

19 September 2019

Dear Councillor,

You are kindly requested to attend the **Ordinary Meeting** of Wingecarribee Shire Council to be held in **Council Chambers, Civic Centre, Elizabeth Street, Moss Vale** on **Wednesday 25 September 2019** commencing at **3.30pm**.

Yours faithfully

Ann Prendergast
General Manager

SCHEDULE

3.30pm	Council Meeting begins
7.40pm	Closed Council

RUNNING SHEET

ORDINARY MEETING OF COUNCIL

held in the Council Chambers, Civic Centre, Elizabeth Street, Moss Vale

on Wednesday, 25 September 2019 at 3.30pm.

Time	Item
3.30pm	<p>Opening of meeting – This meeting is recorded and live streamed for public viewing via the internet in accordance with Council's Code of Meeting Practice, with the recording stored and made available to the public for later viewing. The recording is subject to copyright.</p> <p>Members of the public attending or speaking at this meeting will be recorded and publicly broadcast. By attending this meeting you voluntarily consent to your attendance and participation being recorded.</p> <p>Any part of the meeting that is held in closed session will not be live streamed.</p> <p>Council requests that everyone present is respectful and uses appropriate language. Council does not accept liability for any defamatory, discriminatory or offensive comments that are made during the course of the meeting.</p> <p>Please ensure that all electronic devices including mobile phones are switched to silent. Under the Code of Meeting Practice, public recording of this meeting is prohibited without prior authorisation by Council.</p> <p>Council's live streaming 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, 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.</p>
	Acknowledgement of Country – Cllr Nelson
3.32pm	Opening Prayer – Reverend Gavin Perkins, Bowral Anglican Church
3.35pm	<ul style="list-style-type: none">• Apologies• Adoption of Previous Minutes• Declarations of Interest (<i>if any</i>)• Mayoral Minute (<i>if any</i>)• Public Forum (<i>if any</i>)• Visitor Item (<i>if any</i>)• Council Reports
5.30pm	Questions with Notice Notices of Motion
7.40pm	Closed Council



RUNNING SHEET

ORDINARY MEETING OF COUNCIL

held in the Council Chambers, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 25 September 2019 at 3.30pm.

8.00pm

Meeting Closed

Ann Prendergast
General Manager



Business

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19.1 Legal Report - Closed Council

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

20. RESUMPTION OF OPEN COUNCIL

Resumption of Open Council

Adoption of Closed Session

21. MEETING CLOSURE

Our Mission, Our Vision, Our Values

OUR MISSION

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

OUR VISION

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

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

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

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

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

OUR VALUES

Integrity, trust and respect

Responsibility and accountability

Communication and teamwork

Service quality

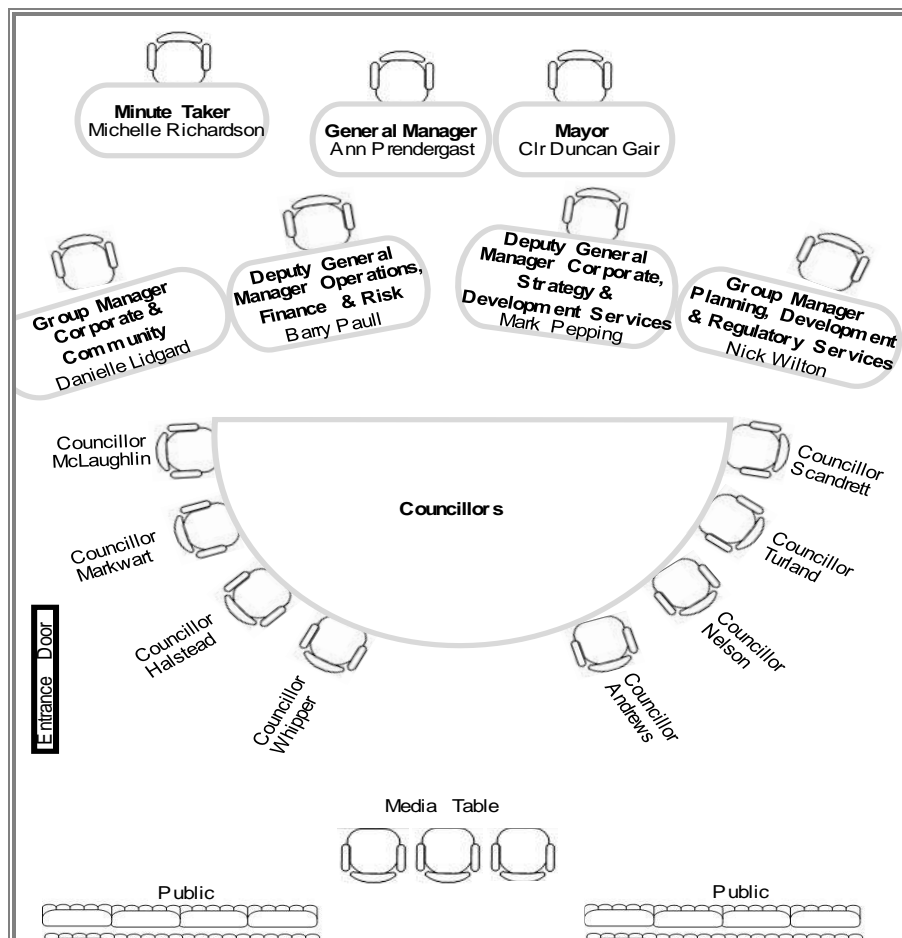
Council Chambers

Recording and Webcasting of Ordinary and Extraordinary Meetings of Council

As required under its Code of Meeting Practice, Wingecarribee Shire Council records and webcasts the proceedings of the Council meetings and Finance Committee meetings for public viewing, with the exception of any part of the meeting that is held in closed session. Members of the public attending and speaking at these meetings will be recorded and publicly broadcast. Council does not accept liability for any defamatory, discriminatory or offensive comments that are made during the course of the meeting.

Sound recording of meetings by members of the media is permitted only for the purpose of verifying the accuracy of any report concerning such meeting. Broadcasting of any sound recording is not permitted. Video recording or live streaming is also not permitted. No member of the public is to live stream or use an audio recorder, video camera, mobile phone or any other device to make a recording of the meeting without prior permission of the Council.

The Council Chamber now has 24 Hour Video Surveillance.



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

Request for Leave of Absence – Councillor Markwart

Councillor Markwart intends to be absent from all Council commitments on Wednesday, 25 September 2019, including the Ordinary Meeting of Council and Briefing Sessions that day, for personal reasons.

Under Section 234 of the *Local Government Act 1993* and Clause 235A of the *Local Government Regulations 2005* leave of absence can be granted to a Councillor with Council approval.

Council's consideration of the request for leave of absence is sought.

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.



9 VISITOR MATTERS

CORPORATE STRATEGY AND DEVELOPMENT SERVICES

9.1 DA 18/0576 - General Industry (Masonry Manufacturing), Lot 1 DP785111 and Lot 1 DP414246, 416 Berrima Road, Moss Vale and 524 Berrima Road, Berrima

Reference:	18/0576
Report Author:	Senior Development Assessment Planner
Authoriser:	Group Manager Planning, Development and Regulatory Services
Applicant:	Austral Masonry (NSW) Pty Ltd
Owner:	The Austral Brick Company Pty Ltd
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 present development application 18/0576 for the Council's consideration, and recommends APPROVAL subject to the conditions specified in Attachment 1.

VOTING ON THE MOTION

Councillors are required to record their votes on this matter.

RECOMMENDATION

THAT development application 18/0576 for erection of buildings and carrying out of works for the purpose of general industry (masonry manufacturing) at Lot 1 DP785111 and Lot 1 DP414246, 416 Berrima Road, Moss Vale and 524 Berrima Road, Berrima, be APPROVED subject to conditions as described in Attachment 1 to the report.

REPORT

Subject Site and Locality

Figures 1 and 2 illustrate the land's location and general layout (see also Attachments 2 and 3). It includes Lot 1 DP 785111, 416 Berrima Road, Moss Vale, and Lot 1 DP 414246, 524 Berrima Road, Berrima (the two lots' common boundary coincides with the boundary between the localities of Moss Vale and Berrima). However, the development is proposed primarily on 416 Berrima Road.

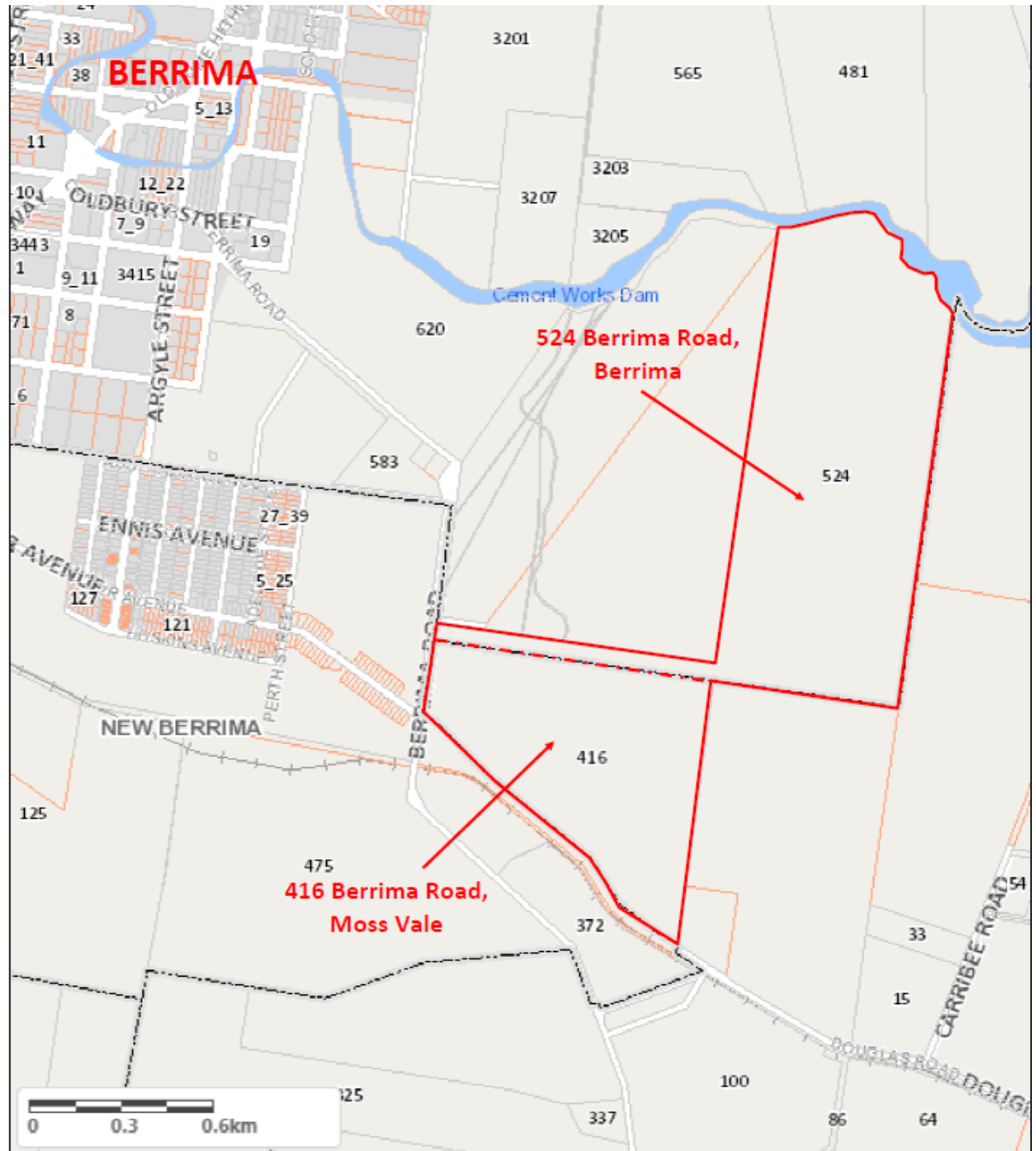


Figure 1: Locality Map (see also Attachment 2)

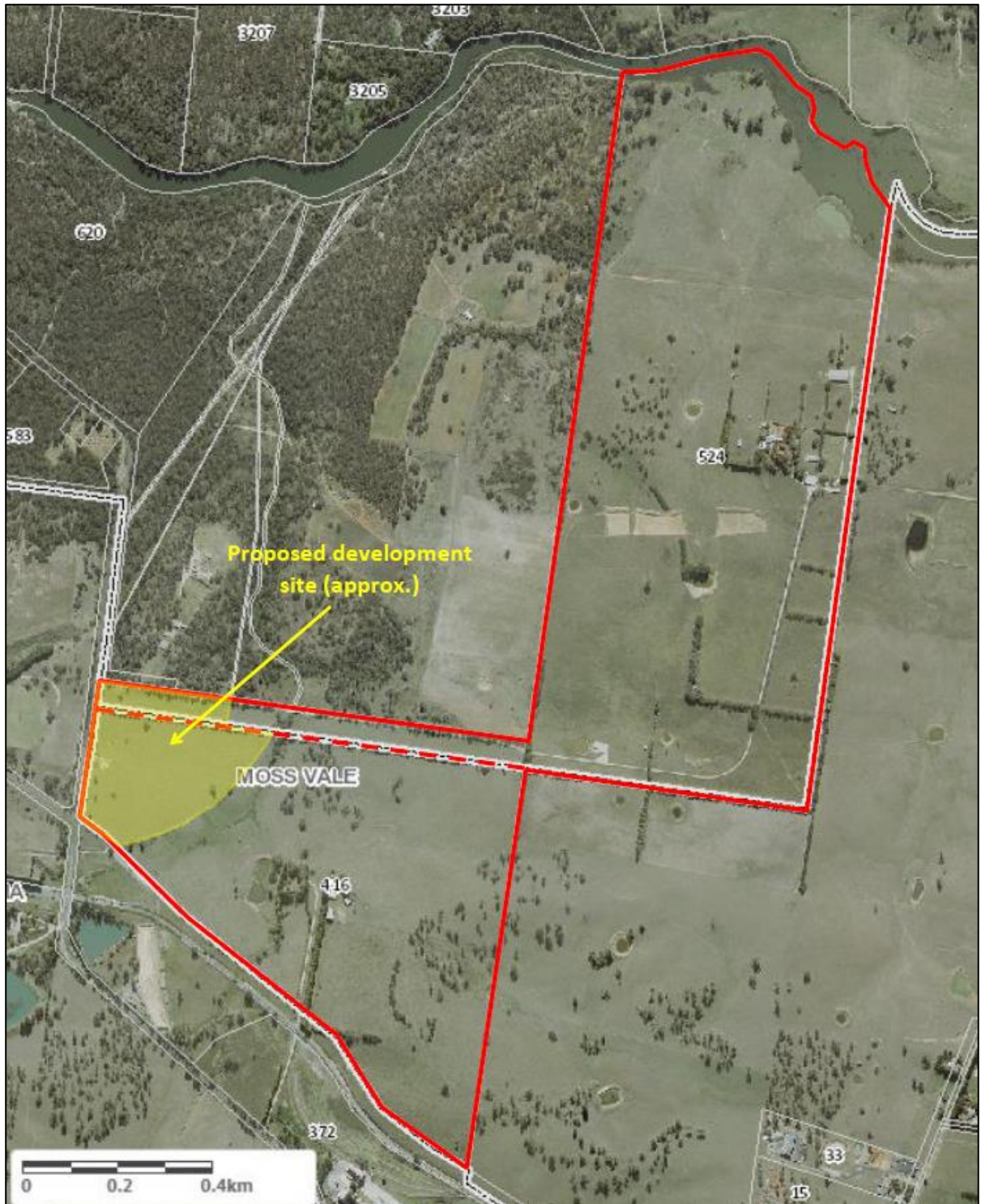


Figure 2: Aerial Image (see also Attachment 3)

416 Berrima Road is a 51.68ha developed rural lot on the eastern side of Berrima Road, around 2km southeast of the Berrima town centre. It appears mainly used for extensive agriculture, and is also occupied by a dwelling house along with various outbuildings.

The land's western boundary directly adjoins Berrima Road, but vehicular access is currently gained via Lot 101 DP882139 and Lot 1 DP1017008, respectively being 372 and

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475 Berrima Road, to the south of the land (*Note: The latter Lot 101 DP1017008, 475 Berrima Road spans the northeastern and southwestern sides of Berrima Road*).

The land has gently undulating topography. It is traversed by Stony Creek and some unnamed minor tributaries, but the proposed development site itself does not coincide with any mapped watercourses. Vegetation on the land mainly comprises grazed pasture, along with scattered native trees and exotic tree plantings adjacent to the internal driveway and abovementioned buildings.

Most surrounding properties appear used for agricultural purposes, with notable exceptions including Boral Cement Works around 800m to the southwest, and Inghams poultry feed manufacturing facility around 950m to the southeast.

Background

On 1 September 2011 Council granted development consent 11/0142 for subdivision of 416 Berrima Road to create two lots, as well as construction of a new private road to give access to both lots from Berrima Road. The applicant appealed against a number of conditions of Council's consent, and the Land and Environment Court consequently amended the consent on 28 October 2011. On 10 December 2014 Council confirmed physical commencement of engineering work associated with the new private road in the development. The consent therefore will not lapse, pursuant to section 4.53 of the Environmental Planning and Assessment Act 1979. **Figure 3** illustrates the development permitted by development consent 11/0142 (see also **Attachment 4**).

