

# AGENDA

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

**Wednesday 23 August 2023**

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

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## **Our Mission, Our Vision, Our Values**

### **OUR MISSION**

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

### **OUR VISION**

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

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

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

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

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

### **OUR VALUES**

Integrity, trust and respect

Responsibility and accountability

Communication and teamwork

Service quality

## **Recording and Webcasting of Local Planning Panel Meetings**

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The meeting must not be recorded by others.

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**The Council Chamber has 24 Hour Video Surveillance.**

## **1 OPENING OF THE MEETING**

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

## **2 ACKNOWLEDGEMENT OF COUNTRY**

The Chairperson acknowledged country:

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

## **3 APOLOGIES**

Nil at time of print.

## **4 DECLARATIONS OF INTEREST**

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

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

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

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

## **5 PLANNING PROPOSALS**

There are no Planning Proposals listed for this meeting.

## **6 DEVELOPMENT APPLICATIONS**

### **6.1 DA23/0017 for Demolition and Construction of a Two Storey Retail & Commercial Building at 277- 293 Bong Bong Street, Bowral**

**Report Author:** Planning (Contractor) – Jeremy Swan  
**Authoriser:** Acting Manager Development Assessment –  
John Mc Fadden

#### **PURPOSE**

This report of this report is to consider a Development Application DA23/0017 which seeks development consent for the demolition of remaining structures and construction of a two-storey retail and commercial development at 277-293 Bong Bong Street Bowral. The report recommends that the Panel determine the development as proposed, for REFUSAL for the reasons outlined.

|  |  |
|--|--|
| <b>Consultants:</b>  | <ul style="list-style-type: none"><li>• Enscape Studio</li><li>• John Outram Heritage and Design</li><li>• Partners Energy</li><li>• Rygate &amp; Company Pty Limited</li><li>• Think Planners</li><li>• Transport and Traffic Planning Associates</li><li>• Turner</li><li>• VPL Consulting</li></ul> |
| <b>Applicant:</b>  | Sharjag Pty Limited  |
| <b>Land owner:</b>   | Sharjag Pty Limited  |
| <b>Land zoning:</b>  | E1 Local Centre  |
| <b>Applicant's estimated cost of proposed development:</b> | \$8,100,000.00   |
| <b>Notification period:</b>                                | 25 July 2022 to 2 August 2022  |
| <b>Number of submissions:</b>                              | No submissions were received.  |
| <b>Political donations:</b>                                | None declared  |
| <b>Reason for referral to Panel:</b>                       | The application is considered to be sensitive development and is referred to the Panel for consideration and determination.  |

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

**THAT the Local Planning Panel determines DA23/0017 – Proposed Demolition & Construction of a Two Storey Retail & Commercial Development at 277-293 Bong Bong Street, Bowral, by way of REFUSAL, subject to the reasons specified in the recommendation to this report.**

#### **REPORT**

##### **Executive summary**

Development Application 23/0017 seeks development consent for the demolition of remaining structures and construction of a part one and two-storey retail and commercial development at 277-293 Bong Bong Street, Bowral.

The proposed development involves the redevelopment of a site that formerly contained a two storey multi tenancy commercial development. The former development was subject to a fire in 2021 resulting in most structures being demolished and leaving the site with remnants of former structure (predominantly a slab).

The Development Application was notified in accordance with Council's Community Participation Plan, and no submissions were received. The DA was referred to several officers within Council (including Building Certifiers, Environmental Health, Heritage Adviser, Development Engineers, Water and Sewer Engineers and Traffic and Transport Engineers) for advice.

A request for additional information was issued to the applicant on 21 March 2023. Issues raised included:

- Insufficient car parking spaces provided
- The proposed awning being inconsistent with the characteristic of the streetscape
- Non-compliance with Council's maximum Floor Space Ratio (FSR) control
- Insufficient information regarding the existing sewer main

A meeting was held between Senior Council Officers and the applicant on 5 April 2023. The applicant subsequently submitted additional information on 11 May 2023, primarily addressing car parking. In summary, the applicant prepared a Traffic and Parking report. This report was summarised by the applicant's town planner who concluded that:

- The buildings previously on the site generated a theoretical parking demand of 55 car parking spaces utilising the current car parking rates in the DCP
- The proposed development generates a theoretical demand of 61 car parking spaces using the DCP rates
- Given the above the development has a DCP variation of 4 car parking spaces
- The car parking survey indicates that the worse case scenario was on a Friday at noon and at the time there were 226 empty spaces to service the Bowral Town Centre.
- This more than offsets the 4 parking space deficiency and demonstrates that the development will not have an unacceptable impact on parking supply in the immediate precinct

The applicant advised that they were prepared to pay for the 4 car parking spaces either as a contribution to additional public parking or via a Voluntary Planning Agreement (VPA). The applicant

also indicated that they were prepared to resolve the other outstanding matters subject to a positive outcome on the resolution of the parking issue.

During the final assessment of this DA the applicant made a further offer via email on 13 July 2023 to increase the offer to pay for 20 public car parking spaces via a VPA, circa \$540,000.

This DA assessment has considered the application against the DCP and the applicant's offer of 13 July 2023. In summary the application is not supported for the following reasons:

The proposed development generates the need for 61 car parking spaces and the applicant is proposing to provide 2 on site car parking spaces and is offering to pay for an additional 20 public car parking spaces, resulting in a short fall of 39 car parking spaces at the DCP rates.

The proposal is for the complete redevelopment of the site, including demolition of remaining structures following a fire on the site.

Clause C4.3(a) of the Bowral Township DCP states:

*“Redevelopment means the total demolition of buildings on a site or the demolition to such an extent whether the character of the existing development is changed, and the replacement with a new building and or usage.”*

Clause B4.4 of the DCP discusses the requirements for New Development or Redevelopment. In particular (a) states

*“The number of car parking spaces to be provided on the site is determined by the nature of the development. Applicants should refer to the Table at the end of this section for the requirements for all types of commercial development.”*

In accordance with the DCP the proposal for the redevelopment of the site should provide the required parking in accordance with the DCP rates or otherwise provide a contribution via VPA for the shortfall in parking.

The offer by the applicant to provide a contribution via a VPA for 20 additional public car parking spaces is a substantial departure and as such is not supported.

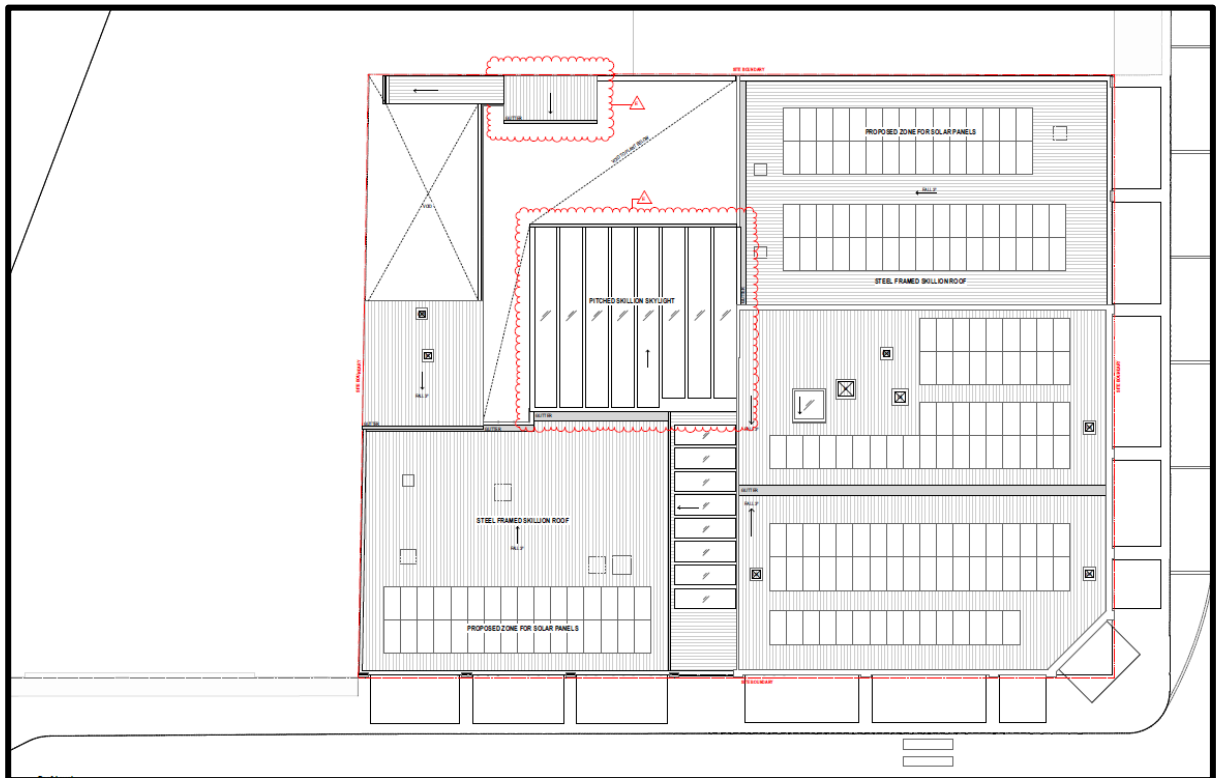
It is noted that there are a number of similar potential development sites within the Bowral Town Centre and the variation to Council's car parking requirement would likely set an undesirable precinct.

It is noted that the applicant has suggested that they can address the other matters detailed below, however at the time of writing this report these items had not been addressed:

- Amending the awning as requested
- Reduction in the FSR of the development to comply with the LEP standard
- Provision of additional information in respect of the sewer

The Development Application has been considered under the 'Matters for consideration' listed in Section 4.15 of the Environmental Planning & Assessment Act 1979. The application is considered to be unsatisfactory in relation to car parking provision, streetscape (awning) density (FSR) and insufficient information regarding infrastructure (sewer main) impacts. Refusal is recommended subject to these reasons as detailed in the recommendation of this report.





**Figure 6: Proposed Roof Plan (Source: Turner)**



**Figure 7: Proposed Bong Bong St & Wingecarribee St Elevations (Source: Turner)**



**Figure 8: Photomontage – Cnr Bong Bong & Wingecarribee St (Source: Turner)**

### **Assessment**

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

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

##### State Environmental Planning Policy (Resilience and Hazard) 2021

Chapter 4 of the SEPP Resilience and Hazard 2021 requires the consent authority to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land, and to be satisfied that the land is suitable for the proposed use.

The subject site is not identified as contaminated land within the Wingecarribee Shire Council's mapping and has continued a commercial use.

Therefore, Council is satisfied that the land is suitable for the proposed use without further investigation and the application has satisfied SEPP Resilience and Hazard 2021.

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State Environmental Planning Policy (Biodiversity and Conservation) 2021

*Chapter 6 Water Catchments*

The subject site sits within the Sydney Drinking Water Catchment and as such Chapter 6 of SEPP Biodiversity and Conservations 2021 applies.

The proposed development is considered to contain a minor risk to water quality and to result in a neutral or beneficial effect on water quality. The application is a Module 1 development for the purposes of the Neutral or Beneficial Effect on Water Quality Assessment Guideline and therefore Council has delegated authority to determine water quality. It is satisfied that the proposed development can achieve a neutral or beneficial effect (NorBE) on water quality subject to appropriate conditions being imposed.

State Environmental Planning Policy (Transport and Infrastructure) 2021

*Chapter 2 – Infrastructure*

The subject site has frontage to Bong Bong Street which is identified as classified state road.

An assessment of the development against the relevant provisions of Chapter 2 of the Transport and Infrastructure SEPP is provided in the table below.

| <b>State Environmental Planning Policy (Transport and Infrastructure) 2021</b> |   |  |
|--|---|--|
| <b>Provision</b>   | <b>Control</b>  | <b>Discussion</b>  |
| <b>2.119<br/>Development<br/>with frontage<br/>to classified<br/>road</b>      | <p>The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—</p> <p>a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and</p> <p>b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—</p> <p>(i) the design of the vehicular access to the land, or</p> <p>(ii) the emission of smoke or dust from the development, or</p> <p>(iii) the nature, volume or frequency of vehicles using</p> | <p>A right of way via Station Street is proposed to service the development. Access is not proposed via the classified road.</p> <p>The safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development.</p> |

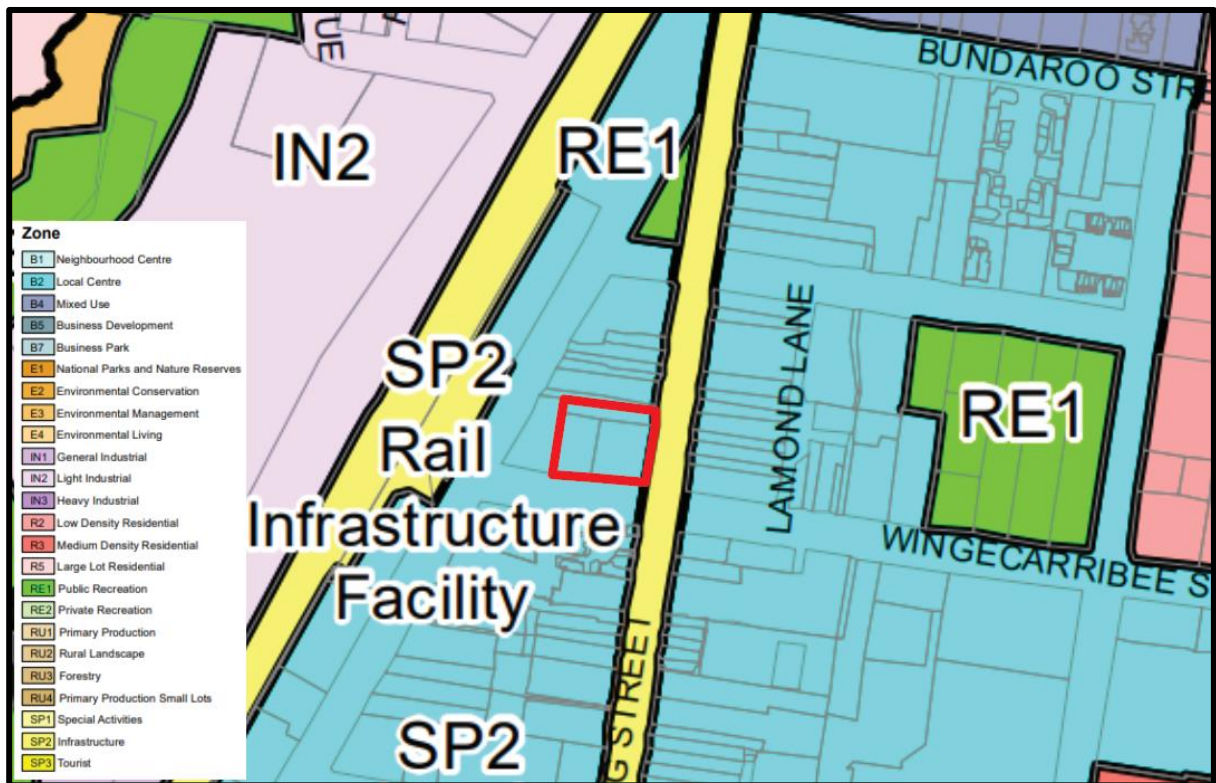
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|  | <p>the classified road to gain access to the land, and</p> <p>c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.</p> | <p>The development is not of a type that is sensitive to traffic noise or vehicle emissions.</p>                           |
| <p><b>2.122 Traffic-generating development</b></p> | <p>This section applies to development specified in Column 1 of the Table to Schedule 3 that involves—</p> <p>(a) new premises of the relevant size or capacity, or</p> <p>(b) an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity.</p>  | <p>N/A. The proposed development is not considered to be traffic generating development in accordance with schedule 3.</p> |

Wingecarribee Local Environmental Plan (LEP) 2010

At the time of lodgement, the subject site was zoned B2 Local Centre under the provisions of the Wingecarribee LEP, refer to **Figure 7** below. Commercial Premises are permitted with consent in the B2 zone.



**Figure 7: Zoning Map with the site outlined in red (Source: NSW Legislation)**

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

| <b>Wingecarribee Local Environmental Plan (LEP) 2010</b> |   |  |                   |
|--|---|--|-------------------|
| <b>Clause</b>  | <b>Control</b>                                    | <b>Discussion</b>  | <b>Compliance</b> |
| 1.2 – Aims of Plan                                       | Subclause (2) sets out the LEP’s particular aims. | <p>The proposed development is inconsistent with the aims listed under sections 1.2(2)(c), (g) and (h) of the Wingecarribee LEP 2010.</p> <p>The proposed shortfall in carparking does not promote or support in achieving the following:</p> <ul style="list-style-type: none"> <li>• The efficient development of urban land;</li> <li>• Strengthening the viability of</li> </ul> | No.               |

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|  |   | <p>Wingecarribee's business centres; or</p> <ul style="list-style-type: none"> <li>• Support employment growth and enterprise that can be better accessed by public and private transport.</li> </ul>  |      |
| 1.8A Savings provisions relating to development applications | <p>If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.</p> | <p>On 26 April 2023, a reform of the employment zones commenced with the introduction of 5 new employment zones and 3 supporting zones into the Standard Instrument (Local Environmental Plans) Order 2006.</p> <p>The reform consolidated the previous B1 neighbourhood centre and B2 Local Centre zones of the Wingecarribee Environmental Plan (LEP) 2010 into an E1 Local Centre Zone. At the time of lodgement, the Wingecarribee Environmental Plan (LEP) 2010 had not been amended.</p> <p>In accordance with s1.8A of the Wingecarribee LEP 2010, the site is zoned B2 local centre for the purpose of this development application.</p> | Yes. |
| 2.3 – Zone objectives and Land Use Table                     | <ul style="list-style-type: none"> <li>• To provide a range of retail, business, entertainment and community uses that serve the</li> </ul>   | <p>The proposed development is inconsistent with the relevant objectives of</p>  | No.  |

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|   | <p>needs of people who live in, work in and visit the local area.</p> <ul style="list-style-type: none"> <li>• To encourage employment opportunities in accessible locations.</li> <li>• To maximise public transport patronage and encourage walking and cycling.</li> <li>• To generally conserve and enhance the unique sense of place of business centre precincts by ensuring that new development integrates with the distinct urban scale, character, cultural heritage and landscape setting of those places.</li> <li>• To provide opportunities for a compatible mix of residential living above retail, commercial, recreational, cultural and community activities at street level.</li> <li>• To ensure that adequate provision is made for infrastructure that supports the viability of business centre precincts, including public car parking, traffic management facilities, public transport facilities, cyclist facilities, pedestrian access paths, amenities, facilities for older people and people with disabilities and general public conveniences.</li> <li>• To maximise the efficient use of land in business centre precincts to promote more compact and accessible places.</li> <li>• To ensure that new development has regard to the character and amenity of adjacent and nearby residential areas.</li> </ul> | <p>the zone due to the following:</p> <ul style="list-style-type: none"> <li>• The development does not promote employment opportunities in an accessible location due to the shortfall in on-site carparking.</li> <li>• The proposed development will have an adverse impact on viability of business centre as a result of increased demand on existing public car parking infrastructure.</li> <li>• The proposed development does not promote an accessible place due to the increased demand it will place on existing public car parking provisions. Therefore, it is not considered to be an efficient use of land in the business centre.</li> </ul> |     |
| 2.7 Demolition requires development consent | - The demolition of a building or work may be carried out only with development consent.  | Demolition works are proposed.  | Yes |
| 4.3 – Height of Building                    | The height of a building on any land is not to exceed the maximum height  | The proposed development does not   | Yes |

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|                                       |  |   |     |
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|                                       | shown for the land on the Height of Buildings Map.   | exceed the maximum 10m building height.   |     |
| 4.4 Floor space ratio                 | The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map. | The proposed 1.119:1 does not comply with maximum of 1.1:1.   | No  |
| 4.6 Exception to development standard | Provides a mechanism to consider exceptions to the development standards prescribed in WLEP 2010   | The development proposes a variation to the maximum floor space ratio prescribed in Clause 4.4 (as identified above).<br><br>The applicant has provided a request for variation under clause 4.6. The justification given is not supported and assessment is provided below.  | No. |
| 5.10 <i>Heritage Conservation</i>     | To conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,        | The subject site does not contain a heritage item nor is it located within a heritage conservation area.<br><br>The subject site is located in the immediate vicinity of the Commonwealth Bank, heritage item no. 79, located at 294 Bong Bong Street, Bowral.<br><br>The application was referred to Councils Heritage Advisor who commented that the new building would have an acceptable impact on the setting of the Commonwealth Bank, subject to the awning being a traditional continuous awning as is characteristic of the streetscape that forms | No. |



|                                    |  |  |     |
|------------------------------------|--|--|-----|
|                                    |  | <p>the setting of the Commonwealth Bank.</p> <p>A request for additional information was issued to the applicant on 21 March 2023 requesting amended plans.</p> <p>The applicant did not provide amended plans addressing issues raised by Councils Heritage Officer. However, the applicant has advised that amended plans could be sought at such a time the primary issue of parking is resolved.</p> |     |
| 7.10 Public utility infrastructure | <i>Development consent must not be granted for development on land to which this clause applies unless the Council is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when it is required.</i> | The site is capable of being serviced by adequate essential services.  | Yes |

Clause 4.6 – Exceptions to Development Standards

**Detailed assessment of variation to Clause 4.4 Floor Space Ratio**

The applicant proposes a contravention to the Floor to Space Ratio development standard that applies to the site, pursuant to clause 4.4 of the Wingecarribee LEP. Specifically, clause 4.4(2) states ‘the maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map’.

This clause restricts developments to a floor space ratio of 1.1:1. The subject proposal has a floor space ratio of 1.119:1, contravening the development standard by 31.41m<sup>2</sup> or 1.75%.

Whilst the contravene is minor and not likely to adversely increase the visual bulk and scale of the proposed development, compliance with the with the development standard is not considered to be unreasonable or unnecessary. It is anticipated that making changes to address car parking will resolve issues associated with the non-compliance as car parking to meet any requirements of the consent authority is excluded from the calculation of gross floor area. As such, it is considered that insufficient sufficient environmental planning grounds has been provided to justify contravening the development standard.

In accordance with Clause 4.6(3), the applicant requests that the FSR development standard be contravened in this instance. The applicant's written request, which is attached to this report, submits that compliance with the development standard is unreasonable or unnecessary and that the discussions provided demonstrates that there are sufficient environmental planning grounds to justify the departure from the control. Specifically, the applicant submits that:

*This Clause 4.6 variation statement establishes that compliance with the maximum floor space ratio development standard is considered unreasonable or unnecessary in the circumstances of the proposed development because the underlying objectives of the standard are achieved despite the non-compliance with the numerical standard.*

*In accordance with the provisions of this clause it is considered that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case as the underlying objectives of the control are achieved.*

*The development proposal is consistent with the above objectives based on the following:*

- *The proposal predominantly replaces a building that was fire damaged and subsequently demolished in 2021 that also very likely had an FSR that exceeded 1.1:1. On the basis that the development is effectively re-establishing the part two storey building on the site it is consistent with the development that was previously over the site;*
- *The site benefits from a 10m height control. This effectively allows a two storey building across the entire site. Given this the massing of the building is consistent with that envisioned by the planning controls the proposed floor space ratio is consistent and compatible with the proposed building height that the development is consistent with;*
- *If two additional ground level parking spaces were provided within the building it would likely comply with the FSR requirement. The massing and building envelope would not alter to achieve this.*
- *Similarly, if the communal seating area within the arcade was open to the sky, the development would comply with the FSR control however patrons would be exposed to the weather and have reduced amenity but the bulk and scale of the building would not be visibly reduced when viewed from the public domain;*
- *The site is located within 30m walking distance of Bowral Station and bus interchange and opposite a taxi rank in Bong Bong Street. Given this the site is highly accessible and consistent with the objective on increasing employment opportunities in an accessible location.*
- *The adjoining site at 18 Station Street that also benefits from a mapped FSR of 1.1:1 appears to have an actual FSR of closer to 1.7:1. Given this the massing of the building is compatible and does not overwhelm the adjoining building;*
- *The precinct specific DCP indicates that the precinct benefits from a mapped FSR of 1.5:1. Although a DCP cannot override a LEP control, it indicates that there is a planning control that considers a LEP departure has planning merit;*
- *As illustrated in figure 2, sites to the east and south of the site benefit from a mapped FSR of 1.5:1. Given this the minor departure is not inconsistent with the FSR envisioned for the immediate precinct;*
- *Given the FSR of adjacent properties at 1.5:1, the variation to the FSR control will not be visually prominent when viewed in the context of existing and likely emerging height of buildings in the precinct;*

- *The proposal provides an appropriate building form that is consistent with the desired future character of the locality and is reflective of the objectives for the zone and locality.*
- *The proposal presents an appropriate height on the site that facilitates a high quality urban form to contribute to building diversity within the Bowral Town Centre.*
- *The proposal will provide for a number of distinct public benefits:*
  - *Delivery of additional employment within the Bowral Town Centre and in a highly accessible area;*
  - *Creation of jobs during the construction and ongoing operation stages;*
  - *Activation of the street level;*
  - *Amenity impacts to adjoining properties are mitigated and the distribution of floor space across the site will not be discernibly different to a built form that is compliant with the FSR control.*
  - *The scale and intensity of the development is consistent with existing adjoining building and other buildings in the immediate vicinity, which demonstrates an appropriate development outcome.*
- *The proposal has no unacceptable impact on heritage or other views; and*
- *The proposal presents an appropriate height on the site that facilitates a high quality urban form to contribute to building diversity across the Bowral Precinct.*

As outlined in the applicants' comments above, 'if two additional ground level parking spaces were provided within the building it would likely comply with the FSR requirement'. The proposed development warrants a total of 61 car parking spaces and 2 are incorporated into the design of the development. Compliance with the development standard is not considered to be unreasonable or unnecessary in the circumstances of this case as the applicant has not provided a genuine attempt in complying with the minimum car parking requirement.

It is anticipated that making changes to address car parking would resolve issues associated with the FSR non-compliance as car parking to meet any requirements of the consent authority is excluded from the calculation of gross floor area.

Given the substantial design changes required to facilitate adequate provisions of on-site car parking and the inability to reach planning agreement for the provision of car parking off site, it is considered that there are insufficient environmental planning grounds to justify the departure from the control.

It is considered that the applicant's written request has not adequately addressed the matters required to be demonstrated by Clause 4.6(3) of the WLEP 2010. Additionally, the development is considered to be contrary to the public interest as it does not meet some of the objectives of the B2 Local Centre zone and Clause 4.4 of the WLEP 2010, as outlined below:

**B2 Local Centre Zone**

- ***To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.***

The proposed provides for a range of retail and business uses that serve the needs of people who live in, work in and visit the local area.

- ***To encourage employment opportunities in accessible locations.***

The development does not promote employment opportunities in an accessible location due to the shortfall in on-site carparking.

- ***To maximise public transport patronage and encourage walking and cycling.***

The subject site is situated with the main commercial centre of the Bowral Township. Its location and use as a commercial premises collectively encourage public transport patronage, walking and cycling as a destination for community events and functions.

- ***To generally conserve and enhance the unique sense of place of business centre precincts by ensuring that new development integrates with the distinct urban scale, character, cultural heritage and landscape setting of those places.***

The design of proposed development is considered to appropriately integrate with the urban scale, character, cultural heritage and landscape setting of the surrounding area.

- ***To provide opportunities for a compatible mix of residential living above retail, commercial, recreational, cultural and community activities at street level.***

The proposed development supports in the provision of retail and commercial activities at street level.

- ***To ensure that adequate provision is made for infrastructure that supports the viability of business centre precincts, including public car parking, traffic management facilities, public transport facilities, cyclist facilities, pedestrian access paths, amenities, facilities for older people and people with disabilities and general public conveniences.***

The proposed development will have an adverse impact on viability of business centre as a result of increased demand on existing public car parking infrastructure.

- ***To maximise the efficient use of land in business centre precincts to promote more compact and accessible places.***

The proposed development does not promote an accessible place due the increased demand it will place on existing public car parking provisions. Therefore, it is not considered to be an efficient use of land in the business centre.

- ***To ensure that new development has regard to the character and amenity of adjacent and nearby residential areas.***

The proposed development will not have an adverse impact on the amenity of adjoining or nearby residents in terms of views, solar, privacy and the like. The subject site is not in proximity to residential areas.

#### **Clause 4.4 – Floor Space Ratio**

- ***To identify maximum floor space ratios in major centres.***

The proposed development is not considered to be consistent with this objective as compliance with the with the development standard is not considered to be unreasonable or unnecessary and insufficient environmental planning grounds has been provided to justify contravening the development standard.

- ***To ensure that floor space ratios provide development opportunities that are compatible with building height***

Compliance with the FSR control will continue to provide development opportunities that are compatible with the building height and surrounding site area.

- ***To encourage development in locations readily accessible to public transport and services that will provide increased employment opportunities.***

Whilst the site is located in proximity to Bowral Station and existing bus networks. Existing public transport infrastructure is unlikely to adequately service the proposed shortfall in car parking spaces in terms of frequency and connectivity. The proposed development is likely to increase demand on existing on-street parking provisions and impact the accessibility of the surrounding area.

Pursuant to Clause 4.6(4) of the Wingecarribee LEP, Council staff are not satisfied that:

- The applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3) of the LEP; and
- The development will be in the public interest because it is not consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

It is noted that the Panel may assume the concurrence of the Secretary pursuant to Planning Circular PS 20-002.

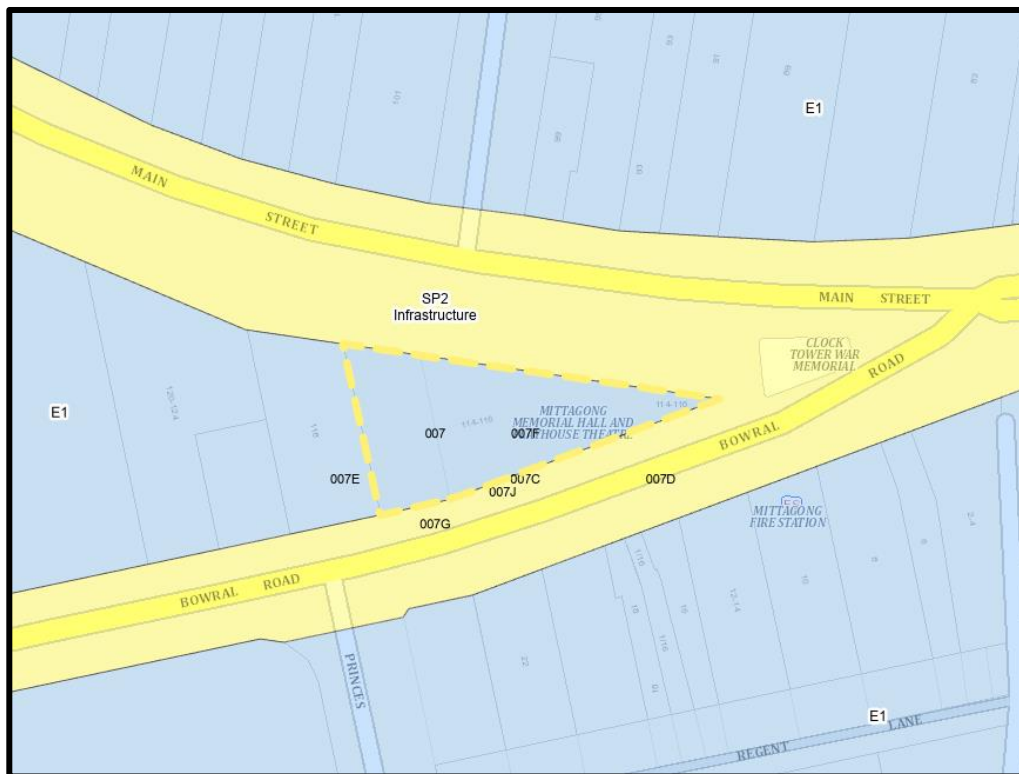
Consequently, it is recommended that the Panel does not support this proposed contravention to the Wingecarribee LEP.

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

##### Employment zones reform

Whilst the employment zones reforms commenced on 26 April 2023, the amendments to individual local environmental plans (LEPs) across NSW were exhibited for public comment from 31 May 2022 to 12 July 2022. As the reform were exhibited during the assessment of the application, Savings and Transitional provision apply in accordance with Section 1.8A of the Wingecarribee LEP 2010.

However, the reform continues to be a matter for consideration under Section 4.15(1)(ii) of the EP&A Act. At the time of lodgement, the reform intended to introduce 5 new employment zones and 3 supporting zones into the Standard Instrument (Local Environmental Plans) Order 2006. The reform consolidated the previous B1 neighbourhood centre and B2 Local Centre zones of the Wingecarribee Environmental Plan (LEP) 2010 into an E1 Local Centre Zone. The consolidated zone is shown in the figure below.



**Figure 10: Consolidated E1 zone (Source: Spatial Viewer).**

It is noted that the draft instrument implemented amendments to zoning, definitions and permitted land uses. Commercial Premises as defined in the employment zones reform are permitted with consent in the E1 Local Centre zone.

No other draft instrument is relevant to the proposed development.

