

26 May 2021

Dear Panel Member,

You are kindly requested to attend the **Independent Advisory Planning Assessment Panel Meeting** of Wingecarribee Shire Council to be held in **Nattai Room, Civic Centre, Elizabeth Street, Moss Vale** on **Wednesday 2 June 2021** commencing at **3.30pm**.

Yours faithfully

Les McMahon
Acting General Manager

Business

- 1. OPENING OF THE MEETING**
- 2. ACKNOWLEDGEMENT OF COUNTRY**
- 3. APOLOGIES**
- 4. DECLARATIONS OF INTEREST 1**

5. DEVELOPMENT APPLICATIONS

- 5.1 Development Application 21/0291 - Subdivision of Land and Carrying Out of Works to Create Five Lots, and Carrying Out of Works for the Purpose of a Private Road, Lot 32 DP1205423, 102-104 Old Wingello Road, Bundanoon 2
- 5.2 Development Application 21/0662 - Erection of Buildings, Partial Demolition of a Building and Carrying Out of Works for the Purpose of Seniors Housing (21 self-contained dwellings) Lot 28 DP1065076, 115-129 Railway Avenue, Bundanoon 25
- 5.3 Development Application 21/1439 - 57 Young Road, Moss Vale - New Dwelling 91
- 5.4 Development Application 21/1589 - 30 Forest Road, Wingello - New Dwelling (Manufactured Home) 116
- 5.5 S8.2 Review of DA19/1650 For an Eco Tourist Facility at 198 Foxgrove Road Canyonleigh (Appln 19/1650.01) 140

6. PLANNING PROPOSALS

- 6.1 Planning Proposal to Rezone the Guula Ngurra National Park to E1 National Parks and Nature Reserves 199

7. MEETING CLOSURE

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

Council Chambers

Recording and Webcasting of Independent Advisory Planning Assessment Panel Meetings

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

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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.

ACKNOWLEDGEMENT OF 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.”

APOLOGIES

Nil at time of print.

DECLARATIONS OF INTEREST

101/3, 101/3.1

The provisions of Chapter 14 of the *Local Government Act 1993* regulate the way in which Panel Members and 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 DEVELOPMENT APPLICATIONS

5.1 Development Application 21/0291 - Subdivision of Land and Carrying Out of Works to Create Five Lots, and Carrying Out of Works for the Purpose of a Private Road, Lot 32 DP1205423, 102-104 Old Wingello Road, Bundanoon

Reference: 21/0291
Report Author: Senior Development Assessment Planner
Authoriser: Manager Development Assessment

PURPOSE

This report presents development application 21/0291 for the Panel's consideration and recommends determination by REFUSAL of consent for the reasons specified in Attachment 1.

Consultants	Wynne Planning
Notification Period	1-22 September 2020
Number of Submissions	1
Zoning	Zone R2 Low density Residential
Political Donations	None Identified
Reason for Referral to Panel	Proposed development is contentious – see discussion of site history

RECOMMENDATION

THAT: The Independent Advisory Planning Assessment Panel determines development application 21/0291, for subdivision of land and carrying out of works to create five lots and carrying out of works for the purpose of a private road, at Lot 32 DP1205423, 102-104 Old Wingello Road, Bundanoon, by REFUSAL of consent for the reasons specified in Attachment 1 to this report.

1. Executive Summary

Development application 21/0291 seeks consent to subdivide the subject land and carry out works to create five lots and carry out works for the purpose of a private road.

Council requested the applicant provide additional information to accompany the application; the applicant is taken to have notified Council that the requested additional information will not be provided.

The application has been considered with regard to the matters specified by section 4.15 (1) of the *Environmental Planning and Assessment Act 1979*. The proposed development is considered unsatisfactory with respect to the relevant provisions of Council's applicable Bundanoon Town Plan Development Control Plan. The proposed development is also considered to have potentially significant negative environmental impacts in the locality, and the land's attributes are considered to render it unsuitable for development as proposed. Consequently, it is recommended that the Panel determines the application by refusing consent.

AGENDA FOR THE INDEPENDENT ADVISORY PLANNING ASSESSMENT PANEL MEETING

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



2. Site description and locality

The land is known as Lot 32 DP1205423, 102-104 Old Wingello Road, Bundanoon. and legally known as Lot 32 in DP1205423. It is slightly irregular in shape with boundaries ranging between 24.25m and 161.59m in length and is 1.5ha in area. **Figures 1 and 2** illustrate the land's location and layout.

The land is a developed low density residential corner lot on the southern side of Old Wingello Road and the eastern side of Rochester Drive in Bundanoon, around 800m northwest of the town centre. It is accessible by vehicle from Old Wingello Road.

The land is occupied by two dwelling houses, associated works and outbuildings. It is extensively vegetated by domestic lawns and gardens, including abundant mature exotic trees and shrubs.

The land falls gradually from an elevated area in its south, generally to the north and south. Surrounding properties are largely developed for low density residential accommodation purposes.

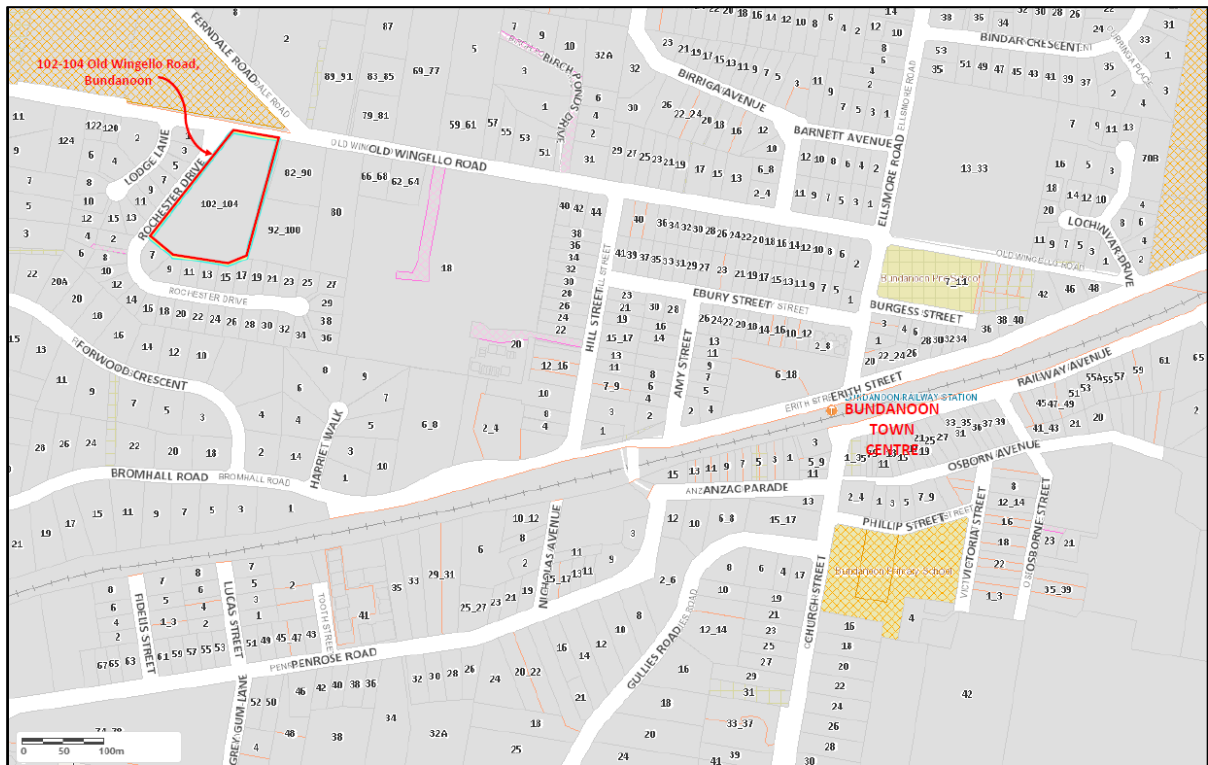


Figure 1: Locality Map



Figure 2: Aerial image

3. Background

The land was created in March 2015 by registration of a subdivision of three lots the subject of Council's development consent LUA04/0353, granted on 20 April 2006, to create 32 lots ranging between 780m² and 1.496ha in area and construction of Rochester Drive.

Development application 19/1088 was made to Council in October 2018, proposing subdivision of the land to create 12 lots and carrying out of works for the purpose of a road. The proposed development retained the two dwelling houses on the land but included removal of many trees.

On 22 February 2019, largely as a result of concerns being raised by Council staff and the community over development application 19/1088, Council made an interim heritage order (IHO) over the land and existing development thereon pursuant to Part 3 of the Heritage Act 1977. Development application 19/1088 was subsequently withdrawn (on 30 July 2019) and, pursuant to clause 52 (2) of the *Environmental Planning and Assessment Regulation 2000*, is taken never to have been made.

At its Ordinary Meeting of 14 August 2019, the Council considered a staff report regarding heritage assessment of the land and resolved:

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



1. *THAT Council supports the proposed heritage listing of ‘Rochester Park’ house and garden” at 102-104 Old Wingello Road, Bundanoon, comprising Lot 32 DP 1205423.*
2. *THAT Council supports the proposed change in minimum lot size of ‘Rochester Park’ from 700m² to 1 hectare (ha).*
3. *THAT a Planning Proposal be prepared under section 3.33 of the Environmental Planning & Assessment Act 1979 to amend Schedule 5 of the Wingecarribee Local Environmental Plan 2010 and the Heritage Map to add “‘Rochester Park’ house and garden” at Lot 32 DP 1205423 as a new heritage item and to amend the Minimum Lot Size map in relation to Lot 32 DP 1205423 from 700m² to 1ha.*
4. *THAT the Planning Proposal be sent to the Department of Planning, Industry and Environment with a request for a Gateway Determination in accordance with section 3.34 of the Environmental Planning & Assessment Act 1979.*
5. *THAT Council staff consult with Government stakeholders and engage with the community on the Planning Proposal in the manner prescribed in the Gateway Determination.*
6. *THAT Council consider a report after the conclusion of consultation and community engagement on the Planning Proposal.*
7. *THAT Interim Heritage Order No. 10 is extended until 22 February 2020 to allow for the preparation and processing of the Planning Proposal.*
8. *THAT the property owner and objectors to the development application (DA 19/1088) be advised of Council’s decision.*

Council’s aforementioned IHO of 22 February 2019 lapsed on 22 February 2020.

On 17 April 2020 the applicant lodged development application 20/1139, seeking Council’s consent to subdivide the land and carry out works to create 12 lots, and to carry out works for the purpose of a road. The proposed development was identical to that proposed by the withdrawn development application 19/1088, discussed earlier.

The information accompanying development application 20/1139 was insufficient to allow Council’s informed determination, but the applicant declined Council’s requests for additional information. Instead, on 6 August 2020 the applicant filed an appeal to the Land and Environment Court against Council’s deemed determination of development application 20/1139 by refusal of consent and, in the course of the appeal proceedings, amended development application 20/1139 twice.

In August 2020, Council prepared a Planning Proposal to amend *Wingecarribee Local Environmental Plan 2010* by identifying the land as a heritage item and increasing the minimum permitted lot size applicable to the land and referred the Planning Proposal to the Department of Planning, Industry and Environment (DPIE) with a request for Gateway Determination. DPIE granted its Gateway Determination on 17 September 2020, permitting Council to proceed to public exhibition of the Planning Proposal. The Planning Proposal was initially publicly exhibited between 14 October and 17 November 2020 and re-exhibited between 18 November 2020 and 20 January 2021.

In the meantime, noting firstly that the Land and Environment Court had not yet finalised its decision in the applicant’s appeal against Council’s deemed determination of development application 20/1139, and secondly that no request or agreement had been made between the applicant and Council for amendment of development application 20/1139, Council determined the application on 19 October 2020 by refusing consent for the originally

AGENDA FOR THE INDEPENDENT ADVISORY PLANNING ASSESSMENT PANEL MEETING

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



proposed subdivision of the land to create 12 lots and carrying out of works for the purpose of a road.

Despite Council having determined development application 20/1139 on 19 October 2020, the Land and Environment Court ultimately determined the amended application on 28 October 2020 by granting consent for subdivision of the land to create four (instead of twelve) lots, and the carrying out of associated works. An extract from the Court's consent drawings is reproduced in **Attachment 2**, with the proposed lots' numbering, areas and boundaries highlighted for clarity.

At its Ordinary Meeting of 24 February 2021, the Council considered a staff report detailing the outcome of public exhibition of the aforementioned Planning Proposal and resolved:

1. *THAT Council endorse the Planning Proposal to amend Wingecarribee Local Environmental Plan 2010 to add a new heritage item called "Rochester Park' house and garden" at 102-104 Old Wingello Road, Bundanoon (Lot 32 DP 1205423) into Schedule 5 (Environmental heritage) Part 1 (Heritage items); and increase the minimum lot size of this property from 700m² to 1 hectare on the Lot Size Map.*
2. *THAT the Planning Proposal be forwarded to the Department of Planning, Industry and Environment for completion.*

In accordance with item 2 of the Council's above resolution of 24 February 2021, Council's Planning Proposal has been forwarded to DPIE, and commencement of the LEP amendment is understood to be imminent at the time of writing.

Description of Proposed Development and History of the current Application Development application 21/0291 seeks consent to subdivide the land and carry out works to create five lots ranging between 904m² and 1.095ha in area and carry out works for the purpose of a private road. Extracts from the proposed development drawings accompanying the application are reproduced in **Attachment 3 (update number)**.

The statement of environmental effects accompanying the application refers to a flora and fauna assessment report. No such report was originally submitted with the application, so on 4 September 2020 Council requested the applicant provide additional information to rectify that omission. On 7 September 2020 the applicant provided a flora and fauna assessment report to accompany the application.

On 4 November 2020 Council requested the applicant's advice as to whether they wished to proceed to determination of the application, in light of the Land and Environment Court having favourably determined development application 20/1139 on 28 October 2020 for subdivision of the land to create four lots and carrying out of works for the purpose of an internal road (discussed earlier). On 10 November 2020 Council received the applicant's instruction to proceed to determination of the application.

On 16 November 2020 Council requested the applicant provide additional information to accompany the application to address concerns raised by Council's Development Engineer regarding proposed vehicle access and stormwater discharge arrangements. Council's request specified a period of 21 days for the applicant to provide the requested additional information. On 7 December 2020, having received no response, Council granted a seven day extension of the period for the applicant to provide the requested additional information. On 15 December Council still had not received any of the requested additional information from the applicant. Therefore, pursuant to clause 54 (6) of the *Environmental Planning and Assessment Regulation 2000*, the applicant was taken to have notified Council that the requested additional information would not be provided.

4. Relevant Planning Instruments

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 (Koala Habitat Protection) 2021

- Clause 18—Existing development applications

Clause 18 specifies:

18 Existing development applications

A development application made in relation to land, but not finally determined before this Policy applied to the land, must be determined as if this Policy had not commenced in its application to the land.

The Policy commenced on 17 March 2021, well after the application was made. The application therefore must be determined as if the Policy has not commenced its application to the land.

- State Environmental Planning Policy No 55—Remediation of Land

- Clause 2—Object of this Policy

The proposed development is considered satisfactory with respect to the specified aim to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

- Clause 7—Contamination and remediation to be considered in determining development application

The land is not considered either likely to be contaminated nor to require remediation to be made suitable for the proposed development. The land is currently used for the purpose of residential accommodation and each lot in the proposed development is for the purpose of residential accommodation; therefore, the proposed development does not involve a change of use of the land and, in turn, Council needn't consider a preliminary contamination investigation report regarding the land before determining the application.

- State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011

- Clause 3—Aims of Policy

The proposed development is considered satisfactory with respect to the aims specified by clause 3:

3 Aims of Policy

The aims of this Policy are:

- (a) *to provide for healthy water catchments that will deliver high quality water while permitting development that is compatible with that goal, and*
- (b) *to provide that a consent authority must not grant consent to a proposed development unless it is satisfied that the proposed*

development will have a neutral or beneficial effect on water quality, and

(c) to support the maintenance or achievement of the water quality objectives for the Sydney drinking water catchment.

- Clause 9—Recommended practices and performance standards of Water NSW

Council referred the application to Water NSW. Water NSW considers the proposed development able to achieve a neutral or beneficial effect on water quality, subject to appropriate recommended conditions of consent (if granted). Water NSW is taken to have satisfied itself that the proposed development sufficiently incorporates Water NSW's current recommended practices and standards.

- Clause 10—Development consent cannot be granted unless neutral or beneficial effect on water quality

As discussed above, Water NSW considers the proposed development able to achieve a neutral or beneficial effect on water quality, subject to appropriate recommended conditions of consent (if granted).

- Clause 11—Development that needs concurrence of Regulatory Authority

Water NSW has granted its concurrence to the granting of consent for the proposed development.

- Wingecarribee Local Environmental Plan 2010 (the LEP)

- Clause 1.2—Aims of Plan

Provided all recommended conditions of consent (if granted) are complied with, the proposed development is considered satisfactory with respect to the particular aims specified by clause 1.2 (2).

- Clause 1.4—Definitions

The proposed development comprises subdivision of land and carrying out of works to create five lots for the purpose of *dwelling houses* and carrying out of works for the purpose of a *road*. The LEP defines relevant terms as follows:

dwelling house means a building containing only one dwelling.

road means a public road or a private road within the meaning of the Roads Act 1993 and includes a classified road.

- Clause 2.3—Zone objectives and Land Use Table

The land is in Zone R2 Low Density Residential. The Land Use Table at the end of Part 2 of the LEP specifies development (including subdivision of land to create lots and carrying out of works) for the purposes of *dwelling houses* and *roads* is permitted with consent in Zone R2.

- Clause 2.6—Subdivision—consent requirements

Clause 2.6 effectively confirms the proposed development's subdivision component may only be carried out with development consent.

- Clause 4.1—Minimum subdivision lot size

The minimum size shown on the LEP Lot Size Map in relation to the land is 700m². The proposed development will create five lots ranging between 904m² and 1.095ha in area, and therefore satisfies clause 4.1 (3):

4.1 Minimum subdivision lot size

(3) *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.*

o Clause 5.10—Heritage conservation

Clause 5.10 is not exclusively relevant to heritage items and heritage conservation areas. Whilst the LEP does not identify the land or any adjacent land as a heritage item or within a heritage conservation area, the land is recognised as being of heritage significance (see earlier site description).

The application was referred to Council’s Heritage Advisor, who raises no objection to the proposed development subject to recommended conditions of consent (if granted). Provided all recommended conditions of consent (if granted) are complied with, the proposed development is considered satisfactory with respect to the heritage conservation objectives specified by clause 5.10 (1):

5.10 Heritage conservation

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

- (a) *to conserve the environmental heritage of Wingecarribee,*
- (b) *to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- (c) *to conserve archaeological sites,*
- (d) *to conserve Aboriginal objects and Aboriginal places of heritage significance.*

o Clause 7.2—Requirements for subdividing dual occupancies in Zones R2 and B1

Clause 7.2 specifies as follows:

7.2 Requirements for subdividing dual occupancies in Zones R2 and B1

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

- (a) *to provide opportunities for housing on smaller lots in suitable locations on land in Zone R2 Low Density Residential and Zone B1 Neighbourhood Centre,*
- (b) *to protect the heritage significance of the historic village of Berrima.*

(2) *Despite any other provision of this Plan, development consent may be granted for the subdivision of a lawfully erected dual occupancy in Zone R2 Low Density Residential, only if the development—*

- (a) *is on a corner allotment of not less than 1,000 square metres, and*
- (b) *has access to a reticulated town water supply and sewerage system.*
- (3) *Despite subclause (2), development consent must not be granted for the subdivision of a lawfully erected dual occupancy on land in Zone R2 Low Density Residential or Zone B1 Neighbourhood Centre if the land is located within the Berrima Conservation Area as shown on the Heritage Map.*

The land is in Zone R2 Low Density Residential and is occupied by two dwelling houses, comprising a lawfully erected *dual occupancy (detached)* as defined by the LEP:

dual occupancy (detached) means 2 detached dwellings on one lot of land, but does not include a secondary dwelling.

The land is a 1.5ha corner allotment and has access to Council's reticulated water supply and sewerage services. Clause 7.2 (2) therefore facilitates the granting of consent for the proposed development.

- Clause 7.3—Earthworks

A recommended condition of consent (if granted) specifies Council's consent does not permit the carrying out of any earthworks other than indicated by the stamped consent drawings, necessitated by conditions of consent, or specified by an environmental planning instrument as not requiring consent.

- Clause 7.10—Public utility infrastructure

Recommended conditions of consent (if granted) require public utility infrastructure (water supply, electricity supply and sewerage services) to be made available to each lot in the proposed development.

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

As discussed earlier (see "Background"), the land is subject to a proposed environmental planning instrument that will amend the LEP to identify the land as a heritage item and increase the minimum size shown on the LEP Lot Size Map in relation to the land from 700m² to 1.0ha. However, the proposed instrument also includes amendment of clause 1.8A of the LEP (regarding savings provisions relating to development applications) by addition of a subclause that effectively specifies that the subject application – having been made but not yet determined as at the date of the proposed instrument's commencement – is to be considered in accordance with the LEP's provisions as applicable when the application was made. That is, the proposed amending instrument is, by its own provisions, inapplicable to the subject application.

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

- Bundanoon Town Plan Development Control Plan (the DCP)
 - Part A—Provisions applicable to all land
 - Section 2—General objectives

- Section A2.2—Objectives of this Plan

Provided all recommended conditions of consent (if granted) are complied with, the proposed development is considered satisfactory with respect to the relevant objectives specified by sections A2.2.1-A2.2.9 regarding economic function, urban function, heritage conservation, residential amenity, residential diversity, visual amenity, public views and vistas, environmental sustainability, and the public domain.

- Section 3—Biodiversity

- Section A3.2—Flora and fauna assessment report

The application is accompanied by a flora and fauna assessment report and was referred to Council's Ecology Consultant. The Ecology Consultant considers the flora and fauna assessment report satisfactory with respect to section A3.2.

- Section 4—Water management

- Section A4.3—Development in Sydney's drinking water catchments

As discussed earlier, Water NSW considers the proposed development able to achieve a neutral or beneficial effect on water quality and grants its concurrence to the granting of consent for the proposed development, subject to recommended conditions of consent (if granted).

- Section A4.5—Stormwater management plan

A recommended condition of consent (if granted) specifies no subdivision works certificate shall be granted for any subdivision work in the development unless the certifying authority is satisfied by information accompanying the application for subdivision works certificate, including a stormwater management plan and associated calculations, that stormwater flows from the land after its proposed development will not exceed pre-development flows in terms of volume, water quality (including nutrient content), and direction.

- Section A4.6—Erosion and sediment control plans

A recommended condition of consent (if granted) specifies no subdivision works certificate shall be granted for any subdivision work in the development unless the certifying authority is satisfied by information accompanying the application for subdivision works certificate that an erosion and sediment control plan has been prepared by a suitably qualified person in accordance with the relevant provisions of Landcom's *Managing Urban Stormwater: Soils and construction* (the Blue Book), and will be implemented before, throughout and after the carrying out of subdivision works and other works in the development.

- Section 6—Vegetation management and landscaping

- Section A6.1—Preservation of trees and other vegetation



An arboricultural impact assessment report accompanying the application identifies a total of 141 trees on the land, 50 of which are proposed to be removed (including four trees recommended to be removed and transplanted elsewhere on the land). The trees proposed to be removed are circled in pink in **Attachment 4**.

The application was referred to Council's Arboriculture Consultant, who did not provide any response and is taken to raise no objection to the proposed development.

Additionally, whilst the abundant mature trees on the land are generally recognised as contributing to the land's heritage value (a heritage assessment report presented to the Council's Ordinary Meeting of 14 August 2019 noted, "The aesthetic significance of its landscape is at least of equal importance as the intact house. Important features of the gardens include the sandstone gateway and curved driveway, densely planted with mature trees"), Council's Heritage Advisor raises no objection to the proposed development subject to recommended conditions of consent (if granted).

Given the above, the proposed development is overall considered satisfactory with respect to the objectives and controls specified by section A6.1.

- Section A6.2—Private landscaped open space

The proposed development is considered satisfactory with respect to the private landscaped open space objectives specified by section A6.2.

- Section A6.3—Controls

The proposed development is considered satisfactory with respect to the private landscaped open space controls specified by section A6.3.

- Section 7—Subdivision, demolition, siting and design

- Section A7.1—Subdivision of land

As discussed earlier regarding clause 4.1 of the LEP, each lot in the proposed development exceeds the 700m² minimum lot size applicable to the land.

Section A7.1.2 specifies as follows regarding building envelopes:

A7.1.2 Building Envelopes

When designing allotments, building envelopes (in the form of restrictions to the title of the allotments – i.e. Section 88(b) restrictions) may need to be considered in order to ensure:

- (a) *important public vistas and view corridors are maintained from within and into the subdivision;*



- (b) *energy efficiency principles are incorporated in design, construction and ongoing habitation (e.g. Northern orientation);*
- (c) *the mitigation of visually obtrusive development; and*
- (d) *the provision of efficient, approved on-site storm water disposal.*

Where considered necessary by Council, these restrictions may be required as conditions of development consent.

As suggested by Council's Heritage Advisor, a recommended condition of consent (if granted) specifies no subdivision certificate shall be granted for the proposed development unless the certifying authority is satisfied by evidence accompanying the application for subdivision certificate that an instrument under section 88B of the Conveyancing Act 1919 has been drafted, submitted to and endorsed by Council, designating building envelopes on the proposed lots.

With respect to the provisions of section A7.1.5 regarding street trees, a recommended condition of consent (if granted) specifies no subdivision certificate shall be granted for the proposed development unless the certifying authority is satisfied by documents accompanying the application for subdivision certificate that street trees have been retained and/or planted in Old Wingello Road and Rochester Drive adjoining the land, to achieve compliance with Council's Urban Street Tree Master Plan.

With respect to section A7.1.6 regarding lighting, a recommended condition of consent (if granted) specifies no subdivision works certificate shall be granted for any subdivision work in the proposed development unless the certifying authority is satisfied by information accompanying the application for subdivision works certificate that any outdoor lighting in the proposed development, including any internal roadside lighting, complies with all relevant provisions of Australian/New Zealand Standard AS/NZS 4282:2019 Control of the obtrusive effects of outdoor lighting.

- Section A7.6—Design principles within a heritage context

As discussed earlier, the application was referred to Council's Heritage Advisor, who raises no objection to the proposed development subject to recommended conditions of consent (if granted).

- Section A7.8—Principles of minimum acceptable design

Provided all recommended conditions of consent (if granted) are complied with, the proposed development is considered satisfactory with respect to the provisions of section A7.8.



- Section 8—Safer by design
 - Section A8.3—Crime prevention through environmental design

Provided all recommended conditions of consent (if granted) are complied with, the proposed development is considered satisfactory with respect to the provisions specified by sections A8.3.1, A8.3.2, A8.3.3 and A8.3.4 regarding space and activity management, territorial reinforcement, surveillance, and access control.
 - Section A8.4—Specific design requirements

Noting the proposed development does not include erection of any building, it is considered satisfactory with respect to the specific design requirements specified by section A8.4.
- Section 9—Construction standards and procedures
 - Section A9.8—Stormwater disposal

The application was referred to Council's Development Engineer, who responded with the following concerns regarding stormwater management:

 - The application proposes to direct stormwater flows to Council's existing infrastructure in Old Wingello Road via two discharge outlets. Information accompanying the application does not demonstrate that the existing infrastructure is of sufficient capacity to cater for concentrated stormwater discharges from the proposed development.
 - Council cannot be satisfied by information accompanying the application that proposed stormwater management works will satisfactorily facilitate stormwater discharge to Old Wingello Road, nor that that discharge flow will not exceed Council's allowable discharge limit (32L/s per discharge point).

Council requested additional information from the applicant to address the above concerns; the applicant is taken to have notified Council that the requested additional information will not be provided, pursuant to clause 54 (6) of the Environmental Planning and Assessment Regulation 2000.

Given the above, Council cannot be satisfied by the application and its accompanying information that stormwater disposal from the proposed development will be satisfactory having regard to the acceptable disposal types specified by section A9.8.
- Section 11—Outdoor lighting
 - Section A11.2—Objectives

Provided all recommended conditions of consent (if granted) are complied with, the proposed development is considered satisfactory with respect to the outdoor lighting objectives specified by section A11.2.

- Section A11.3—Controls

Provided all recommended conditions of consent (if granted) are complied with, the proposed development is considered satisfactory with respect to the outdoor lighting controls specified by section A11.3.

- Part C—Provisions applicable to residential-zoned land

- Section 1—Introduction

- Section C1.2—Objectives

The proposed development is not considered to render any existing residential development on the land inconsistent with the broad objectives specified by section C1.2.

- Section 2—Low density housing

- Section C2.2—Objectives of low density housing

The proposed development is not considered to render any existing residential development on the land inconsistent with the low density housing objectives specified by section C2.2.

- Section C2.4—Development density and scale

The proposed development is not considered to render any existing residential development inconsistent with the objectives and controls specified by section C2.4 with respect to development density and scale.

- Section C2.6—Front setbacks

The land is a large corner lot, occupied by two dwellings. One of the existing dwellings is adjacent to the land's secondary (Rochester Drive) road frontage but is currently accessible by vehicle via the land's primary (Old Wingello Road) frontage. That existing dwelling is located on proposed Lot 2, which has frontage only to Rochester Drive. The proposed development will thus render Rochester Drive as the front boundary of proposed Lot 2.

The existing dwelling on proposed Lot 2 is set back approximately 2.7m from Rochester Drive. Whilst the proposed development drawings accompanying the application indicate a separate building envelope on proposed Lot 2, the proposed development does not include demolition of the existing dwelling on proposed Lot 2.

Section C2.6.2 effectively specifies a minimum 6.5m setback from Rochester Drive for any residential development on the proposed 1203m² Lot 2. The existing dwelling on proposed Lot 2 is located approximately 3.8m nearer Rochester Drive than permitted by section C2.6.2.

The proposed development the existing dwelling on proposed Lot 2 non-compliant with the front setback controls specified by section C2.6.2 and, in turn, contrary to the front setback objectives specified by section C2.6.1:

C2.6.1 Objectives

The objectives of these front setback controls are to:

- (a) Ensure the front setback of new infill development is consistent with the existing streetscape.*
- (b) Provide areas for trees and vegetation to enhance the streetscape and provide privacy.*
- (c) Preserve existing vegetation connections.*

- **Section C2.7—Side setbacks**

The proposed development does not render any existing residential development inconsistent with the side setbacks objectives and controls specified by section C2.7.

- **Section C2.8—Rear setbacks**

The existing single storey dwelling on the proposed (1203m²) Lot 2 is set back approximately 1.8m from the proposed lot's rear boundary. Section C2.8.2 effectively requires a minimum 5.0m rear setback for proposed Lot 2. The existing dwelling on proposed Lot 2 is located approximately 3.2m nearer the rear boundary of proposed Lot 2 than permitted by section C2.8.2.

The proposed development is thus considered to render the existing dwelling on proposed Lot 2 unsatisfactory with respect to the rear setbacks controls specified by section C2.8.2 and also contrary to the objectives specified by section C2.8.1:

C2.8.1 Objectives

The following objectives apply to the provision of rear setbacks:

- (a) Provide private open space for both active and passive recreation which has good solar access.*
- (b) Ensure sufficient area on the site for mature trees and vegetation.*
- (c) Ensure mid block tree canopy can be established or conserved.*

- **Section C2.11—Dwellings on corner allotments**

The proposed development is not considered to render any existing residential development inconsistent with the objectives and specific controls specified by section C2.11 regarding dwellings on corner allotments.

- **Section C2.12—Garaging and driveways**

The proposed development is not considered to render any existing residential development unsatisfactory with respect to the objectives and specific controls specified by section C2.12 regarding garaging and driveways.

- **Section C2.13—Landscaped open space**



The proposed development retains considerable landscaped open space in the curtilage of the existing dwellings on the land, and therefore is not considered to render any existing residential development unsatisfactory with respect to the landscaped open space objectives and controls specified by section C2.13.

- Section C2.14—Fencing, gates and letterboxes

Information accompanying the application does not indicate any proposed fencing, gates or letterboxes. A recommended condition of consent (if granted) specifies that permission to erect or install any fence, gate or letterbox other than specified by an environmental planning instrument is not granted.

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

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

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

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

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

As discussed earlier, the proposed development is considered to cause existing residential development on the land to contravene the front and rear setback provisions specified by sections C2.6 and C2.8 of the DCP. Also, the proposed development is considered likely to have a significant negative impact on the locality's context and setting, with particular regard to the character and amenity of the locality and streetscape, as well as in terms of the size, shape and design of the proposed lots in relation to existing residential buildings on the land.

Furthermore, Council's Development Engineer raised concerns regarding the capacity of stormwater drainage infrastructure to cope with expected flows from the proposed development. Council requested additional information from the applicant to address those concerns; the applicant is taken to have notified Council that the requested additional information will not be provided, pursuant to clause 54 (6) of the *Environmental Planning and Assessment Regulation 2000*. In the absence of the information Council requested, Council cannot be satisfied that the proposed development will not have a significant negative impact on Council's stormwater drainage services.

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

The proposed development is considered to render existing residential development on the land inconsistent with the DCP's provisions regarding front and rear setbacks and, in turn, incompatible with the desired character and amenity of the locality.

Additionally, Council requested additional information from the applicant to address concerns regarding the capacity of stormwater drainage infrastructure to cope with expected flows from the proposed development. The applicant is taken to have notified Council that the requested additional information will not be provided, pursuant to clause 54 (6) of the *Environmental Planning and Assessment Regulation 2000*. In the absence of the information Council requested, Council cannot be satisfied that stormwater drainage infrastructure servicing the

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



land is of sufficient capacity to cater for the proposed development, and therefore cannot be satisfied that the land's attributes facilitate the proposed development.

Given the above, the land is considered unsuitable for the development as proposed.

5. Notification

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

Council notified the application to owners and occupants of surrounding properties, inviting submissions between 1 and 22 September 2020. Notification attracted one submission. The issues raised by the submission are identified and discussed in the following table:

Issue	Discussion
<p>Issue 1: Vegetation on adjoining land</p> <p>The submission indicates no discussion has taken place between the proponent and the owner of adjoining land regarding trees located on that adjoining land.</p>	<p>A development proponent is not obligated to discuss a proposed development with the owners or occupants of adjoining properties.</p>
<p>Issue 2: Proposed lot sizes and layout</p> <p>The submission notes the information accompanying the application refers to the minimum lot size applicable to the land being 700m² and suggests the minimum permitted lot size is 1000m². It also suggests the irregular shapes of the proposed lots leave "little room for outbuildings or visitor parking etc, or energy efficient solar orientation".</p>	<p>The minimum size shown on the LEP Lot Size Map in relation to the land is 700m². As discussed earlier, an imminent amendment to the LEP will increase that minimum size to 1.0ha, but that amendment is not applicable to the subject application. Whilst the proposed lots are irregular in shape, their proportions are considered to facilitate future development for residential accommodation purposes without necessarily having any significant negative environmental, social or economic impact, nor any significant negative impact on the locality's character and amenity.</p>
<p>Issue 3: Proposed tree planting</p> <p>The submission refers to a proposed planting of screening trees expected to reach 5.0m height between the proposed vacant Lot 3 and the existing dwelling house on proposed Lot 1, and suggests, "It is likely to be many years before this new planting reaches the height and density required".</p>	<p>A recommended condition of consent (if granted) can convey a requirement for advanced tree plantings in the proposed development.</p>

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

There is not considered to be any overriding public interest either favouring or opposing the proposed development.

Please refer to discussion above of section 4.15 (1) (d) of the *Environmental Planning and Assessment Act 1979*. **Conclusion**

In the absence of additional information requested from the applicant, Council cannot be satisfied that the capacity of stormwater drainage infrastructure is sufficient to cater for the

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



proposed development's likely impacts. In addition, the proposed development is considered to render existing residential development on the land inconsistent with and contrary to the provisions of the Bundanoon Town Plan Development Control Plan regarding front and rear setbacks. Consequently, the proposed development is considered likely to have significant negative environmental impacts in the locality, and Council cannot be satisfied by the application and its accompanying information that the land is suitable for the development as proposed.

Appendices – Internal and External Communications

Internal Communication and Consultation

The application was referred to Council's Development Engineers, Heritage Advisor, Ecological Consultant and Arboriculture Consultant. The Development Engineer raised concerns regarding proposed stormwater drainage that the application is taken to have refused to address. In the absence of those concerns being addressed, Council cannot be satisfied that existing and proposed stormwater drainage infrastructure is of sufficient capacity to cater for the proposed development's demands.

Council's Heritage Advisor raises no objection to the proposed development, subject to recommended conditions of consent (if granted).

Council's Ecological Consultant has confirmed the flora and fauna assessment report accompanying the application is satisfactory with respect to the DCP's relevant provisions.

Council's Arboriculture Consultant failed to respond to referral of the application and is taken to raise no objection to the proposed development.

External Communication and Consultation

The proposed development is integrated development requiring NSW Rural Fire Service (RFS) authorisation under section 100B of the Rural Fires Act 1997 in respect of bush fire safety of subdivision of land that could lawfully be used for residential purposes. It also requires Water NSW's concurrence for Council to favourably determine the application. The application was accordingly referred to the RFS and Water NSW. The RFS has provided its general terms of approval for the proposed development, which shall be included in conditions of consent, if granted.

Water NSW confirmed its concurrence for consent to be granted to the proposed development, subject to conditions that shall also be included in conditions of consent, if granted.

ATTACHMENTS 1. Recommended Reasons for Refusal

2. Extract from Development Consent 20/1139 Drawings
3. Extract from Proposed Development Drawings
4. Proposed Tree Removal

5.1 Development Application 21/0291 - Subdivision of Land and Carrying Out of
Works to Create Five Lots, and Carrying Out of Works for the Purpose of a
Private Road, Lot 32 DP1205423, 102-104 Old Wingello Road, Bundanoon
ATTACHMENT 1 Recommended Reasons for Refusal



ATTACHMENT 1

DEVELOPMENT APPLICATION 21/0291
RECOMMENDED REASONS FOR REFUSAL

- 1 Council is not satisfied by the application and its accompanying information that existing and proposed stormwater drainage infrastructure is of sufficient capacity to cater for concentrated stormwater discharges from the proposed development. Council requested the applicant provide relevant additional information to accompany the application, and the applicant is taken to have notified Council that the requested additional information will not be provided, pursuant to clause 54 (6) of the Environmental Planning and Assessment Regulation 2000.

Consequently:

- (a) Council is not satisfied by the application and its accompanying information that the proposed development complies with the acceptable stormwater disposal types specified by section A9.8 of Council's applicable Bundanoon Town Plan Development Control Plan regarding stormwater disposal.
- (b) Council is not satisfied by the application and its accompanying information that the proposed development will not have a significant negative environmental impact on public utilities in the locality.

[Environmental Planning and Assessment Act 1979, section 4.15 (1) (a) (iii) and (b)]

- 2 The proposed development will cause the existing dwelling house on proposed Lot 2 to have a setback of approximately 2.7m from the front boundary of proposed Lot 2 (Rochester Drive), and a setback of approximately 1.8m from the rear boundary of proposed Lot 2.

Consequently:

- (a) Council considers the proposed development contrary to the front setbacks objectives specified by section C2.6.1 of Council's applicable Bundanoon Town Plan Development Control Plan regarding front setbacks:

C2.6.1 Objectives

The objectives of these front setback controls are to:

- (a) *Ensure the front setback of new infill development is consistent with the existing streetscape.*
- (b) *Provide areas for trees and vegetation to enhance the streetscape and provide privacy.*
- (c) *Preserve existing vegetation connections.*

5.1 Development Application 21/0291 - Subdivision of Land and Carrying Out of
Works to Create Five Lots, and Carrying Out of Works for the Purpose of a
Private Road, Lot 32 DP1205423, 102-104 Old Wingello Road, Bundanoon
ATTACHMENT 1 Recommended Reasons for Refusal



- (b) The proposed development causes the existing dwelling house on proposed Lot 2 to contravene the minimum 6.5m front setback specified by section C2.6 of Council's applicable Bundanoon Town Plan Development Control Plan regarding front setbacks.
- (c) Council considers the proposed development contrary to the rear setbacks objectives specified by section C2.8.1 of Council's applicable Bundanoon Town Plan Development Control Plan:

C2.8.1 Objectives

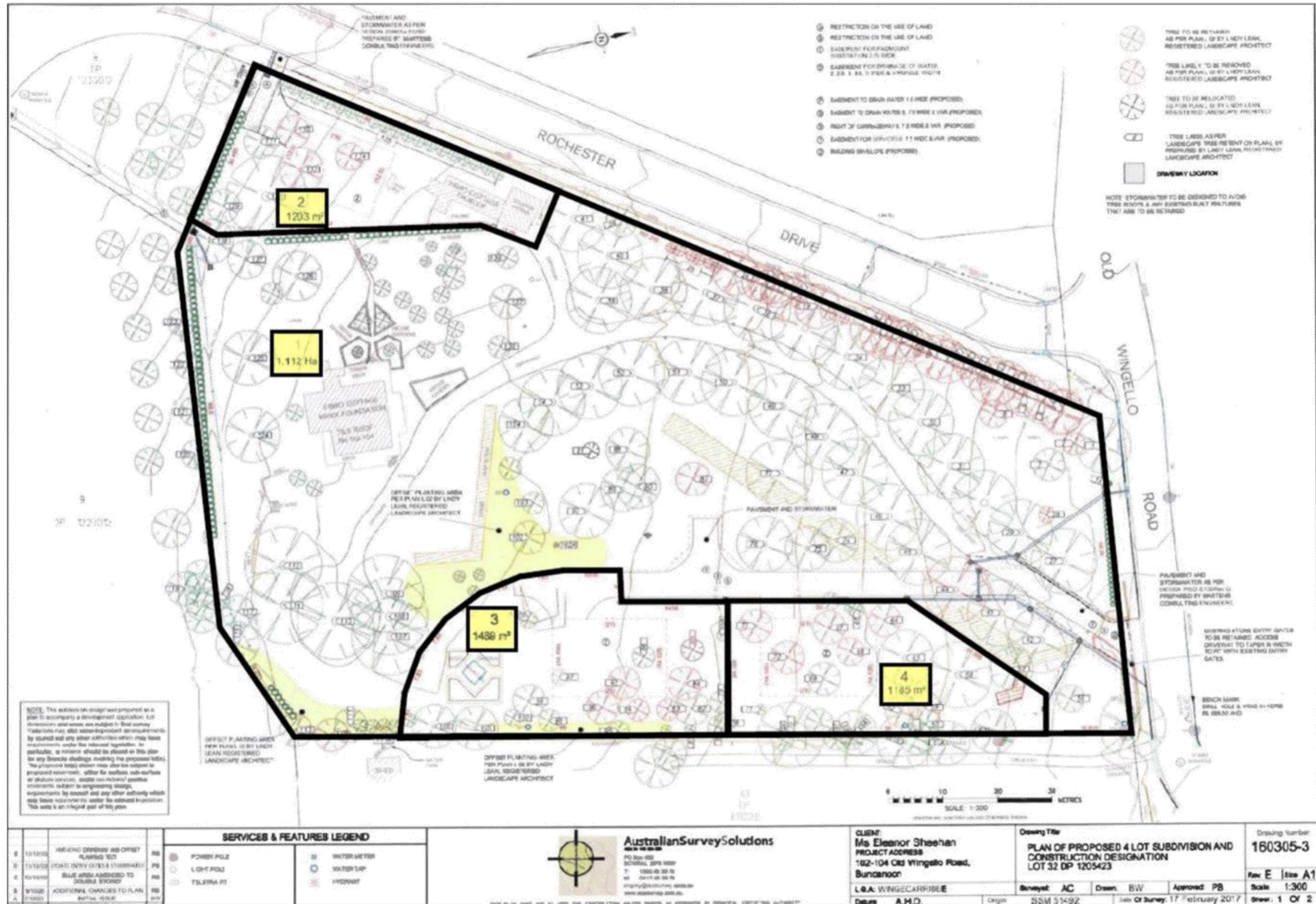
The following objectives apply to the provision of rear setbacks:

- (a) *Provide private open space for both active and passive recreation which has good solar access.*
 - (b) *Ensure sufficient area on the site for mature trees and vegetation.*
 - (c) *Ensure mid block tree canopy can be established or conserved.*
- (d) The proposed development causes the existing dwelling house on proposed Lot 2 to contravene the minimum 5.0m rear setback specified by section C2.8 of Council's applicable Bundanoon Town Plan Development Control Plan regarding rear setbacks.
 - (e) Council considers the proposed development likely to cause significant negative environmental impacts in the locality with regard to:
 - (i) Context and setting, particularly character, visual amenity and streetscape
 - (ii) Site design and internal design, particularly the size, shape and design of proposed lots in relation to existing buildings.
 - (f) Council considers existing development on the land to render it unsuitable for the development as proposed.

[Environmental Planning and Assessment Act 1979, section 4.15 (1) (a) (iii), (b) and (c)]

- 3 Council does not consider the proposed development to be in the public interest.

[Environmental Planning and Assessment Act 1979, section 4.15 (1) (e)]





5.1 Development Application 21/0291 - Subdivision of Land and Carrying Out of Works to Create Five Lots, and Carrying Out of Works for the Purpose of a Private Road, Lot 32

DP1205423, 102-104 Old Wingello Road, Bundanoon

ATTACHMENT 4 Proposed Tree Removal



ISSUE:
A 13.8.2020 Issue in Court
B 17.8.2020 Tree 57 retained, Tree 97 & 98 removed, Tree 95A & 95B position corrected

Residential Subdivision - 5 Lot
102-104 Old Wingello Road Bundanoon

Lindy Lean
LANDSCAPE ARCHITECT
ANLA Registered Landscape Architect #622
HLS Pty Ltd PO Box 313 Ashfield NSW
phone 02 9707 3085

Landscape Plan
1:500 @A1 17 August 2020 status: ISSUE B

5.2 Development Application 21/0662 - Erection of Buildings, Partial Demolition of a Building and Carrying Out of Works for the Purpose of Seniors Housing (21 self-contained dwellings) Lot 28 DP1065076, 115-129 Railway Avenue, Bundanoon

Reference: 21/0662
Report Author: Senior Development Assessment Planner
Authoriser: Manager Development Assessment

PURPOSE

The purpose of this report is to request the consideration, by the panel, of DA21/0662 for the Erection of Buildings, Partial Demolition of a Building and Carrying Out of Works for the purpose of Seniors Housing (21 self-contained dwellings), Lot 28 DP1065076, 115-129 Railway Avenue, Bundanoon.

Proposed development:	Erection of buildings, demolition and partial demolition of buildings and carrying out of works for the purpose of seniors housing
Applicant:	Brent Marvin
Land owner:	Gastoff Pty Ltd
Applicant's estimated cost of proposed development:	\$6,803,912 plus GST
Notification period:	5 November to 10 December 2020 (35 days)
Number of submissions:	18
Political donations:	None declared.
Reason for referral to Panel:	Councillors called up the application for determination by full Council, and advertisement and notification of the application attracted 18 submissions.

RECOMMENDATION

THAT the Independent Advisory Planning Assessment Panel determines development application 21/0662 for erection of buildings, partial demolition of a building and carrying out of works for the purpose of seniors housing (21 self-contained dwellings) at Lot 28 DP1065076, 115-129 Railway Avenue, Bundanoon by REFUSAL for the reasons specified in Attachment 1 to the report.

1. Executive Summary

Development application 21/0662 is referred to the Interim Independent Advisory Assessment Panel (IIAAP) for determination because it was called up for determination by the Council, and advertisement and notification of the application attracted 18 submissions.

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



The proposed development includes demolition and partial demolition of buildings, erection of seven buildings and carrying out of works for the purpose of seniors housing comprising 21 self-contained dwellings. The seven proposed buildings house 14 proposed self-contained dwellings with attached single garages, while it is proposed to carry out works within an existing building on the land to house seven self-contained dwellings as well as shared facilities including living, kitchen and dining areas. The proposed development also includes vehicle entry/exit, manoeuvring and uncovered parking facilities for 20 cars, as well as removal of a number of mature trees. An extract from the proposed development drawings accompanying the application is reproduced in **Figure 1** below.



AGENDA FOR THE INDEPENDENT ADVISORY PLANNING ASSESSMENT PANEL MEETING

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS

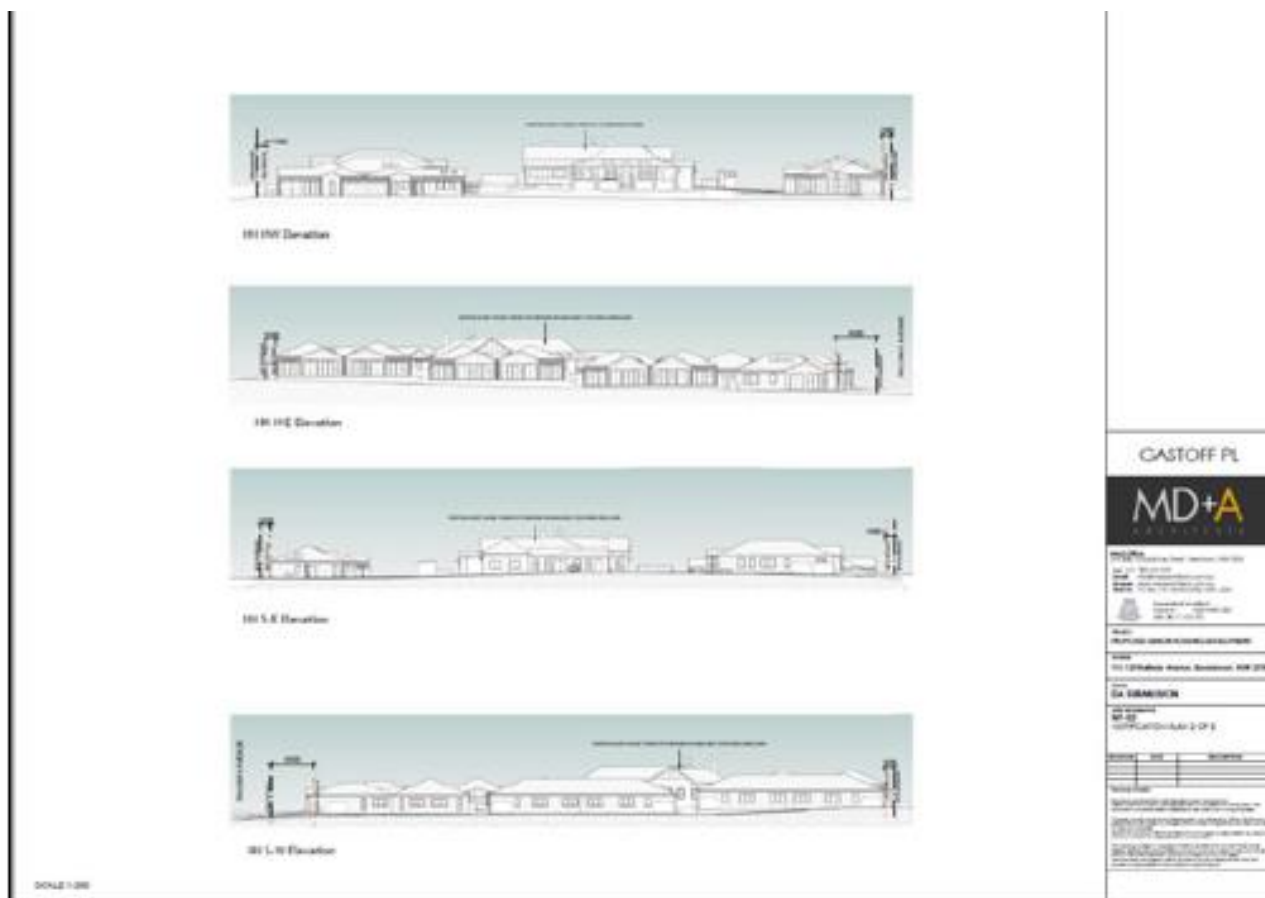


Figure 1: Extracts from proposed development drawings

The land has historically been used for the purpose of tourist and visitor accommodation. It is recognised as having local heritage significance, prompting the Council to resolve on 28 November 2018 to seek amendment of *Wingecarribee Local Environmental Plan 2010* to statutorily identify it as a heritage item.

Having assessed the application with regard to the matters for consideration specified by section 4.15 (1) of the *Environmental Planning and Assessment Act 1979*, Council officers consider the proposed development unsatisfactory with respect to:

- The relevant provisions of applicable environmental planning instruments including *State Environmental Planning Policy (Infrastructure) 2007* and *Wingecarribee Local Environmental Plan 2010*;
- The relevant provisions of Council's applicable Bundanoon Town Plan Development Control Plan;
- The likely impacts of the proposed development, including environmental impacts on the built environment and social impacts in the locality;
- The suitability of the land for the proposed development;
- Submissions made in accordance with the Act and subordinate Regulation, and

- The public interest.