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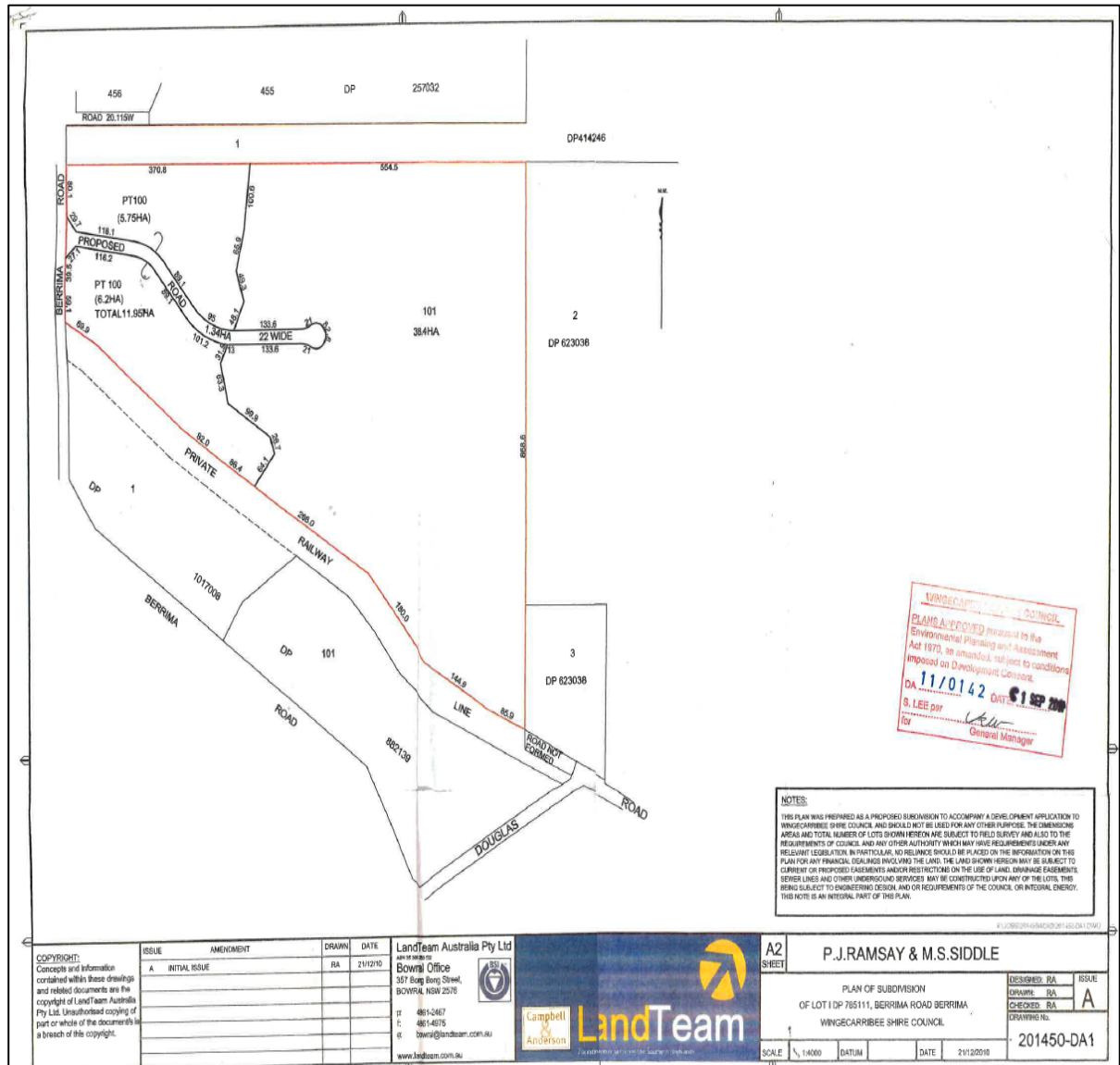


Figure 3: Development the subject of development consent 11/0142 (see also Attachment 4)

On 6 July 2012 the Minister for Planning and Infrastructure granted approval 08_0212 for the “New Berrima Shale Quarry Project” on 524 Berrima Road. The Minister most recently modified the approval on 6 July 2017. **Figure 4** illustrates the approved project layout (see also **Attachment 5**).

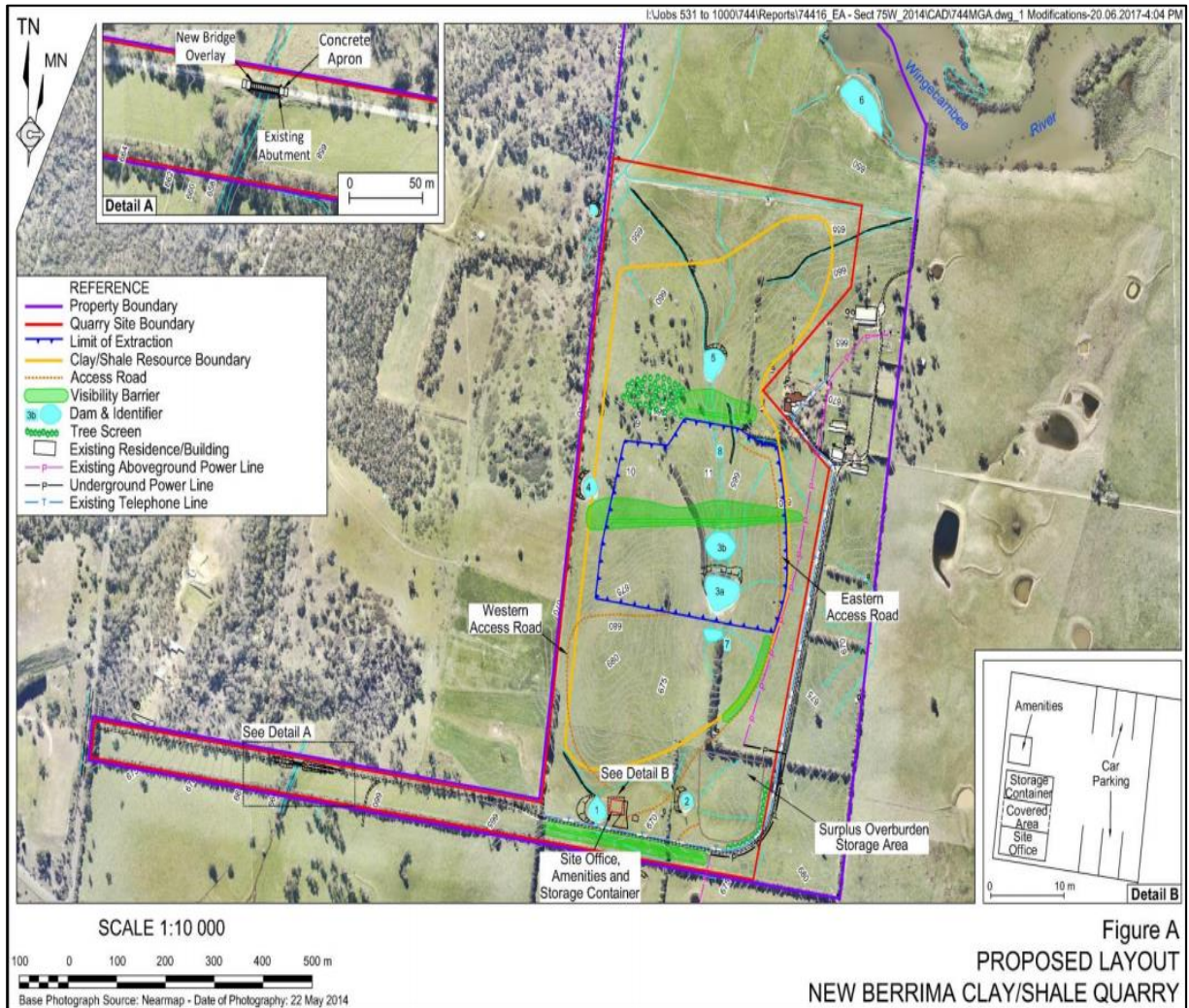


Figure 4: New Berrima Shale Quarry Project Approval 08_0212 layout (see also Attachment 5)

Notable conditions of approval 08_0212 include conditions 5 and 8 of Schedule 2 and conditions 6, 8, 23, 24 and 28 of Schedule 3 to the Minister’s notice of determination:

Schedule 2

- 5.** *The Proponent may carry out quarrying operations on the site until 31 December 2045.*

Note: Under this approval, the Proponent is required to rehabilitate the site and carry out additional undertakings to the satisfaction of the Secretary or DRG. Consequently, this approval will continue to apply in all other respects other than the right to conduct quarrying operations until the rehabilitation of the site and those undertakings have been carried out to a satisfactory standard.

- 8.** *The Proponent must not transport more than:*

- (a) *150,000 tonnes of product from the site in any calendar year;*

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- (b) 68 laden trucks from the site in a day; and
- (c) 8 laden trucks from the site in an hour.

Schedule 3

- 6.** The Proponent must comply with the operating hours in Table 2.

Table 2 - Operating Hours

Day	Transport	Quarrying operations	Construction
Monday-Friday	7 am to 4 pm	7 am to 5 pm	7 am to 5 pm
Saturday	8 am to 1 pm	8 am to 1 pm	8 am to 1 pm
Sundays and Public Holidays	None	None	None

Note: Maintenance activities may occur at any time provided they are inaudible at privately-owned residences.

- 8.** The Proponent must prepare a Noise Management Plan for the project to the satisfaction of the Secretary. This plan must:
- (a) be prepared in consultation with the EPA, and submitted to the Secretary for approval prior to the construction of the Visibility Barriers;
 - (b) describe the measures that would be implemented to ensure:
 - best management practice is being employed on site;
 - the noise impacts of the project are minimised during meteorological conditions when the noise limits in this approval do not apply; and
 - compliance with the relevant conditions of this approval;
 - (c) describe the proposed noise management system in detail; and
 - (d) include a monitoring program that:
 - is capable of evaluating the performance of the project;
 - includes a protocol for determining exceedances of the relevant conditions in this approval; and
 - evaluates and reports on the effectiveness of the noise management system on site.

The Proponent must implement the approved management plan as approved from time to time by the Secretary.

- 23.** Prior to transporting any extractive material from the site, the Proponent must:

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- (a) *construct the junction of the site access road with Berrima Road to Basic Right Turn and Basic Left Turn Treatment standard for a 19m semi-trailer;*
- (b) *construct a raised concrete median in Berrima Road on the south bound approach to its junction with MR372;*
- (c) *provide appropriate traffic signage and line-marking, in accordance with AUSTRROADS Guide to Road Design and to the satisfaction of the Council.*

24. *Prior to transporting any extractive material from the site, the Proponent must:*

- (a) *construct the Berrima Road/Taylor Avenue junction to give priority to MR372 incorporating Rural BA Left and Right turn treatments for a 19m semi-trailer;*
- (b) *provide appropriate traffic signage and line-marking,*

in accordance with AUSTRROADS Guide to Road Design and to the satisfaction of the Council and the RMS.

If the Council undertakes or proposes to undertake a superior treatment of this intersection upgrade, then this condition may be fulfilled by the Proponent paying a monetary contribution to the Council equivalent to the cost of the upgrades specified under this condition, as assessed by a qualified independent valuer or quantity surveyor appointed by the Secretary. The costs of the valuation are to be paid by the Proponent. Check traffic report

Any dispute over the interpretation of this condition or a satisfactory valuation can be referred by any party to the Secretary for resolution. The decision of the Secretary in any such dispute shall be final.

28. *The Proponent must ensure that:*

- (a) *vehicles on site do not exceed a speed limit of 30 kilometres per hour;*
- (b) *all loaded vehicles entering or leaving the site have their loads covered; and*
- (c) *all loaded vehicles leaving the site are cleaned of sand and other materials before they leave the site so they do not track dirt onto the public roads.*

On 16 March 2018 Council provided prelodgement advice regarding the development now proposed by the subject application. Council's advice confirmed the proposed development is permitted on the land with development consent.

Proposed Development

The application seeks development consent to erect buildings and carry out works for the purpose of general industry, more specifically manufacture of masonry blocks, retaining wall components, pavers and the like.

Figure 5 illustrates the proposed development (see also **Attachment 6**). It includes:

- A production building of some 11,000m² area
- Around 50,000m² of hardstand area, the majority of which is proposed to be used for open storage purposes
- Earthworks and retaining walls involving excavation to depths of around 8.0m and filling to depths of around 7.0m
- Vehicle entry/exit, manoeuvring, parking and loading/unloading facilities
- Landscaping
- Various signage.

The application is accompanied by an environmental impact statement (EIS), which indicates a proposed production capacity of 220,000 tonnes per annum.

The application is also accompanied by a Traffic Impact Assessment Report, which indicates the proposed development would generate a maximum 230 heavy vehicle movements (115 each way) per day, comprising:

- 25-30 raw material trucks
- 50-60 product delivery trucks
- 10-15 product collection trucks
- 5-10 courier/delivery vehicles.

However, this estimate is based on the largest vehicle accessing the development being a 26.0m B-double truck. As discussed later, the proposed development's transport routes – particularly the nearby intersection of Taylor Avenue and Berrima Road – are suitable for vehicles up to a 19.0m semi-trailer. Recommended consent **condition 3** therefore specifies no vehicles larger than a 19.0m semi-trailer shall be permitted to enter or exit the proposed development. This restriction is considered to potentially increase the number of product deliveries from the development by 70% and, consequently, increase its potential maximum total number of heavy vehicle movements to 314 (157 each way), comprising:

- 25-30 raw material trucks
- 85-102 product delivery trucks
- 10-15 product collection trucks
- 5-10 courier/delivery vehicles.

Despite the development's proposed 24 hour operation, the Traffic Impact Assessment Report assumes all heavy vehicles will arrive at the development between 5:00am and 5:00pm. Recommended consent **condition 90** accordingly restricts heavy vehicle movements associated with the proposed development's operation.

The proposed development's design conflicts with development the subject of Council's development consent 11/0142, discussed earlier. Recommended consent **condition 11** therefore specifies no construction certificate shall be granted for any work in the proposed development unless development consent 11/0142 has been surrendered.

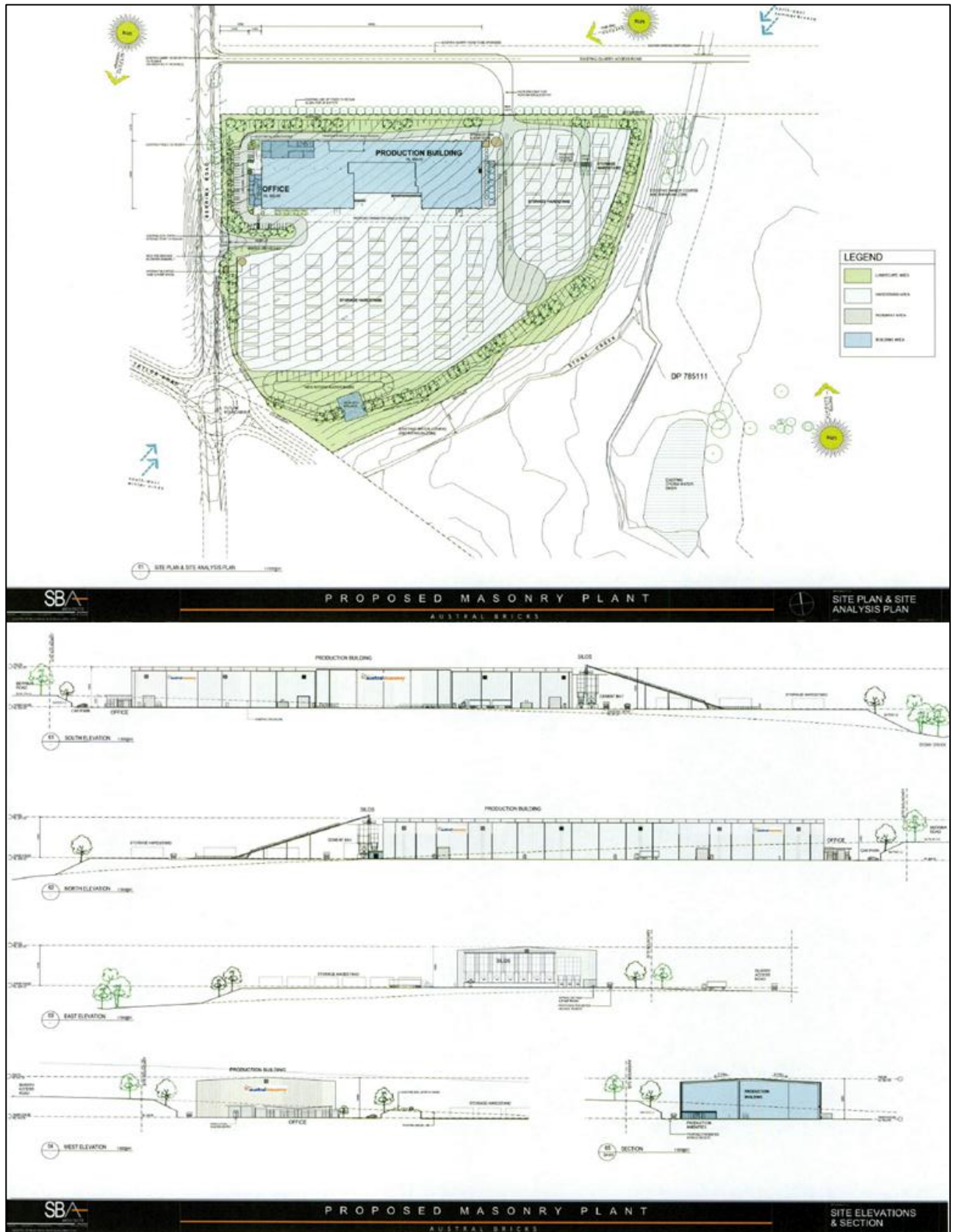


Figure 5: Proposed Development Drawings (see also Attachment 6)



STATUTORY PROVISIONS

State Environmental Planning Policies

The application has been considered with regard to the relevant provisions of applicable SEPPs, identified and discussed below.

