WINGECARRIBEE SHIRE COUNCIL

File No: 100/2020

5 August 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 12 August 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

Nil

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This report is referred to Closed Committee in accordance with s10A(2) of the Local Government Act, 1993, under clause 10A(2)d(i) as it contains commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it 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 Resignation of Councillor Gordon Markwart

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

PURPOSE

To acknowledge the resignation of Councillor Gordon Markwart and thank him for his contributions to the Wingecarribee Shire since being elected as councillor in September 2016.

RECOMMENDATION

THAT Council acknowledge the resignation of Councillor Gordon Markwart and thank him for his contributions to the Wingecarribee Shire since being elected as a councillor in September 2016.

REPORT

It is with regret that I advise of the resignation of Councillor Gordon Markwart. Councillor Markwart's resignation is effective immediately and due to ongoing personal health issues.

I wish to take this opportunity to thank Gordon for his contributions since being elected to Council in 2016. Gordon's balanced and rational arguments, humour and quick wit will be sorely missed from future meetings. His passion and calls for better protection of our Shire's flora and fauna and tackling 'big picture' issues such as climate change were evident in many of his debates and decisions.

I am of the firm belief that Gordon has been one of the Shire's finest first-term Councillors.

I am confident the tenacity Gordon has displayed in the Council Chambers will serve him well for the challenges ahead. On behalf of Council I wish Gordon the very best of health in his retirement.

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 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 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**).

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 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 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* 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.

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

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 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. 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

Wednesday 5 August 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 August 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 August 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*

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.

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.

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:

- 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:

- 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*

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

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)

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

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.

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.

(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.

estimated size at maturity.

- 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:

6 Melaleuca hypericifolia, 1 Hymenanthera dentata, 1 Hedycaria angustifolia, 12 Helichrysum scorpiodes, 15Blechnum cartilagineum, 10Doodia aspera, 10Dichonra 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.

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.

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:

- 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

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.

(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

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*

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.*

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 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.*

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.

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.*

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 Councils 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 Councils 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 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'.

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.

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

- 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

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.

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**.

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 Plans

Wingecarribee Local Environmental Plan 2010

Clause 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.

Development Control Plans

Bowral Township Development Control Plan

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

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 are, 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 defendable 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 defendable 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

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 are, 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

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.

(iiia) 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.

(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

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

Issues	Response
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.	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.
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	Privacy / overlooking matters are discussed in the Discussion of Key Issues section of this report.

Issues	Response
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.	
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.	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. 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.
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. Rear setback provided has no benefit to 29A and 29B Oxley Drive.	Proposed side setbcks as shown in amended plans comply with Bowral Town Plan DCP requirements.
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	The proposed development will remove 12 of the 45 trees on site (including 5 trees from the Mt Gibraltar Endangered Ecological Community

Issues	Response
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.	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**). 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.
Eucalypt marked on the plans as tree number 5 is mostly on adjoining property, and should not be removed. The developer	Amended plans submitted show retention of tree located

Issues	Response
had been given permission by the Council to remove a tree owned by us without our permission.	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**).
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.	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.
Additional dwellings at the site will contribute to the further development of a heat sink.	***"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.
The market does not need additional medium density residential development.	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.

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

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

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**).

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.

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.

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 defendable 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 defendable 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

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**).

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.

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.

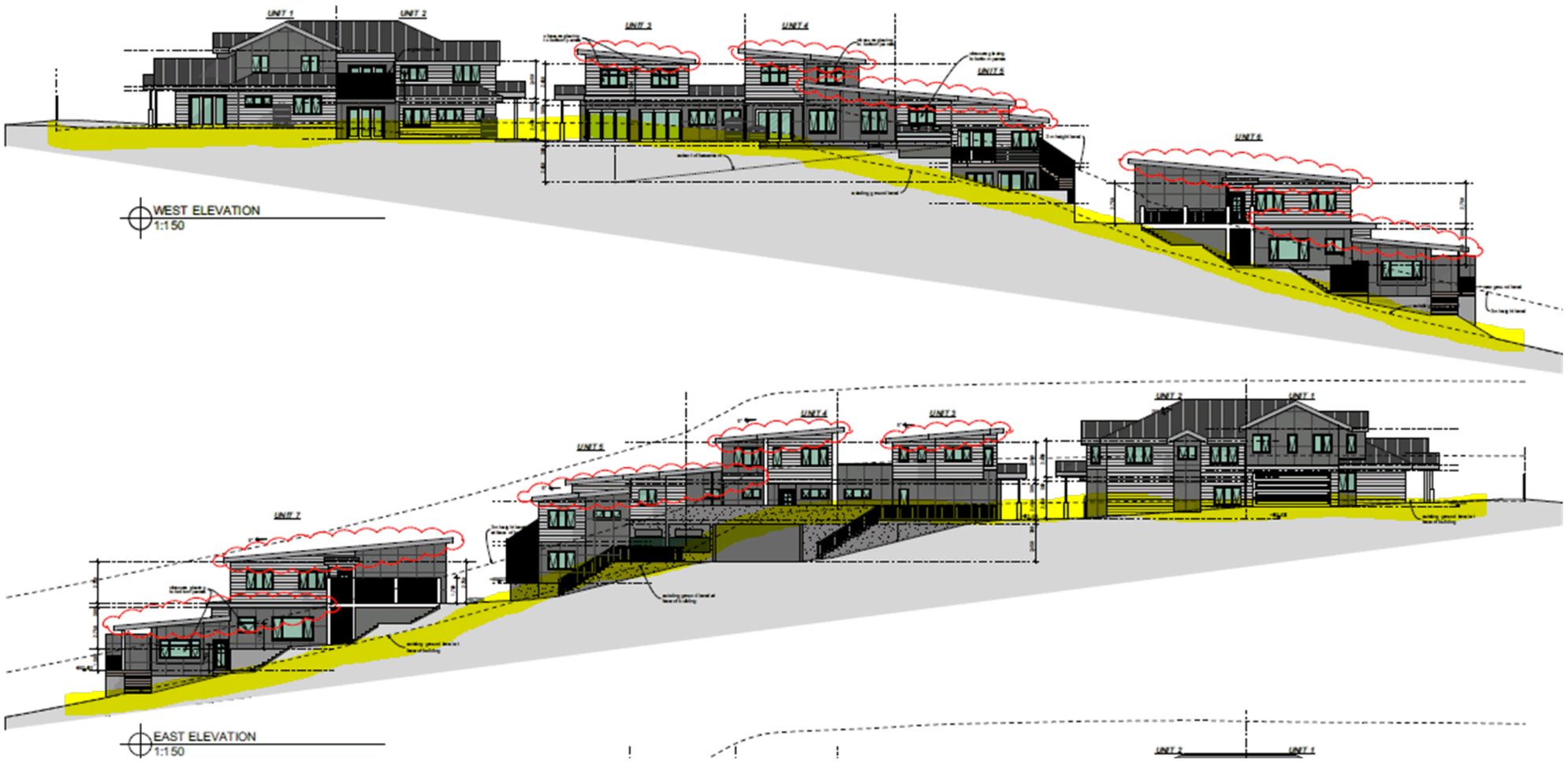
CONCLUSION

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**.

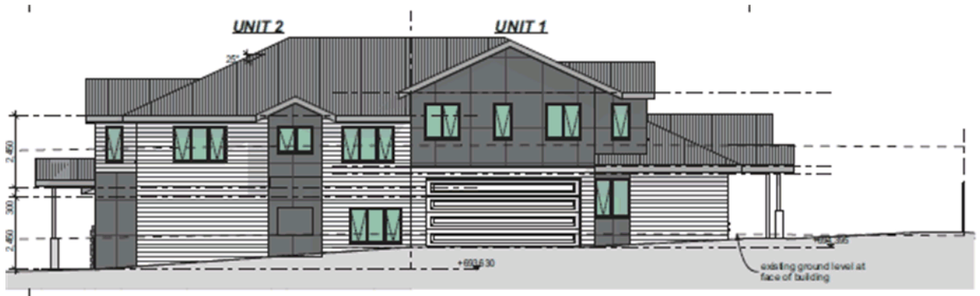
ATTACHMENTS

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*

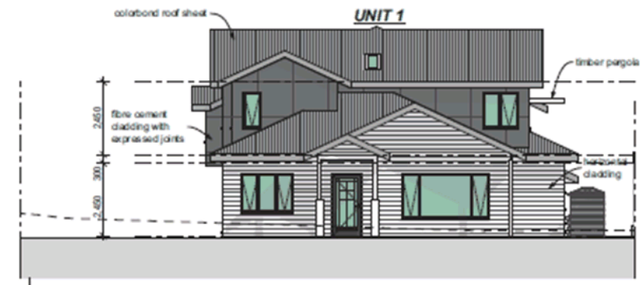
ATTACHMENT 10 – ELEVATIONS (amended plans submitted 3 March 2020 responding to Council resolution 26 February 2020)



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



EAST ELEVATION - UNITS 1 & 2
1:100



NORTH ELEVATION UNITS 1 & 2
1:100

WEST ELEVATION - UNITS 1 & 2
1:100

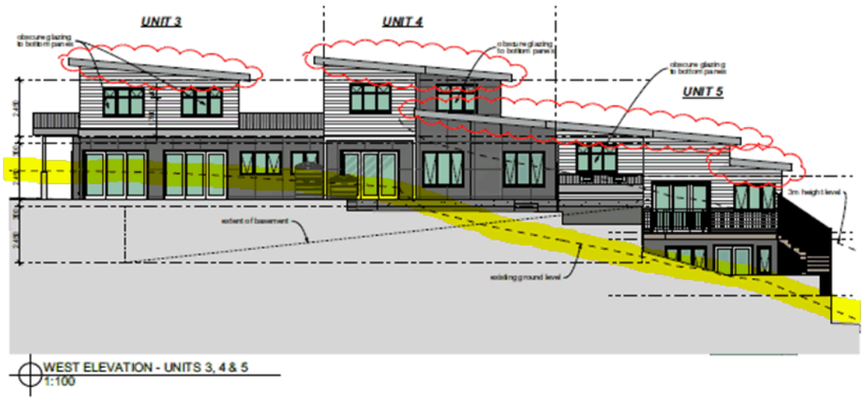
SOUTH ELEVATION UNITS 1 & 2
1:100

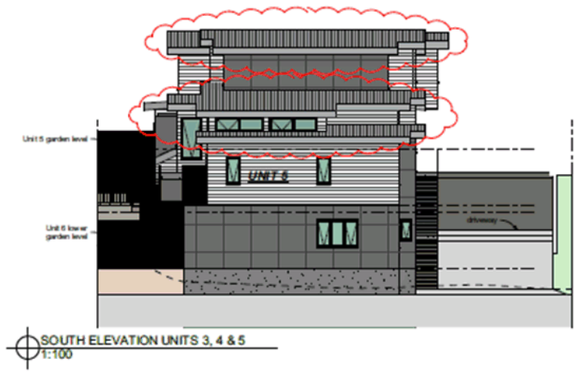
SECTIO
1:100

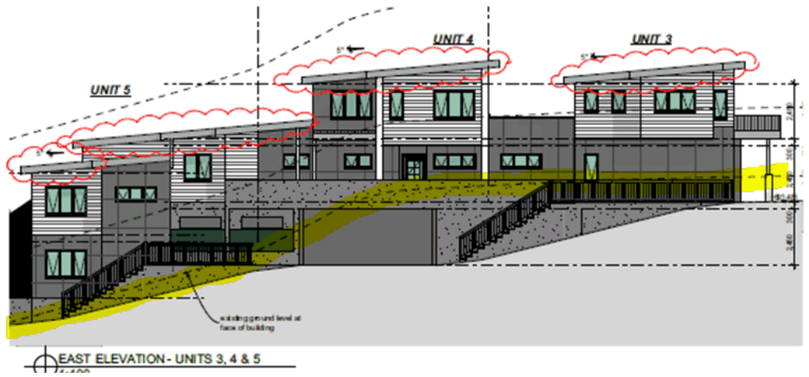
North western Perspective 1 & 2

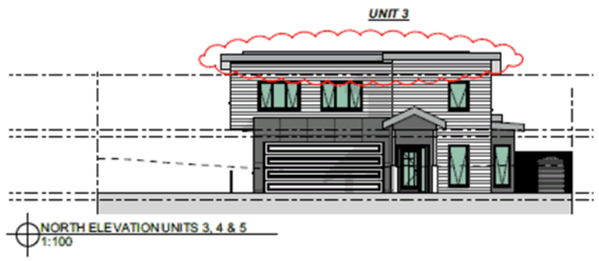
South Eastern Perspective 1 & 2

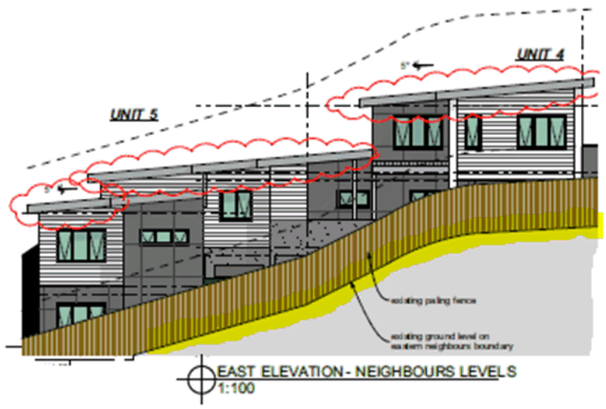
Elevations – Proposed Units 1 and 2



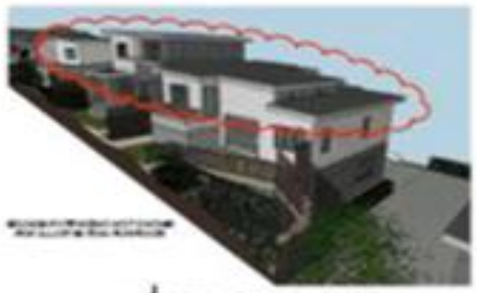




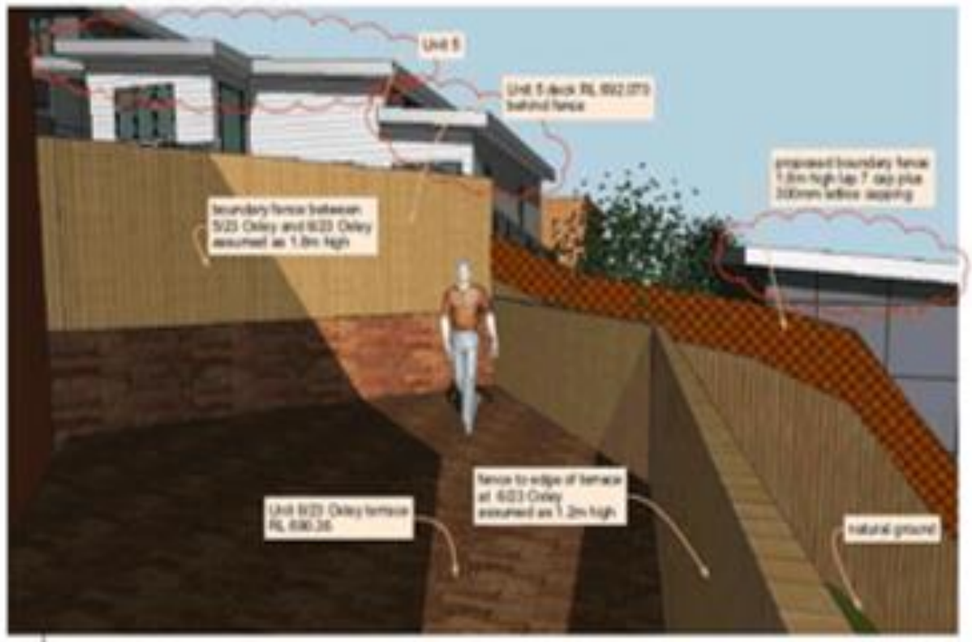




Elevations – Proposed Units 3, 4 and 5 (Yellow highlight shows existing natural ground level)



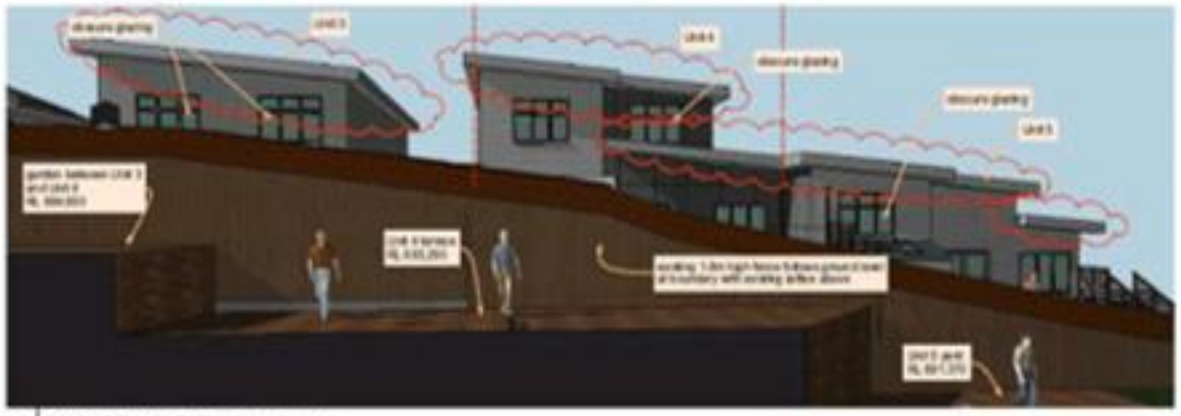
Perspectives – Proposed Units 3, 4 and 5 and adjoining western units 3/23, 4/23, 5/23 and 6/23 private open space areas



Oxley 6/23 terrace to Unit 5

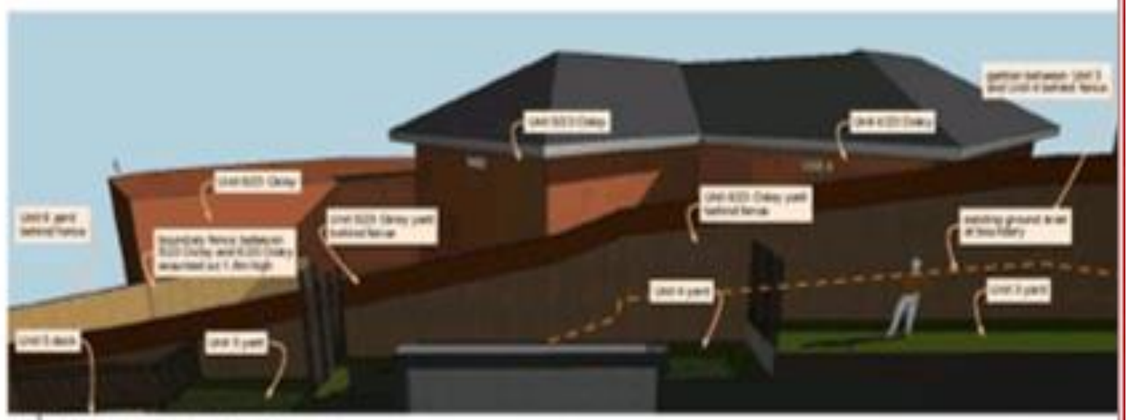
neighbouring levels based on survey information provided by Johnson Proctor Surveyors

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



23 Oxley Drive view from terraces

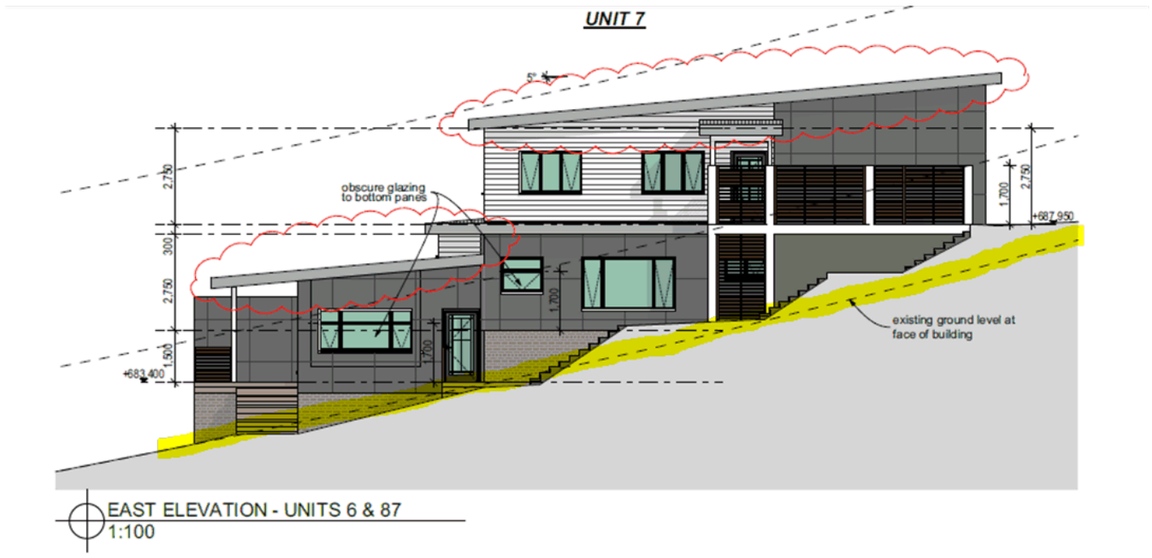
neighbouring levels based on survey information provided by Johnson Proctor Surveyors



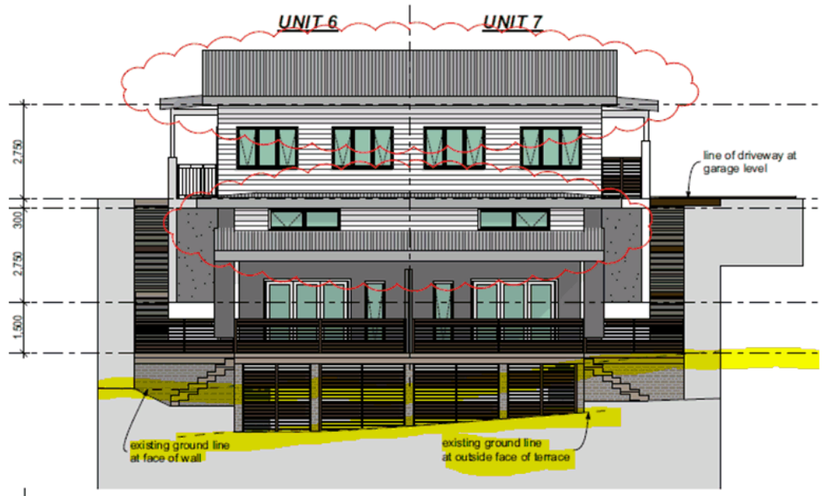
Proposed units view from terraces

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)



SOUTH ELEVATION 6 & 7
1:100

North western Perspective 6 & 7

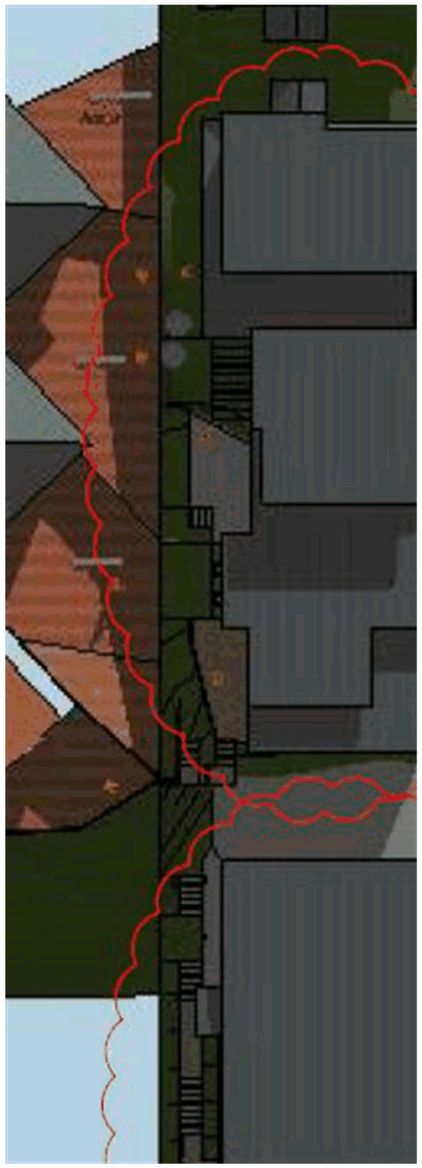
BOUNDARY FENCING NOT SHOWN FOR ILLUSTRATION PURPOSES

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.

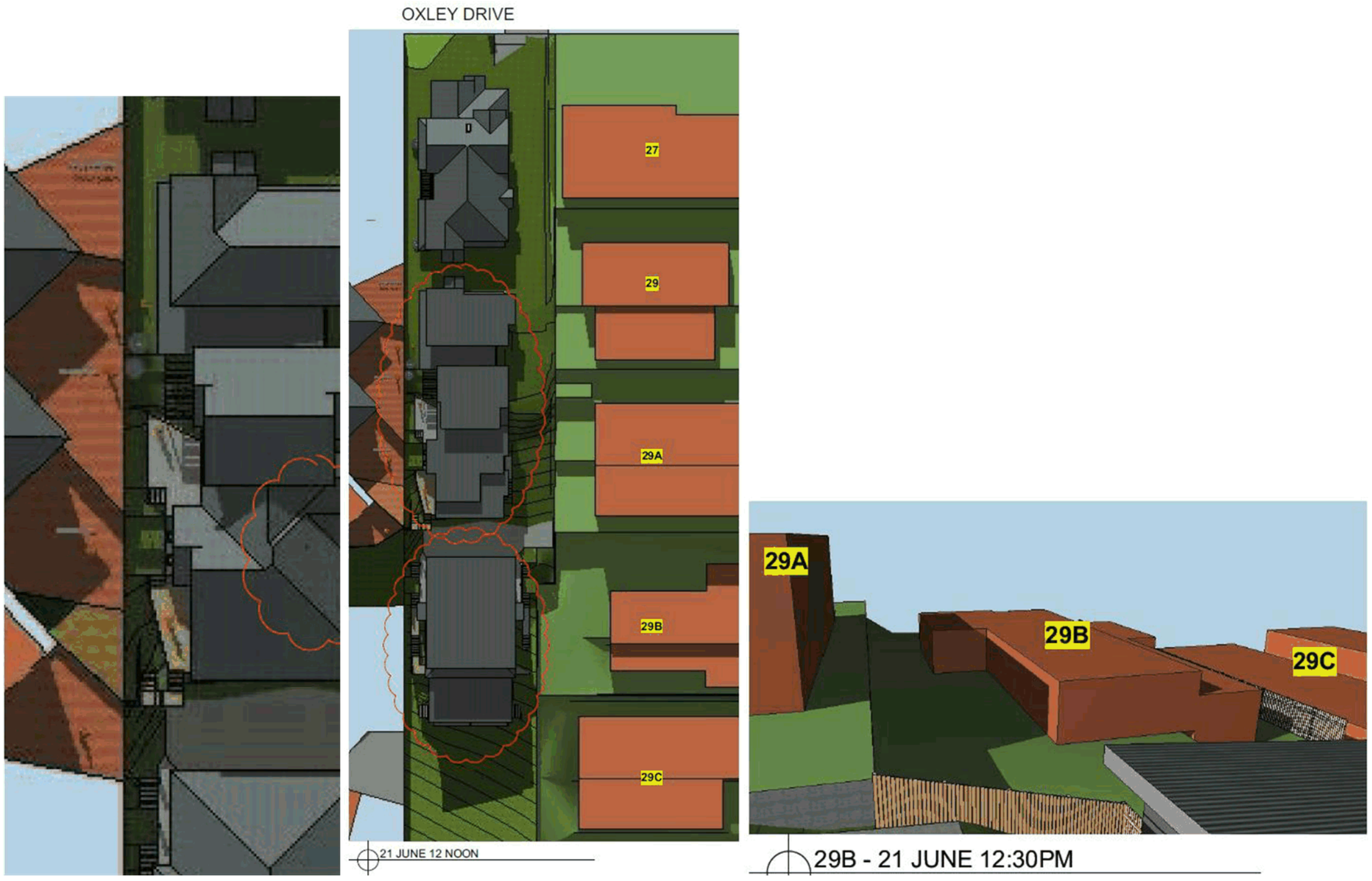
11:30am 21 June – Proposed development does not overshadow adjoining western units 3/23, 4/23, 5/23 and 6/23 private open space areas

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.

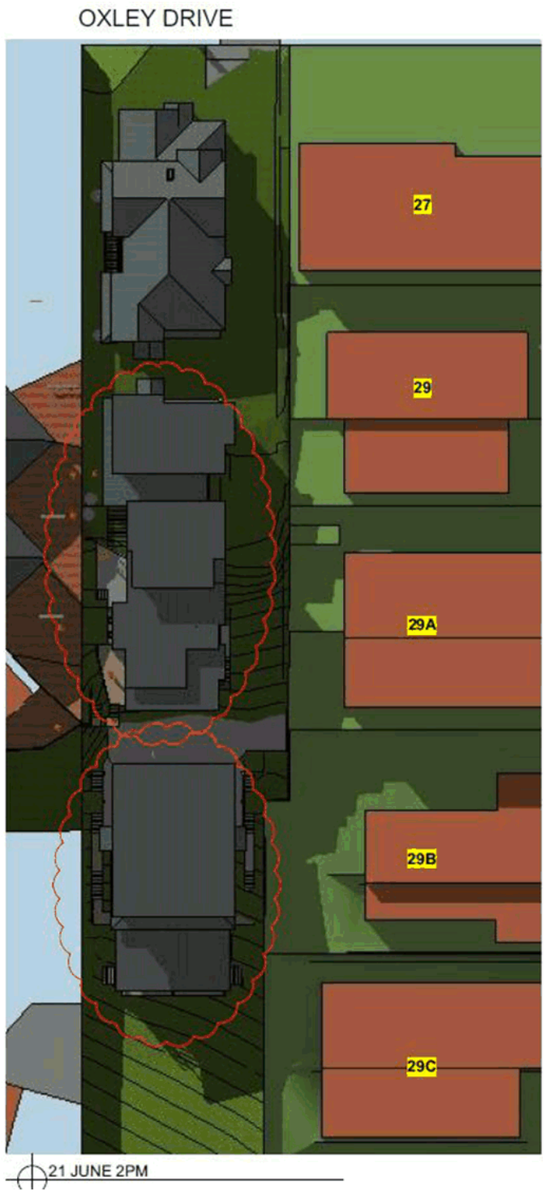


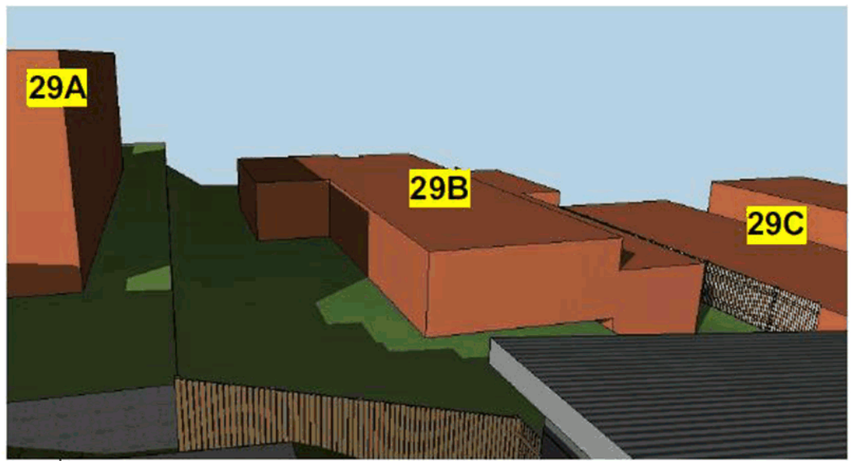
12:30pm 21 June - Proposed development does not overshadow adjoining western units 3/23, 4/23, 5/23 and 6/23 private open space areas
Shadow impact upon 29B Oxley Drive cast from 29 A Oxley Drive does not affect solar access to western facing living room window of 29B Oxley Drive.

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.

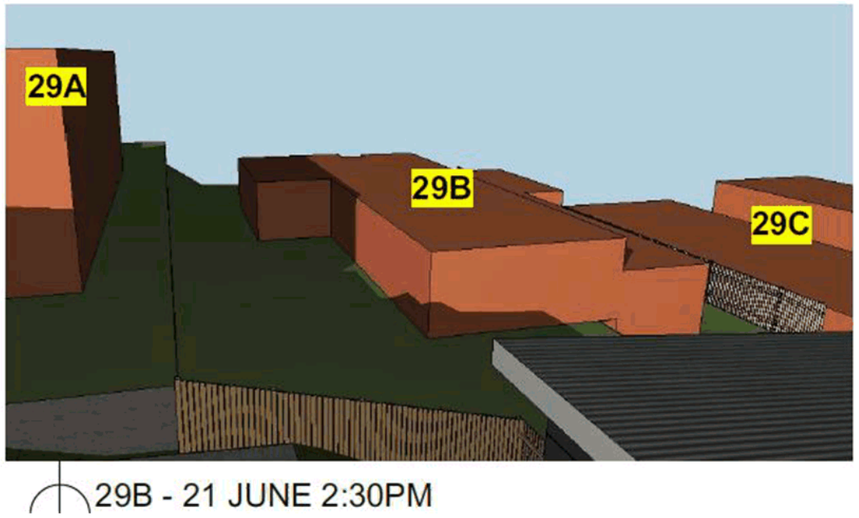
1:30pm 21 June - Proposed development does not overshadow adjoining western units 3/23, 4/23, 5/23 and 6/23 private open space areas

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.

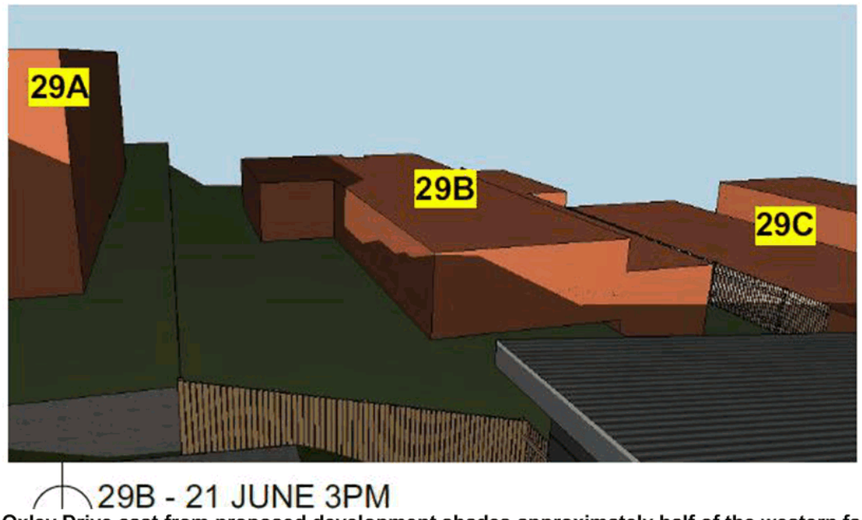




2:00 pm 21 June - Shadow impact upon 29B Oxley Drive cast from 29 A Oxley Drive and proposed development does not affect solar access to western facing living room window of 29B Oxley Drive.

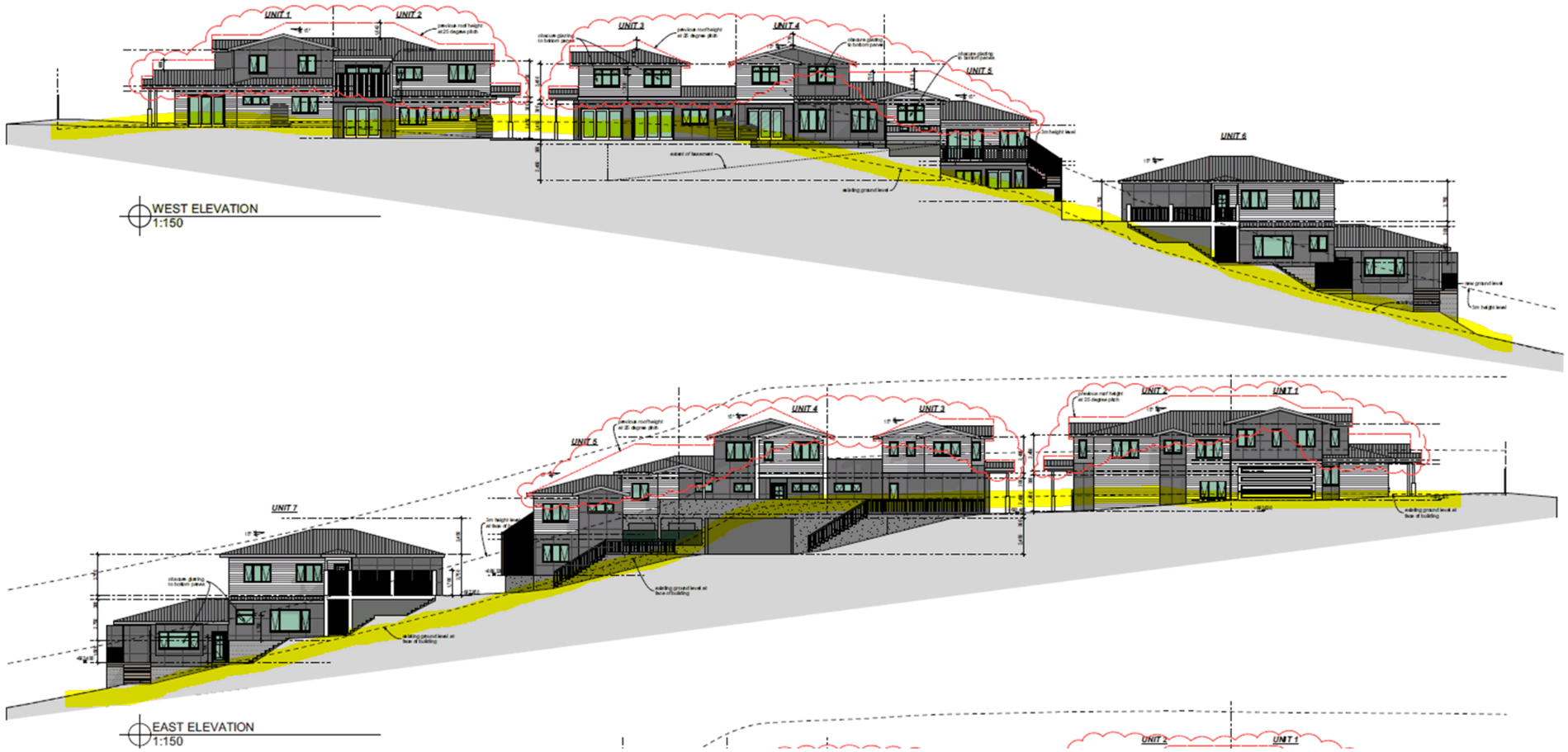


2:30 pm 21 June - Shadow impact upon 29B Oxley Drive cast from 29 A Oxley Drive and proposed development does not affect solar access to western facing living room window of 29B Oxley Drive.

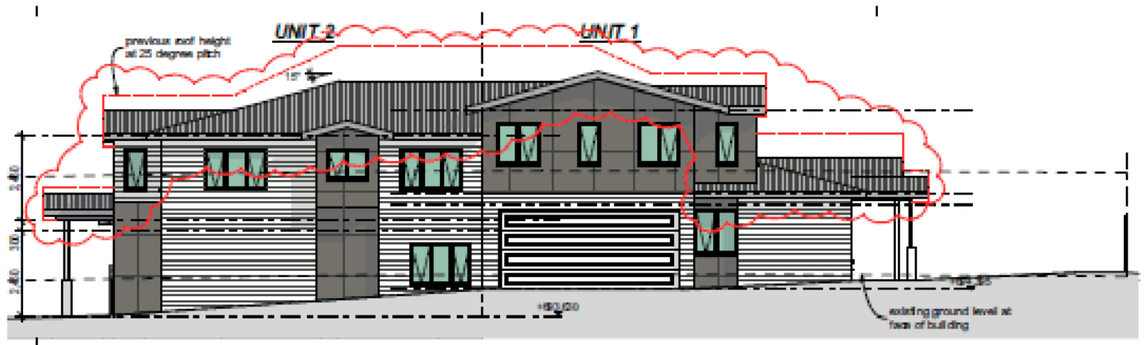


3:00 pm 21 June - Shadow impact upon 29B Oxley Drive cast from proposed development shades approximately half of the western facing living room window of 29B Oxley Drive.

