

Wingecarribee Local Planning Panel Meeting 25 September 2024 Attachments

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Planning Proposal

to amend Wingecarribee Local Environmental Plan 2010

Purpose of Amendment:

Planning Proposal to amend the Wingecarribee Local Environmental Plan 2010 to insert the SI clause 5.24 for farm stay accommodation and to amend the land use table for the RU4 Primary Production Small Lots zone to permit farm stay accommodation with development consent.

Prepared by Wingecarribee Shire Council in accordance with the Local Environmental Plan Making Guideline (August 2023)

The Planning Proposal has been categorised as *Standard*

Version 4 for Finalisation

September 2024

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Introduction

Part 1 – Objectives & Intended Outcomes of the Planning Proposal

The objective of the Planning Proposal is to enable Council to implement certain amendments to Wingecarribee Local Environmental Plan (WLEP) 2010 with regard to farm stay accommodation through the introduction of clause 5.24 of the Standard Instrument (Local Environmental Plans) and to amend the land use table for the RU4 Primary Production Small Lots zone to permit *farm stay accommodation* with consent. The proposed provisions are:

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.*
- (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.*

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Part 2 - Explanation of the Provisions

- To achieve the intended outcomes of the Planning Proposal the following amendments to the WLEP 2010 instrument will be required:
 - 1) To insert clause 5.24 Farm stay accommodation into WLEP 2010, and
 - 2) To amend the land use table for the Primary Production Small Lots zone to permit farm stay accommodation with consent.
- No map amendments will be required.

Part 3 - Justification of Strategic & Site-specific Merit

Strategic Merit

The Planning Proposal is the result of amendments to the Standard Instrument with regard to agritourism and farm stay accommodation land uses and development standards as set out in the Standard Instrument (Local Environmental Plans) Amendment of 18 August 2023. Council resolved to undertake the introduction of the new clause and the amendments to the RU4 Primary Production Small Lots zone by means of a Planning Proposal because farm stay accommodation development already occurs within the Shire in the RU1 Primary Production, RU2 Rural Landscape and C3 Environmental Management zones and the use of the Planning Proposal pathway to amend WLEP 2010 provides the opportunity for community feedback and suggestions to Council on the proposed changes.

It is also noted that the Planning Proposal is consistent with Council's Rural Tourism Policy, adopted on 13 November 2019 with exhibition of and feedback on the Planning Proposal informing the scheduled review of this Policy.

Site-specific Merit

The Planning Proposal relates to new Shire wide provisions regarding *farm stay accommodation*. No site-specific merit assessment is required at this stage, but would occur at any future Development Application Stage

Section A – Need for the Planning Proposal

1 - Is the Planning Proposal a result of an endorsed LSPS, strategic study or report?

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The Planning Proposal is the result of the Standard Instrument Local Environmental Plan amendments in August 2023 which included clause 5.24 farm stay accommodation into the Standard Instrument. Council is also taking the opportunity to extend the use of farm stay accommodation to the RU4 Primary Production Small Lots zone, subject to development consent.

2 - Is the Planning Proposal the best means of achieving the objectives or intended outcomes or is there a better way?

Council resolved to undertake the introduction of the new clause and the amendments to the RU4 Primary Production Small Lots zone by means of a Planning Proposal because farm stay accommodation development already occurs within the Shire and the use of the Planning Proposal pathway to amend WLEP 2010 provides the opportunity for community feedback and suggestions to Council on the proposed changes.

Section B – Relationship to the Strategic Planning Framework

3 - Will the Planning Proposal give effect to the objectives and actions of the SE & Tablelands Regional Plan (including any draft plans or strategies)?

The inclusion of optional clause 5.24 and inclusion of farm stay accommodation in the RU4 zone will give effect to several aspects of the SE & Tablelands Regional Plan, specifically:

Direction 5 - Promote agricultural innovation, sustainability and value-add opportunities

Direction 8 – protect important agricultural land

Direction 9 – grow tourism in the region

Direction 14 – protect important environmental assets

Direction 23 – protect the region’s heritage

Direction 28 – manage rural lifestyles

Each of these Directions addresses the need for the region to protect and enhance its agricultural, environmental and heritage assets through activities and business which attract tourist and local visitation and thereby seek to value-add to their business. The Planning Proposal provides opportunities to achieve measurable performance against each objective while implementing state led policy and initiatives through a stakeholder-inclusive process.

Council recognises that agribusiness activities enable farmers to diversify their income from farming businesses while maintaining primary production on the land as the principal use which have the potential to support farmers during times of hardship or following natural disaster events and reduce land use conflict by providing clearer rules and better managing environmental and social impacts.

4 - Is the Planning Proposal consistent with Council’s adopted and endorsed Local Strategic Planning Statement and Local Housing Strategy?

The Planning Proposal supports Council’s adopted and endorsed Local Strategic Planning Statement. The LSPS notes that:

Almost 20% of the Shire is covered by rural land. The Wingecarribee community

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values its agricultural lands for their economic and environmental values, recognising that these values benefit both residents and visitors. Due to Wingecarribee's soil and climate advantages the Shire is traditionally associated with a diverse agricultural base, principally dairy and beef cattle and crops such as potatoes. However, traditional farming practices alone rarely provide the economic viability primary producers need. High rural land values present a significant challenge for the agricultural industry in the Shire, creating a financial barrier for new agricultural uses and proving an incentive for existing farming operations to 'cash out' of the farm.

Fortunately, technological advances can offer increased opportunities to support boutique agribusiness initiatives providing greater flexibility to value-add, both at the farm gate and throughout the broader community. The development of a strong cool climate wine industry with associated cellar door premises is an example of improving economic viability through a broader agri-business base. Wingecarribee's proximity to road, rail and air networks provides further opportunity to strengthen and grow existing and potential rural produce markets.

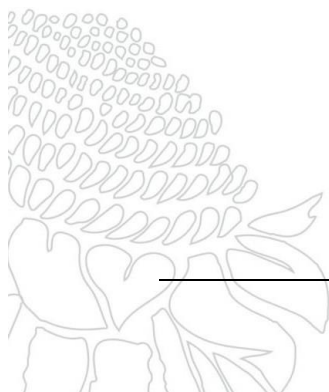
The Planning Proposal provides a solid base for the development of these priorities.

5 - Is the Planning Proposal consistent with any other applicable State and regional studies or strategies?

No other state or regional studies or strategies are relevant to this Planning Proposal.

6 - Is the Planning Proposal consistent with applicable SEPPs?

SEPP (Housing) 2021	<p><i>The intent of this SEPP is to deliver a sufficient supply of safe, diverse and affordable housing</i></p> <p>https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0714</p>
<p>Assessment – Consistent</p> <p><i>The principles of this Policy are:</i></p> <ul style="list-style-type: none"> <i>(a) enabling the development of diverse housing types, including purpose-built rental housing,</i> <i>(b) encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability,</i> <i>(c) ensuring new housing development provides residents with a reasonable level of amenity,</i> <i>(d) promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services,</i> 	



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- (e) *minimising adverse climate and environmental impacts of new housing development,*
- (f) *reinforcing the importance of designing housing in a way that reflects and enhances its locality,*
- (g) *supporting short-term rental accommodation as a home-sharing activity and contributor to local economies, while managing the social and environmental impacts from this use,*
- (h) *mitigating the loss of existing affordable rental housing.*

The Planning Proposal is considered consistent with this SEPP because it does not relate to the principles of the SEPP.

SEPP (Transport and Infrastructure) 2021

The intent of this SEPP is to provide well-designed and located transport and infrastructure integrated with land use

<https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0732>

Assessment – Consistent

The key intentions of this SEPP include:

- (a) *improving regulatory certainty and efficiency through a consistent planning regime for infrastructure and the provision of services, and*
- (b) *providing greater flexibility in the location of infrastructure and service facilities, and*
- (c) *allowing for the efficient development, redevelopment or disposal of surplus government owned land, and*
- (d) *identifying the environmental assessment category into which different types of infrastructure and services development fall (including identifying certain development of minimal environmental impact as exempt development), and*
- (e) *identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and*
- (f) *providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing, and*
- (g) *providing opportunities for infrastructure to demonstrate good design outcomes.*

The Planning Proposal is considered consistent with this SEPP because it does not relate to the principles of the SEPP.

SEPP (Primary Production)

The intent of this SEPP is to support and protect the productivity of important agricultural lands. They enhance rural and regional economies through a sustainable, diverse and dynamic primary production sector that can meet the changing needs of a growing NSW.

<https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0729>

The key aims of this SEPP are:

- (a) *to facilitate the orderly economic use and development of lands for primary production,*
- (b) *to reduce land use conflict and sterilisation of rural land by balancing primary production, residential development and the protection of native vegetation, biodiversity and water resources,*

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- (c) to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations,
- (d) to simplify the regulatory process for smaller-scale low risk artificial waterbodies, and routine maintenance of artificial water supply or drainage, in irrigation areas and districts, and for routine and emergency work in irrigation areas and districts,
- (e) to encourage sustainable agriculture, including sustainable aquaculture,
- (f) to require consideration of the effects of all proposed development in the State on oyster aquaculture,
- (g) to identify aquaculture that is to be treated as designated development using a well-defined and concise development assessment regime based on environment risks associated with site and operational factors.

The Planning Proposal is considered consistent with this SEPP because it will support the SEPP by enhancing rural and regional economies through sustainable land uses which complement and supplement traditional agricultural activities.

SEPP (Biodiversity and Conservation) 2021

The intent of this SEPP is to preserve, conserve and manage NSW's natural environment & heritage

<https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0722>

Assessment – Consistent

The aims of this SEPP are:

- (a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and
- (b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

It is noted that 2.3(1)(b) of the SEPP identifies land within the R3 Medium Density Residential zone as land to which the SEPP applies.

The Planning Proposal is considered consistent with this SEPP because it would support the biodiversity and conservation protection by enabling additional land uses which support rural activities and thereby reduce pressure of land clearing.

SEPP (Resilience and Hazards) 2021

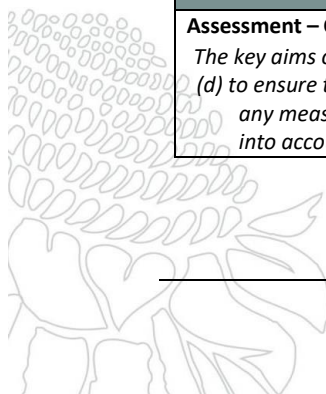
The intent of this SEPP is to manage risks and building resilience in the face of hazards

<https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0730>

Assessment – Consistent

The key aims of that part of the SEPP applicable to the Shire include:

- (d) to ensure that in determining whether a development is a hazardous or offensive industry, any measures proposed to be employed to reduce the impact of the development are taken into account, and



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(e) to ensure that in considering any application to carry out potentially hazardous or offensive development, the consent authority has sufficient information to assess whether the development is hazardous or offensive and to impose conditions to reduce or minimise any adverse impact

The provisions of Chapter 3 (Hazardous and Offensive Development) and Chapter 4 (Remediation of Land) SEPP are the only part of this SEPP applicable to Wingecarribee Shire. It is not considered that the Proposal would compromise the relevant parts of this SEPP.

SEPP (Industry and Employment) 2021 –

The intent of this SEPP is to grow a competitive and resilient economy that is adaptive, innovative and delivers jobs

<https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0723>

Assessment – Consistent

The provisions of Chapter 3 (Advertising & Signage) are the only part of this SEPP applicable to land in Wingecarribee Shire. Signage would be addressed as part of any Development Application and it is not anticipated that the proposal would contravene these provisions of the SEPP.

SEPP (Resources and Energy) 2021

The intent of this SEPP is to promote the sustainable use of NSW's resources and transitioning to renewable energy

<https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0731>

Assessment – Consistent

The provisions of Chapter 2 (Mining, petroleum production & extractive industries) are the only part of this SEPP applicable to land in Wingecarribee Shire. The Planning Proposal is considered consistent with this SEPP because it does not relate to the principles of the SEPP.

