

21 May 2020

Dear Councillor,

You are kindly requested to attend the **Ordinary Meeting** of Wingecarribee Shire Council to be held remotely using audio visual link and is open to members of the community via webcast on **Wednesday 27 May 2020** commencing at **3.30pm**.

Yours faithfully

Ann Prendergast
General Manager

SCHEDULE

3.30pm	Council Meeting begins
7.40pm	Closed Council

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 13 May 2020
 6. **DECLARATIONS OF INTEREST** 1
 7. **MAYORAL MINUTES**
 8. **PUBLIC FORUM**
-
9. **VISITOR MATTERS**
OPERATIONS, FINANCE AND RISK
Nil
CORPORATE, STRATEGY AND DEVELOPMENT SERVICES
 - 9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong)..... 2
 - 9.2 Development Application 17/1822.05 - Seniors Housing – 2-18 Centennial Road, Bowral: Modification to Main Facilities Building..... 69
10. **EN BLOC MOTION**
-
11. **OPERATIONS FINANCE AND RISK**
 - 11.1 Tender for Sewer Pump Station Electrical Panel Upgrade156
 - 11.2 Tender Outcome of Direct Negotiations - Supply and Delivery of Premixed Concrete Tender162
 - 11.3 Tender for replacement of Lackey Park and Australia Ave Sewer Pump Stations166
 - 11.4 Seymour Park Masterplan Adoption.....171
 - 11.5 Investment Report - April 2020184
 - 11.6 Consolidation of Titles and Boundary Adjustment for Road Widening - Southern Regional Livestock Exchange (SRLX), 205 Berrima Road, Moss Vale190
 - 11.7 Compulsory Land Acquisition - Railway Parade, Mittagong196
 - 11.8 Proposed Land Acquisition - Berrima.....201

12. CORPORATE STRATEGY AND DEVELOPMENT SERVICES	
12.1 Public Exhibition of the Draft 2020/21 Operational Plan and Budget...	202
12.2 Post Exhibition Report - Planning Proposal and Draft Development Control Plan Amendment for Seniors Housing at Wiseman Road Bowral.	213
12.3 Post Exhibition - Planning Proposal to Reclassify from Community to Operational a Portion of Council Owned Land Off Rowland Road Bowral to Enable an Access Road for the Southern Highlands Regional Art Gallery.....	221
12.4 Post Exhibition - Planning Proposal to Reclassify from Community to Operational Lot 13 DP 601369, Kirkham Street Moss Vale.....	233
12.5 Compliance Investigation of Earthworks at 144 Mt Broughton Road Weraï.....	241

13. GENERAL MANAGER	
13.1 Legal Report.....	254

14. DELEGATE REPORTS	
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15. PETITIONS	
Nil	

16. COMMITTEE REPORTS	
16.1 Minutes of the Traffic Committee Meeting held electronically on 22 April 2020	258
16.2 Minutes of the Traffic Committee Meeting held electronically on 5 May 2020.....	263

17. QUESTIONS WITH NOTICE	
17.1 Questions with Notice 14/2020 - Road Closures and Public Road Requirements	268
17.2 Question with Notice 15/2020 - Stage 2 Station Street, (Bowral) Upgrade Project.....	269
17.3 Question with Notice 17/2020 Infrastructure NSW, Sydney Trains and Transport NSW Heads of Agreement.....	271

18. NOTICES OF MOTION	
18.1 Notice of Motion 16/2020 - Mittagong Playhouse and RRC Animal Shelter Request for Report	272
18.2 Notice of Motion 18/2020 Local Housing Strategy and Local Strategic Planning Statements.....	273

19. CLOSED COUNCIL	
Moving into Closed Session.....	274
19.1 Tender for Sewer Pump Station Electrical Panel Upgrade	
<i>This report is referred to Closed Committee in accordance with s10A(2) of the Local Government Act, 1993, under clause 10A(2)d(i) as it contains commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it and the Council considers that it would be on balance contrary to the public interest to consider this information in Open Council.</i>	

19.2 Tender for the replacement of Lackey Park and Australia Ave Sewer Pump Stations

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

19.3 Proposed Land Acquisition - Berrima

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.

19.4 Legal Report - Closed Council

This report is referred to Closed Committee in accordance with s10A(2) of the Local Government Act, 1993, 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.

20. RESUMPTION OF OPEN COUNCIL

Resumption of Open Council

Adoption of Closed Session

21. MEETING CLOSURE

Our Mission, Our Vision, Our Values

OUR MISSION

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

OUR VISION

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

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

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

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

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

OUR VALUES

Integrity, trust and respect

Responsibility and accountability

Communication and teamwork

Service quality

Council Chambers

Recording and Webcasting of Ordinary and Extraordinary Meetings of Council

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

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.

9 VISITOR MATTERS

CORPORATE STRATEGY AND DEVELOPMENT SERVICES

9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).

Reference:	DA11/0767.01
Report Author:	Development Assessment Planner
Authoriser:	Group Manager Planning Development and Regulatory Services
Applicant:	Development Implementation Pty Ltd
Owner:	Development Implementation Pty Ltd
Link to Community Strategic Plan:	Provide a mixture of housing types that allow residents to meet their housing needs at different stages of their lives and support affordable living

PURPOSE

The purpose of this report is to consider a modification to a previously approved Deferred Commencement Consent 11/0767 which was for land subdivision including 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 (Previously 520 Old South Road Mittagong). This report is prepared for a modification of the determination and recommends APPROVAL, subject to consent conditions attached. (**Attachment 1**).

VOTING ON THE MOTION

Councillors are required to record their votes on this matter.

RECOMMENDATION

THAT the Section 4.55(2) modification application 11/0767.1 for a subdivision consisting 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 (Previously 520 Old South Road Mittagong) be approved subject to 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 Garden World and is described as 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 (Previously 520 Old South Road Mittagong).

The site is located to the eastern side of the Old Hume Highway between the Braemar Avenue intersection and Isedale road intersection north of Mittagong.

The site's main vehicular access is located mid-way along the front boundary directly off Old Hume Highway. There are also two other entrances north and south of this driveway accessing *Kamiliaro House* and *Amber Tiles*.

Topographically, the site slopes gently upwards from Nattai Rivulet in an easterly direction towards the main rail line at the rear of the site. The site is bounded by the:

- Main Southern Railway Line to the east;
- Nattai Ponds residential development to the south;
- Old Hume Highway to the west; and
- Part industrial land (comprising Tyree Industries) and part Special Uses Tourist to the north.

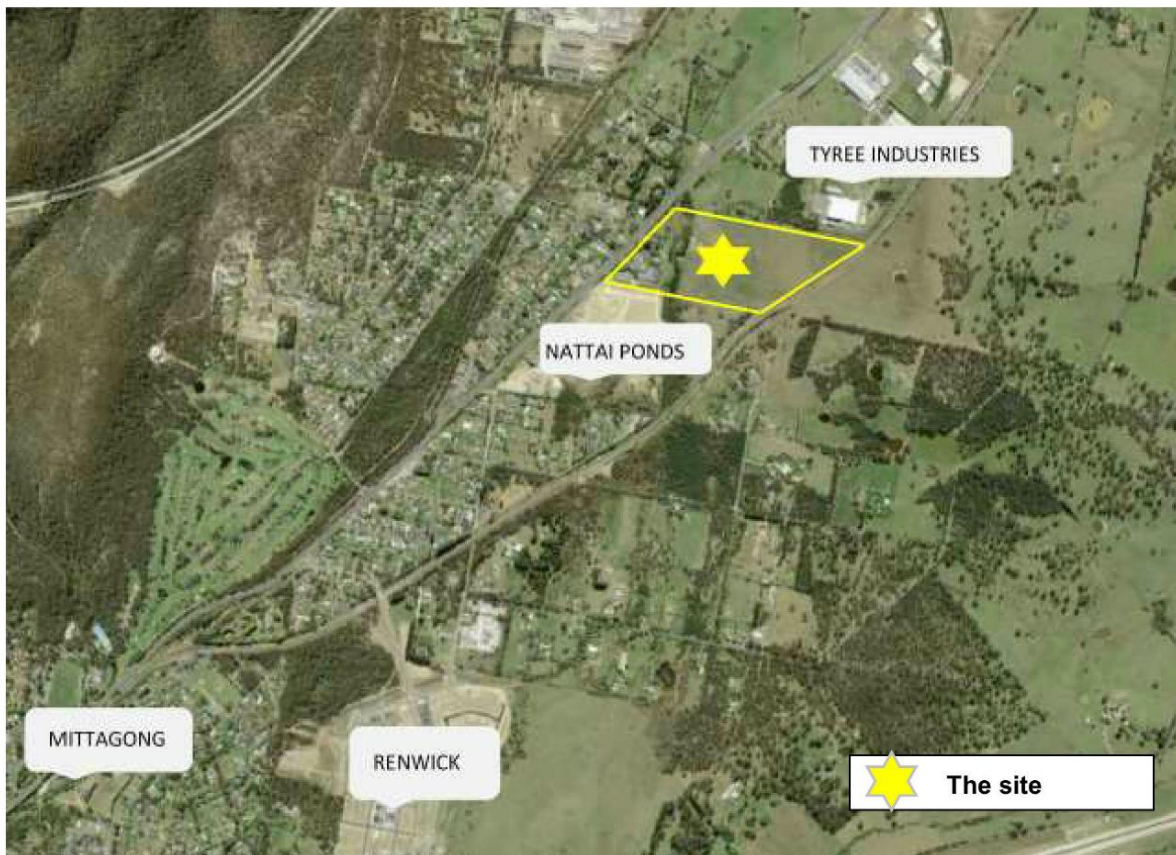


Figure 1: Location Map (**Attachment 2**)

The site adjoins the Nattai Ponds development to the south with both sites originally master planned together to allow for an integrated interface between the two developments. The

Nattai ponds development is now completed with the exception of the final stage 4 located east of Nattai Creek.



Figure 2: Plan of approved Garden World subdivision (DA11/0767) to the north and interface with Nattai Ponds to the south. **(Attachment 3)**

Council on 20 December 2019 issued development consent DA20/0340 to subdivide the subject site into three (3) separate allotments as shown in **Figure 3**. This subdivision provided for a new realigned dedicated public road from Old Hume Highway to southwest corner of the residential allotments together with an extension of Lomandra Lane from the Nattai Ponds subdivision to connect into the new access road.

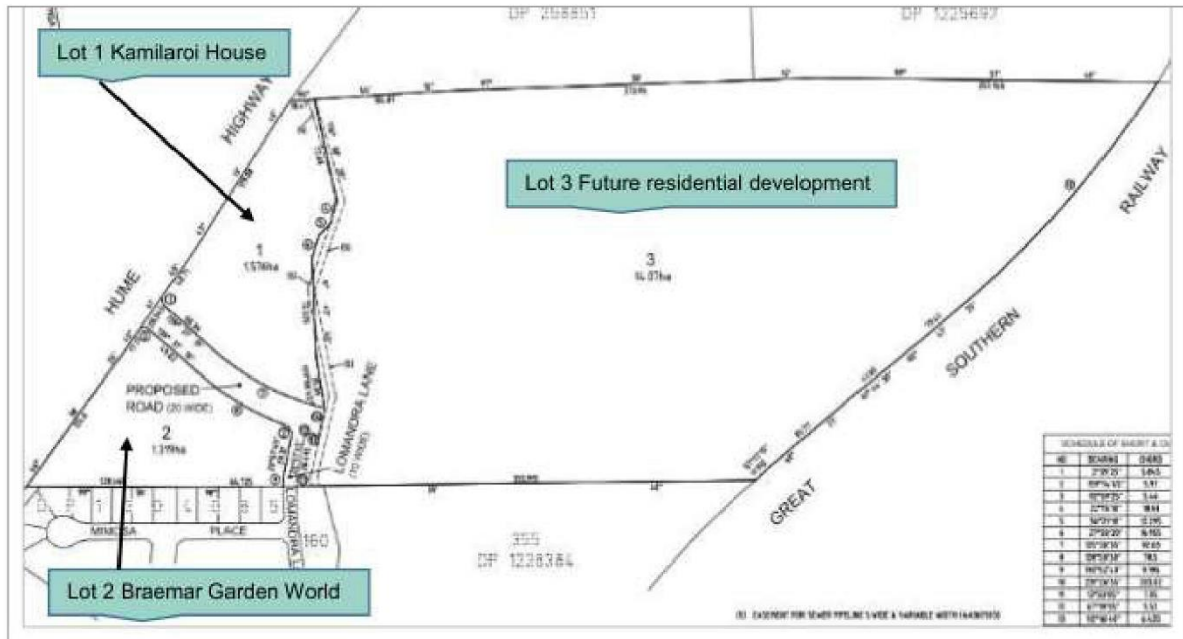


Figure 3: Approved 3 Lot subdivision DA20/0340. (Attachment 4)

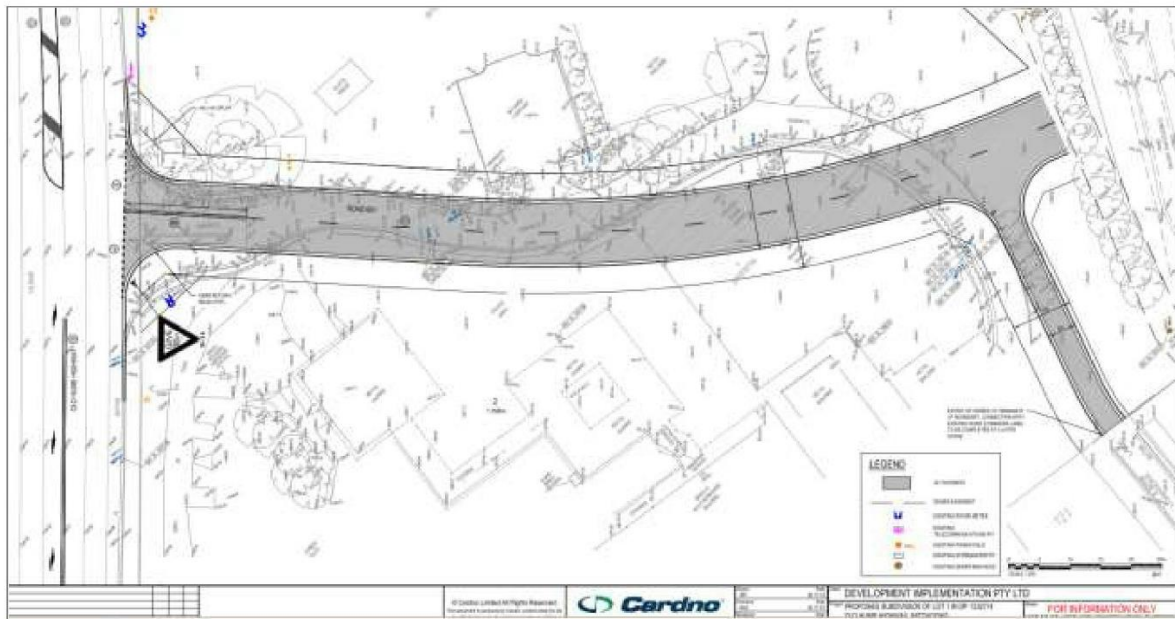


Figure 4: Approved road design concept of new entry road and Lomandra Lane extension approved in DA20/0340. (Attachment 5).



Figure 5: Overlay of approved new entry road and Lomandra Lane extension approved in Consent DA20/0340. **(Attachment 6).**

In granting Development Consent DA20/0340, TfNSW (formerly RMS) suggested the following access arrangements for the Garden World subdivision:

- a) the connection of a new dedicated public road from the Old Hume Highway into the proposed residential allotments section of the consent. (Refer Figures 3 &4).
- b) 'in principle' agreement to change the traffic direction in Lomandra Lane from the new road to be one way southbound giving access from the residential lots along the new road and left into Lomandra Lane to access Isedale Road traffic lights at the Old Hume Highway.
- c) Access from the residential lots along the new road to the Old Hume Highway where there will be left turn onto Old Hume Highway to travel south; left turn in from old Hume Highway when travelling south and right turn in from Old Hume Highway when travelling north – however, consistent with **the Consent** there will be no right turn out of the new entry road onto Old Hume Highway permitted once the residential lots are developed.

Furthermore, when Stage 4 of Nattai Ponds subdivision is developed and Isedale Road is constructed to the interface of Garden World subdivision then all the traffic from Garden World that are to turn right onto the Old Hume Highway can use Isedale Road as was originally planned in the master plan and Lomandra Lane can revert to a north bound traffic flow.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



The site's main vehicular access is located mid-way along the front boundary directly off Old Hume Highway. There are also two other entrances north and south of this driveway accessing *Kamilaroi House* and *Amber Tiles*. The TfNSW advice requires these two (2) driveways to be closed off by kerb and guttering prior to the issue of any Subdivision Certificate for the residential lots.

Topographically, the site slopes gently upwards from Nattai Rivulet in an easterly direction towards the main rail line at the rear of the site. The site is bounded by the:

- Main Southern Railway Line to the east;
- Nattai Ponds residential development to the south;
- Old Hume Highway to the west; and
- Part industrial land (comprising Tyree Industries) and part Special Uses Tourist to the north.

Proposed Modification

The application seeks approval to modify development consent DA11/0767 by:-

1. Deleting deferred commencement conditions 1, 2, 3, 4 and 5 in Schedule 1 of **the Consent**;
2. Changing the traffic flow of Lomandra Lane from northbound to southbound;
3. Amending Conditions 18, 62, 66, 77, 82, and 92 of **the consent**; and
4. Amending relevant sewer conditions to reflect submission of the sewer impact report.

The following is a summary of the respective Deferred Commencement conditions of consent. The full prescription of the conditions is included in **Attachment 1** to the report.

Deferred Condition	Response
1. Written agreement with the owners of the yet to be developed Stage 4 of the adjoining Nattai Ponds development pertaining to the extension of Isedale Road to the east.	Deletion of this condition due to the stage 4 development of Nattai Ponds not having been developed and the alternative temporary access through Lomandra Lane.
2. Landscape Plan that addresses the provision of street trees and screen planting in nominated locations.	The terms of this condition are primarily operational and can be dealt with as a condition under Schedule 2 of the conditions of consent in Attachment 1 of the conditions of consent. A specific condition has been included in the draft modified conditions (Condition 17A) to be provided prior to the issue of the Subdivision Works Certificate.
3. Residential landscape design guidelines – provision to include planting of appropriate mature trees on each residential lot.	The terms of this condition are primarily operational and can be dealt with as a condition under Schedule 2 of the conditions of consent in Attachment 1 . A specific condition has been included in the draft modified conditions (Condition 17B) to be provided prior to the issue of the Subdivision Works Certificate.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



Deferred Condition	Response
4. Vegetation management plan that describes the restoration and rehabilitation program for the Core Riparian Zone.	A Vegetation Management Plan has been submitted that now satisfies the condition.
5. Sewer Modelling	A sewer impact assessment report prepared by Cardno has been submitted that now satisfies the condition.

Deferred commencement Condition1 of the consent states:

“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).

In summary, the consent required access to Old Hume Highway via a connection in the southeast corner of the residential allotment area to the proposed extension of Isedale Road in the north east corner of the adjoining subdivision of Nattai Ponds. This arrangement was to be in force prior to the release of any subdivision certificates for the residential allotments. During recent discussions with TfNSW, it was indicated that the imminent construction of the northern part of Lomandra Lane (under DA DA20/0340, approved by Council 20 December 2019) would be beneficial in supporting vehicles exiting the residential lots to use Lomandra Lane to then access Isedale Road and turn right onto the Old Hume Highway via the signalised intersection. The implications of this is that the completion of Isedale Road through the unformed section of Stage 4 of Nattai Ponds would not be required in the immediate future.

Figure 6 below details the proposed alternative change of traffic direction along Lomandra Lane. Lomandra Lane traffic flow would change from northbound to southbound.



Figure 6: Proposed traffic flow along Lomandra Lane to Isedale Road. (Attachment 7)

A traffic Assessment Report on the implications of changing the flow of traffic from northbound to southbound along Lomandra Lane concludes that:

The proposed 129 Lot subdivision at 61 Old Hume Highway Mittagong is fully supportable in terms of traffic, road safety and parking impacts. The following comments summarise their traffic impact assessment:

- The proposed **whole** residential subdivision is expected to generate 92 vehicle trips (18 in: 74 out) in the AM peak hour period, and 101 vehicle trips (81 in; 20 out) in the PM peak hour period.
- The development traffic has been found to have no adverse traffic impacts to the assessed intersections in either the future scenario or 10-year growth period.
- Lomandra Lane is expected to generate 28 (26 + 2) vehicle trips in the AM peak hour period and 167 vehicles per day.
- The estimated 28 peak vehicle trips and 182 (167 + 15) daily trips is well below the maximum traffic volume range of 300 – 1000 vehicles per day based upon AMCORD requirements and is well below the environmental capacity of 200 to 300 peak hour vehicle trips as outlined within Table 4.6 of the *RMS Guide to Traffic Generating Developments for Local Roads*.

- Traffic flow levels within Lomandra Lane under the proposed access arrangements are unlikely to be sustained in the future once the Stage 4 of the adjoining Nattai Ponds development is completed as lots closer to the eastern end of the subject residential subdivision are more likely to use the extension of Isedale Road up to the development site. Council also has the option that when Stage 4 Nattai Ponds development is completed to revert the traffic on Lomandra Lane from southbound to northbound.
- There is a proposed restriction of right turns from Lomandra Lane into Mimosa Place by the way of signage.

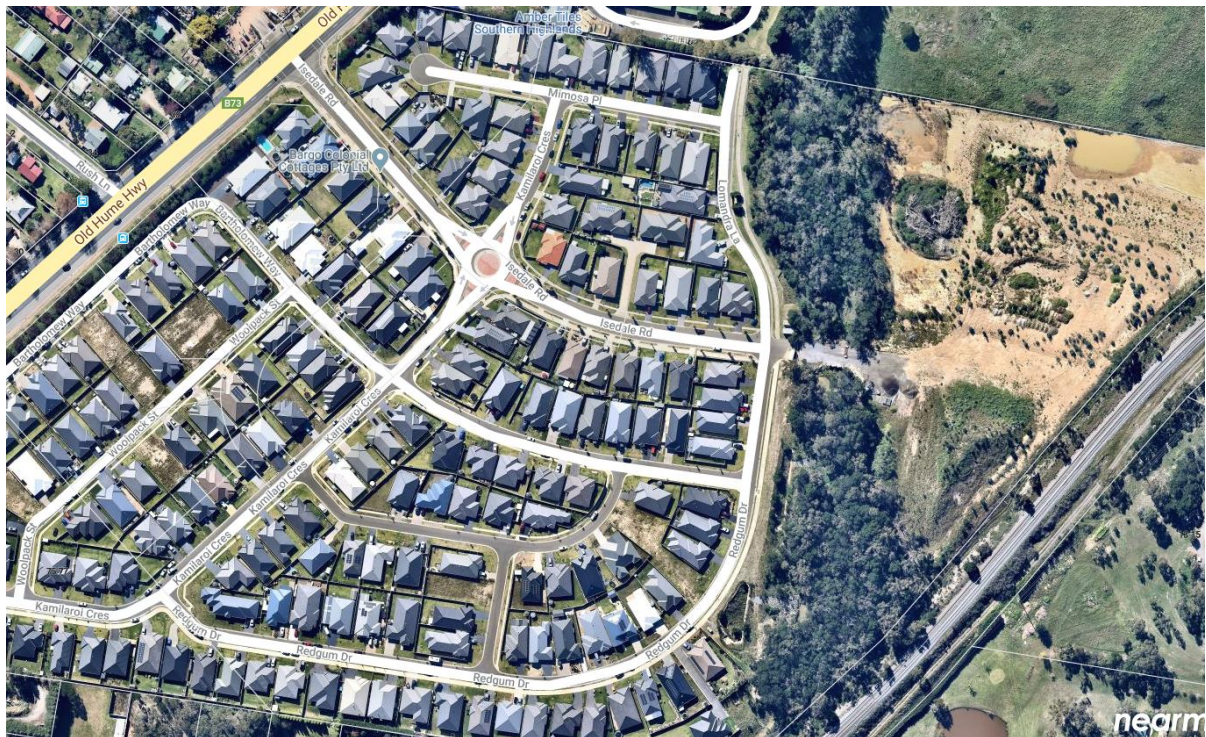


Figure 7: Nattai Ponds Subdivision showing street names. (Attachment 8).

There a number of minor amendments to be made to the following conditions that reflect the changes to the deferred commencement conditions being:

Add

Condition 17A

17A Landscape Plan – Street Trees

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 prior to issue of the Subdivision Works Certificate. Further to industry standard landscape 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; and
- (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.

Add

Condition 17B

17B Residential Landscape Design Guidelines

The submission of a residential landscaping design guideline 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 prior to issue of the Subdivision Works Certificate. The plan shall provide for the planting of appropriate mature trees on each residential lot.

Condition 62

62. 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.~~

Delete existing condition 62 and replace with a new condition that reads:

- (a) Prior to the release of the first subdivision certificate for any residential lot in the development the new road approved in development consent 20/0340 dated 20 December 2019 and the extension to Lomandra Lane, must be constructed and the new road connected to the main access road connecting the residential lots subdivision area to provide access to Old Hume Highway and Lomandra Lane.
- (b) Prior to the release of the first subdivision certificate for any residential lot in the development Lomandra Lane is to be signposted one-way traffic southbound and "No Right Turn" signage is to be erected to restrict vehicles turning right from Lomandra Lane into Mimosa Street and signage in Mimosa Street at intersection of Lomandra Lane stating "Right Turn Only".
- (c) Prior to the release of the first subdivision certificate for any residential lot in the development the existing access points servicing Lots 1 and 2 of the approved 3

Lot subdivision under DA20/0340 from the Old Hume Highway will be physically closed by reinstating the kerb and gutter

Condition 66

66. 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

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

Condition 66(e) is amended to include a new paragraph as follows:

- (v) These restrictions are subject to the requirements of any acoustic fencing referred to in condition 60.

Condition 77

77. 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 Lomandra Lane shall be constructed prior to the issue of the Subdivision Certificate.

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

Amend the first line of the second paragraph of condition 77 to insert the words “*on one side*” after the word “*wide*”.

77. 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 on one side** 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 Lomandra Lane shall be constructed prior to the issue of the Subdivision Certificate.

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

Condition 82

~~82. 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.~~

Delete condition 82. This condition is deleted as it becomes superfluous with the provision of amending conditions.

Condition 92

92. General Terms of Approval – Roads and Maritime Services

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT 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 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*.

Delete condition 92(g). This condition is deleted as it becomes superfluous with the provision of amending conditions.

STATUTORY PROVISIONS

NSW Rural Fires Act 1997

The application was referred to the NSW Rural Fire Service (RFS) who have advised that they have no comment in not issuing GTA's to proposed modification

Natural Resources Access regulator (Formerly DPI Water)

The application was referred to Natural Resources Access Regulator (formerly DPI Water) who have advised that they have no comments to proposed modification

Office of Environment and Heritage.

The application was referred to the Office of Environment and Heritage who have advised that they have no comments to proposed modification

Transport for NSW (Formally Roads and Maritime).

The application was referred to Transport for New South Wales (formerly Roads and Maritime Services) who have issued their concurrence dated 09 March 2020. **(Condition 89).**

Australian Rail track Corporation

The application was referred to Australian Rail Track Corporation who have advised that they have no comments to proposed modification



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 have advised that they have no input to proposed modification

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

The E3 objectives are:

- *To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.*
- *To provide for a limited range of development that does not have an adverse effect on those values.*
- *To encourage the retention of the remaining evidence of significant historic and social values expressed in existing landscape and land use patterns.*
- *To minimise the proliferation of buildings and other structures in these sensitive landscape areas.*
- *To provide for a restricted range of development and land use activities that provide for rural settlement, sustainable agriculture, other types of economic and employment.*
- *Development, recreation and community amenity in identified drinking water catchment areas.*
- *To protect significant agricultural resources (soil, water and vegetation) in recognition of their value to Wingecarribee's longer term economic sustainability.*

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.

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:

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



(a) *the provisions of:*

(i) *any environmental planning instrument, and*

It has been demonstrated the DA complies with the *Wingecarribee Local Environmental Plan 2010*.

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

Not applicable.

(iii) *any development control plan, and*

It has been demonstrated the development satisfactorily complies with the relevant controls.

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

Not applicable.

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

Not applicable.

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

Not applicable.

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

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

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

The site is suitable for 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.*

The proposed development is in the public interest.

CONSULTATION

External Referrals

- **Water NSW;**
- **Rural Fire Service;**

- **Australian Rail Track Corporation;**
- **Natural Resources Access Regulator;**
- **Office of Environment and Heritage;**
- **Transport for NSW (formally 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;
- Office of Environment and Heritage;
- Transport for NSW (formally Roads and Maritime).

The General terms of Approval have been included as conditions of consent.

Internal Referrals

Development Engineers' Referral Response;

The application is considered to be satisfactory in relation to Development Engineering matters subject to no additional conditions being imposed on the notice of determination.

Water/Sewer Development Engineer.

Water/Sewer Development Engineers' Referral Response:

The application is considered to be satisfactory in relation to Water/Sewer matters and is satisfied to delete deferred commencement condition 5.

Neighbour Notification (or Advertising)/Public Participation

The development application was Neighbour Notified for the period between 30 January 2020 and 02 March 2020 and Council received twenty three (23) submissions. The issues raised in the submissions have been summarised and are considered below:

Comment ➤ *Traffic – Additional traffic movements will increase safety issues.*

Response – The Nattai Ponds subdivision and the Garden World Subdivision were master planned together and there will be no increase in traffic movements than was originally planned. There will be an increase in traffic in Lomandra Lane until such time as stage 4 of Nattai Ponds development is completed.

Comment ➤ *Provision of playground/s - WSC have already been negligent in its duty of care by not approving a playground;*

Response – When the two subdivisions were master planned there was provision made for passive recreation. Council is developing a Playground Strategy for the whole of the Shire.

Comment ➤ A similar proposal involving changing the direction of flow and substantially increasing traffic on Lomandra Lane has been previously knocked back by Council during the development assessment period for this DA.

Response - Council considered the change of flow for Lomandra Lane however this was on the expectation that the developer of Nattai Ponds would complete stage 4 of the development that would then allow access from the Garden World subdivision via Isedale Road. As the developer has not completed stage 4 of Nattai Ponds this inhibits the development of the Garden World development and land locks the land from development. The developer has indicated in an email to RMS that he now intends to commence stage 4(a) of the development at some time this year; however there is no requirement for him to do this which then continues to land lock the Garden World development.

Comment ➤ The proposal for access contained in the traffic report in the modification submission will compromise traffic movements, safety and amenity of residents on Lomandra Lane and generally within the Nattai Ponds development.

Response - The proposed access through Lomandra Lane is a temporary measure until such time as stage 4 of Nattai Ponds is developed and full access is provided by way of Isedale Road. As per the traffic report provided with the application Lomandra Lane is expected to generate 28 (26 + 2) vehicle trips in the AM peak hour period and 167 vehicles per day. The original masterplan for the two (2) developments always proposed these vehicles to use Isedale Road therefore this small traffic increase on Lomandra Lane will not compromise safety and amenity of residents on Lomandra Lane and generally within the Nattai Ponds development.

Comment ➤ The removal of the deferred commencement condition seeks to remove any responsibility for the developer of 61 Old Hume Highway to contribute to the existing section or construct the proposed extension of Isedale Road which is the agreed primary access to the proposed subdivision. Up to this point all works relating to traffic signals and the construction of Isedale Road have been fully funded by the developer of Nattai Ponds which is contrary to the arrangements that were considered by both developers and Council when both applications were lodged.

Response - There is no documentation or conditions within either the development consent for Nattai Ponds or Garden World that has any reference to a cost sharing arrangement for the construction of Isedale Road through Nattai Ponds or the construction of the signalised intersection. Obviously, there may be a private agreement between the parties and that would be up to them to resolve these issues.

Stage 4 of Nattai Ponds will still produce a yield of 45 lots out of the Nattai Ponds development of some 250 lots. The total development of Garden World will yield a total of 129 residential lots with a minimum number being required to actually access Isedale Road and the signalised intersection.

SUSTAINABILITY ASSESSMENT

- ***Environment***

It is not expected that there will be any environmental impacts over and above those identified within the body of the report.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



- **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, development and construction process.

- **Culture**

There are no cultural issues associated with this report.

- **Governance**

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

RELATIONSHIP TO CORPORATE PLANS

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

COUNCIL BUDGET IMPLICATIONS

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

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

RELATED COUNCIL POLICY

An assessment of the proposal has been made against the *Wingecarribee Local Environmental Plan 2010*, and the Northern Villages Development Control Plan.

OPTIONS

The options available to Council are:

Option 1

THAT the Section 4.55(2) modification application 11/0767.1 for a subdivision consisting 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 (Previously 520 Old South Road Mittagong) be approved subject to conditions as described in Draft Conditions of Consent (Attachment 1) to the report.

Option 2

THAT s4.55(2) Modification of DA11/0767.01 be determined by way of refusal (Council will be required to provide reasons for refusal).

Option 1 is the recommended option to this report.

CONCLUSION

The modification 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 considered and where necessary conditions have been applied to address any concerns.

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

ATTACHMENTS

1. DRAFT COUNCIL CONDITIONS
2. ATTACHMENT 2 - LOCATION MAP - *circulated under separate cover*
3. ATTACHMENT 3 PLAN OF APPROVED GARDEN WORLD SUBDIVISION AND INTERFACE WITH NATTAI PONDS - *circulated under separate cover*
4. ATTACHMENT 4 APPROVED 3 LOT SUBDIVISION DA20-0340 - *circulated under separate cover*
5. ATTACHMENT 5 APPROVED ROAD DESIGN CONCEPT OF NEW ENTRY ROAD AND LOMANDRA LANE EXTENSION APPROVED IN DA20-0340 - *circulated under separate cover*
6. ATTACHMENT 6 - OVERLAY OF APPROVED NEW ENTRY ROAD AND LOMANDRA LANE EXTENSION APPROVED IN DA20-0340 - *circulated under separate cover*
7. ATTACHMENT 7 - PROPOSED TRAFFIC FLOWW ALONG LOMANDRA LANE TO ISEDALE ROAD.pdf - *circulated under separate cover*
8. ATTACHMENT 8 - NATTAI PONDS SUBDIVISION SHOWING STREET NAMES - *circulated under separate cover*

9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).



ATTACHMENT 1 DRAFT COUNCIL CONDITIONS

TBA

DEVELOPMENT IMPLEMENTATION PTY LTD
PO BOX 3368
DURAL NSW 2158

NOTICE OF DETERMINATION OF A MODIFICATION APPLICATION

Pursuant to section 4.55 of the *Environmental Planning and Assessment Act 1979*

DEVELOPMENT APPLICATION NO:	LUA11/0767
APPLICATION NO:	LUA11/0767.01
PROPOSED MODIFICATION:	Subdivision - 131 Lots
APPLICANT:	DEVELOPMENT IMPLEMENTATION PTY LTD
OWNER:	DEVELOPMENT IMPLEMENTATION PTY LTD
PROPERTY DESCRIPTION:	Part Lot 1 DP 1232714
PROPERTY ADDRESS:	AMBER TILES 61 OLD HUME HIGHWAY MITTAGONG NSW 2575
APPROVED DEVELOPMENT:	131 x Lot Residential Subdivision (Currently waiting rezoing October 2012)
DA APPROVAL DATE:	16 May 2019
CONSENT TO OPERATE FROM:	16 May 2019
CONSENT TO LAPSE ON:	16 May 2024
DETERMINATION:	Approved subject to conditions attached in schedule 2 of this consent
DATE OF DETERMINATION:	TBA

Inconsistencies

In the event of any inconsistency between the conditions of this modified consent and the plans / supporting documents referred to in this notice, the conditions of this development consent shall prevail.

Rights of Appeal

Pursuant to Section 8.9 of the *Environmental Planning and Assessment Act 1979*, an applicant for the modification of a development consent who is dissatisfied with the determination of the

- 9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).**



ATTACHMENT 1 DRAFT COUNCIL CONDITIONS

application by the consent 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.

Ross Jauncey
Development Assessment Planner

TBA
Date of Issue.

9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).



ATTACHMENT 1 DRAFT COUNCIL CONDITIONS

SCHEDULE 1

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

Modified Application 11/0767.01 dated TBA to read:

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)~~

Modified Application 11/0767.01 dated TBA to read:

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.~~

Modified Application 11/0767.01 dated TBA to read:

3. ~~The submission of a residential landscaping design guideline prepared by a qualified landscape architect or landscape designer, details of whom are provided, in a minimum scale of 1:100 shall be submitted to Council for approval. The plan shall provide for the planting of appropriate mature trees on each residential lot.~~

Modified Application 11/0767.01 dated TBA has provided information to satisfy this condition.

4. 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.

Modified Application 11/0767.01 dated TBA has provided information to satisfy this condition.

5. 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.

**9.1 DA11/0767.01 - Modification Application of Development Consent
for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).**



ATTACHMENT 1 DRAFT COUNCIL CONDITIONS

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.

9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).



ATTACHMENT 1 DRAFT COUNCIL CONDITIONS

SUMMARY SCHEDULE OF MODIFIED CONDITIONS

**2. Development in Accordance with Plans and Documents
Modified Application 11/0767.01 dated TBA to read:**

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

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 & Conservation Plan	Not Referenced	Chris & Charlotte Webb	January 2011
Amended Statement of Heritage	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
Modified Drawings (Modified 11/0767.01) – Dated TBA			
Vegetation Management Plan	Not Referenced	Joy Hafey Environmental Consultant	December 2019
Traffic and Parking	Ref No: 190671.01FA	McLaren Traffic Management	07 January 2020

9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).



ATTACHMENT 1 DRAFT COUNCIL CONDITIONS

Impact Assessment			
Sewer Impact Assessment	8201900001	Cardno	29 April 2019

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

17A Landscape Plan – Street Trees
Modified Application 11/0767.01 dated TBA to read:

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.

Reason: *To ensure the street trees are provided in accordance with Council’s policies.*

17B Residential Landscape Design Guidelines.
Modified Application 11/0767.01 dated TBA to read:

The submission of a residential landscaping design guideline prepared by a qualified landscape architect or landscape designer, details of whom are provided, in a minimum scale of 1:100 shall be submitted to Council for approval. The plan shall provide for the planting of appropriate mature trees on each residential lot.

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

62. Construction of Isedale Road.
Modified Application 11/0767.01 dated TBA to read:

~~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.~~

- A) Prior to the release of the first subdivision certificate for any residential lot in the development the new road approved in development consent 20/0340 dated 20 December 2019 and the extension to Lomandra Lane must be constructed and the new road connected to the main access road connecting the residential lots subdivision area to provide access to Old Hume Highway and Lomandra Lane.

9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).



ATTACHMENT 1 DRAFT COUNCIL CONDITIONS

B) Prior to the release of the first subdivision certificate for any residential lot in the development Lomandra Lane is to be signposted one-way traffic southbound and "No Right Turn" signage is to be erected to restrict vehicles turning right from Lomandra Lane into Mimosa Street and signage in Mimosa Street at intersection of Lomandra Lane stating "Right Turn Only".

C) Prior to the release of the first subdivision certificate for any residential lot in the development the existing access points servicing Lots 1 and 2 of the approved 3 Lot subdivision under DA20/0340 from the Old Hume Highway will be physically closed by reinstating the kerb and gutter

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

66. Section 88B Instrument – Various Modified Application 11/0767.01 dated TBA to read:

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
 - (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.
 - (v) These restrictions are subject to the requirements of any acoustic fencing referred to in condition 60.

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

9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).



ATTACHMENT 1 DRAFT COUNCIL CONDITIONS

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

**77. Construction of Footpath in Subdivision
Modified Application 11/0767.01 dated TBA to read:**

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, on one side 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 Lomandra 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.*

**82. Access and Egress – Old Hume Highway
Modified Application 11/0767.01 dated TBA to read:**

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

**92. General Terms of Approval – Roads and Maritime Services
Modified Application 11/0767.01 dated TBA to read:**

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~~

9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).



ATTACHMENT 1 DRAFT COUNCIL CONDITIONS

~~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 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 Toad 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.

**9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).
ATTACHMENT 1 DRAFT COUNCIL CONDITIONS**



SCHEDULE 2 CONDITIONS OF MODIFIED 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 Modified Application 11/0767.01 dated **TBA** to read:

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

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 & Conservation Plan	Not Referenced	Chris & Charlotte Webb	January 2011
Amended Statement of Heritage	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
Modified Drawings (Modified 11/0767.01) – Dated TBA			

9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).



ATTACHMENT 1 DRAFT COUNCIL CONDITIONS

Vegetation Management Plan	Not Referenced	Joy Hafey Environmental Consultant	December 2019
Traffic and Parking Impact Assessment	Ref No: 190671.01FA	McLaren Traffic Management	07 January 2020
Sewer Impact Assessment	8201900001	Cardno	29 April 2019

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

3. Inconsistency between documents

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

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

4. 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.

(b)

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

9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).



ATTACHMENT 1 DRAFT COUNCIL CONDITIONS

- (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.*

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. Updates to Approved Plans

The applicant shall make the following updates to the approved plans prior to the issue of a Construction Certificate:

- (a) An updated site plan showing the reserve and carriageway widths for all subdivision roads. The carriageway width of the narrowest subdivision road shall be a minimum of 7m wide between the nominal faces of kerbs.

The updates are to be submitted and approved by the Group Manager Planning, Development and Regulatory Services prior to the issue of the Construction Certificate.

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

8. Appointment of Principal Certifying Authority

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

- (a) A Construction certificate for the building work has been issued by:

- (i) the consent authority; or
(ii) an accredited certifier; and

- (b) the person having the benefit of the development consent has:

- (i) appointed a principal certifying authority for the building work, and
(ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and

- (b1) the principal certifying authority has, no later than 2 days before the building work commences:

- (i) notified the Council of his or her appointment, and
(ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and

9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).



ATTACHMENT 1 DRAFT COUNCIL CONDITIONS

(b2) the person having the benefit of the development consent, if not carrying out the work as an owner builder, has:

- (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
- (ii) notified the principal certifying authority of such appointment, and
- (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- (c) the person having the person having the benefit of the development consent has given at least 2 days' notice to the Council of the person's intention to commence the erection of the building.

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

9. Section 68 Local Government Act 1993 Approvals

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

- Sewer
- Water
- Stormwater

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

10. 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.*

11. 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

9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).



ATTACHMENT 1 DRAFT COUNCIL CONDITIONS

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.*

12. Building within Vicinity of Sewer Main

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

13. 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.*

**9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).
ATTACHMENT 1 DRAFT COUNCIL CONDITIONS**



14. 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.*

15. 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.*

16. 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.*

17. 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.

9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).



ATTACHMENT 1 DRAFT COUNCIL CONDITIONS

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

**17A Landscape Plan – Street Trees
Modified Application 11/0767.01 dated TBA to read:**

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.

Reason: *To ensure the street trees are provided in accordance with Council’s policies.*

**17B Residential Landscape Design Guidelines.
Modified Application 11/0767.01 dated TBA to read:**

The submission of a residential landscaping design guideline prepared by a qualified landscape architect or landscape designer, details of whom are provided, in a minimum scale of 1:100 shall be submitted to Council for approval. The plan shall provide for the planting of appropriate mature trees on each residential lot.

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

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

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

19. 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.*

9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).



ATTACHMENT 1 DRAFT COUNCIL CONDITIONS

20. 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.*

21. 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.*

22. Erosion and Sediment Control Plan

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

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

- (a) Locality of the site, a north point and scale.
- (b) Existing contours of the site including catchment area boundaries and indications of direction of fall.
- (c) Location of and basic description of existing vegetation.
- (d) Diversion of uncontaminated up-slope run-off around the disturbed sites.
- (e) Location of significant natural areas requiring special planning or management including waters, floodplains, seasonally wet areas, areas prone to ponding/water logging, unstable slopes etc.
- (f) Nature and extent of earthworks, including cut and fill roadworks.
- (g) Location of all soil and material stockpiles.
- (h) Location of site access, proposed roads and other impervious areas.
- (i) 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.*

23. Noise and Vibration Adjacent to Rail Corridors

Subdivision within the Acoustic Assessment Area

9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).



ATTACHMENT 1 DRAFT COUNCIL CONDITIONS

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.*

24. 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.

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

The construction of any bridge, causeway, culvert or crossing shall not result in erosion. 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.

26. 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

27. 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.

9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).



ATTACHMENT 1 DRAFT COUNCIL CONDITIONS

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.*

28. Developers Representative during Construction of Works

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

Details to be submitted include:-

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

Prior to commencing any works on site the representative shall:

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

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

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

Reason: *Statutory requirement.*

29. 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.*

**9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).
ATTACHMENT 1 DRAFT COUNCIL CONDITIONS**



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

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

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

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

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

Reason: *Statutory requirement.*

31. Relocation of Existing Services

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.**

32. Fencing of the Construction Site

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

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

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

33. Developer to advise of damage to Council property

The developer must advise Council of any damage to property controlled by Council which adjoins the site including kerbs, gutters, footpaths, walkways, reserves, street trees, drainage pits and the like, prior to commencement of any work on the site. Failure to identify existing damage will result in

9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).



ATTACHMENT 1 DRAFT COUNCIL CONDITIONS

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.*

34. 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.*

35. Wheel Wash

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

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

CONDITIONS TO BE SATISFIED DURING THE CONSTRUCTION PHASE

36. Approved Plans to be available on site

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

Reason: *To ensure compliance with approved plans.*

37. Imported 'Waste-derived' Fill Material

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

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

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

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

9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).



ATTACHMENT 1 DRAFT COUNCIL CONDITIONS

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

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

38. 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.
- (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.

39. 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.

40. 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.

41. 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.

**9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).
ATTACHMENT 1 DRAFT COUNCIL CONDITIONS**



Reason: *Safety and information.*

42. 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.*

43. 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.*

44. 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.*

45. 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.*

46. 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.