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

Bowral Town Plan Development Control Plan

As the subject site is zoned B2 Local Centre and sits within the Bowral, the proposed development will be subject to the Bowral Township DCP. Assessment against the applicable provisions of this DCP is made in the following table:

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| <b>Bowral Township Development Control Plan</b>        |  |   |                   |
|--|--|---|-------------------|
| <b>Section</b>   | <b>Control</b>   | <b>Assessment</b>   | <b>Compliance</b> |
| <b>Part A – All Lands</b>                              |  |   |                   |
| <b>Section 3 Biodiversity</b>                          |  |   |                   |
| <b>A3.2 Flora and Fauna Assessment Report</b>          | A Flora and Fauna Assessment Report is required to be lodged with a Development Application under the following circumstances and must address the requirements in the Wingecarribee Shire Council Flora and Fauna Assessment Guidelines for Development Applications. | The proposed development relates to a vacant allotment within the Bowral town centre and is unlikely to have an impact on vegetation and species. As such, a flora and fauna assessment report is unnecessary in this instance.   | Yes               |
| <b>Section 4 – Water Management</b>                    |  |   |                   |
| <b>A4.3 Development in Sydney's drinking Catchment</b> | All development shall incorporate WaterNSW's current recommended practices (or equivalent standards and practices) which represent best industry or development practice in terms of maintaining water quality.  | Council as delegated authority for Module 1 Development and is satisfied that the proposed development will have no identifiable potential impact on water quality.   | Yes.              |
| <b>A4.5 Stormwater Management Plan</b>                 | A Stormwater Management Plan report will be required by Council for all development that will result in:<br>a) An increase in the impervious area of the site, or<br>b) A change in the direction of overland flow   | The application was accompanied by Stormwater Management Plans and an Erosion & Sediment Control Plan. The application was referred to council Engineers who raised no objections subject to conditions attached.   | Yes.              |
| <b>A4.7 Water Sensitive Urban Design</b>               | All developments within the Shire shall be designed in accordance with the WSUD part of Council's Engineering Design and Construction Specifications.  | The proposed development is considered to be consistent with relevant WSUD controls and Councils guidelines in Engineering Design and Construction Specifications where relevant. The application was referred to council Water and Sewer Development Engineer who raised no objections subject to conditions attached. | Yes               |
| <b>Section 5 Flood Liable Land</b>                     |  |   |                   |

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| <b>A5.4 Controls for General Development</b>                | The flood risk associated with the development comprising danger to life and damage to property is minimised and not increased beyond the level acceptable to the community.   | N/A. The subject site is not mapped as flood prone.   | N/A  |
| <b>Section 6 Vegetation Management &amp; Landscaping</b>    |  |   |      |
| <b>A6.1 Preservation of Trees and Other Vegetation</b>      | A person must not ringbark, cut down, top, lop, remove, injure, or wilfully destroy any tree or wsc.nsw.gov.au other vegetation to which any such development control plan applies without the authority conferred by<br>(a) development consent, or<br>(b) (b) a permit granted by Council. | N/A. Tree removal is not proposed under this development application.   | N/A  |
| <b>Section 7 Subdivision, Demolition, Siting and Design</b> |  |   |      |
| <b>A7.2 Demolition</b>                                      | No demolition may occur on property which is an Item of Heritage, or is located within a Heritage Conservation Area, without the consent of Council.   | Demolition is proposed under this development application. The subject site does not contain an item of heritage, nor is it located within a heritage conservation area.  | Yes  |
| <b>A7.3 Site Analysis</b>                                   | Every land use application which involves significant alteration to the site whether through development of currently vacant land, extensive renovation of an existing building, or demolition, must be accompanied by an appropriate Site Analysis Report                                   | A site analysis accompanies the development application.  | Yes. |
| <b>A7.4 Cut and Fill</b>                                    | Any cut and fill required shall comply with the maximum controls set out in Clause 7.3 wsc.nsw.gov.au (Earthworks) of Wingecarribee Local Environmental Plan 2010  | Minor earth works are proposed to facilitate the development. The earthworks are consistent with the objectives and controls of set out in Clause 7.3 (Earthworks) of the Wingecarribee Local Environmental Plan 2010 | Yes  |



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| <p><b>A7.10 New development within the vicinity of heritage items</b></p> | <p>Seek unification with existing built forms on adjoining or nearby land, by ensuring respect for and compatibility with architectural elements including:</p> <ul style="list-style-type: none"> <li>(i) the existing building line,</li> <li>(ii) brickwork styles, (iii) parapet style and rhythm,</li> <li>(iii) window and door opening dimensions, proportions and spacing,</li> <li>(iv) fenestration treatment, (vi) roof form and treatment,</li> <li>(v) materials and finishes.</li> </ul> <p>Ensure that the angle of awnings on the commercial street frontage is no greater than 20%, (i.e. within a range of 90 to 100 degrees from the wall of the building), and that the soffit (or underside of the awning) follows the line of the top of the awning and is not flat.</p> | <p>The application was referred to Councils Heritage Advisor who commented that the new building would have acceptable impact on the setting of the Commonwealth Bank, subject to the awning being a traditional continuous awning as is characteristic of the streetscape that forms the setting of the Commonwealth Bank.</p> <p>The proposed retractable awnings were not considered to be acceptable to the streetscape, particularly, considering the heritage buildings in the immediate vicinity .</p> <p>A request for additional information was issued to the applicant on 21 March 2023 requesting amended plans. The applicant did not provide amended plans addressing issues raised by Councils Heritage Officer. However, the applicant has advised that amended plans could be sought at such a time the primary issue of parking is resolved.</p> <p>The angle of the awning does not exceed 20%.</p> | <p>No.</p> <p>Yes.</p> |
| <p><b>Section 8 Safer by Design</b></p>                                   |  |  |                        |
| <p><b>A8.3 Crime Prevention Through Environmental Design</b></p>          | <p>CPTED employs four key methods to achieve these outcomes. These are space and activity management, territorial re-enforcement, surveillance and access control.</p>   | <p>The design of the proposed development is considered to be consistent with the four key methods of achieving CPTED.</p>   | <p>Yes.</p>            |
| <p><b>A8.4 Specific Design Requirements</b></p>                           | <p>The principles of Safer by Design may be applied to both commercial and residential development. In particular, Council requires</p>  |  |                        |

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|  | <p>all development to demonstrate that it provides:</p> <p>a) Well-defined building entrances which are clearly visible from the street. Narrow or splayed entrances are preferable to deep-set entrance ways.</p> <p>b) Internal spaces must be open and visible, eliminating hidden corners.</p> <p>c) Walkways and connecting paths must be open with good visibility.</p> <p>d) Signs and vegetation should be located so that they do not create 'entrapment' points where people are hidden from view.</p> <p>e) On-site garaging must provide clearly defined exit points and be lit at night, both inside the garaging and around the entrance/exit points. Such lighting should be movement-activated lighting that focusses on the access areas.</p> <p>f) Building entrances, walkways, connecting paths and garaging must be well lit in accordance with the provisions of Section A8 of this Plan to ensure that such lighting is down-ward focussed and effective without generating glare or</p> | <p>Proposed entrances are clearly visible from the street. Deep-set entrances are not proposed.</p> <p>Internal spaces do not create hidden corners.</p> <p>New walkways open with good visibility both internally and externally.</p> <p>New signage is not proposed under this development application.</p> <p>Onsite parking is capable of being well lit at night.</p> <p>The proposed building entrances are capable of being well lit.</p> | <p>Yes</p> <p>Yes</p> <p>Yes.</p> <p>Yes.</p> <p>Yes</p> <p>Yes.</p> |
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|  | annoyance beyond the area being lit.   |  |                       |
| <b>Section 9 Construction Standards &amp; Procedures</b> |  |  |                       |
| A9.2 Surveys and Reports                                 | <p>Council may require the preparation and submission of certain reports when a new Land Use Application is lodged. These are detailed below</p> <p><u>A9.2.1 Geotechnically Sensitive Areas</u></p> <p>A geotechnical report, prepared by a suitably qualified consultant, is to be lodged with the development application. The report should generally address the publication Landslide Risk Management Guidelines (2007) produced by the Australian Geomechanics Society. Appropriate professional indemnity insurance must be held by consultant.</p> <p><u>A9.2.3 Hydraulic Details</u></p> <p>Hydraulic details, prepared by a suitably qualified hydraulic consultant, shall be provided for:</p> <p>(a) Stormwater service<br/>(b) Water supply service (including fire services)<br/>(c) Sewerage service<br/>(d) Trade Waste discharges to sewer for all buildings except a single dwelling house and associated outbuilding(s). These details are to be submitted with a development application if deemed necessary or with the Section 68 application to Council.</p> | <p>The subject site is not geotechnically sensitive.</p> <p>The application is accompanied by a stormwater management plan. The application has been reviewed by Council Development Engineers who raised no objections in relation to the proposed stormwater management.</p> <p>However, Council's Sewer and Water engineer has previously commented that an existing sewer main runs roughly through the centre of the site, with the building proposed over the top. A request for additional information was issued to the applicant on 21 March 2023 requesting a "concept sketch of where the existing sewer main</p> | <p>Yes</p> <p>No.</p> |

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|  | <p><b>A9.2.4 Site Survey Reports</b><br/>During construction, Council may require the submission of a survey report prior to the pouring of concrete and then upon completion of the building works (prior to occupation), in the following circumstances: -</p> <p>(a) Where a Class 1-9 building is located within 300mm of the minimum side boundary setbacks, (including distance to wall and distance to eaves/gutter)</p> <p>(b) Where a structure is located within 300mm of a registered easement</p> <p>(c) At floor level stage, prior to the pouring of concrete or fixing flooring material, where the property is within an area affected by flooding inundation.</p> | <p><i>would be disused to, installing a terminal maintenance shaft to terminate the new end point of the main and provide a new sewer junction".</i> The requested concept plans have not been provided.</p> <p>A site survey is provided along with this Application.</p>   | <p>Yes.</p> |
| <p><b>A9.3 Building near or over Council Mains and Easements</b></p> | <p>Structures are to be erected clear of Council's water, sewer and drainage mains by a minimum of one (1) metre and 1.2 metres for a sewer manhole and shall be clear of any easement over such a main.</p>   | <p>Council's Sewer and Water engineer has previously commented that an existing sewer main runs roughly through the centre of the site, with the building proposed over the top. A request for additional information was issued to the applicant on 21 March 2023 requesting a "<i>concept sketch of where the existing sewer main would be disused to, installing a terminal maintenance shaft to terminate the new end point of the main and provide a new sewer junction".</i> The requested</p> | <p>No.</p>  |

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|  |  | concept plans have not been provided.  |      |
| <b>A9.4 Building over two or more Allotments</b>                   | If building work is proposed over two or more allotments, Council may require the consolidation of these lots.   | Consolidation of the two sites has not been proposed under this development application. Any future development application would need to incorporate lot consolidation.     | No.  |
| <b>A9.8 Stormwater Disposal</b>                                    | Final means of disposal of stormwater to Council's stormwater system must be approved by Council.  | The application is accompanied by a stormwater management plan. The application has been reviewed by Council Engineers who raised no objections.                             | Yes. |
| <b>A.9.9 Structures Over Public Areas</b>                          | Verandah Awnings, Pipes and services.  | Verandah awnings, pipes and services are not proposed over public areas.   | Yes. |
| <b>A9.10 Site Access Standards During Construction</b>             | All Council assets (eg sewer manholes, stormwater systems etc.) shall be protected from damage.  | Could be suitably conditioned in the circumstances that approval is granted.   | Yes. |
| <b>A9.11 Footpath Protection During Construction and Hoardings</b> | Hoardings – Approval from Council required prior to erection along with payment of appropriate fees.   | Could be suitably conditioned in the circumstances that approval is granted.   | Yes  |
| <b>A9.12 Waste Management and Disposal</b>                         | A Waste Management Plan is required for all demolition works and /or construction works (with a value greater than \$50,000).                          | A waste management plan has not been lodged with the application. However, could be suitably conditioned in the circumstances that approval is granted.                      | No.  |
| <b>Section 11 Outdoor Lighting</b>                                 |  |  |      |
| <b>A11.3 Controls</b>  | All outdoor lighting fixtures shall be designed, installed, located and maintained to avoid glare on to adjacent properties or streets.                | The site is located within the Bowral Town Centre and appropriate lighting is capable of being provided that does not result adverse amenity impact on the surrounding area. | Yes  |
| <b>Section 12 Development Near Rail Corridors &amp; Busy Roads</b> |  |  |      |
| <b>A12.1 Development Adjacent to a Rail Corridor</b>               | Avoids any new direct vehicular access to any relevant road and removes any existing access where alternative rear lane or other access is achievable. | Access is proposed via a right of way of Station Street. Access is not proposed via the classified road.   | Yes. |

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|   | Provides that any essential access to any relevant road be designed so that all vehicles enter and leave the site in a forward direction.                              | Council Traffic Engineers also raised concerns regarding the ability of vehicles entering and exiting the site in a forward direction. It has been noted that Station Street is busy and due to the cross over being in proximity to the traffic lights, it is likely to cause distractions and impact movement. A reversing vehicle could have significant safety issue within the built environment considering the reduced sight distance resulting from reversing light rigid vehicles. It is considered that this issue could easily be resolved in conjunction with the provision of additional parking. | No.  |
|   | Restricts vehicular access, car parking and loading/unloading facilities to an alternative access, such as a rear lane, where such access is available.                | Vehicular access, car parking and loading/unloading facilities are proposed via a right of way of Station Street.  | Yes. |
| <b>Part B Provisions Applicable to Business-zoned Land</b>  |  |  |      |
| <b>Section 2 – Design Considerations</b>                    |  |  |      |
| <b>B2.2 Height of buildings</b>                             | All new business development within the town must comply with the maximum building heights indicated on the Height of Buildings Map which forms part of the WLEP 2010. | See LEP Compliance Table and the full assessment provided above.   | Yes. |
| <b>B2.3 Floor Space Ratios</b>                              | All new business development within the town must comply with the maximum floor space ratios indicated on the Floor Space Ratio Map which forms part of the WLEP 2010. | See LEP Compliance Table and the full assessment provided above.   | No   |
| <b>B2.4 Designing for Pedestrian Access within the Town</b> | Council shall not grant consent to the carrying out of development on any land within Mittagong unless it is satisfied that:   |  |      |

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|  | <p>(a) all existing pedestrian access ways are retained, or an acceptable alternative is provided.</p>   | <p>The proposed development does not impact on existing pedestrian access ways.</p>  | <p>Yes</p>  |
|  | <p>(b) the development allows pedestrians to move through, within and around the site in a safe and convenient manner.</p>   | <p>It is satisfied that the proposed development allows pedestrians to move through, within and around the site in a safe and convenient manner.</p> | <p>Yes</p>  |
|  | <p>(c) Pedestrian access ways are suitable for wheelchairs and meet the needs of all people with disabilities.</p>   | <p>The proposed development provides access suitable for wheelchairs and can meet the needs of all people with disabilities.</p>                     | <p>Yes</p>  |
|  | <p>(d) Pedestrian access ways comply with the Safer by Design Principles discussed in Part A Section 8 of this Plan.</p>   | <p>Refer to Section 8 above.</p>   | <p>Yes</p>  |
|  | <p>(e) Pathway surfaces are suitable to all weather conditions and particularly do not become slippery during wet weather.</p>   | <p>External pathways are not proposed under this development application.</p>  | <p>Yes.</p> |
|  | <p>(f) Land that has frontage to any public space, including pedestrian footpath, arcade, walkway, open space or thoroughfare shall make adequate provision to:</p> <p>(i) incorporate an active pedestrian frontage to such public space, and</p> |  |             |

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|   | (ii) complement the character, public use, security and enjoyment of such public space, and to provide an outlook to such space.  | <p>The proposed development incorporates active pedestrian frontage to public space.</p> <p>The proposed development incorporates and an appropriate active pedestrian frontage to Bong Bong. The proposed development will complement the character, public use, security and enjoyment of the street whilst providing for an outlook to the street via placement of windows and openings.</p> | <p>Yes.</p> <p>Yes.</p> |
| <b>B2.5 Signage</b>   | Applicants are reminded to consult the provisions of Section A9 with regard to signage objectives and controls for development on business zoned land.  | Signage is not proposed under this Development Application.   | Yes.                    |
| <b>Section 3 Parenting Facilities</b>                         |   |   |                         |
| B3.2 Option A   | Council requires the provision of parenting facilities within public buildings. This includes any assembly building (as defined in the Building Code of Australia) greater than 500m <sup>2</sup> in floor area, and any shop/retail or commercial office building (such office building being a public building) with a floor area of 1000m <sup>2</sup> or greater. | Option A Parenting facilities are proposed on the ground floor which comply with relevant design requirements.  | Yes.                    |
| <b>Section 4 On-site Car Parking</b>                          |   |   |                         |
| <b>B4.4 Requirements for New Development or Redevelopment</b> | <p>The number of car parking spaces to be provided on the site is determined by the nature of the development. Applicants should refer to the Table at the end of this section for the requirements for all types of commercial development.</p> <ul style="list-style-type: none"> <li>• <u>Retail, Office, Commercial</u></li> </ul>                                | <p>The proposed development generates demand for 61 car parking spaces under the DCP rates. The proposed 2 on site spaces do not comply with the minimum 61 spaces.</p> <p>The applicant has proposed a Voluntary Planning Agreement for a contribution towards the provision of 20 off-site public parking spaces via email correspondence. However, this</p>                                  | No.                     |



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|  | <ul style="list-style-type: none"> <li>○ 1 space per 30 m<sup>2</sup> of gross leaseable floor area for buildings of single storey.</li> </ul> <p>The loss of any on-street parking as a result of the development, including new vehicular entry points or loading zones, shall be compensated for by providing onsite parking equal to the number of lost spaces.</p>   | <p>would continue to be a shortfall of 39 car parking spaces as required under the Bowral DCP. An Agreement between the Applicant and Council has not been achieved as the proposed parking deficiency is a substantial variation from the rates under the Bowral DCP.</p> <p>The application is not supported in its current form as it will have an adverse traffic and parking impact on the surrounding area. Approval of such a deficiency would set an undesirable precedent for redeveloping sites within the centre.</p> <p>The proposed development does not result in the loss of any on-street parking due to new vehicular entry points or loading zones.</p> | <p>Yes.</p> |
| <p><b>B4.5<br/>Requirements for<br/>Additions or<br/>Alterations to<br/>Existing Buildings</b></p> | <p>A redevelopment is to comply with the Schedule of Car Parking Requirements in the terms of amount of car parking generated by the new proposal. Any claim for car parking credits for an existing building and / or usage will need to be substantiated by appropriate documentary evidence, ie previous development consents, with the development application for Council to assess. In circumstances where the applicant cannot demonstrate a previous requirement, the amount of car parking that is deemed to</p> | <p>NA. the proposed development is not for alterations and additions</p>  | <p>NA</p>   |

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|   | be credited shall be based upon the rates in Table B5.4 located at the end of this section of the Plan. Council may decide to accept car parking credits to offset the demand deemed to be generated for the new development proposal.   |  |                                     |
| <b>B4.6 Use of Parking Areas</b>          | <p>All parking spaces shall be used solely for the parking of motor vehicles for owners, staff and customers, and on no account shall such spaces be used for storage or garbage purposes.</p> <p>Boom gates, remotely operated doors and other devices designed to stop the public from accessing the parking are not permitted.</p> <p>No signposting or restrictions on individual spaces is allowed.</p> | <p>Parking spaces will not be used for storage or garbage purposes.</p> <p>Boom gates, remotely operated doors and other devices designed to stop the public are not proposed.</p> <p>No sign posting or restriction are proposed.</p> | <p>Yes.</p> <p>Yes.</p> <p>Yes.</p> |
| <b>B4.7 Disabled Parking Requirements</b> | <p>Disabled parking spaces shall be provided for each building use according to the applicable Standard.</p> <p>The disabled parking requirements will be to the current Australian standard</p>   | No Disabled parking spaces have been provided as part of the development.  | No.                                 |
| <b>B4.7 Disabled Parking Requirements</b> | <p>Disabled parking spaces shall be provided for each building's use according to the applicable Standard.</p> <p>The disabled parking requirements will be to the current Australian standard.</p>  | 1 car parking space is provided in accordance with the applicable BCA requirements.  | Yes.                                |
| <b>B4.8 On Site Parking Deficiencies</b>  | Council's preferred approach for such arrangements is through a voluntary Planning Agreement (VPA) lodged with the Development Application. Council's  | The applicant proposes a VPA for a contribution toward the provision of 20 off-site public parking spaces. However, this continues to be a shortfall of 39 (including 2 on-site) car parking   | No.                                 |

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|  | <p>adopted policy in relation to Planning Agreements sets out the requirements and process.</p> <p>If there is a deficiency in the required number of car spaces, and no Planning Agreement is entered into, or alternative arrangements made, the Development Application may be refused.</p>                              | spaces as required under the Bowral DCP.  |      |
| <b>B4.9 Design of Off-Street Parking Facilities</b>  | The minimum design requirements for parking facilities are the Australian Standard AS 2890 series.  | The proposes spaces demonstrate compliance with relevant Australian Standards in terms of design.   | Yes. |
| <b>Section 5 Loading Facilities and Waste &amp; Resource Recovery Storage and Collection</b> |   |   |      |
| <b>B5.2 Controls</b>   | Full details of anticipated vehicle sizes, volumes and frequency of delivery and other service vehicles must be supplied with the development application. These estimates, particularly vehicle sizes, must be realistic and based on established averages for the range of businesses likely to occur in the development. | <p>Service vehicles are proposed to entre the site via a right of way via the Station Street. Council Traffic Engineers raised concerns regarding the ability of vehicles entering and exiting forwards direction. It has been noted that Station Street is busy and this location near the lights will have distractions due to the lights, slowing vehicles and drivers making decisions. A reversing vehicle could cause a safety issue. Also, it appears that sight distance for light rigid truck would be limited when reversing onto Station Street.</p> <p>It is considered that this issue could easily be overcome in conjunction with additional parking in accordance with the DCP.</p> | No.  |
| <b>Section 6 Outdoor Eating Areas</b>  |   |   |      |
| <b>B6.3 Siting Requirements</b>  | Where a standard footpath width exists, outdoor chairs and tables must be placed no closer than 1800 mm from the shop frontage to which they relate and no closer   | The proposed dining is located wholly within the site. A merit assessment has been undertaken against the Outdoor Eating Areas provisions. Sufficient areas have been   | Yes. |

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|   | <p>than 600 mm to the kerb edge. This configuration creates a consistent street presentation and predictable and safe 'accessible travel path' for pedestrians consistent with the requirements of Australian Standard AS1428.2:1992. Appropriate configurations are illustrated below.</p>  | <p>provided to maintain been provided between the seating areas and shop front to permit 'accessible travel path'.</p>  |                                     |
| <b>Section 17 Bong Bong Street Precinct</b> |  |   |                                     |
| <b>B17.2 Preferred Outcomes</b>             | <p>Pays particular attention to elements of scale, massing, alignment, articulation, proportion, parapet treatment, and architectural detailing exemplified by older buildings.</p> <p>Does not generate any new direct vehicular access to Bong Bong Street and removes any existing access where alternative rear lane or other access is achievable.</p> <p>Restricts vehicular access, car parking and loading/unloading facilities to an alternative access, such as a rear lane.</p> | <p>Subject to the redesign of awning, the proposed development incorporates suitable elements of scale, massing, alignment, articulation, proportion, and architectural detailing that complements older building in proximity.</p> <p>New direct vehicular access to Bong Bong Street is not proposed.</p> <p>Vehicular access, car parking and loading/unloading facilities are restricted to access from Station Street.</p> | <p>Yes.</p> <p>Yes.</p> <p>Yes.</p> |

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

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

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

No provisions of the Environmental Planning and Assessment Regulation 2021 are relevant to the proposed development.

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

The development application proposes a substantial short of on-site parking spaces available to service the intended use. The significant reliance on available public car parking is likely to have an adverse impact on the surrounding area in terms of traffic and car parking.

Concerns have also been raised regarding the design of the proposed awning, FSR non-compliance and development above an existing sewer main. It is satisfied that these issues could be resolved through conditions should the development be approved.

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

The development in its current form is not suitable for the site due to the substantial shortfall in the provision of on-site parking and/or suitable means of access for service vehicles. It is considered that the development would have an adverse traffic and parking impact on the surrounding area and would set an undesirable precedent for redeveloping sites within the centre.

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

The development application was publicly notified in accordance with Council’s Community Participation Plan from 31 July 2022 and 8 August 2022. Council received no submissions.

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

Public interest is assessed by ensuring appropriate development has minimal impacts to the area. The proposed development has merit in providing retail and commercial activities that support the vitality of the Bowral Town Centre and encourage employment opportunities.

However, the proposed DA has not provided sufficient justification for the shortfall in carparking based on Council’s DCP which therefore results in unacceptable impacts in terms of traffic and parking within the sounding road networks. As such, the proposed development is not in the public interest.

**Internal and external communication and consultation**

**Internal Referrals**

|                             |  |
|-----------------------------|--|
| <b>Development Engineer</b> | No objection raised - Recommended conditions of consent.   |
| <b>Sewer and Water</b>      | Concerns were initially raised by Council Sewer and Water Engineers. A request for additional information was issued to the applicant on 21 March 2023. The issue raised are summarised below. |

**AGENDA OF THE LOCAL PLANNING PANEL  
WEDNESDAY 23 AUGUST 2023**

|                                   |  |
|-----------------------------------|--|
|                                   | <p><i>There is an existing Council sewer main running into roughly the centre of the lot. The new building is proposed over the top. Applicant to provide a concept sketch of where the existing sewer main would be disused to, installing a terminal maintenance shaft to terminate the new end point of the main and provide a new sewer junction. The concept sketch is required to ensure that it is possible to do so and that Council's building over/adjacent requirements are adhered to.</i></p> <p><u>Officer Comment</u></p> <p>The applicant subsequently submitted additional information on 11 May 2023 outlining Drawing Hy-100-00 dated 8/12/22 will be uploaded to the Planning Portal. However, further information has not been provided.</p>  |
| <p><b>Traffic Engineers</b></p>   | <p>Concerns were initially raised by Council Traffic Engineers. The issue raised are summarised below.</p> <p><i>I have concerns about the back access onto Station Street. Will vehicles be able to turn within the site to enter and exit forwards on Station Street? Station Street is busy and this location near the lights will have distractions due to the lights, slowing vehicles and drivers making decisions. A reversing vehicle could cause a safety issue. Also, it looks that sight distance for light rigid truck would be limited when reversing onto Station Street. These safety concerns can be addressed by entering and exit forwards.</i></p> <p><u>Assessing Officer Comment</u></p> <p>It is anticipated that design changes would be required to rear of the development to facilitate a genuine attempt in providing on-site car parking spaces. Suitable provisions for service vehicles entering and leaving in a forward direction would need to be made as part of these design changes.</p> |
| <p><b>Building Certifiers</b></p> | <p>No objection raised - Recommended conditions of consent provided.</p>   |
| <p><b>Heritage</b></p>            | <p>Concerns were initially raised by Council's Heritage Advisor. A request for additional information was issued to the applicant on 21 March 2023. The issue raised are summarised below.</p> <p><i>The proposed new building will have an acceptable impact on the setting of the Commonwealth Bank, subject to the awning being a traditional continuous awning as is characteristic of the streetscape that forms the setting of the Commonwealth Bank. A revised awning design is required. (Unless this matter is the subject of a deferred commencement condition)</i></p> <p><u>Applicant Response</u></p>   |

|  |   |
|--|---|
|  | <p><i>The Applicant acknowledges but does not agree with Council's comments in relation to the awning. Nevertheless, in an effort to address the concern of Council's heritage officer and expedite the favourable determination of the DA, the Applicant is in the process of obtaining revised architectural drawings to show the awning as continuous and will submit these to Council in the near future.</i></p> <p><u>Assessing Officer Comment</u></p> <p>Amended plans have not been received. However, it is satisfied that a revised design for the awning may be conditioned should the development be approved.</p> |
| <p><b>Environmental Health Officer</b></p> | <p>No objection raised - Recommended conditions of consent.</p>   |

**Conclusion**

Development Application DA23/0017 for the demolition of remaining structures and construction of a two-storey retail and commercial development at 277-293 Bong Bong Street, Bowral is not considered satisfactory with respect to the matters for consideration specified by section 4.15 (1) of the Environmental Planning and Assessment Act 1979.

It is therefore recommended that the Panel determines the application by way of **refusal**.

The Local Planning Panel determines DA23/0017 – Proposed Demolition – Commercial Premises at 277-293 Bong Street, Bowral, by way of REFUSAL, due to the following reasons:

- (1) The proposed development does not comply with the objectives and controls of the Bowral Township Development Control Plan in relation to car parking. The shortfall of parking will result in adverse traffic and parking impacts on the surrounding area.
- (2) The proposed development does not comply with the objectives and controls of the Bowral Township Development Control Plan in relation to Loading Facilities and Waste and Collection. Insufficient information has been lodged with the application to demonstrate vehicles will be able to enter and exit the site in a forward direction nor that adequate sight distances will be available for rigid vehicles.
- (3) The proposed development contravenes clause 4.4 Floor Space Ratio of the Wingecarribee Local Environmental Plan 2010 and the applicant's clause 4.6 written request fails to provide sufficient environmental planning grounds to justify the contravention having regard to the objectives of the standard nor does it demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.
- (4) The proposed development is inconsistent with Section A7.10 of the Bowral DCP in that the proposed awning is not compatible with architectural elements of Heritage Items within the vicinity of the site.

- (5) The proposed development is inconsistent with the aims listed under of the Wingecarribee LEP 2010 in that the proposed shortfall in carparking does not promote or support the efficient development of urban land, strengthening the viability of Wingecarribee's business centres or support employment growth and enterprise that that is better accessed by public and private transport.
- (6) The proposed development is inconsistent with the objectives of the B2 zone under the WLEP 2010 as result of the shortfall in parking spaces. The development is likely to reduce availability of public infrastructure such as car parking.
- (7) The proposed development is inconsistent with Section A9.3 of the Bowral DCP in that insufficient information has been lodged with the application to ensure that any such development over Council sewerage assets will be undertaken in accordance with Council technical guidelines in the Engineering Design and Construction Specifications, as well as Council's set of standard drawings.
- (8) Approval of the proposal would set an undesirable precedent for developing/redeveloping sites within the Bowral Town Centre.
- (9) The proposed development is not in the public interest.

---

#### **ATTACHMENTS**

1. Attachment 1 - Architectural Plans [**6.1.1** - 14 pages]
2. Attachment 2 - Clause 4.6 Variation Request [**6.1.2** - 14 pages]
3. Attachment 3 - Heritage Impact Statement [**6.1.3** - 38 pages]
4. Attachment 4 - Highland Building, Bowral Parking Review [**6.1.4** - 7 pages]
5. Attchment 5 - Email from Applicant dated 13 July 2023 [**6.1.5** - 1 page]



## BONGBONG STREET BOWRAL DEVELOPMENT APPLICATION

279-287 Bong Bong Street.  
Bowral, NSW 2576

### DRAWING LIST

| Series                 | Drawing No. | Drawing Name         | Scale       | Rev | Size |
|------------------------|-------------|----------------------|-------------|-----|------|
| <b>General</b>         |             |                      |             |     |      |
|                        | DA-001-001  | Title Sheet          |             | C   | A1   |
| <b>Siteworks</b>       |             |                      |             |     |      |
|                        | DA-010-010  | Site Plan            | 1:500       | A   | A1   |
| <b>GA Plans</b>        |             |                      |             |     |      |
|                        | DA-110-005  | Ground Level         | 1:100       | E   | A1   |
|                        | DA-110-010  | Level 01             | 1:100       | E   | A1   |
|                        | DA-110-015  | Roof Level           | 1:100       | E   | A1   |
| <b>GA Elevations</b>   |             |                      |             |     |      |
|                        | DA-210-101  | Street Elevations    | 1:100       | D   | A1   |
| <b>GA Sections</b>     |             |                      |             |     |      |
|                        | DA-310-001  | Sections             | 1:100, 1:50 | B   | A1   |
| <b>GFA Diagrams</b>    |             |                      |             |     |      |
|                        | DA-770-001  | GFA Diagrams         | 1:200       | E   | A1   |
| <b>Shadow Diagrams</b> |             |                      |             |     |      |
|                        | DA-790-001  | June 21st            | 1:500       | D   | A1   |
| <b>3D VIEWS</b>        |             |                      |             |     |      |
|                        | DA-910-001  | Street Corner        |             | A   | A1   |
|                        | DA-910-002  | Bong Bong Street     |             | A   | A1   |
|                        | DA-910-003  | Wingecarribee Street |             | A   | A1   |
|                        | DA-910-004  | Arcade Entry         |             | A   | A1   |
|                        | DA-910-005  | Arcade Internal      |             | A   | A1   |
|                        | DA-910-006  | Aerial               |             | A   | A1   |



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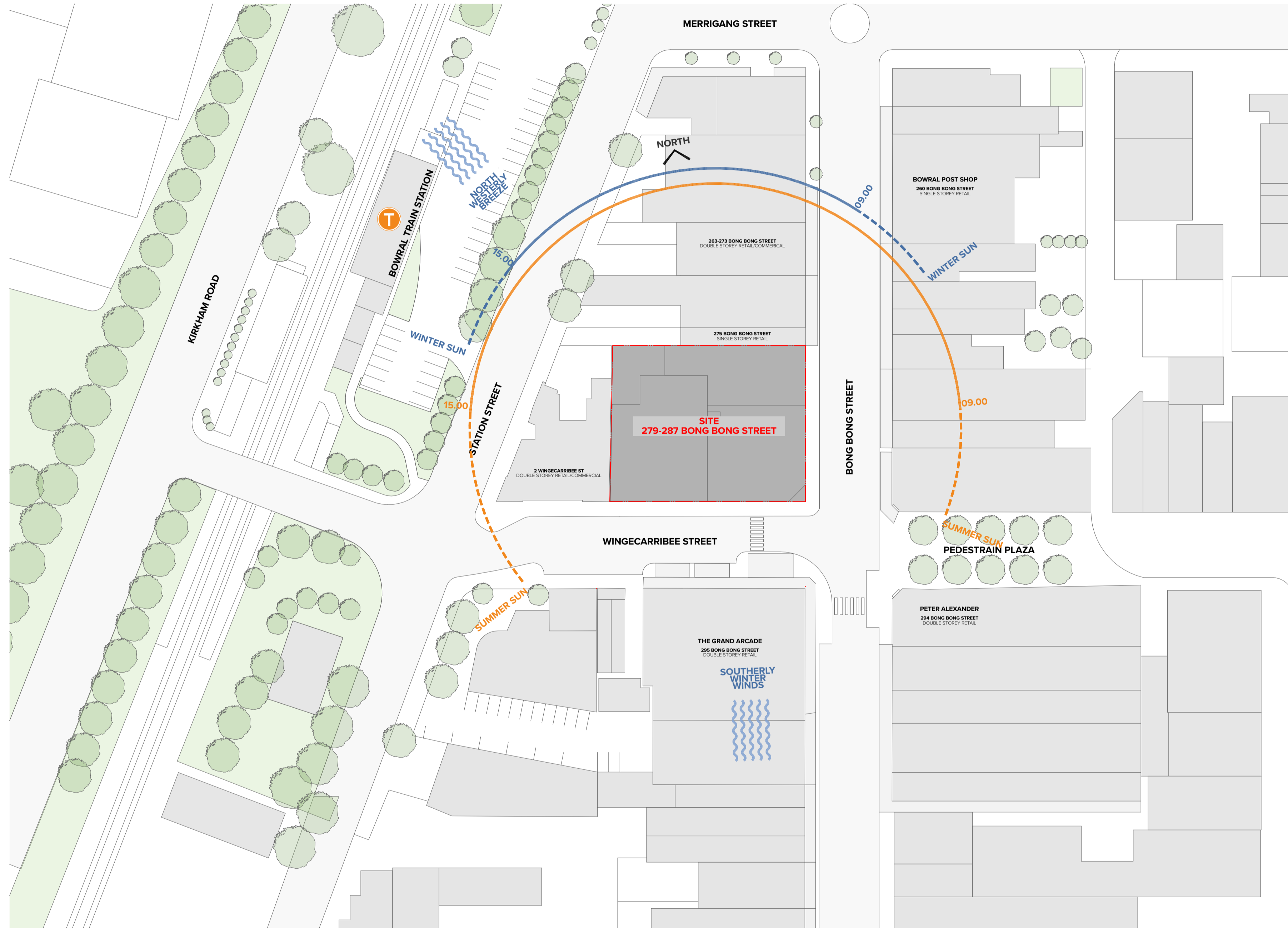
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Project Title:  
**Bong Bong St**  
279-287 Bong Bong St Bowral NSW 2576 Australia

Drawing Title:  
**General**  
**Title Sheet**

|                         |             |             |                                 |
|-------------------------|-------------|-------------|---------------------------------|
| C                       | 21.02.23    | JF          | Amended Development Application |
| B                       | 28.06.22    | JF          | Development Application         |
| A                       | 21.05.22    | JF          | Development Application         |
| Rev.                    | Date        | Approved by | Revision Notes                  |
| Scale:                  | Project No: |             | 21090                           |
| @A1, 50%@A3             | Drawn by:   |             | AK                              |
| Status:                 | Dev No:     | DA-001-001  | Rev                             |
| Development Application |             |             | C                               |

