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Voluntary Planning Agreement

Wingecarribee Shire Council
ABN 49 546 344 354

and

Maria Josephine Loader, Elizabeth Anne Dolbel and Philippa Therese Dolbel as Executors of the Estate of Thomas William Dolbel, William Richard Beresford, Desmond John Gawthorne and Kathleen Margaret Florence Gawthorne

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Agreement

Date

Parties

First party

Name Wingecarribee Shire Council (**Council**)

ABN 49 546 344 354

Contact Coordinator, Strategic Policy

Telephone (02) 4868 0888

Email mail@wsc.nsw.gov.au

Second party

Name Maria Josephine Loader, Elizabeth Anne Dolbel and Philippa Therese Dolbel as Executors of the Estate of Thomas William Dolbel of 121 Yarrowa Road, Moss Vale NSW 2577
William Richard Beresford of 131 Yarrowa Road, Moss Vale NSW 2577
Desmond John Gawthorne and Kathleen Margaret Florence Gawthorne of 153 Yarrowa Road, Moss Vale NSW 2577
(Developer)

Background

- A. The Developer owns the Land.
- B. The Developer has made an application for the Instrument Change to amend the Wingecarribee Local Environmental Plan 2010 as described in the Planning Proposal PP.2022-4351.
- C. The Developer has made an offer to enter into this agreement with Council to make a Development Contribution in support of the application for Instrument Change.

Operative part

1. Definitions

In this agreement, unless the context indicates a contrary intention:

Act means the *Environmental Planning and Assessment Act 1979* (NSW);

Address means a party's address set out in the Notices clause of this agreement;

Appendix means the appendix at the end of this agreement;

Approval means any certificate, licence, consent, permit, approval or other requirement of any Authority having jurisdiction in connection with the activities contemplated by this agreement;

Assign as the context requires refers to any assignment, sale, transfer, disposition, declaration of trust over or other assignment of a legal and/or beneficial interest.

Authority means any government, semi-governmental, statutory, administrative, fiscal or judicial body, department, commission, authority, tribunal, public or other person;

Bank Guarantee means an irrevocable and unconditional undertaking without any expiry or end date by one of the following trading banks:

- (a) Australia and New Zealand Banking Group Limited.
- (b) Commonwealth Bank of Australia.
- (c) Macquarie Bank.
- (d) National Australia Bank Limited.
- (e) St George Bank Limited.
- (f) Westpac Banking Corporation.
- (g) Any other financial institution approved by the Council, in its absolute discretion, in response to a request from the Developer.

Business Day means a day on which banks are open for general banking business in Sydney, excluding Saturdays and Sundays;

Claim means, against any person, any allegation, action, demand, cause of action, suit, debt, cost, claim, loss, liability, damage, proceeding, order, judgment or expense howsoever arising and whether present or future, fixed or unascertained, actual or contingent whether at law, in equity, under statute or otherwise;

Contribution Value means the amount specified in **Schedule 1** in the column headed "contribution value" for each item of the Development Contribution as indexed in accordance with this agreement.

CPI means the All Groups Consumer Price Index applicable to Sydney published by the Australian Bureau of Statistics or any other index which supersedes the Consumer Price Index (All Groups Sydney).;

Damages means all liabilities, losses, damages, costs and expenses, including legal fees and disbursements and costs of investigation, litigation, settlement, judgment, interest and penalties;

Dealing, in relation to the Land, means, without limitation, selling, transferring, assignment, mortgaging, charging, encumber or otherwise dealing with the Land;

Defects Liability Period means a period of twelve (12) months commencing on the day

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immediately after hand-over of the relevant Works to Council.

Development means development creation by subdivision of the Land into residential allotments;

Development Application has the same meaning as in the Act;

Development Consent has the same meaning as in the Act;

Development Contribution means a monetary contribution, the dedication of land free of cost to the Council and the contribution for embellishment of the land to be dedicated including as set out in **Schedule 1**.

Final Lots means a low density residential lot created as part of the Development, and in accordance with the Instrument Change, which is intended for separate occupation and disposition (and which is not intended for further subdivision), and not being a lot created by a subdivision of land that is to be dedicated for public use (to Council or otherwise) including for community use, ecological restoration, drainage, ecology, open space or infrastructure.

GST has the same meaning as in the GST Law;

GST Law has the meaning given to that term in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any other Act or regulation relating to the imposition of or administration of the GST;

Instrument Change means an amendment to Wingecarribee Local Environmental Plan 2010 in response to a planning proposal (PP.2022-4351) seeking to:

- (a) rezone part of the Land to R2. Low Density Residential with a minimum lot size of 600m²; and
- (b) Rezone approximately 1 ha of the Land along Yarrowa Road frontage to RE1 Public Recreation;

Land means the land comprised in the following certificate of title and known as 121, 131 and 153 Yarrowa Road Moss Vale, NSW:

- (a) folio identifier 4/706194 (known as 121 Yarrowa Road, Moss Vale);
- (b) folio identifier 5/706194 (known as 131 Yarrowa Road, Moss Vale);
- (c) folio identifier 2/610352 (known as 153 Yarrowa Road, Moss Vale);

Law means:

- (a) any law applicable including legislation, ordinances, regulations, by-laws and other subordinate legislation;
- (b) any Approval, including any condition or requirement under it; and
- (c) any fees and charges payable in connection with the things referred to in paragraphs (a) and (b);

Monetary Contribution means the monetary contribution payable under clause 6 of this agreement and as set out in **Schedule 1**.

Planning Legislation means the Act, the *Local Government Act 1993* (NSW) and the *Roads Act 1993* (NSW).

Register means the Torrens title register maintained under the *Real Property Act 1900* (NSW);

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Regulation means the *Environmental Planning and Assessment Regulation 2001*;

Related Body Corporate has the meaning given to that term in a s 9 of the *Corporations Act 2001* (Cth);

Security has the meaning ascribed to it in clause 11.3.

Subdivision Certificate has the same meaning as ascribed to it in the Act.

Subdivision Works Certificate has the same meaning as ascribed to it in the Act.

Works means the works specified or described in **Schedule 1**.

2. Interpretation

In this agreement, unless the context indicates a contrary intention:

- (a) **(documents)** a reference to this agreement or another document includes any document which varies, supplements, replaces, assigns or novates this agreement or that other document;
- (b) **(references)** a reference to a party, clause, paragraph, schedule or annexure is a reference to a party, clause, paragraph, schedule or annexure to or of this agreement.
- (c) **(headings)** clause headings and the table of contents are inserted for convenience only and do not affect interpretation of this agreement.
- (d) **(person)** a reference to a person includes a natural person, corporation, statutory corporation, partnership, the Crown and any other organisation or legal entity and their personal representatives, successors, substitutes (including persons taking by novation) and permitted assigns.
- (e) **(party)** a reference to a party to a document includes that party's personal representatives, executors, administrators, successors, substitutes (including person taking by novation) and permitted assigns;
- (f) **(present, CEO, general manager or managing director)** the president, CEO, general manager or managing director of a body or Authority includes any person acting in that capacity;
- (g) **(requirements)** a requirement to do anything includes a requirement to cause that thing to be done, and a requirement not to do anything includes a requirement to prevent that thing being done;
- (h) **(including)** including and includes are not words of limitation, and a list of examples is not limited to those items or to items of a similar kind;
- (i) **(corresponding meanings)** a word that is derived from a defined word has a corresponding meaning;
- (j) **(singular)** the singular includes the plural and vice-versa;
- (k) **(gender)** words importing one gender include all other genders;

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- (l) **(parts)** a reference to one or more things includes each part and all parts of that thing or group of things but nothing in this clause implies that pat performance of an obligation constitutes performance of that obligation.
- (m) **(rules of construction)** neither this agreement nor any part of it is to be construed against a party on the basis that the party or its lawyers were responsible for its drafting.
- (n) **(legislation)** a reference to any legislation or provision of legislation includes all amendments, consolidations or replacements and all regulations or instruments issued under it;
- (o) **(time and date)** a reference to a time or date in connection with the performance of an obligation by a party is a reference to the time and date in Australia, even if the obligation is to be performed elsewhere.
- (p) **(joint and several)** an agreement, representation, covenant, right or obligation:
 - (i) In favour of two or more persons is for the benefit of them jointly and severally; and
 - (ii) On the part of two or more persons binds them jointly and severally;
- (q) **(writing)** a reference to a notice, consent, request, approval or other communication under this agreement or an agreement between the parties means a written notice, request, consent, approval or agreement.
- (r) **(replacement bodies)** a reference to a body (including an institute, association or Authority) which ceases to exist or whose powers or functions are transferred to another body is a reference to the body which replaces it or which substantially succeeds to its power or functions;
- (s) **(Australian currency)** a referenced to dollars (\$) is in Australian currency;
- (t) **(month)** a reference to a month is a reference to a calendar month; and
- (u) **(year)** a reference to a year is a reference to twelve consecutive calendar months.

3. Planning Agreement under the Act

- (a) The parties agree that this agreement is a planning agreement within the meaning of section 7.4 of the Act and governed by Subdivision 2 of Division 7.1 of Part 7 of the Act.

4. Application of this agreement

This agreement is made in respect of the Instrument Change and applies to:

- (a) the Instrument Change, and
- (b) the Development; and
- (c) the Land.

5. Operation of this agreement

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This agreement commences and operates on and from the date it is executed by all parties.

6. Contributions to be made under this agreement

6.1 Monetary Contribution

- (a) The Developer must pay to Council the Monetary Contribution (as indexed in accordance with the CPI) in accordance with **Schedule 1**;
- (b) the Monetary Contribution must be paid by way of bank cheque in favour of Council or by deposit by means of electronic funds transfer into an account specified by Council;
- (c) the Monetary Contribution will be taken to have been made and received when the Council notifies the Developer in writing that the full amount of the Monetary Contribution has been received either when the bank cheque has been received or cleared funds or electronic funds have been deposited in the Council's bank account;
- (d) the parties agree and acknowledge that the Monetary Contribution will be used by the Council towards community infrastructure within the Wingecarribee Shire.

6.2 Dedication of Land to Council

- (a) The Developer will dedicate to Council with registration of the plan of subdivision of the Land an area of land of approximately 1 hectare to be rezoned RE1 Public Recreation ("Public Recreation Land") along the Yarra Road frontage to the Land as identified in **Appendix 1**.
 - (i) If the Developer does not dedicate Public Recreation Land with the registration of the plan of subdivision the Council may compulsorily acquire the Public Recreation Land for \$1.00 pursuant to the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW)
Provided that such compulsory acquisition cannot take place before registration of the plan of subdivision.

6.3 Embellishment Works

- (a) The Developer, at its cost, must carry out and complete the Works to the satisfaction of Council and in accordance with **Schedule 1**.
- (b) The embellishment works are to be completed on or before the date of registration of the plan of subdivision dedicating the Public Recreation Land to Council or the date that Council compulsorily acquire the Public Recreation Land, whichever is the later.

7. Application of sections 7.11, 7.12 and 7.24 of the Act to the Development

- (a) This agreement excludes the application of section 7.11 of the Act to the Development.
- (b) This agreement excludes the application of section 7.12 of the Act to the Development.
- (c) This agreement does not exclude the application of Division 7.1, Subdivision 4 of the Act to the Development.

8. Registration of this agreement

8.1 Developer Interest

The Developer represents and warrants to the Council that on the date of this agreement the Developer is the registered proprietor of the Land.

8.2 Registration of this agreement

- (a) The Developer agrees that they will register this agreement under the *Real Property Act 1900* (NSW) in the relevant folios of the Register of the Land in accordance with section 7.6 of the Act.
- (b) The Developer, at their expense, must:
 - (i) register this agreement with the Registrar-General as soon as reasonably practicable after this agreement comes into operation, but in any event, no later than 40 Business Days after that date;
 - (ii) procure the registration of this agreement by the Registrar-General in the relevant folios of the Register for the Land as soon as reasonably practicable after this agreement is lodged for registration; and
 - (iii) Provide documentary evidence that the registration of this agreement has been completed to Council within 5 Business Days of receiving confirmation that the registration has occurred.
- (c) The Developer at their own expense will take all practical steps, and otherwise do anything that the Council reasonably requires to procure:
 - (i) The consent of each person who:
 - A. Has an estate or interest in the Land registered under the *Real Property Act 1900* (NSW); or
 - B. is seized or possessed of an estate or interest in the Land,
 - (ii) An acceptance of the terms of this agreement and an acknowledgement in writing from any existing mortgagee in relation to the Land that the mortgagee will adhere to the provisions of this agreement if it takes possession of the Land as mortgagee in possession,
 - (iii) the execution of any documents; and
 - (iv) the production of the relevant duplicate certificates of title,to enable the registration of this agreement in accordance with this clause 8.2.
- (d) For the avoidance of doubt, the Developer warrants that the landowners of the Land consent to the registration of the agreement in accordance with this clause 8.2.

8.3 Removal from Register

The Council will provide a release and discharge of this agreement so that it may be removed from the folios of the Register for the Land (or any part of it) provided the Council is satisfied the Developer has duly fulfilled its obligations under this agreement, and is not otherwise in default of any of its obligations under this agreement.

9. Review of this agreement

- (a) This agreement may be reviewed or modified. Any review or modification of this agreement will be conducted in the circumstances and in the manner determined by the parties.
- (b) No modification or review of this agreement will be of any force or effect unless it is in writing and signed by the parties to this agreement.
- (c) A party is not in breach of this agreement if it does not agree to an amendment to this agreement requested by a party in, or as a consequence of, a review.

10. Dispute Resolution

10.1 Reference to Dispute

If a dispute arises between the parties in relation to this agreement, the parties must not commence any court proceedings relating to the dispute unless the parties have complied with this clause, except where a party seeks urgent interlocutory or declaratory relief concerning any matter arising out of this agreement.

10.2 Notice of Dispute

The party wishing to commence the dispute resolution process must give written notice (**Notice of Dispute**) to the other parties of;

- (a) The nature of the dispute (providing details of the dispute).
- (b) The alleged basis of the dispute,
- (c) The position which the party issuing the Notice of Dispute believes is correct; and
- (d) What that party believes will resolve the dispute.

10.3 Representatives of Parties to Meet

- (a) The representatives of the parties must promptly (and in any event within 20 Business Days of the Notice of Dispute) meet in good faith to attempt to resolve the notified dispute.
- (b) The parties may, without limitation.
 - (i) resolve the dispute during the course of that meeting;
 - (ii) agree that further material or expert determination in accordance with clause 10.6 about a particular issue or consideration is needed to effectively resolve the dispute (in which event the parties will, in good faith) agree to a timetable or resolution); or
 - (iii) agree that the parties are unlikely to resolve the dispute and, in good faith, agree to a form of alternative dispute resolution (including expert determination, arbitration or mediation) which is appropriate for the resolution of the relevant dispute.

10.4 Further Notice if Not Settled

If the dispute is not resolved within 10 Business Days after the nominated representatives have met, either party may give to the other a written notice calling for determination of the dispute

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(**Determination Notice**) by mediation under clause 10.5 or by expert determination under clause 10.6.

10.5 Mediation of non-technical issues in dispute

If a party gives a Determination Notice calling for the dispute of a non-technical matter to be mediated:

- (a) The parties must agree to the terms of reference of a mediation within 15 Business Days of the receipt of the Determination Notice (the terms shall include a requirement that the Mediation Rules of the Law Society of New South Wales published from time to time;
- (b) The mediator will be agreed between the parties, or failing agreement within 15 Business Days of receipt of the Determination Notice, either Party may request the president of the Law Society of New South Wales to appoint a mediator.
- (c) The mediator appointed pursuant to this clause 10.5 must:
 - (i) Have reasonable qualifications and practical experience in the area of the dispute; and
 - (ii) Have no interest or duty which conflicts or may conflict with his or her function as a mediator he or she being required to fully disclose any such interest or duty before his or her appointment.
- (d) The mediator shall be required to undertake to keep confidential all matters coming to his or her knowledge by reason of his or her appointment and performance of his or her duties;
- (e) The parties must within 15 Business Days of receipt of the Determination Notice notify each other of their representatives who will be involved in the mediation (except if a resolution of the Council is required to appoint a representative, the Council must advise of the representative within 5 Business Days of the resolution.
- (f) The parties agree to be bound by a mediation settlement and may only initiate judicial proceedings in respect of a dispute which is the subject of a mediation settlement for the purpose of enforcing that mediation settlement; and
- (g) in relation to costs and expenses:
 - (i) Each party will bear its own professional and expert costs incurred in connection with the mediation; and
 - (ii) The costs of the mediator will be shared equally by the parties unless the mediator determines that a party has engaged in vexatious or unconscionable behaviour in which case the mediator may require the full costs of the mediation to be borne by that party.

10.6 Expert determination of Technical Issues in Dispute

If the dispute relates to technical matters, such as a valuation or engineering matter, the parties agree that the dispute may be resolved by expert determination, the parties may refer the dispute to an expert, in which event:

- (a) The dispute must be determined by an independent expert in the relevant field:
 - (i) Agreed upon and appointed jointly by the parties; and

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- (ii) In the event that no agreement is reached or not appointment is made within 20 Business Days of the agreement to refer the dispute to an expert, appointed on application of a party by the then President of the Law Society of New South Wales.
- (b) The expert must be appointed in writing and the terms of the appointment must not be inconsistent with this clause;
- (c) The determination of the dispute by such an expert will be made as an expert and not as an arbitrator and will be in writing and contain the reasons for the determination.

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- (d) The expert will determine the rules for the conduct of the process but must conduct the process in accordance with the rules of natural justice;
- (e) If the expert does not award costs, each party will bear its own costs in connection with the process and the determination by the expert and will share equally the expert's fees and costs; and
- (f) Any determination made by an expert pursuant to this clause is final and binding upon the parties except unless:
 - (i) Within 20 Business Days of receiving the determination, a party gives written notice to the other party that it does not agree with the determination and commences litigation; or
 - (ii) The determination is in respect of, or relates to, termination or purported termination of this agreement by any party, in which event the expert is deemed to be giving a non-binding appraisal.

10.7 Litigation

If the dispute is not finally resolved in accordance with this clause 10 then either party is at liberty to litigate the dispute.

10.8 No suspension of contractual obligations

Subject to any interlocutory order obtained under clause 10.1, the referral to or undertaking of a dispute resolution process under this clause 10 does not suspend the parties' obligations under this agreement.

11. Enforcement

11.1 Default

- (a) In the event a party considers another party has failed to perform and fulfil an obligation under this agreement, it may give notice in writing to the other party (**Default Notice**) giving all particulars of the matters in respect of which it considers default has occurred and by such notice require the default to be remedied within a reasonable time not being less than 21 days.
 - (i) In determining a reasonable time, regard must be had to both the nature of the default and the work or other action required to remedy it and whether or not the continuation of the default constitutes a public nuisance or raises other circumstances of urgency or emergency.
- (b) If a party disputes the Default Notice it may refer the dispute to dispute resolution under clause 10 of this agreement.
- (c) Where the Developer breaches a Default Notice, Council may, in addition to any rights it has at Law:
 - (i) exercise its step-in-rights so as to carry out any work specified in the relevant Default Notice; or
 - (ii) call on the Security to the extent of any compensation claimed in a Default Notice and not paid by the Developer.

11.2 General Enforcement

- (a) Without limiting any other remedies available to the parties, this agreement may be enforced by any party in any Court of competent jurisdiction.
- (b) Nothing in this agreement prevents:
 - (i) a party from bringing proceedings in the Land and Environment Court to enforce any aspect of this agreement or any matter to which this agreement relates; and
 - (ii) the Council from exercising any function under the Act or any other Act or law relating to the enforcement of any aspect of this agreement or any matter to which this agreement relates.

11.3 Security

- (a) The Developer must deliver to Council separate Bank Guarantees, bonds or other forms of security to the satisfaction of the Council:
 - (i) prior to the issue of a Subdivision Certificate or Subdivision Works Certificate in respect of the Development, for an amount equivalent to one hundred per cent (100%) of the Contribution Value for the Works (**Works Security**); and
 - (ii) prior to the completion of the Works, for an amount equivalent to ten per cent (10%) of the Contribution Value for the Works (**Defects Security**),
(collectively referred to as the **Security**).
- (b) The Developer may satisfy these obligations (either in whole or in part), by directing Council to retain any Security held by Council which is required to be released by Council under this agreement.
- (c) The Developer may replace any Security provided by it at any time, provided that the amount of that replacement is not less than that which is required to be provided under this agreement. On receipt of a replacement Security, Council must immediately release the Security being replaced and return it to the Developer.
- (d) If the Developer breaches this agreement, Council, without limiting any other remedies available to it, may call on any Security provided by the Developer. If Council calls on any Security, it may use the amount so paid to it in satisfaction of any costs incurred by it in remedying the relevant breach.
- (e) Unless:
 - (i) Council has made or intends to make a demand against any Security provided by the Developer;
 - (ii) the Development Contributions on account of which that Security was provided have not been made; or
 - (iii) the Developer is in breach of this agreement at the relevant time, Council, upon a written request being made by the Developer, must return the Works Security within ten (10) business days of such a request being made.
- (f) Unless:
 - (i) Council has made or intends to make a demand against any Defects Security
 - (ii) the relevant Defects Liability Period has not expired; or
 - (iii) the Developer is in breach of this agreement at the relevant time, Council, upon a written request being made by the Developer, must return the Defects Security within ten (10) business days of such a request being made.

12. Assignment and Dealings

12.1 Assignment

- (a) A party must not Assign or deal with any right under this agreement without the

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prior written consent of the other parties.

- (b) Any change of ownership or control (as defined in section 50AA of the Commonwealth Corporations Act 2001) of a party (excluding the Council) shall be deemed to be an Assignment of this agreement for the purposes of this clause.
- (c) Any purported dealing in breach of this clause is of no effect.

12.2 Transfer of Land

- (a) The Developer may not transfer, assign or dispose of the whole or any part of its right, title or interest in the Land (present or future) or in the Development to another person (**Transferee**) unless before it sells, transfers or disposes of that right, title or interest:
 - (i) The Transferee delivers to the Council a novation deed signed by the Transferee in a form and of such substance as is acceptable to the Council containing provisions under which the Transferee agrees to comply with all the outstanding obligations of the Developer under this agreement.
 - (ii) Any default under any provisions of this agreement has been remedied or waived by the Council, on such conditions as the Council may determine, and
 - (iii) The Developer and the transferee pay the Council's reasonable costs in relation to the assignment.

The Council otherwise consents to the transfer, assignment or novation.

13. Approvals and consents

Except as otherwise set out in this agreement, and subject to any statutory obligations, a party may give or withhold an approval or consent to be given under this agreement in that party's absolute discretion and subject to any conditions determined by the party. A party is not obligated to give its reasons for giving or withholding consent or for giving consent subject to conditions.

14. No fetter

14.1 Consent Authority

The parties acknowledge that Council is a consent authority with statutory rights and obligations pursuant to the terms of the Planning Legislation.

14.2 Discretion

This agreement is not intended to operate to fetter, in any manner, the exercise of any statutory power or discretion of the Council, including, but not limited to, any statutory power or discretion of the Council relating to any other application for Development Consent of the Land or the power of Council to make any law (all referred to in this agreement as a **(Discretion)**).

14.3 No fetter

No provision of this agreement is intended to, or does, constitute any fetter on the exercise of any Discretion. If, contrary to the operation of this clause, any provision of this agreement is held by a court of competent jurisdiction to constitute a fetter on any Discretion, the parties agree:

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- (a) They will take all practical steps, including the execution of any further documents, to ensure the objective of this clause is substantially satisfied.
- (b) In the event that (a) cannot be achieved without giving rise to a fetter on the exercises of a Discretion, the relevant provision is to be severed and the remainder of this agreement has full force and effect, and
- (c) To Endeavour to satisfy the common objectives of the parties in relation to the provision of this agreement which is to be held to be a fetter on the extent that is possible having regard to the relevant court judgment.

Where the law permits Council to contract out of a provision of that Law or gives Council power to exercise a Discretion, then if Council has in this agreement contracted out of a provision or exercised a Discretion under this agreement, then to the extent of this agreement is not to be taken to be inconsistent with the Law.

14.4 Planning Certificates

The Developer acknowledges that Council may, at its discretion, include advice on any planning certificate issued under section 10.7 of the Act that this agreement affects the Land.

15. Notices

15.1 Notices

Any notice given under or in connection with this agreement (**Notice**):

- (a) must be in writing and signed by a person duly authorised by the sender;
- (b) must be addressed as follows and delivered to the intended recipient by hand, by prepaid post or by email at the address below, or at the address last notified by the intended recipient to the sender after the date of this agreement.
 - (i) to Wingecarribee Shire Council
Civic Centre,
68 Elizabeth Street,
MOSS VALE NSW 2577
Email: mail@wsc.gov.au
Attention: Manager, Land Use Planning
 - (ii) to Maria Josephine
Loader, Elizabeth
Anne Dolbel and
Philippa Therese
Dolbel as Executors
of the Estate of
Thomas Dolbel
William Beresford
Desmond Gawthorne
Kathleen Gawthorne

C/- Boyce Law DR
3/194 Bong Bong Street
BOWRAL NSW 2576
Email: philip.boyce@boycelawdr.com.au
- (c) is taken to be given or made:

**AGENDA OF THE LOCAL PLANNING PANEL
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- (i) in the case of hand delivery, when delivered;
- (ii) in the case of delivery by post, 7 Business Days after the date of posting (if posted to an address in the same country); and
- (d) If under clause (c) a Notice would be taken to be given or made on a day that is not a Business Day in the place to which the Notice is sent, or later than 4.00 pm (local time), it is taken to have been given or made at the start of business on the next Business Day in that place.

15.2 Notices sent by email

- (a) A party may serve a Notice by email if the Notice:
 - (i) includes a signature block specifying:
 - (A) the name of the person sending the Notice; and
 - (B) the sender's position within the relevant party;
 - (ii) states in the body of the message or the subject field that it is sent as a Notice under this agreement;
 - (iii) contains an express statement that the person sending the Notice has the authority to serve a Notice under this agreement;
 - (iv) is sent to the email address specified in clause 15.1 or the email address last notified by the intended recipient to the sender:
- (b) The recipient of a Notice served under this clause 15.2 must:
 - (i) promptly acknowledge receipt of the Notice; and
 - (ii) keep an electronic copy of the Notice.
- (c) Failure to comply with clause 15.2 does not invalidate service of a Notice under this clause.

15.3 Receipt of Notices sent by email

- (a) A Notice sent under clause 15.2 is taken to be given or made:
 - (i) when the sender receives an email acknowledgement from the recipient's information system showing the Notice has been delivered to the email address stated above;
 - (ii) when the Notice enters an information system controlled by the recipient; or
 - (iii) when the Notice is first opened or ready by the recipient,Whichever occurs first.
- (b) If under clause 15.3a Notice would be taken to be given or made on a day that is not a Business Day in the place to which the Notice is sent, or later than 4.00 pm (local time), it will be taken to have been given or made at the start of business on the next Business Day in that place.

16. Contamination

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16.1 Definitions

For the purpose of this clause 16:

Contamination means any material, gas, substance, liquid, chemical or biological mineral or other physical matter which would, if present on the Land:

- (a) result in an Authority issuing a notice, direction or order under an Environmental Law; or
- (b) which would constitute a violation of contribution of contravention of any Environmental Law.

Contaminated means subject to Contamination.

Environmental Law means all planning, environmental or pollution laws and any regulations, orders, directions, ordinances or requirements, permissions, permits, licences issued under those laws or instruments.

16.2 Warranties and Indemnities

The Developer:

- (a) warrants that as far as it is aware, and other than as disclosed to Council, the land to be dedicated to Council under this agreement is not Contaminated; and
- (b) indemnifies and must keep indemnified Council against all liability for and associated with all Contamination present in, on and under the land to be dedicated to Council under this agreement including full responsibility for compliance with any liability in respect of such Contamination under relevant legislation and the requirements of any relevant Authority.

16.3 Remediation

- (a) If Council becomes aware or reasonably suspects that any part of the land to be dedicated to Council under this agreement was Contaminated before the date of this agreement, Council may as soon as practicable notify the Developer in writing to that effect.
- (b) As soon as practicable after receipt of the notice pursuant to paragraph (a) the Developer will at its cost (with the assistance of qualified experts):
 - (i) carry out all reasonable investigations (including investigations which Council reasonably directs in writing) to enable the parties to be informed of the full nature and extent of the Contamination in, on, under the surface of, and leaving from the relevant part of the land to be dedicated to Council under this agreement (**Investigation Reports**); and
 - (ii) provide copies of all Investigation Reports to Council.
- (c) As soon as practicable after receipt by Council of the Investigation Reports the parties must meet to discuss in good faith the method by which the relevant part of the land to be dedicated to Council under this agreement might be dealt with so that it is no longer Contaminated.
- (d) Following the discussions pursuant to paragraph (c) the Developer must at its own cost undertake all reasonable measures which the Developer (acting reasonably) determines (and as Council acting reasonably approves in writing) as necessary to ensure that the relevant part of the land to be dedicated to Council under this agreement is no longer Contaminated.

17. Defect Liability

17.1 Defect Notice

- (a) Where any part of the Works has been completed but those Works contain a material defect which:
 - (i) adversely affects the ordinary use and/or enjoyment of the relevant Works;
 - or
 - (ii) will require maintenance or rectification works to be performed on them at some time in the future as a result of the existence of the defect;**(Defect)** Council may issue a defects notice (**Defects Notice**) concerning those

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- Works but only within the Defects Liability Period.
- (b) A Defects Notice must contain the following information:
 - (i) the nature and extent of the Defect;
 - (ii) the work Council requires the Developer to carry out in order to rectify the Defect; and
 - (iii) the time within which the Defect must be rectified (which must be a reasonable time and not less than ten (10) business days).