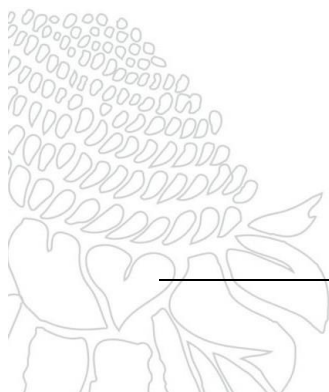
SEPP (Planning Systems) 2021

The intent of this SEPP is to provide a strategic and inclusive planning system for the community & the environment

<https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0724>

Assessment – Consistent

The provisions of this SEPP address State significant development and land owned by an Aboriginal Land Council and are therefore not relevant to this Planning Proposal.



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SEPP (Regional Precincts) 2021	<p><i>The intent of this SEPP is to consider State significant precincts, Activation precincts and other specific precincts including the Southern Highlands Regional Shooting Complex</i></p> <p>https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0727</p>
<p>Assessment – Consistent</p> <p><i>The only provisions of this SEPP which apply to Wingecarribee Shire relate to the Southern Highlands Regional Shooting Complex and is therefore not relevant to this Planning Proposal.</i></p>	

It is noted that State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (the Codes SEPP) does not permit farm stay accommodation as complying development if it is proposed in declared Special Areas (clause 1.19(1)(i)) or within the Sydney Drinking Water Catchment if such development results in an increase the number of bedrooms on an unsewered site (clause 1.19(1)(j)).

The Special Areas occur predominantly in the NE and NW of the Wingecarribee LGA and immediately around the WaterNSW storages. Much of this land is owned and managed by WaterNSW or is in National Parks and Wildlife Estate, however, the Special Area designation also occurs over some privately owned land, mainly in the north-east of the Shire, around Kangaloon/ East Kangaloon, areas east of Renwick, Balaclava and Aylmerton and eastern parts of Yerrinbool. Areas in the north-west occur around the Bullio and Goodmans Ford localities and the northern parts of High Range.

Where the Codes SEPP does not permit farm stay accommodation as complying development, a full DA and development consent would be required.

7 - Is the Planning Proposal consistent with applicable s9.1 Ministerial Directions?

Focus Area 1 Planning Systems	<p><i>The intent of this Focus Area is to support the broader NSW planning framework, including its processes and collaborative approaches to strategic and land use planning and decision making. They seek to achieve long-term, evidence-based, strategically led planning that is inclusive, democratic, responsive to the community and the environment, and ensures decisions are transparent and prompt.</i></p>
1.1 Implementation of Regional Plans	
<p>Assessment – Consistent</p> <p><i>The objective of this Direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.</i></p> <p><i>The Planning Proposal supports the SE & Tablelands Regional Plan by supporting both agriculture and tourism initiatives.</i></p>	
1.2 Development of Aboriginal Land Council land	
<p>Assessment – Consistent</p> <p><i>The objective of this direction is to provide for the consideration of development delivery plans prepared under Chapter 3 of the State Environmental Planning Policy (Planning Systems) 2021 when planning proposals are prepared by a planning proposal authority.</i></p>	

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The Planning Proposal is considered consistent with this Direction because no Aboriginal Land Council land is involved.

1.3 Approval and Referral Requirements

Assessment – Consistent

The objective of this Direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.

The Planning Proposal seeks to provide a clear and consistent approach to the permissibility and development of farm stay accommodation within the Shire. This enhanced strategic framework should also improve the efficiency of the development assessment process.

1.4 Site Specific Provisions

Assessment – Consistent

The objective of this Direction is to discourage unnecessarily restrictive site-specific planning controls.

The Planning Proposal seeks to provide a clear and consistent strategic approach to the permissibility and development of farm stay accommodation within the Shire. This enhanced strategic framework should reduce the need for any further site-specific planning controls.

1.5 – 1.22 – Planning Systems Place Based

Assessment – Consistent

None of these place-based Directions apply to Wingecarribee Shire.

Focus Area 2 Design & Place

The intent of this Focus Area is to establish quality design approaches for new development, public spaces and the environment. They promote the design of places that are healthy, sustainable, prosperous, and supportive of people, the community and Country.

NB: This Focus Area is not included in the current Ministerial Directions.

Focus Area 3 Biodiversity & Conservation

The intent of this Focus Area is to recognise the fundamental importance of protecting, conserving and managing NSW's natural environment and heritage. They help balance the needs of built and natural environments, respecting both the innate and economic value of the state's biodiversity and natural assets.

3.1 Conservation Zones (previously 2.1 Environment Protection Zones)

Assessment – Consistent

The objective of this Direction is to protect and conserve environmentally sensitive areas.

The Planning Proposal seeks to provide a clear and consistent approach to the permissibility and development of farm stay accommodation within the Shire. This enhanced strategic framework should also improve the protection of environmentally sensitive lands.

3.2 Heritage Conservation

Assessment – Consistent

The objective of this Direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.

The Planning Proposal seeks to provide a clear and consistent approach to the permissibility and development of farm stay accommodation within the Shire. This enhanced strategic framework should also improve the protection of high heritage value lands.

3.3 Sydney Drinking Water Catchments

Assessment – Consistent

The objective of this Direction is to provide for healthy catchments and protect water quality in the Sydney Drinking Water Catchment. This Direction requires that a Planning Proposal must be prepared in accordance with the general principle that water quality within the Sydney drinking water catchment must be protected, and in accordance with the following specific principles:

- (a) new development within the Sydney drinking water catchment must have a neutral or beneficial effect on water quality (including groundwater), and*
- (b) future land use in the Sydney drinking water catchment should be matched to land and water capability, and*
- (c) the ecological values of land within a Special Area should be maintained.*

It is noted that the Direction also requires that, when preparing a Planning Proposal, Council must address the following:

- o consult with WaterNSW, describing the means by which the planning proposal gives effect to the water quality protection principles of this direction, and*
- o ensure that the proposal is consistent with Part 6.5 of Chapter 6 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021, and*
- o identify any existing water quality (including groundwater) risks to any waterway occurring on, or adjacent to the site, and*
- o give consideration to the outcomes of the Strategic Land and Water Capability Assessment prepared by WaterNSW, being the series of land use capability maps and GIS data prepared by WaterNSW and provided to councils in June 2009, and include a copy of any information received from WaterNSW as a result of the consultation process in its planning proposal prior to the issuing of a gateway*

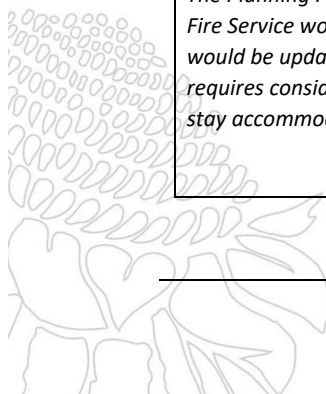
The Planning Proposal is considered consistent with this Direction because, although the Direction is more suited to spot-rezonings, the objective of healthy catchments and protecting water quality remain relevant to this Proposal. Strategic Land and Water Capability Assessments are not relevant here as they are site specific. Similarly, the identification of water quality risks to waterways is more relevant to site specific rezonings.

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3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	
Assessment – Consistent <i>This Direction is not applicable to Wingecarribee Shire.</i>	
3.5 Recreation Vehicle Areas	
Assessment – Consistent <i>The objective of this Direction is to protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.</i>	
<i>The Planning Proposal is considered consistent with this Direction because the provisions of this Direction are not directly applicable to this Planning Proposal.</i>	

Focus Area 4 Resilience & Hazards	<i>The intent of this Focus Area is to improve responses to natural and development-related hazards, and climate change. They support methods to consider and reduce risk. The principles promote healthy, resilient and adaptive communities, urban areas and natural environments.</i>
4.1 Flooding	
Assessment – Consistent <i>The objectives of this Direction are to:</i> <i>(a) ensure that development of flood prone land is consistent with the NSW Government’s Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and</i> <i>(b) ensure that the provisions of an LEP that apply to flood prone land are commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.</i>	
<i>The Planning Proposal is considered consistent with this Direction because the provisions of this Direction are not directly applicable to this Planning Proposal.</i>	
4.2 Coastal Management	
Assessment – Consistent - <i>This Direction is not applicable to Wingecarribee Shire.</i>	
4.3 Planning for Bushfire Protection (previously 4.4)	
Assessment – Consistent <i>The objectives of this Direction are to:</i> <i>(a) protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and</i> <i>(b) encourage sound management of bush fire prone areas.</i>	
<i>The Planning Proposal is considered consistent with this Direction because referral to NSW Rural Fire Service would occur in accordance with any Gateway Determination and this assessment would be updated to reflect the RFS response prior to exhibition. It is noted that clause 5.24 requires consideration of bush fire impacts in considering any development application for farm stay accommodation.</i>	

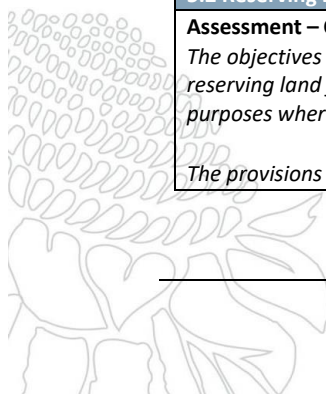


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4.4 Remediation of Contaminated Land	
Assessment – Consistent	
<i>The objective of this Direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.</i>	
<i>The provisions of this Direction are not directly applicable to this Planning Proposal.</i>	
4.5 Acid Sulphate Soils	
Assessment – Consistent	
<i>The objective of this Direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils. There currently no mapped acid sulphate soils in Wingecarribee Shire.</i>	
4.6 Mine Subsidence & Unstable Land	
Assessment – Consistent	
<i>The objective of this Direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.</i>	
<i>The provisions of this Direction are not directly applicable to this Planning Proposal.</i>	

Focus Area 5 Transport & Infrastructure	<i>The intent of this Focus Area is to support innovative, integrated and coordinated transport and infrastructure, that is well-designed, accessible and enduring. They seek to optimise public benefit and value by planning for modern transport and infrastructure in the right location and at the right time.</i>
5.1 Integrating Land Use and Transport	
Assessment – Consistent	
<i>The objective of this Direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:</i>	
<i>(a) improving access to housing, jobs and services by walking, cycling and public transport, and</i>	
<i>(b) increasing the choice of available transport and reducing dependence on cars, and</i>	
<i>(c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and</i>	
<i>(d) supporting the efficient and viable operation of public transport services, and</i>	
<i>(e) providing for the efficient movement of freight.</i>	
<i>The provisions of this Direction are not directly applicable to this Planning Proposal.</i>	
5.2 Reserving Land for Public Purposes	
Assessment – Consistent	
<i>The objectives of this Direction are to (a) facilitate the provision of public services and facilities by reserving land for public purposes, and (b) facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.</i>	
<i>The provisions of this Direction are not directly applicable to this Planning Proposal.</i>	

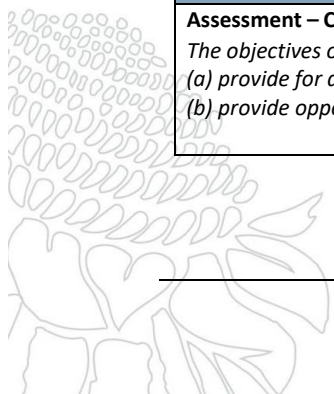


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5.3 Development Near Regulated Airports and Defence Airfields	
Assessment – Consistent	
<p><i>The objectives of this Direction are to:</i></p> <ul style="list-style-type: none"> <i>(a) ensure the effective and safe operation of regulated airports and defence airfields;</i> <i>(b) ensure that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity; and</i> <i>(c) ensure development, if situated on noise sensitive land, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.</i> <p><i>The provisions of this Direction are not directly applicable to this Planning Proposal.</i></p>	
5.4 Shooting Ranges	
Assessment – Consistent	
<p><i>The objectives of this Direction are to:</i></p> <ul style="list-style-type: none"> <i>(a) maintain appropriate levels of public safety and amenity when rezoning land adjacent to an existing shooting range,</i> <i>(b) reduce land use conflict arising between existing shooting ranges and rezoning of adjacent land,</i> <i>(c) identify issues that must be addressed when giving consideration to rezoning land adjacent to an existing shooting range.</i> <p><i>The provisions of this Direction are not directly applicable to this Planning Proposal.</i></p>	

Focus Area 6 Housing	<p><i>The intent of this Focus Area is to foster long-term, strategic-led and evidence-based approaches to guide a strong supply of well-located homes. They support the delivery of safe, diverse, affordable and quality designed housing that meets the needs of Aboriginal and local communities.</i></p>
6.1 Residential Zones	
Assessment – Consistent	
<p><i>The objectives of this Direction are to:</i></p> <ul style="list-style-type: none"> <i>(a) encourage a variety and choice of housing types to provide for existing and future housing needs,</i> <i>(b) make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and</i> <i>(c) minimise the impact of residential development on the environment and resource lands.</i> <p><i>The Planning Proposal is considered consistent with this Direction because it does not apply to residential zoned land.</i></p>	
6.2 Caravan Parks and Manufactured Home Estates	
Assessment – Consistent	
<p><i>The objectives of this Direction are to:</i></p> <ul style="list-style-type: none"> <i>(a) provide for a variety of housing types, and</i> <i>(b) provide opportunities for caravan parks and manufactured home estates.</i> 	



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The Planning Proposal is considered consistent with this Direction because it does not apply to these developments.

