

17 September 2020

Dear Councillor,

You are kindly requested to attend the **Ordinary Meeting** of Wingecarribee Shire Council to be held remotely using audio visual link and is open to members of the community via webcast on **Wednesday 23 September 2020** commencing at **3.30pm**.

Yours faithfully

Barry W Paull
Acting General Manager

SCHEDULE

3.30pm	Council Meeting begins
7.40pm	Closed Council

Business

- 1. OPENING OF THE MEETING**
 - 2. ACKNOWLEDGEMENT OF COUNTRY**
 - 3. PRAYER**
 - 4. APOLOGIES**
 - 5. ADOPTION OF MINUTES OF PREVIOUS MEETING**
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19.1 Legal Report - Closed Council

This report is referred to Closed Committee in accordance with s10A(2) of the Local Government Act, 1993, under clause 10A(2)(g) as it contains advice concerning litigation, or advice as comprises a discussion of this matter, that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege and the Council considers that it would be on balance contrary to the public interest to consider this information in Open Council.

20. RESUMPTION OF OPEN COUNCIL

Resumption of Open Council
Adoption of Closed Session

21. MEETING CLOSURE

Our Mission, Our Vision, Our Values

OUR MISSION

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

OUR VISION

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

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

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

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

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

OUR VALUES

Integrity, trust and respect

Responsibility and accountability

Communication and teamwork

Service quality

Council Chambers

Recording and Webcasting of Ordinary and Extraordinary Meetings of Council

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

Council requests that everyone in attendance is respectful and uses appropriate language. All speakers should refrain from making any defamatory, discriminatory or offensive comments or releasing any personal information about another individual without their consent. Council accepts no liability for any damage that may result from defamatory, discriminatory or offensive comments made by persons attending meetings – all liability will rest with the individual who made the comments.

Individuals acting in a disorderly manner can be asked by the Chairperson to leave the meeting under the Council's Code of Meeting Practice.

The recording will be available for viewing on the internet for 12 months and retained as a Council record. The recording is subject to copyright.

The meeting must not be recorded by others without the prior written consent of Council in accordance with Council's Code of Meeting Practice.

Council's webcasting of meetings via Facebook is designed to encourage constructive dialogue. We remind users to be digitally responsible and respect their fellow posters. We ask users to keep comments relevant and not to spam or post personal or commercially sensitive information. This includes content that may be defamatory, derogatory, offensive or discriminatory towards Council employees, Councillors or other persons or organisations. Failure to follow Facebook house rules will result in comments being deleted and if this behaviour persists the user will be blocked.

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

ACKNOWLEDGEMENT OF COUNTRY

I would like to acknowledge the Traditional Custodians of this land and pay my respect to Elders both past and present. I would also like to extend that respect to all Aboriginal and Torres Strait Islanders present here today.

APOLOGIES

Nil at time of print.

DECLARATIONS OF INTEREST

101/3, 101/3.1

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

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

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

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

7 MAYORAL MINUTES

7.1 Condolences - The Hon Mr John Fahey AC

Reference: 102/5
Report Author: Mayor T D Gair
Authoriser:
Link to Community
Strategic Plan:

PURPOSE

To formally recognise the passing of former NSW Premier The Hon Mr John Fahey AC.

RECOMMENDATION

THAT Council offers its prayers and condolences to the family and friends of The Hon Mr John Fahey AC.

REPORT

Former New South Wales Premier and Federal Government Finance Minister, The Hon Mr John Fahey AC sadly passed away on Saturday, 12 September 2020 at the age of 75.

As a former NSW Premier John made considerable contributions to both state and country.

On behalf of Council I wish to extend our sincere sympathies and deepest condolences to the family of John Fahey.

He is perhaps best known for the role he played in helping Sydney secure the 2000 Olympics.

I first met John in 1984 when he was elected as the State Member for Camden.

John was a humble and hard-working man with close ties to the Southern Highlands that stretched as far back as the early 1960's when he attended Chevalier College.

He was also a handy rugby league player and cricketer in his youth and played many matches across our Shire.

Away from the spotlight of politics John was a dedicated family man.

Our thoughts and prayers are with his wife Colleen and family during this difficult time.



Clr Duncan Gair

Mayor

ATTACHMENTS

There are no attachments to this report.



9 VISITOR MATTERS

CORPORATE STRATEGY AND DEVELOPMENT SERVICES

9.1 Development Application 19/1042 - Multi Dwelling Housing containing 7 units - 25 Oxley Drive, Bowral

Reference:	19/1042
Report Author:	Senior Town Planner
Authoriser:	Manager Development Assessment
Applicant:	Le Ralais Pty Ltd
Owner:	Tony & Serena Antoun
Link to Community Strategic Plan:	Identify and protect the unique characteristics of towns and villages to retain a sense of place

PURPOSE

The purpose of this report is to consider Development Application 19/1042 which seeks development consent for a Multi Dwelling Housing development containing 7 units at Lot 11 DP 603108, being 25 Oxley Drive, Bowral. This report is prepared for determination, and recommends **APPROVAL**, subject to attached conditions of consent (**Attachment 1**).

VOTING ON THE MOTION

Councillors are required to record their votes on this matter.

RECOMMENDATION

THAT Development Application 19/1042 which seeks approval for a Multi Dwelling Housing development containing 7 units at Lot 11 DP 603108, being 25 Oxley Drive, Bowral, be APPROVED by way of a deferred commencement consent, subject to attached conditions of consent as described in Attachment 1 to the report.

REPORT

Council at its meeting of 26 February 2020 considered Development Application 19/1042 which sought approval for a Multi Dwelling Housing development containing 7 units within three buildings at Lot 11 DP 603108, being 25 Oxley Drive, Bowral.

Council resolved

THAT Development Application 19/1042 which seeks approval for a Multi Dwelling Housing development containing 7 units at Lot 11 DP 603108, being 25 Oxley Drive, Bowral, be DEFERRED to allow the applicant to address the issues raised by the objectors in terms of over shadowing and overall building height as viewed from adjoining properties.

In response to Council's resolution, the applicant submitted amended plans dated 3 March 2020 (**Attachments 10 and 11**), which changed the roofline of proposed Units 3 – 7 from a 25-degree pitched gable and hipped roof to a 5-degree skillion roof, so as to reduce overshadowing and reduce building height.

Council at its meeting of 13 May 2020 considered the amended plans and resolved

THAT Development Application 19/1042 which seeks approval for a Multi Dwelling Housing development containing 7 units at Lot 11 DP 603108, being 25 Oxley Drive, Bowral, be DEFERRED subject to arranging a meeting to allow the objectors and the applicant to discuss and address the concerns raised by the neighbours.

A meeting between objectors, applicant and Council officers was conducted on 12 June 2020, in which objectors' concerns regarding skillion roofs, building height, solar access and privacy were discussed with the applicant. As a result of this meeting and discussion, amended plans were submitted by the applicant on 23 June 2020 (**Attachments 12 and 13**) which deleted the skillion roofs, and which re-introduced a pitched roof lowered from 25 degrees to 15 degrees, resulting in a reduction of building height of between 0.5 metres to 1.2 metres.

Objectors were invited to view amended plans, and applicant and objectors were invited to a further meeting on 10 July 2020 to discuss the changes. The applicant did not attend this further meeting. Objectors commented that the updated plans submitted 23 June 2020 were an improvement, however their concerns regarding overshadowing and privacy remained.

The amended Elevation plans submitted 23 June 2020 showing the 15-degree roof, containing a highlighted line showing natural ground level, can be found at **Attachment 12**.

The amended Overshadowing plans submitted 23 June 2020 showing reduced overshadowing as a result of the introduction of the 15-degree roof for can be found at **Attachment 13**.

The site plan, floor plans, and landscape plans are not altered.

The amended plans submitted 23 June 2020 are an improvement in terms of reduced overshadowing and reduced building height. The objectors' concerns regarding overshadowing and building height matters have previously been submitted to Council and summarised within the report to Council dated 26 February 2020 (**Attachment 9**).

The amended plans submitted 23 June 2020 were presented to Council at its meeting of 12 August 2020 with the recommendation:

THAT Development Application 19/1042 which seeks approval for a Multi Dwelling Housing development containing 7 units at Lot 11 DP 603108, being 25 Oxley Drive, Bowral, be APPROVED by way of a deferred commencement consent, subject to attached conditions of consent as described in Attachment 1 to the report.

Council at its meeting of 12 August 2020 considered the amended plans and resolved:

THAT Development Application 19/1042 which seeks approval for a Multi Dwelling Housing development containing 7 units at Lot 11 DP 603108, being 25 Oxley Drive, Bowral, be DEFERRED to allow the applicant to redesign the development as follows:

- ***THAT units 4 and 5 be single storey***



- ***THAT both units be the same height***
- ***THAT unit 4 is adjusted to be on the same level as unit 5.***

The applicant has considered the above resolution made by Council at its meeting of 12 August 2020, and has advised by letter dated 2 September 2020 that:

“We wish to notify Council that we do not intend to further modify the current design plans, and request a determination of the project as is proposed. On the basis that the staff recommendation was for approval without any further amendments on three occasions, we appreciate that you may need to report the matter back to Council in order for Council to consider their position. We seek a determination from Council so we can proceed with our options, may be it (sic) taking this application further to the Land and Environment Court.”

Building Height / Visual Impact on adjoining properties

As advised above, in response to Council's resolution at its meeting of 13 May 2020, amended plans were submitted by the applicant 23 June 2020 (**Attachments 12 and 13**) which deleted the skillion roofs, and which re-introduced a pitched roof lowered from 25 degrees to 15 degrees, resulting in a reduction of building height of between 0.5 metres to 1.2 metres. The site plan, floor plans, and landscape plans are not altered.

The amended Elevation plans received 23 June 2020 showing the 15-degree roof, containing a highlighted line showing natural ground level, can be found at **Attachment 12**. These amended plans show a further reduction in building height of between 0.5 metres to 1.2 metres, achieving a maximum 6.0 metre height measured from natural ground level to roof pitch, which is a further compliance with the maximum 9 metre / 2 storey height limit under the Bowral Township Development Control Plan, and which has further reduced visual impact to adjoining properties.

Elevation plans (**Attachment 12**) show natural ground levels as a highlighted line, which assists in understanding the proposed development's compliance with the maximum 9 metre / 2 storey height limit under the Bowral Township Development Control Plan.

The height of the proposed development will have a visual impact upon adjoining properties, however, as the proposed development complies with the height controls of the Bowral Township Development Control Plan, the visual impact of the height of the development is not beyond that which would be expected within a Medium Density Residential zone.

Overshadowing

The amended Overshadowing plans received 23 June 2020 showing reduced overshadowing as a result of the introduction of the 15-degree roofs can be found at **Attachment 13**.

These amended plans show a further reduction in overshadowing impacts, which further satisfy the Bowral DCP requirement that any new development must not reduce the solar access currently enjoyed in living areas of adjacent dwellings to be less than 3 hours of direct sunlight on June 21st, and the Bowral DCP requirement that “Any new development must not reduce the solar access currently enjoyed in 50% of the primary private open space of adjacent dwellings so (sic) be less than 3 hours of direct sunlight on June 21st.”



Deferred Commencement

A stormwater easement is required burdening the adjoining southern land and benefitting the subject property. Should approval be granted for the proposed development, proof of registration of a stormwater easement burdening Lot 12 DP 603108 and benefitting Lot 11 DP 603108, shall be submitted to the satisfaction of Council prior to general conditions of consent being enacted. This can be addressed by way of deferred commencement condition (**deferred commencement condition 1**).

An assessment of the proposed development has been made against the *Wingecarribee Local Environmental Plan 2010*, *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011*, and the Bowral Township Development Control Plan within the report to Council dated 26 February 2020 (**Attachment 9**).

SUSTAINABILITY ASSESSMENT

- **Environment**

Any perceived environmental issues have been discussed within the body of the report to Council dated 26 February 2020 (**Attachment 9**).

- **Social**

Any perceived social issues have been discussed within the body of the report to Council dated 26 February 2020 (**Attachment 9**).

- **Broader Economic Implications**

There are no broader economic implications associated with the report to Council dated 26 February 2020 (**Attachment 9**).

- **Culture**

The proposed Multi dwelling housing development has no identifiable cultural impacts.

- **Governance**

The development application has been considered in accordance with the *Wingecarribee Local Environmental Plan 2010*, section 4.15 of the *Environmental Planning and Assessment Act 1979* ('EPA Act) and any other matters relevant to the development.

COUNCIL BUDGET IMPLICATIONS

The financial implications of Council's decision in this matter are directly related to the legal implications. The possibilities are detailed as follows:

- Should the applicant choose to appeal a refusal, or pursue a deemed refusal, by Council through the Land and Environment Court and lose, the question of cost with regard to Council's legal representation would be determined by the extent of the reasons for refusal;

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REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



- Should the applicant choose to appeal a refusal, or pursue a deemed refusal, by Council through the Land and Environment Court and win, the question of cost would be dependent upon the extent of the reasons for refusal;
- Should any person choose to take out Class 4 proceedings against Council to the Land and Environment Court and lose, the question of cost with regard to Council's legal representation would be calculated at the appropriate time;
- Should any person choose to take out Class 4 proceedings against Council to the Land and Environment Court and win, the question of cost would still be calculated at the appropriate time;
- Should the applicant make no appeal, or proceedings not be taken out by another party, to the Land and Environment Court regardless of the determination, the application would result in no further financial implication to Council.

RELATED COUNCIL POLICY

An assessment of the proposed development has been made against the *Wingecarribee Local Environmental Plan 2010*, *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011*, and the Bowral Township Development Control Plan within the report to Council dated 26 February 2020 (**Attachment 9**).

OPTIONS

The options available to Council are:

Option 1

THAT Council determine Development Application 19/1042 by way of deferred commencement approval subject to conditions of development consent contained in **Attachment 1**

Option 2

THAT Council determine Development Application 19/1042 by way of refusal, and nominate reasons for refusal.

Option 1 is recommended.

CONCLUSION

The amended plans submitted 23 June 2020 were presented to Council at its meeting of 12 August 2020 recommending approval by way of a deferred commencement consent, however Council resolved to defer the application to allow the applicant to amend the proposal as follows:

- ***THAT units 4 and 5 be single storey***
- ***THAT both units be the same height***
- ***THAT unit 4 is adjusted to be on the same level as unit 5.***

The applicant has considered the above resolution made by Council at its meeting of 12 August 2020 and has advised by letter dated 2 September 2020 that they do not intend to further modify the current design plans, and request a determination of the project as is proposed.

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It is recommended that Development Application 19/1042 which seeks approval for a Multi Dwelling Housing development containing 7 units at Lot 11 DP 603108, being 25 Oxley Drive, Bowral, be supported subject to conditions.

The proposal is considered satisfactory in terms of section 4.15 of the EPA Act, therefore it is recommended that the development application be approved by way of a deferred commencement approval, subject to the attached draft conditions of consent nominated in **Attachment 1**.

ATTACHMENTS

1. Draft Conditions
2. Site Location - *circulated under separate cover*
3. Zoning - *circulated under separate cover*
4. Site Plan - *circulated under separate cover*
5. Elevation plans as presented to Council meeting 26 February 2020 (now superseded) - *circulated under separate cover*
6. Overshadowing plans as presented to Council meeting 26 February 2020 (now superseded) - *circulated under separate cover*
7. Objector's consultant's shadow diagrams based on superseded plans - *circulated under separate cover*
8. Objector's consultant's plans showing view of development from 29 B Oxley Drive based on superseded plans - *circulated under separate cover*
9. Report to Council 26 February 2020
10. Elevations (amended plans dated 3 March 2020 responding to Council resolution 26 February 2020).
11. Overshadowing (amended plans dated 3 March 2020 responding to Council resolution 26 February 2020)
12. Elevations (amended plans submitted 23 June 2020 responding to Council resolution 13 May 2020)
13. Overshadowing (amended plans submitted 23 June 2020 responding to Council resolution 13 May 2020)

Mark Pepping

Deputy General Manager Corporate, Strategy and Development Services

Thursday 17 September 2020



ATTACHMENT 1 – DRAFT CONDITIONS OF CONSENT

SCHEDULE 1

DEFERRED COMMENCEMENT CONDITION THAT MUST BE SATISFIED BEFORE THE
CONSENT CAN OPERATE

1. Proof of registration of a stormwater easement burdening Lot 12 DP 603108 and benefitting Lot 11 DP 603108, shall be submitted to the satisfaction of Council prior to general conditions of consent being enacted. This can be addressed by way of deferred commencement condition.

Deferred Commencement condition 1 is required to be addressed to the satisfaction of Council within 12 months of X September 2020 prior to General Development Consent Conditions 1 – X being acted upon.

Note: *The consent shall operate from the date in which Council acknowledges compliance with the condition within Schedule 1 of this Deferred Commencement of Consent, and shall lapse X September 2025.*



SCHEDULE 2 CONDITIONS OF DEVELOPMENT CONSENT

ADMINISTRATION CONDITIONS

1. Development Description

Development consent has been granted in accordance with this notice of determination for the purposes of Multi Dwelling Housing containing 7 units. No strata subdivision is approved by this consent.

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

2. Development in Accordance with Plans and Documents

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

Plan Title / Supporting Document	Reference / Version	Prepared By	Dated
Plans	DA06A, DA07B, DA08A, DA09A	Coble Stephens Architects	3/2/20
Plans	DA01C, DA02C	Coble Stephens Architects	3/3/2020
Plans	DA03C, DA05F, DA10-1D, DA10-2E, DA10-3C, DA10-4C, DA11E, DA12D	Coble Stephens Architects	22/6/2020
Plans	DA04F	Coble Stephens Architects	21/7/20
Plans	DA13E	Coble Stephens Architects	29/7/20
Statement of Environmental Effects		Lee Environmental Planning	January 2019
Flora and Fauna Assessment Report		Joy Hafey	December 2019
Arboricultural Impact Appraisal and Method Statement		Andrew Scales Naturally Trees	31 July 2019
Geotechnical Risk Management Report	PX 0004	Hodgson Consulting Engineers	6 July 2019
Water & Sewer Development Assessment Report	Issue 1 Rev B	Jones Nicholson Consulting Engineers	8 October 2019

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

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ATTACHMENT 1 Draft Conditions**



documentation.

3. Inconsistency between documents

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

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

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

That the work must be carried out in accordance with the requirements of the National Construction Code.

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

5. Erection of Signs

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

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

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

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

6. Notification of Home Building Act 1989 Requirements

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

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

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

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

7. Asbestos Removal - Demolition of Buildings

Advice: *These conditions of development consent are to be applied to work that may involve asbestos, in particular demolition and renovation or recladding or brick veneering works of buildings erected prior to 1987. Evidence acceptable to Council may be required to establish the construction date of a building or part of a building:*

a) Demolition is to be carried out in accordance with the applicable provisions of Australian Standard AS2601-2001 - The demolition of structures.

Note: *Developers are reminded that WorkCover requires that all plant and equipment used in demolition work must comply with the relevant Australian Standards and manufacturer specifications.*

b) The developer is to notify owners and occupiers of premises on either side, opposite and at the rear of the development site five (5) working days prior to demolition. Such notification shall state the date demolition will commence and is to be placed in the letterbox of every premises (including every residential flat or unit, if any) either side, immediately at the rear of, and directly opposite the demolition site. Demolition must not commence prior to the date stated in the notification.

c) Five (5) working days (i.e., Monday to Friday with the exclusion of Public Holidays) notice in writing is to be given to Wingecarribee Shire Council for inspection of the site prior to the commencement of works. Such written notice is to include the date when demolition will commence and details of the name, address, business hours contact telephone number and licence number of the demolisher. Works are not to commence prior to Council's inspection and works must not commence prior to the commencement date nominated in the written notice.

d) On the first day of demolition, work is not to commence until the Principal Certifying Authority (PCA) has inspected the site. Should the building to be demolished be deemed likely to contain asbestos, approval to commence demolition will not be granted until the PCA is satisfied that all measures are in place so as to comply with WorkCover's document 'Your Guide to Working with Asbestos'.

e) On demolition sites where buildings to be demolished are likely to contain asbestos, a standard commercially manufactured sign containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm is to be erected in a prominent visible position on the site to the satisfaction of Council's officers. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos has been removed from the site to an approved waste facility.

f) Demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover "Demolition Licence" and a current WorkCover "Class 2 (Restricted) Asbestos Licence".

g) Demolition is to be completed within five (5) days of commencement at which time the applicant shall notify the Certifying Authority.

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h) Demolition works are restricted to Monday to Friday between the hours of 7.00am to 6.00pm. No demolition works are to be undertaken on Saturdays, Sundays or Public Holidays.

i) Protective fencing is to be installed to prevent public access to the site.

j) All asbestos laden waste, including asbestos cement flat and corrugated sheets must be disposed of at a facility licensed by the NSW Environmental Protection Authority (EPA) to accept such waste provided to Council.

Note: *The person responsible for disposing of the above asbestos waste is to telephone the EPA on 131 555 or Council's Customer Service Department on (02) 4868 0888 to determine the location of a waste facility licensed to receive asbestos. Within 14 days of the completion of demolition works, the applicant must lodge with Council, all original weighbridge receipts issued by the receiving licensed waste facility as evidence of proper disposal.*

k) After completion, the applicant shall notify the Principal Certifying Authority within seven (7) days to assess the site and ensure compliance with Australian Standard AS2601 2001 - The Demolition of Structures.

l) Within 14 days of completion of demolition, the applicant shall submit to Council:

- (i) an asbestos clearance certificate prepared by a WorkCover licensed asbestos assessor; and
- (ii) a signed statement verifying that demolition work and the recycling of materials was undertaken in accordance with the Waste Management Plan approved with this consent. In reviewing such documentation Council will require the provision of actual weighbridge receipts for the recycling/disposal of all materials.

Reason: *To ensure that asbestos is disposed of to a licensed waste facility and is removed in accordance with safe work practices.*

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

8. Application for a Construction Certificate (Building Works)

The applicant shall apply to Council or an Accredited Certifier for a Construction Certificate to carry out the relevant building works in accordance with this consent. The details to be included in the application for a Construction Certificate are:

(a) Architectural plans and building specifications complying with the National Construction Code (NCC) relevant Australian Standards, and the development consent and conditions.

(b) If Council or a private accredited certifier issues the Construction Certificate, engineering details must be submitted for approval for all structural elements, including but not limited to, piers, footings, reinforced concrete slab, first floor joist layout, roof trusses, steel beams and the like. The details must be prepared by a qualified chartered professional practicing consulting structural engineer. Also a certificate from the engineer must be included certifying that the design fully complies with appropriate SAA Codes and Standards and the Building Code of Australia requirements.

(c) If an alternative solution to the "deemed to satisfy" provisions of National Construction Code is proposed, the following details must be lodged:

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- Performance requirements that the alternative solution intends to meet.
- Assessment methods used to determine compliance with the performance requirements, including if and how each performance objective impacts on other requirements of the BCA; and
- A statement about the person who prepared the alternate solution, indicating qualifications, experience, insurance details, and membership of an approved accreditation body.

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

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

9. Appointment of Principal Certifying Authority

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

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

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

10. Section 68 Local Government Act 1993 Approvals

Prior to the issue of a Construction Certificate, an application under section 68 of the *Local Government Act 1993* shall be made to, and issued by, Wingecarribee Shire Council, for the following approvals:

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- Carry out sewerage works
- Carry out water supply
- Carry out stormwater drainage works

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

11. Section 7.11 Contributions (formerly Section 94)

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

The following Wingecarribee Shire Council Section 7.11 Developer Contributions Plans are applicable to the development:

- Roads & Traffic Management Facilities
- Resource Recovery Centre 2009
- Central Library Facility
- Section 7.11 Administration 2011 to 2031
- Open Space & Recreation Facilities

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

All contributions are indexed quarterly in accordance with upward movements in the Consumer Price Index (All Groups, Sydney) as published by the Australian Bureau of Statistics (www.abs.gov.au <<http://www.abs.gov.au>>); Section 25I of the *Environmental Planning and Assessment Regulation 2000*; and Council's Developer Contributions Plans.

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

Note: *Payment of the attached contributions is to be by BANK CHEQUE OR CASH and is to be accompanied by the attached sheet entitled "Notice of Payment - Developer Charges & Section 7.11". Should the Applicant pay by personal or company cheque the plans subject to this approval will not be available for collection until such time as the cheque has been honoured (i.e. a minimum of 10 days).*

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

12. Water Management Act - Certificate of Compliance

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

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

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of Compliance.

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

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

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

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

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

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

CPI Period	Water DSP	Sewer DSP	Stormwater DSP
1 February 2020 to 30 April 2020	\$11,192.12	\$10,850.36	\$3,663.76
Note: The charges shown above are amounts applicable during the stated time period. These amounts will be subject to adjustment quarterly in accordance with upward movements in the Consumer Price Index (CPI) once they become operational. The CPI is published quarterly by the Australian Bureau of Statistics, www.abs.gov.au < http://www.abs.gov.au >.			

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

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

Compliance Certificate

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

Water \$250 + Sewer \$250 + Stormwater \$250 = \$750

Prior to final release, you will need to contact Council's Infrastructure Services Division for an inspection to ensure that Council will accept the infrastructure constructed. In response the Manager

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of Water and Sewer will specify requirements which will have to be met.

In the case of subdivision, the title plan of subdivision will not be certified and released by Council until the *Water Management Act 2000* charges have been paid and/or secured and the approval of Council has been obtained for all works related to this infrastructure.

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

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

13. Dilapidation Report

A Dilapidation Report shall be undertaken on all properties, which in the opinion of a suitably experienced professional and chartered qualified engineer, could be potentially affected by the construction of the project. The Dilapidation Report shall be carried out taking into account civil infrastructure and submitted to Council prior to the issue of the Construction Certificate.

The Report shall cover structural and geotechnical factors likely to arise from the development.

The person having the benefit of the development consent shall, at their own cost, rectify any damage caused to other properties during the construction of the project to the satisfaction of Council.

Reason: *To ensure the structural stability of neighbouring buildings.*

14. Construction Traffic Management Plan

To undertake development works including demolition, earthworks and construction a Construction Traffic Management Plan (CTMP) is required to be submitted and approved by Council prior to issue of the Construction Certificate. The CTMP shall indicate measures to be implemented to protect the environment as well as public health, safety and convenience. The CTMP must include the following:

- a) Details of site security;
- b) Off-street parking for employees, contractors and sub-contractors.
- c) Site access for construction vehicles and equipment purposes.
- d) Public safety in the use of roads and footpaths where development activities adjoin such facilities.
- e) The storage and removal, on a regular frequency, of builder's rubble and waste by trade waste contractors.
- f) Provision for loading and unloading materials;
- g) Location of all building materials, structures, plant and equipment to be stored or placed within the construction site;
- h) How materials are to be loaded/unloaded and potential impact on Council infrastructure (including but not limited to footpaths and street trees)

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- i) Public risk policies and management for all contractors' employees using or gaining access over public footpaths and roads.
- j) External lighting and security alarms proposed for the construction site.
- k) Firefighting measures to be available on site during development and construction.
- l) Sanitary amenities proposed on site during development and construction.
- m) Ensuring the safety of members of the public and Council staff who may have occasion to enter and be in attendance on the site;
- n) Details of management of storm water run-off and the propose sediment and erosion control measures including the location of any rubble grids;
- o) Details of any air and dust management;
- p) Details of noise and vibration controls;
- q) Anticipated staging and duration of works
- r) Provision of Traffic Management Plan (TMP) and Traffic Control Plans (TMP)

Reason: *To ensure the safety, amenity and protection of public infrastructure and the environment.*

15. Provision of Works and Services

Prior to the issue of the Construction Certificate, the developer shall obtain approval for the works to be undertaken by submitting adequate documentation including plans, standard notes and completed design checklists, calculations and specifications, to Council which justify that the proposed works are in accordance with all Council's standards and all other relevant codes and guidelines.

Reason: *Statutory requirement.*

16. Stormwater - Control of Peak Discharge

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

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

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

17. Detailed Stormwater Drainage System Design

Prior to the issue of the Construction Certificate, a detailed storm water hydraulic drainage plan for the disposal of storm water from the site, prepared in accordance with Council's Design Standards

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shall be submitted to Council and approved by Council's Development Engineer.

Should any changes be required to the approved storm water drainage plan, the amended design shall achieve equivalent performance standards in accordance with Design Specifications.

Note: *Construction Certificate Approval does not include approval for works external to the property or civil works.*

Where the proposed design extends beyond the property boundary, separate approval under Section 138 of the *Roads Act 1993*, must be obtained from Council prior to the commencement of works.

The applicant is advised to contact Council for clarification of proposed works for which approval under Section 138 of the *Roads Act 1993* applies.

Reason: *To ensure adequate storm water management.*

18. Off Street Parking Provision - General

14 off-street car parking spaces suitably marked in accordance with the approved plans (unless elsewhere specified) shall be provided (being 2 car spaces for each unit, and 3 visitor car spaces). Each space shall have minimum dimensions in accordance with Australian Standard AS2890.1 Off Street Car Parking.

Details shall be submitted to the Accredited Certifier prior to the issue of a Construction Certificate showing compliance with this condition.

Reason: *To ensure adequate parking and access.*

19. Energy Service Provider Requirements

The provision of underground electricity to service the development in accordance with the requirements of the Energy Service Provider. The Developer shall submit to Council documentary evidence from the Energy Service Provider qualifying that the requirements of that provider have been obtained. The requirements of the supply authority will need to be met prior to the issue of the Occupation Certificate.

Reason: *To ensure appropriate infrastructure is provided to the development.*

20. Waste Management Plan

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

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

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

21. Erosion and Sediment Control Plan

An Erosion and Sediment Control Plan shall be prepared in accordance with "Landcom's Blue Book" for sedimentation and erosion control plan by a suitably qualified person, and approved by Council prior to issue of the Construction Certificate.

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The Erosion and Sediment Control Plan shall include scaled drawings and detailed specifications which can be referred to onsite by project management staff or project construction supervisor. Items to be shown on the Plan shall include:

- (a) Locality of the site, a north point and scale.
- (b) Existing contours of the site including catchment area boundaries and indications of direction of fall.
- (c) Location of and basic description of existing vegetation.
- (d) Diversion of uncontaminated up-slope run-off around the disturbed sites.
- (e) Location of significant natural areas requiring special planning or management including waters, floodplains, seasonally wet areas, areas prone to ponding/water logging, unstable slopes etc.
- (f) Nature and extent of earthworks, including cut and fill roadworks.
- (g) Location of all soil and material stockpiles.
- (h) Location of site access, proposed roads and other impervious areas.
- (i) Existing and proposed drainage patterns.
- (j) Location and type of proposed erosion and sediment control measures.
- (k) Site rehabilitation proposals, including final contours.
- (l) Time of placement of sediment controls.
- (m) Staging of works and how the plan is to be implemented for each stage or activity on site.
- (n) Maintenance schedule.

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

22. Erosion and Sediment Control Plan

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

- (a) Erosion and sediment controls are to be in place before the disturbance of any soils on the site, and are to be maintained during the works and for as long as necessary after the completion to prevent sediment and dirty water leaving the site and/or entering the surface water system outside the worksite boundaries.
- (b) Topsoil stripped from the construction site shall be stockpiled and protected from erosion until re-use during landscaping. Soil is to be retained within the property.
- (c) Stockpiles of construction and landscaping materials, and of site debris shall be located clear of drainage lines and in such a position that they are protected from erosion and do not encroach upon any footpath, nature strip or roadway.

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(d) Final site spoil shall be disposed of to conform to the specifications and standards quoted and to any conditions of approval of those measures and must comply with any relevant NSW Department of Planning and Environment requirements.

(e) Trenches shall be backfilled, capped with topsoil and compacted to a level at least 75mm above adjoining ground level.

(f) Vehicular access shall be controlled so as to prevent tracking of sediment onto adjoining roadways, particularly during wet weather or when the site is muddy. Where sediment is deposited on adjoining roadways the same shall be removed by means other than washing. All material is to be removed as soon as possible and the collected material is to be disposed of in a manner which will prevent its mobilisation.

(g) All disturbed areas shall be progressively stabilised and/or revegetated so that no areas remain exposed to potential erosion damage for more than 14 days or such other period as may be approved after earthworks cease. All driveways and parking areas shall be stabilised with compacted sub-grade as soon as possible after their formation.

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

23. Landscape Plan

A Landscape Plan prepared by a suitably qualified professional to a scale of 1:100 or 1:200, conforming to all relevant conditions of consent shall be submitted to Council for approval prior to the issue of the Construction Certificate.

The plan shall include the following information:

- Location of all existing and proposed landscape features including materials to be used;
- Delineate and identify all trees to be retained, removed or transplanted;
- Existing and proposed finished ground levels;
- Top and bottom wall levels for both existing and proposed retaining and free standing walls and
- Detailed plant schedule which includes proposed species listed by botanical (genus and species) and common names, quantities of each species, pot sizes and the estimated size at maturity.
- Pot size at planting out stage
- Soil treatment prior to planting out, fertilizing and water maintenance schedule.
- Removal of noxious and environmental weeds from the site (including removal of ivy and blackberry)
- Compensatory plantings of Mt Gibraltar Forest tree species (at a rate of 3:1 for the 5 trees from the Mt Gibraltar Endangered Ecological Community group of species approved for removal by this consent) to occur within a regeneration area in the south of the site.
- Plantings of Mt Gibraltar Forest shrub and ground cover species as listed in the Flora and Fauna Assessment prepared by Joy Hafey, dated December 2019, being:

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6 Melaleuca hypericifolia, 1 Hymenanthera dentata, 1 Hedycaria angustifolia, 12 Helichrysum scorpiodes, 15 Blechnum cartilagineum, 10 Doodia aspera, 10 Dichonra repens, 6 Hardenbergia violacea, and 2 Acacia melanoxylon. Following removal of exotic grasses eg *Phalaris*, native seed such as *Poa sp, Microleana stipoides, Themeda australis* is to be sown.

- Erection of two large and one small nesting boxes, and one bat box to compensate for the removal of trees with existing hollows
- Boundary landscaping to soften visual impact of development when viewed from adjoining properties

Consideration within the design should be given to the scale of planting in proportion to the proposed development, consistency with the existing landscape character of the area, potential views, solar access and privacy for neighbouring development.

