

AGENDA

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

Wednesday 25 October 2023

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

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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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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 Planning Proposal to insert additional Farm Stay Accommodation provisions in to WLEP 2010

Report Author: Coordinator Strategic Policy
Authoriser: Executive Manager Strategic Outcomes

PURPOSE

The purpose of this report is to include into Wingecarribee Local Environmental Plan (WLEP) 2010 clause 5.24 Farm stay accommodation as provided in the Standard Instrument & include Farm Stay Accommodation as development permitted with consent in the RU4 Primary Production Small Lots zone.

Applicant / Proponent	Wingecarribee Shire Council
Owner	N/A
Consultants	N/A
Notification	N/A
Number Advised	N/A
Number of Submissions	N/A
Current Zoning	N/A
Proposed LEP Amendment/s	<ul style="list-style-type: none"> To include into WLEP 2010 clause 5.24 Farm stay accommodation as provided in the Standard Instrument, and Include Farm Stay Accommodation as permitted with consent in the RU4 Primary Production Small Lots zone
Political Donations	N/A
Recommendation	The Planning Proposal adopted by Council on 18 May 2022 to amend WLEP 2010 with regard to Farm Stay Accommodation provisions be replaced with the Planning Proposal which forms Attachment 1 to this report to reflect recent amendments to the Standard Instrument Local Environmental Plan and BE SUPPORTED for progression to a Gateway Determination from the Department of Planning & Environment.

OFFICER'S RECOMMENDATION

THAT:

- 1. THAT the Planning Proposal adopted by Council on 18 May 2022 to amend WLEP 2010 with regard to Farm Stay Accommodation provisions be replaced with the updated Planning Proposal accompanying this report to reflect recent amendments to the Standard Instrument Local Environmental Plan and BE SUPPORTED for progression to a Gateway Determination through the Department of Planning & Environment under s3.34 of the *Environmental Planning & Assessment Act 1979*.**

REPORT

BACKGROUND

At the Ordinary Meeting of Council of 20 April 2022, Council's nominations for Agritourism and Farm stay accommodation in response to the draft Standard Instrument (Local Environmental Plans) Amendment (Agritourism) Order 2021 were considered. Those nominations included enabling Farm Stay Accommodation with consent in the RU4 Primary Production Small Lots zone and adopting the optional clause 5.23 for Farm Stay Accommodation as provided in the Amendment Order.

The matter had previously been considered by the Wingecarribee Local Planning Panel meeting of 6 April 2022 at which time the Panel advised that it did not support the use of the Standard Instrument Amendment Order to amend the current WLEP 2010 provisions for Farm Stay Accommodation and that these should be done by means of a Planning Proposal. This advice was reflected in the Council resolution of 20 April 2022 that:

- 2. In relation to Farm Stay Accommodation, Council maintain the existing development standards by:
 - a. Continuing to allow Farm Stay Accommodation in the RU1, RU2, C3, C4 and SP3 Zones*
 - b. Continuing to prohibit Farm Stay Accommodation in the RU4 Zone*
 - c. Not adopting the optional Clause 5.23 – Farm Stay Accommodation**
- 3. Council prepare a Planning Proposal to nominate additional development standards for Farm Stay Accommodation, in consultation with the community and industry.*

A report to prepare a Planning Proposal to include a local clause into Wingecarribee Local Environmental Plan (WLEP) 2010 with regard to Farm Stay Accommodation and to amend the land use table for the RU4 Primary Production Small Lots zone to permit Farm Stay Accommodation with consent was subsequently considered at the Ordinary Meeting of Council of 18 May 2022, at which time it was resolved as follows:

THAT the Planning Proposal (Attachment 1) to amend WLEP 2010 to include clause 5.23 farm stay accommodation into WLEP 2010 and permit with consent farm stay accommodation in the RU4 Primary Production Small Lots zone of WLEP 2010 be SUPPORTED for submission to the Department of Planning & Environment for a Gateway Determination.

The Planning Proposal was submitted for a Gateway Determination, but DPE advised Council that it was reviewing the proposed clause 5.23 regarding Farm Stay Accommodation and that the Planning Proposal could not proceed. Council was advised to wait until the Standard Instrument was amended with an updated clause. These amendments came into force on 18 August 2023 through the State Environmental Planning Policy Amendment (Agritourism) 2023 (the amending SEPP).

The amendments included two optional local clauses, clause 5.24 applying to Farm Stay Accommodation and clause 5.25 applying to Farm Gate Premises. The Farm Gate Premises clause was automatically adopted into WLEP 2010 through the amending SEPP, but because of Council's resolution of 18 May 2022, as explained above, clause 5.24 was not inserted into WLEP 2010.

The purpose of this report is to seek support to proceed with an amended Planning Proposal which would insert the Standard Instrument clause 5.24 Farm Stay Accommodation into WLEP 2010, as well as proceed with amending the RU4 Primary Production Small Lots land use table to permit Farm Stay Accommodation with consent, consistent with the resolution of Council of 18 May 2022.

It is noted that the Standard Instrument was amended on 1 December 2022 to amend the definition of Farm Stay Accommodation. The new definition is,

farm stay accommodation means a building or place—

- (a) on a commercial farm, and
- (b) ancillary to the farm, and
- (c) used to provide temporary accommodation to paying guests of the farm, including in buildings or moveable dwellings.

Note— Farm stay accommodation is a type of tourist and visitor accommodation—see the definition of that term in this Dictionary

REPORT

The intent of the Planning proposal is two-fold:

- 1) To insert *clause 5.24 Farm stay accommodation* into WLEP 2010, and
- 2) To amend the land use table for the RU4 Primary Production Small Lots zone to permit Farm Stay Accommodation with consent.

Each is considered in more detail below.

1) To insert clause 5.24 into WLEP 2010

The proposed clause 5.24 is the same as that in the Standard Instrument. The purpose of the Planning Proposal is to enable community engagement that is facilitated and managed by Council regarding this proposed amendment instead of the clause being introduced by means of State legislation and NSW government-led consultation. Community engagement also provides the opportunity for Council to consider any additional objectives and development standards which may be nominated by the community.

Clause 5.24 of the Standard Instrument states:

5.24 Farm stay accommodation

- (1) *The objectives of this clause are as follows—*

- (a) to diversify the uses of agricultural land without adversely impacting the principal use of the land for primary production,*
- (b) to balance the impact of tourism and related commercial uses with the use of land for primary production, the environment, scenic values, infrastructure and adjoining land uses.*
- (c) other objectives which may result from community consultation (to be confirmed during consultation)*

Direction—

Additional objectives may be included.

- (2) Development consent must not be granted to development for the purposes of farm stay accommodation on a landholding unless the consent authority is satisfied all buildings or manufactured homes used to accommodate guests on the landholding will be—*
 - (a) on the same lot as an existing lawful dwelling house, or*
 - (b) on a lot of a size not less than the minimum lot size for a dwelling house to be permitted on the lot under an environmental planning instrument applying to the land.*
- (3) Subclause (2) does not apply if the development is a change of use of an existing dwelling to farm stay accommodation.*
- (4) Development consent must not be granted to development for the purposes of farm stay accommodation on land unless the consent authority has considered—*
 - (a) whether the development will result in noise or pollution that will have a significant adverse impact on the following on or near the land—*
 - (i) residential accommodation,*
 - (ii) primary production operations,*
 - (iii) other land uses, and*
 - (b) whether the development will have a significant adverse impact on the following on or near the land—*
 - (i) the visual amenity or heritage or scenic values,*
 - (ii) native or significant flora or fauna,*
 - (iii) water quality,*
 - (iv) traffic,*
 - (v) the safety of persons, and*
 - (c) whether the development is on bush fire prone land or flood prone land, and*
 - (d) the suitability of the land for the development, and*
 - (e) the compatibility of the development with nearby land uses.*

Direction—

Additional development standards for farm stay accommodation may be included.

It is noted that the objectives of the Standard Instrument clause remain as they were previously and the only substantive change to subclause (2) is the exclusion of nominated maximum gross floor area, maximum number of guests in moveable dwellings and the maximum number of moveable dwellings.

Council also notes the Direction that both additional objectives and development standards may be included and these can be identified through the community consultation process.

It is further noted that the current provisions under clause 5.4(5) of WLEP 2010 with regard to the maximum number of bedrooms in all buildings used for farm stay accommodation will remain at 8.

2) To amend the RU4 Primary Production Small Lots land use table to permit farm stay accommodation with consent.

Although the State Environmental Planning Policy Amendment (Agritourism) 2023 automatically included Agritourism in the RU4 Primary Production Small Lots zone as development permitted with consent, Farm Stay Accommodation was not because Council has nominated to consider such an amendment by means of a Planning Proposal.

Farm Stay Accommodation is currently permitted in the RU1 Primary Production zone and the RU2 Rural Landscape zone as these were considered by the Council of the day to be the zones most suited to this land use. It is not currently permitted in the RU4 Primary Production Small Lots zone because the Council of the day did not support that option.

Enabling Farm Stay Accommodation, with consent, in the RU4 Primary Production Small Lots zone is considered consistent with the objectives of the zone, specifically:

- To enable sustainable primary industry and other compatible land uses.
- To encourage and promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature.
- To provide for a restricted range of employment-generating development opportunities that are compatible with adjacent or nearby residential and agricultural development.

It is further considered that the remaining objectives of the zone will serve to ensure that the assessment of Farm Stay Accommodation includes consideration of neighbour impacts and environmental and landscape protection, specifically:

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

COMMUNICATION AND CONSULTATION

Community consultation will be undertaken in accordance with the requirements of the Gateway Determination and Council's Community Engagement Strategy which also includes Council's

Community Participation Plan. This is generally undertaken for a period of at least 30 days and would include formal notification as well as communication through Council's Your Say Wingecarribee website and e-newsletters sent to subscribers.

Internal Communication and Consultation

Preliminary discussions have been held with Council's Development Assessment Officers and the Planning Proposal will be further discussed through the consultation process and after feedback is received by the community.

External Communication and Consultation

In addition to the community consultation to be undertaken, the Planning Proposal will be formally considered by the Rural Fire Service, WaterNSW and any other agencies that DPE identifies within the Gateway Determination that requires Council to consult with.

SUSTAINABILITY ASSESSMENT

Environment

The proposed amendments require the assessment of an application for Farm Stay Accommodation to consider potential impacts on native or significant flora or fauna, water quality, whether the development is on bush fire prone land or flood prone land, and the general suitability of the land for the proposed development.

Social

The proposed amendments require the assessment of an application for Farm Stay Accommodation to consider potential impacts with regards to traffic generation and the overall compatibility of the development with nearby land uses.

Broader Economic Implications

The proposed amendments offer opportunities for a broader agritourism and agribusiness base across the Shire. It is noted that the proposed they do not in any way impact on the Exempt and Complying provisions within the Codes SEPP with regard to either Farm Stay Accommodation or Agritourism.

Culture

There are no cultural issues in relation to this report.

Governance

The Planning Proposal has been prepared in accordance with the Local Environmental Plan Making Guideline published by the NSW Department of Planning & Environment in August 2023.

COUNCIL BUDGET IMPLICATIONS

Given that the Planning Proposal is Council-initiated, Council staffing resources have been utilised to prepare the Planning Proposal.