17.2 Developer to Rectify Defect

- (a) The Developer must rectify the Defects contained within a Defects Notice as soon as practicable after receipt of the Defects Notice and within the timeframe stipulated in the Defects Notice.
- (b) If the Developer considers that a Defect the subject of a Defects Notice is rectified, it must serve written notice on Council identifying the Defect that has been rectified and which specifies the date on which the Developer believes the relevant Defect was rectified.
- (c) Within twenty (20) business days of Council receiving the notice in paragraph (b), Council may inspect the Defect(s) the subject of the Defects Notice, and must provide notice in writing to the Developer that the Defect(s) set out in the Defects Notice:
 - (i) has been rectified; or
 - (ii) has not been rectified, in which case the notice must also detail:
 - A. those aspects of the Defect(s) which has not been rectified; and
 - B. the work Council requires the Developer to carry out in order to rectify the deficiencies in relation to that Defect(s).
- (d) If the Developer receives notice in accordance with paragraph (c)(ii), the Developer must rectify the Defect(s) in accordance with that notice.
- (e) If Council receives a notice from the Developer in accordance with paragraph (b) and does not provide the Developer with a notice in accordance with paragraph (c), the Defects set out in the Defects Notice will be deemed to have been rectified.

17.3 Right of Council to Step-In

Council, at its absolute discretion, may enter upon the Land for the purpose of satisfying the Defects Notice where the Developer has failed to comply with a Defects Notice but only after giving the Developer five (5) business days written notice of its intention to do so.

17.4 Consequence of Step-In

If Council elects to exercise the step-in rights granted to it under clause 17.3 then:

- (a) Council may:
 - (i) enter upon any part of the Land that it requires access to in order to satisfy the obligations of the Developer in accordance with the Defects Notice; and
 - (ii) rectify the relevant Defects in accordance with the Defects Notice; and
- (b) the Developer must not impede or interfere with Council in undertaking that work.

17.5 Cost of Council

Where Council exercises its step-in rights, the Developer will be liable for the costs incurred by the Council in rectifying the Defects, where Council may call upon the Security provided by the Developer pursuant to clause 11.3 in respect of Defects and recover as a debt due in a court of competent jurisdiction any difference between the amount of that Security and the costs incurred by the Council in rectifying the Defects.

18. Termination

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18.1 Termination

This agreement terminates in the following events:

- (a) The parties agree in writing to terminate the operation of this agreement at any time.
- (b) Council serves notice on the Developer terminating this agreement where the Developer has failed to comply with a Default Notice issued in accordance with clause 11.1.
- (c) The Development Consent lapses.

18.2 Consequence of Termination

Upon termination of this agreement:

- (a) all future rights and obligations of the parties are discharged; and
- (b) all pre-existing rights and obligations of the parties continue to subsist.

18.3 Determination

This agreement will determine upon the Developer satisfying all of the obligations imposed on it in full.

19. General

19.1 Relationship between parties

- (a) Nothing in this agreement:
 - (i) constitutes a partnership between the parties; or
 - (ii) except as expressly provided, makes a party an agent of another party for any purpose.
- (b) A party cannot in any way or for any purpose;
 - (i) bind another party; or
 - (ii) contract in the name of another party.
- (c) If a party must fulfil an obligation and that party is dependent on another party, then that other party must do each thing reasonably within its power to assist the other in the performance of that obligation.

19.2 Time for doing acts

- (a) If the time for doing any act or thing required to be done or a notice period specified in this agreement expires on a day other than a Business Day, the time for doing that act or thing or the expiration of that notice period is extended until the following Business Day.
- (b) If any act or thing required to be done is done after 5.00 pm on the specified day, it is taken to have been done on the following Business Day.

19.3 Further assurances

Each party must promptly execute all documents and do all other things reasonably necessary or desirable to give effect to the arrangements recorded in this agreement.

19.4 Joint and individual liability and benefits

- (a) Except as otherwise set out in this agreement, any agreement, covenant, representation or warranty under this agreement by two or more persons binds them jointly and each of them individually, and any benefit in favour of two or more persons is for the benefit of them jointly and each of them individually.

19.5 Variations and amendments

A provision of this agreement can only be varied by a later written document executed by or on behalf of all parties and in accordance with the provisions of the Act.

19.6 Counterparts

This agreement may be executed in any number of counterparts. All counterparts taken together constitute one instrument.

19.7 Legal expenses and stamp duty

- (a) The Developer must pay the Council's reasonable legal costs and disbursements in connection with the negotiation, preparation, execution, carrying into effect, enforcement, registration and release and discharge of this agreement. Including the reasonable costs of obtaining any legal advice in connection with this agreement, no later than 10 Business Days after receiving a demand from the Council to pay such costs.
- (b) The Developer agree to pay or reimburse the costs and expenses incurred by Council in connection with the advertising and exhibition of this agreement in accordance with the Act.
- (c) The Developer agree to pay council any administrative fees as required by Council, acting reasonably, in connection with the administration of this agreement.

19.8 Entire agreement

The contents of this agreement constitute the entire agreement between the parties and supersede any prior negotiations, representations, understandings or arrangement made between the parties regarding the subject matter of this agreement, whether orally or in writing.

19.9 Representations and warranties

The parties represent and warrant that they have the power and authority to enter into this agreement and comply with their obligations under the agreement and that entry into this agreement will not result in the breach of any law.

19.10 Severability

If a clause or part of a clause of this agreement can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way. If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this agreement, but the rest of this agreement is not affected.

19.11 Invalidity

- (a) A word or provision must be read down if:
 - (i) this agreement is void, voidable, or unenforceable if it is not read down
 - (ii) this agreement will not be void, voidable or unenforceable if it is read down: and
 - (iii) the provision is capable of being read down.
- (b) A word or provision must be severed if:
 - (i) despite the operation of clause (1), the provision is void, voidable or unenforceable

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if it is not severed; and

(ii) this agreement will be void, voidable or unenforceable if it is not severed.

(c) The remainder of this agreement has full effect even if clause 19.11(b) applies.

19.12 Waiver

- (a) A right or remedy created by this agreement cannot be waived except in writing signed by the party entitled to that right. Delay by a party in exercising a right or remedy does not constitute a waiver of that right or remedy, nor does a waiver (either wholly or in part) by a party of a right operate as a subsequent waiver of the same right or of any other right of that party.
- (b) The fact that a party fails to do, or delays in doing, something the party is entitled to do under this agreement, does not amount to a waiver of any obligation of, or breach of obligation by, another party. A waiver by a party is only effective if it is in writing. A written waiver by a party is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

19.13 GST

- (a) Words and expressions which are not defined in this agreement but which have a defined meaning in GST law have the same meaning as in the GST Law.
- (b) Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided under this agreement are exclusive of GST.

19.14 Governing law and jurisdiction

- (a) The laws applicable in New South Wales govern this agreement.
- (b) The parties submit to the non-exclusive jurisdiction of the courts of New South Wales and any courts competent to hear appeals from those courts.

20. Explanatory Note

- (a) Appendix 2 contains the Explanatory Note relating to this agreement required by clause 205 of the Regulations.
- (b) Pursuant to clause 205 (5) of the Regulations, the Parties agree that the Explanatory Note is not to be used to assist in construing this agreement.

Schedule 1 – Development Contributions

Item	Development Contribution	Description	Contribution Value	Timing
1	Monetary Contribution	The amount of the contribution will be calculated at the time that it is required to be paid and will increase by \$12,727 for each additional Final Lot in the Development in excess of fifty-five (55) Final Lots in the Development.	As at the date of this document, the Contribution Value is \$700,000.00 (based on an anticipated development yield of fifty-five (55) Final Lots).	Prior to the issue of the first Subdivision Certificate that enables a subdivision for Final Lots within the Development.
2	Dedication Land	One (1) hectare along the Yarrawa Road frontage to the Land to be rezoned RE1 Public Recreation as identified in Appendix 1 .	\$300,000.00	Simultaneously with the registration of the first subdivision plan for the Development
3	Works	Provision and maintenance of trees, vegetation and rural fencing within the proposed land referenced at Item 2 in Schedule 1 consistent with adjoining rural fencing and all relevant provisions of Council’s street tree master plan and Development Control Plan in force at the time of determination and with all relevant future Development Approval conditions of consent,	\$150,000.00	Prior to the issue of the first Subdivision Certificate for the Development.

Appendix 1 – Dedication Plan

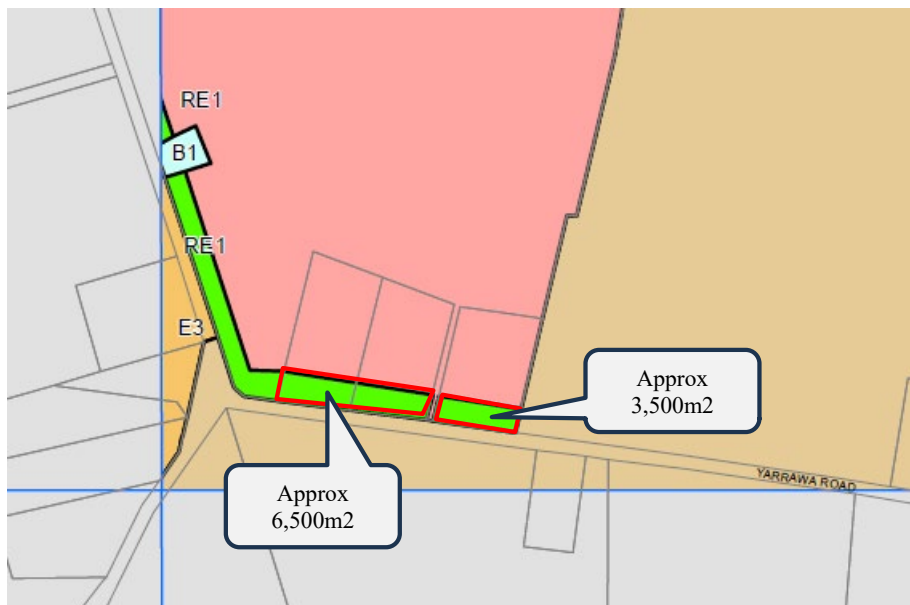


Figure 1- Extract from proposed rezoning map
(Measurements are approximate)

The area of land to be dedicated as described at 6.2(a) of this Agreement shall be shared equally between the three lots subject to this Agreement and shall constitute the whole of the land to be rezoned to RE1 Public Recreation to an estimated area of 1 hectare.

Appendix 2

Environmental Planning and Assessment Regulation 2021

(Clause 205)

EXPLANATORY NOTE (clause 205 of Regulations)

Voluntary Planning Agreement

Under section 7.4 of the *Environmental Planning and Assessment Act, 1979*

Parties

Wingecarribee Shire Council (ABN 49 546 344 354) of Civic Centre, 68 Elizabeth Street, Moss Vale in the State of New South Wales (**Council**)

and

Maria Josephine Loader, Elizabeth Anne Dolbel and Philippa Therese

Dolbel as Executors of the Estate of **Thomas William Dolbel** of 121 Yarrowa Road, Moss Vale NSW 2577

William Richard Beresford of 131 Yarrowa Road, Moss Vale NSW 2577

Desmond John Gawthorne of 153 Yarrowa Road, Moss Vale NSW 2577

Kathleen Margaret Florence Gawthorne of 153 Yarrowa Road, Moss Vale NSW 2577

(Developers)

Description of the Land to which the Planning Agreement Applies

Lots 4 & 5 in DP 706194 and Lot 2 in DP 610352 and known as 121, 131 and 153 Yarrowa Road, Moss Vale respectively

Description of Proposed Development

Development means the future development and use of the Land substantially as contemplated by the planning proposal (Department of Planning and Environment reference number PP2022-4351 including but not limited to a residential subdivision.

Summary of Objectives, Nature and Effect of the Planning Agreement

Objectives of the Agreement

The objective of the Agreement is to require the provision of a Monetary Contribution by the Developer to the Council for the public purpose of funding the construction of, or improvements to, local infrastructure in the vicinity of the Land in connection with the Development of the Land.

Nature of the Planning Agreement

The Agreement is a planning agreement under section 7.4 of the *Environmental Planning and Assessment Act 1979 (Act)*. It is an agreement between the Council and the Developer. The Agreement is a voluntary agreement under which provisions are made by the Developers for the recoupment of costs and Council providing the construction of, or improvements to local infrastructure in the vicinity of the Land, dedication of land for Public Recreation and contribution to embellishment of that dedicated Public Recreation Land.

Effect of the Agreement

The Agreement

- Relates to the Instrument Change and Development of the Land
- excludes the application of section 7.11 and 7.12 of the Act to the Development
- does not exclude the application of section 7.24 of the Act to the Development
- requires the Developer to pay Monetary Contributions to Council
- requires the Developer to dedicate land for Public Recreation at no cost to Council
- requires a contribution by the Developer to embellish the dedicated Public Recreation Land
- commences once executed by all parties and once development consent has been granted for the Development.
- Is to be registered on the title to the Land
- Provides dispute resolution methods for a dispute under the Agreement, being mediation and arbitration, and
- Requires the Developer to provide Council with the following bank guarantees to ensure completion of the Development Contributions comprising Works:
 - A bank guarantee for an amount equivalent to one hundred per cent (100%) of the Contribution Value for the Works.
 - A bank guarantee for an amount equivalent to ten per cent (10%) of the Contribution Value for the Works prior to the completion of the Works to satisfy any defects in the Works during the relevant Defect Liability Period which will be twelve (12) months commencing from the date the Works are completed.
- Provides that the Agreement is governed by the law of New South Wales.

Assessment of the Merits of the Agreement

Public Purposes Served by the Agreement

The Agreement:

- Promotes and co-ordinates the orderly and economic use and Development of the Land to which it applies,

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- Provides increased opportunity for public involvement and participation in environmental planning and assessment of the Development,
- Requires monetary contributions for the public purpose of providing Council with funding necessary for the construction of, or improvements to, local infrastructure in the vicinity of the Land.
- Provides for dedication of part of the Land the subject of any development for public

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- Provides for part of the cost of embellishing dedicated public recreation land to be contributed to by the Developer in kind.

How the Agreement Promotes the Public Interest

The Agreement promotes the public interest by achieving the objectives of the Act by promoting;

- the social and economic welfare of the community by requiring monetary contributions to be paid to the Council to be used towards local infrastructure as determined by the General Manager of Council from time to time;
- the orderly and economic use and development of land and good design and amenity of the built environment by ensuring improved infrastructure;
- increased opportunity for community participation in environmental planning assessment through public notification of this agreement and opportunity for the public to make submissions in response to it.

For Planning Authorities:

Development Corporations - How the Agreement Promotes its Statutory Responsibilities

Not applicable

Other Public Authorities - How the Agreement Promotes the Objects of the Act under which it is Constituted

Not applicable

Councils - How the Agreement Promotes the Council's Charter

The Agreement promotes the elements of the Council's Charter by:

- Keeping the local and wider community informed about its activities;
- Provides value for residents and ratepayers by requiring the developer to contribute to community infrastructure.

Whether the Agreement specifies that certain requirements be complied with before issuing a Construction Certificate, Subdivision Certificate or Occupation Certificate

Yes

The Agreement specifies that the monetary contribution is required to be paid and dedication of land to be made prior to the issue of a subdivision certificate given under the Act.

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Executed by **DESMOND JOHN**)
GAWTHORNE)
in the presence of:)

.....

.....

Executed by **KATHLEEN MARGARET**)
FLORENCE GAWTHORNE)
in the presence of:)

.....

.....



Planning Proposal

**to amend Wingecarribee Local Environmental Plan 2010
(PP-2024-790)**

Purpose of Amendment:

To amend Schedule 1 (Additional Permitted Uses) of Wingecarribee Local Environmental Plan (WLEP) 2010 to permit with consent, a business premises at 1 Bowman Road Moss Vale, being Lot 2 DP 1249526

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

The Planning Proposal has been categorised as *Standard*.

Version 5 for Finalisation

October 2024

We're with you

 Civic Centre
68 Elizabeth Street
Moss Vale
Gundungurra Country

 PO Box 141 Moss Vale
NSW 2577

ABN 49 546 344 354

 02 4868 0888

@ mail@wsc.nsw.gov.au

Introduction

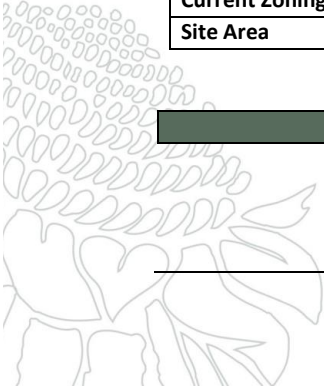
Description

Wingecarribee Shire



Legal Description	Lot 2 DP 1249526
Property Address	1 Bowman Road Moss Vale
Current Zoning	E4 General Industrial
Site Area	8,264m2

Introduction



Part 1 – Objectives & Intended Outcomes of the Planning Proposal

The objective of the Planning Proposal is to enable development for the purpose of a business premises on land at 1 Bowman Road Moss Vale.

Part 2 - Explanation of the Provisions

- To achieve the intended outcomes of the Planning Proposal the following amendments to the WLEP 2010 instrument will be required:

- *New subclause within Schedule 1 of WLEP 2010 as follows:*

21A Use of certain land at Bowman Road Moss Vale

- (1) *This clause applies to land at 1 Bowman Road, Moss Vale, being Lot 2 DP 1249526*
- (2) *Development for the purpose of a business premises is permitted with consent.*

- To achieve the intended outcomes of the Planning Proposal the following amendments to WLEP 2010 maps will be required:

- *Identification of the subject land on the Schedule 1 map.*

A draft map accompanies the Planning Proposal.

Part 3 - Justification of Strategic & Site-specific Merit

Strategic Merit

The subject land is located on the southern edge of a broader area of industrial zoned land identified as the Southern Highlands Innovation Park (SHIP) as indicated in **Figure 1** below.

The land is located on the corner of Bowman Road and Berrima Road as indicated in **Figure 2** below and forms part of a group of Council owned properties which serve the Shire in a range of capacities, including the Southern Regional Livestock Exchange, the Wingecarribee Resource Recovery Centre and the Moss Vale Cemetery.

The land covers an area of some 8,264m² and is zoned E4 General Industrial under the Wingecarribee Local Environmental Plan (WLEP) 2010. The land is owned by Wingecarribee Shire Council.

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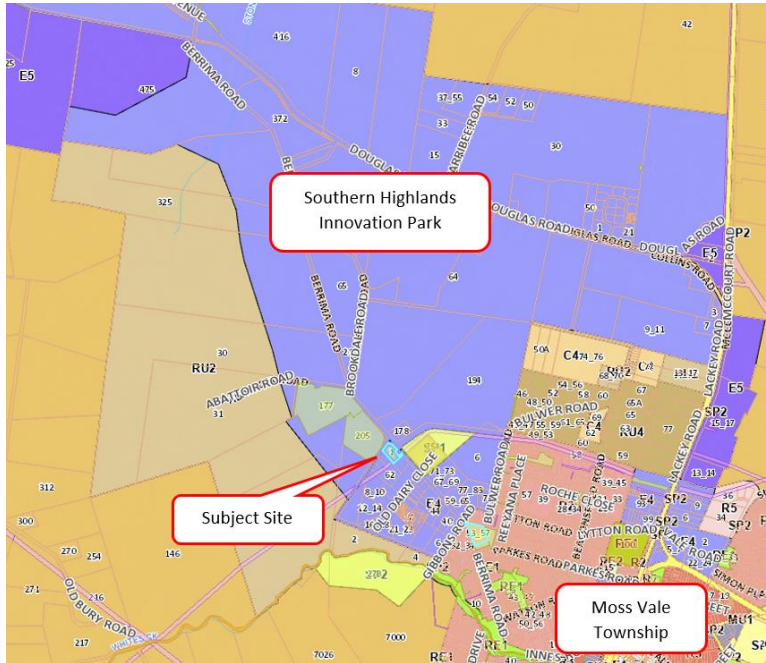


Figure 1 - Zoning context for the subject land



Figure 2 – Location of the subject land

A current approval (DA 23/1087) applies to the land for the construction of two community facility buildings on the site, one being an animal shelter and the other a State Emergency Services (SES) facility. The approved design for the animal shelter building includes a ‘multi-purpose room’ of 25.78m². The proposed floor plan for the animal shelter component of the development is indicated at **Figure 3** below. The proposed multi-purpose room is indicated.

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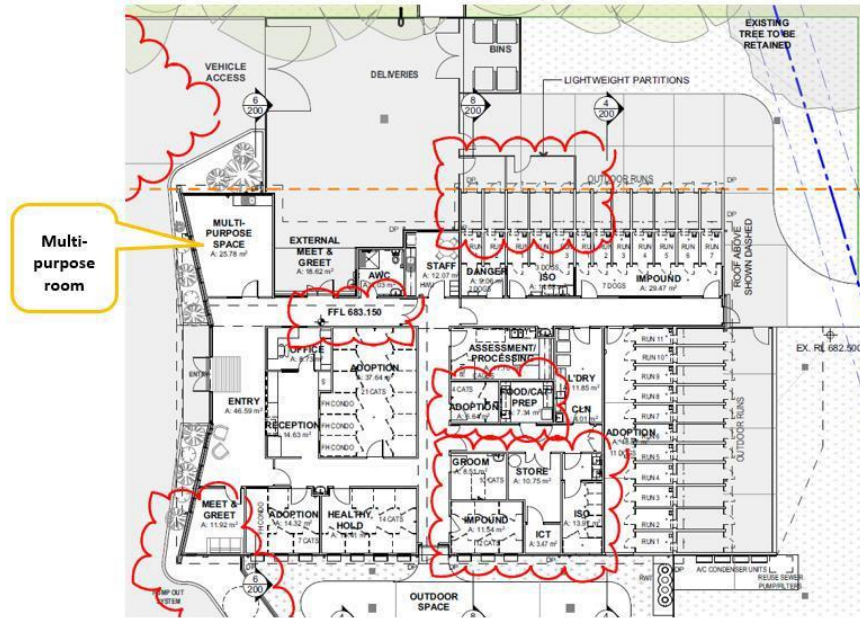


Figure 3 Floor Plan for animal shelter building

The intent of the multi-purpose room is to enable it to be leased to an independent operator for a business aligned with animal welfare, such as dog grooming. Independent legal advice concluded that this intention could not be considered as an ‘ancillary’ use to the primary use (i.e. community facility for the purpose of an animal shelter), due to its proposed leasing to an independent operator, and, therefore, a separate land use definition under WLEP 2010 would need to be identified and a separate development approval would subsequently be required for this land use to proceed within the identified room designated for this purpose.

It is considered that ‘business premises’ would be the most appropriate land use definition, being:

- (a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or
- (b) a service is provided directly to members of the public on a regular basis

As noted previously, the subject land is zoned E4 General Industrial. The proposed land use of *business premises* is identified as a prohibited land use within this zone, as indicated in the following extract from the land use table.

Prohibited

*Agriculture; Air transport facilities; Airstrips; Amusement centres; **Business premises**; Camping grounds; Cemeteries; Correctional centres; Crematoria; Eco-tourist facilities; Exhibition homes; Exhibition villages; Farm buildings; Forestry; Health services*

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facilities; Heavy industrial storage establishments; Highway service centres; Home occupations (sex services); Industries; Open cut mining; Residential accommodation; Restricted premises; Retail premises; Schools; Sex services premises; Tourist and visitor accommodation; Water recreation structures; Wharf or boating facilities

The strategic and site-specific merits for this Proposal are set out below.

Strategic Merit

As noted above, the subject land is located on the southern eastern boundary of the Southern Highlands Innovation Park (SHIP). Apart from two areas zoned E5 Heavy Industrial on the western and eastern boundaries of the SHIP, all of the land within it is zoned E4 General Industrial. The objectives of the E4 General Industrial zone under WLEP 2010 are as follows:

- *To provide a range of industrial, warehouse, logistics and related land uses.*
- *To ensure the efficient and viable use of land for industrial uses.*
- *To minimise any adverse effect of industry on other land uses.*
- *To encourage employment opportunities.*
- *To enable limited non-industrial land uses that provide facilities and services to meet the needs of businesses and workers.*
- *To allow non-industrial land uses, including certain commercial activities, that, because of the type, scale or nature of the use, are appropriately located in the zone and will not impact the viability of business and commercial centres in Wingecarribee.*
- *To ensure new development and land uses incorporate measures that take into account the spatial context and mitigate potential impacts on neighbourhood amenity and character and the efficient operation of the local and regional road system.*

Council considers this zone to be appropriate for this area of the SHIP at this time and does not want to pre-empt the SHIP Master Plan process by rezoning the site. Instead, Council prefers to seek an additional permitted use (APU under Schedule 1 WLEP 2010) for the purpose of “business premises” for the subject land.

The area of the SHIP within which the subject land is located has been identified within a draft Strategic Positioning Paper prepared for Council by SGS Economics and Planning as serving several potential functions, including a local activity hub, tertiary education or equine hub, both connecting with the RU2 Rural Landscape and C3 Environmental Conservation zones to the south. More broadly, the area is also identified as a potential ‘population serving’ area, providing a range of goods and services without adversely affecting or competing with the established Moss Vale town centre.

The purpose of the proposed leasing of the designated multi-purpose room is to encourage the commercial activation of the site for the benefit of the broader community, and for Council through the opportunity for an animal welfare related business which would complement and support the broader purpose of the building, being the new animal shelter.

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The proposed use of the site for an appropriate *business premises* aligned with animal welfare located within the nominated space is considered strategically consistent with the following specific objectives of the zone,

- *To encourage employment opportunities, and*
- *To allow non-industrial land uses, including certain commercial activities, that, because of the type, scale or nature of the use, are appropriately located in the zone and will not impact the viability of business and commercial centres in Wingecarribee.*

The proposed multi-purpose room is considered to offer a commercially attractive niche opportunity for an owner-operated business, perhaps enabling a 'start-up' business to establish and develop. Presumably, the animals in the shelter facility itself could also benefit from the convenience of such a business on the premises. Concern for animal welfare, be it domestic or native, is an endearing quality shared throughout the Wingecarribee community and the proposed lease of a small room within the community facility building would seem to be entirely in keeping with those community values.

It is acknowledged that the proposed Schedule 1 amendment of the officer's recommendation does not reflect the advice provided by the Local Planning Panel in that it is not specific in the type of business premises or the maximum floor space that would be supported.

It is the Professional Officer's view that these matters would be addressed at any subsequent Development Application stage. If they were to vary from the original intent of the amendment to enable an independent animal welfare related business within the designated multi-purpose room of 25.78m², Council would still be required to assess the application against the objectives of the zone and the location of the subject land within the Southern Highlands Innovation Park, a precinct primarily intended to provide for a variety of business uses.

Site-specific Merit

The subject land is located within a 'hub' of community focussed buildings owned and operated by Wingecarribee Shire Council. These include the Resource Recovery Centre (RRC) and the Southern Regional Livestock Exchange. The animal shelter currently operates from within the RRC and offers dog and cats for adoption. The new facility on the subject land will continue this work and would be an ideal location for a small animal welfare business such as dog grooming. The subject land is easily accessible for most areas of the Shire via Berrima Road.

A DA approval (DA23/1087) has been finalised for the construction of a community facility on Council owned land at 1 Bowman Road Moss Vale. The approval includes a building to be used for an animal shelter and a building for use by the SES (State Emergency Services). The approval provides for a multipurpose room of some 25.78m². It is Council's intention to lease this room for the purpose of an appropriate business aligned with animal welfare and care, such as an animal grooming service. Such a use would encourage commercial activation of the site for the benefit of the broader community, and for Council through the leasing of the designated space.

A subsequent DA would be required to address the detailed operation of the proposed business, but at this stage it is considered that an animal grooming service would be a suitable land use for the site,

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given its location, access and parking availability. It is noted that if, at a future time, a different location or business were proposed, they would be subject to Council consent with regard to compliance with the objectives of the zone and the intent of the business premises.

Section A – Need for the Planning Proposal

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

The Planning Proposal is the result of a resolution of Council.

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

The use of Schedule 1 to provide the additional permitted use of a business premises is the most efficient and effective means of achieving the proposed outcome. It has been determined that such a use could not be considered as ancillary development.

Section B – Relationship to the Strategic Planning Framework

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

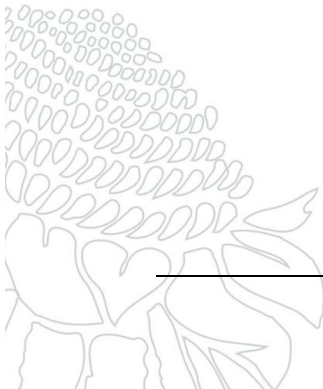
The Planning Proposal supports the objectives and action of the South East & Tablelands Regional Plan by encouraging business activation of this site which is located within the Southern Highlands Innovation Park while also delivering a community benefit.

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

The use of the land for this purpose is consistent with the adopted LSPS. It would also be consistent with the objectives of the Southern Highlands Innovation Park within which the land is located.

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

No other state or regional strategies are considered relevant.