Focus Area 7 Resilient Economies	<i>The intent of this Focus Area is to support diverse, inclusive and productive employment opportunities across the state to make NSW more economically competitive. They promote the supply of strategic employment lands, innovative industries and centres as a focus for activity and accessibility.</i>
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7.1 Business and Industrial Zones

Assessment – Consistent

The objectives of this Direction are to:

- (a) encourage employment growth in suitable locations,*
- (b) protect employment land in business and industrial zones, and*
- (c) support the viability of identified centres.*

The Planning Proposal is considered consistent with this Direction because it does not apply to business or industrial zones.

7.2 Reduction in non-hosted short-term rental accommodation period

Assessment – Consistent

Not applicable to Wingecarribee Shire.

7.3 Commercial and Retail Development along the Pacific Highway, North Coast

Assessment – Consistent

Not applicable to Wingecarribee Shire.

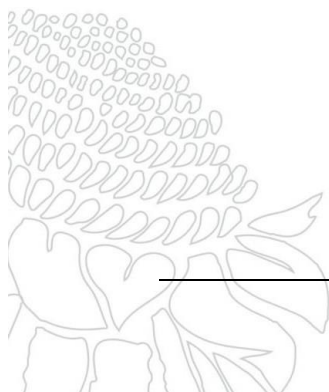
Focus Area 8 Resources & Energy	<i>The intent of this Focus Area is to promote the sustainable development of resources in strategic areas and a transition to low carbon industries and energy. They support positive environmental outcomes and work towards the net zero emissions target and continued energy security, while also promoting diversified activity in regional economies.</i>
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8.1 Mining, Petroleum Production & Extractive Industries

Assessment – Consistent

The objective of this Direction is to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.

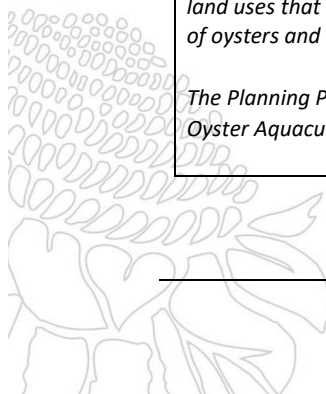
The provisions of this Direction are not directly applicable to this Planning Proposal.



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Focus Area 9 Primary Production	<i>The intent of this Focus Area is to support and protect the productivity of important agricultural lands. They enhance rural and regional economies through a sustainable, diverse and dynamic primary production sector that can meet the changing needs of a growing NSW.</i>
9.1 Rural Zones	
Assessment – Consistent <i>The objective of this Direction is to protect the agricultural production value of rural land and identifies requirements for a Planning Proposal seeking to rezone Rural zoned land to a residential, business, industrial, village or tourist zone.</i> <i>The Planning Proposal will support this Direction by enhancing rural and regional economies through sustainable land uses which complement and supplement traditional agricultural activities.</i>	
9.2 Rural Lands	
Assessment – Consistent <i>This Direction applies when a Planning Proposal will either affect land within an existing or proposed rural or conservation zone or changes the existing minimum lot size on land within a rural or conservation zone. The objectives of this Direction are to:</i> <i>(a) protect the agricultural production value of rural land,</i> <i>(b) facilitate the orderly and economic use and development of rural lands for rural and related purposes,</i> <i>(c) assist in the proper management, development and protection of rural lands to promote the social, economic and environmental welfare of the State,</i> <i>(d) minimise the potential for land fragmentation and land use conflict in rural areas, particularly between residential and other rural land uses,</i> <i>(e) encourage sustainable land use practices and ensure the ongoing viability of agriculture on rural land,</i> <i>(f) support the delivery of the actions outlined in the NSW Right to Farm Policy.</i> <i>The Planning Proposal will support this Direction by enhancing rural and regional economies through sustainable land uses which complement and supplement traditional agricultural activities.</i>	
9.3 Oyster Aquaculture	
Assessment – Consistent <i>The objectives of this direction are to:</i> <i>(a) ensure that ‘Priority Oyster Aquaculture Areas’ and oyster aquaculture outside such an area are adequately considered when preparing a planning proposal, and</i> <i>(b) protect ‘Priority Oyster Aquaculture Areas’ and oyster aquaculture outside such an area from land uses that may result in adverse impacts on water quality and consequently, on the health of oysters and oyster consumers.</i> <i>The Planning Proposal is considered consistent with this Direction because there are no ‘Priority Oyster Aquaculture Areas’ in Wingecarribee Shire.</i>	



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9.4 Farmland of State & Regional Significance on the NSW Far North Coast

Assessment – Consistent

The Planning Proposal is considered consistent with this Direction because it is not applicable to Wingecarribee Shire.

Section C – Environmental, Social & Economic Impacts

8 - Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the Proposal?

Each Farm stay application would be assessed on its merits and any potential adverse impacts would be identified and addressed at that time.

It is noted that a farm stay application must demonstrate that it will remain ancillary to the primary land use of a commercial farm and that complying development cannot occur with WaterNSW Special Areas, or where the development would result in an increase in the number of bedrooms on an unsewered site.

9 - Are there any other likely environmental effects of the planning proposal and how are they proposed to be managed?

Each Farm stay application would be assessed on its merits and any potential adverse impacts would be identified and addressed at that time.

It is noted that a farm stay application must demonstrate that it will remain ancillary to the primary land use of a commercial farm and that complying development cannot occur with WaterNSW Special Areas, or where the development would result in an increase in the number of bedrooms on an unsewered site.

10 - Has the planning proposal adequately addressed any social and economic effects?

The Planning Proposal seeks to enable land use activities which would support existing commercial farm operations thereby providing both economic and social benefits to those businesses and the broader community.

Section D – Infrastructure (Local, State & Commonwealth)

11- Is there adequate public infrastructure for the Planning Proposal?

The Planning proposal is not site specific and future development applications arising from it would need to be assessed to determine site suitability and infrastructure servicing requirements. It is

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noted that a farm stay application must demonstrate that it will remain ancillary to the primary land use of a commercial farm and that complying development cannot occur with WaterNSW Special Areas, or where the development would result in an increase in bedrooms on an unsewered site.

Section E – State and Commonwealth Interests

12 - What are the views of state and federal authorities and government agencies consulted in order to inform the Gateway determination?

A Gateway Determination was issued by NSW Planning on 21 December 2023. The Gateway required referral to the following agencies. Responses are summarised below and the responses form part of the exhibition material.

WaterNSW

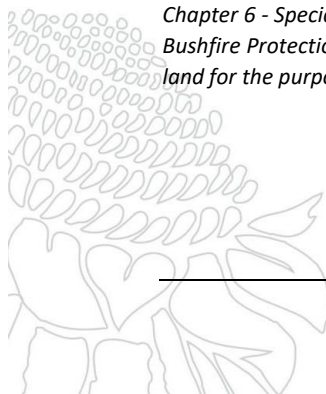
WaterNSW is supportive of Council's proposed adoption of clause 5.24. Adoption of the clause would introduce specific considerations for farm stay accommodation where this use is permissible with consent. The proposed clause includes objectives that seek to balance the impact of tourism and related commercial uses with the primary production, the environment, scenic values, infrastructure and adjoining land uses. The clause also requires consent authorities to consider whether the development will have a significant adverse impact on water quality on or near the land. Other considerations also include land suitability and compatibility with nearby uses. These provisions operate to support water quality and catchment protection.

The Proposal also seeks to increase the opportunity for farm stay accommodation by making this use permissible with consent in the RU4 zone. As we understand it, farm stay accommodation is currently permissible in the RU1 Primary Production, RU2 Rural Landscape and C3 Environmental Management zones under the WLEP. The zones and locations where farm stay accommodation is currently permissible are likely to be unsewered. Land in the RU4 zone is also likely to be unsewered. New development would have to comply with Parts 6.2 and 6.5 of State Environmental Planning Policy (Biodiversity and Conservation) 2021. This includes the requirement for new development in the SDWC to have a neutral or beneficial effect (NorBE) on water quality. These provisions act as a key safeguard for water quality further to the intended adoption of new clause 5.24.

Our only concern in relation to the Proposal is that the community may be expecting greater access to the exempt and complying development pathways for farm stay accommodation than what is actually available. This includes for the RU4 land areas where new farm stay accommodation would be made permissible with consent.

NSW Rural Fire Service

Based upon an assessment of the information provided, the RFS raises no objection to the proposal. Chapter 6 - Special Fire Protection Purpose Developments and the aims and objectives of Planning for Bushfire Protection 2019 should be considered in future development applications on bush fire prone land for the purpose of Farm Stay Accommodation.



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Department of Primary Industries – Agriculture

NSW DPI Agriculture has no objection to the Planning Proposal. Since the definition of farm stay accommodation means that it can only be undertaken on a commercial farm and must be ancillary to the farm, it is considered the proposal is not likely to have a significant adverse impact on agricultural production. The Department encourages Council to monitor complying development in the RU4 zone as the smaller lot sizes increase the potential for land use conflict between agritourism and neighbouring agricultural land uses.

Part 4 - Maps

No maps are affected by the Planning Proposal.

Part 5 - Community Consultation

Council is undertaking community consultation in accordance with the Gateway Determination and Council's own adopted procedures. A post exhibition report will be prepared at the completion of the 30 day exhibition period.

Part 6 - Project Timeline

Stage	Proposed / Achieved
Consideration by Local Planning Panel	October 2023
Council resolution	November 2023
Gateway Determination	December 2023
Agency referrals	February 2024
Public Exhibition	July 2024 - August 2024
Consideration of submissions	September 2024
Post-exhibition report to LPP	September 2024
Post-exhibition report to Council	October 2024
Drafting Request / submission to DPHI	November 2024
Gazettal of LEP amendment	November 2024

Delegation

A Written Authorisation to Exercise Delegation was issued to Council with the Gateway Determination.

END OF PLANNING PROPOSAL v4

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Attachment 1 – Recommended Conditions of Consent

ADMINISTRATION CONDITIONS

1. Development Description

Development consent has been granted in accordance with this notice of determination for the purposes of a Dwelling House and Secondary dwelling.

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

2. Development in Accordance with Plans and Documents

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

Plan Title / Supporting Document	Reference / Version	Prepared By	Dated
Floor Plan and Sections	AR01 Revision F	Plan Vision	2 April 2024
Elevations Plan	AR02 Revision F	Plan Vision	2 April 2024
Site Plan	AR03 Revision F	Plan Vision	2 April 2024
Stormwater Management Plan	SW001 & SW010	Capital Engineering Consultants	21 September 2023
Stormwater Layout Plan	SW020	Capital Engineering Consultants	21 September 2023
Erosion & Sediment Control Plan	SW03	Capital Engineering Consultants	21 September 2023
Arboricultural Impact Assessment		Arbor Express	11 August 2023
BASIX Certificate	Certificate No. 1400635M_02	Plan Vision Australia	28 August 2023
Bushfire Risk Assessment	J003721	Perception Planning	22 February 2023
Statement of Environmental Effects		Plan Vision	
Waste Management Plan		Plan Vision	

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

3. Inconsistency between documents

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

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

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

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

This section does not apply –

- To the extent to which an exemption from a provision of the Building Code of Australia or a fire safety standard is in force under the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, or
- To the erection of a temporary building, other than a temporary structure to which subsection (3) of applies.

