

# AGENDA

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

**Wednesday 24 January 2024**

The meeting will commence at **2:00 pm**

**AGENDA OF THE LOCAL PLANNING PANEL  
WEDNESDAY 24 JANUARY 2024**

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**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

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The meeting must not be recorded by others.

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**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 Strait 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**

### **5.1 Review of Wattle Street, Colo Vale Proposal**

**Report Author: Coordinator Strategic Policy**

**Authoriser: Lisa Miscamble**

#### **PURPOSE**

The purpose of this report is to review a Scoping Proposal submitted to Council in September 2022 by Michael Brown Planning Strategies on behalf of the owners of land at Wattle Street, Colo Vale to provide strategic and site-specific justification for the inclusion of the subject land within the Wingecarribee Local Housing Strategy (LHS) and thereby enable the subsequent rezoning of the subject land to R2 Low Density Residential with a minimum lot size of 1,000m<sup>2</sup> to facilitate an 83 lot residential subdivision.

<b>Applicant / Proponent</b>	The Consultant on behalf of the Owners
<b>Subject Land and Owners</b>	<ul style="list-style-type: none"> <li>○ Lot 1 DP 708504, 62-64 Wattle Street – JA &amp; AS Clissold</li> <li>○ Lot 2 DP 708504, 66-68 Wattle Street - BD Aristoff &amp; OS Smith</li> <li>○ Lot 3 DP 708504, 70-72 Wattle Street – Bosange Pty Ltd</li> <li>○ Lot 24 Sec 23 DP 2944, 74-76 Wattle Street – CA &amp; LA Cameron</li> <li>○ Lot 1 DP 573852, 78-82 Wattle Street – MM &amp; TM Holdings Pty Limited</li> <li>○ Lot 12 Sec 24 DP 2977, 99-103 Wattle Street – CW &amp; TL Rudd</li> </ul>
<b>Consultants</b>	Michael Brown Planning Strategies
<b>Notification</b>	N/A
<b>Number Advised</b>	N/A
<b>Number of Submissions</b>	N/A
<b>Current Zoning</b>	RU4 Primary Production Small Lots
<b>Proposed Amendment/s</b> <b>LEP</b>	N/A at this stage
<b>Political Donations</b>	Nil
<b>Recommendation</b>	<p>The subject land not be considered further for inclusion in the Wingecarribee Local Housing Strategy for the reasons:</p> <ul style="list-style-type: none"> <li>• The proposal fundamentally lacks a strategic approach and undermines the strong position resolved by Council to ensure</li> </ul>

	<p>orderly and equitable development outcomes governed by the adopted Wingecarribee Local Housing Strategy.</p> <ul style="list-style-type: none"><li>• The proposal is regarded as an undesirable spot rezoning request to expand the village footprint at the western fringe of Colo Vale village.</li><li>• The proposal undermines Council’s preference for strategically identified and master planned New Living Areas and infill sites, where infrastructure issues can be resolved cohesively, development sequencing is equitable and follows a place-based approach.</li><li>• The nexus between necessary vegetation clearing to manage bushfire risk and protection of high environmental value (HEV) lands by has not been clearly established and may be irreconcilable.</li><li>• There is no capacity in the Mittagong Sewer Treatment Plant (STP) to receive the proposed site’s effluent until at least 2028.</li><li>• Planned upgrades to the Mittagong STP will prioritise strategically identified sites in the interest of well-sequenced and equitable development outcomes.</li><li>• There are no legal stormwater discharge points at or near the subject land.</li><li>• The proposal cannot deliver infill housing in the short-term, due to the abovementioned fundamental planning and engineering constraints.</li></ul> <p>Strategic Outcomes develop a wholistic and strategic Place Plan for Colo Vale following the success of the award-winning Robertson Place Plan and planned Bundanoon Place Plan in the Strategic Outcomes work program for 2024/2025.</p> <p>Council reiterates its support for the Wensleydale site as the proposed New Living Area for Colo Vale and focus for future urban growth in the Colo Vale village.</p>
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**OFFICER’S RECOMMENDATION**

**THAT:**

1. **The attached Scoping Proposal to NOT BE SUPPORTED and the subject land NOT BE CONSIDERED FURTHER for inclusion in the Wingecarribee Local Housing Strategy for the following reasons:**
  - a) **The proposal fundamentally lacks a strategic approach and undermines the strong position resolved by Council to ensure orderly and equitable development outcomes governed by the adopted Wingecarribee Local Housing Strategy.**
  - b) **The proposal is regarded as an undesirable spot rezoning request to expand the village footprint at the western fringe of Colo Vale village.**

- c) The proposal undermines Council's preference for strategically identified and master planned New Living Areas and infill sites, where infrastructure issues can be resolved cohesively, development sequencing is equitable and follows a place-based approach.
  - d) The nexus between necessary vegetation clearing to manage bushfire risk and protection of high environmental value (HEV) lands by has not been clearly established and may be irreconcilable.
  - e) There is no capacity in the Mittagong Sewer Treatment Plant (STP) to receive the proposed site's effluent until at least 2028.
  - f) Planned upgrades to the Mittagong STP will prioritise strategically identified sites in the interest of well-sequenced and equitable development outcomes.
  - g) There are no legal stormwater discharge points at or near the subject land.
  - h) The proposal cannot deliver infill housing in the short-term, due to the abovementioned fundamental planning and engineering constraints.
2. The Strategic Outcomes Team develop a wholistic and strategic Place Plan for Colo Vale following the success of the award-winning Robertson Place Plan and planned Bundanoon Place Plan in the Strategic Outcomes work program for 2024/2025.
3. Council reiterates its support for the Wensleydale site as the proposed New Living Area for Colo Vale and the focus for future urban growth in the Colo Vale village.

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## **REPORT**

### ***Introduction***

The purpose of this report is to review a Scoping Proposal (**Attachment 1**) submitted to Council in September 2022 by Michael Brown Planning Strategies on behalf of the owners of land at Wattle Street, Colo Vale. A Scoping Proposal is a document which the NSW Department of Planning Housing and Infrastructure (DPHI) recommends be used to introduce to Council a proposal to amend a Local Environmental Plan, generally to amend the current planning controls, such as zoning, minimum lot size or land use permissibility. A Scoping Proposal allows Council to consider the proponent's intended amendment and provide the proponent with an indication of its merit or otherwise prior to a formal Planning Proposal being submitted. It also provides Council with the opportunity to refer the proposal to relevant State agencies for comment.

The purpose of the Scoping Proposal which is the subject of this report is to provide strategic and site-specific justification for the inclusion of the subject land within the Wingecarribee Local Housing Strategy (LHS) and thereby enable the subsequent rezoning of the subject land to R2 Low Density Residential with a minimum lot size of 1,000m<sup>2</sup> to facilitate an 83 lot residential subdivision.

The subject land is located to the north of the Shire on the western fringe of Colo Vale village as indicated in **Figure 1** below.





**Figure 1 – Regional Location**

The subject land comprises six sites fronting Wattle Street from the north and south, covering an area of some 12 hectares and comprising the following holdings of approximately 2 hectares each as indicated in **Figure 2** below.

- Lot 1 DP 708504, 62-64 Wattle Street
- Lot 2 DP 708504, 66-68 Wattle Street
- Lot 3 DP 708504, 70-72 Wattle Street
- Lot 24 Sec 23 DP 2944, 74-76 Wattle Street
- Lot 1 DP 573852, 78-82 Wattle Street
- Lot 12 Sec 24 DP 2977, 99-103 Wattle Street

It is noted that the five lots on the northern side of Wattle Street are contiguous, but one lot between the Colo Vale Public School and the sixth lot is not included within the subject land.



Figure 2 – Location of subject land (outlined red)

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## **STRATEGIC ASSESSMENT**

### ***Background***

A submission to include the subject land within the LHS was previously considered by Council during exhibition of the draft LHS in 2021. Council’s recommendation in the report to the (then) Independent Advisory Planning Assessment Panel (the Panel) of 1 July 2021 was that the inclusion of the subject land within the final LHS was not supported due to lack of essential infrastructure and potential constraints of bushfire and biodiversity which could compromise a viable development outcome. It was also noted that the draft LHS already contains what is considered to be a less constrained and more appropriate site for future residential development, being the Wensleydale New Living Area site.

However, in considering submissions to the exhibited draft LHS, the Panel recommended that the subject land “*be considered as a future infill development opportunity for Colo Vale*”, noting that “*the site had merit for further investigation as an infill site in accordance with Priority One of the*

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*Housing Strategy given its location close to existing residential development and the school.” This recommendation was endorsed at the Ordinary Meeting of Council of 14 July 2021.*

The Scoping Proposal provided by Michael Brown Planning Strategies (the land owners’ planning consultant) in September 2022 was in response to that 14 July 2021 Council Resolution, providing a report and supporting studies to enable Council to consider the merits of the subject land for potential rezoning to R2 Low Density Residential with a minimum lot size of 1,000m<sup>2</sup>. A Concept Plan for an 83 lot subdivision, indicated at **Figure 3** below, was also provided.

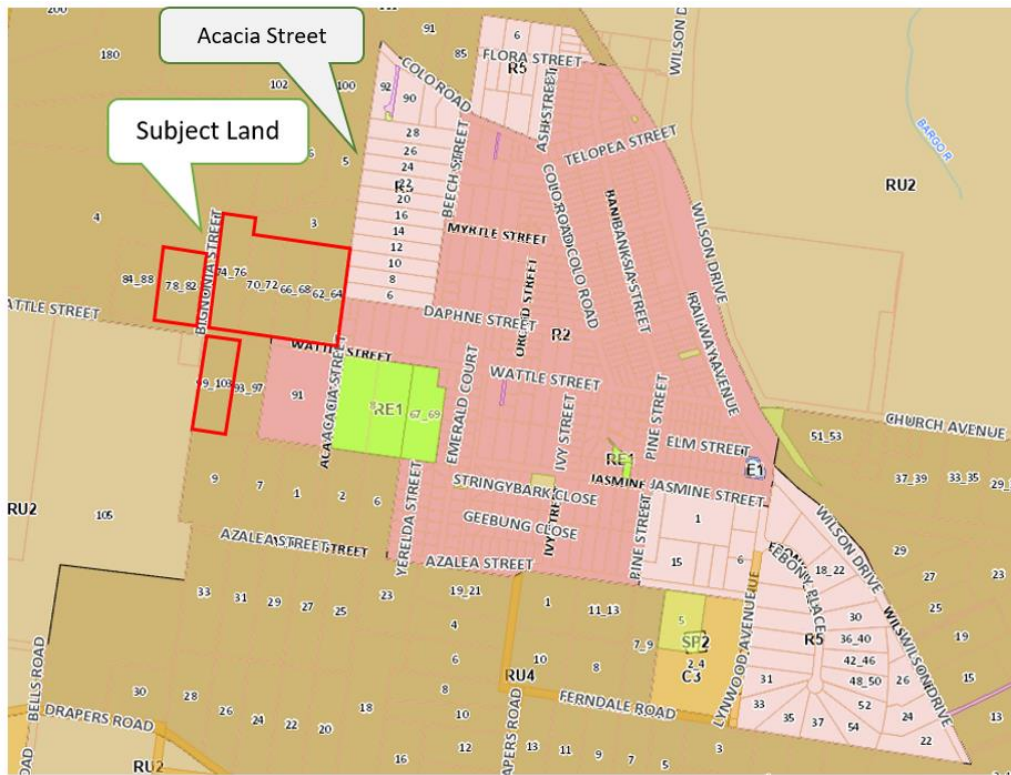


**Figure 3 – Concept subdivision plan**

***Existing Context and Planning Framework***

The current zoning and minimum lot size provisions for Colo Vale village are indicated in **Figures 4A and 4B** below. The subject land is currently zoned RU4 Primary Production Small Lots with a minimum lot size of 2 hectares. This zoning reflects the equivalent zoning in place under WLEP 1989 prior to the conversion of all previous zonings to those nominated in the Standard Instrument (SI) on which Wingecarribee Local Environmental Plan (WLEP) 2010 is based.

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**Figure 4A - Current zoning of the site and surrounding land**



**Figure 4B - Existing Minimum Lot Size map**

The land on the northern side of Wattle Street adjoins R2 Low Density Residential and R5 Large Lot Residential zoned land with a minimum lot size of 1,000m<sup>2</sup> and 8,000m<sup>2</sup> respectively. The land to the west of the site is zoned RU2 Rural Landscape with a minimum lot size of 40 hectares. Land further to the west is Crown Land zoned E2 Environmental Conservation.

Excluding the Colo Vale Public School, Acacia Street effectively forms the western edge of urban development in Colo Vale with a transition from R2 Low Density Residential and R5 Large Lot Residential to the east of Acacia Street to RU4 Primary Production Small Lots on the west. This transition reflects the traditionally accepted progression of zoning across an urban area, from higher density to lower density as it meets the surrounding rural zones.

The school however, presents an apparent anomaly compared with the zoning on the northern side of Wattle Street. The zoning of the school to R2 Low Density Residential occurred during the drafting of WLEP 2010 and reflects the State government's directive that, when preparing SI LEPs, all Councils should apply to state-owned land a zoning and minimum lot size consistent with those adjoining the site. This was a standard directive across the state and especially applied to schools as it enabled those schools deemed non-viable to be sold and redeveloped without rezoning. In the case of the Colo Vale Public School, the application of this directive resulted in the R2 Low Density Residential zone and the 1,000m<sup>2</sup> minimum lot size being applied. Without that directive, it is probable that the school site would have been zoned RU4 Primary production Small Lots with a minimum lot size of 4 ha consistent with the current zoning of the subject land.

On this basis, it is Council's view that the zoning of the school itself should not necessarily be used as a benchmark for the future zoning of the land beyond it. If any rezoning were to occur, the R5 Large Lot Residential zone, with a minimum lot size of 8,000m<sup>2</sup>, is considered more appropriate. This would then be consistent with the existing transition from R2 Low Density Residential to the RU2 Rural Landscape zone by means of the R5 Large Lot Residential zone on the north-western, northern and southern boundaries of the village. There would be neither strategic merit nor site specific merit in adopting an inconsistent zone transition on the western boundary of the village, it being identified as the most vulnerable to bush fire threat. Across a 12 hectare site the R5 Large Lot Residential zone would result in an additional eight or nine lots on the subject land.

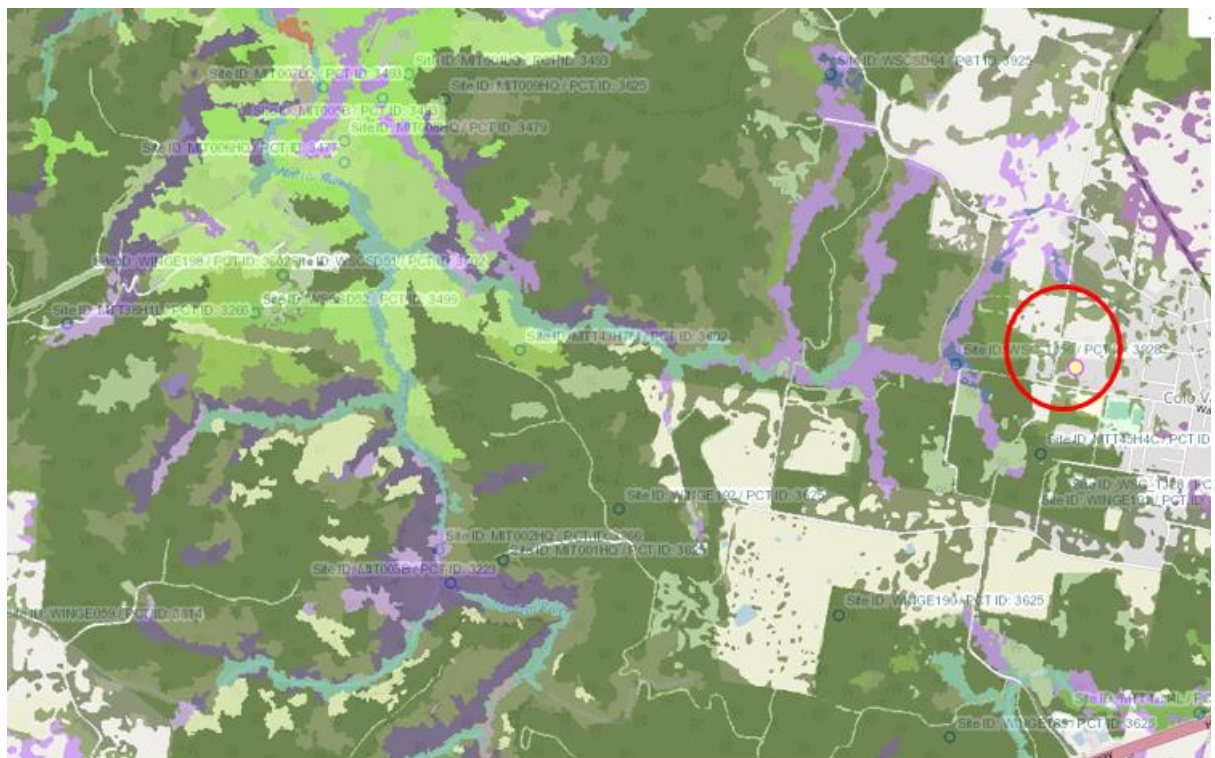
### ***Constraints Analysis***

In drafting the Local Housing Study, all land across the Shire was subjected to a comprehensive constraints analysis which focussed on eliminating land identified as of high environmental value, or extensively flood prone or bush fire prone or which was considered topographically unsuited to future residential development. The same constraints analysis was also applied to those landowner site nominations received by Council during the draft exhibition of the LHS, of which the subject land is one.