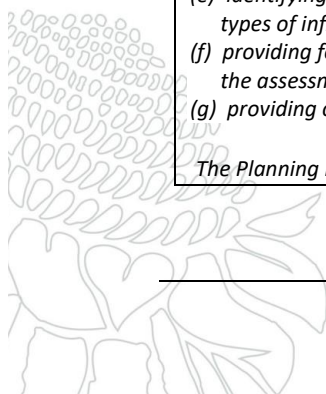


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6 - Is the Planning Proposal consistent with applicable SEPPs?

SEPP (Housing) 2021	<p><i>The intent of this SEPP is to deliver a sufficient supply of safe, diverse and affordable housing</i></p> <p>https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0714</p>
<p>Assessment – Consistent</p> <p><i>The principles of this Policy are:</i></p> <ul style="list-style-type: none"> <i>(a) enabling the development of diverse housing types, including purpose-built rental housing,</i> <i>(b) encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability,</i> <i>(c) ensuring new housing development provides residents with a reasonable level of amenity,</i> <i>(d) promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services,</i> <i>(e) minimising adverse climate and environmental impacts of new housing development,</i> <i>(f) reinforcing the importance of designing housing in a way that reflects and enhances its locality,</i> <i>(g) supporting short-term rental accommodation as a home-sharing activity and contributor to local economies, while managing the social and environmental impacts from this use,</i> <i>(h) mitigating the loss of existing affordable rental housing.</i> <p><i>The Planning Proposal does not impact the SEPP and is therefore considered consistent with it.</i></p>	

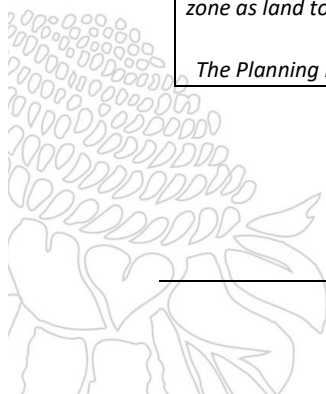
SEPP (Transport and Infrastructure) 2021	<p><i>The intent of this SEPP is to provide well-designed and located transport and infrastructure integrated with land use</i></p> <p>https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0732</p>
<p>Assessment – Consistent</p> <p><i>The key intentions of this SEPP include:</i></p> <ul style="list-style-type: none"> <i>(a) improving regulatory certainty and efficiency through a consistent planning regime for infrastructure and the provision of services, and</i> <i>(b) providing greater flexibility in the location of infrastructure and service facilities, and</i> <i>(c) allowing for the efficient development, redevelopment or disposal of surplus government owned land, and</i> <i>(d) identifying the environmental assessment category into which different types of infrastructure and services development fall (including identifying certain development of minimal environmental impact as exempt development), and</i> <i>(e) identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and</i> <i>(f) providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing, and</i> <i>(g) providing opportunities for infrastructure to demonstrate good design outcomes.</i> <p><i>The Planning Proposal does not impact the SEPP and is therefore considered consistent with it.</i></p>	



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SEPP (Primary Production)	<p><i>The intent of this SEPP is to support and protect the productivity of important agricultural lands. They enhance rural and regional economies through a sustainable, diverse and dynamic primary production sector that can meet the changing needs of a growing NSW.</i></p> <p>https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0729</p>
<p><i>The key aims of this SEPP are:</i></p> <ul style="list-style-type: none"> <i>(a) to facilitate the orderly economic use and development of lands for primary production,</i> <i>(b) to reduce land use conflict and sterilisation of rural land by balancing primary production, residential development and the protection of native vegetation, biodiversity and water resources,</i> <i>(c) to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations,</i> <i>(d) to simplify the regulatory process for smaller-scale low risk artificial waterbodies, and routine maintenance of artificial water supply or drainage, in irrigation areas and districts, and for routine and emergency work in irrigation areas and districts,</i> <i>(e) to encourage sustainable agriculture, including sustainable aquaculture,</i> <i>(f) to require consideration of the effects of all proposed development in the State on oyster aquaculture,</i> <i>(g) to identify aquaculture that is to be treated as designated development using a well-defined and concise development assessment regime based on environment risks associated with site and operational factors.</i> <p><i>The Planning Proposal does not impact the SEPP and is therefore considered consistent with it.</i></p>	

SEPP (Biodiversity and Conservation) 2021	<p><i>The intent of this SEPP is to preserve, conserve and manage NSW's natural environment & heritage</i></p> <p>https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0722</p>
<p>Assessment – Consistent</p> <p><i>The aims of this SEPP are:</i></p> <ul style="list-style-type: none"> <i>(a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and</i> <i>(b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.</i> <p><i>It is noted that 2.3(1)(b) of the SEPP identifies land within the R3 Medium Density Residential zone as land to which the SEPP applies.</i></p> <p><i>The Planning Proposal does not impact the SEPP and is therefore considered consistent with it.</i></p>	



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SEPP (Resilience and Hazards) 2021	<p><i>The intent of this SEPP is to manage risks and building resilience in the face of hazards</i></p> <p>https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0730</p>
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Assessment – Consistent

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

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

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

The Planning Proposal does not impact the SEPP and is therefore considered consistent with it.

SEPP (Industry and Employment) 2021 –	<p><i>The intent of this SEPP is to grow a competitive and resilient economy that is adaptive, innovative and delivers jobs</i></p> <p>https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0723</p>
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Assessment – Consistent

The provisions of Chapter 3 (Advertising & Signage) are the only part of this SEPP applicable to land in Wingecarribee Shire. The Planning Proposal does not impact the SEPP and is therefore considered consistent with it.

SEPP (Resources and Energy) 2021	<p><i>The intent of this SEPP is to promote the sustainable use of NSW’s resources and transitioning to renewable energy</i></p> <p>https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0731</p>
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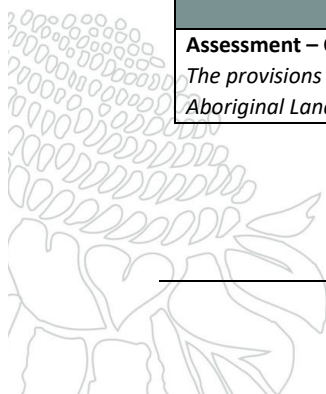
Assessment – Consistent

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

SEPP (Planning Systems) 2021	<p><i>The intent of this SEPP is to provide a strategic and inclusive planning system for the community & the environment</i></p> <p>https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0724</p>
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Assessment – Consistent

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

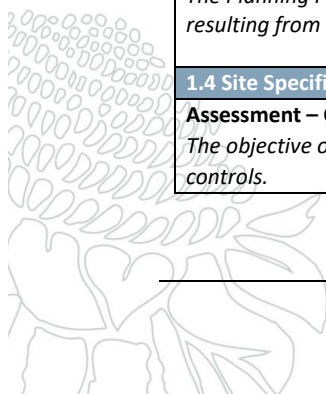


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SEPP (Regional Precincts) 2021	<p><i>The intent of this SEPP is to consider State significant precincts, Activation precincts and other specific precincts including the Southern Highlands Regional Shooting Complex</i></p> <p>https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0727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

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

Focus Area 1 Planning Systems	<p><i>The intent of this Focus Area is to support the broader NSW planning framework, including its processes and collaborative approaches to strategic and land use planning and decision making. They seek to achieve long-term, evidence-based, strategically led planning that is inclusive, democratic, responsive to the community and the environment, and ensures decisions are transparent and prompt.</i></p>
1.1 Implementation of Regional Plans	
<p>Assessment – Consistent</p> <p><i>The objective of this Direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.</i></p> <p><i>The Planning Proposal is considered consistent with this Direction.</i></p>	
1.2 Development of Aboriginal Land Council land	
<p>Assessment – Consistent</p> <p><i>The objective of this direction is to provide for the consideration of development delivery plans prepared under Chapter 3 of the State Environmental Planning Policy (Planning Systems) 2021 when planning proposals are prepared by a planning proposal authority.</i></p> <p><i>The Planning Proposal is considered consistent with this Direction because no Aboriginal Land Council land is involved.</i></p>	
1.3 Approval and Referral Requirements	
<p>Assessment – Consistent</p> <p><i>The objective of this Direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.</i></p> <p><i>The Planning Proposal is considered consistent with this Direction because any future DA resulting from this amendment would be assessed with regard to all guidelines and provisions.</i></p>	
1.4 Site Specific Provisions	
<p>Assessment – Consistent</p> <p><i>The objective of this Direction is to discourage unnecessarily restrictive site-specific planning controls.</i></p>	



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The Planning Proposal is considered consistent with this Direction because it is enabling an additional land use which would not restrict future development on the site.

1.5 – 1.22 – Planning Systems Place Based

Assessment – Consistent

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

**Focus Area 2
Design &
Place**

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

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

**Focus Area 3
Biodiversity
&
Conservation**

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

3.1 Conservation Zones (previously 2.1 Environment Protection Zones)

Assessment – Consistent

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

The subject site is not affected by biodiversity and so the Planning Proposal is therefore considered consistent with this Direction.

3.2 Heritage Conservation

Assessment – Consistent

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

The subject site is not affected by any heritage affectation and so the Planning Proposal is therefore considered consistent with this Direction.

3.3 Sydney Drinking Water Catchments

Assessment – Consistent

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

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

NB: The Direction also requires that, when preparing a Planning Proposal, Council must address the following:

- *consult with WaterNSW, describing the means by which the planning proposal gives effect to the water quality protection principles of this direction, and*
- *ensure that the proposal is consistent with Part 6.5 of Chapter 6 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021, and*
- *identify any existing water quality (including groundwater) risks to any waterway occurring on, or adjacent to the site, and*
- *give consideration to the outcomes of the Strategic Land and Water Capability Assessment prepared by WaterNSW, being the series of land use capability maps and GIS data prepared by WaterNSW and provided to councils in June 2009, and*
- *include a copy of any information received from WaterNSW as a result of the consultation process in its planning proposal prior to the issuing of a gateway determination under section 3.34 of the EP&A Act.*

The Planning Proposal was referred to WaterNSW who has no objection to the Proposal. It was identified for completeness that the relevant Strategic Land and Water Capability Assessment (SLWCA) for Retail/Commercial uses be provided as an attachment. This identifies that the water quality risk for the site varies from LOW to MODERATE, having a HIGH capability for the intended use.

3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs

Assessment – Consistent

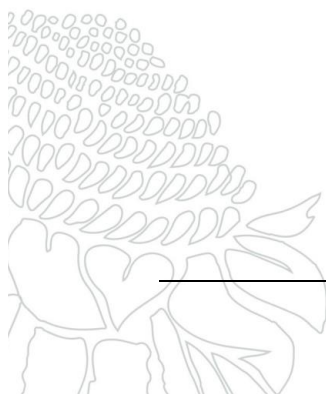
This Direction is not applicable to Wingecarribee Shire.

3.5 Recreation Vehicle Areas

Assessment – Consistent

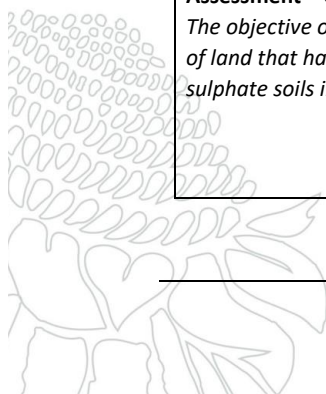
The objective of this Direction is to protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.

The Planning Proposal is considered consistent with this Direction because the subject land is not a recreation vehicle area.



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Focus Area 4 Resilience & Hazards	<i>The intent of this Focus Area is to improve responses to natural and development-related hazards, and climate change. They support methods to consider and reduce risk. The principles promote healthy, resilient and adaptive communities, urban areas and natural environments.</i>
4.1 Flooding	
<p>Assessment – Consistent</p> <p><i>The objectives of this Direction are to:</i></p> <p><i>(a) ensure that development of flood prone land is consistent with the NSW Government’s Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and</i></p> <p><i>(b) ensure that the provisions of an LEP that apply to flood prone land are commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.</i></p> <p><i>The Planning Proposal is considered consistent with this Direction because the subject land is not a recreation vehicle area.</i></p>	
4.2 Coastal Management	
<p>Assessment – Consistent -<i>This Direction is not applicable to Wingecarribee Shire.</i></p>	
4.3 Planning for Bushfire Protection (previously 4.4)	
<p>Assessment – Consistent</p> <p><i>The objectives of this Direction are to:</i></p> <p><i>(a) protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and</i></p> <p><i>(b) encourage sound management of bush fire prone areas.</i></p> <p><i>The Planning Proposal is considered consistent with this Direction because a DA for the community facility has already been approved and this proposal is for a subsidiary use within one of the approved buildings.</i></p>	
4.4 Remediation of Contaminated Land	
<p>Assessment – Consistent</p> <p><i>The objective of this Direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.</i></p> <p><i>The Planning Proposal is considered consistent with this Direction because a DA for the community facility has already been approved and this matter would have been considered at that time.</i></p>	
4.5 Acid Sulphate Soils	
<p>Assessment – Consistent</p> <p><i>The objective of this Direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils. There currently no mapped acid sulphate soils in Wingecarribee Shire.</i></p>	



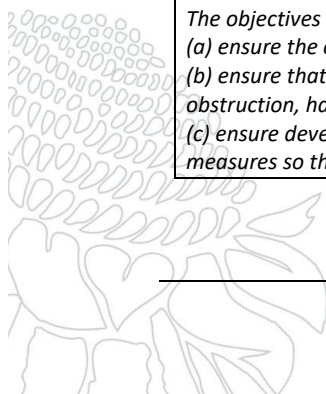
4.6 Mine Subsidence & Unstable Land	
Assessment – Consistent	
<i>The objective of this Direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.</i>	
<i>The Planning Proposal is considered consistent with this Direction because a DA for the community facility has already been approved and this matter would have been considered at that time.</i>	

Focus Area 5 Transport & Infrastructure	<i>The intent of this Focus Area is to support innovative, integrated and coordinated transport and infrastructure, that is well-designed, accessible and enduring. They seek to optimise public benefit and value by planning for modern transport and infrastructure in the right location and at the right time.</i>
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5.1 Integrating Land Use and Transport	
Assessment – Consistent	
<i>The objective of this Direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:</i>	
<i>(a) improving access to housing, jobs and services by walking, cycling and public transport, and</i>	
<i>(b) increasing the choice of available transport and reducing dependence on cars, and</i>	
<i>(c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and</i>	
<i>(d) supporting the efficient and viable operation of public transport services, and</i>	
<i>(e) providing for the efficient movement of freight.</i>	
<i>The Planning Proposal is considered consistent with this Direction because a DA for the community facility has already been approved and this matter would have been considered at that time.</i>	

5.2 Reserving Land for Public Purposes	
Assessment – Consistent	
<i>The objectives of this Direction are to (a) facilitate the provision of public services and facilities by reserving land for public purposes, and (b) facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.</i>	
<i>The Planning Proposal is considered consistent with this Direction because the land is already owned by Council and The Planning Proposal is considered consistent with this Direction a DA for the community facility has already been approved.</i>	

5.3 Development Near Regulated Airports and Defence Airfields	
Assessment – Consistent	
<i>The objectives of this Direction are to:</i>	
<i>(a) ensure the effective and safe operation of regulated airports and defence airfields;</i>	
<i>(b) ensure that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity; and</i>	
<i>(c) ensure development, if situated on noise sensitive land, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.</i>	



The Planning Proposal is consistent with this Direction because the subject land is not located near an airport or Defence airfield.

5.4 Shooting Ranges

Assessment – Consistent

The objectives of this Direction are to:

- (a) maintain appropriate levels of public safety and amenity when rezoning land adjacent to an existing shooting range,*
- (b) reduce land use conflict arising between existing shooting ranges and rezoning of adjacent land,*
- (c) identify issues that must be addressed when giving consideration to rezoning land adjacent to an existing shooting range.*

The Planning Proposal is considered consistent with this Direction because the subject land is not located near a shooting range.

**Focus Area 6
Housing**

The intent of this Focus Area is to foster long-term, strategic-led and evidence-based approaches to guide a strong supply of well-located homes. They support the delivery of safe, diverse, affordable and quality designed housing that meets the needs of Aboriginal and local communities.

6.1 Residential Zones

Assessment – Consistent

The objectives of this Direction are to:

- (a) encourage a variety and choice of housing types to provide for existing and future housing needs,*
- (b) make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and*
- (c) minimise the impact of residential development on the environment and resource lands.*

The Planning Proposal is considered consistent with this Direction because no housing is intended on the subject land.

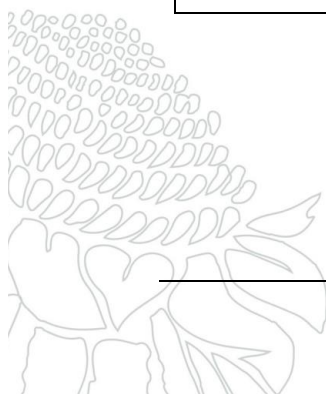
6.2 Caravan Parks and Manufactured Home Estates

Assessment – Consistent

The objectives of this Direction are to:

- (a) provide for a variety of housing types, and*
- (b) provide opportunities for caravan parks and manufactured home estates.*

The Planning Proposal is considered consistent with this Direction because no caravan park or manufactured home estate is intended on the subject land.



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

<p>Assessment – Consistent</p> <p><i>The objectives of this Direction are to:</i></p> <p><i>(a) encourage employment growth in suitable locations,</i></p> <p><i>(b) protect employment land in business and industrial zones, and</i></p> <p><i>(c) support the viability of identified centres.</i></p> <p><i>The Planning Proposal is considered consistent with this Direction because a DA for the community facility has already been approved and this matter would have been considered at that time.</i></p>
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7.2 Reduction in non-hosted short-term rental accommodation period

<p>Assessment – Consistent</p> <p><i>Not applicable to Wingecarribee Shire.</i></p>
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7.3 Commercial and Retail Development along the Pacific Highway, North Coast

<p>Assessment – Consistent</p> <p><i>Not applicable to Wingecarribee Shire.</i></p>
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Focus Area 8 Resources & Energy	<i>The intent of this Focus Area is to promote the sustainable development of resources in strategic areas and a transition to low carbon industries and energy. They support positive environmental outcomes and work towards the net zero emissions target and continued energy security, while also promoting diversified activity in regional economies.</i>
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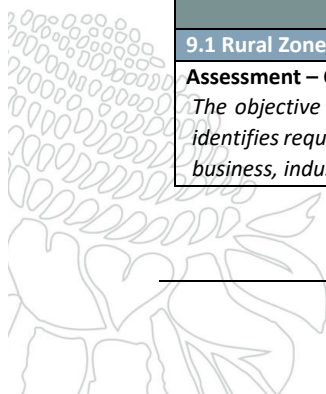
8.1 Mining, Petroleum Production & Extractive Industries

<p>Assessment – Consistent</p> <p><i>The objective of this Direction is to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.</i></p> <p><i>The Planning Proposal is considered consistent with this Direction because a DA for the community facility has already been approved and this matter would have been considered at that time.</i></p>

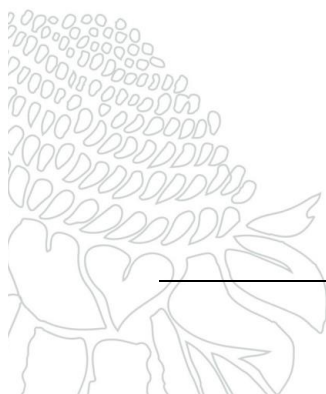
Focus Area 9 Primary Production	<i>The intent of this Focus Area is to support and protect the productivity of important agricultural lands. They enhance rural and regional economies through a sustainable, diverse and dynamic primary production sector that can meet the changing needs of a growing NSW.</i>
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9.1 Rural Zones

<p>Assessment – Consistent</p> <p><i>The objective of this Direction is to protect the agricultural production value of rural land and identifies requirements for a Planning Proposal seeking to rezone Rural zoned land to a residential, business, industrial, village or tourist zone.</i></p>



<p><i>The Planning Proposal is considered consistent with this Direction because the land is zoned E4 General Industrial and permitted land uses are already operating in the vicinity.</i></p>
<p>9.2 Rural Lands</p> <p>Assessment – Consistent</p> <p><i>This Direction applies when a Planning Proposal will either affect land within an existing or proposed rural or conservation zone or changes the existing minimum lot size on land within a rural or conservation zone. The objectives of this Direction are to:</i></p> <ul style="list-style-type: none"> <i>(a) protect the agricultural production value of rural land,</i> <i>(b) facilitate the orderly and economic use and development of rural lands for rural and related purposes,</i> <i>(c) assist in the proper management, development and protection of rural lands to promote the social, economic and environmental welfare of the State,</i> <i>(d) minimise the potential for land fragmentation and land use conflict in rural areas, particularly between residential and other rural land uses,</i> <i>(e) encourage sustainable land use practices and ensure the ongoing viability of agriculture on rural land,</i> <i>(f) support the delivery of the actions outlined in the NSW Right to Farm Policy.</i> <p><i>The Planning Proposal is considered consistent with this Direction because the land is zoned E4 General Industrial and permitted land uses are already operating in the vicinity.</i></p>
<p>9.3 Oyster Aquaculture</p> <p>Assessment – Consistent</p> <p><i>The objectives of this direction are to:</i></p> <ul style="list-style-type: none"> <i>(a) ensure that ‘Priority Oyster Aquaculture Areas’ and oyster aquaculture outside such an area are adequately considered when preparing a planning proposal, and</i> <i>(b) protect ‘Priority Oyster Aquaculture Areas’ and oyster aquaculture outside such an area from land uses that may result in adverse impacts on water quality and consequently, on the health of oysters and oyster consumers.</i> <p><i>The Planning Proposal is considered consistent with this Direction because there are no ‘Priority Oyster Aquaculture Areas’ in Wingecarribee Shire.</i></p>
<p>9.4 Farmland of State & Regional Significance on the NSW Far North Coast</p> <p>Assessment – Consistent</p> <p><i>The Planning Proposal is considered consistent with this Direction because it is not applicable to Wingecarribee Shire.</i></p>



Section C – Environmental, Social & Economic Impacts

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

No critical habitat or threatened species, populations or ecological communities, or their habitats, would be adversely affected by the proposal.

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

There are no other likely environmental effects associated with the proposal.

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

The proposed land use is considered to have potential benefits to the community through providing a business opportunity as well as the opportunity to improve animal welfare.

Section D – Infrastructure (Local, State & Commonwealth)

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

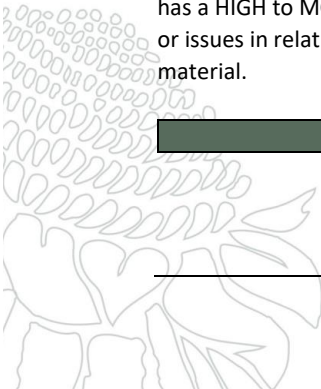
The DA for the community facility addressed these matters. It is not considered that any additional impacts would result.

Section E – State and Commonwealth Interests

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

No State or Commonwealth interests would be affected by this Planning Proposal. WaterNSW and Rural Fire Service (RFS) were both consulted to inform the Gateway determination. WaterNSW provided no objection to the proposal, noting for completeness, the relevant Strategic Land and Water Capability Assessment (SLWCA) for Retail/Commercial Uses. The site has a HIGH to MODERATE capability for the intended use. RFS subsequently raised no concerns or issues in relation to bush fire. The agency responses have been included in the exhibition material.

[Redacted]



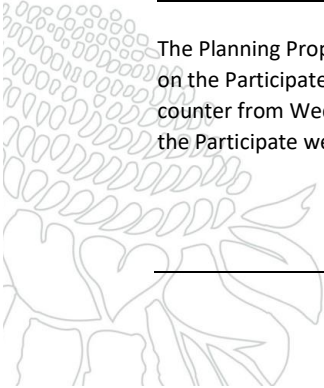
Part 4 - Maps

A draft map accompanies the Proposal.



Part 5 - Community Consultation

The Planning Proposal and supporting documentation were placed on Shire-wide public exhibition on the Participate Wingecarribee website and in Council’s libraries and at the Customer Experience counter from Wednesday 14 August to 11 September 2024. No submissions were received although the Participate website page received 65 views. It is noted that any subsequent Development



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Application for *business premises* on the site would be further exhibited in accordance with Council’s community engagement policy.

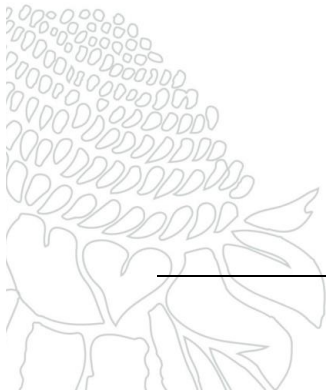
Part 6 - Project Timeline

Stage	Timeframe and/or date
Consideration by Council	March 2024
Council decision	March 2024
Gateway determination	June 2024
Pre-exhibition	July 2024
Public Exhibition	August - September 2024
Consideration of submissions	September 2024
Reporting of Planning Proposal to LPP	October 2024
Reporting of Planning Proposal to LPP	December 2024
Drafting Request / submission to DPE	January 2025
Gazettal of LEP amendment	February 2025

Delegation

Delegation was issued to Council through the Gateway Determination.

END OF PLANNING PROPOSAL



ATTACHMENT 1

ZONE PLANNING NSW PTY LTD
PO Box 671
Moss Vale 2577



Civic Centre, 68 Elizabeth St,
Moss Vale NSW 2577
PO Box 141, Moss Vale
02 4868 0888
mail@wsc.nsw.gov.au
ABN 49 546 344 354

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

APPLICATION NO:	24/1319
APPLICANT:	ZONE PLANNING NSW PTY LTD
OWNER:	SR ZAJA
PROPERTY DESCRIPTION:	Lot 12 DP 746488
PROPERTY ADDRESS:	2 MANOR RISE BOWRAL NSW 2576
PROPOSED DEVELOPMENT:	Use of the existing dwelling house as a Group Home (transitional)
DETERMINATION:	Determined by 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.

Working with you

WSC.NSW.GOV.AU

WINGECARRIBEE - A COAL MINING FREE SHIRE

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 23 OCTOBER 2024

24/1319, Lot 12 DP 746488

REASONS FOR REFUSAL

- Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposal is unsatisfactory in terms of the Environmental Planning Policy (Biodiversity and Conservation) 2021, chapter 6. Insufficient information has been submitted with the development application, to determine the probable impact of the development on water quality.
- Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposal is unsatisfactory in terms of the Environmental Planning Policy State Environmental Planning Policy (Housing) 2021 - Chapter 3 Diverse housing - Part 2 group homes. Insufficient information has been submitted with the development application, to demonstrate how the proposed development meets the definition of transitional group home and a need for the transitional group home within the community in the proposed location.
- Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposal is unsatisfactory in terms of the provisions under Wingecarribee Local Environmental Plan 2010. The development application lacks sufficient information to demonstrate how the proposed development aligns with the objectives of the RU4 Primary Production Small Lots zone under the WLEP 2010. Additionally, the application does not address how potential land use conflicts will be managed or the impact of existing primary production activities on future occupants. Furthermore, there is inadequate information in relation to Clause 7.3 to confirm the suitability of the existing building and infrastructure for the proposed use. As a result, it is not possible to accurately assess whether earthworks will be required.
- Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposal is unsatisfactory in terms of Section B2.8(b) of the Rural Living Development Control Plan. Insufficient information has been submitted with the development application to assess the impact on adjoining neighbours regarding the siting of group homes.
- Pursuant to Section 4.15(1)(a)(iv) of the Environmental Planning and Assessment Act 1979, the proposal is unsatisfactory in terms of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 and the Environmental Planning and Assessment Regulation 2021. Insufficient information has been submitted with the development application, to determine compliance with the necessary provisions. Specifically, the application lacks a BCA compliance report, an Accessibility Report and fire safety design. Furthermore, the plans submitted do not conform to the approved form requirements outlined in Schedule 7 of the EP&A Regulation 2021.
- Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposal would have unacceptable impacts on the natural and built environment. Insufficient information has been submitted with the development application, to determine the potential impacts of the development on both the natural and built environments, and social and economic impacts in the locality.
- Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the application lacks sufficient information regarding potential impacts on water quality,

**AGENDA OF THE LOCAL PLANNING PANEL
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24/1319, Lot 12 DP 746488

biodiversity, and the amenity of neighboring properties, particularly concerning safety, security, noise, light, and traffic generation. Based on these deficiencies, the site is considered unsuitable for the proposed development.

- Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, in the circumstances of the case, approval of the application would not be in the public interest.



Memorandum

To:	Parin Kolbadi Development Assessment Planner
CC:	
From:	Peter Bui – Consultant Development Engineer
Subject:	Referral Response from Development Engineer
Date:	04 October 2024
File Number:	24/1319

APPLICATION: 24/1319

APPLICANT: ZONE PLANNING NSW PTY LTD

OWNER: SR ZAJA

PROPERTY DESCRIPTION: Lot 12 DP 746488

PROPERTY ADDRESS: 2 MANOR RISE BOWRAL NSW 2576

PROPOSED DEVELOPMENT: Use of the existing dwelling house as a Group Home (transitional)

Hi Parin.

1. GENERAL

I have undertaken development engineering assessment to address access, stormwater drainage and flooding. Please see below comments that details development engineering matters.

