

AGENDA

of the
Local Planning Panel
held in
Council Chambers,
Wingecarribee Shire Council Civic Centre,
68 Elizabeth Street, Moss Vale
on

Wednesday 1 June 2022

The meeting will commence at **3:30 pm**

Table Of Contents

1 OPENING OF THE MEETING	5
2 ACKNOWLEDGEMENT OF COUNTRY	5
3 APOLOGIES	5
4 DECLARATIONS OF INTEREST	5
5 PLANNING PROPOSALS	6
6 DEVELOPMENT APPLICATIONS	6
6.1 Demolition Of A Building, Erection Of Buildings And Carrying Out Of Works For The Purpose Of Multi Dwelling Housing	6
6.2 Development Application 22/0712 - Subdivision Of Land To Create Two Lots - Lot 1 DP258420, No 10 Old Hume Highway Berrima	107
7 MEETING CLOSURE	175

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

Recording and Webcasting of Local Planning Panel Meetings

This meeting is being recorded and webcast via Council's website and a person's image and/or voice may be publicly broadcast. Attendance at the meeting is to be taken as consent by a person to their image and/or voice being webcast. Any part of the meeting that is held in closed session will not be webcast.

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

Individuals acting in a disorderly manner can be asked by the Chairperson to leave the meeting under the Council's Code of Meeting Practice.

The recording will be available for viewing on the internet for 12 months and retained as a Council record. The recording is subject to copyright.

The meeting must not be recorded by others.

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

The Council Chamber has 24 Hour Video Surveillance.

1 OPENING OF THE MEETING

The Chairperson opened the meeting and welcomed members of the public and the press.

2 ACKNOWLEDGEMENT OF COUNTRY

The Chairperson acknowledged country:

“Wingecarribee Shire Council acknowledge the Gundungurra and Tharawal people as the traditional custodians of this land we now call the Wingecarribee Shire. I pay my respect to Elders both past, present and emerging. I would also like to extend that respect to all Aboriginal and Torres Straight Islanders present here today.”

3 APOLOGIES

Nil at time of print.

4 DECLARATIONS OF INTEREST

The provisions of Chapter 14 of the Local Government Act 1993 regulate the way in which nominated staff of Council conduct themselves to ensure that there is no conflict between their private interests and their public trust.

The Act prescribes that where a member of Council (or a Committee of Council) has a direct or indirect financial (pecuniary) interest in a matter to be considered at a meeting of the Council (or Committee), that interest and the reasons for declaring such interest must be disclosed as soon as practicable after the start of the meeting.

As members are aware, the provisions of the Local Government Act restrict any member who has declared a pecuniary interest in any matter from participating in the discussions or voting on that matter and further require that the member vacate the meeting.

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.

5 PLANNING PROPOSALS

6 DEVELOPMENT APPLICATIONS

6.1 Development Application 22/0223 – Demolition of a building, erection of buildings and carrying out of works for the purpose of multi dwelling housing, and subsequent subdivision of land to create four lots and common property under Strata Title, Lot 1 DP1267002 (former Lot 1 DP508745), 24 Waverly Parade, Mittagong

Report Author: Senior Development Assessment Planner

Authoriser: Director Communities and Place

PURPOSE

The purpose of this report is to present Development Application 22/0223 for the Panel's consideration and recommends determination by GRANTING OF CONSENT subject to the conditions specified in **Attachment 1**.

Consultants	Lee Environmental Planning Illawarra BASIX Solutions Australian Bushfire Solutions Arboriculture Consultancy Australia Novati Consulting Engineers Australian Survey Solutions Solis Haus Building Design Nicholas Bray Landscapes.
Notification Period	8 September to 13 October 2021
Number of Submissions	15
Renotification Period	24 November to 8 December 2021
Number of submissions	18
Zoning	R3 Medium Density Residential
Political Donations	None declared
Reason for Referral to Panel	The application (as amended) was notified to owners and occupants of surrounding properties, attracting 18 submissions. The application seeks a variation of applicable development control provisions regarding minimum site frontage.

OFFICER'S RECOMMENDATION

THAT the Wingecarribee Local Planning Panel determines development application 22/0223 for demolition of a building, erection of buildings and carrying out of works for the purpose of multi dwelling housing, and subsequent subdivision of land to create four lots and common property under Strata Title at Lot 1 DP1267002 (former Lot 1 DP508745), 24 Waverly Parade,

Mittagong by GRANTING CONSENT subject to the conditions specified in Attachment 1 to this report.

EXECUTIVE SUMMARY

1. Executive summary

The land is a developed 1769m² residential lot on the southern side of Waverly Parade in Mittagong, around 600m southwest of the town centre. The land is accessible by vehicle from Waverly Parade. Surrounding properties are generally developed for low density residential accommodation purposes.

On 28 October 2020 Council granted vegetation clearing permit 21/0459 to remove 12 trees from the land. Recommended conditions of consent (if granted) for the current proposed development require surrender of vegetation clearing permit 21/0459, as well as replacement of each tree already removed pursuant to vegetation clearing permit 21/0459 and each tree removed in the carrying out of the proposed development.

The subject application proposes demolition of the existing dwelling house and works on the land, erection of three buildings and carrying out of works for the purpose of multi dwelling housing comprising four dwellings, and subsequent subdivision of the land to create four lots and common property under Strata Title. One of the proposed buildings is of two storey construction and contains two three-bedroom dwellings; each of the other two proposed buildings is one storey and contains one two-bedroom dwelling.

Council advertised the application and notified it to owners and occupants of surrounding properties, inviting submissions between 8 September and 13 October 2021. Advertisement and notification attracted 15 submissions. The applicant subsequently amended the application. Council renotified the amended application to owners and occupants of surrounding properties, inviting submissions between 24 November and 8 December 2021. Renotification attracted 18 submissions. All submissions are by way of objection to the proposed development, on grounds relating to:

- Deficient land frontage
- Development density
- Privacy
- Side boundary setback
- Neighbourhood character
- Landscaped open space
- Development control plan objectives for medium density development
- Stormwater management
- Overshadowing
- Tree retention/removal
- Vehicular traffic and parking.

The application has been considered with regard to the relevant provisions of applicable environmental planning instruments and development control plans, including:

- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Resilience and hazards) 2021
- (Repealed) State Environmental Planning Policy (Koala Habitat Protection) 2021
- Wingecarribee Local Environmental Plan 2010
- Mittagong Town Plan Development Control Plan.

Under Wingecarribee Local Environmental Plan 2010 (the LEP), the land is in Zone R3 Medium Density Residential. The Land Use Table at the end of Part 2 of the LEP specifies

the proposed development is permitted with consent, and the proposed development is considered satisfactory with respect to the R3 zone objectives specified by the Land Use Table.

The land's frontage to Waverly Avenue is 22.25m long – 2.75m short of the 25.0m minimum required by the Mittagong Town Plan Development Control Plan (the DCP) for multi dwelling housing development. Section 4.15 (3A) (b) of the Environmental Planning and Assessment Act 1979 specifies if a development control plan's provisions relating to a proposed development set standards with respect to an aspect of the development, and the development application does not comply with those standards, the consent authority is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development. The setback from Waverly Parade to the nearest proposed building is approximately 13m, the land's width at the proposed front building line is around 1m (4% short) of 25.0m, the proposed development is considered to make satisfactory provision for vehicle access and front setback landscaping and, despite not meeting the 25.0m minimum road frontage requirement, the proposed development is considered satisfactory with respect to the overarching objectives specified by the DCP. It is therefore considered warranted to allow a variation of the DCP's 25.0m minimum road frontage requirement in this instance.

The proposed development provides for domestic garbage bin storage in garages, which effectively renders proposed garage car parking spaces smaller than required. A recommended consent condition and corresponding recommended amendments to the proposed landscape plan therefore require a designated outdoor domestic garbage bin storage area to be allocated to each proposed dwelling.

Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the matters for consideration specified by section 4.15 (1) of the Environmental Planning and Assessment Act 1979.

2. Site Description and Locality.

Figures 1 and 2 illustrate the land's location and layout (see also **Attachments 2 and 3**). It is a developed 1769m² residential lot on the southern side of Waverly Parade in Mittagong, around 600m southwest of the town centre. The land is accessible by vehicle from Waverly Parade.

The land slopes gently from south to north, towards Waverly Parade. It is occupied by a single storey dwelling house and associated works. Vegetation on the land comprises domestic lawns and gardens, including mature native and exotic trees between the existing dwelling house and the land's front boundary to Waverly parade. A mature deciduous exotic tree also stands in Waverly parade adjoining the land.

Surrounding properties are generally developed for low density residential accommodation purposes.

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 1 JUNE 2022**

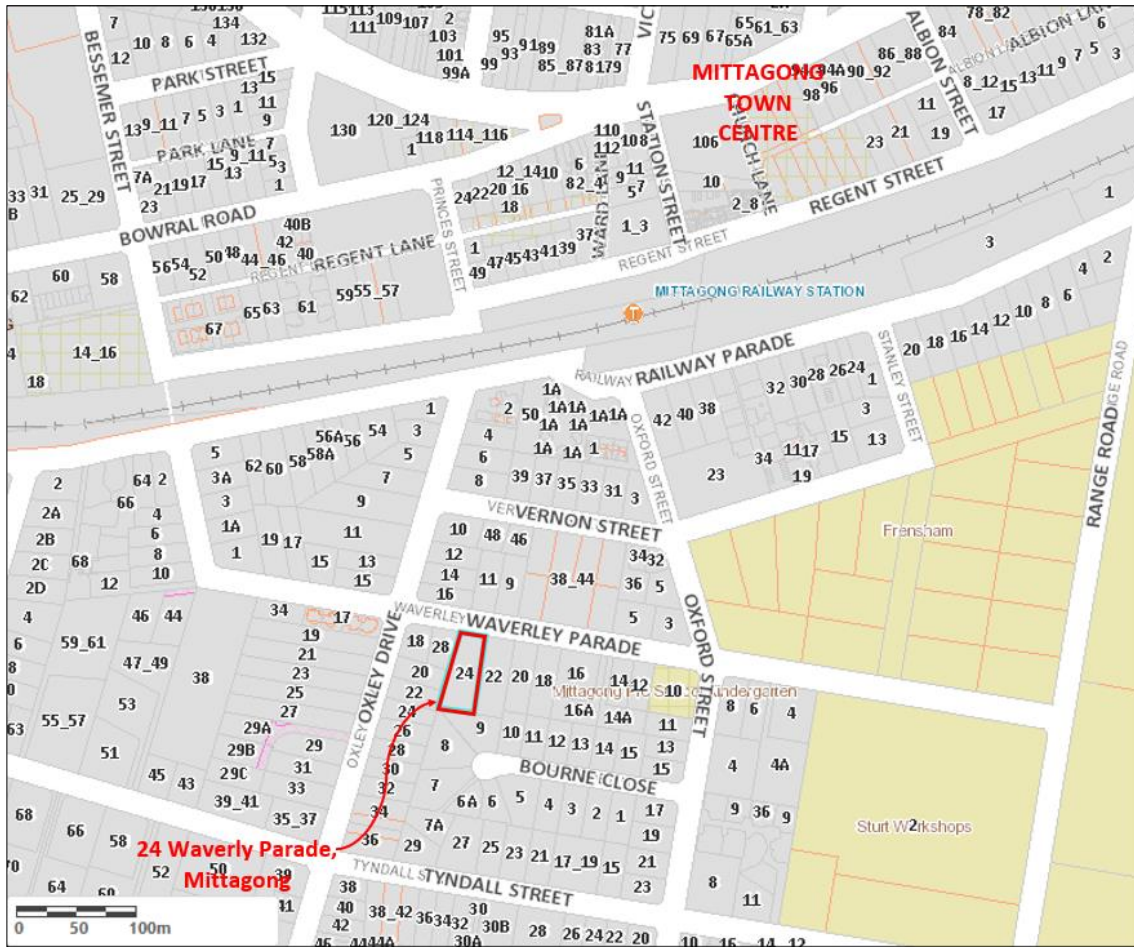


Figure 1: Locality map (see also Attachment 2).



Figure 2: Aerial image (see also Attachment 3).

3. Historical notes

The land was lawfully created without consent in November 2021 by registration of a plan of redefinition of Lot 1 DP508745, which itself had been created in May 1964 by registration of a plan of subdivision of land the subject of the former Mittagong Shire Council's subdivision no 435.

On 28 October 2020 Council granted vegetation clearing permit 21/0459 to remove 12 trees from the land. The trees permitted to be removed are annotated B, C, D and E on the permit drawing, which is reproduced in **Figure 3**. The permit, by its conditions, specifically excludes removal of the mature deciduous exotic tree in Waverly Parade adjoining the land and requires 12 native replacement trees to be planted on the land. Recommended conditions of consent (if granted) for the current proposed development therefore require surrender of vegetation clearing permit 21/0459, as well as replacement of each tree already removed pursuant to vegetation clearing permit 21/0459 and each tree removed in the carrying out of the proposed development.

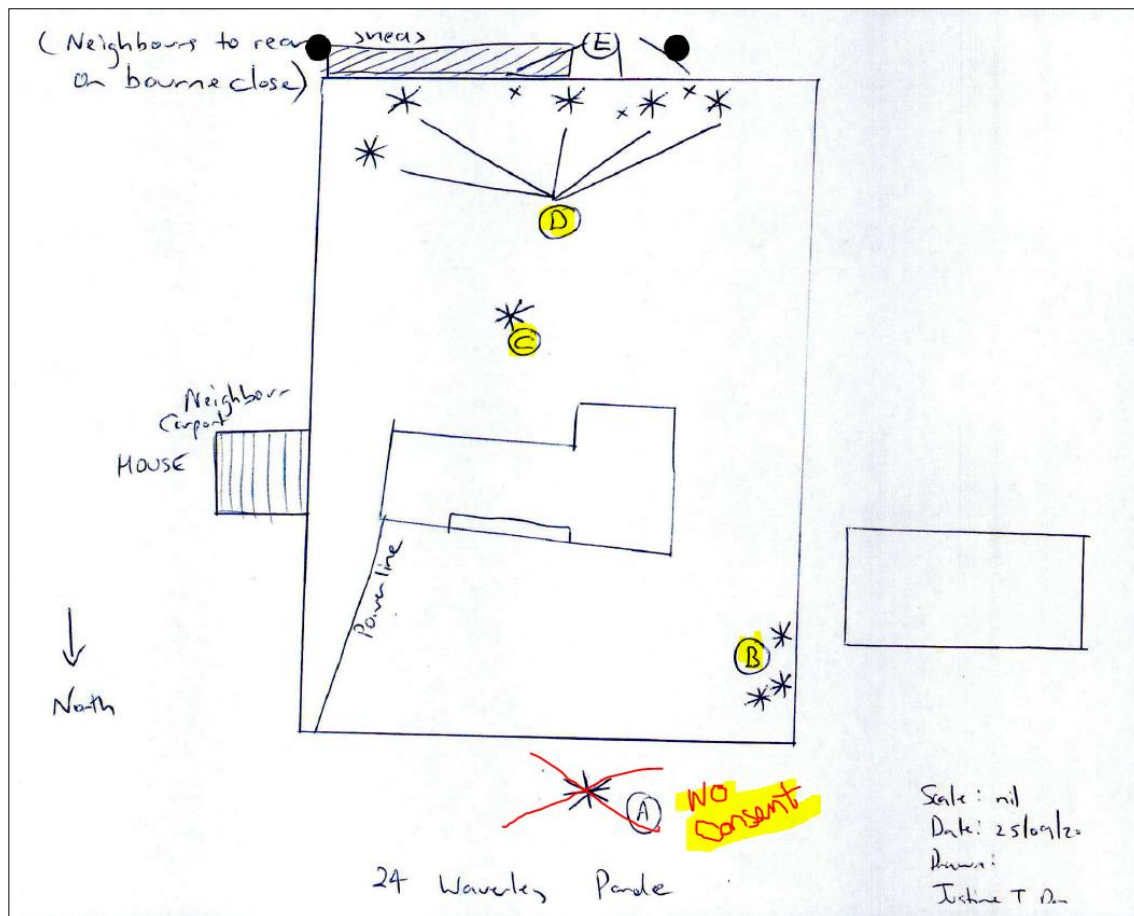


Figure 3: Vegetation clearing permit 21/0459 drawing.

In April 2021 the applicant made development application 21/1557, seeking consent to demolish the existing building and works on the land, erect three buildings and carry out works for the purpose of multi dwelling housing comprising four dwellings, including one two storey building containing two dwellings. An extract from the proposed development drawings is reproduced in **Figure 4**. Assessment of the application identified various grounds to refuse consent, including:

- Minimum land frontage requirement
- Site planning
- Side and rear setbacks
- Privacy
- Landscaped open space
- Vehicle entry/exit, manoeuvring and parking facilities
- Deficiencies and inconsistencies in accompanying information
- Impacts on vegetation.

Given these concerns, Council invited the applicant to withdraw development application 21/1557, and the applicant did so on 3 June 2021. Pursuant to section 40 (2) of the Environmental Planning and Assessment Regulation 2021, development application 21/1557 is taken never to have been made.



Figure 4: Extract from proposed development drawings accompanying previous development application 21/1557.

4. Proposed development

The subject application proposes demolition of the existing building and works on the land, erection of three buildings and carrying out of works for the purpose of multi dwelling housing comprising four dwellings, and subsequent subdivision of the land to create four lots and common property under Strata Title. One of the proposed buildings, nearest the land’s rear boundary, is of two storey construction and contains two three-bedroom dwellings; each of the other two proposed buildings is one storey and contains one two-bedroom dwelling. Extracts from the proposed development drawings accompanying the application are reproduced in **Figure 5**. The application and all its accompanying information are reproduced in the confidential **Attachment 4**.

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

<p>PO BOX 400 BOWRAL NSW 2575 www.solis.com.au E: info@solis.com.au</p> <p>PROPOSED SITE PLAN</p> <p>TABLE 1: SUMMARY OF PROPOSED DEVELOPMENT</p> <table border="1"> <thead> <tr> <th>NO.</th> <th>DESCRIPTION</th> <th>AREA (SQM)</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>RESIDENTIAL BUILDING</td> <td>1200</td> </tr> <tr> <td>2</td> <td>PARKING AREA</td> <td>1500</td> </tr> <tr> <td>3</td> <td>LANDSCAPED AREA</td> <td>1000</td> </tr> </tbody> </table>	NO.	DESCRIPTION	AREA (SQM)	1	RESIDENTIAL BUILDING	1200	2	PARKING AREA	1500	3	LANDSCAPED AREA	1000	<p>PO BOX 400 BOWRAL NSW 2575 www.solis.com.au E: info@solis.com.au</p> <p>PROPOSED SITE PLAN</p> <p>TABLE 1: SUMMARY OF PROPOSED DEVELOPMENT</p> <table border="1"> <thead> <tr> <th>NO.</th> <th>DESCRIPTION</th> <th>AREA (SQM)</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>RESIDENTIAL BUILDING</td> <td>1200</td> </tr> <tr> <td>2</td> <td>PARKING AREA</td> <td>1500</td> </tr> <tr> <td>3</td> <td>LANDSCAPED AREA</td> <td>1000</td> </tr> </tbody> </table>	NO.	DESCRIPTION	AREA (SQM)	1	RESIDENTIAL BUILDING	1200	2	PARKING AREA	1500	3	LANDSCAPED AREA	1000
NO.	DESCRIPTION	AREA (SQM)																							
1	RESIDENTIAL BUILDING	1200																							
2	PARKING AREA	1500																							
3	LANDSCAPED AREA	1000																							
NO.	DESCRIPTION	AREA (SQM)																							
1	RESIDENTIAL BUILDING	1200																							
2	PARKING AREA	1500																							
3	LANDSCAPED AREA	1000																							
<p>PO BOX 400 BOWRAL NSW 2575 www.solis.com.au E: info@solis.com.au</p> <p>PROPOSED DEVELOPMENT</p> <p>TABLE 1: SUMMARY OF PROPOSED DEVELOPMENT</p> <table border="1"> <thead> <tr> <th>NO.</th> <th>DESCRIPTION</th> <th>AREA (SQM)</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>RESIDENTIAL BUILDING</td> <td>1200</td> </tr> <tr> <td>2</td> <td>PARKING AREA</td> <td>1500</td> </tr> <tr> <td>3</td> <td>LANDSCAPED AREA</td> <td>1000</td> </tr> </tbody> </table>	NO.	DESCRIPTION	AREA (SQM)	1	RESIDENTIAL BUILDING	1200	2	PARKING AREA	1500	3	LANDSCAPED AREA	1000	<p>PO BOX 400 BOWRAL NSW 2575 www.solis.com.au E: info@solis.com.au</p> <p>PROPOSED DEVELOPMENT</p> <p>TABLE 1: SUMMARY OF PROPOSED DEVELOPMENT</p> <table border="1"> <thead> <tr> <th>NO.</th> <th>DESCRIPTION</th> <th>AREA (SQM)</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>RESIDENTIAL BUILDING</td> <td>1200</td> </tr> <tr> <td>2</td> <td>PARKING AREA</td> <td>1500</td> </tr> <tr> <td>3</td> <td>LANDSCAPED AREA</td> <td>1000</td> </tr> </tbody> </table>	NO.	DESCRIPTION	AREA (SQM)	1	RESIDENTIAL BUILDING	1200	2	PARKING AREA	1500	3	LANDSCAPED AREA	1000
NO.	DESCRIPTION	AREA (SQM)																							
1	RESIDENTIAL BUILDING	1200																							
2	PARKING AREA	1500																							
3	LANDSCAPED AREA	1000																							
NO.	DESCRIPTION	AREA (SQM)																							
1	RESIDENTIAL BUILDING	1200																							
2	PARKING AREA	1500																							
3	LANDSCAPED AREA	1000																							
<p>PO BOX 400 BOWRAL NSW 2575 www.solis.com.au E: info@solis.com.au</p> <p>PROPOSED DEVELOPMENT</p> <p>TABLE 1: SUMMARY OF PROPOSED DEVELOPMENT</p> <table border="1"> <thead> <tr> <th>NO.</th> <th>DESCRIPTION</th> <th>AREA (SQM)</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>RESIDENTIAL BUILDING</td> <td>1200</td> </tr> <tr> <td>2</td> <td>PARKING AREA</td> <td>1500</td> </tr> <tr> <td>3</td> <td>LANDSCAPED AREA</td> <td>1000</td> </tr> </tbody> </table>	NO.	DESCRIPTION	AREA (SQM)	1	RESIDENTIAL BUILDING	1200	2	PARKING AREA	1500	3	LANDSCAPED AREA	1000	<p>PO BOX 400 BOWRAL NSW 2575 www.solis.com.au E: info@solis.com.au</p> <p>PROPOSED DEVELOPMENT</p> <p>TABLE 1: SUMMARY OF PROPOSED DEVELOPMENT</p> <table border="1"> <thead> <tr> <th>NO.</th> <th>DESCRIPTION</th> <th>AREA (SQM)</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>RESIDENTIAL BUILDING</td> <td>1200</td> </tr> <tr> <td>2</td> <td>PARKING AREA</td> <td>1500</td> </tr> <tr> <td>3</td> <td>LANDSCAPED AREA</td> <td>1000</td> </tr> </tbody> </table>	NO.	DESCRIPTION	AREA (SQM)	1	RESIDENTIAL BUILDING	1200	2	PARKING AREA	1500	3	LANDSCAPED AREA	1000
NO.	DESCRIPTION	AREA (SQM)																							
1	RESIDENTIAL BUILDING	1200																							
2	PARKING AREA	1500																							
3	LANDSCAPED AREA	1000																							
NO.	DESCRIPTION	AREA (SQM)																							
1	RESIDENTIAL BUILDING	1200																							
2	PARKING AREA	1500																							
3	LANDSCAPED AREA	1000																							
<p>PO BOX 400 BOWRAL NSW 2575 www.solis.com.au E: info@solis.com.au</p> <p>PROPOSED DEVELOPMENT</p> <p>TABLE 1: SUMMARY OF PROPOSED DEVELOPMENT</p> <table border="1"> <thead> <tr> <th>NO.</th> <th>DESCRIPTION</th> <th>AREA (SQM)</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>RESIDENTIAL BUILDING</td> <td>1200</td> </tr> <tr> <td>2</td> <td>PARKING AREA</td> <td>1500</td> </tr> <tr> <td>3</td> <td>LANDSCAPED AREA</td> <td>1000</td> </tr> </tbody> </table>	NO.	DESCRIPTION	AREA (SQM)	1	RESIDENTIAL BUILDING	1200	2	PARKING AREA	1500	3	LANDSCAPED AREA	1000	<p>PO BOX 400 BOWRAL NSW 2575 www.solis.com.au E: info@solis.com.au</p> <p>LANDSCAPE PLAN</p> <p>TABLE 1: SUMMARY OF PROPOSED DEVELOPMENT</p> <table border="1"> <thead> <tr> <th>NO.</th> <th>DESCRIPTION</th> <th>AREA (SQM)</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>RESIDENTIAL BUILDING</td> <td>1200</td> </tr> <tr> <td>2</td> <td>PARKING AREA</td> <td>1500</td> </tr> <tr> <td>3</td> <td>LANDSCAPED AREA</td> <td>1000</td> </tr> </tbody> </table>	NO.	DESCRIPTION	AREA (SQM)	1	RESIDENTIAL BUILDING	1200	2	PARKING AREA	1500	3	LANDSCAPED AREA	1000
NO.	DESCRIPTION	AREA (SQM)																							
1	RESIDENTIAL BUILDING	1200																							
2	PARKING AREA	1500																							
3	LANDSCAPED AREA	1000																							
NO.	DESCRIPTION	AREA (SQM)																							
1	RESIDENTIAL BUILDING	1200																							
2	PARKING AREA	1500																							
3	LANDSCAPED AREA	1000																							

Figure 5: Extracts from proposed development drawings (see also Attachment 4).

5. Notification

Council advertised the application and notified it to owners and occupants of surrounding properties, inviting submissions between 8 September and 13 October 2021. Advertisement and notification attracted 15 submissions. The applicant subsequently amended the application.

Council renotified the application, as amended, to owners and occupants of surrounding properties, inviting submissions between 24 November and 8 December 2021. Renotification attracted 18 submissions.

The submissions received in response to Council's first and second notifications are respectively reproduced in the confidential **Attachments 5 and 6**. The issues raised by the submissions are identified and discussed in the table below.

Issue	Discussion	Response
Deficient frontage Land	The submissions object to the proposed development on the grounds that the land's Waverly Road frontage is 22.25m long – 2.75m less than the 25.0m minimum specified by section C3.2.2 (a) of the applicable Mittagong Town Plan Development Control Plan.	Section 4.15 (3A) (b) of the Environmental Planning and Assessment Act 1979 specifies if a development control plan's provisions relating to a proposed development set standards with respect to an aspect of the development, and the development application does not comply with those standards, the consent authority is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development. The proposed development has been considered with regard to section C3.2.2 (a) of the Mittagong Town Plan Development Control Plan, as discussed in detail in section 7 of this report. On balance, the proposed development is considered satisfactory despite contravening section C3.2.2 (a) of the Mittagong Town Plan Development Control Plan.
Development density	Submissions assert the proposed development's density will significantly reduce amenity, contrary to section C3.2.2 (c) of the applicable Mittagong Town Plan Development Control Plan.	The proposed development complies with the density and site coverage provisions specified by section C3.4.2 of the Mittagong Town Plan Development Control Plan, as discussed in section 7 of this report.
Privacy	Submissions suggest the proposed development makes inadequate provision to preserve visual and acoustic privacy, given its two storey	The proposed one-storey and two-storey buildings are considered satisfactorily designed and sufficiently distanced from the land's boundaries to minimise potential

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 1 JUNE 2022**

	<p>component and vehicle access driveway located immediately inside the land's western side boundary to residential properties at 28 Waverly Parade and 20 Oxley Drive.</p>	<p>negative impacts on the privacy of adjoining residential properties. The proposed vehicle access driveway is around 6m from the nearest exterior wall of the dwelling house at 28 Waverly Parade and almost 30m from the nearest exterior wall of the dwelling house at 20 Oxley Drive. The proposed driveway is also separated from the adjoining properties by a 1.8m prefinished metal fence that is expected to reduce potential vehicular traffic noise nuisance to the adjoining properties and obstruct views between the proposed driveway and the adjoining properties. Overall, the proposed development is not expected to have a significant negative impact on the privacy of adjoining residential properties.</p>
Side boundary setback	<p>Submissions assert the proposed development does not satisfy the side boundary setback controls specified by section C3.7.2 of the applicable Mittagong Town Plan Development Control Plan.</p>	<p>As discussed in section 7 of this report, the proposed development is considered satisfactory with respect to the side boundary setback controls specified by section C3.7.2 of the Mittagong Town Plan Development Control Plan.</p>
Neighbourhood character	<p>Submissions object to the proposed development on the grounds that its design is incompatible with existing residential development in the locality.</p>	<p>As discussed in section 7 of this report regarding section A2.2.4 of the Mittagong Town Plan Development Control Plan, the immediate locality is characterised by mainly low density residential accommodation developments, with some emerging medium density housing. The locality is not formally recognised as being of heritage significance, and its prevalent R3 Medium Density Residential zoning reflects the built form and character intended by Council for the locality. Whilst the proposed development differs in scale from existing low density residential development in the locality, it is considered compatible with the development character intended by Council for the locality.</p>
Landscaped open space	<p>Submissions suggest the proposed development does not satisfy the development</p>	<p>As discussed in section 7 of this report, the proposed development is considered satisfactory with respect</p>

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 1 JUNE 2022**

	controls for landscaped open space specified by section C3.15.2 (a), (r) and (s) of the applicable Mittagong Town Plan Development Control Plan.	to the development controls specified by section C3.15.2 of the Mittagong Town Plan Development Control Plan.
Development control objectives for medium density development	Submissions suggest the proposed development contravenes the objectives for medium density development specified by section C3.1.1 (b) and (c) of the applicable Mittagong Town Plan Development Control Plan.	As discussed in section 7 of this report, the proposed development is considered satisfactory with respect to the medium density development objectives specified by section C3.1.1 of the Mittagong Town Plan Development Control Plan.
Stormwater management	Submissions express concern that the proposed development will cause or exacerbate stormwater drainage problems in the locality.	The application was referred to Council's Development Engineer, who raised no concerns regarding proposed stormwater management and disposal subject to recommended consent conditions aimed at ensuring post-development stormwater flows from the land do not exceed pre-development flows.
Overshadowing	Submissions object to the proposed development on the grounds that its two storey component will overshadow nearby residential properties.	As discussed in section 7 of this report regarding section C3.10.2 of the Mittagong Town Plan Development Control Plan, shadow diagrams accompanying the application, reproduced in Figure 7 , indicate the proposed development will not reduce solar access to living areas and private open space on adjoining properties to below three hours on the winter solstice.
Tree retention/removal	Submissions object to tree removal in the proposed development, including suggestions that an existing mature tree between the existing dwelling house and the land's front boundary should be retained along with the existing mature exotic deciduous tree in Waverly Parade adjoining the land, and trees should be planted between the proposed vehicle access driveway and the land's western side boundary.	As discussed in section 3 of this report, recommended conditions of consent require surrender of vegetation clearing permit 21/0459, as well as replacement of each tree already removed pursuant to vegetation clearing permit 21/0459 and each tree removed in the carrying out of the proposed development. Additionally, as discussed in section 7 of this report regarding section A7.1.5 of the Mittagong Town Plan Development Control Plan, recommended conditions of consent specify the existing street tree in Waverly Parade adjoining the land shall be protected throughout the carrying out of the proposed development, and no occupation certificate or subdivision certificate

		<p>shall be granted for the development unless the certifying authority is satisfied by information accompanying the occupation certificate application and the subdivision certificate application that street trees have been provided and/or retained in Waverly Parade adjoining the land in compliance with Council's Urban Street Tree Master Plan.</p>
<p>Vehicular traffic and parking</p>	<p>Submissions object to the proposed development on the grounds that roads giving access to the land do not have sufficient capacity to cater for vehicle traffic likely to be generated by the proposed development, and that the proposed development will facilitate excessive generate on street car parking.</p>	<p>The NSW Roads and Maritime Service (former Roads and Traffic Authority) Guide to Traffic Generating Developments suggests a single dwelling house may be expected to generate up to 9 daily vehicle trips, whereas a two-bedroom dwelling and a three-bedroom dwelling in a medium density housing development may be expected to generate up to five and 6.5 daily vehicle trips respectively. On that basis, the proposed development may be expected to generate up to $(2 \times 5) + (2 \times 6.5) = 23$ daily vehicle trips, i.e. 14 more daily vehicle trips than currently generated by the existing dwelling house on the land.</p> <p>The roads giving access to the land are considered adequate to cater for the proposed development's likely vehicle traffic generation. The application was referred to Council's Development Engineer, who raised no concerns regarding traffic generation subject to recommended consent conditions.</p> <p>As discussed in section 7 of this report regarding section C3.16.2 of the Mittagong Town Plan Development Control Plan, provided all recommended consent conditions and drawings amendments are adhered to, the proposed development includes sufficient off street car parking facilities. It is therefore considered unlikely to have a significant negative impact on the availability of on street car parking facilities.</p>

6. Relevant Environmental Planning Instruments

6.1 State Environmental Planning Policy (Biodiversity and Conservation) 2021

The proposed development has been considered with regard to the Policy’s relevant provisions, as detailed in the following table.

Chapter 4—Koala habitat protection 2021			
Part 4.1—Preliminary			
Provision	Control	Discussion	Compliance
Section 4.16—Existing development applications	A development application made but not finally determined before Chapter 4 applied must be determined as if Chapter 4 had not commenced.	The application was made before Chapter 4 commenced. At that time, the land was subject to the provisions of State Environmental Planning Policy (Koala Habitat Protection) 2021. The proposed development has been considered with regard to that Policy, as discussed later.	Yes.
Chapter 8—Sydney drinking water catchment			
Part 8.1—Preliminary			
Provision	Control	Discussion	Compliance
Section 8.1—Aims of Chapter	Chapter 8 aims: to provide for healthy water catchments that will deliver high quality water while permitting development that is compatible with that goal to provide that a consent authority must not grant consent to a proposed development unless satisfied that the proposed development will have a neutral or beneficial effect on water quality to support the maintenance or achievement of the water quality objectives for the Sydney drinking water catchment.	Water NSW has advised it is satisfied that the proposed development can achieve a neutral or beneficial effect on water quality, and concurs	Yes.

		with Council granting consent to the application subject to recommended consent conditions. The proposed development is therefore considered satisfactory with respect to the aims specified by section 8.1.	
Part 8.1—Preliminary			
Provision	Control	Discussion	Compliance
Section 8.7—Recommended practices and performance standards of Water NSW	Any development or activity proposed to be carried out on land to which this Chapter applies should incorporate Water NSW's current recommended practices and standards.	Water NSW has advised it is satisfied that the proposed development can achieve a neutral or beneficial effect on water quality, and concurs with Council granting consent to the application subject to recommended consent conditions. The proposed development is therefore taken to satisfactorily incorporate Water NSW's current recommended practices and standards.	Yes.
Section 8.8—Development consent cannot be granted unless neutral or beneficial effect on water quality	A consent authority must not grant consent to development on land in the Sydney drinking water catchment unless satisfied that the proposed development would have a neutral or beneficial effect on water quality.		
Section 8.9—Development that needs concurrence of Regulatory Authority	A consent authority must not grant consent to the carrying out of development on land in the Sydney drinking water catchment except with the concurrence of the Regulatory Authority.		

6.2 State Environmental Planning Policy (Resilience and Hazards) 2021

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 1 JUNE 2022**

The proposed development has been considered with regard to the Policy’s relevant provisions, as detailed in the following table.