The subject land is identified as being heavily bush fire affected (**Figure 5**) due to a number of high environmental value (HEV) plant community types identified as endangered or threatened on both the state and national registers being mapped across several lots. This mapped vegetation effectively forms the eastern edge of a far more extensive biodiversity corridor extending across Crown Land to the west as mapped in **Figure 6**. An aerial view confirms the density of this vegetation (**Figure 7**).



**Figure 5 – Bush fire affectation**



**Figure 6 – Vegetation affectation (red circle indicates the vicinity of the subject land)**



**Figure 7 -Aerial view of vegetation extent**

The constraints of bush fire risk and mapped High Environmental Value (HEV) land are not uncommon in considering the development potential of rural land and Council generally pursues the opportunity when there is sound strategic merit and well as other site-specific merits associated with the proposal. In the case of the subject land, it was concluded that the location of the subject land on the edge of a very extensive area of heavily vegetated land containing mapped high environmental value (HEV) plant community types, in conjunction with a proposed zoning which, as discussed above, Council does not consider appropriate, created an irreconcilable nexus which Council could not support.

#### ***Referrals to State Agencies and Subject Matter Experts***

The focus on these key constraints of the subject land is consistent with the constraints analysis applied to all sites considered when developing the draft LHS. It is rare for any potential development site across the Shire to be completely free of constraints, but those sites included in the LHS returned constraint analysis results which indicated that there was a high probability of being able to manage identified constraints and deliver, through a strategic master plan process, a high-quality housing development sympathetic with the existing urban context and consistent with community expectations.

A primary value of a Scoping Proposal is that it facilitates early consultation with key authorities and government agencies to address any potential constraints and associated risk and to identify potential infrastructure needs. Council's preliminary assessment indicated that potential bush fire and biodiversity concerns may act as significant constraints to the efficient and effective utilisation

of the subject land for future housing needs so, in view of these concerns, the Scoping Proposal and relevant associated documentation were referred to the following State agencies:

- NSW Rural Fire Service (RFS)
- Biodiversity and Conservation Division (BCD) of the (then) Department of Planning and Environment (DPE).

The Scoping Proposal was also referred internally to Council's Assets Team, specifically Council's Floodplain Engineer, for preliminary comment.

With regard to the RFS referral, the agency's initial response of 17 March 2023 noted:

*"Colo Vale village is considered to be at risk from bush fires from the west and south directly adjoining the planning proposal area. The SBFS should address the matters in Table 4.2.1 of Planning for Bush Fire Protection, including but not limited to, an assessment of the existing road network to demonstrate they are sufficient to provide for safe access for emergency vehicles (including provision of suitable response times for operational needs) and evacuating residents when considering the existing population, the density resulting from the planning proposal and the likely cumulative total population of the planning proposal area which may impact the road access network servicing the site."*

It is noted that the Executive Summary contained within the Strategic Bush Fire Study prepared by Peterson Bushfire in July 2023 and which accompanied the Scoping Proposal supports this RFS assessment stating:

*A risk assessment identified the subject land and Colo Vale as extreme risk. However, the proposal to allow further subdivision is not incompatible with the bushfire environment and existing infrastructure providing the appropriate bushfire protection measures, such as APZs and adequate access, are accommodated by the concept subdivision layout.*

The RFS response of 17 March 2023 also stated:

*"The NSW RFS does not support the statement in the bush fire report that a Strategic Bush Fire Assessment (SFBS) is not required. To assess whether the proposal is appropriate in the bush fire hazard context, a SFBS should be prepared for the site addressing the relevant requirements of Chapter 4 of Planning for Bush Fire Protection 2019.*

The SBFS was subsequently prepared by the proponent and submitted via Council to the RFS. In the response, the RFS concluded that it did not object to the proposal in principle, subject to the concept plan adequately addressing the following issues which were noted:

- (i) the provided Concept Plan appears to propose some lots that may not support a viable building envelope once suitable Asset Protection Zones (APZs) are applied. These include but are not necessarily limited to lots 170, 171 and 116.
- (ii) the cul-de-sac in the northeastern corner of the proposal appears to be a dead-end road of approximately 235m. While a performance measure may be able to address this in any subsequent application for subdivision this is not a preferred outcome and should be noted as such.



- (iii) the assessment of vegetation to the west as grassland may require further verification as a desktop assessment indicates significant areas of forest within 140m.

It is noted that although the RFS did not object to the proposal 'in principle', it did identify three areas of concern with the proposed subdivision location and design and which reflect Council's own concerns. Point (i) above addresses Council's own concerns as to whether an achievable nexus can be established between the need for both bush fire and biodiversity protection. Furthermore, in point (iii), RFS questions the accuracy of vegetation sampling, noting there appear to be "*significant areas of forest within 140m*".

The RFS responses are provided at **Attachment 2** and **Attachment 3** to this report.

The Proposal was also referred to the Biodiversity and Conservation Division (BCD) of the (then) Department of Planning and Environment (DPE) for comment. Again, this is standard procedure when Council anticipates that a proposal will need to manage bush fire risk through vegetation clearing while also needing to meet legal obligations for the conservation of potentially HEV land.

BCD confirms that there are known local high environmental value lands and biodiversity corridors in the vicinity of the subject land and recognises the potential threat to such corridors which can occur in addressing bush fire risk, stating, "*We are mindful that bushfire is a major issue for the proposal as well as for the Colo Vale locality and that the bushfire issues, in turn, have implications for the management of vegetation/bushland.*".

BCD expressed concern that "*Wattle Street may be a precursor to further speculative urban rezonings within the Colo Vale footprint. This is not ideal given that ad hoc rezonings often come with ad hoc impacts to vegetation giving rise to cumulative loss*".

BCD also reiterated the value of vegetation to the local amenity and village character, not just for its own intrinsic value, but also because it can contribute to urban cooling, a feature which will become increasingly important as the urban landscape is extended. BCD urges Council to adopt a more strategic approach.

The Scoping Proposal was also referred to Council's Assets Team, specifically Council's Floodplain Engineer. It is the advice of this Officer that the proposed subdivision would require a comprehensive stormwater network. One specific concern was that the stormwater report which accompanied the Scoping Proposal does not appear to have identified a legal point of discharge for stormwater and that this would be essential to the viable and cost-effective development of the subject land given there are no rivers or creeks in the area into which stormwater could otherwise be discharged.

This advice reinforces the need to adopt a more strategic approach to the future growth of Colo Vale village which includes consideration of the most efficient and effective means of providing necessary infrastructure and services. It is often overlooked that the provision of infrastructure to support urban development is a major contributor to community and environmental protection through the provision of clean water and effective treatment of sewage resulting in the release of clean water into our waterways.

The BCD response is provided at **Attachment 4**.

***Strategic Position and existing New Living Areas***

The ‘guiding principle’ of the Wingecarribee Local Housing Strategy is to “*manage growth in a manner which endorses and promotes community values and protects our natural areas and rural landscapes*”.

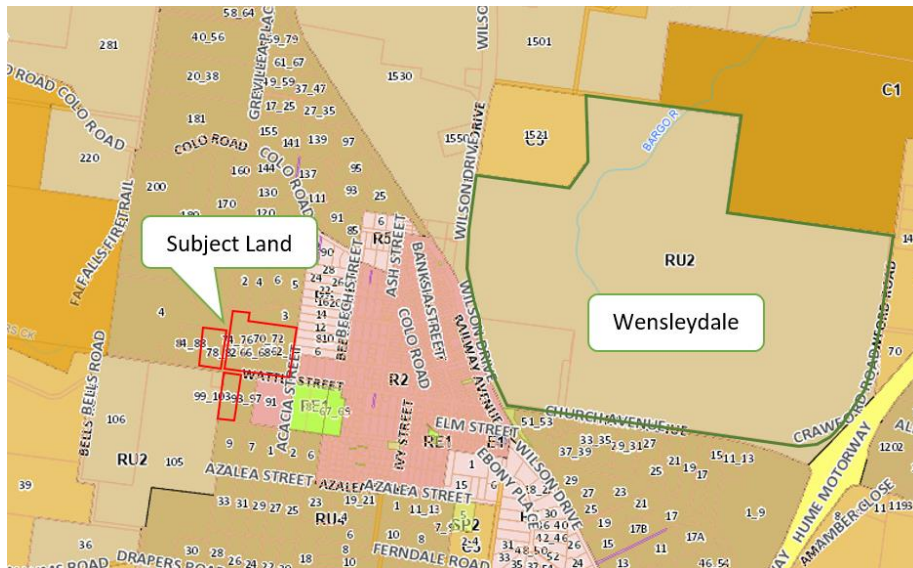
Since July 2021, Council’s consistent professional position has been that the most appropriate way to manage urban growth across the Shire would be through a strategic lens, addressing the broad constraints and risk analysis undertaken for all sites within the adopted LHS, identifying potential new living areas and progressing them in line with the infrastructure necessary to support them.

The intent of the LHS’s ‘Priority One’ infill development is to provide a viable mechanism for achieving short term housing growth in existing towns and villages where necessary infrastructure is already available. It is noted that this has indeed occurred in Colo Vale with the subdivision and subsequent construction of housing on land on the eastern and southern sides of Jurd Park over the period 2014 to 2020. This development, resulting in over 80 dwelling allotments, occurred on land already zoned R2 Low Density Residential at a time when the necessary infrastructure was available to support it. However, at this time, the necessary upgrades to the Mittagong STP required to enable any additional development are unfunded and are not expected to be achieved until beyond at least 2028.

Therefore, there really is no short term ‘infill’ opportunity for Colo Vale of which the Wattle Street land, or any other land relying on the Mittagong STP could avail itself, even if an appropriate storm water discharge arrangement could be achieved.

It is appreciated that, at the time the Panel provided its advice on the subject land, it did not have sufficient details regarding infrastructure capacity, but having investigated what opportunity might exist, Council does not consider any land in Colo Vale could be supported for inclusion within the LHS as ‘infill development’ at this time.

From a broader strategic perspective, it is noted that there is already a proposed New Living Area identified for Colo Vale within the adopted LHS, known as Wensleydale, located to the east of the village on Church Avenue as indicated in **Figure 8** below.



**Figure 9 Location of Wensleydale in relation to the subject land**

Wensleydale was originally recognised as a potential new residential area in 2007 following a rigorous objective analysis of the site and it has been Council’s consistent professional position since then that Wensleydale offers a unique opportunity to master plan a new site to deliver an estimated 700 dwellings together with a small local retail precinct to serve the Colo Vale community and surrounding rural area.

Council’s preferred option for Colo Vale has always been, and remains, the strategically identified Wensleydale New Living Area. There are many advantages in a larger site, primarily the opportunity to master plan the site in consultation with the community to achieve a balance of housing as well as the environmental outcomes and respect for the heritage aspects of the site which the community would expect. It is acknowledged that Wensleydale has constraints. As stated earlier, most sites do, but the size and location of the site provide an opportunity to strategically manage these constraints to create an imaginative urban outcome. It is noted that preliminary assessments indicate that a legal discharge for stormwater can be achieved on the Wensleydale site.

The Renwick development is an excellent example of how the effective master planning of a larger site, even with constraints, can achieve superior outcomes compared with the ad hoc residential subdivisions too often created. The adopted LHS contains a strong and consistent message that it is Council’s intent that the Shire’s future housing needs will be met through a strategic ‘master planned’ approach, in consultation with the community. Such a process addresses the community vision for Colo Vale as a whole, ensuring a balance of sustainable urban growth and environmental enhancement, as well as ensuring that the essential infrastructure is available at the end of the master plan process so that a viable, cost-effective housing product can be achieved. This infrastructure includes the provision of adequate capacity in the Mittagong Sewage Treatment Plan, adequate water supply and the necessary provision of a legal stormwater discharge point for the development.

Council has already commenced of a wholistic and strategic implementation of the LHS with Master Planning the Bowral South New Living Area underway in line with anticipated timeframes for upgrades to the Bowral STP. Each Master Plan and associated Place Plan provides the strategic

framework for a comprehensive review of zoning and land use across the locality to ensure that future site specific Master Plans proceed from a sound, community led foundation.

Council is demonstrating that it can undertake effective master planning and place planning. The Robertson Village Place Plan received a 2023 Award for Planning Excellence in stakeholder engagement from the Planning Institute of Australia. It is further noted that Place Plan for Bundanoon is included in Strategic Outcomes work program for 2024/2025. A Place Plan for the Colo Vale Village will follow, building on the stakeholder engagement approach and process which was so successful for Robertson.

It is acknowledged that the LHS will require review when the South East and Tablelands Regional Plan 2041 is released by the NSW Government. That LHS review will include a revision of housing delivery estimates from each proposed living area already within the LHS and a programme for the orderly implementation of the LHS across the Shire reflecting infrastructure rollout timeframes. There are sites already within the LHS which already have in-principle support, but which are also relying on the Mittagong STP upgrade. Implementation of the LHS will require a realistic and equitable program for the 'roll out' of identified new living areas across the Shire as infrastructure upgrades permit. A strategic, coordinated, and equitable approach has never been more crucial.

Since adoption of the Local Housing Strategy in 2021, Council has reiterated in several resolutions that no development will proceed without the infrastructure to support it, and the NSW Department of Planning Housing and Infrastructure has been resolute in supporting Council's position in this regard, for which Council is very grateful.

As discussed above, the proposed zoning and minimum lot size nominated in the Scoping Proposal are unlikely to be supported due to the land's location on the western edge of the village, exposed to bush fire risk from the west and south and with potential impacts on high environmental value land if that risk is to be adequately managed. Council's consistent professional position is that Wensleydale offers the best opportunity for a wholistic, strategically developed Master Plan within the context of a Place Plan for the Colo Vale Village. Council has developed a strong relationship with the Colo Vale community and believes that such a strategic approach offers the community the best opportunity to realise an outcome which sympathetically and efficiently meets community needs and expectations.

Council continues to receive multiple spot rezoning enquiries on a regular basis and has been able to rely on Council's position and the Department's support to deal with such proposals expeditiously for the longer-term benefit of the community. To progress this Proposal, or any other, for inclusion in the Local Housing Strategy without very strong site-specific merit has the potential to undermine the strong strategic position Council has achieved in recent years.

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## **CONSULTATION**

### ***Pre-lodgement Scoping Meeting***

A meeting was held with the land owners and their consultant and members of the Strategic Policy Team to discuss the Scoping Proposal. This meeting sought to clarify the process to date and going forward. Numerous email communications between the consultant and Strategic Policy staff have occurred throughout the consideration of the Scoping Proposal.

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### *External Referrals*

Referrals	Advice/Response/Conditions
NSW Rural Fire Service	RFS provided 'in principle' support subject to an appropriate subdivision plan and APZs and confirmation of nature and extent of vegetation ad discussed in more detail in the report.
Biodiversity and Conservation Division of the (then) Department of Planning and Environment	BCD is not support the proposal due to its <i>ad hoc</i> nature and the precedent it would set for future <i>ad hoc</i> approaches to Council. BCD would prefer a more strategic approach, ad discussed in more details in the report.