Reason: *The condition is prescribed under Section 69 of the Environmental Planning and Assessment Regulation 2021.*

5. Erection of Signs

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

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

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

Note: *This condition does not apply where:*

- Building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or
- Crown building work certified to comply with the Building Code of Australia under Part 6 of the *Environmental Planning & Assessment Act 1979*.

Reason: *The condition is prescribed under Section 70 of the Environmental Planning and Assessment Regulation 2021.*

6. Notification of Home Building Act 1989 Requirements

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the Principal Certifier (PC) for the development to which the work relates (not being the council) has given the council written notice of the following information:

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- (a) In the case of work for which a principal contractor is required to be appointed:
 - (i) the name and licence number of the principal contractor, and
 - (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
- (b) In the case of work to be done by an owner-builder:
 - (i) the name of the owner-builder, and
 - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (1) becomes out of date, further work must not be carried out unless the Principal Certifier (PC) for the development to which the work relates (not being the council) has given the council written notice of the updated information.

Reason: *The condition is prescribed under Section 69 of the Environmental Planning and Assessment Regulation 2021.*

7. Condition relating to shoring and adequacy of adjoining property

- (1) For the purposes of section 4.17(11) of the Act, it is a prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, the person having the benefit of the development consent must, at the person's own expense—
 - (a) protect and support the building, structure or work from possible damage from the excavation, and
 - (b) where necessary, underpin the building, structure or work to prevent any such damage.
- (2) The condition referred to in subclause (1) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

Reason: *The condition is prescribed under Section 74 of the Environmental Planning and Assessment Regulation 2021.*

8. Asset Protection Zones

From the commencement of building works and in perpetuity, the entire property must be managed as an inner protection area in accordance with Appendix 4.1.1 of *Planning for Bush Fire Protection 2019*.

9. Construction Standards

New construction must comply with section 3 and section 5 (BAL 12.5) Australian Standard AS3959-2018 Construction of buildings in bushfire-prone areas or the relevant requirements of the *NASH Standard – Steel Framed Construction in Bushfire Areas* (incorporating amendment A - 2015). New construction must also comply with the construction requirements in Section 7.5 of *Planning for Bush Fire Protection 2019*.

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10. Water and Utility Services

The provision of new water, electricity and gas must comply with Table 7.4a of *Planning for Bush Fire Protection 2019*.

11. Landscaping Assessment

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

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

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

12. Application for a Construction Certificate (Building Works)

The applicant must apply for the Construction Certificate through the NSW Planning Portal to carry out the relevant building works in accordance with this consent. The details to be included in the application for a Construction Certificate are:

- (a) Architectural plans and building specifications complying with the National Construction Code (NCC) relevant Australian Standards, and the development consent and conditions.
- (b) If Council or a Principal Registered Certifier issues the Construction Certificate, engineering details must be submitted for approval for all structural elements, including but not limited to, piers, footings, reinforced concrete slab, first floor joist layout, roof trusses, steel beams and the like. The details must be prepared by a qualified chartered professional practicing consulting structural engineer. Also a certificate from the engineer must be included certifying that the design fully complies with appropriate SAA Codes and Standards and the Building Code of Australia requirements.

Note: *Construction work may only commence upon the issue of a Construction Certificate, appointment of a Principal Certifier (PC), and lodgement of Notice of Commencement. Please submit the appointment of the Principal Certifier through the NSW Planning Portal.*

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

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

13. Appointment of Principal Certifier (PC)

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

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

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

14. Stormwater - Control of Peak Discharge

Adequate and suitable infrastructure shall be provided to ensure the peak discharge from the site is no greater than the pre-developed peak discharge. This infrastructure shall be designed in accordance with Council's Engineering Design Construction Specifications and Drawings. Calculations to demonstrate that the post development peak discharge will not exceed the pre-development peak discharge shall be provided with the application for a Construction Certificate.

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Stormwater detention tank shall be constructed above ground only and away from any driveways.

Any stormwater temporarily stored onsite shall be done in a manner that does not jeopardise public safety. In this regard the development shall provide a risk assessment with the Construction Certificate documentation.

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

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

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

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

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

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

Reason: *Statutory requirement.*

16. Long Service Levy Payments

The payment of a long service levy as required under Part 5 of the *Building and Construction Industry Long Service Payments Act 1986*, in respect to this building work, and in this regard, proof that the levy has been paid, is to be submitted to Council prior to the issue of a Construction Certificate.

Council acts as an agent for the Long Services Payment Corporation and the levy may be paid at Council's Office.

Reason: *Statutory requirement*

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17. Developer to provide photos of damage to Council property

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

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

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

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

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

18. Erosion and Sediment Control Plan

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

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

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

19. Building Materials & Colour Scheme

New external building materials and colours shall be recessive in the surrounding landscape as required by Councils Development Control Plan.

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

20. Tree Protection Measures

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

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

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

21. Arborist report

Works should be undertaken in accordance with the recommendations and the site managed in accordance with the recommendations in Arboricultural Impact Assessment prepared by Craig Kenworthy dated 19/02/2023.

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

22. Section 7.11 Contributions (formerly Section 94)

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

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

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

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

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

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Consumer Price Index (All Groups, Sydney) as published by the Australian Bureau of Statistics (www.abs.gov.au <<http://www.abs.gov.au>>); Section 210 of the *Environmental Planning and Assessment Regulation 2021*; and Council's Developer Contributions Plans.

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

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

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

23. Water Management Act - Certificate of Compliance

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

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

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

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

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

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

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

The Water and Sewerage Development Servicing Plans (DSP's) were adopted by Council and came into effect on 15 September 2017. The Stormwater DSP was adopted on 9 November 2010 and came into effect on 8 December 2010. The current charges under these Plans are listed as follows:

CPI Period	Water DSP	Sewer DSP	Stormwater DSP
	\$6,518.83	\$6,319.34	\$

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

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

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

24. Compliance Certificate

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

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

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

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

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

25. Erosion and Sediment Control Plan

An Erosion and Sediment Control Plan shall be prepared by a person with knowledge and experience in the preparation of such plans for all works required as part of the development. The Plan shall:

- (a) meet the requirements outlined in Chapter 2 of the NSW Landcom's Soils and Construction: Managing Urban Stormwater (2004) manual,
- (b) be prepared prior to issuance of a Construction Certificate and be to the satisfaction of Council, and
- (c) include controls to prevent sediment or polluted water leaving the construction site or entering any natural drainage system or stormwater drain.

Reason *To protect water quality.*

26. Waste Management Plan Construction Waste

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

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

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

CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORK

27. Construction Certificate

No work shall commence until a:

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

Reason *Statutory requirement.*

28. Appointment of Principal Certifier (PC)

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

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

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

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29. Notice of Commencement

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

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

Reason: *Statutory requirement.*

30. Building within Vicinity of Sewer Main

Where a building is constructed within the zone of influence of the sewer main, the weight of the building shall be distributed away from the sewer main by pier and beam construction. The piers shall be designed by a suitably qualified experienced professional and chartered Engineer and shall be embedded on firm foundation at least 300mm below the zone of influence with a minimum horizontal clearance from the pipe of 600mm.

The area of influence of the sewer main is considered that area within the angle of repose of 45° for normal loam/clay/sand foundations, or 60° for rock foundations measured 600mm from the outside of the pipe from the trench bottom.

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

Reason: *To protect public infrastructure.*

31. Water Services

A water service shall be installed to the development by Council at the applicant's cost prior to construction commencing.

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

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CONDITIONS TO BE SATISFIED DURING THE CONSTRUCTION PHASE

32. Imported 'Waste-derived' Fill Material

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

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

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

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

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

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

33. Ground Levels

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

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

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

34. Utility Services

If the work requires alteration to, or the relocation of, utility services on, or adjacent to, the lot on which the work is carried out, the work is not complete until all such works are carried out.

Reason: *To ensure that utilities are provided appropriately to the development*

35. Stormwater – Construction

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

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be justified. Status of the point of discharge is to be made clear (i.e. provision of drainage easements).

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

36. Stormwater – Discharge

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

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

37. Retaining Walls and Drainage

If the soil conditions require it:

- (a) Retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil shall be provided, and
- (b) Adequate provision shall be made for drainage.
- (c) Any retaining walls which do not comply with the exempt development standards outlined in the *State Environmental Planning Policy (Exempt and Complying Codes) 2008*, are subject to a separate approval prior to the construction of the retaining wall.

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

38. Excavations and Backfilling

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

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

39. Vehicular Access Point - Construction and Delivery Vehicles

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

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

40. Damage to Adjoining Properties

All precautions shall be taken to prevent any damage likely to be sustained to adjoining properties. Where damage occurs to adjoining property all necessary repair or suitable agreement for necessary repairs shall be undertaken by the applicant in consultation with, and with the consent of, the affected property owner.

Reason: *Structural safety.*

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41. Approved Hours of Construction/Demolition

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

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

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

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

42. Building Operations

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

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

43. Maintenance of the Site

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

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

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

During construction:

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

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

Reason: *Environmental amenity.*

44. Storage of Building Materials, Plant and Equipment

All building materials, plant and equipment are to be placed on the site of the development so as to ensure that pedestrian and vehicular access in public places is not restricted and also so that the road reserve is not damaged.

No storage, or placing of any building materials to occur on adjacent public roads or footpath areas in association with the construction, maintenance or use of the development or site.

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Reason: *To ensure that pedestrian and vehicular access in public places is not restricted and also so that the road reserve is not damaged.*

45. Temporary Onsite Toilet

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

Each toilet shall:

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

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

46. Waste Management

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

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

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

47. Compliance with AS 4373 Pruning of Amenity Trees

Pruning of Trees 2, 5, 6, 7, 8, 11, 13, 14 and 15 shall be undertaken in accordance with the recommendation in the Arboricultural Impact Assessment prepared by Craig Kenworthy dated 19/02/2023. All recommended work relating to pruning must be undertaken in accordance with the provisions of AS 4373 - *Pruning of Amenity Trees*.

Reason: *Statutory requirement.*

48. Implementation of Stormwater Management Measures

The applicant shall implement the proposed stormwater management measures identified on the Small-Scale Stormwater Quality Model (SSSQM) certificate to prevent impacts on water quality.

Reason: *To comply with the NorBE requirements.*

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49. Long term stabilization

Long-term site stabilisation techniques must be applied to all disturbed areas to prevent sediment from entering dams, drainage depressions and watercourses, and/or street stormwater drainage systems resulting from site disturbance and be regularly inspected, maintained and retained until the site is adequately stable.

Reason: *To comply with the NorBE requirements.*

50. Water Quality Measures

The applicant shall implement the following measures to protect water quality:

- (1) All fixtures capable of draining to the sewer system, including the overflow relief gully, shall be above the 1% AEP flood level and fully sealed; and
- (2) Any required termite controls shall be physical barriers only, and chemical barriers or termite protection systems shall not be used below the 1% AEP flood level.

Reason: *To comply with the NorBE requirements.*

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

51. Occupation Certificate

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

The Principal Certifier (PC) is required to be satisfied, amongst other things, that:

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

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

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

52. BASIX Commitments

Pursuant to Section 75 of the *Environmental Planning & Assessment Regulation 2021*, it is a condition of this consent that all the commitments listed in each relevant BASIX Certificate for the development are fulfilled prior to the issue of an Occupation Certificate.

In this condition:

- (a) Relevant BASIX Certificate means:

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- (i) a BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under Section 4.55 of the *Environmental Planning and Assessment Act 1979*, a BASIX Certificate that is applicable to the development when this development consent is modified); or
 - (ii) if a replacement BASIX Certificate accompanies any subsequent application for a Construction Certificate, the replacement BASIX Certificate; and
- (b) BASIX Certificate has the meaning given to that term in the *Environmental Planning & Assessment Regulation 2021*.

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

53. Compliance with Relevant Legislation

All plumbing and drainage shall comply with the requirements of Australian Standard AS3500 "National Plumbing and Drainage Code" and the relevant New South Wales Amendments.

The following conditions shall be complied with in accordance with the *Environmental Planning & Assessment Act 1979* and *Regulation 2021* and the *Local Government Act 1993* and associated *Regulations* and are preconditions of any Occupation Certificate being issued for the subject development.

54. Sanitary Plumbing And Drainage

All Plumbing and Drainage work shall comply with the provisions of the Plumbing Code of Australia.

Plumbing and Drainage shall comply with the provisions of the *Plumbing and Drainage Act 2011* and *Plumbing and Drainage Regulation 2017*.