Chapter 4—Remediation of land			
Provision	Control	Discussion	Compliance
Section 4.1— Object of this Chapter	Chapter 4 aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.	The land has historically been used for low density residential purposes. It is not considered likely to be contaminated or to require remediation to be made suitable for the proposed development. The land is not land specified in section 4.6 (4), so Council needn’t consider the findings of a preliminary contamination investigation before determining the application.	Yes.
Section 4.6— Contamination and remediation to be considered in determining development application	<p>A consent authority must not consent to development on land unless—</p> <ul style="list-style-type: none"> • it has considered whether the land is contaminated • if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and • if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose. <p>Before determining an application for consent to carry out development that would involve a change of use on any land specified in subsection (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned</p>		

	carried out in accordance with the contaminated land planning guidelines.		
--	---	--	--

6.3 State Environmental Planning Policy (Koala Habitat Protection) 2021

Despite being repealed, State Environmental Planning Policy (Koala Habitat Protection) 2021 is invoked by section 4.16 of State Environmental Planning Policy (Biodiversity and Conservation) 2021. The proposed development has been considered with regard to the Policy’s relevant provisions, as detailed in the following table.

Part 1—Preliminary			
Provision	Control	Discussion	Compliance
Clause 3— Aim of Policy	The Policy aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline.	The land is not subject to an approved koala plan of management and is not core koala habitat as defined. The Policy therefore does not prevent Council from granting consent for the proposed development and, in turn, the proposed development is considered satisfactory with respect to the Policy’s aim.	Yes.
Clause 4— Definitions	<p>Approved koala plan of management, for land, means a koala plan of management for the land approved in accordance with clause 16.</p> <p>Core koala habitat means—</p> <p>(a) an area of land which has been assessed by a suitably qualified and experienced person as being highly suitable koala habitat and where koalas are recorded as being present at the time of assessment of the land as highly suitable koala habitat, or</p>		

	(b) an area of land which has been assessed by a suitably qualified and experienced person as being highly suitable koala habitat and where koalas have been recorded as being present in the previous 18 years.		
Part 2—Development control of koala habitats			
Provision	Control	Discussion	Compliance
Clause 12— Development assessment process— other land	<p>A council is not prevented from granting consent to a development application for consent to carry out development on land if—</p> <p>(a) the land does not have an approved koala plan of management applying to the land, or</p> <p>(b) the council is satisfied that the land is not core koala habitat.</p>	<p>Having regard to the definitions specified by clause 4, the land is not subject to an approved koala plan of management and is not core koala habitat. The Policy therefore does not prevent Council from granting consent for the proposed development.</p>	Yes.

6.4 Wingecarribee Local Environmental Plan 2010 (the LEP)

The proposed development has been considered with regard to the LEP's relevant provisions, as detailed in the following table.

Provision	Control	Discussion	Compliance
Clause 1.2— Aims of Plan	Specifies LEP's broad and particular aims.	Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the particular aims specified by clause 1.2 (2).	Yes.
Clause 1.4— Definitions	The Dictionary at the end of the LEP defines words and expressions for the	The proposed development comprises demolition of a building and works, erection of buildings and carrying out of works for the purpose of multi dwelling housing.	Yes.

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 1 JUNE 2022**

	purposes of the LEP.		
Clause 2.3— Zone objectives and Land Use Table	<p>The Land Use Table at the end of Part 2 of the LEP specifies for each zone—</p> <p>development that is prohibited. The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.</p>	<p>The land is in Zone R3 Medium Density Residential. The Land Use Table at the end of Part 2 of the LEP specifies development for the purpose of multi dwelling housing is permitted with consent in Zone R3. The proposed development is considered satisfactory with respect to the R3 zone objectives:</p> <ul style="list-style-type: none"> • To provide for the housing needs of the community within a medium density residential environment. • To provide a variety of housing types within a medium density residential environment. • To enable other land uses that provide facilities or services to meet the day to day needs of residents. 	Yes.
Clause 2.6— Subdivision— consent requirements	Land to which the LEP applies may be subdivided only with development consent.	The application seeks consent to subdivide the land to create four lots and common property under Strata Title.	Yes.
Clause 2.7— Demolition requires development consent	The demolition of a building or work may be carried out only with development consent.	The application seeks consent to demolish the existing building and works on the land.	Yes.
Clause 7.1— Development on existing lots in Zones R2, R3 and R5	Despite any other LEP provision, consent may be granted to erect multi dwelling housing on a lot in Zone R3 that was created before the LEP commenced and is at least	The land is in Zone R3. Noting the land was created by registration of a plan of redefinition (not subdivision) of a lot that had been created in 1964, it was effectively created before the LEP commenced. The minimum size shown on the LEP Lot Size Map in relation to the land is 700m ² , and the land is 1769m ² in area. Clause 7.1 therefore effectively specifies no other provision of the LEP operates to prevent the granting of consent to erect multi dwelling housing on the land.	Yes.

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 1 JUNE 2022**

	the minimum lot size specified for the lot on the LEP Lot Size Map.		
Clause 7.3— Earthworks	<p>The objectives of clause 7.3 are:</p> <p>(a) to ensure any earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses or heritage items and features surrounding land,</p> <p>(b) to allow earthworks of a minor nature without separate development consent.</p> <p>Development consent is required for earthworks unless it does not alter ground level (existing) by more than 600mm, is</p>	Some earthworks will be necessitated by the proposed development and are therefore considered ancillary to it. A recommended condition of consent (if granted) specifies Council's consent does not operate to permit the carrying out of any earthworks other than indicated by the stamped consent drawings, necessitated by conditions of consent, or specified by an environmental planning instrument as not requiring consent.	Yes.

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 1 JUNE 2022**

	exempt development, or is ancillary to other development for which development consent has been granted.		
--	--	--	--

7. Development Control Plans and Policies

7.1 Mittagong Town Plan Development Control Plan (the DCP)

The proposed development has been considered with regard to the DCP’s relevant provisions, as detailed in the following table.

Part A—Provisions applicable to all land			
Section 2—General objectives			
Section A2.2—Objectives of this Plan			
Provision	Control	Discussion	Compliance
Section A2.2.2—Urban function	<p>Council will consider the extent to which the proposed development contributes to the achievement of the following urban function objectives:</p> <ul style="list-style-type: none"> (a) Improvement of traffic and parking management within the town. (b) Minimisation of vehicular and pedestrian conflicts. (c) Provision of a safe and accessible network of pedestrian links throughout the town. (d) Improvement of connections to public transport facilities. 	<p>The proposed development is considered satisfactory with respect to the DCP’s urban function objectives.</p>	Yes.
Section A2.2.4—Residential amenity	<p>Council will consider the extent to which the proposed development contributes to the achievement the following residential amenity objectives:</p> <ul style="list-style-type: none"> (a) Conserve the unique characteristics of existing residential areas of the Mittagong township. (b) Encourage new residential development that is sympathetic to existing or desired future streetscapes and neighbourhood character. (c) Ensure that residential development includes sustainable principles such as energy and water efficiency, using sustainable building products where ever possible. (d) Contribute to the enhancement of the urban amenity (e) Ensure that there is no light spill from any new development which would adversely impact on surrounding residents, including diminishment of the night sky experience. 	<p>The immediate locality is characterised by mainly low density residential accommodation developments, with some emerging medium density housing. The locality is not formally recognised as being of heritage significance, and its prevalent R3 Medium Density Residential zoning reflects the built form and character intended by Council for the locality.</p>	Yes.

		<p>Recommended conditions of consent (if granted) require the development to be carried out in accordance with the BASIX (building sustainability index) certificate accompanying the application, and specify all outdoor lighting in the proposed development shall comply with the relevant provisions of Australian / New Zealand Standard AS/NZS 4282:2019 Control of the obtrusive effects of outdoor lighting.</p> <p>Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the residential amenity objectives specified by section A2.2.4.</p>	
<p>Section A2.2.5— Residential diversity</p>	<p>Council will consider the extent to which the proposed development contributes to the following residential diversity objectives:</p> <p>(a) Promote a mix of housing types to increase residential choice within the town, particularly around bus and rail connections.</p>	<p>The proposed development will increase the variety of available housing types in the locality.</p>	<p>Yes.</p>

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 1 JUNE 2022**

	(b) Encourage appropriate site amalgamation and redevelopment to provide a range of residential opportunities throughout the town.		
Section A2.2.6— Visual amenity	All new development should: (a) Demonstrate an appreciation of the existing streetscape. (b) Enhance the character of individual streets within the town through appropriate built form design. (c) Provide areas of private open space which can make a positive contribution to the overall visual amenity of the locality.	Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the visual amenity objectives specified by section A2.2.6.	Yes.
Section A2.2.8— Environmental sustainability	In assessing a development application, Council will consider the following environmental sustainability objectives: (a) Protect vegetation, threatened species, ecological communities, hydrological aspects, watercourses, significant natural features, and any other aspect of environmental quality. (b) No net loss of riparian condition, remnant vegetation, biodiversity values, wetland values, wildlife habitat or water quality. (c) Encourage on-site tree plantings which enhance the urban environment and provide additional wildlife habitat and connectivity of habitat. (d) Maintain and enhance existing public open space areas. (e) Practical incorporation of the principles of ecologically sustainable development into the development. (f) Ensure that buildings are 'energy smart' and meet all BASIX requirements.	Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the environmental sustainability objectives specified by section A2.2.8.	Yes.
Section 4—Water management			
Section A4.3—Development in Sydney's drinking water catchments			
Provision	Control	Discussion	Compliance
Section A4.3.1— Introduction	All development shall incorporate Water NSW's current recommended practices in terms of maintaining water quality. All development shall address water quality to achieve one of the following alternative outcomes as appropriate to the development: (i) The development shall have no identifiable potential impact on water quality (ii) If (i) above is not viable, any identified impact shall be contained on the site to prevent it from	As discussed regarding Chapter 8 of State Environmental Planning Policy (Biodiversity and Conservation) 2021, Water NSW is satisfied that the proposed development can	Yes.

	reaching any watercourse, water body or drainage depression (iii) If (i) or (ii) above are not viable, any identified impact beyond the site shall be managed by transfer to an appropriate facility for treatment and disposal to the required standard approved by Council.	achieve a neutral or beneficial effect on water quality, and concurs with Council granting consent to the application subject to recommended consent conditions.	
Section A4.5—Stormwater management plan			
Control	Discussion		Compliance
A stormwater management plan report will be required for all development that will result in: (a) An increase in the impervious area of the site, or b) A change in the direction of overland flow.	The application is accompanied by a proposed concept stormwater drainage plan. Council's Development Engineer raises no concerns regarding stormwater management in the proposed development, subject to recommended conditions of consent (if granted).		Yes.
Section A4.6—Erosion and sediment control plans			
Control	Discussion		Compliance
An erosion and sediment control plan must be provided to Council.	The application is accompanied by a proposed erosion and sediment control plan. Recommended conditions of consent (if granted) require adherence to the approved erosion and sediment control plan before, throughout and following the carrying out of the proposed development.		Yes.
Section 6—Vegetation management and landscaping			
Section A6.1—Preservation of trees and other vegetation			
Provision	Control	Discussion	Compliance
Section A6.1.1—Objectives	The objectives of this Section of the DCP are to: (a) preserve the amenity, biodiversity and ecology of the Mittagong township through the preservation	Clause 5.9 of Wingecarribee Local	Yes.

	<p>of trees and other vegetation as described in Clause 5.9 of WLEP 2010.</p> <p>(b) Preserve the amenity and heritage value of trees and other vegetation associated with Items of Heritage or within Heritage Conservation Areas.</p> <p>(c) Clarify the meaning of Clause 5.9 of WLEP 2010.</p> <p>(d) Define and explain the terms used in Clause 5.9 of WLEP 2010.</p> <p>(e) Clarify the assessment criteria under which exemptions will be determined.</p>	<p>Environmental Plan 2010 used to relate to preservation of trees or vegetation but was repealed in 2017, then returned in relation to repair or replacement of dwellings affected by natural disasters.</p> <p>Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the objectives specified by section A6.1.1.</p>	
<p>Section A6.1.7— Assessment considerations</p>	<p>Council's considerations will include:</p> <p>(a) Whether the community interest has been taken into account. Priority for preservation will be given to trees which have significant amenity or aesthetic value, are noteworthy in the land or streetscape or from a botanical or heritage viewpoint.</p> <p>(b) Whether the proprietary interest of the applicant has been duly respected. If the proposed work is ordinarily incidental to the use, operation and management of a lawful development or the design and maintenance of a garden it may not be reasonable for such work to be refused approval.</p> <p>(c) Whether the enjoyment of neighbouring land will be detrimentally affected.</p> <p>(d) Whether replacement planting is proposed.</p> <p>(e) Implications for biodiversity.</p> <p>(f) Whether there are issues of personal or public safety.</p> <p>(g) Whether a need is demonstrated for solar access to habitable rooms in buildings, solar appliances, clothes drying and outdoor living areas</p> <p>(h) Whether there are more practical or desirable alternatives. Pruning may be a better solution or the relocation or redesign of services, fences etc.</p>	<p>Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the assessment considerations specified by section A6.1.7.</p>	<p>Yes.</p>

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 1 JUNE 2022**

	(i) Whether the proposed work should be carried out and/or supervised by a suitably qualified person. (j) Whether the application should more properly be part of a wider development and/or building works. (k) Whether there is a justified need. (l) Whether adverse impacts of the proposal have been adequately identified and will be satisfactorily mitigated.		
Section A6.2—Private landscaped open space			
Provision	Control	Discussion	Compliance
Section A6.2.1—Objectives	Council shall consider the extent to which the following Landscape objectives are met: (a) Provides a pleasant, vegetated environment for users of the site (workers or residents). (b) Contributes to the urban streetscape. (c) Provides a visual buffer between development and the surrounding neighbourhood. (d) Contributes to existing tree canopies and wildlife habitats. (e) Provides adequate ground cover to prevent erosion and assist storm water infiltration. (f) Contributes where possible to the enhancement of key vegetation and topographical features.	Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the private landscaped open space objectives specified by section A6.2.1.	Yes.
Section A6.3—Controls			
	Control	Discussion	Compliance
	Council shall not grant consent for development unless: (a) A landscape plan, prepared by a suitably qualified person, indicating the location of proposed plantings and the botanical names of proposed plant species (b) Notwithstanding subclause (a), unless the development affects an Item of Heritage, is within the vicinity of an Item of Heritage, or is within a Heritage Conservation Area, a Landscape Plan will not be required for private landscaping associated with detached dwelling development. (c) Landscape plantings will not overshadow neighbouring properties or block solar access. (d) Particular provision is made for landscaping of uncovered parking areas, with adequate screening from the street where appropriate. (e) All plantings are sufficiently advanced to provide an immediate landscaping effect. (f) Provision is made to ensure that adequate landscape management systems are available to ensure that plantings can be properly maintained to allow them to not just survive, but flourish. (g) Adequate arrangements have been made for the restoration of the area of any public space, including a public footpath, pedestrian	Provided all recommended consent conditions are complied with, the proposed development – including the proposed landscape plan accompanying the application – is considered satisfactory with respect to the controls specified by section A6.3.	Yes.

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 1 JUNE 2022**

<p>plaza adjoining the proposed development to the extent that such area has been damaged by the development. (h) Where no street tree is currently in the footpath or verge area adjoining the site, a street tree compatible with the predominant street tree species in the street is provided at the applicant's expense. This will assist in softening the appearance of new development while also improving the aesthetic appeal of the public space.</p>			
<p>Section 7—Subdivision, demolition, siting and design</p>			
<p>Section A7.1—Subdivision of land</p>			
Provision	Control	Discussion	Compliance
<p>Section A7.1.4 Landscape Embellishment</p>	<p>A condition of Council's subdivision approval will require landscape embellishment of allotments and public roads.</p>	<p>The footway between the land and the Waverly Parade vehicle carriageway is in poor condition, largely due to vehicle traffic. Recommended conditions of consent (if granted) specify no occupation certificate shall be granted for the proposed development unless the footway has been rehabilitated in accordance with applicable Council standards.</p>	<p>Yes.</p>
<p>Section A7.1.5—Street trees</p>	<p>Standard street tree planting is required. As a condition of development approval, the applicant will be required to meet the full cost of streetscape improvement.</p>	<p>Waverly Parade adjoining the land is already occupied by a mature deciduous exotic street tree that contributes to the streetscape. Recommended conditions of consent specify the existing street tree shall be protected throughout the carrying out of</p>	<p>Yes.</p>

		the proposed development, and no occupation certificate or subdivision certificate shall be granted for the development unless the certifying authority is satisfied by information accompanying the occupation certificate application and the subdivision certificate application that street trees have been provided and/or retained in Waverly Parade adjoining the land in compliance with Council's Urban Street Tree Master Plan.	
Section 8—Safer by design			
Section A8.3—Crime Prevention Through Environmental Design			
Provision	Control	Discussion	Compliance
Section A8.3.1—Space and activity management	Space and activity management strategies develop and maintain natural community control, involving formal supervision, control and care of the development. All space needs to be effectively used and maintained to maximise community safety.	Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the principles of space and activity management.	Yes.
Section A8.3.2—Territorial reinforcement	People who have guardianship or ownership of areas are likely to provide effective supervision and criminals rarely commit crime in areas where the risk of detection and challenge are high. Territorial reinforcement uses actual and symbolic boundary	Provided all recommended consent conditions are complied with,	Yes.

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 1 JUNE 2022**

	markers, spatial legibility and environmental cues to 'connect' people with space, to encourage communal responsibility for public areas and facilities, and to communicate to people where they should/not be and what activities are appropriate.	the proposed development is considered satisfactory with respect to the principles of territorial reinforcement.	
Section A8.3.3— Surveillance	Criminals are often deterred from committing crime in places that are well supervised.	Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the principles of passive and active surveillance.	Yes.
Section A8.3.4— Access control	Access control treatments restrict, channel and encourage people and vehicles into, out of and around the development. Design-based access control includes the tactical use of landforms and waterways features, design measures including building configuration; formal and informal pathways, landscaping, fencing and gardens.	Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the principles of access control.	Yes.
Section A8.4—Specific design requirements			
Control		Discussion	Compliance
Council requires all development to demonstrate that it provides: (a) Well-defined building entrances which are clearly visible from the street. (b) Internal spaces must be open and visible, eliminating hidden corners. (c) Walkways and connecting paths must be open with good visibility. (d) Signs and vegetation should be located so that they do not create 'entrapment' points where people are hidden from view. (e) On-site garaging must provide clearly defined exit points and be lit at night, both inside the garaging and around the entrance/exit points. Such lighting should be movement-activated lighting that focusses on the access areas. (f) Building entrances, walkways, connecting paths and garaging must be well lit to ensure such lighting is down-ward focussed and effective without generating glare or annoyance beyond the area being lit.		Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the specific design requirements specified by section A8.4.	Yes.

Section 9—Construction standards and procedures		
Section A9.8—Stormwater disposal		
Control	Discussion	Compliance
Specifies various acceptable means of stormwater disposal.	The application was referred to Council's Development Engineer, who raises no concerns regarding stormwater management and disposal subject to recommended conditions of consent (if granted).	Yes.
Section 11—Outdoor lighting		
Section A11.2—Objectives		
Control	Discussion	Compliance
<p>Council will have due regard to the following objectives:</p> <p>(a) Lighting for security purposes shall be adequate for that purpose without drawing unnecessary attention to the development;</p> <p>(b) Lighting shall not adversely impact on surrounding development;</p> <p>(c) Lighting shall not create 'twilight' impacts on the surrounding environment; and</p> <p>(d) Lighting shall not diminish the quality of the night sky.</p>	<p>A recommended condition of consent specifies all outdoor lighting in the proposed development shall comply with the relevant provisions of Australian / New Zealand Standard AS/NZS 4282:2019, Control of the obtrusive effects of outdoor lighting.</p> <p>Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the outdoor lighting</p>	

	objectives specified by section A11.2.	
Section A11.3—Controls		
Control	Discussion	Compliance
<p>(a) Outdoor lighting must be a “full cutoff light fixture”, i.e. a type of fixture with no light emitted above the horizontal and no light dispersion or direct glare to shine above a 90-degree, horizontal plane from the base of the fixture.</p> <p>(b) All outdoor lighting fixtures shall be designed, installed, located and maintained to avoid glare on to adjacent properties or streets</p> <p>(c) All direct illumination shall be kept within the boundaries of the subject property.</p> <p>(d) Accent lighting, when so approved, shall be directed downward on to the building or object and not toward the sky or on to adjacent properties. Direct light emissions shall not be visible above the roof line or beyond the building edge.</p> <p>(e) Spotlighting on landscaping and foliage shall be limited to 150 watts incandescent. The lamp shall be shielded and not create disabling or nuisance glare.</p> <p>(f) Timers shall be accurately set to ensure that lighting is used only when natural light is insufficient.</p>	<p>A recommended condition of consent specifies all outdoor lighting in the proposed development shall comply with the relevant provisions of Australian / New Zealand Standard AS/NZS 4282:2019, Control of the obtrusive effects of outdoor lighting.</p> <p>Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the outdoor lighting controls specified by section A11.3.</p>	Yes.
Part C—Provisions applicable to residential-zoned land		
Section 1—Introduction		
Section C1.2—Objectives		
Control	Discussion	Compliance
<p>This Part of the Plan aims to achieve:</p> <p>(a) Conservation of the unique characteristics of the residential areas of Mittagong, particularly in the case of the identified Conservation Areas</p> <p>(b) New residential development which is sympathetic with existing streetscapes and neighbourhood character</p>	<p>Council’s desired character and amenity for the locality is reflected by its R3 Medium Density Residential zoning. The proposed</p>	Yes.

<p>(c) New residential development that is energy efficient, provides good amenity, and is safe and attractive</p> <p>(d) Residential development which meets the needs of a range of community and demographic types, including smaller households, older people, people with a disability or people requiring group accommodation.</p>	<p>development is considered satisfactory with respect to that intended character and amenity.</p> <p>Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the objectives specified by section C1.2.</p>		
Section C1.6—Building materials			
Provision	Control	Discussion	Compliance
<p>Section C1.6.1—Objectives</p>	<p>The objectives of requiring certain materials in dwelling construction are to:</p> <p>(a) Ensure durability, detailing and appearance are all considered when selecting building materials to ensure a high quality appearance over time.</p> <p>(b) Encourage the use of materials in the construction of new dwellings that are compatible with adjoining dwelling houses and the streetscape in terms of type, colour and form.</p> <p>(c) Encourage the adoption of an exterior colour scheme which complements the existing streetscape.</p>	<p>The building materials indicated by the proposed development drawings accompanying the application are considered satisfactory with respect to the objectives specified by section C1.6.1.</p>	<p>Yes.</p>
<p>Section C1.6.2—Specific controls</p>	<p>(a) The use of zincalume is not permitted and galvanised steel may only be used with specific Council consent.</p> <p>(b) A detailed exterior colour scheme must be presented to allow Council to assess the proposed colours against the existing streetscape.</p>	<p>A recommended condition of consent specifies no construction certificate shall be granted for any building work in the development unless the certifying authority is</p>	<p>Yes.</p>

		satisfied by evidence accompanying the application for construction certificate that details of its proposed exterior colour scheme have been submitted to and approved by Council's Manager of Development Assessment.	
Section 3—Medium density development			
Section C3.1—Introduction			
Provision	Control	Discussion	Compliance
Section C3.1.1—Objectives	<ul style="list-style-type: none"> (a) Wingecarribee Shire offers a variety of housing forms to cater for differing lifestyles and income levels (b) The provision of medium density housing does not adversely affect the amenity of existing and likely future residents of a locality (c) The design of medium density housing is appropriate to the existing residential streetscape (d) The proposed development takes advantage of any particular site features to maximum urban amenity and convenience for residents (e) Development is located within reasonable walking distance of public transport (f) Development is located within reasonable walking distance of retail and service facilities. 	The proposed development will increase the variety of housing types, and is considered consistent with Council's desired character and amenity for the locality. Provided all recommended consent conditions are complied with, it is considered respectful of the streetscape. Council's R3 Medium Density Residential zoning of the land reflects its relative proximity to public transport, retail and service facilities in Mittagong.	Yes.
Section C3.2—Site amalgamation and minimum frontage requirements			

Provision	Control	Discussion	Compliance
<p>Section C3.2.1— Objectives</p>	<ul style="list-style-type: none"> (a) Encourage the efficient use of existing residential land in urban areas. (b) Provide a high level of amenity for dwellings in medium density development. (c) Design the position and orientation of dwellings to maximise the integration of the higher density development into the existing neighbourhood character. (d) Minimise the loss of mid-block tree canopy and other vegetation on site. 	<p>Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the objectives specified by section C3.2.1.</p>	<p>Yes.</p>
<p>Section C3.2.2— Specific controls</p>	<p>Council shall not grant consent for multi dwelling housing development unless the land concerned:</p> <ul style="list-style-type: none"> (a) Has at least 25 metres of site frontage to a public street or other appropriate public place; (b) Does not unreasonably compromise the development potential of adjoining allotments; (c) Allows for an acceptable level of amenity for residents and neighbours of the proposed development at the density proposed. (d) In the case of a battle-axe block, Council will consider a street frontage of less than 25 metres provided: <ul style="list-style-type: none"> (i) the width of the block at the end of the access handle is at least 25 metres in its entirety (ii) that width is parallel to the street (iii) the area of the site provides for a development which meets the objectives and other controls contained in this section of the Plan. 	<p>The land's frontage to Waverly Avenue is 22.25m long – 2.75m shorter than the minimum required by section C3.2.2 (a). The land is slightly irregular in shape, widening to around 24m at the proposed development's front building line as illustrated by Figure 6. Its rear boundary is 30.51m long.</p> <p>The statement of environmental effects accompanying the application incorrectly indicates:</p> <p style="text-align: center;"><i>“The width of the lot at the building line of Dwelling 4 is compliant wit [sic] 25</i></p>	<p>Yes.</p>

		<p><i>metres. The site...complies with the numerical requirement of this section of the DCP C3.2.2 (a) of at least 25 metres of site frontage to a public street at the building line of the street frontage dwelling".</i></p> <p>The statement of environmental effects goes on: <i>"The 25 metre width requirement has a practical purpose of trying to ensure that building dimensions, driveway widths and open space setbacks are not compromised and that appropriate amenity can be ensured for residents and neighbours. All of these requirements are satisfied on the proposed development site".</i></p> <p><i>"Compliance with the DCP requirement of a</i></p>	
--	--	--	--

		<p><i>25 metre width should be acknowledged and it should be noted that this ensures there is no compromise in the design of the proposed development nor any compromise to the future development of the adjoining land”.</i></p> <p>Putting aside the applicant’s incorrect assertion that the proposed development satisfies the numerical minimum frontage requirement of section C3.2.2 (a), section 4.15 (3A) (b) of the Environmental Planning and Assessment Act 1979 specifies if a development control plan’s provisions relating to a proposed development set standards with respect to an aspect of the development, and the development application does not comply with those standards, the consent authority is to be flexible in applying those provisions and</p>	
--	--	--	--

		<p>allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development.</p> <p>The setback from Waverly Parade to the nearest proposed building is approximately 13m, some 5m greater than the minimum specified by section C3.6.2 (discussed later). Whilst the land's front boundary is 11% shorter than required by section C3.2.2 (a) of the DCP, its width at the proposed front building line is 4% short, and the proposed development is considered to make satisfactory provision for vehicle access and front setback landscaping. Most importantly, despite not meeting the numerical requirement of section C3.2.2 (a), the proposed development is considered satisfactory with respect to the overarching objectives</p>	
--	--	---	--

		<p>specified by section C3.2.1.</p> <p>Noting the above, it is considered warranted to allow a variation of the numerical requirement of section C3.2.2 (a) in this instance.</p> <p>Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the controls specified by section C3.2.2.</p>	
--	--	---	--

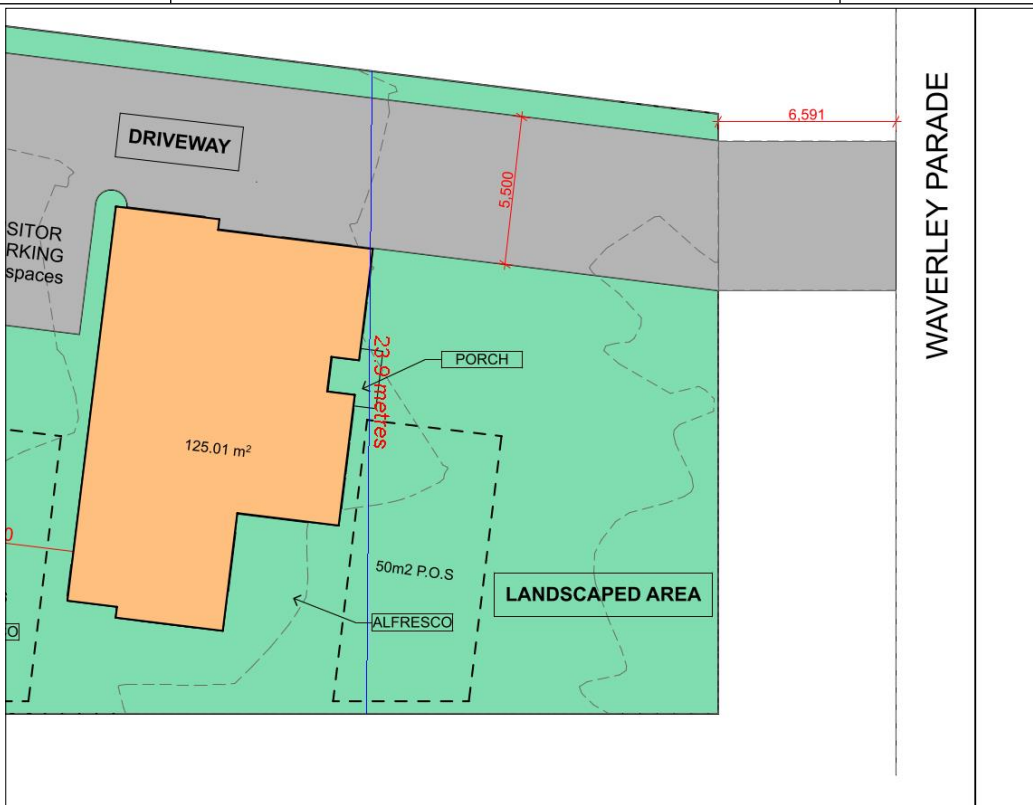


Figure 6: Approximately 24m lot width at proposed front building line.

Section C3.3—Site planning			
Provision	Control	Discussion	Compliance
Section C3.3.1—Objectives	<ul style="list-style-type: none"> (a) To provide a high level of amenity for new medium density residential development. (b) To maintain the amenity of existing residential development. (c) To ensure that medium density housing provides a street frontage compatible with that already existing. (d) To retain any significant landscape features on the site. (e) To minimise the dominance of garaging and vehicular circulation areas on the streetscape. (f) To provide continuous areas of deep soil planting in residential areas. (g) To provide and maintain mid-block street canopy. 	<p>Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the objectives specified by section C3.3.1.</p>	Yes.
Section C3.3.2—Specific controls	<p>Council shall not grant consent for medium density housing development unless satisfied that the area and configuration of the land concerned:</p> <ul style="list-style-type: none"> (a) Maximises the number of dwellings that address a public street rather than internal driveways. (b) Maintains existing street patterns to all streets addressed by the development. (c) Avoids long, unbroken building forms greater than 25 metres in length. (d) Limits the proportion of dwellings which are more than 50 metres from a public street. (e) Uses landscape plantings to reduce the apparent bulk of new dwellings when viewed from the street or adjoining land. (f) Minimises the dominance of areas set aside for the vehicular circulation and storage. (g) Ensures buildings are designed and sited so as to preserve the visual and acoustic privacy of adjoining residential development and to ensure adequate privacy of dwellings and courtyards within the proposed development; (h) Locates dwellings, driveways and open space so as to allow for the retention of existing natural and cultural features on the site. 	<p>Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the controls specified by section C3.2.2.</p>	Yes.

	(i) Orients and configures dwellings to respond to opportunities for good solar access.		
Section C3.4—Density and site coverage			
Provision	Control	Discussion	Compliance
Section C3.4.1—Objectives	To ensure: (a) the site is developed to provide adequate amenity for future residents. (b) the development maintains the amenity of existing residents. (c) the impacts upon existing streetscapes of the local area are minimised.	Provided all recommended consent conditions are complied with, the proposed development is expected to provide adequate amenity for its residents and unlikely to have a significant negative impact on the amenity of surrounding residents or on streetscapes in the locality.	Yes
Section C3.4.2—Specific controls	Council will not grant consent for medium density housing development unless satisfied that the area and configuration of the land concerned: (a) Respects the maximum density permissible for medium density housing within the relevant sub-zone; (b) Limits development for the purposes of residential flat buildings to land identified in sub-zone C. (c) Any proposals that seek to exceed the maximum floor space ratios set out in sub clause (a) above must demonstrate to the satisfaction of Council that despite the additional density, the proposed development: (i) satisfies all relevant controls and guidelines; (ii) will not detract from the quality of the existing streetscape or the character of the local area; (iii) will not compromise the amenity of the proposed or existing dwellings. (iv) Applicants undertaking residential development in a defined residential precinct	The land is in sub-zone R3-B, and is therefore subject to a maximum floor space ratio (FSR) of 0.5:1. The land's area is 1769m ² , so the proposed development's gross floor area (GFA) must not exceed $0.5 \times 1769\text{m}^2 = 884.5\text{m}^2$. The proposed development's GFA is approximately 370m ² , so its FSR is approximately 0.21:1.	Yes.

	must also consult the provisions of that Area for any variation to these density controls.		
Section C3.5—Street presentation			
Control	Discussion		Compliance
Dwellings nearest the street should maintain the same dwelling orientation as in the existing street pattern. Consideration should be given to lower building heights on dwellings fronting the street, with higher rooflines more towards the centre of the development.	The proposed development is considered satisfactory with respect to the controls specified by section C3.5.		Yes.
Section C3.6—Front setbacks			
Provision	Control	Discussion	Compliance
Section C3.6.1—Objectives	(a) Ensure the front setback of new development is consistent with the existing streetscape. (b) Preserve existing vegetation in front gardens where possible, or provide a detailed Landscape Plan for appropriate replacement. (c) Provide deep soil landscaping within the front setback area to support trees and vegetation to enhance the streetscape and provide privacy.	The proposed development is considered satisfactory with respect to the objectives specified by section C3.6.1.	Yes.
Section C3.6.2—Specific controls	(a) Setbacks shall be measured to the outermost projection of the building excluding balconies. (b) Front setbacks of new development will be consistent with those of the buildings immediately adjacent to the site and to those in the immediate vicinity. (c) Where properties immediately adjacent to the proposed development do not feature a consistent front setback:	The proposed development's setback distance from Waverly Parade to the nearest (single storey) building is approximately 13m. Existing low density residential	Yes.