Reason: *To ensure appropriate landscaping treatments are applied to facilitate amenity.*

24. Fire Hydrants Minor Residential Developments

Prior to the issue of any Construction Certificate or Section 68 Approval for the development, detailed plans and specifications shall be provided to the Principal Certifier and Council to demonstrate compliance with *Fire and Rescue NSW (FRNSW) Fire hydrants for minor residential development - Fire Safety Guideline*. This includes the requirement for the provision of vehicular access for FRNSW fire appliances and water to allow firefighting operations to be undertaken at the development.

Note: *This may require separate approvals under Section 68 of the Local Government Act and Section 138 of the Roads Act for the extension of Councils mains water supply where necessary.*

25. Fixed Obscure Glazing / Fixed Screening

The proposed upper level western facing rumpus room window of Unit 1 should have fixed obscure glazing in any part of the window less than 1.7 metres above the floor to ensure privacy of the adjoining western Unit 3/23 Oxley Drive and its open space area.

The eastern facing first floor rumpus and “window seat” windows of Unit 2 should have fixed obscure glazing in any part of the windows less than 1.7 metres above the floor to ensure privacy of the adjoining eastern properties.

Due to the elevation of the eastern facing ground floor kitchen window of Unit 4, this window shall have fixed obscure glazing in any part of the window less than 1.7 metres above the floor.

Due to the elevation of the eastern facing ground floor kitchen window of Unit 5, and the elevation of the eastern facing lower ground floor rumpus window of Unit 5, both windows shall have fixed obscure glazing in any part of the window less than 1.7 metres above the floor.

The upper level Unit 7 eastern facing study area, shall have fixed obscure glazing in any part of the window less than 1.7 metres above the floor.

Fixed screening to the east of the elevated entry path to Units 4 and 5 to ensure the privacy of eastern / south eastern properties shall be provided.

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Details shall be submitted to Council for approval prior to the issue of the Construction Certificate.

CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORK

26. Notice of Commencement

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

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

Reason: *Statutory requirement.*

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

27. Construction Certificate

No work shall commence until a:

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

Reason *Statutory requirement.*

28. Developers Representative during Construction of Works

A minimum of 48 hours prior to commencement of any construction works on site the Developer shall nominate to Council in writing their representative (Construction Supervisor) who will be responsible for all aspects of construction and site control, including Traffic Control, Sediment and Erosion Control and liaison with Council Officers and all other Authorities.

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Details to be submitted include:-

- 1 Name of Representative:
- 2 Company:
- 3 Position:
- 4 Contact phone:
- 5 Contact fax:
- 6 After Hours Contact:
- 7 Signature of Representative:
- 8 Signature & Acceptance of representative by the Developer:
- 9 Council requires that the nominated " Construction Supervisor" either hold qualifications acceptable for Corporate Membership of the Institute of Engineers, Australia, or be Approved by the Director and/or has proven experience and suitable relevant qualifications for the control, supervision and management of civil engineering works as required for carrying land development.

Prior to commencing any works on site the representative shall:

- 10 Inform Council in writing of their intention 7 days before entering the site.
- 11 Submit to Council a proposed Schedule of Works.

The Developer may be required to arrange for Council to peruse all other contract documentation prior to the contractor arriving on site to commence work (Schedule of Works, Specifications Bill of Quantity, traffic control plan and Soil and water management plan).

Failure to comply with the requirements as set out above will result in an immediate stop work order.

Reason: *Statutory requirement.*

29. Inspection of Demolition Works

Council will require the following inspections of the site with the owner and demolition contractor present:

- (a) Prior to demolition works commencing (fencing must be erected and approved Waste Management Plan to be on site).
- (b) At the completion of demolition works (documents relating to disposal of hazardous waste are to be provided on site).

A minimum of twenty four (24) hours notice is required to be given to Council prior to these inspections.

Reason: *To ensure compliance with the consent.*

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

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

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

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

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

Reason: *Statutory requirement.*

31. Relocation of Existing Services

Where existing services including drainage, sewerage and water may be required to be relocated as a result of the development, a plumber's permit is required from Council prior to commencing work. Inspection of these works by Council as the Water Supply Authority is required.

Reason: *Statutory requirement.*

32. Fencing of the Construction Site

A temporary hoarding or temporary construction site fence must be erected between the work site and adjoining lands before the works begin and must be kept in place until after the completion of the works if the works:

- (a) could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic, or
- (b) could cause damage to adjoining lands by falling objects, or
- (c) involve the enclosure of a public place or part of a public place.

Reason: *To ensure that the safety of the public is not compromised.*

33. Erosion and Sediment Control

Erosion and sediment control measures (as per the approved Erosion and Sediment Control Plan) shall be installed prior to the commencement of works.

Reason: *To ensure that sediment does not leave the site as a result of the construction of the development.*

34. Wheel Wash

A vehicle wheel wash, cattle grid, wheel shaker or other appropriate device, shall be installed in accordance with the approved Erosion and Sediment Control Plan prior to the commencement of any

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site works, to prevent mud and dirt leaving the site and being tracked.

Reason: *To minimise soil being trucked off site.*

CONDITIONS TO BE SATISFIED DURING THE CONSTRUCTION PHASE

35. Approved Plans to be available on site

Endorsed Council approved plans, specifications, documentation and the consent shall be made available on site at all times during construction.

Reason: *To ensure compliance with approved plans.*

36. Imported 'Waste-derived' Fill Material

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

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

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

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

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

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

37. Demolition Requirements

The existing building shall be demolished in accordance with the requirements of AS2601-2001 "The Demolition of Structures".

Amongst others, precautions to be taken shall include compliance with the requirements of the SafeWork NSW and Council's Water and Sewer Asset Protection, including:-

- (a) Protection of site workers and the general public.
- (b) Erection of hoardings where appropriate.
- (c) Asbestos removal handling and disposal where applicable by licensed contractors.

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(d) Ensuring only licensed demolition contractors are used as required pursuant to Occupational Health and Safety Legislation.

(e) Appropriate precautions are taken in regard to lead based paints.

(f) Water and Sewer Asset Protection

All water and sewer assets on the site or on adjacent road reserve or lands that may be affected by the demolition works are to be clearly identified on site and protected from damage. Those water and sewer protection measures are to be shown on the site plan and are to be approved by Council's Water and Sewer Planning and Development Engineer before any demolition works can commence.

(g) Sewer Assets Temporary Disconnection or Closure

The site sanitary drainage is to be temporarily disconnected or closed off by a suitably qualified Plumber from any of Council's sewer sidelines, sewer junctions and or boundary traps that are to be retained and reused to prevent ingress contaminants into Council's sewer mains. This work shall be sited and approved by Council's Water and Sewer Development Engineer before demolition works can commence.

(h) Removal of Redundant Council Sewer Assets and Water Services

The site sanitary drainage is to be temporarily disconnected or closed off by a suitably qualified Plumber from any of Council's sewer sidelines, sewer junctions and or boundary traps that are to be disconnected by Council to prevent ingress of contaminants into Council's sewer mains. This work shall be sited and approved by Council's Water and Sewer Development Engineer before demolition works can commence.

Make application and pay fees for the removal of redundant sewer assets and or water services. These fees shall be paid before any demolition works can commence.

Redundant water meter shall not be removed to allow for final readings and removal by Council staff.

(i) Temporary Use of Council Sewer Junctions and Water Services

During demolition or building works Council may permit temporary use of sewer junctions and water services. Details of the proposed use shall be shown on the site plan and are to be approved by the Water and Sewer Planning and Development Engineer before any demolition works can commence.

Water services that are to be temporarily retained shall not have the water meter disconnected or removed. An approved backflow prevention device shall be installed. Details shall be shown on the site plan and are to be approved by the Water and Sewer Planning and Development Engineer before any demolition works can commence.

The disposal of refuse is to occur at an approved location. Council will require documentary proof of destination for hazardous materials such as asbestos and contaminated soils and may request evidence on disposal of other demolition materials - refer approved Waste Management Plan.

Reason: *To comply with statutory requirements.*

38. Excavations and Backfilling

All excavations and backfilling associated with the erection or demolition of a building shall be executed safely and in accordance with appropriate professional standards properly guarded and

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protected to prevent them from being dangerous to life or property.

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

39. Retaining Walls and Drainage

If the soil conditions require it:

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

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

40. Support for Neighbouring Buildings

If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:

- a) must preserve and protect the building from damage, and
- b) if necessary, must underpin and support the building in an approved manner (under guidance / instruction of a structural engineer), and
- c) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

The owner of the adjoining allotment of land is not liable for any part of the cost of work to be carried out for the purposes of this clause, whether carried out on the allotment of land.

In this case, allotment of land includes a public road and any other public place.

Reason: *To preserve and protect neighbouring buildings.*

41. Engineering Inspections by Council

24 hours prior to the covering of the following works, Council shall be notified by the licensed builder, owner builder or licensed plumber/drainer that the following works are ready for inspection:

- (a) Works in relation to road reserves, footpath, kerb and gutter, road shoulder and drainage within public lands or road reserves.
- (b) Final inspection of footpath, driveway, stormwater and utility construction works within the road reserve.

Note: *The subject building is not to be occupied until an Interim or Final Occupation Certificate is*

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issued.

Note: *An accredited certifier may not be substituted for Council in respect of these inspections, as Council remains the sole responsible authority for these matters.*

Reason: *Statutory requirement.*

42. Stormwater - Construction

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

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

43. Stormwater - Discharge

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

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

44. Damage to Adjoining Properties

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

Reason: *Structural safety.*

45. Erosion and Sediment Control Plan Compliance

All site works shall be carried out in accordance with the approved Erosion and Sediment Control Plan. Implementation of the Erosion and Sediment Control Plan shall be supervised by personnel with appropriate qualification and experience in erosion and sediment control.

Note: *In the event of non-compliance with the approved plan, Council Officers have the ability to issue Penalty Notices, being an on the spot fine and/ or orders.*

Reason: *To ensure that the environment is protected.*

46. Prevention of Nuisance

All possible and practical steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from windblown dust, debris and noise during the demolition, excavation and building works.

Reason: *Health and amenity.*

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47. Dust Control

Small Works

Where a dust nuisance is likely to occur, suitable screens and/or barricades shall be erected during the demolition, excavation and building works. If necessary, water sprays shall be used on the site to reduce the emission of dust. Screening shall consist of minimum 2 metres height of shade cloth or similar material secured to a chain wire fence of the like.

Reason: *Environmental amenity*

48. Vegetation Management

Approval is granted by this development consent for the removal of 12 of the 45 trees on site (including 5 trees from the Mt Gibraltar Endangered Ecological Community group of species, being 4 Eucalyptus radiata and 1 Pittosporum undulatum). 19 of the 24 trees which belong to the Mt Gibraltar Endangered Ecological Community group of species on site shall be retained. No approval is granted by this consent for the removal of the eucalypt tree located at the boundary between the subject site and the adjoining eastern Lot 4 DP 1197464, 29 B Oxley Drive.

A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any other tree or other vegetation without the prior consent of Council (unless considered exempt development).

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

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

Reason: *To ensure compliance with State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 by preserving the amenity of the area, including biodiversity values, through the preservation of trees and other vegetation.*

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

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

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

49. Approved hours of Construction/Demolition

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

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

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

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the construction of the proposal.

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

50. Construction Traffic Management Plan

All development activities and traffic movements shall be carried out in accordance with the approved Construction Traffic Management Plan.

All controls in the Plan shall be maintained at all times. A copy of the Plan must be kept on site at all times and made available to the Accredited Certifier and Council on request.

Reason: *Compliance with condition of consent.*

51. Maintenance of the site

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

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

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

During construction:

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

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

Reason: *Environmental amenity.*

52. Temporary Onsite Toilet

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

Each toilet shall:

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

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

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53. Waste Management

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

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

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

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF AN INTERIM OR FINAL
OCCUPATION CERTIFICATE**

54. Occupation Certificate

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

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

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

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

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

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

55. Section 138 Roads Act Final

The applicant is to ensure that the works associated with the Section 138 approval for this development be completed and inspected by Council prior to the issue of any Occupation Certificate.

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

56. Section 68 Local Government Act Final

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

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

57. Council Property

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

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

58. Smoke Alarms

A Compliance Certificate certifying the installation of smoke alarms shall be provided to Council prior to the Occupation Certificate.

Reason: *To ensure compliance in accordance with Australian Standard AS 3786 Smoke Alarms and NCC requirements.*

Advice: *Where there is more than 1 alarm to be installed, the certificate shall state that the alarms have been interconnected.*

59. BASIX Commitments

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

In this condition:

(a) Relevant BASIX Certificate means:

(i) a BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under Section 4.55 of the *Environmental Planning and Assessment Act 1979*, a BASIX Certificate that is applicable to the development when this development consent is modified); or

(ii) if a replacement BASIX Certificate accompanies any subsequent application for a Construction Certificate, the replacement BASIX Certificate; and

(b) BASIX Certificate has the meaning given to that term in the *Environmental Planning & Assessment Regulation 2000*.

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

60. House Numbering

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

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

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61. Civil Engineering works and services

All civil engineering works and services are to be constructed in accordance with the Wingecarribee Shire Council Engineering Plans and Specifications, relevant Standards and approved engineering plans prior to the issue of the Occupation Certificate.

Reason: *To ensure that the works and services are constructed in accordance with the approved plans.*

62. Vehicle Access (Urban)

Access to the site shall be provided by means of a new vehicle crossing as per Standard Drawing 107 and approved by Council prior to the issue of the Occupation Certificate. A copy of the Standard Drawing can be obtained from Council's offices.

Reason: *To ensure that the driveway is constructed to Council's standard specification.*

63. Multi Dwelling Housing

The following shall be completed prior to the issue of the Occupation Certificate:

Letter Boxes and Street Numbers - Units

Separate letter boxes and street numbers for each unit being provided adjacent to the street frontage, to meet the specification of Australia Post and Council.

Television Aerials - Units and Motels etc.

Only one common television aerial shall be installed per building, to minimise visual "clutter" and maintain the amenity of the locality.

Fencing - Medium Density

Provision and maintenance thereafter at the developer's expense of permanent and effective screen fencing of 1.8m height hardwood timber lapped and capped fencing to the side eastern and western boundaries of the site, to maintain the privacy of residents of the site and other properties. Fencing to the western boundary of the property shall be 1.8m height hardwood timber lapped and capped fencing with 300mm lattice above, but shall not extend into the most southern 1:100 flood affected portion of the site. Fencing to the eastern boundary of the property shall be 1.8m height hardwood timber lapped and capped fencing with 300mm lattice above, and shall commence at the north western corner of 29A Oxley Drive, but shall not extend into the most southern 1:100 flood affected portion of the site.

The eucalypt tree located at the boundary between the subject site and the adjoining eastern Lot 4 DP 1197464 29 B Oxley Drive is to be retained, therefore side boundary fencing shall be erected sensitively to ensure the retention of this tree.

Reason *To ensure compliance with Council's development controls.*

64. Parking Signs

A sign worded "**VISITOR PARKING AT REAR**" adjacent to the vehicular entry at Oxley Drive and clearly visible from the street shall be erected prior to the issue of the Occupation Certificate. The

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sign shall be of maximum dimensions 1.2m x 0.6m.

Reason: *To direct customers to the rear parking area.*

65. Landscaping Plan

Landscaping as per the approved Landscaping Plan shall be established prior to the issue of the Occupation Certificate.

Reason: *To ensure that the landscaping is completed prior to occupation.*

66. Street Trees

Prior to the issue of the Occupation Certificate, one street tree shall be planted in the Oxley Drive footpath verge area adjoining the site in accordance with Council's Urban Street Tree Masterplan.

Reason: *To ensure that the landscaping is completed prior to occupation.*

67. National Plumbing and Drainage Code

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

Reason: *To comply with legislation.*

68. Stormwater Facilities Alterations

A "Restriction as to User" shall be included on the plan of subdivision and title of the proposed development to prevent any change in shape or alteration in structure of the proposed storm water facilities after the final approval of the structure has been given by Council. Details shall be provided for the approval of Council prior to the issue of the Occupation Certificate.

Reason: *To provide appropriate storm water management.*

69. Storm water Facilities Maintenance

A "Positive Covenant" shall be included on the plan of subdivision and title of the proposed development and requiring that the proposed storm water facilities be maintained in a safe and functional manner. In addition, the Section 88B Instrument (*Conveyancing Act 1919*) shall make provision for Council to conduct maintenance on the subject storm water facilities at the owner's expense if the storm water facilities are not maintained to the agreed standard. Details shall be provided for the approval of Council prior to issue of the Occupation Certificate.

Reason: *To provide appropriate storm water management.*

70. NSW Rural Fire Service

Asset Protection Zones

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire fighting activities. To achieve this, the following conditions shall apply:

At the commencement of building works and in perpetuity the entire property shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

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71. Water Management Act 2000

While no building footprints are approved within 40 metres of the Mittagong Rivulet, no works shall occur within 40 metres of the defined watercourse unless approval is obtained under the Water Management Act 2000, or written advice received from Natural Resources Access Regulator that such approval is not required.

CONCURRENCE CONDITIONS

72. Concurrence - Water NSW

Concurrence has been granted by Water NSW for the development pursuant to *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011*. The conditions provided by Water NSW are provided below and form part of this Notice of Determination.

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General

1. The layout and works of the development shall be as specified in the Statement of Environmental Effects (dated January 2019) prepared by Lee Environmental Planning and shown on the Site Plan and Landscape Plan (Job No. 610-18-482, Sheet No. DA02A, Rev. A, dated 27-09-19) prepared by Coble and Stephens Architects. No revisions to layout or works or staging of the development that will impact on water quality, shall be permitted without the agreement of Water NSW.

Reason for Condition 1 - Water NSW has based its assessment under State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011 on this version of the development.

Stormwater Management

2. All stormwater management measures as specified in Section 7 of the WSUD Treatment Measures Report (Rev. A; dated 12 December 2018) and shown on Civil Design Plans (Sheet No. C01P2, AMDT. P2; dated 25.09.19 & Sheet No. C03P1; AMDT. P1; dated 11.12.18) both prepared by Jones Nicholson Consulting Engineers Pty Ltd shall be implemented. The stormwater management measures shall include:
 - six rainwater tanks
 - gross pollutant traps (Ocean Guard or Water NSW endorsed equivalent), and
 - cartridge filters (Storm Filter or Water NSW endorsed equivalent).
3. Six rainwater tanks shall be installed as specified in Section 7 of the WSUD Treatment Measures Report (Rev. A; dated 12 December 2018) prepared by Jones Nicholson Consulting Engineers Pty Ltd and shown on the Site Plans (Job No. 610-18-482, Sheet Nos. DA 03A, 04A, 06A, Rev. A, dated 27-9-19) prepared by Coble and Stephens Architects. Each rainwater tank shall:
 - be plumbed to toilets and for external uses (i.e. irrigation and washing), and
 - overflow from the tanks be directed to the site stormwater drainage system.
4. No changes to stormwater treatment and management that will have any impact on water quality, shall be permitted without the agreement of Water NSW.
5. A suitably qualified stormwater consultant or engineer shall certify in writing to Water NSW and Council prior to the issuance of an Occupation Certificate that all stormwater management structures have been installed as per these conditions of consent and are in a functional state.
6. An Operational Environmental Management Plan shall be prepared in consultation with Water NSW by a person with knowledge and experience in the preparation of such plans. The Plan shall be prepared prior to the issuance of an Occupation Certificate and shall be provided to body corporation. The Plan shall:
 - include details about the location and nature of stormwater management structures such as pits, pipes, gross pollutant traps (GPTs), cartridge filters, rainwater tanks and any other stormwater structures and drainage works
 - outline the responsibilities and detailed requirements for the inspection, monitoring and maintenance of all stormwater management structures including the frequency of such activities

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- identify the persons responsible for inspection and maintenance activities including a reporting protocol and hierarchy, and
 - include checklists for recording inspections and maintenance activities, particularly for Cartridge Filters and GPTs.
7. All stormwater treatment devices, particularly GPTs and cartridge filters, be inspected, monitored, maintained and managed in accordance with the Operational Environmental Management Plan.

Reason for Conditions 2 to 7 – To ensure that the stormwater quality management measures and structures for the proposed development have a sustainable neutral or beneficial impact on water quality over the longer term.

Construction Activities

8. The Site Analysis and Erosion Control Plan (Job No. 610-18-482, Sheet No. DA01A, Rev. A, dated 27-09-19) prepared by Coble Stephens Architects shall be updated for all works required as part of the development by a person with knowledge and experience in the preparation of such plans. The Plan shall:
- meet the requirements outlined in Chapter 2 of NSW Landcom's Soils and Construction: Managing Urban Stormwater (2004)
 - be prepared prior to issuance of a Construction Certificate and to the satisfaction of Council, and
 - include controls to prevent sediment or polluted water leaving the construction site or entering any natural drainage lines or stormwater drain.
9. The Erosion and Sediment Control Plan shall be implemented, and effective erosion and sediment controls shall be installed prior to any construction activity. The controls shall be regularly inspected, monitored and maintained until works have been completed and groundcover established.

Reason for Conditions 8 & 9 – To manage adverse environmental and water quality impacts during the construction phase of the development so as to minimise the risk of erosion, sedimentation and pollution within or from the site during this phase.

END OF CONDITIONS

9.1 Development Application 19/1042 - Multi Dwelling Housing containing 7 units - 25 Oxley Drive, Bowral

ATTACHMENT 9 Report to Council 26 February 2020



AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 26 February 2020

REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



CORPORATE STRATEGY AND DEVELOPMENT SERVICES

9.1 Development Application 19/1042 - Multi Dwelling Housing containing 7 units - 25 Oxley Drive, Bowral

Reference:	19/1042
Report Author:	Senior Town Planner
Authoriser:	Manager Development Assessment Group Manager Planning Development and Regulatory Services
Applicant:	Le Ralais Pty Ltd
Owner:	Tony & Serena Antoun
Link to Community Strategic Plan:	Identify and protect the unique characteristics of towns and villages to retain a sense of place

PURPOSE

The purpose of this report is to consider Development Application 19/1042 which seeks development consent for a Multi Dwelling Housing development containing 7 units at Lot 11 DP 603108, being 25 Oxley Drive, Bowral. This report is prepared for determination, and recommends **APPROVAL**, subject to attached conditions of consent (**Attachment 1**).

VOTING ON THE MOTION

Councillors are required to record their votes on this matter.

RECOMMENDATION

THAT Development Application 19/1042 which seeks approval for a Multi Dwelling Housing development containing 7 units at Lot 11 DP 603108, being 25 Oxley Drive, Bowral, be **APPROVED** by way of a deferred commencement consent, subject to attached conditions of consent as described in Attachment 1 to the report.

REPORT

Subject Site and Locality

The subject site, Lot 11 DP 603108, being 25 Oxley Drive, Bowral, is located on the southern side of Oxley Drive, approximately 90 metres west of the Oxley Drive / Rose Street intersection (**Attachments 2 and 3**). The site is 2608 square metres in area, has a frontage of 20.735 metres to Oxley Drive, and currently contains a single storey Residential Flat Building containing 4 residential units in the northern portion of the site. The site slopes steeply down to the rear, and adjoins Mittagong Creek and Cherry Tree Walk to the south. The site has a fall of approximately 21 metres from north (top) to south (bottom).

The site contains numerous exotic and native trees, including 24 trees which belong to the Mt Gibraltar Endangered Ecological Community group of species.



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The lowest portion of the site is flood affected land, however a Flood Certificate shows that the proposed buildings are higher than 1:100 year flood levels, and not located in the 1:100 year flood affected area.

To the east of the site are a combination of recently constructed single storey and two storey detached dwelling houses on 700 square metre lots at 27, 29, 29A, 29B, 29C and 29D Oxley Drive. To the west of the site is medium density residential development constructed between the 1980's -1990's at 21 and 23 Oxley Drive. The broader locality is characterised by a combination of medium density residential development, and single storey / two storey detached dwelling houses on 700 square metre lots.

Proposed Development

Development Application 19/1042 originally sought approval for a Multi Dwelling Housing development containing 8 units within three buildings. Due to concerns raised by Council during the assessment process, including issues such as non-compliant side setbacks, building height, solar access, privacy / overlooking, insufficient landscaped area, private open space area, geotechnical concerns, and tree and vegetation matters, amended plans were submitted in October 2019 reducing the proposed development to 7 units within three buildings. Further amended plans have been submitted relating to overshadowing and privacy matters. It is the amended proposal which is being assessed in this report.

The proposed development includes:

- Three 4 bedroom units, and four 3 bedroom units, contained within three 2 storey buildings which step down the site. The lower portion of the property is proposed open space area containing existing trees;
- Double garage for each of Units 1,2,3, 6 and 7, two basement car spaces for each of Units 4 and 5, two basement visitor car spaces and one visitor car space at ground level, being a total of 14 car spaces and 3 visitor parking spaces;
- External materials of fibre cement cladding and weatherboard with 25 degree pitch colorbond roof;
- 50% of the site area being landscaped open space;
- Maximum 8 metre height (measured from natural ground level to roof pitch. Note that natural ground level is shown by highlighted line in **Attachment 5**);
- Front setback of 8 metres to Oxley Drive;
- Removal of 12 of the 45 trees on site (including 5 trees from the Mt Gibraltar Endangered Ecological Community group of species, being 4 Eucalyptus Radiata and 1 Pittosporum Undulatum). 19 of the 24 trees which belong to the Mt Gibraltar Endangered Ecological Community group of species on site will be retained;
- Gross Floor Area of 896 square metres, being a 0.34:1 Floor Space Ratio;
- Private Open Space Areas for each unit exceeding 50 square metres each, with the exception of 47 square metres private open space area for Unit 3.

The site plan of the proposed development can be found at **Attachment 4**. The elevations of the proposed development, containing a highlighted line showing natural ground level, can be found at **Attachment 5**. Plans showing June 21 midwinter overshadowing can be found at **Attachment 6**.



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REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES

**STATUTORY PROVISIONS*****State Environmental Planning Policies***State Environmental Planning Policy No 55 – Remediation of Land

Clause 7 of SEPP 55 requires the consent authority to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land, and to be satisfied that the land is suitable for the proposed use. Council is satisfied that the land is not a site of possible contamination and therefore no further assessment of contamination is required.

State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011

The site is located within the Wingecarribee River Sub-catchment. Compliance with the provisions of the SEPP and associated guidelines is therefore required to consider water quality. Water NSW advises that the proposed development satisfies the requirements of State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011, subject to conditions of consent including conditions addressing stormwater management measures, and construction activities as contained within attached conditions of consent (**Attachment 1 - condition 72**).

State Environmental Planning Policy 44 (Koala Habitat Protection)

The site does not contain any of the Koala Feed Tree species listed in Schedule 2 of State Environmental Planning Policy 44 (Koala Habitat Protection), therefore SEPP 44 does not apply to the development. State Environmental Planning Policy (Koala Habitat Protection) 2019 commences on 1 March 2020, however is not applicable as the development application was made prior to the commencement of the new policy (Cl.15 Savings provision relating to development applications).

Local Environmental PlansWingecarribee Local Environmental Plan 2010Clause 2.3 Zone objectives and land use table

The site is zoned R3 Medium Density Residential under the *Wingecarribee Local Environmental Plan 2010* and in this zone, Multi Dwelling Housing is permissible with development consent.

The objectives of the R3 Medium Density Residential zone are:

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

The proposed 7 unit Multi Dwelling Housing development is consistent with these zone objectives.

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The proposed development is considered satisfactory with respect to the relevant objectives specified by Section A2.2. of the Bowral Township Development Control Plan, including economic function objectives, urban function objectives, residential amenity objectives, residential diversity objectives, visual amenity objectives, public views and vistas objectives, and environmental sustainability objectives.

A Flora and Fauna Assessment report has been submitted in accordance with Section A3.2 of the Bowral Township Development Control Plan, and is discussed in the Discussion of Key Issues section of this report.

The proposed development is considered satisfactory with respect to Section A4 Water Management of the Bowral Township Development Control Plan. Mittagong Creek to the south of the site is mapped as a Category 2 stream. No works are proposed within 30 metres of Mittagong Creek, therefore a Vegetation Management Plan for Riparian Corridors detailed within Section A4.1 of the Bowral Township Development Control Plan, is not required.

The proposed development is considered satisfactory with respect to Section A5 Flood Liable Land of the Bowral Township Development Control Plan. While the lowest portion of the site is flood affected land, a Flood Certificate shows that the proposed buildings are higher than 1:100 year flood levels, and not located in the 1:100 year flood affected area.

The proposed development is considered satisfactory with respect to Section A6 Vegetation Management and Landscaping of the Bowral Township Development Control Plan, including private landscaped open space objectives and controls.

The proposed development is considered satisfactory with respect to Section A8 Safer by Design of the Bowral Township Development Control Plan, including space and activity management, territorial reinforcement, surveillance, and access control.

The proposed development is considered satisfactory with respect to Section C1.2 objectives of Residential Zoned Land of the Bowral Township Development Control Plan, including new residential development being sympathetic with existing streetscapes and neighbourhood character, energy efficient, of good amenity, being safe and attractive, and which meets the needs of a range of community and demographic types.

The proposed development is considered satisfactory with respect to Section C3.1.1 objectives of Medium Density Residential Zoned Land of the Bowral Township Development Control Plan, including that the development provides a variety of housing form to cater for differing lifestyles and income levels, does not adversely affect the amenity of existing and likely future residents of a locality (as discussed in the Discussion of Key Issues section of this report), is appropriate to the existing residential streetscape; maximises urban amenity and convenience for residents; is located within reasonable walking distance of public transport; and retail and service facilities.

The proposed 7 unit Multi Dwelling Housing development complies with numerous standards contained within the Bowral Township Development Control Plan, including compliance with maximum 2 storey / 9 metre height limit, compliance with the maximum



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floor space ratio of 0.5:1 (the proposed 7 unit Multi Dwelling Housing development has a proposed floor space ratio of 0.34:1), compliance with minimum street setback requirements, compliance with minimum side setback requirements, compliance with solar access requirements, compliance with the minimum 50% landscaped open space area requirement, and compliance with private open space requirements for each unit (with the exception of Unit 3 which provides a 47 square metre private open space area, being a 3 square metre deficiency).

Two variations are sought to Bowral Township Development Control Plan requirements, being a variation to the minimum 25 metre site frontage requirement and a variation to the private open space area of Unit 3, as discussed below.

The subject site, which currently contains a single storey Residential Flat Building containing 4 residential units in the northern portion of the site, has a frontage of 20.735 metres to Oxley Drive. To the east of the site are a combination of recently constructed single storey and two storey detached dwelling houses on 700 square metre lots. To the west of the site is medium density residential development constructed between the 1980's -1990's at 21 and 23 Oxley Drive. Due to these adjoining medium density developments, and recent detached dwelling developments, combined with the fact that the site already contains a medium density development which is proposed to be demolished, boundary adjustment or consolidation of an adjoining lot to achieve the minimum 25 metre site frontage is considered unreasonable and unnecessary in this instance. A refusal based on this non-compliance is not considered to be a defensible position for Council should an appeal be lodged in the Land and Environment Court.

Bowral Township Development Control Plan requires Private Open Space Areas for each multi dwelling housing unit of 50 square metres. All proposed units have a private open space area exceeding 50 square metres, with the exception of 47 square metres private open space area for Unit 3. It is considered that a refusal based on this minor non-compliance is not considered to be a defensible position for Council should an appeal be lodged in the Land and Environment Court.

Section 4.15 Evaluation

(1) Matters for consideration—general

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:

- (a) the provisions of:*
 - (i) any environmental planning instrument, and*

The proposed 7 unit Multi Dwelling Housing development is permissible within the R3 Medium Density Residential zone under *Wingecarribee Local Environmental Plan 2010*, and satisfies the R3 Medium Density Residential zone objectives. The proposed development also complies with the provisions of State Environmental Planning Policy No 55 – Remediation of Land, and State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011.

- (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*



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that the making of the proposed instrument has been deferred indefinitely or has not been approved), and

Not applicable in this instance (no relevant draft plans).

(iii) *any development control plan, and*

The proposed 7 unit Multi Dwelling Housing development complies with standards contained within the Bowral Township Development Control Plan, including compliance with maximum 2 storey / 9 metre height limit applicable to multi dwelling housing, compliance with the maximum floor space ratio of 0.5:1 (the proposed 7 unit Multi Dwelling Housing development has a proposed floor space ratio of 0.34:1), compliance with minimum street setback requirements, compliance with minimum side setback requirements, compliance with solar access requirements, compliance with the minimum 50% landscaped open space area requirement, and compliance with private open space requirements for each unit (with the exception of Unit 3 which provides a 47 square metre private open space area, being a 3 square metre deficiency. The two variations sought to Bowral Township Development Control Plan requirements, being a variation to the minimum 25 metre site frontage requirement and a variation to the private open space area of Unit 3, are discussed above and within the Discussion of Key Issues section of this report.

Standard	Required	Provided	Compliance
Site Frontage	>25 metres	20.735 metres	No
Floor Space Ratio	Maximum 0.5:1	0.34:1	Yes
Front setbacks	8 metres	8 metres	Yes
Side Setbacks	2 metres where development is up to 3 metres in height above natural ground level (excluding balconies)	2.34 metres to 7.907 metres	Yes
Side Setbacks	3.5 metres where development is more than 3 metres in height above natural ground level (excluding balconies)	3.5 metres to 7 metres	Yes
Height	Maximum 2 storeys / 9 metres when measured from natural ground level to the highest point of the roofline	2 storeys / 8 metres (measured from natural ground level to roof pitch. Note that natural ground level is shown by highlighted line in Attachment 5)	Yes
Site Landscaping	50% of site area	50% of site area	Yes
Private Open Space Area	50 sqm per unit with a minimum length of 5 metres	Private Open Space Areas are	No



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Standard	Required	Provided	Compliance
		provided for each unit exceeding 50 square metres each, with the exception of 47 square metres private open space area for Unit 3	
Carparking	2 spaces per 3 or more bedroom dwelling, and 1 visitor parking space per 3 dwellings Therefore = 14 resident spaces required, and 3 visitor spaces required	14 resident spaces and 3 visitor spaces provided	Yes

The proposed 7 unit multi dwelling housing development is considered to satisfy Section C15.3 Northern Entrance Medium Density Development of Bowral Township Development Control Plan, including:

- The proposed scale and configuration of the proposed 7 unit multi dwelling housing development is considered an acceptable architectural outcome. The proposed building will not be visually prominent when viewed from Oxley Drive, and its visual prominence when viewed from Cherry Tree Walk will be softened by the retention and enhancement of vegetation in the southern portion of the site. Proposed landscaping within side setback areas will assist in softening the appearance of the development.
- The provision of more than 50% site landscaping is considered to respect the overall garden character of the neighbourhood.
- Proposed architectural features, including roof forms, window positioning and proportioning, verandah treatment, fencing, and building proportions are considered compatible with existing architecture occupying adjoining or nearby land.
- Proposed external materials of fibre cement cladding and weatherboard, with 25 degree pitch colorbond roof is considered to result in a harmonious relationship with existing development on adjoining and nearby land.