- SEPP 33—Hazardous and Offensive Development
 - Part 1—Preliminary
 - Clause 3—Definitions of “potentially hazardous industry” and “potentially offensive industry”

The proposed development is considered to be for the purpose of a *potentially offensive industry* as defined by clause 3:

potentially offensive industry means a development for the purposes of an industry which, if the development were to operate without employing any measures (including, for example, isolation from existing or likely future development on other land) to reduce or minimise its impact in the locality or on the existing or likely future development on other land, would emit a polluting discharge (including for example, noise) in a manner which would have a significant adverse impact in the locality or on the existing or likely future development on other land, and includes an offensive industry and an offensive storage establishment.
 - Part 2—Hazardous or Offensive development
 - Clause 8—Consideration of Departmental guidelines

The provisions of the NSW Planning *Hazardous and Offensive Development Application Guidelines* (January 2011), or “Applying SEPP 33”, have been considered in determining whether the proposed development is a *potentially hazardous industry* or *potentially offensive industry*. Provided all recommended consent conditions are complied with and all ameliorative measures are taken as specified by the documents accompanying the application, the proposed development is considered to be for the purpose of a *potentially offensive industry*, but not an *offensive industry* or a *potentially hazardous industry*.
 - Part 3—Potentially hazardous or potentially offensive development
 - Clause 11—Development to which Part 3 applies

Clause 11 (1) (b) effectively specifies that the proposed development, being for the purpose of a potentially offensive industry, is subject to Part 3 of SEPP 33.
 - Clause 13—Matters for consideration by consent authorities

Clause 13 (a)-(e) effectively specifies that in determining the subject application, Council must consider:

 - (a) *current circulars or guidelines published by the Department of Planning relating to hazardous or offensive development, and*



- (b) *whether any public authority should be consulted concerning any environmental and land use safety requirements with which the development should comply, and*
- (c) *in the case of development for the purpose of a potentially hazardous industry—a preliminary hazard analysis prepared by or on behalf of the applicant, and*
- (d) *any feasible alternatives to the carrying out of the development and the reasons for choosing the development the subject of the application (including any feasible alternatives for the location of the development and the reasons for choosing the location the subject of the application), and*
- (e) *any likely future use of the land surrounding the development.*

With respect to clause 13 (a), the application has been considered with regard to relevant Planning Circulars and guidelines, including the NSW Planning *Hazardous and Offensive Development Application Guidelines* (January 2011), or “Applying SEPP 33”.

With respect to clause 13 (b), the application has been referred to various public authorities, including:

- Water NSW (concurrence authority)
- NSW Natural Resources Access Regulator (integrated development approval body)
- NSW Environment Protection Authority (integrated development approval body)
- NSW Roads and Maritime Services
- NSW Office of Environment & Heritage (integrated development approval body)
- Australian Rail Track Corporation.

Australian Rail Track Corporation did not respond, but each of the other public authorities responded with advice and requirements that can be conveyed by recommended consent **conditions 108 and 109**.

With respect to clause 13 (c), and as discussed above regarding clause 8, the proposed development is not considered to be for the purpose of a *potentially hazardous industry* as defined by SEPP 33. It is therefore unnecessary to consider a preliminary hazard analysis in the application’s assessment.

With respect to clause 13 (d), under Wingecarribee Local Environmental Plan 2010 (the LEP), the land is in Zone IN1 General Industrial. Provided the proposed development is carried out in accordance with the documents accompanying the application and in compliance with all recommended consent conditions, it is considered generally in keeping with the IN1 zone objectives specified by the LEP Land Use Table:

- *To provide a wide range of industrial and warehouse land uses.*
- *To encourage employment opportunities.*



- *To minimise any adverse effect of industry on other land uses.*
- *To support and protect industrial land for industrial uses.*
- *To allow a range of non-industrial land uses, including selected commercial activities, that provide direct services to the industrial activities and their workforce or that, due to their type, nature or scale, are appropriately located in the zone without impacting on the viability of business and commercial centres in Wingecarribee.*
- *To ensure that new development and land uses incorporate measures that take account of their spatial context and mitigate any potential impacts on neighbourhood amenity and character, or the efficient operation of the local or regional road system.*

Again provided it is carried out in accordance with the documents accompanying the application and in compliance with all recommended consent conditions, the proposed development is also considered generally satisfactory with respect to the aims specified by section 1.4 of the applicable Moss Vale Enterprise Corridor Development Control Plan 2008:

- *To facilitate the development of the Moss Vale Enterprise Corridor for employment uses.*
- *To provide a clear framework for development in the Moss Vale Enterprise Corridor.*
- *To ensure the orderly and proper development of the area.*
- *To conserve and manage areas of environmental significance.*
- *To protect important Aboriginal heritage values.*
- *To provide adequate essential physical infrastructure to service development.*
- *To ensure development adopts sound urban design and sound environmental management practices.*
- *To protect the scenic amenity of the Moss Vale area.*
- *To protect the amenity of surrounding rural and residential areas.*

With respect to clause 13 (e), and given the above regarding clause 13 (d), the proposed development is considered appropriate with respect to the land's attributes and the intended character and amenity of the locality.

▪ **Clause 14—Advertising of applications**

Council advertised the application and notified it to surrounding land owners/occupants, inviting submissions from 13 June to 13 July 2018. Advertisement and notification attracted five submissions, discussed later.



- SEPP 44—Koala Habitat Protection

- Part 1—Preliminary

- Clause 3—Aims, objectives etc

SEPP 44 aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline.

- Clause 4—Definitions

Clause 4 defines *potential koala habitat* as follows:

potential koala habitat means areas of native vegetation where the trees of the types listed in Schedule 2 constitute at least 15% of the total number of trees in the upper or lower strata of the tree component.

- Part 2—Development control of koala habitats

- Clause 6—Land to which this Part applies

Clause 6 (c) (i) effectively specifies Part 2 of SEPP 44 applies to the land by virtue of its area exceeding 1.0ha.

- Clause 7—Step 1—Is the land potential koala habitat?

The Environmental Impact Statement accompanying the application indicates there are no Koala feed tree species present on the proposed development site. The application is also accompanied by an Ecological Impact Assessment Report that indicates occurrence of koalas in the locality is unlikely, noting, “Marginal habitat present; however located in a highly modified landscape”.

The application was referred to Council’s Tree and Vegetation Assessment Officer, who concurs with the Ecological Impact Statement’s findings.

Noting the above, and given the land and proposed development site are somewhat sparsely vegetated, the land is not considered to be potential koala habitat as defined. On that basis, SEPP 44 does not prevent Council from granting consent for the proposed development.

- SEPP 55—Remediation of Land

- Clause 2—Object of this Policy

SEPP 55 aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

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

The application is accompanied by a Preliminary Environmental Site Investigation (PESI) Report that concludes:

- *Prior to the current layout the site appeared to have comprised mainly vacant crown land between 1830’s and 1950’s. Chesley Park Farm and associated structures are likely to have occupied the site since*



sometime the early 1960's. Therefore, it is estimated that the site has been in its current grass land (pastoral) configuration for over 50 years. No significant changes were observed on the site during this period;

- *Given that no evident sources of mobile contamination could be visually identified on site, it is considered that potential contaminants associated with past and present land uses are minimal;*
- *The site condition and the past and current site activities described in this PESI indicate a low potential for significant or gross contamination; and*
- *Based on the above findings the site subject to this PESI is suitable for the proposed masonry manufacturing facility use, consistent with an IN1 General Industrial zoning.*

Given the above, the land is not considered to require contamination remediation to render it suitable for the proposed development.

- SEPP 64—Advertising and Signage

- Clause 3—Aims, objectives etc

Clause 3 (1) (a)-(e) specifies the following aims of SEPP 64:

- (a) *to ensure that signage (including advertising):*
 - (i) *is compatible with the desired amenity and visual character of an area, and*
 - (ii) *provides effective communication in suitable locations, and*
 - (iii) *is of high quality design and finish, and*
- (b) *to regulate signage (but not content) under Part 4 of the Act, and*
- (c) *to provide time-limited consents for the display of certain advertisements, and*
- (d) *to regulate the display of advertisements in transport corridors, and*
- (e) *to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.*

- Clause 4—Definitions

The proposed development includes six *business identification signs* as defined:

business identification sign means a sign:

- (a) *that indicates:*
 - (i) *the name of the person or business, and*
 - (ii) *the nature of the business carried on by the person at the premises or place at which the sign is displayed, and*
- (b) *that may include the address of the premises or place and a logo or other symbol that identifies the business,*

but that does not contain any advertising relating to a person who does not carry on business at the premises or place.



- Clause 8—Granting of consent to signage

Clause 8 (a) and (b) effectively specifies Council must not grant development consent for the proposed business identification signs unless satisfied:

- (a) that the signage is consistent with the objectives set out in clause 3 (1) (a), and
- (b) that the signage the subject of the application satisfies the assessment criteria specified in Schedule 1 to SEPP 64.

Recommended consent **condition 10** specifies no construction certificate shall be granted for the development unless the certifying authority is satisfied by documents accompanying the construction certificate application that any exterior lighting associated with the proposed signage will comply with the relevant provisions of Australian Standard AS 4282—1997 Control of the obtrusive effects of outdoor lighting, and shall be installed, screened and directed so as to avoid light spillage onto adjoining land. Provided all recommended consent conditions are complied with, the proposed signage is considered satisfactory with respect to the aim specified by clause 3 (1) (a) (mentioned above) and with respect to the assessment criteria specified by clauses 1-8 of Schedule 1 relating to:

- Character of the area
- Special areas
- Views and vistas
- Streetscape, setting or landscape
- Site and building
- Associated devices and logos with advertisements and advertising structures
- Illumination
- Safety.

- SEPP (Infrastructure) 2007 (ISEPP)

- Clause 2—Aim of Policy

ISEPP aims to facilitate the effective delivery of infrastructure across the State.

- Clause 84—Development involving access via level crossings

The land adjoins a private railway extension, associated with the nearby Boral cement works, that intersects Berrima Road to the land's southwest. The proposed development's operation is considered likely to cause a significant increase in the number of vehicles, particularly trucks, using the level crossing at the intersection. Clause 84 therefore applies, pursuant to subclause (1) (c).

Clause 84 (2) specifies as follows:

- (2) *Before determining a development application for development to which this clause applies, the consent authority must:*
 - (a) *within 7 days after the application is made, give written notice of the application to the rail authority for the rail corridor, and*



- (b) *take into consideration:*
 - (i) *any response to the notice that is received within 21 days after the notice is given, and*
 - (ii) *the implications of the development for traffic safety including the costs of ensuring an appropriate level of safety, having regard to existing traffic characteristics and any likely change in traffic at level crossings as a result of the development, and*
 - (iii) *the feasibility of access for the development that does not involve use of level crossings.*

With respect to clause 84 (2) (a) and (b) (i), Council gave written notice of the application to Australian Rail Track Corporation but received no response. With respect to clause 84 (2) (b) (ii) and (iii), the application was referred to NSW Roads and Maritime Services (RMS) and Council's Traffic and Transport Engineer, neither of whom raised any objection regarding traffic using the Berrima Road level crossing in association with the proposed development's operation, subject to requirements and advice conveyed by recommended consent **conditions 3, 14, 23-26, 72, 73, 78, 90, 93, 96 and 99.**

- o Clause 101—Development with frontage to classified road

Berrima Road adjoining the land is a regional classified road. Clause 101 (2) (a)-(c) effectively specifies Council must not grant consent for the proposed development unless satisfied that:

- (a) *where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
- (b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
 - (i) *the design of the vehicular access to the land, or*
 - (ii) *the emission of smoke or dust from the development, or*
 - (iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) *the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

With respect to clause 101 (2) (a), there is no practicable means of vehicular access to the proposed development other than from Berrima Road.

With respect to clause 101 (2) (b), the application was referred to RMS and Council's Traffic and Transport Engineer, neither of whom raised any objection to the proposed development's vehicular access arrangements, subject to requirements and advice that are conveyed by recommended consent **conditions 3, 14, 23-26, 72, 73, 78, 90, 93, 96 and 99.**



With respect to clause 101 (2) (c), the proposed development, being for the purpose of general industry, is not considered sensitive to traffic noise or vehicle emissions.

- Clause 104—Traffic-generating development

The proposed development involves development of land with direct access to a classified road for the purpose of industry with a site area exceeding 5000m², invoking clause 104. Subclause (3) specifies:

- (3) *Before determining a development application for development to which this clause applies, the consent authority must:*
 - (a) *give written notice of the application to RMS within 7 days after the application is made, and*
 - (b) *take into consideration:*
 - (i) *any submission that RMS provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, RMS advises that it will not be making a submission), and*
 - (ii) *the accessibility of the site concerned, including:*
 - (A) *the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*
 - (B) *the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and*
 - (iii) *any potential traffic safety, road congestion or parking implications of the development.*

As discussed above, Council gave written notice of the application to RMS, and referred it to Council's Traffic and Transport Engineer, neither of whom raised any objection to the proposed development, subject to requirements and advice conveyed by recommended consent **conditions 3, 14, 23-26, 72, 73, 78, 90, 93, 96 and 99**. Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to clause 104.

- **SEPP (Sydney Drinking Water Catchment) 2011 (the Catchment SEPP)**

- Clause 3—Aims of Policy

The Catchment SEPP aims:

- (a) *to provide for healthy water catchments that will deliver high quality water while permitting development that is compatible with that goal, and*
- (b) *to provide that a consent authority must not grant consent to a proposed development unless it is satisfied that the proposed development will have a neutral or beneficial effect on water quality, and*
- (c) *to support the maintenance or achievement of the water quality objectives for the Sydney drinking water catchment.*



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

The application was referred to Water NSW, which responded that it considers the proposed development able to achieve a neutral or beneficial effect on water quality.

- Clause 11—Development that needs concurrence of Regulatory Authority

Water NSW has confirmed its concurrence to Council granting consent for the proposed development, subject to conditions that can be conveyed by recommended consent **condition 109**.

Local Environmental Plans

Wingecarribee Local Environmental Plan 2010 (the LEP)

The relevant provisions of the LEP are discussed as follows.

- Clause 1.2—Aims of Plan

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

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

- (a) *to conserve and enhance, for current and future generations, the ecological integrity, environmental heritage and environmental significance of Wingecarribee,*
- (b) *to maintain Wingecarribee's original settlement pattern of towns and villages dispersed throughout a rural and native vegetation landscape,*
- (c) *to encourage the efficient use and development of urban land, minimising the spread of urban areas into rural and native vegetation environments, thereby increasing the accessibility of the population to urban facilities and services,*
- (d) *to provide opportunities for development and land use activities that:*
 - (i) *make an effective contribution towards the economic wellbeing of the community in a socially and environmentally responsible manner, and*
 - (ii) *do not adversely impact on natural systems and processes and the overall quality of Wingecarribee's natural environment, and*
 - (iii) *retain the critical natural, rural and built environmental landscape elements that make up the scenic and cultural heritage value of Wingecarribee,*
- (e) *to provide opportunities for a range of new housing and housing choice in locations that have good access to public transport, community facilities and services, retail and commercial services and employment opportunities, including opportunities for the provision of adaptable and affordable housing,*
- (f) *to provide for a range of living opportunities that address differing lifestyle needs without compromising the environmental quality of*



Wingecarrabee, and the value of its natural resources such as water, biodiversity and agricultural land,

- (g) to strengthen the viability of Wingecarrabee's business centres as central places for investment, employment and cultural activity, and encourage a majority of future housing opportunities to be located in relatively close proximity to those centres,*
- (h) to promote the economic wellbeing of the community in a socially and environmentally responsible way, focusing new employment growth at identified employment hubs like business centres and enterprise zones that can be better accessed by public and private transport,*
- (i) to protect the primary production potential of suitable rural land, and prevent the fragmentation of agricultural holdings,*
- (j) to conserve the Aboriginal and European cultural and environmental heritage of Wingecarrabee,*
- (k) to protect areas of high scenic landscape value,*
- (l) to develop an ecologically sustainable future for Wingecarrabee through the conservation, rehabilitation and regeneration of native vegetation (particularly threatened species populations and ecological communities), soil, waterways, riparian land and water quality (surface and groundwater),*
- (m) to prevent loss of life and property by bush fires, by discouraging the establishment of incompatible uses in bush fire prone areas and incorporating as part of compatible developments protective measures that minimise bush fire risk without unacceptable environmental degradation,*
- (n) to provide for a range of sustainable development opportunities in harmony with recreation and lifestyle choices, emerging markets and changes in technology, and capitalise on Wingecarrabee's regional distinctiveness and existing tourism asset base,*
- (o) to ensure that extractive resources and mineral deposits are not rendered sterile by future development, but at the same time ensuring that subsequent extraction, open cut mining and transportation activities are undertaken in a way that maintains residential amenity,*
- (p) to protect and enhance waterways, riparian land and water quality in the drinking water catchments of Wingecarrabee.*

- Clause 1.4—Definitions

The proposed development comprises erection of buildings and carrying out of works for the purpose of *general industry* as defined:

general industry means a building or place (other than a heavy industry or light industry) that is used to carry out an industrial activity.

- Clause 2.3—Zone objectives and Land Use Table



The land is in Zone IN1 General Industrial. The LEP Land Use Table specifies development for the purpose of *general industries* is permitted with consent in Zone IN1.

- Clause 7.3—Earthworks

Recommended consent **conditions 44, 51 and 66** specify:

- Earthworks in the proposed development (including any structural support or other related structure for the purposes of the development):
 - Shall not cause a danger to life or property or damage to any adjoining building or structure on the lot or to any building or structure on any adjoining lot
 - Shall not redirect the flow of any surface or ground water or cause sediment to be transported onto an adjoining property
- Any fill material imported to the land shall contain only virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 to the Protection of the Environment Operations Act 1997
- Any excavated material to be removed from the land shall be disposed of in accordance with any applicable requirements under the Protection of the Environment Operations (Waste) Regulation 2005
- Any excavation in the development shall be carried out in accordance with Excavation Work: Code of Practice (ISBN 978-0-642-785442), published in October 2013 by Safe Work Australia
- A person who is aware or believes that he or she has discovered or located an archaeological relic shall:
 - Notify the NSW Office of Heritage of the location of the relic, unless the person believes on reasonable grounds that the Office of Heritage is aware of the location of the relic
 - Furnish the NSW Office of Heritage with such information concerning the relic as the Heritage Council may reasonably require.