	<ul style="list-style-type: none"> (i) If the difference between existing front setbacks is 2 metres or greater, new buildings can adopt a setback within the range established by adjacent buildings; (ii) If the difference between existing front setbacks is greater than two (2) metres, new buildings will adopt an average of the existing setbacks; (d) In the case where adjacent setbacks are not relevant, the minimum front setback for: <ul style="list-style-type: none"> (i) Residential flat buildings will generally be nine (9) metres (ii) Multi dwelling housing, other than residential flat buildings, will generally be eight (8) metres. (e) Secondary setbacks on corner blocks will be the subject of a contextual approach and will generally be half the requirement of the primary setback. (f) Proposals that seek to vary the front setback controls may do so only if it can be demonstrated to the satisfaction of Council that the proposed variation: <ul style="list-style-type: none"> (i) will enhance the quality of the existing streetscape, and (ii) will not compromise amenity of the any proposed or existing dwellings immediately adjacent to the proposed development. (g) Where it is common practice in the streetscape to have some variation in the alignment of the front setback, new development should reflect this pattern. 	<p>accommodation building setbacks in the immediate locality vary between around 6m and 28m. Notably, Council granted development consent 18/0444 in December 2018 for a multi dwelling housing development comprising four dwellings on a corner lot at 17 Oxley Drive, around 100m west of the subject land, with buildings set back from the land's primary frontage by as little as around 2m.</p> <p>Given the above, it is considered to adopt 8.0m as the minimum setback permitted by the DCP for the land. The proposed development exceeds that adopted minimum by around 5m.</p>	
Section C3.7—Side setbacks			
<p>Section C3.7.1—Objectives</p>	<ul style="list-style-type: none"> (a) Provide adequate building separation between new and existing development for privacy, ventilation, fire safety and solar access (b) Provide breaks between dwellings that give individual identity and visual interest, and maintain the detached housing character. (c) Ensure consistent patterns of built and unbuilt spaces within the streetscape. 	<p>The proposed development is considered satisfactory with respect to the objectives specified by section C3.7.1.</p>	<p>Yes.</p>

	(d) Provide sufficient area on the site for deep soil areas and landscaping.		
Section C3.7.2— Specific controls	<p>(a) Setbacks shall be measured to the outermost projection of the building excluding balconies.</p> <p>(b) Side setbacks for new development will be generally consistent with those of existing development in the immediate adjacent context.</p> <p>(c) Where there are inconsistent side setbacks in the immediate context of the proposed development, Council will assess the proposed setbacks of the new development on merit, taking into consideration potential impacts on:</p> <p>(i) The character of the existing streetscape;</p> <p>(ii) Privacy of the proposed dwellings and existing adjacent dwellings;</p> <p>(iii) Solar access to the proposed dwellings and existing dwellings.</p> <p>(iv) Building Code of Australia issues relating to Fire Safety.</p> <p>(d) Notwithstanding the above controls, Council's standard minimum side setbacks for medium density housing are:</p> <p>(i) 2 metres where development is up to 3 metres in height above natural ground level, or</p> <p>(ii) 3.5 metres where development is more than 3 metres in height above natural ground level.</p> <p>(e) Notwithstanding the above controls, Council's standard minimum side setback for residential flat buildings is 1.5 metres plus the height of the building metres.</p>	<p>The proposed development's smallest setbacks from the land's western and eastern side boundaries are respectively 3.51m and around 3.1m.</p> <p>Side boundary setbacks of existing low density residential accommodation development in the locality vary widely. Notably, Council granted development consent 18/0444 in December 2018 for a multi dwelling housing development comprising four dwellings on a corner lot at 17 Oxley Drive, around 100m west of the subject land, with buildings set back from the land's side boundaries by as little as around 2m.</p> <p>Noting the above, the proposed development's side setbacks are considered satisfactory with respect to the specific controls</p>	Yes.

		specified by section C3.7.2.	
Section C3.8—Rear setbacks			
Provision	Control	Discussion	Compliance
Section C3.8.1—Objectives	<ul style="list-style-type: none"> (a) Provide opportunities for active and passive open space that are both private and allow good solar access. (b) Ensure sufficient area on the site for mature trees and vegetation. (c) Ensure mid block tree canopy can be established or conserved. 	The proposed development is considered satisfactory with respect to the objectives specified by section C3.8.1.	Yes.
Section C3.8.2—Development controls	<ul style="list-style-type: none"> (a) Setbacks shall be measured to the outermost projection of the building excluding balconies. (b) Rear setbacks of new development will be generally consistent with those of existing adjacent development. (c) In the case of inconsistent rear setbacks in the immediate context of the proposed development, Council will assess the proposed setbacks of the new development on merit, taking into consideration impacts on: <ul style="list-style-type: none"> (i) Existing vegetation and natural features on the site; (ii) Privacy of the proposed dwellings and existing dwellings; (iii) Solar access to the proposed dwellings and existing dwellings. 	<p>The proposed development's ground and upper storeys are set back approximately 8m from the land's rear boundary.</p> <p>The rear setbacks of existing low density residential accommodation developments in the locality vary widely, some exceeding 20m, down to as little as around 9m. Notably, Council granted development consent 18/0444 in December 2018 for a multi dwelling housing development comprising four dwellings on a corner lot at 17 Oxley Drive, around 100m west of the subject land, with buildings set back from the land's rear boundary by as</p>	Yes.

		<p>little as around 5m at ground level and around 6m for its upper storey.</p> <p>Noting no upper storey living area windows in the proposed development face the land's rear boundary, the proposed development's rear boundary setback is considered satisfactory with respect to the controls specified by section C3.8.2.</p>	
Section C3.9—Building height			
Provision	Control	Discussion	Compliance
Section C3.9.1—Objectives	<ul style="list-style-type: none"> (a) To achieve a medium density residential character which respects existing development patterns across the locality while still providing opportunities for medium density housing. (b) To manage building heights to minimise adverse impacts on new and existing residents. (c) To minimise overshadowing of neighbouring properties by new development. (d) To minimise disruption of view and loss of privacy to existing development. 	The proposed development is considered satisfactory with respect to the objectives specified by section C3.9.1.	Yes.
Section C3.9.2—Specific controls	<ul style="list-style-type: none"> (a) The maximum height of a medium density development, other than a residential flat building, shall not exceed two (2) storeys. (b) The maximum height of a residential flat building shall not exceed three (3) storeys, the third storey being located within the roofline. (c) Notwithstanding subclauses (a) and (b) above, within a Heritage Conservation Area, or Draft Conservation Area, the maximum height of a medium density development shall not exceed one (1) storey with additional rooms permissible within the roof spaces of buildings, where the inclusion of such additional rooms does not result in a roof form that is incompatible with the desired streetscape character. (d) The roof pitch shall reflect the dominant roof forms of the existing streetscape. 	The proposed development satisfies the controls specified by section C3.9.2.	Yes.

	(e) On steeper sloping sites, applicants shall consider the stepping of buildings, or the provision of underfloor garages and non-habitable rooms, in order to reduce the overall height and bulk of development. The following diagram illustrates this approach.		
Section C3.10—Dwelling orientation			
Provision	Control	Discussion	Compliance
Section C3.10.1—Objectives	(a) Ensure proposed and existing dwellings receive adequate sunlight to living areas of dwellings and private open space. (b) Maximise opportunities for passive heating and cooling of dwellings.	The proposed development is considered satisfactory with respect to the objectives specified by section C3.10.1.	Yes.
Section C3.10.2—Development controls	(a) For any new dwelling, a living area and 50% of the primary private open space of that dwelling must receive a minimum of 3 hours of direct sunlight on June 21st. (b) Any new development must not reduce the solar access currently enjoyed in living areas and 50% of the primary private open space of adjacent dwellings so be less than 3 hours of direct sunlight on June 21st.	Each proposed dwelling's design and orientation is considered to provide for sufficient solar access to living areas on the winter solstice. Shadow diagrams accompanying the application, reproduced in Figure 7 , indicate the proposed development will not cause solar access to living areas and private open space on adjoining properties to be reduced to below three hours on the winter solstice.	Yes.

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 1 JUNE 2022**



Figure 7: Shadow diagrams accompanying application.

Section C3.11—Building design			
Provision	Control	Discussion	Compliance
Section C3.11.1—Objectives	<ul style="list-style-type: none"> (a) Ensure the external appearance of multi dwelling housing provides a high standard of urban design and residential amenity. (b) Ensure the layout of multi dwelling housing provides residents with a high standard of amenity and safety. (c) Ensure the internal layout of multi dwelling housing provides amenity, safety and comfort to residents. (d) Ensure the design minimises the need for the artificial heating and cooling of dwellings. 	The proposed development is considered satisfactory with respect to the objectives specified by section C3.11.1.	Yes.
Section C3.11.2—Controls	<ul style="list-style-type: none"> (a) The design and arrangement of the buildings is to take proper and sensitive account of such natural features of the site as slope, vegetation, aspect, drainage and the like. (b) Buildings shall be designed and sited to be energy efficient by making best use of natural lighting, heating and ventilation wherever practicable. Landscaping shall also be designed to increase the energy efficiency of the dwellings. (c) Wherever practicable, buildings shall be orientated to the north in order to allow efficient use of solar energy. Excessive overshadowing of north facing walls and roofs by adjoining buildings is to be avoided through proper design and siting of dwellings. (d) The bulk, scale, height, dwelling type, and construction material of the development shall be such that it is compatible with, and does not affect the amenity of, existing or future residential development in the vicinity. (e) Particular attention shall be given to the effect of shade on adjoining properties. Sunlight and shade indications shall accompany a development application where shade from a proposed residential flat building will infringe upon adjoining property. (f) The development shall be designed to provide attractive on-site visual variation by use of staggered building setbacks, variation of roof lines, curved driveways and access roads, landscaping and the like. (g) Dwellings should not be identical in design and façade treatment, but should be compatible with each other. If only a limited number of dwelling designs are to be used they should be so 	The proposed development is considered satisfactory with respect to each of the controls specified by section C3.11.2.	Yes.

	<p>arranged on the site that different façade are presented to any public place, communal area, or adjoining residential development.</p> <p>(h) All buildings in the development shall be generally of brick, brick veneer or masonry construction, allowing that a proportion of the external cladding may be of special feature material.</p> <p>(i) Windows of habitable rooms shall be screened or adequately separated from communal areas, windows of other dwellings and adjoining private open space within and outside the proposed development.</p> <p>(j) Buildings shall be sited to ensure that courtyard areas of the same and adjoining dwelling receive direct sunlight during the major part of daylight hours.</p> <p>(k) Courtyard walls, walls of buildings, carport screen walls and the like shall be regarded as acceptable screening. Physical separation distances may vary depending on land slope, angle of vision from the windows, window height, degree of overlooking and the like.</p> <p>(l) A balcony shall not encroach more than 2 metres or 25 per cent, whichever is the lesser, on the setback to the front, rear and side boundaries. No part of any means of enclosure of a balcony shall exceed a height of 1.2 metres.</p> <p>(m) Living areas and private open spaces shall be located towards the north and west to maximise solar access to these areas.</p> <p>(n) Bedrooms, kitchens and utility rooms shall be located in those parts of a dwelling where solar access is reduced.</p>		
Section C3.12—Dwelling mix			
Provision	Control	Discussion	Compliance
Section C3.12.1—Objectives	<p>(a) Provide a range of dwellings types and sizes.</p> <p>(b) Arrange that mix on the site so as to maximise resident amenity and minimise streetscape impacts.</p>	The proposed development, including two three-bedroom dwellings and two two-bedroom dwellings, is considered satisfactory with respect to the objectives specified by section C3.12.1.	Yes.
Section C3.12.2—Controls	(a) Multi dwelling housing that proposes more than eight (8) dwellings should provide a mix of dwelling sizes, both in terms of both the number of bedrooms and the size of the rooms.	The proposed development is considered to satisfy the	Yes.

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 1 JUNE 2022**

	(b) All multi dwelling housing development should provide a variety of private open space areas. (c) Buildings should be arranged on the site to maximise resident amenity and minimise adverse streetscape impacts.	relevant controls specified by section C3.12.2.	
Section C3.13—Privacy			
Provision	Control	Discussion	Compliance
Section C3.13.1—Objectives	To encourage new multi dwelling housing development to provide privacy between dwellings within the development as well as between the development and existing adjoining development.	The proposed dwellings and associated private open spaces are considered satisfactorily separated and/or distanced from each other and from adjoining dwellings and private open space to ensure satisfactory privacy.	Yes.
Section C3.13.2—Development controls	(a) Windows are to be designed and located so as to reduce direct overlooking into an adjoining dwelling. (b) Where a transparent window in a second storey is to be located less than 9 metres from an adjoining dwelling, the window must: (i) be offset from the edge of any windows in the adjoining dwelling by a distance of 0.5 metres; or (ii) have a sill height of at least 1.7 metres above the floor or have fixed obscure glazing in any part of the window less than 1.7 metres above the floor.	The proposed development is considered to satisfy each of the relevant controls specified by section C3.13.2.	Yes.
Section C3.14—Materials and colours			
Provision	Control	Discussion	Compliance
Section C3.14.1—Objectives	To encourage the use of materials in the construction of residential developments that are compatible with adjoining dwelling houses and the streetscape in terms of type, colour and form.	The proposed development's exterior materials are considered satisfactory with respect to the objective specified by section C3.14.1.	Yes.
Section C3.14.2—Development controls	The use of zincalume is not permitted and galvanised steel may only be used with specific Council consent.	Provided all recommended consent conditions are complied with,	Yes.

		the proposed development is satisfactory with respect to the control specified by section C3.14.2.	
Section C3.15—Landscaped open space			
Provision	Control	Discussion	Compliance
Section C3.15.1—Objectives	<p>The controls described below are intended to achieve the following objectives:</p> <ul style="list-style-type: none"> (a) Provides all new development with at least the minimum requirement for open space, located to enhance the streetscape, neighbouring residential amenity and on-site resident enjoyment. (b) Provides several generously designed outdoor spaces, located to maximise solar access. (c) Provides both passive and active recreation in private open space areas by providing a combination of hard surface, landscaping and deep soil areas. (d) Provides sufficient site area to support mature trees and vegetation and allow for water infiltration. (e) Retains and protects individual remnant native specimens or identified Ecological Communities scattered throughout the locality. (f) Retains existing natural features on the site that contribute to the character of the site and/or the local area. (g) Seeks to create, maintain or enhance existing corridors of mature landscaping throughout the length of the residential block in order to contribute to existing tree canopies and wildlife habitats. (h) Protects the plantings on any site which is, or is in the vicinity of, an Item (or Draft Item) of Heritage or is within a Heritage Conservation Area or Draft Area. (i) Creates attractive, landscaped front gardens that include a number of small trees and shrubs. (j) Provide each dwelling with at least the minimum requirement for open space, located to maximise solar access. (k) Ensure ease of movement between the living areas of each dwelling and the private open space associated with it. (l) Encourages the use of the front garden and front of dwelling spaces such as verandahs and porches, for both active and passive recreation. 	The proposed development is considered satisfactory with respect to the objectives specified by section C3.15.1.	Yes.

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 1 JUNE 2022**

	<p>(m) Ensures that the dimensions of verandahs and porches are sufficient to make a legitimate contribution to private open space.</p> <p>(n) Ensures ease of movement between living areas of dwellings and private open space.</p>		
<p>Section C3.15.2— Development controls</p>	<p>(a) 50% of any site developed for multi dwelling housing shall comprise Open Space and be landscaped to the satisfaction of Council.</p> <p>(b) Landscaping shall be in accordance with a fully documented Landscape Plan prepared by a qualified landscape designer/architect in a minimum scale of 1:100.</p> <p>(c) The Open Space shall include outdoor entertainment areas for resident use;</p> <p>(d) All dwellings shall have a consolidated principal (main) private open space area;</p> <p>(e) All dwellings, other than ground floor dwellings in a residential flat development, shall provide a minimum private open space area of 50 m² with a minimum length of 5 metres;</p> <p>(f) All ground floor dwellings in a residential flat development shall provide a minimum private open space area of 30 m² with a minimum length of 4 metres;</p> <p>(g) All above ground floor dwellings in a residential flat building shall provide a minimum private open space area of 15 m² with a minimum length of 3 metres;</p> <p>(h) Private open space shall be located to maximise solar access;</p> <p>(i) Private open space shall allow for a variety of activities by providing a combination of hard surface, landscaping and deep soil areas.</p> <p>(j) The primary private open space should be located adjacent to, and be immediately accessible from, the primary living area.</p> <p>(k) Where multi dwelling housing is erected on a site having a frontage to a public road, public place or public open space, Council shall require an appropriate treatment of boundaries to those frontages and the whole of the site which remains undeveloped. Such treatment may include the planting of trees, shrubs, plants and lawns (the species of which may be specified by Council), the erection of fences, walls and screens, or the exclusion thereof;</p> <p>(l) The area of the site between the building line and the street alignment shall be devoid of any structure, concrete area, or hard standing surface other than that which is necessary to gain access to the residential flat building</p> <p>(m) Landscape plantings will not overshadow neighbouring properties or block solar access.</p>	<p>The landscape plan accompanying the application indicates approximately 950m², or 54%, of the land is proposed to comprise open space. A private open space area exceeding 50m², including an area with dimensions exceeding 5.0m x 5.0m, is provided to each proposed dwelling and is directly accessible from an internal living area. Each proposed private open space area is expected to receive satisfactory solar access.</p> <p>The proposed development is considered satisfactory with respect to each of the controls specified by section C3.15.2.</p>	<p>Yes.</p>

	<p>(n) Particular provision shall be made for the landscaping of uncovered parking areas, with adequate screening from the street where appropriate.</p> <p>(o) All plantings shall be sufficiently advanced to provide an immediate landscaping effect.</p> <p>(p) Provision shall be made to ensure that adequate landscape management systems are available to ensure that plantings can be properly maintained to allow them to not just survive, but flourish.</p> <p>(q) Adequate arrangements shall be made for the restoration of the area of any public space, including a public footpath, pedestrian plaza adjoining the proposed development to the extent that such area has been damaged by the development.</p> <p>(r) Driveways shall be located a minimum of one (1) metre from any side boundary.</p> <p>(s) The minimum distance of any driveway/vehicular crossover is to be 3 metres from any street tree.</p> <p>(t) Where no street tree is currently in the footpath or verge area adjoining the site, a street tree compatible with the predominant street tree species in the street shall be provided at the applicant's expense. This will assist in softening the appearance of new development while also improving the aesthetic appeal of the public space.</p> <p>(u) A tradesmen's toilet, independent of a sole occupancy unit, will be required where 10 or more dwellings are intended on a site. The toilet shall be appropriately screened from any public road, public place or public open space.</p>		
Section C3.16—Car parking, garaging, driveways and common paved areas			
Provision	Control	Discussion	Compliance
Section C3.16.1—Objectives	<p>(a) To provide adequate off street parking for residents and visitors.</p> <p>(b) To minimise the dominance of garages in the streetscape.</p> <p>(c) To minimise the impact of garages, parking areas and areas for vehicular circulation with medium density developments.</p> <p>(d) To provide an attractive form of common driveway and paving areas to provide streetscape appeal and on site amenity.</p>	The proposed development is considered satisfactory with respect to the objectives specified by section C3.16.1.	Yes.
Section C3.16.2—Development controls	<p>(a) Off street parking will be provided at the following rates:</p> <p>(i) Dedicated resident parking at a rate of 1 space per 1 and 2 bedroom dwellings</p>	Each of the two two-bedroom dwellings in the proposed	Yes.

	<ul style="list-style-type: none"> (ii) Dedicated resident parking at a rate of 2 spaces per 3 or more bedroom dwellings (iii) Dedicated visitor parking at a rate of 1 space per 3 dwellings (rounded up to the nearest whole number) (b) Council shall require additional visitor parking spaces to be provided in areas where opportunities for on-street visitor parking are deemed to be insufficient. (c) The width of driveways will be limited to 25% of the frontage to a public street, but must still meet the minimum requirements of standard drawings SD107 for single driveways and SD168 for other driveways as shown in Part A of this Plan. (d) Garages shall be located so they do not dominate the streetscape. (e) Where possible, changes in level across a site will be used to provide basement or sub-basement garaging. (f) No parking space, covered or uncovered, shall be provided between the building line and the frontage to the site. At least one parking space per dwelling shall be a covered parking space. (g) Where garages form part of the dwelling, they shall be located at least 1.2 metres behind the main building façade and should not exceed more than 40% of the dwelling frontage. (h) Double garages to the street frontage shall be avoided in preference to tandem parking or single garage and car port options. (i) Where garages are provided or where any wall abuts a parking space and dimensions of the car parking space shall be greater than otherwise required, a minimum width of 3.6 metres shall apply to any single undercover garage. Adequate clearance and additional impact reinforcement to buildings will apply where undercover car parking is envisaged. (j) Driveway and verge crossing materials shall complement the current streetscape, and shall be preferably of compacted earth, gravel, stone cobble or plain concrete surface. Strong textures and bright colours, including stamped concrete, shall not be permitted on driveways or verge crossings. (k) Unrelieved 'gun barrel' driveways will not be permitted. If the alignment of internal access ways cannot be varied, visual relief shall be provided by appropriate landscaping. (l) In the case of a residential flat building requiring in excess of four car parking spaces with a common access way, sufficient space shall be 	<p>development includes a single garage. Each of the two three-bedroom dwellings in the proposed development includes a double garage. Each garage is obscured from view from Waverly Parade. However, each proposed garage is smaller than required to accommodate a standard car and three domestic garbage bins as proposed.</p> <p>A standard car parking space is 5400mm long. The proposed development drawings accompanying the application indicate domestic garbage bin storage within each proposed garage. A standard 240L domestic garbage bin's dimensions are around 730mm x 585mm.</p> <p>Based on the drawings accompanying the application, the double garages in the two proposed three-bedroom dwellings are 5800mm long,</p>	
--	---	--	--

	<p>provided so that no reverse manoeuvre on to a road is required.</p> <p>(m) Except where the Roads and Traffic Authority or Police require otherwise, access driveways and manoeuvring areas shall be the minimum widths and other dimensions as outlined in Council's relevant technical specifications.</p>	<p>but proposed internal garbage bin storage reduces their effective length to 5070mm, which is 330mm short of the minimum length needed to accommodate a car and three garbage bins.</p> <p>The drawings accompanying the application indicate the single garages in the proposed two-bedroom dwellings 3 and 4 are respectively 5774mm and 5750mm long. The proposed storage of three domestic garbage bins in each garage reduces their effective lengths respectively to 5044mm and 5020mm, or 356mm and 380mm short of the minimum length needed.</p> <p>It appears practicable for domestic garbage bins to be stored outside each of the proposed dwellings, within their proposed private open space areas. A recommended consent condition and corresponding</p>	
--	---	---	--

		<p>recommended amendments to the proposed landscape plan therefore require a designated outdoor domestic garbage bin storage area to be allocated to each proposed dwelling.</p> <p>The DCP requires the proposed development to provide at least $4/3 = 1.3$ (rounded up to 4) visitor car parking spaces. The proposed development includes two off street visitor car parking spaces as required.</p> <p>All proposed covered and uncovered off street car parking spaces are more than 1.2m behind the proposed front building line.</p> <p>The land's frontage to Waverly Parade is 22.25m long. The proposed development's vehicle access driveway is 5.5m wide, i.e. 24.7% of the land's frontage length.</p> <p>Provided all recommended consent conditions are complied with,</p>	
--	--	---	--

		the proposed development is considered satisfactory with respect to the development controls specified by section C3.16.2.	
Section C3.17—Pedestrian access			
Provision	Control	Discussion	Compliance
Section C3.17.1—Objectives	(a) To provide a clear sense of address for all dwellings in all forms of residential development. (b) To provide safe pedestrian access for all forms of residential development.	The proposed development is considered satisfactory with respect to the pedestrian access objectives specified by section C3.17.1.	Yes.
Section C3.17.2—Development controls	(a) External common areas such as pathways and entrances shall be provided with appropriate artificial lighting at low levels to provide safe access at night. (b) Buildings adjacent to public streets or spaces are to be designed to allow casual surveillance and should have at least one habitable room window facing that area.	A recommended consent condition specifies no construction certificate shall be granted for any building work in the proposed development unless the certifying authority is satisfied by information accompanying the application for construction certificate that low level outdoor lighting shall be provided to vehicular and pedestrian traffic areas in the development without contravening the relevant provisions of Australian / New Zealand Standard	Yes.

		AS/NZS 4282:2019 Control of the obtrusive effects of outdoor lighting. Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the development controls specified by section C3.17.2.	
Section C3.18—Waste collection			
Provision	Control	Discussion	Compliance
Section C3.18.1—Objectives	<ul style="list-style-type: none"> (a) To provide for on-site collection of waste and recycling material. (b) To provide a storage bin area which minimises potential pollution and odour problems for residents and neighbours. (c) To provide a bin storage area which minimises streetscape impacts, but still allows access to residents and facilitates movement to the kerb on waste and recycling collection days. 	Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the objectives specified by section C3.18.1.	Yes.
Section C3.18.2—Development controls	<ul style="list-style-type: none"> (a) Waste and recycling materials storage facilities shall be provided for either individual bins or larger communal (or shared access) bins. (b) Waste and recycling receptacles are to be located to the satisfaction of Council and the area designed so as to be screened from any public road, public place or public open space; (c) Waste and recycling materials storage areas shall be located behind the front building line. (d) Waste and recycling materials storage areas shall be adequately screened to minimise impacts for residents and neighbours. (d) Where on-site collection is possible, provision for on-site manoeuvrability to enable vehicles to enter and leave the site in a forward motion. 	Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the development controls specified by section C3.18.2.	Yes.
Section C3.19—Adaptable housing			

Provision	Control	Discussion	Compliance
<p>Section C3.19.1— Objectives</p>	<p>a) To recognise and provide for Adaptable Housing in all new medium density residential developments. b) To provide a safe and comfortable home suitable for any occupants irrespective of age or the nature of their disability.</p>	<p>Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the objectives specified by section C3.19.1.</p>	<p>Yes.</p>
<p>Section C3.19.2— Development controls</p>	<p>a) For all medium density developments, not less than one for every three dwellings, or part thereof, will be constructed to comply with not less than Class C level of Australian Standard 4299 – Adaptable Housing. b) In respect of residential flat development, all dwellings located on the ground floor will be constructed to comply with not less than Class C level of Australian Standard 4299 – Adaptable Housing.</p>	<p>A recommended consent condition specifies no construction certificate shall be granted for any building work in the proposed development unless the certifying authority is satisfied by information accompanying the application for construction certificate that at least two of the four proposed dwellings will be constructed to comply with not less than Class C level of Australian Standard 4299 – Adaptable Housing.</p> <p>Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with</p>	<p>Yes.</p>

		respect to the development controls specified by section C3.19.2.	
Section 17—Medium density precinct			
Section C17.2—Preferred development outcomes			
Control	Discussion		Compliance
<p>Council seeks to ensure development:</p> <p>(a) provides sensitive redevelopment that reflects the architectural form and scale of surrounding existing development.</p> <p>(b) maintains the mature landscape character so distinctive of Mittagong including both street trees and private gardens.</p>	<p>The proposed development is considered satisfactory with respect to the preferred development outcomes specified by section C17.2.</p>		Yes.
Section C17.3—Specific development controls			
Control	Discussion		Compliance
<p>Council requires that all future development shall:</p> <p>(a) ensure that the layout of future</p>	<p>Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the specific development controls specified by section C17.3.</p>		Yes.

<p>development complies with the objectives and guidelines set out within the Site Analysis section in Part A of this Plan.</p> <p>(b) comply with the relevant controls of Part C4 above</p> <p>(c) ensure that the heritage significance, visual prominence, landscape setting and vistas to and from heritage items and other contributor y buildings, structures and places are maintained .</p> <p>(d) retain existing buildings, structures and landscape features that contribute</p>		
--	--	--

<p>positively to streetscape quality and the overall garden character of the neighbourhood.</p> <p>(e) incorporate architectural features, (including, but not limited to, roof forms, window positioning and proportioning, verandah treatment, fencing, and building proportions) that are reflective of any existing development, to be retained on the land or compatible with other existing architecture (including heritage and other contributory buildings) occupying adjoining</p>		
--	--	--

<p>or nearby land.</p> <p>(f) ensure that the extent, scale and configuration of new residential development reflects a discrete and unobtrusive architectural outcome, to remain compatible with the established spatial pattern of development within the precinct.</p> <p>(g) avoid large and unarticulated massing of walls and roofs.</p> <p>(h) incorporate simple architectural design treatments, materials, colours and finishes that result in a harmonious relationship with</p>		
---	--	--

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 1 JUNE 2022**

<p>existing development on adjoining and nearby land.</p> <p>(i) incorporate provisions, to minimise the dependency on public infrastructure systems where capacity to service the development is considered by the Council to be less than optimal.</p>		
--	--	--

8. Environmental Assessment

The application has been assessed having regard to Section 4.15 (1) of the Environmental Planning and Assessment Act 1979.

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a) (i) – The relevant provisions of any environmental planning instrument that applies to the land.	See discussion in section 6.
Section 4.15 (1) (a) (ii) – The relevant provisions of any proposed instrument that applies to the land.	No proposed instrument is specifically applicable to the land.
Section 4.15 (1) (a) (iii) – The relevant provisions of any development control plan that applies to the land.	See discussion in section 7.
Section 4.15 (1) (a) (iiia) – The relevant provisions of any planning agreement	No planning agreement or draft planning agreement applies to the land.

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 1 JUNE 2022**

or draft planning agreement that applies to the land.	
Section 4.15 (1) (a) (iv) – The provisions of the Regulations that apply to the land for the purposes of section 4.15 (1).	The application has been considered with regard to the relevant provisions of Division 1 of Part 4 of the Environmental Planning and Assessment Regulation 2021, including: <ul style="list-style-type: none"> Section 61—Additional matters that consent authority must consider Having regard to section 61 (1), a recommended consent condition specifies all demolition work in the development shall be carried out in compliance with the relevant provisions of Australian Standard AS 2601—2001: The Demolition of Structures.
Section 4.15 (1) (b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality.	Provided all recommended consent conditions are complied with, the proposed development is not expected to have any significant negative environmental, social or economic impact.
Section 4.15 (1) (c) – The suitability of the site for the development.	The proposed development is considered compatible with the locality’s desired and changing character and amenity. No site attributes are considered to render the land unsuitable for the proposed development.
Section 4.15 (1) (d) – Any submissions made in accordance with the Act or the Regulations.	See discussion in section 5.
Section 4.15 (1) (e) – The public interest.	Provided all recommended consent conditions are complied with, there is not considered to be any overriding public interest either opposing or supporting the proposed development.

9. Conclusion

Provided all recommended conditions of consent are complied with, development application 22/0223 is considered satisfactory with respect to the matters for consideration specified by section 4.15 (1) of the Environmental Planning and Assessment Act 1979.

ATTACHMENTS

1. Draft conditions and contributions advice [6.1.1 - 37 pages]
2. Locality map [6.1.2 - 1 page]
3. Aerial image [6.1.3 - 1 page]
4. CONFIDENTIAL REDACTED - 22-0223 Application and accompanying docs [6.1.4 - 174 pages]
5. CONFIDENTIAL REDACTED - 22-0223 Submissions in response to original notification [6.1.5 - 78 pages]
6. CONFIDENTIAL REDACTED - 22-0223 Submissions in response to second notification [6.1.6 - 67 pages]

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

DEVELOPMENT APPLICATION 22/0223 DRAFT CONDITIONS OF DEVELOPMENT CONSENT

ADMINISTRATION CONDITIONS

1. Development Description

Development consent is granted in accordance with Council's notice of determination for demolition of a building and works, erection of buildings and carrying out of works for the purpose of multi dwelling housing, and subsequent subdivision to create four lots and common property under Strata Title.

Reason: To confirm the scope of Council's consent.

2. Development in Accordance with Plans and Documents

Except where otherwise specified by conditions of consent, the development shall be carried out in accordance with the information accompanying the development application, including the stamped documents set out in the following table and any notations or amendments made by Council.

Document Title	Reference	Dated	Prepared By
Statement of Environmental Effects.	24 Waverley Pde Mittagong multi dwelling SEE.	July 2021.	Lee Environmental Planning (author Scott Lee).
Letter in response to request for additional information.	22/0223 2021-11-17 Letter.	17 November 2021.	
Bushfire Assessment Report.	22/0223 2021-03-19 Bushfire Assessment Report.	19 March 2021.	Australian Bushfire Solutions (author Deborah Dawson).
Preliminary Arboricultural Impact Assessment.	Turner-Day - 24 Waverley Parade, Mittagong - VS 2021, Revision 5.	11 November 2021.	Arboriculture Consultancy Australia (author Sibone Nadin).
Water Cycle Management Study.	20063_WCMS03, Issue 01.	22 November 2021.	Novati Consulting Engineers (author SC).
Proposed Site Plan.	Drawing No A-02.	29/11/21.	Solis Haus (drawn by JD).
Proposed Strata Plan.	Drawing No A-03.		
Ground Floor Plan (Cottage 1 & 2).	Drawing No A-04.	12/11/21.	
First Floor Plan (Cottage 1 & 2).	Drawing No A-05.	29/11/21.	
E-01 E-02 Elevations (Cottage 1 & 2).	Drawing No A-06.		
E-03 E-04 Elevations (Cottage 1 & 2).	Drawing No A-07.		
S-01 Cottage 1 & 2 Section.	Drawing No A-08.	12/11/21.	
Ground Floor Plan - (Cottage 3).	Drawing No A-11.		

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 1 JUNE 2022**

E-05 - E-08 Elevations (Cottage 3).	Drawing No A-12.		
S-03 Cottage 3 Section.	Drawing No A-12.	18/8/21.	
Ground Floor Plan - Cottage 4).	Drawing No A16.	12/11/21.	
E-09 E-10 Elevations (Cottage 4).	Drawing No A-17.		
S-04 Cottage 4 Section.	Drawing No A-17.	18/8/21.	
Shadow Diagrams Jun - 9am.	Drawing No A-21.	29/11/21.	
Shadow Diagrams Jun - 12pm (1).	Drawing No A-22.		
Shadow Diagrams Jun - 3pm.	Drawing No A-23.		
Landscape Plan.	Drawing No LP-01.	17/5/22.	
Cover Sheet and Specification Notes.	Drawing No DA01, Issue 01.	22/11/21.	Novati Consulting Engineers (drawn by NJ).
Concept Erosion and Sediment Control and Tree Removal Plan.	Drawing No DA02, Issue 01.	22/11/21.	Novati Consulting Engineers (drawn by SC).
Site Catchment Area Plan and 'DRAINS' Model Summary.	Drawing No DA03, Issue 01.	22/11/21.	Novati Consulting Engineers (drawn by NJ).
Concept Stormwater Drainage Plan.	Drawing No DA04, Issue 01.	22/11/21.	Novati Consulting Engineers (drawn by SC).

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

3. Street Tree Retention

Council's consent does not permit removal of the mature deciduous street tree in Waverly Parade adjoining the land, and requires that street tree to be retained and protected throughout the carrying out of works in the development in accordance with the conditions of Council's consent.

Reason: *To ensure retention and protection of the existing mature deciduous street tree in Waverly Parade adjoining the land.*

4. Earthworks

Council's consent does not permit the carrying out of any earthworks other than indicated by the stamped consent drawings, necessitated by conditions of consent, or specified by an environmental planning instrument as not requiring consent.

Reason: *To prevent unauthorised earthworks.*

5. Outdoor Lighting

All outdoor lighting in the development shall comply with the relevant provisions of Australian / New Zealand Standard AS/NZS 4282:2019 Control of the obtrusive effects of outdoor

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

lighting.

Reason: *To minimise negative environmental and amenity impacts of outdoor lighting.*

6. Inconsistency between documents

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

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

7. 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.*

8. Notification of Home Building Act 1989 Requirements

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 licence 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.

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 Certifier (PC) 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.*

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

9. Shoring and Adequacy of Adjoining Property

If any excavation associated with the approved development extends below the level of the base of the footings of a building on an adjoining allotment of land, the applicant must, at the person's own expense, comply with the requirements of clause 98E of the *Environmental Planning and Assessment Regulation 2000*, including:

- (a) Protect and support the adjoining premises from possible damage from the excavation, and
- (b) Where necessary, underpin the adjoining premises to prevent any such damage.

The condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

Details shall be submitted to the Accredited Certifier prior to the issue of a Construction Certificate.

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

10. 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 Certifier (PC) 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

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

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 Principal Certifier (PC).
- 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 Certifier (PC) 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.*

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

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

11. 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.

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 Certifier (PC), 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.*

12. Amendments to Approved Plans

No construction certificate shall be granted for any building work in the development unless the certifying authority is satisfied by information accompanying the application for construction certificate that an outdoor domestic garbage bin storage area will be provided to each dwelling in in the development as indicated by amendments made by Council to the stamped consent drawings, and domestic garbage bins shall not be stored within any garage in the development.