(iiiia) any planning agreement that has been entered into under Section 93F, or any draft planning agreement that a developer has offered to enter into under Section 93F, and

Not applicable to Development Application 19/1042.

(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and

Not applicable to Development Application 19/1042.



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(v) *any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates,*

Not applicable.

(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,*

The impacts of the proposed development, including built form, character, streetscape, setbacks, and solar access are discussed in the Discussions of Key issues section of this report.

(c) *the suitability of the site for the development,*

The site is considered suitable for the proposed 7 unit Multi Dwelling Housing development as discussed in the Discussions of Key issues section of this report.

(d) *any submissions made in accordance with this Act or the regulations,*

Refer to the Consultation Section of this report.

(e) *the public interest.*

The proposed 7 unit Multi Dwelling Housing development is consistent with the objectives of Wingecarribee Local Environmental Plan 2010, and is considered to be in the public interest.

CONSULTATION

Internal Referrals

The required conditions are incorporated throughout the Draft Conditions of Consent (**Attachment 1**).

Referrals	Advice/Response/Conditions
Development Engineer	Council's Development Engineer has provided conditions of consent, including conditions addressing stormwater, parking and access.
Modelling Assistant Engineer	Council's Modelling Assistant Engineer raises no objection to the submitted Water and Sewer modelling showing sufficient water and sewer capacities available to service the development.
Flood Engineer	Council's Flood Engineer raises no objection to the proposed development, as the development is located above the flood affected portion of the site.
Accredited Certifier	Council's Accredited Certifier raises no objection to the proposed 7 unit Multi Dwelling Housing development and has provided conditions of consent.
Flora and Fauna	The proposed development will remove 12 of the 45 trees on site (including 5 trees from the Mt Gibraltar Endangered Ecological Community group of species, being 4 Eucalyptus radiata and 1 Pittosporum undulatum). 19 of the 24 trees which belong to the Mt Gibraltar Endangered Ecological Community group of species on site will be retained. The proposed tree removal is supported by Council's Flora and



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Referrals	Advice/Response/Conditions
	Fauna Consultant, subject to conditions addressing tree protection, removal of noxious and environmental weeds from the site (including removal of ivy and blackberry), compensatory plantings of Mt Gibraltar Forest species to occur within a regeneration area in the south of the site, and the erection of two large and one small nesting boxes, and one bat box (condition 23).

External Referrals

Referrals/Notice	Advice/Response/Conditions
Water NSW	Water NSW supports the proposed 7 unit Multi Dwelling Housing development, subject to conditions of consent addressing stormwater management and construction activities (condition 72).
Rural Fire Service	Rural Fire Service raise no objection to the proposed development, subject to the entire property being managed as an inner protection area (condition 70).

Neighbour Notification (or Advertising)/Public Participation

The originally proposed 8 unit Multi Dwelling Housing development was neighbour notified to 52 surrounding properties, advertised in the local paper, and a site sign was erected on the premises. 10 submissions objecting to the proposal were received.

As a courtesy, objectors were advised in October 2019 that amended plans had been submitted by the applicant proposing a 7 unit multi dwelling housing development, seeking to address concerns raised by Council in the assessment of the application. While this was not a re-notification or re-advertisement requesting submissions, four subsequent submissions were received objecting to the amended plans.

The issues raised from all 14 submissions regarding the proposed multi dwelling housing development have been summarised and are considered below:

Issues	Response
Overshadowing - Unacceptable overshadowing of neighbouring properties, particularly in winter. Units 6 and 7 will block western afternoon sunlight to adjoining eastern property. Buildings will destroy winter sun in our back garden, and most of the other sun at other times of the year. Our major source of light comes from the north west/west for the part of our house that is most utilised during the day. The new development will impede this light in a major way in our view. This conclusion is self-evident if the site is reviewed and is made particularly problematic due to the heights. Natural light on either side of the development will be greatly compromised. The overshadowing impact is in effect a major reduction of solar access to the landscaped and usable areas of the garden at no.29B during the winter afternoons. Overshadowing impacts will affect 29A in a similar manner and also and 29C Oxley Drive. Major reduction in the bulk of the	Overshadowing matters are discussed in the Discussion of Key Issues section of this report. An additional submission from an objector and objector's consultant, containing shadow diagrams, was received 7 February 2020. The shadow diagrams submitted with the objection (Attachment 7) are based upon



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Issues	Response
<p>development needed to maintain our solar access into the future. Proposed development has major impacts on the amenity of not only 29B's exterior usable outdoor space and garden but also on the indoor habitable bedrooms and living room, and major reduction of solar access to the landscaped and usable areas of the garden at no 29B during the winter afternoon in comparison to a single dwelling or a unit reduced development. Western side of 25 Oxley Drive will have significant overshadowing. The excessive height and bulk of the roof form of unit 5 causes extensive loss of midwinter solar access to both 29B's outdoor open space after 1pm and the living room windows after 2pm. The height and roof form of unit 4 blocks sun completely to the northern outdoor space from 2.30pm onward. Unit 5 becomes effectively a 3 storey building in relation to 29B and unit 4 is a 4.5 storey building in relation to 29B. Proposal does not satisfy the amenity test for neighbouring properties. Deletion of unit 5 roof would increase solar access to 29B indoor space and outdoor usable space by 30mins.</p>	<p>superseded plans, and are not based upon the amended plans submitted by the applicant dated 3 February 2020 (Attachment 6) as placed on Council's DA Tracker 4 February 2020, which reduce overshadowing impacts upon adjoining eastern properties by the replacement of the previous eastern elevation gable roof of Unit 5 with a hipped roof. Attachment 7 shows objector's consultant's shadow diagrams based on superseded plans. Attachment 6 shows shadow diagrams submitted with amended plans 3 February 2020, reducing overshadowing impacts.</p>
<p>Privacy impacts - Balconies and living areas will invade the privacy of adjoining properties. Huge privacy impacts upon the privacy of units 3 – 6, 23 Oxley Drive, and new dwellings at 29, 29A, 29B, 29C Oxley Drive. The owners of 29B will be living with no privacy all year round until tall and dense vegetation can be realised. Large opening doors and balconies will look directly into adjoining properties' bedrooms and gardens. Design will overlook adjoining residences causing a loss of privacy in private personal living areas, courtyard, kitchen dining and rear bedroom of townhouses 7 & 8, 21 Oxley Drive. Major reduction in the bulk of the development to maintain our solar access and privacy into the future. Privacy impacts will affect 29A in a similar manner and also and 29C Oxley Drive. Major reduction in the bulk of the development to maintain privacy into the future. Units 5 and particularly Unit 7 will tower over us, with very little setback between the buildings and our boundary fence. Owners of 29B will be living in a dwelling and outdoor area with no privacy from at least 2 apartments in the new development, all year round. The proposed development at No 25 Oxley Drive is a bulky form in relation to the adjoining single storey houses. The two storey form</p>	<p>Privacy / overlooking matters are discussed in the Discussion of Key Issues section of this report.</p>



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Issues	Response
<p>while suitable for single dwellings adjoining each other in a typical street here creates a situation where windows of upper levels, which would normally face front and rear, now face side boundaries and so impinge markedly on privacy of neighbouring houses. Unit 7's lower level is located at approximately the same contour as 29B south edge. However the upper floor windows face directly onto both 29B's outdoor usable space, garden and private indoor spaces, namely a bedroom and living room. These spaces are at a lower level which creates an invasion of privacy such that the owners must always keep their curtains or blinds shut and so lose the amenity of their garden. Habitable rooms look over the outdoor space and the interior spaces of 29B such that the owners will feel intimidated and will have to close their curtains or blinds to find privacy.</p>	
<p>Density / Character / Appearance - Proposed development is out of keeping with style and standard of development expected in Bowral, is a severe overdevelopment of a highly constrained site and inconsistent with the surrounding area and also with planning requirements. Proposal does not meet minimum 25 metre site frontage for medium density developments. Proposal is not of a modest scale, and will be visually obtrusive when viewed from Cherry Tree Walk. Development will dominate properties to the east and west. The most important issue is whether the proposed development fits into the Northern Medium Density Precinct area. There is no objective evidence produced as to how its scale is appropriate in the local context. What are the local buildings that are similar in scale, having 8 units on a small site with minimal open space immediately surrounding them? This is a regional town, not inner Sydney, where the scale and density of the proposed development would be more usual.</p>	<p>The site is zoned R3 Medium Density Residential under the <i>Wingecarribee Local Environmental Plan 2010</i> and in this zone, Multi Dwelling Housing is permissible with development consent. Built Form / Density / Character of the proposed development, and the requested variation to minimum 25 metre frontage requirement are discussed in the Discussion of Key Issues section of this report.</p>
<p>Setbacks - Insufficient side setbacks of units to boundaries do not comply with Bowral DCP requirements, and do not provide sufficient area for landscaping. Very little opportunity available for landscaping to reduce the bulk of the new dwellings.</p> <p>Rear setback provided has no benefit to 29A and 29B Oxley Drive.</p>	<p>Proposed side setbacks as shown in amended plans comply with Bowral Town Plan DCP requirements.</p>
<p>Unacceptable degree of tree removal and insufficient landscaping. Trees to be removed are a rare species that is native to Mt Gibraltar and are not found elsewhere in the district. They are quite beautiful and form part of the view for all surrounding properties. Adjoining properties' views of trees on the site will be removed. The overwhelming impact is of a development without any landscaping when viewed from the east</p>	<p>The proposed development will remove 12 of the 45 trees on site (including 5 trees from the Mt Gibraltar Endangered Ecological Community</p>



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Issues	Response
<p>or west, adjacent to the proposed buildings. Developer is requesting approval to remove trees without an arborist report which, given the sensitivities surrounding environmental issues, is not in accordance with what is expected when describing environmental issues. The loss of rare trees and their replacement with the type of overdevelopment that is typical in inner Sydney city, is clearly a loss. The fact that the bottom third of the development has been left as open space does not benefit adjoining properties at all. It is questionable whether it benefits anyone at all other than the two units numbers 7 and 8 at the rear of the proposed development. The site will lose approximately half the current mature trees on site, and loss of habitat for native birds, snakes, lizards, echidna, wombat and koala habitat. Council Rangers have marked these trees as "protected". The required 50% open space requirement is not achieved by this development.</p>	<p>group of species, being 4 Eucalyptus radiata and 1 Pittosporum undulatum). 19 of the 24 trees which belong to the Mt Gibraltar Endangered Ecological Community group of species on site will be retained.</p> <p>The proposed tree removal is supported by Council's Flora and Fauna Consultant, subject to conditions addressing tree protection, removal of noxious and environmental weeds from the site (including removal of ivy and blackberry), compensatory plantings of Mt Gibraltar Forest species to occur within a regeneration area in the south of the site, and the erection of two large and one small nesting boxes, and one bat box (condition 23).</p> <p>A condition of consent (condition 23) will require replacement planting to compensate for the removal of the 5 trees from the Mt Gibraltar Endangered Ecological Community group of species at a rate of 3:1. The amended plans submitted in October 2019 show compliance with the 50% site landscaping requirement.</p>
<p>Eucalypt marked on the plans as tree number 5 is mostly on adjoining property, and should not be removed. The developer</p>	<p>Amended plans submitted show retention of tree located</p>



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Issues	Response
<p>had been given permission by the Council to remove a tree owned by us without our permission.</p>	<p>at the boundary between the subject site and the adjoining eastern Lot 4 DP 1197464 29 B Oxley Drive. The retention of this tree can be reinforced by a condition of consent (condition 48).</p>
<p>Each unit “has its own generous private outdoor open space that is directly off the main living area.” The drawings do not support the accuracy of this statement.</p>	<p>Private Open Space Areas for each unit exceeds the minimum requirement of 50 square metres each, with the exception of 47 square metres private open space area for Unit 3.</p>
<p>Additional dwellings at the site will contribute to the further development of a heat sink.</p>	<p>“Heat island effect” is caused when an urban area is significantly hotter due to hard surfaces, like roads, footpaths, roofs, as well as buildings. While the proposed development will increase hard surface area on the site, the proposed development contains more than 50% site landscaped area, which complies with Bowral Township DCP requirements.</p>
<p>The market does not need additional medium density residential development.</p>	<p>The commercial success of a development is not a matter for consideration in the assessment of a Development Application under s.4.15 of the Environmental Planning and Assessment Act 1979.</p>



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DISCUSSION OF KEY ISSUES

Height / Visual Impact on adjoining properties

While the site has a fall of approximately 21 metres from north to south, the proposed development steps down the slope, and includes basement parking areas below natural ground level, thereby achieving a maximum 8 metre height measured from natural ground level to roof pitch, which complies with the maximum 9 metre / 2 storey height limit under Bowral Township Development Control Plan. Elevation plans (**Attachment 5**) show natural ground levels as a highlighted line, which assists in understanding the proposed development's compliance with the maximum 9 metre / 2 storey height limit under Bowral Township Development Control Plan.

The height of the proposed development will have a visual impact upon adjoining properties, however as the proposed development complies with the height controls of the Bowral Township Development Control Plan, the visual impact of the height of the development is not beyond that which would be expected within a Medium Density Residential zone.

Overshadowing

The subject site has a north-south orientation, therefore shadow impacts are not concentrated upon one property, but shared between adjoining properties throughout the day. As the site slopes down to the south, shadows are therefore lengthened in comparison to a flat level site.

Amended plans submitted by the applicant dated 3 February 2020 (**Attachment 6**), which include reduced overshadowing impacts upon adjoining eastern properties by the replacement of the previous eastern elevation gable roof of Unit 5 with a hipped roof, are the shadow diagrams assessed below.

On June 21 midwinter, the adjoining eastern properties at 29, 29A, and 29C Oxley Drive currently enjoy more than 1 ½ to 2 hours of morning solar access to private open space areas, and 3 hours afternoon solar access to private open space areas (as the current existing Residential Flat Building at 25 Oxley Drive is located in the northern portion of the site which minimises afternoon overshadowing impacts upon the adjoining eastern properties). The proposed development at 25 Oxley Drive will not reduce morning solar access to the private open space areas of these eastern dwellings. The proposed development will reduce June 21 midwinter afternoon solar access to private open space areas of 29, 29A, and 29C Oxley Drive to 1 ½ to two hours, however combined with the current morning solar access, overshadowing impacts will comply and satisfy the Bowral DCP requirement that "Any new development must not reduce the solar access currently enjoyed in 50% of the primary private open space of adjacent dwellings so (*sic*) be less than 3 hours of direct sunlight on June 21st." for 29, 29A, and 29C Oxley Drive. Specifically, solar access to 50% of the primary private open space on June 21st will be available for 29 Oxley Drive for 4 hours between 10am – 2pm, 29A Oxley Drive for 3 hours between 10.30am – 1.30pm, and 29C Oxley Drive for 4 hours between 10am – 2pm.

On June 21 midwinter, the adjoining eastern properties at 29, 29A, and 29C Oxley Drive currently enjoy more than 1 ½ to 2 hours of morning solar access to living areas, and 1 - 2 hours afternoon solar access to living areas (as the current existing Residential Flat Building at 25 Oxley Drive is located in the northern portion of the site which minimises afternoon overshadowing impacts upon the adjoining eastern properties). The proposed development at 25 Oxley Drive will not reduce morning solar access to the living areas of these eastern dwellings. The proposed development will reduce June 21 midwinter afternoon solar access to living areas of 29, 29A, and 29C Oxley Drive to 1 to 2 hours, however combined with the current morning solar access, overshadowing impacts will comply and satisfy the Bowral DCP requirement that "Any new development must not reduce the solar access currently



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enjoyed in living areas of adjacent dwellings so (*sic*) be less than 3 hours of direct sunlight on June 21st.” for 29, 29A, and 29C Oxley Drive. Specifically, solar access to living areas on June 21st will be available for 29 Oxley Drive for 3 hours between 10am – 1pm, 29A Oxley Drive for 3 ½ hours between 10.30am – 2pm, and 29C Oxley Drive for 3 hours between 9 -10am and then 11am -1pm.

On June 21 midwinter, the adjoining eastern property at 29B Oxley Drive currently receives half an hour solar access in the morning to northern facing windows of the living room area, which is located in the north eastern portion of the dwelling, and receives more than 3 hours solar access from 12 midday onwards to the western facing windows of the family area which is located in the north western corner of the dwelling. The proposed development at 25 Oxley Drive will not reduce the morning solar access to the northern facing living room windows of 29B Oxley Drive, but will reduce afternoon solar access to the western facing family room window from its current 3+ hours down to 3 hours, being 12 midday to 3pm June 21 midwinter, due to the reduced roof line of proposed Unit 5/25 from a gable roof to a hipped roof, as shown in plans dated 3 February 2020. Combined with current morning solar access which will not be impeded by the proposed development, the living and family areas of 29B Oxley Drive will have 3 ½ hours of solar access, which is half an hour greater than the Bowral DCP requirement that “Any new development must not reduce the solar access currently enjoyed in living areas of adjacent dwellings so (*sic*) be less than 3 hours of direct sunlight on June 21st.”.

Continuing this example, on June 21 midwinter, more than 50% of the private open space of 29B Oxley Drive currently receives more than 4 hours solar access. The proposed development at 25 Oxley Drive will not reduce morning solar access to the private open space of 29B Oxley Drive, but will reduce afternoon solar access to private open space, particularly from 2pm onwards. However should the proposed development at 25 Oxley Drive proceed, solar access to the private open space area of 29B Oxley Drive will not be reduced below 50% of its private open space area between 10:30am – 1:30pm, therefore satisfying Bowral DCP requirement that “Any new development must not reduce the solar access currently enjoyed in 50% of the primary private open space of adjacent dwellings so (*sic*) be less than 3 hours of direct sunlight on June 21st.”

On June 21 midwinter, the adjoining western properties at 3/23, 4/23, 5/23, 6/23 Oxley Drive enjoy approximately 3 hours morning solar access to private open space areas. 3/23 Oxley Drive has a northern facing living area which will not be affected by the proposed development, and 4/23, 5/23, 6/23 Oxley Drive enjoy approximately 3 hours afternoon solar access to upper level western / north western orientated living areas (it should be noted that Council approved plans for the adjoining western properties at 4/23, 5/23, 6/23 Oxley Drive do not include upper or lower level eastern facing living room areas, but rather upper level eastern facing bedroom areas and eastern facing lower level subfloor areas, some of which have been subsequently converted into rumpus room areas / secondary living areas with no record of Council consent). On June 21 midwinter, the proposed development at 25 Oxley Drive will remove morning solar access until 10 am to the private open space of the eastern courtyards of 3/23, 4/23, 5/23, 6/23 Oxley Drive, but solar access to these private open space eastern courtyards will be available from 10am - 1pm and will comply and satisfy the Bowral DCP requirement that any new development must not reduce the solar access currently enjoyed in 50% of the primary private open space of adjacent dwellings to be less than 3 hours of direct sunlight on June 21st. The proposed development will not reduce June 21 midwinter solar access to the northern facing living area of 3/23 Oxley Drive. The proposed development will not reduce June 21 midwinter afternoon solar access to approved living areas of 4/23, 5/23, 6/23 Oxley Drive (which are located in the upper level western / north western areas of these units), therefore will satisfy the Bowral DCP



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requirement that any new development must not reduce the solar access currently enjoyed in living areas of adjacent dwellings to be less than 3 hours of direct sunlight on June 21st.

On June 21 midwinter, the proposed development at 25 Oxley Drive will remove morning solar access until 10 am to the private open space courtyards and northern facing living areas of 7/21 and 8/21 Oxley Drive, but solar access to these private open space courtyards and living areas for the remainder of the day will comply and satisfy the Bowral DCP requirement that any new development must not reduce the solar access currently enjoyed in 50% of the primary private open space of adjacent dwellings to be less than 3 hours of direct sunlight on June 21st, and satisfy the Bowral DCP requirement that any new development must not reduce the solar access currently enjoyed in living areas of adjacent dwellings to be less than 3 hours of direct sunlight on June 21st.

An additional submission from an objector and objector's consultant, containing shadow diagrams, was received 7 February 2020. The shadow diagrams submitted with the objection (**Attachment 7**) are based upon superseded plans, and are not based upon the amended plans submitted by the applicant dated 3 February 2020 (**Attachment 6**) as placed on Council's DA Tracker 4 February 2020, which reduce overshadowing impacts upon adjoining eastern properties by the replacement of the previous eastern elevation gable roof of Unit 5 with a hipped roof. **Attachment 7** shows objector's consultant's shadow diagrams based on superseded plans, and are included for the information of Councillors. **Attachment 6** shows shadow diagrams submitted by applicant with amended plans dated 3 February 2020, reducing overshadowing impacts.

Privacy / Overlooking

Due to concerns raised by Council during the assessment process, including issues such as privacy / overlooking, amended plans were submitted in October 2019 reducing the proposed development to a Multi Dwelling Housing development containing 7 units within three buildings. Further amended plans have been submitted relating to privacy matters. It is the amended proposal which is being assessed in this report.

Proposed Units 1 and 2

Proposed Units 1 and 2 / 25 Oxley Drive contain ground level western facing living area (living / dining /kitchen area) windows facing the eastern facing living areas and private open space areas of the adjoining western Unit 3/23 Oxley Drive. Proposed Unit 1/ 25 western facing ground level living area window will face the blank eastern wall of Unit 3/23 Oxley Drive, and combined with the existing fence line, will create no privacy impacts. The proposed upper level western facing rumpus room window of Unit 1 should have fixed obscure glazing in any part of the window less than 1.7 metres above the floor to ensure privacy of the adjoining western Unit 3/23 Oxley Drive and its open space area. This can be addressed by a condition of consent (**condition 25**).

Proposed Unit 2/25 Oxley Drive ground level western facing living, dining and kitchen windows are setback 2.34 metres from the western boundary, and the adjoining western Unit 3/23 Oxley Drive is setback 3.5 metres from its eastern boundary. Therefore the 5.85 metre separation between windows, combined with landscaping and fencing, ensures privacy for the existing 3/23 Oxley Drive. Unit 2 upper level western facing rumpus and deck is screened by louvres, providing sufficient privacy for Unit 3/23 Oxley Drive.

Western facing bedroom windows and eastern facing bedroom windows will overlook the adjoining properties, however as bedrooms are not living areas, obscure glazing to bedroom areas is not required. Eastern facing first floor rumpus and "window seat" windows should have fixed obscure glazing in any part of the windows less than 1.7 metres above the floor to ensure privacy of the adjoining eastern properties. This can be addressed by a condition of consent (**condition 25**).



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Proposed Unit 3

Proposed Unit 3/25 Oxley Drive adjoins the western existing Unit 4/23 Oxley Drive. Proposed Unit 3/25 has western facing ground level living area (living / dining / kitchen area) windows setback 2.4 metres from the western boundary, with a ground floor level and private open space level of RL 693.485, which is 0.195 metres (19.5 cm) higher than the existing Unit 4/23 terrace level of 693.28, therefore due to similar levels and combined with fencing there will be no privacy impacts. Amended plans show the upper level western facing rumpus room windows will have fixed obscure glazing in any part of the window less than 1.7 metres above the floor to ensure privacy of the adjoining western Unit 4/23 Oxley Drive and its open space area. This will ensure the privacy for the adjoining western Unit 4/23 Oxley Drive private open space area, and eastern facing upper level bedroom windows of Unit 4/23 Oxley Drive.

Eastern facing bedroom window will overlook the adjoining eastern properties, however as bedrooms are not living areas, obscure glazing to bedroom areas is not required.

Proposed Unit 4

Proposed Unit 4/25 Oxley Drive adjoins the western existing Units 4 and 5 /23 Oxley Drive and directly adjoins the private open space area of 4 /23 Oxley Drive. Proposed Unit 4/25 has western facing living area (living / dining) windows, and private open space area at RL 693.485. The directly adjoining private open space terrace level of 4/23 Oxley Drive is RL 693.28, which is 0.205 metres (20.5 cm) and 0.335 metres (33.5 cm) lower than the proposed yard and terrace of proposed Unit 4/25, therefore due to similar levels and combined with fencing there will be no privacy impacts.

Amended plans show the upper level western facing rumpus room windows will have fixed obscure glazing in any part of the window less than 1.7 metres above the floor to ensure privacy of the adjoining western Units 4 and 5/23 Oxley Drive and their open space areas. This will ensure the privacy for the adjoining western Units 4 and 5/23 Oxley Drive private open space area, and eastern facing upper level bedroom windows of Units 4 and 5/23 Oxley Drive.

Western facing bedroom windows and eastern facing bedroom windows will overlook adjoining properties, however as bedrooms are not living areas, obscure glazing to bedroom areas is not required.

Due to the elevation of the eastern facing ground floor kitchen window of Unit 4, this window should also have fixed obscure glazing in any part of the window less than 1.7 metres above the floor. This can be addressed by a condition of consent (**condition 25**).

Proposed Unit 5

Proposed Unit 5/25 Oxley Drive directly adjoins the private open space area of 5/23 Oxley Drive, and is in close proximity to the private open space area of Unit 6/23 Oxley Drive. Proposed Unit 5/25 has western facing living areas at RL 693.485, and western facing dining /study area and deck at RL 692.07. The western facing living area window is proposed to have obscure glazing in its lower panes, to prevent overlooking to the private open space areas and windows of Units 5 and 6/23 Oxley Drive. The proposed Unit 5/25 deck area at RL 692.07 is 0.7 metres (70 cm) higher than the adjoining private open space of Unit 5/23 Oxley Drive. With the provision of new 1.8 metre high lapped & capped timber boundary fencing, topped with 300mm lattice between 25 Oxley Drive and adjoining eastern and western properties, at the developer's expense, privacy of 5 and 6/23 Oxley Drive will be achieved. **Attachment 5** shows the view of proposed Unit 5/25 Oxley Drive when viewed from 6/23 Oxley Drive.

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Eastern facing bedroom window will overlook the adjoining eastern properties, however as bedrooms are not living areas, obscure glazing to bedroom areas is not required. Due to the elevations of the eastern facing ground floor kitchen window of Unit 5, and the eastern facing lower ground floor rumpus window of Unit 5, both windows should also have fixed obscure glazing in any part of the window less than 1.7 metres above the floor. This can be addressed by a condition of consent (**condition 25**).

Fixed screening to the east of the elevated entry path to Units 4 and 5 to ensure the privacy of eastern / south eastern properties is required by a condition of consent (**condition 25**).

Proposed Unit 6

Kitchen, dining and living areas of proposed Unit 6/25 Oxley Drive are located on the lower ground floor, with western windows facing a steep vegetated portion of the adjoining western property at 23 Oxley Drive. This steep vegetated portion of the adjoining western property at 23 Oxley Drive is not useable private open space area due to its gradient. Therefore the western facing kitchen / dining / living area windows of proposed Unit 6/25 Oxley Drive, and the ground floor entry walkway to proposed Unit 6/25 which is not screened to the west, do not adversely impact upon the privacy of the adjoining western property at 23 Oxley Drive.

The dining / living / verandah of proposed Units 6 & 7/25 Oxley Drive is approximately 6 metres higher than the courtyard of 8/21 Oxley Drive, which is located downslope on the adjoining south western property. There is an approximate 13 metre separation between the dining / living / verandah of proposed Units 6 & 7/25 Oxley Drive and the courtyard of 8/21 Oxley Drive. The existing vegetation, and proposed additional plantings as required by condition 23, combined with the 13 metre separation distance and 1.8 metre high lapped and capped timber fencing with 300mm lattice, is considered to provide sufficient privacy between proposed Units 6 and 7/25 Oxley Drive, and the neighbouring 8/21 Oxley Drive.

Western facing bedroom window will overlook the adjoining western property, however as bedrooms are not living areas, obscure glazing to bedroom areas is not required.

Proposed Unit 7

Kitchen, dining and living areas of proposed Unit 7/25 Oxley Drive are located on the lower ground floor, with eastern windows facing the adjoining eastern property at 29B Oxley Drive. The living / dining window and kitchen window will have obscure glazing to the bottom panes, so there is no privacy impact from these living areas to the adjoining eastern property. The ground level entry walkway contains a 1.7 metre high screen to its east, to prevent overlooking into 29B Oxley Drive.

Eastern facing bedroom windows will overlook 29B Oxley Drive, however as bedrooms are not living areas, obscure glazing to bedroom areas is not required. A condition of consent (**condition 25**) will require the upper level Unit 7 eastern facing study area, shall have fixed obscure glazing in any part of the window less than 1.7 metres above the floor. The submitted landscape plans show proposed plantings of Viburnum hedging of between 2 metres – 7 metres height between proposed Unit 7 and the eastern boundary, which with 1.8 metre high lapped and capped timber fencing with 300mm lattice, will assist in provision of privacy for the adjoining eastern 29B Oxley Drive.

The existing vegetation, and proposed additional plantings as required by **condition 23**, combined with the separation distance, is considered to provide sufficient privacy between proposed Unit 7 and the neighbouring south eastern dwellings at 29C and 29D Oxley Drive.



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Variation to minimum 25 metre Site Frontage requirement

The site currently contains a single storey Residential Flat Building containing 4 residential units on a site with a 20.735 metre frontage to Oxley Drive. While the site does not achieve the minimum 25 metre site frontage to a public street as required by Section C3.2.2 of Bowral Town Plan DCP, it is accepted that the adjoining western properties contain existing medium density residential development, and the adjoining eastern properties comprise 6 separate residential lots containing dwelling houses, making consolidation to achieve the 25 metre minimum frontage requirement difficult to achieve.

Due to these adjoining medium density developments, and recent detached dwelling developments, combined with the fact that the site already contains a medium density development which is proposed to be demolished, consolidation of an adjoining lot to achieve the minimum 25 metre site frontage is considered unreasonable and unnecessary in this instance. A refusal based on this non-compliance is not considered to be a defensible position for Council should an appeal be lodged in the Land and Environment Court.

The amended design of the proposed multi dwelling housing proposal sufficiently minimises amenity impacts upon adjoining lots, particularly to compensate for the narrow 20 metre width of the property. The improved design minimizing impacts assists Council in supporting the requested variation to the 25 metre site frontage requirement.

47 square metre private open space area for Unit 3

Bowral Township Development Control Plan requires Private Open Space Areas for each multi dwelling housing unit of 50 square metres. All proposed units have a private open space area exceeding 50 square metres, with the exception of 47 square metres private open space area for Unit 3. It is considered that a refusal based on this minor non-compliance is not considered to be a defensible position for Council should an appeal be lodged in the Land and Environment Court.

This 3 square metre deficiency is considered minor, and a variation to the standard is considered acceptable.

Built Form / Density / Character

The proposed 7 unit multi dwelling housing development contained within three 2 storey buildings which step down the site, with external materials of fibre cement cladding and weatherboard, 25 degree pitch colorbond roof, 50% of the site area being landscaped open space, with a maximum 8 metre height (measured from natural ground level to roof pitch) and a gross floor area of 896 square metres, being a 0.34:1 Floor Space Ratio, is not considered to be an overdevelopment of the site.

The R3 Medium Density Residential zone within Bowral is undergoing a gradual transition from dwelling houses to multi dwelling housing and residential flat buildings, and this proposed development is representative of that transitional change, and consistent with the intended character of a medium density residential area.

The proposed 7 unit multi dwelling housing development is considered to satisfy Section C15.3 Northern Entrance Medium Density Development of Bowral Township Development Control Plan, including:

- The proposed scale and configuration of the proposed 7 unit multi dwelling housing development is considered an acceptable architectural outcome. The proposed building will not be visually prominent when viewed from Oxley Drive, and its visual prominence when viewed from Cherry Tree Walk will be softened by the retention and enhancement of vegetation in the southern portion of the site. Proposed



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landscaping within side setback areas will assist in softening the appearance of the development.

- The provision of more than 50% site landscaping is considered to respect the overall garden character of the neighbourhood.
- Proposed architectural features, including roof forms, window positioning and proportioning, verandah treatment, fencing, and building proportions are considered compatible with existing architecture occupying adjoining or nearby land.
- Proposed external materials of fibre cement cladding and weatherboard, with 25 degree pitch colorbond roof is considered to result in a harmonious relationship with existing development on adjoining and nearby land.

Side Setbacks / Side boundary landscaping

Section C3.7.2 of Bowral Town Plan DCP requires minimum side setbacks for medium density development including multi dwelling housing of

- (i) 2 metres where development is up to 3 metres in height above natural ground level, or
- (ii) 3.5 metres where development is more than 3 metres in height above natural ground level.

The purpose of these minimum side setback requirements is to assist in preserving the visual and acoustic privacy of adjoining residential development, while placing medium density development with sufficient separation to respect the spatial character of the locality.

The proposed side setbacks on the originally submitted plans did not comply with the above numerical requirements, however amended plans now fully comply with Bowral Town Plan DCP side setback requirements.

Deferred Commencement

A stormwater easement is required burdening the adjoining southern land and benefitting the subject property. Should approval be granted for the proposed development, proof of registration of a stormwater easement burdening Lot 12 DP 603108 and benefitting Lot 11 DP 603108, shall be submitted to the satisfaction of Council prior to general conditions of consent being enacted. This can be addressed by way of deferred commencement condition (**deferred commencement condition 1**).

Flora and Fauna

The proposed development will remove 12 of the 45 trees on site (including 5 trees from the Mt Gibraltar Endangered Ecological Community group of species, being 4 Eucalyptus radiata and 1 Pittosporum undulatum). 19 of the 24 trees which belong to the Mt Gibraltar Endangered Ecological Community group of species on site will be retained.

The proposed tree removal is supported by Council's Flora and Fauna Consultant, subject to conditions addressing tree protection, removal of noxious and environmental weeds from the site (including removal of ivy and blackberry), compensatory plantings of Mt Gibraltar Forest species to occur within a regeneration area in the south of the site, and the erection of two large and one small nesting boxes, and one bat box (**condition 23**).



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SUSTAINABILITY ASSESSMENT

• **Environment**

Any perceived environmental issues have been discussed within the body of this report.