RELATED COUNCIL POLICY

The Wingecarribee Rural Tourism Policy was adopted by Council on 13 November 2019 and is due for review. Community and industry feedback on the Planning Proposal will help inform the review of this Policy.

CONCLUSION

Council is initiating a Planning Proposal to introduce clause 5.24 Farm Stay Accommodation from the Standard Instrument into WLEP 2010 and permit with consent Farm Stay Accommodation in the RU4 Primary Production Small Lots zone. This report seeks the Local Planning Panel's endorsement to submit the Planning Proposal to the NSW Department of Planning and Environment seeking a Gateway Determination to proceed to public exhibition.

The proposed amendments reflect Council's ongoing consultation with agritourism stakeholders across the Shire as well as the broader community. They also reflect Council's involvement with ongoing consultation and feedback. These provisions will also provide a strong context within which to review the Rural Tourism Policy.

ATTACHMENTS

Nil

5.2 Bowral Town Centre Master Plan - Draft for Public Exhibition

Report Author: Strategic Land Use Planner
Authoriser: Coordinator - Strategy and Place

PURPOSE

The purpose of this report is to seek the endorsement of the Draft Bowral Town Centre Master Plan to proceed to public exhibition for a period of eight (8) weeks.

OFFICER'S RECOMMENDATION

THAT:

- 1. The Draft Bowral Town Centre Master Plan be endorsed for public exhibition.**
- 2. The Draft Bowral Town Centre Master Plan be placed on Public Exhibition for a period of eight (8) weeks.**
- 3. The Draft Bowral Town Centre Master Plan be reported back to Council at the conclusion of the exhibition period, outlining a summary of the outcomes of the public exhibition.**

REPORT

Background

At the Ordinary Council Meeting of 16 March 2022, Council approved a works program of key strategic planning projects to implement the priority actions outlined in the Wingecarribee Local Strategic Planning Statement (LSPS) and Local Housing Strategy.

The Wingecarribee LSPS and Local Housing Strategy provide a long-term planning framework to meet the economic, housing, social and cultural needs of the community, and guide how and where growth will occur in the Shire over the next 20 years. The LSPS and the approved strategic works program commit Council to a number of critical strategic planning projects over the coming years, including developing Master Plans for its three main centres of Bowral, Mittagong and Moss Vale, to provide a clear vision and strategic direction, and to act as a catalyst for new development and the revitalisation of the centres.

Bowral was identified as the first town centre to undergo this place-based planning process. At the Ordinary Council meeting of 16 November 2022, a report was approved to enable the engagement of a suitably qualified consultant to prepare the Bowral Town Centre Master Plan. Following this, Council underwent a procurement process and Studio GL were appointed as the consultants for this project in December 2023.

Introduction

The Draft Bowral Town Centre Master Plan supports Council's transition to a better place-based framework for our towns and villages and aligns with priority actions identified in the LSPS and Local

Housing Strategy. Council has been working with Studio GL, to develop a Master Plan for the town centre and a draft has been developed in collaboration with the community, key stakeholders and government agencies through an extensive consultation process.

The Draft Bowral Town Centre Master Plan provides a holistic plan that details a clear vision and strategic direction for the town centre, which is reflective of the unique identity and character of Bowral and will further ensure that Bowral continues to contribute more broadly to the economic, cultural and social performance of the Southern Highlands.

The Draft Bowral Town Centre Master Plan has been provided as **Attachment 1** to this report.

Community Consultation

The Draft Master Plan was developed through a collaborative process with the community and key stakeholders to ensure that the Plan is supported and ‘owned’ collectively by Council, the community and industry. Community and stakeholder consultation was undertaken during the preparation of the Draft Bowral Town Centre Master Plan and the timeline below details a brief overview of the activities that were conducted to inform the Draft Plan.

Round One – Initial Engagement		
Consultation Activity	When?	Description
Your Say Wingecarribee (YSW) Community Survey	February to March 2023	Participants were asked to provide their ideas and comments about the future of Bowral town centre and approximately 300 survey responses were received.
YSW Community Interactive Map	February to March 2023	Participants were able to place a marker on a map to identify key opportunities and current constraints. Approximately 76 submissions were received through the interactive map.
Community Drop-In Sessions	Wednesday 8 March and Saturday 11 March 2023	Two community drop-in sessions were organised in Corbett Plaza to encourage the community to ask questions and provide their feedback.
Community Workshop	Wednesday 8 March 2023	A community workshop was held at the Bowral Public School Hall on Wednesday 8 March 2023. Similar to the drop-in sessions, participants were able to ask questions and provide their insights into the strengths, opportunities and key constraints within the Bowral town centre. Approximately 35 community

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		members participated in the Community Workshop.
Drawing Activity	March 2023	Students from Bowral Public School participated by completing a drawing to share their vision for the Bowral town centre. Approximately 50 drawings were submitted.
Round Two – Initial Ideas		
Consultation Activity	When?	Description
YSW Community Survey	May to June 2023	Participants were asked to provide their feedback on the series of preliminary ideas for the Draft Master Plan. Approximately 75 responses were received.
YSW Community Interactive Map	May to June 2023	Participants were able to place a marker on a map to provide their comments on the preliminary ideas for the Master Plan. Approximately 30 submissions were received through the interactive map.
Community Drop-In Sessions	Tuesday 9 May 2023 and Saturday 13 May 2023.	Two community drop-in sessions were organised in Corbett Plaza to encourage the community to ask questions and provide their feedback on the series of preliminary ideas.
Community Workshop	9 May 2023	A community workshop was held at the Bowral Public School Hall on Tuesday 9 May 2023. Similar to the drop-in sessions, participants were able to ask questions and provide their feedback on the preliminary ideas for the town centre Master Plan. Approximately 35 community members participated in the Community Workshop.

The information and ideas captured through the two rounds of consultation directly informed the development of the Draft Bowral Town Centre Master Plan. A detailed report of the consultation outcomes can be found in the ‘Supporting Evidence’ document which is provided as **Attachment 2** to this report.

Framework of the Draft Master Plan

Through collaborative community consultation, the Draft Master Plan identifies a clear vision and six (6) urban design principles that collectively aim to ensure the continued success of Bowral as a vibrant, active and sustainable centre that has a rich cultural heritage. The six (6) urban design principles include:

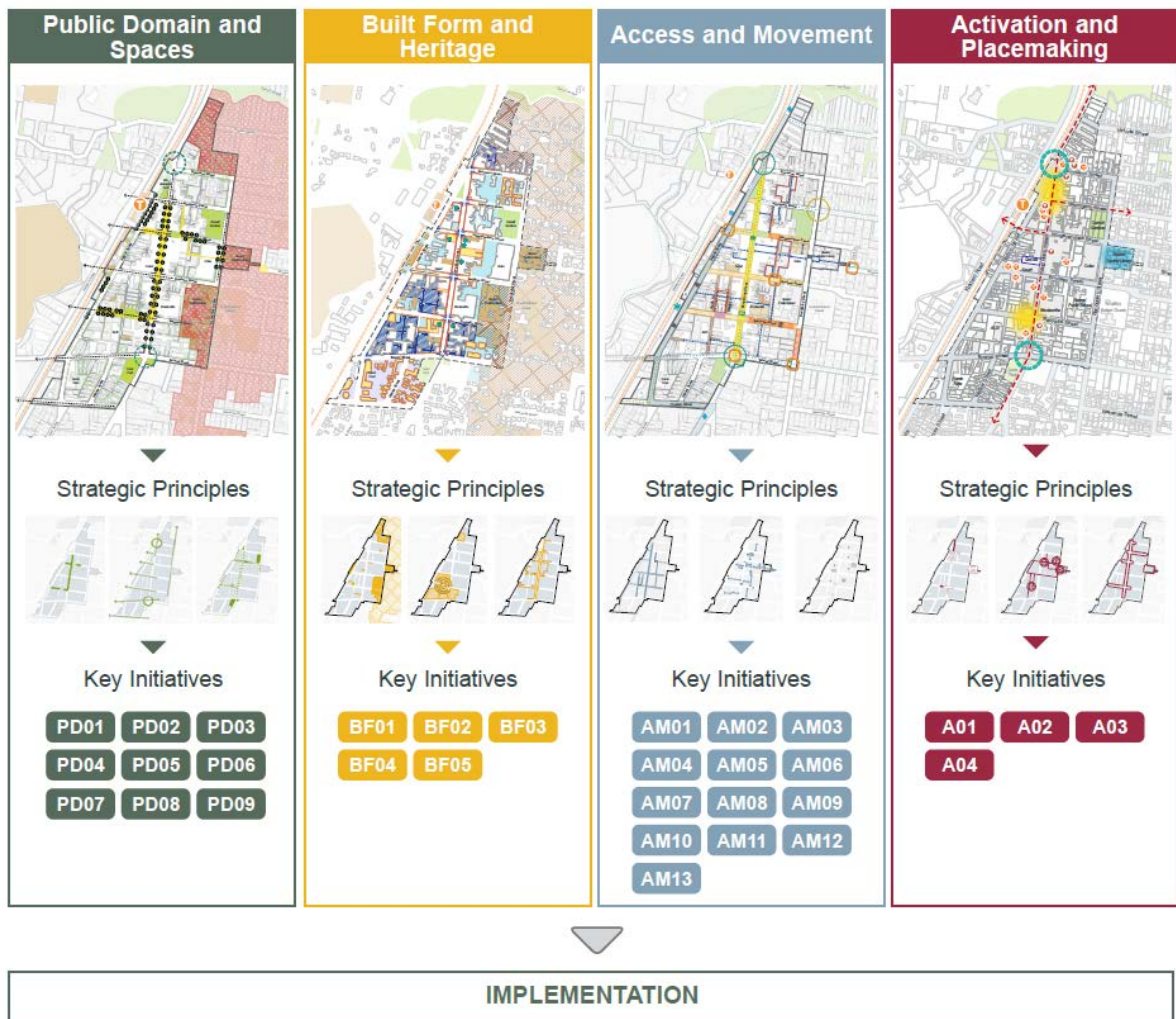
- Celebrate Local Identity and Diverse Community
- Encourage Green and Sustainable Public Domain
- Improve Permeability and Connectivity
- Strengthen Economy and Opportunities
- Enhance Vibrancy and Attractiveness
- Promote Safety and Comfort

The Draft Master Plan is divided into four (4) separate themes, and they include:

- Access and Movement
- Built Form and Heritage
- Public Domain and Spaces
- Activation and Placemaking

Each theme is accompanied by a 'Spatial Framework' map and a set of 'Strategic Principles' which illustrate the high-level intent, potential opportunities and future direction for the town centre. Each theme also contains a series of numbered initiatives, and this relates to the 'Implementation Plan' which outlines the suggested steps towards their delivery.

Figure 1 below provides a diagrammatic representation of the framework of the Draft Bowral Town Centre Master Plan.



The draft Master Plan includes a range of planning and place making initiatives to guide the future of the Bowral Town Centre. For the purpose of the Local Planning Panel’s review, some of the key planning initiatives proposed within the draft Master Plan are highlighted below:

- A proposed increase in building heights along Bong Bong Street from 10 metres to 11 metres, to facilitate three storey development.
- Identifying through-site links to be translated into the Development Control Plan, to improve east-west links within the Town Centre.
- A recommendation to prepare a Façade Design Guide to provide guidance on desired future character, including the identification of contributory buildings (for character).