Reason: *To ensure sufficient space is available in garages to accommodate car parking spaces.*

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

13. Surrender of Vegetation Clearing Permit

No construction certificate shall be granted for any building work in the development unless the certifying authority is satisfied by evidence accompanying the application for construction certificate that Council's Vegetation Clearing Permit 21/1459, granted on 28 October 2020 for removal of 12 trees on the land, has been surrendered to Council.

Reason: *To limit further vegetation removal.*

14. Appointment of Principal Certifier (PC)

No work in the development shall be permitted to commence unless:

- (a) A Construction Certificate for the building work has been issued by:
 - (i) the consent authority; or
 - (ii) a Principal Certifier (PC); and
- (b) the person having the benefit of the development consent has:
 - (i) appointed a Principal Certifier (PC) for the building work, and
 - (ii) notified the Principal Certifier (PC) that the person will carry out the building work as an owner-builder, if that is the case, and
- (b1) the Principal Certifier (PC) 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 Certifier (PC) 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.*

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

15. Adaptable Housing

No construction certificate shall be granted for any building work in the development unless the certifying authority is satisfied by information accompanying the application for construction certificate that at least two dwellings in the development will be constructed to comply with not less than Class C level of Australian Standard 4299 - Adaptable Housing.

Reason: *To ensure consistency with the adaptable housing objectives specified by section C3.19.1 of Council's applicable Mittagong Town Plan Development Control Plan.*

16. Pedestrian Lighting

No construction certificate shall be granted for any building work in the development unless the certifying authority is satisfied by information accompanying the application that low-level outdoor lighting will be provided to vehicular and pedestrian traffic areas in the development that complies with the relevant provisions of Australian / New Zealand Standard AS/NZS 4282:2019 Control of the obtrusive effects of outdoor lighting.

Reason: *To ensure on site pedestrian traffic safety.*

17. Developer to provide photos of damage to Council property

No construction certificate shall be granted for any building work in the development unless the certifying authority is satisfied by evidence accompanying the application for construction certificate that the developer has provided Council and the Principal Certifier (PC) with photographs of any existing damage to Council property adjoining the land.

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

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

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

Reason: *To ensure that Council's assets are protected.*

18. Section 68 Local Government Act 1993 Approvals

No construction certificate shall be granted for any building work in the development unless the certifying authority is satisfied by evidence accompanying the application for construction certificate that applications have been made to Council for the following approvals under section 68 of the Local Government Act 1993 and have been and favourably determined:

- Carry out sewerage work
- Carry out water supply work
- Carry out stormwater drainage work.

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

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

19. Section 138 Roads Act 1993 Approval

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

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

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

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

Reason: *Statutory requirement.*

20. 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 7.11 Developer Contributions Plans are applicable to the development:

- Roads & Traffic Management Facilities
- Resource Recovery Centre 2009
- Central Library Facility
- Section 7.11 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 Construction Certificate.

All contributions are indexed quarterly in accordance with upward movements in the

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

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

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

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

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

21. Water Management Act - Certificate of Compliance

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

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

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

Drafting Note: Assessment Officer to determine which plans apply - delete plans not applicable.

- 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:

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

CPI Period	Water DSP	Sewer DSP	Stormwater DSP
To 31 July 2022	\$11,822.93	\$11,461.91	\$3,870.26
Note: The charges shown above are amounts applicable during the stated time period. These amounts will be subject to adjustment quarterly in accordance with upward movements in the Consumer Price Index (CPI) once they become operational. The CPI is published quarterly by the Australian Bureau of Statistics, www.abs.gov.au < http://www.abs.gov.au >.			

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

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

Compliance Certificate

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

Water \$255.00 + Sewer \$255.00 + Stormwater \$255.00 = \$765.00.

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

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

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

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

22. Building Materials & Colour Scheme

No construction certificate shall be granted for any building work in the development unless the certifying authority is satisfied by evidence accompanying the application for construction certificate that a schedule of the development's proposed exterior materials, colours and finishes has been submitted to and approved by Council. In this regard, exterior building materials, colours and finishes shall be recessive in the surrounding landscape as required by Council's applicable Mittagong Town Plan Development Control Plan. The use of Zinalume, galvanised iron, stainless steel, unetched zinc or copper is not permitted.

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

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

23. Construction Management Plan

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

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

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

24. Stormwater - Control of Peak Discharge

No construction certificate shall be granted for any building work in the development unless the certifying authority is satisfied by information accompanying the application for construction certificate that adequate and suitable infrastructure shall be provided to ensure the peak stormwater discharge from the land after development is no greater than the pre-developed peak discharge. This infrastructure shall be designed in accordance with Council's Engineering Design Construction Specifications and Drawings. The information accompanying the application for construction certificate shall include calculations to demonstrate that the post-development peak discharge will not exceed the pre-development peak discharge.

Any on site temporary stormwater storage shall not jeopardise public safety; in this regard the application for construction certificate shall also be accompanied by a risk assessment.

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

25. Detailed Stormwater Drainage System Design

No construction certificate shall be granted for any building work in the development unless the certifying authority is satisfied by evidence accompanying the application for construction certificate that a detailed storm water hydraulic drainage plan for the disposal of storm water from the site, prepared in accordance with Council's Design Standards has been 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.*

26. 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.

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

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.

27. 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.

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

28. Waste Management Plan - Construction Waste

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.

29. Service Relocation

Detailed survey/potholing shall be carried out prior to the issue of Construction Certificate if the proposed services crosses with the existing services. If service relocation works are required as a result of the development, this shall be completed by the applicant at no cost to Council prior to the commencement of the works.

30. Erosion and Sediment Control Plan

No construction certificate shall be granted for any building work in the development unless a detailed erosion and sediment control plan accompanies the application for construction certificate, and the certifying authority is satisfied that the erosion and sediment control plan has been prepared by a suitably qualified person and accords to "Landcom's Blue Book" for sedimentation and erosion control.

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.

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

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

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

31. Landscape Plan

No construction certificate shall be granted for any building work in the development unless the certifying authority is satisfied by evidence accompanying the application for construction certificate that a detailed plan of proposed landscaping has been prepared by a suitably qualified professional to a scale of 1:100 or 1:200, conforming to the stamped consent drawings and all relevant conditions of consent, and has been submitted to and approved by Council.

The detailed plan of proposed landscaping shall indicate:

- Replacement of each tree already removed pursuant to Council's Vegetation Clearing Permit 21/0459 to remove 12 trees from the land, as well as each tree nominated for removal on the stamped consent drawings
- 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,

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

potential views, solar access and privacy for neighbouring development.

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

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

32. Application for a Subdivision Works Certificate

No subdivision work in the development shall be permitted to commence unless a subdivision works certificate has been applied for and issued by Council or a suitably accredited certifier, pursuant to Section 6.13 of the *Environmental Planning and Assessment Act 1979*. The application for a subdivision works certificate needs to be accompanied by detailed engineering plans and specifications and completed design checklists found in Council's Engineering Design and Construction Specifications.

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

33. Appointment of Principal Certifier (PC)

No subdivision work in the development shall be permitted to commence unless:

- (a) A subdivision works certificate for the subdivision work has been issued by:
 - (i) the consent authority; or
 - (ii) a Principal Certifier (PC); and
- (b) the person having the benefit of the development consent has:
 - (i) appointed a Principal Certifier (PC) for the subdivision work, and
 - (ii) notified the Principal Certifier (PC) that the person will carry out the subdivision work as an owner-builder, if that is the case, and
- (b1) the principal certifying authority has, no later than 2 days before the subdivision 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 subdivision work who must be the holder of a contractor licence if any residential building work is involved, and
 - (ii) notified the Principal Certifier (PC) of such appointment, and
 - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the subdivision work, and
- (c) the person having the person having the benefit of the development consent has given at least 2 days' notice to the Council of the person's intention to commence the

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

subdivision work.

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

CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORK

34. Notice of Commencement

No work in the development shall be permitted to commence unless a notice of commencement form has been submitted (form will be attached with issue of a Construction Certificate or Subdivision Works Certificate or available from Council's website), giving the Principal Certifier (PC):

- (a) Not less than two (2) days' notice of the date on which it is proposed to commence the work.
- (b) Details of the appointment of a Principal Certifier (PC) (either Wingecarribee Council or another Principal Certifier).
- (c) Details of the Principal Contractor or Owner Builder:
 - Name
 - Builders Licence Number or Owner Builder Permit Number
 - Principal Contractor Company Name
 - Principal Contractor ABN
 - Address of Principal Contractor or Owner Builder
 - Email Address
- (d) Copy of the HBCF Insurance Certificate (if residential building works exceed \$20,000) or Owner Builder Permit.
- (e) Details demonstrating compliance with development consent conditions relevant prior to commencement of the work.

Reason: *Statutory requirement.*

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

35. Principal Certifier (PC) Sign

Prior to commencement of any building work or subdivision work in the development, signage shall be erected in a prominent position on the work site identifying:

- The Principal Certifier (PC) by showing the name, address and telephone number of the Principal Certifier (PC);
- 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.

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

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.

36. Construction Certificate

No building work in the development shall be permitted to commence unless:

- (a) A construction certificate for the building work has been 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.

37. Subdivision Works Certificate & Appointment of Principal Certifier (PC)

No subdivision work in the development shall be permitted to commence unless:

- (a) A subdivision works certificate for the work has been issued.
- (b) The person having the benefit of the development consent has appointed the Principal Certifier (PC).
- (c) The Principal Certifier (PC) (if not Council) has, no later than two (2) days before the subdivision work commences, notified the Council (or other consent authority where applicable) of the Principal Certifier's (PC) appointment.
- (d) The person having the benefit of the consent has given at least two (2) days' notice to the Council of the person's intention to commence the subdivision work.

Reason: Statutory requirement.

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

Prior to any works being undertaken 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*). 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 the approved development plans and proposed works to be undertaken.
- Plans and adequate documentation which validate that the required works are in accordance with Councils Engineering Plans and Specifications and relevant standards.
- 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

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

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.*

39. 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.*

40. Work Zone

If a work Zone is required a Work Zone application shall be submitted to Council and fees paid to Council and Approval issued.

Reason: *Public Safety*

41. Tree Retention (Marking)

No building work or subdivision work in the development shall be permitted to commence unless all trees shown on the stamped consent drawings to be retained have been appropriately marked and protected.

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

42. Erosion and Sediment Control

No building work or subdivision work in the development shall be permitted to commence unless erosion and sediment control measures have been put in place in accordance with the approved erosion and sediment control plan.

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

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

43. Stand Plant Permit

A permit to stand plant - cranes and concrete pumps on a roadway for the purpose of swinging or hoisting goods across or over any part of a public road for a short period of time - i.e. 1 day shall be submitted to Council and fees paid and approval issued prior to any works occurring.

Reason: *Public Safety*

44. Tree Protection Measures

No building or subdivision work in the development shall be permitted to commence unless protective fencing has been installed around all trees to be retained in line with the dripline. This fencing is to be constructed of chain wire mesh 1.8m high, supported by steel stakes or piping and braced to resist impacts and as per the requirements detailed in Australian Standard AS4970-2009 Protection of Trees on Development Sites, and installed 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 principal contractor.*

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

CONDITIONS TO BE SATISFIED DURING THE CONSTRUCTION PHASE

45. 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.*

46. Imported 'Waste-derived' Fill Material

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

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

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

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

Resource recovery exemptions are available on the NSW EPA website at

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

<http://www.epa.nsw.gov.au/waste/>.

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

47. Demolition Requirements

All demolition work in the development shall be carried out in accordance with the requirements of Australian Standard 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

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

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.

48. Structure not to be built over easements/infrastructure

No portion of any structure shall be erected over any existing sillage or stormwater disposal drains, easements, sewer mains, or proposed sewer mains.

Reason: To protect infrastructure.

49. Ground Levels

Natural ground levels shall not be altered or adjusted other than shown on the stamped consent drawings or where varied by the conditions of consent without the prior consent of Council. Finished ground levels shall be graded away from the buildings and adjoining properties must achieve natural drainage. The concentrated flows are to be dispersed down slope or collected and discharged to an approved storm water drainage system.

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

50. 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.

51. Retaining Walls and Drainage

If the soil conditions require it:

- (a) retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil shall be provided, and
- (b) adequate provision shall be made for drainage.
- (c) any retaining walls which do not comply with the exempt development standards outlined in the *State Environmental Planning Policy (Exempt and Complying Codes)*

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

2008, are subject to a separate approval prior to the construction of the retaining wall.

Reason: *To ensure that soil is appropriate retained.*

52. Vehicular Access Point - Construction and Delivery Vehicles

A suitable entry point shall be nominated on site and utilised by construction and delivery vehicles. This entry point is to be located so that the possibility of damage to Council's property is minimised during construction. The access point shall be surfaced with all-weather materials of a minimum of (WHAT SIZE) mm in size. Ballast or crushed gravel (minimum of 40mm rock) for the full width of the kerb from the edge of the road to the property boundary.

Reason: *To reduce the possibility of damage to public property.*

53. Engineering Inspections by Council

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

- (a) Works in relation to road reserves, footpath, kerb and gutter, road shoulder and drainage within public lands or road reserves.
- (m) Final inspection of footpath, driveway, stormwater and utility construction works within the road reserve.

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

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

Reason: *Statutory requirement.*

54. Stormwater - Construction

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

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

55. Stormwater - Discharge

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

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

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

56. Earthworks, retaining walls and structural support

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

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

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

Reason: Structural safety.

57. 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.

58. 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.

59. Erosion and Sediment Control Plan Compliance

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

Reason: To ensure that the environment is protected.

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

60. 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 carrying out of works in the development.

Reason: Health and amenity.

61. Council Reserve / Street Tree Retention

All trees in public road reserves shall be preserved.

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

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

62. 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.

63. Protection of Trees

All trees identified on the stamped consent drawings as being retained shall be protected against damage throughout the carrying out of works in the development in accordance with Australian Standard AS4970-2009 Protection of Trees on Development Sites and relevant conditions of Council's consent.

Reason: To protect trees identified to be retained.

64. Approved hours of Works

The carrying out of works in the development shall be limited to the following hours:

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

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

65. Construction Management Plan

All development activities and traffic movements shall be carried out in accordance with the

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

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.

66. Building Operations

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

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

67. 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.

68. Construction and delivery vehicles

A suitable entry point shall be nominated on site and utilized by construction and delivery vehicles. The entry point shall be located so that the possibility of damage to Councils property is minimized 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.

69. 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

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

- (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.*

70. Waste Management

A metal waste skip with self-closing lid or secure covering shall be provided on-site throughout the carrying out of all works in the development, to ensure 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

71. 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 Certifier (PC) is required to be satisfied, amongst other things, that:

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

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

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

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

72. Footway Rehabilitation

No occupation certificate shall be granted for the development unless the certifying authority is satisfied by evidence accompanying the application for occupation certificate that the

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

Waverly Parade footway adjoining the land has been rehabilitated in accordance with applicable Council standards to the satisfaction of Council's Development Engineer.

Reason: *To ensure existing damage to the Waverly Parade footway adjoining the land is rectified.*

73. Section 138 Roads Act Final

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

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

74. Section 68 Local Government Act Final

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

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

75. Council Property

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

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

76. BASIX Commitments

Pursuant to Clause 97A of the *Environmental Planning & Assessment Regulation 2000*, it is a condition of this consent that all the commitments listed in each relevant BASIX Certificate for the development are fulfilled prior to the issue of an Occupation Certificate.

In this condition:

- (a) Relevant BASIX Certificate means:
- (i) a BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under Section 4.55 of the *Environmental Planning and Assessment Act 1979*, a BASIX Certificate that is applicable to the development when this development consent is modified); or
 - (ii) if a replacement BASIX Certificate accompanies any subsequent application for a Construction Certificate, the replacement BASIX Certificate; and

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

- (b) BASIX Certificate has the meaning given to that term in the *Environmental Planning & Assessment Regulation 2000*.

Reason: *To ensure that all of the commitments of BASIX Certificate have been met.*

77. 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.*

78. House Numbering

A street house number being 75mm on house and no less than 42mm on mailbox or rural address number (allocated by Council), shall be prominently displayed so that it is visible from the street/road prior to issue of the Occupation Certificate.

Reason: *To ensure that the property is easily identifiable.*

79. Civil Engineering works and services

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

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

80. Certification of Internal Civil Works

On completion of the works and prior to the issue of the Occupation Certificate, certification from a professional engineer who has appropriate experience and competence in the relevant registered area of practice, shall be submitted to Council detailing that all the internal civil works (i.e. internal driveways, paths and stormwater drainage system, including any onsite detention) are in accordance with the approved plans and specifications.

Reason: *Asset management.*

81. Vehicle Access (Urban)

Access to the site shall be provided by means of a vehicle crossing as per Standard Drawing SD107 and SD123 and approved by Council prior to the issue of the Occupation Certificate. A copy of the Standard Drawing can be obtained from Council's offices.

Reason: *To ensure that the driveway is constructed to Council's standard specification.*

82. Construction of Internal Driveway

All internal driveway construction shall be in accordance with Council's Engineering Standard

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

and to the satisfaction of the Group Manager Planning, Development and Regulatory Services, prior to the issue of the Occupation Certificate.

The internal driveway shall be constructed with reinforced concrete and below requirements:

- Driveway shall be 5.5m wide from Waverley Parade to entrance of Cottage 4.
- Driveway shall eliminate 90° sharp bend so that a minimum of 5.5m wide is maintained to the extent of the bend at the south west corner of the site.

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

83. Identification Survey

An identification survey prepared by a Registered Land Surveyor shall be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate to demonstrate that all buildings and structures have been constructed entirely within the allotment boundary and in accordance with the approved plans.

Reason *To ensure compliance with the approved plans.*

84. Landscaping Plan

No occupation certificate shall be granted for the development unless landscaping has been completed in accordance with the detailed plan of proposed landscaping approved with the granting of a construction certificate for building work in the development.

Reason: *To ensure that the landscaping is completed prior to occupation.*

85. Street Trees

No occupation certificate shall be granted for the development unless the certifying authority is satisfied by evidence accompanying the application for occupation certificate that street trees have been retained and/or provided in Waverly Parade adjoining the land in accordance with Council's Urban Street Tree Master Plan.

Reason: *To ensure that the landscaping is completed prior to occupation.*

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

86. 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.

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

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

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

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

87. Prior to Issue of Subdivision Certificate (Strata)

Prior to the issuing of any Subdivision Certificate under section 37A of the *Strata Schemes (Freehold Development) Act 1973*, and section 66A of the *Strata Schemes (Leasehold Development) Act 1986*, and in accordance with section 29A of the *Strata Schemes (Freehold Development) Regulation 2007* and section 30A of the *Strata Schemes (Leasehold Development) Regulation 2007*, the Principal Certifier (PC) shall be satisfied that:

- (a) The floors, external walls and ceilings depicted in the proposed strata plan for the building correspond to those of the building as constructed, and
- (b) The floors, external walls and ceilings of the building as constructed correspond to those depicted in the building plans that accompanied the construction certificate for the building, and
- (c) Any facilities required by the relevant development consent (such as parking spaces, terraces and courtyards) have been provided in accordance with those requirements.

As construction of the building nears completion, or after it has been completed, a Council or accredited certifier shall inspect the building, and the common property areas around the building, so as to be satisfied, as required by section 66AA of the Act, that the above requirements have been met.

The Council or accredited certifier should also be satisfied that:

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

Reason: *Statutory Requirements.*

88. 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.

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

All property services shall be located within the lots that they serve in accordance with Wingecarribee Shire Council Engineering Design and Construction Specifications, Drawings and relevant 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.*

89. 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.*

90. Construction of Water Service

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

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

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

91. Street Trees

No subdivision certificate shall be granted for the development unless the certifying authority is satisfied by evidence accompanying the application for subdivision certificate that street trees have been planted and/or retained in Waverly Parade adjoining the land in compliance with Council's Urban Street Tree Masterplan.

Advice: *Council's Urban Street Tree Master Plan must be referenced with respect to any street plantings.*

Reason: *To maintain and improve visual amenity.*

92. Landscaping Plan

No subdivision certificate shall be granted for the development unless the certifying authority is satisfied by evidence accompanying the application for subdivision certificate that landscaping has been completed in accordance with the detailed plan of proposed landscaping approved with the granting of a construction certificate for building work in the development.

Reason: *To ensure that the landscaping is completed prior to completion of the subdivision.*

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

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

93. Erosion Control on Completed Developments

Adequate erosion and sediment control measures shall be maintained in place where necessary until site stabilisation and revegetation is finalised.

Reason: To protect the environment.

INTEGRATED DEVELOPMENT CONDITIONS

94. 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 and form part of Council's notice of determination.

Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

1. At the issue of a subdivision certificate, and in perpetuity to ensure ongoing protection from the impact of bush fires, the entire site must be managed as an inner protection area (IPA) in accordance with the requirements of Appendix 4 of Planning for Bush Fire Protection 2019. When establishing and maintaining an IPA the following requirements apply:
 - tree canopy cover should be less than 15% at maturity;
 - trees at maturity should not touch or overhang the building;
 - lower limbs should be removed up to a height of 2 metres above the ground;
 - tree canopies should be separated by 2 to 5 metres;
 - preference should be given to smooth barked and evergreen trees;
 - large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards buildings;
 - shrubs should not be located under trees;
 - shrubs should not form more than 10% ground cover; and
 - clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation.
 - grass should be kept mown (as a guide grass should be kept to no more than 100mm in height); and
 - leaves and vegetation debris should be removed.

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

CONCURRENCE CONDITIONS

95. Concurrence - Water NSW

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

General

1. The layout and works of the development shall be as shown on the Proposed Site Plan (Project No. 308-20, Dwg No. A-02, dated 29/11/21) prepared by Solis Haus Building Design. No revisions to layout and works or staging of the development that will have any impact on water quality, shall be permitted without the agreement of Water NSW.

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

Stormwater Management

2. All stormwater management measures as specified in Section 3 of the Water Cycle Management Study (Ref: 20063_WCMS03, Issue 01, dated 22 November 2021) and shown on the Concept Stormwater Drainage Plan (Project No. 20063, Dwg No. DA04, Issue 01, dated 22/11/21) both prepared by Novati Consulting Engineers Pty Ltd shall be incorporated to a final stormwater drainage plan with cross-section of bioretention basins and revised discharge arrangement for the swale in consultation with Water NSW. The stormwater management measures shall include:

- pits and pipes
- rainwater tanks, and
- two bioretention basins.

The approved final stormwater management plan shall be implemented.

3. The bioretention basins shall:
 - be designed consistent with Adoption Guidelines for Stormwater Biofiltration Systems Version 2 (Payne et al, 2015, Melbourne, CRC for Water Sensitive Cities)
 - have a minimum combined filter area of 35 square metres
 - have an extended detention depth of 100 mm
 - have a filter depth (excluding transition layers) of 400 mm above the underdrain
 - have a filter media consisting of a clean sandy loam with a certified median particle diameter of 0.5 mm, a maximum orthophosphate concentration of 40 mg/kg and a maximum total nitrogen concentration of 400 mg/kg

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

- 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 Council's stormwater infrastructure via armoured discharge points such that discharge does not cause erosion
 - be accessible from driveway by machinery to facilitate cleaning, monitoring, and maintenance of the structures
 - be permanently protected from vehicular damage by bollards, fences, castellated kerbs, or similar structures, with a sign to be erected to advise of its nature and purpose in water quality management, and
 - be protected by sediment and erosion control measures during any construction and post-construction phase until the ground surface is revegetated or stabilised.
4. No changes to stormwater treatment and management that will have any impact on water quality, shall be permitted without the agreement of Water NSW.
5. A suitably qualified stormwater consultant or engineer shall certify in writing to Water NSW and Council prior to the issuance of an Occupation Certificate that all stormwater management structures have been installed as per these conditions of consent and are in a functional state.
6. An Operational Environmental Management Plan (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
 - include details on the location, description, and function of stormwater management structures such as pits, pipes, swale, bioretention basins, rainwater tanks, and any other stormwater structures and drainage works
 - outline the responsibilities and detailed requirements for the inspection, monitoring and maintenance of all stormwater management structures, including the frequency of such activities
 - identify the individuals or positions responsible for inspection and maintenance activities including a reporting protocol and hierarchy, and
 - include checklists for recording inspections and maintenance activities, particularly for bioretention basins.
7. All stormwater treatment devices shall be monitored, maintained, and managed as per the Operational Environmental Management Plan.

Reason for Conditions 2 to 7 - To ensure that the stormwater quality management measures and structures for the proposed development have a sustainable neutral or beneficial impact on water quality over the longer term.

Construction Activities

8. An Erosion and Sediment Control Plan based on the Concept Erosion and Sediment

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 1 JUNE 2022**

Control Plan and Tree Removal Plan (Project No. 20063, Dwg No. DA02, Issue 01, dated 22/11/21) prepared by Novati Consulting Engineers Pty Ltd shall be finalised for all works 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)
 - be prepared prior to the issuance of a Construction Certificate, and be to the satisfaction of Council, and
 - include controls to prevent sediment or polluted water leaving the construction site or entering any natural drainage lines or stormwater drain.
9. The Erosion and Sediment Control Plan shall be implemented, and no works shall commence until effective erosion and sediment controls have been installed. The controls shall be regularly inspected, maintained, and retained until works have been completed and groundcover established.

Reason for Conditions 8 & 9 - 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

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022



Civic Centre, Elizabeth St. Moss Vale, NSW 2577.
PO Box 141, Moss Vale. DX: 4961 Bowral.
Ph: (02) 4868 0888 Fax: (02) 4869 1203
wscmail@wsc.nsw.gov.au www.wsc.nsw.gov.au
Office Hours: Mon-Fri 8.30am - 4.30pm

Notice of Payment – Developer Charges & Section 7.11

22/0223

25 May 2022

SCOTT LEE
33 HOLLY STREET
BOWRAL NSW 2576

Re: 22/0223
Lot 1 DP 508745
24 WAVERLEY PARADE MITTAGONG NSW 2575

Development Description: Multi Dwelling Housing - 4 Dwellings

Water, Sewerage and Stormwater Headworks charges are levied under Section 64 of the Local Government Act and Section 306 of the Water Management Act 2000. Other contributions are levied under Section 7.11 of the Environmental Planning and Assessment Act 1979 and Council's Contributions Plans.

Contributions Levy	Units	Rate	Amount Payable
Roads & Traffic (Mittagong)	2.34	\$701.22	\$1,640.85
S64 Stormwater (Mittagong)	1.20	\$3,870.26	\$4,644.31
S64 Sewerage (Shirewide)	2.34	\$11,461.91	\$26,820.86
Open Space & Community (Recoup)	2.34	\$806.02	\$1,886.09
Open Space & Community (Future Works)	2.34	\$1,629.60	\$3,813.26
Roads & Traffic (Shirewide - Future)	2.34	\$2,949.46	\$6,901.74
S64 Sewer Compliance Certificate	1.00	\$255.00	\$255.00
Administration (Shirewide)	2.34	\$521.96	\$1,221.39
S64 Water (Shirewide)	2.34	\$11,822.93	\$27,665.65
Open Space & Community (Acquisition)	2.34	\$96.25	\$225.22
S64 Stormwater Compliance Certificate	1.00	\$255.00	\$255.00
Central Library (Shirewide)	2.34	\$461.21	\$1,079.24
Resource Recovery Centre (Shirewide)	2.34	\$273.75	\$640.58
Roads & Traffic (Shirewide - Recoup)	2.34	\$16.85	\$39.44
S64 Water Compliance Certificate	1.00	\$255.00	\$255.00
Total			\$77,343.63

Payments must be either in the form of cash, bank cheque or credit card (credit cards subject to 1% surcharge. Amex and Diners not accepted).

IMPORTANT – The charges shown above are valid for payment until the date given below. After this period the charge will be indexed in accordance with the relevant Plan.

DATE CHARGES ARE VALID TO – 31 Jul 2022

Prepared by – Michael Park

Cashier Receipt No: _____

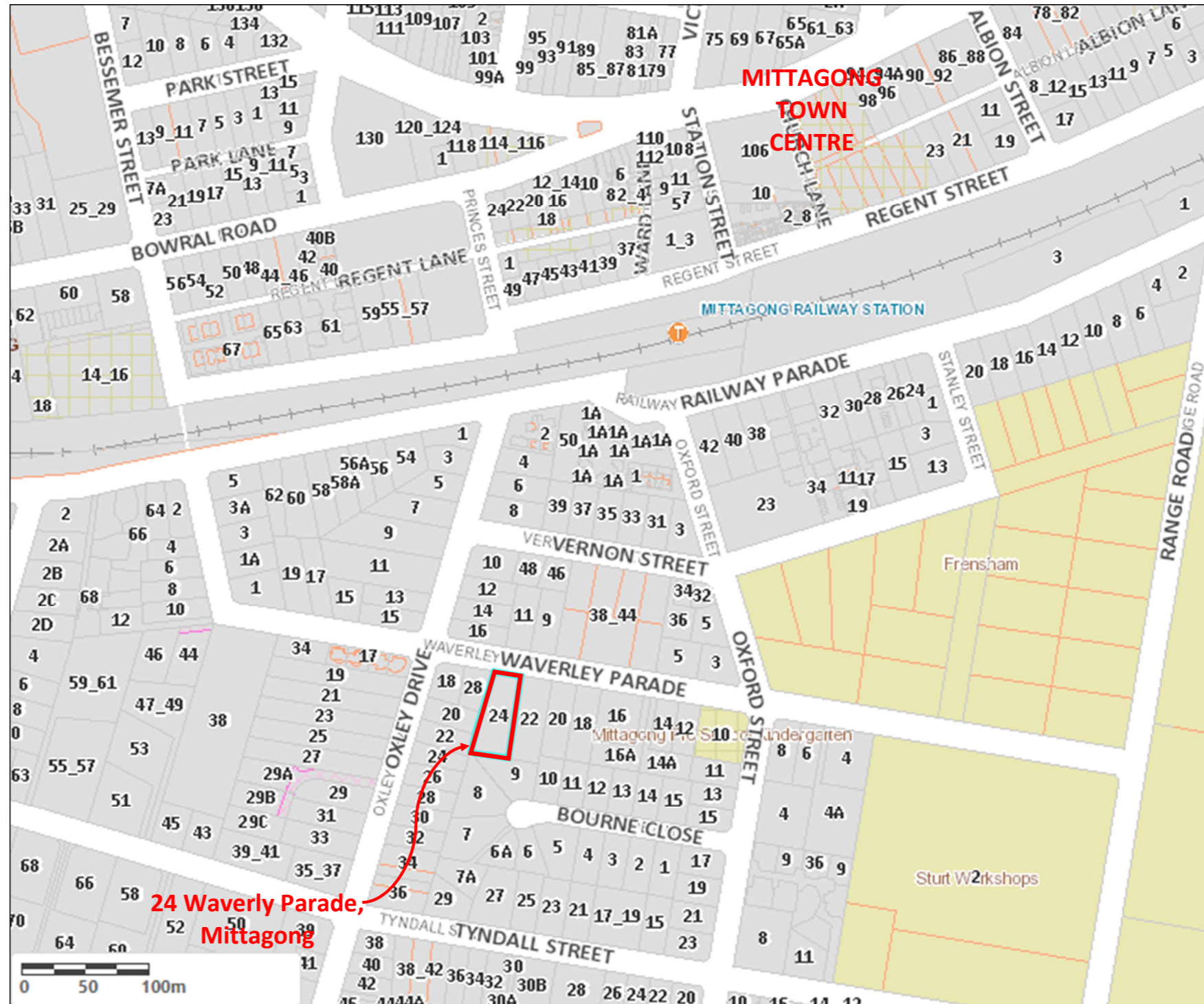
Total Paid: _____

Date Paid: _____

A COPY OF THIS NOTICE MUST BE PRESENTED WHEN MAKING PAYMENT

www.wsc.nsw.gov.au

Document Set ID: 233948
Version: 2, Version Date: 25/05/2022





6.2 Development Application 22/0712 - Subdivision of Land to Create Two Lots - Lot 1 DP258420, No 10 Old Hume Highway Berrima

Report Author: Senior Development Assessment Planner

Authoriser: Director Communities and Place

PURPOSE

The purpose of this report is to consider Development Application 22/0712 for the Panel's consideration and recommends determination by **APPROVAL** subject to the conditions specified in **Attachment 1**.

Consultants	Applicant: Mr Scott Lee – LEP Planning
Land Owner:	Mr M.E. Hanratty
Notification Period	24 Nov 2021 to 3 Jan 2022
Number of Submissions	None
Zoning	Partly within Zone RU4 Primary Production Small Lots and Zone R2 Low Density Residential
Political Donations	None Identified
Reason for Referral to Panel	Development proposes variation of greater than 10% from controls in an environmental planning instrument (minimum allotment size under Clause 4.1)

OFFICER'S RECOMMENDATION

THAT the Local Planning Panel determines development application 22/0712, for the subdivision of land to create two lots, at Lot 1 DP258420, No 10 Old Hume Highway Berrima, by approval subject to conditions specified in Attachment 1 to this report.

EXECUTIVE SUMMARY

1. Executive summary

Development Application (DA) 22/0712 seeks consent to subdivide the subject site into two (2) lots. The subject DA is an identical proposal to that which was determined by the Local Planning Panel (by refusal) on 7 July 2021 (full details of which will be provided in the body of the report).

The site has two separate zonings under Wingecarribee Local Environmental Plan (WLEP) 2010. Most of the land is zoned RU4 Primary Production Small Lots, and a small part of the site (at the southern end) is zoned R2 Low Density Residential.

The proposed subdivision does not comply with the minimum lot sizes prescribed under Clause 4.1 WLEP 2010. Proposed Lot 1 is subject to a minimum lot size of 10ha (proposed size 9.2ha or 8% variation); and Proposed Lot 2 is subject to a minimum lot size of 2000m² (proposed size 1445m² or 27.75% variation).

However, Clause 4.2C of WLEP 2010 (*Exceptions to minimum subdivision lots sizes for certain split zones*) prescribes controls which allow subdivisions of land affected by multiple zonings under WLEP 2010 – and the subdivision proposes two allotments which directly accord with the

WLEP 2010 zone boundary within this site. Clause 4.2C in WLEP 2010 is specifically designed to cover the scenario of subdivision of allotments with multiple zoning (as in this case), and the proposed subdivision is therefore satisfactory given compliance with Clause 4.2C(5)(a).

The proposal has been referred to several officers within and external to Council. In particular (because the site immediately adjoins two heritage items and Lot 2 is within the Berrima Heritage Conservation Area), the proposal was referred to Council's Heritage Advisor who does not support the proposal. In particular, concern is raised that the proposal would adversely affect the aesthetic values of the Berrima conservation area; the proposed narrow allotment has a building footprint insufficient to allow a new house to be set within a garden setting due to the narrow side setback of 1 metre along the southern boundary. Further, concern is raised that the proposed driveway crossing is located near the centre of the site which is not characteristic of the conservation area, and would require a driveway to cut across the front garden, which would not be sympathetic. The loss of existing trees is also a concern as it would degrade the landscape character of the streetscape and as a result, increase the visual prominence of built forms.

Although concerns have been raised by Council's Heritage Advisor, it is noted that this development is only for a subdivision and issues relating to a future dwelling house can be addressed at the DA stage for the new dwelling (noting that such a dwelling could not be approved under the Complying Development process). The site has a potential alternative vehicle access (from Wilkinson Street to the west) which could be provided instead of access off the Old Hume Highway.

The DA has been notified to neighbours in accordance with Council's Community Participation Plan, and no submissions were received.

The DA has been considered under the heads of consideration listed in Section 4.15(1) of the Environmental Planning and Assessment Act 1979 and is generally considered to be satisfactory. Approval is recommended subject to conditions.