• **Social**

Any perceived social issues have been discussed within the body of this report.

• **Broader Economic Implications**

There are no broader economic implications associated with this report.

• **Culture**

The proposed Residential Flat Building development has no identifiable cultural impacts.

• **Governance**

The development application has been considered in accordance with the *Wingecarribee Local Environmental Plan 2010*, Section 4.15 of the *Environmental Planning and Assessment Act 1979* and any other matters relevant to the development.

COUNCIL BUDGET IMPLICATIONS

The financial implications of Council's decision in this matter are directly related to the legal implications. The possibilities are detailed as follows:

- Should the applicant choose to appeal a refusal, or pursue a deemed refusal, by Council through the Land and Environment Court and lose, the question of cost with regard to Council's legal representation would be determined by the extent of the reasons for refusal;
- Should the applicant choose to appeal a refusal, or pursue a deemed refusal, by Council through the Land and Environment Court and win, the question of cost would be dependent upon the extent of the reasons for refusal;
- Should any person choose to take out Class 4 proceedings against Council to the Land and Environment Court and lose, the question of cost with regard to Council's legal representation would be calculated at the appropriate time;
- Should any person choose to take out Class 4 proceedings against Council to the Land and Environment Court and win, the question of cost would still be calculated at the appropriate time;
- Should the applicant make no appeal, or proceedings not be taken out by another party, to the Land and Environment Court regardless of the determination, the application would result in no further financial implication to Council.



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**RELATED COUNCIL POLICY**

An assessment of the proposed development has been made against the Wingecarribee Local Environmental Plan 2010, State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011, and the Bowral Township Development Control Plan.

OPTIONS

The options available to Council are:

Option 1

THAT Council determine Development Application 19/1042 by way of deferred commencement approval subject to conditions of development consent contained in **Attachment 1**

Option 2

THAT Council determine Development Application 19/1042 by way of refusal, and nominate reasons for refusal.

Option 1 is recommended.

CONCLUSION

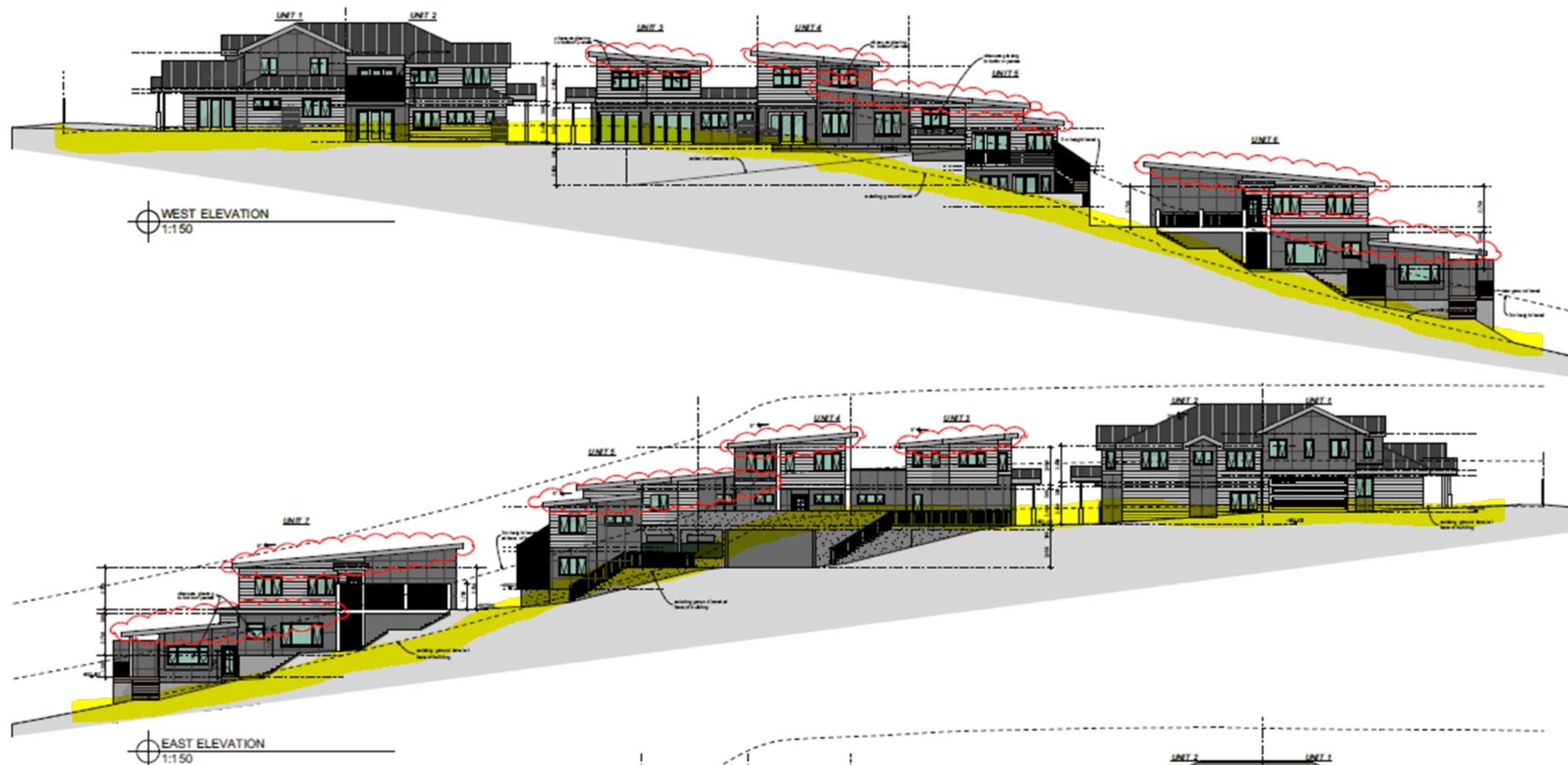
It is recommended that Development Application 19/1042 which seeks approval for Multi Dwelling Housing containing 7 units at Lot 11 DP 603108, being 25 Oxley Drive, Bowral, be supported subject to conditions.

The proposal is considered satisfactory in terms of s.4.15 EPA Act 1979, therefore it is recommended that the development application be approved by way of a deferred commencement approval, subject to the attached draft conditions of consent nominated in **Attachment 1**.

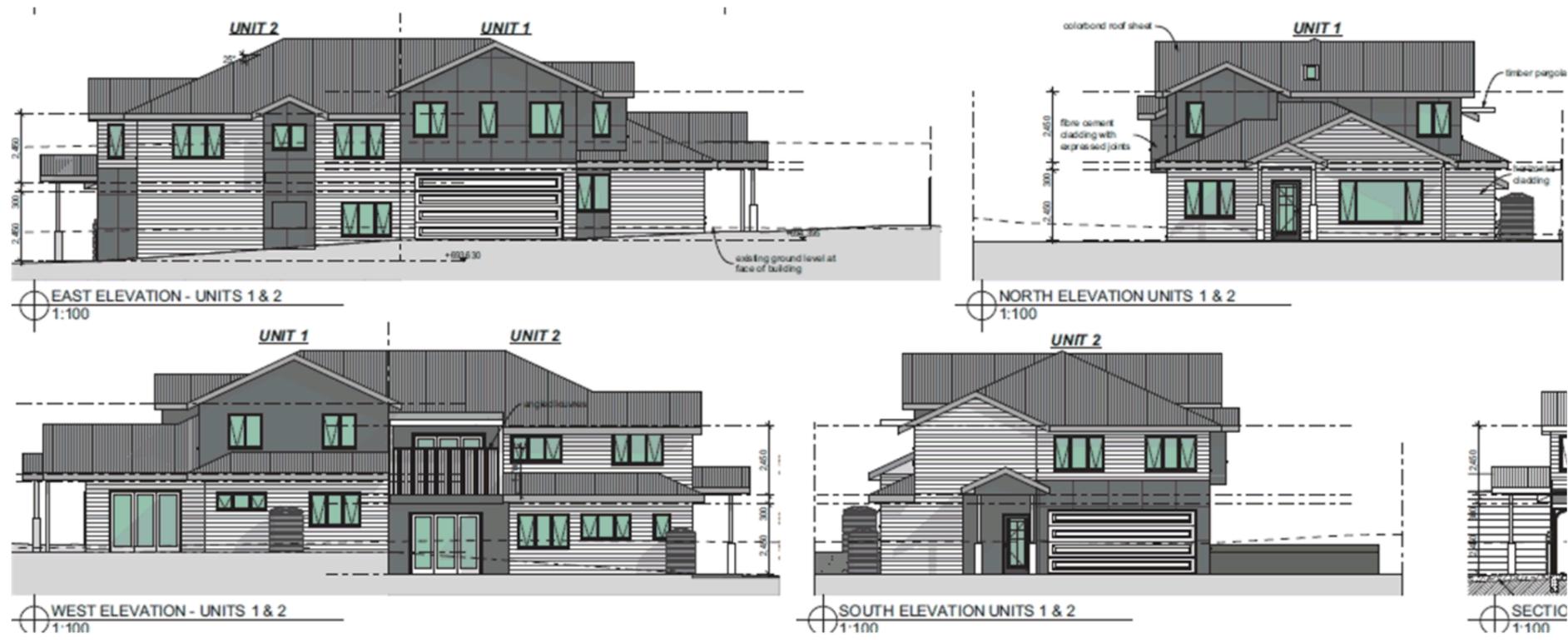
ATTACHMENTS

1. Draft Conditions
2. Site Location - *circulated under separate cover*
3. Zoning - *circulated under separate cover*
4. Site Plan - *circulated under separate cover*
5. Elevations - *circulated under separate cover*
6. Overshadowing - *circulated under separate cover*
7. Objector's consultant's shadow diagrams based on superseded plans - *circulated under separate cover*
8. Objector's consultant's plans showing view of development from 29 B Oxley Drive - *circulated under separate cover*

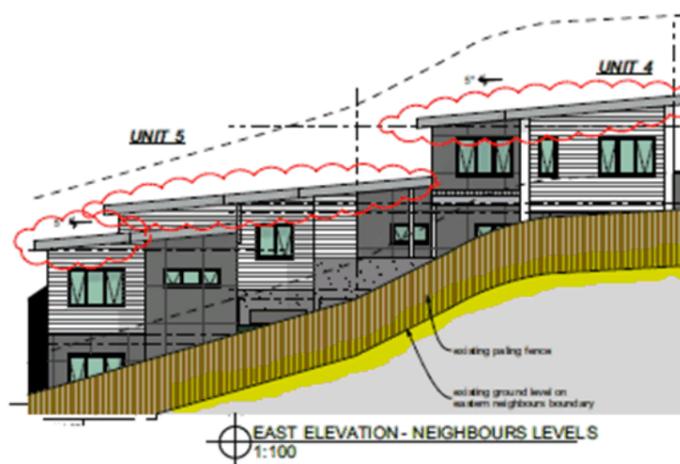
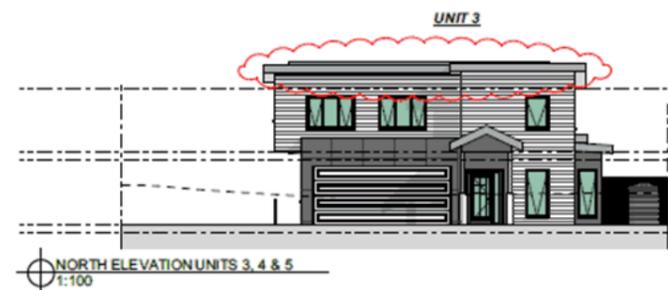
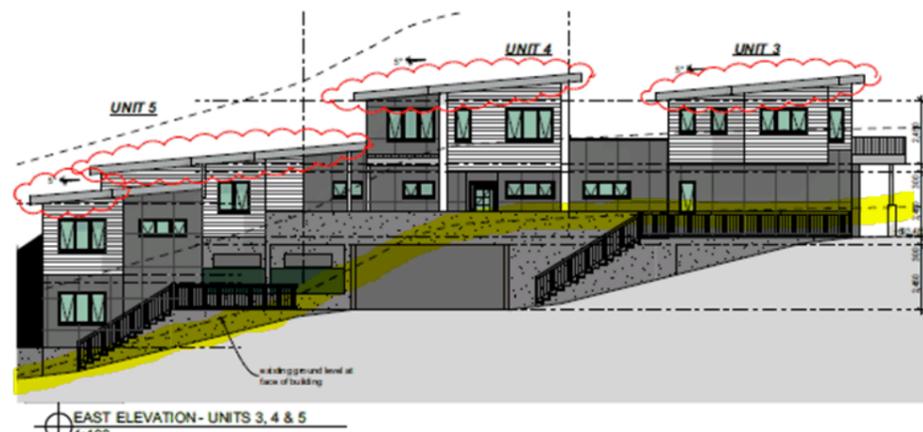
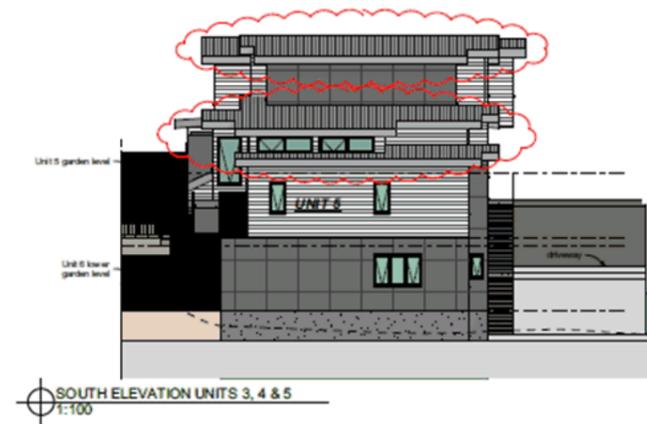
ATTACHMENT 10 – ELEVATIONS (amended plans submitted 3 March 2020 responding to Council resolution 26 February 2020)



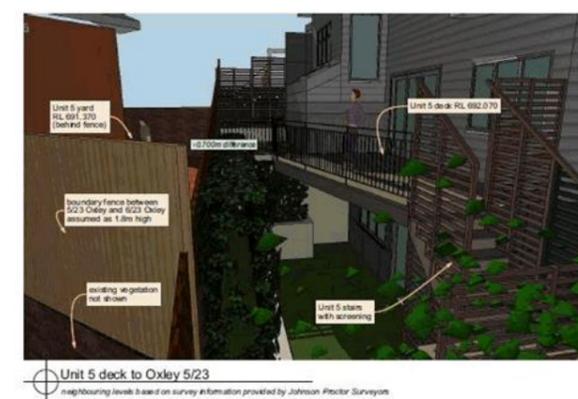
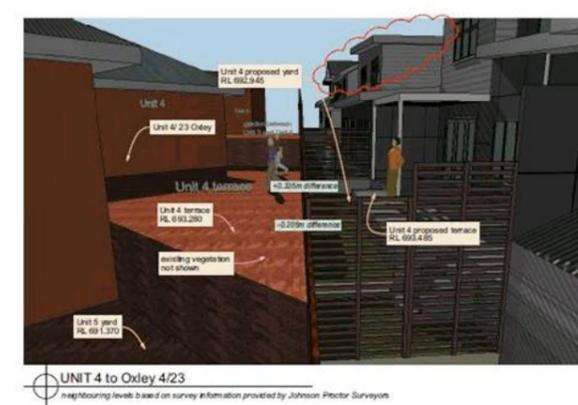
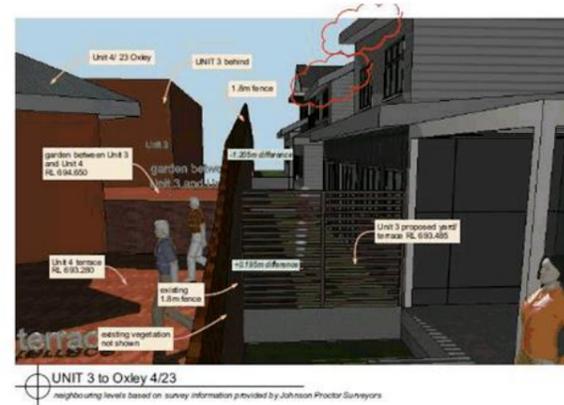
Eastern and western elevations (Yellow highlight shows existing natural ground level)



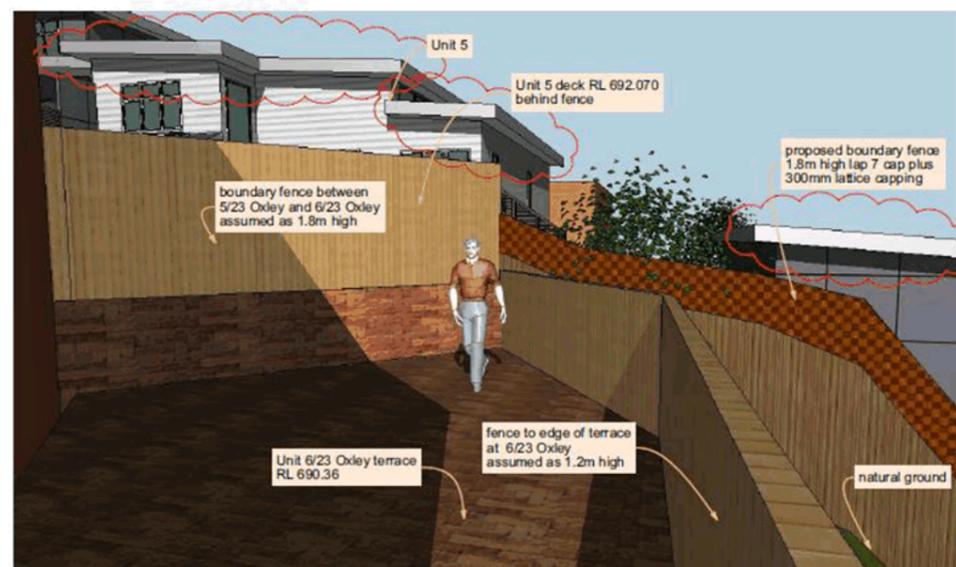
Elevations – Proposed Units 1 and 2



Elevations – Proposed Units 3, 4 and 5 (Yellow highlight shows existing natural ground level)



Perspectives – Proposed Units 3, 4 and 5 and adjoining western units 3/23, 4/23, 5/23 and 6/23 private open space areas

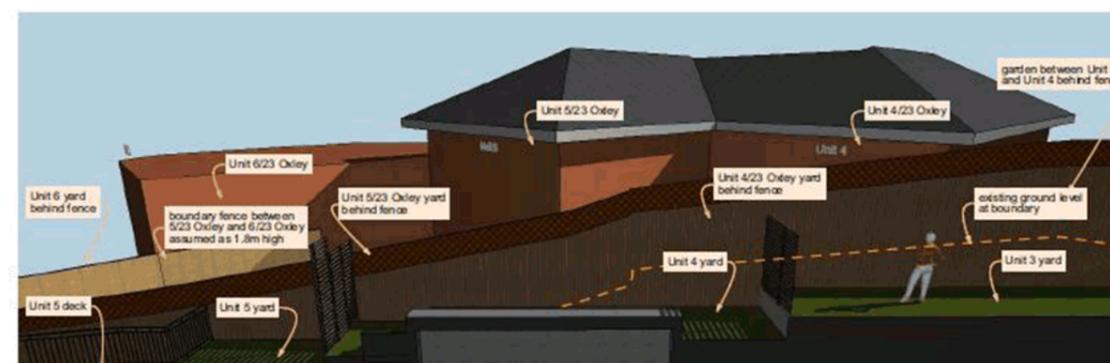


Oxley 6/23 terrace to Unit 5
 neighbouring levels based on survey information provided by Johnson Proctor Surveyors

Perspectives – Proposed Unit 5 and adjoining western unit 6/23 private open space area



23 Oxley Drive view from terraces
 neighbouring levels based on survey information provided by Johnson Proctor Surveyors

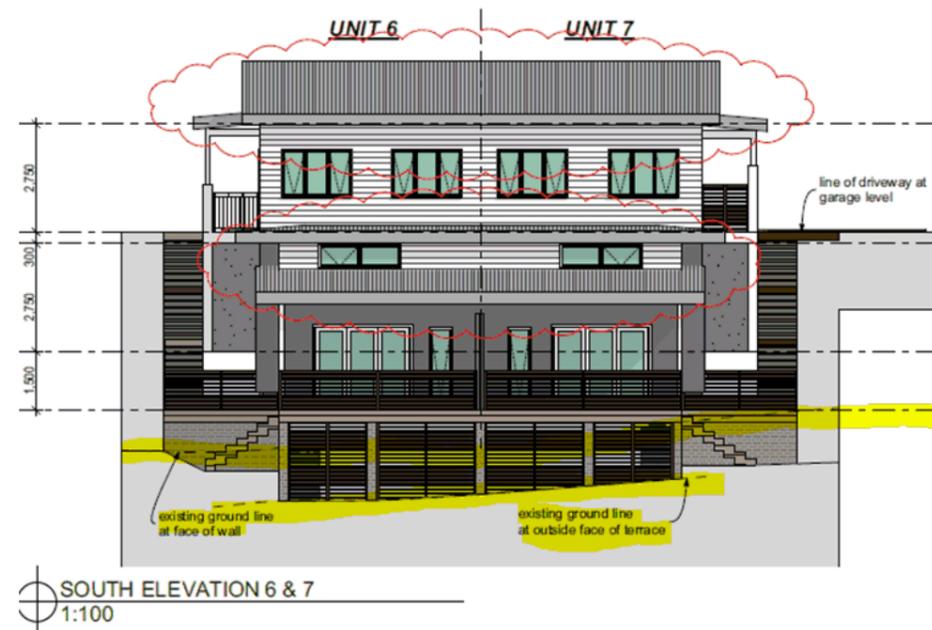


Proposed units view from terraces
 neighbouring levels based on survey information provided by Johnson Proctor Surveyors

Proposed views between proposed Units 3, 4 and 5 / 25 Oxley Drive and existing Units 4, 5 and 6 /23 Oxley Drive



Elevations – Proposed Units 6 and 7 (Yellow highlight shows existing natural ground level)



North western Perspective 6 & 7
BOUNDARY FENCING NOT SHOWN FOR ILLUSTRATION PURPOSES



South Eastern Perspective 6 & 7
BOUNDARY FENCING NOT SHOWN FOR ILLUSTRATION PURPOSES

Elevations – Proposed Units 6 and 7

ATTACHMENT 11 – 21 June OVERSHADOWING (amended plans submitted 3 March 2020 responding to Council resolution 26 February 2020)



10am 21 June – Overshadowing of adjoining western units 3/23, 4/23, 5/23 and 6/23 private open space areas



10:30am 21 June – Overshadowing of adjoining western units 3/23, 4/23, 5/23 and 6/23 private open space areas

Proposed development does not overshadow adjoining eastern properties



11am 21 June – Adjoining western units 3/23, 4/23, 5/23 and 6/23 private open space areas not overshadowed.

Proposed development does not overshadow adjoining eastern properties. Overshadowing largely contained within subject property.



11:30am 21 June – Proposed development does not overshadow adjoining western units 3/23, 4/23, 5/23 and 6/23 private open space areas

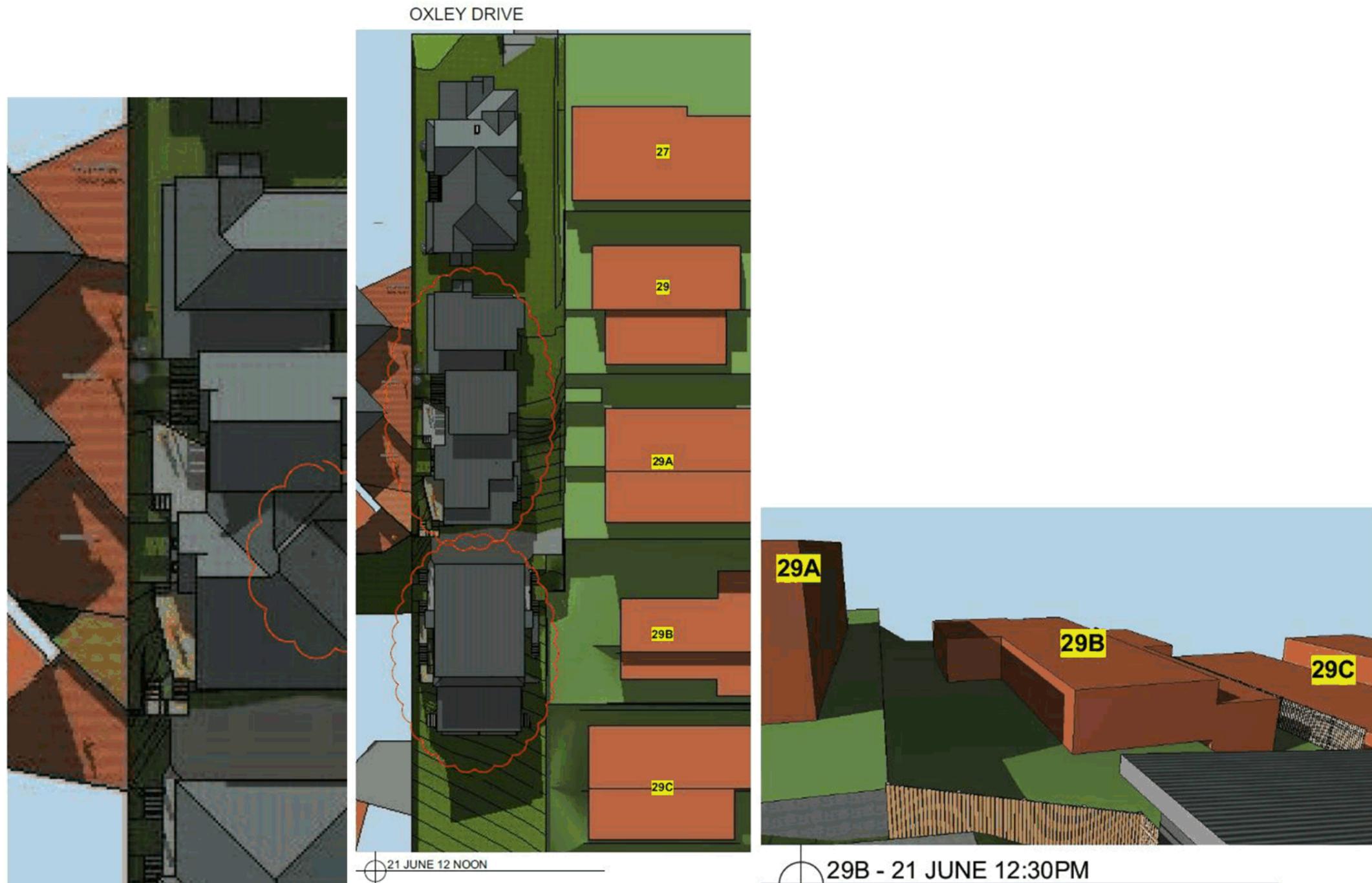
Proposed development does not overshadow adjoining eastern properties. Overshadowing largely contained within subject property.



12 midday 21 June - Proposed development does not overshadow adjoining western units 3/23, 4/23, 5/23 and 6/23 private open space areas

Proposed development does not overshadow adjoining eastern properties. Overshadowing largely contained within subject property.

Shadow impact upon 29B Oxley Drive cast from 29 A Oxley Drive does not affect solar access to western facing living room window of 29B Oxley Drive.



12:30pm 21 June - Proposed development does not overshadow adjoining western units 3/23, 4/23, 5/23 and 6/23 private open space areas
Shadow impact upon 29B Oxley Drive cast from 29 A Oxley Drive does not affect solar access to western facing living room window of 29B Oxley Drive.



1:00pm 21 June - Proposed development does not overshadow adjoining western units 3/23, 4/23, 5/23 and 6/23 private open space areas
Shadow impact upon 29B Oxley Drive cast from 29 A Oxley Drive and proposed development does not affect solar access to western facing living room window of 29B Oxley Drive.



1:30pm 21 June - Proposed development does not overshadow adjoining western units 3/23, 4/23, 5/23 and 6/23 private open space areas

Shadow impact upon 29B Oxley Drive cast from 29 A Oxley Drive and proposed development does not affect solar access to western facing living room window of 29B Oxley Drive.

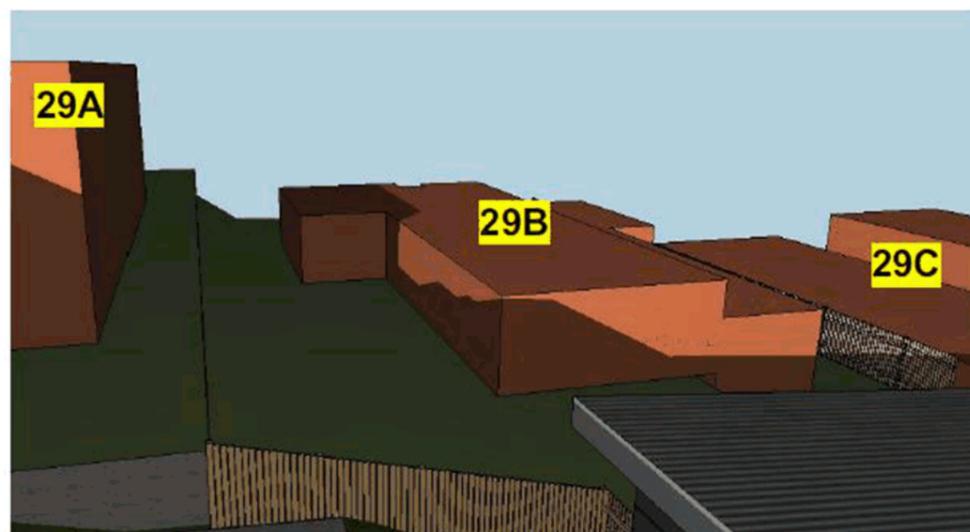


2:00 pm 21 June - Shadow impact upon 29B Oxley Drive cast from 29 A Oxley Drive and proposed development does not affect solar access to western facing living room window of 29B Oxley Drive.



29B - 21 JUNE 2:30PM

2:30 pm 21 June - Shadow impact upon 29B Oxley Drive cast from 29 A Oxley Drive and proposed development does not affect solar access to western facing living room window of 29B Oxley Drive.

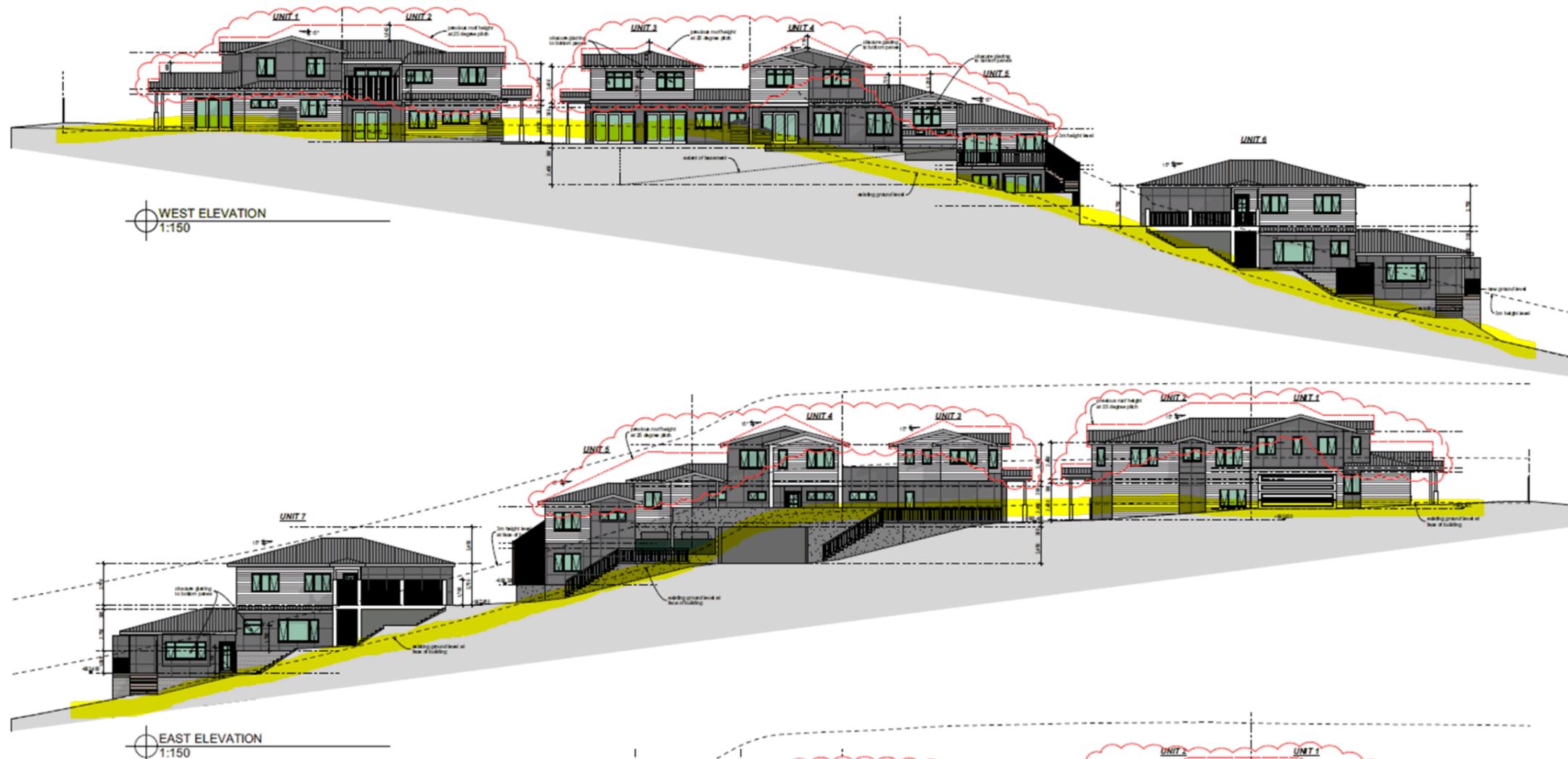


29B - 21 JUNE 3PM

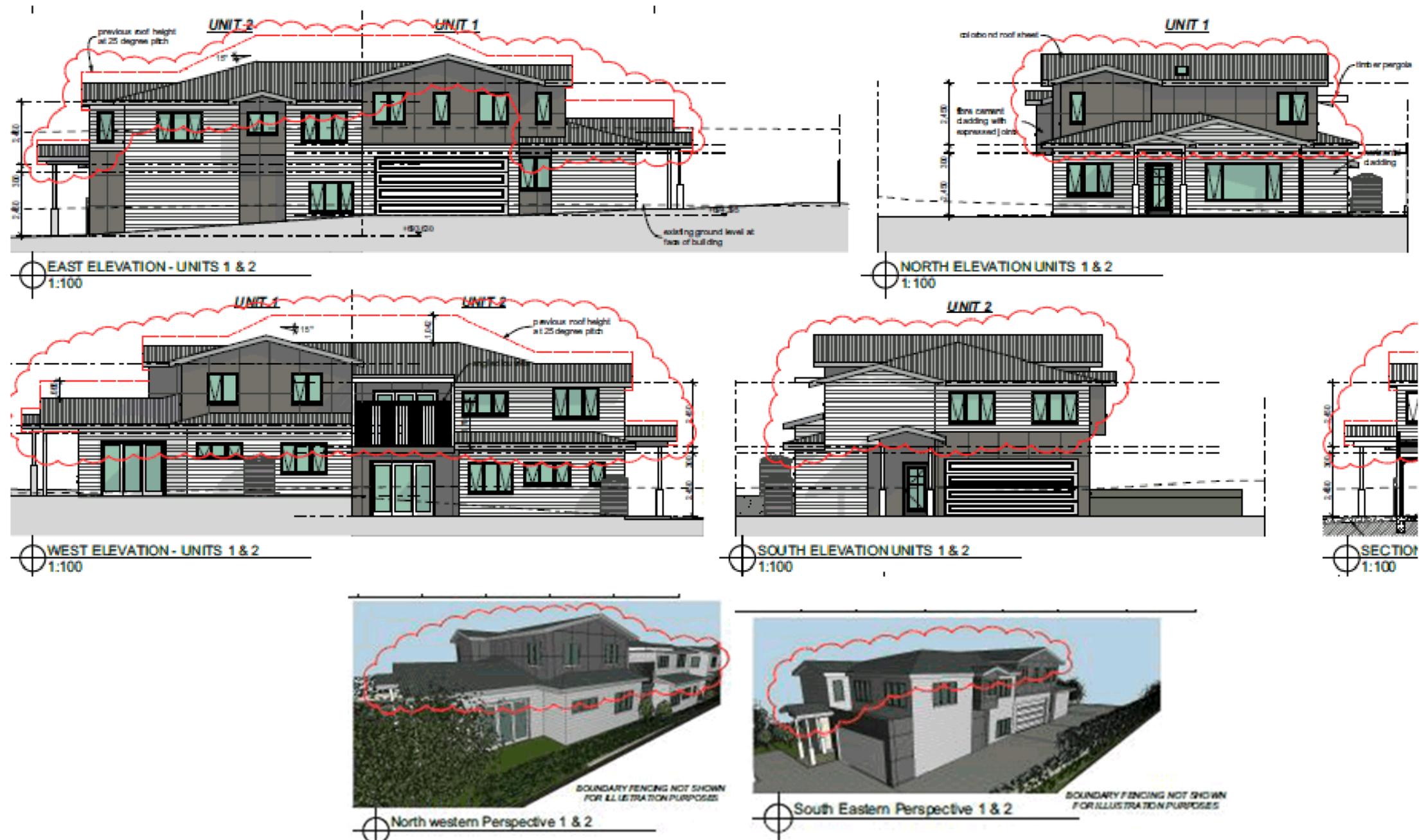
3:00 pm 21 June - Shadow impact upon 29B Oxley Drive cast from proposed development shades approximately half of the western facing living room window of 29B Oxley Drive.