Note: The Plumbing and Drainage Act 2011 requires each Plumber and Drainer that works on the development to submit the following information to the Wingecarribee Shire Council:

- Notice of Work (NoW);
- Sewer Service Diagram (SSD);
- Certificate of Compliance (CoC).

55. Water Supply

- (a) Water Temperature
All new hot water installations shall deliver hot water not exceeding 50 degrees Celsius in residential buildings at the outlet of all sanitary fixtures used primarily for personal hygiene purposes (i.e. bathrooms and ensuites).
- (b) Installation and Materials
Installation and materials shall be in accordance with AS/NZS3500 Part 1, Water Supply, Section 2 and 8 and Council requirements.

56. Stormwater Drainage

Prior to the issue of the Occupation Certificate:

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- (a) Any regraded areas shall be free draining, away from the dwelling, and shall not concentrate surface water onto adjoining properties.
- (b) Rainwater tank/s shall be sited and installed on site in accordance with the BASIX Certificate and plans submitted with the application. Overflow from the tanks and any additional stormwater drains shall be connected to the drainage easement.
- (c) The plumber shall submit a Stormwater Drainage Diagram showing the “as built” installation of stormwater drainage works on the site.

Reason: *To comply with legislation.*

57. Council Property

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

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

58. Certification of internal Civil Works

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

Reason: *Asset management.*

59. House Numbering

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

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

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

60. Noise from Air Conditioners

Air-conditioning units shall be installed in accordance with the requirements of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* Subdivision 3. The proposed use of the air conditioner shall not make an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997*, and *Protection of the Environment Operations (Noise Control) Regulation 2000*.


Reason: *To ensure that noise emissions from the development satisfy legislative requirements and to prevent loss of amenity to the area.*

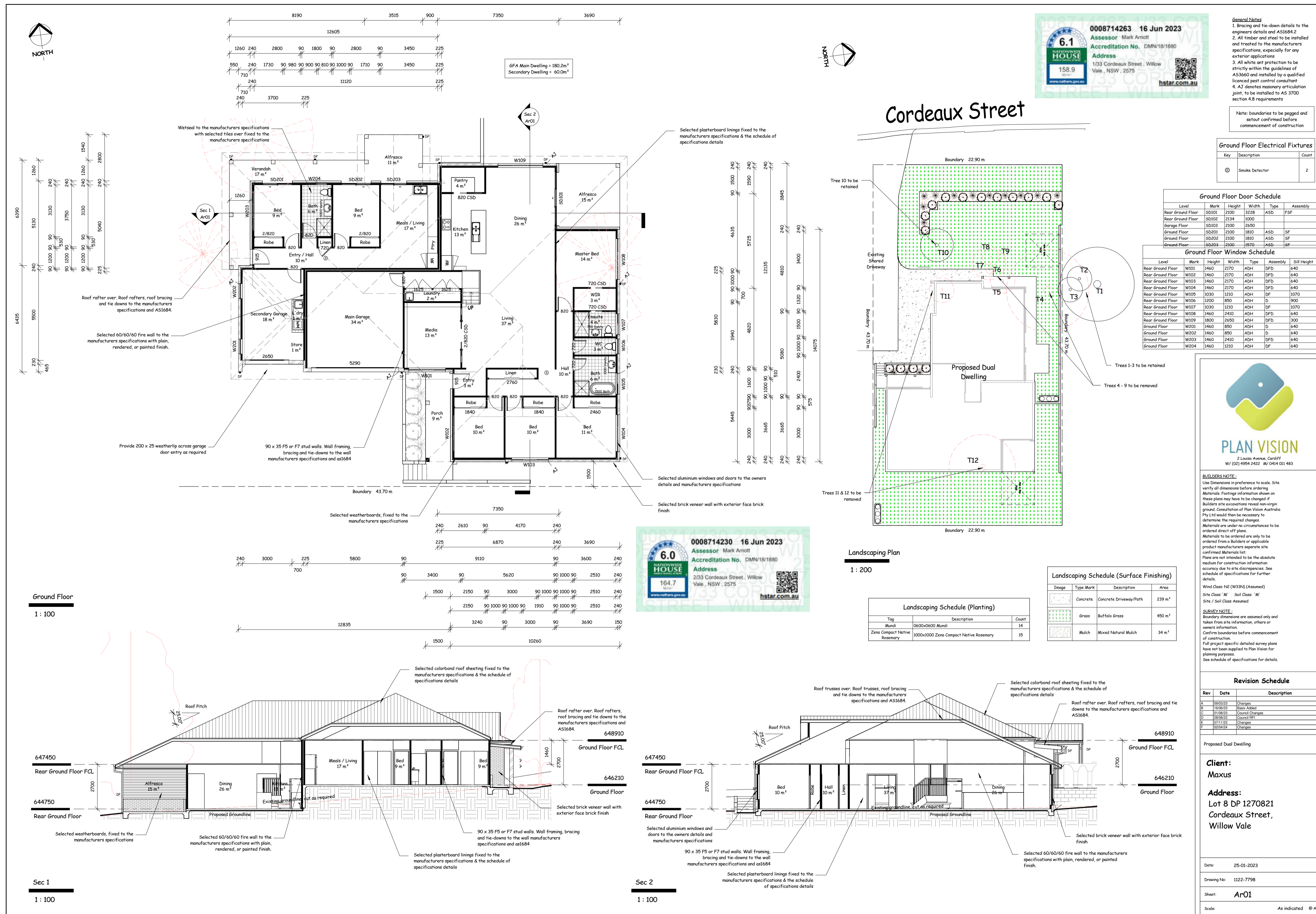
END OF CONDITIONS

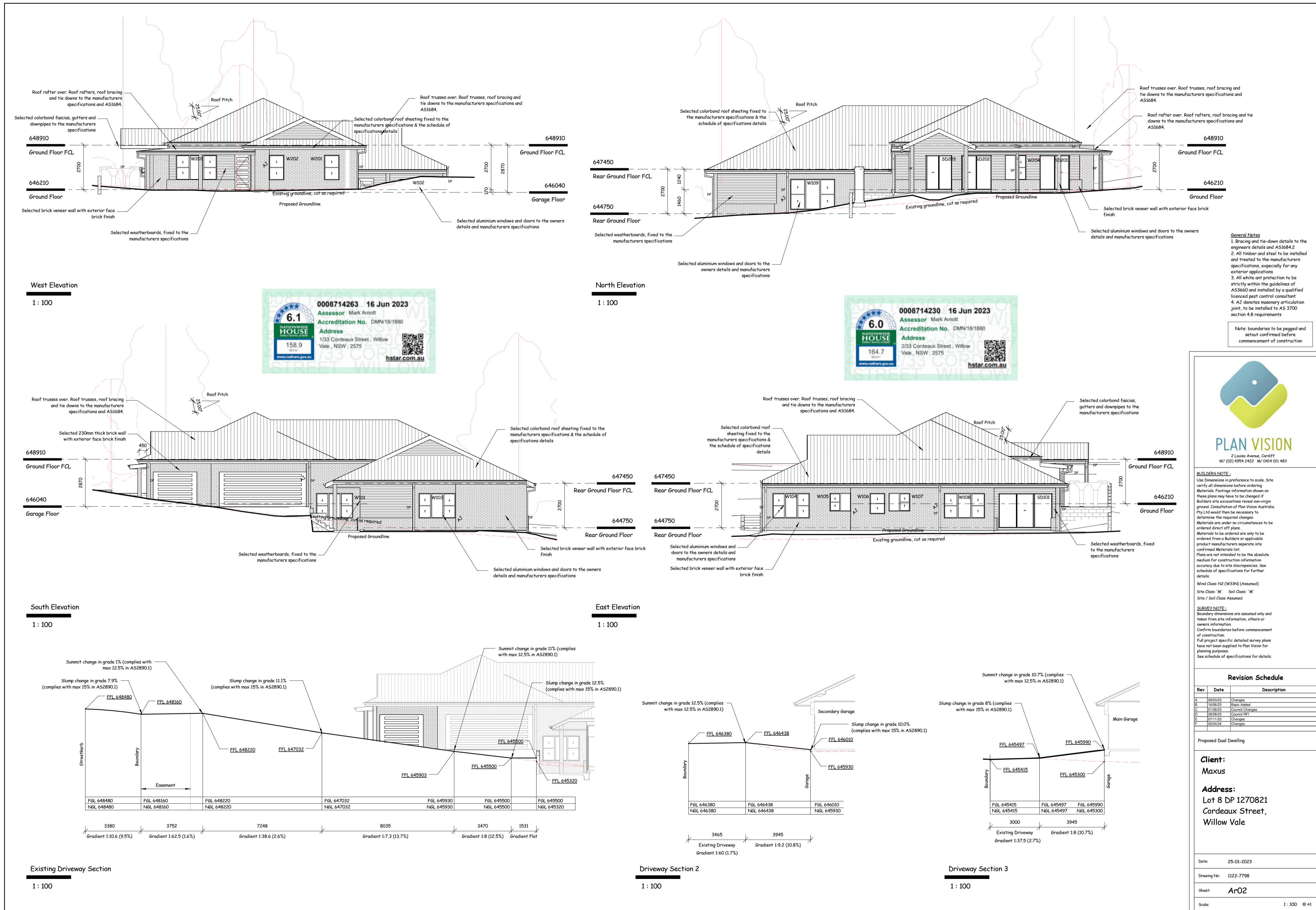
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WEDNESDAY 25 SEPTEMBER 2024**

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Notice of Payment

	Civic Centre, Elizabeth St. Moss Vale, NSW 2577. PO Box 141, Moss Vale. DX: 4961 Bowral. Ph: (02) 4868 0888 Fax: (02) 4869 1203 wscmail@wsc.nsw.gov.au www.wsc.nsw.gov.au Office Hours: Mon-Fri 8.30am - 4.30pm																																																			
	<p align="center">Notice of Payment – Developer Charges & Section 7.11</p> <p align="right">24/0189</p> <p>11 April 2024</p> <p>Mark Arnott 2 LOUISA AVENUE CARDIFF 2285</p> <p>Re: 24/0189/ Lot 8 DP 1286738 33 CORDEAUX STREET WILLOW VALE NSW 2575</p> <p>Development Description: Dwelling House, Secondary Dwelling</p> <p>Water, Sewerage and Stormwater Headworks charges are levied under Section 64 of the Local Government Act and Section 306 of the Water Management Act 2000. Other contributions are levied under Section 7.11 of the Environmental Planning and Assessment Act 1979 and Council's Contributions Plans.</p> <table border="0"> <thead> <tr> <th></th> <th>Units</th> <th>Rate</th> <th>Amount Payable</th> </tr> </thead> <tbody> <tr> <td>Contributions Levy</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Administration (Shirewide)</td> <td>1.51</td> <td>\$575.55</td> <td>\$870.52</td> </tr> <tr> <td>Central Library (Shirewide)</td> <td>1.51</td> <td>\$508.56</td> <td>\$769.20</td> </tr> <tr> <td>Open Space & Community (Future Works)</td> <td>1.51</td> <td>\$1,840.54</td> <td>\$2,783.82</td> </tr> <tr> <td>Resource Recovery Centre (Shirewide)</td> <td>1.51</td> <td>\$301.86</td> <td>\$456.56</td> </tr> <tr> <td>Roads & Traffic (Shirewide - Future)</td> <td>1.51</td> <td>\$3,291.13</td> <td>\$4,977.83</td> </tr> <tr> <td>S64 Sewer Compliance Certificate</td> <td>1.00</td> <td>\$255.00</td> <td>\$255.00</td> </tr> <tr> <td>S64 Stormwater Compliance Certificate</td> <td>1.00</td> <td>\$255.00</td> <td>\$255.00</td> </tr> <tr> <td>S64 Sewerage (Shirewide)</td> <td>0.50</td> <td>\$12,638.68</td> <td>\$6,319.34</td> </tr> <tr> <td>S64 Water Compliance Certificate</td> <td>1.00</td> <td>\$255.00</td> <td>\$255.00</td> </tr> <tr> <td>S64 Water (Shirewide)</td> <td>0.50</td> <td>\$13,036.76</td> <td>\$6,518.38</td> </tr> <tr> <td>Total</td> <td></td> <td></td> <td>\$23,460.65</td> </tr> </tbody> </table> <p><i>Payments must be either in the form of cash, bank cheque or credit card (credit cards subject to 1% surcharge. Amex and Diners not accepted).</i></p> <p>IMPORTANT – The charges shown above are valid for payment until the date given below. After this period the charge will be indexed in accordance with the relevant Plan.</p> <p>DATE CHARGES ARE VALID TO – 30th April 2024</p> <p>Prepared by – Kimberley Kavwenje</p> <p>Cashier Receipt No: _____</p> <p>Total Paid: _____</p> <p>Date Paid: _____</p>		Units	Rate	Amount Payable	Contributions Levy				Administration (Shirewide)	1.51	\$575.55	\$870.52	Central Library (Shirewide)	1.51	\$508.56	\$769.20	Open Space & Community (Future Works)	1.51	\$1,840.54	\$2,783.82	Resource Recovery Centre (Shirewide)	1.51	\$301.86	\$456.56	Roads & Traffic (Shirewide - Future)	1.51	\$3,291.13	\$4,977.83	S64 Sewer Compliance Certificate	1.00	\$255.00	\$255.00	S64 Stormwater Compliance Certificate	1.00	\$255.00	\$255.00	S64 Sewerage (Shirewide)	0.50	\$12,638.68	\$6,319.34	S64 Water Compliance Certificate	1.00	\$255.00	\$255.00	S64 Water (Shirewide)	0.50	\$13,036.76	\$6,518.38	Total		
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Site Plan
1: 200