9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).



ATTACHMENT 1 DRAFT COUNCIL CONDITIONS

Reason: *Noise attenuation.*

47. 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.*

48. Dust Control

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

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

Reason: *Environmental amenity*

49. 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.*

50. 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 Holiday	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.*

9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).



ATTACHMENT 1 DRAFT COUNCIL CONDITIONS

51. 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.*

52. Maintenance of the site

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

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

During construction:

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

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

Reason: *Environmental amenity.*

53. 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.*

54. Protection of Public Places

The adjoining or adjacent public area shall not be obstructed by any materials, vehicles, refuse skips and the like, under any circumstances.

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).

9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).



ATTACHMENT 1 DRAFT COUNCIL CONDITIONS

Where a hoarding is required, an application for hoarding shall also be submitted to and approved by Council prior to commencement of any work. Hoardings shall be erected to comply with the requirements of WorkCover, the Principal Certifying Authority and with relevant Australian Standards.

Reason: *Public safety.*

55. 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

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

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

56. 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.

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.*

57. 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

9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).



ATTACHMENT 1 DRAFT COUNCIL CONDITIONS

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

58. Section 7.11 Contributions (formerly Section 94)

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

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

- Roads & Traffic Management Facilities
- Resource Recovery Centre 2009
- Central Library Facility
- Section 94 Administration 2011 to 2031
- Open Space & Recreation Facilities

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

All contributions are indexed quarterly in accordance with upward movements in the Consumer Price Index (All Groups, Sydney) as published by the Australian Bureau of Statistics (www.abs.gov.au <<http://www.abs.gov.au>>); Section 25I of the Environmental Planning and Assessment Regulation 2000; and Council's Developer Contributions Plans.

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

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.

59. 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.

9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).



ATTACHMENT 1 DRAFT COUNCIL CONDITIONS

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 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
<p>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</p>			

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

9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).



ATTACHMENT 1 DRAFT COUNCIL CONDITIONS

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.*

60. 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.

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.*

61. 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.*

**62. Construction of Isedale Road.
Modified Application 11/0767.01 dated TBA to read:**

~~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.~~

A) Prior to the release of the first subdivision certificate for any residential lot in the development the new road approved in development consent 20/0340 dated 20 December 2019 and the extension to Lomandra Lane must be constructed and the new road connected to the main access road

9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).



ATTACHMENT 1 DRAFT COUNCIL CONDITIONS

connecting the residential lots subdivision area to provide access to Old Hume Highway and Lomandra Lane.

B) Prior to the release of the first subdivision certificate for any residential lot in the development Lomandra Lane is to be signposted one-way traffic southbound and "No Right Turn" signage is to be erected to restrict vehicles turning right from Lomandra Lane into Mimosa Street and signage in Mimosa Street at intersection of Lomandra Lane stating "Right Turn Only".

C) Prior to the release of the first subdivision certificate for any residential lot in the development the existing access points servicing Lots 1 and 2 of the approved 3 Lot subdivision under DA20/0340 from the Old Hume Highway will be physically closed by reinstating the kerb and gutter

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

63. 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.*

64. 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 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.*

65. 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.

9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong). ATTACHMENT 1 DRAFT COUNCIL CONDITIONS



Reason: *To protect infrastructure.*

66. Section 88B Instrument – Various Modified Application 11/0767.01 dated TBA to read:

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
 - (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.
 - (v) These restrictions are subject to the requirements of any acoustic fencing referred to in condition 60.

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.*

67. Section 88E Instrument – Various

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

9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).



ATTACHMENT 1 DRAFT COUNCIL CONDITIONS

- (a) That each residential lot complies with the approved landscaping design and that all trees planted in accordance with the design are maintained in perpetuity or replanted with a species in accordance with the approved residential landscaping design guideline.
- (b) That Proposed Lot 503 (Kamilaroi Heritage Item) is not to be further subdivided beyond the size approved under LUA 11/0767.

Reason: *To ensure compliance with Council's policy positions*

68. 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.*

69. 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.*

70. 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.

9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).



ATTACHMENT 1 DRAFT COUNCIL CONDITIONS

71. 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 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.*

72. 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.*

73. 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.*

74. 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.*

75. 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.*

9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong). ATTACHMENT 1 DRAFT COUNCIL CONDITIONS



76. Street Name Signs and Posts

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

- (a) Blades
150 mm Blade

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

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.*

**77. Construction of Footpath in Subdivision
Modified Application 11/0767.01 dated TBA to read:**

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, on one side 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 Lomandra 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.*

78. 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.*

9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).



ATTACHMENT 1 DRAFT COUNCIL CONDITIONS

79. 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.*

80. 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.

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.*

81. 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. The carriageway width of the narrowest road shall be a minimum of 7m wide between the nominal faces of kerbs.

(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.*

82. Access and Egress – Old Hume Highway Modified Application 11/0767.01 dated TBA to read:

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

83. 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.*

9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).



ATTACHMENT 1 DRAFT COUNCIL CONDITIONS

84. 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.*

85. 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.*

86. 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.*

87. 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.*

88. 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.

89. 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

9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).



ATTACHMENT 1 DRAFT COUNCIL CONDITIONS

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.*

90. 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.*

91. Site Classification

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

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

INTEGRATED DEVELOPMENT CONDITIONS

92. General Terms of Approval – Roads and Maritime Services Modified Application 11/0767.01 dated TBA to read:

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~~

9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).



ATTACHMENT 1 DRAFT COUNCIL CONDITIONS

~~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 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 Toad 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.

93. 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.

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

9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).**ATTACHMENT 1 DRAFT COUNCIL CONDITIONS**

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 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:

- (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

9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).



ATTACHMENT 1 DRAFT COUNCIL CONDITIONS

(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.

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:

9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).



ATTACHMENT 1 DRAFT COUNCIL CONDITIONS

- (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:
 - (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.

95. 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:

9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).



ATTACHMENT 1 DRAFT COUNCIL CONDITIONS

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".

96. 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 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.

9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).



ATTACHMENT 1 DRAFT COUNCIL CONDITIONS

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

97. 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

(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:

9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).



ATTACHMENT 1 DRAFT COUNCIL CONDITIONS

- 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 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

9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).



ATTACHMENT 1 DRAFT COUNCIL CONDITIONS

- 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).
 - 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:

9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).



ATTACHMENT 1 DRAFT COUNCIL CONDITIONS

- 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.

(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.

9.1 DA11/0767.01 - Modification Application of Development Consent for 131 Lot Residential Subdivision at 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 (Previously 520 Old South Road Mittagong).



ATTACHMENT 1 DRAFT COUNCIL CONDITIONS

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.

98. 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

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

9.2 Modification Application 17/1822.05 - Seniors Housing – 2 – 18 Centennial Road, Bowral: Modification to Main Facilities Building

Reference:	DA 17/1822.05
Report Author:	Development Assessment Planner
Authoriser:	Group Manager Planning Development and Regulatory Services
Applicant:	Waterbrook Bowral Pty Ltd
Owner:	Waterbrook Bowral Pty Ltd
Link to Community Strategic Plan:	Manage development to ensure it does not impact on viable primary production and food security

PURPOSE

The purpose of this report is to consider Modification Application 17/1822.05 which seeks modification approval for main facilities building within the Seniors Housing Development approval under DA 17/1822 at Lots 1 & 2 DP 1101892 and Lots 4 – 11 DP 978826 being 2-18 Centennial Road Bowral. This report is prepared for determination, and recommends **APPROVAL**, subject to attached conditions of consent (**Attachment 1**).

VOTING ON THE MOTION

Councillors are required to record their votes on this matter.

RECOMMENDATION

THAT Modification Application 17/1822.05 which seeks modification approval for main facilities building in accordance with approved DA 17/1822 for Seniors Housing at Lots 1 & 2 DP 1101892 and Lots 4 – 11 DP 978826 being 2-18 Centennial Road, Bowral, be APPROVED, subject to attached conditions of consent as described in Attachment 1 to the report.

REPORT

Subject Site and Locality

The subject site is legally described as Lots 1 & 2 DP1101892 and Lots 4 – 11 DP978826. It has an address of 2-8 Centennial Road, Bowral, it also has street frontages to Kirkham Road and Mount Street (**Attachment 2**). The site has been colloquially referred to as the 'OLSH' site due to its long time ownership and occupation by the Daughters of Our Lady of the Sacred Heart, however, the site is now referred to as the Waterbrook site. It is situated on the western side of the Southern Rail Line, approximately 400 metres north of the Bowral Railway Station and the Wingecarribee Street railway bridge. The site has a total site area of approximately 16.9 hectares and generally falls from west to east, with a general cross fall to the south east.



Background

The Development Application has been lodged as a component of the concept Development Application 17/1822, which was lodged under the provisions of Section 4.12 of the Environmental Planning and Assessment Act 1979 and approved by the Southern Regional Planning Panel at its meeting of 7 May 2019.

That Development Application was approved as a Concept Plan for Seniors Housing and Stage 1 with the following two stages identified in the approval:

Stage 1 Partial demolition, refurbishment and construction works within the main facilities building including the Priests Cottage, construction of fifty two (52) self-contained seniors housing dwellings, associated landscaping, restoration embellishment of the Riparian corridor, site infrastructure and road works and construction of shared pathway and associated traffic safety measures

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

Proposed Development

Modification Application 17/1822.05 seeks consent to modify the main facilities building. The proposed changes include internal layouts without altering the scope or range of the facilities provided. The existing auditorium and chapel, both to be renovated, remain as central attractions at either end of the building. Associated visitor parking and general traffic circulation are retained. The indoor pool at the rear of the facilities building has been re-orientated and this has resulted with a better arrangement for visitor parking layout at the rear of the facilities building.

The approved development will be able to operate within the remaining conditions of consent regardless of the modification. There will be no material impact upon the development, or on any of its neighbours as a result of the modifications made to the facilities building.

The proposed modifications are minor in nature as compared against the approved development. The overriding objective remains to utilise the identified elements of the existing buildings (the auditorium and chapel in particular) in conjunction with new building form and this objective is able to be maintained despite the modification proposal.

The scope and range of facilities proposed is not altered from the original. The building footprint is no larger than that approved. The site plan of the proposed development can be found at **Attachment 3**. The elevations of the proposed development can be found at **Attachment 4**.

STATUTORY PROVISIONS

State Environmental Planning Policies

State Environmental Planning Policy No 55 – Remediation of Land

Consideration of SEPP55 is not relevant in the context of the modification application.

State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011

The site is located within the Wingecarribee River Sub-catchment. Compliance with the provisions of the SEPP and associated guidelines is therefore required to consider water quality. Water NSW advises that the proposed development satisfies the requirements of



State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011, subject to conditions of consent including conditions addressing stormwater management measures, and construction activities as contained within attached conditions of consent (**Attachment 1 - condition 145**).

Local Environmental Plans

Wingecarribee Local Environmental Plan 2010

The relevant provisions of the LEP are discussed as follows.

Clause 2.3 Zone objectives and land use table

The location on which the exhibition home will be located is zoned R5 Large Lot Residential under the Wingecarribee Local Environmental Plan 2010 and in this zone,

The objectives of the R5 Large Lot Residential zone are:

- To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.
- To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.
- To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To provide a restricted range of opportunities for employment development and community facilities and services that do not unreasonably or significantly detract from:
 - (a) the primary residential function, character and amenity of the neighbourhood, and
 - (b) the quality of the natural and built environments.

The proposed modification to the main facilities building is consistent with these zone objectives.

Development Control Plans

Bowral Township Development Control Plan

The proposed modification to their main facilities building complies with numerous standards contained within Bowral Township Plan Development Control Plan. The modified development will be substantially the same as the development as originally approved. The proposed modification has no impacts upon the approved use in terms of its general physical form or its use. There are no identifiable impacts that would arise from the proposed modification and is substantially the same development as approved in DA 17/1822.

The approved development will be able to operate within the remaining conditions of consent regardless of the modification. There will be no material impact upon the development or on any of its neighbours as a result of the modifications made to the facilities building. The proposed modifications are minor in nature as compared against the approved development.

The overriding objective of Bowral Township Development Control Plan has not been compromised with the current proposal and the scope and range of facilities proposed is not altered from the original while the building footprint is no larger than that approved.

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 original DA complies with the *Wingecarribee Local Environmental Plan 2010*.

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

Not applicable.

(iii) any development control plan, and

It has been demonstrated the development satisfactorily complies with the relevant controls.

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

Not applicable.

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

Not applicable.

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

Not applicable.

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

The proposed development is not expected to result in any significant impacts on the natural and built environment, or detrimental social or economic impacts in the locality. There are no additional impacts anticipated outside of those already addressed elsewhere in this report.

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

The original development consent determined the suitability of the site for the Seniors Housing development.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



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

Refer to the Consultation section of this report.

(e) *the public interest.*

The proposed modification of the main facilities building is consistent with the objectives of Wingecarribee Local Environmental Plan 2010, and is considered to be in the public interest.

CONSULTATION

External Referrals

Referrals	Advice/Response/Conditions
Natural Resource Access Regulator	The Natural Resources Access Regulator has reviewed documents to modify the consent and considers that, for the purposes of the Water Management Act 2000 (WM Act), previously issued General Terms of Approval are adequate, remain current, and no further assessment is necessary.
Water NSW	Water NSW supports the proposed modification to main facilities building, with no changes to the condition from the previous approval.
Roads and Maritime services	Water NSW supports the proposed modification to main facilities building, with no changes to the condition from the previous approval.

Internal Referrals

Referrals	Advice/Response/Conditions
Development Engineer	Council's Development Engineer has no objections and no alterations are required to existing conditions of consent.
Building Certifiers	Council Building Certifier considers the proposal from a BCA perspective the building is capable of compliance with the BCA. In this regard no further conditions of consent other than those originally provided.
Environmental Health Officer	Council's Development Engineer has provided conditions of consent, including conditions addressing food premises and operational noise level.
Heritage Advisor	Council's Heritage Advisor has no objections and no alterations are required to existing conditions of consent.

Neighbour Notification (or Advertising)/Public Participation

The development application was Neighbour Notified/Advertised for a period of 28 days between 02/01/2019 and 01/11/2019 and Council received 4 submissions. The issues raised in the submissions have been summarised and are considered below:

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



Comment

- *Cultural Significance*

The old OLSH site with the architectural historical buildings that work to create a lived experience to support the residents and visitors' quality of experience in this precinct will be destroyed.

Response – the development were approved under Concept Consent DA17/1822 by the Southern Joint Regional Planning Panel (JRPP). The proposed modification does not make any major changes to the original approval and it has been conditioned to protect the cultural and heritage significance of the subject site.

Comment

- *Pedestrian Safety*

Pedestrian Island near the rail underpass and second crossing on Kirkham Road creates pedestrian safety concerns.

Response – the proposal is for modifying the main facilities building and it does not involve any amendments to the road or pedestrian access. It is to note that these issues have been dealt with in original application under Concept Consent DA17/1822 by the Southern Joint Regional Planning Panel (JRPP).

SUSTAINABILITY ASSESSMENT

- ***Environment***

Environmental impacts associated with the modification of the development have been considered as part of the s4.55(2) assessment.

- ***Social***

There are no social issues in relation to this report.

- ***Broader Economic Implications***

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

- ***Culture***

There are no cultural issues in relation to this report.

- ***Governance***

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

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

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



- 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 BASIX, and the Bowral Town Plan Development Control Plan.

OPTIONS

The options available to Council are:

Option 1

THAT Modification Application 17/1822.05 which seeks modification approval for main facilities building in accordance with approved DA 17/1822 for Seniors Housing at Lots 1 & 2 DP 1101892 and Lots 4 – 11 DP 978826 being 2-18 Centennial Road, Bowral, be APPROVED, subject to attached conditions of consent as described in Attachment 1 to the report.

Option 2

THAT Council determine Development Application 17/1822.05 by way of refusal, and nominate reasons for refusal.

Option 1 is the recommended option to this report.

CONCLUSION

It is recommended that Modification Application 17/1822.05 which seeks approval for the modification of the existing main facilities building at Lots 1 & 2 DP 1101892 and Lots 4 – 11 DP 978826 being 2-18 Centennial Road, Bowral, be supported subject to modified conditions.

The proposal is considered satisfactory in terms of s.4.15 EPA Act 1979, therefore it is recommended that the development application be approved, subject to the attached draft conditions of consent nominated in **Attachment 1**.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

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



ATTACHMENTS

1. Attachment 1 Draft Conditions
2. Attachment 2 Site Location
3. Attachment 3 Site Plan
4. Attachment 4 Elevations

Mark Pepping

Deputy General Manager Corporate, Strategy and Development Services

Thursday 21 May 2020



SUMMARY SCHEDULE OF MODIFIED CONDITIONS

3. Development in Accordance with the Plans and Documents – Modified TBA

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
Cover Sheet	16104 DA.G.0.00 Rev I	Marchese Partners International PL	21/11/2017 24/04/2019
Location Plan	16104 DA.S.1.01 Rev F	Marchese Partners International PL	21/11/2017 11/09/2018
Site Analysis	16104 DA.S.1.02 Rev F	Marchese Partners International PL	21/11/2017 11/09/2018
Site Analysis – Response to Street Rhythm	16104 DA.S.1.03 Rev F	Marchese Partners International PL	21/11/2017 10/09/2018
Demolition Plan	16104 DA.S.1.04 Rev F	Marchese Partners International PL	21/11/2017 11/09/2018
Concept Master Plan	16104 DA.M.1.01 Rev H	Marchese Partners International PL	21/11/2017 05/04/2019
Staging Plan – DA Stage-01	16104 DA.M.1.02 Rev H	Marchese Partners International PL	21/11/2017 05/04/2019
Staging Plan – DA Stage-02	16104 DA.M.1.03 Rev H	Marchese Partners International PL	21/11/2017 05/04/2019
Stage 01 Master Plan Level Roof	16104 DA.M.1.04	Marchese Partners International PL	21/11/2017



Plan Title / Supporting Document	Reference / Version	Prepared By	Dated
	Rev H		05/04/2019
Stage 01 Master Plan Level ground	16104 DA.M.1.05 Rev F	Marchese Partners International PL	21/11/2017 11/09/2018
Street Elevation	16104 DA.M.2.01 Rev F	Marchese Partners International PL	21/11/2017 11/09/2018
Plan GA Level B1	A201-A	Mijollo International	No Date Provided
Plan GA Level 00 - North	A203-A	Mijollo International	No Date Provided
Plan GA Level 00 - South	A202-A	Mijollo International	No Date Provided
Plan GA Level 01 - North	A205-A	Mijollo International	No Date Provided
Plan GA Level 01 - South	A204-A	Mijollo International	No Date Provided
Plan GA Level 02 - South	A206-A	Mijollo International	No Date Provided
East Elevation – Facilities Building & Wellness Centre	A301-A	Mijollo International	14 Feb 20
North Elevation – Facilities Building & Wellness Centre	A302-A	Mijollo International	14 Feb 20
West Elevation – Facilities Building & Wellness Centre	A303-A	Mijollo International	14 Feb 20
South Elevation – Facilities Building & Wellness Centre	A304-A	Mijollo International	14 Feb 20
Section AA	A401-A	Mijollo International	14 Feb 20
Section BB & CC	A402-A	Mijollo International	14 Feb 20
Section DD & EE	A403-A	Mijollo International	14 Feb 20
Section FF	A404-A	Mijollo International	14 Feb 20

9.2 Development Application 17/1822.05 - Seniors Housing -
Modification to Main Facilities Building
ATTACHMENT 1 Attachment 1 Draft Conditions



Plan Title / Supporting Document	Reference / Version	Prepared By	Dated
External View	16104 DA.F.4.01	Marchese Partners International PL	21/11/2017
	Rev F		11/09/2018
Internal View	16104 DA.F.4.02	Marchese Partners International PL	21/11/2017
	Rev F		11/09/2018
Material Board	16104 DA.F.4.03	Marchese Partners International PL	21/11/2017
	Rev F		11/09/2018
Stage 01 Master Plan types	16104 DA.H.0.01	Marchese Partners International PL	21/11/2017
	Rev H		05/04/2019
Villa Type A	16104 DA.H.1.01	Marchese Partners International PL	21/11/2017
	Rev F		11/09/2018
Villa Type A.1	16104 DA.H.1.02	Marchese Partners International PL	21/11/2017
	Rev F		11/09/2018
Villa Type B	16104 DA.H.1.03	Marchese Partners International PL	21/11/2017
	Rev F		11/09/2018
Villa Type C	16104 DA.H.1.04	Marchese Partners International PL	21/11/2017
	Rev F		11/09/2018
Villa Type C.1	16104 DA.H.1.05	Marchese Partners International PL	21/11/2017
	Rev F		11/09/2018
Villa Type D	16104 DA.H.1.06	Marchese Partners International PL	21/11/2017
	Rev F		11/09/2018
Villa Type D.1	16104 DA.H.1.07	Marchese Partners International PL	21/11/2017
	Rev F		11/09/2018
Villa Type E	16104 DA.H.1.08	Marchese Partners International PL	21/11/2017
	Rev H		05/04/2019
External View	16104 DA.H.2.01	Marchese Partners International PL	21/11/2017
	Rev F		11/09/2018

9.2 Development Application 17/1822.05 - Seniors Housing -
Modification to Main Facilities Building
ATTACHMENT 1 Attachment 1 Draft Conditions



Plan Title / Supporting Document	Reference / Version	Prepared By	Dated
Material Board	16104 DA.H.2.02 Rev F	Marchese Partners International PL	21/11/2017 11/09/2018
Adaptable Units Type A&A.1	16104 DA.H.3.01 Rev F	Marchese Partners International PL	21/11/2017 11/09/2018
Adaptable Units Type B, C&C.1	16104 DA.H.3.02 Rev F	Marchese Partners International PL	21/11/2017 11/09/2018
Adaptable Units Type D&D.1	16104 DA.H.3.03 Rev F	Marchese Partners International PL	21/11/2017 11/09/2018
Mechanical Services Level 1 Kitchen	16104 MS.DA.02 Rev B	Marchese Partners Engineering PL	14/09/2018
Mechanical Services Level 1 Kitchen	16104 MS.DA.01 Rev B	Marchese Partners Engineering PL	14/09/2018
Title Sheet and Locality Plan	16104 DA-C-001 Rev P	Marchese Partners Engineering PL	14/12/2017 24/04/2019
Legend, Abbreviations and drawing List	16104 DA-C-002 Rev M	Marchese Partners Engineering PL	14/12/2017 08/03/2019
General Notes	16104 DA-C-003 Rev M	Marchese Partners Engineering PL	14/12/2017 08/03/2019
Survey Plans	16104 DA-C-004 Rev M	Marchese Partners Engineering PL	14/12/2017 08/03/2019
Civil Works Erosion and Sediment Control Plan – Sheet 1	16104 DA-C-011 Rev N	Marchese Partners Engineering PL	28/12/2017 08/03/2019
Civil Works Erosion and Sediment Control Plan – Sheet 2	16104 DA-C-012 Rev P	Marchese Partners Engineering PL	28/12/2017 24/04/2019
Civil Works Erosion and Sediment Control Plan – Sheet 3	16104 DA-C-013 Rev N	Marchese Partners Engineering PL	28/12/2017 08/03/2019

**9.2 Development Application 17/1822.05 - Seniors Housing -
Modification to Main Facilities Building
ATTACHMENT 1 Attachment 1 Draft Conditions**



Plan Title / Supporting Document	Reference / Version	Prepared By	Dated
Civil Works Erosion and Sediment Control Plan – Sheet 4	16104 DA-C-014 Rev N	Marchese Partners Engineering PL	28/12/2017 08/03/2019
Civil Works Erosion and Sediment Control Details	16104 DA-C-021 Rev N	Marchese Partners Engineering PL	28/12/2017 08/03/2019
Site Works Site Plan	16104 DA-C-100 Rev Q	Marchese Partners Engineering PL	14/12/2017 03/04/2019
Site Works Site Grading and bulk earthworks levels Plan – Sheet 1	16104 DA-C-101 Rev Q	Marchese Partners Engineering PL	14/12/2017 08/03/2019
Site Works Site Grading and bulk earthworks levels Plan – Sheet 2	16104 DA-C-102 Rev U	Marchese Partners Engineering PL	14/12/2017 24/04/2019
Site Works Site Grading and bulk earthworks levels Plan – Sheet 3	16104 DA-C-103 Rev R	Marchese Partners Engineering PL	14/12/2017 08/03/2019
Site Works Site Grading and bulk earthworks levels Plan – Sheet 4	16104 DA-C-104 Rev S	Marchese Partners Engineering PL	14/12/2017 03/04/2019
Civil Works Internal Roads Longitudinal Sections – Sheet 1-4	16104 DA-C-121-4 Rev N	Marchese Partners Engineering PL	14/12/2017 08/03/2019
Civil Works Internal Roads Longitudinal Sections – Sheet 5-9	16104 DA-C-125-9 Rev N	Marchese Partners Engineering PL	14/12/2017 08/03/2019
Civil Works Typical Road cross sections	16104 DA-C-130 Rev P	Marchese Partners Engineering PL	14/12/2017 08/03/2019
Civil Works internal Roads Cross Sections – Sheet 1-6	16104 DA-C-131-136 Rev N	Marchese Partners Engineering PL	14/12/2017 08/03/2019
Civil Works internal Roads Cross Sections – Sheet 7	16104 DA-C-137 Rev M	Marchese Partners Engineering PL	14/12/2017 08/03/2019
Civil Works internal Roads Cross Sections – Sheet 8	16104 DA-C-138 Rev N	Marchese Partners Engineering PL	14/12/2017 08/03/2019

9.2 Development Application 17/1822.05 - Seniors Housing -
Modification to Main Facilities Building
ATTACHMENT 1 Attachment 1 Draft Conditions



Plan Title / Supporting Document	Reference / Version	Prepared By	Dated
Civil Works internal Roads Cross Sections – Sheet 9	16104 DA-C-139 Rev P	Marchese Partners Engineering PL	14/12/2017 08/03/2019
Civil Works internal Roads Cross Sections – Sheet 10-12	16104 DA-C-140-142 Rev M	Marchese Partners Engineering PL	14/12/2017 08/03/2019
Civil Works internal Roads Cross Sections – Sheet 14-15	16104 DA-C-144-145 Rev N	Marchese Partners Engineering PL	14/12/2017 08/03/2019
Civil Works Entry Roads Detailed Sections - Sheet 1 - 2	16104 DA-C-146-147 Rev Q	Marchese Partners Engineering PL	19/03/2019
Civil Works Entry Roads Detailed Sections - Sheet 3 - 5	16104 DA-C-148-150 Rev R	Marchese Partners Engineering PL	16/04/2019
Civil Works Typical Road Cross Sections	16104 DA-C-151 Rev A	Marchese Partners Engineering PL	17/04/2019
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Design Intent	1080 LP01 Rev E	Site Design + Studios	25/04/2019
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Stage 1 – Landscape Plan	1080 LP06 Rev E	Site Design + Studios	25/04/2019
Stage 1 – Main Facilities Area Landscaping Plan	1080 LP07 Rev E	Site Design + Studios	25/04/2019
Stage 1 – Typical Cluster	1080 LP08 Rev E	Site Design + Studios	25/04/2019
Planting Schedule	1080 LP09 Rev E	Site Design + Studios	25/04/2019
Typical Details	1080 LP10 Rev E	Site Design + Studios	25/04/2019
Existing tree plan	1080 LP11 Rev G	Site Design + Studios	03/04/2019
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Stormwater Management Report	2017-1356	Marchese Partners Engineering	29/09/2018

**9.2 Development Application 17/1822.05 - Seniors Housing -
Modification to Main Facilities Building
ATTACHMENT 1 Attachment 1 Draft Conditions**



	Rev C		
MUSIC Model Assessment	1731 Rev 1	CDS	18/12/2017
Arboricultural Impact Assessment	18SUT-11544 V6	Eco Logical Australia	18/04/2019
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**9.2 Development Application 17/1822.05 - Seniors Housing -
Modification to Main Facilities Building
ATTACHMENT 1 Attachment 1 Draft Conditions**



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Stage 2B sketch of dormer style villa	[4 pages]	Marchese Partners International PL	05/04/2019
Waste Management Plan	-	Waste Audit and Consultancy Services	11/09/2018

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

131. Food Shop Registration Requirements – Modified TBA

Occupation of the premises shall not occur until a notification form has been submitted to Council for the food business conducted on the premises.
Evidence of compliance of the above shall be submitted to Council prior to the issue of an Interim or Final Occupation Certificate and commencement of business.

Reason: *Registration and notification to relevant authorities.*

132. Food premises compliance to be assessed prior to the issue of the Construction Certificate – Added TBA

Prior to the issue of the Construction Certificate, detailed drawing of the design, construction and fit-out of the proposed food premises shall be submitted to either the Wingecarribee Shire Council or an Accredited Certifier to be assessed for compliance with the *Food Act*, the *Food Regulations*, the *Food Safety Standards* and the Australian Standard AS4674 – 2004.

Reason: *To ensure compliance with statutory requirements.*

142. Operational Noise Levels - Added TBA

The Applicant shall ensure operational noise levels (LAeq) for the development do not exceed the background level by more than 5dB(A) when measured at the boundary of the nearest affected property. Without limiting the above, operational noise levels must also fall within the applicable noise amenity criteria specified by the NSW EPA in the Noise Policy for Industry. In the event that operational noise is identified as exceeding the requirements of this condition, the Applicant will be required to undertake such works as is necessary to remedy



such exceedance within a period determined by Council.

Reason: *To prevent loss of amenity to the area.*

145. Food Premises – General – Added TBA

The construction and operation of the food premises shall comply with all applicable legislation/regulation and standards, including:

- The *Food Act 2003*
- Food Regulation 2010
- Food Standards Code, Food Standard 3.2.3
- Australian Standards AS4674-2004 Design, Construction and Fit out of Food Premises
- Mechanical ventilation - Australian Standard 1668.2-2012

Reason: Compliance legislation and standards.

146. Concurrence - Water NSW – Modified TBA

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 listed below and form part of this Notice of Determination.

General

1. The site layout, works and staging of the development shall be as shown on the Concept Masterplan (Job No. 16104; Dwg No. DA.M.1.01; Revision J; dated 2019.09.04) prepared by Marchese Partners Engineering Pty Ltd. No revisions to site layout, works or staging of the development that will impact on water quality, shall be permitted without the agreement of Water NSW.

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

Stormwater Management

2. All stormwater management measures as specified in the Stormwater Management Report (Revision C; dated 10 September 2018) and the Civil Works Site Stormwater Drainage Plans (Dwg Nos DA-C-201 to 204; Sheets 1 to 4; Revision J; dated 2018.09.20) both prepared by Marchese Partners Engineering Pty Ltd shall be incorporated in the final stormwater drainage plans. The final stormwater drainage plan shall include a cross section of the bioretention basin for this stage of the development; shall be submitted to and approved by Council prior to the issuance of a Construction Certificate. The stormwater management measures as a minimum shall include:
 - pits, pipes and gross pollutant trap/s
 - 2,500 litre rainwater tanks for each dwelling
 - a 10,000 litre rainwater tank for the main building, and
 - a bioretention basin with surface area of 450 and filter area of 300 square metres.
3. The bioretention basins shall also:

**9.2 Development Application 17/1822.05 - Seniors Housing -
Modification to Main Facilities Building
ATTACHMENT 1 Attachment 1 Draft Conditions**



- be designed consistent with Adoption Guidelines for Stormwater Biofiltration Systems Version 2 (Payne *et al*, 2015, Melbourne, CRC for Water Sensitive Cities)
 - be planted with appropriate deep-rooted, moisture-tolerant vegetation protected by rock mulch (grass and turf is not appropriate vegetation and organic mulch is not suitable)
 - direct all discharge and overflow to Mittagong Creek via a new headwall and energy dissipater such that discharge does not cause erosion
 - be accessible by machinery to facilitate cleaning, monitoring and maintenance of the structures
 - ensure the discharge outlets are consistent with the requirements of any Controlled Activity Approval under the *Water Management Act (2000)* issued by the Natural Resources Access Regulator (NRAR)
 - be permanently protected from vehicular damage by bollards, fences, castellated kerbs or similar structures, with a sign to be erected to advise of its nature and purpose in water quality management
 - be protected by sediment and erosion control measures during any construction and post-construction phase until the ground surface is revegetated or stabilised, and
 - be constructed after all hardstand areas have been paved or sealed and all ground surfaces have been stabilised.
4. No variation to stormwater treatment or management that will impact on water quality shall be permitted without the agreement of Water NSW.
5. A suitably qualified stormwater consultant or engineer shall certify in writing to Water NSW and Council prior to the issuance of an Occupation Certificate that all stormwater management structures have been installed as per these conditions of consent and are in a functional state.
6. There shall be a public positive covenant under Section 88E of the *Conveyancing Act 1919*, the prescribed authority being Water NSW, placed over the Lot 1 DP 1101892 requiring that the bioretention basin be retained, protected and maintained and that no development take place within one metre of the structure.

Operational Environmental Management Plan

7. An Operational Environmental Management Plan (OEMP) shall be prepared in consultation with Water NSW by a person with knowledge and experience in the preparation of such plans. The OEMP shall be prepared prior to the issuance of an Occupation Certificate and be provided to Owners' Corporation for implementation. The OEMP shall include but not be limited to:
- details on the location, description and function of stormwater management structures such as pits, pipes, gross pollutant traps, rainwater tanks, bioretention basin, and any other stormwater structures and drainage works
 - 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.
8. All stormwater treatment structures shall be monitored, maintained and managed as per the Operational Environmental Management Plan.



Reason for Conditions 2 to 8 – To ensure that the stormwater quality management measures and structures for the proposed subdivision have a sustainable neutral or beneficial impact on water quality over the longer term.

Construction Activities

9. A Soil and Water Management Plan shall be prepared for all works proposed or required as part of the development by a person with knowledge and experience in the preparation of such plans. The Plan shall meet the requirements outlined in Chapter 2 of NSW Landcom's Soils and Construction: Managing Urban Stormwater (2004) manual - the "Blue Book". The Plan shall be prepared prior to the issuance of a Construction Certificate and be to the satisfaction of Council.
10. The Soil and Water Management Plan shall be implemented, and effective erosion and sediment controls shall be installed prior to any construction activity. The controls shall prevent sediment or polluted water leaving the construction site or entering any natural drainage lines or stormwater drain and shall be regularly maintained and retained until works have been completed and groundcover established.

Reason for Conditions 9 & 10 – To manage adverse environmental and water quality impacts during the construction phase of the development to minimise the risk of erosion, sedimentation and pollution within or from the site during this phase.

SCHEDULE 1 CONDITIONS OF MODIFIED DEVELOPMENT CONSENT

ADMINISTRATION CONDITIONS



1. Development Description

Development consent has been granted in accordance with this Notice of Determination for a Concept Plan and Stage 1 for Seniors Housing pursuant to section 4.22 of the *Environmental Planning and Assessment Act 1979*. The stages of the Concept Plan shall be as follows:

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

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

Approval is granted for Stage 1 as part of this Notice of Determination pursuant to section 4.22 of the *Environmental Planning and Assessment Act 1979*. Conditions pertaining to Stage 1 are part of this Notice of Determination.

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

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

2. Separate Development Approvals

The developer shall seek separate development consent for the purposes of Stage 2 (as per Condition 1) of the Concept Plan of this Notice of Determination.

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

3. Development in Accordance with the Plans and Documents – Modified TBA

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
Cover Sheet	16104 DA.G.0.00	Marchese Partners International PL	21/11/2017
	Rev I		24/04/2019
Location Plan	16104 DA.S.1.01	Marchese Partners International PL	21/11/2017
	Rev F		11/09/2018
Site Analysis	16104 DA.S.1.02	Marchese	21/11/2017

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

**9.2 Development Application 17/1822.05 - Seniors Housing -
Modification to Main Facilities Building
ATTACHMENT 1 Attachment 1 Draft Conditions**



	Rev F	Partners International PL	11/09/2018
Site Analysis – Response to Street Rhythm	16104 DA.S.1.03	Marchese	21/11/2017
	Rev F	Partners International PL	10/09/2018
Demolition Plan	16104 DA.S.1.04	Marchese	21/11/2017
	Rev F	Partners International PL	11/09/2018
Concept Master Plan	16104 DA.M.1.01	Marchese	21/11/2017
	Rev H	Partners International PL	05/04/2019
Staging Plan – DA Stage-01	16104 DA.M.1.02	Marchese	21/11/2017
	Rev H	Partners International PL	05/04/2019
Staging Plan – DA Stage-02	16104 DA.M.1.03	Marchese	21/11/2017
	Rev H	Partners International PL	05/04/2019
Stage 01 Master Plan Level Roof	16104 DA.M.1.04	Marchese Partners International PL	21/11/2017
	Rev H		05/04/2019
Stage 01 Master Plan Level ground	16104 DA.M.1.05	Marchese Partners International PL	21/11/2017
	Rev F		11/09/2018
Street Elevation	16104 DA.M.2.01	Marchese Partners International PL	21/11/2017
	Rev F		11/09/2018
Plan GA Level B1	A201-A	Mijollo International	No Date Provided
Plan GA Level 00 - North	A203-A	Mijollo International	No Date Provided
Plan GA Level 00 - South	A202-A	Mijollo International	No Date Provided
Plan GA Level 01 - North	A205-A	Mijollo International	No Date Provided
Plan GA Level 01 - South	A204-A	Mijollo International	No Date Provided

9.2 Development Application 17/1822.05 - Seniors Housing -
Modification to Main Facilities Building

ATTACHMENT 1 Attachment 1 Draft Conditions



Plan GA Level 02 - South	A206-A	Mijollo International	No Date Provided
East Elevation – Facilities Building & Wellness Centre	A301-A	Mijollo International	14 Feb 20
North Elevation – Facilities Building & Wellness Centre	A302-A	Mijollo International	14 Feb 20
West Elevation – Facilities Building & Wellness Centre	A303-A	Mijollo International	14 Feb 20
South Elevation – Facilities Building & Wellness Centre	A304-A	Mijollo International	14 Feb 20
Section AA	A401-A	Mijollo International	14 Feb 20
Section BB & CC	A402-A	Mijollo International	14 Feb 20
Section DD & EE	A403-A	Mijollo International	14 Feb 20
Section FF	A404-A	Mijollo International	14 Feb 20
External View	16104 DA.F.4.01 Rev F	Marchese Partners International PL	21/11/2017 11/09/2018
Internal View	16104 DA.F.4.02 Rev F	Marchese Partners International PL	21/11/2017 11/09/2018
Material Board	16104 DA.F.4.03 Rev F	Marchese Partners International PL	21/11/2017 11/09/2018
Stage 01 Master Plan types	16104 DA.H.0.01 Rev H	Marchese Partners International PL	21/11/2017 05/04/2019
Villa Type A	16104 DA.H.1.01 Rev F	Marchese Partners International PL	21/11/2017 11/09/2018
Villa Type A.1	16104 DA.H.1.02 Rev F	Marchese Partners International PL	21/11/2017 11/09/2018

9.2 Development Application 17/1822.05 - Seniors Housing -
Modification to Main Facilities Building

ATTACHMENT 1 Attachment 1 Draft Conditions



Villa Type B	16104 DA.H.1.03 Rev F	Marchese Partners International PL	21/11/2017 11/09/2018
Villa Type C	16104 DA.H.1.04 Rev F	Marchese Partners International PL	21/11/2017 11/09/2018
Villa Type C.1	16104 DA.H.1.05 Rev F	Marchese Partners International PL	21/11/2017 11/09/2018
Villa Type D	16104 DA.H.1.06 Rev F	Marchese Partners International PL	21/11/2017 11/09/2018
Villa Type D.1	16104 DA.H.1.07 Rev F	Marchese Partners International PL	21/11/2017 11/09/2018
Villa Type E	16104 DA.H.1.08 Rev H	Marchese Partners International PL	21/11/2017 05/04/2019
External View	16104 DA.H.2.01 Rev F	Marchese Partners International PL	21/11/2017 11/09/2018
Material Board	16104 DA.H.2.02 Rev F	Marchese Partners International PL	21/11/2017 11/09/2018
Adaptable Units Type A&A.1	16104 DA.H.3.01 Rev F	Marchese Partners International PL	21/11/2017 11/09/2018
Adaptable Units Type B, C&C.1	16104 DA.H.3.02 Rev F	Marchese Partners International PL	21/11/2017 11/09/2018
Adaptable Units Type D&D.1	16104 DA.H.3.03 Rev F	Marchese Partners International PL	21/11/2017 11/09/2018
Mechanical Services Level 1 Kitchen	16104 MS.DA.02 Rev B	Marchese Partners Engineering PL	14/09/2018
Mechanical Services Level 1 Kitchen	16104 MS.DA.01 Rev B	Marchese Partners Engineering PL	14/09/2018
Title Sheet and Locality Plan	16104 DA-C-001 Rev P	Marchese Partners Engineering PL	14/12/2017 24/04/2019

9.2 Development Application 17/1822.05 - Seniors Housing -
Modification to Main Facilities Building

ATTACHMENT 1 Attachment 1 Draft Conditions



Legend, Abbreviations and drawing List	16104 DA-C-002 Rev M	Marchese Partners Engineering PL	14/12/2017 08/03/2019
General Notes	16104 DA-C-003 Rev M	Marchese Partners Engineering PL	14/12/2017 08/03/2019
Survey Plans	16104 DA-C-004 Rev M	Marchese Partners Engineering PL	14/12/2017 08/03/2019
Civil Works Erosion and Sediment Control Plan – Sheet 1	16104 DA-C-011 Rev N	Marchese Partners Engineering PL	28/12/2017 08/03/2019
Civil Works Erosion and Sediment Control Plan – Sheet 2	16104 DA-C-012 Rev P	Marchese Partners Engineering PL	28/12/2017 24/04/2019
Civil Works Erosion and Sediment Control Plan – Sheet 3	16104 DA-C-013 Rev N	Marchese Partners Engineering PL	28/12/2017 08/03/2019
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Civil Works Erosion and Sediment Control Details	16104 DA-C-021 Rev N	Marchese Partners Engineering PL	28/12/2017 08/03/2019
Site Works Site Plan	16104 DA-C-100 Rev Q	Marchese Partners Engineering PL	14/12/2017 03/04/2019
Site Works Site Grading and bulk earthworks levels Plan – Sheet 1	16104 DA-C-101 Rev Q	Marchese Partners Engineering PL	14/12/2017 08/03/2019
Site Works Site Grading and bulk earthworks levels Plan – Sheet 2	16104 DA-C-102 Rev U	Marchese Partners Engineering PL	14/12/2017 24/04/2019
Site Works Site Grading and bulk earthworks levels Plan – Sheet 3	16104 DA-C-103 Rev R	Marchese Partners Engineering PL	14/12/2017 08/03/2019

9.2 Development Application 17/1822.05 - Seniors Housing -
Modification to Main Facilities Building

ATTACHMENT 1 Attachment 1 Draft Conditions



Site Works Site Grading and bulk earthworks levels Plan – Sheet 4	16104 DA-C-104 Rev S	Marchese Partners Engineering PL	14/12/2017 03/04/2019
Civil Works Internal Roads Longitudinal Sections – Sheet 1-4	16104 DA-C-121-4 Rev N	Marchese Partners Engineering PL	14/12/2017 08/03/2019
Civil Works Internal Roads Longitudinal Sections – Sheet 5-9	16104 DA-C-125-9 Rev N	Marchese Partners Engineering PL	14/12/2017 08/03/2019
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9.2 Development Application 17/1822.05 - Seniors Housing -
Modification to Main Facilities Building

ATTACHMENT 1 Attachment 1 Draft Conditions



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Stage 1 – Typical Cluster	1080 LP08 Rev E	Site Design + Studios	25/04/2019
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**9.2 Development Application 17/1822.05 - Seniors Housing -
Modification to Main Facilities Building
ATTACHMENT 1 Attachment 1 Draft Conditions**



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Waste Management Plan	-	Waste Audit and Consultancy Services	11/09/2018

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

4. Inconsistency between Documents



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

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

5. Confirmation of Setbacks for Stage 2

The minimum setback for buildings in Stage 2 east shall be 30m from the boundary with Centennial Road and 10m from the central internal access road. These minimum setbacks are to be clearly indicated on the plan set submitted with any future development application(s) for Stage 2.

Reason: *To ensure that the setbacks to Centennial Road and the internal access road are consistent with the Staged Concept Approval.*

6. Urban Design Statement for Stage 2

An urban design statement prepared by an architect or urban designer with suitable qualifications and experience shall be submitted with the development application(s) for Stage 2. The urban design statement shall verify that the design of buildings for Stage 2 has adequately considered and is compatible with the original buildings retained and re-used on the site and with the scale, density and character of Stage 1 buildings. The urban design statement is to verify the building form of Stage 2 East is to contain the second storey element within the pitched roof space.

Reason: *To ensure buildings in Stage 2 are compatible in urban design and architectural elements with the original buildings to be retained and re-used within the site.*

7. Lift Design Stage 2 Buildings

Any lifts for manor house style buildings in Stage 2 east shall be limited to a single shared lift to minimise the number of lift overruns and for the potential of lift overruns to add height, bulk and mass to the buildings.

Reason: *To ensure the height, bulk and mass of buildings in Stage 2 is consistent with the Staged Concept Approval.*

8. Landscape Embellishment, Detailed Landscape Plan, Landscape and Open Space Plan Works

Landscape embellishment and ecological restoration works within the Riparian Zones in accordance with the approved Vegetation Management Plan is to be completed as part of the Stage 1 works.

