

AGENDA

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

Wednesday 7 December 2022

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

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 7 DECEMBER 2022**

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Our Mission, Our Vision, Our Values

OUR MISSION

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

OUR VISION

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

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

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

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

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

OUR VALUES

Integrity, trust and respect

Responsibility and accountability

Communication and teamwork

Service quality

{meeting-room}

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The meeting must not be recorded by others.

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

The Council Chamber has 24 Hour Video Surveillance.

1 OPENING OF THE MEETING

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

2 ACKNOWLEDGEMENT OF COUNTRY

The Chairperson acknowledged country:

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

3 APOLOGIES

Nil at time of print.

4 DECLARATIONS OF INTEREST

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

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

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

Council’s Code of Conduct provides that if members have a non-pecuniary conflict of interest, the nature of the conflict must be disclosed. The Code also provides for a number of ways in which a member may manage non pecuniary conflicts of interest.

5 PLANNING PROPOSALS

5.1 Planning Proposal - Mittagong Airfield

Report Author: Senior Strategic Land Use Planner

Authoriser: Executive Manager Strategic Outcomes

PURPOSE

The purpose of this report is to [Type text](#)

Applicant / Proponent	Lee Environmental Planning
Owner	Berrima District Aero Club
Consultants	Lee Environmental Planning
Notification	N/A
Number Advised	N/A
Number of Submissions	N/A
Current Zoning	C3 Environmental Management
Proposed Amendment/s	LEP Include the subject land in Schedule 1 (Additional Permitted Uses) of Wingecarribee Local Environmental Plan 2010 to enable a boundary adjustment by subdivision between Lot 841 DP1253894 and Lot 11 DP1226788, to retain a maximum of two (2) lots, one of which would contain the existing airfield and associated buildings, the other to preserve the existing dwelling entitlement of Lot 11 DP1226788.
Political Donations	Nil
Recommendation	That the Planning Proposal BE SUPPORTED

OFFICER'S RECOMMENDATION

{recommendation-start - Delete options not applicable}

THAT

1. The Planning Proposal (PP-2022-3467) to amend Schedule 1 (Additional Permitted Uses) of Wingecarribee Local Environmental Plan 2010 to enable boundary adjustment by subdivision between Lot 841 DP1253894 and Lot 11 DP1226788, to retain a maximum of two (2) lots (one of which would preserve the existing dwelling entitlement) BE SUPPORTED, and

2. The Planning Proposal be submitted for a Gateway determination in accordance with s.3.34 of the *Environmental Planning & Assessment Act 1979*.

REPORT

PLANNING PROPOSAL

Introduction

The subject land is located on Old South Road, Mittagong, approximately 1.5 kilometres from the intersection of Old South Road and Bong Bong Road as indicated in **Figure 1** below.



Figure 1 –Locality Map

The site is generally known as the Mittagong Airfield, originally constructed in 1944 by the Royal Australian Air Force, but now privately owned and maintained by the Berrima District Aero Club.

The land is located to the east of the Renwick locality and is bounded by Old South Road to the east and Diamond Fields Road to the south as indicated in **Figure 2** below.

The land covers an area of some 41.6 hectares, comprising two (2) separate lots, being Lot 11 DP1226788 (37 hectares), and Lot 841 DP1253894 (4.6 hectares) as indicated in **Figure 3** below. Lot 11 accommodates the western portion of the runway as well as a club house and aircraft hangers along the southern side of the runway. Lot 11 also has a dwelling entitlement. Lot 841 is an L-shaped parcel on which the eastern extent of the runway is located.

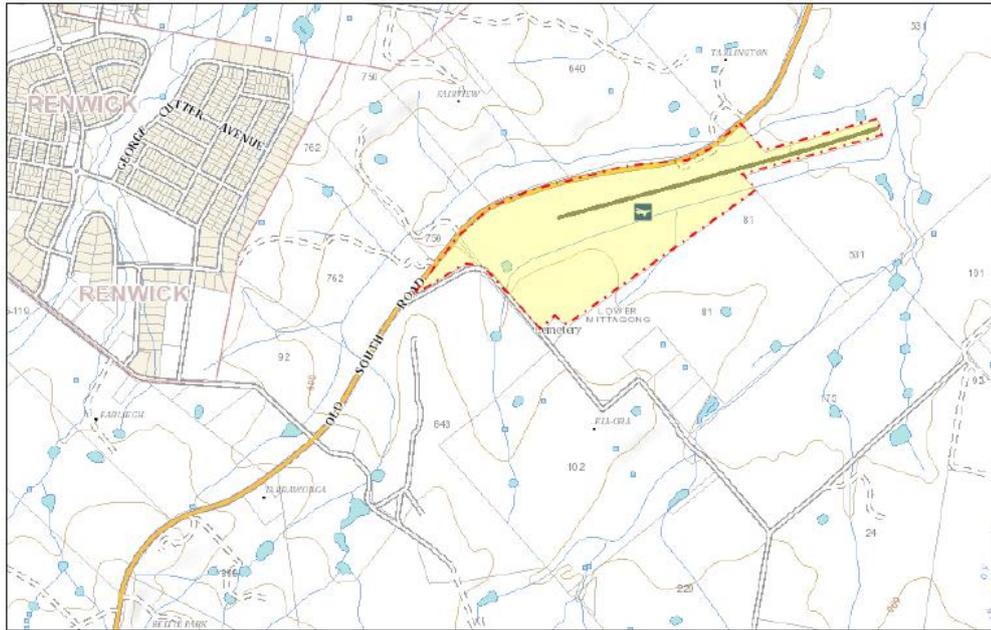


Figure 2 – The subject land



Figure 3 – Lot 11 DP 1226788 (top) and Lot 841 DP 1253894 (bottom)

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The airfield serves the main aviation needs of the Southern Highlands community, including use by the Rural Fire Service during bush fire emergencies, for aero-medical flights and other medical transfers. It is also used by the National Parks and Wildlife Service and the Australian Defence Forces, for training activities and as a base for power and gas line aerial safety survey work. Aircraft travelling to the Shire for business and tourism purposes also utilise the airfield. The airfield is funded and maintained entirely by Aero Club members.

The site is zoned C3 Environmental Management under the Wingecarribee Local Environmental Plan 2010 with a minimum lot size is 40 hectares. However, the larger Lot 11, although less than 40 hectares, does have an existing dwelling entitlement under a previous planning instrument that would enable a Development Application to be lodged for a dwelling house under the current provisions of WLEP 2010.

The objective of the Planning Proposal is to enable a boundary adjustment by means of subdivision to create two new lots from the two existing lots, one for the airfield and associated Aero Club activities and one retaining the existing dwelling entitlement.

One lot would include all of the current Lot 841 plus that portion of Lot 11 currently used for aviation purposes creating a new lot of some 31 hectares used exclusively for the ongoing operation of the Aero Club, identified as Lot 843 in **Figure 4** below.

The remainder of Lot 11 not used for aviation purposes would comprise a second lot of some 10.6 hectares, identified as Lot 844 in **Figure 4** below, to which the current dwelling entitlement applicable to the current Lot 11 would be applied. Both lots would remain zoned C3 Environmental Management with a minimum lot size of 40 hectares.

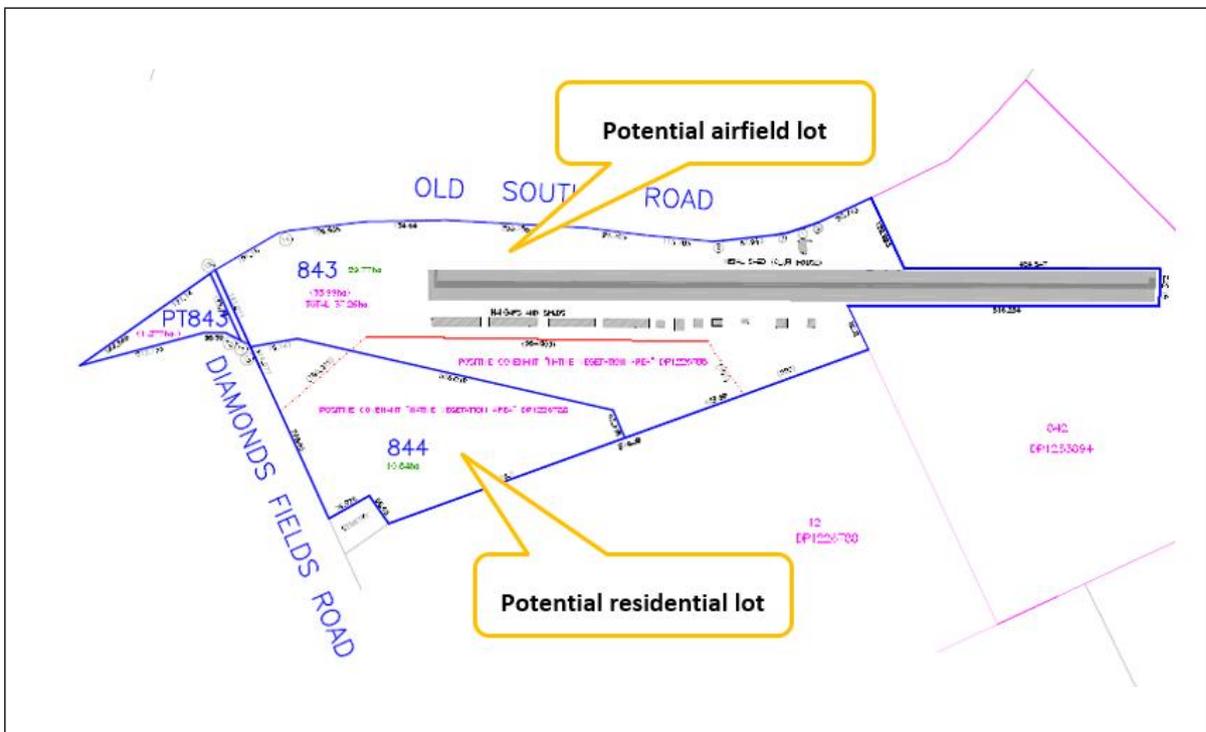


Figure 4 – Potential Lot Arrangement (Rein Warry and Co. Consulting Surveyors)

It is noted that no actual subdivision would occur through the Planning Proposal. Rather the role of the Planning Proposal would be to amend WLEP 2010 to enable this rearrangement of lots to occur. Council could then consider a subsequent Development Application for a boundary adjustment, through subdivision, to create the two allotments described above in an arrangement approved by Council.

The need for the Planning Proposal has arisen because until recently, the Aero Club leased both lots. The smaller Lot 841 DP 1253894 was purchased in January 2020 and the larger Lot 11 DP 1226788 was purchased in February 2022. These purchases were necessary because the previous owner had advised that the Aero Club leases would not be renewed beyond 2024.

The amendment to Schedule 1 which the Planning Proposal would achieve would enable the Aero Club to retain the air field lot and to sell the vacant lot as a future dwelling site, the proceeds of which would secure the airfield's financial future and provide for its ongoing maintenance.

STRATEGIC ASSESSMENT

Strategic Merit

The Planning Proposal seeks an amendment to WLEP 2010 to facilitate the ongoing provision of a community facility recognised for its community and economic value to the Shire. Securing the financial viability of the air field would support the social, community and economic values and objectives included in the South East & Tablelands Regional Plan, as well as in the Wingecarribee Community Strategic Plan. The Wingecarribee Local Strategic Planning Statement also reflects the objectives which retention of the air field for community and economic use would achieve.

Site Specific Considerations

No actual changes of land use would result from the Planning Proposal. A large portion of the site is well established as air field and the remainder of the site already has a dwelling entitlement. It is noted that a portion of the lot (Lot 11) with the dwelling entitlement does contain vegetation identified on both National and State Registers as either a Threatened or Endangered Ecological Community covering an area of some 13 hectares as indicated in **Figure 5** below.

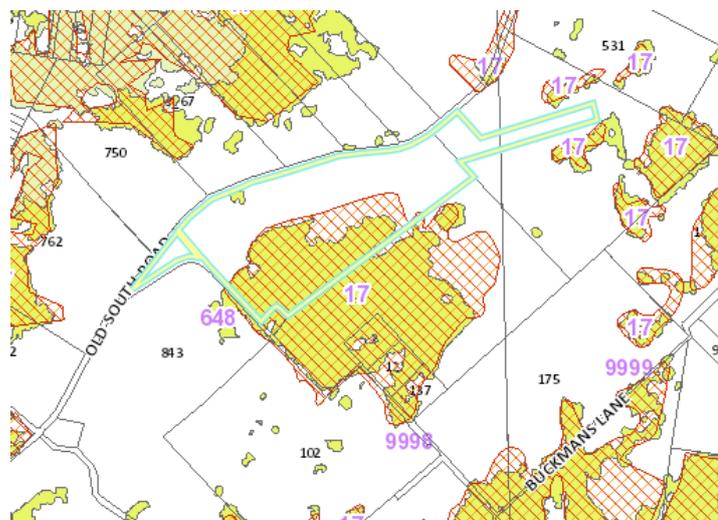


Figure 5 – Mapped Vegetation

The Planning Proposal is accompanied by a Native Vegetation Review prepared by Arboricultural Consultancy Australia and a Bush Fire Assessment report prepared by Sowdes, but it would be at the DA stage that the environmental impact of any future dwelling on the site would be fully assessed. It is noted that the Planning Proposal does not create a new dwelling entitlement, but rather seeks to retain an existing entitlement and so does not impose additional development potential on to the site. All other relevant site specific factors would be considered at the DA stage at which time an appropriate building envelope could also be identified.

CONSULTATION

Pre-lodgement Scoping Meeting (If at Gateway stage)

Type text – attach pre-lodgement advice is relevant (i.e. not supporting)

An informal meeting was held between Strategic Outcomes staff and the proponent to discuss the Planning Proposal and understand its intent.