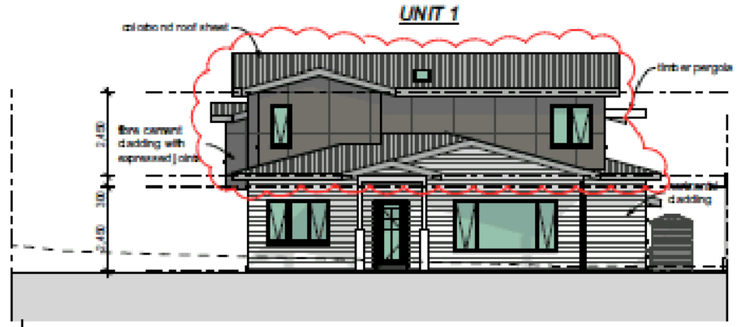
ATTACHMENT 12 – ELEVATIONS (amended plans submitted 23 June 2020 responding to Council resolution 13 May 2020)



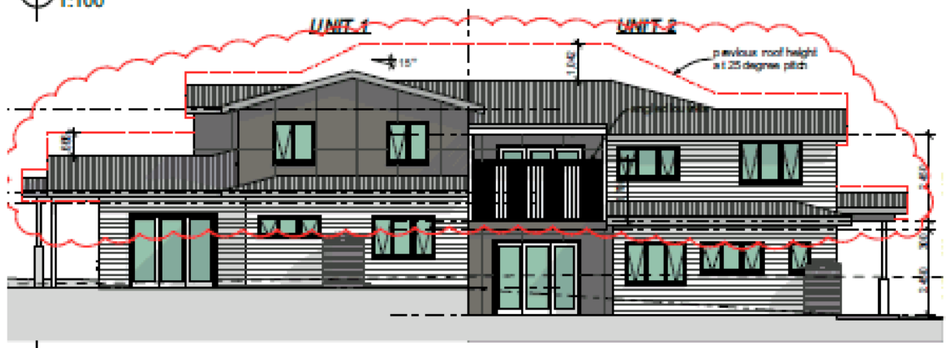
Eastern and western elevations (Yellow highlight shows existing natural ground level)



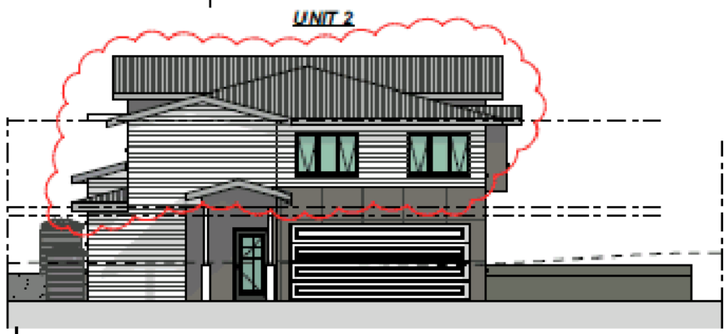
EAST ELEVATION - UNITS 1 & 2
1:100



NORTH ELEVATION UNITS 1 & 2
1:100

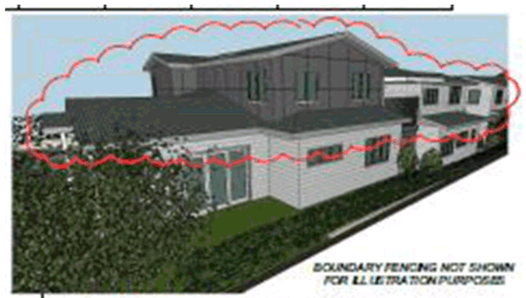


WEST ELEVATION - UNITS 1 & 2
1:100



SOUTH ELEVATION UNITS 1 & 2
1:100

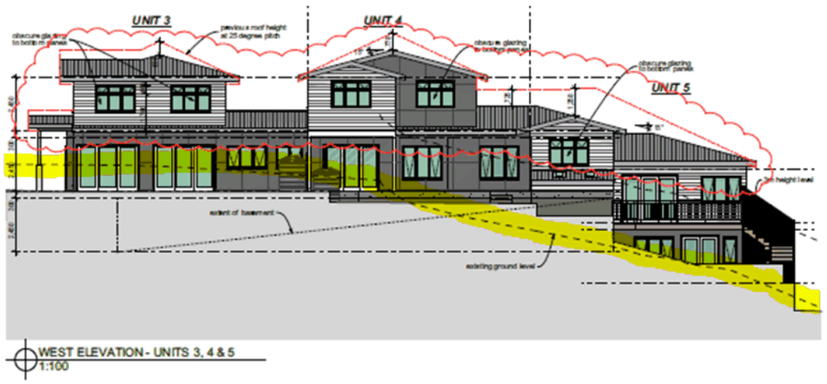
SECTION
1:100

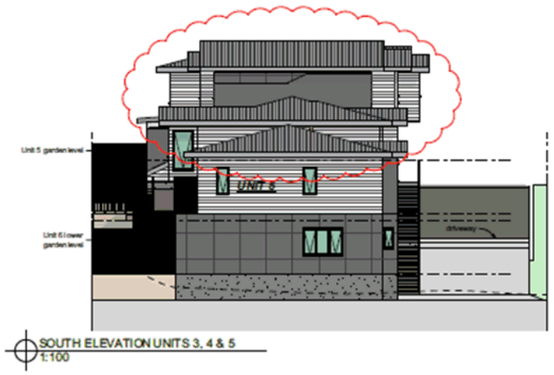


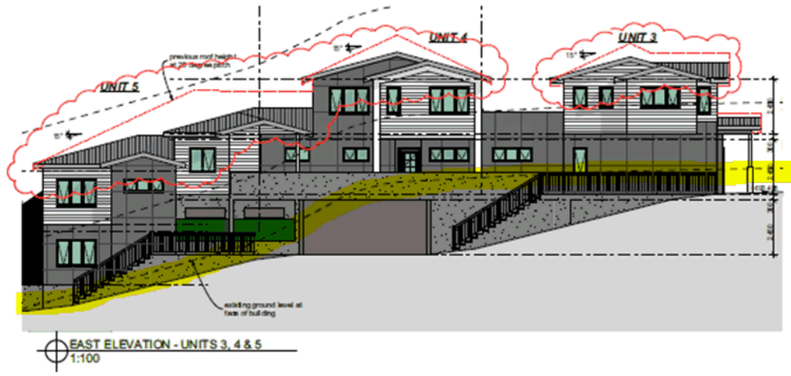
North western Perspective 1 & 2

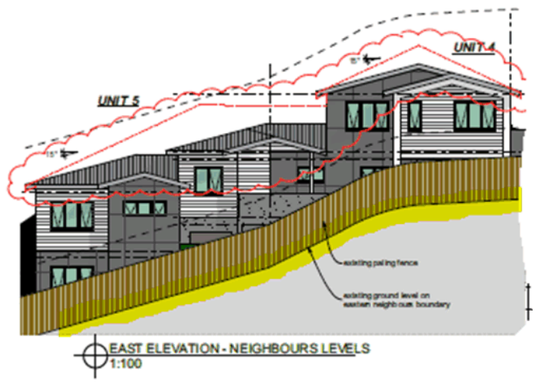
South Eastern Perspective 1 & 2

Elevations – Proposed Units 1 and 2





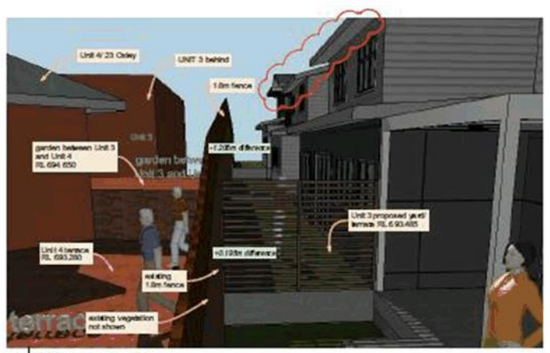




Elevations – Proposed Units 3, 4 and 5 (Yellow highlight shows existing natural ground level)

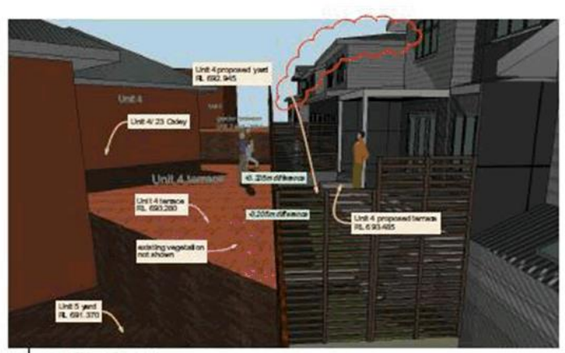
Western Perspective 3, 4 & 5

South Eastern Perspective 3, 4 & 5



UNIT 3 to Oxley 4/23

neighbouring levels based on survey information provided by Johnson Proctor Surveyors

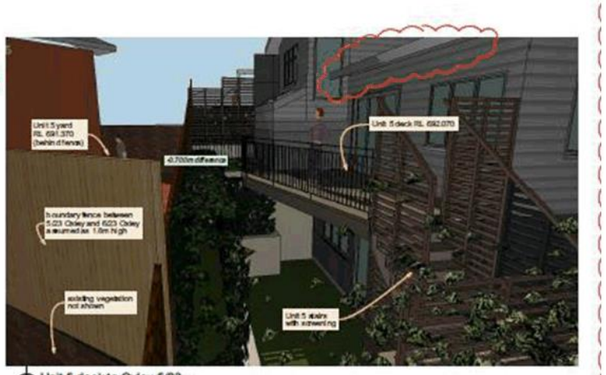


UNIT 4 to Oxley 4/23

neighbouring levels based on survey information provided by Johnson Proctor Surveyors

UNIT 5 terrace to Oxley 5/23

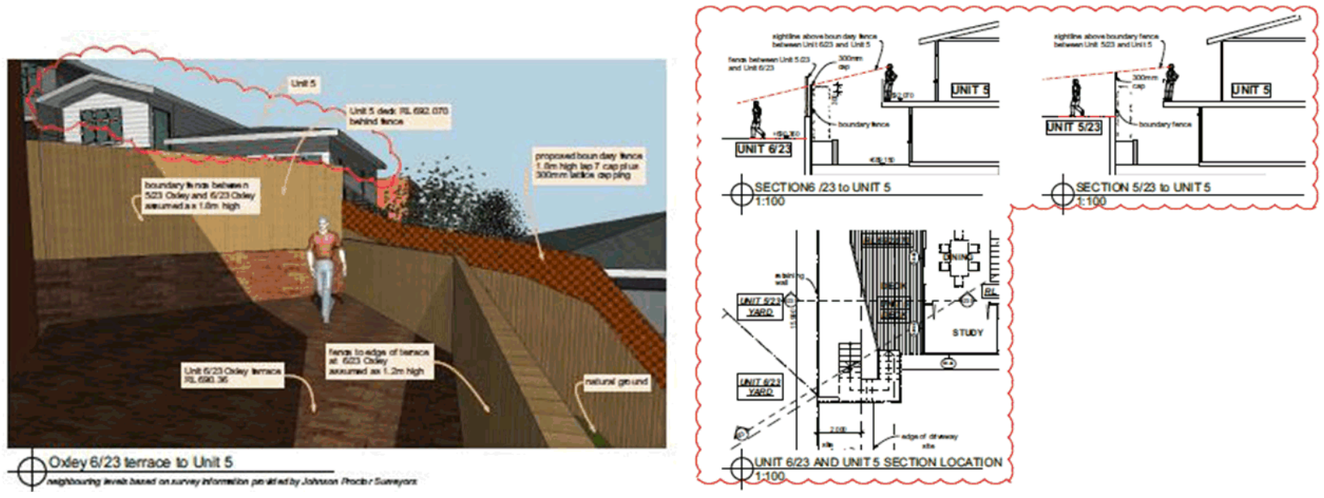
neighbouring levels based on survey information provided by Johnson Proctor Surveyors



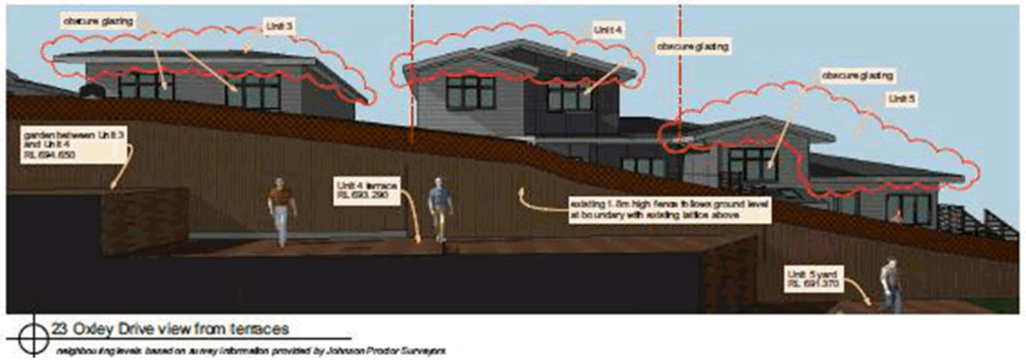
Unit 5 deck to Oxley 5/23

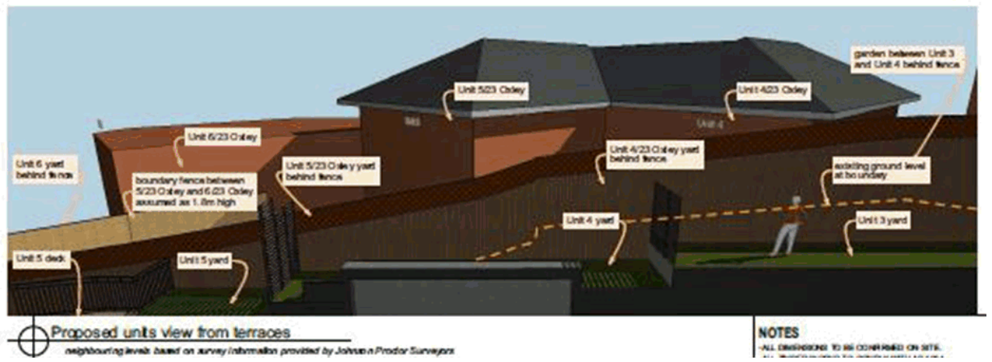
neighbouring levels based on survey information provided by Johnson Proctor Surveyors

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

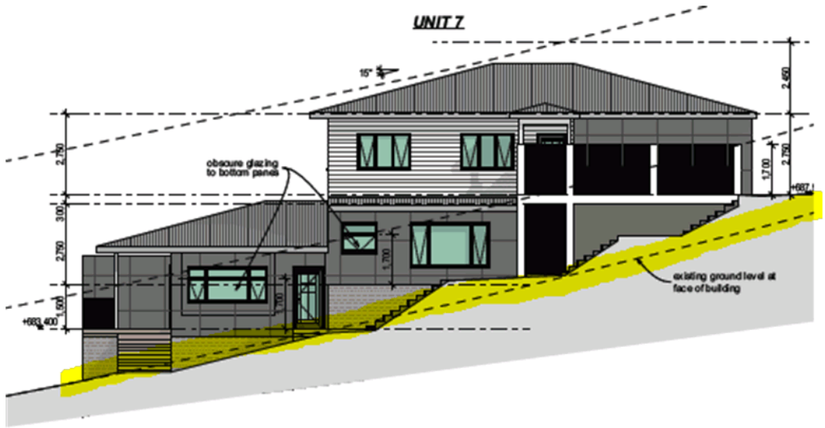


Perspectives – Proposed Unit 5 and adjoining western unit 6/23 private open space area





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)

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.

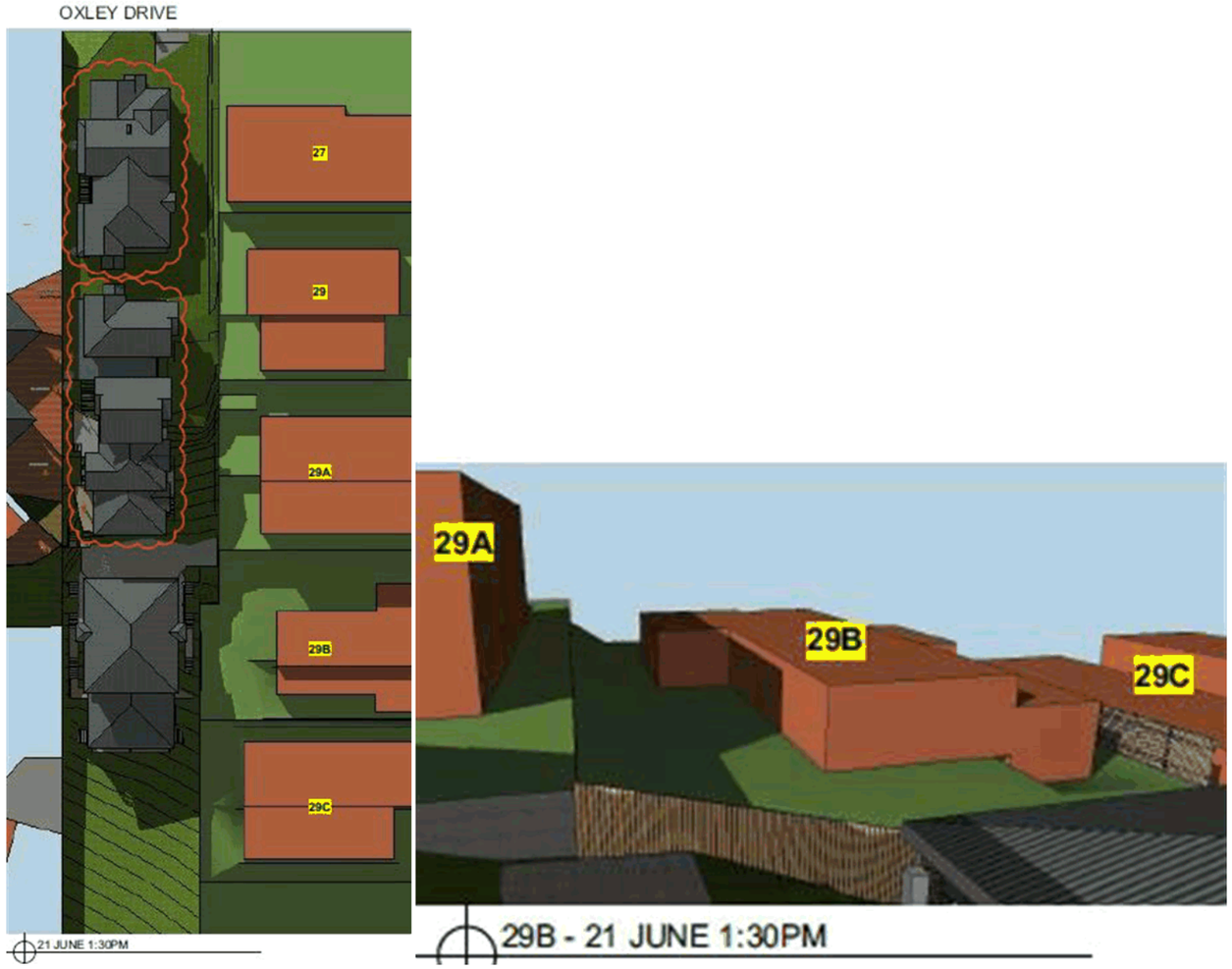
12 midday 21 June - Proposed development does not overshadow adjoining western units 3/23, 4/23, 5/23 and 6/23 private open space areas

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.

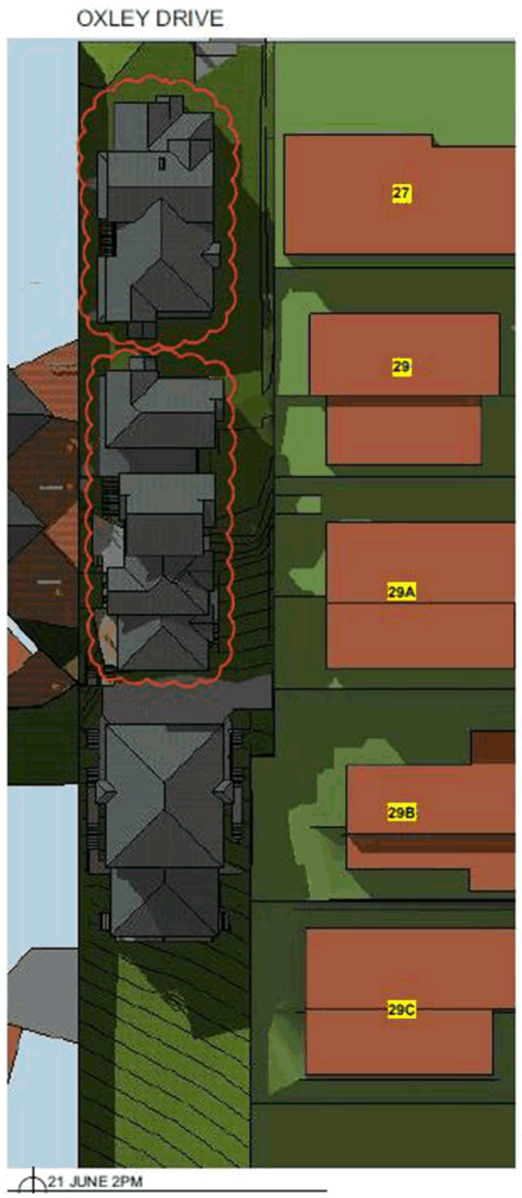
12:30pm 21 June - Proposed development does not overshadow adjoining western units 3/23, 4/23, 5/23 and 6/23 private open space areas
Shadow impact upon 29B Oxley Drive cast from 29 A Oxley Drive does not affect solar access to western facing living room window of 29B Oxley Drive.

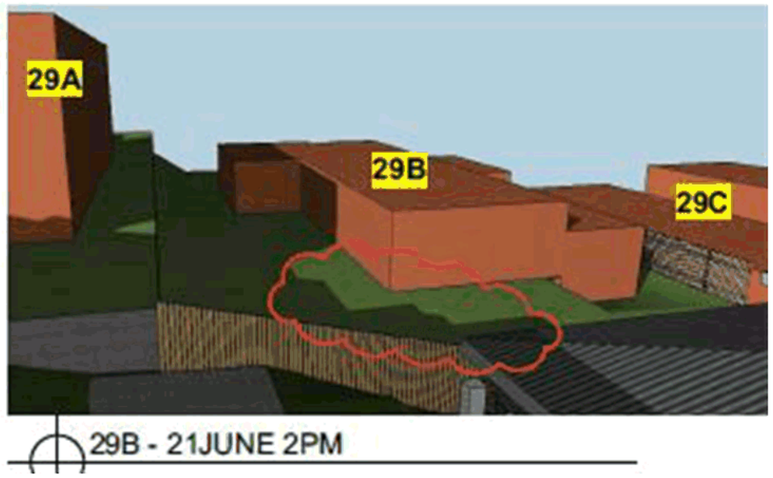
1:00pm 21 June - Proposed development does not overshadow adjoining western units 3/23, 4/23, 5/23 and 6/23 private open space areas
Shadow impact upon 29B Oxley Drive cast from 29 A Oxley Drive and proposed development does not affect solar access to western facing living room window of 29B Oxley Drive.



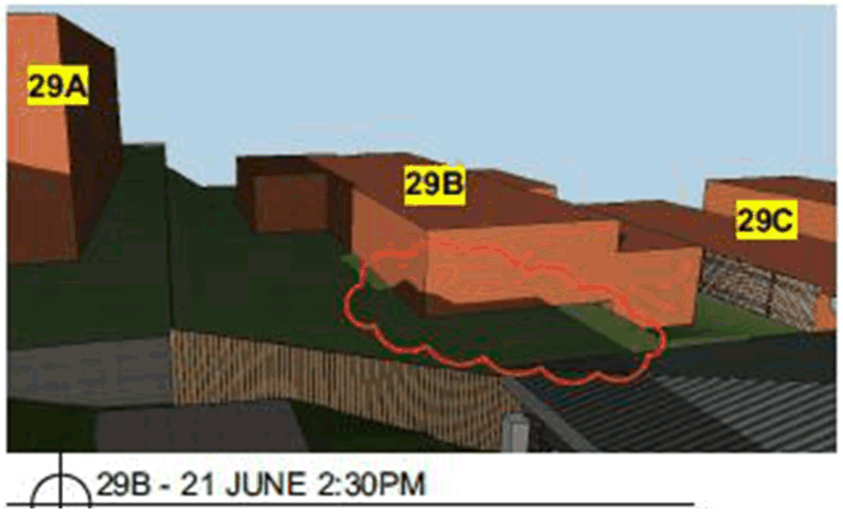
1:30pm 21 June - Proposed development does not overshadow adjoining western units 3/23, 4/23, 5/23 and 6/23 private open space areas

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.

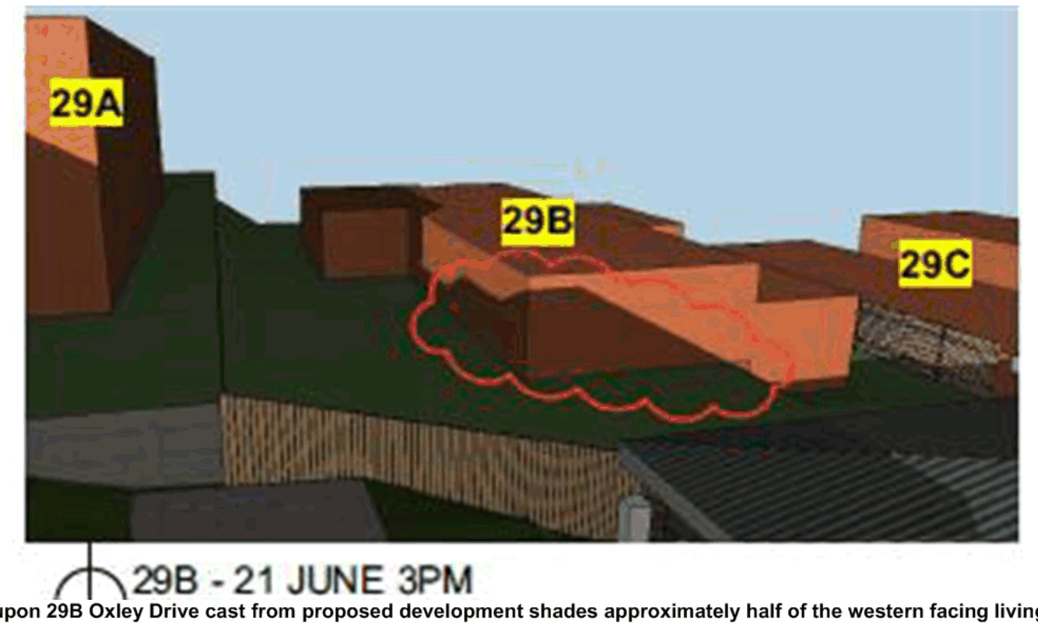




2:00 pm 21 June - Shadow impact upon 29B Oxley Drive cast from 29 A Oxley Drive and proposed development does not affect solar access to western facing living room window of 29B Oxley Drive.



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 Tender for Bowral Cemetery Improvements – 107 Kangaloon Road, Bowral

Reference: **RFT6330/20.14**
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 present the evaluation of the Request for Tender for the Construction Works at 107 Kangaloon Road, Bowral.

RECOMMENDATION

1. **<u>THAT</u> in relation to the report concerning Tender for Bowral Cemetery Improvements – 107 Kangaloon Road, Bowral - Council adopts the recommendations contained within the Closed Council report – Item 19.1.**

   OR

2. **<u>THAT</u> the report concerning Tender for Bowral Cemetery Improvements – 107 Kangaloon Road, Bowral - 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)d(i) as it contains commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.**

***Note**: The Council, or a committee of the Council, may allow members 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

Wingecarribee Shire Council sought tenders from appropriately qualified and experienced contractors for the Construction Works at 107 Kangaloon Road, Bowral.

REPORT

Council sought tenders for suitable and qualified contractors to provide a lump sum tender for the scope of works. The full scope of works was detailed in the design drawings and tender documents and consists of re-alignment and establishment of a new site access and associated landscaping and amenities to maximise plot availability.

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

ADVERTISING

The tender advertising period was from the 23 June 2020 to 21 July 2020 (29 days).

The tender was advertised as follows:

Newspaper / Website	Date Advertised
Newspaper – Sydney Morning Herald	Tuesday, 23 June 2020
Newspaper – Southern Highlands News	Wednesday, 24 June 2020
Council's Website	For the duration of the advertising period
Council's eTendering Website	For the duration of the advertising period

TENDERS RECEIVED

A total of eight (8) tender submissions were received:

Company Name	Location	Postcode
Castlereagh Structural Group Pty Ltd	Sydney	2000
Diverse Civil Contracting Pty Ltd	Coniston	2500
Indus Engineering Pty Ltd	Beaconsfield	2015
Colin Joss & Co Pty Ltd	Albury	2640
Planet Civil Pty Ltd	Arncliffe	2205
Simpson Landscapes and Consultants Pty Ltd	Kirrawee	2232
Statewide Civil Pty Ltd	Baulkham Hills	2153
Trinity Consolidated Services Pty Ltd	Dural	2158

LATE TENDERS

No late tender submissions were received (therefore non-conforming):

TENDER EVALUATION

A Procurement Evaluation Plan was developed which outlined the pre-determined selection criteria, the criteria weightings, and members of the tender evaluation panel.

Each submission was evaluated against the specified criteria by the tender evaluation panel with a scoring system based from 0 to 10 and weighted according to the pre-determined criteria.

SELECTION CRITERIA

The pre-determined criteria used to evaluate the tender were as follows:

Mandatory Criteria:

Mandatory Criteria
Public Liability - $20 million
Workers Compensation OR [Self Employed] Personal Accident and Illness Insurance or Personal Income Protection
Motor Vehicle - Comprehensive
Bank Guarantee

Tenderers were required to meet the mandatory criteria to be eligible to be shortlisted and progress any further in the evaluation process.

Non-Cost Selection Criteria & Weighting:

Non-Cost Criteria	Weighting
Community & Social (including local content)	10%
Capability & Experience	10%
Methodology	2.5%
Program	5%
Suppliers	5%
Work Health and Safety	5%
Environment	2.5%
Total	**40%**

Summary of Selection Criteria & Weighting:

Criteria	Weighting
Total Non-Cost Criteria	40%
Total Cost Criteria	60%
Total	**100%**

NON-COMPLIANT TENDERS

Upon evaluation a total of no tender submissions were determined to be non-compliant:

CONSULTATION

Community Engagement

Tenders are part of a commercial arrangement and therefore no community engagement is required.

Internal Consultation

Consultation has taken place between Council's Assets, Procurement and Project Delivery.

External Consultation

Tenders are part of a commercial arrangement and therefore no external consultation is required.

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**

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

RELATED COUNCIL POLICY

Council's Procurement Guidelines have been used to inform the tender process.

CONCLUSION

The tender evaluation summary and recommendation are documented in the report to Council's Closed Committee.

ATTACHMENTS

There are no attachments to this report.

11.2 Draft Walking Tracks Strategy

Reference: 6880/8
Report Author: Asset Strategy Officer Sport and Recreation
Authoriser: Asset Coordinator Parks and Buildings
Link to Community Strategic Plan: Increase promotion of healthy lifestyle choices

PURPOSE

To seek approval for the Draft Walking Tracks Strategy to be placed on public exhibition with the community invited to provide feedback and comments.

RECOMMENDATION

THAT the Draft Walking Tracks Strategy be endorsed for public exhibition for a period of twenty-eight (28) days.

REPORT

BACKGROUND

In 2016 Council endorsed the newly developed Parks Strategy. This high-level strategy identifies current and future provision requirements, asset categories, levels of service and provides rationale for financial sustainability into the future for Council's parks network.

Subsequently, Council adopted the Public Toilet Strategy sitting under the Parks Strategy in line with parks levels of service and providing specific direction on the development and management of public toilet facilities.

Similarly, the Draft Walking Tracks Strategy will form a part of this suite of documents. Council engaged a specialist consultant experienced in preparing open space strategies to assist in the development of this Draft document.

REPORT

The purpose of the Draft Walking Tracks Strategy is to provide a framework for the management, enhancement and on-going maintenance of recreational walking tracks on Council owned or managed land within the Wingecarribee Shire. It also identifies a cohesive track network that offers active and challenging recreational experiences encompassing the Shire's diverse and distinctive landscapes.

The Draft Strategy provides guidance on the walking tracks at 16 Council owned or managed bushland reserves. The Strategy does not include all bushland reserves in the Shire; only those with authorised walking tracks. The document identifies and categorises walking track difficulty level, along with a comprehensive strategy and action plan for future works.

To develop a comprehensive strategy and action plan, Council carried out relevant background research, on-ground trail auditing, mapping, and extensive stakeholder consultation.

The Draft Walking Tracks Strategy identifies broad social trends which have shaped the outcomes of the Strategy. A clear trend identified is the rise of individual recreational activity over traditional structured sports. Recreational walking is also identified among the

top six physical activity of choice by the people of NSW and advances in fitness-based technology support this trend (i.e. Strava and Fitbit).

There are also demographic trends identified in the report including an ageing population and the lack of overall fitness of the general population.

The report also highlights environmental trends including climate change, degradation of heritage and biodiversity all with implications for bushland areas and bush walking.

Through the audit process, there were various issues identified within individual tracks. In general, it was evident that the tracks lacked signage, below standard track maintenance and had inadequate promotional material (maps, website and brochures).

These issues were reaffirmed by the results of the community survey through 'Your Say Wingecarribee' (15th April – 14th May) with over 137 responses. Some key findings were:

- 69% agree the Shire's provision of recreational walking tracks are highly valued by the community.
- 46% agree recreational walking tracks managed by the Shire are generally in good condition with only 42% agreeing the tracks are safe.
- 60% disagree recreational walking tracks across the Shire are generally well connected with only 32% agreeing the tracks are accessible and welcoming.
- 70% disagree signage is sufficient to meet the needs of recreational walkers.
- 72% disagree recreational walking tracks within the Shire are well promoted.

In response to the consultation inputs and issues identified, the Draft Strategy provides the following key outputs:

- Classification of all authorised walking tracks graded from 1 to 6. The classification ranges from:
    - Class 1 - bushwalk trails suitable for wheelchairs and bushwalkers with no experience; through to,
    - Class 6 – Very experienced bushwalkers with specialised skills, including navigation and emergency first aid.
- Series of standardised (and "easy to read") signage templates to incorporate general site-specific information, trail grading/ difficulty level, wayfinding signage, education and warning signs.
- Identification of risks to the users of the recreational trails and methodologies to mitigate the risk through a risk management matrix.
- Vision for walking tracks based on the findings of research, on ground audits, and consultation to set the ultimate goal for Council's walking track network.
- Implementation plan that delivers on the set vision, with a series of strategic outcomes and deliverables which are ranked in terms of priority (low, medium and high). These outcomes are then translated into a specific action plan for the Council to implement with a hierarchy of cost and timeframe.

The action plan is accompanied by a concept plan for each reserve that responds to site-specific issues with proposed opportunities to enhance the walking network functionality, safety and experience. The concept plans include:

- Categorisation and difficulty hierarchy of individual walking tracks within the reserves in accordance to Australian Standards.

- Proposal to formalise key identified tracks to better connect users. For example, proposing a loop track layout (to minimise one way in and out layout).
- Identification of new links to connect users to existing walking trails.
- Mapping of existing and proposed new amenities to enhance user experience.
- Identification of new parking opportunities offering greater accessibility to existing walking trails.

The Draft Walking Tracks Strategy includes an Opinion of Probable Costs of items identified in the action plan to inform Council's capital works program and requests for grant funding.

COMMUNICATION AND CONSULTATION

Community Engagement

The development of the Draft Strategy was informed by community consultation and stakeholder engagement. This process was organised and managed through the development of a Consultation and Engagement Plan. Information was provided to stakeholders and the wider community through the distribution of an information flyer via email, weekly circular, website, social media and printed copies. A Your Say Wingecarribee webpage was established as Council's community engagement hub.

A series of consultation mechanisms were used to engage with the wider community and key stakeholders. These mechanisms are shown on the engagement timeline below:

- April 2020 – Stakeholder workshop and community workshop,
- April – May 2020 – Community survey, mapping tool and community forum,
- May – July 2020 – Targeted stakeholder interviews

Key community stakeholder groups included bushcare volunteers, local walking and cycling clubs, bird watching groups and regular hirers of Council's reserves.

The community workshop was held via Zoom video conference and was attended by 25 people.

The community survey was hosted through the *Your Say Wingecarribee* website (15th April – 14th May) with over 137 responses. The site was also:

- visited over 1,100 times by 838 individuals
- had 9 contributions made in forums
- 13 pins were placed on the map

Internal Communication and Consultation

Two internal stakeholder meetings were held and attended by staff representatives from Assets, Infrastructure Services, Environment and Sustainability, Destination Southern Highlands, Strategic Planning – Heritage, Community Development, Property and Executive. Staff were asked to provide specific information and insight relating to each of the reserves. The discussion focused on the existing trails and usage, access, heritage/biodiversity, and key opportunities and constraints. Key themes of the meeting included:

- Lack of adequate trail signage/promotional materials
- Improving connections/linkages

- Existing infrastructure
- Considering the sensitive environment
- Tourism opportunities
- Extensive heritage (Aboriginal & non- Aboriginal) associated with the trails

External Communication and Consultation
Consultation was held with representatives from National Parks and Crown Lands to discuss opportunities to create new extensions to existing trails to improve connectivity and links between Council managed land and those under alternative tenures.

SUSTAINABILITY ASSESSMENT

- **Environment**

The adoption of the Draft Walking Tracks Strategy will provide a well-planned, clearly defined, and authorised tracks networks, and benefit the environment by:

- discouraging people from deviating into natural areas which helps reduce human impacts on sensitive environments;
- allow reserve access for key groups for activities such as weed management, trail maintenance, fire protection (i.e. Bushcare, NSWRFS, FRNSW);
- encouraging regulated use of natural areas can also increase passive surveillance which can help mitigate against unauthorised use.

- **Social**

Recreational walking tracks can bring communities together through fostering community partnerships which are often required for trail planning, maintenance or activation. For example, bushcare groups at Mount Gibraltar, Hammock Hill and Mansfield Reserves connect people with common interests.

Participation in trail-based activities can improve bone health, cardiovascular and muscular fitness, reduce the risk of obesity, and decrease rates of physical and mental illness.

- **Broader Economic Implications**

Investment in trail development and management is known to provide a positive return on investment through contributions to the economy. This is achieved through trail experiences becoming a key tourism driver which can increase visitation, extend lengths of stay, and enhance visitor expenditure.

- **Culture**

The trail network recognises, protects, and promotes places of significant cultural heritage (i.e. Aboriginal heritage at Gibbergunyah Reserve, mining legacy at Mount Alexandra Reserve and World War I German internees at Berrima River Reserve).

- **Governance**

There are no governance issues in relation to this report.

COUNCIL BUDGET IMPLICATIONS

The Draft Strategy includes an Opinion of Cost for the recommended actions and trail improvements. Council intends to fund these works through a combination of existing

capital works funding and potential grant funding over the course of Council's long term financial plan. A staged funding strategy will be developed following the adoption of the Draft Strategy.

RELATED COUNCIL POLICY

The Draft Walking Tracks Strategy refers to the following Council polices:

- Asset Management Policy

OPTIONS

The options available to Council are:

Option 1
THAT the Draft Walking Tracks Strategy be endorsed for public exhibition for a period of twenty-eight (28) days.

Option 2

THAT Council does not endorse the Draft Walking Tracks Strategy for public exhibition.

Option 1 is the recommended option to this report.

CONCLUSION

Placing the Draft Walking Tracks Strategy on public exhibition and providing further opportunity for community feedback will enable the final Strategy to be submitted to Council for adoption.

ATTACHMENTS

1. Walking Tracks Strategy Draft R2.1 - *circulated under separate cover*

11.3 Sale of Council Property - Frankland Street Mittagong

Reference: **PN556900**
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 provide Council with a factual update regarding the settlement of Lot 3, 10 Frankland Street, Mittagong; which was requested via a Notice of Motion resolved by Council at its meeting 22 July 2020.

RECOMMENDATION

THAT Council note that the terms of the contract for sale have been strictly adhered to for the sale of Lot 3, 10 Frankland Street, Mittagong AND strictly in accordance with the resolutions of council (MN1/19) and (MN151/20).

REPORT

BACKGROUND

At its meeting held on the 27 November 2019 Council resolved (*MN 1/19*):

1. *THAT Council accept the tender from Willow Properties Pty Ltd and Paloma Blanca in relation to RFT 6330/19/29 Sale of Land – Frankland Street Mittagong for Proposed Lot 2 and Proposed Lot 3 being part Lot 1 in Deposited Plan 109208.*

2. *THAT in respect to the sale of Proposed Lot 2 and Proposed Lot 3 being part Lot 1 in Deposited Plan 109208, authority be delegated to the General Manager and Mayor to execute the contracts for sale of Land, Transfer and any other associated real property dealing under the Common Seal of Council.*

The successful tenderers were:

- Lot 2, 10 Frankland Street, Mittagong:
  Purchaser: Paloma Blanca Pastoral Pty Limited
  Purchase price: $2,100,000.00
  Settlement period: Twelve (12) months

- Lot 3, 10 Frankland Street, Mittagong:
  Purchaser: Willow Properties Pty Ltd
  Purchase price: $3,100,000.00
  Settlement period: Six (6) months

Exchange of contracts for the sale of Lot 2 took place on 4 December 2019. In accordance with the terms of the contract, settlement is due to take place on 4 December 2020.

Exchange of contracts for the sale of Lot 3 took place on 4 December 2019. In accordance with the terms of the contract, settlement was due to take place **on 4 June 2020**.

Shortly before settlement was due for Lot 3, a request was received from the purchaser to extend the settlement dates under the Contracts for sale.

A further report was presented to Council on 13 May 2020 at which time Council resolved *(MN 151/20):*

> *THAT Council not agree to the requested extension of settlement dates for the sale of Lot 2 and Lot 3 10 Frankland Street, Mittagong and enforce the dates for settlement as provided in the Contracts for Sale and advise the purchasers of Council's decision.*

REPORT

Settlement of Lot 3, 10 Frankland Street, Mittagong was due to take place on 4 June 2020.

The purchaser was required to pay stamp duty on the contract for sale on the full value of the contract. The purchaser, mistakenly, stamped the contract on the GST exclusive price which is contrary to the direction of the Office of State Revenue.

The Tender documentation submitted by the purchaser for Lot 3, 10 Frankland Street, Mittagong clearly stated that the price offered of $3,100,000 was **exclusive** of GST.

Further, the Tender document stated that the buyers warranted that they were in a financial position to proceed with entering into a Contract for Sale for the indicated price **plus GST**.

The purchaser attached a signed contract to the tender response which stated the price as $3,100,000 exclusive of GST and the Contract for Sale contained a special condition which stated that GST was payable in addition to the purchase price.

Council provided a tax invoice for the contract price plus GST to Council's solicitor to provide to the purchaser on 22 May 2020. Following receipt of the settlement adjustment figures the purchaser was supplied with the tax invoice on 27 May 2020.

Payment of Stamp Duty

Section 21 of the *Duties Act, 1997* ("the Act") provides that the dutiable vale of dutiable property is the *greater of:*

(a) the consideration (if any) for the dutiable transaction (being the amount of monetary consideration or the value of a non-monetary consideration), and
(b) the unencumbered value of the dutiable property.

Section 22 of the Act states that "*The consideration for the transfer of dutiable property is taken to include the amount or value of all encumbrances, whether certain or contingent, subject to which the dutiable property is transferred*".

NSW Revenue ruling number DUT047 states that, where a dutiable transaction is also a taxable supply for GST purposes, the consideration may be expressed either:

a. on a GST inclusive basis, meaning no further amount is payable on account of GST; or
b. on a GST exclusive basis, with GST being payable as an additional amount as agreed between the parties in a GST clause.

NSW Revenue Ruling DUT047 further states that *"It follows from section 21 and 22 of the Act, that if the consideration relates to a taxable supply that is subject to GST, duty will be payable on the total, including any amount paid on account of GST, regardless of GST, regardless of how the consideration is expressed for GST purposes."*

Contract Terms

Under the terms of the contract, settlement of the purchase was scheduled to take place on the 4 June 2020. Settlement did not take place on that date due to the error with stamping of the purchaser's contract.

Accordingly, the penalty interest provision provided by the contract was applied until payment of the outstanding purchase price was made by the purchaser to fulfil their obligations under the Contract for Sale.

The funds due under the contract were deposited into Council's bank account on the 10 June 2020 ($3,100,000.00) with the deposit held in Council's panel solicitors trust account received by Council on the 12 June 2020.

As the balance purchase price remained outstanding for a period of six (6) days, the purchaser was required to pay interest (in accordance with the terms of contract) on the balance purchaser price for the six (6) day period. This amounted to $4,573.77.

Formal settlement of the sale took place on the last day allowed by the notice to complete, being 24 June, 2020, some 20 days after the date appointed by the contract.

Acting Deputy General Manager Operations Finance And Risk Comments

This transaction was a significant commercial transaction between two independent entities and, accordingly, was appropriately treated as such at all times. The sale was undertaken through a public tender process and as such was managed under Council's Code of Conduct Policy, Statement of Business Ethics and Procurement Guidelines.

Council sought legal representation in relation to the sale of the land. Council is not aware of the professional advice sought or due diligence conducted by the purchaser. In fact, the purchaser noted "acting for self" in the space provided for "purchaser's solicitor" on the contract for sale.

The role of Council officers was to enforce the terms of the contract in accordance with Council's resolutions MN1/19 and MN151/20. It would have been inappropriate for Council officers to deviate from the contract for sale, the terms of which were agreed upon by the parties prior to exchange of contracts.

No valid legal reason was provided by the purchaser as to why Council should agree to a waiver of the interest charges. The purchaser's claim that Council was partially responsible

for the purchaser's error in stamping (due to the way the contract had been drafted) was unfounded and the purchaser had no basis in making this claim.

The purchaser's default resulted in interest charges being applied on the balance outstanding of the purchase price in accordance with the terms of the contract. Penalty interest provides compensation to the vendor (in this case Council) for the forgone opportunity to generate revenue from the proceeds of sale whilst payment remains outstanding.

By reason of default of the terms of the contract by the purchaser, the interest provision provided for in the contract for sale was implemented.