### *Internal Referrals*

Referrals	Advice/Response/Conditions
Assets - Stormwater Engineer	The advice provided was that no legal stormwater discharge point existed and it would be difficult to achieve one,

### *Public Exhibition*

No public exhibition of the Scoping Proposal would occur if the recommendation of the report is accepted.

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## SUSTAINABILITY ASSESSMENT

- **Environment**

A wholistic and strategic approach to the identification and implementation of new living areas and potential infill development is considered to be more environmentally sustainable than the support of an *ad hoc* site with significant development constraints.

- **Social**

A wholistic and strategic approach to the identification and implementation of new living areas and potential infill development offers the potential to provide a broader range of housing options to achieve a broader range of socio-economic outcomes.

- **Broader Economic Implications**

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

- **Culture**

There are no cultural issues in relation to this report.

- **Governance**

There are no governance issues in relation to this report.

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## RELATIONSHIP TO CORPORATE PLANS

This report does not affect any Corporate Plans.

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**COUNCIL BUDGET IMPLICATIONS**

There are no budget implications associated with this report.

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**RELATED COUNCIL POLICY**

There are no Council policies associated with this report.

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**CONCLUSION**

A review of the Scoping Proposal was undertaken with regard to both the strategic and site specific merits of the proposal. Strategic concerns addressed the inappropriateness of the proposed zoning and minimum lot size which, together with the site specific concerns of bush fire risk and environmental risk were considered to reduce the likelihood of the site being able to deliver a significant contribution to infill development, either now due to infrastructure limitations, or in the future.

In summary, the scoping proposal is not support for the following reasons:

- The proposal fundamentally lacks a strategic approach and undermines the strong position resolved to ensure orderly and equitable development outcomes governed by the adopted Wingecarribee Local Housing Strategy.
- The proposal is regarded as an undesirable spot rezoning request to expand the village footprint at the western fringe of Colo Vale village.
- The proposal undermines Council's preference for strategically identified and master planned New Living Areas and infill sites, where infrastructure issues can be resolved cohesively, development sequencing is equitable and follows a place-based approach.
- The nexus between bushfire risk management by extensive vegetation clearing is irreconcilable with the identified EEC vegetation and high environmental value (HEV) lands.
- There is no capacity in the Mittagong Sewer Treatment Plant (STP) to receive the proposed site's effluent until at least 2028.
- Planned upgrades to the Mittagong STP will service strategically identified sites, in the interest of well-sequenced and equitable development outcomes.
- There are no legal stormwater discharge points at or near the subject land.
- The proposal cannot deliver infill housing in the short-term, due to the abovementioned fundamental planning and engineering constraints.

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**ATTACHMENTS**

1. Scoping Report Wattle St Colo Vale Sep 2022 [5.1.1 - 42 pages]
2. RFS response re Wattle St referral 17 March 2023 [5.1.2 - 1 page]
3. RFS Determination Letter Strategic Bushfire 27 Nov 2023 [5.1.3 - 1 page]
4. BCD Response re PP - Wattle Street Colo Vale 22 Sep 23 [5.1.4 - 7 pages]

## **5.2 Update on Independent Peer Review of draft Wingecarribee Community Heritage Study**

**Report Author:** Executive Manager Strategic Outcomes  
**Authoriser:** {custom-field-authorising-officer}

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### **PURPOSE**

The purpose of this report is to update the Local Planning Panel about the proposed Independent Peer Review of the draft Wingecarribee Community Heritage Study 2021-22.

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### **OFFICER'S RECOMMENDATION**

**NOTE the update on the proposed Independent Peer Review of the draft Wingecarribee Community Heritage Study 2021-22.**

**NOTE the proposed timeline for public exhibition of the peer-reviewed draft Study in accordance with Council Resolution dated 13 December 2023.**

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### **REPORT**

#### **INDEPENDENT PEER REVIEW OF DRAFT COMMUNITY HERITAGE STUDY**

##### **Introduction**

The draft Wingecarribee Community Heritage Study 2021-2023 explored places of potential heritage significance through a genuine partnership with local volunteer heritage and history specialists.

The draft Study culminated in identifying potential heritage items and heritage conservation areas and extensions to existing heritage conservation areas.

The draft Community Heritage Study underwent community consultation in October and November 2023. The consultation period included online engagement, drop-in information sessions across our towns and villages, inviting broader engagement and formal submissions.

Council staff are collating submissions received during this period, equating to approximately 120 submissions. Most of these submissions are expected to be objections to recommended heritage listing, and these items are known as "contested items".

The remaining 371 proposed heritage items and proposed conservation areas are generally referred to as "uncontested items".

A report to the December 2023 Council provided options for peer review, including a full scope option and phased scope option to better balance scope, timeframes and costs. The professional officer's recommendation was for a two-phase assessment peer review, to utilise internal staff resourcing to manage the scope and costs for the peer review.

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On 13 December 2023 Council resolved the following:

**THAT Council:**

- 1. Council receive and note the report and Council Officer's play no further role in the matter.***
- 2. Council support the option for peer review of the Community Heritage Study and all submissions received in response to the public consultation process with the view to the final Heritage Study and Planning Proposal being submitted to the NSW Department Planning Department for Gateway determination no later 30 June 2024.***
- 3. The cost for the independent peer review of the Community Heritage Study and exhibition of same by a suitably qualified heritage contractor reporting directly to the General Manager be considered as part of the December budget quarterly review.***
- 4. In relation to point 2, it will be necessary for the General Manager to prepare a timeline for public exhibition of the final draft study for consideration by both the Planning Panel and Council.***
- 5. The General Manager be delegated authority to place the draft Community Heritage Study, post peer review on public exhibition.***

**DECLARED CARRIED BY THE ADMINISTRATOR**

This report responds to the resolution of 13 December 2023, to provide a timeline for public exhibition of the final draft study post-peer review.

### **Operationalising the Peer Review**

The timeline required by the Council Resolution of 13 December 2023 is not achievable, based on requests for quotations from suitably qualified heritage professionals and an intensive selective procurement process.

Submission of the peer reviewed Heritage Study for Gateway Determination by 30 June 2024 is not achievable.

The proposed timeline extends the milestone submission for Gateway milestone to December 2024. No further options are known at this time.

### **Scope of Peer Review**

The scope is to conduct a peer review of the draft Wingecarribee Heritage Study and all submissions (approximately 120) received in response to the public consultation process.

The outcome is for the independent peer reviewer to form a professional opinion and provide a recommendation. This professional opinion and recommendation shall be based on the content of the draft Study, community submissions and a site visit of the proposed heritage item or conservation area.

### **Methodology of Peer Review**

The successful heritage peer reviewer will receive a documentation package in digital form during a project initiation meeting with the General Manager and EM Strategic Outcomes. This project initiation meeting is expected to be held in mid January 2024.



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The documentation package will include:

- Draft Wingecarribee Community Heritage Study
- Spreadsheet of proposed items and areas
- Evidence Sheets by Locality x 18
- Up to 120 Submissions

After the project initiation meeting, an “ethical wall” between the heritage contractor and Council staff will be put in place to ensure the rigour and independence of the peer review. This “ethical wall” responds to the Council resolution of 13 December 2023 and community expectations for an independent peer review.

Any correspondence from the heritage contractor will be via the General Manager (Ms Lisa Miscamble) and EM Strategic Outcomes (Mr Deniz Kilic) only, for the duration of the “ethical wall”.

Any conflicts of interest would be declared by the heritage professional. Any conflicts of interest shall be suitably managed by exclusion or variation and can be negotiated with the GM and EMSO only.

This methodology responds to community expectation and the Council resolution of 13 December 2023 for a rigorous and independent peer review of the draft Heritage Study.

### **PROPOSED TIMELINE**

<b>Timeframe</b>	<b>Milestones</b>
22 January 2024	Peer Review initiated with consultant
15 May 2024	Peer Review Finalised
15 May 2024	Consultant presents peer-review outcomes to LPP
29 May 2024	Extraordinary LPP consider peer-reviewed draft Heritage Study
19 June 2024	Council considers peer-reviewed draft Heritage Study to proceed to 28-day public exhibition
19 July 2024	Peer-reviewed Study exhibition period concludes
31 July 2024	Extraordinary LPP considers outcomes of public exhibition and makes recommendation to proceed to Gateway determination
7 August 2024	Council considers outcomes of peer review and LPP advice and considers proceeding to Gateway determination
14 August 2024	Council caretaker mode commences

### **DELIVERABLES**

The heritage peer reviewer is required to submit 3 deliverables:

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1. Master Spreadsheet summarising professional opinion, under the following explanatory heading tabs:
  - Reference Number from Spreadsheet
  - Suburb
  - Address
  - Item Name
  - Property Description
  - Heritage Item (Council Officer) Recommended – Yes or No
  - Submissions - Objection or Support or Neutral
  - Professional Opinion of Independent Heritage Peer Reviewer – Recommended Listing or Not Recommended)
2. Summary of methodology and heritage peer review approach to reach a professional opinion and recommendation. A brief explanation shall be provided for any contested matters, where a submission objects to the proposed heritage listing or the peer reviewer disagrees with the recommendation in the draft Study.
3. Summary of heritage qualifications and experience of the independent peer reviewer on letterhead.

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### **SUSTAINABILITY ASSESSMENT**

- **Environment**

There are no environmental impacts in relation to this report.

- **Social**

There are no social issues in relation to this report.

- **Broader Economic Implications**

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

- **Culture**

There are no cultural issues in relation to this report.

- **Governance**

The Planning Proposal (will be / has been) processed in accordance with relevant legislation and Departmental guidelines.

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### **RELATIONSHIP TO CORPORATE PLANS**

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### **COUNCIL BUDGET IMPLICATIONS**

General Reserve (Unfunded project)

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**RELATED COUNCIL POLICY**

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**CONCLUSION**

The proposed peer review is a balanced approach to scope, timeframes and costs. It noted the proposed timeframes are ambitious and requires timely delivery of all milestones.

The LPP is requested to note the update and timeline for the independent peer review of the draft Wingecarribee Community Heritage Study.

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**ATTACHMENTS**

Nil

### **5.3 Minor Variation to Nattai Ponds Voluntary Planning Agreement (VPA)**

**Report Author:** Executive Manager Strategic Outcomes  
**Authoriser:** {custom-field-authorising-officer}

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#### **PURPOSE**

The purpose of this report is to consider a proposed minor variation to Nattai Ponds Voluntary Planning Agreement (VPA) through a Fourth Deed of Variation. The variation relates to a VPA item that requires roadworks and shared path to be constructed at Beresford Street Braemar.

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#### **OFFICER'S RECOMMENDATION**

**THAT the minor variation be supported, with street trees and landscaping be provided to enhance and beautify Beresford Street in lieu of wider road pavement.**

**THAT the minor variation does not require public notification given minor and immaterial nature of variation, noting prior exhibition of VPA and further noting DA underwent exhibition at the time.**

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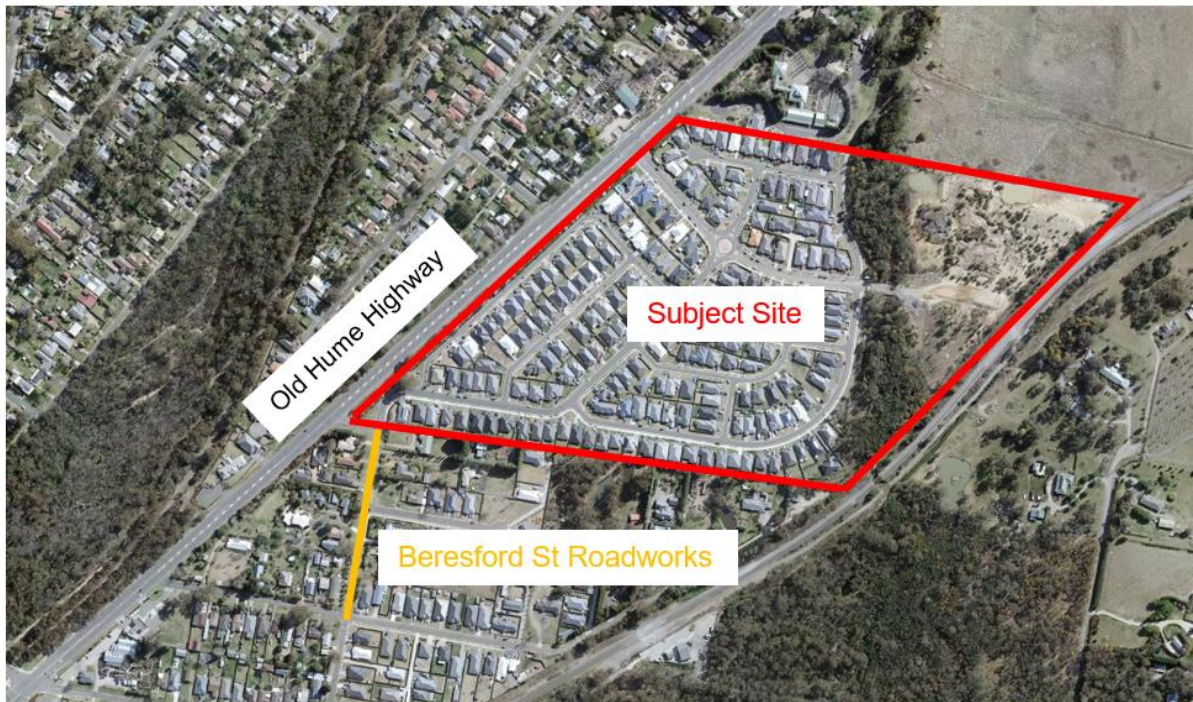
#### **REPORT**

##### **MINOR VARIATION TO NATTAI PONDS VPA**

##### **Introduction**

The Nattai Ponds residential subdivision development is located at 71-72 Old Hume Highway Braemar NSW, comprising Lot 2 and Lot 3 DP 607486 and Lots 1 to 8 DP1044854.

The 252-lot subdivision was approved in 2013 and incrementally delivered across Stages 1 to 4 since that time. The final Stage 4 subdivision has been built and comprises 44 lots.



### **Section 138 Approval**

A Section 138 (under the Roads Act 1993) Approval was issued on 5 October 2023 for *driveway construction work, dig up or disturb the surface of a public road, pavement work including kerb and gutter and stormwater drainage construction work.*

Condition 18 of the Approval requires conditions to be satisfied prior to issue of the Section 138 Final Certificate. The condition requires a modification of the Nattai Ponds VPA Schedule 1 Clause 9 to reference the approved roadworks plans.

#### **CONDITIONS TO BE SATISFIED PRIOR TO ISSUE OF THE FINAL CERTIFICATE**

##### **18. Voluntary Planning Agreement amendment**

The applicant shall submit documentation to modify the Voluntary Planning Agreement Schedule 1 Clause 9 to reference the approved "Proposed Beresford St. Upgrade Old Hume Highway Braemar, Sheets 1 – 13, Revision C, Dated 22/09/23" by CDS. The Voluntary Planning Agreement shall be amended to Council's satisfaction and executed prior to the issue of Section 138 Final Certificate.

The approved roadwork plans referenced as "Proposed Beresford St Upgrade Old Hume Highway Braemar, Sheets 1-13, Revision C, Dated 22/09/23" consist of a 9m wide pavement, kerb and gutter and shared path that is 2.5m wide generally with pinch points of 1.9m width due to existing utility services.

### **Nattai Ponds Voluntary Planning Agreement (VPA)**

The original Nattai Ponds VPA was executed on 11 April 2013 and amended 3 times for various matters since that time. Schedule 1 Clause 9 Item 7 of the VPA requires upgrade of Beresford St to form an 11m wide pavement with kerb and gutter on each side and shared path on one side at 2.5m.

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7. Road works – Beresford Street upgrade	Roads and traffic	<p>Upgrade of Beresford Street from the boundary of the Development on Beresford Street to the intersection of Balaclava Street, to 11m wide pavement with kerb and gutter on each side and shared pathway on one side at 2.5m.</p> <p>Works to be in the location shown on and in accordance with a plan prepared by the Developer at its cost and submitted to and approved by the Council.</p>	Prior to the issue of the Subdivision Certificate that creates the last Final Lot in Stage 4.	\$362,747.00
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Therefore the VPA requires a minor variation to reconcile the approved roadworks plans referenced in the Section 138 Approval and satisfy its condition 18. The minor variation to the VPA will reconcile:

- Upgrade of Beresford Street to a 9m wide pavement, rather than 11m wide pavement,
- Shared pathway that is 2.5m wide generally with pinchpoints of 1.9m due to existing utility services.