External Referrals

No external referrals have occurred at this stage. Should the Proposal receive a Gateway determination to proceed It is expected that referral to WaterNSW and the NSW Rural Fire Service would be required.

Internal Referrals

No internal referrals have occurred at this stage.

Public Exhibition

If a Gateway Determination to proceed with the Planning Proposal is received, public exhibition would be undertaken for a period of at least 28 days with the Planning Proposal notified on Council's *Your Say Wingecarribee* website and included in other Council community communications. Neighbour notification would also occur.

SUSTAINABILITY ASSESSMENT

- **Environment**

A portion of the subject land does contain vegetation identified on both National and State Registers as either a Threatened or Endangered Ecological Community. The Planning Proposal is accompanied by a Native Vegetation Review prepared by Arboricultural Consultancy Australia and a Bush Fire Assessment report prepared by Sowdes, but it would be at the DA stage that the environmental impact of any future dwelling on the site would be considered. It is noted that the Planning Proposal does not create a new dwelling entitlement, but rather seeks to retain an existing entitlement and so does not impose additional development potential on to the site.

- **Social**

The airfield does support a range of essential community services and therefore is considered to provide a public benefit which the amendments outlined in the Planning Proposal would support through enabling the Aero Club to secure the financial viability of the airfield and its activities.

- **Broader Economic Implications**

The Proposal would enable the Aero Club to secure the financial viability of the airfield and its activities and thereby secure the business and community benefits associated with it.

- **Culture**

There are no cultural issues in relation to this report.

- **Governance**

The Planning Proposal would be processed in accordance with relevant legislation and Departmental guidelines.

RELATIONSHIP TO CORPORATE PLANS

There are no related Corporate Plans associated with this report.

COUNCIL BUDGET IMPLICATIONS

There are no related budget implications associated with this report.

RELATED COUNCIL POLICY

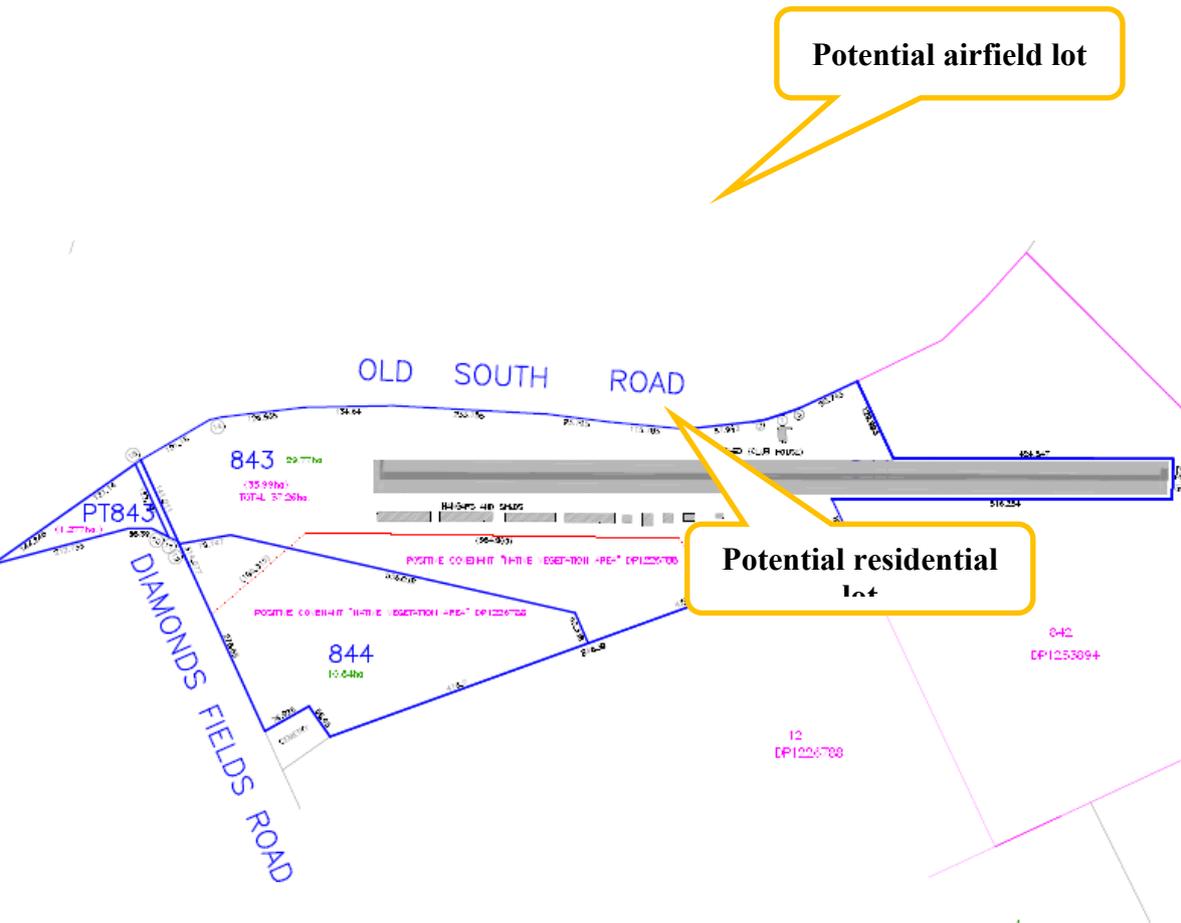
There are no related Council Policies associated with this report.

CONCLUSION

No actual changes of land use will result from the Planning Proposal. The site is legally operating as an air field and one of the lots already has a dwelling entitlement. The Planning Proposal seeks to enable a more efficient and orderly use of the land for both purposes through a boundary adjustment by means of subdivision. No additional lots, nor entitlements, would be created. Therefore, it is the recommendation of this report that the Planning Proposal be supported.

ATTACHMENTS

Nil



6 DEVELOPMENT APPLICATIONS

6.1 DA22/0583.01 – Modification to Construction of a New Community Hall and Associated Works at Lots 145 – 152 in DP 751259, Lot 1 in DP 327438, Lot 155-157 & 163 in DP 751259 and Lot 1 Community Hall - Penrose Oval 300 Kareella Road, Penrose

Report Author: Development Officer - Planning (Contractor)

Authoriser: Director Communities and Place

PURPOSE

The purpose of this report is to consider DA22/0583.01 which seeks to modify a Development Consent for (DA22/0583) the construction of a New Community Hall and associated works at 300 Kareela Road, Penrose, for the Panel's consideration. It is recommended that the application be determined for APPROVAL subject to the modified conditions included in **Attachment 1**.

Consultants	Simon Bathgate – PSA Architects Stephen Craig – Greenwich Build
Applicant	Stephen Craig
Landowner	Wingecarribee Shire Council
Notification Period	4 November – 18 November 2022
Number of Submissions	NIL
Zoning	RE1 – Public Recreation
Political Donations	None declared
Reason for Referral to Panel	Council Owned Land

OFFICER'S RECOMMENDATION

THAT the Local Planning Panel determines modification DA22/0583.01 for the Construction of a New Community Hall and Associated Works at 300 Kareela Road, Penrose for APPROVAL, subject to the conditions of consent in Attachment 1 to this report.

EXECUTIVE SUMMARY

1. Executive summary

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On 4 May 2022 the Wingecarribee Local Planning Panel approved DA22/0583 for the construction of a community centre and hall and associated works at 300 Kareela Road, Penrose. Since the granting of the consent the Penrose Community Association Inc (PCA) have undertaken a tender process and have reached an agreement with a builder to undertake the construction. However, as a result of increased costs experienced across the construction industry, it is now proposed that the building be reduced in size and that the development staged in order to align with funding availability.

The proposed modification is summarised as follows:

- Reduction in the size of the hall from 420m² to 360m².
- Change from timber frame to steel frame.
- Change of material to entry porch wall from stone cladding to miniorb.
- Change of material to entry porch screen from timber/glass to corten
- Introduction of staging of the development into 2 stages with car park construction, landscaping, kitchen fitout, elevated stage and external store all forming part of the 2nd stage.

During the assessment of the modification clarification was sought from the applicant in respect of the delivery of Stage 2 works, in particular the car parking. The applicant confirmed in writing that the Association will accept a condition of consent that they will not occupy the hall until the Stage 2 works including car parking are complete.

The modification application was notified to neighbours in accordance with Council's Community Participation Plan, and no submissions were received.

The application has been considered under 4.55, in particular 4.55(1a) and the 'Matters for consideration' listed in Section 4.15(1) of the Environmental Planning & Assessment Act 1979 and is generally considered to be satisfactory subject to conditions, including a condition that ensures the hall is not occupied until the Stage 2 works including car parking are complete.

2. Site Description and Locality

The subject site (the site) is known as 300 Kareela Road, Penrose and is legally known as the following collective of lots:

- Lot 145 DP 751259
- Lot 146 DP 751259
- Lot 147 DP 751259
- Lot 148 DP 751259
- Lot 149 DP 751259
- Lot 150 DP 751259
- Lot 151 DP 751259
- Lot 152 DP 751259
- Lot 1 DP 327438
- Lot 155 DP 751259
- Lot 156 DP 751259
- Lot 157 DP 751259
- Lot 163 DP 751259
- Lot 154 DP 1144429

The site is a corner block located at the intersection of Mill Road and Kareela Road and consists of an existing Community Hall built in 1954, older style Public Toilets, two tennis courts, and a small playground.

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Penrose Pine Products timber mill is north of the site, and to the west sits a single storey dwelling along Mill Road. Situated on the east along Kareela Road is an incomplete single storey dwelling and the Penrose RFS fire shed. Adjacent to Kareela Road is the main Sydney to Melbourne train line, which traverses the village.

The land is zoned RE1 Public Recreation under the provisions of the Wingecarribee Local Environmental Plan (LEP) 2010. The surrounding landform slopes very gently to the north. The site has an area of approximately 19,918m² with a frontage of approximately 157m to Kareela Road and a frontage of approximately 179m to Mill Road.

Figures 1 and 2 illustrate the site's location and context.

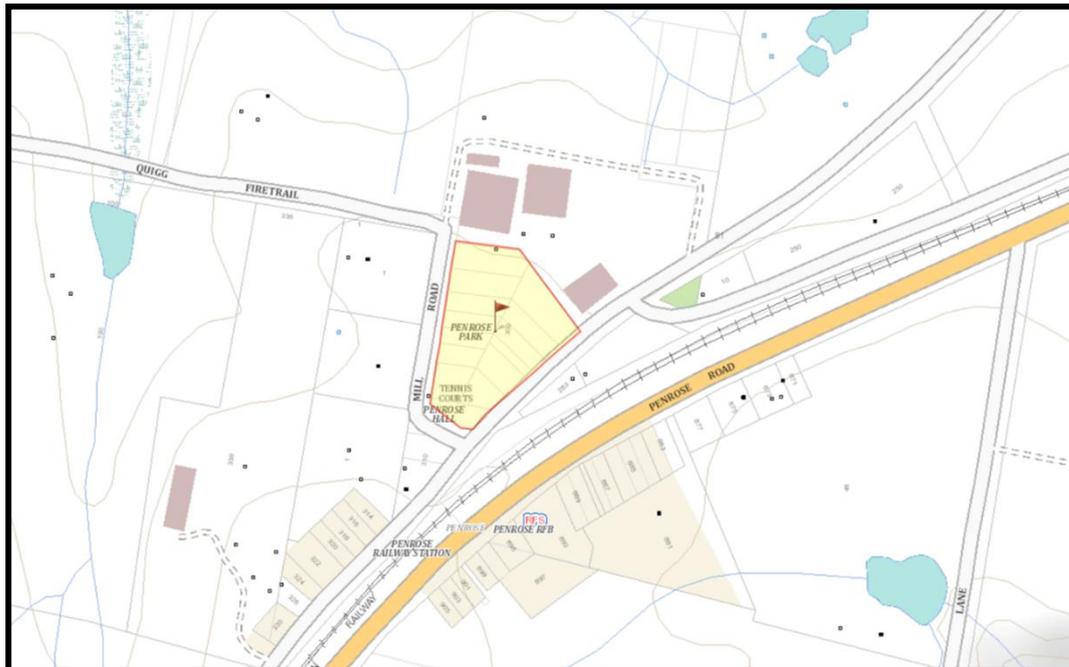


Figure 1: Locality Map (Source: Six Maps)



Figure 2: Aerial Photo of Subject Site (Source: Nearmap)

3. Background

On 4 May 2022 the Wingecarribee Local Planning Panel approved DA22/0583 for the construction of a community centre and hall and associated works at 300 Kareela Road, Penrose.

The works consisted of the following:

- Construction of the community hall, comprising of –
 - Stage, and Hall with maximum number of 125 persons using the facility at any one time
 - Green room
 - Indoor storage rooms
 - Toilet amenities
 - Entry and meeting area
 - Kitchen
 - Outdoor storage rooms for garden tools and play and sports equipment
 - Pump, generator, and solar plant room
 - Entry porch
 - Outdoor deck
- Car parking for 37 vehicles including 2 accessible spaces
- Provision of landscaping and associated site works

The approved building is for a purpose-built community hall and is proposed to be used for the following purposes:

- Arts, craft, and drama classes;
- Table tennis and other minor sports;
- Pilates, yoga, and dance classes;
- Club meetings including Men's shed meetings; and
- Musical events.

The building would be used on an as needs basis and would not have any permanent staff.

The approved hours of operation are 8am – 10pm, 7 days a week with all visitors having left the site by 11pm.