2. Site Description and Locality.

The subject site is legally described as Lot 1 DP258420, with a street address of No 10 Old Hume Highway, Berrima. It is a large mid-block site generally located between the Old Hume Highway (forming the eastern boundary of the site) and Wilkinson Street (forming the western boundary). The site is at the northern edge of the Berrima village.

The site is highly irregular in shape and has a site area of 9.332ha (as per DP258420, registered 1979). The site has a total frontage of 301.583m to the Old Hume Highway (plus 9.865m to Greenhills Road) along its eastern boundary; a depth of 347.07m along the northern boundary; a depth of 173.385m along the southern boundary; and a frontage of 409.7m to Wilkinson Street along its western boundary.

The site contains a dwelling house in the north-west corner of the site. It contains an extensive coverage of native vegetation, while there are some cleared areas towards the southern end. The site slopes from the north-eastern corner down to both the west and south.

Surrounding development includes rural-zoned properties to the north, west and east which contain a scattering of dwellings/outbuildings. To the south there are several smaller residential-zoned properties containing dwellings/outbuildings in a residential setting of the Berrima village. Several of those adjoining residential properties are heritage-listed under WLEP 2010.

A visual description of the site is provided in the locality map (**Figure 1**) and air photos (**Figures 2 and 3**) below.

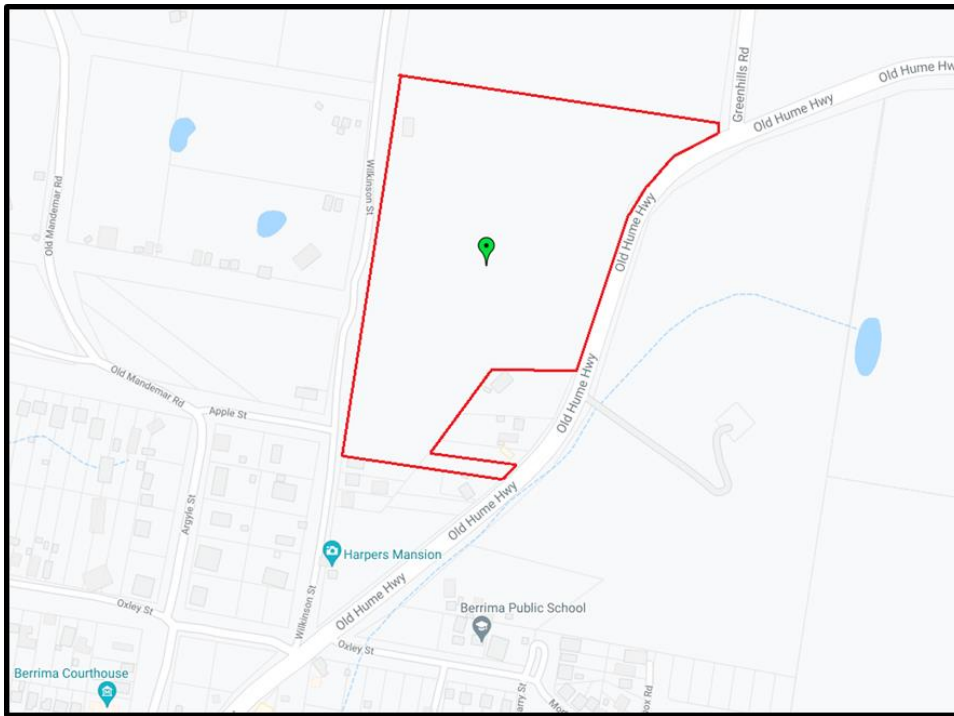


Figure 1 – Locality Map, No 10 Old Hume Highway, Berrima



Figure 2 – Air Photo, No 10 Old Hume Highway, Berrima



Figure 3 – Air Photo close-up, 10 Old Hume Highway Berrima showing position of proposed Lot 2 and adjoining heritage items (at No 8 and No 12 Old Hume Highway)

3. Description of Proposed Development

DA 21/1483 seeks consent to subdivide the subject site into two allotments – Lot 1 with a site area of 9.2ha; and Lot 2 with a site area of 1445m². Lot 1 would comprise the bulk of the site, and Lot 2 would comprise the smaller portion at the south-east corner (the “heel” of the site as shown on the air photo above).

A key aspect of the proposal is that consent is sought in accordance with Clause 4.2C of WLEP 2010 which relates to “exceptions to minimum subdivision lots sizes for certain split zones”. The proposed allotments of the subdivision directly align with the WLEP 2010 zone boundary

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 1 JUNE 2022**

traversing the site – Lot 1 comprises the part of the site zoned RU4 and Lot 2 is the R2-zoned portion.

The plan of the proposed subdivision is provided below (**Figure 4**), and the zoning map of the showing the two zones under WLEP 2010 affecting the site (**Figure 5**).

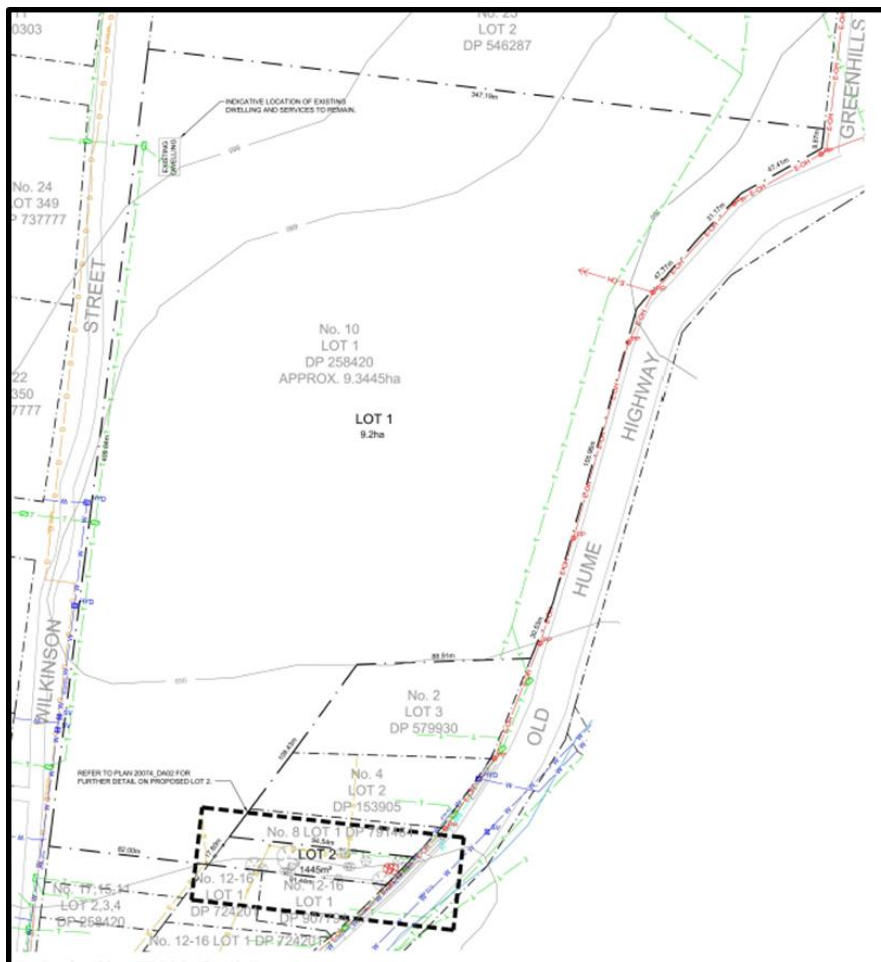


Figure 4 – Plan of Proposed Subdivision

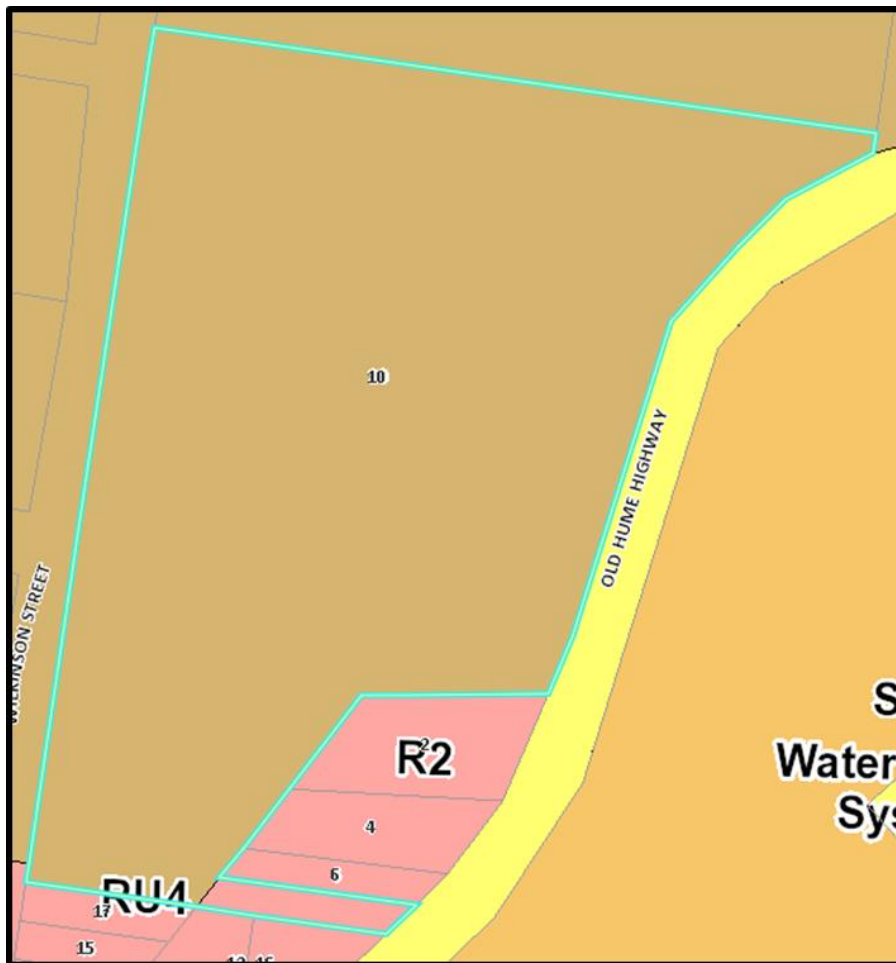


Figure 5 – Extract of Wingecarribee LEP 2010 zoning map, showing subject site (teal coloured outline). Lot 1 is to comprise the portion zoned RU4 (brown) and Lot 2 is to contain the portion zoned R2 (pink)

4. Background

Previous DA: 21/1483:

The site was the subject of a previous, identical development proposal in 2021. This previous DA was referred to the Local Planning Panel on 7 July 2021 and determined by refusal for several reasons. These reasons for refusal have been addressed in the applicant's DA documents and will be discussed in more detail later in this report.

Current DA: 22/0712:

The current DA was lodged on 19 October 2021. Shortly after, it was referred to several officers internal and external to Council, and notified to adjoining owners in accordance with Council's Community Participation Plan. Further details of the referral responses are discussed later in this report.

In particular, in response to the Local Planning Panel's refusal of the previous DA, the applicant has submitted a Heritage Impact Statement (by Dr Caroline Cosgrove) as part of the DA documents. The applicant has not submitted any more details of a future dwelling design, other than the building envelope plan which accompanied the previous DA – and the applicant has stated that the DA remains for a subdivision only, not for a dwelling house, and that it is "not within

Council's legislative power to force the applicant to seek approval for a dwelling house" as part of the subdivision.

The DA was notified to neighbours for a period from 24 Nov 2021 to 3 Jan 2022 (no submissions were received).

On 1 Dec 2021, advice was provided by Council's (former) Heritage Advisor, raising concerns that the current DA still does not provide details on the built form of any future dwelling/related structure.

Council has since engaged a new Heritage Advisor, and so the DA was referred to the new Heritage Advisor for comment and a second opinion. On 6 May 2022, the new Heritage Advisor has also raised concerns in relation to the proposal, particularly that the proposal would adversely affect the aesthetic values of the Berrima conservation area; the proposed narrow allotment has a building footprint insufficient to allow a new house to be set within a garden setting due to the narrow side setback of 1 metre along the southern boundary. Further, concern is raised that the proposed driveway crossing is located near the centre of the site which is not characteristic of the conservation area, and would require a driveway to cut across the front garden, which would not be sympathetic. The loss of existing trees is also a concern as it would degrade the landscape character of the streetscape and as a result, increase the visual prominence of built forms.

The (former and current) Heritage Advisor's comments are provided in full, and discussed in detail in the Referrals section of this report below.

5. Notification

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance with Council's Community Participation Plan for a period between 24 Nov 2021 and 3 Jan 2022. No submissions were received in relation to this DA.

6. PLANNING ASSESSMENT

The DA has been considered using the heads of consideration listed in Section 4.15(1) of the Environmental Planning & Assessment Act 1979, as detailed below.

Section 4.15 (1) (a) (i)—The provisions of any environmental planning instrument that apply to the land

Assessment against the provisions of the various environmental planning instruments applicable to the site / and proposed development is undertaken in the following section.

State Environmental Planning Policy (Biodiversity & Conservation) 2021

Chapter 4 – Koala Habitat Protection 2021

Chapter 4 of this SEPP relates to Koala Habitat Protection. Clause 4.16 of this SEPP contains Savings and Transitional Provisions relating to existing DAs, which state: *A development application made in relation to land, but not finally determined before this Chapter applied to the land, must be determined as if this Chapter had not commenced in its application to the land.*

Assessment in terms of Koala Habitat Protection is therefore made under the previous SEPP – which was SEPP (Koala Habitat Protection) 2021.

SEPP (Koala Habitat Protection) 2021 aimed to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline.

Clause 11 of this SEPP prescribes the development assessment process where the land has an area of at least 1 hectare and does not have an approved koala plan of management applying to the land. Subclauses (2) and (3) prescribe the following:

(2) Before a council may grant consent to a development application for consent to carry out development on the land, the council must assess whether the development is likely to have any impact on koalas or koala habitat.

(3) If the council is satisfied that the development is likely to have low or no impact on koalas or koala habitat, the council may grant consent to the development application.

Comment: The subject DA is only for subdivision and involves no physical work (tree removal), therefore it will have no impact on koalas or koala habitat. The subdivision would create a dwelling entitlement for proposed Lot 2 (noting that proposed Lot 1 already contains a dwelling). Proposed Lot 2 contains a sparse coverage of non-native vegetation and is unlikely to provide koala habitat.

Therefore, both the proposed subdivision and the construction of a future dwelling on Proposed Lot 2 are satisfactory when considered in terms of the Koala Habitat Protection SEPP.

Chapter 8 – Sydney Drinking Water Catchment

Chapter 8 of the SEPP contains the controls relating to development in Sydney's Drinking Water Catchment. As there are no Savings and Transitional Provisions under this Chapter of the SEPP, consideration of this DA is required in terms of the new SEPP.

SEPP (Drinking Water Catchment) 2011 provides the following aims (Clause 8.1):

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

An assessment has been undertaken using the WaterNSW NorBE tool to determine if the proposed development is able to achieve a neutral or beneficial effect on water quality, which satisfies the recommended practices and performance standards of Water NSW as required by clause 8.7 of the SEPP.

Clause 8.8 of this SEPP states that a consent authority (Council) must not grant consent to the carrying out of development on land in the Sydney drinking water catchment unless it is satisfied that the proposed development would have a neutral or beneficial effect on water quality. Subclause 8.8(2) requires the consent authority to undertake an assessment using the NorBE Tool.

As stated, an assessment using the NorBE tool has been undertaken which identifies that the

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 1 JUNE 2022**

proposed development would have a neutral or beneficial effect on water quality – and therefore it is satisfactory when assessed under Chapter 8 of the SEPP.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Chapter 4 of the SEPP contains the controls relating to site contamination/remediation issues. As there are no Savings and Transitional Provisions under this Chapter of the SEPP, consideration of this DA is required in terms of the new SEPP.

Clause 4.1 provides the following objects:

- (1) *The object of this Chapter is to provide for a Statewide planning approach to the remediation of contaminated land.*
- (2) *In particular, this Chapter aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment:*
 - (a) *by specifying when consent is required, and when it is not required, for a remediation work, and*
 - (b) *by specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular, and*
 - (c) *by requiring that a remediation work meet certain standards and notification requirements.*

Clause 4.6 of the SEPP requires Council to consider whether the land is contaminated. The rural part of the site is largely vacant and has been used for rural purposes over its history. The residential portion of the land is also vacant and despite its residential zoning, has not been used for any residential purposes and would also only have been used for rural purposes. Therefore there is no reason to suspect potential contamination of the site and no need to require any formal assessment (eg preliminary contamination investigation report) before determining this DA.

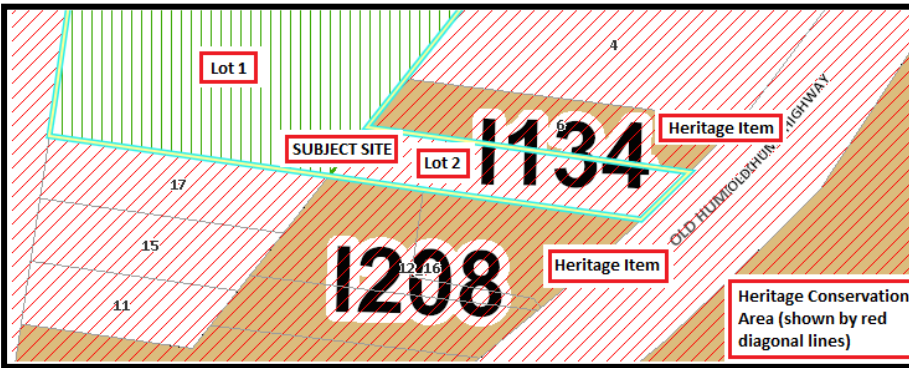
Wingecarribee LEP 2010

WLEP 2010 contains a number of provisions applicable to the proposed development, and these are discussed and assessed in the Table below.

Clause	Controls	Assessment	Compliance
2.3 Zone Objectives and land use table	<i>Provides objectives and permissible/prohibited land uses for the various zones under WLEP 2010</i>	The site is zoned part RU4 Primary Production Small Lots and part R2 Low Density Residential. The proposal is consistent with the aims and objectives of the zones, which will be demonstrated and discussed throughout this report.	Yes

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 1 JUNE 2022**

<p>2.6 Subdivision – consent requirements</p>	<p><i>Sub-clause (1) states that land may be subdivided, but only with development consent</i></p>	<p>This DA lodgement satisfies the requirements of clause 2.6</p>	<p>Yes</p>
<p>4.1 Minimum subdivision lot size</p>	<p><i>Sub-clause (3) prescribes minimum lot sizes for lots resulting from subdivision of land.</i></p>		
	<ul style="list-style-type: none"> • <i>The minimum lot size for the RU4-zoned portion is 10ha;</i> 	<p>Lot 1 – 9.2ha (variation of 8%)</p>	<p>No</p>
	<ul style="list-style-type: none"> • <i>The minimum lot size for the R2-zoned portion is 2000m².</i> 	<p>Lot 2 – 1445m² (variation of 27.75%)</p>	<p>No</p>
<p>See discussion re clause 4.2C below.</p>			
<p>4.2C Exceptions to minimum subdivision lots sizes for certain split zones.</p>	<p><i>The objectives of this clause are as follows:</i></p> <ul style="list-style-type: none"> • <i>to provide for the subdivision of lots that are within more than one zone but cannot be subdivided under clause 4.1</i> • <i>to ensure that the subdivision occurs in a manner that promotes suitable land uses and development.</i> <p><i>Sub-clause (5) states that development consent may be granted to subdivide an original lot if:</i></p> <ol style="list-style-type: none"> <i>1. the lots to be created from the subdivision will each contain land in only one zone, or</i> <i>2. the lots to be created from the subdivision will each contain land in more than one zone and any land in Zone RU4 Primary Production Small Lots, in Zone E4 Environmental Living or in a residential zone will have an area that is not less than the minimum size shown on the Lot Size Map in relation to that land.</i> 	<p>The proposed development fully complies with clause 4.2C(5)(a).</p> <p>The original lot (ie the whole of the subject site) has two separate zones under WLEP 2010 as shown in Figure 4 above. The proposed subdivision seeks to create allotments which align with the WLEP 2010 zone boundaries.</p> <p>The lots to be created from the subdivision will each contain land in only one zone. That is, Lot 1 will be wholly within the RU4 zone and Lot 2 will be wholly within the R2 zone.</p> <p>The subdivision can therefore be considered, even though the lot sizes do not comply with the minimum lot sizes prescribed in Clause 4.1 above.</p> <p>Clause 4.2C sets aside the minimum lot sizes prescribed in clause 4.1 for original lots which have more than one zone.</p>	<p>Yes</p>

		<p>The proposed subdivision meets both the objectives clause 4.2C, and the particular provisions of clause 4.2C(5)(a). It is the type of subdivision which clause 4.2C was designed to facilitate.</p>	
<p>5.10 Heritage conservation</p>	<p>As shown in the following map, the subject site immediately adjoins two heritage items (No 6 Old Hume Hwy – Item No I134; and No 12-16 Old Hume Hwy – Item No I208) and is located in the Berrima Heritage Conservation Area. Therefore, the provisions of Clause 5.10 - Heritage Conservation are relevant.</p>  <p>An assessment of the proposal in terms of the provisions in clause 5.10 is undertaken below:</p>		
<p>5.10(1) Objectives</p>	<p>Clause 5.10(1) provides the following objectives for Heritage Conservation:</p> <ol style="list-style-type: none"> 1. to conserve the environmental heritage of Wingecarribee 2. to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views 3. to conserve archaeological sites 4. to conserve Aboriginal objects and Aboriginal places of heritage significance. 	<p>The proposal in this DA is for a subdivision of land, with no physical works.</p> <p>Consideration does need to be given to a future dwelling house which will consequentially follow as a result of any approval of this subdivision.</p> <p>The documentation for this DA has included a building footprint which shows that a future dwelling could be constructed in a position which does not adversely impact on</p>	<p>Yes</p>

		<p>adjoining heritage items or the Heritage Conservation Area in which the site is located.</p> <p>A full assessment of a future dwelling house can be undertaken under a separate DA to be lodged in the future. A future dwelling could not be approved via the Complying Development process – which excludes sites located in various areas such as a Heritage Conservation Area (as with this site). It is noted that the Berrima DCP contains extensive, robust and detailed development controls in the Berrima Village given the high level of heritage significance of the Village.</p>	
<i>5.10(2) Requirement for Consent</i>	Clause 5.10(2) requires development consent for a range of development – including (f) subdividing land “...that is located within a Heritage Conservation Area”	DA has been lodged for the subdivision. This is in addition to clause 2.6 (as above) which requires development consent for subdivision in a general sense.	Yes
<i>5.10(3) When development consent is not required</i>	Clause 5.10(3) provides instances where development consent is not required.	Development consent is required in accordance with clause 5.10(2) (and also clause 2.6), therefore this clause 5.10(3) does not apply.	Yes
<i>5.10(4) Effect of proposed development on heritage significance</i>	Clause 5.10(4) requires the consent authority to consider the effect of the proposed development on the heritage significance of the item or area concerned.	<p>The subdivision in and of itself will have no adverse impact on the heritage significance of the adjoining heritage item, or the Heritage Conservation Area in which the site is located.</p> <p>Consideration does need to be given to a future dwelling house</p>	Yes

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 1 JUNE 2022**

		<p>which will consequently follow as a result of any approval of this subdivision.</p> <p>The documentation for this DA has included a building footprint which shows that a future dwelling could be constructed in a position which does not adversely impact on adjoining heritage items or the Heritage Conservation Area in which the site is located.</p> <p>A full assessment of a future dwelling house can be undertaken under a separate DA to be lodged in the future.</p>	
5.10(5) <i>Heritage assessment</i>	Clause 5.10(5) provides that the consent authority may require a heritage management document to be prepared that assesses the effect on the heritage significance of the heritage item or heritage conservation area.	A Heritage Impact Assessment report has been submitted as part of the DA documents and is attached to this report.	Yes
5.10(6) <i>Heritage conservation management plans</i>	Clause 5.10(6) provides that the consent authority may require the submission of a heritage conservation management plan.	The nature of this DA (for subdivision) would not require the submission of a heritage conservation management plan.	Yes
5.10(7) <i>Archaeological Sites</i>	Clause 5.10(7) provides requirements for development of archaeological sites.	The subject site is not an archaeological site.	Yes
5.10(8) <i>Aboriginal places of heritage significance.</i>	Clause 5.10(8) provides requirements for Aboriginal places of heritage significance.	The subject site is not an Aboriginal place of heritage significance.	Yes
5.10(9) <i>Demolition of nominated</i>	Clause 5.10(9) provides requirements for demolition of nominated State Heritage Items.	The proposal does not involve demolition of a nominated state heritage item.	Yes

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 1 JUNE 2022**

<i>State heritage items</i>			
5.10 Conservation incentives	Clause 5.10(10) provides for various conservation incentives – which allow consent for any purpose (even though development would not otherwise be allowed under the Plan)	This development does not seek to utilise the Conservation Incentives allowed under this clause.	Yes

Section 4.15 (1) (a) (ii)—The provisions of any proposed instrument that apply to the land

There are no draft environmental planning instruments which apply to the subject land.

Section 4.15 (1) (a) (iii)—The provisions of any proposed development control plan that apply to the land

There are two Development Control Plans (DCPs) which apply to the subject site:

- the Rural Living DCP applies to land zoned RU4 – Primary Production Small Lots (ie proposed Lot 1); and
- the Berrima Village DCP applies to the portion of the site zoned R2 Low Density Residential (ie proposed Lot 2).

Assessment of the proposed development against the applicable provisions of these DCPs is made in the following section:

Rural Living Development Control Plan

Most of the site (in particular proposed Lot 1) is subject to the Rural Living DCP. An assessment of the proposal in terms of the applicable provisions of this DCP is undertaken in the following table:

Section	Control	Assessment	Compliance
A3.6 Subdivision of Land	<p>A3.6.1 Allotment Sizes:</p> <ul style="list-style-type: none"> • <i>Directs applicants to the minimum lot size maps under WLEP 2010;</i> • <i>Where proposed subdivision would create an allotment below the min lot size, certain provisions of WLEP 2010 apply</i> 	<p>As discussed earlier in this report, the proposal does not comply with the minimum lot sizes prescribed in clause 4.1 WLEP.</p> <p>However the proposal relies on clause 4.2C WLEP 2010 – relating to subdivision of land with split zoning, and the proposal fully complies with clause 4.2C(5)(a).</p>	Yes [complies with WLEP 2010 clause 4.2C(5)(a)]
A6.2 Bushfire Prone Land	<i>A report may be required if the subject property is affected by bush fire risk under Planning for Bushfire Protection.</i>	<p>The subject site is affected by bushfire, and a Bushfire Assessment report has been submitted with the DA.</p> <p>The proposal has been referred to the NSW Rural</p>	Yes

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 1 JUNE 2022**

		Fire Service as Integrated Development, as discussed in the Internal and External Communications section of this report (see later in this report).	
A8.4 Development in the vicinity of heritage items	<ul style="list-style-type: none"> • <i>DAs on properties containing or adjoining locally listed items shall be referred to Council's Heritage Advisor;</i> • <i>DAs on properties adjoining listed heritage items shall contain a Heritage Impact Statement</i> 	<p>The subject site immediately adjoins two heritage items (one on either side of the site – No 8 Old Hume Highway and No 12-16 Old Hume Highway).</p> <p>The DA has not been accompanied by a Heritage Impact Statement, however this is not considered necessary given that the proposal only involves a subdivision.</p> <p>The DA has been referred to Council's Heritage Advisor as discussed in the Internal and External Communications section of this report below.</p>	Yes (acceptable)
A8.6 Berrima Landscape Conservation Area	<p><i>Section A8.6.4 of the Rural Living DCP contains extensive controls regarding built form of new development in Berrima.</i></p> <p><i>The controls relating to subdivision are that no building is to be erected that will be visually prominent when viewed from the village of Berrima, it's approaches or any listed heritage item.</i></p>	<p>The majority of the controls relate to new development (eg dwellings and related structures).</p> <p>The proposal will not lead to any additional dwelling entitlement on Lot 1.</p> <p>Refer to discussion under the Berrima DCP (below) for issues regarding proposed Lot 2.</p>	Yes

Berrima Village Development Control Plan

A small portion of the site (in particular Proposed Lot 2) is subject to the Berrima Village DCP. Most of the controls in this DCP apply to new residential- or business-zoned buildings with limited controls applicable to subdivisions. An assessment of the proposal in terms of the applicable provisions of this DCP is undertaken in the following table:

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 1 JUNE 2022**

Section	Control	Assessment	Compliance
Part A – Provisions applicable to all land Section 2 – General Objectives A2.2 General Objectives	<i>This Section of the DCP contains objectives relating to:</i> <ul style="list-style-type: none"> • <i>Economic Function;</i> • <i>Urban Function;</i> • <i>Residential Amenity;</i> • <i>Heritage Conservation;</i> • <i>Residential Diversity;</i> • <i>Visual Amenity;</i> • <i>Environmental Sustainability;</i> • <i>Public Domain; and</i> • <i>Road Reserves</i> 	<p>Provided all recommended conditions of consent are complied with, the proposed subdivision development is considered to satisfy the objectives in this Section of the DCP.</p> <p>The controls in this Section will be more applicable to new residential development (on proposed Lot 2).</p>	Yes
Section 3 – Biodiversity A3.2 Flora and Fauna Assessment Report	<i>This Section of the DCP provides that a Flora and Fauna Assessment report maybe required with the DA if the site contains (or is adjacent to) native vegetation or will directly or indirectly impact native vegetation by clearing, runoff, waste water irrigation or bushfire asset protection.</i>	<p>The proposed subdivision has minimal impact in terms of existing vegetation – only the removal of 2-3 non-native trees on proposed Lot 2, for new vehicle access and is considered to satisfy the objectives in this Section of the DCP.</p> <p>The controls in this Section will be more applicable to new residential development (on proposed Lot 2).</p>	Yes
Section 4 – Water Management A4.1 Protection of Watercourses and Riparian Lands A4.2 Vegetation Management Plan for Riparian Corridors A4.3 Development in Sydney’s Drinking Water Catchments A4.4 Water	<i>This Section of the DCP contains a range of controls for Water Management.</i>	<p>The most pertinent of the DCP controls relates to Development in Sydney’s Drinking Water Catchments. In this regard a NorBE assessment has been undertaken [as discussed in the assessment under SEPP (Sydney Drinking Water Catchment) 2011 above] which confirms that the subdivision will have a satisfactory outcome in terms of water quality.</p> <p>Further, Council’s Development Engineers have provided conditions</p>	Yes

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 1 JUNE 2022**

<p>Cycle Management Study</p> <p>A4.5 Stormwater Management Plan</p> <p>A4.6 Erosion and Sediment Control Plans</p> <p>A4.7 Water Sensitive Urban Design</p> <p>A4.8 Water Treatment Drain</p>		<p>of consent relating to stormwater design.</p> <p>Generally, the proposed subdivision is considered to satisfy the objectives and controls in this Section of the DCP.</p> <p>The controls in this Section will be more applicable to new residential development (on proposed Lot 2).</p>	
<p>Section 5 Flood Liable Land</p>	<p><i>This Section of the DCP prescribes a range of controls regarding development on flood liable land</i></p>	<p>The subject site is not flood liable</p>	<p>Yes (NA)</p>
<p>Section 6 Bushfire Hazard</p> <p>A6.1 Potential Bushfire Hazard</p>	<p><i>This Section of the DCP provides that development in bushfire prone land will be required to comply with "Planning for Bushfire Protection".</i></p>	<p>As discussed elsewhere in this report, the proposal is classified as Integrated Development because it involves subdivision of bushfire prone land.</p> <p>A Bushfire Assessment Report has been submitted with this DA, complying with Planning for Bushfire Protection. The NSW Rural Fire Service has considered the development and provided conditions of consent.</p> <p>The proposal is considered to be satisfactory in terms of the site's bushfire affectation (subject to conditions of consent).</p>	<p>Yes</p>
<p>Section 7 Vegetation Management and Landscaping</p>	<p><i>This Section of the DCP contains a range of controls for Vegetation Management and Landscaping.</i></p>	<p>As mentioned above (Biodiversity), the proposed subdivision has minimal impact in terms of existing vegetation – only the removal of 2-3</p>	<p>Yes</p>

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 1 JUNE 2022**

<p>A7.1 Protection of Trees and Other Vegetation</p> <p>A7.2 Private Landscaped Open Space</p> <p>A7.3 Verges</p> <p>A7.4 Verge Crossings and Driveways</p> <p>A7.5 Hedges and Front Gardens</p> <p>A7.6 Recreation Area Incidental Green Spaces and Street Trees</p>		<p>non-native trees on proposed Lot 2, for new vehicle access and is considered to satisfy the objectives and controls in this Section of the DCP.</p> <p>The controls in this Section will be more applicable to new residential development (on proposed Lot 2).</p>	
<p>Section 8 Subdivision, Demolition, Siting and Design</p> <p>A8.1 Subdivision of Land</p> <p>A8.1.1 Existing Subdivision Pattern</p>	<p><i>The village of Berrima is laid out as a Georgian village based on a grid pattern. Allotments are regular and rectangular in shape leading out into the surrounding rural area.</i></p>	<p>The proposal generally respects the existing subdivision pattern. As depicted earlier in this report (Figure 5), the proposal involves subdivision in accordance with the two land use zones affecting the subject property.</p>	<p>Yes</p>
<p>A8.1.2 Minimum Lot Sizes</p>	<p><i>Directs applicants to the minimum lot size maps under WLEP 2010. Where the proposed subdivision would create an allotment below the minimum lot size, certain provisions of WLEP 2010 apply.</i></p>	<p>As discussed in the assessment under WLEP 2010, the proposed subdivision creates two allotments which do not comply with the minimum lot size prescribed under clause 4.1 WLEP 2010.</p> <p>However the subject land has a split zoning (part RU4 and part R2) under WLEP 2010, and clause 4.2C of WLEP 2010 specifically provides for this type of subdivision.</p> <p>The subdivision is satisfactory and complies with clause 4.2C(5)(a).</p>	<p>Yes given compliance with WLEP 2010 clause 4.2C(5)(a)</p>

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 1 JUNE 2022**

A8.1.3 Building Envelopes	<i>Building envelopes may need to be considered in order to protect public vistas and view corridors, energy efficiency principles, mitigation of visually obtrusive development and to manage stormwater disposal.</i>	A Building Envelope was considered necessary for this subdivision given that it is very important to preserve the relatively un-developed character of the entry to Berrima Village and to ensure acceptable relationship with the two immediately adjoining heritage items. The applicant has submitted a satisfactory building envelope, and compliance with this will be required as a condition of consent	Yes
A8.1.4 Noxious and Environmental Weeds	<i>Requires an inspection to determine if the site contains noxious/environmental weeds; and the eradication of any such weeds.</i>	The site does not contain noxious weeds.	Yes (NA)
A8.1.5 Landscape Embellishment	<i>A condition of subdivision approval will be that landscape embellishment of allotments and public roads shall occur to enhance the native vegetation in the locality</i>	This is an isolated subdivision, creating one new lot adjoining an existing pattern of subdivision. There is no existing theme of street tree planting in this location, therefore new street tree planting or landscaping is not considered necessary in this instance.	Yes (NA)
A8.1.6 Street Trees	<i>Standard street tree planting required to provide consistency between subdivision developments, providing a unified theme for the village</i>	As above, new street tree planting or landscaping is not considered necessary in this instance.	Yes (NA)
A8.1.7 Lighting	<i>Council will require street lighting where new streets or roads are created as part of subdivisions</i>	This subdivision does not create any new streets/roads.	NA
A8.2 Demolition	<i>No demolition to occur on property which is a heritage item or heritage conservation area. Any application for demolition is to be accompanied by a landscape plan</i>	No demolition proposed.	Yes (NA)

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 1 JUNE 2022**

<p>A8.3 Site Analysis</p>	<p><i>This section of the DCP contains various requirements for a Site Analysis to be provided with DAs.</i></p>	<p>A satisfactory site analysis has been provided.</p>	<p>Yes</p>
<p>A8.4 Cut and Fill</p>	<p><i>Provides various requirements for cut and fill.</i></p>	<p>No cut/fill proposed as part of the subdivision, this will be more applicable to subsequent construction of a dwelling on proposed Lot 2</p>	<p>Yes (NA)</p>
<p>A8.5 Shipping Containers</p>	<p><i>Prohibits shipping containers unless approval has been granted by Council for conversion as a residential building.</i></p>	<p>No shipping container proposed</p>	<p>Yes (NA)</p>
<p>A9 Development in a Heritage Context A9.6 Subdivision Pattern and Land use</p>	<p><i>This section of the DCP provides an extensive background to the heritage significance of Berrima and an extensive range of controls for new development in a heritage context.</i></p> <p><i>The most pertinent controls in this Section are in A9.6 – Subdivision Pattern and Land Use</i></p>	<p>Provided all recommended conditions of consent are complied with, the proposed subdivision development is considered to satisfy the objectives and controls in this Section of the DCP.</p> <p>As stated previously, this subdivision generally maintains the existing subdivision pattern by creating one new allotment in an existing subdivision pattern.</p> <p>The controls in this Section will be more applicable to new residential development (on proposed Lot 2).</p> <p>See detailed commentary below</p>	<p>Yes See detailed commentary below</p>
<p>Section 13 Heritage Precincts A13.7 Harpers Mansion Precinct (No 6)</p>	<p><i>This Section of the DCP provides precinct controls for the 10 precincts which make up the Berrima village.</i></p> <p><i>The subject site is located in Precinct 6 – Harpers Mansion Precinct. The objectives of this Precinct are all new buildings in the eastern part of the precinct must be in sympathy with</i></p>	<p>Provided all recommended conditions of consent are complied with, the proposed subdivision development is considered to satisfy the objectives in this Section of the DCP.</p> <p>The controls in this Section will be more applicable to new</p>	<p>Yes</p>

	<i>Harper's Mansion; and that dwellings in the western part of the precinct shall have regard to the heritage character of Berrima.</i>	residential development (on proposed Lot 2).	
Part C Residential Zoned Land	<p><i>This section of the DCP contains extensive controls for new residential development in Berrima, including:</i></p> <ul style="list-style-type: none"> • <i>Low Density Housing</i> • <i>Universal Design for Adaptable Housing</i> • <i>Other forms of residential development</i> • <i>Ancillary development</i> • <i>Home Business and home industry</i> • <i>Bed and Breakfast establishments</i> • <i>Seniors Housing</i> • <i>Exhibition homes and villages</i> • <i>Educational establishments</i> • <i>Places of public worship</i> • <i>Child Care Centres.</i> 	<p>Provided all recommended conditions of consent are complied with, the proposed subdivision development is generally considered to satisfy the objectives and controls in this Section of the DCP – noting that many of the controls are not applicable to the proposed subdivision and will only be applicable for particular development types.</p> <p>The controls in this Section will be more applicable to new residential development (on proposed Lot 2).</p>	Yes

**Detailed Commentary – Part A Section 9: Development in a Heritage Context
A9.6: Subdivision Pattern and Landuse**

One of the reasons for refusal of the previous DA was that the development was contrary to Part A Section 9 of the Berrima Village DCP. In particular, the site is identified (in Figure A9.9, page 92 of the DCP) as having the potential for residential development at the rear facing Wilkinson Street rather than at the Old Hume Highway frontage.