The road reserve at Beresford Street is not wide enough to accommodate an 11m wide pavement and a 2.5m wide shared pathway and existing kerb and gutter and utility services. A site inspection on 23 November 2023 confirmed the facts on the ground and deemed the rationale for the variation to be fair and reasonable.

The pinchpoints for the shared path width is deemed negligible given the width in 2.5m generally.

In lieu of a wider Beresford Street, street trees and landscaping are proposed to demonstrate public benefit. This is a fair and reasonable outcome for a VPA that relates to the final stage of an approved development.

Draft wording to be inserted to vary the VPA reads as follows:

**On and from the date of this Deed, Column 3 of Item 7 of Schedule 1 of the Planning Agreement is deleted and replaced with the following: “Upgrade of Beresford Street from the boundary of the Development on Beresford Street to the intersection of Balaclava Street, in accordance with the plans entitled Proposed Beresford St. Upgrade Old Hume Highway Braemar, Sheets 1 – 13, Revision C, Dated 22/09/23 prepared by CDS, and provide 10 x 45L trees and 300 x 150mm plants on Beresford Street as per the Street Tree Master plan and planted accordingly to Wingecarribee Street Tree Implementation Plan 2016”.**

The following explanation of intended effect is proposed to be inserted:

**Effect of the Draft Deed**

**The Draft Deed varies the works involving the upgrade of Beresford Street from a road with an 11 metre wide pavement with kerb and gutter each side and shared pathway 2.5m wide, to a 9 metre wide pavement with kerb and gutter each side and shared pathway that is 2.5 metres wide generally (minimum 1.9 metres wide only where service utilities require lesser width). This variation is due to the road reserve at Beresford Street not being wide enough to accommodate an 11 metre wide pavement and a 2.5 metre wide shared pathway and existing kerb and gutter**

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and utility services. In lieu of a widened Beresford Street, landscaping is required to demonstrate public benefit, including a minimum of 10 street trees and 300 plants on selected verges to enhance and beautify Beresford Street.

STREETS NOT SHOWN FOR STRATEGIC PLANTING		
Verges with unrestricted Planting Space (>1.5m)		
Location	Botanical Name	Common Name
Under Power Lines	Callistemon viminalis	Weeping Bottlebrush
	Lagerstroemia fauriei 'Fantasy'	White Flowering Crepe Myrtle
	Tristaniopsis laurina	Water Gum
Not Under Power Lines	Acer platanoides	Norway Maple
	Brachychiton populneus	Kurrajong
	Celtis australis	Nettle Tree
	Eucalyptus cinerea	Argyle Apple
	Lophostemon confertus	Brush Box
	Melaleuca linariifolia	Narrow-leaved Paperbark
	Melia azedarach 'Caroline'	White Cedar
	Nyssa sylvatica	Sour Gum
	Taxodium distichum	Swamp Cypress
	Ulmus parvifolia 'Todd'	Chinese Elm
	Waterhousea floribunda 'Green Avenue'	Green Avenue Lilly Pilly

STREETS NOT SHOWN FOR STRATEGIC PLANTING		
Verges with restricted Planting Space (<1.5m)		
Location	Botanical Name	Common Name
Under Power Lines	Callistemon viminalis	Weeping Bottlebrush
	Lagerstroemia fauriei 'Fantasy'	White Flowering Crepe Myrtle
Not Under Power Lines	Melaleuca styphelioides	Prickly Paperbark
	Nyssa sylvatica	Sour Gum
	Pyrus calleryana 'Chanticleer'	Callery Pear
	Tristaniopsis laurina	Water Gum

**NEXT STEPS**

The minor variation to the Nattai Ponds VPA is recommended for support. A Fourth Deed of Variation shall be prepared with the applicant and executed by Council resolution on 21 February 2024.

It is recommended the proposed variation to the Nattai Ponds VPA not undergo public notification given the minor and immaterial nature of variation, noting prior exhibition of the VPA and further noting the original DA underwent exhibition at the time. The NSW Department of Planning Practice Note on Planning Agreements dated February 2021 provides guidance for public notification, with discretion afforded for immaterial variations to a VPA. The Section 138 Approval references roadworks plans that have already been approved and the condition to vary the VPA is a requirement prior to the issue of a Final Section 138 Certificate. The proposed variation is minor and immaterial in nature.

The proposed outcome is fair and reasonable, facilitating good VPA negotiation outcomes and achieving public benefit by enhancing and beautifying Beresford Street with street trees and landscaping in lieu of pavement.

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### **SUSTAINABILITY ASSESSMENT**

- **Environment**

There are no environmental impacts in relation to this report.

- **Social**

There are no social issues in relation to this report.

- **Broader Economic Implications**

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

- **Culture**

There are no cultural issues in relation to this report.

- **Governance**

The minor variation will be processed in accordance with relevant legislation and Departmental guidelines.

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### **CONCLUSION**

The minor variation to Nattai Ponds VPA is recommended for support, with street trees and landscaping to be provided to enhance and beautify Beresford Street in lieu of wider road pavement.

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### **ATTACHMENTS**

1. ECM 493228 v 1 23 1425 Stamped Plans Kamilaroi Crescent Braemar S 68-2023-8353 - [5.3.1 - 13 pages]
2. ECM 772972 v 1 23 1425 02 Notice of Determination Beresford Street Braemar R A-2023-4427 - [5.3.2 - 7 pages]
3. nattai-pond-vpa-no.1 [5.3.3 - 46 pages]



## **6 DEVELOPMENT APPLICATIONS**

### **6.1 Development Application – DA24/0473 – Temporary Use of Land (Annual Market Event) at Lot 1 and Lot 2 DP 1152987, 2-4 Market Place, Berrima NSW 2577**

**Report Author:** Consultant Planner (Hugh Halliwell)

**Authoriser:** Manager Development Assessment and Regulation

#### **PURPOSE**

The purpose of this report is to consider Development Application 24/0473 for the temporary use of land for the purposes of an annual market event at 2-4 Market Place, Berrima, for the Panel's consideration and recommends determination by **APPROVAL**, subject to conditions specified in Attachment 1.

<b>Applicant</b>	Hogan Planning
<b>Landowner</b>	Wingecarribee Shire Council
<b>Zoning</b>	RE1 Public Recreation
<b>Estimated Cost of Development</b>	\$35,000
<b>Notification Period</b>	19 December 2023 to <b>23 January 2024</b>
<b>Number of Submissions</b>	<b>Submissions received (if any) will be made available to the Panel prior to meeting</b>
<b>Political Donations</b>	None declared
<b>Reason for Referral to Panel</b>	Land owned by Wingecarribee Shire Council

#### **OFFICER'S RECOMMENDATION**

**THAT the Local Planning Panel determines development application 24/0473 for the temporary use of land for the purposes of an annual market event at 2-4 Market Place, Berrima by APPROVAL, subject to conditions specified in Attachment 1.**

#### **EXECUTIVE SUMMARY**

##### **1. Executive summary**

Development application (DA) No 24/0473 seeks development consent for the temporary use of land for the purposes an annual market event associated with an upcoming Australia Day event at 2-4 Market Place, Berrima (**the site**). The proposal is to hold an annual community event (Berrima Australia Day). The event itself will feature a Citizenship Ceremony, announcement of the young and citizen of the year, street parade, market stalls, amusements, children entertainment, including live entertainment.

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The event will be held on 26 January 2024 with event setup (bump in) occurring on 25 January, while pack up will occur between 27-29 January 2024. The event will begin with stall set up at 7am (bump out) and conclude at 4pm.

The DA has been referred to Council's Environmental Health Officer for comments and/or conditions, which have been provided.

The site is identified as bushfire prone land and is also located within the Berrima Heritage Conservation Area (Item No. C148). The site is also identified as a heritage item of State Significance, being 'Berrima Market' (Item No. I233). The site is also located adjacent to and within proximity of several other heritage items. This will be discussed in further detail below.

The DA has also been notified to neighbours from 19 December 2023 to 23 January 2024 and advertised in accordance with Council's Community Participation Plan.

The proposal has been assessed using the heads of consideration listed in Section 4.15(1) of the Environmental Planning & Assessment Act 1979 and is considered satisfactory, therefore recommended for approval pursuant to the draft notice of determination listed in **Attachment 1**.

This DA is referred to the Local Planning Panel due to the site being owned by Wingecarribee Shire Council (**Council**).

### **2. Site Description and Locality.**

The subject site is known as 2-4 Market Place Berrima, and comprises the lots known legally as Lots 1 and 2 in DP 1152987. The site is intersected by the Old Hume Highway and bounded by Jellore Street to the north, Market Place to the south, Argyle Street to the east and Bryan Street to the west.

The site is used for the purposes of public recreation and contains a children's playground and amenities building to the west. The site contains several picnic tables, and a picnic shelter to the east. Established canopy trees are present across the site.

The site is located in the Berrima village within a predominately low-rise, commercial setting. Wingecarribee River traverses the eastern, western and southern extent of the Berrima village.

Beyond the Berrima village, surrounding properties contain predominately residential land uses as well as environmentally sensitive land. The low-density residential land is located to the northern extent of the village.

The aerial photo below provides a visual description of the site and surrounds.



**Figure 1: Aerial Map (Source: Metro Map).**

### **3. Proposed Development**

The development seeks development consent for the temporary use of land for an annual market event to be used in association with an Australia Day event on 26 January 2024 held by Wingecarribee Shire Council.

The event itself will feature a Citizenship Ceremony, announcement of the young and citizen of the year, street parade, market stalls, amusements, children entertainment, including live entertainment.

The event will be held on 26 January 2024 with event setup occurring on 25 January, while pack up occurring between 27 - 29 January. The event will begin with stall set up at 7am and conclude at 4pm.

The application is supported by a Traffic Management Plan, prepared by Platinum Traffic Services which provides detail in relation to the planned street parade and traffic management measures to be put into place in the lead up to and during the parade.



Event - Australia Day at Berrima, Old Hume Hwy, Berrima. Lot 1 DP1152987 & Lot 2 DP1152987

- |  |                                     |  |                              |   |            |
|--|-------------------------------------|--|------------------------------|---|------------|
|   | Amusement/ Children's Entertainment |    | Marquee Citizenship Ceremony |  | Porta loos |
|  | Market Stalls                       |  | Food Trucks                  |   |            |

**Figure 2: Site Plan (Source: Wingecarribee Shire Council)**

#### 4. Notification

The owners of adjoining and affected neighbouring properties were notified of the proposed development in accordance with Council's Community Participation Plan.

At the time of writing this report, no submissions were received by Council. Full details on submissions received (if any) will be provided for the Panel's consideration at the Local Planning Panel Meeting.

#### 5. Heritage Act 1977

The subject site is listed on the State Heritage Register. Certain activities and works are exempt from approval under the *Heritage Act 1977*, therefore not triggering the "integrated development" provisions under Section 4.46 of the EP&A Act that require approval under Section 58 of the *Heritage Act 1977*. The list of standard exemptions, include 'change of use'. Specified works/activities under this exemption, include:

- Development that is the change of use, **commencement of an additional or temporary use, of land**, a building or work to which a listing on the State Heritage Register applies.

The relevant standards for these works/activities, include:

- Activities/works must not involve the alteration of fabric, layout or setting of the listed item.
- Activities/works must not involve the carrying out of activities/ works other than that permitted by other exemptions under these standard exemptions or the *Heritage Act 1977*.
- Activities/works must not involve the cessation of the primary use for which the listed item was erected, a later significant use, or the loss of significant associations with the listed item by current users.

- Activities/works must not involve a temporary use greater than 90 calendar days (inclusive of set-up and pack-down time).

It is considered that the proposed temporary use of the site for the purposes of an annual market day event associated with Australia Day satisfies the above standards and can be considered exempt from approval under the relevant legislation as stated above.

General conditions apply to all standard exemptions, which will be included in the conditions of consent.

## **6. Relevant Environmental Planning Instruments**

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

#### **6.1.1 State Environmental Planning Policy (Resilience and Hazards) 2021**

##### Chapter 4

Under Section 4.6(1) of the SEPP (Resilience and Hazards) 2021, the consent authority must not grant consent to the carrying out of any development unless it has considered whether the land is contaminated. Section 4.6(2) further requires the consent authority to consider a report specifying the findings of a preliminary investigation of the land before determining an application for consent.

Owing to the site's location in an established commercial and recreational area, it is determined that no further investigation is required to determine the suitability of the proposed temporary use. In light of this, the proposal is found to satisfy the provision of the SEPP, in particular Section 4.6(1) and (2).

#### **6.1.2 State Environmental Planning Policy (Biodiversity and Conservation) 2021**

Chapter 2 of the Biodiversity & Conservation SEPP contains provisions replacing the former SEPP (Vegetation in Non-Rural Areas) 2017.

The site contains minimal native vegetation, and the development does not propose any tree removal. Therefore, the development is satisfactory in terms of this Chapter of the Biodiversity & Conservation SEPP.

Chapter 4 of the Biodiversity & Conservation SEPP contains provisions replacing the former 2021 Koala SEPP. Clause 4.9 in Chapter 4 of this SEPP applies as the land has an area of greater than 1 hectare and does not have an approved Koala Plan of Management.

Clause 4.9(3) of the SEPP states that 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.

At this site, the land is mostly cleared, is adjacent to an urbanised area, and is unlikely to comprise core Koala Habitat. As such, the development is considered satisfactory in terms of Chapter 4 of the SEPP.

Chapter 6 of the Biodiversity & Conservation SEPP contains provisions replacing the former SEPP (Sydney Drinking Water Catchment) 2011.

The NorBE assessment concludes that the development can achieve a Neutral or Beneficial Effect on water quality and is therefore satisfactory in terms of Chapter 6 of the SEPP.

### **5.2 Wingecarribee Local Environmental Plan 2010 (WLEP 2010)**

#### Zoning:

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The land is in Zone RE1 Public Recreation under Wingecarribee LEP 2010. The proposed use of the site is within the definition of *markets* which is defined as follows:

**Markets** mean –

*means an open-air area, or an existing building, that is used for the purpose of selling, exposing or offering goods, merchandise or materials for sale by independent stall holders, and includes temporary structures and existing permanent structures used for that purpose on an intermittent or occasional basis.*

The proposed use is not explicitly specified as a prohibited use; therefore, it is a permissible use within the RE1 – Public Recreation zoning of the site.

The objectives of the RE1 – Public Recreation zone are:

- *To enable land to be used for public open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*
- *To enable ancillary development that will encourage the enjoyment of land zoned for open space.*

The proposal is considered to be consistent with the aims and objectives of the zone, which will be demonstrated and discussed throughout this report.