Reason: *To ensure that the timing of the restoration works in the Riparian Zone is compatible with the commencement of the development and is not held delayed by the completion of Stages 2.*

9. Compliance with *Disability Discrimination Act 1992*



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

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

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

10. Design for Access and Mobility

As part of each subsequent Development Application, it shall be demonstrated that the development can comply with *Australian Standard AS1428.1 Design for Access and Mobility* and *Australian Standard AS 4299 Adaptable housing*, particularly with regard to the following matters nominated in the Bowral Development Control Plan:

- Part C Section 8.10 pertaining to access for wheelchairs, pathway lighting and letterboxes;
- Part C Section 8.12 pertaining to widths of entry doors and internal corridors and circulation areas;
- Part C Section 8.13 pertaining to space within each dwelling and a clear area for services surrounding the bed area;
- Part C Section 8.14 pertaining to bathroom design;
- Part C Section 8.15 pertaining to other requirements.

Provision of this detail shall be submitted in the form of an Access Report prepared by a suitably qualified person.

Reason: *To comply with Australian Standards and the Bowral Development Control Plan.*

11. Aboriginal Cultural Heritage

As part of each subsequent Development Application, it shall be demonstrated that all requirements for the protection of Aboriginal Cultural Heritage has been fulfilled. **Condition 33** requires that a full Aboriginal Cultural Heritage Assessment for the entire site be undertaken before a Construction Certification be issued for Stage 1 works. All findings from this assessment that relates to subsequent stages should be considered in full, with all possible measures employed to ensure that Aboriginal Heritage is appropriately managed and protected.

Reason: *To ensure Aboriginal Heritage is protected*

12. Landscape and Open Space Plan, Riparian and Ecological Restoration Works

As part of each subsequent Development Application, a Landscape and Open Space Plan shall be provided which is consistent with the Landscape Master Plan and includes:

- Detailed landscaping for the subject stage including
 - Location of all existing and proposed landscape features including materials to be used;

**9.2 Development Application 17/1822.05 - Seniors Housing -
Modification to Main Facilities Building
ATTACHMENT 1 Attachment 1 Draft Conditions**



- Delineate and identify all trees to be retained, removed or transplanted;
- Existing and proposed finished ground levels;
- Detailed plant schedule which includes proposed species listed by botanical (genus and species) and common names, height and spread at maturity, quantities of each species, pot sizes and the estimated size at maturity;
- Pot size ant planting out stage
- Soil treatment prior to planting out, fertilizing and water maintenance schedule.
- Landscaping, design and screening of infrastructure such as electricity substations, taking into consideration easements and underground assets;
- Means of barrier protection between public places, vehicle access ways, parking areas and the surrounding landscaped areas, to prevent vehicular movement on any landscaped area;
- Playground facilities to be provided by the Applicant, at the Applicant's expense, for the enjoyment of children and visitors;
- Provision of plantings to ensure the linkage between the two areas of mapped Endangered Ecological Community within the site is strengthened through the use of species consistent with this vegetation community;
- All proposed passive/recreational open space areas.

Reason: *To ensure consistency with the Landscape Master Plan.*

13. Outdoor Lighting Plan

As part of each subsequent Development Application, an Outdoor Lighting Plan shall be submitted to, and approved by Council. The Outdoor Lighting Plan shall demonstrate sound compliance with Part A Section 10 of the Bowral Development Control Plan.

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

14. Energy Service Provider Requirements

As part of each subsequent Development Application, documentary evidence shall be provided from the Energy Service Provider qualifying that the requirements of that provider have been obtained.

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

15. Waste Management Plan

As part of each subsequent Development Application, a Waste Management Plan shall be prepared and submitted to Council.

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

16. Construction Management Plan

As part of each subsequent Development Application, a Construction Management Plan (CMP) shall be submitted and approved by Council prior to issue of the Construction Certificate for each stage. The CMP shall indicate measures to be implemented to protect the environment as well as public health, safety and convenience. The CMP shall include the following:

**9.2 Development Application 17/1822.05 - Seniors Housing -
Modification to Main Facilities Building
ATTACHMENT 1 Attachment 1 Draft Conditions**



- i. Management of off-street parking for employees, contractors and sub-contractors.
- ii. Site access for construction vehicles and equipment purposes, involving details of site access from Centennial Road,
- iii. Public safety in the use of roads and footpaths where development activities adjoin such facilities.
- iv. The storage and removal, on a regular frequency, of builder’s rubble and waste by trade waste contractors.
- v. Storage of all building materials and equipment wholly within the construction site.
- vi. Public risk policies and management for all contractors’ employees using or gaining access over public footpaths and roads.
- vii. External lighting and security alarms proposed for the construction site.
- viii. Fire fighting measures to be available on site during development and construction.
- ix. Sanitary amenities proposed on site during development and construction.
- x. 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*

17. Noise and Vibration Adjacent to Rail Corridors

Multi-Unit Residential within the Acoustic Assessment Area

As part of the development application that includes the portion of the site located to the east of the main entry driveway, a report from a qualified professional acoustic consultant demonstrating that railway noise and vibration will comply with following criteria in habitable rooms, with external windows and doors closed.

Internal Space	Time Period	Noise Level L _{Aeq} (1 hr)
Living and sleeping areas	Day (7 am to 10 pm)	<40 dBA
	Night (10 pm to 7 am)	<35 dBA

Floor vibration levels in habitable rooms shall be designed to comply with the criteria in British Standard BS 6472: 1992 *Evaluation of Human Exposure to Vibration in Buildings (1 Hz to 80 Hz)*.

As a minimum, this report shall provide the L_{Amax} and L_{AE} noise levels of at least ten consecutive trains, measured in the habitable room potentially most affected by train noise. The report shall include the calculated maximum L_{Aeq} (1 hour) noise levels for day and night time periods, taking into account the maximum number of trains per hour and the types of trains in each period.

Reason: *To prevent loss of amenity to the area.*

18. Design of Development

A materials board and architectural statement shall be submitted with each subsequent DA demonstrating each Stage’s consistency with the locality of West Bowral and the existing



development on the site in terms of roof pitch, materials, design, scale, architectural features landscape embellishments etc.

Reason: To ensure the materials, colours and finishes of new buildings are compatible with those of the original buildings to be retained on the site, new buildings on the site and the general character of the neighbourhood.

19. Stormwater - Control of Peak Discharge

Adequate and suitable infrastructure shall be provided to ensure the peak discharge from the site is no greater than the pre-developed peak discharge. This infrastructure shall be designed in accordance with Council's Engineering Policies. Calculations to demonstrate that the post-development peak discharge will not exceed the pre-development peak discharge shall be provided as part of each subsequent Development Application.

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

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

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

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

21. 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.

22. Notification of Home Building Act 1989 Requirements



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

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

23. Asbestos Removal – Demolition of Buildings

Advice: *These conditions of development consent are to be applied to work that may involve asbestos, in particular demolition and renovation or recladding or brick veneering works of buildings erected prior to 1987. Evidence acceptable to Council may be required to establish the construction date of a building or part of a building:*

- a) Demolition is to be carried out in accordance with the applicable provisions of Australian Standard AS2601-2001 - The demolition of structures.

Note: *Developers are reminded that WorkCover requires that all plant and equipment used in demolition work must comply with the relevant Australian Standards and manufacturer specifications.*

- b) The developer is to notify owners and occupiers of premises on either side, opposite and at the rear of the development site five (5) working days prior to demolition. Such notification shall state the date demolition will commence and is to be placed in the letterbox of every premises (including every residential flat or unit, if any) either side, immediately at the rear of, and directly opposite the demolition site. Demolition must not commence prior to the date stated in the notification.
- c) Five (5) working days (i.e., Monday to Friday with the exclusion of Public Holidays) notice in writing is to be given to Wingecarribee Shire Council for inspection of the site prior to the commencement of works. Such written notice is to include the date when demolition will commence and details of the name, address, business hours



contact telephone number and licence number of the demolisher. Works are not to commence prior to Council's inspection and works must not commence prior to the commencement date nominated in the written notice.

- d) On the first day of demolition, work is not to commence until the Principal Certifying Authority (PCA) has inspected the site. Should the building to be demolished be deemed likely to contain asbestos, approval to commence demolition will not be granted until the PCA is satisfied that all measures are in place so as to comply with WorkCover's document 'Your Guide to Working with Asbestos'.
- e) On demolition sites where buildings to be demolished are likely to contain asbestos, a standard commercially manufactured sign containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm is to be erected in a prominent visible position on the site to the satisfaction of Council's officers. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos has been removed from the site to an approved waste facility.
- f) Demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover "Demolition Licence" and a current WorkCover "Class 2 (Restricted) Asbestos Licence".
- g) Demolition is to be completed within five (5) days of commencement at which time the applicant shall notify the Certifying Authority.
- h) Demolition works are restricted to Monday to Friday between the hours of 7.00am to 6.00pm. No demolition works are to be undertaken on Saturdays, Sundays or Public Holidays.
- i) Protective fencing is to be installed to prevent public access to the site.
- j) All asbestos laden waste, including asbestos cement flat and corrugated sheets must be disposed of at a facility licensed by the NSW Environmental Protection Authority (EPA) to accept such waste provided to Council.

Note: The person responsible for disposing of the above asbestos waste is to telephone the EPA on 131 555 or Council's Customer Service Department on (02) 4868 0888 to determine the location of a waste facility licensed to receive asbestos. Within 14 days of the completion of demolition works, the applicant must lodge with Council, all original weighbridge receipts issued by the receiving licensed waste facility as evidence of proper disposal.

- k) After completion, the applicant shall notify the Principal Certifying Authority within seven (7) days to assess the site and ensure compliance with Australian Standard AS2601 2001 - The Demolition of Structures.
- l) Within 14 days of completion of demolition, the applicant shall submit to Council:
 - (i) an asbestos clearance certificate prepared by a WorkCover licensed asbestos assessor; and
 - (ii) a signed statement verifying that demolition work and the recycling of materials was undertaken in accordance with the Waste Management Plan approved with this consent. In reviewing such documentation Council will



require the provision of actual weighbridge receipts for the recycling/disposal of all materials.

Reason: To ensure that asbestos is disposed of to a licensed waste facility and is removed in accordance with safe work practices.

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

24. Application for a Construction Certificate (Building Works)

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

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

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



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

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

25. 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.*

26. Remedial Action Plan

A Remedial Action Plan verified by an Independent Site Auditor is to be completed and submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate for Stage 1.

Reason: *To ensure remedial action specific to the site and approved development is verified to be consistent with adopted guidelines.*



27. Access for People with Disabilities

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

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

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

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

28. Continuous Accessible path design plan

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

The location of all open parking spaces and dimensions are to be shown on the plans submitted with the Construction Certificate and shall comply with the requirements of *AS/NZ 2890.1:2004 Parking facilities – Off-street parking*. Parking spaces adjacent to the internal access road shall be connected with the accessible pathway network linked to the proposed common community buildings to ensure safe movement of pedestrians within the site.

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

29. Site Consolidation

That the site be consolidated into one (1) lot prior to issue of the Construction Certificate.

Reason: *To ensure the use of the land as one allotment is legally recognised and to prevent separate dealings in the existing allotments after the use commences.*

30. Section 88B Instrument – User Restrictions

The applicant shall prepare a Section 88B Instrument for approval by the PCA which incorporates the following easements, positive covenants and restrictions to user where necessary:

- a) restriction as to user occupying the development to persons 55 years of age or older or people who have a disability;

**9.2 Development Application 17/1822.05 - Seniors Housing -
Modification to Main Facilities Building
ATTACHMENT 1 Attachment 1 Draft Conditions**



- b) people who live within the same household with seniors or people who have a disability
- c) staff employed to assist in the administration of and provision of services to housing provided under this Policy.

Reason: *To ensure the purpose of the development is achieved.*

31. Section 88B Instrument – Lot Consolidation

The lot consolidation required at **Condition 29** above shall be accompanied by a section 88B Instrument under the *Conveyancing Act 1919*, which requires that the following existing buildings are:

- (a) Retention of the Chapel.
- (b) Retention and adaptive reuse of part of the Boys' College and South Wing.
- (c) Retention and renovation of the auditorium in the South Wing.
- (d) Retention of the entry driveway trees in accordance with the Landscape Plans L01-L13.
- (e) Retention of the Priest's cottage.

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

Reason: *To ensure compliance with Council resolution MN 262/18.*

32. Section 88B Instrument – Vegetation Management Plan

The Vegetation Management Plan (VMP) prepared by Anne Clements & Associates Pty Ltd dated 19/9/2018 must be referenced in the Section 88B Instrument (Conveyancing Act 1919) as a Restriction on the User, and in accordance with the "Assessment of Environmental Constraints and Opportunities" prepared by Anne Clements & Associates Pty Ltd dated 19/12/2017, and "Threatened Species Test of Significance – Stage 1 and 2" prepared by Anne Clements & Associates Pty Ltd dated 18/01/2019.

Reason: *To ensure that the Vegetation Management Plan is referenced on the Title to the land to inform landowners of its existence and requirements.*

33. Aboriginal Cultural Heritage Assessment

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

- An updated archaeological survey in accordance with OEH guidelines be conducted.
- Test excavations in accordance with OEH guidelines are required.
- Test excavations should be conducted at an early stage to provide certainty about the Aboriginal heritage management requirements.

**9.2 Development Application 17/1822.05 - Seniors Housing -
Modification to Main Facilities Building
ATTACHMENT 1 Attachment 1 Draft Conditions**



- The test excavations for Stage 1 must occur before any ground disturbance or issue of the first construction certificate, whichever occurs earlier.
- The test excavations for Stage 2 should be conducted to inform the future detailed design, including any amendments to the concept approval, prior to approval of any detailed Stage 2 DA.
- Aboriginal community consultation in accordance with OEH guidelines must occur before starting test excavations.
- No harm to Aboriginal objects may occur unless an Aboriginal Heritage Impact Permit has been issued by OEH.
- The applicant must develop measures to avoid and prevent harm to Aboriginal objects through the proposed works.
- If Aboriginal objects are found during works, the work must stop and OEH must be contacted by calling 131 555.

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

34. Section 68 Local Government Act 1993 Approvals

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

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

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

35. Section 7.11 Contributions (formerly Section 94 Contributions)

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

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

- Roads & Traffic Management Facilities
- Resource Recovery Centre 2009
- Section 94 Administration 2011 to 2031

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

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

**9.2 Development Application 17/1822.05 - Seniors Housing -
Modification to Main Facilities Building
ATTACHMENT 1 Attachment 1 Draft Conditions**



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.

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.

36. Water Management Act - Certificate of Compliance

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

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

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

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

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

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

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

The Water and Sewerage Development Servicing Plans (DSP's) were adopted by Council on 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
1 November 2018 to 31 January 2019	\$10,962.73 per ET	\$10,627.98 per ET	N/A
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			



CPI Period	Water DSP	Sewer DSP	Stormwater DSP
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 Construction Certificate:-

Water \$250.00 + Sewer \$250.00 = \$500.00

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.*

37. 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.*



38. Fencing – Public Reserves/Drainage Reserves/Council Lands

The developer at their expense shall erect fencing to all public reserves, drainage reserves or Council owned land to ensure public safety. Details of fencing shall be submitted to Council for approval prior to issue of the Construction Certificate.

Reason: *Public safety.*

39. Archival Record of a Building prior to Demolition

The building and garden shall be recorded in accordance with the following:

- (a) Provide two (2) sets of the Archival Record in A4 plastic binders with clear plastic sleeves.
- (b) Provide two (2) typed pages with:
 - i. Address.
 - ii. Author.
 - iii. Date.
 - iv. Reason for the record.
 - v. Contents page including index of photo captions.
 - vi. Maximum one (1) A4 page outline of the history of the building (year built, previous owners and uses, local stories about the building etc.).
- (c) Provide measured drawings with the floor plan and each elevation of the building, at a scale of 1:100, including a north point, bar scale and dimensions, prepared by a qualified draftsman.
- (d) Provide photographs:
 - i. From a 35mm film camera.
 - ii. Photos showing all general oblique views and elevations. Typically, this is a photo of each room in the existing building including hallways, external verandahs, and external appearance of the building and garden.
 - iii. Photos showing any details of historical signage or construction details.
 - iv. Postcard size.
 - v. Pasted as two (2) photos per A4 page.
 - vi. Each photo to be captioned, including aspect, e.g. view from northeast.
 - vii. Negatives in an envelope.
- (e) Provide a CD with:
 - i. Scans from negatives as .jpg files with captions saved as file names.
 - ii. Minimum image size to be 3000 x 1000 pixels.
 - iii. Text file of the typed pages (saves as a .rtf file).
- (f) The Archival record shall be submitted to and accepted by Council prior to the demolition of the building or the issue of a Construction Certificate, whichever occurs first.

Reason: *To ensure that there is a record of the building for archival purposes.*

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

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

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

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

41. Structural Adequacy of Existing Structure

A Certificate of Structural Adequacy prepared and signed by a professional chartered experienced qualified practising Structural Engineer with suitable professional indemnity cover must be submitted to the Principle Certifying Authority in respect of the load carrying capabilities of the existing building to support the proposed alteration / additions prior to the issue of a Construction Certificate.

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

42. Geotechnical Survey

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

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

43. Construction Management Plan

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

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

44. 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.*

45. 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.

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

46. Detailed Stormwater Drainage System Design

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

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

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



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

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

Reason: *To ensure adequate storm water management.*

47. Submission of Plans for works within the Road Reserve

The applicant shall submit to Council 3 copies of Civil Engineering plans for the design of all works within the road reserve required adjacent/near/outside <insert address> including long and cross sections, details of proposed structures and specifications.

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

Such design shall be:

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

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

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

48. 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.*

49. Road and Shared Footpath Design - Site Access and Movement

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

- (a) The site shall accommodate the turning movements and clearance envelope of a 12.5m pantech vehicle.
- (b) Access for emergency vehicles requires assessment and approval from Agencies, especially NSW Fire Brigade.
- (c) No vehicles over 12.5m to access the site.
- (d) Vehicle swept paths up to 8.8m service vehicle to manoeuvre through the site without encroaching on opposing vehicle paths.
- (e) The front overhang, and swept path made by the service vehicle shall not obstruct car park traffic or encroach onto parking spaces.
- (f) The vehicle swept path shall be reflected on the engineering design plans at a suitable scale to enable clear assessment.
- (g) Loading and unloading of service vehicles shall be undertaken onsite with no intrusion onto the road system.
- (h) Maximum number of movements in a cul-de-sac for the largest vehicle accessing the site is a three (3) point turn with no encroachment beyond the kerb line.

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

50. Redundant Vehicular Crossings and Ancillary Works

Where new pavement, repair or reinstatement of footpath or other ancillary works such as kerb and gutter and storm water pit construction is proposed, the Applicant shall submit to Council application under Section 138 of the *Roads Act 1993* (available from Council's Customer Services Centre) and pay the appropriate fees & charges prior to the issue of a Construction Certificate.

All disused or redundant vehicle crossings and laybacks shall be removed and reinstated with concrete kerb and gutter or to the existing edging profile as specified by Council and the footpath area is to be restored to the satisfaction of Council's Development Engineer, prior to the issue of the Interim Occupation Certificate.

Reason: *Public infrastructure maintenance.*

51. Accessible Car Parking Spaces

Minimum two (2) car parking provided in the visitor parking area as part of the total requirement shall be reserved for disabled persons. These spaces shall be a minimum of 3.2m wide x 5.5m long and located near pedestrian access routes designed for disabled



persons. Each space shall be clearly marked for disabled persons in accordance with the Premises Code.

Car parking for people with disabilities shall be provided in accordance with the National Construction Code (NCC), relevant Australian Standards and with regard to the *Disability Discrimination Act 1992* and Premises Code. Prior to the issue of a Construction Certificate, the plans shall demonstrate compliance.

The above details shall be submitted to and approved by the Accredited Certifier prior to the issue of the Construction Certificate.

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

52. Internal Access Roads

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

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

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

53. Off Street Parking Provision - General

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

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

Reason: *To ensure adequate parking and access.*

54. Off Street Car Parking Space Provision

Car parking spaces shall be provided in accordance with the approved plans for the parking of resident and visitor vehicles on the site. In this regard, no less than 328 spaces are required and designated as follows:

- (a) 270 parking spaces within units.
- (b) 49 parking spaces for visitors.
- (c) 9 parking spaces for staff.

**9.2 Development Application 17/1822.05 - Seniors Housing -
Modification to Main Facilities Building
ATTACHMENT 1 Attachment 1 Draft Conditions**



- All car spaces shall be allocated and marked accordingly. If the development is to be strata subdivided, the car park layout must respect the above allocation and thereafter regarded as part of the entitlement of that unit.
- Each space shall have minimum dimensions in accordance with the relevant Australian Standard.
- Under no circumstances shall parking spaces be sold, let or otherwise disposed of for use other than in accordance with this condition.
- Visitor spaces shall only to be used by persons visiting residents of the property or persons with legitimate legal reason to be upon the land.
- Access to visitor parking shall not be restricted without development approval.
- A sign shall be erected at the vehicular entrance indicating the availability of visitor parking. Such spaces shall be clearly marked.

Reason: *To ensure adequate parking and access.*

55. Water and Sewer Authority Conditions

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

Water service connections and sewer junctions shall be located under sealed driveways to battleaxe lots. This may require widening of accessway / rights of carriageways to those shown on approved plan.

The existing 150mm sewer main shall be upgraded to 225mm in accordance with the Wingecarribee Shire Council sewer modelling report dated 02nd March 2018.

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

56. 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.*

57. Energy Service Provider Requirements

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



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

58. Waste Management Plan

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

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

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

59. Erosion and Sediment Control Plan

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

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

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



- (o) Maintenance schedule.

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

60. Protection of Existing Trees and Native Vegetation

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

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

61. Detailed Landscape Plan

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

The plan shall include the following information:

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

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

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

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



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

62. Food premises compliance to be assessed prior to the issue of the Construction Certificate

Prior to the issue of the Construction Certificate, detailed drawing of the design, construction and fit-out of the proposed food premises shall be submitted to the Principle Certifying Authority to be assessed for compliance with the *Food Act*, the *Food Regulations*, the *Food Safety Standards* and the Australian Standard AS4674 – 2004.

Reason: To ensure compliance with statutory requirements.

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

Pursuant to clause 94 of the *Environmental Planning and Assessment Regulation 2000*, Council requires that the portion of the existing building to be retained shall be upgraded to comply with the requirements of the National Construction Code (NCC) in the following respects:

- The provision for escape; and
- Essential fire safety measures.

The Construction Certificate plans and specification required to be submitted to the Certifying Authority pursuant to clause 139 of the *Environmental Planning and Assessment Regulation 2000* shall detail building upgrade works required by this condition.

The Certifying Authority shall be satisfied that such work, to be implemented as part of the development, will upgrade the building to bring it into compliance with the following performance requirements of the National Construction Code (NCC) in force at the date of lodgement of the Construction Certificate application:

- (a) National Construction Code – Volume One; Performance Requirements DP4, DP5 and DP6 in relation to the provision for escape,
- (b) National Construction Code – Volume One; Performance Requirements EP1.1, EP1.2, EP1.3, NSW EP1.4, EP1.6, EP2.2, EP4.1, EP4.2 and EP4.3 in relation to the provision of essential fire safety measures.

Reason: To ensure compliance with statutory requirements.

64. Disabled Persons Access and Facilities

- (a) Detailed drawings shall be provided to the Principle Certifying Authority for the fit out to the disabled person's facilities with the construction certificate application. Details shall be in accordance with AS 1428.1 Design for Access and Mobility and the Premises Code.
- (b) Car parking space/s for use by disabled persons shall be provided in accordance with the BCA. These spaces shall be clearly identified by sign posting complying with AS1428.1, and comply with AS2980.1 and the Premises Standard.

9.2 Development Application 17/1822.05 - Seniors Housing -
Modification to Main Facilities Building
ATTACHMENT 1 Attachment 1 Draft Conditions



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- (c) No work is to commence on disabled persons access routes until details of the routes are submitted to and approved by the Principal Certifying Authority. The details shall include a site plan clearly identifying the proposed route for access by disabled persons. It is noted that access from the allotment boundary, carpark and any other building on the allotment which access for people with disabilities is required, to the entrance of the subject building. Access shall be in accordance with AS 1428.1 Design for Access and Mobility.
- (d) Access for people with disabilities shall be provided to and within buildings as set out in Table D3.2 of the National Construction Code (NCC) by means of a continuous path of travel in accordance with AS1428.1:
- (i) from the allotment boundary at the main points of entry; and
 - (ii) from any carparking space on the allotment (whether within or outside the building) provided in accordance with D3.5; and
 - (iii) from any adjacent and associated accessible building on the allotment; and
 - (iv) through the principal public entrance.
- (e) Sanitary facilities must be provided in accordance with Table F2.4 of the National Construction Code (NCC) for:
- (i) every Class 3, 5, 6, 7, 8 and 9 building that is required by the deemed to satisfy provisions of Part D3 to be accessible to people with disabilities and may be calculated as part of the number of facilities required by Table F2.3; and
 - (ii) a Class 10a building to which the public will have access and which contains sanitary facilities, showers or hand basins etc.
 - (iii) The construction and layout of all facilities provided in accordance with Table F2.4 must comply with AS1428.1.
 - (iv) A unisex facility must be located so that it can be entered without crossing an area reserved for one sex only.
- (f) Identification of Accessible Facilities, Services and Features
- In every building required to be accessible, clear and legible Braille and tactile signage complying with Specification D3.6 and incorporating the international symbol of access or deafness or other symbol as appropriate in accordance with AS1428.1 must identify all items as specified in Clause D3.6 of the National Construction Code (NCC).
- (g) Disabled Sanitary Facility
- The sanitary facility shall be constructed in accordance with the requirements of AS1428.1 *Design for Access and Mobility General Requirements for Access*.
- (h) Advisory Note
-



- (i) The Applicants/property owner should note that the Commonwealth *Disability Discrimination Act 1992* provides opportunity for public complaint potentially leading to legal action if access to premises by people with disabilities or their carers is precluded. This may require action to provide or improve access in addition to the minimum requirements of the National Construction Code (NCC), particularly if such work would not cause “unjustifiable hardship” for the proprietors or owners.
- (ii) The Human Rights and Equal Opportunity Commission can provide further information on this issue).

Reason: *Statutory requirement.*

65. Contaminated Land Investigation Requirements

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

Reason: *Compliance with Statutory Requirements*

66. Contaminated Land Requirements

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

The CEMP should include an unexpected finds protocol in the event that additional fill material, waste etc. is identified during construction/civil activities.
The fill material within the NPF berm should be either disposed of off-site, capped on-site or additional assessment undertaken to further understand the volume of asbestos.

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

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

Reason: *Compliance with Statutory Requirements*

CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORK

67. Notice of Commencement

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

- (a) Not less than two (2) days’ notice of the date on which it is proposed to commence work associated with this Development Consent;

9.2 Development Application 17/1822.05 - Seniors Housing -
Modification to Main Facilities Building
ATTACHMENT 1 Attachment 1 Draft Conditions



- (b) Details of the appointment of a Principal Certifying Authority (either Wingecarribee Council or another Accredited Certifier)
- (c) Details of the name, address and licence details of the Builder.

Reason: *Statutory requirement.*

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

68. Principal Certifying Authority Sign

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

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

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

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

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

Reason: *Statutory requirement.*

69. Construction Certificate

No work shall commence until a:

- (a) Construction Certificate is obtained from either the Wingecarribee Shire Council or an Accredited Certifier; and
- (b) Construction Certificate lodged with Council obtained from an Accredited Certifier (together with associated plans and documents) - a fee applies for this service.

Reason *Statutory requirement.*

70. Developers Representative during Construction of Works

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

Details to be submitted include:-

- Name of Representative:
- Company:
- Position:

**9.2 Development Application 17/1822.05 - Seniors Housing -
Modification to Main Facilities Building
ATTACHMENT 1 Attachment 1 Draft Conditions**



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

Prior to commencing any works on site the representative shall:

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

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

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

Reason: *Statutory requirement.*

71. Heritage - Submission of Photographic Survey

Prior to the commencement of demolition, a photographic survey shall be submitted to Council. The photographic survey shall be prepared in accordance with the guidelines "Archival Recording of Heritage Items Using Film or Digital Capture" published by the NSW Heritage Office. Three copies of the Photographic Survey shall be submitted in an unbound report format. Each copy should contain:

For Film-based Projects:

- A very brief report or introduction which explains the purposes of the report and gives a brief description of the subject, as well as details of the sequence in which images were taken. The report may also address the limitations of the photographic record and may make recommendations for future work;
- measured plans of the building at 1: 100 scale;
- a site plan of the building at min 1: 200 scale;
- plans of the building marked up to indicate where the photographs were taken and the direction of the photograph;
- the report should include all technical details including camera and lenses, film type, exposure and colour information;
 - Catalogue sheets, photographic plan, supplementary maps;
 - B&W materials:
 - One set of archivally processed and numbered B&W negatives stored in archival sheets or envelopes
 - Three sets of archivally processed proof (contact) sheets, labelled and cross-referenced to the catalogue sheets;
- Colour materials:



- Three sets of colour transparencies (either original transparency plus two duplicates or three original images taken concurrently) numbered, labelled and cross-referenced to the catalogue sheets and stored in archival slide sheets.

Digital Projects

- A very brief report or introduction which explains the purposes of the report and gives a brief description of the subject, as well as details of the sequence in which images were taken. The report may also address the limitations of the photographic record and may make recommendations for future work;
- measured plans of the building at 1: 100 scale;
- a site plan of the building at min 1: 200 scale;
- plans of the building marked up to indicate where the photographs were taken and the direction of the photograph;
- the report should include all technical details including camera and lenses, image file size and format, technical metadata associated with the images, and colour information;
- Catalogue sheets, photographic plan, supplementary maps;
- Three sets of colour thumbnail image sheets (e.g. A4 page with six images by six images) showing images and reference numbers.
- The thumbnail sheets should be processed with archivally stable inks on archivally acceptable photographic paper and cross referenced to catalogue sheets;
- One full set of 10.5x14.8cm (A6) colour prints OR, if a large project, a representative set of selected images processed with archivally stable inks on archivally acceptable photographic paper.
- A CD or DVD containing electronic image files saved as RAW files with associated metadata, and cross referenced to catalogue sheets.

The report should be presented on archival quality paper in a suitable archival binder and slipcase, and all storage of individual components must be in archival quality packaging suitable for long term storage.

Reason: *Heritage Record.*

72. Inspection of Demolition Works

Council will require the following inspections of the site with the owner and demolition contractor present:

- (i) Prior to demolition works commencing (fencing must be erected and approved Waste Management Plan to be on site).
- (ii) At the completion of demolition works (documents relating to disposal of hazardous waste are to be provided on site).

A minimum of twenty four (24) hours notice is required to be given to Council prior to these inspections.

Reason: *To ensure compliance with the consent.*

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



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

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

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

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

Reason: *Statutory requirement.*

74. 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.*

75. 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.*



76. 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.*

77. Renewal of Sewerage

Prior to occupation certificate the existing sewer main shall be upsized in accordance with Wingecarribee Shire Council modelling report dated 02nd March 2018. All superseded mains and structures are to be removed from site and disposed at a facility that is licensed to accept such waste. Details to be submitted to Council (as the Water Authority) with Section 68 Application.

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

78. Erosion and Sediment Control

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

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

79. Wheel Wash

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

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

80. Tree Protection Measures

Protective fencing is to be installed around the tree to be retained in line with the dripline or per direction of the site arborist. This fencing is to be constructed of chain wire mesh 1.8m high, which is supported by steel stakes or piping and braced to resist impacts and as per the requirements detailed in AS4970-2009 "Protection of Trees on Development Sites", the installation of which is carried out under the supervision of the arborist.

Note: *Removal of the protective fencing during construction work will affect bonds and may result in fines or legal proceedings being instigated by Council against the applicant and/or builder.*



Reason: *To ensure the identified tree/s to be retained as appropriately protected*

81. Protection of Trees

Prior to any work commencing, certification of the installation and inspection of the required tree protection works is to be provided to Council and the Principal Certifying Authority by the arborist. A copy of the certificate is to be provided to Council within 7 days of the inspection and prior to any works commencing.

Prior to the commencement of construction the supervising Arborist is to mark out all trees representative of the Southern Highlands Shale Woodlands (SHSW) located along the northern perimeter of the SHSW patch to be retained. A registered surveyor in collaboration with the supervising Arborist shall then mark out a distance of 10m from the base of these identified trees for the location of protective fencing to physically separate all building and site preparation impact works from the trees and vegetation to be protected. Protective tree fencing is to be installed prior to the commencement of any approved works on site. Written verification of the installation of the protective fencing is to be provided jointly by the supervising Arborist and the registered surveyor and a copy of this verification retained by the Principal Certifying Authority. The protective fencing is to remain in place until the issue of the final Occupation Certificate at the completion of Stage 2.

Reason: *To ensure the identified tree/s to be retained as appropriately protected.*

82. Erection of Nesting Boxes

Hollows or nest boxes are to be installed on a one for one basis for any natural hollow removed by the development. Nest boxes are to be constructed of appropriate durable materials (e.g. painted marine ply, native hardwood or similar) and fixed to recipient trees with stainless steel screws, wire or similar. All nest boxes are to be erected prior to any clearing occurring on the development site. The Consulting Ecologist must identify suitable locations to erect hollows/nest boxes that minimise the risk of vandalism and maximise the likelihood of occupation by native fauna. To replace nest hollows lost, at least 8 large nest boxes should be erected at least 3 metres high within retained vegetation at the rear of the property within the retained native trees.

Reason: *To provide an equivalent replacement for any natural hollow to be removed.*

CONDITIONS TO BE SATISFIED DURING THE CONSTRUCTION PHASE

83. 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.*

84. Imported 'Waste-derived' Fill Material

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

- Virgin excavated natural material within the meaning of the *Protection of the Environment Operations Act 1997* (POEO); or

9.2 Development Application 17/1822.05 - Seniors Housing -
Modification to Main Facilities Building
ATTACHMENT 1 Attachment 1 Draft Conditions



- Any other waste-derived material the subject of a resource recovery exemption under cl.51A of the *Protection of the Environment Operations (Waste) Regulation 2014* that is permitted to be used as fill material

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

The application of waste-derived material to land is an activity that may require a licence under the *Protection of the Environment Operations Act 1997*. However, a licence is not required if the only material applied to land is virgin excavated natural material or waste-derived material that is the subject of a resource recovery exemption under cl.51A of the *Protection of the Environment Operations (Waste) Regulation 2005*.

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

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

85. Demolition Requirements

The existing structures approved for removal shall be demolished in accordance with the requirements of AS2601-2001 "The Demolition of Structures".

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

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

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

- (g) Sewer Assets Temporary Disconnection or Closure

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



Water and Sewer Development Engineer before demolition works can commence.

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

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

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

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

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

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

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

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

Reason: *To comply with statutory requirements.*

86. Ground Levels

Natural ground levels shall not be altered or adjusted other than shown on the approved plans or where varied by the conditions of consent without the prior consent of Council.

Finished ground levels shall be graded away from the buildings and adjoining properties must achieve natural drainage. The concentrated flows are to be dispersed down slope or collected and discharged to the storm water drainage system.

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

87. Excavations and Backfilling



All excavations and backfilling associated with the erection or demolition of a building shall be executed safely and in accordance with appropriate professional standards properly guarded and protected to prevent them from being dangerous to life or property.

Reason: *To ensure the safety of life and property.*

88. Support for Neighbouring Buildings

If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:

- a) must preserve and protect the building from damage, and
- b) if necessary, must underpin and support the building in an approved manner (under guidance / instruction of a structural engineer), and
- c) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

The owner of the adjoining allotment of land is not liable for any part of the cost of work to be carried out for the purposes of this clause, whether carried out on the allotment of land.

In this case, allotment of land includes a public road and any other public place.

Reason: *To preserve and protect neighbouring buildings.*

89. Engineering Inspections by Council

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

- (a) Sewer main upgrade (Technical Services).
- (b) Works in relation to road reserves, footpath, kerb and gutter, road shoulder and drainage within public lands or road reserves;
- (c) final inspection of water plumbing, sanitary drainage and stormwater drainage.

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

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

Reason: *Statutory requirement.*

90. Stormwater - Construction

The applicant shall provide adequate storm water drainage infrastructure (pits/pipes/open

**9.2 Development Application 17/1822.05 - Seniors Housing -
Modification to Main Facilities Building
ATTACHMENT 1 Attachment 1 Draft Conditions**



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

The provision of stormwater drainage infrastructure shall incorporate measures outlined in;

- Stormwater Management Plan – RevC prepared by Marchese Partners Engineering P/L dated 29 September 2018
- Flood Assessment Report prepared by FloodMit Pty Ltd dated September 2018 incorporating Option 4.

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

91. Stormwater - Discharge

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

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

92. Earthworks, retaining walls and structural support

- (1) Any earthworks (including any structural support or other related structure for the purposes of the development):
 - (a) must not cause a danger to life or property or damage to any adjoining building or structure on the lot or to any building or structure on any adjoining lot, and
 - (b) must not redirect the flow of any surface or ground water or cause sediment to be transported onto an adjoining property, and
 - (c) that is fill brought to the site—must contain only virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 to the [Protection of the Environment Operations Act 1997](#), and
 - (d) that is excavated soil to be removed from the site—must be disposed of in accordance with any requirements under the [Protection of the Environment Operations \(Waste\) Regulation 2005](#).
- (2) Any excavation must be carried out in accordance with Excavation Work: Code of Practice (ISBN 978-0-642-785442), published in October 2013 by Safe Work Australia.

Reason: *Structural safety.*

93. 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.*

94. 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.*

95. 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.*

96. Burning and Burying of Waste

No materials or rubbish resulting from the land clearing, demolition and building works shall be burnt or buried on the site. All waste materials shall be disposed of to a facility authorised and licensed to accept such waste.

Reason: *Health and amenity.*

97. 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.*

98. 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.*

99. Dust Control

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

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

Reason: *Environmental amenity*

100. Disposal of Vegetation

Any trees removed with Council consent and any other vegetation cleared in association with this development shall be disposed of in accordance with the Waste Management Plan approved with this development application. For minor additions and outbuildings removed vegetation shall be either mulched for reuse on site or transported to an appropriately licensed waste/recycling facility.

Reason: *Environmental amenity.*

101. 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.*

102. Supervising Arborist

An arborist qualified to at least Australian Qualifications Framework (AQF) Certificate Level 4 shall be retained throughout all construction work to ensure to proper protection and management of the trees required to be retained and that any necessary pruning/root pruning is carried out in accordance with AS4973-1996 "Pruning of Amenity Trees" and AS4970-2009 "protection of Trees on Development Sites". This includes on site supervision of the erection of tree protection measures and, where approved, any works that are required within the Tree Protection Zone (TPZ) or Structural Root Zone (SRZ).

Reason: *To ensure to proper protection and management of the trees required to be retained and that any necessary pruning/root pruning is carried out in accordance with the relevant Australian Standards.*



103. Protection of Fauna

Prior to the removal of any Hollow Bearing Tree (HBT), the following matters MUST be addressed:

- a. Ensure that a suitably qualified and licensed Ecologist (who is vaccinated for Australian Bat Lyssavirus) is engaged to supervise the removal of the HBTs in order to rescue or relocate any fauna displaced during the clearing process.
- b. Check for fauna in the zone of disturbance before clearing and scare off or remove them before commencing clearing works.
- c. Remove any non-HBTs prior to the removal of the HBTs.
- d. Leave HBTs standing for at least one night after other non-HBT clearing to allow any fauna the opportunity to remove themselves after site disturbance.
- e. After clearing, re-check the site to ensure no fauna have become trapped or injured during clearing operations. Any fauna found should be moved to adjacent habitat.
- f. Before felling the HBTs, tap trunk using heavy machinery to scare fauna from the hollows. Repeat several times. The aim is to 'substantially' shake the tree and encourage fauna to exit.
- g. Carefully fell the HBT by gently lowering the tree to the ground using an excavator arm fitted with grapples. Alternatively, arrange for qualified tree surgeons to fell the HBT using chainsaws and pulleys.
- h. After felling the tree, thoroughly check the tree for fauna in the case that any have become trapped or injured during clearing operations. Any fauna should be safely moved into adjacent habitat.
- i. If taking the tree down in stages, the non-hollow bearing branches should be removed before the hollow bearing branches are removed.
- j. Fell trees into the already disturbed areas to avoid damaging adjacent vegetation.
- k. Take care when moving equipment near vegetation to be retained.
- l. Logs from felled trees should be distributed into areas of vegetation so that they can continue to provide habitat for fauna such as terrestrial reptiles and mammals.
- m. Relocate woody debris to areas where they will not contribute a fire hazard.
- n. Provide written evidence to Council in order to document that a suitably qualified person was engaged for the specific tasks listed above.

Reason: *To ensure that the removal is undertaken in an environmentally responsible manner.*

104. Arborist Progression Reports

A 3 monthly report is to be prepared and submitted to Council by the arborist engaged to supervise all works pertaining to protection and approved pruning and root pruning activities that:

- o. Sets out maintenance work carried out on the trees; and
- p. Assesses the health and condition of the tree.

The report shall also provide documentary evidence that the tree protection conditions are being complied with in the form of site notes and photographs.

Reason: *To ensure that the tree protection conditions are being complied with.*

105. Approved hours of Construction/Demolition

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



DAY	HOURS
Monday to Friday	7:00am to 6:00pm
Saturday	8:00am to 1:00pm
Sunday	Nil
Public Holidays	Nil

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

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

106. Construction Management Plan

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

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

Reason: *Compliance with condition of consent.*

107. Maintenance of the site

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

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

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

During construction:

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

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

Reason: *Environmental amenity.*

108. 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.*

109. Site requirements during demolition and construction

All of the following shall be satisfied/complied with during demolition, construction and any other site works:

- (a) All demolition shall be carried out in accordance with Australian Standards AS 2601-2001.
- (b) Demolition shall be carried out by a registered demolition contractor.
- (c) A single entrance shall service the site for demolition and construction. The footway and nature strip at the service entrance must be planked out with close boarded, hardwood timber footpath protection pads. The pad shall cover the entire width of the footpath opening for the full width of the fence.
- (d) No blasting shall be carried out at any time during construction of the building.
- (e) Care shall be taken during demolition/ excavation/ building/ construction to prevent any damage to adjoining buildings.
- (f) Adjoining owner property rights and the need for owner's permission shall be observed at all times, including the entering onto land for the purpose of undertaking works.
- (g) Any demolition and excess construction materials shall be recycled wherever practicable.

Reason: *To ensure that the works are carried out in accordance with the approval and relevant legislation and to ensure that there is no disturbance to neighbouring properties.*

110. Construction and delivery vehicles

A suitable entry point shall be nominated on site and utilised by construction and delivery vehicles. The entry point shall be located so that the possibility of damage to Councils property is minimised during construction. The access point shall be surfaced with all-weather materials of a minimum of 40mm in size.

Reason: *To minimize the potential for damage to Councils assets.*

111. Temporary Onsite Toilet

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

Each toilet shall:

- (a) be a standard flushing toilet connected to a public sewer, or



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

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

112. Waste Management

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

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

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

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

113. Occupation Certificate

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

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

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

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

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

114. Site remediation and verification

The recommendations of the Detailed Site Investigation Report for 2-18 Centennial Road, Bowral, NSW prepared by Arcadis, dated 19 March 2019 are to be implemented in full prior to the issue of an Interim or Final Occupation Certificate.



The Remedial Action Plan verified by an Independent Site Auditor is to be fully implemented and completed and a Site Audit verifying the land is suitable for residential use and the uses approved with this consent shall be submitted to the Principal Certifying Authority and to Council prior to the issue of any Interim or Final Occupation Certificate.”

Reason: To ensure the site is made suitable for the proposed use.

115. Public Infrastructure

The applicant shall rectify any damage to public infrastructure (including roads, gutters, footpaths, street trees, etc.) prior to the issue of an Occupation Certificate at no cost to Council.

Reason: To ensure that public infrastructure is protected from damage as a result of the development.

116. Signage at Vehicle Entry

Priority signage is to be installed and maintained at the vehicle entry point in Centennial Road limiting access to the site to vehicles not exceeding 8.8M in length with the exception of emergency vehicles.

Reason: To ensure vehicle movements within the site are accommodated with the approved internal access road capacity.

117. Works as Executed Plans - Building Works

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

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

118. Civil Engineering works and services

All approved civil engineering works and services as per the approved engineering plans are to be constructed prior to the issue of the Occupation Certificate.

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

119. Certification of Engineering Works

Prior to issue of the Occupation Certificate, the following documents shall be submitted to the Principal Certifying Authority. These documents are:

- a) A Certificate from a suitably Qualified Engineer, with Corporate Membership standing in the Institution of Engineers, Australia, and registered on the National Professional Engineers Register (NPER) under the appropriate professional category, and
- b) A “Work - As - Executed” (WAE) plans of the engineering and/or drainage works.



The abovementioned Certificate shall certify that:

- (i) the stormwater drainage system, and/or
- (ii) the car parking arrangement and area, and/or
- (iii) any related footpath crossing works, and/or
- (iv) the proposed basement pump and well system, and/or
- (v) the proposed driveway and layback, and/or
- (vi) other civil works have been constructed in accordance with the approved plans and details, satisfies the design intent and complies with appropriate SAA Codes relevant Standards and Councils Policies and Specifications.

Where Council is not the Principal Certifying Authority, two (2) copies of the above documents are to be provided to Council prior to the issue of any Occupation Certificate. These documents are to be retained on Council's Construction Certificate file.

Reason: *Asset management.*

120. Maintenance and Bond for Public Assets - Civil Works

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

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

121. Guarantee for Civil Works

Prior to allowing occupation of the building/completion of subdivision works a cash bond or irrevocable bank guarantee in favour of Council is to be lodged for a period of 12 months for a sum equal to 5% of the engineering works or a minimum of \$1,000 that are to become the property of Council to ensure the effective performance of these works.

