of a Native Title Manager.

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#### **RELATED COUNCIL POLICY**

None identified.

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#### **CONCLUSION**

It is recommended that Council appoint the Acting Coordinator of Property Services as Native Title Manager and notice be served on the Minister for Lands and Forestry to comply with the requirements of CLM Act.

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#### **ATTACHMENTS**

There are no attachments to this report.

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## 12.9 Bong Bong Common Masterplan

Reference:	6530/1
Report Author:	Asset Planner - Parks and Buildings
Authoriser:	Asset Coordinator Parks and Buildings
Link to Community Strategic Plan:	Identify, protect and promote places of significant cultural heritage

---

### **PURPOSE**

To seek approval for the Bong Bong Common Draft Masterplan to be placed on public exhibition with the community invited to provide feedback and comments.

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### **RECOMMENDATION**

1. **THAT** the Bong Bong Common Draft Masterplan be placed on public exhibition for a period of twenty eight (28) days.
2. **THAT** the final Bong Bong Common Masterplan incorporating community submissions be reported to Council for adoption following the public exhibition.

---

### **REPORT**

#### **BACKGROUND**

The Bong Bong Common Plan of Management was adopted by Council on 31 August 2010. Whilst the adopted Plan of Management does include a Masterplan, Council's acquisition in 2017 of Lot 22 on the eastern side of Moss Vale Road, prompted a review of the Masterplan. This recommendation to renew the Masterplan was made by Council staff and the Bong Bong Common Management Committee.

Tender submissions were sought from suitably qualified landscape architects and Phillips Marler was appointed to develop the Masterplan. A Project Working Group was formed consisting of Bong Bong Management Committee Members and Council staff.

#### **REPORT**

The Bong Bong Common Draft Masterplan is a vision for the Bong Bong Common and provides guidance for Council on future provision, development and maintenance of this unique open space area.

The Draft Masterplan creates connectivity between the eastern and western sides of the Common and provides opportunities for visitors to learn the history of the Aboriginal heritage, details of the first European settlement and to walk along the original old Argyle Road.

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 13 March 2019

### REPORT DEPUTY GENERAL MANAGER OPERATIONS, FINANCE AND RISK



Masterplans are visionary and intended to explore the possibilities of sites in order to develop and protect them in the most appropriate manner for each particular location. The Bong Bong Common Draft Masterplan indicates short, medium and long term projects, some of which are aspirational and subject to available funding, environmental impacts and community feedback.

---

#### **IMPACT ON COUNCIL'S FIT FOR THE FUTURE IMPROVEMENT PLAN**

The Bong Bong Common Draft Masterplan has no impact on the Fit for the Future Improvement Plan.

---

#### **COMMUNICATION AND CONSULTATION**

##### **Community Engagement**

The exhibition of the Bong Bong Common Draft Masterplan will include newspaper advertisement, social media and other engagement tools on the Wingecarribee Your Say website.

A hard copy of the Bong Bong Common Draft Masterplan will be available, for the Community to view at the Civic Centre and Council libraries in Moss Vale, Bowral, Mittagong and the mobile library.

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

Assets, Heritage, Traffic, Infrastructure Services, Environment & Sustainability and Executive staff have been consulted in the development of the Bong Bong Common Draft Masterplan. Feedback has been considered and incorporated into the Draft Masterplan where appropriate.

A Councillor Briefing Session will be held on 13 March 2019. A copy of the presentation will be circulated to Councillors.

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

The Bong Bong Common Management Committee has been extensively consulted and three Committee members formed part of the Project Working Group.

National Parks and Wildlife Services were consulted about the plan, in particular regarding the connectivity of the Bong Bong Common with the adjoining Cecil Hoskins Reserve. National Parks and Wildlife Services were positive about the interaction of the two sites; however, the need to protect the Reserve needs to be considered. This protection includes preventing dogs from entering the site.

Public Exhibition - Following approval from Council the Bong Bong Common Draft Masterplan will be placed on public exhibition for a period of 28 days and members of the public will be invited to provide feedback.

Once the exhibition period has closed, a report will be submitted to Council for consideration.



---

## **SUSTAINABILITY ASSESSMENT**

- **Environment**

The Bong Bong Common Masterplan, when adopted, will provide a consistent management framework to enhance the sustainable future of Council's public recreation assets. •

- **Social**

The Bong Bong Common Masterplan, when adopted, will promote Council's capacity to provide improved recreational space and will both protect and enhance the heritage values of the site. • **Broader Economic Implications**

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

- **Culture**

The Masterplan will provide an exciting cultural opportunity with respect to appreciating the area's history for both local residents and visitors.

- **Governance**

There are no governance issues in relation to this report.

---

## **COUNCIL BUDGET IMPLICATIONS**

The Draft Masterplan identifies several stages of works. The Masterplan will be a valuable planning tool as an input into Council's 10-year capital works program. The development of detailed designs would afford an opportunity to apply for grant funding.

---

## **RELATED COUNCIL POLICY**

The Bong Bong Common Draft Masterplan is in line with the following Council policies:

- Asset Management Policy;
- Parks Strategy 2016.

---

## **OPTIONS**

The options available to Council are:

### **Option 1**

Council endorse the Bong Bong Common Draft Masterplan for public exhibition.

### **Option 2**

Council does not endorse the Bong Bong Common Draft Masterplan for public exhibition.

Option No. 1 is the recommended option to this report.

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 13 March 2019

### REPORT DEPUTY GENERAL MANAGER OPERATIONS, FINANCE AND RISK



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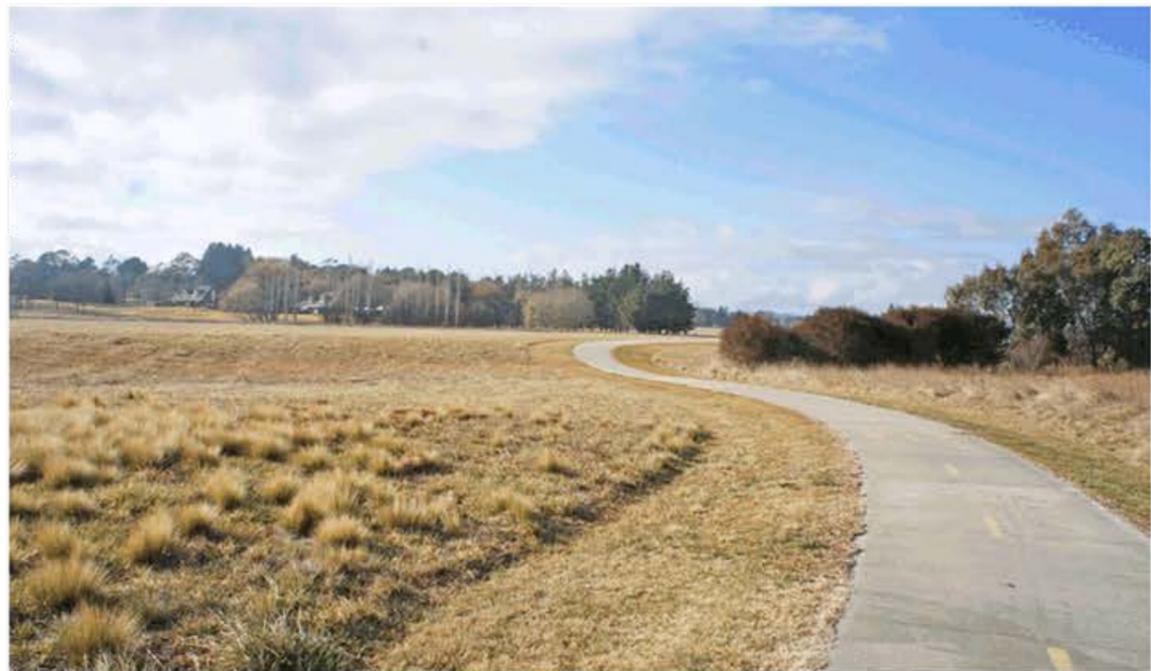
#### CONCLUSION

Placing the Bong Bong Common Draft Masterplan on public exhibition and providing further opportunity for community feedback will enable the finalised Masterplan to be submitted to Council for endorsement.

---

#### ATTACHMENTS

1. Bong Bong Common Draft Masterplan



Bong Bong Common Final Draft Masterplan

27th February 2019



Contents	Page
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## Introduction

Wingecarribee Shire Council, with the support of the Bong Bong Common Management Committee, seeks to develop a comprehensive Masterplan for the Bong Bong Common in Moss Vale.

With the recent purchase of a portion of land directly to the east of Moss Vale Road, all of the key areas of the first European settlement in the Southern Highlands are now in the ownership of Council.

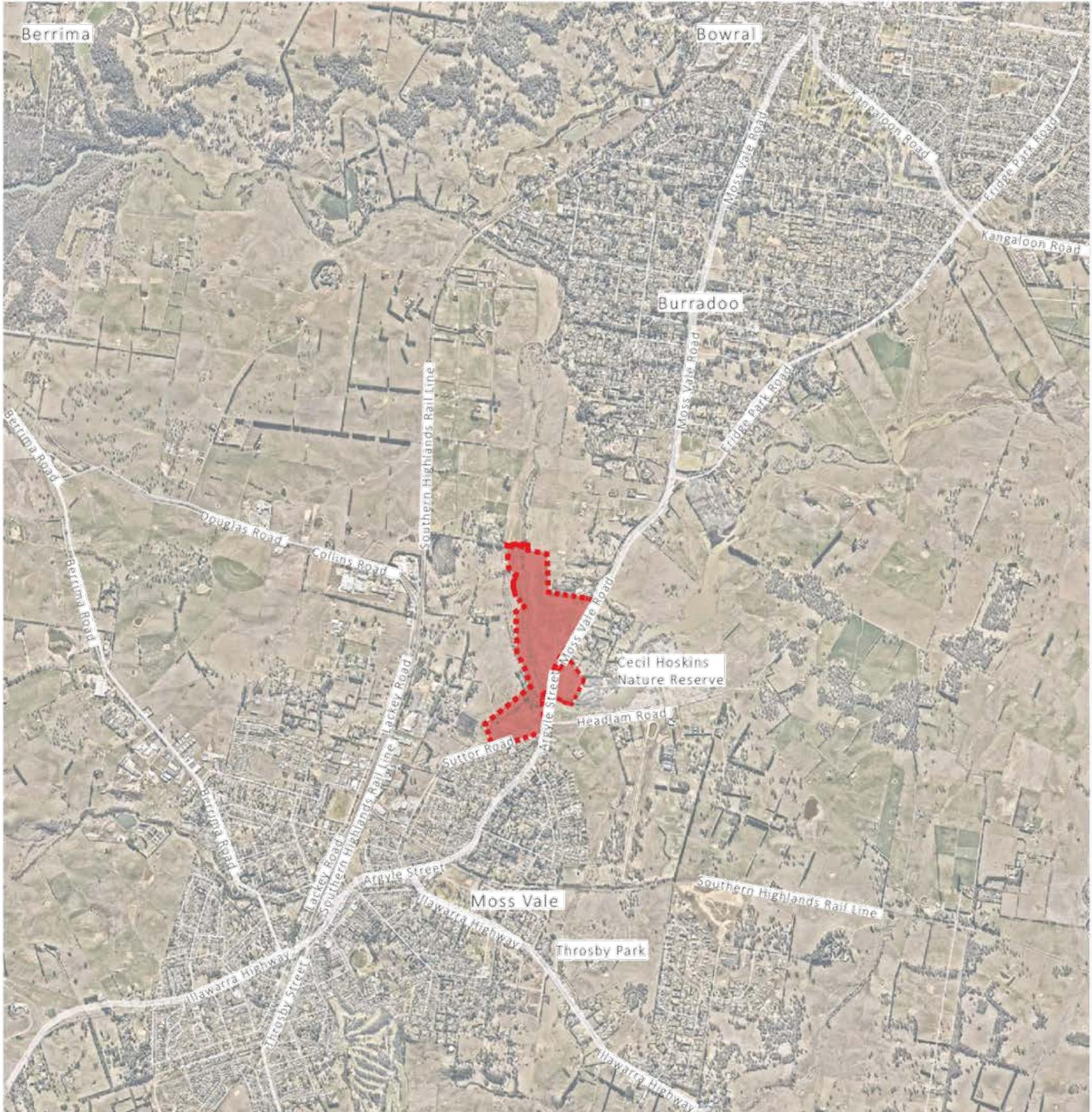
The principle aim of the proposed Masterplan is to sensitively improve the Common in order to protect the archaeological remnants of the historic settlement sites, while improving access and providing interpretive information for visitors.

The Masterplan has been developed with three stages in mind, being:

- Stage 1 – Short Term Priority
- Stage 2 – Medium Term Aspirational
- Stage 3 – Long Term Aspirational

Masterplans are visionary and intended to explore the possibilities of sites in order to develop and protect them in the most appropriate manner for each particular location.

The Bong Bong Common Draft Masterplan indicates short, medium and long term projects, some of which are aspirational and subject to available funding, environmental impacts, legislative requirements and community feedback.



LEGEND

 Bong Bong Common

Scale 1:30000 @ A3



Location Plan  
 Bong Bong Common - Masterplan

Final Draft  
 Date: 27th February 2019









LEGEND		Structures	Signage	
	Existing Concrete Paths		Proposed Amenities Building	
	Existing Vehicle Access to Model Airfield		Historical Sites	
	Existing Decomposed Granite Paths		New Carparking Areas	<b>Landscape</b>
	New Concrete Paths		Timber Post & Rail Fences	
	New Decomposed Granite Paths			
	New Mown Tracks			



**Detailed Masterplan 2 of 2 -  
 Southern & Eastern Precinct  
 Bong Bong Common - Masterplan**

Final Draft  
 Date: 27th February 2019





Scale 1:500 @ A3



8



**Northern Entry Plan**  
Bong Bong Common - Masterplan

Final Draft  
Date: 27th February 2019



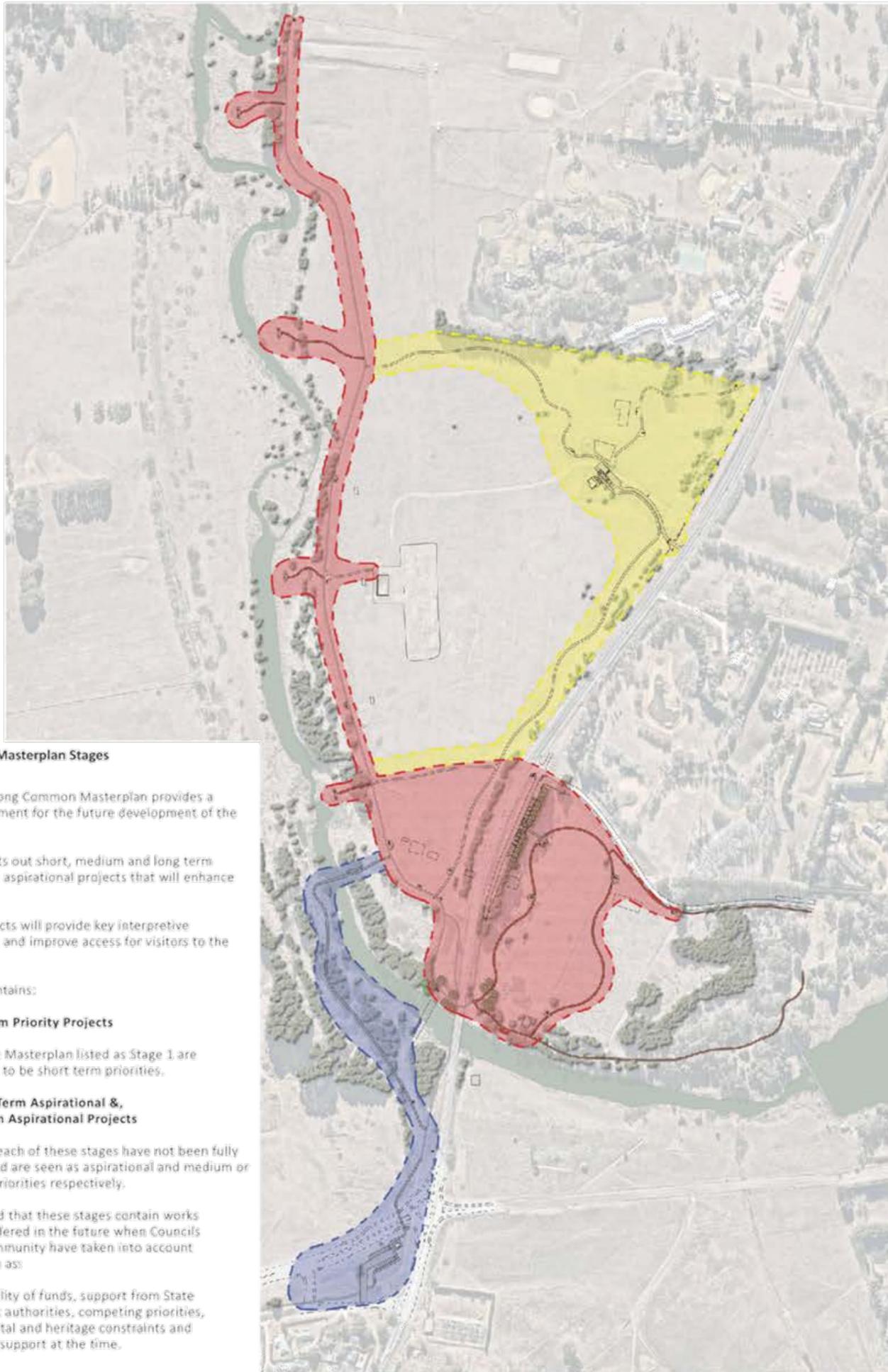


Scale 1:500 @ A3



9





**Definitions of the Masterplan Stages**

- The Bong Bong Common Masterplan provides a vision statement for the future development of the Common.
- The Plan sets out short, medium and long term priority and aspirational projects that will enhance the site.
- These projects will provide key interpretive information and improve access for visitors to the Common.

The Masterplan contains:

**Stage 1 - Short Term Priority Projects**

- Items in the Masterplan listed as Stage 1 are determined to be short term priorities.

**Stage 2 - Medium Term Aspirational & Stage 3 - Long Term Aspirational Projects**

- Projects in each of these stages have not been fully explored and are seen as aspirational and medium or long term priorities respectively.
- It is stressed that these stages contain works to be considered in the future when Councils and the community have taken into account factors such as:
  - The availability of funds, support from State government authorities, competing priorities, environmental and heritage constraints and community support at the time.

**LEGEND**

**Stage 1 - Short Term Priority**

- Eastern Precinct with extension to the western Archaeology Precinct and River.

**Stage 2 - Medium Term Aspirational**

- Suttor Road Entry, western shared path & pedestrian bridge.

**Stage 3 - Long Term Aspirational**

- Northern Entry & Car Park.

Scale 1:5000 @ A3



**Staging Plan**

Bong Bong Common - Masterplan

Final Draft  
 Date: 27th February 2019



## AN APPROACH TO VISUAL IDENTITY

A CRUCIAL ELEMENT IN DEVELOPING  
AN ENGAGING PLACE

### BONG BONG COMMON WORDMARK

There are a number of opinions as to origin of the name 'Bong Bong'. Whilst the truth is obscured by time, the name has a strongly onomatopoeic feel and a sense of physical movement about it.

In order to capture the energy of the name within its historical context we have used a strong serif font which is customised to evoke this kinetic spirit.

The font Enigma 2 is the starting point for a 'Wordmark' for Bong Bong Common. The heavy weight allows for legibility at small sizes.

Bong  
Bong  
Common



## SEEKING A PLACE-BASED FORM TO INFORM GRAPHICS AND STRUCTURES

### RELEVANT, ECONOMICAL, FLEXIBLE

In terms of physical remnants, the Common provides little tangible references to its interesting past.

In wandering the Common, the most recognisable, and probably most 'valuable' element from the past is the Causeway.

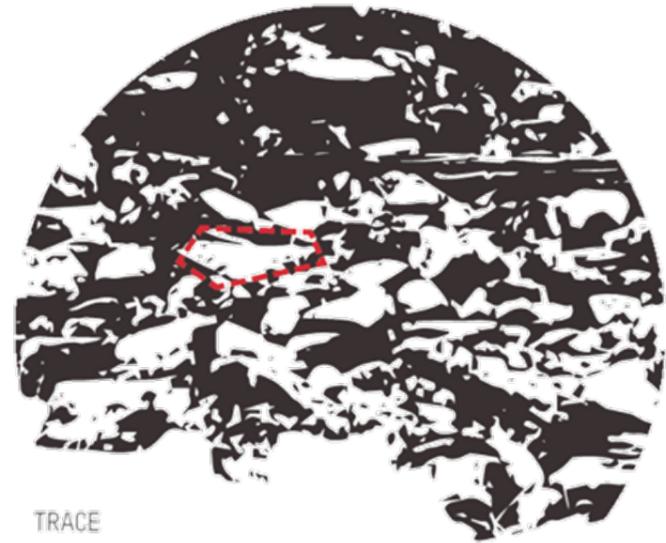
By selecting and stylising one of the forms discovered in the Causeway, we have isolated a graphic shape that may be used to subtly enliven both signage and physical installations by exploring the notion of 'packing and stacking' to create textures and a stable and useful surface.

The resulting system is proposed to be created from a single precast element which can be utilised in as seating, a plinth, a table – it can be grouped to form a low-level, place-specific bench; sunk into the earth to create a lower plinth or inverted to increase the possibilities for interesting arrangements.

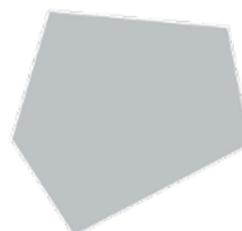
The images below explain the steps taken to get to the form.



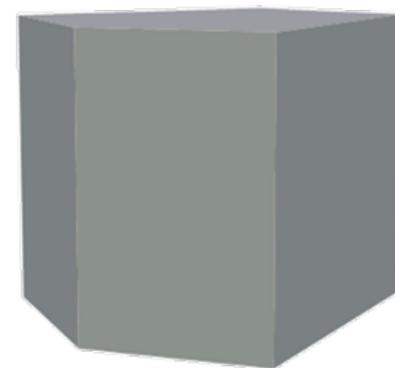
PHOTOGRAPH



TRACE



STYLISE

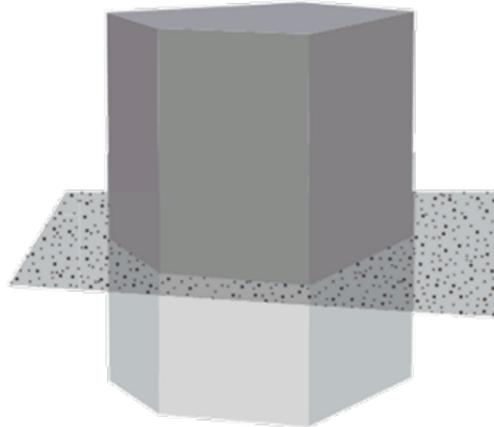


EXTRUDE

## SEEKING A PLACE-BASED FORM TO INFORM GRAPHICS AND STRUCTURES

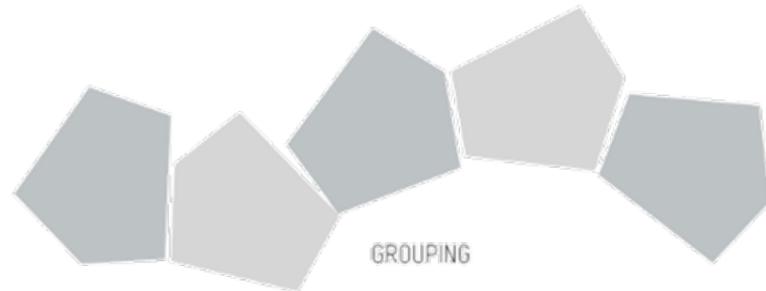
RELEVANT, ECONOMICAL, FLEXIBLE

THE MOCKUPS BELOW EXPLAIN THE CONCEPT FOR  
 STRUCTURES WITHIN THE INTERPRETIVE SETTINGS

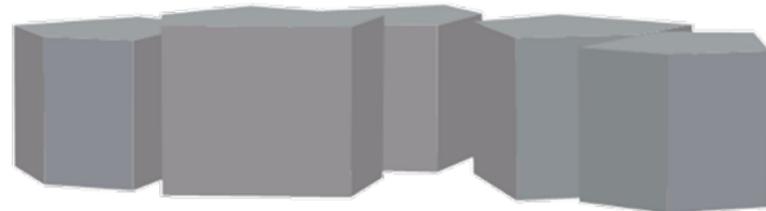


FULL STRUCTURE SHOWING SIMPLE  
 INSERTION INTO THE GROUND.