Public Exhibition

The Draft Bowral Town Centre Master Plan is proposed to be placed on public exhibition for a period of eight (8) weeks, once endorsed by the Local Planning Panel and Council. It is anticipated this will occur during November 2023 to January 2024. The exhibition period will be an opportunity for the community to provide feedback so that we can ensure that the overall Bowral Town Centre Master Plan is reflective of the vision and expectations of the community.

The following community engagement opportunities have been identified for the eight (8) week public exhibition period of the Draft Master Plan:

- Online engagement activities via Your Say Wingecarribee, such as a discussion forum and survey.
- Physical copies of the Draft will be available at the Civic Centre, Moss Vale Library, Bowral Library, Mittagong Library and WSC Mobile Library service.
- Drop-in sessions in the community to provide the community with an opportunity to ask questions and provide their feedback on the Draft Bowral Town Centre Master Plan.

A comprehensive Engagement Plan will be prepared, and it is intended that all consultation activities and sessions will be advertised through YSW and Council's social media platforms.

SUSTAINABILITY ASSESSMENT *Type text*

- **Environment**
The community identified environment and sustainability as a key priority through community consultation, therefore, one of the urban design principles in the Draft Master Plan speaks to the importance of encouraging a green and sustainable public domain.
- **Social**
The Draft Master Plan was developed in collaboration with the community and aims to celebrate this strong sense of community that is evident in the town centre. This is intended to be achieved through a number of initiatives that seek to enhance social activity through the promotion of access, safety, character and economy.
- **Broader Economic Implications**
Bowral is one of the three main town centres of the Wingecarribee Shire and is recognised as having a significant economic and cultural function. The Draft Bowral Town Centre Master Plan therefore identifies a series of initiatives that seek to celebrate and enhance the economic activity in the centre in order to ensure the continued success of Bowral into the future.
- **Culture**
The Draft Bowral Town Centre Master Plan has been prepared through extensive community consultation at various stages of the project to ensure that the Draft Bowral Town Centre Master Plan is reflective of the concerns and aspirations of the local community.
- **Governance**
This report has been prepared for the Local Planning Panel for advice. Once endorsed, a report will then be presented in a Council meeting for endorsement for public exhibition of the Draft Master Plan. Following the proposed eight (8) week exhibition period, a further report will be presented to Council for the adoption of the final Master Plan, outlining a summary of the outcomes of the public exhibition.

COUNCIL BUDGET IMPLICATIONS

The development of the Bowral Town Centre Master Plan is being completed within the existing Strategic Outcomes budget.

The Draft Bowral Town Centre Master Plan identifies a number of infrastructure upgrades and local improvements which will require funding through Council, grants or development contributions. Where possible, they could also be included in Council's future budget allocations.

In addition to this, the Draft Master Plan makes recommendations for a number of Transport for NSW led initiatives. Council will therefore continue to advocate and collaborate with Transport for NSW to guide the delivery of these agency led interventions. Council will also need to continue to work with the State Government to seek additional funding opportunities to implement the Plan.

RELATED COUNCIL POLICY

The Draft Bowral Town Centre Master Plan has been prepared in response to priority actions identified in the Wingecarribee Local Strategic Planning Statement (LSPS) and Planning Priority 1 in the Local Housing Strategy, specifically:

LSPS -

- Planning Priority 6.1 (i) - Adopt a place-based approach to planning in local towns and villages to ensure that their special character is preserved.
- Planning Priority 6.1 (iv) - Undertake a review of the town centre Master Plans for Bowral, Mittagong and Moss Vale and ensure the outcomes of the Master Plan reviews are reflected in the Development Control Plans.

Local Housing Strategy -

- Planning Priority 1 – Promote infill development and increased densities in appropriate locations, and facilitate a greater mix of housing types to ensure our housing stock is reflective of the needs of our community

CONCLUSION

The Draft Bowral Town Centre Master Plan is a holistic place-based Master Plan that provides a clear vision and strategic direction for the town centre. The purpose of the Master Plan is to celebrate the unique character of Bowral and to guide the growth of the town centre in a way that respects and supports this existing character of the town centre.

The Draft Bowral Town Centre Master Plan has been developed in collaboration with the community, government agencies and key stakeholders and addresses movement and access in the town centre, as well as investigates other initiatives relating but not limited to built-form, heritage, culture, character, economy, landscaping, services and amenities.

The purpose of this report is to seek endorsement to proceed to public exhibition so that further consultation can occur to inform the Draft Master Plan.

ATTACHMENTS

1. Draft Bowral Town Centre Master Plan [5.2.1 - 84 pages]
2. Supporting Evidence - Draft Bowral Town Centre Master Plan [5.2.2 - 86 pages]

6 DEVELOPMENT APPLICATIONS

6.1 Development Application 23/1006 - Development Application for a Single Storey Dwelling House at Lot 4 DP1284583, No 588A Moss Vale Road Burradoo

Report Author:	Consultant Planner
Authoriser:	Director Communities and Place

PURPOSE

The purpose of this report is to consider Development Application (DA) No 23/1006 for the Panel's consideration and recommends determination by REFUSAL of consent for the reasons specified the recommendation.

Consultants	Applicant: Clarendon Homes Pty Ltd; Planning Consultant: Scott Lee, Lee Environmental Planning
Notification Period	31 March – 14 April 2023
Number of Submissions	Nil
Zoning	C3 Environmental Management under Wingecarribee LEP 2010
Political Donations	None disclosed
Reason for Referral to Panel	The nature of proposed development.

OFFICER'S RECOMMENDATION

THAT the Local Planning Panel determines DA23/1006 for a single storey dwelling house at Lot 4 DP1284583 by REFUSAL subject to the reasons specified in the recommendation to this report.

EXECUTIVE SUMMARY

1. Executive summary

Development Application (DA) 23/1006 seeks consent to erect a single storey dwelling house.

The subject site is located within the C3 Environmental Management zoning under Wingecarribee LEP 2010, and is subject to the provisions of the Rural Lands DCP. Specifically, the land is subject to the Burradoo Landscape Conservation Area provisions in Part A8.7 of this DCP.

The subject site was created as part of a 7-lot subdivision for which development consent was granted by Council on 15 February 2019. That consent was granted after considerable assessment and deliberation regarding the rural landscape and scenic qualities of this location; and the potential for future development resulting from the subdivision to adversely impact on those qualities.

Conditions of consent required a building envelope to be established on each of the approved lots (via a restriction as to user on each lot title). These building envelopes (for each lot) have been carefully considered in terms of protecting the rural landscape and scenic qualities for this location. Generally, they are rectangular in shape, parallel to the side boundaries, and are "staggered" to preserve views through the future dwellings/related buildings.

The key issue of this DA is that the dwelling house is proposed to be partly outside the building envelope established for this site, and that the dwelling house is also to be aligned generally at right-angles to the side boundaries (instead of parallel).

Consequently, the front elevation of the dwelling (to Moss Vale Road) will present a broad/wide built form, which would have an adverse impact on the landscape and scenic qualities of this location, and will also affect view corridors. The development also proposes a formal landscaping scheme with a large expanse of hedges, which will add to these impacts.

The proposal is inconsistent with the controls for the Burradoo Landscape Conservation Area provisions in Part A8.7 of the Rural Lands DCP.

The DA has been referred to various departments within and external to Council, and has been notified to neighbours (no submissions were received).

The proposal is not supported by Council's Heritage Advisor for reasons (in summary) including adverse impacts on the controls for the Burradoo Landscape Conservation Area, inconsistency with the building envelope established for the site, and the proposed landscaping scheme.

The applicant has been advised of Council's concerns (by letter dated 28 July 2023). Subsequently, a meeting was held between Council's Acting Manager Development Assessment & Regulation, and Co-ordinator Planning Assessment (16 August 2023). It was also discussed that the proposal would be referred to the Local Planning Panel (LPP) for determination.

In response, the applicant has submitted further information to support their current design as submitted, but not the substantial amendments that would satisfy the concerns raised with the current design.

The DA has been assessed under the heads of consideration listed in Section 4.15(1) of the Environmental Planning & Assessment Act 1979 and is unsatisfactory due to impacts on the Burradoo Landscape Conservation Area. Refusal is recommended for the reasons specified in the Recommendation (at the end of this report).

2. Site Description and Locality

The site has a legal description of Lot 4 DP 1284583, known as 588A Moss Vale Road Burradoo NSW 2576. The site is a generally rectangular shaped lot with an area of approximately 4.008Ha. The site is vacant and was recently approved as part of a seven (7) lot subdivision. It has a general southeast to northwest orientation and slopes from the front to the rear. The site is accessible via a side road created as part of the subdivision off Moss Vale Road and is located 795m southwest of the intersection of Eridge Park Road and Moss Vale Road.

Surrounding development is predominantly rural in nature where the land is mostly used for extensive agriculture with a scattering of dwelling houses and related buildings.

Opposite the site, across Moss Vale Road to the west, is the Briars Country Lodge (a tourist facility consisting of accommodation, events facilities and restaurant).

A visual presentation of the site is provided in the locality map (**Figure 1**), air photo (**Figure 2**) and street view photo (**Figure 3**).



Figure 1: Locality Map – No 588A Moss Vale Road Burradoo (site shown by blue tag)



Figure 2: Air Photo – No 588A Moss Vale Road Burradoo



Figure 3: Subject site viewed from Moss Vale Road (south-east orientation)

3. Description of Proposed Development

DA23/1006 seeks consent for the construction of a single-storey dwelling house (with habitable attic level) at the subject site. The dwelling generally consists of 4 bedrooms, open plan kitchen/living/dining area, home theatre, family room, home office and children's retreat and a double garage. The attic level consists of a loft with ensuite and walk-in robe.

A key issue relating to this site/proposed development is that a Building Envelope was established as part of the approval of the subdivision which created the site (DA17/0751).

An extract of the Site Plan (showing the position of the dwelling relative to the established building envelope) and the Front Elevation (facing Moss Vale Rd) are provided in **Figure 4 and 5** below.