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

122. Asset Management

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

The assets to be identified include:

- Roadways length and width and type of surface
- Drainage systems length and size of pipes, number of pits, total area (m²)
- Sewer
- Water
- Open Space and total area being dedicated (m²)



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

123. Engineering Details in DXF Format

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

Reason: *To ensure appropriate records are held and asset Management.*

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

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

124. Verification of Tree Protection

Prior to the issue of the final Occupation Certificate for Stage 2, written verification from the supervising Arborist shall be provided to the Principal Certifying Authority confirming that the protective fencing for the Southern Highlands Shale Woodlands vegetation has remained satisfactorily intact and all required measures have been implemented for the protection of this vegetation in accordance with approved plans and the Vegetation Management Plan.

Reason: *To ensure protective measures are appropriately maintained for the full duration of construction activities.*

125. Final Arborist Report

The arborist engaged to ensure the proper protection and management of the tree required to be retained is to provide a final report to Council prior to the issue an Occupation Certificate, concerning the health and condition of the tree and if necessary any remedial works required. Any remedial works required shall be carried out and completed prior to the issuing of the Occupation Certificate, and included in the final report. The report shall also provide documentary evidence in the form of site notes and photographs that the tree protection conditions were complied with throughout all construction phases and any approved pruning works, root pruning, and remedial works were carried out as per AS4973 and AS4970. If Council is **not** the PCA, a copy of the certification is to be provided to Council with the lodgement of the Occupation Certificate.

Reason: *To ensure the proper protection and management of any trees required to be retained.*

126. Landscape Certification



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

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

127. Final Ecology Report

Prior to the issue of an Occupation Certificate, a final certification report providing documentary evidence of compliance for each stage of the development with all conditions of consent relating to ecology/trees/fauna management/nesting boxes must be prepared by the engaged Consulting Ecologist and forwarded to Council for review.

Reason: *To ensure compliance for each stage of the development with respect to tree/vegetation management.*

128. Irrigation

Certification is to be provided to the Principal Certifying Authority from a suitably qualified and licensed contractor that the specified fully automatic commercial grade irrigation system has been designed and installed to all common planted areas in accordance with the requirements of the current relevant Australian Standards, any relevant water authority regulations and current best practices. If Council is **not** the PCA, a copy of the certification is to be provided to Council with the Occupational Certificate.

Reason: *To ensure that an appropriate irrigation system has been installed.*

129. Fire Safety Certificate

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

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

- Forwarded to Wingecarribee Shire Council;
- Forwarded to the Commissioner of the New South Wales Fire Brigade; and
- Prominently displayed in the building.

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

130. Food Shop Requirements

Prior to the issue of the Interim or Final Occupation Certificate, the premise shall be set up and operated in accordance with the *Food Act*, the *Food Regulations* and the *Food Safety Standards*. The premise shall be fitted out in accordance with the Australian Standard AS4674 – 2004.

Reason: *Statutory requirement.*



131. Food Shop Registration Requirements – Modified 12/05/2020

Occupation of the premises shall not occur until a notification form has been submitted to Council for the food business conducted on the premises.

Evidence of compliance of the above shall be submitted to Council prior to the issue of an Interim or Final Occupation Certificate and commencement of business.

Reason: *Registration and notification to relevant authorities.*

132. Food premises compliance to be assessed prior to the issue of the Construction Certificate – Added 12/05/2020

Prior to the issue of the Construction Certificate, detailed drawing of the design, construction and fit-out of the proposed food premises shall be submitted to either the Wingecarribee Shire Council or an Accredited Certifier to be assessed for compliance with the *Food Act*, the *Food Regulations*, the *Food Safety Standards* and the Australian Standard AS4674 – 2004.

Reason: *To ensure compliance with statutory requirements.*

133. Storm water Facilities Alterations

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

Reason: *To provide appropriate storm water management.*

134. Storm water Facilities Maintenance

A "Positive Covenant" shall be included on the linen plan and title of the proposed development showing the location of storm water facilities and requiring that the proposed storm water facilities be maintained in a safe and functional manner. In addition, the Section 88B Instrument (*Conveyancing Act 1919*) shall make provision for Council to conduct maintenance on the subject storm water facilities at the owner's expense if the storm water facilities are not maintained to the agreed standard. Details shall be provided for the approval of Council prior to issue of the Occupation Certificate.

Reason: *To provide appropriate storm water management.*

135. Construction of Road

Construction of internal access roads, turning areas, footpaths, parking areas shall be completed prior to the issue of the occupation certificate.

- (a) Construction of access roads and turning areas shall be provided with an all-weather surface of asphaltic concrete.
- (b) Construction of minimum 2.0m wide shared pathways shall be provided with an all-weather surface of concrete including pedestrian area lighting to be designed in accordance with AS/NZS 1158.3.1 (category P).

9.2 Development Application 17/1822.05 - Seniors Housing -
Modification to Main Facilities Building
ATTACHMENT 1 Attachment 1 Draft Conditions



-
- (c) Construction of parking areas shall be provided with an all weather surface of asphaltic concrete with parking spaces permanently marked

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

136. Construction of Road

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

- (a) Construction of Centennial road full width between Kirkham Road and a point 50m (equivalent to a BAR length for 50kph) west of the secondary access point centerline intersection point to the development site including footpath and associated road drainage in accordance with Council's Engineering Standards including SD101 – Collector Road. All costs to be borne by the applicant
- (b) Access road intersections with Centennial Road to be designed as intersections with kerb returns in accordance with Council's Engineering Standards.
- (c) Provision of lighting where the access roads intersect with the public road network – Centennial Road to be designed in accordance with AS/NZS 1158.1.1 (Category V).
- (d) Shared footpaths plans to show a minimum 1.8m width suitable for pedestrians, cyclists and mobility scooters along the northern side of Mount Street from Kirkham Road to the internal pathway as shown on the landscape plan L03, and from the main access to the development in Centennial Road to the eastern side of Kirkham Road in the vicinity of the northern end of Bowral Railway Station; and under the railway viaduct to the eastern side of Mittagong Road to link with the Cherry Tree Walkway. Associated crossings of Kirkham and Mittagong Roads to include appropriate pedestrian refuges to Austroads Standards/RMS Standards. All costs to be borne by the applicant.
- (e) Construction of a minimum 1.8m wide footpath along the western side of Kirkham Road between the refuge and Mount Road including a free standing pedestrian bridge over Mittagong Creek. All cost to be borne by the applicant.

All necessary approvals shall be obtained prior to works proceeding.

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.*

137. Provision of reticulated sewer to each lot

A sewer connection shall be provided to the development in accordance with the approved civil engineering plans prior to the issue of the Occupation Certificate.

Sewerage mains shall be constructed to serve the development.

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



138. Construction of Water Service

A water service shall be installed to the development by Council at the applicant's cost prior to the issue of the Occupation Certificate.

A metered fire service shall be installed to the development at the applicant's cost prior to the issue of Occupation Certificate.

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

Advice: *A water meter should be installed prior to occupation.*

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

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

139. Noise Control

The use of the premises shall not give rise to the transmission of offensive noise to any place of different occupancy.

Reason: *To prevent loss of amenity to the area.*

140. Operational Noise Levels Added TBA

The Applicant shall ensure operational noise levels (LAeq) for the development do not exceed the background level by more than 5dB(A) when measured at the boundary of the nearest affected property. Without limiting the above, operational noise levels must also fall within the applicable noise amenity criteria specified by the NSW EPA in the Noise Policy for Industry. In the event that operational noise is identified as exceeding the requirements of this condition, the Applicant will be required to undertake such works as is necessary to remedy such exceedance within a period determined by Council.

Reason: *To prevent loss of amenity to the area.*

141. Food Premises – General – Added TBA

The construction and operation of the food premises shall comply with all applicable legislation/regulation and standards, including:

- The *Food Act 2003*
- Food Regulation 2010
- Food Standards Code, Food Standard 3.2.3
- Australian Standards AS4674-2004 Design, Construction and Fit out of Food Premises
- Mechanical ventilation - Australian Standard 1668.2-2012

Reason: Compliance legislation and standards.

142. Use of Facilities and Services



All facilities and services listed in the approved 'Statement of Facilities and Services' are to be made available only to residents and their guests as listed in the Statement. Bookings and use are to be coordinated through the central administrative and office operations of the Seniors Housing development through the issue of swipe cards, access codes and other user booking arrangements which require verification that users are residents or guests of residents of the seniors housing development. A booking register and records of use for the ballroom and chapel are to be maintained and made available to Council for inspection at any time to verify that the use of these facilities is ancillary to the seniors housing development.

Reason: *To ensure facilities and services are ancillary to the seniors housing development.*

143. Annual Fire Safety Statement

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

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

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

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

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

INTEGRATED DEVELOPMENT CONDITIONS

144. General Terms of Approval – Natural Resource Access Regulator

General Terms of Approval has been granted by the Natural Resource Access Regulator for the development pursuant to *Water Management Act 2000*. The conditions provided by the Natural Resource Access Regulator are provided at Attachment 1 and form part of this Notice of Determination.

CONCURRENCE CONDITIONS

145. Concurrence - Water NSW – Modified TBA

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 listed below and form part of this Notice of Determination.

**9.2 Development Application 17/1822.05 - Seniors Housing -
Modification to Main Facilities Building
ATTACHMENT 1 Attachment 1 Draft Conditions**



General

11. The site layout, works and staging of the development shall be as shown on the Concept Masterplan (Job No. 16104; Dwg No.DA.M.1.01; Revision J; dated 2019.09.04) prepared by Marchese Partners Engineering Pty Ltd. No revisions to site layout, works or staging of the development that will impact on water quality, shall be permitted without the agreement of Water NSW.

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

Stormwater Management

12. All stormwater management measures as specified in the Stormwater Management Report (Revision C; dated 10 September 2018) and the Civil Works Site Stormwater Drainage Plans (Dwg Nos DA-C-201 to 204; Sheets 1 to 4; Revision J; dated 2018.09.20) both prepared by Marchese Partners Engineering Pty Ltd shall be incorporated in the final stormwater drainage plans. The final stormwater drainage plan shall include a cross section of the bioretention basin for this stage of the development; shall be submitted to and approved by Council prior to the issuance of a Construction Certificate. The stormwater management measures as a minimum shall include:
- pits, pipes and gross pollutant trap/s
 - 2,500 litre rainwater tanks for each dwelling
 - a 10,000 litre rainwater tank for the main building, and
 - a bioretention basin with surface area of 450 and filter area of 300 square metres.
13. The bioretention basins shall also:
- be designed consistent with Adoption Guidelines for Stormwater Biofiltration Systems Version 2 (Payne *et al*, 2015, Melbourne, CRC for Water Sensitive Cities)
 - be planted with appropriate deep-rooted, moisture-tolerant vegetation protected by rock mulch (grass and turf is not appropriate vegetation and organic mulch is not suitable)
 - direct all discharge and overflow to Mittagong Creek via a new headwall and energy dissipater such that discharge does not cause erosion
 - be accessible by machinery to facilitate cleaning, monitoring and maintenance of the structures
 - ensure the discharge outlets are consistent with the requirements of any Controlled Activity Approval under the *Water Management Act (2000)* issued by the Natural Resources Access Regulator (NRAR)
 - be permanently protected from vehicular damage by bollards, fences, castellated kerbs or similar structures, with a sign to be erected to advise of its nature and purpose in water quality management
 - be protected by sediment and erosion control measures during any construction and post-construction phase until the ground surface is revegetated or stabilised, and
 - be constructed after all hardstand areas have been paved or sealed and all ground surfaces have been stabilised.
14. No variation to stormwater treatment or management that will impact on water quality shall be permitted without the agreement of Water NSW.
15. A suitably qualified stormwater consultant or engineer shall certify in writing to Water NSW and Council prior to the issuance of an Occupation Certificate that all stormwater management structures have been installed as per these conditions of consent and are in a functional state.

**9.2 Development Application 17/1822.05 - Seniors Housing -
Modification to Main Facilities Building
ATTACHMENT 1 Attachment 1 Draft Conditions**



16. There shall be a public positive covenant under Section 88E of the *Conveyancing Act 1919*, the prescribed authority being Water NSW, placed over the Lot 1 DP 1101892 requiring that the bioretention basin be retained, protected and maintained and that no development take place within one metre of the structure.

Operational Environmental Management Plan

17. An Operational Environmental Management Plan (OEMP) shall be prepared in consultation with Water NSW by a person with knowledge and experience in the preparation of such plans. The OEMP shall be prepared prior to the issuance of an Occupation Certificate and be provided to Owners' Corporation for implementation. The OEMP shall include but not be limited to:
- details on the location, description and function of stormwater management structures such as pits, pipes, gross pollutant traps, rainwater tanks, bioretention basin, and any other stormwater structures and drainage works
 - 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.
18. All stormwater treatment structures shall be monitored, maintained and managed as per the Operational Environmental Management Plan.

Reason for Conditions 2 to 8 – To ensure that the stormwater quality management measures and structures for the proposed subdivision have a sustainable neutral or beneficial impact on water quality over the longer term.

Construction Activities

19. A Soil and Water Management Plan shall be prepared for all works proposed or required as part of the development by a person with knowledge and experience in the preparation of such plans. The Plan shall meet the requirements outlined in Chapter 2 of NSW Landcom's Soils and Construction: Managing Urban Stormwater (2004) manual - the "Blue Book". The Plan shall be prepared prior to the issuance of a Construction Certificate and be to the satisfaction of Council.
20. The Soil and Water Management Plan shall be implemented, and effective erosion and sediment controls shall be installed prior to any construction activity. The controls shall prevent sediment or polluted water leaving the construction site or entering any natural drainage lines or stormwater drain and shall be regularly maintained and retained until works have been completed and groundcover established.

Reason for Conditions 9 & 10 – To manage adverse environmental and water quality impacts during the construction phase of the development to minimise the risk of erosion, sedimentation and pollution within or from the site during this phase.

END OF CONDITIONS

ATTACHMENT 2 – SITE LOCATION



Figure 1: Aerial Image of the Subject Site



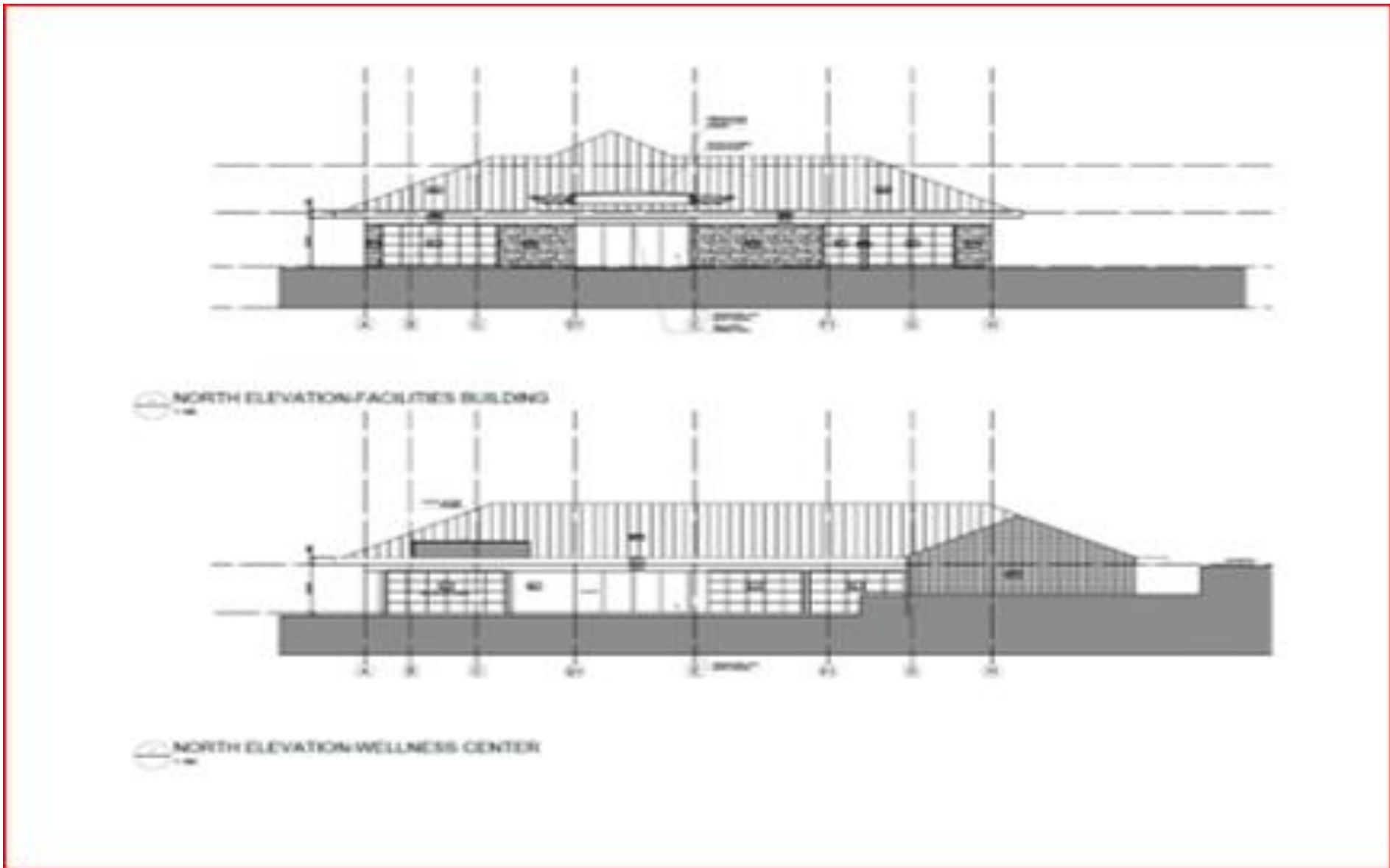
ATTACHMENT 3 -SITE PLAN

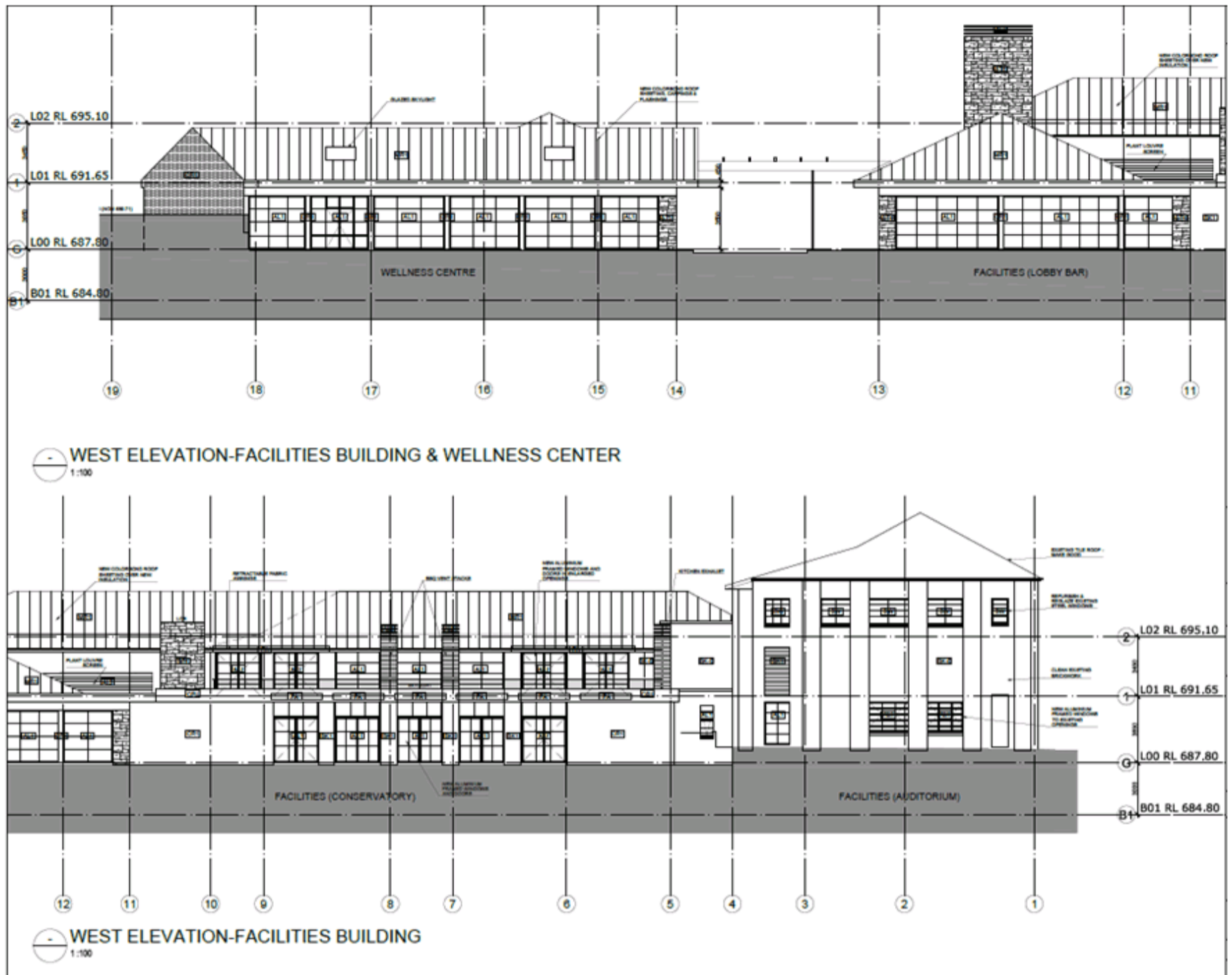




ATTACHMENT 4 – ELEVATIONS







11 OPERATIONS FINANCE AND RISK

11.1 Tender for Sewer Pump Station Electrical Panel Upgrade

Reference:	6330/20.2
Report Author:	Electrical Engineer
Authoriser:	Group Manager Water & Sewer
Link to Community	
Strategic Plan:	Manage and plan for future water, sewer and stormwater infrastructure needs

PURPOSE

The purpose of this report is to present the evaluation of the Request for Tender for the Sewer Pump Station Electrical Panel Upgrade.

RECOMMENDATION

1. **THAT** in relation to the report concerning Tender for Sewer Pumping Station Electrical Panel Upgrade - Council adopts the recommendations contained within the Closed Council report – Item 19.1.

OR

2. **THAT** the report concerning Tender for Sewer Pumping Station Electrical Panel Upgrade - be considered in Closed Council – Item 19.1. This report is confidential in accordance with s10A(2) of the Local Government Act, 1993, under clause 10A(2)d(i) as it contains commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

REPORT DEPUTY GENERAL MANAGER OPERATIONS, FINANCE AND RISK



Note: The Council, or a committee of the Council, may allow members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed (15.9 – Code of Meeting Practice).

Where the matter has been identified in the agenda of the meeting under clauses 3.21 as a matter that is likely to be considered when the meeting is closed to the public, in order to make representations under clause 15.9, members of the public must first make an application to the Council in the approved form. Applications must be received by close of business (4.30pm) two (2) business days prior to the meeting at which the matter is to be considered (15.11 – Code of Meeting Practice).

REPORT

BACKGROUND

Wingecarribee Shire Council currently has over 80 Sewer pumping stations within the existing sewer distribution network, with a majority of the existing sewer pump stations being over 20 years old. An independent electrical audit indicated that the electrical control panels at some of these pump stations no longer meet the Australian electrical and safety standards and the electrical switchboards are at high risk of failure and need replacement.

These legacy assets present a service delivery risk to Council and a safety risk to personnel responsible for operating and maintaining the equipment. Council intends to replace the switchboards and incorporate new telemetry units at 41 sites.

REPORT

Council sought tenders from suitably qualified contractors to provide a lump sum tender for the scope of works. The full scope of works was detailed in the design drawings and tender documents.

In accordance with the *Local Government Act 1993* part 3, section 55(3)(n), Council is required to invite tenders where estimated expenditure is greater than \$250,000 (GST inclusive).

ADVERTISING

The tender advertising period was from the 21 January 2020 to 3 March 2020 (42 days).

The tender was advertised as follows:

Newspaper / Website	Date Advertised
Newspaper – Sydney Morning Herald	21 January 2020
Newspaper – Southern Highlands News	22 & 29 January 2020
Council's Website	For the duration of the advertising period
Council's eTendering Website	For the duration of the advertising period

TENDERS RECEIVED

A total of thirteen (13) tender submissions were received:

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

REPORT DEPUTY GENERAL MANAGER OPERATIONS, FINANCE AND RISK



Company Name	Location	Postcode
Ampcontrol Service NSW Pty Ltd.	30 Investigator Dr, Unanderra NSW	2526
Contract Electrical (QLD) Pty Ltd	13 Bedford street, Queanbeyan West, NSW	2620
Comdain Infrastructure Pty Ltd	22 Powers Road, Seven Hills, NSW	2147
Concept Engineering Services Pty Ltd	Unit 1/ 9a Lyell Street Mittagong NSW	2575
Controltek Services Pty Ltd	Unit 18, 10 Chilvers Rd, Thornleigh, NSW	2120
Core Infrastructure Services Pty Ltd	U2/49 Queen Street, Berry NSW	2535
E.M.T. Pty Ltd	1/114 Station Road, Seven Hills, NSW	2147
Itech Corporation Pty Ltd	15-17 Kirkham Road BOWRAL NSW	2576
John Holland Pty Ltd	5-7 Welder Rd, Seven Hills, NSW	2147
Lindsay Civil Pty Ltd	9 Waler Cres Smeaton Grange NSW	2567
Q-Max Pumping Systems Pty Ltd	72 High street, Queanbeyan NSW	2620
Star Electrical Co Pty Ltd	46 Harley Crescent, Condell Park, NSW	2200
Turnkey Innovative Engineering Pty	179 McCredie Rd, Smithfield NSW	2164

LATE TENDERS

One late tender submission was received (therefore non-conforming):

Company Name	Location	Postcode
Ampcontrol Service NSW Pty Ltd.	30 Investigator Dr, Unanderra NSW	2526

TENDER EVALUATION

A Procurement Evaluation Plan was developed which outlined the pre-determined selection criteria, the criteria weightings, and members of the tender evaluation panel.

Each submission was evaluated against the specified criteria by the tender evaluation panel with a scoring system based from 0 to 10 and weighted according to the pre-determined criteria.

SELECTION CRITERIA

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

REPORT DEPUTY GENERAL MANAGER OPERATIONS, FINANCE AND RISK



The pre-determined criteria used to evaluate the tender were as follows:

Mandatory Criteria:

Criteria
Public Liability - \$20 million
Workers Compensation OR [Self Employed] Personal Accident and Illness Insurance or Personal Income Protection
Personal Indemnity Insurance - \$10 million
Motor Vehicle – Comprehensive
Works Insurance 130% of Contract Value
Bank Guarantee 5% of Contract value
Compliance with WHS Accreditation or company should provide evidence of internal WHS policies and procedures.
Compliant, Electrician Licence

Tenderers were required to meet the mandatory criteria to be eligible to be shortlisted and progress any further in the evaluation process.

Non-Cost Selection Criteria & Weighting:

Criteria	Weighting
Community & Social (including local content)	10%
Capability & Experience	20%
Specifications, Service & Support, Fit for Purpose	15%
Quality Assurance, Innovation	5%
Work Health and Safety & Environment	5%
Total	55%

Summary of Selection Criteria & Weighting:

Criteria	Weighting
Total Non-Cost Criteria	55%
Total Cost Criteria	45%
Total	100%

NON-COMPLIANT TENDERS

Upon evaluation a total of three (3) tender submissions were determined to be non-compliant:

Company Name	Reason for Non-Compliance
EMT Pty Ltd	No evidence of Professional Indemnity Insurance was provided
Q-Max Pumping Systems Pty Ltd	Prices were incomplete, no evidence Professional Indemnity Insurance submitted.
Turnkey Innovative Engineering Pty Ltd	No evidence of Professional Indemnity Insurance was provided

CONSULTATION

Community Engagement

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

Internal Consultation

Consultation took place between representatives of Financial Procurement and Fleet, Assets and Project Delivery and Water and Sewer. This consultation included scope, technical requirements and evaluation methodologies.

External Consultation

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

SUSTAINABILITY ASSESSMENT

- **Environment**

There are no environmental issues in relation to this report.

- **Social**

There are no social issues in relation to this report.

- **Broader Economic Implications**

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

- **Culture**

There are no cultural issues in relation to this report.

- **Governance**

This tender has been conducted in accordance with Part 7 of the *Local Government (General) Regulation 2005*.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

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



RELATED COUNCIL POLICY

Council's Procurement Guidelines have been used to inform the tender process.

CONCLUSION

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

ATTACHMENTS

There are no attachments to this report.



11.2 Tender Outcome of Direct Negotiations - Supply and Delivery of Premixed Concrete Tender

Reference: 6330/19.31.1
Report Author: Coordinator Procurement and Fleet
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 the outcome of the direct negotiation process to form a supplier panel contract for the supply and delivery of premixed concrete with the following contractors:

- Boral Resources (Country)
- Concrete Pty Ltd
- Holcim Pty Ltd

The proposal to enter into direct negotiations was passed by Council Resolution on 13 November 2019 (MN 513/19).

RECOMMENDATION

THAT Council accept tender negotiations 6330/19.31.1 Supply and Delivery of Premix Concrete from the below listed tenderers to form a panel arrangement for the period of two (2) years with the option to extend for a further two (2) years.

Company Name
Boral Resources (Country)
Concrete Pty Ltd
Holcim Pty Ltd

REPORT

BACKGROUND

Wingecarribee Shire Council is seeking to engage suitable and qualified suppliers for the supply and delivery of premixed concrete which is to be used in Council's capital works and maintenance programs. A full scope was detailed in the documentation that was provided to suppliers as part of the direct negotiation process.

The new contract will replace Council's previous contract for the supply and delivery of premixed concrete which expired on the 31 December 2019.

The proposed contract is intended to be for a period of two (2) years with provisions in place for a further two (2), one (1) year extension options to be entered into by mutual agreement

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

REPORT DEPUTY GENERAL MANAGER OPERATIONS, FINANCE AND RISK



between Council and the awarded Contractors. If both extension options are entered into the total contract period will be four (4) years.

In accordance with the *Local Government Act 1993* part 3, section (3)(n), Council is required to invite tenders where estimated expenditure is greater than \$250,000 (GST inclusive).

Direct negotiations were entered into with the listed suppliers as no formal responses to the original Tender were received.

DIRECT NEGOTIATION OUTCOME

In accordance with the *Local Government (General) Regulation 2005* part 7, section 178(3)(e), Council entered into direct negotiations.

Direct negotiations were initiated by an invitation to the identified suppliers to provide a response to Council's specifications and scope of works.

Event	Date
Initial invitation emailed to Suppliers	29 November 2019
Suppliers Intention to Participate/ Respond	3 December 2019
Clarification and Questions Close:	10 December 2019
Closing Date:	17 December 2019
Closing Time:	10:00am

The responses received from suppliers under the direct negotiation process were evaluated and agreed to by an evaluation panel in accordance with Council's Procurement Guidelines for high value/ risk procurement activities.

The outcome of the evaluation has demonstrated that all suppliers that Council proposes to engage under contract for the supply and delivery of premixed concrete are suitable and qualified for supplying to Council under contract.

There were several contract departures received from both Concrete Pty Ltd and Holcim Pty Ltd which have been reviewed by Council staff and are deemed acceptable.

The schedule of rates submitted were considered reasonable and did not deviate significantly from previous contract rates.



COMMUNICATION AND CONSULTATION

Community Engagement

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

Internal Communication and Consultation

Procurement, Infrastructure Services and General Counsel (Legal).

External Communication and Consultation

Individual consultations took place between Council and each supplier for the purpose of resolving any departures or clarifications in response to the direct negotiation process.

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 direct negotiations were conducted in response to an outcome of a tender process. This original tender process had been conducted in accordance with Part 7 of the *Local Government (General) Regulation 2005*.

COUNCIL BUDGET IMPLICATIONS

Funding for the supply and delivery of premixed concrete has been considered when developing maintenance programs and capital works programs for the 2019/20 Annual Budget (including four-year forward estimates).

RELATED COUNCIL POLICY

Council's Procurement Guidelines have been used to inform the tender process.

CONCLUSION

Council entered into direct negotiations with the following suppliers as a result of receiving no tender responses to RFT 6330.19.31 for the supply and delivery of premixed concrete.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

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



- Boral Resourced Country
- Concrete Pty Limited
- Holcim Pty Limited

It is recommended that Council enter into a panel arrangement based on the schedule of rates submitted under the direct negotiations.

ATTACHMENTS

There are no attachments to this report.

11.3 Tender for Replacement of Lackey Park and Australia Ave Sewer Pump Stations

Reference:	64049/64101
Report Author:	Project Manager
Authoriser:	Group Manager Capital Projects
Link to Community	
Strategic Plan:	Manage and plan for future water, sewer and stormwater infrastructure needs

PURPOSE

The purpose of this report is to present the evaluation of the Request for Tender for the Replacement of Lackey Park and Australia Ave Sewer Pump Stations.

RECOMMENDATION

1. **THAT** in relation to the report concerning Tender for replacement of Lackey Park and Australia Ave Sewer Pump Stations - Council adopts the recommendations contained within the Closed Council report – Item 19.2.

OR

2. **THAT** the report concerning Tender for Tender for the Replacement of Sewage Pump Stations BE-5 & MV-6 - be considered in Closed Council – Item 19.2. This report is confidential in accordance with s10A(2) of the Local Government Act, 1993, under clause 10A(2)d(i) as it contains commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

REPORT DEPUTY GENERAL MANAGER OPERATIONS, FINANCE AND RISK



Note: *The Council, or a committee of the Council, may allow members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed (15.9 – Code of Meeting Practice).*

Where the matter has been identified in the agenda of the meeting under clauses 3.21 as a matter that is likely to be considered when the meeting is closed to the public, in order to make representations under clause 15.9, members of the public must first make an application to the Council in the approved form. Applications must be received by close of business (4.30pm) two (2) business days prior to the meeting at which the matter is to be considered (15.11 – Code of Meeting Practice).

REPORT

BACKGROUND

As part of Council's ongoing operation and maintenance of its sewerage network aging assets are regularly updated and upgraded. It has been identified that two Sewage Pumping Stations are experiencing increased maintenance requirements, approaching their capacity to service their catchments and are in need of replacement. The two Sewage Pumping Stations are:

- SPS MV-6 – Lackey Park, Lackey Road, Moss Vale
- SPS BE-5 – Australia Ave, Berrima

Works involved include the civil construction to excavate and construct the pump station and emergency storage tank structures, mechanical fit out of the pumps and valving, electrical and telemetry fit out of the switchboards and control systems and commissioning works to connect the new stations into the existing network.

Once the new pump stations have been commissioned the existing pump stations will be decommissioned and demolished.

Council sought Tenders for the replacement of these two Sewage Pumping Stations and the results of the tender evaluation are presented in this report.

REPORT

Council sought tenders for suitable and qualified contractors to provide a lump sum tender for the scope of works. The full scope of works was detailed in the design drawings and tender documents.

In accordance with the *Local Government Act 1993*, part 3, section 55(3)(n), Council is required to invite tenders where estimated expenditure is greater than \$250,000 (GST inclusive).

This report presents the assessment relating to the advertised tender.

ADVERTISING

The tender advertising period was from the 24th March 2020 to 28th April 2020 (35 days).

The tender was advertised as follows:

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

REPORT DEPUTY GENERAL MANAGER OPERATIONS, FINANCE AND RISK



Newspaper / Website	Date Advertised
Newspaper – Sydney Morning Herald	Tuesday, 24 March 2020
Newspaper – Southern Highlands News	Wednesday, 25 March 2020 and 1 April 2020
Council's Website	For the duration of the advertising period
Council's eTendering Website	For the duration of the advertising period

TENDERS RECEIVED

A total of seven (7) tender submissions were received:

Company Name	Location	Postcode
E.M.T Pty Ltd	Seven Hills, NSW	2147
Endacom Pty Ltd	Lidcombe, NSW	2141
Gongues Constructions Pty Ltd	Cameron Park, NSW	2285
Mikcon Pty Ltd	Box Hill, NSW	2765
Select Civil Pty Ltd	Kembla Grange, NSW	2526
SNG Constructions Pty Ltd	Stanhope Gardens, NSW	2768
Springfield Trading Pty Ltd	Minto, NSW	2566

LATE TENDERS

No late tenders were received.

TENDER EVALUATION

A Procurement Evaluation Plan was developed which outlined the pre-determined selection criteria, the criteria weightings, and members of the tender evaluation panel.

Each submission was evaluated against the specified criteria by the tender evaluation panel with a scoring system based from 0 to 10 and weighted according to the pre-determined criteria.

SELECTION CRITERIA

The pre-determined criteria used to evaluate the tender were as follows:

Mandatory Criteria:

Criteria
Public Liability - \$20 million
Workers Compensation OR [Self Employed] Personal Accident and Illness Insurance or Personal Income Protection
Motor Vehicle – Comprehensive

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

REPORT DEPUTY GENERAL MANAGER OPERATIONS, FINANCE AND RISK



Criteria
Bank Guarantee – 2 x 2.5% of Contract Value
Certificates of Accreditation – Quality, Environmental & Safety management plans

Tenderers were required to meet the mandatory criteria to be eligible to be shortlisted and progress any further in the evaluation process.

Non-Cost Selection Criteria & Weighting:

Criteria	Weighting
Community & Social (including local content)	10%
Capability & Experience – Past Projects of Tenderer	10%
Capability & Experience – Experience of Proposed Key Personnel	10%
Methodology	15%
Project Program	5%
Total	50%

Summary of Selection Criteria & Weighting:

Selection Criteria	
Criteria	Weighting
Total Non-Cost Criteria	50%
Total Cost Criteria	50%
Total	100%

NON-COMPLIANT TENDERS

Upon evaluation a total of four (4) tender submissions were determined to be non-compliant:

Company Name	Reason for Non-Compliance
E.M.T Pty Ltd	Non-Cost Selection Criteria Threshold
Endacom Pty Ltd	Non-Cost Selection Criteria Threshold
SNG Constructions Pty Ltd	Non-Cost Selection Criteria Threshold
Springfield Trading Pty Ltd	Non-Cost Selection Criteria Threshold

CONSULTATION

Community Engagement

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

Internal Consultation

Extensive consultation has taken place between Council's Procurement, Assets, Sewer Operations and Project Delivery Branches. This consultation included scope, technical requirements, operational and maintenance requirements and evaluation methodologies.

External Consultation

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

SUSTAINABILITY ASSESSMENT

- **Environment**

There are no environmental issues in relation to this report.

- **Social**

There are no social issues in relation to this report.

- **Broader Economic Implications**

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

- **Culture**

There are no cultural issues in relation to this report.

- **Governance**

This tender has been conducted in accordance with Part 7 of the *Local Government (General) Regulation 2005*.

RELATED COUNCIL POLICY

Council's Procurement Guidelines have been used to inform the tender process.

CONCLUSION

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

ATTACHMENTS

There are no attachments to this report.

11.4 Seymour Park Masterplan Adoption

Reference:	6846/20
Report Author:	Asset Coordinator Parks and Buildings
Authoriser:	Manager Assets
Link to Community	
Strategic Plan:	Increase promotion of healthy lifestyle choices

PURPOSE

The purpose of this report is to seek Council approval to adopt the Draft Seymour Park Masterplan.

RECOMMENDATION

1. **THAT** Council adopts the amended Draft Seymour Park Masterplan included as Attachment 1 noting the addition of 90-degree parking along Lovelle Street as Stage 3 works.
2. **THAT** staff write to all submission makers confirming Council's decision.
3. **THAT** staff write to the NSW Government's Everyone Can Play Grant to express Council's thanks for their funding support.

REPORT

BACKGROUND

At the Council Meeting of 27 November 2019, Council approved the public exhibition of the Draft Seymour Park Masterplan. The Draft Masterplan was prepared by landscape architects Sturt Noble Associates with consideration to Council's Parks Strategy 2016, Public Toilet Strategy 2017 and the NSW Government's 2019 Everyone Can Play Guidelines.

Stage 1 works of the masterplan are identified in the capital works program for delivery in the 2020/21 financial year. Grant funding of \$200,000 has been awarded from the NSW Government's Everyone Can Play 2019/20 Grant fund for the construction of stage 2 works. The funding agreement requires the project to be completed within 18 months of the project commencement date.

REPORT

The Draft Masterplan was placed on public exhibition from 3 December 2019 until the 28 January 2020. Community engagement activities included a Your Say Wingecarribee webpage, two onsite information kiosks and notices posted at the Civic Centre and libraries. A total of fourteen submissions were received and fifteen people attended the onsite information kiosks. A summary of the community feedback received is attached as Attachment 1.

Overall the feedback was positive with a number of people showing support for the proposed park improvements. Several people indicated they greatly value Seymour Park for its off-leash dog area and didn't want to see any development works negatively impact on this aspect of the park.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

REPORT DEPUTY GENERAL MANAGER OPERATIONS, FINANCE AND RISK



The draft masterplan focusses the majority of development works on the area of the park not designated for off-leash dogs. Changes to the off-leash dog area include expanding the off-leash dog area, provision of improved parking and entry point at Lovelle Street, additional park seating and provision of a bubbler and dog watering station. These changes are viewed as benefits to the off-leash dog activity, rather than detriments.

Some feedback was also received regarding traffic congestion at the Lovelle Street entry point to the off-leash dog area and concerns this will become worse when the Chelsea Gardens and Coomungie development is populated.

This was investigated by Council's Traffic Engineer and Traffic & Transport Planning Engineer and was determined to not require an extension of the 'No Parking' area along Lovelle Street, but rather to plan for a bay of 90-degree parking on the park side of the street.

AMENDMENTS TO THE DRAFT MASTERPLAN

The following amendment was made to the Draft Masterplan:

- 90-degree parking has been added at Lovelle Street along the park side as Stage 3 works.

COMMUNICATION AND CONSULTATION

Community Engagement

The Draft Masterplan was placed on public exhibition from 3 December 2019 until the 28 January 2020, 56 days in total. Typically, public exhibition periods are 28 days, however, in light of the exhibition period being over the December holiday period, an extended exhibition was implemented to give the community ample opportunity to provide feedback. Copies of the Draft Masterplan were available at the Civic Centre and Libraries. A Your Say Wingecarribee webpage was used to inform and advertise the public exhibition, as well as notice being advertised in the Southern Highlands News on 4, 11 and 18 December 2019 and 1, 8, 15 and 22 January 2020.

A total of fourteen submissions were received.

Two onsite information kiosks were held on 6 and 12 December 2019. Eight people attended the first meeting and seven people attended the second one.

Internal Communication and Consultation

Consultation has occurred with internal stakeholders including Council's Traffic & Transport Planning Engineer, Infrastructure Services - Parks & Open Space Team, Water & Sewer and the Assets Team. Council's Access Committee was consulted during the exhibition period.

External Communication and Consultation

No external organisations were consulted. **SUSTAINABILITY ASSESSMENT**

- **Environment**

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

Social

The inclusion of all-abilities play equipment, appropriate parking and access paths will enhance the social aspects of the park for the community. The Masterplan has been designed to ensure that all visitors to the park can access the amenities, the playground and the parking area via safe pathways that meet Australian Standards. The inclusion of all abilities play equipment and nature play aspects meet the Everyone Can Play guidelines and will ensure that Wingecarribee Shire is moving in step with the NSW Government's best practice recommendations. • **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

Council's capital works program includes \$369,232 for Stage 1 works programmed for construction in the 2020/21 financial year.

In addition, Council has been successful in obtaining a further \$200,000 in grant funds from the NSW Government's Everyone Can Play Grant which will allow for construction of Stage 2 works in 2020/21.

Stage 3 works will be programmed in a future year in line with capital works prioritisation.

RELATED COUNCIL POLICY

- Asset Management Policy

OPTIONS

The options available to Council are:

Option 1

THAT Council adopts the amended Draft Seymour Park Masterplan included as Attachment 1 noting the addition of 90-degree parking along Lovelle Street as Stage 3 works.

Option 2

THAT Council does not adopt the Draft Seymour Park Masterplan.

Option 1 is the recommended option to this report.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

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



CONCLUSION

Adoption of the amended Draft Seymour Park Masterplan will provide a guiding document for the future management and development of Seymour Park and will enable the park improvement works to commence.

ATTACHMENTS

1. Summary of Feedback from Public Exhibition
2. Draft Seymour Park Masterplan with Amendments



Attachment 1

Draft Seymour Park Masterplan Public Exhibition Summary of Feedback

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Public Exhibition Feedback Summary Table

Feedback	Council Response
General support for the masterplan (14 responses).	Support noted.
Objections to tree removal (4 responses).	The Draft Masterplan includes the removal of two cedrus deodara trees in Stage 2 works to provide clear sight lines of the public toilet. The proposed location of the public toilet is in line with the Public Toilet Strategy 2017 being in close proximity to the car park, access compliant and in near proximity to the other park amenities. It is not recommended to alter the proposed location of the public toilet. It is important to note that the Draft Masterplan also includes the provision of two new trees, one in Stage 1 and the other in Stage 2 works so there will be not net loss of trees overall.
Sentiment that further investment in Seymour Park is wasteful and unnecessary (2 responses).	Council has a commitment and an obligation for the ongoing maintenance and renewal of its open space areas and develops strategies and plans to direct the management of its parks network. Much of the infrastructure located at Seymour Park is in poor condition and requires renewal. The Draft Masterplan seeks to set out these improvements in the safest and most practical locations for the community's use and to indicate reasonable stages for these works to be undertaken.
Request for tree survey and suggestion to embellish the tree canopy to make the park an attraction for visitors (1 response).	Agreed – trees in Council parks are managed as per Council's Urban Forest Tree Policy and Risk Management Plan; individual management plans are not typically applied to open space areas; Council has surveyed and documented the condition of all the trees located at Seymour Park. Trees are then re-assessed based on the risk of the particular tree.
Request for solar lighting along the pathway and at picnic areas (1 response).	Seymour Park is classed a Community Park, level of service 2 in Council's Parks Strategy 2016. Park lighting is not indicated in this class of park as the intended use is during daylight hours only.
Suggestion to add Seymour Park to Tulip Time activities via floral plantings supplemental to those at Leighton Gardens (1 response).	This concept is outside of the intention of this masterplan. The suggestion will be forwarded to Tulip Time event management for consideration during the development of the Tulip Time Event Strategy.
Request for additional picnic infrastructure (1 response).	Agreed – the Draft Masterplan includes provision for one additional picnic table shelter set bringing the park's total to three. The existing picnic tables/shelters will be replaced at the end of life.
Request for community art work (1 response).	Noted – while the Draft Masterplan does not specifically include provision for public art, this could be considered in the future.