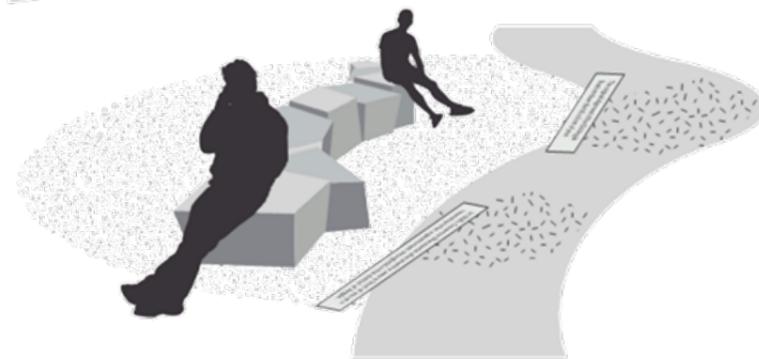
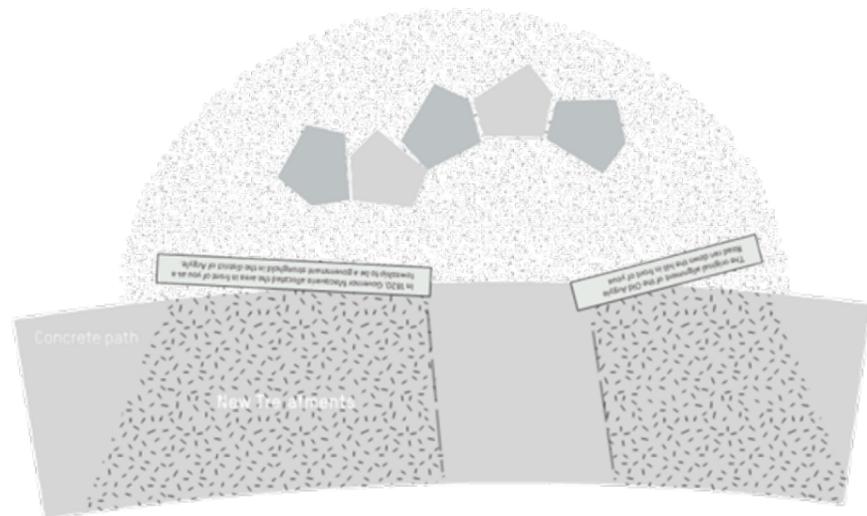
FORMS MAY BE INSERTED TO DIFFERENT  
 DEPTHS TO CREATE A VARIATION IN  
 HEIGHTS ACROSS A CLUSTER.



GROUPING



GROUPED SEATING



INTERPRETIVE SETTING

## SIGNAGE RATIONALE: BONG BONG COMMON

THE PRINCIPLE AIM OF THE MASTER PLAN IS TO SENSITIVELY ENHANCE THE COMMON IN ORDER TO PROTECT THE ARCHAEOLOGICAL REMNANTS OF THE HISTORIC SETTLEMENT SITES, WHILE IMPROVING ACCESS AND PROVIDING INTERPRETIVE INFORMATION FOR VISITORS

This signage strategy addresses the needs of all users to the Bong Bong Common. Both first time visitors, frequent visitors and those on foot, bicycle or with disabilities (where feasible) should be equally well informed to ensure their visits are effective and enjoyable within the sectors.

Apart from local residents who are expected to use the facility frequently, visitors will come from NSW, interstate and even overseas to experience the Common. Four main types of user groups are expected to make up the majority of all people using the The Common:

- » Walkers, runners and cyclists
  - » Tourists (local, regional, interstate, international)
  - » Recreational users
  - » Health and fitness enthusiasts
- All of these user groups may include people with disabilities.

### WHAT IS WAYFINDING?

Wayfinding is a spatial problem solving process.

The 'problem' is finding a way from a place to one or more destinations, and perhaps back to the original place.

It implies recognising that there IS a problem, and involves searching, decision-making and motion.

Wayfinding helps users become orientated in architectural, urban and regional space by building internal 'cognitive maps' by which they can navigate to destinations that might otherwise not be visited.

At Bong Bong Common, visitors need to know what is important about the 'place'; what they will find if they commit to taking a walk, how far they'll have to go to see something, how long it might take to get there and back to their car, how difficult the walk might be, whether there are various alternative tracks to consider and so on.

Helping people get orientated to their surroundings enables them to start enjoying themselves because increased legibility translates directly into increased satisfaction with their experience of a 'place'... in this case the Southern Highlands/ Bong Bong Common.

In essence every journey involves three activities:

- » Seeking information about the journey
- » Deciding which route to take for the journey
- » Moving through space to reach the desired goal.

### CREATING USEFUL MAPS

Maps are small, edited abstractions of the real world; the purpose of the map, and its intended audience, determines what is included and what is edited out. Too much information can be as confusing as too little.

**PORTABLE MAPS** are used both 'off-location' as a tool for planning a journey, and carried to assist in finding the way to, and around, the destination. The convention on portable maps is to orient them so that UP is NORTH, DOWN is SOUTH. This is because the designer can never know the physical context in which they will be read.

**MAPS ON SIGNS** are most frequently of the 'You-Are-Here' (YAH) type and are placed within the environment they depict. Because these maps are static and location-specific, the physical location of both the map and the user can be indicated on the map itself, establishing the user's precise location in space.

Maps on signs are mostly installed vertically, and orientated so that they face the user when approached along a specified path.

In order to give the map user confidence that they understand where they are with respect to their surroundings, it is necessary to orientate the map to their position and field of view; this is called 'map-to-ground' or 'forward-up-alignment'.

On finding the YAH indicator, the user simply looks to the landscape to identify various landmarks that cognitively confirm their location.

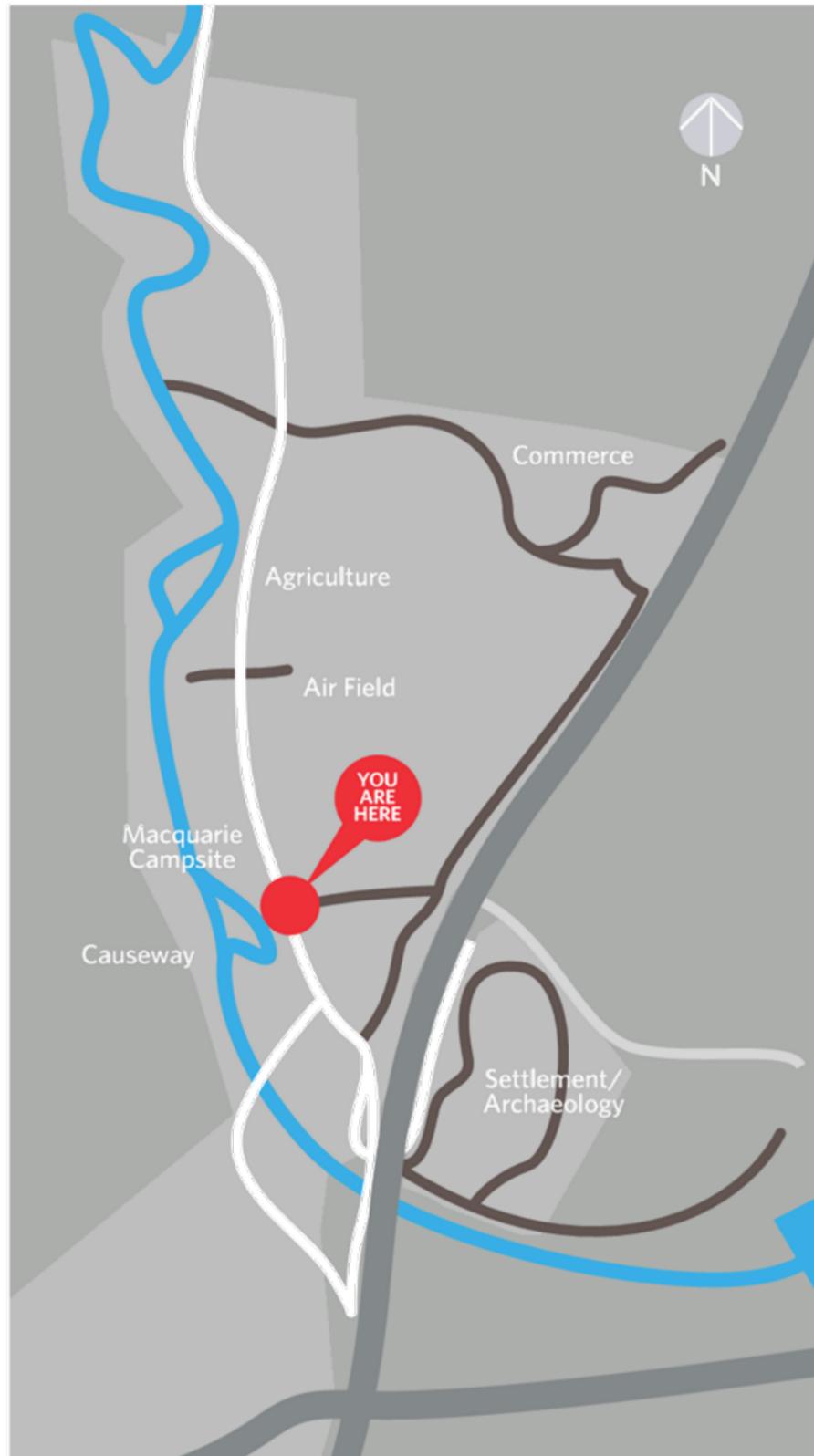
### MAPPING BONG BONG COMMON

The maps developed for Bong Bong Common are of two types:

- » Large scale map which is geographically correct and incorporates a full description of the site in cartographic terms
- » Small scale schematic map which reduces the site to simple linework for legibility at small scale – an example of a schematic map for Bong Bong Common is included on the next page.

### SCHEMATIC MAP

WAYFINDING CONVENTION – MAP TO GROUND



SCHEMATIC MAP AT ACTUAL SIZE FOR  
THE MULTIPURPOSE TOTEM DIRECTIONAL  
SIGN TYPES C, G AND H

## SIGN FAMILY

MINIMAL, MULTIPURPOSE, EFFECTIVE

The family of signs developed for Bong Bong Common is intentionally minimal.

The flat and open nature of the site demands that signage be kept low and discreet so that it does not become too visually dominant.

- » The largest signs in the family, Sign Types D and E, are to be utilised at primary entry points and Trail Heads, whilst the Sign Type F is used for locations where a smaller sign is appropriate, but the content demands a vertical surface
- » Sign Types C, G and H are based on a 150 x 150 x 4mm galvanised steel SHS. Digital print vinyl graphics, wrapped around sign totem, and include painted, low sheen anti graffiti coating
- » The family of Totem signs (C, G and H) come in three sizes to accommodate the various signage requirements across the site. Whilst their purpose is primarily directional, they will also be used as small scale totems in a number of locations where interpretation is minor
- » Sign Types A and B are dedicated to interpreting the site and have a maximum height of 800mm and 550mm respectively. These signs sit low to the ground to provide an uninterrupted view of the feature being interpreted, and to allow the visitor to sit whilst considering the vista
- » Sign Type J is the most flexible as it features soft ground treatments such as decomposed granite, combined with concrete treatments to the paths and in-ground interpretation where appropriate.

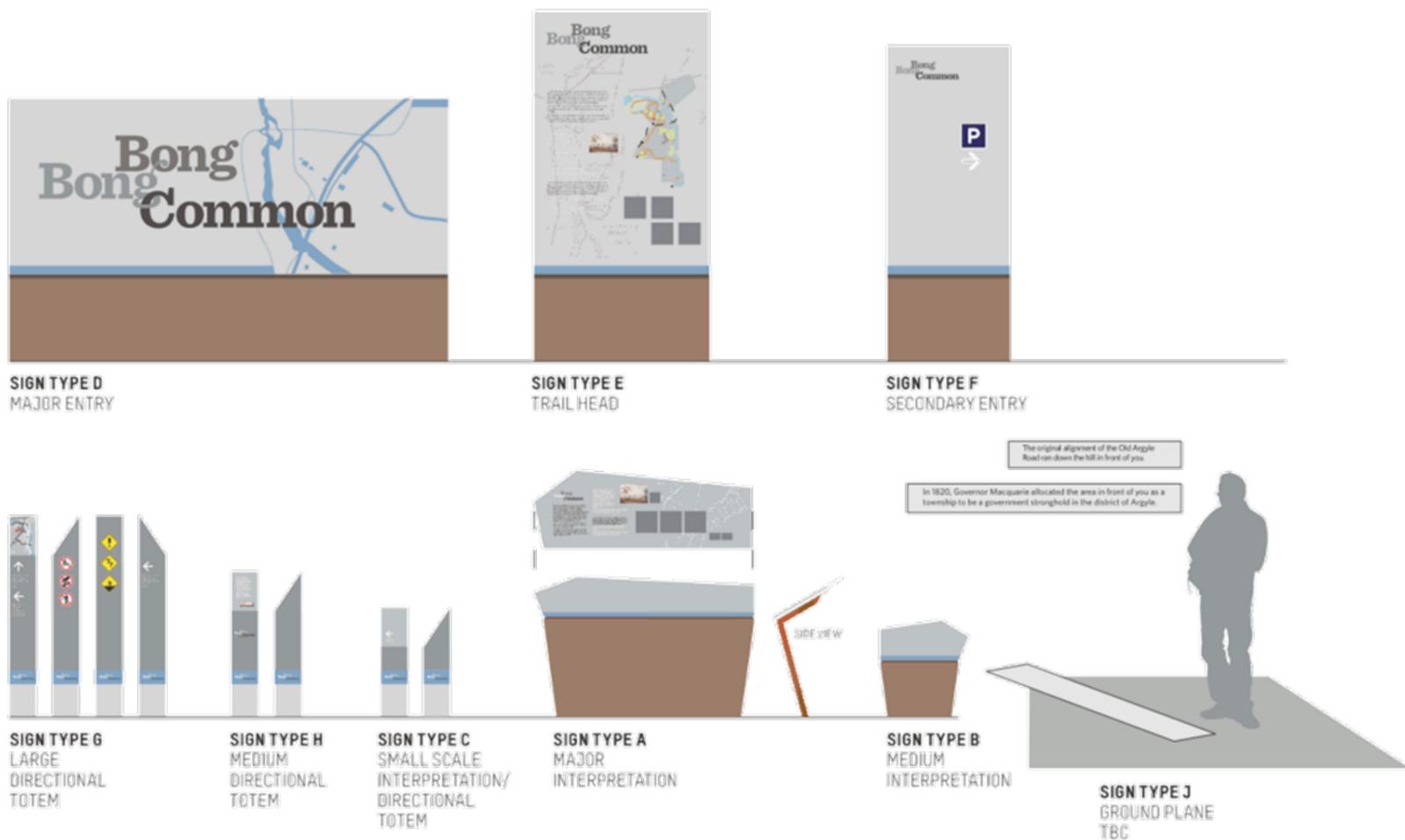
## BONG BONG PLACE GRAPHIC

A SENSE OF PLACE

In order to provide a meaningful textural element on the ID1 Sign Type, the main area of archaeological interest has been rendered as a stylised map and used as a subtle background.

As a direct reference to First European Settlement heritage, the existing livery blue has been incorporated into the signage as a consistent element throughout the Sign Family.

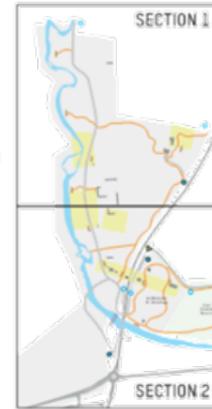
The Bong Bong Place Graphic is rendered in this colour – Dulux reference 'Blue Ridge'.





**SIGN LOCATION PLAN**  
 NORTHERN PRECINCT

- |                        |  |
|------------------------|--|
| MAIN ENTRY POINT       | MAJOR INTERPRETATION                           |
| SECONDARY ENTRY POINT  | MEDIUM INTERPRETATION                          |
| VEHICULAR ENTRY        | SMALL SCALE INTERPRETATION / DIRECTIONAL TOTEM |
| BREAK-OUT              | MAJOR ENTRY                                    |
| GROUND-PLANE TREATMENT | TRAIL HEAD                                     |
|                        | SECONDARY ENTRY                                |
|                        | LARGE DIRECTIONAL TOTEM                        |
|                        | MEDIUM DIRECTIONAL TOTEM                       |
|                        | GROUND PLANE                                   |

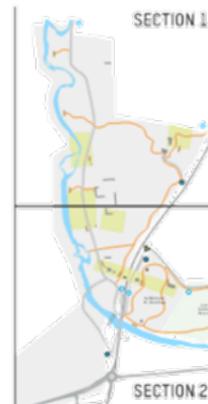




### SIGN LOCATION PLAN

SOUTHERN PRECINCT

- |                        |  |
|------------------------|--|
| MAIN ENTRY POINT       | MAJOR INTERPRETATION                         |
| SECONDARY ENTRY POINT  | MEDIUM INTERPRETATION                        |
| VEHICULAR ENTRY        | SMALL SCALE INTERPRETATION/DIRECTIONAL TOTEM |
| BREAK/OUT              | MAJOR ENTRY                                  |
| GROUND PLANE TREATMENT | TRAIL HEAD                                   |
|                        | SECONDARY ENTRY                              |
|                        | LARGE DIRECTIONAL TOTEM                      |
|                        | MEDIUM DIRECTIONAL TOTEM                     |
|                        | GROUND PLANE                                 |





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## 12.10 CDS Refund Sharing Agreement

**Reference:** 7520/14  
**Report Author:** Manager Business Services  
**Authoriser:** Deputy General Manager Operations, Finance and Risk  
**Link to Community Strategic Plan:** Maximise the recovery of resources from the waste stream

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### **PURPOSE**

We are seeking a resolution be passed endorsing the Refund Sharing Agreement (RSA) for the Container (CDS) permitting the General Manager and Mayor to execute the Agreement under the Common Seal of Council enabling the RSA to be registered with the Environmental Protection Authority, allowing the Agreement to be formally set in place.

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### **RECOMMENDATION**

**THAT the report concerning CDS Refund Sharing Agreement – be considered in Closed Council – Item 22.4. This report is referred to Closed Committee in accordance with S.10A(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.**

---

### **REPORT**

#### **BACKGROUND**

The State Government through the Environmental Protection Agency (EPA) introduced a Container Deposit Scheme, refunding ten cents per eligible container.

Councils were to negotiate a percentage share from their co-mingled recyclables with the Material Recycling Facility (MRF) operators. These agreements were to be lodged with the EPA by December one 2018. Wingecarribee Shire Council staff in conjunction with our contract partners, the Macarthur Regional Organisation of Councils (MACROC) (Wollondilly, Camden and Campbelltown Councils) successfully applied for a six month extension due the complexities involved in a multi partner contractual arrangement. We have now reached an in principal agreement and need to formally lodge our agreement.

#### **REPORT**

The Council staff believe that it has negotiated the highest possible share return for the (CDS) material in our kerb side collected Comingled Recycling. The Refund Sharing Agreement (RSA) has been negotiated as a group with the Macarthur Regional Organisation of Councils (MACROC) and Suez, the Material Recycling Facility (MRF) operators. Once the agreement is endorsed by Council, the sharing arrangement can be formally lodged with the Environment Protection Authority allowing the refund sharing to commence.

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 13 March 2019

### REPORT DEPUTY GENERAL MANAGER OPERATIONS, FINANCE AND RISK



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#### IMPACT ON COUNCIL'S FIT FOR THE FUTURE IMPROVEMENT PLAN

By endorsing the agreement refund sharing monies will be paid to the Council for the term of the agreement

---

#### COMMUNICATION AND CONSULTATION

##### Community Engagement

NIL

##### Internal Communication and Consultation

The Manager Business Services has been informing the Deputy General Manager Operations, Finance and Risk of the negotiations and seeking his opinion as they have proceeded.

##### External Communication and Consultation

Meetings were held between Wingecarribee Shire Council, Wollondilly, Camden and Campbelltown Councils. Consultation was undertaken with Mike Richie and Associates (MRA) waste consultants and auditors, Sparke Helmore Solicitors and the Environmental Protection Agency.

---

#### SUSTAINABILITY ASSESSMENT

- **Environment**

The Container Deposit Scheme is centred on litter reduction

- **Social**

There are no social issues in relation to this report.

- **Broader Economic Implications**

The Container Deposit Scheme will return money to the Council from the containers recovered at the MRF.

- **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

Approval will have a positive effect on Councils waste budget

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#### RELATED COUNCIL POLICY

The Container Deposit Scheme aligns to the draft waste minimisation policy

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 13 March 2019

### REPORT DEPUTY GENERAL MANAGER OPERATIONS, FINANCE AND RISK



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#### **OPTIONS**

The options available to Council are:

##### **Option 1**

Endorse this report permitting the General Manager and Mayor to execute the Agreement

##### **Option 2**

Reject the report and have no return

Option 1 is the recommended option to this report.

---

#### **CONCLUSION**

If approved the Council Common Seal will be affixed to the agreement and allow it to be lodged with the Environment Protection Agency to initiate the fund sharing arrangement

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#### **ATTACHMENTS**

There are no attachments to this report.

Barry W Paull

**Deputy General Manager Operations, Finance and Risk**

Friday 8 March 2019

## 13 CORPORATE STRATEGY AND DEVELOPMENT SERVICES

### 13.1 Development Applications Determined from 7 February 2019 to 6 March 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 7 February 2019 to 6 March 2019

*\*\*Note: Due to a technical error in Council's Corporate Approvals Management System, a number of Subdivision Applications were omitted from the previous report and are therefore included in this report.*

#### RECOMMENDATION

**THAT** the information relating to Development Applications Determined for the period 7 February 2019 to 6 March 2019 be received and noted.