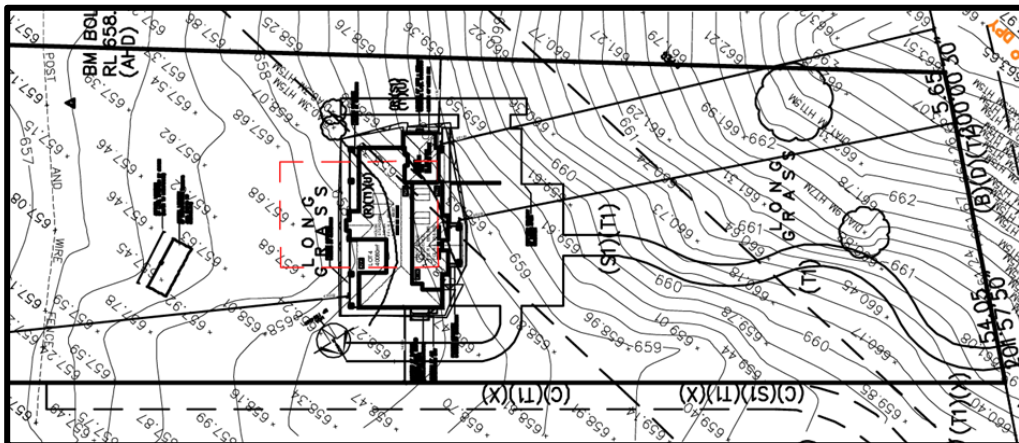


Figure 4: Part Site Plan showing approved building envelope in red

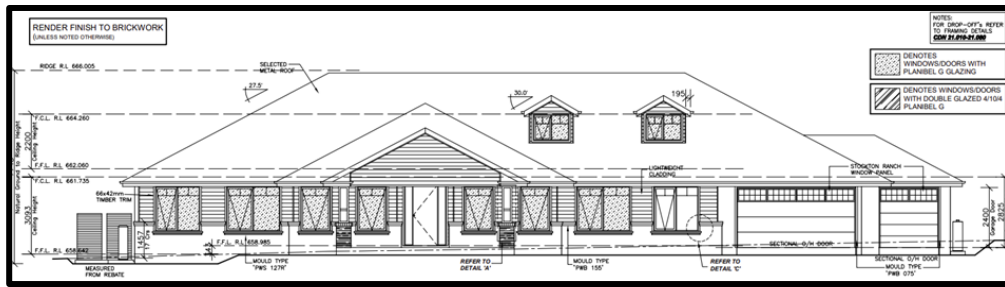


Figure 5: Front (west) elevation facing Moss Vale Road

4. Background

There are several points of relevance to the subject site, in particular how and when the site was created and the planning controls applicable at the time (which remain relevant).

DA approval for subdivision – DA17/0751

17/0751 was approved at the Council meeting, dated 15 February 2019. The consent approved a 7-lot subdivision of the original land, including the subject site (Lot 4 in that subdivision). One of the three key matters of discussion was the visual impact of the proposal on *Rural Views and Burradoo Landscape Conservation Area*. The following is an extract of the key discussion points from the Minutes of the Ordinary Meeting of Council dated 13 February 2019:

The site is an important visual component of the Burradoo Landscape Conservation Area “green space” between Bowral / Burradoo and Moss Vale. The site has an open rural setting, and reinforces the rural separation between the urban areas of Burradoo and Moss Vale. Clear vistas across the site from Moss Vale Rd to the Wingecarribee River and beyond adds to the aesthetic value of the site to the Burradoo Landscape Conservation Area. The public can also view the site from its eastern boundary / Wingecarribee River boundary, as the land to the east of the site is Wingecarribee Council owned public reserve area zoned E2 Environmental Conservation under WLEP 2010.

While the proposed 600 square metre building envelopes to accommodate future dwellings and outbuildings are located in the western portion of the property, outside of the 1:100 year flood affected area, these 600 square metre building envelopes are staggered and separated within the western portion of the site, and intentionally located so as to retain the three main vistas through the site from Moss Vale Road down to the Wingecarribee River. The separation of the 600 square metre building envelopes on the proposed 4 hectare lots, ranging between 25 metres and 100 metres separation, combined with their siting so as to retain the three main vistas through the site from Moss Vale Road down to the Wingecarribee River, and setbacks to Moss Vale Road of between 40 – 100 metres, is considered to respect the Burradoo Landscape Conservation Area. Furthermore, the proposed building envelopes are generally set 3 – 4 metres downslope from the corresponding Moss Vale Road road level, which also assists in minimising visual impact of future buildings.

The Rural Lands Development Control Plan notes that the open rural character of the Burradoo Landscape Conservation Area has been compromised in some areas by large screen and windbreak planting. To protect the three main view corridors through the site, a restriction to prevent no screen, hedgerow or windbreak plantings within the view corridors is considered appropriate (condition 31). The importance of restricting future dwellings and outbuildings to the 600 square metre building envelopes only, so that a wall of buildings is not created, and to ensure the scattered building location characteristic of the Burradoo Landscape Conservation Area is retained, is best addressed by a restriction (condition 31 of DA17/0751).

To minimise visual impact of dwelling houses, a restriction limiting dwellings to single storey construction, with a second level contained within a maximum 35 degree roof pitch, is considered

appropriate (condition 31). Where a proposed dwelling steps down the slope, split level dwelling designs can be considered. However the split level dwelling must be designed to ensure that the height of the dwelling when measured at any one point does not exceed single storey (with a second level contained within a maximum 35 degree roof pitch) – condition 31.

Roof pitches of dwellings shall also be a minimum 27.5 degree roof pitch, respecting the site's proximity to Briars Inn heritage property (condition 31).

The minimum lot frontage widths of 200 metres previously required by Clause 12 (2) (b) of the Wingecarribee Local Environmental Plan 1989 is not included within WLEP 2010 or the Rural Lands Development Control Plan. While the visual impact of lot widths of between 40 metres to 90 metres is reduced by way of separated and staggered building envelopes, uniform post and wire / post and rail rural front fencing along the 354 metre frontage to Moss Vale Road is required by condition of consent (condition 29) with the benefit of presenting a large lot appearance to Moss Vale Road. Five 40 metre lengths of boundary plantings, interspersed with five 40 metre breaks in boundary plantings, is proposed to the western Moss Vale Road boundary. This provides a balance between softening the appearance of the proposed subdivision, while also retaining the three view corridors through the site from Moss Vale Road to the Wingecarribee River. Approximately 2 – 3 proposed boundary plantings to the immediate north and south of the proposed driveway access should be deleted to ensure one of the three view corridors through the site from Moss Vale Road to the Wingecarribee River remains clear. This is addressed by condition of consent (conditions 13 and 32).

A restriction requiring all boundary fencing to be constructed using post and wire / post and rail type fencing (not paling fencing or metal panel colorbond style fencing) is considered appropriate to ensure the rural character of the locality is respected (condition 31).

With the above restrictions and conditions, the proposed 7 lot subdivision is considered compatible with the objectives of the E3 Environmental Management zone under WLEP 2010, satisfies the objectives of the Burradoo Landscape Conservation Area as stated within the Rural Lands DCP, particularly that the current proposal (unlike previously refused and withdrawn subdivision proposals) now ensures that principal rural views and vistas across the site are maintained. The subdivision proposal now respects the natural form of the land, and proposed locations of building envelopes (and therefore the location of future dwellings and associated outbuildings) are separated and sited appropriately to minimise visual impacts and retain principal rural views and vistas through the site.

Key matters relevant to the current development application:

- **Context** - The site is an important visual component of the BLCA which has an open rural setting and reinforces the rural separation between the urban areas of Burradoo and Moss Vale. There are clear vistas across the site from Moss Vale Road to the Wingecarribee River and beyond.
- **Building Envelope** - The 600sqm building envelopes were designed to accommodate future dwellings and outbuildings.

The building envelopes are intentionally staggered and separated to retain the three main vistas through the site from Moss Vale Road down to the Wingecarribee River.

The building envelopes are intentionally located outside of the 1:100 year flood affected area, due to the site being flood-prone.

The building envelopes are generally set 3 – 4 metres downslope from the corresponding Moss Vale Road level, which also assists in minimising the visual impact of future buildings.

All future dwellings and outbuildings are to be restricted to the 600 square metre building envelopes only, to minimise the visual impact of the buildings within the landscape, and to ensure the scattered building location characteristic of the BLCA is retained.

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- **Open Rural Character** - To protect the three main view corridors through the site, a restriction to prevent no screen, hedgerow or windbreak plantings within the view corridors will be implemented.

Section 88B Instrument – Subject Site

The site contains several terms of restriction prescribed under the Section 88B Instrument for the site, including prescribed building envelopes, building design/specifications, flood mitigation measures and wastewater restrictions. Five (5) easements/restrictions are applied to the site, as follows:

Easements:

- S1 - Restriction of Use of Land (Sightlines) (Blue)
- T1, T2, T3 & T4 – Due Diligence Cleared (Aboriginal Cultural Heritage)
- R – Restriction of Use (Building Envelope) (Green)
- U – Restriction of Use (Building Envelope) (Green)

Refer to **Figure 6** below for the location of the easements.

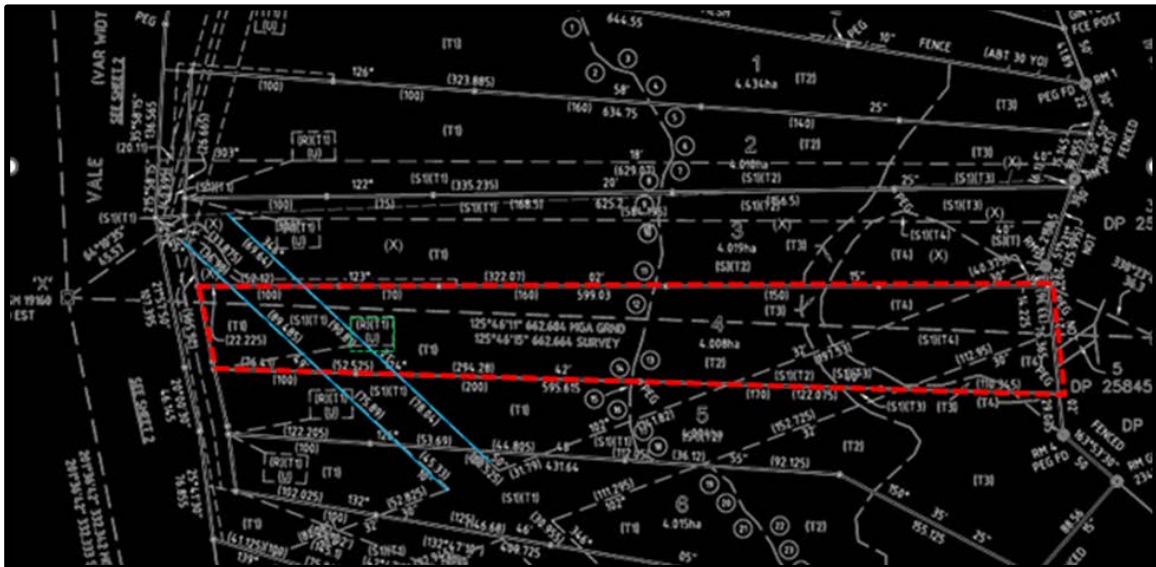


Figure 6: Subject site boundaries (red), Relevant Sightline Easement [S1] (blue) and approved building envelope (green).

5. Notification

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance with Council's Community Participation Plan for a period from 31 March to 14 April 2023.

No submissions were received.

6. PLANNING ASSESSMENT

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

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

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

State Environmental Planning Policy (Resilience and Hazards) 2021

The aim of SEPP (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.

Chapter 4 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 due to the recent subdivision of the land under 17/0751. 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 4 – Koala Habitat Protection 2021

Wingecarribee Shire Council is identified in Schedule 2 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 (Biodiversity and Conservation SEPP 2021) as a Local Government Area which is subject to the provisions of Chapter 4 Koala habitat protection 2021 of the Biodiversity and Conservation SEPP 2021.

This considered, to date Wingecarribee Shire Council does not have a Koala Plan of Management that has been approved in accordance with Part 4.3 of the Biodiversity and Conservation SEPP 2021, and therefore this development application must be assessed in accordance with Section 4.9(1) of the Biodiversity and Conservation SEPP 2021.

Section 4.9 - Development assessment process — no approved koala plan of management for land.