4. Proposed Development

This application seeks to modify DA22/0583. The modifications proposed consist of the following:

- Reduction in the floor area of the hall from 420m² to 360m² of the hall and retaining the approved 125-maximum capacity
- Change from LVL Timber frame and timber posts to entirely steel frame
- Change of material to Entry Porch wall from stone cladding to Miniorb
- Change of material to Entry Porch Screen from Timber/Glass to Corten
- Increase of building height by 13mm
- Proposed staging of the development

It is noted that there are a number of other minor changes in levels that are included in the amended plans which are minor in nature.

The staging of the development is composed of two parts, as detailed below:

- Stage One
 - Construction of the community hall, storage, verandah, porch
 - Completion of all sanitary disposal works
 - Completion of all fire service works and installation of tanks
 - Completion of all rainwater works
- Stage Two
 - Construction of concrete walkways and accessible parking
 - Landscaping works
 - Biofiltration works
 - Construction of driveway crossovers
 - Construction of gravel car park
 - Construction of gravel service road
 - Construction of stormwater drainage lines

5. Assessment

5.1 TYPE OF MODIFICATION (as prescribed by S.4.55):

(1A) Modifications involving minimal environmental impact

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

(a) it is satisfied that the proposed modification is of minimal environmental impact, and

Comment: The proposed modification involves reducing floor space, a minor increase of building height, change in materials and staging of the development. The proposed changes will not result in any additional earthworks, tree removal or acoustic, odour and visual impacts, and is therefore considered to be of minimal environmental impact.

(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and

Comment: The original DA description was for the construction of a community facility (community hall) which is permissible with consent in the subject RE1 Public Recreation Zone. The proposed modification does not change the approved use or the general scope of works, and results in minimal visual changes. The proposed increase of building height by 13mm is considered to be minor and unlikely to be visually discernible. Furthermore, the number of seating, staff, car parking spaces, and operational hours remain as approved despite the proposed reduction in the hall size. It is therefore considered that the development, as modified, is considered to be substantially the same development as the development for which the consent was originally granted.

(c) it has notified the application in accordance with:

(i) the regulations, if the regulations so require, or

(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

Comment: Neighbour notification has been undertaken for this application in accordance with the regulations and the Council's Community Participation Plan.

(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.

Comment: No submissions were received.

5.2 SECTION 4.15(1) – RELEVANT CONSIDERATIONS

In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in Section 4.15 (1) as are of relevance to the development the subject of the application.

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

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Chapter 4 requires the consent authority to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land, and to be satisfied that the land is suitable for the proposed use.

The subject site is not identified as contaminated land within the Wingecarribee Shire Council's mapping and has continued public recreation use. It is therefore considered that the land is suitable for the proposed use without further investigation and the application has satisfied the provisions of Chapter 4.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 8 – Sydney Drinking Water Catchment

Chapter 8 aims:

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

The modification application was referred to Water NSW as the site is located within the Sydney Drinking Water catchment as identified in State Environmental Planning Policy (Sydney Region Drinking Water Catchment) 2011.

Water NSW detailed that based on the information provided, Water NSW was satisfied that the proposed development can achieve a neutral or beneficial effect on water quality provided appropriate conditions are included in any development consent and are subsequently implemented. Water NSW concurs with Council granting consent to the application subject to the conditions outlined in their referral. It is noted that some of these conditions require some works to be undertaken as part of Stage 1 works to ensure compliance with the SEPP.

Wingecarribee Local Environmental plan 2010 (WLEP)

The subject site is zoned RE1 Public Recreation under the provisions of the Wingecarribee LEP, refer to Figure 3 below. Community facilities and recreation facilities (indoor) are permitted with consent in the RE1 zone. No changes to the approved use under DA22/0583 have been proposed.

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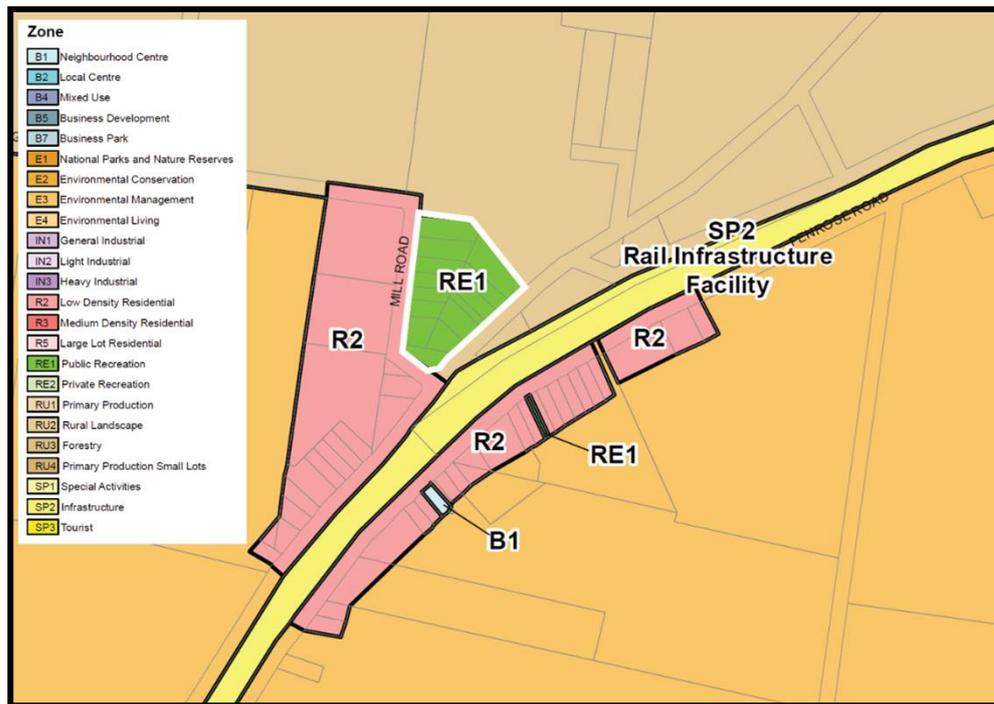


Figure 3: Zoning Map with the site outlined in White (Source: NSW Legislation)

The relevant provisions of the LEP are addressed in the table below.

Wingecarribee Local Environmental Plan (LEP) 2010			
Clause	Control	Discussion	Compliance
1.2 – Aims of Plan	Subclause (2) sets out the LEP’s particular aims.	The proposed development is considered satisfactory with respect to the LEP’s particular aims.	Yes.
2.3 – Zone objectives and Land Use Table	The land is zoned RE1 Public Recreation, and the objectives of the zone are: To enable land to be used for public open space or recreational purposes. To provide a range of recreational settings and activities and compatible land uses. To protect and enhance the natural environment for recreational purposes. To enable ancillary development that will encourage the enjoyment of land zoned for open space.	The proposed development is generally consistent with the objectives of the zone as it provides for public open space and recreational purposes, and a range of recreational settings and activities, whilst protecting and enhancing the natural environment.	Yes.
5.10 - Heritage Conservat	(2) Development consent is required for any of the following—	The site does not contain a heritage item and is not located within	Yes

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<p>ion</p>	<p>(a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance)—</p> <p>(f) subdividing land—</p> <p>(i) on which a heritage item is located or that is within a heritage conservation area, or</p> <p>(4) The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned.</p> <p>(5)The consent authority may, before granting consent to any development—</p> <p>(a) on land on which a heritage item is located, or</p> <p>(b) on land that is within a heritage conservation area, or</p> <p>(c) on land that is within the vicinity of land referred to in paragraph (a) or (b),</p> <p>require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.</p>	<p>a heritage conservation area.</p>	
<p>5.21 – Flood Planning</p>	<p>Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development—</p> <p>a) is compatible with the flood function and behaviour on the land, and</p> <p>b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and</p>	<p>The site is not flood affected.</p>	<p>Yes</p>

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	<ul style="list-style-type: none"> c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and d) incorporates appropriate measures to manage risk to life in the event of a flood, and e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses. 		
<p>7.3 Earthworks</p>	<p>Before granting development consent for earthworks, the consent authority must consider the following matters—</p> <ul style="list-style-type: none"> a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality, b) the effect of the proposed development on the likely future use or redevelopment of the land, c) the quality of the fill or of the soil to be excavated, or both, d) the effect of the proposed development on the existing and likely amenity of adjoining properties, e) the source of any fill material or the destination of any excavated material, f) the likelihood of disturbing Aboriginal objects or other relics, g) proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area. 	<p>The modification application does not propose changes to the earthworks approved as part of the consent.</p>	<p>Yes.</p>

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

No draft instrument is relevant to the proposed development.

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**Section 4.15 (1) (a) (iii)—The provisions of any development control plan that apply to the land
Rural Lands Development Control Plan (DCP)**

As the subject site is zoned RE1 Public Recreation and sits outside of the Penrose and Wingello Village boundary, the proposed development will be subject to the Rural Lands DCP. Assessment against the relevant provisions of this DCP is made in the following table:

Rural Lands Development Control Plan			
Section	Control	Assessment	Compliance
Part A – Managing Our Rural Lands			
Section 4 Vegetation Management			
A4.5 Landform and Vegetation Modification	<p>All new development shall:</p> <p>(a) seek to use the existing natural topography of the site.</p> <p>(b) not require the clearing of native vegetation or established cultural plantings if this results in an increase in the prominence or visibility of the building from a public place or Heritage Conservation Zone.</p> <p>(c) where cut and fill of the area of the building footprint is required, that a limit of 750mm cut and 750mm fill apply.</p>	<p>There are no changes to earthworks proposed and, the development has been designed to accommodate the natural topography of the site.</p> <p>There is no additional clearing of native vegetation or established cultural plantings proposed.</p>	Yes.
A4.6 Earth Works	<p>The origin and composition of any fill brought into the rural areas must be documented.</p> <p>No contaminated fill, including any building waste fill of unknown origin, must be brought into the Rural Areas.</p> <p>No fill containing materials that may cause harm to a site or persons using a site may be brought into the rural areas.</p> <p>Any excavation works must</p>	<p>The modification application does not propose changes to the earthworks approved as part of the consent.</p>	Yes

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	<p>take into consideration the following:</p> <ul style="list-style-type: none"> (i) possible wildlife habitat, (ii) The need and purpose of the excavation (iii) The scenic impact (both on and off site) (iv) Erosion mitigation measures 		
<p>A4.7 Protection of Trees, Bushland and Vegetation during Construction and Development</p>	<ul style="list-style-type: none"> (a) All works and services associated with construction of rural development (development location, stock piles, rubbish, site sheds services access and egress of all vehicles etc) must be sited to ensure they will have no negative impact on trees, vegetation and bush land that is to be retained on site. This will require these to be located clear of any Tree Protection Zones. (b) Best practice methodologies must be employed to maintain Tree Protection Zones. This will include the size of the zone, appropriate fencing/buffering etc (c) Best practice methodologies must be employed in the design and installation of any services to the site to ensure the long-term viability of trees, vegetation and bush land. This needs to include no interruption to flow paths of surface water. (d) Siltation control fences and measures must be provided to protected vegetation trees, bush 	<p>The impact of the development on trees and vegetation was considered as part of the original approval. No changes to the conditions in relation to managing impacts on trees and vegetation are proposed.</p>	<p>Yes.</p>

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	<p>land and riparian zones.</p> <p>(e) No clearing of vegetation on land with slopes of 18 degrees or greater.</p> <p>(f) An Arborist or qualified horticultural may be required to supervise works on site to ensure the retention of nominated trees, vegetation or bush land.</p> <p>(g) No removal of trees or other vegetation from an Item of Heritage or from a property within a Landscape or Heritage Conservation Area shall occur without the consent of Council under the provisions of Section A4.11 below.</p>		
A4.9 Arborist's Report	<p>To ensure that any development is compatible with the physical constraints and existing character of the area.</p> <p>To ensure that any development does not compromise the integrity and viability of existing native vegetation, flora and fauna habitat and riparian zones.</p>	<p>No further trees are proposed to be removed other than as originally approved.</p> <p>There are no threatened species identified on the site.</p>	Yes.
Section 5 Water Management			
A5.2 Development within Sydney's Drinking Water Catchments	<p>Under the REP, Council cannot grant development consent unless it is satisfied the development will have a neutral or beneficial effect on water quality.</p>	<p>The modification application was referred to Water NSW who is satisfied that the development can achieve a neutral or beneficial effect on water quality subject to conditions. It is noted that some of these conditions require some works to be undertaken as part of Stage 1 works to ensure compliance with the SEPP.</p> <p>A Water Cycle Management</p>	Yes.

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	All development applications in the drinking water catchments must be accompanied by a Water Cycle Management Study	Study was proposed with the original DA22/0583 and, no changes are proposed.	Yes.
Section 6 Additional Controls			
A6.2 Bushfire Prone Land	A report may be required if the subject property is subject to Bush Fire Risk under the Rural Fire Service's document "Planning for Bushfire Protection"	The subject site is bushfire prone, and a Bushfire Report was submitted with DA22/0583. No change is proposed to the bushfire condition.	Yes.
A6.3 Contaminated or Potentially Contaminated Land	Council will require a Contamination / Remediation report to be prepared for all land that is known to be, or reasonably suspected of being contaminated.	The subject site is not identified as contaminated land.	Yes.
A6.4 Demolition of Existing Structures	Any development application that seeks approval for the demolition of an existing structure (including partial demolition of an existing structure) must prepare and submit a Demolition Work Plan.	There is not demolition of any buildings proposed.	Yes.
A6.5 Regional Wildlife Corridors	Development proposed within these corridors may be subject to additional consultation to ensure the ongoing viability of the wildlife corridor.	The subject site is not identified as being within regional wildlife corridors.	Yes.
A6.6 Development in the vicinity of a National Park or Nature Reserve	The Council shall not grant consent to an application for development on land that is located immediately adjacent to or within 500 metres of land that is a National Park or Nature Reserve, unless the Council has considered any comments from the Department of Environment and Conservation in relation to the likely effect of the proposed development, if any, on the National Park or	The subject site is not in the vicinity of a National Park or Nature Reserve.	Yes.