#### APPROVED APPLICATIONS BY DATE RANGE Date range: 7 February 2019 to 6 March 2019

	Application ID	Primary Property	Owner	Description	Date Lodged	Days Stopped	Assess Days	Total Days	Date Finalised
1	18/0332	30 Toongoon Road Burradoo NSW 2576 Lot 62 DP 734673	D Ellis	Subdivision (2 Lots)	23/03/2018	229	27	256	06/12/2018
2	18/0528	100 Wattle Ridge Road Hill Top NSW 2575 Lot 2 DP 1219571	V Orchard, M Orchard	Subdivision (5 Lots)	07/05/2018	104	109	213	06/12/2018
3	19/0722	8 Vale Road Moss Vale NSW 2577 Lot 1 DP 1237886	R E Springett Pty Ltd	Subdivision (2 Lots)	06/11/2018	0	30	30	07/12/2018

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 13 March 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
4	19/0733	3 Stables Place Moss Vale NSW 2577 Lot 55 DP 1069034	M Coldridge, K Coldridge	Subdivision (2 Lots)	08/11/2018	0	89	89	06/02/2019
5	18/0453	Boscobel Stud Exeter Road Sutton Forest NSW 2577 Lot 1 DP63523 & Lots 1-19 Sec 8 DP758938 & Lots 1-2 Sec 9 DP 758938 & Lot 1 DP1094302 & Lot 1 DP1142493	M Josephson	Subdivision (2 Lots)	20/04/2018	0	244	244	20/12/2018
6	16/0814.01	1 Cardigan Street Balaclava NSW 2575 Lot 5 Sec 10 DP 841	S Shepherd, K Shepherd	Section 4.55 Modification (Removal of DA conditions relating to the requirement of interallotment drainage system and treatment devices.)	05/12/2017	0	441	441	20/02/2019
7	17/1338.04	1/68-74 Bowral Street Bowral NSW 2576 Lot 16 S/P 88052	Fassifern Pty Limited	Section 4.55 Modification (Commercial Alterations)	16/11/2018	0	95	95	20/02/2019
8	17/1820	Miranda Park 254 Centennial Road Bowral NSW 2576 Lot 1 DP 435373 & Lot 5a DP 16192 & Lot 1 DP 126196	Windbelt Pty Ltd	Erection of building(s) & carrying out of works for agricultural produce industry	22/12/2017	167	259	426	22/02/2019
9	18/0312	99 Sir James Fairfax Circuit Bowral NSW 2576 Lot 106 DP 1231974	Pj Gallen	Dwelling House	21/03/2018	0	89	89	12/02/2019
10	18/0596.06	18 Annesley Avenue Bowral NSW 2576 Lot 20 DP 236564	S Thomas, D Thomas	Section 4.55 Modification (Increase floor area and reduce ridge height)	08/02/2019	0	16	16	25/02/2019
11	18/0667.06	2 Merilbah Road Bowral NSW 2576 Lot 15 DP 20804	Sm Giles, R Strange	Section 4.55 Modification (Raise floor level of garage. Remove landing & steps up to front porch)	19/02/2019	0	5	5	25/02/2019

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 13 March 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	
12	19/0712	Highland Arcarde 279-293 Bong Bong Street Bowral NSW 2576 Lot 2791 DP 1107202 Lot 2792 DP 1107202	Sharjag Pty Limited	Change of Use (Restaurant)	05/11/2018	0	107	107	21/02/2019
13	19/0753	73a Bendooley Street Bowral NSW 2576 Lot 13 DP 541820	G Robinson, G Larter	Residential Alterations and Additions (Extension & Internal Alteration)	09/11/2018	0	98	98	16/02/2019
14	19/0856	25 Ascot Road Bowral NSW 2576 Lot 12 DP 13755	Galet Pty Ltd	Strata Subdivision (3 Lots)	27/11/2018	0	72	72	08/02/2019
15	19/0894	11 Bloomfield Close Bowral NSW 2576 Lot 6 DP 1231895	L Watson, J Watson	Dwelling House	04/12/2018	0	79	79	22/02/2019
16	19/1057	67 Sir James Fairfax Circuit Bowral NSW 2576 Lot 306 DP 1234848	B Murphy, J Mcloughlin	Dwelling House	15/01/2019	14	14	28	12/02/2019
17	19/1122	341 Bong Bong Street Bowral NSW 2576 Lot 1 DP 212443	S Perinich, M Perinich	Change of Use (Hair Salon)	30/01/2019	0	20	20	20/02/2019
18	07/1386.01	Hopewood 201 Centennial Road Bowral NSW 2576 Lot 6 DP 634569	T Storrer, JA Storrer	Section 4.55 Modification (Approval to run mid-week conferences, weddings and events & increase number of attendees)	30/04/2018	0	297	297	21/02/2019
19	19/0644	3/11 Pikkat Drive Braemar NSW 2575 Lot 3 S/P 90878	Aerostar 600 Pty Ltd	Change of Use - Artisan premise	24/10/2018	27	78	105	07/02/2019
20	16/1263.02	115-129 Railway Avenue Bundanoon NSW 2578 Lot 28 DP 1065076	Gastoff Pty Ltd	Section 4.55 Modification (Alter number of Subdivision Lots from 7 to 8)	17/04/2018	266	33	299	11/02/2019
21	19/0572.05	56 Greasons Road Bundanoon NSW 2578 Lot 222 DP 1214182	W Norris	Section 4.55 Modification (Relocate position of dwelling within building envelope)	06/02/2019	0	11	11	18/02/2019
22	19/0929	89 Penrose Road Bundanoon NSW 2578 Lot 6 DP 1244654	BM Ambler	Dwelling House	12/12/2018	37	33	70	21/02/2019

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 13 March 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
23	16/0949.06	18 Yean Street Burradoo NSW 2576 Lot 10 DP 1233865	RC Brett, DI Brett	Section 4.55 Modification (Continued use of timber deck & fire pit)	07/09/2018	0	159	159	14/02/2019
24	17/0751	590-592 Moss Vale Road Burradoo NSW 2576 Lot 2 DP 258454	Wongabri Burradoo Pty Limited	Subdivision (7 Lots)	08/06/2017	511	103	614	Determined by Council 13/02/2019
25	17/0871.01	Wendela 1751 Canyonleigh Road Canyonleigh NSW 2577 Lots 1&4 DP110407, Lot A DP443905, Lot 24 DP751286, Lots 1&2 DP1022155	R Fife, J Diaz	Section 4.55 Modification (Amend Order of Lot Staging Release – Amend Approved Plans)	10/09/2018	0	167	167	25/02/2019
26	19/1002	Wendela 1751 Canyonleigh Road Canyonleigh NSW 2577 Lots 1&4 DP110407, Lot A DP443905, Lot 24 DP751286, Lots 1&2 DP1022155	R Fife, J Diaz	Dwelling House	21/12/2018	0	51	51	11/02/2019
27	19/0723	9 Acacia Street Colo Vale NSW 2575 Lot 1 DP 1230986	I Bethel	Dwelling House	07/11/2018	0	94	94	09/02/2019
28	18/0400.03	Ben Bullen 1760 Tourist Road East Kangaloon NSW 2576 Lot 4 DP 1012603	J Henning, S Mihell	Section 4.55 Modification (Alter layout and reduce floor area)	07/02/2019	0	14	14	22/02/2019
29	19/0926	116 Moresby Hill Road East Kangaloon NSW 2576 Lot 20 DP 1030186	Trehear Group Pty Limited	Dwelling House	11/12/2018	0	73	73	23/02/2019
30	18/0612	44-46 Ringwood Road Exeter NSW 2579 Lot 9 DP 13527 Lot 10 DP 13527	BJ Rodwell, RA Rodwell	Demolition of existing Dwelling & construction of two new Dwellings.	24/05/2018	162	110	272	21/02/2019
31	19/0809	Ten Bob 65 School Lane Exeter NSW 2579 Lot 7 DP 653768	JM Scott	Secondary Dwelling	20/11/2018	0	86	86	14/02/2019
32	19/1053	Wentworth 166 Sproules Lane Glenquarry NSW 2576 Lot 4 DP 710710	RJ Sproats	Residential Alterations and Additions (Internal Alterations. Garage and Pergola)	14/01/2019	0	41	41	25/02/2019

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 13 March 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
33	17/0152.03	166 Wilson Drive Hill Top NSW 2575 Lot 23 Sec 1 DP 6221	Roundel Pty Limited	Section 4.55 Modification (Alter consent to enable subdivision prior to Dual Occupancy construction)	12/11/2018	0	99	99	20/02/2019
34	18/0516	182 Sackville Street Hill Top NSW 2575 Lot 61 DP 1008910	RD Treverton	Dwelling House	04/05/2018	215	69	284	13/02/2019
35	16/0867.03	1318 Joadja Road Joadja NSW 2575 Lot 1 DP1142305 & Ep 43433	W Smith, FJ Gerhardus Smith	Section 4.55 Modification (Design Alteration)	02/01/2019	0	47	47	18/02/2019
36	19/0747	161 Kia-Ora Lane Kangaloon NSW 2576 Lot 1021 DP 1070448	Angus Property And Development Pty Ltd	Dwelling House & Secondary Dwelling	09/11/2018	29	67	96	14/02/2019
37	19/0849	401 Joadja Road Mandemar NSW 2575 Lot 3 DP 703543 & Ep43398	Citi Global Investments Pty Limited, Citi Global Property Group Pty Limited	Subdivision (2 Lots)	26/11/2018	0	87	87	21/02/2019
38	11/1150.03	Tall Timbers 74 Liebman's Road Medway NSW 2577 Lots 1-2 DP1159810 & Part Lot 7302 DP1133155 Licence 547042	Harmony Greenland Pty Limited	Section 4.55 Modification (Internal Alterations)	04/12/2018	0	75	75	18/02/2019
39	17/1149.03	153 Oxley Drive Mittagong NSW 2575 Lot 2 DP 1151426	M Quirk, M Quirk	Section 4.55 Modification (Internal Alterations)	23/11/2018	0	93	93	25/02/2019
40	18/0403	34-36 Bong Bong Road Mittagong NSW 2575 Lot 3 DP 565895	LG Ferreira	Subdivision (6 Lots)	10/04/2018	281	29	310	15/02/2019
41	19/0167	34 Duke Street Mittagong NSW 2575 Lot 69 DP 15496	AC Burnaby	Residential Alterations and Additions (Extend kitchen, family, bedrooms and garage with loft over and new outdoor living area)	02/08/2018	166	28	194	Determined by Council 13/02/2019
42	19/0844	193-203 Old Hume Highway Mittagong NSW 2575 Lot 1 DP 1142703	Bieson Pty Ltd	Alterations and Additions (Internal Alteration)	26/11/2018	0	78	78	13/02/2019

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	Application ID	Primary Property	Owner	Description	Date Lodged	Days Stopped	Assess Days	Total Days	Date Finalised
43	19/0853	3 Edward Lane Mittagong NSW 2575 Lot C DP 377284	LJ Nias	Residential Alterations and Additions (Extensions)	27/11/2018	0	88	88	23/02/2019
44	19/0998	66 Sunset Point Drive Mittagong NSW 2575 Lot 48 DP 732184	K Sarty, I Sarty	Residential Alterations and Additions (Extension & Swimming Pool)	21/12/2018	6	53	59	18/02/2019
45	19/1147	10 Duke Street Mittagong NSW 2575 Lot 4 DP 604014	Me Roberts, D Roberts	Residential Alterations and Additions (Shed)	04/02/2019	0	14	14	18/02/2019
46	17/1318.01	Church & Community Activiy Centre 18 Spring Street Moss Vale NSW 2577 Lot 90 DP 751253	Connect Christian Church T/A Southlands Care	Section 4.55 Modification (Extend Temporary Use of Site for Growers Market / Food Swap to 2024. Remove "Grow Cook Eat Festival" from consent)	23/01/2019	0	21	21	13/02/2019
47	18/0056	Moss Vale Caravan Park 43-53 Willow Drive Moss Vale NSW 2577 Lot 11 DP 617482	AC Cooper	Continued use of Caravan Park	19/01/2018	328	60	388	Determined by Council 13/02/2019
48	19/1156	71 Broughton Street Moss Vale NSW 2577 Lot 1 DP 157638	AC Bulloch, MG Bulloch	Residential Alterations and Additions (Deck)	05/02/2019	0	9	9	15/02/2019
49	19/0070.06	9 Oldfield Road Renwick NSW 2575 Lot 131 DP 1221206	MA Todd, TC McGladdery	Section 4.55 Modification (change to finished floor level)	04/02/2019	0	3	3	07/02/2019
50	19/0082.06	12 Roty Avenue Renwick NSW 2575 Lot 117 DP 1221206	SW Avery, H Avery	Section 4.55 Modification (Change to finished floor level)	04/02/2019	0	3	3	07/02/2019
51	19/0086.04	30 Maxted Street Renwick NSW 2575 Lot 1218 DP 1221207	J Hart, M Hart	Section 4.55 Modification (Change to finished floor level)	04/02/2019	0	3	3	07/02/2019
52	19/0406.05	10 Green Street Renwick NSW 2575 Lot 22 DP 1221206	SB Sinclair	Section 4.55 Modification (Change to finished floor level)	04/02/2019	0	3	3	07/02/2019
53	19/0508.06	3 Green Street Renwick NSW 2575 Lot 123 DP 1221206	J Elatm, C Elatm	Section 4.55 Modification (Change to finished floor level)	04/02/2019	0	3	3	07/02/2019
54	19/1022	46 Windeyer Street Renwick NSW 2575 Lot 1312 DP 1234992	L McIntyre, L Starnovsky	Dwelling House	02/01/2019	26	13	39	11/02/2019

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	Application ID	Primary Property	Owner	Description	Date Lodged	Days Stopped	Assess Days	Total Days	Date Finalised
55	19/1058	47 Maxted Street Renwick NSW 2575 Lot 1338 DP 1234992	R & B Wing Partnership	Dwelling House	15/01/2019	20	15	35	21/02/2019
56	19/1128	16 Windeyer Street Renwick NSW 2575 Lot 1391 DP 1234992	SJ Postle	Dwelling House	30/01/2019	13	11	24	25/02/2019
57	19/1137	51 Maxted Street Renwick NSW 2575 Lot 1340 DP 1234992	Tm Chang	Dwelling House	01/02/2019	3	14	17	18/02/2019
58	19/1138	11 George Cutter Avenue Renwick NSW 2575 Lot 1378 DP 1234992	A Richardson, K Richardson	Dwelling House	01/02/2019	5	11	16	18/02/2019
59	19/1139	14 Roty Avenue Renwick NSW 2575 Lot 118 DP 1221206	J Joseph, T Thomas	Dwelling House	01/02/2019	4	15	19	20/02/2019
60	19/1159	7 Allen Avenue Renwick NSW 2575 Lot 104 DP 1221206	S Murphy, E Murphy	Residential Alterations and Additions - Deck and Pergola	06/02/2019	0	9	9	15/02/2019
61	19/1173	40 Windeyer Street Renwick NSW 2575 Lot 1309 DP 1234992	R Mcdonald, E Mcdonald	Dwelling House	08/02/2019	3	8	11	20/02/2019
62	19/0198	25 Shierlaw Road Robertson NSW 2577 Lot 194 DP 751302	S Scheidemann	Farm Shed	07/08/2018	29	160	189	13/02/2019
63	19/0842	39 Hoddle Street Robertson NSW 2577 Lot 4 Sec 15 DP 758882	J Cauchi	Residential Alterations and Additions (Internal Alterations to create Dual Occupancy)	23/11/2018	0	82	82	14/02/2019
64	17/1825.05	51 Kater Road Sutton Forest NSW 2577 Lot 1 DP 1081472 Lot 2 DP 1081472	Arthing Pty Ltd	Section 4.55 Modification (Delete North Wing Extension)	20/02/2019	0	5	5	25/02/2019
65	19/0662	51 Kater Road Sutton Forest NSW 2577 Lot 1 DP 1081472 Lot 2 DP 1081472	Arthing Pty Ltd	Residential Alterations and Additions (Alteration to Existing Stables & New Covered Arena)	26/10/2018	96	20	116	21/02/2019
66	19/0828	231 Mt Broughton Road Werai NSW 2577 Lot 4 DP 630402	Am Larkin	Dual Occupancy (Detached)	22/11/2018	22	61	83	14/02/2019
67	19/0882	25 Shepherd Street Bowral NSW 2576 Lot A DP 158355	S Weekes	Dwelling House	30/11/2018	10	76	86	26/02/2019

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	Application ID	Primary Property	Owner	Description	Date Lodged	Days Stopped	Assess Days	Total Days	Date Finalised
68	19/0930	90 Bendooley Street Bowral NSW 2576 Lot 1 DP 831681	J Hutchinson, J Bowers	Residential Alterations and Additions – Extensions	12/12/2018	0	77	77	28/02/2019
69	19/0949	10 St Clair Street Bowral NSW 2576 Lot 1 DP 587255	R Lennox, C Kirk-Lennox	Residential Alterations and Additions (Extensions, Garage, Studio, Swimming Pool)	17/12/2018	0	74	74	01/03/2019
70	19/0995	56 Shepherd Street Bowral NSW 2576 Lot 1 DP 986146	Major Van- Blommestein	Residential Alterations and Additions (Extension)	21/12/2018	0	71	71	02/03/2019
71	19/1178	30 Sir James Fairfax Circuit Bowral NSW 2576 Lot 436 DP 1248107	C Brown	Dwelling House	08/02/2019	0	23	23	04/03/2019
72	03/0786.06	133 Old Bowral Road Bowral NSW 2576 Lot 2345 DP 1110446	Old Bowral Estate Pty Limited	Section 4.55 Modification. Modification to approved 106 Unit Self Care Retirement Complex, including internal and external modifications to approved units and modification of Conditions of Consent	19/10/2018	0	132	132	Approved by Council 01/03/2019
73	16/1337.04	13 Yean Street Burradoo NSW 2576 Lot 222 DP 1216797	R Sheedy, M Hodgson	Section 4.55 Modification (Internal Alterations)	06/02/2019	0	24	24	02/03/2019
74	19/0416.05	29a Links Road Burradoo NSW 2576 Lot 242 DP 1235909	JM Poole, JE Poole	Section 4.55 Modification (Delete deck/ pergola to side of retreat. Window modification)	25/02/2019	0	4	4	01/03/2019
75	18/0272.03	Old Coowong Road (Priv.) Canyonleigh NSW 2577 Lot 4 DP 1183492	N Prentice, A Prentice	Section 4.55 Modification (Increase garage size)	06/02/2019	0	22	22	28/02/2019
76	19/0723.05	9 Acacia Street Colo Vale NSW 2575 Lot 1 DP 1230986	ID Bethel	Section 4.55 Modification (Shed)	25/02/2019	0	4	4	02/03/2019

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	Application ID	Primary Property	Owner	Description	Date Lodged	Days Stopped	Assess Days	Total Days	Date Finalised
77	19/1267	11 Geebung Close Colo Vale NSW 2575 Lot 206 DP 1245987	AD Davis, AE Davis	Dwelling House	26/02/2019	0	3	3	01/03/2019
78	17/1401.03	5/9 West Parade Hill Top NSW 2575 Lot 5 S/P 75970	DA Hayman	S4.55 Modification (Administrative change to Condition relating to Civil Works)	08/02/2019	0	18	18	26/02/2019
79	19/1164	31 Colo-Hilltop Road Hill Top NSW 2575 Lot 3 DP 1189861	T Latta, BS Latta	Residential Alterations and Additions (Shed)	06/02/2019	0	22	22	01/03/2019
80	18/0658	30 Spring Street Mittagong NSW 2575 Lot 5 DP 715822	S Kadric	Demolition of Existing Building, Subdivision (2 Lots) and Construction of two (2) Dwelling Houses	06/06/2018	245	19	264	26/02/2019
81	19/0879	11 Nero Street Mittagong NSW 2575 Lot 241 DP 1246385	MA Bissett, PJ Crook	Dwelling House	30/11/2018	7	83	90	01/03/2019
82	19/0600.05	1 Salamander Place Moss Vale NSW 2577 Lot 1 DP 1221913	LN Rangitaawa	Section 4.55 Modification (Amend Condition 8 to permit colorbond roof & gutter system)	21/02/2019	0	8	8	01/03/2019
83	19/1072	70 Mcguinness Drive Mount Murray NSW 2577 Lot 15 DP 215550	D Middleton	Residential Alterations and Additions (Deck)	17/01/2019	0	41	41	27/02/2019
84	19/1031	48 George Cutter Avenue Renwick NSW 2575 Lot 68 DP 1221206	MA Zaman, T Zaman	Dwelling House	07/01/2019	38	10	48	26/02/2019
85	19/1163	62 Challoner Rise Renwick NSW 2575 Lot 1253 DP 1221207	R Smith, D Ryan	Dwelling House	06/02/2019	10	9	19	27/02/2019
86	19/1182	48 Challoner Rise Renwick NSW 2575 Lot 1260 DP 1221207	CEF Clark, KV Clark	Dwelling House & Garage (detached)	11/02/2019	0	18	18	02/03/2019
87	19/1191	64 Challoner Rise Renwick NSW 2575 Lot 1252 DP 1221207	F Costanzo, SD Costanzo	Dwelling House	12/02/2019	9	7	16	02/03/2019

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	Application ID	Primary Property	Owner	Description	Date Lodged	Days Stopped	Assess Days	Total Days	Date Finalised
88	19/0826	33-35 Caalong Street Robertson NSW 2577 Lot 5 DP 259478	Currenti Properties Pty Limited	Subdivision (4 Lots)	22/11/2018	0	96	96	27/02/2019
89	19/1115	6 Ritchie Road Willow Vale NSW 2575 Lot 101 DP 1247843	TJ Rankin, KA Rankin	Dwelling House	29/01/2019	0	30	30	01/03/2019
90	19/0923	35 Balaclava Street Balaclava NSW 2575 Lot 12 DP 1220081	S Noble	Dwelling House	11/12/2018	66	17	83	05/03/2019
91	16/0491.01	Miranda Park 254 Centennial Road Bowral NSW 2576 Lot 1 DP 435373 & Lot 5a DP 16192 & Lot 1 DP 126196	Windbelt Pty Ltd	Section 4.55 Modification Temporary Use of Land for Outdoor Concerts (Re-locate stage, increase number of attendees)	05/11/2018	0	119	119	Council Approved 27/2/2019
92	19/0791	Cooliatta 10 Railway Road Burradoo NSW 2576 Lot 2 DP 1012113	A Tomkins	Relocate Driveway and Removal of Redundant Access	16/11/2018	0	109	109	05/03/2019
93	15/1099.04	2331 Canyonleigh Road Canyonleigh NSW 2577 Lot 5 DP 1188556	Gr Thurston	Section 4.55 Modification (Internal Alterations)	21/03/2018	0	348	348	05/03/2019
94	19/0132	220 Jacks Valley Road Joadja NSW 2575 Lot 1 DP 877821 & Ep 308001	M Walden	Dwelling House	25/07/2018	90	132	222	05/03/2019
95	19/0754	1800 Kangaloon Road Kangaloon NSW 2576 Lots 1-2 DP 129703 & Lot 1 DP 345516 & Part Lot 8 DP 751277	J Bamford, S Bamford	Subdivision (Boundary Adjustment & Consolidation)	09/11/2018	0	115	115	05/03/2019
96	19/0942	2 Bracken Street Mittagong NSW 2575 Lot 91 DP 1225576	A Purdom, B Taylor	Residential Alterations and Additions (Internal Alterations & Extensions)	14/12/2018	24	57	81	05/03/2019

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	Application ID	Primary Property	Owner	Description	Date Lodged	Days Stopped	Assess Days	Total Days	Date Finalised
97	19/0990	Old South Road Mittagong NSW 2575 Part Lot 83 DP 751282 Part Lot 84 DP 751282	M Hughes	Subdivision (Consolidation of Lots)	20/12/2018	0	74	74	05/03/2019
98	16/0372.01	33 Willow Street Willow Vale NSW 2575 Lot 1 DP 624516	VP Bradman	Section 4.55 Modification (Amend Conditions pertaining to stormwater easement, vehicular access during construction and construction of cul- de-sac)	20/04/2018	0	318	318	05/03/2019
99	18/0434	19 Funston Street Bowral NSW 2576 Lot 2 DP 1140855	TGP Pty Ltd	Subdivision (2 Lots) and Boarding House	18/04/2018	202	119	321	06/03/2019
100	19/1166	87 Penrose Road Bundanoon NSW 2578 Lot 5 DP 1244654	C Ingmire, J Ingmire	Dwelling House	07/02/2019	7	19	26	06/03/2019

### REFUSED APPLICATIONS

Application ID	Primary Property	Owner	Description	Date Lodged	Days Stopped	Assess Days	Total Days	Date Finalised
17/1640	59 Old Mandemar Road Berrima NSW 2577 Lot 422 DP 751252 Lot 423 DP 751252 Lot 1 DP 653010	G Chen, Y Mao	Subdivision (3 Lots)	20/11/2017	357	23	380	06/12/2018

### Reasons for Refusal

1. The present subdivision layout is of particular heritage significance to Berrima because the village follows the historic 1831 Hoddle Town Plan. The Hoddle plan would be compromised by amalgamation of the former Crown Road Lot 1 DP 653010 into new lots. All trace of the early town plan would be obliterated in the proposed configuration. (S4.15(1) (a)(b)(c)(d)(e) of the Environmental Planning & Assessment Act 1979).
2. The proposed subdivision adjoins the Berrima Landscape Conservation Area and would result in unacceptable impact on the conservation area. Road access would require the removal 13,620m<sup>2</sup> corridor of bushland, impacting on views to and from the conservation area. (S4.15(1) (a)(b)(c)(d)(e) of the Environmental Planning & Assessment Act 1979).
3. The proposal relies on access to a track which currently transverses Crown Lands up to Old Mandemar Road which is not supported. The proposed extension of the unformed Fountain Street to Oxley Street

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- require extensive removal of remnant native vegetation which has not been assessed for impacts. . (S4.15(1) (a)(b)(c)(d)(e) of the Environmental Planning & Assessment Act 1979).
4. Connecting the unformed Fountain Street to Oxley Street would require the removal of remnant vegetation along a 450m X 30m (13,620m<sup>2</sup>) corridor which has not been assessed for impacts. . (S4.15(1) (a)(b)(c)(d)(e) of the Environmental Planning & Assessment Act 1979).
  5. The impacts in the removal of remnant vegetation within the current proposal have been unstated by the Ecologist who describes this area as a “small strip”. . (S4.15(1) (a)(b)(c)(d)(e) of the Environmental Planning & Assessment Act 1979).
  6. Submitted plans lack any detail in terms of required tree removals to allow for road construction on both public and private lands. . (S4.15(1) (a)(b)(c)(d)(e) of the Environmental Planning & Assessment Act 1979).
  7. Internal road layout would require the removal of a large number of trees, including *Eucalyptus macarthurii* and old growth trees containing many hollows. . (S4.15(1) (a)(b)(c)(d)(e) of the Environmental Planning & Assessment Act 1979).
  8. The ecologist has incorrectly identified *Eucalyptus macarthurii* as only being a Vulnerable Species when in fact it is listed as an Endangered Species under both State and Federal Legislation. As such the findings and conclusions regarding impacts on these trees incomplete. . (S4.15(1) (a)(b)(c)(d)(e) of the Environmental Planning & Assessment Act 1979).
  9. The Ecologist has identified Threatened *microchiropteran* bats, however has not considered the loss of Hollow Bearing Trees as increasing a Key Threatening Process. As such the findings and conclusions regarding impacts on these Threatened Species is incomplete. . (S4.15(1) (a)(b)(c)(d)(e) of the Environmental Planning & Assessment Act 1979).
  10. The proposal is inconsistent with the general principles of **Rural Living DCP A3.1, particularly (a)**, must be applied and in doing so Council must apply the precautionary principle to ensure the objectives of A3.2.1 are satisfied.
  11. The proposal is inconsistent with the general principles of **Rural Living DCP A3.1, particularly (c)**, the proposal is not consistent with the principles of Ecologically Sustainable Development (ESD) in that there is a net loss from the development. No attempt has been made or is proposed to conserve or minimize the impacts on biodiversity and ecological integrity nor have offsets been proposed.
  12. The proposal is inconsistent with the general principles of **Rural Living DCP A4.2** – the proposal is inconsistent with the objectives of this clause in that impacts on Biodiversity and threatened species are increased and there is a net, being a total, loss of remnant vegetation which includes threatened ecological communities.
  13. The proposal is inconsistent with the general principles of **Rural Living DCP A4.7** – Objectives of the clause and control 4.7.2(a) are not satisfied in that external and internal roadways are sited such that removal of remnant native vegetation and Endangered trees species has not been minimized.
  14. The proposal is inconsistent with the general principles of **Rural Living DCP A4.10** – native vegetation within unformed road is of high quality and the construction of the road will require removal for not only the physical location of the road, but additional clearing to achieve acceptable grades and service trench lines. Retained trees will have root zone impacts which will ultimately impact in tree health and stability and require removal.