4.9(1) - This section applies to land to which this Chapter applies if the land —

- a. has an area of at least 1 hectare (10,000sqm) (including adjoining land within the same ownership), and*
- b. does not have an approved koala plan of management applying to the land.*

Considering the subject site has an area of 40,056sqm (4.056Ha) and does not have an approved koala plan of management applying to the land, the proposal must be assessed in accordance with Clause 4.9(1) of the Biodiversity and Conservation SEPP 2021.

In accordance with subclause (2) Council has undertaken an assessment of the proposal, which has identified that the proposal seeks to remove several (4) trees from the site. No supporting documentation, such as an Arboricultural Impact Assessment (AIA) has been provided by the applicant to justify the removal of the native vegetation. The SEE prepared by Lee Environmental Planning specifically stating that 'the site is vacant with no tree cover'. Council notes that the removal of said trees has not been reflected on the working drawings.

Considering the site is located within the BLCA the retention of trees is important to ensure the character of the conservation area, as well as maintain the current or future koala habit within the region. Due to the insufficient information submitted, Council is unable to assess whether the proposal will not adversely impact the current or future koala habit within the region, and therefore the proposal is unable to comply with the SEPP.

Chapter 6 – Water Catchments

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The site is within the Warragamba Catchment and therefore the Chapter 6 Water Catchments of the Biodiversity and Conservation SEPP 2021 applies. The application is a Module 1 development for the purposes of the Neutral or Beneficial Effect on Water Quality Assessment Guideline and therefore Council has delegated authority to determine water quality.

A Neutral or Beneficial Effect (NorBE) assessment has been undertaken for the development, which concludes that the proposal could achieve a neutral or beneficial effect, and therefore Chapter 6 of the SEPP is satisfied.

If it is decided to approve the development, appropriate sediment and erosion conditions could be imposed to assist the development to achieve neutral or beneficial effects in terms of water quality.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX Certificate been submitted with the development application 1368730S, dated 08 February 2023.

The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated into the proposal. If it is decided to approve the development, conditions of consent could be imposed to ensure the measures detailed in the BASIX certificate are implemented.

Bushfire Prone Land - Section 4.14 Consultation and Development Consent – Certain Bush Fire Prone Land (Formerly 79BA)

The site is not mapped as bushfire prone land and therefore is not subject to these provisions.

Wingecarribee Local Environmental Plan 2010

Wingecarribee LEP 2010 contains several provisions applicable to the proposed development. These are discussed in the following section.

Clause	Standard	Assessment	Compliance
2.3 Zone Objectives & Land Use Table	<p>Zone: C3 Environmental Management. The proposed development is permissible with development consent.</p> <p>The C3 zone contains the following objectives:</p> <ul style="list-style-type: none"> To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values. To provide for a limited range of development that does not have an adverse effect on those values. To encourage the retention of the 	<p>The proposal seeks consent to construct a single-storey detached dwelling with an attic level which is permissible in the C3 Environmental Management zone.</p> <p>The proposal is not considered to be consistent with the aims and objectives of this zone, which will be demonstrated and discussed throughout this report.</p> <p>Specifically, concerns are raised that the development, as proposed, will have an adverse impact on the special ecological, scientific, cultural or</p>	No

	<p>remaining evidence of significant historic and social values expressed in existing landscape and land use patterns.</p> <ul style="list-style-type: none"> • To minimise the proliferation of buildings and other structures in these sensitive landscape areas. • To provide for a restricted range of development and land use activities that provide for rural settlement, sustainable agriculture, other types of economic and employment development, recreation and community amenity in identified drinking water catchment areas. • To protect significant agricultural resources (soil, water and vegetation) in recognition of their value to Wingecarribee's longer term economic sustainability. 	<p>aesthetic values of this location.</p>	
<p>5.10 Heritage Conservation</p>	<p>Heritage Assessment requirements, including development located within heritage conservation areas, archaeological sites and aboriginal places of heritage significance.</p>	<p>The subject site is not listed as a Heritage Item, however, it is located in a Landscape Conservation Area (LCA).</p> <p>The application has been reviewed by Council's Heritage Advisor as discussed in the referrals section of this report.</p>	<p>No</p>

		<p>The Heritage Advisor requested additional information and amendments to the scheme to ensure the proposal complied with character of the LCA and the Section 88B instruments for the site. In particular the Heritage Advisor notes:</p> <p><i>The siting and size of the house and garage is unacceptable as the house and garage are located outside the building envelope described in DP1284583.</i></p> <p>The Heritage Advisor also noted that the proposed landscape scheme was not compatible with the s88B certificate and requested an updated landscape plan be provided.</p> <p>As these matters have not been satisfied by the Applicant, Council is unable to support the proposal in its current form.</p>	
<p>5.21 Flood planning</p>	<p>Clause 5.21 prescribes a range of objectives and controls relating to flooding.</p>	<p>The site is identified as being flood-affected – with most of the site (except the western side, where the approved building envelope is located) being flood affected to some extent.</p> <p>The application was referred to Council’s internal Flood and Development Engineers for comment. The F&DE team concluded that the proposal must be located wholly within the building envelope.</p>	<p>Yes</p>

		<p>The proposed dwelling is generally located in the position on the site where the building envelope is located, therefore the proposal is considered acceptable in terms of flooding.</p>	
<p>7.3 Earthworks</p>	<p>Clause 7.3 contains a range of objectives and controls relating to Earthworks</p>	<p>As discussed throughout report, the proposed dwelling is located outside of the building envelope established under the section 88B instrument for the site. As a result, the majority of the proposed earthworks are located outside of the building envelope.</p> <p>Council raises concerns with the proposed earthworks due to the positioning and orientation of the proposed dwelling. As a result, the following has been considered.</p> <p>The proposed development area falls from the west to the southeast by roughly 5.32m, with a fall across the building footprint area of roughly 1.25m. Due to insufficient information Council is unable to determine if the proposed orientation and location of the dwelling will have a greater impact on the existing drainage patterns when compared to a development that is located wholly within the approved building envelope. To date, no additional information has been submitted to demonstrate that the proposed earthworks will not have a greater</p>	<p>No</p>

		<p>impact on the site compared to a wholly compliant development.</p> <p>Moreover, the proposed development directly contradicts the intentions of the Section 88B instrument by creating a wall of development which will adversely affect the existing and future amenity/character of adjoining sites, public domain and BLCA due to the location and orientation of the proposed dwelling on the site. As a result, the proposed earthworks will directly contribute to the amenity impact of the proposal.</p> <p>Furthermore, the proposed earthworks do not align with the approved building envelope and therefore are not adequately setback from the neighbouring boundaries, thus impacting the surrounding landscape conservation area, sightlines and general composition of the subdivision.</p> <p>Considering the above matters, the proposed works are not assessed as acceptable, and cannot be supported.</p>	
<p>7.4 Natural resources sensitivity— biodiversity</p>	<p>Development consent must not be granted unless Council is satisfied that -</p> <p>a. <i>the development is designed, sited and managed to avoid any potential</i></p>	<p>The proposal is not located on land identified as “Regional Wildlife Habitat Corridor” on the Natural Resources Sensitivity Map. As a result, this provision is not relevant to the proposal.</p>	<p>Yes</p>

	<p><i>adverse environmental impact, or</i></p> <p><i>b. if that impact cannot be avoided—the development is designed, sited and will be managed to minimise that impact, or</i></p> <p><i>c. if that impact cannot be minimised—the development will be managed to mitigate that impact.</i></p>		
<p>7.5 Natural resources sensitivity—water</p>	<p>Development consent must not be granted unless the consent authority is satisfied that -</p> <p><i>a. the development is designed, sited and managed to avoid any potential adverse environmental impact, or</i></p> <p><i>b. if that impact cannot be avoided—the development is designed, sited and will be managed to minimise that impact, or</i></p> <p><i>c. if that impact cannot be minimised—the development will be managed to</i></p>	<p>The proposal is located roughly 500m from Category 1 riparian land, however, the majority of the site is identified as flood-prone land.</p> <p>As discussed above, the proposed development is located outside of the approved building envelope enforced under restrictions ten (10) of the Section 88B instrument. With this considered Council is unable to support the proposal due to the development being designed, sited and managed in a manner that does not avoid any potential adverse environmental impact.</p> <p>As a result, the proposal cannot be supported.</p>	<p>No</p>

	<i>mitigate that impact.</i>		
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Consideration of Section 88B Instrument applying to the subject site

Section 88B of the Conveyancing Act 1919 is a legal mechanism used to impose easements, restrictions, and positive covenants on land parcels to manage and control land use and development in alignment with community needs, environmental considerations, and local planning strategies, ensuring compliant and harmonious developments within the region.

The Section 88B Instrument for the subject site was put into effect pursuant to Condition 31 of the Subdivision Development Application (17/0751), as detailed in the background to this report.

The proposal seeks to vary restrictions three (3), four (4) and ten (10) of the Section 88B instrument, which relates to the approved building envelope (R)(U) and sightline easement (S1) imposed under the subdivision (DP 1284583) as listed below.

- Restrictions Three (3) - Building envelope (R)
- Restrictions Four (4) – Sightline easement (S1)
- Restrictions Ten (10) - Building envelope (U)

As detailed in the Proposal section of this report, the applicant seeks to erect a dwelling house with significant landscaping across the site. The following discussions consider the proposal in relation to the Section 88B Instrument.

Building Envelope (R)(U):

As discussed earlier in the report, the purpose behind imposing the specific size, location and orientation of the building envelopes on all seven (7) lots was to safeguard the view corridor and rural character associated with the BLCA.

The proposal does not respect the approved building envelope, orientating the long side of the dwelling to be parallel to Moss Vale Road in lieu of perpendicular as intended under DP 1284583 and the associated Section 88B instrument. This results in the dwelling exceeding the building envelope to the north, south and west, as seen in **Figure 7**.

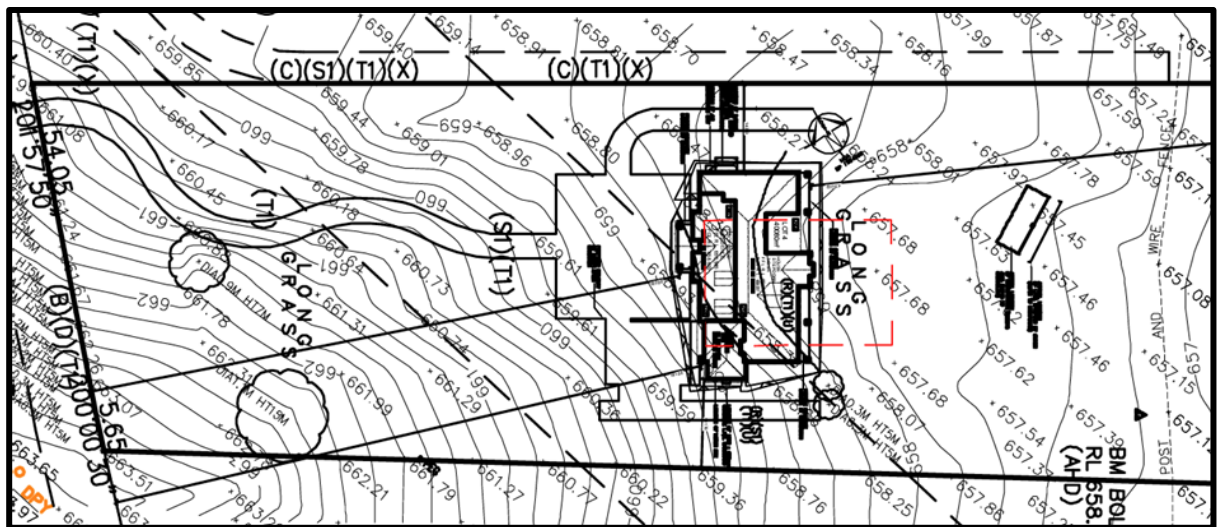


Figure 7: Proposed dwelling (bold black) exceeding the approved building envelope (red).