As such, additional commentary is warranted as to how the development addresses the controls in Part A Section 9 of the DCP, and also in terms of the scope of these DCP controls in the hierarchy of Environmental Planning Instruments.

Figure A9.9 (p92 of the DCP) is provided in **Figure 6 and 7** below, with the subject site identified thereon:

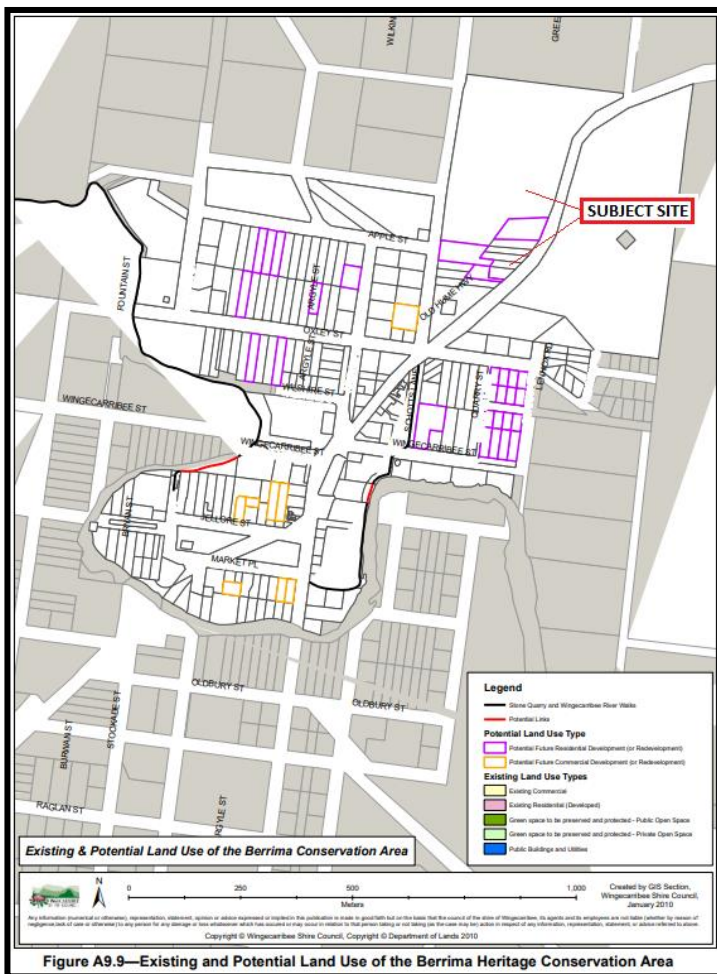


Figure 6 – Figure A9.9 of the Berrima Village DCP, highlighting the location of the subject site

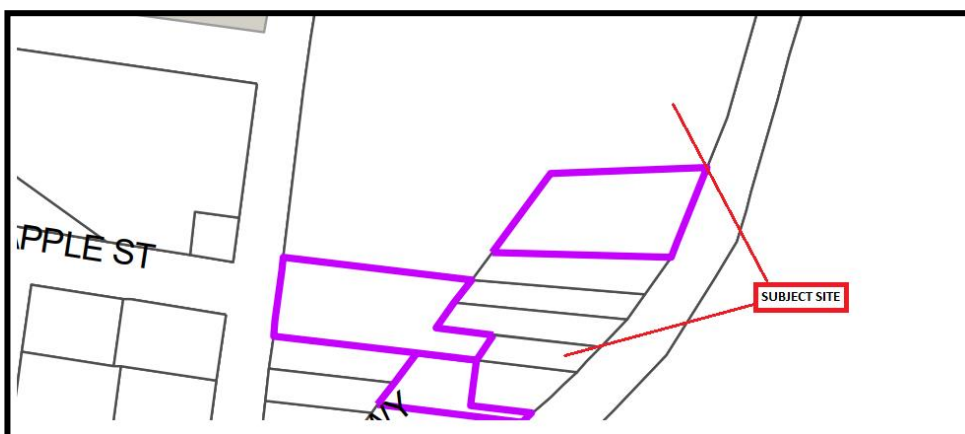


Figure 7 – Close-up of the above Figure, showing the location of the site in more detail.

Part A9.6 (Subdivision Pattern & Landuse) of the Berrima DCP contains a range of controls to be considered for subdivisions, including a background/preamble to the original subdivision pattern of Berrima, as well as objectives and controls for new subdivisions.

The subdivision controls in the Berrima DCP are provided below, together with a comment on how the proposal satisfies these controls:

Part A9.6 Preamble:

Part A9.6 of the Berrima DCP notes that the township of Berrima was originally envisaged as an administrative centre, the “country town” of Camden. The Georgian town plan was based on English ideals, with the market place as the Village core and a grid pattern of streets and allotments.

Assessment Officer’s Comment: The proposed subdivision generally seeks to maintain the existing allotment pattern. It only seeks to create one additional lot as a result of the “heel” of the existing lot being zoned R2 Low Density Residential, and in accordance with the provisions of Wingecarribee LEP 2010.

Part A.9.6.2 Controls:

- (a) Blocks shall retain the visual characteristics of the original development when viewed from the street or adjacent public domain e.g. a single detached building.

Comment: The proposed subdivision will retain the visual characteristics of the original development. It retains the existing allotment pattern of this part of Berrima, and the building envelope submitted with the DA will ensure that any future dwelling does not detract from the existing character of the streetscape.

- (b) No kerb, gutter, street drain or culvert shall be installed, unless its location is approved by council’s heritage adviser and is designed in sandstone to an approved heritage detail.

Comment: No kerb/gutter, street drain or culvert infrastructure is proposed or required to be installed as part of the subdivision.

- (c) Roads shall retain their current alignments and widths.

Comment: The proposed subdivision does not propose or require any change to alignment/width of any roads.

- (d) Unformed roads shall not be built upon and shall remain unformed.

Comment: There are no unformed roads in proximity of the proposed subdivision.

- (e) Gravel roads shall not be asphalt sealed but may be resealed with “Jugiong” gravel (brown in colour).

Comment: The proposed subdivision does not propose or require any sealing to existing gravel roads.

- (f) Previously asphalt sealed roads may be asphalt re-sealed but shall not be kerbed and guttered.

Comment: The Old Hume Highway is asphalt-sealed, there is no proposal or requirement to re-seal the road or provide kerb and gutter.

- (g) New traffic calming and other road and traffic control devices shall be minimised so as to retain existing street character, and if proposed, shall be designed to an approved heritage detail. Raised humps or islands shall be avoided.

Comment: There is no proposal or requirement to provide traffic calming devices as part of this subdivision.

- (h) Original footpath alignments and widths shall be retained. Unsealed paths shall not be sealed.

Comment: As above, the proposed subdivision does not propose or require any change to alignment/width of any roads, and it is not proposed to seal any unsealed path.

- (i) Maintain existing land use in the Conservation Area shown on Figure A8.9.

Comment: The proposed subdivision will maintain existing land-uses, noting that the subdivision will only facilitate additional development of proposed Lot 2 in accordance with the existing R2 Low Density Residential zoning of that lot under WLEP 2010.

- (j) Take opportunities to demolish, redevelop and provide infill development on land identified for potential future development on Figure A8.9.

Comment: As above, the proposed subdivision will only facilitate additional development of proposed Lot 2 in accordance with the existing R2 Low Density Residential zoning of that lot under WLEP 2010.

The previous DA (21/1483) was refused for reasons including inconsistency of the proposal with Part A Section 9 of the Berrima DCP, in particular Figure A9.9 which visually describes existing and potential land uses. Reliance on Figure A9.9 in the Berrima DCP as a reason for refusal raises the following concerns in terms of consistency with the principles of Environmental Planning Instruments:

1. Residential development at the rear (of proposed Lot 2, towards Wilkinson Street) could still occur if the subdivision is to proceed – and therefore the proposed subdivision is not inconsistent with Figure A9.9 of the Berrima DCP. Vehicle access would be a matter for consideration in any future DA, but could either be provided from the Old Hume Highway (in which case, such access would need to be sensitively designed to ensure that no existing trees are impacted), or via Wilkinson Street to the rear (in which case, a right-of-carriageway would be required over proposed Lot 1 as there is currently no provision for access from Wilkinson Street). The latter option could be resolved via a condition of consent.
2. Though the above Figure A9.9 of the Berrima DCP identifies the site (ie both proposed lots 1 and 2) as being suitable for potential residential development at the rear facing Wilkinson Street (with access off Wilkinson Street) rather than the Old Hume Highway frontage – this is contrary to the current zoning of the rear portion of the site, part of which is RU4 – Primary Production Small Lots.
3. Reliance on Figure A9.9 of the DCP as a reason for refusal of the previous DA (or the current DA) for subdivision would be inconsistent with the provisions of Wingecarribee LEP 2010, in particular Clause 4.2C which allows for this type of subdivision of land with split zonings. Therefore, if the provisions of the DCP seek to restrict/prohibit a development that is permitted under the LEP, then this is beyond the power of a DCP (ie *ultra vires*).

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

Given that the proposed subdivision is not inconsistent with the Berrima DCP in particular Part A9.6 and Figure A9.9, the proposed subdivision is considered satisfactory in terms of the Berrima DCP.

Local Planning Panel Consideration of Previous DA (7 July 2021):

It is noted that the current DA is essentially a re-submission of a previous DA for the site. This previous DA (21/1483) was determined by the Local Planning Panel and refused for a number of reasons. These reasons are included below, together with a response from the applicant and a planning comment:

Refusal Reason No 1: Whilst the proposed subdivision is permitted under the split zoning concession in clause 4.2C of Wingecarribee LEP 2010 (the LEP) notwithstanding that proposed lot 2 is 1,445 square metres rather than the minimum lot size of 2,000 square metres, the Panel must be satisfied with the creation of lot 2 as a lot suitable for erection of a new dwelling house (with associated carparking) having regard to the sensitivity of the site located in the heritage conservation area and in between 2 listed heritage items.

Assessment Officer's Comment: Lot 2 is suitable for the erection of a new dwelling given that it is suitably-zoned (R2 Low Density Residential under Wingecarribee LEP 2010)

A future dwelling could not be approved via the Complying Development process – which excludes sites located in various areas such as a Heritage Conservation Area (as with this site). It is noted that the Berrima DCP contains extensive, robust and detailed development controls in the Berrima Village given the high level of heritage significance of the Village.

Refusal Reason No 2: The site is identified in Part A section 9 of the Berrima Village Development Control Plan (the DCP) "Development within a heritage context" as having the potential for residential development at the rear facing Wilkinson Street rather than at the Old Hume Highway frontage and this is not addressed in the report.

Assessment Officer's Comment: An assessment of the proposal in terms of Part A9.6 and Figure A9.9 has been undertaken in detail, above. The proposal is not inconsistent and is generally satisfactory when assessed in terms of these provisions.

Refusal Reason No 3: The panel is not satisfied that the proposed subdivision, and in particular the creation of lot 2 as a lot for erection of a dwelling house should be approved having regard to the following:

- a. *The objectives in clause 5.10 (1)(a) and (b) of the LEP.*
- b. *The lack of a heritage management document as referred to in clause 5.10 (5)(b) and (c) of the LEP.*
- c. *The potential adverse impact on the heritage significance of the heritage conservation area and adjacent heritage items (cl 5.10(4) of the LEP).*

Assessment Officer's Comment: A full assessment in terms of Clause 5.10 of WLEP 2010 has been undertaken in throughout this report. A Heritage Impact Assessment report has been submitted by the applicant, and is an attachment to this report.

In terms of impacts on the heritage significance of the Heritage Conservation Area, as a development, the subdivision will have little or no impact as there are no physical works. The future dwelling house (as a consequence of any subdivision approval) can be assessed as part of a future DA for such a dwelling.

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 1 JUNE 2022**

Refusal Reason No 4: The Panel is of the view that a combined subdivision/dwelling house development application including a dwelling house and associated garaging on lot 2 designed in accordance with the design principles and guidelines contained in the Berrima Village DCP (in particular Part A, section 9 “Development Within a Heritage Context”) should be lodged to ensure that the impacts of any such dwelling house and associated garaging are able to be appropriately assessed in the context of the heritage controls in the LEP and DCP prior to the site being approved for subdivision.

Assessment Officer’s Comment: The applicant has stated that the submitted development proposal remains for a subdivision only, not for a dwelling house. This is a legitimate and reasonable application to make and it is not within Council’s legislative power to force the applicant to seek approval for a dwelling house at this point in time.

A building envelope plan has been included and this can be entrenched as part of any subdivision approval. This will set the location of any future dwelling.

The existing provisions of the Berrima Village Development Control Plan are designed to ensure that future residential development is of an appropriate scale and character having regard to the heritage sensitivity of the location. In this case, if the subdivision is approved, a new dwelling upon Proposed Lot 2 will require the submission and approval of a Development Application, giving the consent authority all the opportunity that is needed to ensure an appropriate outcome.

The applicant’s comments in relation to this reason for refusal are supported. The current DA (as with the previous DA) does not seek concurrent construction of a dwelling house.

It is again noted that such a dwelling would require a separate DA.

Refusal Reason No 5: Any such application should be accompanied by a landscape plan and heritage impact document and provide adequate justification for a dwelling house to be erected on the site notwithstanding the DCP provision referred to in paragraph 2 above.

Assessment Officer’s Comment: The DA documents have included a Heritage Impact Assessment in relation to the proposed subdivision. As this DA does not include formal information regarding a future dwelling (only the building envelope plan), there is no landscape plan submitted.

A Heritage Impact Statement has been submitted with the DA, and this is included as an Attachment to this report. As stated above, any future dwelling house will require the submission of a separate DA which would be the time to consider associated issues such as landscaping.

Section 4.15 (1) (a) (iiia)—The provisions of any environmental planning instrument that apply to the land

No planning agreement has been entered into or proposed under section 7.4 of the *Environmental Planning and Assessment Act 1979* in relation to the land.

Section 4.15 (1) (a) (iv)—The provisions of the regulations that apply to the land

No provisions of Division 8 of Part 6 of the *Environmental Planning and Assessment Regulation 2000* are relevant to the proposed development.

Section 4.15 (1) (b)—The likely impacts of the proposed 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 discussed throughout this report. The proposed subdivision itself would have minimal impact – however a key impact is how any resulting future dwelling on proposed Lot 2 would impact upon the natural and built environment of the Berrima village particularly in terms of heritage significance.

Generally, it is considered that the future dwelling on Lot 2 would have an acceptable impact on the natural and built environment of Berrima. Such a dwelling would need to be designed in accordance with the controls in the Berrima Village DCP, which are very strict to ensure a high design quality for new development in the village.

The proposed building footprint provided for Lot 2 shows a 12.5m front setback, which would enable a future dwelling to be recessive and respect the heritage items on either side of Lot 2. This large setback also would help to allow the relatively un-developed character of sites at the northern entry to Berrima to be maintained.

Section 4.15 (1) (c)—The suitability of the site for the proposed development

The subject site is not affected by any natural constraints which would render the site as unsuitable for the proposed development.

The site is shown on Council's mapping system as being affected by bushfire, and this has been addressed by an Integrated Development referral to the NSW Rural Fire Service (see Internal and External Communications section later in this report).

Section 4.15 (1) (d)—Any submissions made in accordance with the Act or the regulations

Refer to the Community Consultation section of this report, below.

Section 4.15 (1) (e)—The Public Interest

Having regard to the circumstances of the case, approval of the proposed subdivision is in the public interest, as it is consistent with the provisions of clause 4.2C of WLEP 2010, and it will facilitate the subsequent construction of residential development on suitably-zoned (R2 Low Density Residential) allotment of land.

7. Referral Comments:

The DA was referred to the following officers within and external to Council:

External Comments:

Rural Fire Service (Integrated Development): The subject site is identified as being affected by bushfire, therefore the subdivision is Integrated Development requiring concurrent approval from the NSW Rural Fire Service (s100B of the Rural Fires Act 1997). The NSW RFS have provided General Terms of Approval for this development, in response to Council's referral.

Transport for NSW: The previous DA21/1483 was sent to Transport for NSW for concurrence, given the site's frontage to the Old Hume Highway. Transport for NSW rejected the referral as the development is not integrated development under the Roads Act, 1993. It would only be integrated development under S138 where TfNSW is the road authority, eg the Hume Motorway.

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

In this instance Council is the road authority for Old Hume Highway, so this referral is a matter for Council.

Given Transport for NSW's clear position on the previous DA, it was not necessary to refer the current DA as there is no statutory requirement to undertake a referral.

Internal Comments:

Development Engineer: Has reviewed the proposal in terms of vehicle access, approval requirements for vehicle access (Section 138), sewer and water connections, and stormwater discharge – and raised no objection. The following comments have been provided:

- **Access:** *Old Hume Highway is a Local Road. The section fronting the site is within 50km/h before transitioning to 80km/h zone 100m away. Therefore, I have no issues with the accessing Lot 2 from Old Hume Highway as proposed in NCE Plans.*
- **Section 138:** *Section 138 is required for driveway servicing Lot 2. No upgrade is required for Lot 1 existing driveway as Lot 1 driveway connects to Wilkinson Street which is not sealed.*
- **Sewer & Water:** *available to the site. Application shall be made for an additional water service and sewer junction & sideline.*
- **Stormwater:** *No issues with discharging to the existing table drain in Old Hume Highway. OSD shall be provided with future dwelling and shall be registered in Section 88B Instrument of Lot 2.*

Appropriate conditions have been provided which are included in the draft conditions of consent.

Co-ordinator Strategic Planning (Developer Contributions): Has reviewed the proposal and provided details of the contributions payable (both developer contributions under Section 7.11 of the Environmental Planning & Assessment Act 1979 and levies for water and sewer infrastructure under Section 64 of the Local Government Act 1993).

These contributions are included in the draft conditions of consent.

Heritage Advisor: The proposed development has been referred to Council's Heritage Advisor for comment, given the site immediately adjoins two heritage items and is within the Berrima Conservation Area.

On 1 December 2021, Council's (previous) Heritage Advisor who made the following comments:

- *It is noted that the current DA22/0712 is the second DA lodged for this property – following DA21/1426 which was refused at the Local Planning Panel in July 2021. (wrong DA number – the previous DA was 21/1483).*
- *The current DA has included a basic building envelope (location drawn on the subdivision plan). However, no details have been provided regarding built form of any future dwelling/related structure(s).*
- *Given the Heritage sensitivity of the site (with Heritage Items located on either side of the site at No 6 and No 12-16 Old Hume Hwy; and also the site is within the Berrima Heritage Conservation Area and Landscape Conservation Area) – it is requested that the building envelope details be updated to include information regarding the intended dwelling to be constructed on Proposed Lot 2. Such detail should include site plan, floor plans, elevations, sections, and full details of external finishes (including colours and material samples); and also details of any trees to be removed or retained on Proposed Lot 2.*

Council has since engaged a new Heritage Advisor. The current DA was referred to Council's new Heritage Advisor, who has provided the following comments:

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 1 JUNE 2022**

Planning Instruments

Relevant planning instruments include:
Wingecarribee Local Environmental Plan 2010 (LEP)
Berrima Village Development Control Plan (BVDCP)

Part 5.10(2) of the LEP requires development consent for altering a building, work, relic, tree or place within a heritage conservation area. Part 5.10(4) requires Council to consider the effect of the proposed development on the heritage significance of the relevant heritage item or heritage conservation area.

Heritage controls are set out in section 9 of BVDCP.

Heritage Listing

No. 10 Old Hume Highway:

- is not a heritage item
- is located within the immediate vicinity of a number of heritage items and the Berrima Landscape Conservation Area
- is located within the Berrima Conservation Area

Heritage Significance

Berrima is significant as one of the few intact villages in the State which demonstrate the characteristics of nineteenth century town development from the period of convict settlement to the end of the Victorian era. Its original layout and town limits are largely intact and the surviving stock of residential, commercial and administrative buildings along with churches and major buildings associated with the Gaol, provide evidence of the role of Berrima as an early administrative centre and a town which served generations of travellers on the South Road. The town is also significant as a collection of largely intact early buildings which are predominantly Georgian in style, the value of which is reinforced by the high quality of the surrounding natural environment and plantings within the town. The heritage attributes of Berrima are recognised by visitors from all parts of Australia who enjoy the character and history of the town which has become a cultural tourism attraction.

Comments

Subdivision controls are set out in section 9.6.2 of BVDCP. Relevant controls are addressed below.

	<i>Control</i>	<i>Heritage Advisor's comments</i>	<i>Complies</i>
(a)	<i>New buildings must not be visually prominent from Berrima Village, its approaches or any heritage item</i>	<p><i>The proposed building footprint, together with the loss of existing trees would result in a new house that had some visual prominence on the Old Hume Highway approach to Berrima village.</i></p> <p><u>Assessment Officer's Comment:</u> The proposed building footprint submitted with the DA shows the location of a new dwelling (subject to a future DA) which could be constructed to ensure it is not visually prominent from the Old Hume Highway and sympathetic to the heritage items on either side of the site.</p> <p>The building footprint also shows that a future dwelling could be constructed to avoid tree removal – both in terms of the dwelling itself and any vehicle access.</p>	No
(i)	<i>Maintain the existing land use as shown in</i>	<i>The existing use of the portion of the proposed new small allotment is shown on the map as "Green space to be</i>	No

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 1 JUNE 2022**

	Figure 8.9.	<p>preserved and protected – Private Open Space). The rear part of this allotment, together with adjacent land is shown as “Potential Future Residential Development”. The proposal is contrary to this control as it is proposed to build a new house and driveway within the green space area.</p> <p><u>Assessment Officer’s Comment:</u> In terms of the residential lot being mapped as “Green Space” or “Private Open Space”, this would be contrary to the Wingecarribee LEP 2010 zoning (R2 Low Density Residential). As stated previously, if the provisions of the DCP seek to restrict/prohibit a development that is permitted under the LEP, then this is beyond the power of a DCP (ie <i>ultra vires</i>).</p>	
(j)	Take opportunities to demolish, redevelop and provide infill development on land identified for potential future development on Figure 8.9.	<p>The opportunity for new residential development on a newly created residential allotment as shown in Figure 8.9 has not been taken. Instead a relatively small residential allotment is proposed.</p> <p><u>Assessment Officer’s Comment:</u> The proposal seeks to create one additional allotment directly in accordance with the zone boundary affecting this site (and in accordance with clause 4.2C in Wingecarribee LEP 2010).</p>	No

The proposal would adversely affect the aesthetic values of the conservation area. A larger allotment would provide for a house suitable a contemporary family in a garden setting and a development more in keeping with the character of the conservation area. The larger allotment would also provide a transition between the village and the surrounding rural land.

The proposed narrow allotment has a building footprint insufficient to allow a new house to be set within a garden setting due to the narrow side setback of 1 metre along the southern boundary. As the proposed building footprint is long (almost half the side boundary) this would adversely affect the potential future landscape character of the site.

The proposed driveway crossing is located near the centre of the site which is not characteristic of the conservation area, and would require a driveway to cut across the front garden, which would not be sympathetic.

The loss of existing trees is also a concern as it would degrade the landscape character of the streetscape and as a result, increase the visual prominence of built forms.

Conclusion

The proposal does not satisfy the heritage provisions of Wingecarribee Local Environmental Plan 2010 or Berrima Village Development Control Plan and so is recommend for refusal. The applicant should consider a larger new allotment that is in accordance with the DCP controls. Access should be from Wilkinson Street.

The Heritage Advisor’s comments have been provided to the applicant to enable a response as part of the DA assessment. The applicant’s comments in response to the Heritage Advisor’s comments are provided below:

Applicant Comments: On a very fundamental level, the DA proposes no more than what the LEP provisions have been specifically designed to do. Don’t forget that the Council chose to apply the split zoning to the land - it can hardly now deny the very type of subdivision that the LEP set up. We believe this is a very important point to make because

decisions on Development Applications should reflect the strategic planning objectives promoted by the statutory planning documents.

Comments in relation to the heritage officer response are as follows:

- it is stated that the subdivision does not comply with the provisions of Section 9.6.2 of BVDCP. It doesn't because it is a subdivision responding to the very specific circumstances of the split zoning and the provisions of Clause 4.2C of WLEP2010. The provisions of the DCP as they relate to subdivision were not framed with Cl4.2C in mind. In other words, this is a one off that is outside of the general DCP provisions and they should not be used to cast doubt on the merits of the subdivision*
- it is stated that the DCP identifies land to the west of the residential portion of the site as 'potential future residential development' This seems to ignore the zoning set up by the LEP and ignores the fact that the RU4 portion of the site already has a dwelling erected upon it. Does Council wish to allow the dwelling entitlement of the residential portion of the site to be switched to land fronting Wilkinson Street instead of the residential zoned land fronting the Highway? This may be what the heritage adviser is thinking in making these particular comments.*
- clearly, we do not agree that a single dwelling house set amidst the other existing dwelling houses will adversely affect the aesthetic values of the conservation area as is claimed. It is true that a larger lot would provide more garden area, but we have to deal with what site area we have. Again, I stress that Council zoned this portion of the site residential. This is not a speculative claim from the land owner - it is simply a response to Council's own planning controls that have come about only after a deliberate decision to impose the split zoning.*
- if a garden setting is required, then a greater setback from the road could be imposed, however the dwellings either side are built right up to the frontage. It is also noted that the land owner to the south did not object to a new lot and future dwelling, but did not want it pushed back too far into the lot as that may impact the amenity of his rear yard.*
- the two dwellings to the north of the site are on a frontage of the same width as the proposed lot. The concerns about a dwelling somehow being out of context are not substantiated.*
- We do not understand how the driveway is any different to the driveways already servicing all of the existing dwellings along this stretch of the Highway.*
- Finally, I reiterate the point that the applicant did not choose the proposed subdivision pattern or lot size of the two proposed lots - Council did. However, there could be some merit in access from Wilkinson St.*

We believe the DA should be approved as submitted and a new DA for a dwelling will be assessed against the design criteria of the Berrima DCP. I would however be happy to discuss how Council could support an alternative subdivision that delivers a new lot with a dwelling entitlement.

Assessment Officer's Comment: Although the Heritage Advisor's comments are noted, it is considered that the proposal is acceptable and able to be supported for the following reasons:

1. Any future dwelling on proposed Lot 2, resulting from approval of the current subdivision, would be largely obscured by the position of the adjoining dwellings on either side (at No

8 and 12-16 Old Hume Highway). Both adjoining dwellings are constructed very close to the Old Hume Highway, and with the (curved) alignment of the Old Hume Highway, any future dwelling on proposed Lot 2 would be mostly obscured from the front when travelling in either direction along the Old Hume Highway. See street-view photos in **Figure 8** below.

2. The applicant has provided a building footprint for proposed Lot 2, with a 12.5m front setback. This will allow the vegetation within this front setback to be retained, which will help to preserve the un-developed character of the front part of proposed Lot 2. It will also help to enable any future dwelling to be recessive and obscured by the adjoining dwellings.
3. Any subsequent residential development on proposed Lot 2 would need to be designed in accordance with the controls in the Berrima Village DCP, which are very strict to ensure a high design quality for new development in the village. It is noted that complying development provisions (under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008) could not be utilised for any residential development on Lot 2 because the site is in a Heritage Conservation Area.



Figure 8 – Street view photos of subject site, No 10 Old Hume Highway Berrima, when viewed from the south and north.

8. Conclusion

The proposed development has been assessed using the heads of consideration listed in Section 4.15 of the Environmental Planning & Assessment Act 1979 and is found to be satisfactory.

The subject site has two landuse zones under Wingecarribee LEP 2010 (part RU4 Primary Production Small Lots and part R2 Low Density Residential), and the proposal is to create two allotments which directly accord with these landuse zones – the proposed allotment boundary will accord with the zone boundary. This is the type of subdivision which is facilitated by clause 4.2C of WLEP 2010, and the proposal fully complies with clause 4.2C(5)(a).

Although concerns have been raised by Council's Heritage Advisor, it is considered that the proposal is acceptable. In particular, it is noted that this development is only for subdivision, and any future development (of Lot 2 which is within the R2 Low Density Residential zone) would be subject to a future DA.

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 1 JUNE 2022**

In this regard, the applicant's submitted building footprint plan provides for a 12.5m front setback of any future dwelling on proposed lot 2 which will generally ensure that the character can be maintained.

Overall, the development is considered satisfactory and approval is recommended subject to conditions of consent (see Attachment 1).

ATTACHMENTS

1. Draft Determination 10 Old Hume Hwy [6.2.1 - 20 pages]
2. Plan of Subdivision - 10 Old Hume Hwy [6.2.2 - 2 pages]
3. Dwelling Envelope - 10 Old Hume Hwy [6.2.3 - 1 page]
4. Heritage Impact Statement -10 Old Hume Hwy [6.2.4 - 13 pages]



DATE

SCOTT LEE
33 HOLLY STREET
BOWRAL NSW 2576



Civic Centre, 68 Elizabeth St.
Moss Vale NSW 2577
PO Box 141, Moss Vale
02 4868 0888
mail@wsc.nsw.gov.au
ABN 49 546 344 354

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

APPLICATION NO:	22/0712
APPLICANT:	SCOTT LEE
OWNER:	ME HANRATTY
PROPERTY DESCRIPTION:	Lot 1 DP 258420
PROPERTY ADDRESS:	STRINGYBARK 10 OLD HUME HIGHWAY BERRIMA NSW 2577
PROPOSED DEVELOPMENT:	Subdivision - 2 Lots
DETERMINATION:	Approval subject to conditions
CONSENT TO OPERATE FROM:	DATE
CONSENT TO LAPSE ON:	DATE + 5 years

Rights of Appeal

Pursuant to Section 8.7 of the *Environmental Planning and Assessment Act 1979*, an applicant for development consent who is dissatisfied with the determination of the application by Council authority may appeal to the Court against the determination. Pursuant to Section 8.10, an appeal may be made only within 12 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.

Chris Young
Senior Development Assessment Planner

DATE
Date of Determination

Working with you

WSC.NSW.GOV.AU

WINGECARRIBEE - A COAL MINING FREE SHIRE

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

22/0712, Lot 1 DP 258420

SCHEDULE 1 CONDITIONS OF DEVELOPMENT CONSENT

ADMINISTRATION CONDITIONS

1. Development Description

Development consent has been granted in accordance with this notice of determination for the purposes of Subdivision – 2 Lots.

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

2. Development in Accordance with Plans and Documents

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

Plan Title / Supporting Document	Reference / Version	Prepared By	Dated
Plan of Proposed Subdivision	20074 Dwg DA01 Issue 02	Novati Consulting Engineers	08/12/2020
Concept Stormwater Drainage, Water and Sewer Services Plan	20074 Dwg DA02 Issue 02	Novati Consulting Engineers	08/12/2020
Statement of Environmental Effects	Not Referenced	Lee Environmental Planning	October 2021
Bushfire Report	Not Referenced	Bushfire Planning & Design	21 March 2021
Building Footprint Plan	Not Referenced	Lee Environmental Planning	17 June 2021
Heritage Impact Statement	Not Referenced	Dr Caroline Cosgrove	7 October 2021

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).*

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

4. Application for a Subdivision Works Certificate

Subdivision work in accordance with the consent shall not be commenced until a Subdivision

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

22/0712, Lot 1 DP 258420

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.*

5. **Appointment of Principal Certifier (PC)**

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

- (a) A Subdivision Works Certificate for the subdivision work has been issued by:
 - (i) the consent authority; or
 - (ii) a Principal Certifier (PC); and
- (b) the person having the benefit of the development consent has:
 - (i) appointed a Principal Certifier (PC) for the subdivision work, and
 - (ii) notified the Principal Certifier (PC) that the person will carry out the subdivision 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 subdivision work who must be the holder of a contractor licence if any residential building work is involved, and
 - (ii) notified the Principal Certifier (PC) of such appointment, and
 - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the subdivision work, and
- (c) the person having the benefit of the development consent has given at least 2 days' notice to the Council of the person's intention to commence the subdivision work.

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

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

The developer must provide Council and the Principal Certifier (PC) with photos of any damage of Council property adjoining the development prior to the issue of the Subdivision Works Certificate.