Principal Development Standards and Other Provisions:

The following principal development standards and other provisions in WLEP 2010 are also relevant to the proposal:

Clause	Control	Proposal	Complies?
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<b>Clause</b>	<b>Control</b>	<b>Proposal</b>	<b>Complies?</b>
<b>2.8 Temporary use of land</b>	Despite any other provision of this Plan, development consent may be granted for development on land in any zone for a temporary use for a maximum period of 60 days (whether or not consecutive days) in any period of 12 months.	<p>The proposal seeks consent for the temporary use of land for the purposes of a market event for one (1) day, in accordance with the provisions of the clause.</p> <p>The proposal will not prejudice future development on the land in accordance with the Plan and any other applicable environmental planning instrument. The temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood. The temporary use along with the temporary location of structures, including stalls and portaloos will not adversely impact on the environment or any attributes/features of the land, or increase the risk of natural hazards (i.e. flooding or bushfire). Upon the cessation of the temporary use of the land, the land is readily capable of being restored to the condition in which it was before the commencement of the temporary use.</p> <p>The proposal is capable of satisfying the provisions of the clause, thereby consent should be granted for the temporary use under the clause.</p>	Yes
<b>4.1 Minimum subdivision lot size</b>	No minimum lot size is specified for the site.	N/A	N/A
<b>4.3 Height of buildings</b>	No height of building standard is specified for the site.	N/A	N/A
<b>4.4 Floor space ratio</b>	No floor space ratio (FSR) standard is specified for the site.	N/A	N/A

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Clause	Control	Proposal	Complies?
<p><b>5.10 Heritage conservation</b></p>	<p>As noted at the beginning of this report, the site is identified as a heritage item of State significance, being 'Berrima Market' (Item No. I233), while the site is also located within the Berrima Heritage Conservation Area (Item No. C148). The site is also located adjacent to and within proximity of several heritage items.</p> <p>The objectives of the clause are as follows:</p> <ul style="list-style-type: none"> <li>a) to conserve the environmental heritage of Wingecarribee,</li> <li>b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,</li> <li>c) to conserve archaeological sites,</li> <li>d) to conserve Aboriginal objects and Aboriginal places of heritage significance.</li> </ul>	<p>Refer further below for discussion on the significance of the heritage item and conservation area in relation to the temporary use.</p>	<p>Yes</p>
<p><b>5.21 Flood Planning</b></p> <p>This clause applies to the subject site which is shown on Council's mapping system as being entirely flood prone.</p>	<p>Clause 5.21(3) provides that the consent authority must consider various matters in deciding whether to grant consent – including the intended design or scale of buildings resulting from the development, and whether the development incorporates measures to minimise risk to life and ensure safe evacuation in the event of a flood.</p>	<p>The site is largely outside the flood extent as prescribed by Council's flood mapping, with the exception of a small area at the north-west corner of 2 Market Place.</p> <p>Given the minor section of flooding on the map and location of temporary structures for the market event, the flood affectation is unlikely to result in the adverse impact on the flood function and behaviour on the land, while also not adversely affecting flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties. The minor extent of flooding relative to the site and the proposed use will not impact on the safe and efficient evacuation of people, while the flood risk to life and property will not be adversely impacted.</p> <p>On this basis, the development is generally satisfactory when assessed under clause 5.21.</p>	<p>Yes</p>



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Clause	Control	Proposal	Complies?
7.3 Earthworks	<p>Clause 7.3(2A) provides that development consent is required for earthworks carried out on land identified as “Flood Planning Area” on the Flood Planning Area map.</p> <p>The consent authority must consider a number of matters in deciding whether to grant consent – including the likely disruption of existing drainage patterns and soil stability in the locality.</p>	N/A	N/A

**7. Development Control Plans and Policies**

**Berrima Village Development Control Plan (DCP)**

Part A Section 9 ‘Development within a heritage context’ outlines the controls that ensure the protection, conservation and management of the heritage significance of Berrima, its heritage items and conservation areas. These controls are assessed in conjunction with the provisions outlined under Clause 5.10 of the LEP, as discussed earlier in this report.

As noted above the site is identified as a heritage item of State significance, being ‘Berrima Market’ (Item No. I233), while the site is also located within the Berrima Heritage Conservation Area (Item No. C148). The site is also located adjacent to and within proximity of several heritage items.

It is not expected that the temporary nature of the land use for the purposes of a market event will adversely impact on the heritage significance and integrity of the item, while conserving its significance, fabric and the setting in which the item is located.

The site and future works are subject to the Berrima Market Place Conservation Management Strategy (**the Strategy**). The significance of the Berrima Market Place relates to its design as the central element in the Berrima town, which retains the footprint of the original 1830 Hoddle town plan and is an example of the application of early town planning principles.

The bridge relics, hand hewn by convict labour, are a connection to the origins of Berrima as part of a penal settlement. The park is associated through its tree plantings, with Mrs Isobel Crowe, the first female to graduate in horticulture in New South Wales, Claude Crowe, noted landscape design of the 1950s, Sir Henry Parkes and Queen Victoria, who’s Diamond Jubilee was commemorated by tree plantings. The Park is also associated, through bridge relics, with David Lennox, the colony’s most renowned bridge builder. The Park is also of high landmark value, well-known by motorists as a rest area. The aesthetic significance is characterised by the tree plantings which reflect the civic activities of the Berrima community over the past 110 years. It is of outstandingly high social significance as a core feature of the historic Berrima village.

Market Place is considered therefore to be of high significance due to its key role within Berrima as a focus for the village, visual environment and setting of the village as well as for the key historic structures and features which are contained therein.

The Park comprises the following core historic features:

1. Distinctive townscape,
2. Relationship with nearby historic buildings,
3. Sandstone kerbing,
4. Pine tree plantings dating back from the 1890s and later,
5. Sire Henry Parkes Oak Tree, and
6. Cenotaph.

Pursuant to Clause A13.2 of the DCP, the Market Place precinct has historically been used for the purposes of public recreation, cricket, tennis and market fairs. The objectives of the Market Place precinct, are as follows:

- a) *Retain the Market Place as the centre of parkland recreation in Berrima.*

- b) *Protect the relaxed informal Village character by limiting development, especially along Jellore Street.*
- c) *Encourage the continued mix of residential and commercial land uses within Jellore Street and ensure that new development is consistent in form and scale with existing contributory development in Jellore Street.*
- d) *Retain the visual prominence of the former Post Office building on the Old Hume Highway by ensuring that new development in Jellore Street maintains a front building line consistent with existing development in the street.*
- e) *Ensure the continued contribution of towering pine plantation and grassed areas for passive recreation only.*
- f) *To ensure that proposed development in the Berrima Market Place reserve is in accordance with the Berrima Market Place Conservation Management Strategy.*
- g) *Retain without further development the open space around the Holy Trinity Church (including the land zoned RE1) and unformed road areas of Villiers Street and Argyle Street.*
- h) *Retain existing soft edges around the Market Place and avoid their replacement with modern kerb and guttering.*
- i) *Retain and maintain the heritage-listed stone kerbing around and within the Market Place reserve where it exists.*

The temporary use of the land will retain the site character, which is that of a village green surrounded by a perimeter of predominately pine species. The event will not result in the loss of these trees. The proposed use will not adversely impact on the significance of the abovementioned features. The use is consistent with the historic use of the site as a place for market fairs and will not be inconsistent with the Berrima Market Place Conservation Management Strategy, as discussed above.

Overall, the proposal is considered unsatisfactory when assessed against the relevant provisions of the Industrial Land DCP.

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**8. Referrals**

The DA was referred internally to Council’s Environmental Health officer for review and comment. Comments have been received recommending support for the proposal, subject to conditions of consent relating to food handling, noise, and registration of food businesses/premises. These conditions have been included in the draft notice of determination.

The proposed Australia Day event was referred to Council’s Local Traffic Committee. Majority support was provided by Transport for NSW, NSW Police and Council’s Manager – Assets. No objection to the road closure subject to the completion of all requirements detailed in the Guide to Traffic and Transport Management for Special Events for a class 2 event.

**9. Environmental Assessment**

The site has been inspected and the application has been assessed having regard to Section 4.15 of the *Environmental Planning and Assessment Act, 1979*, as amended.

<b>Section 4.15 ‘Matters for Consideration</b>	<b>Comments</b>
Section 4.15 (1)(a)(i) – Provision of any environmental planning instrument	See discussion above
Section 4.15 (1)(a)(ii) – Provision of any draft environmental planning instrument.	There are no Draft Environmental Planning Instruments relevant to the subject proposal.
Section 4.15 (1)(a)(iii) – Provisions of any development control plan	The proposal fails to satisfy the objectives and controls of the Berrima Village DCP. See table above and comments below.
Section 4.15 (1)(a)(iiia) – Provision of any Planning Agreement or draft Planning Agreement.	Not Applicable.
Section 4.15 (1)(a)(iv) – Provisions of the Regulations.	The relevant clauses of the Regulations have been satisfied.
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.	The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.  The proposal will not result in detrimental social or economic impacts on the locality.
Section 4.15 (1)(c) – The suitability of the site for the development.	The proposed centre is subject to minor flooding to a small area to the north-west corner, outside the extent of proposed stalls and associated structures. The site is also identified as bushfire prone land. The application has addressed the relevant provisions of the LEP and DCP in relation to bushfire and flooding, therefore it is determined that the site is suitable for the development.
Section 4.15 (1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation.	XXX submissions were received following neighbour notification and has been considered in the assessment of this DA.

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<b>Section 4.15 'Matters for Consideration</b>	<b>Comments</b>
Section 4.15 (1)(e) – The public interest.	The proposal seeks consent for the purposes of an annual temporary market event for the benefit of the public. Accordingly, it is considered that the proposed Australia Day market event is in the public interest.

**10. Conclusion**

The proposed development has been assessed using the heads of consideration listed in Section 4.15(1) of the Environmental Planning & Assessment Act 1979 and is satisfactory.

The proposal is for the temporary use of land associated with an annual Australia Day market event on land zoned RE1 Public Recreation in Berrima. The proposed event is noted as being compatible with the site and Berrima Market Place precinct, including its notable heritage significance. The event has considered the heritage item and conservation area and will be carried out in accordance with the Berrima Market Place Conversation Management Plan. The land affectations, including bushfire and flooding have been considered as part of this assessment report and the temporary use has been found to be satisfactory.

The development is unsatisfactory in light of the above discussed reasons and is recommended for a approval of development consent.

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**ATTACHMENTS**

- Attachment 1: Notice of Determination
- Attachment 2: Traffic Committee Report 26 October 2023
- Attachment 3: Traffic Committee Minutes 26 October 2023
- Attachment 4: Australia Day Site Plan
- Attachment 5: Statement of Environmental Effects
- Attachment 6: Traffic Control Plan
- Attachment 7: Traffic Management Plan

**6.2 DA-23/1229 Development Application for a food and drink premises (cafe) with associated fit-out and signage at Lot 100 DP 1267562 – Shop 1/55 Renwick Drive Renwick**

<b>Report Author:</b>	<b>Consultant Planner - Sam Lettice, SKL Planning</b>
<b>Authoriser:</b>	<b>Jon Shillito – Manager Development Assessment &amp; Regulation</b>

**PURPOSE**

The purpose of this report is to present Development Application DA23/1229 for the Panel's consideration with a recommendation for determination by approval subject to the conditions specified of consent in **Attachment 1**.

<b>Consultants</b>	Applicant: Zone Planning Group
<b>Notification Period</b>	18/05/2023 - 02/06/2023
<b>Number of Submissions</b>	Nil
<b>Zoning</b>	E1 Local Centre - Wingecarribee LEP 2010
<b>Political Donations</b>	None disclosed
<b>Reason for Referral to Panel</b>	Site is owned by Wingecarribee Shire Council

**OFFICER'S RECOMMENDATION**

**THAT the Wingecarribee Local Planning Panel determines development application DA-23/1229 for a food and drink premises (cafe) with associated fit-out and signage at Lot 100 DP 1267562 – Shop 1/55 Renwick Drive Renwick by APPROVAL subject to the conditions specified in Attachment 1 to this report.**

**EXECUTIVE SUMMARY**

**1. Executive summary**

Development Application (DA) No 23/1229 seeks consent for the fit-out, signage and first use of the subject premises for the purpose of a food and drink premises (cafe).

The subject site is zoned E1 Local Centre under Wingecarribee LEP 2010, and landuses including Kiosks; Restaurants or Cafes; or Take Away Food and Drink Premises are listed as permissible with consent within the RE1 zone.

This report has provided a detailed assessment of Development Application (DA23/1229) under section 4.15 of the Environmental Planning and Assessment Act 1979 (the Act) which has been lodged by Zone Planning NSW Pty Ltd (the Applicant).

Council has considered all information submitted by the Applicant, including the Statement of Environmental Effects, and associated plans and details. Comments have also been received from various Sections of Council. No submissions were received in response to the notification of the application.

The proposal is therefore recommended for approval, subject to the imposition of conditions of consent, as outlined in Attachment 1 of this report.

**2. Site Description and Locality.**

The subject site is legally identified as Lot 100 in DP 1267562 (known as 55 Renwick Drive, Renwick). It is located on the western side of Renwick Drive, at the intersection of Langley Avenue which forms a secondary frontage to the south, with Whitfield Lane to the west. The site is largely rectangular in shape, with a frontage to Renwick Drive of 88.48m, and depth of 42.02m, yielding a site area of 3,725.5m<sup>2</sup>.

Situated on site is the Renwick Community Centre, village green space and at grade carpark. The community centre is a united two storey building, with three distinct 'barn' modules with a high pitched roof form, containing loft space and dormer windows. At the northern end of the building is an internal area of 84m<sup>2</sup> that is available for lease (known as Shop 1). That is the area that is the subject of the development application. Shop 1 is currently utilised as a pop-up café. The site also contains a landscaped village square to the north of the community centre building, with 41 at grade carparking spaces. The carpark is accessed via Whitfield Lane, with a left-hand exit point onto Langley Avenue.

Surrounding development consists of varying land uses, with Mirren Nungana Gulla Park, containing a children's playground, amenities and carparking opposite the site to the northeast. To the south and west of the site is residential development, consisting predominately of single storey detached dwelling houses. To the north of the site, a vacant land parcel exists, which has been identified as a future retail centre, with further residential development located beyond.



**Locality Plan – Shop 1/ 55 Renwick Drive, Renwick.**



**Subject Site and Context (Source: Geocortex)**

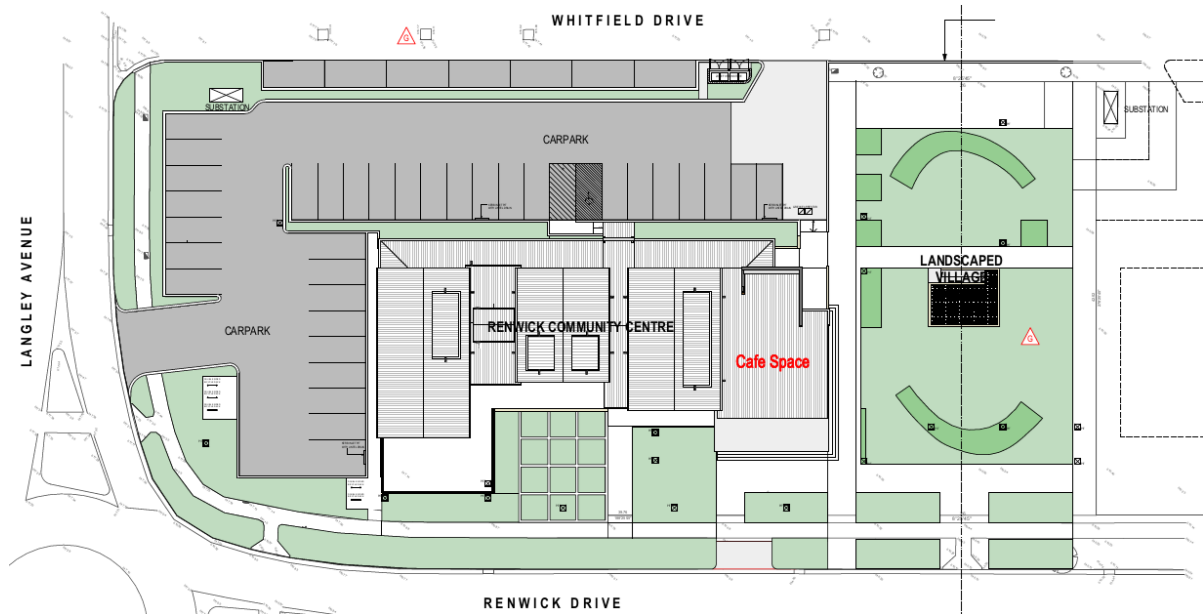


**The Renwick Community Centre and subject tenancy as viewed from Renwick Drive.**

### **3. Proposed Development**

The proposed development seeks consent for the first use of the tenancy as a food and drink premises (café), with associated internal fit-out and signage as follows:

- Signage display areas to each external façade (three elevations) of the Café space.
- Café seating for up to 44 people internally and 34 people externally on the outdoor terrace.
- Proposed hours of operation, seven (7) days a week between the hours of 7am – 10pm.
- The DA submission has also indicated an intent to apply for a liquor licence (from NSW Liquor and Gaming) if development consent is issued for this development.