Application ID	Primary Property	Owner	Description	Date Lodged	Days Stopped	Assess Days	Total Days	Date Finalised
18/0717	9 Station Street Mittagong NSW 2575 Lot 2 DP 1151022	L O'Connor- Henderson, M Henderson	Commercial Alterations and Additions (Boarding House, Office, Carport)	19/06/2018	0	241	241	15/02/2019

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#### Reasons for Refusal

1. The development makes no provision for private open space on the land. Having regard to section 4.15 (1) (a) (i) of the Environmental Planning and Assessment Act 1979, clause 29 (2) (d) of State Environmental Planning Policy (Affordable Rental Housing) 2009 therefore does not prevent Council from refusing consent for the development on the grounds of private open space.

#### **[Section 4.15 (1) (a) (i) of the Environmental Planning and Assessment Act 1979]**

2. Having regard to section 4.15 (1) (a) (iii) of the Environmental Planning and Assessment Act 1979, the development makes no provision for private open space, contrary to the following provisions of the Mittagong Town Plan Development Control Plan:
  - a) The objectives specified at section A6.2.1, regarding private landscaped open space, to:
    - Provide a pleasant, vegetated environment for users of the site (workers or residents)
    - Contribute to the urban streetscape
    - Provide a visual buffer between development and the surrounding neighbourhood
    - Contribute to existing tree canopies and wildlife habitats
    - Provide adequate ground cover to prevent erosion and assist storm water infiltration
    - Contribute where possible to the enhancement of key vegetation and topographical features.
  - b) The objectives specified at section B5.2, regarding residential development in business areas:
    - To ensure that residential development within business precincts provides a satisfactory standard of residential amenity
    - To ensure that new residential development provides appropriate private open space for residents.
  - c) The control specified at section B5.3 (f), regarding residential development in business areas, that on-site private open space shall be provided to improve the residential amenity of the development.
  - d) The objective specified at section C4.2 (vii), regarding other forms of residential development, to ensure that new residential development provides appropriate private open space for residents.
  - e) The control specified at section C4.3 (c), regarding other forms of residential development, that on-site private open space shall be provided to improve the residential amenity of the development.

#### **[Section 4.15 (1) (a) (iii) of the Environmental Planning and Assessment Act 1979]**

3. Having regard to section 4.15 (1) (a) (iii) of the Environmental Planning and Assessment Act 1979, the development's design is considered likely to provide concealment opportunities for potential intruders, thereby facilitating criminal and antisocial behavior, contrary to the specific design requirements specified by section 8.4 of the Mittagong Town Plan Development Control Plan.

#### **[Section 4.15 (1) (a) (iii) of the Environmental Planning and Assessment Act 1979]**

4. Having regard to section 4.15 (1) (b) of the Environmental Planning and Assessment Act 1979, the development is considered likely to have or lead to significant negative impacts with respect to:

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- a) site design and internal design
- b) Safety, security and crime prevention
- c) Social impacts in the locality.

#### [Section 4.15 (1) (b) of the Environmental Planning and Assessment Act 1979]

5. Having regard to section 4.15 (1) (c) of the Environmental Planning and Assessment Act 1979, the land is considered unsuitable for development as proposed.

#### [Section 4.15 (1) (c) of the Environmental Planning and Assessment Act 1979]

6. Having regard to section 4.15 (1) (e) of the Environmental Planning and Assessment Act 1979, granting of consent to the proposed development is not considered in the public interest.

#### [Section 4.15 (1) (e) of the Environmental Planning and Assessment Act 1979]

Application ID	Primary Property	Owner	Description	Date Lodged	Days Stopped	Assess Days	Total Days	Date Finalised
16/0870.05	16-18 Willow Street Willow Vale NSW 2575 Lot 13 Sec 14 DP 792 Lot 14 Sec 14 DP 792	N Settineri, Sett Homes Pty Ltd	Section 4.55 Modification (Remove Requirement for Street Lighting)	20/12/2018	0	57	57	11/02/2019

#### Reasons for Refusal

1. The provision of public lighting as required by condition 22 of Development Consent is consistent with the Section 1.3 objectives of the Environmental Planning and Assessment Act 1979, particularly that the provision of such lighting assists in the orderly development of land, and assists in the good design and amenity of the built environment. Therefore condition 22 is not modified, but remains as contained in Development Consent 16/0870 approved 19 December 2016.

#### (S.4.15(1)(a)(b)(c)(d)(e) of the Environmental Planning & Assessment Act 1979)

2. The provision of public lighting as required by condition 22 of Development Consent is considered to be in the public interest, in accordance with Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979. Therefore condition 22 is not modified, but remains as contained in Development Consent 16/0870 approved 19 December 2016.

#### (S.4.15(1)(a)(b)(c)(d)(e) of the Environmental Planning & Assessment Act 1979)

3. While Section A8.1.6 of the Northern Villages Development Control Plan states that "Council will require the provision of street lighting where new streets or roads are created as a part of subdivisions" this does not prevent the provision of public lighting in circumstances where development is occurring incrementally, such as is occurring in Willow Vale, and the provision of public lighting is considered to be in the public interest. Therefore condition 22 is not modified, but remains as contained in Development Consent 16/0870 approved 19 December 2016.

#### (S.4.15(1)(a)(b)(c)(d)(e) of the Environmental Planning & Assessment Act 1979)

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Application ID	Primary Property	Owner	Description	Date Lodged	Days Stopped	Assess Days	Total Days	Date Finalised
19/0008	12 Drapers Road Willow Vale NSW 2575 Lot 6 DP 10008	RM Hanbury, CL Hanbury	Self Storage Facility (158 units within 3 separate buildings)	03/07/2018	208	37	245	06/03/2019

#### Reasons for Refusal

1. The subject site is within land identified as “Endangered Ecological Community” on the Natural Resources Sensitivity Map under Wingecarribee Local Environmental Plan 2010. Insufficient information (no Flora and Fauna report) has been submitted addressing the impacts of proposed vegetation clearing to accommodate the proposed Storage Units, upon:

- a) the native ecological community,
- b) the habitat of any threatened species, population or ecological community,
- c) any regionally significant species of fauna, flora or habitat,
- d) habitat elements providing connectivity.

thereby not satisfying Clause 7.4 Wingecarribee Local Environmental Plan 2010.

#### **(S.4.15(1)(a)(b)(c)(d)(e) of the Environmental Planning & Assessment Act 1979)**

2. Proposed vegetation clearing to accommodate the proposal is estimated to exceed the Biodiversity Offset Scheme threshold for the subject site. No Biodiversity Assessment Report has been submitted, thereby not satisfying Section 7.7 of the Biodiversity Conservation Act 2017 and Clause 7.4 Wingecarribee Local Environmental Plan 2010. Insufficient information has been submitted to prove that the proposal is not likely to significantly affect threatened species, or ecological communities, or their habitats, as required by Section 7.2 of the Biodiversity Conservation Act 2017

#### **(S.4.15(1)(a)(b)(c)(d)(e) of the Environmental Planning & Assessment Act 1979)**

3. Approval on the proposal would not be in public interest as the proposal will have a significant impact on the threatened species.

#### **(S.4.15(1)(a)(b)(c)(d)(e) of the Environmental Planning & Assessment Act 1979)**

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## ATTACHMENTS

There are no attachments to this report.



## 13.2 Development Applications Received from 7 February 2019 to 6 March 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 on the Development Applications received in the period from **7 February 2019 to 6 March 2019**

*\*\*Note: Due to a technical error in Council's Corporate Approvals Management System, a number of Subdivision Applications were omitted from the previous report and are therefore included in this report.*

### RECOMMENDATION

**THAT the information relating to Development Applications Received from 7 February 2019 to 6 March 2019 be received and noted.**

#### RECEIVED APPLICATIONS BY DATE RANGE Date range: 7 February 2019 to 6 March 2019

	Application ID	Primary Property	Owner	Description	Date Lodged	Council	Decision	Determined Date	Weekly Circular
1	19/0918	1 Jasmine Street Colo Vale NSW 2575 Lot 1 DP 748084	Mj Tritico, L Tritico	Subdivision (5 Lots)	10/12/2018		#PENDING		
2	19/0922	21 Ferguson Crescent Mittagong NSW 2575 Lot A DP430831 Part Lot 10 & Lot 14 Sec 1 DP651 Lots 1-3 D P1089997 Lots 1-4 DP1099047	Sett Homes Pty Ltd	Subdivision (33 Lots)	10/12/2018	✓	#PENDING		✓

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 13 March 2019

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



	Application ID	Primary Property	Owner	Description	Date Lodged	Council	Decision	Determined Date	Weekly Circular
3	19/0932	438 Meryla Road Manchester Square NSW 2577 Lot 10 DP 832562	T Scott, I Scott	Subdivision (Consolidation and Boundary Adjustment)	12/12/2018		#PENDING		
4	19/0990	Airfield - Old South Road Mittagong NSW 2575 Part Lot 83 & Part Lot 84 DP 751282. & Lot 34 DP 373249	M Hughes	Subdivision (Consolidation of Lots)	20/12/2018		#PENDING		
5	19/1025	2500 Canyonleigh Road Canyonleigh NSW 2577 Lot 152 DP 751284	Paul D. Edwards Pty Limited	Subdivision (2 Lots)	03/01/2019		#PENDING		
6	19/1088	102-104 Old Wingello Road Bundanoon NSW 2578 Lot 32 DP 1205423	Rochester Estate Pty Ltd	Subdivision (12 Lots)	22/01/2019		#PENDING		✓
7	19/1179	1091 Sheepwash Road Avoca NSW 2577 Part Lot 1 & Part Lot 2 DP 1245627	S Grant	Residential Alterations and Additions (Extension)	11/02/2019		#PENDING		
8	19/1209	9 Truro Place Balmoral NSW 2571 Lot 205 DP 1240094	T Van Althuis-Jones, A Van Althuis-Jones	Dwelling House	15/02/2019		#PENDING		
9	18/0596.06	18 Annesley Avenue Bowral NSW 2576 Lot 20 DP 236564	S Thomas, D Thomas	Section 4.55 Modification (Extension. Reduce Ridge Height)	08/02/2019		#APPROVED	25/02/2019	
10	18/0667.06	2 Merilbah Road Bowral NSW 2576 Lot 15 DP 20804	S Giles, R Strange	Section 4.55 Modification (Raise floor level of garage. Remove landing & steps at front porch)	19/02/2019		#APPROVED	25/02/2019	

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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
11	19/0516.02	16 Kimberley Drive Bowral NSW 2576 Lot 23 DP 749890	I Finlayson, J Nyberg	Section 4.55 Modification (Additional Terrace & Alterations)	15/02/2019		#PENDING		
12	19/1176	320-326 Bong Bong Street Bowral NSW 2576 Lot 1 DP 90179	Tranda Holdings Pty Ltd	Commercial Alterations and Additions (Extend rear tenancy)	08/02/2019		#PENDING		
13	19/1177	2 Albert Street Bowral NSW 2576 Lot 2 DP 1240587	P Weate, M Barr	Subdivision (7 Lots)	08/02/2019		#PENDING		✓
14	19/1178	30 Sir James Fairfax Circuit Bowral NSW 2576 Lot 436 DP 1248107	C Brown	Dwelling House	08/02/2019		#PENDING		
15	19/1186	17 Carlisle Street Bowral NSW 2576 Lot 73 DP 111222 Lot D DP 153699	S Talman	Demolition of existing Dwelling, Construct New Dwelling House and Pool	12/02/2019		#PENDING		
16	19/1197	18 Carlisle Street Bowral NSW 2576 Lot 79 DP 83524	H Herrmann, A Herrmann	Residential Alterations and Additions (Studio)	13/02/2019		#PENDING		
17	19/1204	7 Linden Way Bowral NSW 2576 Lot 13 DP 804837	S Strangman	Dual Occupancy (Detached)	14/02/2019		#PENDING		
18	19/1229	1 Kangaloon Road Bowral NSW 2576 Lot 10 DP 808740	Kangaloon Investments Pty Limited	Multi Dwelling Housing (10 Dwellings)	19/02/2019		#PENDING		✓
19	19/1242	4 Braeside Drive Bowral NSW 2576 Lot 36 DP 711066	DI Yates	Residential Alterations and Additions (Shed)	20/02/2019		#PENDING		
20	18/0077.06	58 Greasons Road Bundanoon NSW 2578 Lot 37 DP 9134	James Walter Douglas Pty Ltd	Section 4.55 Modification (Remove condition 72 – Construct Footpath &	22/02/2019		#PENDING		

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	Application ID	Primary Property	Owner	Description	Date Lodged	Council	Decision	Determined Date	Weekly Circular
		Lot 38 DP 9134		Condition 74 – driveway crossovers)					
21	19/1166	87 Penrose Road Bundanoon NSW 2578 Lot 5 DP 1244654	C Ingmire, J Ingmire	Dwelling House	07/02/2019		#APPROVED	6/03/2019	
22	19/1174	12 Birriga Avenue Bundanoon NSW 2578 Lot 23 DP 9429	DI Spinks	Residential Alterations and Additions (Extension)	08/02/2019		#PENDING		
23	19/1244	6 Songline Place Burradoo NSW 2576 Lot 4 DP 1130184	V Witcombe	Farm Stay Accommodation	21/02/2019		#PENDING		
24	19/1180	26 Range Street Burrawang NSW 2577 Lot 31 Sec 4 DP 2660	CG Ekman	Residential Alterations and Additions (Detached Garage)	11/02/2019		#PENDING		
25	19/1235	59 Hoddle Street Burrawang NSW 2577 Lot 2 DP 1205025	J Anstey, J Anstey	Dwelling House	20/02/2019		#PENDING		
26	19/0575.01	181 Old Coowong Road (Priv.) Canyonleigh NSW 2577 Lot 18 DP 1152535	S De Nooy	Subdivision (Boundary Adjustment)	18/02/2019		#PENDING		
27	19/1188	Attunga 2151 Tugalong Road Canyonleigh NSW 2577 Lot 1 DP 601590 Lot 3 DP 601372	Attunga Youth Ministries Pty Ltd	Educational Facility (Recreational Swing)	12/02/2019		#PENDING		
28	19/1203	410 Colo Road Colo Vale NSW 2575 Lot 1 DP 634813	C Peachey, J Peachey	Dwelling House	14/02/2019		#PENDING		
29	19/1216	6 Geebung Close Colo Vale NSW	T Brown, K Brown	Residential Alterations and Additions (Shed)	18/02/2019		#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
		2575 Lot 212 DP 1245987							
30	18/0400.03	Ben Bullen 1760 Tourist Road East Kangaloon NSW 2576 Lot 4 DP 1012603	J Henning, S Mihell	S4.55 Modification (Alter layout and reduce floor area)	07/02/2019		#APPROVED	22/02/2019	
31	19/1271	238 Old Argyle Road Exeter NSW 2579 Lot 41 DP 1045309	Feli Pastoral Company Pty Ltd	Dual Occupancy (Detached) & Pool	18/02/2019		#PENDING		
32	19/1171	100 Cornwall Road Exeter NSW 2579 Lot 1 DP 1237042	CA Malouf, N Chambers	Secondary Dwelling and Shed	08/02/2019		#PENDING		
33	19/1241	118 Devon Road Exeter NSW 2579 Lot 2 DP 1244858	KI Morris	Residential Alterations and Additions (Shed)	20/02/2019		#PENDING		
34	19/1222	48 Manning Lookout Road Fitzroy Falls NSW 2577 Lot 3 DP 715553	B Addison	Residential Alterations and Additions (Tennis Court & Remove 15 Trees)	18/02/2019		#PENDING		
35	14/0565.05	52 Wilson Drive Hill Top NSW 2575 Lot 54 Sec 5 DP 10173	R Law, S Law	Section 4.55 Modification (Reassess bushfire risk category)	21/02/2019		#PENDING		
36	17/1401.03	5/9 West Parade Hill Top NSW 2575 Lot 5 S/P 75970	D Hayman	S4.55 Modification (Administrative change to Condition relating to Civil Works)	08/02/2019		#APPROVED	26/02/2019	
37	19/1207	Church Hall 3 Bertha Street Hill Top NSW 2575 Lot 1 DP 952276	Hilltop Church Inc	Community Facility (Men's Shed)	15/02/2019		#PENDING		
38	18/0187.04	33 Vernon Street Mittagong NSW 2575 Lot 12 Sec 15 DP 1289	Sm Kettle	Section 4.55 Modification (Adjust floor level height)	19/02/2019		#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
39	19/1165	15 Robinson Street Mittagong NSW 2575 Lot 133 DP 1247015	P Moore, L Moore	Dwelling House and Detached Garage	07/02/2019		#PENDING		
40	19/1214	15 Robinson Street Mittagong NSW 2575 Lot 133 DP 1247015	P Moore, L Moore	Residential Alterations and Additions (Shed)	15/02/2019		#PENDING		
41	19/1250	654 Range Road Mittagong NSW 2575 Lot 3 DP 1236691	A Semple, J Semple-Nolan	Farm Building	21/02/2019		#PENDING		
42	19/0600.05	1 Salamander Place Moss Vale NSW 2577 Lot 1 DP 1221913	L Rangitaawa	Section 4.55 Modification (Amend condition to allow colorbond roof & gutter system)	21/02/2019		#PENDING		
43	19/1183	Coomungie 141 Yarrowa Road Moss Vale NSW 2577 Lot 3 DP 706194	Prime Moss Vale Pty Limited	Subdivision Concept Master Plan for 1200 Lots & Stage 1 Subdivision (185 Lots)	11/02/2019	JRPP	#PENDING		✓
44	19/1199	18 Torulosa Drive Moss Vale NSW 2577 Lot 141 DP 1232222	B Dunlop	Dwelling House	14/02/2019		#PENDING		
45	19/1208	17-19 Suttor Road Moss Vale NSW 2577 Lot 2 DP 853281	S Kadric, T Decevic	Multi Dwelling Housing (25 Dwellings)	15/02/2019		#PENDING		✓
46	19/1238	28a Browley Street Moss Vale NSW 2577 Lot 2 DP 1244781	RI Pollock, Pe Pollock	Dwelling House	20/02/2019		#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
47	04/1850.04	49 Yarrowa Street Moss Vale NSW 2577 Lot 11 DP 813345	JA Harrison, L Harrison	Section 4.55 Modification (Alter Front Fence Design)	15/02/2019		#PENDING		
48	19/1173	40 Windeyer Street Renwick NSW 2575 Lot 1309 DP 1234992	R McDonald, E McDonald	Dwelling House	08/02/2019		#APPROVED	20/02/2019	
49	19/1175	76 Challoner Rise Renwick NSW 2575 Lot 1407 DP 1234992	GG Fitzsimmons, S Fitzsimmons	Dwelling House	08/02/2019		#PENDING		
50	19/1182	48 Challoner Rise Renwick NSW 2575 Lot 1260 DP 1221207	C Clark, K Clark	Dwelling House	11/02/2019		#PENDING		
51	19/1191	64 Challoner Rise Renwick NSW 2575 Lot 1252 DP 1221207	F Costanzo, SD Costanzo	Dwelling House	12/02/2019		#PENDING		
52	19/1193	39 Challoner Rise Renwick NSW 2575 Lot 1249 DP 1221207	B Kallus	Dwelling House	12/02/2019		#PENDING		
53	19/1196	55 Mary Street Renwick NSW 2575 Lot 102 DP 1240439	SE Ball, B Ball	Dwelling House	13/02/2019		#PENDING		
54	19/1198	37 Maxted Street Renwick NSW 2575 Lot 48 DP 1221206	T Halliday, K Halliday	Dwelling House	14/02/2019		#PENDING		
55	19/1218	3 Roty Avenue Renwick NSW 2575 Lot 82 DP 1221206	E Joubert, M Joubert	Dwelling House	18/02/2019		#PENDING		
56	19/1219	48 Maxted Street Renwick NSW 2575 Lot 1238 DP 1221207	BA Kelly, J Kelly	Dwelling House	18/02/2019		#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
57	19/1226	29 George Cutter Avenue Renwick NSW 2575 Lot 1348 DP 1234992	R Arlington	Dwelling House	19/02/2019		#PENDING		
58	19/1236	42 Green Street Renwick NSW 2575 Lot 1304 DP 1234992	H Yen	Dwelling House	20/02/2019		#PENDING		
59	19/1246	25 George Cutter Avenue Renwick NSW 2575 Lot 1350 DP 1234992	Sampol Pty Ltd	Dwelling House	21/02/2019		#PENDING		
60	19/1247	2 Guthawah Way Renwick NSW 2575 Lot 715 DP 1234984	M Williams, R Williams	Dwelling House	21/02/2019		#PENDING		
61	19/1251	44 Windeyer Street Renwick NSW 2575 Lot 1311 DP 1234992	KM Shephard, KM Shephard	Dwelling House	22/02/2019		#PENDING		
62	16/1365.02	5161 Illawarra Highway Robertson NSW 2577 Lot 2 DP 1019037	TR Gardner, M Robinson	Section 4.55 Modification (Relocate studio/shed to eastern side of house)	22/02/2019		#PENDING		
63	19/1243	Robertson Motel 65 Hoddle Street Robertson NSW 2577 Lot 1 Sec 13 DP 758882	MAU Rahman, N Karim, AR Karim, SR Chowdhury	Commercial Alterations & Additions (Ground floor retail space & café. New 2 <sup>nd</sup> storey motel rooms)	21/02/2019		#PENDING		✓
64	17/1825.05	51 Kater Road Sutton Forest NSW 2577 Lot 1 DP 1081472 Lot 2 DP 1081472	Arthing Pty Ltd	Section 4.55 Modification (Delete North Wing Extension)	20/02/2019		#APPROVED	25/02/2019	
65	19/1195	Cardross 576 Myra Vale Road Wildes Meadow NSW	P Muir, J Muir	Farm Building	13/02/2019		#PENDING	14/02/2019	

