

21 June 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 26 June 2019** commencing at **3.30pm**.

Yours faithfully

Ann Prendergast
General Manager

SCHEDULE

| | |
|--------|------------------------|
| 3.30pm | Council Meeting begins |
| 7.40pm | Closed Council |

RUNNING SHEET

ORDINARY MEETING OF COUNCIL

held in the Council Chambers, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 26 June 2019 at 3.30pm.

| Time | Item |
|--------|---|
| 3.30pm | Opening of meeting – please remind all present that mobile phones must be switched off before the meeting and that the meeting is being livestreamed and tape recorded and the Chamber has 24 hour video surveillance. |
| | Acknowledgement of Country – Cllr I M Scandrett |
| 3.32pm | Opening Prayer – Reverend Gavin Perkins, Anglican Church, Bowral |
| 3.35pm | <ul style="list-style-type: none">• Apologies Nil• Adoption of Previous Minutes- Ordinary Meeting of Council held on 12 June 2019• Declarations of Interest (if any)• Mayoral Minute (if any)• Public Forum (if any)• Visitor Item<ul style="list-style-type: none">• Item 10.1 DA 11/0767 - 131 Lot Part Residential and Part Commercial Subdivision at Lot 1 DP 1232714 (formerly Lot 779 DP 751282, Lot 19 DP 1148687, Lot 117 DP 659149 and Easement within Lot 18 DP 1148687) 61 Old Hume Highway Braemar (formerly part of 520 Old South Road Mittagong)• Item 10.2 Amended Development Application 17/1457 - Subdivision of Land and Carrying out of Works to Create Four Lots, and Carrying out of Works for the Purpose of a Private Road, Lot 12 DP611530, 486 Ellsmore Road, Exeter• Council Reports |
| 5.30pm | Questions with Notice Notices of Motion |
| 7.40pm | Closed Council |
| 8.00pm | Meeting Closed |

Ann Prendergast
General Manager



Business

1. **OPENING OF THE MEETING**
 2. **ACKNOWLEDGEMENT OF COUNTRY**
 3. **PRAYER**
 4. **APOLOGIES**
Nil
 5. **ADOPTION OF MINUTES OF PREVIOUS MEETING**
Ordinary Meeting of Council held on 12 June 2019
 6. **DECLARATIONS OF INTEREST**
 7. **MAYORAL MINUTES**
 8. **PUBLIC FORUM**
 9. **NOT APPLICABLE**
-
10. **VISITOR MATTERS**
 - OPERATIONS, FINANCE AND RISK**
Nil
 - CORPORATE, STRATEGY AND DEVELOPMENT SERVICES**
 - 10.1 DA 11/0767 - 131 Lot Part Residential and Part Commercial Subdivision at Lot 1 DP 1232714 (formerly Lot 779 DP 751282, Lot 19 DP 1148687, Lot 117 DP 659149 and Easement within Lot 18 DP 1148687) 61 Old Hume Highway Braemar (formerly part of 520 Old South Road Mittagong) 2
 - 10.2 Amended Development Application 17/1457 - Subdivision of Land and Carrying out of Works to Create Four Lots, and Carrying out of Works for the Purpose of a Private Road, Lot 12 DP611530, 486 Ellsmore Road, Exeter 64
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| <i>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), under clause 10A(2)(e) as it contains information that would, if disclosed, prejudice the maintenance of law and under clause 10A(2)(g) as it contains advice concerning litigation, or advice as comprises a discussion of this matter, that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege and the Council considers that it would be on balance contrary to the public interest to consider this information in Open Council.</i> | |
| 22.2 Proposed Sale of Council property - Lots 1261, 1262, 1263, 1264 & 1265 in Deposited Plan 1248764, Anembo Street, Moss Vale | |
| <i>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.</i> | |

22.3 Proposed Sale - 10 Frankland Street Mittagong

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.

23. RESUMPTION OF OPEN COUNCIL

Resumption of Open Council

Adoption of Closed Session

24. MEETING CLOSURE

Our Mission, Our Vision, Our Values

OUR MISSION

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

OUR VISION

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

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

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

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

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

OUR VALUES

Integrity, trust and respect

Responsibility and accountability

Communication and teamwork

Service quality

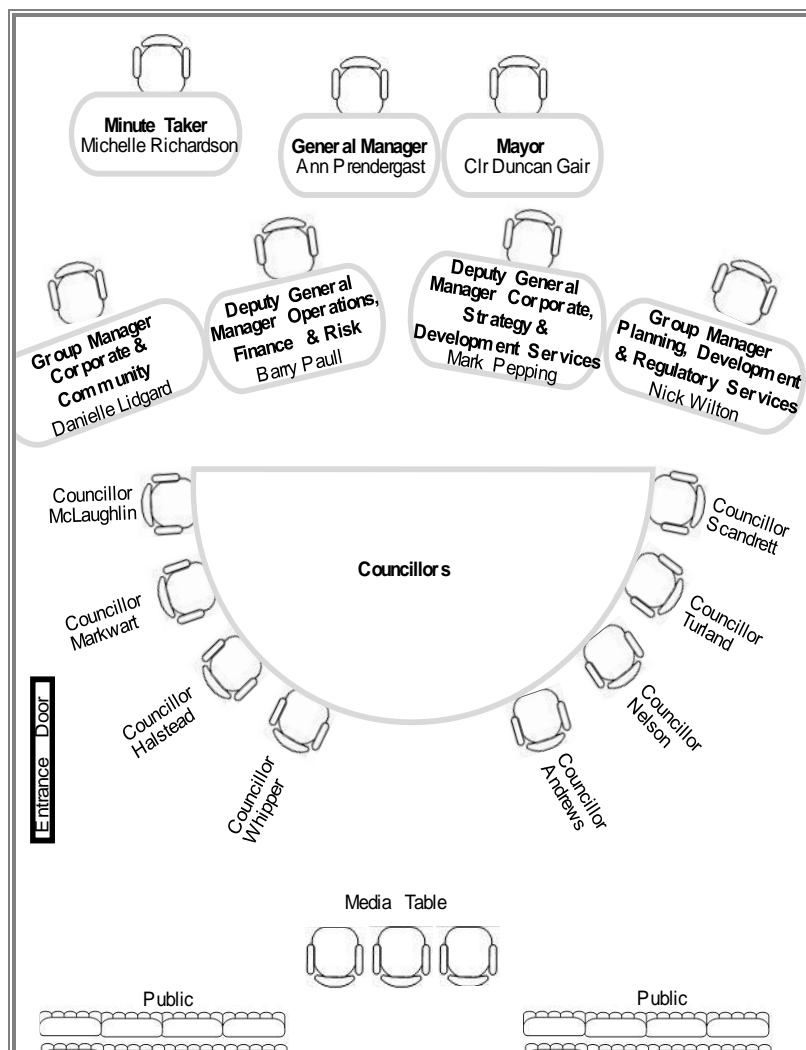
Council Chambers

Recording and Webcasting of Ordinary and Extraordinary Meetings of Council

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

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

The Council Chamber has 24 Hour Video Surveillance.



ACKNOWLEDGEMENT OF COUNTRY

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

APOLOGIES

Nil at time of print.

DECLARATIONS OF INTEREST

101/3, 101/3.1

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

COMMITTEE OF THE WHOLE

10 VISITOR MATTERS

CORPORATE STRATEGY AND DEVELOPMENT SERVICES

10.1 DA 11/0767 - 131 Lot Part Residential and Part Commercial Subdivision at Lot 1 DP 1232714 (formerly Lot 779 DP 751282, Lot 19 DP 1148687, Lot 117 DP 659149 and Easement within Lot 18 DP 1148687) 61 Old Hume Highway Braemar (formerly part of 520 Old South Road Mittagong)

Reference: 11/0767
Report Author: Development Assessment Planner
Authoriser: Group Manager Planning, Development and Regulatory Services

Link to Community Strategic Plan: Identify and protect the unique characteristics of towns and villages to retain a sense of place

PURPOSE

The purpose of this report is to consider Development Application 11/0767 which seeks approval for a subdivision of 129 Residential Lots, 2 Commercial Lots and 6 lots to be dedicated to Council of Lot 1 DP 1232714 (previously Lot 779 DP 751282, Lot 19 DP 1148687, Lot 117 DP 659149 and easement within lot 18 DP 1148687) 61 Old Hume Highway Braemar (formerly part of 520 Old South Road Mittagong). This report is prepared for determination and recommends APPROVAL, subject to a deferred commencement condition that the consent is not to operate until the applicant satisfies the consent authority as to the matters specified in the condition. **(Attachment 1).**

VOTING ON THE MOTION

Councillors are required to record their votes on this matter.

RECOMMENDATION

THAT Development Application 11/0767 for a subdivision consisting of 129 Residential Lots, 2 Commercial Lots and 6 lots to be dedicated to Council of Lot 1 DP 1232714 (formerly Lot 779 DP 751282, Lot 19 DP 1148687, Lot 117 DP 659149 and easement within lot 18 DP 1148687) - 61 Old Hume Highway Braemar (formerly part of 520 Old South Road Mittagong) be APPROVED subject to a deferred commencement condition that the consent is not to operate until the applicant satisfies the consent authority as to the matters specified in the deferred condition and subject to general conditions as described in Draft Conditions of Consent (Attachment 1) to the report.

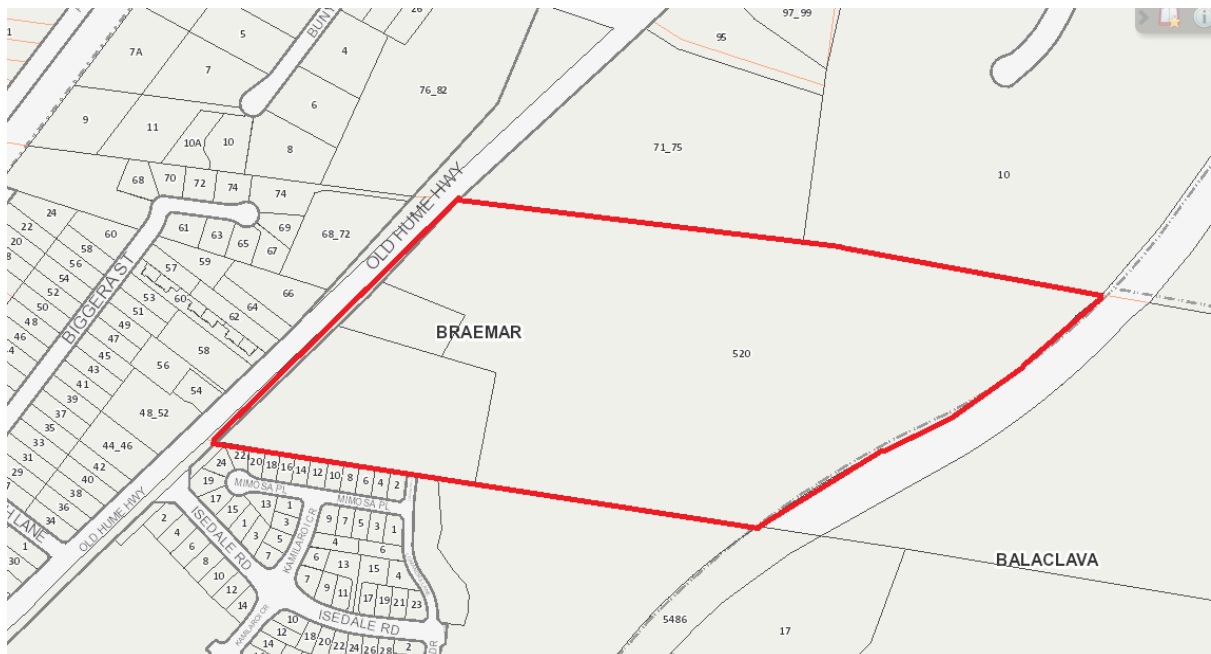
REPORT

Subject Site and Locality

The subject site is most commonly known as Braemar Garden World and is described as Lot 1 DP 1232714 (formerly Lot 779 DP 751282, Lot 19 DP 1148687, Lot 117 DP 659149 and easement within lot 18 DP 1148687) - 61 Old Hume Highway Braemar (formerly part of 520 Old South Road Mittagong).

The site is situated on the eastern side of the Old Hume Highway between the Braemar Avenue intersection and Isedale Road intersection north of Mittagong. The site proposed to be subdivided is the land located on the western side of the Great Southern rail line which was subdivided from the master lot in 2016. There was a local bridge that crossed the rail line but it has since been demolished.

The site is relatively flat with a fall from the south east to north west with a creek traversing the land in a south to north direction on the western side of the lot.



Site Plan (Attachment 2)

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The site adjoins the Nattai Ponds development and both lots were originally master planned together so the interface between the two developments could be integrated as one development.



Garden World Proposed Subdivision (Attachment 3)



Plan of Nattai Ponds and interface with Garden World (Attachment 4)

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- The site is bounded on the eastern boundary by the Great Southern rail line.
- The northern boundary is in part adjacent to land zoned industrial and the eastern portion of this northern boundary adjoins the Tycan Industries plant. The western part of the boundary on the western side is land zoned special uses tourist.
- The southern boundary adjoins a recent residential subdivision known as Nattai Ponds.
- The south western portion of the site is used for retail/commercial purposes and contains a heritage item (Kamiliroi House)
- The western boundary of the site fronts the Old Hume Highway.

These constraints are not considered to cause the site to be unsuitable for the proposed development. Appropriate conditions of consent are recommended to mitigate the potential impacts in relation to noise and vibration. **(Condition 2 Acoustic Report prepared by the Acoustic Group and Condition 46).**

BACKGROUND

On 27 February 2008 Council resolved to prepare a Northern Gateway Strategy which included the subject site. Following completion of the Strategy and implementation of the draft rezoning recommendations, that portion of the site on the western side of the main Southern Railway was subsequently rezoned from RU2 Rural Landscape to R2 Low Density residential under Amendment 2 to WLEP 2010, made on 24 June 2011.

On 28 November 2012 Council resolved to further amend that portion of the subject land to reduce the minimum lot size from 40 hectares to nominated areas of 450m², 2000m² and 1 hectare. Amendment 7 to WLEP 2010 was made on 12 July 2013 with the minimum lot size maps amended as currently shown on the relevant WLEP 2010 Minimum Lot Size Map.

While the second amendment was progressing, Development Application 11/0767 was lodged with Council in August 2011 seeking consent for a 129 residential lot subdivision of the subject land. The land was initially included in a Voluntary Planning Agreement (VPA) between Council, the owners of the subject land and the owners of land known as Nattai Ponds located to the immediate south of the subject land. Subsequently the Nattai Ponds development progressed more quickly than the Braemar Garden World site and as a result the Braemar Garden World site components were removed from the Nattai Ponds VPA into a separate Braemar Garden World VPA. The drafting of a new VPA and subsequent consultations between Council and the proponents resulted in extended delays in the progress of the Development Application, however a draft Braemar Garden World VPA was placed on exhibition in February 2017 and May 2017 resulting in a number of submissions of objection. In order to resolve these matters and finalise the Development Application, the development assessment which is the subject of this report relies on s7.11 (formerly S94) contributions only therefore the VPA will no longer be relevant. If Council supports the recommendations of this report, a subsequent report will come to Council recommending that the draft Garden World VPA not proceed.

Proposed Development

Development Application No. 11/0767 seeks approval to create 129 residential allotments ranging from 451m² to 1,086m² on the eastern side of the Nattai Rivulet. The western side of Nattai Rivulet will be subdivided into two (2) lots to contain Braemar Garden World on one (1) and Kamilaroi Heritage site on the other. There will be six (6) further lots created that will primarily contain Nattai Rivulet and a further lot as a drainage reserve which will be dedicated to Council.

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The approximate proposed area for the allotments are:

- Proposed Residential Allotments = 8.46Ha
- Braemar Garden World Site = 13,005m²
- Kamilaroi Heritage Site = 15,854m²
- Riparian Buffer Zones = 2.81Ha
- Road = 2.0Ha
- Open Space 3,326m²

The residential development will be constructed over 4 stages as detailed below.

- Stage 1: 25 lots
- Stage 2: 35 lots
- Stage 3: 47 lots + 1 drainage reserve
- Stage 4: 22 lots

Proposed Access

During the course of assessment, it was determined that the required access to the proposed development will be through the continuation of Isedale Road through stage 4 of the adjoining Nattai Ponds development to provide access to the Old Hume Highway through the signalised intersection at Isedale Road/Old Hume Highway. The development will also have a left hand turn travelling south on the Old Hume Highway into the widened road adjoining Kamilaroi House. A left turn only will also be permitted out of the development to travel south on the Old Hume Highway. The RMS in their concurrence require the following which have been provided as conditions of consent (**Condition 90**):

- The construction of a half seagull median along Old Hume Highway to physically restrict the right turn out of the existing Braemar Garden World site;
- The developer must upgrade/provide lighting in accordance with Australian Standard AS/NZS1158.

The Nattai Ponds development associated infrastructure to the south was constructed under a Voluntary Planning Agreement. Under the terms of the agreement the owners of the Garden World Development have the right to construct the Isedale Road extension through Stage 4 of the Nattai Ponds Development at their cost.

On this basis it is proposed to approve the development as a deferred commencement requiring the construction of the road and bridge across Nattai Rivulet.

The proposed deferred commencement condition will be:

That legally enforceable arrangements are in place between the owner(s) of Lot 1 DP 1232714 ("the site") and the owner(s) of that part of Isedale Road and Lot 355 DP 1228384 which will form the rear northern and western extension of Isedale Road (including any necessary bridge) ("the adjoining land"), which arrangements must provide for and authorise full and permanent access (including vehicular and pedestrian) over the adjoining land, for all current and future owners of the Site (including future owners of any subdivided parts of the site).

There will be appropriate conditions in the development consent requiring that the part of the Isedale Road referred to in the deferred commencement condition must be constructed to Council's satisfaction and dedicated as a road to the Council prior to the release of the first subdivision certificate for any residential lot in the development in order for the



residents to be able to turn onto the Old Hume Highway to travel north (**Condition 90**).

STATUTORY PROVISIONS

NSW Rural Fires Act 1997

The application was referred to the NSW Rural Fire Service (RFS) who have provided their General Terms of Approval under Division 5 of the Environmental Planning and Assessment Act 1979, and a Bush Fire Safety Authority, under Section 100B of the Rural Fires Act 1997 dated 28 September 2011. (**Condition 93**.)

Natural Resources Access Regulator (formerly DPI Water)

The application was referred to Natural Resources Access Regulator (formerly DPI Water) who have issued their concurrence dated 15 January 2019. (**Condition 92**).

Office of Environment and Heritage.

The application was referred to the Office of Environment and Heritage who have issued their concurrence dated 15 September 2015 and 21 November 2018. (**Condition 91**).

Roads and Maritime.

The application was referred to Roads and Maritime Services who have issued their concurrence dated 30 July 2015. (**Condition 90**).

Australian Rail track Corporation

The application was referred to Australian Rail Track Corporation who have issued their concurrence dated 22 September 2011. (**Condition 94**).

State Environmental Planning Policies

State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011

The development is located on land to which SEPP (Sydney Drinking Water Catchment) applies and is Module 5 development. The application was referred to Water NSW for its concurrence. Water NSW has issued its concurrence by letter dated 09 November 2018. Water NSW advised that they do not object to the application subject to attached conditions which replace their previous concurrence. The conditions have been provided in the consent. (**Condition 95**).

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. The application was submitted with a Stage 1 Contamination Report prepared by Network Geotechnics Pty Ltd, dated December 2010 ref. S09/215-A. The report concluded, from a historical data review and site inspection, that the site is not contaminated and is suitable for the proposed residential subdivision and that the following soil and water testing be undertaken during construction:

- Test sediments and water in the detention pond to assess disposal methods. This is because water in the pond is likely to be used for dust suppression during construction of the subdivision
- Undertake soil sampling and testing where greenhouse is located and where machinery/scrap metal were found (west of the detention pond)

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- Any fill that is found during stripping/excavation is to be tested to assess contamination.

With the imposition of the above as conditions during construction of the subdivision, Council is satisfied that the land is not a site of possible contamination and therefore no further assessment of contamination is required.

State Environmental Planning Policy (Infrastructure) 2007.

The application was referred to Roads & Maritime Services (RMS) under the provisions of the SEPP given the proposed traffic generation. RMS advised that it did not object to the proposal in principle and that arrangements for traffic and pedestrians in and around the classified road network should be considered by Council's traffic Committee. RMS also outlined further requirements for approval associated with traffic management.

As the site is adjacent to the Main Southern Railway and the Old Hume Highway, consideration of the Infrastructure SEPP is required.

Pursuant to clause 85, the application was referred to the Australian Rail Track Corporation (ARTC) for their consideration. Their comments are provided below:

ARTC requests that, due to the nearby rail corridor, Council consider noise and vibration, stormwater, the existing overbridge across the rail corridor and fencing in its assessment of the application as follows

Noise and Vibration

Clause 87 of the SEPP Infrastructure states:

(1) This clause applies to development for any of the following purposes that is on land in or adjacent to a rail corridor and that the consent authority considers is likely to be adversely affected by rail noise or vibration:

- (a) a building for residential use,*
- (b) a place of public worship,*
- (c) a hospital,*
- (d) an educational establishment or child care centre.*

(2) Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Secretary for the purposes of this clause and published in the Gazette.

It should be noted that the Interim Guideline requires the provision of an acoustic report for any residential use likely to be adversely affected by rail noise or vibration.

In accordance with the Interim Guideline the acoustic report must be prepared by an experience, professional acoustic engineering consultant who should either be a member of, or have the qualifications to become a member of the Australian Acoustic Society (AAS) or the Association of Australian Acoustical Consultants (AAAC).

ARTC requires that Council consider the impact of rail noise and vibration and request that the applicant provide an appropriate report. The applicant should be referred to the Development near Rail Corridors and Busy Roads – Interim Guideline in its preparation of the acoustic report. The acoustic report should also consider the need for a noise wall/fence or other noise mitigation measures, and should consider noise from both freight and passenger trains.

ARTC requests that this additional information be provided to ARTC for further comment. ARTC is concerned about the impact of noise vibration given the distance of



lots from the railway and the size of the lots which will reduce the ability to site dwellings further from the rail corridor.

Stormwater

ARTC wants to ensure that stormwater from the development, does not affect the rail corridor and requests that Council impose as a condition of consent that the developer will ensure that stormwater does not affect the rail corridor, such as:

*Prior to a construction certificate being issued, the applicant must submit details of stormwater disposal to Council for approval. The flow of stormwater toward the rail corridor must not be increased by the proposed development. All approved details for the disposal of stormwater and drainage are to be implemented in the development. **(Condition 14).***

Fencing

The security of fencing along the rail corridor is essential to prevent unauthorised entry. ARTC requests that Council impose a condition of consent requiring that the boundary of the site within the rail corridor be fenced in a 1.8m fence.

*Following on from the acoustic report there will be a lapped and capped timber fence with a minimum height of 2m constructed along this boundary which will provide the required security. **(Acoustic report prepared by Wilkinson Murray Condition 2)***

Excavation

The proposed subdivision does not appear to involve any excavation near the corridor. It should be noted that excavation exceeding 2 metres within 25 metres of the rail corridor should be notified to the rail authority.

In response to ARTC's letter, the following comments are made:

- An Acoustic Report prepared by The Acoustic Group dated 9 January 2011 was submitted in support of the application. The Report was prepared in accordance with the *Interim Guidelines* by Stephen Cooper of The Acoustic Group, who is a qualified acoustical engineer and member of the AAS. The Report considered noise from both freight and passenger trains and recommended a hebel or mound wall minimum of 2m in height for noise mitigation in addition to other noise mitigation measures in accordance with Appendix C of the *Interim Guidelines*.
- A further acoustic report has been submitted prepared by Wilkinson Murray dated 03 April 2019. The report was prepared to address the recommendations of The Acoustic Group report that recommended the following noise mitigation measures:
 1. A landscaped buffer/earth mound be located along the northern boundary to provide acoustic shielding from the existing Tyree Industries factory, and an effective height not less than 2.5m.
 2. A noise barrier (Hebel or earth mounding) should be located along the upper section of the eastern boundary with an effective height not less than 2m.
 3. Architectural noise mitigation to be applied to dwellings located within the contour depicted in Appendix H of that report.

Wilkinson Murray's inspection was carried out in conjunction with Chris and Charlotte Webb who prepared the Heritage Impact Statement and Conservation Management Plan for the site. It was agreed that the mounding recommended along the northern boundary was not practical given the spatial constraints. It was agreed that a lapped and capped timber fence of equivalent height (not less than 2.5m) was the most practical solution in this instance. This would provide equivalent acoustic attenuation and blend in well with the proposed planting/landscaping/visual screening along the

northern boundary. This fence is to extend behind all proposed dwellings located along the northern boundary as shown in red in Figure 2.

In a similar case, it was agreed that the Hebel wall/earth mounding recommended along the eastern boundary was not practical given the spatial constraints and access requirements of the railway. It was agreed that a lapped and capped timber fence of equivalent height (not less than 2m) was the most practical solution. This would provide equivalent acoustic attenuation and blend in to planting on the proposed roadside verge. This fence is to extend along the eastern boundary as shown in red in Figure 2. Note the fence is not required if it does not break line of sight to the rails from adjacent dwellings in the south eastern corner of the development. A fence is required for security to the rail line therefore the fence will be required to be contiguous along the whole boundary for aesthetics. **(Acoustic report/s prepared by the Acoustic Group and Wilkinson Murray Condition/s 2 & 59).**

Figure 2 Proposed Boundary Fence (Acoustic)



- Stormwater has been considered by Council’s Development Engineer who has considered the Stormwater Strategy prepared by Storm Consulting dated 17 August 2011. The surface area of the proposed bio retention system is 1000sqm. The stormwater design would result in the north eastern corner detaining water and releasing water as per pre developed flows. Notwithstanding, recommended conditions similar to that of the suggested ARTC condition shall be imposed on any approval. **(Condition 14).**
- Whilst ARTC have recommended 1.8m fencing, the Acoustic Report recommends a minimum 2m high timber fence and their request shall therefore be satisfied. **(Condition/s 59 & 95).**
- Excavations greater than 2m may be undertaken for infrastructure, services and roads required as part of the subdivision. Recommended conditions would ensure the developer contacts ARTC before undertaking such works. **(Condition 95).**

Clauses 87 and 102 of the Infrastructure SEPP applies to residential development that is on land adjacent to a rail corridor and road corridor (respectively) where the consent authority considers it likely to be effected by rail noise or vibration. Clauses 87(2) and 102(2) require the consent authority to consider any guidelines that are issued for the purposes of the

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clause. The NSW Department of Planning's *Development near Rail Corridors and Busy Roads – Interim Guideline* (the 'Interim Guidelines') have been issued and are addressed below.

An Acoustic Report prepared by The Acoustic Group dated 9 January 2011 was submitted with the application for consideration of the Infrastructure SEPP. The report undertook noise and vibration traffic testing for road and rail traffic noise as the site is bound by the Main Southern Railway on the eastern boundary and the Old Hume Highway on the western boundary.

The Report used the NSW Department of Planning's *Development near Rail Corridors and Busy Roads – Interim Guideline* (the 'Interim Guidelines'). Planning contours (Zone A and Zone B) have been identified in Appendix H to the Report to differentiate the noise control categories that would apply to the site:

- To the west of Zone A Contour, residential buildings can be naturally ventilated and standard forms of building construction may be used.
- All residential dwellings east of the Zone A Contour shall require mechanical ventilation as it is necessary to close the windows to habitable rooms to achieve the internal noise level requirements
- For residential buildings between the dashed Zone A Contour and the Zone B Contour, Category 1 construction is required for rooms facing away from the railway line and Category 2 for rooms facing towards the railway line
- For residential buildings east of Zone B Contour, Category 3 construction is required for rooms facing away from the railway line and Category 4 construction for rooms facing towards the railway line

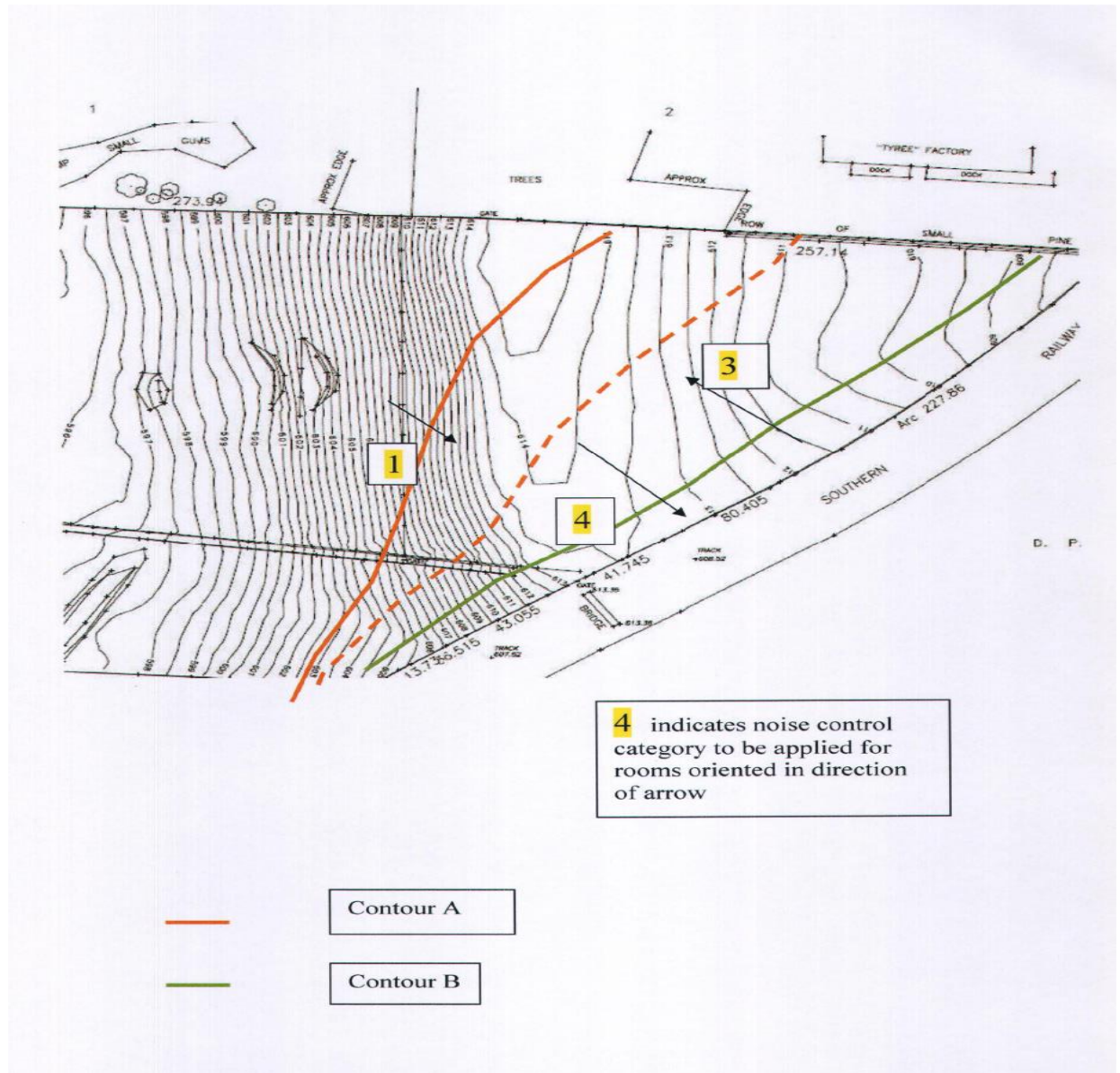


Figure 3 Contour Zones A and B.

The Report based its assessment on the construction of single storey dwellings (as per the Interim Guidelines) within the zone contours. Recommended conditions would impose a single storey construction limit on dwellings within both Zone A and Zone B.

Recommended conditions would ensure compliance with the Interim Guideline with reference to the noise contours and applicable construction category. **(Acoustic report prepared by the Acoustic Group Condition 2).**

The Report recommended an Acoustic Barrier be erected, minimum 2m high along the eastern boundary, whether it is a Hebel wall or a landscaped mound. Recommended conditions would require this detail to be provided to Council prior to the issue of a Construction Certificate. The addendum report prepared by Wilkinson Murray dated 03 April 2019 has varied this to a timber lapped and capped fence of not less than 2.5m in height

The report also identified that there would be a land use conflict with the adjacent industrial land directly to the north which gains access off Tyree Place. The report recommended

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landscape mounding (with planting) to be provided adjacent to the northern boundary of the site and to continue to the western end of the upper flat section of the site. The addendum report prepared by Wilkinson Murray dated 03 April 2019 has varied this to a timber lapped and capped fence of not less than 2.5m in height

In terms of assessing vibration, the Report concluded that whilst any dwelling within 25m of a railway line required further investigation, a regression analysis of the vibration level based upon hard rock propagation revealed a required setback of 22 metres from the rail line for the preferred night time vibration limit. Recommended conditions would facilitate a restriction on the title of lots within 22m of the rail line. **(Condition 65).**

Clauses 87(3) and 102(3) advises that the consent authority must not grant consent to the development unless it is satisfied that appropriate measures are taken to ensure the following LAeq levels are not exceeded:

- (a) *In any bedroom in the building 35dB(A) at any time between 10.00pm and 7.00am*
- (b) *Anywhere else in the building (other than a garage, kitchen, bathroom or hallway) – 40dB(A) at any time*

By way of imposing mitigation methods as recommended in the Acoustic Report/s and as nominated in this planning report, Council is satisfied that the above thresholds can be met with any future development on the lots.

State Environmental Planning Policy No 44 – Koala Habitat.

As Wingecarribee LGA is listed in Schedule 1 of SEPP 44, it shall be considered in the assessment of the application. The Flora and Fauna Report prepared by Total Earth Care, dated December 2010 addressed SEPP 44 as follows:

'Potential koala habitat' is defined by SEPP 44 as 'areas of native vegetation where the trees of type listed in Schedule 2 constitute at least 15% of the total number of trees in the upper or lower strata of the tree component'. No tree species listed under Schedule 2 of SEPP 44 were recorded within the site and as such the site contains no known areas of 'potential koala habitat', as defined under SEPP 44.

'Core koala habitat' is defined under SEPP 44 as areas of land that contain 'a resident population of koalas, evidenced by attributes such as breeding females and recent sightings of and historical records of a population'. There is no evidence (Such as sightings, calls, scats and fur) that the subject site supports a resident population of Koalas and there is no evidence in general of koala activity within the site. As such, the site does not constitute 'core koala habitat' within the meaning of the SEPP.

Consequently, the Flora and Fauna Report concluded that SEPP 44 does not apply to the site and as such a Koala Plan of Management is not required to be prepared in this instance.

Local Environmental Plans

Wingecarribee Local Environmental plan 2010

The *Wingecarribee Local Environmental Plan 2010* applies in this instance.

Zoning

The site is zoned R2 Low Density Residential and E3 Environmental Management.

The R2 objectives are:

- *To provide for the housing needs of the community within a low density residential environment.*

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- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The development associated with the R2 land would significantly contribute to the low density residential needs of the locality as it is for 129 residential lots of varying configurations and sizes.

Subdivision – consent requirements

Clause 2.6 notes that land may be subdivided but only with development consent. By lodging this application the applicant has complied with this clause.

Demolition requires development consent.

The applicant has requested demolition of all structures for preparation of the proposed subdivision works. Demolition of the Kamilaroi House and any identified ancillary structures/vegetation of significance associated with its curtilage (in accordance with the Statement of Heritage Impact prepared by Chris & Charlotte Webb Pty Ltd, dated January 2011) as well as the dairy and barn building on the southern boundary of the site is not proposed. Any demolition approval would require a demolition plan to be submitted for approval prior to the issue of a construction certificate. **(Condition 25).**

Minimum subdivision lot sizes

The Lot Size Map notes the site to have a variety of lot sizes, being 450sqm for the land to the east of the riparian corridor. All residential lots have a minimum lot area of 450sqm. Land housing Kamilaroi House and Braemar Garden World are to be on lots with a lot size greater than 1ha.

Preservation of trees and vegetation

A Flora and Fauna Report was submitted with the application and this has been addressed previously.

Vegetation associated with Kamilaroi House would not be approved for removal as it forms the curtilage around the heritage listed building. Vegetation within the riparian corridor and within the buffer zone associated with the riparian corridor shall be protected during construction and managed during the operation of the subdivision by way of a Vegetation Management Plan. There are some established trees along the northern boundary of the site and root zones of vegetation buffering the industrial zone to the north. For the purposes of softening new roof development in the area, recommended conditions would require root and tree retention along this northern area. The Statement of Heritage Impact (SOHI) prepared by Chris & Charlotte Webb Pty Ltd, dated January 2011 identifies a number of significant trees which shall also be conditioned as retained (Appendix 2 to the SOHI).

Development on existing lots in zones R2, R3 & R5

The site is zoned R2 and all lots in the subdivision are greater than 450sqm therefore this clause applies to the assessment of the application. The land would have vehicular access from Old Hume Highway, either directly or from Isedale Road. Public utility services such as water, sewer, electricity, gas/telecommunications and storm water would be required to be connected to all lots prior to the issue of a subdivision certificate.

This clause also requires the consideration of the following characteristics of the land:

- Physical – the site is a large open field with little vegetation or encumbrances. The site slopes towards the west where a riparian corridor quite definitively separates Kamilaroi House and Braemar Garden World from the residential component of the site.



- Geotechnical – Council’s Development Engineer is satisfied the site does not have any adverse geotechnical constraints and has recommended a condition regarding the registration of a Site Classification Report to the 88B instrument associated with the subdivision. **(Condition 89)**.
- Drainage – The site would drain directly to the watercourse at the lowest point of the site, being Nattai Rivulet (also known as Sheepwash Creek).
- Flooding – A flood study was prepared by Landcom in 2006 and was for the Renwick Development. Floodwaters from upstream are conveyed through the site. The flood study shows that there would be no impact on the proposed subdivision up to the 1;100yr storm event. Council’s Development Engineer is satisfied that the onsite detention calculations would mitigate potential flooding from the subdivision.
- Bushfire risk – The site is identified as being bushfire prone, and consequently RFS General Terms of Approval have been issued. The GTAs require an Inner Protection Area for the entire property in perpetuity and provision of water, utilities and access in accordance with PBP 2006 as well as upgrades to the existing dwelling on Lot 1. **(Condition 93)**.

Earthworks

The development would result in earthworks to the site that would be for access construction as well as utility connections. These works would not result in an alteration to the ground level of more than 800mm. As a consequence of the earthworks, it is unlikely that existing drainage patterns would be adversely affected. Consequently, the augmentation of the site would be of a suitable quality for residential development. It is unlikely that the earthworks would disturb aboriginal objects/relics. **(Condition/s 56 and 91)**.

Any other matter.

The site has an identified item of environmental heritage located on the land and this has been addressed within the assessment and conditions of consent. **(Heritage Assessment & Conservation Plan and amended Statement of Heritage Impact prepared by Chris & Charlotte Webb Condition 2)**.

Development Control Plans.

Northern Villages Development Control Plan

A2.2.3 – Heritage Conservation.

A2.2.4 – Residential Amenity

A2.2.5 – Residential Diversity

A2.2.6 – Visual Amenity

A2.2.7 - Public Views and Vistas.

A2.2.8 – Environmental Sustainability.

A2.2.9 – The Public Domain

A3.4 – Protection of Watercourses and Riparian Lands.

A5.1 – Potential Bushfire Hazard.

A7.1 – Subdivision of Land

A7.1.1 – Minimum Lot Sizes.

A7.1.4 – Landscape Embellishment.



A7.1.5 – Street Trees.

A7.1.6 – Lighting

A7.2 – Demolition.

A7.3 – Site Analysis.

Section 12 – Development Near Rail Corridors & Busy Roads.

Section 13 – Telecommunications and Radiocommunications Infrastructure.

C1.4 – Height of Buildings.

Section 4.15 Evaluation.

(1) Matters for consideration—general

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

(a) the provisions of:

(i) any environmental planning instrument, and

It has been demonstrated the DA 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

The development 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 likely impacts of the development have been addressed earlier in the report and predominantly pertain to traffic and rail noise.

COMMUNICATION AND CONSULTATION

External Referrals

Water NSW, Rural Fire Service, Australian rail Track Corporation, Natural Resources Access Regulator (Formerly NSW Office of Water), Office of Environment and Heritage and Roads and Maritime Services.

As noted in the report above the Application has been referred to Water NSW, Rural Fire Service, Australian Rail Track Corporation, Natural Resources Access Regulator (formerly NSW Office of Water), Office of Environment and Heritage and Roads and Maritime Services. The correspondence has been submitted as a part of this application and included as conditions of consent.

Internal Referrals

Development Engineer

Development Engineers' Referral Response –02 January 2019

The application is considered to be satisfactory in relation to Development Engineering matters subject to conditions being imposed on the notice of determination. **Conditions 6 – 8, 10, 12, 13 – 15, 18 – 21, 23 – 24, 26 – 29, 31 – 32, 32, 34 – 47, 49 – 55, 62 – 77, 79, 85 – 89.**

Tree & Vegetation Officer

Tree & Vegetation Officers' Referral Response –17 May 2019.

The application is considered to be satisfactory in relation to Tree & Vegetation matters subject to conditions being imposed on the notice of determination. **Conditions 16 – 17, 33, 48, 60, 78.**

Heritage Officer

Heritage Officers' Referral Response –30 November 2018

The application is considered to be satisfactory in relation to Heritage matters.

Water/Sewer Development Engineer.

Water/Sewer Development Engineers' Referral Response –23 May 2019

The application is considered to be satisfactory in relation to Water/Sewer matters subject to conditions being imposed on the notice of determination. **Conditions 11, 30, 82 – 84.**

Neighbour Notification (or advertising)/Public Participation

The Application was Neighbour notified for the period from 14 September 2011 to 14 October 2011 and during this time Council received four (4) submissions.

The submissions of objection are summarised as follows:

- *Lot Sizes – Council have been asked to consider whether the significant area at Braemar, proposed for residential sub-division, can include lots as small as 450m². If such closely spaced residences are envisaged, I would assume that most of them would have two storeys, because of the limited area available. If we are to cater for ever-increasing residences, according to the requirements of the State Government regional developments we must consolidate residential areas, as in the United Kingdom, or lose the green belts between towns and villages.*



Comment – The lot sizes vary from 450m² up to 1,086m². This mix will provide a mix of dwelling development that will vary from single to two storey. Due to the rail corridor there is a requirement for the dwellings adjacent to the rail corridor to be single storey as detailed in the acoustic report.

- *Increased traffic – The proposed entry into the subdivision from Beresford Street will cause the following problems:*
 - (a) *Increased car traffic along Beresford Street.*

Comment – Majority of access to the proposed development will be by way of Isedale Road which is a signalled intersection coming through Nattai Ponds or by left hand turn travelling south on the Old Hume Highway into the development adjacent to Kamilaroi House. Access from Beresford Street to Kamilaroi Crescent is at the southern end of the Nattai Ponds development and does not directly access this development.

- *Social and Environmental Impacts. – A development of such a large number of dwellings in such a small area will also have social and environmental impacts that have been evidenced in the past with such a volume of development.*

Comment – All the environmental impacts have been addressed by consultants reports. Social impacts are difficult to quantify and are addressed as the need arises.

- *Flooding – Insufficient account appears to have been taken for the volume of water flowing along the natural watercourses along the southern end of the development site and through our property into the proposed site.*

Comment – Council flood engineers are satisfied with the proposed designs of stormwater and disposal for the proposed development.

- *Insufficient account appears to have been taken with respect to the wild life in this area.*

Comment – The Flora and Fauna Report submitted with the application concludes that there are no issues or impacts on wild life with the development.

SUSTAINABILITY ASSESSMENT

- **Environment**

No adverse impact to the environment is envisaged due to the proposed works required under conditions of the development consent

The main environmental impacts associated with this proposal are flooding and traffic. Flooding and traffic is considered to be manageable via implementation of the numerous recommended conditions addressing those issues.

- **Social**

The proposed subdivision provides an opportunity to create an additional 129 residential allotments to meet market demands. The proposed allotments would be consistent with the



existing residential allotments on the adjoining lands and would not affect the amenity enjoyed by existing neighbouring properties.

- **Broader Economic Implications**

The creation of additional allotments would stimulate the local economy with work being required to prepare the site for the subdivision, the development and construction process and for tradesman thereafter.

- **Culture**

The proposed subdivision land contains an item of heritage that is to be retained.

- **Governance**

The development application has been considered in accordance with the *Wingecarribee Local Environmental Plan 2010*, section 79C of the *Environmental Planning and Assessment Act 1979* and any other matters relevant to the development.

RELATIONSHIP TO CORPORATE PLANS

Operational Plan 2018 – 2019: OP181 Assess and certify applications related to development.

COUNCIL BUDGET IMPLICATIONS

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

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

RELATED COUNCIL POLICY

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

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Environmental Planning Policy (Infrastructure) 2007, State Environmental Planning Policy No 44 – Koala Habitat and the Northern Villages Development Control Plan.

OPTIONS

The options available to Council are:

Option 1

Approve the Development Application subject to Conditions of Consent as set out in **Attachment 1**.

Option 2

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

Option 1 is the recommended option to this report.

CONCLUSION

All relevant matters have been addressed. It is considered this report adequately considers the merits of the development in terms of legislative compliance and its potential impact on the locality. The development application has been assessed in accordance with the matters for consideration under section 4.55 of the *Environmental Planning & Assessment Act 1979*, and all relevant environmental planning instruments and Council policies.

Issues raised in submissions have been examined, considered and commented upon.

On balance, it is recommended the application be determined by way of approval as deferred commencement, subject to the conditions nominated in **Attachment 1**.

ATTACHMENTS

1. Draft Conditions of Consent - Deferred Commencement (Attachment 1)
2. Site Plan (Attachment 2)
3. Proposed Subdivision Plan (Attachment 3)
4. Plan of Nattai Ponds and interface with Garden World (Attachment 4)

10.1 DA 11/0767 - 131 Lot Part Residential and Part Commercial Subdivision at Lot 1 DP 1232714 (formerly Lot 779 DP 751282, Lot 19 DP 1148687, Lot 117 DP 659149 and Easement within Lot 18 DP 1148687) 61 Old Hume Highway Braemar (formerly part of 520 Old South Road Mittagong)
 ATTACHMENT 1 Draft Conditions of Consent - Deferred Commencement (Attachement 1)



26 June 2019

DEVELOPMENT IMPLEMENTATION PTY LTD
 C/- PO Box 3368
 DURAL NSW 2158

**DRAFT NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION
 (DEFERRED COMMENCEMENT CONSENT)**

Pursuant to section 4.16(3) of the *Environmental Planning and Assessment Act 1979*

| | |
|---------------------------------|---|
| APPLICATION NO: | 11/0767 |
| APPLICANT: | DEVELOPMENT IMPLEMENTATION PTY LTD |
| OWNER: | DEVELOPMENT IMPLEMENTATION PTY LTD |
| PROPERTY DESCRIPTION: | Lot 1 DP 1232714 |
| PROPERTY ADDRESS: | 61 OLD HUME HIGHWAY MITTAGONG NSW 2575 |
| PROPOSED DEVELOPMENT: | Residential Subdivision – 131 Lots |
| DETERMINATION: | Determined by granting of DEFERRED COMMENCEMENT CONSENT |
| CONSENT TO OPERATE FROM: | To be advised when operational Consent is issued |
| CONSENT TO LAPSE ON: | To be advised when operational Consent is issued |

Note: The consent shall operate from the date in which Council acknowledges compliance with the conditions within Schedule 1 of this Deferred Commencement of Consent.

Rights of Appeal

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

Review of Determination

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

Nicholas Wilton
 Group Manager
 Planning Development and Regulatory
 Services
 SCHEDULE 1

26 June 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

www.wsc.nsw.gov.au

Working with you

**10.1 DA 11/0767 - 131 Lot Part Residential and Part Commercial Subdivision at Lot 1 DP 1232714 (formerly Lot 779 DP 751282, Lot 19 DP 1148687, Lot 117 DP 659149 and Easement within Lot 18 DP 1148687) 61 Old Hume Highway Braemar (formerly part of 520 Old South Road Mittagong)
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11/0767, Lot 1 DP 1232714

CONDITIONS OF DEVELOPMENT CONSENT THAT MUST BE SATISFIED BEFORE THE CONSENT CAN OPERATE

1. That legally enforceable arrangements are in place between the owner(s) of Lot 1 DP 1232714 ("the Site") and the owner(s) of that part of Isedale Road and Lot 355 DP 1228384 which will form the rear northern and western extension of Isedale Road (including any necessary bridge) ("the adjoining land"), which arrangements must provide for and authorise full and permanent access (including vehicular and pedestrian) over the adjoining land, for all current and future owners of the Site (including future owners of any subdivided parts of the Site)
2. The submission of a fully documented landscape plan prepared by a qualified landscape architect or landscape designer, details of whom are to be provided, in a minimum scale of 1:100 shall be submitted to Council for approval. Further to industry standard landscape plan inclusions, the landscape plan shall additionally provide for:
 - (a) The provision of street trees in accordance with Council's adopted Street Tree Master plan – March 2016;
 - (b) Street tree planting details in accordance with Council's adopted Street Tree Implementation Plan – May 2016. Note that different planting details apply depending on verge width, the presence of footpaths etc and these need to be specified clearly to each street;
 - (c) The provision of screen planting between the kerb and the 2.00m high timber fencing along the south eastern boundary with the Great Southern Railway.
 - (d) The provision of screen planting between the proposed C1 Treatment area GPT and Bio retention area and the northern boundary that will screen the proposed development from the Old Hume Highway.
3. The submission of a detailed Vegetation Management Plan describing how the restoration/rehabilitation program for the Core Riparian Zone will be implemented. The plan will clearly address the criteria listed in the "Guidelines for Vegetation Management plans" prepared by the NSW office of Water.
4. The developer shall complete a sewer modeling report to the satisfaction of Council's Asset Engineer. Any upstream development potential must be included to ensure a comprehensive assessment is completed. The outputs of the modeling will determine if and where upgrades of the sewer network are required. All recommendations made in the report shall be undertaken at the developers cost and handed over to Council prior to subdivision certificate.