- Inspection has not been carried out for this development application.
- I have reviewed the submissions against the DA. The submissions relate to planning matters (such as commercial development within a residential zoned area), engineering matters (parking deficiency) and mainly safety concerns within the surrounding area.
- Deposited Plan and Section 88B instrument have shown the following restriction on the development site.
 - Easement to Drain Water 5 wide
 - Restriction as to user numbered 1
 - Restriction as to user numbered 2
- Please see below for the previous DA history lodgement with council.
 - 22/0284 Alternation & Additions Proposed solar field, car parking and tennis court – Withdrawn
 - 22/1544 Alterations and Additions - Cabana, Swimming Pool – CDC Approved
 - 22/1670 Section 68 Pool house and tennis court – Approved
 - 22/1715 OSSM – Approved

2. PLANS AND DOCUMENTATION REVIEWED

Plan Title reviewed	Reference/ Version	Prepared By	Dated
SOEE	Ref: N24052	Zone Planning Group	18/04/2024
Architectural Plans	–	Zone Planning Group	18/04/2024

3. VEHICULAR ACCESS

- The applicant proposing to gain access from Manor Road via an existing crossover which looks to be in good condition according to satellite imagery – This is satisfactory from an engineering point of view.
- The applicant has not submitted Traffic Impact Assessment Statement to support the DA. The site is zoned within RU4 Primary Production Small Lots. The following will have to be provided:



Memorandum

- Applicant to provide Traffic Impact Assessment Statement (TIS) to assess the potential effects of the development on the operation of roads and transport network. The Traffic Impact Assessment Statement shall follow Section 7 Traffic from Engineering Design Specification D01 Development.
- The applicant has nominated 13 parking spaces. The Rural Living DCP for RU4 zone, Bowral DCP and RTA Guide for Traffic Generating Developments will need to be considered for the parking rate. Applicant will have to demonstrate that the existing parking rate can accommodate the change of use in accordance with Council's DCP and other relevant documentation.
- The current pick-up and drop-off arrangement was discussed to be not ideal. Applicant to provide swept paths to demonstrate the viability of the pick-up and drop-off arrangement, including the manoeuvring of the turning circle and into the nominated parking spaces. This is to ensure vehicles can enter and exit the site in a forward direction.

4. STORMWATER DRAINAGE

- Concept stormwater management plan has not been submitted. Applicant to provide engineering details that the stormwater disposal from the development site is complying with Section A9.8 under Rural Lands DCP.
- Legal point of discharge: The development site falls towards the roadside swale. It is assumed that the applicant is proposing to connect to the existing stormwater system, discharging onsite to the dam, however this would need to be confirmed by the applicant.
- Detention is not required according to engineering specification D09 because the increase imperviousness is not less than 10%, the development site is a 'rural' site and not expected to cause impact downstream.

5. FLOODING

- The site is not mapped to be flood affected according to Council's mapping system.

6. SEWER AND WATER

- A referral has been sent to Council's OSSM Officer. This memo excludes sewer comment – it is assumed that the planner will liaise directly with Council's sewer and water engineer.
- There is an existing water connection for the property. The applicant can use the existing water connection line.

7. RECOMMENDATIONS

It is recommended that the below RFI is to be issued to the applicant.

- Applicant to provide Traffic Impact Assessment Statement (TIS) to assess the potential effects of the development on the operation of roads and transport network. The Traffic Impact Assessment Statement shall follow Section 7 Traffic from Engineering Design Specification D01 Development.
- The applicant has nominated 13 parking spaces. The Rural Living DCP for RU4 zone, Bowral DCP and RTA Guide for Traffic Generating Developments will need to be considered for the parking rate. Applicant will have to demonstrate that the existing parking rate can accommodate the change of use in accordance with Council's DCP and other relevant documentation.
- The current pick-up and drop-off arrangement was discussed to be not ideal. Applicant to provide swept paths to demonstrate the viability of the pick-up and drop-off arrangement, including the manoeuvring of the turning circle and into the nominated parking spaces. This is to ensure vehicles can enter and exit the site in a forward direction.
- Concept stormwater management plan has not been addressed. Applicant to provide engineering details that the stormwater disposal from the development site is complying with Section A9.8 under Rural Lands DCP.

Peter Bui
Consultant Development Engineer

04 October 2024



Memorandum

To:	Parin Kolbadi; Development Assessment Planner
CC:	
From:	Paul Bacchus; Consultant Accredited Certifier
Subject:	Referral Response from Accredited Certifier
Date:	03 September 2024
File Number:	24/1319

APPLICATION: 24/1319
APPLICANT: ZONE PLANNING NSW PTY LTD
OWNER: SR ZAJA
PROPERTY DESCRIPTION: Lot 12 DP 746488
PROPERTY ADDRESS: 2 MANOR RISE BOWRAL NSW 2576
PROPOSED DEVELOPMENT: Use of the existing dwelling house as a Group Home (transitional)

Certifier Comment:

I have assessed the documentation provided for the above project including the plans supplied by 'Zone Planning Group (18/04/2024) and provide the following comments:

NCC 2022 Vol 1
Part A6 Building Classification – Class 3 Short Term Accommodation

Rise in Storeys – 3

- Clause 62 EP&A Regs 2021 must be addressed, and the following comments are made:
 - A site inspection of the premises was not carried out.
 - No details about the proposed fire safety measures have been provided.
 - No details have been provided to determine the structural capacity of the building.
 - **Inadequate detail has been provided to determine how the existing building will be brought into partial or full conformity with the Building Code of Australia.**

62 Consideration of fire safety

1. This section applies to the determination of a development application for a change of building use for an existing building if the applicant does not seek the rebuilding or alteration of the building.
 2. The consent authority must—
 - a) consider whether the fire protection and structural capacity of the building will be appropriate to the building's proposed use, and
 - b) not grant consent to the change of building use unless the consent authority is satisfied that the building complies, or will, when the development is completed, comply, with the Category 1 fire safety provisions that are applicable to the building's proposed use.
 3. Subsection (2)(b) does not apply to the extent to which an exemption from a provision of the Building Code of Australia or a fire safety standard is in force under the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.
- Design and Building Practitioners Act 2020 and Design and Building Practitioners Regulations 2021 defined class 3 buildings as regulated buildings. **Under this legislation class 3 buildings must be designed by registered design practitioners.**

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 23 OCTOBER 2024**



PO Box 398, Parramatta NSW 2124
Level 14, 169 Macquarie Street
Parramatta NSW 2150
www.waternsw.com.au
ABN 21 147 934 787

30 August 2024

Water NSW Ref: DAR 24090-a1
Council Ref: DA 24/1319

Parin Kolbadi
Wingecarribee Shire Council
PO Box 141
MOSS VALE NSW 2577

Dear Sir / Madam

**Subject: Part 6.5 of SEPP Biodiversity & Conservation (2021)
DA 24/1319; Lot 12 DP746488; 2 Manor Rise, Bowral**

I refer to NSW Planning Portal referral received 29 August 2024 requesting the concurrence of Water NSW under Part 6.5 of *State Environmental Planning Policy (Biodiversity and Conservation) 2021* (the SEPP) with a proposal for conversion of usage of existing dwelling (9 bedrooms) into a Group Home. It is noted the original on-site wastewater system from when the house was constructed (circa 1990s) will be utilized. The capacity of this system to sustainably manage wastewater loads onsite needs to be confirmed in line with current standards.

Insufficient information has been provided with the application to enable an adequate assessment of the probable effect of the development on water quality. In accordance with the concurrence requirements of the SEPP and section 52 of the Environmental Planning and Assessment Regulation 2021, Water NSW requests that Council obtain from the applicant sufficient information to enable Water NSW to undertake a neutral or beneficial effect on water quality assessment (NorBE) for the development.

Wastewater

- confirmation of how wastewater will be sustainably managed onsite based on wastewater loads from total (9) bedrooms with a copy of the previous Approval to Operate for the onsite wastewater management system.
- provide a site and development-specific **wastewater report** that identifies site constraints, proposed wastewater flows / loads, specifies the type of system to be utilized and the size and location of the effluent management area, meets buffer distances, provides relevant soils and climate information and also addresses other Water NSW specific requirements. Of particular concern is the large number of existing bedrooms and the waterbody located within the property directly adjacent to the dwelling.

The detailed requirements for a contemporary wastewater report can be found in Section 6 of the Sydney Drinking Water Catchment Water Quality Information Requirements document (see above). This document specifies how and where the Department of Local Government's guidelines On-site Sewage Management for Single Households (1998) and/or AS/NZS 1547:2012 On-site Domestic Wastewater Management should be used. Wastewater reports that do not conform to Water NSW's requirements as spelled out in the above document, may mean concurrence will not be granted. Older wastewater reports, such as those that might have been produced for a subdivision generally may not contain all the necessary information for a NorBE analysis including wastewater effluent modelling.

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 23 OCTOBER 2024**

The "clock" will stop from the date on this letter and Water NSW will not consider whether to grant concurrence to this application until such time as satisfactory additional information is received.

If you wish to discuss this matter further please contact me via environmental.assessments@waternsw.com.au.

Yours sincerely



Jack Sharples
Catchment Assessment Officer



Memorandum

- The architectural plans submitted appear insufficient for the assessment of this application. A full set of architectural plans are required to determine compliance with the Building Code of Australia
- This development has been assessed as a Class 3 building in accordance with clause A6G4 of the NCC Vol One 2022. The requirements for class 3 buildings in the NCC Vol One 2022 are onerous which must be complied with to bring this building into full/partial conformity with the Building Code of Australia.
- This development has been assessed as Type A construction in accordance with the deemed to satisfy provisions of the National Construction Code. Due to the nature and proposed use of this building significant Fire-Resistant Levels (FRLs) will generally be required to comply with the NCC.
- No BCA report has been submitted with this application.
- **In a building required to be a Type A construction any vertical openings must be separated in accordance with clause C3D7 of the NCC Vol One 2022.**
- No Access report has been provided. There are insufficient details on plans to determine if this development complies with the Premises Code Standard, AS1428.1 and Section D Access and Egress requirements of the NCC Volume One 2022.
- **The plan appears insufficient to determine if this building connects 3 consecutive storeys. Clause C2D4 of the NCC Vol One 2022 requires that every stairway as a required exit must be fire-isolated if it connects more than 2 consecutive storeys in a class 3 building.**
- No details of an accessible toilet and accessible car parking facility have been provided on the plans.
- Any required exit must swing in the direction of an exit to comply with clause D3D25 of the NCC Vol One 2022
- The unobstructed width of a required exit or path of travel to an exit must not be less than 1m. Not enough details are provided on the plan showing compliance with clause "D2D8 Width of exits and paths of travel to exits" of the NCC Vol One 2022.
- A class 3 building located in an area subject to a Bushfire Attack Level (BAL) exceeding BAL 12.5 would need to comply with the Performance requirement G5P2 by means of a Performance solution.
- No hydraulic design for proposed fire safety measures has been provided with the application.

Recommendations/Conditions:

Approval of the subject development should not be supported until the following issues are addressed.

- **Provide a BCA compliance report by a third-party Accredited Certifier** (Suitably qualified A2) indicating the plans can comply with NCC Volume One 2022. This should be done prior to the approval of the of the DA as significant changes may be required including performance-based solutions to comply with the NCC Vol One 2022.
- **Please provide an Accessibility Report** addressing compliance of the proposed development in accordance with the NCC Vol 1, AS 1428.1 and the premises standard.
- Please provide a fire safety design prepared by a competent fire safety practitioner/designer indicating proposed fire safety measures to be installed in the building.
- A class 3 building located in an area subject to a Bushfire Attack Level (BAL) exceeding BAL 12.5 would need to comply with the Performance requirement G5P2 by means of a Performance solution.
- No conditions are recommended at this stage. We will recommend conditions once we review the BCA compliance report by a third-party Accredited Certifier, Access report and full set of architectural plans.

Paul Bacchus
Consultant Accredited Certifier

03 September 2024

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 23 OCTOBER 2024**



Wingecarribee Shire Council
PO Box 141
MOSS VALE NSW 2577

Your reference: (CNR-72663) 24/1319
Our reference: DA20240827003493-Original-1

ATTENTION: Janene Griffith

Date: Friday 4 October 2024

Dear Sir/Madam,

**Integrated Development Application
s100B - SFPP - Group Home (SEPP)
2 Manor Rise Bowral NSW 2576, 12//DP746488**

I refer to your correspondence dated 01/09/2024 seeking general terms of approval for the above Integrated Development Application.

The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted. General Terms of Approval, under Division 4.8 of the *Environmental Planning and Assessment Act 1979*, and a Bush Fire Safety Authority, under section 100B of the *Rural Fires Act 1997*, are now issued subject to the following conditions:

General Conditions

1. The development proposal is to generally comply with the following plans/documents except where amended by recommendations below.
 - The Bush Fire Assessment Report prepared by Harris Environmental Consulting (dated: 25/09/2024, ref: 6749BF).

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

Asset Protection Zones

The intent of measures is to provide suitable building design, construction and sufficient space to ensure that radiant heat levels do not exceed critical limits for firefighters and other emergency services personnel undertaking operations, including supporting or evacuating occupants. To achieve this, the following conditions apply:

2. The site must continue to be managed for the life of the development to ensure ongoing protection from the impact of bush fires, the entire property excluding areas mapped as High Biodiversity must be managed as an inner protection area (IPA) in accordance with the requirements of Appendix 4 of *Planning for Bush Fire Protection 2019*.

1

Postal address

NSW Rural Fire Service
Locked Bag 17
GRANVILLE NSW 2142

Street address

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

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



Construction Standards

The intent of measures is to provide suitable building design, construction and sufficient space to ensure that radiant heat levels do not exceed critical limits for firefighters and other emergency services personnel undertaking operations, including supporting or evacuating occupants. To achieve this, the following conditions apply:

3. The existing dwelling must be upgraded to improve ember protection by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable, this includes any subfloor areas, openable windows, vents, weep holes and eaves. External doors are to be fitted with draft excluders.

Water and Utility Services

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions apply:

4. The provision of water must comply with the following in accordance with Table 6.8c of *Planning for Bush Fire Protection 2019*:

- a 20,000 litre static water supply, tank, pool, dam or the like, must be provided on-site,
- an outlet for firefighting purposes is located within the IPA or non-hazard side and away from the structure,
- 65mm Storz connection with a ball valve is fitted to the outlet,
- the ball valve, pipes and tank penetration are adequate for the full 50mm inner diameter water flow through the Storz fitting and are constructed of a metal material,
- underground tanks have an access hole of 200mm to allow tankers to refill, direct from the tank,
- a hardened ground surface for truck access is supplied within 4m of the water outlet or access hole,
- above-ground tanks are manufactured from concrete or metal,
- raised tanks have their stands constructed from non-combustible material or bush fire-resisting timber. The bush fire-resisting timbers are Silvertop Ash, Blackbutt, Red or River Gum, Spotted Gum, Red Ironbark, Kwila (Merbau) or Turpentine,
- unobstructed access can be provided at all times,
- underground tanks are clearly marked,
- tanks on the hazard side of a building are provided with adequate shielding for the protection of firefighters,
- all exposed water pipes external to the building are metal, including any fittings,
- where pumps are provided, they are a minimum 5hp or 3kW petrol or diesel-powered pump, and are shielded against bush fire attack,
- any hose and reel for firefighting connected to the pump must be 19mm internal diameter,
- fire hose reels are constructed in accordance with AS/NZS 1221:1997, and installed in accordance with the relevant clauses of AS 2441:2005,
- A Static Water Supply (SWS) sign must be obtained from the local NSW Rural Fire Service (RFS) and positioned for ease of identification by RFS personnel and other users of the SWS. In this regard:
 - Markers must be fixed in a suitable location to be highly visible, and
 - Markers should be positioned adjacent to the most appropriate access for the water supply.





Emergency and Evacuation Planning Assessment

The intent of measure is to provide suitable emergency and evacuation arrangements for occupants of SFPP developments. To achieve this, the following conditions apply:

5. A Bush Fire Emergency Management and Evacuation Plan is to be prepared in accordance with Table 6.8d of *Planning for Bush Fire Protection 2019* and be consistent with the following:

- The RFS document: *A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan*; and
- include planning for the early relocation of occupants.

A copy of the Bush Fire Emergency Management and Evacuation Plan should be provided to the Local Emergency Management Committee for its information prior to the occupation of the development.

For any queries regarding this correspondence, please contact Kathryn Murphy on 1300 NSW RFS.

Yours sincerely,

Michael Gray
Manager Planning & Environment Services
Built & Natural Environment



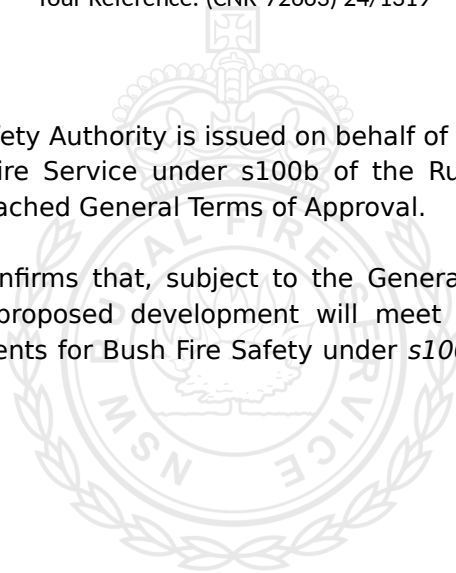


BUSH FIRE SAFETY AUTHORITY

SFPP – Group Home (SEPP)
2 Manor Rise Bowral NSW 2576, 12//DP746488
RFS Reference: DA20240827003493-Original-1
Your Reference: (CNR-72663) 24/1319

This Bush Fire Safety Authority is issued on behalf of the Commissioner of the NSW Rural Fire Service under s100b of the Rural Fires Act (1997) subject to the attached General Terms of Approval.

This authority confirms that, subject to the General Terms of Approval being met, the proposed development will meet the NSW Rural Fire Service requirements for Bush Fire Safety under *s100b of the Rural Fires Act 1997*.



Michael Gray

**Manager Planning & Environment Services
Built & Natural Environment**

Friday 4 October 2024





COLLIERS INTERNATIONAL ENGINEERING
& DESIGN (NSW) PTY LIMITED
Suite 7.01, Level 7, 3 Rider Boulevard, Rhodes, NSW 2138

Civic Centre, 68 Elizabeth St,
Moss Vale NSW 2577
PO Box 141, Moss Vale
02 4868 0888
mail@wsc.nsw.gov.au
ABN 49 546 344 354

**NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION
BY THE WINGECARRIBEE LOCAL PLANNING PANEL**
Pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*

APPLICATION NO:	24/1487
APPLICANT:	COLLIERS INTERNATIONAL ENGINEERING & DESIGN (NSW) PTY LIMITED
OWNER:	SH 2578 PTY LTD
PROPERTY DESCRIPTION:	Lot 2 DP 304969
PROPERTY ADDRESS:	159 RAILWAY AVENUE BUNDANOON NSW 2578
PROPOSED DEVELOPMENT:	40 lot Torrens Title subdivision comprising 38 residential lots and two (2) lots for public infrastructure, and associated works including earthworks, construction of two roads and a stormwater detention basin and landscaping
DETERMINATION:	Determined by 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.

Working with you

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WINGECARRIBEE - A COAL MINING FREE SHIRE

AGENDA OF THE LOCAL PLANNING PANEL WEDNESDAY 23 OCTOBER 2024

24/1487, Lot 2 DP 304969

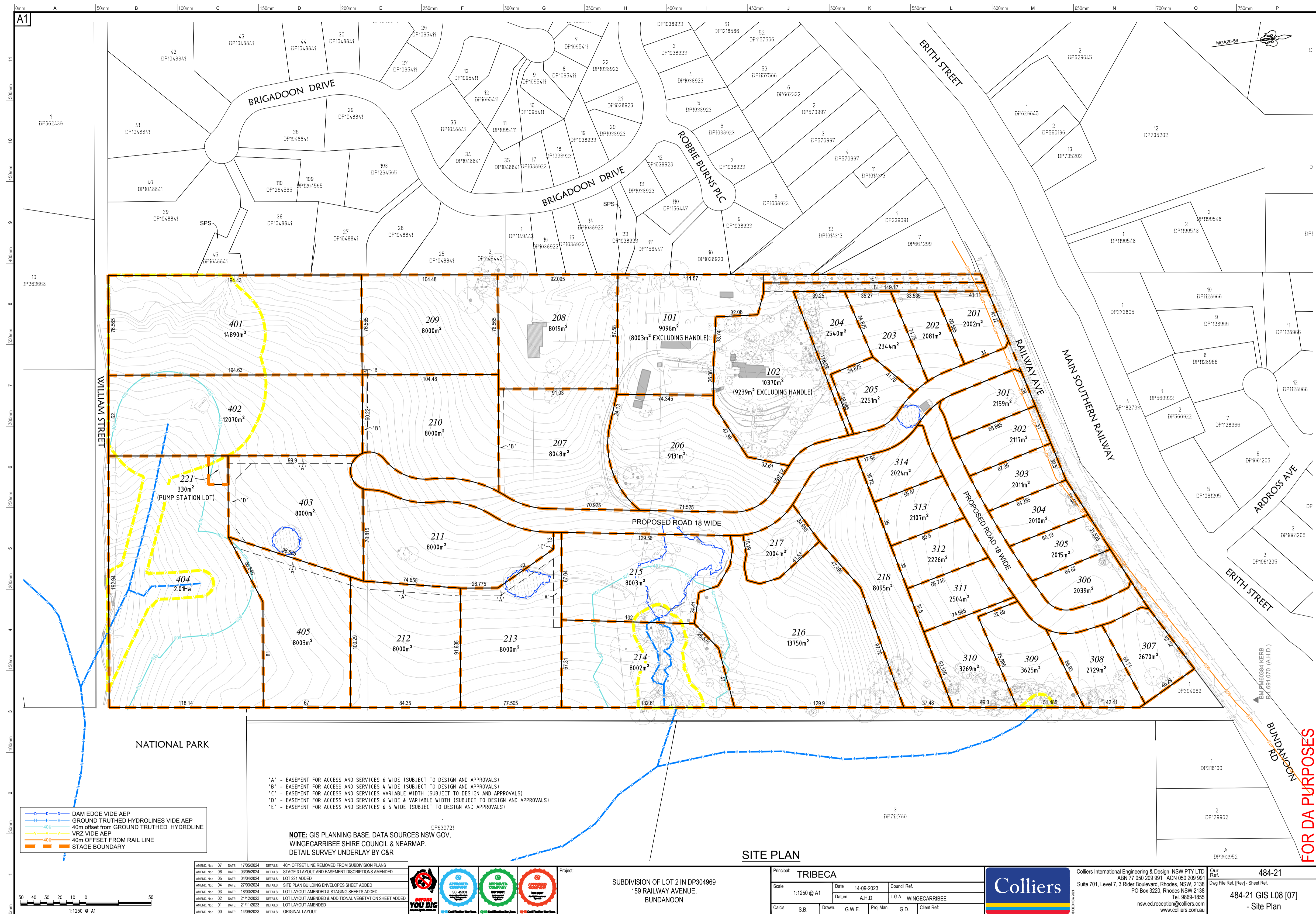
SCHEDULE 1 REASONS FOR REFUSAL

1. The consent authority is not satisfied that the subject land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, in accordance with the provisions of section 4.6, *State Environmental Planning Policy (Resilience and Hazards) 2021* (s4.15(1)(a)(i) of the EPA Act).
2. The consent authority is not satisfied that the carrying out of the development would have a neutral or beneficial effect on water quality and has not obtained the concurrence of the Regulatory Authority (Water NSW), in accordance with the provisions of sections 6.61 and 6.64, *State Environmental Planning Policy (Biodiversity and Conservation) 2021* (s4.15(1)(a)(i) of the EPA Act).
3. The consent authority is not satisfied that appropriate measures would be taken to ensure that the relevant LAeq levels are not exceeded for development on the subject land, in accordance with the provisions of section 2.100, *State Environmental Planning Policy (Transport and Infrastructure) 2021* (s4.15(1)(a)(i) of the EPA Act).
4. The consent authority is not satisfied that the development would minimise potential land use conflict between existing uses and approved uses of land in the vicinity of the development, in accordance with the provisions of section 5.16, *Wingecarribee Local Environmental Plan 2010* (s4.15(1)(a)(i) of the EPA Act).
5. The consent authority is not satisfied that the development:
 - (a) is compatible with the flood function and behaviour on the land, and
 - (b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and
 - (c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and
 - (d) incorporates appropriate measures to manage risk to life in the event of a flood, and
 - (e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.in accordance with the provisions of section 5.21, *Wingecarribee Local Environmental Plan 2010* (s4.15(1)(a)(i) of the EPA Act).
6. The consent authority is not satisfied that the development is designed, sited and managed to avoid or minimise any potential adverse environmental impact, or if not possible, that the development would be managed to mitigate that impact, in accordance with the provisions of section 7.5, *Wingecarribee Local Environmental Plan 2010* (s4.15(1)(a)(i) of the EPA Act).
7. Council is not satisfied that adequate arrangements have been made to make public utility infrastructure (sewer and water), essential for the proposed development, available when it is required, in accordance with the provisions of section 7.10, *Wingecarribee Local Environmental Plan 2010* (s4.15(1)(a)(i) of the EPA Act).
8. The proposed development is inconsistent with the Objectives and Controls as they relate to the following provisions of the Bundanoon Township Development Control Plan (s4.15(1)(a)(iii) of the EPA Act):
 - (a) A3.2 Flora & Fauna Assessment.

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 23 OCTOBER 2024**

24/1487, Lot 2 DP 304969

- (b) A4.3 Development in Sydney's Drinking Water Catchments.
 - (c) A4.5 Stormwater Management Plan.
 - (d) A4.6 Erosion and Sediment Control Plans.
 - (e) A5.3 Flood Liable Land.
 - (f) A7.3 Site Analysis.
 - (g) A7.4 Cut & Fill.
 - (h) A9.2 Sites Requiring Geotechnical Reports.
 - (i) A9.8 Stormwater Disposal.
9. The proposed development is inconsistent with the Objectives and Controls as they relate to the following provisions of the Rural Living Development Control Plan (s4.15(1)(a)(iii) of the EPA Act):
- (a) A3.7 Cut and Fill.
 - (b) A5.2 Development in Sydney's Drinking Water Catchments.
 - (c) A5.5 Stormwater Management Plans.
 - (d) A5.6 Erosion and Sediment Control Plans.
 - (e) A5.9 Flood Liable Land.
 - (f) A6.2 Bushfire Prone Land.
 - (g) A6.3 Contaminated or Potentially Contaminated Land.
 - (h) A9.8 Stormwater Disposal.
10. The design of the development is likely to have adverse impact on the natural and built environments in the locality (s4.15(1)(b) of the EPA Act).
11. The site is not suitable for the development as proposed (s4.15(1)(c) of the EPA Act).
12. The development is not in the public interest (s4.15(1)(e) of the EPA Act).



Legend:

- DAM EDGE VIDE AEP
- GROUND TRUTHED HYDROLINES VIDE AEP
- 40m OFFSET FROM GROUND TRUTHED HYDROLINE
- VRZ VIDE AEP
- 40m OFFSET FROM RAIL LINE
- STAGE BOUNDARY

Scale: 1:1250 @ A1

- 'A' - EASEMENT FOR ACCESS AND SERVICES 6 WIDE (SUBJECT TO DESIGN AND APPROVALS)
- 'B' - EASEMENT FOR ACCESS AND SERVICES 4 WIDE (SUBJECT TO DESIGN AND APPROVALS)
- 'C' - EASEMENT FOR ACCESS AND SERVICES VARIABLE WIDTH (SUBJECT TO DESIGN AND APPROVALS)
- 'D' - EASEMENT FOR ACCESS AND SERVICES 6 WIDE & VARIABLE WIDTH (SUBJECT TO DESIGN AND APPROVALS)
- 'E' - EASEMENT FOR ACCESS AND SERVICES 6.5 WIDE (SUBJECT TO DESIGN AND APPROVALS)

NOTE: GIS PLANNING BASE DATA SOURCES NSW GOV, WINGECARRIBEE SHIRE COUNCIL & NEARMAP. DETAIL SURVEY UNDERLAY BY C&R

AMEND. NO.	DATE	DETAILS
07	17/05/2024	40m OFFSET LINE REMOVED FROM SUBDIVISION PLANS
08	03/05/2024	STAGE 3 LAYOUT AND EASEMENT DESCRIPTIONS AMENDED
05	04/04/2024	LOT 211 ADDED
04	27/03/2024	SITE PLAN BUILDING ENVELOPE SHEET ADDED
03	18/03/2024	LOT LAYOUT AMENDED & STAGING SHEETS ADDED
02	21/12/2023	LOT LAYOUT AMENDED & ADDITIONAL VEGETATION SHEET ADDED
01	21/11/2023	LOT LAYOUT AMENDED
00	14/09/2023	ORIGINAL LAYOUT



SUBDIVISION OF LOT 2 IN DP304969
159 RAILWAY AVENUE,
BUNDANOON

SITE PLAN

Principal: TRIBECA	
Scale: 1:1250 @ A1	Date: 14-09-2023
Datum: A.H.D.	L.G.A.: WINGECARRIBEE
Client Ref:	Council Ref:



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Out Ref: **484-21**
Dwg File Ref. (Rev) - Sheet Ref.
484-21 GIS L08 [07]
- Site Plan

FOR DA PURPOSES



Statement of Environmental Effects

**Lot 2 DP 304969
159 Railway Avenue, Bundanoon**

May 2024

Prepared for SH 2578 Pty Ltd

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 23 OCTOBER 2024**

Statement of Environmental Effects | 159 Railway Avenue, Bundanoon





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Issue	Date	Author	Reviewed	Approved
A	23/05/24	Nicholas Geroulas	Nick Gunn	Frank Carrozza



1. Introduction

1.1. Proposal

Colliers International Engineering & Design NSW have been engaged by SH 2578 Pty Ltd to prepare a Statement of Environmental Effects (SEE) in support of a Development Application (DA) for:

- The Torrens title subdivision of one lot into 40 lots, comprising:
 - 38 residential lots.
 - One lot to contain a sewer pump station for dedication to Council.
 - One lot to contain a stormwater detention and treatment basin for dedication to Council.
- Works associated with the subdivision including:
 - Demolition of a shed.
 - Construction of two public roads and a stormwater detention and treatment basin.
 - Earthworks and the removal of five trees.
 - Landscaping.
 - Installation of associated infrastructure and services.