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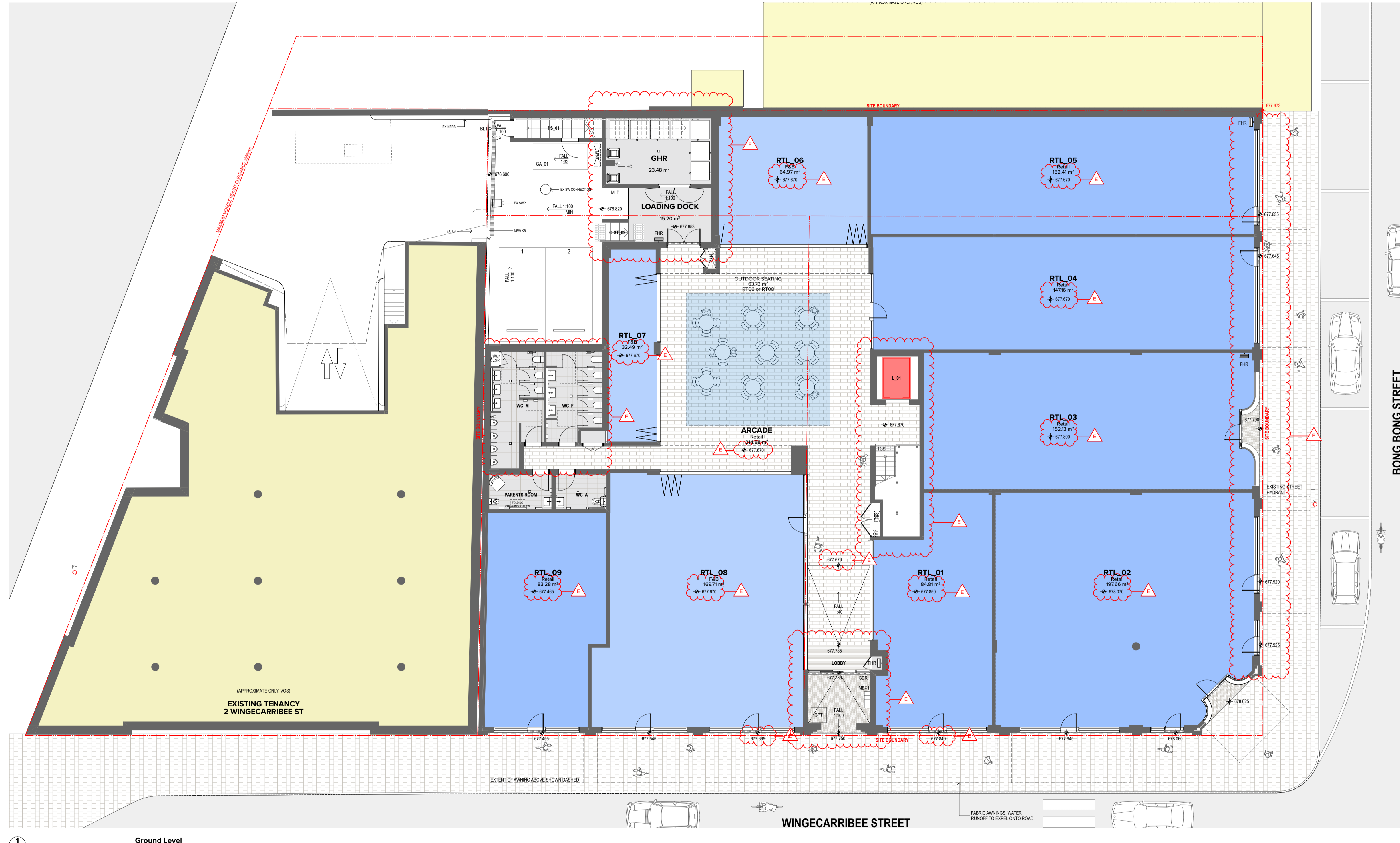
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**Project Title**  
**Bong Bong St**  
279-287 Bong Bong St Bowral NSW 2576 Australia

**Drawing Title**  
**Siteworks**  
**Site Plan**

|                         |          |    |             |                         |             |          |       |
|-------------------------|----------|----|-------------|-------------------------|-------------|----------|-------|
| Rev                     | Date     | By | Approved by | Reason/Notes            | Project No. | Drawn by | North |
| A                       | 31.05.22 | JF |             |                         | 21090       | AK       | ↑     |
| Scale                   |          |    |             | Development Application |             |          |       |
| 1:500 @A1, 50%@A3       |          |    |             | DA-010-010              |             |          |       |
| Status                  |          |    |             | Rev                     |             |          |       |
| Development Application |          |    |             | A                       |             |          |       |

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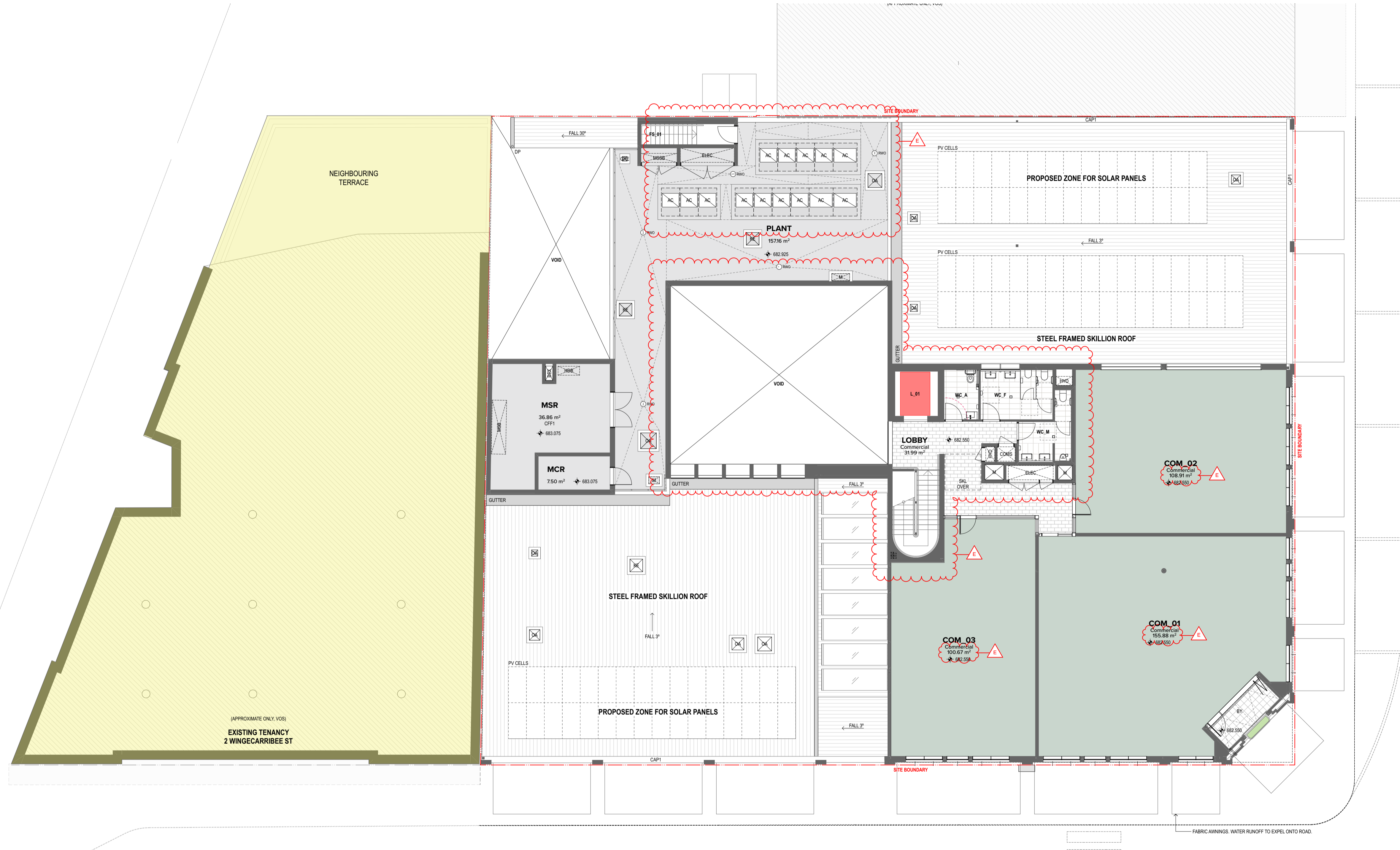
**Project Title**  
Bong Bong St  
279-287 Bong Bong St Bowral NSW 2576 Australia

**Drawing Title**  
GA Plans  
Ground Level

|      |          |             |                                    |
|------|----------|-------------|------------------------------------|
| E    | 21/02/23 | JF          | Amended Development Application    |
| D    | 23/06/22 | JF          | Development Application            |
| C    | 21/06/22 | JF          | Development Application            |
| B    | 23/05/22 | JF          | Services Coordination Set          |
| A    | 18/02/22 | JF          | Planning Services Coordination Set |
| Rev. | Date     | Approved by | Revision Notes                     |

Scale: 1:100 @A1, 50%@A3  
Status: Development Application  
Project No: 21090  
Drawn by: JFAK  
Rev: E  
North: ↑

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1 Level 01

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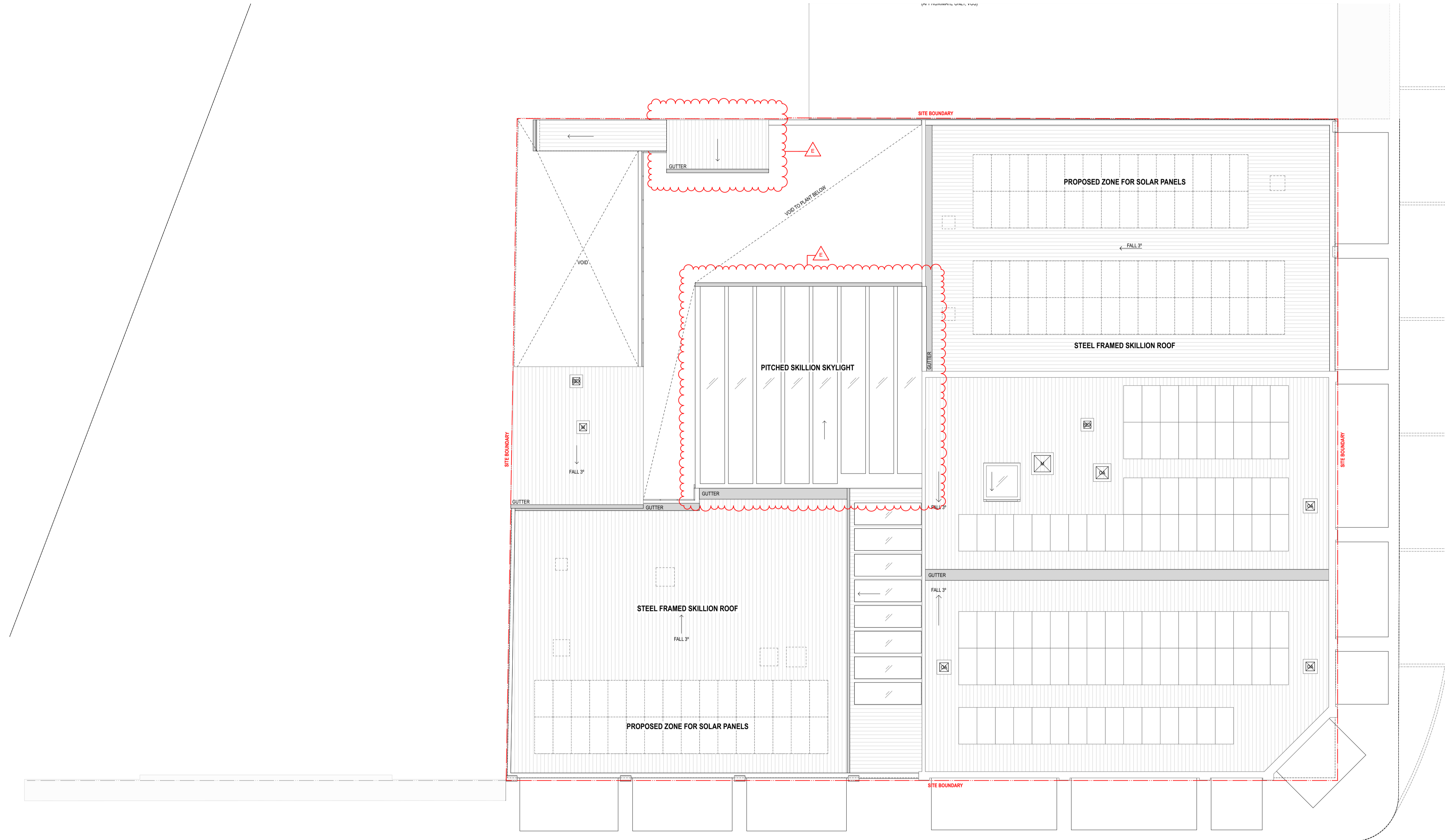
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**Project Title:**  
Bong Bong St  
279-287 Bong Bong St Bowral NSW 2576 Australia

**Drawing Title:**  
GA Plans  
Level 01

|                                 |          |                |                                       |
|---------------------------------|----------|----------------|---------------------------------------|
| E                               | 21/02/23 | JF             | Amended Development Application       |
| D                               | 23/06/22 | JF             | Development Application               |
| C                               | 23/06/22 | JF             | Development Application               |
| B                               | 23/05/22 | JF             | Services Coordination Set             |
| A                               | 18/05/22 | JF             | Preliminary Services Coordination Set |
| Rev.                            | Date     | Approved by    | Reasons/Notes                         |
| Scale: 1:100 @A1, 50% @A3       |          |                |                                       |
| Status: Development Application |          |                |                                       |
| Project No: 21090               |          | Drawn by: JFAK | North                                 |
| Drawing No: DA-110-010          |          | Rev: E         |                                       |

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1 Roof Level  
1:100

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**Bong Bong St**  
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**Drawing Title**  
**GA Plans**  
**Roof Level**

|                          |          |                         |                                       |
|--------------------------|----------|-------------------------|---------------------------------------|
| E                        | 21/02/23 | JF                      | Amended Development Application       |
| D                        | 23/06/22 | JF                      | Development Application               |
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| Rev.                     | Date     | Approved by             | Reason/Notes                          |
| Scale: 1:100 @A1, 50%@A3 |          |                         |                                       |
| Project No:              |          | 21090                   |                                       |
| Status:                  |          | Development Application |                                       |
| Drawing No:              |          | DA-110-015              |                                       |
| Drawn by:                | JFAK     | North:                  | ↑                                     |
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BWK1



GC1



AWN1



CT1

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**BWK1** Brickwork Type 1  
Stretcher bond Australian dry pressed brick  
Color to match "Limousin Gold"

**GC1** Glazing Type 1  
Clear glass with black metal framing

**AWN1** Awning Type 1  
Translucent fabric awning

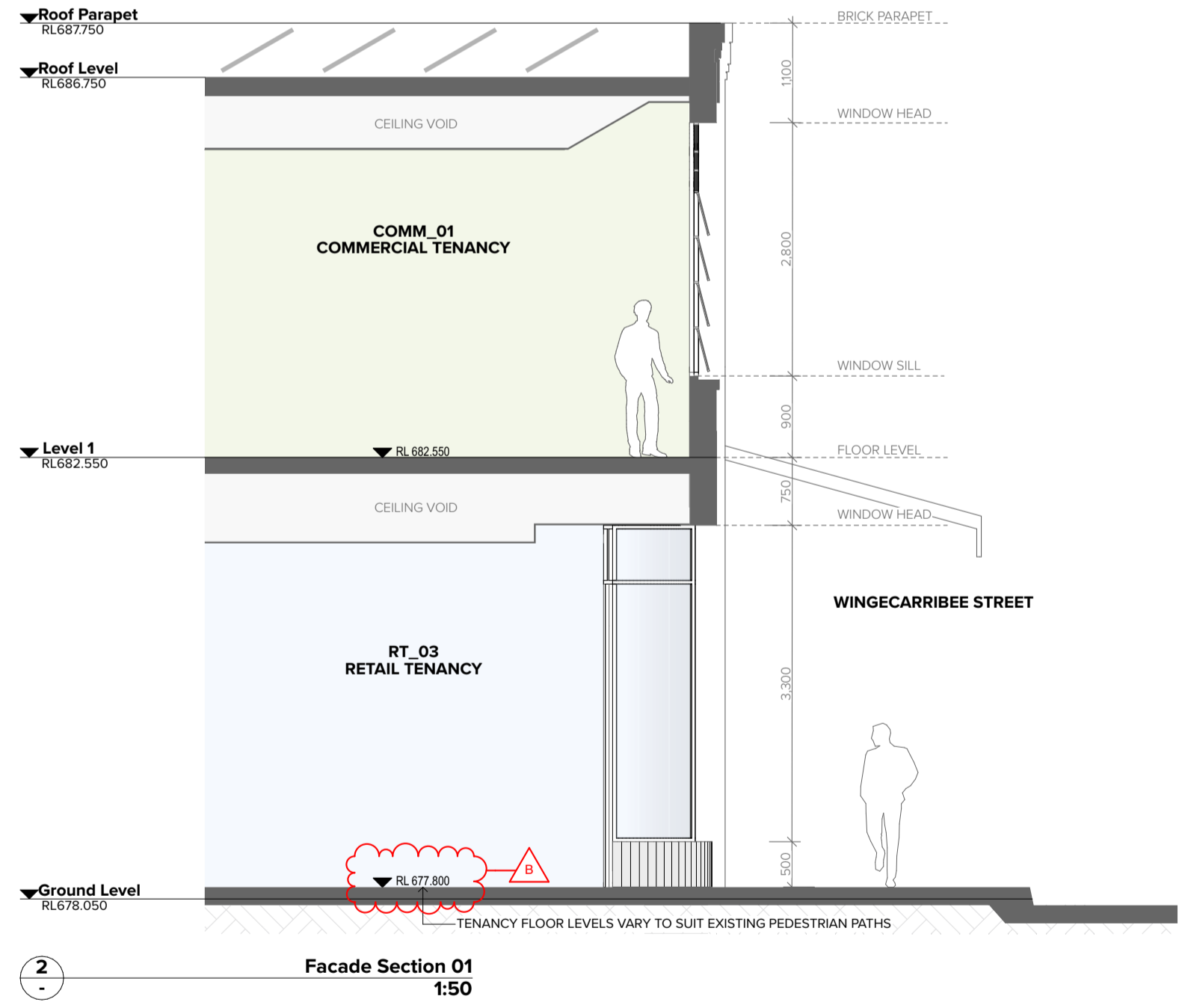
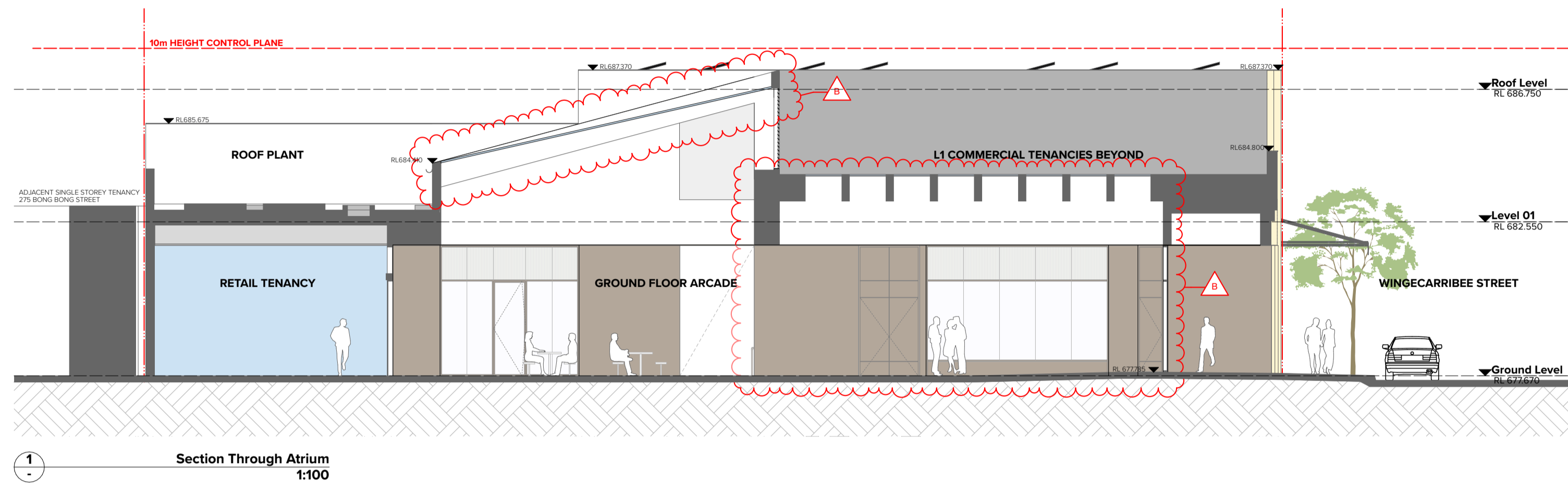
**CT1** Ceramic Tile Type 1  
Glazed ceramic tile laid stack bond

**Project Title**  
Bong Bong St  
279-287 Bong Bong St Bowral NSW 2576 Australia

**Drawing Title**  
GA Elevations  
Street Elevations

|                         |          |              |                                       |
|-------------------------|----------|--------------|---------------------------------------|
| D                       | 21.02.23 | JF           | Amended Development Application       |
| C                       | 28.06.22 | JF           | Development Application               |
| B                       | 31.05.22 | JF           | Development Application               |
| A                       | 18.05.22 | JF           | Preliminary Services Coordination Set |
| Rev.                    | Date     | Approved by  | Reasons/Notes                         |
| Scale:                  |          | Project No.: | Drawn by:                             |
| 1:100 @A1, 50% @A3      |          | 21090        | JFAK                                  |
| Status:                 |          | Dev No.:     | Rev.                                  |
| Development Application |          | DA-210-101   | D                                     |

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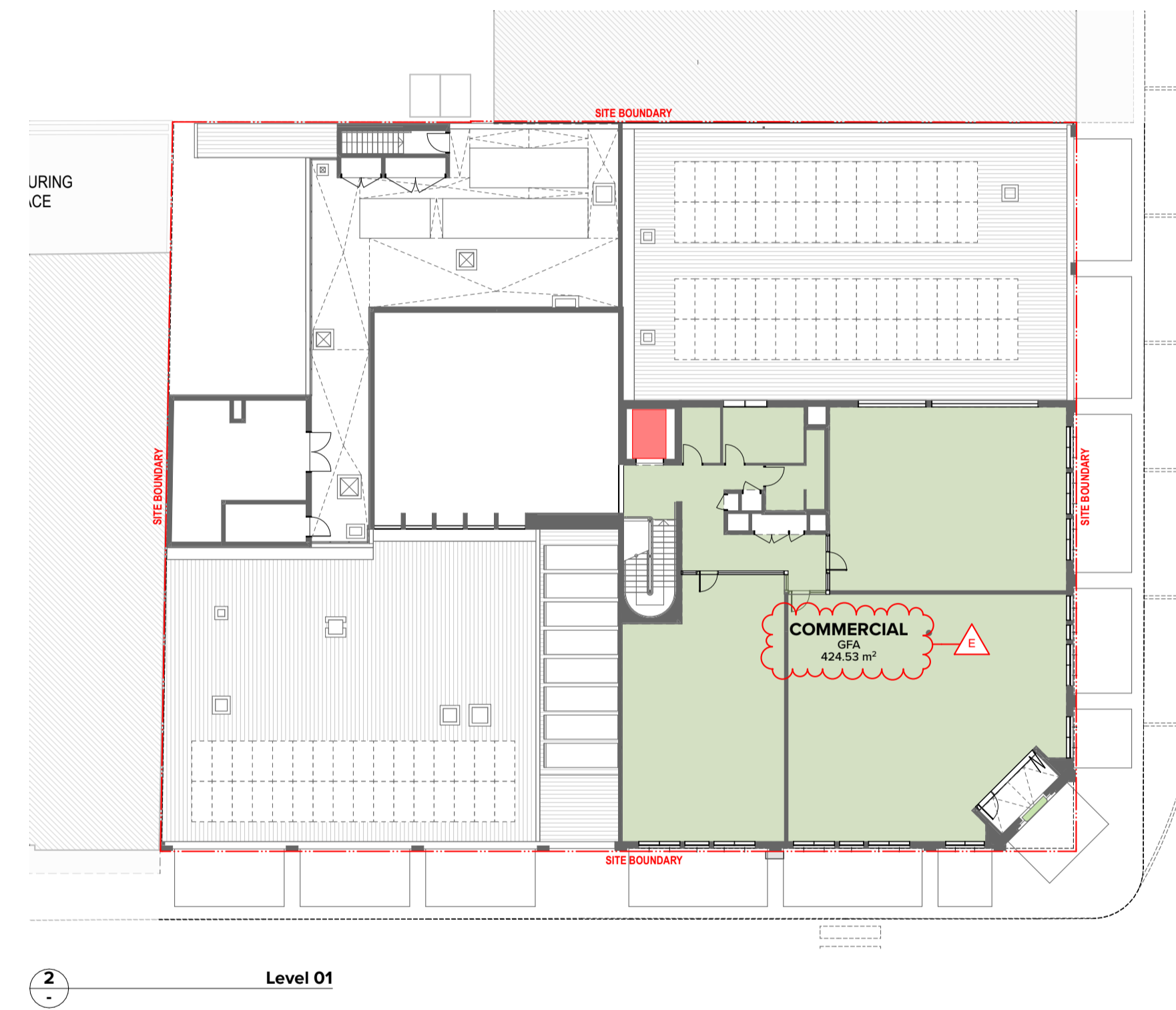
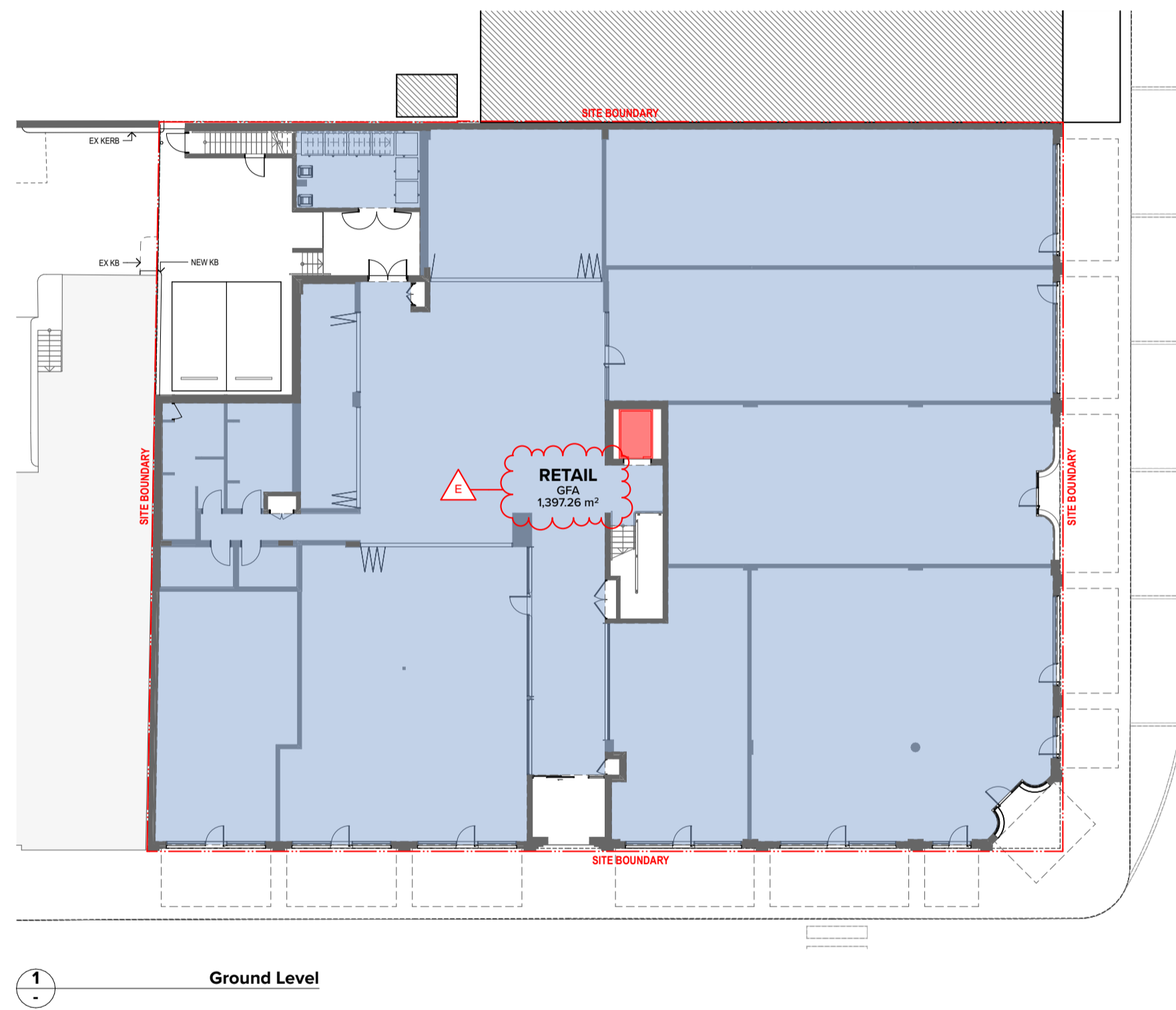
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Newmarket Avenue, Sydney, NSW 1585, Australia

**Project Title**  
**Bong Bong St**  
279-287 Bong Bong St Bowral NSW 2576 Australia

|     |          |             |                                 |
|-----|----------|-------------|---------------------------------|
| Rev | Date     | Approved by | Reasons/Notes                   |
| B   | 21.02.23 | JF          | Amended Development Application |
| A   | 21.02.23 | JF          | Development Application         |

Scale: 1:100, 1:50 @A1, 50%@A3  
Status: Development Application

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| AREA SUMMARY ALLOWABLE |                             |
|------------------------|-----------------------------|
| SITE AREA              | 1627.62m <sup>2</sup>       |
| FSR                    | 1:1.1                       |
| <b>TOTAL</b>           | <b>1790.38m<sup>2</sup></b> |

| AREA SUMMARY PROPOSED |                             |
|-----------------------|-----------------------------|
| <b>LEVEL</b>          | <b>AREA (m<sup>2</sup>)</b> |
| GROUND LEVEL          | 1397.26m <sup>2</sup>       |
| LEVEL 01              | 424.53m <sup>2</sup>        |
| <b>TOTAL</b>          | <b>1821.79m<sup>2</sup></b> |
| SITE AREA             | 1627.62m <sup>2</sup>       |
| FSR                   | 1:1.1192                    |

| Rev.                            | Date     | Approved by | Reason/Notes                          | Scale      | Project No. | Drawn by | North |
|---------------------------------|----------|-------------|---------------------------------------|------------|-------------|----------|-------|
| E                               | 21.02.23 | JF          | Amended Development Application       |            | 21090       | AK       | ↑     |
| D                               | 23.06.22 | JF          | Development Application               |            |             |          |       |
| C                               | 31.05.22 | JF          | Development Application               |            |             |          |       |
| B                               | 31.05.22 | JF          | Development Application               |            |             |          |       |
| A                               | 18.05.22 | JF          | Preliminary Services Coordination Set |            |             |          |       |
| Status: Development Application |          |             |                                       | DA-770-001 |             |          |       |

Project Title:  
**Bong Bong St**  
279-287 Bong Bong St Bowral NSW 2576 Australia