Feedback	Council Response
Positive feedback regarding the proposed enlargement of the off-leash dog area (1 response).	Support noted.
Request for larger entry gates to off-leash dog area (1 response).	Noted – this will be considered in the specifications for Stage 2 works.
Request to relocate the Lovelle Street entry point to the off-leash dog area to the approximate location of the existing playground (once removed) (1 response).	Noted – this will be considered in the specifications for Stage 2 works.
Request to extend 'No Parking' area along Lovelle Street due to concerns about traffic congestion along Lovelle Street at off-leash dog area entrance (1 response).	<p>Investigated, not agreed - The width of Lovelle Street varies from 6.5m to 7.3m. The distance between a parked car on the west side of Lovelle Street (opposite the park) and the edge of the pavement is 4.1m. According to road rules, if the road does not have a continuous dividing line or a dividing strip, the driver must position the vehicle so there is at least 3 metres of the road alongside the vehicle that is clear for other vehicles to pass, unless otherwise indicated by a parking control sign. It is therefore recommended that 4.1m is sufficient for passing traffic.</p> <p>Furthermore, traffic volume data shows that average weekday daily traffic on Lovelle St is 368 vehicles per day which is relatively low. As both the concerned section of Lovelle St and Daylesford Dr are no through roads, traffic volume is expected to be very low. During the five (5) year period from 2013 to 2018 there was no crash recorded on Lovelle St. For these reasons, it is recommended that the request for parking restrictions on Lovelle St is not supported at this time.</p> <p>However, we do recommend that 90 degree parking be formalised in the Master Plan and included for future funding.</p>
Request for additional parking at Lovelle Street entrance of the off leash dog area (1 response).	Agreed – see response above – Request to extend 'no parking' area along Lovelle Street. This has been included as Stage 3 works in the Draft Masterplan.



Feedback	Council Response
Suggestion to leave the dog park alone; satisfied as is (1 response).	The Draft Masterplan includes provision for enlargement for the off-leash dog section, additional park seating and dog water stations to address community feedback received about the off-leash dog area. They are minimal changes/additions to provide added benefit to the users of the dog park facilities. Seymour Park as a whole has multiple uses for the community including passive recreation, playground, picnic area and public toilet. The major changes indicated in the Draft Masterplan are designed to improve the use and safety of residents participating in the other offerings of the community park and to make the park more accessible for people with disabilities.
Objection to the proposed location of the public toilet (1 response).	Through the design process several alternative locations for the public toilet were considered. The proposed location in the Draft Masterplan was identified as the most desirable as it was in close proximity to the car park, playground and picnic area. Further, due to the undulating topography of the park, achieving the gradients required for accessible pathways to the toilet was challenging and overly costly in the alternative locations. Overall, the proposed location best meets all of the desired outcomes.
Positive feedback regarding the proposed playground (1 response).	Support noted.
Positive feedback regarding the proposed nature play elements of the playground (1 response).	Support noted.
Positive feedback regarding the proposed location of the playground (1 response).	Support noted.
Request for outdoor fitness equipment and synthetic turf area for Thai Chi practice (1 response).	Seymour Park is classed a Community Park, level of service 2 in Council's Parks Strategy 2016. Fitness equipment is not indicated in this level of service. While an area of synthetic turf is not indicated in the Draft Masterplan, the practice of Thai Chi could be undertaken on the natural turf areas, noting any organised gathering or formal training would require a Booking Form under the Terms and Conditions of Facility Bookings.



NOTES

1. NEW PLAYGROUND: located on flatter section of the park, close to accessible parking and future amenities location.
2. EXISTING PLAYGROUND: to be removed once new play area is completed. Area to be incorporated into off-leash area.
3. ACCESSIBLE PARKING: Upgrade to existing parking area to provide accessible spaces close to proposed playground and amenities.
4. PARKING UPGRADES: Potential future upgrade to parking along Spencer Street
5. ROAD UPGRADES: Potential upgrades to provide kerb and gutter to Lovelle and Spencer Streets
6. LOVELLE STREET: Potential upgrades to Lovelle Street, including kerb and gutter, parking, accessible parking and turning circle at end of street.
7. OFF-STREET PARKING: Potential for off-street parking area for park users and off-leash area. Retain existing maintenance access to golf course.
8. ENTRY: Accessible entry from carpark, links to playground and amenities.
9. AMENITIES: New accessible amenities. Stage 2 works
10. PICNIC AREA: Upgrade existing picnic settings and shelters, with additional accessible setting located at playground.
11. SEATING: Formal and informal seating for park users, with additional seats, stools and picnic settings complemented with informal seating on boulders and logs
12. SITE FURNITURE: New and upgraded bins, drinking fountain with bottle tap and hitching post.
13. EXISTING MAINTENANCE ACCESS: Relocated to Lovelle Street.
14. MAINTENANCE ACCESS: New access gate for maintenance.
15. OFF-LEASH AREA: Retain existing off-leash area including, entries and seating. Widen entry zone off Lovelle Street and provide additional seat. Retain or upgrade water bowl at northern entry, add water bowl to upper park.
16. NEW FENCE: New fence to expanded off-leash entry zone.
17. EXISTING FENCE: To be relocated to expanded off-leash area
18. EXISTING AMENITIES: To be demolished once new amenities building is installed. Water retained to allow for drinking fountain and dog drinking bowl
19. POTENTIAL FLOOD MANAGEMENT FACILITY

LEGEND

- Site boundary
- Existing trees to be retained
- Proposed trees
- Trees to be removed

PROJECT
SEYMOUR PARK MASTERPLAN

CLIENT
WINGECARRIBEE SHIRE COUNCIL

DRAWING
MASTERPLAN

DRAWING No.	ISSUE	DRAWN	DATE
MP-1923-01	E	jc/hp	14.05.2020



0 4 8 16 24m
 Scale 1:500@A1
 1:1000@A3

THIS DRAWING SHOULD BE READ IN CONJUNCTION WITH ALL RELEVANT CONTRACTS, SPECIFICATIONS, REPORTS AND DRAWINGS.



NOTES

1. ACCESSIBLE PLAYGROUND: New playground with accessible entry and nearby accessible parking. Adjacent to future accessible amenities.
2. SOFTFALL: Rubber softfall provides access to play elements, with mulch softfall to remaining area
3. PLAY ACTIVITIES: Informal and formal activities including climbing, sliding, swinging and spinning.
 - Net climber
 - Swings with basket, strap & toddler seats.
 - Spinning Basket
 - Junior play structure with slide, steps and climber
4. NATURE PLAY: Utilising the existing trees to provide play opportunities, boulders, stepping stones and logs provide for imaginative play.
5. POLES: Pole feature provides accent to entry and elements for informal play.
6. LOOP PATH: The playground is edged with a 1200mm wide accessible path forming a loop for young riders.
7. PLANTING: Low planting complements existing trees and provides separation between amenities and play.
8. PICNIC SETTING: Accessible picnic setting adjacent to play zone and allowing easy access to carpark and amenities.
9. SEATING: Variety of seating including benches, seats with backs and stools.
10. ACCESSIBLE PARKING: Provide two accessible spaces with 2 coat bitumen seal.
11. GARBAGE BIN

LEGEND

- Site boundary
- Existing trees to be retained
- Proposed trees

Precedent Images



Spinning basket



Junior play structure with slides



Swing with basket



Net climber



Mushrooms in nature play



Poles



Nature play

PROJECT
 SEYMOUR PARK MASTERPLAN

CLIENT
 WINGECARRIBEE SHIRE COUNCIL

DRAWING
 STAGE 1 WORKS - PLAYGROUND

DRAWING No.	ISSUE	DRAWN	DATE
MP-1923-02	D	jc/hp	14.05.2020



0 1 5m
 Scale 1:100@A1
 1:200@A3

THIS DRAWING SHOULD BE READ IN CONJUNCTION WITH ALL RELEVANT CONTRACTS, SPECIFICATIONS, REPORTS AND DRAWINGS.



NOTES

1. ACCESSIBLE ENTRY: Entry links via accessible path to playground and accessible amenities
2. NATURE PLAY EXTENDS: Additional planting extends nature play area.
3. PATH: 1200mm wide accessible path to amenities forms additional loop path and link to play area.
4. PLANTING: Low planting complements existing trees and provides separation between amenities and play. Tree provides shade to picnic and seating.
5. AMENITIES: With one accessible cubicle and one ambulant. Allow to provide services connections and conduits where required during Stage 1 playground works.
6. DRINKING FOUNTAIN: Accessible drinking fountain close to amenities and playground.
7. HITCHING POST: Shaded location for waiting dogs, set away from play zone.

LEGEND

- Site boundary
- Existing trees to be retained
- Proposed trees
- Trees to be removed

Precedent Images



Maintain site character



Upgrade existing picnic settings



Expanded off-leash dog area



New drinking fountain



Low planting



Accessible parking



New amenities block

PROJECT
 SEYMOUR PARK MASTERPLAN

CLIENT
 WINGECARRIBEE SHIRE COUNCIL

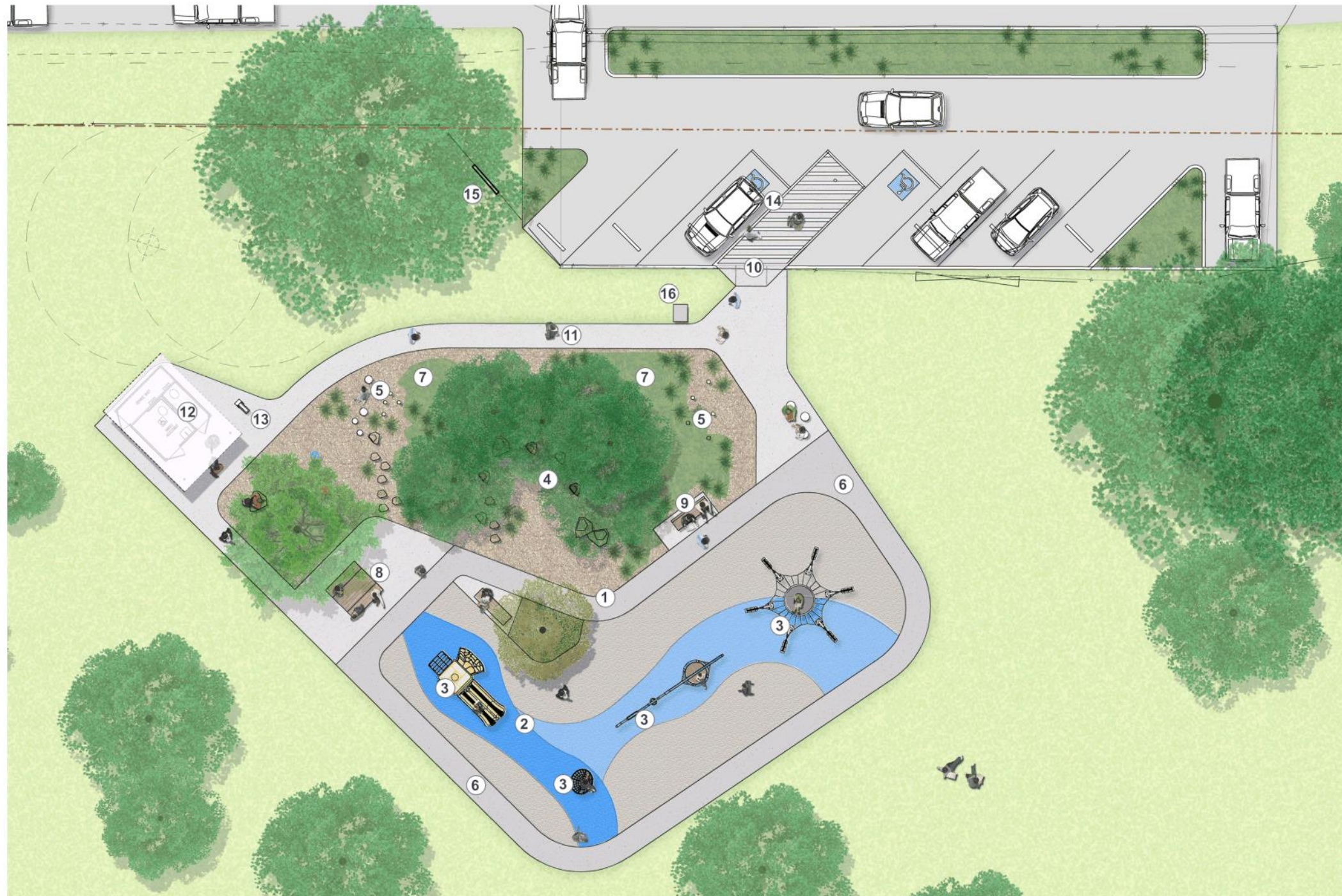
DRAWING
 STAGE 2 WORKS - AMENITIES

DRAWING No. ISSUE DRAWN DATE
 MP-1923-03 D jc/hp 14.05.2020



Scale
 0 1 5m
 1:100@A1
 1:200@A3

THIS DRAWING SHOULD BE READ IN CONJUNCTION WITH ALL RELEVANT CONTRACTS, SPECIFICATIONS, REPORTS AND DRAWINGS.



NOTES

1. **ACCESSIBLE PLAYGROUND:** New playground with accessible entry and nearby accessible parking. Adjacent to accessible amenities.
2. **SOFTFALL:** Rubber softfall provides access to play elements, with mulch softfall to remaining area
3. **PLAY ACTIVITIES:** Informal and formal activities including climbing, sliding, swinging and spinning.
 - Net climber
 - Swings with basket, strap and toddler seats.
 - Spinning Basket
 - Junior play structure with slide, steps and climber
4. **NATURE PLAY:** Utilising the existing trees to provide play opportunities. Boulders, stepping stones and logs provide for imaginative play.
5. **POLES:** Pole feature provides accent to entry and elements for informal play.
6. **LOOP PATH:** The playground is edged with a 1200mm wide accessible path forming a loop for young riders.
7. **PLANTING:** Low planting complements existing trees and provides separation between amenities and play. Tree provides shade to picnic and seating.
8. **PICNIC SETTING:** Accessible picnic setting adjacent to play zone and allowing easy access to carpark and amenities.
9. **SEATING:** Variety of seating including benches, seats with backs and stools
10. **ACCESSIBLE ENTRY:** New accessible parking links to playground and adjacent accessible amenities.
11. **PATH:** 1200mm wide accessible path to amenities forms additional loop path and link to play area.
12. **AMENITIES:** With one accessible cubicle and one ambulant.
13. **DRINKING FOUNTAIN:** Accessible drinking fountain located adjacent to path.
14. **ACCESSIBLE PARKING:** Upgrade to existing parking area to provide formal parking area with accessible spaces close to playground and amenities.
15. **HITCHING POST:** Shaded location for waiting dogs, set away from play zone.
16. **GARBAGE BIN**

LEGEND

- Site boundary
- Existing trees to be retained
- Proposed trees
- Trees to be removed

PROJECT
SEYMOUR PARK MASTERPLAN

CLIENT
WINGECARRIBEE SHIRE COUNCIL

DRAWING
DETAIL PLAN - STAGES 1, 2 & 3

DRAWING No.	ISSUE	DRAWN	DATE
MP-1923-04	D	jc/hp	14.05.2020



0 1 5m
 Scale 1:100@A1
 1:200@A3

THIS DRAWING SHOULD BE READ IN CONJUNCTION WITH ALL RELEVANT CONTRACTS, SPECIFICATIONS, REPORTS AND DRAWINGS.



NOTES

1. ACCESSIBLE ENTRY: New accessible parking located at accessible entry links to playground and adjacent accessible amenities with accessible pathways.
2. ACCESSIBLE PARKING: Upgrade to existing parking area to provide accessible spaces close to proposed playground and amenities.
3. PARKING UPGRADES: Potential future upgrade to parking along Spencer Street
4. ROAD UPGRADES: Potential upgrades to provide kerb and gutter to Lovelle and Spencer Streets
5. LOVELLE STREET: Potential upgrades to Lovelle Street, including kerb and gutter, parking, accessible parking and turning circle at end of street.
6. OFF-STREET PARKING: Potential for off-street parking area for park users and off-leash area. Retain existing maintenance access to golf course.
7. OFF-LEASH AREA: Retain existing off-leash area including, entries and seating. Widen entry zone off Lovelle Street and provide additional seat. Retain or upgrade water bowl at northern entry, add water bowl to upper park.
8. NEW FENCE: New fence to expanded off-leash entry zone.
9. EXISTING FENCE: To be relocated to expanded off-leash area
10. EXISTING AMENITIES: To be demolished once new amenities building is installed. Water retained to allow for dog drinking bowl
11. POTENTIAL FLOOD MANAGEMENT FACILITY
12. EXISTING MAINTENANCE ACCESS: Relocated to Lovelle Street.
13. MAINTENANCE ACCESS: New access gate for maintenance.

LEGEND

- Site boundary
- Existing trees to be retained
- Proposed trees
- Trees to be removed

PROJECT
SEYMOUR PARK MASTERPLAN

CLIENT
WINGECARRIBEE SHIRE COUNCIL

DRAWING
STAGE 3 - FUTURE WORKS

DRAWING No.	ISSUE	DRAWN	DATE
MP-1923-05	B	jc/hp	15.05.2020

Scale: 1:500@A1, 1:1000@A3



THIS DRAWING SHOULD BE READ IN CONJUNCTION WITH ALL RELEVANT CONTRACTS, SPECIFICATIONS, REPORTS AND DRAWINGS.

11.5 Investment Report - April 2020

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 30 April 2020.

RECOMMENDATION

THAT the information on Council's Investments as at 30 April 2020 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 30 April 2020.

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 \$3,023,610.57 for ten (10) months to 30 April 2020.

ATTACHMENTS

1. Investment Report Summary as at 30 April 2020



Wingecarribee Shire Council Investment Report Summary

For the period ending 30 April 2020

List of Investments

Council's investment portfolio as at 30 April 2020 consists of the following investments:

INVESTMENT PORTFOLIO AS AT 30 April 2020						
Institution	Type	Amount	Interest Rate	Investment Term - Days	Maturity Date	% Investment Portfolio
AMP	Term Deposit	5,000,000	1.90%	180	13/05/2020	2.82%
BDCU	Term Deposit	5,000,000	2.55%	366	21/05/2020	2.82%
BDCU	Term Deposit	3,000,000	2.50%	366	24/05/2020	1.69%
AMP	Term Deposit	2,500,000	1.90%	181	25/05/2020	1.41%
BDCU	Term Deposit	5,000,000	2.20%	366	28/05/2020	2.82%
AMP	Term Deposit	2,500,000	1.90%	184	28/05/2020	1.41%
MyState	Term Deposit	5,000,000	1.65%	181	15/06/2020	2.82%
Macquarie	Term Deposit	10,000,000	1.60%	120	23/06/2020	5.65%
Auswide	Term Deposit	5,000,000	2.05%	365	26/06/2020	2.82%
ME	Term Deposit	4,000,000	1.55%	182	3/07/2020	2.26%
Macquarie	Term Deposit	5,000,000	1.70%	121	3/07/2020	2.82%
NAB	Term Deposit	5,000,000	1.55%	158	10/07/2020	2.82%
MyState	Term Deposit	5,000,000	1.60%	181	20/07/2020	2.82%
Rural	Term Deposit	6,000,000	1.60%	180	22/07/2020	3.39%
MyState	Term Deposit	5,000,000	1.60%	183	29/07/2020	2.82%
NAB	Term Deposit	5,000,000	1.54%	210	7/08/2020	2.82%
Macquarie	Term Deposit	5,000,000	1.60%	180	26/08/2020	2.82%
NAB	Term Deposit	5,000,000	1.51%	210	28/08/2020	2.82%
WBC	Term Deposit	5,000,000	1.62%	364	4/09/2020	2.82%
ME	Term Deposit	5,000,000	1.63%	364	4/09/2020	2.82%
ME	Term Deposit	5,000,000	1.58%	212	16/09/2020	2.82%
BDCU	Term Deposit	5,000,000	1.65%	365	24/09/2020	2.82%
BDCU	Term Deposit	5,000,000	1.65%	365	26/09/2020	2.82%
NAB	Term Deposit	5,000,000	1.53%	243	7/10/2020	2.82%
MyState	Term Deposit	5,000,000	1.58%	269	23/10/2020	2.82%
WBC	Term Deposit	5,000,000	1.62%	365	3/11/2020	2.82%
Auswide	Term Deposit	4,000,000	1.70%	364	27/11/2020	2.26%
Macquarie	Term Deposit	5,000,000	1.60%	268	27/11/2020	2.82%
Auswide	Term Deposit	5,000,000	1.66%	365	11/12/2020	2.82%
Auswide	Term Deposit	5,000,000	1.63%	365	19/02/2021	2.82%
ING	Term Deposit	2,000,000	1.60%	365	19/02/2021	1.13%
ING	Term Deposit	5,000,000	1.60%	365	23/02/2021	2.82%
MyState	Term Deposit	5,000,000	1.55%	364	5/03/2021	2.82%
IMB	Term Deposit	4,000,000	1.85%	364	26/03/2021	2.26%
Macquarie	Term Deposit	3,000,000	1.40%	365	29/04/2021	1.69%
NAB	Call Account	10,242,331	0.25%	NA	NA	5.79%
BDCU	Call Account	750,379	0.60%	NA	NA	0.42%
Total Investments		\$176,992,710				100.00%

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



Wingecarribee Shire Council Investment Report Summary

For the period ending 30 April 2020

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%	17.09%	30,242,331	YES	YES
WBC	A1+	40%	5.65%	10,000,000	YES	YES
Macquarie	A1	25%	15.82%	28,000,000	YES	YES
ING	A1	25%	3.95%	7,000,000	YES	YES
AMP	A2	15%	5.65%	10,000,000	YES	YES
BDCU	A2	15%	13.42%	23,750,379	NO	YES
Rural Bank	A2	15%	3.39%	6,000,000	NO	YES
IMB	A2	15%	2.26%	4,000,000	NO	YES
ME	A2	15%	7.91%	14,000,000	NO	YES
MyState	A2	15%	14.12%	25,000,000	NO	YES
Auswide	A2	15%	10.74%	19,000,000	NO	YES
Total			100.00%	176,992,710		

Council resolved that no further investments would be placed with Westpac Bank (WBC) and existing investments would be divested upon maturity (MN 538/19). Council has 2 term deposits totalling \$10 million with WBC. These term deposits will be redeemed upon maturity with the final term deposit maturing on 3 November 2020.

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%	22.74%	40,242,331	YES
A1	80%	19.77%	35,000,000	YES
A2	60%	57.49%	101,750,379	YES
A3	20%	0.00%	0	YES
Govt	25%	0.00%	0	YES
Total		100.00%	176,992,710	



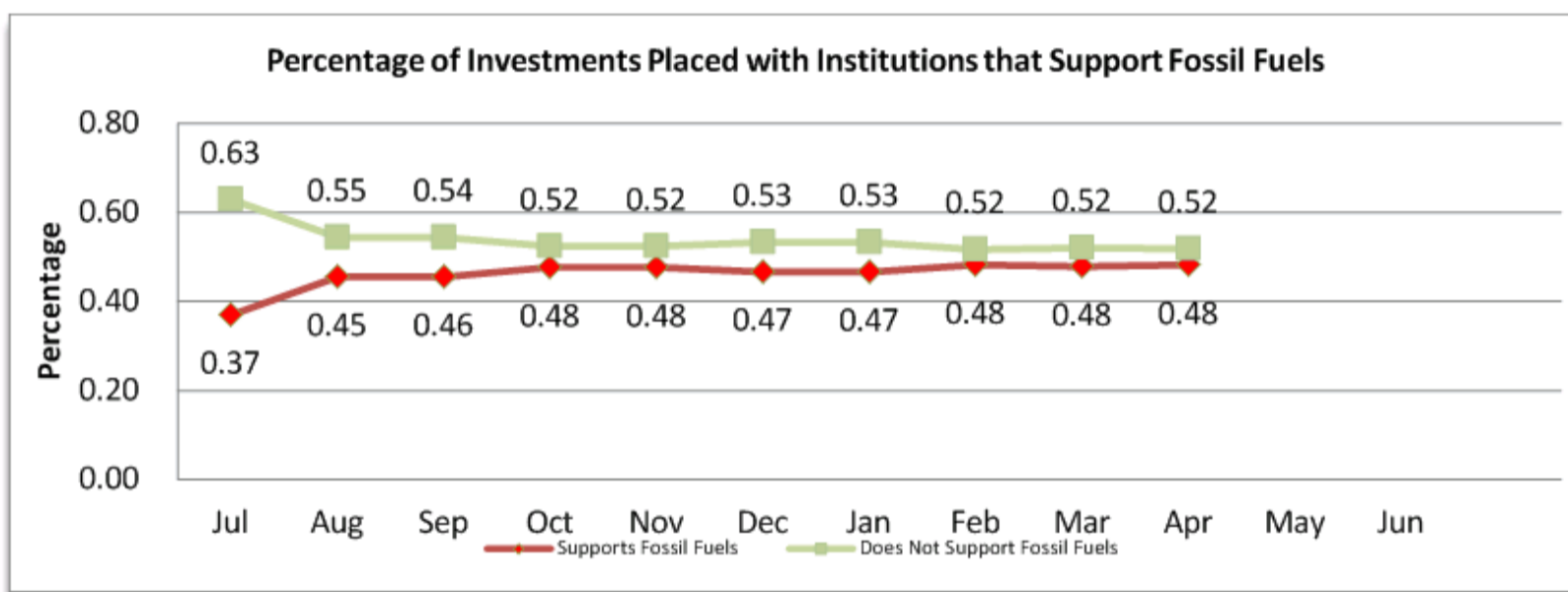
Wingecarribee Shire Council Investment Report Summary

For the period ending 30 April 2020

Non-Fossil Fuel Investment Preferecing

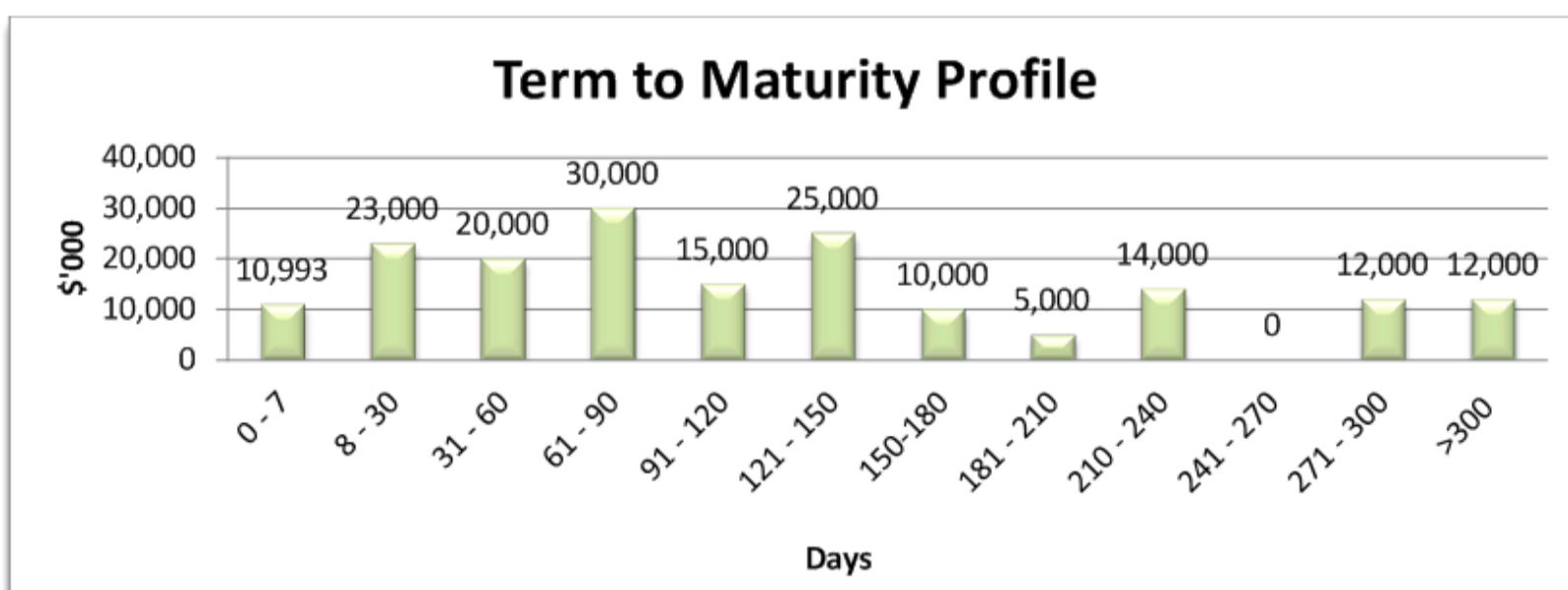
Council's adopted Investment Policy states a preference for placing funds with institutions that do not support the fossil fuel industry. The chart below identifies Council's percentage of investments placed with institutions that do not support the fossil fuel industry.

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.



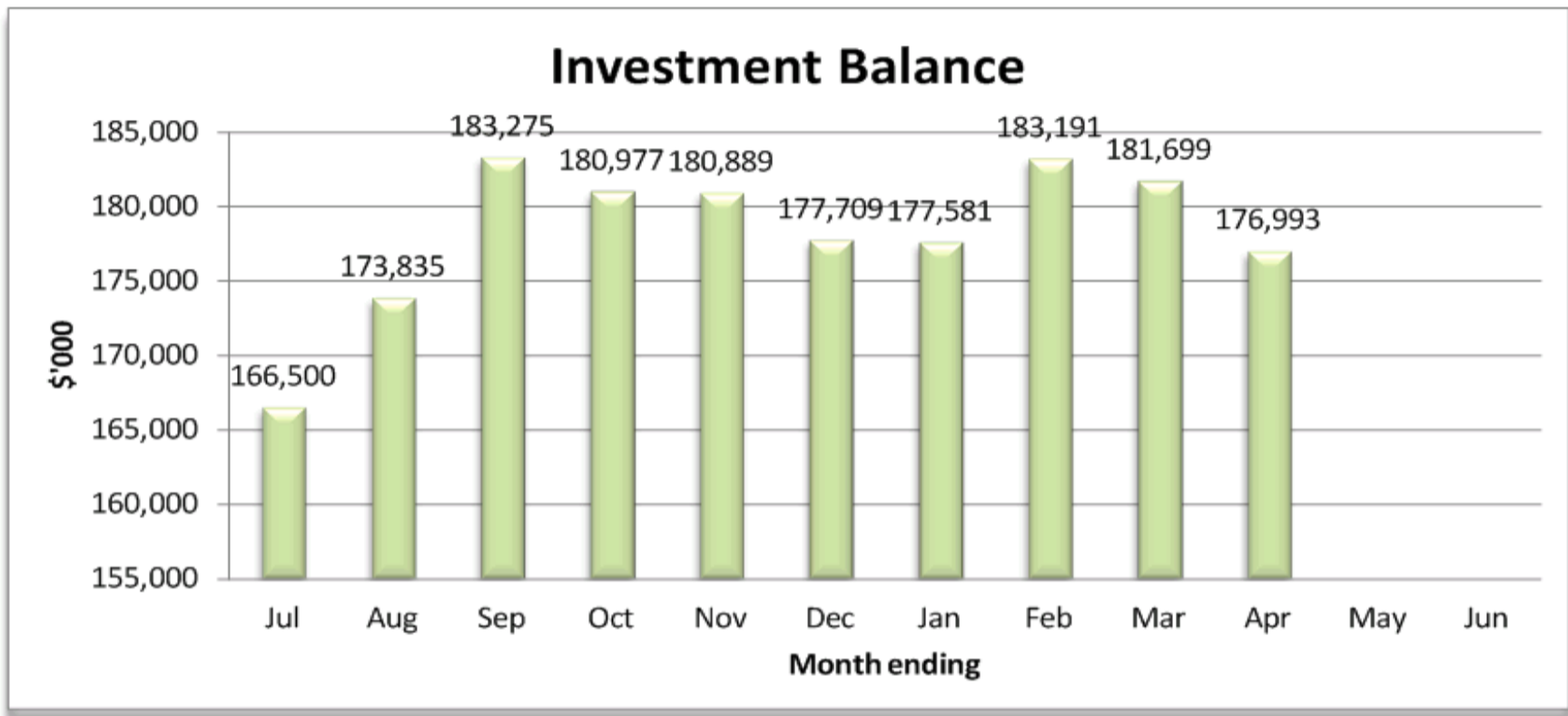


Wingecarribee Shire Council Investment Report Summary

For the period ending 30 April 2020

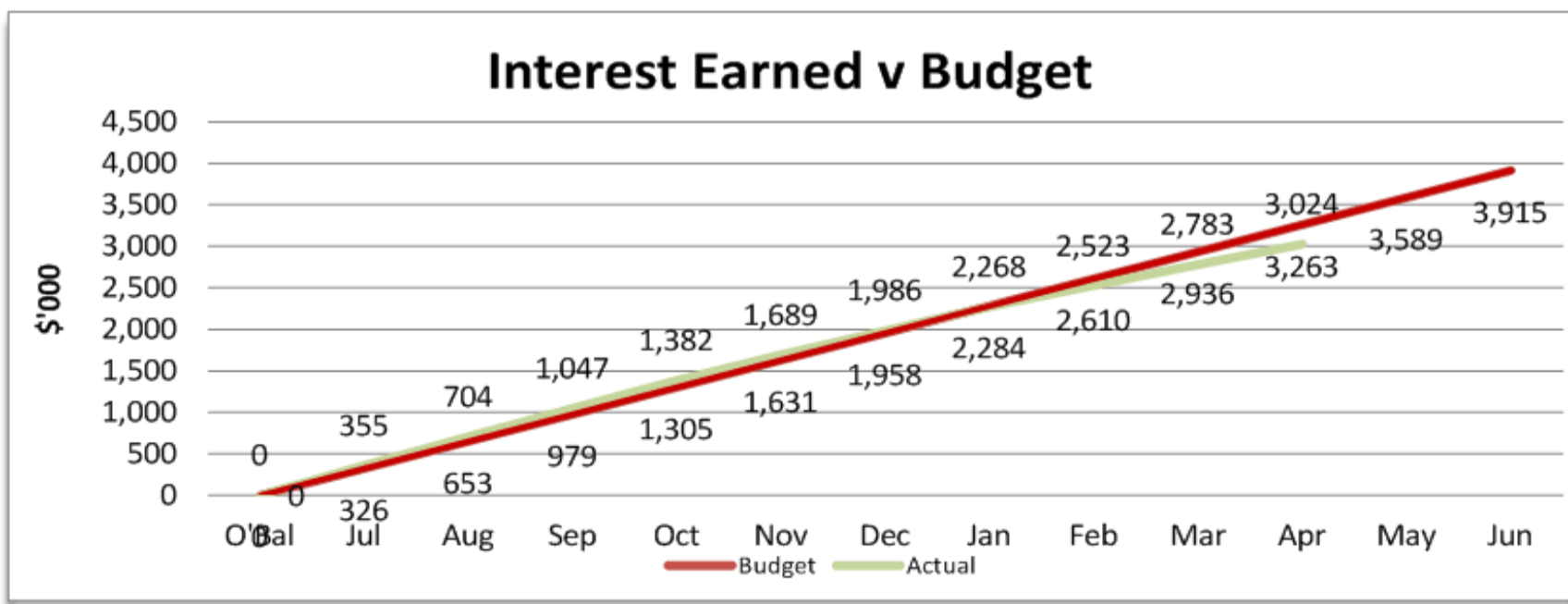
Portfolio Performance

Council's investment balance at the end of April 2020 was \$176.993 million. This has decreased by \$4.706 million since the end of March 2020. The decrease in investments is a result of operational and capital expenditure payments during April and the absence of rates and water instalments during the month.



Interest Revenue

Council is currently not exceeding budget expectations. Council's investment portfolio did not perform above budget due to the decreasing interest rates being offered by financial institutions.





Wingecarribee Shire Council Investment Report Summary

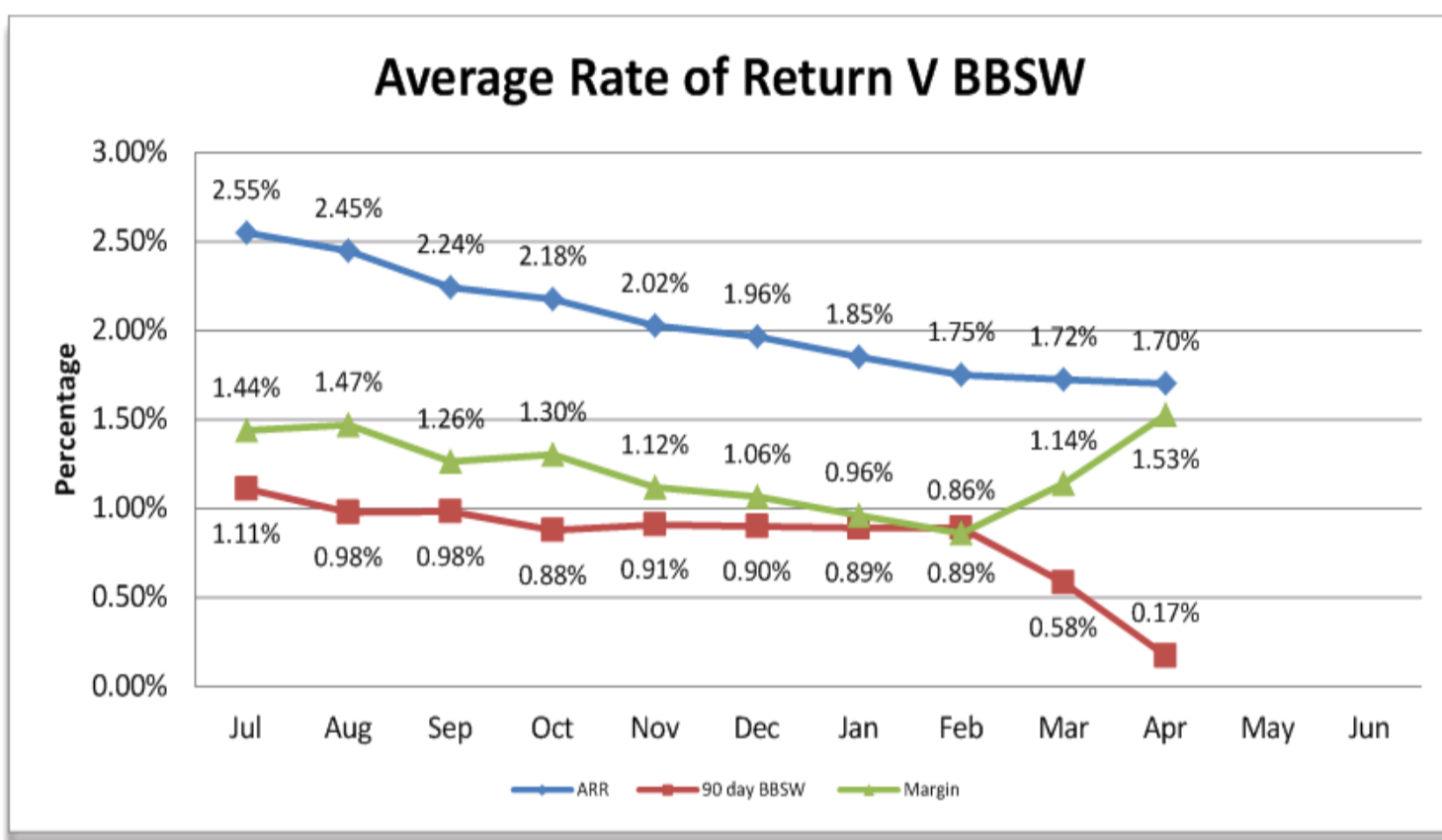
For the period ending 30 April 2020

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 April 2020 was 1.70% which is 0.02% lower than March 2020. There was a decline in the BBSW to 0.17%.

The margin above BBSW increased by 0.39% in March 2020 which shows Council continues to secure favourable interest rates on term deposits.





11.6 Consolidation of Titles and Boundary Adjustment for Road Widening - Southern Regional Livestock Exchange (SRLX), 205 Berrima Road, Moss Vale

Reference:	PN 178,5020, PN 100
Report Author:	Coordinator Property Services
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 execute plans associated with the Southern Regional Livestock Exchange (SRLX) at 205 Berrima Road, Moss Vale being:

- Plan of Consolidation of Lot 1 DP1070888 and Lot 2 DP215782,
- Plan of Boundary Adjustment (for road widening) affecting Lot 2 DP215782; and
- Plan of Boundary Adjustment (to rectify encroachment and include the access track) between Lot 1 DP 1070888 and Lot 3 DP 1070888.

RECOMMENDATION

THAT authority be delegated to the Mayor and General Manager to execute the Plan of Consolidation of Lot 1 DP 1070888 and Lot 2 DP 215782 and Plan of Boundary Adjustment (for road widening) of Lot 2 DP 215782 for the Southern Regional Livestock Exchange (SRLX) at 205 Berrima Road, Moss Vale and the Plan of Boundary Adjustment (to rectify encroachment) between Lot 1 DP 1070888 and Lot 3 DP 1070888 under the Common Seal of Council.

REPORT

BACKGROUND

Council is the registered proprietor of the Southern Regional Livestock Exchange ("the SRLX") at 205 Berrima Road, Moss Vale. The Council property currently consists of two separate lots being Lot 1 DP1070888 and Lot 2 DP215782. Both lots are classified as Operational Land pursuant to Section 26 of the *Local Government Act, 1993*.

Council has lodged a development application for a significant upgrade at the SRLX. As part of the upgrade and the conditions of consent imposed, Council is required to consolidate the two titles. A boundary adjustment is also required to accommodate recent road works which involved the widening of Abattoir Road adjoining the SRLX. These road works were undertaken in association with the construction of a water filing station on Abattoir Road.

Lot 1 DP 1070888 has an area of 60,140 sqm and Lot 2 DP 215782 has an area of 38,350 sqm. When consolidated, the area of the registered lot will be approximately 98,490 sqm (less the area required for boundary adjustment being approximately 794 sqm).

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

REPORT DEPUTY GENERAL MANAGER OPERATIONS, FINANCE AND RISK



The site consolidation has been imposed as a condition of consent to ensure the use of the land as one allotment is legally recognised and to prevent separate dealings in the existing allotments after the use commences.

Further, a Plan of Boundary Adjustment between Lot 1 DP 1070888 and Lot 3 DP 1070888 (being the Resource Recovery Centre) is required to rectify encroachment issues and to ensure the buildings and access track is located wholly within the SRLX site.

REPORT

The SRLX consists of a number of buildings and structures. A survey plan of the proposed consolidation and boundary adjustment (for road widening) is provided as **Attachment 1**.

Plan of Consolidation

A condition of the Development Consent requires the registration of a Plan of Consolidation of Lot 2 DP 215782 and Lot 1 DP1070888. Accordingly a Plan of Consolidation will be prepared by a registered surveyor for registration at NSW Land Registry Services.

Plan of boundary adjustment (for road widening)

As part of the proposed works at the SRLX, a new access point from Abattoir Road to enter the SRLX for cattle transportation trucks is proposed.

The access is in the locality of the recently constructed water filling station. As part of the works required for the construction of the water filling station, a turning circle was constructed. When the design was undertaken for the works, this design included a new access point for the SRLX.

Construction of the turning circle has resulted in part of the works being undertaken outside of the road reserve, encroaching on the land that forms part of the SRLX (being Lot 2 DP 215782). The area of encroachment upon Lot 2 is approximately 794 sqm. Accordingly, a boundary adjustment is required to ensure that the turning circle is contained wholly within the road reserve.

As part of the SRLX upgrade works, this access point will be upgraded to also include an internal driveway connecting to the road/turning circle. This will be fenced, and a security gate erected on the boundary of the SRLX and Abattoir Road.

Plan of boundary adjustment (encroachment on RRC land)

When surveying works were undertaken for the Plan of Consolidation, it was revealed that part of the SRLX building and access track encroaches upon Lot 3 DP 1070888 being the neighbouring Resource Recovery Centre owned by Council.

To ensure that the whole of the SLRX building and access track is contained within the registered lot, it is recommended that a boundary adjustment be undertaken to rectify the encroachment at the same time as the Plan of Consolidation and Plan of Boundary Adjustment for road widening is registered.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

REPORT DEPUTY GENERAL MANAGER OPERATIONS, FINANCE AND RISK



Accordingly, this report is submitted to obtain Council approval to execute the Plan of Consolidation and Boundary Adjustments (for road widening and to rectify encroachment) under the Common Seal of Council.

COMMUNICATION AND CONSULTATION

Community Engagement

This is an administrative matter for Council (as landowner of all three subject lots) and does not require community consultation.

Internal Communication and Consultation

Project Delivery

Planning Development and Regulatory Services

External Communication and Consultation

Registered Surveyor

NSW Land Registry Services

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 associated cost of consolidation and boundary adjustments can be funded through approved budget allocations included in the 2019/20 budget.