2. Site description and locality

Figures 2 and 3 illustrate the land's location and layout. It is a developed 9699m² low density residential lot on the south-eastern side of Railway Avenue in Bundanoon, around 1.1km northeast of the town centre. The land is accessible by vehicle at two points from Railway Avenue.

The land is fairly flat, falling evenly and very gently from southeast to northwest, towards Railway Avenue. It is occupied by the historic "Lynbrook Guest House" Youth Hostel building and associated buildings and works. Vegetation on the land comprises expansive domestic lawns and gardens, including a variety of mature native and exotic trees.

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

The land was created in March 2004 by registration of a subdivision of land the subject of Council's development consent DA1003/03, granted on 15 August 2003 for subdivision (boundary realignment) of two lots to create two lots.

A "Wingecarribee Heritage Inventory" form dated March 2015 notes:

"Bundanoon Youth Hostel is important for its association with the early families who settled in the local area. It is also valued by the local community for its early and long-standing association with the village's economic development as a tourist attraction from the late nineteenth century, when guest house accommodation became a feature of Bundanoon and the surrounding district. The property provides physical evidence of this type of business that contributed to the village's reputation and economic development, particularly in the inter-war period. It is a long-surviving, probably the longest continuously-operating, representative of the many guest houses that once characterised Bundanoon village and its surrounds. Its social importance is enhanced by the continuation, for the visitor experience, of its original purpose as a guest house."

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS

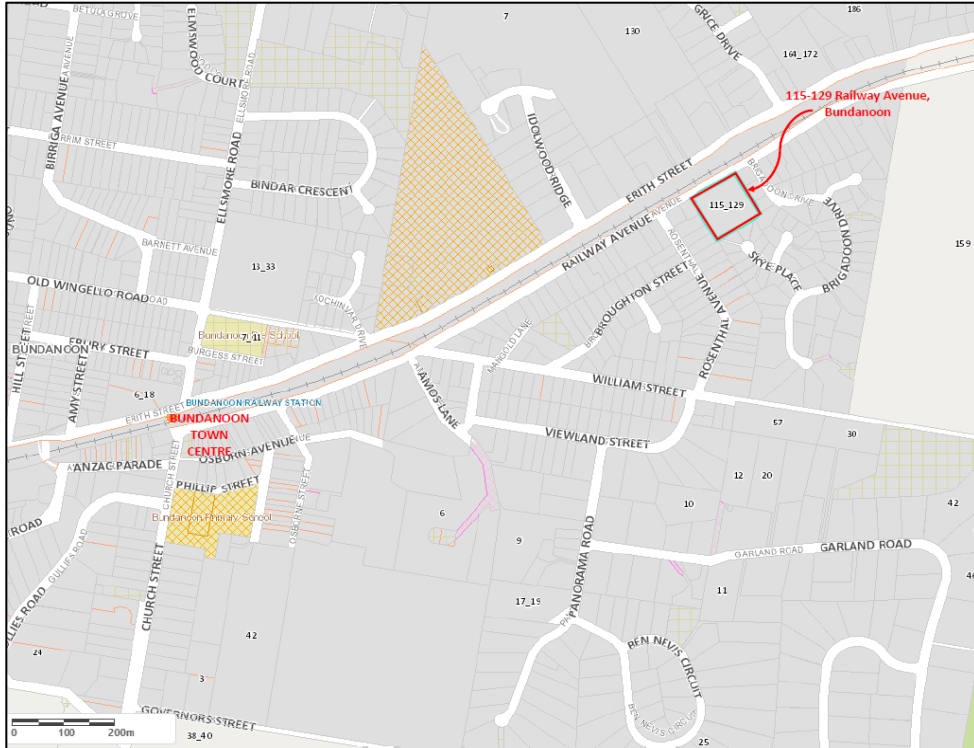


Figure 2: Locality Map



Figure 3: Aerial image

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



On 3 August 2015 Council granted development consent 15/0328 for “additions to existing youth hostel”, mainly comprising renovation of bathroom facilities.

On 16 September 2016, having received a submission from the Bundanoon History Group requesting urgent consideration of identification of the land as an item of local heritage, Council made an interim heritage order (IHO) in relation to the land under section 25 of the Heritage Act 1977. The IHO lapsed on 16 March 2017.

On 2 March 2017 Council granted development consent 16/1263 for subdivision of the land to create seven lots. An extract from the relevant consent drawings is reproduced in **Figure 4**. Council modified the consent under section 4.55 of the Environmental Planning and Assessment Act 1979 on 7 February 2019, mainly involving an increase in the number of lots to be created from seven to eight lots. An extract from the modified consent drawings is reproduced in **Figure 5**. Council made significant amendments to the modified consent drawings to minimise tree removal and impacts on residential amenity of properties to the southeast of the land, while ensuring provision of sufficient off street car parking spaces for development on the land. Notable conditions of the modified consent include conditions 25 and 45:

25. Vegetation Management - Amended by modification of consent on 7 February 2019

- (a) *Trees on site shall be protected during the construction period as detailed in the Arboriculture Report by Paul D’hondt, Summit Tree Services dated February 2018.*
- (b) *A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation without the prior consent of Council (unless considered exempt development).*

Any vegetation removed with Council consent and any other vegetation cleared in association of the approved development shall be disposed of in accordance with the approved Waste Management Plan.

For minor development, vegetation shall be either mulched for reuse on site or transported to an approved waste/recycling facility.

Reason: *To ensure compliance with Clause 5.9 of the Wingecarribee Local Environmental Plan 2010 by preserving the amenity of the area, including biodiversity values, through the preservation of trees and other vegetation.*

Note: *Failure to comply with this condition may result in prosecution by Council.*

Note: *No vegetation shall be burnt except with an approval issued by Council pursuant to the Protection of the Environment Operations (Clean Air) Regulation 2010. Failure to comply may result in a penalty of up to \$500 for an individual or up to \$1,000 for a corporation.*

Advice: *Tree removal should be carried out by a competent person to avoid any risk to life or damage to property. This person should have adequate public liability insurance cover.*

45. Driveways and Parking - amended by modification of consent on 7

AGENDA FOR THE INDEPENDENT ADVISORY PLANNING ASSESSMENT PANEL MEETING

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



February 2019

No subdivision certificate shall be granted for the development unless internal driveways, turning areas and 14 off street vehicular parking spaces have been constructed with an all-weather surface of a suitable 'soft' appearance to complement the landscape scheme, in the locations within Lot 121 as indicated on the stamped consent drawings (including notations and amendments made by Council in red), to the satisfaction of the Group Manager, Planning, Development and Regulatory Services. 'Soft' may be interpreted as exposed gravel aggregate except in heritage areas or sites where decomposed granite is approved. Exposed gravel aggregate should be stabilised with a minimum of 5% cement. Where grades exceed 5% (i.e. 1:20), the pavement is to be sealed prior to the issue of the Subdivision Certificate.

Reason: To provide appropriate access to the site.

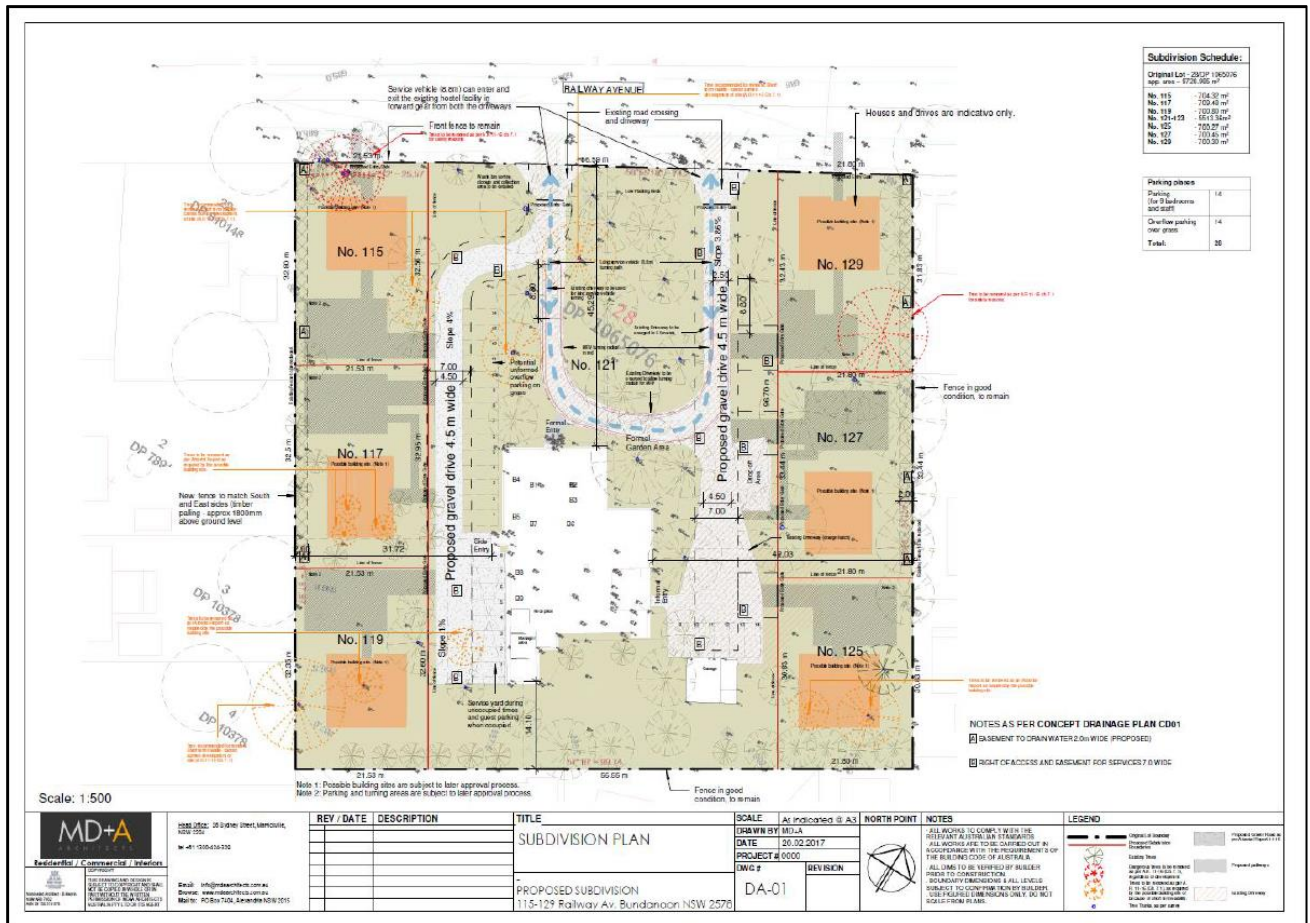


Figure 4: Extract from original development consent 16/1263 original drawings

At its Ordinary Meeting of 28 November 2018, the Council considered a recommendation to amend *Wingecarribee Local Environmental Plan 2010* by identifying various properties, including the subject land, as heritage items. The Council resolved as per the recommendation:

“THAT a Planning Proposal be prepared under section 3.33 of the Environmental Planning & Assessment Act 1979 to amend Schedule 5 of the Wingecarribee Local Environmental Plan 2010 and the Heritage Map as outlined in this report AND THAT the Planning Proposal be sent to the Department of Planning and Environment with

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



a request for a Gateway Determination in accordance with section 3.34 of the Environmental Planning & Assessment Act 1979.”

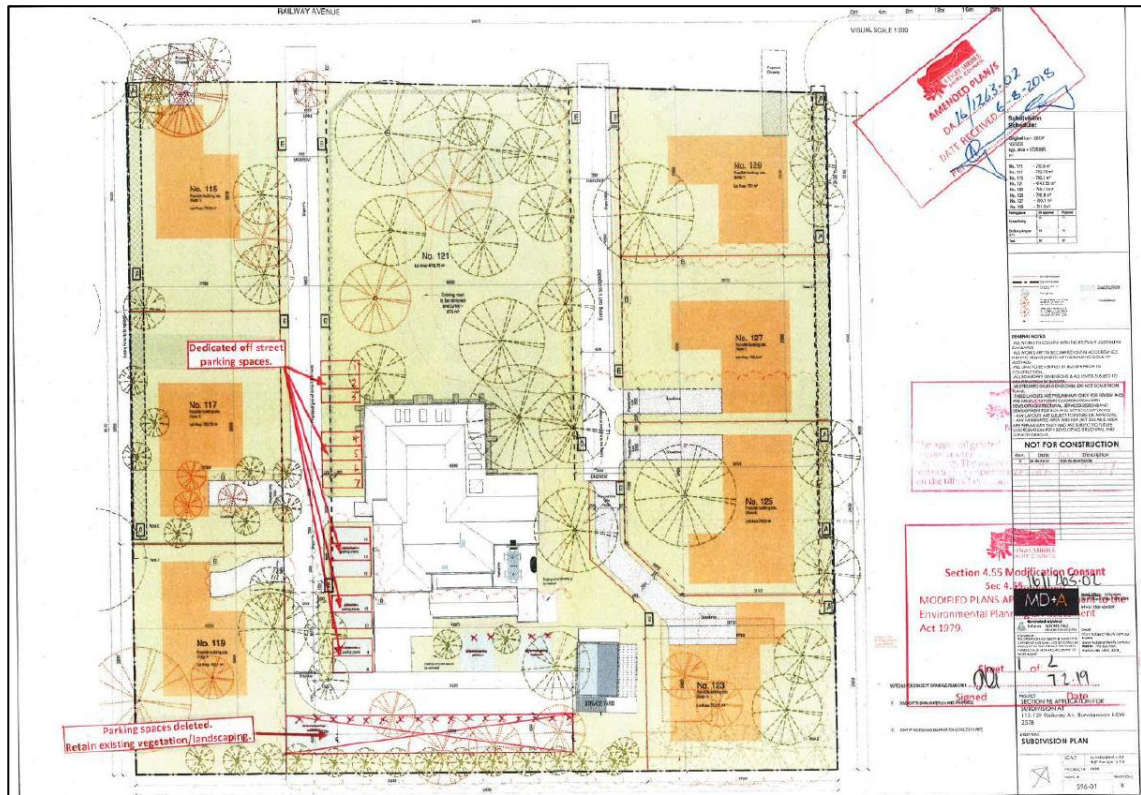


Figure 5: Extract from modified development consent 16/1263 drawings

On 2 April 2019 Council provided pre-lodgement advice regarding a prospective proposed development of the historic “Lynbrook Guest House” Youth Hostel building, on proposed Lot 121 the subject of Council’s abovementioned modified development consent 16/1263, for the purpose of a medical centre. No corresponding development application has since been made.

On 9 October 2019 Council provided pre-lodgement advice regarding a prospective development of the land involving:

- Subdivision of the land to create eight 1000m² lots (substantially different from development the subject of Council’s modified development consent 16/1263)
- Adaptation of the historic “Lynbrook Guest House” Youth Hostel building on one of the proposed lots for the purpose of a boarding house
- Development of each of the remaining seven proposed lots for the purpose of attached dual occupancy, i.e. 14 dwellings.

No corresponding development application has since been made.

3. Notification

Council advertised the application and notified it to owners and occupants of surrounding properties, inviting submissions between 5 November and 10 December 2020. Advertisement and notification attracted 18 submissions. Two of the submissions unreservedly support the proposed development. The issues raised by the other submissions are identified and discussed in the following table.

Issue	Discussion
<p>Acoustic privacy and amenity of neighbouring residential properties</p>	<p>Two submissions express concern that the proposed development may cause negative impacts on residential amenity of surrounding properties, through emission of vehicular noise from proposed internal vehicle manoeuvring and parking facilities and also air conditioning units that may be located between proposed dwellings and the land's boundary.</p> <p>The proposed development's internal vehicle manoeuvring facilities are reasonably distant (at least around 9.0m) from the nearest dwelling on adjoining land and are largely separated from adjoining properties by buildings in the proposed development. Vehicular traffic on the proposed internal vehicle manoeuvring facilities is therefore considered unlikely to have a significant negative noise impact on neighbouring properties' residential amenity. However, the proposed development also includes 11 off street car parking spaces around 3.0m from the land's rear boundary, and noise emissions of vehicles entering and exiting those spaces may reasonably be expected to detract from neighbours' residential amenity. The submitters' objections in this regard are considered valid.</p> <p>Drawings accompanying the application do not indicate any proposed air conditioning units, although BASIX Certificates accompanying the application specify each self-contained dwelling in the proposed development is to be air conditioned. To minimise potential noise impacts of air conditioning units in the proposed development, and noting the recognised heritage significance of the land and development thereon, a recommended condition of consent (if granted) requires all air conditioning units to comply with the relevant development-specific exempt development criteria specified by clause 2.6 (1) (a)-(b1), (d)-(h) and (2) of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008:</p> <p style="text-align: center;">2.6 Development standards</p> <p>(1) <i>The standards specified for that development, if for residential uses only, are that the development must—</i></p> <p style="margin-left: 40px;">(a) <i>not be located on the wall or roof of a building that faces the primary road, or forward of the building line to the primary road, and</i></p> <p style="margin-left: 40px;">(b) <i>be located at least 450mm from each lot boundary, and</i></p> <p style="margin-left: 40px;">(b1) <i>be located at least 1m from bedrooms of</i></p>

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



Issue	Discussion
	<p><i>adjoining residences, and</i></p> <ul style="list-style-type: none"> <i>(d) be not higher than 1.8m at its highest point above ground level (existing), and</i> <i>(e) not involve work that reduces the structural integrity of the building, and</i> <i>(f) not reduce the existing fire resistance level of a wall, and</i> <i>(f1) be designed so as not to operate—</i> <ul style="list-style-type: none"> <i>(i) during peak time—at a noise level that exceeds 5 dB(A) above the ambient background noise level measured at any property boundary, or</i> <i>(ii) during off peak time—at a noise level that is audible in habitable rooms of adjoining residences, and</i> <i>(g) if it is constructed or installed on or in a heritage item or a draft heritage item—be ground mounted, and</i> <i>(h) if it is constructed or installed on or in a heritage item or a draft heritage item or in a heritage conservation area or a draft heritage conservation area—be installed at or behind the rear building line.</i> <p><i>(2) Any opening created by the construction or installation of the development must be adequately waterproofed.</i></p>
Stormwater management	<p>Five submissions raised concerns regarding stormwater management, suggesting the proposed development will cause obstruction and diversion of stormwater flows to the detriment of adjoining properties and the locality.</p> <p>The application was referred to Council’s Development Engineers. The Development Engineer’s response does not discuss stormwater management. As discussed earlier, recommended conditions of consent (if granted) can specify no construction certificate shall be granted for any building work in the development unless the certifying authority is satisfied by evidence accompanying the application for construction certificate that details of proposed stormwater drainage and discharge from the land and proposed development have been submitted to and approved by Council.</p>
Tree removal, landscaping and private open space	<p>Four submissions express concern regarding proposed tree removal, landscaping and private open space, suggesting the proposed development itself may negatively impact existing trees proposed to be retained, that controls should be introduced to restrict future removal of trees on the land, and that open space in the proposed development is deficient.</p> <p>As discussed later regarding section A6.1 of Council’s applicable</p>

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



Issue	Discussion
	<p>Bundanoon Town Plan Development Control Plan, the application was referred to Council's Arboriculture Consultant and Heritage Consultant, neither of whom supports the proposed development's tree removal component. The submitters' objections in this regard are considered valid. Aside from that, private open space and landscaping in the overall proposed development are considered satisfactory.</p>
<p>Overdevelopment in the locality</p>	<p>Four submissions suggest the proposed development is an overdevelopment of the land: the proposed buildings are too small, too numerous, too dense and too close to the land's side and rear boundaries.</p> <p>Whilst the minimum size shown on the Wingecarribee Local Environmental Plan 2010 Lot Size Map is 700m², the immediate locality is largely characterised by lots of around 1000m² average area, occupied by single detached dwelling houses. The effect of the proposed development is 21 dwellings occupying an area of 9699m², or around 460m² per dwelling, on average. The proposed development's residential density is thus considerably greater than typical in the locality, and is considered to render it inconsistent and incompatible with the locality's existing and desired residential character and amenity. The submitters' objections in this regard are considered valid.</p>
<p>Amenity of intended residents</p>	<p>Six submissions express concern that the proposed development may not provide satisfactory amenity for its intended residents, being seniors and people with disabilities. It is submitted that the proposed dwellings are too small and are not individually provided with sufficient private open space, the proposed development does not provide a satisfactory mix of one-bedroom, two-bedroom and three-bedroom dwellings, and does not make satisfactory provision for resident safety.</p> <p>As discussed later regarding section 8 of Part C of Council's applicable Bundanoon Town Plan Development Control Plan, five of the seven self-contained dwellings proposed in the existing building on the land are considered unlikely to receive sufficient natural light, the proposed development is not considered to make satisfactory provision for residents' access to local facilities, and various proposed dwellings do not satisfy the development control plan's requirements regarding bedroom dimensions, laundry facilities and linen storage in self-contained dwellings. Overall, the proposed development is not considered to make satisfactory provision for the amenity of its intended occupants; the submitters' objections in this regard are therefore considered valid.</p>
<p>Heritage impact</p>	<p>Five submissions object to the proposed development on the grounds of potential negative heritage impact. The submissions recognise the land and development thereon as having heritage value. They suggest the proposed development is unsympathetic and disrespectful to the land's heritage value, and request Council's assessment of the application and conditions of consent (if granted) seek to ensure that value is respected.</p> <p>As discussed later regarding clause 5.10 of Wingecarribee Local Environmental Plan 2010, the land's recognised local heritage significance prompted Council to resolve to seek amendment of the LEP</p>

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



Issue	Discussion
	<p>to identify the land as a locally significant heritage item, and Council's Heritage Advisor offers the following comments regarding the proposed development:</p> <p><i>"This new proposal...would be a significant overdevelopment of the site."</i></p> <p><i>"The proposal...is a significant impact on the local character of Bundanoon. There are simply too many buildings in this proposal and too many trees being removed...This contrasts with the detached houses and heavily vegetated context of Bundanoon village. The amount of building, road and paved surfaces is also considered excessive in this context. The black and white colour scheme (black roofs and white walls) is also too stark for this context."</i></p> <p><i>"I recommend the application be rejected because this would be poor development. It impacts on Bundanoon's local character. It fails to complement and harmonise with the character and garden setting of the former Lynbrook Guest House within the heritage curtilage on the site."</i></p> <p>Noting the above, submitters' objections in this regard are considered valid.</p>
<p>Access, transport and traffic</p>	<p>Six submissions object to the proposed development on the grounds that it may have significant negative access, transport and traffic impacts, describing Railway Avenue as "an extremely busy road" and suggesting increased vehicular traffic generated by the proposed development will reduce vehicular and pedestrian traffic safety in the locality. It is suggested that proposed vehicle entry/exit arrangements are inadequate (both generally and in the event of an emergency evacuation), and insufficient proposed off street car parking facilities will result in increased parking of vehicles on Railway Avenue. Concern is raised that the proposed development may not adequately provide for pedestrian access to local facilities, which may result in increased vehicle movements between the proposed development and Bundanoon's town centre and corresponding additional demands for car parking facilities therein. It is also suggested that the proposed development's gravel vehicle entry/exit, manoeuvring and parking facilities will lead to traffic generating airborne dust and noise and will create ongoing maintenance difficulties.</p> <p>As discussed later regarding clause 101 of State Environmental Planning Policy (Infrastructure) 2007, the proposed development's vehicle access arrangements are considered likely to compromise the safety, efficiency and ongoing operation of Railway Avenue. The submitters' objections in this regard are considered valid.</p> <p>The applicable Bundanoon Town Plan Development Control Plan does not specify a minimum rate of off street car parking provision in seniors housing developments. However, the NSW Roads and Maritime Services (former Roads and Traffic Authority) Guide to Traffic Generating Developments (October 2002) suggests resident-funded</p>

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



Issue	Discussion
	<p>housing for aged and disabled persons may be expected to demand at least two parking spaces per three self-contained dwellings for residents, plus one visitor parking space per five self-contained dwellings. On that basis, the proposed development – including 21 self-contained dwellings – demands at least $21 / 3 \times 2 = 14$ residents' off street car parking spaces, and at least $21 / 5 = 4.2$ (say 4) visitors' off street car parking spaces. The proposed development includes seven additional buildings containing 14 dwellings, each of which is provided with a garage. It also includes 20 off street car parking spaces adjacent to the existing building, which is proposed to house seven self-contained dwellings. The proposed development thus includes 34 off street car parking spaces – well exceeding the minimum 18 spaces required under the Guide to Traffic Generating Developments.</p>
<p>Access to local facilities and services for intended residents</p>	<p>Four submissions suggest the proposed development makes inadequate provision for residents' access to local facilities. It is suggested that the absence of a paved footpath in Railway Avenue between the land and Bundanoon's town centre prevents safe pedestrian travel for seniors and people with disabilities, and public transport services in Bundanoon are "virtually non-existent".</p> <p>Drawings accompanying the application indicate a proposed 1.2m concrete footpath in Railway Avenue adjoining the land, and conditions of consent (if granted) could require the applicant to make provision for a continuous trafficable footpath between the land and Bundanoon's town centre. Nevertheless, the land is located more than a kilometre from the Bundanoon town centre, and whilst there is a bus stop in Railway Avenue adjoining the land, it does not include any facility for a bus to safely pull over, and the information accompanying the application does not indicate a proposal to provide any such facility. The submitters' objections in this regard are considered valid.</p>
<p>Demolition hazards</p>	<p>One submission expresses concern that demolition and renovation works in the proposed development may disturb hazardous materials in the existing buildings on the land.</p> <p>A recommended condition of consent (if granted) can require all demolition work in the development to be carried out in accordance with the relevant provisions of Australian Standard AS 2601—1991: The Demolition of Structures.</p>
<p>Fire safety</p>	<p>One submission raises concern that the proposed adaptation of the historic existing building on the land for the purpose of seniors housing may create or increase fire risk for the proposed development's intended occupants.</p> <p>The application was referred to Council's Accredited Certifiers. The Accredited Certifier's response does not specifically identify any fire safety concerns, subject to recommended conditions of consent (if granted) including a requirement for compliance with the Building Code of Australia.</p>
<p>Public pedestrian connectivity</p>	<p>Four submissions object to the proposed development's omission of a public footpath traversing the land to link Railway Avenue to the</p>

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



Issue	Discussion
	<p>termination of an existing public footpath adjoining the land's southernmost rear corner. It is suggested that a condition of consent (if granted) for the proposed development should require provision of the footpath linkage, via either dedication to Council or registration of a right of way.</p> <p>Historically, the former Lot 1 DP409742 appears to have been registered in November 1954 (see Figure 6). The adjoining and adjacent Lots 71 & 72 DP1011736 were registered on 17 March 2000 (see Figure 7). On 3 March 2004 the subject land was registered as Lot 28 DP1065076 – the result of a boundary realignment involving the aforementioned Lot 1 DP409742 and Lot 71 DP1011736 (see Figure 8).</p> <p>In the meantime, development application 03/1694 had been lodged with Council on 15 October 2003, seeking consent to subdivide land including the aforementioned Lot 1 DP409742 and Lot 71 DP1011736 to create 27 residential lots. Council determined the application by granting consent on 8 March 2004 – five days after the subject land was registered. An extract from the consent drawings is reproduced in Figure 9; it indicates a 3.0m wide footway between Lots 19 and 20 but does not appear to provide for the footway's continuation beyond the eastern boundary of Lot 1, and the conditions of development consent 03/1694 do not require any such provision to be made.</p> <p>The subdivision of land the subject of development consent 03/1694 was registered as DP1095411 on 10 April 2006; an extract from the registered plan is reproduced in Figure 10. The registered plan includes the aforementioned footway between Lots 19 and 20, which terminates at the eastern boundary of Lot 28 DP1065076.</p> <p>Council has not historically required continuation of the 3.0m wide footway from the subject land's rear boundary to Railway Avenue, although such continuation may be considered desirable. The applicant is under no obligation to propose a continuation of the walkway, and has advised:</p> <p><i>“...The issue of a pedestrian easement through our property has been raised by members of the public a few times and has been explored by us thoroughly with council and surveyors/lawyers and it has always been agreed there was never any agreement or plan by council to create a path or easement.</i></p> <p><i>“We confirm that we would not accept any such imposition across our private land.</i></p> <p><i>“It would be unfair economically for us for this land to be taken from us and a small fenced corridor would be a safety risk for those walking through and us and other adjoining neighbours.</i></p> <p><i>“There is perfectly adequate access from the blocks to railway avenue along the roads currently.”</i></p> <p>Section 7.11 (1) (a) of the Environmental Planning and Assessment Act 1979 specifies:</p>

Issue	Discussion
	<p style="text-align: center;">7.11 Contribution towards provision or improvement of amenities or services</p> <p>(1) <i>If a consent authority is satisfied that development for which development consent is sought will or is likely to require the provision of or increase the demand for public amenities and public services within the area, the consent authority may grant the development consent subject to a condition requiring—</i></p> <p style="padding-left: 40px;">(a) <i>the dedication of land free of cost...</i></p> <p>The proposed development is considered likely to require provision of and/or increase demand for public amenities and public services within the area. Council might contemplate, pursuant to section 7.11 (1) (a) of the Act, a condition of consent (if granted) requiring dedication of land free of cost to allow extension of the existing 3.0m wide footway from the land’s rear boundary to Railway Avenue. However, such extension is unfeasible given three of the proposed buildings, housing six dwellings, are set back only 1.5m from the land’s side boundary.</p> <p>On balance, it is considered in the public interest to extend the existing 3.0m wide footway from the land’s rear boundary to Railway Avenue, but the applicant is unwilling to provide for such extension and the proposed development’s design does not include or facilitate it. The proposed development is therefore considered contrary to the public interest and the submitters’ objections in this regard are considered valid.</p>
Local character and amenity	<p>Two submissions object to the proposed development on the grounds that it is expected to detract from the character and amenity of the locality, noting surrounding properties are typically occupied by single dwelling houses.</p> <p>Whilst the minimum size shown on the LEP Lot Size Map is 700m², the immediate locality is largely characterised by lots of around 1000m² average area, occupied by single detached dwelling houses. The effect of the proposed development is 21 dwellings occupying an area of 9699m² – around 460m² per dwelling, on average. The proposed development’s residential density is thus considerably greater than typical in the locality, which is considered to render it inconsistent and incompatible with the locality’s existing and desired residential character and amenity. The submitters’ objections in this regard are considered valid.</p>
Local demography	<p>One submission suggests the proposed development will “exacerbate the lack of balance in the current population”, noting Bundanoon’s median age is 56 whereas the national median age is 38 (according to 2016 Census data). It is submitted that accommodation of more seniors will contribute to excessive demands on services for the elderly.</p> <p>The proposed development may accommodate people with disability of any age, and family and carers of seniors and people with disabilities, as well as people over 55 years of age. There is not considered to be any substantial grounds for speculation that the proposed development</p>

AGENDA FOR THE INDEPENDENT ADVISORY PLANNING ASSESSMENT PANEL MEETING

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



Issue	Discussion
	will significantly affect the median age of Bundanoon’s population or generate excessive demands on local services and facilities for the elderly.
Flora and fauna	<p>One submission notes the application is not accompanied by a wildlife survey and suggests the proposed development may negatively impact native fauna on the land.</p> <p>The application is not accompanied by a flora and fauna assessment report or similar. The statement of environmental effects notes the land does not comprise or include critical habitat. Whilst the land includes some native vegetation, it is substantially occupied by managed lawns and gardens similar to those characterising other residential properties in the locality and is considered unlikely to provide suitable habitat for a significant resident population of native fauna.</p>

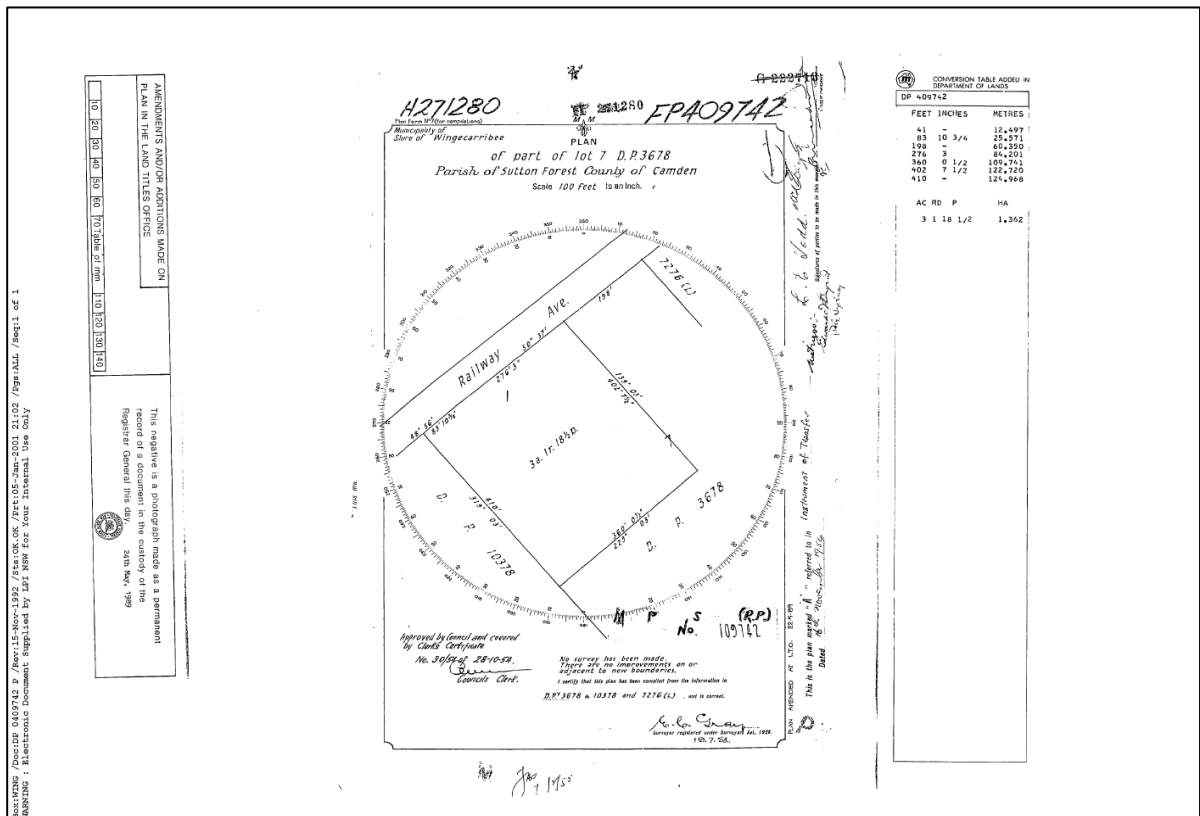


Figure 6: Deposited Plan 409742, registered around November 1954

AGENDA FOR THE INDEPENDENT ADVISORY PLANNING ASSESSMENT PANEL MEETING
 Wednesday 02 June 2021
DEVELOPMENT APPLICATIONS

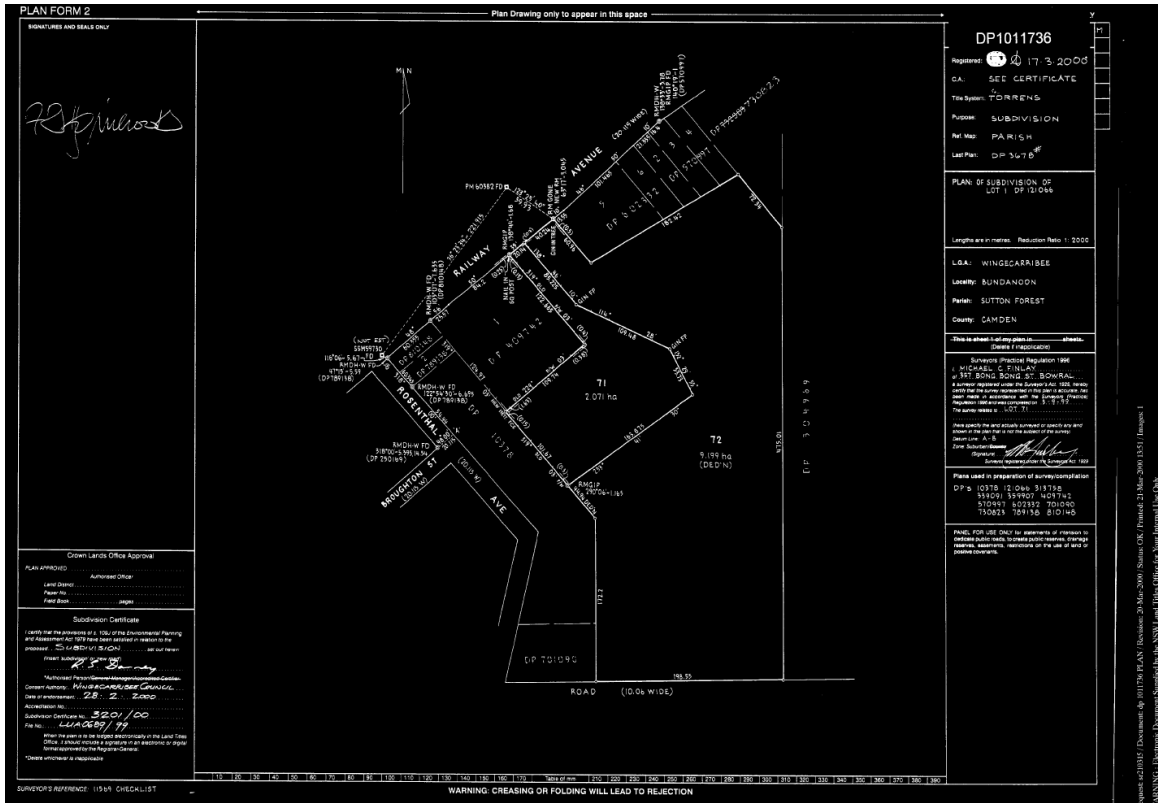


Figure 7: Deposited Plan 1011736, registered 17 March 2000

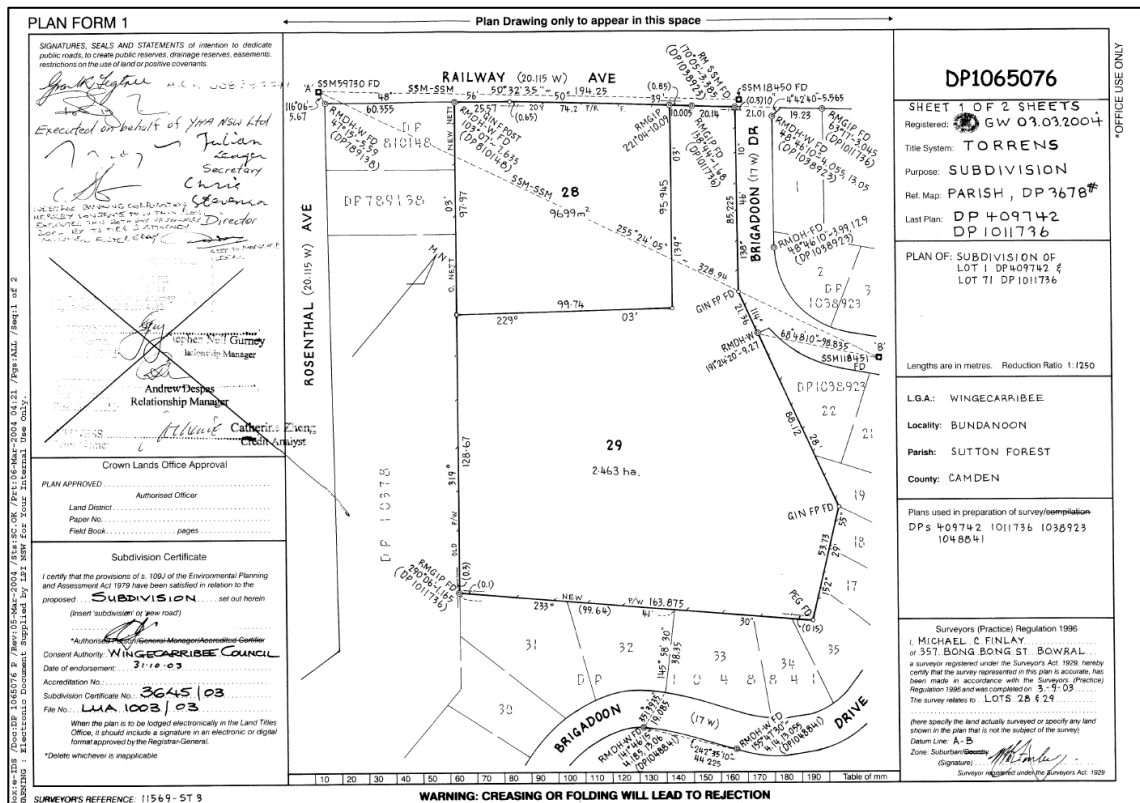


Figure 8: Deposited Plan 1065076, registered 3 March 2004

AGENDA FOR THE INDEPENDENT ADVISORY PLANNING ASSESSMENT PANEL MEETING

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS

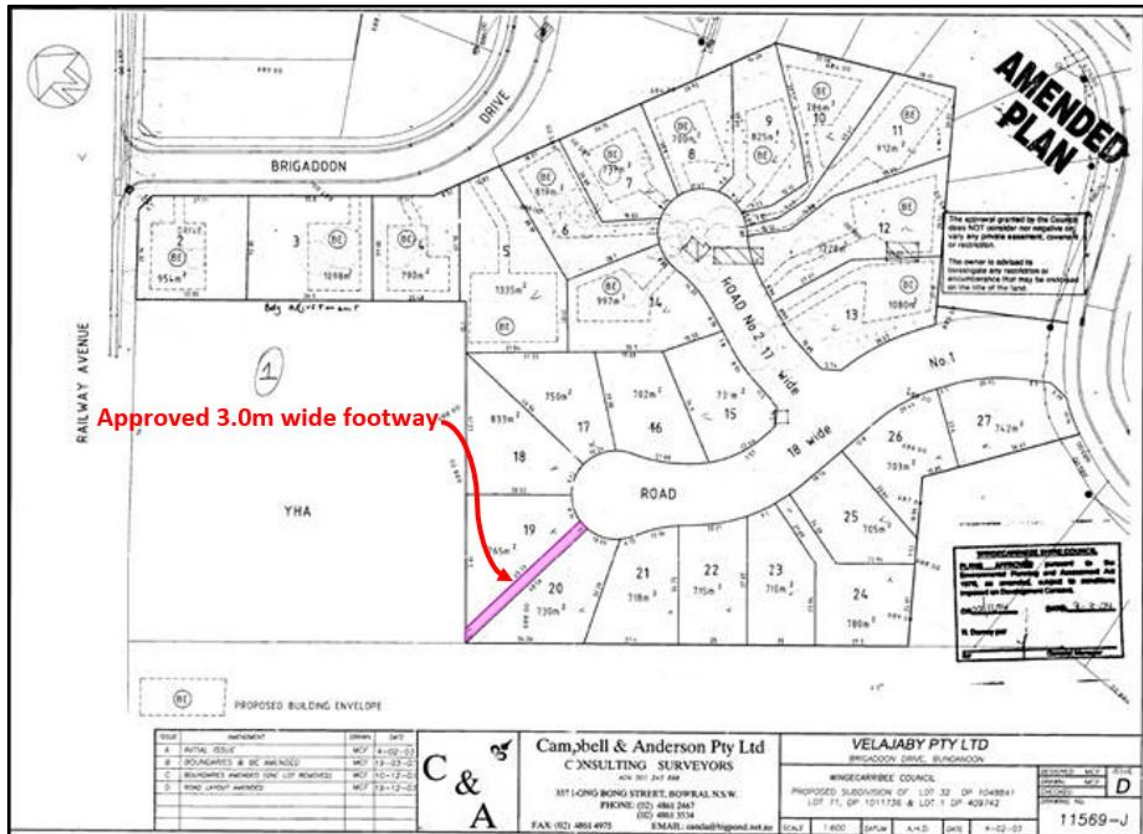


Figure 9: Extract from development consent 03/1694 drawings

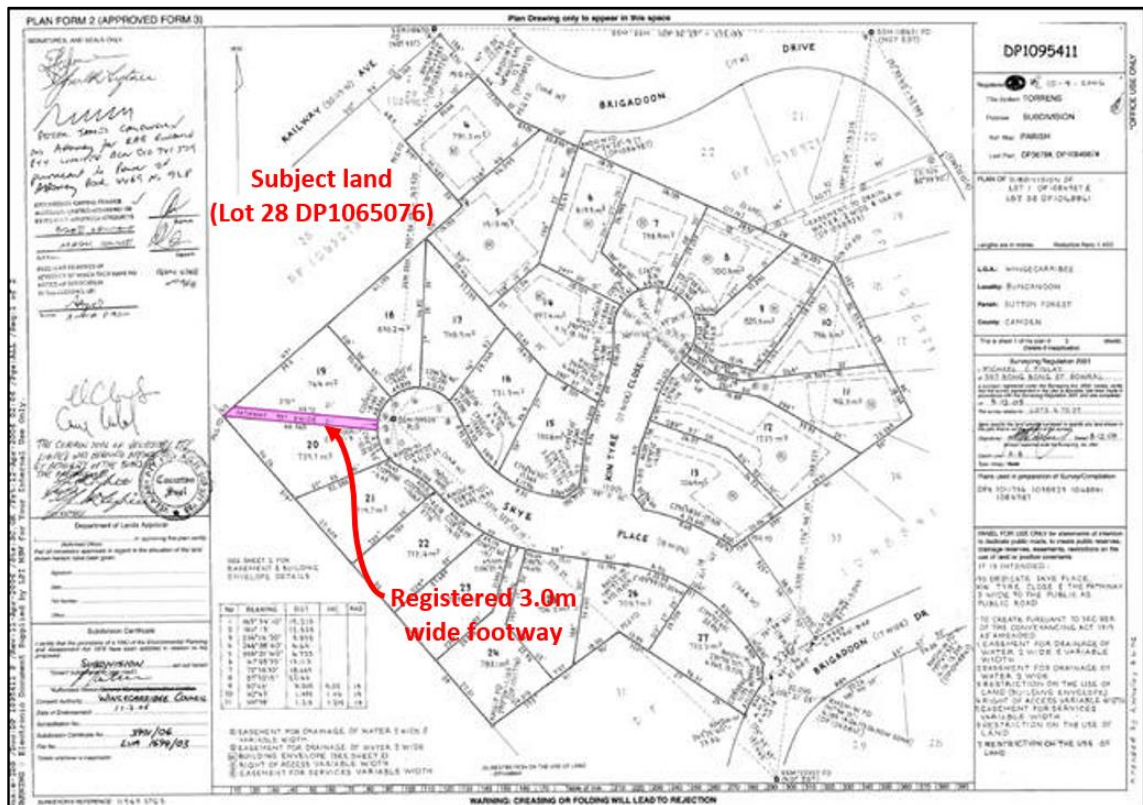


Figure 10: Extract from Deposited Plan 1095411

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



4. Relevant environmental planning instruments

The proposed development 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. It is noted that as the land is identified by State Environmental Planning Policy (Sydney Drinking Water catchment) 2011 as being within the Sydney drinking water catchment, State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 inapplicable to the land, pursuant to clause 4 (6) (a) of the latter policy.