The proposed location and orientation for the development directly contradict the intentions of the building envelope, creating a building footprint that is more prominent on the site, greatly impacting the character of BLCA and surrounding vistas.

Sightline Easement (S1)

The sightline (S1) easement implemented under Restriction 4 of the Section 88B instrument was enacted to protect the three (3) main view corridors across the great subdivision. Restriction 4 of the Section 88B instrument establishes that no screen, hedgerow or windbreak planting is permitted within the S1 easements, with the intention of maintaining uninhibited views within the easement areas to retain the rural character of the BLCA.

The subject site (Lot 4) is burdened by the S1 easement (blue), which diagonally intersects the site between the western (front) boundary and the rear of the approved building envelope, as seen in **Figure 8**.



Figure 8: Subject site boundaries (red), Sightline Easement [S1] (blue) and Approved building envelope (green)

Council raises concerns with the proposed landscape plan, which appears to incorporate hedging and landscaping within the S1 easement, directly contradicting Restriction 4 of the Section 88B instrument, resulting in the impediment of views across the site which cannot be supported by Council.

Building Envelope Encroachment into the S1 Easement:

As seen in **Figure 8 and 9**, the western portion of the approved building envelope encroaches into the sightline (S1) easement. Council is of the opinion that the area of the approved building envelope that is located within the S1 easement should not contain any landscaping and/or structures that would contradict the intention of the S1 easement and Restriction 4 of the Section 88B instrument - to protect the main view corridor through the subject site. As a result, the portion of the approved building envelope that encroaches into the S1 easement should remain undeveloped to ensure the sight lines are not impeded in any way.



Figure 9: Subject site boundaries (red), Sightline Easement [S1] (blue), Approved building envelope (green) and Area of encroachment (orange).

Acceptable Development Area:

Council acknowledges that the exclusion of the encroached area reduces the potential development area within the building envelope. Council also wishes to emphasise that the approved 600sqm building envelope, merely establishes the location, orientation and the maximum development area where a dwelling and outbuilding can be constructed on the site. In no way does the building envelope guarantee a dwelling footprint of 600sqm, noting that any dwelling within the building envelope still must comply with any other constraints present on the site. As a result, the acceptable development area within the approved Building Envelope must exclude the portion of the building envelope that encroaches into the S1 easement, to ensure the sight lines protected under the S1 easement and Restriction 4 of the Section 88B instrument are not impeded in any way.

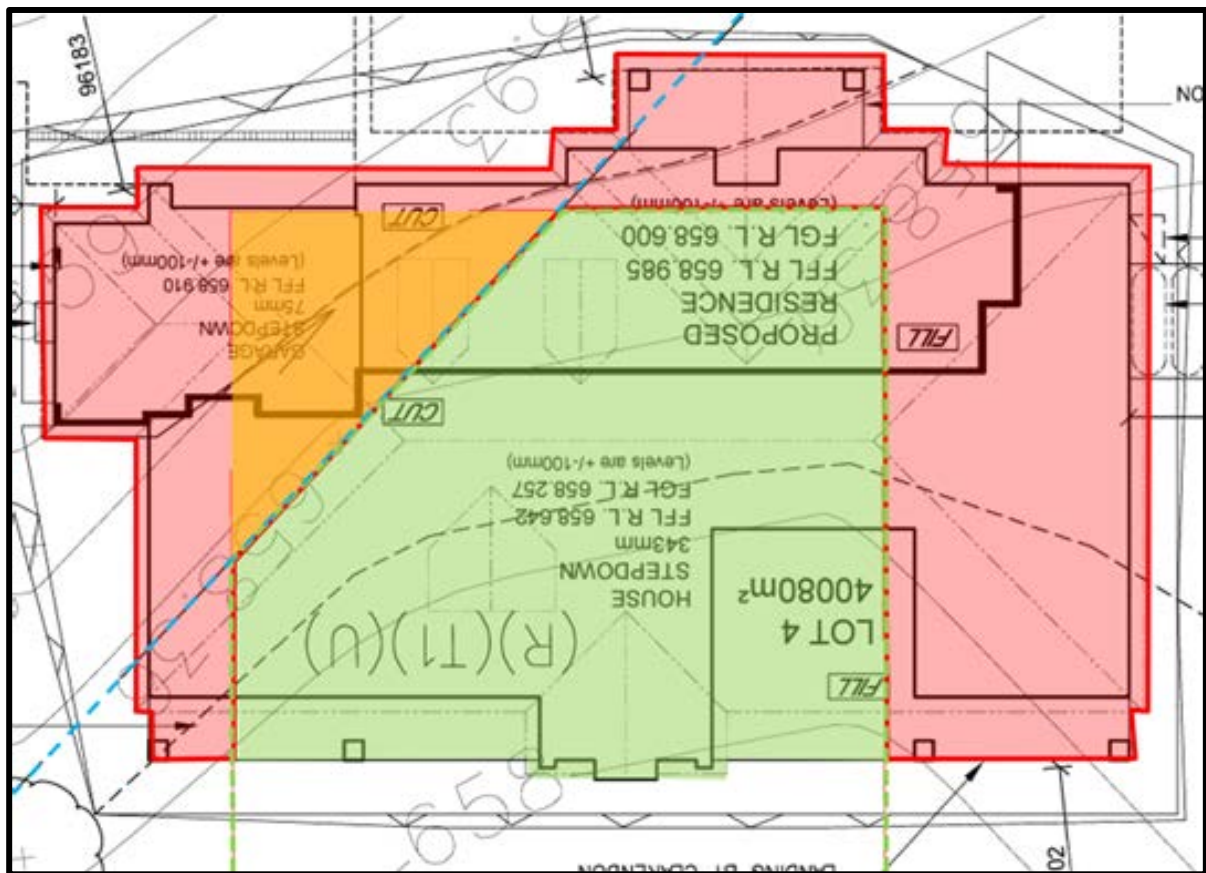


Figure 10: Sightline easement [S1] (blue), the acceptable development area of the approved building envelope (green), the portion of the approved building envelope that encroaches into the sightline easement (orange), the portion of the proposed dwelling which located outside of the acceptable development area (red).

The proposed scheme greatly exceeds the approved building envelope and does not respect the established sight line, Section 88B instrument and/or the BLCA. Less than half of the proposed dwelling is located within the acceptable development area enforced by restrictions three (3), four (4) and ten (10) of the Section 88B instrument.

In summary, the proposed built form and location of the dwelling directly contradicts the original intentions behind the approved building envelope's location, orientation, and size. The proposed composition leads to a greater encroachment into the sightline easement compared to a development that wholly respects the approved building envelope and acceptable development area. The proposed landscaping incorporates hedging and other forms of vegetation planting that will adversely impact the protected sightlines. Considering these matters, the proposal does not respect restrictions three (3), four (4) and ten (10) of the Section 88B instrument, and therefore the proposal is considered unacceptable in its current form and is recommended for refusal.

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

Rural Lands Development Control Plan

The subject site / proposed development is subject to the provisions of the Rural Lands DCP. An assessment of the proposed development against the relevant provisions of the Rural Lands DCP is provided in the table below.

Section 2 – General Objectives

Section	Control	Assessment	Compliance
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<p>A2.1 Objectives of this Plan</p>	<p>The following objectives of the DCP must be considered.</p> <ul style="list-style-type: none"> a. To enable sustainable primary industry and other compatible land uses. b. To maintain the rural and scenic character of the land. c. To ensure that development does not unreasonably increase the demand for public services or public facilities. d. To minimise conflict between land uses within the zone and land uses within adjoining zones 	<p>The proposed development has been considered against the objectives of the RLDCP.</p> <p>Considering the matters raised above, the proposed development does not respect the rural and scenic character of the site and surroundings. As a result, the proposal does not achieve the objectives of the RLDCP and cannot be supported.</p>	<p>No</p>
<p>A2.2 Natural Bushland Ecological Settings</p>	<p>Protect and preserve land within the natural bushland ecological setting and provide contribution to the achievement of ecological sustainability.</p>	<p>As discussed above, due to insufficient information is unclear if the proposed tree removal will have an adverse effect on the ecological setting. As a result, the proposal is unable to be supported.</p>	<p>No</p>

Section 3 – Ecologically Sustainable

Section	Control	Assessment	Compliance
<p>A3.2 Development in Sydney’s Drinking Water Catchments</p>	<p>The proposed development is to have a neutral or beneficial effect on water quality, as per the objective in SEPP (Biodiversity and Conservation) 2021.</p>	<p>The application is a ‘Module 1’ development for the purposes of the Neutral or Beneficial Effect on Water Quality Assessment Guideline and shall</p>	<p>Yes</p>

	<p>All development shall address water quality to achieve one of the following alternative outcomes as appropriate to the development:</p> <ol style="list-style-type: none"> a. The development shall have no identifiable potential impact on water quality, b. If (i) above is not viable, any identified impact shall be contained on the site to prevent it from reaching any watercourse, water body or drainage depression. c. If (i) or (ii) above are not viable, any identified impact beyond the site shall be managed by transfer to an appropriate facility for treatment and disposal to the required standard approved by Council. 	<p>have no identifiable potential impact on water quality.</p> <p>Council's On-Site Sewage Management System (OSSM) Officer supports the proposed OSSM and undertaken a NorBE assessment. A 'Satisfied' NorBE assessment result has been achieved for the proposed system.</p> <p>As a result, the proposal is assessed as acceptable.</p>	
<p>A3.3 Protection of Watercourses and Riparian Lands</p>	<p>Riparian Land means land adjoining a natural waterbody that is:</p> <ul style="list-style-type: none"> • within 50m from the top of bank of Category 1 streams • within 30m from the top of bank of Category 2 streams 	<p>The proposal is located roughly 500m from Category 1 riparian land and is unlikely to impact the riparian land.</p>	<p>Yes</p>

	<ul style="list-style-type: none"> within 10m from the top of bank of Category 3 streams 		
A3.5 Site Analysis	<p>Every land use application which involves significant alteration to the site whether through development of currently vacant land, extensive renovation of an existing building, or demolition, must be accompanied by an appropriate Site Analysis Report.</p>	<p>The documentation submitted does not accurately reflect the site context and the true intentions of the proposal. A Site Analysis Report should include prevailing climate characteristics, significant views and vistas and the location of nature on and adjacent to the site. As such, site analysis has not been adequately undertaken for the proposed development. Considering this the proposal is unable to satisfy this provision.</p>	No
A3.7 Siting of Rural Buildings	<p>Council no longer permits development on ridge lines in rural areas.</p> <p>The maximum height of any non-residential building shall be determined by Council staff with reference to the objectives of the zone, the location of the proposed development and any relevant environmental and amenity considerations.</p> <p>Generally maximum building footprint 600sqm.</p> <p>The total area of all land occupied by the ground level building</p>	<p>As discussed earlier in the report the proposal does not comply with the approved building envelope imposed under the Section 88B Instrument for the site.</p> <p>The proposed development is setback 96m from Moss Vale Road, which is consistent with the DCP requirement of 20m. However, the proposal is not consistent with the intention of the Section 88B restrictions, which requires the dwelling to be set back further from the public domain, to meet the</p>	No