RELATED COUNCIL POLICY

None identified.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

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

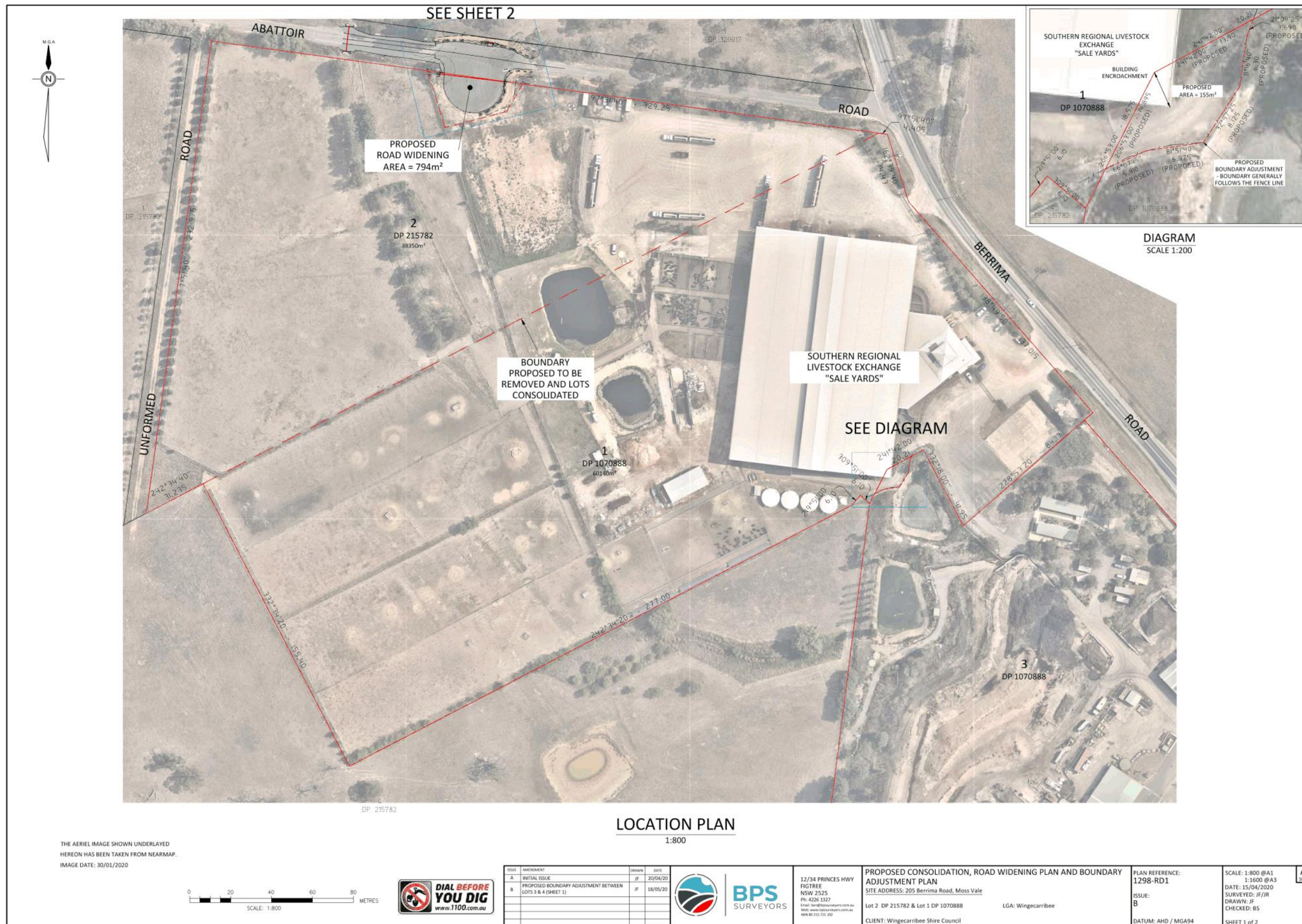


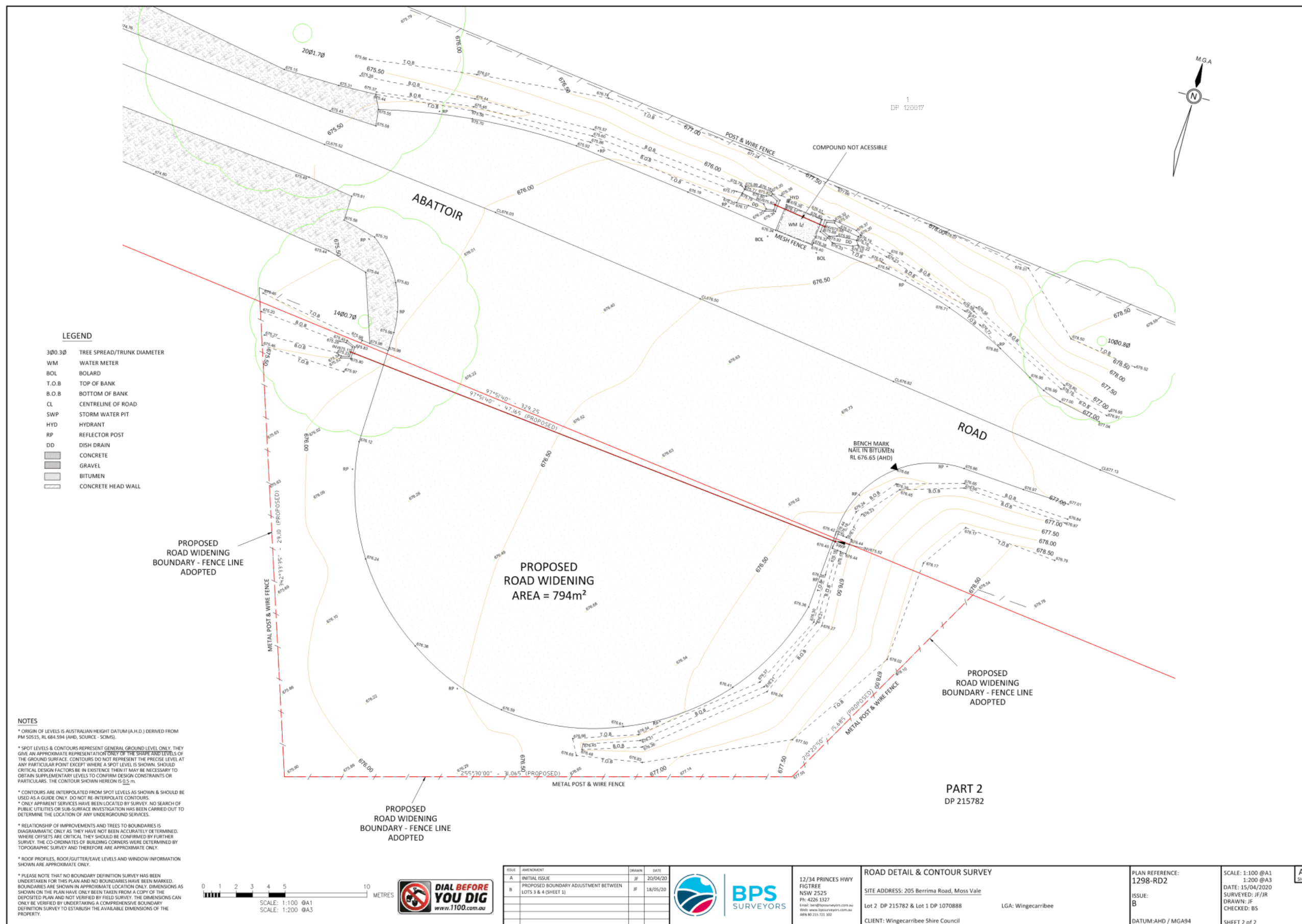
CONCLUSION

It is recommended that Council resolve to proceed with the Plan of Consolidation and Plan of Boundary Adjustments (for road widening and to rectify the encroachment upon Lot 3 DP1070888) and that authority be delegated to the Mayor and General Manager to sign these plans under the Common Seal of Council.

ATTACHMENTS

1. Attachment 1 - Plan of Consolidation and Boundary Adjustment





11.7 Compulsory Land Acquisition - Railway Parade, Mittagong

Reference:	PN1757680
Report Author:	Coordinator Property Services
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 obtain the necessary Council resolutions to proceed with the land acquisition negotiations for land off Railway Parade, Mittagong (being part Lot 19 Deposited Plan 1108714) for the purpose of public open space, fire trail and future shared pathway.

This matter was first approved by Council in March 2017 and updated Council resolutions are required to ensure compliance with the *Land Acquisition (Just Terms Compensation) Act 1991 (NSW)*.

RECOMMENDATION

- 1. THAT the General Manager be delegated authority to negotiate with the owner of Lot 19 in Deposited Plan 1108714 at Mittagong for the acquisition of part of the land known as Lot 19 DP 1108714 (being part railway land off Railway Parade, Mittagong) for the purpose of Open Space.**
- 2. THAT if the acquisition referred to in Resolution 1 cannot be negotiated by agreement Council resolves to:**
 - (a) acquire the Land by compulsory acquisition under Section 186 and 187 of the *Local Government Act 1993* and in accordance with the requirements of the *Land Acquisition (Just Terms Compensation) Act, 1991 (NSW)*.**
 - (b) approve the making of an application to the Minister of Local Government for the issue of a proposed Acquisition Notice under the *Land Acquisition (Just Terms Compensation) Act 1991 (NSW)* with respect to the Land AND THAT Council request the Minister for Local Government approve a reduction in the notification period from ninety (90) days to sixty (60) days;**
 - (c) approve the making of an application to the Governor for the publication of an Acquisition Notice in the NSW Government Gazette under the *Land Acquisition (Just Terms Compensation) Act 1991 (NSW)* with respect of the Land.**
- 3. THAT Council affix the Common Seal to the Plan of Acquisition and any documents relating to that plan required to be sealed for the acquisition of the**



Land referred to in Resolution 1 above AND THAT authority be delegated to the Mayor and General Manager to execute those documents.

- 4. THAT authority be delegated to the Mayor and General Manager to execute on behalf of Council any documents associated with the compulsory acquisition of the Land referred to in Resolution 1 above that does not require the Common Seal of Council.**

REPORT

State Rail Authority (SRA) is the registered proprietor of the whole of the land comprising Lot 19 Deposited Plan 1108714 at Mittagong. The total area of the land is 11,985.65 sqm. The segment of land proposed to be acquired is approximately 895.8 sqm and is zoned R2 – Low Density Residential. The area of land proposed to be acquired is shown in **Attachment 1**.

An initial report regarding the acquisition was presented to Council on the 8 March 2017 where Council resolved to proceed with negotiations to acquire the land by agreement. The resolution also stated that Council commence compulsory acquisitions proceedings should agreement not be reached.

Following Council approval, discussions and negotiations were held over a period of approximately 18 months with the original representatives of SRA (being John Holland Rail).

While Council was still in discussions with John Holland Rail regarding the acquisition, Transport for NSW (TfNSW) replaced John Holland Rail in the negotiations and a new process for acquisition commenced.

TfNSW advised Council that the best way for Council to acquire the land was by way of compulsory acquisition by agreement. This would also permit the land to be placed on TfNSW's surplus land list.

The need for the land to be placed on TfNSW's surplus land list resulted in further delays in the acquisition process. Council received confirmation from TfNSW in late 2019 that the property had been placed on the TfNSW surplus land list and negotiations for the acquisition could now proceed.

To progress the acquisition in accordance with the requirements of TfNSW, Council's panel solicitors have reviewed Council's resolution from the 8 March 2017 and have advised that the resolution adopted by Council needs to be amended in order to meet *Land Acquisition (Just Terms Compensation) Act 1991 (NSW)* requirements for the Compulsory Acquisition of land.

COMMUNICATION AND CONSULTATION

Community Engagement

The proposal relates to property owned by NSW State Government and Council as the acquiring authority. Engagement with the wider community is not required to endorse the acquisition.

Internal Communication and Consultation

Assets

External Communication and Consultation

Transport for NSW

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 proposed acquisition of this land will be funded from the Property Development Reserve, with the amount of compensation payable to be determined by formal valuation and by negotiation with Transport for NSW.

RELATED COUNCIL POLICY

None identified.

CONCLUSION

This report recommends that Council adopt the amended resolutions for the acquisition of part Lot 19 in Deposited Plan 1108714 (being part railway land, off Railway Parade Mittagong) for the purpose of Open Space, fire trail and future shared pathway.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

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



ATTACHMENTS

1. Attachment 1 - Draft Plan of Acquisition

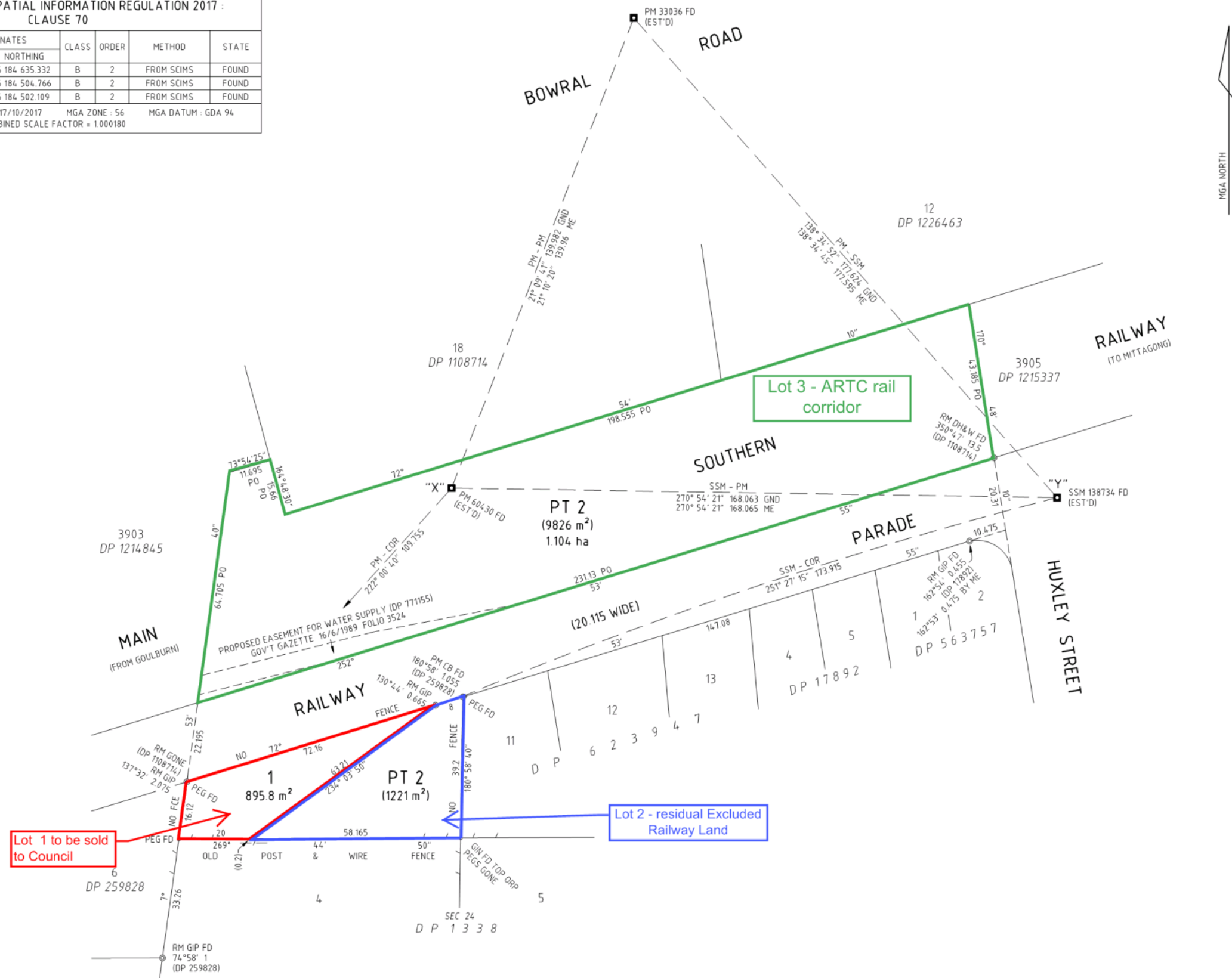


PLAN FORM 2 (A2)

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

Sheet 1 of 1 Sheet

SURVEYING AND SPATIAL INFORMATION REGULATION 2017 : CLAUSE 70						
MARK	MGA COORDINATES		CLASS	ORDER	METHOD	STATE
	EASTING	NORTHING				
PM 33036	264 526.431	6 184 635.332	B	2	FROM SCIMS	FOUND
PM 60430	264 475.889	6 184 504.766	B	2	FROM SCIMS	FOUND
SSM 138734	264 643.961	6 184 502.109	B	2	FROM SCIMS	FOUND
DATE OF SCIMS COORDINATES : 17/10/2017 MGA ZONE : 56 MGA DATUM : GDA 94 COMBINED SCALE FACTOR = 1.000180						



Surveyor : RICHARD R. COX Date of Survey : 17/10/2017 Surveyors Reference : 17156	PLAN OF LAND TO BE ACQUIRED WITHIN LOT 19 DP 1108714	L.G.A. : WINGECARRIBEE Locality : MITTAGONG Subdivision No. : Lengths are in metres. Reduction Ratio 1:750	Registered DP
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10	20	30	40	50	60	70	80	90	100	110	120	130	140	150
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11.8 Proposed Land Acquisition - Berrima

Reference:	PN 162700, PN 1715920, PN 1742050
Report Author:	Coordinator Property Services
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 acquire land for future road purposes. The subject land is known as Part Lot 1016 in Deposited Plan 15995 and part Lot 1017 in Deposited Plan 15995 (being 125 Taylor Avenue, New Berrima).

RECOMMENDATION

1. **THAT** in relation to the report concerning Proposed Land Acquisition - Berrima – Council adopts the recommendation contained within the Closed report – Item 19.3.

OR

2. **THAT** the report concerning Proposed Land Acquisition – Berrima be considered in Closed Council – Item 19.3. This report is confidential in accordance with s10A(2) of the Local Government Act, 1993, under clause 10A(2)(c) as it contains information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

Note: The Council, or a committee of the Council, may allow members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed (15.9 – Code of Meeting Practice).

Where the matter has been identified in the agenda of the meeting under clauses 3.21 as a matter that is likely to be considered when the meeting is closed to the public, in order to make representations under clause 15.9, members of the public must first make an application to the Council in the approved form. Applications must be received by close of business (4.30pm) two (2) business days prior to the meeting at which the matter is to be considered (15.11 – Code of Meeting Practice).

ATTACHMENTS

There are no attachments to this report.

Barry W Paull
Deputy General Manager Operations, Finance and Risk

Thursday 21 May 2020

12 CORPORATE STRATEGY AND DEVELOPMENT SERVICES

12.1 Public Exhibition of the Draft 2020/21 Operational Plan and Budget

Reference:	501/203
Report Author:	Chief Financial Officer
Authoriser:	Deputy General Manager Operations, Finance and Risk
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 the draft 2020/21 Operational Plan, Budget, Revenue Policy including Fees and Charges; and for Council to endorse these documents for the purposes of public exhibition.

RECOMMENDATION

THAT Council endorse the draft 2020/21 Operational Plan, Budget, Revenue Policy and Fees and Charges, as set out in Attachments 1 and 2, for public exhibition from 29 May 2020 to 26 June 2020.

REPORT

BACKGROUND

Council is required to annually review its Operational Plan, Annual Budget, Revenue Policy and Fees and Charges to meet its responsibilities under the *Local Government Act 1993* and Regulation. The Operational Plan is a sub-plan of the 2017-2021 Delivery Program and demonstrates Council's approach to achieving the objectives of the Delivery Program.

REPORT

The draft 2020/21 Operational Plan outlines the projects, programs and activities (annual deliverables) that Council will undertake during the 2020/21 financial year. The annual deliverables are aligned to Council's services and four-year actions from the Delivery Program. In addition, the draft Plan demonstrates Council's response and commitment to the delivery of the Community Strategic Plan, Wingecarribee 2031. As such, the Plan is structured around the five themes of Leadership, People, Places, Environment and Economy from Wingecarribee 2031.

Included in the draft 2020/21 Operational Plan is the draft Budget and Capital Works Program. These documents provide an overview of Council's financial estimates and a program of Capital Works for the 2020/21 financial year.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

REPORT DEPUTY GENERAL MANAGER OPERATIONS, FINANCE AND RISK



Council's draft Revenue Policy and Fees and Charges for 2020/21 are also included in the draft Operational Plan. These documents outline Council's proposed rating structure and fees and charges for 2020/21 as stipulated by the *Local Government Act 1993*.

As part of the 2017-2021 Delivery Program adopted in June 2017, Council committed to seven strategic priorities to ensure Wingecarribee Shire is a better place to live, work and visit. These seven strategic priorities continue to be a key driver of decision making during this Council term.

Council's seven strategic priorities are:

1. Responsible financial management
2. Improving our community assets
3. Protecting our natural environment
4. Delivery of significant infrastructure projects
5. Better service alignment and delivery
6. Business transformation
7. Community wellbeing

In accordance with the Integrated Planning and Reporting Guidelines, Council undertook a review of its 2017-2021 Delivery Program as part of its preparation of the draft 2020/21 Operational Plan.

Extension to the Delivery Program 2017-2021 due to the COVID-19 Pandemic

In response to the COVID-19 Pandemic, the NSW Government has postponed the local government elections scheduled for September 2020 for up to twelve months. The NSW Government also decided that the existing Delivery Program for each council will apply for a further 12 months, maintaining the key themes and any activities not yet completed.

Council was also advised on the 17 April 2020 that the NSW State Government had provided a one-month extension for all councils to formally adopt its 2020/21 Operational Plan and Budget (up to the 31 July 2020).

2020/21 DRAFT BUDGET

The draft 2020/21 Budget for Council's Consolidated Fund is presented as a balanced budget. After removing non-cash expenditure and reserve transfers, Council's proposed cash expenditure budget for 2020/21 is \$157.536 million. This represents an increase of 9.27% on the cash expenditure budget for the 2019/20 financial year.

CASH BUDGET	2020/21
Operating Expenditure	\$157,777,000
Capital Expenditure	\$67,564,000
Gross Expenditure	\$225,341,000
Less:	
Transfer to Reserves	\$38,529,000
Non Cash Depreciation	\$29,276,000
Net Cash Expenditure Budget	\$157,536,000

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

REPORT DEPUTY GENERAL MANAGER OPERATIONS, FINANCE AND RISK



Response to COVID-19 Pandemic

On the 22 March 2020, the Prime Minister, the Hon Scott Morrison MP announced an extensive range of measures to limit the spread of COVID-19 across communities within Australia.

The measures included the enforced closures of certain businesses such as hotels, clubs, gyms, cinemas and other entertainment venues. Cafes and other hospitality venues have been limited to takeaway and delivery trade.

The measures announced by the Prime Minister on the 22 March 2020 have had a devastating impact on businesses within the Southern Highlands either directly because of the forced closures or indirectly due to reduced customer foot traffic and downscaled retailing options such as restaurants only being able to do a takeaway menu. The measures have also resulted in large-scale uncertainty for many of our residents who are employed in these key sectors.

At its meeting 13 May Council adopted a financial support package which consists of the following measures:

Measure
Remove all interest charges on overdue rates and charges (including water and sewer) for a period of 12 months.
Rates deferral period for business rated properties for a period of 6 months. This will apply where the property owner runs a business from the premise or provides a rent deferral period for business tenants.
Rates deferral period for property owners who have lost employment or been stood down due to the Federal Government's enforced business closures for a period of 6 months.
Provide a rental subsidy for a period 6 months for Council owned properties which are occupied by a small business or organisation impacted by the Federal Government's enforced business closures.
Provide a full fee reduction for all outdoor dining fees, materials on footpaths and environment and health inspections commencing 1 April 2020 for a period of 6 months.
Provide a 6 month deferral period for the repayment of interest free loans which are currently held with community and sporting organisations.

The estimated budget impact of the financial support package is \$700,000.

COVID-19 Budget Impact – Economic Downturn

Council has also undertaken a complete review of its current budget position for both the 2019/20 and 2020/21 financial years. The COVID-19 pandemic has resulted in a significant decline in operating revenues when compared to Budget.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

REPORT DEPUTY GENERAL MANAGER OPERATIONS, FINANCE AND RISK



This has primarily occurred in development and building generated revenue and from functions within Council which provide services on a *fee for service* arrangement. The expected budget impact over the next 6-9 month period is a reduction in operating revenue of \$2.550 million.

Green Wattle Creek & Morton Bushfire Expenditure

As reported to the Finance Committee held on the 20 May 2020, Council was advised that it had incurred costs of approximately \$670,000 during the bushfire emergency. This expenditure relates to immediate emergency works undertaken, road closure and traffic management, EOC coordination, road rectification works and other bushfire related expenses.

Council staff are currently progressing reimbursement applications through the Rural Fire Service (Section 44 Claim) and Disaster Recovery Financing Arrangements (DRFA). Once the status of these applications is known, the final cost of the 2019/20 summer bushfires will be formally reported to Council.

It is however prudent to recognise that there will be a proportion of costs which will need to be funded by Council. The amount has been estimated at this stage to be \$150,000. It is important to note that this excludes staff expenditure incurred during the immediate emergency event and the ongoing work underway as part of the Local Recovery Group(s).

Budget Funding Measures – COVID-19 & 2019/20 Summer Bushfires

The total budget impact of the COVID-19 Pandemic and the net funding required for the 2019/20 summer bushfires is estimated to be \$3.4 million. This assessment has been completed over the 2019/20 and 2020/21 financial years.

On the 20 May 2020 Council was presented with a range of temporary funding measures which would assist Council in ensuring it maintained a balanced budget position in the short term and to also ensure that the impact on service provision and the delivery of capital programs were minimised. These measures include:

Funding Adjustments	
2020/21 Capital Program – Works Deferral to 2021/22	\$1,200,000
Utilise Internal Cash Reserves	\$1,100,000
Temporary Vacancy Budget Adjustments	\$560,000
Short Term Temporary Program Adjustments	\$294,000
Other Budget Adjustments	\$246,000
Total Funding Proposal	\$3,400,000

Following the public consultation period for the draft 2020/21 Operational Plan and Budget, these measures will be formally included in Council's draft Budget and presented to Council for adoption on the 8 July 2020.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

REPORT DEPUTY GENERAL MANAGER OPERATIONS, FINANCE AND RISK



MAJOR FUNDING INITIATIVES & CAPITAL WORKS PROGRAM

Major funding initiatives which are proposed for inclusion in the draft 2020/21 Budget include:

Establishment of Animal Shelter Reserve

It is recommended that Council establish an Animal Shelter Reserve as part of the 2020/21 Budget. It is recommended that Council establish this reserve using the proceeds from recent land sales. Through establishing a specific reserve for the new shelter, this will then allow for further project scoping and design to be completed before a formal estimate is presented to Council.

It is recommended that the reserve be established with an opening balance of \$5.2 million (subject to the satisfactory settlement of the land sales).

Mittagong Memorial Hall Rectification Works

A high level (indicative) scoping of the Mittagong Memorial Hall rectification works have been estimated at \$2.5 million (inclusive of design and preliminaries).

It is recommended that Council continue to undertake further investigation and design works in 2020/21 utilising an allocation of \$500,000 and for the rectification works to be undertaken in the 2021/22 financial year. A high level estimate of \$2.0 million has been included in the 2021/22 draft budget with the works proposed to be funded through additional loan borrowings.

Station Street Upgrade and Mittagong Public Parking

The current budget estimate for the Station Street upgrade project is \$16.333 million. As works have been delayed due to finalising the design requirements with the relevant state agencies, Council has to consider escalation cost impacts. It is recommended that \$929,000 be allocated to the project as part of the 2020/21 budget to allow for cost escalation.

A further \$1 million is also recommended for inclusion in the draft 2020/21 Budget for public carparking improvements at Mittagong Train Station. These works form part of the draft agreement with Transport for NSW in relation to the final design approval for the Station Street upgrade project.

These works are proposed to be funded from the Land Rental Reserve. Council is no longer formally required to reimburse the Federal Government for payments made in relation to the Berrima Road Deviation project.

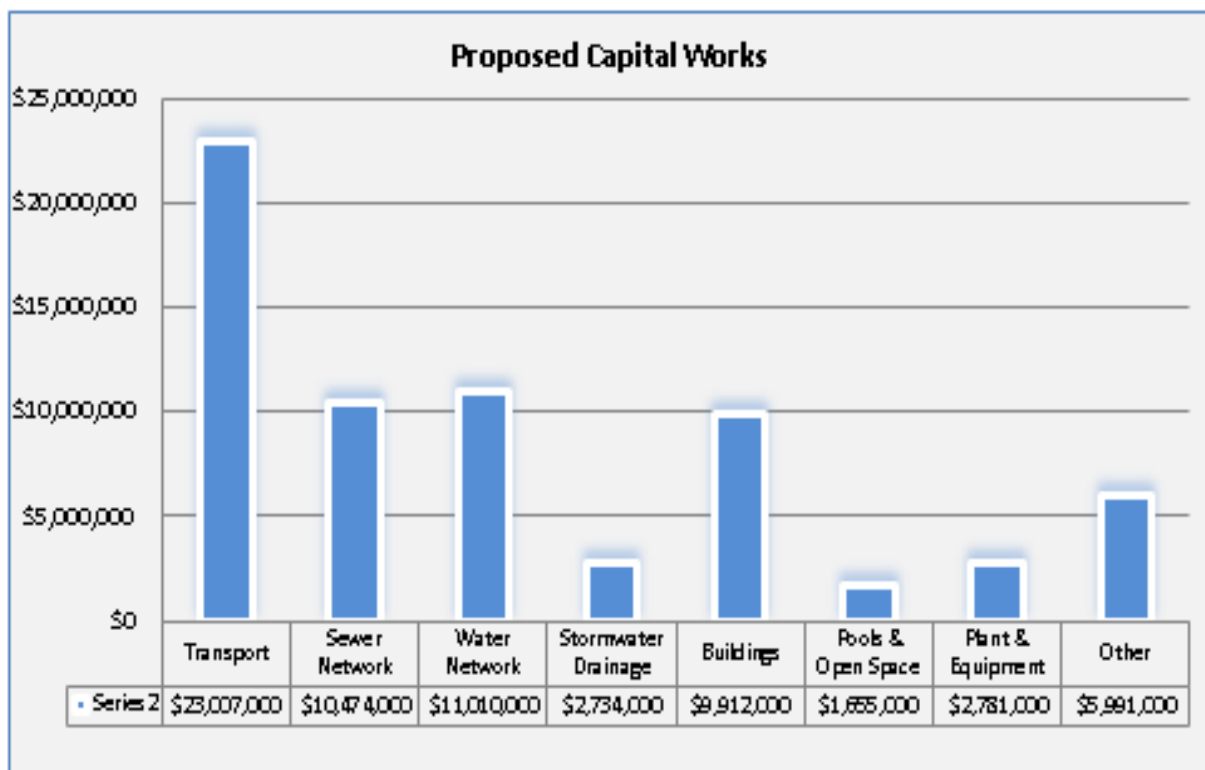
Council will be seeking comments from the public on these funding priorities as part of the draft 2020/21 Operational Plan and Budget.

Capital Works Program

The draft Capital Works proposed for the 2020/21 financial year includes funding for major infrastructure renewal projects and upgrades to essential community infrastructure. The proposed total of Capital Works is \$67.564 million.



A summary of capital expenditure by asset class is provided below:



The proposed schedule of works to be undertaken (by asset class) is included as appendix 1 of the draft 2020/21 Operational Plan.

2020/21 DRAFT REVENUE POLICY (INCLUDING FEES AND CHARGES)

Rate Income

In accordance with section 498 of the *Local Government Act 1993*, Council's ordinary rate levy will be calculated on the basis of an ad valorem rate determined by the amount in the dollar in respect of the relevant rating category and sub category. A minimum rate also applies to each relevant rating category and sub category in accordance with section 548 of the *Local Government Act 1993*.

The draft 2020/21 Budget has been prepared on the basis of a 2.60% increase which is line with the Independent Pricing and Regulatory Tribunal (IPART) approved increase of 2.60% for General Rates in NSW.

Residential Rate Sub Category – Moss Vale South

As part of the draft 2020/21 Revenue Policy, Council is proposing to create an additional sub rating category for the Moss Vale South (Chelsea Gardens and Coomungie) development. This is proposed on the basis of the additional costs associated with a higher standard of public amenity, streetscaping and passive open space to be provided within that precinct.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

REPORT DEPUTY GENERAL MANAGER OPERATIONS, FINANCE AND RISK



It is proposed that the residential sub category for Moss Vale will be levied at 1.10 (110%) of the ordinary residential rate.

Environment Levy

In accordance with section 499 of the *Local Government Act 1993*, Council's Environment Levy will be calculated on the basis of a base amount plus an ad valorem rate determined by the amount in the dollar relevant for this rate. The base amount will be subject to a maximum of 50% of the total revenue raised by the levy in accordance with section 500 of the *Local Government Act 1993*.

The draft 2020/21 Budget includes environmental improvement works and projects totalling \$1.425 million. The Environment Levy is used to fund specific environmental projects which aim to address biodiversity conservation, river health, wetland improvements and sustainable living.

Land Valuations

Rating income for the 2020/21 financial year will be based on the land valuations determined by the Valuer General's Department at a base date of 1 July 2019. Residents within the Wingecarribee Shire Local Government Area were advised of the changes in valuation by the Valuer General's Department in April 2020.

Council uses the land value of properties throughout the shire to determine the level of rates each property owner should pay. In other words, land value determines how Council's total rate income will be collected from each property owner.

Land Valuations are issued by the Office of the New South Wales Valuer General and are determined under the *Valuation of Land Act 1916*. The valuation process is something Council cannot influence.

Waste Management Charges

Council has reviewed its domestic waste management budget as part of the 2020/21 Budget. It is proposed that an increase of 2.60% (subject to rounding) be applied to domestic waste management charges for the 2020/21 financial year. Council has maintained the current pricing structure for its domestic waste management operations for four consecutive years.

This proposed increase will see Council's most utilised waste service (80 Litre Garbage – Weekly) increase from \$422.00 per annum to \$433.00 per annum, an increase of \$11.00 per annum.

The proposed increase reflects the current operational costs of Council's waste collection service and ensures the reasonable cost recovery of waste service through the domestic waste charge, which is line with the Office of Local Government's *Rating and Revenue Raising Guidelines*.

The list of proposed charges relating to Domestic Waste Management can be found in Council's draft Fees and Charges Schedule for 2020/21.

Stormwater Management Service Charge

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

REPORT DEPUTY GENERAL MANAGER OPERATIONS, FINANCE AND RISK



Council currently levies residential properties which receive a stormwater service a maximum of \$25 per annum charge (Stormwater Management Levy).

The draft 2020/21 Revenue Policy includes the continuation of this charge. Funds raised through the Stormwater Management Levy must only be used on stormwater maintenance and improvements. This is in line with the Office of Local Government's *Stormwater Management Service Charge Guidelines*.

Draft 2020/21 Fees and Charges

Proposed fees and charges for 2020/21 have generally been increased by 2.50%, with the exception of those fees which are set by regulation, are prepared on a cost recovery basis or where Council provides the service in a competitive market.

A copy of the Draft Fees and Charges for the 2020/21 financial year is included in the draft 2020/21 Operational Plan.

Water Fund Charges

The draft 2020/21 estimates for the Water Fund have been prepared in accordance with the Fund's 30 year strategic business plan with a forecast balanced budget for the 2020/21 financial year. In reviewing Water Fund operations as part of the 2020/21 Budget, it is recommended that an increase of approximately 2.60% (averaged) be applied to water access and usage charges.

The draft Revenue Policy outlines the following charges for water access and usage:

	2020/21	% Increase
Residential Access Charge	\$162.00	2.53%
Water Usage – Tariff 1 (0-616 Litres Per Day)	\$1.83 per KL	2.80%
Water Usage – Tariff 2 (>616 Litres Per Day)	\$2.74 per KL	2.62%

For a complete list of all water charges for the 2020/21 financial year please refer to the draft Revenue Policy.

Sewer Fund Charges

The draft 2020/21 estimates for the Sewer Fund have been prepared in accordance with the Fund's 30 year strategic business plan with a forecast balanced budget for the 2020/21 financial year. In reviewing Sewer Fund operations as part of the 2020/21 Budget, it is recommended a 2.64% increase be applied to sewer access charges. This increase is in accordance with the funding strategy for the major upgrades required to the Moss Vale, Bowral and Mittagong Sewer Treatment Plants over the next several years.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

REPORT DEPUTY GENERAL MANAGER OPERATIONS, FINANCE AND RISK



The draft Revenue Policy outlines the following increase in Council's sewer charges:

	2020/21	% Increase
Residential Access Charge	\$893.00	2.64%

For a complete list of all sewer charges for the 2020/21 financial year please refer to the draft Revenue Policy.

Loan Borrowings

Council is proposing to borrow \$49.010 million over the next four years (2020/21 – 2023/24). Borrowings will be used to fund, or in some cases, part-fund major infrastructure projects which will have significant and demonstrated benefits to the residents of Wingecarribee Shire over the coming decades.

Council has considered the impact of the proposed borrowings, and subsequent debt servicing as part of reviewing its long-term financial plan. Council has sufficient financial capacity to fund these loan repayments and is still well within the industry benchmark for debt servicing (known as the debt service ratio).

Council has an adopted Loan Borrowings Policy which can be found at <https://www.wsc.nsw.gov.au/policies>.

The proposed borrowings form part of the funding strategies for the following projects:

Description	2020/21	2021/22	2022/23	2023/24
Moss Vale Sewerage Treatment Plant	-	-	\$14,000,000	-
Mittagong Sewerage Treatment Plant	-	-	-	\$9,000,000
Station Street Upgrade (Stage 1)	\$3,884,000	-	-	-
Civic Centre Rectification Works	\$2,000,000	-	-	-
Moss Vale Cemetery	\$2,376,000	-	-	-
Mittagong Playhouse Rectification Works	-	\$2,000,000	-	-
Various Water Capital Works	-	-	\$8,700,000	\$7,050,000
Total – Loan Borrowings	\$8,260,000	\$2,000,000	\$22,700,000	\$16,050,000

UNFUNDED INFRASTRUCTURE PROJECTS LIST

As part of the 2019/20 Operational Plan and Budget, Council adopted an amended Unfunded Infrastructure Projects List. This amendment was to ensure that the Unfunded Projects and Services List continued to play an important role in identifying funding gaps for significant infrastructure priorities across the region where a 'whole of government approach' is required to provide a funding solution.

The Unfunded Infrastructure Projects List includes infrastructure priorities which have been identified through the Canberra Region Joint Organisation infrastructure working groups and through lobbying of the State and Federal Governments. It also includes the infrastructure priorities identified by Councillors through recent Councillor workshops.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

REPORT DEPUTY GENERAL MANAGER OPERATIONS, FINANCE AND RISK



The Unfunded Infrastructure Projects List is included as Appendix 4 within the draft 2020/21 Operational Plan.

COMMUNICATION AND CONSULTATION

Community Engagement

The draft 2020/21 Operational Plan and Budget will be placed on public exhibition from **29 May to 26 June 2020**.

Internal Communication and Consultation

Staff from all Council branches contributed to the development of the Operational Plan and Budget.

External Communication and Consultation

Nil

SUSTAINABILITY ASSESSMENT

- **Environment**

Implementation of Council's Environment Strategy will continue and will target specific environmental improvement programs. The 2020/21 draft Budget includes environmental improvement works and projects funded through the Environment Levy totalling \$1.425 million. The Environment Levy is used to fund specific environmental projects which aim to address biodiversity conservation, river health, wetland improvements and sustainable living.

- **Social**

This report and the attached documents clearly articulate Council's commitment to working with partner agencies to enhance community wellbeing throughout the Shire.

- **Broader Economic Implications**

Council will continue to maintain its existing funding levels under the new delivery model for tourism and economic development.

- **Culture**

Council continues to fund cultural and indigenous programs. This includes an ongoing commitment to the arts, with Council proposing to undertake detailed design works for the Mittagong Memorial Hall in the 2020/21 budget and rectification works to be funded through loan borrowings in the 2021/22 budget.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

REPORT DEPUTY GENERAL MANAGER OPERATIONS, FINANCE AND RISK



- **Governance**

The public exhibition of this draft documents are aligned with the Integrated Planning and Reporting legislative framework and a commitment to improved governance.

COUNCIL BUDGET IMPLICATIONS

The draft 2020/21 Budget has been presented as a balanced budget. Details regarding the budget, including funding priorities are contained in the main section of this report.

RELATED COUNCIL POLICY

Community Engagement Policy

OPTIONS

The option available to Council is to endorse the draft 2020/21 Operational Plan and Budget for a 28 day public exhibition period from **29 May to 26 June 2020**. This would enable Council to meet its legislative requirements to exhibit the draft Plan for 28 days, as well as allow time for Council to consider community feedback and adopt the final 2020/21 Operational Plan and Budget by 31 July 2020.

CONCLUSION

The draft Operational Plan, Budget, Revenue Policy and Fees and Charges are part of Council's Integrated Planning and Reporting Framework. These documents have been compiled by Council as an annual response to the community's vision as outlined in the Community Strategic Plan, Wingecarribee 2031 and commitments made in the Delivery Program 2017-2021.

The exhibition invites the community to provide feedback on the draft documents. These documents are submitted to Council for approval to exhibit only.

ATTACHMENTS

1. Draft 2020/21 Operational Plan & Budget - For Exhibition - *circulated under separate cover*
2. Draft 2020/21 Fees and Charges - *circulated under separate cover*

12.2 Post Exhibition Report - Planning Proposal and Draft Development Control Plan Amendment for Seniors Housing at Wiseman Road Bowral.

Reference:	PN1701417, PN1759580, 5901/63
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 inform Council of the outcome of the public exhibition for the Planning Proposal and associated draft Development Control Plan for seniors housing in Wiseman Road Bowral.

RECOMMENDATION

1. **THAT** the Planning Proposal to enable an additional permitted use of seniors housing on the combined site area of 6 Wiseman Road Bowral (Lot 4 DP 829578) and 8 Wiseman Road Bowral (Lot 1000 DP 1117715) by means of amendment to Schedule 1 (Additional Permitted Uses) of Wingecarribee Local Environmental Plan 2010, be forwarded to the NSW Department of Planning, Industry and Environment for finalisation.
2. **THAT** the draft Development Control Plan for the Wiseman Road Precinct, as exhibited, be adopted.

REPORT

BACKGROUND

A Planning Proposal to amend Schedule 1 of WLEP 2010 to permit seniors housing at 6 Wiseman Road Bowral (Lot 4 DP 829578) was considered by Council at its Ordinary Meeting of 9 May 2018. The intent of the Planning Proposal was to enable extension of the existing Pepperfield Lifestyle Resort senior housing development at 8 Wiseman Road which adjoins the subject land. The effect of Schedule 1 of WLEP 2010 is to permit an additional land use within a zone that would otherwise be prohibited. The location of the subject land and the existing development is indicated in **Figure 1** below.



Figure 1 Location of Subject Land (enlarged at Attachment 1)

At its Ordinary Meeting of 9 May 2018 Council resolved to not support the Planning Proposal.

The Planning Proposal was subsequently submitted by the proponent to the Southern Regional Planning Panel (SRPP – formerly the JRPP). On 19 October 2018 the NSW Department of Planning, Industry and Environment (the Department) advised Council that the SRPP supported the Planning Proposal.

In its Record of Decision, the SRPP noted that:

No weight has been given to the preliminary masterplan prepared as it does not appropriately respond to the character of the area – it does not place structures in a suitable landscape setting. While the use of the site is appropriate, significantly more work needs to be undertaken to ensure a sympathetic built form can be accommodated on site that responds to the site context and rural interface.

This is particularly important as the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 will not strictly apply, and the density and form of development needs to respond to the more rural landscape than an infill scenario.

To this end the Panel is of the view that a site specific (or area) Development Control Plan (DCP) should be prepared and it was the recommendation of the Panel that this DCP should address:

- *Vegetation retention;*
- *Flooding and stormwater requirements;*
- *Built form scale and density;*

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



- *Setbacks; and*
- *Transition to rural interface.*

Council accepted the Department's invitation to act as the 'relevant planning authority' for the purposes of progression of the Planning Proposal in order to ensure that DCP concerns raised by the SRPP (listed above) were adequately addressed to Council's satisfaction.

On 23 January 2019 Council received a Gateway Determination from the Department which enabled the Planning Proposal to proceed to public exhibition.

It is noted that the intent of the Planning Proposal (PP_2018_WINGE_009_00), as described by the Department, is "to enable an additional permitted use of seniors housing on the combined site area of 6 Wiseman Road Bowral and 8 Wiseman Road Bowral".

The Gateway Determination includes both the subject land, Lot 6 Wiseman Road, and the adjoining Lot 8 Wiseman Road which contains the Pepperfield Lifestyle Resort. This is because the Pepperfield development was approved through the Land and Environment Court rather than through any amendment to WLEP 2010. The draft Schedule 1 amendment resulting from this Planning Proposal would therefore combine and include both lots. The benefit of using Schedule 1 of WLEP 2010, rather than rezoning the land for example, is that it enables a specific land use to be identified as permitted with consent, whereas a rezoning may result in additional land uses being permitted with consent other than the specific use identified in Schedule 1.

The resulting draft amendments to the 'Local Clauses Map – Schedule 1 Maps (CL1_007D and CL1_007H) of WLEP 2010, on which the combined site is indicated as Item 36, form **Attachment 2 and Attachment 3** to this report.

REPORT

The Gateway Determination required consultation with Water NSW and NSW Rural Fire Service prior to public exhibition. These referrals were undertaken with neither authority objecting to the Planning Proposal and Water NSW supporting the SRPP's recommendation for a site specific DCP.

Council required of the proponent that a draft DCP for the Wiseman Road Precinct be prepared and reported to Council for public exhibition prior to the exhibition of the Planning Proposal. The draft DCP (which will form a Precinct within the Bowral Township DCP) was reported to Council on 13 November 2019 at which time Council resolved to place it on public exhibition together with the Planning Proposal and all other supporting documentation. The draft DCP, as exhibited, forms **Attachment 4** to this report.