Section 4.15 (1) (a) (i)—The provisions of any environmental planning instrument that apply to the land	
State Environmental Planning Policy (Infrastructure) 2007	
<p>Clause 2— Aim of Policy</p>	<p>As discussed below regarding clause 101, the application and its accompanying information are not considered to demonstrate that the proposed development will not have a significant negative effect on the safety, efficiency and ongoing operation of Railway Avenue. It is therefore considered unsatisfactory with respect to the aim specified by clause 2 (g):</p> <p style="text-align: center;">2 Aim of Policy</p> <p style="text-align: center;"><i>The aim of this Policy is to facilitate the effective delivery of infrastructure across the State by—</i></p> <p style="text-align: center;"><i>(g) providing opportunities for infrastructure to demonstrate good design outcomes.</i></p>
<p>Clause 87— Impact of rail noise or vibration on non-rail development</p>	<p>The land is adjacent to the Main Southern Railway, located across Railway Avenue to the northwest. The nearest actual rail track is approximately 35m from the land's front (Railway Avenue) boundary and 130m from its rear boundary. Whilst the space between Railway Avenue and the railway is well vegetated, there is no earthen or other barrier between the railway and the land that might be considered to significantly attenuate rail noise.</p> <p>Clause 87 (3) specifies:</p> <p style="text-align: center;">87 Impact of rail noise or vibration on non-rail development</p> <p style="text-align: center;"><i>(3) If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded—</i></p> <p style="text-align: center;"><i>(a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10.00 pm and 7.00 am,</i></p> <p style="text-align: center;"><i>(b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.</i></p> <p>The statement of environmental effects accompanying the application states:</p> <p style="text-align: center;"><i>“Rail noise and vibration is not considered to be a significant issue for the development but it is acknowledged that it would be reasonable for any development approval to contain a condition of consent that imposes requirements upon the development of the land to achieve the required noise criteria for the dwellings, with such details to be provided as part of the Construction Certificate.”</i></p> <p>Recommended conditions of consent (if granted) specify:</p> <ul style="list-style-type: none"> • No construction certificate shall be granted for any building work in the

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



Section 4.15 (1) (a) (i)—The provisions of any environmental planning instrument that apply to the land	
	<p>development unless the certifying authority is satisfied by information accompanying the application for construction certificate that the following LAeq levels will not be exceeded:</p> <ul style="list-style-type: none"> ○ In any bedroom in the development—35 dB(A) at any time between 10.00pm and 7.00am ○ Anywhere else in each dwelling in the development (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time <ul style="list-style-type: none"> ● No occupation certificate shall be granted in relation to any dwelling or dwellings in the development unless the certifying authority is satisfied by information accompanying the application for occupation certificate that the dwelling or dwellings concerned have been designed and constructed to ensure the following LAeq levels will not be exceeded: <ul style="list-style-type: none"> ○ In any bedroom—35 dB(A) at any time between 10.00pm and 7.00am ○ Anywhere else (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.
<p>Clause 101— Development with frontage to classified road</p>	<p>Railway Avenue adjoining the land is a regional classified road. Clause 101 specifies:</p> <p>101 Development with frontage to classified road</p> <p>(1) <i>The objectives of this clause are—</i></p> <p>(a) <i>to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and</i></p> <p>(b) <i>to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.</i></p> <p>(2) <i>The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—</i></p> <p>(a) <i>where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and</i></p> <p>(b) <i>the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—</i></p> <p>(i) <i>the design of the vehicular access to the land, or</i></p> <p>(ii) <i>the emission of smoke or dust from the development, or</i></p> <p>(iii) <i>the nature, volume or frequency of vehicles using the classified road to gain access to the land, and</i></p> <p>(c) <i>the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.</i></p> <p>Information accompanying the application does not specifically address clause 101, despite addressing other provisions of the Policy including some that are irrelevant to the proposed development.</p>

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



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

	<p>The application was referred to Council's Development Engineers, whose response does not include any discussion of potential road traffic impacts.</p> <p>Railway Avenue is the only road from which vehicular access to the land is practicable. However, the proposed development includes three additional access driveways to service three proposed dwellings; these additional access driveways do not facilitate forward movement of vehicles to and from the land. In addition, the proposed development includes a separate vehicle entry and exit driveway arrangement to service the remaining 18 proposed dwellings.</p> <p>The NSW Roads and Maritime Services (formerly Roads and Traffic Authority) <i>Guide to Traffic Generating Developments</i> (October 2002) suggests housing for aged and disabled persons may be expected to generate up to two daily vehicle trips per dwelling. On that basis, the proposed development may be expected to generate up to $2 \times 21 = 42$ daily vehicle trips, which is considered likely to represent a significant increase in the volume and frequency of vehicles using Railway Avenue to gain access to the existing tourist and visitor accommodation development on the land.</p> <p>Noting the above, the application and its accompanying information are not considered to demonstrate that the safety, efficiency and ongoing operation of Railway Avenue will not be adversely affected by the development as a result of the design of vehicular access to the land and the volume and frequency of vehicles using Railway Avenue to gain access to the land. On that basis, clause 101 (2) (b) (i) and (iii) effectively specifies Council must not grant consent for the proposed development.</p> <p>In turn, the application and its accompanying documents are not considered to demonstrate consistency with the objective specified by clause 101 (1) (a).</p>
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State Environmental Planning Policy (Koala Habitat Protection) 2021

<p>Clause 18— Existing development applications</p>	<p>Clause 18 specifies:</p> <p style="text-align: center;">18 Existing development applications</p> <p style="text-align: center;"><i>A development application made in relation to land, but not finally determined before this Policy applied to the land, must be determined as if this Policy had not commenced in its application to the land.</i></p> <p>The Policy commenced to apply to the land on 17 March 2021. The application was made on 22 October 2020. Clause 18 therefore effectively renders the Policy irrelevant to the application.</p>
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State Environmental Planning Policy No 55—Remediation of Land

<p>Clause 2— Object of this Policy</p>	<p>The proposed development is considered satisfactory with respect to the Policy's particular aim 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>Clause 7— Contamination and remediation to be considered in determining development application</p>	<p>The land is not considered likely to be contaminated; nor is it considered to need remediation to be made suitable for the proposed development. The land has not been used for a potentially contaminating purpose in the past, so Council needn't consider the findings of a preliminary contamination investigation regarding the land before determining the application.</p>

State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



Section 4.15 (1) (a) (i)—The provisions of any environmental planning instrument that apply to the land	
Clause 3— Aims of Policy	<p>Provided all recommended conditions of consent (if granted) are complied with, the proposed development is considered satisfactory with respect to the aims specified by clause 3:</p> <p style="text-align: center;">3 Aims of Policy</p> <p style="text-align: center;"><i>The aims of this Policy are:</i></p> <p>(a) <i>to provide for healthy water catchments that will deliver high quality water while permitting development that is compatible with that goal, and</i></p> <p>(b) <i>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</i></p> <p>(c) <i>to support the maintenance or achievement of the water quality objectives for the Sydney drinking water catchment.</i></p>
Clause 9— Recommend ed practices and performance standards of Water NSW	The application was referred to Water NSW, which considers the proposed development able to achieve a neutral or beneficial effect on water quality. Water NSW is taken to consider the proposed development to satisfactorily incorporate Water NSW's current recommended practices and standards.
Clause 10— Development consent cannot be granted unless neutral or beneficial effect on water quality	As discussed above, Water NSW considers the proposed development able to achieve a neutral or beneficial effect on water quality.
Clause 11— Development that needs concurrence of Regulatory Authority	Water NSW has confirmed its concurrence to the granting of consent for the proposed development, subject to conditions that can be conveyed by conditions of consent (if granted).
Wingecarribee Local Environmental Plan 2010 (the LEP)	
Clause 1.2— Aims of Plan	As discussed throughout this report, the proposed development is considered incompatible with the existing and desired character and amenity of the locality, and likely to compromise the recognised heritage significance of the land and development thereon. It is also not considered to make adequate provision for intended residents (seniors and people with disabilities) to access local facilities. The proposed development is therefore considered contrary to the particular aims specified by clause 1.2 (2) (a), (d) (iii), (e), (f) and (j):

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

	<p>1.2 Aims of Plan</p> <p>(2) <i>The particular aims of this Plan are as follows—</i></p> <p>(a) <i>to conserve and enhance, for current and future generations, the ecological integrity, environmental heritage and environmental significance of Wingecarribee,</i></p> <p>(d) <i>to provide opportunities for development and land use activities that—</i></p> <p>(iii) <i>retain the critical natural, rural and built environmental landscape elements that make up the scenic and cultural heritage value of Wingecarribee,</i></p> <p>(e) <i>to provide opportunities for a range of new housing and housing choice in locations that have good access to public transport, community facilities and services, retail and commercial services and employment opportunities, including opportunities for the provision of adaptable and affordable housing,</i></p> <p>(f) <i>to provide for a range of living opportunities that address differing lifestyle needs without compromising the environmental quality of Wingecarribee, and the value of its natural resources such as water, biodiversity and agricultural land,</i></p> <p>(j) <i>to conserve the Aboriginal and European cultural and environmental heritage of Wingecarribee.</i></p>
<p>Clause 1.4— Definitions</p>	<p>The proposed development comprises erection of buildings, partial demolition of a building and carrying out of works for the purpose of <i>seniors housing</i> as defined:</p> <p><i>seniors housing</i> means a building or place that is—</p> <p>(a) <i>a residential care facility, or</i></p> <p>(b) <i>a hostel within the meaning of clause 12 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, or</i></p> <p>(c) <i>a group of self-contained dwellings, or</i></p> <p>(d) <i>a combination of any of the buildings or places referred to in paragraphs (a)–(c),</i></p> <p><i>and that is, or is intended to be, used permanently for—</i></p> <p>(e) <i>seniors or people who have a disability, or</i></p> <p>(f) <i>people who live in the same household with seniors or people who have a disability, or</i></p> <p>(g) <i>staff employed to assist in the administration of the building or place or in the provision of services to persons living in the building or place,</i></p> <p><i>but does not include a hospital.</i></p> <p>To ensure the proposed development is carried out in accordance with the above definition, recommended conditions of consent (if granted) specify:</p> <ul style="list-style-type: none"> • Council’s consent permits the development to be carried out for the accommodation of only:

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



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

	<ul style="list-style-type: none"> ○ Seniors, being: <ul style="list-style-type: none"> ▪ People aged 55 or more years ▪ People who are resident at a facility at which residential care (within the meaning of the Aged Care Act 1997 of the Commonwealth) is provided ▪ People who have been assessed as being eligible to occupy housing for aged persons provided by a social housing provider ○ People who have a disability, being people of any age who have, either permanently or for an extended period, one or more impairments, limitations or activity restrictions that substantially affect their capacity to participate in everyday life ○ People who live within the same household with seniors or people who have a disability ○ Staff employed to assist in the administration of and provision of services to housing provided in the development. ● No work in the development shall be permitted to commence unless a restriction as to user has been registered against the title of the land, in accordance with section 88E of the Conveyancing Act 1919, limiting the use of any accommodation in the development to: <ul style="list-style-type: none"> ○ Seniors, being: <ul style="list-style-type: none"> ▪ People aged 55 or more years ▪ People who are resident at a facility at which residential care (within the meaning of the Aged Care Act 1997 of the Commonwealth) is provided ▪ People who have been assessed as being eligible to occupy housing for aged persons provided by a social housing provider ○ People who have a disability, being people of any age who have, either permanently or for an extended period, one or more impairments, limitations or activity restrictions that substantially affect their capacity to participate in everyday life ○ People who live within the same household with seniors or people who have a disability ○ Staff employed to assist in the administration of and provision of services to housing provided in the development.
<p>Clause 2.3— Zone objectives and Land Use Table</p>	<p>The land is in Zone R2 Low Density Residential. The Land Use Table at the end of Part 2 of the LEP specifies development for the purpose of <i>seniors housing</i> is permitted with consent in Zone R2.</p> <p>However, the proposed development comprises 21 self-contained dwellings occupying a 9699m² (equating to around 462m² per self-contained dwelling), in a locality largely characterised by single dwelling houses occupying low density residential lots with an average area around 1000m² and a minimum permissible lot size of 700m². The proposed development is therefore, by way of its residential</p>

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



Section 4.15 (1) (a) (i)—The provisions of any environmental planning instrument that apply to the land	
	<p>density, considered contrary to the objective of Zone R2 specified by the Land Use Table:</p> <ul style="list-style-type: none"> <i>To provide for the housing needs of the community within a low density residential environment.</i>
Clause 2.7—Demolition requires development consent	The proposed development involves demolition and partial demolition of existing buildings and works on the land. Clause 2.7 essentially confirms the proposed development’s demolition component may be carried out only with consent.
Clause 5.10—Heritage conservation	<p>Clause 5.10 is not exclusively applicable to heritage items and heritage conservation areas.</p> <p>As discussed earlier, the land is recognised as having local heritage significance, prompting Council’s resolution of 28 November 2018 to seek amendment of the LEP to identify the land as a locally significant heritage item.</p> <p>The application was referred to Council’s Heritage Advisor, who responded:</p> <p><i>“...This is a gateway site into an attractive, well vegetated heritage streetscape.”</i></p> <p><i>“Lynbrook Guest House (YHA) is on the Council’s list of items for LEP heritage listing consideration. This new proposal...would be a significant overdevelopment of the site.</i></p> <p><i>“Good aspects of the proposal are that curtilage has been retained between Lynbrook and the street. This should not be further subdivided or built on in the future. Also, as the whole site is proposed to be developed, this should provide a more unified set of buildings than if individual lots were to be sold off and developed in a piecemeal manner.</i></p> <p><i>“The proposal, however, is a significant impact on the local character of Bundanoon. There are simply too many buildings in this proposal and too many trees being removed (40 trees removed or severely pruned). The result will be a continuous sea of suburban roofs. We have seen the effects of this in other villages, such as at the entrance of Menangle. This contrasts with the detached houses and heavily vegetated context of Bundanoon village. The amount of building, road and paved surfaces is also considered excessive in this context. The black and white colour scheme (black roofs and white walls) is also too stark for this context.</i></p> <p><i>“I note that the architect’s perspective impressions of the development (placed into the tree report) are deceptive, illustrating a ‘fish eye’ view suggesting greater separation from the existing 1920s house than the reality.</i></p> <p><i>“I recommend the application be rejected because this would be poor development. It impacts on Bundanoon’s local character. It fails to complement and harmonise with the character and garden setting of the former Lynbrook Guest House within the heritage curtilage on the site.”</i></p> <p>Noting the above, the proposed development is considered contrary to the heritage conservation objectives specified by clause 5.10 (1) (a):</p> <p>5.10 Heritage conservation</p> <p>(1) Objectives The objectives of this clause are as follows—</p> <p>(a) to conserve the environmental heritage of Wingecarribee...</p>

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



Section 4.15 (1) (a) (i)—The provisions of any environmental planning instrument that apply to the land			
Clause 7.3—Earthworks		A recommended condition of consent (if granted) specifies Council’s consent does not permit the carrying out of any earthworks other than indicated by the stamped consent drawings, necessitated by conditions of consent, or specified by an environmental planning instrument as not requiring consent.	
Clause 7.10—Public utility infrastructure		Recommended consent conditions (if granted) can require any necessary arrangements to be made to ensure availability to the proposed development of essential public utility infrastructure (water supply, electricity supply and sewerage services).	
Section 4.15 (1) (a) (ii)—The provisions of any proposed instrument that apply to the land			
The land is not subject to any proposed environmental planning instrument.			
Section 4.15 (1) (a) (iii)—The provisions of any development control plan that apply to the land			
Bundanoon Town Plan Development Control Plan (the DCP)			
Part A—Provisions applicable to all land	Section 2—General objectives	Section A2.2—Objectives of this Plan	<p>As discussed earlier, the application and its accompanying information are not considered to demonstrate that the safety, efficiency and ongoing operation of Railway Avenue will not be adversely affected by the development. On that basis, Council cannot be satisfied by the application and its accompanying documents that the proposed development is consistent with the urban function objectives specified by section A2.2.2 (a) and (b):</p> <ul style="list-style-type: none"> (a) <i>Improvement of traffic and parking management within the town.</i> (b) <i>Minimisation of vehicular and pedestrian conflicts.</i> <p>The proposed development is also considered likely to have a significant negative impact on the recognised local heritage significance of the land and existing development thereon. It is therefore considered contrary to the heritage conservation objectives specified by section A2.2.3 (a) and (b)</p> <ul style="list-style-type: none"> (a) <i>Preserve and protect buildings of heritage and cultural value.</i> (b) <i>Ensure that redevelopment immediately adjacent to buildings of heritage or cultural value in no way detracts from the visual quality or amenity of heritage buildings.</i> <p>Whilst the minimum size shown on the Lot Size Map is 700m², the immediate locality is largely characterised by lots of around 1000m² average area, occupied by single detached dwelling houses. The effect of the proposed development is 21 dwellings occupying an area of 9699m² – around 460m² per dwelling, on average. The proposed development’s residential density is thus considerably greater than typical in the locality, rendering</p>

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



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

			<p>it inconsistent and incompatible with the locality’s existing and desired residential character and amenity. The proposed development is therefore considered contrary to the residential amenity objectives specified by section A2.2.4 (a), (b) and (d):</p> <ul style="list-style-type: none"> (a) <i>Conserve the unique characteristics of existing residential areas of the Bundanoon township.</i> (b) <i>Encourage new residential development that is sympathetic to existing or desired future streetscapes and neighbourhood character.</i> (d) <i>Contribute to the enhancement of the urban amenity.</i> <p>The proposed development’s excessive density is also considered to render it contrary to the visual amenity objectives specified by section A2.2.6:</p> <ul style="list-style-type: none"> (a) <i>Demonstrate an appreciation of the existing streetscape.</i> (b) <i>Enhance the character of individual streets within the town through appropriate built form design.</i>
	Section 4—Water management	Section A4.3—Development in Sydney’s drinking water catchments	As discussed earlier regarding State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011, Water NSW considers the proposed development able to achieve a neutral or beneficial effect on water quality and concurs to the granting of consent for the proposed development, subject to conditions that can be conveyed by conditions of consent (if granted).
		Section A4.5—Stormwater management plan	The application was referred to Council’s Development Engineers, whose response does not discuss or object to the proposed methods of draining the land indicated by the concept drainage plan accompanying the application.
		Section A4.6—Erosion and sediment control plans	Recommended conditions of consent require implementation of an approved erosion and sediment control plan before, throughout and after completion of works in the proposed development.
	Section 6—Vegetation management and landscaping	Section A6.1—Preservation of trees and other vegetation	<p>The application was referred to Council’s Arboriculture Consultant for review and comment. The Arboriculture Consultant responded:</p> <p><i>“This application has been assessed and considered to be unacceptable.”</i></p> <p><i>“The [Arboricultural Impact Assessment report accompanying the application] does not provide sufficient rigour, evidence, or information to allow for an accurate assessment of this application. Inconsistencies occur within the report. These are summarised as follows.</i></p>



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

			<ul style="list-style-type: none"> • “Section 3 (Provided documents) from the report has referenced some drawings related to the proposal, however does not include the entire drawing sets included in the application, nor does the Plan numbers correspond with those included in the application. No stormwater (Civil) drawing has been included, although has been included as part of the application.” • “The tree data referenced in the Appendix (Tree Inspection Schedule) does not correspond with the site trees. The introduction (Section 1) states the site was assessed in November 2016 and February 2018. The amended report is assumed to have included the new data from February 2018. Although no change has occurred to any of the tree data (Tree Inspection Schedule) between the two reports, other than the addition of four trees, being No. 57-60. Based on the time period between these assessments (in excess of two years). It is highly unlikely that no change including growth increments and ratings has occurred to any tree during this time period. However, inconsistencies in tree data were observed based on the assessment by ATC in January 2021.” • “Large and significant remnant trees are located on this lot yet no consideration has been discussed regarding the potential for retaining and protecting these trees.” • “The lot contains more trees than illustrated on the drawings. Recent tree removal is evident. Neighbouring trees potentially subject to impacts have not been considered. Neighbouring trees are the property of a second party and must be protected and retained from any proposed works.” • “No stormwater or subsurface utilities have been referenced, although a Civil works drawing forms part of the application.” • “No reference to what plan containing the tree numbering exists in the report. Although the drawing DA 02.100 (Page 29 of the report) illustrates tree numbering. This assumed to present the tree numbering in the report. Several trees exist in these drawings that have not been numbered. These trees require to be identified and either included in the report or individually identified why they do not conform for inclusion. Trees No. 57-60 have not been included in this plan and the location is unknown.” • “No discussion, including the proportions (%) of encroachment or types of encroachment (major or minor) has been included, or potential mitigation
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Section 4.15 (1) (a) (i)—The provisions of any environmental planning instrument that apply to the land

			<p><i>strategies. This requires inclusion in the arborist report. The generic comments offered regarding potential excavation in Section 7.2 (soil works) are vague, and do not offer sufficient discussion in regard to any tree nor does it consider mitigation strategies.”</i></p> <ul style="list-style-type: none"> • <i>“Trees No.10, 12, 13, 24, 25, 30, 31, 36, 37, 38, 39, 40, 41, 42, 43, 44, 48, 50, 51, 52 are 56 are referred to “fall within the footprint of proposed dwellings or driveways”, however no details are offered.”</i> • <i>“No tree management plan or protection specification for assigned zones of protection has been included.”</i> <p>Additionally, noting the contribution of vegetation on the land to the land’s recognised heritage significance, Council’s Heritage Advisor also commented:</p> <p><i>“There are simply too many buildings in this proposal and too many trees being removed (40 trees removed or severely pruned).”</i></p> <p>Noting the above, the proposed development is considered contrary to the objectives specified by section A6.1.1 (a) and (b) regarding preservation of trees and other vegetation:</p> <p>A6.1.1 Objectives</p> <p><i>The objectives of this Section of the Plan are to:</i></p> <ul style="list-style-type: none"> (a) <i>preserve the amenity, biodiversity and ecology of the Bundanoon township through the preservation of trees and other vegetation...</i> (b) <i>preserve the amenity and heritage value of trees and other vegetation associated with Items of Heritage or within Heritage Conservation Areas.</i> <p>In addition, the proposed development is considered unsatisfactory with regard to the assessment considerations specified by section A6.1.7 (a) and (d):</p> <p>A6.1.7 Assessment Considerations</p> <p><i>In assessing applications for Council consent under clause 5.9 of WLEP 2010, Council’s considerations will include, but not be limited to, the following:</i></p> <ul style="list-style-type: none"> (a) <i>Whether the community interest has been taken into account. Priority for preservation will be given to trees which have significant amenity or aesthetic value, are noteworthy in the land or streetscape or from a botanical or heritage viewpoint.</i>
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**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



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

			<p>(d) <i>Whether replacement planting is proposed. All Council approvals to remove trees or other vegetation shall contain appropriate requirements for offset planting to ensure no net loss of vegetation.</i></p>
		Section A6.2—Private landscaped open space	The proposed development is overall considered satisfactory with regard to the private landscaped open space objectives specified by section A6.2.1.
		Section A6.3—Controls	The proposed development is overall considered satisfactory with regard to the private landscaped open space controls specified by section A6.3.
	Section 7—Subdivision, demolition, siting and design	Section A7.2—Demolition	A recommended condition of consent (if granted) requires all demolition work in the development to be carried out in accordance with the relevant provisions of Australian Standard AS 2601—1991: The Demolition of Structures.
		Section A7.6—Design principles within heritage context	<p>The proposed development is considered contrary to the provisions specified by section A7.6 that:</p> <p><i>“Several buildings within the town date from the earliest settlement of this area and Council is only interested in new development which makes a positive contribution to the visual and functional amenity of the town.</i></p> <p><i>“Therefore, the design principles applying to all development within Bundanoon seek to protect the urban amenity of areas of high heritage value and enhance those areas of lower heritage value.”</i></p>
		Section A7.8—Principles of minimum acceptable design	<p>The proposed development is considered contrary to the provisions specified by section A7.8 that:</p> <p><i>“...Council is only interested in development which makes a positive contribution to the urban amenity of Bundanoon. Particularly in the residential areas of the town there are sections of high heritage value where new development, including renovations, must be sympathetic to the essential elements of that heritage.”</i></p>
	Section 8—Safer by design	Section A8.3—Crime prevention through environmental design	<p>The proposed development includes off street car parking facilities that are isolated from the points of entry to the existing building on the land, which is proposed to house seven self-contained dwellings as well as communal facilities. Isolation of car parking facilities from building entry points can cause confusion, particularly for visitors unfamiliar with a development. This can create opportunities for a prospective intruder to access areas of the land to which they ordinarily would not be admitted, using the excuse that they are lost, if confronted.</p> <p>Noting the above, the proposed development is considered contrary to the provisions of section A8.3 (a) and (d) that:</p>



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

			<p><i>[Crime prevention through environmental design] aims to create the reality (or perception) that the costs of committing crime are greater than the likely benefits. This is achieved by creating environmental and social conditions that:</i></p> <p>(a) <i>Maximise risk to offenders (increasing the likelihood of detection, challenge and apprehension);</i></p> <p>(d) <i>Minimise excuse making opportunities (removing conditions that encourage/facilitate rationalisation of inappropriate behaviour).</i></p> <p>The proposed development is also considered unsatisfactory with respect to section A8.3.4 regarding access control:</p> <p>A8.3.4 Access Control</p> <p><i>Access control treatments restrict, channel and encourage people and vehicles into, out of and around the development. Way-finding, desire-lines and formal/informal routes are important crime prevention considerations. Effective access control can be achieved by using physical and symbolic barriers that channel and group pedestrians into areas, therefore increasing the time and effort required for criminals to commit crime. Design-based access control includes the tactical use of landforms and waterways features, design measures including building configuration; formal and informal pathways, landscaping, fencing and gardens. As with surveillance, design solutions are less intrusive than alternatives such as gates or on-site security guards.</i></p>
		<p>Section A8.4— Specific design requirements</p>	<p>Noting the above discussion regarding section A8.3, the proposed development is considered unsatisfactory with respect to the provisions of section A8.4 (a):</p> <p>A8.4 Specific Design Requirements</p> <p><i>The principles of Safer by Design may be applied to both commercial and residential development. In particular, Council requires all development to demonstrate that it provides:</i></p> <p>a) <i>Well-defined building entrances which are clearly visible from the street. Narrow or splayed entrances are preferable to deep-set entrance ways.</i></p>
<p>Section 9— Construction standards</p>		<p>Section A9.8— Stormwater disposal</p>	<p>The application was referred to Council's Development Engineers, whose response does not discuss proposed methods of draining the land and proposed development. However, a concept drainage plan accompanying the application indicates stormwater discharge to Council</p>

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



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

	and procedures		stormwater drainage infrastructure in Railway Avenue, which appears practicable. A recommended condition of consent (if granted) can specify no construction certificate shall be granted for any building work in the development unless the certifying authority is satisfied by evidence accompanying the application for construction certificate that details of proposed stormwater drainage and discharge from the land and proposed development have been submitted to and approved by Council.
	Section 11— Outdoor lighting	Section A11.2— Objectives	<p>Recommended conditions of consent (if granted) specify:</p> <ul style="list-style-type: none"> No construction certificate shall be granted for any building work in the development unless the certifying authority is satisfied by information accompanying the application for construction certificate that all proposed outdoor lighting in the development will comply with the relevant provisions of Australian/New Zealand Standard AS/NZS 4282:2019 Control of the obtrusive effects of outdoor lighting No occupation certificate shall be granted in relation to the development unless the certifying authority is satisfied by information accompanying the application for occupation certificate that all outdoor lighting installed in the development complies with the relevant provisions of Australian/New Zealand Standard AS/NZS 4282:2019 Control of the obtrusive effects of outdoor lighting. <p>Provided all recommended conditions of consent (if granted) are complied with, the proposed development is considered satisfactory with respect to the outdoor lighting objectives specified by section A11.2.</p>
		Section A11.3— Controls	Provided all recommended conditions of consent (if granted) are complied with, the proposed development is considered satisfactory with respect to the outdoor lighting controls specified by section A11.3.
	Section 12— Development near rail corridors and busy roads	Section A12.1— Development adjacent to a rail corridor	<p>Section A12.1.3 specifies:</p> <p>A12.1.3 Controls</p> <p><i>Council shall not grant consent to the carrying out of development on any land to which this Clause applies unless it is satisfied that adequate provision has been made to ensure that such development:</i></p> <p>a) <i>avoids any new direct vehicular access to any relevant road and removes any existing access where alternative rear lane or other access is achievable.</i></p> <p>b) <i>provides that any essential access</i></p>

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



Section 4.15 (1) (a) (i)—The provisions of any environmental planning instrument that apply to the land			
			<p><i>to any relevant road be designed so that all vehicles enter and leave the site in a forward direction.</i></p> <p>c) <i>restricts vehicular access, car parking and loading/unloading facilities to an alternative access, such as a rear lane, where such access is available.</i></p> <p>d) <i>makes an appropriate Section 94 developer contribution towards the provision of public car parking where only a single frontage to a relevant road is available.</i></p> <p>As discussed earlier regarding clause 101 of State Environmental Planning Policy (Infrastructure) 2007, the proposed development includes three additional access driveways that do not facilitate movement of vehicles to and from the land in a forward direction. The proposed development thus does not satisfy the controls specified by section A12.1.3 (a) and (b).</p>
Part C—Provisions applicable to residential-zoned land	Section 1—Introduction	Section C1.2—Objectives	<p>The proposed development is considered contrary to the objectives specified by section C1.2 (a) and (b):</p> <p>C1.2 Objectives</p> <p><i>This Part of the Plan aims to achieve:</i></p> <p>(a) <i>Conservation of the unique characteristics of the residential areas of Bundanoon, particularly in the case of the identified Conservation Areas,</i></p> <p>(b) <i>New residential development which is sympathetic with existing streetscapes and neighbourhood character.</i></p>
		Section C1.6—Building materials	<p>The application was referred to Council's Heritage Advisor. In the context of the recognised heritage significance of the land and existing development thereon, the Heritage Advisor commented:</p> <p><i>"The black and white colour scheme (black roofs and white walls) is also too stark for this context."</i></p> <p>The historic "Lynbrook Guest House" building is of mainly cream-painted rendered brick construction, with an unpainted corrugated iron roof. Drawings accompanying the application indicate the seven additional buildings proposed to flank the existing building are white weatherboard clad, with dark grey pre-finished corrugated steel roofing.</p> <p>Whilst replication or imitation of heritage significant building styles, materials and finishes is broadly discouraged, the proposed buildings' materials and</p>



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

			<p>finishes are considered incompatible with the heritage character of the land and the existing building thereon. The proposed development is therefore considered contrary to the building materials objectives specified by section C1.6.1 (b) and (c):</p> <p>C1.6.1 Objectives</p> <p><i>The objectives of requiring certain materials in dwelling construction are to:</i></p> <p>(b) <i>Encourage the use of materials in the construction of new dwellings that are compatible with adjoining dwelling houses and the streetscape in terms of type, colour and form.</i></p> <p>(c) <i>Encourage the adoption of an exterior colour scheme which complements the existing streetscape.</i></p>
	Section 8—Seniors housing	Section C8.2—General objectives	<p>As discussed below, the proposed development is considered unsatisfactory with regard to a range of seniors housing provisions specified by section 8, rendering it unsuitable for residential accommodation of seniors and people with disabilities. Consequently, it is considered contrary to the general objectives specified by section C8.2 (a) and (c):</p> <p>C8.2 General Objectives</p> <p><i>The purpose of these controls is to encourage the provision of seniors housing, including residential care facilities that will:</i></p> <p>(a) <i>increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and</i></p> <p>(c) <i>be of good design.</i></p>
		Section C8.3—Neighbourhood amenity and streetscape	<p>The proposed development is considered contrary to the provisions of section C8.3 (a), (c) (i) & (v) and (e):</p> <p>C8.3 Neighbourhood Amenity and Streetscape</p> <p><i>The proposed development should:</i></p> <p>(a) <i>recognise the desirable elements of the location’s current character so that new buildings contribute to the quality and identity of the area;</i></p> <p>(c) <i>maintain reasonable neighbourhood amenity and appropriate residential character by:</i></p> <p>(i) <i>providing building setbacks to reduce bulk and</i></p>

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



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

			<p><i>overshadowing,</i></p> <p>(v) <i>be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line</i></p> <p>(e) <i>retain, wherever reasonable, major existing trees.</i></p>
		Section C8.4—Visual and acoustic privacy	Provided all recommended conditions of consent (if granted) are complied with, the proposed development is considered satisfactory with respect to the visual and acoustic privacy provisions specified by section C8.4.
		Section C8.5—Solar access and design for climate	<p>Due to their orientations, all but two of the seven dwellings proposed within the existing building on the land are expected to receive insufficient direct sunlight to living areas. The proposed development is consequently considered contrary to the objectives specified by section C8.5:</p> <p>C8.5 Solar Access and Design for Climate</p> <p><i>The proposed development should:</i></p> <p>(a) <i>ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and</i></p> <p>(b) <i>involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting by locating the windows of living and dining areas in a northerly direction.</i></p>
		Section C8.6—Crime prevention	<p>As discussed earlier, off street car parking facilities in the development are isolated from the proposed points of entry to the existing building on the land, which is proposed to house seven self-contained dwellings. Lack of clear visual cues to direct people – particularly visitors – from car parking facilities to building entry points can facilitate an excuse for a potential intruder to access areas to which they would not normally be admitted.</p> <p>Given the above, the proposed development is considered unsatisfactory with respect to the crime prevention provisions specified by section C8.6:</p> <p>C8.6 Crime Prevention</p> <p><i>The proposed development should provide personal property security for residents and visitors and encourage crime prevention by:</i></p> <p>(a) <i>site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas,</i></p>

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



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

			<p><i>driveways and streets from a dwelling that adjoins any such area, driveway or street, and</i></p> <p><i>(b) where shared entries are required, providing shared entries that serve a small number of dwellings and that are able to be locked, and</i></p> <p><i>(c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.</i></p>
		<p>Section C8.7— Accessibility</p>	<p>Section C8.7 specifies:</p> <p>C8.7 Accessibility</p> <p><i>The proposed development should:</i></p> <p><i>(a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and</i></p> <p><i>(b) provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors.</i></p> <p>The land is located more than a kilometre from the Bundanoon town centre. Drawings accompanying the application indicate a proposed 1.2m concrete footpath in Railway Avenue adjoining the land. There is also a bus stop in Railway Avenue adjoining the land, but it does not include any facility for a bus to pull over, entirely outside Bundanoon Avenue’s southbound travel lane, to pick or set down passengers, and the information accompanying the application does not indicate a proposal to provide any such facility. The application was referred to Council’s Development Engineer, whose response does not discuss existing or proposed public transport facilities to service the proposed development.</p> <p>Noting the above, the proposed development is not considered to provide a safe and convenient means of pedestrian access (via bus or otherwise) to public transport services and local facilities and is therefore considered unsatisfactory with respect to section C8.7 (a).</p>
		<p>Section C8.8— Standards for hostels and self-contained dwellings</p>	<p>In addressing section C8.8, the statement of environmental effects accompanying the application refers to a separate access report also accompanying the application. However, the access report does not address section C8.8 beyond quoting its provisions.</p> <p>Section C8.8 specifies:</p> <p>C8.8 Standards for Hostels and Self-Contained Dwellings</p> <p><i>A development application made for the purpose of a hostel or self-contained dwelling shall comply with the following standards:</i></p> <p><i>(a) The size of the site must be at least 1,000 square metres.</i></p>



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

			<p>(b) <i>The site frontage must be at least 20 metres wide measured at the building line.</i></p> <p>(c) <i>If the whole of the site has a gradient of less than 1:10, 100% of the dwellings must have wheelchair access by a continuous accessible path of travel (within the meaning of AS 1428.1) to an adjoining public road.</i></p> <p>(d) <i>If the whole of the site does not have a gradient of less than 1:10:</i></p> <p>(e) <i>the percentage of dwellings that must have wheelchair access must equal the proportion of the site that has a gradient of less than 1:10, or 50%, whichever is the greater, and</i></p> <p>(f) <i>the wheelchair access provided must be by a continuous accessible path of travel (within the meaning of AS 1428.1) to an adjoining public road or an internal road or a driveway that is accessible to all residents.</i></p> <p>(g) <i>Where the site has a variable gradient, the principle identified in clauses (a) and (b) above applies. For example, if 70% of the site has a gradient of less than 1:10, then 70% of the dwellings must have wheelchair access as required by clause (a).</i></p> <p>(h) <i>If more than 50% of the site has a gradient greater than 1:10, development for the purposes of seniors housing is unlikely to be possible.</i></p> <p>The proposed development satisfies section C8.8 (a) and (b).</p> <p>With respect to section C8.8 (c)-(h), gradients on the land are well gentler than 1:10, so a recommended condition of consent (if granted) specifies no construction certificate shall be granted for any building work in the development unless the certifying authority is satisfied by information accompanying the application for construction certificate that each of the 21 self-contained dwellings in the development will have wheelchair access by a continuous accessible path of travel (within the meaning of Australian Standard AS 1428.1, Design for access and mobility, Part 1: General requirements for access—New building work) to Railway Avenue.</p>
		<p>Section C8.9— Height controls</p>	<p>Section C8.9 specifies:</p> <p>C8.9 Height Controls</p> <p><i>The proposed development must comply with the standards specified below:</i></p> <p>(i) <i>If the development is proposed in a residential zone where residential flat buildings are not</i></p>

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



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

			<p><i>permitted:</i></p> <ul style="list-style-type: none"> <i>(i) the height of all buildings in the proposed development must be 8 metres or less, and</i> <i>(ii) a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this control applies) must be not more than 2 storeys in height, and</i> <i>(iii) a building located in the rear 25% area of the site must not exceed 1 storey in height.</i> <i>(j) Clauses (a) – (c) above do not apply to a development application made by the NSW Department of Housing, or any other social housing provider.</i> <p>Subsections (a) and (b) of section C8.9 are erroneously identified as subsections (i) and (j) in the DCP document.</p> <p>Section C8.9 (a) applies to the proposed development because the land is in Zone R2 Low Density Residential, within which the Land Use Table at the end of Part 2 of the LEP specifies development for the purpose of residential flat buildings is prohibited. With respect to subsection C8.9 (a), each of the buildings in the proposed development is of single storey construction, less than 8.0m in height.</p> <p>Section C8.9 (c) is inapplicable to the proposed development.</p>
		<p>Section C8.10—Site design</p>	<p>In addressing section C8.10, the statement of environmental effects accompanying the application refers to a separate access report also accompanying the application. However, the access report does not address section C8.10 beyond quoting its provisions.</p> <p>Section C8.10 specifies:</p> <p>C8.10 Site Design</p> <ul style="list-style-type: none"> <i>(a) Access must be provided in accordance with AS 1428.1 so that a person using a wheelchair can use common areas and common facilities associated with the development.</i> <i>(b) Pathway lighting must</i> <ul style="list-style-type: none"> <i>(i) be designed and located so as to avoid glare for pedestrians and adjacent dwellings, and</i> <i>(ii) provide at least 20 lux at ground level.</i> <i>(c) Letterboxes must</i> <ul style="list-style-type: none"> <i>(iii) be situated on a hard standing area and have wheelchair access and circulation by a continuous accessible path of</i>

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



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

			<p><i>travel (within the meaning of AS 1428.1), and</i></p> <p>(iv) <i>be lockable, and</i></p> <p>(v) <i>be located together in a central location adjacent to the street entry or, in the case of self-contained dwellings, must be located together in one or more central locations adjacent to the street entry.</i></p> <p>Subsections (c) (i), (ii) and (iii) of section C8.10 are erroneously identified as subsections (c) (iii), (iv) and (v) in the DCP document.</p> <p>Recommended conditions of consent (if granted) specify:</p> <ul style="list-style-type: none"> • No construction certificate shall be granted for any building work in the development unless the certifying authority is satisfied by information accompanying the application for construction certificate that: <ul style="list-style-type: none"> ○ Access will be provided in accordance with the relevant provisions of Australian Standard AS 1428.1, Design for access and mobility, Part 1: General requirements for access—New building work so that a person using a wheelchair can use common areas and common facilities associated with the development. ○ Pathway lighting in the development is designed and will be located to: <ul style="list-style-type: none"> ▪ Avoid glare for pedestrians and adjacent dwellings ▪ Provide at least 20 lux at ground level ○ Letterboxes in the development will: <ul style="list-style-type: none"> ▪ Be situated on a hard standing area and have wheelchair access and circulation by a continuous accessible path of travel (within the meaning of Australian Standard AS 1428.1, Design for access and mobility, Part 1: General requirements for access—New building work) ▪ Be lockable, and ▪ Be located together in a central location adjacent to the street entry, or located together in one or more central locations adjacent to the street entry • No occupation certificate shall be granted for the development unless the certifying authority is satisfied by information accompanying the application for occupation certificate that:
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Section 4.15 (1) (a) (i)—The provisions of any environmental planning instrument that apply to the land

			<ul style="list-style-type: none"> ○ Access is provided in accordance with the relevant provisions of Australian Standard AS 1428.1, Design for access and mobility, Part 1: General requirements for access—New building work so that a person using a wheelchair can use common areas and common facilities associated with the development. ○ Pathway lighting in the development is designed and located to: <ul style="list-style-type: none"> ▪ Avoid glare for pedestrians and adjacent dwellings ▪ Provide at least 20 lux at ground level ○ Letterboxes in the development: <ul style="list-style-type: none"> ▪ Are situated on a hard standing area and have wheelchair access and circulation by a continuous accessible path of travel (within the meaning of Australian Standard AS 1428.1, Design for access and mobility, Part 1: General requirements for access—New building work) ▪ Are lockable, and ▪ Are located together in a central location adjacent to the street entry, or located together in one or more central locations adjacent to the street entry.
		<p>Section C8.11—On site car parking</p>	<p>The application was referred to Council's Development Engineers, whose response does not discuss the adequacy of proposed off street car parking facilities in the development, apart from raising concern that their location conflicts with existing trees that Council's Arboriculture Consultant suggests should be retained.</p> <p>Section C8.11 specifies:</p> <p>C8.11 On Site Car Parking</p> <p><i>If car parking (not being car parking for employees) is provided:</i></p> <p>(a) car parking spaces must comply with the requirements for parking for persons with a disability set out in AS 2890, and</p> <p>(b) 5% of the total number of car parking spaces (or at least one space if there are fewer than 20 spaces) must be designed to enable the width of the spaces to be increased to 3.8 metres, and</p>

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



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

			<p><i>(c) any garage must have a power-operated door, or there must be a power point and an area for motor or control rods to enable a power-operated door to be installed at a later date.</i></p> <p>Recommended conditions of consent (if granted) specify:</p> <ul style="list-style-type: none"> • No construction certificate shall be granted for any building work in the development unless the certifying authority is satisfied by information accompanying the application for construction certificate that all off street car parking spaces in the development comply with the requirements of Australian Standard AS 2890, Parking facilities, Part 1: Off street parking regarding off street car parking for use by people with disabilities • No occupation certificate shall be granted for the development unless the certifying authority is satisfied by information accompanying the application for occupation certificate that all off street car parking spaces in the development comply with the requirements of Australian Standard AS 2890, Parking facilities, Part 1: Off street parking regarding off street car parking for use by people with disabilities.
		<p>Section C8.12— Entry and corridors</p>	<p>Section C8.12 specifies:</p> <p>C8.12 Entry & Corridors</p> <p>(d) Every entry (whether a front entry or not) to a dwelling, not being an entry for employees, must comply with clauses 4.3.1 and 4.3.2 of AS 4299.</p> <p>(e) Widths of internal corridors and circulation at internal doorways must comply with AS 1428.1.</p> <p>Subsections (a) and (b) of section C8.12 are erroneously identified as subsections (d) and (e) in the DCP document.</p> <p>Recommended conditions of consent (if granted) specify:</p> <ul style="list-style-type: none"> • No construction certificate shall be granted for any building work in the development unless the certifying authority is satisfied by information accompanying the application for construction certificate that: <ul style="list-style-type: none"> ○ Every entry (whether a front entry or not) to each self-contained dwelling in the development complies with clauses 4.3.1 and 4.3.2 of Australian Standard AS 4299–1995, Adaptable housing ○ Widths of internal corridors and circulation at internal doorways comply



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

			<p>with the relevant provisions of Australian Standard AS 1428.1, Design for access and mobility, Part 1: General requirements for access—New building work</p> <ul style="list-style-type: none"> • No occupation certificate shall be granted for the development unless the certifying authority is satisfied by information accompanying the application for occupation certificate that: <ul style="list-style-type: none"> ○ Every entry (whether a front entry or not) to each self-contained dwelling in the development complies with clauses 4.3.1 and 4.3.2 of Australian Standard AS 4299—1995, Adaptable housing ○ Widths of internal corridors and circulation at internal doorways comply with the relevant provisions of Australian Standard AS 1428.1, Design for access and mobility, Part 1: General requirements for access—New building work.
		<p>Section C8.13—Bedrooms</p>	<p>Section C8.13 specifies:</p> <p>C8.13 Bedrooms</p> <p><i>At least one bedroom within each dwelling must have:</i></p> <ul style="list-style-type: none"> (a) <i>an area sufficient to accommodate a wardrobe and a bed sized as follows:</i> <ul style="list-style-type: none"> (i) <i>in the case of a dwelling in a hostel—a single-size bed,</i> (ii) <i>in the case of a self-contained dwelling—a queen-size bed, and</i> (b) <i>a clear area for the bed of at least:</i> <ul style="list-style-type: none"> (iii) <i>1,200 millimetres wide at the foot of the bed, and</i> (iv) <i>1,000 millimetres wide beside the bed between it and the wall, wardrobe or any other obstruction, and</i> (c) <i>2 double general power outlets on the wall where the head of the bed is likely to be, and</i> (d) <i>at least one general power outlet on the wall opposite the wall where the head of the bed is likely to be, and</i> (e) <i>a telephone outlet next to the bed on the side closest to the door and a general power outlet beside the telephone outlet, and</i> (f) <i>wiring to allow a potential illumination level of</i>

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



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

			<p style="text-align: right;"><i>at least 300 lux.</i></p> <p>Subsections (b) (i) and (ii) are erroneously identified as subsection (b) (iii) and (iv) in the DCP document.</p> <p>According to the drawings accompanying the application, the single bedrooms in proposed suites 1 and 5 (in the existing building on the land) respectively have clear areas of 1030mm and 1130mm wide at the foot of a queen size bed. They thus do not satisfy section C8.13 (b) (i). Each of the 19 other dwellings in the proposed development complies.</p> <p>The above aside, recommended conditions of consent (if granted) specify:</p> <ul style="list-style-type: none"> • No construction certificate shall be granted for any building work in the development unless the certifying authority is satisfied by information accompanying the application for construction certificate that at least one bedroom within each dwelling in the development will have: <ul style="list-style-type: none"> ○ Sufficient area to accommodate a wardrobe and a queen-sized (153cm x 203cm) bed, and ○ A clear area for the bed of at least: <ul style="list-style-type: none"> ▪ 1200mm wide at the foot of the bed, and ▪ 1000mm wide beside the bed between it and the wall, wardrobe or any other obstruction, and ○ Two double general power outlets on the wall where the head of the bed is likely to be, and ○ At least one general power outlet on the wall opposite the wall where the head of the bed is likely to be, and ○ A telephone outlet next to the bed on the side closest to the door and a general power outlet beside the telephone outlet, and ○ Wiring to allow a potential illumination level of at least 300 lux • No occupation certificate shall be granted for the development unless the certifying authority is satisfied by information accompanying the application for occupation certificate that at least one bedroom within each dwelling in the development has: <ul style="list-style-type: none"> ○ Sufficient area to accommodate a wardrobe and a queen-sized (153cm x 203cm) bed, and ○ A clear area for the bed of at least:
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Section 4.15 (1) (a) (i)—The provisions of any environmental planning instrument that apply to the land

			<ul style="list-style-type: none"> ▪ 1200mm wide at the foot of the bed, and ▪ 1000mm wide beside the bed between it and the wall, wardrobe or any other obstruction, and ○ Two double general power outlets on the wall where the head of the bed is likely to be, and ○ At least one general power outlet on the wall opposite the wall where the head of the bed is likely to be, and ○ A telephone outlet next to the bed on the side closest to the door and a general power outlet beside the telephone outlet, and ○ Wiring to allow a potential illumination level of at least 300 lux.
		<p>Section C8.14— Bathrooms</p>	<p>Section C8.14 specifies:</p> <p>C8.14 Bathrooms</p> <p><i>At least one bathroom within a dwelling must be on the ground (or main) floor and have the following facilities arranged within an area that provides for circulation space for sanitary facilities in accordance with AS 1428.1:</i></p> <ul style="list-style-type: none"> (a) <i>a slip-resistant floor surface,</i> (b) <i>a washbasin with plumbing that would allow, either immediately or in the future, clearances that comply with AS 1428.1,</i> (c) <i>a shower that complies with AS 1428.1, except that the following must be accommodated either immediately or in the future:</i> <ul style="list-style-type: none"> (i) <i>a grab rail,</i> (ii) <i>portable shower head,</i> (iii) <i>folding seat,</i> (d) <i>a wall cabinet that is sufficiently illuminated to be able to read the labels of items stored in it,</i> (e) <i>a double general power outlet beside the mirror.</i> <p>Recommended conditions of consent (if granted) specify:</p> <ul style="list-style-type: none"> • No construction certificate shall be granted for any building work in the development unless the certifying authority is satisfied by information accompanying the application for construction certificate that at least one bathroom in each self-

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



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

			<p>contained dwelling in the development will have the following facilities arranged within an area that provides for circulation space for sanitary facilities in accordance with Australian Standard AS 1428.1, Design for access and mobility, Part 1: General requirements for access—New building work:</p> <ul style="list-style-type: none"> ○ A slip-resistant floor surface, ○ A washbasin with plumbing that would allow, either immediately or in the future, clearances that comply with Australian Standard AS 1428.1, Design for access and mobility, Part 1: General requirements for access—New building work, ○ A shower that complies with Australian Standard AS 1428.1, Design for access and mobility, Part 1: General requirements for access—New building work, except that the following must be accommodated either immediately or in the future: <ul style="list-style-type: none"> ▪ A grab rail ▪ A portable shower head ▪ A folding seat, ○ A wall cabinet that is sufficiently illuminated to be able to read the labels of items stored in it ○ A double general power outlet beside the mirror <ul style="list-style-type: none"> • No occupation certificate shall be granted for the development unless the certifying authority is satisfied by information accompanying the application for occupation certificate that at least one bathroom in each self-contained dwelling in the development has the following facilities arranged within an area that provides for circulation space for sanitary facilities in accordance with Australian Standard AS 1428.1, Design for access and mobility, Part 1: General requirements for access—New building work: <ul style="list-style-type: none"> ○ A slip-resistant floor surface, ○ A washbasin with plumbing that allows, either immediately or in the future, clearances that comply with Australian Standard AS 1428.1, Design for access and mobility, Part 1: General requirements for access—New building
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**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



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

			<p>work,</p> <ul style="list-style-type: none"> ○ A shower that complies with Australian Standard AS 1428.1, Design for access and mobility, Part 1: General requirements for access—New building work, except that the following must be accommodated either immediately or in the future: <ul style="list-style-type: none"> ▪ A grab rail ▪ A portable shower head ▪ A folding seat, ○ A wall cabinet that is sufficiently illuminated to be able to read the labels of items stored in it ○ A double general power outlet beside the mirror.
		<p>Section C8.15— Other requirements</p>	<p>Section C8.15 (k) specifies:</p> <p><i>(k) A self-contained dwelling must have a laundry that has: (i) a width at door approaches that complies with clause 7 of this Schedule, (ii) provision for the installation of an automatic washing machine and a clothes dryer, (iii) a clear space in front of appliances of at least 1,300 millimetres, (iv) a slip-resistant floor surface, (v) an accessible path of travel to any clothes line provided in relation to the dwelling.</i></p> <p>Drawings accompanying the application indicate suites 1-7 in the proposed development (within the existing building on the land) do not have any laundry facilities, and there is also no proposed shared laundry facility in the building.</p> <p>Section C8.15 (l) specifies:</p> <p><i>(l) A self-contained dwelling must be provided with a linen storage in accordance with clause 4.11.5 of AS 4299.</i></p> <p>Drawings accompanying the application indicate 12 of the proposed self-contained dwellings, including all of the dwellings proposed within the existing building on the land, do not include any linen storage.</p> <p>Aside from the above, to ensure compliance with the extensive requirements specified by section C8.15, recommended conditions of consent (if granted) specify no construction certificate or occupation certificate shall be granted in relation to the proposed development unless the certifying authority is satisfied by information accompanying the application for construction certificate</p>

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



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

			<p>or occupation certificate that:</p> <ul style="list-style-type: none"> • Each self-contained dwelling in the development will have, or has, at least one visitable toilet that complies with the requirements for sanitary facilities of Australian Standard AS 4299–1995, Adaptable housing • All balconies and external paved areas in the development will have, or have, slip-resistant surfaces, having regard to the relevant provisions of Australian Standard AS 1428.1, Design for access and mobility, Part 1: General requirements for access—New building work • Door handles and hardware for all doors (including entry doors and other external doors) in each self-contained dwelling in the development will be, or have been, provided in accordance with the relevant provisions of Australian Standard AS 4299–1995, Adaptable housing • Switches and power points in the development will be, or have been, provided in accordance with the relevant provisions of Australian Standard AS 4299–1995, Adaptable housing • The living room in each self-contained dwelling in the development will have, or has: <ul style="list-style-type: none"> ○ A circulation space in accordance with clause 4.7.1 of Australian Standard AS 4299–1995, Adaptable housing, and ○ A telephone adjacent to a general power outlet • The living room and dining room in each self-contained dwelling in the development will have, or has, wiring to allow a potential illumination level of at least 300 lux • The kitchen in each self-contained dwelling in the development will have, or has: <ul style="list-style-type: none"> ○ A circulation space in accordance with clause 4.5.2 of Australian Standard AS 4299–1995, Adaptable housing, and ○ Widths at door approaches complying with the following: <ul style="list-style-type: none"> ▪ Internal doorways have a minimum clear opening that complies with Australian Standard AS 1428.1, Design for access and mobility, Part 1: General requirements for access—New building work
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Section 4.15 (1) (a) (i)—The provisions of any environmental planning instrument that apply to the land

			<ul style="list-style-type: none"> ▪ Internal corridors have a minimum unobstructed width of 1000mm ▪ Circulation space at approaches to internal doorways comply with Australian Standard AS 1428.1, Design for access and mobility, Part 1: General requirements for access—New building work. ○ The following fittings in accordance with the relevant subclauses of clause 4.5 of Australian Standard AS 4299–1995, Adaptable housing: <ul style="list-style-type: none"> ▪ Benches that include at least one work surface at least 800mm in length that comply with clause 4.5.5 (a) of Australian Standard AS 4299–1995, Adaptable housing ▪ A tap set (see clause 4.5.6 of Australian Standard AS 4299–1995, Adaptable housing) ▪ Cook tops (see clause 4.5.7 of Australian Standard AS 4299–1995, Adaptable housing), except that an isolating switch must be included ▪ an oven (see clause 4.5.8 of Australian Standard AS 4299–1995, Adaptable housing) ▪ “D” pull cupboard handles that are located towards the top of below-bench cupboards and towards the bottom of overhead cupboards ▪ General power outlets: <ul style="list-style-type: none"> • At least one of which is a double general power outlet within 300 millimetres of the front of a work surface, and • One of which is provided for a refrigerator in such a position as to be easily accessible after the refrigerator is installed. • The laundry in each self-contained dwelling in the
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Section 4.15 (1) (a) (i)—The provisions of any environmental planning instrument that apply to the land

			<p>development will have, or has:</p> <ul style="list-style-type: none"> ○ Widths at door approaches complying with the following: <ul style="list-style-type: none"> ▪ Internal doorways have a minimum clear opening that complies with Australian Standard AS 1428.1, Design for access and mobility, Part 1: General requirements for access—New building work ▪ Internal corridors have a minimum unobstructed width of 1000mm ▪ Circulation space at approaches to internal doorways comply with Australian Standard AS 1428.1, Design for access and mobility, Part 1: General requirements for access—New building work ○ Provision for the installation of an automatic washing machine and a clothes dryer ○ A clear space in front of appliances of at least 1300mm ○ A slip-resistant floor surface ○ An accessible path of travel to any clothes line provided in relation to the dwelling • Each self-contained dwelling in the development will be, or has been, provided with a linen storage in accordance with clause 4.11.5 of Australian Standard AS 4299–1995, Adaptable housing • Each garbage storage area in the development will be, or has been, provided in an accessible location.
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Section 4.15 (1) (a) (iiia)—The provisions of any planning agreement that apply to the land

The land is not subject to any planning agreement or proposed planning agreement.

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

Provided all recommended conditions of consent (if granted) are complied with, the proposed development is considered satisfactory with respect to the relevant provisions of Division 8 of Part 6 of the Environmental Planning and Assessment Regulation 2000 including:

- Clause 92—Additional matters that consent authority must consider

Clause 92 (1) (b) specifies:

92 Additional matters that consent authority must consider

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

- (1) *For the purposes of section 4.15(1) (a) (iv) of the Act, the following matters are prescribed as matters to be taken into consideration by a consent authority in determining a development application—*
- (b) *in the case of a development application for the demolition of a building, the provisions of AS 2601.*

As discussed earlier, a recommended condition of consent (if granted) requires all demolition work in the development to be carried out in accordance with the relevant provisions of Australian Standard AS 2601—1991: The Demolition of Structures.

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

As discussed earlier, the proposed development's vehicle access arrangements are considered to have potential to compromise the safety, efficiency and ongoing operation of Railway Avenue. Additionally, its design, density and associated tree removal are considered likely to significantly detract from the recognised heritage value of the land and development thereon, and are considered inconsistent with the locality's existing and desired character and amenity. The proposed development's isolation of car parking facilities from the points of entry to the existing building is also considered to increase potential for criminal and/or anti-social activity. Various dwellings in the proposed development are considered unlikely to afford adequate solar access and do not satisfy a number of design requirements specified by the DCP to ensure suitability of accommodation of seniors and/or people with disabilities. The proposed development is also not considered to make adequate provision for safe and convenient access to public transport services and local facilities.