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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
		2577 Lot 101 DP 860171 Lot 102 DP 860171							
66	18/0347.03	16 Gascoigne Street Willow Vale NSW 2575 Lot 3 Sec 16 DP 792	J Hall, T Turner	Section 4.55 Modification (Increase width of Shed)	08/02/2019		#PENDING		
67	19/1217	6d Drapers Road Willow Vale NSW 2575 Lot 35 DP 1245619	J Di Stefano, N Di Stefano	Dwelling House & Shed	18/02/2019		#PENDING		
68	19/1256	101 Sunrise Road Yerrinbool NSW 2575 Lot 65 DP 11780	Km Gray	Residential Alterations and Additions (Shed)	22/02/2019		#PENDING		
69	19/1265	1 Ivy Street Bowral NSW 2576 Lot 1 DP 264613 Lot 2 DP 264613	A Naughton, J Naughton	Residential Alterations and Additions (Extension & Swimming Pool)	25/02/2019		#PENDING		
70	19/0416.05	29a Links Road Burradoo NSW 2576 Lot 242 DP 1235909	J Poole, J Poole	Section 4.55 Modification (Delete pergola from retreat. Modify window)	25/02/2019		#PENDING		
71	19/0723.05	9 Acacia Street Colo Vale NSW 2575 Lot 1 DP 1230986	Id Bethel	Section 4.55 Modification (Shed)	25/02/2019		#PENDING		
72	19/1263	271 Gordons Track Robertson NSW 2577 Lot 4 DP 843560	B Davis	Dwelling House	25/02/2019		#PENDING		
73	19/1223.02	20 Balaclava Street Balaclava NSW 2575 Lot 61 DP 1232450	E Mathew, S Saju	Dwelling House	27/02/2019		#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
74	19/1283	4 Wattle Lane Bowral NSW 2576 Lot 11 DP 1105225 Lot 12 DP 1105225	Wingecarribee Shire Council	Demolition of building for the purpose of extending a car park	01/03/2019		#PENDING		
75	19/1291	28 Cliff Street Bowral NSW 2576 Lot 21 DP 9288 Vol 12306 Fol 00196	Je Pearl, L Pearl	Change of Use  (B & B Accommodation)	01/03/2019		#PENDING		
76	19/1292	9 Caroline Avenue Bowral NSW 2576 Lot 123 DP 1231974	B Shanks, L Shanks	Dwelling House	01/03/2019		#PENDING		
77	19/1267	11 Geebung Close Colo Vale NSW 2575 Lot 206 DP 1245987	A Davis, A Davis	Dwelling House	26/02/2019		#APPROVED	01/03/2019	
78	19/1296	300 Kirkland Road East Kangaloon NSW 2576 Lot 2 DP 791235	M Yabsley, S Yabsley	Temporary Use of Land (Single Use Function - Event)	04/03/2019		#PENDING		
79	19/1271	238 Old Argyle Road Exeter NSW 2579 Lot 41 DP 1045309	Feli Pastoral Company Pty Ltd	Section 4.55 Modification Dual Occupancy (Detached)	26/02/2019		#PENDING		
80	19/1277	14 Manning Lookout Road Fitzroy Falls NSW 2577 Lot 1 DP 715553	HM Priest	Dwelling House	27/02/2019		#PENDING		
81	19/1281	52 Bessemer Street Mittagong NSW 2575 Lot 2 DP 26366	CS Maldon- Myers	Residential Alterations and Additions (Extensions)	28/02/2019		#PENDING		
82	19/1284	1220 Old South Road Mittagong NSW 2575 Lot 1 DP 1006329	P Purnell, S Purnell	Residential Alterations and Additions (Garage)	01/03/2019		#PENDING		

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	Application ID	Primary Property	Owner	Description	Date Lodged	Council	Decision	Determined Date	Weekly Circular
83	16/1014.05	12a Bellevue Avenue Moss Vale NSW 2577 Lot 2 DP 1220383	J Vella, J Vella	Section 4.55 Modification (Tree Removal)	27/02/2019		#PENDING		
84	17/1406.04	Whitfield Lane Renwick NSW 2575 Lot 201 DP 1174912	Minister For Community Services & Assistant Minister For Health For Her Most Gracious Majesty Queen Elizabeth II	Section 4.55 Modification (6 month Extension for Deferred Commencement Condition 1 - Registration of 2 Lot Subdivision)	27/02/2019		#PENDING		
85	19/1287	32 Renwick Drive Renwick NSW 2575 Lot 1023 DP 1163906	Allworth Constructions Pty Limited	Residential Alterations and Additions (Extensions)	01/03/2019		#PENDING		
86	19/1288	30 Renwick Drive Renwick NSW 2575 Lot 1022 DP 1163906	Allworth Constructions Pty Limited	Residential Alterations and Additions (Extensions)	01/03/2019		#PENDING		
87	19/1290	8 Roty Avenue Renwick NSW 2575 Lot 115 DP 1221206	P Velusamy, Y Palanisamy	Dwelling House	01/03/2019		#PENDING		
88	19/1295	60 Maxted Street Renwick NSW 2575 Lot 1353 DP 1234992	T Joseph, M Varghese	Dwelling House	04/03/2019		#PENDING		
89	19/1298	13 Allen Avenue Renwick NSW 2575 Lot 101 DP 1221206	J Loveridge, C Loveridge	Residential Alterations and Additions (Swimming Pool)	04/03/2019		#PENDING		
90	19/1289	Wharree 159 Yeola Road Robertson NSW 2577 Lot 201 DP 653985 Lot 108 DP 751302	T Kelly	Demolition of Two (2) Sheds. Construction of Three (3) New Sheds	01/03/2019		#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
91	19/1275	Charity Berrima Street Welby NSW 2575 Lot 3 Sec 6 DP 759070 Lot 2 DP 1019107	Challenge Southern Highlands Inc	Garden Centre - Alterations and Additions (Demolish Existing Potting Shed. Construction of New Shed & Toilets)	27/02/2019		#PENDING		
92	19/1304	101 Sir James Fairfax Circuit Bowral NSW 2576 Lot 105 DP 1231974	K Elbourne	Dwelling House	05/03/2019		#PENDING		
93	19/1299	8 Sutherland Park Drive Burradoo NSW 2576 Lot 15 DP 1220167	A Zammit	Dwelling House	05/03/2019		#PENDING		
94	19/1305	2179 Kangaloon Road East Kangaloon NSW 2576 Lot 2 DP 1077400 & Ep 43445	Wildwood Hill Holdings Pty Ltd	Temporary Use of Land (Utilise existing farm building for up to thirty (30) functions per year)	05/03/2019	✓	#PENDING		✓
95	19/1302	363 Jacks Valley Road Joadja NSW 2575 Lot 3 DP 877821	D Feetham, C Feetham	Farm Building	05/03/2019		#PENDING		
96	19/1303	1307 Joadja Road Joadja NSW 2575 Lot 12 DP 739765	L Lewis, D Lewis	Residential Alterations and Additions (Swimming Pool)	05/03/2019		#PENDING		
97	19/1307	30 Azalea Street Colo Vale NSW 2575 Lot 5 DP 1239087	S Toth, L Palmer	Dwelling House	06/03/2019		#PENDING		
98	19/1311	61-63 Main Street Mittagong NSW 2575 Lot 2 DP 1014065	Southern Highland Properties Pty Ltd	Change of Use (Food Premises)	06/03/2019	✓	#PENDING		✓
99	19/1313	59-65 Berrima Road Moss Vale NSW 2577 Lot 7 DP 1129996	Konui Pty Limited	Indoor Recreation Facility - Alterations and Additions (Internal Mezzanine Floor)	06/03/2019		#PENDING		

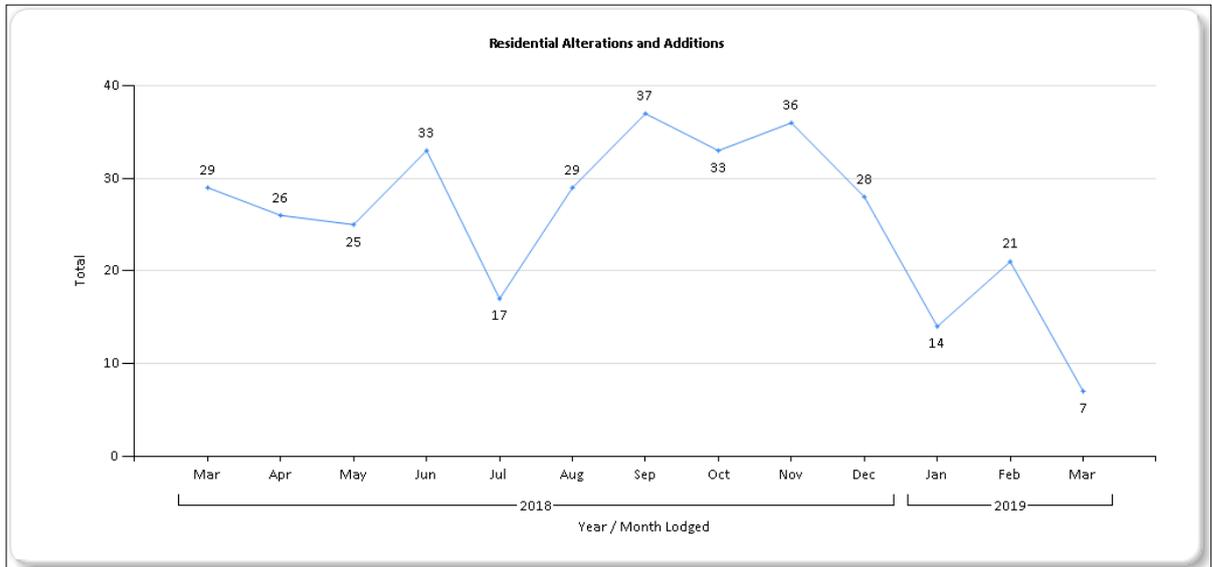
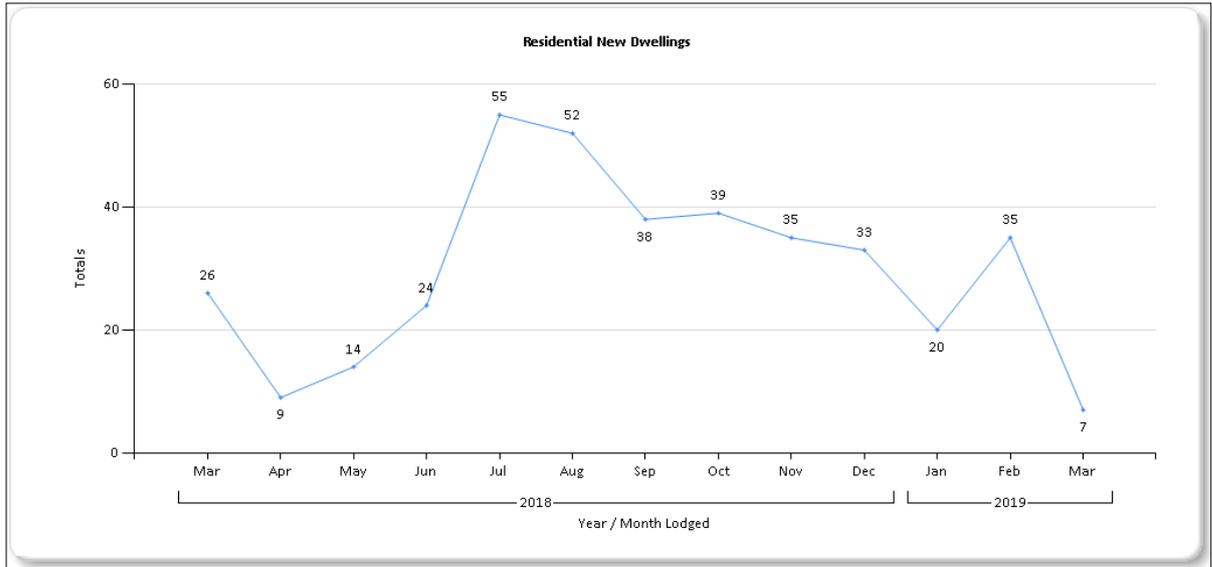
**AGENDA FOR THE ORDINARY MEETING OF COUNCIL**

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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
100	19/1308	47 Green Street Renwick NSW 2575 Lot 1361 DP 1234992	E Chwastek M Chwastek	Dwelling House	06/03/2019		#PENDING		



**ATTACHMENTS**

There are no attachments to this report.

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### 13.3 18/0381 - Alterations and Additions to Mittagong RSL, Lot 1 and Lot 2 DP1086496, 148-150 Old Hume Highway Mittagong

Reference: 18/0381  
Report Author: Development Assessment Planner  
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

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#### PURPOSE

The purpose of this report is to consider Development Application 18/0381 which seeks approval for the Commercial Alterations and Additions to Mittagong RSL Club at Lot 1 and Lot 2, DP1086496, 148-150 Old Hume Highway, Mittagong. This report is prepared for determination and recommends APPROVAL, subject to the attached conditions of consent (**Attachment 1**).

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#### RECOMMENDATION

1. **THAT** Council assume the concurrence of the Secretary Department of Planning and Environment and invoke the provisions of clause 4.6 of Wingecarribee Local Environmental Plan 2010 and resolve that in the circumstances of the case the submissions under clause 4.6 of the Wingecarribee Local Environmental Plan 2010 seeking variation of the statutory height standard contained in Clause 4.3 is well founded, having regard to all relevant considerations under clause 4.6 of Local Environmental Plan 2010.
2. **THAT** development application 18/0381 for the Commercial Alterations and Additions to Mittagong RSL Club at Lot 1 and 2 DP 1086496, 148-150 Old Hume Highway, Mittagong be APPROVED subject to attached conditions of consent as described in **Attachment 1** to the report.

**REPORT**

**BACKGROUND**

Under Wingecarribee Local Environmental Plan 2010, the land is in Zone B4 Mixed Use. A previous DA for Alterations and Additions was approved on 22/11/2013

**REPORT**

**Subject Site and Locality**

Figures 1 and 2 illustrate the land's location and general layout. The site is legally described as Lot 1 and 2 DP 1086496 being 148-150 Old Hume Highway, Mittagong. A location Plan is included in Figure 1 below.

The site is currently developed as the Mittagong Returned Services League (RSL) Club and has been in operation at the site since 1976. The site has undergone a number of extensions throughout the years with the most recent addition completed in 2015.

The overall site comprises of the main RSL Building constructed along the western boundary of the site. This building is surrounded by three large car parking areas with the capacity for 338 vehicles. Further, The Springs Resort Motel is located in the southern portion of the site and has its own car parking area for 62 cars.

The site is relatively flat, with a slight fall characterised across the site into a central creek that provides drainage for the site. The site has an overall size of 36,400m<sup>2</sup>, is irregular in shape and has street frontages to the Old Hume Highway (207m) and Bessemer Streets (210m).

The surrounding development is predominately residential, with a large number of residential dwellings bordering the site to the south and west. A MacDonal's restaurant is located to the south of the motel building with areas of public open space located to the north-west.

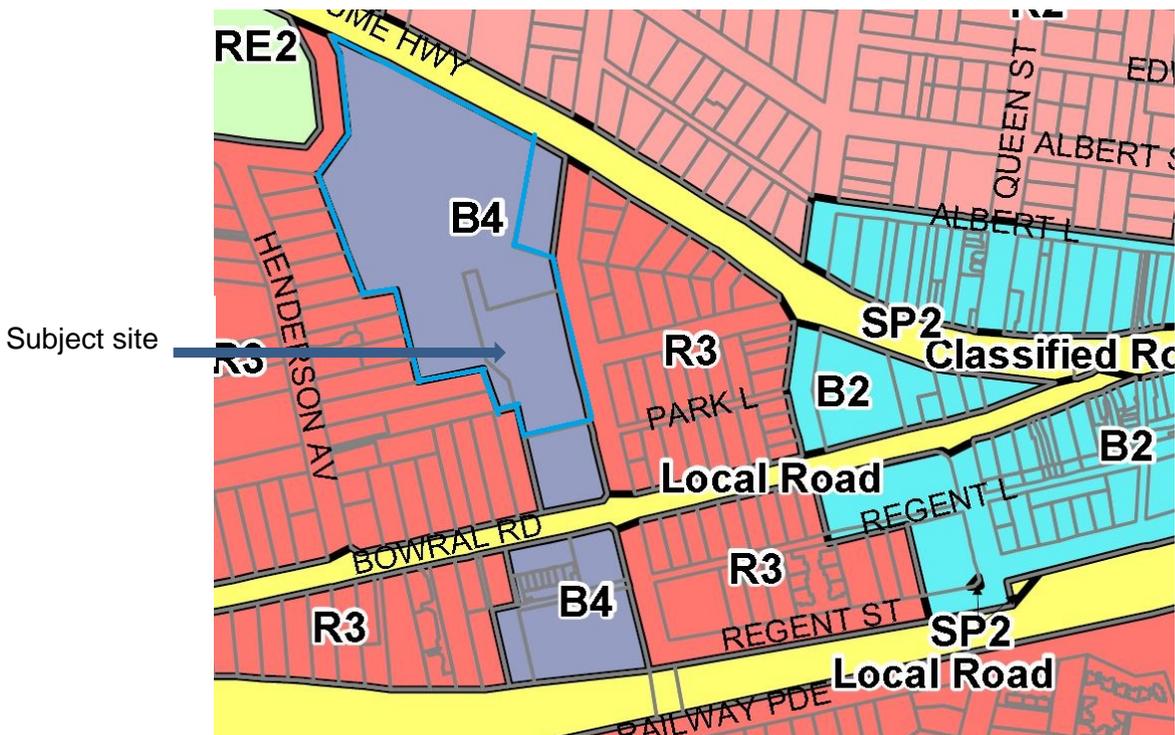


Figure 1: Locality map



Figure 2: Aerial image (Source: nearmap)

### Proposed Development

The proposed development drawings are included as **Attachment 2 and 3**.

The application describes the development as “Alterations and Additions to Mittagong RSL Club”. Specifically, the application includes the following elements;

- Improve upon the building’s exterior aesthetics
- Construct a new childrens’ play facility
- Alterations and Additions, as follows;
  - Ground Floor
    - New access/egress stairs from function room
    - Closing in the upper terrace area
  - First floor
    - Installation of Cool room into existing kitchen
    - Modify existing Plant room
    - Construct new toilet facilities for use within play centre
    - Construct new kitchen for play centre
    - Construct foyer and reception space for play centre
    - General space/seating space
    - Separate toddler play space
    - New café/terrace
  - Mezzanine
    - Bumper car arena
    - Arcade

- Disco
- 2 x Party rooms

### **State Environmental Planning Policies (SEPPs)**

The application has been considered with regard to the relevant provisions of applicable SEPPs, including:

- SEPP 44—Koala Habitat Protection
- SEPP 55—Remediation of Land
- SEPP (Infrastructure) 2007 (“ISEPP”)
- SEPP (Sydney Drinking Water Catchment) 2011
- SEPP (Vegetation in Non-Rural Areas) 2017 (“the Vegetation SEPP”).

#### **State Environmental Planning Policy No 44—Koala Habitat Protection**

The site contains vegetation on the northern and eastern extent of the site including a number of trees. Potential koala habitat means an area of native vegetation where the feed tree species listed in Schedule 2 of SEPP 44 constitute at least 15% of the total number of trees in the upper and lower strata of the tree component. Of the native species on site, none are feed tree species listed in Schedule 2 of SEPP 44. Therefore the provisions of SEPP 44 do not apply to the assessment of the application as the site is not considered to contain habitat for koalas.

#### **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. Council is satisfied that the land is not a site of possible contamination land uses. Conditions are recommended for the appropriate management of demolition materials to protect human health and the environment. In this regard, the development can be consistent with the requirements of SEPP 55.

#### **State Environmental Planning Policy (Infrastructure) 2007 (“ISEPP”)**

The site has a frontage to a classified road being the Old Hume Highway. Clause 101 to the ISEPP applies to development with frontage to a classified road. The objectives of clause 101 are:

- “(a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*
- (b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.”*

The proposal is consistent with the abovementioned objectives as traffic movements in and out of the site will not substantially change the existing pattern and frequency of entry and exits to the Old Hume Highway and the proposed use is not sensitive to noise and vehicle emissions from the classified road.

Clause 101 requires the consent authority to be satisfied as to the following:

- “(a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
  - (i) the design of the vehicular access to the land, or*

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- (ii) *the emission of smoke or dust from the development, or*
- (iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) *the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road."*

Vehicle access to the site is gained from existing crossings to the Old Hume Highway as well as to non-classified roads. The distribution of vehicle trips has been considered by Council's Transport and Traffic Engineer and considered to be compatible with the continued safe and efficient operation of the Old Hume Highway and no changes to the vehicle access arrangements are recommended. Conditions are recommended for separation of demolition and construction vehicle movements from visitor and staff vehicles to ensure public safety (Condition 45).

The RSL premises including the proposed additions and alterations are not sensitive to road noise and vibration.

For these reasons the proposal satisfies the requirements of the ISEPP.

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

The site is located within the Warragamba Drinking Water Catchment. Compliance with the provisions of the SEPP and associated guidelines is therefore required to consider water quality. The proposed development satisfies the requirements of State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011.

Advice received from Water NSW indicated that the proposed development has been assessed as being able to achieve a neutral or beneficial effect on water quality provided appropriate conditions are included in any development consent and are subsequently implemented. Conditions of Consent from Water NSW have been included at **Attachment 1 Condition 90**.

#### State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

No vegetation removal is proposed for removal as part of this DA. No conditions are required with respect to achieving compliance with this SEPP.

### **Local Environmental Plans**

#### Wingecarribee Local Environmental Plan 2010 (the LEP)

The application has been considered with regard to the LEP's relevant provisions, including:

- Clause 2.3—Zone objectives and Land Use Table
- Clause 4.3 – Height of buildings
- Clause 4.6 - Exceptions to development standards

Clause 4.3 of the WLEP provides a development standard relating to the height of buildings. The site is mapped as having a maximum height of buildings of 12.5m, with the proposal seeking approval to construct the mezzanine component of the RSL building to a maximum height of 13.5m. A clause 4.6 variation request has been submitted with the application seeking a variation to this control. This has been considered as part of the assessment of the application.

#### 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 Registered Club is permissible with development consent. The application seeks alterations and additions to this permissible land use.

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The objectives of the B4 Mixed Use zone, and their consideration, are discussed below. The objectives for all development in Zone B4 are:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as 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 development's alterations and additions components are consistent with the abovementioned objectives by:

- maintaining a mix of land uses and adding to the variety of services and facilities within the existing RSL premises
- the premises is accessible by alternative modes of transport to private vehicles and provisions are made for the parking of buses and the linking of the premises by pathways to the broader street network
- conditions are recommended for the responsible operation of the premises in accordance with an Operational Plan of Management addressing matters including safety, noise and amenity.

#### Clause 4.3 – Height of buildings and Clause 4.6 – Exceptions to development standards

Clause 4.3 of the WLEP provides a development standard relating to the height of buildings. The site is mapped as having a maximum height of buildings development control of 12.5m. The proposal seeks approval to construct the mezzanine component of the RSL building to a maximum height of 13.5m. A clause 4.6 variation request has been submitted with the application seeking a variation to this development standard.

#### Clause 4.6 – Exceptions to Development Standards

The proposed maximum building height of 13.5m is an exceedance of 1m over the maximum height of buildings development standards. The exceedance is equivalent to an 8% variation to the standard.

The objectives of clause 4.6 WLEP are:

- To provide an appropriate degree of flexibility in applying certain development standards to particular development;*
- To achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

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.

Subclause 4.6(3) states as follows:

- (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:*
  - that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case."*

Applicant's Request

The applicant submitted a request to vary the height of buildings development standard as required by Clause 4.6. The applicant's request relies upon the following justifications for the non-compliance that are relevant to matters within the scope of Clause 4.6:

- the non-compliance is minor in numeric terms
- the proposal is consistent with the objectives for development in Zone B4
- the proposal minimises increases to the building footprint to optimise space for on-site parking and minimise increases in stormwater runoff
- no overshadowing of the habitable spaces of neighbouring dwellings
- minor overshadowing of outdoor open spaces of neighbouring residential properties in midwinter mornings (with no additional impacts mid-winter afternoons)
- neighbouring properties to the north and west are elevated in relation to the subject site and the proposed building height will not be visually prominent in the locality
- canopy trees in the locality will offset the visual impact of finished building heights
- the part of the building which exceeds the height control is not readily visible from adjoining public streets
- the height exceedance will have no detrimental impacts to views or amenity

The public benefits identified by the applicant to further support the proposed variation are:

- creation of additional local employment
- provision of additional children's entertainment facilities
- a safe children's play environment
- improve the social services and facilities available at the RSL club premises.

The applicant's request states that the variation request does not raise any matter of State or regional environmental planning significance and will not undermine benefits of maintaining the development standard.

Assessment Comment:

The applicant's Clause 4.6 variation request addresses the consistency with the objectives for development in Zone B4 and identifies reasons specific to the case to demonstrate no unreasonable detrimental impact on environmental planning grounds.

The objectives of Clause 4.6 are to provide an appropriate degree of flexibility for particular development and to achieve better outcomes for and from the development.