Evidence of compliance with the above conditions, sufficient to satisfy the Council as to those matters, must be provided within three (3) years of the date of this notice.

If satisfactory evidence is produced in accordance with this requirement, the Council shall give notice to the applicant of the date from which this consent operates.

If Council has not notified the applicant within a period of 28 days after the applicant's evidence is produced to it, the Council is, for the purposes only of section 8.7 of the *Environmental Planning and Assessment Act 1979*, taken to have notified the applicant that Council is not satisfied as to those matters on the date on which that 28 day period expires.

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 ATTACHMENT 1 Draft Conditions of Consent - Deferred Commencement (Attachement 1)



11/0767, Lot 1 DP 1232714

SCHEDULE 2

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 subdivision to create 129 residential lots, 2 commercial lots and 6 lots containing Nattai Rivulet and drainage reserves to be dedicated to Council.

Reason: To confirm the use of the approved development.

2. Development in Accordance with Plans and Documents

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

| Plan Title / Supporting Document | Reference / Version | Prepared By | Dated |
|---|---------------------|----------------------------------|------------------|
| Staging Plan | 1211STGP | Civil Development Solutions | 03.05.2013 |
| Land Dedication Plan | Not Referenced | Not Referenced | Not Referenced |
| Statement of Environmental Effects | Not Referenced | Smyth Planning | August 2011 |
| Heritage Assessment and Conservation Plan | Not Referenced | Chris & Charlotte Webb | January 2011 |
| Amended Statement of Heritage Impact | Not Referenced | Chris & Charlotte Webb | April 2019 |
| Acoustic Report | 41.4893.R1:ZSC | The Acoustic Group | 09 January 2011 |
| Addendum Acoustic Report | JR030419 | Wilkinson Murray | 03 April 2019 |
| Flood Study | Project No 1181 | Storm Consulting | 23 December 2010 |
| Riparian Corridor Management Strategy | Not Referenced | DA Goldrick | February 2011 |
| Aboriginal Cultural Heritage Assessment | Not Referenced | Kayandel Archaeological Services | May 2011 |
| Bushfire Report | Not Referenced | Total Earth Care | December 2010 |

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

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11/0767, Lot 1 DP 1232714

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. Staging of Development

The development may be carried out in stages generally in accordance with the approved staging plan 1211 ST GP REVB dated 330/07 2013.

- (a) If the development is carried out in stages, unless a condition otherwise specifically indicates these conditions are to be read as though they apply separately to each stage as each stage is constructed.

For example, and without limiting or restricting the meaning of this condition, any condition that refers to:

- i. The development – is to be read as a reference to the relevant stage or part of that stage of the development;
- ii. Any requirement to submit or produce anything or any document, or any requirement that a certifying authority is to be satisfied about prior to the issue of any Construction certificate or Subdivision Certificate – is to be read as a requirement to submit or produce anything or document prior to the Construction Certificate or Subdivision Certificate for the relevant stage or part of that stage, or
- iii. Any requirement for Council, a certifying authority or any other authority to be satisfied about the issuing of any approval, consent authority Construction Certificate or Subdivision Certificate, is to be read so as to apply to the particular matter for that stage or part of that stage.

5. Erection of Signs

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

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

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

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

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11/0767, Lot 1 DP 1232714

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

6. 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.*

7. Appointment of Principal Certifying Authority

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

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

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

8. Section 68 Local Government Act 1993 Approvals

Prior to the issue of a Construction Certificate, an application under section 68 of the *Local*

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Government Act 1993 shall be made to, and issued by, Wingecarribee Shire Council, for the following approvals:

- Sewer
- Water
- Stormwater

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

9. Dilapidation Report

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

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

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

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

10. 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) Bridge/culvert footings, abutments, wing walls, beam and deck slab.
- (b) Retaining walls.

The structural engineer, in producing a design is to make a clear statement that "any structure designed and erected in accordance with the plans and specification will achieve the performance requirements described in relevant Australian Standards and any other relevant codes and standards."

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.*

11. Building within Vicinity of Sewer Main

Where a structure is constructed within the zone of influence of the sewer main, the weight of

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the structure shall be distributed away from the sewer main by pier and beam construction. The piers shall be designed by a suitably qualified chartered Engineer and shall be embedded on firm foundation at least 300mm below the zone of influence with a minimum horizontal clearance from the pipe of 1m.

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

Reason: *To protect public infrastructure.*

12. Construction Traffic 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.
- (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.*

13. 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.*

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14. Stormwater - Control of Peak Discharge

Adequate and suitable infrastructure shall be provided to ensure the peak discharge from the site is no greater than the pre-developed peak discharge. This infrastructure shall be designed in accordance with Council's Engineering Policies. 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.

The flow of stormwater toward the rail corridor must not be increased by the proposed development.

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

15. Detailed Stormwater Drainage System Design

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

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

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

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

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

Reason: *To ensure adequate storm water management.*

16. Tree Retention - Road Design and Construction

The proposed road design and construction shall preserve and retain existing vegetation within the road reserve. Any trees proposed to be removed within the road reserve must be approved by Council and are to be clearly identified by survey and shown on submitted Construction Certificate plans.

All trees shown on approved engineering plans as being retained are to be appropriately marked and protected during construction works.

Reason: *To ensure preservation of as many existing trees as possible.*

17. Protection of Existing Trees and Native Vegetation.

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

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endangered populations or ecological communities must also be marked on all plans.

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

18. Telecommunications Provider/Gas Provider

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

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

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

19. Energy Service Provider Requirements

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

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

20. Electricity Substation

Any required electricity substation shall be located within the boundaries of the site and covered by an appropriate section 88B instrument or easement under the *Conveyancing Act 1919*.

Documentary evidence of compliance, including correspondence from the energy authority is to be provided to the Accredited Certifier prior to the issue of a Construction Certificate detailing the energy authority's requirements.

Reason: *To ensure appropriate access to utility is provided.*

21. Erosion and Sediment Control Plan

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

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

- (a) Locality of the site, a north point and scale.
- (b) Existing contours of the site including catchment area boundaries and indications of direction of fall.
- (c) Location of and basic description of existing vegetation.

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- (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) Location and type of proposed erosion and sediment control measures.
- (j) Site rehabilitation proposals, including final contours.
- (k) Time of placement of sediment controls.
- (l) Staging of works and how the plan is to be implemented for each stage or activity on site.
- (m) Maintenance schedule.

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

22. Noise and Vibration Adjacent to Rail Corridors

Subdivision within the Acoustic Assessment Area

The applicant is advised that the property may be affected by rail noise and vibration and that reference be made to the *Guidelines for Councils - Consideration of Rail Noise and Vibration in the Planning Process*, which is available at Council offices.

Reference Condition 64 in regard to S88B Instrument required.

Reason: To prevent loss of amenity to the area.

23. Retaining Wall Design Criteria

Retaining walls shall be constructed where required. Retaining walls must be designed and certified by a suitably qualified Civil and/or Structural Engineer and shall be detailed on engineering plans which include, but is not limited to the following:

- (a) A plan of the wall showing location and proximity to property boundaries;
- (b) An elevation of the wall showing ground levels, maximum height of the wall, materials to be used and details of the footing design and longitudinal steps that may be required along the length of the wall;
- (c) Details of fencing or handrails to be erected on the top of the wall;
- (d) Sections of the wall showing wall and footing design, property boundaries and backfill material. Sections shall be provided at sufficient intervals to determine the impact of the wall on existing ground levels. The designer must note that the retaining wall and footing structure must be contained wholly within the subject property;
- (e) The proposed method of subsurface and surface drainage including stormwater disposal.

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24. Construction of Bridge, Causeway., Culverts and Crossing.

The construction of any bridge, causeway, culvert or crossing shall not result in erosion, obstruction of flow, destabilization or damage to the watercourse.

The developer must ensure that any bridge, causeway, culvert or crossing does not obstruct water flow and the direction, is of the same width as the river and of sufficient height and capacity to maintain conveyance, with no significant water level difference between either sides of the structure.

25. Demolition of structures.

Should there be demolition of any existing structures required on the site then a demolition plan shall be submitted to Council for approval prior to the issue of a construction certificate.

Reason: *To ensure the retention of all required structures.*

CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORK

26. Commencement of Subdivision Works & Appointment of PCA

Subdivision work in accordance with a consent must not commence until:

- (a) A Construction 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.

Advice: *Crown work certified in accordance with Part 6 of the Environmental Planning and Assessment Act 1979 is exempted from the above requirements.*

Reason: *Statutory requirement.*

27. 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:

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

Prior to commencing any works on site the representative shall:

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

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

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

Reason: *Statutory requirement.*

28. Road Occupancy Licence - Section 138 Roads Act 1993

Prior to commencement of work within the road reserve, a Road Occupancy License shall be obtained from the Roads and Maritime Services (RMS). The application shall be accompanied by a Traffic Management Plan, prepared by a person who is qualified and certified to prepare Traffic Control Plans.

Reason: *Statutory requirement.*

29. 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*

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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.

30. 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.

31. 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.*

32. 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.

33. 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.*

34. Wheel Wash

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

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

CONDITIONS TO BE SATISFIED DURING THE CONSTRUCTION PHASE

35. 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.*

36. 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.*

37. Engineering Inspections by Council

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) Sewer / water main extensions (Technical Services).
- (c) Final inspection of water plumbing, sanitary drainage and stormwater drainage.
- (d) Works in relation to road reserves, footpath, kerb and gutter, road shoulder and drainage within public lands or road reserves.

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- (e) Final inspection of footpath, driveway, stormwater and utility construction works within the road reserve.

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.*

38. Stormwater - Construction

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

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

39. 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.*

40. Disruption of Traffic

During any construction works on the public road that is associated with this approval, 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.*

41. 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.*

42. 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.*

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43. Prevention of Nuisance

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

Reason: Health and amenity.

44. 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.

45. Noise - Plant and Equipment

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.

46. Noise and Vibration Adjacent to Rail Corridors

During construction, all acoustic treatments nominated in the acoustic report and other project documentation shall be implemented.

Reason: To prevent loss of amenity to the area.

47. Dust Control

The following measures must be taken to control the emission of dust on site:

- (a) Dust screens must be erected around the perimeter of the site and be kept in good repair for the duration of the work.
- (b) All dusty surfaces must be wet down and any dust created must be suppressed by means of a fine water spray. Water used for dust suppression must not be allowed to enter the stormwater system.
- (c) All stockpiles of materials that are likely to generate dust must be kept damp or covered.

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Reason: Environmental amenity

48. Tree Removal/Tree Preservation

No trees shall be pruned, removed, damaged or destroyed without the prior written consent of Council. Failure to comply with this requirement will result in prosecution by Council in accordance with the provisions of *Wingecarribee Local Environmental Plan 2010* and associated Development Control Plans.

Advice: Tree removal should be carried out by a level 3 and above professional arborist to avoid any risk to life or damage to property. This person should have adequate public liability insurance cover.

Reason: To comply with the *Wingecarribee Local Environmental Plan 2010*.

49. Approved hours of Construction/Demolition

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

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

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

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

50. Construction Traffic Management Plan

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

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

Reason: Compliance with condition of consent.

51. Maintenance of the site

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

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

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

During construction:

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

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

Reason: *Environmental amenity.*

52. 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.*

53. 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.

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 Section 138 Roads Act 1993 approval (including submission of a Traffic Management Plan).

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.*

54. 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.*

55. Temporary Onsite Toilet

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.

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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. 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:

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
 PARRAMATTA NSW 2124

or emailed to: heritage@heritage.nsw.gov.au

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

57. Section 7.11 Contributions (formerly Section 94)

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

The following Wingecarribee Shire Council Section 94 Developer Contributions Plans are applicable to the development:

- Roads & Traffic Management Facilities
- Resource Recovery Centre 2009

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- Central Library Facility
- Section 94 Administration 2011 to 2031
- Open Space & Recreation Facilities

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

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

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

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

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

58. 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>>); 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

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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 |
|-----------------------------|----------------|----------------|----------------|
| 01 May 2019 to 31 July 2019 | \$1,420,357.21 | \$1,376,985.50 | \$33,485.50 |

Note: The charges shown above are amounts applicable during the stated time period. These amounts will be subject to adjustment quarterly in accordance with upward movements in the Consumer Price Index (CPI) once they become operational. The CPI is published quarterly by the Australian Bureau of Statistics, www.abs.gov.au <<http://www.abs.gov.au>>.

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:-

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

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

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

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

59. Acoustic Fencing

In accordance with a report prepared by Wilkinson Murray dated 03 April 2019 a lapped and capped timber fence shall be constructed along the northern boundary, not less than 2.5m in height. The fence is to extend behind all proposed dwellings as shown in red in figure 2 of the report.

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In accordance with a report prepared by Wilkinson Murray dated 03 April 2019 a lapped and capped timber fence shall be constructed along the eastern boundary, not less than 2.0m in height. The fence is to extend along the eastern boundary as shown in red in Figure 2 of the report. Note the fence is not required if it does not break line-of-sight to the rails from adjacent dwellings in the south-eastern corner of the development.

Note: If the timber fence is not constructed at any point then in accordance with the conditions of the ARTC a security fence is to be constructed along the boundary of the rail corridor with a minimum height of 1.8 metres.

60. Landscape Certification

Certification is to be provided to the Principal Certifying Authority (PCA) from the designer of the landscape plan that all tree planting/landscape civil works have been carried out in accordance with the Council endorsed landscape plan. If Council is the PCA, the certification is to be submitted to Council prior to or at the final landscape inspection. If Council is not the PCA, a copy of the certification is to be provided to Council with the lodgment of the Subdivision Certificate.

Reason: *To ensure that the landscaping has been carried out in accordance with the Council endorsed landscape plan.*

61. Construction of Isedale Road.

Prior to the release of the first subdivision certificate for any residential Lot in the development that part of Isedale Road referred to in the deferred commencement condition must be constructed to the Council's satisfaction and dedicated as a road to the council.

Reason: *To ensure access to the Development Site.*

62. Subdivision Certificate

An application for a Subdivision Certificate shall be lodged with Council or an Accredited Certifier (in accordance with Section 6.15 of the *Environmental Planning and Assessment Act 1979*) for approval to enable the subdivision plans to be submitted to and registered with NSW Land Registry Services. Should the Subdivision Certificate application be lodged with Council, a final plan of subdivision and 3 copies shall be included with the application.

All works specified in Council's development consent and approved Subdivision Works Certificate plans shall be completed and all development consent conditions complied with prior to issue of the Subdivision Certificate.

The application for a Subdivision Certificate is to be accompanied by supporting documentation outlining how each condition of consent has been complied with.

Reason: *To comply with the provisions of the Environmental Planning and Assessment Act 1979.*

63. Flood Prone Land Restrictions 88B

A legally binding instrument pursuant to Section 88B of the *Conveyancing Act 1919* shall be prepared in consultation with, and to the satisfaction of the Council for each allotment identified as affected by flooding in Final Report of Nattai Ponds Flood Study prepared by Catchment Simulation Solutions; Revision 3; dated July 2016. A copy of the report is available from Council's website.

The required instrument(s) shall be registered on the title of the affected lot(s) and proof of

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that registration shall be submitted to Council with the application for a Subdivision Certificate.

Reason: *To ensure that future purchases are aware of flood liability and restrictions.*

64. Dedication of Easements

The creation or obtaining by the Applicant of the following easements, at the Applicant's expense prior to the issue of the Subdivision Certificate.

- (a) Splay corners within all affected lots at all intersections of all subdivision roads.
- (b) Inter-allotment drainage easements for all lots that do not drain to a public system a minimum of 2 metres wide.

Reason: *To protect infrastructure.*

65. 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) All proposed dwellings within the subdivision must take into account the NSW Department of Planning document "Development near Rail Corridors and Busy Roads – Interim Guidelines" and provide to the consent authority who must be satisfied that appropriate measures have been taken to ensure appropriate LAeq levels are not exceeded in the proposed dwelling.
- (b) All dwellings proposed to be constructed within both Contour Zone A and Contour Zone B as shown in Acoustic report prepared by the Acoustic Group Pty Ltd dated 09 January 2011 are to be wholly single storey dwellings.
- (c) All proposed residential buildings to be constructed within noise zones as shown in contour A and Contour B in Acoustic report prepared by the Acoustic Group Pty Ltd dated 09 January 2011 are to incorporate noise control measures to address the rail traffic noise.
- (d) There shall be no residential building constructed within 22 metres of the Great Southern Rail Line.
- (e) Restriction on Fencing and Planting of Vegetation – All Lots
 - (i) Any fencing along any road boundary shall be of an open style of pickets, slats, palings or lattice style panels with a minimum aperture of 25mm and have a minimum height of 1.2 metres above existing ground level;
 - (ii) Any fencing along any side boundary between the road boundary and the building setback of any dwelling house from that road shall be of an open style of pickets, slats, palings or lattice style panels with a minimum aperture of 25mm and have a maximum height of 1.2metres above existing ground level;
 - (iii) Any other side boundary or rear boundary fencing shall be only of masonry, timber or post and wire netting and have a maximum height of 1.8metres above existing ground level;
 - (iv) Any hedging or close planting of any vegetation which is likely to create a solid barrier along any road boundary or along any side boundary between the road boundary and the building setback of any dwelling house from that road shall be maintained to a maximum height of 1.2metres above existing ground level; and

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- (v) Any hedging or close planting of any vegetation which is likely to create a solid barrier between adjoining properties along any other side boundary or along any rear boundary shall be maintained to a maximum height of 2.5 metres above existing ground level.

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.*

66. Provision of Public Lighting

The applicant shall provide public lighting in accordance with the requirements of Council Development Engineering Standards and relevant Australian Standards for street lighting to:

- a) subdivision roads

The columns are to be Macarthur style from Endeavour Energy's Architectural Series and powder coated in Hawthorn Green.

Reason: *To ensure appropriate street lighting is provided.*

67. Civil Engineering works and services

All approved civil engineering works and services as per the approved engineering plans, including construction works within the road reserve, 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.*

68. Engineering Details in DXF Format

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

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

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

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

69. Asset Management

The developer shall provide a detailed summary of the Assets that will be handed to Council at the end of the maintenance period. The details shall be provided in a tabular form so as to

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allow Council to update its Assets register.

The assets to be identified include:

- Roadways length and width and type of surface
- Drainage systems length and size of pipes, number of pits, total area (m²)
- Footpath and Shared Use Path.
- Sewer
- Water

Reason: *To ensure appropriate asset management.*

70. Provision of Services

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

All property services shall be located within the lots that they serve in accordance with Councils 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.*

71. Inter-allotment Drainage for Upstream/Adjoining Property

Inter-allotment drainage shall be provided for all lots that do not drain natural to a public system (road, watercourse etc.) prior to the issue of the Subdivision Certificate. All inter-allotment drainage system (pipes, pits, etc.) shall be contained within a suitable easement to drain water a minimum of 2 metres wide.

Reason: *To control stormwater flows.*

72. Detention Systems

Any open drainage system which is designed to reduce peak flows shall be designed in accordance with the requirements of the current edition of the Australian Rainfall & Runoff. All batters shall be in accordance with Council's Engineering Standards to facilitate maintenance and provide a safe environment.

Reason: *To control storm water flows.*

73. Permanent Road Survey Marks

Permanent road survey marks shall be provided to the satisfaction of the Group Manager Planning, Development and Regulatory Services prior to the issue of the Subdivision Certificate.

Reason: *Engineering Requirements.*

74. 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

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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.

200 mm Blade

White, powder coated background and bracket, 125 mm high, series 'D', biscuit, class 1 reflective lettering 10 mm wide, red, class 2 reflective band applied above and below, and 10 mm from lettering.

(b) Posts

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

Reason: To comply with Councils requirements.

75. Construction of Footpath in Subdivision

Concrete paving 1.2metres wide on one side of road reserve within the footway of the subdivision roads shall be provided prior to the issue of the Subdivision Certificate. Footpath shall be constructed in accordance with Standard Drawing No SD118. Kerb ramps where required are to be constructed in accordance with Standard Drawing No SD111 (a) and SD111 (b).

Shared Use path 2.5metres wide along Old Hume Highway from the intersection of Old Hume Highway and Isedale Road to proposed access road, along proposed access road from Old Hume Highway to proposed laneway and along proposed laneway from proposed access road to existing shared use path in Lomadra Lane shall be constructed prior to the issue of the Subdivision Certificate.

The shared use path shall be contained within the public road reserve.

Reason: To provide pedestrian access to the development.

76. Construction of Footway Crossing

Residential vehicular footway crossings in accordance with Standard Drawing Nos SD 107 and SD123, for access to the lots shall be constructed prior to the issue of the Subdivision Certificate.

Reason: To ensure appropriate access to the site.

77. Restoration of Footway and Kerb and Gutter

All redundant vehicle crossings and stormwater outlets shall be removed prior to the issue of the Subdivision Certificate. The footway and kerb and gutter shall be restored. All damaged kerb and gutter and footpath shall be replaced.

Reason: To ensure that footway and kerb & gutter is restored.

78. Street Trees

Prior to the issue of the Subdivision Certificate, street trees shall be planted in accordance with the approved landscape plan and Council's adopted Street Tree Master Plan – 2016.

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The street trees shall be planted in accordance with the approved landscape plan and Council's adopted Street Tree Implementation Plan – May 2016.

Reason: *To improve the visual appearance of the development.*

79. Construction of Road

All road construction shall be in accordance with Council's Engineering Standards and to the satisfaction of the Group Manager Planning, Development and Regulatory Services, prior to the issue of the Subdivision Certificate.

- (a) Construction of road pavements surfaced with asphaltic concrete in all residential subdivision roads.
- (b) Sub-soil drains are to be provided where appropriate and indicated on Engineering Plans submitted with the Construction Certificate.

Note: *Where the subdivision is staged and required roadworks are incomplete, Council may require the construction of temporary cul-de-sacs or turning facilities for large vehicles such as garbage trucks. These works are to be constructed to the requirements of Council.*

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

80. Access and Egress – Old Hume Highway

Access to the subdivision from Old Hume Highway shall be in accordance with the requirements of Road and Maritime Services.

81. 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.*

82. 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.*

83. Construction of Water Mains to Lots

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

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

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84. Stormwater Facilities Alterations.

A "Restriction as to User" shall be included on the linen plan and title of the proposed lots to prevent any changes in shape or alteration in structure of the proposed storm water facilities after the final approval of the structure has been given by Council. Details shall be provided for the approval of Council with the application for a Subdivision Certificate.

Reason: *To comply with Councils requirements.*

85. Stormwater Facilities Maintenance.

A "Positive Covenant" Shall be included on the linen plan and title of the proposed lots showing the location of stormwater facilities and requiring that the proposed stormwater facilities be maintained in a safe and functional manner. In addition, the Section 88B Instrument shall make provision for Council to conduct maintenance on the subject stormwater facilities at the owner's expense if the stormwater facilities are not maintained to the agreed standard. Details shall be provided for the approval of Council with the application for a Subdivision Certificate.

Reason: *To comply with Councils requirements.*

86. Maintenance and Bond for Public Assets – Civil Works

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

87. Identification of Fill on Site

Prior to issue of the Subdivision Certificate, the applicant shall submit to Council for its approval a plan detailing the extent of fill, with engineering certification from a qualified and chartered structural engineering professional identifying the specification of the filling operation in terms of the level of compaction achieved for each layer of fill placed. The certification shall be completed by suitably qualified Geotechnical Engineer. A Restriction as to User shall be created over the extent of the filling prior to the issue of the Subdivision Certificate, which ensures that any structure placed over that area is constructed with a suitable footing system.

Reason: *To alert future landowners of the existence of fill on the land.*

88. Certification of Internal Civil Works

On completion of works and prior to the issue of the Subdivision Certificate, certification from a practicing appropriately qualified Engineer shall be submitted to Council detailing that all internal civil works (i.e. internal driveways, paths and storm water drainage systems including and on-site detentions) are in accordance with the approved plans and specifications.

Reason: *To comply with Councils requirements.*

89. Site Classification

The developer's geotechnical engineer shall provide a site classification in accordance with

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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.*

INTEGRATED DEVELOPMENT CONDITIONS

90. General Terms of Approval – Roads and Maritime Services

General Terms of Approval have been granted by the Roads and Maritime Services for the development pursuant to the *Roads Act 1993*. The conditions provided by Roads and Maritime Services are provided below:

- (a) Prior to the issuing of the Subdivision Certificate, the developer must enter into a Works Authorization deed (WAD) with the RMS for all works on Old Hume Highway;
- (b) Prior to the issue of a Subdivision Certificate and the construction of the half seagull median along Old Hume Highway, connection and access to the Isedale Road traffic signals must be constructed and operational.
- (c) Prior to the issuing of the Subdivision Certificate the developer must physically restrict the right turn out of the existing Braemar Garden world site by installing a half seagull type concrete median in accordance with Austroads *Guide to Road design – Part 4a: Unsignalised and Signalised Intersections*.
- (d) Prior to final acceptance of the design of the half seagull, the developer must develop and implement a community information strategy to inform the surrounding residents of the proposed changes to the road environment.
- (e) All pavement design on the State road network must be in accordance with Austroads standards.
- (f) Where required the developer must upgrade/provide lighting in accordance with Australian Standard AS/NZS1158.
- (g) All access to lots subdivided from Lot 1 DP1232714 (Previously Lot 779 DP 751282, Lot 19 DP 1148687, Lot 117 DP 659149 and easement within Lot 18 DP 1148687) 61 Old Hume Highway Braemar (previously 520 Old South Road Mittagong) must be via a "right of Way" legally certified on the titles of the burdened lots prior to an occupation certificate being issued by way of a Section 88B Instrument under the *Conveyancing Act, 1919*.
- (h) The developer must ensure, to the satisfaction of Council, that post development stormwater discharge from the subject site into the classified road drainage system does not exceed the pre-development application discharge.
- (i) All roadworks, traffic control facilities and other works associated with this development, including any modifications required to meet RMS standards, will be at no cost to RMS. All works must be completed prior to occupation.
- (j) All roadworks and traffic control facilities must be undertaken by a pre-qualified contractor. A copy of pre-qualified contractors can be found on the RMS website at:

<http://www.rta.nsw.gov.au/doingbusinesswithus/tenderscontracts/prequalifiedcontractors.html>

Note: Conditions of development consent do not guarantee RMS final consent to the specific road work, traffic control facilities and other structures and works on the classified

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road network. In this regard, prior to undertaking any such work, the applicant is required to submit detailed design plans and all relevant additional information prior to commencing work on the State road network. The developer will need to pay all RMS fees and charges associated with works. In the first instance, to progress the post consent process, the applicant should email the conditions of development consent to:

WAD.southern@rms.nsw.gov.au

- (k) The developer must apply for, and obtain a Road Occupancy Licence (ROL) from the RMS Traffic Operations Unit (TOU) prior to commencing roadworks on a State Road or any other works that impact a travel lane of a State Road or impact the operations of traffic signals on any road. The application will require a Traffic Management Plan (TMP) to be prepared by a person who is certified to prepare Traffic Control Plans. Should the TMP require a reduction of the speed limit, a Speed Zone Authorization will also be required from the TOU. The developer must submit the ROL application 10 business days prior to commencing work. It should be noted that receiving an approval for the ROL within this 10 business day period is dependent upon RMS receiving an accurate and compliant TMP.

Note: An approved ROL does not constitute an approval to commence works until an authorization letter for the works has been issued by RMS Project Manager.

Note: Conditions of development consent relating to road work, traffic control facilities and other structures on the classified road network contrary to those outlined above are unlikely to receive RMS consent under the *Roads Act, 1993*.

91. General Terms of Approval – NSW Office of Environment and Heritage.

General Terms of Approval have been granted by the NSW Office of Environment and Heritage for the development pursuant to section 90 of the *National Parks and Wildlife Act 1974*. The conditions provided by the NSW Office of Environment and Heritage are provided below:

- (a) Should development approval be granted, application for an Aboriginal heritage Impact Permit (AHIP) to harm the Aboriginal site must be made to the Office of Environment and Heritage (OEH) before development proceeds.
- (b) The AHIP application must be consistent with the OEH requirements as outlined in the AHIP Guide for Applicants, which can be found on the following link:

<http://environment.nsw.gov.au/resources/cultureheritage/20110280AHIPguideforapplicants.pdf>

In the event that an AHIP is required, it is recommended that the applicant arranges to meet with the OEH prior to lodgment in order to discuss the scope of the AHIP.

92. General Terms of Approval – Natural Resources Access Regulator (Formerly DPI Water).

General Terms of Approval have been granted by the NSW Natural Resources Access Regulator (formerly DPI Water) for the development pursuant to section 89, 90, 91 of the *Water Management Act 2000*. The conditions provided by the NSW Natural resources Access Regulator are provided below:

Plans, Standards and Guidelines

- (i) These General Terms of Approval (GTA) only apply to the controlled activities

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described in the plans and associated documentation relating to LUA 11/0767 and provided by Council:

- (a) Site plan, map and/or surveys;
- (b) Flood Study;
- (c) Statement of Environmental Effects;
- (d) Bushfire Assessment report;
- (e) Riparian Land Assessment
- (f) Stormwater Strategy.

Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified the NSW Natural Resources Access Regulator must be notified to determine if any variations to these GTA will be required.

- (ii) Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from the NSW Natural Resources Access Regulator. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the river identified.
- (iii) The consent holder must prepare or commission the preparation of :
 - (a) Vegetation Management Plan;
 - (b) Works Schedule;
 - (c) Soil and Water Management Plan;
 - (d) Detailed Crossing Design;
 - (e) Detailed Drainage Plan.
- (iv) All plans must be prepared by a suitably qualified person and submitted to the NSW Natural Resources Access Regulator prior to any controlled activity commencing. The following plans must be prepared in accordance with the NSW Natural Resources Access Regulator guidelines located at www.water.nsw.gov.au/Water-Licensing/Approvals/default.aspx
 - (a) Vegetation Management Plans;
 - (b) Laying Pipes and cables in watercourses;
 - (c) Riparian Corridors;
 - (d) In-stream works;
 - (e) Outlet structures
 - (f) Watercourse crossings.
- (v) The consent holder must:

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- (a) Carry out any controlled activity in accordance with the approved plans; and
- (b) Construct and/or implement any controlled activity by or under the direct supervision of a suitably qualified professional; and
- (c) When required, provide a certificate of completion to the NSW Natural Resources Access Regulator.

Rehabilitation and Maintenance

- (vi) The consent holder must carry out a maintenance period of two (2) years after practical completion of all controlled activities, rehabilitation and vegetation management in accordance with a plan approved by the NSW Natural Resources Access Regulator.
- (vii) The consent holder must reinstate waterfront land affected by the carrying out of any controlled activity in accordance with a plan or design approved by the NSW Natural Resources Access Regulator.

Reporting Requirements.

- (viii) The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to the NSW Natural Resources Access Regulator.

Security Deposits

- (ix) The consent holder must provide a security deposit (bank guarantee or cash bond) – equal to the sum of the cost of complying with the obligations under any approval – to the NSW natural Resources Access Regulator as and when required.

Access-ways

- (x) The consent holder must design and construct all ramps, stairs, access ways, cycle paths, pedestrian paths or other non-vehicular form of access way so that they do not result in erosion, obstruction of flow, destabilization or damage to the bed or banks of the river or waterfront land, other than in accordance with a plan approved by NSW Natural Resources Access Regulator.
- (xi) The consent holder must not locate ramps, stairs, access ways, cycle paths, pedestrian paths or any other non-vehicular form of access way in a riparian corridor other than in accordance with a plan approved by the NSW Natural Resources Access Regulator.

Bridge, Causeway, Culverts and Crossing.

- (xii) The consent holder must ensure that the construction of any bridge, causeway, culvert or crossing does not result in erosion, obstruction of flow, destabilization or damage to the bed or banks of the river or waterfront land, other than in accordance with a plan approved by NSW Natural Resources Access Regulator.
- (xiii) The consent holder must ensure that any bridge, causeway, culvert or crossing does not obstruct water flow and direction, is the same width as the river or sufficiently wide to maintain water circulation, with no significant water level difference between either side of the structure other than in accordance with a plan approved by the NSW Natural Resources Access Regulator.

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Disposal

- (xiv) The consent holder must ensure that no materials or cleared vegetation that may:
 - (a) Obstruct flow;
 - (b) Wash into the water body; or
 - (c) Cause damage to river banks;
 - (d) Are left on waterfront land
 other than in accordance with a plan approved by the NSW Natural Resources Access Regulator.

Drainage and Stormwater

- (xv) The consent holder is to ensure that all drainage works:
 - (a) Capture and convey runoffs, discharges and flood flows to low flow water level in accordance with a plan approved by the NSW Natural Resources Access Regulator.
 - (b) Do not obstruct the flow of water other than in accordance with a plan approved by the NSW Natural Resources Access Regulator.
- (xvi) The consent holder must stabilize drain discharge points to prevent erosion in accordance with a plan approved by the NSW Natural Resources Access Regulator.

Erosion Control

- (xvii) The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by the NSW Natural Resources Access Regulator. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilized.

Excavation.

- (xviii) The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by the NSW Natural Resources Access Regulator.
- (xix) The consent holder must ensure that any excavation does not result in:
 - (a) Diversion of any river;
 - (b) Bed or bank instability; or
 - (c) Damage to native vegetation within the area where a controlled activity has been authorized, other than in accordance with a plan approved by the NSW Natural Resources Access Regulator.

Maintaining River.

- (xx) The consent holder must ensure that:

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- (a) River diversion, realignment or alteration does not result from any controlled activity work; and
 - (b) Bank control or protection works maintain the existing river hydraulic and geomorphic functions; and
 - (c) Bed control structures do not result in river degradation other than in accordance with a plan approved by the NSW Natural Resources Access Regulator.
- (xxi) The consent holder must ensure that the surfaces of river banks are graded to enable the unobstructed flow of water and bank retaining structures result in a stable river bank in accordance with a plan approved by the NSW Natural Resources Access Regulator.

River Bed and Bank Protection

- (xxii) The consent holder must establish a riparian corridor along the tributary of Sheepwash Creek in accordance with a plan approved by the NSW Natural Resources Access Regulator.

93. General Terms of Approval - NSW Rural Fire Service

General Terms of Approval have been granted by the NSW Rural Fire Service for the development pursuant to section 100B of the *Rural Fires Act 1997*. The conditions provided by the NSW Rural Fire Service are provided below:

Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

- (a) Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

Access

The intent of measures for public roads is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area. To achieve this, the following conditions shall apply:

- (b) Public road access shall comply with section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006'.

General Advice - Consent Authority to Note.

This approval is for the subdivision of the land only. Any further development application for class 1, 2 & 3 buildings as identified by the 'Building Code of Australia' must be subject to separate application under section 79BA of the EP&A Act 1979 and address the requirements of "Planning for Bush Fire Protection 2006".

94. General Terms of Approval – Australian Rail Track Corporation Ltd

General Terms of Approval have been granted by the Australian Rail Track Corporation Ltd (ARTC) for the development pursuant to State Environmental Planning Policy (Infrastructure) 2007 and *Development Near Rail Corridors And Busy Roads – Interim Guidelines*. The

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conditions provided by the Australian Rail Track Corporation Ltd are provided below:

(a) Stormwater

ARTC wants to ensure that stormwater from the development, does not affect the rail corridor and requests that Council impose as a condition of consent that the developer will ensure that stormwater does not affect the rail corridor, such as:

- i. Prior to a Construction Certificate being issued, the applicant must submit details of stormwater disposal to Council for approval. The flow of stormwater toward the rail corridor must not be increased by the proposed development. All approved details for the disposal of stormwater and drainage are to be implemented in the development.

(b) Fencing

The security of fencing along the rail corridor is essential to prevent unauthorized entry. ARTC requests that Council impose a condition of consent requiring that the boundary of the site with the rail corridor be fenced in a 1.8m fence.

(c) Excavation.

The proposed subdivision does not appear to involve any excavation near the corridor. It should be noted that excavation exceeding 2metres within 25metres of the rail corridor should be notified to the rail authority.

CONCURRENCE CONDITIONS

95. Concurrence - Water NSW

Concurrence has been granted by Water NSW for the development pursuant to *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011*. The conditions provided by Water NSW are provided below:

General

- (a) The lot layout and staging of the subdivision shall be as shown on a Plan Showing Proposed Lot Layout and Road Widths prepared by LandTeam Australia Pty Ltd (Dwg. No. 203177-MP1; Issue A; dated 1/2/2012). No revision to the lot layout or staging of the subdivision shall occur without the agreement of Water NSW.

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

Wastewater Management

- (b) There shall be no on-site wastewater management system on any of the proposed lots and all lots shall be connected to Council's sewerage system.

Reason for Condition (b) *To ensure that all wastewater generated on each lot is disposed of and treated via Council's sewerage system so as to ensure a sustainable neutral or beneficial effect on water quality over the longer term.*

Sewer Mains and Sewage Pump Station

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- (c) The hydraulic capacity of sewer mains and any submains serving this and other nearby subdivisions shall be checked to ensure they can accommodate the additional wastewater load generated by the subdivisions, and where necessary shall be upgraded **prior to the issuance of a subdivision certificate.**
- (d) The sewage pump station to be located in the north-east corner of the site shall have a minimum emergency storage volume equivalent to at least 3 hours peak wet weather flow, and shall include a permanent standby pump and provision for access to an emergency power generation unit to ensure continuity of operation in the event of pump or power failure.

Reason for Conditions (c) & (d)

To ensure that the design and operation of the sewerage system is undertaken in a way that reduces the risk of sewage overflows and the pollution of the site, ground and surface waters, including the Nattai Rivulet, so as to ensure a sustainable neutral or beneficial effect on water quality over the longer term.

Roads and Watercourse Crossing

- (e) All subdivision roads shall be sealed and otherwise constructed in accordance with Council's engineering standards, and all stormwater structures and drainage works associated with the roads shall be wholly included in the road reserve or within suitably defined easements.
- (f) The subdivision road crossing of Nattai Rivulet shall:
 - be a suitable and properly engineered bridge or large box culvert
 - be designed such that the bridge or box culvert and its abutments will not change or otherwise interfere with flood flows up to the 1% AEP level and will not result in erosion
 - be constructed in a manner that does not cause pollution in Nattai Rivulet
 - be designed consistent with the guidelines Environmental Practice Manual of Rural Sealed and Unsealed Roads (ARRB Transport Research Ltd, 2002)
 - ensure the banks under and adjacent to a bridge and any abutments are armoured with riprap underlain by geotextile fabric, with the design, repose angle, sizing, nature and extent of the riprap such that there is no scouring, and
 - meet any requirements for Controlled Activities Approval under the *Water Management Act, 2000* issued by the Natural Resource Access Regulator (NRAR).
- (g) Any demolition of the existing concrete causeway shall be undertaken in a manner that does not cause pollution in the Nattai Rivulet.

Reason for Conditions (e) (g)

To ensure that the proposed subdivision roads and associated infrastructure have a sustainable neutral or beneficial impact on water quality.

Stormwater Management

- (h) All stormwater management measures as specified in the Stormwater Strategy for Braemar Garden World prepared by Storm Consulting Pty Ltd (dated 19/12/11) shall be implemented, in particular as elaborated or varied in the conditions below.
- (i) Stormwater runoff from the subdivision roads shall be collected via a series of pits and pipes and directed to three bio-retention systems designed, constructed and located in the north-west, north-east and south-west corners of the site as shown on

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the Long-term Stormwater Management Plan in the Stormwater Strategy for Braemar Garden World prepared by Storm Consulting Pty Ltd (dated 19/12/11).

- (j) The three bioretention systems shall include the following requirements or specifications:
- One or more appropriately sized vortex-style gross pollutant traps (CDS or Water NSW endorsed equivalent) shall be installed at the stormwater inlet to each bioretention system.
 - the bioretention system in the north-west corner of the site shall have minimum filter area of 1050 square metres, the bio-retention system in the south-west corner shall have an area of 300 square metres, and the bio-retention system in north-east corner shall have a minimum filter area of 700 square metres
 - the base of the bioretention systems to be located adjacent to Nattai Rivulet shall be fully located above the 5% AEP flood level
 - the external walls of the bioretention systems to be located adjacent to Nattai Rivulet shall be engineered and constructed in a manner that ensures these will not be eroded or otherwise impacted by flood flows
 - the bioretention system design shall be consistent with Adoption Guidelines for Stormwater Biofiltration Systems Version 2 (Payne *et al*, 2015, Melbourne, CRC for Water Sensitive Cities)
 - a filter depth above the underdrain of 800mm
 - each bioretention system shall have an extended detention depth 400mm
 - a filter media consisting of a clean sandy loam with a median particle size diameter 0.5mm and an orthophosphate concentration of less than 50mg/kg
 - the underdrain shall consist of a manifold system
 - be planted with appropriate deep-rooted moisture-tolerant vegetation (grass is not appropriate vegetation)
 - all discharge and overflow from the bioretention systems shall be directed via armoured discharge points to Nattai Rivulet or via a level spreader to the drain along the railway easement, such that discharge does not cause erosion
 - the discharge outlets to Nattai Rivulet shall also be consistent with the requirements of any Controlled Activity Approval under the *Water Management Act (2000)* from the Natural Resource Access Regulator (NRAR)
 - all bioretention systems shall be protected from vehicular damage by bollards, guard rails, fences, slotted kerbs or similar permanent structures, with signs to be erected to advise of the nature and purpose of their water quality management function, and
 - all bioretention systems shall be protected by sediment and erosion control measures during any construction and post-construction phase until the ground surface is revegetated or stabilised.
- (k) An Operational Environmental Management Plan shall be prepared in consultation with Water NSW and Council by a person with knowledge and experience in the preparation of such plans. Each OEMP shall be prepared **prior to the issuance of the Subdivision Certificate**. The OEMP shall include but not be limited to:
- details on the location, description and function of stormwater management structures such as including pits, pipes, gross pollutant traps, bioretention systems and any other stormwater structures and drainage works (excluding those on the residential lots).

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- an identification of the responsibilities and detailed requirements for the inspection, monitoring and maintenance of all stormwater management structures, including the frequency of such activities
 - the identification of the individuals or positions responsible for inspection and maintenance activities including a reporting protocol and hierarchy, and
 - checklists for recording inspections and maintenance activities.
- (l) All stormwater treatment devices shall be monitored, maintained and managed as per the Operational Environmental Management Plan referred in Condition 11 above.

Future Dwellings

- (m) There shall be an instrument created under Section 88E of the *Conveyancing Act 1919*, the prescribed authority being Water NSW, placed over proposed Lots 1 to 129 inclusive requiring that:
- all future dwellings shall have rainwater tanks with a minimum total capacity of 10,000L above any volume required for mains top-up
 - roofs and gutters shall be designed so as to ensure all rainwater is captured in the rainwater tanks
 - the rainwater tanks shall be plumbed to toilets, laundry and other areas for non-potable use including use for gardens, and
 - rainwater tank overflow shall be directed to a raingarden located on the lot.
- (n) There shall be an instrument created under Section 88E of the *Conveyancing Act 1919*, the prescribed authority being Water NSW, placed over proposed Lots 1 to 129 inclusive requiring that:
- a 5 square metre raingarden shall be located on each lot so as to capture and treat all stormwater runoff from the lot, including rainwater tank overflow
 - the raingarden design shall be consistent with Adoption Guidelines for Stormwater Biofiltration Systems Version 2 (Payne *et al*, 2015, Melbourne, CRC for Water Sensitive Cities)
 - the raingarden shall have a minimum filter area of 5 square metres, a minimum filter depth above an underdrain of 500mm, a filter media consisting of a clean sandy loam, an extended detention depth of 250mm, and be planted with appropriate deep-rooted water-tolerant plants (grass is not appropriate vegetation)
 - all discharge and overflow from the raingarden shall be directed to the stormwater drainage system
 - the raingarden shall be protected from vehicular or other damage by fences, posts, slotted kerbs or similar permanent structures
 - the raingarden shall be protected by sediment and erosion control measures during any construction and post-construction phase until the ground surface is revegetated or stabilised, and
 - no development shall take place within one metre of the raingarden once constructed.
- (o) An owner's Operational Environmental Management Plan (OEMP) detailing the responsibilities for the inspection, monitoring and maintenance of their stormwater collection and treatment system, including gutters, rainwater tanks and raingardens shall be developed in consultation with Water NSW **prior to the issuance of a subdivision certificate** and provided to each future owner of the lot.

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- (p) No changes to stormwater treatment and management that will impact on water quality, shall be permitted without the agreement of Water NSW.
- (q) A suitably qualified stormwater consultant or engineer shall certify in writing to Water NSW and Council **prior to the issuance of any Subdivision Certificate** that all stormwater management structures have been installed as per these conditions of consent and are in a functional state.

Reason for Conditions (h) to (q) *To ensure stormwater runoff from the subdivision, associated infrastructure and future dwellings is appropriately designed, maintained and managed to ensure an overall and sustainable neutral or beneficial impact on water quality over the longer term.*

Construction Activities

- (r) A Soil and Water Management Plan (SWMP) shall be prepared by a person with knowledge and experience in the preparation of such plans, for all works proposed or required as part of the subdivision, including subdivision roads, infrastructure as well as demolition of the causeway and construction of the replacement bridge or box culvert. The Plan shall be based on the conceptual SWMP prepared by Storm Consulting Pty Ltd, and meet the requirements outlined in Chapter 2 of NSW Landcom’s Soils and Construction: Managing Urban Stormwater (2004) manual - the “Blue Book”. The SWMP shall be developed in consultation with Water NSW **prior to the issuance of a Construction Certificate**.
- (s) Effective erosion and sediment controls shall be installed prior to any construction activity including site access, and shall prevent sediment or polluted water leaving the site any natural or artificial drainage feature including particularly Nattai Rivulet. The controls shall be regularly maintained and retained until works have been completed and groundcover established.

Reason for Conditions (r) to (s) *To manage adverse environmental and water quality impacts during the construction phase of the development so as to minimise the risk of erosion, sedimentation and pollution within or from the site during this phase.*

96. Concurrence – Australian Rail Track Corporation Ltd

Concurrence has been granted by Australian Rail Track Corporation Ltd (ARTC) for the development. The conditions provided by ARTC are provided below:

Fencing

The eastern boundary of the site with the rail corridor is to be fenced with a chain wire fence (or similar) a minimum of 1.8m in height to prevent unauthorised entry to the rail corridor.

Excavation

Should any excavation exceeding 2 metres within 25 metres of the rail corridor be undertaken the ARTC shall be notified a minimum 48 prior to the excavation being undertaken.

Reason: *To protect the integrity of the rail corridor.*

ADVISORY MATTERS

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Appeals - development consents

Division 8.3 of the *Environmental Planning and Assessment Act 1979* provides provisions relating to the appeal rights of the applicant and objectors for development consents.