Given the above, the proposed development is considered likely to have significant negative environmental and social impacts with respect to:

- Context and setting, with particular regard to the scenic qualities and features of the landscape/streetscape, the character and amenity of the locality and streetscape, and the scale, form, character, density and design of development in the locality.
- Site design and internal design, with particular regard to the form, appearance and design of proposed buildings, landscaping, solar access, building materials and finishes, and access and facilities for seniors and people with disabilities.
- Access, transport and traffic, with particular regard to the safety, efficiency and ongoing operation of Railway Avenue.
- Heritage, with particular regard to the recognised local heritage significance of the land and existing development thereon.
- Safety, security and crime prevention, with particular regard to potential for criminal activity in residential areas, measures used for safety, security and crime prevention such as situational measures and environmental design, and access controls and activity management.

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

The land adjoins a regional classified road. It is also recognised as having local heritage significance, and is in a locality largely characterised by single dwelling houses erected on lots with an average area around 1000m². The land is located more than a kilometre from the Bundanoon town centre, and whilst there is a bus stop in Railway Avenue adjoining the land, there is no existing or proposed facility to allow a bus to safely pull over outside Railway Avenue's travel lanes to pick up or set down passengers.

Noting the above, the proposed development is considered to have potential to compromise the safety, efficiency and ongoing operation of Railway Avenue, likely to significantly detract from the recognised heritage value of the land and development thereon, and inconsistent with the locality's

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



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

existing and desired character and amenity. The land is relatively isolated from local facilities, and the existing bus stop facility in Railway Avenue adjoining the land is not considered to facilitate safe usage of available public transport services.

The land's heritage significance, adjacency to a classified road, isolation from local services and facilities 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 advertised the application and notified it to owners and occupants of surrounding properties, inviting submissions between 5 November and 10 December 2020. Advertisement and notification attracted 18 submissions. Two of the submissions unreservedly support the proposed development. The issues raised by the other submissions are identified and discussed in section 3 of this report.

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

There is not considered to be any overriding public interest in favour of granting consent for the proposed development. Indeed, as discussed earlier, the proposed development's omission of any extension of an existing 3.0m wide footway from the land's rear boundary to Railway Avenue, and the applicant's unwillingness to provide for any such extension, are considered contrary to the public interest.

5. CONCLUSION

The proposed development is considered unsatisfactory with respect to relevant provisions of State Environmental Planning Policy (Infrastructure) 2007, Wingecarribee Local Environmental Plan 2010, and the Bundanoon Town Plan Development Control Plan. It is considered likely to have significant negative environmental and social impacts in the locality, and the land's attributes are considered to render it unsuitable for the development as proposed. Advertisement and neighbour notification of the application attracted 16 submissions that raised a range of valid concerns and grounds for objection to the proposed development, and the proposed development is considered contrary to the public interest.

Appendices – Internal and External Communication

The application was referred to Council's Accredited Certifiers, Development Engineers, Water and Sewer Engineer, Traffic and Transport Planning Engineer, Environmental Health Officer, Contributions Officer, Arboriculture Consultant, and Heritage Advisor. The responses are summarised in the following table.

Referral	Response summary
Accredited Certifiers	No objection to proposed development, subject to recommended conditions of consent, if granted.
Development Engineers	1. Walkway An issue was raised for an existing footpath easement from Skye Place to Railway Avenue Bundanoon. There is no registered easement burdening the subject land for any intended construction of a footpath to link Skye Place to Railway Avenue. A footway through the development site may be requested but there is no legal way to enforce this. A walkway easement may be suggested to the applicant and if the

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



Referral	Response summary
	<p>applicant provides written agreement to grant Council an easement for access, this can be done by means of conditions of consent (if granted).</p> <p>2. Parking</p> <p>In the absence of the concurrence of Council’s Arboriculture Consultant regarding the proposed removal of trees to facilitate proposed civil works including construction of proposed vehicle manoeuvring and parking facilities, the proposed development is not supported.</p> <p>It is noted that trees were noted to be retained under modified development consent 16/1203 [refer to item 2 and Figure 5 of this report], which state, “Parking spaces deleted. Retain existing vegetation/landscaping”.</p>
Water and Sewer Engineer	No objection to proposed development, subject to recommended conditions of consent, if granted.
Traffic and Transport Planning Engineer	No response.
Environmental Health Officer	No objection to proposed development, subject to recommended conditions of consent, if granted.
Contributions Officer	No response.
Arboriculture Consultant	<p>The application is considered unacceptable. The Arboricultural Impact Assessment report accompanying the application does not provide sufficient rigour, evidence, or information to allow for an accurate assessment of this application. The report contains a number of inconsistencies, including:</p> <ul style="list-style-type: none"> • “Section 3 (Provided documents) from the report has referenced some drawings related to the proposal, however does not include the entire drawing sets included in the application, nor does the Plan numbers correspond with those included in the application. No stormwater (Civil) drawing has been included, although has been included as part of the application.” • “The tree data referenced in the Appendix (Tree Inspection Schedule) does not correspond with the site trees. The introduction (Section 1) states the site was assessed in November 2016 and February 2018. The amended report is assumed to have included the new data from February 2018. Although no change has occurred to any of the tree data (Tree Inspection Schedule) between the two reports, other than the addition of four trees, being No. 57-60. Based on the time period between these assessments (in excess of two years). It is highly unlikely that no change including growth increments and ratings has occurred to any tree during this time period. However, inconsistencies in tree data were observed based on the assessment by ATC in January 2021.” • “Large and significant remnant trees are located on this lot yet no consideration has been discussed regarding the potential for retaining

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



Referral	Response summary
	<p>and protecting these trees.”</p> <ul style="list-style-type: none"> • “The lot contains more trees than illustrated on the drawings. Recent tree removal is evident. Neighbouring trees potentially subject to impacts have not been considered. Neighbouring trees are the property of a second party and must be protected and retained from any proposed works.” • “No stormwater or subsurface utilities have been referenced, although a Civil works drawing forms part of the application.” • “No reference to what plan containing the tree numbering exists in the report. Although the drawing DA 02.100 (Page 29 of the report) illustrates tree numbering. This assumed to present the tree numbering in the report. Several trees exist in these drawings that have not been numbered. These trees require to be identified and either included in the report or individually identified why they do not conform for inclusion. Trees No. 57-60 have not been included in this plan and the location is unknown.” • “No discussion, including the proportions (%) of encroachment or types of encroachment (major or minor) has been included, or potential mitigation strategies. This requires inclusion in the arborist report. The generic comments offered regarding potential excavation in Section 7.2 (soil works) are vague, and do not offer sufficient discussion in regard to any tree nor does it consider mitigation strategies.” • “Trees No.10, 12, 13, 24, 25, 30, 31, 36, 37, 38, 39, 40, 41, 42, 43, 44, 48, 50, 51, 52 are 56 are referred to “fall within the footprint of proposed dwellings or driveways”, however no details are offered.” • “No tree management plan or protection specification for assigned zones of protection has been included.”
Heritage Advisor	<p>The land is a gateway site into an attractive, well vegetated heritage streetscape. The historic Lynbrook Guest House is on the Council's list of items for LEP heritage listing consideration. The proposed development would be a significant overdevelopment of the site.</p> <p>Positive aspects of the proposed development are that curtilage has been retained between Lynbrook and Railway Avenue. This should not be further subdivided or built on in the future. Also, as the whole site is proposed to be developed, this should provide a more unified set of buildings than if individual lots were to be sold off and developed in a piecemeal manner.</p> <p>The proposed development, however, will significantly impact the local character of Bundanoon. There are simply too many proposed buildings and too many trees proposed to be removed. The proposed development contrasts with the detached houses and heavily vegetated context of Bundanoon village. The amount of building, road and paved surfaces is considered excessive in this context. The proposed buildings’ black and white colour scheme (black rooves and white walls) is also too stark for this context.</p>

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



Referral	Response summary
	<p>The architect's perspective impressions of the development illustrate a 'fish eye' view suggesting greater separation from the existing 1920s house than the reality.</p> <p>Consent for the proposed development should be refused because it would be poor development, impacting on Bundanoon's local character. It fails to complement and harmonise with the character and garden setting of the Lynbrook Guest House within the heritage curtilage on the site.</p>

External Communication and Consultation

Pursuant to clause 11 of State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011, Council referred the application to Water NSW. Water NSW responded with its concurrence advice, subject to conditions that can be conveyed by recommended conditions of consent (if granted).

ATTACHMENTS

1. DA 21/0662 Recommended reasons for refusal

5.2 Development Application 21/0662 - Erection of Buildings, Partial Demolition
of a Building and Carrying Out of Works for the Purpose of Seniors Housing
(21 self-contained dwellings) Lot 28 DP1065076, 115-129 Railway Avenue,
Bundanoon



ATTACHMENT 1 DA 21/0662 Recommended reasons for refusal

21/0662 RECOMMENDED REASONS FOR REFUSAL

- 1 Railway Avenue adjoining the land is a regional classified road. The proposed development includes three additional access driveways that do not facilitate forward movement of vehicles between the land and Railway Avenue. In addition, the proposed development includes a separate vehicle entry and exit driveway arrangement to service 18 of the proposed 21 dwellings. Council considers the proposed development likely to increase the volume and frequency of vehicular traffic movements between the land and Railway Avenue.

Noting the above, Council expects the proposed design of vehicular access to the land, and the likely volume and frequency of vehicles using Railway Avenue to gain access to the proposed development, will adversely affect the safety, efficiency and ongoing operation of Railway Avenue.

Consequently:

- (a) Council considers the proposed development contrary to the aim specified by clause 2 (g) of State Environmental Planning Policy (Infrastructure) 2007:

2 Aim of Policy

The aim of this Policy is to facilitate the effective delivery of infrastructure across the State by—

- (g) *providing opportunities for infrastructure to demonstrate good design outcomes.*

- (b) Council considers the proposed development contrary to the objective specified by clause 101 (1) (a) of State Environmental Planning Policy (Infrastructure) 2007:

101 Development with frontage to classified road

(1) *The objectives of this clause are—*

- (a) *to ensure that new development does not compromise the effective and ongoing operation and function of classified roads...*

- (c) Clause 101 (2) (b) (i) and (iii) of State Environmental Planning Policy (Infrastructure) 2007 effectively specifies Council must not grant consent to the proposed development:

101 Development with frontage to classified road

(2) *The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—*

- (b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—*

- (i) *the design of the vehicular access to the land, or*
(iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land...*

- (d) Council considers the proposed development contrary to the urban function objectives specified by section A2.2.2 (a) and (b) of Council's applicable Bundanoon Town Plan Development Control Plan:

- (a) *Improvement of traffic and parking management within the town.*
(b) *Minimisation of vehicular and pedestrian conflicts.*

5.2 Development Application 21/0662 - Erection of Buildings, Partial Demolition
of a Building and Carrying Out of Works for the Purpose of Seniors Housing
(21 self-contained dwellings) Lot 28 DP1065076, 115-129 Railway Avenue,
Bundanoon



ATTACHMENT 1 DA 21/0662 Recommended reasons for refusal

21/0662, Lot 28 DP 1065076

- (e) Council considers the proposed development unsatisfactory with respect to the controls specified by section A12.1.3 (a) and (b) of Council's applicable Bundanoon Town Plan Development Control Plan regarding development near rail corridors and busy roads:

A12.1.3 Controls

Council shall not grant consent to the carrying out of development on any land to which this Clause applies unless it is satisfied that adequate provision has been made to ensure that such development:

- a) *avoids any new direct vehicular access to any relevant road and removes any existing access where alternative rear lane or other access is achievable.*
 - b) *provides that any essential access to any relevant road be designed so that all vehicles enter and leave the site in a forward direction.*
- (f) Council considers the proposed development likely to have a significant negative environmental impact in the locality, with particular regard to access, transport and traffic.
- (g) Council considers the land's adjacency to Railway Avenue to render it unsuitable for development as proposed.

[Environmental Planning and Assessment Act 1979, section 4.15 (1) (a) (i), (iii), (b) and (c)]

- 2 The land and existing development thereon are recognised as being of local heritage significance, prompting the Council to resolve on 28 November 2018 to seek amendment of Wingecarribee Local Environmental Plan 2010 to identify the land as a locally significant heritage item.

Council considers the proposed development, including proposed vegetation removal, unsympathetic to, inconsistent with and likely to have a significant negative impact on the heritage significance of the land and existing development thereon.

Consequently:

- (a) Council considers the proposed development contrary to the particular aims specified by clause 1.2 (2) (a), (d) (iii) and (j) of Wingecarribee Local Environmental Plan 2010:

1.2 Aims of Plan

(2) *The particular aims of this Plan are as follows—*

- (a) *to conserve and enhance, for current and future generations, the ecological integrity, environmental heritage and environmental significance of Wingecarribee,*
- (d) *to provide opportunities for development and land use activities that—*
 - (iii) *retain the critical natural, rural and built environmental landscape elements that make up the scenic and cultural heritage value of Wingecarribee,*
- (j) *to conserve the Aboriginal and European cultural and environmental heritage of Wingecarribee.*

5.2 Development Application 21/0662 - Erection of Buildings, Partial Demolition
of a Building and Carrying Out of Works for the Purpose of Seniors Housing
(21 self-contained dwellings) Lot 28 DP1065076, 115-129 Railway Avenue,
Bundanoon



ATTACHMENT 1 DA 21/0662 Recommended reasons for refusal

21/0662, Lot 28 DP 1065076

- (b) Council considers the proposed development contrary to the heritage conservation objective specified by clause 5.10 (1) (a) of Wingecarribee Local Environmental Plan 2010:

5.10 Heritage conservation

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

(a) to conserve the environmental heritage of Wingecarribee...

- (c) Council considers the proposed development contrary to the heritage conservation objectives specified by section A2.2.3 (a) and (b) of Council's applicable Bundanoon Town Plan Development Control Plan:

(a) Preserve and protect buildings of heritage and cultural value.

(b) Ensure that redevelopment immediately adjacent to buildings of heritage or cultural value in no way detracts from the visual quality or amenity of heritage buildings.

- (d) Council considers the proposed development contrary to the objective specified by section A6.1.1 (b) of Council's applicable Bundanoon Town Plan Development Control Plan regarding preservation of trees and other vegetation:

A6.1.1 Objectives

The objectives of this Section of the Plan are to:

(b) preserve the amenity and heritage value of trees and other vegetation associated with Items of Heritage or within Heritage Conservation Areas.

- (e) Council considers the proposed development unsatisfactory with regard to the assessment considerations specified by section A6.1.7 (a) of Council's applicable Bundanoon Town Plan Development Control Plan regarding preservation of trees and other vegetation:

A6.1.7 Assessment Considerations

In assessing applications for Council consent...Council's considerations will include, but not be limited to, the following:

(a) Whether the community interest has been taken into account. Priority for preservation will be given to trees which have significant amenity or aesthetic value, are noteworthy in the land or streetscape or from a botanical or heritage viewpoint.

- (f) Council considers the proposed development unsatisfactory with regard to the provisions specified by section A7.6 of Council's applicable Bundanoon Town Plan Development Control Plan, regarding design principles within a heritage context, that:

"Several buildings within the town date from the earliest settlement of this area and Council is only interested in new development which makes a positive contribution to the visual and functional amenity of the town.

"Therefore, the design principles applying to all development within Bundanoon seek to protect the urban amenity of areas of high heritage value and enhance those areas of lower heritage value."

5.2 Development Application 21/0662 - Erection of Buildings, Partial Demolition
of a Building and Carrying Out of Works for the Purpose of Seniors Housing
(21 self-contained dwellings) Lot 28 DP1065076, 115-129 Railway Avenue,
Bundanoon



ATTACHMENT 1 DA 21/0662 Recommended reasons for refusal

21/0662, Lot 28 DP 1065076

- (g) Council considers the proposed development unsatisfactory with regard to the provisions specified by section A7.8 of Council's applicable Bundanoon Town Plan Development Control Plan, regarding principles of minimum acceptable design, that:

"...Council is only interested in development which makes a positive contribution to the urban amenity of Bundanoon. Particularly in the residential areas of the town there are sections of high heritage value where new development, including renovations, must be sympathetic to the essential elements of that heritage."

- (h) Council considers the proposed development contrary to the building materials objectives specified by section C1.6.1 (b) and (c) of Council's applicable Bundanoon Town Plan Development Control Plan:

C1.6.1 Objectives

The objectives of requiring certain materials in dwelling construction are to:

- (b) *Encourage the use of materials in the construction of new dwellings that are compatible with adjoining dwelling houses and the streetscape in terms of type, colour and form.*
- (c) *Encourage the adoption of an exterior colour scheme which complements the existing streetscape.*
- (i) Council considers the proposed development likely to have a significant negative environmental impact in the locality, with particular regard to heritage.
- (j) Council considers the recognised heritage significance of the land and existing development thereon to render the land unsuitable for development as proposed.

[Environmental Planning and Assessment Act 1979, section 4.15 (1) (a) (i), (iii), (b) and (c)]

- 3 Council considers the proposed development's design, residential density and associated vegetation removal inconsistent and incompatible with the existing and desired character and amenity of the locality and the R2 Low Density Residential zone.

Consequently:

- (a) Council considers the proposed development contrary to the particular aims specified by clause 1.2 (2) (f) of Wingecarribee Local Environmental Plan 2010:

1.2 Aims of Plan

(2) *The particular aims of this Plan are as follows—*

- (f) *to provide for a range of living opportunities that address differing lifestyle needs without compromising the environmental quality of Wingecarribee, and the value of its natural resources such as water, biodiversity and agricultural land...*
- (b) Council considers the proposed development contrary to the objective of Zone R2 Low Density Residential specified by the Land Use Table at the end of Part 2 of Wingecarribee Local Environmental Plan 2010:
- *To provide for the housing needs of the community within a low density residential environment.*

5.2 Development Application 21/0662 - Erection of Buildings, Partial Demolition
of a Building and Carrying Out of Works for the Purpose of Seniors Housing
(21 self-contained dwellings) Lot 28 DP1065076, 115-129 Railway Avenue,
Bundanoon



ATTACHMENT 1 DA 21/0662 Recommended reasons for refusal

21/0662, Lot 28 DP 1065076

(c) Council considers the proposed development contrary to the residential amenity objectives specified by section A2.2.4 (a), (b) and (d) of Council's applicable Bundanoon Town Plan Development Control Plan:

- (a) *Conserve the unique characteristics of existing residential areas of the Bundanoon township.*
- (b) *Encourage new residential development that is sympathetic to existing or desired future streetscapes and neighbourhood character.*
- (d) *Contribute to the enhancement of the urban amenity.*

(d) Council considers the proposed development contrary to the visual amenity objectives specified by section A2.2.6 (a) and (b) of Council's applicable Bundanoon Town Plan Development Control Plan:

- (a) *Demonstrate an appreciation of the existing streetscape.*
- (b) *Enhance the character of individual streets within the town through appropriate built form design.*

(e) Council considers the proposed development contrary to the objective specified by section A6.1.1 (a) of Council's applicable Bundanoon Town Plan Development Control Plan regarding preservation of trees and other vegetation:

A6.1.1 Objectives

The objectives of this Section of the Plan are to:

- (a) *preserve the amenity, biodiversity and ecology of the Bundanoon township through the preservation of trees and other vegetation...*

(f) Council considers the proposed development contrary to the objective specified by section A6.1.7 (a) of Council's applicable Bundanoon Town Plan Development Control Plan regarding preservation of trees and other vegetation:

A6.1.7 Assessment Considerations

In assessing applications for Council consent under clause 5.9 of WLEP 2010, Council's considerations will include, but not be limited to, the following:

- (a) *Whether the community interest has been taken into account. Priority for preservation will be given to trees which have significant amenity or aesthetic value, are noteworthy in the land or streetscape or from a botanical or heritage viewpoint.*

(g) Council considers the proposed development contrary to the objectives specified by section C1.2 (a) and (b) of Council's applicable Bundanoon Town Plan Development Control Plan regarding provisions applicable to residential-zoned land:

C1.2 Objectives

This Part of the Plan aims to achieve:

- (a) *Conservation of the unique characteristics of the residential areas of Bundanoon, particularly in the case of the identified Conservation Areas,*

5.2 Development Application 21/0662 - Erection of Buildings, Partial Demolition
of a Building and Carrying Out of Works for the Purpose of Seniors Housing
(21 self-contained dwellings) Lot 28 DP1065076, 115-129 Railway Avenue,
Bundanoon



ATTACHMENT 1 DA 21/0662 Recommended reasons for refusal

21/0662, Lot 28 DP 1065076

(b) *New residential development which is sympathetic with existing streetscapes and neighbourhood character.*

(h) Council considers the proposed development unsatisfactory with respect to the seniors housing provisions of section C8.3 (a), (c) (i) & (v) and (e) of Council's applicable Bundanoon Town Plan Development Control Plan regarding neighbourhood amenity and streetscape:

C8.3 Neighbourhood Amenity and Streetscape

The proposed development should:

(a) *recognise the desirable elements of the location's current character so that new buildings contribute to the quality and identity of the area;*

(c) *maintain reasonable neighbourhood amenity and appropriate residential character by:*

(i) *providing building setbacks to reduce bulk and overshadowing,*

(v) *be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line*

(e) *retain, wherever reasonable, major existing trees.*

(i) Council considers the proposed development likely to have a significant negative environmental impact on the locality's context and setting.

(j) Council considers the locality's existing and desired character and amenity to render the land unsuitable for development as proposed.

[Environmental Planning and Assessment Act 1979, section 4.15 (1) (a) (i), (iii), (b) and (c)]

4 Council does not consider the proposed development's location and design to satisfactorily cater for the needs of seniors and people with disabilities, noting:

(a) Due to their orientations, five of the seven dwellings proposed within the existing building on the land are expected by Council to receive insufficient direct sunlight to living areas.

(b) The land is located more than a kilometre from the Bundanoon town centre. Drawings accompanying the application indicate a proposed 1.2m concrete footpath in Railway Avenue adjoining the land. There is also a bus stop in Railway Avenue adjoining the land, but it does not include any facility for a bus to pull over, entirely outside Bundanoon Avenue's southbound travel lane, to pick up or set down passengers, and the information accompanying the application does not indicate a proposal to provide any such facility.

(c) Drawings accompanying the application indicate the single bedrooms in two proposed dwellings in the existing building on the land (proposed suites 1 and 5) have clear areas of less than 1200mm wide at the foot of a queen size bed.

(d) Drawings accompanying the application indicate no dwellings proposed in the existing building on the land have any laundry facilities, and do not indicate any proposed shared laundry facility in the existing building on the land.

(e) Drawings accompanying the application indicate 12 of the proposed self-contained dwellings, including all of the dwellings proposed within the existing building on the land, do not include any linen storage.

5.2 Development Application 21/0662 - Erection of Buildings, Partial Demolition
of a Building and Carrying Out of Works for the Purpose of Seniors Housing
(21 self-contained dwellings) Lot 28 DP1065076, 115-129 Railway Avenue,
Bundanoon



ATTACHMENT 1 DA 21/0662 Recommended reasons for refusal

21/0662, Lot 28 DP 1065076

Consequently:

- (f) Council considers the proposed development contrary to the particular aim specified by clause 1.2 (2) (e) of Wingecarribee Local Environmental Plan 2010:

1.2 Aims of Plan

(2) *The particular aims of this Plan are as follows—*

- (e) *to provide opportunities for a range of new housing and housing choice in locations that have good access to public transport, community facilities and services, retail and commercial services and employment opportunities, including opportunities for the provision of adaptable and affordable housing...*

- (g) Council considers the proposed development contrary to the general objectives specified by section C8.2 (a) and (c) of Council's applicable Bundanoon Town Plan Development Control Plan regarding seniors housing:

C8.2 General Objectives

The purpose of these controls is to encourage the provision of seniors housing, including residential care facilities that will:

- (a) *increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and*
- (c) *be of good design.*

- (h) Council considers the proposed development unsatisfactory with respect to the provisions specified by section C8.5 of Council's applicable Bundanoon Town Plan Development Control Plan regarding solar access and design for climate:

C8.5 Solar Access and Design for Climate

The proposed development should:

- (a) *ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and*
- (b) *involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting by locating the windows of living and dining areas in a northerly direction.*

- (i) Council considers the proposed development unsatisfactory with respect to the accessibility provision specified by section C8.7 of Council's applicable Bundanoon Town Plan Development Control Plan:

C8.7 Accessibility

The proposed development should:

- (a) *have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities.*

5.2 Development Application 21/0662 - Erection of Buildings, Partial Demolition
of a Building and Carrying Out of Works for the Purpose of Seniors Housing
(21 self-contained dwellings) Lot 28 DP1065076, 115-129 Railway Avenue,
Bundanoon



ATTACHMENT 1 DA 21/0662 Recommended reasons for refusal

21/0662, Lot 28 DP 1065076

- (j) The proposed development does not comply with section C8.13 (a) (ii) and (b) (i) of Council's applicable Bundanoon Town Plan Development Control Plan regarding bedrooms:

C8.13 Bedrooms

At least one bedroom within each dwelling must have:

- (a) *an area sufficient to accommodate a wardrobe and a bed sized as follows:*
- (ii) *in the case of a self-contained dwelling—a queen-size bed, and*
- (b) *a clear area for the bed of at least:*
- (i) *1,200 millimetres wide at the foot of the bed.*
- (k) The proposed development does not comply with section C8.15 (k) and (l) of Council's applicable Bundanoon Town Plan Development Control Plan regarding other requirements applicable to development for the purpose of seniors housing:
- (k) *A self-contained dwelling must have a laundry that has: (i) a width at door approaches that complies with clause 7 of this Schedule, (ii) provision for the installation of an automatic washing machine and a clothes dryer, (iii) a clear space in front of appliances of at least 1,300 millimetres, (iv) a slip-resistant floor surface, (v) an accessible path of travel to any clothes line provided in relation to the dwelling.*
- (l) *A self-contained dwelling must be provided with a linen storage in accordance with clause 4.11.5 of AS 4299.*

[Environmental Planning and Assessment Act 1979, section 4.15 (1) (a) (i) and (iii)]

- 5 Council does not consider the information accompanying the application to provide sufficient rigour, evidence, or information to allow for Council's informed assessment of vegetation removal in the proposed development.

Consequently:

- (a) Council is not satisfied by the application and its accompanying information that the proposed development is consistent with the objectives specified by section A6.1.1 (a) and (b) of Council's applicable Bundanoon Town Plan Development Control Plan regarding preservation of trees and other vegetation:

A6.1.1 Objectives

The objectives of this Section of the Plan are to:

- (a) *preserve the amenity, biodiversity and ecology of the Bundanoon township through the preservation of trees and other vegetation...*
- (b) *preserve the amenity and heritage value of trees and other vegetation associated with Items of Heritage or within Heritage Conservation Areas.*

5.2 Development Application 21/0662 - Erection of Buildings, Partial Demolition
of a Building and Carrying Out of Works for the Purpose of Seniors Housing
(21 self-contained dwellings) Lot 28 DP1065076, 115-129 Railway Avenue,
Bundanoon



ATTACHMENT 1 DA 21/0662 Recommended reasons for refusal

21/0662, Lot 28 DP 1065076

- (b) Council is not satisfied by the application and its accompanying information that the proposed development is satisfactory with regard to the assessment considerations specified by section A6.1.7 (a) and (d) of Council's applicable Bundanoon Town Plan Development Control Plan regarding preservation of trees and other vegetation:

A6.1.7 Assessment Considerations

In assessing applications for Council consent under clause 5.9 of WLEP 2010, Council's considerations will include, but not be limited to, the following:

- (a) *Whether the community interest has been taken into account. Priority for preservation will be given to trees which have significant amenity or aesthetic value, are noteworthy in the land or streetscape or from a botanical or heritage viewpoint.*
- (d) *Whether replacement planting is proposed. All Council approvals to remove trees or other vegetation shall contain appropriate requirements for offset planting to ensure no net loss of vegetation.*

[Environmental Planning and Assessment Act 1979, section 4.15 (1) (a) (iii)]

- 6 Off street car parking facilities in the proposed development are isolated from the proposed points of entry to the existing building on the land, which is proposed to house seven self-contained dwellings as well as communal facilities for residential accommodation of seniors and people with disabilities.

Council considers the proposed isolation of off street car parking facilities from the existing building's proposed entry points likely to cause ambiguity for visitors as to a path of travel from the proposed off street car parking facilities to the existing building's proposed entry points, which may allow potential intruders an opportunity to rationalise inappropriate behavior and/or unauthorised access.

Consequently:

- (a) Council considers the proposed development contrary to the provisions of section A8.3 (a) and (d) of Council's applicable Bundanoon Town Plan Development Control Plan, regarding crime prevention through environmental design, that:

[Crime prevention through environmental design] aims to create the reality (or perception) that the costs of committing crime are greater than the likely benefits. This is achieved by creating environmental and social conditions that:

- (a) *Maximise risk to offenders (increasing the likelihood of detection, challenge and apprehension);*
- (d) *Minimise excuse making opportunities (removing conditions that encourage/facilitate rationalisation of inappropriate behaviour).*
- (b) Council considers the proposed development unsatisfactory with respect to the provisions of section A8.3.4 of Council's applicable Bundanoon Town Plan Development Control Plan regarding access control:

A8.3.4 Access Control

Access control treatments restrict, channel and encourage people and vehicles into, out of and around the development. Way-finding, desire-lines and formal/informal routes are important crime prevention considerations. Effective access control can be achieved by using physical and symbolic barriers that channel and group pedestrians into areas, therefore increasing the time and

**5.2 Development Application 21/0662 - Erection of Buildings, Partial Demolition
of a Building and Carrying Out of Works for the Purpose of Seniors Housing
(21 self-contained dwellings) Lot 28 DP1065076, 115-129 Railway Avenue,
Bundanoon**



ATTACHMENT 1 DA 21/0662 Recommended reasons for refusal

5.2 Development Application 21/0662 - Erection of Buildings, Partial Demolition
of a Building and Carrying Out of Works for the Purpose of Seniors Housing
(21 self-contained dwellings) Lot 28 DP1065076, 115-129 Railway Avenue,
Bundanoon



ATTACHMENT 1 DA 21/0662 Recommended reasons for refusal

21/0662, Lot 28 DP 1065076

effort required for criminals to commit crime. Design-based access control includes the tactical use of landforms and waterways features, design measures including building configuration; formal and informal pathways, landscaping, fencing and gardens. As with surveillance, design solutions are less intrusive than alternatives such as gates or on-site security guards.

- (c) Council considers the proposed development unsatisfactory with respect to the specific design requirements specified by section A8.4 (a) of Council's applicable Bundanoon Town Plan Development Control Plan:

A8.4 Specific Design Requirements

The principles of Safer by Design may be applied to both commercial and residential development. In particular, Council requires all development to demonstrate that it provides:

- a) *Well-defined building entrances which are clearly visible from the street. Narrow or splayed entrances are preferable to deep-set entrance ways.*
- (d) Council considers the proposed development unsatisfactory with respect to the crime prevention provisions specified by section C8.6 of Council's applicable Bundanoon Town Plan Development Control Plan:

C8.6 Crime Prevention

The proposed development should provide personal property security for residents and visitors and encourage crime prevention by:

- (a) *site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and*
- (b) *where shared entries are required, providing shared entries that serve a small number of dwellings and that are able to be locked, and*
- (c) *providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.*
- (e) Council considers the proposed development likely to have a significant negative social impact in the locality, with particular regard to site design and internal design, and safety, security and crime prevention.

[Environmental Planning and Assessment Act 1979, section 4.15 (1) (a) (iii) and (b)]

- 7 Council received 16 submissions specifying the following grounds for objection to the proposed development, which Council considers valid grounds for objection:
- (a) Impacts on the acoustic amenity of neighbouring residential properties, arising from vehicle movements to and from proposed off street car parking facilities
- (b) Undesirable removal of vegetation
- (c) Overdevelopment of the land
- (d) Inadequate amenity of the proposed development's intended residents
- (e) Heritage impact

5.2 Development Application 21/0662 - Erection of Buildings, Partial Demolition
of a Building and Carrying Out of Works for the Purpose of Seniors Housing
(21 self-contained dwellings) Lot 28 DP1065076, 115-129 Railway Avenue,
Bundanoon



ATTACHMENT 1 DA 21/0662 Recommended reasons for refusal

21/0662, Lot 28 DP 1065076

- (f) Negative impacts on vehicular and pedestrian traffic safety in Railway Avenue
- (g) Inadequate access to local services and facilities for the proposed development's intended residents
- (h) The proposed development does not provide for or facilitate connectivity of local pedestrian movement by extension of an existing public footway between the land's rear boundary and Railway Avenue
- (i) Inconsistency and incompatibility of the proposed development with the locality's existing and desired character and amenity.

[Environmental Planning and Assessment Act 1979, section 4.15 (1) (d)]

- 8 Council does not consider the proposed development to be in the public interest.

[Environmental Planning and Assessment Act 1979, section 4.15 (1) (e)]

- 9 Council considers the proposed development's omission of any extension of an existing public footway from the land's rear boundary to Railway Avenue, and the applicant's unwillingness to provide or facilitate any such extension, contrary to the public interest.

[Environmental Planning and Assessment Act 1979, section 4.15 (1) (e)]

5.3 Development Application 21/1439 - 57 Young Road, Moss Vale - New Dwelling

Report Author: Development Officer Planning
Authoriser: Manager of Certification and Compliance

PURPOSE

The purpose of this report is to consider Development Application 21/1439, which seeks consent for a dwelling at 57 Young Road Moss Vale. As one of the property owners is an employee of Council the application is required to be determined by the Independent Advisory Planning Assessment Panel, consequently this report is prepared and recommends **APPROVAL**, subject to attached conditions of consent (Attachment 2).

Proposal:	New Dwelling
Applicant:	McDonald Jones Homes
Owner:	Elisa Warner & Patrick Tegart
Cost of works:	\$316,235
Reason for Referral:	One of the property owners is an Employee of Council the application is required to be determined by the Independent Advisory Planning Assessment Panel for probity and transparency reasons.

RECOMMENDATION

THAT Development Application 21/1439 for a proposed, single residential dwelling at Lot 2 DP 1270183 57 Young Road, Moss Vale be **APPROVED** subject to conditions as described in Attachment 2 to the report.

REPORT

1. Executive summary

The proposed development is for a single residential dwelling with an attached garage and the removal of 3 trees. The proposed architectural plans are provided in **Attachment 1** of this report. This report recommends approval of the application subject to conditions in **Attachment 2**.

2. Site Description, Locality & Background.

The subject site is identified as Lot 2 DP 1270183, 57 Young Road. The site is zoned R2 Low Density Residential. The property is a battle axe vacant allotment with mature trees located to the rear where 3 are proposed to be removed within the building footprint in

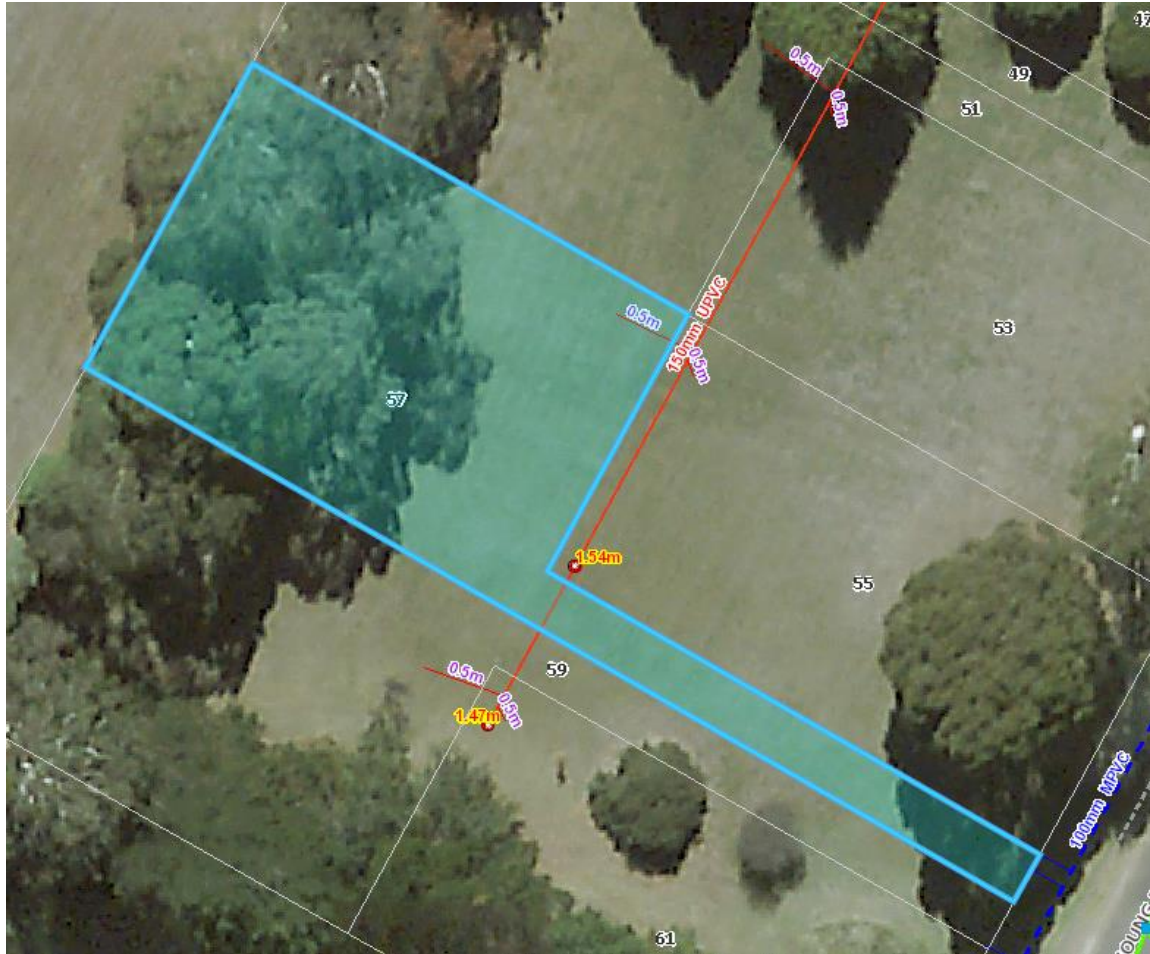
**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



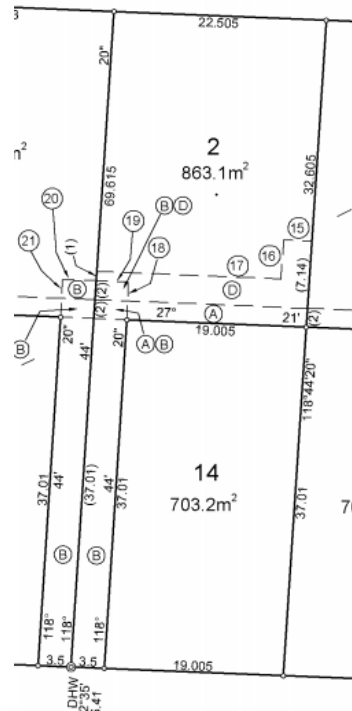
conjunction with the application. The site is generally level where an existing rain garden is present at the front of the allotment and the driveway cross over has been established.



**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



- (A) EASEMENT TO DRAIN WATER 2 WIDE
- (B) RIGHT OF CARRIAGEWAY 3.5 WIDE
- (B) EASEMENT FOR SERVICES 3.5 WIDE
- (C) EASEMENT TO DRAIN WATER 6 WIDE & VARIABLE WIDTH
- (D) EASEMENT TO DRAIN WATER 3 WIDE & VARIABLE WIDTH
- (E) RIGHT OF CARRIAGEWAY 3.5 WIDE
- (E) EASEMENT FOR SERVICES 3.5 WIDE
- (F) EASEMENT TO DRAIN WATER 3 WIDE & VARIABLE WIDTH
- (G) RIGHT OF CARRIAGEWAY 3.5 WIDE
- (G) EASEMENT FOR SERVICES 3.5 WIDE
- (H) EASEMENT TO DRAIN WATER 3 WIDE & VARIABLE WIDTH



The proposed dwelling is clear of the easements identified on the Deposited Plan. The proposal is single storey in accordance with Covenant 18. The allotment benefits from an easement to drain water (a) and an easement for services (b). The allotment is burdened by a drainage easement (d) where the proposed works are clear of this area as identified on the site plan.

The proposal adheres to the requirements for 10,000 litres of water storage in accordance with Covenant 13 given 15,000L is provided. Suitable conditions are recommended requiring 5000L to be dedicated for onsite detention prior to being dispersed to the registered easement as per the requirements of the 88b instrument.

The allotment has an existing rain garden that was in situ during the site inspection. Suitable conditions are recommended to reinforce the requirements of Covenant 15 that requires the existing raingarden to be protected by erosion and sediment control measures and from damage from vehicles.

Figure 1: Locality Map

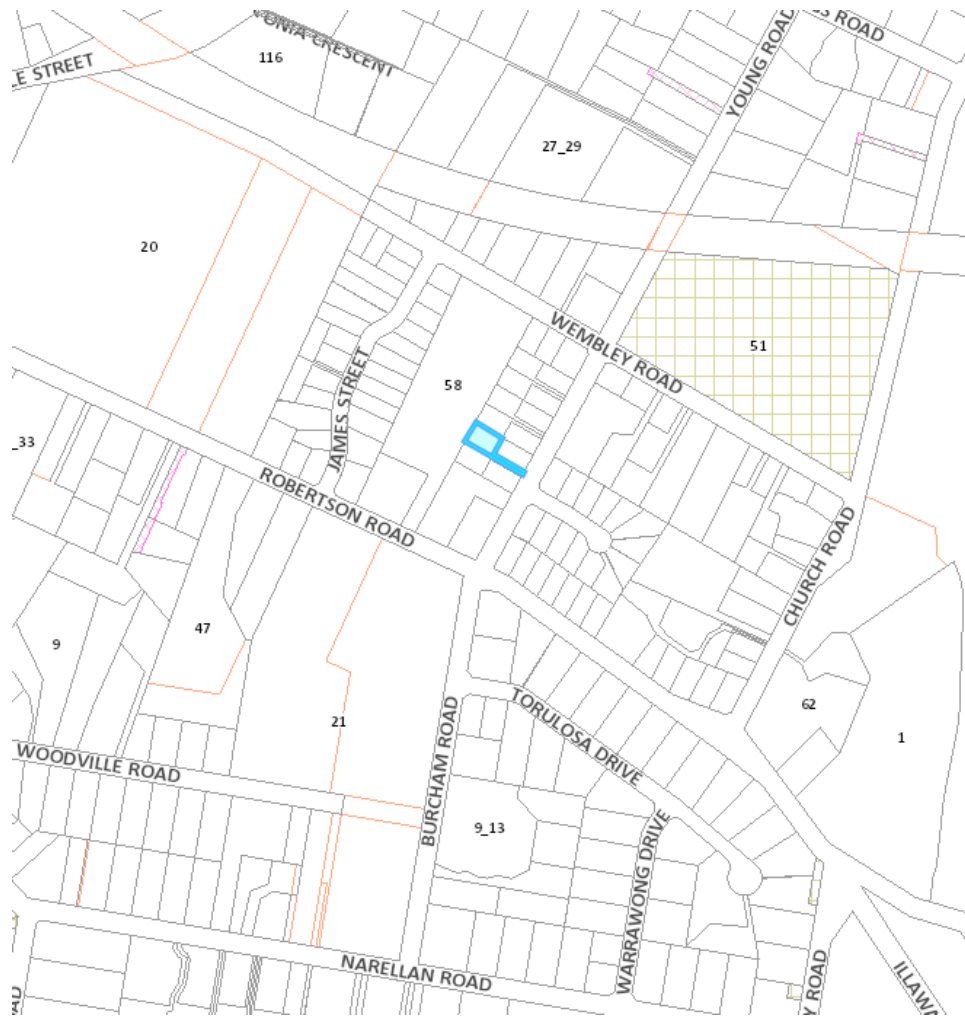


Figure 1: Location Map (courtesy Winmap).

3. Relevant Environmental Planning Instruments

3.1 State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011

The site is located within the Wingecarribee River Sub-catchment. Compliance with the provisions of the SEPP and associated guidelines is therefore required to consider water quality. The development is a Module 1 under the NorBE Guidelines and therefore Council has assumed concurrence to consider water quality. The NorBE Tool was used to determine that the development can achieve a neutral or beneficial effect on water quality.

3.2 State Environmental Planning Policy No 55 – Remediation of Land

Clause 7 of SEPP 55 requires the consent authority to consider whether the land is contaminated and whether the land is or can be made suitable for the purpose for which development is proposed.

Based on Council's records, the site and immediately adjoining properties have been used for residential purposes since 2016 and prior to this was used for rural uses. There is no

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



evidence to suggest any potentially contaminating activities have taken place on or near the site. Accordingly, the site is considered suitable for the proposed residential use and satisfies the provisions of SEPP 55.

3.3 Wingecarribee Local Environmental plan 2010 (WLEP)

The site is zoned Zone R2 Low Density Residential and in this zone a Dwelling House is permissible with development consent. The objectives of the zone are:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

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

Clause	Development Standard	Proposal	Compliance
Clause 7.1 (a) Development on existing lots in Zones R2, R3 and R5	(a) have an area that is at least the minimum lot size specified for that lot on the Lot Size Map , or	The minimum lot size identified on the Lot Size map is 700m ² where the subject allotment is 863.1m ² .	Yes

4. Development Control Plans and Policies

4.1 Moss Vale Development Control Plan (DCP)

The relevant provisions of the Moss Vale Town Plan DCP are addressed below:

The proposed development generally complies with the Moss Vale Township Development Control Plan as discussed as follows:

DCP Compliance Table			
Part C – Residential Zoned Land			
Control	Standard	Proposed	Compliance
C2.4 Development Density and Scale	maximum development footprint permitted on allotments under 2,000m ² in area is 65%.	Part C2.4 of the DCP is complied with given the total site coverage is 25% as follows. Site Area = 863.1m ² Site Cover = 212.4m ² Site Cover % = 25%	Yes
C2.5 Dwelling Orientation	Ensure that all dwellings are orientated to optimise solar access to the main living areas and open space.	The orientation of the main living areas will provide suitable solar access to ensure adequate residential amenity given they	Yes

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



DCP Compliance Table			
		are orientated to the north where sufficient glazing is provided to this aspect. The primary open space is also located to the north in this instance.	
C2.6 Front Setbacks	4.5 metre requirement for allotments under 900m ² as identified in Part C2.6.2 of the DCP.	The proposal is a battle axe allotment and does not possess a direct street presence. Irrespective, the proposals front setback ranges between 8.9 and 10.4 metres and complies with the 4.5 metre numerical requirement.	Yes
C2.7 Side Setbacks	900mm for allotments less than 900m ²	The side setbacks proposed are 2 metres and 9 metres and both comply with the 900mm minimum requirement for allotments under 900m ² in accordance with Part C2.7 (c).	Yes
C2.8 Rear Setbacks	The numerical rear setback requirements for allotments under 900m ² range between 3 and 8 metres dependent on building height	A rear setback of between 3 and 8 metres is required dependent on building height in accordance with Part C2.8 of the DCP. The proposal has a 3-metre setback to the rear where the rear most portion of the dwelling does not exceed 3.8 metres in height above natural ground level. Therefore, the proposal complies with the rear setback requirements contained within C2.8 of the DCP.	Yes
C2.9 Building Height	The maximum height of a dwelling house shall not exceed two (2)	The proposal is a single storey structure under 6 metres in	Yes

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



DCP Compliance Table			
	storeys	height and complies with the height controls contained within C2.9 of the DCP. Furthermore, the structure is a single level structure in accordance with the restriction on the use of the land numbered 18 on the 88b instrument.	
C2.10 Roof Forms	Roof forms shall reflect those of the existing streetscape. It is noted that modern roofs tend to be pitched at around 22 degrees, which is not sympathetic with older residential forms where roof pitches tend to range from 27.5 - 33 degrees.	The proposed roof pitch is 27.5 degrees and is within the identified range of 27.5 to 33 degrees that is considered sympathetic with older residential forms as identified within C2.10 and therefore the proposed roof pitch is considered acceptable.	Yes
C2.12 Garaging & Driveways	The location and treatment of garages and driveways can have a significant impact on the streetscape, particularly in the case of infill development in streets with more traditional forms of housing design. Garages must not dominate the streetscape and, preferably, should be situated behind the primary building line.	The proposal is a battle axe allotment where the garage does not directly have implications to the streetscape. The garage is recessed behind the front building alignment. The proposal has a garage door width 41% in proportion to the building frontage, this is a 1% exceedance beyond the 40% DCP control and is considered tolerable given the garage is unlikely to have any significant streetscape implications.	Yes
C2.13 Landscaped Open Space	35% of the site area or 90m ² , whichever is the greater is required to be open space	35% of the allotments under 2,000m ² are required to be preserved as Landscaped Area in accordance with Table	Yes

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



DCP Compliance Table			
		2.13. 434.5m2 is provided in this instance being a compliant percentage of 50.4%.	
C2.14 Fencing, Gates and Letterboxes	Fence heights shall match the heights generally in use in the immediate vicinity, to a maximum of 1200mm in front of the front building line and 1800mm behind the front building.	No additional fencing is identified on the plans submitted only the existing rear fence is annotated. Therefore, given no new fencing is proposed as part of the subject application the proposal is considered compliant.	Yes

5. Environmental Assessment

The site has been inspected by the Assessing Officer on 14 May 2021 and the application has been assessed having regard to Section 4.15 of the *Environmental Planning and Assessment Act, 1979*, as amended.

Section 4.15 'Matters for Consideration	Comments
Section 4.15 (1)(a)(i) – Provision of any environmental planning instrument	As discussed earlier, provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the LEP's relevant provisions.
Section 4.15 'Matters for Consideration	Comments
Section 4.15 (1)(a)(ii) – Provision of any draft environmental planning instrument.	Not applicable.
Section 4.15 (1)(a)(iii) – Provisions of any development control plan	Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the relevant provisions of Council's applicable Moss Vale Development Control Plan.
Section 4.15 (1)(a)(iiia) – Provision of any Planning Agreement or draft Planning Agreement.	Not Applicable.
Section 4.15 (1)(a)(iv) – Provisions of the Regulations.	Not applicable.
Section 4.15 (1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment	The environmental impacts of the proposed development on the natural and built environment have been addressed in this report and are discussed within this table below.

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



Section 4.15 'Matters for Consideration	Comments
and social and economic impacts in the locality.	<p>The proposed development is consistent with the dominant character in the locality.</p> <p>The proposal will not result in detrimental social or economic impacts on the locality.</p>
<i>Context & Setting</i>	<p>The likely impacts of the development on the context and setting are considered reasonable.</p> <p>The proposed development will not adversely impact on the streetscape or amenity of adjoining lots, by means of scale, bulk or height.</p> <p>Neither views, privacy or solar access will be significantly reduced.</p> <p>The development is not visually intrusive. External materials and finishes have been considered and while a subjective judgment, these have been considered to be satisfactory.</p>
<i>Access, Transport and Traffic</i>	<p>The parking provisions have been considered and found to be satisfactory based on the Australian Standard (AS) and Council's parking controls. The driveway and verge crossing are currently provided to the allotment.</p>
<i>Public Domain</i>	<p>The subject residential development will not have an adverse impact on the public domain.</p>
<i>Utilities</i>	<p>Council reticulated water supply and reticulated sewer is available for connection. Electricity and communications are available to the subject site subject to provision by the relevant service provider.</p>
<i>Heritage</i>	<p>The property is not listed as having heritage significance by Sch. 5 of the Wingecarribee LEP 2010.</p> <p>The site is not known to be culturally significant or having indigenous heritage value.</p>
<i>Flora and Fauna</i>	<p>The proposed development involves the removal of 3 trees. The proposed development is clear of any areas mapped by Council's GIS based fauna atlas and is not expected to adversely impact on threatened species. The 3 trees proposed for removal are located within the building footprint where it is considered that a compliant development in terms of setbacks and appropriate vehicular access would be considerably restrictive to the development of the allotment for a dwelling house if their retention were to be required. Given the absence of significant environmental implications as discussed above the tree removal proposed in conjunction with the application is considered acceptable.</p>
<i>Air and Microclimate</i>	<p>The subject development will not give rise to any significant air pollution or other emission.</p>
<i>Soils and Earthworks</i>	<p>The subject development will not have any significant soils impacts.</p> <p>0.809 metres of cut and 0.706 metres of fill is proposed to establish the building platform. This level of cut and fill is not</p>

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



Section 4.15 'Matters for Consideration	Comments
	<p>considered extensive and significant environmental implications are not anticipated. The retaining walls on the southern and portion of the eastern boundary are located 300mm clear of the boundary where adequate provision for drainage is available, the fill batter on the northern and eastern sides of the proposed dwelling are considered to have adequate separated from the boundaries of the allotment.</p> <p>The site is not subject to any significant soils constraints, i.e. is not noted as acid sulphate, highly erodible, saline or of high productive value. The reactivity of the soil has been considered and the footing design is considered appropriate.</p>
<i>Energy</i>	<p>The proposed development is adequately served by the energy provision to the subject site.</p> <p>BASIX energy conservation measures will apply to the subject development and will have beneficial impacts.</p>
<i>Noise and Vibration</i>	<p>The proposed development will not give rise to any significant noise or vibration generation, beyond typical residential uses.</p>
<i>Natural Hazards</i>	<p>No natural hazards are noted by Council's GIS mapping as affecting the site.</p> <p>The subject site is not identified as flood or bushfire prone land on Council's mapping system.</p>
<i>Technological Hazards</i>	<p>No technological/man-made hazards are noted as affecting the site or characteristic of the subject development.</p> <p>- Whilst primarily the subject of the Construction Certificate (CC) assessment process, the overall fire safety of the development has been considered and the subject development is not characterised by excessive fire risk.</p>
<i>Social and Economic Impacts in the Locality</i>	<p>The single-residential nature of the development will not give rise to any noted adverse social impacts.</p>
<i>Site Design and Internal Design</i>	<p>The design is not insensitive to site conditions, including constraints such as topography, vegetation, easements, etc.</p>
<i>Cumulative Impacts</i>	<p>The proposed development is not excessive when considered in a wider context and will not give rise to excessive cumulative impacts.</p>
Section 4.15 (1)(c) – The suitability of the site for the development.	<p>The proposed development is considered suitable in the given locality. There are no constraints posed by adjacent developments that would prohibit this proposal. There are adequate utilities and services available to the proposed development where necessary. The air quality and microclimate are appropriate for the development, there are no hazardous land uses or activities nearby, and ambient noise levels are suitable for the development.</p> <p>The site is not subject to natural hazards including flooding or bushfire prone land. The soil characteristics are appropriate for the development, and there are no critical habitats, or threatened species, populations, ecological</p>

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



Section 4.15 'Matters for Consideration	Comments
	communities or habitats on the site.
Section 4.15 (1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	The application was not required to be notified.
Section 4.15 (1)(e) – The public interest.	The proposed development is consistent with the objectives of Wingecarribee Local Environmental Plan 2010, and is considered to be in the public interest.