COMMUNICATION AND CONSULTATION

Community Engagement

None required.

Internal Communication and Consultation

Executive

External Communication and Consultation

Council's panel solicitor

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**

There are no governance issues in relation to this report.

COUNCIL BUDGET IMPLICATIONS

This report has no direct budget implications.

CONCLUSION

This report is submitted to Council to provide details of its strict observance of the terms of the contract for the sale of Lot 3, 10 Frankland Street, Mittagong.

ATTACHMENTS

There are no attachments to this report.

11.4 Proposed Road Closure - Part Argyle Street - Mittagong

Reference:	**PN 43000; RD 3111**
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 provide Council with a formal update on the proposed road closure of part-road Argyle Street, Mittagong; which was requested via a Notice of Motion resolved by Council at its meeting 22 July 2020.

RECOMMENDATION

1. **THAT Council note the information provided within this report with respect to the proposed road closure and sale of part-road Argyle Street Mittagong.**

2. **THAT Council confirm the current formal offer for the sale of the part-road to the applicant for $50,000 plus GST.**

REPORT

BACKGROUND

The proposal to close and ultimately sell part of Argyle Street Mittagong was considered by Council at its meeting held on the 26 July 2017. Council resolved (*MN330/17*):

1. *THAT Council invite a formal Application for Road Closure from the applicant (being the owner of 6 Argyle Street, Mittagong adjoining the segment of Argyle Street Mittagong) AND THAT it be noted that all costs in relation to the closure and potential future sale of the road are to be paid for by the applicant.*

2. *THAT Council give a minimum twenty eight (28) days public notice of its intention to close a segment of the Council public road adjacent to 6 Argyle Street, Mittagong.*

3. *THAT following public notice of the proposed closure, Council make application to Department of Industry - Lands for the closure of the segment of Council public road adjacent to 6 Argyle Street, Mittagong.*

4. *THAT following public notice of the proposed closure, Council make a third party application to Department of Industry - Lands for the closure of part Argyle Street adjacent to 6 Argyle Street, Mittagong AND THAT if the Minister ultimately approves the closure of the road, the applicant is to consolidate the newly created lot following road closure with their adjoining property at their own cost and expense.*

5. *THAT the General Manager and Mayor be delegated authority to execute under the Common Seal of the Council any agreement, plan or real property dealing in respect of the closure and sale of the segment of road adjacent to 6 Argyle Street, Mittagong.*

A copy of the Council report is provided as **Attachment 1.**

The proposed road closure was placed on public exhibition for the required 28 days from the 15 November 2017 - 13 December 2017. There were three objections received during the public exhibition period.

A formal application was subsequently submitted to the NSW Department of Planning, Industry and Environment – Crown Lands (Crown Lands) with formal approval of the closure granted on 20 July 2018. This application provided details of the three objections Council received during the period of public exhibition.

Upon formal approval being granted by Crown Lands, surveys were undertaken to confirm the area of closure and the easements required for utilities within the area. This was undertaken in September 2018.

As the Plan of Road Closure, contained easements for utilities, the Plan was sent to each provider (Endeavour Energy & Jemena) for approval and execution. Endeavour attended to the signing of the required documents promptly; however, Jemena misplaced the Plan; therefore, formal execution of the required documentation has only recently taken place.

Due to delays with the execution of these documents, the application for road closure was not finalised with Crown Lands prior to changes to the *Roads Act 1993* being implemented on 1 July 2018. This meant the application was returned to Council for processing and finalisation.

In accordance with the changes to the *Roads Act 1993,* Council was required to amend its resolution in order to meet the requirements of the new processes involving the assessment of road closures by councils.

At its meeting held on the 13 February 2019, Council considered a report for the final approval of various road closures that were returned to Council following the changes to the *Roads Act 1993*. This report included the proposed closure of part-road Argyle Street, Mittagong. It was resolved as follows (*MN9/19)*:

1. *THAT pursuant to Part 4 Division 3 of the Roads Act 1993, Council as roads authority formally approve the partial road closures of:*
   - *Nicholson Street, Berrima;*
   - *Wilde Street, Wildes Meadow;*
   - *Siemens Street, Mittagong;*
   - *Argyle Street, Mittagong; and*
   - *Wilson Drive, Colo Vale*

   AND THAT it be noted that all costs in relation to the closures and future sales of the closed portions of road are to be paid for by the respective applicants.

2. *THAT following the closure and sale of the roads listed in Resolution 1 above, the applicants be required to consolidate the newly created lots (being the*

former segments of closed road) with the applicant's respective property at their own cost and expense within 12 months of the transfer of the new lots to the applicants.

3. *THAT the General Manager and Mayor be delegated authority to execute under the Common Seal of Council any agreements, plans or real property dealings in respect of the road closures and any future sales of the roads referred to in Resolution 1 above.*

4. *THAT with respect to Wilson Drive, Colo Vale, the newly created lot shall be classified as Operational Land, pursuant to the Local Government Act 1993.*

A copy of the Council report is provided as **Attachment 2.**

Council subsequently commissioned a valuation report from an independent and qualified valuer which valued the road at $62,500 + GST. This valuation was then used to submit a formal offer to the applicant for consideration on the 5 April 2019.

A copy of the letter is provided as **Attachment 3**.

In May 2019, the applicant contacted Council disputing the valuation, and advised that they had obtained separate valuation reports which were significantly lower than Council's valuation report. Council was provided with a copy of the valuation report on the 5 June 2019, valuing the area of closure at $9,500.

A second letter of offer was emailed to the applicant on the 18 July 2019, confirming Council's original offer of $62,500 + GST.

A copy of the letter is provided as **Attachment 4**.

In response to the letter of offer, the applicant requested a meeting with Council officers which took place on the 8 August 2019. This meeting was also attended by the applicant's representative, Lee Environmental Planning. Among other matters, this meeting outlined the applicant's concern regarding the costs already incurred in relation to the surveying of the site. Following this meeting a counter offer was submitted to Council by the applicant's representative of $35,000.

Based on the discussions held between the applicant and Council staff, Council subsequently reduced its offer to $50,000 + GST. This decision was made to take into consideration the survey costs incurred by the applicant for the Plan of Road Closure. A letter of offer was emailed to the applicant's representative on 9 September 2019.

A copy of the letter is provided as **Attachment 5**.

Since September 2019, there has continued to be a number of letters, emails and correspondence between Council and the applicant. Details of this correspondence is outlined as follows:

- 23 September 2019; Applicant was emailed details of GST payable as Council is registered for GST. This followed a phone conversation where the applicant requested this information.

- 6 November 2019; Email was received from the applicant outlining costs to date incurred and re-submitting their offer of $35,000.00 + GST.
- 9 December 2019; a fourth letter of offer was emailed to the applicant advising that the counter offer was considered however, Council offer remains at $50,000 + GST
- 31 January 2020; email received by the applicant requesting that Council explain their reasoning around the offer amount.
- 21 February 2020; a further letter outlining Council's position and again confirming the reduced offer of $50,000 + GST.
- 8 April 2020; last correspondence received from the applicant advising Council that they were unhappy with the letter received from Council dated 21 February 2020.
- 14 April 2020; email sent to applicant in response to email received 8 April 2020.

A copy of the letter dated 21 February 2020 is provided as **Attachment 6.**

REPORT

The subject road was created as part of the original subdivision of land in 1979. The road is formed and provides access to five residential properties. The section of road which is the subject of the road closure application is 3,065 sqm which has been confirmed by survey.

An aerial image of the proposed road Closure is provided as **Attachment 7.**

Councillors received correspondence via email from the applicant on the 16 June 2020.

At its meeting 22 July 2020 Council resolved the following (MN299/20):

1. *THAT Council staff bring back a report on this road closure as it was approved at a council meeting 26 July 2017.*

2. *THAT the Council report include all valuations and correspondence.*

The background section of this report and the attached correspondence outlines the history of this matter since Council first approved the road closure in July 2017.

Council officers have taken a strong position with respect to the formal offer made to the applicant for the following reasons:

Valuation Amount

Council commissioned an independent valuation report for the proposed sale of the road. The valuation report based market value on a rate per square metre. This resulted in a valuation of $62,500.

To be confident that the valuation report was consistent with Crown Land road valuation techniques, Council officers applied the same method as Crown Lands would if it were an unformed road that would ultimately vest in the Crown upon closure. This calculation came to $64,488. This provided sufficient reason to maintain the offer of $50,000.

The applicant has also commissioned valuation reports which were circulated to Councillors via email on the 16 June 2020.

The applicant has consistently stated that the road is a liability to Council. Council officers have consistently rejected this and stated that it is a community asset, and any sale should result in a fair return.

Review process

When meeting with the applicant and their representative in August 2019, Council officers recognised that significant costs had been incurred by the applicant in relation to application fees and surveying. It is important to note that the applicant was aware of these costs and confirmed (verbally by telephone) with Council staff to proceed with the survey on the 27 July 2018.

After the meeting with the applicant in August 2019, the matter was then subsequently subject to an internal review by the Deputy General Manager Operations, Finance & Risk who approved a reduction in the formal offer price to $50,000 + GST.

The applicant is now seeking formal intervention from Council to obtain a sale price of $10,000 + GST.

It is important to note that Council is not compelling the applicant to acquire the part-road and should the applicant not be satisfied with the formal offer presented, there is no obligation to proceed with the transaction.

In summary, Council officers have strictly adhered to the formal resolutions of Council from the 26 July 2017 and the 13 February 2019 and remain of the opinion that the formal offer made for the sale of the part-road of $50,000 plus GST represents a fair valuation for the sale of a community asset based on its future use.

COMMUNICATION AND CONSULTATION

Community Engagement

None required. Public exhibition has occurred as part of the road closure process in accordance with the *Roads Act 1993.*

Internal Communication and Consultation

Executive

External Communication and Consultation

None required.

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**

There processes undertaken as part of the part-road closure has complied with relevant legislation and guidelines.

COUNCIL BUDGET IMPLICATIONS

As stated in the reports submitted to Council on the 26 July 2017 and 13 February 2019; as the segment of road is constructed, the title to the newly created lot will vest in Council upon closure of the road.

RELATED COUNCIL POLICY

None identified.

CONCLUSION

This report responds to the Notice of Motion resolved by Council at its meeting 22 July 2020.

In summary, Council officers have strictly adhered to the formal resolutions of Council from the 26 July 2017 and the 13 February 2019 and remain of the opinion that the formal offer made for the sale of the part-road represents a fair valuation for the sale of a community asset based on its future use.

ATTACHMENTS

1. Attachment 1 - Council report 26 July 2017
2. Attachment 2 - Council report 13 February 2019
3. Attachment 3 - letter dated 5 April 2019
4. Attachment 4 - Letter datef 18 July 2019
5. Attachment 5 - Letter dated 9 September 2019
6. Attachment 6 - Letter dated 21 February 2020
7. Attachment 7 - Aerial Map

Richard Mooney
Acting Deputy General Manager Operations, Finance and Risk

Wednesday 5 August 2020

12.6 Proposed Closure and Sale of Part Argyle Street, Adjacent to 6 Argyle Street, Mittagong

Reference: PN43000, RD3111
Report Author: Property and Projects Officer
Authoriser: Coordinator Property Services
Link to Delivery Program: 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 seek Council approval to invite an application to close part of the road known as Argyle Street Mittagong, adjacent to 6 Argyle Street, Mittagong.

RECOMMENDATION

1. **THAT Council invite a formal Application for Road Closure from the applicant (being the owner of 6 Argyle Street, Mittagong adjoining the segment of Argyle Street Mittagong) AND THAT it be noted that all costs in relation to the closure and potential future sale of the road are to be paid for by the applicant.**

2. **THAT Council give a minimum twenty eight (28) days public notice of its intention to close a segment of the Council public road adjacent to 6 Argyle Street, Mittagong.**

3. **THAT following public notice of the proposed closure, Council make application to Department of Industry - Lands for the closure of the segment of Council public road adjacent to 6 Argyle Street, Mittagong.**

4. **THAT following public notice of the proposed closure, Council make a third party application to Department of Industry - Lands for the closure of part Argyle Street adjacent to 6 Argyle Street, Mittagong AND THAT if the Minister ultimately approves the closure of the road, the applicant is to consolidate the newly created lot following road closure with their adjoining property at their own cost and expense.**

5. **THAT the General Manager and Mayor be delegated authority to execute under the Common Seal of the Council any agreement, plan or real property dealing in respect of the closure and sale of the segment of road adjacent to 6 Argyle Street, Mittagong.**

REPORT

BACKGROUND

Argyle Street was created as part of the original subdivision of land in 1979. The road is a formed road allowing access to five residential properties. Council has received a request from the property owners of 6 Argyle Street, Mittagong to consider the potential future closure and sale of the road segment adjoining their property.

Council approval is sought to invite an application for a partial road closure from the applicant, being the adjoining owner of 6 Argyle Street, Mittagong. The segment of road subject to the application for closure and sale is adjacent to 6 Argyle Street, Mittagong, being the last property with access from Argyle Street. There would be no impact on access to neighbouring properties.

In-principle, Council officers support the partial closure of the road adjoining 6 Argyle Street, Mittagong and its subsequent sale to the adjoining owner/applicant.

Following the necessary advertising and public notice, Council will be required to submit a third party application to the Crown, noting that it is the Crown (Department of Industry - Lands) that makes the ultimate decision as to whether the application for road closure will be approved.

If the closure of the part of the road proceeds, a new title will be created. The newly created lot (being the segment of closed formed road) will vest in Council as operational land for disposal to the adjoining owner. A valuation will be obtained by Council at this time to assess market value; the valuation will determine the sale price. A condition will be included in the Contract for Sale of Land that the purchaser is required to be consolidated with their property at their own cost and expense within 12 months of the date of settlement of the sale.

IMPACT ON COUNCIL'S FIT FOR THE FUTURE IMPROVEMENT PLAN

None identified.

CONSULTATION

Community Engagement

Following Council endorsement, public notice of the intention to close part of the unformed road will be advertised for a minimum twenty eight (28) days.

Internal Consultation

Assets & Capital Projects

Infrastructure Services

External Consultation

Adjoining Owner/Applicant

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 request for closure and sale of a road must be reported to Council and the application to the Crown endorsed.

COUNCIL BUDGET IMPLICATIONS

The adjoining owner/applicant is responsible for the payment of all fees and charges in relation to the process involving the Application for Road Closure. Fees will include an initial application fee to Council for road closure, along with surveying, valuation fees and registration fees.

As the segment of road proposed to be closed is constructed, the title to the newly created lot will vest in Council upon closure of the road. At this time Council will seek a valuation to assess market value. The valuation will form the basis of the sale of the newly created lot to the adjoining owner. In accordance with Section 43(4) of the *Roads Act 1993,* the proceeds of sale of the land will on be used carrying out road work on public roads.

Once a valuation has been determined and payment from the owner has been received, this income will be included as part of a future quarterly budget review, with the funds allocated specifically to an appropriate road related activity.

RELATED COUNCIL POLICY

None identified.

CONCLUSION

It is recommended that Council provide in-principle support to this proposal and that the adjoining owner be invited to submit an application for road closure.

ATTACHMENTS

1. Aerial Map

AGENDA FOR THE ORDINARY MEETING OF COUNCIL
Wednesday 13 February 2019
REPORT DEPUTY GENERAL MANAGER OPERATIONS, FINANCE AND RISK

12.4 Final Approval of various Road Closures

Reference:	**RD 4711**
Report Author:	**Property and Projects Officer**
Authoriser:	**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 obtain formal approval of Council in relation to the applications to close the following unformed roads within the Shire:

- Part of unformed segment of Nicholson Street, Berrima, adjacent to 3443 Old Hume Highway, Berrima.
- Part Wilde Street, Wildes Meadow.
- Part Siemens Street, Mittagong adjacent to 16 Siemens Street, Mittagong.
- Part Argyle Street, Mittagong adjacent to 6 Argyle Street, Mittagong.
- Part Wilson Drive, Colo Vale being the site of the new Colo Vale Rural Fire Service.

RECOMMENDATION

1. **THAT pursuant to Part 4 Division 3 of the Roads Act 1993, Council as roads authority formally approve the partial road closures of:**
   - **Nicholson Street, Berrima;**
   - **Wilde Street, Wildes Meadow;**
   - **Siemens Street, Mittagong;**
   - **Argyle Street, Mittagong; and**
   - **Wilson Drive, Colo Vale**

   AND THAT it be noted that all costs in relation to the closures and future sales of the closed portions of road are to be paid for by the respective applicants.

2. **THAT following the closure and sale of the roads listed in Resolution 1 above, the applicants be required to consolidate the newly created lots (being the former segments of closed road) with the applicant's respective property at their own cost and expense within 12 months of the transfer of the new lots to the applicants.**

3. **THAT the General Manager and Mayor be delegated authority to execute under the Common Seal of Council any agreements, plans or real property dealings in respect of the road closures and any future sales of the roads referred to in Resolution 1 above.**

4. **THAT with respect to Wilson Drive, Colo Vale, the newly created lot shall be classified as Operational Land, pursuant to the *Local Government Act 1993*.**

REPORT

BACKGROUND

As a result of recent legislative changes, councils have been delegated the power to officially close council public roads. Previously, while Council may have given in-principle support to a road closure, the formal (official) approval was granted by the Minister for Lands. Set out below is a brief summary of each of the road closures previously given the in-principle approval of Council, which are now proposed for formal approval for closure by Council:

Nicholson Street, Mittagong
A report was considered by Council on 12 April 2017 to invite an application to close part of Nicholson Street, Berrima adjoining 3415 Old Hume Highway, Berrima. In-principle support was given by Council for the closure. Subsequently the proposed road closure was notified and advertised.

Wilde Street, Wildes Meadow
A report was considered by Council on 25 February, 2015 to invite an application to close part of the road known as Wilde Street, Wildes Meadow. In-principle support was given by Council at that time for the closure and the proposed road closure was then subsequently notified and advertised.

Siemens Street, Mittagong
A report was considered by Council on 26 October, 2016 to invite an application to close part of Siemens Street, Mittagong adjoining 16 Siemens Street, Bowral. In-principle support was given by Council for the closure and the proposed road closure was notified and advertised.

A summary findings report was prepared and submitted to the Crown (Minister for Lands). The consent of the Crown was given however new legislation was introduced and the application could not be finalised prior to commencement of the new legislation. This resulted in the application for road closure being returned to Council for re-advertising and the formal approval for closure by Council.

Argyle Street, Mittagong
A report was considered by Council on 26 July, 2017 to invite an application to close part of Argyle Street, Mittagong adjoining 6 Argyle Street, Mittagong. In-principle support was given by Council for the closure and the proposed road closure was notified and advertised.

A summary findings report was prepared and submitted to the Crown (Minister for Lands). The consent of the Crown was given however new legislation was introduced and the application could not be finalised prior to commencement of the new legislation. This resulted in the application for road closure being returned to Council for re-advertising and the formal approval for closure by Council.

Wilson Drive, Colo Vale

A report was considered by Council on 26 July, 2017 to invite an application to close part of Wilson Drive, Colo Vale. Council was the applicant in respect of this road closure, on behalf of New South Wales Rural Fire Service In-principle support was given by Council at that time for the closure and the proposed road closure was notified and advertised accordingly.

A summary findings report was prepared and submitted to the Crown (Minister for Lands). The approval of the Minister was given however, with the introduction of the new legislation, the closure could not be finalised prior to commencement of the new legislation. This resulted in the application for road closure being returned to Council for re-advertising and the formal approval for closure by Council.

REPORT

This report includes 4 proposed road closures by applicants being the owners of the respective adjoining properties.

In respect of each of the road closures, Council officers have undertaken the following procedures in accordance with legislative requirements:

- A temporary public notice was erected within the area of the unformed road to be closed which remained in place for 28 days.
- The proposed road closures were advertised in the Southern Highlands News for 4 consecutive weeks allowing a period of 28 days for submissions to be received.
- The proposed road closures were also advertised on Council's websites and on Council's notices boards in the Civic Centre and at all Council's libraries.
- The notifiable authorities (including various government departments and authorities) were given notice in writing of the proposed road closures.
- Neighbour notifications were sent to other residents in the vicinity of the proposed portion of road to be closed.

In respect of each of the road closures reported below, a summary of the findings (which usually would have been submitted to the Minister, for formal approval of a road closure) is submitted to Council for information in the form of the listed attachments to this report.

Part Nicholson Street Berrima

The owners of 3443 Old Hume Highway Berrima submitted their application to Council to close a portion of the unformed Nicholson Street, Berrima, directly adjoining their property.

The area of road proposed to be closed is shown in **Attachment 1** to this report.

One objection was received from a resident that lives in Burwan Street, in the vicinity of the road:

Comment	Officer Response
Berrima is losing wild life corridors in the area, reducing habitat for wildlife.	The application for road closure was referred to all relevant branches for review and comment including Environment & Sustainability. No objection was received to the proposal.

I live in Burwan Street. Already half of this road has been sold, reducing access in the event of a fire or emergency. I note Stockade Street access to Oldbury Road has also been sold – again reducing entry/exit points for residents in this vicinity.	The application for this specific road closure is for part of an unformed road off the Old Hume Highway. No other adjoining property owners are impacted by the closure as the unformed road does not adjoin other properties.
Paper roads also provide green space and corridors for people. Selling off this remaining portion of this road, reduces the amenity of this area for residents and the community.	The application for this specific road closure is for part of an unformed road off the Old Hume Highway. No other adjoining property owners are impacted by the closure as the unformed road does not adjoin other properties.
I understand that the owner is planning to operate Air B&B type accommodation from this property an unmade road should not be sold to benefit the business operations of one owner eg. improving access for Air B&B".	Council is not aware of any future plans of the applicant for the use of the property. As is the case, any future application for development would need to be determined on its merits by Council as consent authority.

No objections have been received from notifiable authorities.

A summary of the findings in respect of this road closure is attached to this report (**Attachment 2**).

Wilde Street, Wildes Meadow

The applicants in respect of this application applied to Council for the portion of Wildes Street, Wildes Meadow, directly adjoining their properties.

The area of road proposed to be closed is shown in **Attachment 3** to this report.

No objections were received from any adjoining residents. The only submission received from notifiable authorities was to ensure easements were granted upon closure for any services located on the area of road to be closed; the necessary easements are agreed to be included in the plan of road closure.

A summary of the findings in respect of this road closure is submitted to Council as **Attachment 4**.

Siemens Street, Mittagong

The owners of 16 Siemens Street, Mittagong have submitted their application to Council to close the portion of Siemens Street, Mittagong, directly adjoining their property.

The area of road proposed to be closed is shown in **Attachment 5** to this report.

No objections were received from any adjoining residents. The only submission received from notifiable authorities was to ensure easements were granted upon closure for any services located on the area of road to be closed.

A summary of the findings in respect of this road closure is submitted to Council as **Attachment 6**.

Argyle Street, Mittagong

The owners of 6 Argyle Street, Mittagong have submitted their application to Council to close the portion of Siemens Street, Mittagong, directly adjoining their property.

The area of road proposed to be closed is shown in **Attachment 7** to this report.

When the proposed road closure was initially advertised, three objections were received:

Comment	Officer Response
Short sighted of Council to sell the section, as future Council's may agree to more development along the street and access to Old South Road would be a good option if travelling to Sydney and Bowral.	Access to Old South Road from Mary Street is already provided via Range Road. Council is not aware of any future plans to change the zoning or further develop the area of Argyle Street. This objection was previously submitted to the Crown and approval of the Crown given to the road closure application. The person making the submission was advised of the Crown's decision and no further submission was received during the second period of public exhibition undertaken by Council.
It is inappropriate for the road to be closed and sold to only one adjoining land owner because that will enable that adjoining lot owner to own the road and utilise it exclusively. Request easement in favour of all adjoining land owners.	The applicant is the last property on the formed section of the road and the only resident to utilise the section of road proposed to be closed. The adjoining owner accesses their property from a different road and has abundant access options from two roads bounding their property. Closure of this small section of road will have no impact on access to adjoining properties. This objection was previously submitted to the Crown and approval of the Crown given to the road closure application. The person making the submission was advised of the Crown's decision and no further submission was received during the second period of public exhibition undertaken by Council.

Comment	Officer Response
Prohibit future access to Old South Road. With the current one acre zoning in Mary Street and the possible future development of the Argyle Street area, completion of the construction of Argyle Street would connect Mary Street to Old South Road making it beneficial to all road users whether heading to Sydney, Moss Vale or coastal areas.	Access to Old South Road from Mary Street is already provided via Range Road. Council is not aware of any future plans to develop Argyle Street. This objection was previously submitted to the Crown and approval of the Crown given to the road closure application. The person making the submission was advised of the Crown's decision and no further submission was received during the second period of public exhibition undertaken by Council.

Submissions were also received from notifiable authorities to ensure easements were granted upon closure for any services located on the area of road to be closed.

No objections to the road closure were received during the second advertising period.

A summary of the findings in respect of this road closure is submitted to Council as **Attachment 8**.

Wilson Drive, Colo Vale

Council has submitted an application to close a portion of Wilson Drive, Colo Vale, being the site of the new Rural Fire Service premises.

The area of road proposed to be closed is shown in **Attachment 9** to this report.

No objections were received from any adjoining residents or notifiable authorities.

A summary of the findings in respect of this road closure is submitted to Council as **Attachment 10**.

IMPACT ON COUNCIL'S FIT FOR THE FUTURE IMPROVEMENT PLAN

None identified.

COMMUNICATION AND CONSULTATION

Community Engagement

Public notice of the intention to close part of the unformed road(s) has been advertised for the minimum twenty eight (28) days. Public notice was also directly sent to property owners in the vicinity of the unformed road.

Internal Communication and Consultation

The relevant Council officers were consulted and invited to comment in relation to the closure and sale of the unformed road. There were no objections from Council officers.

External Communication and Consultation

Adjoining owners/applicants

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**

There are no governance issues in relation to this report.

COUNCIL BUDGET IMPLICATIONS

The applicants are responsible for the payment of all fees and charges in relation to the road closures.

The formed roads will vest in Council (i.e. Siemen Street, Argyle Street and Wilde Street) for sale to relevant applicants. As Nicholson Street, Berrima is unformed; it will vest in the Crown when closed. The sale prices will be determined by valuation and, if agreed between the Council/Crown and the applicant, the proceeds will be paid to Council and Crown respectively. Wilson Drive, Colo Vale will remain vested in Council as operational land.

RELATED COUNCIL POLICY

None

CONCLUSION

It is recommended that Council resolve to formally approve the road closures pursuant to the authority delegated to it under Part 4 Division 3 of the *Roads Act 1993* as amended.

This report also recommends that, following registration of a Plan of Road Closure, the applicants be required to consolidate the newly created lot into their own property within 12 months of transfer. Authority is recommended to be delegated to the General Manager and Mayor to execute any documentation required, under the Common Seal if required, to give effect to the resolutions of Council.

ATTACHMENTS

1. 12.3 Attachment 1 - aerial map Nicholson Street Berrima
2. 12.3 Attachment 2 - report and statement Nicholson Street, Berrima
3. 12.3 Attachment 3 - aerial map Wilde Street Wildes Meadow
4. 12.3 Attachment 4 - report and statement Wilde Street, Wildes Meadow
5. 12.3 Attachment 5 - aerial map Siemens Street Mittagong
6. 12.3 Attachment 6 - Report and statement Siemens Street, Mittagong
7. 12.3 Attachment 7 - aerial map of Argyle Street, Mittagong
8. 12.3 Attachment 8 - report and statement Argyle Street, Mittagong
9. 12.3 Attachment 9 - aerial map Wilson Drive, Colo Vale
10. 12.3 Attachment 10 - report and statement Wilson Drive, Colo Vale

Wingecarribee - A Coal Mining Free Shire

Our Ref: PD 3111, PN 43000
Contact: I

5 April 2019

Dear Mr

Re: Road Closure and Sale – Part Road Reserve, Argyle Street, Mittagong

We refer to previous communications in relation to the above matter.

We confirm that the plan is with Jemena for approval. Once the plan has been returned, Council will execute the documents and send the plan and supporting documentation to Land registry Services for registration. Whilst the plan is being processed, we can now negotiate the sale of the part road reserve to you.

We have received a valuation for the portion of road reserve to be closed and enclose a copy for your information.

Please confirm below that you would now like to proceed with the purchase of the land for the sum of $62,500.00. Once we receive your confirmation in writing, and the plan is registered, we will prepare a contract for sale for signature by you.

In the meantime, if you have any questions or require any further information, please do not hesitate to contact me. My email is n s@wsc.nsw.gov.au and my telephone number is

Yours sincerely

Property & Projects Officers

We, P of confirm as follows:

☐ I wish to proceed with the above purchase for the sum of sixty-two thousand five hundred dollars ($62,500.00).

Comments:

Signed: _____

Date: _____

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

www.wsc.nsw.gov.au

Working with you

Wingecarribee - A Coal Mining Free Shire

Our Ref: RD 3111, PN 43000
Contact:

18 July 2019

Dear

Re: Road Closure and Sale – Part Road Reserve, Argyle Street, Mittagong

Thank you for providing a copy of the valuation report prepared by Frank Knight dated 29 May 2019.

Council stands by its valuation and previous offer to sell part Argyle Street, Mittagong to you for the sum of sixty two thousand five hundred dollars plus GST ($62,500.00 + GST).

Council has determined this price after obtaining an independent valuation report which considers the benefit and value it would provide to your property upon consolidation. Council's valuation has also taken into consideration the location and area involved (over 3,000m2).

As such, Council maintains that its initial offer is fair and reasonable.

I acknowledge your concerns relating to unwarranted access to your property. I would recommend that if you do not wish to proceed with the road closure and purchase, that a fence be erected on the boundary to your land with gated access to your property. This would restrict access to your property from the road reserve.

If you would like to proceed with the road closure and purchase, please sign and return the attached consent. Council will then prepare a contract of sale which will be sent to you for review and consideration, once the plan of road closure has been registered.

In the meantime, if you have any questions or require any further information, please do not hesitate to contact on @wsc.nsw.gov.au or by telephone number,

Yours sincerely

Richard Mooney
Chief Financial Officer

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

Working with you

We, of confirm as follows:

☐ I wish to proceed with the above purchase for the sum of sixty-two thousand five hundred dollars plus GST($62,500.00 + GST).

Comments:

_____

_____

_____

Signed: _____

Date: _____

Wingecarribee - A Coal Mining Free Shire

Our Ref: RD 3111, PN 43000
Contact:

9 September 2019

Dear

Re: Road Closure and Sale – Part Road Reserve, Argyle Street, Mittagong

Thank you for your letter dated 8 August 2019 outlining your client's further consideration of Council's offer of sale that was subsequently discussed at the meeting held at Council on 6 August 2019.

Council acknowledges your client's position and has taken into consideration the survey costs which have been incurred in relation to the road closure.

Accordingly, we will agree to reduce the sale price to fifty thousand dollars ($50,000) plus GST.

If your client would like to proceed with the road closure and purchase, please have them sign and return the attached consent. Council will then prepare a contract of sale which will be sent to your client's for review and consideration, once the plan of road closure has been registered.

If you have any questions or require any further information, please do not hesitate to contact on s@wsc.nsw.gov.au or by telephone number,

Yours sincerely

Richard Mooney
Chief Financial Officer

Civic Centre, Elizabeth St, Moss Vale, NSW 2577. PO Box 141, Moss Vale. **t. (02) 4868 0888**
e. mail@wsc.nsw.gov.au ABN 49 546 344 354
www.wsc.nsw.gov.au

Working with you

Wingecarribee - A Coal Mining Free Shire

Our Ref: RD 3111 PN 43000
Contact:

21 February 2020

Dear

Re: Road Closure and Sale – Part Road Reserve, Argyle Street, Mittagong

Thank you for your email dated 31 January 2020. In relation to the points raised in your email, I have provided the following responses below:

- I note your comment that you have recently spent approximately $5,000 "having the dirt road repaired". The invoice you have sent through refers to "works on driveway". I understand your private driveway is significantly longer than the area of unformed road and that no evidence has been provided to show the location of the works that have been undertaken. Irrespective of the location of the works; no approval was sought to undertake any works on Council property.

- Council does not consider it necessary to obtain a third valuation. Your valuer's comments were referred to Council's valuer for comment. The advice from Council's valuer was that they stood by their valuation as prepared. This would appear to be a difference of opinions between valuers, something that is not unusual.

- As previously advised, Council also approached the Department of Crown Land regarding their methodology for valuing closed road. It was confirmed that the value of road is generally calculated on the square metre rate of the land adjoining the road that is being closed.

  In this case, your land valuation of $966,000 (2017) for 45,910 sqm, equates to $21.04 sqm. The area of closed road in question is 3,065 sqm, confirmed by survey. Accordingly, the value for the portion of closed road, based on the adjoining land valuation (and methodology used by the Crown) is $64,487.60.

- In relation to your comments regarding the easements, we note that the infrastructure is already in place and nothing will change in relation to the land.

- The assumption that the unformed road is of no value to any other party is incorrect. If left open, the potential to create an alternate access route to Old South Road (if required) would remain a future option for Council. Alternatively, there would also be options for public walking trails etc around the perimeter of the town of Mittagong, something that has been raised as desirable in the past.

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

Working with you

- Council has already agreed to reduce the sale price by $12,500.00. As previously advised, if you do not wish to proceed with the purchase, the road will remain in Council's ownership. This matter should be treated like any transaction between a vendor and purchaser. If the vendor and purchaser cannot agree on price then neither party is obliged to continue with the sale/purchase.

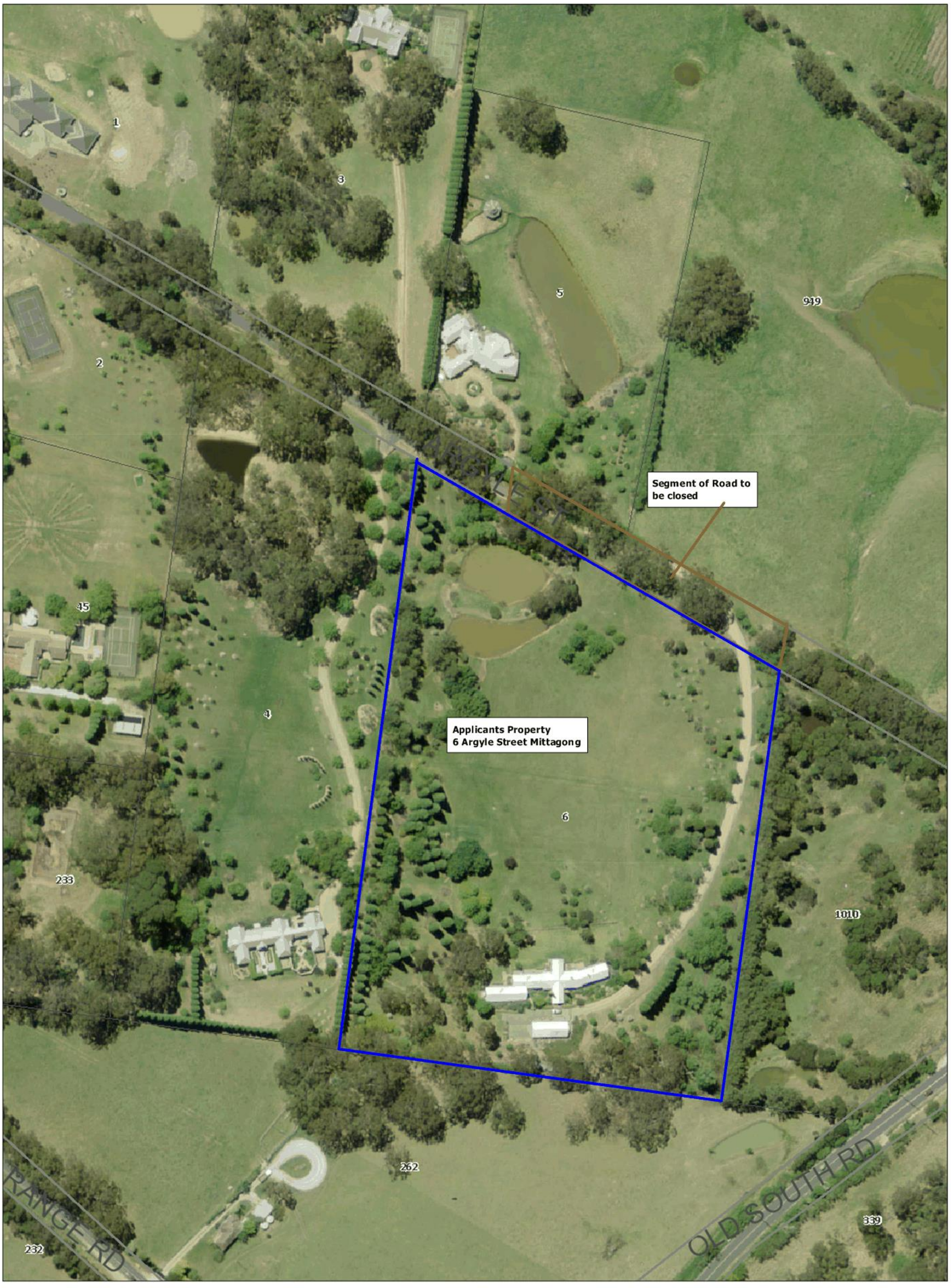
- When the initial road closure enquiry was made and the road closure application submitted, you were advised that you would be responsible for the road closure fees, costs associated with the road closure and payment of compensation for the sale of the area of closed road to you.

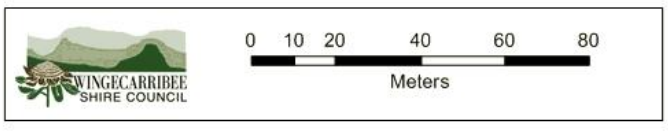
Council reiterates its previous offer to sell to you for $50,000 + GST.

If you have any questions or require any further information, please contact on [redacted]@wsc.nsw.gov.au or by telephone number, [redacted].

Yours sincerely

Richard Mooney
Chief Financial Officer





Wingecarribee Shire Council

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12 CORPORATE STRATEGY AND DEVELOPMENT SERVICES

12.1 Development Applications Determined from 23 June 2020 to 26 July 2020

Reference: 5302
Report Author: Team Leader Business Support
Authoriser: Group Manager Planning, Development and Regulatory Services
Link to Community Strategic Plan: Promote building practices and the types of developments that improve resource efficiency

PURPOSE

The purpose of this report is to update Councillors on Development Applications Determined for the period 23 June 2020 to 26 July 2020.

RECOMMENDATION

THAT the information relating to the lists of Development Applications Determined for the period 23 June 2020 to 26 July 2020 be received and noted.