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	Nature Reserve.		
A6.8 Minimisation of External Impacts - Noise	<p>To reduce the potential for noise-generated land use conflict by appropriately locating and designing rural development in relation to neighbouring developments.</p> <p>To require the provision of noise attenuation measures in the design, construction and operation phase of any rural development or practice.</p> <p>To ensure that best practice guidelines are met in the implementation of noise-generating activity.</p>	<p>Conditions were included in the consent to ensure that the development will not cause an unreasonable adverse noise impact on adjoining properties. No changes to these conditions are proposed.</p>	Yes
A6.10 Minimisation of External Impacts - Outdoor Lighting	<p>(a) Outdoor lighting must be a “full cut-off light fixture”</p> <p>(b) All outdoor lighting fixtures shall be designed, installed, located, and maintained to avoid glare on to adjacent properties or streets</p> <p>(c) All direct illumination shall be kept within the boundaries of the subject property.</p> <p>(d) Accent lighting, when so approved, shall be directed downward on to the building or object and not toward the sky or on to adjacent properties.</p> <p>(e) Direct light emissions shall not be visible above the roof line or beyond the building edge.</p> <p>(f) Spotlighting on landscaping and foliage shall be limited to 150 watts incandescent. The lamp shall be shielded and not create disabling or nuisance glare.</p>	<p>Approved outdoor lighting will be restricted to security and public space lighting when there are no events in the hall. During night-time use access and carpark lighting will be used.</p> <p>Lighting conditions are as outlined in the consent and no changes to these are proposed.</p>	Yes.

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	(g) Timers shall be accurately set to ensure that lighting is used only when natural light is insufficient.		
Section 9 Construction Standards and Procedures			
A9.2 Surveys and Reports	<p><u>A9.2.3 Hydraulic Details</u></p> <p>Hydraulic details, prepared by a suitably qualified hydraulic consultant, shall be provided for:</p> <p>(a) Stormwater service</p> <p>(b) Water supply service (including fire services)</p> <p>(c) Sewerage service</p> <p>(d) Trade Waste discharges to sewer for all buildings except a single dwelling house and associated outbuilding(s). These details are to be submitted with a development application if deemed necessary or with the Section 68 application to Council.</p> <p><u>A9.2.4 Site Survey Reports</u></p> <p>During construction, Council may require the submission of a survey report prior to the pouring of concrete and then upon completion of the building works (prior to occupation), in the following circumstances: -</p> <p>(a) Where a Class 1-9 building is located within 300mm of the minimum side boundary setbacks, (including distance to wall and distance to eaves/gutter)</p> <p>(b) Where a structure is located within 300mm of a registered easement</p> <p>(c) At floor level stage, prior</p>	<p>Satisfactory stormwater drainage and wastewater plans were approved under DA22/0583. A wastewater management report and water cycle management cycle report accompanied the approval. It is not considered the proposed modification works will impact the approved management measures.</p> <p>Sanitary disposal works are proposed to be undertaken as part of Stage One. Biofiltration and stormwater works are to be undertaken as Stage Two.</p> <p>A satisfactory site survey has been submitted.</p>	<p>Yes.</p> <p>Yes.</p>

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	to the pouring of concrete or fixing flooring material, where the property is within an area affected by flooding inundation.		
A9.8 Stormwater Disposal	Final means of disposal of stormwater to Council's stormwater system must be approved by Council.	Onsite bioretention systems will be provided on site to dispose of stormwater as approved under DA22/0583. These works are proposed to be undertaken as part of Stage Two.	Yes.
A9.10 Site Access Standards During Construction	All Council assets (e.g., sewer manholes, stormwater systems etc.) shall be protected from damage.	Relevant conditions are not proposed to be changed.	Yes.
PART B DEVELOPMENT SPECIFIC CONTROLS			
Section 6 Other Commercial and Community Development			
B6.1 Site Suitability for Particular Development	In assessing an application for any commercial or community use of land in a rural setting Council will give careful consideration to the appropriateness of the site for the type of activity proposed	Since 1922, the subject site, Penrose Village Park, has been used as a community hall. The existing current hall was built in 1954 and will remain ancillary to the approved new community hall. The site has had ongoing continued use as a community hall. The proposed modification does not change the existing use or general scale of the development, but reduces the size of the hall.	Yes.
B6.2 Objectives for all Commercial Development	In permitting commercial development in any rural setting, Council seeks to ensure that such development is: (a) Sited and designed to respect the rural environment within which the development is located.	The approved structure has been sited and designed in respect to the surrounding rural environment in which the development is located. The proposed modification does not significantly change the approved scale and general	Yes.

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		scope of works.	
	(b) Appropriately located to ensure no detrimental impacts on neighbouring development.	The approved development is appropriately located and not considered to result in detrimental impacts on neighbouring development. No changes have been proposed in relation to location.	Yes.
		The development is considered to be constructed of materials that respect the rural landscape.	Yes.
	(c) Constructed from materials which respect the rural landscape.	The proposed materials complement existing development within vicinity.	Yes.
	(d) Complements the style of any existing development within the vicinity.	On-site Car parking was approved DA22/0583 for part of the Stage 2 works. Following discussions with the applicant agreement has been reached that they will not occupy the hall until the Stage 2 works including car parking are complete. It is recommended that this be included as a condition of any consent.	Yes. Subject to condition
	(e) Designed to provide adequate car parking, located to be accessible to users of the development without detracting from the rural landscape in which the development is located.		
	(f) Appropriately located in terms of accessibility from regional access roads.	The car park is located off Kareela Road. This road has existing access to Penrose Forest Road and The Highland Way.	Yes.

Penrose and Wingello Villages Development Control Plan (DCP)

The proposed development site adjoins the Penrose village boundary and where the Rural Lands DCP does not highlight specific concerns that may impact the Penrose village, an assessment

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against the applicable provisions of the Penrose and Wingello Villages DCP is made in the following table:

Penrose and Wingello Villages Development Control Plan			
Section	Control	Assessment	Compliance
Part A – All Land			
Section 2 General Objectives			
A2.2.6 Visual Amenity	<p>(a) Demonstrate an appreciation of the existing streetscape.</p> <p>(b) Enhance the character of individual streets within the villages through appropriate built form design.</p> <p>(c) Provide areas of private open space which can make a positive contribution to the overall visual amenity of the locality.</p>	<p>The development as approved complements the existing streetscape and enhances the character of the village whilst improving the visual amenity of the land and surrounding lands.</p> <p>The building will contribute to the community character of the locality and continue to provide well landscaped open space.</p> <p>The proposed modified reduction of space and change in material and finishes will not have a significant impact to the visual appearance of the development as viewed from the street.</p>	Yes.
A2.2.7 Public Views and Vistas	In assessing a land use application, Council will consider the extent to which the proposal contributes to the protection of public views and vistas.	The proposed development is not situated in an area where there is substantial public view or vista	Yes.

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

No planning agreement or draft planning agreement applies to the land.

Section 4.15 (1) (a) (v)—The provisions of the regulations (to the extent that they prescribe matters for the purposes of this paragraph) that apply to the land

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

Section 4.15 (1) (b)—The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

The environmental impacts of the proposed modification on the natural and built environment have been addressed in this report and is considered to be consistent with the dominant character of the

Penrose locality. The proposed modification is considered minor and will not result in significant adverse environmental, social, or economic impacts.

Furthermore, the approved development will result in favourable social and economic impacts on the locality and will also have an appreciable economic impact generated from construction and employment activity. The approved new community hall and ancillary car park will allow the subject site to be rejuvenated and will provide a place for community and recreational activities and events.

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

The site is located in close proximity to local services. The site has sufficient area to accommodate the proposed land-use and associated structure. Therefore, the site is considered suitable for the proposed development.

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

There were no submissions received in regard to the Modification Application

Section 4.15 (1) (e)—The public interest

The proposal satisfies the objectives of the RE1 Public Recreation zone and will not result in any significant adverse environmental, social, or economic impacts on the locality. The approved community hall is a public facility that will accommodate social activities and encourage social interaction within the local community.

The proposed modification is a result of funding constraints and has been proposed to ensure the viability of the community hall development. Accordingly, the proposal has significant merit and is considered to be in the public interest subject to conditions.

6. Public Notification

The development application was publicly notified in accordance with Council's Community Participation Plan from 4 November – 18 November 2022. Council received no submissions.

Internal Referrals

Building Referral	On referral comments dated 14 November 2022, Council's accredited certifier confirmed that the proposed changes can achieve compliance with the NCC Building Code of Australia, with further details of compliance to be shown at Construction Certificate stage.
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External Referrals

Water NSW	<p>The application was referred to Water NSW as the site is located within the Sydney Drinking Water catchment as identified in State Environmental Planning Policy (Biodiversity and Conservation) 2021 – Sydney Region Drinking Water Catchment.</p> <p>Water NSW detailed that based on the information provided, Water NSW was satisfied that the proposed development can achieve a neutral or beneficial effect on water quality provided appropriate conditions are included in any development consent and are subsequently implemented. Water NSW concurs with Council granting consent to the application subject to the conditions outlined in their referral. It is noted that some of these conditions require some works to be undertaken as part of Stage 1 works to ensure compliance with</p>
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	the SEPP.
RFS	The application was referred to the RFS at the site is bushfire prone. They raised no objection and no change to the existing conditions.

7. Conclusion

That DA22/0583.01 which seeks to modify a Development Consent for the construction of a New Community Hall and associated works at 300 Kareela Road, Penrose be approved subject to the conditions included in **Attachment 1**.

ATTACHMENTS

6.2 DA21/1043 - Subdivision of land and carrying out of works to create 23 residential lots and carrying out of works for the purpose of reads at 1 & 7 Reg Grundy Drive Bundanoon, Lot 18 in DP 1219744, and Lot 11 in DP 1219744

Reference: 21/1043
Report Author: Development Assessment Planner
Planner Authoriser: Director Communities and Place

PURPOSE

This report presents development application 21/1043 for the Local Planning Panel's consideration and recommends determination for **APPROVAL** subject to the conditions specified in **Attachment 1**.

This application was previously reported to Wingecarribee Local Planning Panel (WLPP) on 1 December 2022. At that meeting the Panel deferred determination of the application for various items being actioned. Those items are discussed in further detail in Section 5 of this report.

Consultants:	Civil Development Solutions Narla Environmental Harris Environmental Consulting Urban Water Solutions Tree Survey
Applicant:	R.G. Capital
Land owner:	R.G. Capital (Australia) Pty Limited
Land zoning:	R2 Low Density Residential
Minimum subdivision lot size:	2000m ²
Applicant's estimated cost of proposed development:	Not indicated.
Notification period:	Initial: 7 January to 11 February 2021 Renotification: 15 August to 14 September 2022
Political donations:	None declared
Number of submissions:	Initial notification: Seven (Six from members of the public and one from a government agency). Renotification: Six (all from members of the public).
Reason for referral to Panel:	This application is referred to the Panel for determination for the reason that the application was previously considered by the Panel on 1 December 2021 (It is noted that Council may refer any planning matter to the panel for advise or determination).

RECOMMENDATION

THAT the Local planning Panel determines development application 21/1043 for subdivision of land and carrying out of works to create 22 community title residential lots, 1 community title lot and carrying out of works for the purpose of roads by APPROVAL, subject to the conditions specified in Attachment 1 of the report.

REPORT

1. EXECUTIVE SUMMARY

Development application 21/1043 relates to a vacant 10.31ha parcel of land comprising two lots in Bundanoon. It proposes subdivision of land and carrying out of works to create 22 community title residential lots, one community lot (drainage lot) and carrying out of works for the purpose of roads, as illustrated in **Figure 4**.

The application was previously reported to Wingecarribee Local Planning Panel (WLPP) on 1 December 2021 with a recommendation for approval. The WLPP deferred the determination of the application requesting additional information and amendments to the application which are discussed in Section 5 of this report.

The proposed development is integrated development requiring authorisation under section 100B of the *Rural Fires Act 1997*. The NSW Rural Fire Service has not raised any objection and has notified Council of its general terms of approval.

Following deferral of the determination of the application and the submission of additional information, the application was renotified to owners and occupants of surrounding properties, and six (6) submissions were received in response. The submissions' broad issues concern vegetation removal and impacts on the riparian corridor, and the information provided on plans and in consultant reports/documentation. The concerns are addressed in Section 6 of this report.

Overall, the proposed development is considered satisfactory with respect to the relevant matters for consideration specified by section 4.15 (1) of the *Environmental Planning and Assessment Act 1979*.

2. SITE DESCRIPTION AND LOCALITY

Figures 1 and 2 illustrate the sites location and layout (see also **Attachments 2 and 3**). The site is a vacant 10.3ha parcel of two low density residential zoned lots on the northern side of Reg Grundy Drive in Bundanoon, approximately 1km northeast of the town centre. Both lots are accessible by vehicle from Reg Grundy Drive.

The land has moderately undulating topography, falling inwardly to the upper reach of an unnamed watercourse that flows generally westward, through adjoining properties including Council's Jordans Crossing Park. The watercourse includes an old farm dam.

Vegetation on the land mainly comprises cleared pastures and scattered mature native trees, but its northeastern portion – particularly its northernmost corner – is occupied by denser native vegetation communities including Southern Highlands shale woodland, an endangered ecological community.

Surrounding land uses include Bundanoon Park and Oval (a Crown reserve) to the land's southwest, Council's Jordans Crossing Park to the west, low density residential accommodation developments to the west, northwest and south, and dwelling houses on large rural residential lots to the north and northeast.



Figure 1: Locality map.



Figure 2: Aerial image.

3. HISTORIAL NOTES

The land was created in October 2019 by registration of a subdivision of land to create 18 lots, the subject of Council's development consent LUA11/0724. The approved plan of subdivision is reproduced in **Figure 3**.