**Site Plan (source: Allman Johnston Architects)**



**Perspective Signage Detail (source: Peter Cambell Design)**

#### **4. Provisions of any Environmental Planning Instrument [s4.15(1)(a)(i)]**

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

##### ***State Environmental Planning Policy (Resilience and Hazards) 2021***

##### **Chapter 4 Remediation of Land**

Chapter 4 of SEPP Resilience and Hazards 2021 requires the consent authority to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land, and to be satisfied that the land is suitable for the proposed use. Given the more recent redevelopment of the site and nature of the proposed development which relates to subsequent use



and fit-out the site, Council is satisfied that the land is not a site of possible contamination and remains suitable.

***State Environmental Planning Policy (Biodiversity and Conservation) 2021***

**Chapter 2 – Vegetation in Non-Rural Areas**

This Chapter of the SEPP applies to the subject site and proposed development.

The development does not involve any tree removal or other vegetation impacts and therefore would be satisfactory in terms of Chapter 2 of this SEPP.

**Chapter 4 Koala Habitat**

This Chapter of the SEPP applies to the subject site and proposed development.

The development does not involve any tree removal or other vegetation impacts and therefore would have no impact on koala habitats and is therefore satisfactory in terms of Chapter 4 of this SEPP.

**Chapter 6 Sydney Drinking Water Catchment**

The site is located within the Sydney Drinking Water Catchment. Pursuant to the SEPP a consent authority must not grant consent to the carrying out of development under Part 4 of the Act on land in the Sydney drinking water catchment unless it is satisfied that the carrying out of the proposed development would have a neutral or beneficial effect on water quality.

The proposed development will not have any adverse effect on water quality. Works relate only to the fit out and use of an existing premises which is connected to reticulated water and sewer.

***State Environmental Planning Policy (Industry and Employment) 2021***

**Chapter 3 Advertising and Signage**

Industry and Employment SEPP aims to ensure that signage is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high-quality design and finish.

Section 3.6 of the Industry and Employment SEPP requires the consent authority to be satisfied that signage is consistent with the objectives as set out in Section 3.1(1)(a) of the SEPP and the assessment criteria specified in Schedule 5 of the SEPP.

Following is a summary table of the proposed development against Schedule 5 of the SEPP.

<b>State Environmental Planning Policy (Industry and Employment) 2021 Schedule 5</b>	
<b>1 Character of the Area</b>	
Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	Site is zoned E1 Local Centre. Signage is of an appropriate size and is compatible with the desired future character of the area, as it identifies the use of the site clearly.
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The proposed signage is consistent with the type of signage envisioned for the area.
<b>2 Special Areas</b>	
Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The proposed signage will not adversely impact on the visual character of the area.

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<b>3 Views and vistas</b>	
Does the proposal obscure or compromise important views?	No, the proposed signage will not obscure or compromise views.
Does the proposal dominate the skyline and reduce the quality of vistas?	No, the proposed signage will not dominate the skyline or reduce the quality of vistas.
Does the proposal respect the viewing rights of other advertisers?	The proposed signage will not obscure or detract from existing views to nearby sites.
<b>4 Streetscape, setting or landscape</b>	
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	All signage is considered reasonable and proportionate to the buildings scale.
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The signage will assist in the public being able to identify the development. It is appropriately integrated into the building's frontage and does not obstruct important building features.
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The proposal is not considered to create clutter.
Does the proposal screen unsightliness?	The building does not screen unsightliness.
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The signage does not protrude above buildings, structures, or trees in the locality.
Does the proposal require ongoing vegetation management?	The proposed signage will not require ongoing vegetation management.
<b>5 Site and building</b>	
Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	Yes, the signage is considered to be proportional to the building of which it is associated.
Does the proposal respect important features of the site or building, or both?	Yes, the proposal respects the architectural façade of the building.
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The signage is considered an appropriate response to the building site.
<b>6 Associated devices and logos with advertisements and advertising structures</b>	
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	Signage is proposed to be fixed to the façades of the building. No separate safety devices, platforms or lighting devices are proposed.
<b>7 Illumination</b>	
Would illumination result in unacceptable glare?	Illumination of proposed signage is not proposed.
Would illumination affect safety for pedestrians, vehicles or aircraft?	Illumination of proposed signage is not proposed.
Would illumination detract from the amenity of any residence or other form of accommodation?	Illumination of proposed signage is not proposed.
Can the intensity of the illumination be adjusted, if necessary?	Illumination of proposed signage is not proposed.

Is the illumination subject to a curfew?	Illumination of proposed signage is not proposed.
<b>8 Safety</b>	
Would the proposal reduce the safety for any public road?	The nature of the signage is not deemed a road safety hazard.
Would the proposal reduce the safety for pedestrians or bicyclists?	Signage will not impact safety for any pedestrians or bicyclists.
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The signage will not reduce the safety for pedestrians by obscuring any public sightlines.

#### **4.2 Local Environmental Planning Policies**

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

The site is zoned E1 Local Centre under the provisions of Wingecarribee Local Environmental Plan 2010. The proposed development is characterized as a 'food and drink premises', which include uses of a restaurant/cafe, take away food and drink premises which encompasses the proposed development. The proposal is permissible use within the zone.

Objectives of the E1 Local Centre zone are:

- *To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.*
- *To encourage investment in local commercial development that generates employment opportunities and economic growth.*
- *To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.*
- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*
- *To generally conserve and enhance the unique sense of place of business centre precincts by ensuring new development integrates with the distinct urban scale, character, cultural heritage and landscape setting of the precincts, particularly when located within a heritage conservation area or where the development may impact a heritage item.*
- *To ensure adequate provision is made for infrastructure that supports the viability of business centre precincts, including public car parking, traffic management facilities, public transport facilities, cyclist facilities, pedestrian access paths, amenities, facilities for older people and people with disabilities and general public conveniences.*
- *To maximise the efficient use of land in business centre precincts to promote more compact and accessible places.*
- *To ensure new development has regard to the character and amenity of adjacent and nearby residential areas.*

The proposed development is generally consistent with these objectives.

There are several statutory provisions in Wingecarribee LEP 2010 applicable to the subject site and proposed development.

The following table indicates performance of the proposal against the relevant statutory provisions:

<b>Section</b>	<b>Development Control</b>	<b>Assessment</b>	<b>Compliance</b>
<b>5.10 Heritage Conservation</b>	Heritage Assessment requirements including development located within heritage conservation areas.	The site is identified as a local heritage item, being the former Renwick Institution, including brick silo, pair of mass concrete silos and silo precinct (I618).	Yes

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		<p>Consideration of the built form of the Renwick Community Centre was made subject to DA17/1284, noting that development is well separated from the curtilage of the heritage items retained.</p> <p>It is unclear if the original DA addressed the specific issue of signage, however it is considered that the signage submitted with the current DA is acceptable and in keeping with the scale and modern design of the building.</p> <p>As the proposed development is a first use of the premises with associated and modest business identification signage, the development is considered to have negligible impacts upon the heritage significance of the former Renwick Institution.</p>	
<p><b>5.20 - Standards that cannot be used to refuse consent – playing and performing music</b></p>	<p>This clause states that the consent authority (Council) must not refuse consent to development in relation to licenced premises on the following grounds -</p> <ul style="list-style-type: none"> <li>(a) The playing or performing of music</li> <li>(b) Whether dancing occurs</li> <li>(c) The presence or use of a dance floor</li> <li>(d) The direction in which a stage faces</li> <li>(e) The decorations to be used.</li> </ul> <p>The consent authority must not refuse consent on the grounds of noise, if the consent authority is satisfied the noise can be managed and minimised to an acceptable level.</p>	<p>It is unclear whether music will be played at the premises.</p> <p>The DA submission does not specifically indicate whether music is to be played, however there is a reference to “music” on the <i>Perspective Signage Detail</i> for the use.</p> <p>It is noted that the premises are in close proximity to adjoining residential development.</p> <p>The draft conditions in Attachment 1 include conditions relating to Operational Noise Levels (cond 35) and Noise Control (cond 36), and it is considered that these conditions will adequately ensure that noise can be managed from the premises, in the event that music is played/performed.</p>	<p>Yes (via condition)</p>
<p><b>7.11 Development in local centres</b></p>	<p>Development consent must not be granted to development on land to which this clause applies</p>	<p>The development proposes acceptable hours of operation (7am to 10pm). Subject to the imposition of appropriate</p>	<p>Yes</p>

	<p>unless the consent authority has considered -</p> <p>(a) Impact of the development on (i) the amenity of surrounding residential areas, and (ii) the desired future character of the local centre, and</p> <p>(b) Whether the development is consistent with the hierarchy of centres.</p>	<p>conditions, it is considered that the development will not negatively impact upon amenity of the adjoining residential area.</p> <p>The proposed use is considered appropriate in relation to adjoining land uses and provides a destination for residents to socialise.</p> <p>In respect to hierarchy of centres, development is low scale in operation and intensity, with a small floor area and is considered a suitable use to complement the Renwick Community Centre.</p>	
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**5. Provisions of any draft Environmental Planning Instrument [s4.15(1)(a)(ii)]**

There are not draft Environmental Planning Instruments applicable to the proposed development.

**6. Provisions of any Development Control Plan [s4.15(1)(a)(iii)]**

***Mittagong Township Development Control Plan***

The Mittagong Township Development Control Plan applies to the subject site. Compliance with applicable provisions of the DCP is outlined and discussed within the table below.

Section	Development Control	Assessment	Compliance
<b>PART A – All Land</b>			
<b>Section 10 – Signage and Outdoor Advertising</b>			
<b>A10.3 General Requirements for All Signage</b>	a) All buildings shall be clearly numbered on the face of the building or on the awning.	The existing building is clearly numbered.	Yes
	b) Signs shall only appear wholly on land where the advertised activity or development is carried out, except signage that is managed by the Tourist Attraction Signposting Assessment Committee.	All signage is located on the facades of the external walls of the Café space.	Yes
	c) Signs shall relate to the architectural detailing design lines of the building on which it is to be located, and of adjacent buildings,	Proposed signage locations do not distract from the architectural design features of the building and are located above glazed areas of the commercial space.	Yes

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	<p>particularly those constructed prior to 1950.</p> <p>d) Signs shall maintain the existing architectural 'balance' of the building.</p> <p>e) Signs shall be of a high quality design and finish.</p> <p>f) Signs shall complement the finishes and colours of the building/place to or in which it is attached / erected.</p> <p>g) Signs shall be simple in both design and message presentation and legible in terms of both colours and text style.</p> <p>h) Signs shall reflect the quality of the business, services or product to which they relate.</p> <p>i) Signage incorporating corporate graphics will be considered, but may be restricted in terms of size, location, colour and quantity, to meet the other objectives of this section of the Plan.</p> <p>j) Signs which are illuminated must:</p> <p>(i) Conceal all cables in the frame of the sign.</p> <p>(ii) Must not have animation or moving/flashing images, and</p> <p>(iii) Must comply with Australian Standards for the control of outdoor lighting.</p>	<p>Signage is considered proportional to the area of the facades and does not dominate the facades of the building.</p> <p>Signs are considered to be of high quality design and will be required to have a durable finish.</p> <p>The signs have a tonal relationship to the existing colours of the façade.</p> <p>Signage display is considered to be relatively simple through its use of size, shape, colouring and text style.</p> <p>Proposed signage identifies the name of the business / Café.</p> <p>Proposed signage is considered proportional to the area of the facades and does not dominate the facades of the building.</p> <p>Signs are not proposed to be illuminated.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p>
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	<p>(iv) If situated on, or within, 50m of a residential, rural or environmental protection zone, only be illuminated as approved by Council.</p> <p>k) Signs associated with multiple building or site occupancy, as in shopping arcades and business services occupying first floor office suites, shall adopt a single co-ordinated approach to advertising by means of clear building identification and appropriately located 'shared' directory facilities.</p> <p>l) Signs shall achieve a high degree of safety and not represent hazards to passing drivers or pedestrians, transport workers or other property.</p> <p>m) Signs shall not be confused with, or inhibit instructions given by, official traffic management facilities and signs.</p> <p>n) Signs shall not require the removal of a tree or other vegetation.</p>	<p>The Café space is located on the northern side of the Community Centre building and is clearly identifiable. A co-ordinated signage strategy is not considered necessary in this instance.</p> <p>Proposed signage is fixed flush to the wall of the facades of the building and is not illuminated or contains moving elements. As such, proposed signage is not considered to pose a risk to passing motorists and pedestrians.</p> <p>Proposed signage does not resemble or mimic traffic signage.</p> <p>No trees or vegetation or required to be removed for the erection or maintenance of signage.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
<p><b>A10.4.4 Business Identification Signs in a Business Zone</b></p>	<p>Business identification signs shall be permitted without consent provided they comply with all of the following controls.</p> <p><u>Flush wall sign</u></p> <p>(i) Maximum four (4) business signs per building and one (1)</p>	<p>One sign is proposed per each façade elevation (North, east and west).</p>	<p>Yes</p>

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	sign per elevation.  (ii) Maximum size of 5m <sup>2</sup> .  (iii) Must not project above the top of the wall to which it is attached.  (iv) If illuminated, must comply with Section 1.3(j).	3.69m <sup>2</sup> per sign.  No. The sign is proposed to be fixed to the external wall above the glazed shopfront.  Illuminated signage is not proposed.	Yes  Yes  N/A
<b>PART B – Provisions Applicable to Business-zoned Land</b>			
<b>Section 4 – On-site Car Parking</b>			
<b>B4.4 Requirements for New Developments or Redevelopment</b>	(a) The number of car parking spaces to be provided on the site is determined by the nature of the development.  <u>Restaurants and Cafes</u>  1 space per 3 seats or 15 spaces per 100m <sup>2</sup> of gross floor area.  78 seats / 3 = 26 spaces	The site provides 41 designated parking spaces for the Community Centre within which the café is located. The parking spaces are available unrestricted to customers. In addition, there is a significant amount of on-street parking which is also unrestricted.	Acceptable
<b>B4.6 Use of Parking Areas</b>	(a) All parking spaces shall be used solely for the parking of motor vehicles for owners, staff and customers, and no account shall such spaces be used for storage or garbage purposes.	On site parking spaces are marked as such and free of any impediments.	Yes

**7. Provisions of any Planning Agreement [s4.15(1)(a)(iiia)]**

No planning agreements are applicable to the proposed development.

**8. Provisions prescribed under the Regulations [s4.15(1)(a)(iii)]**

Proposed development has been considered in terms of the regulations with no matters applicable.

**9. Likely Impacts of the Development [s4.15(1)(b)]**

*(i) Impact on the natural environment:*

The proposed development which relates only to the fit out and use of an existing tenancy will not have any adverse impact on the natural environment.

*(ii) Impact on the built environment:*

The proposed development has been assessed against the applicable planning provisions as detailed and provides an appropriate level of compliance. Built form is existing with the ancillary



business identification signage provided with an appropriate design, form and finish which integrates well.

No adverse or unreasonable amenity impacts are foreseen. In this regard operating hours are viewed as reasonable with suitable separation provided from residential uses, noting also primary orientation of outdoor dining / seating to the east towards the park with conditions recommended to ensure that any resultant noise from the use is appropriately monitored and restricted.

*(iii) Social and Economic impacts in the locality:*

The proposed development will not have any adverse social / economic impacts – subject to the imposition of the recommended conditions of consent.

It is noted that the DA submission indicates an intention to apply for a liquor licence (through NSW Liquor and Gaming). The subsequent assessment process through NSW Liquor and Gaming involves a detailed assessment of the potential social impact of liquor available from the premises.

The DA submission also implies that music could potentially be played/performed at the premises. In this regard, assessment has been made under clause 5.20 in Wingecarribee LEP 2010, where it is generally noted that Council cannot refuse consent to the playing/performing of music if Council is satisfied that noise may be managed and minimised to an acceptable level. In this regard, appropriate conditions have been recommended to achieve this outcome.

**10. Suitability of the Site [s4.15(1)(c)]**

The proposed development has been assessed against applicable planning provisions. Having regard to the assessment contained in this report, the site is considered to remain suitable.

**11. Submissions made in accordance with the Act or regulations [s4.15(1)(d)]**

The application was notified between 18 May and 2 June 2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and Council's Community Engagement Strategy. No submissions were received.

**12. The Public Interest [s4.15(1)(e)]**

There are no known policy statements from either Federal or State Government that are relevant to this proposal, nor any planning studies or strategies. There is no management plan, planning guideline or advisory document that is applicable to a development of this nature. Adherence to easements, and restrictions on Title that apply is noted. As such, the proposal would not contravene the public interest.