The non-compliance part of the alterations and additions are well separated from surrounding building forms and will not be readily perceptible from the public domain. The non-compliance is not out of proportion with the overall scale and mass of the RSL building and the sloping topography results in a variety of rooflines within which the non-compliance would not be obvious.

It is agreed that the non-compliant section of the roof will not result in unreasonable additional overshadowing, overlooking or loss of views which would be detrimental to amenity.

Sufficient Environmental Planning Grounds

Clause 4.6(3) states as follows:

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*“(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.”*

Strict numeric compliance with the height of buildings control is considered unreasonable and unnecessary in the circumstances of this case as the proposed alterations and additions are mostly confined to the anticipated building envelope defined by the applicable development standards and the minor non-compliance will not be perceptible in the overall context and setting of the RSL building.

The RSL is a prominent building in the neighbourhood landscape in general and there will be no detrimental amenity impacts.

*(b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

The imperceptibility of the non-compliance in the context and setting and the absence of detrimental amenity impacts are reasonable environmental planning grounds to support the proposed variation in this case. The mezzanine level and presence of mature canopy trees throughout the site and in the neighbourhood will assist to mitigate the perception of the non-compliant section of the building.

*(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).*

The applicant's request has addressed the relevant matters of Clause 4.6.

*(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*

The objectives of the B4 zone and assessment of the proposed development against those objectives are as set out previously. It has been demonstrated that the proposed development is consistent with the objectives for development within the zone.

The objectives of Clause 4.3 – Height of building are:

*a) To identify maximum heights of buildings.*

*b) To ensure that the heights of buildings are compatible with the character of the existing development within the surrounding area*

The proposed overall building height (including the portion of the building proposed to exceed the height of buildings control) is considered to be consistent with the bulk, scale and massing character of the existing RSL building and compatible with the variety of building scales and heights within the sloping topography of the locality. For these reasons the proposal is considered to be consistent with the objectives of Clause 4.3.

*(b) the concurrence of the Secretary has been obtained.*

By notification pursuant to clause 64 of the *Environmental Planning and Assessment Regulation 2000*, Council may assume the Secretary's concurrence for exceptions to development standards for applications made under clause 4.6.

The variation to the Height Standard is not in excess of 10%. With regard to the matters set out under cl4.6(5) as matters the Secretary must consider in deciding whether to grant concurrence – see below.

*(5) In deciding whether to grant concurrence, the Secretary must consider:*

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- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) the public benefit of maintaining the development standard, and*
- (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.*

The proposed variation to the Height standard does not raise any matter of significance for State or regional environmental planning.

The clause 4.6 submission by the applicant has demonstrated sufficient grounds to justify the proposed variation having regard to the individual circumstances of this case, consistent with the objectives of clause 4.6 and under those circumstances strict adherence would be unreasonable and unnecessary.

Accordingly, it can be concluded that there is no greater public benefit to be served by maintaining the development standard in this instance as the development is consistent with the applicable aims and objectives of WLEP and the aims of the Act including to secure the orderly and economic use and management of land. All relevant matters have been considered in reaching this conclusion.

### **Development Control Plans**

#### **Mittagong Town Plan Development Control Plan (the DCP)**

The application has been considered with regard to the DCP's applicable provisions, including:

- Part A—Provisions applicable to all land
  - Section 2—General objectives
    - A2.2—Objectives of this Plan
  - Section 4—Water management
    - A4.3—Development in Sydney's drinking water catchments
    - A4.4—Water cycle management study
    - A4.5—Stormwater management plan
    - A4.6—Erosion and sediment control plans
    - A4.7—Water sensitive urban design
  - Section 6—Vegetation management and landscaping
    - A6.1—Preservation of trees and other vegetation
    - A6.2—Private landscaped open space
    - A6.3—Controls
  - Section 8—Safer by design
    - A8.2—Safer by Design Evaluation
    - A8.3—Crime prevention through environmental design
    - A8.4—Specific design requirements
  - Section 9—Construction standards and procedures
    - A9.5—Subfloor areas of buildings

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- A9.6 – Exhaust Fans
- A9.8—Stormwater disposal
- 9.10 - Site Access Standards During Construction
- A9.12—Waste management and disposal
- A9.14 – Civil Design and Certification
- Section 11 – Outdoor Lighting
  - A9.14 – Controls
- Part B—Provisions applicable to Business Zoned Land
  - Section 1 —Introduction
    - B1.3—Business Precincts
  - Section 2—Design Considerations
    - B2.2 - Height of Buildings
    - B2.3 - Floor Space Ratios
    - B2.4 - Designing for Pedestrian Access within the Town
    - B2.5 – Signage
  - Section 3—Parenting Facilities
    - B3.3 Option B
  - Section 4—On-site Car Parking
    - B4.2 - Objectives
    - B4.3 - Relevant Technical Documents
    - B4.4 - Definitions used in the section
    - B4.5 - Requirements for new development or Redevelopment
    - B4.6 - Requirements for Additions or Alterations to Existing
    - B4.7 - Use of Parking Areas
    - B4.8 - Disabled Parking Requirements
    - B4.9 - On Site Parking Deficiencies
    - B4.10 - Design of Off-Street Parking Facilities
    - B4.11 - How to Design a Car Park using AS 2890.1:2004
    - B4.12 - Design Process
  - Section 5—Loading Facilities and Waste and Resource recovery Storage and Collection
    - B5.2 – Controls
  - Section 6—Late Night Premises
    - B6.2 – Objectives

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- B6.3 – Development Controls
  - Section 10—Bessemer Street Mixed Use Precinct
    - 10.1 - Location & Character
    - 10.2 - Preferred Outcomes
    - 10.3 - Specific Controls

The proposed development satisfies the requirements under each of the sections mentioned above. Provided below are comments in relation to certain sections where conditions of consent are recommended or variations considered acceptable.

#### A4 – Water Management

Water management provisions have been addressed in the assessments completed by Water NSW and Council's Development Engineer and appropriate conditions have been recommended to address the relevant DCP provisions Attachment 1 (Conditions 26, 27, 56, 57, 90).

#### A6 – Vegetation and Landscaping

Conditions are recommended for landscaping details to be submitted with the Construction Certificate and to take opportunities for improvements to the existing landscaped areas Attachment 1 (Condition 31).

#### A8 – Safer by Design

Conditions are recommended for an Operational Plan of Management to address matters of safe and secure maintenance and management of the premises Attachment 1 (Condition 22).

#### A9 – Construction Standards and Procedures

Conditions are recommended to ensure all appropriate measures are implemented for a safe and environmentally responsible construction site and for construction standards in accordance with statutory and regulatory requirements Attachment 1 (Conditions 20, 63, 64, 65, 66).

#### A11 – Outdoor Lighting

Conditions are recommended for an Outdoor Lighting Plan to be submitted with the Construction Certificate which demonstrates compliance with the relevant Australian Standards and the DCP provisions Attachment 1 (Condition 23).

#### A9.12—Waste management and disposal

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With respect to section A9.12, a recommended condition of consent specifies all wastes generated in the carrying out and operation of the development shall be lawfully disposed of to a suitably authorised waste processing/disposal facility Attachment 1 (Condition 67).

#### B2.2—Building height

The proposed building height is above the control of 12.5m and therefore contravenes section B2.2, which – strictly applied – prescribes a maximum dwelling house height 12.5m. The proposed building height has been assessed in accordance with Clause 4.6 to the LEP above and the variation is considered acceptable in the circumstances of the case.

#### B3 – Parenting Facilities

Conditions are recommended for details of the parenting room fitout to demonstrate compliance with the DCP. Attachment 1 (Condition 29)

#### B4 – On-site parking

On-site parking provisions have been assessed by Council's Development Engineer and determined to be satisfactory provided the Traffic and Parking Report by Bitzios Consulting forms part of the development consent.

#### B6 – Late Night Premises

Conditions are recommended for an Operational Plan of Management to be submitted with the Construction Certificate and a copy provided to Council to demonstrate on-going management of the premises in accordance with the provisions of the DCP as well as the recommendations of the Environmental Noise Assessment prepared by Day Design Attachment 1 (Condition 22).

#### B10 – Bessemer Street Mixed Use Precinct

The site is within the Bessemer Street Mixed Use Precinct as mapped in the DCP. The RSL building is nominated as an existing prominent built feature within the precinct. Redevelopment objectives for the precinct include efficient site use, protecting amenity with height and FSR controls. The non-compliance with building height has been determined satisfactory as detailed above. The proposal complies with the FSR control. There are no other specific controls in the DCP that apply to the proposed alterations and additions.

### 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 applicable environmental planning instruments (SEPPs and the LEP), as discussed above.

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- (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 application has been considered with regard to the relevant provisions of the applicable Mittagong Town Plan Development Control Plan, as discussed above.

(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*

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,*

#### Context and setting

The context and setting includes large buildings such as a motel and other commercial and retail premises, bulky goods premises further north of the site and a mix of residential building forms. The existing RSL building is locally prominent in the visual landscape of the neighbourhood combined with significant spatial separation from the site boundaries. The proposed alterations and additions are consistent with that existing context.

#### Car parking

The existing car park has capacity for 338 car spaces in formally constructed spaces.

Council's Traffic Engineers and Development Engineers have determined that the number and location of formalised car parking spaces within the site is adequate to cater for the completed development. The additional 10 car parking spaces near Bessemer Street recommended in the Bitzios Traffic Impact Assessment are considered unsafe for the movement of vehicles and pedestrians and are to be deleted. Council's Development Engineer has determined that special event overflow parking on grassed areas adjacent to the formal car park will be sufficient without the need to construct additional formal parking spaces.

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Overall the existing 338 formal car parking spaces are considered sufficient to accommodate parking for the completed operational development. No additional car parking construction is required.

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

The site is zoned B4 and is part of the Bessemer Street Mixed Use Precinct. The Preferred Development Outcomes within the DCP state that *the mixed use zoning of this area offers the opportunity for appropriate redevelopment in the future.*

Although there is a minor exceedance to the building height control, on balance it is considered that the alterations and additions are a suitable use of the site.

The site is partly affected by Bushfire Hazards. Conditions are recommended for an Emergency Evacuation and Bushfire Management Plan consistent with the requirements of Planning for Bushfire Protection 2006 to be submitted with the Construction Certificate to address the risk of bushfire and appropriate safety of visitors and staff in the event of a bushfire (**Attachment 1 Condition 24**).

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

Refer to the Consultation section of this report.

(e) *the public interest.*

On balance, the development is not considered contrary to any known federal, state or local government interests, nor any wider community interests.

## IMPACT ON COUNCIL'S FIT FOR THE FUTURE IMPROVEMENT PLAN

NIL

## COMMUNICATION AND CONSULTATION

### Pre-lodgement Meeting

A pre-DA meeting was held with Council in January 2018 to discuss the proposed alterations prior to submission of the DA.

### Community Engagement

Neighbour Notification (or Advertising)/Public Participation

The development application was Neighbour Notified/Advertised for a period of 28 days between 02 May 2018 and 30 May 2018, attracting no submissions.

### Internal Communication and Consultation

Referrals	Advice/Response/Conditions
Accredited Certifier	No objection to proposed development; recommended conditions of consent specify relevant requirements.
Development Engineer	Various comments and suggestions that can be conveyed by recommended conditions of consent.
Environment and	No objection to the proposed development subject to standard

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Referrals	Advice/Response/Conditions
Health	conditions.

#### External Communication and Consultation

The application was referred to WaterNSW, with concurrence provide on 04 June 2018. General terms of approval issued by WaterNSW have been included in the recommended conditions of consent (**see Attachment 1 Condition 90**).

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#### **SUSTAINABILITY ASSESSMENT**

- **Environment**

The development's potential environmental impacts are discussed earlier in this report.

- **Social**

There are no social issues in relation to this report.

- **Broader Economic Implications**

The club currently employs 146 people, with total salaries and wages of over 6 million dollars annually. The alterations and additions will provide additional employment opportunities in the short term during the construction period and long term through additional staffing requirements.

- **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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#### **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.

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### RELATED COUNCIL POLICY

An assessment of the proposal has been made against the *Wingecarribee Local Environmental Plan 2010*, applicable state environmental planning policies, and the Mittagong Town Plan Development Control Plan.

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### OPTIONS

The options available to Council are:

#### Option 1

Determine development application 18/0381 by granting consent, subject to the recommended conditions of consent specified in **Attachment 1**.

#### Option 2

Determine development application 18/0381 by refusal, and provide reasons for Council's determination.

#### Option 3

Do nothing.

Option 1 is the recommended option to this report.

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### CONCLUSION

Provided that the recommended conditions of consent are complied with, the 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 a significant negative impact on the environment or the character and amenity of the locality. The Clause 4.6 variation request is considered to be consistent with the requirements and matters for consideration in granting flexibility to the application of the height of building control in this case.

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### ATTACHMENTS

1. 18/0381 Attachment 1 DA Conditions
2. 18/0381 Attachment 2 Site Plan and Elevations
3. 18/0381 Attachment 3 Floor Plan

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



Mark Pepping

**Deputy General Manager Corporate, Strategy and Development Services**

Friday 8 March 2019



**ATTACHMENT 1**

13 March 2019

Abeo Architects  
 Suite 2, 8-16 Soudan Lane  
 PADDINGTON NSW 2021

**NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION**  
 Pursuant to section 4.16 of the Environmental Planning and Assessment Act 1979

<b>APPLICATION NO:</b>	18/0381
<b>APPLICANT:</b>	Abeo Architects
<b>OWNER:</b>	Mittagong RSL Club
<b>PROPERTY DESCRIPTION:</b>	Lot 1 and 2 DP 1086496
<b>PROPERTY ADDRESS:</b>	148-150 Old Hume Highway, MITTAGONG NSW 2575
<b>PROPOSED DEVELOPMENT:</b>	Commercial Alteration and Additions to Mittagong RSL
<b>DETERMINATION:</b>	Determined by granting of CONSENT.
<b>CONSENT TO OPERATE FROM:</b>	13 March 2019
<b>CONSENT TO LAPSE ON:</b>	13 March 2024

**Rights of Appeal**

If you are dissatisfied with the determination of Council (including determination of a review under section 8.2 to 8.5 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 appeal period is 12 months after the date in which you receive this notice.

**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*, provided that this determination is not made with respect to an integrated development. The determination cannot be reviewed after the time limit for making an appeal to the Land and Environment Court expires or after an appeal to the is disposed of by the court.

Nicholas Wilton  
 Group Manager  
 Planning, Development and Regulatory  
 Services

13 March 2019  
 Date of Determination

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

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18/0381 Lot 1 and 2 DP 1086496

**SCHEDULE 1 CONDITIONS OF DEVELOPMENT CONSENT**

**ADMINISTRATION CONDITIONS**

**1. Development Description**

Development consent has been granted in accordance with this notice of determination for the purposes of Commercial Alterations and Additions to Mittagong RSL at Lot 1 and 2 in Deposited Plan 1086496 with street address of 148-150 Old Hume Highway, Mittagong NSW 2575.

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

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

Plan Title / Supporting Document	Reference /Version	Prepared By	Dated
Statement of Environmental Effects	Project No.1712	ABEO Architects	19 January 2018
BCA Assessment Report	Project No.18-144	NewCert	30 January 2019
Accessibility Report	FINAL	Morris Goding Access Consulting	31 January 2019
Environmental Noise Assessment	Report Ref. #4326-4.1R	Day Design Pty Ltd	23 January 2018
"Traffic Impact Assessment" report	Ref:P3417.002L	Bitzios Consulting	21 December 2017
Site Plan	Project No.1712 Dwg No. NP01 Revision A	ABEO Architects	16 March 2018



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Ground Floor Plan	Project No.1712 Dwg No. A-100 Revision A	ABEO Architects	22 February 2018
First floor plan	Project No.1712 Dwg No. A-101 Revision B	ABEO Architects	29 January 2019
Roof plan	Project No.1712 Dwg No. NP01 Revision A	ABEO Architects	16 March 2018
East Elevation	Project No.1712 Dwg No. NP01 Revision A	ABEO Architects	16 March 2018
South Elevation	Project No.1712 Dwg No. NP01 Revision A	ABEO Architects	16 March 2018
Sections	Project No.1712 Dwg No. A-300 and A-301 Revision A	ABEO Architects	22 February 2018

**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**

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

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

**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.

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**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 A CONSTRUCTION CERTIFICATE

##### 6. 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 and engineering 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) Essential services plan outlining the existing and proposed fire safety measures.
- (d) Disabled access provisions to common and public areas in accordance with AS1428 Design for Access and Mobility and the Premises Code.
- (e) 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.*

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**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.*

#### 7. Appointment of Principal Certifying Authority

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

- (a) A Construction certificate for the building, engineering, stormwater and utility installations 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 license 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.*

#### 8. Long Service Levy Payments

The payment of a long service levy as required under part 5 of the *Building and Construction Industry Long Service Payments Act 1986*, in respect to this building work, and in this regard, proof that the levy has been paid, is to be submitted to Council prior to the issue of a

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Construction Certificate. Council acts as an agent for the Long Services Payment Corporation and the levy may be paid at Councils Office.

**Reason:** *Statutory requirement*

**9. Section 94A Contributions**

Under section 94A 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 94A 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 Construction 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)); 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).

**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.*

**10. Installation Requirements**

All sewer and water plumbing and drainage work shall be carried out by a licensed plumber. A Permit in accordance with the NSW Code of Practice Plumbing and Drainage is to be obtained from Council (as the local Water Supply Authority) for the work to be carried out prior to the issue of the Construction Certificate.

**Reason:** *To comply with legislation.*

**11. Fire Safety Upgrade - Rebuilding, alterations, enlargement or extension of an existing building (cl. 94 of the Regulation)**

Council considers pursuant to clause 94 of the *Environmental Planning and Assessment Regulation 2000* that the existing building is to be upgraded to comply with the current

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National Construction Code (NCC) and in accordance with BCA Assessment Report prepared by New Cert dated 30 January 2019:

Due to the increase of rise in storeys for the building, consequential changes to the required Type of Construction and increase in occupant population, the existing building will be required to be upgraded to comply with the current BCA/NCC for that Type of Construction and afforded with the appropriate measures to ensure compliance for the intended occupant population;

Part C1 – Fire Resistance and Stability

Part C2 – Compartmentation and Separation

Part C3 - Protection of Openings

Part D1 – Provision for Escape

Part D2 – Construction of Exits

Section E – Services and Equipment

F3 – Room Heights

H1 & NSW Variation H101 – Entertainment Venues

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  
If applicable, the Construction Certificate plans and specification required to be submitted to the Certifying Authority pursuant to clause 139 of the Regulation shall detail building upgrade works required by for the approved use.

The Certifying Authority shall be satisfied that such work, to be implemented as part of the development, will upgrade the building to bring it into compliance with the provisions of the BCA in force at the date of lodgement of the Construction Certificate application.

**Note:** *The Certifying Authority issuing the Construction Certificate has no power to remove the requirement to upgrade the existing building as required by this condition. Where this condition specifies compliance with performance requirements of the National Construction Code (NCC), the Certifying Authority (subject to their level of accreditation) may be satisfied as to such matters. Where this condition specifies compliance with prescriptive (deemed to satisfy) provisions of the National Construction Code (NCC), these prescriptive requirements must be satisfied and cannot be varied unless this condition is reviewed under section 82A or amended under section 96 of the Environmental Planning and Assessment Regulation 1979.*



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**Reason:** *To ensure compliance with statutory requirements.*

#### 12. 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.*

#### 13. Disabled Toilets

Plans and details of the disabled toilet/s shall comply with the relevant Australian Standards, the Building Code of Australia, 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. The plans must be approved by the Accredited Certifier prior to issue of a Construction Certificate.*

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

#### 14. Disabled Persons Access and Facilities

- (a) Detailed drawings shall be provided to Council for the continuous path of travel for disabled person's from the accessible car parking spaces and bus and taxi parking areas to the primary entry and to all disabled amenities and areas to be used by visitors and staff within the site. The detailed drawings are to be submitted with the construction certificate application. Details shall be in accordance with AS 1428.1 Design for Access and Mobility and the Premises Code.
- (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 proposed building. Access shall be in accordance with AS 1428.1 Design for Access and Mobility.

#### Advisory Note

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- (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 National Construction Code (NCC), 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).

**Reason:** *Statutory requirement.*

**15. Building materials and colour scheme**

Details and samples of all new external building materials and finishes, including their proposed colours, shall be submitted for the approval of Council prior to the issue of the Construction Certificate. New external building materials are to match those of the existing building in colour, texture and materiality.

All external materials and surfaces are to be non-reflective. The use of Zinalume, stainless steel, unetched zinc or copper is not permitted. Galvanised iron may only be used with the specific consent of Council and where Council has considered the likely amenity impacts and glare.

**Reason:** *To ensure that the new building is visually compatible with the existing environment.*

**16. Structural Adequacy of Existing Structure**

A Certificate of Structural Adequacy prepared and signed by a professional chartered experienced qualified practising Structural Engineer with suitable professional indemnity cover must be submitted to the Accredited Certifier in respect of the load carrying capabilities of the existing structure to support, and be integrated with, the proposed additions prior to the issue of a Construction Certificate.

**Reason:** *To ensure the structural integrity of the building is not compromised.*

**17. Structural Engineer's details**

Structural engineering plans are to be prepared by an experienced professional chartered practising 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) suspended reinforced concrete slabs.
- (b) structural steelwork.
- (c) structural timber work exceeding the design parameters of AS1684 "National Timber Framing Code".

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- (d) retaining walls.
- (e) roof trusses.
- (h) 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.*

#### 18. Liquid Trade Waste

A revised Trade Waste Agreement shall be obtained prior to the issue of the Construction Certificate. The application shall be accompanied with manufacturer's details/specifications of the additional trade waste treatment system proposed to be used in the new kitchen facility.

**Reason:** *To ensure that the development complies with Statutory requirements.*

#### 19. 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. The Waste Management Plan shall address the management and minimization of waste from the Demolition, Construction and Operational Phases of the development.

Requirements of the 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.*

#### 20. Construction Management Plan

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

- (a) Off-street parking for employees, contractors and sub-contractors.



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- (b) Site access for construction vehicles and equipment purposes which is safely separated from the operational access for staff, visitors and services/deliveries.
- (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 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.

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

#### 21. Pedestrian Safety

The Contractor shall endeavour to minimise disturbance to pedestrian / vehicle traffic in the vicinity of the site. If required by Council a hoarding shall be erected and consent required in accordance with section 138 of *Roads Act 1993*.

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

**Reason:** *To ensure pedestrian and vehicular safety.*

#### 22. Operational Plan of Management

An Operational Plan of Management is to be submitted with the application for a Construction Certificate demonstrating that the premises will be operated in a manner compliant with all relevant requirements of Mittagong Town Plan Development Control Plan for:

- Part B Outdoor Eating Areas
- Part B Late Night Premises

And for the management of the premises in accordance with the recommendations of the Environmental Noise Report prepared by Day Design Report Reference #4326-4.1R dated 23 January.

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The Operational Plan of Management is to be consistent with the external lighting plan.

The Operational Plan of Management shall be to the satisfaction of the PCA and a copy of the Operational Plan of Management is to be provided to Council prior to the issue of the Occupation Certificate.

**23. External Lighting Plan**

An external lighting plan shall be prepared by a suitably qualified and experienced consultant demonstrating all external lighting shall:

- (a) comply with AS 4282–1997 Control of the obtrusive effects of outdoor lighting, and
- (b) be mounted, screened and directed in a way that it does not create a nuisance or light spill on to buildings on adjoining lots or public places.

Lighting at vehicle access points to the development must be provided in accordance with AS/NZS 1158 Set: 2010 Lighting for roads and public spaces Set.

All external lighting is to be fitted with timing devices to ensure external lighting is switched off within half an hour of the cessation of operations in accordance with the Operational conditions of this consent.

**Reason:** *To ensure that the amenity of neighbouring properties is not compromised.*

**24. Bushfire / Emergency Evacuation Plan**

A Bushfire / Emergency Evacuation Plan consistent with the NSW RFS Guidelines for Preparation of Emergency/Evacuation Plans and compliant with AS3745-2010 'Planning for Emergencies in Facilities' shall be prepared by a suitably qualified person and submitted with the Construction Certificate to the satisfaction of the PCA.

**Reason:** *To ensure the safety, amenity and protection of people attending the site*

**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. 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.

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

#### **27. 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 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.*

#### **28. 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.

Water service connections and sewer junctions shall be located under sealed driveways to battleaxe lots. This may require widening of accessway / rights of carriageways to those shown on approved plan.