The application was referred to Water NSW, the NSW Natural Resource Access Regulator, the NSW Environment Protection Authority, and the NSW Office of Environment & Heritage, none of whom raised any objection to the proposed development subject to specified requirements that are conveyed by recommended consent **conditions 108 and 109**. Therefore, provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the matters specified by clause 7.3 (3) (a)-(g):

- (3) *Before granting development consent for earthworks, the consent authority must consider the following matters:*
 - (a) *the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,*
 - (b) *the effect of the proposed development on the likely future use or redevelopment of the land,*
 - (c) *the quality of the fill or of the soil to be excavated, or both,*
 - (d) *the effect of the proposed development on the existing and likely amenity of adjoining properties,*

- (e) *the source of any fill material or the destination of any excavated material,*
- (f) *the likelihood of disturbing Aboriginal objects or other relics,*
- (g) *proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.*

- Clause 7.5—Natural resources sensitivity—water

As discussed above, Water NSW, the NSW Natural Resource Access Regulator, the NSW Environment Protection Authority, and the NSW Office of Environment & Heritage have raised no objection to the proposed development, subject to specified requirements that are conveyed by recommended consent **conditions 108 and 109**.

Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the matters specified by clause 7.5 (3) (a)-(e):

- (3) *Before granting development consent for development on land to which this clause applies, the consent authority must consider any potential adverse impact of the proposed development on the following:*
 - (a) *the natural flow regime,*
 - (b) *the water quality of receiving waters,*
 - (c) *the waterway's natural flow paths,*
 - (d) *the stability of the waterway's bed, shore and banks,*
 - (e) *the flow, capacity and quality of groundwater systems.*

- Clause 7.9—Flood planning

As illustrated by **Figure 6**, available mapping indicates the subject land includes land below the flood planning level, but the proposed development site itself is practically entirely outside the flood planning area. The proposed development is therefore considered satisfactory with respect to the matters specified by clause 7.9 (3) (a)-(e):

- (3) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:*
 - (a) *is compatible with the flood hazard of the land, and*
 - (b) *will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
 - (c) *incorporates appropriate measures to manage risk to life from flood, and*
 - (d) *will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*
 - (e) *will not be likely to result in unsustainable social and economic costs to the community as a consequence of flooding.*

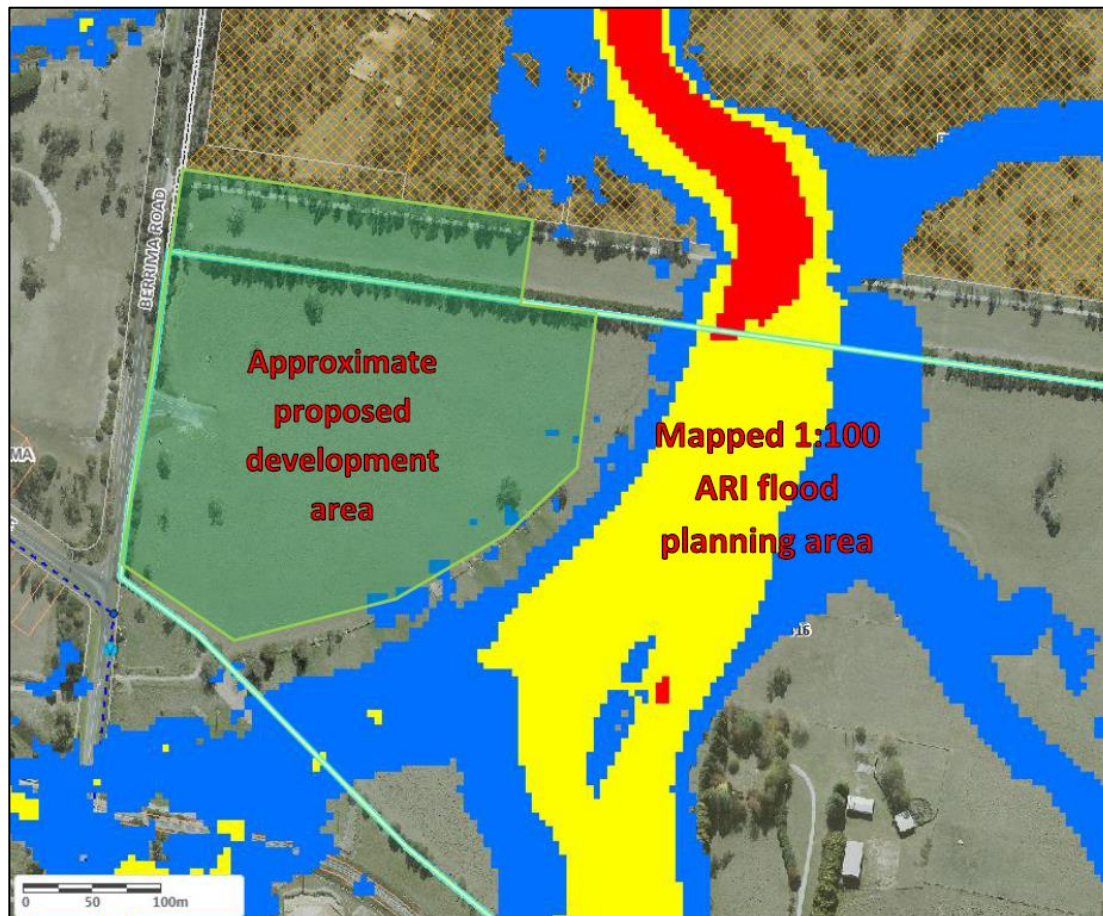


Figure 6: Proposed Development Site in Relation to Mapped Flood Planning Area (see also Attachment 7)

Development Control Plans

Moss Vale Enterprise Corridor Development Control Plan (the DCP)

Relevant provisions of the DCP are identified and discussed below.

- Section 1.4—Aims of this plan

Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the DCP's aims as specified by section 1.4:

- *To facilitate the development of the Moss Vale Enterprise Corridor for employment uses.*
- *To provide a clear framework for development in the Moss Vale Enterprise Corridor.*
- *To ensure the orderly and proper development of the area.*
- *To conserve and manage areas of environmental significance.*
- *To protect important Aboriginal heritage values.*
- *To provide adequate essential physical infrastructure to service development.*

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- *ensure development adopts sound urban design and sound environmental management practices.*
- *To protect the scenic amenity of the Moss Vale area.*
- *To protect the amenity of surrounding rural and residential areas.*
- Section 2.3—Potential constraint areas

The DCP indicates the subject land is subject to water inundation constraints. However, as discussed earlier regarding clause 7.9 of the LEP, the proposed development site itself is practically entirely outside the mapped flood planning area.

The land is also identified as subject to heritage protection constraints, and the proposed development is integrated development requiring grant of an Aboriginal heritage impact permit under section 90 of the National Parks and Wildlife Act 1974. The application was accordingly referred to the NSW Office of Environment & Heritage (OEH). In response, OEH has specified its general terms of approval, which are conveyed by recommended consent **condition 108**.
- Section 2.4—Access and movement

The proposed development is considered satisfactory with respect to the matters specified by section 2.4, including intended road modifications and extensions, pedestrian and cyclist movement, and bus services in the enterprise corridor.
- Section 2.5—Services infrastructure

The proposed development is not expected to hinder provision of services infrastructure as identified by section 2.5.
- Section 3.1—Land use

The proposed development is considered satisfactory with respect to the DCP's Development Concept Plan (including sections 2.3, 2.4 and 2.5 discussed above), and is considered compatible with existing and expected industrial land uses in the locality. In turn, the proposed development is considered satisfactory with respect to the land use objectives and rules specified by section 3.1.
- Section 3.3—Access and movement

Rule 4 of section 3.3 specifies direct vehicular access onto main roads will not be permitted. The proposed development involves direct vehicular access between the subject land and Berrima Road, which at this location is identified by Appendix 1 to the DCP as a sub-arterial road. However, noting the proposed development's access points are existing, their proposed use for access is not considered likely to have any significant negative impact with respect to traffic safety on Berrima Road or its capacity.

Furthermore, and as discussed earlier, the application was referred to RMS and Council's Traffic and Transport Engineer, neither of whom raised any objection to the proposed development, subject to specified requirements that can be conveyed by recommended consent **conditions 3, 14, 23-26, 72, 73, 78, 90, 93, 96 and 99**.
- Section 3.4—Building siting and design

The proposed development is considered satisfactory with respect to the building siting and design objectives and rules specified by section 3.4.

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- Section 3.5—Energy efficiency

The proposed development is considered satisfactory with respect to the energy efficiency objectives and rules specified by section 3.5.

- Section 3.6—On-site parking and loading facilities

Strictly applied, Rule 1 of section 3.6 requires the proposed development to include 131 off street car parking spaces, calculated as follows:

- 983.4m² office area (nil showroom area) @ 1 space per 40m²
= 983.4 / 40
= 24.6 spaces, plus
- 10,617m² gross floor area @ the greater of:
 - 1 space per 100m²
= 10,617 / 100
= 106.2 spaces, or
 - 1 space per 2 employees
= Max 22 on site (according to EIS) / 2
= 11 spaces.
- Total requirement therefore = 24.6 + 106.2 = 130.8 (say 131) spaces.

The proposed development includes 38 off street car parking spaces, one space being designated for use by people with disabilities. The proposed development thus includes 93 fewer off street car parking spaces than strictly required by the DCP.

Documents accompanying the application indicate the proposed development will employ 38 people in total. However, the submitted Environmental Impact Statement indicates that number will be employed over two shifts with a maximum 22 employees on site at any given time. A Traffic Impact Assessment Report accompanying the application allows for up to 38 employees on site for brief periods during shift changes. Documents accompanying the application do not indicate the development will be used for sales of any goods, materials or articles that might involve regular attendance by purchasers.

Recommended consent **condition 94** specifies firstly that the development shall employ no more than 22 persons per shift, secondly that no more than 38 persons shall be permitted on the land in association with the development at any time, and thirdly that the development shall not be used for the sale or hire of any goods, materials or articles, whether by wholesale or retail.

Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the proposed number of off street car parking spaces.

Council's Traffic and Transport Engineer advises the proposed development's internal vehicle circulation areas are generally acceptable. However, the Traffic and Transport Engineer also notes the Traffic Impact Assessment Report accompanying the application indicates, "The internal design of the loading areas has been undertaken...for the maximum length vehicle accessing the site being a B-double truck of 26m in length".



The geometry of the nearby intersection of Berrima Road and Taylor Avenue does not facilitate an upgrade to a capacity which would accommodate vehicles larger than a 19.0m semi-trailer. Whilst Council intends to construct a roundabout at the intersection that would accommodate vehicles up to a 19.0m semi-trailer, there can be no assurance that the roundabout will be in place before the proposed development commences operation. Consequently, **condition 3** conveys the Traffic and Transport Engineer's recommendation that the largest vehicle permitted to access the site shall be limited to a 19.0m semi-trailer, and recommended consent **conditions 14 and 73** specify:

- *No construction certificate shall be granted for any work in the development unless details of the following have been submitted to and approved by Council:*

- *Construction of the Berrima Road / Taylor Avenue junction to give priority to MR372 incorporating Rural BA Left and Right turn treatments for a 19.0m semi-trailer*

- *Provision of appropriate traffic signage and line-marking*

in accordance with AUSTRROADS Guide to Road Design and to the satisfaction of Council and NSW Roads and Maritime Services.

If Council undertakes or proposes a superior treatment of this intersection upgrade, then this condition may be fulfilled by the developer paying a monetary contribution to the Council equivalent to the cost of the upgrades specified under this condition, as assessed by a qualified independent valuer or quantity surveyor appointed by the developer with Council's agreement. The costs of the valuation are to be paid by the developer.

- *No occupation certificate shall be granted for the development unless the Taylor Avenue / Berrima Road intersection has been upgraded in accordance with the design details approved by Council, at no cost to Council.*

Recommended consent **condition 96** specifies all loading and unloading of goods, materials and articles associated with the proposed development's operation shall be carried out in designated vehicle loading/unloading areas within the development.

Overall, provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the on-site parking and loading facilities objectives and rules specified by section 3.6.

- **Section 3.7—Signage**

The proposed development is considered satisfactory with respect to the signage objectives and rules specified by section 3.7. The proposed development's signage component has also been discussed earlier regarding SEPP 64—Advertising and Signage.

- **Section 3.8—Fencing**

The Environmental Impact Statement accompanying the application states that, "The masonry area would be fully fenced...". However, in addressing section 3.8 of the DCP, Appendix 17 to the Environmental Impact Statement indicates only that the development complies with the provisions of section 3.8, and that "Palisade style fencing would be used". Drawings accompanying the application indicate the proposed development includes perimeter fencing, but no clarification is given as to its design or height.



For want of certainty as to the design of proposed perimeter fencing, recommended consent **condition 4** specifies Council's consent does not permit erection of fencing other than specified by an environmental planning instrument as exempt development. This would still permit, for example, erection of fencing that complies with exempt development criteria specified by clauses 1.16, 2.37 and 2.38 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, but would retain a requirement for development consent to be obtained to erect any other fencing to the proposed development's perimeter.

- **Section 3.9—External lighting**

The Environmental Impact Statement accompanying the application indicates the proposed development would operate 24 hours per day, seven days per week, necessitating floodlighting of hardstand areas until 9:00pm and, "Only factory lighting will be operative thereafter". However, in addressing section 3.9 of the DCP, Appendix 17 to the Environmental Impact Statement indicates only, "Lighting design for the proposed development would be finalised prior to construction works commencing".

Recommended consent **condition 10** specifies no construction certificate shall be granted for the proposed development unless the certifying authority is satisfied by information accompanying the construction certificate application that all exterior lighting associated with the development complies with the relevant provisions of Australian Standard AS 4282—1997 Control of the obtrusive effects of outdoor lighting.

Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the external lighting objectives and rules specified by section 3.9.

- **Section 3.10—Landscaping**

The Environmental Impact Statement accompanying the application indicates the proposed development includes "landscaping to provide habitat features", to "ensure that the proposed development does not significantly impact on matters of biodiversity at the site and its surrounding locality". Drawings accompanying the application indicate extensive landscaping to the proposed development's perimeter, including native and exotic tree, shrub and groundcover species.

The application was referred to Council's Tree and Vegetation Assessment Officer, who suggests amendment of the landscape plan. Accordingly, recommended consent **condition 32** specifies no construction certificate shall be granted for the development unless the certifying authority is satisfied by an amended landscape plan accompanying the construction certificate application that landscaping associated with the development provides for:

- Predominant use of Southern Highlands Shale Woodland species within landscaped areas in general, and specification and exclusive use of Southern Highlands Shale Woodland seed species in hydro-mulched areas specifically
- Retention, maintenance and protection of a biodiversity offset/revegetation area associated with Council's approval under section 138 of the Roads Act 1993 of a "special crossing" between Berrima Road and the adjoining 524 Berrima Road (approval 17/1477)
- To complement proposed Eucalyptus trees and provide for more structured and dense screen planting to minimise the development's visual impact:



- For areas fronting Berrima Road, inclusion in a planting matrix of larger shrubs and small trees, and
- Along the development site's southern and eastern perimeter, incorporation of a more structured species mix including larger shrubs and small trees.

Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the landscaping objectives and rules specified by section 3.10.

- **Section 3.11—Utility services**

The proposed development is considered satisfactory with respect to the utility services objectives and rules specified by section 3.11.

- **Section 3.12—Biodiversity conservation**

An Ecological Impact Assessment Report accompanying the application concludes, "The ecological investigation undertaken for this assessment indicates that threatened species issues are manageable and not significant. Notwithstanding this, a suite of mitigation and compensatory measures are proposed to minimise the impacts on biodiversity values. The objective of these measures is to provide for a net benefit to flora and fauna within the locality". The application was referred to Council's Tree and Vegetation Assessment Officer, who concurs with the Ecological Impact Assessment Report's findings and conclusions.

Recommended consent **condition 5** specifies the development shall implement the avoidance, mitigation and compensatory measures specified by chapter 5 of the abovementioned Ecological Impact Assessment Report.

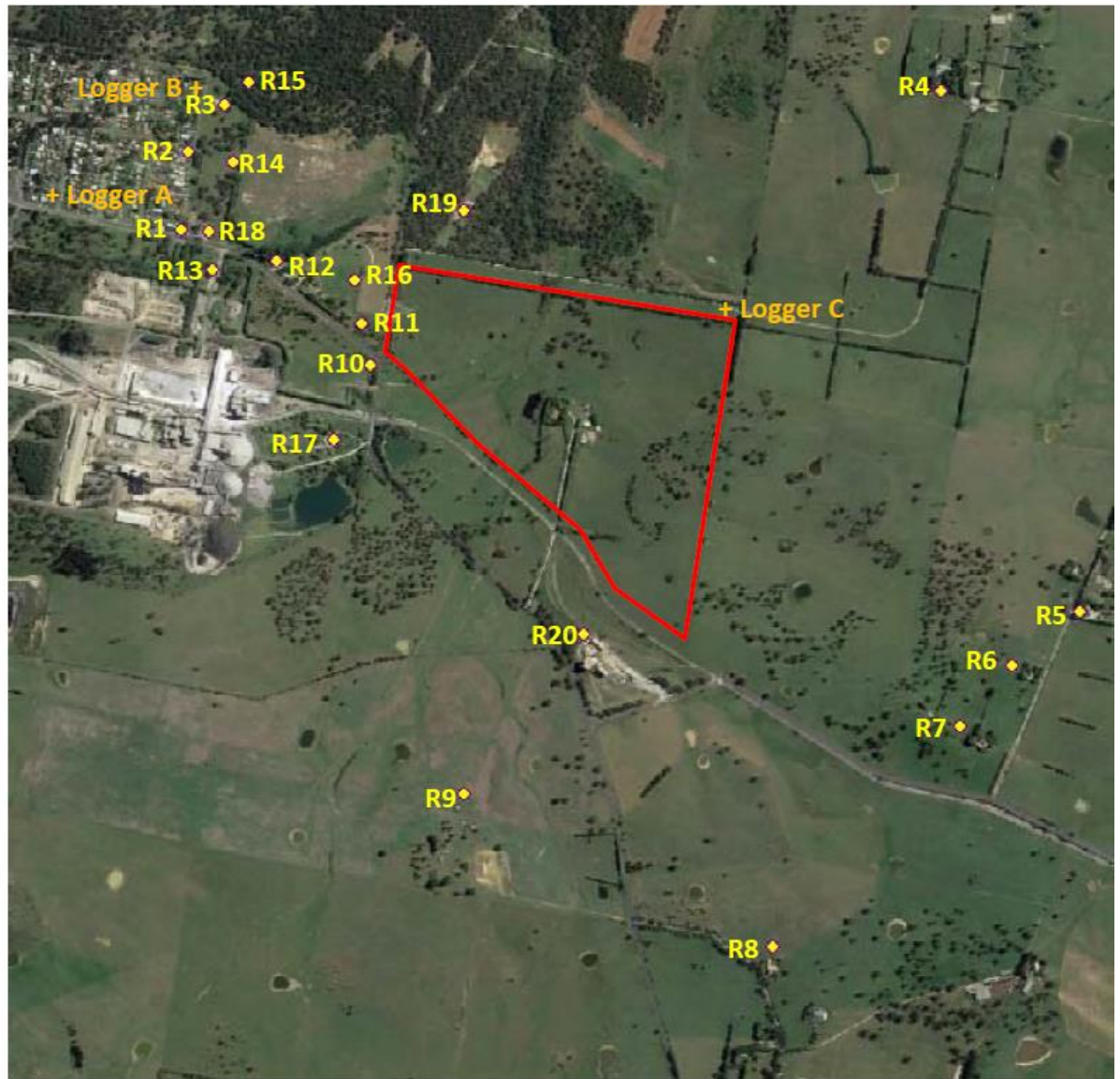
Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the biodiversity conservation objectives and rules specified by section 3.12.