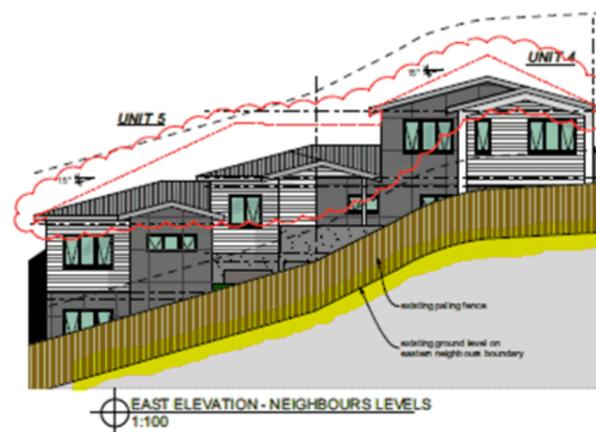
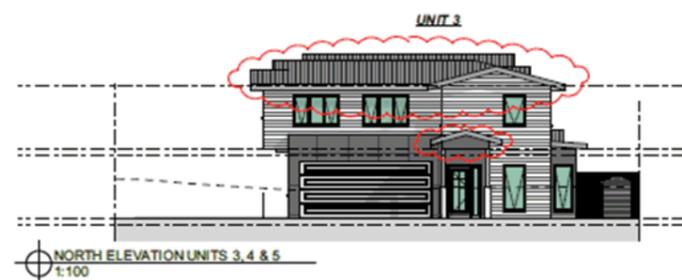
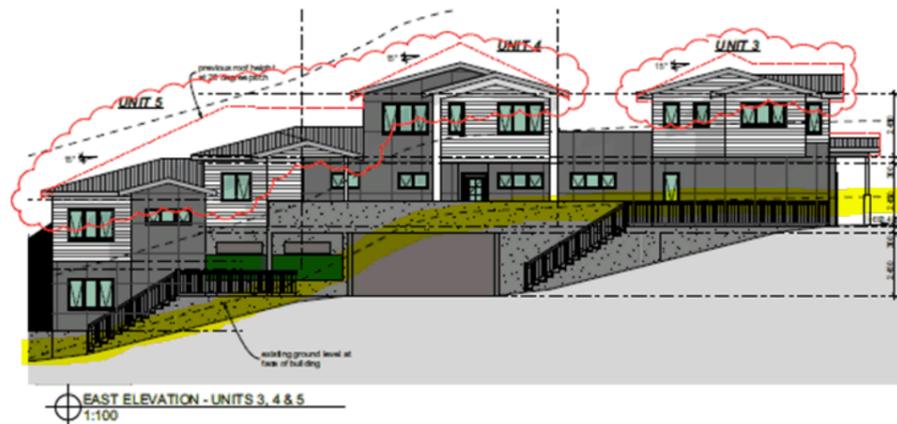
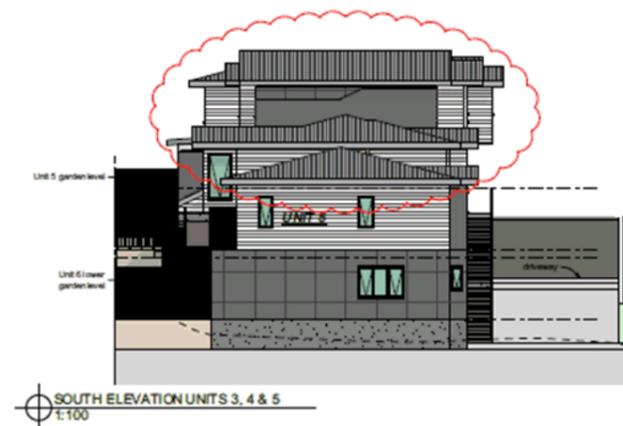
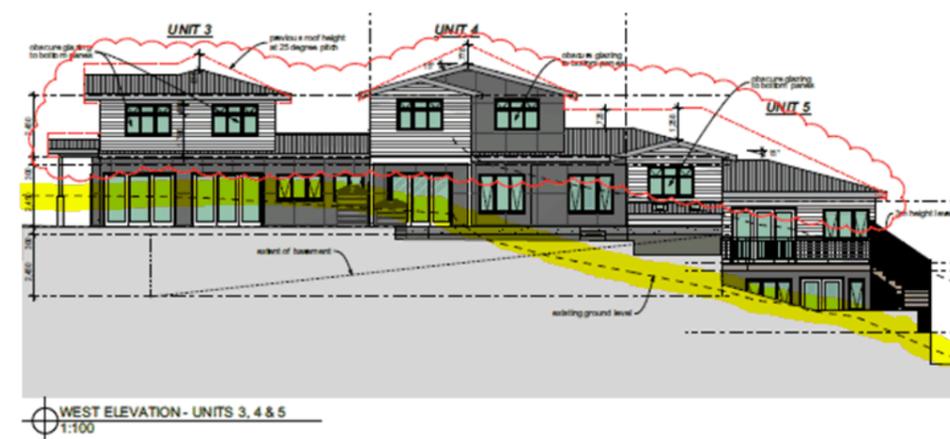
ATTACHMENT 12 – ELEVATIONS (amended plans submitted 23 June 2020 responding to Council resolution 13 May 2020)



Eastern and western elevations (Yellow highlight shows existing natural ground level)



Elevations – Proposed Units 1 and 2



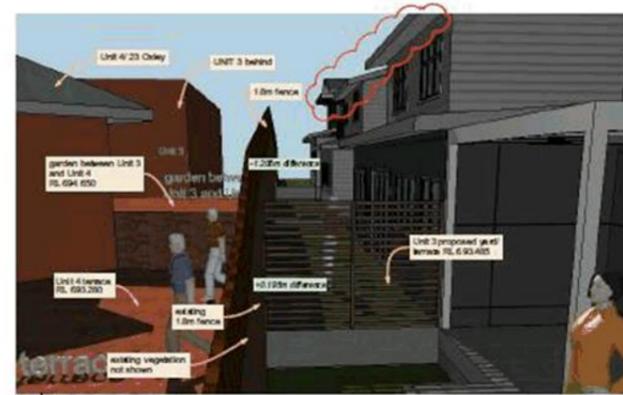
Elevations – Proposed Units 3, 4 and 5 (Yellow highlight shows existing natural ground level)



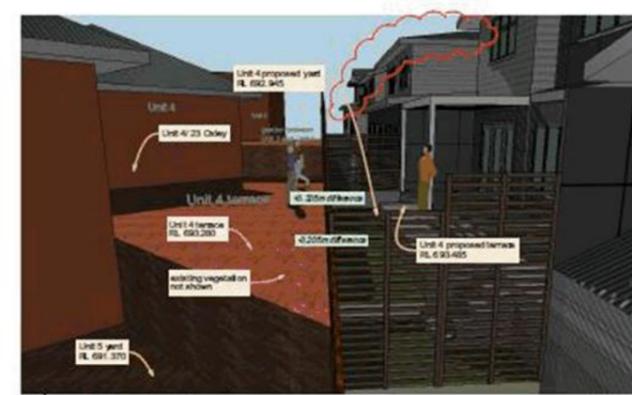
Western Perspective 3, 4 & 5



South Eastern Perspective 3, 4 & 5



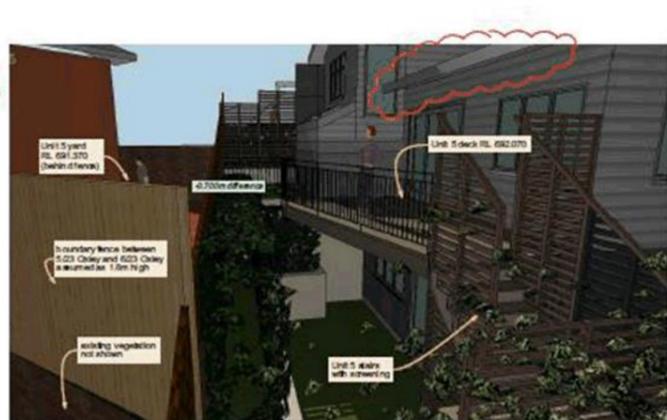
UNIT 3 to Oxley 4/23
 neighbouring levels based on survey information provided by Johnson Proctor Surveyors



UNIT 4 to Oxley 4/23
 neighbouring levels based on survey information provided by Johnson Proctor Surveyors

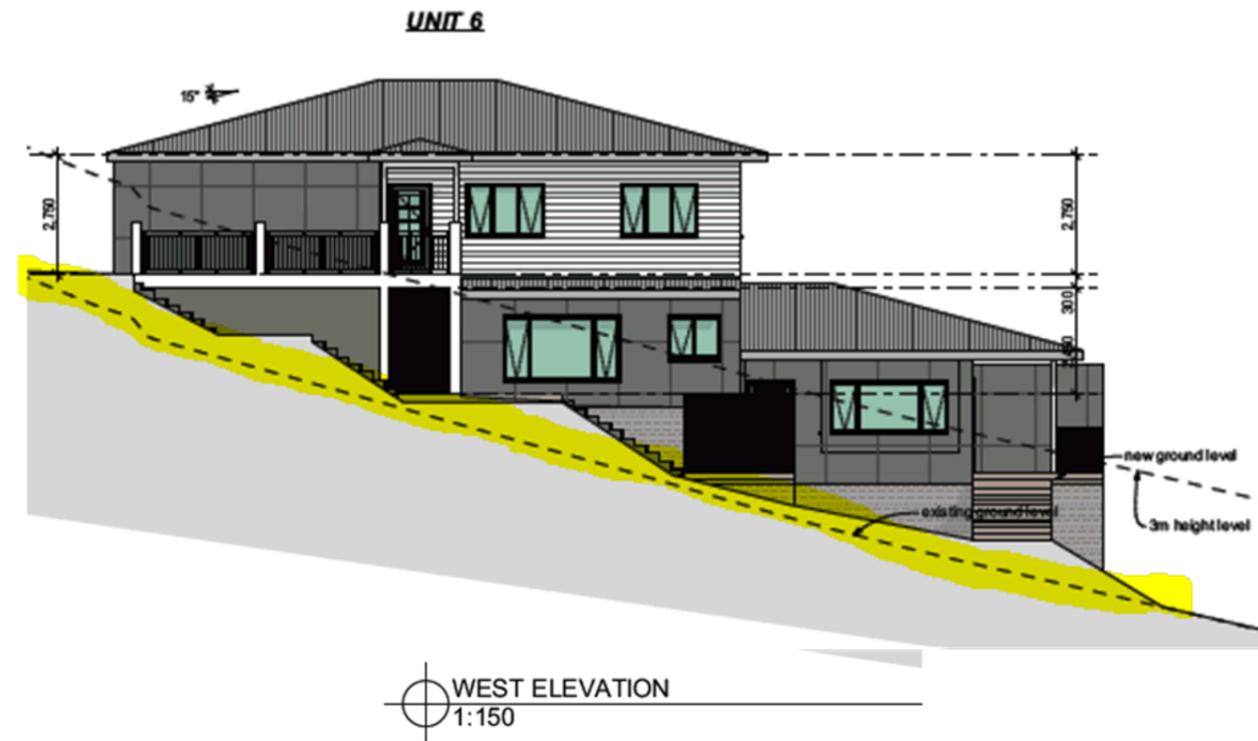
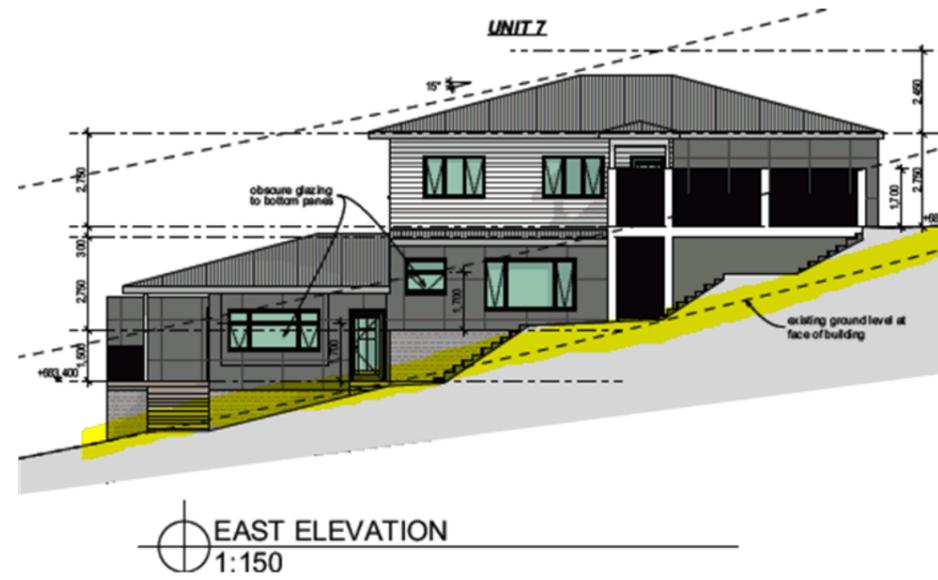


UNIT 5 terrace to Oxley 5/23
 neighbouring levels based on survey information provided by Johnson Proctor Surveyors



Unit 5 deck to Oxley 5/23
 neighbouring levels based on survey information provided by Johnson Proctor Surveyors

Perspectives – Proposed Units 3, 4 and 5 and adjoining western units 3/23, 4/23, 5/23 and 6/23 private open space areas



Elevations – Proposed Units 6 and 7 (Yellow highlight shows existing natural ground level)

ATTACHMENT 13 – 21 June OVERSHADOWING (amended plans submitted 23 June 2020 responding to Council resolution 13 May 2020)



10am 21 June – Overshadowing of adjoining western units 3/23, 4/23, 5/23 and 6/23 private open space areas



10:30am 21 June – Overshadowing of adjoining western units 3/23, 4/23, 5/23 and 6/23 private open space areas

Proposed development does not overshadow adjoining eastern properties



11am 21 June – Adjoining western units 3/23, 4/23, 5/23 and 6/23 private open space areas not overshadowed.

Proposed development does not overshadow adjoining eastern properties. Overshadowing largely contained within subject property.



11:30am 21 June – Proposed development does not overshadow adjoining western units 3/23, 4/23, 5/23 and 6/23 private open space areas

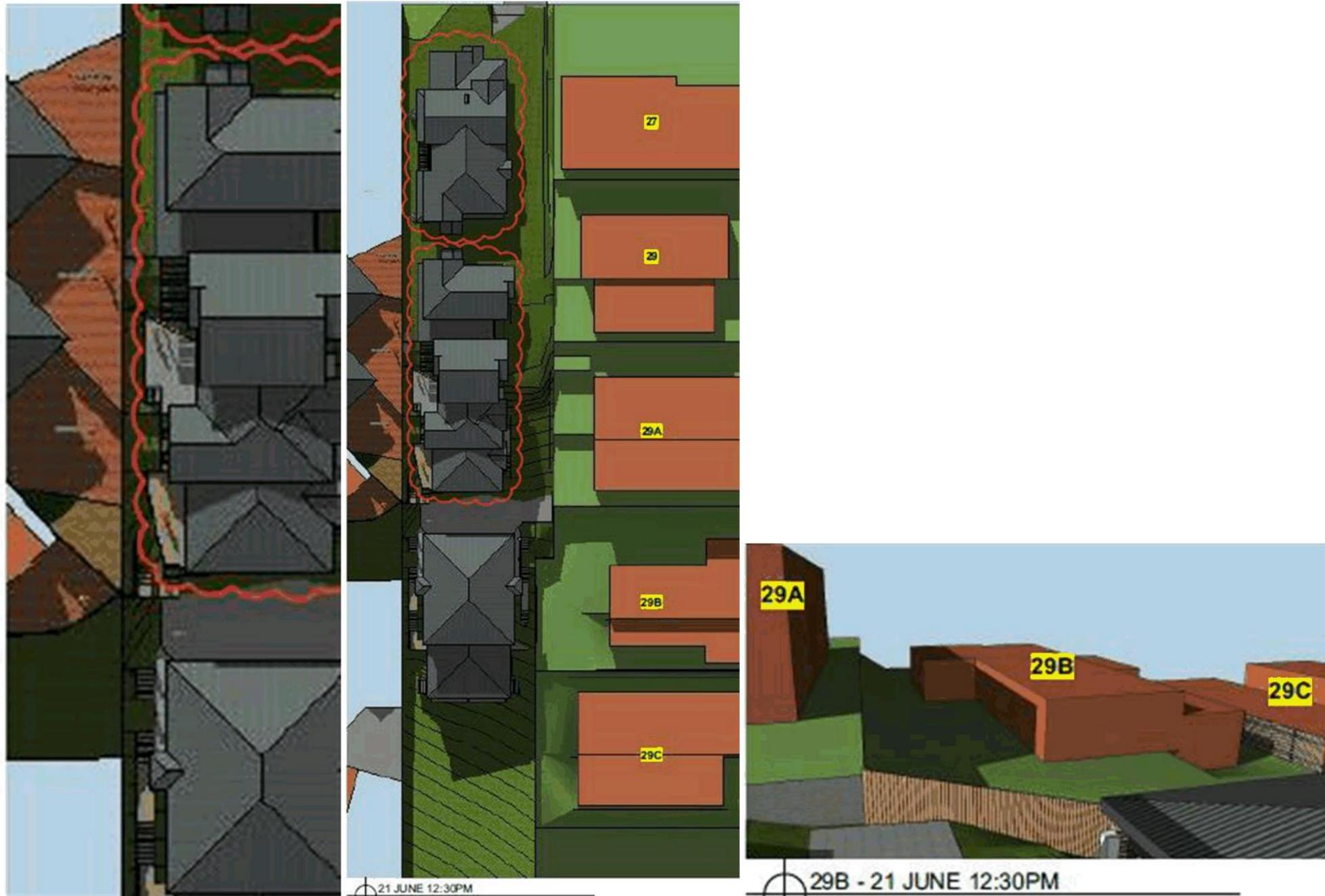
Proposed development does not overshadow adjoining eastern properties. Overshadowing largely contained within subject property.



12 midday 21 June - Proposed development does not overshadow adjoining western units 3/23, 4/23, 5/23 and 6/23 private open space areas

Proposed development does not overshadow adjoining eastern properties. Overshadowing largely contained within subject property.

Shadow impact upon 29B Oxley Drive cast from 29 A Oxley Drive does not affect solar access to western facing living room window of 29B Oxley Drive.



12:30pm 21 June - Proposed development does not overshadow adjoining western units 3/23, 4/23, 5/23 and 6/23 private open space areas
Shadow impact upon 29B Oxley Drive cast from 29 A Oxley Drive does not affect solar access to western facing living room window of 29B Oxley Drive.



1:00pm 21 June - Proposed development does not overshadow adjoining western units 3/23, 4/23, 5/23 and 6/23 private open space areas
Shadow impact upon 29B Oxley Drive cast from 29 A Oxley Drive and proposed development does not affect solar access to western facing living room window of 29B Oxley Drive.



1:30pm 21 June - Proposed development does not overshadow adjoining western units 3/23, 4/23, 5/23 and 6/23 private open space areas

Shadow impact upon 29B Oxley Drive cast from 29 A Oxley Drive and proposed development does not affect solar access to western facing living room window of 29B Oxley Drive.



2:00 pm 21 June - Shadow impact upon 29B Oxley Drive cast from 29 A Oxley Drive and proposed development does not affect solar access to western facing living room window of 29B Oxley Drive.



2:30 pm 21 June - Shadow impact upon 29B Oxley Drive cast from 29 A Oxley Drive and proposed development does not affect solar access to western facing living room window of 29B Oxley Drive.



3:00 pm 21 June - Shadow impact upon 29B Oxley Drive cast from proposed development shades approximately half of the western facing living room window of 29B Oxley Drive.

11 OPERATIONS FINANCE AND RISK

11.1 Construction of Church Road Oval Amenities Upgrade

Reference:	6330/20.8
Report Author:	Project Manager
Authoriser:	Group Manager Capital Projects
Link to Community	
Strategic Plan:	Create welcoming and accessible community facilities that support opportunities for people to meet and connect with one another

PURPOSE

The purpose of this report is to advise Council of its successful application for grant funding to undertake stage two works of the Church Road Oval Amenities Building upgrade project.

As funding is now available to proceed with stage two of the works package, an additional resolution of Council is sought to accept the tender response that will enable the completion of both stages of construction.

RECOMMENDATION

THAT Council accepts tender (6330/20.8) option 2 from Direct Projects at an additional lump sum of \$288,112.73 (Inclusive of GST) to undertake stage two works of the Church Road Oval Amenities Building upgrade project.

REPORT

REPORT

In April 2020 Council sought tenders for both stage one (option 1) and stage two (option 2) of the Church Road Oval Amenities Building upgrade project.

During the initial procurement process it was determined appropriate that Council include a separable portion which would permit tender responses to be submitted for the stage two works. These works were at the time; dependant on the status of a number of grant applications being sought by Council.

In June 2020, Council had still not received confirmation regarding its funding applications in relation to stage two of the work.

Although stage two was pending funding availability; the tender evaluation panel still completed a full tender evaluation on both stage one and stage two of the works package; in the event funding for stage two became available.

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REPORT ACTING DEPUTY GENERAL MANAGER OPERATIONS FINANCE AND RISK



The tender report was presented to Council meeting 24 June 2020, where Council resolved as follows (MN 248/20):

THAT Council accepts the tender from Direct Projects at a Lump Sum of \$560,236.19 (Inclusive of GST) to undertake Stage One of the Church Road Oval – Amenities Building Upgrade.

At the time of presenting this recommendation to Council; officers were unable to recommend the acceptance of stage two due to a lack of available funding.

Since the tender acceptance of stage one of the works, Council has been able to successfully obtain grant funding via the Local Roads and Community Infrastructure Program. This will enable Council to complete the entire Church Road Oval Amenities Building Upgrade project.

In accordance with section 55(3)(n) of the *Local Government Act 1993*, Council is required to invite tenders where estimated expenditure is greater than \$250,000 (GST inclusive).

As the second package of works exceeds \$250,000 Council officers are seeking a formal resolution to amend the contract awarded to Direct Projects to include the stage two scope of works.

It is important to note that all tenderers were provided an opportunity to submit tender responses which addressed both packages of work.

Both packages of work have been assessed and evaluated in accordance with Council's Procurement Guidelines, and it is considered best practice to seek a formal resolution of Council to accept the option two package of works via a formal Council resolution.

COMMUNICATION AND CONSULTATION

Community Engagement

Extensive consultation has occurred with the primary sporting club associated with this facility.

Internal Communication and Consultation

Assets

Finance & Procurement

External Communication and Consultation

N/A

SUSTAINABILITY ASSESSMENT

- **Environment**

There are no environmental issues in relation to this report.

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REPORT ACTING DEPUTY GENERAL MANAGER OPERATIONS FINANCE AND RISK



- **Social**

There are no social issues in relation to this report.

- **Broader Economic Implications**

There are no broader economic implications in relation to this report.

- **Culture**

There are no cultural issues in relation to this report.

- **Governance**

This tender has been conducted in accordance with Part 7 of the *Local Government (General) Regulation 2005*.

COUNCIL BUDGET IMPLICATIONS

Church Road Oval Amenities Building Upgrade Stage two works will be funded via the Local Roads and Community Infrastructure Program.

RELATED COUNCIL POLICY

Councils Procurement Guidelines have been used to inform the tender process.

CONCLUSION

It is recommended that Council accepts tender (6330/20.8) option 2 from Direct Projects to undertake stage two works to finalise the construction of Church Road Oval Amenities Building Upgrade based on the successful grant funding from the Local Roads and Community Infrastructure Program.

ATTACHMENTS

There are no attachments to this report.



11.2 Investment Report - August 2020

Reference:	2104
Report Author:	Accounting Officer (Banking and Investments)
Authoriser:	Acting Chief Financial Officer
Link to Community Strategic Plan:	Effective financial and asset management ensure Council's long term sustainability

PURPOSE

The purpose of this report is to present Council's Investment Portfolio held at 31 August 2020.

RECOMMENDATION

THAT the information on Council's Investments as at 31 August 2020 be received and noted.

REPORT

In accordance with section 212 of the *Local Government (General) Regulation 2005*, the Responsible Accounting Officer must provide Council with a written report setting out details of all money that Council has invested under section 625 of the *Local Government Act 1993*.

This report provides details of Council's Investment Portfolio as at 31 August 2020.

Attachment 1 to this report provides Council's Investment Portfolio, detailing investments held and a summary of the portfolio by the institution invested with and their credit rating.

In accordance with section 212(1)(b) of the *Local Government (General) Regulation 2005*, the investments listed in **Attachment 1** have been made in accordance with:

- The *Local Government Act*, 1993
- The *Local Government (General) Regulation 2005*,
- The Ministerial Investment Order 2011, and
- Council's Investment Policy.

Interest earned from investments totalled \$404,526.53 for two (2) months to 31 August 2020.

ATTACHMENTS

1. Investment Report Summary as at 31 August 2020



Wingecarribee Shire Council Investment Report Summary

For the period ending 31 August 2020

List of Investments

Council's investment portfolio as at 31 August 2020 consists of the following investments:

INVESTMENT PORTFOLIO AS AT 31 August 2020						
Institution	Type	Amount	Interest Rate	Investment Term - Days	Maturity Date	% Investment Portfolio
WBC	Term Deposit	5,000,000	1.62%	364	4/09/2020	2.75%
ME	Term Deposit	5,000,000	1.63%	364	4/09/2020	2.75%
ME	Term Deposit	5,000,000	1.58%	212	16/09/2020	2.75%
BDCU	Term Deposit	5,000,000	1.65%	365	24/09/2020	2.75%
BDCU	Term Deposit	5,000,000	1.65%	365	26/09/2020	2.75%
NAB	Term Deposit	5,000,000	1.53%	243	7/10/2020	2.75%
MyState	Term Deposit	5,000,000	1.58%	269	23/10/2020	2.75%
WBC	Term Deposit	5,000,000	1.62%	365	3/11/2020	2.75%
AMP	Term Deposit	2,500,000	1.65%	182	23/11/2020	1.38%
AMP	Term Deposit	2,500,000	1.60%	180	24/11/2020	1.38%
Auswide	Term Deposit	4,000,000	1.70%	364	27/11/2020	2.20%
Macquarie	Term Deposit	5,000,000	1.60%	268	27/11/2020	2.75%
Auswide	Term Deposit	5,000,000	1.66%	365	11/12/2020	2.75%
AMP	Term Deposit	5,000,000	1.65%	212	11/12/2020	2.75%
BDCU	Term Deposit	5,000,000	1.25%	240	20/01/2021	2.75%
Auswide	Term Deposit	5,000,000	1.63%	365	19/02/2021	2.75%
ING	Term Deposit	2,000,000	1.60%	365	19/02/2021	1.10%
ING	Term Deposit	5,000,000	1.60%	365	23/02/2021	2.75%
MyState	Term Deposit	5,000,000	1.55%	364	5/03/2021	2.75%
IMB	Term Deposit	4,000,000	1.85%	364	26/03/2021	2.20%
Macquarie	Term Deposit	3,000,000	1.40%	365	29/04/2021	1.65%
BDCU	Term Deposit	5,000,000	1.10%	365	21/05/2021	2.75%
BDCU	Term Deposit	5,000,000	1.30%	365	28/05/2021	2.75%
BOQ	Term Deposit	2,500,000	1.20%	365	28/05/2021	1.38%
NAB	Term Deposit	5,000,000	1.00%	364	4/06/2021	2.75%
NAB	Term Deposit	5,000,000	0.95%	365	15/06/2021	2.75%
NAB	Term Deposit	10,000,000	1.00%	365	23/06/2021	5.51%
Auswide	Term Deposit	5,000,000	1.01%	364	25/06/2021	2.75%
NAB	Term Deposit	10,000,000	0.95%	364	2/07/2021	5.51%
Rural	Term Deposit	6,000,000	0.90%	365	22/07/2021	3.30%
NAB	Term Deposit	5,000,000	0.86%	365	29/07/2021	2.75%
NAB	Term Deposit	5,000,000	0.85%	364	6/08/2021	2.75%
NAB	Term Deposit	5,000,000	0.80%	365	26/08/2021	2.75%
NAB	Term Deposit	5,000,000	0.80%	364	27/08/2021	2.75%
BOQ	Term Deposit	5,000,000	0.75%	364	27/08/2021	2.75%
NAB	Call Account	9,326,231	0.25%	NA	NA	5.14%
BDCU	Call Account	750,236	0.50%	NA	NA	0.41%
Total Investments		\$181,576,467				100.00%

Institution Legend		
AMP - AMP Limited	CBA - Commonwealth Bank of Australia	MyState - MyState Bank
ANZ - Australia & New Zealand Banking Group	CUA - Credit Union Australia	NAB - National Australia Bank
Auswide - Auswide Bank	IMB - IMB Bank	Newcastle - Newcastle Permanent Building Society
BOQ - Bank of Queensland	ING - ING Direct	St George - St George Bank
BDCU - BDCU Alliance Bank	Macquarie - Macquarie Bank Limited	WBC - Westpac Banking Corporation
Bendigo - Bendigo & Adelaide Bank	ME - Members Equity Bank	Rural - Rural Bank



Wingecarribee Shire Council Investment Report Summary

For the period ending 31 August 2020

Policy Compliance

Council's Investment Policy provides clear direction for the diversification of Council's investment portfolio. This ensures credit and diversification risk is managed in accordance with the adopted risk management framework, as outlined in Council's Policy.

Individual Institution Limits

A summary of investments placed by institution is as follows:

Institution	S&P Short Term Rating	Maximum %	Actual %	Invested \$	Supports Fossil Fuels	Policy Compliance
NAB	A1+	40%	35.43%	64,326,231	YES	YES
WBC	A1+	40%	5.51%	10,000,000	YES	YES
Macquarie	A1	25%	4.40%	8,000,000	YES	YES
ING	A1	25%	3.86%	7,000,000	YES	YES
AMP	A2	15%	5.51%	10,000,000	YES	YES
BOQ	A2	15%	4.13%	7,500,000	NO	YES
BDCU	A2	15%	14.18%	25,750,236	NO	YES
Rural Bank	A2	15%	3.30%	6,000,000	NO	YES
IMB	A2	15%	2.20%	4,000,000	NO	YES
ME	A2	15%	5.51%	10,000,000	NO	YES
MyState	A2	15%	5.51%	10,000,000	NO	YES
Auswide	A2	15%	10.46%	19,000,000	NO	YES
Total			100.00%	181,576,467		

Council resolved that no further investments would be placed with Westpac Bank (WBC) and existing investments would be divested upon maturity (MN 538/19). Council has 2 term deposits totalling \$10 million with WBC. These term deposits will be redeemed upon maturity with the final term deposit maturing on 3 November 2020.