Figure 3: Development consent LUA11/0724 drawing.

4. PROPOSED DEVELOPMENT

The amended application proposes subdivision of the land under Community Title to create 22 residential lots and one community lot, as well as the carrying out of works for the purpose of roads. An extract from the proposed development drawings accompanying the amended application is reproduced in **Figure 4**. The full suite of supporting documents accompanying the amended application is also included in **Attachment 4**.

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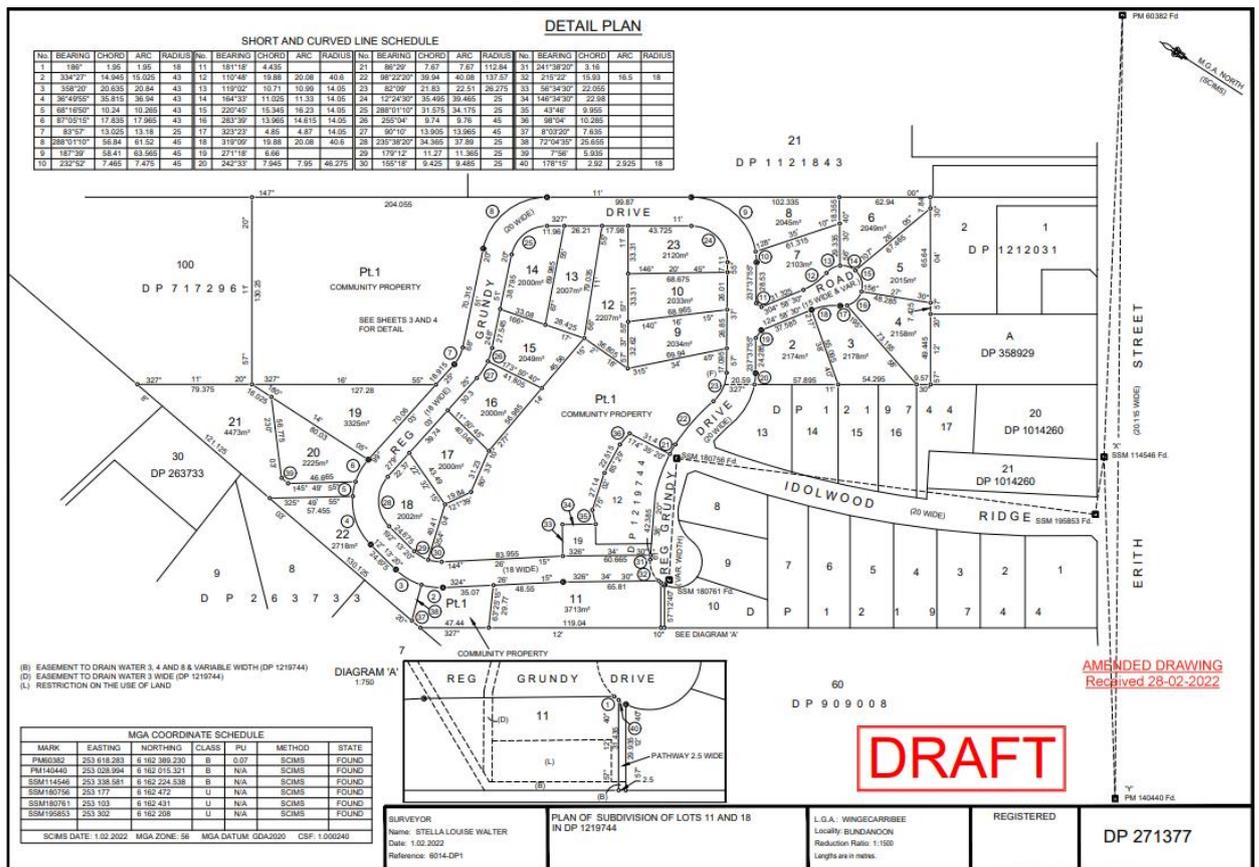


Figure 4: Extract from proposed development drawings.

5. APPLICATION BACKGROUND

(a) Original development application

Development application 21/1043 as was initially made on 18 December 2020, proposed subdivision of the land under Torrens Title to create 23 lots, and carrying out of works for the purpose of roads.

The application was referred internally to various Council officers and engaged consultants, as well as externally to the NSW Rural Fire Service (an integrated development approval body) and Water NSW. The application indicated the proposed development was integrated development requiring approvals under the Roads Act 1993 and the Water Management Act 2000, so it was also referred to NSW Roads and Maritime Services (RMS) and the NSW Natural Resources Access Regulator (NRAR). However, RMS and NRAR later confirmed the proposed development did not in fact require approval under either the Roads Act or the Water Management Act.

Council notified the application to owners and occupants of surrounding properties, inviting submissions between 7 January and 11 February 2021. Notification attracted six (6) submissions from the public and one (1) submission from a government agency (NSW Rural Fire Service).

Council, Water NSW and the Rural Fire Service requested the applicant provide various additional information in order to fully assess the application. After the applicant provided additional and revised information and drawings in response, Council staff completed an assessment of the application and reported the proposal to the Wingecarribee Local Planning Panel meeting of 1 December 2021, recommending the Panel determine the application by granting conditional consent. An extract from the proposed development drawings accompanying the application, as considered by the Panel, is reproduced in **Figure 5**.

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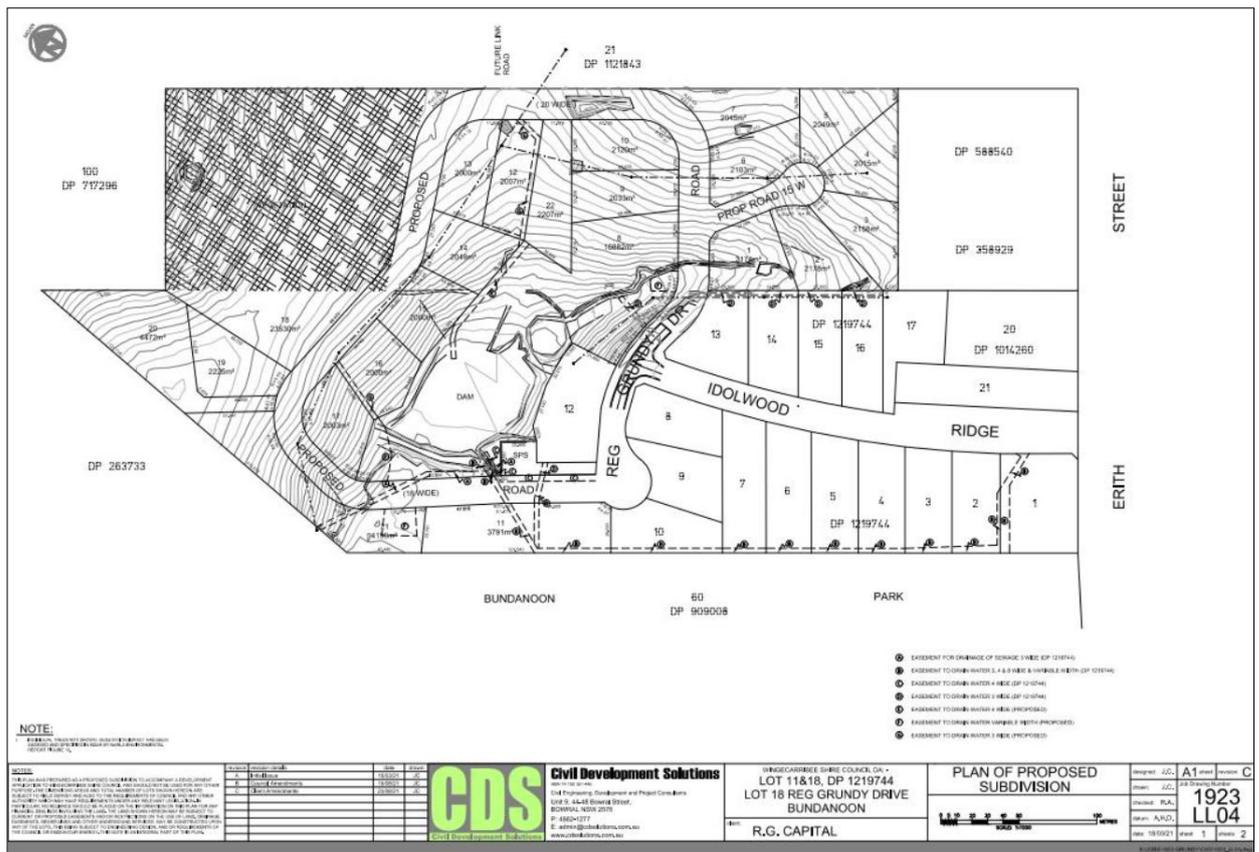


Figure 5: Extract from proposed development drawings considered by Wingecarribee Local Planning Panel on 1 December 2021.

In its meeting of 1 December 2021, the Panel unanimously determined as follows regarding the application, with a response provided to each point:

THAT the Wingecarribee Local Planning Panel defers determination of the development application subject to the following items being actioned:

- 1. The applicant update the following plans and reports: -**
 - a. Vegetation Management Plan to be updated to include the following items:**
 - I. The amended vegetation management plan shall be prepared by a suitably qualified and experienced restoration ecologist**
 - II. The amended vegetation management plan shall identify existing site conditions**
 - III. The amended vegetation management plan shall identify all vegetation to be retained and removed, including isolated trees**
 - IV. The amended vegetation management plan shall specify locations for protective fencing around ‘no-go areas’ and areas where trees will be retained**
 - V. The amended vegetation management plan shall identify the locations of all existing and proposed infrastructure including underground services**

- VI. The amended vegetation management plan shall identify the key performance indicators required to be met in the management zones**
- VII. The amended vegetation management plan shall identify the triggers and thresholds for remedial action should a key performance indicator not be met**
- VIII. The amended vegetation management plan shall be implemented by a suitably qualified restoration ecologist**
- IX. The amended vegetation management plan shall outline the ongoing management arrangements for the land.**

Response: An updated Vegetation Management Plan (VMP) prepared by Narla Environmental (dated August 2022, reference CDS01 var1, version Final v3.0), has been submitted and reviewed and Council's Ecologist has recommended the VMP be included in the conditions of consent.

- b. The biodiversity assessment report be updated in accordance with the independent Ecological assessment report recommendations dated, June 2021.**

Response: An updated Vegetation Management Plan (VMP) prepared by Narla Environmental (dated August 2022, reference CDS01 var1, version Final v3.0), has been submitted and reviewed and Council's Ecologist has recommended the VMP be included in the conditions of consent.

- c. The subdivision plan be amended to a Community Title subdivision so as to include the forested area within Lot 18 and the riparian zone of the proposed Lot 8 into community Lot. Further, that the applicant submit a draft community management statement addressing the ongoing management of these areas in accordance with the vegetation management plan.**

Response: The plan of subdivision (prepared by Stella Louise Walter, dated 1.02.2022, reference 6014-DP1) has been updated to include the forested and riparian areas within Community Title Lot 1. A draft community management statement has been provided which provides a specific by-law in Part 5 relating to the ongoing management of these areas in accordance with the VMP.

- d. That the plan of subdivision be amended to include a 2.5 metre public footway from Reg Grundy Drive to Bundanoon Park, adjoining the north western side of Lot 10 DP 1219744, to Reg Grundy Drive, including a 1.2 metre wide concrete footpath for the full length of the public footway. This will necessitate a corresponding reduction in the area of Lot 11.**

Response: The plan of subdivision (prepared by Stella Louise Walter, dated 1.02.2022, reference 6014-DP1) has been amended to provide a 2.5 metre wide public footpath from Reg Grundy Drive to Bundanoon Park.

- e. That the Bushfire threat assessment report be updated in line with items a – d above. This may necessitate further review of the subdivision design.**

Response: An Addendum Bushfire Hazard Assessment (prepared by Harris Environmental Consulting, revision 1.1, dated 24/02/2022, reference 3667BF) has been prepared to account for the amendments to the VMP referred to in Item A of the Panels deferral.

- f. The civil design plans be amended to include a cross section of the proposed road adjacent of lot 21 on the eastern boundary such that the finished levels match the existing levels of Lot 21.**

Response: An updated set of civil plans prepared by Civil Development Solutions (reference, 1923 CD02, revision E, dated 22/02/2022) has been prepared to provide a cross section through the proposed new road confirming the levels match at the boundaries. It is noted the lot numbering has been updated with the revised plans, however the amended plans address this point.

- g. All other documents accompanying the development application be amended so they are consistent with items (a – f) above.**

Response: The relevant documents have been updated to address items (a-f) which have allowed for a proper assessment of the proposal.

- 2. Once the plans and reports have been updated in accordance with item one (1) above that the application be referred back to the Rural Fire Service (RFS).**

Response: Amended documents and plans referred to in Item 1 were received, and the application was referred back to the NSW Rural Fire Service seeking an updated bush fire safety authority. An updated bush fire safety authority and general terms of approval dated 1 June 2022 were issued by NSW RFS in response to the amended and additional information provided.

- 3. Once the RFS issue their GTA's and no further amendments are required to the documents supporting the development application, the development application be renotified in accordance with Council's Community Engagement Strategy.**

Response: Following receipt of the RFS General Terms of Approval (GTAs), the application was renotified in accordance with Council's Community Engagement Strategy between 15 August and 14 September 2022. A total of six (6) submissions were received in response to the notification period which are discussed further in this report.

Detailed are the reasons for the WLPP deferring the determination of the application on 1 December 2021.