COMMUNICATION AND CONSULTATION

Community Engagement

The Gateway Determination required that the Planning Proposal be exhibited for a period of at least 28 days. The Planning Proposal and the draft site-specific DCP were placed on public exhibition for a period of 31 days from 11 March to 10 April 2020. Exhibition material was made available on Council's website as well as at the Customer Service Counter and at the Bowral and Moss Vale Libraries prior to COVID-19 restrictions.

Eleven (11) notification letters were sent to neighbours and the exhibition was advertised on Council's page in the Southern Highland News for each week of the exhibition period. Notification of the exhibition was also distributed through Council's 'e-news' letters which have some 4,000 subscribers.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



No submissions were received.

Internal Communication and Consultation

No internal consultation occurred. The draft DCP provisions, if adopted, will be incorporated into the Bowral Township DCP.

External Communication and Consultation

Agency referrals were sent to Water NSW and NSW Rural Fire Service as required by the Gateway Determination. Neither agency had any objection to the Planning Proposal proceeding to exhibition.

SUSTAINABILITY ASSESSMENT

• Environment

One of the key concerns Council had with the Planning proposal and which initially prompted it not being supported by Council was that it may result in adverse environmental impacts. These concerns were validated by the SRPP which required the proponent to prepare a draft DCP which included specific controls for 'vegetation retention'. The assessment process for any subsequent DA for seniors housing on the subject land will be undertaken against these DCP controls to ensure that environmental sensitivities are addressed and protected.

• Social

Seniors account for almost one third of the Shire's population and there is a demand for seniors housing in the absence of other forms of housing suitable for seniors such as good quality medium density development or smaller lots within existing towns and villages.

• Broader Economic Implications

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

There are no cultural issues in relation to this report. • **Governance**

There are no governance issues in relation to this report.

COUNCIL BUDGET IMPLICATIONS

There are no budget implications in relation to this report.

RELATED COUNCIL POLICY

There is no other Council policy in relation to this report.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



OPTIONS

The options available to Council are:

Option 1

1. THAT the Planning Proposal to enable an additional permitted use of seniors housing on the combined site area of 6 Wiseman Road Bowral (Lot 4 DP 829578) and 8 Wiseman Road Bowral (Lot 1000 DP 1117715) by means of amendment to *Schedule 1 (Additional Permitted Uses)* of Wingecarribee Local Environmental Plan 2010, be forwarded to the NSW Department of Planning, Industry and Environment for finalisation.
2. THAT the draft Development Control Plan for the Wiseman Road Precinct, as exhibited, be adopted.

Option 2

THAT Council does not proceed with the Planning Proposal to enable an additional permitted use of seniors housing on the combined site area of 6 Wiseman Road Bowral (Lot 4 DP 829578) and 8 Wiseman Road Bowral (Lot 1000 DP 1117715) by means of an amendment to *Schedule 1 (Additional Permitted Uses)* of Wingecarribee Local Environmental Plan 2010, nor with the accompanying draft Development Control Plan Amendment.

Option 1 is the recommended option to this report.

CONCLUSION

The Planning Proposal seeks to consolidate the subject land with the existing Pepperfield seniors housing development at Wiseman Road, permitting seniors housing on both sites under Schedule 1 of WLEP 2010.

The draft Wiseman Road Precinct Development Control Plan amendments accompanying the Planning Proposal address those matters required by the Southern Regional Planning Panel to ensure that there are no adverse impacts with regard to vegetation, flooding and the impact on the rural interface through location, scale and design.

ATTACHMENTS

1. Figure 1 - Location of Subject Land
2. Local Clauses Map - CL1_007D
3. Local Clauses Map CL1_007H
4. Draft Development Control Plan as exhibited - *circulated under separate cover*



ATTACHMENT 2

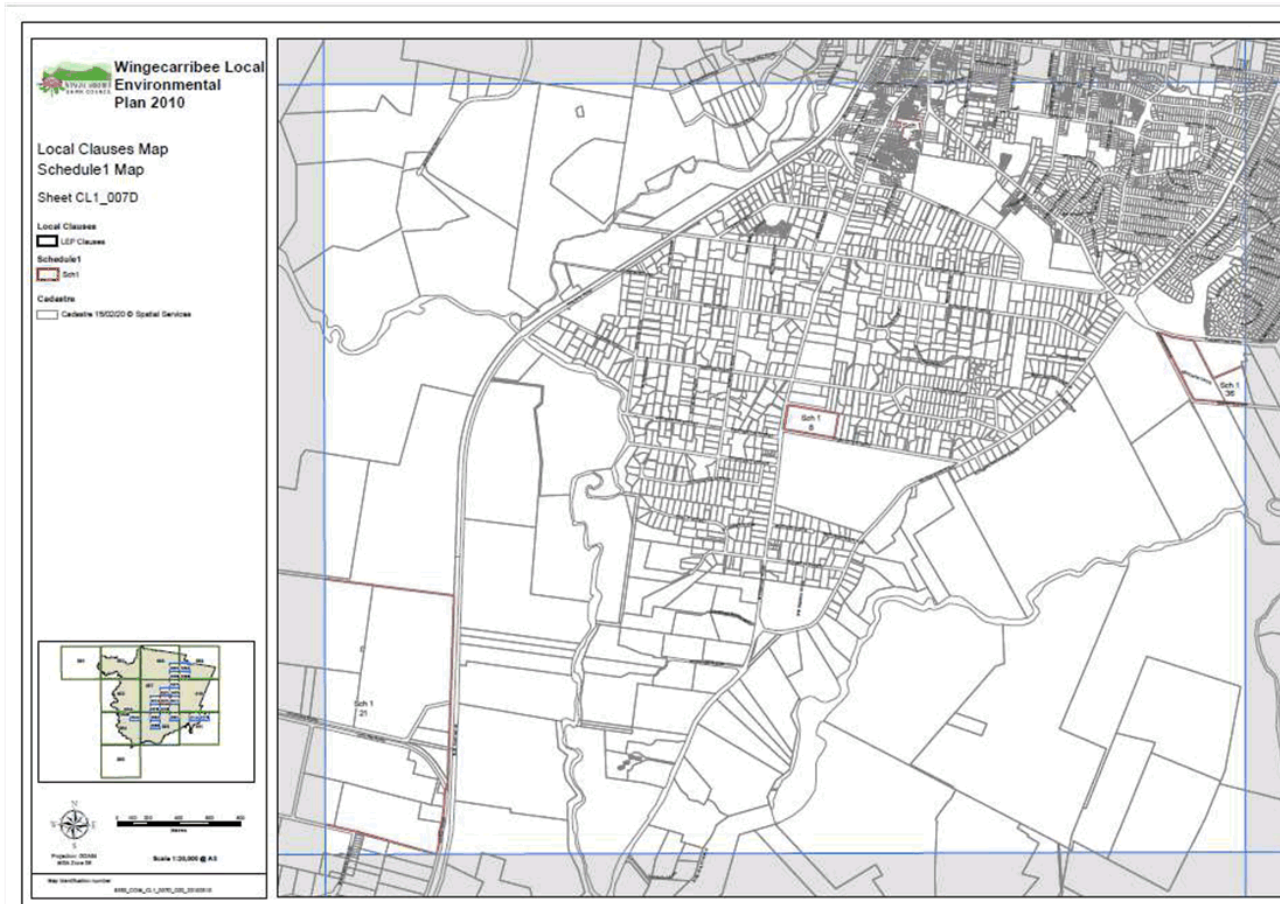


Figure 2 Draft Local Clauses Map CL1_007D



ATTACHMENT 3



Figure 3 Draft Local Clauses Map CL1_007H

12.3 Post Exhibition - Planning Proposal to Reclassify from Community to Operational a Portion of Council Owned Land Off Rowland Road Bowral to Enable an Access Road for the Southern Highlands Regional Art Gallery.

Reference: PN1706883, 5901/70
Report Author: Senior Strategic Land Use Planner
Authoriser: Coordinator Strategic Land Use Planning
Link to Community Strategic Plan: Support and promote the creative and cultural sector

PURPOSE

The purpose of this report is to inform Council of the outcome of the public exhibition of, and Public Hearing for, a Planning Proposal to reclassify from Community to Operational a portion of Council owned land off Rowland Road Bowral.

RECOMMENDATION

THAT the Planning Proposal to amend WLEP 2010, namely *Schedule 4 (Classification and reclassification of public land) Part 1 (Land classified or reclassified as operational – no interests changed)* to reclassify from Community to Operational a portion of land at Rowland Road Bowral, being Part of Lot 38 DP882935, be forwarded to the Department of Planning, Industry and Environment for completion.

REPORT

BACKGROUND

The importance of arts and culture to the Shire's residents was first identified as a community priority in the *Wingecarribee 2031* Community Strategic Plan adopted in 2010. In May 2018 Council was approached by a community organisation to seek formal commitment to work in partnership and in September 2018 Council resolved to confirm its in-principle support for the establishment of the Southern Highlands Regional Art Gallery in The Old Dairy at Retford Park Bowral. In order to progress this proposal, a preferred location for an access road to the Art Gallery has been identified. The land over which most of the road would pass is identified as Lot 38 DP882935, Rowland Road Bowral, which is Council owned land located to the east of the David Wood Playing Fields at East Bowral.

Figure 1 below indicates the approximate location of this road, extending from the intersection of Jonathan Street and Rowland Road, across the subject land and into Retford Park. **Figure 2** below provides a more detailed view.



Figure 1 – General Location of the proposed access road (included as Attachment 1)

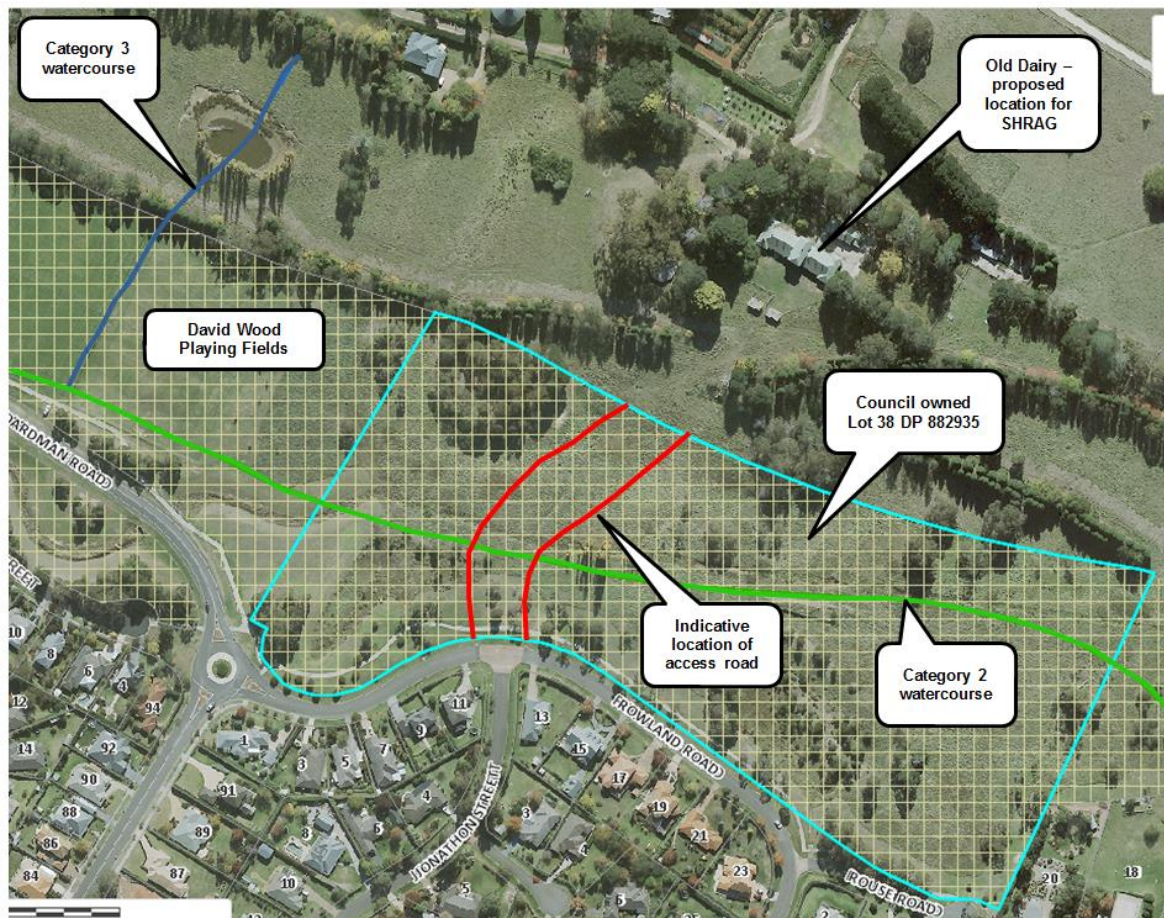


Figure 2 – More detailed location of the proposed access road (included as Attachment 2)

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



To enable consideration of an application to construct the road, a portion of Lot 38 DP882935 needed to be isolated and reclassified from 'Community' to 'Operational' land under the provisions of s57 of the *Environmental Planning & Assessment Act 1979* and s25 and s26 of the *Local Government Act 1993*. Community land is land used for a public purpose whereas operational land facilitates the operation of that community purpose, in this case, an access road to the regional art gallery.

The 'isolation' of a portion of Lot 38 was achieved through DA20/0272 to create a three (3) lot subdivision, with Lot 3 being the location of the proposed access road, as indicated in **Figure 3** below. The DA was approved by Council under delegation on 1 October 2019.

It is noted that the proposed Lots 1 and 2 will remain classified as Community land, and that no change to the current RE1 Public Recreation under WLEP 2010 will be required to any of the land as roads are permitted with consent in the RE1 zone.

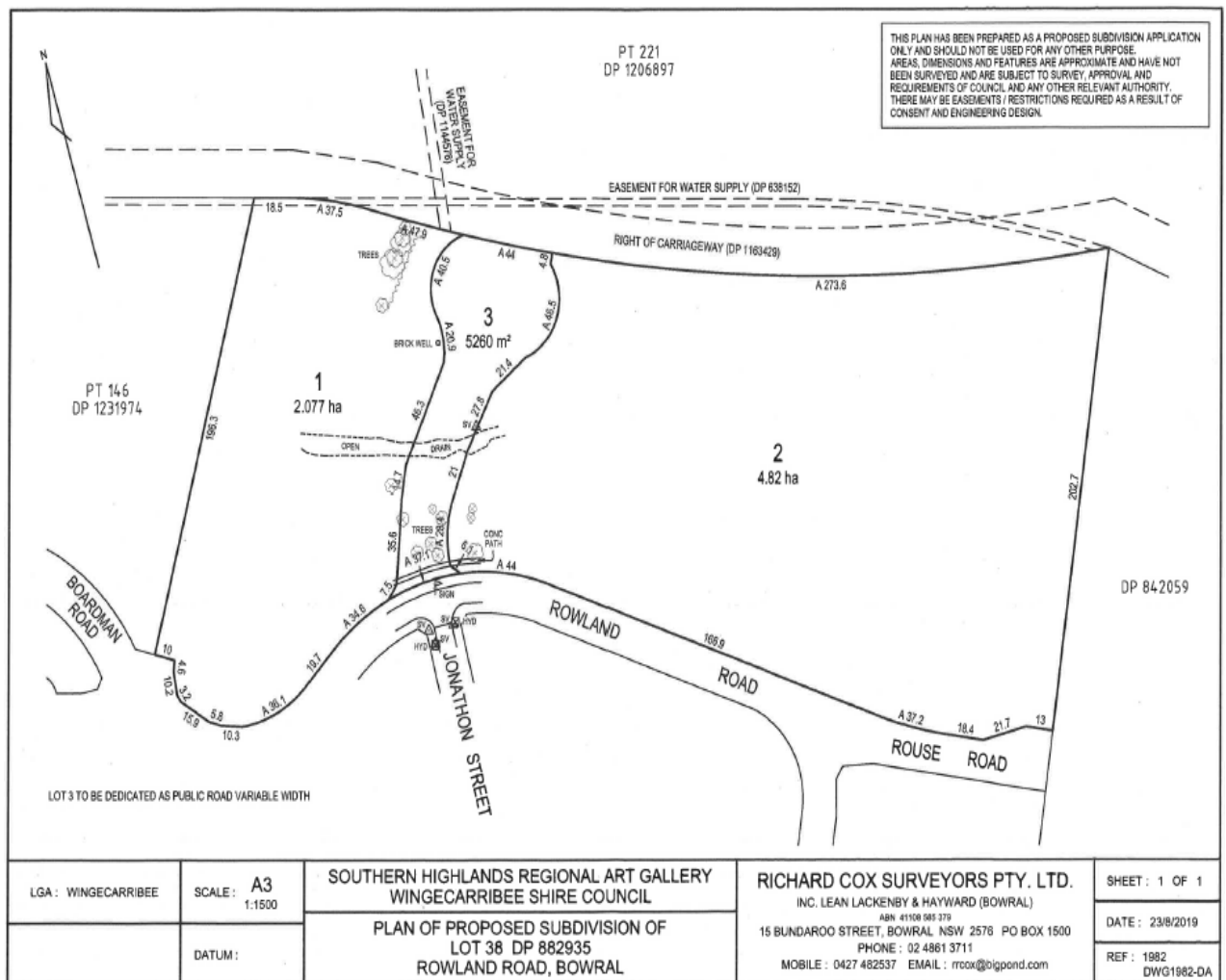


Figure 3 Plan of proposed subdivision (included as Attachment 3)

The reclassification process is undertaken by means of a Planning Proposal to amend *Schedule 4 of Wingecarribee Local Environmental Plan (WLEP) 2010 (Classification and reclassification of public land – Part 1 – Land classified or reclassified as operational – no interests changed)* to include the subject land.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



To initiate this proposal, Council resolved at its Ordinary Meeting of 25 September 2019 **THAT:**

a Planning Proposal be prepared to reclassify proposed lot 3 being a portion of Lot 38 DP 882935, Rowland Road Bowral, from Community to Operational, for the purpose of constructing an access road to the Southern Highlands Regional Art Gallery.

A Gateway Determination to proceed with the Planning Proposal was received by Council from the NSW Department of Planning, Industry and Environment on 12 December 2019.

REPORT

The Planning Proposal

The Gateway Determination required referral to Water NSW, NSW Rural Fire Service and Department of Premier and Cabinet (Heritage) prior to public exhibition. These referrals were undertaken.

The response from Premier and Cabinet (Heritage) included the statement that “*we consider that the proposed ‘Operational’ classification could have a positive impact on the heritage value of the (Retford Park) Estate as it would allow access and appreciation of a significant community asset*”.

Water NSW responded on 20 December 2019 seeking additional information regarding flood potential of the subject land. This information was provided by Council by means of a Flood Study prepared by the proponents. WaterNSW subsequently advised on 7 February 2020 that the Planning Proposal could now proceed to exhibition and that the flood study report provided by Council should accompany the exhibition of the Planning Proposal.

No response was received from NSW Rural Fire Service within the 21-day timeframe nominated in the Gateway Determination. This did not prevent the Planning Proposal from being exhibited. However, subsequently, a response from NSW Rural Fire Service was received stating that the agency had no objection to the Planning Proposal proceeding.

The Planning Proposal and all relevant supporting documentation, including agency responses and the flood study referred to by Water NSW, was placed on public exhibition for a period of 31 days from Wednesday 19 February to Friday 20 March 2020. The Planning Proposal and supporting documentation was also notified on Council’s Community Update page in each issue of the Southern Highland News during the exhibition period. Prior to public exhibition 120 notification letters were mailed to properties, either adjoining or in the immediate vicinity of the subject land.

The documentation was made available on Council’s website via the What’s on Exhibition page, as well at the Civic Centre and the Bowral Library prior to COVID-19 restrictions. Exhibition information was also distributed through Council’s e-newsletters.

A total of five (5) submissions were received. Comments made in these submissions and Council’s response follow. The number of submissions which contained the comment is shown in brackets. It is noted that some submissions made more than one comment.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



Submissions

Submission Comment	Council Response
The proposal is supported. (2)	This comment is noted.
It is not clear whether the cost of the access road and stream crossing will be borne by WSC and who would own the constructed road. (1)	The road from Rowland Road to the Retford Park boundary would be constructed by the proponent at the proponent's cost and dedicated to Council.
The proposed gate at Rowland Road end is unnecessary and would inhibit use by the public when the gate at the Retford Park end is closed. (1)	The final decision on gates will be made when the Development Application (DA) for the construction of the road itself is considered by Council.
Potential flooding remains a concern.(1)	Potential flood impacts and their impact on the design of the road will be addressed by Council during assessment of the DA for the road construction itself.
<p>The current intersection of Rowland Road and Jonathan street creates a 'blind spot'. There have been several 'near misses'. If the road proceeds, further consideration should be given to road safety in this area. (2)</p> <p>It is recommended that Council consider a roundabout at the intersection of Rowland and Jonathan Streets. It is already a busy intersection used by vehicles including buses, and by both young and elderly pedestrian residents. (1)</p>	These comments are noted and will be considered in the assessment of the DA for the construction of the road itself which will need to address safety concerns and demonstrate that adequate safety measures are provided.
The proposed off leash dog park area might be better located in the vicinity of this access road rather than at its current proposed location. (1)	The comment is noted and has been forwarded to the relevant section of Council for further consideration.



The Public Hearing

The reclassification of public land from Community to Operation requires an independently facilitated Public Hearing notified and conducted as prescribed under legislation including *s57 of the Environmental Planning & Assessment Act 1979*, *s29 of the Local Government Act 1993*, *LEP Practice Note PN16-001 (Classification and reclassification of public land through a Local Environmental Plan)*, and the *Environmental Planning & Assessment Amendment (COVID-19 Planning Bodies) Regulation 2020*.

In accordance with these legislative requirements, a Public Hearing was held on Tuesday 12 May 2020 via video conference due to COVID-19 restrictions. The facilitator's report on the Public Hearing forms **Attachment 4** to this report.

Concerns about the financing of the road and Regional Art Galley were expressed at the Public Hearing. These comments are noted and have been forwarded to the relevant sections of Council, but they are beyond the scope of this Planning Proposal which relates to the reclassification of a portion of a Council owned land for the purpose of enabling assessment of a Development Application for an access road.

Concerns about road safety, specifically at the intersection of Rowland Road and Jonathan Street, were also expressed. These comments are also noted and will be considered during assessment of the Development Application for the access road itself.

COMMUNICATION AND CONSULTATION

Community Engagement

Community engagement has been undertaken in accordance with all requirements of the Gateway Determination, Water NSW recommendations, Departmental guidelines and the relevant provisions of the *Environmental Planning & Assessment Act 1979*, *Local Government Act 1993*, *Planning Practice Note PN16-001* and the *COVID-19 Regulation 2020*.

Internal Communication and Consultation

Internal consultation was undertaken with Council's Property and Transport & Traffic branches.

External Communication and Consultation

Agency consultation was undertaken in accordance with the Gateway Determination.

SUSTAINABILITY ASSESSMENT

- **Environment**

There are no environmental issues in relation to this report.

- **Social**

There are no social issues in relation to this report.

- **Broader Economic Implications**

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

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



- **Culture**

The reclassification of the subject land will enable assessment of a Development Application to provide an access road to the proposed Southern Highlands Regional Art Gallery.

- **Governance**

The management of the Planning Proposal and Public Hearing was undertaken in accordance with all legal requirements.

COUNCIL BUDGET IMPLICATIONS

The cost of reclassifying the subject land has been met by Council.

RELATED COUNCIL POLICY

There are no other Council policies resulting from this report.

OPTIONS

The options available to Council are:

Option 1

THAT the Planning Proposal to amend WLEP 2010, namely *Schedule 4 (Classification and reclassification of public land) Part 1 (Land classified or reclassified as operational – no interests changed)*, to reclassify from Community to Operational a portion of land at Rowland Road Bowral being Part of Lot 38 DP882935 be forwarded to the Department of Planning, Industry and Environment for completion.

Option 2

THAT Council resolve not to proceed with the Planning Proposal to amend WLEP 2010, namely *Schedule 4 (Classification and reclassification of public land) Part 1 (Land classified or reclassified as operational – no interests changed)*, to reclassify from Community to Operational a portion of land at Rowland Road Bowral being Part of Lot 38 DP882935.

Option 1 is the recommended option to this report.

CONCLUSION

In advising Council of the issue of the Gateway Determination, the Director, Southern Region of the Department of Planning, Industry and Environment, in her capacity as delegate to the Secretary considered that *“the proposal would facilitate access to the proposed location of the Southern Highlands Regional Art Gallery at significant benefit to the community.”* This view was supported by Department of Premier and Cabinet (Heritage) in its response to the Planning Proposal.

The reclassification of a portion of land to enable Council to consider a Development Application for an access road to the proposed Southern Highlands Regional Art Gallery is essential to the progression of the proposed Art Gallery and Council's commitment to that project. The Planning Proposal which is the subject of this report seeks to achieve that outcome.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

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



ATTACHMENTS

1. Figure 1 - General Location of the Proposed Access Road
2. Figure 2 - More detailed location of the proposed access road
3. Figure 3 Plan of proposed subdivision
4. Public Hearing Report

12.3 Post Exhibition - Planning Proposal to Reclassify from Community to Operational a Portion of Council Owned Land
Off Rowland Road Bowral to Enable an Access Road for the Southern Highlands Regional Art Gallery.



ATTACHMENT 1 Figure 1 - General Location of the Proposed Access Road

ATTACHMENT 1



Figure 1 General area of the proposed access road

12.3 Post Exhibition - Planning Proposal to Reclassify from Community to Operational a Portion of Council Owned Land
Off Rowland Road Bowral to Enable an Access Road for the Southern Highlands Regional Art Gallery.



ATTACHMENT 2 Figure 2 - More detailed location of the proposed access road

ATTACHMENT 2

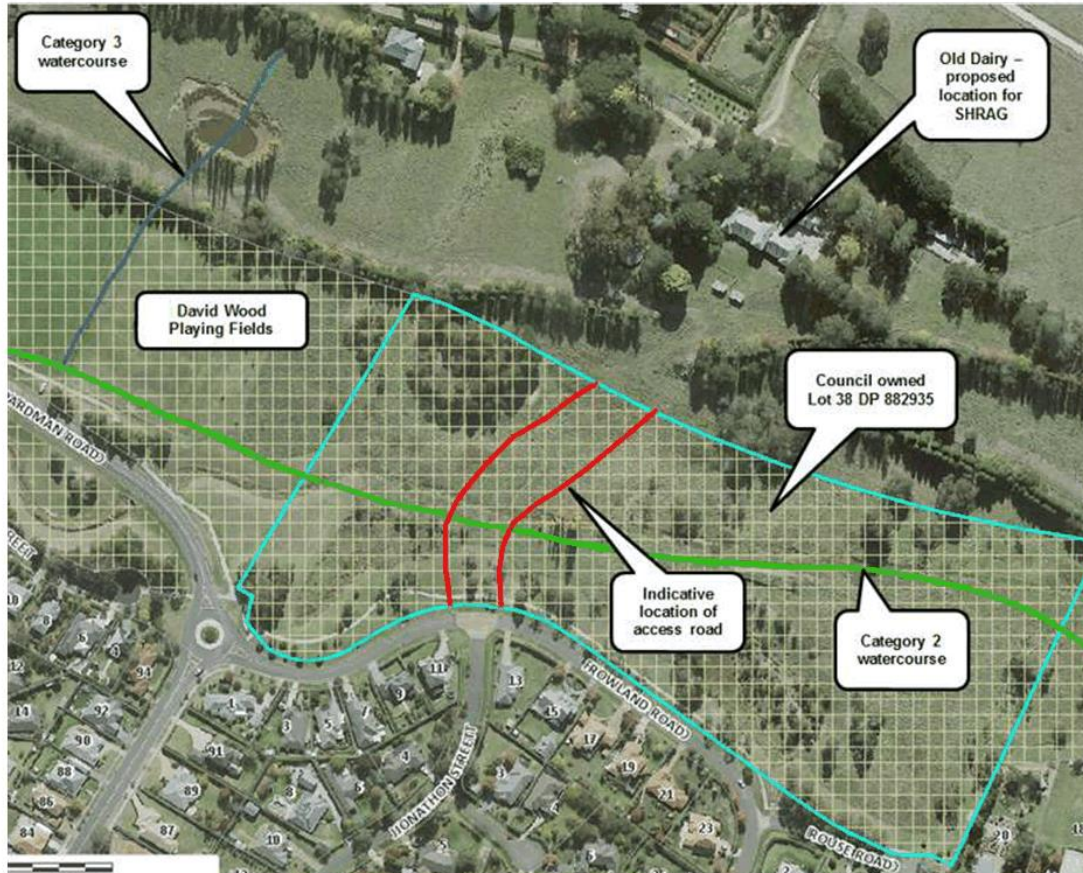


Figure 2 More detailed location of the proposed access road

12.3 Post Exhibition - Planning Proposal to Reclassify from Community to Operational a Portion of Council Owned Land
Off Rowland Road Bowral to Enable an Access Road for the Southern Highlands Regional Art Gallery.

ATTACHMENT 3 Figure 3 Plan of proposed subdivision



ATTACHMENT 3

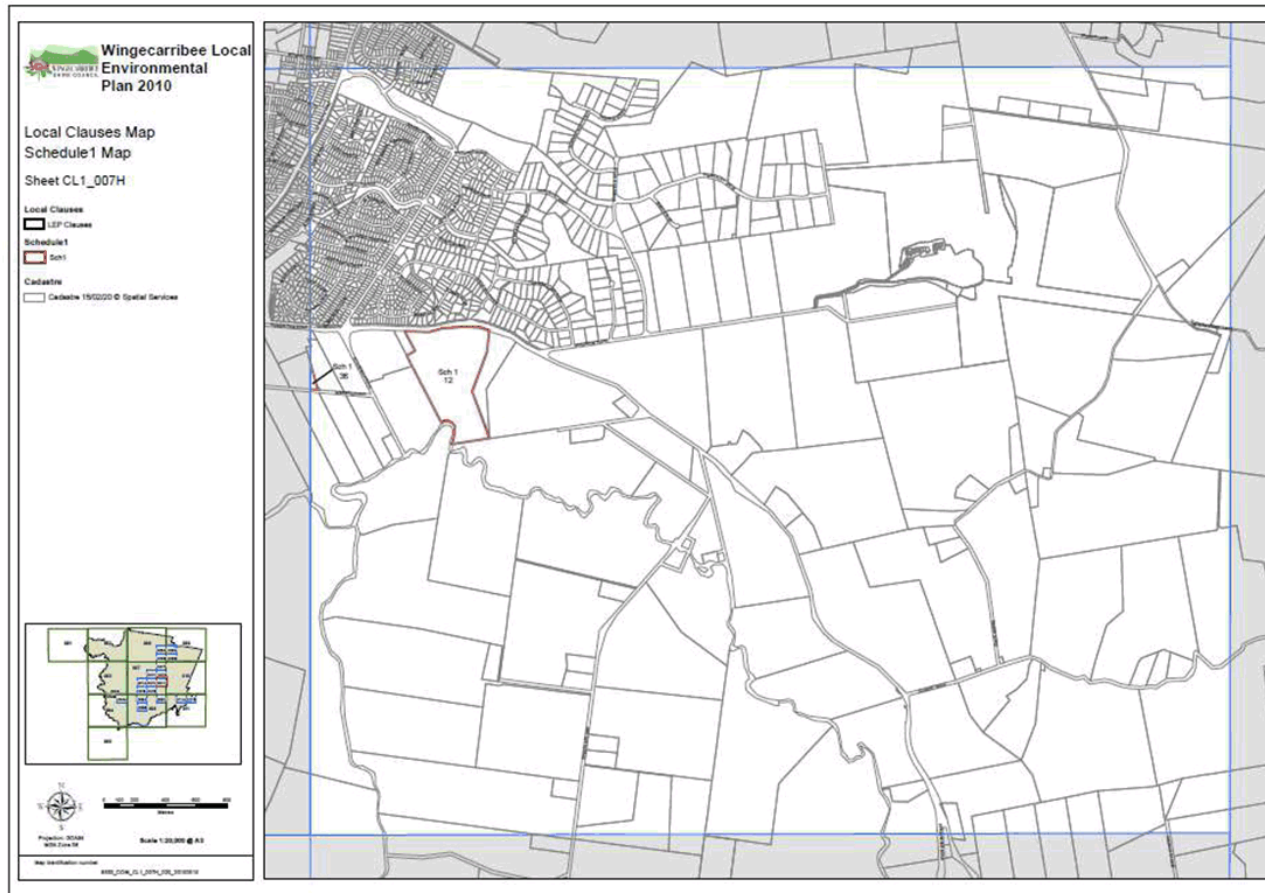


Figure 3 Draft Local Clauses Map CL1_007H

12.3 Post Exhibition - Planning Proposal to Reclassify from Community to Operational a Portion of Council Owned Land Off Rowland Road Bowral to Enable an Access Road for the Southern Highlands Regional Art Gallery.

ATTACHMENT 4 Public Hearing Report



Ms Susan Stannard
Senior Strategic Land Use Planner
Wingecarribee Shire Council
P.O. Box 141
Moss Vale, NSW 2577.

21 May 2020

Dear Ms Stannard,

Planning Proposal to amend Wingecarribee Local Environmental Plan 2010 to reclassify part of Lot 38 DP 882935, Rowland Road, Bowral, from Community to Operational to provide an access road to the proposed Southern Highlands Regional Art Gallery.

I refer to the above Planning Proposal and to the public hearings held on 30 April and 12 May, 2020, via Zoom Conference which was facilitated by me. There were some technical issues with the livestream of the hearing via Facebook on 30 April, and as a result the hearing was repeated on 12 May.

The first public hearing was attended by three residents, all of who spoke about the proposal. The second hearing was attended by one resident who spoke about the proposal. I summarised the points raised at the first public hearing at the second hearing on 12 May.

Following is a summary of the issues raised:

- Opposed to the reclassification until the five conditions for the Council funding to the SHRAG have been met and communicated to residents;
- Opposed to the reclassification if any Council funds (other than Developer Contributions from the Redford Park development and any related developments) are to be spent on this project;
- Supports the reclassification;
- Concern about increased traffic and safety at the intersection of Jonathon St and Rowland Rd

I would like to thank you for using Edge Land Planning for this project and please don't hesitate to contact me if you have any questions.

Yours Faithfully

Ian Sinclair
Principal Consultant

ABN: 46 116 016 768

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Community Consultation

12.4 Post Exhibition - Planning Proposal to Reclassify from Community to Operational Lot 13 DP 601369, Kirkham Street Moss Vale.

Reference:	PN819550, 5901/71
Report Author:	Senior Strategic Land Use Planner
Authoriser:	Coordinator Strategic Land Use Planning
Link to Community Strategic Plan:	Effective financial and asset management ensure Council's long term sustainability

PURPOSE

The purpose of this report is to inform Council of the outcome of the public exhibition of, and Public Hearing for, a Planning Proposal to reclassify from Community to Operational Lot 13 DP 601369, being a Council owned 'land locked' property on Kirkham Street Moss Vale to enable future options for the land to be considered.

RECOMMENDATION

THAT the Planning Proposal to amend WLEP 2010, namely *Schedule 4 (Classification and reclassification of public land) Part 1 (Land classified or reclassified as operational - no interests)* to reclassify from Community to Operational Lot 13 DP601369 be forwarded to the Department of Planning, Industry and Environment for completion.

REPORT

BACKGROUND

The subject land is located to the rear of 64 Kirkham Street Moss Vale as indicated in **Figure 1** below. A more detailed aerial is located at **Figure 2** below.

The subject land is 'land locked', having no direct access to Kirkham Street. It is triangular in shape and occupies an area of some 608m². The land is zoned R3 Medium Density Residential with a minimum lot size of 700m².

The land is adjacent to the Moss Vale TAFE on one boundary and bounded by residential lots on the other two sides.

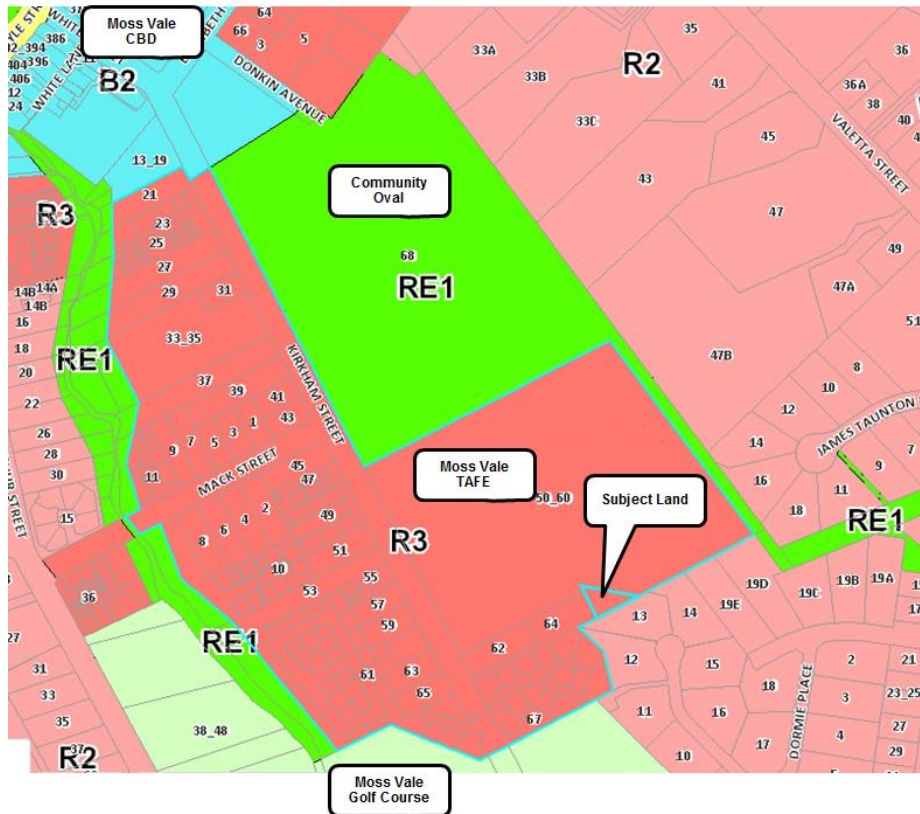


Figure 1 – Location of subject land (included as Attachment 1)

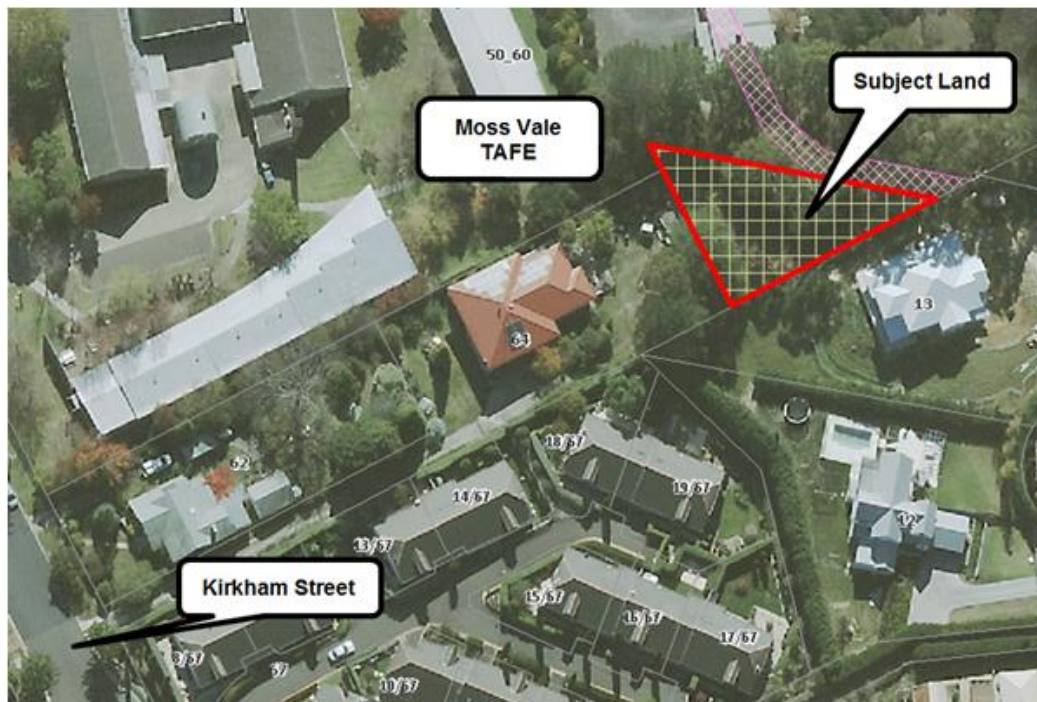


Figure 2 – Aerial of subject land (included as Attachment 2)

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



The site is owned by Council and classified as 'Community' land. Given the location and size of the lot, options for the future use of the land are limited, but in order to consider sale of the land, it must be reclassified from 'Community' to 'Operational'. Community land is land used for a public purpose whereas Operational land facilitates further use of that land, including sale.

A report to consider the reclassification of the subject land was considered by Council at its Ordinary Meeting of 25 September 2019 at which time Council resolved:

THAT a Planning Proposal be prepared to reclassify Lot 13 DP 601369, Kirkham Street Moss Vale, from Community to Operational, to enable consideration of future options for the sale of the land.

A Gateway Determination to proceed with the Planning Proposal was received by Council from the NSW Department of Planning, Industry and Environment on 20 February 2020.

REPORT

The Planning Proposal

The Gateway Determination required referral to Water NSW and the NSW Rural Fire Service prior to public exhibition. These referrals were undertaken.

No response was received from NSW Rural Fire Service. This did not prevent a Planning Proposal from being exhibited. It is noted that no response has been subsequently received.

Referral to Water NSW had already been initiated by Council prior to the Gateway Determination and the agency responded on 16 December 2019 indicating no objection to the Planning Proposal proceeding.

The Planning Proposal and all relevant supporting documentation, including agency responses, was placed on public exhibition for a period of 31 days from Wednesday 11 March to Friday 10 April 2020. The Planning Proposal and supporting documentation was also notified on Council's Community Update page in each issue of the Southern Highland News during the exhibition period. Prior to public exhibition 10 notification letters were mailed to properties, either adjoining or in the immediate vicinity.

The documentation was made available on Council's website via the What's on Exhibition page, as well at the Civic Centre prior to COVID-19 restrictions. Exhibition information was also distributed through Council's e-newsletters.

One (1) private submission was received. The submission expressed interest in acquiring the property. Details of this submission have been forwarded to Council's Property branch. No submission was received from TAFE NSW.

The Public Hearing

The reclassification of public land from Community to Operational requires an independently facilitated Public Hearing notified and conducted as prescribed under legislation including s57 of the *Environmental Planning & Assessment Act 1979*, s29 of the *Local Government Act 1993*, Departmental LEP Practice Note *PN16-001 (Classification and reclassification of public land through a Local Environmental Plan)*, and the *Environmental Planning & Assessment Amendment (COVID-19 Planning Bodies) Regulation 2020*. An independently facilitated Public Hearing was held on Tuesday 12 May 2020 via video conference due to COVID-19 restrictions. The facilitator's report on the Public Hearing forms **Attachment 3** to this report.

It is noted that presentations to the Public Hearing addressed interest in acquiring the subject land.

COMMUNICATION AND CONSULTATION

Community Engagement

Community engagement has been undertaken in accordance with all requirements of the Gateway Determination, Departmental guidelines and the relevant provisions of the *Environmental Planning & Assessment Act 1979*, *Local Government Act 1993*, *Department Planning Practice Note PN16-001* and the *COVID-19 Regulation 2020*.

Internal Communication and Consultation

Internal consultation was undertaken with Council's Property branch.

External Communication and Consultation

Agency consultation was undertaken in accordance with the Gateway Determination.

SUSTAINABILITY ASSESSMENT

- **Environment**

There are no environmental issues in relation to this report.

- **Social**

There are no social issues in relation to this report.

- **Broader Economic Implications**

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

- **Culture**

There are no cultural issues in relation to this report.

- **Governance**

The management of the Planning Proposal and Public Hearing was undertaken in accordance with all legal requirements.

COUNCIL BUDGET IMPLICATIONS

The cost of reclassifying the subject land has been met by Council.

RELATED COUNCIL POLICY

There are no other Council policies resulting from this report.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



OPTIONS

The options available to Council are:

Option 1

THAT the Planning Proposal to amend WLEP 2010, namely *Schedule 4 (Classification and reclassification of public land) Part 1 (Land classified or reclassified as operational - no interests)* to reclassify from Community to Operational Lot 13 DP601369 be forwarded to the Department of Planning, Industry and Environment for completion.

Option 2

THAT Council resolve not to proceed with the Planning Proposal to amend WLEP 2010, namely *Schedule 4 (Classification and reclassification of public land) Part 1 (Land classified or reclassified as operational - no interests)* to reclassify from Community to Operational Lot 13 DP601369.

Option 1 is the recommended option to this report.

CONCLUSION

Given the size of the lot and the fact that the property has no direct access to Kirkham Street, future land use options for Council are limited and maintenance of the land would remain. The reclassification from Community to Operational needs to be finalised before any future sale can be considered.

ATTACHMENTS

1. Figure 1 - Location of Subject Land
2. Figure 2 - Aerial of location of subject land
3. Public Hearing Report

12.4 Post Exhibition - Planning Proposal to Reclassify from Community to Operational Lot 13 DP 601369, Kirkham Street Moss Vale.