- **Section 3.13—Heritage protection**

The application proposes integrated development requiring grant of an Aboriginal heritage impact permit under section 90 of the National Parks and Wildlife Act 1974. Accordingly, it was referred to the NSW Office of Environment & Heritage, which advised its general terms of approval in response. The general terms of approval are conveyed by recommended consent **condition 108**. Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the heritage protection objectives and rules specified by section 3.13.

- **Section 3.14—Noise**

The application is accompanied by a Noise Impact Assessment Report that identifies nine residential noise receivers in the land's vicinity, the nearest being at 70 Taylor Avenue and 41 Adelaide Street in New Berrima, each around 680m from the proposed development site. The Noise Impact Assessment Report's map of the nearest potentially affected receivers is reproduced in **Figure 7** (see also **Attachment 8**). It should be noted that only the sites labelled R1-R9 on the map are residential receivers; the remaining receivers labelled R10-R20 are commercial, industrial, or recreational properties.



Source: SIX Maps 2018

 Not to scale	Legend: Site Boundaries 	 Benbow Environmental 13 Daking Street, North Parramatta NSW 2151
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Figure 7: Extract from Noise Impact Assessment Report – Map of potentially affected noise receivers (see also Attachment 8)

The Noise Impact Assessment Report details assessment of potential noise impacts of the proposed development’s construction, operation and associated road traffic.

The report predicts construction activities in the proposed development will comply with applicable construction noise criteria at all residential receivers during specified construction hours, being:

- Monday to Friday: 7:00am to 5:00pm (with no hammering or saw-cutting to occur before 7.30am)

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- Saturday: 8:00am to 1:00pm (with no hammering or saw-cutting to occur before 8.30am)
- Sunday and Public Holidays: No works permitted.

Recommended consent **condition 60** specifies construction activities in the proposed development shall be restricted to the above specified days and times. The report does not recommend any additional construction noise mitigation measures.

The report predicts the proposed development's operational noise levels will be met at all surrounding receivers during all periods, but nonetheless recommends the following operational noise mitigation measures:

- Prohibition of extended periods of on-site revving/idling
- Minimisation of the use of truck exhaust brakes on site
- Enforcement of low on-site speed limits
- Signs to encourage quiet operations during the night period
- On-site mobile equipment to be maintained in accordance with a preventative maintenance program to ensure optimum performance and early detection of wearing or noisy components
- Replacement of beeping reversing alarms on all vehicles which are regularly used on site (forklift and front end loader) with reversing lights or a white noise reversing alarm (squawker).

Recommended consent **condition 95** requires compliance with the report's above recommendations.

The report finds noise impacts of road traffic associated with the proposed development comply with applicable criteria specified by the NSW Road Noise Policy, and therefore does not recommend any additional mitigation strategies.

Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the noise objectives and rules specified by section 3.14.

- **Section 3.15—Air quality**

Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the air quality objectives and rules specified by section 3.15.

The application is accompanied by an Air Quality Impact Assessment Report, which identifies the following potential air emissions from the proposed development:

- "Off-gases" generated from incomplete combustion of natural gas by a natural gas boiler
- Dust emissions from the following activities during operation of the development:
 - Unloading raw materials
 - Conveying and material transfer of raw, intermediate and product materials
 - Loading reject material for crushing



- Crushing operations
- Loading and transfer of crushed material
- Paved surface vehicle haulage
- Dust emissions in the proposed development's construction
- Odours.

The report includes details of assessment of potential incremental air quality impacts, and cumulative air quality impacts taking existing nearby sources into consideration, and makes the following observations and conclusions:

- *Model predicted incremental (proposed facility) concentrations for all pollutants emitted from the proposed facility were observed to be well below their respective assessment criteria.*
- *Based on the predicted incremental impacts, particulate emissions (TSP, PM₁₀, PM_{2.5} and deposited dust) were identified to be the key pollutant generated from the proposed facility.*
- *With respect to particulate emissions, the contribution from the proposed facility ranged from 0.7% of the assessment criteria (TSP annual average) to 5.4% (24-hour average PM_{2.5}) of the assessment criteria.*
- *Maximum (100th percentile) impacts from the proposed facility for acid gases such as SO₂, NO₂, CO and lead were observed to be 1.2% or below the respective assessment criteria across all sensitive receptors (residential and non-residential).*
- *Based on the predicted incremental concentrations, acid gas emissions (NO₂, SO₂, CO, lead) are not expected to significantly contribute to cumulative concentrations and therefore no additional cumulative assessment has been undertaken for these pollutants.*
- *Of all the modelled pollutants, as particulate emissions (TSP, PM₁₀, PM_{2.5} and deposited dust) were identified to be the key pollutant, a cumulative assessment was undertaken.*
- *From the cumulative impacts assessment of particulate emissions, it is noted that excepting 24-hour average PM₁₀, predicted ground level concentrations for all other pollutants were below their respective assessment criteria.*
- *With regards to the 24-hour average cumulative PM₁₀ concentrations, one (1) exceedance of the assessment criteria was observed across all the sensitive receptors.*
- *A detailed investigation was undertaken with regards to the exceedance of the 24-hour average PM₁₀ concentration, and it was revealed that the exceedance was attributed to one day of higher (>50 µg/m³) background concentrations recorded at the Bargo air monitoring station.*
- *However, other than the one (1) reported exceedance, no additional exceedances were predicted at any of the sensitive receptors due to the proposed facility.*
- *Furthermore, a source contribution exercise with respect to 24-hour average PM₁₀ impacts was undertaken by comparing incremental impacts from the proposed facility, Boral Cement Plant and the Austral Bricks Quarry and from*



this comparison, it is clearly evident that the contribution from the proposed facility is minimal when in comparison to the other two (2) sources.

Notwithstanding the low impacts expected from the proposed facility, Austral Masonry are integrating a wide range of air quality control measures (enclosed conveyors, paved road surfaces and its maintenance, elimination of stockpiles, imposing speed limits, high moisture content of materials) into their production process, which will significantly limit the release of dust emissions.

Therefore, based on the findings presented in this this air quality assessment, it is concluded that the proposed facility's operations would not have a significant adverse impact on the existing air quality.

- **Section 3.16—Flood-prone land and stormwater management**

As discussed earlier regarding clause 7.9 of the LEP, whilst the subject land includes land below the flood planning level, the proposed development site itself is practically entirely outside the flood planning area. The proposed development is therefore considered satisfactory with respect to the flood-prone land objectives and rules specified by section 3.16.

Drawings accompanying the application indicate stormwater is proposed to be directed to a detention basin that discharges to Stony Creek within the subject land. The application was referred to Council's Development Engineer, who raises no objection to the proposed development subject to requirements and advice that are conveyed by recommended consent **conditions 15, 21, 22, 27, 45, 47-51, 77, 87 and 88.** Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the stormwater management objectives and rules specified by section 3.16.

- **Section 3.17—Waste management**

The application is accompanied by a Waste Management Plan that identifies likely wastes associated with the proposed development's construction and operation. It includes Construction and Operational Waste Reduction Plans specifying the following:

- Construction waste:
 - Construction waste reduction measures include:
 - Sorting and segregation of demolition and construction wastes to ensure efficient recycling of wastes
 - Selecting construction materials taking into consideration their long lifespan and potential for reuse
 - Ordering materials to size and ordering pre-cut and prefabricated materials
 - Reuse of formwork where possible
 - Reducing packaging waste on-site by returning packaging to suppliers where possible, purchasing in bulk, requesting cardboard or metal drums rather than plastics, requesting metal straps rather than shrink wrap and using returnable packaging such as pallets and reels.



- Beneficial reuses include:
 - Concrete, tiles and bricks to be reused onsite or reused/recycled offsite
 - Waste oil to be recycled onsite or disposed offsite in an appropriate manner
 - All solid waste timber, brick, concrete, tiles and rock that cannot be reused or recycled to be taken to an appropriate facility for treatment to recover further resources or for disposal to landfill in an approved manner
 - All asbestos, hazardous and/or intractable wastes to be disposed of in accordance with Workcover Authority and EPA requirements
 - Portable, self-contained toilet and washroom facilities to be provided at the site and regularly emptied and serviced by a suitably qualified contractor
 - Provision for collection of batteries, fluorescent tubes and other recyclable resources to be provided onsite to enable offsite recycling
 - Drink container recycling to be provided onsite or these items sorted offsite for recycling at an appropriately licensed facility
 - All garbage to be disposed of via a Council approved system
 - Opportunities for materials exportation and reuse with other local construction operations to be investigated.
- Operational waste:
 - Operational waste reduction measures include:
 - Provision of take back services to clients to reduce waste further along supply chain
 - Re-work/re-packaging of products prior to local distribution to reduce waste arising
 - Review of packaging design to reduce waste but maintain 'fit for purpose'
 - Investigating leased office equipment and machinery rather than purchase and disposal
 - Establish systems with in-house and with supply chain stakeholders to transport products in re-useable packaging where possible
 - Development of 'buy recycled' purchasing policy
 - Flatten or bale cardboard to reduce number of bin lifts required
 - Providing recycling collections within each of the offices and tearooms (e.g. plastics, cans and glass).



- Beneficial reuses include:
 - Cardboard, paper, plastic, glass, cans and pallets and containers to be reused/recycled offsite
 - Provision for collection of batteries, fluorescent tubes and other recyclable resources to be provided on site to enable offsite recycling
 - All waste materials that cannot be reused or recycled to be taken to an appropriate facility for treatment to recover further resources or for disposal to landfill in an approved manner
 - Waste oil (if any) used in equipment maintenance to be recycled or disposed of in an appropriate manner
 - Opportunities for materials exportation and reuse with other local industrial operations to be investigated.

Recommended consent **conditions 28, 51, 58, 65, 91 and 100** require all wastes generated in the proposed development's construction and operation to be lawfully disposed of at a suitably authorised processing/disposal facility, as well as requiring consistency with the submitted Waste Management Plan. Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the waste management objectives and rules specified by section 3.17.

Section 4.15 (1) 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

As discussed earlier, provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the relevant provisions of applicable state environmental planning policies and Wingecarribee Local Environmental Plan 2010.

(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.

(iii) any development control plan, and

As discussed earlier, provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the relevant provisions of the Moss Vale Enterprise Corridor Development Control Plan.

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- (iia) *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.

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

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

- (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,*

Provided all recommended consent conditions are complied with, the proposed development is not expected to have any significant negative environmental, social or economic impacts.

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

The proposed development is considered compatible with the desired character and amenity of the locality, noting the land's IN1 General Industrial zoning and its location in the Moss Vale Enterprise Corridor. Additionally, no site attributes are considered to render the land unsuitable for the proposed development.

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

Refer to the Consultation section of this report.

- (e) *the public interest.*

There is not considered to be any overriding public interest against granting consent for the proposed development.

CONSULTATION

Pre-lodgement Meeting

As mentioned earlier, Council provided prelodgement advice regarding the proposed development on 16 March 2018, confirming the proposed development is permitted on the land with development consent.



External Referrals

Referrals	Advice/Response/Conditions
Water NSW (concurrency authority)	Water NSW advises the development can achieve a neutral or beneficial effect on water quality, and has confirmed it concurs to Council granting consent for the proposed development subject to conditions that are conveyed by recommended consent <u>condition 109.</u>
NSW Natural Resources Access Regulator (integrated development approval body)	The Natural Resources Access Regulator has advised its general terms of approval for the proposed development, which are conveyed by recommended consent <u>condition 108.</u>
NSW Environment Protection Authority (integrated development approval body)	The Environment Protection Authority has advised its general terms of approval for the proposed development, which are conveyed by recommended consent <u>condition 108.</u>
NSW Office of Environment & Heritage (integrated development approval body)	The Office of Environment & Heritage has advised its general terms of approval for the proposed development, which are conveyed by recommended consent <u>condition 108.</u>
NSW Roads and Maritime Services	Roads and Maritime Services does not believe the proposed development will have a significant impact on the State road network, on which basis it does not object to the proposed development.
Australian Rail Track Corporation	Australian Rail Track Corporation did not respond to Council's referral of the application, and is taken to raise no objection to the proposed development.



Internal Referrals

Referrals	Advice/Response/Conditions
Accredited Certifier	Council's Accredited Certifier raises no objection to the proposed development, subject to requirements and advice that are conveyed by recommended consent conditions including <u>conditions 7-9, 12, 13, 15, 34-36, 60, 64, 65, 67, 84, 85, 89 and 105.</u>
Development Engineer	Council's Development Engineer raises no objection to the proposed development, subject to requirements and advice conveyed by recommended consent conditions including <u>conditions 3, 14, 15, 21-27, 45, 47-51, 72, 73, 77, 78, 87, 88, 93, 96 and 99.</u>
Tree and Vegetation Assessment Officer	<p>As discussed earlier, Council's Tree and Vegetation Assessment Officer suggests amendment of the proposed landscape plan accompanying the application. Accordingly, recommended consent <u>condition 32</u> specifies no construction certificate shall be granted for the development unless the certifying authority is satisfied by an amended landscape plan accompanying the construction certificate application that provides for:</p> <ul style="list-style-type: none"> • Predominant use of Southern Highlands Shale Woodland species within landscaped areas in general, and specification and exclusive use of Southern Highlands Shale Woodland seed species in hydro-mulched areas specifically • Retention, maintenance and protection of a biodiversity offset/revegetation area associated with Council's approval under section 138 of the Roads Act 1993 of a "special crossing" between Berrima Road and the adjoining 524 Berrima Road (approval 17/1477) • To complement proposed Eucalyptus trees and provide for more structured and dense screen planting to minimise the development's visual impact: <ul style="list-style-type: none"> ○ For areas fronting Berrima Road, inclusion in a planting matrix of larger shrubs and small trees, and ○ Along the development site's southern and eastern perimeter, incorporation of a more structured species mix including larger shrubs and small trees.
Traffic and Transport Engineer	Council's Traffic and Transport Engineer raises no objection to the proposed development, subject to requirements and advice conveyed by recommended consent conditions including <u>conditions 3, 14, 23-26, 72, 73, 78, 93, 96 and 99.</u>
Water and Sewer Engineer	Council's Water and Sewer Engineer raises no objection to the proposed development, subject to recommended consent conditions including <u>conditions 15, 27, 82 and 86.</u>



Neighbour Notification, Advertising and Public Participation

Council advertised the application and notified it extensively to land owners and occupants in the locality, inviting submissions between 13 June 2018 and 13 July 2018. Advertisement and notification attracted five submissions. The issues raised in the submissions are identified and discussed below in the table below.