APPROVED APPLICATIONS BY DATE RANGE
Date Range: 23 June 2020 to 26 July 2020

*****Denotes an application for a property that has been affected by the Green Wattle Creek or Morton Bushfires.***

	Application ID	Primary Property	Owner	Description	Date Lodged	Days Stopped	Assess Days	Total Days	Date Finalised
1	20/1365	878 Old Hume Highway Alpine NSW 2575 Lot 4 DP 717730	A Targa, K Targa	Residential Alterations and Additions (Awnings)	02/06/2020	0	43	43	16/07/2020
2	20/1408 **	233 Railway Parade Balmoral NSW 2571 Lot 1 DP 808623	Life Eternal Properties Pty Ltd	Residential Alterations and Additions (Shed)	11/06/2020	15	19	34	15/07/2020
3	20/0725	3199 Old Hume Highway Berrima NSW 2577 Lot 3 DP 619232	Champion Assets Pty Ltd	Residential Alterations and Additions (Extensions, Internal Alterations)	16/12/2019	39	172	211	14/07/2020
4	20/1077	36 Oxley Street Berrima NSW 2577 Lot 5 Sec 37 DP 758098	IC Bradley, AM Bradley	Dwelling House, Retaining Walls & Tree Removal	23/03/2020	16	85	101	02/07/2020

	Application ID	Primary Property	Owner	Description	Date Lodged	Days Stopped	Assess Days	Total Days	Date Finalised
5	20/1163	Pimpinna 2 Odessa Street Berrima NSW 2577 Lot 186 DP 751252 Lot 187 DP 751252 Lot 201 DP 751252	JE Porter	Residential Alterations and Additions (Shed)	21/04/2020	0	62	62	23/06/2020
6	16/0895.04	12 Gibraltar Road Bowral NSW 2576 Lot 115 DP 15496	TA Jones, AB Jones	Section 4.55 Modification (Extensions)	20/05/2020	20	34	54	14/07/2020
7	20/0197	3 Duke Street Bowral NSW 2576 Lot 1 DP 1037922	RA Johnston, NW Johnston	Residential Alterations and Additions (Studio)	19/08/2019	295	22	317	02/07/2020
8	20/0385.05	20 Sir James Fairfax Circuit Bowral NSW 2576 Lot 431 DP 1248107	L Flocco, C Flocco	Section 4.55 Modification (Amend Conditions pertaining to Construction Certificate, Smoke Alarms & Lighting)	24/06/2020	0	3	3	26/06/2020
9	20/0609	93-95 Kirkham Road Bowral NSW 2576 Lot 15 DP 846332	CA Robson	Continued Use - Information and Education Facility (Extend Approved Hours of Operation)	18/11/2019	0	218	218	Approved By Council 24/06/2020
10	20/0650.07	6 Ayrshire Parade Bowral NSW 2576 Lot 103 DP 1231974	Bazdaric Superannuation Pty Limited	Section 4.55 Modification (Retaining Wall)	08/04/2020	80	16	96	14/07/2020
11	20/0720.01	40 Sir James Fairfax Circuit Bowral NSW 2576 Lot 210 DP 1239600	Samulski Holdings Pty Ltd	Subdivision (2 Lots) and Dual Occupancy (Detached)	16/03/2020	0	115	115	Approved By Council 08/07/2020
12	20/0736	16 William Street Bowral NSW 2576 Lot 19 DP 848385	K Kinross	Secondary Dwelling	18/12/2019	66	133	199	06/07/2020
13	20/1040	65a Bendooley Street Bowral NSW 2576 Lot 2 DP 211068	ME Zink, A Zink	Residential Alterations and Additions (Extensions)	13/03/2020	0	114	114	05/07/2020
14	20/1151	6 Myrtle Street Bowral NSW 2576 Lot C DP 157898	C Toll	Residential Alterations and Additions (Garage and Swimming Pool)	20/04/2020	6	65	71	01/07/2020
15	20/1283	16a Hopewood Road Bowral NSW 2576 Lot 8 DP 1015455	EME Adams, LM Adams	Residential Alterations and Additions (Extensions)	15/05/2020	0	50	50	Approved by Council 08/07/2020

	Application ID	Primary Property	Owner	Description	Date Lodged	Days Stopped	Assess Days	Total Days	Date Finalised
16	20/1395	4 Hammock Hill Rise Bowral NSW 2576 Lot 3 DP 866971	A Bassett, S Bassett	Residential Alterations and Additions (Shed)	09/06/2020	0	26	26	06/07/2020
17	20/1438	7 Tynedale Crescent Bowral NSW 2576 Lot 2 DP 708744	P Bartlett, ACM Furrer	Residential Alterations and Additions (Extensions, Studio and Carport)	16/06/2020	0	31	31	17/07/2020
18	12/1057.01	65-69 Shepherd Street Bowral NSW 2576 Lots 1-2 & 9-10 Sec H DP 979526 & Lot 34 DP1105528	CC Creswick	Section 4.55 Modification (Boundary Adjustment)	18/05/2020	22	30	52	10/07/2020
19	20/1017	14 Pikkat Drive Braemar NSW 2575 Lot 85 DP 1253750	G Liesert, AM Liesert	Construct New Industrial Building for use as Warehouse and Distribution Centre for Automotive Parts	09/03/2020	0	105	105	23/06/2020
20	17/1101.06	4 Burgess Street Bundanoon NSW 2578 Lot 24 Sec 1 DP 1307	LA Hines, JC Hines	Section 4.55 Modification (Replace fixed window louvres with privacy film. Alter boundary fences from hardwood to colorbond)	12/05/2020	0	64	64	16/07/2020
21	20/0578	Respite House - Quest For Life 13-33 Ellsmore Road Bundanoon NSW 2578 Lot 8 DP 833392	Quest For Life Foundation	Commercial Alterations and Additions (Extensions)	12/11/2019	209	22	231	Deferred Commencement 29/06/2020
22	20/1038	2 Rochester Drive Bundanoon NSW 2578 Lot 1 DP 1220012	MC O'Leary	Dwelling House	13/03/2020	0	102	102	23/06/2020
23	20/1228	7 Penola Street Bundanoon NSW 2578 Lot 27 DP 831816	DE LE Cheminant	Residential Alterations and Additions (Shed/Workshop)	04/05/2020	0	51	51	24/06/2020
24	20/1266	1 Idolwood Ridge Bundanoon NSW 2578 Lot 1 DP 1219744	C Economos, B Gilroy	Dwelling House	12/05/2020	32	31	63	15/07/2020
25	20/1502 **	6 Evelyn Avenue Bundanoon NSW 2578 Lot 7 DP 877525	Dl Sawatzky, J Hutchinson	Dwelling House	29/06/2020	0	13	13	13/07/2020

	Application ID	Primary Property	Owner	Description	Date Lodged	Days Stopped	Assess Days	Total Days	Date Finalised
26	21/0034	1 Idolwood Ridge Bundanoon NSW 2578 Lot 1 DP 1219744	CE Economos, BK Gilroy	Residential Alterations and Additions (Garage)	06/07/2020	0	9	9	16/07/2020
27	20/0638	Sunnyfields 49B Sunninghill Avenue Burradoo NSW 2576 Lot 2 DP 1051615	MD Garrett, R Garrett	Subdivision (2 Lots)	26/11/2019	169	52	221	06/07/2020
28	20/1187	17 Toongoon Road Burradoo NSW 2576 Lot 51 DP 13057	JW Vorst	Dwelling House, Retaining Walls & Swimming Pool	27/04/2020	0	70	70	06/07/2020
29	20/1456	59 Sunninghill Avenue Burradoo NSW 2576 Lot 13 DP 525306	J Green	Demolish Existing Dwelling & Outbuildings and Decommission Septic System	19/06/2020	0	6	6	25/06/2020
30	20/1049.05	10 Waratah Place Colo Vale NSW 2575 Lot 4 DP 786789	LG Tinson, AK Tinson	Section 4.55 Modification (Install Shower in Shed)	27/05/2020	0	28	28	24/06/2020
31	20/0672	28-30 Ringwood Road Exeter NSW 2579 Lot 1 DP 13527 Lot 2 DP 13527	BE Barwell	Dual Occupancy (Detached), Residential Alterations and Additions to Existing Dwelling (Extensions)	02/12/2019	186	17	203	23/06/2020
32	20/1082	530 Redhills Road Fitzroy Falls NSW 2577 Lot 1 DP 1162070	IA Clubb, KE Clubb	Dwelling House & Retaining Walls	23/03/2020	26	68	94	26/06/2020
33	20/1224	120 George Emery Lane Glenquarry NSW 2576 Lot 3 DP 1134160 Lot 2 DP 1238484 Lot 1 DP 1238484	S Kean	Dwelling House, Secondary Dwelling, Residential Alterations & Additions - Shed, Swimming Pool	04/05/2020	45	24	69	14/07/2020
34	20/1110	55 Telopea Road Hill Top NSW 2575 Lots 165 & 168 DP 751267 Cl 40/1	T Franke, PM Franke	Dwelling House	06/04/2020	0	91	91	07/07/2020
35	20/1327	121 Hawthorne Lane Kangaloon NSW 2576 Lot 1 DP 1127157	Smedley Investments (NSW) Pty Limited	Residential Alterations and Additions (Extensions)	25/05/2020	0	51	51	15/07/2020
36	20/1374	480 Medway Road Medway NSW 2577 Lot 12 Sec 10 DP 758665	MA Stephenson J Whalan	Residential Alterations and Additions (Shed)	03/06/2020	0	22	22	26/06/2020

	Application ID	Primary Property	Owner	Description	Date Lodged	Days Stopped	Assess Days	Total Days	Date Finalised
37	20/0290.01	5 Bong Bong Road Mittagong NSW 2575 Lot 1 DP 568204	MA Traill, CA Traill-John	Section 4.55 Modification (Boundary Adjustment)	19/12/2019	0	200	200	06/07/2020
38	20/0748	Hockey Pitch & Tennis, Netball Courts 101 Range Road Mittagong NSW 2575 Lot 1 DP 826387	Winifred West Schools Ltd	School (Indoor Sports Hall)	20/12/2019	94	109	203	10/07/2020
39	20/1124	129-131 Bong Bong Road Mittagong NSW 2575 Lot 1 DP 846419	MC Friend, LR Friend	Residential Alterations and Additions (Garage, Extensions & Shed)	14/04/2020	9	68	77	01/07/2020
40	20/1319	Arabel 475 Old South Road Mittagong NSW 2575 Lot 1 DP 751282 Lot 2 DP 707944	VE Abel, J Abel	Water Main Extension	21/05/2020	0	55	55	16/07/2020
41	20/1345	18 Pioneer Street Mittagong NSW 2575 Lot 2 DP 413358	M Shamim-Ur-Rahman, S Afroz	Residential Alterations and Additions (Extensions)	27/05/2020	0	40	40	07/07/2020
42	19/0655.04	Kilwinning 344 Headlam Road Moss Vale NSW 2577 Lot 2 DP 774529	S Hanrahan, F Hanrahan	Section 4.55 Modification (Internal and External Alteration)	17/02/2020	0	129	129	25/06/2020
43	20/0235.05	7011 Illawarra Highway Moss Vale NSW 2577 Lot 100 DP 738308	D Hemming, B Hemming	Section 4.55 Modification Commercial (Change of Hours of Operation of Approved Home Industry)	13/01/2020	0	175	175	07/07/2020
44	20/0758	Aquatic Centre Donkin Avenue Moss Vale NSW 2577 Part Lot 3 DP 1108992	Wingecarribee Shire Council	Recreation Facility (Aquatic Centre) Alterations and Additions	23/12/2019	167	15	182	23/06/2020
45	20/1125	15/17 Old Dairy Close Moss Vale NSW 2577 Lot 16 S/P 99448	Agrow SF Pty Ltd	Change of Use (Automotive Workshop)	14/04/2020	0	93	93	17/07/2020
46	20/1318	1 Peppermint Drive Moss Vale NSW 2577 Lot 26 DP 1252867	NA Sherry, B McCroary	Dwelling House	21/05/2020	26	15	41	02/07/2020
47	20/1406	4 Snowy Gum Rise Moss Vale NSW 2577 Lot 8 DP 1252867	RG Jefferies, L Jefferies	Dwelling House	11/06/2020	0	14	14	25/06/2020

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48	20/1421	54a Beaconsfield Road Moss Vale NSW 2577 Lot 4 DP 1043453	AT Jeffery, V Jeffery	Residential Alterations and Additions (Shed)	12/06/2020	0	20	20	02/07/2020
49	20/1429	5 Snowy Gum Rise Moss Vale NSW 2577 Lot 38 DP 1252867	B Ramos, A Ramos	Dwelling House	15/06/2020	0	27	27	13/07/2020
50	20/1447	19 Joyce Street Moss Vale NSW 2577 Lot 4051 DP 1242576	AE Erinle, O Erinle	Dwelling House	17/06/2020	0	20	20	07/07/2020
51	21/0001	123 Darraby Drive Moss Vale NSW 2577 Lot 5117 DP 1262565	R Klasen, DA Klasen	Dwelling House	02/07/2020	0	11	11	13/07/2020
52	21/0027	Lot 41 Farnborough Drive Moss Vale NSW 2577 Lot 41 DP 1252867	Baron Corporation Pty Ltd	Residential Alterations and Additions (Shed)	03/07/2020	0	12	12	16/07/2020
53	20/1212	7 Windeyer Street Renwick NSW 2575 Lot 1401 DP 1234992	SA Kemp, O Kemp	Dwelling House, Dual Occupancy (Attached) and Swimming Pool	30/04/2020	0	60	60	30/06/2020
54	20/1316	59 Challoner Rise Renwick NSW 2575 Lot 1344 DP 1234992	C Belshaw	Dwelling House	21/05/2020	25	8	33	24/06/2020
55	20/1363	20 Maxted Street Renwick NSW 2575 Lot 502 DP 1253116	S Macdonald, T Macdonald	Dwelling House	02/06/2020	19	17	36	09/07/2020
56	20/1378	8 Guthawah Way Renwick NSW 2575 Lot 712 DP 1234984	AE Wills, S O'Reilly	Dwelling House	04/06/2020	13	14	27	01/07/2020
57	20/1424	34 Green Street Renwick NSW 2575 Lot 1332 DP 1234992	S Castelli, SMS Castelli	Dwelling House	15/06/2020	13	17	30	16/07/2020
58	20/1443	6 Guthawah Way Renwick NSW 2575 Lot 713 DP 1234984	D Lombardo, G Lombardo	Residential Alterations and Additions (Shed)	17/06/2020	0	15	15	02/07/2020
59	20/1470	20 Guthawah Way Renwick NSW 2575 Lot 706 DP 1234984	BM Whitton, D Whitton	Residential Alterations and Additions (Shed)	22/06/2020	0	10	10	02/07/2020
60	20/1485	21 Sherwin Crescent Renwick NSW 2575 Lot 3034 DP 1260441	AT Syrros	Dwelling House	24/06/2020	3	18	21	17/07/2020

	Application ID	Primary Property	Owner	Description	Date Lodged	Days Stopped	Assess Days	Total Days	Date Finalised
61	20/1236	30 Old Jamberoo Road Robertson NSW 2577 Lot 69 DP 13350 Lot 70 DP 13350	PG Kirby, B Kirby	Dwelling House	05/05/2020	14	36	50	25/06/2020
62	20/1245	1821 Jamberoo Mountain Road Robertson NSW 2577 Lot 7 DP 619794	S King	Dwelling House	07/05/2020	0	47	47	23/06/2020
63	20/1349	76-78 Burrawang Street Robertson NSW 2577 Lot 6 Sec 22 DP 758882	JEL Schonken	Residential Alterations and Additions (Shed)	28/05/2020	32	15	47	15/07/2020
64	20/1422	Wallaby Hill 99 Wallaby Hill Road Robertson NSW 2577 Lot 3 DP 609690	HC Folbigg, CAA Folbigg	Demolition of Existing Dwelling	12/06/2020	0	17	17	30/06/2020
65	20/1425	MacKeys Lane Robertson NSW 2577 Lot 46 DP 12365	MA Brink	Dwelling House	15/06/2020	0	28	28	14/07/2020
66	20/1140	173 Oldbury Road Sutton Forest NSW 2577 Lot 3 DP 867224 Lot 1 DP 1255568	Richard & Bianca Pty Limited	Secondary Dwelling	17/04/2020	52	33	85	13/07/2020
67	20/1375	Kirkfield 299 Greenhills Road Werai NSW 2577 Lot 1 DP 873880	DM Backley, DA Backley	Residential Alterations and Additions (Shed)	03/06/2020	2	37	39	13/07/2020
68	20/0098.05	Windermere 89 Wildes Meadow Road Wildes Meadow NSW 2577 Lot 2 DP 771726	GD Evenden, SA Evenden	Section 4.55 Modification (Extensions, Internal Alterations)	15/06/2020	0	10	10	25/06/2020
69	20/1031	2 Carlton Street Willow Vale NSW 2575 Lot 3 DP 1244231	Sett Homes Pty Ltd, NA Settineri	Dual Occupancy (Detached)	12/03/2020	75	50	125	15/07/2020
70	20/1032	4 Carlton Street Willow Vale NSW 2575 Lot 4 DP 1244231	Sett Homes Pty Ltd, NA Settineri	Dual Occupancy (Detached)	12/03/2020	66	60	126	16/07/2020
71	20/1033	4a Carlton Street Willow Vale NSW 2575 Lot 5 DP 1244231	Sett Homes Pty Ltd, NA Settineri	Dual Occupancy (Detached)	12/03/2020	54	69	123	14/07/2020
72	20/1178.02	30b Bumballa Road Wingello NSW 2579 Lot 6 DP 1261769	Sl Tebb, N Tebb	Dwelling House	05/05/2020	0	57	57	01/07/2020

	Application ID	Primary Property	Owner	Description	Date Lodged	Days Stopped	Assess Days	Total Days	Date Finalised
73	20/1207	14343 Hume Highway Wingello NSW 2579 Part Lot 269 DP 751298 Lot 12 & Lot 13 DP 250694	Bowral Brickworks Pty Ltd	Earthworks	29/04/2020	0	72	72	10/07/2020
74	20/1342 **	Lot 264 Wombat Lane Wingello NSW 2579 Lot 264 DP 751298 Lot 265 DP 751298	JD Menzies	Dwelling House	27/05/2020	21	27	48	14/07/2020
75	20/1376	820 Kareela Road Wingello NSW 2579 Lot 61 DP 1159822	K Turner, S Turner	Residential Alterations and Additions (Shed)	03/06/2020	0	26	26	30/06/2020
76	20/1497	30a Bumballa Road Wingello NSW 2579 Lot 5 DP 1261769	M Sherrard, L Sherrard	Dwelling House	29/06/2020	0	14	14	13/07/2020
77	20/1037	11 Wingecarribee Street Berrima NSW 2577 Lot 118 DP 870922	Napoleon Street Holdings Pty Ltd, Spinybill Pty Ltd	Commercial Alterations and Additions (Extension, Landscaping, Upgrade Carpark and Internal Alterations)	13/03/2020	62	68	131	22/07/2020
78	17/0473.01	210-224 Bong Bong Street Bowral NSW 2576 Lot 100 DP 1194183	Roloz Pty Ltd	Section 4.55 Modification (Remove Condition 22 pertaining to description)	21/07/2020	0	2	2	23/07/2020
79	17/0900.02	2 Cypress Parade Bowral NSW 2576 No Related Land	Deluxe Project Group Pty Ltd	Section 4.55 Modification (Remove Condition 12 Pertaining to Site Audit Statement)	07/04/2020	0	106	106	22/07/2020
80	20/0958	36 Bundaroo Street Bowral NSW 2576 Lot 2 DP 115816	WC Neiberding	Residential Alterations and Additions (Extensions, Studio, Swimming Pool)	25/02/2020	47	99	146	21/07/2020
81	20/1035	25 Cliff Street Bowral NSW 2576 Lot 2 DP 569354	C Brett, D Brett	Residential Alterations and Additions (Internal Alterations)	12/03/2020	78	55	133	24/07/2020
82	20/1272	73 Kangaloon Road Bowral NSW 2576 Lot 2 DP 1212947	G Phillips, D Ferguson	Residential Alterations and Additions (Internal Alterations)	13/05/2020	0	68	68	21/07/2020

	Application ID	Primary Property	Owner	Description	Date Lodged	Days Stopped	Assess Days	Total Days	Date Finalised
83	20/0762	15 Drapers Road Braemar NSW 2575 Lot 4 DP 1127951	Mepc Pty Ltd	Industrial (Self-Storage Units)	24/12/2019	193	16	209	Deferred Commencement 21/07/2020
84	20/1356	66 Burradoo Road Burradoo NSW 2576 Lot 1 DP 778422	RE Arrieula	Residential Alterations and Additions (Shed)	29/05/2020	0	52	52	21/07/2020
85	20/1462	27 Middle Road Exeter NSW 2579 Lot 6 Sec 6 DP 3373	T Hayter	Residential Alterations and Additions (Garage)	19/06/2020	0	33	33	22/07/2020
86	20/1362	80 Trig Station Lane Kangaloon NSW 2576 Lot 2 DP 1259250	JA Bamford, SE Bamford	Farm Building	01/06/2020	0	50	50	22/07/2020
86	20/0544	31 Murchison Street Mittagong NSW 2575 Lot 1 Sec 25 DP 1338	NA Jones, H Jones	Subdivision (2 Lots)	06/11/2019	170	88	258	22/07/2020
87	20/0911.03	45-47 Mary Street Mittagong NSW 2575 Lot 2 Sec 1 DP 1847 Lot 3 Sec 1 DP 1847 Lot 11 Sec 1 DP 1847	DM Gruesser	Section 4.55 Modification (Studio)	19/06/2020	0	35	35	24/07/2020
88	20/0161.06	13 Old Dairy Close Moss Vale NSW 2577 Lot 7 DP 1147034	RG Simmons	Section 4.55 Modification (Modify construction into two (2) stages)	11/05/2020	0	71	71	22/07/2020
89	20/1161	Highgrove 69 Bulwer Road Moss Vale NSW 2577 Lot 1 DP 812628 Lot 1 DP 654499	BW Schubert, DE Schubert	Subdivision (2 Lots)	21/04/2020	48	42	91	21/07/2020
90	20/1315	23 Villiers Road Moss Vale NSW 2577 Lot 12 DP 252203	G Deery, L Deery	Residential Alterations and Additions (Extensions)	20/05/2020	34	27	61	22/07/2020
91	20/1396	103a Suttor Road Moss Vale NSW 2577 Lot 2 DP 1239557	J Kidd, V Kidd	Dwelling House	10/06/2020	0	40	40	21/07/2020
92	20/1385	13 Sherwin Crescent Renwick NSW 2575 Lot 3038 DP 1260441	J Bills, MG Bills	Dwelling House, Detached Garage with Loft and Retaining Wall	05/06/2020	4	42	46	22/07/2020
93	20/1482	11 Sherwin Crescent Renwick NSW 2575 Lot 3039 DP 1260441	J Gruener, E Gruener	Dwelling House	24/06/2020	7	18	25	20/07/2020

	Application ID	Primary Property	Owner	Description	Date Lodged	Days Stopped	Assess Days	Total Days	Date Finalised
94	20/1506	5 Sherwin Crescent Renwick NSW 2575 Lot 3028 DP 1260441	P Holics	Dwelling House	30/06/2020	4	17	21	22/07/2020
95	20/1509	9 Green Street Renwick NSW 2575 Lot 96 DP 1221206	CW Halstead, M Halstead	Dwelling House	30/06/2020	14	7	21	22/07/2020
96	19/1620.04	74-76 Illawarra Highway Robertson NSW 2577 Lot 8 Sec 19 DP 758882	SR Chowdhury, N Karim	Section 4.55 Modification (Alterations and Additions)	19/06/2020	0	31	31	20/07/2020
97	20/1433	26 North Street Robertson NSW 2577 Lot 123 DP 15216	LH Connery, R Connery	Residential Alterations and Additions (Shed)	16/06/2020	0	37	37	23/07/2020
98	20/1423	44 Meranie Street Welby NSW 2575 Lot 7009 DP 1055630 Lot 1 Sec 22 DP 759070	The State Of NSW	Recreation Facility (Hockey Field Shelters)	15/06/2020	0	35	35	21/07/2020
99	21/0074	9 Links Place Willow Vale NSW 2575 Lot 13 DP 840944	DS Finlaison	Residential Alterations and Additions (Awning)	15/07/2020	0	5	5	20/07/2020
100	20/1185	8 Sierra Street Yerrinbool NSW 2575 Lot 83 DP 11780	Grelie Pty Ltd	Dwelling House	27/04/2020	68	18	86	23/07/2020

ATTACHMENTS

There are no attachments to this report.

12.2 Development Applications Received from 23 June 2020 to 26 July 2020

Reference: 5302
Report Author: Team Leader Business Support
Authoriser: Group Manager Planning, Development and Regulatory Services
Link to Community Strategic Plan: Open and effective communication methods and technology are utilised to share information about Council plans, intentions, actions and progress

PURPOSE

The purpose of this report is to update Councillors on Development Applications Determined for the period 23 June 2020 to 26 July 2020.

RECOMMENDATION

THAT the information relating to Development Applications Received from 23 June 2020 to 26 July 2020 be received and noted.

REPORT

RECEIVED APPLICATIONS BY DATE RANGE

Date range: 23 June 2020 to 26 July 2020

*****Denotes an application for a property that has been affected by the Green Wattle Creek or Morton Bushfires.***

	Application ID	Primary Property	Owner	Description	Date Lodged	Council	Decision	Determined Date	Weekly Circular
1	20/0470.01	1 Cloud Lane Avoca NSW 2577 Lot 2 DP 1245627	JA Marsden, IC Marsden	Section 4.55 Modification (Bathroom in Proposed Farm Shed)	03/07/2020		#PENDING		
2	21/0017	15 Bolans Road Balmoral NSW 2571 Lot 2 DP 1210978	KD Mcinnes, IG Steff	Residential Alterations and Additions (Extensions)	02/07/2020		#PENDING		
3	20/1494	42 Oldbury Street Berrima NSW 2577 Lot 4 DP 1213372	E McLeavy, M McLeavy	Dwelling House	29/06/2020		#PENDING		
4	19/1229.01	1 Kangaloon Road Bowral NSW 2576 Lot 10 DP 808740	Archibald Paradice Pty Ltd	Section 4.55 Modification Multi Dwelling Housing - 10 Dwellings	24/06/2020		#PENDING		

	Application ID	Primary Property	Owner	Description	Date Lodged	Council	Decision	Determined Date	Weekly Circular
5	19/1439.02	93-95 Kirkham Road Bowral NSW 2576 Lot 15 DP 846332	CA Robson	Section 4.55 Modification (Remove Condition pertaining to Water and Sewer Compliance Certificate Charges)	09/07/2020	✓	#PENDING		✓
6	20/0385.05	20 Sir James Fairfax Circuit Bowral NSW 2576 Lot 431 DP 1248107	L Flocco, C Flocco	Section 4.55 Modification (Amend Conditions pertaining to Construction Certificate, Smoke Alarms & Lighting)	24/06/2020		#APPROVED	26/06/2020	
7	20/1481	15 Caroline Avenue Bowral NSW 2576 Lot 129 DP 1231974	J & N Property Group Pty Limited	Dwelling House	24/06/2020		#PENDING		
8	20/1508	19 Gordon Road Bowral NSW 2576 Lot B DP 27445	I Griffin, D Austin	Residential Alterations and Additions (Studio)	30/06/2020		#PENDING		
9	21/0005	30 Carisbrooke Row Bowral NSW 2576 Lot 315 DP 858390	SA Harris, SM Harris	Residential Alterations and Additions (Shed)	02/07/2020		#PENDING		
10	21/0023	Lot 38 Rouse Road Bowral NSW 2576 Lot 38 DP 882935	Wingecarribee Shire Council	Construction of a new public road within road reservation to access proposed Southern Highlands Regional Art Gallery	03/07/2020		#PENDING		✓
11	21/0030	13 Herald Drive Bowral NSW 2576 Lot 117 DP 1227641	M Todorcevski	Residential Alterations and Additions (Shed)	06/07/2020		#PENDING		
12	21/0039	49 Holly Street Bowral NSW 2576 Lot 20 Sec F DP 979526	C Baker	Residential Alterations and Additions (Studio)	07/07/2020		#PENDING		
13	21/0090	2 Macquarie Grove Bowral NSW 2576 Lot 100 DP 1003828	VC Kennelly	Dual Occupancy (Detached)	17/07/2020		#PENDING		

	Application ID	Primary Property	Owner	Description	Date Lodged	Council	Decision	Determined Date	Weekly Circular
14	20/1502 **	6 Evelyn Avenue Bundanoon NSW 2578 Lot 7 DP 877525	Dl Sawatzky, J Hutchinson	Dwelling House	29/06/2020		#APPROVED	13/07/2020	
15	21/0034	1 Idolwood Ridge Bundanoon NSW 2578 Lot 1 DP 1219744	CE Economos, B Gilroy	Residential Alterations and Additions (Garage)	06/07/2020		#APPROVED	16/07/2020	
16	20/0534.05	Briars Inn & Lodge Moss Vale Road Burradoo NSW 2576 Lot 2 DP 1176315	Dh Bi Pty Ltd	Section 4.55 Modification (Alter Kitchen Layout and Roof Line of Dining Area with Internal Alterations)	08/07/2020		#PENDING		✓
17	20/1505	28 Nerang Street Burradoo NSW 2576 Lot 6 DP 713573	H Rutkowski, J Rutkowski	Residential Alterations and Additions (Garage and Internal Alterations)	30/06/2020		#PENDING		
18	21/0052	23 Sullivan Road Burradoo NSW 2576 Lot 62 DP 709095	AE Falvey, AM Falvey	Residential Alterations and Additions (Extensions and Internal Alterations)	09/07/2020		#PENDING		
19	21/0066	14 Sutherland Park Drive Burradoo NSW 2576 Lot 18 DP 1220167	KM Conroy	Residential Alterations and Additions (Swimming Pool)	13/07/2020		#PENDING		
20	21/0079	1 Old Bong Bong Way Burradoo NSW 2576 Lot 241 DP 838980	B Terry, SA Terry	Residential Alterations and Additions (Extensions)	15/07/2020		#PENDING		
21	20/1504	1511 Tugalong Road Canyonleigh NSW 2577 Lot 2 DP 877549	M Brown, Y Lavin	Residential Alterations and Additions (Extensions and Carport)	30/06/2020		#PENDING		
22	20/1510	54 Ebony Place Colo Vale NSW 2575 Lot 10 DP 792443	I Baker	Residential Alterations and Additions (Shed)	30/06/2020		#PENDING		

	Application ID	Primary Property	Owner	Description	Date Lodged	Council	Decision	Determined Date	Weekly Circular
23	21/0057	38 Railway Avenue Colo Vale NSW 2575 Lot 2 Sec 3 DP 2944	K Johnson	Residential Alterations and Additions (Shed)	10/07/2020		#PENDING		
24	17/1827.03	78 Ringwood Lane Exeter NSW 2579 Lot 12 DP 1222769	AH France	Section 4.55 Modification (Reduce size of Dwelling. Alter barn to include two bedrooms and bathroom)	09/07/2020		#PENDING		
25	21/0033	43 School Lane Exeter NSW 2579 Lot 3 DP 621821	MW Singer	Residential Alterations and Additions (Garage)	06/07/2020		#PENDING		
26	20/1495	1436 Wombeyan Caves Road High Range NSW 2575 Lot 1 DP 1066330	A King, PM King	Dual Occupancy (Detached)	29/06/2020		#PENDING		
27	21/0007	1870 Wombeyan Caves Road High Range NSW 2575 Lots 10-13 DP1192578	RM McLaurin	New Secondary Dwelling and Alterations and Additions to Existing Dwelling.	02/07/2020		#PENDING		
28	20/1507	26 King Street Hill Top NSW 2575 Lot 1 DP 803353	JA Freeney	Residential Alterations and Additions - Garage, Studio	30/06/2020		#PENDING		
29	21/0004	47 Telopea Road Hill Top NSW 2575 Lot 2 DP 13293	LM Browning, R Mills	Residential Alterations and Additions (Shed)	02/07/2020		#PENDING		
30	21/0091	41 Pirrillie Street Hill Top NSW 2575 Lots 10-12 Sec 50 DP 1384	C Stephenson	Residential Alterations and Additions (Shed)	17/07/2020		#PENDING		
31	19/0689.07	1771 Kangaloon Road Kangaloon NSW 2576 Lot 22 DP 1229390	C Francis, S O'Neill	Section 4.55 Modification (Minor Internal Alterations)	10/07/2020		#PENDING		
32	21/0031	176 Kia-Ora Lane Kangaloon NSW 2576 Lot 11 DP 1074652	Grokco Pty Limited	Residential Alterations and Additions (Swimming Pool)	06/07/2020		#PENDING		

	Application ID	Primary Property	Owner	Description	Date Lodged	Council	Decision	Determined Date	Weekly Circular
33	11/1150.04	Tall Timbers 74 Liebmans Road Medway NSW 2577 Lots 1-2 DP1159810 & Part Lot 7302 DP1133155	Harmony Greenland Pty Limited	Section 4.55 Modification (Internal Alterations)	09/07/2020		#PENDING		
34	15/1278.02	179 Range Road Mittagong NSW 2575 Lot 3 DP 1208169	TE Wright	Section 4.55 Modification (Staged Subdivision)	30/06/2020		#PENDING		
35	20/0056.04	461 Range Road Mittagong NSW 2575 Lot 6 DP 861985	T Gregory	Section 4.55 Modification (Roof Alterations and change to External Material Finish)	25/06/2020		#PENDING		
36	20/0666.03	421 Old South Road Mittagong NSW 2575 Lot 2 DP 1201343	Business 2 Business Relocations And Fitouts Pty Ltd	Section 4.55 Modification (Relocate and Reduce Size of Shed)	03/07/2020		#PENDING		
37	20/0666.04	421 Old South Road Mittagong NSW 2575 Lot 2 DP 1201343	Business 2 Business Relocations And Fitouts Pty Ltd	Section 4.55 Modification (Reduce size of Stables)	10/07/2020		#PENDING		
38	21/0070	411 Old South Road Mittagong NSW 2575 Lot 1 DP 1201343	Business 2 Business Relocations And Fitouts Pty Ltd	Residential Alterations and Additions (Shed)	14/07/2020		#PENDING		
39	21/0077	1 Argyle Street Mittagong NSW 2575 Lot 2 Sec 4 DP 2133	L Fowler	Change of Use (Convert Studio to Secondary Dwelling)	15/07/2020		#PENDING		
40	20/0306.03	556 Argyle Street Moss Vale NSW 2577 Lot 6 DP 1226255	Hurrikayne Pty Ltd	Section 8.2A Review (Demolish Existing Dwelling. Carrying out of works and use of land for the purpose of vehicle sales or hire purposes)	16/07/2020		#PENDING		

	Application ID	Primary Property	Owner	Description	Date Lodged	Council	Decision	Determined Date	Weekly Circular
41	20/0603.03	31 Throsby Street Moss Vale NSW 2577 Lot 18 Sec 1 DP 975495	AB Hans	Section 4.55 Modification (Extensions and Internal Alterations)	15/07/2020		#PENDING		
42	20/0605.04	16 Peppermint Drive Moss Vale NSW 2577 Lot 17 DP 1252867	P Bettar	Section 4.55 Modification (Modify Garage)	15/07/2020		#PENDING		
43	20/1480	561 Argyle Street Moss Vale NSW 2577 Lot 5 Sec 1 DP 38	Norman MV Pty Ltd	Proposed Neighbourhood Shop	23/06/2020		#PENDING		
44	20/1484	5 Chapman Street Moss Vale NSW 2577 Lot 4 DP 26575	RM Stockell, JA Kelly	Residential Alterations and Additions (Extensions)	24/06/2020		#PENDING		
45	21/0001	123 Darraby Drive Moss Vale NSW 2577 Lot 5117 DP 1262565	R Klasen, DA Klasen	Dwelling House	02/07/2020		#APPROVED	13/07/2020	
46	21/0027	Farnborough Drive Moss Vale NSW 2577 Lot 41 DP 1252867	Baron Corporation Pty Ltd	Residential Alterations and Additions (Shed)	03/07/2020		#APPROVED	16/07/2020	
47	21/0054	35 Railway Street Moss Vale NSW 2577 Lot B DP 158299	JR Makepeace, A Makepeace	Subdivision (2 Lots) and New Dwelling House	09/07/2020		#PENDING		
48	20/1482	11 Sherwin Crescent Renwick NSW 2575 Lot 3039 DP 1260441	J Gruener, E Gruener	Dwelling House	24/06/2020		#APPROVED	20/07/2020	
49	20/1485	21 Sherwin Crescent Renwick NSW 2575 Lot 3034 DP 1260441	AT Syrros	Dwelling House	24/06/2020		#APPROVED	17/07/2020	
50	20/1506	5 Sherwin Crescent Renwick NSW 2575 Lot 3028 DP 1260441	P Holics	Dwelling House	30/06/2020		#APPROVED	22/07/2020	
51	20/1509	9 Green Street Renwick NSW 2575 Lot 96 DP 1221206	CW Halstead, M Halstead	Dwelling House	30/06/2020		#APPROVED	22/07/2020	

	Application ID	Primary Property	Owner	Description	Date Lodged	Council	Decision	Determined Date	Weekly Circular
52	21/0010	Lot 1412 Challoner Rise Renwick NSW 2575 Lot 1412 DP 1234992	Wingecarribee Shire Council	Construction of the Renwick Silo Park, associated landscaping works, heritage interpretation, car parking and site remediation	02/07/2020		#PENDING		✓
53	21/0040	7 George Cutter Avenue Renwick NSW 2575 Lot 1376 DP 1234992	B Alzaim, CA Alzaim	Dwelling House	08/07/2020		#PENDING		
54	21/0041	28 George Cutter Avenue Renwick NSW 2575 Lot 84 DP 1221206	MM Kracht, JA Kracht	Dwelling House	08/07/2020		#PENDING		
55	21/0051	30 Roty Avenue Renwick NSW 2575 Lot 27 DP 1221206	K Jennings, C Jennings	Dwelling House	09/07/2020		#PENDING		
56	21/0084	28 Windeyer Street Renwick NSW 2575 Lot 1359 DP 1234992	FM Cassar, AR Cassar	Dwelling House	16/07/2020		#PENDING		
57	20/0495.01	2 Caalong Street Robertson NSW 2577 Lot 6 Sec 15 DP 758882	B Maloney, PM Maloney	Section 8.2A Review Subdivision (2 Lots)	30/06/2020		#PENDING		
58	20/1493	Belmore Park Belmore Falls Road Robertson NSW 2577 Lot 305 DP 751302	BA Klimenko, DE Klimenko	Dwelling House	26/06/2020		#PENDING		
59	21/0018	74-76 Illawarra Highway Robertson NSW 2577 Lot 8 Sec 19 DP 758882	S Chowdhury, N Karim	Temporary Use of Land – Markets to occur every second Saturday from 8am to 4pm	02/07/2020	✓	#PENDING		
60	21/0029	20 Caalong Street Robertson NSW 2577 Lot 1 DP610658	RH Langford	Subdivision (2 Lots)	06/07/2020		#PENDING		

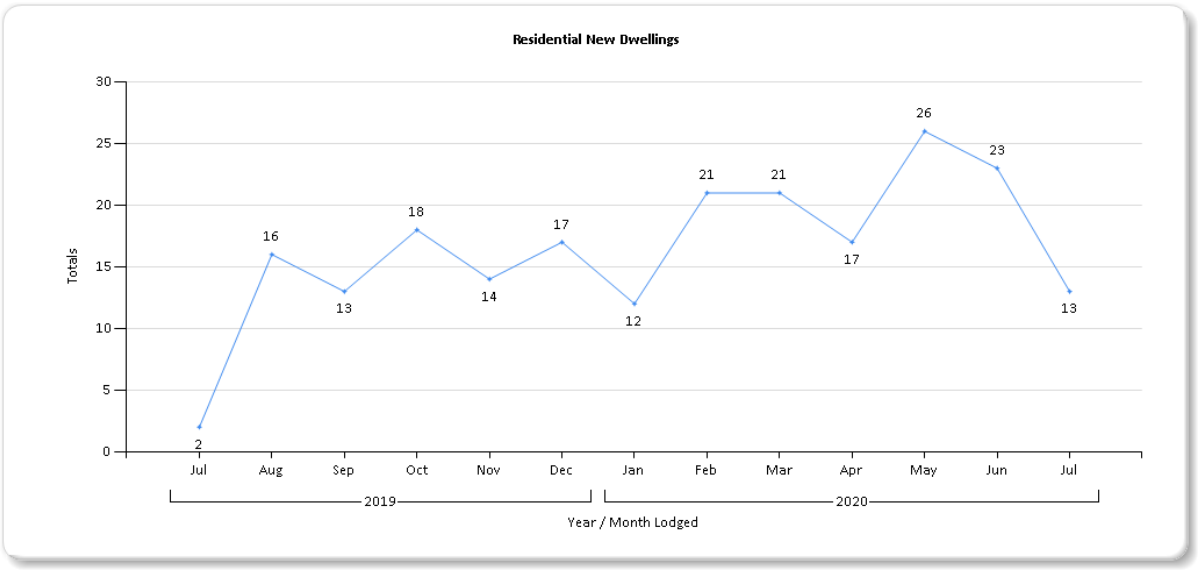
	Application ID	Primary Property	Owner	Description	Date Lodged	Council	Decision	Determined Date	Weekly Circular
61	21/0081	2226 Jamberoo Mountain Road Robertson NSW 2577 Lot 2 DP 719731	NG Wood, K Wood	Residential Alterations and Additions (Extensions and Internal Alterations)	15/07/2020		#PENDING		
62	21/0025	Public Road Illawarra Highway Sutton Forest NSW 2577 Lot 16 DP 260417 Lot 17 DP 260417	Wingecarribee Shire Council	Upgrade of National Service Memorial	03/07/2020		#PENDING		
63	21/0035	The Dairy 216 Oldbury Road Sutton Forest NSW 2577 Lot 1 DP 746268	RA Ferguson, J Ferguson	Dwelling House	07/07/2020		#PENDING		
64	21/0067	Medway 500 Oldbury Road Sutton Forest NSW 2577 Lot 17 DP 979138 Lot 18 DP 979138 Lot 1 DP 255170	A Galbraith, W Galbraith	Residential Alterations and Additions (Swimming Pool)	13/07/2020		#PENDING		
65	19/1517.01	54-56 Bowral Street Welby NSW 2575 Lot 9 Sec 18 DP 759070	S Woodward	Section 4.55 Modification (Alter Block Size)	08/07/2020		#PENDING		
66	21/0038	50-52 Old Hume Highway Welby NSW 2575 Lot 8 Sec 4 DP 759070	KA Millbank, J Millbank	Subdivision (2 Lots)	07/07/2020		#PENDING		
67	21/0013	3a Drapers Road Willow Vale NSW 2575 Lot 19 DP 1192192	JA Worthington	Residential Alterations and Additions (Shed)	02/07/2020		#PENDING		
68	21/0074	9 Links Place Willow Vale NSW 2575 Lot 13 DP 840944	DS Finlaison	Residential Alterations and Additions (Awning)	15/07/2020		#APPROVED	20/07/2020	
69	20/1497	30a Bumballa Road Wingello NSW 2579 Lot 5 DP 1261769	M Sherrard, L Sherrard	Dwelling House	29/06/2020		#APPROVED	13/07/2020	

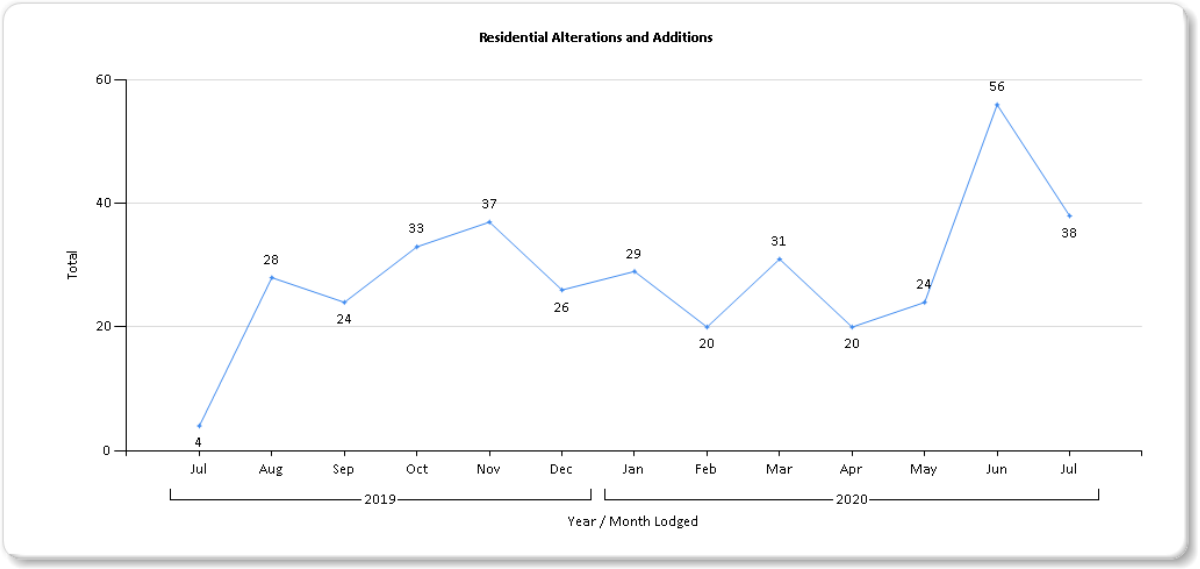
	Application ID	Primary Property	Owner	Description	Date Lodged	Council	Decision	Determined Date	Weekly Circular
70	21/0022	36 Bumballa Road Wingello NSW 2579 Lot 4 DP 1261769	Wingello Holdings Pty Limited	Dwelling House	03/07/2020		#PENDING		
71	21/0064 **	27-29 Wingello Street Wingello NSW 2579 Lot 9 Sec 4 DP 759097 Lot 10 Sec 4 DP 759097	PY Holmes, J Holmes	Residential Alterations and Additions (Shed)	13/07/2020		#PENDING		
72	21/0078	5 Jemima Lane Wingello NSW 2579 Lot 3 DP 1084361	T Castle, E Castle	Home Business	15/07/2020		#PENDING		
73	21/0088	Highland Park 1338 Highland Way Wingello NSW 2579 Lot 1 DP 594379 Lot 2 DP 594379	PH Bush	Alterations and additions (Deck)	17/07/2020		#PENDING		
74	09/0408.03	2466 Old Hume Highway Woodlands NSW 2575 Lot 3 DP 555362	DA Penn, N McCudden-Penn	Section 4.55 Modification (Carport)	29/06/2020		#PENDING		
75	21/0097	4 Wingecarribee Street Berrima NSW 2577 Lot 3 DP 216552	J Barnes	Dwelling House	20/07/2020		#PENDING		
76	17/0473.01	210-224 Bong Bong Street Bowral NSW 2576 Lot 100 DP 1194183	Roloz Pty Ltd	Section 4.55 Modification (Remove Condition 22 pertaining to description)	21/07/2020		#APPROVED	23/07/2020	
77	20/0399.05	41 Price Street Bowral NSW 2576 Lot 820 DP 566175	A Moodley	Section 4.55 Modification (Retaining Wall)	24/07/2020		#PENDING		
78	21/0099	20 Harley Street Bowral NSW 2576 Lot 31 DP 842059	CA Pinkstone	Residential Alterations and Additions (Extensions)	20/07/2020		#PENDING		
79	21/0106	22 Jonathon Street Bowral NSW 2576 Lot 75 DP 1003828	MA Dakyns, C Dakyns	Residential Alterations and Additions (Shed)	21/07/2020		#PENDING		

	Application ID	Primary Property	Owner	Description	Date Lodged	Council	Decision	Determined Date	Weekly Circular
80	21/0117	Iona 3 Kimberley Drive Bowral NSW 2576 Lot 11 DP 746488	G Towell, P Steadman-Towell	Residential Alterations and Additions (Garage, Internal Alterations)	22/07/2020		#PENDING		
81	21/0132	1 Rowland Road Bowral NSW 2576 Lot 21 DP 882935 (Akas 1 Rowland Road)	DC Birch	Residential Alterations and Additions (Internal Alterations, Extensions)	24/07/2020		#PENDING		
82	17/1483.07	3 Holly Road Burradoo NSW 2576 Lot 21 DP 1203033	Ml Leahy, M Leahy	Section 4.55 Modification (Remove Condition pertaining to Vegetation Management Plan)	21/07/2020		#PENDING		
83	21/0104 **	61 Balmoral Park Road Buxton NSW 2571 Lot B DP 413858	P Collins, J Collins, M Collins	Dwelling House	21/07/2020		#PENDING		
84	21/0093	Wattle Park 1721 Canyonleigh Road Canyonleigh NSW 2577 Lots 11/38/41-44/50/96/206 DP751286	Lgonc Pty Ltd	Subdivision (11 Lots)	20/07/2020		#PENDING		✓
85	21/0126	140 Foxgrove Road Canyonleigh NSW 2577 Lot 1 DP 805624	J Livolsi, K Livolsi	Farm Building	23/07/2020		#PENDING		
86	20/0926.03	51-53 Church Avenue Colo Vale NSW 2575 Lot 1 DP 518496	M Cosyn, B Cosyn	Section 4.55 Modification (Enclose Veranda)	23/07/2020		#PENDING		
87	20/0672.01	28-30 Ringwood Road Exeter NSW 2579 Lot 1 DP 13527 Lot 2 DP 13527	BE Barwell	Section 4.55 Modification (Extensions)	23/07/2020		#PENDING		
88	21/0118	38 School Lane Exeter NSW 2579 Lot 642 DP 717065	S Thomas, L Thomas	Residential Alterations and Additions (Awning, Deck)	22/07/2020		#PENDING		

	Application ID	Primary Property	Owner	Description	Date Lodged	Council	Decision	Determined Date	Weekly Circular
89	21/0115	20 Serrata Place Hill Top NSW 2575 Lot 20 DP 855022	F Colavito, C Colavito	Residential Alterations and Additions (Shed)	22/07/2020		#PENDING		
90	21/0101	12 Roe Street Moss Vale NSW 2577 Lot 233 DP 258240	F Ninnes, P Ninnes	Residential Alterations and Additions (Shed)	21/07/2020		#PENDING		
91	21/0103	18 Fitzroy Road Moss Vale NSW 2577 Lot 5 DP 1248979	K Williamson, J Williamson	Residential Alterations and Additions (Shed)	21/07/2020		#PENDING		
92	21/0105	9 Salamander Place Moss Vale NSW 2577 Lot 5 DP 1221913	RA Pearson, C Pearson	Residential Alterations and Additions (Shed)	21/07/2020		#PENDING		
93	21/0107	87 Parkes Road Moss Vale NSW 2577 Lot 2 DP 594386	R Heagney, L Heagney	Residential Alterations and Additions (Garage)	21/07/2020		#PENDING		
94	21/0122	8 Kennedy Close Moss Vale NSW 2577 Lot 167 DP 258240	E Jowers, P Hale	Residential Alterations and Additions (Shed)	23/07/2020		#PENDING		
95	21/0128 **	Wandavale 162 Teudts Road Penrose NSW 2579 Lot 115 DP 751259	JW Stone, N Stone	Residential Alterations and Additions (Shed)	23/07/2020		#PENDING		
96	21/0131	280 Teudts Road Penrose NSW 2579 Lots 2-3 DP 1003952	M Rajkovic, IA Rajkovic	Residential Alterations and Additions (Swimming Pool)	24/07/2020		#PENDING		
97	21/0112	42 Challoner Rise Renwick NSW 2575 Lot 1263 DP 1221207	SJ Sell	Dwelling House	22/07/2020		#PENDING		
98	21/0121	1 Sherwin Crescent Renwick NSW 2575 Lot 3030 DP 1260441	AL Cherry, CW Cherry	Dwelling House, Residential alterations and additions (Shed	23/07/2020		#PENDING		
99	20/0491.03	216 Myra Vale Road Wildes Meadow NSW 2577 Lot 12 DP 1035684	HM Sell, M Ludington	Section 4.55 Modification (Extensions)	20/07/2020		#APPROVED	28/07/2020	

	Application ID	Primary Property	Owner	Description	Date Lodged	Council	Decision	Determined Date	Weekly Circular
100	21/0095 **	34-44 Camden Street Wingello NSW 2579 Lot 1 DP 709269	AG Hagger	Residential Alterations and Additions (Shed)	20/07/2020		#PENDING		
101	21/0108 **	91 Railway Parade Wingello NSW 2579 Lot 4 Sec 9 DP 759097	RR Martin, DJ Martin, RJ Howard	Dwelling House	21/07/2020		#PENDING		





ATTACHMENTS

There are no attachments to this report.