REASONS:

- 1. The Panel considered the biodiversity considerations to be critical to the determination of the development application and that the outstanding items with the BDAR should not be deferred to conditions of development consent. After noting the independent assessment of the BDAR, the Panel determined that the BDAR needed to be amended and in a final form, assessed by the independent consultant before the development application could be determined.*
- 2. The Panel considered the VMP to be a critical consideration in the determination of the development application and consequently was not prepared to defer its amendment via a condition of consent. The VMP needs to be amended and in a final form supported by the independent consultant before the development application could be determined.*
- 3. The Panel noted the Council officer's advice that as a matter of policy the Council does not take on drainage reserves and other environmental land as a result of subdivision because of the ongoing maintenance costs, and that policy was consistent with the policy position on this issue adopted by other rural and regional Councils across the State. Consequently, the proposal is to include two environmental areas within the subdivision, a riparian zone running through the centre of the site, and a forested area in the north eastern corner of the holding into two of the proposed lots, and that the future owners of those lots would then be responsible for managing those environmental areas on those lots in accordance with an amended VMP.*

The Panel considered that this would be an unfair burden on those two lots, and was not satisfied that the VMP would be implemented, or that Council could ensure compliance. The Panel considered that the ongoing management of these two areas is a critical threshold consideration in the determination of this development application. The Panel considered that the ongoing management of these environmental areas STET not Council's responsibility, then the future lot owners collectively need to be responsible for the ongoing management of the environmental areas and infrastructure. These areas will provide the future landowners with natural amenity, and it is in their collective interest then for these areas to be appropriately managed.

The Panel considered that the appropriate mechanism for allowing proper management of these two areas was as community lots within a community title management scheme and did not support their inclusion into individual lots. Consequently, the Panel is of the view that the application needs to be amended to a Community Title subdivision so as to appropriately

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facilitate the ongoing management in an equitable manner by the community created by the subdivision of the land.

4. *Given the above critical matters requiring resolution before the development application can be determined, the Panel also considered that the other items that were outstanding should also be included in amended documentation, in particular the need for a pedestrian access as outlined in item 1.d. above, the need for finished road levels adjacent to Lot 21 on the eastern boundary so the impact of finished levels on adjoining land can be satisfied as per item 1.f. and the need for all documentation to be consistent, in terms of plans and documents, including the Bushfire Threat Assessment report.*
5. *Given the changes to the design of the subdivision from that originally proposal, it will then be necessary to refer the application back to the RFS to ensure they are satisfied with the GTAs they have issued to the original design put before the Panel.*
6. *The final application and supporting documentation will then need to be placed back on notification given the community interest in the proposal noting that the plan placed before the Panel was significantly different to the plan that the community previously commented on.*

As outlined above, the applicant has subsequently submitted all of the requested information and made the requested amendments, which has been reviewed. It is considered that, the additional information submitted adequately addresses the reasons for deferral of determination of the application.

On 6 December 2021 Council requested the applicant provide additional information to address the matters specified in item 1 of the Panel's above determination.

(b) Amended development application

The applicant amended development application 21/1043 on 28 February 2022. The application was referred internally to various Council officers and engaged consultants, as well as externally to the NSW Rural Fire Service (an integrated development approval body) and Water NSW (a concurrence authority). In response, the Rural Fire Service advised of its General Terms of Approval and Water NSW confirmed its concurrence to Council granting consent for the proposed development. However, Council's Ecology and Arboriculture Consultants identified matters to be addressed by way of additional information.

Council requested the applicant provide further additional information to address the matters raised by Council's Ecology and Arboriculture Consultants. The applicant did so, and the application – including the additional information received – was again referred to the Ecology and Arboriculture Consultants, who advised that they were generally satisfied and with recommended conditions of consent (if granted).

Noting item 3 of the Wingecarribee Local Planning Panel's determination of 1 December 2021 (discussed above) and having received (a) the applicant's abovementioned additional information and (b) the Rural Fire Service's general terms of approval for the proposed development, Council advertised the amended application and notified it to owners and occupants of surrounding properties, inviting submissions over a 30-day period. Advertisement and notification attracted six (6) submissions, as discussed below.

6. PLANNING ASSESSMENT

The application has been considered with regard to the matters for consideration specified by section 4.15 (1) of the *Environmental Planning and Assessment Act 1979*, as detailed below.

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

State Environmental Planning Policy (Biodiversity and Conservation) 2021			
Chapter 4 – Koala habitat protection 2021			
Provision	Control	Discussion	Compliance
Clause 4.1— Aim of Chapter	The Policy aims to encourage conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline.	Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the Policy's aim.	Complies.
Clause 4.2— Definitions	In the Policy— core koala habitat means— (a) <i>an area of land which Has been assessed by a suitably qualified and experienced person as being highly suitable koala habitat and where koalas are recorded as being present at the time of assessment of the land as highly suitable koala habitat, or</i>	The application is accompanied by a koala assessment report that indicates the land includes core koala habitat.	Complies.
Clause 4.9— Development assessment process—no approved koala plan of management for land	Clause 4.9 applies because the land has an area of at least 1.0ha and is not subject to an approved koala plan of management. If Council is satisfied that the proposed development is likely to have low or no impact on koalas or koala habitat Council may grant consent to the application. If Council is satisfied that the proposed development is likely to have a higher level of impact on koalas or koala habitat, Council must, in deciding whether to grant consent to the application, take into account a koala assessment report for the	The koala assessment report accompanying the application contemplates potential direct and indirect impacts of the proposed development: <i>“The residual direct impact to Koalas and Koala habitat associated with the proposed subdivision is the removal of feed trees. The proposed subdivision will impact approximately 4.9ha of vegetation representative of PCT 994. Of that 4.9ha, 2.7ha contains no trees of any species and is recorded as a disturbed, historically cleared condition class, providing no suitable habitat to Koalas. The remaining 2.2ha was comprised</i>	Complies.

	<p>proposed development.</p>	<p><i>of canopy species representative of PCT 994. Approximately 1.3ha will require complete clearing, with 0.6ha being managed as an Inner Protection Area (IPA) and 0.3ha as an Outer Protection Area (OPA) to reduce bushfire hazard. The management of bush land for APZ purposes will not result in the wholesale clearing of vegetation but rather the select removal of trees and shrubs to achieve the required densities of an IPA and OPA as set out in the Planning for Bushfire Protection (NSW RFS 2019).</i></p> <p><i>“Koalas have not been recorded in the vicinity of the Site Area, with only two (2) records within 2.5km in the past 18 years. Therefore, it is not expected that the proposed removal of select feed trees will have a negative impact on the viability of a local Koala population, especially when considering the area of habitat that will be retained along with the restoration of the drainage reserve with Koala feed trees. The proposed subdivision has been designed in such a way to ensure that suitable Koala habitat remains within the Site Area”.</i></p> <p><i>“The most likely indirect impacts to Koalas and Koala habitat associated with the proposed subdivision are increased risks of vehicle strike, reduction in viability of adjacent habitat due to edge effects and the interruption of Koala behaviour due to an increase in noise and light. There is unlikely to be an increased risk of fire or introduction of disease. The indirect impacts, although possible, are likely to be very localised and result in minor impacts to Koalas and their habitat. Therefore, it is not expected that the potential indirect impacts associated with the proposed subdivision will</i></p>	
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		<p><i>reduce the viability of a local Koala population”.</i></p> <p>The koala assessment report also suggests:</p> <p><i>“Despite the Site Area containing remnant stands of intact vegetation the historic clearing within the site and the greater locality has resulted in the vegetation present being significantly fragmented sharing no connectivity with any significant areas of potential habitat. The most intact section of bush land, in the norther extent of the site will remain unimpacted by the proposed works, continuing to provide a potential refuge, as well as foraging and resting habitat to Koalas. Given the low number of proximal records it is unlikely that the areas of vegetation within the site is regularly utilised by Koalas however, due to high levels of fragmentation within the locality these stands of habitat are important.</i></p> <p><i>“With the area of intact vegetation being retained in the norther extent of the Site area along with the drainage reserve proposed to be revegetated using Koala feed trees...The proposed subdivision will maintain Koala habitat values across the Site Area aiding in the recovery of Koalas across the locality”.</i></p> <p><i>“The subdivision has been strategically positioned to minimise impacts on native vegetation and Koala habitat as much as possible. A large portion of the proposed subdivision will be located in historically cleared land, with only a select amount of intact vegetation requiring wholesale clearing and modification to accommodate APZs, which protect the dwellings from bushfire.</i></p>	
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		<p><i>“Vegetation will be maintained within the northern corner of the site, with a drainage reserve to be revegetated...with listed Koala feed trees along the southern boundary. The vegetation within the site is already fragmented providing minimal connection to any surrounding bush land. The revegetation of the drainage reserve as well as the retention of the potential habitat in the north of the Site Area, will ensure that Koala habitat will remain across the site post works.</i></p> <p><i>“The strategic placement of the proposed works in combination with the desire of the proponent to maintain the natural bushland aesthetics of the site will avoid significant impacts to Koalas. In addition, any temporary structures required for construction works should be located within the development footprint. This will avoid unnecessary impacts on native vegetation and Koala habitat elsewhere within the site”.</i></p> <p>The koala assessment report specifies management and mitigation measures to be implemented in the carrying out of the proposed development:</p> <p>Prior to construction, the proponent should commission the services of a qualified and experienced Ecologist (minimum 3 years’ experience) with a minimum tertiary degree in Science, Conservation, Biology, Ecology, Natural Resource Management, Environmental Science or Environmental Management. The Ecologist must be licensed with a current Department of Primary Industries Animal Research Authority permit and New South Wales Scientific License issued under the BC Act. The Ecologist will be commissioned to:</p>	
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		<p>- Undertake an extensive pre-clearing survey, delineating habitat trees and shrubs to be retained/removed, and</p> <p>- Supervise the clearance of trees and shrubs (native and exotic) in order to capture, treat and/or relocate any displaced Koalas.</p> <p>- Australian Standard 4970 (2009) Protection of Trees on Development Sites (AS-4970) outlines that a Tree Protection Zone (TPZ) is the principal means of protecting trees on construction sites. It is an area isolated from construction disturbance so that the tree remains viable. Ideally, works should be avoided within the TPZ.</p> <p>- Temporary fencing should be erected around retained native vegetation that may incur indirect impacts on Koalas/ Koala habitat due to the construction works. This fencing will also deter Koalas from entering the construction area.</p> <p>- Lost Koala feed trees within the Site Area will be compensated for by planting Koala feed, within the proposed drainage reserve within the Site Area. The trees to be planted will be comprised of listed Koala feed trees that also represent PCT 944, including:</p> <ul style="list-style-type: none"> • <i>Eucalyptus cypelloarpa</i> • <i>Eucalyptus quadrangulate</i> • <i>Eucalyptus globoidea</i> <p>Replanting should occur at a minimum ratio of 1:1, with >90% survival rate. Moreover, the vegetation proposed for retention, especially in the northern extent of the Site Area, is considered to be in good condition and should therefore</p>	
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		<p>be maintained to this standard (e.g. undergo weed control, no planting of exotics and promotion of native shrub and canopy tree regeneration). If Koalas are observed during summer, tree mounted watering points can be used. The successful implementation of the compensatory measures outlined within this report will result in the continuance of suitable Koala habitat within the Site Area.</p> <p>All vegetation modification, maintenance and rehabilitation will be completed pursuant to the corresponding Vegetation Management Plan.</p> <p>The koala assessment report also identifies various proposed measures to regularly and consistently monitor for and report on koalas and their habitat on the land.</p> <p>The application was referred to Council's Ecology Consultant, who raised no concerns regarding the proposed development's potential koala habitat impacts, and recommended conditions of consent, if granted. Recommended conditions of consent require management, mitigation, monitoring and reporting measures to be implemented before, throughout and following the carrying out of the proposed development, in accordance with the koala assessment report's recommendations. Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to clause 11 of the Policy.</p>	
Chapter 8 Sydney Drinking Water Catchment			
Provision	Control	Discussion	Compliance
Clause 8.1— Aims of Chapter	<p>The Policy aims:</p> <p>(a) to provide for healthy water catchments that will</p>	<p>Water NSW is satisfied that the proposed development can achieve a neutral or beneficial effect on water quality provided</p>	<p>Complies.</p>

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	<p>Deliver high quality water while permitting development that is compatible with that goal, and</p> <p>(b) to provide that a consent authority must not grant consent to a proposed development unless it is satisfied that the proposed development will have a neutral or beneficial effect on water quality, and</p> <p>(c) to support the maintenance or achievement of the water quality objectives for the Sydney drinking water catchment.</p>	<p>appropriate conditions are include in any development consent and are subsequently implemented and concurs with Council granting consent for the proposed development subject to recommended consent conditions.</p>	
Clause 8.7— Recommend ed practices and performance standards of Water NSW	<p>Any development or activity proposed to be carried out on land to which Chapter applies should incorporate Water NSW's current recommended practices and standards.</p>		
Clause 8.8— Development consent cannot be granted unless neutral or beneficial effect on water quality	<p>Council must not grant consent to the proposed development unless satisfied that the carrying out of the proposed development would have a neutral or beneficial effect on water quality.</p>		
Clause 8.9— Development that needs concurrence of Regulatory Authority	<p>Council must not grant consent to the proposed development except with the concurrence of the Regulatory Authority.</p>		
State Environmental Planning Policy (Resilience and Hazards) 2021			
Provision	Control	Discussion	Compliance
Clause 4.1- Object of this Chapter	<p>The Chapter aims to promote remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.</p>	<p>The land has not been used for a potentially contaminating purpose identified by Table 1 to the contaminated land planning guidelines. It is considered unlikely to be contaminated or to require remediation to be made suitable for the proposed development.</p>	Complies.
Clause 4.6- Contaminatio n and remediation to be	<p>Council must not grant consent to the proposed development unless it has considered whether the land is contaminated. If the land is</p>		