6. Neighbour Notification (or Advertising)/Public Participation

The development application was not Neighbour Notified as the Community Participation Plan states only new residential single storey dwellings with a change in ground level of greater than 600mm require notification where there are identifiable impacts on adjoining or adjacent property in the opinion of Council's Assessing Officer. The proposal is compliant with the development controls generally and specifically the setback, height and site coverage requirements where no identifiable implications/impacts in the opinion of the Assessing Officer were identified in relation to adjoining properties. Therefore, notification of the proposed development is not required in this instance.

7. Conclusion

All relevant matters have been addressed. It is considered this report adequately considers the merits of the development in terms of legislative compliance and its potential impact on the locality. The development application has been assessed in accordance with the matters for consideration under section 4.15 of the *Environmental Planning & Assessment Act 1979*, and all relevant environmental planning instruments and Council policies.

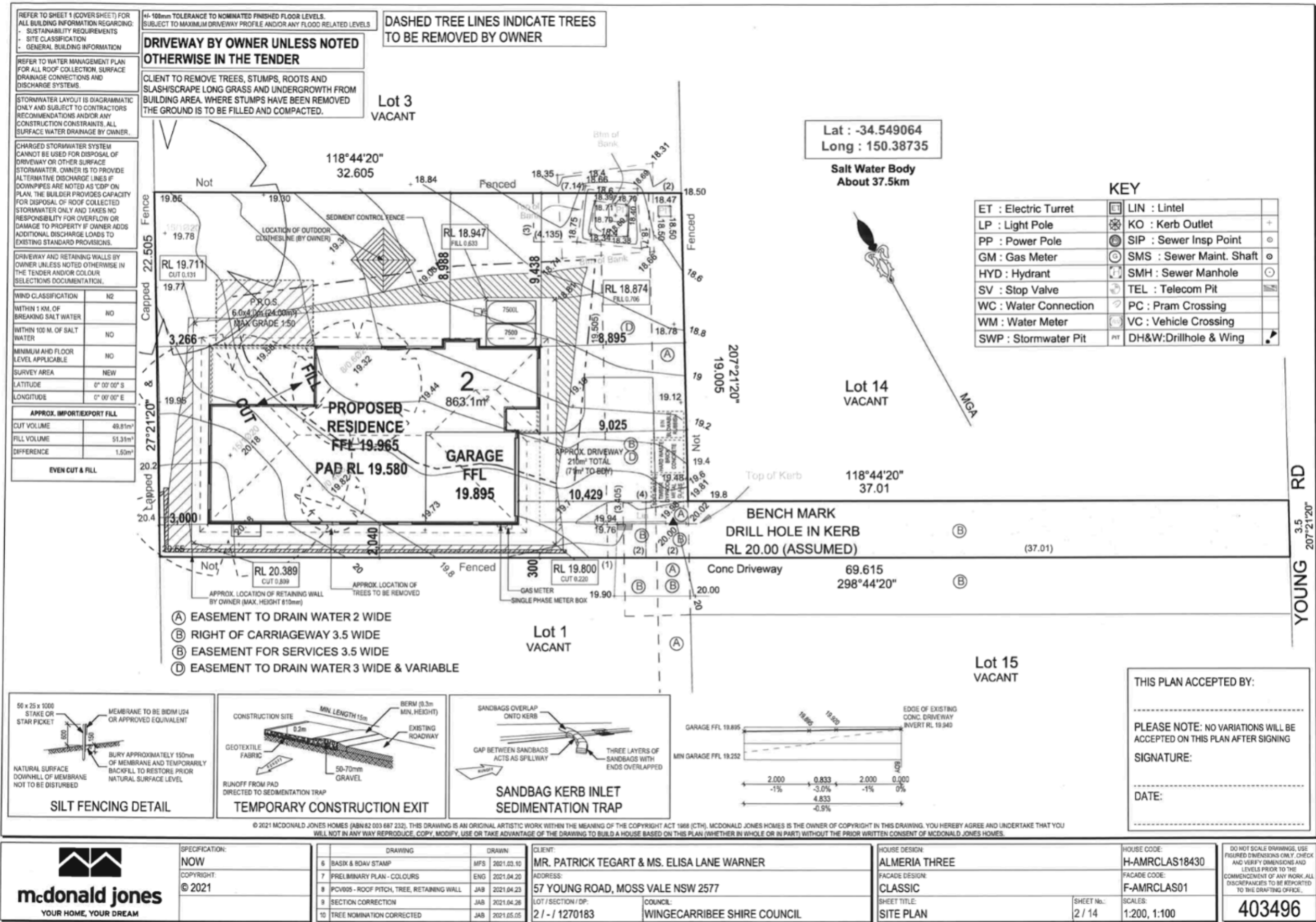
On balance, it is recommended the application be determined by way of **Approval**, subject to the conditions nominated in **Attachment 2**.

RECOMMENDATION

THAT Development Application 21/1439 for the proposed dwelling house at Lot 2 DP 1270183 No 57 Young Road be **APPROVED** subject to conditions as described in Attachment 2 to the report.

ATTACHMENTS

1. 21 1439 Attachment 1 Plans Young Road
2. 21 1439 Attachment 2 Conditions





DA
WINGECARRIBEE SHIRE COUNCIL

SHEET INDEX

COVER SHEET	1
SITE PLAN	2
WATER MANAGEMENT PLAN	3
GROUND FLOOR PLAN	4
WINDOW & DOOR SCHEDULES	5
ELEVATIONS / SECTION	6
ELEVATIONS	7
KITCHEN DETAILS	8
BATHROOM / WC DETAILS	9
ENSUITE DETAILS	10
LAUNDRY DETAILS	11
FLOOR COVERINGS	12
SLAB PLAN	13
DRAINAGE PLAN	14

SUSTAINABILITY COMMITMENTS

WATER COMMITMENTS

3 STAR (> 7.5 BUT <= 9L/MIN) SHOWER HEADS
4 STAR TOILET SUITES
4 STAR KITCHEN TAPS
5 STAR BATHROOM TAPS

249.71 m² TOTAL ROOF AREA

-5000 L WATER TANK(S) MINIMUM CAPACITY
249.71 m² MINIMUM ROOF AREA TO TANK(S)

RAINWATER TANK(S) TO BE CONNECTED TO:
- AT LEAST ONE OUTDOOR TAP
- ALL TOILETS
- WASHING MACHINE

NO RETICULATED RECYCLED WATER SUPPLY

400 m² GARDEN/LAWN AREA

ENERGY COMMITMENTS

HOT WATER SYSTEM
- GAS CONTINUOUS FLOW - 6 STAR

HEATING SYSTEM
- 1-PHASE REVERSE CYCLE AIR CONDITIONING
EER 3.5 - 4.0

COOLING SYSTEM
- 1-PHASE REVERSE CYCLE AIR CONDITIONING
EER 3.0 - 3.5

VENTILATION (EXHAUST FANS)
- AT LEAST ONE BATHROOM:
DUCTED TO OUTSIDE AIR, INTERLOCKED TO LIGHT
- KITCHEN RANGEHOOD:
DUCTED TO OUTSIDE AIR, MANUAL SWITCH ON/OFF
- NO MECHANICAL VENTILATION TO LAUNDRY

PRIMARY FLUORESCENT/LED LIGHTING INCLUDING COVER
- N/A

NATURAL LIGHTING TO
- 2 BATHROOMS/TOILETS

ALTERNATIVE ENERGY
- N/A

OTHER
- GAS COOKTOP, ELECTRIC OVEN
- FIXED OUTDOOR CLOTHESLINE BY OWNER

BASIX CERTIFICATE:
- 1184241S (2021.03.09)

BUILDING INFORMATION

GROUND FLOOR PITCHING HEIGHT(S): 2595mm
FRAMES AND TRUSSES: STEEL
ROOF PITCH (U.N.O.): 27.5°
ELECTRICITY SUPPLY: SINGLE PHASE
GAS SUPPLY: RETICULATED SUPPLY

ROOF MATERIAL: SHEET METAL
ROOF COLOUR: MEDIUM
ROOF INSULATION: R4.1 BATTS
MIN. 60mm FOIL FACED BLANKET

WALL MATERIAL: CLADDING
WALL COLOUR: N/A
WALL INSULATION: R2.0 BATTS
WALL WRAP TO ENTIRE HOUSE

FLOOR INSULATION: N/A

SITE & ENGINEERING INFORMATION

WIND CLASSIFICATION: N2
SITE CLASSIFICATION: P-H1
SLAB CLASSIFICATION: H1

SLAB TO BE 85mm THICK (U.N.O.) WITH REINFORCEMENT TO ENGINEERS SPECIFICATIONS & DETAILS OVER A 200µm WATERPROOF MEMBRANE ON A BED OF FREE DRAINING COARSE SAND (WHERE SPECIFIED)

ALL STEEL FRAMING TO BE DESIGNED TO AS 4100-2020 OR AS/NZS 4600-2018

LOCATION MAP

BASIX AREAS

CONDITIONED	130.26
UNCONDITIONED	14.06

TOTAL FLOOR AREAS

GARAGE	31.53
LIVING	154.59
OUTDOOR LIVING	23.36
PATIO	2.97
TOTAL	212.45 m²

COMPLIANCE AREAS

GROSS FLOOR AREA	168.30
LANDSCAPED AREA	434.51
SITE COVERAGE AREA	195.86

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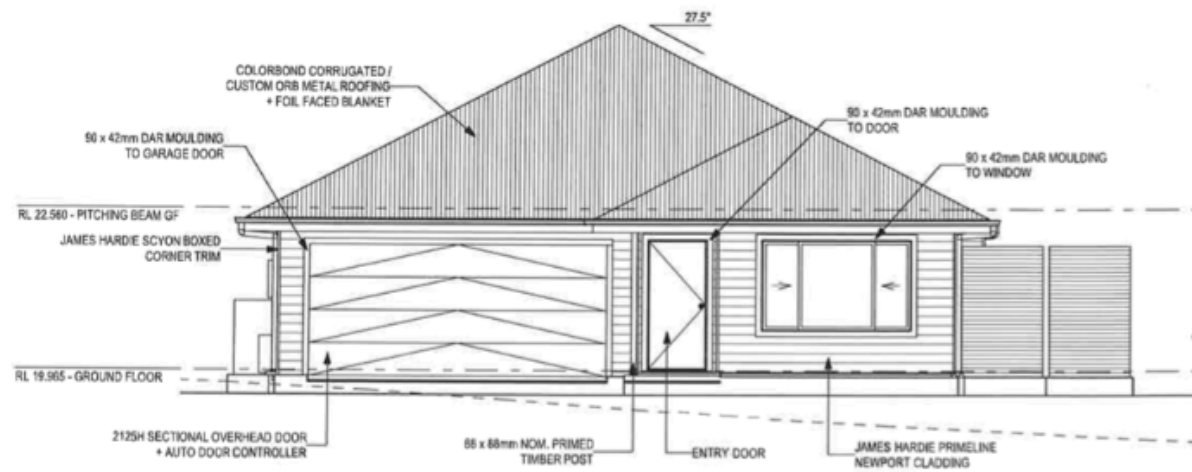
THIS PLAN ACCEPTED BY:

PLEASE NOTE: NO VARIATIONS WILL BE ACCEPTED ON THIS PLAN AFTER SIGNING

SIGNATURE: _____

DATE: _____

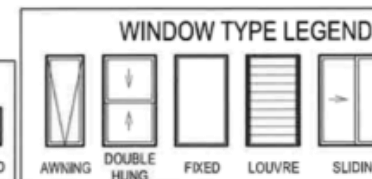
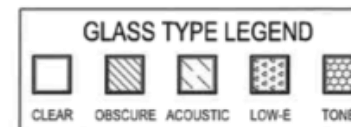
<p>YOUR HOME, YOUR DREAM</p>	SPECIFICATION: NOW	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>DRAWING</th> <th>DRAWN</th> </tr> </thead> <tbody> <tr><td>6 BASIX & BDAV STAMP</td><td>MPS 2021.03.10</td></tr> <tr><td>7 PRELIMINARY PLAN - COLOURS</td><td>ENG 2021.04.20</td></tr> <tr><td>8 PCV005 - ROOF PITCH, TREE, RETAINING WALL</td><td>JAB 2021.04.20</td></tr> <tr><td>9 SECTION CORRECTION</td><td>JAB 2021.04.26</td></tr> <tr><td>10 TREE NOMINATION CORRECTED</td><td>JAB 2021.05.05</td></tr> </tbody> </table>	DRAWING	DRAWN	6 BASIX & BDAV STAMP	MPS 2021.03.10	7 PRELIMINARY PLAN - COLOURS	ENG 2021.04.20	8 PCV005 - ROOF PITCH, TREE, RETAINING WALL	JAB 2021.04.20	9 SECTION CORRECTION	JAB 2021.04.26	10 TREE NOMINATION CORRECTED	JAB 2021.05.05	CLIENT: MR. PATRICK TEGART & MS. ELISA LANE WARNER	HOUSE DESIGN: ALMERIA THREE	HOUSE CODE: H-AMRCLAS18430
	DRAWING	DRAWN															
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10 TREE NOMINATION CORRECTED	JAB 2021.05.05																
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FRONT ELEVATION
Scale: 1:100



REAR ELEVATION
Scale: 1:100



REFER TO SHEET 1 (COVER SHEET) FOR ALL BUILDING INFORMATION REGARDING:
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- SITE CLASSIFICATION
- GENERAL BUILDING INFORMATION
SH = SNAP HEADER SILL

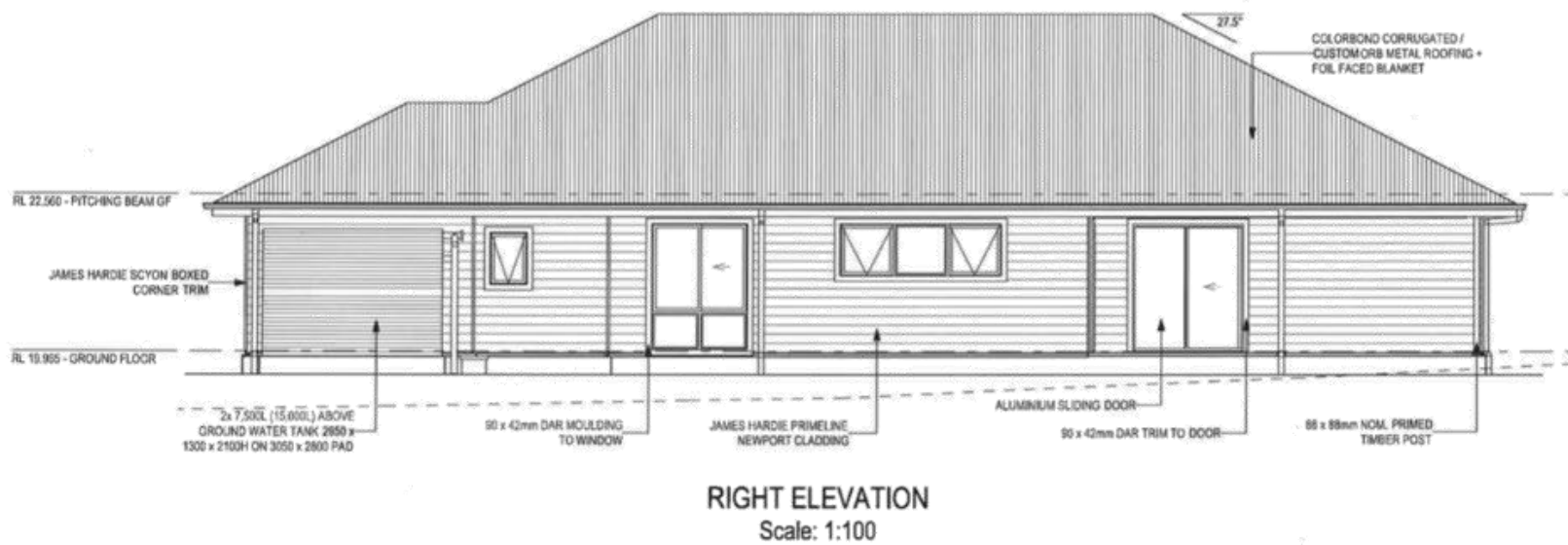
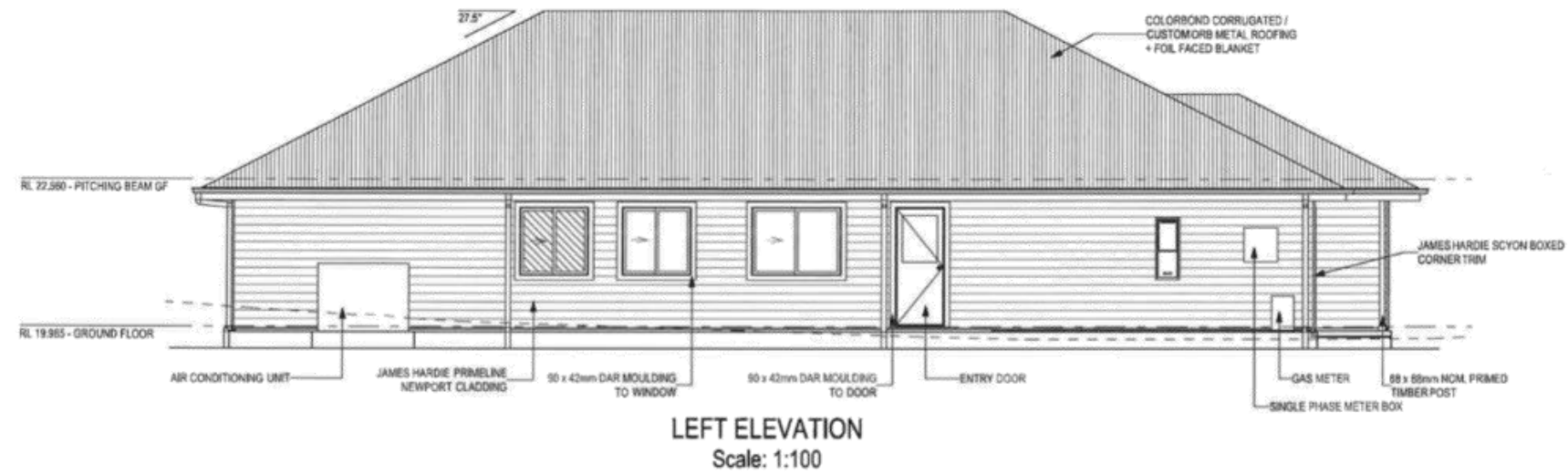
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<p>YOUR HOME, YOUR DREAM</p>	SPECIFICATION: NOW COPYRIGHT: © 2021	<table border="1"> <thead> <tr> <th>DRAWING</th> <th>DRAWN</th> </tr> </thead> <tbody> <tr> <td>6 BASIX & BDAY STAMP</td> <td>MFS 2021.03.10</td> </tr> <tr> <td>7 PRELIMINARY PLAN - COLOURS</td> <td>ENG 2021.04.20</td> </tr> <tr> <td>8 PCV005 - ROOF PITCH, TREE, RETAINING WALL</td> <td>JAB 2021.04.23</td> </tr> <tr> <td>9 SECTION CORRECTION</td> <td>JAB 2021.04.28</td> </tr> <tr> <td>10 TREE NOMINATION CORRECTED</td> <td>JAB 2021.05.05</td> </tr> </tbody> </table>	DRAWING	DRAWN	6 BASIX & BDAY STAMP	MFS 2021.03.10	7 PRELIMINARY PLAN - COLOURS	ENG 2021.04.20	8 PCV005 - ROOF PITCH, TREE, RETAINING WALL	JAB 2021.04.23	9 SECTION CORRECTION	JAB 2021.04.28	10 TREE NOMINATION CORRECTED	JAB 2021.05.05	CLIENT: MR. PATRICK TEGART & MS. ELISA LANE WARNER ADDRESS: 57 YOUNG ROAD, MOSS VALE NSW 2577 LOT / SECTION / DP: 2 / - / 1270183 COUNCIL: WINGECARRIBEE SHIRE COUNCIL	HOUSE DESIGN: ALMERIA THREE FACADE DESIGN: CLASSIC SHEET TITLE: ELEVATIONS / SECTION	HOUSE CODE: H-AMRCLAS18430 FACADE CODE: F-AMRCLAS01 SHEET No.: 6 / 14 SCALES: 1:100	DO NOT SCALE DRAWINGS. USE FIGURED DIMENSIONS ONLY. CHECK AND VERIFY DIMENSIONS AND LEVELS PRIOR TO THE COMMENCEMENT OF ANY WORK. ALL DISCREPANCIES TO BE REPORTED TO THE DRAFTING OFFICE. 403496
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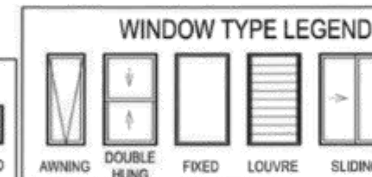
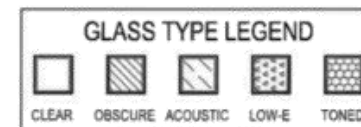


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9 SECTION CORRECTION	JAB 2021.04.26
10 TREE NOMINATION CORRECTED	JAB 2021.05.05

CLIENT:	MR. PATRICK TEGART & MS. ELISA LANE WARNER
ADDRESS:	57 YOUNG ROAD, MOSS VALE NSW 2577
LOT / SECTION / DP:	21 - / 1270183
COUNCIL:	WINGECARRIBEE SHIRE COUNCIL

HOUSE DESIGN:	ALMERIA THREE
FACADE DESIGN:	CLASSIC
SHEET TITLE:	ELEVATIONS
SHEET No.:	7 / 14

HOUSE CODE:	H-AMRCLAS18430
FACADE CODE:	F-AMRCLAS01
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ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



Attachment 2

SCHEDULE 1 CONDITIONS OF DEVELOPMENT CONSENT

ADMINISTRATION CONDITIONS

1. Development in Accordance with Plans and Documents

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

Plan Title / Supporting Document	Reference / Version	Prepared By	Dated
Plans	Job Number 403496 Sheets 1 to 14 Rev 10	Mcdonald Jones Homes	2021.05.05
Conceptual Landscape Plan	Unreferenced	Unreferenced	Undated
External Colour Plan	Job Number 403496 sheet 6 of 14	Mcdonald Jones Homes	2021.03.08
Statement Of Environmental Effects	Unreferenced	Mcdonald Jones Homes	6 March 2020
Waste Management Plan	Unreferenced	Mcdonald Jones Homes	12/03/2021
BASIX Certificate	Certificate Number 1184241S	Energy Advance	09 March 2021

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

2. Inconsistency between Documents

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

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

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

AGENDA FOR THE INDEPENDENT ADVISORY PLANNING ASSESSMENT PANEL MEETING

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



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

Reason: *The condition is prescribed under clause 98 of the Environmental Planning and Assessment Regulation 2000.*

4. Erection of Signs

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

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

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

Reason: *The condition is prescribed under clause 98A of the Environmental Planning and Assessment Regulation 2000.*

5. Notification of *Home Building Act 1989* Requirements

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

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

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

Reason: *The condition is prescribed under clause 98B of the Environmental Planning and Assessment Regulation 2000.*

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

6. Developer to provide photos of damage to Council property

The developer must provide Council and the PCA with photos of any damage of Council property adjoining the development prior to the issue of the Construction Certificate.

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

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

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

Reason: To ensure that Councils assets are protected.

CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORK

7. Construction Certificate

No work shall commence until a:

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

Reason: Statutory Requirement.

8. Appointment of Principal Certifier (PC)

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

- (a) A Construction Certificate for the building work has been issued by:
 - (i) the consent authority; or
 - (ii) a Principal Certifier (PC); and
- (b) the person having the benefit of the development consent has:
 - (i) appointed a Principal Certifier (PC) for the building work, and
 - (ii) notified the Principal Certifier (PC) that the person will carry out the building work as an owner-builder, if that is the case, and
- (b1) the Principal Certifier (PC) has, no later than 2 days before the building work commences:
 - (i) notified the Council of his or her appointment, and
 - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



respect of the building work, and

- (b2) the person having the benefit of the development consent, if not carrying out the work as an owner builder, has:
- (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
 - (ii) notified the Principal Certifier (PC) of such appointment, and
 - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- (c) the person having the person having the benefit of the development consent has given at least 2 days' notice to the Council of the person's intention to commence the erection of the building.

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

9. Notice of Commencement

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

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

Reason: *Statutory requirement.*

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

10. Erosion and Sediment Control Plan

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

- (a) Erosion and sediment controls are to be in place before the disturbance of any soils on the site, and are to be maintained during the works and for as long as necessary after the completion to prevent sediment and dirty water leaving the site and/or

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



entering the surface water system outside the worksite boundaries.

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

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

CONDITIONS TO BE SATISFIED DURING THE CONSTRUCTION PHASE

11. Building Materials & Colour Scheme

The use of Zinalume, Galvanised Iron, stainless steel, unetched zinc or copper is not permitted.

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

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

12. Tree Removal

This development consent approves the removal of the 3 trees located within the footprint of the approved dwelling as identified on the site plan Sheet 2 of 14 revision 10 job number 403096 dated 2021.05.05

Advice: *Tree removal should be carried out by a level 3 and above professional arborist to avoid any risk to life or damage to property. This person should have adequate public liability insurance cover.*

Reason: *To comply with the Wingecarribee Local Environmental Plan 2010.*

13. Existing Rain gardens

The existing rain garden shall be protected from vehicular damage or other damage by fences posts slotted kerbs or similar permanent structures and the existing raingarden shall be protected by erosion and sediment control measures during any construction where no development shall take place within 1 metre of the raingarden in accordance with the 88b instrument.

Reason *The ensure the raingarden is protected.*

14. Works within easements

No building, structure, or earthworks, including placement of fill shall be undertaken within the registered easements burdening the site.

Reason: *To protect infrastructure.*

15. Approved hours of Construction

Construction activities shall be limited to the following hours:

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

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

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

16. Ground Levels

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

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

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

17. Building Operations

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

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

18. Maintenance of the site

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



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

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

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

During construction:

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

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

Reason: *Environmental amenity*

19. Temporary Onsite Toilet

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

Each toilet shall:

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

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

20. Waste Management

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

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

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

21. Imported 'Waste-derived' Fill Material

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

- Virgin excavated natural material (VENM) within the meaning of the Protection of the Environment Operations Act 1997 (POEO); or

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



- Any other waste-derived material the subject of a resource recovery exemption under clauses 91 & 92 of the Protection of the Environment Operations (Waste) Regulation 2014 that is permitted to be used as fill material

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

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

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

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

22. Retaining Walls and Drainage

If the soil conditions require it:

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

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

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

23. Occupation Certificate

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

The Principal Certifying Authority is required to be satisfied, amongst other things, that:

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

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

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

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

24. BASIX Commitments

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

In this condition:

- (a) Relevant BASIX Certificate means:
- (i) a BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under Section 96 of the *Environmental Planning and Assessment Act 1979*, a BASIX Certificate that is applicable to the development when this development consent is modified); or
 - (ii) if a replacement BASIX Certificate accompanies any subsequent application for a Construction Certificate, the replacement BASIX Certificate; and
- (b) BASIX Certificate has the meaning given to that term in the Environmental Planning & Assessment Regulation 2000.

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

25. Council Property

The applicant shall rectify any damage to Council property (including footpaths, road

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



furniture, landscaping/trees, drainage, water, sewer, kerb and gutter, road pavement and the like) as a result of the development, prior to the issue of any Occupation Certificate at no cost to Council.

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

26. Stormwater Drainage

Prior to the issue of the Occupation Certificate:

- (a) Existing and new drainage lines shall be located 600 mm clear of the building.
- (b) Any regraded areas shall be free draining, away from the dwelling, and shall not concentrate surface water onto adjoining properties.
- (c) Roofwater shall be piped to a minimum 15,000 litre rainwater storage tank/s where the rainwater tanks shall be connected and comprise of minimum of 5,000 litres for onsite stormwater detention in accordance with the terms of the Positive Covenant registered on Lot 2 DP 1270183. Overflow from the tank and any additional stormwater shall be directed to the existing rain garden and overflow from the rain garden is to be directed to the registered easement to prevent a nuisance occurring.

Reason: *To comply with legislation.*

27. House Numbering

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

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

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

28. Rain garden

The raingarden shall be retained, maintained and protected in accordance with the requirements of the 88b instrument.

Reason: *To ensure the raingarden is maintained and protected.*

29. Fencing Materials

Any future fencing shall be in accordance with the requirements of the 88b instrument where no metal or color bond fencing is permitted. Future Fencing may require separate development approval unless it is conducted in accordance with the 88b instrument and the relevant fencing provisions of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

Reason: *To ensure that boundary treatments enhance the landscape character of the streetscape.*

END OF CONDITIONS

5.4 Development Application 21/1589 - 30 Forest Road, Wingello - New Dwelling (Manufactured Home)

Reference: DA21/1589
Report Author: Development Officer Planning
Authoriser: Manager of Certification and Compliance

PURPOSE

The purpose of this report is to consider Development Application 21/1589, which seeks consent for a Dwelling House (Manufactured Home) at 30 Forest Road, Wingello. One of the property owners is a Council employee and the application is required to be determined by the Independent Advisory Planning Assessment Panel, consequently this report is prepared and recommends **APPROVAL**, subject to attached conditions of consent (Attachment 1).

Proposal:	Dwelling House (Manufactured Home)
Applicant:	Progressive Project Solutions
Owner:	Samuel Cox, Bernard Mossler & Jessica Mossler
Cost of works:	\$141,900
Reason for Referral:	One of the property owners is an Employee of Council the application is required to be determined by the Independent Advisory Planning Assessment Panel for probity and transparency reasons.

RECOMMENDATION

THAT Development Application 21/1589 for the proposed dwelling at Lot 2 DP 833354 No 30 Forest Road, Wingello be APPROVED subject to conditions as described in Attachment 2 to the report.

REPORT

1. Executive summary

The proposed development is for a Dwelling (Manufactured Home). The proposed architectural plans are provided in **Attachment 1** of this report. This report recommends approval of the application subject to conditions in **Attachment 2**.

2. Site Description, Locality & Background.

The subject site is identified as Lot 2 DP 833354, 30 Forest Road, Wingello. The site is zoned R5 Large Lot Residential with perimeter vegetation present along the northern, eastern and western boundaries of the allotment. The allotment has a mild fall towards Forest Road where an existing rural driveway crossing is also currently established.

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



Figure 1: Site Image (courtesy Winmap).

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ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS

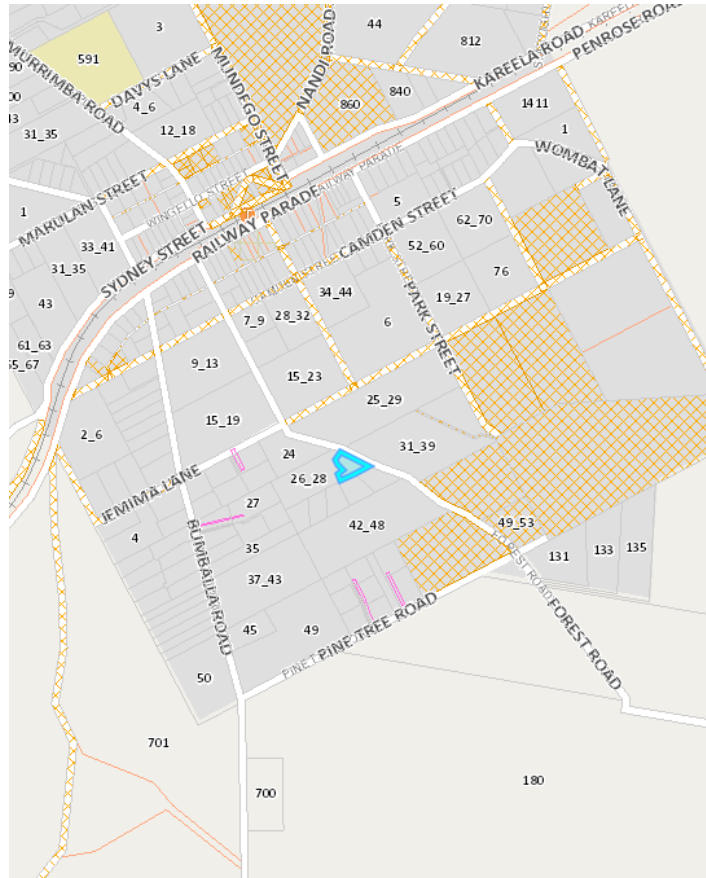


Figure 2: Location Map (courtesy Winmap).

3. Background

Currently there is an existing shed (approval number DA 08/0507) and small outbuilding located in the southern portion. Consent was also granted for a Replacement Dwelling and Carport in 2006 via DA 06/1026. An existing dwelling in a similar location to the one proposed as part of the subject application appears to have been demolished where the dwelling approved via DA 06/1026 was never constructed and the consent has lapsed because the development was never physically commenced.

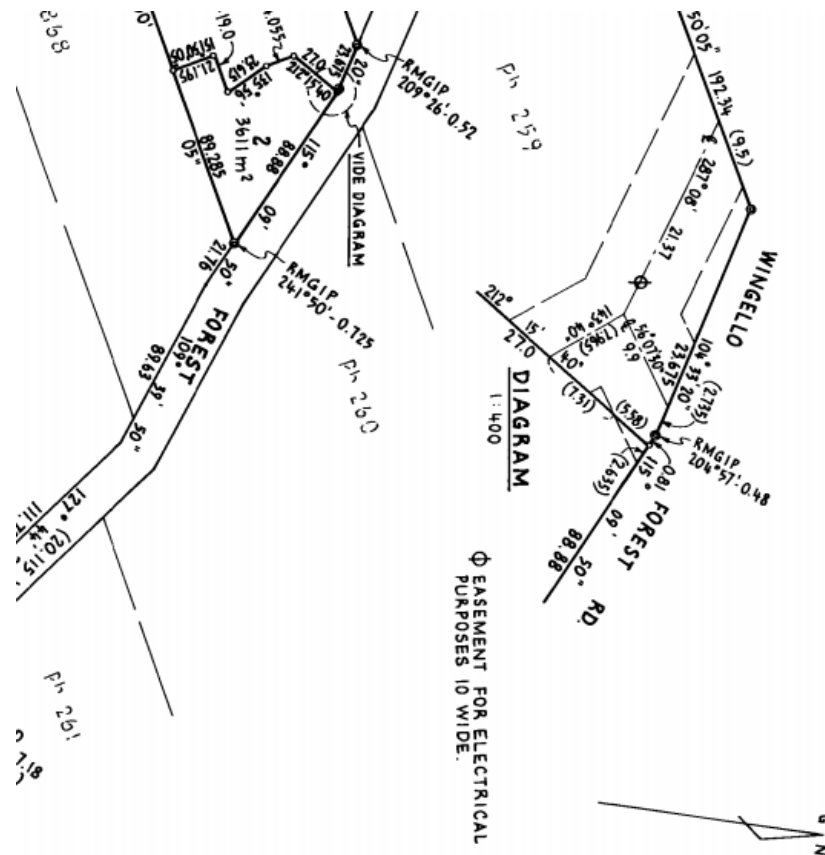


Figure 3: Deposited Plan (extract)

There is an easement for electrical purposes 10 wide as illustrated above burdening the allotment. The proposed works are clear of the area and therefore there are no restrictions on the 88b instrument that would prohibit or limit the development as proposed.

4. Relevant Environmental Planning Instruments

4.1 State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011

The site is located within the Wingecarribee River Sub-catchment. Compliance with the provisions of the SEPP and associated guidelines is therefore required to consider water quality. The development is a Module 2 under the NorBE Guidelines and therefore Council has assumed concurrence to consider water quality. The NorBE Tool was used to determine that the development can achieve a neutral or beneficial effect on water quality. Suitable Conditions have been recommended by Council’s Environmental Protection Officer in relation to the On-site Sewage Management System that are included in the recommended conditions located in Attachment 2.

4.2 State Environmental Planning Policy No 55 – Remediation of Land

Clause 7 of SEPP 55 requires the consent authority to consider whether the land is contaminated and whether the land is or can be made suitable for the purpose for which development is proposed.

There is no evidence to suggest any potentially contaminating activities have taken place on or near the site. Accordingly, the site is considered suitable for the proposed residential use and satisfies the provisions of SEPP 55.

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



4.3 Wingecarribee Local Environmental plan 2010 (WLEP)

The site is zoned Zone R5 Large Lot Residential and in this zone a Dwelling House is permissible with development consent. The objectives of the zone are:

- *To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.*
- *To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.*
- *To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To provide a restricted range of opportunities for employment development and community facilities and services that do not unreasonably or significantly detract from;*

- (a) the primary residential function, character and amenity of the neighbourhood, and*
- (b) the quality of the natural and built environments*

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

The following development standards in the WLEP 2010 apply to the proposal:

Clause	Development Standard	Proposal	Compliance
Clause 7.1 (b) Development on existing lots in Zones R2, R3 and R5	(b) on which the erection of a dwelling house was permissible immediately before that commencement,	The allotment is 3644.2m2 where the minimum lot size is 4000m2 in accordance with the lot sizes map. Given the proposal is an existing allotment where dwelling houses are permissible as identified in the Land Use Table, development consent may be granted for the erection of a dwelling house. <i>(2) Despite any other provision of this Plan, development consent may be granted for the erection of a dwelling house, dual occupancy development or multi dwelling housing on a lot to which this clause applies, if the development is permissible with consent on the land.</i> Furthermore, Consent was also granted for a Replacement Dwelling and Carport in 2006 via DA 06/10256 when the Wingecarribee Local Environmental Plan 1989 was in effect. Therefore, the provisions of 7.1(1)(b) also apply where a dwelling house was permissible immediately	Yes

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



Clause	Development Standard	Proposal	Compliance
		before the commencement of Wingecarribee Local Environmental Plan 2010.	

5. Development Control Plans and Policies

The relevant provisions of the Penrose & Wingello Town Plan DCP are addressed below:

DCP Compliance Table			
Part A – All Land			
Control	Standard	Proposed	Compliance
A10.7 Water Storage in Non-reticulated Areas	A minimum of 40,000 litres Water Storage capacity must be provided for domestic purposes unless supplemented by supplies from an approved bore.	Water storage in excess of the 40,000 litres requirement identified in Part 10.7 are proposed in connection with the development.	Yes
A10.8 Stormwater Disposal	Final means of disposal of stormwater to Council's stormwater system must be approved by Council.	The NorBE assessment undertaken found the proposal to be satisfactory in regard to arrangements for stormwater where roof water shall be directed to 2 rainwater tanks of 45500 litres each where fall is available for tank overflow to be directed to the street infrastructure. Suitable conditions in relation to stormwater are provided in Attachment 2.	Yes
Part C – Residential Zoned Land			
C1.5 Building Materials	The use of materials is important in determining the way in which the dwelling house responds to the local environment. In established areas, materials and colours should be sympathetic with other dwellings within the vicinity.	While subjective the materials are considered acceptable given the classic nature of the weatherboard dwelling proposed. Standard conditions relating to colours and materials are also recommended and included in Attachment 2.	Yes
C2.4 Development Density and Scale	A maximum development footprint for allotments between 2000m2 and 4000m2 is 50%.	The allotment is 3644m2 in area where Table C2.4 identifies 50% of the total allotment is the maximum area allowed for the development footprint. The dwelling is 102m2 in area where the existing shed and	Yes

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



DCP Compliance Table			
		outbuilding equate to 255m ² in area. Therefore, the total footprint of combined structures is $(102+255) / 3644 = 10\%$, well within the 50% requirements abovementioned.	
C2.5 Dwelling Orientation	The siting of all residential buildings to optimise solar access to their main living areas and landscaped areas.	The primary combined dining, kitchen and lounge areas have access to northern light and suitable glazing arrangements for adequate solar amenity to be achieved.	Yes
C2.6 Front Setbacks	Front setbacks of new residential development shall be consistent with those of the dwellings immediately adjacent to the site and to those in the immediate vicinity. In addition Subject to site assessment Council requires 15 metre front setbacks are required for allotments over 1500m ² .	A 15-metre front setback is proposed that is consistent with the numerical controls table contained within 2.6.2(c) of the DCP that identifies allotments over 1500m ² require a setback of 15 metres. In relation to the other provisions relating to ensuring the front setback is consistent with those adjacent and the immediate vicinity it is considered that given the more significant and varied allotment sizes in this location that the usual regimented suburban streetscape on similar sized allotments is not evident in this location where the larger block surrounding naturally have greater setbacks. Given it is not considered that a regular pattern is established in relation to front setbacks in this location where the streetscape implications of the proposal are considered acceptable compliance with the numerical standards as discussed are considered acceptable in this instance.	Yes
C2.7 Side Setbacks	Side setbacks of new development will be generally consistent with those of immediately adjacent existing development where in general subject to site assessment a 2.5 metre side setback is required for allotments over 1500m ² .	The proposed side setbacks are a minimum of 11.3 metres and comply with the numerical requirements where a 2.5 metre setback for allotments greater than 1500m ² is required under Part 2.7.2(c). The side setbacks proposed are considered acceptable where privacy nor overshadowing implications to adjacent residential amenity are anticipated.	Yes

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



DCP Compliance Table			
C2.8 Rear Setbacks	Rear setbacks of new development will be generally consistent with those of existing adjacent development where the numerical requirements identify a required rear setback range of 10 to 15 metres depending on the building height at the rear of the dwelling once the height exceeds 3.8 metres.	Rear setbacks for allotments over 1500m ² range between 10 to 15 metres depending on building height. Given the building height at the rear of the dwelling of the southern elevation does not exceed 3.8 metres a numerical rear setback requirement of 10 metres is applicable. Therefore, the proposed rear setback of 11.2 metres complies with the numerical requirements.	Yes
C2.9 Building Height	The maximum height of a dwelling house shall not exceed two (2) storeys, with 'storey' being defined under the Building Code of Australia (BCA).	The proposal is for a single storey dwelling measuring 4.1 metres above natural ground level and conforms to the requirements of C2.9 that identifies single storey developments are permitted.	Yes
C2.10 Roof Forms	Roof forms shall reflect those of the existing streetscape. It is noted that modern roofs tend to be pitched at around 22 degrees, which is not sympathetic with older residential forms where roof pitches tend to range from 27.5 - 33 degrees.	The proposed roof pitch is 15 degrees where examples of similar roof pitches immediately surrounding the subject property are evident. Given the property is not located within a conservation area and is in context in terms of the established pattern of development and forms in the immediate area the proposed roof pitch is considered acceptable.	Yes
C2.12 Garaging & Driveways	New dwellings (including principal, dual occupancy or secondary dwellings) shall provide a minimum of two car spaces behind the building line for each dwelling which may include an access way to the side of the dwelling of a minimum width of 2700mm.	No additional parking is proposed where parking is currently available behind the proposed front building alignment.	Yes

6. Environmental Assessment

The site has been inspected (14 May 2021) and the application has been assessed having regard to Section 4.15 of the *Environmental Planning and Assessment Act, 1979*, as amended.

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



Section 4.15 'Matters for Consideration	Comments
Section 4.15 (1)(a)(i) – Provision of any environmental planning instrument	As discussed earlier, provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the LEP's relevant provisions.
Section 4.15 (1)(a)(ii) – Provision of any draft environmental planning instrument.	Not applicable.
Section 4.15 (1)(a)(iii) – Provisions of any development control plan	Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the relevant provisions of Council's applicable Penrose and Wingello Development Control Plan.
Section 4.15 (1)(a)(iiia) – Provision of any Planning Agreement or draft Planning Agreement.	Not Applicable.
Section 4.15 (1)(a)(iv) – Provisions of the Regulations.	Not applicable.
Section 4.15 (1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality.	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in this report and are discussed within this table below.</p> <p>The proposed development is consistent with the dominant character in the locality.</p> <p>The proposal will not result in detrimental social or economic impacts on the locality.</p>
<i>Context & Setting</i>	<p>The likely impacts of the development on the context and setting are considered reasonable.</p> <p>The proposed development will not adversely impact on the streetscape or amenity of adjoining lots, by means of scale, bulk or height.</p> <p>Neither views, privacy or solar access will be significantly reduced.</p> <p>The development is not visually intrusive. External materials and finishes have been considered and while a subjective judgment, these have been considered to be satisfactory.</p>
<i>Access, Transport and Traffic</i>	The parking provisions have been considered and found to be satisfactory based on the AS and Council's parking controls.

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



Section 4.15 'Matters for Consideration	Comments
<i>Public Domain</i>	The subject residential development will not have an adverse impact on the public domain.
<i>Utilities</i>	<p>Electricity and communications are available to the subject site subject to provision by the relevant service provider.</p> <p>The proposed On Site Sewer Management System (OSSM) has been referred to Council's Environmental Protection Officer who has deemed the proposal acceptable. Suitable Conditions have been recommended by Council's Environmental Protection Officer in relation to the On-site Sewage Management System that are included in the recommended conditions located in Attachment 2.</p>
<i>Heritage</i>	<p>The property is not identified as a heritage item or as being located within a conservation area</p> <p>The site is not known to be culturally significant or having indigenous heritage value.</p>
<i>Flora and Fauna</i>	<p>The proposed development is clear of any areas mapped by Council's GIS based fauna atlas and is not expected to adversely impact on threatened species.</p> <p>The development does not involve the removal of any significant trees.</p>
<i>Air and Microclimate</i>	The subject development will not give rise to any significant air pollution or other emission.
<i>Soils</i>	The subject development will not have any significant soils impacts.
<i>Energy</i>	The proposed development is adequately served by the energy provision to the subject site.
<i>Noise and Vibration</i>	The proposed development will not give rise to any significant noise or vibration generation, beyond typical residential uses.
<i>Natural Hazards</i>	<p>The allotment is identified as being Bushfire Prone Land where a Bushfire Hazard Assessment has been undertaken by a Level 3 BPAD accredited consultant. This assessment recommends a construction level of BAL - 12.5 to be applied where the entire allotment is to be established and maintained as an Asset Protection Zone (APZ). Suitable conditions are recommended to ensure this construction level is achieved and the relevant APZ be established and maintained.</p> <p>The subject site is not identified as being Flood Prone Land on Council's mapping system.</p>
<i>Technological Hazards</i>	No technological/man-made hazards are noted as affecting the site or

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



Section 4.15 'Matters for Consideration	Comments
	<p>characteristic of the subject development.</p> <p>Whilst primarily the subject of the Construction Certificate (CC) assessment process, the overall fire safety of the development has been considered and the subject development is not characterised by excessive fire risk.</p>
<i>Social and Economic Impacts in the Locality</i>	<p>The single-residential nature of the development will not give rise to any noted adverse social impacts.</p>
<i>Site Design and Internal Design</i>	<p>The design is not insensitive to site conditions, including constraints such as topography, vegetation, easements, etc.</p>
<i>Cumulative Impacts</i>	<p>The proposed development is not excessive when considered in a wider context and will not give rise to excessive cumulative impacts.</p>
Section 4.15 (1)(c) – The suitability of the site for the development.	<p>The site is located in close proximity to local services. The site has sufficient area to accommodate the proposed land-use and associated structures. Therefore, the site is considered suitable for the proposed development.</p>
Section 4.15 (1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation.	<p>The issues raised in the submissions have been addressed in this report.</p>
Section 4.15 (1)(e) – The public interest.	<p>The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.</p>

7 Neighbour Notification (or Advertising)/Public Participation

The development application was not Neighbour Notified as the Community Participation Plan states only new residential single storey dwellings with a change in ground level of greater than 600mm require notification where there are identifiable impacts on adjoining or adjacent property in the opinion of Council's Assessing Officer. The proposal is compliant with the development controls generally and specifically the setback, height and site coverage requirements where no identifiable implications/impacts in the opinion of the Assessing Officer were identified in relation to adjoining properties. Therefore, notification of the proposed development is not required in this instance.

8. Conclusion

All relevant matters have been addressed. It is considered this report adequately considers the merits of the development in terms of legislative compliance and its potential impact on the locality. The development application has been assessed in accordance with the matters for consideration

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS

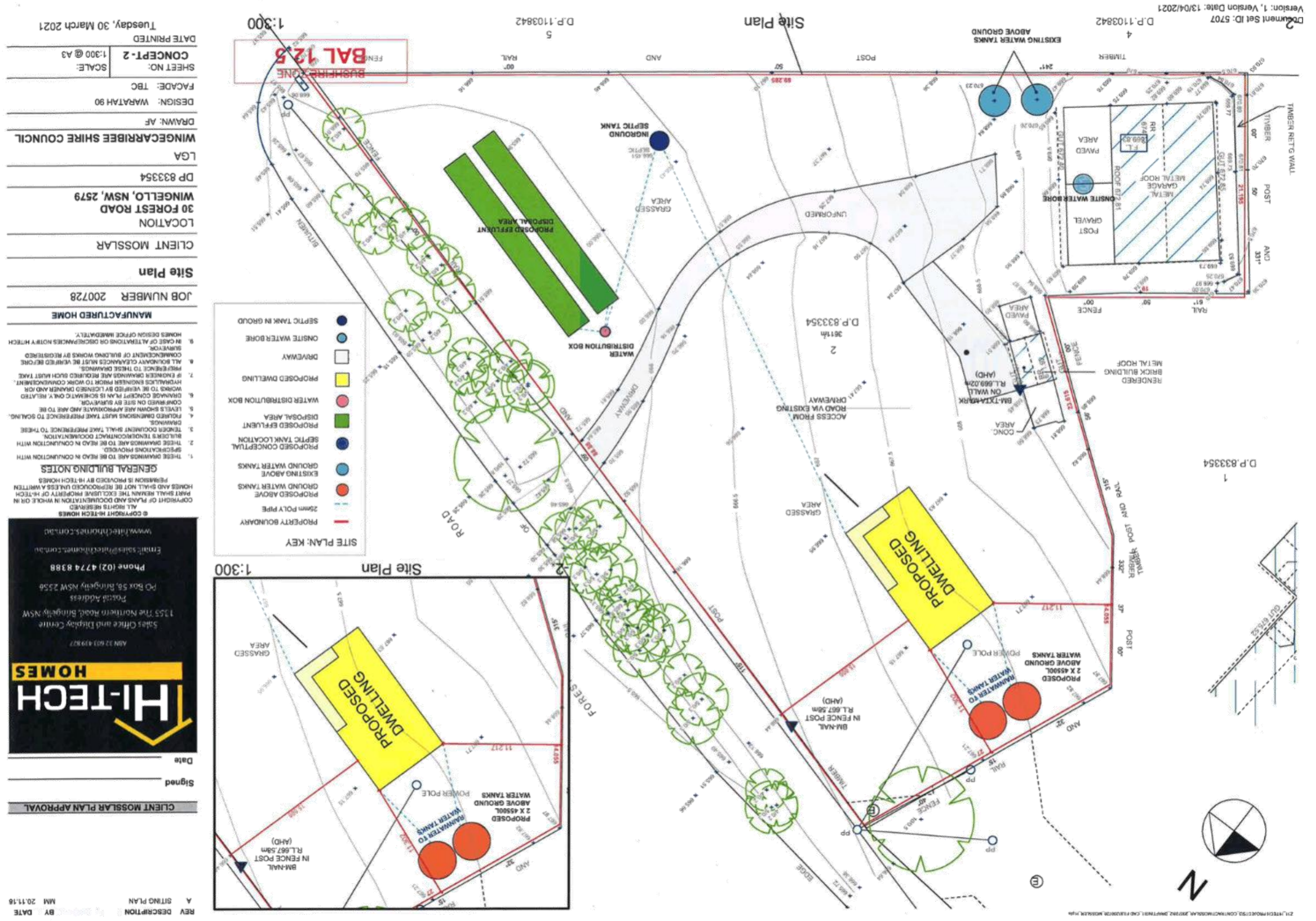


under section 4.15 of the *Environmental Planning & Assessment Act 1979*, and all relevant environmental planning instruments and Council policies.