Drawing Title:  
**GFA Diagrams**  
GFA Diagrams

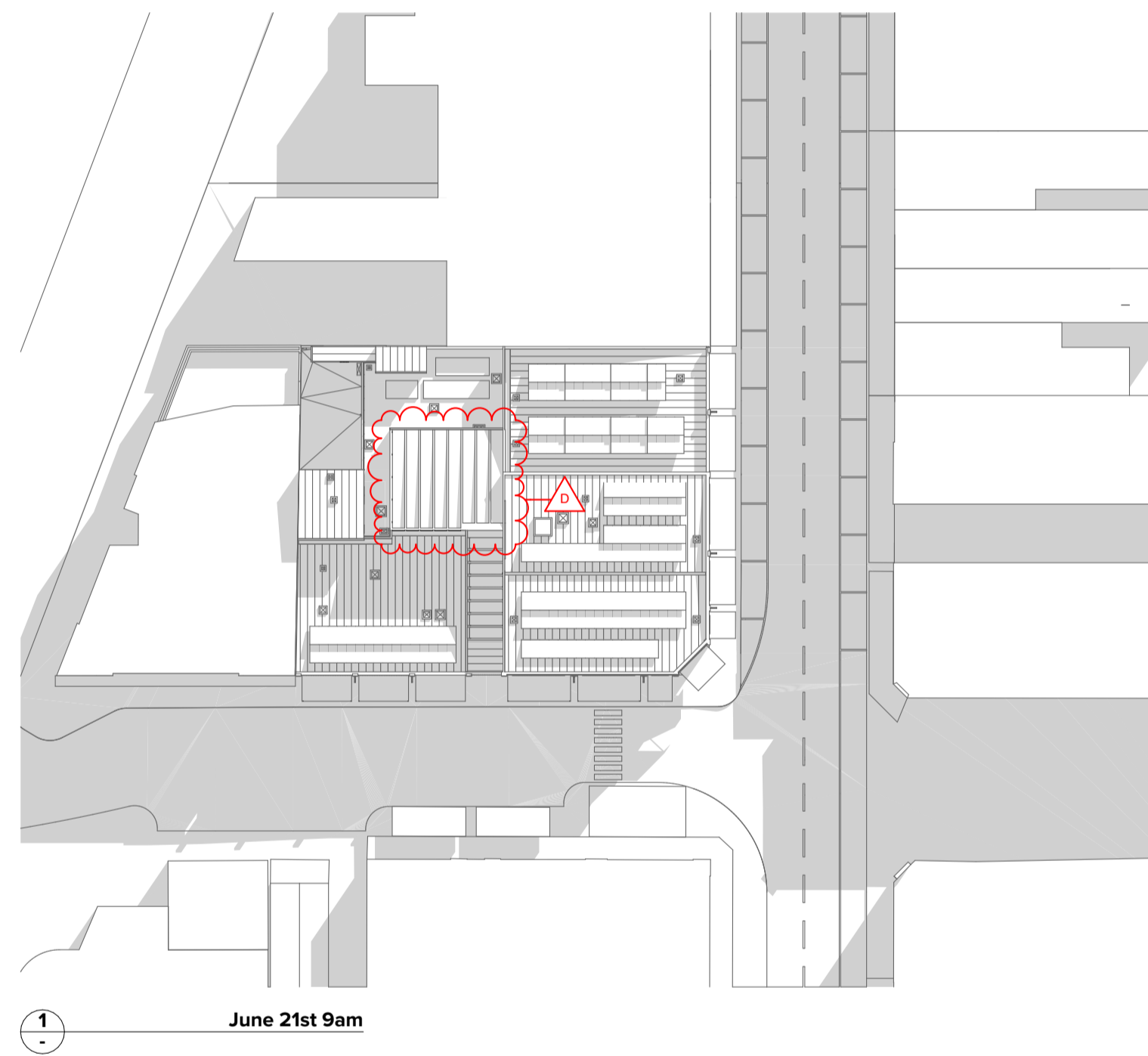
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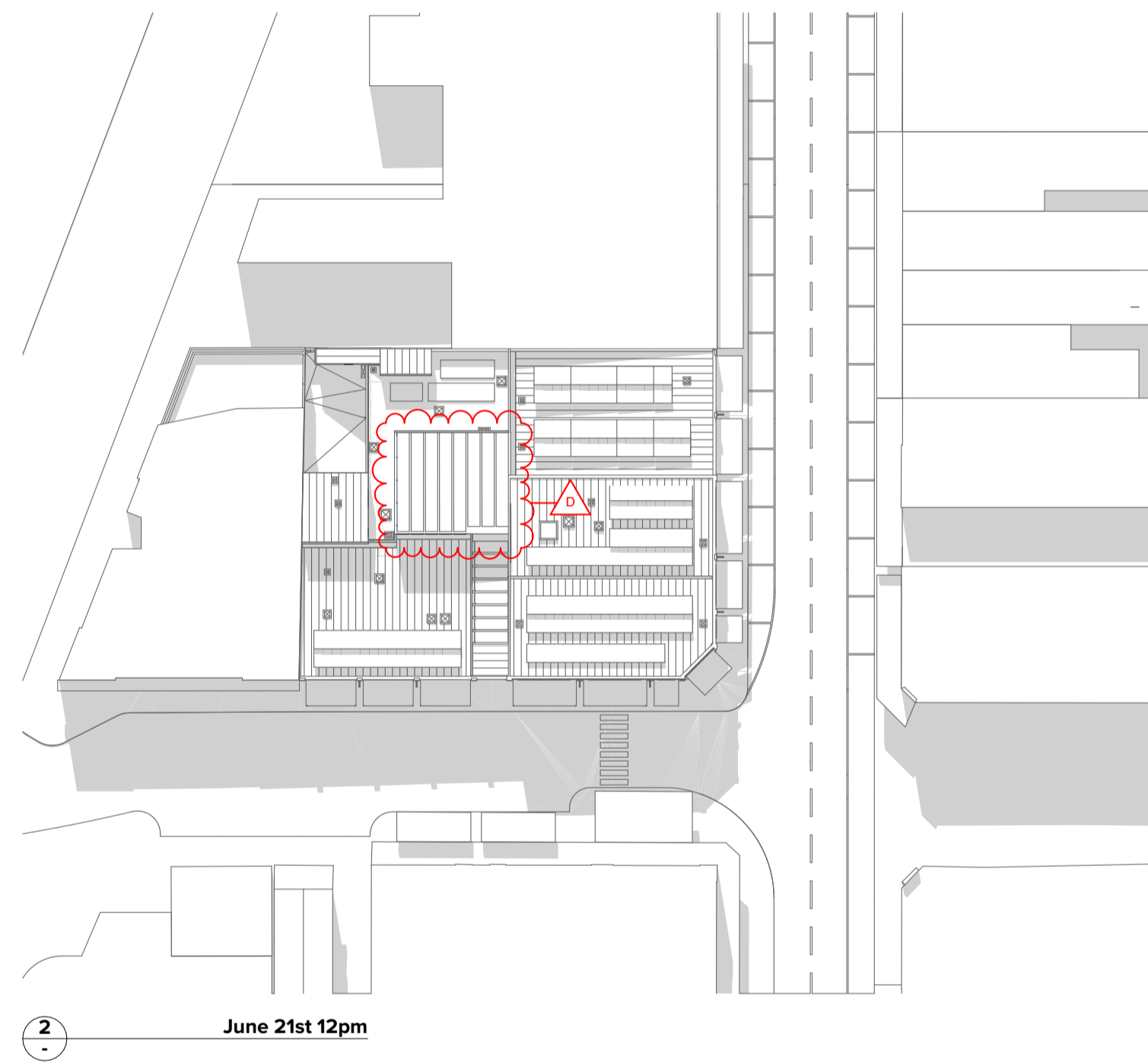
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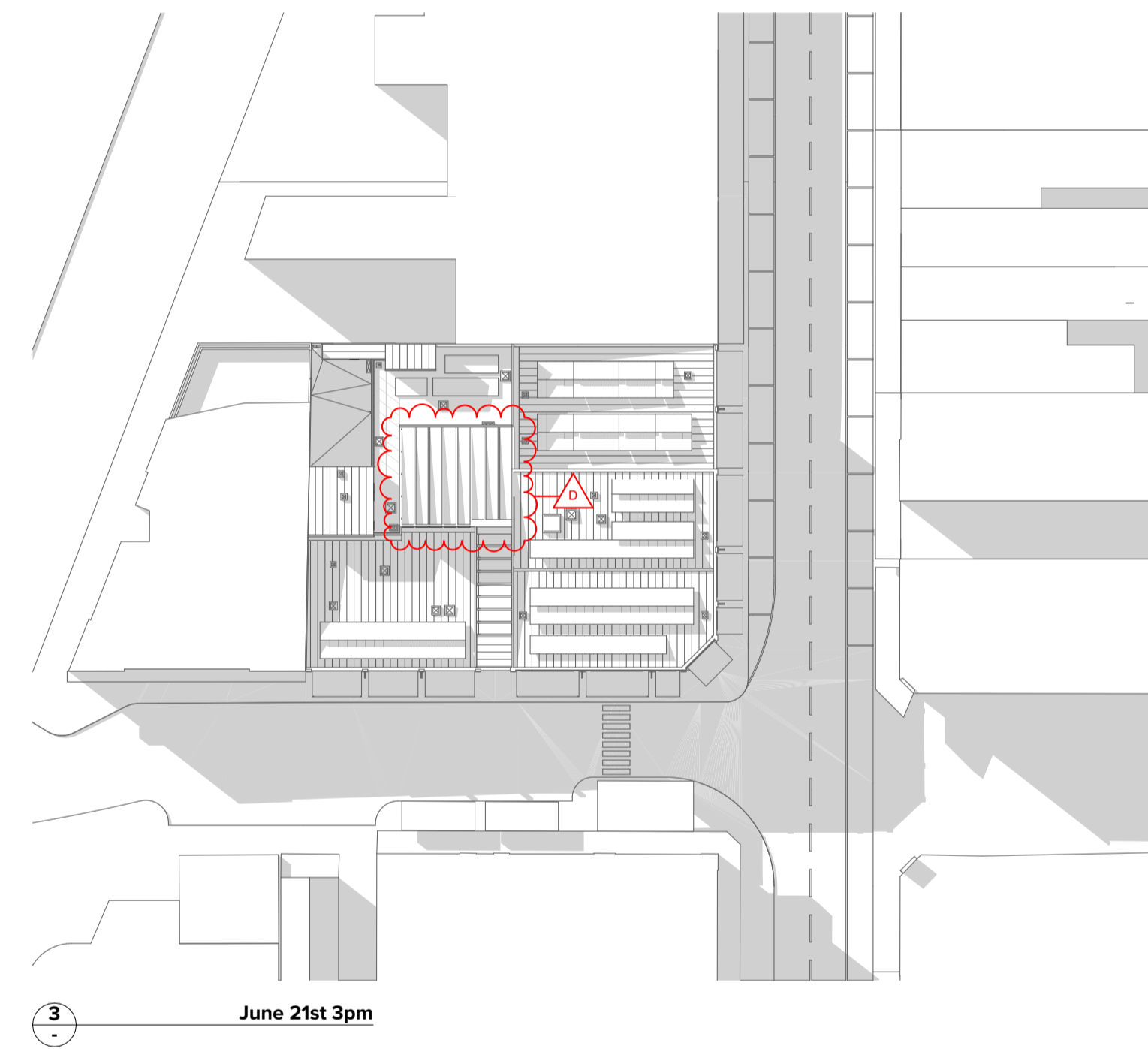




June 21st 9am



June 21st 12pm



June 21st 3pm

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279-287 Bong Bong St Bowral NSW 2576 Australia

**Drawing Title**  
**Shadow Diagrams**  
June 21st

|      |          |             |                                    |
|------|----------|-------------|------------------------------------|
| D    | 21.02.23 | JF          | Amended Development Application    |
| C    | 23.06.22 | JF          | Development Application            |
| B    | 31.05.22 | JF          | Development Application            |
| A    | 16.05.22 | JF          | Planning Services Coordination Set |
| Rev. | Date     | Approved by | Reasons/Notes                      |

**Scale**  
1:500 @A1, 50%@A3  
**Project No.** 21090  
**Status** Development Application  
**Dwg No.** DA-790-001

**Drawn by** AK  
**Rev** D  
**North** ↑

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279-287 Bong Bong St Bowral NSW 2576 Australia

**Drawing Title**  
**3D VIEWS**  
**Bong Bong Street**

|        |                         |             |                         |             |       |          |       |
|--------|-------------------------|-------------|-------------------------|-------------|-------|----------|-------|
| Rev    | 28.06.22                | JF          | Development Application | Project No. | 21090 | Drawn by | North |
| Date   |                         | Approved by | Reasons Notes           | Scale       |       | Rev      | N/A   |
| Scale  | @A1, 50%@A3             | Project No. | 21090                   | Rev         | A     |          |       |
| Status | Development Application | Draw No.    | DA-910-002              |             |       |          |       |

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279-287 Bong Bong St Bowral NSW 2576 Australia

**Drawing Title**  
**3D VIEWS**  
Wingecarribee Street

|             |          |             |              |                         |          |       |
|-------------|----------|-------------|--------------|-------------------------|----------|-------|
| Rev         | Date     | Approved By | Reason/Notes | Project No.             | Drawn by | North |
| A           | 28.06.22 | JF          |              | 21090                   | N/A      |       |
| Scale       |          |             |              | Dev No.                 | Rev      |       |
| @A1, 50%@A3 |          |             |              | DA-910-003              | A        |       |
| Status      |          |             |              | Development Application |          |       |

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**Project Title**  
**Bong Bong St**  
279-287 Bong Bong St Bowral NSW 2576 Australia

**Drawing Title**  
**3D VIEWS**  
**Arcade Entry**

|       |             |             |                         |             |            |          |       |
|-------|-------------|-------------|-------------------------|-------------|------------|----------|-------|
| Rev   | 28.06.22    | JF          | Development Application | Project No. | 21090      | Drawn by | North |
| Date  |             | Approved by | Reasons Notes           | Scale       |            | Rev      | N/A   |
| Scale | @A1, 50%@A3 | Status      | Development Application | Dev No.     | DA-910-004 | Rev      | A     |

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**Project Title**  
**Bong Bong St**  
279-287 Bong Bong St Bowral NSW 2576 Australia

**Drawing Title**  
**3D VIEWS**  
**Arcade Internal**

|             |          |             |                         |             |          |       |
|-------------|----------|-------------|-------------------------|-------------|----------|-------|
| Rev         | Date     | Approved By | Development Application | Project No. | Drawn by | North |
| A           | 28.06.22 | JF          | 21090                   | N/A         |          |       |
| Scale       |          |             | Reasons Notes           | 21090       | N/A      |       |
| @A1, 50%@A3 |          |             | Development Application | DA-910-005  | Rev      | A     |

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**Bong Bong St**  
279-287 Bong Bong St Bowral NSW 2576 Australia

**Drawing Title**  
**3D VIEWS**  
**Aerial**

|        |                         |             |                         |             |       |          |       |
|--------|-------------------------|-------------|-------------------------|-------------|-------|----------|-------|
| Rev    | 28.06.22                | JF          | Development Application | Project No. | 21090 | Drawn by | North |
| Date   |                         | Approved by | Reasons/Notes           | Scale       |       | Rev      | N/A   |
| Scale  | @A1, 50%@A3             | Project No. | 21090                   | Rev         | A     |          |       |
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## Clause 4.6 Variation Request Floor Space Ratio

277 -287 BONG BONG STREET  
BOWRAL



**AGENDA OF THE LOCAL PLANNING PANEL  
WEDNESDAY 23 AUGUST 2023**



| <b>QUALITY ASSURANCE</b> |   |
|--------------------------|---|
| <b>PROJECT:</b>          | <i>Clause 4.6 Departure -FSR</i>                                |
| <b>ADDRESS:</b>          | <i>277 -287 Bong Bong Street, Bowral</i>                        |
| <b>LOT/DP:</b>           | <i>Lot 2 in DP 1125539 and Lots 2791 and 2792 in DP 1107202</i> |
| <b>COUNCIL:</b>          | <i>Wingecarribee Council</i>                                    |
| <b>AUTHOR:</b>           | <i>Think Planners Pty Ltd</i>                                   |

| <b>Document Management</b> |                         |                 |                 |                   |
|----------------------------|-------------------------|-----------------|-----------------|-------------------|
| <b>Date</b>                | <b>Purpose of Issue</b> | <b>Revision</b> | <b>Reviewed</b> | <b>Authorised</b> |
| 5 July 2022                | Co-ordination           | Draft           | BD              | BD                |
| 7 July 2022                | Lodgement Issue         | Final           | BD              | BD                |





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## **CLAUSE 4.6 DEPARTURE – FLOOR SPACE RATIO**

### **BACKGROUND**

This Clause 4.6 departure has been prepared in support of a development application that seeks approval to demolish remaining structures on the site and construct a two storey retail and commercial development at 277 -287 Bong Bong Street, Bowral.

The key aspects of the proposal are as follows:

#### ***Demolition***

Demolition of four single storey buildings on the site and removal of the ground floor slab associated with the previous building on the site that substantially burnt down in 2021.

#### ***Construction***

Construction of a two storey retail and commercial building on the site, containing 9 ground floor retail tenancies and 3 first floor commercial suites.

Six of the ground floor tenancies have direct frontage to either Bong Bong Street or Wingecarribee Street with 3 tenancies accessed off an internal arcade with an communal seating area below a pyramid skylight. These tenancies have internal areas of between 34.42m<sup>2</sup> to 301.92m<sup>2</sup>.

The first floor level is proposed to contain 3 commercial suites that are accessed from the internal arcade via a lift and stairs and have an internal floor area of between 104.04m<sup>2</sup> to 125,73m<sup>2</sup>,

Communal amenities for both staff and patrons are provided on both levels of the building.

The site is identified by the Wingecarribee Local environmental Plan 2010 as having a maximum FSR of 1.1:1. The development proposes an FSR of 1.119:1 and marginally varies this control.

Given that the 1.1:1 FSR control is a development standard a clause 4.6 departure is required to seek to vary this standard.

# AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 23 AUGUST 2023



## SUBJECT SITE

The subject site is legally described as Lot 2 in DP 1125539 and Lots 2791 and 2792 in DP 1107202 , but is commonly known as 277 -287 Bong Bong Street, Bowral.

Located within the Bowral Town Centre the site is an irregular shaped corner allotment located on the western side of Bong Bong street and the northern side of Wingecarribee Street. The site has a frontage to Bong Bong Street of approximately 38m and a frontage to Wingecarribee Street of 45.37m and an overall site area of 1627.62m<sup>2</sup>.

The subject site contains four separate buildings that are used for retail and commercial activities and contains the remnants (predominantly a slab) associated with a two storey building on the that burnt down in 2021.

An aerial map of the site and its immediate surrounds is provided below

**Figure 1: Aerial Map Extract of Subject Site (Near Maps 2022)**



The site is located towards the North Western edge of the Bowral Town Centre and is adjoined by one and two storey retail and commercial buildings of a variety of architectural styles. . The site is located within 30m walking distance of Bowral Train Station.

**AGENDA OF THE LOCAL PLANNING PANEL  
WEDNESDAY 23 AUGUST 2023**

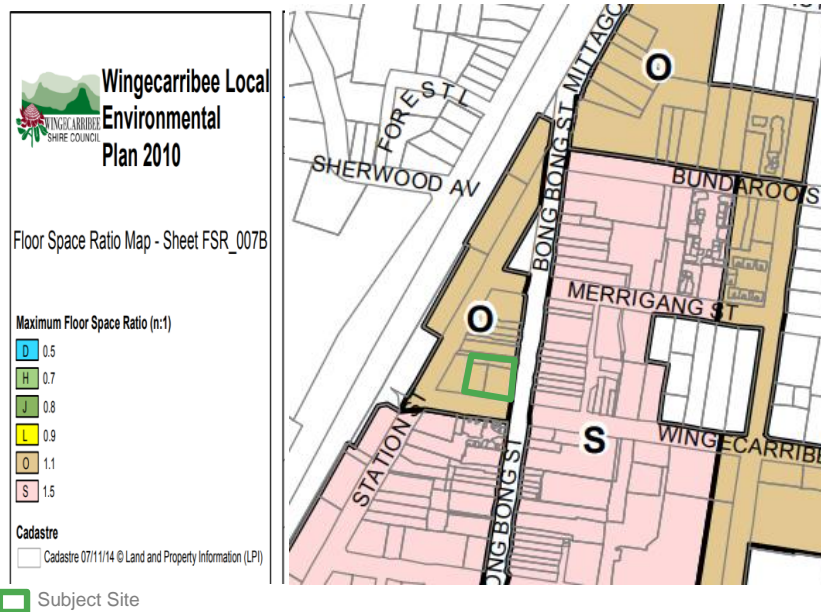


**THE DEVELOPMENT STANDARD TO BE VARIED**

As illustrated below, the site is identified by the maps associated with Wingecarribee LEP 2010 as having a mapped floor space ratio of 1.1:1.

The proposal seeks approval for an FSR of 1.119:1 that equates to a 1.95% departure (31.5m<sup>2</sup>)

**Figure 2: LEP FSR Map extract (Source Wingecarribee LEP 2010)**



A detailed discussion against the relevant provisions of Clause 4.6 are provided below with further discussion against the relevant case law 'tests' set down by the Land and Environment Court.



## **LAND AND ENVIRONMENT CASE LAW**

The decision by Chief Judge Preston in a judgement dated 14 August 2018 in the matter of *Initial Action Pty Ltd v Woollahra Council* confirmed that the absence of impact was a suitable means of establishing grounds for a departure and also confirmed that there is no requirement for a development that breaches a numerical standard to achieve a 'better outcome'. However more recent developments in the law in *RebelMH Neutral Bay Pty Limited v North Canterbury Council* [2019] NSWCA 130 have set out to confirm that the approach taken in *Al Maha Pty Ltd v Huajun Investments Pty Ltd* [2018] NSWCA 245 ('*Al Maha*') is also relevant. In simple terms, *Al Maha* requires that a Clause 4.6 departure will have only adequately addressed Clause 4.6(3) if the consent authority is satisfied the matters have been demonstrated in the Clause 4.6 request itself- rather than forming a view by the consent authority itself. This Clause 4.6 request demonstrates the matters if Clause 4.6 (3).

The key tests or requirements arising from recent judgements is that:

- The consent authority be satisfied the proposed development will be in the public interest because it is "*consistent with*" the objectives of the development standard and zone is not a requirement to "*achieve*" those objectives. It is a requirement that the development be compatible with the objectives, rather than having to 'achieve' the objectives.
- Establishing that 'compliance with the standard is unreasonable or unnecessary in the circumstances of the case' does not always require the applicant to show that the relevant objectives of the standard are achieved by the proposal (Wehbe "test" 1). Other methods are available as per the previous 5 tests applying to SEPP 1, set out in *Wehbe v Pittwater*.
- When pursuing a clause 4.6 variation request it is appropriate to demonstrate environmental planning grounds that support any variation; and
- The proposal is required to be in 'the public interest'.

In relation to the current proposal the keys are:

- Demonstrating that the development remains consistent with the objectives of the maximum floor space ratio standard;
- Demonstrating consistency with existing streetscape;
- Demonstrating compliance with objectives of the B2 zone; and
- Satisfying the relevant provisions of Clause 4.6.



This Clause 4.6 Variation request deals with the maximum floor space ratio matters in turn overleaf.

### **CONSIDERATION OF CLAUSE 4.6**

Clause 4.6 of the Wingecarribee Local Environmental Plan 2010 provides that development consent may be granted for development even though the development would contravene a development standard. This is provided that the relevant provisions of the clause are addressed, in particular subclause 1-5 which provide:

- (1) *The objectives of this clause are as follows—*
  - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
  - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—*
  - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
  - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless—*
  - (a) *the consent authority is satisfied that—*
    - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
    - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
  - (b) *the concurrence of the Planning Secretary has been obtained.*
- (5) *In deciding whether to grant concurrence, the Planning Secretary must consider—*
  - (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
  - (b) *the public benefit of maintaining the development standard, and*
  - (c) *any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.*

Each of these provisions are addressed in turn.



**Clause 4.6(3)**

In *Wehbe v Pittwater* [2007] NSWLEC 827 ('**Wehbe**'), Preston CJ identified a variety of ways in which it could be established demonstrated that compliance with a development standard is unreasonable or unnecessary in the case. This list is not exhaustive. It states, inter alia:

*"An objective under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish the compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard."*

While *Wehbe* relates to objection made to State Environmental Planning Policy No. 1 – Development Standards (SEPP 1), the reasoning can be similarly applied to variations made under Clause 4.6 of the standard instrument.

The judgement goes on to state that:

*"The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objectives is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served)."*

Preston CJ in the judgement then expressed the view that there are at least 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy, as follows (with emphasis placed on number 1, 2 and 3 for the purposes of this Clause 4.6 variation [our underline]):

- *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
- *The underlying objectives or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
- *The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
- *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
- *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and*



*unnecessary as it applies to the land and compliance with the standard that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

It is sufficient to demonstrate **only one** of these ways to satisfy clause 4.6(3)(a) (*Wehbe v Pittwater Council [2007] NSWLEC 827, Initial Action Pty Limited v Woollahra Municipal Council [2018] NSWLEC 118 at [22], RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130 at [28]*) and *SJD DB2 Pty Ltd v Woollahra Municipal Council [2020] NSWLEC 1112 at [31]*.

The objectives of the standard are to be achieved notwithstanding non-compliance with the standard

This Clause 4.6 variation statement establishes that compliance with the maximum floor space ratio development standard is considered unreasonable or unnecessary in the circumstances of the proposed development because the underlying objectives of the standard are achieved despite the non-compliance with the numerical standard

In accordance with the provisions of this clause it is considered that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case as the underlying objectives of the control are achieved. The objectives of the maximum floor space ratio development standard are stated as:

*The objectives of this clause are as follows—*

- (a) to identify maximum floor space ratios in major centres,*
- (b) to ensure that floor space ratios provide development opportunities that are compatible with building heights,*
- (c) to encourage development in locations readily accessible to public transport and services that will provide increased employment opportunities.*

The development proposal is consistent with the above objectives based on the following:

- The proposal predominantly replaces a building that was fire damaged and subsequently demolished in 2021 that also very likely had an FSR that exceeded 1.1:1. On the basis that the development is effectively re-establishing the part two storey building on the site it is consistent with the development that was previously over the site;
- The site benefits from a 10m height control. This effectively allows a two storey building across the entire site. Given this the massing of the building is consistent with that envisioned by the planning controls the proposed floor space ratio is consistent and compatible with the proposed building height that the development is consistent with;





- If two additional ground level parking spaces were provided within the building it would likely comply with the FSR requirement. The massing and building envelope would not alter to achieve this.
- Similarly if the communal seating area within the arcade was open to the sky, the development would comply with the FSR control however patrons would be exposed to the weather and have reduced amenity but the bulk and scale of the building would not be visibly reduced when viewed from the public domain;
- The site is located within 30m walking distance of Bowral Station and bus interchange and opposite a taxi rank in Bong Bong Street. Given this the site is highly accessible and consistent with the objective on increasing employment opportunities in an accessible location.
- The adjoining site at 18 Station Street that also benefits from a mapped FSR of 1.1:1 appears to have an actual FSR of closer to 1.7:1. Given this the massing of the building is compatible and does not overwhelm the adjoining building;
- The precinct specific DCP indicates that the precinct benefits from a mapped FSR of 1.5:1. Although a DCP cannot override a LEP control, it indicates that there is a planning control that considers a LEP departure has planning merit;
- As illustrated in figure 2, sites to the east and south of the site benefit from a mapped FSR of 1.5:1. Given this the minor departure is not inconsistent with the FSR envisioned for the immediate precinct;
- Given the FSR of adjacent properties at 1.5:1, the variation to the FSR control will not be visually prominent when viewed in the context of existing and likely emerging height of buildings in the precinct;
- The proposal provides an appropriate building form that is consistent with the desired future character of the locality and is reflective of the objectives for the zone and locality.
- The proposal presents an appropriate height on the site that facilitates a high quality urban form to contribute to building diversity within the Bowral Town Centre.
- The proposal will provide for a number of distinct public benefits:
  - Delivery of additional employment within the Bowral Town Centre and in a highly accessible area;;
  - Creation of jobs during the construction and ongoing operation stages;
  - Activation of the street level;
  - Amenity impacts to adjoining properties are mitigated and the



distribution of floor space across the site will not be discernibly different to a built form that is compliant with the FSR control.

- The scale and intensity of the development is consistent with existing adjoining building and other buildings in the immediate vicinity, which demonstrates an appropriate development outcome.
- The proposal has no unacceptable impact on heritage or other views; and
- The proposal presents an appropriate height on the site that facilitates a high quality urban form to contribute to building diversity across the Bowral Precinct.

As outlined above the proposal remains consistent with the underlying objectives of the controls and as such compliance is considered unnecessary or unreasonable in the circumstances. The above discussion demonstrates that there are sufficient environmental planning grounds to justify the departure from the control.

**Clause 4.6(4)**

In accordance with the provisions of Clause 4.6(4) Council can be satisfied that this written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3). As addressed the proposed development is in the public interest as it remains consistent with the objectives of the FSR control and of the zone objectives that are stipulated as:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To generally conserve and enhance the unique sense of place of business centre precincts by ensuring that new development integrates with the distinct urban scale, character, cultural heritage and landscape setting of those places.*
- *To provide opportunities for a compatible mix of residential living above retail, commercial, recreational, cultural and community activities at street level.*
- *To ensure that adequate provision is made for infrastructure that supports the viability of business centre precincts, including public car parking, traffic management facilities, public transport facilities, cyclist facilities, pedestrian access paths, amenities, facilities for older people and people with disabilities and general public conveniences.*
- *To maximise the efficient use of land in business centre precincts to promote more compact and accessible places.*
- *To ensure that new development has regard to the character and amenity of adjacent and nearby residential areas.*

The proposal provides for the commercial and retail needs of the community and provides employment opportunities in the town Centre in close proximity to public transport.



**Clause 4.6(5)**

The Secretary (of Department of Planning and Environment) can be assumed to have concurred to the variation. This is because of Department of Planning Circular PS 18–003 'Variations to development standards', dated 21 February 2018. This circular is a notice under 64(1) of *the Environmental Planning and Assessment Regulation 2021*. A consent granted by a consent authority that has assumed concurrence is as valid and effective as if concurrence had been given.

The points contained in Clause 4.6 (5) are a matter for consideration by the consent authority however the following points are made in relation to this clause:

- a) The contravention of the FSR limit does not raise any matter of significance for State or regional environmental planning given the nature of the development proposal and unique site attributes associated with the subject site; and
- b) There is no public benefit in maintaining the development standard as it relates to the current proposal. The departure from the FSR control is acceptable in the circumstances given the underlying objectives are achieved and it will not set an undesirable precedent for future development within the locality particularly when considering the proposal is consistent with the bulk and scale and building heights of nearby and approved dwellings.



## **CONCLUSION**

The proposed development meets the underlying intent of the control and is a compatible form of development that does not result in unreasonable environmental amenity impacts.

The design response aligns with the intent of the control and provides for an appropriate transition to the adjoining properties.

The proposal promotes the economic use and development of the land consistent with its zone and purpose.

The objection is well founded and taking into account the absence of adverse environmental, social or economic impacts, it is requested that Council support the development proposal.

Strict compliance with the prescriptive maximum FSR requirement is unreasonable and unnecessary in the context of the proposal and its circumstances. The proposed development meets the underlying intent of the control and is a compatible form of development that does not result in unreasonable environmental amenity impacts.

The objection is well founded and considering the absence of adverse environmental, social or economic impacts, it is requested that Council support the development including the departure to the maximum FSR control.

The proposal will not have any adverse effect on the surrounding locality and is consistent with the future characterised envisioned for the subject area. The proposal promotes the economic use and development of the land consistent with its zone and purpose. Council is requested to invoke its powers under Clause 4.6 to permit the variation proposed.

The objection is well founded and taking into account the absence of adverse environmental, social or economic impacts, it is requested that Council support the development proposal.

**AGENDA OF THE LOCAL PLANNING PANEL  
WEDNESDAY 23 AUGUST 2023**

**PROPOSED REDEVELOPMENT**

**AT**

**277-287 BONG BONG STREET,  
BOWRAL, NSW**

**HERITAGE IMPACT STATEMENT**



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July 2022

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# AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 23 AUGUST 2023

279-287 BONG BONG STREET, BOWRAL

HERITAGE IMPACT STATEMENT

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Frontispiece:       The store probably in the late 1940s

Source: Berrima District Historical and Family History Society (100789)

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## 1.0 INTRODUCTION

### 1.1 THE BRIEF

The following report has been prepared to accompany a development application for the redevelopment of the existing properties at 277-287 Bong Bong Street, Bowral, NSW. The report has been prepared on behalf of Paynter Dixon, the project managers for the development.

### 1.2 THE STUDY AREA

The study area is Lot 2791 and 2792 in DP 1107202 and Lot 2 in DP 1125539 at Bowral (Figure 1.1).



Figure 1.1 The Study Area shaded

Source: SIX Maps

### 1.3 LIMITATIONS AND TERMS

The report only addresses the European significance of the place. The terms *fabric*, *conservation*, *maintenance*, *preservation*, *restoration*, *reconstruction*, *adaptation*, *compatible use* and *cultural significance* used in this report are as defined in the Australia ICOMOS *Burra Charter*.



**AGENDA OF THE LOCAL PLANNING PANEL  
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279-287 BONG BONG STREET, BOWRAL

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# AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 23 AUGUST 2023

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## 1.4 METHODOLOGY

This report was prepared in accordance with the *NSW Heritage Manual* "Statements of Heritage Impact" and "Assessing Heritage Significance Guidelines" and the Wingecarribee Shire Council guidelines for the preparation of heritage impact statements. The philosophy adopted is that guided by the Australia ICOMOS Burra Charter 2013.

## 1.5 AUTHORS AND ACKNOWLEDGMENTS

This report, including all diagrams and photographs, was prepared by John Oultram of John Oultram Heritage & Design, unless otherwise noted. Historical research was prepared by Nicholas Jackson. John Oultram Heritage & Design was established in 1998 and is on the NSW Heritage Office list of heritage consultants.

## 2.0 HISTORICAL DEVELOPMENT

### 2.1 SUMMARY

The former building standing at the corner of Bong Bong and Wingecarribee-streets within the Nos. 279-287 Bong Bong Street group was built in about 1882 as a store for Charles Waters (1852-1940) and his wife Emmeline (1860-1943). The store traded as the Glenmore. From 1915 the building functioned as a cafe initially known as Wright's and after 1924 the Windsor Cafe. The Waters family owned this property until 1960 and the cafe seems to have continued until that time. In the 1980s it was a branch of the ANZ Bank.

### 2.2 TOWNSHIP CONTEXT

Bowral is the largest town situated in the Southern Highlands of NSW, which was administered by the former Bowral Council from 1886 (absorbed by Wingecarribee Council in 1981). The district was discovered by British settlers in 1798 in the expedition led by John Wilson who traversed the area between Camden and Mount Bullo near the junction of the Wingecarribee and Wollondilly-rivers and thus took in the present day townships of Bargo, Mittagong, Bowral, and Berrima.

Colonisation of the Bowral area however came some years later, in 1815, when John JWM Oxley ran cattle at Mount Gibraltar, which the local Aborigines knew as Bowrel. Oxley (1784-1828) was a former lieutenant in the Royal Navy and had been in the colony intermittently since 1802; he was appointed the Surveyor General in 1812 and had developed a rural estate at Kirkham near Camden from 1810. Oxley, who died in 1828 at the young age of 42, had two sons, John Norton (1824-1891) and Henry Molesworth (1826-1867), from his marriage in 1821 to Emma Norton. Governor Macquarie had granted John JWM Oxley 2,400 acres, which was formalised in 1855 by a grant to Oxley's widow and her sons of 5,000 acres (in grants of 4,200 and 800 acres).<sup>1</sup> The focus of Oxley's grant at Bowral was the property set on Oxley's Hill located to the west of the present day township.

Some 4,200 acres of the 1855 grant was subdivided in 1859 and offered for sale by John Oxley after he had acquired his brother's entitlement. In the subdivision, 200 acres was set aside for a town settlement that was originally named Burradoo, but by 1867 was named Bowral with the opening of the railway station with that name.<sup>2</sup>

The township of Bowral as set out by Oxley comprised a compact area east of the future railway line. The original layout of the town was defined by twelve sections containing upwards of fourteen building allotments each measuring 66 feet by 330 feet deep. Oxley's town plan has been extended over time: the two major early land releases comprised an additional two sections (Sections 13 and 14) sited to the east of Bendooley Street released for sale in 1878. This release added Short Street, Una Street and Shepherd Street to the town plan. The area to the south of Bowral Street, originally farmland, was subdivided in 1901 as Harrison's Estate.

<sup>1</sup> Parry, AVJ, *The story of St Jude's, 1874-1974*, (Parry 1974), p. 5

<sup>2</sup> Day, L and K Gilroy, *Beautiful Bowral: a pictorial celebration*, Bong Bong Publishing, Mittagong, 1997 (Day & Gilroy 1997), p.13

The town plan incorporated Bong Bong Street that was one of the main roads in the district and it was in this street that the first land sales in the town occurred in 1863.<sup>3</sup> Bong Bong Street is close to the town's railway station, which was opened in December 1867, and the impetus for this early development was in part the building of the extension of the Great Southern Railway to Moss Vale with local businesses servicing the construction gangs. The railway station was rebuilt in 1892 into the form seen today.

No public reserve was set aside in the 1859 town plan, but some 42 acres and other land for a church and school collectively located between Bendooley Street and Wingecarribee Creek was donated by Oxley to the Anglican Church. This donation determined the future development of Bendooley Street as the civic precinct of the town, as over the next few decades the following government and religious institutions and facilities were erected commencing with Bowral Public School in 1863, St Jude's Church of England (1874 and rebuilt 1887), School of Arts (1885), Police Station (1887 and rebuilt 1931), Town Hall (1889), Court House (1896), and Corbett Gardens (1911).

### 2.3 COMMERCIAL PRECINCT

As the township of Bowral developed over the 1870s and 1880s, businesses that serviced the commercial interests of the town located their premises in Bong Bong Street. A post office agency was opened in the mid 1860s in Bong Bong Street, and the new purpose built office opened in 1887. The intersection of Bong Bong Street with Wingecarribee Street became important as Wingecarribee Street was the only bridged road over the railway line, and it provided the shortest route to the station. Around this intersection major banks established their local branches: The Commercial Banking Company of Sydney (1884), The English, Scottish & Australian Bank (1890), The City Bank (1892, and the Government Savings Bank (1912). Also there was the Grand Hotel (still standing) opened in 1888, and a little further north (No.253 Bong Bong Street) the Royal Hotel from 1878.



Figure 2.1 From the verandah of the Grand Hotel looking north along Bong Bong Street in 1908 showing the Commercial Banking Company of Sydney (1884) and the Post Office (1887). At left is the posted street awning of the former nineteenth century store at No.279 Bong Bong Street

Source: Berrima District Historical and Family History Society (101178)

<sup>3</sup> Day & Gilroy 1997, p15



Figure 2.2 Looking south along Bong Bong Street from the intersection with Wingecarribee Street in the early 1910s showing the Government Savings Bank (1912) and the Grand Hotel (1888)

Source: Berrima District Historical and Family History Society (1011931)

#### 2.4 Nos. 279-287 BONG BONG STREET

The property Nos. 279-287 Bong Bong Street comprises part of Lot 3 and part Lot 4 in Section 10 of Oxley's township of Bowral subdivision. This part of the town had been purchased by William Charker in 1876 from John Norton Oxley.<sup>4</sup> Charker's purchase comprised Lots 1 to 4 in Section 10, this being the 1&1/4 acres bounded by Wingecarribee, Bong Bong, Merrigang, and Station-streets. Charker (1828-1910) was a local butcher, who came to Bowral in 1863 and then agitated for a railway.<sup>5</sup>

<sup>4</sup> Old System Conveyance Book 162 No. 36

<sup>5</sup> Obituary, *Robertson Advocate*, 23 December 1910, p.2



Figure 2.3 Detail of the JN Oxley's Bowral Township plan (not dated). In this plan the area of Charker's purchase of 1876 north of Wingecarribee Street was not elaborated on. Marked up area shows Waters' land purchased in stages from 1882. Image reorientated for reproduction in this report

Source: National Library of Australia (LFS361)

The southern two thirds of Charker's property was sold in 1879 to George Frederick West,<sup>6</sup> and by 1881 this area was owned by the Dorough brothers, John (1829-1903) and James (1834-1931), contractors and sawmill owners of Kangaloon.<sup>7</sup> In 1882 John Dorough sold the Bong Bong Street frontage of Nos. 279-287 to storekeeper Charles Waters (1852-1940) and his wife Emmeline (1860-1943) for 250 pounds.<sup>8</sup> Mrs Waters was the youngest daughter of grazier Joseph Moore (1815-1880) of Glenmore Oaks near Camden, the couple having married at Summer Hill in 1881.<sup>9</sup>

The initial development of the site of Nos. 279-287 Bong Bong Street seems to have occurred in the early 1880s (about 1882) with the building of premises that was part residence (known as Glenmore House) and part retail store (known as Glenmore Store). Two buildings were certainly developed by 1887 as they were recorded in the general survey of the town of Bowral approved in that year.<sup>10</sup> While Mrs Waters furnished the money and honoured the family estate, when Mr Waters died in 1940 it was reported he built the Glenmore Store.<sup>11</sup>

<sup>6</sup> Old System Conveyance Book 196 No. 83

<sup>7</sup> Old System Conveyance Book 220 No. 844

<sup>8</sup> Old System Conveyance Book 245 No. 55

<sup>9</sup> Marriages, *Sydney Morning Herald*, 17 June 1881, p.1

<sup>10</sup> Crown Plan 1.2508

<sup>11</sup> 'Death of Mr Charles Waters,' *Southern Mail*, 23 February 1940, p.2

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Figure 2.4 Detail of the 'Plan of the streets in the Town of Bowral' approved in 1887. The area in red was purchased in 1882 by Charles Waters from John Dorrrough for 250 pounds. The survey recorded two buildings on this allotment. Now Lot 2791 in DP1107202 as part of Nos. 279-287 Bong Bong Street.