12.3 Development Application 20/0355 - Use of an Existing Farm Building and its Immediate Surrounds for Auction Sales of Antique Furniture and Old Wares Occurring Twice per Year Over a 5 Year Period at 4980 Illawarra Highway, Robertson

Reference:	**20/0355**
Report Author:	**Senior Town Planner**
Authoriser:	**Manager Development Assessment Group Manager Planning Development and Regulatory Services**
Applicant:	**Colin Vickers**
Owner:	**Colin Vickers**
Link to Community Strategic Plan:	**Conserve the key natural resources of the Shire and minimise the impact from development**

PURPOSE

The purpose of this report is to consider Development Application 20/0355 which seeks development consent for the use of an existing farm building and its immediate surrounds for auction sales of antique furniture and old wares occurring twice per year over a 5 year period at Lot 6 DP 739043, being 4980 Illawarra Highway, Robertson. 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 20/0355 which seeks development consent for the use of an existing farm building and its immediate surrounds for auction sales of antique furniture and old wares occurring twice per year over a 5 year period at Lot 6 DP 739043, being 4980 Illawarra Highway, Robertson be APPROVED for a trial period of two events per year over a 2 year period subject to conditions as described in Attachment 1 to the report.

REPORT

Subject Site and Locality

The subject site, Lot 6 DP 739043, being 4980 Illawarra Highway, Robertson, is located on the northern side of the Illawarra Highway, approximately 250 metres west of the Pearsons Lane / Illawarra Highway intersection (**Attachments 2 and 3**). The site is 19.75 hectares in area, has a frontage of approximately 500 metres to Illawarra Highway, and contains a recently constructed shed in the southern portion of the site.

Proposed Development

Development Application 20/0355 seeks development consent for the use of an existing farm building and its immediate surrounds for auction sales of antique furniture and old wares occurring twice per year over a 5 year period at Lot 6 DP 739043, being 4980 Illawarra Highway, Robertson. The application originally sought approval for four events per year over a 5 year period, but subsequently reduced the proposed frequency to two events per year over a 5 year period, being a total of 10 proposed events. The application is submitted as a Temporary use of land application in accordance with Clause 2.8 Temporary use of land of Wingecarribee Local Environmental Plan 2010.

The proposed development includes:

- Auction view days on Friday and Saturday 10am – 5pm;
- Sunday pre-auction view 9am – 11am;
- Sunday auctions starting at 11am on site (inside the farm shed) auctioning the contents of the farm shed and grounds, operating for approximately 6 hours;
- All items won at auction shall be removed by the Tuesday following the Sunday auction;
- On site parking for approximately 60 cars within the paddock area;
- Estimated traffic of 10 cars per hour on Auction view days, and
- Food to be provided by Local charity CWA, Robertson Men's Shed or others

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. After undertaking a desktop search using Council's Property and Rating database, Council is satisfied the land is not a site of possible contamination and therefore no further assessment 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 provision of portable toilet amenities, the existing toilet within the shed to be locked on auction days to prevent its use, and event management conditions addressing waste, wet weather car parking, and erosion and sediment controls **(Attachment 1 - condition 24)**.

Local Environmental Plans

Wingecarribee Local Environmental Plan 2010

The relevant provisions of the LEP are discussed as follows.

Clause 2.3 Zone objectives and land use table

The site is zoned E3 Environmental Management and in this zone, the proposed use of an existing farm building and its immediate surrounds for auction sales of antique furniture and old wares occurring twice per year over a 5 year period is a prohibited use.

The objectives of the E3 Environmental Management zone are as follows:

- *To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.*
- *To provide for a limited range of development that does not have an adverse effect on those values.*
- *To encourage the retention of the remaining evidence of significant historic and social values expressed in existing landscape and land use patterns.*
- *To minimise the proliferation of buildings and other structures in these sensitive landscape areas.*
- *To provide for a restricted range of development and land use activities that provide for rural settlement, sustainable agriculture, other types of economic and employment development, recreation and community amenity in identified drinking water catchment areas.*
- *To protect significant agricultural resources (soil, water and vegetation) in recognition of their value to Wingecarribee's longer term economic sustainability.*

Clause 2.8 Temporary use of land

While the proposed use of an existing farm building and its immediate surrounds for auction sales of antique furniture and old wares occurring twice per year over a 5 year period is a prohibited use within the E3 Environmental Management zone under *Wingecarribee Local Environmental Plan 2010*. Clause 2.8 Temporary use of land within *Wingecarribee Local Environmental Plan 2010* states that development consent may be granted for development on land in any zone for a temporary use for a maximum period of 60 days (whether or not consecutive days) in any period of 12 months, if the consent authority is satisfied that—

(a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any other applicable environmental planning instrument, and

(b) the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and

(c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and

(d) at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.

The ability of the proposed development to achieve the above requirements is discussed within the Discussion of Key Issues section of this report.

Development Control Plans

Rural Lands Development Control Plan

The Rural Lands Development Control Plan contains no particular provisions relevant to the proposed development, however the proposed temporary use of land development is

considered consistent with the relevant objectives of the Rural Lands Development Control Plan, subject to conditions of consent which are discussed later within this report.

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

While the proposed use of an existing farm building and its immediate surrounds for auction sales of antique furniture and old wares occurring twice per year over a 5 year period is a prohibited use within the E3 Environmental Management zone under Wingecarribee Local Environmental Plan 2010, Clause 2.8 Temporary use of land within Wingecarribee Local Environmental Plan 2010 enables Council to consider the temporary use application.

(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and

Not applicable to Development Application 20/0355.

(iii) any development control plan, and

The Rural Lands Development Control Plan contains no particular provisions relevant to the proposed development, however the proposed temporary use of land development is considered consistent with the relevant objectives of the Rural Lands Development Control Plan, subject to conditions of consent which are discussed later within this report.

(iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and

Not applicable to Development Application 20/0355.

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

Not applicable to Development Application 20/0355.

(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 to Development Application 20/0355.

(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 noise and traffic, 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 temporary use of an existing farm building and its immediate surrounds for auction sales of antique furniture and old wares, subject to conditions as discussed throughout this report and 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 temporary use of an existing farm building and its immediate surrounds for auction sales of antique furniture and old wares, is not contrary to the public interest subject to conditions as discussed throughout this report and in the Discussions of Key issues section of this report.

CONSULTATION

External Referrals

Referrals	Advice/Response/Conditions
Water NSW	Water NSW supports the proposed development, subject to conditions of consent addressing wastewater, provision of portable toilet amenities for all auction events, event management and significant wet weather (**condition 24**).
Rural Fire Service	Rural Fire Service raise no objection to the proposed development, subject to the preparation of a Bush Fire Emergency Management and Evacuation Plan prior to the first event occurring (**condition 23**).
Transport for NSW (formerly RMS)	Transport for NSW raise no objection to the proposed development subject to conditions addressing upgrade of the eastern driveway / Illawarra Highway junction (**condition 22**).

Internal Referrals

Referrals	Advice/Response/Conditions
Accredited Certifier	Council's Accredited Certifier raises no objection to the proposed development and has provided conditions of consent.
Development Engineer	Council's Development Engineer raises no objection to the proposed development and has provided conditions of consent, including conditions addressing driveway access and removal of illegal driveway to the west of the proposed works (**condition 12**).
Environmental Health Officer	Council's Environmental Health Officer raises no objection to the proposed development and has provided conditions of consent, including conditions addressing temporary food premises, toilets, hand washing facilities, and noise levels (**conditions 14, 15, 16, 19 and 20**).

Neighbour Notification (or Advertising)/Public Participation

The development application has been neighbour notified and advertised in accordance with Council's Notification of Development Proposals Policy. No submissions were received.

DISCUSSION OF KEY ISSUES

Access and on site parking

To provide a safe sight distance for vehicles entering and exiting the site, and to remove an existing unauthorised driveway, so as to satisfy Transport for NSW and Council's Development Engineer's concerns, access to the site is to be via the upgraded eastern driveway, with the existing illegal western driveway to be removed and verge reinstated. This is addressed by conditions of consent (**conditions 12 and 22**).

Informal on site parking is available which can accommodate approximately 60 vehicles, which is considered satisfactory to accommodate auction peak attendances. Water NSW **condition 24** requires that in the event of significant weather and saturated ground conditions that adversely affect parking and high foot traffic areas for the event, the event is to be postponed, or alternative suitable parking provided, or effective erosion and sediment control measures implemented.

Noise

While the proposed use of the existing farm building and its immediate surrounds for auction sales of antique furniture and old wares will predominantly be conducted within the shed, conditions of consent requiring the event to be conducted in such a manner so as not to interfere with the amenity of the neighbourhood with operational noise levels not exceeding the background level by more than 5dB(A) when measured at the boundary of the nearest affected property, are considered appropriate (**conditions 14, 15 and 16**).

Temporary Use of Land

> Clause 2.8 Temporary use of land within Wingecarribee Local Environmental Plan 2010 states that development consent may be granted for development on land in any zone for a temporary use for a maximum period of 60 days (whether or not consecutive days) in any period of 12 months, if the consent authority is satisfied that—
>
> (a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any other applicable environmental planning instrument, and
>
> (b) the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and
>
> (c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and
>
> (d) at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.

While conditions of consent address potential noise impacts, effluent issues and amenity impacts, it is considered that rather than development consent being granted for two events per year over a 5 year period, a trial period of 2 years is warranted, enabling Council the opportunity to reconsider the proposal at a future date. This is addressed by a condition of consent (**condition 1**).

SUSTAINABILITY ASSESSMENT

- ***Environment***

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

- ***Social***

There are no social issues in relation to this report.

- ***Broader Economic Implications***

There are no broader economic implications associated with this report.

- ***Culture***

There are no broader cultural implications associated with this report.

- ***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.

RELATED COUNCIL POLICY

An assessment of the proposal has been made against the *Wingecarribee Local Environmental Plan 2010,* State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011, and the Rural Lands Development Control Plan.

OPTIONS

The options available to Council are:

Option 1

THAT Development Application 20/0355 which seeks development consent for the use of an existing farm building and its immediate surrounds for auction sales of antique furniture and old wares occurring twice per year over a 5 year period at Lot 6 DP 739043, being 4980 Illawarra Highway, Robertson be APPROVED for a trial period of two events per year over a 2 year period subject to conditions as described in Attachment 1 to the report.

Option 2

THAT Council determine Development Application 20/0355 by way of refusal, and nominate reasons for refusal.

Option 1 is the recommended option to this report.

CONCLUSION

It is recommended that Development Application 20/0355 which seeks development consent for the use of an existing farm building and its immediate surrounds for auction sales of antique furniture and old wares occurring twice per year over a 5 year period at Lot 6 DP 739043, being 4980 Illawarra Highway, Robertson, be supported subject to the imposition of conditions including a condition limiting the development to a trial period of two events per year over a 2 year period.

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 approval, subject to the attached draft conditions of consent nominated in **Attachment 1**.

ATTACHMENTS

1. Draft conditions
2. Site Location
3. Zoning Plan
4. Site Plan

ATTACHMENT 1 – DRAFT CONDITIONS OF CONSENT

ADMINISTRATION CONDITIONS

1. **Development Description**

Development consent has been granted in accordance with this notice of determination for the purposes of Temporary Use of Land - Use of the existing farm building and its immediate surrounds for auction sales of antique furniture and old wares occurring for a trial period of twice per year over a 2 year period. A new development application or section 4.55 modification application shall be lodged should consent be sought for the use of the existing farm building and its immediate surrounds for auction sales of antique furniture and old wares at the site beyond X August 2020.

***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
Site Plan marked "A" as held on Council's file		Applicant	Undated
Aerial Site Plan marked "B" as held on Council's file		Applicant	Undated
Floor Plan marked "C" as held on Council's file		Applicant	Undated
Concept Driveway Plan	1928 CD01 Rev A	Civil Development Solutions	21/4/20
Statement of Environmental Effects		Lee Environmental Planning	September 2019
Correspondence reducing the proposed frequency of events to two events per year over a 5 year period, being a total of 10 events		Lee Environmental Planning	6 February 2020

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

3. **Inconsistency between documents**

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

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

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

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

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

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

5. **Compliance with Disability Discrimination Act 1992**

This approval does not protect or guarantee against a possible claim of discrimination (intentional or unintentional) under the *Disability Discrimination Act 1992*, and the applicant/owner is therefore advised to investigate their liability under this Act.

***Reason**: To inform of relevant access requirements for persons with a disability.*

***Note**: Disability (Access to Premises - Buildings) Standards 2010 -As of 1 May 2011, if access is provided to the extent covered by this Standard, then such access cannot be viewed as unlawful under the Disability Discrimination Act 1992.*

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

6. **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.*

7. **Accessible Car Parking Spaces**

2 of the car parking spaces provided as part of the total requirement shall be reserved for disabled persons.

These spaces shall be constructed and identified in accordance with Volume 1 of the National Construction Code (NCC) and AS/NZS 2890.6 - Parking Facilities; Off-street parking for people with disabilities.

Details to demonstrate compliance shall be submitted to and approved by the Certifying Authority prior to the issue of the Construction Certificate.

***Reason:** To inform of relevant access requirements for persons with a disability*.

8. **Fire Safety Upgrade - Change of building use (cl. 93 of the Regulation) - minor or no building works for example internal fit-out or cosmetic changes**

Council considers pursuant to clause 93 of the *Environmental Planning and Assessment Regulation 2000* requires the existing building to be upgraded to comply with the National Construction Code (NCC) in the following respects:

- **Dimensions of exits and paths of travel to exits BCA D1.6**
- **Access for people with a disability BCA D3, AS/NZS 1428.1**
- **Portable fire extinguishers, BCA E1.6**
- **Emergency Lighting - BCA E4.2, E4.4 & AS/NZS 2293.1-2018**
- **Exit Signs – BCA E4.5**

If applicable, the Construction Certificate plans and specification required to be submitted to the Certifying Authority pursuant to clause 139 of the Regulation shall detail building upgrade works required by for the approved use.

The Certifying Authority shall be satisfied that such work, to be implemented as part of the development, will upgrade the building to bring it into compliance with the provisions of the BCA in force at the date of lodgement of the Construction Certificate application.

***Note**: The Certifying Authority issuing the Construction Certificate has no power to remove the requirement to upgrade the existing building as required by this condition. Where this condition specifies compliance with performance requirements of the National Construction Code (NCC), the Certifying Authority (subject to their level of accreditation) may be satisfied as to such matters. Where this condition specifies compliance with prescriptive (deemed to satisfy) provisions of the National Construction Code (NCC), these prescriptive requirements must be satisfied and cannot be varied unless this condition is reviewed under section 8.2 or modified under section 4.55 of the Environmental Planning and Assessment Regulation 1979.*

***Reason:** To ensure compliance with statutory requirements.*

CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORK

9. **Road Occupancy Licence - Section 138 Roads Act 1993**

Prior to commencement of any works within the road reserve, a Road Occupancy License shall be obtained from the Roads and Maritime Services (RMS). The application shall be accompanied by a Traffic Control Plan, prepared by a person who is qualified and certified to prepare Traffic Control Plans.

***Reason:** Statutory requirement.*

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

Prior to any works being undertaken 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*). 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:

- A copy of the approved development plans and proposed works to be undertaken.
- Plans and adequate documentation which validate that the required works are in accordance with Councils Engineering Plans and Specifications and relevant standards.
- 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.*

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

11. **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.*

12. **Vehicle Access (Rural)**

Access to the site shall be provided generally in accordance with the works as shown within the Concept Driveway Plan, Job No.1928CD01, Revision A, Dated 21/04/2020 by CDS. These works shall be completed prior to the first event being held. The existing illegal driveway to the west of the proposed works shall be removed and the verge re-instated with an appropriately sized dish drain and all disturbed areas turfed prior to the first event being held.

Reason: *To ensure that the driveway is constructed to Councils standard*

specification.

13. **Fire Safety Certificate**

A final Fire Safety Certificate shall be obtained in accordance with Part 9, Division 4 of the *Environmental Planning and Assessment (Amendment) Regulation 2000*, prior to the issue of the Occupation Certificate for the building.

A copy of the Fire Safety Certificate and Fire Safety Schedule shall be:

- Forwarded to Wingecarribee Shire Council;
- Forwarded to the Fire Commissioner; and
- Prominently displayed in the building.

Reason: *To ensure the safety of the building.*

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

14. **Operational Noise Levels**

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

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

15. **Noise Control**

The use of the premises shall not give rise to the transmission of offensive noise to any place of different occupancy.

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

16. **Amenity**

The approved Temporary Use of Land - Use of the existing farm building and its immediate surrounds for auction sales of antique furniture and old wares shall be conducted in such a manner so as not to interfere with the amenity of the neighbourhood by reason of noise, smoke, smell, vibration, gases, vapours, dust, particulate matter or other impurities from the premises.

Reason: *To ensure that the amenity of neighbouring properties is not compromised.*

17. **Annual Fire Safety Statement**

Each year, the owner of a building to which an essential fire safety measure is applicable

shall cause the Council to be given an annual fire safety statement for the building. Such a fire safety statement:

(a) shall deal with each essential fire safety measure in the building premises; and

(b) shall be given within twelve months after the last such statement was given, or it no such statement was given, within twelve months after a final fire safety certificate was first issued for the building.

As soon as practicable after a final fire safety certificate is issued, the owner of the building to which it relates:-

(a) shall cause a copy of the certificate (together with a copy of the current fire safety schedule) to be given to the Commissioner of New South Wales Fire Brigades; and

(b) shall cause a further copy of the certificate (together with a copy of the current fire safety schedule) to be permanently displayed in the building.

Reason: *To ensure compliance with fire safety requirements.*

18. **Advertising Signs - Consent required**

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

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

19. **Temporary/Mobile Food Premises Requirements**

Temporary food premises must be set up and operated in accordance with the *Food Act*, *Food Regulation*, *Food Safety Standards* and NSW Food Authority's *Guidelines for Food Businesses at Temporary Events*.

In addition to the above-mentioned requirements, food vending vehicles must also comply with the NSW Food Authority's *Guidelines for Mobile Food Vending Vehicles*.

Reason: *Compliance with relevant legislation, guidelines and standards.*

20. **Provision of Toilets and Hand Washing Facilities for Food Handlers**

Toilets must be provided for the use by all food handlers and maintained in a hygienic condition. A hand washing facility must be provided immediately adjacent to the toilets. It has to be supplied with warm running water through a single outlet, soap and paper towels.

Reason: *Compliance with relevant legislation, guidelines and standards.*

21. **Lighting**

All external lighting shall:

(a) comply with AS 4282–1997 Control of the obtrusive effects of outdoor lighting, and

(b) be mounted, screened and directed in a way that it does not create a nuisance or light spill on to adjoining land or public places.

Reason: *To ensure that the amenity of neighbouring properties is not compromised.*

CONCURRENCE CONDITIONS

22. Transport for NSW

The conditions provided by Transport for NSW are provided below and form part of this Notice of Determination.

Prior to the issuing of the Construction Certificate, the developer must:

- Apply for Section 138 consent under the Roads Act, 1993 from TfNSW for all works on Illawarra Highway.

  Notes:

  - To apply, the developer needs to email a copy of the conditions of development consent to development.southern@rms.nsw.gov.au as well as a copy of design for the works. TfNSW will then appoint a project manager to oversee the developer's detailed design and delivery of the works.
  - TfNSW will be exercising its powers under Section 64 of the Roads Act, 1993 to become the roads authority for the roadworks and therefore responsible for issuing the Section 138 consent for those specific works.
  - All roadworks and traffic control facilities must be undertaken by a pre-qualified contractor. A copy of pre-qualified contractors can be found on the RMS website. www.rms.nsw.gov.au/business-industry/partners-suppliers/tenders-contracts/prequalified-contractors.html

- Demonstrate to the satisfaction of Council the post development storm water discharge from the subject site, if going into the Illawarra Highway drainage system, does not exceed the pre-development application discharge.

Prior to the commencing works within the road reserve, the developer must:

- Obtain Section 138 consent under the Roads Act, 1993 for the works on Illawarra Highway from TfNSW.
- Apply for, and obtain a Road Occupancy Licence (ROL) from the TfNSW Traffic Operations Unit (TOU) prior to commencing roadworks on a State road or any other works that impact a travel lane of a State road or impact the operation of traffic signals on any road.

  Notes:

  - For information on the ROL process and to lodge an ROL application, please visit https://myrta.com/oplinc2/pages/security/oplincLogin.jsf
  - The applicant will need to create an account (this may take a few days to register), prior to submitting the ROL application. The applicant must submit the ROL application 10 business days prior to commencing work. It should be noted that receiving an approval for the ROL within this 10 business day period is dependent upon TfNSW receiving an accurate and compliant TMP.
  - The application will require a Traffic Management Plan (TMP) to be prepared by a person who is certified to prepare Traffic Control Plans. Should the TMP require a reduction of the speed limit, a Speed Zone Authorisation will also be required from the TOU.
  - An approved ROL does not constitute an approval to commence works until an authorisation letter for the works has been issued by TfNSW Project Manager.

Prior to the issuing of the Occupation Certificate (interim or final), the developer must:

- Upgrade the junction of the access and Illawarra Highway to the auction site to the satisfaction of TfNSW, generally in accordance with Attachment 1, Austroads Guide to Road Design and other relevant standards.

  Notes:

  - The pavement design on Illawarra Highway must be in accordance with Austroads standards.
  - Where required, the developer must upgrade/provide lighting in accordance with Australian Standard AS/NZS1158.
  - All works need to be completed at no cost to TfNSW.

- Physically close any other existing access points to Illawarra Highway by fencing them and revegetating.

23. **Rural Fire Service**

The conditions provided by Rural Fire Service are provided below and form part of this Notice of Determination.

General Conditions

Prior to use associated with this application, a Bush Fire Emergency Management and Evacuation Plan shall be prepared consistent with 'Development Planning - A Guide to Developing a Bush fire Emergency Management and Evacuation Plan - December 2014' and AS3745-2010 'Planning for Emergencies'.

24. **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.

General

1. The temporary auction events, including pre-auction viewing and post-auction pick-up, shall be as described in the Statement of Environmental Effects prepared by Lee Environmental Planning (dated September 2019). No changes to temporary uses that will have any impact on water quality shall be permitted without the agreement of Water NSW.

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

Wastewater

2. Portable toilet amenities shall be provided for all auction events, including for pre-auction viewing and post-auction pick-up periods. The number and type shall be hired for the event in accordance with the recommendations of Chapter 5 of Manual 12 of the *Australian Disaster Resilience Handbook Collection – Safe and Healthy Mass Gatherings, Australian Institute for Disaster Resilience, 1999*
3. Portable toilets shall be located at least 40 m from the nearest drainage line located to the northwest of the existing shed.
4. The existing toilet within the existing shed shall be locked and not used during the day of auction events.

Reason for Conditions 2 to 4 – To ensure that the on-site wastewater management is appropriately considered and located to ensure a sustainable neutral or beneficial effect on water quality.

Event Management

5. All general solid waste and recyclable material associated with the events shall be sorted, collected in appropriately labelled and colour-coded bins and removed from the site immediately after the event, to a licenced waste/resource recovery facility.
6. In the event of significant wet weather and saturated ground conditions that adversely affect parking and high foot traffic areas for the event, the event must:
   - be postponed, or
   - provide alternative suitable parking, or
   - provide effective erosion and sediment controls immediately before or during the event around the parking area and high foot traffic areas to prevent sediment or polluted water leaving the site or entering any natural drainage system or stormwater drain.

Reason for Conditions 5 & 6 – To ensure that the holding of the event at the venue will not adversely affect water quality, so as to ensure a sustainable neutral or beneficial effect on water quality over the longer term.

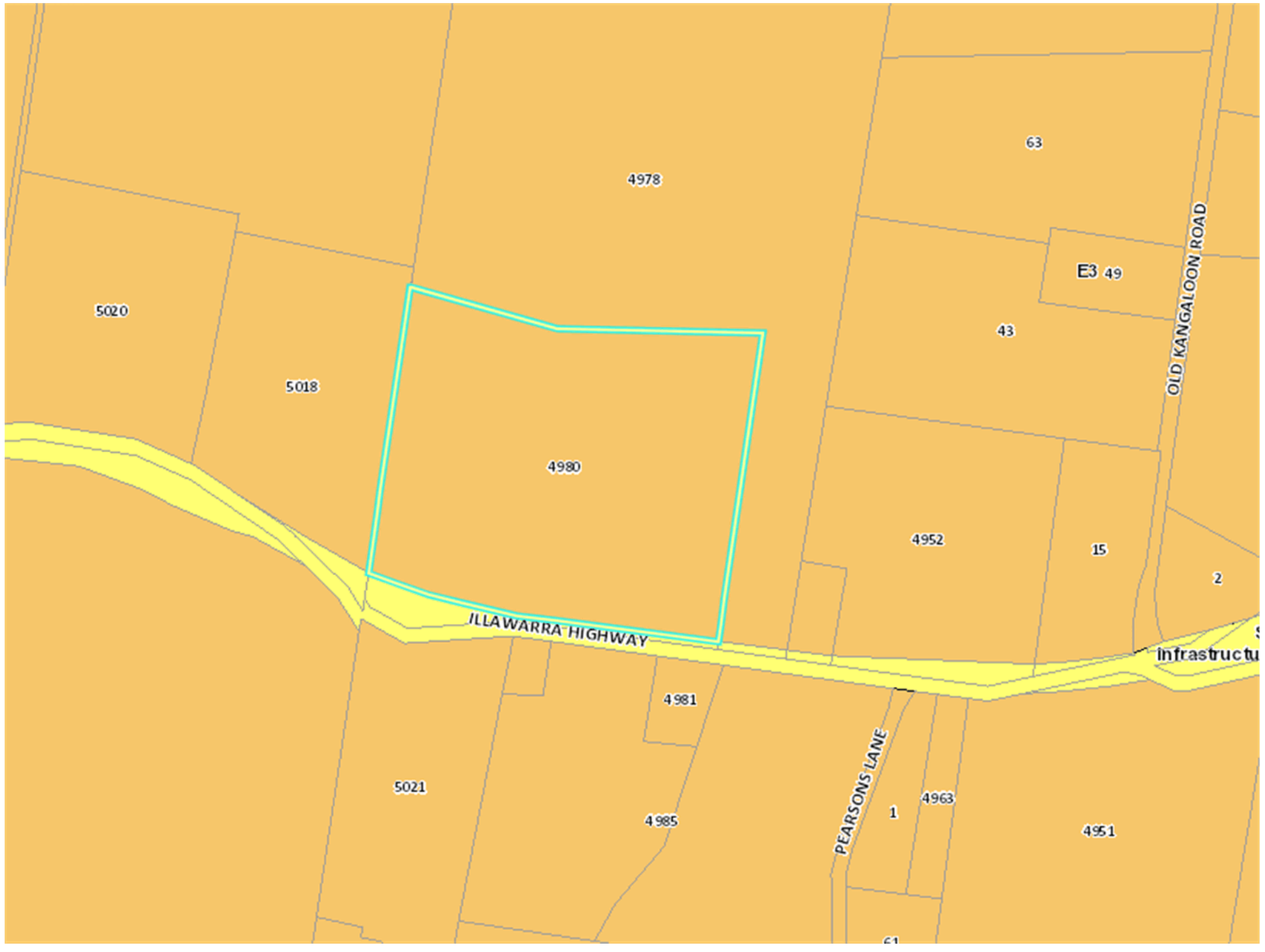
25. **Restoration of land at the end of the temporary use period**

In accordance with Clause 2.8 (3) (d) of Wingecarribee Local Environmental Plan 2010, at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.

END OF CONDITIONS

ATTACHMENT 2 – SITE LOCATION

ATTACHMENT 3 – ZONING



ATTACHMENT 4 – SITE PLAN

Existing shed

Proposed on site parking area

12.4 Heritage Assessment of 'Yarrabin', 32 Kangaloon Road, Bowral, and Request for Interim Heritage Order

Reference:	**5650/9, 5650/4, PN 1705222**
Report Author:	**Strategic Land Use Planner (Heritage)**
Authoriser:	**Coordinator Strategic Land Use Planning**
Link to Community Strategic Plan:	**Identify, protect and promote places of significant cultural heritage**

PURPOSE

The purpose of this report is to bring to Council's attention the identification of a property in Bowral that has been assessed as having heritage significance to the Wingecarribee Shire and that is under threat of future development. The report presents a heritage assessment that has been undertaken of the property which concludes that the site is worthy and meets the threshold for heritage listing and requests that Council authorise an Interim Heritage Order to protect the property while a Planning Proposal is prepared for the listing of the property and its inclusion in the Bowral Conservation Area.

VOTING ON THE MOTION

Councillors are required to record their votes on this matter.

RECOMMENDATION

1. **THAT Council supports the proposed heritage listing of 'Yarrabin', 32 Kangaloon Road, Bowral (Lot 40 DP 862808) and the extension of the Bowral Conservation Area to include the property.**
2. **THAT a Planning Proposal be prepared under section 3.33 of the Environmental Planning & Assessment Act 1979 to amend Schedule 5 of the Wingecarribee Local Environmental Plan 2010 and the Heritage Map to add "'Yarrabin' house and garden, including horse chestnut tree (*Aesculus hippocastanum*)" as a new heritage item and to extend the boundaries of the adjacent Bowral Conservation Area to include this property.**
3. **THAT the Planning Proposal be sent to the Department of Planning, Industry and Environment with a request for a Gateway Determination in accordance with section 3.34 of the Environmental Planning & Assessment Act 1979.**
4. **THAT Council staff consult with Government stakeholders and engage with the community on the Planning Proposal in the manner prescribed in the Gateway Determination.**
5. **THAT Council consider a report after the conclusion of consultation and community engagement on the Planning Proposal.**
6. **THAT Council supports the placement of an Interim Heritage Order (No. 11) over 32 Kangaloon Road, Bowral immediately, AND THAT pursuant to Council's resolution, the Interim Heritage Order be valid for 12 months to allow for the preparation and processing of the Planning Proposal.**

7. THAT the property owner and surrounding neighbours be advised of Council's decision.

REPORT

BACKGROUND

In mid-July 2020, Council officers were approached by concerned neighbours regarding an impending sale of a large site in Bowral with a post-War Bowral house with Moderne style elements surrounded by a mature garden featuring many large trees.

SUBJECT SITE

The site which is the subject of this report is located at 32 Kangaloon Road, Bowral, and is known as 'Yarrabin'. The site is located just to the east of the Kangaloon Road and Bendooley Street intersection and lies outside the Bowral Conservation Area whose eastern boundary excludes the property, but includes the neighbouring properties fronting Bendooley Street—including the subject site's neighbour, 'Beatrice Park', at 90 Bendooley Street (which also includes the corner site at 30 Kangaloon Road which forms part of the 'Beatrice Park' garden) and properties to the south of the site to the golf course. **Figure 1** shows the location of the site relative to the Bowral Conservation Area and **Figure 3** shows a recent aerial photograph of the site.

The site is zoned R2 Low Density Residential, with a minimum lot size of 2,000m^2, and has a total site area of 5,569m^2. If subdivided, it would be capable of a maximum of two lots. The site slopes up from the road at a gradient of 1:11 or around 9%. Although there are no recognised watercourses on the land, anecdotally it is a natural drainage course from the rear of properties in Charlton Close to Kangaloon Road. There is documented pooling of water in the front yard, was described by a previous owner as the "bog garden". A Council sewer line runs through the front of the property from east to west and there is a sewer manhole in the front yard.

The site contains a single storey house over a basement garage built in 1951/52 set some 65 metres back from the road and which would have once afforded a view of the Bowral Golf Course. The driveway from Kangaloon Road curves up and around to the house which features a lower level double garage with original timber garage doors with balcony and living spaces above. The house is a typical solidly built rendered masonry building with Marseilles tile roof featuring curved Moderne style elements and timber framed windows and French doors. The house was extended to the rear, filling in a small courtyard, in 1984 to a design by lauded Sydney based heritage architect Howard Tanner. The house is surrounded by a park-like selection of trees, shrubs and gardens, including a remnant orchard in the north-eastern corner of the rear yard. There is a small rectangular swimming pool to the east of the house. The property is bounded on the western sides by a prominent line of Bhutan cypress trees (*Cupressus torulosa*) and on the east by a stand of Arizona cypress (*Cupressus arizonica*), which are visible from both Kangaloon Road and Bendooley Street and are a characteristic planting, similar to the planting of the conifers adjacent to Bowral High School**. Figures 2, 4, 5 and 6** show various photos of the house and garden.

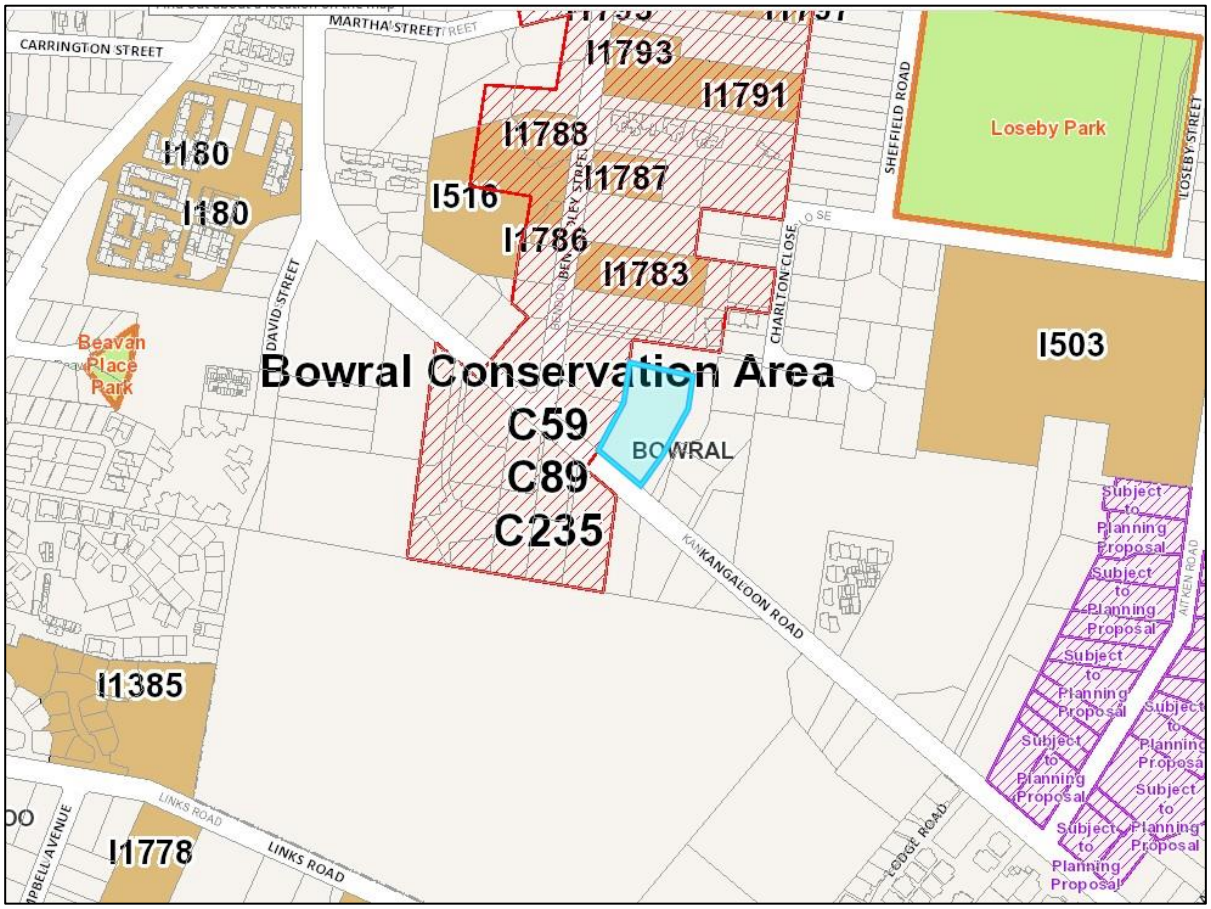


Figure 1: Location of subject site (outlined in blue) relative to the Bowral Conservation Area (red hatched area). The draft Aitken Road Conservation Area can be seen to the east shown outlined and hatched in purple with the notation "Subject to Planning Proposal".

Figure 2: Photos of 'Yarrabin' garden: (L) looking north from Kangaloon Road; (R) looking south from house toward Kangaloon Road (July 2020).

Figure 3: Aerial photo showing the vegetation of 'Yarrabin', 32 Kangaloon Road, Bowral.

Figure 4: Photo of 'Yarrabin' house: (L) looking north from front garden; (R) looking nort-west from front corner of house (July 2020).

Figure 5: Views south: (L) view of the northern elevation of the house showing the central Howard Tanner 1984 extension; (R) view south toward Kangaloon Road from the rear corner of the house showing the boundary planting of Bhutan cypress (*Cupressus torulosa*).

Figure 6: The locally rare mature horse chestnut tree (*Aesculus hippocastanum*).

HERITAGE ASSESSMENT OF 'YARRABIN'

In NSW, an assessment of the heritage significance of a place is to be undertaken with reference to seven (7) specific criteria developed by the NSW Heritage Office (now Heritage NSW) and contained within the NSW Heritage Manual. To be eligible for local heritage listing a place must meet one or more of these criteria at a local level. To be eligible for

listing on the State Heritage Register an item must meet two or more of these criteria on a State level.

The following assessment of the heritage significance of 'Yarrabin' has been undertaken by Council' s Strategic Land Use Planner (Heritage) with critical input from members of the Heritage Advisory Committee and historical data provided by members of the community.

Heritage Criterion	Assessment of 'Yarrabin', 32 Kangaloon Road, Bowral
(a) HISTORICAL	
An item is important in the course, or pattern, of NSW's (or local) cultural or natural history.	Although the property demonstrates post-War development of Bowral, it has not been assessed as being significant under this criterion.
(b) ASSOCIATIONAL	
An item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's (or the local area's) cultural or natural history.	The garden is significant for its associations with Tim and Keva North, devoted gardeners and authors, who owned and lived in the house from 1983 until 1994 and who rehabilitated the garden which had been neglected since the 1960s. Tim and Keva North were pioneer writers on the subject of garden history and were early members of the Australian Garden History Society which commenced in 1980. Tim was an early Secretary to the Society and in June 1983 they renamed their previous *Garden Cuttings* magazine *The Australian Garden Journal*. From 1983 to 1988 the Journal was produced from 'Yarrabin' and then from an office in Bowral. The house is significant at a local level for its possible association with local builder of note, Alf Stephens & Son, whose building firm continued through the mid-twentieth century. The house has a sympathetic 1984 rear addition by prominent architect Howard Tanner, who is renowned for his contribution to heritage architecture.