On balance, it is recommended the application be determined by way of **APPROVAL**, subject to the conditions nominated in **Attachment 2**.

ATTACHMENTS

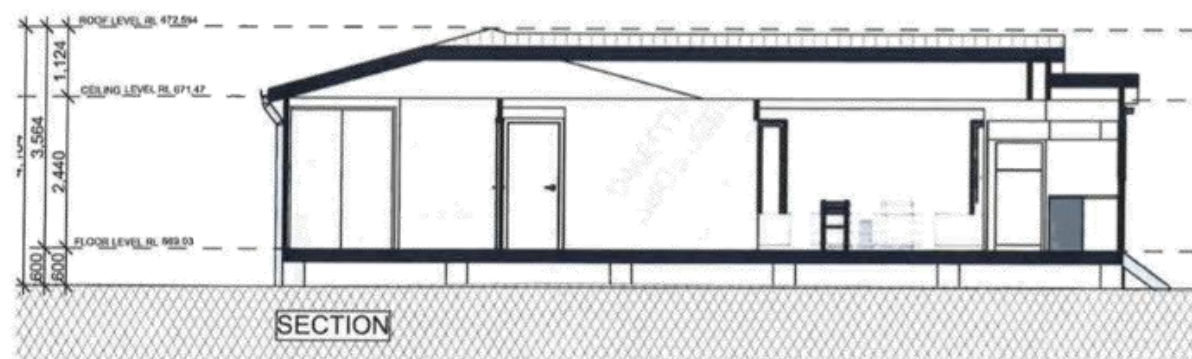
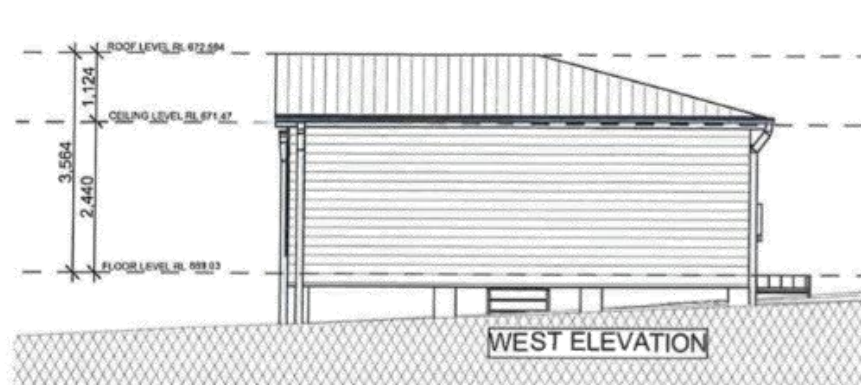
1. 21/1589 Attachment 1 Plans
2. 21/1589 Attachment 2 Conditions





21_1589_PROJECTS_CONTRACT_MOSSLAR_2017282_DRAFTING_01_CAD_P&B_200728_MODEL_01.dwg

REV	DESCRIPTION	BY	DATE
A	SITING PLAN	MM	20.11.18



Window List					
Window Code	Height	Width	Head height	Surface Area	Quantity
W01	1,800	850	2,100	1.53	1
W02	1,800	850	2,100	1.53	1
W03	1,800	850	2,100	1.53	1
W04	1,800	1,810	2,100	3.26	1
W05	1,800	1,810	2,100	3.26	1
W06	1,800	1,810	2,100	3.26	1
W07 OBS	940	610	2,100	0.57	1
W08 OBS	600	610	1,700	0.37	1
W09	940	1,810	2,100	1.70	1
W10	940	1,810	2,100	1.70	1
				18.71 m²	10

Door List		
Full Element ID	W x H Size	Quantity
D01 EXT	1,200x2,040	1
D02	620x2,040	1
D03	820x2,040	1
D04	720x2,100	1
D05	720x2,040	1
D06	720x2,040	1
D07	820x2,040	1
D08	820x2,040	1
D09 EXT	820x2,040	1
		9

Robe Door List		
Full Element ID	W x H Size	Quantity
RD01	1,730x2,290	1
RD02	1,000x2,100	1
		2

**BUSHFIRE ZONE
BAL 12.5**

CLIENT MOSSLAR PLAN APPROVAL

Signed _____

Date _____

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 ALL RIGHTS RESERVED
 COPYRIGHT OF PLANS AND DOCUMENTATION IN WHOLE OR IN PART SHALL REMAIN THE EXCLUSIVE PROPERTY OF HI-TECH HOMES AND SHALL NOT BE REPRODUCED UNLESS A WRITTEN PERMISSION IS PROVIDED BY HI-TECH HOMES

- GENERAL BUILDING NOTES**
1. THESE DRAWINGS ARE TO BE READ IN CONJUNCTION WITH SPECIFICATIONS PROVIDED.
 2. THESE DRAWINGS ARE TO BE READ IN CONJUNCTION WITH BUILDER'S TENDER/CONTRACT DOCUMENTATION.
 3. TENDER DOCUMENT SHALL TAKE PREFERENCE TO THESE DRAWINGS.
 4. FIGURED DIMENSIONS MUST TAKE PREFERENCE TO SCALING.
 5. LEVELS SHOWN ARE APPROXIMATE AND ARE TO BE CONFIRMED ON SITE BY SURVEYOR.
 6. DRAINAGE CONCEPT PLAN IS SCHEMATIC ONLY. RELATED WORKS TO BE VERIFIED BY LICENSED DRAINER AND/OR HYDRAULICS ENGINEER PRIOR TO WORK COMMENCEMENT.
 7. IF ENGINEER DRAWINGS ARE REQUIRED SUCH MUST TAKE PREFERENCE TO THESE DRAWINGS.
 8. ALL BOUNDARY CLEARANCES MUST BE VERIFIED BEFORE COMMENCEMENT OF BUILDING WORKS BY REGISTERED SURVEYOR.
 9. IN CASE OF ALTERATIONS OR DISCREPANCIES NOTIFY HI-TECH HOMES DESIGN OFFICE IMMEDIATELY.

MANUFACTURED HOME
 JOB NUMBER 200728

Elevations

CLIENT MOSSLAR

LOCATION
 30 FOREST ROAD
 WINGELLO, NSW, 2579
 DP 833354

LGA
 WINGECARRIBEE SHIRE COUNCIL

DRAWN: AF

DESIGN: WARATAH 90
 FACADE: TBC

SHEET NO: CONCEPT-4
 SCALE: 1:100 @ A3

DATE PRINTED
 Tuesday, 30 March 2021



Attachment 2

SCHEDULE 1 CONDITIONS OF DEVELOPMENT CONSENT

ADMINISTRATION CONDITIONS

1. Development in Accordance with Plans and Documents

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

Plan Title / Supporting Document	Reference / Version	Prepared By	Dated
Drawing Numbers	Concept – 2, Rev A Concept – 3, Rev A Concept – 4, Rev A Concept – 5, Rev A	Hi- Tech Homes	20.11.18
Soil & Site Assessment for On-Site Wastewater Disposal	REF: 4299WW	Harris Environmental Consulting	March 9, 2021
Bushfire Hazard Assessment	REF: 4212BF	Harris Environmental Consulting	10/2/2021
Statement of Environmental Effects	Unreferenced	Progressive Project Solutions	Undated

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

2. Manufactured Home

The approval is subject to compliance with the requirements of the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005*.

Reason: *Statutory requirement*

3. Inconsistency between Documents

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

5.4 Development Application 21/1589 - 30 Forest Road, Wingello - New
Dwelling (Manufactured Home)
ATTACHMENT 2 21/1589 Attachment 2 Conditions



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

CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORK

4. Section 68 Local Government Act 1993 Approvals

Prior to the commencement of works, an application under Section 68 of the *Local Government Act 1993* shall be made to, and issued by, Wingecarribee Shire Council, for the following approvals:

- Install manufactured dwelling
- Carry out sewerage work
- Carry out stormwater drainage work
- Installation of Septic System and Effluent Management Field

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

5. Developer to advise of damage to Council property

The developer must advise Council of any damage to property controlled by Council which adjoins the site including kerbs, gutters, footpaths, walkways, reserves and the like, prior to commencement of any work on the site (dilapidation report). Failure to identify existing damage will result in all damage detected after completion of the building work being repaired at the Developer's expense.

The construction supervisor is responsible to ensure that all contractors, sub-contractors, and delivery trucks use a designated access point to prevent damage to Council's property. Repairs to damaged grass verges, concrete footpath, kerb and gutter are to be carried out by the contractor/builder to Council's specification and supervision prior to occupation of the development.

Reason: *Public safety.*

CONDITIONS TO BE SATISFIED DURING THE CONSTRUCTION PHASE / INSTALLATION PHASE

6. Building Materials & Colour Scheme

The use of Zinalume, Galvanised Iron, stainless steel, unetched zinc or copper is not permitted.

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

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

7. Erosion and Sediment Control Plan

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

5.4 Development Application 21/1589 - 30 Forest Road, Wingello - New Dwelling (Manufactured Home)
ATTACHMENT 2 21/1589 Attachment 2 Conditions



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

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

8. **Approved hours of Construction/Demolition/installation**

Construction activities shall be limited to the following hours:

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

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

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

9. **Ground Levels**

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

Finished ground levels shall be graded away from the buildings and adjoining properties must

**5.4 Development Application 21/1589 - 30 Forest Road, Wingello - New
Dwelling (Manufactured Home)
ATTACHMENT 2 21/1589 Attachment 2 Conditions**



achieve natural drainage. The concentrated flows are to be dispersed down slope or collected and discharged to an approved storm water drainage system.

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

10. Maintenance of the site

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

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

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

During construction:

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

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

Reason: *Environmental amenity*

11. Temporary Onsite Toilet

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

Each toilet shall:

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

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

12. Waste Management

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

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

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



13. Imported 'Waste-derived' Fill Material

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

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

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

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

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

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

14. Retaining Walls and Drainage

If the soil conditions require it:

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

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

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A FINAL SECTION 68 CERTIFICATE

15. Section 68 Local Government Act Final

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

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

**5.4 Development Application 21/1589 - 30 Forest Road, Wingello - New
Dwelling (Manufactured Home)
ATTACHMENT 2 21/1589 Attachment 2 Conditions**



16. Council Property

The applicant shall rectify any damage to Council property (including footpaths, road furniture, landscaping/trees, drainage, water, sewer, kerb and gutter, road pavement and the like) as a result of the development, prior to the issue of the Final S68 Certificate at no cost to Council.

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

17. Potable Water Storage

Prior to the issue of the Final S68 Certificate, rainwater storage tank/s having a minimum volume of 2 x 45,500L shall be installed onsite to provide a potable water supply to the manufactured dwelling. This is in addition to the 10,000L litre dedicated water supply for fire-fighting purposes.

Reason: *To ensure that there are appropriate facilities on-site for occupants of the building.*

18. Stormwater Drainage

Prior to the issue of the Final S68 Certificate:

- (a) Roofwater shall be piped to a minimum 2 x 45,500L litre rainwater storage tank/s in accordance with the approved plans
- (b) Tank overflow shall be disposed of clear of and downhill of the effluent disposal areas to prevent a nuisance occurring.
- (c) Any regraded areas shall be free draining, away from the building, and shall not concentrate surface water onto adjoining properties.
- (d) Stormwater drainage work shall comply with AS/NZS 3500.3, 2003 - Stormwater drainage;

Reason: *To comply with legislation.*

19. House Numbering

A street house number being 75mm on house and no less than 42mm on mailbox or rural address number (allocated by Council), shall be prominently displayed so that it is visible from the street/road prior to issue of the Final S68 Certificate.

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

20. Bushfire Safeguards

Buildings located in a designated bush fire prone area shall be constructed in accordance with AS3959 - 2018 "Construction of Buildings in Bush Fire Prone Areas" and the document "Planning for Bush Fire Protection" as amended. The following measures shall be taken to ensure compliance:

(a) Asset Protection Zones

Intent of measures: *To minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities. To achieve this, the following conditions shall apply;*

5.4 Development Application 21/1589 - 30 Forest Road, Wingello - New
Dwelling (Manufactured Home)
ATTACHMENT 2 21/1589 Attachment 2 Conditions



- (i) From the start of building works, and in perpetuity to ensure ongoing protection from the impact of bushfire, the entire property shall be managed as an Inner Protection Area (IPA) in accordance with Appendix 4 of Planning for Bushfire Protection 2019:

(b) Construction Standards

Intent of measures: *To minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.*

- (i) New construction work must comply with: Section 3 and Section 6 **(BAL 12.5)** Australian Standard AS3959-2018 *Construction of buildings in bush fire-prone areas* or NASH Standard (1.7.14 updated) *National Standard Steel Framed Construction in Bushfire Areas – 2014* as appropriate and Section 7.5 of Planning for Bush Fire Protection 2019.

(c) Access – Property Access

Intent of measures: *To minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.*

- (i) Property access roads must comply with the following requirements of Table 7.4a of Planning for Bush Fire Protection 2019:
- Property access roads are two-wheel drive, all weather roads;
 - The capacity of road surfaces and any bridges/causeways is sufficient to carry fully loaded fire fighting vehicles (up to 23 tonnes), bridges and causeways are to clearly indicate load rating;
 - There is suitable access for a Category 1 fire appliance to within 4m of the static water supply where no reticulated supply is available;
 - Minimum 4m carriageway width;
 - In forest, woodland and heath situations, rural property roads have passing bays every 200m that are 20m long by 2m wide, making a minimum trafficable width of 6m, at the passing bay;
 - A minimum vertical clearance of 4m to any overhanging obstructions, including tree branches;
 - Property access must provide a suitable turning area in accordance with Appendix 3;
 - Curves have a minimum inner radius of 6m and are minimal in number to allow for rapid access and egress;
 - The minimum distance between inner and outer curves is 6m;
 - The cross fall is not more than 10 degrees; and
 - Maximum grades for sealed roads do not exceed 15 degrees and not more than 10 degrees for unsealed roads.

Note: *Some short constrictions in the access may be accepted where they are not less than 3.5m wide, extend for no more than 30m and where the obstruction cannot be reasonably avoided or removed. The gradients applicable to public roads also apply to community style development property access roads in addition to the above.*



(d) Water and Utilities

Intent of measures: *To minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.*

(i) The provision of water, electricity and gas must comply with the following in accordance with Table 7.4a of Planning for Bush Fire Protection 2019.

- A 10,000L litre static water supply tank must be provided on site;
- A connection for firefighting purposes is located within the IPA or non-hazard side and away from the structure;
- 65mm Storz outlet with a ball valve is fitted to the outlet;
- Ball valve and pipes are adequate for water flow and are metal;
- Supply pipes from tank to ball valve have the same bore size to ensure flow volume;
- Underground tanks have an access hole of 200mm to allow tankers to refill direct from the tank;
- A hardened ground surface for truck access is supplied within 4m;
- Above-ground tanks are manufactured from concrete or metal;
- Raised tanks have their stands constructed from non-combustible material or bush - fire-resisting timber (see Appendix F of AS 3959);
- Unobstructed access can be provided at all times;
- Underground tanks are clearly marked;
- Tanks on the hazard side of a building are provided with adequate shielding for the protection of firefighters;
- All exposed water pipes external to the building are metal, including any fittings;
- Where pumps are provided, they are a minimum 5hp or 3kW petrol or diesel-powered pump, and are shielded against bush fire attack; any hose and reel for firefighting connected to the pump shall be 19mm internal diameter which is capable of reaching all parts of the dwelling.
- Where practicable, electrical transmission lines are underground;
- Where overhead, electrical transmission lines are proposed as follows:
- Lines are installed with short pole spacing (30m), unless crossing gullies, gorges or riparian areas; and
- No part of a tree is closer to a power line than the distance set out in accordance with the specifications in ISSC3 Guideline for Managing Vegetation Near Power Lines.
- Reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 and the requirements of relevant authorities, and metal piping is used;
- All fixed gas cylinders are kept clear of all flammable materials to a distance of 10m and shielded on the hazard side;
- Connections to and from gas cylinders are metal;
- Polymer sheathed flexible gas supply - lines are not used; and
- Above-ground gas service pipes are metal, including and up to any outlets.

(e) Landscaping

(i) Landscaping to the site must comply with the following in accordance with Table 7.4a of Planning for Bush Fire Protection 2019:

- Compliance with the NSW RFS 'Asset protection zone standards';
- A clear area of low-cut lawn or pavement is maintained adjacent to the house;

5.4 Development Application 21/1589 - 30 Forest Road, Wingello - New Dwelling (Manufactured Home)
ATTACHMENT 2 21/1589 Attachment 2 Conditions



- Fencing is constructed in accordance with section 7.6 of Planning for Bush Fire Protection 2019;
- Trees and shrubs are located so that;
- The branches will not overhang the roof;
- The tree canopy is not continuous; and
- Any proposed windbreak is located on the elevation from which fires are likely to approach.

Reason: *Bushfire safety.*

21. Effluent Disposal

- The Septic Tank and Absorption Beds are to be designed and located in accordance with the recommendations contained within the wastewater report prepared by Harris Environmental Consulting, Ref: 4299WW (Version 1.0) dated 09/03/2021, and 'Designing and Installing On-Site Wastewater Systems' (WaterNSW, 2019), **but with the following specific requirements and modifications:**
 - Install a new **Septic Tank** with a minimum capacity of 4500 Litres. The septic tank shall be one that has a current NSW Health department accreditation. The septic tank will be installed with an Outlet Filter. The location of the septic tank will be determined by a licenced plumber/drainer to ensure compliant grades of drains from household fixtures to the tank. The Septic tank is to be located a minimum of 1.5 metres away from any building and a minimum of 5 metres away from any property boundary.
 - Install new effluent disposal **Absorption Beds** with a total minimum base area of **100 square metres** (e.g. two 2.5m wide by 20m long beds),
 - a splitter box and/or switching valves shall be installed to enable the effluent to be evenly distributed to the different parts of the bed/s,
 - all run-on, and stormwater collected from roofs, access roads and other hard surface areas shall be diverted away from the bed area, e.g. by means of a stabilised bund or drain with provision for energy dissipation at the outlet to prevent scouring or erosion.
- The on-site wastewater management system shall be maintained according to Section 5 of the Department of Local Government's guidelines 'Environment & Health Protection Guidelines - On-site Sewage Management for Single Households' (1998) and 'AS/NZS1547:2012 On-site Domestic Wastewater Management' and the manufacturers requirements.
- All effluent shall be fully assimilated within the boundaries of the property.
- No effluent management areas shall be located within 100 m of any perennial or intermittent creek or watercourse, or within 40 m upstream of a dam or drainage depression. Buffer setback distances for the effluent disposal area shall comply with WaterNSW's 'Designing and Installing On-Site Wastewater Systems' (WaterNSW, 2019). **In this regard, the Absorption Beds must be located to ensure a minimum setback buffer distance of 6 metres from the northern property boundary.**
- Appliances and fixtures with at least a four star rating shall be installed in the dwelling to minimise the volume of wastewater produced.
- These conditions of consent relating to wastewater management shall be provided to the installer of the on-site wastewater treatment and effluent disposal systems.
- The installers of the wastewater treatment and effluent disposal systems shall certify to Council in writing that the systems have been constructed and installed as per these conditions of consent and that the systems have been tested and are functioning properly (by lodging the 'Completion of Works Installation Certificate').**

**5.4 Development Application 21/1589 - 30 Forest Road, Wingello - New
Dwelling (Manufactured Home)
ATTACHMENT 2 21/1589 Attachment 2 Conditions**



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- viii. No Approval to Operate shall be issued until Council has received the written certification from the installers, and Council has approved the on-site wastewater management system under the *Local Government Act 1993* as being consistent with these conditions.
 - ix. Effective erosion and sediment controls shall be installed prior to any construction activity. The controls shall prevent sediment or polluted water entering drainage depressions, watercourses or any stormwater drains, and shall be regularly maintained and retained until works have been completed and groundcover established.

Reason for Conditions i to ix – To ensure that the on-site wastewater treatment and effluent disposal system is appropriately designed, sized and located so as to have a sustainable neutral or beneficial effect on water quality over the longer term.

END OF CONDITIONS

5.5 S8.2 Review of DA19/1650 For an Eco Tourist Facility at 198 Foxgrove Road Canyonleigh (Appln 19/1650.01)

Reference: 19/1650.01
Report Author: Consultant Planner
Authoriser: Manager Development Assessment

PURPOSE

The purpose of this report is to consider a s8.2 Review of Determination of Development Application 19/1650.01 which seeks development consent for an Eco-Tourist facility at Lot 999 DP 818282 being 198 Foxgrove Road, Canyonleigh. The subject application was determined by way of refusal at the Council meeting on 10 February 2020. The Development Application is also the subject on an appeal in the Land & Environment Court

Consultants	Darren Hogan - Hogan Planning Dean Brodie - Positive Traffic Rebecca Hogan – Hayes Environmental
Notification Period	18 March 2021 – 26 April 2021
Number of Submissions	1 submission from 8 Households.
Zoning	E3 Environmental Management
Political Donations	None identified
Reason for Referral to Panel	Review of Determination where original decision made by Council.

RECOMMENDATION

THAT Review of Determination DA 19/1650.01 – Proposed Eco-Tourist Facility at Lot 999 DP 818282 being 198 Foxgrove Road, Canyonleigh be **REFUSED** for reasons provided in Attachment 1 to the report.

1. Executive Summary

The purpose of this report is to consider a s8.2 Review of Determination of a Development Application which seeks development consent for an Eco-Tourist Facility at 198 Foxgrove Road, Canyonleigh. The original application was refused by Council in February 2021. The application has lodged supporting details including a Management Plan. Wingecarribee Local Environmental Plan 2010 includes Clause 5.13 which is a specific clause that requires careful consideration and development consent must not be granted unless the consent authority is satisfied with the provision.

Whilst the management plan includes a number of statements they will do things, there is insufficient documentation in the application, to support how the development will be carried out.

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



A submission from 8 households has been received, raising concern deficiencies and insufficient information in the application which is agreed with. On this basis the application is recommended for refusal

2. Subject description and locality

The subject site (**the site**) is legally described as Lot 999 DP 818282, and known as "Morton Park" 198 Foxgrove Road Canyonleigh.

The site is approximately 52.6 hectare in area and is located at the northern end of Foxgrove Road Canyonleigh, and contains numerous buildings, dwelling house and secondary dwelling house.

The northern and eastern portions of the site are well vegetated, containing Mittagong Sandstone Woodland and Southern Highlands Shale Woodland Endangered Ecological Community.

The site is well screened by vegetation to the northern, eastern and southern boundaries, however it has an open paddock view to the adjoining property to the west.

Foxgrove Road includes an unsealed road with the subject site located approximately 2kms from the intersection of Foxgrove Road / Canyonleigh Road.

Canyonleigh Road is the main east-west road through the area and provides direct interchange connection to the Hume Highway located to the east of the subject site.

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

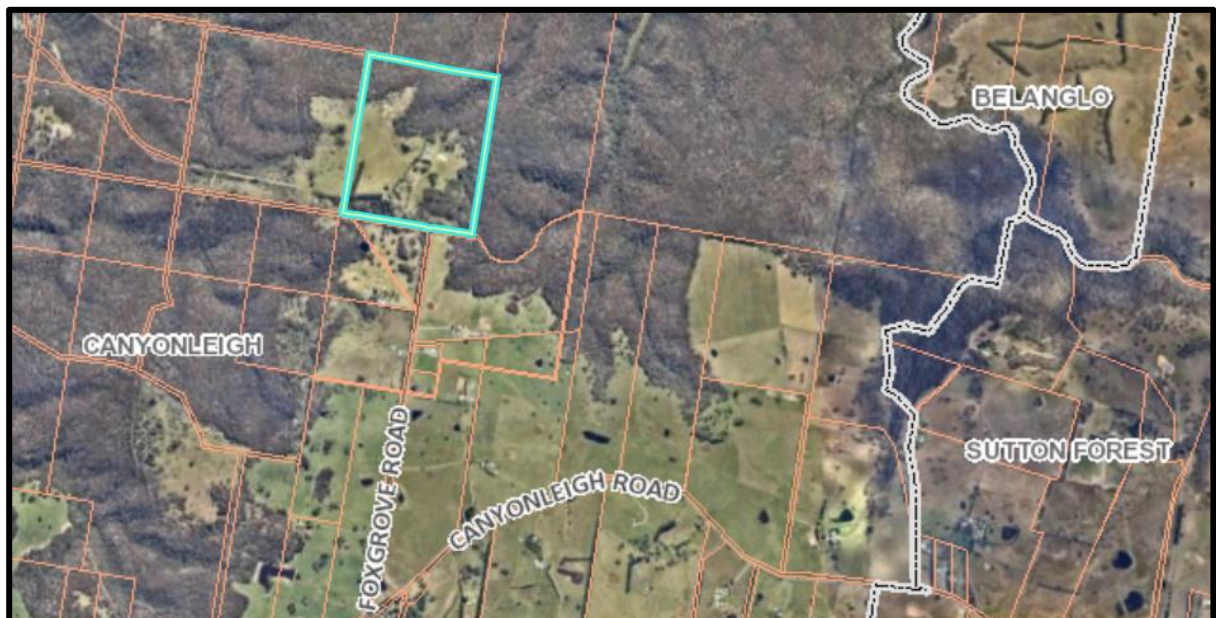


Figure 1: Locality Map (Courtesy Nearmap)



Figure 2: Aerial Image (Courtesy Google maps)

3. Background

Development Application DA 19/1650 which sought development consent for an eco-tourist facility was original considered by Council on 25 November 2020. The DA was recommended for approval by way of Deferred Commencement Consent.

Council resolved on 25 November 2020:

“That the matter be deferred to 9 December 2020 so that a comprehensive report be brought before Council that includes reference to the possible application of restrictions to user under the Conveyancing Act 1919 to ensure the application of conditions are complied with.”

On 9 December 2020 a further report was considered where no decision was made.

On 10 February 2021 Council considered the determination of the DA and resolved to refuse the application subject to the following reasons:

1. *Inadequate details in the flora/fauna report and lack of measures to minimise impacts on natural environment.*
2. *Resident's concerns about compliances with Bushfire Management Plan*
3. *Lack of detail and justification for meeting the recognised standards of an Eco Tourism Facility.*
4. *Resident's concerns about the traffic impacts generated by this proposal, including safety, lack of passing areas due to road width, dust.*

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



5. *Access and egress restrictions to road users during natural disasters (e.g. bushfires) and for emergency vehicles*
6. *No comprehensive evacuation plan as required under the Development Application has been submitted.*

The proponent had referred to the following in their statement of environmental effects for the original development application:

This application is being made to Wingecarribee Shire Council for consideration of the continued use of the subject site for the purpose of providing eco-tourist accommodation and facilities. The site has been utilised for the purpose of tourist accommodation since 1972 and is supported by relevant approvals (Ref: D67/72 - *Casual Guests Amenities Building*) and (Building Application No. 177/72 - *Construction of a Cook House.*)

Search of our records show approvals for the 'cookhouse' and 'store room' under BA177/72 dated 16/10/72 (illegible as shown below) and BA37/72 for amenities block dated 30/08/72 (from what can be seen -see below). The search also revealed a BA92/0616 for a dwelling as follows-approved on 29/09/1992.



Application for Review of Determination

The applicant has lodged a Review of Determination under the provisions of Section 8.2 of the *Environmental Planning and Assessment Act, 1979*.

Clause 8.2(1)(a) of the Environmental Planning and Assessment Act, 1979 states:

“(1) The following determinations or decisions of a consent authority under Part 4 are subject to review under this division –

- (a) The determination of an application for development consent by a council, by a local planning panel, by a Sydney district or regional planning panel or by any person acting as delegate of the Minister (other than the Independent Planning Commission or the Planning Secretary)”*

Consequently, the purpose of this report is to consider a review of the determination having regard to the provisions of Section 4.15 of the *Environmental Planning and Assessment Act, 1979*.

Additional information, including revised Traffic Assessment, has been provided by the applicant to address reasons for refusal. The Applicant’s response to the reasons for refusal as well as the Revised Traffic Assessment can be found in **Attachment 4** to this report.

4. Proposal

The Development Application seeks Development Consent for an Eco-Tourist Facility.

The proposed development includes use of existing buildings as cabins, kitchen / dining room area, amenities and games room building, with associated upgrade works to achieve compliance with Building Code of Australia requirements, and on site camping within 15 nominated areas on site.

A maximum of 48 guests is proposed, being a maximum of 18 guests in cabins and 30 guests camping.

The cabins, kitchen / dining room area, amenities, games room building and main campsite area are located within the central portion of the site to the north of the main dwelling and east of an existing row of trees.

A “Remote Campsite North” is located to the north east of main eco tourist area, where cleared paddock area meets the area of native vegetation within the north eastern portion of the site.

The applicant has also submitted an Eco Farm Management Plan. A copy of the Management Plan can be found in **Attachment 5** to this report and plans submitted in support of the application at **Attachment 6**.

5. Notification

The review of the development application was notified and advertised in accordance with Council’s *Community Engagement Strategy and Community Participation Plan* from 18 March 2021 to 26 April 2021.

One submission was received, containing signatories of persons occupying 8 households. The issues raised have been summarised and are considered below.

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



Issues	Response
Insufficient information has been provided detailing the future operation of the Eco Tourist Facility.	Agree. The Management Plan is considered insufficient to satisfy the requirements of Clause 5.13 of the LEP.
The Morton Park Eco Farm Management Plan is an outline only. Insufficient information has been provided on how the development will be managed to have minimal impact onsite and in a sustainable way.	Agree. The Management Plan is considered insufficient to satisfy the requirements of Clause 5.13 of the LEP.
There are major deficiencies in the expert reports which impact on Councils road infrastructure and have a significant impact on road safety.	Noted. As described above the Management Plan is considered insufficient to satisfy the requirements of Clause 5.13 of the LEP.
Concerns are raised regarding contamination on site.	Noted. As discussed in the report, a site auditor is required to satisfy the requirements of SEPP 55.
The development is not in the public interest, they do not protect the Council, or the public safety and they do not provide Council with a clear mechanism to manage non compliances with conditions of consent if the development were to go ahead.	Agree. The Management Plan is considered insufficient to satisfy the requirements of Clause 5.13 of the LEP.
This DA has the type of accommodation not permitted within this zone, e.g. camping grounds.	The applicant has lodged the DA as an Eco Tourist Facility. Clause 5.13 of the LEP requires a number of items to be satisfied before the granting of development consent. These are addressed in the body of this report.
We raise our objections that there is significant impact off site due to the impact on Foxgrove road and residents who reside along, farm and access the road.	If the application was supported, a number of conditions could be imposed to reduce the impact of the use of Foxgrove Road.
Concerns are raised regarding the traffic impact assessment.	The applicant has lodged a further traffic assessment report with this review of determination. It is considered that if the application was supported, a number of conditions of consent could be imposed to address traffic impacts.

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



Issues	Response
Locals refute the statement by the applicant that the site has been used for tourist accommodation since 1972.	Compliance matters are investigated separately to the development application process. Development Application 19/1650 is being assessed as a proposed new use of the site for an Eco Tourist Facility.
The applicant should start the process of accreditation with Eco Tourism Australia.	There is no requirement under the LEP to require accreditation with Eco Tourism Australia.

6. Relevant legislation

6.1 State Environmental Planning Policy No 55 – Remediation of Land

Clause 7 of SEPP 55 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 applicant has prepared both a Preliminary Site Investigation (PSI) and Detailed Site Investigation (DSI) in support of the application.

It is noted that the original DA was recommended for a deferred commencement approval subject to further conditions in respect of the removal of Asbestos.

Based on a review of the history of the site there remains a number of irregularities and unanswered questions including:

- How did numerous fragments of ACM fibrous cement of at least two different types ended up on the surface of the bike track that the applicant had built in 2017.
- It is unclear how the DSI doesn't mention any signs of surface contamination of the bike track with any demolition materials (except the ACM fragments) while Council officers in May 2019 described a section of the bike track surface as having an appearance of fill heavily contaminated with demolition waste, and PSI also mentions '*brick*' and '*glass etc.*' among the materials observed on the track surface.

Given the outstanding concerns, it is recommended that the applicant employ the services of a site auditor to undertake a review of contamination across the site and to ensure that the consent authority has sufficient information to determine whether the land will be suitable for the intended use, including any Remediation Action Plan (RAP) required to ensure the site is suitable.

6.2 State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011

The site is located within the Wingecarribee River Sub-catchment. Compliance with the provisions of the SEPP and associated guidelines is therefore required to consider water quality. A referral to Water NSW was undertaken as part of the review. Water NSW advised of its concurrence with Council granting consent to the application subject to the concurrence conditions contained in its previous advice issued to Council on 27 June 2019.

6.3 State Environmental Planning Policy 44 (Koala Habitat Protection)

State Environmental Planning Policy (Koala Habitat Protection) 2019 commenced on 1 March 2020. However, it is not applicable to the subject development application (or to the review) as the development application was made prior to commencement of the new policy (refer Savings provision cl.15 relating to development applications).

It is noted that the development does not propose the removal of native vegetation and does not propose the removal of Koala Feed Tree species identified under State Environmental Planning Policy 44 (Koala Habitat Protection).

6.4 Wingecarribee Local Environmental Plan 2010 (LEP)

The relevant provisions of the LEP are discussed as follows.

6.4.1 Clause 2.3 Zone objectives and land use table

The site is zoned E3 Environmental Management and in this zone, an eco-tourist facility is permissible with development consent.

The objectives of the E3 Environmental Management zone are as follows:

- *To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.*
- *To provide for a limited range of development that does not have an adverse effect on those values.*
- *To encourage the retention of the remaining evidence of significant historic and social values expressed in existing landscape and land use patterns.*
- *To minimise the proliferation of buildings and other structures in these sensitive landscape areas.*
- *To provide for a restricted range of development and land use activities that provide for rural settlement, sustainable agriculture, other types of economic and employment development, recreation and community amenity in identified drinking water catchment areas.*
- *To protect significant agricultural resources (soil, water and vegetation) in recognition of their value to Wingecarribee's longer term economic sustainability.*

An eco-tourist facility is defined by *Wingecarribee Local Environmental Plan 2010* as meaning a building or place that:

- (a) provides temporary or short-term accommodation to visitors on a commercial basis, and*
- (b) is located in or adjacent to an area with special ecological or cultural features, and*
- (c) is sensitively designed and located so as to minimise bulk, scale and overall physical footprint and any ecological or visual impact.*

It may include facilities that are used to provide information or education to visitors and to exhibit or display items.

Comment

The proposed use is defined as an eco-tourist facility. Further discussion is provided in respect of compliance with Clause 5.13 below which must be satisfied prior to the granting of consent.

6.4.2 Clause 5.13 Eco-tourist facilities

Clause 5.13 of the LEP is a specific clause that requires careful consideration and development consent must not be granted to carry out development for the purpose of an eco-tourist facility unless the consent authority is satisfied with the following subclauses which are addressed in detail below:

Clause	Comment
(3) The consent authority must not grant consent under this Plan to carry out development for the purposes of an eco-tourist facility unless the consent authority is satisfied that—	Complies – refer to comments included in table below.
a) <i>there is a demonstrated connection between the development and the ecological, environmental and cultural values of the site or area.</i>	The applicant has prepared a Plan of management that makes a number of commitments.
b) <i>the development will be located, constructed, managed and maintained so as to minimise any impact on, and to conserve, the natural environment.</i>	Whilst the applicant has prepared a Plan of Management, the development does not include details to minimise and conserve the natural environment. For example, the applicant states in the Plan of Management that the Old Motorbike track will be converted to a natural walk, however there is no plans / landscape plans or details to support this claim, only that it will happen. This is insufficient to satisfy this clause.
c) <i>the development will enhance an appreciation of the environmental and cultural values of the site or area.</i>	A number of commitments have been made in the applicant's Plan of Management.
d) <i>the development will promote positive environmental outcomes and any impact on watercourses, soil quality, heritage and native flora and fauna will be minimal.</i>	A number of commitments have been made in the applicant's Plan of Management.
e) <i>the site will be maintained (or regenerated where necessary) to ensure the continued protection of natural resources and</i>	Whilst the applicant has prepared a Plan of Management, insufficient details have been provided to demonstrate that the site will be maintained or regenerated where necessary to ensure the continued protection of natural resources and enhancement of

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



Clause	Comment
<i>enhancement of the natural environment.</i>	the natural environment. For example. The applicant states in the Plan of Management that the Old Motorbike track will be converted to a natural walk, however there is no plans / landscape plans or details to support this claim, only that it will happen. This is insufficient to satisfy this clause.
<i>f) waste generation during construction and operation will be avoided and that any waste will be appropriately removed.</i>	A Waste Plan has been prepared and detailed within the Management Plan. The Waste plan requires that whatever campers bring to Morton Park, they need to remove, to ensure waste management load from campers is zero. A waste levy (no details of how this will be managed) for guests in cabins for items to be taken to Moss Vale Resource Recovery Centre will also apply. Green waste to be handled on site.
<i>g) the development will be located to avoid visibility above ridgelines and against escarpments and from watercourses and that any visual intrusion will be minimised through the choice of design, colours, materials and landscaping with local native flora.</i>	The portion of the site to be used for the Eco Tourist development will be located to avoid visibility above ridgelines, escarpments and watercourses.
<i>h) any infrastructure services to the site will be provided without significant modification to the environment.</i>	Existing infrastructure is capable of accommodating the proposed development without significant modification to the environment.
<i>i) any power and water to the site will, where possible, be provided through the use of passive heating and cooling, renewable energy sources and water efficient design.</i>	No reticulated water is provided to the site, all water is harvested and stored on site. Existing electrical connections are available to the site with a 10kW three phase solar system.
<i>j) the development will not adversely affect the agricultural productivity of adjoining land.</i>	The site is predominantly surrounded by natural bushland. Agricultural grazing land adjoins the western boundary and occurs across Foxgrove Road to the south. The development footprint is located within an established cleared area and given the proximity to the adjoining property boundaries, is not considered to adversely affect the agricultural productivity of adjoining land.
<i>k) the following matters are addressed or provided for in a management strategy for minimising any impact on the natural environment—</i>	
<i>(i) measures to remove any threat of serious or irreversible environmental damage.</i>	Whilst the applicant has prepared a Plan of Management, the measures provided to remove any threat of serious or irreversible environmental damage

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



Clause	Comment
	is insufficient. For example. The applicant states in the Plan of Management that the Old Motorbike track will be converted to a natural walk, however there is no plans / landscape plans or details to support this claim, only that it will happen. This is insufficient to satisfy this clause.
<i>(ii) the maintenance (or regeneration where necessary) of habitats.</i>	Whilst the applicant has prepared a Plan of Management, there are no details or measures to maintain or regenerate habitats.
<i>(iii) efficient and minimal energy and water use and waste output.</i>	The Management Plan includes suitable measures.
<i>(iv) mechanisms for monitoring and reviewing the effect of the development on the natural environment.</i>	Whilst the applicant has prepared a Plan of Management, there are no mechanisms for monitoring and reviewing the effects of the development on the natural environment.
<i>(v) maintaining improvements on an on-going basis in accordance with relevant ISO 14000 standards relating to management and quality control.</i>	Whilst the applicant has prepared a Plan of Management the only discussion is that "Morton Park Farm Management will strive to apply and become an EA certified ecotourism business."

In summary, whilst the applicant has lodged some detail to satisfy this clause including a management plan, it is considered there is insufficient details to ensure compliance with this clause prior to the granting of development consent.

The Land & Environment Court has adopted a planning principle for management plans as described in *Renaldo Plus 3 Pty Ltd v Hurstville City Council [2005] NSWLEC 315* and as amended by *Amazonia Hotels Pty Ltd v Council of the City of Sydney [2014] NSWLEC 1247* and repeated below:

- (1) Do the requirements in the Management Plan relate to the proposed use and complement any conditions of approval?*
- (2) Do the requirements in the Management Plan require people to act in a manner that would be unlikely or unreasonable in the circumstances of the case?*
- (3) Can the source of any breaches of the Management Plan be readily identified to allow for any enforcement action?*
- (4) Do the requirements in the Management Plan require absolute compliance to achieve an acceptable outcome?*
- (5) Can the people the subject of the Management Plan be reasonably expected to know of its requirements?*
- (6) Is the Management Plan incorporated in the conditions of consent, and to be enforced as a condition of consent?*
- (7) Does the Management Plan contain complaint management procedures?*

- (8) Is there a procedure for updating and changing the Management Plan, including the advertising of any changes?*

The management plan does not satisfy the planning principle above and any future application should use the above planning principle to guide in the preparation of the Plan of Management. For example, the management plan does not contain compliant management procedures, there is no procedure for updating and reviewing the Management Plan and there is insufficient detail to allow the development to be linked to measurable outcomes, such as the restoration of the Old Motorbike track back to a natural work.

6.4.3 Clause 7.4 Natural resources sensitivity - biodiversity

The subject site is located within the Regional Wildlife Habitat Corridor identified within *Wingecarribee Local Environmental Plan 2010*. Clause 7.4 (3) and (4) of *Wingecarribee Local Environmental Plan 2010* states:

- (3) Before granting development consent for development on land to which this clause applies, the consent authority must consider any potential adverse impact of the proposed development on the following—*
- (a) the native ecological community,*
 - (b) the habitat of any threatened species, population or ecological community,*
 - (c) any regionally significant species of fauna, flora or habitat,*
 - (d) habitat elements providing connectivity.*
- (4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—*
- (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.*

The applicant has submitted a flora and fauna report in support of the application which concludes that the development is designed, sited, and managed to avoid any potential adverse environmental impact.

It is noted that concerns have been raised in respect of the applicant's management plan with little detail as to how the development will be managed. It is considered this issue could be resolved with a more robust management plan and therefore satisfy Clause 7.4 of the LEP.

7. Development Control Plans and Policies

7.1 Rural Lands Development Control Plan

The Rural Lands Development Control Plan contains no specific provisions relevant to the proposed eco-tourist development.

Subject to conditions of consent, the application could be considered to be consistent with the Rural Lands DCP. For example, conditions could be imposed in regard to traffic and dust impacts.

8. Environmental Assessment

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

Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument

See discussion in sections 6 & 7.

Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument

No draft instruments for consideration.

Section 4.15(1)(a)(iii) – Provisions of any development control plan

Refer to section 7 above.

Section 4.15(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement

There is no planning agreement or draft planning agreement associated with the subject site or development proposal.

Section 4.15(1)(a)(iv) - Provisions of the Regulations

The Regulations (to the extent that they prescribe matters for the purposes of this paragraph), is not applicable.

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

The impacts of the proposed development are discussed in the discussions in the body of this report. The proposal is recommended for refusal.

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

Suitability of the site has been addressed within the body of this report. In particular, compliance with Clause 5.13 of the LEP and the impacts raised by submitters.

Section 4.15(1)(d) - *Submissions made in accordance with the Act or Regulation*

Notification of the determination review was undertaken in accordance with *Council's Community Engagement Strategy*. Refer to the Consultation section of this report for discussion on both internal and external submissions received.

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

The public interest is considered in the consultation section of this report below.

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



9. Key Issues

These have been outlined previously throughout the body of this report.

10. Conclusion

It is recommended that Development Application 19/1650.01 which seeks development consent for an Eco-Tourist facility at Lot 999 DP 818282 being 198 Foxgrove Road, Canyonleigh, be refused.

The proposal is not considered satisfactory in terms of section 4.15 of the *Environmental Planning and Assessment Act 1979*, therefore it is recommended that the development application be determined by way of refusal for reasons provided in **Attachment 1**.

Appendices – Internal and External Communication

Internal Referrals

Referrals	Advice/Response/Conditions
Accredited Certifier	Council's Accredited Certifier raised no objection to the proposed development and provided conditions of consent.
Development Engineer	Council's Development Engineer raised no objection to the proposed development and provided conditions of consent, including conditions addressing car parking spaces and parking for people with disabilities.
Environmental Health Officer	Council's Environmental Health Officer raised concerns including irregularities in what officers saw on sight. Deferred commencement conditions were recommended in response to contamination.

External Referrals

Referrals	Advice/Response/Conditions
Water NSW	Water NSW advises that the proposed development satisfies the requirements of State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011, subject to the concurrence conditions contained in its previous advice issued to Council on 27 June 2019.
Rural Fire Service	Rural Fire Service raised no objection to the proposed development, subject to conditions addressing Asset Protection Zones, Water and Utilities, Access, Evacuation and Emergency Management, Design and Construction, and Landscaping.
NRAR	NRAR have advised that for the purposes of the Water Management Act 2000 (WM Act), a controlled activity approval is not required as the proposed development is not located on waterfront land.

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

DEVELOPMENT APPLICATIONS



ATTACHMENTS

1. Reasons for Refusal
2. Aerial Image
3. Location Plan
4. Information submitted in support of 8.2 Review
5. Morton Park Eco Farm Management Plan
6. Plans

Attachment 1 – Draft Reasons for Refusal

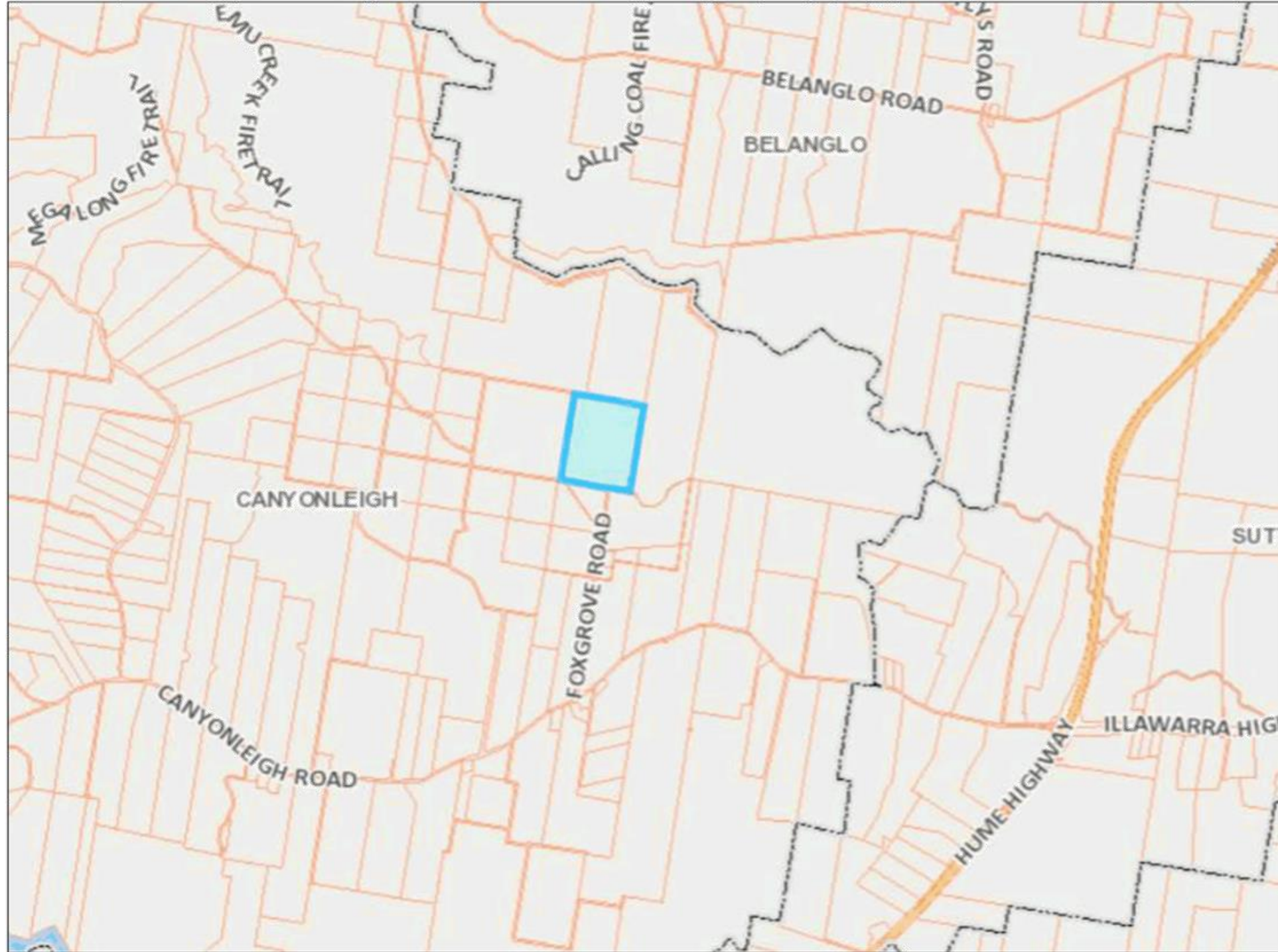
1. The proposed development has not satisfied Clause 7 of State Environmental Planning Policy No.55 – Remediation of Land sufficiently to satisfy Council that the land will be suitable for its intended use in particular:
 - a. there are a number of irregularities between the DSI and an inspection of the site in the vicinity of the bike track.
 - b. The DSI does not mention any signs of surface contamination of the bike track despite an inspection of the bike track surface having an appearance of fill heavily contaminated with demolition waste.
 - c. The applicant should engage a site auditor to undertake a review of the site and contamination and advise whether the site is suitable for its intended use.
2. The proposed development has not demonstrated that the eco-tourist facility satisfies Clause 5.13 of Wingecarribee Local Environmental Plan 2010, in particular:
 - a. The applicant has not provided sufficient detail to demonstrate connection to the environment and cultural values of the land.
 - b. The applicant has not provided sufficient detail to ensure the development will be constructed, managed and maintained so as to minimise impacts and conserve the natural environment.
 - c. The applicant has not demonstrated sufficient detail to ensure the site will be regenerated, particularly the unauthorised motorbike track which is said to be converted to a natural walk.
 - d. The management plan submitted with the application is insufficient for minimising any impact on the natural environment.
3. The proposed development does not satisfy the objectives of Clause 5.13 of Wingecarribee Local Environmental Plan 2010, in particular:
 - a. The proposed development does not demonstrate sufficiently maintenance of the environmental and cultural values of the land.
 - b. The proposed development does not demonstrate that the eco-tourist facility is sensitively designed and managed to ensure minimal impact on the environment both on and off-site.
4. The proposed development is not in the public interest and has not appropriately taken into consideration the concerns raised by the local residents.

Attachment 2: Aerial plan of site in context





Attachment 3: Locality plan of site in context





8 March 2021

General Manager
Wingecarribee Shire Council
PO Box 141
MOSS VALE NSW 2577

Attention: Mr Peter Malloy

Dear Peter,

SECTION 8.2A REVIEW OF DETERMINATION OF DA19/1650

I respectfully request that a review of the determination of DA19/1650 be undertaken and development consent be granted in accordance with the staff recommendations. The proposal is fully compliant with Council's development requirements. The proposal has received concurrence from both Water NSW and the Rural Fire Service. The development does not require the removal of any native vegetation. The proposal fully satisfies the objectives of the Wingecarribee LEP and DCPs. The proposal is an excellent example of what eco-tourism is intended to achieve and therefore warrants approval as recommended by WSC staff.

I make the following comments with regard to the reasons for refusal: -

1. **Inadequate details in the flora/fauna report and lack of measures to minimise impacts on natural environment. (S.4.15(1)(a)(b)(e) of the Environmental planning & assessment act 1979).**

COMMENT

Councillors during their debate were made to believe that Council's Environment & Sustainability Division had not received all necessary information to make their determination. This is not correct. Council's Department of Environment & Sustainability only ever requested a "concept" management plan be lodged with the DA and conveyed in their email dated 16 August (copy attached), that Council will impose a condition of consent for submitting a FULL Management Plan before the commencement of operations.

A management plan acts as a tool to ensure that development is carried out in the manner proposed. It is not an assessment document. This is why the Council's assessing officer only requested a conceptual plan of management to assess the application.

A flora and fauna report is an entirely separate document to a Management Plan and has a different purpose. A flora and fauna report is an assessment tool when assessing a development proposal. Council staff have not raised any concern regarding the adequacy of the submitted flora and fauna assessment report.



2. Resident's concerns about compliances with bushfire management plan. (S.4.15(1)(a)(b)(e) of the Environmental planning & assessment act 1979)

COMMENT

I confirm that the NSW Rural Fire Service granted its concurrence to the proposal and the Bushfire Management Plan lodged with the application. The NSW Rural Fire Service raises no concern with the proposal and recommends approval subject to conditions.