The area in blue was purchased in 1886 by Henry Smith from John Dorrrough for 300 pounds and sold by Smith in 1897 to Charles Waters for 400 pounds. Now Lot 2792 in DP1107202 as part of Nos. 279-287 Bong Bong Street.

The area in green was purchased in 1886 by John George Morris from John Dorrrough for 200 pounds. Sold by the widowed Mrs Sarah Morris to Charles Waters in 1892 for 540 pounds. Historically this site was associated with Stokes' produce store

Source: NSW Land Registry Services (Crown Plan 1.2508)

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Figure 2.5 Looking north along Bong Bong from the verandah of the Grand Hotel (opened in 1888). The photograph recorded at left the posted street awning and verandah behind of Charles Waters' Glenmore Store. Not dated (1888?)

Source: Berrima District Historical and Family History Society (101190)



Figure 2.6 The store probably in the late 1940s

Source: Berrima District Historical and Family History Society (100789)





Figure 2.7 The store in the 1960s

Source: Berrima District Historical and Family History Society (102313)

The Waters family owned this property until 1960, but from 1893 they left it to others to manage. The first lessee was George Pickering Masterman (1841-1917), who continued with the retail store selling clothing and drapery.<sup>12</sup> Masterman, a dynamic individual who seems to have left his mark wherever he lived,<sup>13</sup> gave up the lease and left Bowral in 1896 hoping to find better trade in Maitland.<sup>14</sup>

<sup>12</sup> Advertising, *Bowral Free Press*, 7 June 1893, p.3

<sup>13</sup> 'Death of GP Masterman,' *Maitland Daily Mercury*, 26 March 1917, p.4

<sup>14</sup> 'Presentation to GP Masterman', *Bowral Free Press*, 25 November 1896

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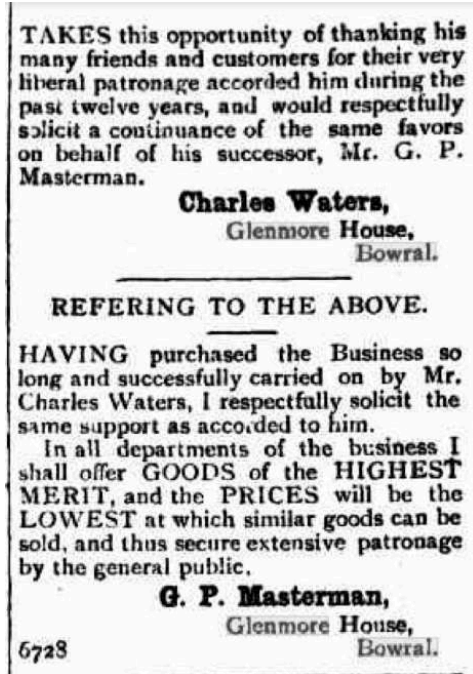


Figure 2.8 In June 1893 Waters published this notice in the *Berrima Free Press* to inform his faithful patrons that he was retiring from trade and that their needs henceforth would be attended to by George Pickering Masterman. This notice stated Waters had commenced his store in 1881 (should be 1882)

Source: *Berrima Free Press*, 7/6/1893, p.3

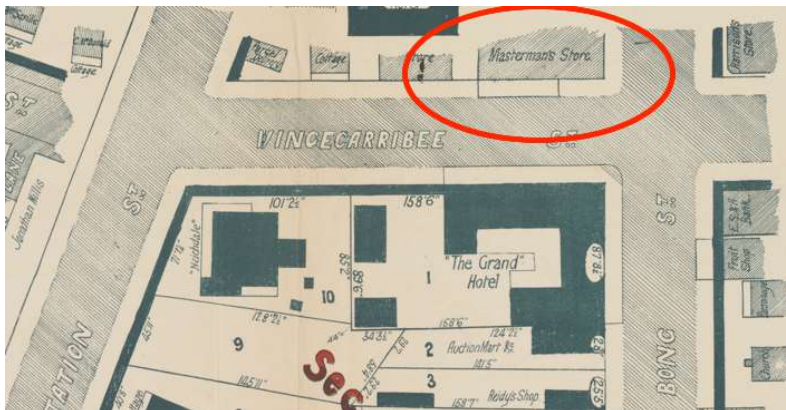


Figure 2.9 Detail of the sales plan of the Neich's Estate of 1894 showing Masterman as the proprietor of the store

Source: National Library of Australia (LFS 376)

In 1886 Waters had purchased a parcel of land along Wingecarribee Street,<sup>15</sup> and another in 1892<sup>16</sup> (see Figure 3.2). The first purchase was developed by Waters in 1897 into a bakery by installing an oven manufactured in Sydney by John Beauchamp, and by Waters engaging baker Fred Remington.<sup>17</sup> The building of this bakery necessitated the removal of a pair of large Oxley era Monterey pine trees standing on the site as a safety measure.<sup>18</sup>

In 1915 this bakery, known as the Glenmore Bakery, opened a retail shop for its products,<sup>19</sup> and the street corner store was converted to refreshment rooms serving the bakery's cakes and pastries. The refreshment rooms were fitted with an American soda fountain in 1916.<sup>20</sup> The proprietor (lessee) of the bakery was A Wright and the refreshment rooms was known as Wright's.<sup>21</sup>



Figure 2.10 An advertisement published in 1919 advising Wright's refreshment rooms was the place to go when in Bowral

Source: *Southern Mail*, 16/12/1919, p.4

<sup>15</sup> Old System Conveyance Book 334 No. 788

<sup>16</sup> Old System Conveyance Book 607 No. 299

<sup>17</sup> 'New Bowral bakery', *Bowral Free Press*, 1 May 1897, p.3

<sup>18</sup> 'Removing two pines', *Bowral Free Press*, 12 May 1897, p.4

<sup>19</sup> Advertising, *Southern Mail*, 17 December 1915, p.4

<sup>20</sup> Local and General, *Southern Mail*, 10 November 1916, p.2

<sup>21</sup> Advertising, *Southern Mail*, 16 December 1919, p.4



Figure 2.11 From 1924 the refreshment rooms were known as the Windsor Cafe. This photograph of 1949 depicted the signage of the cafe mounted on the new cantilever awning

Source: ANU Archives

In 1924 Mr Wright sold the lease of his refreshment rooms to CH Clark (1859-1926), and under the new management the premises became the Windsor Cafe, with the neighbouring bakery continuing to supply the delicacies.<sup>22</sup>

It was reported in 1949 that the nineteenth century timber posted street awning and verandah above were removed by order of the local council as a road safety measure<sup>23</sup> and replaced by a cantilevered steel framed awning. However, photographic evidence suggests the installation of the cantilevered awning to Bong Bong Street was earlier than this.

In 1960 Charles and Emmeline Waters' son, Charles Clifford Waters (1889-1963), sold the long held family property to a couple of cleaners for 15,500 pounds<sup>24</sup> (\$470,470 adjusted for inflation).

The property was next sold in 1967 when it was acquired by Highlands Arcade Pty Ltd for \$120,000<sup>25</sup> (\$1,561,008 adjusted for inflation). The extensive re-modelling of the premises seems to have been undertaken by this company, with the tenant being the ANZ Bank by the 1980s.

<sup>22</sup> Local Items, *Robertson Mail*, 14 November 1924, p.2.

<sup>23</sup> Bowral Council, *Southern Mail*, 4 November 1949, p.3

<sup>24</sup> Old System Conveyance Book 2546 No. 382

<sup>25</sup> Old System Conveyance Book 2819 No. 222

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Figure 2.12 The facade depicted in this photograph of 1989. The Grand Hotel was then under reconstruction as a business complex, and the tenant of the former Windsor Cafe was the ANZ Bank

Source: Berrima District Historical and Family History Society (101269)



Figure 2.13 The building after the fire in July 2021

### 3.0 PHYSICAL DESCRIPTION

An inspection of the properties was carried out by John Oultram in November 2021. The current site plan is shown in Figures 3.1.

The buildings were heavily damaged by fire in July 2021 and only remnants of the shops remain. Only parts of the interiors were inspected due to safety considerations.

#### 3.1 277 BONG BONG STREET

The building is a single storey, late Victorian shop set tight to the front footpath. The building is in rendered masonry with later shopfronts and a parapet with a moulded cornice and capping with expressed piers. The building has a suspended awning to the front with a corrugated metal roof. The building has a skillion metal roof behind the parapet. The building is to a similar detail to the narrower shop at 275 Bong Bong Street.

#### 3.2 279-281 BONG BONG STREET

The building is a single storey, Inter War shop set tight to the front footpath. The building is in face brick with later shopfronts and brick parapets with inset, rendered panels. The building has a suspended awning to the front with a fibro soffit and corrugated metal roof. The building has skillion metal roof behind the parapet.

The shopfront to 279 Bong Bong Street retains its leadlight highlight.

#### 3.3 CORNER BUILDING

The two storey corner building was badly damaged by fire and has been demolished.

#### 3.4 WINGECARRIBEE STREET

To Wingecarribee Street is a row of three, Post War shops also set tight to the street that have modern shopfronts with a cantilevered awning over and a rendered parapet.

To the west of the shops is a narrow side passage to a rear loading area.

#### 3.5 ENVIRONS

The site is set to the corner of Bong Bong Street and Wingecarribee Street in the heart of the commercial centre of Bowral. The streets are lined with one and two storey, commercial buildings from the late Victorian period onwards in a variety of styles.

To the north is a pair of single storey, late Victorian shops with modern shopfronts and a suspended metal awning with a decorated, rendered parapet. Further to the north is a two storey, possibly Edwardian period, commercial building in render with modern shopfronts, a suspended metal awning with a rendered, parapeted facade above with two pane, sash windows with highlights. There are two storey buildings beyond.

Opposite the site to the east is a row of one and two storey commercial buildings in brick and render from the late Victorian, Edwardian and Inter War period. Opposite at the corner is a two storey, Inter War building in painted brick with modern shopfronts, a suspended awning and parapeted brick faced above with arched openings infilled with aluminium windows. Across the intersection is a two storey, late Victorian building (former bank) in the Free Gothic style in face brick with a parapet to the street with brick pediments.

Opposite the site to the south is the former Grand Hotel, a large, late Victorian building in the Victorian Free Classical style in render with stucco decoration and a parapet with inset panels. The building has modern, timber shopfronts at the ground floor with a glazed awning above and a covered area to Wingecarribee Street. Further west is a single storey, late Victorian brick building with attic dormers and a posted verandah to the front.

To the west of the subject site along Wingecarribee Street is a modern, two storey commercial building.



Figure 3.1 279-287 Bong Bong Street, Bowral

Site plans as existing

Source: Architect

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279-287 BONG BONG STREET, BOWRAL

HERITAGE IMPACT STATEMENT

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Figure 3.2 279-187 Bong Bong Street, Bowral  
East elevation



Figure 3.3 279-187 Bong Bong Street, Bowral  
East elevation



Figure 3.4 279-187 Bong Bong Street, Bowral  
South elevation



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Figure 3.5 279-187 Bong Bong Street, Bowral  
South elevation



Figure 3.6 279-187 Bong Bong Street, Bowral  
Highlight glazing to 279 Bong Bong Street



Figure 3.7 279-187 Bong Bong Street, Bowral  
View looking northwest along Bong Bong Street

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Figure 3.8 279-187 Bong Bong Street, Bowral  
View looking northeast along Bong Bong Street



Figure 3.9 279-187 Bong Bong Street, Bowral  
Syros Corner opposite the subject site



Figure 3.10 279-187 Bong Bong Street, Bowral  
Former Commonwealth Bank opposite the subject site

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Figure 3.11 279-187 Bong Bong Street, Bowral  
View looking southeast along Bong Bong Street



Figure 3.12 279-187 Bong Bong Street, Bowral  
View looking northwest along Bong Bong Street  
to the subject site



Figure 3.13 279-187 Bong Bong Street, Bowral  
The Grand Hotel

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Figure 3.14 279-187 Bong Bong Street, Bowral  
The Grand Hotel from Wingecarribee Street



Figure 3.15 279-187 Bong Bong Street, Bowral  
Retail premises in Wingecarribee Street  
opposite the subject site

#### 4.0 HERITAGE LISTINGS & CONTROLS

##### 4.1 NATIONAL TRUST

The property is not classified on the Register of the National Trust of Australia (NSW).

##### 4.2 HERITAGE NSW OF THE NSW DEPARTMENT OF PREMIER AND CABINET

###### 4.2.1 State Heritage Register

Under the Heritage Act 1977 (as amended), the NSW Heritage Council, administered by Heritage NSW of the NSW Department of Premier and Cabinet, maintains the State Heritage Register (SHR), a register of items and places that are considered to have heritage significance at a state level. The subject property is not listed on the Register.

###### 4.2.2 State Heritage Inventory

Heritage NSW also compiles the State Heritage Inventory (SHI), a collated database of all places listed on statutory heritage lists, including Local Environmental Plans. The subject property is not listed on the Inventory.

##### 4.3 LOCAL AUTHORITY

The local authority for the area is the Wingecarribee Shire Council. The subject property is not listed as a heritage item in Schedule 5 Part 1 of the *Wingecarribee Local Environmental Plan 2010* (as amended) (WLEP).

The property is not within a conservation area but is in the vicinity of the following heritage items.

| REF  | ADDRESS                  | ITEM              | RANKING |
|------|--------------------------|-------------------|---------|
| I079 | 294 Bong Bong Street     | Commonwealth Bank | Local   |
| I467 | 325-327 Bong Bong Street | Empire Cinema     | Local   |

Development would be the subject of the heritage provisions of the WLEP regarding development in the vicinity of a heritage item.

Council may also take into consideration the heritage provisions of the *Bowral Development Control Plan 2010* (BDCP) that contains heritage objectives and controls for the development in the township.

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279-287 BONG BONG STREET, BOWRAL

HERITAGE IMPACT STATEMENT



Figure 4.1 Wingecarribee Local Environmental Plan 2010 Heritage Map HER\_007C

Source: Wingecarribee Shire Council

## 5.0 ASSESSMENT OF SIGNIFICANCE

The Heritage Office of New South Wales has issued guidelines as part of the NSW Heritage Manual regarding the assessment of heritage significance. The Manual is a well-regarded methodology for the assessment of cultural significance and is appropriate for application to the subject property.

### 5.1 HISTORIC SIGNIFICANCE

#### 5.1.1 Historical Development

|               |  |
|---------------|--|
| Criterion (a) | <i>An item is important in the course, or pattern, of NSW's cultural or natural history (or the cultural or natural history of the local area)</i> |
|---------------|--|

The former building at the corner of Bong Bong Street and Wingecarribee Street was a two storey, late Victorian building built as a store c. 1882 for Charles Waters and his wife Emmeline. The store traded as the Glenmore and was later the Windsor Café and, from the 1980s, a branch of the ANZ bank.

The Bowral area was part of the vast land grant to John Oxley, formalized after his death in 1828 to his widow and sons. A large portion of the grant was subdivided in 1859 with 200 acres set aside for a town settlement originally named Burradoo.

The town plan included Bong Bong Street that was one of the main roads in the district. The opening of the railway station in 1867 provide a strong impetus for development. The intersection with Wingecarribee Street was important as this road provide the only bridged route over the railway line and saw the building of important commercial buildings close to.

Waters purchased the corner lot in 1882. The site was developed for Glenmore House and the Glenmore Store that were certainly complete by 1887. Waters later purchased the sites to the west along Wingecarribee Street. The corner store appears to have been a two storey building with a posted verandah to the ground floor and possibly a verandah to the first that was later removed.

The date of construction of the single storey stores to the north along Bong Bong Street is not known and the shops at 279-281 appear Inter War. The Sun newspaper reported a fire in 1921 that destroyed a shop in Bong Bong Street owned by Charles Waters that may refer to this site<sup>26</sup>.

The site to the west in Wingecarribee Street was developed by Waters as a bakery in the late 1890s but the current buildings are later replacements.

The Waters family owned the sites till 1960.

The site signals the early development of the commercial centre of Bowral following the subdivision of the township area and the opening of the railway station.

Local Significance.

<sup>26</sup> *The Sun, Bowral Shop Guttred*, 31 December 1921. P. 6

5.1.2 Historical Associations

|               |   |
|---------------|---|
| Criterion (b) | An item has strong or special associations with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history (or the cultural or natural history of the local area) |
|---------------|---|

The place is most closely associated with Charles Waters (1852-1940) and his wife Emmeline (1860-1943). Mrs Waters was the youngest daughter of grazier Joseph Moore of Glenmore Oaks near Camden that provide the store's name.

Water's obituary notes that he was a well-known businessman of Bowral. Waters lived in Summer Hill prior to his death. He was a Wesleyan and a staunch supporter of the Methodist Church. He is noted as serving on Bowral Council and owned considerable property in the town<sup>27</sup>.

Local Significance.

5.2 AESTHETIC SIGNIFICANCE

|               |  |
|---------------|--|
| Criterion (c) | An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area) |
|---------------|--|

The extant buildings of the site are modest and modified Inter War shops in Bong Bong Street and a utilitarian Post War building in Wingecarribee Street. The earliest building on the site (the Glenmore Store) has been demolished and it is apparent it was heavily altered over time and possibly rebuilt.

Does not meet the criterion.

5.3 SOCIAL SIGNIFICANCE

|               |   |
|---------------|---|
| Criterion (d) | The item has strong or special association with a particular community or cultural group in NSW (or the local area) for social or spiritual reasons |
|---------------|---|

Commercial buildings are often well known in small towns particularly where they remain in one ownership and trade in the same manner. It is clear that the subject sites have changes occupation numerous times over the life of the buildings and, while the site may provide memories for older residents, the site is unlikely to be held in high regard by the local community.

Does not meet the criterion.

5.4 TECHNICAL/SCIENTIFIC SIGNIFICANCE

|               |   |
|---------------|---|
| Criterion (e) | An item has the potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area) |
|---------------|---|

Prior to development in 1882 there were no previous buildings on the site. The Inter War shops in Bong Bong Street and the more recent building in Wingecarribee Street may have replaced earlier buildings but the extent of development would likely preclude their being any underground remains. The place has very limited archeological potential.

The extant buildings are of no technical significance.

Does not meet the criterion.

<sup>27</sup> Southern Mail, 23 February 1940, p. 2



**5.5 RARITY**

|               |   |
|---------------|---|
| Criterion (f) | <i>An item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history (or the cultural or natural history of the local area)</i> |
|---------------|---|

Commercial buildings of this type are common in the township and country towns. Not rare.

Does not meet the criterion.

**5.6 REPRESENTATIVENESS**

|               |  |
|---------------|--|
| Criterion (g) | <i>An item is important in demonstrating the principal characteristics of a class of NSW's Cultural or natural places; or Cultural or natural environments</i> |
|               | <i>(or a class of the local area's: Cultural or natural places; or Cultural or natural environments)</i>   |

The site contains examples of commercial buildings that are found throughout country towns and the current buildings represents the characteristics that make up the type but are modest examples with no features of note. The older building to the street corner has been demolished.

Does not meet the criterion.

**5.7 SUMMARY OF SIGNIFICANCE**

Based on the above we consider that the property would only meet criterion (a) and (b) of the Heritage Manual but this largely relates to the history of the corner shop (Glenmore Stores) that has been demolished. The extant buildings on the site would not meet any of the criteria for assessment as places of local significance.

## **6.0 PROPOSED DEVELOPMENT**

### **6.1 CURRENT PROPOSALS**

The current owner would like to redevelop the site for a mixed use, commercial/retail development.

The proposals are shown on Drawings Nos. 21090 DA-001-001 (A), DA-010-010 (A), DA-110-005 (D), DA-110-010 (D), DA110-015 (D), DA-210-101 (B), DA-310-001 (A) and DA-910-001 dated June and prepared by Turner architects.

The proposal include:

- Demolition of the current buildings and structures
- New, one and two storey retail/commercial development
- New loading dock to rear

The building is set tight to the footpaths with a splay to the corner to Bong Bong Street and Wingecarribee Street. The building to the street corner is two storey with one storey buildings to the north along Bong Bong Street and to the west along Wingecarribee Street.

The building is in face brick with glazed shopfronts to the lower floor with fabric awnings over. The upper sections of the single storey buildings have stepped brick detail with parapets. The upper floor to the two storey component is also in brick divided with engaged piers with steel framed windows in arched openings with expressed brick arches and brick banding to the parapet. The arch to the splay is open and the lower entry here has curved glazing on a tiled base.

Internally, the units are arranged around a central, glazed atrium that is accessed off a passage from Wingecarribee Street with an arched opening at the street.

## **7.0 IMPACT OF THE PROPOSED DEVELOPMENT**

### **7.1 GENERALLY**

The site at 279-287 Bong Bong Street was part of the early commercial development of Bowral that saw the construction of a general store and adjoining shops. The buildings underwent considerable change over time with the facades altered and buildings replaced in the Inter War and Post War period.

The buildings on the site have been damaged by fire and the earliest building at the corner of Bong Bong Street and Wingecarribee Street demolished. The remaining buildings on the site are from later development periods and are of little heritage significance.

Demolition of the remaining structures will allow for a comprehensive and well-planned redevelopment to reinstate a commercial/retail building on the site.

### **7.2 DEMOLITIONS**

The remaining structures on the site will be demolished. These were also damaged by the fire and would require considerable repair. They are of very limited heritage significance with 279-281 Bong Bong Street being a modest infill building from the Inter War period with no features of note.

The shop at 277 Bong Bong Street is a heavily modified example of a late Victorian shop, also of limited significance.

### **7.3 USE**

The proposal is for a mixed-use development in line with the historic use of the site and the local context that is primarily commercial and retail. The proposed use is very appropriate in heritage terms. The top-lit, central atrium provides access to the inner units and will allow public access into the building.

### **7.4 PROPOSED DEVELOPMENT**

#### **7.4.1.1 Generally**

The site is not a heritage item and is not in a conservation area. From a heritage perspective, the main issues relate to the impact on of the development on the local streetscape and the heritage items in the vicinity in terms of style, form, height, bulk and scale, setbacks, materials and detail.

#### **7.4.2 Style**

The style of the building is a contemporary but is reflective of period shop developments from the Edwardian and Inter War periods. The upper level of the two storey element is in a parapeted form and contains arches that were a common feature on Edwardian buildings. The lower elements also have parapets with brick decoration above the awnings that were a common feature of Inter War shop developments.

The splayed corner and higher elements to the street corner are also common features in commercial areas along with the division of the upper floor with engaged piers. The building has divided shopfronts at the ground floor with an inset at the splay to give a strong articulation to the lower façade and reflect the common pattern of smaller scale shopfronts seen in larger, period buildings.



Figure 7.1 Typical Edwardian Federation style shops. Note the higher element and splay to the corner, the use of arches and brick detailing



Figure 7.2 Styros Corner (1922) opposite the subject site with a splayed corner, parapet and arches to the upper level

#### 7.4.3 Form

The building is in three sections with a higher element to the street corner with lower elements each side that is reflective of the previous development on the site. The parapeted forms are very reflective of the common detail in commercial areas and that are a common feature of the local streetscape.

The building has flat roofs behind parapets that is a common feature of commercial developments from all periods

The primary façades are very well articulated with an arched access to Wingecarribee Street and vertical divisions at the upper floor. The design pays very strong regard to the one and two storey pattern in the local streetscapes and does not attempt to introduce too large or to blank a form across the whole site.

#### 7.4.4 Height

The building follows the height of the historic development at the site with a two storey form to the corner and single storey sections each side. One and two storey forms are the dominant form in the street and the design is very well mannered in this regard.

#### 7.4.5 Bulk and Scale

The proposal is very well mannered in terms of the bulk and scale of its neighbours being of a comparable scale to the previous and extant buildings on the site and the general pattern in the local streetscape.

The rear sections of the building are largely not visible from the public domain and the rear element (loading dock) visible from the access lane is one storey.

#### 7.4.6 Setbacks

The building is set tight to the footpath and to its other site boundaries that is also a common pattern for commercial buildings in town centres. As noted, the rear sections of the building are largely not visible from the public domain and we consider it is unnecessary to prove any articulation in terms of layout or lower forms as the loading dock is inset and the scale here is one storey.

#### 7.4.7 Materials and Detail

The building is in brick that is a common material in the local streetscape best exemplified by the Commonwealth Bank to the opposite corner of Bong Bong Street and Wingecaribee Street.

The detailing is contemporary but restrained. The lower floor has divided shopfronts with canvas awnings over and there are brick piers to the upper floors to divide the higher facade into bays reflecting the shopfront arrangement below. There are expressed brick arches to the upper windows and brick detailing to the parapets to provide brick decoration and interest in the manner commonly seen in period commercial buildings.



Figure 7.4 View to the proposed development looking northwest

Overall, we consider that the proposal is a very well-considered response to the site and its context.

#### 7.5 WINGECARRIBEE LOCAL ENVIRONMENTAL PLAN 2010 (WLEP)

##### 7.5.1 Impact on the Heritage Items in the Vicinity

There are two heritage items in the vicinity of the site but only the former Commonwealth Bank is likely be impacted by the development as the Empire Cinema is some way for the subject site and is a very robust building.

##### 7.5.1.1 Former Commonwealth Bank Item

Opposite the subject site is the former Commonwealth Bank at 294 Bong Bong Street, a two storey, late Victorian building (1892) in a Free Gothic style.



Figure 7.3 Former Commonwealth Bank at 294 Bong Bong Street opposite the subject site

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The listing sheet for the former Commonwealth Bank (SHI 2680079) contains an assessment and statement of significance:

*Is significant to the local community as evidence of the towns economic prosperity and consequence during the late 19th & early 20th century period reflected in the development of its commercial buildings. The building also has local aesthetic significance as a visually prominent component of the Bong Bong streetscape as well as being a relatively rare example within the town of "Victorian Tudor" detailing.*

The item has very robustly detailed facades and is two storey. The development will not block views to the item and, based on the assessment above, we consider that the proposal will have no impact on its setting or significance.

## 7.6 BOWRAL TOWNSHIP DEVELOPMENT CONTROL PLAN 2010 (WDCP)

The subject site is within the Bong Bong Street Precinct of the Bowral Township and controls for development in the Precinct is contained in Section 17 of the BDCP. The proposals are assessed against the relevant provisions below:

### 7.6.1 General Controls

|       | Objective/Control   | Comment  |
|-------|---|--|
| B17.2 | Preferred outcomes  |  |
| (a)   | Development and infrastructure within this precinct shall achieve high quality urban design outcomes that are consistent with the heritage and cultural qualities of the place, and encourage greater unification of discordant streetscape elements, such as footpath paving and street furniture.   | Complies. The proposals are a superb response to the site and the local context and replace the current buildings with a very high-quality development that responds very well to the local streetscape in terms of its form, height, layout, detail and materials |
| (c)   | Redevelopment must avoid large expanses of unarticulated wall surfaces without openings for pedestrian access to premises and window display.   | Complies. The proposal is well articulated in form and detail with divided shopfronts at the ground floor, a corner splay, brick decoration and divisions to the two storey element with the use of arches to reflect period detail                                |
| (d)   | Blend sympathetically with existing buildings, particularly those constructed in the late 19th century and early 20th century, and streetscapes and maintain the visual predominance of late 19th century and early 20th century buildings in the streetscape   | Complies. The proposal is one and two storey as per the common pattern in the streetscape and draws on period references for its detail and materials  |
| (e)   | Any significant redevelopment of existing but more recently constructed buildings (that are unsympathetic to the scale, massing, alignment, articulation, proportion, parapet treatment, detailing and other treatments exemplified by the older architecture, and which detract from the overall streetscape qualities of the Bowral business centre), shall achieve improved respect for and unification with late 19th and early 20th century buildings. | Complies. The development replaces the later buildings in the site and is very responsive to the local context and period development in terms of its scale, massing, alignment, articulation, proportion, parapet treatment and detailing                         |

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|       | Objective/Control   | Comment   |
|-------|---|---|
| B17.3 | Specific Controls   |   |
| (a)   | pays particular attention to elements of scale, massing, alignment, articulation, proportion, parapet treatment, and architectural detailing exemplified by older buildings | Complies. The development is very responsive to the local context and period development in terms of its scale, massing, alignment, articulation, proportion, parapet treatment and detailing |

We consider that the proposal very strongly meets the heritage objectives and controls in the WDCP.

## 8.0 SUMMARY AND RECOMMENDATIONS

### 8.1 SUMMARY

Overall, we consider that the proposals are a superb response to the site and local context. The building is well scaled using a combination of one and two storey elements with the two storey element to the street corner.

It includes well-articulated facades that draw on both contemporary and period detailing in its use of brick and brick detailing, divided shopfronts and awnings, piers and arches to provide for a well-mannered, contemporary building.

The proposal will have no impact on the setting or significance of the heritage items in the vicinity and will reinstate a high-quality building to an important intersection. The proposals are in line with heritage controls in the BDCP and, in heritage terms, we consider that the proposals should be approved.

### 8.2 RECOMMENDATIONS

We would recommend the following:

#### 8.2.1 Interpretation

Interpretation be provided internally in the form of introduces devices to illustrate the early development of the place based on the historical information in this report.

Consideration could be given to salvaging the leadlight highlight to the Inter War shop at 279 Bong Bong Street for use in the interpretation.



JOHN OULTRAM



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279-287 BONG BONG STREET, BOWRAL

HERITAGE IMPACT STATEMENT

## 9.0 APPENDIX A - OWNERS 1882–1960S WITH PREAMBLE

Auto Folio 2791/1107202 (Source: NSW Land Registry Services)

| Year | Owner  |
|------|--|
| 1855 | 15th August<br>CROWN GRANT<br>Parish of Mittagong<br>4200 acres<br>John Norton Oxley and Henry Molesworth Oxley  |
| 1876 | 11th August<br>BOOK 162 NO. 36<br>Conveyance<br>1 acre 1 rood 27 perches<br>Dimensioned land intersection of Bong Bong Street and Wingecarribee Street<br>And other property<br>From: John Norton Oxley, Kirkham, esquire<br>To: William Charker, Bowral, butcher<br>83 pounds 14 shillings 8 pence          |
| 1879 | 12th August<br>BOOK 196 NO. 83<br>Conveyance<br>Lots 2, 3 & 4, Section (not stated), Bowral<br>3 roods 37 perches<br>From: William Charker, Bowral, butcher<br>To: George Frederick West, Bowral, storekeeper, and wife Lucy Agnes<br>600 pounds   |
| 1879 | 12th August<br>BOOK 196 NO. 84<br>Mortgage<br>Lots 2, 3 & 4<br>From: Lucy Agnes West<br>To: William Charker<br>600 pounds  |
| 1881 | 27th May<br>BOOK 220 NO. 844<br>Conveyance<br>Lots 2, 3 & 4, Section (not stated), Bowral<br>3 roods 37 perches<br>From: William Charker, Bowral, butcher<br>With consent of Lucy Agnes West<br>To: John Dorrrough, Kangaloon, mill proprietor<br>James Dorrrough, Kangaloon, mill proprietor<br>1330 pounds |
|      | As to Nos. 279-287 Bong Bong Street  |
| 1882 | 10th May<br>BOOK 245 NO. 55<br>Conveyance<br>Dimensioned land at intersection of Bong Bong Street and Wingecarribee Street<br>(2791/1107202)<br>From: John Dorrrough, Kangaloon, mill proprietor<br>To: Charles Waters, Bowral, storekeeper, and wife Emmeline<br>250 pounds                                 |

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HERITAGE IMPACT STATEMENT

| Year | Owner  |
|------|--|
| 1941 | 21st March<br>BOOK 1905 NO. 495<br>Conveyance<br>Dimensioned land at intersection of Bong Bong Street and Wingecarribee Street (2791/1107202)<br>From: Emmeline Waters, Summer Hill, widow<br>To: Charles Clifford Waters, Summer Hill, departmental manager<br>Natural love and affection   |
|      | As to Nos. 279-287 Bong Bong Street and Wingecarribee Street allotment   |
| 1960 | 18th January<br>BOOK 2546 NO. 382<br>Conveyance<br>1. Dimensioned land at intersection of Bong Bong Street and Wingecarribee Street (2791/1107202)<br>2. Dimensioned land fronting Wingecarribee Street (2792/1107202)<br>From: Charles Clifford Waters, Summer Hill, retired<br>To: Robert Frederick Smith, Mittagong, cleaner, and wife Caire Donohoe<br>15,500 pounds |
| 1967 | 4th January<br>BOOK 2819 NO. 222<br>Conveyance<br>1. Dimensioned land at intersection of Bong Bong Street and Wingecarribee Street (2791/1107202)<br>2. Dimensioned land fronting Wingecarribee Street (2792/1107202)<br>From: Robert Frederick Smith and Caire Donohoe Smith, Mittagong cleaners<br>To: Highlands Arcade Pty Ltd<br>\$120,000                           |
|      | Auto Folio 2791/1107202 not searched   |

1 June 2023

P2649 PD Highland Building, Bowral Parking Review

Paynter Dixon

**Attn: Kirk Bolte**

Dear Kirk,

**Proposed reconstruction of commercial building, Station Street, Bowral, NSW.**

Further to our discussions we have now completed our review of the documentation provided and undertaken an assessment of parking demands for the proposed reconstruction of the Highlands Arcade, Bowral and provide the following assessment of parking to support the Request for Further Information by Wingecarribee Shire Council. This assessment has been prepared in accordance with the Guide to Traffic Generating Developments and with consideration to the Bowral Town Centre Development Control Plan 2021 (BTCDCP).

**Background and Parking Demand**

The project site is located at the northern end of the Bowral Town Centre with frontages to the western side of Bong Bong Street and northern side of Wingecarribee Street as shown in Figure 2. Before being impacted by fire, the site had a two-storey commercial building with an arcade and various retail outlets on the ground floor and an upper level commercial tenancy, with a GFA of 1627m<sup>2</sup>. The surrounding land use consist of various retail and commercial uses consistent with the E1 Local Centre zoning.

Historically the site had no on-site parking, instead providing services as part of the town centre and benefiting from the common usage of the local town centre parking supply. This is typically a mix of on street parking with public and private off-street parking. Applying the BTCDCP Parking Rates (see below) the site carried an historic parking shortfall in the order of 55 parking spaces. It is noted however that consistent with the Guide to Traffic Generating Developments this is based on an unrestrained demand for parking, in isolation to adjacent development and does not consider that when developments are adjacent to existing retail developments that additional parking demand can be less than proportional to the increase in floor area. Similarly, people attending the site would have been already within the shopping centre undertaking various tasks and so the shared use of the parking supply would have seen the actual parking demands much less.