	<p>footprint of all rural buildings and other structures shall not generally exceed a total ground level footprint of 1000sqm.</p> <p>All rural buildings are separated from each other by a distance of not more than 30m, not less than 5m.</p> <p>No rural building or structure is to be located closer than 20 metres from any public road.</p> <p>Rural buildings and structures shall be constructed from non-reflective materials.</p> <p>Have regard to applicable Landscape Conservation controls.</p>	<p>building envelope restriction, to minimise the impact of the development on the BLCA and surrounding vistas.</p> <p>The proposed development does not respect the sightlines that are sought to be protected across the greater subdivision and BLCA.</p> <p>The development is unsympathetic to the environment and amenity objectives of the zone.</p> <p>Considering the above, the proposed location and orientation of the development is not considered acceptable.</p> <p>Notwithstanding the above, the total building footprint of the proposed dwelling of 574.98sqm complies with the control.</p> <p>Furthermore, the proposal is single-storey with a ground floor and attic level. The dwelling has a maximum ridge height of 7.745m, which is generally acceptable to ensure compliance with the roof pitch restrictions set out in the Section 88B Instrument. Considering this the overall building height remains consistent with the desired character for the area and satisfies this element of the control.</p>	
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		<p>With consideration of the matters raised above, the proposal generally meets the numerical requirement of Section A3.7, however, when considered in the context of the rural landscape and BLCA the proposed development directly impacts the highly valued character and vistas associated with the site and surrounds and not considered acceptable.</p> <p>Due to the breaches of the building envelope and encroachment into the sightline easement the proposal cannot be supported.</p>	
A3.6 Cut & Fill	Cut & fill is consistent with LEP & stepping of development to accommodate contours of site.	Refer to section 7.3 of the LEP assessment table above.	No

Section 4 – Vegetation Management

Section	Control	Assessment	Compliance
A4.6 Earthworks	<p>a. The origin and composition of any fill brought into the rural areas must be documented.</p> <p>b. No contaminated fill, including any building waste fill of unknown origin, must be brought into the Rural Areas.</p> <p>c. No fill containing materials that may cause</p>	As discussed in terms of Wingecarribee LEP 2010 – the proposal is unacceptable in terms of earthworks	No

	<p>harm to a site or persons using a site may be brought into the rural areas.</p> <p>d. Any excavation works must take into consideration the following:</p> <p>i. possible wildlife habitat,</p> <p>ii. The need and purpose of the excavation</p> <p>iii. The scenic impact (both on and off site)</p> <p>iv. Erosion mitigation measures.</p>		
<p>A4.7 Protection of Trees, Bushland and Vegetation during Construction and Development</p>	<p>All works and services associated with construction of rural development must be sited to ensure they will have no negative impact on trees, vegetation and bush land that is to be retained on site.</p> <p>No clearing of vegetation on land with slopes of 18 degrees or greater.</p>	<p>Council has identified that the proposal likely seeks to remove several (4) trees from the site. No supporting documentation, such as an Arboricultural Impact Assessment (AIA) has been provided by the applicant to justify the removal of the native vegetation. Further, the SEE prepared by Lee Environmental Planning specifically stating that 'the site is vacant with no tree cover'.</p>	<p>No</p>
<p>A4.9 Arborist's Report</p>	<p>An Arborist's Report must be prepared by a suitably qualified professional to identify native vegetation impacted by the proposal, and the measures to mitigate any unnecessary tree impacts.</p>	<p>Council notes that the removal of trees has not been clearly shown on any plans and drawings, with the only reference being discrete makings and</p>	

<p>A4.11 Preservation of Trees and Other Vegetation</p>	<p>Preserve the amenity, biodiversity and ecology of the Rural Lands through the preservation of trees and other vegetation</p>	<p>notation on the landscape plan.</p> <p>Considering the site is located within the BLCA the retention of trees is important to ensure the character of the conservation area.</p> <p>The application was referred to Council's Tree Management Advisor who has identified that an AIA is required to address the proposed tree removal.</p> <p>Due to the insufficient information submitted, it is unclear whether the proposal will adversely impact and/or remove any native trees.</p> <p>As a result, Council is unable to assess whether the proposal will not adversely impact the surrounding native environment and therefore Council is unable to support the proposal.</p>
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Section 5 – Water Management

Section	Control	Assessment	Compliance
<p>A5.2 Development in Sydney's Drinking Water Catchments</p>	<p>The proposed development is to have a neutral or beneficial effect on water quality, as per the objective in SEPP (Biodiversity and Conservation) 2021.</p> <p>All development shall address water quality to achieve one of the following alternative outcomes as</p>	<p>The application is a 'Module 1' development for the purposes of the Neutral or Beneficial Effect on Water Quality Assessment Guideline and shall have no identifiable potential impact on water quality.</p> <p>Council On-Site Sewage Management System (OSSM)</p>	<p>Yes</p>

	<p>appropriate to the development:</p> <ul style="list-style-type: none"> a. The development shall have no identifiable potential impact on water quality, b. If (a) above is not viable, any identified impact shall be contained on the site to prevent it from reaching any watercourse, water body or drainage depression. c. If (a) or (b) above are not viable, any identified impact beyond the site shall be managed by transfer to an appropriate facility for treatment and disposal to the required standard approved by Council. 	<p>Officer supports the proposed OSSM and undertaken a NorBE assessment. A 'Satisfied' NorBE assessment result has been achieved for the proposed system.</p> <p>As a result, the proposal is assessed as acceptable.</p>	
<p>A5.4 On-site Waste Water Disposal (OSWD) systems</p>	<p>On-site Waste Water Disposal Plans and their specified systems on unsewered land must meet or exceed the Neutral or Beneficial Effect (NorBE) test and the water quality objectives contained in the Biodiversity and Conservation SEPP.</p>	<p>The application is a 'Module 1' development for the purposes of the Neutral or Beneficial Effect on Water Quality Assessment Guideline and shall have no identifiable potential impact on water quality.</p> <p>Council On-Site Sewage Management System (OSSM) Officer supports the proposed OSSM and undertaken a NorBE assessment. A 'Satisfied' NorBE</p>	<p>Yes</p>

		<p>assessment result has been achieved for the proposed system.</p> <p>As a result, the proposal is assessed as acceptable.</p>	
A5.5 Stormwater Management Plan	<p>A Stormwater Management Plan report is required for all development that will result in:</p> <ul style="list-style-type: none"> a. An increase in the impervious area of the site, or b. A change in the direction of overland flow. 	<p>A stormwater management plan has been provided for the proposed scheme</p> <p>However, the provided stormwater management plan lacks a comparative analysis to demonstrate that the impact of the proposed development will be equal to or less than that of a development entirely situated within the approved building envelope. As a result, Council is unable to determine if the proposed overland flow would benefit from a wholly compliant development. As a result, Council is unable to assess the true effects of the proposal.</p>	No
A5.7 Protection of Watercourses, Water bodies and Riparian Lands	<p>Category 1 Riparian Land - Bank Stability and Water Quality:</p> <p>50 metres from top of bank</p> <p>Treat stormwater runoff before discharge into riparian zone or the watercourse</p>	<p>The proposal is located roughly 500m from Category 1 riparian land, however, the majority of the site is identified as flood-prone land. and is unlikely to impact the riparian land.</p>	Yes
A5.9 Flood Liable Land	<p>Development on mapped flood affected land referred to Council's Development Engineer for review and recommendations.</p>	<p>The subject site is identified as being flood affected, refer to section 5.21 of the LEP assessment table.</p>	No

Section 6 – Additional Controls

Section	Control	Assessment	Compliance
A6.2 Bushfire Prone Land	A bushfire report must be provided to determine the BAL rating and potential bushfire impact to the site.	The subject site is not identified as bushfire-prone land and therefore is not subject to these provisions.	N/A
A6.3 Contaminated or Potentially Contaminated Land	Contaminated or potentially contaminated land identified, and validation/remediation report submitted and referred to EHO for consideration.	The subject site is not identified as being subject to land contamination.	N/A
A6.7 Sites Requiring Geotechnical Reports	Geotechnical report required for sites identified or potentially subject to geotechnical constraints, including land subject to instability, filling, or with a slope greater than 18 degrees.	There is no evidence of site instability or land movement affecting the proposed development.	Yes

Section 7 – Development Near Rail Corridors & Busy Roads

Section	Control	Assessment	Compliance
A7.1 Development Adjacent to a Rail Corridor	“Development near Rail Corridors and Busy Roads – Interim Guideline” (Development within 70 metres of railway line).	The proposal is located roughly 96m from an RMS road. Due to the separation, the proposal is not required to provide an acoustic report.	N/A

Section 8 – Heritage & Landscape Conservation

Section	Control	Assessment	Compliance
A8 Heritage & Landscape Conservation	Heritage Assessment requirements, including development located within heritage conservation areas, Archaeological sites and Aboriginal places of heritage significance demonstrating compliance with Section 8.	The subject site is not listed as a Heritage Item, however, it is located in the BLCA. The application has been reviewed by Council’s Heritage Advisor as discussed in the referrals section above. The Heritage Advisor requested	No

<p>A8.7 Burradoo Landscape Conservation Area</p>	<p>The specific controls for the Burradoo Landscape Conservation Area are:</p> <ul style="list-style-type: none"> a. A landscape plan is required for all plantings that are expected to reach a mature height of greater than 1000mm. b. Development on Bong Bong Common to be in accordance with the Bong Bong Common Conservation Management Plan. 	<p>additional information and amendments to the scheme to ensure the proposal complied with character of the BLCA and the Section 88B instruments for the site. No additional information has been submitted to address these matters.</p> <p>As such, Council is unable to support the proposal in its current form.</p>
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Section 9 – Construction Standards & Procedures

Section	Control	Assessment	Compliance
<p>A9.3.5 Proximity to easements</p>	<p>A structure is permitted to be constructed up to a registered easement (but not encroaching on the easement unless permitted in the wording of the easement). If a structure is to be located within 200mm of a registered easement, Council will require the submission of a survey report at footing stage and prior to occupation of the building.</p>	<p>As discussed above, the proposed dwelling seeks to exceed the approved building envelope as well as encroach into the registered sightline easement. This considered, the proposal cannot be supported.</p>	<p>No</p>

<p>A9.8 Stormwater Disposal</p>	<p>Connection to inter-allotment drainage line, kerb and guttering, road table drain or council's stormwater mains.</p> <p>Onsite Disposal: <4,000m2 require hydraulic consultant's report for onsite disposal.</p> <p>>4,000m2 onsite trenches permitted.</p>	<p>If consent had been granted, a condition would have been applied to the consent ensuring the proposed stormwater would be directed away from buildings and neighbouring properties.</p>	<p>Yes , subject to conditions (if the DA is to be approved).</p>
<p>A9.12 Waste Management & Disposal</p>	<p>A Waste Management Plan is required for all demolition works and /or construction works (with a value greater than \$50,000).</p>	<p>A Waste Management Plan has been submitted which generally meets the requirements of the provision.</p>	<p>Yes</p>

PART B – Development – Specific Controls

The provisions contained here are intended to provide consistent and reasonable development controls and design guidelines which address key elements of development and ensure that the design of new development responds appropriately to them.