3. Lack of detail and justification for meeting the recognised standards of an Eco Tourism Facility (S.4.15(1)(i) of the Environmental planning & assessment act 1979)

COMMENT

The Council officers report confirms that the proposal satisfies the eleven (11) statutory requirements listed within the Wingecarribee Local Environmental Plan 2010 required to constitute an eco-tourism development.

The organisation known as 'Eco tourism Australia' will not grant certification of a facility until Council has granted development approval. For Councillors to suggest that the proposal lacks justification for meeting an Eco-tourism facility's recognised standards, is incorrect. The proposal satisfies the statutory requirements of the LEP and will be endorsed by Eco-tourism Australia once Council grants development consent.

It should also be noted that the WLEP 2010 does not require certification from Eco Tourism Australia to be deemed to satisfy the requirements to approve an Eco tourist facility (by definition). Irrespective, the proponent does propose to obtain certification for the facility once consent has been granted.

4. Resident's concerns about the traffic impacts generated by this proposal, including safety, lack of passing areas due to road width, dust. (S.4.15(1)(b)(c)(d)(e) of the Environmental planning & assessment act 1979)

COMMENT

Foxgrove Road is an extremely safe road. There have been no accidents or deaths on this road. The amount of traffic is extremely low, and will remain extremely low even once the development of Morton Park is approved and running.

At a peak occupancy, of 48 people, we estimate that about 16 vehicles will be used by these 48 guests. Note this is peak. Many days, there will be no guests at all, other times single families may arrive. So

5.5 S8.2 Review of DA19/1650 For an Eco Tourist Facility at 198 Foxgrove Road
Canyonleigh (Appln 19/1650.01)

ATTACHMENT 4 Information submitted in support of 8.2 Review



the maximum traffic profile is when 48 guests are all staying at Morton Park (say from Friday till Sunday), which is the typical scenario.

Guest arrival profiles are varied, some arriving early in the day, or throughout the day, even late at night. So, these arrivals (16 vehicles) will be over a period of 20 hours (estimated). This gives a traffic density of say not more than 1 car an hour. Which, for traffic impact analysis is insignificant.

Some Councillors raised concerns regarding the adequacy of Foxgrove Road. I refer to an email from Council's Mr Rick Mooney dated 4 January (copy attached) which states, "*I can confirm that Council's engineering staff have assessed the road and have determined that it meets specification.*"

Foxgrove Road is a rural country road and drivers are expected to drive to the road conditions. There are no land uses along Foxgrove Road that would generate large volumes of traffic or conflict with larger vehicles.

If you consider the stretch of Foxgrove Road, from Canyonleigh Road to the entrance of Morton Park, this is a stretch of approximately 2000m. The road is straight, flat, no drop offs either side of the road, has no blind corners, in fact visibility is excellent giving many hundreds of meters of visibility for any oncoming traffic. Two vehicles can easily pass at safe speeds.

We recommend the installation of two signs along Foxgrove Road to address resident's concerns asking drivers to slow down to reduce dust. Similar signs are common throughout the Wingecarribee Shire. "DRIVE TO THE CONDITIONS". This will address ALL vehicles that use Foxgrove Road and address the concerns of residents.

5. Access and egress restrictions to road users during natural disasters (e.g. bushfires) and for emergency vehicles. (S.4.15(1)(b)(c)(d)(e) of the Environmental planning & assessment act 1979)

COMMENT

The Bushfire Risk and Emergency Management Plan has been endorsed by the NSW Rural Fire Service and as such forms part of the development proposal. It is acknowledged that Morton Park will not operate in the event of Catastrophic forecast weather conditions. A safe refuge is also nominated within the site in the event deemed necessary. The allocation of this area has also been approved by the NSW Rural Fire Service.

I believe the RFS would not have granted concurrence to the development proposal if the application did not satisfy ALL requirements of the bushfire legislation in terms of ingress and egress of vehicles.



6. No comprehensive evacuation plan as required under the development Application has been submitted (S.4.15(1)(b)(c)(d)(e) of the Environmental planning & assessment act 1979)

COMMENT

I re-iterate point 5 above and confirm that the NSW Rural Fire Service has granted its concurrence to the proposal and the Bushfire Risk and Emergency Management Plan lodged with the application. The NSW Rural Fire Service raises no concern with the proposal.

Conclusion

The development proposal is 100% compliant with Council's policy and statutory legislation. The proposal has received endorsement from both Water NSW and NSW Rural Fire Service. All departments within Council's assessment departments raise no objection to the development proposal. The proposal is consistent with Council's recently endorsed "Destination Plan" for attracting tourism to the Shire. The development has merit and is worthy of approval.

Your sincerely
Frank Maly

198 Foxgrove Road Canyonleigh
NSW 2577
frank@malyfamily.com
0410 525 965

Attachments

Email titled.

"DA 19_1650 which seeks approval for an eco-tourist facility at 198 Foxgrove Road, Canyonleigh"

Email titled.

"RE_ Foxgrove Road width"

Email titled.

"RE_ Foxgrove Road width meeting specifications"



Our Reference: **PT21031**

REIMO AUSTRALIA
2/28 Priestley Street
Mittagong NSW 2575

31 March 2021

Via Email: frank@reimo.com.au

**CONTINUATION OF ECOTOURIST FACILITIES / ACCOMMODATION MORTON PARK'
No. 198 FOXGROVE ROAD, CANYONLEIGH
Traffic Assessment Report**

As requested, we have reviewed the potential traffic impacts of the proposal for the continuation of the provision of ecotourism facilities at the site known as Morton Park located at No.198 Foxgrove Road, Canyonleigh. The findings of our review are presented below.

Background

It is understood the existing development as operated in a similar form since 1973 with the recent application seeking to formalise a long-standing eco-tourism accommodate facility where patrons can access both small scale cabins and camping sites for accommodation. The facility currently includes six (6) cabins providing a total of 18 beds with up to 30 camp sites available.

We note the development application DA19/1650 which sought to seek formal approval for "continued use of the site for the purpose of eco-tourist accommodation and facilities" which included both a Statement of Environment Effects report prepared by Hogan Planning and Traffic Impact Assessment report prepared by Mr Dominic Lucas of which a copy is provided in **Appendix A** of this report.

Wingecarribee Shire Council Background

Following consideration of the development proposal and noting that the Council officer report recommended approval for the continuation of the longstanding development use, the application was refused. The items relating to traffic, access which formed part of the refusal are repeated below for reference:

4. Resident's concerns about the traffic impacts generated by this proposal, including safety, lack of passing areas due to road width, dust

(S.4.15(1)(b)(c)(d)(e) of the Environmental Planning & Assessment Act 1979)

Positive Traffic Pty Ltd ATF Positive Traffic Trust
PO Box 3457, Rouse Hill NSW 2155
T: 0414 462247 / E: dean@positivetraffic.com.au

Project: Morton Park

Other matters of note within the refusal comments by elected officials included access during bushfires and evacuation plan of management which are matters for inclusion in the submitted bushfire management plan report.

Existing Development

The subject site is located at No.198 Foxgrove Road Canyonleigh and is noted from published maps to be a place for accommodation purposes as shown below in

Figure 1 - Site Location



Foxgrove Road includes an unsealed road with an approximate available carriageway width of 5.5m – 6.0m. The site is located approximately 2.0km north of the intersection of Foxgrove Road / Canyonleigh Road (the closest sealed road in the immediate area) as shown below in **Figure 2**.

Figure 2 – Driving Distance between Development Site and Canyonleigh Road



Project: Morton Park



The section of Foxgrove Road between Canyonleigh Road and the subject site includes a total of only four (4) rural residential properties with driveway access to Foxgrove Road.

Canyonleigh Road is the main east-west road through the area and provides a direct interchange access connection to the Federal classified road of the Hume Highway. The intersection of Canyonleigh Road / Foxgrove Road is shown below in **Figure 3**.

Figure 3 – Existing Intersection of Foxgrove Road / Canyonleigh Road



It is important to note that the traffic demands in Foxgrove Road is likely solely limited to the traffic generation of the small number of residencies served by the road as it forms at cul-de-sac at its western end.

Assessment of Potential Traffic Generation

It is noted that the proposed development does not fall strictly under the uses for accommodation as defined in the RTA Guide to Traffic Generating Developments. Under 'casual accommodation' the RTA Guide provides three (3) types including

- Motel



Project: Morton Park

- Hotel Traditional
- Hotel Tourist

Further, the RTA Guide provides the following definitions for each:

Motel: a building or buildings (other than a hotel, boarding-house or residential flat building) substantially used for the overnight accommodation of travellers (and their vehicles) whether or not the building or buildings are also used for providing of meals to those travellers or the general public.

Hotel: any premises specified in a hotelier's licence granted under the Liquor Act, 1982.

It is evident on the above definitions that at best the site might function like a *motel* but not a hotel.

For a *motel* use, the RTA Guide suggests the following peak hour traffic generation rates:

- Daily vehicle trips = 3 per unit
- Evening peak hour vehicle trips = 0.4 per unit.

Therefore, the existing **six (6)** cabins might generate some **3** peak hour trips.

Noting there are some **30** potential camping spaces available on the site, if each camping site was treated as a 'motel unit' this component might generate some **12** peak hour trips resulting in an overall potential peak hour traffic generation of **15** trips.

It is noted that the first principles assessment of the traffic report submitted with the DA suggested a site peak hour traffic generation rate of **18** trips which is similar to the approach applying similar uses as detailed in the RTA Guide.

Overall, the peak hour traffic generation of the site at 100% occupancy would be very low and only occur on days of arrival and / or days of departure. It would be unlikely that *all* cabins and camping spaces were occupied in a single hour and therefore the above potential peak hour generate estimate is considered very conservative.

Assessment of Potential Traffic Impacts

The DA submitted traffic report included a count of the intersection of Foxgrove Road / Canyonleigh Road during peak periods. This is presented below:

The traffic report cited traffic data provided by Wingecarribee Shire Council for Canyonleigh Road in order to ascertain the potential traffic impacts of the proposal. This is detailed below from the report:



Project: Morton Park

EXISTING TRAFFIC

Data obtained from Wingecarribee Shire Council confirms that Canyonleigh Road carries approximately 755 vehicles per day (AADT, VPD). Council does not have data for Foxgrove Rd although based on the number of properties along Foxgrove Rd, the estimated AADT is approximately 40 vpd.

Data obtained from Wingecarribee Shire Council also indicates that peak hours traffic volumes along Canyonleigh Rd is consistent on each week day and weekend. Morning peak hour traffic volumes (77vph) occurs between 8am to 9am weekdays. Afternoon peak hour traffic volumes (75vph) occur between 4pm and 5pm weekdays.

For a rural residential street with a single travel lane in each direction as is the case for Foxgrove Road, the estimated lane capacity of the road would be in order of **600** vehicles per lane per hour in accordance with the recommended mid-block capacities detailed in AustROADS.

Applying the same to Canyonleigh Road, a rural collector / sub arterial road with little to no direct driveway access and a posted speed limit of 100km/hr, it would be expected to have a mid-block capacity of **900 vehicles per lane per direction**.

The existing traffic flows on both Canyonleigh Road and Foxgrove Road (having regard to the small number of residential dwellings served by it and forming a cul-de-sac) are **well below** the available mid-block capacity of each road and would remain well below on the basis the full conservative potential peak hour traffic generation of the existing use was realised.

On the matter of the function of Foxgrove Road to accommodate the existing / potential traffic impacts of the site, in accordance with the *Unsealed Roads Manual – Guidance to Good Practice (2000)*, an unsealed local road requires sealing when the average daily traffic exceeds **500 vehicles per day**.

As the existing and potential conservative future traffic demands in Foxgrove Road would be significantly below this recommended threshold no additional improvements to the road are considered necessary.

In addition, the guide recommends roads with typical volumes below 150 vehicles per day be provided with a carriageway width of 5-6m. As Foxgrove Road an existing carriageway width of some 5.0m - 6.0m, Foxgrove Road in its current form for its full length between Canyonleigh Road and the site access meets the requirements for the expected demand.

Conclusion

After assessing the potential conservative peak hour traffic generation of the subject site and analysing the existing road network / traffic volumes in the immediate area it is my view that concerns with potential traffic impacts which resulted in the refusal of the proposal are not based on any clear factual evidence or consider published policies and standards on the assessment of such impacts.



Project: Morton Park

Further, both Foxgrove Road and Canyonleigh Road in their current form have more than sufficient capacity to accommodate the potential traffic generation of the development site.

Please do not hesitate to contact myself on 0414 462247 should you require any additional information.

Yours sincerely

DEAN BRODIE

Managing Director



Project: Morton Park

**APPENDIX A – TRAFFIC IMPACT ASSESSMENT REPORT PREPARED BY MR DOMINIC LUCAS DATED
OCTOBER 2019**



Morton Park Eco Farm Management Plan

Mission Statement

To maintain as well as increase the local habitat within Morton Park, at the same time providing the opportunity for adults, children, families and schools to experience the natural beauty that is Morton Park.

Our philosophy is zero footprint! Each visitor is required to adhere to our fundamental requirement of zero footprint. This includes as they arrive, while they stay and when they depart.

We will engage with the local aboriginal land council to facilitate an indigenous experience for our guest, so that they connect to the land and learn more about what the land means to the local indigenous people and build a deeper respect for our wonderful country.

We will also educate our guests on the habitats around Morton Park, what it is made up of, what to look out for and how together we can maintain and promote the habitat.

Ecotourism Australia ECO certification

Morton Park Farm management will strive to apply and become an EA certified ecotourism business.

Once granted our DA and consent to run our ecotourism business, our management team will

1. Visit the ECO Certification page on the EA website and apply
2. Fill out the online application form, and pay our once-only application fee
3. Receive a confirmation email and follow the instructions to commence our application
4. Obtain free coaching session, and contact the EA office with any questions, or clarifications
5. Submit our completed application to EA
6. Our application will then be assessed and any corrections will be followed up with our management team.
7. Once the certification is granted, on-site external audit will be conducted within the first 12 months and then every three years thereafter.

Impact of the Environment

Environmental history of the area

The area that is today called Morton Park, was one of the oldest established properties in the area, with the landowner a coal mine owner and operator. An old steam driven timber mill operated at Morton Park for some years, but primarily Morton Park has been a cattle and sheep farm.

Backing onto large extents of bush land, Morton Park sees many native animals call Morton Park home. This is a good indication that the farming and use practices have not scared off the native animals, and in fact, many endangered faunas such as glossy black cockatoos, gang-gang cockatoos, koalas, greater gliders.

Land care

There has been minimal grazing at Morton Park over the last 20 years, and minimal weedicides and no pesticides or fertilizers. The only weedicides were spot spraying of serrated tussock, primarily in one paddock, as no evidence of serrated tussock has invaded other parts of Morton Park.



Plants and Wildlife

Much of the natural vegetation at Morton Park has been maintained, with approximately 40% cleared in the past. See the detailed ecology report on the flora and fauna of Morton Park.

Water and water use

The main source of water at Morton Park is rainwater. Large catchments fill the 4 dams on the property. Most structures have water tanks and this water is used for the homestead, cottage, campsite area, as well as shed water, and secure water sources for firefighting.

One dam, our main dam, which is called Wellspring Dam, is a spring fed dam, and maintains a water level even during dry periods.

Our aquaponics system uses minimal water compared to mainstream farming. Aquaponic grown herbs and greens only use 3% of the water compared to ground based growing. In addition, there is no soil degradation, no runoff, no contaminants, so our system is very ecologically sound.

Energy and resources

Morton park is not connected to town water, so we utilise rainwater for all aspects of our farm.

We have also installed a 10KW three phase solar system that powers the entire property.

As well as a large evacuated glass solar hot water system on our homestead, and in the future, we will install the same solar hot water at the cottage and at the campsite area.

Traditional cultural activities

Morton park management will work with the local indigenous groups to provide the following :-

Spirituality

We will present Creation stories to our visitors. They will learn about their importance to spiritual life and ceremonies. They will also hear about the night sky and its significance to Creation stories. We will explain about totems, families and language groups of the area. (by the local elders)

Ceremonies and rituals

We will explain the importance of ceremony and ritual to our visitors. We will only provide information that can be made public. As we visit places in the environment, we will explain the actions for maintaining and protecting our resources. (by the local elders)

Language and kinship

We will teach our visitors some simple words in our traditional language. These words will relate to their experiences on the beach and bush walks. We will name plants (which will also be signed), animals, handcraft and parts of the landscape. (by the local elders)

Song and dance

Our traditional dances of greeting and farewell will be presented to our visitors. They will have the opportunity to learn the public welcome dance. Other songs will be presented to the sounds of the clapsticks on the camp in the evening. These songs and dances have been handed down from the past and will relate to the activities that visitors experience during the day. (by local elders)

Handcraft

Manufacture and use of different items of handcraft will be demonstrated to visitors. These include boomerangs and spears, fishing spears and nets, firesticks, grass fibre and mat weaving, and water travel. (by the local elder)



Greeting Process and in person orientation

Upon arrival at Morton Park, guest will be required to meet a member of Morton Park at the main campsite area. Here the guest will be given an orientation, to reinforce our zero-footprint policy, as well as all the other requirements.

Guests responsibilities with regards to: -

1. Waste management
2. Noise
3. Location of facilities and Morton Park boundaries
4. Awareness of fauna
5. Awareness of flora
6. Contributing to the Morton Park EcoFund
7. Fire protocols
8. Emergency exit
9. Morton Park Management contact details.

Zero Footprint

To ensure that we maintain the natural beauty of Morton Park, we will limit the number of people visiting Morton park, as well as giving strict rule associate with their stay.

- Flora and Fauna rules
- Waste Rule
- Driving rules
- Noise Rules
- Fire safety

Designated tracks

While at Morton Park, guests are to use designated tracks to drive to their camping location. No driving around the property is permitted. When departing MP to go into town, guests can only use the most direct route to the nearest track. A map will be provided to guests to reinforce where tracks are, where their campsite is located.

Restrictions

There will be certain restrictions, these are highlighted in the guest orientation guide

1. No hunting
2. No 4WDing
3. No motorbikes or quads
4. Minimal noise
5. Night curfews from 10pm
6. No damage to habitat



Aboriginal Guide for larger groups

I have started to contact the Aboriginal land council, and the Gundungurra and Tharawal people (Aunty Sharron) and I will attempt to organise (pre booked) for a paid Aboriginal Guide to talk with larger groups. This will be a paid activity, the cost being that set by the land council. I would like to promote any aboriginal significance of Morton park, as well as trying to expose as many young students to the cultural aspects of the Gundungurra and Tharawal people and their connection to the land.

I would consider this activity, mainly for school groups, or larger groups of adults. This may also be a collaborative project between Morton Park and the previous Tugalong Station.

This is a developing project, so more detail will be added to the management plan over time.

Morton Park EcoFund for habitat maintenance and development

We will establish a Morton Park EcoFund. Guests can contribute to the fund, and then be placed on our Morton Park EcoFund newsletter. Each quarter, we will have an EcoDay at Morton Park, for example, tree planting, habitat creation, weed clearing and more. Guests can join in with our EcoDay each quarter. The money in the fund will be used to fund the specific EcoDay activity, such as purchase of trees, bushes, for example.

Project could include, but not limited to

1. Tree planting, such as Ribbon gum *E. viminalis*, River red gum *E. camaldulensis*, Black She-oak *Allocasuarina littoralis*
2. Hollows as Homes habitats for bird life.
3. Weed eradications
4. Koala data logging
5. Bird Data logging
6. Night-time spotting of bats and possums and logging observations

Old Motorbike track converted to a nature walk

The area where the old motocross track is has already be transformed into a bushy, tree filled area. We will continue to add native trees and bushes into the area to attract wildlife. Some of the planting in this area may be part of the EcoDay activities.

Variety of trees will include, but not limited to :-

- Ironbark Peppermint *Eucalyptus smithii*
- Silver-top Ash *Eucalyptus sieberi*
- Blue-leaved Stringybark *Eucalyptus agglomerata*
- White Stringybark *Eucalyptus globoidea*
- Sydney Peppermint *Eucalyptus piperita*
- Narrow-leaved Peppermint *Eucalyptus radiata*
- Black She-oak *Allocasuarina littoralis*

Education sessions

As an engineer with a science background, I will be running educational sessions for school groups, or other groups of children or adults. This will include flora and fauna educational sessions but also broader aspects such as waste management technologies, green power, climate change, low impact farming (ie aquaponics and vertical growing) and more. I will attempt to include guest speakers with specific knowledge and experience relevant to the topic at hand.



I will define a series of possible educational sessions, and groups can choose their area of interest.

In addition to outdoor projects and fieldwork, some sessions will be held in the games room, with access to photos and technical details as well as presentation on the large screen.

As a night activity, I will also be holding astronomy lessons, teaching the students how to identify various stars, planets, constellation, and to be able to find due south at night, to know what direction you are walking.

As this will be an ongoing developing project, I will have a section on our website dedicated to educational events.

Waste Plan

Our first requirement for people camping is that whatever they bring to Morton Park, then need to remove. So the waste management load from campers should be zero.

If guests stay in the cabin, we will have a small waste levy, so that items placed in bin will be taken to the Moss Vale Resource Recovery Centre. We are well setup for the various wastes produced, general household waste, recycled waste and green waste.

Green waste we can handle onsite, with vegetable food scraps given to our animals (chicken, sheep, goats and pig).

We have a large number of bins for general waste, which we transport to the Moss Vale Resource Recovery Centre.

We also have designate bins for paper, plastic, glass and cans. Again, this is transported to the Moss Vale resource recovery centre.

Fire Plan

Morton Park has secure water sources for the rural bush fire service.

We have a dedicated 22,000L tank, with a Davey firefighting pump, with two hose that can cover the main campsite area.

A second 22,000L tank has a second pump, a 1000L tank and trailer, as a mobile firefighting solution of spot fires.

There are three additional water tanks, not dedication, but have large quantities of water, available in an emergency.

1. Another 22,000L tank at my work shed
2. A 100,000 L concrete tank at the campsite area.
3. A 125,000L concrete tank at my house
4. Approximately 2,000,000L of water in a spring fed dam, with excellent access for rural fire tankers to fill up, or even a helicopter.

In addition to the water we also have fire extinguishers within buildings as some external (ie on located next to the pizza oven)

Our bushfire plan is detailed below.



Morton Park Bushfire Plan

Owner: Frank Maly

Mobile No: +61 410 525 965

Property Name: Morton Park

Address: 198 Foxgrove Road, Canyonleigh, NSW

EMERGENCY FIRE, POLICE and AMBULANCE : CALL 000

EVACUATION PLAN:

Morton Park Farm

SAFE MEETING POINT:

Main Paddock

LEAVE VIA:

**ROADS: Exit South straight along Foxgrove Road (2 km)
Turn left onto Canyonleigh Road heading EAST
5km to Hume Highway**

PLEASE TEXT FRANK MALY TO CONFIRM YOUR LOCATION:

0410 525 965



Bush Fire Protection Measures

Asset Protection

All assets are protected by protection zones, of well maintained, cleared and flat spaces. Providing significant separation space between bush areas and assets.

Access

A primary and secondary access is available. Also, two off property fire trails are to the north west and east of Morton Park.

Water Supply

Morton Park is a Secure Water Source for the RFS. Onsite we have more than 300,000L of tank water, as well as three large, accessible dams, with well over 2,000,000L of water. Also, clear access for large helicopter tankers. Morton Park also has a well flowing bore that can be used to keep tanks full at all times.

Regular bush fire Maintenance

As an ongoing procedure, Morton Park staff undertake regular bush fire maintenance, being;

1. Cleaning of gutters
2. Removal of cobwebs
3. Keeping grass cut around structures
4. Removal of old dead black wattle trees
5. Removal of bracken
6. Maintain primary exit and secondary exit for access and egress for the public and firefighters
7. Check all dedicated water tanks for water levels. If needed, fill tanks.
8. Check and maintain fire trails to the north west and east of Morton Park

If a fire is threatening the immediate area;

1. Removal of any combustible materials from around structures
2. Install downpipe plugs and fill all gutters with water
3. All firefighting tools (pumps, hoses, mobile tanks) tested, and readied and in a central location

Readiness and Training

To ensure that all Morton Park staff are educated and ready to undertake our emergency procedures, regular drills for all staff members will be conducted during the gazetted bush fire season, to ensure familiarity with all emergency procedures.

General Rules

1. If local bushfires are present, we will monitor RFS updates on local media, social media and RFS official websites. Bookings will be rescheduled or cancelled based on the threat of bush fires impacting the local area.
2. No fires can be lit if the status is a total fire ban
3. Morton Park will advise guests of the fire threat level
4. All campfires are to be contained within a small (1m radius) cleared area and surrounded by rocks.
5. Firefighting appliances will be positioned within the immediate vicinity of the campsite area. (ie, extinguishers, 1000L mobile water tank and fire pump, with two 25m hoses)

Upon Arrival

1. Guests check in with Morton Park staff
2. Guests receive this bushfire plan



3. We show each guest the emergency assembly area and alternative exit

During a Guest Stay

1. Morton Park staff remain updated on the fire safety level and any fire threats using the internet (facebook updates), handheld two-way radios and the RFS phone app. We would also recommend to our guests to load the RFS app on their phones.
2. All water tanks are checked, all fire pumps tested and readied.
3. If a threat is identified, we would request that all guests depart Morton Park immediately. This is assuming that the threat is sufficiently remote to allow guests safe passage to the Hume Highway

Immediate Threat

1. All guests are to assemble at the emergency assembly point
2. Here we will determine the possibility of evacuating via the primary exit point.
3. If primary exit point is unsafe, guests will be directed to a secondary exit point.
4. Failing that, if we need to sit out the fire, we would all stay at the emergency assembly point. Morton Park staff would advise the RFS of the number of people present, and our location and ability to sit out the fire
5. Morton Park staff would ready all fire pumps to protect all persons at the emergency assembly point.
6. Handheld two-way radios would be used to communicate with the RFS



North
Morton Park
Emergency Assembly X



Move Immediately to the Emergency Assembly Point X marks the spot



Dust Suppression on Foxgrove Road – An investigation and analysis

Author Qualifications

Frank Maly is a qualified Electrical Engineer, Honours Class 2. As such, Frank has formal education and experience with respect to testing methodology, scientific research and the like. Frank's thesis topic was on Solar power, he has authored two books (Network Performance Monitor SE Manual and LAN/WAN data analysis, both for IBM in Research Triangle Park, NC, USA), and written numerous consulting papers on network analysis and business. Frank also ran and managed a large network testing lab in North Carolina, for Cisco System, where testing/analysis/reporting was performed week in week out (formally known as the Performance and Design Verification Centre, PDVC).

On June 1, 1999 Frank Maly, inventor, was issued a USA patent 5,909,550, "Correlation technique for use in managing application-specific and protocol-specific resources of heterogenous integrated computer networks". (<https://insight.rpxcorp.com/pat/US5909550A>)

Abstract

The goal of Morton Park EcoFarm management is to minimise all local impacts of guests arriving, staying and departing Morton Park EcoFarm (MPEF). One such impact raised is the extra dust created by the additional traffic load of guests arriving and departing from MPEF.

MPEF management undertook an analysis of this impact on the houses along Foxgrove Road, to determine

1. What is the prevailing wind direction in the vicinity of Foxgrove Road (from BoM historical data) and which houses will be impacted based on the prevailing wind?
2. The extent of dust created by vehicles travelling on Foxgrove Road, at various speeds
3. Impact of dust on houses along Foxgrove road based on distance from Foxgrove Road (ie the straight-line distance to the house)
4. Number of wet days in Canyonleigh as defined by the BoM
5. The number of trees lining each side of Foxgrove Road, providing a natural barrier
6. The road base used on Foxgrove Road
7. Any dust suppression techniques

Bureau of meteorology (BoM) historical data shows the prevailing winds in this area are South/West to North/West. So, houses on the western side of Foxgrove road will be minimally impacted by dust from Foxgrove Road, as the road is to the east (downwind) from the prevailing wind.

Video analysis of a van driving at various speeds was recorded and it shows that vehicles maintaining a speed at or below 50kph produces insignificant dust.

There is an average of 93 wet days in Canyonleigh and therefore, for 25% of the time, Foxgrove road is wet, so the dust is suppressed naturally.

Most houses along Foxgrove Road are far enough away from Foxgrove Road, that the impact of dust from vehicles does not reach the location of the houses. If the wind speeds are intense enough to blow dust from Foxgrove road to these houses, the density of the dust from Foxgrove Road will be small, plus this wind would be moving significantly more dust from adjacent paddocks, and the amount originating from Foxgrove road would be a small fraction of the total dust.

Along Foxgrove Road, there is approximately 1500m of trees lining the road. Thus, there is a nature dust barrier formed on 1500m of the 2000m of road leading to MPEF.

The road base used to form Foxgrove Road is very compact, and the particles are rather large and heavy (as compared to the fine red dust on Canyonleigh Road). So due to the makeup of the road base, the dust particles are heavy, and do not suspend in the air very much, as compared to the fine red dust of Canyonleigh Road.

**5.5 S8.2 Review of DA19/1650 For an Eco Tourist Facility at 198 Foxgrove Road
Canyonleigh (Appln 19/1650.01)**

ATTACHMENT 5 Morton Park Eco Farm Management Plan





Having viewed the location of the houses along Foxgrove Road, only two have possible impacts from road dust. One being 40m to the west and the other 100m to the east. It is proposed that a 100m stretch of Foxgrove road (adjacent to these two houses) be watered when MPEF management knows that more than 10 cars will be arriving at MPEF.

Research, Testing, Observation, Analysis and Recommendations

Prevailing Winds from the BoM site.

See attached PDF files (on USB drive) saved from the BoM website detailing the Rose Wind direction versus wind speed for Moss Vale (Hoskins Street). Hoskins Street is the closest BoM site to Foxgrove Road, Canyonleigh.

Data from BoM website (http://www.bom.gov.au/climate/averages/tables/cw_068045.shtml)

For yearly average, 9am recordings, prevailing wind is West (about 24% of the year).

For 73% of the year, wind direction is from between South to West to North.

Only 27% of the time, wind direction is from South East, to North East.

For yearly average, 3pm recordings, prevailing wind is West (about 25% of the year).

For 69% of the year, wind direction is from between South to West to North.

Only 31% of the time, wind direction is from South East, to North East.

So, based on this analysis houses most susceptible to dust are those on the eastern side of Foxgrove Road.



FIGURE 1 PREVAILING WIND DIRECTION FROM SOUTH TO WEST TO NORTH



Wet Days

As can be seen from the BoM historical data, the average number of wet days, in the Moss Vale/Canyonleigh area, is 93 days (http://www.bom.gov.au/climate/averages/tables/cw_068045.shtml).

Therefore, for 93 days, which is 25.5% of the time, Foxgrove road will be wet, and therefore the dust issue is addressed naturally, and no action is required on wet days.

Roadside Tree Coverage

From Canyonleigh Road to MPEF the distance is approximately 2000m in length. Along Foxgrove Road there is significant tree coverage alongside each side of the road. These trees provide a natural barrier from the dust to the various houses along Foxgrove Road.

From the google map image, there are several tree lined sections of Foxgrove Road. I have noted the lengths of these sections below.

- 200m
- 100m
- 1000m
- 200m

This gives a total of 1500 meters of tree lined sections of Foxgrove Road, providing a nature dust barrier.

Therefore approximately 75% the Foxgrove Road has trees on one side or the other, or both, along the section from Canyonleigh Road to MPEF.

Foxgrove Road Base

The road base used on Foxgrove road is a very compact and rocky base. Compared to Canyonleigh road, on the dirt section as you travel towards Brayton Road Big Hill, which is a fine red dust road base.

Driving on Canyonleigh Road is significantly different than Foxgrove Road, due to the material used for the road base, and therefore produced significantly more dust than Foxgrove Road.

This discussion of the road base is to just highlight that the road base on Foxgrove Road is made up of large particles, both the dust content and rocks. As such, minimal dust is suspended in the air as the particles are heavier, as compared to the fine red dust on Canyonleigh Road.

Distance of houses from Foxgrove Road

Referring to the google maps image below, I have measured, using the google measuring tool, the straight-line distance from Foxgrove Road to the houses along Foxgrove Road. I have also added the two new houses on Foxgrove Road (these do not appear on the current google maps image). (these are the two houses to the east of Foxgrove Road, 100m and 370m from the road).

Starting at the Southern end of Foxgrove road (ie the Canyonleigh end) we have the following data

1. House 370m West of Foxgrove Road
2. House 515m East of Foxgrove Road
3. House 330m East of Foxgrove Road
4. House 540m West of Foxgrove Road
5. House 40m West of Foxgrove Road
6. House 100m East of Foxgrove Road (new house)



7. House 370m East of Foxgrove Road (new house)
8. House 260m West of Foxgrove Road

Two major observations can be determined from this data

1. Only two houses on Foxgrove road are close enough to Foxgrove road to have any significant possible dust issues (ie, 40m to the west and 100m to the east)
2. Of these two houses, as the prevailing wind (70%) comes from the South/South West/North West, only one house has a potential of dust issues, and that is the house 100m to the east.

Considering the distances show on the google map image, many houses are so far from Foxgrove Road, that any dust originating from the road will be significantly diffused or settled onto the ground before reaching the house area. In addition, what needs to be considered is the inverse squared law.

If the distance from the source doubles:

- the separation between particles doubles
- the number of particles per metre is halved.

So, the number of particles per square metre is quartered.

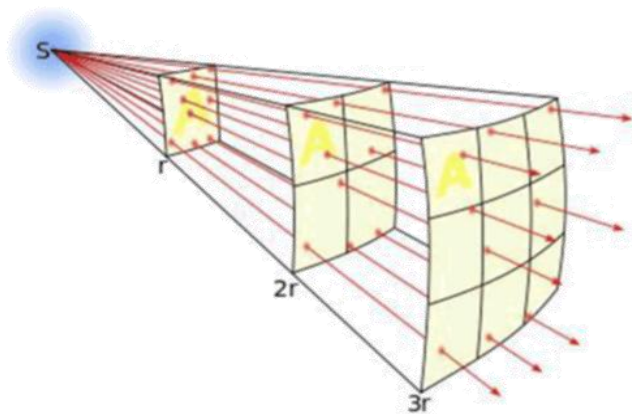


FIGURE 2 PARTICLE SOURCE IS FOXGROVE ROAD

So, the density of the dust is significantly diffused as the distance from the source increases, to such an extent that the density of the dust at most of the houses would be unnoticeable.



FIGURE 3 DISTANCE MEASUREMENTS FROM FOXGROVE ROAD TO HOUSES



Dust Created by Vehicles

The primary question for dust impact on houses is the amount of dust created by vehicles driving either North or South along Foxgrove Road. Secondary is the distance each house is from Foxgrove Road, as detailed above.

We undertook a test, driving a van (we tested a larger vehicle, rather than a car) to view the amount of dust created by this vehicle driving along Foxgrove Road.

The method was to drive the van at specific speeds, with a trailing vehicle video recording the amount of dust produced.

The speeds tested were as follows, two videos for each speed, one heading north and one south along Foxgrove Road: -

- 20kph
- 40kph
- 50kph
- 70kph

These tests were performed on the 5th of September 2019, on a dry sunny day, with no moisture on the road. There was a slight westerly wind. Conditions were warm.

Observations

From the 8 videos recorded we observed the following (Please refer to the mp4 files saved on the provided USB drive).

It is very clear that at 20kph in both directions, no visible dust was created by the van.

At 40kph, very small amounts of dust can be viewed, not continuous, but in small occasional "puffs".

At 50kph, it was very similar to 40kph, with very small occasional "puffs" of dust.

At 70kph there is more consistent dust, but as can be seen in the videos, the dust diffuses very quickly, and almost disappears by the time the trailing vehicle passes the dust cloud. Another note is how diffused the dust is near the trees on the side of the road, literally a few meters away. So, for houses that are 50 to 500 meters away, even at 70kph, the minimal dust would be completely diffused and/or settled on the ground.

From the visual tests performed, even at 70kph, the resulting dust created by the vehicle is minimal. At 50kph it is basically non-existent. Our recommendation based on the tests and observations is to insist that our guests drive their vehicles at 50kph or less. Guests towing caravans will be asked to drive at 30kph or below.

We believe that at these speeds, we have addressed the concerns regarding dust.

Adding to this the distance each house is from Foxgrove road, and the direction of the prevailing wind, the impact on houses along Foxgrove Road, produced by cars travelling at or below 50kph is negligible.

Recommendation

1. MPEF management will insist that guests travelling on Foxgrove Road drive at or below 50kph
2. MPEF management will insist that guests towing caravans on Foxgrove Road, drive at or below 30kph
3. MPEF Management will spray water along a 100m stretch of Foxgrove road (either side of the two closest houses), when a larger group of guests plan to arrive at Morton Park (ie greater than 10 cars)
4. Below 10 cars, the dust impact is so minimal that the watering of the 100m stretch of Foxgrove Road will have negligible impact.



Attachments

Supplied with report are the following files, contained on the USB drive.

- North 20.mp4
- North 40.mp4
- North 50.mp4
- North 70.mp4
- South 20.mp4
- South 40.mp4
- South 50.mp4
- South 70.mp4
- IDCJCM0021.068045.3pm.PDF – 3pm yearly average wind direction at Moss Vale
- IDCJCM0021.068045.9am.PDF - 9am yearly average wind direction at Moss Vale
- Plus 12 PDFs for monthly average wind direction at 9am
- Plus 12 PDFs for monthly average wind direction at 3pm

Summary screenshots of vehicle travelling on Foxgrove road at various speeds



FIGURE 4 SCREENSHOT OF VEHICLE 20KPH NO DUST



FIGURE 5 SCREENSHOT OF VEHICLE 40KPH NO DUST



FIGURE 6 SCREENSHOT OF VEHICLE 50KPH NO DUST



FIGURE 7 SCREENSHOT OF VEHICLE 70KPH SOME DUST



Morton Park EcoFarm Guest Orientation Information

This guide will be used by Morton Park management to reinforce all our policies with the guest, in person and before they setup camp.

Welcome to Morton Park EcoFarm. Our goal as a management team, is to maintain or increase the ecological significance of MPEF, while allowing guests to experience the natural beauty of MPEF.

Our strict policy is zero footprint, and this includes all activities at MPEF as well as guests arriving and departing from MPEF.

As such, we respectfully ask our guests to commit to abiding by the following MPEF policies: -

1. Inform MPEF management of your pre-booked arrival time, re-confirming 30 minutes prior to arrival
2. If you are part of a larger group, please organise for a joint arrival time where possible
3. When driving down Foxgrove Road (the dirt road leading to MPEF) please drive at or below 50kph, cars towing caravans limited to 30kph. This will ensure
 - a. Less chance of hitting and injuring wildlife
 - b. Less chance of accident (car running off the road)
 - c. Minimal dust impact for neighbours
 - d. Minimal noise impact for neighbours
 - e. Minimal dirt road deterioration.
4. When entering MPEF take the first gate on your right.
5. Always leave gates as you find them. If closed, open, go through, then close again. If open, simply drive through and leave the gate open.
6. Within MPEF maximum speed limit is always 10kph
7. Drive straight into the Campsite Main Area, where a member of MPEF management will greet you for your in-person orientation. (see attached map of MPEF for location of orientation greeting location).
8. Whatever you bring to MPEF, you must take back with you.
9. If you need to leave some rubbish or recycling at MPEF there is a \$20 ecofund you must prearrange to pay, and all garbage is left in the designated bins. All rubbish must be sorted into recycling, organic plant waste and general waste. We have designated bins for each. MPEF management will need to confirm sorting and placement in the appropriate bins, on departure.
10. Only use designated tracks to drive on.
11. Drive directly to your campsite, and directly back to a designated track
12. No 4WD at MPEF
13. No motorbikes at MPEF
14. No hunting at MPEF
15. At all times, minimise noise
16. All flora and fauna are to be respected.
17. When viewing wildlife, keep your distance, do not scare or stress any animals, native or other
18. If possible, please contribute to our observation log. Take a photo of the animal, bird, lizard, log the time and location. Then please email to wildlife@mortonparkfarm.com.au at the end of your visit
19. Total noise curfew starts at 10pm
20. Total noise curfew ends at 7am



Pre arrival Guest Orientation Guide

This pre-arrival guest orientation guide will be emailed to the guest at the time of booking their visit.

Thank you for choosing to stay at Morton Park Eco Farm.

We are certain you will have an amazing experience.

This pre-arrival guest orientation guide is to assist you with arriving safely at Morton Park Eco farm, as well as gain an understanding of our rules and requirements of you.

As we are an ecotourism destination, we insist that all our guest, while arriving, while staying and when departing adhere to our guidelines.

These guidelines are specifically in place to: -

1. Ensure your safe passage to and from Morton Park Eco Farm
2. Minimise noise, dust and road deterioration on Foxgrove Road Canyonleigh
3. To minimise any environmental impact on Morton Park during your stay
4. Be aware of our flora and fauna and general habitat within and around Morton Park
5. Understand our waste management procedures

When traveling to Morton Park

Morton Park is approximately 90 minutes' drive south from Sydney, approximately 90 minutes' drive north from Canberra and approximately 60 minutes' drive west of Wollongong. Please take care on the roads, especially if you are towing a caravan.

You will exit the Hume Highway at Sutton Forest, and take the Illawara Highway exit. Illawara Highway continues to the east, and Canyonleigh Road continues to the west. Please head west on Canyonleigh Road.

The right-hand turn into Foxgrove Road is 5km along Canyonleigh Road. Please keep a safe travelling speed along Canyonleigh Road, as there are some off camber turns, so it is certainly best to keep under the posted 100kph speed limit. And if towing a caravan, I would suggest a maximum of 80kph, and suggest even lower depending on the size of your caravan.

Once you turn onto Foxgrove road, you are now 2km from Morton Park.

Foxgrove Road is a reasonably good dirt road, but I urge you, to comply with traveling at or below 50kph in a car or campervan, and at or below 30kph if towing a caravan. The reasoning being; -

1. Ensure safe passage for you and your family on the 2km of dirt road
2. Minimise the possibility of hitting any wildlife, specifically kangaroos and wombats, that are very common in this area
3. Minimise noise created by your vehicle, so we do not disturb the neighbours along Foxgrove Road.
4. By traveling at or below the speeds suggested, your vehicle will cause minimal dust as well as minimal road deterioration.

Once you have driven 2km on Foxgrove road, you will come to a hard-left bend in the road. Please slow down here, as Morton Park will be ahead of you on the right. Please enter here.

You are now within Morton Park and the maximum speed limit always is 10kph.

The first gate you come to on your right, with the campsite sign, is the gate you need to open and drive through.

As a rule, on farms, you leave the gate as you found it. If the gate is open, leave it open. If it is closed, open, pass through and then close it again.



Within Morton Park

Now that you are within Morton Park, please stay on the designate road, keep at or below 10kph, and follow it straight until you enter the main campsite area. Here a Morton Park representative will greet you and take you through your onsite orientation.





DEVELOPMENT APPLICATION FOR ALTERATIONS AND ADDITIONS TO ECO TOURIST ACCOMODATION

PROJECT
 198 FOXGROVE ROAD
 CANYONLEIGH NSW 2577
 CLIENT
 MR FRANK MALY
 DATE
 MAY 2019

JAMES TONKIN ARCHITECT
 JTA
 1202/3 KINGS CROSS ROAD
 RUSHCUTTERS BAY NSW 2011
 T 0419 252 495

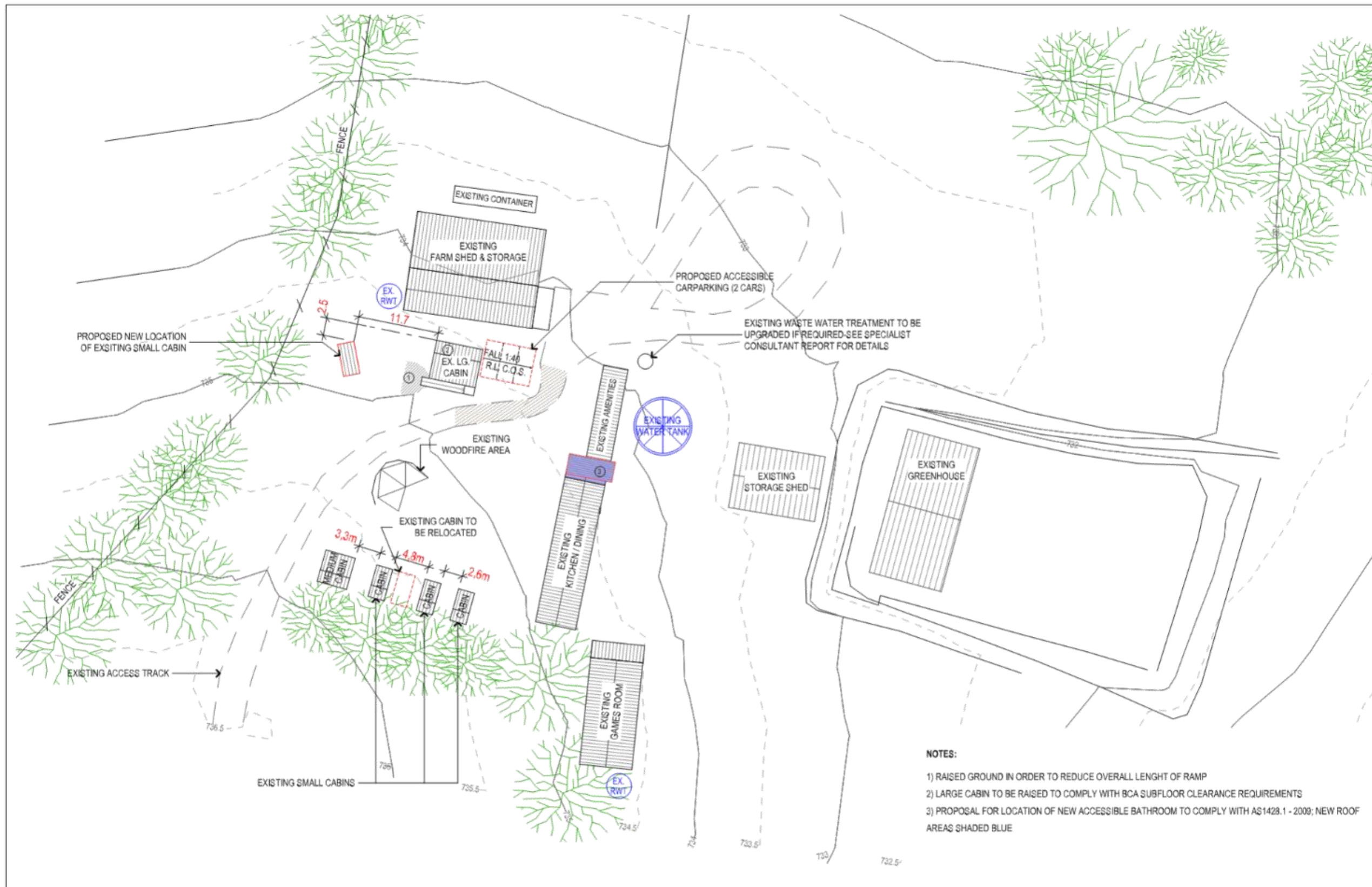
DRAWING LIST - D.A.