- Retail, Office, Commercial - 1 space per 30 m<sup>2</sup> of gross leasable floor area for buildings of single storey. For buildings greater than one storey in height the disaggregated method for car park calculation (Section 5 RTA Guide for Traffic Generating Developments) may be considered

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- Shops - Small or medium 1 space per 30 m<sup>2</sup> of gross floor area. Large - 1 space per 20 m<sup>2</sup> of gross floor area

The proposed redevelopment of the destroyed site sees ground floor retail tenancies (1392.28m<sup>2</sup>) and upper-level office space (429.6m<sup>2</sup>). The parking demand for this could be 61 spaces applying the Council DCP. The difference between this and the parking credit created by the historical shortfall being 6 spaces. Two of these are to be incorporated into the development leaving the balance of 4 spaces as an actual shortfall.

To determine the impact of this parking shortfall a parking assessment including parking beat surveys has been undertaken. The counts were undertaken on Friday 19<sup>th</sup> May (10am-4pm) and Saturday 20<sup>th</sup> May (10am-2pm) reflecting peak periods of demand for the Bowral town centre.

### Car Parking

#### On Street Parking Provision

Parking is available along the local roads surrounding the site with typical restrictions associated with driveways and intersections. On street parking is typically restricted 1 hour to provide a regular turnover of parking to satisfy the needs of customers and visitors to the wide variety of existing shops and businesses within the centre of Bowral. In addition, some parking on street is restricted to 15 minutes although parking adjacent to Corbett Park on Bootwey Street is untimed. There is also disabled parking and loading zones provided throughout the town centre.

The highest demand for parking in the Bowral Town Centre is along Bong Bong Street, as people prefer to minimize walking distance from parking to the shops. Parking demand lessens the further one is to what is perceived as the centre of Bowral with parking adjacent to major outlets such as Woolworths and Aldi attracting parking to the southern end of the town.

Parking sees a high turnover of spaces, with the "Bowral Parking Traffic and Transport Strategy 2013" finding average parks to be less than the nominated time, and typically closer to 20-30 minutes. This is consistent with observations on site. Observations also confirm that a high number of people parking within the town centre undertake a number of visits to a variety of businesses, allowing for shared use of the parking supply. The proposed redevelopment of the subject site is consistent with this and will provide various outlets for visitors (both local and tourists) to attend as part of their visit to Bowral. This ensures the ongoing revitalisation of the town centre, allowing for replacement retail and business space for that lost by the fire.

#### Off Street Parking Provision

Off street parking is provided across numerous sites, some being public parking whilst others are for the exclusive use of visitors to the specific site. The Wingecarribee Shire Council web site provides the following Bowral Off Street Parking Guide which was used as a guide to determine suitable parking areas to be included in the assessment.

The Station Street Upgrade, a project supported by both Council and the State Government and being finalised at the time of the surveys with all parking available, will see "significant improvements providing for vastly improved traffic conditions and considerable commuter and town centre parking". The net increase in parking is noted to be 50 spaces. The off street carpark adjacent to the station and the parking area to the south of the Old Milk Factory were both included in the survey. (1 and 2)

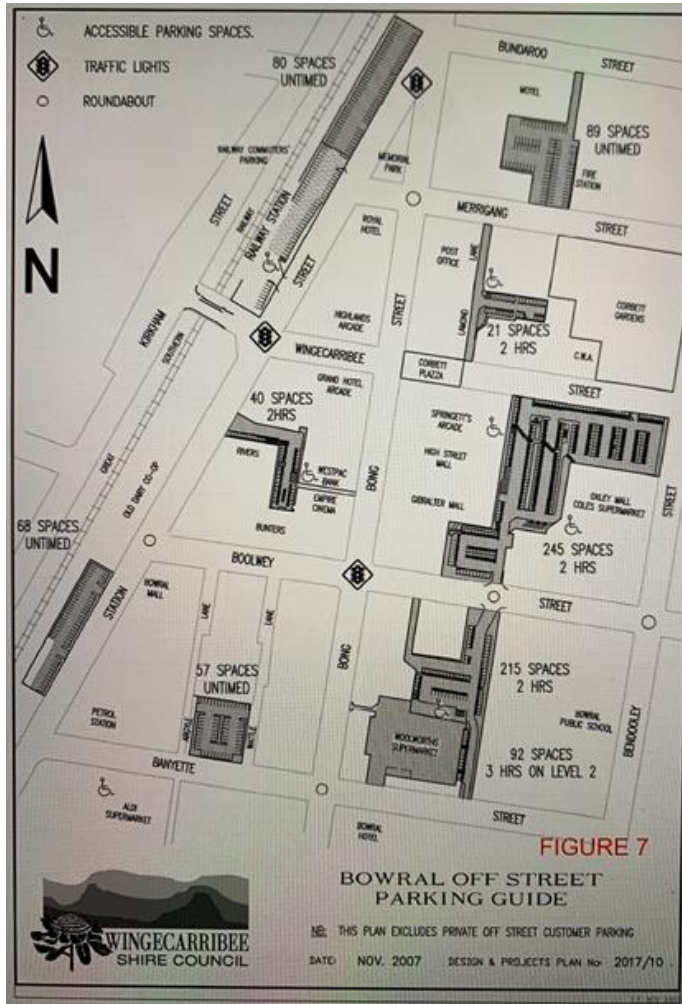


Figure 1 Bowral Off Street Parking Guide

**Parking Demands and Utilisation**

As part of the project work, Seca Solution completed parking beat surveys along the local roads within 250 meters of the subject site to determine the current parking demands for the area. The study area also included the public parking as shown as areas 1-7 in Figure 2.

Parking surveys were completed on Friday 19<sup>th</sup> May 2023 (10am – 4pm) and Saturday 20<sup>th</sup> May 2023 (10am – 2pm) with these times chosen to reflect typical peak demands for local businesses in the Bowral Town Centre.

A summary of the current parking demands from these surveys is provided in Table 1 below with details in Attachment A. The extent of the survey area is shown in Figure 2.

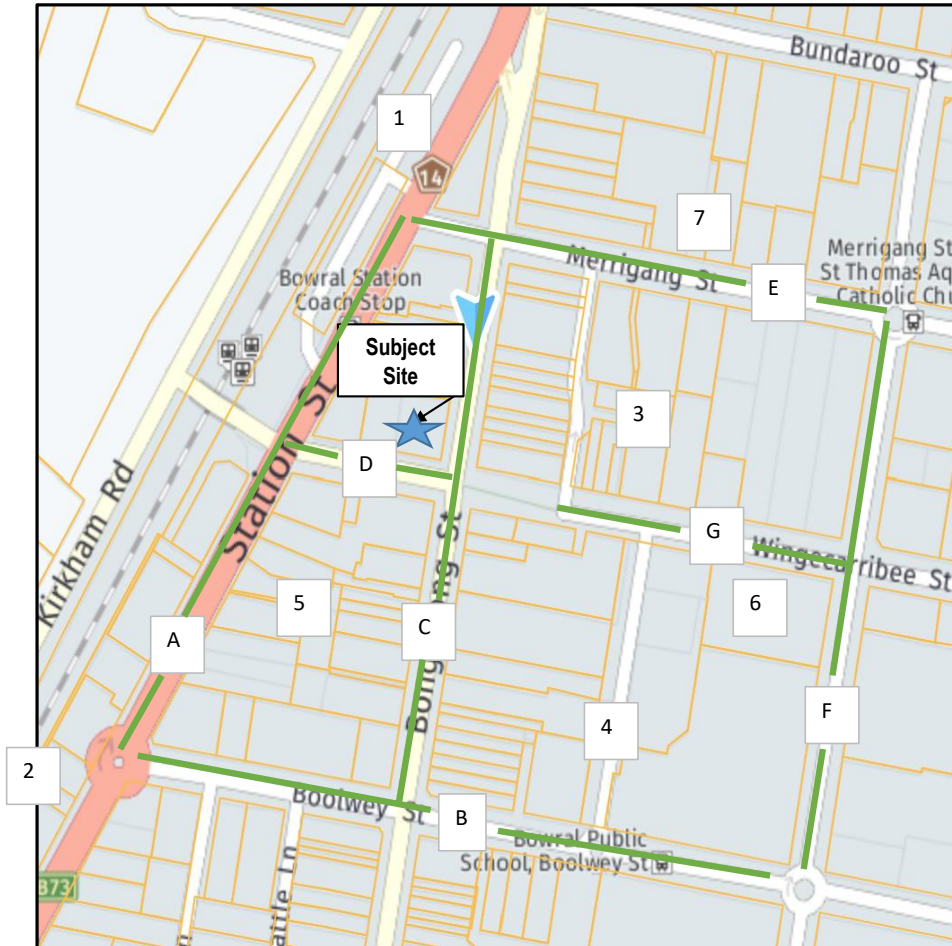


Figure 2 – Parking survey area.

Survey Comments:

- Consistent with earlier studies, parking preferences see people parking in areas closest to what is perceived as the centre of town being Bong Bong Street and parking to the rear of Springetts Arcade. This may reflect the high number of visitors to the town who may not be aware of other parking opportunities or reflect convenience for short shopping trips
- Parking is regularly turning over with a space typically available or becomes available whilst circulating
- Whilst some parking appears to be used beyond the 1 hour parking limit, observation saw numerous people parking for a short period to complete one or two tasks eg pick up food or coffee, go into the chemist etc.
- Loading zones appear to be used inappropriately at times
- Parking was typically available on the perimeters of the survey area eg Bendooley Street and the parking west of Station Street.
- On street parking on Station Street south of Banyette Street, whilst not included in the survey, was observed to have numerous vacant spaces.
- Parking in the northern end of the station carpark was underutilised whilst parking close to the station (assumed commuter parking particularly on the Friday) was well used

### Assessment of Car Parking

From the surveys undertaken the following summarises the available parking supply.

*Table 1 Summary of parking surveys*

|      | Friday On street<br>(276 available) | Friday Off street<br>(812 available) | Friday Total<br>(1088) | Saturday On street<br>(276) | Saturday Off Street<br>(812) | Saturday Total<br>(1088) |
|------|-------------------------------------|--------------------------------------|------------------------|-----------------------------|------------------------------|--------------------------|
| 10am | 227 (49 spare)                      | 550 (262 spare)                      | 777<br>(311 spare)     | 215 (61 spare)              | 398<br>(414 spare)           | 613<br>(475 spare)       |
| Noon | 254 (22 spare)                      | 608<br>(204 spare)                   | 862<br>(226 spare)     | 242 (34 spare)              | 533<br>(279 spare)           | 775<br>(313 spare)       |
| 2pm  | 239 (37 spare)                      | 561 (251 spare)                      | 800<br>(288 spare)     | 210 (66 spare)              | 406<br>(406 spare)           | 616<br>(472 spare)       |
| 4pm  | 208 (68 spare)                      | 483<br>(329 spare)                   | 691<br>(397 spare)     | -                           | -                            | -                        |

The surveys confirm that the peak parking demand saw 226 vacant spaces on the Friday and 313 vacant on the Saturday in the survey area.

In the past, prior to the fire, the site provided no on-site parking with a similar floor area to that now proposed. Based on the DCP rates it can be seen that there is a historical parking deficit for the site, which would have seen parking shortfalls accommodated in the on and off street parking provided within the general locality. The proposed reconstruction is expected to see similar uses on site over those previous and so the parking demands would be expected to be similar to those prior to the fire. Therefore, the parking impact of the reconstruction is, at its worst, associated with the net increase in floor area for the proposed plans.

This increase is minimal and generates a demand for six additional spaces, two of which are proposed to be provided on site. In considering the impact of this within the existing parking supply it is necessary to take into account the considerable level of shared use of parking within the town centre.

Allowing for the 226 vacant spaces on a Friday, when all uses on site are expected to be operating, the shortfall of four spaces can be accommodated within the available parking supply, as well as those spaces historically associated with the site but not currently being used given the site is vacant and not currently generating parking demands.

### Conclusion

The proposal to reinstate the subject site in a manner consistent with its past uses supports the opportunity to rely upon its historical parking arrangements. The site forms part of the attractions in the centre of Bowral and allows for complementary use with the other attractions across the centre of Bowral. This allows for dual use of parking spaces allowing for more efficient use of the on-street and off-street parking in this location.

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Historically the site provided similar floor area and usage to that proposed with no on-site parking. The proposal allows instead for two parking spaces to be accommodated on site. The parking shortfall (4 spaces) will therefore be slightly higher than the historic demand, although consistent with the historical arrangements there shall be considerable shared use of parking within the town centre.

Parking beat surveys completed along the surrounding roads and public parking areas within a 250 metre radius during a typical Friday and Saturday demonstrated that whilst parking is keenly sought with constant demands, there are sufficient opportunities for parking along these roads and within these parking areas, with in excess of 220 spaces available during the peak period to satisfy the parking demands for the site.

Overall, it is considered that the proposed reconstruction of the site should be approved allowing for a shortfall of 4 spaces allowing for the parking credit of 55 spaces and the 2 spaces provided on site.

Please feel free to contact me on 4032-7979, should you have any queries.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "S. Morgan", written in a cursive style.

**Sean Morgan**  
Director



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Attachment A: Parking Surveys

|                     | Station Street | Bootwey Street | Bong Bong Street | Wingacarrabee St<br>W | Merrigang St | Bendooley St | Wingacarrabee St E | Sub-Total  | 1          | 2          | 3         | 4          | 5         | 6<br>Lower | 6<br>Upper | 7         | Sub-Total  |
|---------------------|----------------|----------------|------------------|-----------------------|--------------|--------------|--------------------|------------|------------|------------|-----------|------------|-----------|------------|------------|-----------|------------|
| FRIDAY              | A              | B              | C                | D                     | E            | F            | G                  |            |            |            |           |            |           |            |            |           |            |
| <b>Total Supply</b> | <b>13</b>      | <b>58</b>      | <b>77</b>        | <b>11</b>             | <b>38</b>    | <b>49</b>    | <b>30</b>          | <b>276</b> | <b>136</b> | <b>191</b> | <b>25</b> | <b>151</b> | <b>43</b> | <b>99</b>  | <b>78</b>  | <b>89</b> | <b>812</b> |
| 10am-parked         | 4              | 51             | 68               | 10                    | 30           | 35           | 29                 | 227        | 42         | 91         | 24        | 151        | 41        | 66         | 48         | 87        | 550        |
| 12am-parked         | 12             | 56             | 77               | 11                    | 34           | 35           | 29                 | 254        | 48         | 102        | 24        | 149        | 43        | 90         | 65         | 87        | 608        |
| 2pm-parked          | 8              | 55             | 71               | 11                    | 25           | 40           | 29                 | 239        | 42         | 84         | 17        | 150        | 35        | 81         | 64         | 88        | 561        |
| 4pm-parked          | 4              | 52             | 59               | 9                     | 30           | 29           | 25                 | 208        | 37         | 59         | 15        | 136        | 32        | 61         | 66         | 77        | 483        |
| SATURDAY            |                |                |                  |                       |              |              |                    |            |            |            |           |            |           |            |            |           |            |
| 10am parked         | 6              | 53             | 71               | 11                    | 20           | 27           | 27                 | 215        | 27         | 42         | 15        | 123        | 37        | 46         | 37         | 71        | 398        |
| 12am-parked         | 14             | 53             | 69               | 11                    | 33           | 34           | 28                 | 242        | 35         | 64         | 22        | 148        | 40        | 82         | 65         | 77        | 533        |
| 2pm-parked          | 12             | 52             | 67               | 11                    | 18           | 29           | 21                 | 210        | 31         | 43         | 7         | 138        | 40        | 46         | 48         | 53        | 406        |

# AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 23 AUGUST 2023

**From:** [Leslie Pongrass](#)  
**To:** [Adan Davis](#)  
**Cc:** [Lisa Miscamble](#); [John McFadden](#); [Michael Park](#)  
**Subject:** RE: DA23/0017 for 279-293 Bong Bong Street Bowral - Parking  
**Date:** Thursday, 13 July 2023 7:11:45 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image005.png](#)  
[image006.png](#)  
[image007.png](#)  
[image008.png](#)  
[image009.png](#)  
[image010.png](#)  
[image011.png](#)  
[P2649 PD Highland Building, Bowral Parking Review Final.pdf](#)

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Hi Adan,

Hi Adan, thanks for the detailed response. I remain keen to continue to work with Council to enable the reestablishment of retail and commercial tenancies on this site within the Bowral Town Centre following the fire that resulted in the majority of this site burning down.

## **Parking**

As a result of discussions in April with Council and contrary to your email, I did indeed provide Parking Demand Survey that was prepared by Seca Solutions. The report is attached to this email.

The key conclusions of this traffic and parking report are:

- The buildings previously on the site generated a theoretical parking demand of 55 space utilising the current carparking rates in the DCP;
- The proposed development generates a theoretical demand of 61 spaces using the DCP rates;
- The development provides 2 onsite parking spaces;
- Given the above the development has a DCP variation of 4 spaces; and
- The carparking survey indicates that the worst case scenario was on a Friday at noon and at this time there were 226 empty spaces to service the Bowral Town Centre. This more than offsets the 4 parking space deficiency and demonstrates that the development will not have an unacceptable impact on parking supply in the immediate precinct.

I acknowledge your concerns about the precedent that could result from approval of this DA on other projects being considered. In our view the distinguishing point is that we are largely reestablishing fire damaged retail and commercial floorspace on the site rather than seeking to redevelop the site. This is a key point of difference and cannot be seen as a precedent for new developments.

## **Contributions**

In our previous email to Council's consultant town planner we offered to pay a contribution via a VPA of \$27,000 per space for the deficit of 4 parking spaces we believe the proposal has. As I have stated previously, the development I have proposed is a significant improvement on the original buildings but there is a considerable cost over simply reestablishing the old buildings. I have to consider the economics of reestablishing the previous site. I have had a complete set of plans drawn up that include compliance with the current NCC and have put these out to tender.

However, notwithstanding this and on the basis of finding common ground I am prepared to increase the VPA to 20 spaces that would increase the VPA to circa \$540,000.

## **Revised Architectural Plans**

As outlined previously we are able to resolve the facade issues and the FSR departure through the preparation of revised plans. Our concern is that the architects have advised that the cost of revising the plans will be circa \$40,000 and given that the car parking issue remains outstanding at present, we have not proceeded with preparing the revised plans.

We would be grateful if you could review the above in consultation with your planning consultant and advise whether this would satisfactorily resolve the primary issue of parking provision.

I would like all of my correspondence on this issue made available to the planning panel when it meets and we will also take the opportunity to make our views heard.

Faithfully,

Les Pongrass

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Leslie Pongrass  
[leslie@ponggrass.com.au](mailto:leslie@ponggrass.com.au)  
Ph: 0438 267 120

## **6.2 DA23/0357 Use of Casburn Park for Community Events, 57-61 Railway Parade, Wingello**

**Report Author:** Consultant Planner – Ali Hammoud  
**Authoriser:** Acting Manager Development Assessment –  
John McFadden

### **PURPOSE**

The purpose of this report is to consider Development Application DA-23/0357 for the Panel's consideration and recommends determination by approval of consent for the reasons specified in **Attachment 1**.

|                                     |                             |
|-------------------------------------|-----------------------------|
| <b>Applicant</b>                    | Wingecarribee Shire Council |
| <b>Notification Period</b>          | 30/10/2022 – 09/10/2022     |
| <b>Number of Submissions</b>        | Nil received                |
| <b>Zoning</b>                       | RE1 Public Recreation       |
| <b>Political Donations</b>          | None declared               |
| <b>Reason for Referral to Panel</b> | Use of public land          |

### **OFFICER'S RECOMMENDATION**

**THAT the Wingecarribee Local Planning Panel determines development application DA-23/0357 for 57-61 Railway Parade, Wingello by APPROVAL of consent for the reasons specified in Attachment 1 to this report.**

### **EXECUTIVE SUMMARY**

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

The proposed development for the use of Casburn Park for community events has been assessed against the relevant environmental planning instruments and policies.

The proposed development is permissible under the RE1 Public Recreation zone and satisfies the objectives of Clause 2.8 of the LEP regarding temporary use of land. The proposal will have minimal environmental amenity impacts which will be mitigated and managed via relevant conditions in relation to hours of operation, noise, lighting, and food health & safety. The proposal is recommended for approval, subject to imposition of conditions of consent.

**2. Site Description and Locality.**

The site is known as 57-61 Railway Parade, Wingello and legally described as Lot 6, 7 and 8 in DP 759097. The site is approximately 3,504m<sup>2</sup> in area. The site is overall very flat, with a gentle fall to the south-west.

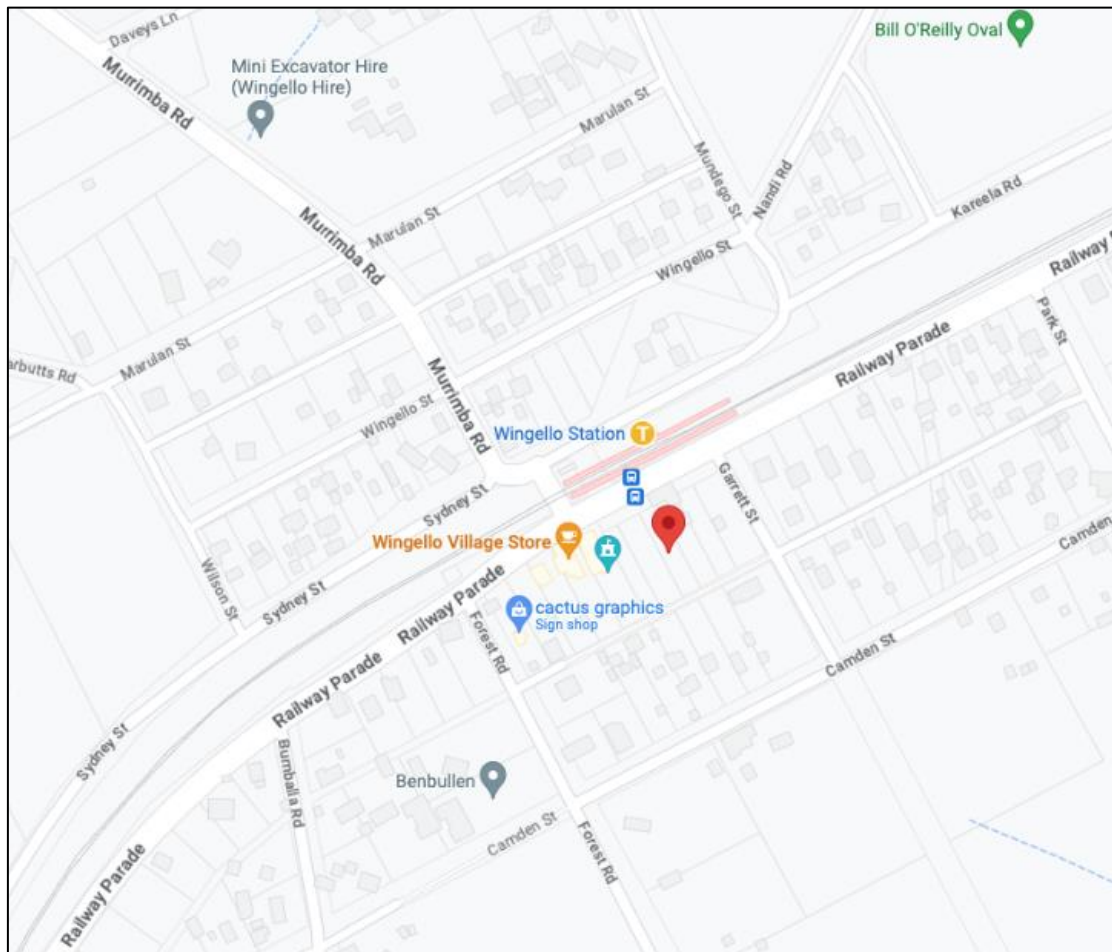
The property includes the following site boundaries:

**Northern** – 48m;

**Eastern** – 70m;

**Western** – 70m.

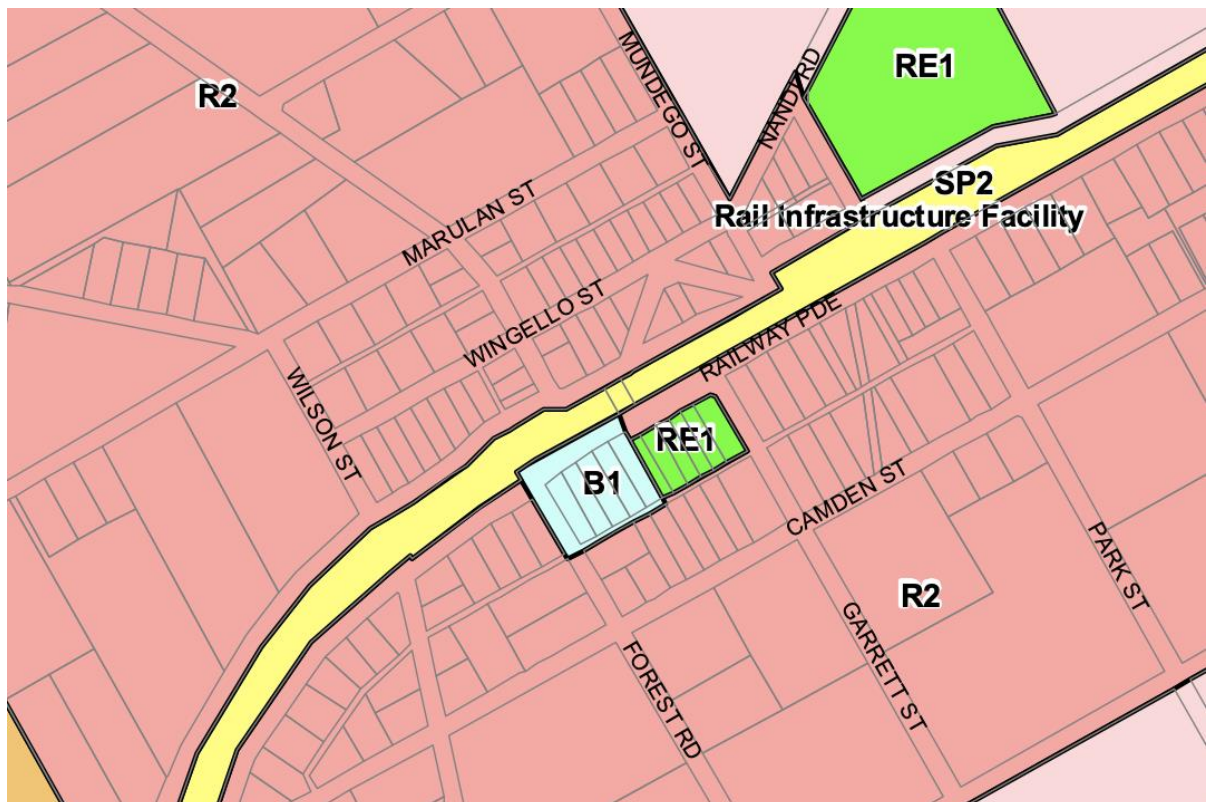
**Southern** – 48m;



**Figure 1: Locality Map (Google Maps 2023)**



**Figure 2: Aerial of site (SIX Maps 2023)**



**Figure 3: Extract from Land Zoning Map (WLEP 2010 Sheet :ZN\_004A)**

A site inspection was undertaken on 21 March 2023. Please see photographs below:



**Figure 4: Pedestrian entrance to Casburn Park from Railway Parade**



**Figure 5: Casburn park northern frontage to Railway Parade**



**Figure 6: Casburn park and adjoining Wingello Hall to the west**



**Figure 7: Playground equipment in the park**



**Figure 8: Playground equipment and Wingello Rural Fire Brigade shed in the background, to the east of the playground equipment**



**Figure 9: Wingello Mechanics Institute/ Hall**





**Figure 10: South-western corner of Casburn Park**



**Figure 11: South-eastern corner of Casburn Park**



**Figure 12: Basketball courts and boundary with the Rural Fire Brigade site**



**Figure 13: North-eastern corner of Casburn Park**



**Figure 14: View towards the playground from the northern frontage**



**Figure 15: Rural Fire Brigade shed and boundary fencing separating Casburn Park**



**Figure 16: Wingello Train Station across Railway Parade to the north of the site**



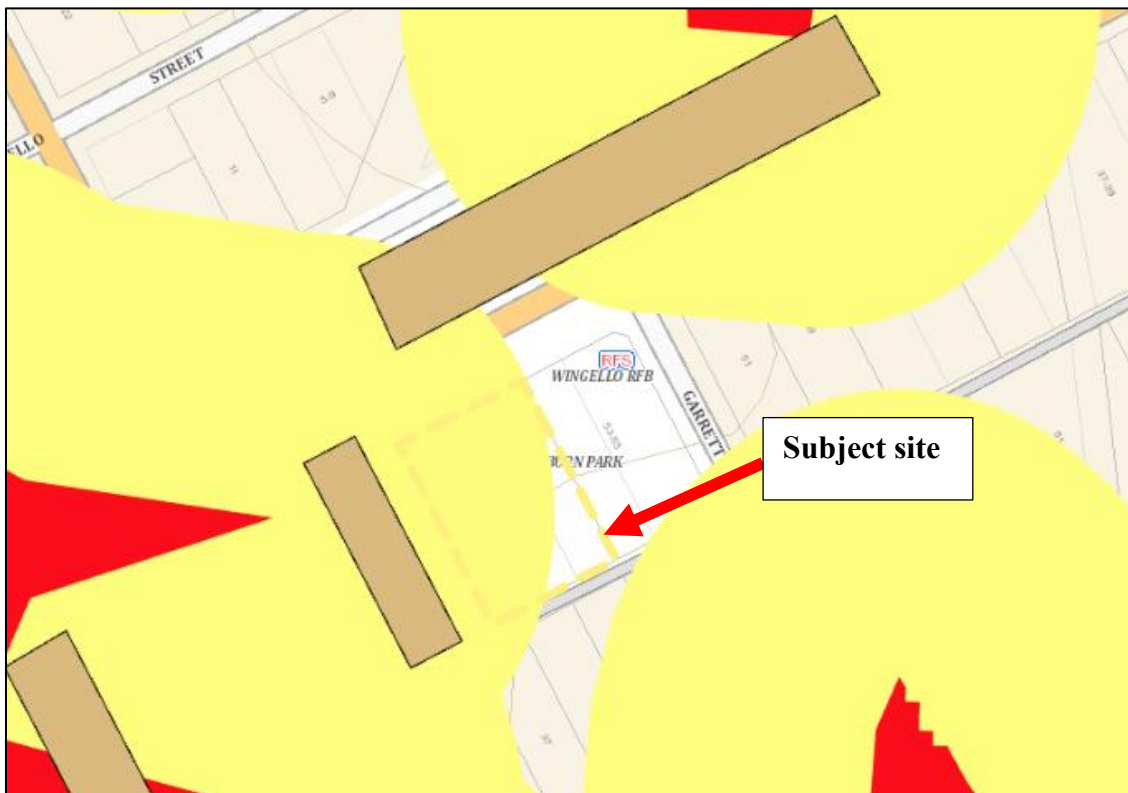
**Figure 17: Wingello Village Store to the west of Casburn Park and Wingello Hall**



**Figure 18: Residential development further west of Wingello Village Store**

**3. Burdens/Constraints:**

**Hazards** – The site is identified as bushfire prone land (vegetation buffer)




**Figure 19: Burdens and constraints map (NSW Planning Portal 2023)**







**Legend**

**Hazard**

**Bushfire Prone Land (Non-EPI)**

-  Vegetation Category 1
-  Vegetation Category 2
-  Vegetation Category 3
-  Vegetation Buffer

**Flood Planning Map**

-  Flood Planning Level (1:100 ARI)
-  Flood Planning Area
-  Flood Prone and Major Creeks Land
-  Land subject to flooding
-  Dungog Tailwater Area
-  Land Identified in Clause 20(1)

**Protection**

**Drinking Water Catchment Map**



**Groundwater Vulnerability Map**



Environmentally Sensitive Land

**Riparian Lands and Watercourses Map**



Environmentally Sensitive Land

**Natural Resources - Water Map**



**Terrestrial Biodiversity Map**



Environmentally Sensitive Land

**Easements / Covenants:** n/a

**Biodiversity** – Not affected.

**Heritage** – The site is not identified as a heritage item and is not located in a heritage conservation area. The proposed use is unlikely to affect the heritage significance of any heritage items in the vicinity of the site.

**Watercourses** – Not affected.

**Flood** – Not affected.

**Figure 1: Locality Map**

**4. Background**

A search of Council's online records reveals no development history on the subject site.

**5. Proposed Development**

The proposal seeks to use Casburn Park for community events such as picnics, Christmas Carols and family fun day. These events would take place 3 or 4 times a year. Dates are not known at this stage and will vary year to year.

Hours of Operation: The times indicated on DA form are unclear but verbal advice from the applicant confirmed generally during daylight hours.

Extract from plans:



**Figure 20. Location of proposed temporary structures or works**



**Figure 21. Gazebos 2.4m x 2.4m made of polyester and steel would be utilised**



**Figure 22. Small rides for young children will be hired on family fun day from A1 Amusement rides company**

## **6. Notification**

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance with the Notification of Development Proposals Policy – 14 November 2018. The notification period was from 10 October 2022 to 10 November 2022. No submissions were received from the public.

## **7. Relevant Environmental Planning Instruments**

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

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

The proposal is consistent with the Directions within the Plan. In particular, it is consistent with the conditions as listed within the table below.

| <b>Direction No.</b>  | <b>Comments</b>  |
|---|--|
| 8 – Protect important agricultural land                     | The proposal does not impact upon important agricultural land and no agricultural land is lost as a result of the development.   |
| 9 – Grow tourism in the region                              | The proposal will enhance the vibrancy, social cohesion and recreational activities of the region by providing community events that increase the attractiveness of the area and its appeal to tourists.   |
| 14 – Protect important environmental assets                 | The proposal does not involve the construction of any buildings or structures except for the erection and placement of temporary structures only. The site does not contain any important environmental assets that will be affected by the development. |
| 22 – Build socially inclusive, safe and healthy communities | The proposed use of Casburn Park for community events provides social benefits to the community and improves social inclusivity, safety and resilience.  |



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|--|--|
|  |  |
|--|--|

**Draft State Environmental Planning Policies**

There are no draft SEPPs that would preclude the use / works as proposed.

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

Chapter 4

Chapter 4 of SEPP Resilience and Hazards 2021 requires the consent authority to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land, and to be satisfied that the land is suitable for the proposed use. Council is satisfied that the land is not a site of possible contamination and therefore no further assessment of contamination is required.

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

Chapter 6

The site is within the Sydney Drinking Water Catchment and therefore the chapter 6 of the Biodiversity and Conservation SEPP is applicable to the assessment of the application. Development consent must not be granted to development on land in a regulated catchment unless the consent authority is satisfied the development ensures—

- (a) the effect on the quality of water entering a natural waterbody will be as close as possible to neutral or beneficial, and
- (b) the impact on water flow in a natural waterbody will be minimised.

Given the proposal does not seek to install any permanent structures with all works associated with the temporary use of the land for one day in duration to a maximum of four times a year, the proposal will not affect the quality of water entering a natural waterbody.

**Wingecarribee Local Environmental plan 2010 (WLEP)**

The site is zoned RE1 Public Recreation and in this zone the proposed temporary use of land on the site for community events is permissible with development consent in accordance with Clause 2.8 of the LEP. The RE1 zone also permits recreation areas, kiosks, and markets.