Proposed location of builders waste area
Proposed overflow drainage line from tank to streetkerb
Proposed drainage lines to proposed tank
Proposed 5000L rain water tank
Proposed location sedimentation trapping fence
Proposed drainage lines to proposed tank
Proposed 5000L rain water tank
Proposed overflow drainage line from tank to streetkerb

Proposed Main Dwelling = 180.2m²
Proposed Secondary Dwelling = 60.0m²

The proposal does not exceed 50% of the site coverage

Name	Area	Coverage	Overall
Proposed Alfresco	16.0 m ²	Covered	2%
Proposed Dwelling/Garage	250.0 m ²	Covered	23%
Proposed Fences	9.2 m ²	Covered	1%
Proposed Secondary Dwelling/Garage	83.7 m ²	Covered	8%
Proposed Verandah/Alfresco	27.7 m ²	Covered	3%
	366.6 m ²		37%
Remaining Site	633.9 m ²	Uncovered	63%
	633.9 m ²		63%

Note: The Site Area Schedule is calculated to the outside of the walls and is therefore different from the GFA calculations

Retaining Wall Plan
1: 200

Dark Grey gutters and downpipes
White fascia
Deep Ocean colorbond sheeting
White verandah posts
Light Grey window frames
White weatherboard cladding
White external entry doors and frame
Light brown brick
White panelift door on side

Secondary POS 1
1: 100

Secondary POS 2
1: 100

Primary POS 1
1: 100

Primary POS 2
1: 100

3D View 1

3D View 2

3D View 3

3D View 4

Site Plan - Building Envelopes
1: 200

Boral Fire Rated Party Wall Details
(or similar by other manufacturers to relevant standards)
N.T.S.

Erosion and Sediment Controls
General Notes
- This plan shows the control objectives, philosophy and key control works for the site. The contractor shall provide supplementary works that reflect the adopted construction program and practices to ensure that erosion and sediment movement are managed in accordance with the objectives of this plan.
- Erosion and sediment hazard areas include stockpiles, exposed ground, embankments, cuttings, concentrated flow paths and waterways.
- This plan is to be used as a guide only. The suitability of erosion and sediment control measures to be evaluated on site and where required, are to be modified under the supervision of a suitably qualified engineer and Council.

Pre-Construction Phase Notes
- Site works are not to start until the erosion and sediment control measures are installed and functional.
- Temporary sediment traps to be installed during construction (where applicable)
- Waste bins are to be provided for building waste or waste enclosure min. 1800 x 1800 x 1200mm high constructed using star pickets and 1200mm high weed control mat. Arrangement to be made for regular collection and disposal or recycling of construction waste.
- Entry and departure of vehicles is to be confined to the nominated existing vehicle access or stabilised site access. Sediment or barrier fencing will be used to restrict all vehicular movements to that access point. Stabilisation will be achieved by either:
a) constructing a sealed (eg concrete or asphalt) driveway to the street
b) constructing a stabilised site access according to Council's engineering standards.

Construction Phase Notes
- Topsoil is to be stripped from building site and stockpiled for later use in landscaping the site.
- The footpath and driveway, other than stabilised site access, is not to be disturbed, including stockpiling of materials. Where essential works (eg drainage) are required, the footpath is to be rehabilitated (turfed) as soon as possible.
- Where appropriate, an aggregate bag shall be placed in the gutter below the site access. The bag shall be made from green sediment fence material, or similar. The bag must be at least 450mm long, 200mm diameter, filled with less than 20mm blue metal or crushed rock. If the bag breaks or deteriorates, the bag shall be replaced immediately and the material cleaned out from any gutter, kerb, road surface or stormwater system it has entered. The use of hessian bags, and sand filled bags is not acceptable.
- All sedimentation controls are to be checked daily (at min. weekly) and after all rain events. All structures to be cleaned on reaching 50% storage capacity to ensure they are maintained and in full functional condition. Excess materials and water from cleaning tools and equipment should not be washed down stormwater drains.

Post-Construction Phase Notes:
- Topsoil is to be re-spread and all disturbed areas rehabilitated (turfed) within 20 working days of completion of works. Where necessary, spray and seed disturbed areas.
- Roof downpipes to be connected to street kerb or other stormwater disposal system as nominated in the plans on completion of roof and gutturing as soon as possible.

Sediment Fence
N.T.S.

Rev	Date	Description
A	19/01/23	Changes
B	01/06/23	Revised Asses
C	01/09/23	Council Changes
D	01/09/23	Council File
E	01/11/23	Changes
F	02/04/24	Changes

Proposed Dual Dwelling

Client:
Maxus

Address:
Lot 8 DP 1270821
Cordeaux Street,
Willow Vale

Date: 25-01-2023
Drawing No: 1122-7798
Sheet: Ar03
Scale: As indicated @ A1



BUILDERS NOTE:
Use Dimensions in preference to scale. Site verify all dimensions before ordering Materials. Footings information shown on these plans may have to be changed if Builders site excavation reveal uneven ground. Consultation of Plan Vision Australia Pty Ltd would then be necessary to determine the required changes. Materials are under circumstances to be ordered direct off plans. Materials to be ordered are only to be ordered from a Builders or applicable product manufacturers separate site confirmed Materials list. Plans are not intended to be the absolute medium for construction information accuracy due to site discrepancies. See schedule of specifications for further details.
Wind Class N2 (W3/N3) Assumed
Site Class 'M' Soil Class 'M'
Site / Soil Class Assumed

ALWAYS NOTE!
Boundary dimensions are assumed only and taken from site information, others or owners information. Confirm boundaries before commencement of construction. Full project specific detailed survey plans have not been applied to Plan Vision for planning purposes. See schedule of specifications for details.

Revision Schedule

Rev	Date	Description
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Exception to Development Standard

Prepared in accordance with Clause 4.6 of the
Wingecarribee Local Environmental Plan 2010

Proposed Dwelling House and Secondary Dwelling

Cordeaux Street Willow Vale

Lot 8 DP1270821

Applicant: Maxus

Amended April 2024

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 25 SEPTEMBER 2024

Limitations Statement

This report has been prepared in accordance with the scope of services agreed between Resolve Urban Planning and the Client. It has been prepared based on the information supplied by the Client, as well as investigation undertaken by Resolve Urban Planning and the sub-consultants engaged for the project.

Unless otherwise specified in this report, information and advice received from external parties during the course of this project was not independently verified. However, any such information was, in our opinion, deemed to be current and relevant prior to its use. Whilst all reasonable skill, diligence and care have been taken to provide accurate information and appropriate recommendations, it is not warranted or guaranteed and no responsibility or liability for any information, opinion or commentary contained herein or for any consequences of its use will be accepted by Resolve Urban Planning or by any person involved in the preparation of this assessment and report.

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**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 25 SEPTEMBER 2024**

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AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 25 SEPTEMBER 2024

1.0 Introduction

This Exception to Development Standard document is prepared following lodgement of a Development Application to Wingecarribee Council for a Dwelling House and Secondary Dwelling at Cordeaux Street Willow Vale.

The exception is made in accordance with Clause 4.6 of the Wingecarribee Local Environmental Plan 2010 to the development standard for parking spaces under Clause 53 of the Housing State Environmental Planning Policy.

This clause, stipulating the non-discretionary standards for Secondary Dwellings as permitted under the SEPP, requires *the number of parking spaces provided on the site is the same as the number of parking spaces provided on the site immediately before the development is carried out*. As the site is vacant the proposal will be increasing the number of spaces onsite, requiring an exception to this standard.

1.1 Site Description

The subject site is located at Cordeaux Street Willow Vale and is described as Lot 8 DP1270821.

The site has a frontage of approximately 22.9m to Cordeaux Street and an area of 1,000m².

The site is currently vacant.

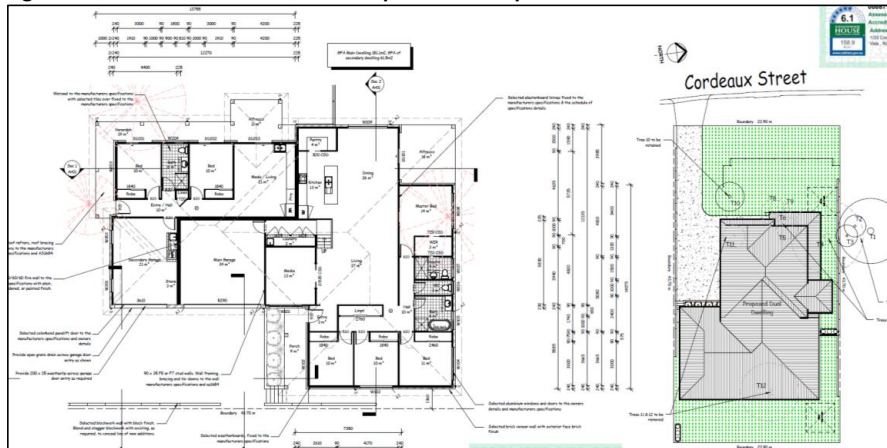
AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 25 SEPTEMBER 2024

2.0 The Proposal

The proposal involves the erection of a Dwelling House and Secondary Dwelling, contained within the one building.

A plan of the proposal is provided at **Figure 1**.

Figure 1 Site Plan and Floor Plan of Proposed Development



Details of the proposal provided within the Statement of Environmental Effects accompanying the application.

3.0 Exception to Development Standard

The proposed development includes three parking spaces, providing separate parking for both the principal and secondary dwellings.

An exception to a Development Standard is required in this instance, effectively correct an anomaly in the planning instruments applicable to the proposal, as follows.

The subject site is zoned R2 Low Density Residential under the Wingecarribee Local Environmental Plan 2010. Secondary Dwellings are prohibited within this zone.

The Secondary Dwelling is permitted with consent under State Environmental Planning Policy – Housing (2021). The Secondary Dwelling is therefore also subject to the development standards of the SEPP namely:

53 Non-discretionary development standards—the Act, s 4.15

(1) The object of this section is to identify development standards for particular matters relating to development for the purposes of a secondary dwelling that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.

(2) The following are non-discretionary development standards in relation to the carrying out of development to which this Part applies—

(a) for a detached secondary dwelling—a minimum site area of 450m²,

(b) the number of parking spaces provided on the site is the same as the number of parking spaces provided on the site immediately before the development is carried out.

As the site is currently vacant, the provision of three parking spaces is technically non-compliant with the development standard 2(b).

An address of the relevant requirements of Clause 4.6 of the Wingecarribee LEP (as applicable at the time of lodgement of the application), allowing for exceptions to Development Standards, is provided hereunder.

4.6 Exceptions to development standards

(1) The objectives of this clause are as follows:

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

The non-compliant parking is deemed to provide a better planning outcome for the site by providing all car parking within the site. Providing no parking on site, as is currently applicable due to the site being vacant, would be a poor outcome for the site and context.