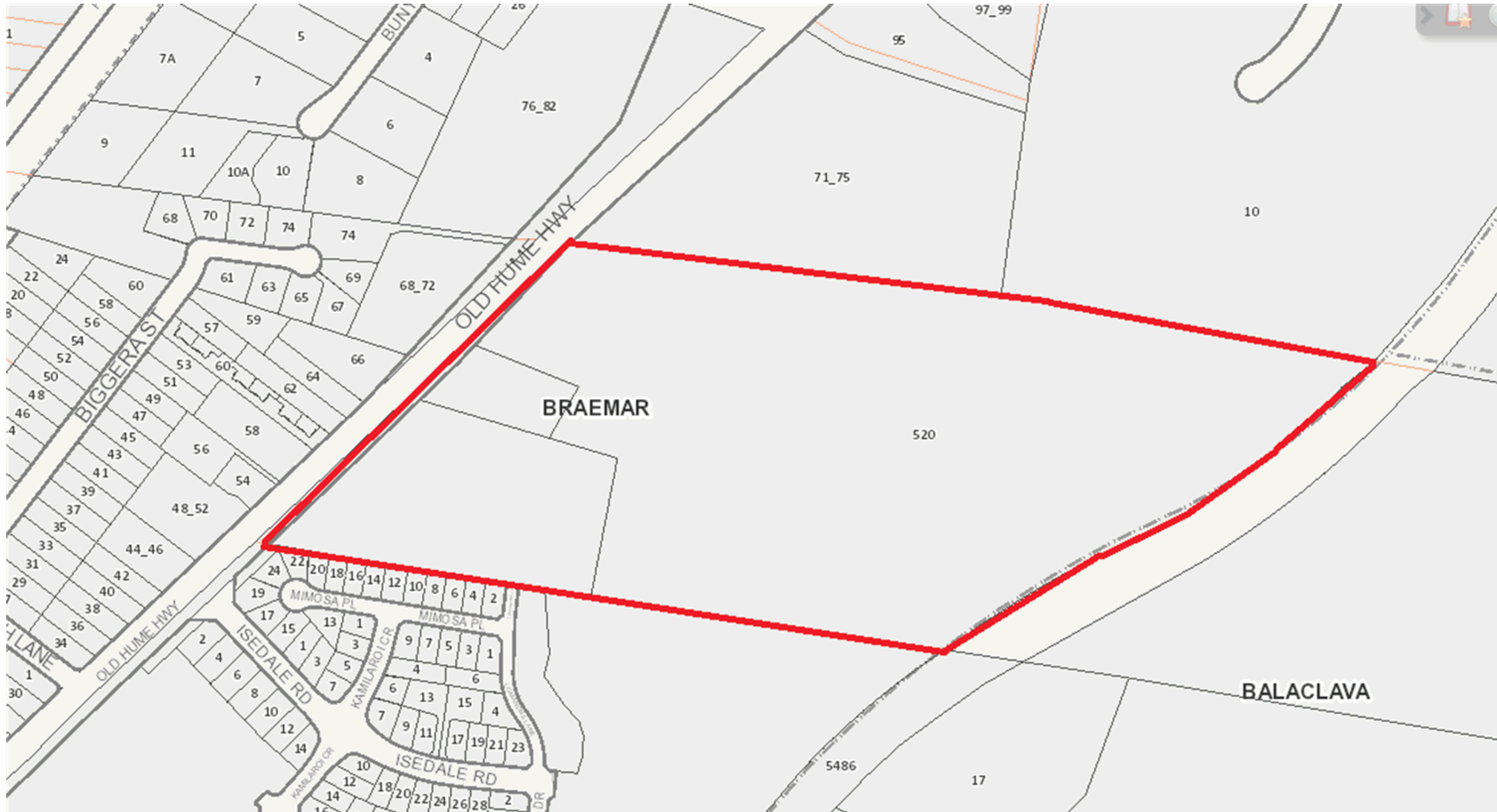
Railway Noise and Vibration

Due to its location adjoining the Great Southern Rail, Australian Rail Track Corporation Ltd is concerned that the future occupants of the development will encounter rail-related noise and vibration from the adjacent rail corridor. Rail noise and vibration can seriously affect residential amenity and comfort, jeopardize structural safety of buildings and should be addressed early in the development process. Australian Rail Track Corporation Ltd recommends that bedrooms and living areas be sited the greatest distance possible from the rail corridor and/or shielded by non-sensitive uses/barriers.

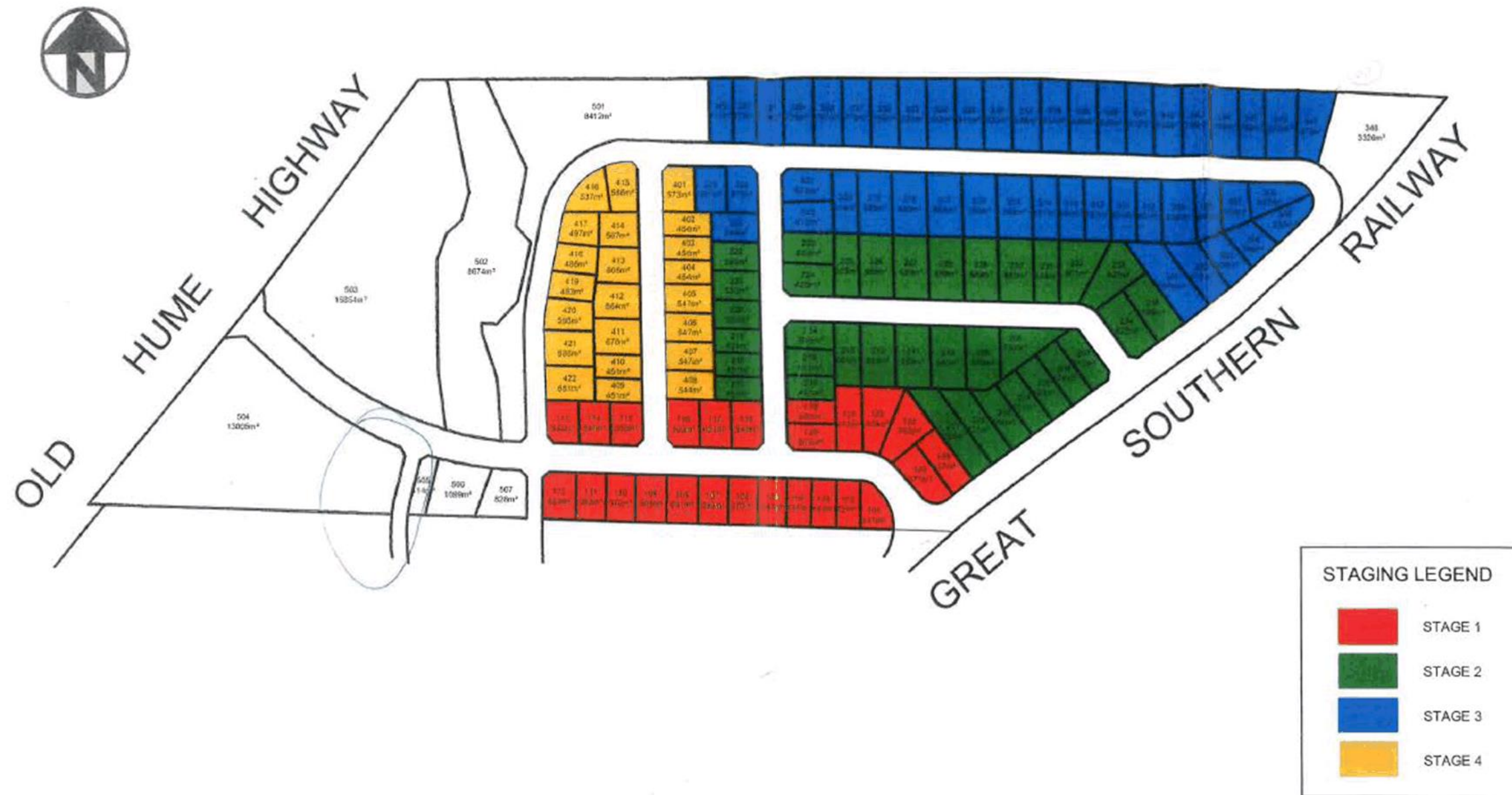
The Australian Rail Track Corporation Ltd publication *Interim Guidelines for Applicants - Consideration of Rail Noise and Vibration in the Planning Process* provides information on likely noise impacts and preventative measures. This document is available on www.ric.nsw.gov.au/publications

To improve the comfort of future occupants, the landscaping and fencing in the proposal should screen views of the rail tracks and reduce exposure to passing trains.

END OF CONDITIONS



11/0767 Site Plan



11/0767 Proposed Garden World Subdivision Plan (Attachment 3)



11/0767 Plan of Nattai ponds and interface with Garden World (Attachment 4)

10.2 Amended Development Application 17/1457 - Subdivision of Land and Carrying out of Works to Create Four Lots, and Carrying out of Works for the Purpose of a Private Road, Lot 12 DP611530, 486 Ellsmore Road, Exeter

| | |
|-----------------------------------|--|
| Reference: | 17/1457 |
| Report Author: | Senior Development Assessment Planner |
| Authoriser: | Group Manager Planning, Development and Regulatory Services |
| Applicant: | Kristal A Hassos |
| Owner: | K A Hassos |
| Link to Community Strategic Plan: | Conserve the key natural resources of the Shire and minimise the impact from development |

PURPOSE

The purpose of this report is to present to Council development application 17/1457 for the Council's consideration, and recommends the Council determine the application by refusal for the reasons specified in **Attachment 1**. This application is presented to Council as it was called up by Councillors to determine.

VOTING ON THE MOTION

Councillors are required to record their votes on this matter.

RECOMMENDATION

THAT Development Application 17/1457 for subdivision of land and carrying out of works to create four lots and carrying out of works for the purpose of a private road at Lot 12 DP 6115320, No 486 Ellsmore Road, Exeter be determined by REFUSAL for the reasons specified in Attachment 1 to the report.

REPORT

Subject Site and Locality

Figures 1 and 2 illustrate the land's location and general layout (see also **Attachments 2 and 3**). It is a developed 8.0ha rural residential lot on the eastern side of Ellsmore Road in Exeter, around 1.1km southwest of the village centre.

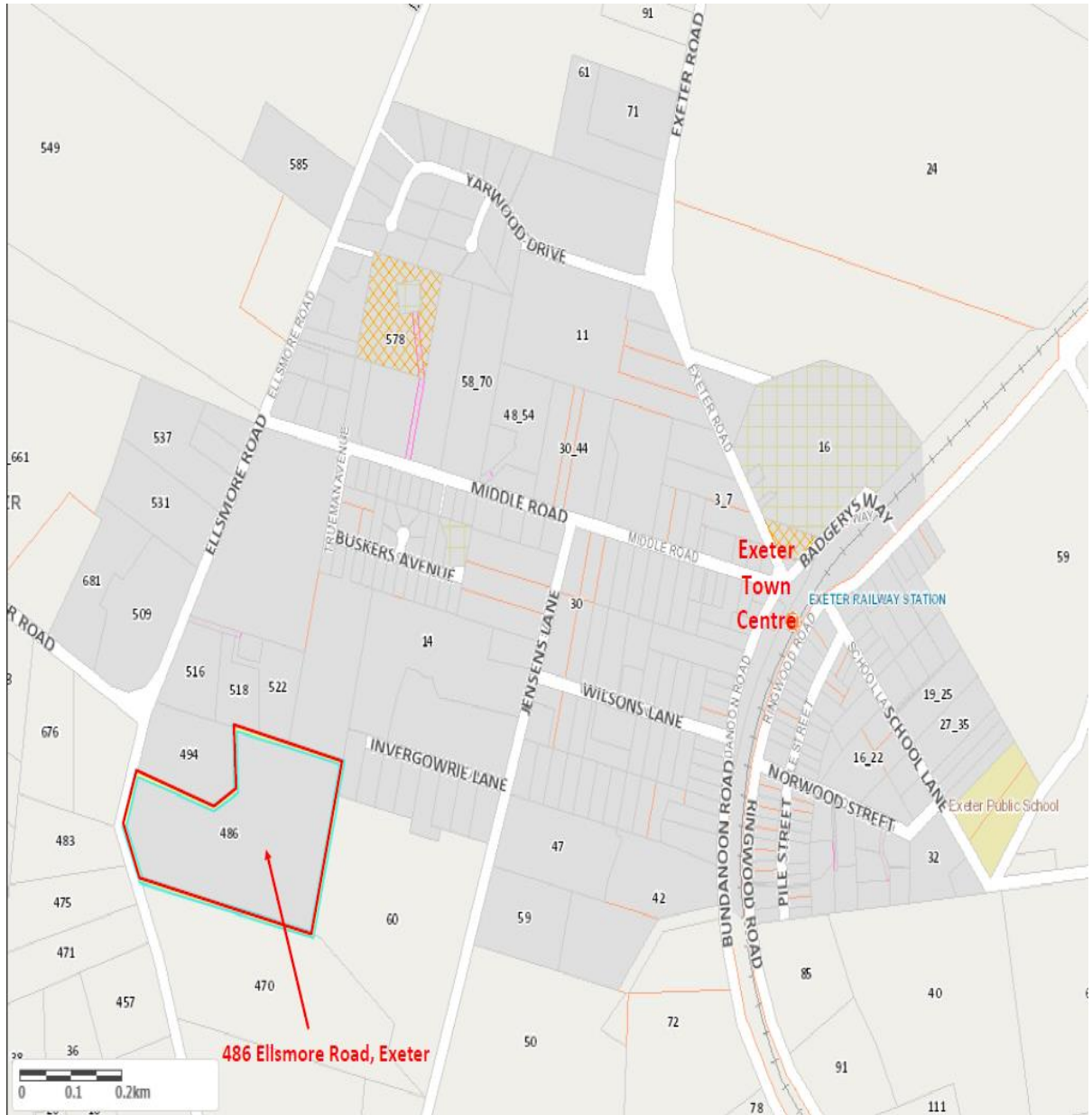


Figure 1: Locality Map (see also Attachment 2)



Figure 2: Aerial Image (see also Attachment 3)

The land is accessible by vehicle from Ellsmore Road, which at this location is sealed but does not include any kerbing or paved footpath. Its existing access driveway is positioned inside a curve in Ellsmore Road. The road's geometry, combined with adjacent trees, affords poor sight distance to/from the south along Ellsmore Road.

The land has moderately undulating topography. It generally falls to Reedy Creek, which traverses the land from northwest to southeast. The land is occupied by a dwelling house which is subject to alterations and additions approved as part of development consent 15/1028, discussed later. The land appears otherwise used for small scale agriculture and includes various agricultural improvements such as livestock yards, farm buildings, paddock fencing, and a dam on Reedy Creek.

Vegetation on the land includes pastures, riparian vegetation along Reedy Creek, and scattered mature native and exotic trees. Ellsmore Road adjoining the land is also populated by mature native vegetation, some of which will require removal if the proposed development is carried out.



Surrounding properties appear to be used for rural residential and small scale agricultural purposes, with some low density residential accommodation developments emerging to the north.

Background

The land was created in 1980 by registration of a subdivision of land the subject of Council's subdivision approval 1422/80.

On 14 December 2015 Council granted development consent 15/1028 for demolition of the existing dwelling house, erection of a new dwelling house and garage, and installation of a swimming pool on the land. Notably, development application 15/1028 had proposed retention of the land's existing vehicle access driveway from Ellsmore Road, along with addition of two more access driveways at each end of the land's Ellsmore Road frontage. However, condition 8 of development consent 15/1028 specifies, "The existing driveway to be closed off and new primary driveway to the north and secondary driveway to the south to be provided".

On 13 July 2016 development application 16/0589 was made to Council, proposing subdivision of the land and carrying out of works to create eight lots, and carrying out of works for the purpose of a public road. However, the application was subsequently withdrawn and as a consequence, pursuant to clause 52 (2) of the Environmental Planning and Assessment Regulation 2000, is taken never to have been made.

Proposed Development

The development application was made to Council on 17 October 2017, originally seeking consent to subdivide the land and carry out works to create seven lots, and to carry out works for the purpose of a public road. Assessment of the original application identified various concerns that the applicant failed to satisfactorily address. After considerable discussion, Council agreed to the applicant's proposed amendment of the application.

The applicant amended the application on 29 November 2018. **Figure 3** illustrates the proposed development drawings, as amended (see also **Attachment 4**).

The amended application proposes subdivision of land and carrying out of works to create four proposed lots:

- Lot 121: 6.1204ha; occupied by the existing dwelling house on the land
- Lot 122: 6074m²; vacant
- Lot 123: 6051m²; vacant
- Lot 124: 6672m²; vacant.

Proposed Lot 121 would be accessible by vehicle via the land's existing access driveway from Ellsmore Road. This would contravene condition 8 of development consent 15/1028, discussed earlier. Noting works the subject of development consent 15/1028 are understood to have physically commenced, the proposed retention of the existing access driveway to service proposed Lot 121 is therefore not considered satisfactory.

Proposed Lots 122-124 would be accessible by vehicle from Ellsmore Road via right of carriageway burdening Lot 121, within which an internal access road is proposed. The proposed access road's construction would traverse Reedy Creek and would necessitate filling of the existing dam on the land.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 26 June 2019

REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES

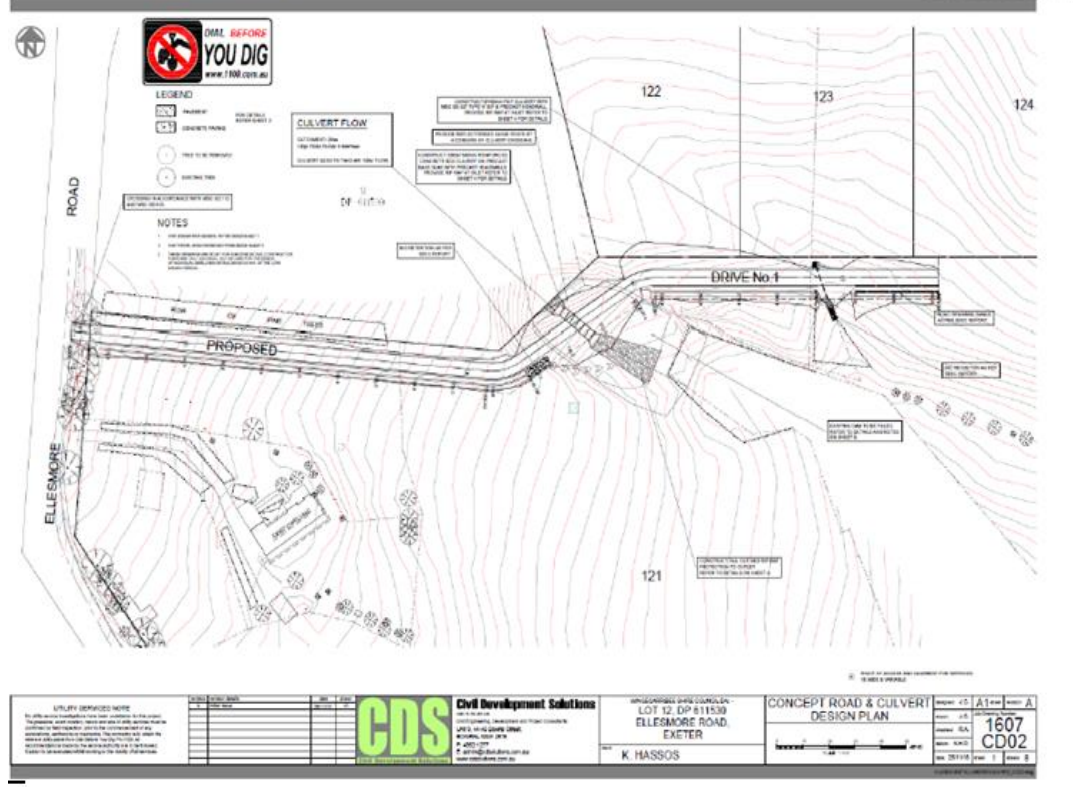
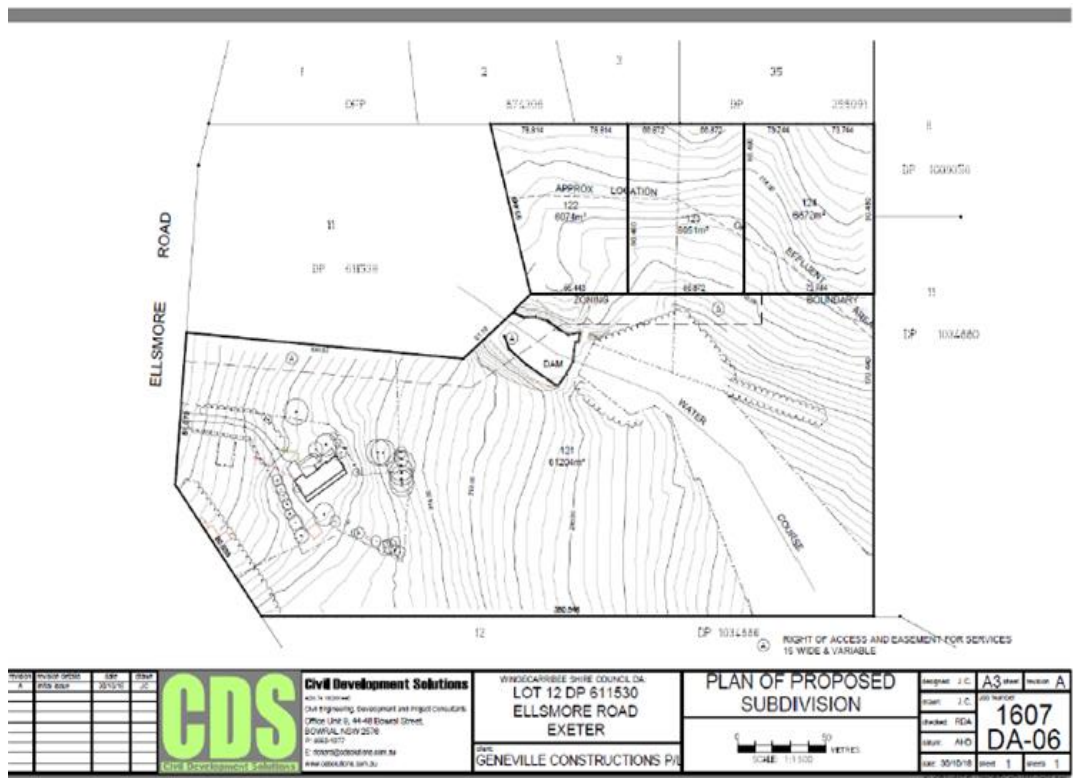


Figure 3: Proposed Development Drawings (see also Attachment 4)



STATUTORY PROVISIONS

State Environmental Planning Policies

State Environmental Planning Policy No 44—Koala Habitat Protection

- Clause 3—Aims, objectives etc

SEPP 44 aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline.

- Clause 7—Step 1—Is the land potential koala habitat?

The amended application is accompanied by a report detailing the findings of a fauna and flora assessment. The report concludes that the land is not potential koala habitat as defined by SEPP 44 (clause 4):

***potential koala habitat** means areas of native vegetation where the trees of the types listed in Schedule 2 constitute at least 15% of the total number of trees in the upper or lower strata of the tree component.*

On this basis, clause 7 of SEPP 44 does not preclude Council from granting consent for the proposed development.

SEPP 55—Remediation of Land

- Clause 2—Object of this Policy

SEPP 55 aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

- Clause 7—Contamination and remediation to be considered in determining development application

The statement of environmental effects accompanying the application indicates, “The land has no history of potentially contaminating activities”. Furthermore, site inspection did not identify any likely land contamination. The land is not considered likely to be contaminated, and is not considered to require remediation to be rendered suitable for the proposed development.

SEPP (Sydney Drinking Water Catchment) 2011 (“the Catchment SEPP”)

- Clause 3—Aims of Policy

The Catchment SEPP aims to:

- provide for healthy water catchments that will deliver high quality water while permitting development that is compatible with that goal,
- provide that a consent authority must not grant consent to a proposed development unless it is satisfied that the proposed development will have a neutral or beneficial effect on water quality, and
- support the maintenance or achievement of the water quality objectives for the Sydney drinking water catchment.

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- Clause 10—Development consent cannot be granted unless neutral or beneficial effect on water quality

The amended application was referred to Water NSW, which confirmed 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 consent for the proposed development and are subsequently implemented.

- Clause 11—Development that needs concurrence of Regulatory Authority

Water NSW has confirmed it concurs with Council granting consent for the proposed development, subject to concurrence conditions that can be conveyed by recommended conditions of consent.

Local Environmental Plans

Wingecarribee Local Environmental Plan 2010

The relevant provisions of the LEP are discussed as follows.

Clause 1.2—Aims of Plan

The application was referred to Council's Tree and Vegetation Assessment Officer and Development Engineer, each of whom responded with concerns regarding the proposed development.

- Tree and Vegetation Assessment comments

The Tree and Vegetation Assessment Officer expressed concern regarding removal of remnant native vegetation in Ellsmore Road – including mature trees and understory species – that would be necessary for construction of the proposed internal road's intersection with Ellsmore Road. The vegetation concerned may include threatened ecological communities, threatened species, or the habitat of threatened species. The fauna and flora assessment report accompanying the application provides limited assessment of these potential impacts, with all site survey work being conducted in other areas. The report's commentary on vegetation removal associated with or necessitated by the proposed development is limited to, "the most significant direct impact will be the removal of a small amount of vegetation for construction of the proposed roadway". The report does not indicate any assessment of the area to be cleared for the proposed internal road's intersection with Ellsmore Road for threatened ecological communities, threatened species, or the habitat of threatened species, which may include hollow bearing trees. Based on the documents accompanying the application, Council's Tree and Vegetation Assessment Officer is not supportive of the proposed removal of remnant native vegetation in Ellsmore Road.

In addition, the Tree and Vegetation Assessment Officer expressed concern regarding the proposed filling of the existing dam within a riparian area of the land, and its potential impacts on aquatic flora and fauna. Other than recorded frog calls (four species), the fauna and flora assessment report accompanying the application does not indicate any survey was undertaken regarding potential aquatic species. Whilst, as asserted by the report, the site is ecologically degraded, the report makes the important observation, "There are limited riparian areas eg dam, to provide habitat. However what are available provide important habitat". Again based on the documents accompanying the application, Council's Tree and Vegetation Assessment Officer does not support the proposed filling of the existing dam within the riparian area.

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- Development Engineer comments

Council's Development Engineer expressed concern that the proposed development's design does not allow safe sight distance along Ellsmore Road to the south of the proposed internal access road's intersection with Ellsmore Road. The Development Engineer explains:

"...Council has determined that the 85th percentile speed is 69.75 km/hr. This is far in excess of the posted speed. Therefore the driveway will need to be located achieving the required sight lines for 70km/hr. Note that the site lines for 70km/h is 141m. Considering the site lines of the proposed location and the 85th percentile speed, the current driveway does not comply with the Australian Standard requirements, and does not currently achieve safe sight lines".

Given the above referral responses, the proposed development is considered contrary to the particular aims specified by clause 1.2 (2) (a), (d) (ii) & (iii), (f), (l) and (p) of the LEP:

- (a) *to conserve and enhance, for current and future generations, the ecological integrity, environmental heritage and environmental significance of Wingecarribee*
- (d) *to provide opportunities for development and land use activities that:*
 - (ii) *do not adversely impact on natural systems and processes and the overall quality of Wingecarribee's natural environment, and*
 - (iii) *retain the critical natural, rural and built environmental landscape elements that make up the scenic and cultural heritage value of Wingecarribee*
- (f) *to provide for a range of living opportunities that address differing lifestyle needs without compromising the environmental quality of Wingecarribee, and the value of its natural resources such as water, biodiversity and agricultural land*
- (l) *to develop an ecologically sustainable future for Wingecarribee through the conservation, rehabilitation and regeneration of native vegetation (particularly threatened species populations and ecological communities), soil, waterways, riparian land and water quality (surface and groundwater)*
- (p) *to protect and enhance waterways, riparian land and water quality in the drinking water catchments of Wingecarribee.*

Clause 1.4—Definitions

With respect to clause 1.4, the proposed development comprises subdivision of land and carrying out of works to create four lots for the purpose of *dwelling houses*, and carrying out of works for the purpose of a *road*. The LEP defines these terms as follows:

dwelling house means a building containing only one dwelling.

road means a public road or a private road within the meaning of the Roads Act 1993, and includes a classified road.



Clause 2.3—Zone objectives and Land Use Table

As illustrated by **Figure 4**, the land's southern and southwestern majority is in Zone RU4 Primary Production Small Lots, and the northeastern remainder is in Zone R2 Low Density Residential (see also **Attachment 5**).

The Land Use Table specifies development for the purposes of dwelling houses and roads is permitted with consent in both Zones RU4 and R2. However, given the concerns expressed by Council's Tree and Vegetation Assessment Officer as discussed earlier, the proposed development is considered contrary to the following RU4 zone objectives:

- *To avoid additional degradation or fragmentation of the natural environment caused by further clearing of native vegetation, high intensity development and land use*
- *To maintain flora and fauna species and habitats, communities and ecological processes that occupy land in the zone, ensuring that development minimises any off and on site impacts on biodiversity, water resources and natural landforms*
- *To conserve and enhance the quality of potentially valuable environmental assets, including waterways, riparian land, wetlands and other surface and groundwater resources, remnant native vegetation and fauna movement corridors as part of all new development and land use*
- *To provide for the effective management of remnant native vegetation within the zone, including native vegetation regeneration, noxious and environmental weed eradication and bush fire hazard reduction.*

Clause 2.6—Subdivision—consent requirements

Clause 2.6 confirms that the land may be subdivided only with development consent.

Clause 4.1—Minimum subdivision lot size

As illustrated by **Figure 5**, the minimum sizes shown on the Lot Size Map in relation to the land are 8.0ha for the RU4 zoned southern and southwestern majority, and 2000m² for the R2 zoned northeastern remainder (see also **Attachment 6**).

Each of proposed Lots 122, 123 and 124 is subject to a minimum lot size of 2000m² and – being greater than 6000m² in area – complies. Proposed lot 121 is subject to a minimum lot size of 8.0ha and does not comply, having an area of 6.1204ha. However, the proposed development is also considered with regard to clause 4.2C, discussed below.

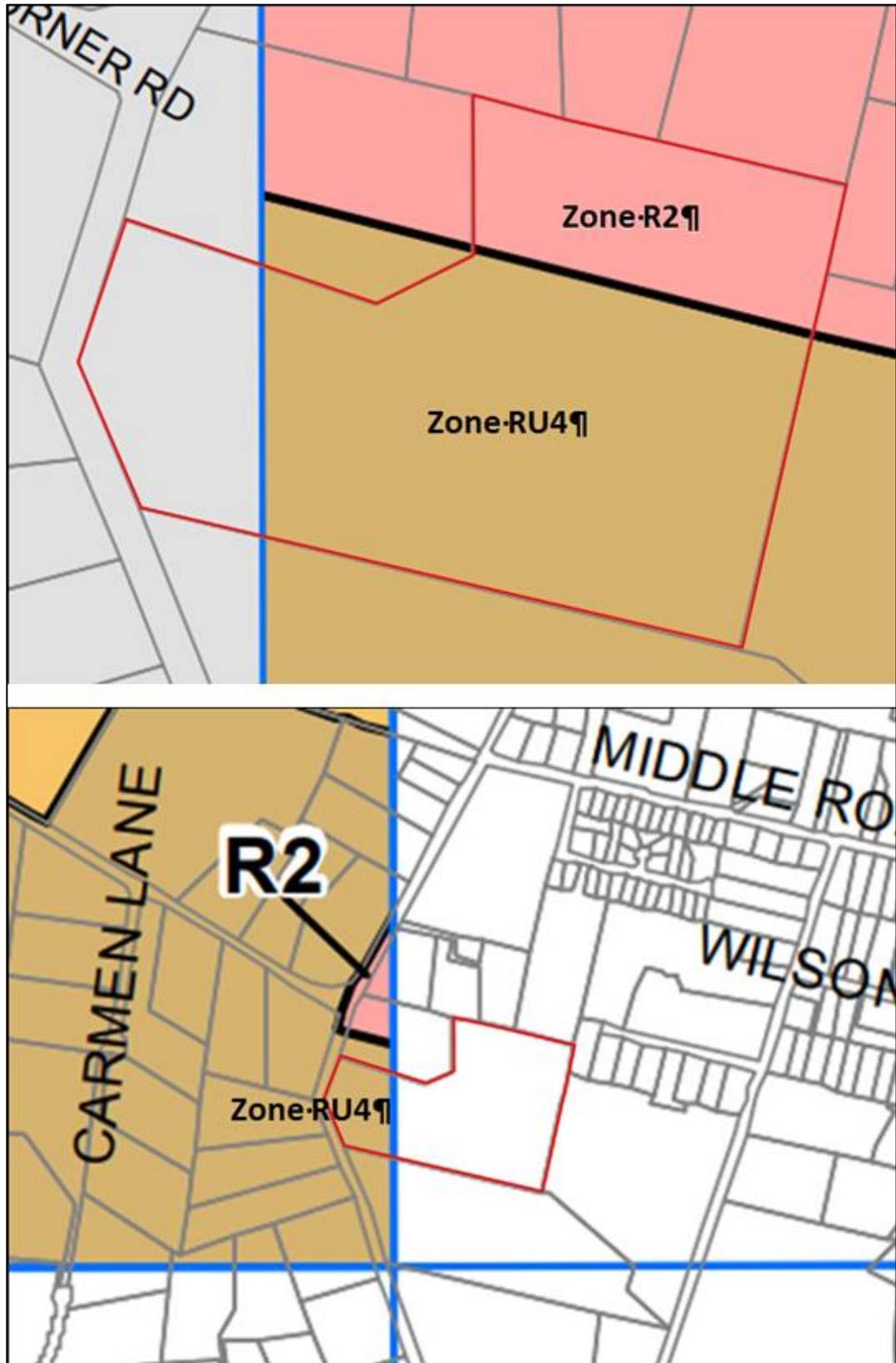


Figure 4: Dual Zoning of Subject Land (see also Attachment 5)

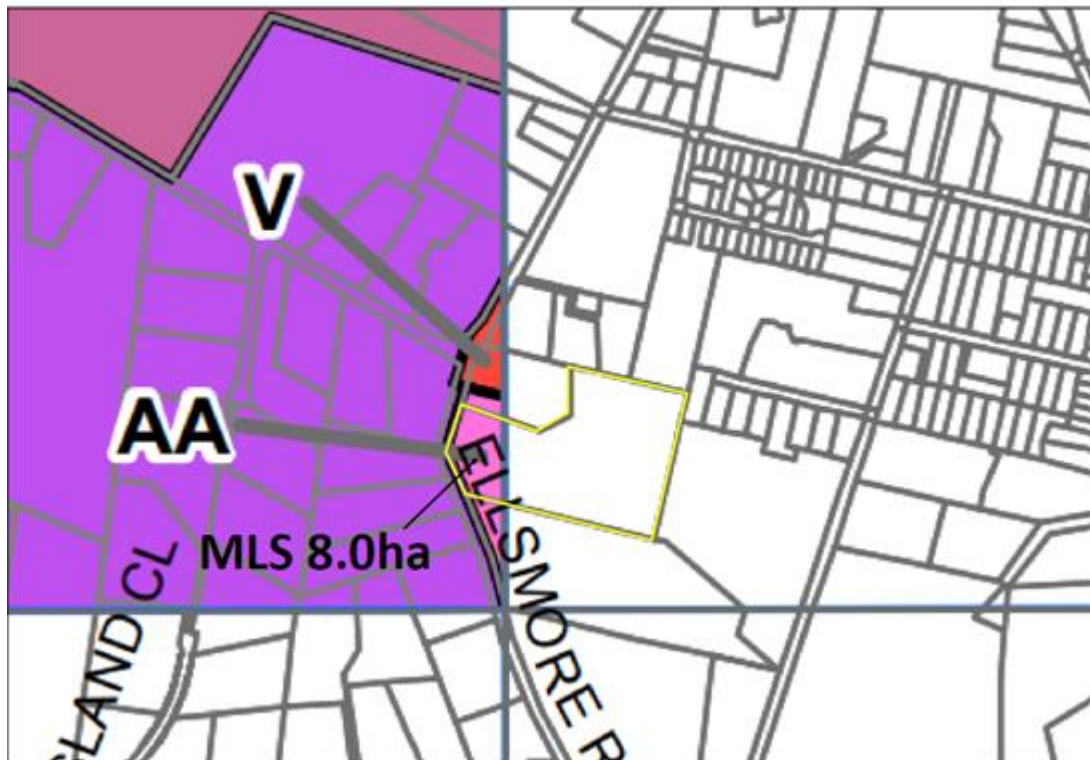
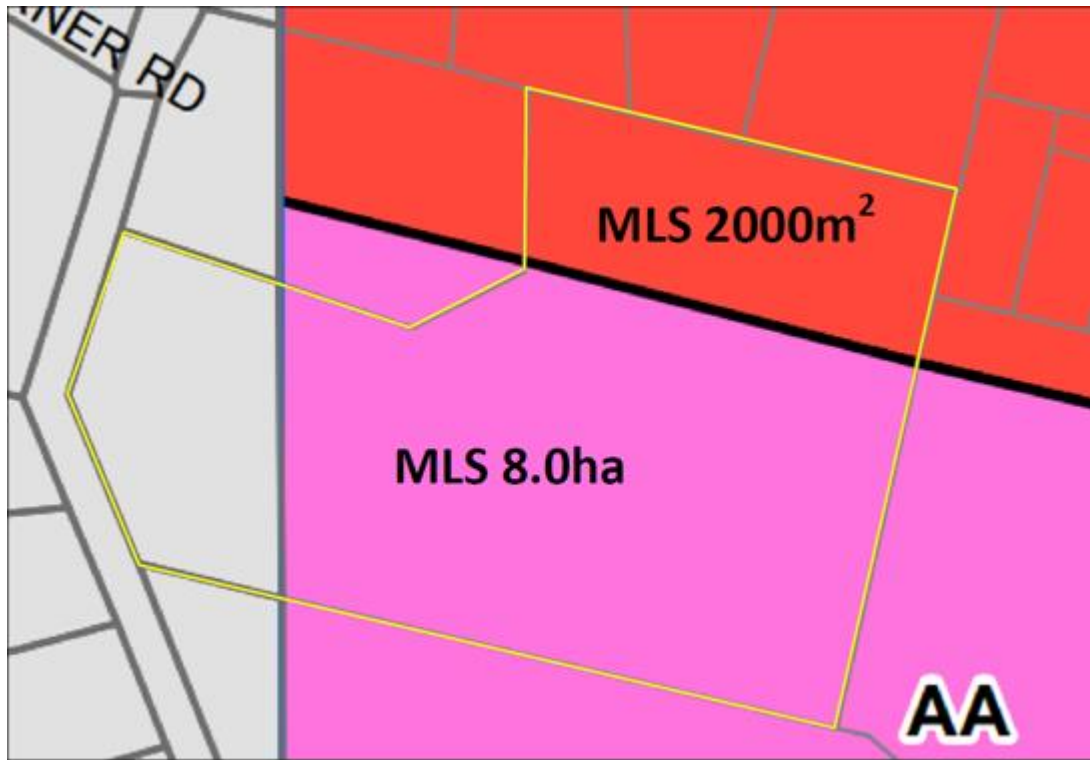


Figure 5: Minimum Lot Sizes Applicable to Subject Land (see also Attachment 6)

Clause 4.2C—Exceptions to minimum subdivision lots sizes for certain split zones

Clause 4.2C applies to any lot that contains land in more than one zone (an original lot). Subclause (5) (a) effectively specifies that development consent may be granted to



subdivide the subject land if the lots to be created from the subdivision will each contain land in only one zone.

Each of proposed Lots 122-124 is located entirely within Zone R2, and exceeds the 2000m² minimum lot size applicable to it. Whilst proposed Lot 121 is smaller than the 8.0ha minimum lot size applicable to it, it is located entirely within Zone RU4. Clause 4.2C (5) (a) therefore facilitates granting of consent for the proposed development.

A recommended consent condition can specify Council's consent is granted pursuant to clause 4.2C (5) (a) of the LEP. A further recommended consent condition can specify no subdivision certificate shall be granted for the development unless the certifying authority is satisfied by documents accompanying the subdivision certificate application that proposed Lot 121 is entirely located within Zone RU4, and each of proposed Lots 122-124 is entirely located within Zone R2.

Clause 5.16—Subdivision of, or dwellings on, land in certain rural, residential or environment protection zones

Clause 5.16 applies to the portion of the land located in Zone RU4. Subclauses (3) and (4) (a)-(d) effectively specify that Council must consider the following in determining whether to grant consent for the proposed development:

- (a) *the existing uses and approved uses of land in the vicinity of the development,*
- (b) *whether or not the development is likely to have a significant impact on land uses that, in the opinion of the consent authority, are likely to be preferred and the predominant land uses in the vicinity of the development,*
- (c) *whether or not the development is likely to be incompatible with a use referred to in paragraph (a) or (b),*
- (d) *any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c).*

The LEP would encourage development of proposed Lots 122-124, being located within Zone R2, for low density residential accommodation and related purposes. In contrast, proposed lot 121, being in Zone RU4, could lawfully be developed for the purpose of extensive agriculture without any prior consent, and for various other agricultural purposes (e.g. aquaculture, farm buildings, intensive plant agriculture, landscaping material supplies, plant nurseries) with consent. This creates potential for land use conflict between residential and rural land uses. To ensure prospective owners of the proposed residential Lots 122-124 may be made aware of this potential, a recommended consent condition can specify no subdivision certificate shall be granted for the development unless an instrument has been created under section 88B of the Conveyancing Act 1919, burdening proposed Lots 122, 123 and 124, that specifies that the adjoining Lot 121 may be lawfully developed for agricultural and other purposes permitted by the LEP either with or without consent in Zone RU4.

Provided recommended consent conditions are observed, the proposed development is considered satisfactory with respect to clause 5.16.

Clause 7.3—Earthworks

Documents accompanying the application indicate the proposed development involves earthworks, including filling of the existing dam on the land to depths up to 2.27m. Clause 7.3 (3) (a)-(g) effectively requires Council to consider the following before granting consent for the proposed development's earthworks component:



- (a) *the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,*
- (b) *the effect of the proposed development on the likely future use or redevelopment of the land,*
- (c) *the quality of the fill or of the soil to be excavated, or both,*
- (d) *the effect of the proposed development on the existing and likely amenity of adjoining properties,*
- (e) *the source of any fill material or the destination of any excavated material,*
- (f) *the likelihood of disturbing Aboriginal objects or other relics,*
- (g) *proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.*

As discussed earlier, Council's Tree and Vegetation Assessment Officer is concerned that the proposed development – particularly the proposed filling of the existing dam on the land – may have significant negative impacts on riparian fauna and flora. On that basis, Council cannot be satisfied by the application and its accompanying documents that the proposed development is satisfactory with respect to the matter specified by clause 7.3 (3) (g) of the LEP, nor that the proposed development is consistent with the overarching earthworks objective specified by clause 7.3 (1) (a): “to ensure that any earthworks will not have a detrimental impact on environmental functions and processes...”.

The above aside, a recommended consent condition can specify no subdivision works certificate shall be granted for the development unless details of all proposed fill sources and content have been submitted to and approved by Council.

Clause 7.5—Natural resources sensitivity—water

As illustrated by **Figure 6**, part of the subject land, including and adjacent to Reedy Creek and the existing dam on the land, is riparian land as indicated by the LEP Natural Resources Sensitivity Map (see also **Attachment 7**).

Clause 7.5 (3) (a)-(e) effectively specifies that Council must consider the following before granting consent for the proposed development:

- (a) *the natural flow regime,*
- (b) *the water quality of receiving waters,*
- (c) *the waterway's natural flow paths,*
- (d) *the stability of the waterway's bed, shore and banks,*
- (e) *the flow, capacity and quality of groundwater systems.*

It is noted that clause 7.5 does not require Council to consider the proposed development's potential effects on riparian fauna and flora.

The application was referred internally to Council's Development Engineer, and externally to Water NSW and the NSW Natural Resources Access Regulator (NRAR). None of these referees raised any concerns regarding the matters specified by clause 7.5 (3) (a)-(c), subject to conditions that can be conveyed by recommended consent conditions. The proposed development is therefore considered satisfactory with respect to clause 7.5, provided recommended consent conditions are complied with.

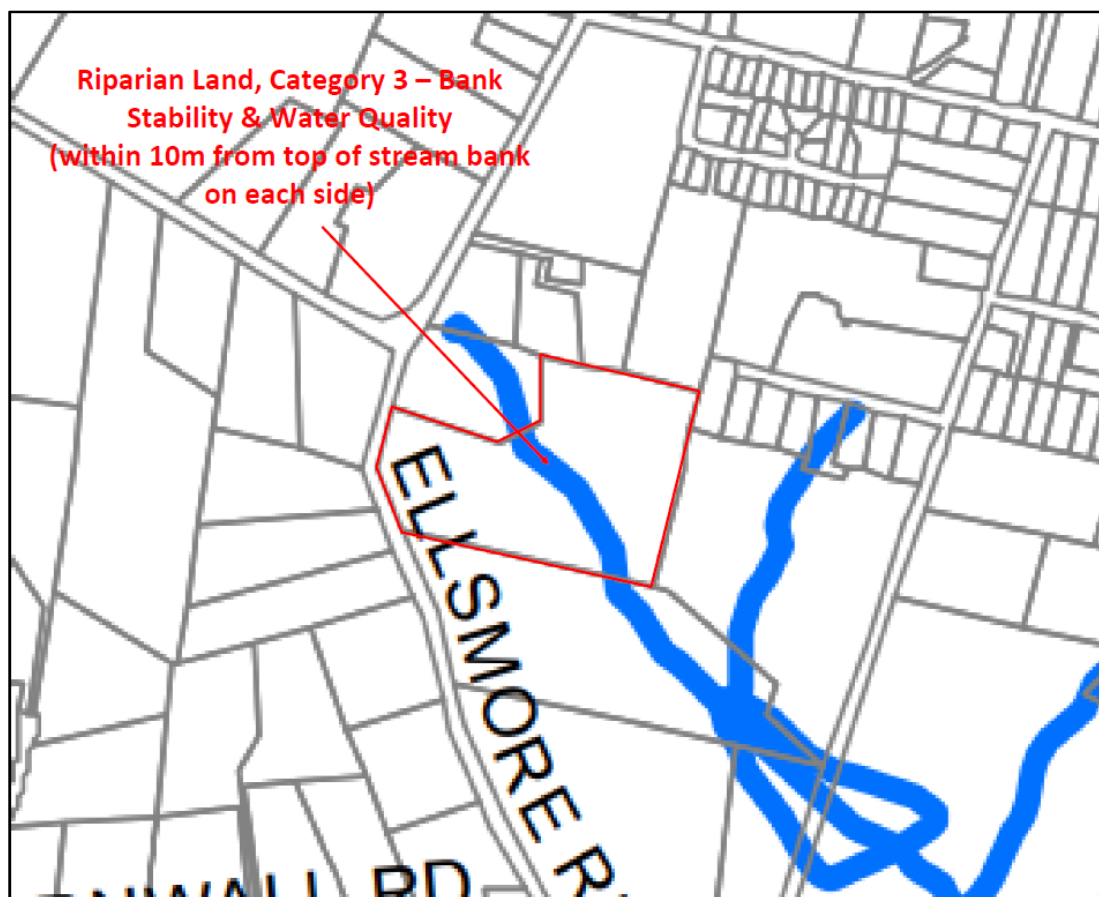


Figure 6: Riparian Land Traversing Subject Land (see also Attachment 7)

Clause 7.9—Flood planning

No flood study has been carried out in relation to the subject land or its locality. As a result, the LEP Flood Planning Area Map does not identify any part of the land as “Flood Planning Area”, and Council’s available mapping does not indicate whether any part of the land is at or below the flood planning level. However, given the land is traversed by Reedy Creek, it is considered likely that at least some of the land is below the flood planning level.

None of the documents accompanying the application addresses the potential inundation of the land in a flood event. Consequently, having regard to the matters specified by clause 7.9 (3) (a)-(e), Council cannot be satisfied by the application and its accompanying documents that the proposed development:

- (a) *is compatible with the flood hazard of the land, and*
- (b) *will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) *incorporates appropriate measures to manage risk to life from flood, and*
- (d) *will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*
- (e) *will not be likely to result in unsustainable social and economic costs to the community as a consequence of flooding.*



In the absence of Council being satisfied as to the above matters, clause 7.9 (3) specifies consent must not be granted for the proposed development.

Clause 7.10—Public utility infrastructure

Pursuant to clause 7.10 (2), recommended consent conditions can require arrangements to be made for provision to each proposed lot of infrastructure for water and electricity supply, and sewage disposal and management.

Development Control Plans

The land's R2 zoned north-eastern portion (proposed Lots 122-124) is subject to the provisions of Council's Exeter Village Development Control Plan, and its RU4 zoned southern and southeastern portion is subject to Council's Rural Living Development Control Plan.

Exeter Village Development Control Plan (EVDCP)

- Part A—Provisions applicable to all land
 - Section 2—General objectives
 - Section A2.4—Residential amenity
 - Section A2.4.3—Environmental sustainability

As discussed earlier, Council's Tree and Vegetation Assessment Officer is not satisfied by the application and accompanying documents that the proposed development will not have a significant negative impact with respect to fauna and flora. On that basis, the proposed development is considered unsatisfactory with respect to the following environmental sustainability objectives specified by section A2.4.3:

 - *protect vegetation, threatened species, ecological communities, hydrological aspects, watercourses, significant natural features, and any other aspect of environmental quality.*
 - *no net loss of riparian condition, remnant vegetation, biodiversity values, wetland values, wildlife habitat or water quality.*
 - Section A2.5 (misnumbered in EVDCP document as A1.2)—Road reserves
 - Section A2.5.1 (misnumbered in EVDCP document as A1.2.1)—Vegetation

Construction of the internal access road in the proposed development would necessitate removal of remnant native vegetation from Ellsmore Road. Noting Council's Tree and Vegetation Assessment Officer does not support such removal, the proposed development is considered contrary to EVDCP's provision that:

Should remnant vegetation be located within either existing or proposed road reserves it shall be conserved. Access to new lots should be located in an alternative



position or to take advantage of existing road reservations where they exist.