It is proposed to deliver the development over four stages as detailed in **Section 3**.

1.2. Subject Site

The subject site (the Site) is legally identified as Lot 2 DP 304969, being 159 Railway Avenue, Bundanoon. It has an area of approximately 24.8 hectares and contains two detached dwellings and associated structures and outbuildings. It comprises approximately 5.14 ha of native vegetation and 19.53 ha of cleared areas and non-native vegetation. It is located in the Wingecarribee Shire Local Government Area (LGA) and adjoins the eastern extent of Bundanoon's existing residential area.

1.3. Integrated Development

The proposed development is considered integrated development, as defined in Section 4.46 of the Environmental Planning and Assessment Act 1979 (the Act). It requires approval from:

- The Department of Planning and Environment (DPE) Water, pursuant to section 90 of the Water Management Act 2000, as it involves works on waterfront land.
- NSW Rural Fire Service (RFS), pursuant to section 100b of the Rural Fires Act 1997, as it seeks to subdivide bushfire prone land which could be used for residential purposes.

1.4. Assessment

This SEE is submitted in accordance with Part 3 Division 1 of the Environmental Planning and Assessment Regulation 2021 (the Regulations). The assessment finds that the proposal is consistent with the relevant environmental planning instruments, with no variations proposed. This SEE outlines steps to be undertaken to protect the environment and to mitigate against any potential harmful impacts, where necessary.

Based on the assessment herein, the proposal is considered an acceptable form of development, satisfying the provisions of Section 4.15 of the Act, on which basis it may be supported on its merits for approval.



1.5. Accompanying Reports

Accompanying this SEE are the plans and supporting documentation in **Table 1** below.

Table 1: Supporting Plans and Documentation

Document	Author	Date
Reports		
Arborist Impact Assessment	AEP	06/05/2024
Biodiversity Development Assessment Report (BDAR)	AEP	15/04/2024
Bushfire Hazard Assessment	Blackash	15/05/2024
Preliminary Site Investigation	Douglas Partners	24/04/2024
Estimated Development Cost Report	Mitchell Brandtman	13/05/2024
Geotechnical Assessment	Douglas Partners	15/05/2024
Riparian Assessment Report	AEP	03/05/2024
Stormwater Management Report	Colliers International Engineering and Design NSW	24/05/2024
Sewer and Water Modelling Report	Colliers International Engineering and Design NSW	19/01/2024
Traffic Impact Assessment	Turner Traffic	04/04/2024
Wate Management Plan	Colliers International Engineering and Design NSW	17/05/2024
Plans		
Civil Engineering Plans	Colliers International Engineering and Design NSW	24/05/2024
Landscape Plan	Taylor Brammer	10/05/2024
Site Plan	Colliers International Engineering and Design NSW	17/05/2024
Subdivision Plans	Colliers International Engineering and Design NSW	17/05/2024
Survey Plan	Colliers International Engineering and Design NSW	18/04/2024



2. The Site

2.1. Site Details

The Site is detailed in **Table 2** and **Figure 1** below.

Table 2: Site details

Legal description	Address	Area (ha)	Owner(s)
Lot 2 DP 304969	159 Railway Avenue, Bundanoon	24.67	SH 2578 Pty Ltd

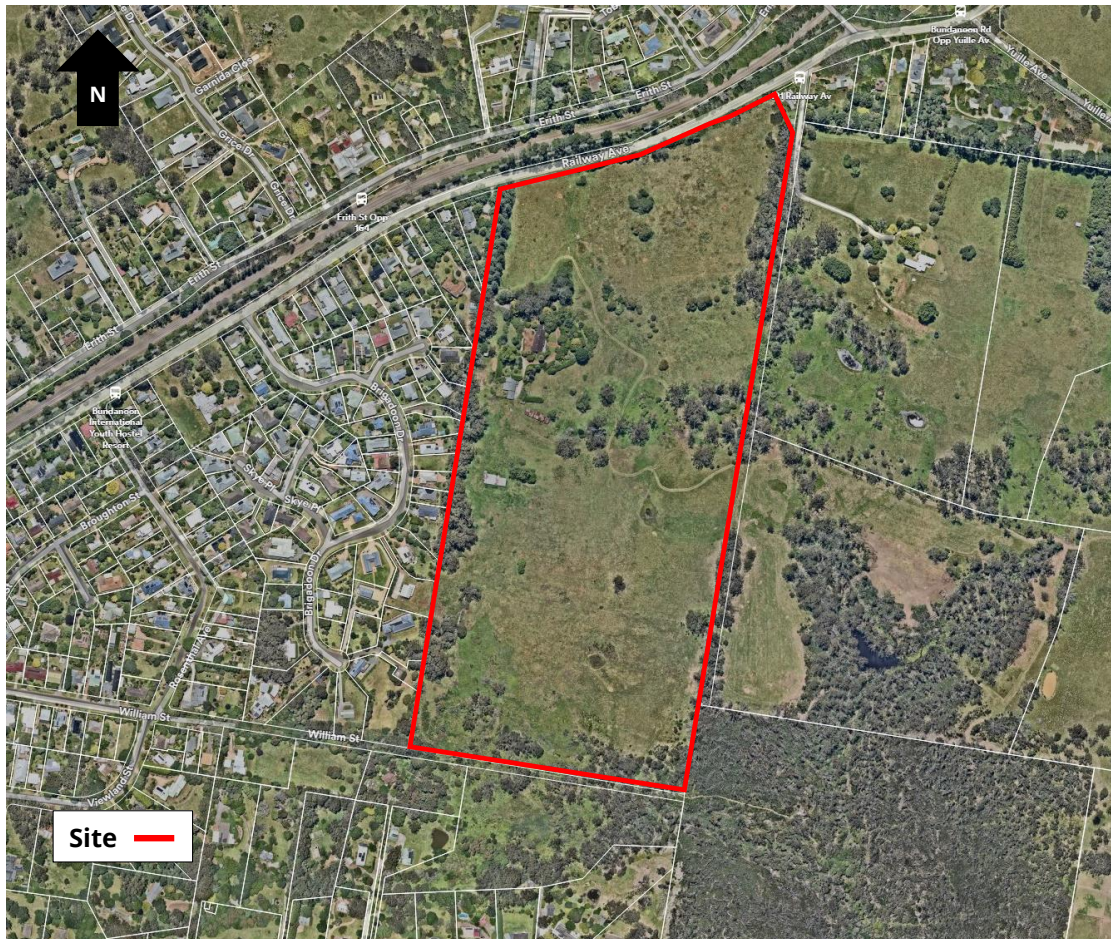


Figure 1: Site Location (Nearmap 2024)



2.2. Site Description and Surrounding Development

The Site is currently used for rural-residential purposes. It contains two single storey dwellings, one brick and the other fibre cement, in its north-west corner and associated structures including sheds and an on-site sewer management system. Both dwellings are accessed from Railway Avenue via a single gravel driveway on the western boundary. The Site was previously used as grazing land for cattle, however, this use has now ceased. It contains approximately five hectares of remnant native vegetation, concentrated around its southern, eastern and western boundaries.

The Site is irregular in shape and, whilst undulating, generally falls from the north-west to south-east at an average grade of approximately 9%.

To the north the Site is bounded by Railway Avenue and the Main Southern Railway line. Beyond the railway are low density residential dwellings. Immediately to the Site's west are low density residential dwellings on lots generally between 1,000m² and 2,000m². To the south and south-east are residential dwellings on larger lots of approximately 4,000m².

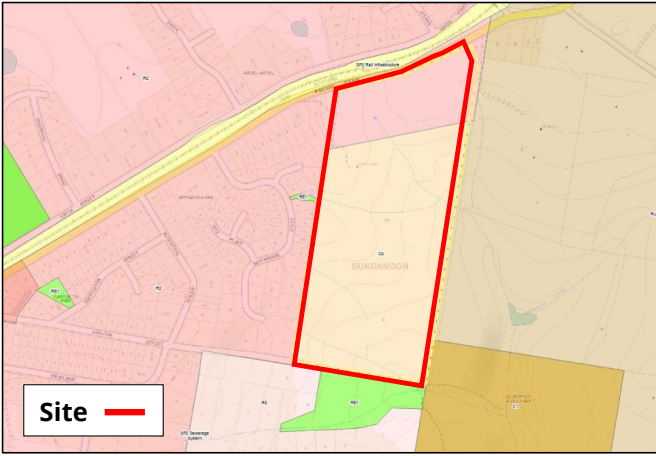
Adjacent the Site to its south-east boundary is the Morton National Park. To the east are rural-residential and rural uses.

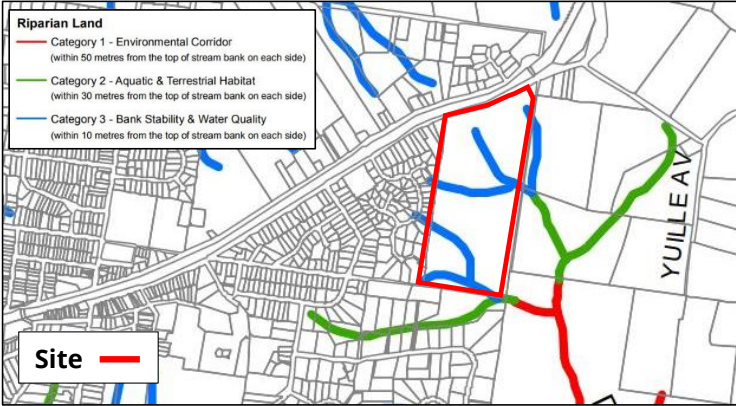
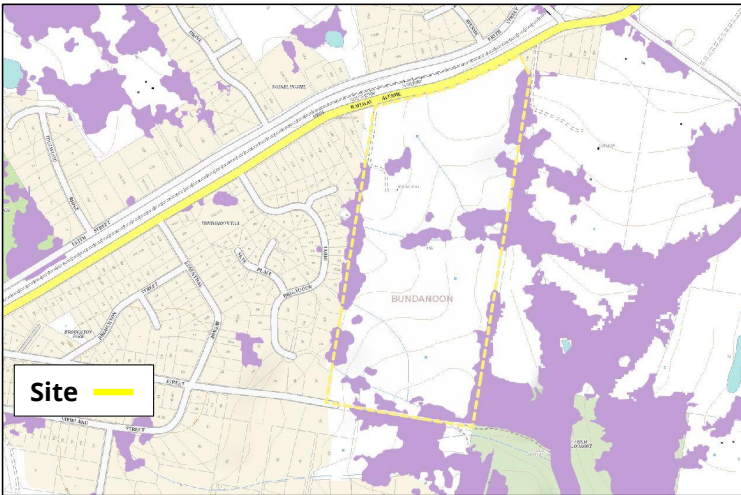


2.3. Environmental and Planning Context

Details of the Site's environmental constraints and planning considerations are provided in **Table 3**.

Table 3: Key Summary of Relevant Planning Controls

Element	Description
Wingecarribee Local Environmental Plan 2010	
Zoning	<ul style="list-style-type: none"> • R2 Low Density Residential • C4 Environmental Living 
Min Lot Size	<ul style="list-style-type: none"> • R2 Zone - 2,000m² • C4 Zone - 8,000m² 

Element	Description
Heritage	N/A – The Site contains no European cultural heritage items and is not within a heritage conservation area.
Riparian Protection	<p>The Site is mapped as containing several Category 3 watercourses (1st Order Stream) that comprise riparian land. These have been 'ground-truthed' as part of this DA (Refer Section 4.4.4).</p> 
Contamination and salinity	The Site is not mapped as containing salinity or Acid Sulfate soils.
Environmental Constraints	
Native vegetation	<p>The Site is mapped as containing biodiversity values on the NSW Biodiversity Values Map.</p> 

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Statement of Environmental Effects | 159 Railway Avenue, Bundanoon



Element	Description
Bushfire Prone	The Site is bush fire prone land (Refer Section 6.2.5).
Flood Prone	N/A - The Site is not flood prone land.



3. Development Proposal

3.1. Summary

Development consent is sought for the:

- Torrens title subdivision of the subject Site into 40 lots, comprising:
 - 38 residential lots.
 - One lot to contain a sewer pump station for dedication to Council.
 - One lot to contain a stormwater detention and treatment basin for dedication to Council.
- Works associated with the subdivision including:
 - Demolition of a shed.
 - Construction of two public roads and a combined on-site detention (OSD) and bio-retention basin.
 - Earthworks and the removal of five trees.
 - Landscaping.
 - Installation of associated infrastructure and services.

3.2. Staging

The development is proposed to occur over four stages, as set out below:

- Stage 1:
 - Torrens title subdivision of one lot into three lots, made up of two residential lots (with each to contain one of the existing dwellings) and one residue lot (Lot 103).
 - Demolition of a shed.
- Stage 2:
 - Subdivision of Residue Lot 103 into:
 - 17 residential lots.
 - Two residue lots (Lots 219 and 220) for further subdivision under future stages.
 - Two lots for dedication to Council, being Lots 217 and 221, to contain a stormwater basin and sewer pump station, respectively.
 - Construction of one local road, one 6m shared accessway, and one stormwater detention and treatment basin.
 - Installation of associated infrastructure and services including a sewer pump station.
 - Associated earthworks and landscaping.
- Stage 3:
 - Subdivision of Residue Lot 219 into 14 residential lots.
 - Construction of one local road.
 - Installation of associated infrastructure and services.
 - Associated earthworks and landscaping.
- Stage 4:
 - Subdivision of residue Lot 220 into five residential lots.
 - Installation of associated infrastructure and services.

**AGENDA OF THE LOCAL PLANNING PANEL
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Statement of Environmental Effects | 159 Railway Avenue, Bundanoon

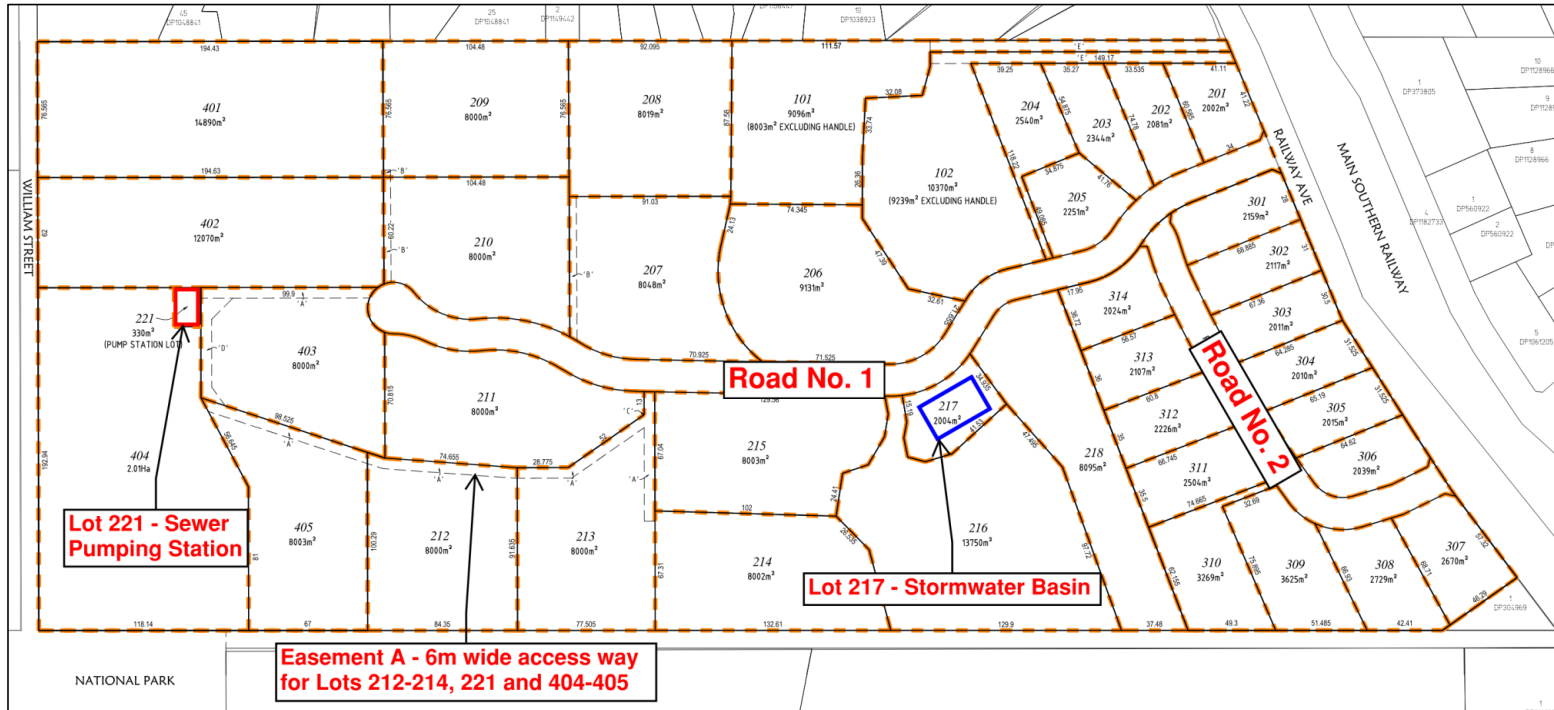


Figure 2: Proposed Subdivision Plan



3.3. Proposed Lot Details

A total of 38 residential lots and two lots to contain public infrastructure are proposed. Details of the lots are provided in **Table 4**.

Table 4: Proposed Lot Details

Lot Number	Area (m ²)	Zoning	Lot Number	Area (m ²)	Zoning
Stage 1			Stage 3		
101	9,096	C4	301	2,159	R2
102	10,370	C4	302	2,117	R2
103 (R)(2)	228,300	R2 & C4	303	2,011	R2
Stage 2			304	2,010	R2
201	2,002	R2	305	2,015	R2
202	2,081	R2	306	2,039	R2
203	2,344	R2	307	2,670	R2
204	2,540	R2	308	2,729	R2
205	2,251	R2	309	3,625	R2
206	9,131	C4	310	3,269	R2
207	8,048	C4	311	2,504	R2
208	8,019	C4	312	2,226	R2
209	8,000	C4	313	2,107	R2
210	8,000	C4	314	2,024	R2
211	8,000	C4	Stage 4		
212	8,000	C4	401	14,890	C4
213	8,000	C4	402	12,070	C4
214	8,002	C4	403	8,000	C4
215	8,003	C4	404	20,100	C4
216	13,750	C4	405	8,003	C4
217 (B)	2,004	C4			
218	8,095	C4			
219 (R)(3)	38,200	R2			
220 (R)(4)	63,100	C4			
221 (S)	330	C4			

(R) Residue Lot for subdivision under Stage (2), (3) or (4)

(B) Lot to contain a stormwater detention and treatment basin and be dedicated to Council.

(S) Lot to contain a Sewer Pump Station and be dedicated to Council.



3.4. Access

Ultimate Access

Under the ultimate scenario, vehicular and pedestrian access to the development will be gained from Railway Avenue via two proposed local roads 18m in width (Refer **Figure 2**).

The new roads will result in two new intersections at Railway Avenue. The Traffic Impact Assessment report prepared by Turner Traffic accompanying this DA considered several intersection treatments, with the selected option put forward having regard to safety risks and Council's advised requirements. This option proposes that both intersections be constructed with a Basic Right Turn / Basic Left Turn (BAR/BAL) treatment, in accordance with Austroads standards. This would involve the widening of the verges of Railway Avenue in the vicinity of the new intersections to allow vehicles travelling straight-on to overtake turning vehicles. Refer to the concept civil engineering plans for details of the proposed works in the Railway Avenue verges.

Access by Stage

- **Stage 1**
The existing dwellings, proposed to be contained within Lots 101 and 102, will continue to be accessed via the existing gravel driveway off Railway Avenue. No additional access points or works are required to facilitate this.
- **Stage 2**
The majority of the 21 lots proposed under Stage 2 will have a direct frontage to proposed Road No. 1, to be constructed under this stage. However, Residential Lots 208, 209, 212, 213 & 214, and Lot 221 (to contain a sewer pump station) are proposed to be accessed by a 6m wide gravel accessway over adjacent lots (Refer **Figure 2**). This accessway will be facilitated through an easement over these lots.
- **Stage 3**
14 Residential Lots are proposed under this stage. Each lot will have a direct front to Proposed public Road No. 2, to be constructed under this stage. Road No. 2 will also provide a second entrance to the Site from Railway Avenue in the Site's east and connect with Road No. 1 in the west (Refer **Figure 2**).
- **Stage 4**
Lot 403 would gain access directly from Road No. 1, while Lots 401, 402, 404 and 405 are proposed to be accessed via easements which will have been created under Stage 2 (Refer **Figure 2**).

3.5. Stormwater Infrastructure

It is proposed to construct the following stormwater infrastructure to service the development in accordance with Council's stormwater quantity and quality standards.

Drainage Network

A conventional pit and pipe network is proposed to meet the design requirements for minor 5-year ARI and major 100-year ARI storm events.

On-site Stormwater Detention and Bio-retention Basin

It is proposed to construct a combined on-site detention (OSD) and bio-retention basin within proposed Lot 217, to be dedicated to Council. The basin has been designed to detain stormwater runoff from the R2-zoned lots to its north and release it at a flow rate that does not exceed the existing site flow rates from the catchment during all storm events up to and including the 1 in 100-year ARI.



The much larger C4-zoned lots are proposed to each have individual OSD and bio-retention storage to ensure post development flows are lower than pre-development flow and that water quality remains unchanged and/or improved, as per Council's DCP requirements.

Overland Flow

The proposed subdivision has been designed to ensure the overland flows in the external catchments are safely conveyed through the Site and into the creek along the southern boundary. The overland flows within the Site are maintained safely within the road and creek corridors in all storm events up to and including the probable maximum flood event.

3.6. Vegetation Clearance

The proposal involves 'impacts' to approximately 1.36 ha of native vegetation. It should be noted that the large majority of this 1.36ha is not intended to be 'cleared'. Rather, it would be 'managed' in order to facilitate asset protection zones for future dwellings. This would involve the removal of understorey growth whilst retaining all existing trees, except for the five trees proposed for removal to facilitate the construction of the roads. Consideration of this aspect of the proposal against the applicable legislation is undertaken in **Section 4.1** and **Section 4.2**. The impacts are further considered in **Section 6.1**.



4. Statutory Framework

4.1. Environment Protection and Biodiversity Conservation Act 1999

The Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) applies to developments that have the potential to significantly impact on Matters of National Environmental Significance (MNES). Under the EPBC Act, activities that have potential to result in significant impacts on MNES must be referred to the commonwealth minister for the Environment and Water for assessment as a 'controlled activity'.

A Biodiversity Development Assessment Report (BDAR) has been prepared in support of the DA. It includes an assessment of whether the proposal has the potential to impact upon any MNES and, accordingly, whether referral to the Minister is required. The assessment finds:

- **World Heritage Properties (WHPs):** No potential for impact as the Site is not, nor is it near, any WHPs.
- **National Heritage Places (NHPs):** No potential for impact as there are no NHPs within or near the Site.
- **Wetlands of International Importance:** No potential for impact as there are no internationally or nationally important wetlands in or near the Site.
- **Commonwealth Marine Areas:** The Site is not part of, nor within proximity to, any Commonwealth Marine Areas.
- **Migratory species:** Unlikely to impact the availability of potential habitat for EPBC-listed migratory species or disrupt their migratory patterns.
- **Threatened ecological communities (TECs):** No potential for impact as no listed TECs were identified at the Site.
- **Threatened species:** Unlikely to impact threatened species as no species listed as threatened under the EPBC Act were observed on-site, nor are they expected to utilise the Subject Site.

Based on the above assessment, the BDAR determines that the proposal does not constitute a controlled activity. Therefore, referral to the commonwealth minister is not required.

4.2. Biodiversity Conservation Act 2016

The NSW Biodiversity Conservation Act (BC Act) 2016 provides for the protection and conservation of biodiversity in NSW through the listing of threatened entities, key threatening processes (KTPs) and critical habitat for threatened entities.

Section 7.3 of the BC Act sets out a process for determining whether a proposed development is likely to significantly affect threatened species or ecological communities, or their habitats, and whether the Biodiversity Offsets Scheme (BOS) will be triggered.

The BOS is triggered by the proposed development as both the following criteria are met:

- Vegetation within the Site is mapped as significant on the NSW Biodiversity Values Map.
- The proposal involves impacts to / clearing of native vegetation in excess of the clearance threshold which, on this Site, is 0.25ha.



Accordingly, A BDAR, referenced in **Section 4.1**, has been prepared as required under the BC Act and the NSW Biodiversity Assessment Method (BAM). The BDAR:

- Considers the proposal against the Commonwealth EPBC Act (Refer Section 4.1).
- Finds that no serious and irreversible impacts to any species are likely to result from the proposal.
- Recommends the following offset credits should be retired prior to construction of the development, in accordance with the BAM:
 - Ecosystem Credits:
 - 11 credits for PCT 3222 – Southern Highlands Shale Margins Moist Forest.
 - 20 credits for PCT 3223 – Southern Highlands Shale-Basalt West Forest.
 - 1 credit for PCT 3589 – Southern Highlands Escarpment Peppermint Gully Forest.
 - 1 credit for PCT 3932 – Central and Southern Tableland Swamp Meadow Complex.
 - Species Credits:
 - 50 credits for the Large-eared Pied Bat.

The BDAR also considers the proposed development against the requirements, contained in the BC Act, to avoid and minimise impacts. It finds:

- The subdivision design has been undertaken as an iterative process in close consultation with the consultant ecologist with the aim of avoiding impacts wherever possible.
- Avoidance measures undertaken include the preparation of initial site assessments which:
 - Identified that the Site contained areas of high biodiversity value, with intact vegetation and good connectivity to contiguous bushland adjacent the Site.
 - 'Groundtruthed' the hydrolines mapped within the Site as well as native vegetation type and extent.
- The proposed subdivision layout:
 - Has been designed in response to the findings of the above assessments to avoid areas of high biodiversity value and hydrolines.
 - Situates the proposed lots to ensure each can contain a future dwelling in an area already cleared of native vegetation.
 - Has taken account of other relevant Site constraints, in particular, bushfire, to minimise the requirement to locate asset protection zones in remnant native vegetation (and, where this occurs, the development seeks to utilise the rule of maximum 15% canopy cover within APZs to retain trees).

The BDAR therefore determines that the development has taken appropriate measures to avoid and minimise impacts to native vegetation in accordance with the

4.3. Environmental Planning and Assessment Act 1979

4.3.1. Matters for Consideration

The following assessment of the proposal is undertaken in **Table 5** overleaf in accordance with the matters for consideration in Section 4.15 of the Environmental Planning and Assessment Act 1979 (the Act).



Table 5: Matters for Consideration S4.15

EP&A Section and Requirement	Comment
<p>(1) Matters for consideration – General. <i>In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application -</i></p>	
<p><i>(a) The provisions of:</i></p>	
<p><i>(i) Any Environmental Planning instrument.</i></p>	<p>An assessment against the relevant Environmental Planning Instruments (EPIs) is contained in Section 4.4.</p>
<p><i>(ii) Any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved).</i></p>	<p>There are no relevant draft EPIs at the time of preparing this SEE.</p>
<p><i>(iii) Any development control plan, and</i></p>	<p>The provisions of the Wingecarribee Rural Residential DCP (2021) and Bundanoon Township DCP (2021) have been considered in Section 5.</p>
<p><i>(iiia) Any planning agreement that has been entered into under section 7.4 or any draft planning agreement that a developer has offered to enter into under section 7.4.</i></p>	<p>There are no Voluntary Planning Agreements (VPAs) that have been proposed or entered into by the Applicant.</p>
<p><i>(iv) The regulations (to the extent that they prescribe matters for the purposes of this paragraph).</i></p>	<p>The DA has been submitted in accordance with Schedule 1 of the Regulations. The applicant understands that Council will undertake assessment of the proposal in accordance with Part 4 of the Regulations.</p>
<p><i>(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality</i></p>	<p>An assessment of the likely impacts of the proposed development has been undertaken in Section 6.</p>
<p><i>(c) The suitability of the site for development</i></p>	<p>The site is considered suitable for the proposed development noting its full compliance with all relevant objectives and standards in the WLEP 2010 and the relevant controls in the DCPs.</p>
<p><i>(d) Any submissions made in accordance with this Act or the regulations.</i></p>	<p>The DA will be notified and placed on exhibition in accordance with Council requirements.</p>
<p><i>(e) The public interest.</i></p>	<p>The proposal is in the public's interest, considering:</p> <ul style="list-style-type: none"> • It fully complies with the relevant objectives of the WLEP and relevant DCPs, and • It effectively manages environmental, built form, social and economic impacts in a way that will have a neutral or beneficial impact on the Site and its surrounds (Refer Section 6).



4.3.2. Integrated Development

Section 4.46 of the Act has been considered as part of this proposal. As referenced in **Table 6** below, the proposed development will require approval from the:

- DPE-Water pursuant to s90 of the Water Management Act 2000 as it involves works within 40m of a watercourse.
- RFS pursuant to s100b of the Rural Fires Act 1997 as it involves the residential subdivision of bushfire prone land.