Providing flexibility in the application of this standard will therefore achieve a better planning outcome, entirely consistent with the communities' expectations as detailed within this report.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 25 SEPTEMBER 2024

planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

Clause 53 of the SEPP is not explicitly excluded by Clause 4.6.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

Compliance with the development standard is unreasonable and unnecessary where it would result in no parking being provided onsite.

The development standard is, in this instance, considered to be an anomaly and would typically apply for a situation where a Secondary Dwelling is sought within an existing Dwelling house allotment.

The standard is therefore both unreasonable and unnecessary.

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Firstly, it is noted that in accordance with *Initial Action Pty Ltd v Woollahra Council (2018)* that this clause only requires a demonstration of sufficient environmental planning grounds justifying the non-compliance. It does not require a non-compliant development to have a better environmental outcome than a compliant development (see Paragraph 88 of the judgement).

In any case the non-compliant development will have an improved development outcome over a compliant development, providing all parking onsite as opposed to no parking.

The environmental planning grounds to justify contravention of the development standard are detailed as follows:

- The variation will be provide additional parking on site – The provision of parking for the secondary dwelling is necessary given Willow Vale is a car reliant community and there are limited Public Transport options available.
- Providing formal on-site parking will avoid future residents from parking informally on the site. I.e. without the provision of formal parking, residents will likely park in landscaped areas and/or over the right of way benefiting Lot 7 (adjoining property to the south).
- The site has an area of 1,000m² and is able to accommodate a formal parking space for the secondary dwelling. The provision of the car space will not result in a non-compliance with landscaped area or site coverage requirements. Furthermore, the entirety of the built form including the car parking space is contained within the building envelope that applies to the site.
- The provision of the car parking space will not be of a consequence to safety. The design of the development includes manoeuvring areas so that vehicles can enter and exit the secondary dwelling garage safely. is also entirely consistent with Council's development control plan requiring a minimum of two parking spaces for developments of this nature.

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Further, as per the Initial Action judgement (Paragraph 23), in the absence of a definition of environmental planning grounds it is accepted that response to the objectives of the Environmental Planning and Assessment Act provide a suitable demonstration of sufficient environmental grounds to justify the non-compliance:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources*

The proposed non-compliance can be accommodated within the site without influence on the social and economic welfare of the community in the context. The non-compliances will not impact on amenity provided to any adjoining allotments.

- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment*

The development, and non-compliance, is to be subject to detailed assessment to determine the proposals response to economic, environmental and social considerations.

These matters are in no way impacted by the proposed non-compliance.

- (c) to promote the orderly and economic use and development of land*

The additional parking is an orderly and economic use of the land, where the parking is integrated into the dwelling and has been provided in due consideration of the site conditions.

- (d) to promote the delivery and maintenance of affordable housing*

The non-compliance forms part of a proposal that includes an affordable housing option, entirely consistent with this objective.

- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats*

The proposal will have no impact on any threatened species or ecological communities.

- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage)*

The proposal will have no impact on any item of built or cultural heritage.

- (g) to promote good design and amenity of the built environment*

The non-compliance promotes good design by including onsite parking, integrated into the building and obscured from view within the street.

- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants*

The proper construction and maintenance of the building will be confirmed via the Construction Certificate process, responding to any conditions imposed by Council.

- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State*

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 25 SEPTEMBER 2024**

Not considered to be relevant to the application.

- (j) *to provide increased opportunity for community participation in environmental planning and assessment.*

The application will be subject of community participation via notification by Council.

Any items raised during consultation can be addressed by the applicant as required.

(4) *Development consent must not be granted for development that contravenes a development standard unless:*

(a) *the consent authority is satisfied that:*

- (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

Subclause (3) addressed above.

- (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

The object of the standard is to identify development standards for particular matters relating to development for the purposes of a secondary dwelling that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.

The proposal does not conflict with the principles of this objective, it simply seeks to provide parking in a manner consistent with other Council controls and the communities expectations.

The proposal responds to the objectives of the R2 Zone as follows:

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

The proposal seeks a Dwelling House and Secondary Dwelling that is entirely consistent with the scale of established dwellings within the immediate context.

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

Not considered relevant to the application, day to day services are more appropriately provided in other areas of the LGA.

(b) *the concurrence of the Secretary has been obtained.*

It is understood that assumed concurrence is provided to the Council for exceptions of this type.

(5) *In deciding whether to grant concurrence, the Secretary must consider:*

(a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*

**AGENDA OF THE LOCAL PLANNING PANEL
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The contravention of the development standard raises no matters of significance for State or regional planning, given the proposals response to the intentions and objectives for development within the Wingecarribee LGA.

(b) the public benefit of maintaining the development standard, and

There appears to be no public benefit of maintaining the development standard. The non-compliance results in an improved planning outcome for the site and context.

(c) any other matters required to be taken into consideration by the Secretary before granting concurrence.

There are no known additional matters required to be taken into consideration for this application.

4.0 Five Part Test for Exceptions to Development Standards

In accordance with the principle established by the NSW Land and Environment Court in *Wehbe vs Pittwater Council (2007) LEC 827* the proposal addresses the five part test for exceptions to a Development Standard:

1. *the objectives of the standard are achieved notwithstanding the noncompliance with the standard*

As illustrated above, the objective of the standard are achieved notwithstanding the proposed non compliances.

2. *the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary*

The underlying objective of the standard is not considered to be relevant to this development. Its application is not relevant to an application within a vacant allotment currently containing no formal parking spaces.

3. *the underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable*

The objective of the Development Standard is to ensure the consent authority do not impose more onerous standards on development.

Providing parking for a dwelling house, and secondary dwelling, is not considered unreasonable in this circumstance.

4. *the development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable*

The Development Standard has not been destroyed by the actions of Council, however their application to this development is deemed to be unnecessary as outlined within this document.

5. *the compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.*

The application of the standard is not considered to be unreasonable given the existing use of the site and its context.

The extent of the non-compliance sought, and the resulting development outcome achieved, promote the flexible application of the development standard. Strict compliance is therefore not considered to be appropriate.

5.0 Conclusion

This report demonstrates how the proposed non-compliance with the Clause 53 of SEPP Housing can be supported in accordance with Clause 4.6 of the Wingecarribee Local Environmental Plan.

Council support for this Exception to the Development Standard is therefore anticipated.

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 25 SEPTEMBER 2024**



NSW RURAL FIRE SERVICE

Wingecarribee Shire Council
PO Box 141
MOSS VALE NSW 2577

Your reference: (CNR-64106) 24/0189
Our reference: DA20231227005837-Original-1

ATTENTION: Imogen Baker

Date: Tuesday 16 January 2024

Dear Sir/Madam,

Development Application
s4.14 – Infill – Single Dwelling – New Dwelling
33 CORDEAUX STREET WILLOW VALE 2575, 8//DP1286738

I refer to your correspondence dated 27/12/2023 seeking advice regarding bush fire protection for the above Development Application in accordance with section 4.14 of the *Environmental Planning and Assessment Act 1979*.

The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted and provides the following recommended conditions:

General Conditions

1. The recommendations are based on the documents/plans supplied via Councils referral to the NSW RFS.

- The plans prepared by Plan Vision drawing number 1122-7798 dated 25/1/2023.
- The bush fire assessment prepared by Perception Planning reference J003721 dated 22/2/2023.

Council is advised that where a minor amendment to the above-noted documents is proposed, Council may use its discretion to determine whether the minor amendment warrants further assessment by the NSW RFS.

Asset Protection Zones

The intent of measure is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

2. From the commencement of building works and in perpetuity, the entire property must be managed as an inner protection area in accordance with Appendix 4.1.1 of *Planning for Bush Fire Protection 2019*.

Construction Standards

The intent of measure is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

1

Postal address

NSW Rural Fire Service
Locked Bag 17
GRANVILLE NSW 2142

Street address

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

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

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 25 SEPTEMBER 2024

3. New construction must comply with section 3 and section 5 (BAL 12.5) Australian Standard AS3959-2018 *Construction of buildings in bushfire-prone areas* or the relevant requirements of the *NASH Standard - Steel Framed Construction in Bushfire Areas* (incorporating amendment A - 2015). New construction must also comply with the construction requirements in Section 7.5 of *Planning for Bush Fire Protection 2019*.

Water and Utility Services

The intent of measure is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

4. The provision of new water, electricity and gas must comply with Table 7.4a of *Planning for Bush Fire Protection 2019*.

Landscaping Assessment

The intent of measure is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

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

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

For any queries regarding this correspondence, please contact Stephen McKinnon on 1300 NSW RFS.

Yours sincerely,

Martha Dotter
**Supervisor Development Assessment & Plan
Built & Natural Environment**





WINGECARRIBEE LOCAL PLANNING PANEL OPERATIONAL GUIDELINES

Introduction

The Wingecarrabee Local Planning Panel (WLPP) is a local planning panel established for Wingecarrabee Shire Council (Council) under Part 2, Division 2.5 of the Environmental Planning and Assessment Act 1979 (the Act). It is responsible for determining certain development applications (and modifications) and providing advice on planning proposals (collectively referred to as applications in these guidelines).

Council is required to have a Local Planning Panel pursuant to Section 2.17(2)(c) of the Act and Section 291 of the Environmental Planning and Assessment Regulation 2021. They have been created to ensure that the process of assessment and determination of certain applications are transparent and accountable.

The panel is comprised of four (4) members:

- Chair;**
- Two (2) expert members; and**
- A community representative.**

The members for each meeting will be selected by the Chair from the pool of members appointed by the panel. Two alternate chairs have been appointed who will have the same role as the chair when presiding over a panel meeting or other business.

This guide details how the panel is to operate. It incorporates:

- Procedural requirements from the Act (refer to Division 2.5 and Schedule 2);**
- Requirements from the Local Planning Panels Direction – Operational Procedures issued by the NSW Minister for Planning under Section 9.1 of the Act;**
- General requirements to ensure the efficient and effective operation of the Panel. While these requirements will generally be followed, they may be varied by the Chair depending on the circumstances of a particular meeting or application or to respond to changed circumstances (e.g. COVID 19).**

A local planning panel is not subject to the direction or control of the Council, except on matters relating to panel procedures and the time within which the panel is to deal with a matter, provided they are not inconsistent with the Directions of the Minister under Section 9.1 of the Act.



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1. Panel Composition

Chair

- 1.1 The chair is responsible for the management of the Panel's functions and operations, including managing conflicts of interest.**
- 1.2 The chair is to preside over panel meetings and other business.**
- 1.3 The chair is to ensure the Panel fully discharges its responsibilities under the Act, (including the relevant operational procedures), any other directions from Council, the code of conduct, and these guidelines in a timely manner.**
- 1.4 The chair is responsible for the good and orderly conduct of the panel. The chair may do all things necessary to fulfil this responsibility.**
- 1.5 The chair is to decide which panel members (or alternates) are to hear a matter prior to the meeting commencing.**
- 1.6 The chair must regularly rotate independent expert members and the community representatives from the pool of appointed members to reduce opportunities to improperly influence panel members.**
- 1.7 The chair and alternate chairs shall rotate presiding over meetings (unless the chair or alternate chairs are unavailable for any reason).**
- 1.8 Alternate chairs have the same role as the chair when presiding over a panel meeting or any other business.**

Independent expert members

- 1.9 The expert members can be interchanged as needed by the chair for reasons including:**
 - A member has a conflict of interest;**
 - A member is unable to attend on the day; and/or**
 - To ensure there is a rotation of expert members and alternates to hear matters.**

Community representatives

- 1.10 A community representative can be interchanged as needed by the chair for reasons including:**
 - A member has a conflict of interest;**
 - A member is unable to attend on the day; and/or**
 - To ensure there is a rotation of community representatives and alternates to hear matters.**

Quorum

- 1.11 Where a quorum (3 members) for a meeting is not present, the meeting shall be deferred.**

Wingecarribee Local Planning Panel Members

- 1.12 A list of current Wingecarribee Local Planning Panel Members is available on Council's website.**



Review of Panel decisions

1.13 All of the processes detailed below for determination of a development application also apply to the determination of a request to review a decision under Division 8.2 of the Act.

1.14 The determination of a review application from a panel decision shall be determined by different members (including the chair) of the panel to those who made the original determination.