○ Section 3—Biodiversity

▪ Section A3.2—Flora and fauna assessment report

The proposed development involves removal of remnant native vegetation from Ellsmore Road, and filling of a dam within a riparian area. Noting Council's Tree and Vegetation Assessment Officer does not support either such component of the development, it is considered contrary to the flora and fauna assessment report objectives specified by section A3.2 (b)-(e):

(b) *Retain and protect individual remnant native species that are found scattered throughout the Shire.*

(c) *To retain, enhance or reconstruct native vegetation and the ecological functions of wildlife corridors.*

(d) *To protect and promote the recovery of threatened species, populations and endangered ecological communities.*

(e) *To ensure development responds to its adjacent surroundings and helps preserve and enhance the natural qualities of the environment.*

○ Section 4—Water management

▪ Section A4.2—Vegetation management plan for riparian corridors

The application is not accompanied by a vegetation management plan as required by section A4.2. However, a recommended consent condition can specify no subdivision works certificate shall be granted for the development unless a vegetation management plan, prepared in accordance with the NSW Office of Water Guidelines for vegetation management plans on water front land, has been submitted to and approved by Council.

○ Section 5—Flood liable land

As discussed earlier, given the land is traversed by Reedy Creek, it is considered likely to be at least partially below the flood planning level. No documents accompanying the application address the potential for the development to significantly affect, or be significantly affected by, floodwater inundation. Council therefore cannot be satisfied by the application and its accompanying documents that the proposed development satisfies the flood liable land objectives or requirements and controls of section 5.



- Section 7—Vegetation management and landscaping
 - Section A7.1—Preservation of trees and other vegetation
 - Section A7.1.1—Objectives

As discussed, the proposed development involves removal of remnant native vegetation from Ellsmore Road and filling of a dam in a riparian area. Noting Council's Tree and Vegetation Assessment Officer does not support either component, the proposed development is considered contrary to the objective specified by section A7.1.1 (a):

 - (a) *preserve the amenity, biodiversity and ecology of the Exeter village through the preservation of trees and other vegetation...*
 - Section A7.1.7—Assessment considerations

Council's Tree and Vegetation Assessment Officer has expressed concern that vegetation to be removed in the proposed development may include threatened ecological communities, threatened species, or the habitat of threatened species. On this basis, the proposed development is considered unsatisfactory with respect to the assessment considerations specified by section A7.1.7 (e) and (l) (iv):

 - (e) *Implications for biodiversity. It will be essential to determine the conservation status of the tree/vegetation. Priority will be given to trees which are rare or endangered, are ecologically significant in the local or regional context, form part of a naturally occurring remnant, are self-sown from locally indigenous stock or provide habitat for wildlife.*
 - (l) *Whether adverse impacts of the proposal have been adequately identified and will be satisfactorily mitigated. Measures will need to address the following matters where appropriate:-*
 - (iv) *Protection of affected wildlife.*

Wingecarribee Shire Rural Living Development Control Plan (RLDCP)

- Part A—Managing our rural lands
 - Section 4—Vegetation management
 - Section A4.6—Earthworks

As discussed, Council's Tree and Vegetation Officer does not support the proposed filling of a dam within a riparian area, given its potential impact on fauna and flora. On this basis, Council cannot be satisfied by documents accompanying the application that the proposed development is satisfactory with regard to the provision specified by section A4.6.1 (d) (i):

 - (d) *Any excavation works must take into consideration the following:*



(i) *possible wildlife habitat.*

As discussed earlier regarding clause 7.3 of the LEP, recommended consent conditions can specify no subdivision works certificate shall be granted for the development unless details of all proposed fill sources and content have been submitted to and approved by Council.

▪ Section A4.10—Roadside reserves

• Section A4.10.1—Objectives

The proposed internal access road's intersection with Ellsmore Road will necessitate removal of remnant native vegetation from Ellsmore Road, contrary to the objectives specified by section 4.10.1 (a) and (b):

(a) *To ensure the retention of all native vegetation occurring on roadside reserves*

(b) *To ensure that any property access ways are located and constructed to minimise any loss of native vegetation occurring within the road reserve.*

• Section A4.10.2—Controls

Removal of remnant native vegetation associated with construction of the proposed internal access road's intersection with Ellsmore Road is considered unsatisfactory with respect to the control specified by section A4.10.2 (b):

(b) *All property access ways must be located to minimise the loss of any road side vegetation.*

▪ Section A4.11—Preservation of trees and other vegetation

• Section A4.11.1—Objectives

As discussed, Council's Tree and Vegetation Assessment Officer does not support removal of vegetation associated with the proposed development. On this basis, the proposed development is considered contrary to the objective specified by section A4.11.1 (a):

(a) *preserve the amenity, biodiversity and ecology of the Rural Living areas through the preservation of trees and other vegetation...*

• Section A4.11.7—Assessment considerations

Council's Tree and Vegetation Assessment Officer has expressed concern that vegetation proposed to be removed may include threatened ecological communities, threatened species, or the habitat of threatened species. On this basis, the proposed development is considered unsatisfactory with respect to the assessment considerations specified by section A4.11.7 (e) and (l) (iv):

(e) *Implications for biodiversity. It will be essential to determine the conservation status of the tree/vegetation. Priority will be given to trees which*



are rare or endangered, are ecologically significant in the local or regional context, form part of a naturally occurring remnant, are self-sown from locally indigenous stock or provide habitat for wildlife

(l) *Whether adverse impacts of the proposal have been adequately identified and will be satisfactorily mitigated. Measures will need to address the following matters where appropriate:-*

(iv) *Protection of affected wildlife.*

o Section 5—Water management

▪ Section A5.7—Protection of watercourses, water bodies and riparian lands

• Section A5.7.5—Objectives

Council's Tree and Vegetation Assessment Officer has expressed concern that the proposed filling of a dam in a riparian area may have significant negative impacts on fauna and flora. On this basis, the proposed development is considered contrary to the objectives specified by section A5.7.5 (a)-(d):

(a) *ensure that proposed development in or adjoining natural water bodies and riparian land takes into account impacts on the environment including natural water bodies, riparian lands and all associated habitats.*

(b) *protect and enhance water quality and aquatic ecosystems, including natural wetlands maintain and, where possible, enhance the ecological and water quality functions of riparian vegetation (both instream and beside stream)*

(c) *protect, restore and maintain ecological processes, natural systems and biodiversity within wetlands and waterways.*

(d) *provide stream bed and bank stability, protect water quality, maintain viability of riparian vegetation and provide continuity and connectivity for riparian habitat (both instream and beside stream).*

▪ Section A5.9—Flood liable land

As discussed, as the land is traversed by Reedy Creek, it is considered likely to be at least partially below the flood planning level. No documents accompanying the application address the potential for the development to significantly affect, or be significantly affected by, floodwater inundation. Council therefore cannot be satisfied by the application and its accompanying documents that the proposed development satisfies the flood liable land objectives or requirements and controls of section A5.9.



- Section 6—Additional controls
 - Section A6.11—Construction of private roads

The development involves construction of an internal access road, involving removal of remnant native vegetation from Ellsmore Road and filling of a dam in a riparian area. Noting Council's Tree and Vegetation Assessment Officer does not support either component, the proposed development is considered unsatisfactory with respect to the provision of section A6.11, "All road construction should aim to obtain the most environmentally sustainable option".

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

The application has been considered with regard to the relevant provisions of applicable environmental planning instruments, as discussed earlier.

(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 Council's Exeter Village Development Control Plan and Wingecarribee Shire Rural Living Development Control Plan, as discussed earlier.

(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,



Access, transport and traffic

Council's Development Engineer has indicated that neither the location of the proposed internal access road's intersection with Ellsmore Road, nor that of the vehicle access driveway to proposed Lot 121, affords safe sight distance along Ellsmore Road. The proposed development is therefore considered unsatisfactory with respect to access, transport and traffic considerations.

Flora and fauna

Council's Tree and Vegetation Assessment Officer has expressed concern that the removal of remnant native vegetation from Ellsmore Road associated with the proposed internal access road's construction, and the proposed filling of a dam in a riparian area, may have significant negative impacts on fauna and flora. The proposed development is therefore considered unsatisfactory with respect to:

- Protection and management of threatened species, populations, ecological communities or their habitats
- Remnant vegetation
- Disturbance to native fauna and habitats.

Natural Hazards

The land is traversed by Reedy Creek, and is therefore considered likely to be at least partially located below the flood planning level. No documents accompanying the application address the potential for the proposed development to significantly affect, or be significantly affected by, floodwater inundation.

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

The proposed development would necessitate removal of remnant vegetation from Ellsmore Road and filling of a dam in a riparian area, each of which may have significant negative impacts on fauna and flora. In addition, the land's frontage to Ellsmore Road does not afford safe sight distance to/from any proposed vehicle access point. The land's attributes therefore are not conducive to the proposed development.

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

Refer to the Consultation section of this report.

(e) the public interest.

There is not considered to be any overriding public interest in favour of granting consent for the proposed development.

CONSULTATION

Pre-lodgement Meeting

No formal pre-lodgement meeting was held between the applicant and Council officers prior to the application being made.

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External Referrals

| Referrals | Advice/Response/Conditions |
|---|---|
| Water NSW (concurrency authority) | Concurrence granted to Council granting consent for the development, subject to conditions. |
| NSW Natural Resources Access Regulator (integrated development approval body) | No objection and no general terms of approval provided; but confirmed Water Management Act approval required. |

Internal Referrals

| Referrals | Advice/Response/Conditions |
|--|--|
| Development Engineer | Insufficient intersection sight distance for proposed private road and Lot 121 driveway intersections with Ellsmore Road. |
| Contributions Planner | Developer contributions payable for three additional vacant residential lots. |
| Tree and Vegetation Assessment Officer | Proposed removal of remnant native vegetation from Ellsmore Road and filling of dam within riparian land not supported due to potential negative impacts on flora and fauna. |

Neighbour Notification (or Advertising)/Public Participation

The amended development application was Neighbour Notified for a period of 56 days between 6 December 2018 and 31 January 2019, and Council received 10 submissions. The issues raised in the submissions have been summarised and are considered below:

- *Non-compliance with minimum lot size*

As discussed earlier, clauses 4.1 and 4.2C of the LEP facilitate the granting of consent for the proposed development, despite proposed Lot 121 being smaller than the minimum lot size applicable to it.
- *Access to R2 zoned land via RU4 zoned land*

The internal access road from Ellsmore Road to the R2 zoned proposed Lots 122-124, via the RU4 zoned proposed Lot 121, may effectively externalise and isolate proposed Lots 122-124 from Exeter Village. It is considered appropriate that lawful vehicular access should be provided to proposed Lots 122-124 from within the village, rather than from outside it as proposed.
- *Road/traffic safety*

As discussed earlier, the proposed development makes inadequate provision for safe sight distance along Ellsmore Road.
- *Impacts on local character and amenity*

The proposed development is not considered likely to have a significant negative impact on the character and amenity of the locality.
- *Environmental impacts*



As discussed, the proposed removal of remnant vegetation from Ellsmore Road, and filling of a dam within a riparian area, may have significant negative impacts on fauna and flora in the locality.

- *Incompatibility with primary production*

Provided recommended consent conditions are complied with, the proposed development is not considered incompatible with existing or desired agricultural land uses in the locality.

- *Geotechnical suitability*

Provided recommended consent conditions are complied with, the land's geotechnical attributes are not considered likely to render the land unsuitable for the proposed development or subsequent residential developments.

- *Aboriginal and archaeological heritage*

A recommended consent condition can specify actions to be taken in the event that works in the development uncover objects or sites of Aboriginal heritage or archaeological significance.

- *Effluent disposal*

Future residential accommodation development of the proposed lots would necessitate on site effluent disposal, details of which would be required to be submitted to and approved by Council. The sizes and geotechnical attributes of the proposed lots are not expected to place a prohibitive constraint on effluent management and disposal.

- *Flood hazard*

As discussed earlier, the land is considered likely to be at least partially below the flood planning level. In the absence of any information accompanying the application that addresses flood hazard, Council cannot be satisfied that the development will not significantly affect, or be significantly affected by, flood inundation.

- *Potential cumulative impact*

There are no valid grounds on which to surmise that granting consent for the proposed development would precipitate future development that is inconsistent with Council's planning strategies, instruments, plans and policies.

SUSTAINABILITY ASSESSMENT

- **Environment**

The development involves removal of remnant native vegetation from Ellsmore Road and filling of a dam on riparian land, each of which may have significant negative impacts on flora and fauna.

- **Social**

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

- **Broader Economic Implications**

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

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- **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 79C of the *Environmental Planning and Assessment Act 1979* and any other matters relevant to the development.

RELATIONSHIP TO CORPORATE PLANS

Operational Plan 2018 – 2019: OP181 Assess and certify applications related to development.

COUNCIL BUDGET IMPLICATIONS

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

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

RELATED COUNCIL POLICY

An assessment of the proposal has been made against the relevant provisions of applicable environmental planning instruments including *Wingecarribee Local Environmental Plan 2010*, and Council's Exeter Village and Rural Living Development Control Plans.

OPTIONS

The options available to Council are:

Option 1

Determine development application 17/1457 by refusal for the reasons specified in **Attachment 1**.

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Option 2

Determine development application 17/1457 by granting development consent, and specify any applicable conditions of consent.

Option 1 is the recommended option to this report.

CONCLUSION

The proposed development is considered unsatisfactory with respect to the relevant provisions of Wingecarribee Local Environmental Plan, Exeter Village Development Control Plan and the Rural Living Development Control Plan, and likely to have significant negative impacts on the environment. Furthermore, the land's attributes are considered to render it unsuitable for the proposed development.

ATTACHMENTS

1. Draft Reasons for Refusal
2. Locality Map
3. Aerial Image
4. Proposed Development Drawings
5. Dual Zoning of Subject Land
6. Minimum Lot Sizes Applicable to Subject Land
7. Riparian Land Traversing Subject Land

Mark Pepping

Deputy General Manager Corporate, Strategy and Development Services

Friday 21 June 2019



DRAFT REASONS FOR REFUSAL

1. Potential impact on flora and fauna

The proposed development includes removal of remnant native vegetation in Ellsmore Road, and filling of a dam occupying riparian land. Council is not satisfied by the application and its accompanying documents that these components of the proposed development will not have a significant negative impact on flora and fauna in the locality, potentially including threatened species, populations or ecological communities, or their habitats. Consequently:

- a. Council is not satisfied that the proposed development is consistent with the particular aims specified by clause 1.2 (2) (a), (d) (ii) & (iii), (f), (l) and (p) of Wingecarribee Local Environmental Plan 2010:
 - (a) *to conserve and enhance, for current and future generations, the ecological integrity, environmental heritage and environmental significance of Wingecarribee,*
 - (d) *to provide opportunities for development and land use activities that:*
 - (ii) *do not adversely impact on natural systems and processes and the overall quality of Wingecarribee's natural environment, and*
 - (iii) *retain the critical natural, rural and built environmental landscape elements that make up the scenic and cultural heritage value of Wingecarribee,*
 - (f) *to provide for a range of living opportunities that address differing lifestyle needs without compromising the environmental quality of Wingecarribee, and the value of its natural resources such as water, biodiversity and agricultural land,*
 - (l) *to develop an ecologically sustainable future for Wingecarribee through the conservation, rehabilitation and regeneration of native vegetation (particularly threatened species populations and ecological communities), soil, waterways, riparian land and water quality (surface and groundwater),*
 - (p) *to protect and enhance waterways, riparian land and water quality in the drinking water catchments of Wingecarribee.*
- b. Council is not satisfied that the proposed development is consistent with the following objectives of Zone RU4 Primary Production Small lots, as specified by the Land Use Table at the end of Part 2 of Wingecarribee Local Environmental Plan 2010:
 - *To avoid additional degradation or fragmentation of the natural environment caused by further clearing of native vegetation, high intensity development and land use.*
 - *To maintain flora and fauna species and habitats, communities and ecological processes that occupy land in the zone, ensuring that development minimises any off and on site impacts on biodiversity, water resources and natural landforms.*
 - *To conserve and enhance the quality of potentially valuable environmental assets, including waterways, riparian land, wetlands and other surface and*

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groundwater resources, remnant native vegetation and fauna movement corridors as part of all new development and land use.

- *To provide for the effective management of remnant native vegetation within the zone, including native vegetation regeneration, noxious and environmental weed eradication and bush fire hazard reduction.*
- c. Council is not satisfied that the proposed development is consistent with the earthworks objective specified by clause 7.3 (1) (a) of Wingecarribee Local Environmental Plan 2010:
- (a) to ensure that any earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses or heritage items and features surrounding land.*
- d. Council is not satisfied that the proposed development is satisfactory with regard to the matter specified by clause 7.3 (3) (g) of Wingecarribee Local Environmental Plan 2010:
- (g) proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.*
- e. Council is not satisfied that the proposed development is consistent with the following environmental sustainability objectives specified by section A2.4.3 of Council's Exeter Village Development Control Plan:
- *Protect vegetation, threatened species, ecological communities, hydrological aspects, watercourses, significant natural features, and any other aspect of environmental quality*
 - *No net loss of riparian condition, remnant vegetation, biodiversity values, wetland values, wildlife habitat or water quality.*
- f. Council is not satisfied that the proposed development is satisfactory with respect to the vegetation provision of section A2.5.1 of Council's Exeter Village Development Control Plan (incorrectly numbered as section A1.2.1 in development control plan document) that:
- "Should remnant vegetation be located within either existing or proposed road reserves it shall be conserved. Access to new lots should be located in an alternative position or to take advantage of existing road reservations where they exist."*
- g. Council is not satisfied that the proposed development is satisfactory with respect to the flora and fauna assessment report objectives specified by section A3.2 (b)-(e) of Council's Exeter Village Development Control Plan:
- (b) Retain and protect individual remnant native species that are found scattered throughout the Shire.*
- (c) To retain, enhance or reconstruct native vegetation and the ecological functions of wildlife corridors.*
- (d) To protect and promote the recovery of threatened species, populations and endangered ecological communities.*
- (e) To ensure development responds to its adjacent surroundings and helps preserve and enhance the natural qualities of the environment.*

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- h. Council is not satisfied that the proposed development is satisfactory with respect to the tree and vegetation preservation objective specified by section A7.1.1 (a) of Council's Exeter Village Development Control Plan:
- (a) Preserve the amenity, biodiversity and ecology of the Exeter village through the preservation of trees and other vegetation...*
- i. Council is not satisfied that the proposed development is satisfactory with respect to the tree and vegetation preservation assessment considerations specified by section A7.1.7 (e) and (l) (iv) of Council's Exeter Village Development Control Plan:
- (e) Implications for biodiversity. It will be essential to determine the conservation status of the tree/vegetation. Priority will be given to trees which are rare or endangered, are ecologically significant in the local or regional context, form part of a naturally occurring remnant, are self-sown from locally indigenous stock or provide habitat for wildlife...*
- (l) Whether adverse impacts of the proposal have been adequately identified and will be satisfactorily mitigated. Measures will need to address the following matters where appropriate:-*
- (iv) Protection of affected wildlife.*
- j. Council is not satisfied that the proposed development is satisfactory with respect to the earthworks control specified by section A4.6.1 (d) (i) of the Wingecarribee Shire Rural Living Development Control Plan:
- (d) Any excavation works must take into consideration the following:*
- (i) possible wildlife habitat.*
- k. Council is not satisfied that the proposed development is satisfactory with respect to the roadside reserves objectives specified by section A4.10.1 (a) and (b) of the Wingecarribee Shire Rural living Development Control Plan:
- (a) To ensure the retention of all native vegetation occurring on roadside reserves*
- (b) To ensure that any property access ways are located and constructed to minimise any loss of native vegetation occurring within the road reserve.*
- l. Council is not satisfied that the proposed development is satisfactory with respect to the roadside reserves control specified by section A4.10.2 (b) of the Wingecarribee Shire Rural Living Development Control Plan:
- (b) All property access ways must be located to minimise the loss of any road side vegetation.*
- m. Council is not satisfied that the proposed development is satisfactory with respect to the tree and vegetation preservation objective specified by section A4.11.1 (a) of the Wingecarribee Shire Rural Living Development Control Plan:
- (a) Preserve the amenity, biodiversity and ecology of the Rural Living areas through the preservation of trees and other vegetation...*

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- n. Council is not satisfied that the proposed development is satisfactory with respect to the tree and vegetation preservation assessment considerations specified by section A4.11.7 (e) and (l) (iv) of Wingecarribee Shire Rural Living Development Control Plan:
- (e) Implications for biodiversity. It will be essential to determine the conservation status of the tree/vegetation. Priority will be given to trees which are rare or endangered, are ecologically significant in the local or regional context, form part of a naturally occurring remnant, are self-sown from locally indigenous stock or provide habitat for wildlife...*
 - (l) Whether adverse impacts of the proposal have been adequately identified and will be satisfactorily mitigated. Measures will need to address the following matters where appropriate:-*
 - (iv) Protection of affected wildlife.*
- o. Council is not satisfied that the proposed development is satisfactory with respect to the objectives specified by section A5.7.5 (a)-(d) of the Wingecarribee Shire Rural Living Development Control Plan, regarding protection of watercourses, water bodies and riparian lands:
- (a) ensure that proposed development in or adjoining natural water bodies and riparian land takes into account impacts on the environment including natural water bodies, riparian lands and all associated habitats.*
 - (b) protect and enhance water quality and aquatic ecosystems, including natural wetlands maintain and, where possible, enhance the ecological and water quality functions of riparian vegetation (both instream and beside stream)*
 - (c) protect, restore and maintain ecological processes, natural systems and biodiversity within wetlands and waterways.*
 - (d) provide stream bed and bank stability, protect water quality, maintain viability of riparian vegetation and provide continuity and connectivity for riparian habitat (both instream and beside stream).*
- p. Council is not satisfied that the proposed development is satisfactory with respect to the provision of section A6.11 of the Wingecarribee Shire Rural Living Development Control Plan that:
- "All road construction should aim to obtain the most environmentally sustainable option".*
- q. Council considers the proposed development to have potential to have significant negative impacts on flora and fauna, including remnant native vegetation and potentially including threatened species, populations, ecological communities or their habitats.
- r. Council does not consider the land's attributes conducive to the development as proposed; therefore Council considers the land unsuitable for the proposed development.

[Section 4.15 (1) (a) (i) & (iii), (b) and (c) of the Environmental Planning and Assessment Act 1979]

2. Flood planning

The land is traversed by Reedy Creek, and is therefore considered likely to be at least partially below the flood planning level. The application is not accompanied by any documents that

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address the potential for the proposed development to affect, or be affected by, floodwater inundation. Consequently:

- a. Council is not satisfied by the application and its accompanying documents that the proposed development is consistent with the flood planning objectives specified by clause 7.9 (1) (a), (b) and (c) of Wingecarribee Local Environmental Plan 2010:
 - (a) *to minimise the flood risk to life and property associated with the use of land,*
 - (b) *to allow development on land that is compatible with the land's flood hazard, taking into account projected climate change,*
 - (c) *to avoid significant adverse impacts on flood behaviour and the environment.*
- b. Council is not satisfied by the application and its accompanying documents that the proposed development:
 - (a) *is compatible with the flood hazard of the land, and*
 - (b) *will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
 - (c) *incorporates appropriate measures to manage risk to life from flood, and*
 - (d) *will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*
 - (e) *will not be likely to result in unsustainable social and economic costs to the community as a consequence of flooding.*

Clause 7.9 (3) of Wingecarribee Local Environmental Plan 2010 therefore effectively specifies development consent must not be granted to the proposed development.

- c. Council is not satisfied by the application and its accompanying documents that the proposed development is satisfactory with respect to the flood liable land objectives or requirements and controls specified by section 5 of Part A of Council's Exeter Village Development Control Plan.
- d. Council is not satisfied by the application and its accompanying documents that the proposed development is satisfactory with respect to the flood liable land objectives or requirements and controls specified by section A5.9 of the Wingecarribee Shire Rural Living Development Control Plan.
- e. Council considers the proposed development to have the potential to significantly affect, and/or be significantly affected by, floodwater inundation.
- f. Council does not consider the land's attributes conducive to the development as proposed; therefore Council considers the land unsuitable for the proposed development.

[Section 4.15 (1) (a) (i) & (iii), (b) and (c) of the Environmental Planning and Assessment Act 1979]

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3. Road and traffic safety

Neither of the locations of vehicle access points from Ellsmore Road to the proposed development affords sufficient sight distance along Ellsmore Road to ensure adequate vehicular traffic safety. Consequently:

- a. Council considers the proposed development likely to cause significant negative impact with respect to access, transport and traffic considerations.
- b. Council does not consider the land's attributes conducive to the development as proposed; therefore Council considers the land unsuitable for the proposed development.

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

4. Isolation and externalisation of urban land

Proposed Lots 122, 123 and 124, located in Zone R2 Low Density Residential within Exeter Village, would be lawfully accessible only via land in Zone RU4 Primary Production Small Lots, located outside Exeter Village. Council considers this proposed access arrangement likely to isolate and externalise proposed Lots 122, 123 and 124 from Exeter Village and, in turn, have significant negative social impacts in the locality with respect to social cohesion, community structure, a sense of place and community, community facilities and links, and interaction between new development and the community.

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

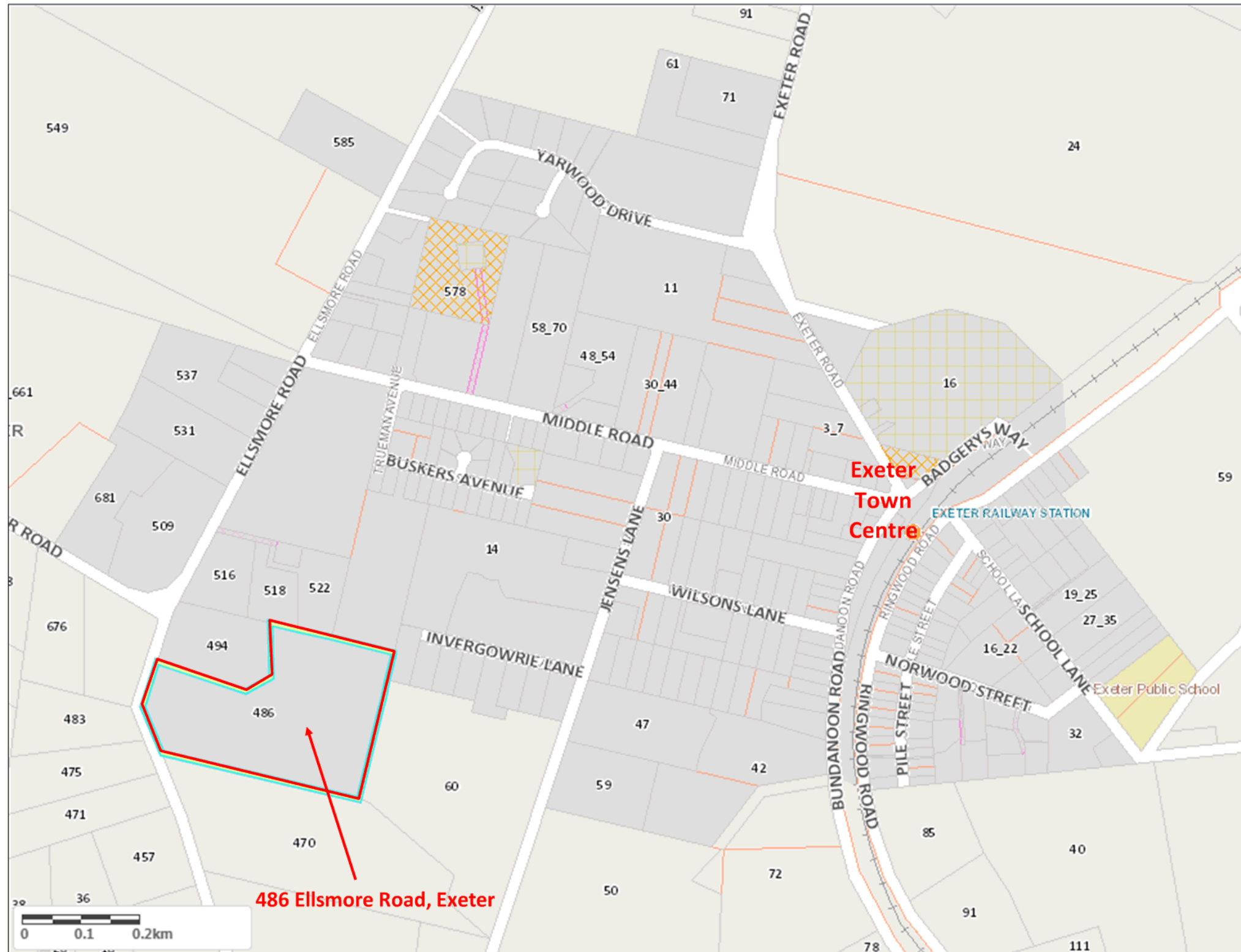
5. Council received ten submissions by way of objection to the proposed development, with grounds for objection including:

- a. Proposed access to land in Zone R2 Low Density Residential via land in Zone RU4 Primary Production Small Lots
- b. Road and traffic safety
- c. Potential impacts on the environment
- d. Potential flood hazard.

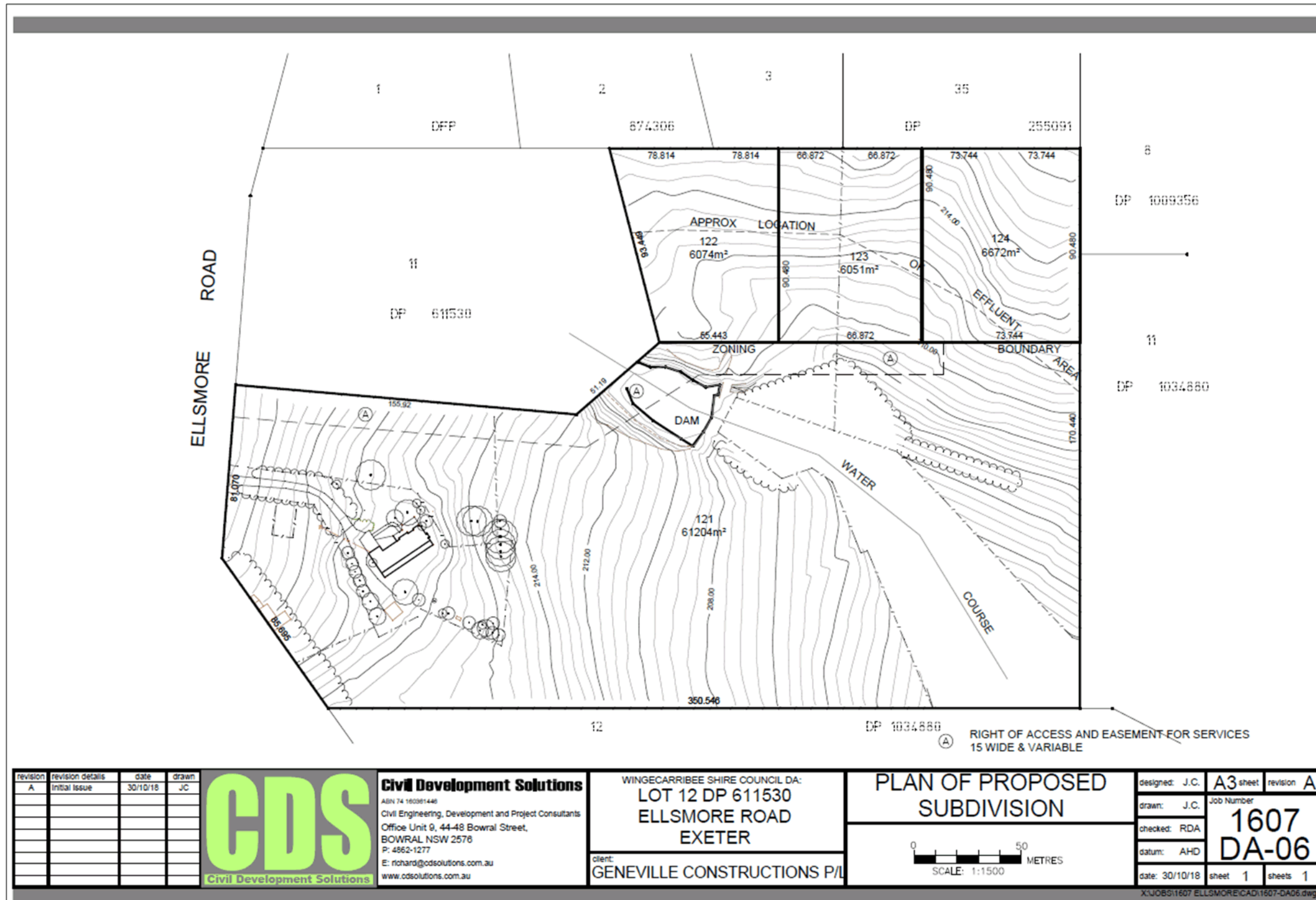
[Section 4.15 (1) (d) of the Environmental Planning and Assessment Act 1979]

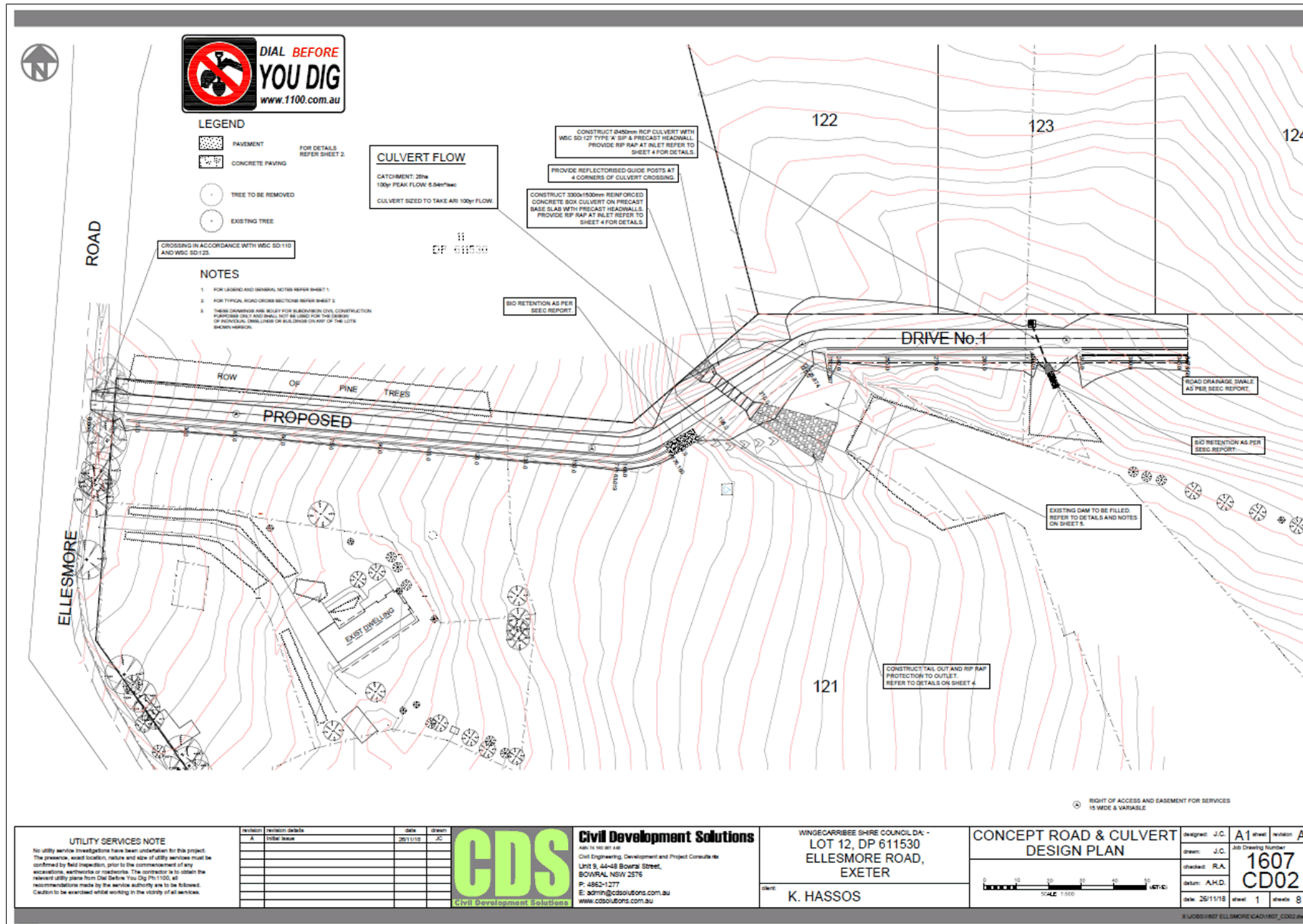
6. Council does not consider there to be any overriding public interest in favour of granting consent for the proposed development.

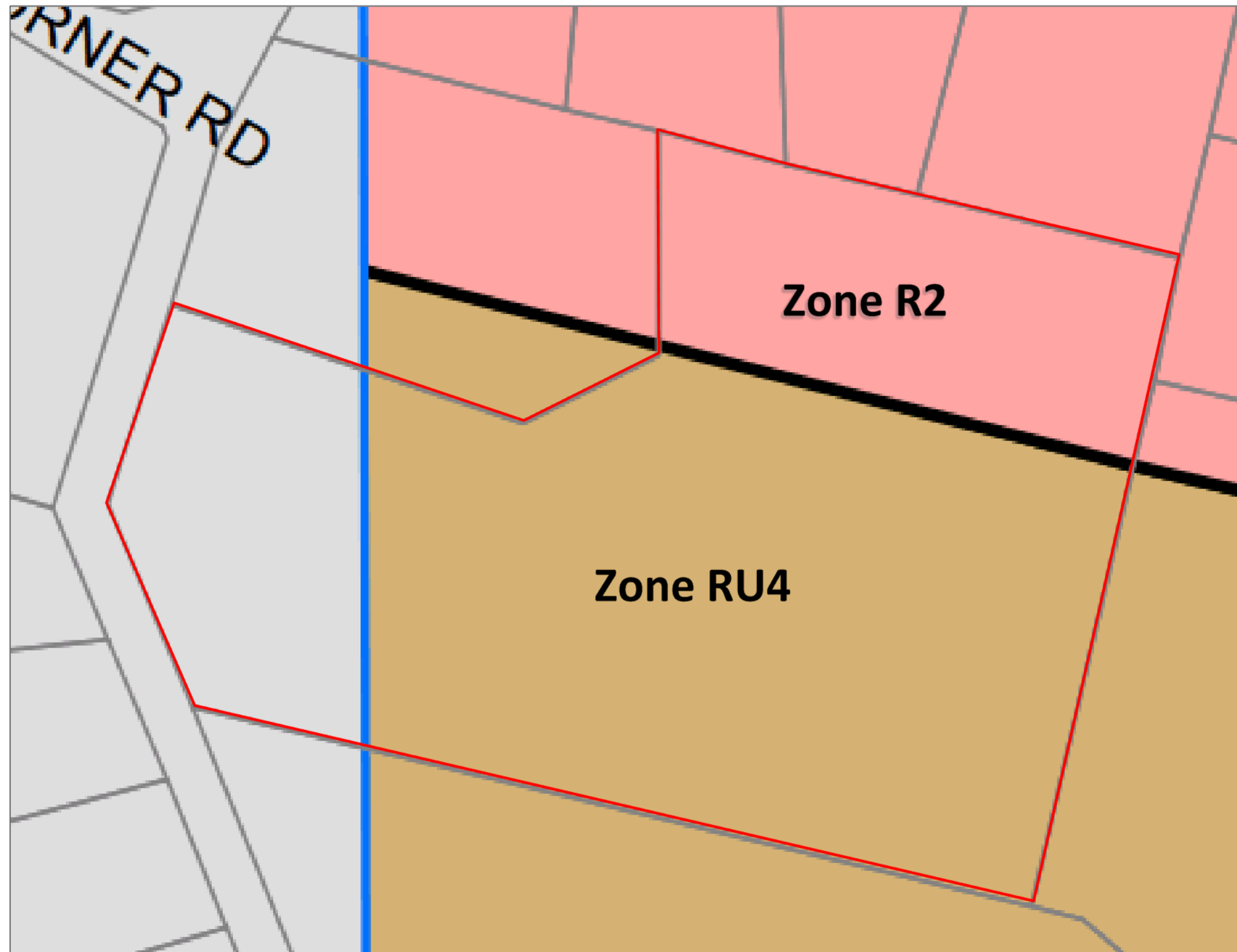
[Section 4.15 (1) (e) of the Environmental Planning and Assessment Act 1979]

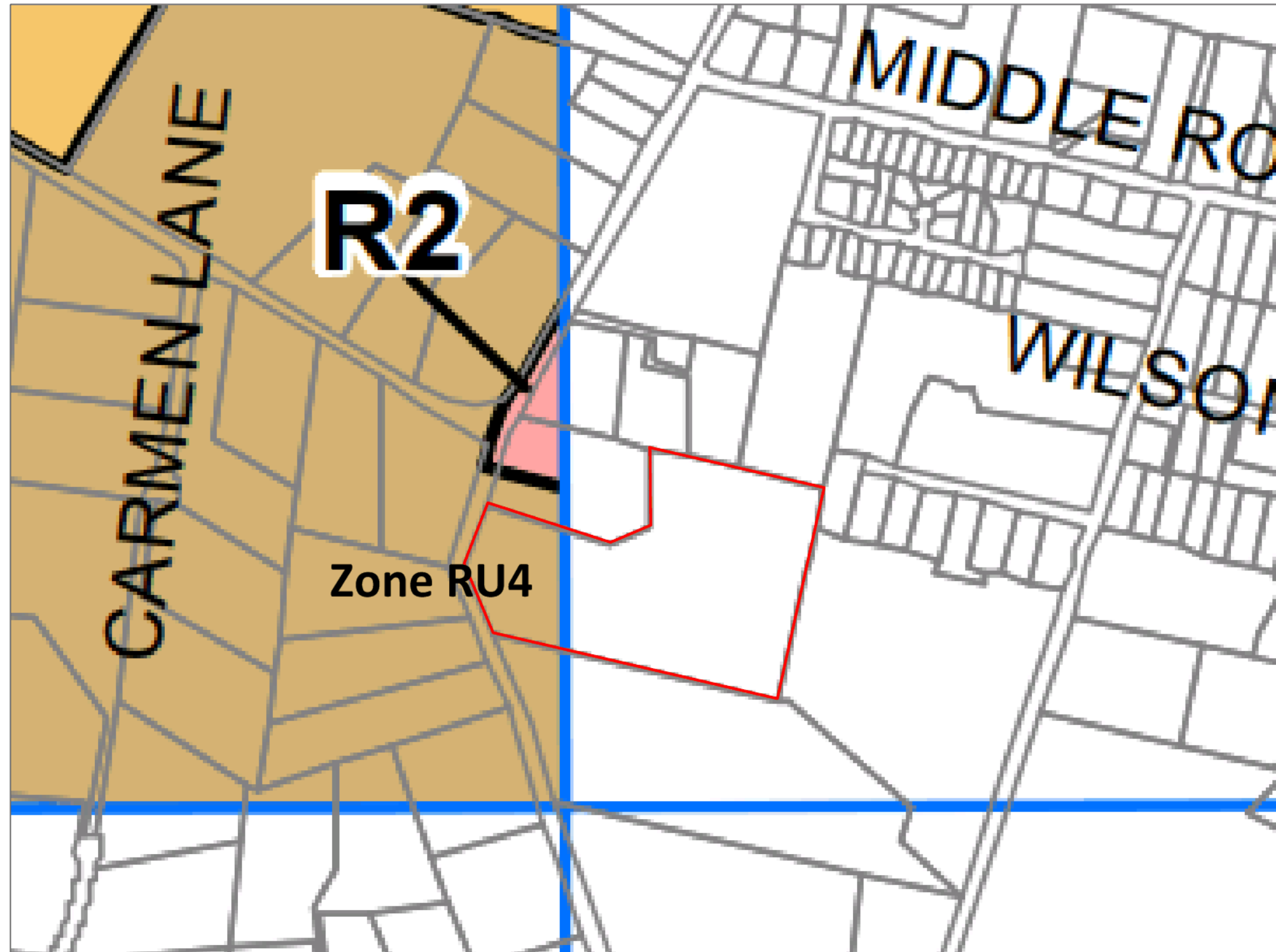


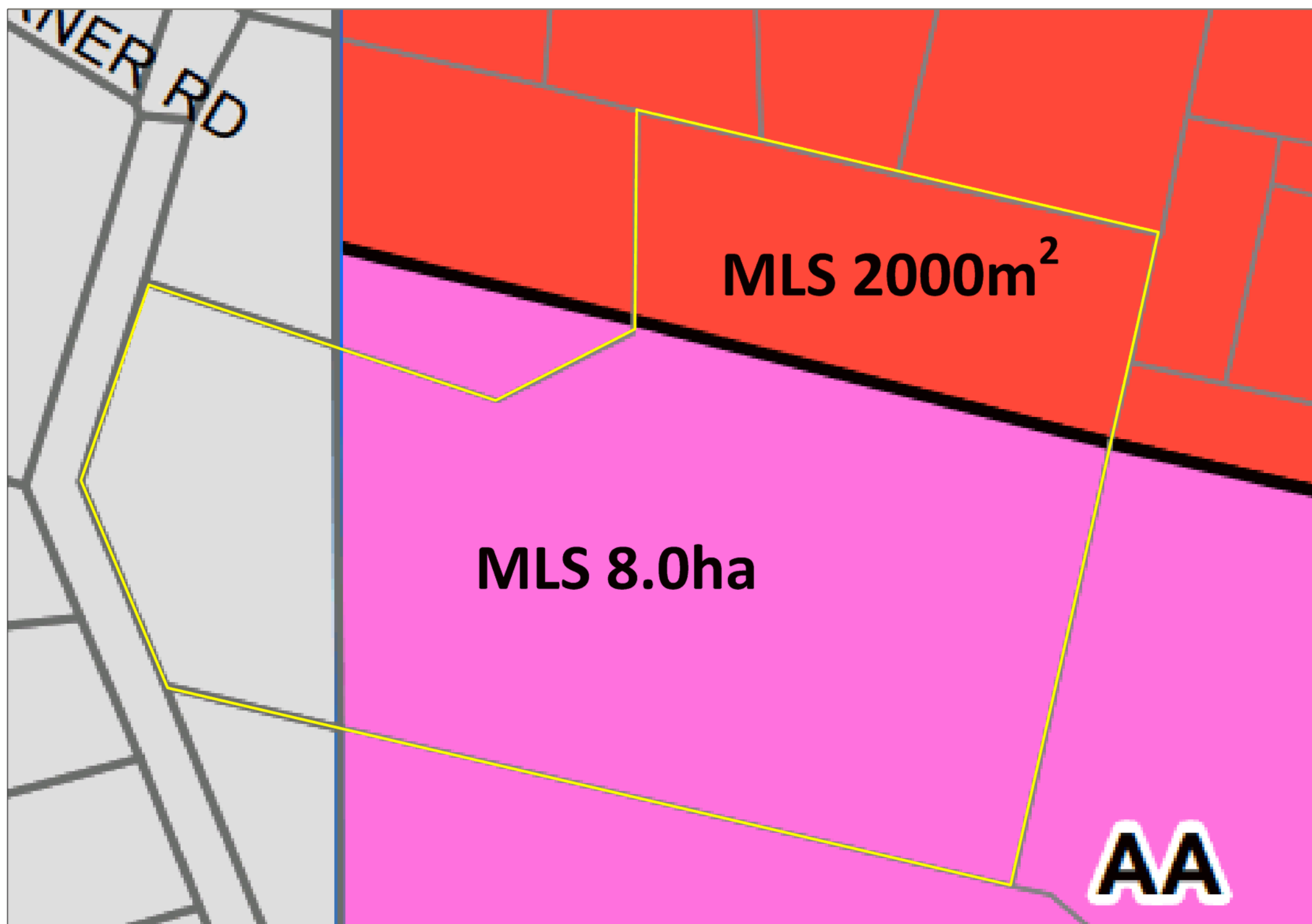


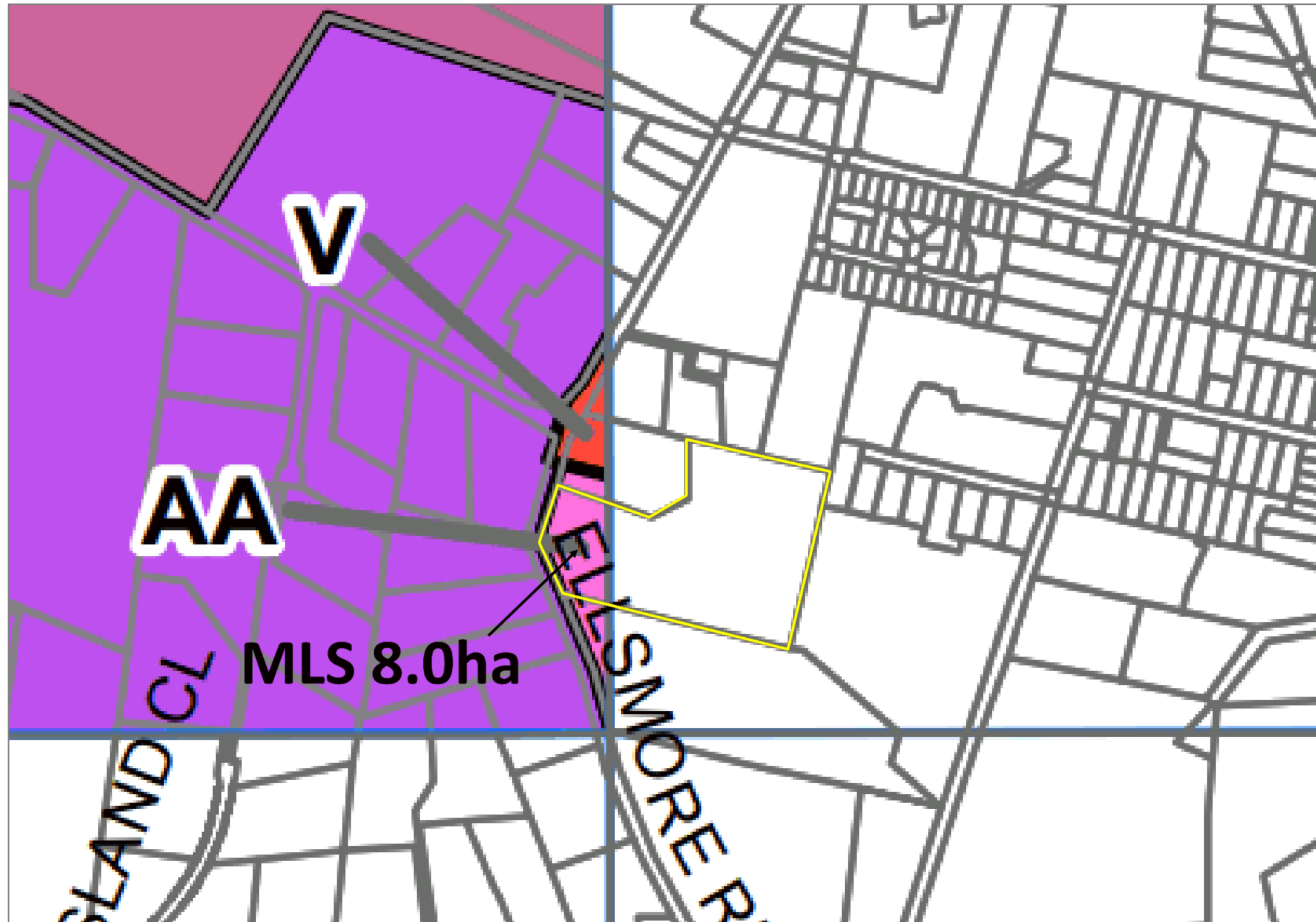


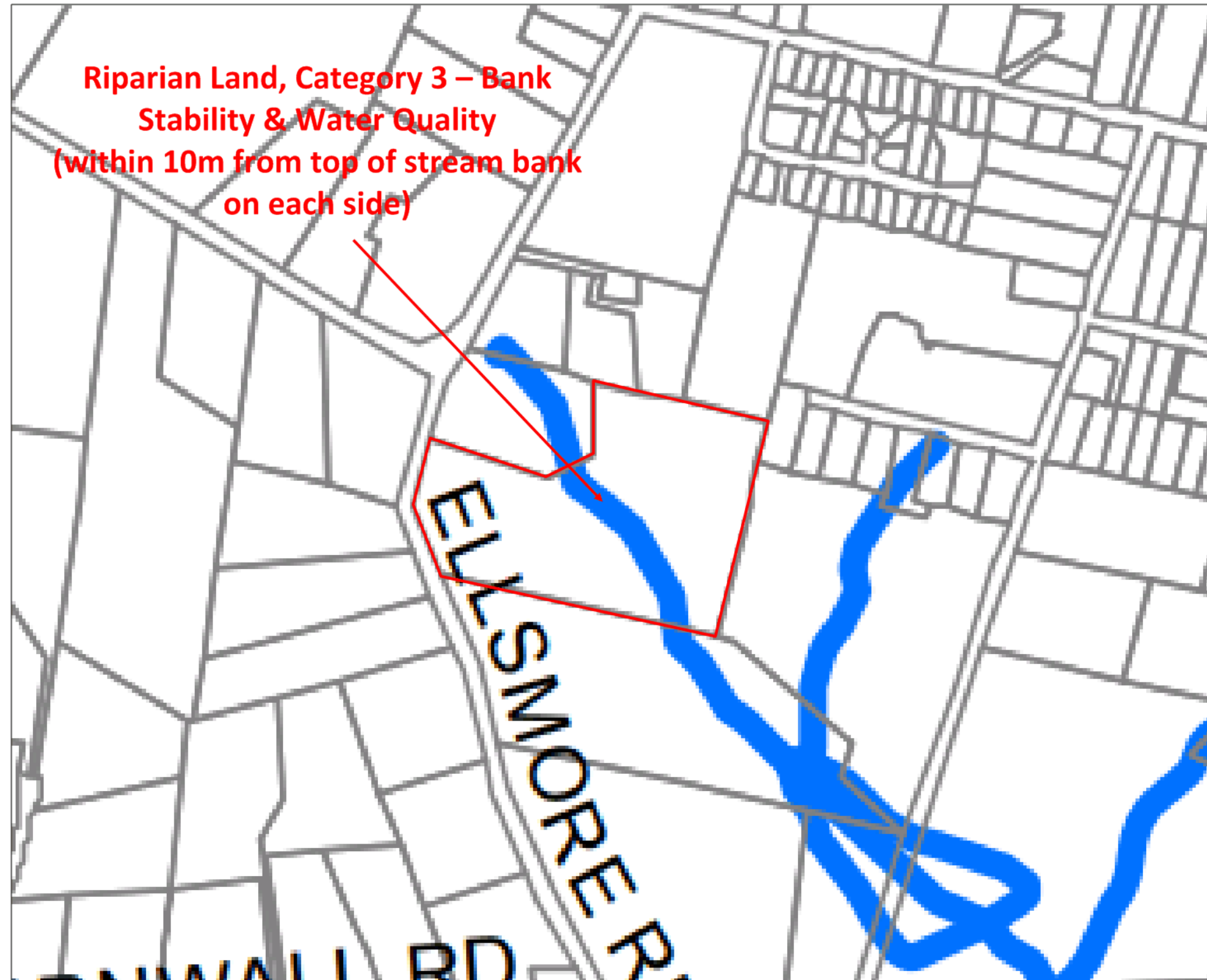












12 OPERATIONS FINANCE AND RISK

12.1 Proposed Licence Agreement - Mittagong Rotary & Lions Club - Part Public Golf Course 21 Boronia Street, Bowral

| | |
|-----------------------------------|--|
| Reference: | PN1770710 |
| Report Author: | Property and Project Officer |
| Authoriser: | Chief Financial Officer |
| Link to Community Strategic Plan: | Effective financial and asset management ensure Council's long term sustainability |

PURPOSE

The purpose of this report is to seek Council approval to place on public exhibition a proposed Licence Agreement to Bowral Rotary Club and Lions Club Mittagong for the continued occupation of a storage shed being located on part of the public golf course 21 Boronia Street, Bowral.