Heritage Criterion	Assessment of 'Yarrabin', 32 Kangaloon Road, Bowral
(c) AESTHETIC/TECHNICAL	
An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW or the local area.	The garden contains a number of significant trees. The most important of which is the horse chestnut, *Aesculus hippocastanum*. This tree is significant for its age and comparative rarity for a tree of this maturity. This tree is mentioned in Tim North's, "Garden Cuttings: Reflections from and Australian Gardener". (1999. New Holland Publishers: Sydney). Individual significant trees are the Beech and the 2 Kanzan cherries at the top of the stairs. Also present may be a Tilia, also mentioned in the "Garden Cuttings" book. Trees significant as a group (i.e. can remove 1 or 2 but not all) are the row of *Cupressus torulosa* on the western boundary and the collection as a whole of mature trees throughout the garden. The garden is significant locally as an example of a prominent garden open to the public under the open gardens scheme from the late 1950s to the early 1960s. It was featured on the cover of The Australian Women's Weekly on 1 November 1961 and featured prominently in descriptions and photographs in Tim North's book "Garden Cuttings". The whole garden has strong landscape significance as a characteristic post-War 'Bowral' house surrounded by a large garden. The maturity of the garden and the height of many of the trees give it landmark significance in the immediate area.
(d) SOCIAL	
An item has strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons.	The garden has a strong association with the Southern Highlands gardening community as one of the many magnificent private gardens opened to the public in what has become a tradition of Open Gardens in the area. 'Yarrabin' was one of the featured open gardens for Bowral's inaugural Festival of Flowers in 1958 (which became the annual Tulip Time Festival for which Bowral is famed). 'Yarrabin' won awards for its garden between 1958 and 1962 when it was opened by the then owners, Roy and Gwen Green. It was featured on the cover of the Australian Women's Weekly on its 1 November 1961 issue. Socially the garden is significant as a preeminent show garden over a period of many years, including the years under the stewardship of the Greens and the Norths. The large gatherings and tours to the garden organised by the Norths contribute to the Social significance, particularly with their association with the Australian Garden History Society.

Heritage Criterion	Assessment of 'Yarrabin', 32 Kangaloon Road, Bowral
(e) RESEARCH	
An item has potential to yield information that will contribute to an understanding of NSW's or the local area's cultural or natural history.	The site has not been assessed as being significant under this criterion.
(f) RARITY	
An item possesses uncommon, rare or endangered aspects of NSW's or the local area's cultural or natural history.	The European horse chestnut (*Aesculus hippocastanum*) located at the top of the curve of the driveway is significant for its age and comparative rarity for a tree of this maturity. There is only one other known species in the Southern Highlands of larger proportions, and that is within the grounds of Anglewood.
(g) REPRESENTATIVENESS	
An item is important in demonstrating the principal characteristics of a class of NSW's (or a class of the local area's) cultural or natural places; or cultural or natural environments.	The house is a good representative example of a solidly built home of the 1940s with Moderne influences, typical of the Southern Highlands and representative of the style of houses designed and built in the region during the Interwar and Post-War periods. The garden and its palette of trees is representative of the era of gardens from the 1950s and 1960s. During the 1950s to the 1980s, *Cupressus torulosa* was the plant of choice for windbreaks across the district.

'Yarrabin' is considered to be of local heritage significance and the overall statement of significance for the proposed heritage listing is as follows:

> *'Yarrabin' is significant as a representative example of a 1950s and 1960s garden in the Southern Highlands set on a large allotment and using a typical palette of trees and plants from that era. The site is associated with Tim and Keva North, authors and prominent members of the Australian Garden History Society who owned the house from the early 1980s until the early 1990s. It has social significance attached to the Open Gardens scheme and the early beginnings of the Bowral Tulip Time Festival. The house is a simple local example of a post-War simplified Moderne style which may have been built by prolific local builders, Alf Stephens & Son.*

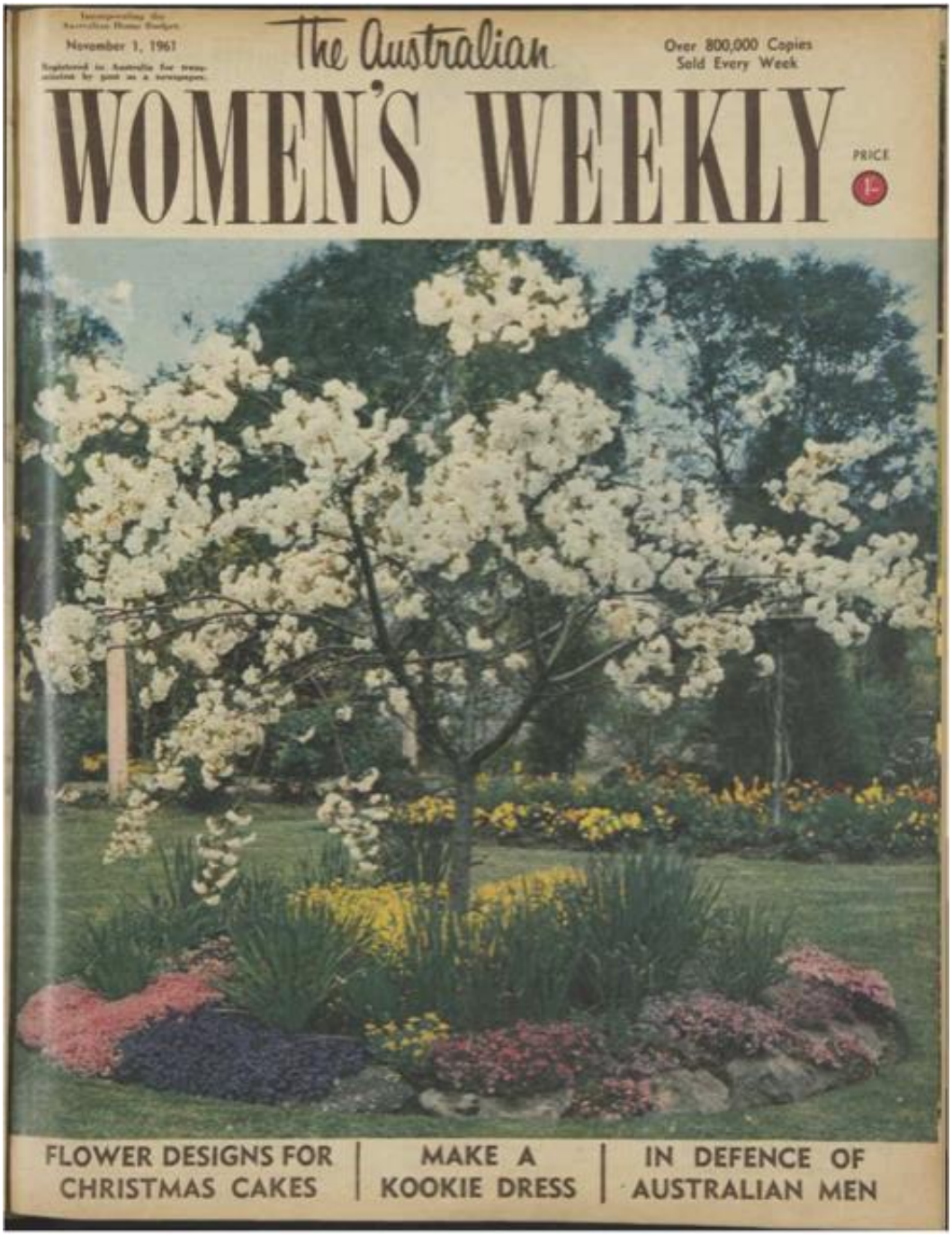


Figure 7: 1 November 1961 cover of the Australian Women's Weekly featuring the garden of 'Yarrabin' as referred to in heritage assessment criteria (c) and (d).

In addition to the proposed heritage listing of the site, this report recommends that the boundaries of the Bowral Conservation Area be extended to include 'Yarrabin' whose gardens make a significant contribution to this conservation area.

INTERIM HERITAGE ORDER

An interim heritage order (IHO) is a mechanism under the Heritage Act 1977 which enables Councils that have authorisation (given by the Minister) to issue heritage protections "for a

place, building, work, relic, moveable object or precinct in the council's area that the council considers may, on further inquiry or investigation, be found to be of local heritage significance, and that the council considers is being or is likely to be harmed" (section 25 of the Heritage Act).

This report requests that Council issue an IHO over this site to protect the house, gardens and trees while heritage listing is being pursued. In order for an IHO to be able to be issued under delegation to Council, there are a number of conditions that need to be met, which are detailed below together with comments in relation to the subject site.

IHO Condition	**Officer Comment**
1. A council must not make an Interim Heritage Order unless: a) an environmental planning instrument, containing a schedule of heritage items derived from a heritage study and provisions for the management of those items, is in force in the local government area.	Yes. Wingecarribee Local Environmental Plan (WLEP) 2010 contains heritage items in Schedule 5. The subject property is not included as a heritage item, nor is it within a heritage conservation area shown on the WLEP 2010 Heritage Map.
b) it has considered a preliminary heritage assessment of the heritage item, prepared by a person with appropriate heritage knowledge, skills and experience, employed or retained by the council and considers that: i) the item is or is likely to be found on further inquiry and investigation to be of local heritage significance, and	This report includes a heritage assessment of the site which concludes that the house and its garden satisfies 5 out of 7 of the heritage assessment criteria on a local level and therefore meets the threshold for listing as a heritage item.
ii) the item is being or is likely to be harmed.	The site has recently been sold following the death of the elderly former owner. There is reasonable verbal evidence that the site has been purchased with the intention of demolishing the house and garden and developing the site, possibly for seniors housing, which is permitted with consent on the site. Attempts have been made to contact the current owner on record with no response at time of writing. In addition, the real estate agent responsible for the sale was unable to provide any information about the new owner's intention for the future of the property.
iii) the Interim Heritage Order is confined to the item determined as being under threat.	The proposed Interim Heritage Order is confined to the subject site at 32 Kangaloon Road, Bowral.

IHO Condition	Officer Comment
c) Where an Interim Heritage Order is made over land which includes an item which on further inquiry and investigation may be of significance to Aboriginal people, council must refer the proposal to the NSW Heritage Office. The Heritage Office will conduct an assessment regarding its significance, and undertake community consultation, before the Interim Heritage Order is made. Council must comply with the recommendations of the NSW Heritage Office, following its referral.	No potential item or site of significance to the Aboriginal people has been identified on the subject site.
2. A council must not make an Interim Heritage Order where: a) the item is listed on: i) an environmental planning instrument ii) the item is within a conservation area identified in an environmental planning instrument b) the item is covered by an order made pursuant to sections 130 or 136 of the Heritage Act 1977. c) the council has previously placed an Interim Heritage Order on the item. d) the court has granted development consent in relation to the item, that permits the item to be harmed, and the development consent is still in force.	The site is not: • a current heritage item, or • within a heritage conservation area, or • covered by another order under the Heritage Act, or • the subject of a previous interim heritage order, or • the subject of a court granted development consent.
3. A council must not make an Interim Heritage Order (IHO) over a potential heritage item that is located on land: • that is Crown Land • which is being developed for or on behalf of the Crown. • which is subject to a development declared to be "State significant development" under the Environmental Planning and Assessment Act 1979.	The site is not: • owned or being developed for or on behalf of the Crown, or • declared state significant development.
4. A council must not make an Interim Heritage Order in respect of an item (that includes a building, work, relic or place) that is subject to an approval, consent, license, permit, permission or any other form of authorisation, that requires or permits the item to be harmed, and is issued by the Crown, an officer or employee of the Crown or Minister.	The site is not subject to any approval, consent, license, permit, permission issued by the Crown.

IHO Condition	Officer Comment
5. An interim heritage order made by a council must contain the following condition: a) "This Interim Heritage Order will lapse six months from the date that it is made unless the local council has passed a resolution before that date either: b) in the case of an item which, in the council's opinion, is of local significance, to place the item on the heritage schedule of a local environmental plan with appropriate provisions for protecting and managing the item; and c) in the case of an item which in the council's opinion, is of State heritage significance, nominate the item for inclusion on the State Heritage Register."	The interim heritage order would be issued with the condition as stated. However, since this report also includes the heritage assessment required by this process, it is assumed that the IHO will be valid for the full 12 months.

PLANNING PROPOSAL TO AMEND WLEP 2010 INSTRUMENT AND MAPS

Should Council support the recommendation of this report to heritage list 'Yarrabin' at 32 Kangaloon Road, Bowral, and extend the Bowral Conservation Area to include the site, a Planning Proposal will be prepared by Strategic Planning Branch staff. The Planning Proposal will seek to amend the WLEP 2010 and would comprise the following:

1. Addition of a new heritage item in Part 1 (heritage items) of Schedule 5 of the WLEP 2010: "'Yarrabin' house and garden, including horse chestnut tree (*Aesculus hippocastanum*)" comprising Lot 40 DP 862808 at 32 Kangaloon Road, Bowral.
2. Addition of 32 Kangaloon Road, Bowral as a new heritage item on the Heritage Map.
3. Extension of the eastern boundary of the Bowral Conservation Area to include 32 Kangaloon Road, Bowral, on the Heritage Map.

COMMUNICATION AND CONSULTATION

Community Engagement

Due to its nature, there is no requirement for Council to consult with a property owner before the publishing of an Interim Heritage Order. However, attempts have been made to make contact with the property owner with no response at time of writing. Required notificatios will be undertaken in accordance with the NSW Heritage Act 1977 and the Local Government Heritage Guidelines should an IHO be issued.

Should Council support the initiation of the Planning Proposal process as recommended in this report, community consultation is a necessary and integral part in that process going forward. Any proposed amendment to WLEP 2010 supported by Council is lodged with the Department of Planning, Industry & Environment for a Gateway Determination to proceed. Community consultation then occurs in accordance with the Gateway requirements but

public exhibition for a period of 28 days is normally recommended. This community engagement period allows for property owners and the community to comment on the proposal and any submissions received will be reported to Council for a final decision on whether or not to proceed with the Planning Proposal.

Internal Communication and Consultation

Any proposed amendment to WLEP 2010 supported by Council would be internally referred to relevant staff for comment. Council's Heritage Advisory Committee has been consulted and has been involved in the preparation of the information contained in this report.

External Communication and Consultation

Any proposed amendment to WLEP 2010 supported by Council would be externally referred to relevant agencies for comment as required by the Gateway Determination.

SUSTAINABILITY ASSESSMENT

- **Environment**

The listing of this site as a heritage item and the extension of the Bowral Conservation Area to cover this site would serve to protect the trees and vegetation on the site.

- **Social**

There are no broader social issues in relation to this report.

- **Broader Economic Implications**

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

- **Culture**

The listing of new heritage items is one of the strategies identified in the Wingecarribee Community Strategic Plan, Wingecarribee 2031 (amended 2017) under goal 3.2 (Wingecarribee has maintained a distinct character and separation of towns and villages). Council is committed to ensuring that places of heritage significance are identified, assessed and listed, as appropriate. This report in part satisfies this goal and strategy.

- **Governance**

This report has been prepared in consideration of guidelines provided by the Department of Planning, Industry & Environment (NSW DPIE) and Heritage NSW. Any Planning Proposal prepared by Council would be processed in accordance with NSW DPIE guidelines and any Interim Heritage Order would be prepared and issued in accordance with Heritage NSW's Local Government Heritage Guidelines and the Ministerial Order for Authorisation to make Interim Heritage Orders.

COUNCIL BUDGET IMPLICATIONS

As this process has been initiated by Council staff, no Planning Proposal fees would be applicable. All assessment and research has been carried out by existing staff and Council resources with volunteer input from the community and Council's Heritage Advisory Committee.

RELATED COUNCIL POLICY

There are no related Council policies.

OPTIONS

The options available to Council are:

Option 1

That Council ***support*** the proposed heritage listing of the 'Aitken Road Interwar Housing Group' and the creation of the 'Aitken Road Conservation Area'. A heritage assessment has been undertaken of the property which recommends that it be heritage listed and included within the Bowral Conservation Area. Where heritage significance of a property is identified though proper assessment, Council should support the assessment through heritage listing. This option forms the recommendation contained in this report, as follows:

1. **THAT Council supports the proposed heritage listing of 'Yarrabin', 32 Kangaloon Road, Bowral (Lot 40 DP 862808) and the extension of the Bowral Conservation Area to include the property.**
2. **THAT a Planning Proposal be prepared under section 3.33 of the Environmental Planning & Assessment Act 1979 to amend Schedule 5 of the Wingecarribee Local Environmental Plan 2010 and the Heritage Map to add "'Yarrabin' house and garden, including horse chestnut tree (*Aesculus hippocastanum*)" as a new heritage item and to extend the boundaries of the adjacent Bowral Conservation Area to include this property.**
3. **THAT the Planning Proposal be sent to the Department of Planning, Industry and Environment with a request for a Gateway Determination in accordance with section 3.34 of the Environmental Planning & Assessment Act 1979.**
4. **THAT Council staff consult with Government stakeholders and engage with the community on the Planning Proposal in the manner prescribed in the Gateway Determination.**
5. **THAT Council consider a report after the conclusion of consultation and community engagement on the Planning Proposal.**
6. **THAT Council supports the placement of an Interim Heritage Order (No. 11) over 32 Kangaloon Road, Bowral immediately, AND THAT pursuant to Council's resolution, the Interim Heritage Order be valid for 12 months to allow for the preparation and processing of the Planning Proposal.**
7. **THAT the property owner and surrounding neighbours be advised of Council's decision.**

Option 2

That Council not support the issuing of an Interim Heritage Order but will include the property in the list of proposed heritage items to be considered by Council from the 2012 deferred items list. Should Council not consider the requirements for the issuing of an Interim Heritage Order to be satisfied, the heritage listing of the site can be supported without the IHO. However, this runs the risk of loss or damage to the house and garden and potentially opens the door for lodgement of a development application that might not respect the heritage values on the site.

Option 3

THAT Council ***not support*** the proposal.

Option 1 is the recommended option to this report.

CONCLUSION

A large residential site in the heart of Bowral but just outside the Bowral Conservation Area is under potential threat of inappropriate development resulting in the loss of the significant garden. This report recommends on the basis of a heritage assessment of the site presented in the report, that it be heritage listed and protected in the meantime by an Interim Heritage Order. This approach is consistent with the goals of the Wingecarribee 2031 Community Strategic Plan 2017 to identify, protect and promote places of significant cultural heritage (Strategy 3.2.3).

ATTACHMENTS

There are no attachments to this report.

12.5 Proposed Amendments to Code of Meeting Practice

Reference:	**100/3**
Report Author:	**Coordinator Corporate Strategy and Governance**
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 an amended draft Code of Meeting Practice (draft Meeting Code) for Council's consideration to place on public exhibition.

RECOMMENDATION

1. **THAT Council endorse the amended Draft Wingecarribee Shire Council Code of Meeting Practice (Attachment 1) for public exhibition for a period of 28 days, noting that submissions will be accepted during the exhibition period and for a further 14 days following the conclusion of the exhibition period.**

2. **THAT a further report be brought back to Council following the public exhibition period.**

REPORT

BACKGROUND

Council's Code of Meeting Practice was adopted on 12 June 2019 (MN 271/19). It was developed based on the Model Code of Meeting Practice for Local Councils in NSW (the Model Code) prescribed under section 360(1) of the *Local Government Act 1993* (the Act) and clause 232 of the *Local Government (General) Regulation 2005*.

Under sections 360(3)-(4) of the Act, Council's Code of Meeting Practice must incorporate the mandatory provisions and may also incorporate the non-mandatory provisions of the Model Code, as well as other provisions determined by Council so long as those supplementary provisions are consistent with the mandatory provisions of the Model Code. Pursuant to these statutory requirements, Council's Code of Meeting Practice includes all mandatory and some non-mandatory provisions of the Model Code along with supplementary provisions added by Council.

At its meeting on 22 July 2020, Council passed the following resolution (MN 277/20):

1. *THAT Councillors endorse in principle the following amendments to Council's Code of Meeting Practice:*
    a. *That each Councillor is limited to a maximum of either two notices of motion or questions with notice per meeting*
    b. *That it be explicitly stated that a question with notice is limited to one question only and excludes a question with multiple parts to it.*

2. *THAT Council staff report a revised draft Code of Meeting Practice containing these amendments to the Council meeting of 12 August 2020 for consideration to be placed on public exhibition after which it will be reported back to Council for adoption.*

In accordance with this resolution, a revised draft Meeting Code containing the requested amendments is reported to Council for consideration to be placed on public exhibition.

REPORT

With respect to notices of motion and questions with notice, Council's Code of Meeting Practice relevantly states:

> 3.10 A councillor may give notice of any business they wish to be considered by the council at its next ordinary meeting by way of a notice of motion. To be included on the agenda of the meeting, the notice of motion must be in writing and must be submitted prior to the close of business at 4.30pm, seven (7) business days before the meeting is to be held.
>
> …
>
> 3.14 A councillor may, by way of a notice submitted under clause 3.10, ask a question for response by the general manager about the performance or operations of the council.

These are both mandatory provisions of the Model Code. The Model Code does not prescribe a limit on the number of notices of motion or questions with notice that may be submitted to a meeting by an individual Councillor, nor does it explicitly clarify that a question with notice should just be one question and not a question with multiple parts to it.

Therefore, to give effect to the aforementioned Council resolution of 22 July 2020, the following draft clauses are proposed to be inserted into the draft Meeting Code:

> 3.15 A question with notice is limited to one question only, that is, it must not comprise a question with multiple parts to it.
>
> …
>
> Limit to the number of notices of motion and questions with notice that can be submitted
>
> 3.18 A councillor is limited to submitting a maximum of two notices of motion or questions with notice under clauses 3.10 and 3.14 respectively. This may comprise two notices of motion or two questions with notice or one notice of motion and one question with notice.

These supplementary provisions have been marked up in the draft Meeting Code provided at **Attachment 1**. Where necessary, the consequential renumbering of other clauses has also been undertaken, though these changes are not marked up for attention as they are editorial in nature and have no impact on the substance of the draft Meeting Code. The document template has also been updated to reflect amendments to Council's corporate style guide and policy template.

In accordance with section 361 of the Act, Council is required to publicly exhibit its draft Meeting Code for at least 28 days and provide members of the community with at least 42 days to lodge a submission. It is proposed that the draft Meeting Code be placed on public exhibition from 14 August to 11 September 2020, with submissions accepted until 25 September 2020. Following this, a further report will be presented to Council summarising any submissions received prior to the adoption of the draft Meeting Code.

COMMUNICATION AND CONSULTATION

Community Engagement

In accordance with section 361 of the Act, Council is required to publicly exhibit its draft Meeting Code for at least 28 days and provide members of the community with at least 42 days to lodge a submission.

Internal Communication and Consultation

Councillors

Executive

General Counsel

External Communication and Consultation

Council staff have confirmed with the NSW Office of Local Government (OLG) that although there is a Model Code, the proposed provisions are not mandatory and therefore amending Council's Code of Meeting Practice in this way is lawful so long as the Act is complied with in the process. This includes publicly exhibiting the draft Meeting Code in accordance with section 361 of the Act.

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**

Under sections 360(3)-(4) of the Act, Council's Code of Meeting Practice must incorporate the mandatory provisions and may also incorporate the non-mandatory provisions of the Model Code, as well as other provisions determined by Council so long as those supplementary provisions are consistent with the mandatory provisions of the Model Code. Advice from the OLG has confirmed that the proposed supplementary provisions of the draft Meeting Code are lawful.

COUNCIL BUDGET IMPLICATIONS

Nil.

RELATED COUNCIL POLICY

Code of Conduct

Procedures for the Administration of the Code of Conduct

OPTIONS

The options available to Council are:

Option 1

1. THAT Council endorse the amended Draft Wingecarribee Shire Council Code of Meeting Practice (Attachment 1) for public exhibition for a period of 28 days, noting that submissions will be accepted during the exhibition period and for a further 14 days following the conclusion of the exhibition period.
2. THAT a further report be brought back to Council following the public exhibition period.

Option 2

1. THAT subject to changes to be determined by Council, Council endorse the amended Draft Wingecarribee Shire Council Code of Meeting Practice (Attachment 1) for public exhibition for a period of 28 days, noting that submissions will be accepted during the exhibition period and for a further 14 days following the conclusion of the exhibition period.
2. THAT a further report be brought back to Council following the public exhibition period.

Option 3

THAT Council not endorse the amended Draft Wingecarribee Shire Council Code of Meeting Practice (Attachment 1) for public exhibition.

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

CONCLUSION

The draft Meeting Code is reported to Council for consideration to be placed on public exhibition in accordance with Council resolution MN 277/20 as passed on 22 July 2020.

ATTACHMENTS

1. Draft Code of Meeting Practice

Code of Meeting Practice
Draft

Leadership

1.1 Our Council has the trust of the community and well informed decisions are made to ensure long term sustainability of our Shire

Document Type	Council Code
Document Reference No.	*[Governance to insert]*
Version No.	*[Governance to insert]*
Council File Reference	100/3
Adoption Date	*[Governance to insert]*
Resolution Number	*[Governance to insert]*
Document Owner	Group Manager Corporate and Community
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Responsible Business Unit	Corporate Strategy and Governance
Review Schedule	Within 12 months of the next ordinary election of Councillors
Review Date	March 2022

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1. Introduction

This Code of Meeting Practice (Code) for Wingecarribee Shire Council is based on the Model Code of Meeting Practice for Local Councils in NSW (the Model Meeting Code) and is made under section 360 of the *Local Government Act 1993* (the Act) and the *Local Government (General) Regulation 2005* (the Regulation).

This Code applies to all meetings of councils and committees of councils of which all the members are councillors in accordance with clause 21.2 of this Code (committees of council). Council committees whose members include persons other than councillors must conduct meetings in accordance with Council's adopted Committee Manual.

A council and a committee of the council of which all the members are councillors must conduct its meetings in accordance with this Code of Meeting Practice.

2. Meeting Principles

2.1 Council and committee meetings should be:

Transparent: Decisions are made in a way that is open and accountable.

Informed: Decisions are made based on relevant, quality information.

Inclusive: Decisions respect the diverse needs and interests of the local community.

Principled: Decisions are informed by the principles prescribed under Chapter 3 of the Act.

Trusted: The community has confidence that councillors and staff act ethically and make decisions in the interests of the whole community.

Respectful: Councillors, staff and meeting attendees treat each other with respect.

Effective: Meetings are well organised, effectively run and skilfully chaired.

Orderly: Councillors, staff and meeting attendees behave in a way that contributes to the orderly conduct of the meeting.

3. Before the Meeting

Timing of Ordinary Council Meetings

3.1 Ordinary meetings of the Council will be held on the on the second and fourth Wednesdays of each month between February and November, and on the second Wednesday of December. No meetings shall be held in January. Meetings will commence at 3.30 pm.

Note: Under section 365 of the Act, councils are required to meet at least ten (10) times each year, each time in a different month unless the Minister for Local Government has approved a reduction in the number of times that a council is required to meet each year under section 365A.

Extraordinary Meetings

3.2 If the mayor receives a request in writing, signed by at least two (2) councillors, the mayor must call an extraordinary meeting of the council to be held as soon as practicable, but in any event, no more than fourteen (14) days after receipt of the request. The mayor can be one of the two councillors requesting the meeting.

Note: Clause 3.2 reflects section 366 of the Act.

3.3 The mayor, in consultation with the general manager, or the general manager, in consultation with the mayor, may call an extraordinary meeting without the need to obtain the signature of two (2) councillors to consider urgent business.

For the purpose of clause 3.3, urgent business is any matter that, in the opinion of the mayor or the general manager, requires a decision by the council before the next scheduled ordinary meeting of the council.

Notice to the Public of Council Meetings

3.4 The council must give notice to the public of the time, date and place of each of its meetings, including extraordinary meetings and of each meeting of committees of the council.

Note: Clause 3.4 reflects section 9(1) of the Act.

3.5 For the purposes of clause 3.4, notice of a meeting of the council and of a committee of the council is to be published before the meeting takes place. The notice must be published on the council's website, and in such other manner that the council is satisfied is likely to bring notice of the meeting to the attention of as many people as possible.

3.6 For the purposes of clause 3.4, notice of more than one (1) meeting may be given in the same notice.

Notice to Councillors of Ordinary Council Meetings

3.7 The general manager must send to each councillor, at least three (3) days before each meeting of the council, a notice specifying the time, date and place at which the meeting is to be held, and the business proposed to be considered at the meeting.

Note: Clause 3.7 reflects section 367(1) of the Act.

3.8 The notice and the agenda for, and the business papers relating to, the meeting may be given to councillors in electronic form, but only if all councillors have facilities to access the notice, agenda and business papers in that form.

Note: Clause 3.8 reflects section 367(3) of the Act.

Notice to Councillors of Extraordinary Meetings

3.9 Notice of less than three (3) days may be given to councillors of an extraordinary meeting of the council in cases of emergency.

Note: Clause 3.9 reflects section 367(2) of the Act.

Giving notice of business to be considered at council meetings

3.10 A councillor may give notice of any business they wish to be considered by the council at its next ordinary meeting by way of a notice of motion. To be included on the agenda of the meeting, the notice of motion must be in writing and must be submitted prior to the close of business at 4.30pm, seven (7) business days before the meeting is to be held.

3.11 A councillor may, in writing to the general manager, request the withdrawal of a notice of motion submitted by them prior to its inclusion in the agenda and business paper for the meeting at which it is to be considered.

3.12 If the general manager considers that a notice of motion submitted by a councillor for consideration at an ordinary meeting of the council has legal, strategic, financial or policy implications which should be taken into consideration by the meeting, the general manager may prepare a response in relation to the notice of motion for inclusion with the business papers for the meeting at which the notice of motion is to be considered by the council.

3.13 A notice of motion for the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan must be referred to Council's Finance Committee (committee of the council) for consideration. -

Questions with Notice

3.14 A councillor may, by way of a notice submitted under clause 3.10, ask a question for response by the general manager about the performance or operations of the council.

3.15 A question with notice is limited to one question only, that is, it must not comprise a question with multiple parts to it.

3.16 A councillor is not permitted to ask a question with notice under clause 3.14 that comprises a complaint against the general manager or a member of staff of the council, or a question that implies wrongdoing by the general manager or a member of staff of the council.

3.17 The general manager or their nominee may respond to a question with notice submitted under clause 3.14 by way of a report included in the business papers for the relevant meeting of the council or orally at the meeting.

Limit to the Number of Notices of Motion and Questions with Notice that can be Submitted

3.18 A councillor is limited to submitting a maximum of two notices of motion or questions with notice under clauses 3.10 and 3.14 respectively. This may comprise two notices of motion or two questions with notice or one notice of motion and one question with notice.

Agenda and Business Papers for Ordinary Meetings

3.19 The general manager must cause the agenda for a meeting of the council or a committee of the council to be prepared as soon as practicable before the meeting.

3.20 The general manager must ensure that the agenda for an ordinary meeting of the council states:

(a) all matters to be dealt with arising out of the proceedings of previous meetings of the council, and

(b) if the mayor is the chairperson – any matter or topic that the chairperson proposes, at the time when the agenda is prepared, to put to the meeting, and

(c) all matters, including matters that are the subject of staff reports and reports of committees, to be considered at the meeting, and

(d) any business of which due notice has been given under clause 3.10.

3.21 Nothing in clause 3.20 limits the powers of the mayor to put a mayoral minute to a meeting under clause 10.6.

3.22 The general manager must not include in the agenda for a meeting of the council any business of

which due notice has been given if, in the opinion of the general manager, the business is, or the implementation of the business would be, unlawful. The general manager must report, without giving details of the item of business, any such exclusion to the next meeting of the council.

3.23 Where the agenda includes the receipt of information or discussion of other matters that, in the opinion of the general manager, is likely to take place when the meeting is closed to the public, the general manager must ensure that the agenda of the meeting:

(a) identifies the relevant item of business and indicates that it is of such a nature (without disclosing details of the information to be considered when the meeting is closed to the public), and

(b) states the grounds under section 10A(2) of the Act relevant to the item of business.

Note: Clause 3.23 reflects section 9(2A)(a) of the Act.

3.24 The general manager must ensure that the details of any item of business which, in the opinion of the general manager, is likely to be considered when the meeting is closed to the public, are included in a business paper provided to councillors for the meeting concerned. Such details must not be included in the business papers made available to the public, and must not be disclosed by a councillor or by any other person to another person who is not authorised to have that information.

Availability of the Agenda and Business Papers to the Public

3.25 Copies of the agenda and the associated business papers, such as correspondence and reports for meetings of the council and committees of council, are to be published on the council's website, and must be made available to the public for inspection, or for taking away by any person free of charge at the offices of the council, at the relevant meeting and at such other venues determined by the council.

Note: Clause 3.25 reflects section 9(2) and (4) of the Act.

3.26 Clause 3.25 does not apply to the business papers for items of business that the general manager has identified under clause 3.23 as being likely to be considered when the meeting is closed to the public.

Note: Clause 3.26 reflects section 9(2A)(b) of the Act.

3.27 For the purposes of clause 3.25, copies of agendas and business papers must be published on the council's website and made available to the public at a time that is as close as possible to the time they are available to councillors.

Note: Clause 3.27 reflects section 9(3) of the Act.

3.28 A copy of an agenda, or of an associated business paper made available under clause 3.25, may in addition be given or made available in electronic form.

Note: Clause 3.28 reflects section 9(5) of the Act.

Agenda and Business Papers for Extraordinary Meetings

3.29 The general manager must ensure that the agenda for an extraordinary meeting of the council deals only with the matters stated in the notice of the meeting.

3.30 Despite clause 3.29, business may be considered at an extraordinary meeting of the council, even though due notice of the business has not been given, if:

(a) a motion is passed to have the business considered at the meeting, and

(b) the business to be considered is ruled by the chairperson to be of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.

3.31 A motion moved under clause 3.30(a) can be moved without notice but only after the business notified in the agenda for the extraordinary meeting has been dealt with.

3.32 Despite clauses 11.20–11.30, only the mover of a motion moved under clause 3.30(a) can speak to the motion before it is put.

3.33 A motion of dissent cannot be moved against a ruling of the chairperson under clause 3.30(b) on whether a matter is of great urgency.

Pre-meeting Briefing Sessions

3.34 Prior to each ordinary meeting of the council, the general manager may arrange a pre-meeting briefing session to brief councillors on business to be considered at the meeting. Pre-meeting briefing sessions may also be held for extraordinary meetings of the council and meetings of committees of the council.

3.35 Pre-meeting briefing sessions are to be held in the absence of the public.

3.36 The general manager or a member of staff nominated by the general manager is to preside at pre-meeting briefing sessions.

3.37 Councillors must not use pre-meeting briefing sessions to debate or make preliminary decisions on items of business they are being briefed on, and any debate and decision-making must be left to the formal council or committee meeting at which the item of business is to be considered.

3.38 Councillors (including the mayor) must declare and manage any conflicts of interest they may have in relation to any item of business that is the subject of a briefing at a pre-meeting briefing session, in the same way that they are required to do so at a council or committee meeting. The council is to maintain a written record of all conflict of interest declarations made at pre-meeting briefing sessions and how the conflict of interest was managed by the councillor who made the declaration.

4. Public Forums

4.1 The council may hold a public forum at each ordinary meeting of the council for the purpose of hearing oral submissions from members of the public on items of business to be considered at the meeting.

4.2 To speak at a public forum, a person must first make an application to the council in the approved form. Applications to speak at the public forum must be received by **close of business (4.30pm) two (2) business days** before the date on which the public forum is to be held, and must identify the item of business on the agenda of the council meeting the person wishes to speak on, and whether they wish to speak 'for' or 'against' the item.

4.3 A person may apply to speak on no more than one (1) item of business on the agenda of the council meeting.

4.4 Legal representatives acting on behalf of others are not to be permitted to speak at a public forum unless they identify their status as a legal representative when applying to speak at the public forum.

4.5 The general manager or their delegate may refuse an application to speak at a public forum. The general manager or their delegate must give reasons in writing for a decision to refuse an application.

4.6 No more than one (1) speaker 'for' and one (1) speaker 'against' are permitted for each item of business on the agenda for the council meeting. Noting the total number of speakers for a public forum is limited to four (4).

4.7 If more than the permitted number of speakers apply to speak 'for' or 'against' any item of business, the general manager or their delegate may request the speakers to nominate from among themselves the person who is to address the council on the item of business. If the speakers are not able to agree on whom to nominate to address the council, the general manager or their delegate is to determine who will address the council at the public forum.

4.8 If more than the permitted number of speakers apply to speak 'for' or 'against' any item of business, the general manager or their delegate may, in consultation with the mayor or the mayor's nominated chairperson, increase the number of speakers permitted to speak on an item of business, where they are satisfied that it is necessary to do so to allow the council to hear a fuller range of views on the relevant item of business.

4.9 Approved speakers at the public forum are to register with the council any written, visual or audio material to be presented in support of their address to the council at the public forum, and to identify any equipment needs no less than 2 business days before the public forum. The general manager or their delegate may refuse to allow such material to be presented.

4.10 The general manager or their delegate is to determine the order of speakers at the public forum.

4.11 Each speaker will be allowed five (5) minutes to address the council. This time is to be strictly enforced by the chairperson. No extensions of time will be approved.

4.12 Speakers at public forums must not digress from the item on the agenda of the council meeting they have applied to address the council on. If a speaker digresses to irrelevant matters, the chairperson is to direct the speaker not to do so. If a speaker fails to observe a direction from the chairperson, the speaker will not be further heard.

4.13 Speakers at public forums cannot ask questions of the council, councillors or council staff.

4.14 The general manager or their nominee may, with the concurrence of the chairperson, address the council for up to two (2) minutes in response to an address to the council at a public forum after the address.

4.15 Where an address made at a public forum raises matters that require further consideration by council staff, the general manager may recommend that the council defer consideration of the matter pending the preparation of a further report on the matters.

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4.16 When addressing the council, speakers at public forums must comply with this code and all other relevant council codes, policies and procedures. Speakers must refrain from engaging in disorderly conduct, publicly alleging breaches of the council's code of conduct or making other potentially defamatory statements.

4.17 If the chairperson considers that a speaker at a public forum has engaged in conduct of the type referred to in clause 4.16, the chairperson may request the person to refrain from the inappropriate behaviour and to withdraw and unreservedly apologise for any inappropriate comments. Where the speaker fails to comply with the chairperson's request, the chairperson may immediately require the person to stop speaking.

4.18 Clause 4.17 does not limit the ability of the chairperson to deal with disorderly conduct by speakers at public forums in accordance with the provisions of Part 16 of this code.

4.19 Where a speaker engages in conduct of the type referred to in clause 4.16, the general manager or their delegate may refuse further applications from that person to speak at public forums or visitor items for such a period as the general manager or their delegate considers appropriate.

5. Visitor Items

5.1 The council may hold visitor items at each ordinary meeting of the council for the purpose of hearing oral submissions from members of the public on development matters to be considered at the meeting-

5.2 The General Manager will determine items considered to be a Visitor Item

5.3 The declaration of a matter as a Visitor Item shall allow a maximum of two (2) speakers (one in favour, one opposed) to nominate to address Council on the item prior to entering debate. The determination as to who shall speak will be at the discretion of the General Manager in preparation of the meeting agenda.

5.4 In the case where an objector wishes to address Council, they shall speak first, with the person in favour having the right of reply.

5.5 Speakers are to be limited to five (5) minutes duration. No extensions of time will be granted.

5.6 Following each speaker, each councillor is permitted to ask each speaker a maximum of one (1) question each. Answers to questions shall not exceed one (1) minute. There shall be no debate or follow-up questions permitted.

5.7 Speakers at visitor items must not digress from the item on the agenda of the council meeting they have applied to address the council on. If a speaker digresses to irrelevant matters, the chairperson is to direct the speaker not to do so. If a speaker fails to observe a direction from the chairperson, the speaker will not be further heard. Speakers at visitor items cannot ask questions of the council, councillors or council staff.

5.8 When addressing the council, speakers at visitor items must comply with this code and all other relevant council codes, policies and procedures. Speakers must refrain from engaging in disorderly conduct, publicly alleging breaches of the council's code of conduct or making other potentially defamatory statements.

5.9 If the chairperson considers that a speaker at a visitor item has engaged in conduct of the type referred to in clause 5.8, the chairperson may request the person to refrain from the inappropriate behaviour and to withdraw and unreservedly apologise for any inappropriate comments. Where the speaker fails to comply with the chairperson's request, the chairperson may immediately require the person to stop speaking.

5.10 Clause 5.9 does not limit the ability of the chairperson to deal with disorderly conduct by speakers at Visitor Items in accordance with the provisions of Part 16 of this code.

5.11 Where a speaker engages in conduct of the type referred to in clause 5.8, the general manager or their delegate may refuse further applications from that person to speak at Visitor Items or Public Forums for such a period as the general manager or their delegate considers appropriate.

6. Coming Together

Attendance by Councillors at Meetings

6.1 All councillors must make reasonable efforts to attend meetings of the council and of committees of the council of which they are members.

Note: A councillor may not attend a meeting as a councillor (other than the first meeting of the council after the councillor is elected or a meeting at which the councillor takes an oath or makes an affirmation of office) until they have taken an oath or made an affirmation of office in the form prescribed under section 233A of the Act.

6.2 A councillor cannot participate in a meeting of the council or of a committee of the council unless personally present at the meeting.

6.3 Where a councillor is unable to attend one or more ordinary meetings of the council, the councillor should request that the council grant them a leave of absence from those meetings. This clause does not prevent a councillor from making an apology if they are unable to attend a meeting. However the acceptance of such an apology does not constitute the granting of a leave of absence for the purposes of this code and the Act.

6.4 A councillor's request for leave of absence from council meetings should, if practicable, identify (by date) the meetings from which the councillor intends to be absent and the grounds upon which the leave of absence is being sought.

6.5 The council must act reasonably when considering whether to grant a councillor's request for a leave of absence.

6.6 A councillor's civic office will become vacant if the councillor is absent from three (3) consecutive ordinary meetings of the council without prior leave of the council, or leave granted by the council at any of the meetings concerned, unless the holder is absent because they have been suspended from office under the Act, or because the council has been suspended under the Act, or as a consequence of a compliance order under section 438HA.

Note: Clause 6.6 reflects section 234(1)(d) of the Act.

6.7 A councillor who intends to attend a meeting of the council despite having been granted a leave of absence should, if practicable, give the general manager at least two (2) days' notice of their intention to attend.

The Quorum for a Meeting

6.8 The quorum for a meeting of the council is a majority of the councillors of the council who hold office at that time and are not suspended from office.

Note: Clause 6.8 reflects section 368(1) of the Act.

6.9 Clause 6.8 does not apply if the quorum is required to be determined in accordance with directions of the Minister in a performance improvement order issued in respect of the council.

Note: Clause 6.9 reflects section 368(2) of the Act.

6.10 A meeting of the council must be adjourned if a quorum is not present:

(a) At the commencement of the meeting where the number of apologies received for the meeting indicates that there will not be a quorum for the meeting, or

(b) Within half an hour after the time designated for the holding of the meeting, or

(c) At any time during the meeting.

6.11 In either case, the meeting must be adjourned to a time, date and place fixed:

(a) By the chairperson, or

(b) In the chairperson's absence, by the majority of the councillors present, or

(c) Failing that, by the general manager.

6.12 The general manager must record in the council's minutes the circumstances relating to the absence of a quorum (including the reasons for the absence of a quorum) at or arising during a meeting of the council, together with the names of the councillors present.

6.13 Where, prior to the commencement of a meeting, it becomes apparent that a quorum may not be present at the meeting, or that the safety and welfare of councillors, council staff and members of the public may be put at risk by attending the meeting because of a natural disaster (such as, but not limited to flood or bushfire) or other threat to safety the mayor may, in consultation with the general manager and, as far as is practicable, with each councillor, cancel the meeting. Where a meeting is cancelled, notice of the cancellation must be published on the council's website and in such other manner that the council is satisfied is likely to bring notice of the cancellation to the attention of as many people as possible.