**13. Referrals**

The following internal departments of Council reviewed the application and provided comments:

<b>Internal Referral Section</b>	<b>Comments</b>
Registered Certifier	No objections raised subject to conditions which are incorporated.
Environmental Health	No objections raised subject to conditions which are incorporated.

**14. Conclusion**

The development application has been assessed in accordance with the matters for consideration under section 4.15 of the *Environmental Planning & Assessment Act 1979*, and all relevant environmental planning instruments and Council policies, and is considered to comply with all relevant items. It is recommended that the development application be approved, subject to appropriate standard conditions and those otherwise identified in the assessment (provided at Attachment 1).

**15. Attachments**

Attachment 1: Draft Conditions of Consent

Attachment 2: Plans

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**6.3 DA23/1385 - Development Application for Outdoor Digital Display Wall Sign for Community Events at Lot 1 DP 1003910, No 16-24 Bendooley St Bowral**

<b>Report Author:</b>	<b>Consultant Planner – Angelina Aversa-Morassut, Planning Ingenuity</b>
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**Authoriser:** Jon Shillito – Manager Development Assessment & Regulation

**PURPOSE**

The purpose of this report is to consider Development Application DA23/1385 for the Panel's consideration and recommends determination by approval of consent subject to the conditions specified in **Attachment 1**.

<b>Consultants</b>	(Applicant: Wingecarribee Shire Council; Author of Statement of Environmental Effects: Andrew Martin Planning)
<b>Notification Period</b>	22 June – 7 July 2023
<b>Number of Submissions</b>	NO submissions received
<b>Zoning</b>	E1 – Local Centre under Wingecarribee LEP 2010
<b>Political Donations</b>	None disclosed
<b>Reason for Referral to Panel</b>	Council is the owner of the subject land and applicant for this development application.

**OFFICER'S RECOMMENDATION**

***THAT the Local Planning Panel determines DA23/1385 for construction of an outdoor digital display wall sign for community events at Lot 1 DP1003910, No 16-24 Bendooley St Bowral by APPROVAL subject to the conditions specified in Attachment 1 to this report.***

**REPORT**

**1. Executive summary**

Development Application (DA) proposes the installation of an outdoor digital display wall sign for community events to the Bowral Memorial Hall, street address No 16-24 Bendooley St Bowral.

The sign is proposed to be mounted on the western elevation of the building (ie facing Bendooley St), with dimensions of 1638mm wide x 1063mm high. It is proposed to be mounted such that the top of the sign is 2100mm above ground level.

The subject site is zoned E1 – Local Centre under Wingecarribee LEP 2010 and is within the Bowral town centre. The surrounding development is predominantly, business, and community uses and medium to low density residential housing.

The subject site is irregular in shape and contains numerous public buildings including the Bowral Central Library and the local heritage item Former School of Arts (now known as Bowral Memorial Hall I157), Stafford House (I156) and Old Town Hall Bowral (I081). The subject site is also located within the vicinity of a number of heritage items, and within the Bowral Heritage Conservation Area.

The DA was notified to adjoining neighbours from 22 June to 7 July 2023 in accordance with Council's Community Participation Strategy, and no submissions were received. The DA was referred to Council's Heritage Advisor who has supported the proposal.

It is important to note that while the subject site is heritage-listed, the proposed signage is to be affixed to a recent extension to the building (approved 2018).

The development proposal is consistent with the provisions of the relevant State Environmental Planning Policies, Wingecarribee LEP 2010, Bowral DCP and in particular the Bendooley Street Precinct. The proposal provides a reasonable amenity impact for the neighbouring properties and public domain and results in no adverse heritage and environmental impacts. On this basis, the DA is supported.

## **2. Site Description and Locality**

The subject site is legally described as Lot 1 DP1003910, and has a street address of 16-24 Bendooley St Bowral. It is known locally as the Bowral Memorial Hall.

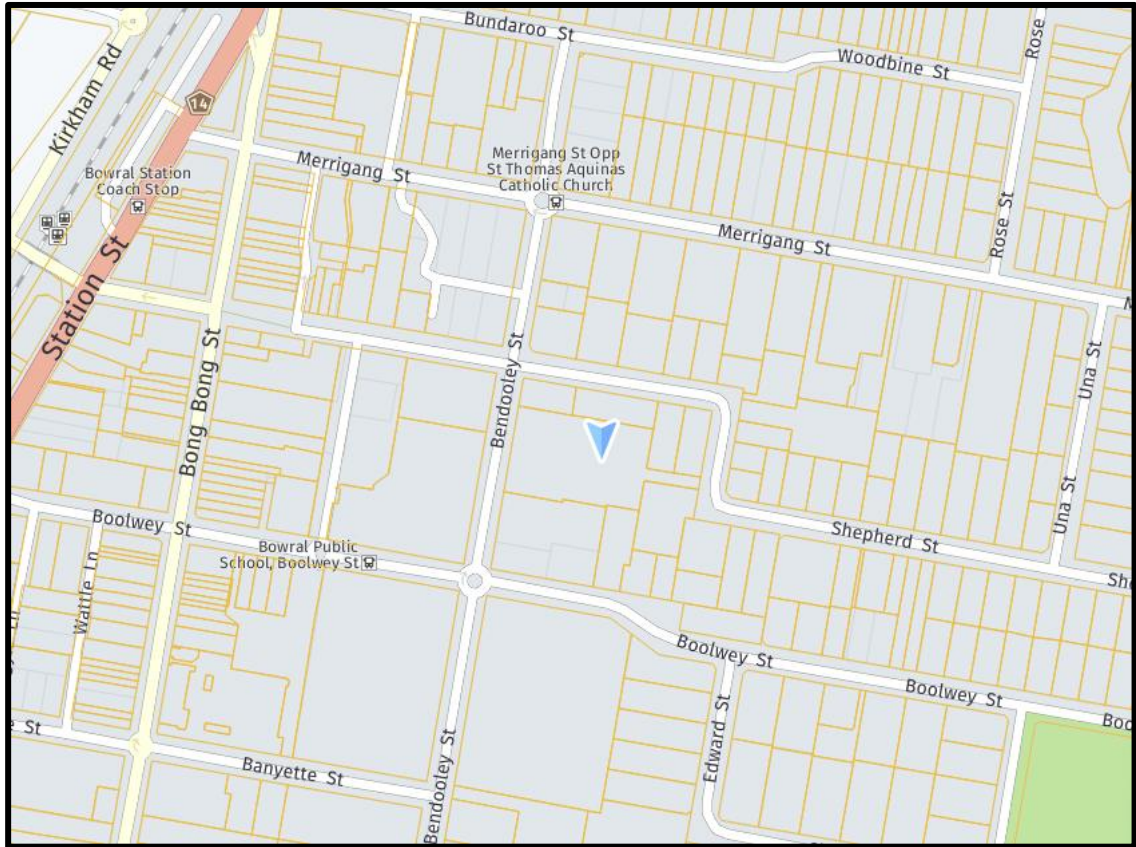
The site is 6678m<sup>2</sup> in area and has a 62.72m frontage to Bendooley St (and also 9.145m rear frontage to Short Street for vehicle access purposes), and is irregular in shape.

The subject site contains numerous public buildings including the Bowral Central Library and the local heritage item Former School of Arts (now known as Bowral Memorial Hall I157), Stafford House (I156) and Old Town Hall Bowral (I081). The subject site is also located within the vicinity of several other heritage items, and is within the Bowral Heritage Conservation Area.

The site is not identified as bushfire prone, flood prone land or riparian lands and is not affected by biodiversity values. The site has access to sewer and water connection.

The subject site is zoned E1 – Local Centre under Wingecarribee LEP 2010 and is within the Bowral town centre. The surrounding development is predominantly, business, and community uses and medium to low density residential housing. Bowral Uniting Church adjoins the subject building to the south and Coles adjoining the site to the west (across Bendooley Street). The site is approx 350m east of Bowral railway station.

A locality map (showing the location of the site in Bowral) and an air photo (showing positions of the buildings on the site) are provided below:



**Locality Plan – 16-24 Bendooley St Bowral**



**Air Photo – 16-24 Bendooley St Bowral (subject site outlined yellow and the subject building shaded in red)**



**Photo of front of Bowral Memorial Hall (western side, facing Bendooley St), with the location of the sign on a recent extension to the Hall, outlined in red.**

### **3. Description of the Proposed Development**

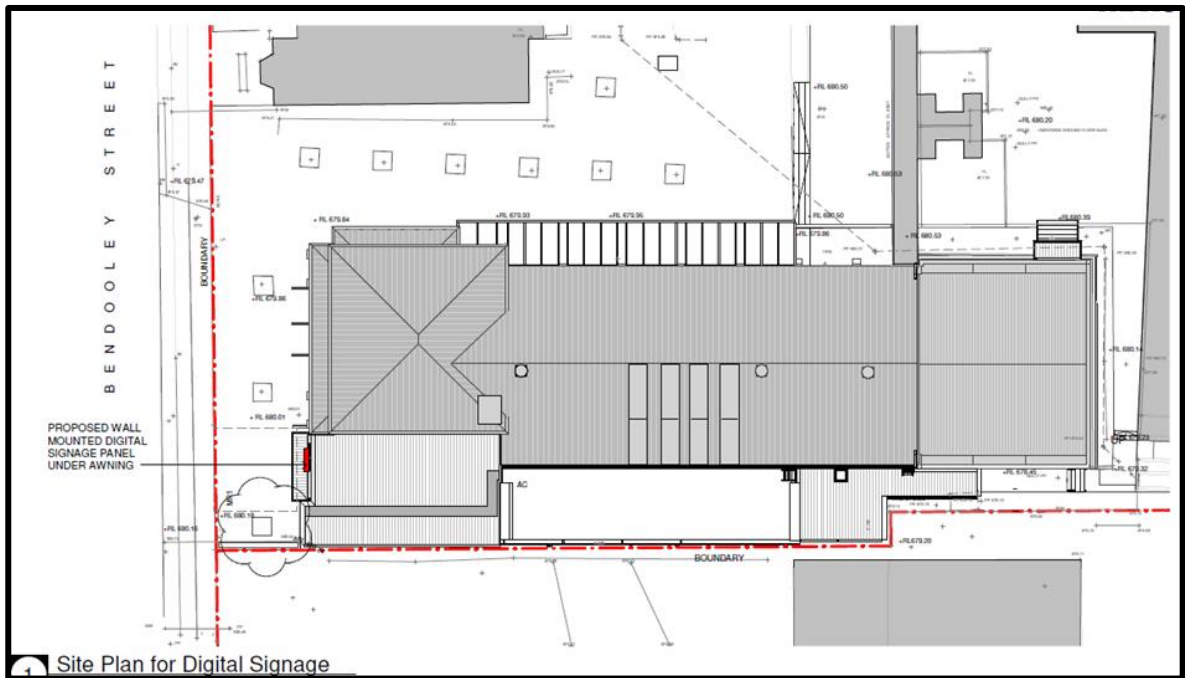
DA23/1385 seeks consent for the construction of a digital display board to the western external wall of the Bowral Memorial Hall. The content is to show community events at the Bowral Memorial Hall. The location of the digital display sign is to a recent extension to the Hall not the original façade of the Memorial Hall.

It is important to note that while the subject site is heritage-listed, the proposed signage is to be affixed to a recent extension to the building (approved 2018).

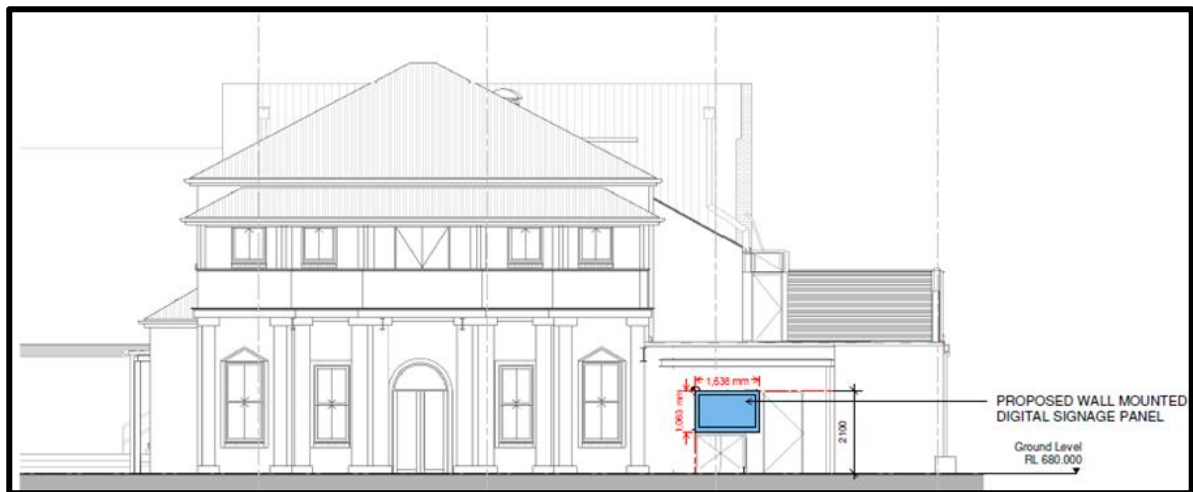
The digital display screen frame would be powder coated in 'Dark Bronze Flat Matt'. The digital board would consist of a 65" outdoor digital signage screen (Model - FMYXD-130W-65L).

The sign is proposed to be mounted on the western elevation of the building (ie facing Bendooley St), with dimensions of 1638mm wide x 1063mm high. It is proposed to be mounted such that the top of the sign is 2100mm above ground level.

Below are the site plan and western elevation of the proposed sign:



**Site Plan – 16-24 Bendooley Street Bowral. Location of sign shown on the western elevation (bottom left of drawing).**



**West Elevation – 16-24 Bendooley St Bowral.**

#### **4. Neighbour 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 22 June to 7 July 2023.

No submissions were received.

#### **5. PLANNING ASSESSMENT**

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

**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 relevant environmental planning instruments applicable to the site / proposed development is undertaken in the following section.

***South East and Tablelands Regional Plan 2036***

The *South East and Tablelands Regional Plan 2036* provides a framework to guide the NSW Government's land use priorities and decisions over the next 20 years.

The proposal is generally consistent with the Directions within the Plan. In particular, condition 9 (To Grow Tourism in the Region) - as the proposal will enhance the vibrancy, social cohesion and advise of the recreational activities and community events at the site, which will benefit the community and visitors alike.

***State Environmental Planning Policy (Resilience and Hazards) 2021***

Chapter 4 of SEPP Resilience and Hazards 2021 requires the consent authority to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land, and to be satisfied that the land is suitable for the proposed use. The subject proposal is for a very minor ancillary development and the predominant use of the land will continue.

Council is satisfied that the land is not a site of possible contamination and therefore no further assessment of contamination is required.

***State Environmental Planning Policy (Biodiversity and Conservation) 2021***

Chapter 2 of the Biodiversity & Conservation SEPP 2021 relates to Vegetation in Non-Rural Areas. The proposed development does not affect any native or exotic vegetation and therefore satisfies this Chapter of the SEPP.

Chapter 6 of the Biodiversity & Conservation SEPP 2021 relates to the Sydney Drinking water catchment. The site is within the Sydney drinking water catchment. The proposed development is for very minor ancillary development which would have minimal impact on water quality, and would therefore satisfy this Chapter of the SEPP.

***State Environmental Planning Policy (Industry and Employment) 2021***

Chapter 3 of the Industry and Employment SEPP 2021 relates to Advertising and Signage.



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Clause 3.6 of the Chapter states that Council must not grant consent unless proposed signage is consistent with the objectives of the Chapter and the assessment criteria in Schedule 5 of this SEPP. Provided below is consideration of the assessment criteria of Schedule 5 of the SEPP showing compliance and is supported.