RECOMMENDATION

1. **THAT** Council place on public exhibition for a minimum twenty eight (28) days the proposed five (5) year Licence Agreement to Bowral Rotary Club and Lions Club Mittagong for occupation of part public golf course, 21 Boronia Street, Bowral Street, Bowral **AND THAT** rental be \$1.00 per annum, if demanded.
2. **THAT**, if any objections are received during the period of public exhibition, a further report be presented to a future Ordinary Meeting of Council.
3. **THAT**, if no objections are received during the period of public exhibition, Council offer a Licence Agreement for the occupation of part public golf course located at part 21 Boronia Street, Bowral to Bowral Rotary Club and Lions Club Mittagong **AND THAT** the General Manager and Mayor be delegated authority to execute the Licence Agreement under the Common Seal of Council, if required.

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REPORT

BACKGROUND

Council is the registered proprietor of 21 Boronia Street, Bowral which is known as the public golf course in Bowral ("the Land"). Part of the Land is currently under an expired Licence Agreement to the Bowral Rotary Club and Lions Club Mittagong.

The Licence Agreement expired on 30 August 2018 and the Licensee has been on a holding over period since expiration. The Licence Agreement is for the use of the land for storage facilities for both the Bowral Rotary Club and the Lions Club Mittagong.

To formalise the Clubs' use of the storage shed it is recommended that Council renew the Licence Agreement for a further five (5) years.

REPORT

The Bowral Rotary Club has been operating in the Southern Highlands for over 75 years and continues to raise funds for local and non-local causes. The Club has assisted local hospitals, local schools, childcare centres, disabled, aged and youth and local community services.

The Lions Club Mittagong is a group dedicated to making communities a better place to live, work and grow, providing real change and creating opportunities within the community. Aside from local community fundraising for special causes, the Lions Club has a proud history of achievement in disaster and emergency relief, medical research and community services.

The storage facility is utilised seven (7) days a week by various members of the Clubs.

The Licence Agreement is authorised under the Plan of Management for Community Land off Centennial Road, Bowral (known as Bowral Country Club Golf Course) which was adopted on in April 2009.

In accordance with Council's *Lease or Licence of Council Property – Not-For-Profit Organisations* Policy, the rental charged to the Bowral Rotary Club and Lions Club Mittagong will be \$1 per annum, if demanded.

IMPACT ON COUNCIL'S FIT FOR THE FUTURE IMPROVEMENT PLAN

None identified.



COMMUNICATION AND CONSULTATION

Community Engagement The public golf course situated at 21 Boronia Street, Bowral is classified as Community Land. As such, it is a legislative requirement that Council publicly exhibit the proposed Licence Agreement for a minimum twenty eight (28) day period. This will give members of the community an opportunity to review the proposal and make a written submission if they wish to do so.

Internal Communication and Consultation

Departmental Managers

External Communication and Consultation

Bowral Rotary Club and Lions Club Mittagong

SUSTAINABILITY ASSESSMENT

- **Environment**

There are no environmental issues in relation to this report.

- **Social**

Bowral Rotary Club and Lions Club Mittagong are not-for-profit organisation that provides community services within the Shire.

- **Broader Economic Implications**

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

- **Culture**

There are no cultural issues in relation to this report.

- **Governance**

There are no governance issues in relation to this report.

COUNCIL BUDGET IMPLICATIONS

The renewal of the Licence Agreement will have no negative impact on Council's budget implications.

RELATED COUNCIL POLICY

Lease or Licence of Council Property – Not-For-Profit Organisations

This Policy was adopted on Wednesday 26 November 2014 (MN326/14). The purpose of this policy is to:

- Define the general terms and conditions of Leases and Licences to Not-For-Profit Organisations in respect of Council Property;
- Ensure that leasing and licensing of Council Property is consistent, transparent, fair and impartial;

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- Ensure that the lease or licence is in accordance with the Local Government Act 1993, Local Government Regulations and Office of Local Government Guidelines;
- Encourage sound management of Council Property.

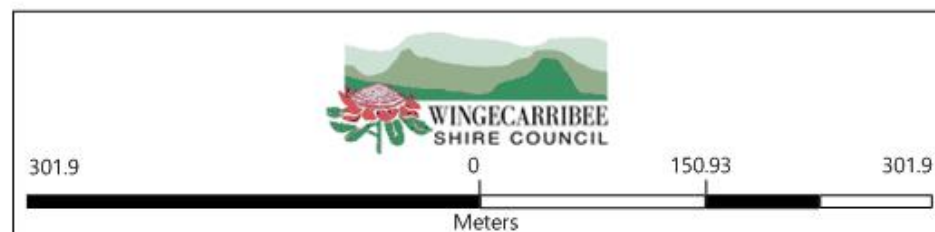
CONCLUSION

This report recommends that Council offer a Licence Agreement for a period of five (5) years to Bowral Rotary Club and Lions Club Mittagong for the continued use of the subject Council property.

It is further recommended that Council give public notice of its intention to enter into the subject Licence Agreement. A further report will be forwarded to a future Ordinary Meeting of Council for determination if any written objections to the Licence Agreement are received during the period of public notice.

ATTACHMENTS

1. Aerial Map
2. Site Plan

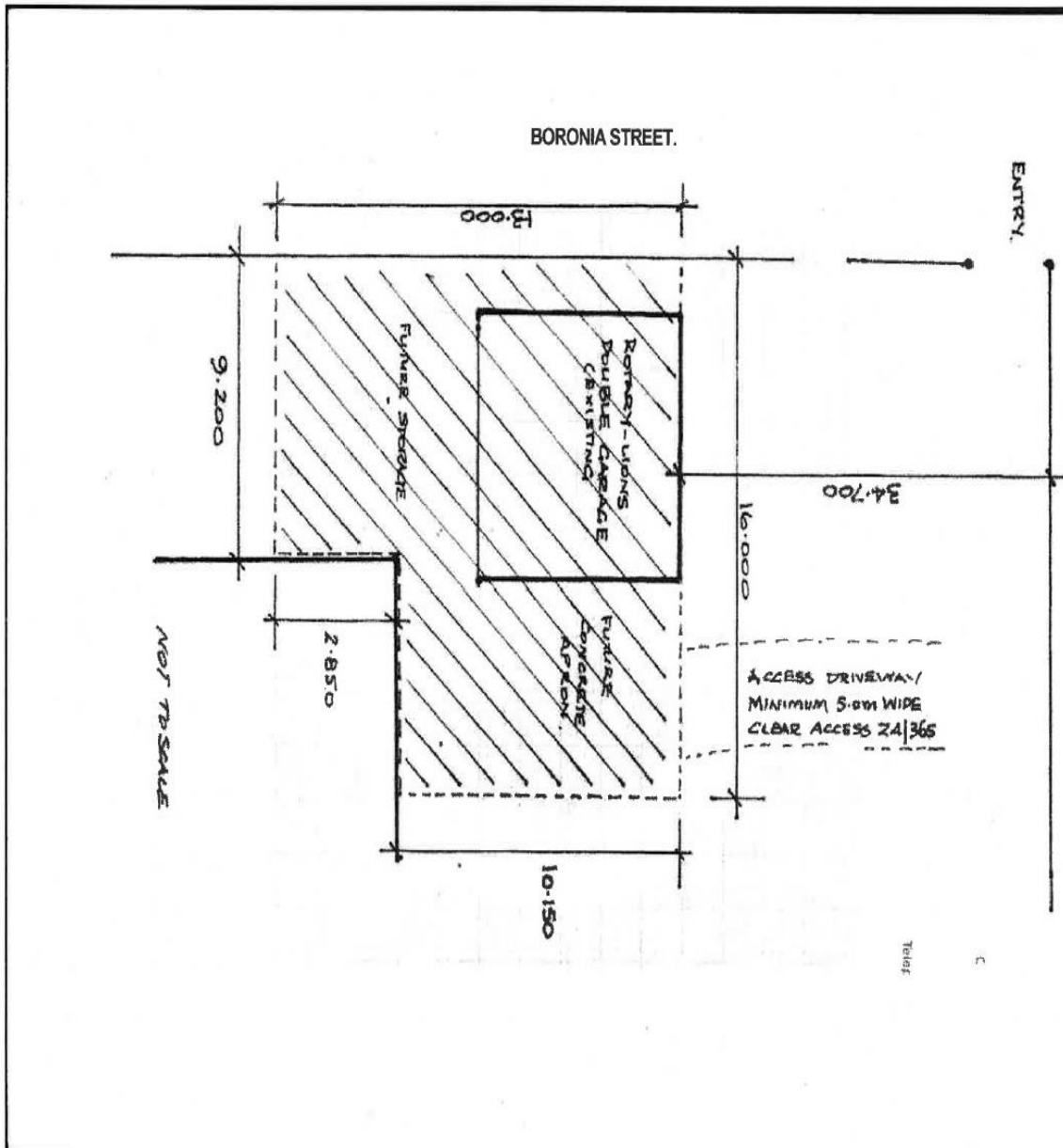


Wingecarribee Shire Council

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12.1 Proposed Licence Agreement - Mittagong Rotary & Lions Club -
Part Public Golf Course 21 Boronia Street, Bowral
ATTACHMENT 2 Site Plan





12.2 Proposed Lease - 71 Station Street Bowral

| | |
|-----------------------------------|--|
| Reference: | PN1700778 |
| Report Author: | Property and Project Officer |
| Authoriser: | Chief Financial Officer |
| Link to Community Strategic Plan: | Effective financial and asset management ensure Council's long term sustainability |

PURPOSE

The purpose of this report is to seek Council approval to enter into negotiations with D&M Auto Electrics for the proposed renewal of Lease of Council property known as 71 Station Street, Bowral.

RECOMMENDATION

1. **THAT** a new Lease be offered to D & M Auto Electrics Pty Ltd for the premises known as 71 Station Street Bowral, being the whole of the land comprised in Lot B Deposited Plan 381616, for a term of three (3) years.
2. **THAT** it be noted that Council will have the right to give six (6) months notice of termination of the Lease of 71 Station Street Bowral if the property referred to in resolution 1 above is required for road purposes prior to expiration of the Lease.
4. **THAT** the General Manager and Mayor be delegated authority to execute the Lease under the Common Seal of Council.

REPORT

BACKGROUND

On 24 February 2016 Council considered a report to enter in to a Lease with D & M Auto Electrics for occupation of Council owned property known as 71 Station Street, Bowral. It was resolved as follows: (MN52/16)

1. *THAT a new Lease be offered to D & M Auto Electrics Pty Ltd for the premises known as 71 Station Street Bowral, being the whole of the land comprised in Lot B Deposited Plan 381616, for a term of three (3) years commencing 1 June 2016 and expiring 31 May 2019.*
2. *THAT it be noted that Council will have the right to give six (6) months notice of termination of the Lease of 71 Station Street Bowral if the property referred to in resolution 1 above is required for road purposes.*
3. *THAT the costs of and incidental to the preparation and registration of the new Lease of 71 Station Street, Bowral be paid by D & M Auto Electrics Pty*

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Ltd together with stamp duty (if any), registration and other out of pocket expenses.

4. **THAT** the General Manager and Mayor be delegated authority to execute the Lease of 71 Station Street Bowral under the Common Seal of Council.

As the current Lease expired on 31 May 2019, it is necessary for a new Lease to be executed to formalise the Lessee's occupation of 71 Station Street, Bowral.

REPORT

The Lease of the subject property expired on 31 May 2019 and is on a holding over period until a new Lease is in place. The Lessee has requested that Council consider entering into a new three (3) year Lease of the property.

The current Lessee has been operating its business D & M Auto Electrics, from the premises under Lease for the last fifteen (15) years. During that period, there have been no issues arising from the operation of the business, nor any complaints made by the Lessee to Council with respect to the premises. There have been no breaches to any terms of the Lease.

Consultation with Project Management staff have indicated that the premises will not be required within the next three (3) years for road purposes, however a clause has been included in the Lease to allow Council to serve notice on the Lessee to vacate within six (6) months if the premises is required prior to expiration of the three (3) year period.

It is recommended that Council approve the request for a new Lease for a further three (3) year term to the current Lessees. It is also recommended that authority be delegated to the General Manager and Mayor to execute the new Lease under the Common Seal of the Council.

IMPACT ON COUNCIL'S FIT FOR THE FUTURE IMPROVEMENT PLAN

None identified.

COMMUNICATION AND CONSULTATION

Community Engagement

Engagement with the community is not required as the property is classified as Operational Land.

Internal Communication and Consultation

Project Delivery

External Communication and Consultation

Lessee

Managing Agent.



SUSTAINABILITY ASSESSMENT

- **Environment**

There are no environmental issues in relation to this report.

- **Social**

There are no social issues in relation to this report.

- **Broader Economic Implications**

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

- **Culture**

There are no cultural issues in relation to this report.

- **Governance**

There are no governance issues in relation to this report.

COUNCIL BUDGET IMPLICATIONS

The managing agent is responsible for invoicing, processing rental payments, and reporting any leasing matters to Council. Rental income received from the Lease is incorporated into Council's recurrent budget process.

RELATED COUNCIL POLICY

Leases & Licences of Council Property – Commercial

This policy was adopted by Council on 11 February 2015 (Minute Number 8/15). The purpose of this policy is to:

1. Ensure that leasing and licensing of Council Property is consistent, transparent, fair and impartial;
2. Ensure that the Lease or licence is in accordance with the Local Government Act 1993, Local Government Regulations and Office of Local Government Guidelines;
3. Encourage sound commercial management of Council Property;
4. Provide an ongoing revenue stream for Council;
5. Secure a market return from the commercial use of Council Property.

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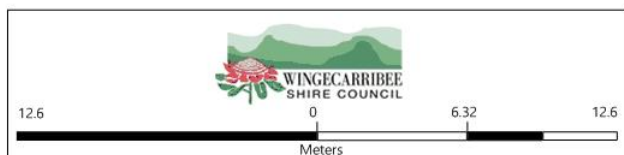
CONCLUSION

As outlined above, the current Lessee has been operating its business from the premises under Lease from Council for the last fifteen (15) years. Based on the good commercial relationship between Council as Lessor and the Lessee, it is recommended that Council approve a further three (3) year Lease, with no option to renew.

Authority should be delegated to the General Manager and Mayor to execute the Lease under the Common Seal of the Council.

ATTACHMENTS

1. Aerial Map



Wingecarribee Shire Council

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12.3 Investment Report - May 2019

| | |
|-----------------------------------|--|
| Reference: | 2104 |
| Report Author: | Accounting Officer (Banking and Investments) |
| 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 present Council's Investment Portfolio held at 31 May 2019.

RECOMMENDATION

THAT the information on Council's Investments as at 31 May 2019 be received and noted.

REPORT

In accordance with part 9, Division 5, Section 212 of the *Local Government (General) Regulation 2005*, the Responsible Accounting Officer must provide Council with a written report setting out details of all money that Council has invested under section 625 of the *Local Government Act 1993*.

This report provides details of Council's Investment Portfolio as at 31 May 2019.

Attachment 1 to this report provides Council's Investment Portfolio, detailing investments held and a summary of the portfolio by the institution invested with and their credit rating.

In accordance with Paragraph 212(1)(b) of the Local Government (General) Regulations, the investments listed in **Attachment 1** have been made in accordance with:

- The *Local Government Act, 1993*
- The *Local Government (General) Regulations 2005*,
- The Ministerial Investment Order 2011, and
- Council's Investment policy.

Interest earned from investments totalled \$4,059,921 for the eleven (11) months to 31 May 2019.

ATTACHMENTS

1. Investment Report Summary as at 31 May 2019



Wingecarribee Shire Council Investment Report Summary

For the period ending 31 May 2019

List of Investments

Council's investment portfolio as at 31 May 2019 consists of the following investments:

| INVESTMENT PORTFOLIO AS AT 31 May 2019 | | | | | | |
|--|--------------|----------------------|---------------|------------------------|---------------|------------------------|
| Institution | Type | Amount | Interest Rate | Investment Term - Days | Maturity Date | % Investment Portfolio |
| Bankwest | Term Deposit | 5,000,000 | 2.75% | 273 | 4/06/2019 | 2.93% |
| Auswide | Term Deposit | 5,000,000 | 2.92% | 365 | 27/06/2019 | 2.93% |
| MyState | Term Deposit | 5,000,000 | 2.90% | 365 | 3/07/2019 | 2.93% |
| AMP | Term Deposit | 5,000,000 | 2.91% | 365 | 11/07/2019 | 2.93% |
| Bendigo | Term Deposit | 5,000,000 | 2.76% | 365 | 25/07/2019 | 2.93% |
| Bendigo | Term Deposit | 5,000,000 | 2.77% | 365 | 2/08/2019 | 2.93% |
| ME | Term Deposit | 5,000,000 | 2.75% | 365 | 27/08/2019 | 2.93% |
| ME | Term Deposit | 5,000,000 | 2.74% | 365 | 6/09/2019 | 2.93% |
| MyState | Term Deposit | 5,000,000 | 2.70% | 365 | 12/09/2019 | 2.93% |
| WBC | Term Deposit | 2,500,000 | 2.70% | 365 | 20/09/2019 | 1.46% |
| Bendigo | Term Deposit | 5,000,000 | 2.18% | 120 | 25/09/2019 | 2.93% |
| NAB | Term Deposit | 5,000,000 | 2.75% | 365 | 27/09/2019 | 2.93% |
| Auswide | Term Deposit | 5,000,000 | 2.75% | 365 | 28/09/2019 | 2.93% |
| Rural | Term Deposit | 5,000,000 | 2.75% | 365 | 11/10/2019 | 2.93% |
| MyState | Term Deposit | 5,000,000 | 2.40% | 149 | 23/10/2019 | 2.93% |
| MyState | Term Deposit | 5,000,000 | 2.80% | 365 | 30/10/2019 | 2.93% |
| CUA | Term Deposit | 3,000,000 | 2.77% | 365 | 9/11/2019 | 1.76% |
| ME | Term Deposit | 5,000,000 | 2.40% | 182 | 15/11/2019 | 2.93% |
| AMP | Term Deposit | 5,000,000 | 2.80% | 270 | 18/11/2019 | 2.93% |
| Rural | Term Deposit | 5,000,000 | 2.38% | 183 | 20/11/2019 | 2.93% |
| CUA | Term Deposit | 5,000,000 | 2.77% | 365 | 26/11/2019 | 2.93% |
| NAB | Term Deposit | 5,000,000 | 2.77% | 365 | 30/11/2019 | 2.93% |
| Auswide | Term Deposit | 5,000,000 | 2.45% | 213 | 12/12/2019 | 2.93% |
| WBC | Term Deposit | 4,000,000 | 2.73% | 365 | 14/12/2019 | 2.34% |
| MyState | Term Deposit | 5,000,000 | 2.40% | 207 | 17/12/2019 | 2.93% |
| ME | Term Deposit | 4,000,000 | 2.72% | 364 | 3/01/2020 | 2.34% |
| CUA | Term Deposit | 6,000,000 | 2.77% | 365 | 24/01/2020 | 3.51% |
| WBC | Term Deposit | 3,000,000 | 2.72% | 365 | 31/01/2020 | 1.76% |
| NAB | Term Deposit | 5,000,000 | 2.73% | 365 | 7/02/2020 | 2.93% |
| NAB | Term Deposit | 5,000,000 | 2.15% | 270 | 24/02/2020 | 2.93% |
| NAB | Term Deposit | 5,000,000 | 2.65% | 364 | 28/02/2020 | 2.93% |
| NAB | Term Deposit | 5,000,000 | 2.65% | 366 | 4/03/2020 | 2.93% |
| Newcastle | Term Deposit | 3,000,000 | 2.50% | 365 | 29/04/2020 | 1.76% |
| BDCU | Term Deposit | 5,000,000 | 2.55% | 366 | 21/05/2020 | 2.93% |
| BDCU | Term Deposit | 3,000,000 | 2.50% | 366 | 24/05/2020 | 1.76% |
| BDCU | Term Deposit | 5,000,000 | 2.20% | 366 | 28/05/2020 | 2.93% |
| NAB | Call Account | 2,395,016 | 1.40% | NA | NA | 1.40% |
| Total Investments | | \$170,895,016 | | | | 100.00% |

| | | |
|---|--|---|
| AMP = AMP Limited ANZ = Australia & New Zealand Banking Group Auswide = Auswide Bank BOQ = Bank of Queensland BDCU = Berrima District Credit Union Bendigo = Bendigo & Adelaide Bank | CBA = Commonwealth Bank of Australia CUA = Credit Union Australia IMB = IMB Bank ING = ING Direct ME = Members Equity Bank MyState = MyState Bank | NAB = National Australia Bank Newcastle = Newcastle Permanent St George = St George Bank WBC = Westpac Banking Corporation Rural = Rural Bank |
|---|--|---|



Wingecarribee Shire Council Investment Report Summary

For the period ending 31 May 2019

Policy Compliance

Council's Investment Policy provides clear direction for the diversification of Council's investment portfolio. This ensures credit and diversification risk is managed in accordance with the adopted risk management framework, as outlined in Council's Policy.

Individual Institution Limits

A summary of investments placed by institution is as follows:

| Institution | S&P Short Term Rating | Maximum % | Actual % | Invested \$ | Supports Fossil Fuels | Policy Compliance |
|--------------|-----------------------|-----------|----------------|--------------------|-----------------------|-------------------|
| NAB | A1+ | 40% | 18.96% | 32,395,016 | YES | YES |
| WBC | A1+ | 40% | 5.56% | 9,500,000 | YES | YES |
| Bankwest | A1+ | 40% | 2.93% | 5,000,000 | YES | YES |
| AMP | A1 | 25% | 5.85% | 10,000,000 | YES | YES |
| BDCU | A2 | 15% | 7.61% | 13,000,000 | NO | YES |
| Bendigo | A2 | 15% | 8.78% | 15,000,000 | NO | YES |
| Rural Bank | A2 | 15% | 5.85% | 10,000,000 | NO | YES |
| CUA | A2 | 15% | 8.19% | 14,000,000 | NO | YES |
| ME | A2 | 15% | 11.12% | 19,000,000 | NO | YES |
| MyState | A2 | 15% | 14.63% | 25,000,000 | NO | YES |
| Newcastle | A2 | 15% | 1.76% | 3,000,000 | NO | YES |
| Auswide | A3 | 10% | 8.78% | 15,000,000 | NO | YES |
| Total | | | 100.00% | 170,895,016 | | |

Portfolio Credit Limits

A summary of investments placed by credit limit is as follows:

| S&P Short Term Rating | Maximum % | Actual % | Invested \$ | Policy Compliance |
|-----------------------|-----------|----------------|--------------------|-------------------|
| A1+ | 100% | 27.44% | 46,895,016 | YES |
| A1 | 80% | 5.85% | 10,000,000 | YES |
| A2 | 60% | 57.93% | 99,000,000 | YES |
| A3 | 20% | 8.78% | 15,000,000 | YES |
| Govt | 25% | 0.00% | 0 | YES |
| Total | | 100.00% | 170,895,016 | |



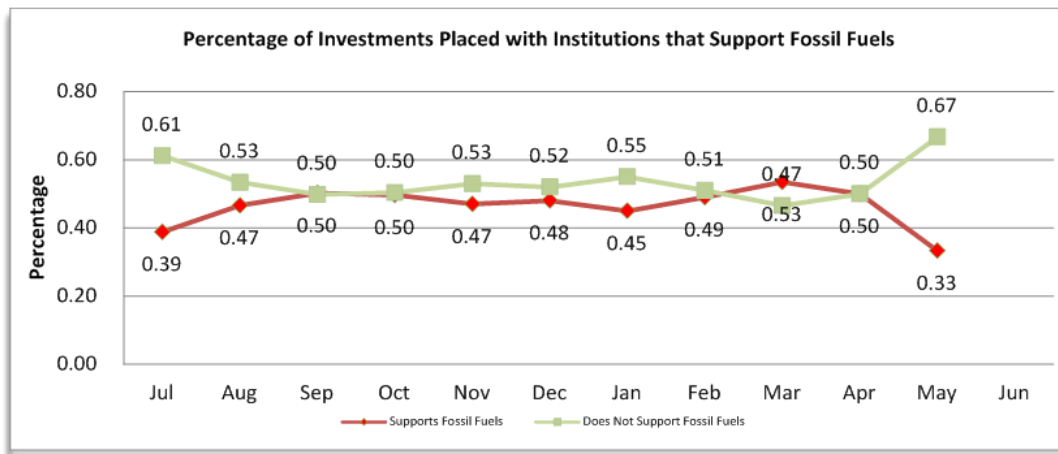
Wingecarribee Shire Council Investment Report Summary

For the period ending 31 May 2019

Non-Fossil Fuel Investment Preferencing

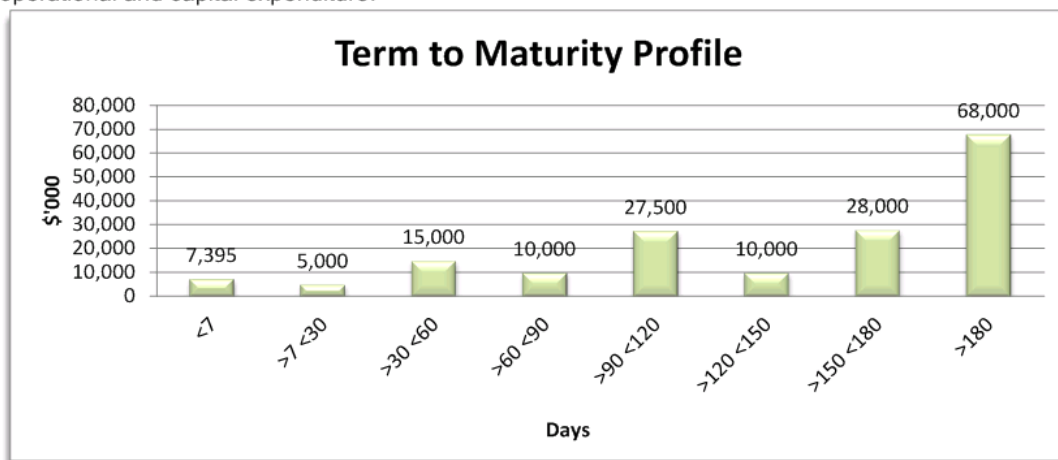
Council's adopted Investment Policy states a preference for placing funds with institutions that do not support the fossil fuel industry. The chart below identifies Council's percentage of investments placed with institutions that do not support the fossil fuel industry.

As investments mature Council will actively seek investments with institutions that do not support the fossil fuel industry, on the basis that they offer equivalent returns and are compliant with legislation and the objectives and parameters of the Investment Policy.



Term to Maturity

Investments have been placed giving due consideration to Council's liquidity requirements. Sufficient Working Capital is available to ensure Council continues to meet its ongoing cash flow requirements for operational and capital expenditure.



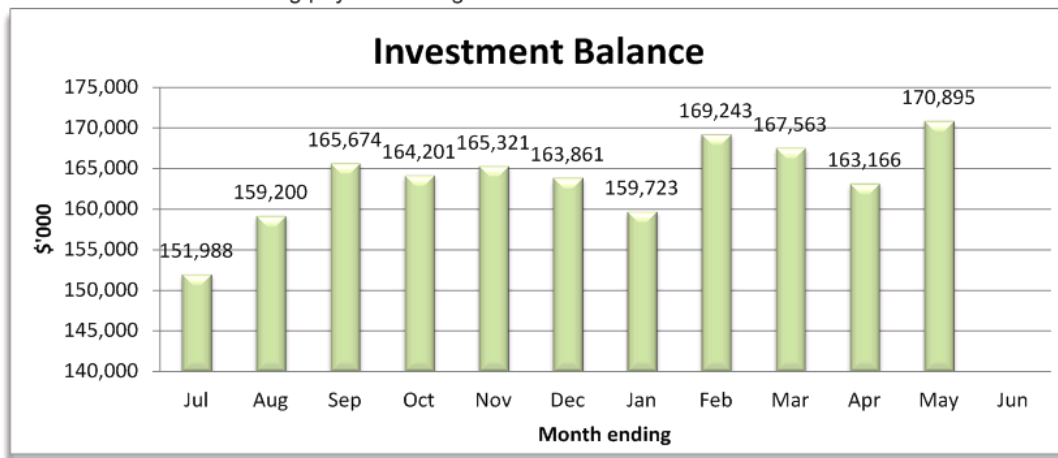


Wingecarribee Shire Council Investment Report Summary

For the period ending 31 May 2019

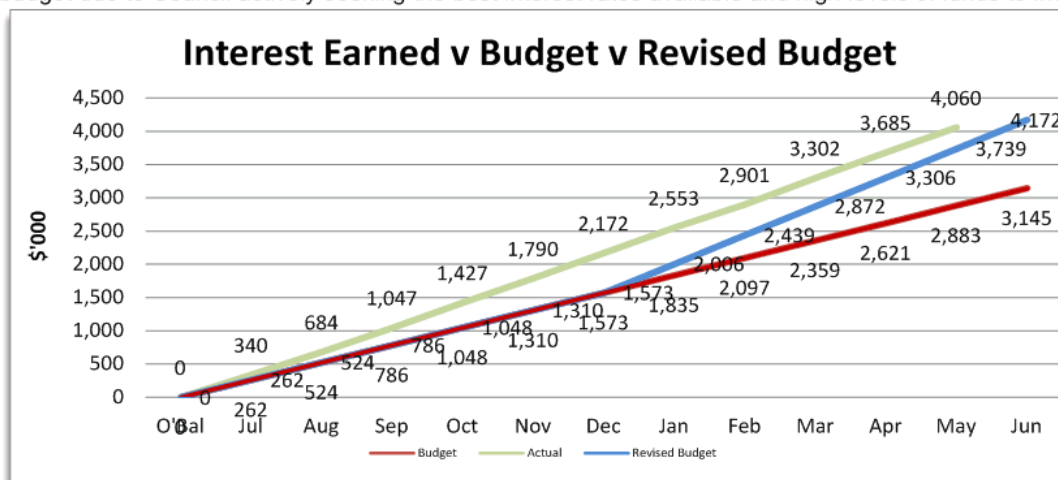
Portfolio Performance

Council's investment balance at the end of May 2019 was \$170.895 million. This has increased by \$7.729 million since the end of April 2019. The increase in investments is due to the 4th quarter rates and water instalments both being payable during the month.



Interest Revenue

Council is currently exceeding budget expectations. Council's investment portfolio performed above budget due to Council actively seeking the best interest rates available and high levels of funds to invest.





Wingecarribee Shire Council Investment Report Summary

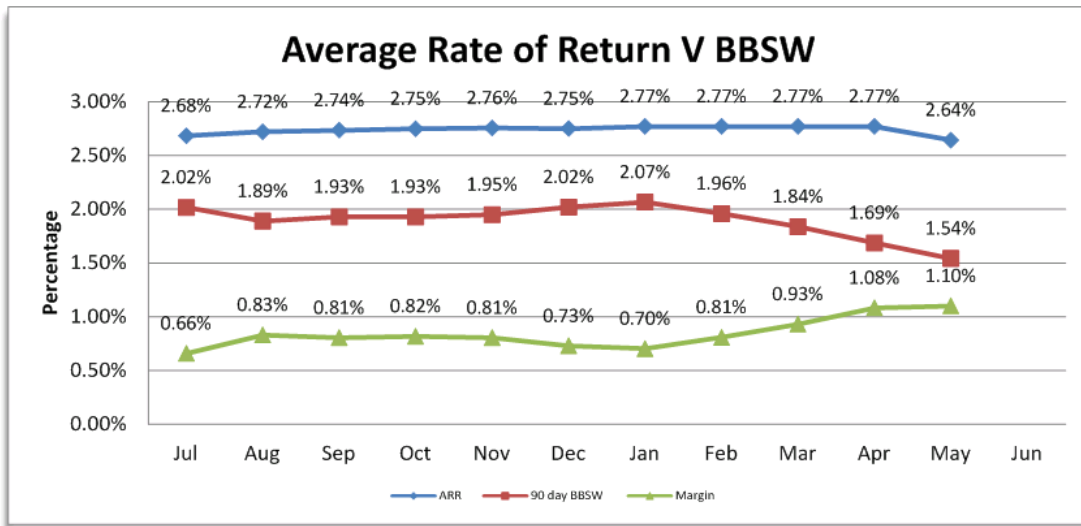
For the period ending 31 May 2019

Performance against Benchmark

Council's investment portfolio is benchmarked against the 90 day Bank Bill Swap Rate (BBSW).

The average rate of return (ARR) achieved for May 2019 was 2.64% which is 0.13% lower than April 2019. There was a decrease in the BBSW to 1.54%.

The margin above BBSW has increased in May 2019 by 0.02% which shows Council continues to secure favourable interest rates on term deposits.





12.4 Draft Wingecarribee Shire Road Maintenance Policy

| | |
|-----------------------------------|--|
| Reference: | 7810/30 |
| Report Author: | Coordinator Assets - Roads and Traffic |
| Authoriser: | Manager Assets |
| Link to Community Strategic Plan: | Effective financial and asset management ensure Council's long term sustainability |

PURPOSE

The purpose of the report is to advise Council of the proposed 'Draft Wingecarribee Shire Road Maintenance Policy' and to seek approval for the 'Draft Wingecarribee Shire Road Maintenance Policy' to be placed on public exhibition with the community invited to provide feedback and comments.

RECOMMENDATION

1. **THAT** the 'Draft Wingecarribee Shire Road Maintenance Policy' be placed on public exhibition for a period of twenty eight (28) days.
2. **THAT** the 'Draft Wingecarribee Shire Road Maintenance Policy' be submitted to Council for adoption following the public exhibition.

REPORT

BACKGROUND

Wingecarribee Shire Council endeavours to provide functional and safe roads within the Shire. The purpose of the Draft Wingecarribee Shire Road Maintenance Policy is to ensure that roads are assessed and maintained to a defined level of service. Hence, mitigating road safety risks and providing an efficient and effective network of roads.

As the roads authority under the *Roads Act 1993*, the Council must take reasonable steps to protect the public from any foreseeable dangers on its road network, as resources allow, to adequately address risks of which it is aware.

The Unmaintained Road Policy was adopted by Council in 2013 and limited Council's ability to undertake works on roads defined as Unmaintained. The policy excluded the maintenance of approximately 128Kms of roads which were unformed or not made to Council standard.

The exclusion of unformed roads, being roads not constructed to Council standard, from any maintenance interventions restricts the ability of Council to deal with safety or access issues that are raised by the community, and this is not considered best practice.

The proposed 'Draft Wingecarribee Shire Road Maintenance Policy' provides Council the ability to undertake works on all Council roads and strengthens Council's defence against



civil liability claims ultimately reducing risks to Council and the community. The policy has been prepared after thorough investigation and research of relevant industry practices.

REPORT

The policy aims to improve the management of Council roads by including all roads within the maintenance management system. Council will have the ability to undertake maintenance on any Council managed road within available resources. This supports a safer and efficient transportation network. The policy includes all sealed and unsealed roads and road infrastructure within the shire, however excludes Crown or RMS managed roads.

The objectives of the policy are:

- ensure a framework for the risk management of Council's road network is developed;
- reduce exposure to potential public liability claims relating to the condition of roads, including claims against Council and the community it represents;
- establish a criteria and hierarchy of roads;
- ensure a defined level of service and treatment options for roads based on their hierarchy and condition is developed
- ensure a systematic approach is established for the inspection, prioritisation and response to risks;
- promote awareness of legislative requirements with respect to acceptance by the community and the court, of the shared duty of care for road users to take reasonable care for their own safety when using the road network;
- facilitate safer local and regional roads.

The policy requires the introduction of a new road maintenance category and road hierarchy. Category viii - Vehicular Access has been developed which represents lower order roads previously known as Unmaintained Roads.

Frequency of inspections and maintenance interventions required on each road will differ depending on the assigned road hierarchy. Criteria used to assign road hierarchies include, traffic volumes, road geometry and associated infrastructure and property volumes.

The policy requires all Council roads are managed following a systematic and documented approach, this includes:

- Maintaining the roads maintenance category and roads functional hierarchy
- Assessing the condition of roads through routine, planned and reactive condition inspections,
- Identifying and evaluating risks associated with the condition of road,
- Risk assessments associated with lower order roads will be safety and access focused not ride quality,
- Prioritising and scheduling maintenance works within available resources,
- Implementing suitable treatments to rectify defects and minimise risks,
- Development and implementation of a long-term capital works program,
- Reference to relevant standards and specifications.

The Management System used does not intend to, nor is it reasonable to expect that it will, result in removal of all potential risks to road users from the road network. Rather, it provides a basis for identifying and managing long term plans within the limited resources available to the Council and a mechanism to prioritise and improve level of service.



IMPACT ON COUNCIL'S FIT FOR THE FUTURE IMPROVEMENT PLAN

The policy has no impact on Council's Fit for the Future improvement plan.

COMMUNICATION AND CONSULTATION

Community Engagement

It is proposed that the policy be placed on public exhibition with the community invited to provide feedback and comments.

Internal Communication and Consultation

Assets, Governance, Organisation Development and Infrastructure services have been engaged during the development of the policy.

External Communication and Consultation

There has been consultation on the policy and adopted practices with other Councils and external industry partners including IPWEA. The communication has been done through emails and Ask Your Mates forum of IPWEA NSW.

- Referencing similar materials from a number of Councils across Australia
- IPWEA – Institute of Public Works Engineering Australasia
- AUS-SPEC Guidelines
- AustRoads Guidelines (Part 6)

SUSTAINABILITY ASSESSMENT

• Environment

There are no environmental issues in relation to this report.

• Social

There are no social issues in relation to this report.

• Broader Economic Implications

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

• Culture

There are no cultural issues in relation to this report.

• Governance

The Draft Wingecarribee Shire Road Maintenance Policy will enhance Council's ability to meet its civil liability obligations.

COUNCIL BUDGET IMPLICATIONS

The implementation of this policy will be within current budget allocations. Works that cannot be undertaken within the available budget will be prioritised accordingly and where

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determined appropriate programmed to be delivered in future financial years. The new category viii lower order roads will only receive minor treatments and will not be budgeted for Capital Works.

RELATED COUNCIL POLICY

- Asset Management Policy
- Unmaintained Road Policy

OPTIONS

The options available to Council are:

Option 1

THAT Council endorse the 'Draft Wingecarribee Shire Road Maintenance Policy' for public exhibition.

Option 2

THAT Council does not endorse the 'Draft Wingecarribee Shire Road Maintenance Policy' for public exhibition.

Option 1 is the recommended option to this report.

CONCLUSION

The proposed 'Draft Wingecarribee Shire Road Maintenance Policy' will reduce Council's risk under Civil Liability Act 2002 and provide wider community benefit by including all Council managed roads within the maintenance management framework. Placing the Draft Wingecarribee Shire Road Maintenance Policy on public exhibition and providing opportunity for community feedback will enable the policy to be submitted to Council for adoption following the exhibition period.

ATTACHMENTS

1. Unmaintained Road Policy
2. Road Maintenance Policy



UNMAINTAINED ROADS POLICY [No 3.51]

POLICY STATEMENT:

DEFINITIONS

| | |
|--------------------|--|
| Maintained Road: | A road that is included in Council's Road Register and maintained by Council. |
| Unmaintained Road: | A road that is not included in Council's Road Register and not maintained by Council. |
| Constructed Road: | A road constructed to Council's standards and generally as per Council's drawing SD121. |
| Formed Road: | A road that does not have gravel paving, but which is formed using a grader so that stormwater will drain off laterally. |
| Unformed Road: | A road reserve that has been cleared and open to use by the public. |
| Unmade Road: | A road reserve that has had no capital improvement including clearing, formation and gravel paving. An unmade road may be trafficable or un-trafficable in all weathers. |

Section A: Responsibility for unmaintained roads:

- Council only maintains the roads that are included in Council's Road Segment Ledger (Roads Register). Approximately 1150km of roads have been listed in the Road Register in 2011/12. Maintained Roads have been constructed by Council or by another party to Council standards and formally handed to and accepted by Council.
- The cost of maintenance of the unmaintained roads whether formed, unformed or unmade road reserve are the responsibility of the land owners who use the road for access to private properties.

Section B: Upgrading unmaintained roads by land owners:

- Council will accept written applications to construct a formed road by the applicants. Applications will be assessed and may be granted conditional approval based on conditions outlined in the policy guidelines.
- The formation/construction of a road to Council standards does not automatically imply that Council will maintain the road. Council as a rule will only take over maintenance of the road if it provides a wider community benefit.
- Following construction of the road in accordance with conditional approval and its acceptance by the authorised Council officer, Council may assume responsibility for its maintenance, subjected to conditions stated above.

RELATED LEGISLATION, CIRCULARS OR GUIDELINES:

- *Local Government Act 1993 No. 30 and Regulation*



POLICY

- Roads Act 1993

DOES THIS DOCUMENT REPLACE ANY EXISTING POLICY, PROCEDURE OR PLAN?

Yes, this document replaces Council's:

- Upgrading of Unformed Roads Policy, June 1996

RELATED COUNCIL POLICY OR PROCEDURE:

- Unmaintained Road Policy Guidelines
- Asset Management Strategy

SUSTAINABILITY ASSESSMENT:

• **Environment**

Upgrading Unmaintained Council owned public roads to current standards will have an impact on existing trees, habitat and biodiversity, as most of these roads are in rural areas and have vegetation encroachments along the road reserves. In many cases, these Unmaintained road reserves represent the last remnants of undisturbed natural vegetation in the area.

• **Social**

Road maintenance is an area where Council has to manage limited funds to maintain the entire road network. It is often mentioned by residents living on Council unmaintained sections of road about the rates they pay. It is important to ensure road maintenance expenditure is managed equitably based on the functional hierarchy of the network and to ensure optimal community benefits are achieved.

• **Broader Economic Implications**

The level of funding available to Council to undertake required level of maintenance and rehabilitation/renewal is a major constraint. Taking over the responsibility for upgrading and maintaining more roads currently not maintained by Council will require additional funds and the benefits to affected land owners need to be balanced against wider community benefits, reduction in service levels of the Council maintained roads and reduced financial sustainability.

APPLICATION AND DISTRIBUTION

It is mandatory for all Council officials to comply with this Policy.