Table 6: Section 4.46 (Integrated Development) referrals

Legislation	Referral	Organisation
Fisheries Management Act 1994	No	N/A
Heritage Act 1977	No	
National Parks and Wildlife Act 1974	No	
Coal Mine Subsidence Compensation Act 2017	No	
Mining Act 1992	No	
Petroleum (Onshore) Act 1991	No	
Protection of the Environment Operations Act 1997	No	
Roads Act 1993	No	
Water Management Act 2000	Yes	DPE-Water
Rural Fires Act 1997	Yes	RFS

4.4. Environmental Planning Instruments

The proposal is compliant with the provisions of the following relevant State Environmental Planning Policies (SEPPs) and Local Environmental Plan (LEP):

- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- SEPP (Exempt and Complying Development Codes) 2008
- Wingecarribee Local Environmental Plan (WLEP) 2010

The provisions of each instrument are considered in the sub-sections below.



4.4.1. SEPP (Resilience and Hazards) 2021

Under Clause 4.6 of the SEPP (Resilience and Hazards) 2021, Council must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated. If the land is found to be contaminated, Council must not consent to the development unless it is satisfied that the land is suitable in its contaminated state (or will be suitable after remediation) for the purpose that development consent is sought.

Accordingly, a Stage 1 Preliminary Site Investigation has been prepared in support of the proposal and accompanies this DA. The investigation involved a desktop assessment, a site walkover, and soil testing.

The investigation identified no soil contamination issues or asbestos at any of the sampling locations. However, due to the size of the Site, it recommends additional testing be undertaken at the construction stage with a focus on:

- Areas of suspected / identified fill such as building platforms,
- Soil around and adjacent to current and former on-site structures that may contain contaminants from previous uses, and
- Surface sediment from the three on-site dams.

The Investigation concludes that, subject to the implementation of the above recommendations, the Site can be made suitable for the proposed residential use.

4.4.2. SEPP (Biodiversity and Conservation) 2021

Chapter 2 Vegetation in non-rural areas

An assessment in accordance with the requirements of Chapter 2 is not required as the proposal requires development consent. Therefore, this chapter does not apply.

Chapter 3 Koala habitat protection 2020

This chapter applies only to land zoned RU1, RU2 or RU3. As the Site is zoned R2 and C4, this chapter does not apply to the proposal.

Chapter 4 Koala habitat protection 2021

Chapter 4 applies to the Site as it is:

- Located in an LGA listed in Schedule 2 of this SEPP
- Larger than one hectare.

Section 4.9 of the SEPP states that, as there is no koala plan of management applying to the land, Council is required to assess whether the development is likely to have any impact on koalas or koala habitat before granting consent. Council may only grant consent if it is satisfied the development is likely to have a low or no impact on koalas or koala habitat.

Accordingly, the BDAR included targeted surveys to identify any sign of koala utilisation of the Site. These surveys did not result in finding any koalas, scats or markings within the Subject Site, nor were any calls recorded by song meters deployed within the Site. As such, the Site is not considered to be core koala habitat and it is not anticipated that the proposal would impact koalas.



Chapter 6 Water Catchments

Chapter 6 applies to the Site as it is located within the Sydney Drinking Water Catchment. Clause 6.61 applies to the proposed development and requires that new development within the catchment will need to have a neutral or beneficial effect on water quality.

A Stormwater Management Report has been prepared by CED NSW and accompanies this DA. It finds that the proposed stormwater strategy would achieve a neutral effect on water quality and flow, in accordance with the requirements of this chapter and Council's DCP. Refer to **Section 3.5** for details.

4.4.3. SEPP (Exempt and Complying Development Codes) 2008

The proposal involves the creation of the following lots within the C4-zoned area intended to be dedicated to Council and used for a public purpose:

- **Lot 217** is proposed to be 2,004m² and contain the OSD/WSUD Basin described in **Section 3.5**.
- **Lot 221** is proposed to be 330m² and contain a sewer pump station in order to facilitate reticulated sewer connections to each lot under the ultimate scenario.

It is noted that:

- The minimum lot size applicable to the C4-zoned portion of the Site is 8,000m².
- The above-mentioned lots would not comply with this standard.
- Notwithstanding the above, Clause 2.75 of the SEPP (Exempt and Complying Development) 2008 states:

2.75 Specific Development

The subdivision of land, for the purpose only of any one or more of the following, is development specified for this code [exempt development]—

...

(f) excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes, rural fire brigade or other emergency service purposes or public toilets.

Creation of Lots 217 and 221 is therefore proposed pursuant to Section 2.75 of the SEPP (Exempt and Complying Development) 2008.

4.4.4. Wingecarribee LEP 2010

The Wingecarribee Local Environment Plan (WLEP) 2010 is the principal environmental planning instrument applicable to the Site. The relevant provisions of the WLEP are addressed in **Table 7** overleaf.

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Table 7: Assessment against Wingecarribee LEP 2010

Clause	Provision	Comment	Complies?
2.3 Zone Objectives (Land Use Table)	Zone R2 –Low Density Residential objectives are to: i. To provide for the housing needs of the community within a low-density residential environment. ii. enable other land uses that provide facilities or services to meet the day to day needs of residents.	The proposal achieves the objectives of the R2 zone by facilitating the future delivery of low-density housing. Similarly, it also facilitates the subdivision of the C4 zoned land that is consistent with the environmental character of this Zone in providing low-impact residential development that retains existing ecological and aesthetic values.	Yes
	Zone C4 – Environmental Living objectives are to: i. To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values. ii. To ensure that residential development does not have an adverse effect on those values. iii. To encourage the retention of the remaining evidence of significant historic and social values expressed in existing landscape and land use patterns. iv. To provide for a restricted range of development and land use activities that provide for rural settlement, sustainable agriculture and other types of economic and employment development, recreation and community amenity in identified drinking water catchment areas. v. To manage land in a way that minimises impact on its environmental and scenic value from adjacent and nearby development and land use activity. vi. To minimise the proliferation of buildings and other structures in these sensitive landscape areas.		Yes
2.6 Subdivision	Land to which this Plan applies may be subdivided, but only with development consent.	Subdivision is proposed under this DA in accordance with this clause.	Yes
2.7 Demolition	The demolition of a building or work may be carried out only with development consent.	Demolition of a derelict and dis-used shed is proposed in Stage 1.	Yes



Clause	Provision	Comment	Complies?
4.1 Minimum Lot Size	The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.	<p>The minimum lot sizes applicable within the Site are as follows:</p> <ul style="list-style-type: none"> R2 zone – 2,000sqm C4 zone – 8,000sqm <p>All the proposed residential lots achieve the minimum lot size in their respective zones.</p> <p>Note: Lots 217 & 221 are below the minimum lot size. However, these lots are proposed to be dedicated to Council and used for a public purpose. They are therefore proposed pursuant to S. 2.75 of the 'Codes SEPP'. Refer Section 4.4.3.</p>	Yes
4.3 Height of Buildings	The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.	N/A – No height of building applies.	N/A
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.	N/A – No floor space ratio applies.	N/A
5.10 Heritage Conservation	<p>Development consent is required for the demolition, relocation, disturbance or alteration of any of the following:</p> <ul style="list-style-type: none"> A heritage item, An Aboriginal object, and Any object within a heritage conservation area. 	N/A – The Site does not contain a heritage item, nor is it within a heritage conservation area. No known Aboriginal objects are within the Site.	N/A

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Clause	Provision	Comment	Complies?
5.16 Subdivision of, or dwellings on, land in certain rural, residential or conservation zones	<ul style="list-style-type: none"> This clause applies to C4-zoned land and has the objective of minimising potential land use conflict between existing and proposed development on land in the rural, residential or conservation zones (particularly between residential land uses and other rural land uses). Subclause (4) requires the following matters to be taken into account in the DA assessment: <ul style="list-style-type: none"> <i>(a) the existing uses and approved uses of land in the vicinity of the development,</i> <i>(b) whether or not the development is likely to have a significant impact on land uses that, in the opinion of the consent authority, are likely to be preferred and the predominant land uses in the vicinity of the development,</i> <i>(c) whether or not the development is likely to be incompatible with a use referred to in paragraph (a) or (b),</i> <i>(d) any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c).</i> 	<p>The proposed development has been designed to ensure it would not have a significant impact upon existing uses surrounding the Site.</p> <p>Measures proposed to avoid or minimise any impacts including:</p> <ul style="list-style-type: none"> Retaining the vast majority of trees within the Site to retain the area's rural-residential character and its biodiversity. Ensuring no works will be required within the vegetated riparian zones or existing watercourses. Ensuring each proposed residential lot contains sufficient space for a dwelling outside of the vegetated riparian zones associated with the extant watercourses. Managing stormwater on-site to minimise impacts on the environment. <p>It is further noted the proposal will ultimately facilitate the revegetation of degraded riparian corridors and therefore result in a positive environmental impact.</p> <p>Based on the above the proposal is considered compatible with the surrounding uses.</p>	Yes
7.3 Earthworks	Consent is required for earthworks.	As part of this DA, consent is sought for earthworks to construct the proposed roads and stormwater detention basin.	Yes



Clause	Provision	Comment	Complies?
7.5 Natural Resources Sensitivity- Water	<ul style="list-style-type: none"> This clause applies to riparian land identified as “Natural Waterbodies” on the natural resources Sensitivity Map. Sub-clause (4) requires the consent authority be satisfied that: <ul style="list-style-type: none"> <i>(a) the development is designed, sited and managed to avoid any potential adverse environmental impact, or</i> <i>(b) if that impact cannot be avoided—the development is designed, sited and will be managed to minimise that impact, or</i> <i>(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.</i> 	<p>The Site is mapped as containing several ‘Category 3’ watercourses. Accordingly, a Riparian Assessment Report has been prepared to ‘ground-truth’ the mapped watercourses and accompanies the DA. The subdivision design has been designed to avoid any potential impact on these ‘ground-truthed’ watercourses and to facilitate the revegetation of the associated vegetated riparian zones. In avoiding adverse impacts, the proposal satisfies sub-clause 4(a).</p>	Yes
7.10 Public Utility Infrastructure	<p>This clause applies to the R2- and C4-zoned land. It requires that any public utility infrastructure that is essential for the proposal is available or that adequate arrangements have been made to make that infrastructure available when it is required.</p>	<p>The following essential services will be provided for the proposed development.</p> <ul style="list-style-type: none"> Water – There are existing reticulation mains along Railway Avenue which will be extended to service the proposed development. Sewer – The dwellings contained within proposed Lots 101 & 102 will continue to be serviced by their existing on-site sewerage systems until Stage 2 is completed, at which time they will be connected to reticulated sewer. The other residential lots created under Stages 2-4 will be serviced by a reticulation network that drains to an SPS within proposed Lot 221. This SPS will pump wastewater north-west through the Site to the next available point of discharge in the road reserve of Railway Avenue. Electricity – LV reticulation extensions will be made from the 11kv feeders located on Railway Parade. <p>Refer to the Sewer and Water Modelling Report prepared by CED NSW for details.</p>	Yes



5. Development Control Plans

The following development control plans (DCPs) apply to the Site and subject development:

- Bundanoon Township DCP (2021) – applies to the entire Site.
- Rural Living DCP (2021) – applies only to the C4-zoned land.

The relevant sections of the DCP are set out below.

5.1. Rural Living DCP

Refer to **Appendix A** for an assessment of the Rural Living DCP (2021).

5.2. Bundanoon Township DCP

Refer to **Appendix B** for an assessment of the Bundanoon Township DCP (2021).



6. Likely Impacts

6.1. Natural Environment

6.1.1. Flora and Fauna

The proposal is anticipated to impact upon approximately 1.36 ha of native vegetation. Impacts relating to flora and fauna as a result of the proposal have been assessed in a BDAR which is considered in detail in **Sections 4.1 and 4.2**. In summary, the BDAR found:

- the proposal triggers the NSW Biodiversity offset scheme, in accordance with the NSW BC Act 2016, as:
 - Vegetation within the Site is mapped as significant on the NSW Biodiversity Values Map, and
 - More than 0.25ha of native vegetation is proposed to be cleared.
- “No potential” or “unlikely potential” for any impacts associated with matters of national environmental significance defined in the Commonwealth EPBC Act 1999.

Having regard to flora, the BDAR identified that the existing vegetation consists of four different plant community types (PCTs) and that offset credits would be required to be retired to offset the vegetation impacted. In particular, it was determined:

- 11 credits would need to be retired to offset impacts to 0.46ha of PCT 3222 – Southern Highlands Shale Margins Moist Forest.
- 20 credits would need to be retired to offset impacts to 0.82ha of PCT 3223 – Southern Highlands Shale-Basalt West Forest.
- One credit would need to be retired to offset impacts to 0.04ha of PCT 3589 – Southern Highlands Escarpment Peppermint Gully Forest.
- One credit would need to be retired to offset impacts to 0.04ha of PCT 3932 – Central and Southern Tableland Swamp Meadow Complex.

Having regard to fauna, the BDAR determined that 50 species credits would need to be retired to offset impacts to 1.36ha of Large-eared Pied Bat habitat.

The BDAR also considered the extent to which the proposed development has complied with the requirements imposed by the BC Act to avoid and minimise impacts to native flora and fauna. In this regard, the BDAR found:

- The subdivision design has been undertaken as an iterative process in close consultation with the consultant ecologist with the aim of avoiding impacts wherever possible. Avoidance measures undertaken included the preparation of initial site assessments which:
 - identified that the Site contained areas of high biodiversity value, with intact vegetation and good connectivity to contiguous bushland adjacent the Site.
 - ‘Groundtruthed’ the hydrolines mapped within the Site as well as native vegetation type and extent.
- The proposed subdivision layout:
 - has been designed in response to the findings of the above assessments, in particular to avoid areas of high biodiversity value and hydrolines. In doing so, it has minimised impacts.



- Situates lots that to ensure each can contain a future dwelling in an area already cleared of native vegetation.
- Has taken account of other relevant site constraints, in particular, bushfire, to minimise the requirement to site APZs in remnant native vegetation. Where this occurs, the development seeks to utilise the rule of maximum 15% canopy cover within APZs to retain trees.

Based on the above findings and, subject to the retirement of offset credits as recommended in the BDAR, the proposal specifically addresses impacts on flora and fauna in its design.

6.1.2. Arboricultural

An Arborist Impact Assessment has been prepared in support of the proposal and accompanies this DA. The report assessed a total of 183 trees within the Site and its neighbouring properties. The assessment found that:

- Of the 183 trees assessed, 139 are located within the Site.
- The majority of assessed trees are native species.
- 36 trees are either dead or in poor condition, 51 are in fair condition and 96 are in good condition.
- In consideration of the estimated life expectancy for each tree, Retention Values were assigned to each tree within the Site. This identified the following;
 - 30 'High',
 - 123 'Moderate';
 - Nine (9) 'Low'; and
 - 21 'Very Low' Retention Value Trees.
- The proposal would require the removal of the following five trees as they are in the location of the proposed road, or the road would encroach into their structural root zone:
 - High retention value trees number 167 and 168.
 - Moderate retention value trees number 173, 174 & 175.
- Seven additional trees should also be removed, including:
 - Trees No. 172 & 183 which are in the vicinity of the road are in poor health which could present a hazard to site users.
 - Trees No. 176-180 which are a weed species within the region. Their removal would improve the environmental values of the Site.
- The remaining trees within the Site can be retained, noting that lot proposed lot sizes are large enough to allow dwelling footprints without further tree removal.

Based on the above assessment, arboricultural related impacts of the proposal are considered minimal, noting in particular:

- Even where APZs are proposed, trees can be retained in accordance with the NSW Planning for Bushfire 2019 which allows up to 15% canopy cover within APZ and Inner Protection Areas.
- A detailed Tree Protection Plan will be prepared prior to works commencing, in accordance with the recommendations of the Arborist Impact Assessment, to ensure trees in close proximity to works are protected.
- Approximately 100 new trees are proposed to be planted as part of the proposal which will more than offset any visual or ecological impacts associated with the removal of the above-listed trees.
- Additional trees are likely to be planted in association with the future dwelling construction on each proposed lot.



6.1.3. Contamination

A Preliminary Site Investigation has been prepared by Douglas Partners and accompanies this DA. The investigation found no soil contamination issues or asbestos at any of the sampling locations. The Investigation concluded that, subject to the further investigation of areas of potential contamination within the Site before construction commences, the Site is suitable for proposed residential subdivision.

6.1.4. Water Quality

As discussed in **Section 3.5**, the Stormwater Management Plan which accompanies this DA has assessed the proposal and found the infrastructure and drainage flows to be in accordance with Council's requirements in terms of stormwater quantity and quality. Therefore, no unacceptable impacts on stormwater behaviour or management are anticipated.

6.1.5. Flooding

The Stormwater Management Plan accompanying the DA has assessed the potential for flooding at the Site. It determines that the proposed subdivision and associated works are generally outside of the 1% AEP flood extent, and that the Site is generally not impacted by flooding. Therefore, no flood-related impacts are anticipated from the proposal.

6.2. Built Environment

6.2.1. Context, Setting and Amenity

The proposed subdivision has been carefully designed to ensure it is consistent with the context, layout and density of the surround areas, as evidenced by its full compliance with the relevant objectives and standards of the WLEP 2010 and the controls in the DCPs. The size, shape and location of lots have been determined in order to minimise tree removal, so as to preserve the existing amenity.

Further, a high-quality landscape treatment has been proposed with the intent of providing:

- A village feel in the R2-zoned portion of the Site, with exotic trees, to be reflective of the village atmosphere in the low-density residential suburbs to the north and east.
- A rural feel in the C4-zoned portion of the Site, with native plantings and rural fence treatments to be reflective of the rural character of the large-lot, rural residential character to the Site's east and south.
- An overall increase in the number of trees at the Site.

In consideration of the above, any impacts to the Site's context, setting and amenity are considered minimal and acceptable.

6.2.2. Heritage

The Site does not contain, nor is it nearby, any items of heritage significance. Therefore, no impacts are anticipated on matters relating to heritage.



6.2.3. Sewer and Water

Modelling has been undertaken by Digital Water Solutions to determine whether sufficient capacity exists in Council's sewer and water systems to accommodate the proposed lots. The findings of this modelling are contained in the Water and Sewer Modelling Assessment Report which accompanies this DA. The report finds:

- The existing water network can accommodate the proposed development and no enhancements or expansions would be required.
- The existing sewer infrastructure would require augmentation to accommodate the proposed development. Three augmentation options are provided.

Based on these findings, impacts to sewer and water infrastructure are considered acceptable, subject to augmentation of the sewer system as recommended in the report. A detailed investigation into each of the three augmentation options will be prepared to inform the detailed design stage of the development.

6.2.4. Access and Traffic

A Traffic and Parking Assessment has been prepared by Turner Traffic in support of the proposal. Its findings are discussed below.

Access and Road Layout

The assessment considered the proposed road layout and determined that:

- The inclusion of two access points from Railway Avenue, as proposed, will have the effect of dispersing traffic movements across the Site and reducing the overall traffic related impacts of the development.
- The proposed road network is suitable to accommodate regular use by a 12.5m heavy rigid vehicle, including Council waste collection trucks.
- The proposed road layout is compliant with:
 - The relevant sections of the Bundanoon Township DCP Amendment 9; the Rural Living DCP Amendment 8; and the Rural Lands DCP Amendment 13 (Refer **Appendix A**).
 - The relevant sections of Council's design specification and engineering specifications.
 - Council's standard drawings.

Traffic

The assessment determined that, at the completion of Stage 4 of the development, it would be estimated to generate 26 vehicle trips in the morning peak period and 29 vehicle trips in the evening peak period. This equates to an average rate of approximately one vehicle trip every two minutes in each peak period and would not be expected to result in any adverse impacts, nor any safety or operational issues on the surrounding road network.

Based on these volumes, it is proposed that the two new access points be constructed to accommodate a Basic Right Turn / Basic Left Turn (BAR/BAL) intersection, in accordance with Austroads standards. This would require the sealed shoulders be wide enough to allow vehicles travelling straight on to overtake turning vehicles within a sealed pavement surface.

The assessment also conducted SIDRA modelling, including existing traffic counts along Railway Avenue. The modelling conservatively assumed that all vehicles used only one of the two proposed intersections. It found



that the intersections would operate at Level of Service 'A' with an average delay of seven seconds for the outbound right turn.

In consideration of the above findings, the traffic related impacts of the development are considered minor and acceptable.

6.2.5. Bushfire

The proposed subdivision has been designed in close consultation with expert bushfire consultancy, Black Ash, along with project Ecologist, Anderson Environment & Planning. The early involvement of these subject matter experts was considered critical to ensure the design provided a high level of bushfire safety without requiring the clearing of large portions of high-quality native vegetation.

Black Ash have prepared a bushfire hazard report to assess the final design to determine whether the proposal provides an appropriate level of safety for future residents and is compliant with Planning for Bushfire Protection (PBP) 2019. Its findings are discussed below.

Asset Protection Zones

The assessment determined that all proposed residential lots are capable of providing an appropriate Asset Protection Zone (APZ) for a dwelling in compliance with PBP 2019. In particular:

- Each proposed lot in the northern portion of the Site, which is further away from the hazard (Lots 201-205 and Lot 301-314), would be capable of supporting a BAL-29 building footprint.
- The lots toward the rear of the Site (Lots 206-218 and Lots 401-405) are closer to the hazard. They have therefore been designed to provide a larger APZ which would facilitate a dwelling constructed to the lower BAL-19 standard. Notwithstanding, the assessment recommends that each dwelling be constructed to the higher BAL-29 standard to further lower the bushfire risk.

Access

In recognition of the Site's unique attributes, and the very large lots proposed, the assessment determines that the provision of a perimeter road would not be considered appropriate, practical, or necessary. Rather, a central north-south spine road, as proposed, is considered both appropriate and able to comply with the performance requirements for isolated subdivisions in PBP 2019, subject to the inclusion of the following additional bushfire protection measures beyond what would normally be required:

- The road is to be generally protected by 80-100 metres of land maintained as an Inner Protection Area, as defined in PBP 2019.
- An additional 20,000 litres of static water supply at each lot within the C4 zone accessible from the central north-south spine road (Road 1).
- Future dwellings on lots in the southern portion of the Site need to be constructed to more stringent BAL-29 standards, despite achieving larger APZs which would ordinarily warrant BAL-19 standards.

The assessment concludes that the consolidated suite of bushfire protection measures described above would represent a superior safety outcome than the provision of a perimeter road alone.

Based on the above findings, it is considered that impacts of the proposal relating to bushfire safety are considered manageable and acceptable.



6.3. Social and Economic Impacts

The proposal will have positive social and economic impacts as it will facilitate the future construction of 38 new dwelling houses within the R2 and C4 zoned portion of the Site. The proposal will therefore make a significant contribution to the housing needs for the Wingecarribee LGA in a way that maintains the amenity and character of the surrounding neighbourhood.



Appendix A – Rural Residential DCP Compliance Table

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Clause / Control	Requirement / Applicable Control	Proposal / Assessment	Complies?
Section 3 – Ecologically Sustainable Development			
3.2 Development in Sydney's Drinking Water Catchments	Council cannot grant development consent unless it is satisfied the development will have a neutral or beneficial effect on water quality.	Refer to Section 4.4.2.	Yes
3.3 Protection of Watercourses and Riparian Lands	As per S7.4 of the LEP.	Refer to Section 4.4.4.	Yes
3.4 Statement of Environmental Effects	A Statement of Environmental Effects is required with all DAs.	This SEE is in support of the DA.	Yes
3.5 Site Analysis	A Site Analysis Drawing is required with all DAs.	Refer to the Site Plan accompanying this DA.	Yes
3.6 Subdivision of Land	Minimum lot sizes specified under the LEP shall be met.	The minimum lot size in the C4 zone is 8,000sqm. All residential lots in the C4 zone are compliant with the minimum lot size. Note: Lots 217 & 221 are below the minimum lot size. However, these lots are proposed to be dedicated to Council and used for a public purpose. They are therefore proposed pursuant to S. 2.75 of the 'Codes SEPP'.	Yes
3.7 Cut and Fill	Where the cut and fill objectives cannot be met, the development must be stepped in order to accommodate the contours of the site.	Refer to the Cut and Fill Plan within the Civil Engineering Plans for details.	Yes
4 – Vegetation Management			
4.5 Landform and Vegetation Modification	In assessing a development application Council will consider the extent to which the applicant intends to modify the natural landform and vegetation cover of the site.	To facilitate the proposed subdivision, tree and vegetation removal will be required. Cut and fill will only occur along the proposed road reserves and basins and will not alter the overall natural topography across the Site.	Yes

**AGENDA OF THE LOCAL PLANNING PANEL
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Statement of Environmental Effects | 159 Railway Avenue, Bundanoon



	<p>All new development shall:</p> <ul style="list-style-type: none"> • Seek to use the existing topography. • A limit of 750mm cut and fill for building footprints 	Refer to the Civil Engineering Plans accompanying this DA.	
4.6 Earthworks	<ul style="list-style-type: none"> • Fill brought into rural areas must be documented • No contaminated fill can be imported. • Excavation works must consider wildlife habitat, scenic impacts and erosion. 	All earthworks will meet Council's requirements and any specific measures can be conditioned within the consent accordingly to be addressed within the CEMP.	Yes
4.7 Protection of Trees, Bushland and Vegetation during Construction and Development	<ul style="list-style-type: none"> • Construction works must be sited to ensure they will have no negative impact on trees, vegetation and bush land that is to be retained on Site. • Tree Protection Zones should be employed. 	An Arborist Report has been prepared by AEP and accompanies this DA. It found that 134 trees can be retained within the Site, and a Tree Protection Plan will be prepared prior to works commencing to ensure all remaining trees in close proximity to works are protected. Refer Section 6.1.2 for details.	Yes
4.8 Environmental Remediation	Council may make it a condition some applications to carry out environmental remediation works on site.	As detailed in Section 4.4.1 , no contamination has been identified on site and a condition of consent is recommended to undertake further soil sampling during construction to confirm this. Council can add additional conditions of consent for the remediation of potential contamination if identified.	Yes
4.9 Arborist Report	An Arborist Report is required with all DAs.	An Arborist Report has been prepared by AEP and accompanies this DA.	Yes
4.11 Preservation of Trees and Other Vegetation	Preserve the amenity, biodiversity and ecology of the Rural Living areas through the preservation of trees and other vegetation as described in Clause 5.9 of WLEP 2010.	There are no heritage listed trees or vegetation within the Site. Refer to Section 4.4.4 for details.	Yes
Section 5 – Water Management			
5.2 Development in Sydney's Drinking Water Catchments	<ul style="list-style-type: none"> • Development must have a neutral or beneficial effect on water quality. • A Water Cycle Management Study must accompany a DA. 	Refer to Section 4.4.2 for details.	Yes
5.3 Water Sensitive Urban Design	<ul style="list-style-type: none"> • WSD controls are to be satisfied for all development applications and integrated into the Water Cycle Management Study (or equivalent plan) for the proposed development and included in all modelling conducted. 	Council's water quality and quantity controls have been met. Refer to the Stormwater Management Report, MUSIC modelling and Section 3.5 for details.	Yes

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 23 OCTOBER 2024**

Statement of Environmental Effects | 159 Railway Avenue, Bundanoon



	<ul style="list-style-type: none"> Post-development water quality runoff must achieve certain targets for TSS, phosphorus, nitrogen and gross pollutants. Four subdivisions creating more than four lots, the maximum discharge for the 1:100 year storm shall not exceed the pre-development discharge. 		
5.4 On-site Wastewater Disposal (OSWD) systems	OSWD Plans and their specified systems on unsewered land must meet or exceed the Neutral or Beneficial Effect (NorBE) test.	The OSWD for Lots 101 and 102 will meet the NorBE test and Council's requirements.	Yes
5.5 Stormwater Management Plans	A Stormwater Management Plan report will be required by Council for all development that will result in: a) An increase in the impervious area of the site, or b) A change in the direction of overland flow	A Stormwater Management Report has been prepared and accompanies this DA.	Yes
5.6 Erosion and Sediment Control Plans	Where building or earthworks are proposed, Council may request an Erosion and Sediment Control (E&SC) Plan.	An Erosion and Sediment Control Plan is included in the Civil Engineering Plans accompanying this DA.	Yes
5.7 Protection of Watercourses, Water bodies and Riparian Lands	<ul style="list-style-type: none"> Applicants shall take into account if a natural waterbody and riparian land has been nominated by the Department of Primary Industries as a "Fish Migration Route" or "Key Fish Habitat" Management Requirements and Minimum Environmental Objectives for Riparian Land are summarized in Figure A5.4. 	Refer to Section 4.4.4 and the Riparian Assessment Report for details.	Yes
5.9 Flood Liable Land	Flood liable land must meet Council's prescriptive controls to manage flood and overland flow risks to human life and property.	The Site does not contain flood prone land.	N/A
Section 6 - Additional Controls			
6.2 Bushfire Prone Land	A report may be required if the subject property is subject to Bush Fire Risk under the Rural Fire Service's document "Planning for Bushfire Protection".	Refer to the Bushfire Assessment Report prepared by Blackash that accompanies this DA.	Yes
6.3 Contaminated or Potentially Contaminated Land	Where there are indications that contamination is, or may be present, Council may require the applicant to undertake a site-specific Contamination Study.	Refer to the Preliminary Site Investigation prepared by Douglas Partners that accompanies this DA.	Yes
6.4 Demolition of Existing Structures	Any development application that seeks approval for the demolition of an existing structure (including partial demolition of an existing structure) must prepare and submit a Demolition Work Plan.	A Demolition Plan is included in the Civil Engineering Plans accompanying this DA.	Yes