6.14 Where a meeting is cancelled under clause 6.13, the business to be considered at the meeting may instead be considered, where practicable, at the next ordinary meeting of the council or at an extraordinary meeting called under clauses 3.2 or 3.3.

Entitlement of the Public to Attend Council Meetings

6.15 Everyone is entitled to attend a meeting of the council and committees of the council (i.e. those established by Council in accordance with clause 21.2 of this Code). The council must ensure that all meetings of the council and committees of the council are open to the public.

Note: Clause 6.15 reflects section 10(1) of the Act.

6.16 Clause 6.15 does not apply to parts of meetings that have been closed to the public under section 10A of the Act.

6.17 A person (whether a councillor or another person) is not entitled to be present at a meeting of the council or a committee of the council if expelled from the meeting:

(a) by a resolution of the meeting, or

(b) by the person presiding at the meeting if the council has, by resolution, authorised the person presiding to exercise the power of expulsion.

Note: Clause 6.17 reflects section 10(2) of the Act.

Webcasting of Meetings

6.18 All meetings of the council and committees of the council are to be webcast on the council's website:

(a) audio visual recordings of the open Council Meeting and committees of the council will be live streamed through Council's website.

6.19 Clause 6.18 does not apply to parts of a meeting that have been closed to the public under section 10A of the Act.

6.20 At the start of each meeting the chairperson is to make a statement informing those in attendance that the meeting is being webcast and that those in attendance should refrain from making any defamatory statements.

6.21 A recording of each meeting of the council and committee of the council is to be retained on the council's website for 12 months. Recordings of meetings may be disposed of in accordance with the *State Records Act 1998*.

Attendance of the General Manager and Other Staff at Meetings

6.22 The general manager is entitled to attend, but not to vote at, a meeting of the council or a meeting of a committee of the council of which all of the members are councillors.

Note: Clause 6.22 reflects section 376(1) of the Act.

6.23 The general manager is entitled to attend a meeting of any other committee of the council and may, if a member of the committee, exercise a vote.

Note: Clause 6.23 reflects section 376(2) of the Act.

6.24 The general manager may be excluded from a meeting of the council or a committee while the council or committee deals with a matter relating to the standard of performance of the general manager or the terms of employment of the general manager.

Note: Clause 6.24 reflects section 376(3) of the Act.

6.25 The attendance of other council staff at a meeting, (other than as members of the public) shall be with the approval of the general manager.

7. The Chairperson

The Chairperson at Meetings

7.1 The mayor, or at the request of or in the absence of the mayor, the deputy mayor (if any) presides at meetings of the council.

Note: Clause 7.1 reflects section 369(1) of the Act.

7.2 If the mayor and the deputy mayor (if any) are absent, a councillor elected to chair the meeting by the councillors present presides at a meeting of the council.

Note: Clause 7.2 reflects section 369(2) of the Act.

Election of the Chairperson in the Absence of the Mayor and Deputy Mayor

7.3 If no chairperson is present at a meeting of the council at the time designated for the holding of the meeting, the first business of the meeting must be the election of a chairperson to preside at the meeting.

7.4 The election of a chairperson must be conducted:

(a) by the general manager or, in their absence, an employee of the council designated by the general manager to conduct the election, or

(b) by the person who called the meeting or a person acting on their behalf if neither the general manager nor a designated employee is present at the meeting, or if there is no general manager or designated employee.

7.5 If, at an election of a chairperson, two (2) or more candidates receive the same number of votes and no other candidate receives a greater number of votes, the chairperson is to be the candidate whose name is chosen by lot.

7.6 For the purposes of clause 7.5, the person conducting the election must:

(a) arrange for the names of the candidates who have equal numbers of votes to be written on similar slips, and

(b) then fold the slips so as to prevent the names from being seen, mix the slips and draw one of the slips at random.

7.7 The candidate whose name is on the drawn slip is the candidate who is to be the chairperson.

7.8 Any election conducted under clause 7.3, and the outcome of the vote, are to be recorded in the minutes of the meeting.

Chairperson to have Precedence

7.9 When the chairperson rises or speaks during a meeting of the council:

(a) any councillor then speaking or seeking to speak must cease speaking and, if standing, immediately resume their seat, and

(b) every councillor present must be silent to enable the chairperson to be heard without interruption.

8. Modes of Address

8.1 If the chairperson is the mayor, they are to be addressed as 'Mr Mayor' or 'Madam Mayor'.

8.2 Where the chairperson is not the mayor, they are to be addressed as either 'Mr Chair' or 'Madam Chair'.

8.3 A councillor is to be addressed as 'Councillor [surname]'.

8.4 A council officer is to be addressed by their official designation or as Mr/Ms [surname].

9. Order of Business for Ordinary Council Meetings

9.1 The general order of business for an ordinary meeting of the council shall be:

1. Opening meeting
2. Acknowledgement of country
3. Prayer
4. Apologies and applications for a leave of absence by councillors
5. Confirmation of minutes
6. Disclosures of interests
7. Mayoral minute(s)
8. Public Forum
9. Visitor Items
10. Reports to council
11. Petitions
12. Reports of committees
13. Notices of motions
14. Questions with notice
15. Confidential matters
16. Conclusion of the meeting

9.2 The order of business as fixed under clause (9.1) may be altered for a particular meeting of the council if a motion to that effect is passed at that meeting. Such a motion can be moved without notice.

9.3 Despite clauses 11.20–11.30, only the mover of a motion referred to in clause 9.2 may speak to the motion before it is put.

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10. Consideration of Business at Council Meetings

Business that can be dealt with at a Council Meeting

10.1 The council must not consider business at a meeting of the council:

(a) unless a councillor has given notice of the business, as required by clause 3.10, and

(b) unless notice of the business has been sent to the councillors in accordance with clause 3.7 in the case of an ordinary meeting or clause 3.9 in the case of an extraordinary meeting called in an emergency.

10.2 Clause 10.1 does not apply to the consideration of business at a meeting, if the business:

(a) is already before, or directly relates to, a matter that is already before the council, or

(b) is the election of a chairperson to preside at the meeting, or

(c) subject to clause 10.9, is a matter or topic put to the meeting by way of a mayoral minute, or

(d) Is a motion for the adoption of recommendations of a committee, including, but not limited to, a committee of the council.

10.3 Despite clause 10.1, business may be considered at a meeting of the council even though due notice of the business has not been given to the councillors if:

(a) a motion is passed to have the business considered at the meeting, and

(b) the business to be considered is ruled by the chairperson to be of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.

10.4 A motion moved under clause 10.3(a) can be moved without notice. Despite clauses 11.20–11.30, only the mover of a motion referred to in clause 10.3(a) can speak to the motion before it is put.

10.5 A motion of dissent cannot be moved against a ruling by the chairperson under clause 10.3(b).

Mayoral Minutes

10.6 Subject to clause 10.9, if the mayor is the chairperson at a meeting of the council, the mayor may, by minute signed by the mayor, put to the meeting without notice any matter or topic that is within the jurisdiction of the council, or of which the council has official knowledge.

10.7 A mayoral minute, when put to a meeting, takes precedence over all business on the council's agenda for the meeting. The chairperson (but only if the chairperson is the mayor) may move the adoption of a mayoral minute without the motion being seconded.

10.8 A recommendation made in a mayoral minute put by the mayor is, so far as it is adopted by the council, a resolution of the council.

10.9 A mayoral minute must not be used to put without notice matters that are routine and not urgent, or matters for which proper notice should be given because of their complexity. For the purpose of this clause, a matter will be urgent where it requires a decision by the council before the next scheduled ordinary meeting of the council.

10.10 Where a mayoral minute makes a recommendation which, if adopted, would require the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan, it must identify the source of funding for the expenditure that is the subject of the recommendation be referred to Council's Finance Committee (committee of the council) for consideration.

Staff Reports

10.11 A recommendation made in a staff report is, so far as it is adopted by the council, a resolution of the council.

Reports of Committees of Council

10.12 The recommendations of a committee of the council are, so far as they are adopted by the council, resolutions of the council.

10.13 If in a report of a committee of the council distinct recommendations are made, the council may make separate decisions on each recommendation.

Questions

10.14 A question must not be asked at a meeting of the council by a councillor unless it concerns a matter on the agenda of the meeting or notice has been given of the question in accordance with clauses 3.10 and 3.14.

10.15 A councillor may, through the chairperson, put a question to another councillor about a matter on the agenda.

10.16 A councillor may, through the general manager, put a question to a council employee about a matter on the agenda. Council employees are only obliged to answer a question put to them through the general manager at the direction of the general manager.

10.17 A councillor or council employee to whom a question is put is entitled to be given reasonable notice of the question and, in particular, sufficient notice to enable reference to be made to other persons or to documents. Where a councillor or council employee to whom a question is put is unable to respond to the question at the meeting at which it is put, they may take it on notice and report the response to the next meeting of the council.

10.18 Councillors must put questions directly, succinctly, respectfully and without argument.

10.19 The chairperson must not permit discussion on any reply to, or refusal to reply to, a question put to a councillor or council employee.

11. Rules of Debate

Motions to be Seconded

11.1 Unless otherwise specified in this code, a motion or an amendment cannot be debated unless or until it has been seconded.

Notices of Motion

11.2 A councillor who has submitted a notice of motion under clause 3.10 is to move the motion the subject of the notice of motion at the meeting at which it is to be considered.

11.3 If a councillor who has submitted a notice of motion under clause 3.10 wishes to withdraw it after the agenda and business paper for the meeting at which it is to be considered have been sent to councillors, the councillor may request the withdrawal of the motion when it is before the council.

11.4 In the absence of a councillor who has placed a notice of motion on the agenda for a meeting of the council:

(a) any other councillor may, with the leave of the chairperson, move the motion at the meeting, or

(b) the chairperson may defer consideration of the motion until the next meeting of the council.

Chairperson's Duties with Respect to Motions

11.5 It is the duty of the chairperson at a meeting of the council to receive and put to the meeting any lawful motion that is brought before the meeting.

11.6 The chairperson must rule out of order any motion or amendment to a motion that is unlawful or the implementation of which would be unlawful.

11.7 Before ruling out of order a motion or an amendment to a motion under clause 11.6, the chairperson is to give the mover an opportunity to clarify or amend the motion or amendment.

11.8 Any motion, amendment or other matter that the chairperson has ruled out of order is taken to have been lost.

Motions Requiring the Expenditure of Funds

11.9 A motion or an amendment to a motion which if passed would require the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan must be referred to Council's Finance Committee (committee of the council) for consideration.

Amendments to Motions

11.10 An amendment to a motion must be moved and seconded before it can be debated.

11.11 An amendment to a motion must relate to the matter being dealt with in the original motion before the council and must not be a direct negative of the original motion. An amendment to a motion which does not relate to the matter being dealt with in the original motion, or which is a direct negative of the original motion, must be ruled out of order by the chairperson.

11.12 The mover of an amendment is to be given the opportunity to explain any uncertainties in the proposed amendment before a seconder is called for.

11.13 If an amendment has been lost, a further amendment can be moved to the motion to which the lost amendment was moved, and so on, but no more than one (1) motion and one (1) proposed amendment can be before council at any one time.

11.14 While an amendment is being considered, debate must only occur in relation to the amendment and not the original motion. Debate on the original motion is to be suspended while the amendment to the original motion is being debated.

11.15 If the amendment is carried, it becomes the motion and is to be debated. If the amendment is lost, debate is to resume on the original motion.

11.16 An amendment may become the motion without debate or a vote where it is accepted by the councillor who moved the original motion.

Foreshadowed Motions

11.17 A councillor may propose a foreshadowed motion in relation to the matter the subject of the original motion before the council, without a seconder during debate on the original motion. The foreshadowed motion is only to be considered if the original motion is lost or withdrawn and the foreshadowed motion is then moved and seconded. If the original motion is carried, the foreshadowed motion lapses.

11.18 Where an amendment has been moved and seconded, a councillor may, without a seconder, foreshadow a further amendment that they propose to move after the first amendment has been dealt with. There is no limit to the number of foreshadowed amendments that may be put before the council at any time. However, no discussion can take place on foreshadowed amendments until the previous amendment has been dealt with and the foreshadowed amendment has been moved and seconded.

11.19 Foreshadowed motions and foreshadowed amendments are to be considered in the order in which they are proposed. However, foreshadowed motions cannot be considered until all foreshadowed amendments have been dealt with.

Limitations on the Number and Duration of Speeches

11.20 A councillor who, during a debate at a meeting of the council, moves an original motion, has the right to speak on each amendment to the motion and a right of general reply to all observations that are made during the debate in relation to the motion, and any amendment to it at the conclusion of the debate before the motion (whether amended or not) is finally put.

11.21 A councillor, other than the mover of an original motion, has the right to speak once on the motion and once on each amendment to it.

11.22 A councillor must not, without the consent of the council, speak more than once on a motion or an amendment, or for longer than three (3) minutes at any one time.

12. Voting

Voting Entitlements of Councillors

12.1 Each councillor is entitled to one (1) vote.

Note: Clause 12.1 reflects section 370(1) of the Act.

12.2 The person presiding at a meeting of the council has, in the event of an equality of votes, a second or casting vote.

Note: Clause 12.2 reflects section 370(2) of the Act.

12.3 Where the chairperson declines to exercise, or fails to exercise, their second or casting vote, in the event of an equality of votes, the motion being voted upon is lost.

Voting at Council Meetings

12.4 A councillor who is present at a meeting of the council but who fails to vote on a motion put to the meeting is taken to have voted against the motion.

12.5 If a councillor who has voted against a motion put at a council meeting so requests, the general manager must ensure that the councillor's dissenting vote is recorded in the council's minutes.

12.6 The decision of the chairperson as to the result of a vote is final, unless the decision is immediately challenged and not fewer than two (2) councillors rise and call for a division.

12.7 When a division on a motion is called, the chairperson must ensure that the division takes place immediately. The general manager must ensure that the names of those who vote for the motion and those who vote against it are recorded in the council's minutes for the meeting.

12.8 When a division on a motion is called, any councillor who fails to vote will be recorded as having voted against the motion in accordance with clause 12.5 of this code.

12.9 Voting at a meeting, including voting in an election at a meeting, is to be by open means (such as on the voices, by show of hands or by a visible electronic voting system). However, the council may resolve that the voting in any election by councillors for mayor or deputy mayor is to be by secret ballot.

Voting on Planning Decisions

12.10 The general manager must keep a register containing, for each planning decision made at a meeting of the council or a council committee (including, but not limited to a committee of the council), the names of the councillors who supported the decision and the names of any councillors who opposed (or are taken to have opposed) the decision.

12.11 For the purpose of maintaining the register, a division is taken to have been called whenever a motion for a planning decision is put at a meeting of the council or a council committee.

12.12 Each decision recorded in the register is to be described in the register or identified in a manner that enables the description to be obtained from another publicly available document.

12.13 Clauses 12.10–12.12 apply also to meetings that are closed to the public.

Note: Clauses 12.10–12.13 reflect section 375A of the Act.

Note: The requirements of clause 12.10 may be satisfied by maintaining a register of the minutes of each planning decision.

13. Committee of the Whole

13.1 The council may resolve itself into a committee to consider any matter before the council.

Note: Clause 13.1 reflects section 373 of the Act.

13.2 All the provisions of this code relating to meetings of the council, so far as they are applicable, extend

to and govern the proceedings of the council when in committee of the whole, except the provisions limiting the number and duration of speeches.

Note: Clauses 11.20–11.30 limit the number and duration of speeches.

13.3 The general manager or, in the absence of the general manager, an employee of the council designated by the general manager, is responsible for reporting to the council the proceedings of the committee of the whole. It is not necessary to report the proceedings in full but any recommendations of the committee must be reported.

13.4 The council must ensure that a report of the proceedings (including any recommendations of the committee) is recorded in the council's minutes. However, the council is not taken to have adopted the report until a motion for adoption has been made and passed.

14. Dealing with Items by Exception

14.1 The council or a committee of council may, at any time, resolve to adopt multiple items of business on the agenda together by way of a single resolution.

14.2 Before the council or committee resolves to adopt multiple items of business on the agenda together under clause 14.1, the chairperson must list the items of business to be adopted and ask councillors to identify any individual items of business listed by the chairperson that they intend to vote against the recommendation made in the business paper or that they wish to speak on.

14.3 The council or committee must not resolve to adopt any item of business under clause 14.1 that a councillor has identified as being one they intend to vote against the recommendation made in the business paper or to speak on.

14.4 Where the consideration of multiple items of business together under clause 14.1 involves a variation to the order of business for the meeting, the council or committee must resolve to alter the order of business in accordance with clause 9.2.

14.5 A motion to adopt multiple items of business together under clause 14.1 must identify each of the items of business to be adopted and state that they are to be adopted as recommended in the business paper.

14.6 Items of business adopted under clause 14.1 are to be taken to have been adopted unanimously.

14.7 Councillors must ensure that they declare and manage any conflicts of interest they may have in relation to items of business considered together under clause 14.1 in accordance with the requirements of the council's code of conduct.

15. Closure of Council Meetings to the Public

Grounds on which Meetings can be Closed to the Public

15.1 The council or a committee of the council may close to the public so much of its meeting as comprises the discussion or the receipt of any of the following types of matters:

(a) personnel matters concerning particular individuals (other than councillors),

(b) the personal hardship of any resident or ratepayer,

(c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business,

(d) commercial information of a confidential nature that would, if disclosed:

(i) prejudice the commercial position of the person who supplied it, or

(ii) confer a commercial advantage on a competitor of the council, or

(iii) reveal a trade secret,

(e) information that would, if disclosed, prejudice the maintenance of law,

(f) matters affecting the security of the council, councillors, council staff or council property,

(g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege,

(h) information concerning the nature and location of a place or an item of Aboriginal significance on community land,

(i) alleged contraventions of the council's code of conduct.

Note: Clause 15.1 reflects section 10A(1) and (2) of the Act.

15.2 The council or a committee of the council may also close to the public so much of its meeting as comprises a motion to close another part of the meeting to the public.

Note: Clause 15.2 reflects section 10A(3) of the Act.

Matters to be Considered when Closing Meetings to the Public

15.3 A meeting is not to remain closed during the discussion of anything referred to in clause 15.1:

(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.

Note: Clause 15.3 reflects section 10B(1) of the Act.

15.4 A meeting is not to be closed during the receipt and consideration of information or advice referred to in clause 15.1(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

(c) are fully discussed in that advice.

Note: Clause 15.4 reflects section 10B(2) of the Act.

15.5 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 clause 15.2), 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 clause 15.1.

Note: Clause 15.5 reflects section 10B(3) of the Act.

15.6 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.

Note: Clause 15.6 reflects section 10B(4) of the Act.

15.7 In deciding whether part of a meeting is to be closed to the public, the council or committee concerned must consider any relevant guidelines issued by the Chief Executive of the Office of Local Government.

Note: Clause 15.7 reflects section 10B(5) of the Act.

Notice of likelihood of closure not required in urgent cases

15.8 Part of a meeting of the council, or of a committee of the council, may be closed to the public while the council or committee considers a matter that has not been identified in the agenda for the meeting under clause 3.23 as a matter that is likely to be considered when the meeting is closed, but only if:

(a) it becomes apparent during the discussion of a particular matter that the matter is a matter referred to in clause 15.1, and

(b) the council or committee, after considering any representations made under clause 15.9, resolves that further discussion of the matter:

(i) should not be deferred (because of the urgency of the matter), and

(ii) should take place in a part of the meeting that is closed to the public.

Note: Clause 15.8 reflects section 10C of the Act.

Representations by Members of the Public

15.9 The council, or a committee of the council, may allow members 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.

Note: Clause 15.9 reflects section 10A(4) of the Act.

15.10 A representation under clause 15.9 is to be made after the motion to close the part of the meeting is moved and seconded.

15.11 Where the matter has been identified in the agenda of the meeting under clause 3.23 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.

15.12 The general manager (or their delegate) may refuse an application made under clause 15.11. The general manager or their delegate must give reasons in writing for a decision to refuse an application.

15.13 No more than two (2) speakers are to be permitted to make representations under clause 15.9.

15.14 If more than the permitted number of speakers apply to make representations under clause 15.9, the general manager or their delegate may request the speakers to nominate from among themselves the persons who are to make representations to the council. If the speakers are not able to agree on whom to nominate to make representations under clause 15.9, the general manager or their delegate is to determine who will make representations to the council.

15.15 The general manager (or their delegate) is to determine the order of speakers.

15.16 Where the council or a committee of the council proposes to close a meeting or part of a meeting to the public in circumstances where the matter has not been identified in the agenda for the meeting under clause 3.23 as a matter that is likely to be considered when the meeting is closed to the public, the chairperson is to invite representations from the public under clause 15.9 after the motion to close the part of the meeting is moved and seconded. In accordance with clause 15.13 the chairperson is to permit no more than two (2) speakers to make representations in such order as determined by the chairperson.

15.17 Each speaker will be allowed one (1) minute to make representations, and this time limit is to be strictly enforced by the chairperson. Speakers must confine their representations to whether the meeting should be closed to the public. If a speaker digresses to irrelevant matters, the chairperson is to direct the speaker not to do so. If a speaker fails to observe a direction from the chairperson, the speaker will not be further heard.

Expulsion of Non-Councillors from Meetings Closed to the Public

15.18 If a meeting or part of a meeting of the council or a committee of the council is closed to the public in accordance with section 10A of the Act and this code, any person who is not a councillor and who fails to leave the meeting when requested, may be expelled from the meeting as provided by section 10(2)(a) or (b) of the Act.

15.19 If any such person, after being notified of a resolution or direction expelling them from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary restrain that person from re-entering that place for the remainder of the meeting.

Information to be disclosed in resolutions closing meetings to the public

15.20 The grounds on which part of a meeting is closed must be stated in the decision to close that part of the meeting and must be recorded in the minutes of the meeting. The grounds must specify the following:

(a) the relevant provision of section 10A(2) of the Act,

(b) the matter that is to be discussed during the closed part of the meeting,

(c) the reasons why the part of the meeting is being closed, including (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) an explanation of the way in which discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

Note: Clause 15.20 reflects section 10D of the Act.

Resolutions Passed at Closed Meetings to be Made Public

15.21 If the council passes a resolution during a meeting, or a part of a meeting, that is closed to the public, the chairperson must make the resolution public as soon as practicable after the meeting, or the relevant part of the meeting, has ended, and the resolution must be recorded in the publicly available minutes of the meeting.

15.22 Resolutions passed during a meeting, or a part of a meeting, that is closed to the public must be made public by the chairperson under clause 15.21 during a part of the meeting that is webcast.

16. Keeping Order at Meetings

Points of Order

16.1 A councillor may draw the attention of the chairperson to an alleged breach of this code by raising a point of order. A point of order does not require a seconder.

16.2 A point of order cannot be made with respect to adherence to the principles contained in clause 2.1.

16.3 A point of order must be taken immediately it is raised. The chairperson must suspend the business before the meeting and permit the councillor raising the point of order to state the provision of this code they believe has been breached. The chairperson must then rule on the point of order – either by upholding it or by overruling it.

Questions of Order

16.4 The chairperson, without the intervention of any other councillor, may call any councillor to order whenever, in the opinion of the chairperson, it is necessary to do so.

16.5 A councillor who claims that another councillor has committed an act of disorder, or is out of order, may call the attention of the chairperson to the matter.

16.6 The chairperson must rule on a question of order immediately after it is raised but, before doing so, may invite the opinion of the council.

16.7 The chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed.

Motions of Dissent

16.8 A councillor can, without notice, move to dissent from a ruling of the chairperson on a point of order or a question of order. If that happens, the chairperson must suspend the business before the meeting until a decision is made on the motion of dissent.

16.9 If a motion of dissent is passed, the chairperson must proceed with the suspended business as

though the ruling dissented from had not been given. If, as a result of the ruling, any motion or business has been rejected as out of order, the chairperson must restore the motion or business to the agenda and proceed with it in due course.

16.10 Despite any other provision of this code, only the mover of a motion of dissent and the chairperson can speak to the motion before it is put. The mover of the motion does not have a right of general reply.

Acts of Disorder

16.11 A councillor commits an act of disorder if the councillor, at a meeting of the council or a committee of the council:

(a) contravenes the Act or any regulation in force under the Act or this code, or

(b) assaults or threatens to assault another councillor or person present at the meeting, or

(c) moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the council or the committee, or addresses or attempts to address the council or the committee on such a motion, amendment or matter, or

(d) insults or makes personal reflections on or imputes improper motives to any other council official, or alleges a breach of the council's code of conduct, or

(e) says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the council or the committee into disrepute.

16.12 The chairperson may require a councillor:

(a) to apologise without reservation for an act of disorder referred to in clauses 16.11(a) or (b), or

(b) to withdraw a motion or an amendment referred to in clause 16.11(c) and, where appropriate, to apologise without reservation, or

(c) to retract and apologise without reservation for an act of disorder referred to in clauses 16.11(d) and (e).

How Disorder at a Meeting may be dealt with

16.13 If disorder occurs at a meeting of the council, the chairperson may adjourn the meeting for a period of not more than fifteen (15) minutes and leave the chair. The council, on reassembling, must, on a question put from the chairperson, decide without debate whether the business is to be proceeded with or not. This clause applies to disorder arising from the conduct of members of the public as well as disorder arising from the conduct of councillors.

Expulsion from Meetings

16.14 All chairpersons of meetings of the council and committees of the council are authorised under this code to expel any person, including any councillor, from a council or committee meeting, for the purposes of section 10(2)(b) of the Act.

16.15 Clause16.14 does not limit the ability of the council or a committee of the council to resolve to expel a person, including a councillor, from a council or committee meeting, under section 10(2)(a) of the Act.

16.16 A councillor may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of the council for having failed to comply with a requirement under clause 16.12. The expulsion of a councillor from the meeting for that reason does not prevent any other action from being taken against the councillor for the act of disorder concerned.

16.17 A member of the public may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of the council for engaging in or having engaged in disorderly conduct at the meeting.

16.18 Where a councillor or a member of the public is expelled from a meeting, the expulsion and the name of the person expelled, if known, are to be recorded in the minutes of the meeting.

16.19 If a councillor or a member of the public fails to leave the place where a meeting of the council is being held immediately after they have been expelled, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the councillor or member of the public from that place and, if necessary, restrain the councillor or member of the public from re-entering that place for the remainder of the meeting.

Use of Mobile Phones and the Unauthorised Recording of Meetings

16.20 Councillors, council staff and members of the public must ensure that mobile phones are turned to silent during meetings of the council and committees of the council.

16.21 A person must not live stream or use an audio recorder, video camera, mobile phone or any other device to make a recording of the proceedings of a meeting of the council or a committee of the council without the prior authorisation of the council or the committee.

16.22 Any person who contravenes or attempts to contravene clause 16.21, may be expelled from the meeting as provided for under section 10(2) of the Act.

16.23 If any such person, after being notified of a resolution or direction expelling them from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary, restrain that person from re-entering that place for the remainder of the meeting.

17. Conflicts of Interest

17.1 All councillors and, where applicable, all other persons, must declare and manage any conflicts of interest they may have in matters being considered at meetings of the council, committees of the council and pre-meeting briefings (as described in clause 3.38) in accordance with the council's code of conduct. All declarations of conflicts of interest and how the conflict of interest was managed by the person who made the declaration must be recorded in the minutes of the meeting at which the declaration was made.

18. Decisions of the Council

Council Decisions

18.1 A decision supported by a majority of the votes at a meeting of the council at which a quorum is present is a decision of the council.

Note: Clause 18.1 reflects section 371 of the Act in the case of councils and section 400T(8) in the case of joint organisations.

18.2 Decisions made by the council must be accurately recorded in the minutes of the meeting at which the decision is made.

Rescinding or Altering Council Decisions

18.3 A resolution passed by the council may not be altered or rescinded except by a motion to that effect of which notice has been given under clause 3.10.

Note: Clause 18.3 reflects section 372(1) of the Act.

18.4 If a notice of motion to rescind a resolution is given at the meeting at which the resolution is carried, the resolution must not be carried into effect until the motion of rescission has been dealt with.

Note: Clause 18.4 reflects section 372(2) of the Act.

18.5 If a motion has been lost, a motion having the same effect must not be considered unless notice of it has been duly given in accordance with clause 3.10.

Note: Clause 18.5 reflects section 372(3) of the Act.

18.6 A notice of motion to alter or rescind a resolution, and a notice of motion which has the same effect as a motion which has been lost, must be signed by three (3) councillors if less than three (3) months has elapsed since the resolution was passed, or the motion was lost.

Note: Clause 18.6 reflects section 372(4) of the Act.

18.7 If a motion to alter or rescind a resolution has been lost, or if a motion which has the same effect as a previously lost motion is lost, no similar motion may be brought forward within three (3) months of the meeting at which it was lost. This clause may not be evaded by substituting a motion differently worded, but in principle the same.

Note: Clause 18.7 reflects section 372(5) of the Act.

18.8 The provisions of clauses 18.5–18.7 concerning lost motions do not apply to motions of adjournment.

Note: Clause 18.8 reflects section 372(7) of the Act.

18.9 A notice of motion submitted in accordance with clause 18.6 may only be withdrawn under clause 3.11 with the consent of all signatories to the notice of motion.

18.10 A notice of motion to alter or rescind a resolution relating to a development application must be submitted to the general manager no later than **4.30 pm the following business day** after the meeting at which the resolution was adopted.

18.11 A motion to alter or rescind a resolution of the council may be moved on the report of a committee of the council and any such report must be recorded in the minutes of the meeting of the council.

Note: Clause 18.11 reflects section 372(6) of the Act.

18.12 Subject to clause 18.7, in cases of urgency, a motion to alter or rescind a resolution of the council may be moved at the same meeting at which the resolution was adopted, where:

(a) a notice of motion signed by three councillors is submitted to the chairperson, and

(b) a motion to have the motion considered at the meeting is passed, and

(c) the chairperson rules the business that is the subject of the motion is of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.

18.13 A motion moved under clause 18.12(b) can be moved without notice. Despite clauses 11.20–11.30, only the mover of a motion referred to in clause 18.12(b) can speak to the motion before it is put.

18.14 A motion of dissent cannot be moved against a ruling by the chairperson under clause 18.12(c).

Recommitting Resolutions to Correct an Error

18.15 Despite the provisions of this Part, a councillor may, with the leave of the chairperson, move to recommit a resolution adopted at the same meeting:

(a) to correct any error, ambiguity or imprecision in the council's resolution, or

(b) to confirm the voting on the resolution.

18.16 In seeking the leave of the chairperson to move to recommit a resolution for the purposes of clause 18.15(a), the councillor is to propose alternative wording for the resolution.

18.17 The chairperson must not grant leave to recommit a resolution for the purposes of clause 18.15(a), unless they are satisfied that the proposed alternative wording of the resolution would not alter the substance of the resolution previously adopted at the meeting.

18.18 A motion moved under clause 18.15 can be moved without notice. Despite clauses 11.20–11.30, only the mover of a motion referred to in clause 18.15 can speak to the motion before it is put.

18.19 A motion of dissent cannot be moved against a ruling by the chairperson under clause 18.15.

18.20 A motion moved under clause 18.15 with the leave of the chairperson cannot be voted on unless or until it has been seconded.

19. Time Limits on Council Meetings

19.1 Meetings of the council are to conclude no later than **7.30pm.**

19.2 If the business of the meeting is unfinished at **7.30pm**, the council may, by resolution, extend the time of the meeting. Where an extension of time is approved the meeting must conclude no later than 8.00pm.

19.3 If the business of the meeting is unfinished at **7.30pm**, and the council does not resolve to extend the meeting, the chairperson must either:

(a) defer consideration of the remaining items of business on the agenda to the next ordinary meeting of the council, or

(b) adjourn the meeting to a time, date and place fixed by the chairperson.

19.4 Clause 19.3 does not limit the ability of the council to resolve to adjourn a meeting at any time. The resolution adjourning the meeting must fix the time, date and place that the meeting is to be adjourned to.

19.5 Where a meeting is adjourned under clause 19.3 or 19.4, the general manager must:

(a) notify all councillors of the time, date and place at which the meeting will reconvene, and

(b) publish the time, date and place at which the meeting will reconvene on the council's website and in such other manner that the general manager is satisfied is likely to bring notice of the time, date and place of the reconvened meeting to the attention of as many people as possible.

20. After the Meeting

Minutes of Meetings

20.1 The council is to keep full and accurate minutes of the proceedings of meetings of the council.

Note: Clause 20.1 reflects section 375(1) of the Act.

20.2 At a minimum, the general manager must ensure that the following matters are recorded in the council's minutes:

(a) details of each motion moved at a council meeting and of any amendments moved to it,

(b) the names of the mover and seconder of the motion or amendment,

(c) whether the motion or amendment was passed or lost, and

(d) such other matters specifically required under this code.

20.3 The minutes of a council meeting must be confirmed at a subsequent meeting of the council.

Note: Clause 20.3 reflects section 375(2) of the Act.

20.4 Any debate on the confirmation of the minutes is to be confined to whether the minutes are a full and accurate record of the meeting they relate to.

20.5 When the minutes have been confirmed, they are to be signed by the person presiding at the subsequent meeting.

Note: Clause 20.5 reflects section 375(2) of the Act.

20.6 The confirmed minutes of a meeting may be amended to correct typographical or administrative errors after they have been confirmed. Any amendment made under this clause must not alter the substance of any decision made at the meeting.

20.7 The confirmed minutes of a council meeting must be published on the council's website. This clause does not prevent the council from also publishing unconfirmed minutes of its meetings on its website prior to their confirmation.

Access to Correspondence and Reports Laid on the Table at, or Submitted to, a Meeting

20.8 The council and committees of the council must, during or at the close of a meeting, or during the business day following the meeting, give reasonable access to any person to inspect correspondence and reports laid on the table at, or submitted to, the meeting.

Note: Clause 20.8 reflects section 11(1) of the Act.

20.9 Clause 20.8 does not apply if the correspondence or reports relate to a matter that was received or discussed or laid on the table at, or submitted to, the meeting when the meeting was closed to the public.

Note: Clause 20.9 reflects section 11(2) of the Act.

20.10 Clause 20.8 does not apply if the council or the committee resolves at the meeting, when open to the public, that the correspondence or reports are to be treated as confidential because they relate to a matter specified in section 10A(2) of the Act.

Note: Clause 20.10 reflects section 11(3) of the Act.

20.11 Correspondence or reports to which clauses 20.9 and 20.10 apply are to be marked with the relevant provision of section 10A(2) of the Act that applies to the correspondence or report.

Implementation of Decisions of the Council

20.12 The general manager is to implement, without undue delay, lawful decisions of the council.

Note: Clause 20.12 reflects section 335(b) of the Act.

21. Council Committees

Application of this Part

21.1 This Part only applies to committees of the council whose members are all councillors.

Council Committees whose Members are all Councillors

21.2 The council may, by resolution, establish such committees as it considers necessary.

21.3 A committee of the council is to consist of the mayor and such other councillors as are elected by the councillors or appointed by the council.

21.4 The quorum for a meeting of a committee of the council is to be:

(a) such number of members as the council decides, or

(b) if the council has not decided a number – a majority of the members of the committee.

Functions of Committees

21.5 The council must specify the functions of each of its committees when the committee is established, but may from time to time amend those functions.

Notice of Committee Meetings

21.6 The general manager must send to each councillor, regardless of whether they are a committee member, at least three (3) days before each meeting of the committee, a notice specifying:

(a) the time, date and place of the meeting, and

(b) the business proposed to be considered at the meeting.

21.7 Notice of less than three (3) days may be given of a committee meeting called in an emergency.

Attendance at Committee Meetings

21.8 A committee member (other than the mayor) ceases to be a member of a committee if the committee member:

(a) has been absent from three (3) consecutive meetings of the committee without having given reasons acceptable to the committee for the member's absences, or

(b) has been absent from at least half of the meetings of the committee held during the immediately preceding year without having given to the committee acceptable reasons for the member's absences.

21.9 Clause 21.8 does not apply if all of the members of the council are members of the committee.

Non-members Entitled to Attend Committee Meetings

21.10 A councillor who is not a member of a committee of the council is entitled to attend, and to speak at a meeting of the committee. However, the councillor is not entitled:

(a) to give notice of business for inclusion in the agenda for the meeting, or

(b) to move or second a motion at the meeting, or

(c) to vote at the meeting.

Chairperson and deputy chairperson of council committees

21.11 The chairperson of each committee of the council must be:

(a) the mayor, or

(b) if the mayor does not wish to be the chairperson of a committee, a member of the committee elected by the council, or

(c) If the council does not elect such a member, a member of the committee elected by the committee.

21.12 The council may elect a member of a committee of the council as deputy chairperson of the committee. If the council does not elect a deputy chairperson of such a committee, the committee may elect a deputy chairperson.

21.13 If neither the chairperson nor the deputy chairperson of a committee of the council is able or willing to preside at a meeting of the committee, the committee must elect a member of the committee to be acting chairperson of the committee.

21.14 The chairperson is to preside at a meeting of a committee of the council. If the chairperson is unable or unwilling to preside, the deputy chairperson (if any) is to preside at the meeting, but if neither the chairperson nor the deputy chairperson is able or willing to preside, the acting chairperson is to preside at the meeting.

Procedure in Committee Meetings

21.15 Subject to any specific requirements of this code, each committee of the council may regulate its own procedure. The provisions of this code are to be taken to apply to all committees of the council unless the council or the committee determines otherwise in accordance with this clause.

21.16 Whenever the voting on a motion put to a meeting of the committee is equal, the chairperson of the committee is to have a casting vote as well as an original vote unless the council or the committee determines otherwise in accordance with clause 21.15.

21.17 Voting at a council committee meeting is to be by open means (such as on the voices, by show of hands or by a visible electronic voting system).

Closure of Committee Meetings to the Public

21.18 The provisions of the Act and Part 15 of this code apply to the closure of meetings of committees of the council to the public in the same way they apply to the closure of meetings of the council to the public.

21.19 If a committee of the council passes a resolution, or makes a recommendation, during a meeting, or a part of a meeting that is closed to the public, the chairperson must make the resolution or recommendation public as soon as practicable after the meeting or part of the meeting has ended, and report the resolution or recommendation to the next meeting of the council. The resolution or recommendation must also be recorded in the publicly available minutes of the meeting.

21.20 Resolutions passed during a meeting, or a part of a meeting that is closed to the public must be made public by the chairperson under clause 21.19 during a part of the meeting that is webcast.

Disorder in Committee Meetings

21.21 The provisions of the Act and this code relating to the maintenance of order in council meetings apply to meetings of committees of the council in the same way as they apply to meetings of the council.

Minutes of Council Committee Meetings

21.22 Each committee of the council is to keep full and accurate minutes of the proceedings of its meetings. At a minimum, a committee must ensure that the following matters are recorded in the committee's minutes:

(a) details of each motion moved at a meeting and of any amendments moved to it,

(b) the names of the mover and seconder of the motion or amendment,

(c) whether the motion or amendment was passed or lost, and

(d) such other matters specifically required under this code.

21.23 The minutes of meetings of each committee of the council must be confirmed at a subsequent meeting of the committee.

21.24 Any debate on the confirmation of the minutes is to be confined to whether the minutes are a full and accurate record of the meeting they relate to.

21.25 When the minutes have been confirmed, they are to be signed by the person presiding at that

subsequent meeting.

21.26 The confirmed minutes of a meeting may be amended to correct typographical or administrative errors after they have been confirmed. Any amendment made under this clause must not alter the substance of any decision made at the meeting.

21.27 The confirmed minutes of a meeting of a committee of the council must be published on the council's website. This clause does not prevent the council from also publishing unconfirmed minutes of meetings of committees of the council on its website prior to their confirmation.

22. Irregularities

22.1 Proceedings at a meeting of a council or a council committee are not invalidated because of:

(a) a vacancy in a civic office, or

(b) a failure to give notice of the meeting to any councillor or committee member, or

(c) any defect in the election or appointment of a councillor or committee member, or

(d) a failure of a councillor or a committee member to declare a conflict of interest, or to refrain from the consideration or discussion of, or vote on, the relevant matter, at a council or committee meeting in accordance with the council's code of conduct, or

(e) a failure to comply with this code.

Note: Clause 22.1 reflects section 374 of the Act.

23. Definitions

Definitions	
the Act	means the *Local Government Act 1993*
act of disorder	means an act of disorder as defined in clause 16.11 of this code
amendment	in relation to an original motion, means a motion moving an amendment to that motion
audio recorder	any device capable of recording speech
business day	means any day except Saturday or Sunday or any other day the whole or part of which is observed as a public holiday throughout New South Wales
chairperson	in relation to a meeting of the council – means the person presiding at the meeting as provided by section 369 of the Act and clauses 7.1 and 7.2 of this code, and in relation to a meeting of a committee – means the person presiding

Definitions	
	at the meeting as provided by clause 21.11 of this code
this code	means the council's adopted code of meeting practice
committee of the council	means a committee established by the council in accordance with clause 21.2 of this code (being a committee consisting only of councillors) or the council when it has resolved itself into committee of the whole under clause 13.1
council official	has the same meaning it has in the Model Code of Conduct for Local Councils in NSW
day	means calendar day
division	means a request by two councillors under clause 12.7 of this code requiring the recording of the names of the councillors who voted both for and against a motion
foreshadowed amendment	means a proposed amendment foreshadowed by a councillor under clause 11.18 of this code during debate on the first amendment
foreshadowed motion	means a motion foreshadowed by a councillor under clause 11.17 of this code during debate on an original motion
open voting	means voting on the voices or by a show of hands or by a visible electronic voting system or similar means
planning decision	means a decision made in the exercise of a function of a council under the *Environmental Planning and Assessment Act 1979* including any decision relating to a development application, an environmental planning instrument, a development control plan or a development contribution plan under that Act, but not including the making of an order under Division 9.3 of Part 9 of that Act
performance improvement order	means an order issued under section 438A of the Act
quorum	means the minimum number of councillors or committee members necessary to conduct a meeting
the Regulation	means the *Local Government (General) Regulation 2005*
webcast	a video or audio broadcast of a meeting transmitted across the internet either concurrently with the meeting or at a later time

DRAFT

Definitions	
year	means the period beginning 1 July and ending the following 30 June

Document Control

Version	Adoption Date	Notes
1.0	12 June 2019	Initial adoption
1.1	27 November 2019	Clause 5.5 amended in accordance with Council resolution MN 550/19 to reflect that the speakers on a Visitor Item are allowed five minutes to speak.
1.2	To be inserted following adoption	Clauses 3.15 and 3.18 inserted (with consequential renumbering of clauses) in accordance with Council resolution [number to be inserted]

Approved by:

WINGECARRIBEE SHIRE COUNCIL

[Governance to insert adoption date]

DRAFT

12.6 Mayor and Deputy Mayor Election 2020

Reference:	**102/4**
Report Author:	**Deputy General Manager Corporate, Strategy and Development 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 determine the date and method of the 2020 Mayor and Deputy Mayor Elections.