This Policy and Guidelines are available on Council's website under Council Policies.

APPROVED BY:

Council: 22 May, 2013 CW87/13
[Meeting date & Resolution No]



POLICY

| | |
|---|----------------------------------|
| EFFECTIVE: 22 May, 2013 | REVIEW DATE: 22 May, 2017 |
| DISTRIBUTION: All Staff | |
| RESPONSIBLE COUNCIL DEPARTMENT/OFFICER: Manager Assets | |
| VERSION HISTORY TABLE: Version 1 | |

KEY RESPONSIBILITIES

| <i>Position</i> | <i>Responsibility</i> |
|--|---|
| Mayor | To lead Councillors in their understanding of, and compliance with, this Policy and Guidelines. |
| General Manager | To lead staff (either directly or through delegated authority) in their understanding of, and compliance with, this Policy and Guidelines. To approve resources to develop, implement and review this Policy and Guidelines. |
| Responsible Officer | Senior Asset Engineer (Roads and Drainage) and Manager Assets to prepare works programs and plans in compliance with this policy. |
| Deputy General Managers | To communicate, implement and comply with this Policy and related Guidelines. |
| Deputy General Manager Corporate & Strategic | To ensure (directly or through delegation) the distribution and communication of the Policy and Guidelines to specified persons. To ensure (directly or through delegation) the approved Policy and Guidelines are available in hard copy and electronically on Council's website. |
| Manager Organisational Development | Facilitate the provision of regular training to all Council officials on their role and responsibilities in relation to this Policy, Guidelines and related procedures. |
| Executive and Managers | To implement this Policy, Guidelines and related procedures. To lead staff in their understanding of, and compliance with, this Policy and Guidelines |
| Manager Information Services | To assist with the development of access methods to support public access to this Policy, Guidelines and related information. |
| All Council officials | To comply with this Policy, Guidelines and related procedures. |



UNMAINTAINED ROADS POLICY GUIDELINES

DIVISION: Corporate Services

SECTION: Assets

SUBJECT: Unmaintained Roads

FILE NOS: 7810/3, 7810/7

APPROVAL DATE: 22 May, 2013

MINUTE NO: CW87/13

BACKGROUND – Wingecarribee Shire Council has an estimated 200 km of roads not maintained by Council throughout the Shire. These roads are called 'unmaintained roads'. Approximately 80% of these roads are unformed rural roads and the balance is partially formed to Council standards. In addition to this there are hundreds of kilometres of unmaintained paper roads and Crown roads.

Legal Framework:

The relevant legal framework is contained in the Roads Act 1993.

- Council has no statutory duty to carry out works of construction or repair of public roads or to keep them in repair.
- It is an offence to carry out any work on a public road without the consent of Council (Section 138).
- Council can give this consent subject to conditions (Section 139).

Principles:

The principles behind the policy are:

- Council has an obligation to ensure that legal access is available to all lots.
- Council has no obligation to provide physical access to lots.
- Owners of land on an unformed road who wish to build on the land should be able to do so at a reasonable cost of provision of vehicular access.
- Council needs to minimise its exposure to subsequent complaints and requests for construction and sealing of the formed access road, by ensuring that it is built to an appropriate standard.
- Owners or developers of multiple lots located on an unformed road who intend to develop and resell the lots should be required to provide access to a standard that would apply to subdivisions. In such cases, the developer should be prevented from the sequential extension of the road and sale of the lots one at a time, by 'bending' the policy.

OBJECTIVE:

The objectives of this policy are to specify

- a) The responsibility for maintaining 'unmaintained' roads.
- b) The process for upgrading 'unmaintained' roads by landowners, and



POLICY GUIDELINES

SCOPE – This policy covers

- Responsibility for 'unmaintained' roads.
- Upgrading 'unmaintained' roads by land owners and
- Requests for upgrade and Council takeover of maintenance of 'unmaintained' roads.

POLICY

- a) The cost of Maintenance of the Unmaintained roads whether Formed, Unformed or Unmade are the responsibility of the land owners who use the road for access to private properties.
- b) Council will accept written applications to construct/upgrade an Unmaintained road. Applications will be assessed as per the procedure and conditions outlined in this policy guidelines. The construction of a road to Council standards does not automatically imply that Council will maintain the road. Council as a rule will only take over maintenance of the road, if it provides wider community benefits.

Procedures and Conditions:

Upgrading Unmaintained Road by Land Owners

1. A written application to construct a formal road must be lodged, stating the reasons for the proposal.
2. The application will be assessed and written conditional approval may be granted.
3. Conditions and standard of construction will be as per attached drawing SD121 and relevant development guidelines.
4. Following construction and acceptance by the authorised Council officer, Council may assume responsibilities for its maintenance, if it provides wider community benefits.
5. In the case of access to multiple lots in the same ownership, the access will be conditioned as if the application was a subdivision to create the existing lots.

DEFINITIONS/RELATED INFORMATION:

| | |
|--------------------|--|
| Maintained Road: | A road that is included in Council's Road Register and maintained by Council. |
| Unmaintained Road: | A road that is not included in Council's Road Register and not maintained by Council. |
| Constructed Road: | A road constructed to Council's standards and generally as per Council's drawing SD121. |
| Formed Road: | A road that does not have gravel paving, but which is formed using a grader so that stormwater will drain off laterally. |
| Unformed Road: | A road reserve that has been cleared and open to use by the public. |
| Unmade Road: | A road reserve that has had no capital improvement including clearing, formation and gravel paving. An unmade road may be trafficable or un-trafficable in all weathers. |



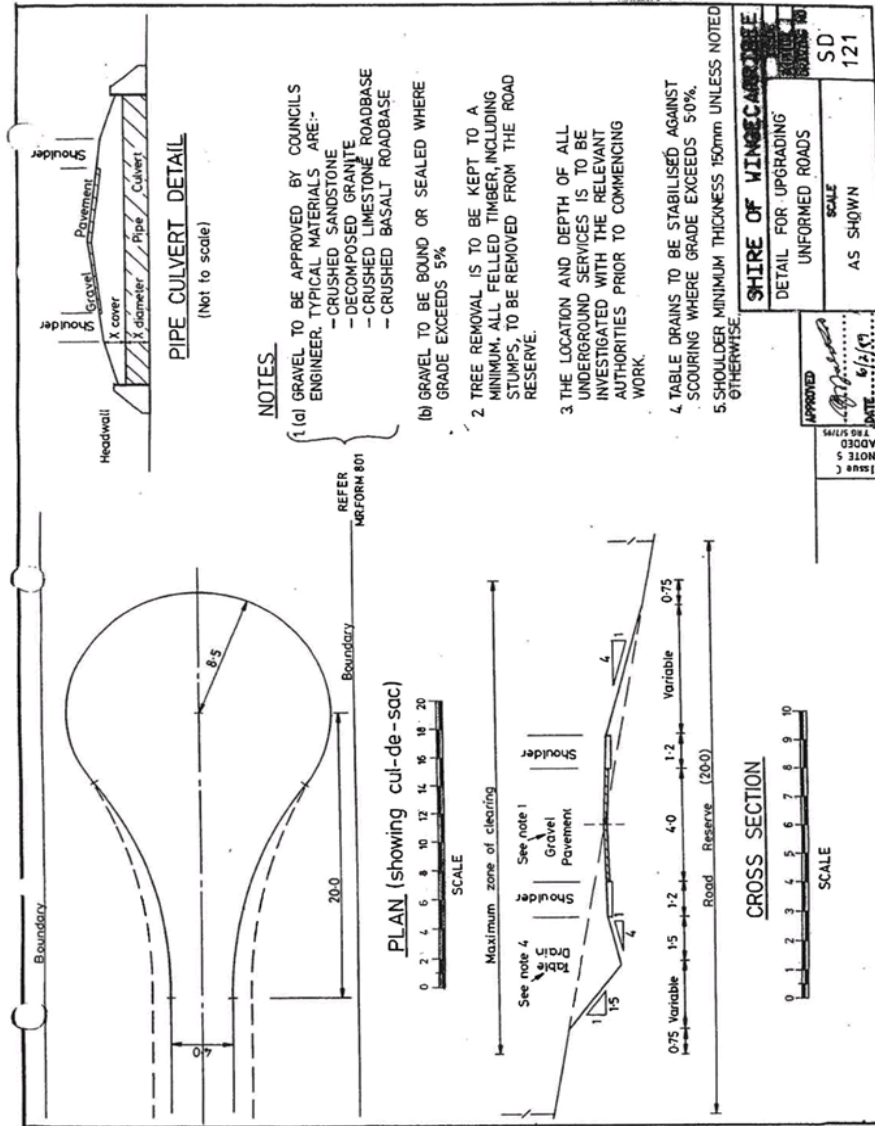
POLICY GUIDELINES

CONTACT – Manager Assets

REVIEW – Every Four Years



POLICY GUIDELINES





Draft Road Maintenance Policy

MAIN CATEGORY

Places

SUB CATEGORY

We have safe, maintained and effective assets and infrastructure

| | |
|-------------------------------------|--|
| Adoption Date: | <i>(Governance to insert)</i> |
| Council Reference: | <i>(Governance to insert)</i> |
| Policy Owner: | Manager Assets |
| Next review date: | <i>Four years from date of adoption</i> |
| File Reference: | <i>(Departmental File Number)</i> |
| Related Policies/Legislation: | <i>Local Government Act 1993</i> <i>Local Government Regulation</i> <i>Roads Act 1993</i> <i>Civil Liability Act 2002</i> |
| Related Documents: | Road Maintenance Procedure |
| Superseded Policy/GM Practice Note: | Unmaintained Road Policy No 3.51 |

OBJECTIVES

The objectives of this Policy are to:

- ensure a framework for the risk management of Council/s road network is developed;
- reduce exposure to potential public liability claims relating to the condition of roads, including claims against council and the community it represents;
- establish a criteria and hierarchy of roads;
- ensure a defined level of service and treatment options for roads based on their hierarchy and condition is developed
- ensure a systematic approach is established for the inspection, prioritisation and response to risks;
- promote awareness of legislative requirements with respect to acceptance by the community and the Court, of the shared duty of care for road users to take reasonable care for their own safety when using the road network;
- facilitate safer local and regional roads.



POLICY STATEMENT

Wingecarribee Shire Council, as the roads authority under the Roads Act 1993, must take reasonable steps to protect the public from any foreseeable dangers on its road network, as resources allow, to adequately address risks of which it is aware.

The Civil Liability Act 2002 (the Act) provides special nonfeasance protection for roads authorities such as Council. Section 45 of the Act stipulates that a roads authority is not liable for harm arising from a failure to act in respect of maintenance of its roads, unless at the time of the alleged failure the authority had actual knowledge of the particular risk which resulted in the harm. The importance of this defence is that a roads authority, such as Council, can in some circumstances avoid liability for injuries or damage related to the state of repair or maintenance of its roads.

Section 42 of the Act also makes allowance for Council's ability to carry out its duty of care as being limited by the financial and other resources which are reasonably available to exercise its functions. To rely on this defence, Council is required to show evidence of its compliance with the general procedures and applicable standards for the exercise of its functions, such as risk management of its road network.

SCOPE

This Policy considers all residents and guests in the Shire, who utilise the roads as a means of transportation. This includes motorists, cyclists and pedestrians.

The Road Maintenance Policy provides council the ability to undertake works on all council roads and strengthens Council's defence against civil liability claims ultimately reducing risks to council and the community. The Policy applies to all council managed road infrastructure within the Shire. The policy excludes Crown Roads and Roads and Maritime Services managed roads.

Management System and Risk Assessments

All council roads are to be managed according to the policy and that council develops and implements a systematic and documented approach for reducing risks associated with maintenance of sealed and unsealed roads.

The Management System includes:

- Maintaining the roads maintenance category and roads functional hierarchy
- Assessing the condition of roads through routine, planned and reactive condition inspections,



- Identifying and evaluating risks associated with the condition of road,
- Risk assessments associated with lower order roads will be safety and access focused not ride quality,
- Prioritising and scheduling maintenance works within available resources,
- Implementing suitable treatments to rectify defects and minimise risks,
- Development and implementation of a long-term capital works program,
- Reference to relevant standard and specifications.

The Management System does not intend to, nor is it reasonable to expect that it will, result in removal of all potential risks to road users from the road network. Rather, it provides a basis for identifying and managing long term plans within the limited resources available to the Council and a mechanism to prioritise and improve level of service.

DEFINITIONS

| | |
|---------------------------|---|
| Maintained Road | A road that is included in Council's Road Register and maintained by Council. |
| Lower order Roads | A road that does not have gravel paving, but which is formed using a grader so that storm water will drain off laterally and/or A road with no geometry that has been cleared and open to use by the public. |
| Maintenance | Physical works to maintain the asset without increase in the service potential. |
| Routine Maintenance | Maintenance which occurs based on a scheduled time period or date. The difference in routine maintenance periods occur based on road functional hierarchy. |
| Road Functional Hierarchy | A class or division of roads which have been grouped together based on their traffic, current use, requirement and location. The categories are placed into a hierarchy from one to eight and define the maintenance required for each road type. |
| Management System | A systematic and documented approach for reducing risks associated with road infrastructure. |
| Road maintenance category | Road maintenance category lists the applicable road maintenance treatment for every road, or section of road, to which this policy applies. |
| Reactive maintenance | Reactive maintenance is the response to work requests or identified need usually through operations or customer requests. |



RESPONSIBILITIES

Responsibilities for implementing this Policy are shared between Councillors, Executive and staff as follows:

| Position | Responsibility |
|------------------------|--|
| Mayor/ Councillors | To lead Councillors in their understanding of, and compliance with, this Policy. |
| Executive | To implement this Policy and related procedures; To lead staff in their understanding of, and compliance with this Policy. |
| Responsible Officer | Managers at all levels are responsible for the implementation and maintenance of the policy. |
| All Council Staff | To comply with this Policy and related procedures. |

PERFORMANCE MEASURES

The success of this Policy will be measured by:

- Reduction in number of complaints associated to road condition
- Reduction in public liability claims associated to road condition

BREACHES OF THE POLICY

Breaches of this Policy should be reported to the Manager Assets.

The Manager Assets will investigate alleged breaches and determine the appropriate course of action to resolve the matter.

APPROVED BY:

WINGECARRIBEE SHIRE COUNCIL

(Insert Date)



ATTACHMENTS

1. *No attachments*

Approved By:

WINGECARRIBEE SHIRE COUNCIL

(Insert Date)



12.5 Proposed sale of Council property - Lots 1261, 1262, 1263, 1264 & 1265 in Deposited Plan 1248764, Anembo Street, Moss Vale

| | |
|-----------------------------------|--|
| Reference: | PN1820800 |
| Report Author: | Property and Project Officer |
| Authoriser: | Chief Financial Officer |
| Link to Community Strategic Plan: | Effective financial and asset management ensure Council's long term sustainability |

PURPOSE

The purpose of this report is to seek Council approval for the General Manager to be delegated authority to negotiate the sale price of Council owned land.

RECOMMENDATION

THAT the report concerning the sale of Council property known as lots 1261, 1262, 1263, 1264 & 1265 in Deposited Plan 1248764 be considered in closed Council - Item 22.2..

This report is confidential in accordance with section 10A(2) of the Local Government Act, 1993, under clause 10(A)(2)(c) as it contains information that would, if disclosed, confer a commercial advantage on a person whom 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.

ATTACHMENTS

There are no attachments to this report.



12.6 Proposed Sale - 10 Frankland Street Mittagong

| | |
|-----------------------------------|--|
| Reference: | PN 556900 |
| 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

THIS MATTER WAS DEFERRED FROM COUNCIL MEETING 12 JUNE 2019

The purpose of this report is to provide Council with an update on negotiations on an offer to Council to purchase proposed Lot 3 DP 109208, Frankland Street Mittagong

BACKGROUND

On the 8 May 2019 Council was provided with a report in Closed Committee of Council, detailing an offer to purchase proposed Lot 3 DP109208, Frankland Street Mittagong. Subsequent to that report, Council directed the General Manager to undertake further negotiations with the potential buyer and bring a further report back to Council.

That matter is now therefore referred back to Council for further consideration.

RECOMMENDATION

THAT the report concerning the update to Councillors on the proposed sale of proposed Lot 3 DP109208 Frankland Street, Mittagong be considered in closed Council - Item 22.3. This report is confidential in accordance with section 10A(2) of the Local Government Act, 1993, under clause 10(A)(2)(c) as it contains information that would, if disclosed, confer a commercial advantage on a person with who 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.

ATTACHMENTS

There are no attachments to this report.

Barry W Paull
Deputy General Manager Operations, Finance and Risk

Friday 21 June 2019



13 CORPORATE STRATEGY AND DEVELOPMENT SERVICES

13.1 Planning Proposal to Amend WLEP 2010 to Permit Development for the Purposes of Seniors Living at 21 Boardman Road South Bowral

| | |
|-----------------------------------|--|
| Reference: | PN1811140, 5901 |
| Report Author: | Senior Strategic Land Use Planner |
| Authoriser: | Coordinator Strategic Land Use Planning |
| 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

To consider a Planning Proposal to amend Schedule 1 of Wingecarribee Local Environmental Plan (WLEP) 2010 to enable a seniors living development at 21 Boardman Road South Bowral.

VOTING ON THE MOTION

Councillors are required to record their votes on this matter.

RECOMMENDATION

THAT the Planning Proposal to amend Schedule 1 of Wingecarribee Local Environmental Plan (WLEP) 2010 to enable a seniors housing development at 21 Boardman Road South Bowral BE DEFERRED PENDING COMPLETION OF THE WINGECARRIBEE LOCAL HOUSING STRATEGY.

REPORT

BACKGROUND

A Planning Proposal was lodged with Council in March 2019 by Urbanesque Planning Pty Ltd requesting that Council consider an amendment to Schedule 1 (Additional permitted uses) of Wingecarribee Local Environmental Plan (WLEP) 2010 to enable a seniors housing development on Lot 104 DP 1240498, 21 Boardman Road South Bowral. The Planning Proposal forms **Attachment 1** to this report. A copy of the Planning Proposal and all supporting documentation is available for viewing by Councillors in the Councillor Room at the Civic Centre.

REPORT

Proposal

The subject land is located at 21 Boardman Road South Bowral on the southern side of Kangaloon Road across from the East Bowral residential precinct and covers an area of approximately 9.3 hectares.

An existing seniors housing development is located on Wiseman Road which was approved by the Land and Environment Court. A Gateway Determination has been issued by the (then) Department of Planning and Infrastructure (the Department) to progress a Planning Proposal to extend the Pepperfield development on to adjoining land at 6 Wiseman Road. That Planning Proposal resulted from a supportive ‘rezoning review’ by the Southern Joint Regional Planning Panel (JRPP) following Council’s resolution of 9 May 2018 to not support the Planning Proposal.

It is noted that the Southern Highlands Christian School is also located in this precinct. The location of these land uses is indicated in **Figure 1** below.

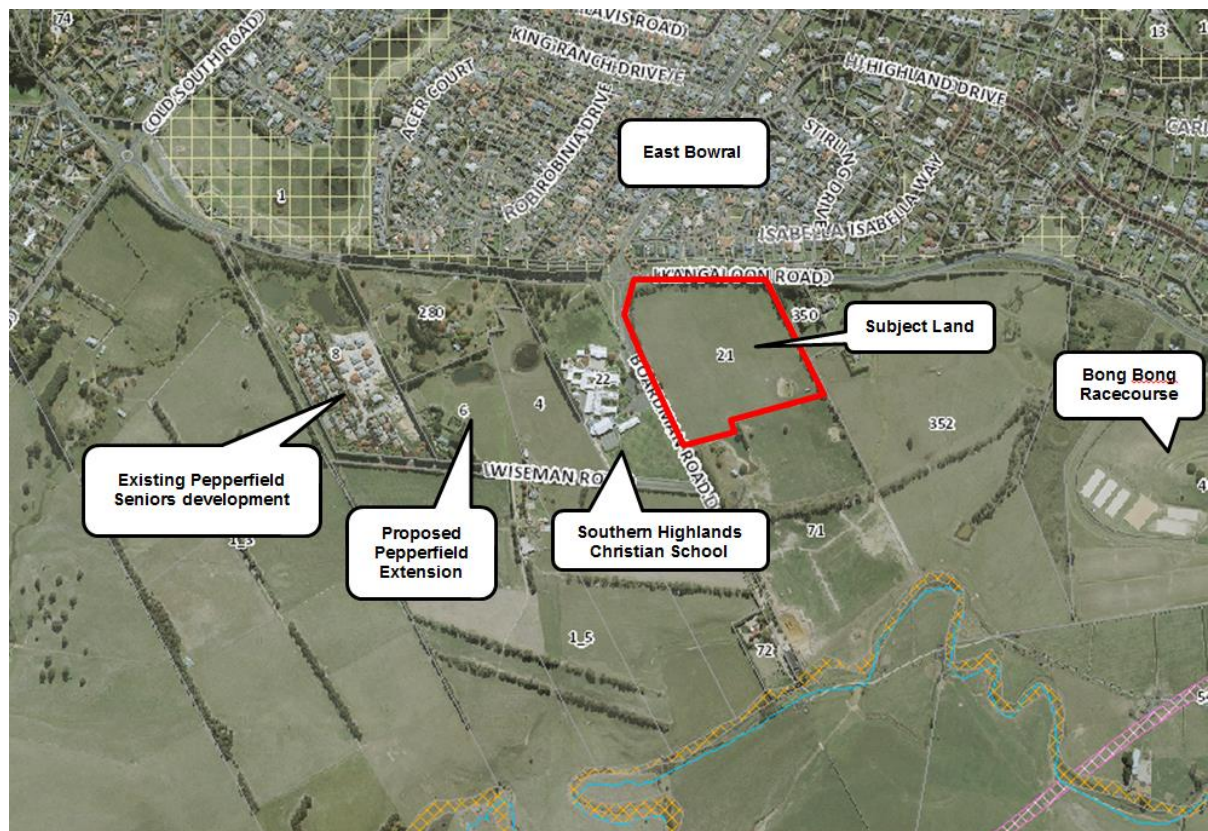


Figure 1 Local Context

The Planning Proposal seeks to amend Schedule 1 (Additional permitted uses) of WLEP 2010 to permit lodgement of a Development Application for a seniors living development on the subject land. The proposal estimates that some 120 dwellings could be achieved.



Strategic Assessment

WLEP 2010 permits Seniors Housing only within the R2 Low Density Residential and R3 Medium Density Residential zones where there is good access to facilities and services and where such housing can contribute to social mix.

The subject land is zoned E3 Environmental Management under WLEP 2010. Seniors housing is mandated a prohibited land use under the Standard Instrument on which WLEP 2010 is based.

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, commonly referred to as the 'Seniors Housing SEPP' does not apply to the subject land under Schedule 1 of the SEPP, hence the reliance of the Planning Proposal on an amendment to Schedule 1 of WLEP 2010.

If the SEPP did apply, the subject land **may** be considered suitable for the proposed development under Clause 4 (1)(a) by virtue of the site adjoining land zoned primarily for urban purposes where dwelling houses are permitted, in this case East Bowral. Clause 4(4) of the SEPP confirms that the location of a public road, in this case Kangaloon Road, does not disqualify the site from the provisions of subclause (1)(a). However, it is noted that the SEPP requires additional matters to be considered in the assessment of an application for a site compatibility certificate, which may or may not be able to be achieved on the subject land.

Council did not approve the current Pepperfield development, nor did it support the proposed extension to that development which was supported by the Department through the recommendation of the Southern JRPP.

In accordance with the Wingecarribee Local Planning Strategy, Council continues to prefer that seniors housing be located in the R2 Low Density and R3 Medium Density zones where access to transport and services is more readily available, ideally within walking distance.

Council also prefers that seniors housing be located where reticulated water and sewer are available and there is adequate surplus capacity to service it. As **Figure 2** below indicates, reticulated water is available along Boardman Road South, but the closest sewer infrastructure is currently located on the northern side of Kangaloon Road. It is noted however, that the Pepperfield development is connected to the sewer through its own onsite private sewer pump station which discharges near the Council pump station on Kangaloon Road. Modelling would be required to determine if there is enough capacity in the existing sewer to cater for the proposed development.

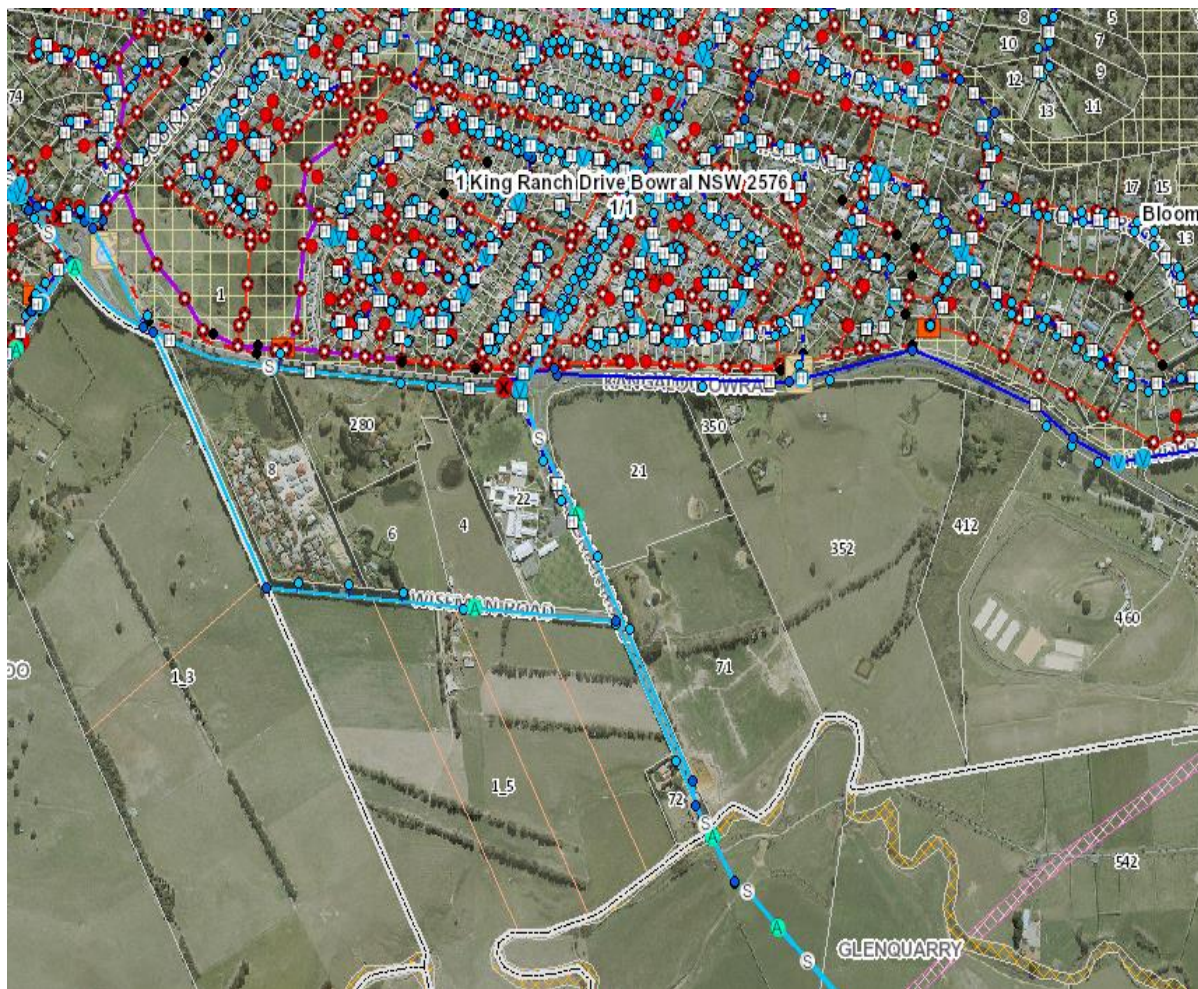


Figure 2 Location of Water (blue) & Sewer (red) connections

Conclusion

This Proposal comes before Council at a time when the draft Wingecarribee Local Housing Strategy is underway. The purpose of this Strategy is to establish Council's vision for the provision of housing, in consultation with the community, and to detail how and where housing will be provided taking into account local demographics, current housing supply and demand and site specific constraints. The provision of seniors housing will be an important element of that Strategy which itself will be an essential element of Council's 20 year vision to be articulated in the Council's Local Strategic Planning Statement as required under the provisions of the *Environmental Planning and Assessment Act 1979*.

It is therefore concluded that assessing an individual seniors housing proposal that is inconsistent with Council's current strategy, and in isolation of these strategic processes risks compromising the outcomes of both the Local Housing Strategy and the Local Strategic Planning Statement. It is recommended that Council complete at least the Local Housing Strategy before reviewing this Proposal again within the context of outcomes from that Strategy as to where seniors housing should best be provided into the future.

It is recommended therefore that the Planning Proposal **BE DEFERRED** pending completion of the Wingecarribee Local Housing Strategy.

IMPACT ON COUNCIL'S FIT FOR THE FUTURE IMPROVEMENT PLAN

There are no implications for Council's Fit for the Future Improvement Plan resulting from this report.

COMMUNICATION AND CONSULTATION

Community Engagement

An extensive community engagement programme is being developed to support preparation of both the Local Housing Strategy and the Local Strategic Planning Statements. This consultation will strongly inform the outcomes of those strategic statements.

Internal Communication and Consultation

In reviewing the Planning Proposal, preliminary internal consultation was undertaken with assets regarding water and sewer infrastructure.

External Communication and Consultation

No external consultation has been undertaken at this stage.

SUSTAINABILITY ASSESSMENT

- **Environment**

Consideration of the Proposal within the context of the Local Housing Strategy and the Local Strategic Planning Statement will ensure that environmental sensitivities are also addressed.

- **Social**

Consideration of the Proposal within the context of the Local Housing Strategy and the Local Strategic Planning Statement will ensure that the future housing needs of the community at all stages of life are appropriately considered and addressed.

- **Broader Economic Implications**

Consideration of the Proposal within the context of the Local Housing Strategy and the Local Strategic Planning Statement will ensure that these strategies offer certainty for both the community and for investors seeking to make sound economic decisions within a reliable strategic framework.

- **Culture**

There are no cultural issues in relation to this report.

- **Governance**

The Proposal has been considered in accordance with guidelines provided by the Department of Planning.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 26 June 2019

REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



COUNCIL BUDGET IMPLICATIONS

There are no budget implications associated with this report.

RELATED COUNCIL POLICY

There are no other Council related policies.

OPTIONS

The options available to Council are:

Option 1

Support the recommendation to this report that the Planning Proposal to amend Schedule 1 of Wingecarribee Local Environmental Plan (WLEP) 2010 to enable a seniors housing development at 21 Boardman Road South Bowral BE DEFERRED PENDING COMPLETION OF THE WINGECARRIBEE LOCAL HOUSING STRATEGY.

Option 2

Resolve to not support the Planning Proposal to amend Schedule 1 of Wingecarribee Local Environmental Plan (WLEP) 2010 to enable a seniors housing development at 21 Boardman Road South Bowral.

Option 3

Resolve to support the Planning Proposal to amend Schedule 1 of Wingecarribee Local Environmental Plan (WLEP) 2010 to enable a seniors housing development at 21 Boardman Road South Bowral.

w

Option 1 is the recommended option to this report.

CONCLUSION

The Planning Proposal has been assessed and a recommendation made taking into account the fact that the proposal is inconsistent with the Local Planning Strategy and that two major strategic land use planning documents need to be delivered by Council before 1 July 2020 as required under the provisions of the *Environmental Planning and Assessment Act 1979*.

A primary intent of these documents is to address Council's future housing needs over the next twenty years. It is therefore concluded that it would be premature to determine this Proposal without reference to these important strategic documents and to do so risks compromising their outcomes.

It is considered that it would be preferable to complete at least the Local Housing Strategy before reviewing this Proposal again within the context of outcomes from that Strategy as to where seniors housing should best be provided into the future.

ATTACHMENTS

1. Planning Proposal - Seniors Housing - 21 Boardman Road South



Planning Proposal

To amend Schedule 1 of the Wingecarribee Local Environmental Plan 2010 to include the Additional Permitted Use of Seniors Housing on land known as 21 Boardman Road South, Bowral. (Lot 104, DP1240498)

Prepared for Wingecarribee Shire Council by:

Urbanesque Planning Pty Ltd
Suite 16, 895 Pacific Highway, Pymble NSW 2073
T: 02 9440 8900 E: mail@urbanesque.com.au

On behalf of: KRB Property Holdings Pty Ltd

Originally submitted: March 2019



Civic Centre, Elizabeth St, Moss Vale, NSW 2577.
PO Box 141, Moss Vale. ABN 49 546 344 354
T. (02) 4868 0888 E. wscmail@wsc.nsw.gov.au

www.wsc.nsw.gov.au

13.1 Planning Proposal to Amend WLEP 2010 to Permit Development for the Purposes of Seniors Living at 21 Boardman Road South Bowral

ATTACHMENT 1 Planning Proposal - Seniors Housing - 21 Boardman Road South



Planning Proposal – Additional Permitted Use – Seniors Housing – 21 Boardman Road South, Bowral
Prepared for Wingecarribee Shire Council by Urbanesque Planning Pty Ltd
Version 1 – For KRB Property Holdings Pty Ltd

ATTACHMENTS WHICH FORM PART OF THIS PLANNING PROPOSAL

| | |
|---|---|
| 1 | Contamination Report – Douglass Partners, dated February 2019 |
| 2 | Ecological Assessment – Hayes Environmental, dated 5 March 2019 |
| 3 | Indicative Masterplan “Scenario 2” – Cox Architecture, undated |
| 4 | Local Area Development Context, Cox Architecture, undated |
| 5 | Survey, Richard Cox Surveyors Pty Ltd, dated 4 April 2017 |
| 6 | Population Change Map by Age Group, 2011-2016, The Demographer’s Workshop, undated |
| 7 | Wingecarribee Demographic and Housing Study, SGS Economics and Planning, dated May 2012 |

13.1 Planning Proposal to Amend WLEP 2010 to Permit Development for the Purposes of Seniors Living at 21 Boardman Road South Bowral

ATTACHMENT 1 Planning Proposal - Seniors Housing - 21 Boardman Road South



Planning Proposal – Additional Permitted Use – Seniors Housing – 21 Boardman Road South, Bowral
Prepared for Wingecarribee Shire Council by Urbanesque Planning Pty Ltd
Version 1 – For KRB Property Holdings Pty Ltd

LOCAL GOVERNMENT AREA : WINGECARRIBEE SHIRE COUNCIL

ADDRESS OF LAND : 21 BOARDMAN ROAD SOUTH, BOWRAL

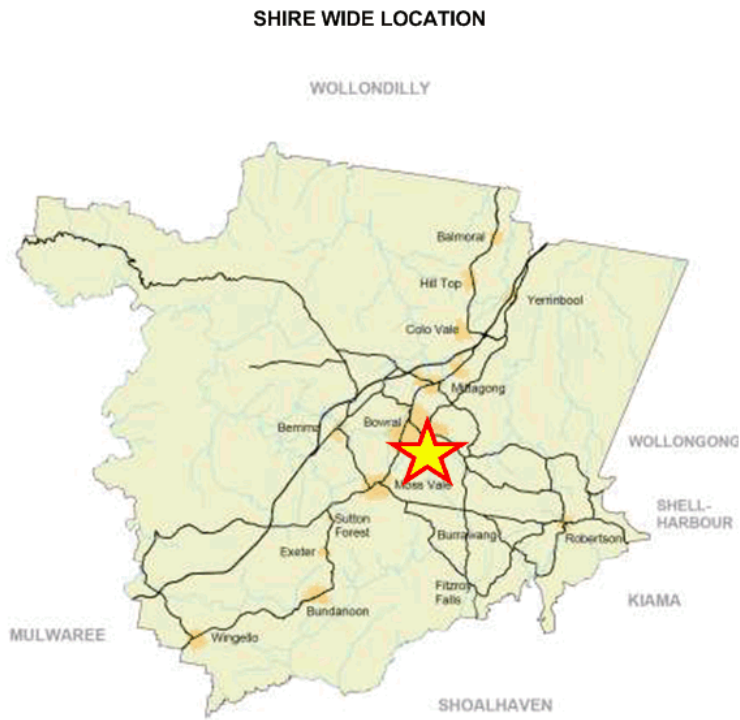


Figure 1: Location map

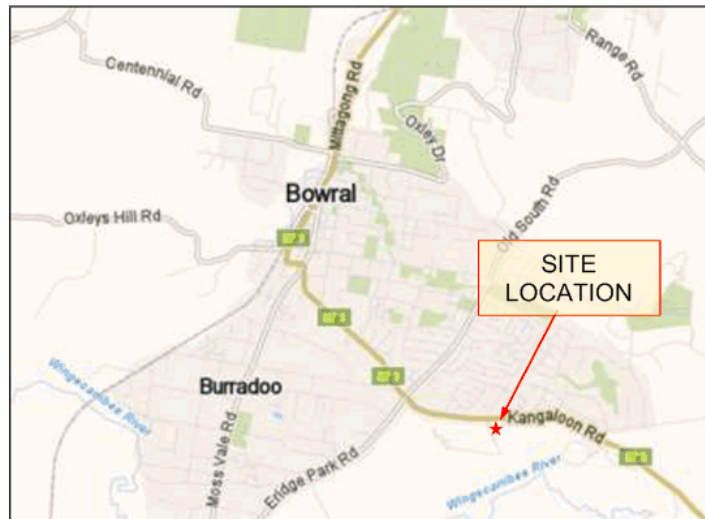


Figure 2: Locality map (Source: www.whereis.com.au)



Planning Proposal – Additional Permitted Use – Seniors Housing – 21 Boardman Road South, Bowral
 Prepared for Wingecarribee Shire Council by Urbanesque Planning Pty Ltd
 Version 1 – For KRB Property Holdings Pty Ltd

SITE LOCATION & DESCRIPTION

The subject site is known as 21 Boardman Road South, Bowral and is located within the Wingecarribee Local Government area. The land is zoned E3 Environmental Management under the Wingecarribee Local Environmental Plan 2010 (“the LEP”). The site is bounded by Kangaloon Road to the north and Boardman Road South to the west. The site is irregular in shape but predominantly square with a total area of approximately 9.3 hectares.

The site is cleared other than for perimeter plantings along the northern, eastern and western boundaries. No buildings are supported on the land and it has most recently been used for passive grazing. The fall of the site is gently undulating from the north to the south. The site is identified in the survey provided at Appendix A of this proposal.

The site is located on the rural/urban fringe immediately south of the R2 Low Density Residential zone which is on the northern side of Kangaloon Road. The properties on the southern side of Kangaloon Road create a buffer between the more densely populated residential zones to the north and land that has greater scenic landscape value towards the south.

This fringe interface area which is zoned E3 Environmental Management supports other land uses such as:-

- the Southern Highlands Christian School immediately opposite the site on the western side of Boardman Road. The school occupies approximately 7 hectares.
- The Pepperfield Lifestyle Resort to the west of the school. The resort is a seniors housing development based on a model similar to what is envisioned for the subject site. The Pepperfield Resort is the subject of a Planning Proposal to increase the size of the development. Pepperfield occupies approximately 8.5 hectares which will increase to approximately 12 hectares if the Planning Proposal is successful.

Lastly, it is noted that the land is not affected by any mapped statutory site constraints other than its location in the Sydney drinking water catchment under the State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011.

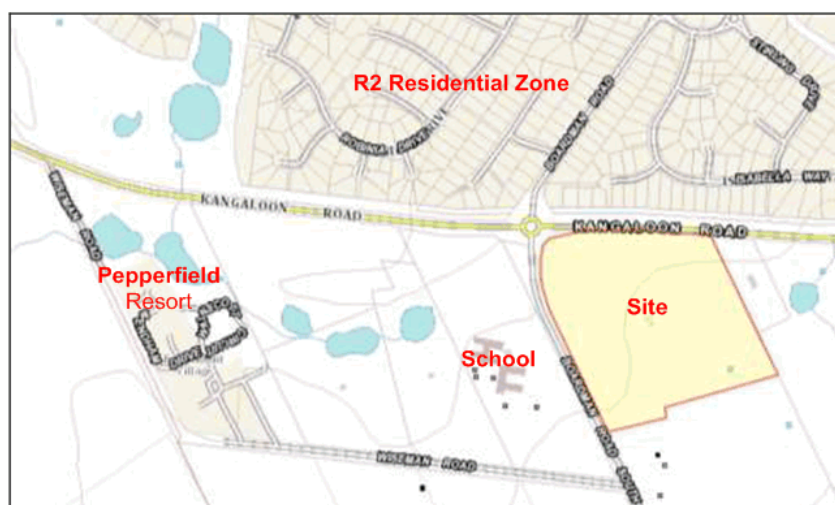


Figure 3: The subject site (highlighted) noting proximity to Pepperfield Retirement Resort (Source: www.six.nsw.gov.au)

13.1 Planning Proposal to Amend WLEP 2010 to Permit Development for the Purposes of Seniors Living at 21 Boardman Road South Bowral
ATTACHMENT 1 Planning Proposal - Seniors Housing - 21 Boardman Road South



Planning Proposal – Additional Permitted Use – Seniors Housing – 21 Boardman Road South, Bowral
Prepared for Wingecarribee Shire Council by Urbanesque Planning Pty Ltd
Version 1 – For KRB Property Holdings Pty Ltd



Figure 4: Aerial view noting the local context (Source: Google Maps)



Figure 5: Wider aerial view noting the local context (Source: Google Maps)



PART 1 : OBJECTIVES OR INTENDED OUTCOMES

The purpose of the planning proposal (which is further discussed below) is to allow an additional permitted use on the subject land being that of seniors housing. This will give permissibility for a future seniors housing development specifically on the subject land. The location is considered to be eminently suited to seniors housing by reason of its location in proximity to services, transport and other residential uses and by reason of its topography however the current zoning precludes this land use. *Seniors housing* is defined under the Wingecarribee LEP as follows: -

Seniors housing means a building or place that is:

- (a) a residential care facility, or
- (b) a hostel within the meaning of clause 12 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, or
- (c) a group of self-contained dwellings, or
- (d) a combination of any of the buildings or places referred to in paragraphs (a)–(c),
and that is, or is intended to be, used permanently for:
- (e) seniors or people who have a disability, or
- (f) people who live in the same household with seniors or people who have a disability, or
- (g) staff employed to assist in the administration of the building or place or in the provision of services to persons living in the building or place,

but does not include a hospital.

Note.

Seniors housing is a type of residential accommodation—see the definition of that term in this Dictionary.

The current E3 zone permits with consent the following uses:-

Agricultural produce industries; Airstrips; Aquaculture; Bed and breakfast accommodation; Cellar door premises; Community facilities; Dairies (pasture-based); Dual occupancies (attached); Dwelling houses; Eco-tourist facilities; Environmental facilities; Farm buildings; Farm stay accommodation; Flood mitigation works; Health consulting rooms; Helipads; Home businesses; Horticulture; Information and education facilities; Places of public worship; Recreation areas; Recreation facilities (outdoor); Roads; Roadside stalls; Secondary dwellings; Signage; Viticulture; Water storage facilities

The prohibited uses in the zone include seniors housing:-

Industries; Multi dwelling housing; Residential flat buildings; Retail premises; Seniors housing; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3¹.

To achieve the intended objective, the planning proposal seeks to amend Schedule 1 of the LEP to include seniors housing specifically on the subject land. For abundant clarity, the intended outcome does not require a rezoning or mapping changes.

¹ Item 2 refers to Complying Development and Item 3 refers to the permissible uses under the LEP.

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 Version 1 – For KRB Property Holdings Pty Ltd

PART 2 : EXPLANATION OF THE PROVISIONS

To achieve the intended outcomes of the Planning Proposal the following amendments to the WLEP 2010 will be required.

The proposed outcome will be achieved by amending Schedule 1 – Additional Permitted Uses under the Wingecarribee Local Environmental Plan 2010.

A new entry is to be inserted for 21 Boardman Road South, Bowral with the additional permitted use being ‘Seniors Housing’.

- To achieve the intended outcomes of the Planning Proposal the following WLEP 2010 maps will require amendment:

| Instrument or Map Affected | Detail of Amendment |
|----------------------------|---------------------|
| Nil | Nil |

The intended outcome does not require a mapping change.

PART 3 : JUSTIFICATION OF OBJECTIVES, OUTCOMES & PROCESS

Section A – Need for the Planning Proposal

1. Is the Planning Proposal a result of any strategic study or report?

No. The planning proposal does not rely on a strategic study as the site has strategic and site specific merit sufficient to justify the use of the land for seniors housing.

Four key pillars underpin the rezoning as identified below:-

1. Orderly Land Use. The subject land is adjacent to land zoned R2 Low Density Residential to the north of the site (separated by Kangaloon Road). The proposal represents a compatible and logical extension of the residential uses in the R2 zone towards the south rather than a spot rezoning. The area south of Kangaloon Road is cleared, semi-rural land and is suited for the expansion of residential uses.
2. Transport. The site has strong access to public transport in the form of bus routes 808 and 815 servicing the stop at the corner of Kangaloon Road and Boardman Road South, immediately adjacent to the site. The bus routes are operated by Berrima Buslines and connect the site with the Bowral town centre, Moss Vale, East Bowral, Burradoo, Kangaloon and Robertson. The site is 4km from the Bowral town centre. It is intended that the future development will be serviced internally by the bus and discussions have been held with the bus company in this regard. It is also intended that the development will provide a shuttle bus service for residents and visitors.
3. Site suitability and capacity. The site is cleared and gently undulating and is ideally suited for retirement living in a high-quality landscaped environment similar to that of the nearby Pepperfield Lifestyle Resort in Wiseman Road to the west. The site will not be developed beyond its environmental capacity and will be subject to the limitations of the SEPP seniors.

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4. **Demographics.** There is identified strong demand for seniors housing in and near Bowral to accommodate retirees. According to the 2016 census, the median age of the population of Bowral² was 54 years compared to the 2011 census when the median age was 50.8 years. People aged 55 years and over made up 48.8% of the population compared to the whole of NSW, 28.1% and Australia, 27.6%. The trend towards an elderly population is increasing. Refer to Attachment 6 - Population Change Map by Age Group, 2011-2016, The Demographer's Workshop.

Reference is also made to a report prepared on behalf of Wingecarribee Council entitled the Wingecarribee Demographic and Housing Study by SGS Economics and Planning and dated May 2012.

Section 2.3 of the report deals with ageing and housing in the Wingecarribee local government area, and notes that the area has challenges with ageing in place (i.e. continuing to live in homes after retirement). These challenges include:-

- reduced supply of housing, through low occupancy of dwellings which present service difficulties for their occupants and community/ local government services (for example, ground maintenance and domestic support);
- increased demand for a range of essential services, including but not limited to primary health care facilities and a range of allied health services;
- increased demand for public transport, including the delivery of transport services during off-peak periods and within more finite catchment areas (for example, 400 metres or less) than normally viable; and
- increased demand for social contact and sociability, driving the use of community infrastructure including community centres, libraries, places of worship and other public and semi-public spaces.

The report also notes at page 13 that "Bowral, Mittagong and Moss Vale are shown as most suitable for seniors housing development due to their good access to services, amenity, health facilities and transport."

Furthermore, the report notes at Section 3.4:-

"When considering the effects of ageing on regional housing demand, two main demographic cohorts are relevant to future planning:-

- The number of residents aged 55 years and over, who are able to access independent living unit (ILU) accommodation, and whose housing decisions will be influenced by considerations around retirement living and ageing in an 'autonomous' setting.
- The number of residents aged 85 years and over, or the frail aged, who may require assistance to perform household and/ or personal duties,

² Statistical Area Level 2



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and whose needs may require support in low or high care residential aged care (RAC) settings.

To reiterate, the majority of older residents of the Wingecarribee LGA will choose to remain in their own homes as they age. There will, however, be some residents choosing to move to facilities specifically for those over 55.”

NSW Department of Planning and Environment projections have been used to forecast future demand for aged housing. The Department’s forecast for over 55’s are higher than those predicted within the Wingecarribee Strategy for every five (5) year interval to 2036, i.e. the Department is predicting a higher demand for aged care facilities than Wingecarribee Shire Council has allowed for.

The Department’s forecast for Wingecarribee includes a tripling of the number of residents aged over 85 between 2011 and 2036 (from 1170 to 3880 people, equivalent to 5.4% annual growth) and a 72% increase in the population aged over 55 years. Around 80% of expected growth in the total population (projected to be 15,000 people) is forecast to be made up of over 55’s.

2. Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. The planning proposal is the best means to achieve the intended planning outcome being an additional permitted use to apply only to the subject land.

Given the prohibition under the Local Planning Instrument and as development for the purposes of Seniors Living is not elsewhere enabled under the SEPP (Housing for seniors and people with a disability) 2004, a Planning Proposal is the only option available to have the permissibility prohibition reviewed.

Alternative means for achieving the intended objectives are either not desirable or not available.