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 23 OCTOBER 2024**

Statement of Environmental Effects | 159 Railway Avenue, Bundanoon



6.7 Sites Requiring Geotechnical Reports	A Geotechnical Report, prepared and certified by a Council-accepted Geotechnical Engineer will need to be provided with all applications for development located within an area identified or potentially subject to geotechnical constraints	Refer to the Geotechnical Report prepared by Douglas Partners that accompanies this DA.	Yes
6.8 Noise	For all noise generating development that may cause land-use conflicts, an acoustic report is required to assess and mitigate its impacts.	N/A – The proposed development does not involve any land-uses that will generate constant or intermittent noise impacts.	N/A
Section 7 – Development Near Rail Corridors & Busy Roads			
7.1 Development Near Rail Corridors	<ul style="list-style-type: none"> The protection of the stability of the nearby rail corridor and railway land during excavation and construction of any development must be ensured. Any excavation greater than 2m in depth and within 25 metres of the rail corridor will require concurrence with the relevant authority under clause 86 of SEPP (Infrastructure) 2007. Drainage from the development is to be adequately disposed of so as not to be diverted on to the rail corridor. Appropriate fencing is to be constructed to clearly separate the development from the railway land. Appropriate landscaping and fencing is to be installed to screen and soften views of the rail tracks from the development and to help alleviate the 'sense' of exposure of the development to the source of rail noise. 	<p>In response to each requirement, respectively:</p> <ul style="list-style-type: none"> The intended civil works, including cut/fill, road construction and stormwater works will not encroach nor impact the stability of the rail corridor. A referral to the relevant authority is likely required and will be made by Council via their concurrence and referral process. Stormwater on-site will either drain to the basin on Lot 217 or will be safely discharged within the southeastern portion of the Site. Fencing will be constructed along the lots fronting Railway Avenue under future development applications. Landscaping along the internal road will be provided under this DA as per the Landscape Plan accompanying this application. Landscaping and fencing for each individual lot will be constructed under future DAs for dwellings. 	Yes



Appendix B – Bundanoon DCP Compliance Table

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 23 OCTOBER 2024**

Statement of Environmental Effects | 159 Railway Avenue, Bundanoon



Clause / Control	Requirement / Applicable Control	Proposal / Assessment	Complies?
PART A – ALL LAND			
Section 3 Biodiversity	<p>A Flora and Fauna Assessment Report is required to be lodged with a Development Application under the following circumstances:</p> <ul style="list-style-type: none"> If the proposed development contains native vegetation, remnant native trees or sensitive environmental areas. If the proposed development will directly or indirectly impact native vegetation or sensitive environmental areas. 	<p>A BDAR has been prepared by AEP and accompanies this application as the Site contains Biodiversity Values. The BDAR found that:</p> <ul style="list-style-type: none"> No serious and irreversible impacts to any species are likely to result from the proposal. Recommends the following offset credits should be retired prior to construction of the development, in accordance with the BAM: <ul style="list-style-type: none"> Ecosystem Credits: <ul style="list-style-type: none"> 11 credits for PCT 3222 – Southern Highlands Shale Margins Moist Forest. 20 credits for PCT 3223 – Southern Highlands Shale-Basalt West Forest. 1 credit for PCT 3589 – Southern Highlands Escarpment Peppermint Gully Forest. 1 credit for PCT 3932 – Central and Southern Tableland Swamp Meadow Complex. Species Credits: <ul style="list-style-type: none"> 50 credits for the Large-eared Pied Bat. <p>Refer to Section 6.1 for details.</p>	Yes
Section 4 Water Management			
A4.2 Vegetation Management Plan for Riparian Corridors	<p>A VMP is required for any proposed development in the WLEP 2010 Natural Resources Sensitivity Map and adjoining a natural waterbody.</p>	<p>According to the Natural Resources Sensitivity Map, the Site contains Category 3 watercourses.</p> <p>A Riparian Assessment Report has been prepared by AEP and accompanies this application. The Report, as detailed in Section 4.4.4, validated watercourses and defined 1st and 2nd order watercourses within the Site. The Report recommended 10m or</p>	Yes

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 23 OCTOBER 2024**

Statement of Environmental Effects | 159 Railway Avenue, Bundanoon



		<p>20m VRZs around these watercourses to ensure future development would not interfere with them.</p> <p>The BDAR prepared by AEP recommended that a VMP be prepared prior to the issue of a Construction Certificate to manage the vegetation in these VRZs. Council can add a condition in the consent to provision this.</p>	
A4.3 Development in Sydney's Drinking Water Catchments	<ul style="list-style-type: none"> All development shall incorporate WaterNSW's current recommended practices. All development shall address water quality to ensure any identified impact is contained within the Site. The development must comply with WaterNSW's specific conditions listed in their concurrence. 	The development will manage the quality of stormwater within the Site through the implementation of a WSUD basin on Lot 217. Refer to Section 3.5 for details.	Yes
A4.4 Water Cycle Management Study	All development applications in a drinking water catchment must be accompanied by a Water Cycle Management Study.	Refer to the Stormwater Management Report accompanying this application.	Yes
A4.5 Stormwater Management Plan	<p>A Stormwater Management Plan report will be required by Council for all development that will result in:</p> <ul style="list-style-type: none"> An increase in the impervious area of the site, or A change in the direction of overland flow 	Refer to the Stormwater Management Report accompanying this application.	Yes
A4.6 Erosion and Sediment Control Plans	Where building or earthworks are proposed, an Erosion & Sediment Control Plan must be provided to Council.	Refer to the Civil Engineering Plans accompanying this application.	Yes
A4.7 Water Sensitive Urban Design	<ul style="list-style-type: none"> Development should not occur within riparian buffer zones outlined in Wingecarribee Shire Council Local Environment Plan 2010. All development within the shire must comply with the requirements of SEPP (Drinking Water Catchment) 2011 to ensure water quality exiting a site post development achieves a neutral or beneficial effect (NorBE). All development within the Shire shall be designed in accordance with the WSUD part of Council's Engineering Design and Construction Specifications. 	<p>The development remains compliant with the Wingecarribee LEP, SEPP (Biodiversity and Conservation) 2021 (formerly SEPP (Drinking Water Catchment) 2021) and Council's Engineering Specifications (Refer Section 4.4).</p> <p>Refer to the Riparian Assessment Report, Stormwater Management Report and Civil Plans accompanying this DA for details.</p>	Yes

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 23 OCTOBER 2024**

Statement of Environmental Effects | 159 Railway Avenue, Bundanoon



Section 5 Flood Liable Land	Ensure development on flood prone land be sited and designed to minimise the flood hazard and any risk to property damage and danger to human life.	The Site is not flood prone.	Yes
Section 6 Vegetation Management and Landscaping	Council shall not grant consent to the carrying out of development on any land within Bundanoon unless: <ul style="list-style-type: none"> A Landscape Plan, prepared by a person who is, in the opinion of Council, suitably qualified to prepare such a plan, indicating the location of proposed plantings and the botanical names of proposed plant species. 	Refer to the Landscape Plan that accompanies this DA.	Yes
Section 7 Subdivision, Demolition, Siting and Design			
A7.1 Subdivision of land			
A7.1.1 Minimum Lot Sizes	Applicants are directed to the minimum lot size maps under WLEP 2010 which indicate the subdivision potential for any lot.	<p>As per the WLEP 2010:</p> <ul style="list-style-type: none"> All lots within the R2 zone meet or exceed the 2,000sqm min. lot size. In the C4 zone, all the lots anticipated to accommodate future dwellings meet or exceed the 8,000sqm min. lot size. The following lots in the C4 zone do not achieve the minimum lot size, but will accommodate the following infrastructure: <ul style="list-style-type: none"> Lot 217 – Permanent OSD/WSUD basin Lot 221 – Sewer Pumping Station As this infrastructure will be dedicated to the Council and will serve a public purpose, the subdivision of these two lots are permissible under the Exempt and Complying Development SEPP (Refer Section 4.4.3). <p>If requested by Council, restrictions can be placed on Lots 217 and 221 to ensure no development other than the basin and SPS, respectively, can occur over them.</p>	Yes

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 23 OCTOBER 2024**

Statement of Environmental Effects | 159 Railway Avenue, Bundanoon



A7.1.3 Noxious and Environmental Weeds	As a part of the assessment of any subdivision application, an inspection of the subject land will be undertaken by Council's Weeds Officer. If any property, other than a property which is, or is within the vicinity of, an Item of Heritage, or is within a Heritage Conservation Area, is found to have noxious or environmental weeds, then a condition of any approval shall be that these weeds shall be thoroughly eradicated before the linen plans shall be released.	Noted.	Yes
A7.1.4 Landscape Embellishment	A condition of Council's subdivision approval will be that landscape embellishment of allotments and public roads shall occur, thereby enhancing native vegetation in the locality.	Noted.	Yes
A7.1.5 Street Trees	Standard street tree planting and street lighting is required in order to provide consistency between subdivision developments, providing a unified theme for the town.	Refer to the Landscape Plan accompanying this DA.	Yes
A7.2 Demolition	An application for such demolition shall be accompanied by a Landscape Plan, prepared by someone considered by Council to be suitably qualified for such a task.	Refer to the Landscape Plan accompanying this DA.	Yes
A7.3 Site Analysis	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.	The Survey Plan, Civil Plans and this Statement of Environmental Effects accompanying this DA adequately covers site features required for the Site Analysis Report.	Yes
A7.4 Cut and Fill	Where the cut and fill objectives cannot be met, the development must be stepped in order to accommodate the contours of the site.	Refer to the Civil Engineering Plans accompanying this DA.	Yes
A7.8 Principles of Minimum Acceptable Design	Council is only interested in development which makes a positive contribution to the urban amenity of Bundanoon. Particularly in the residential areas of the town there are sections of high heritage value where new development, including renovations, must be sympathetic to the essential elements of that heritage.	The Site does not contain nor adjoins any heritage items.	Yes

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 23 OCTOBER 2024**

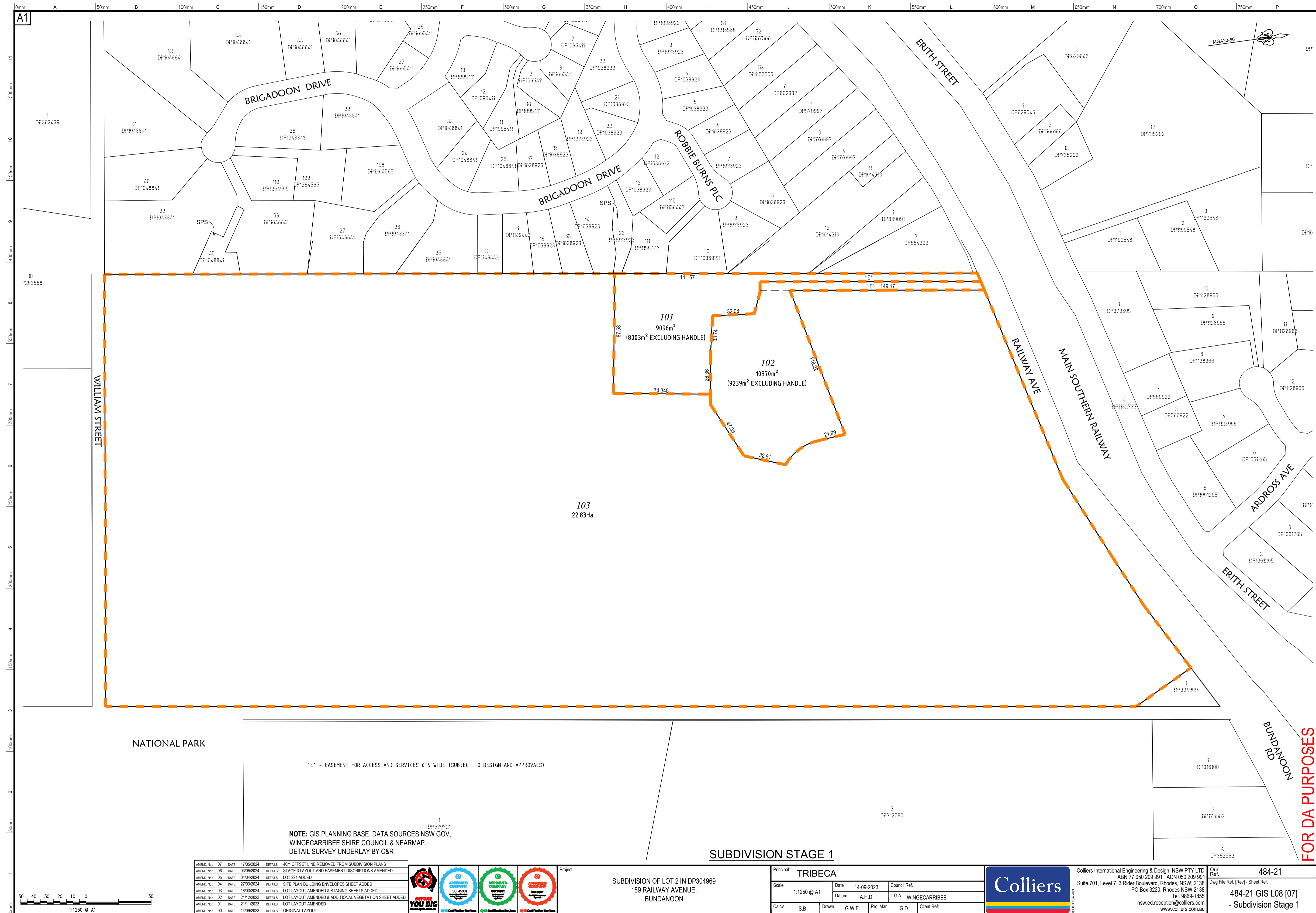
Statement of Environmental Effects | 159 Railway Avenue, Bundanoon



Section 9 Construction Standards and Procedures			
A9.2 Surveys and Reports	<ul style="list-style-type: none"> A geotechnical report, prepared by a suitably qualified consultant, is to be lodged with the development application. Hydraulic details, prepared by a suitably qualified hydraulic consultant, shall be provided for: <ul style="list-style-type: none"> Stormwater service Water supply service (including fire services) Sewerage service 	<p>The proposed development will be sufficiently serviced by the provision of stormwater, water and sewerage infrastructure.</p> <p>Refer to the Geotechnical Report, Civil Plans, and Sewer and Water Modelling Report accompanying this DA for details.</p>	Yes
A9.8 Stormwater Disposal	<p>Disposal of stormwater to Council's stormwater system must be approved by Council. The following types of disposal will generally be acceptable:</p> <ul style="list-style-type: none"> Interallotment drainage system with connection to Junction Disposal to Council's network via an outlet connection Road table drain Directly into Council's stormwater mains On-site stormwater disposal On-site collection tanks 	Refer to Section 3.5 for details.	Yes
A9.12 Waste Management and Disposal	A Waste Management Plan is required for all demolition works and /or construction works (with a value greater than \$50,000).	Refer to the Waste Management Plan accompanying this DA.	Yes
Section 12 Development Near Rail Corridors & Busy Roads	<ul style="list-style-type: none"> The protection of the stability of the nearby rail corridor and railway land during excavation and construction of any development must be ensured. Any excavation greater than 2m in depth and within 25 metres of the rail corridor will require concurrence with the relevant authority under clause 86 of SEPP (Infrastructure) 2007. Drainage from the development is to be adequately disposed of so as not to be diverted on to the rail corridor. Appropriate fencing is to be constructed to clearly separate the development from the railway land so as to avoid people 	<p>In response to each control, respectively:</p> <ul style="list-style-type: none"> The intended civil works, including cut/fill, road construction and stormwater will not impact the stability of the rail corridor. A referral to the relevant authority is likely required and will be made by Council via their concurrence and referral process. Stormwater on-site will either drain to the basin on Lot 217 or will be safely discharged within the southeastern portion of the Site. 	Yes



	<p>straying on to railway land, either during construction or following completion of the development.</p> <ul style="list-style-type: none"> • Appropriate landscaping and fencing is to be installed to screen and soften views of the rail tracks from the development and to help alleviate the 'sense' of exposure of the development to the source of rail noise. 	<ul style="list-style-type: none"> • Existing rural fencing is in place. New fencing, appropriate for residential lots, will be constructed under future dwelling DAs. • Landscaping along the internal road will be provided under this DA as per the Landscape Plans accompanying this DA. Landscaping and fencing for each individual lot will be constructed under future DAs for dwellings. 	
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AMEND. No.	07	DATE:	17/05/2024	DETAILS:	40m OFFSET LINE REMOVED FROM SUBDIVISION PLANS
AMEND. No.	08	DATE:	03/05/2024	DETAILS:	STAGE 3 LAYOUT AND EASEMENT DESCRIPTIONS AMENDED
AMEND. No.	05	DATE:	04/04/2024	DETAILS:	LOT 211 ADDED
AMEND. No.	04	DATE:	27/03/2024	DETAILS:	SITE PLAN BUILDING ENVELOPE SHEET ADDED
AMEND. No.	03	DATE:	18/03/2024	DETAILS:	LOT LAYOUT AMENDED & STAGING SHEETS ADDED
AMEND. No.	02	DATE:	21/12/2023	DETAILS:	LOT LAYOUT AMENDED & ADDITIONAL VEGETATION SHEET ADDED
AMEND. No.	01	DATE:	21/11/2023	DETAILS:	LOT LAYOUT AMENDED
AMEND. No.	00	DATE:	14/09/2023	DETAILS:	ORIGINAL LAYOUT



Project
SUBDIVISION OF LOT 2 IN DP304969
159 RAILWAY AVENUE,
BUNDANOON

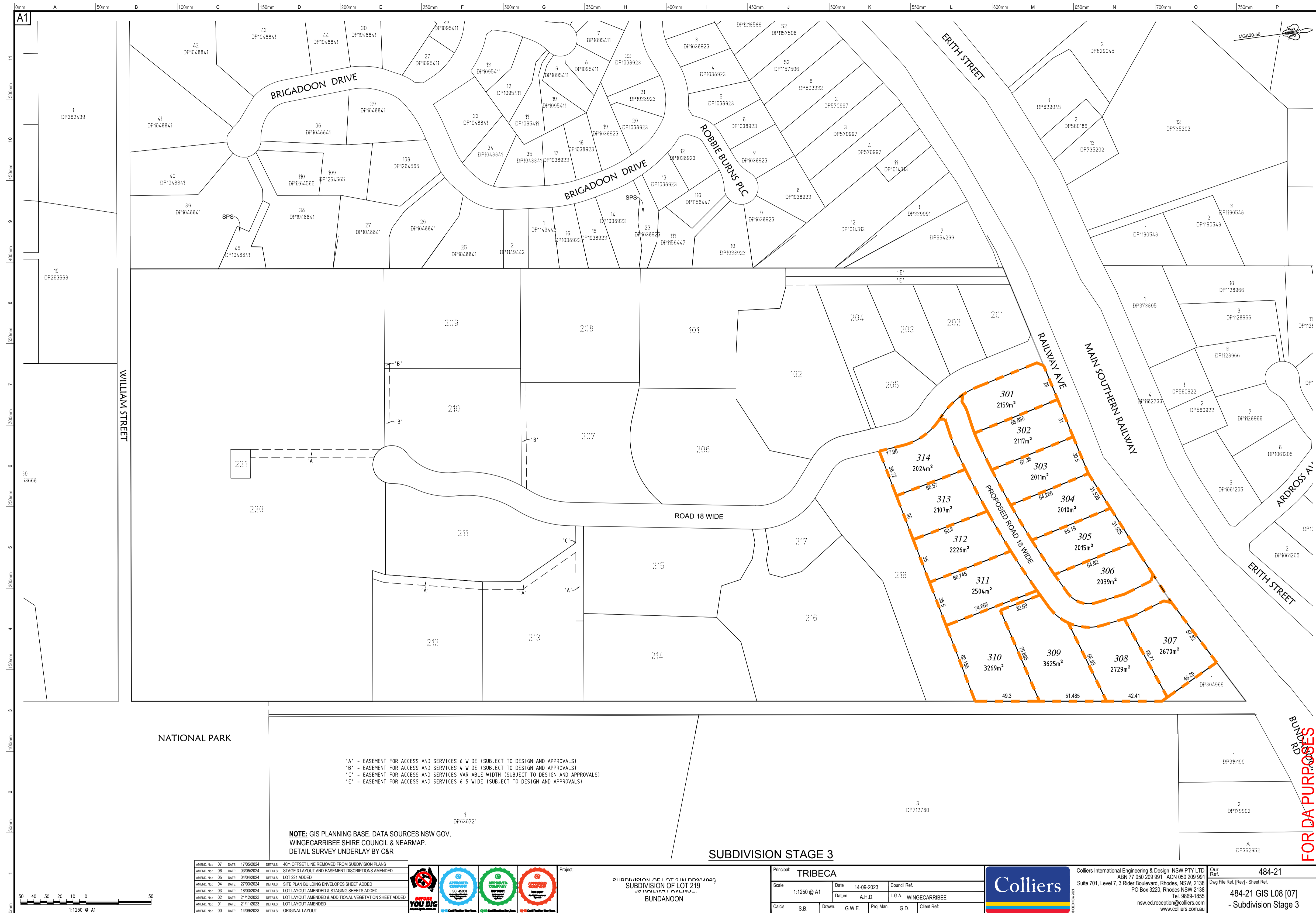
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Datum:	A.H.D.	L.G.A.:	WINGECARRIBEE
Calc's:	S.B.	Drawn:	G.W.E.
Proj Man:	G.D.	Client Ref:	



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Our Ref: 484-21
Dwg File Ref. (Rev) - Sheet Ref.
484-21 GIS L08 [07]
- Subdivision Stage 1

FOR DA PURPOSES



NATIONAL PARK

- *A* - EASEMENT FOR ACCESS AND SERVICES 6 WIDE (SUBJECT TO DESIGN AND APPROVALS)
- *B* - EASEMENT FOR ACCESS AND SERVICES 4 WIDE (SUBJECT TO DESIGN AND APPROVALS)
- *C* - EASEMENT FOR ACCESS AND SERVICES VARIABLE WIDTH (SUBJECT TO DESIGN AND APPROVALS)
- *E* - EASEMENT FOR ACCESS AND SERVICES 6.5 WIDE (SUBJECT TO DESIGN AND APPROVALS)

NOTE: GIS PLANNING BASE DATA SOURCES NSW GOV,
WINGECARRIBEE SHIRE COUNCIL & NEARMAP.
DETAIL SURVEY UNDERLAY BY C&R

SUBDIVISION STAGE 3

AMEND. No.	DATE	DETAILS
07	17/05/2024	40m OFFSET LINE REMOVED FROM SUBDIVISION PLANS
06	03/05/2024	STAGE 3 LAYOUT AND EASEMENT DESCRIPTIONS AMENDED
05	04/04/2024	LOT 211 ADDED
04	27/03/2024	SITE PLAN BUILDING ENVELOPES SHEET ADDED
03	18/03/2024	LOT LAYOUT AMENDED & STAGING SHEETS ADDED
02	21/12/2023	LOT LAYOUT AMENDED & ADDITIONAL VEGETATION SHEET ADDED
01	21/11/2023	LOT LAYOUT AMENDED
00	14/09/2023	ORIGINAL LAYOUT



SUBDIVISION OF LOT 219 IN PARCEL 109 (MURPHY AVENUE),
BUNDANOON

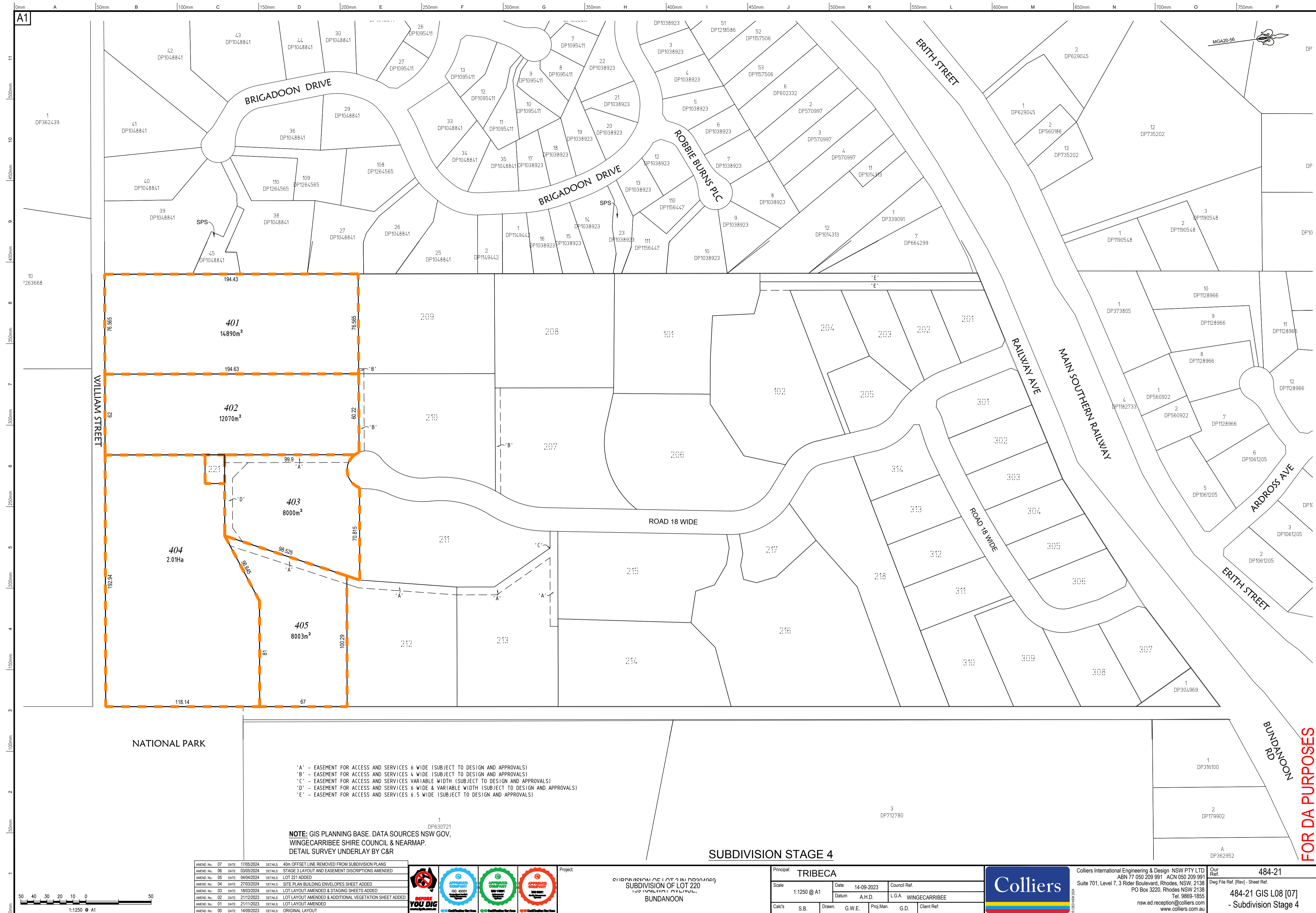
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Scale: 1:1250 @ A1	Date: 14-09-2023
Datum: A.H.D.	Council Ref: WINGECARRIBEE
Calc's: S.B.	Drawn: G.W.E.
Proj Man: G.D.	Client Ref:



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484-21
Dwg File Ref. (Rev) - Sheet Ref.
484-21 GIS L08 [07]
- Subdivision Stage 3

FOR DA PURPOSES OF BUNDANOON SHIRE COUNCIL



NATIONAL PARK

- 'A' - EASEMENT FOR ACCESS AND SERVICES 6 WIDE (SUBJECT TO DESIGN AND APPROVALS)
- 'B' - EASEMENT FOR ACCESS AND SERVICES 4 WIDE (SUBJECT TO DESIGN AND APPROVALS)
- 'C' - EASEMENT FOR ACCESS AND SERVICES VARIABLE WIDTH (SUBJECT TO DESIGN AND APPROVALS)
- 'D' - EASEMENT FOR ACCESS AND SERVICES 6 WIDE & VARIABLE WIDTH (SUBJECT TO DESIGN AND APPROVALS)
- 'E' - EASEMENT FOR ACCESS AND SERVICES 6.5 WIDE (SUBJECT TO DESIGN AND APPROVALS)

NOTE: GIS PLANNING BASE DATA SOURCES NSW GOV,
WINGECARRIBEE SHIRE COUNCIL & NEARMAP.
DETAIL SURVEY UNDERLAY BY C&R

SUBDIVISION STAGE 4

AMEND No.	07	DATE	17/05/2024	DETAILS	40m OFFSET LINE REMOVED FROM SUBDIVISION PLANS
AMEND No.	08	DATE	03/05/2024	DETAILS	STAGE 3 LAYOUT AND EASEMENT DESCRIPTIONS AMENDED
AMEND No.	05	DATE	04/04/2024	DETAILS	LOT 211 ADDED
AMEND No.	04	DATE	27/03/2024	DETAILS	SITE PLAN BUILDING ENVELOPE SHEET ADDED
AMEND No.	03	DATE	18/03/2024	DETAILS	LOT LAYOUT AMENDED & STAGING SHEETS ADDED
AMEND No.	02	DATE	21/12/2023	DETAILS	LOT LAYOUT AMENDED & ADDITIONAL VEGETATION SHEET ADDED
AMEND No.	01	DATE	21/11/2023	DETAILS	LOT LAYOUT AMENDED
AMEND No.	00	DATE	14/09/2023	DETAILS	ORIGINAL LAYOUT