Portfolio Credit Limits

A summary of investments placed by credit limit is as follows:

S&P Short Term Rating	Maximum %	Actual %	Invested \$	Policy Compliance
A1+	100%	40.94%	74,326,231	YES
A1	80%	8.26%	15,000,000	YES
A2	60%	50.80%	92,250,236	YES
A3	20%	0.00%	0	YES
Govt	25%	0.00%	0	YES
Total		100.00%	181,576,467	

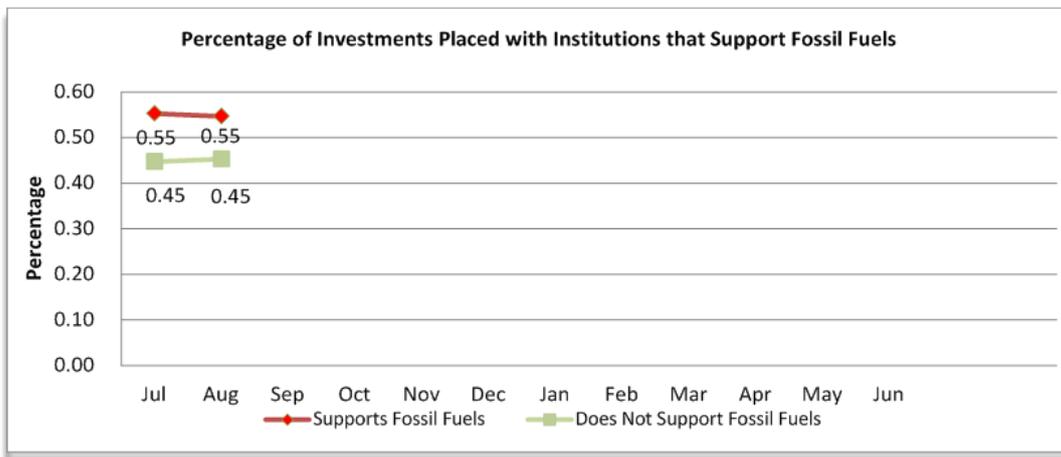


Wingecarribee Shire Council Investment Report Summary For the period ending 31 August 2020

Non-Fossil Fuel Investment Preferencing

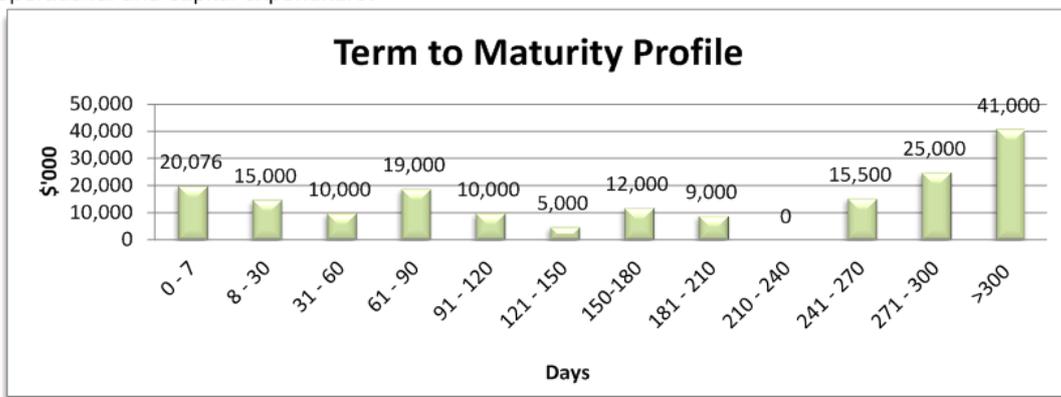
Council's adopted Investment Policy states a preference for placing funds with institutions that do not support the fossil fuel industry. The chart below identifies Council's percentage of investments placed with institutions that do not support the fossil fuel industry.

As investments mature Council will actively seek investments with institutions that do not support the fossil fuel industry, on the basis that they offer equivalent returns and are compliant with legislation and the objectives and parameters of the Investment Policy.



Term to Maturity

Investments have been placed giving due consideration to Council's liquidity requirements. Sufficient Working Capital is available to ensure Council continues to meet its ongoing cash flow requirements for operational and capital expenditure.



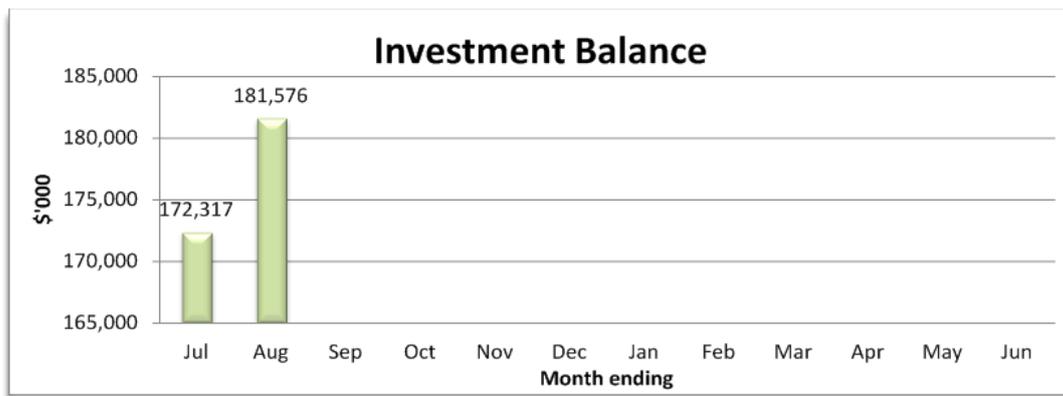


Wingecarribee Shire Council Investment Report Summary

For the period ending 31 August 2020

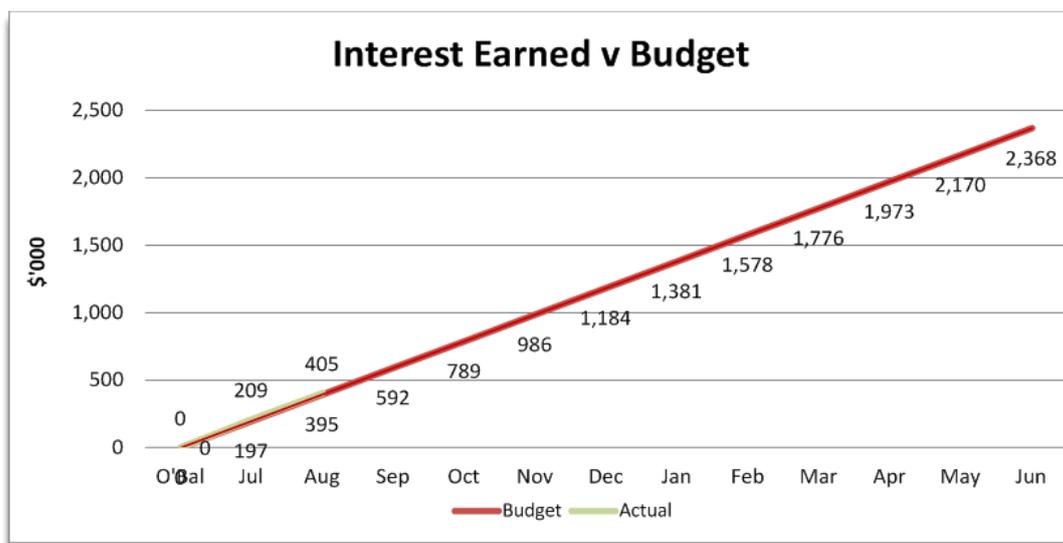
Portfolio Performance

Council's investment balance at the end of August 2020 was \$181.576 million. This has increased by \$9.259 million since the end of July 2020. This increase was primarily due to the 1st quarter rates instalment for 2020-21 being payable.



Interest Revenue

Council is currently exceeding budget expectations. Council's investment portfolio performed above budget due to Council actively seeking the best interest rates available and, high levels of funds to invest.





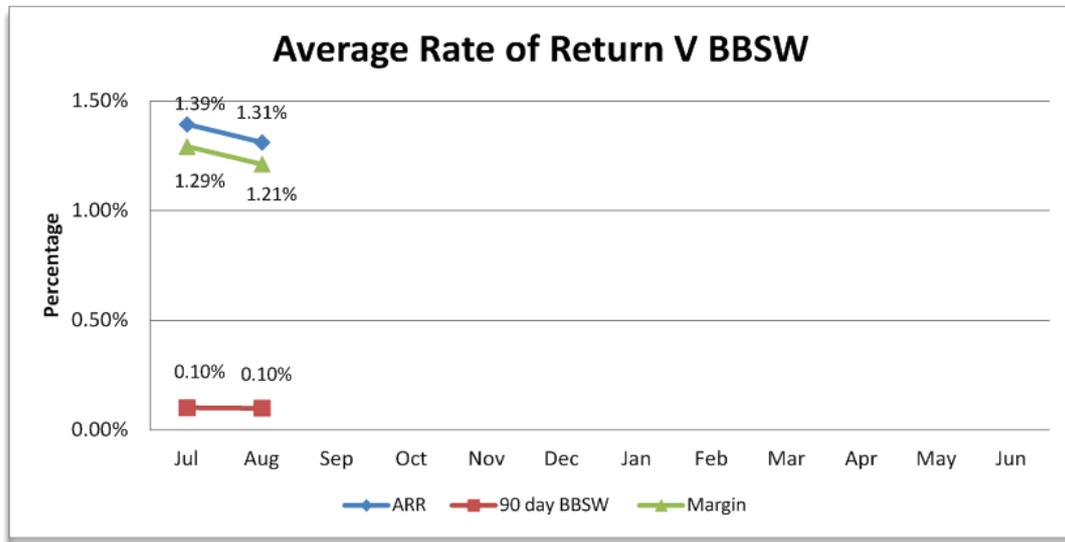
Wingecarribee Shire Council Investment Report Summary For the period ending 31 August 2020

Performance against Benchmark

Council's investment portfolio is benchmarked against the 90 day Bank Bill Swap Rate (BBSW).

The average rate of return (ARR) achieved for August 2020 was 1.31% which is 0.08% lower than July 2020. The BBSW remained steady at 0.10%.

The margin above BBSW was 1.21% for August 2020 which shows Council continues to secure favourable interest rates on term deposits.



11.3 Proposed Road Closure - Waverley Parade, Mittagong

Reference:	RD 3211
Report Author:	Coordinator Property Services
Authoriser:	Acting Deputy General Manager Operations Finance and Risk
Link to Community Strategic Plan:	Effective financial and asset management ensure Council's long term sustainability

PURPOSE

The purpose of this report is to seek Council approval to close part of Waverley Parade, Mittagong.

RECOMMENDATION

1. **THAT** Council endorse an application for the partial road closure of Waverley Parade, Mittagong adjoining Frensham School (owned by Winifred West Schools Ltd).
2. **THAT** Council provide a minimum twenty eight (28) day public notice period of its intention to close the road adjoining Frensham School **AND THAT** if any objections are received, a further report be forwarded to a future Ordinary Meeting of Council for determination.
3. **THAT** if there are no objections received by Council during the period of public notice; that pursuant to Part 4 Division 3 of the *Roads Act 1993*, Council as roads authority formally approve the closure of the proportion of Council Public Road referred to in Resolution 1 above and that upon closure the newly created lot will be classified as Operational Land pursuant to the *Local Government Act, 1993*.
4. **THAT** the Mayor and General Manager be delegated authority to execute under the Common Seal of Council the plan of Road Closure required to be lodged with NSW Land Registry Services to enable closure of the portion of Council Public Road referred to in Resolution 1 above.

REPORT

BACKGROUND

Council officers have been in discussions with Winifred West Schools Ltd ('Frensham') regarding the proposed acquisition of land on the corner of Colo Street and Range Road, Mittagong.

The land to be acquired from Frensham is required to facilitate the construction of the new Range Road rail bridge and road deviation of Colo Street (including a proposed roundabout) at the intersection of Range Road, Railway Parade and Colo Street, Mittagong.

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The Colo Street road deviation is required to address road safety issues resulting from the Transport for NSW (TfNSW) project to replace the Range Road bridge over the main Southern Railway. The existing bridge has been assessed as “life-expired” and requiring replacement.

The replacement bridge will be constructed approximately 1.5 metres higher than the existing bridge to meet rail track clearance requirements. As proposed, the increased height would result in a sharp vertical curve in the road design to enable Range Road, Colo Street and Regent Street to be reconnected.

Council engineers have determined that the impact of the proposed bridge and connecting road design developed for TfNSW would result in road modifications that would create significant road safety issues. In particular, the increase in height would create a number of unacceptable safety issues for both motorists and pedestrians. Safe road sight lines cannot be achieved if Colo Street was to be reconnected to Range Road in its existing position.

Accordingly, Council engineers have developed an alternate road design to address the safety issues identified. It is proposed that the junction of Colo Street and Range Road be moved southwest on Range Road to form a four way intersection with Railway Parade. An intersection at this location would meet Austroads sight distance requirements.

In order to achieve the above proposal, Colo Street would need to be deviated. The deviation can only be achieved through the acquisition of land owned by Winifred West Schools Ltd. The proposed deviation of Colo Street will deliver a safe traffic and pedestrian outcome and reinforce the strategic link provided by Colo Street.

REPORT

To progress the rail bridge upgrade project and proposed road deviation, Council officers have been in ongoing discussions with Frensham regarding the acquisition of land.

Frensham have requested that in exchange for providing the land required for the Colo Street road deviation project, Council consider the closure and transfer to Frensham of part Waverley Parade, Mittagong.

This is shown in **Attachment 1 – Area of Proposed Closure.**

Frensham have requested that Council consider the closure of part Waverley Parade to alleviate safety concerns held by the school concerning students having to cross the public road to traverse between Clubbe Hall and Sturt Studio.

The portion of road reserve the subject of this report is a formed public road, with an area of approximately 2,582 sqm (subject to final survey) which directly adjoins Frensham (owned by Winifred West Schools Ltd).

Council’s consideration and formal approval is now sought to place the closure of the requested section of Waverley Parade on public exhibition for a period of 28 days.

It is proposed that, following formal approval and closure, the newly created lot would be transferred to Winifred West Schools Ltd in exchange for the school providing the land

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required by Council at the corner of Colo Road and Range Road, Mittagong for the Colo Street Road deviation project.

LEGISLATIVE REQUIREMENTS

Part 4, Division 3 of the *Roads Act 1993* outlines the statutory requirements regarding the closure of Council public roads by Council.

The Department of Planning, Industry and Environment – Crown Lands ('the Crown') no longer has the power to close constructed or unconstructed Council public roads. This means that all applications for the closure of public roads must be processed by Council as roads authority. Constructed (formed) Council public roads vest in the ownership of Council upon Closure. In this case the area of closure is formed, therefore upon closure the land will vest in Council.

If the closure of the road proceeds, a new title will be created following registration of the Plan of Road Closure at NSW Land Registry Services.

PROPOSED LAND-SWAP

Subject to Council's direction, should the road closure be formally approved, a further report will be submitted to a future meeting of Council to obtain the necessary approvals in relation to the proposed land swap, and to address budget implications (should there be any).

PROJECT DELIVERY

The Range Road rail bridge and road deviation of Colo Street (including a proposed roundabout) at the intersection of Range Road, Railway Parade and the Colo Street deviation, will be managed and delivered by John Holland Rail (JHR), on behalf of Australian Rail Track Corporation, TfNSW and Council.

Council is currently in discussions with JHR to confirm the project plan, delivery timeframes, community consultation plan and a cost estimate for the works.

Council will be a key stakeholder and is a member of the Project Control Group.

COMMUNICATION AND CONSULTATION

Community Engagement

Council will issue public notice of its intention to close the section of road via [yoursaywingecarribee](#) (with a link on Council's website) and will also issue neighbour notifications. Public notice will be advertised for a minimum twenty eight (28) days. If there are any objections lodged, a further report will be forwarded to a future Council meeting for consideration.

Internal Communication and Consultation

Assets
Project Delivery

External Communication and Consultation

Winifred West Schools Ltd (Frensham)

SUSTAINABILITY ASSESSMENT

- **Environment**

There are no environmental issues in relation to this report.

- **Social**

The closure will have a marked and positive impact on the Frensham school community with significantly improved safety moving between Clubbe Hall and Sturt Studio.

- **Broader Economic Implications**

There are no broader economic implications in relation to this report.

- **Culture**

There are no cultural issues in relation to this report.

- **Governance**

Governance matters in relation to the proposed land-swap will be the subject of a future report to Council, should the proposed part-closure of Waverly Parade be formally approved by Council.

COUNCIL BUDGET IMPLICATIONS

There are no direct budget implications in relation to this report.

The budget implications in relation to the proposed land-swap and the roadworks required to address safety issues at the intersection of Range Road, Railway Parade and Colo Street will be the subject of a future report to Council.

RELATED COUNCIL POLICY

None identified.

CONCLUSION

It is recommended that Council support the road closure in principle and that Council proceed with placing the proposal on public exhibition for a period of 28 days.

ATTACHMENTS

1. Attachment 1 - proposed area of closure

11.4 Novel Coronavirus (COVID-19) - Community Financial Support Package Update

Reference:	2215
Report Author:	Acting Chief Financial Officer
Authoriser:	Acting Deputy General Manager Operations Finance and Risk
Link to Community Strategic Plan:	Effective financial and asset management ensure Council's long term sustainability

PURPOSE

The purpose of this report is to seek formal Council approval for the extension of a number of the financial support measures approved by Council on 13 May 2020 in response to the Novel Coronavirus (COVID-19) global pandemic.

RECOMMENDATION

THAT Council formally adopt the extension of the following Novel Coronavirus (COVID-19) community financial support measures; consisting of:

1. The extension of the deferral of rates and charges for business rated properties, where the property owner runs a business from the premise or provides a rent deferral period for business tenants, for a further period of 6 months, up to 31 March 2021.
2. The extension of the deferral of rates and charges for property owners who have lost employment or been stood down due to the Federal Government's enforced business closures for a further period of 6 months, up to 31 March 2021.
3. The further extension of the deferral period for the repayment of interest free loans which are currently held with community groups (including Southern Highlands Hockey) up to the March 2021.
4. The approval of a full fee reduction for sporting organisations for the use of Council's sporting facilities for the 2020 winter season.

REPORT

BACKGROUND

On 22 March 2020, the Prime Minister, the Hon Scott Morrison MP announced an extensive range of measures to limit the spread of COVID-19 across communities within Australia.

The measures included the enforced closures of certain businesses such as hotels, clubs, gyms, cinemas and other entertainment venues. Social gathering numbers were severely restricted and social distancing measures were now enforceable by law enforcement agencies.

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REPORT ACTING DEPUTY GENERAL MANAGER OPERATIONS FINANCE AND RISK



At the time of announcing these measures, the Prime Minister was clear in stating that Australians should expect these measures to be in place for a period of six months.

In response to these measures, Council developed a range of financial support measures which were aimed at assisting affected residents and businesses during this period. The following measures were adopted by Council at its meeting 13 May 2020 (MN 116/20):

THAT Council formally adopt the Novel Coronavirus (COVID-19) community financial support package consisting of:

- 1. The removal of interest charges on overdue rates and charges (including water and sewer) for a period of 12 months, commencing 1 April 2020.*
- 2. The approval of the deferral of rates and charges for business rated properties, where the property owner runs a business from the premise or provides a rent deferral period for business tenants, for a period of 6 months, commencing 1 April 2020 AND permit a repayment pathway of up to 3 years for rates and charges deferred.*
- 3. The approval of the deferral of rates and charges for property owners who have lost employment or been stood down due to the Federal Government's enforced business closures for a period of 6 months, commencing 1 April 2020 AND permit a repayment pathway of up to 3 years for rates and charges deferred.*
- 4. The approval of a full rental subsidy for a period 6 months for Council owned properties which are occupied by a small business or organisation impacted by the Federal Government's enforced business closures commencing 1 April 2020.*
- 5. The approval of a full fee reduction for outdoor dining fees, materials on footpaths and environment and health inspections commencing 1 April 2020 for a period of 6 months.*
- 6. The approval of a 6 month deferral period for the repayment of interest free loans which are currently held with community and sporting organisations, commencing 1 April 2020.*

As outlined in the report submitted to Council on 13 May 2020, a review of these measures would be conducted in six months' time and a further report would be submitted to Council should there be a need to consider a further extension to these measures or the consideration of new measures.

This report addresses both the need for a further extension of a number of the adopted measures and Council's consideration for the inclusion of a new measure in relation to sporting organisations.

REPORT

Council's initial response in relation to its COVID-19 financial support measures was for a period of six months. This aligned with the support measures provided through the Federal and State Governments.

While the initial national response to the Pandemic resulted in a significant 'flattening' of the pandemic curve, there continues to be clusters within NSW, and the Victorian state is still in the middle of lock-down laws to address serious infection numbers within the Melbourne area.

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REPORT ACTING DEPUTY GENERAL MANAGER OPERATIONS FINANCE AND RISK



In early August, the Federal Government announced an extension to the 'Job-Keeper' program until March 2021. This is a reflection of the ongoing impact of the pandemic on the broader economy and the increase in unemployment levels.

While other tiers of Government have an important role to play in the providing financial assistance to businesses and individuals impacted by the Pandemic, councils can also continue to play an important role through ensuring that local businesses and families can prioritise their immediate financial needs, with the knowledge that rates and charges levied by Council can be addressed once the pandemic passes.

As such; it is recommended that Council consider a second round of financial support measures which will be in place for the period 1 October 2020 – 31 March 2021.

Financial Support Measures	Recommendation
Remove all interest charges on overdue rates and charges (including water and sewer) for a period of 12 months.	No Change – Interest charges to be continued to be waived to the 31 March 2021.
Rates deferral period for business rated properties for a period of 6 months. This will apply where the property owner runs a business from the premise or provides a rent deferral period for business tenants.	Extend deferral for approved applicants to the 31 March 2021.
Rates deferral period for property owners who have lost employment or been stood down due to the Federal Government's enforced business closures for a period of 6 months.	Extend deferral for approved applicants to the 31 March 2021.
Provide a 6 month deferral period for the repayment of interest free loans which are currently held with community and sporting organisations. This includes the interest free loans which are currently held by the Moss Vale Basketball Association and Southern Highlands Croquet Club. This will also include Southern Highland Hockey where the execution of the loan agreement is pending this outcome of this deferral request.	Extend loan repayment deferrals up to the 31 March 2021.
Provide a full fee reduction for sporting organisations for the use of Council's sporting facilities for the period 1 July 2020 – 31 December 2020.	This is a new measure which is recommended for Council consideration.

Council will also continue to withhold from undertaking any form of debt recovery during this period.

With respect to providing a full fee reduction for sporting organisations for the use of Council's facilities for the period 1 July 2020 – 31 December 2020, this would be for both winter and summer sports.

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REPORT ACTING DEPUTY GENERAL MANAGER OPERATIONS FINANCE AND RISK



It is important to note that where sporting facilities were not used earlier in the winter months due to the COVID-19 enforced shut-down of community sport, these organisations were not charged as Council's facilities were not used.

It is not recommended that the following financial support measures be extended beyond 30 September 2020:

- Rental subsidy for Council owned properties which are occupied by a small business or organisation impacted by the Federal Government's enforced business closures.
- A full fee reduction for all outdoor dining fees, materials on footpaths and environment and health inspections

The initial financial support measures provided to businesses in relation to rental subsidy and fee reductions was on the basis that impacted businesses had been required to close due to the Federal Government's shut-down directives. Business trading has now recommenced (albeit on a limited basis) where appropriate COVID-19 safety plans have been developed and implemented.

Resources & Information for Residents

Application forms for the deferral of rates can continue to be found online at either www.wsc.nsw.gov.au/coronavirus-covid-19-update or under the 'Rates' section of Council's website at www.wsc.nsw.gov.au/rates.

For businesses and residents who are not directly affected by the Federal Government's enforced closures but are still experiencing financial hardship, they are encouraged to contact Council to discuss arrangements which can be put in place under Council's adopted Financial Hardship Policy.

Council's website continues to provide residents with important resources and contact information for residents and businesses who are impacted by the Pandemic.

Additional Actions Taken by Council

Council facilities such as the Civic Centre, Welcome Centre and Bowral Central Library have been re-opened and are subject to strict hygiene and social distance measures to protect the health of customers and staff. These facilities have been registered as COVID Safe under the NSW Government's COVID Safe Program. The Resource Recovery Centre has remained open during the Pandemic, with service to local businesses and tradespersons prioritised.

Council and Regional Development Australia Southern Inland have initiated networks to assist businesses during the pandemic and beyond, focusing on; COVID-19 Business Support, Business Activity and; The (new) normal.

In February 2020, Destination Southern Highlands embarked on a community recovery campaign titled 'Share the Love' as a direct response to the impact of bushfires in the Shire. This campaign was subsequently adapted due to COVID-19 restrictions to instead focus on promoting local businesses offering online shopping, takeaway options, home deliveries and other services still available. A strategy was developed around three stages comprising: 1. Survive 2. Revive and 3. Thrive. This campaign is ongoing and continues to be modified in response to the pandemic.

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Council continues to investigate and apply for funding opportunities through both the Federal and State Governments. This includes the Federal Government's COVID-19 Local Roads and Community Infrastructure Program and the NSW State Government's NSW Public Spaces Legacy Program.

Announcements regarding successful projects funded through these important schemes will be made once the outcome of Council's applications are known.

COMMUNICATION AND CONSULTATION

Community Engagement

The extension of Council's financial support package does not require public notification.

Council was advised by the Office of Local Government on the 17 April 2020 that the application of section 610E of the *Local Government Act 1993* had been broadened to allow councils to waive or reduce fees under a newly established "COVID-19" category, which has been added to the Regulation.

This means that councils can immediately apply the waiver or reduction without establishing a new category or going through the normal public notice requirements of section 610E(2) for adding new categories.

Internal Communication and Consultation

Executive

Assets

Tourism and Economic Development

External Communication and Consultation

N/A

SUSTAINABILITY ASSESSMENT

- **Environment**

There are no environmental issues in relation to this report.

- **Social**

The extension of the financial support measures outlined within this report are aimed at working with affected residents during the COVID-19 Pandemic. While the broader social recovery requires a 'whole of government' approach, these measures will provide the affected residents with certainty regarding the payment of Council rates and charges over the next six months.

- **Broader Economic Implications**

The extension of the financial support measures outlined within this report are aimed at working with our business community during the COVID-19 Pandemic. While the broader economic impact requires a 'whole of government' approach, these measures will provide

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the business community with certainty regarding the payment of Council rates and charges over the next six months.

- **Culture**

There are no cultural issues in relation to this report.

- **Governance**

There are no governance issues in relation to this report.

COUNCIL BUDGET IMPLICATIONS

Council's initial estimates for the first round of financial support measures was \$700,000. Funding for the first round was addressed as part of a broader \$3.2 million COVID-19 response strategy which was adopted as part of the 2020/21 Budget.

The estimated cost of extending these measures are in the vicinity of \$200,000 - \$300,000. The expected cost of providing a full fee reduction to sporting organisations for a six month period is \$37,000. If Council's direction is to support the extension of these measures, funding will be identified as part of the quarterly budget review process during the 2020/21 financial year.

RELATED COUNCIL POLICY

Financial Hardship Policy

CONCLUSION

It is recommended that Council approves the extension of a range of financial relief measures aimed at assisting residents and business as a result of the ongoing COVID-19 Pandemic.

These measures have been developed to ensure that Council continues to play an important role in providing confidence to local businesses and families that they can prioritise their immediate financial needs, with the knowledge that rates and charges levied by Council can be addressed once the pandemic passes

ATTACHMENTS

There are no attachments to this report.

Richard Mooney

Acting Deputy General Manager Operations Finance and Risk

Thursday 17 September 2020

12 CORPORATE STRATEGY AND DEVELOPMENT SERVICES

12.1 Community Members for the Southern Regional Planning Panel

Reference:	5605; 5300
Report Author:	Group Manager Planning, Development and Regulatory Services
Authoriser:	Deputy General Manager Corporate, Strategy and Development Services
Link to Community Strategic Plan:	An enhanced culture of positive leadership, accountability and ethical governance that guides well informed decisions to advance agreed community priorities

PURPOSE

The purpose of this report is to reappoint the current Council's 'community member' and 'alternate community member' to the Southern Regional Planning Panel.

RECOMMENDATION

1. **THAT Council re-appoint Mr Carl Peterson as the Wingecarribee Shire Council's community representative for the Southern Regional Planning Panel.**
2. **THAT Council re-appoint Mr Jim Gilvarry as the Wingecarribee Shire Council's alternate community representative for the Southern Regional Planning Panel.**

REPORT

BACKGROUND

Regional Planning Panels (RPPs) provide independent, merit based decision making on regionally significant development. Applications for regionally significant development are notified and assessed by Council's assessing officers and then are reported to the Regional Planning Panel for determination.

Regional Panels may also have a role in planning proposals, where the Minister for Planning has appointed the regional panel to act as the relevant planning authority (RPA) or has requested the regional panel undertake a pre or post gateway review.

Regional Panels consist of five (5) members comprising one chair appointed by the Minister for Planning with the concurrence of Local Government NSW, two other members appointed by the Minister and two Council-appointed members.

Council members (which include community members) sit on the Regional Panel when a regionally significant Development Application (DA) is being decided in the Local Government Area (LGA). The Council members of the Regional Panel are nominated by each local Council and may come from within or external to the Council or outside of the Local Government Area.

In order to meet Council's obligations concerning the appointment of Community Representatives to the Southern Regional Planning Panel, Council must appoint a new or re-appoint a community panel member and an alternate community panel member in 2020

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REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



as the current terms have expired. Terms of appointment for Panel members, both State and Council, must not exceed three years. Members are eligible for re-appointment.

The Councillor appointment and Alternate Councillor appointments expire in February 2021 and as such a report to appoint the Councillor representatives will come before Council in December 2020.

REPORT

This report seeks to re-appoint those community panel members for a further three years from September 2020 to 2023 in accordance with operational guidelines for the Regional Planning Panels. Both current sitting representatives have the necessary skills, qualifications and industry experience in order to fulfil the roles of the community representative on the Southern Regional Planning Panel

COMMUNICATION AND CONSULTATION

Community Engagement

Nil

Internal Communication and Consultation

Nil

External Communication and Consultation

Council has referred to the Department of Planning, Industry and Environment's Operational Procedures for Regional Planning Panels regarding the processes required to re-appoint community representatives to the Southern Regional Planning Panel.

SUSTAINABILITY ASSESSMENT

- **Environment**

There are no environmental issues in relation to this report.

- **Social**

There are no social issues in relation to this report.

- **Broader Economic Implications**

There are no broader economic implications in relation to this report.

- **Culture**

There are no cultural issues in relation to this report.

- **Governance**

The appointment of community representatives by the Council to the Regional Planning Panel is mandated under the statutory provisions of the *Environmental Planning and Assessment Regulation 2000* to ensure effective representation of community views and opinions on prescribed planning related matters.

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Those representatives are required to be qualified and experienced in an area of Planning, Architecture or Science to ensure that decision making surrounding planning matters considered by the panel is appropriately informed through the application of a level of expertise.

COUNCIL BUDGET IMPLICATIONS

Council adopted via resolution on 13 August 2014 that panel members would be remunerated at a rate of \$600 per meeting including GST and travel expenses.

RELATED COUNCIL POLICY

There are no Council policies related to the appointment of Regional Planning Panel community representatives.

OPTIONS

The options available to Council are:

Option 1

1. THAT Council re-appoint Mr Carl Peterson as the Wingecarribee Shire Council's community representative for the Southern Regional Planning Panel.
2. THAT Council re-appoint Mr Jim Gilvarry as the Wingecarribee Shire Council's alternate community representative for the Southern Regional Planning Panel.

Option 2

THAT Council not appoint any community representatives at this point in time to the Southern Regional Planning Panel.

Option No. 1 is the recommended option to this report.

CONCLUSION

Council is required to appoint a community member and alternate community member to the Southern Regional Planning Panel to fulfil its obligations under the provisions of the *Environmental Planning and Assessment Act 1979*. The re-appointment of the current community members is recommended.

ATTACHMENTS

There are no attachments to this report.

Mark Pepping
Deputy General Manager Corporate, Strategy and Development Services

Thursday 17 September 2020

13 GENERAL MANAGER

13.1 Legal Report

Reference:	107/22
Report Author:	General Counsel
Authoriser:	Group Manager Corporate and Community
Link to Community	
Strategic Plan:	An enhanced culture of positive leadership, accountability and ethical governance that guides well informed decisions to advance agreed community priorities

PURPOSE

The purpose of this report is to update Council on the status of legal proceedings reported at the ordinary meeting of Council on 26 August 2020.

RECOMMENDATION

1. **THAT** the information relating to ongoing legal costs in Attachment 1 to the report be noted.
2. **THAT** the status of the legal proceedings involving Council be considered in Closed Council – Item 19.1.

This report is confidential in accordance with s10A(2) of the Local Government Act 1993, under clause 10A(2)(g) as it contains advice concerning litigation, or advice as comprises a discussion of this matter, that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

Note: *The Council, or a committee of the Council, may allow member of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed (15.9 – Code of Meeting Practice).*

Where the matter has been identified in the agenda of the meeting under clauses 3.21 as a matter that is likely to be considered when the meeting is closed to the public, in order to make representations under clause 15.9, members of the public must first make an application to the Council in the approved form. Applications must be received by close of business (4.30pm) two (2) business days prior to the meeting at which the matter is to be considered (15.11 – Code of Meeting Practice).

REPORT

BACKGROUND

This report updates the current status and costs paid during August 2020 for legal proceedings involving Council in the Land and Environment Court, including those matters completed since the last report to Council.

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REPORT GENERAL MANAGER



Legal proceedings involving Council and legal advice obtained by Council are confidential and attract legal professional privilege. Therefore, their status is reported in a closed report.

REPORT

On 17 April 2013, Council resolved:

THAT the legal costs as detailed in the Legal Affairs Report be made public in the Business Paper on an ongoing basis.

The report on the status of legal affairs involving Council contains information and advice that is privileged on the grounds of legal professional privilege and contains information that, if disclosed, could confer a commercial advantage on parties with whom Council is conducting business (including opposing parties in litigation). Therefore, it is recommended that the report be considered by Council in Closed Committee pursuant to section 10A(2)(g) of the *Local Government Act 1993*.

For the purpose of preserving privacy, some matters in **Attachment 1** may be described in general terms. **If a Councillor has a specific enquiry regarding the costs reported, they should raise it in Closed Council.**

Consultants' Fees

At the Council meeting on 8 March 2017, Council resolved that the Legal Affairs Report include a separate column for fees paid to consultants in legal proceedings.