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

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

22/0712, Lot 1 DP 258420

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

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

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

7. Section 68 Local Government Act 1993 Approvals

Prior to the issue of a Subdivision Works 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:

- Stormwater drainage works

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

8. Section 138 Roads Act 1993 Approval

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

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

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

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

Reason: *Statutory requirement.*

9. Erosion and Sediment Control Plan

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

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

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

10. Detailed Stormwater Drainage System Design

Prior to the issue of the Subdivision Works 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: *Subdivision Works 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.*

11. Vehicular Crossings

Full-width, heavy-duty concrete vehicular crossing(s) shall be provided across the footway at the entrance(s) and/or exit(s) to the site, subject to approval by Council's Development Engineer. In this regard the Applicant shall obtain a copy of Council's Standard Drawing and

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

22/0712, Lot 1 DP 258420

lodge an application for vehicular crossing (s) (available from Council's Customer Services Centre or downloaded from Council's website), and pay the appropriate fees and charges prior to the lodgment of the Subdivision Works Certificate.

Reason: *To ensure appropriate access to the site can be achieved.*

CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORK

12. Notice of Commencement

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

- (a) Not less than two (2) days' notice of the date on which it is proposed to commence work associated with this Development Consent.
- (b) Details of the appointment of a Principal Certifier (PC) (either Wingecarribee Council or another Principal Certifier).
- (c) Details of the Principal Contractor or Owner Builder:
 - Name
 - Builders Licence Number or Owner Builder Permit Number
 - Principal Contractor Company Name
 - Principal Contractor ABN
 - Address of Principal Contractor or Owner Builder
 - Email Address
- (d) Copy of the HBCF Insurance Certificate (if residential building works exceed \$20,000) or Owner Builder Permit.
- (e) Details demonstrating compliance with development consent conditions relevant prior to commencement of the development been satisfied.

Reason: *Statutory requirement.*

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

13. Principal Certifier (PC) Sign

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

- The Principal Certifier (PC) by showing the name, address and telephone number of the Principal Certifier (PC);
- 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.

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

22/0712, Lot 1 DP 258420

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

Reason: Statutory requirement.

14. Subdivision Works Certificate & Appointment of Principal Certifier (PC)

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

- (a) A Subdivision Works Certificate has been issued.
- (b) The person having the benefit of the development consent has appointed the Principal Certifier (PC).
- (c) The Principal Certifier (PC) (if not Council) has, no later than two (2) days before the subdivision work commences, notified the Council (or other consent authority where applicable) of the Principal Certifier's (PC) appointment.
- (d) The person having the benefit of the consent has given at least two (2) days' notice to the Council of the person's intention to commence the subdivision work.

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

Reason: Statutory requirement.

15. Developers Representative during Construction of Works

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

Details to be submitted include:-

Name of Representative:
Company:
Position:
Contact phone:
Contact fax:
After Hours Contact:
Signature of Representative:
Signature & Acceptance of representative by the Developer:

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

Prior to commencing any works on site the representative shall:

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

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

22/0712, Lot 1 DP 258420

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.

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

Prior to any works being undertaken 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*).

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 the approved development plans and proposed works to be undertaken.
- Plans and adequate documentation which validate that the required works are in accordance with Councils Engineering Plans and Specifications and relevant standards.
- 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.

17. Erosion and Sediment Control

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

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

CONDITIONS TO BE SATISFIED DURING THE CONSTRUCTION PHASE

18. Approved Plans to be available on site

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

22/0712, Lot 1 DP 258420

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.

19. 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) Works in relation to road reserves, footpath, kerb and gutter, road shoulder and drainage within public lands or road reserves.
- (b) Final inspection on footpath, driveway, stormwater and utility construction works within the road reserve.

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

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

Reason: Statutory requirement.

20. 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 from the site from stormwater.

21. 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.

22. 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.

23. Prevention of Nuisance

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

22/0712, Lot 1 DP 258420

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 carrying out of works in the development.

Reason: *Health and amenity.*

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

24. Subdivision Certificate Application

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

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

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

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

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

25. Section 7.11 Contributions (formerly Section 94)

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

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

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

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

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

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

22/0712, Lot 1 DP 258420

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.*

26. Section 68 Local Government Act Final

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

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

27. Section 138 Roads Act Final

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

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

28. Construction of Water Service

Each lot in the subdivision shall have its own dedicated water service prior to the issue of the Subdivision Certificate.

In the case that a new water service is required Council's application form shall be completed by the developer and the appropriate fee paid.

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

29. 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 Wingecarribee Shire Council Engineering Design and Construction Specifications, Drawings and relevant Standards. The applicant shall provide to Council written confirmation of compliance.

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

22/0712, Lot 1 DP 258420

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

30. **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) The construction of any future dwelling or ancillary structure (eg outbuilding etc) shall be located within the area marked in red on the "Indicative Future Dwelling Envelope in support of DA21/1483" plan prepared by Lee Environmental Planning dated 17 June 2021.
- (b) Fencing shall be restricted to post and wire / post and rail fencing with hedging so as to respect the character of the locality.
- (c) Future dwelling on Lot 2 shall have on-site detention facilities.

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.*

31. **Energy Service Provider Requirements**

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

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

32. **Civil Engineering works and services**

All civil engineering works and services, including construction works within the road reserve, are to be constructed in accordance with the Wingecarribee Shire Council Engineering Design and Construction Specifications and Drawings, relevant Standards and approved engineering plans prior to the issue of the Subdivision Certificate.

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

33. **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 Wingecarribee Shire Council Engineering Design and Construction Specifications, Drawings and relevant 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.*

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

22/0712, Lot 1 DP 258420

34. **Certification of Internal Civil Works**

On completion of works and prior to 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 stormwater drainage system including any onsite detention) are in accordance with approved plans and specifications.

Reason: To comply with Councils requirements.

35. **Stormwater Facilities Alterations**

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

Details shall be provided for the approval of Council prior to the issue of the Subdivision Certificate.

Reason: To provide appropriate storm water management.

36. **Storm water Facilities Maintenance**

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

Reason: To provide appropriate storm water management.

37. **Vehicle Access (Rural)**

Access to the site shall be provided by means of a vehicle crossing as per Standard Drawing No SD110 and approved by the Development Engineer prior to the issue of the Subdivision Certificate.

Reason: To comply with Council's Engineering Standards.

38. **Construction of Sewer Sidelines**

Sidelines and junctions shall be installed for sewer connections to the development by Council at the Developer's cost prior to the issue of the Subdivision Certificate.

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

If the sideline is to be extended from a sewer main in adjoining property, written permission of the affected landowner allowing work to be undertaken, shall be submitted with the application form.

Reason: To ensure that the development is serviced.

39. **Construction of Water Service**

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 1 JUNE 2022**

22/0712, Lot 1 DP 258420

A water service shall be installed to each lot in the subdivision prior to the issue of the Subdivision Certificate. Council's application form shall be completed by the Developer and the appropriate fee paid.

Reason: To ensure that the development is serviced.


INTEGRATED DEVELOPMENT CONDITIONS

40. 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:

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 1 JUNE 2022**

22/0712, Lot 1 DP 258420



NSW
GOVERNMENT



NSW RURAL FIRE SERVICE

Wingecarribee Shire Council
PO Box 141
MOSS VALE NSW 2577

Your reference: (CNR-31920) 22/0712
Our reference: DA20211128005221-Original-1

ATTENTION: Chris Young

Date: Thursday 20 January 2022

Dear Sir/Madam,

Integrated Development Application
s100B - Subdivision - Subdivision
10 Old Hume Highway Berrima NSW 2577, 1//DP258420

I refer to your correspondence dated 25/11/2021 seeking general terms of approval for the above Integrated Development Application.

The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted. General Terms of Approval, under Division 4.8 of the *Environmental Planning and Assessment Act 1979*, and a Bush Fire Safety Authority, under section 100B of the *Rural Fires Act 1997*, are now issued subject to the following conditions:

Asset Protection Zones
The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

1. At the issue of a subdivision certificate, and in perpetuity to ensure ongoing protection from the impact of bush fires, the entirety of proposed Lot 2 must be managed as an inner protection area (IPA) in accordance with the requirements of Appendix 4 of *Planning for Bush Fire Protection 2019*. When establishing and maintaining an IPA the following requirements apply:

- tree canopy cover should be less than 15% at maturity;
- trees at maturity should not touch or overhang the building;
- lower limbs should be removed up to a height of 2 metres above the ground;
- tree canopies should be separated by 2 to 5 metres;
- preference should be given to smooth barked and evergreen trees;
- large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards buildings;
- shrubs should not be located under trees;
- shrubs should not form more than 10% ground cover; and
- clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation.

1


Postal address

NSW Rural Fire Service
Locked Bag 17
GRANVILLE NSW 2142

Street address

NSW Rural Fire Service
4 Murray Rose Ave
SYDNEY OLYMPIC PARK NSW 2127

T (02) 8741 5555
F (02) 8741 5550
www.rfs.nsw.gov.au



AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

22/0712, Lot 1 DP 258420

- grass should be kept mown (as a guide grass should be kept to no more than 100mm in height); and
- leaves and vegetation debris should be removed.

2. At the issue of a subdivision certificate, and in perpetuity to ensure ongoing protection from the impact of bush fires, the site around the existing dwelling on proposed Lot 1 must be maintained as an inner protection area (IPA) as follows:

- east and south for a distance of 24 metres;
- north, northwest and west up to the site boundary.

When establishing and maintaining an IPA the following requirements apply in accordance with the requirements of Appendix 4 of *Planning for Bush Fire Protection 2019*:

- tree canopy cover should be less than 15% at maturity;
- trees at maturity should not touch or overhang the building;
- lower limbs should be removed up to a height of 2 metres above the ground;
- tree canopies should be separated by 2 to 5 metres;
- preference should be given to smooth barked and evergreen trees;
- large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards buildings;
- shrubs should not be located under trees;
- shrubs should not form more than 10% ground cover; and
- clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation.
- grass should be kept mown (as a guide grass should be kept to no more than 100mm in height); and
- leaves and vegetation debris should be removed.

Construction Standards

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

3. The existing dwelling on proposed Lot 1 must be upgraded to improve ember protection by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable, this includes any sub floor areas, openable windows, vents, weepholes and eaves. External doors are to be fitted with draft excluders.

Access – Property Access

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire fighting activities. To achieve this, the following conditions shall apply:

4. Property access road for the existing dwelling on proposed Lot 1 must comply with the following requirements of Table 7.4a of *Planning for Bush Fire Protection 2019*:

- property access roads are two-wheel drive, all weather roads with minimum 4 metre carriageway width;
- a minimum vertical clearance of 4 metre to any overhanging obstructions, including tree branches;
- the capacity of road surfaces and any bridges/causeways is sufficient to carry fully loaded firefighting vehicles, bridges and causeways are to clearly indicate load rating.
- there is suitable access for a Category 1 fire appliance to within 4 metre of the static water supply where no reticulated supply is available;
- property access must provide a suitable turning area in accordance with Appendix 3;
- curves have a minimum inner radius of 6 metre and are minimal in number to allow for rapid access and egress;
- the minimum distance between inner and outer curves is 6 metre;
- the crossfall is not more than 10 degrees;
- maximum grades for sealed roads do not exceed 15 degrees and not more than 10 degrees for unsealed roads.

2

Note: Some short constrictions in the access may be accepted where they are not less than 3.5 metre wide, extend for no more than 30 metre and where the obstruction cannot be reasonably avoided or removed.

Water and Utility Services

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire fighting activities. To achieve this, the following conditions shall apply:

5. In absence of a hydrant within 70 metres of the rearmost elevation of the existing dwelling on proposed Lot 1, a 20,000 litre static water supply must be provided on site for fire fighting in accordance with Table 7.4a of *Planning for Bush Fire Protection 2019*:

- a connection for firefighting purposes is located within the IPA or non-hazard side and away from the structure;
- 65mm Storz outlet with a ball valve is fitted to the outlet;
- ball valve and pipes are adequate for water flow and are metal;
- supply pipes from tank to ball valve have the same bore size to ensure flow volume;
- underground tanks have an access hole of 200mm to allow tankers to refill direct from the tank;
- a hardened ground surface for truck access is supplied within 4 metres;
- above-ground tanks are manufactured from concrete or metal;
- raised tanks have their stands constructed from non-combustible material or bush fire-resisting timber (see Appendix F of AS 3959);
- unobstructed access can be provided at all times;
- underground tanks are clearly marked;
- tanks on the hazard side of a building are provided with adequate shielding for the protection of firefighters;
- all exposed water pipes external to the building are metal, including any fittings;
- where pumps are provided, they are a minimum 5hp or 3kW petrol or diesel-powered pump, and are shielded against bush fire attack; any hose and reel for firefighting connected to the pump shall be 19mm internal diameter; and
- fire hose reels are constructed in accordance with AS/NZS 1221:1997, and installed in accordance with the relevant clauses of AS 2441:2005.

Landscaping Assessment

The intent of measures is for landscaping. To achieve this, the following conditions shall apply:

6. Landscaping within the required asset protection zone must comply with Appendix 4 of *Planning for Bush Fire Protection 2019*. In this regard, the following principles are to be incorporated:

- A minimum 1 metre wide area (or to the property boundary where the setbacks are less than 1 metre), suitable for pedestrian traffic, must be provided around the immediate curtilage of the building;
- Planting is limited in the immediate vicinity of the building;
- Planting does not provide a continuous canopy to the building (i.e. trees or shrubs are isolated or located in small clusters);
- Landscape species are chosen to ensure tree canopy cover is less than 15% (IPA), and less than 30% (OPA) at maturity and trees do not touch or overhang buildings;
- Avoid species with rough fibrous bark, or which retain/shed bark in long strips or retain dead material in their canopies;
- Use smooth bark species of trees species which generally do not carry a fire up the bark into the crown;
- Avoid planting of deciduous species that may increase fuel at surface/ ground level (i.e. leaf litter);
- Avoid climbing species to walls and pergolas;
- Locate combustible materials such as woodchips/mulch, flammable fuel stores away from the building;
- Locate combustible structures such as garden sheds, pergolas and materials such as timber garden furniture away from the building; and
- Low flammability vegetation species are used.

General Advice – Consent Authority to Note

3

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 1 JUNE 2022**

22/0712, Lot 1 DP 258420

- Development applications lodged on lots created within this subdivision may be subject to further assessment under the *Environmental Planning & Assessment Act 1979*. Future dwellings are required to address the requirements of *Planning for Bush Fire Protection 2019*.


For any queries regarding this correspondence, please contact Rohini Belapurkar on 1300 NSW RFS.

Yours sincerely,

Kalpana Varghese
Manager Planning & Environment Services
Built & Natural Environment

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 1 JUNE 2022**

22/0712, Lot 1 DP 258420



NSW RURAL FIRE SERVICE

BUSH FIRE SAFETY AUTHORITY

Subdivision – Subdivision
10 Old Hume Highway Berrima NSW 2577, 1//DP258420
RFS Reference: DA20211128005221-Original-1
Your Reference: (CNR-31920) 22/0712

This Bush Fire Safety Authority is issued on behalf of the Commissioner of the NSW Rural Fire Service under s100b of the Rural Fires Act (1997) subject to the attached General Terms of Approval.

This authority confirms that, subject to the General Terms of Approval being met, the proposed development will meet the NSW Rural Fire Service requirements for Bush Fire Safety under s100b of the Rural Fires Act 1997.


Kalpana Varghese
Manager Planning & Environment Services
Built & Natural Environment

Thursday 20 January 2022

END OF CONDITIONS

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 1 JUNE 2022**

22/0712, Lot 1 DP 258420



Civic Centre, Elizabeth St. Moss Vale, NSW 2577.
PO Box 141, Moss Vale, DK: 4961 Bowral.
Ph: (02) 4968 0888 Fax: (02) 4969 1203
wscmail@wsc.nsw.gov.au www.wsc.nsw.gov.au
Office Hours: Mon-Fri 8.30am - 4.30pm

22/0712

Notice of Payment – Developer Charges & Section 7.11

18 May 2022

SCOTT LEE
33 HOLLY STREET
BOWRAL NSW 2576

Re: 22/0712
Lot 1 DP 258420
STRINGYBARK 10 OLD HUME HIGHWAY BERRIMA NSW 2577

Development Description: Subdivision - 2 Lots

Water, Sewerage and Stormwater Headworks charges are levied under Section 64 of the Local Government Act and Section 306 of the Water Management Act 2000. Other contributions are levied under Section 7.11 of the Environmental Planning and Assessment Act 1979 and Council's Contributions Plans.

Contributions Levy	Units	Rate	Amount Payable
Resource Recovery Centre (Shirewide)	1.00	\$273.75	\$273.75
S64 Stormwater (Berrima)	1.00	\$1,366.72	\$1,366.72
Roads & Traffic (Shirewide - Recoup)	1.00	\$16.85	\$16.85
S64 Water Compliance Certificate	1.00	\$255.00	\$255.00
Administration (Shirewide)	1.00	\$521.96	\$521.96
Open Space & Community (Future Works)	1.00	\$1,629.60	\$1,629.60
Roads & Traffic (Shirewide - Future)	1.00	\$2,949.46	\$2,949.46
S64 Sewer Compliance Certificate	1.00	\$255.00	\$255.00
S64 Sewerage (Shirewide)	1.00	\$11,461.91	\$11,461.91
Open Space & Community (Recoup)	1.00	\$806.02	\$806.02
Central Library (Shirewide)	1.00	\$461.21	\$461.21
S64 Water (Shirewide)	1.00	\$11,822.93	\$11,822.93
Open Space & Community (Acquisition)	1.00	\$96.25	\$96.25
S64 Stormwater Compliance Certificate	1.00	\$255.00	\$255.00
Total			\$32,171.66

Payments must be either in the form of cash, bank cheque or credit card (credit cards subject to 1% surcharge. Amex and Diners not accepted).

IMPORTANT – The charges shown above are valid for payment until the date given below. After this period the charge will be indexed in accordance with the relevant Plan.

DATE CHARGES ARE VALID TO – 31 July 2022

Prepared by – *Chris Young*

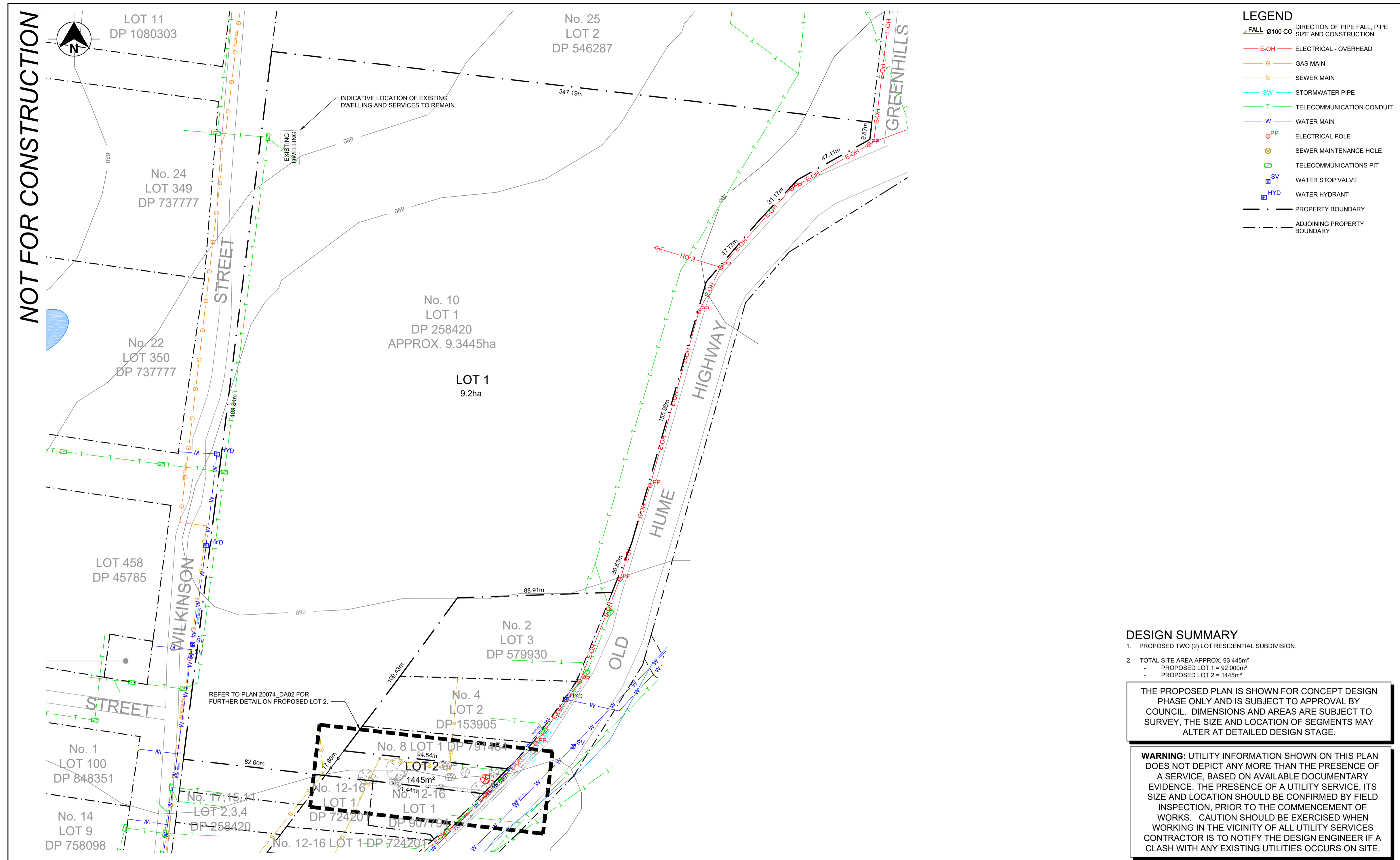
Cashier Receipt No: _____

Total Paid: _____

Date Paid: _____

A COPY OF THIS NOTICE MUST BE PRESENTED WHEN MAKING PAYMENT

www.wsc.nsw.gov.au



LEGEND

	DIRECTION OF PIPE FALL, PIPE SIZE AND CONSTRUCTION
	ELECTRICAL - OVERHEAD
	GAS MAIN
	SEWER MAIN
	STORMWATER PIPE
	TELECOMMUNICATION CONDUIT
	WATER MAIN
	ELECTRICAL POLE
	SEWER MAINTENANCE HOLE
	TELECOMMUNICATIONS PIT
	WATER STOP VALVE
	WATER HYDRANT
	PROPERTY BOUNDARY
	ADJOINING PROPERTY BOUNDARY

DESIGN SUMMARY

- PROPOSED TWO (2) LOT RESIDENTIAL SUBDIVISION.
- TOTAL SITE AREA APPROX. 93 445m²
 - PROPOSED LOT 1 = 92 000m²
 - PROPOSED LOT 2 = 1445m²

THE PROPOSED PLAN IS SHOWN FOR CONCEPT DESIGN PHASE ONLY AND IS SUBJECT TO APPROVAL BY COUNCIL. DIMENSIONS AND AREAS ARE SUBJECT TO SURVEY, THE SIZE AND LOCATION OF SEGMENTS MAY ALTER AT DETAILED DESIGN STAGE.

WARNING: UTILITY INFORMATION SHOWN ON THIS PLAN DOES NOT DEPICT ANY MORE THAN THE PRESENCE OF A SERVICE, BASED ON AVAILABLE DOCUMENTARY EVIDENCE. THE PRESENCE OF A UTILITY SERVICE, ITS SIZE AND LOCATION SHOULD BE CONFIRMED BY FIELD INSPECTION. PRIOR TO THE COMMENCEMENT OF WORKS. CAUTION SHOULD BE EXERCISED WHEN WORKING IN THE VICINITY OF ALL UTILITY SERVICES. CONTRACTOR IS TO NOTIFY THE DESIGN ENGINEER IF A CLASH WITH ANY EXISTING UTILITIES OCCURS ON SITE.

CAD File Name: N:\(B) Projects\20XXX\20074 10 Old Hume Highway, Berrima(E) Drawings\20074_DA01_Plan of Proposed Subdivision.dwg

DESIGN/DRAWN	CHECKED	VERIFIED	DATE	AMENDMENTS/REVISION DETAILS
01 C.B.	C.B.	E.B.	26/11/20	ISSUED FOR CO-ORDINATION
02 C.B.	C.D.	C.N.	08/12/20	ISSUED FOR DEVELOPMENT APPLICATION APPROVAL

ISSUED FOR	D.A. APPROVAL
L.G.A.	WINGECARRIBEE SHIRE

SCALE: 1:1000 (A1 SHEET)

www.dialbeforeyoudig.com.au

DIAL 1100
BEFORE YOU DIG

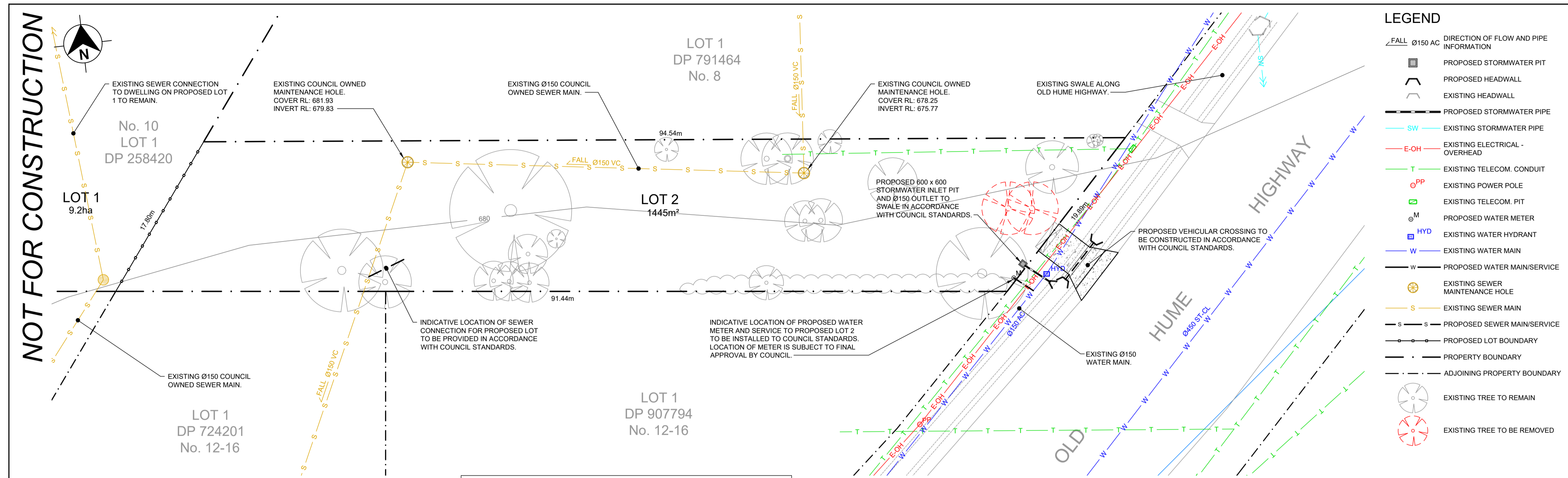
NCE
NOVATI CONSULTING ENGINEERS

Novati Consulting Engineers Pty Ltd
CIVIL & ENVIRONMENTAL CONSULTING ENGINEERS
ABN 56 163 789 393
info@nceengineers.com.au | (02) 4861 2042
Shop 25A 310-312 Bong Bong Street, Bowral NSW 2576

CLIENT: GEOFF HANRATTY

PLANNER: **LEP**
33 Holly Street
Bowral NSW 2576
0408 473 857
lep.planning@gmail.com

PROJECT	10 OLD HUME HIGHWAY, BERRIMA	
DRAWING TITLE	PLAN OF PROPOSED SUBDIVISION	
PROJECT No.	SUB-PROJECT No.	DRAWING No.
20074	01	DA01
ISSUE	SHEET SIZE	
02	A1	



NOT FOR CONSTRUCTION

FUTURE DWELLINGS

- ANY FUTURE DWELLINGS/DEVELOPMENT ON ANY PROPOSED LOT SHALL HAVE AN ON-SITE STORMWATER DETENTION SYSTEM THAT ENSURES THE POST-DEVELOPMENT STORMWATER DISCHARGE FROM THE SITE DOES NOT EXCEED THE PRE-DEVELOPMENT DISCHARGE.
- ANY FUTURE DWELLINGS/DEVELOPMENT ON ANY PROPOSED LOT SHALL ENSURE THAT MANDATORY WATER QUALITY REQUIREMENTS ARE MET, PARTICULARLY WITH REGARDS TO THE STATE ENVIRONMENTAL PLANNING POLICY (SYDNEY DRINKING WATER CATCHMENT) 2011.

DESIGN SUMMARY

- PROPOSED TWO (2) LOT SUBDIVISION.
- A SUMMARY OF THE SITE CATCHMENT AREAS IS AS FOLLOWS:
TOTAL SITE AREA LOT 2 = 1445m²
PRE-DEVELOPMENT -
- IMPERVIOUS AREA = 0 m²
- PERVIOUS AREA = 1445 m²
POST-DEVELOPMENT -
- IMPERVIOUS AREA = 0 m²
- PERVIOUS AREA = 1445 m²
- TOTAL INCREASE IN IMPERVIOUS AREA = 0m².
- IN ACCORDANCE WITH COUNCIL'S DCP, ON-SITE STORMWATER DETENTION (OSD) IS TO BE PROVIDED IF THE POST-DEVELOPMENT FLOWS EXCEED THE PRE-DEVELOPMENT FLOWS.
- BASED ON COUNCIL'S CRITERIA ABOVE, THERE IS NO INCREASE IN THE POST-DEVELOPMENT FLOWS, THEREFORE NO OSD SYSTEM IS REQUIRED AT SUBDIVISION STAGE.
- AS PER NorBE ASSESSMENT ON THIS PLAN, NO FORMAL WATER QUALITY MEASURES ARE PROPOSED, APPROPRIATE EROSION AND SEDIMENT CONTROL MEASURES ARE TO BE IMPLEMENTED DURING CONSTRUCTION STAGE WORKS.

NorBE Assessment

Assessment Summary

General Information

Lot	Section	Plan
1		258420

Consultancy: Novati Consulting Engineers
 Consultant: thonn@nccengineers.com.au
 Consultant reference number: 20074_Nov801
 DA number: -
 Assessing officer: -
 Council: Wingecarribee Shire
 Development class: Subdivision sewer <= 3 lots
 Date of assessment: 11/25/2020 2:19:14 PM

Assessment Summary

NorBE status: Lodged
 System outcome: Satisfied
 User outcome: -
 SCA concurrence outcome: -
 Determination outcome: Pending
 Determination date: -

Pre-Assessment

Located within Sydney drinking water catchment?	Yes
Is development consistent with any existing SCA 588 instruments on title?	N/A
Crown perpetual leasehold land?	No
Water quality impact?	No
Concentration of flow of water?	No
Flow of water impeded?	No
Discharge of pollutants?	No
Any other matter?	No
Documentation is complete?	Yes
Does Water Cycle Management Study meet SCA/Council requirements?	Yes

Description: Two (2) lot residential subdivision. Lot 1 is 9.2ha and Lot 2 is 1445m². Lot 2 to have proposed sewer and water services, vehicular crossing, and stormwater drainage to Old Hume Highway. Existing dwelling on proposed Lot 1 to remain, no dwelling proposed on Lot 2 at subdivision stage.

Assessment notes

No notes

WaterNSW

NorBE ASSESSMENT SUMMARY

ALL DESIGN MEASURES SHOWN ON THIS DRAWING HAVE BEEN PREPARED FOR DEVELOPMENT APPLICATION PURPOSES TO DEMONSTRATE FEASIBILITY. ALL DESIGN MEASURES WILL BE SUBJECT TO DETAIL DESIGN AT THE CONSTRUCTION CERTIFICATE STAGE AND MAY BE SUBJECT TO VARIATION PROVIDED THAT THE DESIGN INTENT IS MAINTAINED.

WARNING: UTILITY INFORMATION SHOWN ON THIS PLAN DOES NOT DEPICT ANY MORE THAN THE PRESENCE OF A SERVICE, BASED ON AVAILABLE DOCUMENTARY EVIDENCE. THE PRESENCE OF A UTILITY SERVICE, ITS SIZE AND LOCATION SHOULD BE CONFIRMED BY FIELD INSPECTION, PRIOR TO THE COMMENCEMENT OF WORKS. CAUTION SHOULD BE EXERCISED WHEN WORKING IN THE VICINITY OF ALL UTILITY SERVICES. CONTRACTOR IS TO NOTIFY THE DESIGN ENGINEER IF A CLASH WITH ANY EXISTING UTILITIES OCCURS ON SITE.

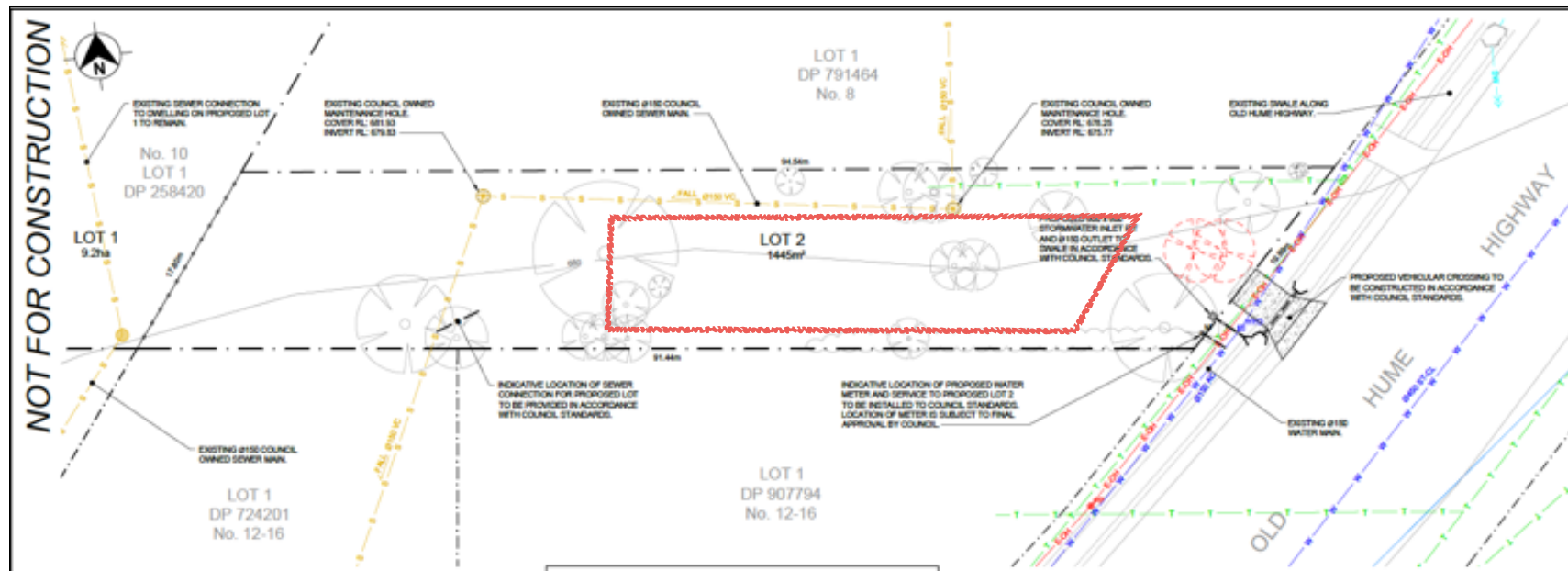
DESIGN/DRAWN				CHECKED	VERIFIED	DATE	AMENDMENTS/REVISION DETAILS	SCALE	COPYRIGHT	CLIENT	PROJECT
I S S U E	01	C.N.	C.B.	E.B.		26/11/20	ISSUED FOR CO-ORDINATION	0 2 4 6 8 10m SCALE: 1:200 (A1 SHEET)	This drawing is copyright. Apart from any use permitted under the Copyright Act 1968, no part may be reproduced by any process, nor may any other exclusive right be exercised, without the permission of Novati Consulting Engineers Pty Ltd 2020.	GEOFF HANRATTY	10 OLD HUME HIGHWAY, BERRIMA
	02	C.N.	C.D.	C.N.		08/12/20	ISSUED FOR DEVELOPMENT APPLICATION APPROVAL				CONCEPT STORMWATER DRAINAGE, WATER AND SEWER SERVICES PLAN
								ISSUED FOR	L.G.A.	PLANNER	PROJECT No.
							D.A. APPROVAL	WINGECARRIBEE SHIRE	Novati Consulting Engineers Pty Ltd CIVIL & ENVIRONMENTAL CONSULTING ENGINEERS ABN 56 163 789 393 info@nccengineers.com.au (02) 4861 2042 Shop 25A 310-312 Bong Bong Street, Bowral NSW 2576	LEP	20074
										33 Holly Street Bowral NSW 2576 0408 473 857 lep.planning@gmail.com	SUB-PROJECT No.
											01
											DRAWING No.
											DA02
											ISSUE
											02
											SHEET
											A1

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 1 JUNE 2022**

Indicative Future Dwelling Envelope in support of DA21/1483

10 Old Hume Highway Berrima

- Base Plan - extract from plans prepared by Novatti Consulting Engineers in support of DA21/1483
- Dimensions of proposed Dwelling Envelope
- 12.5 metre minimum street setback
- Maximum 40.5 metre depth
- Minimum 1 metre southern boundary setback
- Minimum 4 metre northern boundary setback



Prepared by Lee Environmental Planning

17 June 2021

Heritage Impact Statement

**Proposed subdivision of property, 10 Old Hume Highway, Berrima, NSW
Lot 1, DP 258420**

Name of Place

Property

Address

10 Old Hume Highway, Berrima NSW 2577

Prepared for

Mr Geoff Hanratty

Prepared by

Dr Caroline Cosgrove, Historian/heritage consultant, Bundanoon, NSW, 2578

Date: 7 October 2021

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

Heritage Impact Report, 10 Old Hume Highway, Berrima, C. Cosgrove, October 2021

REPORT

This report follows the guidelines in the NSW Office of Environment & Heritage's publication: Heritage Office and Department of Urban Affairs & Planning, 'Statements of Heritage Impact', 1996 (revised 2002).