SUBDIVISION OF LOT 220
139 WINDHAM AVENUE,
BUNDANOON

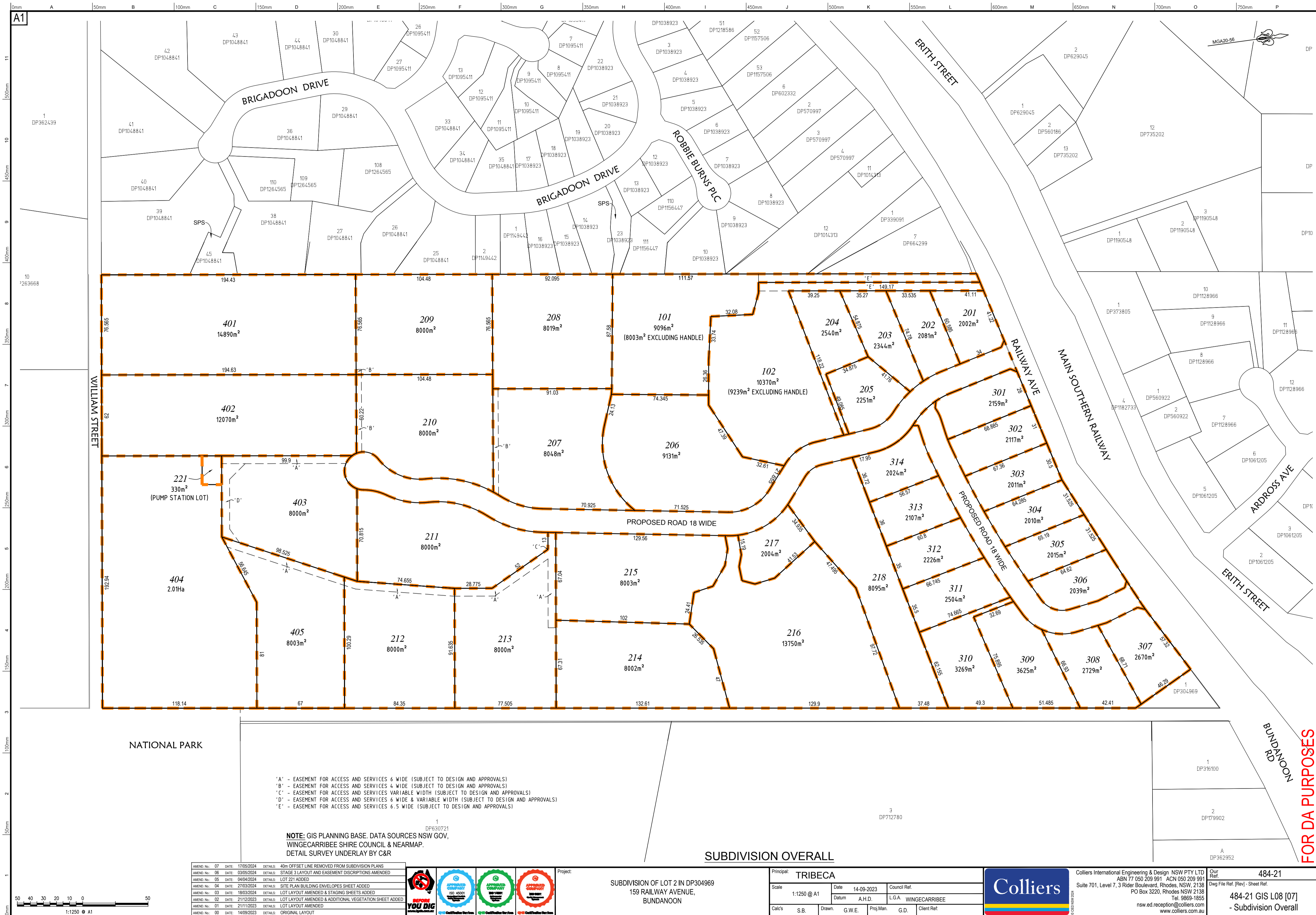
Principal	TRIBECA		
Scale	1:1250 @ A1	Date	14-09-2023
Datum	A.H.D.	LGA	WINGECARRIBEE
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Our Ref: **484-21**
Dwg File Ref. (Rev) - Sheet Ref.
484-21 GIS L08 [07]
- Subdivision Stage 4

FOR DA PURPOSES



SUBDIVISION OVERALL

SUBDIVISION OF LOT 2 IN DP304969
159 RAILWAY AVENUE,
BUNDANOON

Principal: TRIBECA	
Scale: 1:1250 @ A1	Date: 14-09-2023
Datum: A.H.D.	Council Ref: L.G.A. WINGECARRIBEE
Calc's: S.B.	Drawn: G.W.E.
Proj Man: G.D.	Client Ref:



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Our Ref: **484-21**
Dwg File Ref. (Rev) - Sheet Ref.
484-21 GIS L08 [07]
- Subdivision Overall

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 23 OCTOBER 2024**

ITEM 6.4 - ATTACHMENT 1
Wingecarribee Local Planning Panel
23 October 2024

DA No.	Address	Proposal	Est. date to WLPP	Advice to Chair	No. of Days at 17/10
22/0926	West Parade, Hill Top	Retail Premises, Take Away Food and Drink Premises	Dec. 24	Revised plans and information were received in August 2024. Under agency & referral/assessment.	1060
23/0202	Earl Street, Bowral	Building Envelope & Vegetation Removal	Dec. 24	Awaiting external agency advice (Water NSW & DPHI – Water)	791
23/1081	8 Hakea Street, Hill Top	Dwelling House, Tree Removal	Dec. 24	Additional information received – currently being reviewed & assessed.	562
24/0189	33 Cordeaux Street, Willow Vale	Dwelling House, Secondary Dwelling	Sep. 24	DA approved at September meeting and subject legal advice which is currently pending.	401
24/0215	2 Walker Street, Bowral	Child Care Centre, Demolition - Dwelling House	Nov. 24	Further additional information required following traffic engineer advice – currently being reviewed with the aim to report the DA to the October LPP meeting	427
24/0574	451 Moss Vale Road, Bowral	Construction of Residential Flat Building (20 Dwellings)	Nov. 24	Awaiting internal referrals and final assessment.	349
24/1094	271 Exeter Road, Sutton Forest	Continued use of existing structures/facilities, proposed construction of Equine Facilities and the establishment of a Recreation Facility (outdoor) - Equestrian Centre	Dec. 24	Additional information pending from applicant – due 30 October.	198
24/1216	52 Kangaloon Road, Bowral	Subdivision of three existing lots into three new lots to facilitate the retention of an existing dwelling and Construction of 13 infill seniors or	Nov. 24	Additional information received – currently being reviewed & assessed.	196

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 23 OCTOBER 2024**

ITEM 6.4 - ATTACHMENT 1
Wingecarribee Local Planning Panel
23 October 2024

		self care dwellings and one single dwelling house			
24/0929	6 Kangaloon Road, Bowral	Demolition of existing single dwellings & ancillary structures. Construction of 8 unit multi-dwelling development, including 4 x 4 bedroom 2 storey units & 4 x 3 bedroom 2 storey units	Dec. 24	Second round of additional information received – currently being reviewed & assessed.	195

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



MINUTES

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

Wednesday 25 September 2024

The meeting commenced at **2:07 pm**

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 23 OCTOBER 2024**

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

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MINUTES OF THE LOCAL PLANNING PANEL MEETING OF WINGECARRIBEE SHIRE COUNCIL HELD IN COUNCIL CHAMBERS, CIVIC CENTRE, ELIZABETH STREET, MOSS VALE ON WEDNESDAY 25 SEPTEMBER 2024 COMMENCING AT 2:07 PM

Present:	Chairperson	Steven Layman
	Council Representative – Expert Member	Stephen Leathley (Via TEAMS)
	Council Representative – Expert Member	Sheridan Burke
	Community Representative	Chris McCann
In Attendance:	Director Communities and Place	Michael McCabe
	Manager Planning, Development and Regulation	Jon Shillito
	Executive Manager Strategic Outcomes	Deniz Kilic
	Executive Assistant Director Communities and Place	Leesa Stratford

1 OPENING OF THE MEETING

The Chairperson opened the meeting.

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

There were no apologies for the meeting.

4 DECLARATIONS OF INTEREST

There were no Declarations of Interest made for the meeting.

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5 PLANNING PROPOSALS

5.1 Planning Proposal to Insert Additional Farm Stay Accommodation Provisions into Wingecarribee Local Environmental Plan 2010 – Post Exhibition Report

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

Mr Barry Anstee addressed the Panel on this matter.

OFFICER'S RECOMMENDATION

THAT the attached Planning Proposal to amend Wingecarribee Local Environmental Plan 2010 to insert clause 5.24 Farm Stay Accommodation and to permit Farm Stay Accommodation with consent in the RU4 Primary Production zone be finalised under s3.36 of the Environmental Planning & Assessment Act 1979.

PANEL ADVICE

The Local Planning Panel support the proposal to amend Wingecarribee Local Environmental Plan 2010 to insert clause 5.24 Farm Stay Accommodation and to permit Farm Stay Accommodation with consent in the RU4 Primary Production zone to be finalised under s3.36 of the Environmental Planning & Assessment Act 1979.

REASONS:

The Panel notes and agrees with the Officer's recommendations.

VOTING:

Unanimous

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6 DEVELOPMENT APPLICATIONS

**6.1 Dwelling House and Attached Secondary Dwelling, Lot 8
DP1286738 No33 Cordeaux Street, Willow Vale**

Report Author: Coordinator Planning Assessment

Authoriser: Director Communities and Place

OFFICER'S RECOMMENDATION

THAT the Local Planning Panel determines development application DA24/0189 for development of a dwelling house and secondary dwelling on land at 33 Cordeaux Street, Willow Vale by APPROVAL, subject to conditions specified in Attachment 1 to this report.

PANEL'S DETERMINATION

The Wingecarribee Planning Panel indicates its intent to APPROVE development application DA24/0189 for development of a dwelling house and secondary dwelling on land at 33 Cordeaux Street, Willow Vale, subject to conditions specified in the Officer's report and subject to the confirmation through written legal advice as to the consent authority's need or ability to vary the relevant control (i.e. the non-discretionary development standard at Clause 53 subclause (2)(b) of the Housing SEPP), AND THAT the written legal advice be circulated amongst the Panel for concurrence prior to the approval of the application.

REASONS:

The Panel notes and generally agrees with the Officer's recommendations, subject to the legal advice.

VOTING:

Unanimous

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6.2 Delegations & Guidelines - Wingecarribee Local Planning Panel

Report Author: Manager Development Assessment and Regulation
Authoriser: Director Communities and Place

OFFICER'S RECOMMENDATION

That the

- (a) Wingecarribee Local Planning Panel (WLPP) pursuant to Section 2.20(8) of the Environmental Planning & Assessment Act 1979 (EPA Act) revoke their current delegation in relation to the conduct of appeals.
- (b) WLPP pursuant to Section 2.20(8) of the EPA Act, delegates to Council's General Manager, the functions of the Panel under Section 8.15(4) of the EPA Act with respect to the control and direction of appeals subject to the WLPP Operational Guidelines.
- (c) Amended WLPP Operational Guidelines, provided in Attachment 1, be adopted.

PANEL'S ADVICE

- 1. Wingecarribee Local Planning Panel (WLPP) pursuant to Section 2.20(8) of the Environmental Planning & Assessment Act 1979 (EPA Act) revoke their current delegation in relation to the conduct of appeals.**
- 2. WLPP pursuant to Section 2.20(8) of the EPA Act, delegates to Council's General Manager, the functions of the Panel under Section 8.15(4) of the EPA Act with respect to the control and direction of appeals subject to the WLPP Operational Guidelines.**
- 3. Amended WLPP Operational Guidelines, provided in Attachment 1, be adopted.**

REASONS:

The Panel notes and agrees with the Officer's recommendations.

VOTING:

Unanimous

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6.3 Development Applications Greater Than 180 Days to be reported to the WLPP

Report Author: Manager Development Assessment and Regulation
Authoriser: Director Communities and Place

Mr Barry Anstee addressed the Panel on this matter

OFFICER'S RECOMMENDATION

THAT the Wingecarribee Local Planning Panel note the Development Applications that are currently being assessed which have exceeded 180 days since lodgement.

PANEL'S DETERMINATION

The Wingecarribee Local Planning Panel note the Development Applications that are currently being assessed which have exceeded 180 days since lodgement that will be reported to the Local Planning Panel for determination.

The Panel recommends that procedures be put in place to ensure that any additional information required to determine development applications in a timely manner be advised to the applicant in writing and that an appropriate time limit be nominated for the information to be received.

The Panel recommend that a quarterly general performance monitoring report be presented to Council, outlining the status of undetermined development applications in excess of 180 days.

REASONS:

The Panel notes the Officer's recommendations. The Panel considers that it is necessary for procedures to be put in place to ensure the timely determination of development applications.

This matter below was drawn to the attention of the Panel:

7 August 2024 Ordinary Meeting of Council Minute

Minute 2024/269 item 3 -

A routine reporting mechanism be developed for development applications which have been lodged for a period of 180 days or more, with short commentary, to the monthly meeting of the Wingecarribee Local Planning Panel until the Ministerial Order dated 1 July 2024 is satisfied; such reporting to commence at the September meeting.

The Panel is of the view that consideration of Development Applications (DAs) that would not otherwise come before it is beyond its remit, that such DAs are a matter for Council operational management and that the advice of the Director Communities and Place and General Manager be sought regarding the above matter.

VOTING:

Unanimous

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6.4 Land & Environment Court Matters - WLPP Briefing

Report Author: Manager Development Assessment and Regulation
Authoriser: Director Communities and Place

OFFICER'S RECOMMENDATION

THAT the:

1. *Wingecarribee Local Planning Panel (WLPP) note this report and the memo, provided under separate cover, outlining the status of all Appeals relating to the determination or decision of the WLPP and deemed refusals which would, but for the appeal, have come before the panel for determination.*
2. *WLPP provides feedback on this proposed routine reporting mechanism for such Appeals*

PANEL'S DETERMINATION

1. **The Panel (WLPP) notes this report and the memo, provided under separate cover, outlining the status of all Appeals relating to the determination or decision of the WLPP and deemed refusals which would, but for the appeal, have come before the panel for determination.**
2. **WLPP continue to provide feedback on this proposed reporting mechanism routine for such Appeals**

REASONS:

The Panel notes and agrees with the Officer's recommendations

VOTING:

Unanimous

7 MEETING CLOSURE

There being no further matters the meeting closed at 3.13pm

Environmental Planning and Assessment (Statement of Expectations) Order 2024

I, Paul Scully, the Minister for Planning and Public Spaces, make this Order under section 9.6(9) of the *Environmental Planning and Assessment Act 1979*.



The Hon. Paul Scully MP
Minister for Planning and Public Spaces

Dated: 1/7/2024

Explanatory note

The object of this Order is to set expectation for councils in relation to their performance of a range of planning and development functions under the *Environmental Planning and Assessment Act 1979*. If a council is found not to be meeting these expectations, the Minister can take these matters into consideration as part of determining if it is appropriate to appoint a planning administrator or Sydney district or regional planning panel to exercise a council's functions. It is made under section 9.6(9) of the Act.

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Environmental Planning and Assessment (Statement of Expectations) Order 2024

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Environmental Planning and Assessment (Statement of Expectations) Order 2024

under the

Environmental Planning and Assessment Act 1979

Part 1 Preliminary

1 Name of Order

This Order is the *Environmental Planning and Assessment (Statement of Expectations) Order 2024*.

2 Commencement

This Order commences on 1 July 2024

3 Definitions

(1) In this Order—

the Act means the *Environmental Planning and Assessment Act 1979*

Department means the Department of Planning, Housing and Infrastructure

Gateway determination means a determination made by the Minister (or delegate) under section 3.34 of the Act.

LEP means a local environmental plan.

LSPS means a local strategic planning statement.

Minister means the Minister for Planning and Public Spaces.

Minister's expectations means the expectations of the Minister in relation to the performance of a council in dealing with planning and development matters, as set out in clause 5 of this Order.

Note. The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Order.

(2) Words used in this Order have the same meaning as words used in the Act.

(3) Notes included in this Order do not form part of this Order.

Part 2 Planning and development matters

4 Heads of consideration

The heads of consideration to be taken into consideration in exercising the power under s.9.6(1)(b) of the Act are:

- (a) Whether or not the Council has failed to meet the Minister's expectations in relation to council performance.
- (b) The duration, frequency and degree to which the council has performed, or failed to perform, in accordance with the Minister's expectations.
- (c) The range and type of planning and development matters in respect of which the council has performed, or failed to perform, in accordance with the Minister's expectations.
- (d) Whether or not an appointment under s.9.6(1)(b) should be made in relation to one or more of a particular class of planning and development matter, or all planning and development matters dealt with by the council.
- (e) The effect of any caretaker period preventing a council's performance in dealing with the planning and development matters (or any particular class of such matters) as set out in clause 5.
- (f) The individual circumstances of each council, for example whether external events like natural disasters have impacted the council, or council has received an unexpectedly high volume of DAs compared to their current staffing levels.
- (g) Whether or not other available interventions or support have failed to result in improvements to council performance in relation to the Minister's expectations.
- (h) With respect to development applications for residential accommodation:
 - Whether the Minister's expectations have been met for development assessment timeframes, and
 - Whether the Council has been identified as having a key responsibility in the delivery of housing supply by the NSW government.
- (i) The public interest.

5 Minister's Expectations

(1) Development assessment

A council should:

- (a) Prepare assessment reports for a regionally significant development application and refer to the relevant Sydney district and regional planning panel as soon as practical and within an average of 250 days from lodgement.
- (b) Lodge development applications for which it is the consent authority as soon as practical and within an average of:
 - From 1 July 2024 to 30 June 2025: 14 days from submission
 - From 1 July 2025 onwards: 7 days from submission.
- (c) Determine development applications for which it is the consent authority (including DAs determined by a local planning panel) as soon as practical and whichever is the lesser of council's previous financial year average, or an average of:
 - From 1 July 2024 to 30 June 2025: 115 days from lodgement
 - From 1 July 2025 to 30 June 2026: 105 days from lodgement
 - From 1 July 2026 to 30 June 2027: 95 days from lodgement
 - From 1 July 2027 onwards: 85 days from lodgement.
- (d) Comply with the procedural and reporting requirements prescribed in the *Guide to Varying Development Standards*, for development applications that involve variations to development standards.

(2) Planning proposals

A council should:

- (a) decide whether to support a proponent-initiated planning proposal and submit it for gateway determination within the "planning proposal" stage benchmark timeframes in the LEP Making Guideline.
- (b) as the Planning Proposal Authority, publicly exhibit a planning proposal, respond to submissions, and either resolve to use Local Plan Making Authority delegations or request the Department to make the plan within the "public exhibition and assessment" stage benchmark timeframes set out in the LEP Making Guideline.
- (c) as Local Plan Making Authority, make a LEP which has been delegated to council within the "finalisation" stage benchmark timeframes set out in the LEP Making Guideline.

(3) Strategic planning

A council should:

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- (a) prepare or review its LSPS in accordance with the requirements of the Act, and standards and timeframes identified by the Department.
- (b) prepare a local planning strategy (such as a local housing strategy) to ensure the actions identified in the relevant regional or district strategic plan (including any dwelling provision targets) and local strategic planning statements are delivered in accordance with the standards and timeframes identified by the Department.
- (c) give effect to an adopted local planning strategy (such as a local housing strategy) and any Department approval requirements (including submission of Implementation Delivery Plans) in accordance with the standards and timeframes identified by the Department.
- (d) consider State Environmental Planning Policies or other strategies and policies of the Government, the Minister or the Department concerning planning and development matters when preparing an LSPS, local planning strategy or other plan provided for under the Act.

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**LOCAL PLANNING PANELS DIRECTION – DEVELOPMENT APPLICATIONS AND
APPLICATIONS TO MODIFY DEVELOPMENT CONSENTS**

I, the Minister for Planning and Public Spaces, give the following direction under section 9.1 of the *Environmental Planning and Assessment Act 1979*.



The Hon. Paul Scully MP
Minister for Planning and Public Spaces

Dated: 6/10/24

Objective

The objective of this direction is to identify the development applications and applications to modify development consents that are to be determined by local planning panels on behalf of councils.

Application

This direction applies to councils in the Greater Sydney Region, Wollongong and Central Coast. It also applies to any other council that constitutes a local planning panel under the *Environmental Planning and Assessment Act 1979* (the Act).

Interpretation

A word or expression used in this direction has the same meaning as it has in the standard local environmental plan prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006* made under the Act, unless it is otherwise defined in this direction.

Direction

1. Local planning panels of councils in the areas identified in the Table below are to determine development applications for development of a kind specified in the corresponding Schedule to this direction.

Table -

Council	Development
Bayside, Blue Mountains, Burwood, Camden, Campbelltown, Canada Bay, Georges River, Hawkesbury, Hornsby, Hunters Hill, Ku-ring-gai, Lane Cove, Mosman, North Sydney, Randwick, Ryde, Strathfield, Waverley, Willoughby, Wollondilly, Woollahra, and any other council that constitutes a local planning panel under the Act	Schedule 1
Blacktown, Canterbury-Bankstown, Central Coast, Cumberland, Fairfield, Inner West, Liverpool, Northern Beaches, Parramatta, Penrith, Sutherland, The Hills, Wollongong	Schedule 2
City of Sydney	Schedule 3

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2. Local planning panels are to determine applications under section 4.55(2) of the Act for the modification of development consents granted by the panel that:
 - propose amendments to a condition of development consent recommended in the council assessment report but which was amended by the panel, or
 - propose amendments to a condition of development consent that was not included in the council assessment report but which was added by the panel, or
 - meet the criteria for development applications set out in the Schedules to this direction relating to conflict of interest, contentious development or departure from development standards.

Note: Councils in the areas identified in the Table to this direction are generally precluded from exercising consent authority functions by operation of section 4.8(2) of the Act. This means councils should make arrangements for the determination of all other modification applications under section 4.55(2), as well as sections 4.55(1) and (1A) of the Act, by council staff. Councils should also make arrangements for the determination of modification applications under section 4.56 of the Act by either the local planning panel or council staff.

This direction takes effect on the date of this direction and applies to development applications and applications to modify development consents lodged but not determined before the date of this direction.

SCHEDULE 1

1. Conflict of interest

Development for which the applicant or land owner is:

- (a) the council,
- (b) a councillor,
- (c) a member of council staff who is principally involved in the exercise of council's functions under the *Environmental Planning and Assessment Act 1979*,
- (d) a member of Parliament (either the Parliament of New South Wales or Parliament of the Commonwealth), or
- (e) a relative (within the meaning of the *Local Government Act 1993*) of a person referred to in (b) to (d).

but not development for the following purposes:

- (a) internal alterations and additions to any building that is not a heritage item,
- (b) advertising signage,
- (c) maintenance and restoration of a heritage item, or
- (d) minor building structures projecting from the building facade over public land (such as awnings, verandas, bay windows, flagpoles, pipes and services, and sun shading devices).

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2. Contentious development

Development that:

- (a) in the case of a council having an approved submissions policy - is the subject of the number of submissions set by that policy, or
- (b) in any other case – is the subject of 10 or more unique submissions by way of objection.

An **approved submissions policy** is a policy prepared by the council and approved by the Secretary of the Department of Planning, Housing and Infrastructure which details the circumstances in which a local planning panel or council staff should exercise the consent authority functions of the council, based on the number and nature of submissions received about development.

A **unique submission** means a submission which is in substance unique, distinctive or unlike any other submission. It does not mean a petition or any submission that contains the same or substantially the same text. Separate unique submissions may be made in relation to the same issue. One individual, or one household, could potentially submit multiple unique submissions.

3. Departure from development standards

Development that contravenes a development standard imposed by an environmental planning instrument by more than 10% or non-numerical development standards.

4. Sensitive development

- (a) Designated development.
- (b) Development to which *State Environmental Planning Policy (Housing) 2021*, Chapter 4 (Design of residential apartment development) applies.
- (c) Development involving the demolition of a heritage item.
- (d) Development for the purposes of new licensed premises, that will require one of the following liquor licences:
 - (i) a club licence under the *Registered Clubs Act 1976*,
 - (ii) a hotel (general bar) licence under the *Liquor Act 2007*, or
 - (iii) an on-premises licence for public entertainment venues under the *Liquor Act 2007*.
- (e) Development for the purpose of sex services premises and restricted premises.
- (f) Development applications for which the developer has offered to enter into a planning agreement.

SCHEDULE 2

1. Conflict of interest

Development for which the applicant or land owner is:

- (a) the council,
- (b) a councillor,
- (c) a member of council staff who is principally involved in the exercise of council's functions under the *Environmental Planning and Assessment Act 1979*,
- (d) a member of Parliament (either the Parliament of New South Wales or Parliament of the Commonwealth), or
- (e) a relative (within the meaning of the *Local Government Act 1993*) of a person referred to in (b) to (d).

but not development for the following purposes which requires:

- (a) internal alterations and additions to any building that is not a heritage item,
- (b) advertising signage,
- (c) maintenance and restoration of a heritage item, or
- (d) minor building structures projecting from the building facade over public land (such as awnings, verandas, bay windows, flagpoles, pipes and services, and sun shading devices).

2. Contentious development

Development that:

- (a) in the case of a council having an approved submissions policy - is the subject of the number of submissions set by that policy, or
- (b) in any other case - is the subject of 10 or more unique submissions by way of objection.

An **approved submissions policy** is a policy prepared by the council and approved by the Secretary of the Department of Planning, Housing and Infrastructure which details the circumstances in which a local planning panel or council staff should exercise the consent authority functions of the council, based on the number or nature of submissions received about development.

A **unique submission** means a submission which is in substance unique, distinctive or unlike any other submission. It does not mean a petition or any submission that contains the same or substantially the same text. Separate unique submissions may be made in relation to the same issue. One individual, or one household, could potentially submit multiple unique submissions.

3. Departure from development standards

Development that contravenes a development standard imposed by an environmental planning instrument by more than 10% or non-numerical development standards.

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4. Sensitive development

- (a) Designated development.
- (b) Development to which *State Environmental Planning Policy (Housing) 2021*, Chapter 4 (Design of residential apartment) applies and is 4 or more storeys in height.
- (c) Development involving the demolition of a heritage item.
- (d) Development for the purposes of new licensed premises, that will require one of the following liquor licences:
 - (i) a club licence under the *Registered Clubs Act 1976*,
 - (ii) a hotel (general bar) licence under the *Liquor Act 2007*, or
 - (iii) an on-premises licence for public entertainment venues under the *Liquor Act 2007*.
- (e) Development for the purpose of sex services premises and restricted premises.
- (f) Development applications for which the developer has offered to enter into a planning agreement.

SCHEDULE 3

1. Conflict of interest

Development for which the applicant or land owner is:

- (a) the council,
- (b) a councillor,
- (c) a member of council staff who is principally involved in the exercise of council's functions under the *Environmental Planning and Assessment Act 1979*,
- (d) a member of Parliament (either the Parliament of New South Wales or Parliament of the Commonwealth), or
- (e) a relative (within the meaning of the *Local Government Act 1993*) of a person referred to in (b) to (d).

but not development for the following purposes which requires:

- (a) internal alterations and additions to any building that is not a heritage item,
- (b) advertising signage,
- (c) maintenance and restoration of a heritage item,
- (d) development for the purpose of end of journey facilities, or
- (e) minor building structures projecting from the building facade over public land (such as awnings, verandas, bay windows, flagpoles, pipes and services, and sun shading devices).

2. Contentious development

Development that:

- (a) in the case of a council having an approved submissions policy - is the subject of the number of submissions set by that policy, or
- (b) in any other case – is the subject of 25 or more unique submissions by way of objection.

An **approved submissions policy** is a policy prepared by the council and approved by the Secretary of the Department of Planning, Housing and Infrastructure which details the circumstances in which a local planning panel or council staff should exercise the consent authority functions of the council, based on the number or nature of submissions received about development.

A **unique submission** means a submission which is in substance unique, distinctive or unlike any other submission. It does not mean a petition or any submission that contains the same or substantially the same text. Separate unique submissions may be made in relation to the same issue. One individual, or one household, could potentially submit multiple unique submissions.

3. Departure from development standards

For development for the purpose of dwelling houses, dual occupancies and attached dwellings, development that contravenes a development standard imposed by an environmental planning instrument by more than 25% or non-numerical development standard.

For all other development, development that contravenes a development standard

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imposed by an environmental planning instrument by 10% or non-numerical development standards.

4. Sensitive development

- (a) Designated development.
- (b) Development to which *State Environmental Planning Policy (Housing) 2021*, Chapter 4 (Design of residential apartment) applies and is 4 or more storeys in height.
- (c) Development involving the demolition of a heritage item.
- (d) Development for the purposes of new licensed premises, that will require one of the following liquor licences:
 - (i) a club licence under the *Registered Clubs Act 1976*,
 - (ii) a hotel (general bar) licence under the *Liquor Act 2007*, or
 - (iii) an on-premises licence for public entertainment venues under the *Liquor Act 2007*.
- (e) Development for the purpose of sex services premises and restricted premises.
- (f) Development applications for which the developer has offered to enter into a planning agreement.