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

**Compliance Assessment**

| WLEP 2010 Clause                   | Compliance with Requirements  |
|------------------------------------|---|
| Clause 2.8 – Temporary use of land | <p>The proposal satisfies the objective of the clause and does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.</p> <p>Clause 2.8(3) provides a list of considerations for Council to assess, including:</p> <ul style="list-style-type: none"> <li>a) <i>The temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any other applicable environmental planning instrument, and</i></li> </ul> |

| WLEP 2010 Clause | Compliance with Requirements   |
|------------------|--|
|                  | <p>b) <i>The temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and</i></p> <p>c) <i>The temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and</i></p> <p>d) <i>At the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.</i></p> <p>The proposal satisfies the above considerations in the following manner:</p> <p>a) The temporary use will not affect future development on the land in accordance with this plan or any epi.</p> <p>b) The proposed use for the site is likely to create noise impacts to adjoining land and the neighbourhood for the duration of events, particularly whereby children’s amusement rides are involved. However, the rides proposed are small scale in nature and it is considered that noise impacts can be controlled and minimised. The following conditions are imposed on the consent:</p> <ol style="list-style-type: none"> <li>i. A maximum of two children’s amusement rides and six gazebos are permitted on the site at any one time. An increase to this number requires a separate application to Council for assessment.</li> <li>ii. Amusement rides are to maintain a separation distance of at least 6m from residential property boundaries.</li> <li>iii. The operation of amusement rides shall be limited to event day between the hours of 9:00am to 8:00pm only and Council will need to be notified regarding the date of the event a minimum of 30 days before the event.</li> <li>iv. The Applicant shall ensure operational noise levels for the development do not exceed the background level by more than 5dB(A) when measured at the nearest affected residential premises. Without limiting the above, operational noise levels must also fall within the applicable noise amenity criteria specified by the NSW EPA in the <i>Noise Policy for Industry</i>. In the event that operational noise is identified as exceeding the requirements of this condition, the Applicant will be required to undertake such works as is necessary to remedy such exceedance within a period determined by Council.</li> </ol> <p>With the imposition of such conditions the proposal is considered to be satisfactory and no adverse impacts to the adjoining land or amenity of the neighbourhood.</p> <p>c) The site does not contain any significant environmental attributes or features that will be impacted by the proposed</p> |

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| WLEP 2010 Clause  | Compliance with Requirements  |
|---|---|
|   | use. The use of the site will not increase the risk of natural hazards.<br>d) A condition is imposed to ensure that the site is restored to its original condition prior to the commencement of the community event. This involves adequate waste management practices. |
| Clause 4.3 – Height of buildings                          | N/A   |
| Clause 4.4 – Floor space ratio                            | N/A   |
| Clause 5.10 – Heritage conservation                       | The site is not identified as a heritage item and is not located within a heritage conservation area. The proposal does not involve construction works and will not likely impact any heritage items in the vicinity of the site.                                       |
| Clause 5.21 – Flood planning                              | The site is not identified as flood prone land.   |
| Clause 7.3 – Earthworks                                   | No earthworks are proposed.   |
| Clause 7.4 – Natural resources sensitivity – biodiversity | The site is not affected by biodiversity.   |
| Clause 7.5 – Natural resources sensitivity – water        | The site is not affected by any natural waterbodies.  |

***Draft Local Environmental Plans***

There are no draft EPI's that would preclude the development as proposed.

**8. Development Control Plans and Policies**

***Penrose and Wingello Villages Development Control Plan***

The subject site is located within the village boundary as identified within the DCP.

Compliance Assessment

| Clause                         | Compliance with Requirements   | Consistency Aims/Objectives |
|--------------------------------|--|-----------------------------|
| <b>Part A – All Land</b>       |  |                             |
| Section 2 – General Objectives | The proposal enhances the role of Wingello as part of the overall economic structure of Wingecarribee Shire and as a retail and service centre. The proposal is consistent with the objectives of this section and adds additional recreation and cultural activities to the community via the site which is located in a strategic location across from Wingello station. | Yes                         |
| Section 3 – Biodiversity       | Not applicable.  | N/A                         |

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| <b>Clause</b>  | <b>Compliance with Requirements</b>  | <b>Consistency Aims/Objectives</b> |
|--|--|------------------------------------|
| Section 4 – Water Management   | Not applicable.  | N/A                                |
| Section 5 – Flood Liable Land  | Not applicable.  | N/A                                |
| Section 6 – Bushfire Hazard  | The site is located in a vegetation buffer zone. The proposal is not Integrated Development in accordance with Section 4.14 and was referred to the RFS for comment only. No comments were provided (more than 14 days has lapsed).<br><br>It is noted that the use of the park is for temporary purposes only and is located directly adjoining the RFS shed. The park is the evacuation point for the village. In addition, no events will take place on days where bush fire warnings are in place. | Yes                                |
| Section 7 – Vegetation Management & Landscaping                        | Trees and vegetation on the site are preserved. A condition shall be imposed to ensure any equipment, gazebo, or amusement ride is located at least 3m away from any tree on the site.   | Yes                                |
| Section 8 – Subdivision, Demolition, Siting & Design                   | Not applicable.  | N/A                                |
| Section 9 – Safer by Design  | The current site is designed to ensure safety with clear access paths and visibility. Conditions are imposed to ensure that during the proposed community events, Casburn Park is to be well lit including its pedestrian paths and access points to ensure adequate safety and surveillance.  | Yes                                |
| Section 10 – Construction Standards & Procedures                       | Temporary structures are proposed only.  | N/A                                |
| Section 11 – Signage and Outdoor Advertising                           | No signage is proposed under this application. Temporary event signs or banners are permissible without consent if they comply with DCP requirements.  | N/A                                |
| Section 12 – Outdoor Lighting  | Conditions are imposed to ensure lighting complies with DCP requirements as per Part A12.3.  | Yes                                |
| Section 13 – Development Near Rail Corridors & Busy Roads              | The site is located near a rail corridor and busy road however the proposal does not include any excavation or construction works.   | N/A                                |
| Section 14 – Telecommunications and Radiocommunications Infrastructure | Not applicable.  | NA                                 |

The proposal is found to be acceptable in regard to the level of compliance with local controls within the DCP. Accordingly, the application is recommended for approval, subject to conditions of consent.

**9. Section 4.15 (1) (e) – The Public Interest**

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The proposal is in the public interest as it will bring social and economic benefits to the local area. The proposal is permissible in the zone and will not result in any unreasonable localised environmental impacts subject to the imposition of conditions as recommended.

#### **10. Conclusion**

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

#### **Appendix 1: Referrals.**

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

| <b>Internal Referral Section</b> | <b>Comments</b>  |
|----------------------------------|--|
| Environmental Health Officer     | The proposal is supported by Council's Environmental Health Officer with conditions in relation to food premises requirements, provision of toilet and hand washing facilities for food handlers, operational noise levels and waste management. |
| Development Engineer             | The proposal is supported by Council's Development Engineer with conditions to ensure compliance with the Roads Act 1993.  |

| <b>External Referral Agency</b> | <b>Comments</b>  |
|---------------------------------|--|
| NSW Rural Fire Service          | No comments provided within the 14 day period (not integrated) |

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#### **ATTACHMENTS**

1. WSC Schedule 1 conditions 57-61 Railway Parade Wingello [**6.2.1** - 4 pages]

# AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 23 AUGUST 2023

## SCHEDULE 1 CONDITIONS OF DEVELOPMENT CONSENT

### ADMINISTRATION CONDITIONS

#### 1. Development Description

Development consent has been granted in accordance with this notice of determination for the purposes of the use of Casburn Park for a maximum of 4 community events in the calendar year for a period of 5 years from the date of this determination.

A maximum of two children's amusement rides and six gazebos are permitted on the site at any one time. An increase to this number requires a separate application to Council for assessment.

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

#### 2. Development in Accordance with Plans and Documents

Except where otherwise specified by conditions of consent, the development shall be carried out in accordance with the information accompanying the development application, and the stamped consent drawings set out in the following table including any notations or amendments made by Council.

| Plan Title / Supporting Document   | Reference / Version | Prepared By                  | Dated   |
|------------------------------------|---------------------|------------------------------|---------|
| Site Plan                          | n/a                 | Wingello Village Association | Undated |
| Temporary structures               | n/a                 | Wingello Village Association | Undated |
| Vehicular and Parking arrangements | n/a                 | Wingello Village Association | Undated |

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

#### 3. Inconsistency between documents

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

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

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

#### 4. Hours of operation

The approved hours of operation are:  
4 weekends per year – Council to be notified regarding the date of the event a minimum of 30 days before the event.

Times as follows;

|                 |           |
|-----------------|-----------|
| Saturday        | 8am – 8am |
| Sunday          | 8am – 8am |
| Public Holidays | 8am – 8am |

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

## AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 23 AUGUST 2023

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

5. **Amenity**  
Amusement rides are to maintain a separation distance of at least 6m from residential property boundaries.
  
6. **Location of Temporary Structures**  
ALL equipment, gazebo, or amusement ride is located at least 3m away from any tree on the site.  
**Reason:** To ensure that the use does not impact on any existing trees.
  
7. **Safety and Surveillance**  
Casburn Park is to be well lit including its pedestrian paths and access points as per Part A12.3.  
**Reason:** To ensure adequate safety and surveillance.
  
8. **Temporary/Mobile Food Premises Requirements**  
Temporary food premises shall be set up and operated in accordance with the Food Act, Food Regulation, Food Safety Standards and NSW Food Authority's Guidelines for Food Businesses at Temporary Events.  
In addition to the above-mentioned requirements, food vending vehicles shall also comply with the NSW Food Authority's Guidelines for Mobile Food Vending Vehicles.  
**Reason:** Compliance with relevant legislation, guidelines and standards.
  
9. **Provision of Toilets and Hand Washing Facilities for Food Handlers**  
Sufficient toilet facilities shall be provided for the use by all food handlers and maintained in a hygienic condition. Hand washing facilities shall be provided immediately adjacent to the toilets. The hand washing facilities shall be supplied with warm running water through a single outlet, soap and paper towels.  
**Reason:** Compliance with relevant legislation, guidelines and standards.
  
10. **Pedestrian Safety**  
The organiser shall endeavour to minimise disturbance to pedestrian / vehicle traffic in the vicinity of the site. If required by Council a hoarding shall be erected and consent required in accordance with Section 138 of Roads Act 1993.  
Details shall be submitted to the Accredited Certifier prior to the issue of a Subdivision Works Certificate showing compliance with this condition.  
**Reason:** To ensure pedestrian and vehicular safety.
  
11. **Loading/Serviceing**

## AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 23 AUGUST 2023

All vehicular loading and unloading shall be carried out within the site to provide for safe off-street loading and unloading of vehicles servicing the site and to prevent interference with the use of the public road by vehicles and pedestrians.

*Reason: Public safety.*

### 12. Delivery vehicles

A suitable entry point shall be nominated on site and utilized by delivery vehicles. The entry point shall be located so that the possibility of damage to Councils property is minimized during use. The access point shall be surfaced with all-weather materials of a minimum of 40mm in size.

*Reason: To minimize the potential for damage to Councils assets.*

### 13. Disposal of Liquid Waste

All proprietors of the business shall be responsible to ensure that all liquid wastes associated with the business are disposed of in accordance with the Office of Environment and Heritage Waste Tracking Guidelines as described in the Office of Environment and Heritage Environmental Guidelines; Assessment, Classification and Management of Liquid and Non Liquid Wastes (1999) and the Protection of the Environment Operations Act 1997.

*Reason: To ensure that wastes are correctly disposed of.*

### 14. Protection of Public Places

The public area shall not be obstructed by any materials, vehicles, refuse skips and the like, under any circumstances.

Where a hoarding is required, an application for hoarding shall also be submitted to and approved by Council prior to commencement of any work. Hoardings shall be erected to comply with the requirements of WorkCover, the Principal Certifying Authority and with relevant Australian Standards.

*Reason: Public safety.*

The Applicant shall ensure operational noise levels for the development do not exceed the background level by more than 5dB(A) when measured at the nearest affected residential premises. Without limiting the above, operational noise levels must also fall within the applicable noise amenity criteria specified by the NSW EPA in the *Noise Policy for Industry*. In the event that operational noise is identified as exceeding the requirements of this condition, the Applicant will be required to undertake such works as is necessary to remedy such exceedance within a period determined by Council.

### 15. General Noise

The use of the operations shall not give rise to:

- Transmission of unacceptable vibration to any place of different occupancy in accordance with the Office of Environment and Heritage's (EPA) Environmental Noise Control Manual and Industrial Noise Policy 2000 and Protection of the Environment Operations Act 1997 (NSW).
- A sound pressure level at any affected premises that exceeds the background (LA90) noise level in the absence of the noise under consideration by more than 5dB(A). The source noise level shall be assessed as an LAeq, 15min and adjusted in accordance



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with Office of Environment and Heritage's (EPA) guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content as described in the Office of Environment and Heritage's (EPA) Environmental Noise Control Manual and Industrial Noise Policy 2000 and Protection of the Environment Operations Act 1997.

*Reason: To prevent loss of amenity to the area.*

### **16. Operational Noise Levels**

The Applicant shall ensure operational noise levels (LAeq) for the development does not exceed rating background level by more than 5dB(A) when measured at the boundary of the nearest affected residence. Without limiting the above, operational noise levels must also fall within the requirements of the acceptable noise level amenity of the area as specified by the Office of Environment and Heritage's Industrial Noise Policy. In the event that operational noise is identified as exceeding the requirements of this condition, the Applicant will be required to undertake such works as is necessary to remedy such exceedance within a period determined by Council.

*Reason: To prevent loss of amenity to the area.*

### **17. Advertising Signs - Consent required**

Unless Exempt Development, before an advertising signage is erected/displayed development consent is required to be issued by Council.

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

### **18. Advertising Signs – Illumination**

No illumination proposal will be permitted to create light "spillage" into existing or nearby residences, nor be of such intensity, position and/or scale so as to create a driver or pedestrian distraction or hazard or reduction in residential amenity.\

*Reason: To ensure that the signage does not create a driver or pedestrian distraction or hazard or reduction in residential amenity.*

### **19. Food Premises - General**

The construction and operation of the food premises shall comply with all applicable legislation/regulation and standards, including:

- The Food Act 2003
- Food Regulation 2004
- Food Standards Australia and New Zealand - Food Standards Code 2001
- Relevant Australian Standards for Design, Construction and Fit out of Food Premises
- Mechanical ventilation - Australian Standard 1668.2-2002

*Reason: Compliance legislation and standards.*

### **6.3 DA23/1154 2 Lot Subdivision, Lot 81 DP 1272440, 11 Clarke Street, Bowral**

**Report Author:** Consultant Planner – Ali Zeineddine  
**Authoriser:** Acting Manager Development Assessment –  
John McFadden

#### **PURPOSE**

The purpose of this report is to consider Development Application 23/1154 for the Panel's consideration and recommends determination by REFUSAL of consent for the reasons specified in Attachment 1.

|                                     |   |
|-------------------------------------|---|
| <b>Applicant / Consultants</b>      | Masters Surveying Pty Ltd   |
| <b>Notification Period</b>          | 10 May 2023 to 10 June 2023   |
| <b>Number of Submissions</b>        | Nil received  |
| <b>Zoning</b>                       | R3 Medium Density Residential   |
| <b>Political Donations</b>          | None declared   |
| <b>Reason for Referral to Panel</b> | Development that contravenes a development standard imposed by an environmental planning instrument by more than 10% or non-numerical development standards |

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

**THAT the Wingecarribee Local Planning Panel determines development application 23/1154 for subdivision of the land into 2 Torrens Titled lots at Part Lot 81 DP 1272440 No. 11 Clarke Street, Bowral NSW 2576 by REFUSAL of consent for the reasons specified in Attachment 1 to this report.**

#### **EXECUTIVE SUMMARY**

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

The development application seeks development consent for a 2 lot Torrens title subdivision comprising proposed Lot 1 with a site area of 4,694m<sup>2</sup> and proposed Lot 2 with a site area of 568.1m<sup>2</sup>. The development is described in the Statement of Environmental Effects accompanying the DA as:

*The previous development involved the construction of 10 townhouses and for the existing dwelling to remain. This development application aims to separate the existing dwelling from the newly constructed townhouses in the form of a Two Lot Torrens Tittle Subdivision. The existing building does not have any access through to the constructed townhouses and is of a different age and construction to the townhouses.*

*The proposed development would create two Torrens Title lots. Lot 1 would have an area of 4694 m2 and includes ten townhouses and all associated driveways and services. Lot 2 would have an area of 568 m2 and includes the existing dwelling and driveway.*

Surrounding land is characterised by lots averaging 800m<sup>2</sup> in size to the east; large town lots to the west; lots averaging 1,600m<sup>2</sup> in size to the north and multi-dwelling housing development on large lots dispersed around the locality. The site is surrounded by a varied development pattern, with recently constructed multi-dwelling housing developments interspersed with older detached housing stock. It is considered that the proposed development is not within the context of the locality and is incompatible with the surrounding area. The proposed development has not been designed to be complementary and compatible to neighbouring development and the surrounding area.

An exception to the minimum 700m<sup>2</sup> lot size requirement under Clause 4.1 of the *Wingecarribee Local Environmental Plan 2010* (WLEP 2010) is sought by the applicant in support of the application and in relation to proposed Lot 2 not meeting the minimum subdivision lot size development standard prescribed under Clause 4.1.

The proposed subdivision to create a 568.1m<sup>2</sup> lot containing a single dwelling is not compatible with the size of lots in the locality, the existing character of development in the locality, or the desired future character of development within the medium density residential zone. The application has been assessed and fails to satisfy the objectives and requirements prescribed in Clause 4.6 of the WLEP 2010 for an exception to the minimum subdivision lot size development standard for the reasons detailed within this report.

Approval of the application with the variation proposed would have a detrimental impact on the existing pattern of development in the locality and would be incompatible with the desired future character of the area and land use zone. Accordingly, the proposed development is not supported and refusal of the application is recommended.

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

Figures 1 and 2 below illustrate the site location and general layout of the land. The site has a street address of 11 Clarke Street and 5 Cliff Street, Bowral and is legally described as Lot 81 DP 1272440.

The site is located at the south western corner intersection of Clarke Street and Cliff Street, with 7 Cliff Street adjoining the properties and situated at the corner.

The site comprises an irregular shaped lot formed by 2 former rectangular shaped lots that were consolidated into a single lot to facilitate the previously approved multi dwelling housing development under DA17/1676 (as modified) and partially constructed. The current lot forms an 'L' shape around 7 Cliff Street and has a total site area measuring 5,262.1m<sup>2</sup>. The site fronts Clarke Street along its eastern boundary with a frontage of 40.275 metres and Cliff Street along its northern boundary with a frontage of 59.63 metres.

An existing 2 storey brick detached dwelling with the first floor provided in a steeply pitched roof has been retained on the northern side of the site fronting Cliff Street as part of the partially constructed development approved in DA17/1676.

The site is surrounded by a varied development pattern, with recently constructed multi-dwelling housing developments interspersed with older detached housing stock. Generally, the surrounding development is characterised as follows:

- East – Single detached housing on lots averaging 800m<sup>2</sup> in size located on the high side of Clarke Street;
- South – Multi-dwelling housing development containing ten two storey townhouses;
- West – Two detached single story dwellings located on large town lots, with a multi-dwelling housing development located adjacent containing eight dwellings;
- North – Newly constructed detached house located at 7 Cliff Street. On the opposite side of Cliff street are single storey detached houses on lots averaging 1,600m<sup>2</sup> in size.

The site is zoned R3 Medium Density Residential under the provisions of the WLEP 2010.



**Figure 1: Locality Plan**

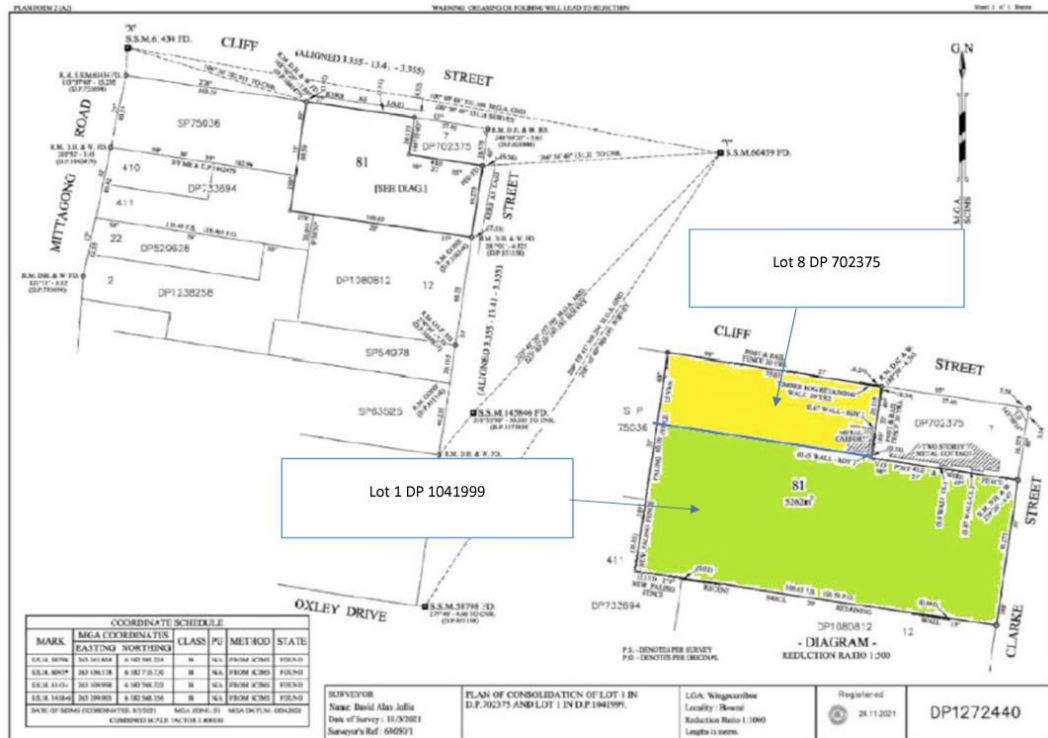


**Figure 2: Aerial Image**

A site inspection was undertaken on 24 June 2023.

**3. Background**

Historically, the subject site that is being developed for the multi dwelling housing development comprised 2 separate lots known as 11 Clarke Street, Bowral (Lot 1 DP 1041999) and 5 Cliff Street, Bowral (Lot 8 DP 702375) as shown in the figure below.



**Figure 3: Former Property Titles**

The property known as 11 Clarke Street, Bowral had a site area measuring approximately 4,046.33m<sup>2</sup> whilst the property known as 5 Cliff Street, Bowral has a site area measuring approximately 1,200m<sup>2</sup>. As part of DA17/1676, the former 2 lots were consolidated to form the current single land holding and facilitate the multi dwelling housing development. This was a requirement imposed by condition 12 of Development Consent DA17/1676 which reads as follows:

**12. Site Consolidation**

*That the site be consolidated into one (f) lot prior to issue of the Construction Certificate.*

**Reason:** *To ensure the use of the land as one allotment is legally recognised and to prevent separate dealings in the existing allotments after the use commences.*

**4. Notification**

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance the Notification of Development Proposals Policy – 14 November 2018. The notification period was from 10 May 2023 to 10 June 2023. There were no community submissions lodged towards the proposal.

**5. Relevant Environmental Planning Instruments**

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

**Chapter 6 - Water Catchments**

**Part 6.5 - Sydney Drinking Water Catchment**

The proposed development is not expected to have any adverse effect on water quality. The application is a Module 1 development for the purposes of the Neutral or Beneficial Effect on Water Quality Assessment Guideline (subdivision <3 lots) and therefore Council has delegated authority to determine water quality. A NorBE assessment has not been completed for the development given that the application is not supported on fundamental planning grounds and recommended for refusal.

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

**Chapter 4**

Chapter 4 of SEPP Resilience and Hazards 2021 requires the consent authority to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land, and to be satisfied that the land is suitable for the proposed use.

A review of the property file, council records and a site inspection has raised no concerns in terms of onsite contamination as the site has historically been used for residential land uses.

***Wingecarribee Local Environmental plan 2010 (WLEP 2010)***

The site is zoned R3 Medium Density Residential and the proposed development is permissible with development consent pursuant to Clause 2.6 of the WLEP 2010. The objectives of the R3 Medium Density Residential zone are:

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

The proposed subdivision is not consistent with the aims and objectives of the zone for the reasons below and as also demonstrated and discussed throughout this report:

- The proposed subdivision of the land into a lot size that is less than the 700m<sup>2</sup> minimum lot size required by Clause 4.1 of the LEP will achieve a low density housing type within a medium density residential environment.
- The development proposes subdivision of the land into a lot size that is less than the 700m<sup>2</sup> minimum lot size required by Clause 4.1 of the LEP and will fragment the land parcel which would erode the ability for the land to provide a medium density housing type within the zone. Conversely, subdivision of the existing dwelling onto its own lot would create a low density lot and dwelling within a medium density zone which is contrary to the objectives of the zone.

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

| <b>Clause</b>                           | <b>Development Standard</b>           | <b>Proposal</b>  | <b>Compliance</b>                 |
|---|---------------------------------------|--|-----------------------------------|
| <b>4.1 Minimum subdivision lot size</b> | The minimum size shown on the LEP Lot | Lot 1 - 4,694m <sup>2</sup><br>Lot 2 - 568.1m <sup>2</sup> | No for Lot 2, Clause 4.6 provided |

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| Clause   | Development Standard                                    | Proposal   | Compliance |
|--|---|--|------------|
|  | Size Map in relation to the land is 700m <sup>2</sup> . |  |            |
| <b>4.6 Exceptions to Development Standards</b> | Exceptions to Development Standards required            | An exception to the minimum 700m <sup>2</sup> lot size requirement under Clause 4.1 of the LEP is sought by the applicant in support of the application. Refer to assessment of variation request provided within this report. | No         |

The relevant provisions of the WLEP 2010 are addressed in Appendix 1.

Clause 4.6 Request - Exceptions to Development Standard

**4.6(1)**

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

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

The proposed development fails to achieve the objectives of Clause 4.6 as the degree of variation, being 131.9m<sup>2</sup> or 18.8%, is excessive and would result in an inappropriate degree of flexibility in applying the development standard. There is a public interest in maintaining the integrity of the development standard which has not been varied and where the outcome would be contrary to the objectives of the development standard and R3 Medium Density Residential land use zone. The proposed development would not achieve a better outcome for and from development by allowing flexibility in these circumstances as the application does not demonstrate that strict compliance with the development standard would be unreasonable or unnecessary in the circumstances of the case and that there are any environmental planning grounds to justify contravening the development standard as detailed below.

**4.6(2)**

(2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

Noted, the application seeks development consent for development that contravenes the minimum lot size for subdivision development standard imposed by Clause 4.1 of the LEP. Clause 4.1 is not expressly excluded from the operation of this clause, as detailed under 4.6(8) below.

**4.6(3)**

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

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

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

The Statement of Environmental Effects accompanying the application provides the following justification for the non-compliance with the development standard and in response to Clause 4.6:

*Under this clause we are seeking to have the development approved which has one lot that does not meet the minimum lot size development standard. The subdivision of the existing dwelling from the remainder of the original lot does not result in any environmental impact or adverse outcome to the local traffic conditions. The development does not seek to erect or demolish any significant structures through this DA.*

The applicants request fails to justify the contravention of the development standard and has not addressed the matters in Clause 4.6(3) as discussed below.

The application fails to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. The applicants justification relies on the fact that there is an older existing dwelling on the site containing the multi dwelling housing development and the density approved for nearby multi dwelling housing developments in the locality. However, the request fails to justify how a lot size that is less than the minimum required under Clause 4.1 of the LEP would achieve the objectives of the Clause and the R3 Medium Density Residential zone. These matters have been discussed earlier within this report where it is demonstrated that the development fails to achieve the objectives of both Clause 4.1 and the land use zone.

Furthermore, both reasons are not suitable reasons to justify contravention of the development standard given that the existing dwelling could be upgraded or replaced and that nearby density examples relate to dwelling density over a single lot containing multi dwelling housing developments.

The application fails to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard. Conversely, there are sufficient environmental grounds justifying refusal of the application given that is contrary to the objectives of the Clause and the R3 Medium Density Residential zone and that approval of this application would erode the ability for the land to provide a medium density housing type on the land and within the zone. Subdivision of the existing dwelling onto its own lot would create a low density lot and dwelling within a medium density zone which is contrary to the objectives of the zone.

**4.6(4)**

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

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

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

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

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



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(a) The applicant's written request has not adequately addressed the matters required to be demonstrated by Clause 4.6(3).

The proposed development will not be in the public interest because it is inconsistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, as discussed earlier within this table.

(b) Planning Circular PS 20-002, dated 5 May 2020, contains an assumed concurrence notice dated 18 February 2018 for all consent authorities for the purpose of determining a development application to which a Clause 4.6 Variation Request is made.

Although the subject Clause 4.6 Variation Request exceeds a numerical standard by greater than 10%, the Local Planning Panel may assume the concurrence of the Planning Secretary.

**4.6(5)**

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

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

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

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

As detailed above, assumed concurrence has been issued by the Planning Secretary.

**4.6(6)**

(6) *Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—*

(a) *the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*

(b) *the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*

*Note—When this Plan was made it did not include Zone RU6 Transition.*

The land is zoned R3 Medium Density Residential.

**4.6(7)**

(7) *After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).*

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This is an administrative matter for the Council should the variation be accepted and consent be granted for the development.

**4.6(8)**

(8) *This clause does not allow development consent to be granted for development that would contravene any of the following—*

(a) *a development standard for complying development,*

(b) *a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*

(c) *clause 5.4,*

(caa) *clause 5.5,*

(ca) *clause 6.1 or 7.10.*

Clause 4.1 is not excluded from Clause 4.6.

Having regard to the assessment above, the application is considered unacceptable and the application fails to satisfy the objectives and requirements prescribed in Clause 4.6 of the WLEP 2010 for an exception to the minimum subdivision lot size development standard. Accordingly, refusal of the application is recommended.

**6. Development Control Plans and Policies**

**Bowral Town Plan Development Control Plan (DCP)**

The Bowral Town Plan DCP provisions are structured into two components: objectives and controls. The objectives provide the framework for assessment under each requirement and outline key outcomes that a development is expected to achieve. The controls contain both numerical standards and qualitative provisions. Any proposed variations from the controls may be considered only where the applicant successfully demonstrates that an alternative solution could result in a more desirable planning and urban design outcome.

The relevant provisions of the Bowral Town Plan DCP are addressed in Appendix 2.

**7. 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.

| <b>Section 4.15 'Matters for Consideration</b>                                      | <b>Comments</b>  |
|---|--|
| Section 4.15 (1)(a)(i) – Provision of any environmental planning instrument         | See discussion in sections 5 & 7 and key issues below. |
| Section 4.15 (1)(a)(ii) – Provision of any draft environmental planning instrument. | Nil  |

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| Section 4.15 'Matters for Consideration  | Comments  |
|--|---|
| Section 4.15 (1)(a)(iii) – Provisions of any development control plan  | The proposal fails to satisfy the objectives and controls of the Bowral Town Plan DCP. See table in Appendix 2 and the discussion below.  |
| Section 4.15 (1)(a)(iiia) – Provision of any Planning Agreement or draft Planning Agreement.   | Not Applicable.   |
| Section 4.15 (1)(a)(iv) – Provisions of the Regulations.   | The relevant clauses of the Regulations have been satisfied.  |
| Section 4.15 (1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality. | <p>The environmental impacts of the proposed development on the natural and built environments are addressed under the DCP section in this report and are unsatisfactory.</p> <p>The proposed subdivision is considered to be inappropriate with regard to the context and setting of the subject site and wider residential locality.</p> <p>It is considered there will be negative cumulative impacts as a result of the proposed development given that the proposed subdivision would create a lot of insufficient size to be capable of being developed for medium density residential development. There are no environmental planning grounds justifying the contravention to the minimum subdivision lot size development standard and compliance with the standard is considered reasonable and necessary in the circumstances.</p> |
| Section 4.15 (1)(c) – The suitability of the site for the development.   | The site is considered unsuitable for the proposed development in the form lodged for the reasons discussed throughout this report.   |
| Section 4.15 (1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation.   | The issues raised in the submissions have been addressed in this report.  |
| Section 4.15 (1)(e) – The public interest.   | <p>The proposal does not promote the objectives of the zone and will not result in adverse environmental, social or economic impacts on the locality.</p> <p>The proposed development is considered to be of interest to the wider public due to the proposal not complying with the planning controls in both the <i>Wingecarribee Local Environmental Plan 2010</i> and <i>Bowral Township Development Control Plan</i> and further given the extent of variation sought</p>  |

| Section 4.15 'Matters for Consideration | Comments  |
|---|---|
|   | <p>to a primary development standard applicable to the development. The proposed development will not be in the public interest because it is inconsistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.</p> <p>Accordingly, the proposal is not considered to be in the public interest.</p> |

### 7.1 Discussion of Key issues.

The proposed subdivision is not consistent with the aims and objectives of the R3 Medium Density Residential zone under the *Wingecarribee Local Environmental Plan 2010* for the reasons:

- The proposed subdivision of the land into a lot size that is less than the 700m<sup>2</sup> minimum lot size required by Clause 4.1 of the LEP will achieve a low density housing type within a medium density residential environment.
- The development proposes subdivision of the land into a lot size that is less than the 700m<sup>2</sup> minimum lot size required by Clause 4.1 of the LEP and will fragment the land parcel which would erode the ability for the land to provide a medium density housing type within the zone. Conversely, subdivision of the existing dwelling onto its own lot would create a low density lot and dwelling within a medium density zone which is contrary to the objectives of the zone.

The application fails to satisfy the objectives and development standard prescribed in Clause 4.1 of the *Wingecarribee Local Environmental Plan 2010* for minimum subdivision lot size and the application fails to satisfy the objectives and requirements prescribed in Clause 4.6 of the *Wingecarribee Local Environmental Plan 2010* for an exception to the minimum subdivision lot size development standard for the reasons detailed within this report.

The application fails to satisfy the requirements in relation to both objectives and development controls for the proposed development prescribed in the *Wingecarribee Bowral Township Development Control Plan* for the reasons detailed within this report.