LAYOUT No:	LAYOUT NAME
DA102_A	SITE PLAN - AS EXISTING
DA103_A	SITE PLAN - AS PROPOSED
DA104_A	SMALL CABINS (TYPICAL FOR ALL)
DA105_A	MEDIUM CABIN
DA106_A	LARGE CABIN
DA 107_A	PROPOSED ACCESSIBLE BATHROOM





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ISSUE	DATE	DESCRIPTION								
A	09-05-2019	DEVELOPMENT APPLICATION								



- NOTES:**
- 1) RAISED GROUND IN ORDER TO REDUCE OVERALL LENGTH OF RAMP
 - 2) LARGE CABIN TO BE RAISED TO COMPLY WITH BCA SUBFLOOR CLEARANCE REQUIREMENTS
 - 3) PROPOSAL FOR LOCATION OF NEW ACCESSIBLE BATHROOM TO COMPLY WITH AS1428.1 - 2009; NEW ROOF AREAS SHADED BLUE

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 The User Contractor and subcontractors are to verify dimensions on site prior to commencement of work. Check existing R/Ls on site. Advise Architect of any discrepancies before commencement. Allow for adjustments to exit discrepancies. Comply with relevant authorities requirements. Comply with Building Code of Australia requirements. Comply with relevant Australian Standards for materials and construction practice. Comply with Blue Chip/Code. Do not scale from drawings.
Notes Regarding "For Construction Documents"
 James Tonkin Architect (JTA) believes that the information shown on this drawing (when read with the applicable Specification & Schedule of Finishes & Fixings) is sufficient for a reasonably competent and experienced builder to understand the design intent, understand the process of construction required to achieve a finished product conforming with the design intent and understand what building materials, techniques and methods are required to achieve that finished product.
 FILE: 190621_193_0A.ppt

ISSUE	DATE	DESCRIPTION
A	09-05-2019	DEVELOPMENT APPLICATION

JAMES TONKIN ARCHITECT
JTA
 1202/3 KINGS CROSS ROAD
 RUSHCUTTERS BAY NSW 2011
 02 9326 9848 / 0419 252 495
 james.tonkin@optusnet.com.au
 NSW Reg. No. 8624
 ABN 56979951205

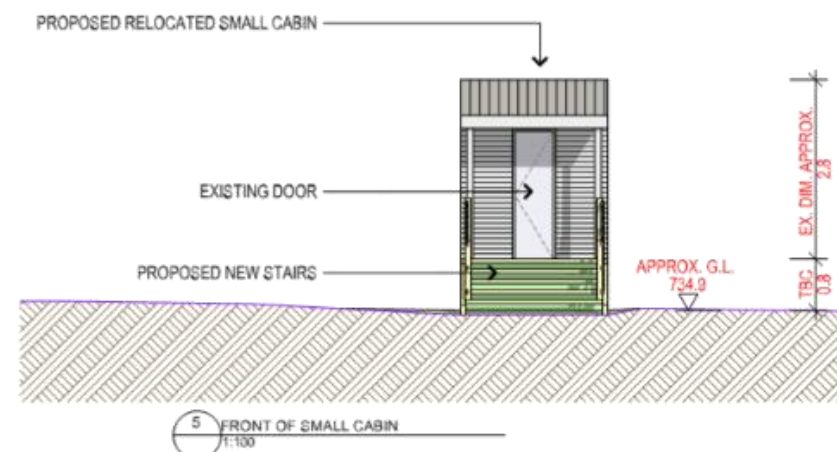
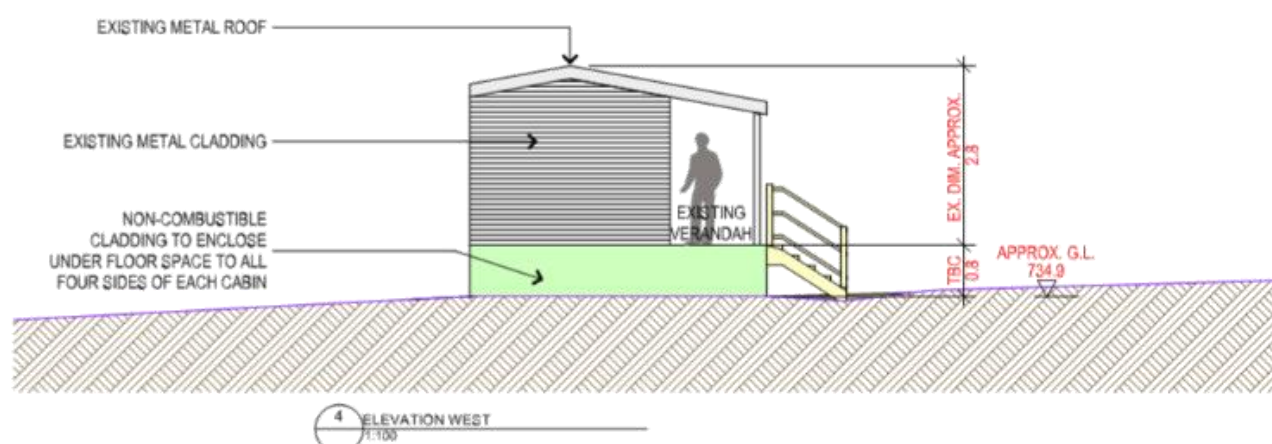
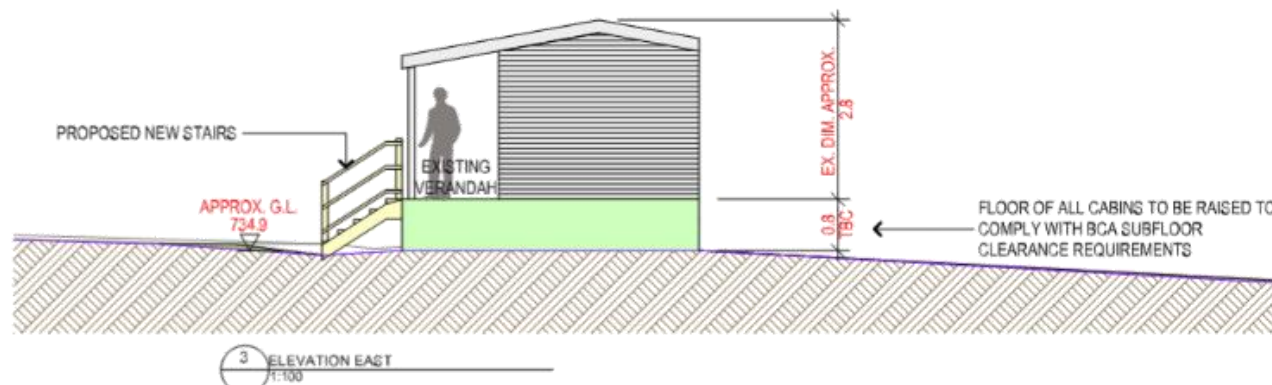
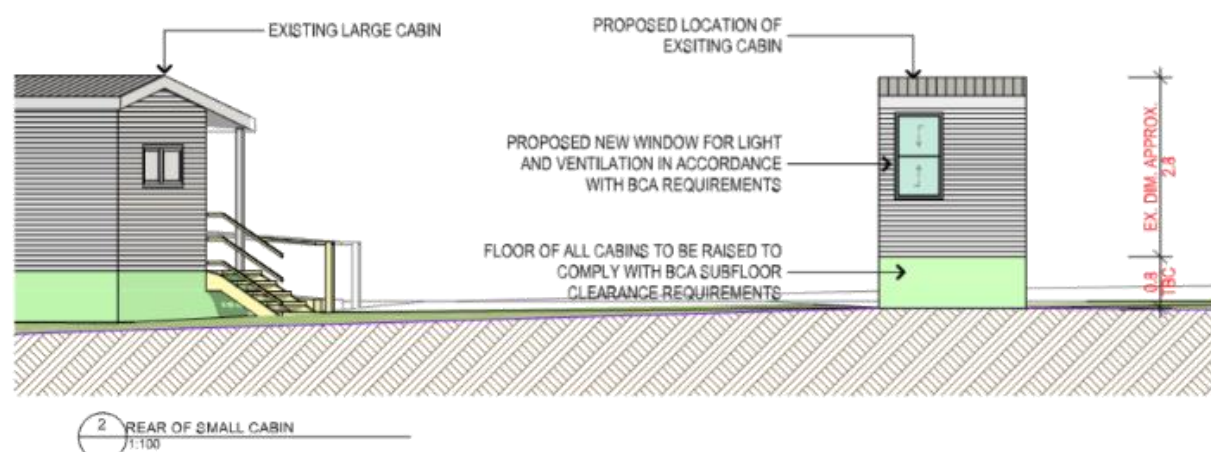
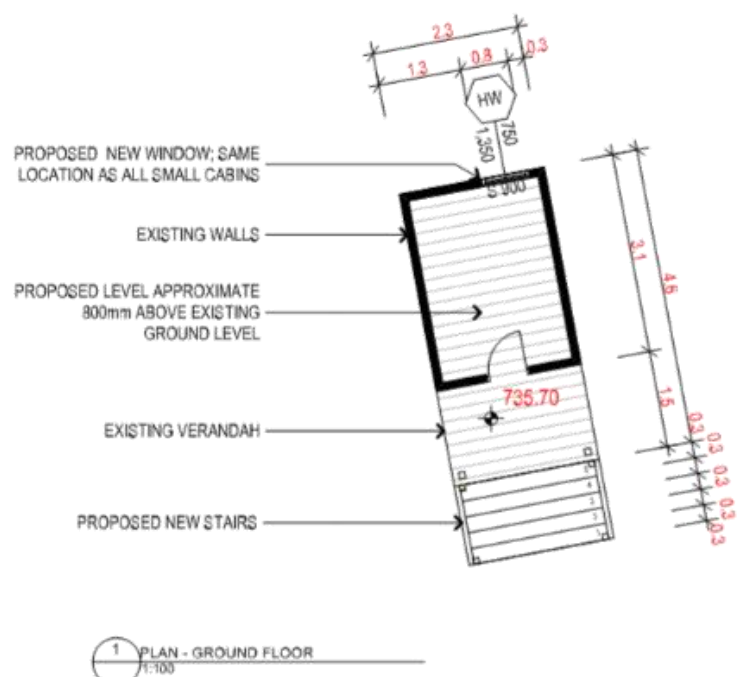
DRAWING SITE PLAN - AS PROPOSED
PROJECT ALTS. & ADDS. TO ECO TOURIST ACCOMODATION
198 FOXGROVE ROAD CANYONLEIGH NSW 2577
PROJECT # 133 DRAWN: JT
 PLOTTED: 9/05/2019 SCALE: 1:500 @A3 DRG # **DA103_A**





NOTES:

- 1) EXISTING CABINS REMAINING IN EXISTING LOCATION WILL HAVE SIMILAR HEIGHT ABOVE GROUND LEVEL
- 2) ALL INDICATED LEVELS ARE IN RELATION TO GROUND LEVEL WHICH SHALL BE CONFIRMED ON SITE
- 3) ALL MATERIALS TO COMPLY WITH BUSHFIRE REPORT SPECIFICATIONS
- 4) WINDOW LOCATION WILL BE THE SAME FOR ALL SMALL CABINS
- 5) NEW FIBRE CEMENT SHEET REPRESENTED IN THE COLOUR GREEN
- 6) NEW TIMBER REPRESENTED IN THE COLOUR YELLOW



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Notice Regarding "For Construction Documents"
 James Tonkin Architect (JTA) warrants that the information shown on this drawing (when read with the applicable Specification & Schedule of Finishes & Fixings) is sufficient for a reasonably competent and experienced builder to understand the design, impact, understand the process of construction required to achieve a finished product conforming with the design intent and understand what building materials, techniques and methods are required to achieve that finished product.

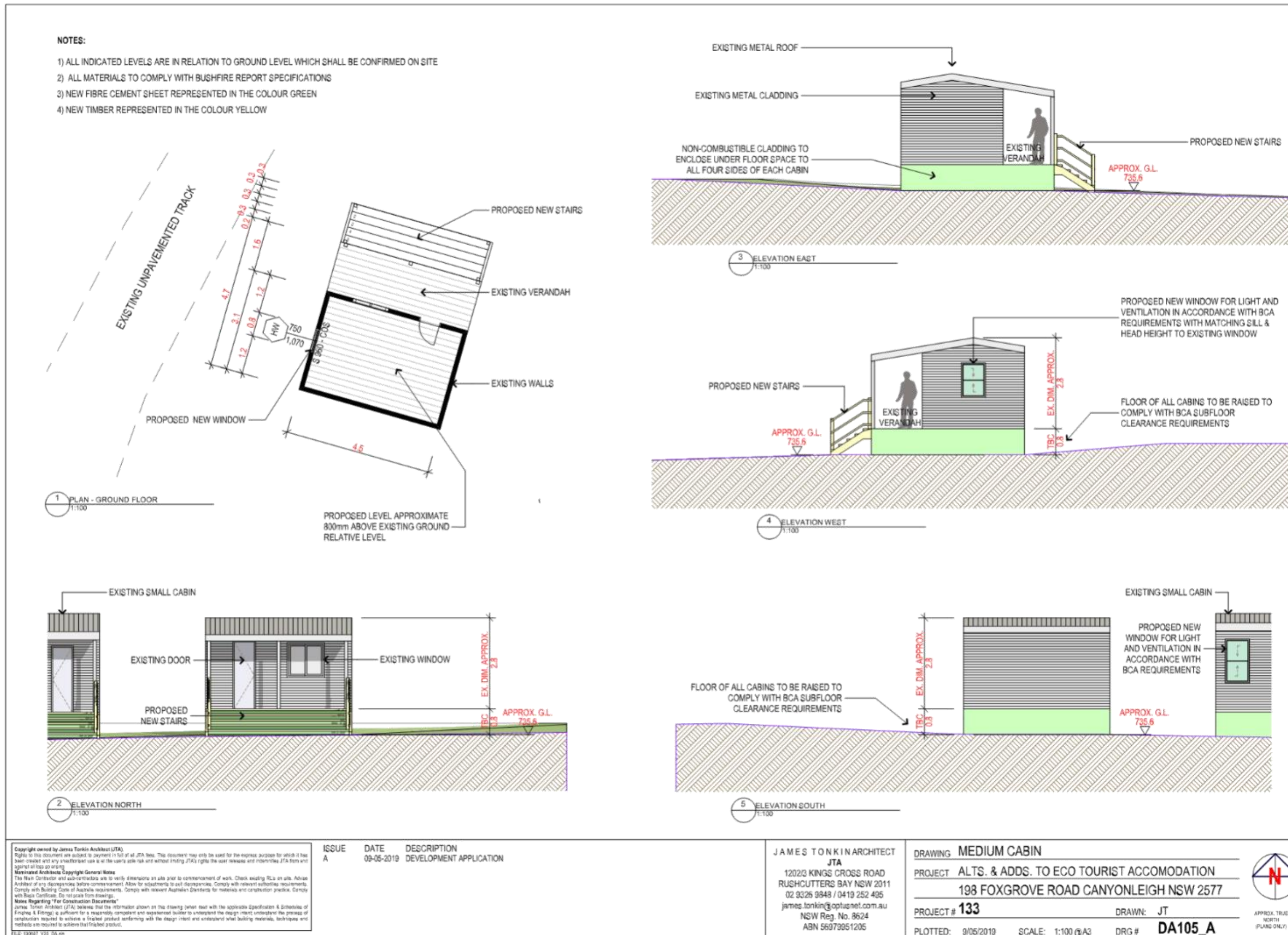
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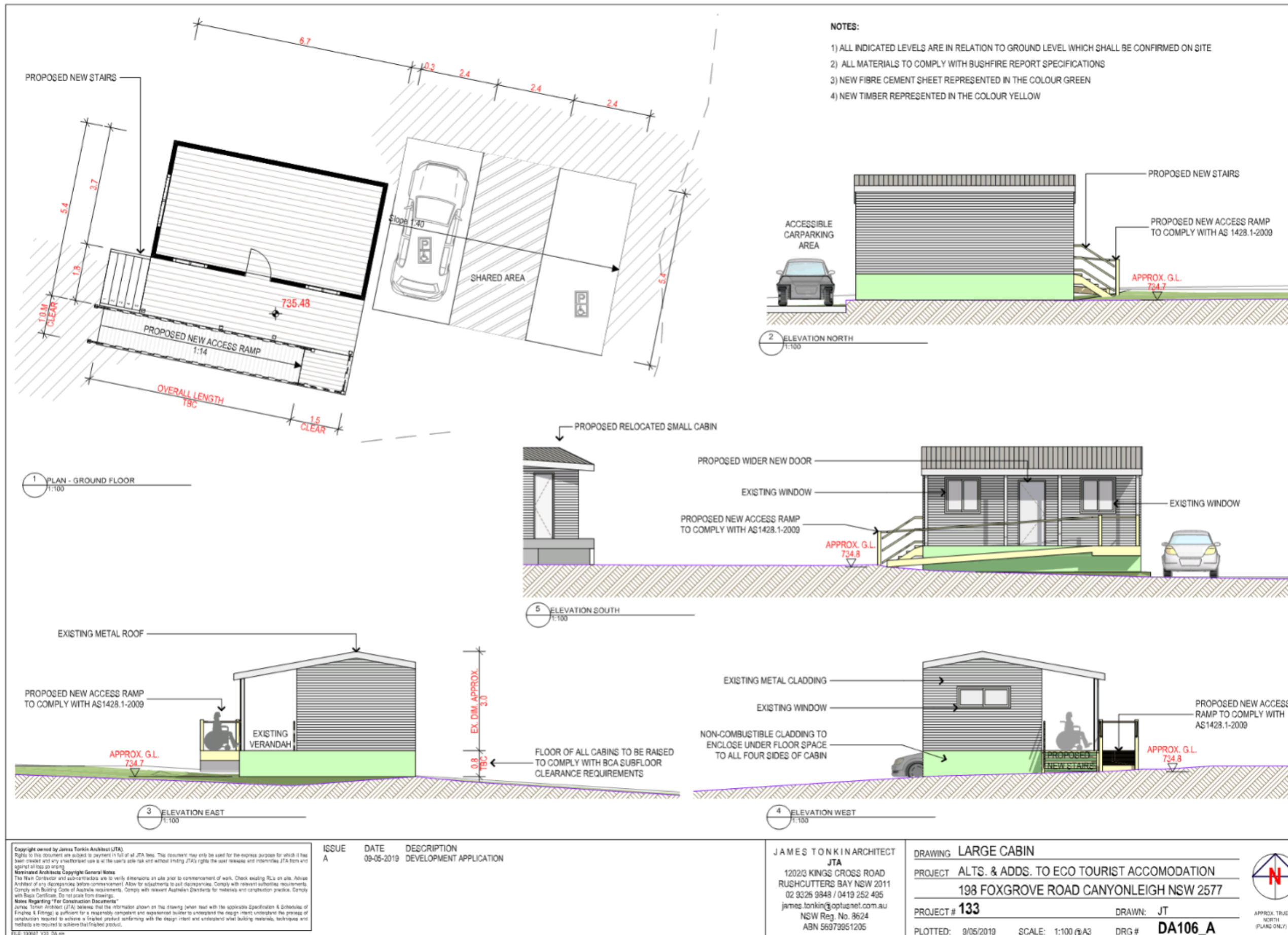
ISSUE	DATE	DESCRIPTION
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DRAWING **SMALL CABINS (TYPICAL FOR ALL)**
 PROJECT **ALTS. & ADDS. TO ECO TOURIST ACCOMODATION**
 198 FOXGROVE ROAD CANYONLEIGH NSW 2577
 PROJECT # **133** DRAWN: JT
 PLOTTED: 9/05/2019 SCALE: 1:100 @A3 DRG # **DA104_A**

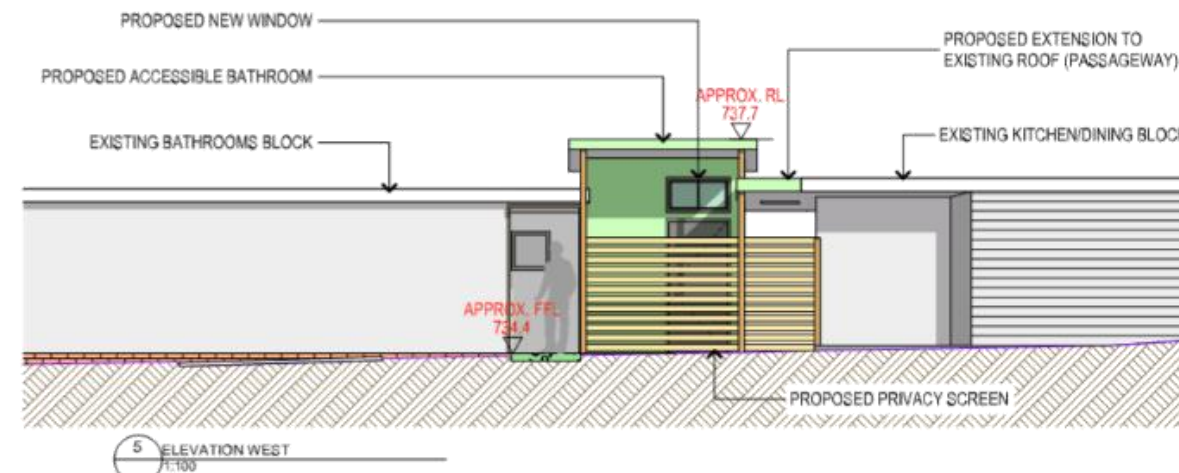
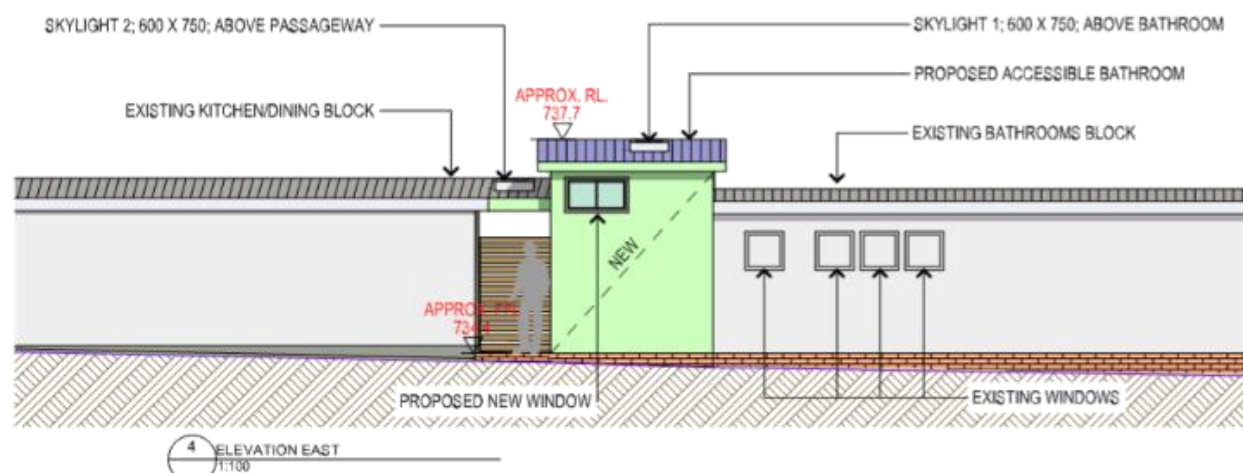
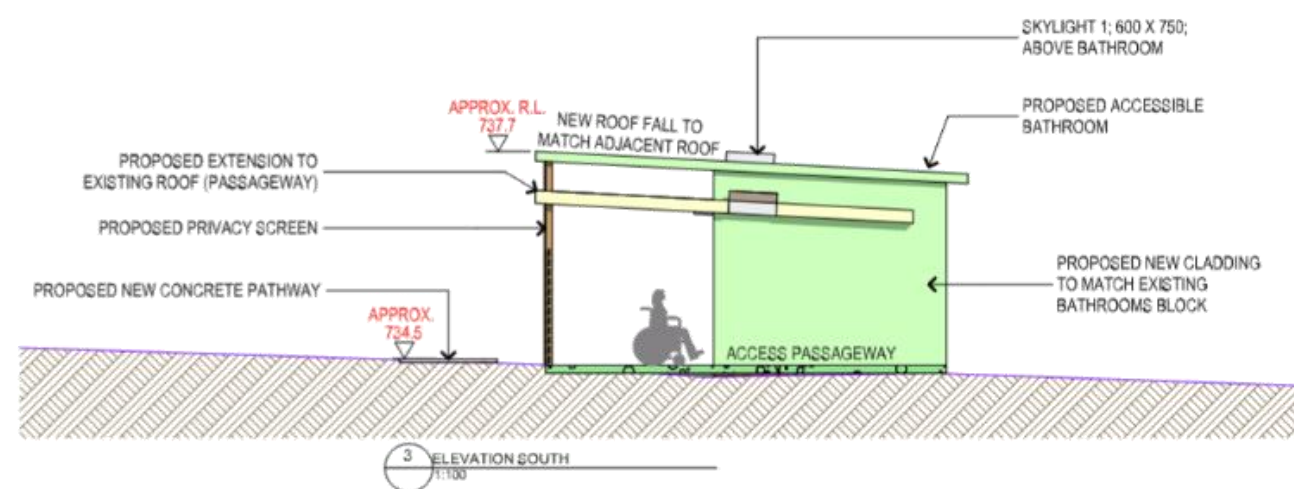
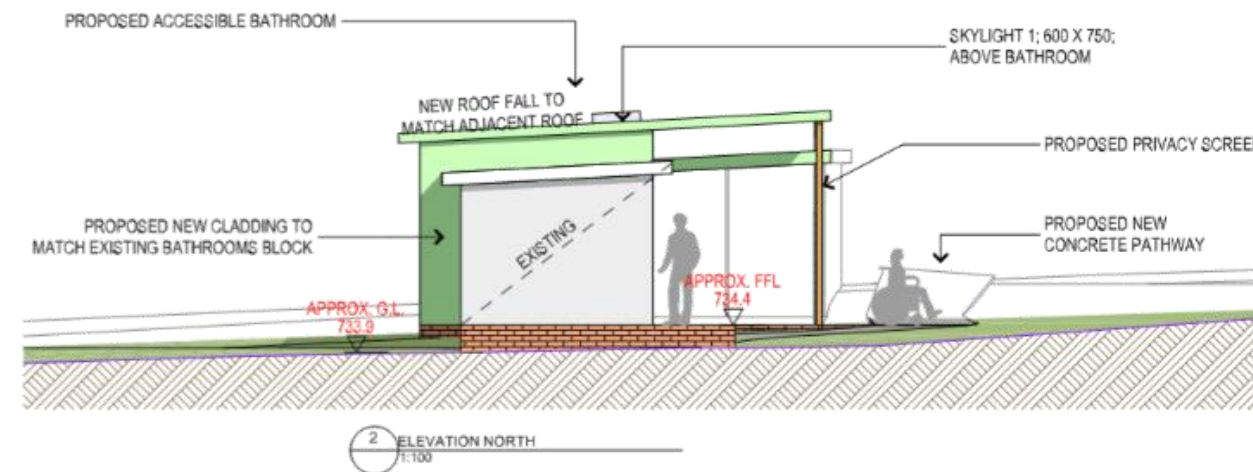
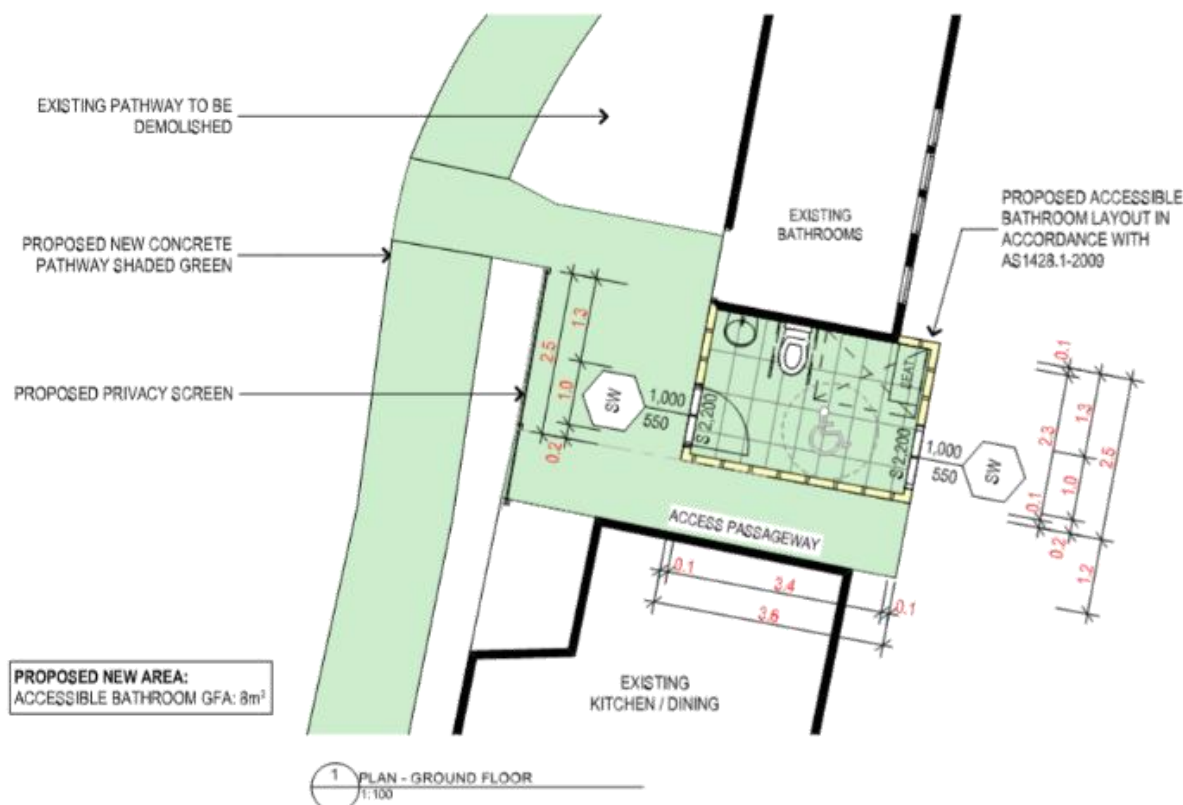






NOTES:

- 1) ALL INDICATED LEVELS ARE IN RELATION TO GROUND LEVEL WHICH SHALL BE CONFIRMED ON SITE
- 2) ALL MATERIALS TO COMPLY WITH BUSHFIRE REPORT SPECIFICATIONS
- 3) NEW FIBRE CEMENT SHEET REPRESENTED IN THE COLOUR GREEN
- 4) NEW TIMBER REPRESENTED IN THE COLOUR YELLOW
- 5) NEW METAL ROOF REPRESENTED IN THE COLOUR BLUE



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Maximum Architects Copyright General Note
 The User Contractor and subcontractors are to verify dimensions on site prior to commencement of work. Check existing RLs on site. Advise Architect of any discrepancies before commencement. Allow for adjustments to suit discrepancies. Comply with relevant authorities requirements. Comply with Building Code of Australia requirements. Comply with relevant Australian Standards for materials and construction practice. Comply with Blue Cross Code. Do not scale from drawings.

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 James Tonkin Architect (JTA) believes that the information shown on this drawing (when read with the applicable Specification & Schedule of Finishes & Fixings) is sufficient for a reasonably competent and experienced builder to understand the design intent, understand the process of construction required to achieve a finished product conforming with the design intent and understand what building materials, techniques and methods are required to achieve that finished product.

FILE: 190621_193_04a.pdf

ISSUE	DATE	DESCRIPTION
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 02 9326 9848 / 0419 252 495
 james.tonkin@optusnet.com.au
 NSW Reg. No. 8624
 ABN 56979951205

DRAWING: PROPOSED ACCESSIBLE BATHROOM
 PROJECT: ALTS. & ADDS. TO ECO TOURIST ACCOMMODATION
 198 FOXGROVE ROAD CANYONLEIGH NSW 2577
 PROJECT # 133
 PLOTTED: 9/05/2019 SCALE: 1:100 @A3 DRG # DA 107_A



6 PLANNING PROPOSALS

6.1 Planning Proposal to Rezone the Guula Ngurra National Park to E1 National Parks and Nature Reserves

Reference:	5901/84
Report Author:	Senior Strategic Land Use Planner
Authoriser:	Coordinator Strategic Land Use Planning
Link to Community Strategic Plan:	Sustainably manage natural resources for broader community benefit

PURPOSE

The purpose of this report is to obtain a resolution from Council to prepare a Planning Proposal to rezone the recently created Guula Ngurra National Park in Canyonleigh to E1 National Parks and Nature Reserves.

Applicant / Proponent	Council initiated
Owner	Minister Administering the National Parks and Wildlife Act 1974
Consultants	N/A
Notification	N/A
Number Advised	N/A
Number of Submissions	N/A
Current Zoning	E3 Environmental Management & RU1 Primary Production
Proposed LEP Amendment/s	Rezone the subject land to E1 National Parks and Nature Reserves
Political Donations	N/A
Recommendation	Planning Proposal BE Supported

RECOMMENDATION

THAT a Planning Proposal be prepared and submitted to the Department of Planning, Industry and Environment under Section 3.22 of the *Environmental Planning and Assessment Act 1979*, to rezone the recently reserved Guula Ngurra National Park in Canyonleigh to E1 National Parks and Nature Reserves; and remove the existing Minimum Lot Size on the reserved lots under the Wingecarribee Local Environmental Plan 2010.

REPORT

1. Background

On 23 August 2020, a notice was published in the Government Gazette reserving land in Canyonleigh as the Guula Ngurra National Park under the *National Parks & Wildlife Act 1974*, and the renaming of part of the Bangadilly National Park. A copy of the notice forms **ATTACHMENT 1** of this report.

The land reserved under the National Parks and Wildlife Act 1974, for the purpose of creating the Guula Ngurra National Park is legally described as Lots 5, 17, 20, 42-44, 60, 70-72, 74, 77, 81, 84, 97, 109 DP 751248, Lot 11 DP 574342, Lot 1 DP 805102, Lots 1, 3-8 DP 1248326, Lots 10-12 DP 1248327, part of Lot 8 DP 707845, part of Lot 2 DP 1248326 and part of Lot 9 DP 1248327. For the purpose of this report, the subject lots will be referred to as the reserved lots.

Land reserved under the *National Parks and Wildlife Act 1974* is zoned E1 National Parks and Wildlife Reserves, and the Department of Planning Industry and Environment (DPIE) has advised that the Wingecarribee Local Environmental Plan (LEP) 2010 should be updated to reflect the creation of the new Guula Ngurra National Park.

GUULA NGURRA NATIONAL PARK

The land reserved under the National Parks and Wildlife Act 1974, for the purpose of creating the Guula Ngurra National Park is shown in **Figure 1** and is legally described as Lots 5, 17, 20, 42-44, 60, 70-72, 74, 77, 81, 84, 97, 109 DP 751248, Lot 11 DP 574342, Lot 1 DP 805102, Lots 1, 3-8 DP 1248326, Lots 10-12 DP 1248327, part of Lot 8 DP 707845, part of Lot 2 DP 1248326 and part of Lot 9 DP 1248327. For the purpose of this report, the subject lots will be referred to as the reserved lots.

The combined area of the reserved lots is 2,549.6 hectares and is wholly within Wingecarribee Shire LGA. The land is located in Canyonleigh towards the western edge of the Shire, adjoining Wollondilly River Nature Reserve to the north-west and part of the existing Bangadilly National Park to the south-east. As specified in the gazette notice, part of Bangadilly National Park will be renamed and included within the proposed Guula Ngurra National Park.

The identified reserved lots are all owned by the Minister Administering the National Parks and Wildlife Act 1974.

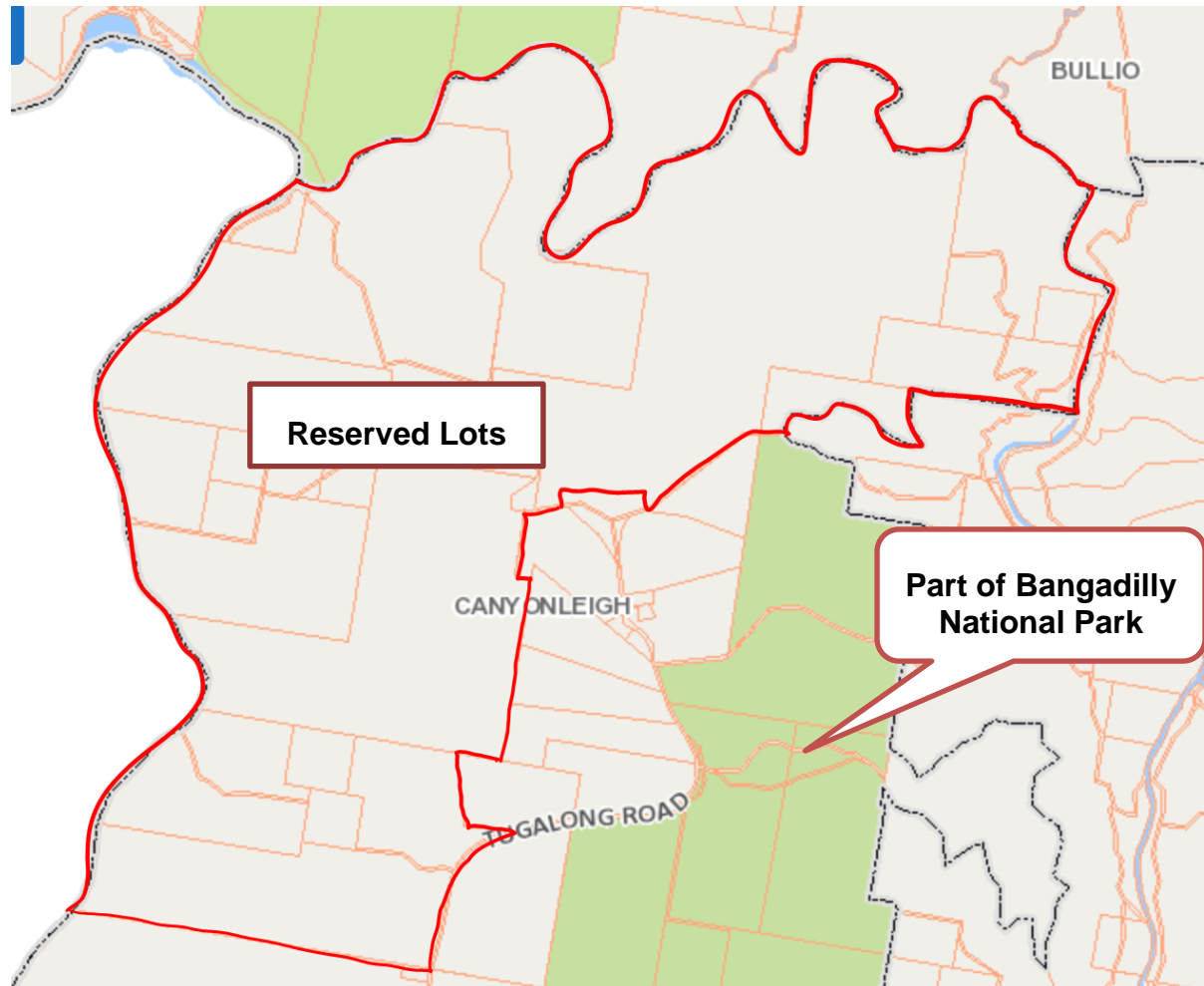


Figure 1 Identified area in red boundary are the reserved lots for Guula Ngurra National Park, under National Park and Wildlife Act 1974.

The Gazette Notice also identifies parts of three lots that are excluded from Guula Ngurra National Park and will remain unchanged in terms of their land zoning and minimum lot size. **Figure 2** shows the identified area which will not form part of this Planning Proposal as it is does not form part of the newly created National Park.

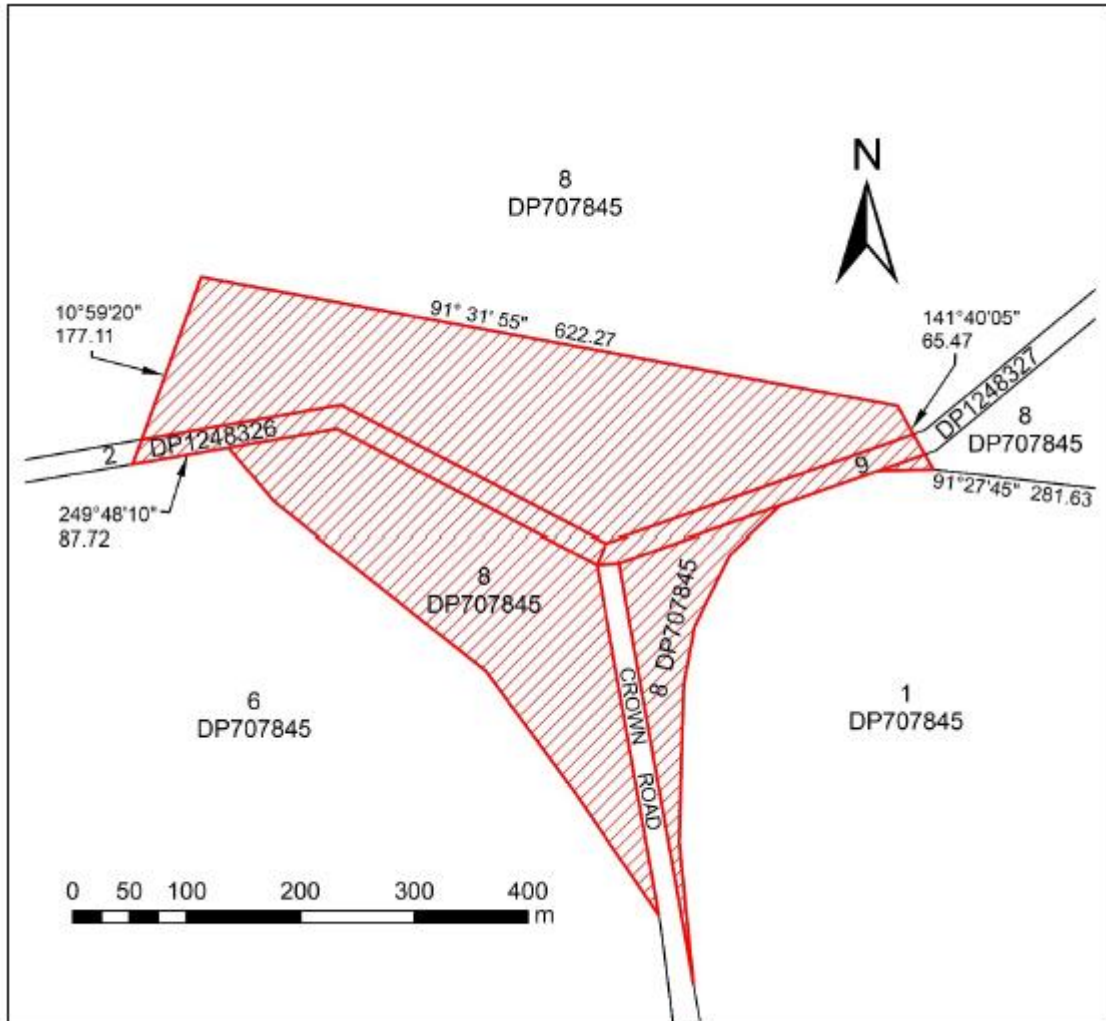


Figure 2 Identified area excluded from Guula Ngunra National Park and will remain unchanged in terms of its land zoning (Attachment 1)

2. Planning Proposal

The Planning Proposal seeks to rezone the reserved lots from part RU1 Primary Production and part E3 Environmental Management to E1 National Parks and Nature Reserves under the Wingecarribee LEP 2010, to reflect the status of the newly created National Park. The proposal also seeks to remove the mapped minimum lot size from the reserved lots, consistent with all E1 zoned land within the Shire.

Section 3.22 of the *Environmental Planning & Assessment (EP&A) Act 1979* provides an expedited amendment pathway for environmental planning instruments which are of a minor administrative nature only. As the Guual Ngunra National Park has been formally notified, the proposed rezoning of the subject land to E1 National Parks and Nature Reserves is considered to be an administrative matter and of a minor nature.

Council sought advice from DPIE as to whether to proposal could be considered as a Section 3.22 Amendment. It was advised that the expedited process may be possible under section 3.22(1)(c), with relevant justification that the amendment will not have any significant adverse impacts on the environment or adjoining land.

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 02 June 2021

PLANNING PROPOSALS



The subject land has already been reserved as a National Park and the rezoning to E1 National Parks and Nature Reserves reflects the status of the land and will not result in any adverse environmental impacts on the environment or adjoining land.

3. Communication and Consultation

Community Engagement

The National Park has been notified in the Government Gazette, and no further community engagement would occur under a Section 3.22 (1) (c) Planning Proposal.

Internal Communication and Consultation

No internal consultation was required in preparing this report.

External Communication and Consultation

Advice was sort from the DPIE to confirm that the Planning Proposal can be considered under Section 3.22(1)(c), with relevant justification.

4. CONCLUSION

The amendments proposed in the Planning Proposal will ensure that the land use zones under the Wingecarribee LEP 2010 is consistent with the status of the land reserved under the *National Parks and Wildlife Act 1974*, for the purpose of a new National Park.

ATTACHMENTS

1. Gazette Notice - New Guula Ngurra National Park



Planning,
Industry &
Environment



General Manager
Wingecarribee Shire Council
PO Box 141
MOSS VALE NSW 2577

Email: mail@wsc.nsw.gov.au

Dear Sir/Madam

Notice of Reservation under the National Parks & Wildlife Act 1974

Creation of Guula Ngurra National Park and renaming of part Bangadilly National Park

Please find attached Government Gazette notice published 23 August 2020 in regard to the above for your information and records.

Land reserved under the National Parks and Wildlife Act 1974 is zoned E1 National Parks and Nature Reserves and this can be amended in your Local Environmental Plan.

Please contact me if you have any questions.

CATHY JOHNSON
Project Officer – Land Information
Reserve Establishment
T (02) 9585 6377
cathy.johnson@environment.nsw.gov.au

25 August 2020

Locked Bag 5022 Parramatta NSW 2124
4 Parramatta Square 12 Darcy St Parramatta NSW
Tel: 9995 5000
ABN 30 841 387 271
www.nationalparks.nsw.gov.au



NATIONAL PARKS AND WILDLIFE ACT 1974

NOTICE OF RESERVATION OF A NATIONAL PARK

I, the Honourable Margaret Beazley AC QC, Governor of the State of New South Wales, with the advice of the Executive Council, reserve the land described in the Schedules below under the provisions of Sections 30A(1)(a) of the *National Parks and Wildlife Act 1974* and under Section 30A(2) assign the name **Guula Ngurra National Park**.

SIGNED at Sydney this 8th day of July, 2020.

MARGARET BEAZLEY
Governor,
By Her Excellency's Command,

MATTHEW KEAN
Minister for Energy and Environment.

GOD SAVE THE QUEEN

Land District – Moss Vale LGA – Wingecarribee

An area totalling 2549.6 hectares

Schedule 1

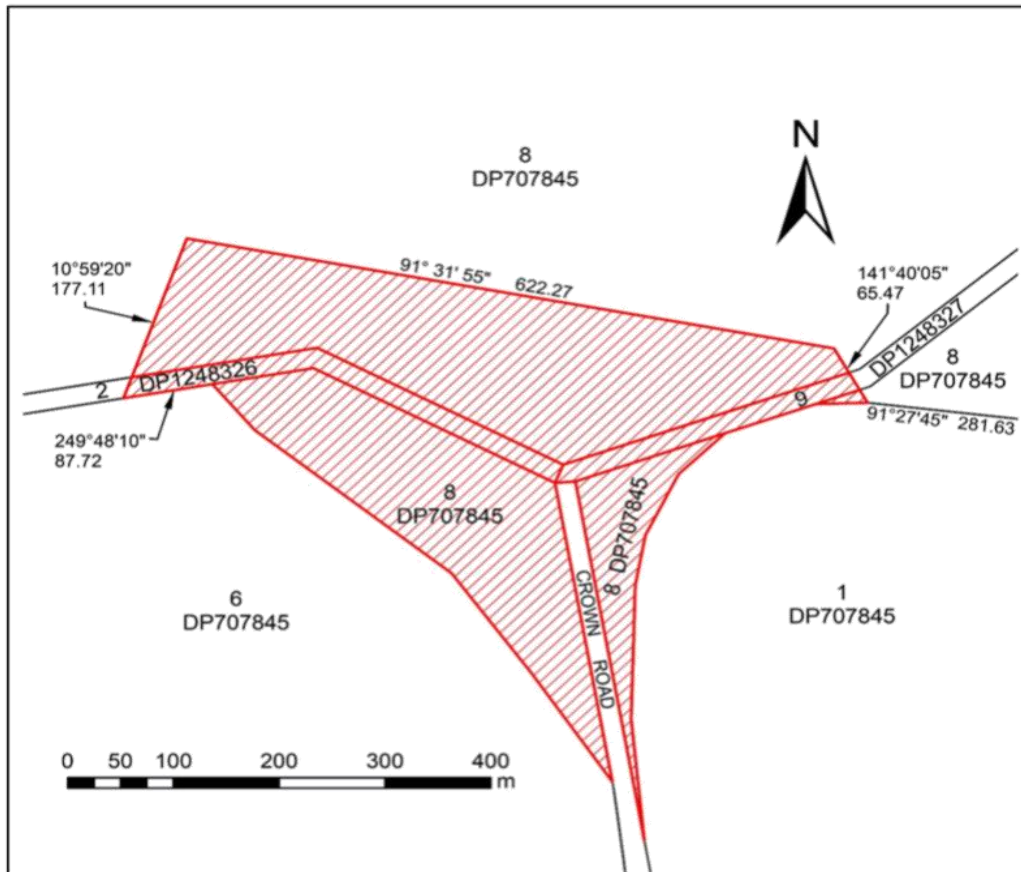
County of Camden, Parish of Bangadilly, 1625.8 hectares, being the land described in the table below.

Lot	DP	Lot	DP
11	DP574342	84	DP751248
5	DP751248	97	DP751248
17	DP751248	109	DP751248
20	DP751248	1	DP805102
42	DP751248	1	DP1248326
43	DP751248	3	DP1248326
44	DP751248	4	DP1248326
60	DP751248	5	DP1248326
70	DP751248	6	DP1248326
71	DP751248	7	DP1248326
72	DP751248	8	DP1248326
74	DP751248	10	DP1248327
77	DP751248	11	DP1248327
81	DP751248	12	DP1248327



Schedule 2

County of Camden, Parish of Bangadilly, 923.8 hectares, being Lot 8 DP707845, Lot 2 DP1248326 and Lot 9 DP1248327; exclusive of the land shown red hatched in the diagram below.



Diagram

Papers NPWS/EF17/4304 & EF18/741

Reference number:(n2020-3800)



NATIONAL PARKS AND WILDLIFE ACT 1974

NOTICE TO ALTER THE NAME OF A NATIONAL PARK

I, the Honourable Margaret Beazley AC QC, Governor of the State of New South Wales, with the advice of the Executive Council, hereby alter the name of a National Park (part), as set out in the Schedule below, under the provisions of section 30A(2) of the National Parks and Wildlife Act 1974.

Dated this 8th day of July, 2020.

MARGARET BEAZLEY
Governor,
By Her Excellency's Command,

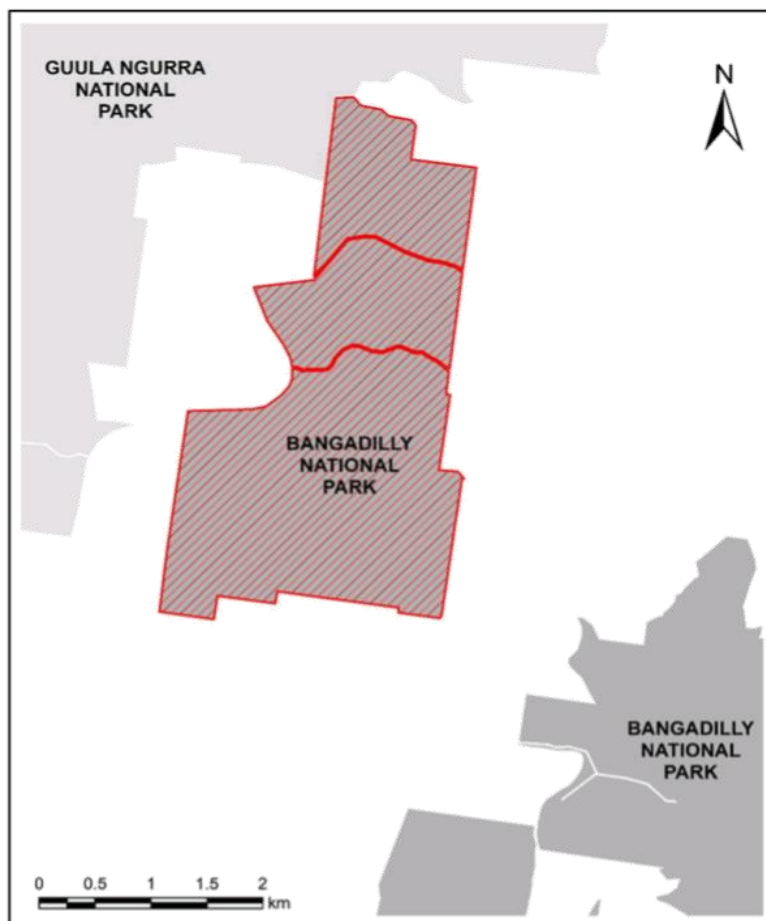
MATTHEW KEAN
Minister for Energy and Environment

Schedule

Part Bangadilly National Park to be renamed Guula Ngurra National Park, about 808 hectares, being that part shown by red hatching in the diagram below.

6.1 Planning Proposal to Rezone the Guula Ngurra National Park to E1 National
Parks and Nature Reserves

ATTACHMENT 1 Gazette Notice - New Guula Ngurra National Park



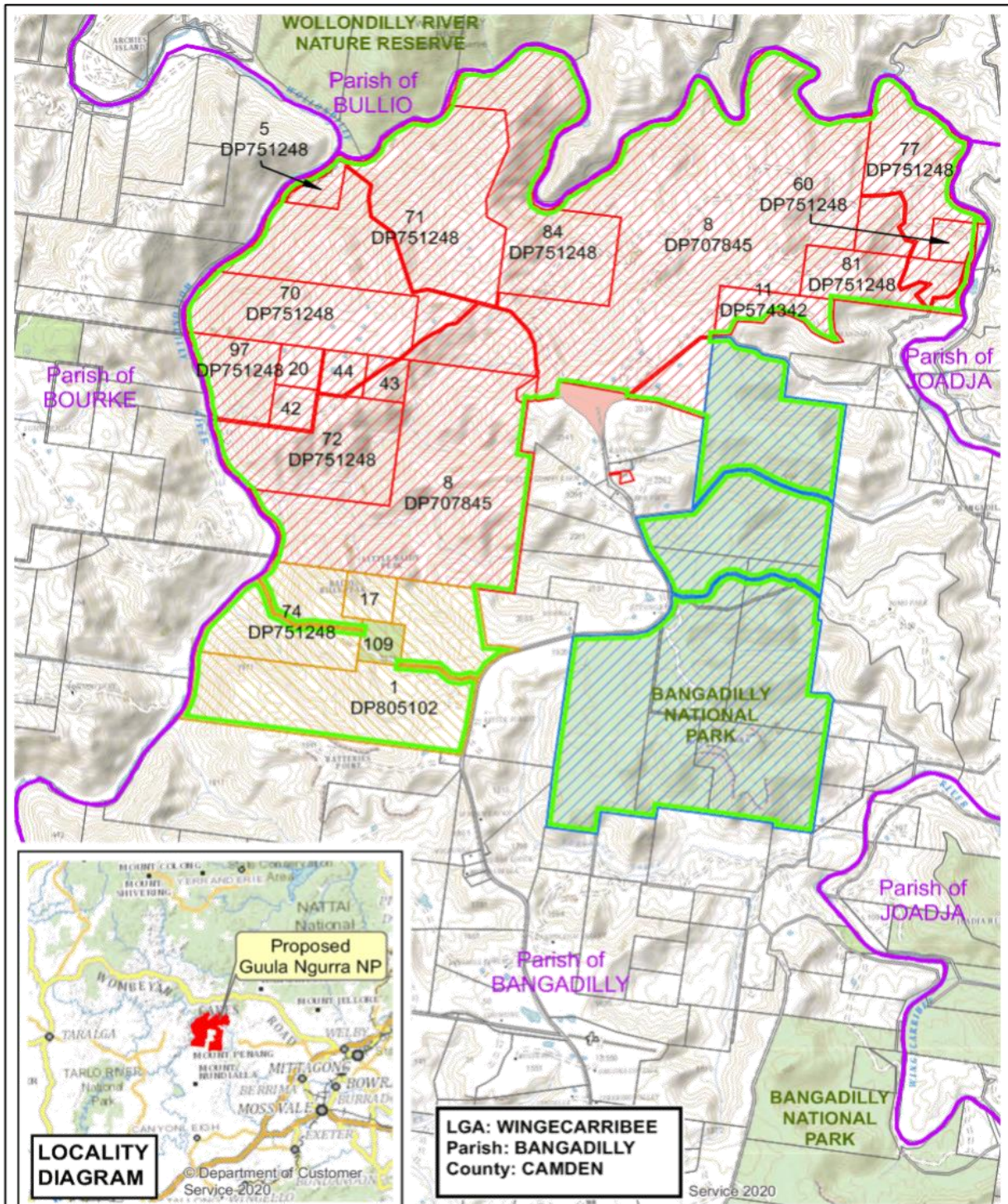
Diagram

Papers OEH/EF17/4304 & EF18/741

Reference number:(n2020-3801)

6.1 Planning Proposal to Rezone the Guula Ngurra National Park to E1 National Parks and Nature Reserves

ATTACHMENT 1 Gazette Notice - New Guula Ngurra National Park



Legend

- ▬ Guula Ngurra NP
- ▨ Pt Bangadilly NP to be renamed
- ▨ Little Forest West
- ▨ Tugalong Station
- ▨ Pt Tugalong to remain Part 11
- ▨ NPWS Estate

Guula Ngurra National Park

LGA: WINGECARRIBEE
Parish: BANGADILLY
County: CAMDEN

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NSW Planning, Industry & Environment

Printed By
REU - AP
23 Jul 2019

AOI 3845, 3961 & 4158
EF17/4304 & EF18/741

0 0.5 1 1.5 2 km



Les McMahon
Acting General Manager

Wednesday 26 May 2021