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<p>considered in determining development applications</p>	<p>contaminated, Council must be satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out. If the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, Council must be satisfied that the land will be remediated before the land is used for that purpose.</p>		
<p>Wingecarribee Local Environmental Plan 2010</p>			
<p>Provision</p>	<p>Control</p>	<p>Discussion</p>	<p>Compliance</p>
<p>Clause 1.2— Aims of Plan</p>	<p>Subclause (aa)-(p) specifies the Plan’s specific aims.</p>	<p>Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the particular aims specified by clause 1.2 (2).</p>	<p>Complies.</p>
<p>Clause 1.4— Definitions</p>	<p>The Dictionary at the end of the Plan defines words and expressions for the purposes of the Plan.</p>	<p>The proposed development comprises subdivision of land and carrying out of works to create 22 lots for the purpose of dwelling houses and carrying out of works for the purpose of roads.</p>	<p>Complies.</p>
<p>Clause 2.3— Zone objectives and Land Use Table</p>	<p>The Land Use Table at the end of Part 2 specifies purposes for which development is permitted without consent, permitted with consent, or prohibited in land Use Zones specified by the Plan. Council must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.</p>	<p>The land is in Zone R2 Low Density Residential. The Land Use table at the end of Part 2 specifies subdivision of land and carrying out of works to create lots for the purpose of dwelling houses and carrying out of works for the purpose of roads, are permitted with consent in Zone R2.</p> <p>The proposed development is considered satisfactory with respect to the R2 zone objectives specified by the Land Use Table:</p> <p>To provide for the housing needs of the community within a low-density residential environment.</p>	<p>Complies</p>
<p>Clause 2.6— Subdivision — consent requirements</p>	<p>Land to which the Plan applies may be subdivided, but only with development consent.</p>	<p>The application seeks consent to subdivide the land.</p>	<p>Complies</p>

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<p>Clause 4.1— Minimum subdivision lot size</p>	<p>The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the Minimum size shown on the Lot Size Map in relation to that land.</p>	<p>The minimum size shown on the Lot Size Map in relation to the land is 2,000m². The 22 residential lots in the proposed development range from 2,000m² to 4,473m², with the proposed community lot being a total of 3.646 hectares in area.</p>	<p>Complies</p>
<p>Clause 7.3— Earthworks</p>	<p>Development consent is required for earthworks in the proposed development. Before granting consent for earthworks, Council must consider:</p> <p>(a)the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality</p> <p>(b)the effect of the proposed development on the likely future use or redevelopment of the land</p> <p>(c)the quality of the fill or of the soil to be excavated, or both</p> <p>(d)the effect of the proposed development on the existing and likely amenity of adjoining properties</p> <p>(e)the source of any fill material or the destination of any excavated material,</p> <p>(f)the likelihood of disturbing Aboriginal objects, or other relics,</p> <p>(g)proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.</p>	<p>The proposed development will involve extensive earthworks. Provided all recommended consent conditions are complied with, the proposed earthworks are not expected to have any significant negative impact with respect to the matters for consideration specified by clause 7.3.</p> <p>Recommended consent conditions require lawful disposal of material removed from the land, prohibit importation to the land of any fill material other than virgin excavated natural material, and require notification of the NSW Office of Environment and heritage if earthworks uncover any archaeological relic.</p>	<p>Complies</p>
<p>Clause 7.5— Natural resources sensitivity— water</p>	<p>Before granting consent for the proposed development, Council must consider any potential adverse impact of the proposed development on:</p> <p>(a)the natural flow regime, (b) the water quality of receiving waters,</p>	<p>The land is traversed by an unnamed watercourse identified by the Natural Resources Sensitivity Map as Category 3 riparian land (bank stability and water quality; within 10m from top of stream bank on each side).</p> <p>The proposed development</p>	<p>Complies</p>

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	<p>(c)the waterway’s natural flow paths, (d)the stability of the waterway’s bed, shore and banks, (e)the flow, capacity and quality of groundwater systems.</p> <p>Development consent must not be granted for the proposed unless Council is satisfied that:</p> <p>(a)the development is designed, sited and managed to avoid any potential adverse environmental impact, or (b)if that impact cannot be avoided—the development is designed, sited and will be managed to minimise that impact, or (c)if that impact cannot be minimised— the development will be managed to mitigate that impact.</p>	<p>requires Water NSW concurrence under clause 8.9 of Chapter 8 in State Environmental Planning Policy (Biodiversity and Conservation) 2021. The application was accordingly referred to Water NSW, which is satisfied that the proposed development can achieve a neutral or beneficial effect on water quality provided appropriate conditions are include in any development consent and are subsequently implemented and concurs with Council granting consent for the proposed development subject to recommended consent conditions.</p> <p>The application was also referred to the NSW Natural Resources Access Regulator, which responded that the proposed development does not require a controlled activity approval under section 91 of the Water management Act 2000.</p> <p>Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the matters specified by clause 7.5.</p>	
Clause 7.10— Public utility infrastructure	<p>Consent must not be granted for the proposed development unless Council is satisfied that any public utility infrastructure essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when it is required.</p>	<p>Recommended consent conditions specify requirements for provision of essential public utility infrastructure to each lot in the proposed development, including water supply, electricity supply and sewerage services infrastructure.</p>	Complies

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

No proposed instrument is specifically applicable to the land.

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

The application has been considered with regard to the relevant provisions of the Bundanoon Town plan Development Control Plan, as tabulated below.

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Part A—Provisions applicable to all land			
Section 2—General objectives			
Provision	Control	Discussion	Compliance
Section A2.2— Objectives of this Plan	<p>Section A2.2 specifies the DCP’s objectives for:</p> <ul style="list-style-type: none"> • economic function • urban function heritage • conservation • residential amenity • residential diversity • visual amenity • public views and vistas • environmental sustainability • the public domain. 	<p>Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the objectives specified in section A2.2.</p>	Complies.
Section 3—Biodiversity			
Provision	Control	Discussion	Compliance
Section A3.2— Flora and fauna assessment report	<p>A flora and fauna assessment report must be lodged with a development application if:</p> <p>the proposed development site:</p> <ul style="list-style-type: none"> • contains native vegetation • contains remnant native trees • is adjacent to native vegetation if the study area has been extensively cleared • the proposed development: • will directly or indirectly impact on native vegetation by clearing, runoff, waste-water irrigation, Bushfire Asset Protection • contains natural features that sustain native species • may directly or indirectly have a significant impact on native vegetation or sensitive environmental areas that may contain habitat for threatened species, populations or ecological communities • is likely to have a significant impact on matters of national environmental significance under the (Commonwealth) 	<p>The application is accompanied by a biodiversity development assessment report (BDAR). Council’s Ecology Consultant has identified trees being accounted for removal in the BDAR but are being retained in the arborists report. The recommended conditions of consent require compliance with the arborists report to retain those trees. Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to section A3.2.</p>	Complies.

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	Environment Protection and Biodiversity Conservation Act 1999.		
Section 4 – Water Management			
Provision	Control	Discussion	Compliance
Section A4.1— Protection of watercourses and riparian lands	Refers to clause 7.5 of Wingecarribee Local Environmental Plan 2010.	Refer to earlier discussion of clause 7.5 of Wingecarribee Local Environmental Plan 2010.	Complies.
Section A4.2— Vegetation Management plan for riparian corridors	When a development proposal will disturb or substantially modify a riparian corridor, its restoration or rehabilitation will be required. Details of proposed rehabilitation /restoration must be documented in a Vegetation Management Plan (VMP) submitted with the development application.	The application is accompanied by a vegetation management plan that encompasses the 10m riparian buffer adjoining the watercourse on the land and specifies ongoing management actions. As a result of the deferral of the determination of the application by the WLPP, the subdivision has been amended to incorporate the riparian corridor and the forested area within the community lot. The vegetation management plan is considered satisfactory with regard to section A4.2 of the DCP, and a recommended consent condition requires its adoption before, throughout and following the carrying out of the proposed development.	Complies
Section A4.3— Development in Sydney’s drinking water catchments	Refers to State Environmental Planning Policy (Biodiversity and Conservation) 2021.	Refer to earlier discussion of State Environmental Planning Policy (Biodiversity and Conservation) 2021.	Complies.
Section A4.5— Stormwater management plan	A stormwater management plan report will be required for all development that will result in an increase in the impervious area of the site or a change in the direction of overland flow.	Information accompanying the application indicates proposed methods of draining the land.	Complies.
Section A4.6— Erosion and sediment control plans	Where building or earthworks are proposed, an Erosion & Sediment Control Plan must be provided to Council.	The application is accompanied by a soil and water management plan that details	Complies.

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		proposed erosion and sediment control measures.	
Section 6—Vegetation management and landscaping			
Provision	Control	Discussion	Compliance
Section A6.1— Preservation of trees and other vegetation	<p>Objectives:</p> <p>(a) Preserve the amenity, biodiversity and ecology of the Bundanoon township through the preservation of trees and other vegetation as described in Clause 5.9 of WLEP 2010.</p> <p>(b) Preserve the amenity and heritage value of trees and other vegetation associated with Items of Heritage or within Heritage Conservation Areas.</p> <p>(c) Clarify the meaning of Clause 5.9 of WLEP 2010.</p> <p>(d) Define and explain the terms used in Clause 5.9 of WLEP 2010. (e) clarify the assessment criteria under which exemptions will be determined.</p> <p>Assessment considerations:</p> <p>(a) Whether the community interest has been taken into account.</p> <p>(b) Whether the proprietary interest of the applicant has been duly respected.</p> <p>(c) Whether the enjoyment of neighbouring land will be detrimentally affected.</p> <p>(d) Whether replacement planting is proposed.</p> <p>(e) Implications for biodiversity.</p> <p>(f) Whether there are issues of personal or public safety.</p> <p>(g) Whether a need is demonstrated for solar access to habitable rooms in buildings, solar appliances, clothes drying and outdoor living areas.</p> <p>(h) Whether there are more practical or desirable alternatives.</p> <p>(i) Whether the proposed work should be carried out and/or</p>	<p>Clause 5.9 of Wingecarribee Local Environmental Plan 2010 was repealed and subsequently reinstated to relate to replacement of lawfully erected dwellings damaged or destroyed by a natural disaster. It is therefore irrelevant to section A6.1 of the DCP.</p> <p>The application was referred to Council's Ecology and Arboriculture Consultants, each of whom responded with recommended conditions of consent. Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the objectives and assessment considerations specified by section A6.1.</p>	Complies.

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	<p>supervised by a suitably qualified person.</p> <p>(j)Whether the application should more properly be part of a wider development and/or building works.</p> <p>(k)Whether there is a justified need.</p> <p>(l)Whether adverse impacts of the proposal have been adequately identified and will be satisfactorily mitigated.</p>		
Section 7—Subdivision, demolition, siting and design			
Provision	Control	Discussion	Compliance
Section A7.1— Subdivision of land	<p>Refers clause 4.1 of Wingecarribee Local Environmental Plan 2010 regarding minimum subdivision lot sizes.</p> <p>Suggests delineation and registration of building envelopes where warranted to ensure preservation of important public vistas and view corridors, energy efficiency, mitigation of visually obtrusive development and provision of efficient, approved on-site stormwater disposal.</p> <p>Specifies requirements for street tree planting.</p> <p>Specifies requirements for street lighting.</p>	<p>The proposed development satisfies clause 4.1 of Wingecarribee Local Environmental Plan 2010.</p> <p>The proposed development drawings delineate building envelopes that are expected to satisfactorily minimise or mitigate potential conflicts with significant vegetation and stormwater drainage. A recommended consent condition requires the proposed building envelopes to be registered with the final plan of subdivision.</p> <p>Recommended consent conditions specify requirements for street tree planting in accordance with Council's Urban Street Tree Masterplan, and for provision of street lighting in accordance with relevant standards including Australian/New Zealand Standard AS/NZS 4282:2019 Control of the obtrusive effects of outdoor lighting.</p>	Complies

Section 8—Safer by design			
Provision	Control	Discussion	Compliance
Section A8.3— Crime prevention through environmental design	<p>CPTED aims to:</p> <p>(a) Maximise risk to offenders (increasing the likelihood of detection, challenge and apprehension)</p> <p>(b) Maximise effort required to commit crime (increasing the time, energy and resources required to commit crime)</p> <p>(c) Minimise the actual and perceived benefits of crime (removing, minimising or concealing crime attractors and rewards)</p> <p>(d) Minimise excuse making opportunities (removing conditions that encourage/ facilitate rationalization of Inappropriate behaviour).</p> <p>CPTED employs four key methods: space and activity management, territorial reinforcement, surveillance and access control.</p>	<p>The proposed development is considered to facilitate future development design to minimise potential for criminal and anti- social behaviour.</p>	<p>Complies</p>
Section A8.3— Specific design requirements	<p>(a) Well-defined building entrances which are clearly visible from the street.</p> <p>(b) Internal spaces must be open and visible, eliminating hidden corners.</p> <p>(c) Walkways and connecting paths must be open with good visibility.</p> <p>(d) Signs and vegetation should be located so that they do not create ‘entrapment’ points where people are hidden from view.</p> <p>(e) On-site garaging must provide clearly defined exit points and be lit at night</p> <p>(f) Building entrances, walkways, connecting paths and garaging must be well lit to ensure such lighting is</p>	<p>Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the relevant requirements of section A8.3.</p>	<p>Complies</p>