Issue	Response
<p><i>Noise:</i></p> <p>Three submissions express concern that noise emissions from the proposed development's operational activities may negatively affect local amenity. For example, night time operation of forklifts and heavy plant.</p>	<p>As discussed earlier, the application is accompanied by a Noise Impact Assessment Report, and provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the noise objectives and rules specified by section 3.14 of the Moss Vale Enterprise Corridor Development Control Plan.</p>
<p><i>Water quality impact</i></p> <p>Four submissions express concern that the proposed development may negatively affect water quality in Stony Creek and, in turn, the Wingecarribee River.</p>	<p>As discussed earlier, Water NSW considers the proposed development able to achieve a neutral or beneficial effect on water quality, and has confirmed its concurrence to Council granting consent for the proposed development, subject to conditions that are conveyed by recommended consent <u>condition 109</u>.</p>
<p><i>Air quality impact</i></p> <p>Two submissions raise concern that dust emissions from the proposed development may cause negative impacts on amenity in the locality and endanger the health of surrounding land occupants, particularly given the extractive industry (quarry) approved on the adjoining 524 Berrima Road.</p>	<p>As discussed earlier, the application is accompanied by an Air Quality Impact Assessment Report, and provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the air quality objectives and rules specified by section 3.15 of the Moss Vale Enterprise Corridor Development Control Plan.</p>
<p><i>Land clearing</i></p> <p>One submission expresses concern over land clearing associated with or necessitated by the proposed development.</p>	<p>Vegetation on the land mainly comprises grazed pasture, along with scattered native trees and exotic tree plantings. As discussed earlier, Council's Tree and Vegetation Assessment Officer concurs with the submitted Ecological Impact Assessment Report's conclusion that threatened species issues are manageable and not significant. Furthermore, recommended consent <u>condition 32</u> requires submission to and approval by the proposed development's certifying authority of an amended landscape plan providing for:</p> <ul style="list-style-type: none"> ○ Predominant use of Southern Highlands Shale Woodland species within landscaped areas

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Issue	Response
	<ul style="list-style-type: none"> ○ Retention, maintenance and protection of a previously approved biodiversity offset/revegetation area adjacent to the land ○ Inclusion of larger shrubs and small trees to the proposed development site's perimeter.
<p><i>Road traffic</i></p> <p>One submission expresses concern that the frequency and nature of vehicle movements to and from the development may negatively affect local amenity.</p>	<p>As discussed earlier, the application was referred to NSW Roads and Maritime Services and Council's Traffic and Transport Engineer, neither of whom raised any objection with regard to vehicle traffic associated with the proposed development, subject to requirements and advice conveyed by recommended consent <u>conditions 3, 14, 23-26, 72, 73, 78, 93, 96 and 99.</u></p>
<p><i>General amenity impact</i></p> <p>Two submissions assert the proposed development is generally not in keeping with the locality's existing amenity.</p>	<p>Under Wingecarribee Local Environmental Plan 2010 the land and adjoining properties to the west, south and east are in Zone IN1 General Industrial, and land farther southwest of the subject land, between 400m and 2.3km distant, is zoned IN3 Heavy Industrial. In addition, the land is within the boundary of Council's identified Moss Vale Enterprise Corridor, which is intended to cater for conventional light and general industrial development to meet local and regional demands for industrial land. The proposed development is therefore considered consistent with the intended or desired character and amenity of the locality.</p>
<p><i>Social impact</i></p> <p>One submission suggests the proposed development may negatively affect the attractiveness of the locality to visitors.</p>	<p>The proposed development is around 700m from the nearest developed suburban residential land, located in New Berrima, and is not expected to cause any significant negative impact with respect to social cohesion or interaction between new development and the community.</p>
<p><i>Cumulative impact</i></p> <p>One submission expresses concern over the proposed development's potential contribution to the cumulative impact of developments in the locality, given its proximity to, for example, the Boral cement works, Ingham's poultry feed facility, and the extractive industry (quarry) approved on 524 Berrima Road.</p>	<p>Noting firstly that extensive areas of land in the locality are in industrial zones and secondly that the subject land is within the identified boundary of the Moss Vale Enterprise Corridor, the proposed development's likely cumulative impact is expected to be satisfactorily measured and controlled, and is considered in keeping with intended development in the locality.</p>

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Issue	Response
<p><i>External lighting</i></p> <p>One submission suggests the proposed development's 24 hour operation may negatively affect local amenity as well as fauna, particularly given light emissions from surrounding existing development such as the Boral Cement Works.</p>	<p>As discussed earlier, the Environmental Impact Statement accompanying the application indicates the proposed development will involve floodlighting of hardstand areas. Recommended consent condition 10 specifies no construction certificate shall be granted for the proposed development unless all exterior lighting associated with the development complies with the provisions of Australian Standard AS 4282—1997 Control of the obtrusive effects of outdoor lighting.</p>
<p><i>Aboriginal heritage impact</i></p> <p>One submission expresses concern over the proposed development's impacts on items of Aboriginal heritage.</p>	<p>The proposed development is integrated development requiring grant of an Aboriginal heritage impact permit under section 90 of the National Parks and Wildlife Act 1974. The NSW Office of Environment & Heritage has specified its general terms of approval, which are conveyed by recommended consent condition 108.</p>
<p><i>Ecological impact</i></p> <p>One submission raises concern over the proposed development's potential impact on native vegetation and habitat, and how these impacts might be managed.</p>	<p>As discussed earlier, an Ecological Impact Assessment Report accompanying the application concludes threatened species issues associated with proposed development are manageable and not significant, and Council's Tree and Vegetation Assessment Officer concurs.</p>

SUSTAINABILITY ASSESSMENT

- **Environment**

There are no negative environmental impacts in relation to this report.

- **Social**

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

- **Broader Economic Implications**

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

- **Culture**

There are no negative cultural issues in relation to this report.

- **Governance**

The development application has been considered with regard to the matters specified by section 4.15 (1) of the *Environmental Planning and Assessment Act 1979*, including the relevant provisions of the *Wingecarribee Local Environmental Plan 2010* and any other matters relevant to the development.

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RELATIONSHIP TO CORPORATE PLANS

Operational Plan 2018 – 2019: OP181 Assess and certify applications related to 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:

- State Environmental Planning Policy 33—Hazardous and Offensive Development
- State Environmental Planning Policy 44—Koala Habitat Protection
- State Environmental Planning Policy 55—Remediation of Land
- State Environmental Planning Policy 64—Advertising and Signage
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011
- Wingecarribee Local Environmental Plan 2010
- Moss Vale Enterprise Corridor Development Control Plan 2008.



OPTIONS

The options available to Council are:

Option 1

THAT development application 18/0576 for erection of buildings and carrying out of works for the purpose of general industry (masonry manufacturing) at Lot 1 DP785111 and Lot 1 DP414246, 416 Berrima Road, Moss Vale and 524 Berrima Road, Berrima, be APPROVED subject to conditions as described in Attachment 1 to the report.

Option 2

THAT the Council resolves to determine the application by refusing development consent, and specify the reasons for its refusal.

Option 1 is the recommended option to this report.

CONCLUSION

Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the relevant provisions of applicable environmental planning instruments, development control plans and Council policies, and is not expected to have a significant negative environmental, social or economic impact, nor any significant negative impact on character and amenity.

ATTACHMENTS

1. 18/0576 Draft Conditions of Consent
2. 18/0576 Locality Map - *circulated under separate cover*
3. 18/0576 Aerial Image - *circulated under separate cover*
4. 18/0576 Development the Subject of Development Consent 11/0142 - *circulated under separate cover*
5. 18/0576 New Berrima Shale Quarry Project Approval 08_0212 Layout - *circulated under separate cover*
6. 18-0576 Proposed Development Drawings - *circulated under separate cover*
7. 18/0576 Proposed Development Site in Relation to Mapped Flood Planning Area - *circulated under separate cover*
8. 18/0576 Extract from Noise Impact Assessment Report - Map of Potential Affected Noise Receivers - *circulated under separate cover*

Mark Pepping

Deputy General Manager Corporate, Strategy and Development Services

Thursday 19 September 2019



DRAFT CONDITIONS OF DEVELOPMENT CONSENT

ADMINISTRATION CONDITIONS

1. Development Description

Development consent is granted in accordance with Council’s notice of determination for erection of buildings and carrying out of works for the purpose of general industry as defined by Wingecarribee Local Environmental Plan 2010:

general industry means a building or place (other than a heavy industry or light industry) that is used to carry out an industrial activity.

Reason: To confirm the purpose of the development.

2. Development in Accordance with Drawings and Documents

Except where otherwise specified by conditions of consent, the development shall be carried out in accordance with the documents accompanying the development application and the stamped consent drawings set out in the following table, including any notations or amendments made by Council. In the event of an inconsistency between the documents or drawings set out in the table, the more recently dated document or drawing shall prevail to the extent of the inconsistency.

Drawing Document Title	Reference; Version	Dated	Prepared By
Environmental Impact Statement	Berrima EIS.docx; Version 2	May 2018 (Version 2 dated 7 May 2018)	Willow Tree Planning (author J Miller)
Coversheet	Job Number SS18-3732, Drawing Number 000, Issue D	4 May 2018	Site Image Landscape Architects (drawn by LM)
Landscape Plan	Job Number SS18-3732, Drawing Number 101, Issue D		
Landscape Plan	Job Number SS18-3732, Drawing Number 102, Issue C	30 April 2018	
Landscape Detail Plan	Job Number SS18-3732, Drawing Number 103, Issue C		
Landscape Details	Job Number SS18-3732, Drawing Number 501, Issue C	4 May 2018	
Air Quality Impact Assessment	FEB18017.1; Version 1	1 May 2018	Airlabs Environmental (prepared by A Aitharaju, B Bhensdadia)
Ecological Impact Assessment	Report No 18007RP1; Version 1	3 May 2018	Cumberland Ecology

9.1 DA 18/0576 - General Industry (Masonry Manufacturing), Lot 1 DP785111 and Lot 1 DP414246, 416 Berrima Road, Moss Vale and 524 Berrima Road, Berrima



ATTACHMENT 1 18/0576 Draft Conditions of Consent

Drawing Document Title	Reference; Version	Dated	Prepared By
Noise Impact Assessment	Report No 181002_NIA_Rev3, Revision 3	May 2018 (Revision 3 dated 7 May 2018)	Benbow Environmental (prepared by Emma Hansma)
Bushfire Risk Assessment	Project Number J000050; Version 1.0	17 April 2018	Blackash Bushfire Consulting (author Lew Short)
Soil, Water and Servicing Report	Report No R001-01-17-470; Revision 01, Issue 02	April 2018 (Issue 02 dated 30 April 2018)	AT & L Civil Engineers & Project Managers (author Simon Haycock)
Preliminary Environmental Site Investigation Report	Project number LG1811.01; Revision 1	5 April 2018	Land & Groundwater Consulting (author Gonzalo Parra)
Traffic Impact Assessment Report	Project No 0556r01v2; Revision II	2 May 2018	Ason Group (author R Butler-Madden)
Waste Management Plan	Project number LG1811.02, Revision 1	3 April 2018	Land & Groundwater Consulting (author Gonzalo Parra)
Ecological Sustainable Development Report	Project No 38104; Revision 2	21 March 2018 (Revision 2 dated 23 April 2018)	Wood & Grieve Engineers (prepared by Nicholas Johnson)
Aboriginal Cultural Heritage Assessment Report	Biosis Project No 27685; Final Version 02	20 March 2019 (Final Version 02 issue date 14 march 2019)	Biosis Pty Ltd (prepared by Samantha Keats, Anthea Vella)
Archaeological Report	Biosis Project No 27685; Version Final 01	20 March 2019 (Version Final 01 dated 12 February 2019)	Biosis Pty Ltd (prepared by Samantha Keats, Anthea Vella, Mathew Smith, Neil Fenley)

9.1 DA 18/0576 - General Industry (Masonry Manufacturing), Lot 1 DP785111 and Lot 1 DP414246, 416 Berrima Road, Moss Vale and 524 Berrima Road, Berrima



ATTACHMENT 1 18/0576 Draft Conditions of Consent

Drawing Document Title /	Reference; Version	Dated	Prepared By
Aboriginal Cultural Heritage Management Plan	Biosis Project No 28335; Version Final Version	20 March 2019	Biosis Pty Ltd (prepared by Amanda Markham, Samantha Keats)
Non-Aboriginal Heritage Assessment	Project Number 18019; Version Draft 02	April 2018 (Version Draft 02 dated 30 April 2018)	Artefact Heritage Services (author Anna Darby)
State Environmental Planning Policy No 33	Document No. Q17-077_AustralMasonry_FinalSEP P33_1Mar18_Rev(0); Revision 0	1 March 2018	RiskEng Pty Ltd (prepared by Renton Parker)
Moss Vale Enterprise Corridor DCP Compliance Assessment	WTJ17-460	N/A	Unknown
Cover Sheet & Location Plan	Job No 18102; Drawing No DA 101; Issue A	February 2018 (Issue A dated 3 May 2018)	SBA Architects
Site Plan & Site Analysis Plan	Job No 18102; Drawing No DA 102; Issue B	February 2018 (Issue B dated 7 May 2018)	
Overall Floor Plan	Job No 18102; Drawing No DA 103; Issue B		
Overall Roof Plan	Job No 18102; Drawing No DA 104; Issue A	February 2018 (Issue A dated 3 May 2018)	
Office Floor Plan	Job No 18102; Drawing No DA 110; Issue A		
Production Office Floor Plan	Job No 18102; Drawing No DA 111; Issue A		
Site Elevations & Section	Job No 18102; Drawing No DA 201; Issue A		
Coloured Elevations	Job No 18102; Drawing No DA 202; Issue A		
Office Elevations & Section	Job No 18102; Drawing No DA 210; Issue A		
General Arrangement Plan	Drawing No DAC003; Issue C	27 March 2019	
Typical Cross	Drawing No DAC004; Issue C		



Drawing Document Title	Reference; Version	Dated	Prepared By
Sections			(drawn by TK)
Bulk Earthworks Cut / Fill Plan	Drawing No DAC030, Issue C		
Pavement Plan	Drawing No DAC031, Issue C		

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

3. **Vehicle Size Restriction**

No vehicle larger than a 19.0m semi-trailer shall be permitted to enter or exit the development.

Reason: Road infrastructure facilities giving access to the development do not accommodate vehicles larger than a 19.0m semi-trailer.

4. **Fencing**

Council's consent does not permit erection of fencing, including fencing indicated by the stamped consent drawings, other than specified by an environmental planning instrument as not requiring prior development consent. That is, where proposed fencing is not permitted to be erected without prior development consent, such consent shall be obtained prior to any such fencing being erected.

Reason: To ensure fencing in the development has minimal impact on the environment and the character and amenity of the locality, in the absence of full details of proposed fencing accompanying the development application.

5. **Ecological Impact**

The development shall implement the avoidance, mitigation and compensatory measures specified by Chapter 5 of the Ecological Impact Assessment report accompanying the development application, Report No 18007RP1, Version 1, prepared by Cumberland Ecology, dated 3 May 2018.

Reason: To minimise the development's potential ecological impacts.

6. **Inconsistency between documents**

In the event of any inconsistency between conditions of consent and the drawings/documents referred to above, the conditions of 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).



7. **Compliance with Building Code of Australia**

All building work in the development shall 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.*

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

Development consent 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

9. **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:

- i. Architectural plans and building specifications complying with the National Construction Code (NCC) relevant Australian Standards, and the development consent and conditions.
- ii. 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.
- iii. Essential services plan outlining the existing and proposed fire safety measures.



iv. Disabled access provisions to common and public areas in accordance with AS1428 Design for Access and Mobility and the Premises Code.

v. 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: *Construction work may only commence upon the issue of a Construction Certificate, appointment of a Principal Certifying Authority (PCA), and lodgement of Notice of Commencement.*

10. Exterior Lighting

No construction certificate shall be granted for the development unless the certifying authority is satisfied by documents accompanying the construction certificate application that all exterior lighting associated with the development, including signage, will comply with the relevant provisions of Australian Standard AS 4282-1997 Control of the obtrusive effects of outdoor lighting, and shall be installed, screened and directed so as to avoid light spillage onto adjoining land.

Reason: *To minimise potential impact of exterior lighting on amenity in the locality.*

11. Surrender of Consent

No construction certificate shall be granted for the development unless the certifying authority is satisfied, by documents accompanying the construction certificate application, that Wingecarribee Shire Council's development consent 11/0142 for subdivision of Lot 1 DP785111 and carrying out of works for the purpose of a road, granted 1 September 2011 and amended by the NSW Land and Environment Court on 28 October 2011, has been surrendered in accordance with section 4.63 of the Environmental Planning and Assessment Act 1979.

Reason: *To avoid conflict between developments permitted by development consents on the land.*



12. 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.*

13. Access for People with Disabilities

Access for people with disabilities shall be provided in accordance with the requirements of the Building Code of Australia, relevant Australian Standards and with regard to the *Disability Discrimination Act 1992*.

Prior to the issue of a Construction Certificate, the plans shall demonstrate compliance.



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.*

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

14. **Berrima Road and Taylor Avenue Intersection Upgrade**

No construction certificate shall be granted for any work in the development unless details of the following have been submitted to and approved by Council:

- (a) Construction the Berrima Road / Taylor Avenue junction to give priority to MR372 incorporating Rural BA Left and Right turn treatments for a 19.0m semi-trailer
- (b) Provision of appropriate traffic signage and line-marking

in accordance with AUSTRROADS Guide to Road Design and to the satisfaction of Council and NSW Roads and Maritime Services.

If Council undertakes or proposes a superior treatment of this intersection upgrade, then this condition may be fulfilled by the developer paying a monetary contribution to the Council equivalent to the cost of the upgrades specified under this condition, as assessed by a qualified independent valuer or quantity surveyor appointed by the developer with Council's agreement. The costs of the valuation are to be paid by the developer.

Reason: *To ensure sufficient capacity of road infrastructure giving access to the development.*

15. **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 works
- Carry out stormwater drainage works.

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

16. **Section 7.11 Contributions (formerly Section 94)**

Under Section 7.11 of the *Environmental Planning and Assessment Act 1979* (as

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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.

A "Developer Charges - Notice of Payment" is attached to Council's notice of determination, and outlines monetary contributions and unit rates applicable at the time of 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); Section 251 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.*

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 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).*

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.*

17. **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.

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A developer Charges - Notice of Payment is attached to Council's notice of determination and outlines monetary contributions and unit rates applicable at the time of 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); 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.

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 December 2010. The current charges under these Plans are listed as follows:

CPI Period	Water DSP	Sewer DSP	Stormwater DSP
To 31 October 2019	\$11,077.43	\$10,739.17	\$1255.26
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 .			

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 \$250.00 + Sewer \$250.00 + Stormwater \$250.00 = \$750.00.

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.

No construction certificate shall be granted for the development unless 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.*

18. **Structural Engineer's Details**

Structural engineering plans are to be prepared by an experienced professional chartered practicing Structural Engineer for the following work shall be lodged with the Principal Certifying Authority and approved prior to commencing the works in accordance with a Construction Certificate:

(a) Retaining walls.