ATTACHMENT 1

Figure 1 - Location of Subject Land

ATTACHMENT 1

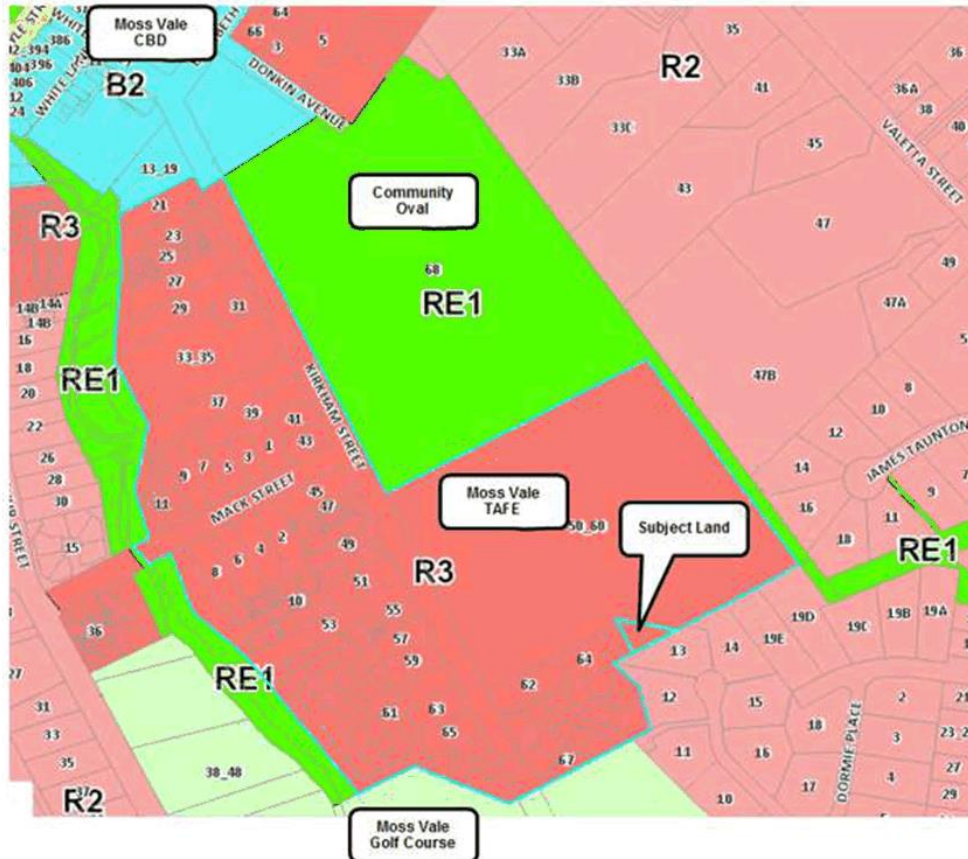


Figure 1 Location of subject land



ATTACHMENT 2

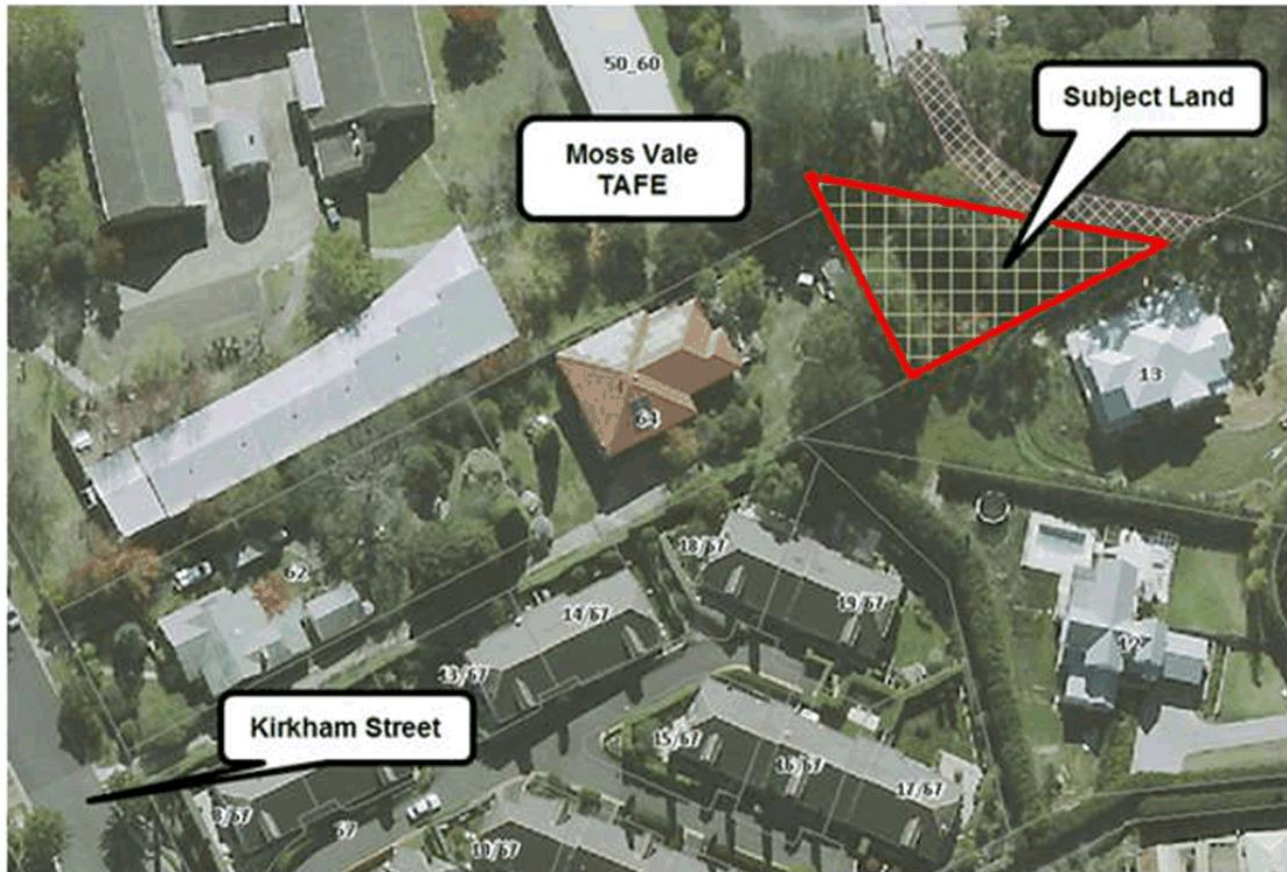


Figure 2 Aerial of subject land



Ms Susan Stannard
Senior Strategic Land Use Planner
Wingecarribee Shire Council
P.O. Box 141
Moss Vale, NSW 2577.

21 May 2020

Dear Ms Stannard,

Planning Proposal to amend Wingecarribee Local Environmental Plan 2010 to reclassify Lot 13 DP 601369, Kirkham Street, Moss Vale, from Community to Operational to facilitate future sale.

I refer to the above Planning Proposal and to the Public Hearing held on 12 May, 2020, via Zoom Conference which was facilitated by me.

The meeting was attended by two residents, both of whom spoke

Following is a summary of the issues raised:

- Have been requesting to purchase the land since 2004 when they made their first request to Council. They had no response after being told they would have to pay for all expenses involved with it. Have made other approaches since then;
- Council have said that it was not interested in selling the land;
- Land was full of blackberries when they moved in more than 20 years ago and have cleared about two thirds of this a couple of times;
- Have been voluntarily maintaining the land;
- Drainage issues causing flooding of their land from the upstream development which drains through the land to theirs. They have lost some animals during the flooding;
- Have approached Council to clear the land;
- Have been interested in purchasing the land;

I would like to thank you for using Edge Land Planning for this project and please don't hesitate to contact me if you have any questions.

Yours Faithfully

Ian Sinclair
Principal Consultant

ABN: 46 116 016 768

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Website: www.ruralplanning.com.au ♦ Email: isinclair@ruralplanning.com.au

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Community Consultation

12.5 Compliance Investigation of Earthworks at 144 Mt Broughton Road Werai

Reference: 10/0414
Report Author: Senior Accredited Certifier
Authoriser: Group Manager Planning, Development and Regulatory Services

Link to Community Strategic Plan: Conserve the key natural resources of the Shire and minimise the impact from development

PURPOSE

This purpose of this report is to consider the outcomes of a compliance investigation relating to earthworks at 144 Mt Broughton Road Werai.

RECOMMENDATION

THAT Council issue a Notice of Intention to Serve a Development Control Order No. 3 & 10 on the property owner/s of 144 Mt Broughton Road Werai pursuant to *Schedule 5 of the Environmental Planning and Assessment Act 1979* to demolish and/or remove the unauthorised earthworks (pad); and restore the land to a condition in which it was before the land was unlawfully excavated, respectively.

The Notice will provide an initial twenty one (21) days to either complete the works in accordance with the proposed terms or provide representation in regards to the terms of the proposed Order. Failure to comply with the Order may result in further enforcement proceedings.

REPORT

BACKGROUND

Council resolved under vide minute number MN 19/19 3 on Wednesday 13 February 2019 'That a report be brought back to Council to determine whether earthworks already undertaken are compliant with relevant planning instruments and subject to the findings in that report Council consider what action, if any to take'.

The resolution of Council related to the alleged construction of a building pad (earthworks) associated with a farm shed building at 144 Mt Broughton Road Werai.

The following applications relate to the Farm Shed the subject of the earthworks;

1. DA 10/0414 – On 24 May 2010 Council granted development consent for alterations & additions to a dwelling and erection of a shed and entry gates on the land;
2. DA 10/0414.02 – A Section 96 1(a) application was subsequently made to modify development consent 10/0414, involving an amendment to the proposed entry gates and fencing and reorientation of the approved shed. Council accordingly modified the consent on 24 June 2011.
3. DA 10/0414.03 – A further Section 4.55 1(a) application was made seeking Councils further modification of development consent 10/0414. The proposed modification for

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



the alteration of the location and size of the proposed shed was considered item at the Ordinary Meeting of 13 February 2019, where Council resolved;

1. *THAT Modification Application 10/0414.03 under section 4.55 (1A) of the Environmental Planning and Assessment Act 1979 for proposed residential alterations and additions – (extensions to the existing dwelling, shed and entry gates) at Lot 1 DP804846, No 144 Mt Broughton Street, Werai be DEFERRED for a peer review and following the peer review the matter be reported back to Council for consideration.*
2. *THAT the future trees to be planted on the northern side of the shed wall, adjoining the northern boundary, shall be established trees of 75 litre pot size.*
3. *THAT a report be brought back to Council to determine whether earthworks already undertaken are compliant with relevant planning instruments and subject to the findings in that report Council consider what action, if any, to take.*

The peer review of the section 4.55(1)(a) application 10/0414.03 was undertaken by Goulburn Mulwaree Council to fulfil the requirements of Council's standing resolution under vide minute number 19/19 of 13 February 2019. Council re-considered the modification application DA 10/0414.03 at its Ordinary Meeting of 12 June 2019, resolving to refuse the application as follows:

1. *THAT Modification Application 10/0414.03 under section 4.55 of the Environmental Planning and Assessment Act 1979 for proposed residential alterations and additions – (extensions to the existing dwelling, shed and entry gates) at Lot 1 DP804846, No 144 Mt Broughton Road, Werai be REFUSED for the following reasons:*
 - a) *The combination of the additional size, height and the reduced setback of the shed to the northern boundary would result in an increased negative impact on the visual amenity of 102 Broughton Road and would be more visible from Mount Broughton Road.*
 - b) *the size of the shed is in excess of the maximum floor space permitted under DCP Rural Lands for a rural building.*
4. DA 10/0414.05 – A Section 8.2 Review of Determination application was lodged seeking review of Council's determination of modification application 10/0414.03 by way of refusal. The application did not include any amendment to the drawings accompanying modification application 10/0414.03. Council considered the matter at its Ordinary Meeting of 11 December 2019, resolving as follows :

THAT Review of Modification Application 10/0414.05 for proposed residential alterations and additions – (Extensions to the existing dwelling, shed and entry gates) at Lot 1 DP804846, No 144 Mt Broughton Street, Werai be REFUSED for the reasons included in (Attachment 1).

It is therefore considered that DA 10/0414.02 is the active consent in relation to the farm shed. The approved Site Plan can be viewed at **Attachment 1**.

REPORT

Council Officers attended 144 Mount Broughton Road Werai on Monday 8 July 2019 for a prearranged meeting and inspection with the property owner and the architect in response to the alleged earthworks conducted on the property (**Attachment 2** – Image 1 - Site Location – 11 April 2018).



The purpose of the investigation was to take measurements, photographic evidence and to ascertain compliance with either development consent (DA 10/0414.02) or the exempt development provisions being; *Part 2, Division 1, Subdivision 15, Earthworks, retaining walls and structural support of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* as follows:

Subdivision 15 Earthworks, retaining walls and structural support

2.29 Specified development

Earthworks and the construction or installation of a retaining wall or other form of structural support is development specified for this code if it is not carried out, constructed or installed on or in a heritage item or a draft heritage item, on a flood control lot or in an environmentally sensitive area.

2.30 Development standards

The standards specified for that development are that the development must—

- (a) not be a cut or fill of more than 600mm below or above ground level (existing), and*
- (b) be located at least 1m from each lot boundary, and*
- (c) if it is carried out, constructed or installed in a heritage conservation area or a draft heritage conservation area—be located in the rear yard, and*
- (d) be located at least 40m from a waterbody (natural), and*
- (e) not redirect the flow of any surface water or ground water or cause sediment to be transported onto an adjoining property, and*
- (f) if it is a retaining wall or structural support for excavation or fill, or a combination of both—*
 - (i) be not be more than 600mm high, measured vertically from the base of the development to its uppermost portion, and*
 - (ii) be separated from any retaining wall or other structural support on the site by at least 2m, measured horizontally, and*
 - (iii) be located at least 1m from any registered easement, sewer main or water main, and*
 - (iv) have adequate drainage lines connected to the existing stormwater drainage system for the site, and*
- (g) if the fill is more than 150mm deep—not occupy more than 25% of the area of the lot, and*

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



(h) if the fill is imported to the site—be free of building and other demolition waste, and only contain virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 to the Protection of the Environment Operations Act 1997, and

(i) if the land is in a rural zone—not be fill of more than 100 cubic metres on each lot.

As a result of the inspection the following observations were made;

1. The location of the earthworks was to the North of the approved shed location by DA 10/0414.02 and in the location as that proposed in the Council refused DA modification 10/0414.03. (**Attachment 1** - Approved Site Plan and **Attachment 2** – Image 2 – Location of Earthworks - 30 January 2020).
2. The footprint of the existing earthworks is approximately 50m x 25m (1250 sq.m) which exceeds the footprint of the approved shed being 15m x 29m (435sq.m.) (**Attachment 2** – Image 3 - Excavation Footprint – 30 January 2020).
3. The area of cut (excavated) in preparation of the Shed (pad) at the time of inspection was between approximately 700 mm and 850mm at the deepest part of the cut, this was over a distance of approximately 5 metres, the remainder of the cut appeared to be 600 mm or less (**Attachment 2** - Images 4 and 5 – Measurement of Cut).

It is considered that as the excavation / cut is greater than 600mm in depth below the existing ground level it exceeds the requirements of Clause 2.30 (a) of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (see extract above).

4. The area of fill in preparation of the shed (pad) at the time of inspection was approximately 1 metre high at the highest part of the fill. This was over a distance of approximately 5 metres. The remainder of the filling appeared to be 600 mm or less (**Attachment 2** – Image 6 and 7 – Depth of Fill).

It is considered that the placement of fill on the site being greater than 600mm in depth above the existing ground level exceeds the requirements of Clause 2.30 (a) of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (see extract above).

COMMUNICATION AND CONSULTATION

Community Engagement

Internal Communication and Consultation

Group Manager Planning, Development and Regulatory Services

Manager Certification and Compliance

SUSTAINABILITY ASSESSMENT

- **Environment**

There is no expected environmental issues in relation to this report.

- **Social**

There are no expected social issues in relation to this report.

- **Broader Economic Implications**

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

- **Culture**

There are no expected cultural issues in relation to this report.

- **Governance**

There are no expected governance issues in relation to this report.

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 party the subject of a Development Control Order choose to appeal the Order through the Land and Environment Court and lose, the question of cost with regard to Council's legal representation would be determined at the appropriate time:
- Should the party the subject of a Development Control Order choose to appeal the Order through the Land and Environment Court and succeed, the question of cost with regard to Council's legal representation would be calculated at the appropriate time:
- Should the party the subject of the Development Control Order make no appeal, or proceedings to the Land and Environment Court, the matter would result in no further financial implication to Council.
- Should the alleged elect for the matter to be heard before the Local Court it is likely that Council would utilise staff resources to defend such proceedings.

RELATED COUNCIL POLICY

There are no Council Policies in relation to this report.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



OPTIONS

The options available to Council are:

Option 1

THAT Council note the inspection outcomes (findings) and take no further action.

Option 2

THAT Council issue a Show Cause letter to the owner of the property as to why Council should not instigate legal action for the unauthorised works.

Option 3

THAT Council issue a Notice of Intention to Serve a Development Control Order No. 3 & 10 on the property owner/s of 144 Mt Broughton Road Werai pursuant to *Schedule 5 of the Environmental Planning and Assessment Act 1979* to demolish and/or remove the unauthorised earthworks (pad); and restore the land to a condition in which it was before the land was unlawfully excavated, respectively.

The Notice will provide an initial twenty one (21) days to either complete the works in accordance with the proposed terms or provide representation in regards to the terms of the proposed Order. Failure to comply with the Order may result in further enforcement proceedings.

Option 4

THAT Council issue a Penalty Infringement Notice on the owner of the premises for 'development without development consent – individual'. The current penalty is \$3000.

Option 5

THAT Council issue a Court Attendance Notice (CAN) and seek to prosecute the matter in the Local Court for 'development carried out without development consent'.

Option 6

THAT Council commence Class 5 proceedings in the NSW Land and Environment Court to prosecute the owner of the property for 'development carried out without development consent'.

CONCLUSION

As a result of the inspection it was established that the earthworks were not located as per the approved plans and the depth of the cut and fill, below or above the existing ground level exceeds 600mm. This is in contravention to *Part 2, Division 1, Subdivision 15 of the State Environmental Planning Policy (Exempt and Complying Development Codes (2008))* and therefore development consent was required prior to the works being conducted.

As the works were completed without consent this is considered to constitute a breach of *Section 4.2 of the Environmental Planning and Assessment Act 1979*.

The report contains six options available to Council in relation to potential compliance actions.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

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



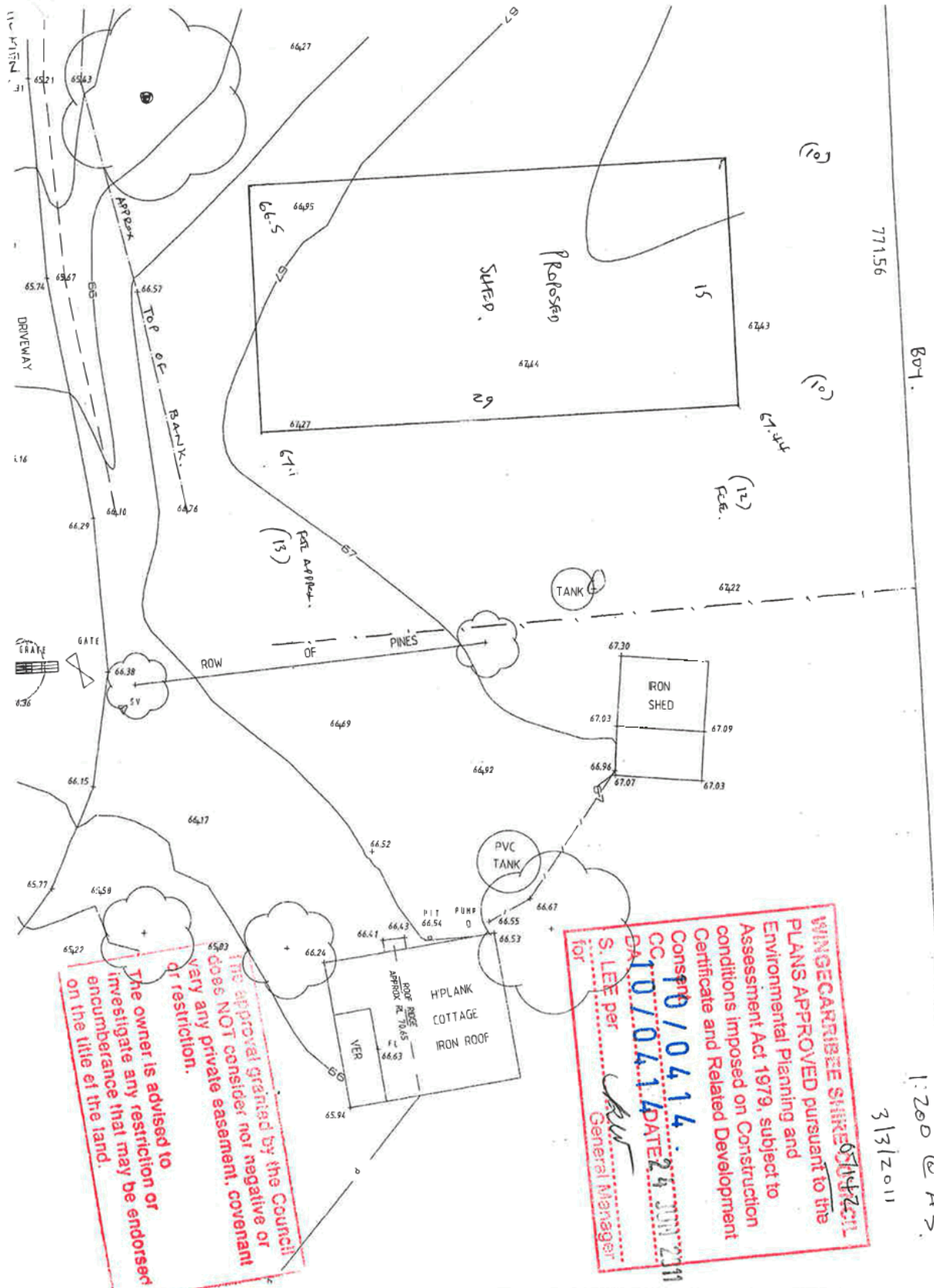
ATTACHMENTS

1. Attachment 1 - DA 10/0414.02 Approved Site Plan
2. Attachment 2 - Compliance Images - 144 Mt Broughton Road Werai

Mark Pepping

Deputy General Manager Corporate, Strategy and Development Services

Thursday 21 May 2020



The approval granted by the Council does NOT consider nor negative or vary any private easement, covenant or restriction.

The owner is advised to investigate any restriction or encumbrance that may be endorsed on the title of the land.

Consent / 0414
 CC 10/0414 DATE 24 JUNE 2011
 S. LEE per [Signature]
 General Manager

1:200 @ A3.
 3/3/2011



Attachment 2 – Aerial Images

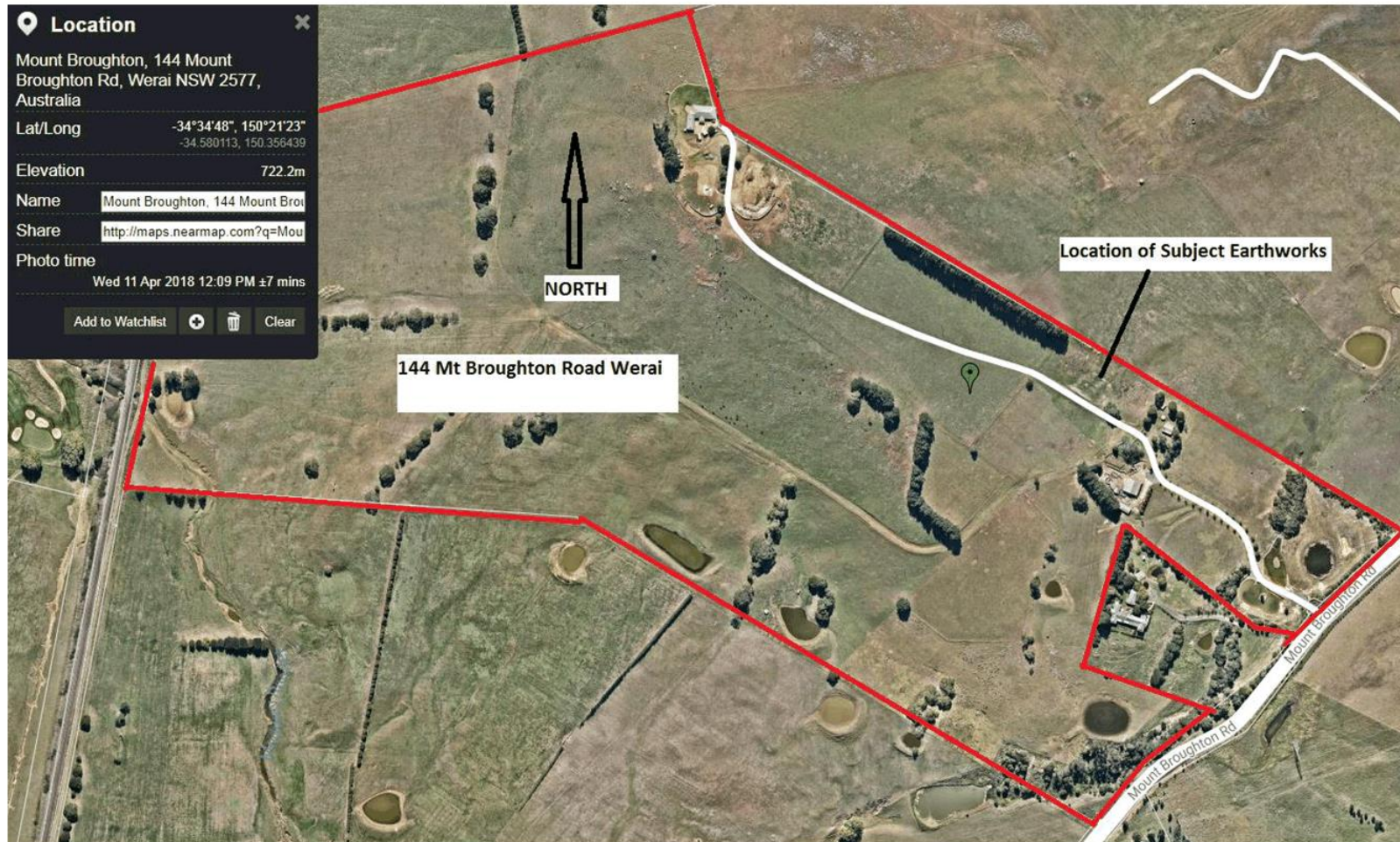


Image 1 – Site Location – 11 April 2018



Image 2 – Location of Earthworks – 30 January 2020



Image 3 – Excavation Footprint – 30 January 2020



Image 4 – Measurement of Cut – 11 April 2018



Image 5 – Measurement of Cut – 11 April 2018



Image 6 – Depth of Fill – 11 April 2018



Image 7 – Depth of Fill – 11 April 2018

13 GENERAL MANAGER

13.1 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 13 May 2020.

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 19.4.

***Note:** The Council, or a committee of the Council, may allow member of the public to make representations to or at a meeting should be closed (15.9 – Code of Meeting Practice).*

Where the matter has been identified in the agenda of the meeting under clauses 3.21 as a matter that is likely to be considered when the meeting is closed to the public, in order to make representations under clause 15.9, members of the public must first make an application to the Council in the approved form. Applications must be received by close of business (4.30pm) two (2) business days prior to the meeting at which the matter is to be considered (15.11 – Code of Meeting Practice).

REPORT

BACKGROUND

This report updates the current status and costs paid during April 2020, 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 report in a closed report.

REPORT

On 17 April 2013, Council resolved:

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

REPORT GENERAL MANAGER



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 and 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 Costs report to Council.

There were consultants' fees for legal proceedings paid in the month of April 2020 – refer **Attachment 1**.

COMMUNICATION AND CONSULTATION

Community Engagement

Nil

Internal Communication and Consultation

Staff and management provide information, as required, to assist the progress of the matters reported.

External Communication and 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.

RELATED COUNCIL POLICY

Council's Compliance and Enforcement Policy.

ATTACHMENTS

1. Legal Costs - April 2020

Ann Prendergast
General Manager

Thursday 21 May 2020



Legal Costs - April 2020

Legal Matter	Legal Expenditure	Consultant Expenditure	Legal Expenditure	Consultant Expenditure	Total Expenditure
	Apr-20	Apr-20	Year to Date (YTD)	Year to Date (YTD)	Life to Date (LTD)
Catholic Health Care Pty Ltd Aitken Road, Bowral	\$ 1,743	\$ 2,519	\$ 53,219	\$ 40,411	\$ 95,329
K.N.D Nominees Pty Ltd Walker Street, Bowral	-	-	\$ 8,134	-	\$ 8,134
Reulie Land Co Pty Ltd Myra Vale Road, Wildes Meadow	\$ 4,113	-	\$ 23,542	-	\$ 42,441
Lend Lease Retirement Living Holdings Aitken Road, Bowral	-	-	\$ 7,787	-	\$ 16,095
ERF Hospice Pty Ltd Edward Street, Bowral	\$ 1,653	-	\$ 20,061	-	\$ 29,751
Michael Brown Planning Loftus Street, Bowral	-	-	\$ 99,843	-	\$ 324,006
Turland Mittagong Road Bowral	-	-	\$ 9,621	\$ 1,925	\$ 213,481
Bowral Garage Development Pty Ltd Bong Bong Street, Bowral	-	-	\$ 2,866	-	\$ 2,866
Phoebe Hodgson Gordon Road, Bowral	\$ 1,592	-	\$ 19,268	\$ 5,100	\$ 24,368
Woodbine Park Nominees Wombeyan Caves Road, High Range	-	-	\$ 5,727	-	\$ 5,727
Lasovase Pty Ltd Myra Vale Road, Wildes Meadow	\$ 1,339	\$ 4,200	\$ 12,868	\$ 4,200	\$ 17,068
Morris Brigadoon Drive, Bundanoon	-	-	\$ 1,720	-	\$ 11,226
Paloma Blanca Pastoral Pty Ltd Colo Road, Colo Vale	-	-	\$ 12,430	\$ 3,240	\$ 151,173
Strathleigh Investments Pty Ltd Alice Street, Mittagong	-	-	\$ 11,607	-	\$ 55,216
Shelley Boyce Tyndall Street Mittagong	-	-	\$ 6,715	-	\$ 34,883
Sett Homes P/L Willow Street, Willow Vale	-	-	\$ 8,246	-	\$ 13,169
Fenwick v Woodside Properties Wingello Road, Bundanoon	-	-	\$ 31,255	-	\$ 72,669
PS Design and Construction Sir James Fairfax Circuit, Bowral	-	\$ 5,141	-	\$ 5,141	\$ 5,141
John Bennett Oxley Drive, Mittagong	\$ 1,805	-	\$ 1,805	-	\$ 1,805
Total Expenditure	\$ 12,245	\$ 11,860	\$ 336,714	\$ 60,017	\$ 1,124,548

Note: This report includes proceedings where legal and/or consultancy costs have been incurred in the 2019/20 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 – April 2020

Legal Matter	Fees Recovered Apr-20	Fees Recovered YTD	Fees Recovered LTD
O'Shanassy	-	\$4,750	\$18,728
Willow Properties	-	\$5,000	\$18,500
Michael Brown Planning Strategies	-	\$12,453	\$45,080
Garry Turland	-	\$5,000	\$5,000
Shelley Boyce	-	\$5,000	\$5,000
Total Recovery	\$0	\$32,203	\$92,308

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 COMMITTEE REPORTS

16.1 Minutes of the Traffic Committee Meeting held electronically on 22 April 2020

Reference:	107/6
Report Author:	Traffic Engineer (Contractor)
Authoriser:	Deputy General Manager Operations, Finance and Risk
Link to Community Strategic Plan:	Work in partnership to ensure a safe road network

PURPOSE

This report provides the Minutes of the Traffic Committee Meeting electronically held on Wednesday 22 April 2020.

SUMMARY OF THE RECOMMENDATION AND ACTION FOR COUNCILLORS' ATTENTION AND ADOPTION

Item 1: Roundabout at the intersection of Bundaroo Street and Bendooley Street, Bowral

TC 24/20

THAT

1. Council endorses the proposed mountable roundabout at the intersection of Bundaroo Street and Bendooley Street in Bowral subject to the final construction design is satisfactory to the Traffic Committee.
2. The behaviour of St Thomas Aquinas Catholic Parish Primary School pick up and drop off be reviewed to ensure that vehicles do not queue through the intersection whilst waiting to pick up and drop off.

RECOMMENDATION

THAT recommendation No TC24/20 – as detailed in the Minutes of the Traffic Committee Meeting held electronically on 22 April 2020 be adopted.

ATTACHMENTS

1. Minutes of the Traffic Committee Meeting held electronically on 22 April 2020



MINUTES

of the
Traffic Committee Meeting
held electronically on

Wednesday 22 April 2020

File No. 107/6

16.1 Minutes of the Traffic Committee Meeting held electronically on 22 April 2020

ATTACHMENT 1 Minutes of the Traffic Committee Meeting held electronically on 22 April 2020



MINUTES OF THE TRAFFIC COMMITTEE MEETING

Wednesday 22 April 2020



1. AGENDA REPORTS	2
1.1 Roundabout at the intersection of Bundaroo Street and Bendooley Street, Bowral	2

16.1 Minutes of the Traffic Committee Meeting held electronically on 22 April 2020

ATTACHMENT 1 Minutes of the Traffic Committee Meeting held electronically on 22 April 2020



MINUTES OF THE TRAFFIC COMMITTEE MEETING

Wednesday 22 April 2020



MINUTES OF THE TRAFFIC COMMITTEE MEETING OF WINGECARRIBEE SHIRE COUNCIL HELD ELECTRONICALLY ON WEDNESDAY 22 APRIL 2020.

Present:	Clr Ken Halstead Mrs Jayd Marsh Senior Constable Scott Ferguson Mr Ian Armstrong Mrs Katherine Wood	Chair Roads and Maritime Services NSW Police Representing Member for Wollondilly Representing Member for Goulburn
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Council Staff:	Mr Stace Lewer Ms Daria Chen Mr Naif Ahmed	Manager Assets Acting Traffic Engineer Coordinator Assets Roads & Traffic
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MINUTES OF THE TRAFFIC COMMITTEE MEETING

Wednesday 22 April 2020



1. AGENDA REPORTS

1.1 Roundabout at the intersection of Bundaroo Street and Bendooley Street, Bowral

Reference: 7451
Report Author: Traffic Engineer (Contractor)
Authoriser: Manager Assets
Link to Community
Strategic Plan: Work in partnership to ensure a safe road network

PURPOSE

Reporting on the roundabout proposed at the intersection of Bundaroo Street and Bendooley Street, Bowral

RECOMMENDATION

THAT

1. Council endorses the proposed mountable roundabout at the intersection of Bundaroo Street and Bendooley Street in Bowral subject to the final construction design is satisfactory to the Traffic Committee.
2. The behaviour of St Thomas Aquinas Catholic Parish Primary School pick up and drop off be reviewed to ensure that vehicles do not queue through the intersection whilst waiting to pick up and drop off.

16.2 Minutes of the Traffic Committee Meeting held electronically on 5 May 2020

Reference:	107/6
Report Author:	Traffic Engineer (Contractor)
Authoriser:	Deputy General Manager Operations, Finance and Risk
Link to Community	
Strategic Plan:	Work in partnership to ensure a safe road network

PURPOSE

This report provides the Minutes of the Traffic Committee Meeting held electronically on Tuesday 5 May 2020.

SUMMARY OF THE RECOMMENDATION AND ACTION FOR COUNCILLORS' ATTENTION AND ADOPTION

Item 1: Traffic Management Arrangements for L'Étape Australia by Tour de France

TC 25/20

THAT Council endorses the traffic management plan proposed by Lateral Event Management to conduct the L'Étape Australia by Tour de France on Saturday 28th November 2020 subject to the final traffic management plan being satisfactory to the Traffic Committee.

RECOMMENDATION

THAT recommendation No TC25/20 – as detailed in the Minutes of the Traffic Committee Meeting held electronically on 5 May 2020 be adopted.

ATTACHMENTS

1. Minutes of the Traffic Committee Meeting held electronically on 5 May 2020



MINUTES

of the
Traffic Committee Meeting
held Electronically on

Tuesday 5 May 2020

File No. 107/6



MINUTES OF THE TRAFFIC COMMITTEE MEETING

Tuesday 5 May 2020



1. AGENDA REPORTS	2
1.1 Traffic Management Arrangements for L'Étape Australia by Tour de France	2



MINUTES OF THE TRAFFIC COMMITTEE MEETING

Tuesday 5 May 2020



MINUTES OF THE TRAFFIC COMMITTEE MEETING OF WINGECARRIBEE SHIRE COUNCIL HELD ELECTRONICALLY ON TUESDAY 5 MAY 2020.

Present: Cllr Ken Halstead Chair
Mrs Jayd Marsh Transport for NSW
Senior Constable Matthew Meagher NSW Police
Mr Ian Armstrong Representing Member for Wollondilly
Mrs Katherine Wood Representing Member for Goulburn

Council Staff: Mr Stace Lewer Manager Assets
Ms Daria Chen Acting Traffic Engineer
Mr Naif Ahmed Coordinator Assets Roads & Traffic



MINUTES OF THE TRAFFIC COMMITTEE MEETING

Tuesday 5 May 2020



1. AGENDA REPORTS

1.1 Traffic Management Arrangements for L'Étape Australia by Tour de France

Reference: 7420/3
Report Author: Traffic Engineer (Contractor)
Authoriser: Manager Assets
Link to Community
Strategic Plan: Work in partnership to ensure a safe road network

PURPOSE

Reporting on traffic arrangements for the L'Étape Australia by Tour de France

RECOMMENDATION

THAT Council endorses the traffic management plan proposed by Lateral Event Management to conduct the L'Étape Australia by Tour de France on Saturday 28th November 2020 subject to the final traffic management plan being satisfactory to the Traffic Committee.

TC25/20

Unanimous support

17 QUESTIONS WITH NOTICE

17.1 Questions with Notice 14/2020 - Road Closures and Public Road Requirements

Reference:	101/2
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

To: General Manager

From: Clr Turland

Received: 18 May 2020

Subject: Road Closures and Public Road Requirements

Question:

Will Council confirm that it will comply to road closure and working in a public road requirements as per Transport NSW and local government requirements and as confirmed the statements made to all councillors on 11 May business paper review zoom meeting.

Response:

Council staff operate in accordance with all relevant legislative requirements when undertaking roadworks.

RECOMMENDATION

THAT the information in relation to Question with Notice 14/2020 – Road Closures and Public Road Requirements - be noted.

17.2 Question with Notice 15/2020 - Stage 2 Station Street, (Bowral) Upgrade Project

Reference: 101/2
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

To: General Manager
From: Clr Scandrett
Received: 18 May 2020

Subject: Stage 2 of Bowral Bypass

Question:

Could the GM advise, in view of the various Gov and LGNSW announcements re the fast funding of supported projects*, how we could proceed now with Stage 2 of the Bowral Bypass from Bowral St to Links Road, and detail each of the various steps and timeline that would be required.

Response:

The “Bowral Parking Traffic and Transport Strategy” provides commentary on the “Extension of the Bowral Town Centre Distributor Road between Bowral Street and the junction of Moss Vale Road and Links Road (following Railway Parade and existing “Local Roads”) now known as Stage (2) Station Street Upgrade.

The Strategy states as follows:-

“This proposal is a long- term requirement. The Paramics Model indicates long term benefits in terms of providing overall system capacity”.

It is recommended that this is a low priority and must follow Stages 1 & 2 (now known as Stage 1) of the Bowral Town Centre Distributor Road.”

The proposed Stage 2 – Station Street (Bowral) Upgrade Project is not currently included in Council’s (4) Year forward capital works programme but is included in Council’s “Unfunded Infrastructure list – 2020/21 at a preliminary cost estimate of \$15million. It is highlighted also that there are also a number of key land acquisitions required to allow for detailed design and project scope to be finalised.

Council officers are currently focused on moving Stage 1 of the Station Street Upgrade Project forward in accordance with Council resolutions of February 2018 and March 2020.

Council continues to pursue all available funding opportunities for capital projects and a high priority has been given to the Moss Vale Bypass, Old South Road and Exeter/Bundanoon Road upgrades. Council has recently secured \$4.80million in grant funding for improvements to Old South Road, and \$3.35 million to upgrade several “Blackspots” across Council’s road network.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 May 2020

QUESTIONS WITH NOTICE



RECOMMENDATION

THAT the information in relation to Question with Notice 15/2020 – Stage 2 Station Street, (Bowral) Upgrade Project - be noted.



17.3 Question with Notice 17/2020 Infrastructure NSW, Sydney Trains and Transport NSW Heads of Agreement

Reference: 101/2
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

To: General Manager
From: Cllr Turland
Received: 18 May 2020

Subject: Infrastructure NSW, Sydney Trains and Transport NSW Heads of Agreement

Question:

Can Council confirm the statement made to councillors that Infrastructure NSW will not allow any works to commence until signed Heads of Agreements have been entered into between Sydney Trains and Transport NSW and Council.

Response:

The following recommendation is included in the "Bowral Town Centre Distributor Road (Station Street Upgrade Project) Deep Dive Review, May 2018: -

- SD-4 – Council to defer the release of tenders for any component of the Station St Upgrade Project (with the exception of Kirkham Rd works) pending agreement with Sydney Trains for the acquisition of the required station precinct land.

RECOMMENDATION

THAT the information in relation to Question with Notice 17/2020 Infrastructure NSW, Sydney Trains and Transport NSW Heads of Agreement - be noted.

18 NOTICES OF MOTION

18.1 Notice of Motion 16/2020 - Mittagong Playhouse and RRC Animal Shelter Request for Report

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 Turland has given notice that it is his intention to move the following motion at the Ordinary Meeting of Council on 27 May 2020:

THAT Council prepare a report, plans and budget estimate for the following projects if funds are made available from the Federal and State Government as per the Mayoral Minute 13 May 2020.

- Playhouse Mittagong revaluation;
- new animal Shelter for the Shire

as per the approved motion of December 2019.

RECOMMENDATION

Submitted for determination.

18.2 Notice of Motion 18/2020 Local Housing Strategy and Local Strategic Planning Statements

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 27 May 2020:

THAT Council make urgent and direct representations to the Premier, the Minister for Planning, the Member for Goulburn and the Member for Wollondilly to request the intervention of the Planning Minister and Premier to allow an extension of six months for both the Local Housing Strategy (LHS) and Local Strategic Planning Statement (LSPS)

RECOMMENDATION

Submitted for determination.

COMMENT FROM STAFF

Local Strategic Planning Statements for Regional NSW have to be finalised and submitted to the Department of Planning Industry and Environment before 1 July 2020. A letter signed by the Mayor was sent to the Minister for Planning and Open Space, The Hon Rob Stokes MP on 6 April 2020 seeking a 12 month extension due to the current COVID-19 pandemic significantly impacting Council's ability to engage with our community on important strategic matters such as the Local Strategic Planning Statement.

A response was received by Council dated 7 May 2020 advising that all regional Councils are required to make their first LSPS before 1 July 2020.

19. CLOSED COUNCIL

MOVING INTO CLOSED SESSION

Section 10A of the *Local Government Act 1993*, empowers Council and Committees of which all the members are Councillors to close a part of a meeting in certain circumstances in accordance with the requirements of the Act, and relevant Regulations and Guidelines.

Subject to the provisions of Section 10 of the Act, so much of a meeting may be closed as comprises certain information as outlined in Section 10A(2).

However, the Act also contains the following provisions qualifying the use of Section 10A(2).

Section 10B

1. *[Time spent closed to be minimised] A meeting is not to remain closed during the discussion of anything referred to in section 10A(2):*
 - a. *Except for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security, and*
 - b. *If the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret-unless the council or committee concerned is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.*
2. *[Qualification of 10A(2)(g)] A meeting is not to be closed during the receipt and consideration of information or advice referred to in section 10A(2)(g) unless the advice concerns legal matters that:*
 - a. *are substantial issues relating to a matter in which the council or committee is involved, and*
 - b. *are clearly identified in the advice, and*
 - d. *are fully discussed in that advice.*
3. *[Qualification of 10A(3)] If a meeting is closed during the discussion of a motion to close another part of the meeting to the public (as referred to in section 10A(3)), the consideration of the motion must not include any consideration of the matter or information to be discussed in that other part of the meeting (other than consideration of whether the matter concerned is a matter referred to in section 10A(2)).*
4. *[Irrelevant matters] For the purpose of determining whether the discussion of a matter in an open meeting would be contrary to the public interest, it is irrelevant that:*
 - a. *a person may misinterpret or misunderstand the discussion, or*
 - b. *the discussion of the matter may:*
 - (i) *cause embarrassment to the council or committee concerned, or to Councillors or to employees of the council, or*
 - (ii) *cause a loss of confidence in the council or committee.*

Attention is also drawn to provisions contained in Part 15 of Council's Code of Meeting Practice.

Section 10B(5) of the Act requires that council have regard to these guidelines when considering resolving into Closed Session.

RECOMMENDATION

1. **THAT Council moves into Closed Council in accordance with the requirements of Section 10A(2) of the *Local Government Act 1993* as addressed below to consider the following reports that are confidential for the reasons specified below:**

19.1 Tender for Sewer Pump Station Electrical Panel Upgrade

Relevant Legal Provisions

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

Brief description

The purpose of this report is to present the evaluation of the Request for Tender for the Sewer Pump Station Electrical Panel Upgrade.

19.2 Tender for the replacement of Lackey Park and Australia Ave Sewer Pump Stations

Relevant Legal Provisions

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

Brief description

The purpose of this report is to present the evaluation of the Request for Tender for the Replacement of Sewage Pump Stations BE-5 & MV-6.

19.3 Proposed Land Acquisition - Berrima

Relevant Legal Provisions

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



Brief description

The purpose of this report is to seek Council approval to acquire land for future road purposes. The subject land is known as part Lot 1016 DP 15995 and part Lot 1017 DP 15995 (being 125 Taylor Avenue, New Berrima) – collectively referred to as ‘the Land’.

19.4 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)(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 13 May 2020.

2. **THAT the minutes of the Closed Council part of the meeting (being the Council’s resolution) be made public.**

Ann Prendergast
General Manager

Thursday 21 May 2020