### 8. Conclusion

The application pursuant to Section 4.16 of the *Environmental Planning & Assessment Act 1979* for Determination of Development Application DA23/1154 for subdivision of the land into 2 Torrens Titled lots at Part Lot 81 DP 1272440 No. 11 Clarke Street, Bowral NSW is not considered to be suitable, having regard to the matters for consideration under 4.15 of the *EP&A Act 1979*. It is recommended that the application be REFUSED for the following reasons:

1. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed development is inconsistent with *Wingecarribee Local Environmental Plan 2010* as follows:
  - a. The application fails to satisfy the aims of the *Wingecarribee Local Environmental Plan 2010*, as stated in Clause 1.2, in the following ways:
    - i. The proposed development fails to satisfy aim (c) as the development proposes a low density subdivision and dwelling type within a medium density zone that would

- not encourage the efficient use and development of urban land, minimise the spread of urban areas into rural and native vegetation environments, and increase the accessibility of the population to urban facilities and services; and
- ii. The proposed development fails to satisfy aim (e) as the development provides limited opportunity for housing in an accessible and well serviced location; and
  - iii. The proposed development fails to satisfy aim (g) as the development will not assist in strengthening the viability of the Bowral business centre by limiting the ability for future housing opportunities to be located in close proximity to the centre.
- b. The application fails to satisfy Clause 2.3 of the *Wingecarribee Local Environmental Plan 2010* as the proposed development is not consistent with the aims and objectives of the R3 Medium Density Residential zone for the following reasons:
- i. The proposed subdivision of the land into a lot size that is less than the 700m<sup>2</sup> minimum lot size required by Clause 4.1 of the LEP will achieve a low density housing type within a medium density residential environment; and
  - ii. The development proposes subdivision of the land into a lot size that is less than the 700m<sup>2</sup> minimum lot size required by Clause 4.1 of the LEP and will fragment the land parcel which would erode the ability for the land to provide a medium density housing type within the zone and would create a low density lot and dwelling within a medium density zone.
- c. The application fails to satisfy the objectives and development standard prescribed in Clause 4.1 of the *Wingecarribee Local Environmental Plan 2010* for minimum subdivision lot size in the following ways:
- i. The proposed subdivision fails to achieve the objectives of the minimum subdivision lot size development standard as the proposal for Lot 2 having a lot size of 568.1m<sup>2</sup> is incompatible with the character of the surrounding land; and
  - ii. Proposed Lot 2 in the development has a lot size of 568.1m<sup>2</sup> which is significantly less than the 700m<sup>2</sup> minimum subdivision lot size requirement prescribed for the land in the development standard.
- d. The application fails to satisfy the objectives and requirements prescribed in Clause 4.6 of the *Wingecarribee Local Environmental Plan 2010* for an exception to the minimum subdivision lot size development standard in the following ways:
- i. The proposed development fails to achieve the objective in Clause 4.6(1)(a) as the degree of variation, being 131.9m<sup>2</sup> or 18.8%, is excessive and would result in an inappropriate degree of flexibility in applying the development standard; and
  - ii. The proposed development fails to achieve the objective in Clause 4.6(1)(b) as the proposal would not achieve a better outcome for and from development by allowing flexibility in these circumstances as the application does not demonstrate that strict compliance with the development standard would be unreasonable or unnecessary in the circumstances of the case and that there are any environmental planning grounds to justify contravening the development standard; and
  - iii. The applicant's request seeking to justify the contravention of the development standard fails to address the matters in Clause 4.6(3)(a) as the application fails to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
  - iv. The applicant's request seeking to justify the contravention of the development standard fails to address the matters in Clause 4.6(3)(b) as the application fails to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard; and

- v. The consent authority is not satisfied that the applicant's request seeking to justify the contravention of the development standard addresses the matters in Clause 4.6(4)(a)(i) as the applicant's written request has not adequately addressed the matters required to be demonstrated by Clause 4.6(3) for the reasons identified above; and
  - vi. The consent authority is not satisfied that the applicant's request seeking to justify the contravention of the development standard addresses the matters in Clause 4.6(4)(a)(i) and that the proposed development will be in the public interest because it is inconsistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.
2. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the application fails to satisfy the requirements of the *Wingecarribee Bowral Township Development Control Plan* in the following ways:
- a. The application fails to satisfy the objectives of the controls in Control C3.2, Section 3, Part C of the *Wingecarribee Bowral Township Development Control Plan* as the development would not encourage the efficient use of the existing residential land and would erode the ability for the land to provide a medium density housing type within the zone.
  - b. The application fails to satisfy the following provisions of the *Wingecarribee Bowral Township Development Control Plan*, in that insufficient information has been submitted with the application demonstrating how the subdivision would ensure that the retained multi-dwelling housing development would satisfy the development controls in the following sections of the DCP:
    - i. C3.4 Density and Site Coverage
    - ii. C3.7 Side Setbacks
    - iii. C3.8 Rear Setbacks
    - iv. C3.15 Landscaped Open Space
3. Pursuant to Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, the application is likely to have adverse impacts on the natural and built environment and social and economic impacts in the locality for the following reasons:
- a. The proposed development is incompatible with the existing context and desired future character of the locality; and
  - b. There will be negative cumulative impacts as a result of the proposed development given that the proposed subdivision would create a lot of insufficient size to be capable of being developed for medium density residential development in a medium density residential zone; and
  - c. There are no environmental planning grounds justifying the contravention to the minimum subdivision lot size development standard and compliance with the standard is considered reasonable and necessary in the circumstances.
4. Pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, the subject site is not suitable for the proposed development as the application does not adequately demonstrate that the development is capable of achieving compliance with the requirements of the heritage conservation area, requirements of *Wingecarribee Local Environmental Plan 2010*, and the *Wingecarribee Bowral Township Development Control Plan* that apply to the site.
5. Pursuant to the provisions of s.4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, it is considered that in the circumstances of the case, approval of the proposed development is not in the public interest.

**Appendix 1: Wingecarribee Local Environmental Plan 2010**

| Clause | Control                            | Assessment   | Compliance |
|--------|------------------------------------|--|------------|
| 1.2    | Aims of Plan                       | <p>The proposed development fails to satisfy the aims of the <i>Wingecarribee Local Environmental Plan 2010</i> in the following ways:</p> <ul style="list-style-type: none"> <li>• The proposed development fails to satisfy aim (c) as the development proposes a low density subdivision and dwelling type within a medium density zone that would not encourage the efficient use and development of urban land, minimise the spread of urban areas into rural and native vegetation environments, and increase the accessibility of the population to urban facilities and services.</li> <li>• The proposed development fails to satisfy aim (e) as the development provides limited opportunity for housing in an accessible and well serviced location.</li> <li>• The proposed development fails to satisfy aim (g) as the development will not assist in strengthening the viability of the Bowral business centre by limiting the ability for future housing opportunities to be located in close proximity to the centre.</li> </ul> |            |
| 2.3    | Zone Objectives and land use table | <p><b>Permissibility:</b></p> <p>The site is zoned R3 Medium Density Residential and the proposed development is permissible with development consent pursuant to Clause 2.6 of the LEP.</p> <p><b>Zone Objectives:</b></p> <p>The proposal is not consistent with the aims and objectives of the zone for the reasons below and as also demonstrated and discussed throughout this report:</p>  | No         |

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| Clause | Control   | Assessment  | Compliance                   |
|--------|---|---|------------------------------|
|        |   | <ul style="list-style-type: none"> <li>The proposed subdivision of the land into a lot size that is less than the 700m<sup>2</sup> minimum lot size required by Clause 4.1 of the LEP will achieve a low density housing type within a medium density residential environment.</li> <li>The development proposes subdivision of the land into a lot size that is less than the 700m<sup>2</sup> minimum lot size required by Clause 4.1 of the LEP and will fragment the land parcel which would erode the ability for the land to provide a medium density housing type within the zone. Conversely, subdivision of the existing dwelling onto its own lot would create a low density lot and dwelling within a medium density zone which is contrary to the objectives of the zone.</li> </ul> <p>Given the above, refusal of the application is recommended.</p> |                              |
| 2.6    | Subdivision – consent requirements  | A development application has been lodged for the proposed subdivision.   | Yes                          |
| 4.1    | <p><b>Minimum subdivision lot size</b></p> <p>The minimum lot size under the LEP is 700m<sup>2</sup>.</p> | <p><b>Objectives:</b></p> <p>(a) to identify minimum lot sizes,</p> <p>(b) to ensure that the subdivision of land to create new lots is compatible with the character of the surrounding land and does not compromise existing development or amenity.</p> <p>The development fails to achieve the objectives of the development standard as the proposal to create the new lots is incompatible with the character of the surrounding land. As detailed earlier, surrounding land is characterised by lots averaging 800m<sup>2</sup> in size to the east; large town lots to the west; lots averaging 1,600m<sup>2</sup> in size to the north and multi-dwelling housing development on large lots dispersed around the locality. The</p>   | No for Lot 2, see Clause 4.6 |



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| Clause | Control   | Assessment   | Compliance |
|--------|---|--|------------|
|        |   | <p>proposed subdivision to create a 568.1m<sup>2</sup> lot containing a single dwelling is not compatible with the size of lots in the locality, the existing character of development in the locality, or the desired future character of development within the medium density residential zone.</p> <p>Given the above, refusal of the application is recommended.</p> <p><b>Development Standard:</b><br/> <u>Required:</u> 700m<sup>2</sup><br/> <u>Proposed:</u> Lot 1 - 4,694m<sup>2</sup> and Lot 2 - 568.1m<sup>2</sup></p>   |            |
| 4.6    | <b>Exceptions to Development Standards</b>  | An exception to the minimum 700m <sup>2</sup> lot size requirement under Clause 4.1 of the LEP is sought by the applicant in support of the application. Refer to assessment of variation request below.   | No         |
| 4.6(1) | <p>(1) <i>The objectives of this clause are as follows—</i></p> <p>(a) <i>to provide an appropriate degree of flexibility in applying certain development standards to particular development,</i></p> <p>(b) <i>to achieve better outcomes for and from development by allowing flexibility in particular circumstances.</i></p> | The proposed development fails to achieve the objectives of Clause 4.6 as the degree of variation, being 131.9m <sup>2</sup> or 18.8%, is excessive and would result in an inappropriate degree of flexibility in applying the development standard. There is a public interest in maintaining the integrity of the development standard which has not been varied and where the outcome would be contrary to the objectives of the development standard and R3 Medium Density Residential land use zone. The proposed development would not achieve a better outcome for and from development by allowing flexibility in these circumstances as the application does not demonstrate that strict compliance with the development standard would be unreasonable or unnecessary in the circumstances of the case and that there are any environmental planning grounds to justify contravening the development standard as detailed below. | No         |

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| Clause | Control  | Assessment  | Compliance |
|--------|--|---|------------|
|        |  | Given the above, refusal of the application is recommended.   |            |
| 4.6(2) | <i>(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.</i>   | Noted, the application seeks development consent for development that contravenes the minimum lot size for subdivision development standard imposed by Clause 4.1 of the LEP. Clause 4.1 is not expressly excluded from the operation of this clause, as detailed under 4.6(8) below.   | Yes        |
| 4.6(3) | <p><i>(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—</i></p> <p><i>(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and</i></p> <p><i>(b) that there are sufficient environmental planning grounds to justify contravening the development standard.</i></p> | <p>The Statement of Environmental Effects accompanying the application provides the following justification for the non-compliance with the development standard and in response to Clause 4.6:</p> <p><i>Under this clause we are seeking to have the development approved which has one lot that does not meet the minimum lot size development standard. The subdivision of the existing dwelling from the remainder of the original lot does not result in any environmental impact or adverse outcome to the local traffic conditions. The development does not seek to erect or demolish any significant structures through this DA.</i></p> <p>The applicants request fails to justify the contravention of the development standard and has not addressed the matters in Clause 4.6(3) as discussed below.</p> <p>The application fails to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. The applicants justification relies</p> | No         |

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| Clause | Control | Assessment  | Compliance |
|--------|---------|---|------------|
|        |         | <p>on the fact that there is an older existing dwelling on the site containing the multi dwelling housing development and the density approved for nearby multi dwelling housing developments in the locality. However, the request fails to justify how a lot size that is less than the minimum required under Clause 4.1 of the LEP would achieve the objectives of the Clause and the R3 Medium Density Residential zone. These matters have been discussed earlier within this report where it is demonstrated that the development fails to achieve the objectives of both Clause 4.1 and the land use zone.</p> <p>Furthermore, both reasons are not suitable reasons to justify contravention of the development standard given that the existing dwelling could be upgraded or replaced and that nearby density examples relate to dwelling density over a single lot containing multi dwelling housing developments.</p> <p>The application fails to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard. Conversely, there are sufficient environmental grounds justifying refusal of the application given that is contrary to the objectives of the Clause and the R3 Medium Density Residential zone and that approval of this application would erode the ability for the land to provide a medium density housing type on the land and within the zone. Subdivision of the existing dwelling onto its own lot would create a low density lot and dwelling within a medium density zone which is contrary to the objectives of the zone.</p> |            |

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| Clause | Control  | Assessment  | Compliance |
|--------|--|---|------------|
|        |  | Given the above, refusal of the application is recommended.   |            |
| 4.6(4) | <p><i>(4) Development consent must not be granted for development that contravenes a development standard unless—</i></p> <p><i>(a) the consent authority is satisfied that—</i></p> <p><i>(i) the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3), and</i></p> <p><i>(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and</i></p> <p><i>(b) the concurrence of the Planning Secretary has been obtained.</i></p> | <p>(a) The applicant’s written request has not adequately addressed the matters required to be demonstrated by Clause 4.6(3).</p> <p>The proposed development will not be in the public interest because it is inconsistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, as discussed earlier within this table.</p> <p>(b) Planning Circular PS 20-002, dated 5 May 2020, contains an assumed concurrence notice dated 18 February 2018 for all consent authorities for the purpose of determining a development application to which a Clause 4.6 Variation Request is made.</p> <p>Although the subject Clause 4.6 Variation Request exceeds a numerical standard by greater than 10%, the Local Planning Panel may assume the concurrence of the Planning Secretary.</p> | No         |
| 4.6(5) | <p><i>(5) In deciding whether to grant concurrence, the Planning Secretary must consider—</i></p> <p><i>(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and</i></p> <p><i>(b) the public benefit of maintaining the development standard, and</i></p> <p><i>(c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.</i></p>   | As detailed above, assumed concurrence has been issued by the Planning Secretary.   | Yes        |
| 4.6(6) | <i>(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1</i>   | The land is zoned R3 Medium Density Residential.  | N/A        |

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| Clause | Control  | Assessment   | Compliance |
|--------|--|--|------------|
|        | <p><i>Primary Production, Zone RU2<br/>Rural Landscape, Zone RU3<br/>Forestry, Zone RU4 Primary<br/>Production Small Lots, Zone RU6<br/>Transition, Zone R5 Large Lot<br/>Residential, Zone C2<br/>Environmental Conservation,<br/>Zone C3 Environmental<br/>Management or Zone C4<br/>Environmental Living if—</i></p> <p><i>(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or</i></p> <p><i>(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.</i></p> <p><i>Note—When this Plan was made it did not include Zone RU6 Transition.</i></p> |  |            |
| 4.6(7) | <p><i>(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).</i></p>  | <p>This is an administrative matter for the Council should the variation be accepted and consent be granted for the development.</p> | <p>Yes</p> |
| 4.6(8) | <p><i>(8) This clause does not allow development consent to be granted for development that would contravene any of the following—</i></p> <p><i>(a) a development standard for complying development,</i></p> <p><i>(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,</i></p> <p><i>(c) clause 5.4,</i></p> <p><i>(caa) clause 5.5,</i></p> <p><i>(ca) clause 6.1 or 7.10.</i></p>  | <p>Clause 4.1 is not excluded from Clause 4.6.</p>   | <p>Yes</p> |

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| <b>Clause</b> | <b>Control</b>                              | <b>Assessment</b>   | <b>Compliance</b> |
|---------------|---|---|-------------------|
| <b>5.10</b>   | <b>Heritage Conservation</b>                | The site is not a heritage item and is not located within a heritage conservation area, or within proximity to any items or heritage conservation areas.  | N/A               |
| <b>5.21</b>   | <b>Flood planning</b>                       | The site is not identified as being within a flood planning area.   | N/A               |
| <b>7.10</b>   | <b><i>Public Utility infrastructure</i></b> | Provided all recommended consent conditions are complied with, the proposed development is capable of being provided with access to water supply, electricity supply and sewerage infrastructure. | Yes               |

**Appendix 2: Bowral Town Plan DCP.**

| <b>Section</b>  | <b>Control</b>  | <b>Assessment</b>   | <b>Compliance</b> |
|---|---|---|-------------------|
| <b>Part A - All Land</b>                                      |   |   |                   |
| <b>Section 3 Biodiversity</b>                                 |   |   |                   |
| <b>Section 3</b>  | <b><i>Biodiversity</i></b>  | The subject site is not identified as regional wildlife habitat corridor on the Natural Resources Sensitivity Maps, (or natural waterbodies and riparian land).<br><br>The proposal will not have a negative impact in terms of existing vegetation.  | Yes               |
| <b>Section 3 Water Management</b>                             |   |   |                   |
| <b>Section 4</b>  | <b><i>Water Management</i></b>  | There are no watercourses traversing the subject land and the site is not located in the vicinity of any watercourses.  | N/A               |
| <b>Section 5 Flood Liable Land</b>                            |   |   |                   |
| <b>Section 5</b>  | <b><i>Flood Liable Land</i></b>   | The subject site is not identified as flood prone land.   | N/A               |
| <b>Section 6 Vegetation Management &amp; Landscaping</b>      |   |   |                   |
| <b>A6.1</b>   | <b>Preservation of Trees and Other Vegetation</b>   | Much of the site is clear from any vegetation as seen in the aerial image and photos of the site contained within this report.  | Yes               |
| <b>Section 7 Subdivision, Demolition, Siting and Design</b>   |   |   |                   |
| <b>A7.1</b>   | <b>Subdivision of Land</b>  | Refer to LEP discussion.  | No                |
| <b>A7.1.1</b>   | <b>Minimum Lot Sizes</b>  |   |                   |
| <b>Part C Provisions Applicable to Residential-zoned Land</b> |   |   |                   |
| <b>Section 3 Medium Density Housing</b>                       |   |   |                   |
| <b>C3.2</b>   | <b>Site Amalgamation &amp; Minimum Frontage requirements</b><br><br><b>Objectives</b><br><br><i>(a) Encourage the efficient use of existing residential land in urban areas.</i><br><br><i>(b) Provide a high level of amenity for dwellings in medium density development.</i><br><br><i>(c) Design the position and orientation of dwellings to maximise the integration of the higher density development into the existing neighbourhood character.</i> | The application fails to satisfy the objectives of the controls in Control C3.2, Section 3, Part C of the DCP as the development would not encourage the efficient use of the existing residential land and would erode the ability for the land to provide a medium density housing type within the zone. Conversely, subdivision of the existing dwelling onto its own lot would create a low density lot and dwelling within a medium density zone which is contrary to the objectives of the zone.<br><br>Given the above, refusal of the application is recommended. | No                |

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| Section                                    | Control   | Assessment  | Compliance |
|--|---|---|------------|
|  | <i>(d) Minimise the loss of mid-block tree canopy and other vegetation on site.</i>                       |   |            |
| <b>C3.4,<br/>C3.7,<br/>C3.8,<br/>C3.15</b> | C3.4 Density and Site Coverage<br>C3.7 Side Setbacks<br>C3.8 Rear Setbacks<br>C3.15 Landscaped Open Space | The application fails to satisfy the following provisions of the DCP, in that insufficient information has been submitted with the application demonstrating how the subdivision would ensure that the retained multi-dwelling housing development would satisfy the development controls in the following sections of the DCP:<br><br>C3.4 Density and Site Coverage<br>C3.7 Side Setbacks<br>C3.8 Rear Setbacks<br>C3.15 Landscaped Open Space<br><br>Given the above, refusal of the application is recommended. | No         |

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**ATTACHMENTS**

1. Attachment 1 - Notice of Determination Development Application Refusal [**6.3.1** - 4 pages]
2. Attachment 2 Site plan 11 Clarke St Bowral PA N-313170 [**6.3.2** - 1 page]
3. Attachment 3 Subdivision plan 11 Clarke St Bowral PA N-313170 [**6.3.3** - 1 page]





27 June 2023

MASTERS SURVEYING PTY LTD  
G07b 35 Crown Street  
WOLLONGONG NSW 2518



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mail@wsc.nsw.gov.au  
ABN 49 546 344 354

**NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION**  
Pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*

|                              |                                     |
|------------------------------|-------------------------------------|
| <b>APPLICATION NO:</b>       | 23/1154                             |
| <b>APPLICANT:</b>            | MASTERS SURVEYING PTY LTD           |
| <b>OWNER:</b>                | ORIENTAL COOL PTY LTD               |
| <b>PROPERTY DESCRIPTION:</b> | Part Lot 81 DP 1272440              |
| <b>PROPERTY ADDRESS:</b>     | 11 CLARKE STREET<br>BOWRAL NSW 2576 |
| <b>PROPOSED DEVELOPMENT:</b> | Subdivision - 2 Lots                |
| <b>DETERMINATION:</b>        | Determined way of REFUSAL.          |

**Rights of Appeal**

Pursuant to Section 8.7 of the *Environmental Planning and Assessment Act 1979*, an applicant for development consent who is dissatisfied with the determination of the application by Council authority may appeal to the Court against the determination. Pursuant to Section 8.10, an appeal may be made only within 6 months after the date the decision appealed against is notified.

**Review of Determination**

You have the right to request a review of determination under section 8.2 of the *Environmental Planning and Assessment Act 1979*, subject to the provisions of Division 8.2 Reviews.

John McFadden  
**Acting Manager – Development Assessment and  
Regulation**

27 June 2023  
**Date of Determination**

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WINGECARRIBEE - A COAL MINING FREE SHIRE

## AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 23 AUGUST 2023

23/1154, Part Lot 81 DP 1272440

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### SCHEDULE 1 REASONS FOR REFUSAL

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1. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed development is inconsistent with *Wingecarribee Local Environmental Plan 2010* as follows:
  - a. The application fails to satisfy the aims of the *Wingecarribee Local Environmental Plan 2010*, as stated in Clause 1.2, in the following ways:
    - i. The proposed development fails to satisfy aim (c) as the development proposes a low density subdivision and dwelling type within a medium density zone that would not encourage the efficient use and development of urban land, minimise the spread of urban areas into rural and native vegetation environments, and increase the accessibility of the population to urban facilities and services; and
    - ii. The proposed development fails to satisfy aim (e) as the development provides limited opportunity for housing in an accessible and well serviced location; and
    - iii. The proposed development fails to satisfy aim (g) as the development will not assist in strengthening the viability of the Bowral business centre by limiting the ability for future housing opportunities to be located in close proximity to the centre.
  - b. The application fails to satisfy Clause 2.3 of the *Wingecarribee Local Environmental Plan 2010* as the proposed development is not consistent with the aims and objectives of the R3 Medium Density Residential zone for the following reasons:
    - i. The proposed subdivision of the land into a lot size that is less than the 700m<sup>2</sup> minimum lot size required by Clause 4.1 of the LEP will achieve a low density housing type within a medium density residential environment; and
    - ii. The development proposes subdivision of the land into a lot size that is less than the 700m<sup>2</sup> minimum lot size required by Clause 4.1 of the LEP and will fragment the land parcel which would erode the ability for the land to provide a medium density housing type within the zone and would create a low density lot and dwelling within a medium density zone.
  - c. The application fails to satisfy the objectives and development standard prescribed in Clause 4.1 of the *Wingecarribee Local Environmental Plan 2010* for minimum subdivision lot size in the following ways:
    - i. The proposed subdivision fails to achieve the objectives of the minimum subdivision lot size development standard as the proposal for Lot 2 having a lot size of 568.1m<sup>2</sup> is incompatible with the character of the surrounding land; and
    - ii. Proposed Lot 2 in the development has a lot size of 568.1m<sup>2</sup> which is significantly less than the 700m<sup>2</sup> minimum subdivision lot size requirement prescribed for the land in the development standard.

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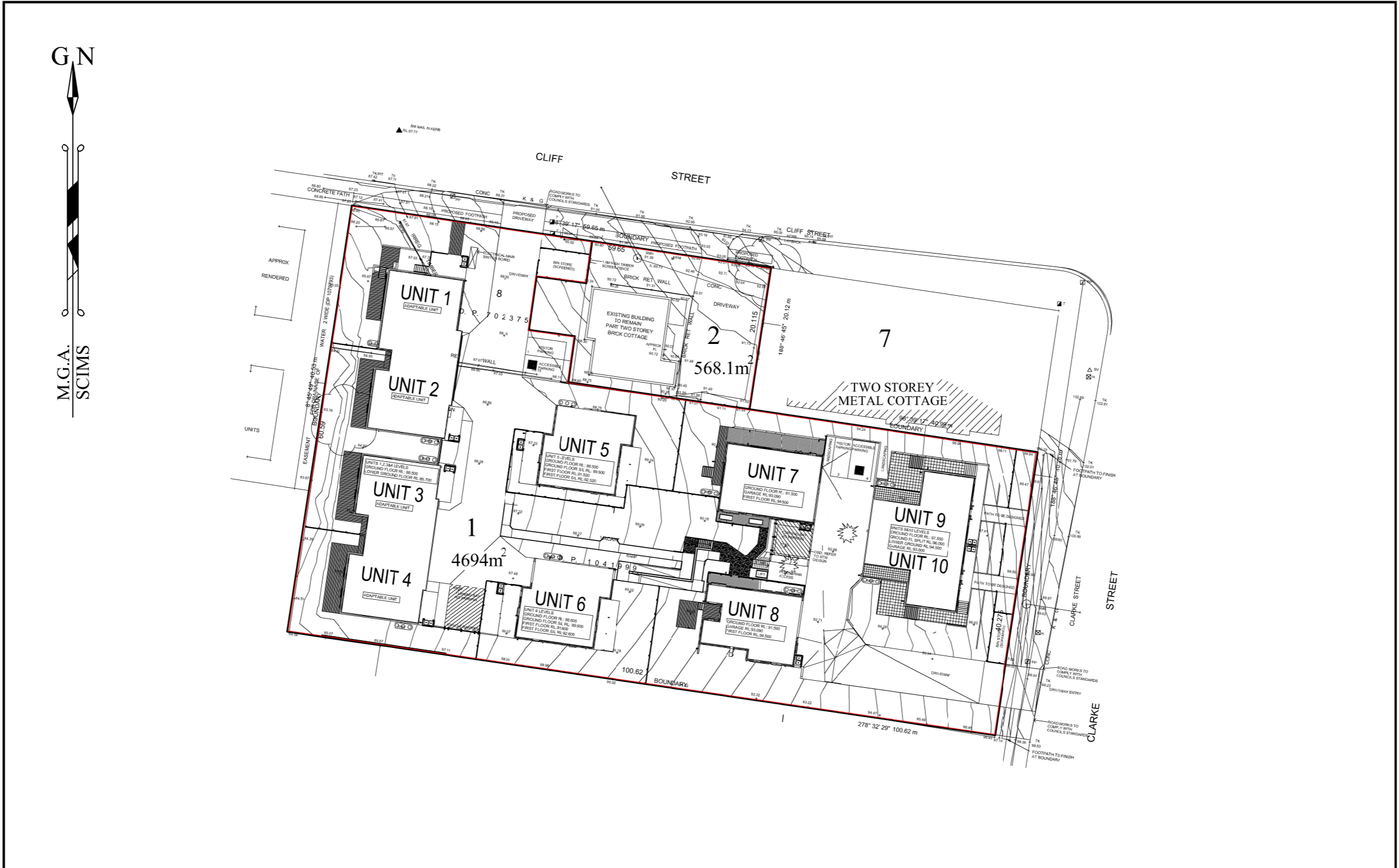
- d. The application fails to satisfy the objectives and requirements prescribed in Clause 4.6 of the *Wingecarribee Local Environmental Plan 2010* for an exception to the minimum subdivision lot size development standard in the following ways:
- i. The proposed development fails to achieve the objective in Clause 4.6(1)(a) as the degree of variation, being 131.9m<sup>2</sup> or 18.8%, is excessive and would result in an inappropriate degree of flexibility in applying the development standard; and
  - ii. The proposed development fails to achieve the objective in Clause 4.6(1)(b) as the proposal would not achieve a better outcome for and from development by allowing flexibility in these circumstances as the application does not demonstrate that strict compliance with the development standard would be unreasonable or unnecessary in the circumstances of the case and that there are any environmental planning grounds to justify contravening the development standard; and
  - iii. The applicant's request seeking to justify the contravention of the development standard fails to address the matters in Clause 4.6(3)(a) as the application fails to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
  - iv. The applicant's request seeking to justify the contravention of the development standard fails to address the matters in Clause 4.6(3)(b) as the application fails to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard; and
  - v. The consent authority is not satisfied that the applicant's request seeking to justify the contravention of the development standard addresses the matters in Clause 4.6(4)(a)(i) as the applicant's written request has not adequately addressed the matters required to be demonstrated by Clause 4.6(3) for the reasons identified above; and
  - vi. The consent authority is not satisfied that the applicant's request seeking to justify the contravention of the development standard addresses the matters in Clause 4.6(4)(a)(i) and that the proposed development will be in the public interest because it is inconsistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.
2. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the application fails to satisfy the requirements of the *Wingecarribee Bowral Township Development Control Plan* in the following ways:
- a. The application fails to satisfy the objectives of the controls in Control C3.2, Section 3, Part C of the *Wingecarribee Bowral Township Development Control Plan* as the development would not encourage the efficient use of the existing residential land and would erode the ability for the land to provide a medium density housing type within the zone.
  - b. The application fails to satisfy the following provisions of the *Wingecarribee Bowral Township Development Control Plan*, in that insufficient information has been submitted with the application demonstrating how the subdivision would ensure that the retained multi-dwelling housing development would satisfy the development controls in the following sections of the DCP:

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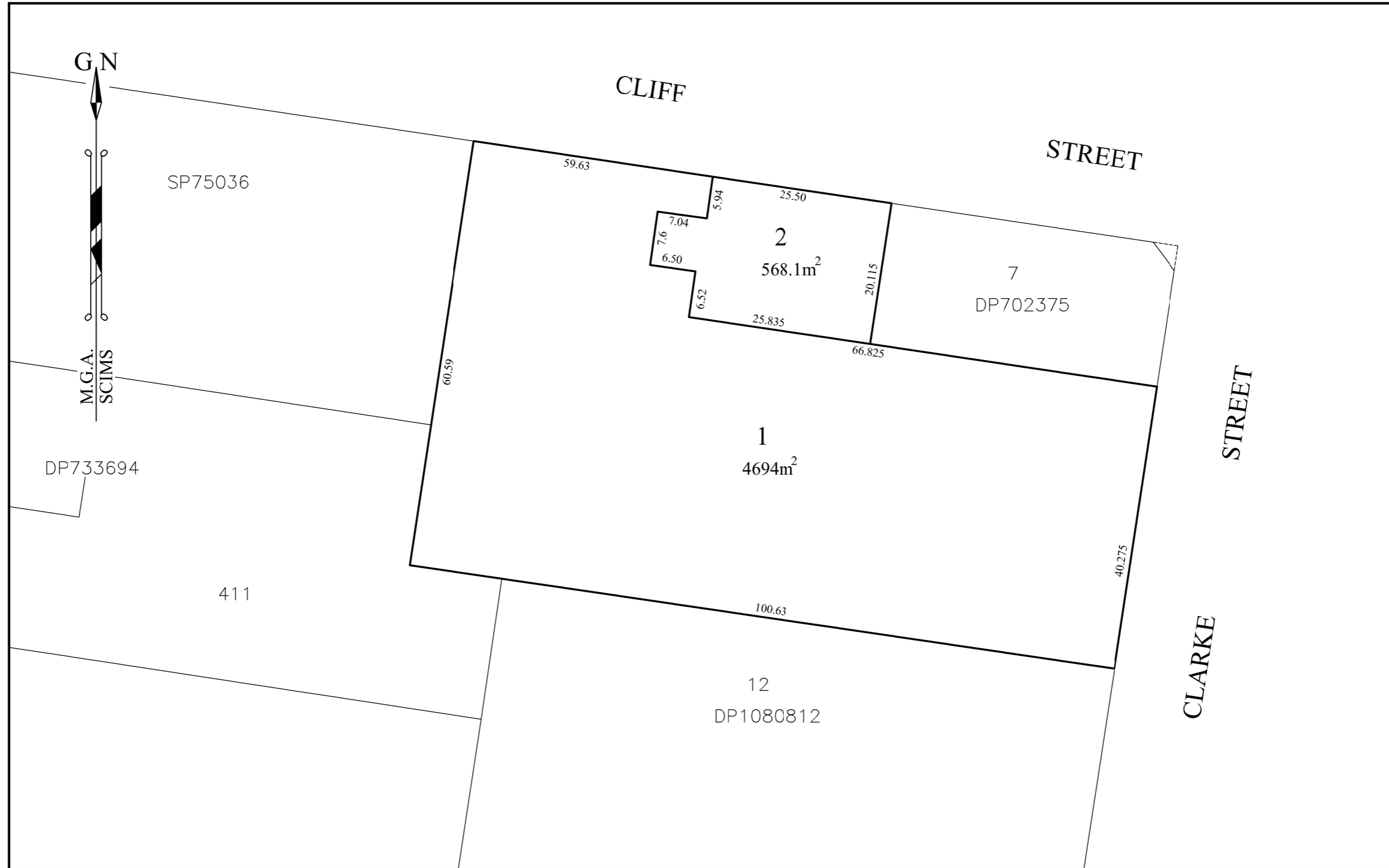
- i. C3.4 Density and Site Coverage
  - ii. C3.7 Side Setbacks
  - iii. C3.8 Rear Setbacks
  - iv. C3.15 Landscaped Open Space
3. Pursuant to Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, the application is likely to have adverse impacts on the natural and built environment and social and economic impacts in the locality for the following reasons:
  - a. The proposed development is incompatible with the existing context and desired future character of the locality; and
  - b. There will be negative cumulative impacts as a result of the proposed development given that the proposed subdivision would create a lot of insufficient size to be capable of being developed for medium density residential development in a medium density residential zone; and
  - c. There are no environmental planning grounds justifying the contravention to the minimum subdivision lot size development standard and compliance with the standard is considered reasonable and necessary in the circumstances.
4. Pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, the subject site is not suitable for the proposed development as the application does not adequately demonstrate that the development is capable of achieving compliance with the requirements of the heritage conservation area, requirements of *Wingecarribee Local Environmental Plan 2010*, and the *Wingecarribee Bowral Township Development Control Plan* that apply to the site.
5. Pursuant to the provisions of s.4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, it is considered that in the circumstances of the case, approval of the proposed development is not in the public interest.



| Rev. | Reason for Issue or Amendment | Date       | Drawn | Checked | Surveyed |
|------|-------------------------------|------------|-------|---------|----------|
| 0    | INITIAL RELEASE               | 10/03/2023 | AW    | AW      | N/A      |

**MASTERS SURVEYING**  
 G07b 35 Crown Street, Wollongong NSW 2500 P 1300 245 427  
 Brisbane Gladstone Mackay Rockhampton Wollongong  
 CADASTRAL CONSTRUCTION ENGINEERING

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|--|----------------------------|-----------------------|
| Project:<br>PROPOSED SUBDIVISION CLIFF AND CLARKE STREETS BOWRAL   | Masters Job No:<br>65194/1 | Scale:<br>1:500 at A3 |
| Title:<br>SITE PLAN WITH TOWNHOUSES AND EXISTING DWELLING          | Level Datum:<br>SITE DATUM | Origin:<br>BY OTHERS  |
| Client:<br>WINDSOR CASTLE HOLDINGS PTY LTD & ORIENTAL COOL PTY LTD | Co-ord System:<br>N/A      | Revision:<br>0        |
|  | Masters Drawing No:<br>1   | Sheet:<br>1           |



|      |                               |            |       |         |          |  |  |  |                            |  |                       |  |
|------|-------------------------------|------------|-------|---------|----------|--|--|--|----------------------------|--|-----------------------|--|
|      |                               |            |       |         |          | Project:<br>PROPOSED SUBDIVISION CLIFF AND CLARKE STREETS BOWRAL   |  |  | Masters Job No:<br>65194/1 |  | Scale:<br>1:500 at A3 |  |
|      |                               |            |       |         |          | Title:<br>PROPOSED SUBDIVISION OF LOT 81 IN DP1272440  |  |  | Level Datum:<br>SITE DATUM |  | Origin:<br>BY OTHERS  |  |
|      |                               |            |       |         |          | Client:<br>WINDSOR CASTLE HOLDINGS PTY LTD & ORIENTAL COOL PTY LTD   |  |  | Masters Drawing No:<br>2   |  | Revision:<br>0        |  |
|      |                               |            |       |         |          |  |  |  | Co-ord System:<br>N/A      |  | Sheet:<br>1           |  |
| 0    | INITIAL RELEASE               | 10/03/2023 | AW    | AW      | N/A      |  |  |  |                            |  |                       |  |
| Rev. | Reason for issue or Amendment | Date       | Drawn | Checked | Surveyed | G07b 35 Crown Street, Wollongong NSW 2500 P 1300 245 427 <a href="http://masterssurveying.com.au">masterssurveying.com.au</a><br>Brisbane Gladstone Mackay Rockhampton Wollongong CADASTRAL CONSTRUCTION ENGINEERING |  |  |                            |  |                       |  |

**7 MEETING CLOSURE**