Consultants are engaged in all cases concerning development consents in the Land and Environment Court as the Court requires the parties to provide expert evidence to assist in the determination of the issues in the case.

These consultants prepare reports for the Court and give evidence if the matter goes to hearing on such matters as site density, building layout, traffic, drainage, noise, light and any other relevant issue.

The consultants are always engaged by the external law firm acting for Council.

Usually, their fees are paid by the law firm and recouped from Council through an invoice from the law firm. In that case, the consultants' fees have been included in the monthly Legal Costs report to Council.

There were consultants' fees for legal proceedings paid in the month of August 2020 – refer to **Attachment 1**.

COMMUNICATION AND CONSULTATION

Community Engagement

Nil

Internal Communication and Consultation

Staff and management provide information, as required, to assist the progress of the matters reported.

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REPORT GENERAL MANAGER



External Communication and Consultation

Solicitors from Council's Legal Panel provide advice and conduct legal proceedings on Council's behalf.

SUSTAINABILITY ASSESSMENT

- **Environment**

There are no environmental issues in relation to this report. However, some legal proceedings may deal with unauthorised works or activities which have had or could have an environmental impact.

- **Social**

There are no social issues in relation to this report.

- **Broader Economic Implications**

There are no broader economic implications in relation to this report.

- **Culture**

There are no cultural issues in relation to this report.

- **Governance**

There is a strong community expectation in relation to enforcement and compliance actions by Council. Actions taken are in line with Council's Compliance and Enforcement Policy.

RELATED COUNCIL POLICY

Council's Compliance and Enforcement Policy.

ATTACHMENTS

1. Legal Costs August 2020

Barry W Paull
Acting General Manager

Thursday 17 September 2020



Legal Costs - August 2020

Legal Matter	Legal Expenditure Aug-20	Consultant Expenditure Aug-20	Legal Expenditure Year to Date (YTD)	Consultant Expenditure Year to Date (YTD)	Total Expenditure Life to Date (LTD)
Rochester Estate	-	-	-	-	-
Fedkirchen	-	-	-	-	-
Jenny Stock	-	-	-	-	-
Greenhills Road Werai	-	-	-	-	-
Mittagong Central Developments Station Street Mittagong	\$6,829	-	\$6,829	-	\$ 55,531
John Bennett Oxley Drive, Mittagong	-	-	-	\$3,000	\$ 21,655
Lasovase Mira Vale Road Wildes Meadow	\$1,948	-	\$1,948	-	\$ 40,804
ERF Hospice Edward Street Bowral	\$4,807	-	\$4,807	-	\$ 34,557
Bowral Garage Development Bong Bong Street Bowral	\$3,773	-	\$3,773	-	\$ 10,959
Woodbine Park Nominees Wombeyan Caves Road High Range	\$4,399	-	\$4,399	-	\$ 17,627
Total Expenditure	\$ 21,756	\$ -	\$ 21,755	\$ 3,000	\$ 181,133

Note: This report includes proceedings where legal and/or consultancy costs have been incurred in the 2020/21 Financial Year.

It is important to note that the figure reported to the Finance Committee on a quarterly basis is projected expenditure for the entire financial year. The figure reported to the Finance Committee also includes non-development related legal expenditure.

Fees Recovered – July 2020

Legal Matter	Fees Recovered Aug-20	Fees Recovered YTD	Fees Recovered LTD
O'Shanassy	\$500	\$2,214	\$21,692
Garry Turland	-	\$20,000	\$25,000
Total Recovery	\$500	\$22,214	\$46,692



15 PETITIONS

15.1 Petition 6/2020 Retford Park Estate - Amendment to Wingecarribee LEP 2010

Reference:	100/8
Report Author:	Administration Officer (Meetings)
Authoriser:	Group Manager Corporate and Community
Link to Community Strategic Plan:	An enhanced culture of positive leadership, accountability and ethical governance that guides well informed decisions to advance agreed community priorities

PURPOSE

The purpose of this report is to present Council with a petition relating to Retford Park Estate seeking an amendment to clause 1.9A(2) of the Wingecarribee LEP 2010.

The petition contains over 150 signatures.

A copy of the Petition will be tabled at the Ordinary Meeting of Council.

RECOMMENDATION

THAT Petition 6/2020 relating to Retford Park Estate be received and noted by Council.

ATTACHMENTS

There are no attachments to this report.



16 COMMITTEE REPORTS

16.1 Management Committee Reports

Reference: 107/1
Report Author: Committee Coordinator

PURPOSE

This report provides the Minutes of the following Committee Meetings, copies of which will be tabled for information:

1. Moss Vale Senior Citizens and Community Centre Hall Committee, 17 February 2020
2. Moss Vale Senior Citizens and Community Centre Hall Committee, 20 July 2020

RECOMMENDATION

THAT the information contained in the following Committee Reports be noted:

1. Moss Vale Senior Citizens and Community Centre Hall Committee, 17 February 2020
2. Moss Vale Senior Citizens and Community Centre Hall Committee, 20 July 2020

ATTACHMENTS

There are no attachments to this report.

16.2 Minutes of the Heritage Advisory Committee Meeting held on Friday 14 August 2020

Reference: 107/16
Report Author: Strategic Land Use Planner (Heritage)

PURPOSE

This report provides the Minutes of the Heritage Advisory Committee Meeting held on Friday 14 August 2020.

SUMMARY OF RECOMMENDATIONS AND ACTIONS FOR COUNCILLORS' ATTENTION AND ADOPTION

A copy of the Minutes of the Heritage Advisory Committee Meeting of 14 August 2020 is provided at **ATTACHMENT 1**.

The following recommendations are brought to Council's attention:

Item 3 Adoption of Minutes of Previous Meeting

HAC 8/20

THAT the minutes of the Heritage Advisory Committee Meeting held on Friday 14 February 2020 HAC 1/20 to HAC 6/20 inclusive, copies of which were forwarded to Committee Members, be adopted as a correct record of the proceedings of the meeting.

Item 5.1 Update on Heritage Matters

HAC 9/20

THAT in relation to the matters raised by the Committee, there has been a response from Council staff with which some members of the Committee raised various concerns AND THAT the Heritage Committee requests that appropriate Council staff attend the next meeting of the Heritage Committee to advise how the new street trees and gardens along Station Street, Bowral, are to be maintained.

Item 5.2 Development Applications Notified to the Committee since the Last Meeting

HAC 10/20

THAT the following submissions made on development applications since the last meeting of the Committee be noted:

Property Address	43 Aitken Road, Bowral
Application Number	20/0757
Application For	Seniors Housing - 4 Dwellings
Date	15/2/2020
Comment	Given the importance of Aitken Road from a heritage point of view the Committee is very concerned about this proposal. The following



Property Address	<p>43 Aitken Road, Bowral</p> <p>comments are made in respect of this application:</p> <p>Aitken Road is a beautiful urban street with many mature trees and with fine houses several of which are from the interwar period.</p> <p>The details of this street and houses are clearly set out in council's recent Planning Proposal to list 3 houses - nos. 25-27 Aitken Road (known as 'Glenfarne'), 33- 37 Aitken Road (known as 'Grantham') and 39-41 Aitken Road (known as 'Barkfold') to be called the Aitken Road Interwar Housing Group and to list a heritage conservation area comprises 12-30 & 25-43 Aitken Road and 56, 58 and 60 Kangaloon Road, Bowral and to be called the Aitken Road Conservation Area.</p> <p>While No 43 (photo below) is not proposed for separate heritage listing the real estate photos at https://www.realestate.com.au/sold/property-house-nsw-bowral-130686638 suggest it is a well-mannered dwelling in good order. It is well-mannered in the sense that both the house and its garden are totally complementary to the proposed heritage items and area.</p> <p>The earlier lot for No 43 included what is now the adjoining No 43A (photo below) which contains a modern house of brick walls and colour bond roof.</p> <p>The site at No 43 has an area of 1883 square metres and 43A has 801 square metres a total of 2684 m². The house at No 43 now sits on its the northern boundary of 43. Originally it would have been more central on its bigger lot.</p> <p>Heritage Researcher Maureen Townsing advises that No 43 is on land previously Lots 15 and 16 of the 1921 Aitken Road Golf Links View Estate.</p> <p>Lots 14 and 15 were purchased by Mrs Phyllis Parker in 1936. A likely (but not certain) date of construction is during her ownership 1936-1939. The brick walls and unglazed terra cotta roof certainly suggest this period.</p> <p>Perhaps the most important element of the site is its mature landscape and its siting right at the southern entrance to Aitken Road. It definitely sets the tone for this area and this a central matter to be addressed in any consideration of this DA.</p> <p>The interim heritage orders on the three houses Glenfarne, Grantham and Barkfold and the council's resolution to have a conservation area listed were made known before No 43 was sold in July 2019.</p> <p>Regardless of heritage listing the council needs to fully consider the environmental planning effects any new development of No 43.</p> <p>The Committee notes that there are several options for this site and these are set out below to make for clearer consideration of the DA.</p> <p>Option 1 – most preferred – retain the cottage and garden as is as a totally complimentary item in the proposed conservation area</p> <p>Option 2 – less preferred – retain the cottage and put minimum new development on the site – possibly one well designed new villa and maximum retention of planting. The off-centre location of the current cottage makes this a realistic option.</p> <p>Option 3 – least preferred – demolish the cottage, agree to the four new villas but maximum retention of planting and subject to careful choice of building materials and colour, roof materials and window</p>
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COMMITTEE REPORTS



Property Address	43 Aitken Road, Bowral
	and door treatment. The most common material type is face brick and unglazed terra cotta roofing. The only weatherboard cottage is an earlier cottage at No 28.
	Option 4 – not recommended at all - approve as submitted.
	Recommendation
	The Committee's preferred approach is Option 1. If any development is to be approved then it should be minimal so as to retain the maximum current landscape effect so important to the appearance of Aitken Road. In regard to appearance the proposed DA 20/0757 weatherboard and colour bond roof design for the 4 villas is not supported. There needs to be a careful choice of building material and colour, roof materials and window and door treatment. The most common material type in Aitken Road is face brick and unglazed terra cotta roofing.
Property Address	51 Woodbine Street, Bowral
Application Number	20/0804
Application For	Residential Alterations and Additions - Extensions
Date	16/2/2020
Comment	Wingecarribee Heritage Advisory Committee discussed this Development Application at its meeting on 14 February 2020. The consensus was that they saw no problem with the proposal. However, it was noticed that a new main entrance is proposed at the side of the new extension. The committee's view is that the original front door entrance should remain operable to maintain the heritage appearance and feel of the cottage.
Property Address	587A Argyle Street, Moss Vale
Application Number	20/0838
Application For	Demolition of existing fire damaged semi-detached Dwelling House & construction of new semi-detached Dwelling House
Date	16/2/2020
Comment	Wingecarribee Heritage Advisory Committee considered the above Development Application at its meeting on 14 February 2020 and make the following comments: It was noted that both halves of the semi-detached (duplex) cottages at 587A and 587 appear identical at this time. The corrugated roof, timber cladding and even the picket fence is identical in both material and colour and presents as a well preserved heritage item apart from the current fire damage to 587A. The committee expressed concern as to whether total demolition of the 587A was required and if it were to be carried out, how the current matching appearance could be recovered. The Heritage Committee asked that our response note the above and request that the case for the proposed demolition be reviewed including an onsite inspection by council's heritage adviser, Dr Peter Kabaila in company with one of council's building inspectors.
Property Address	23 Jellore Street, Berrima
Application Number	20/1279
Application For	Dwelling House
Date	4/6/2020
Comment	The proposal to rebuild Riverview Cottage is supported in view of the derelict state of the current structure and the genuine attempt by the applicant to maintain the current streetscape. However any rebuilding

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COMMITTEE REPORTS



Property Address	43 Aitken Road, Bowral
	needs to be carefully carried out for it to be successful. The proposed demolition of the 19th century kitchen at the rear of Riverview Cottage and its use as an outdoor barbecue area has not been so carefully assessed. The Heritage Advisory Committee is aware of the eleven specific recommendations of the Heritage Advisor, Dr Peter Kabaila in respect of both the kitchen wing and the detail required to re-build the cottage. It is considered that these eleven specific recommendations are essential for a good outcome on this site and all are endorsed by the committee.
Property Address	'Edenberry', 254 Oldbury Road, Sutton Forest
Application Number	20/1258
Application For	Demolition - existing dwelling, Dwelling House, Residential alterations & additions - Shed, Carport
Date	4/6/2020
Comment	While Edenderry is not heritage listed the Oldbury Road area is of high heritage significance. It is also noted that after the recent boundary adjustment in April 2019 a portion of Edenderry site is now within the heritage curtilage of Bonheur which is heritage listed. Page 14 of the SEE states that the current Edenderry house and cottage are at least 100 years old but the only assessment made of them is one sentence on page 5 of the SEE which simply states: The internal spaces of the existing dwelling are compromised by low ceiling heights, poor circulation and planning, and the building envelope is compromised by poor thermal performance and construction details. If this were the accepted standard for demolition we would lose a lot of heritage items. If demolition is to be agreed to the dwelling and cottage need to be properly assessed and recorded. The design of the new house is of high architectural quality and appropriate for the setting. However neither the proposed shed nor the carport are compatible with the design of the new house and should be reviewed.

AND THAT the following submission made on a Planning Proposal be noted:

Planning Proposal Name	Aitken Road Heritage Planning Proposal
Properties Affected	12-30 Aitken Road (inclusive); 25-43 Aitken Road (inclusive); 56, 58 and 60 Kangaloon Road, Bowral
Aim of Planning Proposal	To create a new heritage item group (comprising 25-27, 33-37 and 39-41 Aitken Road) and a new heritage conservation area.
Date	11/2/2020
Comment	Council's advertised proposal for a new Aitken Road Conservation area and new interwar residential heritage listing of the following three houses within this area is very much welcomed and supported by the Heritage Advisory Committee: <ul style="list-style-type: none">• Glenfarne 25-27 Aitken Road• Grantham 33-37 Aitken Road• Barkfold 39-41 Aitken Road It came as a worrying surprise to many in Bowral that this beautiful area of largely interwar houses and gardens had not already been heritage listed. To a large extent, the heritage values and streetscape embody all the attributes that residents



and visitors alike admire and wish to preserve in Bowral. The proposed listing now provides an informed framework for council to adequately assess new development proposals to ensure the continued integrity of this area.

The Committee notes that already there are two development proposals in play for this area. The first of these - DA 19/0574 – is for the demolition of all of the buildings and 37 trees on the Barkfold site at 39-41 Aitken Road and the building of a massive residential care facility. The second – DA 20/0757 – is for the demolition of a dwelling at No. 43 and the building of four new villas.

Given the well-argued case for the conservation area and heritage listings these proposals now need to be either rejected or seriously modified.

The Committee congratulates the council for taking the decisive action it has to give proper recognition of this clearly significant area.

The Committee would also like to take this opportunity to note the work of council planning officers including Sarah Farnese, council's Heritage Advisor Dr Peter Kabaila and interested Bowral residents including Bud and Maureen Townsing in putting together support material required for the 62 page proposal now on exhibition.

Item 5.3 'Yarrabin', 32 Kangaloon Road, Bowral - Heritage Assessment and Risk of Inappropriate Development

HAC 11/20

THAT Dennis McManus' comments on the operation and problems with seniors housing in the Wingecarribee be noted AND THAT the existing controls for Seniors Housing in all the Development Control Plans (DCPs) be strengthened as part of the DCP Review, particularly in relation to heritage listed sites and sites within heritage conservation areas.

RECOMMENDATION

THAT the minutes of the Heritage Advisory Committee Meeting held on Friday 14 August 2020 numbered HAC 7/20 to HAC 12/20, inclusive, copies of which were forwarded to members of the Committee, be adopted as a correct record of the proceedings of the meeting.

ATTACHMENTS

1. Minutes of the Heritage Advisory Committee Meeting held on 14 August 2020.



MINUTES

of the Heritage Advisory Committee Meeting

held in

Nattai Room, Civic Centre, Elizabeth Street, Moss Vale
and via video conference

on

Friday 14 August 2020

The meeting commenced at 3:16pm

File No. 107/16

16.2 Minutes of the Heritage Advisory Committee Meeting held on Friday 14 August 2020

ATTACHMENT 1 Minutes of the Heritage Advisory Committee Meeting held on 14 August 2020.



MINUTES OF THE HERITAGE ADVISORY COMMITTEE MEETING

Friday 14 August 2020



- 1. WELCOME AND APOLOGIES
- 2. ACKNOWLEDGEMENT OF COUNTRY
- 3. ADOPTION OF MINUTES OF PREVIOUS MEETING
- 4. DECLARATIONS OF INTEREST
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MINUTES OF THE HERITAGE ADVISORY COMMITTEE MEETING

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MINUTES OF THE HERITAGE ADVISORY COMMITTEE MEETING OF WINGECARRIBEE SHIRE COUNCIL HELD IN THE NATTAI ROOM, CIVIC CENTRE, ELIZABETH STREET, MOSS VALE AND VIA VIDEO CONFERENCE ON FRIDAY 14 AUGUST 2020 COMMENCING AT 3:16PM.

- Present:** Cllr G McLaughlin *Chair*
 Cllr P W Nelson *Alternate Chair*
- Community Representatives:** Mr Dennis McManus
 Ms Charlotte Webb*
- Agency Representatives:** Ms Linda Emery* *Berrima District Historical & Family History Society*
 Ms Lyn Barrett* *Australian Garden History Society (in place of Ms Laurel Cheetham)*
- In Attendance:** Mr Michael Park* *Coordinator Strategic Land Use Planning*
 Ms Sarah Farnese *Strategic Land Use Planner - Heritage*

* attended via video conference

1. WELCOME AND APOLOGIES

It was noted that apologies were received from Laurel Cheetham (Lyn Barrett attended for the Australian Garden History Society in her place) and Mhairi Clark were received. Simon Bathgate and Ian Stapleton were not in attendance.

HAC 7/20

RECOMMENDATION moved by Cllr G McLaughlin and seconded by Mr D McManus

THAT the apologies of Laurel Cheetham, Mhairi Clark, Simon Bathgate and Ian Stapleton be accepted and leave of absence granted.

PASSED

2. ACKNOWLEDGEMENT OF COUNTRY

Cllr McLaughlin acknowledged country:

I would like to acknowledge the Traditional Custodians of this land and pay my respect to Elders both past and present. I would also like to extend that respect to all Aboriginal and Torres Strait Islanders present here today.

16.2 Minutes of the Heritage Advisory Committee Meeting held on Friday 14 August 2020

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MINUTES OF THE HERITAGE ADVISORY COMMITTEE MEETING

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3. ADOPTION OF MINUTES OF PREVIOUS MEETING

MINUTES OF THE HERITAGE ADVISORY COMMITTEE MEETING HELD ON FRIDAY 14 FEBRUARY 2020

HAC 8/20

RECOMMENDATION moved by Ms C Webb and seconded by Mr D McManus

THAT the minutes of the Heritage Advisory Committee Meeting held on Friday 14 February 2020 HAC 1/20 to HAC 6/20 inclusive, copies of which were forwarded to Committee Members, be adopted as a correct record of the proceedings of the meeting.

PASSED

4. DECLARATIONS OF INTEREST

Nil

16.2 Minutes of the Heritage Advisory Committee Meeting held on Friday 14 August 2020

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MINUTES OF THE HERITAGE ADVISORY COMMITTEE MEETING
Friday 14 August 2020



5. AGENDA REPORTS

5.1 Update on Heritage Matters

Reference: 5650
Report Author: Strategic Land Use Planner (Heritage)

PURPOSE

The purpose of this report is to update the Committee on non-DA related heritage matters.

There was general discussion about the matters highlighted on the Agenda. Additionally, the Committee discussed the Wingecarribee Heritage Grants scheme, the resolution of Council of 12 August regarding the review of the Local Housing Strategy, and a request from absent member Laurel Cheetham regarding the trees in Station Street, Bowral,.

HAC 9/20

RECOMMENDATION moved by Mr D McManus and seconded by Ms L Emery

THAT in relation to the matters raised by the Committee, there has been a response from Council staff with which some members of the Committee raised various concerns **AND THAT** the Heritage Committee requests that appropriate Council staff attend the next meeting of the Heritage Committee to advise how the new street trees and gardens along Station Street, Bowral, are to be maintained.

PASSED



MINUTES OF THE HERITAGE ADVISORY COMMITTEE MEETING
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5.2 Development Applications Notified to the Committee since the Last Meeting

Reference: 107/16
Report Author: Strategic Land Use Planner (Heritage)

PURPOSE

The purpose of this report is to present a list of development applications (DAs) notified to the Heritage Advisory Committee since the last meeting on 14 February 2020 and to discuss various development application matters.

HAC 10/20

RECOMMENDATION moved by Mr D McManus and seconded by Ms L Emery

THAT the following submissions made on development applications since the last meeting of the Committee be noted:

Property Address	43 Aitken Road, Bowral
Application Number	20/0757
Application For	Seniors Housing - 4 Dwellings
Date	15/2/2020
Comment	<p>Given the importance of Aitken Road from a heritage point of view the Committee is very concerned about this proposal. The following comments are made in respect of this application:</p> <p>Aitken Road is a beautiful urban street with many mature trees and with fine houses several of which are from the interwar period.</p> <p>The details of this street and houses are clearly set out in council's recent Planning Proposal to list 3 houses - nos. 25-27 Aitken Road (known as 'Glenfarne'), 33- 37 Aitken Road (known as 'Grantham') and 39-41 Aitken Road (known as 'Barkfold') to be called the Aitken Road Interwar Housing Group and to list a heritage conservation area comprises 12-30 & 25-43 Aitken Road and 56, 58 and 60 Kangaloon Road, Bowral and to be called the Aitken Road Conservation Area.</p> <p>While No 43 (photo below) is not proposed for separate heritage listing the real estate photos at https://www.realestate.com.au/sold/property-house-nsw-bowral-130686638 suggest it is a well-mannered dwelling in good order. It is well-mannered in the sense that both the house and its garden are totally complementary to the proposed heritage items and area.</p> <p>The earlier lot for No 43 included what is now the adjoining No 43A (photo below) which contains a modern house of brick walls and colour bond roof.</p> <p>The site at No 43 has an area of 1883 square metres and 43A has 801 square metres a total of 2684 m². The house at No 43 now sits on its the northern boundary of 43. Originally it would have been more central on its bigger lot.</p> <p>Heritage Researcher Maureen Townsing advises that No 43 is on land previously Lots 15 and 16 of the 1921 Aitken Road Golf Links</p>

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View Estate.	
Lots 14 and 15 were purchased by Mrs Phyllis Parker in 1936. A likely (but not certain) date of construction is during her ownership 1936-1939. The brick walls and unglazed terra cotta roof certainly suggest this period.	
Perhaps the most important element of the site is its mature landscape and its siting right at the southern entrance to Aitken Road. It definitely sets the tone for this area and this a central matter to be addressed in any consideration of this DA.	
The interim heritage orders on the three houses Glenfarne, Grantham and Barkfold and the council's resolution to have a conservation area listed were made known before No 43 was sold in July 2019.	
Regardless of heritage listing the council needs to fully consider the environmental planning effects any new development of No 43.	
The Committee notes that there are several options for this site and these are set out below to make for clearer consideration of the DA.	
Option 1 – most preferred – retain the cottage and garden as is as a totally complimentary item in the proposed conservation area	
Option 2 – less preferred – retain the cottage and put minimum new development on the site – possibly one well designed new villa and maximum retention of planting. The off-centre location of the current cottage makes this a realistic option.	
Option 3 – least preferred – demolish the cottage, agree to the four new villas but maximum retention of planting and subject to careful choice of building materials and colour, roof materials and window and door treatment. The most common material type is face brick and unglazed terra cotta roofing. The only weatherboard cottage is an earlier cottage at No 28.	
Option 4 – not recommended at all - approve as submitted.	
Recommendation	
The Committee's preferred approach is Option 1. If any development is to be approved then it should be minimal so as to retain the maximum current landscape effect so important to the appearance of Aitken Road. In regard to appearance the proposed DA 20/0757 weatherboard and colour bond roof design for the 4 villas is not supported. There needs to be a careful choice of building material and colour, roof materials and window and door treatment. The most common material type in Aitken Road is face brick and unglazed terra cotta roofing.	
Property Address	51 Woodbine Street, Bowral
Application Number	20/0804
Application For	Residential Alterations and Additions - Extensions
Date	16/2/2020
Comment	Wingecarribee Heritage Advisory Committee discussed this Development Application at its meeting on 14 February 2020. The consensus was that they saw no problem with the proposal. However, it was noticed that a new main entrance is proposed at the side of the new extension. The committee's view is that the original front door entrance should remain operable to maintain the heritage appearance and feel of the cottage.

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Property Address	587A Argyle Street, Moss Vale
Application Number	20/0838
Application For	Demolition of existing fire damaged semi-detached Dwelling House & construction of new semi-detached Dwelling House
Date	16/2/2020
Comment	<p>Wingecarribee Heritage Advisory Committee considered the above Development Application at its meeting on 14 February 2020 and make the following comments:</p> <p>It was noted that both halves of the semi-detached (duplex) cottages at 587A and 587 appear identical at this time. The corrugated roof, timber cladding and even the picket fence is identical in both material and colour and presents as a well preserved heritage item apart from the current fire damage to 587A.</p> <p>The committee expressed concern as to whether total demolition of the 587A was required and if it were to be carried out, how the current matching appearance could be recovered.</p> <p>The Heritage Committee asked that our response note the above and request that the case for the proposed demolition be reviewed including an onsite inspection by council's heritage adviser, Dr Peter Kabaila in company with one of council's building inspectors.</p>
Property Address	23 Jellore Street, Berrima
Application Number	20/1279
Application For	Dwelling House
Date	4/6/2020
Comment	<p>The proposal to rebuild Riverview Cottage is supported in view of the derelict state of the current structure and the genuine attempt by the applicant to maintain the current streetscape. However any rebuilding needs to be carefully carried out for it to be successful.</p> <p>The proposed demolition of the 19th century kitchen at the rear of Riverview Cottage and its use as an outdoor barbecue area has not been so carefully assessed.</p> <p>The Heritage Advisory Committee is aware of the eleven specific recommendations of the Heritage Advisor, Dr Peter Kabaila in respect of both the kitchen wing and the detail required to re-build the cottage. It is considered that these eleven specific recommendations are essential for a good outcome on this site and all are endorsed by the committee.</p>
Property Address	'Edenberry', 254 Oldbury Road, Sutton Forest
Application Number	20/1258
Application For	Demolition - existing dwelling, Dwelling House, Residential alterations & additions - Shed, Carport
Date	4/6/2020
Comment	<p>While Edenderry is not heritage listed the Oldbury Road area is of high heritage significance. It is also noted that after the recent boundary adjustment in April 2019 a portion of Edenderry site is now within the heritage curtilage of Bonheur which is heritage listed.</p> <p>Page 14 of the SEE states that the current Edenderry house and cottage are at least 100 years old but the only assessment made of them is one sentence on page 5 of the SEE which simply states: The internal spaces of the existing dwelling are compromised by low ceiling heights, poor circulation and planning, and the building envelope is compromised by poor thermal performance and construction details.</p> <p>If this were the accepted standard for demolition we would lose a lot</p>

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	<p>of heritage items. If demolition is to be agreed to the dwelling and cottage need to be properly assessed and recorded.</p> <p>The design of the new house is of high architectural quality and appropriate for the setting. However neither the proposed shed nor the carport are compatible with the design of the new house and should be reviewed.</p>
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AND THAT the following submission made on a Planning Proposal be noted:

Planning Proposal Name	Aitken Road Heritage Planning Proposal
Properties Affected	12-30 Aitken Road (inclusive); 25-43 Aitken Road (inclusive); 56, 58 and 60 Kangaloon Road, Bowral
Aim of Planning Proposal	To create a new heritage item group (comprising 25-27, 33-37 and 39-41 Aitken Road) and a new heritage conservation area.
Date	11/2/2020
Comment	<p>Council's advertised proposal for a new Aitken Road Conservation area and new interwar residential heritage listing of the following three houses within this area is very much welcomed and supported by the Heritage Advisory Committee:</p> <ul style="list-style-type: none"> • Glenfarne 25-27 Aitken Road • Grantham 33-37 Aitken Road • Barkfold 39-41 Aitken Road <p>It came as a worrying surprise to many in Bowral that this beautiful area of largely interwar houses and gardens had not already been heritage listed. To a large extent, the heritage values and streetscape embody all the attributes that residents and visitors alike admire and wish to preserve in Bowral. The proposed listing now provides an informed framework for council to adequately assess new development proposals to ensure the continued integrity of this area.</p> <p>The Committee notes that already there are two development proposals in play for this area. The first of these - DA 19/0574 - is for the demolition of all of the buildings and 37 trees on the Barkfold site at 39-41 Aitken Road and the building of a massive residential care facility. The second - DA 20/0757 - is for the demolition of a dwelling at No. 43 and the building of four new villas.</p> <p>Given the well-argued case for the conservation area and heritage listings these proposals now need to be either rejected or seriously modified.</p> <p>The Committee congratulates the council for taking the decisive action it has to give proper recognition of this clearly significant area.</p> <p>The Committee would also like to take this opportunity to note the work of council planning officers including Sarah Farnese, council's Heritage Advisor Dr Peter Kabaila and interested Bowral residents including Bud and Maureen Townsing in putting together support material required for the 62 page proposal now on exhibition.</p>

PASSED



MINUTES OF THE HERITAGE ADVISORY COMMITTEE MEETING
Friday 14 August 2020



5.3 'Yarrabin', 32 Kangaloon Road, Bowral - Heritage Assessment and Risk of Inappropriate Development

Reference: 5650, PN 1705222
Report Author: Strategic Land Use Planner (Heritage)

PURPOSE

The purpose of this report is to discuss the heritage assessment of 'Yarrabin', the resolution of Council of 12 August 2020 and the ongoing pressure on large historic properties for inappropriate development, including seniors housing.

Ms Lyn Barrett left the meeting, the time being 4.35.

The Committee discussed the operation and limitations of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 [Seniors SEPP] and the permissibility and impact of seniors housing in the Wingecarribee. The following notes were prepared by Committee member, Dennis McManus, and distributed to the Committee and was requested to be included with the Minutes:

Notes of clarification on Seniors Housing in Wingecarribee Shire and the threat they pose to heritage items and areas

As made clear in Sarah Farnese's report the Seniors SEPP does currently apply in almost all of Wingecarribee Shire because it is not permitted in water catchment areas. However the new draft SEPP states that it is proposed that the term 'water catchment' be removed from Schedule 1 of SEPP (Seniors). This will allow development applications for seniors housing and housing for people with a disability to be assessed under SEPP (Seniors) if located on land zoned primarily for urban purposes and in a water catchment, including a drinking water catchment.

However as also noted by Sarah "Seniors Living" is specifically permissible in R2, R3 and R5 large lot zones and controlled by DCPs and this is what developers use.

When you look at the DCP for Bowral Section 8 Seniors Housing p. 255 it confirms that the Seniors SEPP does not apply to Wingecarribee but it goes on to say that "the Seniors Housing provisions in the DCPs make a useful reference to the Seniors SEPP to assist applicants in the preparation of development proposals and to assist Council officers in the assessment of DAs for Seniors Housing in the R2 Low Density Residential and R3 Medium Density Residential zones as permitted with consent under WLEP 2010."

Hornsby Council is facing similar but not the same problems as Wingecarribee and it has set out the issues at this site: <https://future.hornsby.nsw.gov.au/housing-strategy/>

It correctly calls Seniors Housing medium density housing. Its LEP allows Seniors Living in R3 but not R2: this is different to Wingecarribee

Hornsby's concern is that if the current Seniors SEPP moratorium is lifted in Hornsby there will be further unsatisfactory development in its R2 zone. Its Seniors Housing Demand and Supply Review 2020 has found that a key factor for seniors housing is the price of land. Large Seniors Housing developers go for both rural and low residential developments.

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Hornsby found that smaller developers will use Seniors SEPP to go for well serviced low density R2 areas established residential areas where lower land cost and medium density yields achieve a good return. It is this last category that is the potential threat position in Wingecarribee and areas like Bowral.

Here is the problem: You don't need Seniors SEPP in Wingecarribee. You can do seniors living in R2, R3 and R5 and you can do it on a block of land as small as 1000 m² and 20 m wide AND you can do it in heritage conservation areas.

HAC 11/20

RECOMMENDATION moved by Mr D McManus and seconded by Ms C Webb

THAT Dennis McManus' comments on the operation and problems with seniors housing in the Wingecarribee be noted AND THAT the existing controls for Seniors Housing in all the Development Control Plans (DCPs) be strengthened as part of the DCP Review, particularly in relation to heritage listed sites and sites within heritage conservation areas.

PASSED

16.2 Minutes of the Heritage Advisory Committee Meeting held on Friday 14 August 2020

ATTACHMENT 1 Minutes of the Heritage Advisory Committee Meeting held on 14 August 2020.



MINUTES OF THE HERITAGE ADVISORY COMMITTEE MEETING

Friday 14 August 2020



5.4 Progressing the Proposed Heritage Items Deferred by Council in 2012

Reference: 5650/4
Report Author: Strategic Land Use Planner (Heritage)

PURPOSE

The purpose of this report is to discuss the planned approach for the progressing of the list of proposed heritage items deferred by Council in November 2012.

There was discussion by the Committee about this matter. Members of the Committee have offered their assistance in evaluating the remaining potential draft items.

HAC 12/20

RECOMMENDATION moved by Clr P W Nelson and seconded by Mr D McManus

THAT the report be noted.

PASSED

16.2 Minutes of the Heritage Advisory Committee Meeting held on Friday 14 August 2020

ATTACHMENT 1 Minutes of the Heritage Advisory Committee Meeting held on 14 August 2020.



MINUTES OF THE HERITAGE ADVISORY COMMITTEE MEETING

Friday 14 August 2020



6. DATE OF NEXT MEETING

The next meeting will be held on Friday 9 October 2020 in Nattai Room, Civic Centre, Elizabeth Street, Moss Vale and via video conference commencing at 3:00pm.

7. MEETING CLOSURE

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 5.22 PM

16.3 Minutes of the Sport and Recreation Advisory Committee Meeting held on 20 August 2020

Reference: 107/30
Report Author: Asset Coordinator Parks and Buildings
Authoriser: Manager Assets
Link to Community
Strategic Plan: Increase promotion of healthy lifestyle choices

PURPOSE

This report provides the Minutes of the Sport and Recreation Advisory Committee Meeting held on Thursday 20 August 2020.