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

#### **29. Fitout Details Parenting Facility**

Details of the fitout and furnishings of the parenting facility are to be submitted with the Construction Certificate. The details are to demonstrate compliance with the requirements of Part B Section 3 Option B to the Development Control Plan Mittagong Town Plan to the satisfaction of the PCA.

**Reason:** *To ensure the fitout of the parenting facility is in accordance with Council's requirements.*

#### **30. Erosion and Sediment Control Plan**

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

- (a) Removal and/or disturbance of vegetation shall be confined to within two metres of the site of required works and the site(s) of permanent accessways.
- (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.*

### 31. Landscape Plan

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

Specifically the Landscape Plan is to be certified / endorsed by a Bushfire Hazard Consultant to verify that the plan is compatible with asset management requirements and overall management of the site for bushfire risk and safe access and egress.

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 and landscaping to be retained
- Additional planting and new landscaping opportunities and improvements/rejuvenation to existing landscaped areas
- Existing and proposed finished ground levels;

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- Top and bottom wall levels for both existing and proposed retaining and free standing walls and edging
- 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 a 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.

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

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

**32. 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.*

**33. 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.

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.*

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#### 34. Construction Certificate

No work shall commence until a:

- (a) Construction Certificate is obtained from either the Wingecarribee Shire Council or an Accredited Certifier; and
- (b) Construction Certificate lodged with Council obtained from an Accredited Certifier (together with associated plans and documents) - a fee applies for this service.

**Reason:** *Statutory Requirement.*

#### 35. Developers Representative during construction 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.*

#### 36. Inspection of Demolition Works

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Council will require the following inspections of the site with the owner and demolition contractor present:

- (i) Prior to demolition works commencing (fencing must be erected and approved Waste Management Plan to be on site).
- (ii) At the completion of demolition works (documents relating to disposal of hazardous waste are to be provided on site).

A minimum of twenty four (24) hours notice is required to be given to Council prior to these inspections.

**Reason:** *To ensure compliance with the consent.*

**37. Approval required for works within the 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.*

**38. 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.

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**Reason:** *Statutory requirement.*

**39. 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 or is within the Council-owned site including kerbs, gutters, footpaths, walkways, shared pathways, 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.*

**40. 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.*

**41. Erosion and Sediment Controls**

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.*

**CONDITIONS TO BE SATISFIED DURING THE CONSTRUCTION PHASE**

**42. Approved plans to be available on site**

Stamped 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.*



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#### 43. Demolition Requirements

The parts of the existing structures indicated on the approved plans 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 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.
- (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

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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.*

#### 44. 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*

#### 45. Vehicular Access Point – Construction and Construction-related Delivery Vehicles

A suitable entry point shall 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 shall be surfaced with all-weather materials of a minimum of 20mm in size. Ballast or crushed gravel (minimum of 40mm rock) for the full width of the kerb from the edge of the road to the property boundary.

**Reason:** *To reduce the possibility of damage to public property.*

#### 46. Engineering inspections

24 hours prior to the covering of the following works, Council shall be notified by the licensed 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**).
- (b) internal drainage under water test;

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- (c) external drainage under water test;
- (d) water plumbing;
- (e) final inspection of water plumbing, sanitary drainage and stormwater drainage.
- (f) Works in relation to road reserves, footpath, kerb and gutter, road shoulder and drainage within public lands or road reserves;

**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.*

**47. 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* shall be notified that works are ready for inspection. (Note that all inspections below must be booked in (MyInspect Builders Hotline on 1300 842 361) and those in **bold type** are mandatory critical stage inspections under the Act and shall 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) **Concrete slab formwork with reinforcement prior to pouring of concrete;**
- (b) **Structural framework; including roof members. When completed prior to the fixing of any internal sheeting;**
- (c) **Wet area, damp proofing and flashing before lining;**
- (d) **Final inspection prior to use of the building;**

The above listed works may not be covered until approval is obtained from the Principal Certifying Authority or his/her duly appointed delegate.

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

**Note:** *If the principal certifying authority is the Council, the nomination will be subject to the payment of a fee for the service to cover the cost of undertaking all necessary inspections and the issue of the appropriate certificates. Under the Environment*



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*Planning and Assessment (Quality of Construction) Act 2003, a sign must be erected in a prominent position on the work site showing the name, address and telephone number of the principal certifying authority; the name of the principal contractor (if any) for the building work and a telephone number at which that person may be contacted outside working hours. That sign must also state that unauthorised entry is prohibited. The sign must not be removed until all work has been completed.*

*Reinspections where non compliance or when the works are not ready will be charged a reinspection fee based on Councils Fees and Charges Schedule.*

#### 48. Stormwater – Construction

The applicant shall provide 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 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.*

#### 49. 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.*

#### 50. 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.*

#### 51. 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*

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*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.*

#### **52. Excavation 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. 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.

#### **54. Protection of Public Places**

The adjoining or adjacent public area shall not be obstructed by any materials, vehicles, refuse skips and the like, under any circumstances unless approved in writing by Council.

If the work involved in the demolition or construction of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or building involves the closure of a public place, a barrier, fence or hoarding shall be erected prior to the commencement of any work subject to approval of a Traffic Management Plan.

An application to occupy public space shall be submitted to Council for approval prior to commencement of works.

Where a hoarding is required, an application for hoarding shall also be submitted to and approved by Council prior to commencement of any work. Hoardings shall be erected to comply with the requirements of WorkCover, the Principal Certifying Authority and with relevant Australian Standards.

**Reason:** *Public safety.*

#### **55. Temporary on-site toilet**

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Toilet facilities shall be available or provided at the work site before works begin 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.*

**56. 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 materials are not washed into stormwater drains or the natural catchment*

**57. 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.*

**58. 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 requirements of Council in this regard must be complied with immediately.

**Reason:** *Safety and Amenity*

**59. Noise and Vibration Plant and Equipment**



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All works carried out on site during construction/demolition/excavation or earthworks shall comply with the *Protection of the Environment Operations Act 1997*. Approved and effective silencing measures shall be provided and maintained on all power-operated plant used on site.

**Reason:** *Noise attenuation.*

**60. Dust Control**

Where a dust nuisance is likely to occur, suitable screens and/or barricades shall be erected during the demolition, excavation and building works. If necessary, water sprays shall be used on the site to reduce the emission of dust. Screening shall consist of minimum 2 metres height of shade cloth or similar material secured to a chain wire fence of the like.

**61. 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, without prior Council approval.

**Advice:** *Specific approval may be obtained via a section 138 Roads Act 1993 application.*

**Reason:** *To ensure that pedestrian and vehicular access in public places is not restricted and also so that the road reserve is not damaged.*

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

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

Monday to Friday	7:00am to 6:00pm
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 lodgement of an application under section 96 of the Environmental Planning and Assessment Act 1979.*

**63. Construction Management Plan**

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



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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.*

**Note:** *Any variation to these hours shall require Council consent via the lodgement of an application under section 96 of the Environmental Planning and Assessment Act 1979.*

#### 64. 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.*

#### 65. 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) No blasting shall be carried out at any time during construction of the building.
- (d) Care shall be taken during demolition/ excavation/ building/ construction to prevent any damage to adjoining buildings.
- (e) 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.
- (f) 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.*

#### 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.

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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. 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.*

#### 68. Notification of discovery of an archaeological relic

A person who is aware or believes that he or she has discovered or located a relic (in any circumstances, and whether or not the person has been issued with a permit) shall:

- (a) within a reasonable time after a person first becomes aware or believes that the person has discovered or located that relic, notify the Office of Heritage of the location of the relic, unless the person believes on reasonable grounds that the Office of Heritage is aware of the location of the relic, and
- (b) within the period required by the Office of Heritage, furnish the Office of Heritage with such information concerning the relic as the Heritage Council may reasonably require.

**Reason:** *To comply with the provisions of the Heritage Act 1977.*

**Note:** *The relevant application form can be found at following website:*

<http://www.environment.nsw.gov.au/resources/heritagebranch/heritage/S139-S146Frm2013.pdf>

and mailed to:

The Heritage Council  
C/- The Conservation Manager  
Heritage Division  
Office of Environment and Heritage  
Locked Bag 5020

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Parramatta NSW 2124

or emailed to: [heritage@heritage.nsw.gov.au](mailto:heritage@heritage.nsw.gov.au)

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

**69. 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 6.18 of the Act) unless an Interim Occupation Certificate or Final Occupation Certificate has been issued in relation to the building or part.*

**70. Completion Requirements**

All of the conditions of this consent shall be at no cost to Council and shall be completed prior to the issuing of an Occupation Certificate (unless stated otherwise).

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

**71. Public Infrastructure**

The applicant shall rectify any damage to public infrastructure (including roads, gutters, footpaths, street trees, etc.) prior to the issue of an Interim or Final Occupation Certificate at no cost to Council.

**Reason:** *To ensure that public infrastructure is protected from damage as a result of the development.*

**72. Civil and 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.

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

**73. National Plumbing and Drainage Code**

All plumbing and drainage shall comply with the requirements of Australian Standard AS3500 "National Plumbing and Drainage Code" and the relevant New South Wales Amendments.

All fittings for taps, showers and toilets in the new works are to be rated to comply with the Onsite Wastewater Site Assessment prepared by SEEC Ref. 17000327-WW-01 dated 18 October 2017.

**Reason:** *To comply with legislation.*

**74. Landscaping**

Landscaping as per the approved Landscaping Plan shall be established prior to the issue of the Interim or Final Occupation Certificate.

**Reason:** *To ensure that the landscaping is completed prior to occupation.*

**75. 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 building.

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.*

**76. National Plumbing and Drainage Code**

All plumbing and drainage shall comply with the requirements of Australian Standard AS3500 "National Plumbing and Drainage Code" and the relevant New South Wales Amendments.

**Reason:** *To comply with legislation.*

**77. Mechanical Ventilation**

Upon completion of the mechanical installation and before issue of the interim or final occupation certificate, the designing engineer shall submit the following to the Principal Certifying Authority:

- (a) a schedule indicating the air flows at each register;

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- (b) a certificate detailing the systems compliance with AS 1668 Australian Standard "Mechanical Ventilation and Air Conditioning Code, Parts 1 and 2".

**Reason:** *To ensure appropriate mechanical ventilation.*

**78. Food Shop Requirements**

Prior to the issue of the Interim or Final Occupation Certificate, the premise shall be set up and operated in accordance with the *Food Act*, the *Food Regulations* and the *Food Safety Standards*. The premise shall be fitted out in accordance with the Australian Standard AS4674 – 2004.

**Reason:** *Statutory requirement.*

**79. Food Shop Requirements**

Prior to the issue of the Interim or Final Occupation Certificate, the premise shall be set up and operated in accordance with the *Food Act*, the *Food Regulations* and the *Food Safety Standards*. The premise shall be fitted out in accordance with the Australian Standard AS4674 – 2004.

**Reason:** *Statutory requirement.*

**80. Works as Executed Drainage Diagram**

The applicant shall submit to Council a copy of the works as executed plans for the drainage and stormwater works prior to the issue of Occupation Certificate. These plans shall be drawn to scale including all relevant details. 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.*

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

**81. Use not to commence**

The approved use shall not commence until the proposed development has been completed in accordance with this consent and issue of any other Council approvals which may be required.

**Reason:** *To ensure that the use of the site is lawful.*

**82. Operational Plan of Management**

The premises shall be operated at all times in accordance with the Operational Plan of Management (OPM).

**Reason:** *To ensure that the operations are compatible with the rural locality and setting.*

**83. Maintenance of Mechanical Ventilation Systems**

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Owners of buildings served by plant involving the operation of "cooling towers", "evaporative condensers" or "tepid systems" shall submit to Council, every 3 months, a report detailing the maintenance, cleansing and chemical treatment of each plant.

**Reason:** *To ensure appropriate maintenance of mechanical ventilation.*

#### **84. Loading / Unloading**

All vehicular loading and unloading shall be carried out within the site to provide for safe off-street loading and unloading of vehicles and to prevent interference with the use of the public road.

**Reason:** *Public safety.*

#### **85. Amenity**

The approved use on the site shall be conducted in such a manner so as not to interfere with the amenity of the neighbourhood by reason of noise, smoke, smell, vibration, gases, vapours, dust, particulate matter or other impurities or nuisances from the premises.

**Reason:** *To ensure that the amenity of neighbouring properties is not compromised.*

#### **86. External Lighting**

All external lighting shall be compliant with the External Lighting Plan and shall:

- (a) comply with AS 4282–1997 Control of the obtrusive effects of outdoor lighting, and
- (b) be mounted, screened and directed in a way that it does not create a nuisance or light spill on to buildings on adjoining lots or public places.

Lighting at vehicle access points to the development must be provided in accordance with AS/NZS 1158 Set: 2010 Lighting for roads and public spaces Set. External lighting is to be switched off within half an hour of cessation of operations on each day.

**Reason:** *To ensure that the amenity of neighbouring properties is not compromised.*

#### **87. Operational Noise Levels**

The persons responsible for the ongoing operation of the premises shall ensure operational noise levels (LAeq) for the ongoing operation of the premises is consistent with the recommendations and standards identified in the Environmental Noise Assessment prepared by Day Designs Pty Ltd Ref No. #4326-4.1R dated 23 January 2018.

Without limiting the above, operational noise levels must also fall within the requirements of the acceptable noise level amenity of the area as specified by the Office of Environment and Heritage's Industrial Noise Policy. In the event that operational noise is identified as exceeding the requirements of this condition, the Applicant will be required to undertake such works as is necessary to remedy such exceedance within a period determined by Council.

**Reason:** *To prevent loss of amenity to the area.*



18/0381 Lot 1 and 2 DP 1086496

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**88. No 'Offensive Noise'**

Noise and vibration from the use and operation of any plant and equipment and/or building services associated with the premises shall not give rise to "offensive noise" as defined by the *Protection of the Environment Operations Act 1997*.

**Reason:** *To reduce noise levels within the proposed development from road noise*

**89. 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.*

**90. INTEGRATED DEVELOPMENT CONDITIONS**

**General Terms of Approval – WaterNSW**

**General**

1. The site layout, and works shall be as specified in the Statement of Environmental Effects (dated 19 January 2018) and shown on the Site Plans (Proj. No. 1712, Dwg. Nos. A-010 & A-040; Rev A, dated 22.02.2018) both prepared by Abeo Architects Pty Ltd. No revised site layout, staging or external works that may impact on water quality, shall be permitted without the agreement of Water NSW.

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

**Construction & Demolition Activities**

2. Erosion and Sediment Controls shall be implemented in accordance with the Chapter 2 of NSW Landcom's Soils and Construction: Managing Urban Stormwater (2004) manual

**13.3 18/0381 - Alterations and Additions to Mittagong RSL, Lot 1 and  
Lot 2 DP1086496, 148-150 Old Hume Highway Mittagong  
ATTACHMENT 1 18/0381 Attachment 1 DA Conditions**



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18/0381 Lot 1 and 2 DP 1086496

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- the "Blue Book" and no works shall commence until effective erosion and sediment controls have been installed. The controls shall prevent sediment, gross pollutants or polluted water leaving the site or entering any stormwater drain or natural drainage system and shall be regularly maintained and retained until works have been completed and ground surface stabilised or groundcover re-established.

***Reason:** To manage adverse environmental and water quality impacts during the demolition and construction phases of the development and to minimise the risk of erosion, sedimentation and pollution within or from the site during this construction phase.*

**END OF CONDITIONS**

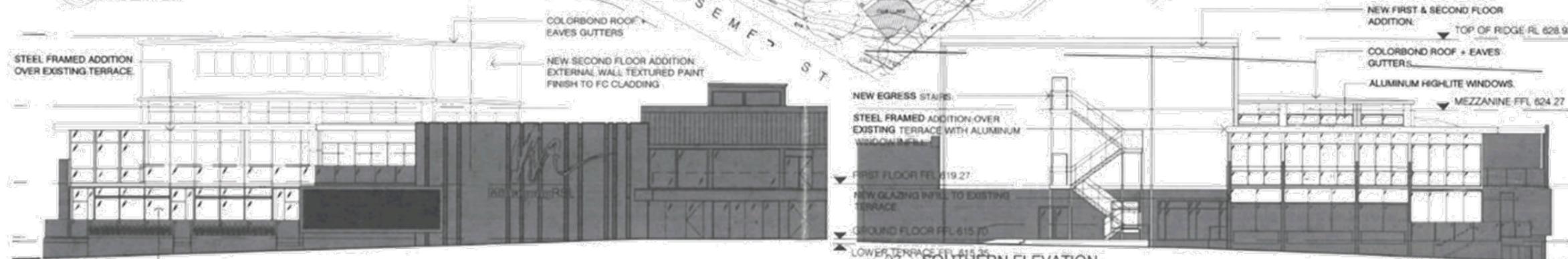


ATTACHMENT 2

Site Plan and Elevations



01 SITE PLAN  
SCALE 1:1000



03 SOUTHERN ELEVATION  
SCALE 1:250

02 EASTERN ELEVATION  
SCALE 1:250

KEY  
 [Hatched box] DENOTES EXISTING TO REMAIN

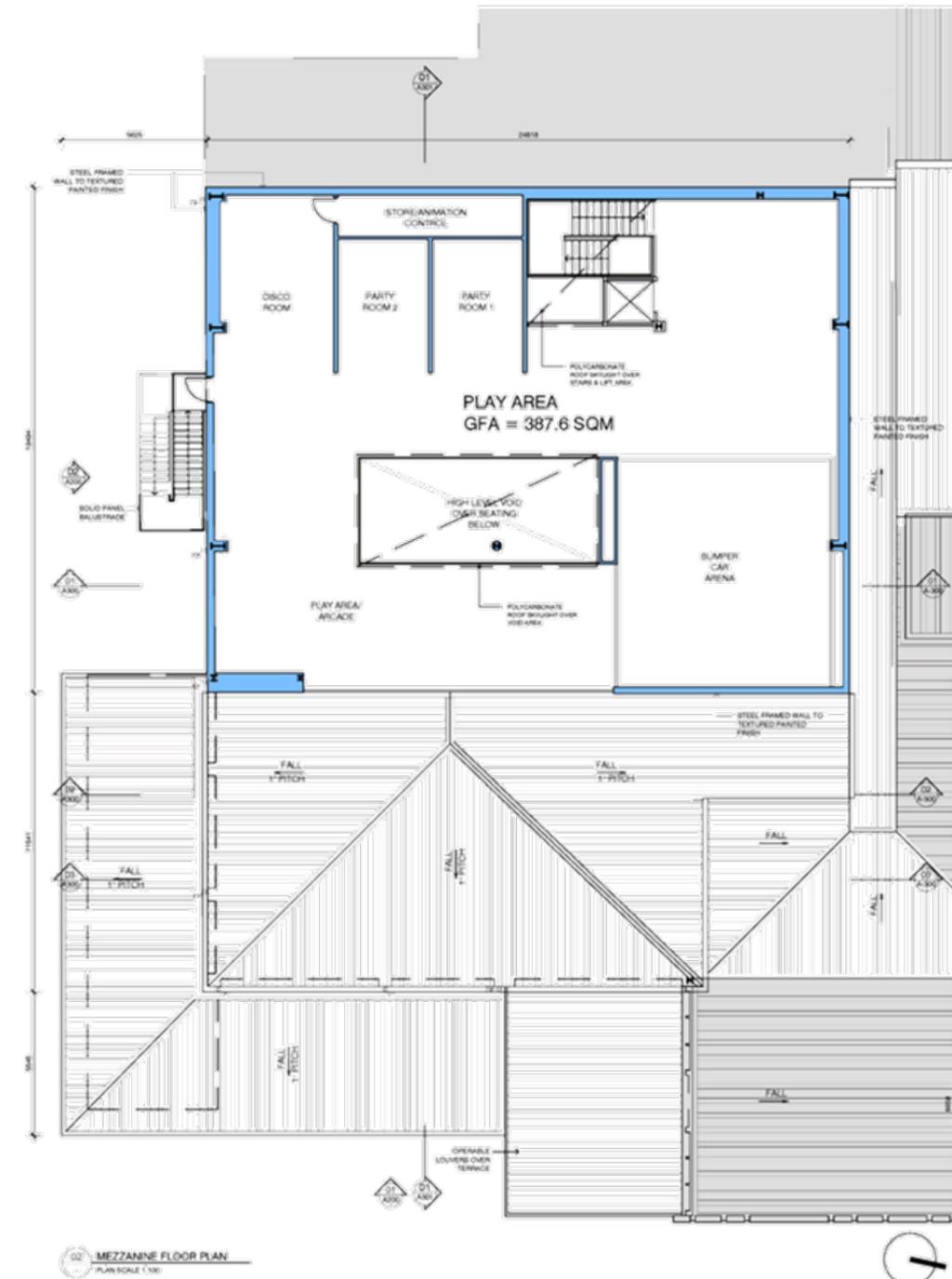
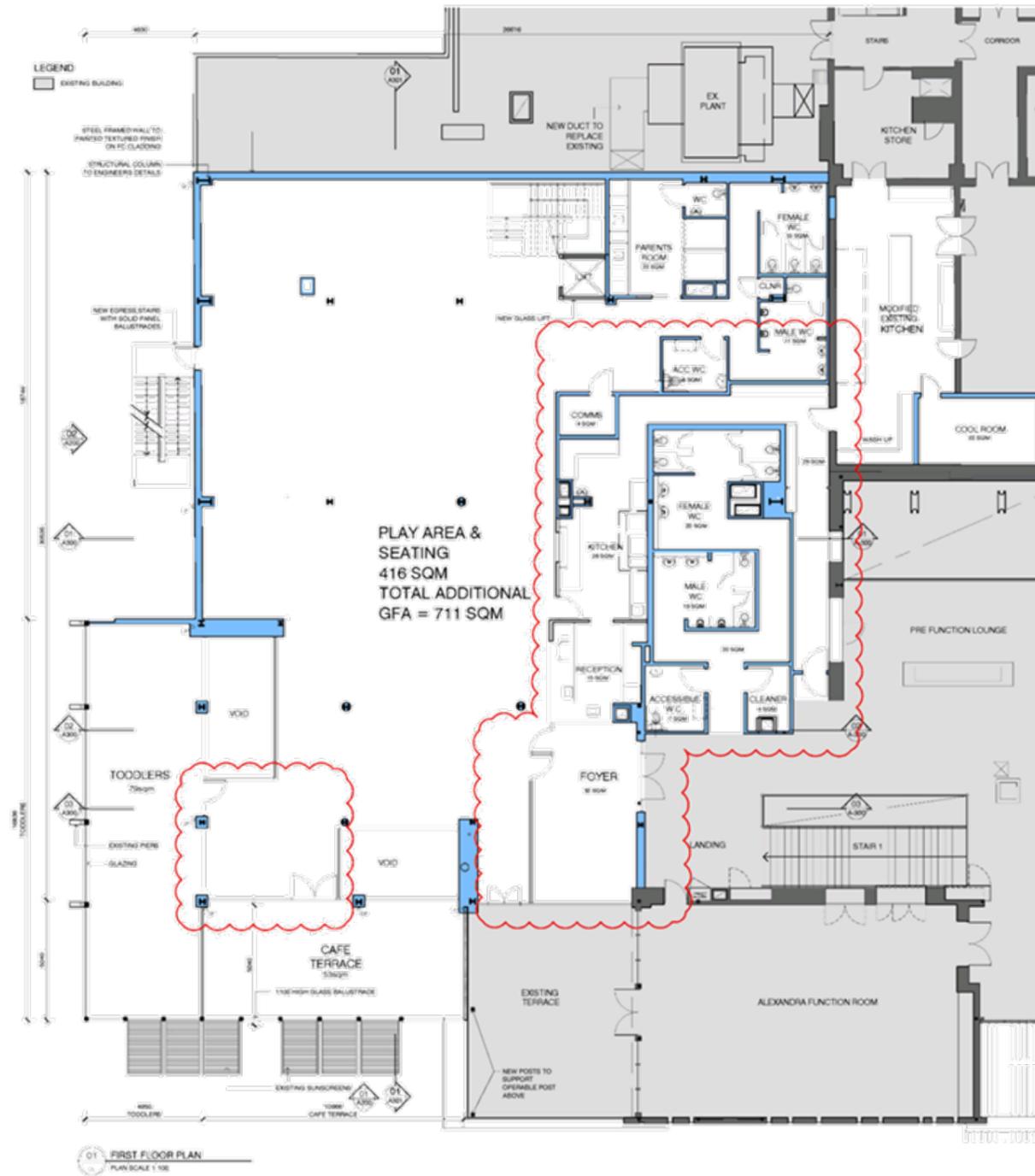
REV	DATE	NOTE	DRAWING NOTIFICATION PLAN	DWG NO: NP01	REV: A
A.	18.03.2018	DA SUBMISSION	CLIENT: MITTAGONG RSL CLUB	SCALE: 1:250 @ A3	
			SITE: CNR OLD HUME HIGHWAY & BESSEMER STREET		
			PROJECT NO: 1712	DATE: JULY 2017	
			DRAWN BY: JM	CHECKED BY: DW	