- Rezoning. It is not necessary or appropriate to rezone the subject land. A rezoning would allow the site to be developed with any land use applicable to the zone and this does not align with the intended future development for seniors housing.
- Site Compatibility Certificate process (SCC process) under Part 1A of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004. The site is precluded from a SCC process because it is “environmentally sensitive land” by virtue of the zoning. The land does not possess special ecological, scientific, cultural or aesthetic values and is not a sensitive landscape area.

It is therefore necessary and appropriate to request an additional permitted use for the subject land to achieve the stated objectives.

Section B – Relationship to strategic planning framework

3. Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including draft strategies)?

Yes. The planning proposal is consistent with the objectives the relevant strategic planning framework.

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South East and Tablelands Regional Plan 2036

The South East and Tablelands Regional Plan 2036 is a 20 year strategic plan representing the NSW Government's vision for the South East and Tablelands Region as "A borderless region in Australia's most geographically diverse natural environment with the nation's capital at its heart." The Plan promotes economic growth through the stimulus of additional housing choice within the Wingecarribee region to meet current and future demand.

The Plan characterises Wingecarribee in the following manner:-

Within easy reach of Canberra, Sydney and the Illawarra, Wingecarribee Local Government Area is home to national parks, rural landscapes and historic country villages and towns. The traditional owners of Wingecarribee are the Gundungurra and D'harawal people. This area is recognised for its impressive 19th and 20th Century buildings and streetscapes. Berrima was the second settlement in the region and is the last remaining, largely intact, Georgian-period town on mainland Australia.

Over 103,000 hectares of land is either national parks or nature reserves, representing 38 per cent of the Local Government Area. Almost the entire Shire is located within the Sydney Drinking Water Catchment.

The population is expected to grow by 4,050 people by 2036, requiring an additional 3,300 dwellings. By 2036, 27 per cent of the population will be aged over 65.

The priorities identified for Wingecarribee are to:-

- Protect high environmental value lands including regionally significant biodiversity corridors.
- Protect the Sydney Drinking Water Catchment.
- Protect important agricultural lands as a resource for food security.
- Protect the Shire's valued heritage assets.
- Provide ongoing access to high quality health and education services.

In terms of housing supply in Wingecarribee, the Plan provides:-

- Strategically plan for residential growth in existing urban areas and greenfield areas.
- Increase housing in Moss Vale, Bowral and Mittagong.
- Protect the unique character of the Shire's village and rural lifestyle.
- Enhance the variety of housing options to cater for an ageing population.

The planning proposal responds to the housing needs of an ageing population through the rezoning of land that is not environmentally sensitive or of scenic quality. The land is cleared and has been used for grazing. It is not of a sufficient area to be economically viable for agricultural use.

The planning proposal responds to key goals and directions identified in the Plan.

- Goal 4: Environmentally sustainable housing choices,
 - Direction 24: Deliver greater housing supply and choice, and

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- Direction 25: Focus housing growth in locations that maximise infrastructure and services.

The planning proposal is considered to be consistent with the Regional Plan as it will facilitate the provision of housing and facilities to cater for an ageing population in Wingecarribee in an orderly and economic manner.

4. Is the Planning Proposal consistent with a council's local strategy or other local strategic plan?

Council adopted the Wingecarribee Local Planning Strategy 2015-2031 on 23 March 2016. The Strategy was endorsed by the Department of Planning and Environment on 15 May 2017 except for Chapter 4, Managing Our Housing Needs because sufficient potential greenfield housing release areas to meet housing needs across the LGSA were not identified.

Similarly, the South East and Tablelands Regional Plan identifies the needs of an ageing population in Wingecarribee.

The key objectives of the Strategy are to:-

- minimise the proliferation of buildings and other structures in sensitive landscape areas (i.e. E3 Environmental Management zones), and
- to protect and enhance the natural environmental attributes within the environmental zones, including flora and fauna protection and water quality management.

The planning proposal is consistent with the objectives the relevant strategic planning framework because the land is able to be developed for seniors housing without an unacceptable impact upon land that is environmentally sensitive or having high scenic value, heritage value or high agricultural value.

In support of the above comments, an ecological assessment report is submitted with the Planning Proposal, prepared by Hayes Environmental, dated 5 March 2019 (Attachment 2).

The assessment finds that no significant flora or are identified within the site that would require special consideration in the development of the site. In summary, the ecological report concludes that the site has no significant flora within the site that would require special consideration in the development of the site. The site does not hold any special ecological value that is commensurate with its E3 zoning.

It is further noted that the subject site is not mapped by Council under any LEP Biodiversity Mapping Layer as environmentally sensitive land. It is considered to be a reasonable conclusion that should Council have considered the site to have any special environmental significance, that this significance would be identified by the site being mapped as 'Environmentally Sensitive Land' within the WLEP 2010 Biodiversity Map.

The land is not mapped as containing Biodiversity Value on the new Biodiversity Values Map relevant to the Biodiversity Conservation Act 2016.

The development of the site for the purposes of seniors living can result in a high-quality visual result by marrying appropriate low scale architecture with significant landscaping embellishments to result in an improved environmental outcome. This is demonstrated in the indicative masterplan prepared by Cox Architecture (Attachment 3). Further, a local spatial analysis has been carried out by Cox Architecture indicating services and facilities relevant to the development context, noting the high occurrence of nursing homes and retirement villages. (Attachment 4).

Prepared for Wingecarribee Shire Council by Urbanesque Planning Pty Ltd

March 2019

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The proposal is considered to be consistent with the goals and strategies of the adopted strategies.

5. Is the Planning Proposal consistent with applicable State Environmental Planning Policies?

The following table identifies the key applicable SEPPs and outlines this Planning Proposal's consistency with those SEPPs..

| SEPP | RELEVANCE TO PLANNING PROPOSAL |
|---|--|
| No.1 Development Standards | NOT RELEVANT – The SEPP was replaced by Clause 4.6 of WLEP2010 as the mechanism for any variation to development standards. |
| No.14 Coastal Wetlands | NOT RELEVANT – There are no Coastal Wetlands within the Shire. |
| No.19 Bushland in Urban Areas | NOT RELEVANT – The SEPP does not apply to Wingecarribee Shire. |
| No.21 Caravan Parks | NOT RELEVANT – The planning proposal has no relevance to caravan parks. |
| No.26 Littoral Rainforests | NOT RELEVANT – The SEPP does not apply to the Wingecarribee Shire. |
| No.30 Intensive Agriculture | NOT RELEVANT – The planning proposal has no relevance to intensive agriculture. |
| No.33 Hazardous and Offensive Development | NOT RELEVANT - The planning proposal does not relate to hazardous or offensive development. |
| No.36 Manufactured Home Estates | NOT RELEVANT - The planning proposal does not relate to manufactured home estates. |
| No.44 Koala Habitat Protection | NOT RELEVANT - The planning proposal does not impact on land identified as koala habitat. |
| No. 47 Moore Park Showground | NOT RELEVANT – The SEPP does not apply to Wingecarribee Shire. |
| No.50 Canal Estate Development | NOT RELEVANT - The planning proposal does not relate to canal development. |
| No.52 Farm Dams and Other Works in Land and Water Management Plan Areas | NOT RELEVANT – The SEPP does not apply to Wingecarribee Shire. |

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| | |
|---|--|
| No.55 Remediation of Land | CONSISTENT - The planning proposal is supported by a contamination assessment as required by the SEPP which deems the land suitable for residential purposes.(Attachment 1). |
| No. 62 Sustainable Aquaculture | NOT RELEVANT - The planning proposal does not relate to aquaculture. |
| No.64 Advertising and Signage | NOT RELEVANT - The planning proposal does not relate to advertising or signage. |
| No.65 Design Quality of Residential Apartment Development | NOT RELEVANT - SEPP 65 will not apply to the future residential built form. |
| No.70 Affordable Housing (Revised Schemes) | NOT RELEVANT – The SEPP does not apply to Wingecarribee Shire. |
| No.71 Coastal Protection | NOT RELEVANT – The SEPP does not apply to Wingecarribee Shire. |
| Affordable Rental Housing 2009 | NOT RELEVANT - The future development will not be proposed pursuant to this SEPP 65. |
| Building Sustainability Index: Basix 2004 | CONSISTENT - The future seniors housing development will be subject to this SEPP and must comply with its provisions at the development application stage. |
| Educational Establishments and Child Care Facilities 2017 | NOT RELEVANT - The planning proposal or future development does not relate to educational establishments. |
| Exempt and Complying Development Codes 2008 | NOT RELEVANT – This SEPP will not be applicable to the future development of the land for seniors housing because development consent is required for the intended development |
| Housing for Seniors or People with a Disability 2004 | CONSISTENT - The future development for seniors housing will be carried out pursuant to this SEPP. The future development must be assessed as being consistent with the aims, objectives and development controls contained within the SEPP. The development will be consistent with the SEPP in terms of permissibility upon the success of the planning proposal. |
| Infrastructure 2007 | CONSISTENT - While no relevant provisions can be presently identified, the planning proposal is not inconsistent with the provisions of the SEPP. |
| Integration and Repeals 2016 | NOT RELEVANT – The SEPP does not apply to Wingecarribee Shire. |

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| | |
|---|---|
| Kosciuszko National Park - Alpine Resorts 2007 | NOT RELEVANT – The SEPP does not apply to Wingecarribee Shire. |
| Kurnell Peninsula 1989 | NOT RELEVANT – The SEPP does not apply to Wingecarribee Shire. |
| Mining, Petroleum Production and Extractive Industries 2007 | NOT RELEVANT – The planning proposal or future development does not relate to mining, petroleum production or extractive industries. |
| Miscellaneous Consent Provisions 2007 | NOT RELEVANT – The planning proposal or future development does not relate to any of the provisions contained in this SEPP. |
| Penrith Lakes Scheme 1989 | NOT RELEVANT – The SEPP does not apply to Wingecarribee Shire. |
| Rural Lands 2008 | CONSISTENT - the SEPP relates to rural subdivisions. While the planning proposal does not relate to rural subdivisions, the planning proposal is not inconsistent with the provisions of the SEPP. |
| State and Regional Development 2011 | NOT RELEVANT – The planning proposal or future development does not relate to state significant development. |
| State Significant Precincts 2005 | NOT RELEVANT – The planning proposal or future development does not relate to a state significant precinct. |
| Sydney Drinking Water Catchment 2011 | CONSISTENT - The whole of the Wingecarribee LGA is within the Sydney Drinking Water Catchment. The SEPP is applicable and Referral to WaterNSW will occur in accordance with the Gateway Determination. |
| Sydney Region Growth Centres 2006 | NOT RELEVANT – The SEPP does not apply to Wingecarribee Shire. |
| Three Ports 2013 | NOT RELEVANT – The SEPP does not apply to Wingecarribee Shire. |
| Urban Renewal 2010 | NOT RELEVANT – The land is not identified as being in an urban renewal precinct. |
| Vegetation in Non-Rural Areas 2017 | NOT RELEVANT – The SEPP does not apply to Wingecarribee Shire. |
| Western Sydney Employment Area 2009 | NOT RELEVANT – The SEPP does not apply to Wingecarribee Shire. |

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| | |
|--------------------------|---|
| Western Sydney Parklands | NOT RELEVANT – The SEPP does not apply to Wingecarribee Shire. |
|--------------------------|---|

6. Is the Planning Proposal consistent with applicable S 9.1 Directions?

The Planning Proposal has been assessed against applicable Directions issued by the Minister for Planning under section 9.1 of the Environmental Planning & Assessment Act 1979. These assessments are reproduced below. Directions not applicable to Wingecarribee Shire have been excluded.

| 1. Employment & Resources | Assessment |
|--|--|
| 1.1 Business & Industrial Zones | NOT RELEVANT - Not a business or industrial zone. |
| 1.2 Rural Zones | NOT RELEVANT – Not a rural zone. |
| 1.2 Mining, Petroleum Production & Extractive Industries | NOT RELEVANT |
| 1.4 Oyster Aquaculture | NOT RELEVANT |
| 1.5 Rural Lands | NOT RELEVANT – Not rural land. |

| 2. Environment & Heritage | Assessment |
|---|--|
| 2.1 Environment Protection Zones | JUSTIFIABLY INCONSISTENT The proposed future development is partially inconsistent with the zone objectives of the E3 zone however is justifiable on grounds that the land does not possess special ecological, scientific, cultural or aesthetic values and is not a sensitive landscape area. The proposal will deliver for a land use that will provide economic and employment development and fulfil a positive social outcome in the provision of seniors housing. Justification in support of a favourable consideration have been provided for under Section B of the Planning Proposal. |
| 2.2 Coastal Management | NOT RELEVANT |
| 2.3 Heritage Conservation | NOT RELEVANT - Not heritage affected. |
| 2.4 Recreation Vehicle Areas | NOT RELEVANT |
| 2.5 E2 & E3 zones in Far North Coast LEPs | NOT RELEVANT |

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| 3. Housing, Infrastructure & Urban Development | Assessment |
|--|---------------------|
| 3.1 Residential Zones | <u>NOT RELEVANT</u> |
| 3.2 Caravan Parks & Manufactured Home Estates | <u>NOT RELEVANT</u> |
| 3.3 Home Occupations | <u>NOT RELEVANT</u> |
| 3.3 Integrating Land Use & Transport | <u>NOT RELEVANT</u> |
| 3.5 Development near Licensed Aerodromes | <u>NOT RELEVANT</u> |
| 3.6 Shooting Ranges | <u>NOT RELEVANT</u> |

| 4. Hazard & Risk | Assessment |
|--|--|
| 4.1 Acid Sulphate Soils | <u>CONSISTENT</u> - Not identified on acid sulphate soils map. |
| 4.2 Mine Subsidence & Unstable Land | <u>NOT RELEVANT</u> |
| 3.3 Flood Prone Land | <u>NOT RELEVANT</u> – Not flood prone land. |
| 3.4 Planning for Bushfire Protection | <u>NOT RELEVANT</u> – Not bushfire prone land. |
| 3.5 Development near Licensed Aerodromes | <u>NOT RELEVANT</u> |
| 3.6 Shooting Ranges | <u>NOT RELEVANT</u> |

| 5. Regional Planning | Assessment |
|---|--|
| 5.1 Implementation of Regional Strategies | <u>CONSISTENT</u> - Consistent with regional strategies. Refer to Section B of the Planning Proposal. |
| 5.2 Sydney Drinking Water Catchments | <u>CONSISTENT</u> Referral to WaterNSW will occur in accordance with the Gateway Determination. |
| 5.3 – 5.9 | <u>NOT RELEVANT or REVOKED.</u> |
| 5.10 Implementation of Regional Plans | <u>CONSISTENT</u> – The area is subject to the South East and Tablelands Regional Plan. Refer to Section B of the Planning Proposal. |

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| 5. Regional Planning | Assessment |
|--|---|
| 6. Local Plan Making | Assessment |
| 6.1 Approval & Referral Requirements | CONSISTENT - Consistent. The planning proposal does not contain any additional provisions requiring concurrence, consultation or referral of development applications to a Minister or public authority. |
| 6.2 Reserving Land for Public Purposes | NOT RELEVANT The planning proposal does not relate to the reserving of land for public purposes nor the removal of reservations on public land. |
| 6.3 Site Specific Provisions | NOT RELEVANT The planning proposal does not propose or require any site-specific provisions for the land other than for establishment of permissibility. |

Section C – Environmental, Social & Economic Impacts

7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the Planning Proposal?

The site is fully cleared and supports grasses. It has been used for low intensity grazing only. For these reasons, the site is unlikely to support any critical habitat or any threatened species, populations or ecological communities listed under the *Threatened Species Conservation Act 1995*, or the *Environment Protection Biodiversity Conservation Act 1999*.

The ecological assessment report prepared by Hayes Environmental dated 5 March 2019 (Attachment 2) concludes that the site has no significant flora within the site that would require special consideration in the development of the site. The site does not hold ecological value that is commensurate with its E3 zoning.

8. Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

No. The planning proposal is seeking an additional permitted use to allow for a future residential use of seniors housing.

The site does not have any environmental constraints that could potentially be adversely affected by the introduction of low density residential development. By contrast, there is an existing seniors housing development to the west (Pepperfield Lifestyle Resort) which is noted as being partially located in a floodplain (viz; current draft LEP amendment) while the subject site is free of such a constraint.

9. Has the Planning Proposal adequately addressed any social and economic effects?

Social Benefits

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The planning proposal will have a positive social outcome. The site will enable the accommodation of the aging population in an attractive landscaped environment conveniently and logically adjacent to land already zoned residential and with strong access to transport and services. It is likely that the future development will provide on-site facilities for the promotion of healthier lifestyle choices through the inclusion of recreational and social facilities for the use of residents.

In particular, it is intended that the future development will provide a private shuttle/bus service to and from the site, principally for the benefit of residents and their visitors. This is a significant social benefit for the future residents of the site.

Economic Benefits

The planning proposal will have a positive economic benefit. The planning proposal will stimulate local business and local construction in a positive manner through the implementation of the future development for seniors housing. This will have flow on effects to and from local business activity.

Section D – State and Commonwealth Interests

10. Is there adequate public infrastructure for the Planning Proposal?

The planning proposal which will enable the future development of the land will have adequate public infrastructure as the necessary infrastructure will be provided for and funded by the developer. The infrastructure relates to the provision of internal roads; the upgrading of the road external to the site as required by Council; street lighting, stormwater drainage and connection to the sewer. The land will have access to the following services and infrastructure:-

- reticulated town water
- electricity supply
- sewer connection is available
- telecommunications services.

As far as transport is concerned, the subject land is within a highly accessible location, being within proximity to public transport along Kangaloon Road connecting the land with Bowral and surrounding suburbs and towns.

PART 4 – MAPPING

No mapping changes are required for this planning proposal.

END OF PROPONENT’S PLANNING PROPOSAL

13.2 Operational Model for the Wingecarribee Animal Shelter

| | |
|-----------------------------------|--|
| Reference: | 5501 |
| Report Author: | Group Manager Planning, Development and Regulatory Services |
| Authoriser: | Group Manager Planning, Development and Regulatory Services |
| Link to Community Strategic Plan: | An enhanced culture of positive leadership, accountability and ethical governance that guides well informed decisions to advance agreed community priorities |

PURPOSE

The purpose of this report is to update the Council on the performance of the adopted trial in house operational model of the Animal Shelter over the past three (3) years and to confirm the future in house management of the facility going forward.

RECOMMENDATION

THAT Council confirms that the management of the Wingecarribee Animal Shelter will continue in-house on a permanent basis within the budget set as part of Council's annual Operational Plan.

REPORT

BACKGROUND

In 2013, Council resumed the responsibility of the operations of the Wingecarribee Animal Shelter following the withdrawal of its appointed contractor the Lost Dogs Home. Following an interim 12-month trial period of in-house management Council considered three potential management models being:

- Model 1 - Internal or 'in house management' whereby Council would assume all responsibility for the management and the operations of the Animal Shelter Facility.
- Model 2 - Mixture of in-house and external management whereby the existing facility would be used as a holding facility and animals would be transported to an external provider for appropriate rehoming; and
- Model 3 - External management whereby the facility would be operated by a contractor similar to the Lost Dogs Home arrangement.

Councillors resolved on 10 September 2014 to adopt option 2 being a mixture of in house and external management of the facility and also resolved to place the proposed model on public exhibition inviting public submissions and community feedback.

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At the meeting of 8 July 2015 Council considered the public submissions received where it was found that there was a significant level of community support for the proposed model 1 of in-house management.

The community support for this model was premised on the basis that the community sought to have a shelter presence in the Southern Highlands to enable capacity building in volunteer networks, community pride and self-worth in the shelter facility and also to ensure that local dogs and cats remained in the Southern Highlands for rehoming purposes. Councillors resolved to adopt the in-house management option and trial the model following the review of submissions received.

The current in-house management model has been in operation since 2015 and has been highly successful in terms of:

- Increasing stakeholder participation including increasing volunteer base and increasing exercising and socialisation of the animals within the shelter environment;
- Promoting foster care arrangements and organisations as a means to providing care to animals with increased human socialisation rather than isolation in a shelter environment;
- Building capacity and strengthening relationships with breed specific rehoming organisations;
- Increasing community awareness of responsible rehoming and responsible companion animal management through a variety of new programs;
- Increasing an online presence for promotional marketing of the shelter and building networks to increase rehoming opportunities;
- Achieving rehoming rates that are far in excess of those achieved by other Local Government Areas throughout the state; and
- Upholding key commitments contained within the adopted 'Alternatives to Euthanasia Policy' position.

The animal shelter has become an important piece of community infrastructure that realises the potential of maximising rehoming opportunities, high standards of welfare and also providing important social connections through participation, engagement and also providing purpose.

REPORT

In July 2019, the trial period of the in-house operation of the facility will conclude and Council will be required to consider the way the future management of the facility will be operated going forward.

In the consideration of any future management model there are several key criteria that will be required to be met to meet legislative and industry standards and provide a facility that is in line with community expectations. To this end the future management model will need to align with Council's core values for companion animal management including:

- Demonstrating clear policy positions in terms of minimal euthanasia with a long term approach the maximising rehoming opportunity of animals that can be responsibly rehomed. This would discount animals that have temperament issues such as for instance declared dangerous dogs or restricted breed animals.
- The ability to achieve high standards of welfare that is consistent with and exceeds adopted industry standards for companion animal management in a shelter environment.
- Promoting responsible companion animal management through raising community awareness and education. Establishment of campaigns to encourage responsible ownership of companion animals.
- Promoting public participation and fostering of partnerships with the community and key stakeholders by 'inclusive' practices and encouragement of community participation in shelter operations.
- Engaging in open and transparent operations that instil public confidence appropriate and effective companion animal management.
- Exposing the shelter to greater opportunity in accessing partnerships with rescue organisations to increase prospects of potential homes both locally and interstate.
- Increasing promotional marketing including greater exposure to social media, web-based advertisements and the local media.
- Increasing the supply and availability of appropriate homes for companion animals.
- Promoting the use of registered organisations to provide alternatives to re-homable animals to be placed into foster care.
- Encouraging better health care treatment options for animals through increased vet participation including preventative maintenance options.
- Providing cost effective and efficient means to operational management achieving best value for money and reducing wastage of public money.

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These criteria can be best achieved through the operation of the animal shelter via 'in house' management.

Employment and Staffing:

Council currently employs a variety of resourcing to assist with animal welfare and the operations of the animal shelter facility. The current resources are employed on a three (3) year fixed term contract that is due to expire in July 2019.

The current resourcing mix within the shelter includes full time fixed term contracts, part time contracts and casual staff. The total budgeted hours within the operational plan for the animal shelter are 176 hours per week. Volunteers also assist with dog exercising and enrichment and cat socialisation on a daily basis in addition to employed staff.

It is anticipated that the future staff resourcing of the Wingecarribee Animal Shelter will include a mix of permanent full-time staff, permanent part time staff and casuals to ensure adequate resourcing levels and weekend coverage.

Financial Costs:

In 2015 at the commencement of the in-house trial period, Council detailed expected financial costing to establish the operations of the shelter including staff costs, plant and equipment, veterinary costs and IT equipment. Beyond the 2015 / 2016 financial year Council also detailed expected recurrent operational costs beyond the initial operational and capital establishment costs.

In 2015/2016, the expected budget for the Animal Shelter was \$479,569.90 for the preferred option of in-house management. In the alternative, the detailed costs of a mixture of inhouse and external management were forecasted to be \$205,746.16 and external management of the shelter via a contractor was expected to be an estimated \$400,000.

Whilst the financial costs were one factor in the assessment of a management model, it was not the only consideration in terms of the final decision and the overwhelming support by the community to operate the shelter on an in-house basis prevailed over costs considerations.

The 2019/2020 adopted operational plan has identified a budgetary allocation of \$480,257 for the operation of the animal shelter and it is expected following preparation of the 2019/20 budget that the shelter can be operated within this allocation.

Veterinary Contracts:

In 2015, Council underwent a tender process for the purposes of engaging a veterinary services provider to deliver vet services to the animal shelter. The request for tender or RFT adopted by Council at that time included but was not limited to the following services:

- Welfare checks and preventative care / maintenance of animals within the shelter;
- Surgery including de-sexing of companion animals being rehomed from the shelter environment;
- Euthanasia;
- Behavioural assessments and advice on behavioural modification; and
- General Veterinary advice



Moss Vale Vet Clinic was awarded the tender in 2015 for a period of 2 years with 12-month extensions if required. The tender was abandoned in 2017 and a fee for service arrangement was entered into in 2017 with the Southern Highlands Veterinary Clinic. It is expected that should Council continue with the current operational management of the Animal Shelter, Council will advertise a new request for tender for veterinary services in 2019/2020.

Statistics on Alternatives to Euthanasia:

Council continues to operate the animal shelter in accordance with its adopted 'Alternatives to Euthanasia' policy position. Euthanasia statistics within the shelter environment can vary dependent upon several factors including, illness disease and injury, feral or infant animals and unsuitability for rehoming due to irreversible negative behavioural issues.

During the three (3) year trial period, Council has been able to achieve an average of 91.5% rehoming rate for dogs between 2016 and 2018 and 62.5% rehoming rate for cats. The higher rehoming rate for dogs impounded within the shelter has been primarily due to the effectiveness of Council's adoption and rehoming programs and along with the introduction of policies surrounding alternatives to euthanasia.

Dogs that were subjected to euthanasia were unsuitable for rehoming primarily due to restricted breed types, dangerous dogs or dogs displaying behavioural issues that were not able to be modified through intensive correctional behaviour training. Any dog subject to euthanasia has been assessed as unsuitable for rehoming both by shelter staff / qualified animal behaviourist and a qualified veterinary practitioner. In certain instances, dogs have been euthanized on veterinary advice as they display poor prognosis of recovery from disease or injury. Council and Friends of the Wingecarribee Animal Shelter continue to partner to provide medical treatment and surgery to animals that are sick or injured to ensure that they have the best chances of rehoming and are not subjected to euthanasia.

The lower rehoming rates of cats and kittens within the shelter are primarily due to the number of feral cats and infant kittens that have limited opportunity for survival entering the shelter. Cats are also highly susceptible to disease outbreaks which will be discussed further in the operational issues section of this report.

In 2017, 71.2% of the total number of kittens/cats euthanized was due to them being classified as feral or infant and 11.7% was euthanized on veterinary advice due to illness or disease. Council has continued its efforts in providing programs on responsible pet ownership including hosting the Moss Vale de-sexing and microchip program funded by the Office of Local Government, which sought to raise awareness of the importance of permanent identification and preventing unwanted litters.

In 2019/2020 new policy positions will be developed on responsible pet ownership including a policy framework on surrendering animals to the animal shelter and also procedural guide on the implementation of the Alternatives to Euthanasia Policy. This will further aid Council's efforts to achieve higher rates of responsible rehoming of companion animals.

Operational issues:

Council continues to experience operational issues with respect to the management and operation of the Wingecarribee Animals Shelter in its current location. Operational issues can be separated into two categories being: (i) Environmental issues associated with proximity to other offensive industry; and (ii) Infrastructure.

Environmental Issues

The proximity of the Wingecarribee Animal Shelter to the Resource Recovery Centre (RRC) and the Southern Highlands Regional Livestock Exchange (SRLX) continues to plague the shelter with environmental and amenity issues. During the three year trial period the shelter continues to be susceptible to unmanageable dust impacts primarily from the mulching of green waste. Impacts from crushing of masonry products has been eliminated since Council discontinued this operation. Dust has made working conditions particularly difficult for staff and has had noticeable negative impacts on the health and wellbeing of the animals within the shelter environment.

Noise generated from the operation of plant and equipment within the RRC continues to affect the amenity of staff and the effective operation of the animal shelter facility. Whilst the noise is partially attenuated due to animals being impounded within existing shelter infrastructure such as kennels and cattery buildings, animals being placed in exercise yards are being exposed to such noise impacts.

Odour impacts from the storage and mulching of green waste and management of onsite stormwater and leachate from within the RRC facility has provided difficult working conditions for staff and affects the amenity of the shelter environment. On occasions staff have had to be sent home due to the strength of the odour being experienced within the grounds of the shelter. In more recent times due to limited storage areas within the RRC facility, stockpiles of materials have encroached further towards the shelter environment that has exacerbated odour and dust issues.

Infrastructure Issues

Council continues to experience issues in the operation of the animal shelter utilising the existing onsite infrastructure. In 2018/2019, Council experienced two biosecurity threats and disease outbreaks in the shelter which due to the current set up of the cattery building and the materials used in its construction made infections and disease difficult to manage and, in some instances, difficult to prevent. Whilst staff have deployed adopted operational procedures to contain disease outbreaks in the cattery, the only feasible preventative measure going forward is upgrading the buildings or total replacement should Council seek to prevent further disease outbreaks and ensure effective disease control.

Council has also experienced several reported issues with the respect to the management of dangerous dogs and dogs displaying aggression in the dog impound building. The kennels require modification to enable effective isolation of dogs in the kennels to allow for cleaning and feeding without staff being exposed to the animal by attempting to control or contain the dog whilst such processes are being undertaken.

The administration building at the shelter requires significant upgrades / capital replacement to enable increased usability by the public and staff. The current building is constrained for space and does not provide for appropriate staff and public amenities. Facilities are also required in the shelter to service volunteers and visitors.

Staff within the shelter are finding it increasingly difficult to manage and or control visitors without appropriate and defined controlled access and egress locations at the shelter. With reprioritisation of a defined single access location to the facility combined with improved fencing and the relocation of the office administration building to the western end of the facility, effective control over visitors to the shelter will be able to be maintained.

Maintenance / Capital Replacement Options:

Council's Animal Shelter facility currently requires significant maintenance upgrades beyond the scope of the existing budget allocation. Identified capital upgrades include:

- New security fencing and revised access and egress locations to the facility;
- Additional security camera infrastructure and lighting;
- New staff amenities, administration building and public toilets / washroom.
- New volunteer room / sheltered area.
- Capital replacement of the cattery buildings and quarantine and associated fit out.
- Replacement disease control areas.
- Improved pedestrian circulation and surface treatments.
- Capital replacement of storage sheds / containers.
- Modified dog pens to enable ease of access / cleaning and isolation of dogs and staff safety for management of dangerous dogs.
- Upgrading of internal cleaning equipment.
- Upgrading of the dog and cat food storage and preparation areas.
- Installation of new solar panels and energy efficient lighting, pumps and electrical equipment.
- Extending the number of kennels to assist with the population growth of the Shire.
- New companion animal exercise yards.
- Improved grounds presentation / landscaping.
- Improvements to stormwater management on the site and liquid trade waste disposal.

A further report will be presented to Council in August 2019 further detailing these issues and presenting options for either capital upgrades or capital/maintenance renewal for Council's in principle support.

Alternative options for management of the facility:

Council has previously considered three options for the management of the Wingecarribee Animal shelter. These options were:

1. In house management (current model for operation of the facility). In this case Council would assume full responsibility for the operation of the animal shelter as has been the case now since 2015. This was the adopted preferred model by Councillors following community consultation in 2015.



2. Mixture of inhouse and external management. Based on this model Council's animal shelter facility would become a holding facility whereby after a prescribed period, animals would be transported to an external provider who would manage the rehoming of animals through their adoption networks.
3. External management of the facility via a contractor similar to the former contract between Council and the Lost Dogs Home. In this case Council would assume the role as a contract manager as oppose to a facility and operations manager.

Given that the three models were publicly exhibited in 2015 with overwhelming support for the model 1 being in house management, it is not proposed to change the model from in house management of the operations of the Wingecarribee Animal Shelter.

IMPACT ON COUNCIL'S FIT FOR THE FUTURE IMPROVEMENT PLAN

Nil

COMMUNICATION AND CONSULTATION

Community Engagement

Community engagement with respect to operational models of the Wingecarribee Shire Council Animal Shelter was undertaken in 2015. The current report proposal seeks to re-affirm the community's position for inhouse management of the facility.

Internal Communication and Consultation

Group Manager Planning Development and Regulatory Services, Chief Financial Officer, Regulatory Services including Ranger Services and the Animal Shelter staff.

External Communication and Consultation

Friends of the Wingecarribee Animal Shelter (FOWAS).

SUSTAINABILITY ASSESSMENT

- **Environment**

There are no environmental issues in relation to this report.

- **Social**

There are no social issues in relation to this report.

- **Broader Economic Implications**

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

- **Culture**

There are no cultural issues in relation to this report.

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- **Governance**

There are no governance issues in relation to this report.

COUNCIL BUDGET IMPLICATIONS

Given the detailed considerations of the expected income and expenditure for the Shelter Operations as part of the operational plan for 2019/2020, Council is confident that if the Shelter is managed in-house, it can be operated within the proposed budgetary allocation of \$480,257.

RELATED COUNCIL POLICY

Alternatives to Euthanasia Policy 2015 and the draft Wingecarribee Animal Shelter Alternatives to Euthanasia Policy 2019.

OPTIONS

The options available to Council are:

Option 1

THAT Council confirms that the management of the Wingecarribee Animal Shelter will continue in-house on a permanent basis within the budget set as part of Council's annual Operational Plan.

Option 2

THAT Council not support the in-house management of the animal shelter and instead seek alternative providers to enable a combination of in-house and external management operating the animal shelter as a holding facility.

Option 3

THAT Council commence a tender process for the external management of the Animal Shelter Operations whereby Council becomes a contract manager rather than being an animal shelter manager and operator.

Option 1 is the recommended option to this report.

CONCLUSION

The shelter has been successfully operated for the past three years via the trial in-house management model achieving high rehoming rates for companion animals and enabling community and volunteer participation in the shelter operations. Given that the community consultation in 2015 provided overwhelming support for option 1 and given the models success to date, it is not proposed to alter the model and instead the report seeks to affirm Council's position to continue to operate the shelter in house permanently.

ATTACHMENTS

There are no attachments to this report.

13.3 Draft Wingecarribee Animal Shelter Alternatives to Euthanasia Policy

| | |
|-----------------------------------|--|
| Reference: | 19/111 |
| Report Author: | Group Manager Planning, Development and Regulatory Services |
| Authoriser: | Group Manager Planning, Development and Regulatory Services |
| Link to Community Strategic Plan: | An enhanced culture of positive leadership, accountability and ethical governance that guides well informed decisions to advance agreed community priorities |

PURPOSE

The purpose of this report is to review Council's existing Wingecarribee Animal Shelter Alternatives to Euthanasia Policy and seek endorsement for the exhibition of the draft Policy.

RECOMMENDATION

1. **THAT Council endorse the exhibition of the draft Wingecarribee Animal Shelter Alternatives to Euthanasia Policy as included in Attachment 1 for a period of 28 days.**
2. **THAT a further report be brought back to Council following the public exhibition period.**

REPORT

BACKGROUND

Council adopted an 'Alternatives to Euthanasia' Policy in 2015 as part of its commitment to the operation of the Wingecarribee Shire Council Animal Shelter as a minimal euthanasia facility. The policy also represented Council's commitment to maximising all opportunities of companion animals that are re-homeable to have the best chance of finding a new home whilst also responding to calls to have a policy position that aligned with legislation surrounding the euthanasia of feral or infant animals. A copy of the current Policy is included as **Attachment 2**.

Over the past four (4) years of its operation, the policy has provided positive outcomes for the responsible rehoming of companion animals including:

- Increasing foster care opportunities;
- Providing transfer opportunities to breed specific rehoming agencies;

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- Increasing opportunities for behavioural intervention to maximise rehoming.
- Increasing opportunities for veterinary intervention to ensure that animals that have injuries, minor health issues or ailments are provided with treatment to enable the best available opportunity for rehoming where possible.
- Decreasing preventable stress and negative outcomes on feral and infant animals.

Given that the policy has been in operation for a period of four (4) years it is timely that it is reviewed to ensure relevance, operability and also statutory compliance.

REPORT

The Alternatives to Euthanasia Policy has been modernised to reflect the corporate policy document presentation and also has undergone minor changes to the wording of the document to better reflect Council's commitment to maximising rehoming of Companion Animals within the Wingecarribee Shire.

Key changes have included:

- Requirement for recommendation of euthanasia only after veterinary advice by Council's nominated veterinary services provider.
- Manner in which euthanasia will be conducted and that such procedure can only be undertaken by a veterinary services provider.
- Defining euthanasia for companion animals and the circumstances in which such procedure(s) will be used.
- Removal of redundant clauses that are no longer required within the policy or affect the operability of the policy.

IMPACT ON COUNCIL'S FIT FOR THE FUTURE IMPROVEMENT PLAN

Nil

COMMUNICATION AND CONSULTATION

Community Engagement

If endorsed, the draft policy will be publicly exhibited in accordance with the *Local Government Act 1993*, which will include public exhibition of the draft policy for 28 days.

Internal Communication and Consultation

Governance, Ranger Services, Animal Shelter.

External Communication and Consultation

Friends of the Wingecarribee Animal Shelter.

SUSTAINABILITY ASSESSMENT

- **Environment**

There are no environmental issues in relation to this report.

- **Social**

The caring of animals whilst under Council responsibility is a function of Council that many residents take great interest in. The community has expressed its preference to minimal euthanasia through the Wingecarribee Animal Shelter.

- **Broader Economic Implications**

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

- **Culture**

There are no cultural issues in relation to this report.

- **Governance**

The draft policy provides accessible and consistent criteria for Council, the community and external or internal operators of the Wingecarribee Animal Shelter.

COUNCIL BUDGET IMPLICATIONS

It is likely that the implications of this draft Policy will be an increased operating cost of the animal shelter. Increased operating costs are likely to result from the extended periods of holding companion animals in addition to the prescribed minimum holding periods.

Given the known historical operating costs of the animal shelter over the past four (4) financial years, it is not expected that such costs will be beyond the operational budget allocation for the shelter.

RELATED COUNCIL POLICY

There is no related Council policies or procedures.

OPTIONS

The options available to Council are:

Option 1

1. THAT Council endorse the exhibition of the draft Wingecarribee Animal Shelter Alternatives to Euthanasia Policy as included in Attachment 1 for a period of 28 days.
2. THAT a further report be brought back to Council following the public exhibition period.

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Option 2

That Council may choose to amend the draft Policy prior to endorsing the draft Policy for public exhibition.

Option 3

That Council not endorse the draft Policy. Implementation of this option will result in the current adopted policy position remaining unaltered.

Option 1 is the recommended option to this report.

CONCLUSION

The revised policy modernises Council's existing policy, affirms its position to a minimal euthanasia animal shelter and ensures that companion animals within its care will be afforded the greatest potential to be rehomed where appropriate.

ATTACHMENTS

1. Wingecarribee Animal Shelter - Alternatives to Euthansia Policy
2. Existing Euthanasia Policy

13.3 Draft Wingecarribee Animal Shelter Alternatives to Euthanasia Policy

ATTACHMENT 1 Wingecarribee Animal Shelter - Alternatives to Euthanasia Policy



MAIN CATEGORY LEADERSHIP

SUB CATEGORY Developing community leadership, strong networks and shared responsibility for the Shire, promotes and enhances community capacity.

Adoption Date: *(Governance to insert)*
 Council Reference: *(Governance to insert)*
 Owner/Contact officer: Group Manager Planning Development and Regulatory Services
 Next review date: TBA
 File Reference: TBA
 Related Policies/Legislation: *Companion Animals Act 1998*
Companion Animals Regulation 2018
 Related Documents:

OBJECTIVES

The purpose of this policy is to ensure that management of companion animals impounded at the Wingecarribee Animal Shelter, and where necessary the euthanasia of those animals, complies with the *Companion Animals Act 1998* (the Act), the *Companion Animals Regulation 2018* (the Regulation) and any guidelines as issued by the Departmental Chief Executive.

POLICY STATEMENT

Wingecarribee Shire Council:

- Is committed to rehoming all healthy, behaviourally sound companion animals impounded at the Wingecarribee Animal Shelter
- aims to minimise the euthanasia of companion animals impounded at the Wingecarribee Animal Shelter by considering all possible alternatives to euthanasia and where practicable adopting these alternatives
- recognises that euthanasia of feral and infant companion animals within the legislated holding period may be necessary under veterinary advice.

Feral and infant animals

In accordance with Section 64(2) of the Act, Council authorises the humane euthanasia of feral and infant animals that are unsuitable for rehoming or where it is considered to be in the best interest for the welfare of the animal following any advice provided by a veterinarian, prior to the standard holding period as set out in Section 64(1) of the Act.

13.3 Draft Wingecarribee Animal Shelter Alternatives to Euthanasia Policy**ATTACHMENT 1 Wingecarribee Animal Shelter - Alternatives to Euthanasia Policy****All other companion animals**

Section 64(5) of the Act requires that, before euthanasing a seized animal, Council considers whether there is a possible alternative and, if practicable, adopt this alternative. It is Council's policy to comply with Section 64(5) wherever possible, however, Council accepts some animals may not be suitable or safe to rehome for health or behavioural reasons. At the conclusion of the applicable holding period required under the Act all animals impounded at the Wingecarribee Animal Shelter will be health checked by a veterinarian and temperament assessed by a qualified behavioural assessor to determine suitability for rehoming. Healthy, behaviourally sound animals will be made available for adoption or placed with a suitable rescue organisation.

Council's appointed qualified, professional and registered Veterinarian must recommend euthanasia for an animal if the animal is suffering and that suffering is not able to be adequately minimised or managed. Euthanasia is the act of inducing humane death with the minimum of pain, fear or distress to the animal involved. It is most often used with terminally unwell or injured animals, where the prognosis is considered hopeless, and should also be considered for animals with intractable behaviour problems.

All euthanasia of impounded animals at the Wingecarribee Animal Shelter will be undertaken by lethal injection only and be administered by a Veterinarian professional.

SCOPE

This policy applies to all animals which are impounded at the Wingecarribee Animal Shelter whether it is operated under the management of Council or an external third party. Should any future contract be entered into this policy document shall form part of any contractual terms.

The Wingecarribee Animal Shelter accepts stray companion animals from members of the public and those that are impounded by Council's Regulatory Services Unit. The shelter may accept surrenders of animals according Companion Animals Act and Regulation, Council's adopted procedures and at the discretion of the Team Leader of Shelter Operations.

Feral animals, usually cats, may be trapped by members of the public and transported humanely to the shelter. Feral animals suffer from significant stress when caged and this stress is considered by animal welfare organisations to be inhumane.

As feral animals are aggressive and difficult to handle, impounding these animals for any period of time poses a significant WHS risk to shelter staff and also the welfare of the animal. Feral animals are not suitable for rehoming and may be euthanased in accordance with Council's adopted procedures.

13.3 Draft Wingecarribee Animal Shelter Alternatives to Euthanasia Policy

ATTACHMENT 1 Wingecarribee Animal Shelter - Alternatives to Euthanasia Policy



Litters of stray kittens / puppies can be found without a mother and are transported to the shelter for impounding. In some instances these kittens / puppies may be too young to survive without their mother especially within an animal shelter environment. Council will attempt to place such animals into foster care where available, however if the animals are likely to suffer, they will be euthanised in accordance with Council's procedures and on veterinary advice.

DEFINITIONS

Companion animal: means either a dog or cat.

Infant animal: Is an animal generally under 6 weeks of age and still totally reliant on its mother for sustenance and evacuations.

Feral animal: Is an animal in wild state showing no signs of domestication.

RESPONSIBILITIES

| | |
|-------------|---|
| Councillors | <p>Councillors should ensure that all new proposals that are brought to their attention have the appropriate community engagement completed (or specified as part of the project report). Councillors should encourage a positive attitude to involving the community at the appropriate level.</p> <p>A Councillor's role is to listen to the community and consider various views when making decisions at Council. Community engagement processes provide valuable opportunities for Councillors to hear and understand the voice of the community and ensure that this voice is properly represented when Council meets and makes resolutions which impact the future of our community.</p> |
| Executive | Executive should support the community engagement process and encourage the appropriate level of engagement by all staff. |

13.3 Draft Wingecarribee Animal Shelter Alternatives to Euthanasia Policy

ATTACHMENT 1 Wingecarribee Animal Shelter - Alternatives to Euthanasia Policy



| | |
|---|---|
| <p>Staff (Contractors and consultants undertaking engagement on behalf of Council are deemed employees for the purposes of this policy)</p> | <p>Council employees need to be aware of the importance of community engagement and people directly involved in major projects should be trained to the appropriate level of the community engagement techniques and practices (or have access to trained advisers).</p> <p>A Council staff member’s role in community engagement is to organise and facilitate the discussion, record, provide feedback, evaluate the engagement and consider the community’s views when making unbiased recommendations to Council or committees.</p> |
| <p>All</p> | <p>Both Councillors and Council staff are encouraged not to dominate or direct community discussions, nor to dismiss the community’s input. Instead, Councillors and staff should allow discussions to move forward in an open, respectful and inclusive way.</p> |

MEASURES

The success of this policy will be measured by increasing rehoming rates based on each previous years rehoming data. The success of the policy will also be measured on full compliance with the policy position.

APPROVED BY:

**(For Council Policies)
WINGECARRIBEE SHIRE COUNCIL**

(Insert Date)



ATTACHMENTS

1. *Nil*

Approved By: TBA

WINGECARRIBEE SHIRE COUNCIL

Date - TBA



Policy

WINGECARRIBEE ANIMAL SHELTER - ALTERNATIVES TO EUTHANASIA

PURPOSE

The purpose of this document is to provide a policy position on alternatives that should be pursued prior to subjecting an animal to euthanasia. The document also enables Council to comply with its statutory obligations with respect to the euthanasia of infant and feral animals.

SCOPE

This policy applies to all animals which are impounded or surrendered to the Wingecarribee Animal Shelter whether it is operated under the management of Council or an external third party. Should any future contract be entered into this policy document shall form part of any contractual terms.

POLICY STATEMENT

This policy:

- Aims to minimise the euthanasia of companion animals impounded at the Wingecarribee Animal Shelter by considering all possible alternatives to euthanasia and where practicable, to adopt these alternatives on every occasion.
- Recognises that euthanasia of feral and infant companion animals within the minimum holding period may be necessary when advised by a veterinarian.
- Complies with Sections 64 and 64A of the *Companion Animals Act 1998* (the 'Act')

Wingecarribee Animal Shelter

Wingecarribee Animal Shelter (WAS) is a pound established under the provisions of the *Act*. While it is a shelter dedicated to responsible re-homing and minimal euthanasia, it is not a shelter in the sense of being a safe haven where an animal may live out the remainder of its life. WAS is an open admission shelter provided for the Shire for surrendered and impounded cats and dogs. The result of this is that the shelter has lots of cats and dogs to find homes for.

Minimal euthanasia and maximum re-homing

Notwithstanding, section 64(5) of the *Act* requires that before destroying a seized animal, Council consider whether there is a possible alternative and, if practicable, adopt this alternative.

Alternatives to WAS euthanasia are to include, but not be limited to the following:





Policy

- Working with identified owners of impounded companion animals to encourage them to reclaim their pets.
- Pro-active marketing to encourage and maximise opportunities for the responsible re-homing of a range of impounded animals, including as puppies, kittens, adult and mature pets.
- Actively networking and engaging with individuals, community groups and animal rescue organisations exempt from companion animal registration under the *Act* to transfer the animal and maximise re-homing opportunities.
- Supporting and engaging with WAS volunteers to improve the potential for impounded companion animals to be re-homed.
- Ensuring that all companion animals re-homed from the WAS are de-sexed.
- Operating the WAS in accordance with the Division of Local Government's better practice guidelines and the Department of Primary Industries *Animal Welfare Code of Practice: Dogs and Cats in Pounds and Animal Shelters*.

Feral & infant animals

Section 64(2) of the *Act* outlines that feral and infant companion animals may be destroyed prior to the standard holding period in accordance with any adopted Council policy.

Feral companion animals are generally received at the WAS in a poor condition, are difficult to handle and accommodate and are not suitable to be re-homed. Caging feral companion animals causes stress on the animal.

Infant companion animals require vast amounts of resources and time to raise, have a low resistance to diseases and are generally unlikely to survive being impounded.

This Policy authorises the humane euthanasia of feral or infant companion animals prior to the standard holding period if it is based on advice provided by a veterinarian.

Euthanasia guidelines

Council believes that fit and healthy companion animals that are suitable for re-homing should not be subject to euthanasia. Council nevertheless reluctantly accepts that in certain circumstance such euthanasia is necessary, in particular where there is a long-term shortage of appropriate homes for companion animals.

Circumstances where minimal euthanasia may be considered acceptable include, but are not limited to the following:

- At the request of the identified owner of a companion animal that has been surrendered due to attacking a person or animal (other than vermin) and / or a dangerous or aggressive temperament.
- Where all other veterinary treatments have failed or where pain, injury, illness or suffering cannot be ameliorated or exceed manageable levels.
- Where companion animals are vicious, dangerous or unmanageable due to their behaviour or temperament (behaviour and temperament are to be assessed in accordance with operational guidelines and procedures).





Policy

- Where the companion animal is a restricted breed type dog or has been declared to be a menacing or dangerous dog under the *Act*.

In the unfortunate event of companion animals being subject to euthanasia, in all cases it will be performed by way of lethal injection, in a humane manner and by a suitably licensed veterinarian, in that it:

- Is painless;
- Is performed out of public view to avoid distress;
- Produces rapid loss of consciousness and death;
- Interrupts consciousness and reflexes simultaneously;
- Requires minimum restraint;
- Avoids excitement and causes minimal psychological stress to the animals;
- Is appropriate for the age of the animal;
- Exhibits consistent and predictable action;
- Is easily and safely administered by properly trained personnel; and
- Causes minimal emotional effects to operator and observers.