WINGECARRIBEE LEP 2010

HERITAGE LISTINGS

Lot 1, DP 258420, 10 Old Hume Highway, Berrima, is not listed as a heritage item in the Wingecarribee Local Environmental Plan 2010. However, it is located within the Berrima Heritage Conservation Area and is subject to the Berrima Landscape Conservation Area.

Heritage Precinct: This property is located partially within the Berrima Heritage Precinct 6: Harper's Mansion, and partially within the Berrima Heritage Precinct 8: Wingecarribee Street Precinct (the 'Northern Entry') in the Berrima Village Development Control Plan – effective 1 January 2021.

NEARBY HERITAGE LISTINGS

The following heritage listed items on the Wingecarribee LEP 2010, have common boundaries with 10 Old Hume Highway, Berrima, Lot 1, DP 258420.

Harper's Cottage, 8 Old Hume Highway, Berrima, Lot 1, DP 791464, Heritage Item No I134 (local heritage significance);

Woodley Cottage (or Telegraph Office), 12–16 Old Hume Highway, Lot 1, DP 724201; Lot 1, DP 538751, Heritage Item No I208 (local heritage significance)

The following heritage listed items on the Wingecarribee LEP 2010 are located within close proximity to 10 Old Hume Highway, Berrima.

Harper's Mansion, 9 Wilkinson Street, Berrima, Lot 5, DP 258420, Item No I113 (State heritage significance);

Glebe Cottage, 3281 Old Hume Highway, Berrima, Lot 1, DP 875157, Heritage Item No I177 (local heritage significance);

Berrima Public School and residence, Oxley Street, Berrima, Lots 1–3, Sec 31, DP 758098; Lot 1, DP 782713, Heritage Item No I114 (local heritage significance).

ZONING

The land is zoned in two sections: part is R2: low density residential at the part facing the Old Hume Highway, and the remainder is RU4: Primary Production Small Lots – see Wingecarribee Local Environmental Plan (LEP) 2010 Land Zoning Map Sheet LZN_007C.

HISTORICAL BACKGROUND

The following historical background relating to this property is based on NSW Heritage's inventory sheet, database no. 5050765, for Harper's Mansion, Berrima.

The site of Berrima was selected by Surveyor General Sir Thomas Mitchell in 1829 on a visit planning the route for a new road alignment from Sydney to replace the old Argyle Road. In 1830 Mitchell instructed Robert Huddle to mark out the town based on a plan Mitchell's office prepared, along the lines of a traditional English village (with a central marketplace and as many blocks as possible facing onto the Wingecarribee River) and using the local Aboriginal name. The new line of road came through the town (Allman Johnston, 2007). Berrima was to be established as the commercial and administrative centre for the County of Camden.

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

Heritage Impact Report, 10 Old Hume Highway, Berrima, C. Cosgrove, October 2021

Following the approval of Governor Bourke in 1831, the period 1824 to 1841 saw significant flourishing development as mail coaches changed their route to follow this new line of road. Early town lots were sold in 1833, predominantly to inn keepers and around Market Square, including the first town Lot sales to Bryan McMahon (Webb, 2008, 9). Its 1841 population was 249 with 37 houses completed and seven more in construction. Research has indicated there were some 13 hotels or grog houses in Berrima at the one time in the early days before the coming of the Southern Railway to the Moss Vale area, which bypassed Berrima (Allman Johnston, 2005).

The 1851 census showed the number of buildings remained the same but the population had dropped to 192. During the 1850s Berrima experienced another boom period after the discovery of gold. When the Great Southern Railway bypassed Berrima in 1867 the town again began to decline as Mittagong, Moss Vale and Bowral developed. Berrima remained virtually unchanged for the next 100 years, preserving the town as an almost intact colonial village (Webb, 2008, 10).

James Harper was a District Constable living at Sutton Forest in 1831 with his wife Mary. James was publican and Chief Constable of the Sutton Forest district until 1835. He and Mary bought their first block of land in Berrima in 1832, where, in 1834, he built the Surveyor General Inn; James became its licensee in 1835. On 7 May 1834 James purchased 100 acres at Berrima for £28/15/- and built what is now called 'Harper's Mansion' on the land. It was most likely built in 1835-36 (Le Sueur, 2014), with a single storey, a verandah and a detached brick kitchen. By 1844 there was also a stable block and a fenced garden (Webb, 2008).

James Harper also built a cottage on the main road by the driveway to the inn. It is thought that the cottage dates from 1834 and is amongst the earliest surviving buildings in Berrima. [The Harpers had two children and it seems likely that he built Harper's cottage around this time, possibly to rent it out.]

James Harper proceeded to subdivide the land on which he built the cottage and in 1843 sold the lot that included the cottage to William Taylor for £40/10/-, indicating that the relatively small block was well improved [i.e., that the cottage had been built by then]. By 1844 Harper had subdivided three lots to the north and three lots to the south of the cottage, all facing the road.

Belivacqua Cottage (formerly Harper's Cottage)

William Taylor was also a Berrima innkeeper and in 1867 his widow, Briget, sold the property that Taylor had purchased from Harper, with the cottage, to a Richard Chapman, Wheelwright. In 1886 Chapman sold the property to James Matthews and it remained in the family ownership until 1945 when it was sold to Charlotte Parmenter. The property then passed through two other owners until in 1952 Giovannini and Umberto Belivacqua purchased it and called it Belivacqua Cottage.

In 1989 the owner of Belivacqua Cottage, Giovanni Battista Belivacqua, sold the property (formerly Harper's Cottage) to Caroline Elizabeth Oswald Simpson. The land comprised Allotment 5 of a subdivision of Portion 6. Ms Simpson restored the cottage in 1990 and it continues to be used as a residence; its current address is 8 Old Hume Highway.

Harper's Mansion

Following James Harper's death in 1845, his mortgagee, William Hutchinson took possession of his residence in 1846. Harper's widow Mary married James McDermott and moved into the Surveyor-General Inn, which her family owned until the 1920s.

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

Heritage Impact Report, 10 Old Hume Highway, Berrima, C. Cosgrove, October 2021

The Church bought Harper's residence from Hutchinson's Trustees in 1856 and continued to own it until 1970. It served as a presbytery until the 1880s and was home to 16 priests and two bishops until c. 1900 (Le Sueur, 2014).

In 1903 the Catholic administration moved to Moss Vale, whence the nuns from the Daughters of Our Lady of the Sacred Heart lived at Harper's residence, running a school. From 1910 it was tenanted until 1968. Tenants' surnames included Evan, Hayse, Burton and Mrs. Johnson as the last tenant. The house had become increasingly derelict, although it remained occupied.

In 1966 the Church subdivided this property (former Harper's residence) into four lots and sold them in 1968. (See Attachment 1: DP 227904 of 9.06.1966, showing subdivision). Lot 1 of 26 acres with Harper's residence on it was purchased by Wilby George Ernest and Valerie Lenice Williams. The Williams subdivided the property and in 1978 sold the house and just over two acres (8,800 m²), all in poor state, to the National Trust. Harper's Mansion property (the subdivided 8,800 m²) was rescued and restored by the National Trust in 1979.

Additional historical background relating to the subject lot: Lot 1 DP 258420

When Wilby and Valerie Williams subdivided Lot 1 of 26 acres with Harper's residence on it in 1978, almost 24 acres remained after the sale of property that included Harper's Mansion. The Williams also subdivided this land to create four further lots, including the existing Lot 1 DP 258420 measuring 9.332 hectares (23.06 acres). They sold this lot on 24 April 1980 to Mr Malcolm Ernest Hanratty and Mrs Maureen Hanratty. Mrs Hanratty recently passed away and Mr Malcolm Ernest Hanratty is the present owner.

The other three lots in addition to the subject lot, Lot 1 DP 258420, were created to the north of the lot that included Harper's Mansion (now Lot 5 of 8,800 m²); these were Lot 2 of 1402 m², Lot 3 of 1208 m² and Lot 4 of 1014 m². (See Attachment 1: DP 258420 of 8.08.1978, showing subdivision). These additional subdivided lots were therefore all small-sized residential lots, located south of the subject lot. To the southeast of the subject lot were three lots that had been subdivided in the nineteenth century by James Harper by 1844, as noted in the previous section of this report; all three lots now form the property known as Woodley Cottage (former Telegraph Office) 12–16 Old Hume Highway (but now only comprising two lots: Lot 1, DP 724201 and Lot 1, DP 538751).

The Williams's subdivision left a small section of land, the current subject area of 1445 m² that is now proposed for subdivision. A Charting Map of Berrima (DP 227904) of 1966 (See Attachment 1) shows the subdivision of this part of the property, leaving the subject small section of the land to the south of the former Harper's Cottage attached to the larger lot at the rear. A dividing line shown on the Map to the west of this smaller part of the subject lot is in line with the rear boundaries of the subdivided properties; it separates this small section of land from the larger part of this lot, the existing Lot 1 DP 258420.

To the north of the subject small section of Lot 1 DP 258420 are three lots that were also subdivided in the nineteenth century by James Harper. Some further subdivision appears to have taken place in 1927.¹ These lots are:

1) the former Harper's Cottage, later Belivacqua Cottage (8 Old Hume Highway – see further information in the previous section of this report);

¹ FP 153905 (now DP 153905) of 5 May 1927 - Subdivision of Lots 7,8 & 9 of a subdivision of Portion 6, refers to Book 1486, No. 826. This shows that the three lots remained the same in total size but Lot 3 (8 Old Hume Highway) was made larger, Lot 1 was made smaller and Lot 2 (4 Hume Highway) was made larger & divided into two lots: Ref. Haille Paine Solicitors letter of 16 July 2020 to Ms Janet M Hanratty, Downer, ACT.

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

Heritage Impact Report, 10 Old Hume Highway, Berrima, C. Cosgrove, October 2021

- 2) two additional lots adjoining the former Harper's Cottage to the north (now 4 Old Hume Highway), the owners in 1966 being Southern Portland Cement Ltd. There are now two cottages, one on each of these lots, the more northerly being the older cottage, named 'Cressbrook'; and
- 3) a further large lot, at 2 Old Hume Highway, the owner and occupier in 1966 being Miss Mildred Fibig. This property is currently called 'The Magpines'.

PHYSICAL DESCRIPTION

The following physical description of Lot 1, DP 258420 follows an inspection carried out on 16 September 2021.

The site

Lot 1, DP 258420 is a large lot of approximately 9.3445 hectares in size, located at the northern side of the village of Berrima. The greater part of the lot faces onto Wilkinson Street, with a small offshoot at its south-eastern side that faces onto the Old Hume Highway. The main access to the property is from Wilkinson Street and the property has the address of 19 Wilkinson Street, with an existing dwelling sited at the north-western corner of the Lot, fronting Wilkinson Street. In addition to the gateway entry to this dwelling being from Wilkinson Street, there is a second gateway entry to the property, opening off the smaller section of the lot onto the Old Hume Highway. A fence at the back of the smaller section of the lot divides this section from the rural area at the rear, larger part of this lot. This fence is in line with the rear fences of the two dwellings at each side of this part of the Lot: at 8 Old Hume Highway and at 12-16 Old Hume Highway.

This smaller, residential zoned part of the site has ten immature Robinias (*Robinia pseudoacacia*) within the area facing the Old Hume Highway and three immature Robinias at its northern side; most of these appear to be suckers. There are also three *Prunus sp.* at the southern side of this part of the Lot and a large mature deciduous exotic tree (unidentified) at its centre.

The larger part of the site that fronts onto Wilkinson Street includes open grassed areas and many trees, both native and exotic. Whilst the land at the part of the site that faces the Old Hume Highway has a mild slope to the south, the land in the larger part of the site has a greater slope up to the north-west where the dwelling is located.

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 1 JUNE 2022**

Heritage Impact Report, 10 Old Hume Highway, Berrima, C. Cosgrove, October 2021



Figure 1: 10 Old Hume Highway (Lot 1, DP 258420) property boundary. Source: SIX Maps: <https://maps.six.nsw.gov.au>

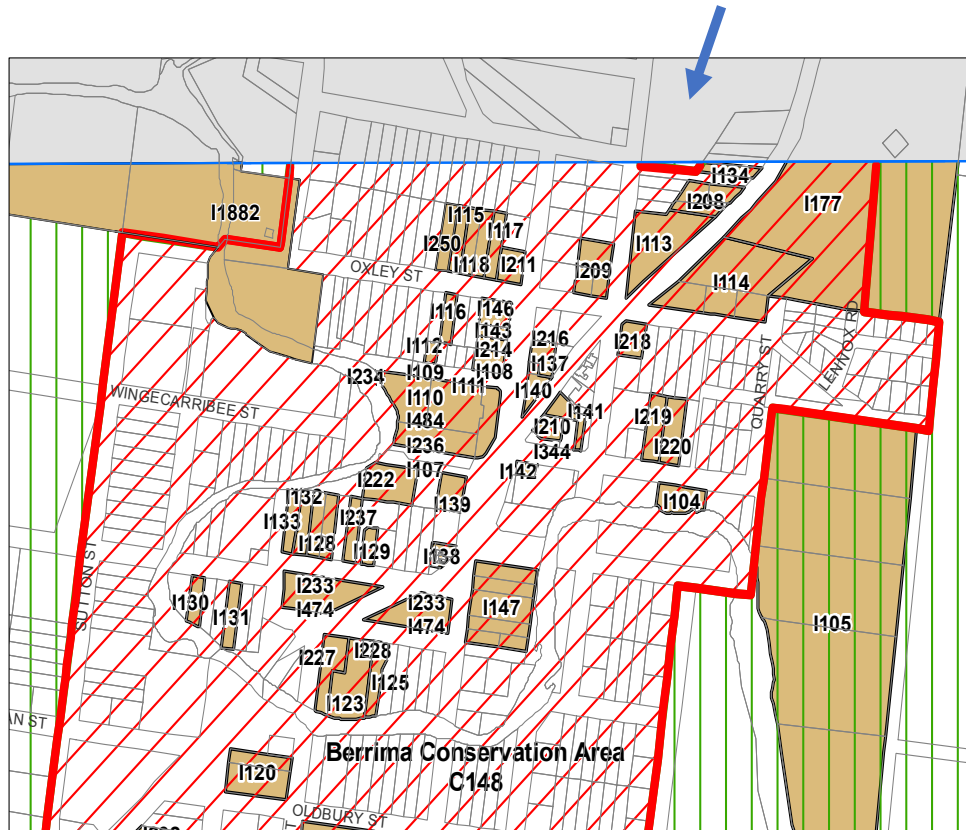


Figure 2: Wingecarribee Local Environment Plan 2010: Heritage Map Sheet HER_007A, showing heritage properties in the vicinity of Lot 1, DP 258420. Blue arrow shows location of existing lot. Source: WLEP 2010, Heritage Maps.

MANAGEMENT

The proposal for subdivision of this property relates to the Wingecarribee Council Berrima Village Development Control Plan (DCP) (effective 1 January 2021). In terms of heritage consideration, it is specific to:

Section 2 General Objectives

Part A: A2.3 Heritage Conservation

Section 7 Vegetation Management and Landscaping

Section 8 Subdivision, Demolition, Siting and Design, in particular A 8.1.2 Minimum Lot Sizes; and

Section 9 Development within a Heritage Context:

A9.6 Subdivision Pattern and land Use

A9.7 Views and Vistas

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

Heritage Impact Report, 10 Old Hume Highway, Berrima, C. Cosgrove, October 2021

Heritage Precincts: (Berrima Village Development Control Plan – effective 1 January 2021).

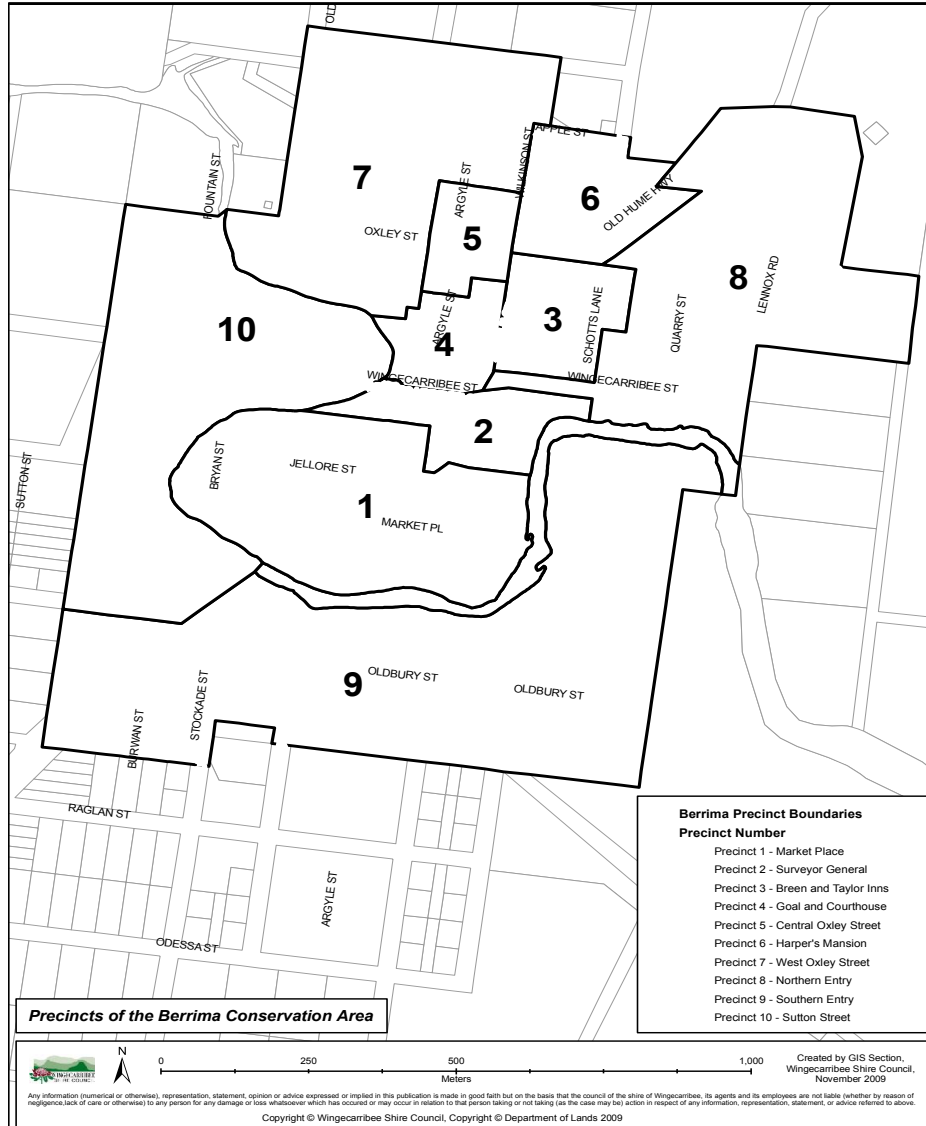


Figure 3: Heritage Precincts in Berrima. Lot 1, DP 258420, 10 Old Hume Highway, is within Heritage Precincts 6 and 8. Source: Berrima Village Development Control Plan (DCP) (effective 1 January 2021), Section 13.

The subject property, Lot 1, DP 258420, 10 Old Hume Highway, Berrima, is located partially within the Berrima Heritage Precinct 6: Harper's Mansion and partially within the Berrima Heritage Precinct 8: Wingecarribee Street Precinct (the 'Northern Entry'). The Berrima Village DCP (effective 1 January 2021) describes the Character and Objectives of these precincts as follows.

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

Heritage Impact Report, 10 Old Hume Highway, Berrima, C. Cosgrove, October 2021

Berrima Heritage Precinct 6: Harper's Mansion

A13.7.1 Character

The significance of this precinct is related to the importance of Harper's Mansion, the grounds within which the building is located and the dense planting in the adjacent Taylor House property. Harper's Mansion is one of Berrima's most important buildings, both historically and visually. This stems from its prominent position on the hill overlooking the township. The other listed building in the precinct is Taylor's House. The tall, dense perimeter tree planting that surrounds the house contributes to the character of the precinct and separates it from Pound Green.

A13.7.2 Precinct Objectives

The objectives of the Harper's Mansion Precinct are:

- (a) Continued residential use, retaining the visual dominance of Harper's Mansion. All new buildings in the eastern part of the precinct must be in sympathy with Harper's Mansion and set back to a distance so as not to detract from Harper's Mansion.
- (b) Dwellings in the western part of the precinct shall have regard to the heritage character of Berrima and also of the open nature of the land.

Berrima Heritage Precinct 8: Wingecarribee Street Precinct

A13.9.1 Character

This precinct incorporates three distinct areas. These areas can be described as the 'Northern Entry', 'School Rise' and 'Wingecarribee Street'.

The 'Northern Entry' is dramatic in character; it reveals the Village suddenly after a series of screens and screened views of bush and undeveloped rural landscape. Limited development is dotted along the western side of the Old Hume Highway and the eastern side provides a natural bush contrast to the Village. Listed buildings in the area are 'Glebe Cottage' to the east of the Highway and two cottages on the western side of the highway.

A13.9.2 Precinct Objectives

- (a) The Northern Entry shall retain the existing scale of development and openness, as this area plays an important role as an entry to the Village.

The proposed subdivision of this property as it relates to the requirements of the Berrima Village Development Control Plan (DCP) is addressed in the following section.

THE PROPOSAL

The existing Lot 1, DP 258420 is approximately 9.3445 hectares in size. The proposed subdivision of this property divides the land into two lots: the larger lot, Lot 1, will measure 9.2 hectares and the small lot that will face onto Old Hume Highway, Lot 2, will measure 1445 m².

The proposed lot boundary between the two new lots will be aligned along the existing zone boundary that divides the site into two separate zones. The proposed Lot 1 will remain within the 'RU4: Primary Production Small Lots' zone.

The proposed Lot 2 will be within the existing R2 Low Density Residential zone, with a frontage to the Old Hume Highway of approximately 20 metres.

The following aspects of the proposal enhance the heritage significance of the place for the reasons explained

The site is across two zones and the proposal is in accord with the existing separate zoning within the property. The majority of the site that is within the RU4: Primary Production Small Lots zone, will remain in this zone; it will form Lot 1 of 9.2 hectares. The smaller portion of the site that is within the R2 Low Density Residential zone will also remain in this zone; it will form Lot 2, of approximately 1445 m², with a frontage to the Old Hume Highway.

The proposed Lot 1 will retain the existing dwelling and the Wilkinson Street frontage. Lot 1 will therefore remain rural in character and no new structures are proposed to be built on this lot.

The proposed Lot 2 will be sited next to five existing small residential properties fronting the Old Hume Highway on the northern approach to Berrima. As is shown in the historical background earlier in this report, this part of James Harper's original purchase of 100 acres has an early history of subdivision, having been first subdivided by Harper himself by 1844, within 10 years of his original purchase. While the lots to the south of the proposed Lot 2 formerly served as a telegraph office, it has a long history of residential use. The lot to the north of the proposed Lot 2 has been a residence since the early years of Harper's original purchase.

The proposed Lot 2 will continue the residential character of the area by allowing one additional residence to be built on this lot by a potential purchaser in the future. Any proposed dwelling will be well set back from the street frontage as shown at the proposed construction location indicated in the subdivision plan. This residential development is in accord with the Potential Land Use of the Berrima Heritage Conservation Area as shown in the Berrima Village DCP Figure A9.9 – Existing and Potential Land Use of the Berrima Heritage Conservation Area.

No buildings will be constructed as part of this current proposal. Any building to be constructed in a future proposal for this subdivided Lot 2 will be subject to the controls of the Berrima Village DCP.

The following aspects of the proposal could detrimentally impact on the heritage significance of the place. The reasons are explained as well as the measures proposed to minimize these impacts

The proposed development involves the creation of one small new residential lot that will accommodate a dwelling house in the future. This small lot will not meet the Berrima Village DCP Section A8.1.1 which specifies a minimum 2,000 m² lot size for R2 Low Density residential land in Berrima. However, in line with Section A8.1.2 Minimum Lot Sizes, a variation of the lot size would be in keeping with this part of the Village. The adjoining property at 8 Old Hume Highway is approximately 1400 m². The adjoining property at 12-16 Old Hume Highway is approximately 3,850 m². The three properties at 13, 15 and 17 Wilkinson Street that were part of the 1978 subdivision that included the subject property, are from 1014 m² to 1,402m². Therefore, there is a history of smaller size lots in the earlier subdivisions of this land that formed James Harper's 1834 purchase of 100 acres.

The history of smaller size lots in the earlier subdivisions of this land also applies to the larger rural lot, the proposed Lot 1. When this lot was created in the 1978 subdivision, it was 9.332 hectares. It includes an existing residential development at the north-western corner of the site. This proposal does not include any changes to this rural part of the lot, other than a small reduction in size to allow the proposed Lot 2 to become a separate lot. This new Lot 1 will measure 9.2 hectares and will remain rural in character.

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

Heritage Impact Report, 10 Old Hume Highway, Berrima, C. Cosgrove, October 2021

Vegetation

The larger part of the site (proposed Lot 1) that fronts onto Wilkinson Street includes open grassed areas and many trees, both native and exotic. The proposed Lot 2 has a few exotics as specified in the site description above but no significant trees have been identified on this proposed lot. In any event, no trees are to be removed as part of this proposal, either on the proposed Lot 1, nor on the proposed Lot 2. Any building that is to be constructed on the proposed Lot 2 in a future proposal will be subject to the controls of the Berrima Village DCP in relation to vegetation.

Setting and visual impact, including impact on other nearby Heritage items

The proposed subdivision of the existing property, Lot 1 DP 258420, will not have any visual impact on the setting of the property or on nearby heritage listed properties.

There is a heritage listed property at each side of the proposed Lot 2 that will form the smaller portion of the proposed subdivision: Harper's Cottage, 8 Old Hume Highway, Berrima (Lot 1, DP 791464; Heritage Item No I134) and Woodley Cottage (or Telegraph Office), 12–16 Old Hume Highway (Lot 1, DP 724201 and Lot 1, DP 538751; Heritage Item No I208); both are of local heritage significance. The proposed subdivision of the subject property will not have any visual impact on the heritage values or setting of either of these two properties. The only difference will be that there will be a boundary at the rear of this small part of the property, the proposed Lot 2, that will separate it from the remainder of the existing property, the proposed Lot 1.

Any future plans for a new dwelling on the proposed Lot 2 would form a separate proposal and the design would have to comply with the heritage controls set out in the Berrima Village DCP (1 January 2021). These controls include the impact of any proposed structure on the heritage character and setting of the adjoining heritage listed properties. Any new dwelling will be required to take a low profile in relation to these two properties.

There are three other heritage listed properties in the vicinity of the existing Lot 1, DP 258420: Harper's Mansion, 9 Wilkinson Street, Berrima (Lot 5, DP 258420; Item No I113: State heritage significance); Glebe Cottage, 3281 Old Hume Highway, Berrima (Lot 1, DP 875157; Heritage Item No I177) and Berrima Public School and residence, Oxley Street, Berrima (Lots 1–3, Sec 31, DP 758098; Lot 1, DP 782713; Heritage Item No I114 (the last two are both of local heritage significance). The proposed subdivision of the existing property, Lot 1, DP 258420, will have no impact on any of these properties. Any future proposal for a new dwelling on this smaller part of the proposed Lot 2 is highly unlikely to have a negative impact on these properties as the structure would have to be well set back from the frontage to the Old Hume Highway and would not be visible from any of these properties.

Berrima Heritage Precincts: No. 6: Harper's Mansion and No. 8: Northern Entry part of the Wingecarribee Street Precinct

The proposed subdivision of the existing property will not have an adverse impact on either the Harper's Mansion Precinct No. 6, nor on the Northern Entry, part of the Wingecarribee Street Precinct No. 8. The Wilkinson Street frontage will remain as it appears at present. As noted above, any future proposal for a new dwelling on the proposed Lot 2 will be well set back from the frontage to the Old Hume Highway. It would be sited at the proposed construction location indicated in the subdivision plan. Any proposal would need to comply with the objectives of the Harper's Mansion Precinct and the Northern Entry Precinct. It would be required to meet the controls of the Berrima Village DCP (1 January 2021), in particular Section 9, Development within a Heritage Context. It would be assisted in this regard due to being set back on the proposed lot and being obscured by the existing vegetation of the nearby properties.

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

Heritage Impact Report, 10 Old Hume Highway, Berrima, C. Cosgrove, October 2021

Retention of the view corridors within the Berrima Heritage Conservation Area

The proposed subdivision of the existing property will not have an adverse impact on the view corridors within the Berrima Heritage Conservation Area. Any future proposal for a new dwelling on the proposed Lot 2 would also need to comply with the requirement to retain these view corridors. The location of the proposed Lot 2 at the edge of the Conservation Area would assist in doing so.

SUMMARY/CONCLUSION

The proposed subdivision of this property divides the existing land, Lot 1, DP 258420 (10 Old Hume Highway) of 9.3445 hectares into two lots: the larger lot, Lot 1, will measure 9.2 hectares and the smaller lot that will face onto Old Hume Highway, Lot 2, will measure 1445 m².

The site is a part of the subdivision of James Harper's original 1834 purchase of 100 acres, undertaken by the then owners in 1978. It is situated across two zones and the proposal is in accord with the existing separate zoning within the property. The majority of the site is within the RU4: Primary Production Small Lots zone and will remain in this zone, forming Lot 1 of 9.2 hectares. The smaller portion of the site that is within the R2 Low Density Residential zone will also remain in this zone, forming Lot 2, of approximately 1445 m², with a frontage to the Old Hume Highway.

The proposed Lot 2 will be sited next to five existing small residential properties fronting the Old Hume Highway on the northern approach to Berrima. This part of James Harper's original purchase of 100 acres has an early history of subdivision, with the first subdivision by Harper himself by 1844, within 10 years of his original purchase. Although the proposed lots will not meet the Berrima Village DCP's minimum lot size for land in the R2 Low Density residential or RU4: Primary Production Small Lots zones in Berrima, there is a history of smaller size lots in the earlier subdivisions of this land from within 10 years after James Harper's original purchase of 100 acres.

The proposed Lot 1 will retain the existing dwelling and the Wilkinson Street frontage. Lot 1 will therefore remain rural in character and no new structures are proposed to be built on this lot. No trees are to be removed as part of this proposal, either on the proposed Lot 1, nor on the proposed Lot 2.

The proposed subdivision of the property will not have an adverse visual impact on the heritage values or setting of the two heritage listed properties adjoining the smaller portion of the site, the proposed Lot 2. Nor will it have any visual impact on the heritage values of the nearby heritage listed properties.

The residential development of the proposed Lot 2 is in accord with the Potential Land Use of the Berrima Heritage Conservation Area as shown in the Berrima Village DCP Figure A9.9. Any future proposal for a new dwelling on Lot 2 would form a separate proposal and the design would have to comply with the heritage controls set out in the Berrima Village DCP (1 January 2021).

The existing property is located partially within two of Berrima's Heritage Precincts: Harper's Mansion Precinct No. 6, and the Northern Entry, part of the Wingecarribee Street Precinct No. 8. The proposed subdivision of the property will not have an adverse impact on either of these two Heritage Precincts. The existing property is at the edge of the Berrima Conservation Area and the proposed subdivision will not have any visual impact on the Conservation Area. It is therefore considered that the proposed subdivision will retain the heritage character of Berrima.

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 1 JUNE 2022

Heritage Impact Report, 10 Old Hume Highway, Berrima, C. Cosgrove, October 2021

REFERENCES

JRC Services, Wingecarribee Local Heritage Study, report for the Wingecarribee Council and NSW Department of Planning, 1991, Item No. 5050765

Le Sueur, Angela, 'Setting the facts straight at Harper's Mansion', Australian Council of National Trusts, in 'Trust News', 2013

Le Sueur, Angela, Book review of *A Light in the Window, Harper's Mansion Berrima*, National Trust of Australia (NSW), in e-news 2/2014

Webb, Chris & Charlotte, 'Conservation Management Plan, Coach & Horses Inn, 24 Jellore Street, Berrima', Chris & Charlotte Webb P/L, 2008

NSW Heritage inventory sheets

'Harper's Mansion', 9 Wilkinson Street, Berrima, NSW Heritage inventory sheet, database no. 5050765, State Heritage Item

'Harper's Cottage', 8 Old Hume Highway, Berrima, NSW Heritage inventory sheet, database no. 2680134, Local Heritage Item

'Woodley Cottage (or Telegraph Office)', 12-16 Old Hume Highway, Berrima, NSW Heritage inventory sheet, database no. 2680208, Local Heritage Item

Correspondence

Letter of 16 July 2020 from Haille Paine Solicitors to Ms Janet M Hanratty, Downer, ACT; ref. DFA:NC:200257

Letter of 1 April 1980 to Mr & Mrs M. E. Hanratty from Wilkinson, Throsby & Edwards, Solicitors, Moss Vale, Bowral Mittagong, advising of contract exchange for property: Lot 1, Wilkinson Street, Berrima; purchase from W.G.E. Williams

Title documents for Lot 1, DP 258420

CA 38915: Book 3769 No. 99; DP 227904: Subdivision of 1966; DP 25420: Subdivision of 1978

FP 153905 (now DP 153905) of 5 May 1927 - Subdivision of Lots 7,8 & 9 of a subdivision of Portion 6

APPENDICES

ATTACHMENT 1: Showing DP 227904: Subdivision of 1966 and DP 25420: Subdivision of 1978

ATTACHMENT 2: Recent photographs of Lot 1, DP 258420, copyright R.P. Wallace, 16 September 2021

7 MEETING CLOSURE