RECOMMENDATION

1. **THAT the election of Mayor and Deputy Mayor be held on Wednesday 23 September 2020 as part of the Ordinary Meeting of Council.**

2. **THAT Council determines the method of electing the Mayor and Deputy Mayor for the 2020/2021 term, it being noted that in accordance with Schedule 7, Part 1 Preliminary 3 of *Local Government (General) Regulation 2005*, the method must be either:**

   - **Preferential Ballot, or**
   - **Ordinary Ballot, or**
   - **Open Voting**

REPORT

The next NSW Local Government General Elections were set down to take place on 12 September 2020. However, due to the ongoing impacts of the COVID-19 global pandemic, the NSW Government announced on 12 June 2020 to postpone the NSW Local Government General Elections until Saturday, 4 September 2021.

As a result of this decision, the current elected Councillors (elected for the term 2016-2020) will continue to hold their civic offices until the rescheduled elections take place on 4 September 2021. It is understood, the next Council term will be shortened by a year to run September 2021 – September 2024 and the 4-year cycle will resume thereafter.

Notwithstanding the deferral of the General Elections, Councils where the Mayor and Deputy Mayor are elected by the members of Council by resolution as opposed to being elected by voters, the elected Council must again conduct an election for both positions in accordance with Sections 227 and 231 of the Local Government Act, 1993. In changes to the Local Government Act 1993 made prior to the 2016 Local Government Elections, the position of Mayor was changed to a two-year fixed term (2016-2018 and 2018-2020). Under

Section 231 the Councillors may elect a Councillor to be Deputy Mayor for the Mayoral term or a shorter term. The Wingecarribee Shire Deputy Mayor was elected consistent with the two-year Mayoral term. This means the current term of Mayor and Deputy Mayor conclude in September 2020.

Council therefore needs to determine a suitable date to conduct the election of Mayor and Deputy Mayor for the extended term of Council until 4 September 2021.

Method of Voting

The Office of Local Government (OLG) issued a Circular to Councils in New South Wales on 4 August 2020 in relation to the Mayoral and Deputy Mayoral Elections to occur in September 2020 whilst COVID-19 restrictions are in place.

Schedule 7 of the Local Government (General) Regulation 2005 prescribes three methods of the election of mayors and deputy mayors:

- Open ballot (eg show of hands)
- Ordinary ballot, or
- Preferential ballot.

The OLG has advised that open ballets (show of hands) can be undertaken remotely where a council is conducting its meeting by audio visual link. However, ordinary and preferential ballots are secret ballots and Councillors will need to attend the meeting in person if the election is to be by way of an ordinary or preferential vote. All Councillors would need to meet in the temporary Council Chambers now set up in the Theatrette with public excluded. The public would still be able to witness the proceedings via the on-line webcasting of the meeting from the Theatrette. Councillors are reminded that due to the temporary set up in the Theatrette there is no ability to have some Councillors present in the Theatrette and some Councillors participating via audio visual link.

As a result, if one of more Councillors are unwilling to physically attend the Council meeting in person in the Theatrette, the only option for Council to hold the ballots for Mayor and Deputy Mayor is by open ballot (show of hands) and undertaken by audio visual link.

In order for staff to prepare for the election, Council needs to therefore determine the method of election for the Mayor and Deputy Mayor for the extended term of Council until 4 September 2021.

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 election of Mayor and Deputy Mayor is required to comply with the Local Government Act following the extension of the current Council Term until 4 September 2021.

COUNCIL BUDGET IMPLICATIONS

There are no budget implications associated with the election of the Mayor and Deputy Mayor.

RELATED COUNCIL POLICY

There are no related Council Policies.

OPTIONS

The options available to Council are:

Option 1

1. THAT Council support the proposed date of Wednesday, 23 September 2020 being the Ordinary Meeting of Council to conduct the election of Mayor and Deputy Mayor.
2. THAT Council determines the method of electing the Mayor and Deputy Mayor for the 2020/2021 term, it being noted that in accordance with Schedule 7, Part 1 Preliminary 3 of Local Government (General) Regulation 2005, the method must be either:
    - Preferential Ballot, or
    - Ordinary Ballot, or
    - Open Voting

Option 2

- THAT Council determine another suitable date during the month of September 2020 but prior to 26 September 2020 to conduct the election of Mayor and Deputy Mayor.
- THAT Council determines the method of electing the Mayor and Deputy Mayor for the 2020/2021 term, it being noted that in accordance with Schedule 7, Part 1 Preliminary 3 of Local Government (General) Regulation 2005, the method must be either:
    - Preferential Ballot, or
    - Ordinary Ballot, or
    - Open Voting

Option 1 is the recommended option to this report.

ATTACHMENTS

There are no attachments to this report.

12.7 Local Government Conference 2020

Reference: 102 204/2019
Report Author: PA for Mayor
Authoriser: Group Manager Corporate and Community
Link to Delivery Program: Provide opportunities to participate in futures thinking and nurture ideas

PURPOSE

The purpose of this report is to determine attendance arrangements for the 2020 Local Government New South Wales (LGNSW) conference, to be held from Sunday 22 November to Tuesday 24 November at the Crowne Plaza, Hunter Valley.

RECOMMENDATION

1. **THAT Council confirms four (4) delegates will be authorised to attend the Local Government NSW Annual Conference to be held at the Crowne Plaza, Hunter Valley Sunday 22 November to Tuesday 24 November 2020.**

2. **THAT the following delegates are nominated to attend the 2020 Local Government NSW Annual Conference:**

   a. **Mayor of the Day**
   b. **…….**
   c. **…….**
   d. **…….**
   e. **(alternate delegate)**

3. **THAT the Acting General Manager, or delegate, be authorised to attend the Local Government NSW Annual Conference as an observer.**

4. **THAT Councillors forward their proposed motions, with accompanying notes to the Mayor for consideration prior to Wednesday 26 August 2020.**

5. **THAT a report regarding the proposed motions be presented for consideration to the Ordinary Council Meeting of 9 September AND THAT the Mayor submit any proposed motions to the conference organisers by Monday, 28 September 2020.**

REPORT

BACKGROUND

The 2020 Local Government NSW Annual conference will be held at the Crowne Plaza, Hunter Valley from Sunday 22 November to Tuesday 24 November 2020. Council needs to determine delegates to attend the conference on behalf of Council.

LG NSW confirmed in correspondence dated 15 July 2020 that Wingecarribee Shire Council will now have four (4) voting entitlements, which is an increase of one (1) additional voting delegate from past conferences.

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**

There is a clear benefit for Councillors to participate in the Local Government NSW Annual Conference from a governance perspective. A number of motions that affect this Council, and all Councils in NSW, are likely to form the content of the business sessions. The adopted motions are then pursued by Local Government NSW on behalf of member councils and can lead to changes in state legislation.

COUNCIL BUDGET IMPLICATIONS

Council's adopted Budget includes a provision for Councillor's attendance at the Conference.

RELATED COUNCIL POLICY

Payment of Expenses and Provision of Facilities to the Mayor and Councillors Policy.

OPTIONS

The options available to Council are:

Option 1

Council sends delegates to the LGNSW Annual Conference – in this regard, the recommended number is four (4), plus a staff representative (non-voting).

Option 2

Council sends a reduced number of delegates than it is entitled to attend the LGNSW Annual Conference, plus a (non-voting) staff representative.

Option 3

Council does not send any delegates to the Local Government NSW Annual Conference.

Option 1 is the recommended option to this report.

ATTACHMENTS

There are no attachments to this report.

12.8 Update on the Wingecarribee Animal Shelter Project

Reference:	**5501/8**
Report Author:	**Group Manager Planning, Development and Regulatory Services**
Authoriser:	**Deputy General Manager Corporate, Strategy and Development Services**
Link to Community Strategic Plan:	**Plan and deliver appropriate and accessible local services for the community**

PURPOSE

The purpose of this report is to provide an update on the progress of the capital replacement of the Wingecarribee Animal Shelter facility.

RECOMMENDATION

THAT Council receive and note the update on the Capital Replacement of the Wingecarribee Animal Shelter Project.

REPORT

BACKGROUND

The shelter provides an important piece of community infrastructure that enables Council to comply with its obligations under the Companion Animals Act 1998. The shelter also provides a facility that enables high quality care of impounded companion animals and also enables and facilitates community participation in the care and welfare of animals that are seeking rehoming opportunities under Council's Alternatives to Euthanasia Policy.

The current shelter has served the broader community well over the past 19 years, is now requiring significant capital upgrades to accommodate both population growth, compliance with welfare standards and also to overcome significant land use conflict issues being experienced associated with its current location. As the current proximity to other industrial uses such as the RRC become increasingly problematic due to dust, noise and odour, it has become apparent that significant injection of capital into the upgrade of the current facility is not feasible and instead an alternative site is being pursued that removes the current land use conflicts that are being experienced.

In order to progress this, at the meeting of 12 February 2020 Council considered the capital replacement of the animal shelter providing in-principle support, whilst also allocating seed funding for the preparation of plans and documentation. Council resolved as follows (MN 25/20);

1. THAT Council provide in-principle support for the Capital Replacement of the Animal Shelter facility.

2. THAT Council acknowledge the most recent and ongoing occupational health and safety risks at the Resource Recovery Centre.

3. THAT Council also acknowledge that conditions at the Animal Shelter have been compromised for some time and are posing increasing health and safety issues for staff, animals and volunteers.

4. THAT Council allocate $50,000 to enable preliminary concept plans to be prepared and the location of appropriate land to be identified for the purpose of constructing a modern, fit for purpose and stand-alone animal shelter AND THAT this funding request be referred to the Finance Committee.

5. THAT a report be brought back to the second meeting of April 2020 along with identified funding sources for the relocation and construction of a new animal shelter.

6. THAT due to the lack of clarity the NSW Animal Welfare Code of Practice No 5 - Dogs and Cats in animal boarding establishments, Council also develop guidelines to protect animals from the impacts of extreme weather conditions.

This report seeks to provide an update on the progress of the resolution of the Council.

REPORT

Following the Council resolution on 12 February 2020, Council staff immediately commenced a targeted expression of interest process to appoint a contractor to undertake a needs analysis to inform the future design requirements of the animal shelter. Therian Animal Care Solutions was appointed as the principle contractor to undertake this work in March 2020 on behalf of Council.

The needs analysis was defined as an 'Animal Capacity and Program Study' and was prepared based on historical impounding data over a six year period from 2014 to 2020 in which Council has managed the facility 'in house'. The report has considered and provided recommendations based upon:

- A review of historical animal intake and outcome statistics;
- Length of stay (influenced by Council's Alternatives to Euthanasia Policy position guidelines)
- Calculations for shelter capacity, where consideration has been given to the average annual intake multiplied by the average length of stay to provide the required number of pens or cages.

The project brief was to establish the necessary functional areas for any proposed concept facility and assess the building area to accommodate the functional needs to suit the operational requirements and also the necessary capacity of any proposed facility.

The report was completed in June 2020 and recommended (when considering both the calculated animal capacity based on historical data and the functional space requirements for the operations) that Council's impounding and also re-homing operations could be achieved in a total facility area of approximately 589 square metres incorporating 19 pens for dog and 46 pens for Cats.

The report is based on operational requirements for rehoming and impounding dogs and cats only and has not considered any significant changes to policy positions or services to be provided by the Council. Further analysis would be required should consideration be given to any variation from Council's current operating model which may include expansion of services.

A conceptual floor plan has been developed as a result of the 'Animal Capacity and Program Study' and Council staff have recommended a number of changes following a detailed review of the operability requirements of the facility. These changes are currently being considered by the contractor architect and are expected to be provided to Council by mid August. Once the floor plan has been finalised, the elevation drawings will be drafted and presented to Council staff for consideration.

In March 2020, the Property Unit within Council was tasked with undertaking a desk top review of suitable land availability within the Shire and providing recommendations. The review was undertaken based upon the established criteria that was adopted by Council in February 2020. A further report will be prepared and presented in Closed Council detailing these options and presenting subsequent recommendations during the second quarter of the 2020/2021 Financial Year.

COMMUNICATION AND CONSULTATION

Community Engagement

Nil

Internal Communication and Consultation

As part of the capital replacement of the Wingecarribee Animal Shelter, consultation has occurred with Finance, Assets, Property, Regulatory Services and Town Planning.

External Communication and Consultation

Nil

SUSTAINABILITY ASSESSMENT

- **Environment**

There are no environmental issues in relation to this report.

- **Social**

The replacement of the existing Wingecarribee Animal Shelter has been recognised by Council as a high priority.

- **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 are no governance issues in relation to this report.

COUNCIL BUDGET IMPLICATIONS

An internal cash reserve of $5.2 Million was established as part of the Adopted 2020/2021 Budget. The preparation of the needs analysis and associated conceptual floor plans has been undertaken in accordance with the $50,000 allocation made within the 2019/2020 budget as part of the resolution made on 12 February 2020.

RELATED COUNCIL POLICY

Alternatives to Euthanasia Policy

OPTIONS

The only option receommended to Council at this point in time is:

THAT Council receive and note the update on the Capital Replacement of the Wingecarribee Animal Shelter Project.

CONCLUSION

Council staff are continuing to progress the Capital Replacement of the Animal Shelter including the assessment of available land options within the Shire the completion of a needs analysis to inform the capacity requirements and subsequently the preparation of detailed design plans.

ATTACHMENTS

There are no attachments to this report.

Mark Pepping
Deputy General Manager Corporate, Strategy and Development Services

Wednesday 5 August 2020

13 GENERAL MANAGER

13.1 Exclusion of Notice of Motion from Business Paper on 12 August 2020

Reference: **503/60**
Report Author: **Acting General Manager**
Authoriser: **Acting General Manager**
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

To advise Council of the exclusion of part of one item from the Ordinary Meeting of Council dated 12 August 2020.

The Code of Meeting Practice (adopted 12 June 2019) Clause 3.20 states:

> *"the General Manager must not include in the agenda for a meeting of the Council any business of which due notice has been given if, in the opinion of the General Manager, the business is, or the implementation of the business would be, unlawful. The General Manager must report, without giving details of the item of business, any such exclusion to the next meeting of Council".*

As required, the Acting General Manager advises that one part of a submitted Notice of Motion was excluded in accordance with Clause 3.20 above. This is because part 2 of the Notice of Motion conflicts with section 223 of the *Local Government Act 1993* and the following clauses of Council's adopted Code of Conduct:

> "7.1 Each council is a body politic. The councillors or administrator/s are the governing body of the council. Under section 223 of the LGA, the role of the governing body of the council includes the development and endorsement of the strategic plans, programs, strategies and policies of the council, including those relating to workforce policy, and to keep the performance of the council under review."
>
> "7.6 You must not engage in any of the following inappropriate interactions:
>
> a. *Councillors and administrators approaching staff and staff organisations to discuss individual or operational staff matters (other than matters relating to broader workforce policy), grievances, workplace investigations and disciplinary matters".*

As such, the Acting General Manager determined it would be unlawful to include part 2 of the NoM on the agenda.

Barry W Paull
Acting General Manager

6 August 2020

16 COMMITTEE REPORTS

16.1 Minutes of the Audit, Risk and Improvement Advisory Committee Meeting held on Friday 19 June 2020

Reference:	**2102/3**
Report Author:	**A/Internal Audit and Legal Support Officer**
Authoriser:	**Coordinator Corporate Strategy and Governance**
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

This report provides the Minutes of the Audit, Risk and Improvement Advisory Committee Meeting held on Friday 19 June 2020.

RECOMMENDATION

THAT recommendations AR 13/20 to AR 23/20 as detailed in the Minutes of the Audit, Risk and Improvement Advisory Committee Meeting held on Friday 19 June 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.

SUMMARY OF RECOMMENDATIONS AND ACTIONS FOR COUNCILLORS' ATTENTION AND ADOPTION

Item 1 Welcome and Apologies

It was noted that an apology was received from Clr G Markwart.

Item 2 Acknowledgement of Country

The Chair Ms Jan Edwards acknowledged country:

Item 3 Adoption of Minutes of Previous Meeting

AR 13/20

THAT the minutes of the Audit, Risk and Improvement Advisory Committee Meeting held on Friday 20 March 2020 AR 1/20 to AR 12/20 inclusive, copies of which were forwarded to Committee members, be adopted as a correct record of the proceedings of the meeting.

Item 4 Declarations of Interest

Mr Mitchell Morley declared an interest in item 8.2 – Internal Audit Report.

Item 5.1 Fit for the Future Program Update

The Committee was provided with an update on the progress of Council's Fit For The Future Program.
AR 14/20

THAT the Fit For The Future report and update be noted AND THAT an annual report on the Long Term Financial Plan be included on the Committee's meeting plan.

Item 5.2 Update on the Committee's Term

The Committee was updated on the status of the Committee's term following the NSW Government's decision to extend the current Council term due to the COVID-19 pandemic.
AR 15/20

THAT the Audit, Risk and Improvement Advisory Committee note the report AND THAT it be noted that the community members on the Committee have agreed to remain on the Committee for its extended term.

Item 5.3 Risk and Improvement Advisory Committee Meeting Plan – 2020/21

The Committee considered a draft Meeting Plan for the 2020/21 financial year and the date and time for each meeting.
AR 16/20

THAT the Audit, Risk and Improvement Advisory Committee endorse the draft Meeting Plan for 2020/21 AND THAT the meeting time be moved to commence at 10.30am.

Item 6.1 Committee Action Items Update

The Committee reviewed an update on the progress of action items previously requested by the Committee.
AR 17/20

THAT the report in relation to the Committee Actions Update be noted.

Item 7.1 Corporate Risk Program Update

The Committee was provided with an update on Council's Risk Management Program.
AR 18/20

THAT the Audit, Risk and Improvement Advisory Committee note the report AND THAT future reports should include a quarterly comparative of risk treatment action completions as well as the goals for treatment completions in the upcoming quarter AND FURTHER THAT a report on risk statement OFR1 addressing progress on the completion of treatment actions and the timeframes for finalisation be brought to the September meeting of the Committee.

Item 7.2 Report on Berrima Overpass Project

The Committee was provided with an overview of the major issues with the Berrima Overpass Project and changes that have since been made to Council's approach to managing projects.
AR 19/20

THAT the Audit Risk and Improvement Advisory Committee note the report and endorse the actions taken by Council staff to improve Project – scoping, initiation and delivery including:-

1. *A detailed assessment of project risk factors as part of the project scoping and approval*
2. *A regimented assessment process and multi-level approval process for projects*
3. *The implementation of a work flowed project management framework utilising "PULSE" Project management software*
4. *A "two stage" approach to delivery complex and/or high-risk projects as follows:-*
   a) *Stage 1 – detailed investigation, design, completion of preconstruction activities, detailed risk assessment and mitigation actions to create a "shovel ready" Project.*
   b) *Stage 2 – Planned Project Delivery utilising finalised designs with all necessary approvals and a "validated' budget based on a "shovel ready" project.*

5. *Council being fully informed of any changes to any of the major risks as they happen and potential remedies for those risks.*

Item 8.1 Draft 2020/21 Internal Audit Plan

The Committee endorsed the draft 2020/21 Internal Audit Plan.
AR 20/20

THAT the Audit, Risk and Improvement Advisory Committee endorse the draft 2020/21 Internal Audit Plan provided at Table 1 AND THAT the Committee agree that no internal audits of the financial services group should take place before the Audit Office has signed-off on Council's financial statements.

Item 8.2 Internal Audit Report

The Committee was provided with a copy of the Planning Certificates internal audit report, an overview of the scope of the Accounts Payable internal audit scheduled for the next quarter and an update on the contract for internal audit services.
AR 21/20

THAT the Audit, Risk and Improvement Advisory Committee note the report.

Item 8.3 Outstanding Internal Recommendations Progress Report

The Committee was provided with an update on the implementation of outstanding recommendations from previous internal audits.
AR 22/20

THAT the Outstanding Internal Audit Recommendations Progress Report for June 2020 (Attachment 1) be noted AND THAT the requested extensions to the due dates as specified in Table 1 to this report be granted.

Item 9.1 External Audit – Management Letter Recommendations Update

The Committee was provided with an update on the status of issues which have been raised in previous Management Letters by Council's external auditors.
AR 23/20

THAT the Audit, Risk and Improvement Advisory Committee note the update provided on the outstanding issues and recommendations made by Council's External Auditors.

ATTACHMENTS

1. Audit, Risk and Improvement Advisory Committee Meeting Minutes - 19 June 2020

MINUTES

of the

Audit, Risk and Improvement Advisory Committee Meeting

held remotely using audio-visual link

on

Friday 19 June 2020

The meeting commenced at 9.00 am

File No. 2102/3

MINUTES OF THE AUDIT, RISK AND IMPROVEMENT ADVISORY COMMITTEE MEETING
Friday 19 June 2020

1. WELCOME AND APOLOGIES

2. ACKNOWLEDGEMENT OF COUNTRY

3. ADOPTION OF MINUTES OF PREVIOUS MEETING

4. DECLARATIONS OF INTEREST

5. AGENDA REPORTS 3
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10. DATE OF NEXT MEETING 13

11. MEETING CLOSURE 13

MINUTES OF THE AUDIT, RISK AND IMPROVEMENT ADVISORY COMMITTEE MEETING
Friday 19 June 2020

MINUTES OF THE AUDIT, RISK AND IMPROVEMENT ADVISORY COMMITTEE MEETING OF WINGECARRIBEE SHIRE COUNCIL HELD IN NATTAI ROOM, CIVIC CENTRE, ELIZABETH STREET, MOSS VALE ON FRIDAY 19 JUNE 2020 COMMENCING AT 9.00 AM.

Present:		
Councillors:	Clr P W Nelson	
Community Representatives:	Ms Jan Edwards*	*Chair*
	Mr Paul Jeffares*	
	Dr Jason Young*	
In Attendance:	Clr Duncan Gair	*Mayor (in part)*
	Ms Ann Prendergast*	*General Manager*
	Mr Mark Pepping	*DGM Corporate Strategy and Development Services*
	Mr Barry Paull	*DGM Operations, Finance and Risk*
	Ms Danielle Lidgard	*Group Manager Corporate and Community*
	Mr Richard Mooney*	*Chief Financial Officer*
	Mr John Crawford*	*Chief Information Officer*
	Mr John Burgess*	*Group Manager Organisational Development*
	Mr Malcolm Lindsay*	*Coordinator Workplace Systems*
	Mr Nicholas Wilton*	*Group Manager Planning, Development and Regulatory Services*
	Mr Ned Tripkovic	*Group Manager Capital Projects (in part)*
	Mr Andrew Lynch*	*Coordinator Corporate Strategy and Governance*
	Mr Jake Austin	*A/Governance Officer*
	Ms Ashley Sullivan*	*A/Internal Audit and Legal Support Officer*
	Ms Ivana Vidovich	*A/Property and Projects Officer*
Also in Attendance:	Mr Michael Kharzoo*	*Audit Office of NSW*
	Ms Susanti Tedja*	*Audit Office of NSW*
	Mr Mitchell Morley*	*InConsult*
	Mr Dane Parsons*	*InConsult*

NOTE: Due to current government requirements around social distancing due to the COVID-19 pandemic, some meeting participants attended the meeting remotely via Microsoft Teams audio visual link. This is indicated by *. The remaining participants were present in the Nattai Room, Civic Centre for this meeting.

1. WELCOME AND APOLOGIES

It was noted that an apology was received from Clr G Markwart.

2. ACKNOWLEDGEMENT OF COUNTRY

The Chair Ms Jan Edwards 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.

MINUTES OF THE AUDIT, RISK AND IMPROVEMENT ADVISORY COMMITTEE MEETING
Friday 19 June 2020

3. ADOPTION OF MINUTES OF PREVIOUS MEETING

MINUTES OF THE AUDIT, RISK AND IMPROVEMENT ADVISORY COMMITTEE MEETING HELD ON FRIDAY 20 MARCH 2020

AR 13/20

MOTION *moved by Dr J Young and seconded by Ms J Edwards*

THAT the minutes of the Audit, Risk and Improvement Advisory Committee Meeting held on Friday 20 March 2020 AR 1/20 to AR 12/20 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

Mr Mitchell Morley declared an interest in item 8.2 – Internal Audit Report and advised that he would leave the meeting if the Committee wished to discuss Council's contract with InConsult.

5. AGENDA REPORTS

5.1 Fit For The Future Program Update

Reference:	**2102/3**
Report Author:	**Internal Audit and Legal Support Officer**
Authoriser:	**Coordinator Corporate Strategy and Governance**
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 provide the Committee with an update on the progress of Council's Fit For The Future Program.

The Chief Financial Officer, Group Manager Corporate and Community and General Manager addressed the meeting.

AR 14/20

MOTION *moved by Dr J Young and seconded by Councillor P W Nelson*

THAT the Fit For The Future report and update be noted AND THAT an annual report on the Long Term Financial Plan be included on the Committee's meeting plan.

PASSED

MINUTES OF THE AUDIT, RISK AND IMPROVEMENT ADVISORY COMMITTEE MEETING
Friday 19 June 2020

5.2 Update on the Committee's Term

Reference:	**2102/3**
Report Author:	**Coordinator Corporate Strategy and Governance**
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 the Audit, Risk and Improvement Advisory Committee (the Committee) on the status of the Committee's term following the NSW Government's decision to extend the current Council term due to the COVID-19 pandemic.

The General Manager addressed the meeting.

AR 15/20

MOTION *moved by Mr P Jeffares and seconded by Councillor P W Nelson*

THAT the Audit, Risk and Improvement Advisory Committee note the report AND THAT it be noted that the community members on the Committee have agreed to remain on the Committee for its extended term.

PASSED

5.3 Audit, Risk and Improvement Advisory Committee Meeting Plan - 2020/21

Reference:	**2102/3**
Report Author:	**Internal Audit and Legal Support Officer**
Authoriser:	**Coordinator Corporate Strategy and Governance**
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 seek the Committee's endorsement of a draft Meeting Plan for the 2020/21 financial year. The Committee is also required to confirm the dates and times for each meeting.

The Chief Financial Officer and Mr Michael Kharzoo addressed the meeting.

AR 16/20

MOTION *moved by Ms J Edwards and seconded by Councillor P W Nelson*

THAT the Audit, Risk and Improvement Advisory Committee endorse the draft Meeting Plan for 2020/21 AND THAT the meeting time be moved to commence at 10.30am.

PASSED

6. COMMITTEE ACTION LIST

6.1 Committee Action Items Update

Reference:	**2102/3**
Report Author:	**Internal Audit and Legal Support Officer**
Authoriser:	**Coordinator Corporate Strategy and Governance**
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 provide an update on the progress of action items previously requested by the Audit, Risk and Improvement Advisory Committee (the 'Committee').

The Group Manager Corporate and Community addressed the meeting.

AR 17/20

MOTION *moved by Councillor P W Nelson and seconded by Dr J Young*

THAT the report in relation to the Committee Actions Update be noted.

PASSED

7. RISK MANAGEMENT

7.1 Corporate Risk Program Update

Reference: **2102/3**
Report Author: **Workplace Systems Coordinator**

PURPOSE
The purpose of this report is to provide the Audit, Risk and Improvement Advisory Committee (the Committee) with an update on Council's Risk Management Program.

The General Manager, the Group Manager Organisational Development and Coordinator Workplace Systems addressed the meeting.

The Committee agreed that all members as well as Council management would review those corporate risk statements without identified treatment actions and consider whether treatment actions should be applied to those risks prior to the next meeting where the matter will be discussed further.

AR 18/20

MOTION *moved by Ms J Edwards and seconded by Dr J Young*

THAT the Audit, Risk and Improvement Advisory Committee note the report AND THAT future reports should include a quarterly comparative of risk treatment action completions as well as the goals for treatment completions in the upcoming quarter AND FURTHER THAT a report on risk statement OFR1 addressing progress on the completion of treatment actions and the timeframes for finalisation be brought to the September meeting of the Committee.

PASSED

7.2 Report on Berrima Overpass Project

Reference:	**2102/3**
Report Author:	**Group Manager Capital Projects**
Authoriser:	**Deputy General Manager Operations, Finance and Risk**
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 inform the Audit, Risk and Improvement Advisory Committee (the Committee) of the major issues with the Berrima Overpass Project and provide an update on changes that have since been made to Council's approach to managing projects.

The Group Manager Capital Projects, the Deputy General Manager Operations, Finance and Risk, the Chief Financial Officer and the General Manager addressed the meeting.

AR 19/20

MOTION *moved by Councillor P W Nelson and seconded by Ms J Edwards*

THAT ***the Audit Risk and Improvement Advisory Committee note the report and endorse the actions taken by Council staff to improve Project – scoping, initiation and delivery including:-***

1. ***A detailed assessment of project risk factors as part of the project scoping and approval***
2. ***A regimented assessment process and multi-level approval process for projects***
3. ***The implementation of a work flowed project management framework utilising "PULSE" Project management software***
4. ***A "two stage" approach to delivery complex and/or high-risk projects as follows:-***
   a) ***Stage 1 – detailed investigation, design, completion of preconstruction activities, detailed risk assessment and mitigation actions to create a "shovel ready" Project.***
   b) ***Stage 2 – Planned Project Delivery utilising finalised designs with all necessary approvals and a "validated' budget based on a "shovel ready" project.***
5. ***Council being fully informed of any changes to any of the major risks as they happen and potential remedies for those risks.***

PASSED

8. INTERNAL AUDIT

8.1 Draft 2020/21 Internal Audit Plan

Reference:	**2102/3**
Report Author:	**Internal Audit and Legal Support Officer**
Authoriser:	**Coordinator Corporate Strategy and Governance**
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 seek endorsement by the Audit, Risk and Improvement Advisory Committee (the Committee) of the draft 2020/21 Internal Audit Plan.

Mr Mitchell Morley addressed the meeting.

AR 20/20

MOTION *moved by Mr P Jeffares and seconded by Ms J Edwards*

THAT the Audit, Risk and Improvement Advisory Committee endorse the draft 2020/21 Internal Audit Plan provided at Table 1 AND THAT the Committee agree that no internal audits of the financial services group should take place before the Audit Office has signed-off on Council's financial statements.

PASSED

8.2 Internal Audit Report

Reference:	**2102/3, 2102/20.2**
Report Author:	**Internal Audit and Legal Support Officer**
Authoriser:	**Coordinator Corporate Strategy and Governance**
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 the Audit, Risk and Improvement Advisory Committee (the Committee) with the Planning Certificates internal audit report, provide a brief overview of the scope of the Accounts Payable internal audit scheduled for the next quarter and deliver on update on the contract for internal audit services.

Mr Mitchell Morley addressed the meeting.

AR 21/20

MOTION *moved by Dr J Young and seconded by Councillor P W Nelson*

THAT the Audit, Risk and Improvement Advisory Committee note the report.

PASSED

8.3 Outstanding Internal Audit Recommendations Progress Report

Reference:	**2102/3**
Report Author:	**Internal Audit and Legal Support Officer**
Authoriser:	**Coordinator Corporate Strategy and Governance**
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 provide an update to the Audit, Risk and Improvement Advisory Committee (the Committee) with respect to the implementation of outstanding recommendations from previous internal audits.

The Deputy General Manager Corporate Strategy and Development Services and Chief Financial Officer addressed the meeting.

AR 22/20

MOTION *moved by Councillor P W Nelson and seconded by Dr J Young*

THAT the Outstanding Internal Audit Recommendations Progress Report for June 2020 (Attachment 1) be noted AND THAT the requested extensions to the due dates as specified in Table 1 to this report be granted.

PASSED

9. EXTERNAL AUDIT

9.1 External Audit - Management Letter Recommendations Update

Reference:	**2102, 2102/3**
Report Author:	**Internal Audit and Legal Support Officer**
Authoriser:	**Coordinator Corporate Strategy and Governance**
Link to Community Strategic Plan:	**Effective financial and asset management ensure Council's long term sustainability**

PURPOSE

This report provides the Audit, Risk and Improvement Advisory Committee with an update on the status of issues which have been raised in previous Management Letters by Council's external auditors.

AR 23/20

MOTION *moved by Dr J Young and seconded by Mr P Jeffares*

THAT the Audit, Risk and Improvement Advisory Committee note the update provided on the outstanding issues and recommendations made by Council's External Auditors.

PASSED

10. DATE OF NEXT MEETING

The next meeting will be held on Friday 18 September 2020 in the Civic Centre, Elizabeth Street, Moss Vale commencing at 10.30am.

11. MEETING CLOSURE

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 10.45 AM

17 QUESTIONS WITH NOTICE

17.1 Question with Notice 30/2020 - Report on Alternate Bowral Bypass

Reference:	**100**
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:	Clr Halstead OAM
Received:	27 July 2020

Subject: Report Alternate Bowral Bypass

Question:

Can Senior Management locate an historic report prepared for the Wingecarribee Shire Council during the late 1980s which outlined and included an estimated cost of the engineering a proposed Bowral ByPass route that traversed Kirkham Road from its northern end which included a 'new' 4-lane bridge over the Main Southern Railway at or near the Bowral Brickworks. This proposed ByPass then followed an alignment east of and adjacent to the Main Southern Railway line and connected with Moss Vale Road near Links Road, Bowral. This report is to be submitted to Council for information and/or action.

Response:

Archived files have been searched, dating back to 1983 and to June 1991 relating to information relating to, as requested, "a proposed Bowral Bypass route that traversed Kirkham Road from its northern end which included a 'new' 4-lane bridge over the Main Southern Railway at or near Bowral Brickworks" that was prepared for Council in the late 1980's.

The results of this search found:

1. A report was prepared for the Council Meeting of 6 June 1983 – Works & Town Planning Committee Meeting – 25 May 1983, Report of the Shire Engineer, that included the "Bowral Traffic Relief Route" (File No. 30/1939) which included an indicative thick broken line which generally follows the current Station Street Upgrade Proposal route between the intersection of Station Street, Bong Bong Street, Bundaroo Street, following Station Street through to Bowral Street, then traversing diagonally through land to Railway Parade, Funston Street intersection then following Railway Parade south to Alcorn Street and then the current road corridor to Moss Vale Road with an intersection just north of Links Road. A cost estimate was not included on file. A proposal to traverse across the Main Southern Railway to Kirkham Road was not included in this report.

2. A report was prepared for the Council Meeting of 2 June 1986 – Works & Town Planning Committee Meeting – 28 May 1986, Report of the Shire Engineer, that included the "Bowral Traffic Relief Route" (File No. 30/1939) including the same alignment of the "Traffic Relief Route Bowral" as outlined above detailing "Land Ownership and Acquisition" and referring to Plan 1264.

3. July 1986 (File No. 8508-10) includes the "report on Traffic Improvement Proposals Bowral Central Business District" prepared by Wingecarribee Shire Council Engineering Department" which includes "Short term" and "Long Term" "Traffic Improvement Proposals" which only consider improvements along Bong Bong Street, Station Street and the alignment (as outlined above) through to Moss Vale Road/Links Road intersection and Funston Street through to Kangaloon Road. Cost estimates were not included in this study.

4. A report was prepared for the Council Meeting of 21 November 1988 – Works & Town Planning Committee Meeting – 9 November 1988, Report of the Shire Engineer, responding to a letter from the Bowral Chamber of Commerce "generally enquiring into and suggesting means to improve traffic flow in the Bowral central business district. The report did not include discussion regarding Kirkham Road. The report included the following statement relating to the "Bowral Road/Bundaroo Street Intersection": *The philosophy has all along been to divert traffic entering Bowral from the north and south, to Station Street and use this as a traffic relief route for through traffic. This concept is really one of last resort as no other viable alternatives are available which are cost effective due to the location of the railway line."*

5. File No. 8050-10 includes an unreferenced Wingecarribee Shire Council Engineering Department drawing – Plan No. 1428 sheet 1 of 4 titled "Traffic Management Plan – Bowral Overall Strategy" which does not include any other supporting documentation. This drawing does not have a legend and is unsigned. Key roads, including Kirkham Road are drawn as heavy broken lines. This plan shows a notional connection of Funston Street to Oxleys Hill Road (traversing through what is now the Bowral Bricks sales office) without a connection towards Kirkham Road with a notation "Possible future railway overpass" and a second crossing being the extension of Bowral Street to the Kirkham Road/Oxleys Hill Road corner, with the notation: "Alternative future level crossing".

RECOMMENDATION

THAT the information in relation to Question with Notice 30/2020 – Report on Alternate Bowral Bypass - be noted.

17.2 Questions with Notice 31/2020 Station Street Upgrade

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:	Deputy Mayor Clr Turland
Received:	3 August 2020

Subject: Station Street Upgrade

Question:

T158 and T159 trees were to be retained in this project. Why were they removed and where are the current and past arborist reports on these trees.

Response:

Councillors were advised as follows on 1 May 2020:

"I wish to advise councillors that as part of works to be undertaken on Monday 4 May 2020 – (2) mature Celtis australis (European nettle tree) on north and south sides of the exit to the station Street Car Park, 25m south of Boolwey Street will be removed as they present a high risk of dropping limbs etc on traffic and pedestrians in Station Street.

Given the current weather conditions and the continuing decline of these trees their removal is considered a high priority to ensure ongoing safety to the passing traffic and pedestrians.

Celtis australis (European nettle tree) south

Dimensions - 13m height / 11m canopy spread / 1.4m diameter measured at approximately 1.5m from road level

Environment – Tree is located on compacted verge

Health / Structure – Tree scored a risk assessment 10/12 with 12 being the highest risk. For a mature European nettle tree, it is exhibiting generic signs of age. Several hollows were identified in the lower canopy branches with multiple exposed hollow points in the lower trunk, indication poor structural integrity. Large internal space in trunk cavity indicated fungal decay persistent through to the upper canopy branches. The risk of upper canopy failure is likely to occur given the extent of fungal decay. This could result in large branch failure onto the street or car park.

Several previous limbs failures were identified throughout mid / upper canopy

The upper canopy has defined dieback which is an indication of a decline in tree health and vigour.

Celtis australis (European nettle tree) north

Dimensions - 11m height / 10m canopy spread / 1.1m diameter measured at approximately 1.5m from road level

Environment – Tree is located on compacted verge

Health / Structure – Tree scored a risk assessment 10/12 with 12 being the highest risk. For a mature European nettle tree, it is exhibiting generic signs of age. Several hollows were identified in the lower canopy branches, indication poor structural integrity. The tree is indicated fungal decay persistent through to the upper canopy branches.

Several previous limbs failures were identified throughout mid / upper canopy. The risk of upper canopy failure is likely to occur given the extent of fungal decay. This could result in large branch failure onto the street or car park.

The upper canopy has defined dieback which is an indication of a decline in tree health and vigour."

Council staff received no feedback from Councillors at that time regarding the removal of these "high risk" trees, and the decision to remove was made in the interest of public safety.

The Consulting arborist and landscape architect engaged to provide specialist advice on the Station Street Project – Arterra Consulting Arboriculture in the most recent review of Station Street trees indicates T158 and T159 as "Aging tree in declining condition. Potential major incursion – measures to be undertaken to mitigate likely impacts if possible otherwise tree may have to be removed".

RECOMMENDATION

THAT the information in relation to Question with Notice 31/2020 – Station Street Upgrade - be noted.

17.3 Questions with Notice 32/2020 Federal Grant Funding

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:	Deputy Mayor Clr Turland
Received:	3 August 2020

Subject: Federal Grant Funding

Question:

When were Council staff informed that $1.2m of the $4.5m Federal Grant was to be retained for Council on the failed Berrima Overpass project.

Response:

Council was required to provide the Department of Infrastructure, Transport, Cities and Regional Development (Federal Government) with an audited financial statement of the project expenditure as part of its obligations under the funding agreement for the Berrima Road Deviation Project.

The audited financial statement was submitted to the funding body on 21 January 2020.

Shortly after submitting this report, Council received confirmation that funding received for the project would not have to be repaid; this advice was provided on 22 January 2020.

Payment of the final claim of $245,900 was not received by Council until 21 February 2020. It was only upon payment of the final claim that Council officers had sufficient certainty that the contingent liability in relation to the grant could be extinguished and Councillors advised of this outcome.

Council was advised of this outcome on 25 March 2020 at the Councillor Draft 2020/21 Operational Plan and Budget workshop.

RECOMMENDATION

THAT the information in relation to Question with Notice 32/2020 – Federal Grant Funding - be noted.

17.4 Questions with Notice 33/2020 General Manager Contract of Employment

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:	Deputy Mayor Clr Turland
Received:	3 August 2020

Subject: General Manager's Contract of Employment

Question:

Has the current General Manager (terminated) met all conditions of the standard contract of employment for General Managers of the Local Council in NSW.

Response:

Yes.

RECOMMENDATION

THAT the information in relation to Question with Notice 33/2020 General Manager Contract of Employment - be noted.

17.5 Questions with Notice 34/2020 Appointment of General Manager

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:	Deputy Mayor Clr Turland
Received:	3 August 2020

Subject: Appointment of General Manager

Question:

1. What is the time line to proceed with the new appointment of the General Manager.
2. What is the process on the appointment procedure?

Response:

Section 334 of *the Local Government Act (1993)* (the Act) requires Council's governing body to appoint a General Manager. The appointment must be on merit, in accordance to section 349 of the Act.

Guidelines issued pursuant to section 23A of the Act provide further details for the appointment process for General Managers, these are titled *Guidelines for the Appointment and Oversight of General Managers.*

RECOMMENDATION

THAT the information in relation to Question with Notice 34/2020 Appointment of General Manager - be noted.

17.6 Questions with Notice 35/2020 Royal Commission into NSW Bushfire Inquiry

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:	Deputy Mayor Clr Turland
Received:	3 August 2020

Subject: Appointment of General Manager

Question:

1. On 8 July meeting Item 17.5 Item 2 states that the General Manager provide a detailed report as to why both submissions were not provided as listed above and lacking in detail in their response and submissions.

Response:

Decisions relating to bushfire submissions were that of the General Manager who is currently on extended leave. As Acting General Manager I am not aware of the rationale for these decisions by the General Manager and as such I am unable to comment further in relation to this matter.

RECOMMENDATION

THAT the information in relation to Question with Notice 35/2020 Royal Commission into NSW Bushfire Inquiry - be noted.

18 NOTICES OF MOTION

18.1 Notice of Motion 30/2020 - Local Housing Strategy and Local Strategic Planning Statement - Wensleydale

Reference:	**100/4**
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 Scandrett, Turland and Halstead OAM have given notice that it is their intention to move the following motion at the Ordinary Meeting of Council on 12 August 2020:

1. THAT Council undertake a review of the Local Housing Strategy and Local Strategic Planning Statement to remove the Wensleydale property and include the two sites identified from the exhibition between March and May 2020 into the Local Housing Strategy and Local Strategic Planning Statement.

2. THAT Council write to the Department of Planning advising the intention to review both the Local Housing Strategy and Local Strategic Planning Statement documents as per point 1 above.

3. THAT Council write to the landowners of the 2 locations nominated in Colo Vale during the public exhibition period advising that Council is prepared to receive Planning Proposals for their land subject to the necessary amendments being adopted by Council to the Local Housing Strategy and Local Strategic Planning Statement for the inclusion of the subject locations to be shown as a 'potential long-term living area.

RECOMMENDATION

Submitted for determination.

18.2 Notice of Motion 31/2020 Wellness Survey

Reference:	**100/4**
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

Councillor Halstead OAM has given notice that it is his intention to move the following motion at the Ordinary Meeting of Council on 12 August 2020:

1. THAT the Acting General Manager facilitate an 'up to date' Wellness Survey (Staff Satisfaction Survey) of ALL staff. This survey is to be undertaken by an external 'independent' person qualified to undertake this task.

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 Tender for Bowral Cemetery Improvements – 107 Kangaloon Road, Bowral

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)d(i) as it contains commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it 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 present the evaluation of the Request for Tender for the Construction Works at 107 Kangaloon Road, Bowral.

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

Wednesday 5 August 2020