SUSTAINABILITY ASSESSMENT

- **Environment**

Feral animals pose a serious threat to the natural and built environment, conservation of biodiversity and sustainability of natural ecosystems, whilst posing a further threat to resident welfare and safety. Council acknowledges feral animals inhabit areas of the Wingecarribee Shire Local Government Area and will work with appropriate authorities and land managers to reduce their impact.

- **Social**

Land managers and property owners are responsible for the control of feral animals on their respective land and properties. As such, Council does not hire traps for the capture of feral or nuisance companion animals. Otherwise, the WAS has been operated as a minimal euthanasia shelter for an extended period with widespread community and volunteer support.

- **Broader Economic Implications**

The Policy position will enable the responsible and efficient use of resources by not retaining feral animals for the prescribed time period under the *Act*, or alternatively other companion animals that could otherwise be transferred to animal rescue organisations. Acceptable euthanasia of relevant companion animals will reduce costs associated with the operation of the WAS and allow resources to be focused on the re-homing of suitable companion animals.





Policy

- **Culture**

WAS volunteers play a significant role in the ability of the WAS to minimise euthanasia and maximise re-homing. In order to help sustain robust WAS volunteer support, volunteers are encouraged to engage with WAS staff and where they wish to, discuss euthanasia outcomes and re-homing opportunities for impounded animals.

- **Governance**

The Policy position will inform and help shape the ongoing management of the WAS. The Policy also meets Council's statutory obligations and responsibilities under the *Act*.

Euthanasia and re-homing figures are included in Council's annual report on companion animal and pound activities and in the Companion Animals Register's *Survey of Council Seizures of Cats and Dogs*. Monthly figures are to be displayed on Council's website.

DEFINITIONS

The following definitions are used in this Policy and associated Guidelines:

| | |
|------------------|--|
| Companion Animal | means dog or cat. Companion Animals that are wearing a collar, identification tag or are microchipped MUST NOT be deemed Feral. |
| Feral | means wild, or existing in a state of nature and showing no signs of domestication. |
| Infant | means in the first period of existence and refers to an animal that is not able to feed and fend for itself. |

RELATED LEGISLATION, CIRCULARS OR GUIDELINES

Related Documents: *NSW Department of Primary Industry Guidelines for Pounds and Animal Shelters.*
RSPCA Policy A04A Euthanasia of Companion Animals.

Related Policies/Local Laws/Legislation:
Companion Animals Act 1998 section 64 and section 64A
Local Government Act 1993 No. 30 and Regulation

DOES THIS DOCUMENT REPLACE AN EXISTING POLICY, PROCEDURE OR PLAN?

No





RELATED COUNCIL POLICY OR PROCEDURE

Nil

APPLICATION AND DISTRIBUTION

| | |
|---|-------------------------------|
| It is mandatory for all Council officials to comply with this Policy. | |
| This policy and guidelines are available on Council's website under Policies. | |
| APPROVED BY: Council MN 294/15 | |
| EFFECTIVE: 10 th June 2015 | REVIEW DATE: June 2017 |
| RESPONSIBLE COUNCIL DEPARTMENT/OFFICER: Regulatory Service Coordinator | |





KEY RESPONSIBILITIES

| Position | Responsibility |
|---|---|
| Mayor | To lead Councillors in their understanding of and compliance with this Policy and Guidelines. |
| General Manager | To lead staff (either directly or through delegated authority) in their understanding of and compliance with this Policy and Guidelines. To approve resources to develop, implement and review this Policy and Guidelines. |
| Responsible Officer | As the "principal officer" under the Government Information (Public Access) Act (GIPA), the General Manager is responsible for determining the outcome of GIPA applications. The General Manager has delegated his responsibility to other Council Staff as outlined below. The GIPA staff are responsible for making initial decisions regarding release of information within the time periods stipulated in the GIPA Act. In this function, the GIPA staff may deal with prospective applicants and liaise with organisation units regarding access to information. |
| Deputy General Managers | To communicate, implement and comply with this Policy and related Guidelines. |
| Deputy General Manager Corporate, Strategy & Development Services | To ensure (directly or through delegation) the distribution and communication of the Policy and Guidelines to specified persons. To ensure (directly or through delegation) the approved Policy and Guidelines are available in hard copy and electronically on Council's website. |
| Manager Organisational Development | Facilitate the provision of regular training to all Council officials on their role and responsibilities in relation to this Policy, Guidelines and related procedures. |
| Group Managers and Managers | To implement this Policy, Guidelines and related procedures. To lead staff in their understanding of, and compliance with, this Policy and Guidelines |
| Information Technology Manager | To assist with the development of systems to support public access to this Policy, Guidelines and related information. To ensure IT requirements are available to facilitate compliance with the Act. |
| All Council officials | To comply with this Policy, Guidelines and related procedures. |





13.4 Wingecarribee Community Assistance Scheme 2019 - 2020 Funding Recommendations

| | |
|-------------------|--|
| Reference: | 1870/2019 |
| Report Author: | Coordinator Community Development |
| Authoriser: | Group Manager Corporate and Community |
| Link to Community | |
| Strategic Plan: | Plan and deliver appropriate and accessible local services for the community |

PURPOSE

The purpose of this report is to seek Council's approval of the final recommendations from the Community Assistance Scheme Advisory Committee on the funding applications for financial assistance through the Wingecarribee Community Assistance Scheme 2019 – 2020.

RECOMMENDATION

1. **THAT Council adopt the recommendations of the Community Assistance Scheme Advisory Committee as detailed in Attachment 1 to the report.**
2. **THAT successful applicants be advised and invited to attend a formal presentation to receive Certificates of Entitlement.**
3. **THAT this presentation ceremony be held during Local Government Week 31 July 2019 commencing at 5:30pm in the Civic Centre Theatre.**
4. **THAT correspondence is forwarded to the unsuccessful applicants advising them of the outcome of their application.**

REPORT

BACKGROUND

The Wingecarribee Community Assistance Scheme allows Council to provide funding to local non-profit organisations for the purpose of implementing and improving community based projects within the Shire. The scheme opens during February each year and closes, at the end of March. A presentation to successful applicants is made during Local Government week in August.

The scheme funds projects that fall under the broad categories of community development, arts and culture, sport and recreation and community infrastructure from Council's Community Assistance Scheme budget allocation of \$120,000. Environmental projects are funded from an allocation of \$10,000 from the Environment Levy.

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Wednesday 26 June 2019

REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



Applicants can apply for a donation of up to \$600 or a grant of up to \$7,000 (up to \$2,000 for environmental projects).

All applications received under the scheme undergo rigorous assessment. Applications are first reviewed by Council staff and assessed against eligibility criteria. Eligible applications are then taken to the relevant Council Advisory Committees for prioritisation and comment. This feedback is then reviewed by the Community Assistance Scheme Advisory Committee and final recommendations for funding are made.

This year the Community Assistance Scheme Advisory Committee has recommended that grants and donations to the value of \$130,000 (including \$10,000 for environmental and sustainable projects) be approved for distribution to local community groups and organisations.

REPORT

The Community Assistance Scheme opened on 18 February 2019 and closed on 29 March 2019.

During the opening period of the scheme, the following activities were undertaken:

- a) Potential applicants were assisted by relevant Council staff by phone or in person;
- b) Promotion of the scheme including a media release, advertisements in the Council section of local newspapers and via Council newsletters and website and promotion through local networks and interagencies.

APPLICATIONS RECEIVED

This year there were 96 applications received seeking a total of \$277,526 in funding which includes \$32,152 seeking Environment Levy funds.

Following the closing date, the following process was undertaken:

- a) Evaluations were conducted, beginning with the initial culling of ineligible applications;
- b) The second stage of the evaluation process involved seeking feedback from the Environment and Sustainability Advisory Committee, the Arts and Culture Advisory Committee, the Community Development Advisory Committee and the Sport and Recreation Advisory Committee.
- c) The Community Assistance Scheme Advisory Committee met on 20 May 2019 to conduct the final overall evaluation of all applications, making reference to the recommendations from the committees.
- d) Final recommendations are detailed in the attachment – *Community Assistance Scheme Recommendations – Grants and Donations* presented with this report, which for confidentiality purposes has been circulated under separate cover

SUCCESSFUL APPLICATIONS

2019 – 2020 Community Assistance Scheme received 96 applications requesting a total of \$277,526 in Grants and Donations.

The Community Assistance Scheme Advisory Committee recommends funding to 67 applicants, for a total amount of \$130,000 (including \$10,000 from the Environment Levy).

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REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



| CATEGORY | TOTAL NUMBER OF APPLICATIONS RECEIVED | AMOUNT RECOMMENDED |
|--|--|--|
| ARTS & CULTURE | 13 applications (7 donations, 6 grants) | \$ 17,063 \$ 4,200 (7) donations, \$ 12,863 (3) grants |
| COMMUNITY DEVELOPMENT | 29 applications (7 donations, 22 grants) | \$ 51,142 \$ 3,600 (6) donations, \$ 47,542 (14) grants |
| SPORT & RECREATION | 25 applications (\$51,321) (14 donations, 11 grants) | \$ 27,295 \$ 8,400 (14) donations, \$ 18,895 (6) grants |
| ENVIRONMENT | 17 applications (1 donations, 16 grants) | \$ 10,000 \$ 1,742 (3) donations, \$ 8,258 (8) grants |
| MISCELLANEOUS (INCLUDING COMMUNITY INFRASTRUCTURE) | 12 applications (2 donations, 10 grants) | \$ 24,500 \$ 1,200 (2) donations, \$ 23,300 (7) grants |
| TOTAL | 96 applications (31 donations, 65 grants) | \$ 130,000 \$ 19,142 donations, \$ 110,858 grants |

IMPACT ON COUNCIL'S FIT FOR THE FUTURE IMPROVEMENT PLAN

This report has no impact on Council's Fit for the Future Improvement Plan.

COMMUNICATION AND CONSULTATION

Community Engagement

Information on the Wingecarribee Community Assistance Scheme was made available on request. A Grants Writing Workshop was held in February to assist people in how to apply for funding, including the Community Assistance Scheme.

Internal Communication and Consultation

Applications were referred to relevant staff members for feedback and further consultation as required.

External Communication and Consultation

All applications have been presented to relevant Council Advisory Committees for recommendations. The recommendations from these Committees have been reviewed by the Community Assistance Scheme Advisory Committee for final recommendations.



SUSTAINABILITY ASSESSMENT

- **Environment**

The Community Assistance Scheme supports environmental and sustainable projects that meet with requirements of the Council's Environment Levy

- **Social**

The Wingecarribee Community Assistance Scheme assists local not for profit organisations to establish, support, enhance resources, services and facilities and access for local residents.

- **Broader Economic Implications**

The scheme allows for community organisations to provide local projects and carry out works that benefit the local community, often sourcing local businesses and supplies.

- **Culture**

A number of the applications recommended for funding will support cultural activities in the community.

- **Governance**

All applications received have undergone a thorough evaluation by Council Advisory Committees and staff members.

COUNCIL BUDGET IMPLICATIONS

The budget allocated for the Wingecarribee Community Assistance Scheme in the 2019/2020 budget is \$120,000, with an additional \$10,000 from the Environment Levy. The total budget allocation is \$130,000.

RELATED COUNCIL POLICY

There are no policies associated with this matter.

OPTIONS

The options available to Council are:

Option 1

Council adopt the recommendations of the Community Assistance Scheme Advisory Committee and award the donations and grants as included in the confidential attachment circulated under separate cover. (**Attachment 1**)

Option 2

Council amend or reject the recommendations.

Option 1 is the recommended option to this report.

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REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



CONCLUSION

Applications for the Wingecarribee Community Assistance Scheme 2019/2020 have been assessed by the Community Assistance Scheme Advisory Committee and final recommendations for Council have been prepared.

ATTACHMENTS

1. Wingecarribee Community Assistance Scheme 2019-2020 Funding Recommendations - *confidential*



13.5 Local Government Conference 2019

Reference: 102 204/2019
Report Author: PA for Mayor
Authoriser: Group Manager Corporate and Community
Link to Delivery Program: Provide opportunities to participate in futures thinking and nurture ideas

WPURPOSE

The purpose of this report is to determine attendance arrangements for the 2019 Local Government New South Wales (LGNSW) conference, to be held from Monday 14 October to Wednesday 16 October 2019 at The William Inglis Hotel, Warwick Farm.

RECOMMENDATION

1. **THAT Council confirms three (3) delegates will be authorised to attend the Local Government NSW Annual Conference to be held at The William Inglis Hotel, Warwick Farm from Monday 14 October to Wednesday 16 October 2019.**
2. **THAT the following delegates are nominated to attend the 2019 Local Government NSW Annual Conference:**
 - a. Mayor of the Day
 - b.
 - c.
 - d. (alternate delegate)
3. **THAT the General Manager, or delegate, be authorised to attend the Local Government NSW Annual Conference as an observer.**
4. **THAT Councillors forward their proposed motions, with accompanying notes to the Mayor for consideration prior to Friday 26 July 2019.**
5. **THAT a report regarding the proposed motions be presented for consideration to the Ordinary Council Meeting of 14 August 2019 AND THAT the Mayor submit any proposed motions to the conference organisers by Monday, 19 August 2019.**

REPORT

BACKGROUND

The 2019 Local Government NSW Annual conference will be held at The William Inglis Hotel, Warwick Farm from Monday 14 October to Wednesday 16 October inclusive. Council needs to determine delegates to attend the conference on behalf of Council.

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REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



In accordance with resolution MN 26/09 (28 January 2009), it is proposed, that Council appoint three (3) Councillors to attend the conference, together with a staff representative (being either the General Manager or her delegate). LG NSW has confirmed that Wingecarribee Shire Council will have three (3) voting entitlements.

SUSTAINABILITY ASSESSMENT

- **Environment**

There are no environmental issues in relation to this report.

- **Social**

There are no social issues in relation to this report.

- **Broader Economic Implications**

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

- **Culture**

There are no cultural issues in relation to this report.

- **Governance**

There is a clear benefit for Councillors to participate in the Local Government NSW Annual Conference from a governance perspective. A number of motions that affect this Council, and all Councils in NSW, are likely to form the content of the business sessions. The adopted motions are then pursued by Local Government NSW on behalf of member councils and can lead to changes in state legislation.

COUNCIL BUDGET IMPLICATIONS

Council's adopted Budget includes a provision for Councillor's attendance at the Conference.

RELATED COUNCIL POLICY

Payment of Expenses and Provision of Facilities to the Mayor and Councillors Policy.

OPTIONS

The options available to Council are:

Option 1

Council sends delegates to the LGNSW Annual Conference – in this regard, the recommended number is three (3), plus a staff representative (non-voting).

Option 2

Council does not send any delegates to the Local Government NSW Annual Conference.

Option 1 is the recommended option to this report.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 26 June 2019

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



ATTACHMENTS

There are no attachments to this report.

Mark Pepping

Deputy General Manager Corporate, Strategy and Development Services

Friday 21 June 2019

COUNCIL MATTERS

14 GENERAL MANAGER

14.1 Legal Report

| | |
|-----------------------------------|--|
| Reference: | 107/22 |
| Report Author: | General Counsel |
| 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

The purpose of this report is to update Council on the status of legal proceedings reported at the ordinary meeting of Council on Wednesday 22 May 2019.

RECOMMENDATION

1. **THAT the information relating to ongoing legal costs in Attachment 1 to the report be noted.**
2. **THAT the status of the legal proceedings involving Council be considered in Closed Council – Item 22.1.**

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

This report updates the current status and costs paid during May 2019 for legal proceedings involving Council in the Land and Environment Court, including those matters completed since the last report to Council. Legal proceedings involving Council and legal advice obtained by Council are confidential and attract legal professional privilege. Therefore, their status is reported in a closed report.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 26 June 2019

REPORT GENERAL MANAGER



REPORT

On 17 April 2013, Council resolved:

THAT the legal costs as detailed in the Legal Affairs Report be made public in the Business Paper on an ongoing basis.

The report on the status of legal affairs involving Council contains information and advice that is privileged on the grounds of legal professional privilege and contains information that, if disclosed, could confer a commercial advantage on parties with whom Council is conducting business (including opposing parties in litigation). Therefore, it is recommended that the report be considered by Council in Closed Committee pursuant to sections 10A(2)(c) and 10A(2)(g) of the *Local Government Act 1993*.

For the purpose of preserving privacy, some matters in **Attachment 1** may be described in general terms. **If a Councillor has a specific enquiry regarding the costs reported, they should raise it in Closed Council.**

Consultants' Fees

At the Council meeting on 8 March 2017, Council resolved that the Legal Affairs Report include a separate column for fees paid to consultants in legal proceedings.

Consultants are engaged in all cases concerning development consents in the Land & Environment Court as the Court requires the parties to provide expert evidence to assist in the determination of the issues in the case.

These consultants prepare reports for the Court and give evidence if the matter goes to hearing on such matters as site density, building layout, traffic, drainage, noise, light and any other relevant issue.

The consultants are always engaged by the external law firm acting for Council.

Usually, their fees are paid by the law firm and recouped from Council through an invoice from the law firm. In that case, the consultants' fees have been included in the monthly Legal Affairs report to Council.

There were consultants' fees for legal proceedings paid in the month May 2019 – refer **Attachment 1**.

IMPACT ON COUNCIL'S FIT FOR THE FUTURE IMPROVEMENT PLAN

There is no impact on Council's *Fit for the Future* Improvement Plan.

CONSULTATION

Community Engagement

Nil

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 26 June 2019

REPORT GENERAL MANAGER



Internal Consultation

Staff and management provide information, as required, to assist the progress of the matters reported.

External Consultation

Solicitors from Council's Legal Panel provide advice and conduct legal proceedings on Council's behalf.

SUSTAINABILITY ASSESSMENT

- **Environment**

There are no environmental issues in relation to this report. However, some legal proceedings may deal with unauthorised works or activities which have had or could have an environmental impact.

- **Social**

There are no social issues in relation to this report.

- **Broader Economic Implications**

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

- **Culture**

There are no cultural issues in relation to this report.

- **Governance**

There is a strong community expectation in relation to enforcement and compliance actions by Council. Actions taken are in line with Council's Compliance and Enforcement Policy.

COUNCIL BUDGET IMPLICATIONS

There are ongoing legal expenses incurred by Council relating to legal proceedings involving Council and legal advice obtained by Council.

RELATED COUNCIL POLICY

Council's Compliance and Enforcement Policy.

ATTACHMENTS

1. Legal Costs - May 2019

Ann Prendergast
General Manager

Friday 21 June 2019



Legal Costs – May 2019

Attachment 1

| Legal Matter | Legal Expenditure May-19 | Consultant Expenditure May-19 | Legal Expenditure YTD | Consultant Expenditure YTD | Total Expenditure LTD |
|--|-----------------------------|----------------------------------|--------------------------|-------------------------------|--------------------------|
| Fenwick v Woodside Properties | | | \$6,566 | | \$32,052 |
| Centennial Winery Centennial Road Bowral | | | \$8,281 | \$10,021 | \$198,946 |
| Moss Vale Projects (Woolworths) Cnr Argyle Street and Lackey Road | | | \$114,388 | \$63,172 | \$270,230 |
| Willow Properties Retford Road Bowral | \$534 | | \$40,852 | \$21,690 | \$100,581 |
| RG Capital Erith Street Bundanoon | | | \$11,349 | | \$28,536 |
| Blackbrook Nominees 14 Duke Street Mittagong | | | \$278 | | \$27,776 |
| Tujilo Pty Ltd Milton Park, Bowral | | | \$43,350 | \$26,889 | \$101,678 |
| Turland Mittagong Road Bowral | | | \$72,911 | \$82,390 | \$201,935 |
| Malcolm Holdings Exeter Road Exeter | | | \$11,818 | | \$29,723 |
| Deluxe Projects Seniors Living Development East Bowral | | | \$15,406 | | \$33,577 |
| Baron Corp P/L Farnborough Drive Moss Vale | | | \$117,416 | | \$220,091 |
| Reid 21-23 Payten Street Mittagong | | | \$32,436 | \$11,874 | \$65,387 |
| Uri T Design Kangaloon Road Bowral | | | \$77,138 | | \$103,905 |
| Michael Brown Planning Loftus Street Bowral | \$43,858 | \$46,977 | \$87,641 | \$73,262 | \$189,945 |
| Robert Morgan Sutherland Park Drive Bowral | | | \$15,245 | \$8,115 | \$23,359 |
| Gary Walker Architect Oxley Drive Mittagong | | | \$6,901 | \$3,450 | \$10,351 |
| Maly Foxgrove Road Canyonleigh | | | \$2,040 | | \$2,040 |
| Development Implementation Pty Ltd Old Hume Highway Braemar | | | \$338 | | \$338 |
| Leighton-Daly Park Street Wingello | | | \$17,641 | | \$17,641 |
| Shelley Boyce 10-12 Tyndall Street Mittagong | | | \$17,474 | | \$17,474 |
| Strathfield Investments Pty Ltd 5 Alice Street Mittagong | \$2,375 | | \$8,265 | \$35,344 | \$43,609 |
| Sitecat Pty Ltd 17 Old Dairy Close Moss Vale | | | \$1,417 | | \$1,417 |
| ERF Hospice Pty Ltd 11 Edward Street Bowral | | | \$1,786 | \$6,045 | \$7,831 |
| Lend Lease Retirement Living Holdings Aitken Road Bowral | \$2,089 | | \$4,245 | | \$4,245 |
| Reulie Land Co Pty Ltd Myra Vale Road Wildes Meadow | \$1,500 | | \$12,470 | | \$12,470 |
| Morris 36 Brigadoon Drive Bundanoon | \$1,548 | | \$3,872 | | \$3,872 |
| Sett Homes P/L 16-18 Willow Street, Willow Vale | \$1,515 | | \$1,515 | | \$1,515 |
| Total Expenditure | \$53,419 | \$46,977 | \$733,039 | \$342,252 | \$1,750,524 |

Note: This report includes proceedings where legal and/or consultancy costs have been incurred in the 2018/19 Financial Year. It is important to note that the figure reported to the Finance Committee on a quarterly basis is projected expenditure for the entire financial year. The figure reported to the Finance Committee also includes non-development related legal expenditure.

Fees Recovered – May 2019

| Legal Matter | Fees Recovered Apr-19 | Fees Recovered YTD | Fees Recovered LTD |
|--------------------------|--------------------------|-----------------------|-----------------------|
| O'Shanassy | \$750 | \$5,960 | \$13,478 |
| Willow Properties | | \$13,500 | \$13,500 |
| Lomman Matter | | \$150,000 | \$150,000 |
| Malcolm Holdings Pty Ltd | | \$3,000 | \$3,000 |
| Deluxe Project Group | | \$8,200 | \$8,200 |
| Michael Brown Planning | | \$10,450 | \$10,450 |
| Reid | | \$20,000 | \$20,000 |
| Total recovery | \$750 | \$211,110 | \$218,628 |

Notes:

O'Shanassy - \$93,500 penalty (OSR recovery) plus Council has been awarded by the Supreme Court of NSW a costs order of \$379,000 plus \$4,999.23 being Council's costs in order to undertake the costs assessment.



16 PETITIONS

16.1 Petition 5/2019 - DA 19/1645 - Subdivision of 40 Sir James Fairfax Circuit, Bowral

| | |
|-----------------------------------|--|
| Reference: | 100 |
| Report Author: | Administration Officer (Meetings) |
| 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

The purpose of this report is to present Council with a petition against development application 19/1645 - 40 Sir James Fairfax Circuit, Bowral.

The petition contains over 80 signatures.

A copy of the Petition has been placed in the Councillors' Room and will be tabled at the Ordinary Meeting of Council.

RECOMMENDATION

THAT Petition 5/2019 relating to the Subdivision DA19/1645 - 40 Sir James Fairfax Circuit, Bowral be received and noted by Council.

ATTACHMENTS

There are no attachments to this report.



18 COMMITTEE REPORTS

18.1 Minutes of Wingecarribee Floodplain and Risk Management Advisory Committee held on Monday, 6 May 2019

| | |
|-----------------------------------|---|
| Reference: | 8100/17.1 |
| Report Author: | Floodplain and Stormwater Engineer |
| Authoriser: | Manager Assets |
| Link to Community Strategic Plan: | Manage and plan for future water, sewer and stormwater infrastructure needs |

PURPOSE

This report provides the Minutes of the Wingecarribee Floodplain and Risk Management Advisory Committee Meeting held on Monday 6 May 2019.

SUMMARY OF RECOMMENDATIONS AND ACTIONS FOR COUNCILLORS' ATTENTION AND ADOPTION

Item 1 Welcome and Apologies

THAT the apology of Mr David Gorman be accepted and leave of absence granted.

Item 5.1 Draft Nattai Ponds Floodplain Risk Management Study and Plan

WFRM 1/19

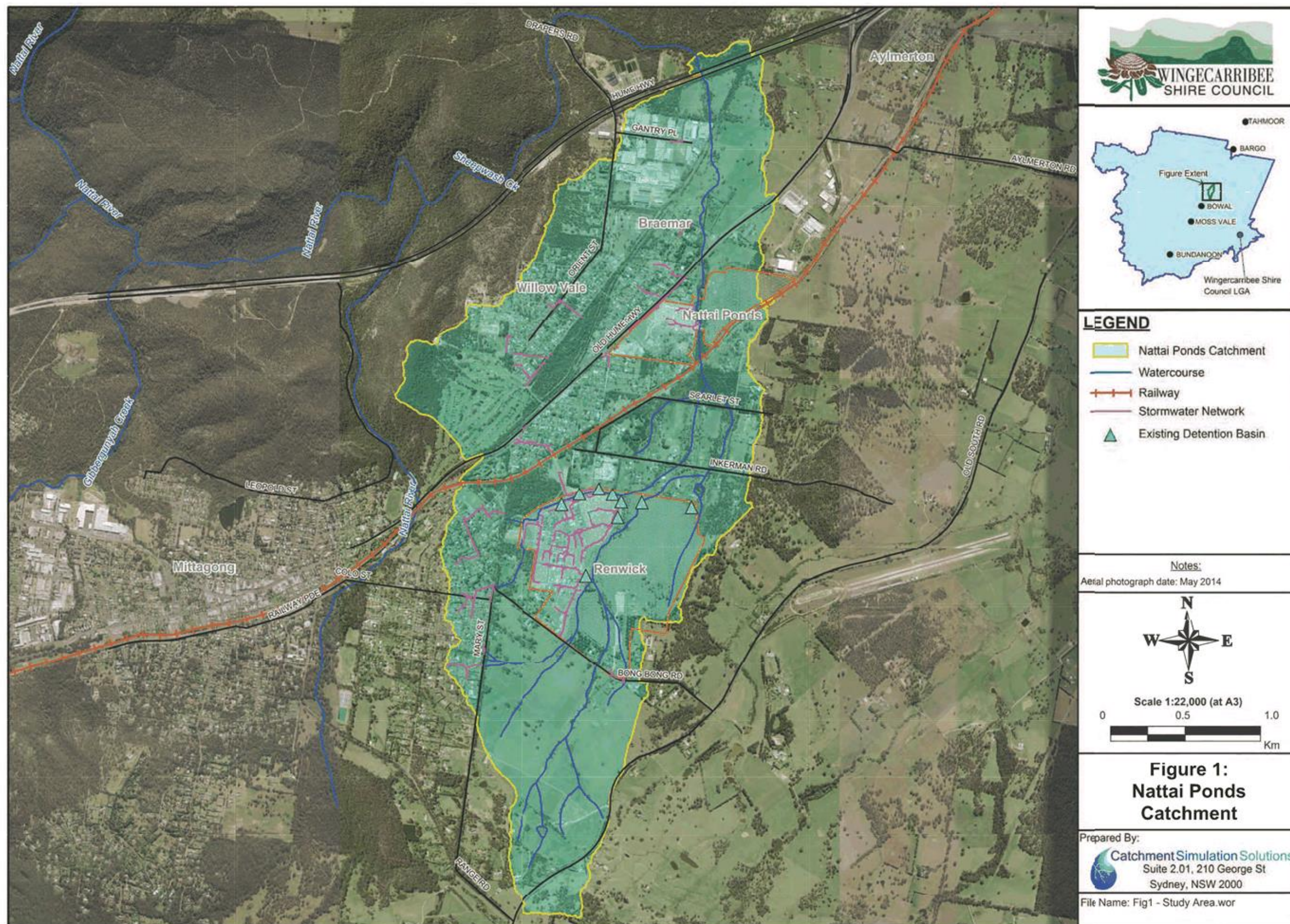
THAT the draft report on the Nattai Ponds Floodplain Risk Management Study and Plan be put on public exhibition for a period of 60 days.

RECOMMENDATION

1. **THAT** the draft report on the Nattai Ponds Floodplain Risk Management Study and Plan be put on public exhibition for a period of 60 days.
2. **THAT** recommendation No WFRM 1/19 as detailed in the Minutes of the Wingecarribee Floodplain and Risk Management Advisory Committee Meeting held on Monday 6 May 2019 be adopted.

ATTACHMENTS

1. Nattai Ponds Catchment Plan
2. Minutes of Floodplain and Risk Management Advisory Committee Meeting (6/5/19)





MINUTES

of the
Wingecarribee Floodplain Risk
Management Advisory Committee
Meeting

held in

Council Chambers

Civic Centre, Elizabeth Street, Moss Vale

on

Monday 6 May 2019

The meeting commenced at 9:30am

File No. 8100/17.1

18.1 Minutes of Wingecarribee Floodplain and Risk Management Advisory Committee held on Monday, 6 May 2019

ATTACHMENT 2 Minutes of Floodplain and Risk Management Advisory Committee Meeting (6/5/19)



MINUTES OF THE WINGECARRIBEE FLOODPLAIN RISK MANAGEMENT ADVISORY COMMITTEE MEETING

Monday 6 May 2019



1. WELCOME AND APOLOGIES
 2. ACKNOWLEDGEMENT OF COUNTRY
 3. ADOPTION OF MINUTES OF PREVIOUS MEETING
 4. DECLARATIONS OF INTEREST
-
5. AGENDA REPORTS 2
 - 5.1 Draft Nattai Ponds Floodplain Risk Management Study and Plan..... 2
 6. DATE OF NEXT MEETING 3
 7. MEETING CLOSURE 3

18.1 Minutes of Wingecarribee Floodplain and Risk Management Advisory Committee held on Monday, 6 May 2019

ATTACHMENT 2 Minutes of Floodplain and Risk Management Advisory Committee Meeting (6/5/19)



MINUTES OF THE WINGECARRIBEE FLOODPLAIN RISK MANAGEMENT ADVISORY COMMITTEE MEETING
Monday 6 May 2019



MINUTES OF THE WINGECARRIBEE FLOODPLAIN RISK MANAGEMENT ADVISORY COMMITTEE MEETING OF WINGECARRIBEE SHIRE COUNCIL HELD IN COUNCIL CHAMBERS, CIVIC CENTRE, ELIZABETH STREET, MOSS VALE ON MONDAY 6 MAY 2019 COMMENCING AT 11:30AM.

Present:

Councillors: Clr Ken Halstead *Chair*

Community Representatives: Ms Laurel Cheetham
Mr Carl Peterson
Mr Mark Sainsbury
Mr Mark Williams

Agency Representatives: Mr John Murtagh *NSW Office of Environment & Heritage*

Staff: Mr Stace Lewer *Manager Assets*
Mr Sha Prodhan *Floodplain & Stormwater Engineer*
Mr Tula Bhattarai *Development Engineer*
Ms Amanda Lawrence *Risk Management Officer*
Mr Tim Day *Coordinator Water Sewer & Drainage*

1. WELCOME AND APOLOGIES

It was noted that apologies were received from Mr David Gorman, Unit Commander SES Moss Vale

RECOMMENDATION

THAT the apology of Mr David Gorman be accepted and leave of absence granted.

2. ACKNOWLEDGEMENT OF COUNTRY

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

3. BUSINESS ARISING

Business Arising from previous minuted NIL

4. DECLARATIONS OF INTEREST

Nil



MINUTES OF THE WINGECARRIBEE FLOODPLAIN RISK MANAGEMENT ADVISORY COMMITTEE MEETING

Monday 6 May 2019



5. AGENDA REPORTS

5.1 Draft Nattai Ponds Floodplain Risk Management Study and Plan

Reference: 8100/17.1
 Report Author: Floodplain and Stormwater Engineer

PURPOSE

The purpose of the report is to present the Draft report on the Nattai Ponds Floodplain Risk Management Study and Plan before the Wingecarribee Floodplain Risk Management Advisory Committee.

Discussion took place on the public consultation process for the Draft Report on the Nattai Ponds Floodplain Risk Management Study and Plan. Consideration should be given to alternative methods over and above the usual to engage with impacted residents. It was agreed that consultation with Council's Community Engagement Officer will be undertaken and in addition to normal procedures, interested people will be contacted via telephone and letters. Community meetings will be arranged depending on feedback received from the telephone engagements.

RECOMMENDATION

WFRM1/19

THAT the draft report on the Nattai Ponds Floodplain Risk Management Study and Plan be put on public exhibition for a period of 60 days.

GENERAL DISCUSSION

Manager Assets briefly outlined the status of the projects recommended in previously completed studies. A summary handout was distributed at the meeting and more detailed information will be emailed to the Committee members.

No representation from Town Planning was present at the meeting. Manager Assets will discuss this with the Coordinator Strategic Land Use and request a Planner be in attendance for future meetings.

Flood advisory signs are being installed at known flooding spots, adjacent to public roads. Installation of the flood signs will be undertaken progressively within budget limitations.

A question was raised about the flood advisory signs installed near the Bowral Swimming Pool on Mittagong Road. The depth indicators appear to be misleading. Infrastructure Services undertake the installation of such signs and the question will be forwarded to the appropriate staff member for clarification.

18.1 Minutes of Wingecarribee Floodplain and Risk Management Advisory
Committee held on Monday, 6 May 2019

ATTACHMENT 2 Minutes of Floodplain and Risk Management Advisory
Committee Meeting (6/5/19)



**MINUTES OF THE WINGECARRIBEE FLOODPLAIN RISK
MANAGEMENT ADVISORY COMMITTEE MEETING**

Monday 6 May 2019



A question was raised about providing flood models to people outside Council. It was clarified that copyright laws prevent Council to do so. However the study reports and flooding information are available via the Council website and through flood certificate applications.

6. DATE OF NEXT MEETING

The next meeting: TBA

7. MEETING CLOSURE

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 1 PM



18.2 Management and Advisory Committee Reports

| | |
|-----------------------------------|--|
| Reference: | 107/1 |
| Report Author: | Committee Coordinator |
| Authoriser: | Manager Assets |
| Link to Community Strategic Plan: | Encourage all members of the community, especially older residents, to share their knowledge and experience with younger members |

PURPOSE

This report provides the Minutes of the following Committee Meetings, copies of which will be tabled for information:

1. Mittagong Memorial Hall Management Committee held on Thursday, 2 May 2019
2. Yerrinbool Hall Management Committee Meeting held on Tuesday, 7 May 2019
3. Loseby Park Community Hall Management Committee held on Friday, 10 May 2019

RECOMMENDATION

THAT the information contained in the following Committee Reports be noted:

1. Mittagong Memorial Hall Management Committee held on Thursday, 2 May 2019
2. Yerrinbool Hall Management Committee Meeting held on Tuesday, 7 May 2019
3. Loseby Park Community Hall Management Committee held on Friday, 10 May 2019

ATTACHMENTS

There are no attachments to this report.

18.3 Minutes of the Environment and Sustainability Advisory Committee Meeting held on Wednesday, 15 May 2019

| | |
|-----------------------------------|---|
| Reference: | 107/25 |
| Report Author: | Administration Officer |
| Authoriser: | Deputy General Manager Corporate, Strategy and Development Services |
| Link to Community Strategic Plan: | Sustainably manage natural resources for broader community benefit |

PURPOSE

This report provides the Minutes of the Environment and Sustainability Advisory Committee meeting held on Wednesday, 15 May 2019.

SUMMARY OF RECOMMENDATIONS AND ACTIONS FOR COUNCILLORS' ATTENTION AND ADOPTION

Item 1 Welcome and Apologies

ES 1/19

THAT the apology of Mr Simon Robinson, Mr Malcom Hughes, Mr Ian Perkins and Ms Lyndall McGrath be accepted and leave of absence granted.

Item 3 Adoption of Minutes of Previous Meeting

ES 2/19

THAT the minutes of the Environment and Sustainability Advisory Committee Meeting held on Wednesday 20 March 2019 MN ES 1/19 to MN ES 5/19 inclusive, copies of which were forwarded to Councillors, be adopted as a correct record of the proceedings of the meeting.

Item 6.1 Community Assistance Scheme

ES 3/19

THAT the Committee endorses the recommendations made in relation to the Environment & Sustainability grant applications.

Item 6.2 Draft 2019/20 Operational Plan and Budget

ES 4/19

THAT some community representatives present at the meeting express community concerns.

Item 6.3 Council's Climate Change Adaptation Plan – Update

ES 5/19

THAT the report be noted.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 26 June 2019

COMMITTEE REPORTS



Item 6.4 Roadside Management Plan for External Public Authorities

ES 6/19

THAT the report be noted.

RECOMMENDATION

THAT recommendations Nos ES1/19 to ES6/19 – as detailed in the Minutes of the Environment and Sustainability held on 15 May 2019 be adopted, save for any items which have budgetary implications AND THAT any item with budgetary implications and which is unfunded, be referred to the Finance Committee for consideration.

ATTACHMENTS

1. Minutes of the Environment and Sustainability Advisory Committee of 15 May 2019

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 26 June 2019

CLOSED COUNCIL



MINUTES

of the
Environment and Sustainability Advisory
Committee Meeting

held in

Nattai Room

Civic Centre, Elizabeth Street, Moss Vale

on

Wednesday 15 May 2019

The meeting commenced at 10.30am

File No. 107/25

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 26 June 2019

CLOSED COUNCIL



MINUTES OF THE ENVIRONMENT AND SUSTAINABILITY ADVISORY COMMITTEE MEETING

Wednesday 15 May 2019



1. **WELCOME AND APOLOGIES**
2. **ACKNOWLEDGEMENT OF COUNTRY**
3. **ADOPTION OF MINUTES OF PREVIOUS MEETING**
4. **BUSINESS ARISING FROM THE MINUTES**
Environment and Sustainability Advisory Committee Meeting held on 20 March 2019
5. **DECLARATIONS OF INTEREST**

| | |
|--|----------|
| 6. AGENDA REPORTS | 3 |
| 6.1 Community Assistance Scheme | 3 |
| 6.2 Draft 2019/20 Operational Plan and Budget..... | 4 |
| 6.3 Council's Climate Change Adaptation Plan - Update | 5 |
| 6.4 Roadside Management Plan for External Public Authorities | 6 |
| 7. DATE OF NEXT MEETING | 6 |
| 8. MEETING CLOSURE | 6 |

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 26 June 2019

CLOSED COUNCIL



MINUTES OF THE ENVIRONMENT AND SUSTAINABILITY ADVISORY COMMITTEE MEETING

Wednesday 15 May 2019



MINUTES OF THE ENVIRONMENT AND SUSTAINABILITY ADVISORY COMMITTEE MEETING OF WINGECARRIBEE SHIRE COUNCIL HELD IN NATTAI ROOM, CIVIC CENTRE, ELIZABETH STREET, MOSS VALE ON WEDNESDAY 15 MAY 2019 COMMENCING AT 10.30AM.

Present:

Councillors: Clr L A C Whipper *Chair*
Clr G Markwart *Alternate Chair*

Community Representatives: Ms Patricia Hall
Mr Paul Shanahan
Mr Clive West

Agency Representatives: Mr Geoff O'Connor *Local Land Services*

In Attendance: Mr Barry Arthur *Manager Environment & Sustainability*
Mr Joe Stammers *Environmental Projects Officer*
Mr Michael Rhydderch *Environmental Project Officer - Sustainability*
Ms Gillian Sutherland-Harris *Environment and Health policy Officer*
Ms Corinne Buxton *Business Support Officer*

1. WELCOME AND APOLOGIES

It was noted that apologies were received from Mr Simon Robinson, Mr Malcom Hughes, Mr Ian Perkins and Ms Lyndall McGrath

ES 5/19

MOTION moved by Clr G Markwart and seconded by Mr P Shanahan

THAT the apology of Mr Simon Robinson, Mr Malcom Hughes, Mr Ian Perkins and Ms Lyndall McGrath be accepted and leave of absence granted.

PASSED

2. ACKNOWLEDGEMENT OF COUNTRY

Councillor Larry Whipper acknowledged country:

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

3. ADOPTION OF MINUTES OF PREVIOUS MEETING

MINUTES OF THE ENVIRONMENT AND SUSTAINABILITY ADVISORY COMMITTEE MEETING HELD ON WEDNESDAY MARCH 2019

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 26 June 2019

CLOSED COUNCIL



MINUTES OF THE ENVIRONMENT AND SUSTAINABILITY ADVISORY COMMITTEE MEETING

Wednesday 15 May 2019



ES 6/19

MOTION moved by Cllr G Markwart and seconded by Mr P Shanahan

THAT the minutes of the Environment and Sustainability Advisory Committee Meeting held on Wednesday 20 March 2019 MN **ES 1/19** to MN **ES 5/19** inclusive, copies of which were forwarded to Councillors, be adopted as a correct record of the proceedings of the meeting.

PASSED

4. BUSINESS ARISING

NIL

5. DECLARATIONS OF INTEREST

There were no declarations of interest received.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 26 June 2019

CLOSED COUNCIL



MINUTES OF THE ENVIRONMENT AND SUSTAINABILITY ADVISORY COMMITTEE MEETING

Wednesday 15 May 2019



6. AGENDA REPORTS

6.1 Community Assistance Scheme

| | |
|-----------------------------------|--|
| Reference: | 1870/2019 |
| Report Author: | Manager Environment and Sustainability |
| Authoriser: | Manager Environment and Sustainability |
| Link to Community Strategic Plan: | Develop partnerships and implement programs and education that enable people to live sustainably |

PURPOSE

Mr Barry Arthur presented the Community Assistance Scheme Grant applications to the committee for recommendations on the allocation of Environmental Levy.

To discuss applications received under the Environment and Sustainability grant component of the Wingecarribee Community Assistance Scheme and make recommendations on the allocation of Environment Levy funds.

There will be a presentation of this item at the meeting.

BACKGROUND

The Environment Levy makes a \$10,000 contribution towards the Wingecarribee Community Assistance Scheme to support projects with the principle purpose to achieve environment or sustainability outcomes, especially those that increase sustainability and community capacity. Applications for the 2019/2020 Community Assistance Scheme were received up until 31 March 2019.

The guidelines for this scheme state that Environmental grants up to \$2,000 will be considered.

A list of applications will be presented to the Committee during the meeting for discussion and consideration. Details of applicants and applications are to be treated confidentially.

ES 7/19

MOTION moved by Ms P Hall and seconded by Mr C West

THAT the Committee endorses the recommendations made in relation to the Environment & Sustainability grant applications.

PASSED

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 26 June 2019

CLOSED COUNCIL



MINUTES OF THE ENVIRONMENT AND SUSTAINABILITY ADVISORY COMMITTEE MEETING

Wednesday 15 May 2019



6.2 Draft 2019/20 Operational Plan and Budget

| | |
|-------------------|--|
| Reference: | 800/2 |
| Report Author: | Manager Environment and Sustainability |
| Authoriser: | Manager Environment and Sustainability |
| Link to Community | |
| Strategic Plan: | Support and promote the creative and cultural sector |

PURPOSE

Mr Barry Arthur gave an introduction to the 2019/2020 Draft Operational Plan and Budget to the Committee

On 24 April 2019 Council endorsed the Draft 2019/2020 Operational Plan and Budget for public exhibition between 29 April 2019 and 27 May 2019. The Draft operational plan includes Environment Levy program items for the period. The items on public exhibition can be viewed at https://www.yoursaywingecarribee.com.au/ipr_2019_20

The plan and budget being exhibited includes a five year funding proposal for Council's Regional Art Gallery contribution. Included in this proposal is for the Environment Levy to fund part of the management resource that oversees the delivery of the environment program, which is currently fully funded by Council's general fund. The Environment Levy components of the draft Operational Plan and Budget will be discussed in detail at the meeting.

ES 8/19

MOTION moved by Ms P Hall and seconded by Mr C West

THAT the report be noted.

THAT some community representatives present at the meeting express community concerns.

PASSED

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 26 June 2019

CLOSED COUNCIL



MINUTES OF THE ENVIRONMENT AND SUSTAINABILITY ADVISORY COMMITTEE MEETING

Wednesday 15 May 2019



6.3 Council's Climate Change Adaptation Plan - Update

Reference: 5450/22.2
Report Author: Environmental Policy Officer
Authoriser: Manager Environment and Sustainability
Link to Community
Strategic Plan: Plan for predicted impacts of climate change

PURPOSE

Ms Gillian Sutherland-Harris, Environment and Health Policy officer provided an update on the review of Council's Climate Change Adaptation Plan.

ES 9/19

MOTION moved by Ms P Hall and seconded by Mr C West

THAT the report be noted.

PASSED

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 26 June 2019

CLOSED COUNCIL



MINUTES OF THE ENVIRONMENT AND SUSTAINABILITY ADVISORY COMMITTEE MEETING

Wednesday 15 May 2019



6.4 Roadside Management Plan for External Public Authorities

| | |
|-------------------|--|
| Reference: | 6800/6 2151 5453/3.1 7810/2 6340/18.10 |
| Report Author: | Manager Environment and Sustainability |
| Authoriser: | Manager Environment and Sustainability |
| Link to Community | |
| Strategic Plan: | Conserve the key natural resources of the Shire and minimise the impact from development |

PURPOSE

Council's Roadside Management Plan was presented to the committee at its meeting of 20 March 2019. At that meeting one of the recommendations made was:

4. THAT external public authorities that undertake work in Council managed road reserves across the Shire, be invited to attend the next Environment and Sustainability Advisory Committee Meeting for a presentation on the Roadside Management Plan.

Invitations were sent to relevant authorities. However, due to the full agenda for this meeting, the presentation will be postponed to the next meeting of the Environment and Sustainability Committee.

ES 10/19

MOTION moved by Mr P Shanahan and seconded by Mr C West

THAT the report be noted.

PASSED

7. DATE OF NEXT MEETING

The next meeting will be held on Wednesday 21 August 2019 in Nattai Room Civic Centre, Elizabeth Street, Moss Vale commencing at 10.30am.

8. MEETING CLOSURE

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 1230 PM

20 NOTICES OF MOTION

20.1 Notice of Motion 16/2019 - Civic Prayer

| | |
|-----------------------------------|--|
| Reference: | 100/4 |
| Report Author: | Administration Officer (Meetings) |
| 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

Councillor Whipper has given notice that it is his intention to move the following motion at the Ordinary Meeting of Council on 26 June 2019:

THIS NOTICE OF MOTION WAS DEFERRED FROM ORDINARY COUNCIL MEETING OF 22 MAY 2019

1. THAT Council acknowledge the importance of the opening prayer at each Council meeting and extend sincere thanks to all those Ministers who have provided these blessings upon Council and community over the years.
2. THAT in recognising Australia is predominantly Christian in our belief system THAT we also recognise there are those in our nation and the Shire who acknowledge God through different pathways.
3. THAT in acknowledging this reality Council now consider broadening the representation of those who offer “prayer” at the opening of Council meetings to respect and reflect this fact.
4. THAT Council make formal invitations to local leaders of the Catholic, Buddhist, Hindu, Jewish, Muslim and Bahai faiths to be include in the roster to provide prayer on behalf of this Council and its community at the opening of Council (after Acknowledgement of Country) along with the Minister’s Fraternal.
5. THAT in making this invitation, Council acknowledge this is designed to encourage inclusiveness and NOT to denigrate our Christian belief system.
6. THAT in the spirit of inclusiveness, Council also call for expressions of interest from all religious denominational leaders in the Shire to participate in a roster for the opening prayer of Council.

RECOMMENDATION

Submitted for determination.



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.



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 Legal Report - Closed Council

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), under clause 10A(2)(e) as it contains information that would, if disclosed, prejudice the maintenance of law and under clause 10A(2)(g) as it contains advice concerning litigation, or advice as comprises a discussion of this matter, that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege 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 update Council on the status of legal proceedings reported to Council at the meeting of 22 May 2019.

22.2 Proposed Sale of Council property - Lots 1261, 1262, 1263, 1264 & 1265 in Deposited Plan 1248764, Anembo Street, 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's direction on the sale price range for the five vacant lots owned by Council on Anembo Street, Moss Vale and to seek approval for the General Manager to be delegated authority to negotiate the sale price within the approved sale price range.



22.3 Proposed Sale - 10 Frankland Street Mittagong

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

THIS ITEM WAS DEFERRED FROM CLOSED COUNCIL MEETING OF 12 JUNE 2019

The purpose of this report is to provide Council with an update on negotiations on an offer to Council to purchase proposed Lot 3 DP 109208, Frankland Street Mittagong.

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 21 June 2019