abeoarchitects



ATTACHMENT 3

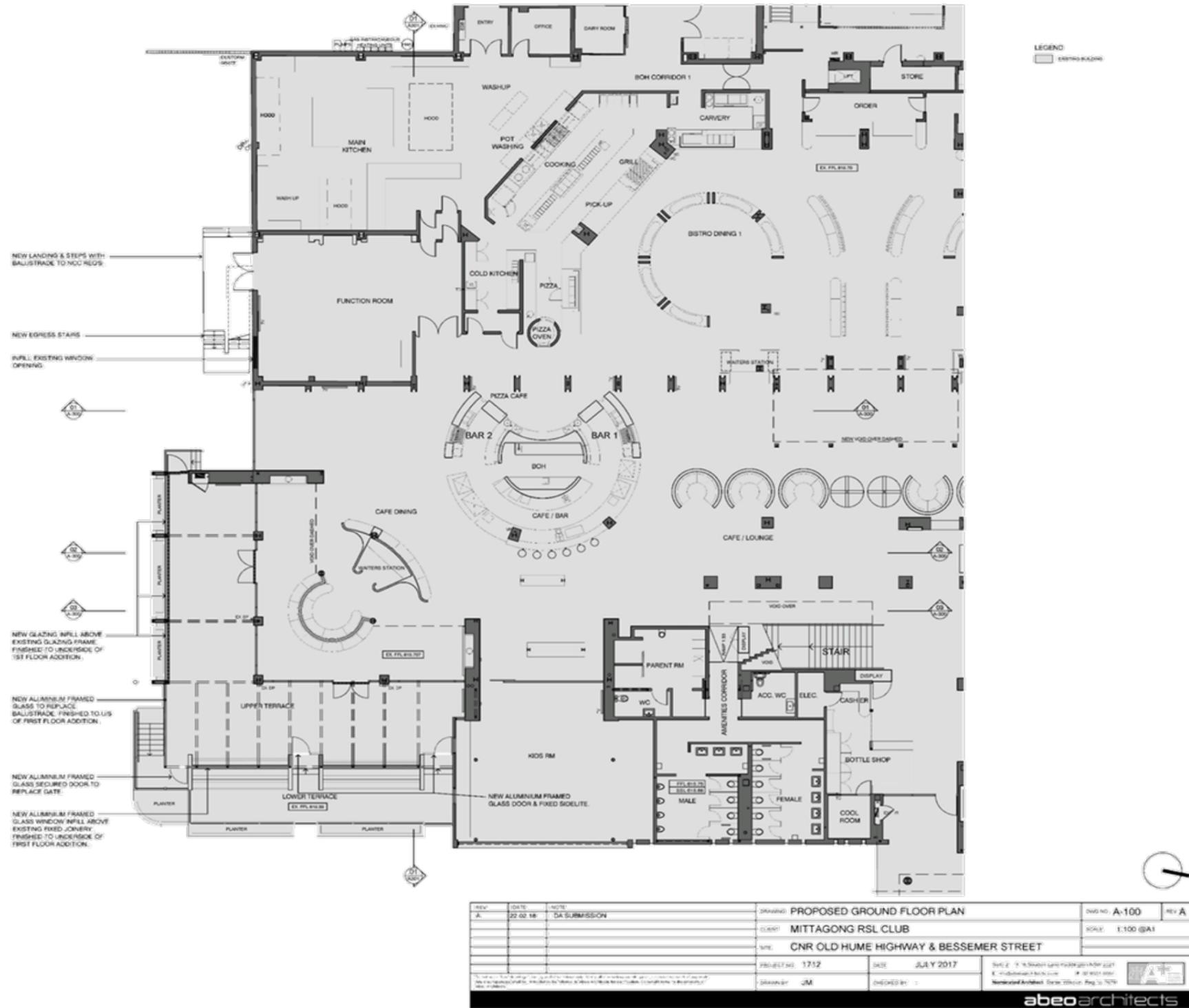
Floor Plans



REV	DATE	NOTE	DRAWING	PROPOSED FIRST FLOOR & MEZZANINE FLOOR PLAN	DRG NO. A-101	REV B
A	20/07/2018	SK SUBMISSION	CLIENT	MITTAGONG RSL CLUB	SCALE	1:100 @ A1
B	28/07/2018	REVISED INTERNAL LAYOUT	SITE	CNR OLD HUME HIGHWAY & BESSEMER STREET		
			PROJECT NO.	1712	DATE	JULY 2017
			DRAWN BY	JM	CHECKED BY	DW

Scale 1:100 @ A1  
 0 1000 2000 3000 4000 5000

abeoarchitects



REV	DATE	NOTE	DRAWING: PROPOSED GROUND FLOOR PLAN	DWG NO: A-100	REV A
A	22.03.18	DA SUBMISSION	CLIENT: MITTAGONG RSL CLUB	SCALE: 1:100 @A1	
			SITE: CNR OLD HUME HIGHWAY & BESSEMER STREET		
			PROJECT NO: 1712	DATE: JULY 2017	
			DRAWN BY: JM	CHECKED BY:	

abeo architects



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## COUNCIL MATTERS

### 16 PETITIONS

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#### 16.1 Petition 01/2019 - DA 17/1457 - Ellsmore Road, Exeter

Reference:	100/8
Report Author:	Administration Officer (Meetings)
Authoriser:	Coordinator Corporate Strategy and Governance
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

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#### PURPOSE

The purpose of this report is to present to Council a petition received from the residents of Ellsmore Road, Exeter, relating to development application 17/1457. The petitioners have expressed concern "on the grounds of safety with the planned road exiting onto Ellsmore Road at a bend, the re-routing Reedy Creek and carving up a piece of rural land to access a land locked strip".

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 01/2019 relating to Ellsmore Road, Exeter be received and noted by Council.**

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#### REPORT

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#### ATTACHMENTS

There are no attachments to this report.



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## 16.2 Petition 02/2019 - Mansfield Road and Reserve, Bowral - Dangerous Road Design

Reference:	100/8
Report Author:	Administration Officer (Meetings)
Authoriser:	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

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### PURPOSE

The purpose of this report is to present to Council a petition received from the residents of Mansfield Road and Reserve, Bowral seeking rectification of a dangerous road arrangement which has led to private property damage and financial loss to residents; it has caused repeated damage to road surfaces; and presents an immediate danger to increased pedestrian and cyclist activity.

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 02/2019 relating to Mansfield Reserve/Mansfield Road - Dangerous Road Design be received and noted by Council.**

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### ATTACHMENTS

There are no attachments to this report.

## 18 COMMITTEE REPORTS

### 18.1 Minutes of the Finance Committee Meeting held on Wednesday, 20 February 2019

Reference:	107/21
Report Author:	Coordinator Corporate Strategy and Governance
Authoriser:	Group Manager Corporate and Community
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 February 2019.

#### SUMMARY OF RECOMMENDATIONS AND ACTIONS FOR COUNCILLORS' ATTENTION AND ADOPTION

##### Item 4 Confirmation of Minutes

FC1/19

THAT the minutes of the Finance Committee Meeting held on Wednesday 21 November 2018 MN FC30/18 to MN FC33/18 inclusive, copies of which were forwarded to Councillors, be adopted as a correct record of the proceedings of the meeting.

##### Item 7 Agenda Reports

FC 1/19

1. THAT Council approve the budget variations reported at the December Quarterly Review as listed in Attachment 1 to the report.
2. THAT the projected surplus of \$29,715 be transferred to the Capital Projects Reserve, with the intention it will be utilised for the 2019/20 Budget.

##### Item 7.2 Quarterly Operational Plan 2018/19 progress report, October to December 2018

FC 3/19

1. THAT the Quarterly Progress Report on Operational Plan 2018/19, October to December 2018, be noted.

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 13 March 2019

### COMMITTEE REPORTS



#### Item 7.3 Illawarra Academy of Sport – Access to Moss Vale War Memorial Aquatic Centre Gym Facilities

FC 4/19

1. THAT Council establish a restricted concession category as part of the 2019/20 Fees and Charges which would allow access to current and future IAS athletes from the Wingecarribee Local Government Area.
2. THAT Council grant this concession for the period 1 January 2019 – 30 June 2019, with the concession amount to be funded through the Contingency Fund in the 2018/19 financial year and from the Swimming Pool budget in subsequent years.

#### Item 7.4 Request for Financial assistance – Moss Vale Golf Club

FC 5/19

THAT Council authorise the deferral of rates for a period of two years 1 July 2018 to 30 June 2020 for the Moss Vale Golf Club, the deferred rates not being subjected to interest. The outstanding balance of land rates as at 30 June 2020 will then be the subject of a payment arrangement which will ensure all rates and charges (including future accounts) are recovered within a five (5) year period.

#### Item 7.4\_ Moss Vale War Memorial Aquatic Centre – Lighting Upgrade

FC 6/19

1. THAT Council approve the allocation of \$5,000 from the Revolving Energy Fund (REFund) to the 2018/19 budget for the supply and installation of LED lighting at the Moss Vale War Memorial Aquatic Centre.
2. THAT the average value of the energy savings achieved from the installation of efficient LED lighting be calculated and transferred back into the REFund on an annual basis until the full project cost is recouped.

#### Item 7.6 Councillor Update – Berrima Road Deviation Project

FC 7/19

THAT the report concerning Councillor Update – Berrima Road Deviation Project, be considered in Closed Council.

#### Item 8 Closed Committee

FC 8/19

1. THAT the Finance Committee moves into Closed Committee 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:

##### 8.1 Councillor Update - Berrima Road Deviation Project

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 13 March 2019

### COMMITTEE REPORTS



THAT the minutes of the Closed Committee part of the meeting (being the Finance Committee's resolution) be made public.

Item 8.1 Councillor Update - Berrima Road Deviation Project

FC 10/19

THAT due to time constraints the mayor adjourn the 20 February 2019 Finance Committee meeting, with the meeting to reconvene on Wednesday 27 February 2019.

The reconvened meeting will continue in the Council Chambers, Civic Centre, Elizabeth Street, Moss Vale, commencing at 8.30am.

Item 10 Closed Committee

FC 11/19

1. THAT the Finance Committee moves into Closed Committee 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:
2. THAT the minutes of the Closed Committee part of the meeting (being the Finance Committee's resolution) be made public.

Item 8.1 Councillor Update - Berrima Road Deviation Project

FC 12/19

1. THAT a report be furnished to Council detailing the status of this project.
2. THAT Council meet with the Federal Member for Hume to discuss the current funding arrangement with a view to seeking an extension of time for the project.
3. THAT Council continue to negotiate with adjoining land owners with a view of acquisition.

Item 11 Resumption of Open Agenda

FC 13/19

THAT the Finance Committee moves from Closed Committee into Open Committee.

Item Adoption of Closed Committee

FC 14/19

THAT the recommendations of the Closed Committee held on Wednesday 20 February 2019 and Wednesday 27 February 2019, being MN FC9/19 to MN FC13/19 be adopted.

**AGENDA FOR THE ORDINARY MEETING OF COUNCIL**

Wednesday 13 March 2019

**COMMITTEE REPORTS**



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**RECOMMENDATION**

**THAT recommendations Nos FC 1/19 to FC 14/19 – as detailed in the Minutes of the Finance Committee Meeting held on Wednesday, 20 February 2019 be adopted.**

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**ATTACHMENTS**

There are no attachments to this report.

## 19 QUESTIONS WITH NOTICE

### 19.1 Question with Notice 5/2019 - WIN TV Interview with Mayor Clr D Gair on Station Street upgrade

Reference:	101/2
Report Author:	Administration Officer (Meetings)
Authoriser:	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

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**To:** Mayor Clr D Gair  
**From:** Clr I M Scandrett  
**Received:** 28 February 2019

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**Subject:** WIN TV Interview with Mayor Clr D Gair on Station Street upgrade

I was appalled at your attack on all state election candidates in relation to the media interview you gave on WIN TV News on Friday 22 February 2019. Your frustrations with the Station Street upgrade and how it has stalled due to “obstacles”.

You then attacked all candidates saying “the candidates are as useless as an ashtray on a motor bike”.

Various correspondence from candidates expressing their dissatisfaction has been received (see letter from Jo Ann Davidson as sent to Councillors).

**Question:**

- a) Will you make a public retraction of the comment “the candidates are as useless as an ashtray on a motor bike” and issue to all candidates”.

If not, why not?

**RESPONSE:**

A response will be provided at the meeting.

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### RECOMMENDATION

**THAT** the information in relation to Question with Notice 5 /2019 - WIN TV Interview With Mayor Clr D Gair On Station Street Upgrade - be noted.

## 19.2 Question with Notice 6/2019 - Grant Funding

**Reference:** 101/2  
**Report Author:** Administration Officer (Meetings)  
**Authoriser:** 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

**To:** General Manager

**From:** Clr P W Nelson

**Received:** 6 March 2019

**Subject:** Grant funding

### Question:

Could the General Manager confirm that the following grant funding projects have been successfully received and could she confirm any other recent grant funding success that have been recently received.

<b>1. Growing Stronger Communities Fund Round 1</b>	\$
a. The Carribee Centre Upgrade and Extension	207,592
b. Construction of a Second Synthetic Hockey and All Weather Sporting Field – Stage 1	374,622
c. Wingello Hall Accessibility Upgrade	114,732
<b>2. Growing Stronger Communities fund Round 2</b>	\$
a. Stephens Park Bowral – Playing Field Drainage Project	113,572
b. Bundanoon Skatepark	416,304
c. Berrima Marketplace Playground	239,990
d. Bowral Rugby Club House Re-development – Stage 2	991,330
<b>3. Growing Local Economies Fund</b>	\$
a. Upgrade of the Southern Region Livestock Exchange	5,200,000
b. Grant applications for the Moss Vale Bypass submitted in tandem through the Grouping Local Economies Fund (for \$10M) and through the Federal Regional Development Fund (\$10M).	
<b>4. Saving Our Species Fund</b>	
\$450,000 over three years was obtained from State Governments Saving Our Species program to address Koala conservation.	450,000

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 13 March 2019

### QUESTIONS WITH NOTICE



<b>5. Safe and Secure Water</b>	\$
a. Moss Vale STP upgrade	6.6M
b. Bowral STP upgrade	7.1M
(These amounts are the maximum for which we can apply under the grant criteria)	

#### Response:

The following grants have been approved:

<b>1. Growing Stronger Communities Fund Round 1</b>	\$
a. The Carribee Centre Upgrade and Extension	207,592
b. Construction of a Second Synthetic Hockey and All Weather Sporting Field – Stage 1	374,622
c. Wingello Hall Accessibility Upgrade	114,732
<b>2. Growing Stronger Communities fund Round 2</b>	\$
a. Stephens Park Bowral – Playing Field Drainage Project	113,572
b. Bundanoon Skatepark	416,304
c. Berrima Marketplace Playground	239,990
d. Bowral Rugby Club House Re-development – Stage 2	991,330
<b>3. Growing Local Economies Fund</b>	\$
a. Upgrade of the Southern Region Livestock Exchange	5,200,000
<b>4. Saving Our Species program</b>	\$
State Government \$450,000 over three years was obtained from State Governments Saving Our Species program to address Koala conservation	450,000
<b>5. Heritage Near Me Green Grant</b>	\$
Mittagong Library Energy Efficiency Upgrade	30,436

The following grants have been applied for:

<b>1. Safe and Secure Water</b>	\$
c. Moss Vale STP upgrade	6.6M
d. Bowral STP upgrade	7.1M
(These amounts are the maximum for which we can apply under the grant criteria) Outcome not yet known.	
<b>2. Regional Development Communities Fund</b>	\$
Have submitted an application for \$16.25million for the Moss Vale Bypass. This grant application was by invitation as a result of a	16.25M

**AGENDA FOR THE ORDINARY MEETING OF COUNCIL**

Wednesday 13 March 2019

**QUESTIONS WITH NOTICE**



nomination from Pru Goward. Outcome not yet known.

**3. Growing Local Economies Fund**

\$

Application for \$5.8million for the Berrima Road Deviation and Rail Overbridge Project. Outcome not yet known.

5.8M

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**RECOMMENDATION**

**THAT the information in relation to Question with Notice 6/2019 – Grant Funding - be noted.**

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### 19.3 Question with Notice - 7/2019 - Berrima Road Project

**Reference:** 101/2  
**Report Author:** Administration Officer (Meetings)  
**Authoriser:** 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

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**TO:** General Manager

**From:** Clr G M Turland

**Received:** 6 March 2019

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Subject: Berrima Road Project

Question:

1. Can the General Manager provide to Council all quantity surveyors' reports for this project.
  2. Can the General Manager provide to Council all correspondence from Senior Staff that relates to this project.
  3. Can the General Manager provide to Council a report and costing on this project with a breakdown of the quantity surveyor's report from the beginning of the project to current and the total cost spent.
- 

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### RECOMMENDATION

**THAT the information in relation to Question with Notice 7/2019 Berrima Road Project be noted.**

**Response:**

At the Finance Committee on 27 February 2019, Council resolved as follows (FC 12/19):

1. *THAT a report be furnished to Council detailing the status of this project.*
2. *THAT Council meet with the Federal Member for Hume to discuss the current funding arrangement with a view to seeking an extension of time for the project.*
3. *THAT Council continue to negotiate with adjoining land owners with a view of acquisition.*

**PASSED**

The questions raised above will be considered as a part of the report to Council on the status of the Berrima Road Project.

---

## 19.4 Question with Notice 9/2019 – Staff Matter

**Reference:** 101/2  
**Report Author:** Administration Officer (Meetings)  
**Authoriser:** 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

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**To:** General Manager

**From:** Clr G Turland

**Received:** 6 March 2019

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**Subject:** Council Restructure to the Assets and Project Delivery Branch

**Question:**

1. Can the General Manager provide an update to Council on the restructure of the department.
2. Does Council have to approve any restructure before it is implemented.
3. Can the General Manager advise why the restructure has taken place and when.
4. Can the General Manager provide to Council an update on the organisation structure including total staff numbers.

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### RECOMMENDATION

**THAT Question with Notice 9/2019 - Council Restructure to the Assets and Project Delivery Branch be considered in Closed Council – Item 22.5.**

**This report is referred to Closed Committee in accordance with s10A(2) of the Local Government Act, 1993, under clause 10A(2)(a) as it contains personnel matters concerning particular individuals (other than councillors).**

## 20 NOTICES OF MOTION

### 20.1 Notice of Motion 4/2019 - Alleged Breaches at 144 Mt Broughton Rd, Werai

Reference:	100/4
Report Author:	Administration Officer (Meetings)
Authoriser:	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

Councillor Clr G M Turland has given notice that it is his intention to move the following motion at the Ordinary Meeting of Council on 13 March 2019:

- 1. THAT a report detailing the following alleged breaches on the property at 144 Mount Broughton Rd, Werai of cut and fill and unauthorised earthworks for the shed 4.55 Modification 10/0414.03 without consent be undertaken:**
  - work in a water course Environment Protection E3 zones without consent from all Government departments DPI ,LLS, Water NSW and the LEP;
  - large stone walls around the house and other areas around the property that can be seen from the road;
  - excavation of a rock quarry on site; and
  - altering land levels around the property without consent.
  - has there been any imported fill from outside this property or excavation without consent
  - Installing of a wind turbine if it requires a Development Application
  - Loss of the rural vista affecting the neighbours
- 2. What action or investigation has been undertaken on the letter sent to Council from Mark Nelson dated 19 July 2017 concerning this property.**
- 3. THAT a report be brought back to Council on the above alleged breaches and any other item that may be brought forward during the investigation process.**

#### RECOMMENDATION

Submitted for determination.

**AGENDA FOR THE ORDINARY MEETING OF COUNCIL**

Wednesday 13 March 2019

**NOTICES OF MOTION**



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**COMMENT FROM STAFF**

At the meeting of the 13 February 2019, Council considered a report in relation to Lot 1 DP804846, No 144 Mt Broughton Street, Werai. At this meeting it resolved under (MN 19/19):

*“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.”*

Should Council wish to extend the areas of investigation as outlined, then these matters will be included in addition to the resolution of the 13<sup>th</sup> February 2019 and shall be reported back to Council at the conclusion of the investigations.



## 20.2 Notice of Motion 5/2019 - Audio Recording of Ordinary Council Meetings and Extraordinary Meetings

Reference:	100/4
Report Author:	Administration Officer (Meetings)
Authoriser:	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

Councillors Clr P W Nelson and Clr G J Andrews have given notice that it is their intention to move the following motion at the Ordinary Meeting of Council on 13 March 2019:

1. **THAT Councillors only be permitted to receive a tape recorded copy (disc copy) of Ordinary Council Meetings or Extraordinary Council Meetings when they are absent from either meetings.**
2. **THAT Councillors be permitted to hear any selected item of either the Ordinary or Extraordinary Council meetings in the Council Chambers at a mutually convenient time of the said Councillor and staff member.**

### RECOMMENDATION

**Submitted for determination.**

### **COMMENT FROM STAFF**

The Wingecarribee Shire Code of Conduct specifies that the General Manager must provide Councillors with information sufficient to enable them to carry out their civic office functions. In addition, Council's adopted 'Councillors' Access to Information and Interaction with Staff Policy' states that:

*"Information for Councillors to base decisions on is primarily provided through Council reports and briefing sessions.*

*Councillors are entitled to access Council files, records or other documents where that document is identified as "open access information" under the GIPA Act. In some instances, Councillors may consider that additional information is required to carry out their civic office functions. In such cases, Councillors wishing to access Council information, other than "open access information" are required to lodge a request via Councillor Requests.*

*Councillors who have a private (as distinct from civic) interest in a document of Council have the same rights of access as any member of the public."*

As such Councillors are able to request audio recordings of Council meetings, free of charge, where it relates to the discharge of their civic office functions.



## **22. 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 7 of Council's Code of Meeting Practice.

### **Director General's Guidelines**

The Director General of the Department of Local Government has issued guidelines concerning the use of Section 10 of the Act. A copy of the Director General's guidelines has been sent to all Councillors. 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:**

### 22.1 Tender for Laboratory Sample Analysis for Water and Sewer

#### 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 Laboratory Sample Analysis program for Water and Sewer operations.

### 22.2 Proposed Land Acquisition - Moss Vale

#### 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)(c) as it contains information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business 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 seek Council approval to acquire land for road purposes. The acquisition of land is required for the proposed Moss Vale Bypass Project. The subject land is known as Part Lot 2 DP 873240 (18-19 McCourt Road, Moss Vale) and Part Lot 3 DP 873240 (Suttor Road, Moss Vale) - collectively referred to as 'the Land'.

### 22.3 Proposed Land Acquisition - Bowral

#### 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)(c) as it contains information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business 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 seek Council approval for the General Manager to be delegated the authority to negotiate the proposed acquisition of property in Bowral for the purposes of parking.

**22.4 CDS Refund Sharing Agreement**

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

We are seeking that a resolution be passed endorsing the Refund Sharing Agreement (RSA) for the Container Deposit Scheme (CDS) permitting the Mayor and General Manager to affix the Common Seal of Council to the Agreement enabling the RSA to be registered with the Environmental Protection Authority (EPA), allowing the Agreement to be formally set in place.

**22.5 Question with Notice 9/2019 – Staff Matter**

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)(a) as it contains personnel matters concerning particular individuals (other than councillors) and the Council considers that it would be on balance contrary to the public interest to consider this information in Open Council.

Brief description

**To:** General Manager  
**From:** Clr G Turland  
**Received:** 6 March 2019

Subject: Council Restructure to the Assets and Project Delivery Branch

Question:

1. Can the General Manager provide an update to Council on the restructure of the department.
2. Does Council have to approve any restructure before it is implemented.
3. Can the General Manager advise why the restructure has taken place and when.

**AGENDA FOR THE ORDINARY MEETING OF COUNCIL**

Wednesday 13 March 2019

**CLOSED COUNCIL**



- 
4. Can the General Manager provide to Council an update on the organisation structure including total staff numbers.

**Response:**

2. **THAT** the minutes of the Closed Council part of the meeting (being the Council's resolution) be made public.
- 

Ann Prendergast  
**General Manager**

Friday 8 March 2019