Advice: *The name, address and qualifications of the practising Structural Engineer certifying the design shall be clearly indicated on the plans and any accompanying documentation. Such engineer is to hold qualifications appropriate to the project as defined in the Building Code of Australia. The design shall relate to the particular site.*

Advice: *Any such Certificate is to set forth the extent to which the Engineer has relied on relevant Specifications, Rules, Codes of Practice or Publications in respect of the construction.*

Reason: *To ensure the structural integrity of the building is achieved.*

19. **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.*

20. **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.*

21. **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.*

22. 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.*

23. Vehicle Entry/Exit, Manoeuvring, Parking and Loading/Unloading Areas Design

Vehicle entry/exit, manoeuvring, parking and loading/unloading areas shall be designed to accommodate the turning movements of the largest vehicle servicing the development. The car park design shall incorporate the following:

- (a) Service vehicles shall manoeuvre into and out of the site in a forward direction.
- (b) The front overhang, and swept path made by the service vehicle shall not obstruct car park traffic or encroach onto parking spaces.
- (c) The vehicle swept path shall be reflected on the engineering design plans.
- (d) Loading and unloading of service vehicles shall be undertaken onsite with no intrusion onto the road system.
- (e) The footpath crossing shall be splayed from the property boundary to the



kerb line to accommodate the swept path made by the service vehicle.

Reason: *To ensure vehicle entry/exit, manoeuvring, parking and loading/unloading areas are designed and constructed to Council requirements.*

24. **Vehicular Crossings**

Full-width, heavy-duty concrete vehicular crossing(s) shall be provided across the footway at the entrance(s) and/or exit(s) to the site, subject to approval by Council's Development Engineer. In this regard the Applicant shall obtain a copy of Council's Standard Drawing and lodge an application for vehicular crossing(s) (available from Council's Customer Services Centre or downloaded from Council's website), and pay the appropriate fees and charges prior to the lodgment of the Construction Certificate.

Reason: *To ensure appropriate access to the site can be achieved.*

25. **Accessible Car Parking Spaces**

One off street car parking space provided as part of the total requirement shall be reserved for use by people with disabilities.

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.*

26. **Off Street Parking Provision - General**

38 off-street car parking spaces suitably marked in accordance with the approved plans (unless elsewhere specified) shall be provided. 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.*

27. **Water and Sewer Authority Conditions**

Prior to issue of a Construction Certificate, the developer shall obtain approval from Council (as the Water Supply Authority and/or as required under Section 68 of the Local Government Act 1993) for the works to be undertaken by submitting adequate



documentation including plans, calculations and specifications which justify that the required works are in accordance with all Council's standards and all other relevant codes and guidelines.

The engineering plans submitted as part of the Section 68 application shall cover the water and sewer servicing requirements as detailed in the Water & Sewer Development Assessment report dated 24/10/2018.

Reason: *To ensure water and sewer reticulation are in accordance with Council's standards.*

28. **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.*

29. **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.*

30. **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.*

31. Dust Emissions

Dust emissions from stockpiles shall be suppressed by a permanently installed irrigation system in accordance with details to be submitted and approved by Council prior to the issue of the Construction Certificate. The irrigation system(s) shall be installed in accordance with the approved details prior to commencement of the use identified in this consent and shall be maintained at all times.

Reason: *To minimise air impurities and pollution.*

32. Landscape Plan

No construction certificate shall be granted for the development unless a revised landscape plan has been submitted to and approved by Council. In this regard, the revised landscape plan shall be prepared by a suitably qualified professional to a scale of 1:100 or 1:200, conforming to all relevant conditions of consent, and shall indicate:

- (a) Predominant use of Southern Highlands Shale Woodland species within landscaped areas in general, and exclusive use of Southern Highlands Shale Woodland seed species in hydro-mulched areas specifically
- (b) Retention, maintenance and protection of the biodiversity offset/revegetation area associated with Council's approval under section 138 of the Roads Act 1993 of a "special crossing" between Berrima Road and the adjoining 524 Berrima Road (approval 17/1477)
- (c) To complement proposed Eucalyptus trees and provide for more structured and dense screen planting to minimise the development's visual impact:
 - (i) For areas fronting Berrima Road, inclusion in a planting matrix of larger shrubs and small trees, and
 - (ii) Along the development site's southern and eastern perimeter, incorporation of a more structured species mix including larger shrubs and small trees.



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
- 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, fertilising and water maintenance schedule.

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

33. Tree Retention

Road design and construction shall ensure preservation of existing roadside vegetation. All trees proposed to be removed within the road reservation shall be clearly identified by survey and submitted to Council for approval prior to issue of Construction Certificate.

All trees shown on the development consent as being retained shall be appropriately marked and protected during construction works with fencing that shall be maintained throughout construction activities.

Reason: *To ensure retention and preservation of local vegetation.*

CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORK

34. 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 Council:

- (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 name, address and licence details of the Principal Contractor.

Reason: *Statutory requirement.*

35. **Principal Certifying Authority Sign**

Prior to commencement of any work, signage must be erected in a prominent position on the work site identifying:

- The Principal Certifying Authority (PCA) by showing the name, address and telephone number of the PCA;
- The Principal Contractor by showing the Principal Contractor's name, address and telephone number (outside of work hours) for that person.
- The sign must state that unauthorised entry to the work site is prohibited.

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

This clause does not apply to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

Advice: *Where Council is the PCA, signage is available from Council.*

Reason: *Statutory requirement.*

36. **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.*

37. **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:

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- 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.*

38. **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

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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.*

39. **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.*

40. **Developer to advise of damage to Council property**

The developer must advise Council of any damage to property controlled by Council which adjoins the site including kerbs, gutters, footpaths, walkways, reserves, street trees, drainage pits and the like, prior to commencement of any work on the site. Failure to identify existing damage will result in all damage detected after completion of the building work being repaired at the developer/owners/proponents expense.

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

Reason: *Public safety.*

**41. 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.*

42. 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**43. 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.*

44. 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.*

45. **Ground Levels**

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

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

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

46. **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.*

47. **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 prior to the construction of the retaining wall.

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

**48. 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) Sewer / water main extensions (Technical Services).
- (b) Works in relation to road reserves, footpath, kerb and gutter, road shoulder and drainage within public lands or road reserves.
- (c) 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.*

49. 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.*

50. 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.*

51. Earthworks, retaining walls and structural support

Any earthworks (including any structural support or other related structure for the purposes of the development):

- (a) must not cause a danger to life or property or damage to any adjoining building or structure on the lot or to any building or structure on any adjoining lot, and



- (b) must not redirect the flow of any surface or ground water or cause sediment to be transported onto an adjoining property, and
- (c) that is fill brought to the site-must contain only virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 to the *Protection of the Environment Operations Act 1997*, and
- (d) that is excavated soil to be removed from the site-must be disposed of in accordance with any requirements under the *Protection of the Environment Operations (Waste) Regulation 2005*.

Any excavation must be carried out in accordance with *Excavation Work: Code of Practice* (ISBN 978-0-642-785442), published in October 2013 by Safe Work Australia.

Reason: *Structural safety.*

52. **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.*

53. **Disruption of Traffic**

During any construction works on the public road that is associated with this approval, the Applicant shall provide appropriate signage and traffic control facilities as per the requirements of AS 1742.3-2009 Manual of uniform traffic control devices - Traffic control for works on roads and the RMS "Traffic Control at Works Sites" manual.

Reason: *Safety and information.*

54. **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.*

**55. 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 throughout the carrying out of works in the development.

Reason: *Health and amenity.*

56. Noise - Plant and Equipment

All works in the development shall be carried out in compliance with the Protection of the Environment Operations Act 1997. Approved and effective silencing measures shall be provided and maintained on all power-operated plant used on site.

Reason: *Noise attenuation.*

57. Dust Control

The following measures must be taken to control the emission of dust on site:

- (a) Dust screens must be erected around the perimeter of the site and be kept in good repair for the duration of the work.
- (b) All dusty surfaces must be wet down and any dust created must be suppressed by means of a fine water spray. Water used for dust suppression must not be allowed to enter the stormwater system.
- (c) All stockpiles of materials that are likely to generate dust must be kept damp or covered.

Reason: *Environmental amenity*

58. Disposal of Vegetation

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

Reason: *Environmental amenity.*

59. Tree Removal/Tree Preservation

No trees shall be pruned, removed, damaged or destroyed without the prior written consent of Council. Failure to comply with this requirement will result in prosecution by Council in accordance with the provisions of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.

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



Reason: *To comply with the State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.*

60. **Approved hours of Construction/Demolition**

Construction/demolition activities shall be limited to the following hours, as nominated by the Noise Impact Assessment Report accompanying the development application:

DAY	HOURS
Monday to Friday	7:00am to 5:00pm (with no hammering or saw-cutting to occur before 7.30am)
Saturday	8:00am to 1:00pm (with no hammering or saw-cutting to occur before 8.30am)
Sunday and 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.*

61. **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.*

62. **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.*

63. **Construction and delivery vehicles**

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

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

64. **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.*

65. **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.*



66. **Notification of discovery of an archaeological relic**

A person who is aware or believes that he or she has discovered or located a relic (in any circumstances, and whether or not the person has been issued with a permit) shall:

- (a) within a reasonable time after a person first becomes aware or believes that the person has discovered or located that relic, notify the Office of Heritage of the location of the relic, unless the person believes on reasonable grounds that the Office of Heritage is aware of the location of the relic, and
- (b) within the period required by the Office of Heritage, furnish the Office of Heritage with such information concerning the relic as the Heritage Council may reasonably require.

Reason: *To comply with the provisions of the Heritage Act 1977.*

Note: *The relevant application form can be found at following website:*

www.environment.nsw.gov.au/resources/heritagebranch/heritage/S139-S146Frm2013.pdf

and mailed to:

*The Heritage Council
C/- The Conservation Manager
Heritage Division
Office of Environment and Heritage
Locked Bag 5020
PARRAMATTA NSW 2124*

or emailed to: heritage@heritage.nsw.gov.au

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

67. **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.*

68. Completion Requirements

All of the conditions of this consent shall be at no cost to Council and shall be completed prior to the issuing of any Occupation Certificate in relation to the development (unless stated otherwise).

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

69. Driveways and Parking

No occupation certificate shall be granted for the development unless all vehicle entry/exit, manoeuvring, parking and loading/unloading areas have been satisfactorily delineated.

Reason: *To provide appropriate access to the site.*

70. Easements

The creation or obtaining by the applicant of the following easements, at the applicant's expense and prior to issue of the Occupation Certificate for the development:

- Right of way burdening Lot 1 DP414246 and benefitting Lot 1 DP785111, enabling lawful access from Berrima Road to the development via the burdened lot.

Reason: *To ensure that access to public infrastructure is protected.*

71. 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.*

72. **Access from Berrima Road**

No occupation certificate shall be granted for the development unless:

- (a) The junction of the proposed access road between Berrima Road and Lot 1 DP414246 has been constructed to Basic Right Turn and Basic Left Turn Treatment standard for a 19m semi-trailer
- (b) Appropriate traffic signage and line-marking have been provided in accordance with AUSTRROADS Guide to Road Design and to the satisfaction of the Council.

Reason: *To ensure the development provides for safe and efficient movement of vehicles between Berrima Road and the subject land.*

73. **Berrima Road and Taylor Avenue Intersection Upgrade**

No occupation certificate shall be granted for the development unless the certifying authority is satisfied by documents accompanying the occupation certificate application that the Berrima Road / Taylor Avenue intersection has been upgraded in accordance with the requirements of Council's consent, including:

- (a) Construction the Berrima Road / Taylor Avenue junction to give priority to MR372 incorporating Rural BA Left and Right turn treatments for a 19.0m semi-trailer
- (b) Provision of appropriate traffic signage and line-marking

in accordance with AUSTRROADS Guide to Road Design and to the satisfaction of Council and NSW Roads and Maritime Services.

Road infrastructure upgrade works required by Council's consent shall be undertaken at no cost to Council.

Reason: *To ensure sufficient capacity of road infrastructure giving access to the development.*



74. **Works as Executed Plans - Building Works**

Prior to the issue of the Occupation Certificate, one full set of work-as-executed drawings shall be submitted to and retained by Council. Sufficient details including locations and levels of the below ground infrastructure are required in order to enable a complete check of the work as executed as compared to the original approved design. Any deviation from the approved engineering plans shall be shown on the work-as-executed drawings. Each sheet of the drawings shall carry the certification of the developers supervising engineer.

Reason: *To ensure that there is a record of final works carried out on the site.*

75. **Loading/Unloading Facilities**

Prior to the issue of the Occupation Certificate, the development shall be provided with vehicle loading/unloading facilities as indicated by the stamped consent drawings.

Reason: *To provide for the safe loading and unloading of vehicles.*

76. **Civil Engineering works and services**

All approved civil engineering works and services as per the approved engineering plans are to be constructed prior to the issue of the Occupation Certificate.

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

77. **Certification of Engineering Works**

Prior to issue of the Occupation Certificate, the following documents shall be submitted to the Principal Certifying Authority. These documents are:

- a) A Certificate from a suitably Qualified Engineer, with Corporate Membership standing in the Institution of Engineers, Australia, and registered on the National Professional Engineers Register (NPER) under the appropriate professional category, and
- b) A "Work - As - Executed" (WAE) plans of the engineering and/or drainage works.

The abovementioned Certificate shall certify that:

- (i) the stormwater drainage system, and/or
- (ii) the car parking arrangement and area, and/or
- (iii) any related footpath crossing works, and/or
- (iv) the proposed basement pump and well system, and/or
- (v) the proposed driveway and layback, and/or
- (vi) other civil works have been constructed in accordance with the approved plans and details, satisfies the design intent and complies



with appropriate SAA Codes relevant Standards and Councils Policies and Specifications.

Where Council is not the Principal Certifying Authority, two (2) copies of the above documents are to be provided to Council prior to the issue of any Occupation Certificate. These documents are to be retained on Council's file.

Reason: *Asset management.*

78. Construction of Road

All private road pavement construction shall be in accordance with Council's Engineering Standard and to the satisfaction of the Group Manager Planning, Development and Regulatory Services, prior to the issue of the Occupation Certificate.

- (a) Construction of private road pavement surfaced with asphaltic concrete and maintain existing access road within Lot 1 DP414246 with appropriate shaping and levels to connect to new private road.

Reason: *To ensure that adequate access is provided.*

79. Maintenance and Bond for Public Assets - Civil Works

The developer shall at their own expense maintain all civil works constructed by them and which will fall into Councils care with respect to the development for a period of 12 months after the date of issue of the Occupation Certificate. Prior to the issue of any Occupation Certificate the developer shall lodge a cash bond with regard to maintenance of the public assets constructed in an amount equal to 5% of the total engineering works with a minimum bond value of \$1,000. The bond shall be assessed by Council for release after the 12 month period on request by the developer.

Reason: *To ensure appropriate warranty periods apply for defect liability.*

80. Asset Management

Prior to the issue of the Occupation Certificate, the developer shall provide a detailed summary of the Assets that will be handed over to Council at the end of the maintenance period. The details shall be provided in a tabular form so as to allow Council to update its Assets register.

The assets to be identified include:

- Roadways length and width and type of surface
- Drainage systems length and size of pipes, number of pits, total area (m²)
- Sewer
- Water



- Open Space and total area being dedicated (m²)

Reason: *To ensure appropriate details are held for asset management.*

81. **Engineering Details in DXF Format**

The Developer shall provide a copy of the Work As Executed information on disk in DXF format prior to the issue of the Occupation Certificate. The developer may contact Council's GIS Officer for further details and technical specifications.

Reason *To ensure appropriate records are held and asset management.*

Note: *The successful handover of constructed assets to Council resulting from new developments must be accompanied by the work as executed (WAE) documents specified on the Council Website: <http://www.wsc.nsw.gov.au/engineering-standards>.*

Failure to provide completed documents in this format will result in a delay in the issue of the Occupation Certificate and retention of bonds held until such time as Council have deemed the WAE information to be complete in the required format. The standards are updated as required; please ensure you are using the correct version. Please note the work as executed information requirements include providing surveyed levels for all underground assets. WAE Information submitted must be checked and signed off by a Registered Surveyor or suitably qualified Engineer.

82. **Provision of Reticulated Sewer to Development**

A reticulated sewer service shall be constructed to the development in accordance with the approved civil engineering plans prior to the issue of the Occupation Certificate.

A private pump station and rising main shall be constructed in accordance with the Water & Sewer Development Assessment report dated 24/10/2018.

Reason: *To ensure that the development is serviced.*

83. **Landscape Certification**

Certification is to be provided to the Principal Certifying Authority (PCA) from the designer of the landscape plan that all tree planting/landscape works have been carried out in accordance with the Council endorsed landscape plan. If Council **is** the PCA, the certification is to be submitted to Council prior to or at the final landscape inspection. If Council **is not** the PCA, a copy of the certification is to be provided to Council with the lodgement of the Occupation Certificate.

Reason: *To ensure that the landscaping has been carried out in accordance with the Council endorsed landscape plan.*

**84. 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.*

85. 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.*

86. Construction of Water Supply Main to Development

A water supply main shall be constructed to the development in accordance with the approved civil engineering plans as well as the Water & Sewer Development Assessment report dated 24/10/2018 prior to the issue of the Occupation Certificate.

Reason: *To ensure that the development is serviced.*

87. Stormwater Facilities Alterations

A "Restriction as to User" shall be included on the title of the land 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.*

88. Storm water Facilities Maintenance

A "Positive Covenant" shall be included on the title of the land 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.*

**CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE OF THE DEVELOPMENT****89. Use not to Commence**

The approved use shall not commence until the proposed development has been completed in accordance with this consent and issue of any other Council approvals which may be required.

Reason: *To ensure that the use of the site is lawful.*

90. Restriction on Heavy Vehicle Movements

Heavy vehicle movements associated with the development's operation shall be restricted to between 5:00am and 5:00pm.

Reason: *To ensure consistency with information accompanying the development application.*

91. Waste Management Plan

The approved Waste Management Plan shall be implemented during the ongoing operation of the development.

Reason: *To ensure that waste is managed in a sustainable manner.*

92. Erosion Control on Completed Developments

Adequate erosion and sediment control measures shall be maintained in place where necessary until site stabilisation and revegetation is finalised.

Reason: *To protect the environment.*

93. Haulage Routes

Heavy vehicle movements associated with the development's operation shall be restricted to the routes illustrated by Figure 7 (Heavy Vehicle Route Map) of the Traffic Impact Assessment Report accompanying the development application, Reference 0556r01v2, prepared by Ason Group (author R Butler-Madden), dated 2 May 2018.