2. Conduct of Panel Members

2.1 All panel members must comply with the code of conduct approved by the Minister for Planning.

3. DETERMINATION OF DEVELOPMENT APPLICATIONS

3.1 BEFORE THE MEETING

4.3.1.1 Panel Chairs and Panel Members will be provided with a draft list of items for a meeting two weeks prior to the meeting. Any conflicts of interest are required to be declared by the close of business on the day following this notification to the Panel Chair, Wingecarribee Shire Council's **Director Communities and Place** and Council's dedicated email address mail@wsc.nsw.gov.au. Selected Panel Members may be replaced for that Panel meeting due to any identified conflict of interest.

2.3.1.2 The Panel Meeting Business Paper for the Panel Meeting will be sent electronically to the Panel Chair and selected Panel Members at least one week preceding a panel meeting. If necessary, an electronic link to application documentation such as architectural drawings, engineering drawings, etc. may also be sent. If requested, Paper copies of the Business Paper will also be sent to members by express post prior to the meeting date. that day.

3.3.1.3 The Business Paper for the Panel Meeting will be made publicly available on Council's website the Friday prior to the meeting.

4.3.1.4 Applicants and people who have made written submissions will be advised of the Panel Meeting date the week prior to the meeting.

5.3.1.5 People wishing to address the Panel at the Panel Meeting must register with the Panel Coordinator via email at mail@wsc.nsw.gov.au by 4:30pm, two (2) business day prior to the Panel Meeting of their intention to do so.

6.3.1.6 Unless the Chair otherwise permits, any person wishing to address the Panel must have already lodged a written submission on the subject development application.

7.3.1.7 Unless the Chair otherwise permits, a Additional submissions, documents, reports and amended plans will not be received or considered by the Panel at the meeting.

3.2 SITE INSPECTIONS

~~8.3.2.1~~ Site inspections are held ordinarily in respect of each matter that is to come before any meeting of the Panel and when considered necessary by the Chair. Site inspections shall, so far as practicable, be held on the same day as the meeting of the Panel at which the matter is to be considered.

~~9.3.2.2~~ Site inspections are not open to applicants, objectors, or members of the public.

~~10.3.2.3~~ Council staff will generally accompany the Panel onsite inspections as appropriate.

3.3 THE PANEL MEETING

~~11.3.3.1~~ The Panel Meeting will generally be held on the 4th Wednesday of each month at Council's Civic Centre. The time of the meeting will be 2.00pm and open to the public. The meeting will be recorded and live streamed on Council's website.

~~12.3.3.2~~ Speakers for item agenda matters listed at the Meeting of the Panel shall be heard in the following order:

- Any objectors or other persons who wish to make representations; and then
- The applicant or the applicant's representative.

Unless the Panel otherwise permits, any person who addresses the Panel at any meeting of the Panel may speak for no more than 3 minutes in respect of any one matter before any meeting. The Panel Chair may exercise discretion and allow for an extension of time as required to ensure all issues are properly considered. Where there are a large number of objectors with a common interest, the Panel may hear a representative of those persons with a view to discharging its responsibilities in a timely manner.

~~13.3.3.3~~ The Panel Chair or any Panel Member may seek to clarify any matter with the speaker. Council staff will be invited to respond to any issues raised by the Panel Chair

~~14.3.3.4~~ A person is not entitled to be legally represented at any meeting of the Panel unless the Panel Chair grants permission in any particular case. On granting any such permission the Panel Chair shall have regard to the following matters:

- the nature and complexity of the matter and whether it involves a question of law,
- whether the person has the capacity to present their submission without legal representation, and
- such other matters as the Chairperson considers relevant.

~~15.3.3.5~~ The Panel Chair shall be responsible for the good and orderly conduct of the Panel Meeting and may do all things and take all steps necessary to control the good and orderly conduct of any meeting of the Panel or site inspection carried out by the Panel in the performance of its functions.



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~~16-3.3.6~~ A person whether a member of the Panel or a member of the public, shall not speak while another person is speaking or otherwise interrupt that person while speaking. Nothing in this guideline prevents a member of the Panel from raising a point of order.

~~17-3.3.7~~ Following the speakers' addresses on all listed matters, the Panel may deliberate, conclude and determine all or any of the matters in the public (open) meeting. Alternatively, the Panel may decide to adjourn the meeting to deliberate on all or any matters. If this occurs, the Panel will return to the public (open) meeting to announce its determination.

~~18-3.3.8~~ There is no further opportunity for debate with the Panel members or the applicant and/or their representatives and speakers are not allowed to enter-into unsolicited comment or argument with the Panel.

~~19-3.3.9~~ Should the Panel resolve to request additional information or seek amendment of the application, the Panel may defer the application, providing a written request to the applicant with the reasons for deferral a copy of which will be made available on Council's website.

~~20-3.3.10~~ Determinations and any relevant decision of the Panel shall be by a majority of votes of members present at a meeting and entitled to vote. If votes are tied the Panel Chair will have the casting vote. Voting (including the names and vote of each Panel member when the vote is not unanimous) will be recorded in the minutes.

3.4 AFTER THE PANEL MEETING

~~21-3.4.1~~ Minutes of the Panel Meeting shall be endorsed by the Panel Chair.

~~22-3.4.2~~ Minutes of the Panel Meeting will ordinarily be made publicly available on Council's website within two (2) business days following the meeting. Where email or postal addresses are available, submitters will be advised of the Panel's decision.

~~23-3.4.3~~ Except where a matter is deferred, the applicant shall be provided with a Notice of Determination in accordance with the provisions of the Environmental Planning and Assessment Act and Regulations as soon as practicable.

3.5 CONSIDERATION OF PLANNING PROPOSALS

~~24-3.5.1~~ Planning Proposals are referred to the Panel for recommendation only. A proposal is to be referred to the Panel before it is forwarded to the Minister under section 3.34 of the Environmental Planning and Assessment Act 1979 (forwarded by the Council for a Gateway determination) and again following the public exhibition period before any final decision is made by Council.

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 25 SEPTEMBER 2024

~~25.3.5.2~~ Planning Proposals will be referred to the Panel for recommendation to Council unless the Council's General Manager determines that the planning proposal relates to:

- the correction of an obvious error in a local environmental plan
- matters that are of a consequential, transitional, machinery or other minor nature or
- matters that Council's General Manager considers will not have any significant adverse impact on the environment *or* adjoining land.

~~26.3.5.3~~ Planning Proposals initiated by an application to Council from a Proponent will be reported to the Panel for recommendation to the Council by staff. Any recommendation formulated by the Panel shall form part of the reporting of the matter to the Council.

~~27.3.5.4~~ Where the Planning Proposal is made by the owner/applicant, the owner/applicant will be permitted to address the Panel.

~~28.3.5.5~~ Applicants and people who have made written submissions will be advised of the Panel Meeting date the week prior to the meeting.

~~29.3.5.6~~ People wishing to address the Panel at the Panel Meeting must register with the Panel Coordinator via email at mail@wsc.nsw.gov.au by 4:30 pm two (2) business day prior to the Panel Meeting of their intention to do so.

~~30.3.5.7~~ Where the Planning Proposal has been publicly exhibited, speakers to the Planning Proposal at the Meeting of the Panel shall be heard in the following order:

- Any objectors or other persons who wish to make representations; and then
- The applicant or the applicant's representative

~~31.3.5.8~~ Planning Proposals initiated by Council staff will be referred to the Panel for recommendation before reporting and consideration by the Council.

~~32.3.5.9~~ Council staff will provide a report to the Panel regarding each Planning Proposal on which it is seeking the recommendation of the Panel.

~~33.3.5.10~~ As Planning Proposals are referred to the Panel for recommendation only, the Panel will generally provide a recommendation to council formulated within the Panel Meeting.

~~34.3.5.11~~ If Council's decision is to forward the Planning Proposal for a Gateway determination, then the Panel's recommendation shall also be forwarded to the Minister.

~~3.5.12~~ The arrangements for the Panel before the Meeting, and general administrative matters associated with the Panel shall be generally the same as for development applications, including distribution of papers to Panel Members, site inspections, and Council staff and administrative support provided by the Council to the Panel.

~~35.~~

3.6 Transaction of business outside meetings

3.6.1 A panel may, if it thinks fit, transact any of its business by the circulation of papers (electronically or in hard copy) among all the members of the panel. A resolution approved in writing by a majority of those members is taken to be a decision by the panel.

The chair and each member of the panel have the same voting rights as they have at an ordinary meeting of the panel.

The resolution is to be recorded in the minutes of the meetings of the panel.

3.6.2 A panel may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.

3.7 Obligation to consult with Council

3.7.1 The panel must not exercise a function that will result in the making of a decision that would have, or that might reasonably be expected to have, a significant adverse financial impact on Council until after it has consulted with Council.

The consultation may be in writing, with Council being given a specified time to respond in writing. Where a meeting with the General Manager (or delegate) is held to discuss the matter, all relevant panel members should be present and minutes kept of the meeting and its outcomes.

3.8 Control and Direction of Court Appeals

Pursuant to Section 2.20(8) of the EPA Act, the panel has delegated to Council's General Manager, Director Communities and Place and Manager Development Assessment and Regulation the functions of the panel under Section 8.15(4) of the EPA Act in respect of the control and direction of appeals subject to the following:

(i) As required by Section 8.15(4) of the EP&A Act, Council is to give notice to the Panel Chair and Alternate Panel Chair (electronically) of all Appeals relating to the determination or decision of the Panel or any deemed refusal within seven (7) days of the appeal being served.

(ii) In the case of an Appeal relating to a determination or decision of the Panel that is contrary to a Council officer's development assessment report, either the General Manager, Director Communities and Place or Manager Development Assessment and Regulation will consult with the Chair of the Panel that made the determination or decision (or the Chair's nominee) as to the conduct of the Appeal within 5 business days of the notice of service of the appeal.

(iii) In the case of all Appeals relating to a determination or decision of the Panel, either the General Manager, Director Communities and Place or Manager Development Assessment and Regulation will keep the Panel Chair that made the determination or decision (or the Chair's nominee) informed as to major developments in, and the outcome of, the Appeal.

(iv) In the case of an appeal being lodged relating to a deemed refusal of a development application, that application shall be referred to the first practical meeting, following the date that the Appeal was served, for determination or decision



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by the Panel. If it is not practical to provide a report, the Chair (or Chair's nominee) shall be consulted prior to any Statement of Facts and Contentions being filed with the Court. Should there be no opportunity to consult with, or a response to a draft Statement of Facts and Contentions no be received from, the Chair (or the Chair's nominee) at least two business days prior to the date required for the filing of the Statement of Facts and Contentions the General Manager, Director Communities and Place or Manager Development Assessment and Regulation shall have delegation to settle the Statement of Facts and Contentions without consultation or a response.

(v) The Council shall circulate a memo to all Panel members quarterly on the status of all Appeals relating to the determination or decision of the Panel and deemed refusals which would, but for the Appeal, have come before the Panel. If an agreement under Section 34 of the Land and Environment Court Act has been made, the memo shall include reasons sufficient to demonstrate how the Panel's determination was addressed in the Section 34 Agreement.



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**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 25 SEPTEMBER 2024**

**ATTACHMENT 1
ITEM 6.3 WLPP MEETING
25 SEPTEMBER 2024**

DA No.	Address	Proposal	Est. date to WLPP	Advice to Chair	No. of Days at 18/9
22/0926	West Parade, Hill Top	Retail Premises, Take Away Food and Drink Premises	Dec. 24	Revised plans and information were received in August 2024. Under referral/assessment.	1031
23/0202	Earl Street, Bowral	Building Envelope & Vegetation Removal	Dec. 24	Awaiting external agency advice	762
23/1081	8 Hakea Street, Hill Top	Dwelling House, Tree Removal	Dec. 24	Additional information received – currently being reviewed	533
24/0189	33 Cordeaux Street, Willow Vale	Dwelling House, Secondary Dwelling	Today	DA is recommended for approval subject to conditions	401
24/0215	2 Walker Street, Bowral	Child Care Centre, Demolition - Dwelling House	Oct. 24	Additional information received – currently being reviewed with the aim to report the DA to the October LPP meeting	398
24/0574	451 Moss Vale Road, Bowral	Construction of Residential Flat Building (20 Dwellings)	Nov. 24	Awaiting internal referrals.	320

Table – DAs to be determined by the Local Planning Panel that are over 180 days