<b>SEPP (Industry and Employment) 2021</b>			
<b>Section</b>	<b>Control</b>	<b>Assessment</b>	<b>Complies</b>
1. Character of the Area	Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	Yes. The proposed signage is consistent and compatible with the E1 Local Centre of the site. It is located within close proximity to a mix of local community, commercial and retail uses.	Yes
	Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The proposed signage does not constitute 'advertising' as defined by the EP&A Act given the signage relates to the existing community use of the site.	N/A
2. Special Areas	Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The proposed signage will relate to the Bowral Memorial Hall on the subject site and will not detract from any environmentally sensitive and heritage areas.  Though the subject site is a heritage item and contains historically-significant buildings, the subject sign is proposed to be constructed on part of the building approved and constructed in 2018.	Yes
3. Views and Vistas	Does the proposal obscure or compromise important views?	No. The proposed signage does not compromise any views	Yes
	Does the proposal dominate the skyline and reduce the quality of vistas?	No. Only display wall signage is proposed and therefore will be at a height and scale that will not have any impacts on the skyline or vistas.	Yes
	Does the proposal respect the viewing rights of other advertisers?	The proposal will have no impact on the viewing rights of other advertisers.	Yes
4. Streetscape Setting or Landscape	Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The scale of the signs are compatible with the size of the site and building on the site and the surrounding area. The proportions of the signage do not add bulk and scale to the built form and are appropriate to the streetscape.	Yes
	Does the proposal contribute to the visual interest of the streetscape,	The proposed signage adds to the visual interest of the site and the streetscape and will	Yes

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	setting or landscape?	suitably identify the proposed uses.	
	Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The proposed signage does not result in a cluttered site. The signage is consistent with the building form and nature of the proposed uses.	Yes
	Does the proposal screen unsightliness?	The proposed does not screen unsightliness	Yes
	Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	No. The display wall sign is flushed with the wall.	Yes
	Does the proposal require ongoing vegetation management?	No. The proposed signage does not required ongoing vegetation management?	Yes
5. Site and Building	Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	Yes. The proposed signage is proportional to the building and building elements on the site, is located in a logical location to be visible from the street frontages and is compatible with the proposed uses of the site.	Yes
	Does the proposal respect important features of the site or building, or both?	Yes. The proposed signage is at a scale and location that does not affect the existing building or any features of the site.	Yes
	Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The proposal provides quality signage which complements the proposed uses of the site.	Yes
6. Associated devices and logos with advertisements and Advertising Structures	Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	No safety devices are considered necessary. All cables is proposed to be concealed within the frame sign. Conditions are imposed.	Yes
7. Illumination	Would illumination result in unacceptable glare?	No. Illumination of the proposed signage would not result in unacceptable glare.	Yes
	Would illumination affect safety for pedestrians, vehicles or aircraft?	No. Illumination of the proposed signage would not affect safety for pedestrians, vehicles or aircraft. The proposed sign will comply with the Australian Standard regarding outdoor lighting. Conditions are imposed.	Yes
	Would illumination detract from the amenity of any residence or other form of accommodation?	No. Illumination of the proposed signage would not detract from the amenity of any nearby residence or place of accommodation.	Yes
	Can the intensity of the	As the proposed signage is a	Yes

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	illumination be adjusted, if necessary?	digital display board the intensity of the brightness can be adjusted	
	Is the illumination subject to a curfew?	The illumination of the proposed signage is minor as it is to a digital display board for community events and does not require a curfew.	Yes
8. Safety	Would the proposal reduce the safety for any public road?	No. The signage will improve safety by clearly identifying the proposed event uses of the site.	Yes
	Would the proposal reduce the safety for pedestrians or bicyclists?	No. The signage will improve safety by clearly identifying the proposed event uses of the site.	Yes
	Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	No. The signage will not obstruct sight lines.	Yes

***Wingecarribee Local Environmental Plan 2010***

The subject site is located within land zoned E1 – Local Centre under Wingecarribee LEP 2010. “Signage” is permissible with consent in the subject site.

The proposed sign relates to the community facility which also is permitted with consent in the zone.

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Compliance Assessment

WLEP 2010 Clause	Compliance with Requirements
Clause 2.3 Zone Objectives and Land Use Table	The site is zoned E1 – Local Centre and the proposed development is permissible with development consent.  The proposal achieves the objectives of the zone by promoting events within the community facility and contributing to the vibrant and active local centre
Clause 4.3 Height of building	No changes to the height of the building are proposed.
Clause 4.4 Floor Space Ratio	The proposed does not change the existing floor space ratio.
Clause 4.6 Exceptions to Development Standards	No variation proposed.
Clause 5.10 Heritage conservation	The subject site contains numerous public

	<p>buildings including the Bowral Central Library and the local heritage item Former School of Arts (now known as Bowral Memorial Hall I157), Stafford House (I156) and Old Town Hall Bowral (I081). The subject site is also located within the vicinity of several heritage items, and within the Bowral Heritage Conservation Area.</p> <p>The following Statement of Significance for Bowral Memorial Hall from the NSW Heritage Database describes the building as:</p> <p><i>A Victorian "Free Classical" style former School of Arts library, which contributes to the impressive streetscape in the civic centre of Bowral. The building is historically significant as a centre of community education in Bowral because of its School of Arts and later Municipal Library Associations.</i></p> <p>The proposal is for the installation of a digital display board with powder coated frame to the northern external wall of the recently renovated section of the Bowral Memorial Hall.</p> <p>The proposed sign has been reviewed by the Heritage Advisor and has recommended the sign to be acceptable with regard to its heritage impacts because:</p> <ul style="list-style-type: none"> <li>• It is located on a recessed part of the front facade and a part of the facade that is a later addition that has low heritage value, and is compatible with the character of this façade.</li> <li>• The display board provides for the on-going community use of the site.</li> <li>• The display board is relatively modest in size.</li> <li>• The display board will not be fixed to heritage significant building fabric.</li> <li>• The display board will have a negligible impact on the aesthetic values of the Memorial Hall.</li> <li>• The display board will not be a visually dominant element in the streetscape and therefore will not adversely affect the character of the Bowral Heritage Conservation Area or the setting of the heritage items in the vicinity.</li> </ul> <p>Therefore, the proposal is acceptable with regard to its heritage impacts, and satisfies clause 5.10 in WLEP 2010.</p>
<p>Clause 5.21 Flood Planning</p>	<p>The subject site is not identified on the Flood map.</p>
<p>Clause 7.4 Natural resources sensitivity—biodiversity</p>	<p>The subject site is not identified on the Natural resource sensitivity - biodiversity map.</p>

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Clause 7.5 Natural resources sensitivity—water	The subject site is not identified on the Natural resource sensitivity -Water Map.
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The development proposal complies with the relevant provisions and objectives under the Wingecarribee LEP 2010.

**Section 4.15(1)(a)(ii) - The provisions of any draft environmental planning instrument that apply to the land**

There are no Draft Environmental Planning Instruments that apply to the site or proposed development.

**Section 4.15(1)(a)(iii) - The provisions of any Development Control Plan that applies to the land**

***Bowral Development Control Plan***

The subject site is affected by the provisions of the Bowral DCP.

The proposed development is generally satisfactory when assessed under the Bowral DCP as indicated in the following assessment.

Compliance Assessment

Development Control Plan			
Section	Control	Assessment	Complies
<b>PART A –SECTION 10 SIGNAGE AND OUTDOOR ADVERTISING</b>			
A10.3 General Requirements for All Signage Residential	a) All buildings shall be clearly numbered on the face of the building or on the awning.	N/A	N/A
	b) Signs shall only appear wholly on land where the advertised activity or approved development is carried out, except signage that is managed by the Tourist Attraction Signposting Assessment Committee (TASAC). NB: TASAC is a group formed by the wsc.nsw.gov.au NSW State Government to have overall responsibility for the planning and implementation of tourist signposting systems in NSW.	Signs only appears wholly on land where the approved development is carried out.	Yes
	c) Signs shall relate to the architectural detailing design lines of the building on which it is to be	The proposed sign relates to the detailing and design lines of the building and will have no	Yes

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	located, and of adjacent buildings, particularly those constructed prior to 1950.	adverse impact on the heritage and architectural qualities of the building and adjacent buildings	
	d) Signs shall maintain the existing architectural 'balance' of the building.	The sign maintains the existing architectural 'balance' of the building.	Yes
	e) Signs shall be of a high quality design and finish.	The sign is to be of high quality design and finish	Yes
	f) Signs shall complement the finishes and colours of the building/place to or in which it is attached/erected	The sign is on a screen however, will complement the finishes and colours of the building.	Yes
	g) Signs shall be simple in both design and message presentation and legible in terms of both colours and text style.	The content within the digital screen will be of simple design and appropriate presentation	Yes
	h) Signs shall reflect the quality of the business, services or product to which they relate.	The sign will reflect the quality of the community building	Yes
	i) Signs incorporating corporate graphics and colours will be considered, but may be restricted in terms of size, location, colour and quantity, to meet the other objectives of this section of the Plan.	The content of the sign will be managed appropriately and is restricted to the size of the screen.	Yes
	j) Signs which are illuminated (as in making a sign appear brighter than it otherwise would appear) must:  (1) Conceal all cables within the frame of the sign, and (2) Must comply with Australian standards for the control of outdoor lighting	All cables is proposed to be concealed within the frame sign and will comply with the Australian Standard regarding outdoor lighting. Conditions are imposed.	Yes
	k) Signs associated with multiple building or site occupancy, as in shopping arcades and commercial premises occupying first floor office suites, shall	N/A	N/A

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	<p>adopt a single coordinated approach to advertising by means of clear building identification and appropriately located 'shared' directory facilities.</p> <p>l) Signs shall achieve a high degree of safety and not represent hazards to passing drivers or pedestrians, transport workers or other property.</p> <p>m) Signs shall not be confused with, or inhibit instructions given by, official traffic management facilities and signs.</p> <p>n) Signs shall not interfere with a tree or vegetation in any way (e.g. by means of a sign being taped or nailed to a tree) or require the removal of a tree or other vegetation. Signage requiring the pruning of a tree or other vegetation must obtain Council consent</p>	<p>The sign will not cause any hazards to the public.</p> <p>N/A</p> <p>N/A</p>	<p>Yes</p> <p>N/A</p> <p>N/A</p>
A10.4.11 Community Notice and Public Information Signs	<p>a) There is only one (1) sign facing any road frontage</p> <p>b) Maximum area of sign is 3.5m<sup>2</sup></p> <p>c) The sign is no higher than 5m above existing ground level</p> <p>d) The sign is wholly located within the boundaries of the site</p> <p>e) The sign is not illuminated</p>	<p>There is only one community notice and public information sign facing the frontage. The sign is 1.74m<sup>2</sup> and the top of the sign is 2.1m from the ground level. The sign is within the site and is a digital signage.</p>	<p>Yes</p>
A10.6.1 Assessment Criteria for all Signage requirement Council consent Including Digital Signage	<ul style="list-style-type: none"> <li>• Character of the area</li> <li>• Special areas</li> <li>• Views and vistas</li> <li>• Streetscape, setting or landscape</li> <li>• Site and Building</li> <li>• Associated devices and logos with advertisements and advertising structures</li> <li>• Illumination</li> </ul>	<p>The criteria is the same as the criteria within Schedule 5 of the SEPP (Industry and Employment) 2021 which is discussed in detail above.</p> <p>The proposed signage complies with all aspects of the criteria within A10.6.1 of the DCP and Schedule 5 of the SEPP (Industry and Employment)</p>	<p>Yes</p>

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A10.7 Digital Signage	Digital signs are devices which use digital technology to display bright, high quality electronic images. A central feature of these devices is the use of Light Emitting Diode (LED) technology allowing luminance to be controlled and adjusted automatically. (Transport Corridor Outdoor Advertising & Signage Guidelines – Department of Planning & Environment, November 2017)	The proposed sign is not considered to a Digital Sign in terms of provisions of the State Government policy.  It is a small community-based sign to inform the public of upcoming events, not a large, highly visual advertising sign that is seen on major transport routes to the attract passing public.  Refer to assessment of the appropriateness of the sign in section 10.6 above.	Yes
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Section 20 – Bendooley Street Precinct

The proposed signage will have no adverse impacts to the streetscape and heritage significance of the building and Bendooley Street Precinct.

The development proposal complies with the relevant provisions and objectives under the Bowral Development Control Plan. Therefore, the proposed development reflects the existing and desired future character of the area.

***Section 4.15 (1) (a) (iia)–Any planning agreement that has been entered into under section 7.4***

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***

All relevant provisions of the Environmental Planning and Assessment Regulation 2021 have been considered and satisfied in the assessment of this DA.

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

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

The main constraint at this site is that it is listed as a Heritage Item under Wingecarribee LEP 2010. However the proposal is for a small sign affixed to a recent addition to the building and is assessed as satisfactory by Council’s Heritage Advisor.

The proposed development does fit in the locality. There are no constraints posed by adjacent developments that would prohibit this proposal. There are adequate utilities and services available to the proposed development where necessary. The air quality and microclimate are appropriate for the development, there are no hazardous land uses or activities nearby, and ambient noise levels are suitable for the development.

The site is considered to be suitable for the development as proposed because the zoning permits the signage in the local centre zone, the proposal will not have any adverse localised impacts on the heritage significance of the building or its surrounds.



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

The neighbour notification of this development has resulted in no submissions. Refer to the Community Consultation section of this report, above.

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

Having regard to the circumstances of the case, approval of the proposed development is generally in the public interest.

The proposal will not offend the public interest because it is permissible in the zone and will not result in any unreasonable localised environmental impacts subject to the imposition of conditions as recommended.

**6. Referral Comments**

This application has been referred to the following internal and external teams/agencies who commented as follows:

Internal Referral Section	Comments
<p><b>Heritage Advisor:</b></p>	<p>The subject site contains numerous public buildings including the Bowral Central Library and the local heritage item Former School of Arts (now known as Bowral Memorial Hall I157), Stafford House (I156) and Old Town Hall Bowral (I081) .The subject site is also located within the vicinity of a number of heritage items, and within the Bowral Heritage Conservation Area.</p> <p>The following Statement of Significance for Bowral Memorial Hall from the NSW Heritage Database describes the building as:</p> <p><i>A Victorian "Free Classical" style former School of Arts library, which contributes to the impressive streetscape in the civic centre of Bowral. The building is historically significant as a centre of community education in Bowral because of its School of Arts and later Municipal Library Associations.</i></p> <p>The proposal is for the installation of a digital display board with powder coated frame to the northern external wall of the recently renovated section of the Bowral Memorial Hall.</p> <p>The proposed sign has been reviewed by the Heritage Advisor and has recommended the sign to be acceptable with regard to its heritage impacts because:</p> <ul style="list-style-type: none"> <li>• It is located on a recessed part of the front facade and a part of the facade that is a later addition that has low heritage value, and is compatible with the character of this façade.</li> <li>• The display board provides for the on-going community use of the site.</li> <li>• The display board is relatively modest in size.</li> <li>• The display board will not be fixed to heritage significant building fabric.</li> <li>• The display board will have a negligible impact on the aesthetic values of the Memorial Hall.</li> </ul>

	<ul style="list-style-type: none"><li>• The display board will not be a visually dominant element in the streetscape and therefore will not adversely affect the character of the Bowral Heritage Conservation Area or the setting of the heritage items in the vicinity.</li></ul> <p>Therefore, the proposal is acceptable with regard to its heritage impacts.</p>
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## **7. Conclusion**

The proposed development has been assessed using the heads of consideration listed in Section 4.15 of the Environmental Planning & Assessment Act 1979.

The development proposal seeks consent for the installation of an outdoor digital display wall sign for community events to the Bowral Memorial Hall.

In particular, the development is to be affixed to a relatively new (2018) addition to the building and will have minimal impacts on the heritage significance of the buildings on the site.

It is recommended that the development application be approved, subject to appropriate standard conditions and those otherwise identified in the assessment.

The author of this report does not have an affiliation with the applicant, owner, Council Officer or Councillor by way of family, close personal friendship or business interest and has not made any reportable political donation within the past 2 years.

No conflict of interest arises on this occasion.

Approval is recommended subject to the conditions in **Attachment 1** to this report.

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### **ATTACHMENTS**

1. Draft Consent - 16-24 Bendooley [6.3.1 - 7 pages]
2. Site Plan - 16-24 Bendooley Street, Bowral PA N-336821 [6.3.2 - 1 page]
3. Elevation Plan - 16-24 Bendooley Street, Bowral PA N-336821 [6.3.3 - 1 page]
4. Statement of Environmental Effects - 16-24 Bendooley Street, Bowral PA N-336821 [6.3.4 - 16 pages]

**7 MEETING CLOSURE**