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	downward focused and effective without generating glare or annoyance beyond the area being lit.		
Section 9—Construction standards and procedures			
Provision	Control	Discussion	Compliance
Section A9.8— Stormwater disposal	Final means of disposal of stormwater to Council's stormwater system must be approved by Council.	The application was referred to Council's Development Engineer, who raises no concerns regarding proposed methods of draining the proposed development, subject to recommended conditions of consent.	Complies
Section 11—Outdoor lighting			
Provision	Control	Discussion	Compliance
Section A11.2— Objectives	<p>Council will have due regard to the following objectives:</p> <p>(a) Lighting for security purposes shall be adequate for that purpose without drawing unnecessary attention to the development</p> <p>(b) Lighting shall not adversely impact on surrounding development</p> <p>(c) Lighting shall not create 'twilight' impacts on the surrounding environment</p> <p>(d) Lighting shall not diminish the quality of the night sky.</p>	<p>Recommended consent conditions specify requirements for provision of street lighting in accordance with relevant standards including Australian/ New Zealand Standard AS/NZS 4282:2019</p> <p>Control of the obtrusive effects of outdoor lighting.</p> <p>Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the objectives and controls specified by section A11.2 and 11.3</p>	Complies
Section A11.3— Controls	<p>(a) Outdoor lighting must be a "full cutoff light fixture", i.e. a type of fixture with no light emitted above the horizontal and no light dispersion or direct glare to shine above a 90-degree, horizontal plane from the base of the fixture.</p> <p>(b) All outdoor lighting fixtures shall be designed, installed, located and maintained to avoid glare on to adjacent properties or streets</p> <p>(c) All direct illumination shall be kept within the boundaries of the subject property.</p>		

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	<p>(d) Accent lighting, when so approved, shall be directed downward on to the building or object and not toward the sky or on to adjacent properties. Direct light emissions shall not be visible above the roof line or beyond the building edge.</p> <p>(e) Spotlighting on Landscaping and foliage shall be limited to 150 watts incandescent. The lamp shall be shielded and not create disabling or nuisance glare.</p> <p>(f) Timers shall be accurately set to ensure that lighting is used only when natural light is insufficient.</p>		
Part C- Provisions applicable to residential-zoned land			
Section 1 – Introduction			
Provision	Control	Discussion	Compliance
Section C1.2— Objectives	<p>This Part of the DCP aims to achieve:</p> <p>(a) Conservation of the unique characteristics of the residential areas of Bundanoon, particularly in the case of the identified Conservation Areas</p> <p>(b) New residential development which is sympathetic with existing streetscapes and neighbourhood character</p> <p>(c) New residential development that is energy efficient, provides good amenity, and is safe and attractive</p> <p>(d) Residential development which meets the needs of a range of community and demographic types, including smaller households, older people, people with a disability or people requiring group accommodation.</p>	<p>The proposed development is considered to facilitate future residential development consistent with the objectives specified by section C1.2.</p>	<p>Complies</p>
Section 15—Blue Gum Road precinct			
Provision	Control	Discussion	Compliance
Section C15.2—	<p>(a) Retain and appropriately manage the</p>	<p>Provided all recommended consent</p>	<p>Complies.</p>

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<p>Preferred development outcomes</p>	<p>Southern Highlands Shale Woodland communities throughout the precinct</p> <p>(b) Protect the watercourses within the Precinct</p> <p>(c) Develop an integrated subdivision pattern across the northern portion of the precinct which allows for staged development in a cohesive manner.</p> <p>(d) Develop a road network to maximise connectivity for traffic and pedestrians and provide rational traffic circulation without creating a short-cut route between Blue Gum Road and Erith Street.</p> <p>(e) Develop an access plan which provides for a single entry point on Erith Street and another on Blue Gum Road.</p> <p>(f) Provide pedestrian and cycle access between Blue Gum Road and Erith Street and directly from the precinct to Bundanoon Oval.</p>	<p>conditions are complied with, the proposed development is considered satisfactory with respect to the preferred development outcomes specified by section C15.2.</p>	
<p>Section C15.3— Additional precinct specific controls</p>	<p>Council requires that individual applicants be prepared to work with Council to achieve a cohesive development of the Precinct which delivers:</p> <p>(a) A road network that provides efficient connectivity between the various land parcels.</p> <p>(b) Continued pedestrian access between Blue Gum Road and Erith Street.</p> <p>(c) Pedestrian and cycle access through the precinct to Bundanoon Oval.</p>	<p>The proposed development is considered satisfactory with respect to the matters specified by section C15.3 (a) and (b).</p> <p>The proposed development provides a public walkway to link Reg Grundy Drive to the adjoining Bundanoon Park, located between proposed Lot 11 and the existing Lot 10 DP1219744, 2 Reg Grundy Drive (see Figure 5). Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the controls specified by</p>	<p>Complies.</p>

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		section C15.3.	
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Section 4.15 (1) (a) (iiia)—The provisions of any planning agreement or proposed planning agreement that apply to the land

No planning agreement or proposed planning agreement applies to the land.

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

The proposed development complies with the relevant sections of the *Environmental Planning and Assessment Regulation 2021*.

Section 4.15 (1) (b)—The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

Provided all recommended consent conditions are complied with, the proposed development is not expected to have any significant negative environmental, social or economic impact.

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

The proposed development is considered compatible with the locality’s existing, emerging and intended character and amenity, and provided all recommended conditions of consent are complied with, no site attributes are considered to render the land unsuitable for the proposed development.

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

Council initially notified the application to owners and occupants of surrounding properties, inviting submissions between 7 January and 11 February 2021. Notification attracted seven submissions, including submissions received after the notified submissions period closed. The issues raised by the submissions are discussed in the table below.

Issue	Discussion	Response
Vegetation removal	Six submissions object to vegetation removal in the proposed development, suggesting it will have significant negative environmental impacts with respect to flora and fauna habitat as well as watercourse stability. One submission suggests delineation of building envelopes to avoid conflict with existing vegetation. One submission suggests planting of native vegetation to offset vegetation proposed to be removed, specifically along the proposed development’s perimeter.	<p>The application was referred to Council’s Ecology and Arboriculture Consultants, who responded with recommended conditions of consent for the proposed development.</p> <p>The proposed development included delineated building envelopes to minimise conflict with drainage and retained vegetation, and a recommended consent condition requires registration of the proposed building envelopes with the final plan of subdivision.</p> <p>The application is accompanied by a biodiversity development assessment report (BDAR) that indicates drainage areas in the proposed development are to be revegetated with flora representative of the Southern Highlands Shale Woodland endangered ecological community. Recommended consent conditions require submission and approval of, and adherence to, a plan of proposed landscaping</p>

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		including revegetation of those areas in the development not occupied by building envelopes, roads and other works.
Crown land	One submission (from the NSW Department of Planning Industry & Environment – Crown Lands) confirms no objection to the proposed development	Bundanoon Park, the land's southwest, is a Crown Reserve. The submission is noted.
Lot sizes	Two submissions suggest at least some of the proposed lots should be increased in size to at least 4000m ² to complement adjoining properties of similar size and reduce vegetation removal necessitated by with future residential development.	Council's Ecology and Arboriculture Consultants have provided recommended conditions of consent for the proposed development, and recommended consent conditions also require submission and approval of, and adherence to, a plan of proposed landscaping including revegetation of those areas in the development not occupied by building envelopes, roads and other works. The minimum subdivision lot size applicable to the land, adjacent land to the southeast, east and north is 2000m ² , and recent developments in the locality have produced residential lots of approximately that size (e.g. adjoining Idolwood Ridge and Grice Drive). On balance, provided all recommended consent conditions are complied with, the proposed lot sizes are considered satisfactory.

After the applicant provided additional information that Council had requested, and the NSW Rural Fire Service had advised its general terms of approval for the proposed development, Council advertised the amended application and notified it to owners and occupants of surrounding properties, inviting submissions between 15 August and 14 September 2022. Council received four (4) submissions during the specified submissions period. At the time of writing, Council had also received two (2) later submissions after the specified submissions period closed, resulting in a total of six (6) submissions being received in response to the renotification period.

The issues raised by the submissions (including late submissions) received as at the time of writing are identified and discussed below, in no particular order. Some of the submissions received by Council mainly express objection to the amended application on the grounds that the submitter considers the information accompanying the amended application inadequate for assessment. Whilst inadequate accompanying information may indeed constitute valid grounds for objection to a development application, the information accompanying the amended application is considered adequate to allow Council assessment officers to make an informed assessment, and to allow the Wingecarribee Local Planning Panel to make an informed determination, of the application. Since receiving the submissions noted above, the applicant has provided additional information clarifying the concerns raised in the submissions (i.e. an updated BDAR and Arborist Report to indicate consistent tree removal numbers).

Issue	Discussion	Response
Vegetation and riparian corridor impacts	The six submissions received each object to vegetation removal in the proposed development suggesting that the development will have significant impacts on the functions of the riparian corridor and the flora and fauna habitat	The application was referred to Council's Ecology and Arboriculture Consultants, who confirm the additional information provided is satisfactory and providing recommended conditions of consent.

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	<p>on the site.</p> <p>One submission suggests delineation of building envelopes will make it difficult for homes to be sited, should show asset protection zones, cannot include a riparian buffer zone, is concerned with the lack of engineering details for the proposed bridge near lots 1 and 2, and suggests the community management statement is silent on costs involved in setting up and operation of the body corporate.</p> <p>One submission suggests the site is home to many new saplings following the bush fires in 2020 and home to many native flora and fauna. The submission also raises concerns removal of trees will increase wind in the area and the width of the watercourse is too narrow for the amount of water running through.</p> <p>One submission raises the main concern with the development being the impacts of the development on the riparian corridor, referencing various strategic documents and consultant reports. The submission raises concerns with specific parts of the BDAR.</p> <p>One submission raises concerns with the impacts of sediment and erosion as a result of tree removal.</p>	<p>The proposed development includes building envelopes to minimise conflict with drainage and retained vegetation. It is recommended that the building envelopes would be required by recommended conditions of consent to be registered on the title of each lot.</p> <p>The application is accompanied by an updated biodiversity development assessment report (BDAR), Arboricultural Impact Assessment (AIA) and Vegetation Management Plan (VMP) that provides an assessment of the various components of flora and fauna protection, tree removal, enhancement and protection with the proposed development.</p> <p>The proposed development includes retention of a number of trees within the site, and protection of those retained trees through a VMP applying to the community management statement associated with Community Lot 1.</p> <p>Adherence to the recommendations of these documents is required by the recommended conditions of consent attached to this report.</p>
<p>Information on plans</p>	<p>One submission stated various documents noted 'FUTURE LINK ROAD' and the submitter had no knowledge of this, suggesting it be removed from any site maps in the documentation.</p> <p>One submission stated there is a mismatch in the information provided on Council's tracker.</p>	<p>The additional information and plans provided are considered to be adequate for Council officers and the Panel to make a full assessment of the proposal. Additional information and amended documents/plans were provided through several requests for information which now ensure documents provide a satisfactory level of detail for determination.</p>

Section 4.15 (1) (e)—The public interest

There is not considered to be any overriding public interest opposing the granting of consent for the proposed development, provided all recommended consent conditions are complied with.

7. INTERNAL AND EXTERNAL COMMUNICATION AND CONSULTATION

Details of internal and external referrals of the application are tabulated below.

Internal referrals	
Referral	Response
Development Engineer	No objection raised - Recommended conditions of consent.

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Water & Sewer Development Engineer	No objection raised - Recommended conditions of consent.
Contributions Officer	The proposed development is expected to require provision of or increase demand for public amenities and public services within the area, so conditions of consent are recommended to require payment of applicable developer contributions prior to any subdivision certificate being granted for the proposed development.
Transportation Engineer	No traffic concerns raised
Stormwater and Flooding Engineer	No objection received. Conditions of Consent recommended by Council's Development Engineer in relation to stormwater management).
Ecology Consultant	Concerns regarding adequacy of biodiversity development assessment report have been addressed. There are minor inconsistencies between the Arboricultural Impact Assessment (AIA) and BDAR, with the AIA recommending retention of some trees and the BDAR accounting for them being removed. Conditions of consent are recommended requiring tree retention in accordance with the AIA which will further contribute to the aims and objectives of the Biodiversity Conservation Act and Councils DCP.
Arboriculture Consultant	The proposed development, as amended and with the additional information provided, is considered satisfactory, subject to recommended conditions of consent.
External referrals	
Referral	Response
NSW Rural Fire Service (integrated development approval body)	General terms of approval have been issued under section 100B of the <i>Rural Fires Act 1997</i> .
Water NSW (concurrence authority)	Concurrence given, subject to conditions to be conveyed by notice of determination.
NSW Roads and Maritime services	No objection to proposed development.
NSW Natural Resources Access Regulator	Confirmed proposed development does not require controlled activity approval under section 91 of <i>Water Management Act 2000</i> .

8. CONCLUSION

Provided all recommended conditions of consent are complied with, the proposed development is considered satisfactory with respect to the relevant matters for consideration specified by section 4.15 (1) of the *Environmental Planning and Assessment Act 1979*. It is recommended that the Local planning panel determines the development application by granting consent, subject to the conditions specified in Attachment 1.

ATTACHMENTS

1. Attachment 1 Draft Conditions of Consent (1) [6.2.1 - 38 pages]
2. Attachment 2 Locality Map [6.2.2 - 1 page]
3. Attachment 3 Aerial Map View [6.2.3 - 2 pages]
4. Attachment 4 - Plan of Subdivision [6.2.4 - 5 pages]
5. Attachment 5 - Draft Community Management Statement [6.2.5 - 18 pages]
6. Attachment 6 - Concept Civil Plans [6.2.6 - 4 pages]
7. Attachment 7 - Bushfire Hazard Assessment [6.2.7 - 39 pages]
8. Attachment 8 - Addendum to Bushfire Hazard Assessment [6.2.8 - 26 pages]

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9. Attachment 9 - Biodiversity Development Assessment Report [**6.2.9** - 84 pages]
10. Attachment 10 - Vegetation Management Plan [**6.2.10** - 18 pages]
11. Attachment 11 - Koala Assessment Report [**6.2.11** - 26 pages]
12. Attachment 12 - Arboricultural Impact Assessment & Tree Protection Plan [**6.2.12** - 60 pages]

7 MEETING CLOSURE