Section	Control	Assessment	Compliance
<p>Section 2 – Residential & Ancillary Development</p>			
<p>B2.1 Siting, Design & Landscaping of Residential Development</p>	<p>Located on the land where visual impacts on views, features such as ridge lines, hill tops, horizons, prominent slopes and topographic features are minimized.</p> <p>No impacts viewing public place or Heritage Conservation areas</p>	<p>As discussed above, the proposal directly impacts views and vistas across the site. As a result, the proposal is not supported.</p>	<p>No</p>
	<p>Low overall visual impact of buildings with respect to siting and visibility assessed from all locations capable of being viewed.</p>	<p>As discussed above, the proposal has a direct visual impact on the site and surrounds due to the siting and highly visible nature of the development from all significant vantage points. As a result, the proposal is not supported.</p>	<p>No</p>

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	Buildings clustered to reduce the space that they occupy and be landscaped to reduce their accumulated impacts.	As discussed above, the proposal directly impacts the BLCA due to the side and location of the dwelling and the proposed landscaping. As a result, the proposal is not supported.	No
	Buildings shall be responsive to the landscape character and scenic features of the locality in which they are situated.	As discussed above, the proposed development does not respond to the existing and desired landscape character of the site and surrounding BLCA. The development will adversely impact the character and scenic value of the site and surroundings. As a result, the proposal is supported.	No
	The use of zincalume is not permitted and galvanised steel may only be used with specific Council consent.	The proposal does not propose Zincalume.	Yes
B2.2 Energy Efficient Building Design	BASIX Certificate to demonstrate sustainable principles provided.	The development was accompanied with a compliant BASIX Certificate. The BASIX commitments are specified on the architectural plans and appropriate conditions will be included on the development consent.	Yes
B2.5 Domestic Water Supply	100,000 litre water tank shall be installed for domestic use only (RFS Supply separate).	The site is connected to Councils water supply and is not required to provide water tanks. As such, the proposal is assessed as acceptable.	N/A
B2.6 Water Supply for Rural Fire Service	At least one 10,000L water tank, designated for the exclusive use for firefighting purposes.		

B2.7 On-Site Effluent Disposal System	S68 Application provided for on-site Effluent Disposal System.	Conditions recommended to be imposed for S68 to be submitted.	Yes
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Section 4.15 (1) (a) (iiia)—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) (b)—The likely impacts of the proposed development, including environmental impacts on both the natural and built environments, and social and economic impacts in the Locality

The likely impacts of the proposed development have been discussed throughout this report. The proposed dwelling would have an adverse impact on the natural or built environment – specifically in relation to the landscape and scenic qualities of this location, and the proposal will also affect view corridors. The development also proposes a formal landscaping scheme with a large expanse of hedges, which will add to these impacts.

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

The subject site is not affected by any natural constraints which would render the site as unsuitable for the proposed development. The site is not affected by bushfire; and although the site is partly affected by flooding, the location of the proposed dwelling is clear of the flood affected portion of the site.

However, the proposed development is not suitable for the subject site having regard to the landscape and scenic qualities of the Burradoo Landscape Conservation Area.

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

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

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

Having regard to the circumstances of the case, approval of the proposed development is not in the public interest. The design as submitted will have an adverse impact on the the landscape and scenic qualities of this location, and the proposal will also affect view corridors. The development also proposes a formal landscaping scheme with a large expanse of hedges, which will add to these impacts.

7. Referral Comments

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

Internal Comments:

On-Site Sewer Management Officer: Review of the plans and documentation under Application Number 23/1006 revealed that the proposed On-Site Sewage Management System is satisfactory. A 'Satisfied' NorBE assessment result has been achieved for the proposed system.

Development & Flood Engineers: Council's Development & Flood Engineers understand that the applicant wishes to modify the building envelope with this DA, which is considered acceptable from an engineering point of view. The following comments are made:

- *The applicant proposing to gain access from a right of carriageway 10m wide which connects to an existing combined entrance to Moss Vale Road– satisfactory.*
- *Moss Vale Road is a State Road managed by TfNSW.*
- *Concept stormwater management plan has been submitted and available from ECM (Document ID 380442).*
- *The development site falls towards the rear (i.e. western property boundary) which falls towards the Wingecarribee River.*
 - *The applicant has proposed an on-site absorption trench as a legal point of discharge for stormwater. As the lot is more than 4000 sqm, Applicant does not need to submit a field permeability assessment from a qualified Geotech engineer to show that absorption is feasible for the site.*
 - *The absorption trench is located at least 5m away from any downstream property – satisfactory.*
- *The concept stormwater drainage plan has provided detention. This is included within the conditions.*
- *Council's Flooding Engineer has raised the following:*
 - *All these newly created lots are partially flood affected including 588A. If a lot is flood affected the responsibility lies with the applicant to address the risk in accordance with the DCP. However, If the building is built in the light blue zone (PMF), flood conditions may not apply.*
 - *There is a S88b condition that nothing can be built outside the building envelope registered on the title.*
 - *If the owner builds within the approved building envelope there should not be any concerns provided that the envelope lies within the light blue zone (PMF). If it goes into the fringe, medium flood precincts (deep blue and yellow in the image), flood related conditions will apply (Document ID 446326).*
- *There is no Council's sewer infrastructure within the area.*
- *Water main service line has already been provided as part of subdivision.*
- *No condition is recommended from sewer and water engineering.*

Further comments were provided by Council's Development Engineer via email. The comments state that they *don't object to rotating the building envelope from a flooding point of view, as the whole area is within low flood risk precinct anyway. There might be other constraints from other departments, but it is acceptable from flooding.*

Heritage: The DA was referred to Council's Heritage Advisor, who has provided the following comments:

The subject site is located within the Burradoo Landscape Conservation Area and within the vicinity of a heritage item – Old South Road (heritage item no. 102).

The Burradoo Landscape Conservation Area is characterized by its open rural character - which has been compromised in some areas by large screen and windbreak planting. Objective A8.7.2(b) of the Rural Lands DCP is to "maintain the open rural setting of the area".

The siting and size of the house and garage is unacceptable as the house and garage are located outside the building envelope described in DP1284583.

The proposed landscaping scheme is not compatible with the open rural character of the existing landscape. It is a formal scheme with a large expanse of hedges. Also, the species of the hedge around the car courtyard (RUG ALM) has not been provided.

A revised landscape scheme is required.

Tree Management: The DA was referred to Council's Tree Management Officer, who has provided the following comments:

There are trees located on the site, however, no documentation has been provided to support the removal of any vegetation from the site. The application should have an Arboricultural Impact Assessment (AIA) as there is a mature Eucalypt and a dead tree on the site that would contain fauna habitat.

External Comments:

None required for this application.

8. Conclusion

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

The proposal is generally unsatisfactory having regard to the location of the site within the Burradoo Landscape Conservation Area, and the building envelope that has been established for the site as part of the previous subdivision approval (DA17/0751 which created the subject site as a separate lot).

The key issue of this DA is that the dwelling house is proposed to be partly outside the building envelope established for this site. Consequently, the front elevation of the dwelling (to Moss Vale Road) will present a broad/wide built form, which would have an adverse impact on the landscape and scenic qualities of this location, and will also affect view corridors. The development also proposes a formal landscaping scheme with a large expanse of hedges, which will add to these impacts.

The proposal is inconsistent with the controls for the Burradoo Landscape Conservation Area provisions in Part A8.7 of the Rural Lands DCP.

The proposal is not supported by Council's Heritage Advisor for reasons (in summary) including adverse impacts on the controls for the Burradoo Landscape Conservation Area, inconsistency with the building envelope established for the site, and the proposed landscaping scheme.

The DA has been assessed under the heads of consideration listed in Section 4.15(1) of the Environmental Planning & Assessment Act 1979 and is unsatisfactory due to impacts on the Burradoo Landscape Conservation Area.

Refusal is recommended for the reasons specified in the Recommendation (below).

9. RECOMMENDATION

The Local Planning Panel determines development application 23/1006 for a Single Storey Dwelling House at Lot 4 DP1284583, No 588A Moss Vale Road Burradoo by **REFUSAL** for the following reasons:

1. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning & Assessment Act 1979, the proposed development is unsatisfactory having regard to the provisions of Wingecarribee LEP 2010. In particular:
 - (a) The proposal is unsatisfactory in terms of Clause 2.3 - the objectives of the C3 Environmental Management zone, as it does not *protect, manage and restore areas with special ecological, scientific or aesthetic values*.
 - (b) The proposal is unsatisfactory when assessed under:
 - Clause 5.10 - Heritage Conservation;
 - Clause 7.3 - Earthworks
 - Clause 7.5 - Natural Resources Sensitivity – Water.

2. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning & Assessment Act 1979, the proposed development is unsatisfactory when assessed under the Rural Lands Development Control Plan applying to the site. In particular:
 - (a) The proposal is unsatisfactory in terms of Part A8.7 - Burradoo Landscape Conservation Area – as the front elevation of the dwelling (to Moss Vale Road) will present a broad/wide built form, which would have an adverse impact on the landscape and scenic qualities of this location, and will also affect view corridors. The development also proposes a formal landscaping scheme with a large expanse of hedges, which will add to these impacts.
 - (b) The proposal is also unsatisfactory in terms of the following Parts of the Rural Lands Development Control Plan:
 - A2.1 - Objectives
 - A2.2 - The Natural Bushland Ecological Setting
 - A2.3 - The Rural Ecological Setting
 - A3.5 - Site Analysis
 - A3.6 - Cut and Fill
 - A3.7 - Siting of Rural Buildings
 - A4.6 - Earth Works
 - A4.7 - Protection of Trees, Bushland & Vegetation during Construction
 - A4.9 - Arborist Report
 - A5.5 - Stormwater Management Plans
 - Section A8 – Heritage Conservation
 - A9.3 - Building near or over Council Mains and Easements
 - Section B2.1 - Residential and Ancillary Development

3. Pursuant to Section 4.15(1)(b) of the Environmental Planning & Assessment Act 1979, the proposed development will have unsatisfactory in terms of likely impacts on the natural and built environment. In particular, the proposal would have an adverse impact on the landscape and scenic qualities of this location, and will also affect view corridors. The development also proposes a formal landscaping scheme with a large expanse of hedges, which will add to these impacts.

4. Pursuant to Section 4.15(1)(c) of the Environmental Planning & Assessment Act 1979, the subject site is not suitable for the proposed development (as presented for assessment in the current development application). In particular, the proposal would have an adverse impact on the landscape and scenic qualities of this location, and will also affect view corridors. The development also proposes a formal landscaping scheme with a large expanse of hedges, which will add to these impacts.

5. Pursuant to Section 4.15(1)(e) of the Environmental Planning & Assessment Act 1979, in the circumstances of the case, approval of the proposed development is not in the public interest.

ATTACHMENTS

1. Architectural Plans - 588 A Moss Vale [**6.1.1** - 13 pages]
 2. SEE - 588 A Moss Vale Rd [**6.1.2** - 30 pages]
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7 MEETING CLOSURE