SUMMARY OF RECOMMENDATIONS AND ACTIONS FOR COUNCILLORS' ATTENTION AND ADOPTION

The following recommendations are brought to Council's attention.

Item 5.1 Presentation - Proposed Indoor Sporting Hub - Lackey Park Moss Vale

SR10/20 RECOMMENDATION

THAT the report be noted.

Moved - J.Wood Seconded - C.Madsen

Item 5.2 Update – Public Exhibition, Lackey Park Sporting Hub Masterplan

SR 11/20 RECOMMENDATION

THAT the Sport & Recreation Advisory Committee continue to support the concept Masterplan as exhibited;

THAT feedback be given to the Moss Vale & District Basketball Association on their submission through the Public Exhibition of the Lackey Park Regional Sporting Hub Concept Masterplan;

THAT the Sport & Recreation Advisory Committee support Council's continued work with Southern Highlands Indoor Sporting Hub with the original proposal (Option1).

Vote: Supported: C.Madsen, A.Bell, Clr Andrews, Clr McLaughlin

Against S.Foster & J.Wood

Moved – C.Madsen Seconded – A.Bell

Item 5.3 Update on pending Draft Strategies

SR12/20 RECOMMENDATION

THAT the report be noted.

Moved: S.Foster Seconded: C.Madsen

Item 5.4 Future Meeting Dates 2020/21

SR13/20 RECOMMENDATION

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 23 September 2020

COMMITTEE REPORTS



THAT the Sport & Recreation Advisory Committee thank Mr Andrew Bell for his commitment and involvement in this Committee over the past nine(9) years; and

THAT the Sport & Recreation Advisory Committee meeting dates presented in this report be confirmed for 2020/21.

Move: J.Wood Seconded: C. Madsen

RECOMMENDATION

THAT Recommendation numbers SR8/20 to SR13/20 as detailed in the Minutes of the Sport and Recreation Advisory Committee Meeting held on 20 August 2020 be adopted.

ATTACHMENTS

1. Minutes of Sport and Recreation Advisory Committee Meeting held 20 August 2020



MINUTES

of the Sport and Recreation Advisory Committee Meeting

held

via ZOOM Meeting at
Civic Centre, Elizabeth Street, Moss Vale

on

Thursday 20 August 2020

The meeting commenced at 5.00pm

File No. 107/30

16.3 Minutes of the Sport and Recreation Advisory Committee Meeting held on 20 August 2020

ATTACHMENT 1 Minutes of Sport and Recreation Advisory Committee Meeting held 20 August 2020



MINUTES OF THE SPORT AND RECREATION ADVISORY COMMITTEE MEETING

Thursday 20 August 2020



- 1. WELCOME AND APOLOGIES
- 2. ACKNOWLEDGEMENT OF COUNTRY
- 3. ADOPTION OF MINUTES OF PREVIOUS MEETING
- 4. DECLARATIONS OF INTEREST

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16.3 Minutes of the Sport and Recreation Advisory Committee Meeting held on 20 August 2020

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MINUTES OF THE SPORT AND RECREATION ADVISORY COMMITTEE MEETING

Thursday 20 August 2020



MINUTES OF THE SPORT AND RECREATION ADVISORY COMMITTEE MEETING OF WINGECARRIBEE SHIRE COUNCIL HELD IN CIVIC CENTRE, ELIZABETH STREET, MOSS VALE ON THURSDAY 20 AUGUST 2020 COMMENCING AT 5.00PM.

5.00pm start

1. WELCOME AND APOLOGIES

It was noted that Clr Nelson’s apology was received.

In Attendance:

<p><u>Councillors</u> Clr Grahame Andrews, Chair Clr Graham McLaughlin</p>	<p><u>Community Representatives</u> Mr Andrew Bell Mr Steven Foster Mr Craig Madsen Mr John Wood</p>
<p><u>Staff</u> Mr Barry Paull, Acting General Manager Mr Richard Mooney, Acting Deputy General Manager Operations, Finance & Risk Mr Ned Tripkovic, Group Manager Capital Delivery Mr Peter Caldwell, Project Manager</p>	<p>Mr Stace Lewer, Manager Assets Ms Rachel Forte, Asset Coordinator Parks & Buildings Mr Reza Ahmed, Asset Strategy Officer Sport & Recreation Ms Kylie Stefaniuk, Asset Support Officer</p>

SR 8/20 RECOMMENDATION

THAT the apology of Clr Nelson be accepted.

Moved – S.Foster Seconded - A.Bell

2. ACKNOWLEDGEMENT OF COUNTRY

Clr Andrews acknowledged country:

I would like to acknowledge the Traditional Custodians of this land and pay my respect to Elders both past and present. I would also like to extend that respect to all Aboriginal and Torres Strait Islanders present here today.

3. ADOPTION OF MINUTES OF PREVIOUS MEETING

MINUTES OF THE SPORT AND RECREATION ADVISORY COMMITTEE MEETING HELD ON THURSDAY 19 MARCH 2020

SR 9/20 RECOMMENDATION

THAT the minutes of the Sport and Recreation Advisory Committee Meeting held on Thursday 19 March 2020 MN1 to MN7 inclusive be adopted as a correct record of the proceedings of the meeting.

Moved – S.Foster Seconded - A.Bel

16.3 Minutes of the Sport and Recreation Advisory Committee Meeting held on 20 August 2020

ATTACHMENT 1 Minutes of Sport and Recreation Advisory Committee Meeting held 20 August 2020



MINUTES OF THE SPORT AND RECREATION ADVISORY COMMITTEE MEETING

Thursday 20 August 2020



4. DECLARATIONS OF INTEREST

Nil Declarations of Interest declared



MINUTES OF THE SPORT AND RECREATION ADVISORY COMMITTEE MEETING

Thursday 20 August 2020



5. AGENDA REPORTS

5.1 Presentation - Proposed Indoor Sporting Hub - Lackey Park Moss Vale

Reference: 107/30
Report Author: Group Manager Capital Projects

PURPOSE

Presentation by: Paul Barcicki, Southern Highlands Indoor Sports Stadium, Steering Committee.

Visitors: Mr Nigel Browne, Mr Peter Mitchell, Mr Chris Alley

The purpose of this report is to provide the Committee with an update by the Southern Highlands Indoor Sports Stadium Steering Committee of an alternate design for the Indoor Sporting Hub as received through the Public Exhibition stage of the Lackey Park Sporting Hub proposal.

Mr Barcicki introduced an alternative drawing to the concept masterplan. This alternate design was created by the Southern Highland Indoor Sports Stadium Steering Committee and suggested changes to the concept Masterplan.

SR10 RECOMMENDATION

THAT the report be noted.

Moved - J.Wood Seconded - C.Madsen



MINUTES OF THE SPORT AND RECREATION ADVISORY COMMITTEE MEETING
Thursday 20 August 2020



5.2 Update - Public Exhibition, Lackey Park Sporting Hub Masterplan

Reference: 107/30
Report Author: Group Manager Capital Projects

PURPOSE

The purpose of this report is to update the Committee on the recent consultation process for the Lackey Park Sporting Hub Masterplan.

The Public Exhibition of the Masterplan was on display to the Community from 1 July to 31 July 2020.

Feedback was presented on submissions received during the public exhibition of the concept Masterplan were reviewed and the Committee discussed submission contents.

Council Staff will continue to liaise with the Office of Sport on the project.

Clr McLaughlin advised a non-pecuniary conflict of interest as he knows Paul Barcikik outside of Council and recently met with him.

SR 11/20 RECOMMENDATION

THAT the Sport & Recreation Advisory Committee continue to support the concept Masterplan as exhibited;

THAT feedback be given to the Moss Vale & District Basketball Association on their submission through the Public Exhibition of the Lackey Park Regional Sporting Hub Concept Masterplan;

THAT the Sport & Recreation Advisory Committee support Council's continued work with Southern Highlands Indoor Sporting Hub with the original proposal (Option1).

Vote:

Supported: C.Madsen, A.Bell, Clr Andrews, Clr McLaughlin

Against S.Foster & J.Wood

Moved – C.Madsen Seconded – A.Bell

16.3 Minutes of the Sport and Recreation Advisory Committee Meeting held on 20 August 2020

ATTACHMENT 1 Minutes of Sport and Recreation Advisory Committee Meeting held 20 August 2020



MINUTES OF THE SPORT AND RECREATION ADVISORY COMMITTEE MEETING

Thursday 20 August 2020



5.3 Update on pending Draft Strategies and Plans of Management (PoMs)

Reference: 107/30
Report Author: Asset Coordinator Parks and Buildings

PURPOSE

The purpose of this report is to update the Committee on the status of:

- the Draft Playspace Strategy
- the Draft Walking Tracks Strategy
- proposed Draft Sports Facilities Strategy

The Committee was updated on the current position of the Draft Playspace Strategy, Draft Walking Tracks Strategy and proposed Draft Sports Facilities Strategy.

SR12/20 RECOMMENDATION

THAT the report be noted.

Moved - S. Foster Seconded - C. Madsen

16.3 Minutes of the Sport and Recreation Advisory Committee Meeting held on 20 August 2020

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MINUTES OF THE SPORT AND RECREATION ADVISORY COMMITTEE MEETING

Thursday 20 August 2020



5.4 Future Meeting Dates 2020/21

Reference: 107/30
Report Author: Asset Coordinator Parks and Buildings

PURPOSE

The purpose of this report is to confirm meeting dates for the Sport & Recreation Advisory Committee for 2020/21.

It is proposed to meet:

- 1 October 2020 (3rd Mtg 2020) to discuss:
 - Capital Works Program 21/22 proposed projects
 - Update on Walking Tracks Strategy (public exhibition outcomes)
- 26 November 2020 (4th Mtg 2020) to discuss:
 - Scope of Sports Strategy for Consultant brief
- 18 March 2021 (1st Mtg 2021) to discuss:
 - Update on Sports Facility Strategy (review 1st draft)
- 13 May 2021 2021 (2nd Mtg 2021) to discuss:
 - Community Assistance Grant
 - Update on draft Sports Facilities Strategy (review draft strategy for public exhibition)
- 24 June 2020 (3rd Mtg 2021) to discuss:
 - Achievements
 - Final meeting of Committees Term

Meeting subjects identified above are indicative of future planning. Additional items may be added as required.

The Committee acknowledged Mr Andrew Bell for his tenure as a Community Representative to the Sport & Recreation Advisory Committee over the past 9 years and wished him well for the future.

SR13/20 RECOMMENDATION

THAT the Sport & Recreation Advisory Committee thank Mr Andrew Bell for his commitment and involvement in this Committee over the past nine(9) years; and

THAT the Sport & Recreation Advisory Committee meeting dates presented in this report be confirmed for 2020/21.

Move - J.Wood Seconded - C. Madsen

16.3 Minutes of the Sport and Recreation Advisory Committee Meeting held on 20 August 2020

ATTACHMENT 1 Minutes of Sport and Recreation Advisory Committee Meeting held 20 August 2020



MINUTES OF THE SPORT AND RECREATION ADVISORY COMMITTEE MEETING

Thursday 20 August 2020



6. DATE OF NEXT MEETING

The next meeting will be held on 1 October 2020 commencing at 5pm.

7. MEETING CLOSURE

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 6.18 PM

16.4 Minutes of the Arts and Culture Advisory Committee Meeting held on Tuesday, 8 September 2020

Reference:	1660
Report Author:	PA for Mayor
Authoriser:	Group Manager Corporate and Community
Link to Community	
Strategic Plan:	Sustainably manage natural resources for broader community benefit

PURPOSE

This report provides the Minutes of the Arts and Culture Advisory Committee meeting held on Tuesday 8 September 2020.

SUMMARY OF RECOMMENDATIONS AND ACTIONS FOR COUNCILLORS' ATTENTION AND ADOPTION

Item 1 Welcome and Apologies ACC8/20

THAT the apologies of Ms Kristie Phelan and Mr Michael Turczynski be accepted and leave of absence granted.

Item 3 Adoption of Minutes of Previous Meeting ACC9/20

THAT the minutes of the Arts and Culture Advisory Committee Meeting held on Tuesday 03 March 2020 MN ACC1/20 to MN ACC7/20 inclusive, copies of which were forwarded to the committee, be adopted as a correct record of the proceedings of the meeting.

Item 5.1 Agenda Reports – Welcome Ms Megan Monte ACC10/20

THAT the Committee members welcome Ms Megan Monte to the Arts and Culture Advisory Committee

Item 5.2 Southern Highlands Arts Trail Update ACC11/20

1. *THAT the verbal report on 2020 Southern Highlands Art Trail as presented by Ms Erin Adams be noted.*
2. *THAT the verbal update from Mr Peter Campbell regarding the Artsfile website be noted.*

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 23 September 2020

COMMITTEE REPORTS



Item 5.3 Community Portrait Gallery
ACC12/20

THAT the verbal report on Foyer Gallery, Civic Centre as presented by Ms Erin Adams be noted.

Item 5.4 Foyer Gallery, Civic Centre
ACC13/20

THAT the verbal report on Foyer Gallery, Civic Centre as presented by Ms Erin Adams be noted.

RECOMMENDATION

THAT recommendation Nos ACC 08/20 to ACC 13/20 – as detailed in the Minutes of the Arts and Culture Advisory Committee meeting held on 8 September 2020 be adopted, save for any items which have budgetary implications AND THAT any item with budgetary implications and which is unfunded, be referred to the Finance Committee for consideration.

ATTACHMENTS

1. Minutes of the Arts and Culture Advisory Committee, held 8 September 2020



MINUTES

of the Arts and Culture Advisory Committee Meeting

held remotely using audio visual link

on

Tuesday 8 September 2020

The meeting commenced at 5:00pm

File No. 100/2020

16.4 Minutes of the Arts and Culture Advisory Committee Meeting held on Tuesday, 8 September 2020

ATTACHMENT 1 Minutes of the Arts and Culture Advisory Committee, held 8 September 2020



MINUTES OF THE ARTS AND CULTURE ADVISORY COMMITTEE MEETING

Tuesday 8 September 2020



- 1. WELCOME AND APOLOGIES
- 2. ACKNOWLEDGEMENT OF COUNTRY
- 3. ADOPTION OF MINUTES OF PREVIOUS MEETING
- 4. DECLARATIONS OF INTEREST

- 5. AGENDA REPORTS 3
 - 5.1 Welcome Megan Monte 3
 - 5.2 2020 Southern Highlands Art Trail Update..... 4
 - 5.3 Community Portrait Gallery 5
 - 5.4 Foyer Gallery, Civic Centre 6
 - 5.5 Welcome Rose Marin 7
- 6. DATE OF NEXT MEETING 7
- 7. MEETING CLOSURE 7

16.4 Minutes of the Arts and Culture Advisory Committee Meeting held on Tuesday, 8 September 2020

ATTACHMENT 1 Minutes of the Arts and Culture Advisory Committee, held 8 September 2020



MINUTES OF THE ARTS AND CULTURE ADVISORY COMMITTEE MEETING

Tuesday 8 September 2020



MINUTES OF THE ARTS AND CULTURE ADVISORY COMMITTEE MEETING OF WINGECARRIBEE SHIRE COUNCIL HELD REMOTELY USING AUDIO VISUAL LINK, ON TUESDAY 8 SEPTEMBER 2020 COMMENCING AT 5:00PM.

Present:

Councillors: Clr L A C Whipper *Chair*
 Clr G J Andrews *Alternate Chair*
 Clr P W Nelson

Community Representatives: Mr Peter Campbell
 Mrs Maisy Stapleton
 Dr Allan Stiles
 Mr Mark Viner
 Ms Megan Monte

Ms Rose Marin **STARTS**

In Attendance: Mr Mark Pepping *Deputy General Manager Corporate Strategy & Development Services*
 Ms Erin Adams *Cultural Development Officer*
 Ms Leesa Stratford *Mayor's PA*

1. WELCOME AND APOLOGIES

It was noted that apologies were received from Ms Kristie Phelan and Mr Michael Turczynski.

ACC 8/20

MOTION moved by Councillor L A C Whipper and seconded by Councillor G J Andrews

THAT the apologies of Ms Kristie Phelan and Mr Michael Turczynski be accepted and leave of absence granted.

PASSED

2. ACKNOWLEDGEMENT OF COUNTRY

Clr L Whipper acknowledged country:

I would like to acknowledge the Traditional Custodians of this land and pay my respect to Elders both past and present. I would also like to extend that respect to all Aboriginal and Torres Strait Islanders present here today.

16.4 Minutes of the Arts and Culture Advisory Committee Meeting held on Tuesday, 8 September 2020

ATTACHMENT 1 Minutes of the Arts and Culture Advisory Committee, held 8 September 2020



MINUTES OF THE ARTS AND CULTURE ADVISORY COMMITTEE MEETING

Tuesday 8 September 2020



3. ADOPTION OF MINUTES OF PREVIOUS MEETING

MINUTES OF THE ARTS AND CULTURE ADVISORY COMMITTEE MEETING HELD ON TUESDAY 3 MARCH 2020

ACC 9/20

MOTION moved by Mr M Viner and seconded by Dr A Stiles

THAT the minutes of the Arts and Culture Advisory Committee Meeting held on Tuesday 03 March 2020 MN ACC1/20 to MN ACC7/20 inclusive, copies of which were forwarded to the committee, be adopted as a correct record of the proceedings of the meeting.

PASSED

4. DECLARATIONS OF INTEREST

There were no Declarations of Interest declared at this meeting.

16.4 Minutes of the Arts and Culture Advisory Committee Meeting held on Tuesday, 8 September 2020

ATTACHMENT 1 Minutes of the Arts and Culture Advisory Committee, held 8 September 2020



MINUTES OF THE ARTS AND CULTURE ADVISORY COMMITTEE MEETING

Tuesday 8 September 2020



5. AGENDA REPORTS

5.1 Welcome Ms Megan Monte

Reference: 1660/1.1
Report Author: Cultural Development Officer

PURPOSE

The purpose of this report is to acknowledge and welcome newly appointed Southern Highlands Regional Gallery's inaugural Ngunungulla's Director Megan Monte.

Ms Monte will lead the establishment of the new regional gallery at Retford Park in Bowral spearheading a small and energetic team.

ACC 10/20

MOTION moved by Mrs M Stapleton and seconded by Mr P Campbell

THAT the Committee members welcome Ms Megan Monte to the Arts and Culture Advisory Committee

PASSED

16.4 Minutes of the Arts and Culture Advisory Committee Meeting held on Tuesday, 8 September 2020

ATTACHMENT 1 Minutes of the Arts and Culture Advisory Committee, held 8 September 2020



MINUTES OF THE ARTS AND CULTURE ADVISORY COMMITTEE MEETING

Tuesday 8 September 2020



5.2 2020 Southern Highlands Art Trail Update

Reference: 1660
Report Author: Cultural Development Officer

PURPOSE

To provide an update and seek input from the Committee on plans for the 2020 Art Trail:

- COVID-19 Safety Plans
- Curatorium Process
- Artists and Galleries
- Workshops and Networking
- Artsfile website update
- 2020 Art Trail Events
- Art Trail Signage
- Art Trail Opening Night

ACC 11/20

MOTION moved by Councillor G J Andrews and Seconded by Rose s

1. **THAT** the verbal report on 2020 Southern Highlands Art Trail as presented by Ms Erin Adam be noted.
2. **THAT** the verbal update from Mr Peter Campbell regarding the Artsfile website be noted.

PASSED

16.4 Minutes of the Arts and Culture Advisory Committee Meeting held on
Tuesday, 8 September 2020

ATTACHMENT 1 Minutes of the Arts and Culture Advisory Committee, held 8
September 2020



MINUTES OF THE ARTS AND CULTURE ADVISORY COMMITTEE
MEETING

Tuesday 8 September 2020



5.3 Community Portrait Gallery

Reference: 1660
Report Author: Cultural Development Officer

PURPOSE

To provide an update to the Committee on the Community Portrait Gallery.

ACC 12/20

MOTION moved by Mr M Viner and seconded by Mr P Campbell

THAT the verbal report presented by Ms Erin Adams on the Community Portrait Art Gallery be noted.

PASSED

16.4 Minutes of the Arts and Culture Advisory Committee Meeting held on
Tuesday, 8 September 2020

ATTACHMENT 1 Minutes of the Arts and Culture Advisory Committee, held 8
September 2020



MINUTES OF THE ARTS AND CULTURE ADVISORY COMMITTEE
MEETING

Tuesday 8 September 2020



5.4 Foyer Gallery, Civic Centre

Reference: 1660
Report Author: Cultural Development Officer

PURPOSE

To provide an update to the Committee on the Foyer Gallery space hoarding and art project.

ACC 13/20

MOTION moved by Mrs M Stapleton and seconded by Dr A Stiles

THAT the verbal report on Foyer Gallery, Civic Centre as presented by Ms Erin Adams be noted.

PASSED

16.4 Minutes of the Arts and Culture Advisory Committee Meeting held on Tuesday, 8 September 2020

ATTACHMENT 1 Minutes of the Arts and Culture Advisory Committee, held 8 September 2020



MINUTES OF THE ARTS AND CULTURE ADVISORY COMMITTEE MEETING

Tuesday 8 September 2020



5.5 Welcome Rose Marin

Reference: 1660
Report Author: Cultural Development Officer

PURPOSE

The purpose of this report is to acknowledge and welcome newly appointed Southern Tablelands Arts (STARTS) Executive Director, Rose Marin.

Ms Marin commenced the position in mid-March, and takes over from outgoing Executive Director, Susan Conroy. Rose will continue with current projects, funding applications and liaison with partners and stakeholders. We welcome Rose as a member of the Arts and Culture Committee.

ACC 14/20

MOTION moved by Councillor L A C Whipper and seconded by Councillor G J Andrews

THAT the Committee members welcome Ms Rose Marin to the Arts and Culture Advisory Committee.

PASSED

6. DATE OF NEXT MEETING

The next meeting will be held on Tuesday 1 December 2020 in Nattai Room Civic Centre, Elizabeth Street, Moss Vale commencing at 5pm.

7. MEETING CLOSURE

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 6:00 PM

17 QUESTIONS WITH NOTICE

17.1 Question with Notice 41/2020 Robertson Hotel Proposed Extensions and Environmental Impacts

Reference:	101/2
Report Author:	Administration Officer (Meetings)
Authoriser:	Group Manager Corporate and Community
Link to Community Strategic Plan:	An enhanced culture of positive leadership, accountability and ethical governance that guides well informed decisions to advance agreed community priorities

To: Acting General Manager

From: Cllr L A C Whipper

Received: 14 September 2020

Subject: Robertson Hotel Proposed Extensions and Environmental Impacts

Question:

Has Council considered concerns about potential damage to the endangered ecological community species that may result because of extensions proposed by the Robertson Hotel?

Will Council be making a submission in relation to concerns about environmental impacts on behalf of concerned residents to ensure the integrity of this vulnerable vegetation community will be protected?

Response:

Development Application 20/1069 was lodged on 20 March 2020. The DA relates to the Robertson Hotel, 1 Fountaindale Road Robertson and is for tourist and visitor accommodation involving the refurbishment of the existing heritage listed Robertson Hotel building and a new addition at the rear consisting of 46 accommodation rooms, function centre and basement carparking. In addition, there will be 13 eco tourist cabins and 7 eco tourist villas.

In support of the application, the applicant commissioned a Biodiversity Report prepared by Narla Environmental and an Arborists Report prepared by Allied Tree Services in recognition of the existence of the Endangered Ecological Community and significant vegetation.

The application is still under assessment and staff will be preparing an Assessment Report to the Southern Regional Planning Panel for later this year for Determination. As the Application is to Council, Council does not make submissions to itself. Notwithstanding, any public submissions raising concerns of loss of vegetation from the development will be addressed in the report to the Southern Regional Planning Panel.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 23 September 2020

QUESTIONS WITH NOTICE



RECOMMENDATION

THAT the information in relation to Question with Notice 41/2020 Robertson Hotel Proposed Extensions and Environmental Impacts - be noted.

17.2 Question with Notice 42/2020 Premier Order

Reference: 100/2
Report Author: Administration Officer (Meetings)
Authoriser: Group Manager Corporate and Community
Link to Community Strategic Plan: An enhanced culture of positive leadership, accountability and ethical governance that guides well informed decisions to advance agreed community priorities

To: Acting General Manager
From: Deputy Mayor Clr G M Turland
Received: 14 September 2020

Subject: Premier Order

Question:

1. Has Council implemented the Premier's Order to stimulate the local economy and employment?
2. What policies and practices have been implemented to address the problems and planning minister's order?
3. Has Council prepared any instructions to staff on how to implement the above request from the Premier and the Planning Minister to stimulate our shire infrastructure and employment to our shire?
4. Has Council prepared a report to comply with the Government's request to date?
5. What strategy could be considered as a matter of urgency to comply with the Government's request after the Bushfires and COVID-19?

Response:

The first point of clarification of this Question with Notice is that there was no Premier's Order in relation to stimulating the local economy and employment and councils processing development applications.

On 28 April 2020, the NSW Minister for Planning and Public Spaces, The Hon Rob Stokes MP, announced the Planning System Acceleration Program which is designed to support NSW's immediate and long-term recovery from the COVID-19 crisis. The purpose of the Program is to fast track the assessment of projects which may be able to contribute quickly to NSW's construction pipeline and get shovel ready projects underway. Since the introduction of the Program, the Department of Planning, Industry and Environment (DPIE) have announced projects over six tranches. These projects which are classified as Regional or State significant development, Crown Applications and Council Planning Proposals have been from across the State. To date none of the identified determined projects have been within the Wingecarribee Shire Council Area.

In June 2020, the Secretary of the Department of Planning, Industry and Environment, Mr Jim Betts, wrote to all NSW Council General Managers announcing the establishment of a Council Accelerated Assessment Program. The Council Program was designed to enable

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 23 September 2020

QUESTIONS WITH NOTICE



the Department of Planning, Industry and Environment to work with interested councils to develop a Council Accelerated Assessment Program to build on the integral role local government plays in the NSW planning system to stimulate local and regional economic activity. Under the Program, the Department provides the program controls, resources, guidance and support to help councils create and adapt accelerated assessment processes that the Department has implemented in the Planning System Accelerated Program.

The Department has established a one stop shop central escalation point within government to resolve issues that are preventing the timely determination of identified projects.

Councils were invited to register an expression of interest in the Program via the Office of Local Government. It is noted that the Program's focus is on developments that create local investment, job growth and opportunities within local government areas.

Council on 19 June 2020 submitted its expression of interest to the Office of Local Government to participate in the Program. Staff have been in contact with the DPIE staff in obtaining assistance from the Department with referrals and the like where required.

As Council is aware, the Organisation successfully implemented a Rapid Response Team Program to deal with accelerating new dwelling house approvals in new release areas. This has seen a significant drop in approval times from 45 days average in 2018 to 12 days average now. The next priority of applications has been determined to be employment generating applications. It must be pointed out that accelerating development applications does not infer that the assessment processes and procedures are ignored by Council Officers, such as if insufficient information is lodged with the application. On the contrary, Council must ensure that all applications have been thoroughly assessed and the determination is transparent and compliant with Council and legislative requirements.

From an operational perspective, Council staff are applying the Program for applications which meet the criteria.

Following the introduction of the Council Accelerated Assessment Program, the Secretary of the Department of Planning, Industry and Environment, Mr Jim Betts wrote to Council's General Manager on 5 August 2020 announcing the launch of a new NSW Public Spaces Legacy Program – a \$250 million program that will deliver a lasting legacy of new and improved public spaces across NSW, while accelerating the assessment of local development applications and rezonings. Again, the target of this program is ensuring localised investment and new jobs created in areas across NSW.

The Public Spaces Legacy Program offers funding for new and upgraded public spaces to Councils that achieve significant improvement in timeframes for their assessment of development applications (DAs) and rezoning proposals during the pandemic. The Program also ties to the broader Planning Reform Action Plan, where the NSW Government is committed to creating a more timely, certain and transparent planning system. One of the key components of the Planning Reform Action Plan includes measures to reduce assessment times for planning proposals, regionally significant development applications and major projects.

The Program is open to 68 councils who are already using the NSW Government's ePlanning Digital Services for DAs. Wingecarribee Shire Council is one of the 68 councils. To be eligible for part of the \$250 million on offer, councils were required to set out a project plan detailing the acceleration of the median assessment timeframe for DAs and to show how regionally significant development applications (determined by a regional panel) that have been in the system for more than 180 days will be finalised. At the time of submitting Council's project plan there was one regionally significant DA in excess of 180 days relating to the Masterplan and first stage subdivision of Chelsea Gardens/Coomungie Urban

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 23 September 2020

QUESTIONS WITH NOTICE



Release Area. This development application remains undetermined as satisfactory arrangements for critical infrastructure are yet to be finalised.

The period of monitoring improvement targets is from 1 September 2020 to 30 June 2021. Assuming Council meets the targets nominated within the Plan, Council will receive an allocation of funds to go towards a public space project nominated by Council in 2021. Council is awaiting confirmation from the DPIE to invite Council to participate in the program.

RECOMMENDATION

THAT the information in relation to Question with Notice 42/2020 - Premier's Order - be noted.

18 NOTICES OF MOTION

18.1 Notice of Alteration of Motion 1/2020 - Appointment of Councillor Representative to Vacant Position on Various Advisory Committees

Reference:	100/5
Report Author:	Administration Officer (Meetings)
Authoriser:	Group Manager Corporate and Community
Link to Community Strategic Plan:	An enhanced culture of positive leadership, accountability and ethical governance that guides well informed decisions to advance agreed community priorities

PURPOSE

Councillors McLaughlin, Nelson and Andrews have given notice that it is their intention to move the following motion at the Ordinary Meeting of Council on 23 September 2020:

THAT part of the motion passed by Council on 9 September 2020, being item number MN 364/20, be altered with the appointment of a Councillor representative to the Audit, Risk and Improvement Committee being recommitted to Council for determination.

- THAT Council appoints a Councillor representative to the vacant position on each of the following advisory committees arising from the resignation from Council of Councillor Gordon Markwart:*

Committee	Councillor Nomination
<i>Audit, Risk and Improvement Committee</i>	<p>Clr I M Scandrett - nominated by Deputy Mayor Clr G M Turland and seconded by Clr L A C Whipper</p> <p>Clr Andrews – nominated by Mayor Clr T D Gair, seconded by Clr P W Nelson</p> <p>Clr Scandrett elected delegate (4 votes to 3)</p> <p>Clr Halstead abstained from voting</p>
<i>Community Development Committee</i>	Clr I M Scandrett nominated and elected unopposed
<i>Demographics and Housing Committee</i>	<p>Clr L A C Whipper stood down from Committee</p> <p>Chair: Deputy Mayor Clr G M Turland nominated and elected unopposed</p> <p>Councillor: Clr G McLaughlin</p>
<i>Environment and Sustainability Committee</i>	Alternate Chair Position: Clr K Halstead OAM nominated and elected unopposed
<i>Wingecarribee Floodplain Risk Management Committee</i>	<p>Clr P W Nelson stood down from Committee</p> <p>Alternate chair: Deputy Mayor Clr G M Turland nominated and elected unopposed</p>

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 23 September 2020

NOTICES OF MOTION



-
2. *THAT except for the Mayor and Deputy Mayor's membership of the General Manager's Performance Review Committee which if necessary will automatically be updated following the election of the Mayor and Deputy Mayor scheduled to take place in September 2020, all Councillor appointments to advisory committees continue for a further one (1) year period that will expire at the conclusion of the Council term in September 2021.*

RECOMMENDATION

Submitted for determination.

19. CLOSED COUNCIL

MOVING INTO CLOSED SESSION

Section 10A of the *Local Government Act 1993*, empowers Council and Committees of which all the members are Councillors to close a part of a meeting in certain circumstances in accordance with the requirements of the Act, and relevant Regulations and Guidelines.

Subject to the provisions of Section 10 of the Act, so much of a meeting may be closed as comprises certain information as outlined in Section 10A(2).

However, the Act also contains the following provisions qualifying the use of Section 10A(2).

Section 10B

1. *[Time spent closed to be minimised] A meeting is not to remain closed during the discussion of anything referred to in section 10A(2):*
 - a. *Except for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security, and*
 - b. *If the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret-unless the council or committee concerned is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.*
2. *[Qualification of 10A(2)(g)] A meeting is not to be closed during the receipt and consideration of information or advice referred to in section 10A(2)(g) unless the advice concerns legal matters that:*
 - a. *are substantial issues relating to a matter in which the council or committee is involved, and*
 - b. *are clearly identified in the advice, and*
 - d. *are fully discussed in that advice.*
3. *[Qualification of 10A(3)] If a meeting is closed during the discussion of a motion to close another part of the meeting to the public (as referred to in section 10A(3)), the consideration of the motion must not include any consideration of the matter or information to be discussed in that other part of the meeting (other than consideration of whether the matter concerned is a matter referred to in section 10A(2)).*
4. *[Irrelevant matters] For the purpose of determining whether the discussion of a matter in an open meeting would be contrary to the public interest, it is irrelevant that:*
 - a. *a person may misinterpret or misunderstand the discussion, or*
 - b. *the discussion of the matter may:*
 - (i) *cause embarrassment to the council or committee concerned, or to Councillors or to employees of the council, or*
 - (ii) *cause a loss of confidence in the council or committee.*

Attention is also drawn to provisions contained in Part 15 of Council's Code of Meeting Practice.

Section 10B(5) of the Act requires that council have regard to these guidelines when considering resolving into Closed Session.



RECOMMENDATION

1. **THAT Council moves into Closed Council in accordance with the requirements of Section 10A(2) of the *Local Government Act 1993* as addressed below to consider the following reports that are confidential for the reasons specified below:**

19.1 Legal Report - Closed Council

Relevant Legal Provisions

This report is referred to Closed Committee in accordance with s10A(2) of the Local Government Act, 1993, under clause 10A(2)(g) as it contains advice concerning litigation, or advice as comprises a discussion of this matter, that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege and the Council considers that it would be on balance contrary to the public interest to consider this information in Open Council.

Brief description

The purpose of this report is to update Council on the status of legal proceedings reported to Council at the meeting of 26 August 2020.

2. **THAT the minutes of the Closed Council part of the meeting (being the Council's resolution) be made public.**

Barry W Paull
Acting General Manager

Thursday 17 September 2020