Reason: *To ensure heavy vehicle movements associated with the development are restricted to routes with sufficient capacity.*

94. Operational Restrictions

In the development's operation:

- (a) No more than 22 persons shall be employed per shift



- (b) No more than 38 persons shall be permitted on the land in association with the development at any time
- (c) The development shall not be used for the sale or hire of any goods, materials or articles, whether by wholesale or retail.

Reason: *To ensure the number of persons on the land in association with the development's operation does not cause the capacity of vehicle parking facilities in the development to be exceeded.*

95. **Operational Noise Mitigation Measures**

In operation, the development shall implement the following operational noise mitigation measures as recommended by the Noise Impact Assessment report accompanying the development application, Report No 181002_NIA_Rev3, Revision 3, prepared by Benbow Environmental (author Emma Hansma), dated 7 May 2018:

- (a) Prohibition of extended periods of on-site revving/idling
- (b) Minimisation of the use of truck exhaust brakes on site
- (c) Enforcement of low on-site speed limits
- (d) Signs to encourage quiet operations during the night period
- (e) On-site mobile equipment to be maintained in accordance with a preventative maintenance program to ensure optimum performance and early detection of wearing or noisy components
- (f) Replacement of beeping reversing alarms on all vehicles which are regularly used on site (forklift and front end loader) with reversing lights or a white noise reversing alarm (squawker).

Reason: *To minimise the development's potential noise impacts.*

96. **Loading/Servicing**

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

Reason: *Public safety.*

97. **Amenity**

The approved use on the site 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.*

98. **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 buildings on adjoining lots or public places.

Lighting at vehicle access points to the development must be provided in accordance with AS/NZS 1158 Set: 2010 Lighting for roads and public spaces Set.

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

99. **Covered Loads**

All vehicles carrying materials to or from the site shall have their loads covered at all times with tarpaulins or similar covers in accordance with Roads Maritime Services and SafeWork NSW guidelines.

Reason: *Statutory requirement.*

100. **Waste Management**

All wastes generated in the development's operation shall be lawfully disposed of at a suitably authorised waste processing or disposal facility.

Reason: *To ensure satisfactory disposal of wastes.*

101. **Landscaped area (planting and maintenance)**

Any tree or shrub that fails to establish within 2 years of the initial planting date shall be replaced with the same species of tree or shrub.

All landscaped areas on the site shall be maintained on an on-going basis.

Reason: *To ensure the ongoing maintenance of landscaped areas.*



102. **Noise Control Legislation**

The Applicant shall comply with relevant noise control provisions contained within the *Protection of the Environment Operations Act 1997* and Noise Control Regulations and Policies to ensure local amenity is not adversely affected by noise impacts associated with the development.

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

103. **No 'Offensive Noise'**

Noise and vibration from the use and operation of any plant and equipment and/or building services associated with the premises shall not give rise to "offensive noise" as defined by the *Protection of the Environment Operations Act 1997*.

Reason: *To reduce noise levels within the proposed development from road noise*

104. **Unobstructed driveways and parking areas**

All vehicle entry/exit, manoeuvring, parking and loading/unloading areas shall be unobstructed at all times when not in use, and shall not be used for the manufacture, storage or display of goods, materials or any other article.

Reason: *To ensure that access is maintained.*

105. **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 if 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.*



106. **Signage**

Council’s consent does not permit erection or display of any signage other than indicated by the stamped consent drawings or specified by an environmental planning instrument as not requiring prior consent.

Reason: *To prevent unlawful erection and display of signage.*

107. **Illumination of signage**

No signage in the development shall be illuminated so as to create light “spillage” into existing or nearby residences, nor be of such intensity, position and/or scale so as to create a driver or pedestrian distraction or hazard or reduction in residential amenity.

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

INTEGRATED DEVELOPMENT CONDITIONS

108. **Integrated Development General Terms of Approval**

The following integrated development approval bodies have given their general terms of approval for the development:

- NSW Natural Resources Access Regulator (Controlled Activity Approval under Part 3 of Chapter 3 of the Water Management Act 2000)
- NSW Environment Protection Authority (Environmental Protection Licence to authorise carrying out of a scheduled activity under sections 43 (d), 55 and 122 of the Protection of the Environment Operations Act 1997)
- NSW Office of Environment & Heritage (Grant of Aboriginal Heritage Impact Permit under section 90 of the National Parks and Wildlife Act 1974).

The approval bodies’ general terms of approval are set out below, and form part of Council’s notice of determination.

(a) NSW Natural Resources Access Regulator General Terms of Approval

Condition Number	Details
Design of works and structures	
GT0009-00010	Before commencing any proposed controlled activity on waterfront land, an application must be submitted to Natural Resources Access Regulator, and obtained, for a controlled activity approval under the Water Management Act 2000.
GT0019-00003	Any proposed excavation on waterfront land must be



	undertaken in accordance with a plan submitted as part of a controlled activity approval, to be approved by Natural Resources Access Regulator.
Erosion and sediment controls	
GT0014-00007	<p>A. The consent holder must ensure that any proposed materials or cleared vegetation, which may:</p> <ul style="list-style-type: none"> i. obstruct water flow, or ii. wash into the water body, or iii. cause damage to river banks, <p>are not stored on waterfront land, unless in accordance with a plan held by Natural Resources Access Regulator as part of a controlled activity approval.</p> <p>B. When the carrying out of the controlled activity has been completed, surplus materials must be removed from waterfront land.</p>
GT0021-00004	The proposed erosion and sediment control works must be inspected and maintained throughout the construction or operation period of the controlled activity and must not be removed until the site is fully stabilised.
Plans, standards and guidelines	
GT0002-00441	<p>A. This General Terms of Approval (GTA) only applies to the proposed controlled activity described in the plans and associated documents found in Schedule 1, relating to Development Application 18.0576 provided by Council to Natural Resources Access Regulator.</p> <p>B. Any amendments or modifications to the proposed controlled activity may render the GTA invalid. If the proposed controlled activity is amended or modified, Natural Resources Access Regulator, Parramatta Office, must be notified in writing to determine if any variations to the GTA will be required.</p>
GT0004-00003	<p>A. A security deposit must be provided, if required by Natural Resources Access Regulator.</p> <p>B. The deposit must be:</p> <ul style="list-style-type: none"> i. a bank guarantee, cash deposit or equivalent, and ii. equal to the amount required by Natural Resources Access Regulator for that controlled activity approval.
GT0005-00183	<p>A. The application for a controlled activity approval must include the following plan(s):</p> <ul style="list-style-type: none"> i. Detailed Civil Construction and Drainage Plans; ii. Erosion and Sediment Control Plans; iii. Vegetation Management Plan including plans indicating fully structured native vegetation plantings as required by the NRAR guidelines; iv. Detailed Project Costings; v. Stormwater Management Plans; and vi. Detailed Stormwater Outlet Structure Plans.



	B. The plan(s) must be prepared in accordance with Natural Resources Access Regulator's guidelines located on the website https://www.industry.nsw.gov.au/water/licensing-trade/approvals/controlled-activities .
GT0010-00006	All documents submitted to Natural Resources Access Regulator as part of an application for a controlled activity approval must be prepared by a suitably qualified person.
GT0012-00004	Any proposed controlled activity must be carried out in accordance with plans submitted as part of a controlled activity approval application, and approved by Natural Resources Access Regulator.
GT0030-00006	The application for a controlled activity approval must include plans prepared in accordance with Natural Resources Access Regulator's guidelines located on the website https://www.industry.nsw.gov.au/water/licensingtrade/approvals/controlled-activities .
Rehabilitation and maintenance	
GT0023-00001	Vegetation clearance associated with the proposed controlled activity must be limited to where the controlled activity is to be carried out, as shown on the approved plan(s).
Reporting requirements	
GT0016-00003	The consent holder must inform Natural Resources Access Regulator in writing when any proposed controlled activity carried out under a controlled activity approval has been completed.
<p>SCHEDULE 1 The plans and associated documentation listed in this schedule are referred to in general terms of approval (GTA) issued by NRAR for integrated development associated with DA18/0576 as provided by Council:</p> <ul style="list-style-type: none"> • Ecological Impact Assessment prepared by Cumberland Ecology, dated 03/05/2018. • Landscape Plans prepared by Site Image, dated 04/06/2018. • Architectural Plans prepared by SBA Architects, dated 07/05/2018. • Ecological Sustainable Development Report prepared by Wood & Grieve Engineers, dated 21/03/2018. • Preliminary Environmental Site Investigation Report prepared by LG Consult, dated 05/04/2018. • Environmental Impact Statement prepared by Willow Tree Planning, dated May 2018. • Soil, Water and Servicing Plans prepared by at&L, dated 07/05/2018. • Site Plan & Site Analysis Plan prepared by SBA Architects, dated 07/05/2018. 	

**(b) NSW Environment Protection Authority General Terms of Approval****GENERAL**

The proponent must ensure all activities are undertaken in compliance with the Protection of the Environment Operations (POEO) Act 1997 and any associated Regulations.

The development (if approved) will require an Environmental Protection Licence (EPL) from the EPA for the scheduled activity of Concrete Works. The proponent must apply for and hold an in-force (that is, issued) EPL issued by the EPA prior to the proponent carrying out any scheduled activities under the POEO Act 1997.

EPLs contain a series of conditions aimed at preventing or minimising the environmental impacts from the licensed activity. The proponent must comply with all conditions within the EPL.

The EPA Guide to Licensing provides an overview of the general licensing process, how it operates and what applicants need to know and provide when applying for an environmental protection licence. A copy of this guidelines can be accessed on the EPA website at: <http://www.epa.nsw.gov.au/licensing/licenceguide.htm>

Limit Conditions**Pollution of waters**

Except as may be expressly provided by an Environmental Protection Licence under the POEO Act 1997, the development must comply with Section 120 of the POEO Act 1997.

Waste

The proponent must not cause, permit or allow any waste to be received at the premises.

The proponent must ensure that any waste generated and/or stored at the premises is assessed and classified in accordance with the EPA Waste Classification Guidelines as in force from time to time.

Noise**L6.1**

Noise generated at the premises must not exceed the noise Limits in the Table below.

9.1 DA 18/0576 - General Industry (Masonry Manufacturing), Lot 1 DP785111 and Lot 1 DP414246, 416 Berrima Road, Moss Vale and 524 Berrima Road, Berrima



ATTACHMENT 1 18/0576 Draft Conditions of Consent

Location	Lot and DP number	NOISE LIMITS dB(A)			
		Day L _{Aeq} (15 minute)	Evening L _{Aeq} (15 minute)	Night L _{Aeq} (15 minute)	Night L _{Amax}
26 Adelaide Street, New Berrima	Lot 373 DP15995	40	40	38	52
524 Berrima Road, Berrima	Lot 1 DP414246	40	40	38	52
33 Carrabee Road, Moss Vale	Lot 4 DP623038	40	40	38	52
Berrima Road, Moss Vale	Lot 2 DP1017008	40	40	38	52

L6.2

For the purposes of Condition 6.1:

- Day is defined as the period from 7am to 6pm Monday to Saturday and 8am to 6pm Sundays and Public Holidays.
- Evening is defined as the period from 6pm to 10pm on any day.
- Night is defined as the period from 10pm to 7am Monday to Saturday and 10pm to 8am Sundays and Public Holidays.

L6.3

The noise limits set out in Condition L6.1 apply under the following meteorological conditions:

Assessment Period	Meteorological Conditions
Day	Stability Categories A, B, C, D, and E with wind speeds up to and including 0.5m/s at 10m AGL
Evening	
Night	

L6.4

The noise limits applicable during meteorological conditions not stipulated in L6.3 are the limits in L6.1 positively adjusted by 5dB.

L6.5

For the purposes of Condition L6.3 and L6.4:

- The meteorological conditions are to be determined from meteorological data obtained from the meteorological weather station at Moss Vale; and
- Stability Category shall be determined by the sigma-theta method referred to in Fact Sheet D of the Noise Policy for Industry.



L6.6

To determine compliance:

- a) with the $L_{eq(15\text{ minute})}$ noise limits in Condition L6.1 and L6.4 as applicable, the noise measurement equipment must be located:
 - approximately on the property boundary, where any dwelling is situated 30 metres or less from the property boundary closest to the premises; or
 - within 30 meters of a dwelling façade, but no closer than 3m, where any dwelling on the property is situated more than 30 metres from the property boundary closest to the premises; or, where applicable,
 - within approximately 50 metres of the boundary of a National Park or a Nature Reserve.
- b) with the noise limits in Condition L6.1 and L6.4 as applicable, the noise measurement equipment must be located:
 - at the most affected point at a location where there is no dwelling at the location; or
 - at the most affected point within an area at a location prescribed by condition L6.6(a).

L6.7

A non-compliance of Condition L6.1 and L6.4 will still occur where noise generated from the premises in excess of the appropriate limit is measured:

- at a location other than an area prescribed by conditions L6.6(a) and L6.6(b); and/or
- at a point other than the most affected point at a location.

L6.8

For the purposes of determining the noise generated at the premises, the modification factors in Fact Sheet C of the Noise Policy for Industry must be applied, as appropriate, to the noise levels measured by the noise monitoring equipment.

L6.9

Compliance measurements should not be undertaken during rain or where wind speed at microphone level will affect the acquisition of valid sound pressure level measurements.



Hours of Construction

L6.10

All construction work at the premises must be conducted between 7am and 6pm Monday to Friday and between 8am and 1pm Saturdays and at no time on Sundays and public holidays, unless inaudible at any residential premises.

Potentially offensive odour

The proponent must not cause or permit the emission of offensive odour beyond the boundary of the premises.

Operating conditions

Activities must be carried out in a competent manner

All activities must be carried out in a competent manner. This includes:

- a. the processing, handling, movement and storage of materials and substances use to carry out the activity; and
- b. the treatment, storage, processing, reprocessing, transport and disposal of waste generated by the activity.

Maintenance of plant and equipment

All plant and equipment installed at the premises or used in connection with the activity:

- a. must be maintained in a proper and efficient condition; and
- b. must be operated in a proper and efficient manner.

Dust

Activities occurring at the premises must be carried out in a manner that will minimise emissions of dust from the premises.

Trucks entering and leaving the premises that are carrying loads must be covered at all times, except during loading and unloading.

Fuel Type

The boiler must be designed and operated on natural gas.

**Other Conditions****Publication of Monitoring Data**

Pollution monitoring data that is required to be collected by an Environment Protection Licence condition must be published by the proponent in accordance with Section 66(6) of the POEO Act and with the written requirements issued by the EPA.

Pollution Incident Response Management Plan

The proponent must prepare a pollution incident response management plans in accordance with the requirements set out in Part 5.7A of the POEO Act.

Construction Noise Management Plan

The proponent must prepare and implement a detailed Construction Noise Management Plan (CNMP), prior to commencement of construction activities, that includes but is not necessarily limited to:

- (a) identification of each work area, site compound and access route (both private and public).
- (b) identification of the specific activities that will be carried out and associated noise sources at the premises and access routes.
- (c) identification of all potentially affected sensitive receivers.
- (d) the construction noise and vibration objectives identified in the Environmental Assessment.
- (e) assessment of potential noise and vibration from the proposed construction methods (including noise from construction traffic) against the objectives identified in the Environmental Assessment.
- (f) where the objectives are predicted to be exceeded an analysis of feasible and reasonable noise mitigation measures that can be implemented to reduce construction noise impacts
- (g) description of management methods and procedures and specific noise mitigation treatments that will be implemented to control noise and vibration during construction, including the early erection of any operational noise control barriers.
- (h) procedures for notifying residents of construction activities that are likely to affect their noise and vibration amenity.
- (i) measures to monitor noise performance and respond to complaints.



Noise Verification Report

Six months after the commissioning of the premises, the proponent must submit a Noise Verification Report to Council and EPA to confirm the findings of the Noise Impact assessment included in the EIS and compliance with the noise limits at L61 and L6.4. The assessment must:

- a) incorporate intermediate assessment locations as necessary.
- b) be prepared by a suitably qualified acoustical consultant.
- c) be undertaken in accordance with the EPA Noise Policy for Industry.

If the noise monitoring identifies and non-compliance with predicted noise levels, the Proponent must detail what additional measures will be implemented to ensure compliance, clearly indicating who would implement these measures, when these measures would be implemented, and how the effectiveness of these measures would be measured and report.

Definitions

- Noise Policy for Industry - the document entitled "*Noise Policy for Industry*" published by the Environment Protection Authority in October 2017."
- Noise - 'sound pressure levels' for the purposes of Conditions :6.1 to L6.10.

(c) NSW Office of Environment and Heritage General Terms of Approval

- As Aboriginal objects will be harmed as a result of this development, an Aboriginal Heritage Impact Permit (AHIP) must be sought and granted for these objects before the start of works.
- The AHIP application must be accompanied by appropriate documentation and mapping as outlined in Applying for an Aboriginal Heritage Impact Permit, Guide for Applicants (OEH 2011) and the Guide to Investigating, assessing and reporting on Aboriginal cultural heritage in NSW(OEH 2011).
- Consultation with the Aboriginal community undertaken as part of an AHIP application must be in accordance with the Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010.
- The application must consider the management and appropriate mitigation measures for all Aboriginal objects within the application area, including long term management and protection of any objects that will be either directly or indirectly impacted by the proposed



development.

- An Aboriginal Heritage Management Plan (AHMP) that sets out how Aboriginal cultural heritage values will be protected during the construction and operation of the proposed masonry plant. The AHMP must be prepared in consultation with the Registered Aboriginal Parties
- Temporary fencing must be installed to protect the grinding groove sites and area of high artefact density during the construction period. The fence must be installed under the supervision of an archaeologist and the fencing itself must not cause harm to Aboriginal objects.
- The stormwater drain and retaining wall forming the eastern boundary of the development area must not harm the land shaded and labelled "non-development area" in Figure 5 (Biosis 2019a).

An updated Aboriginal cultural heritage assessment report has been provided

The applicant has provided an updated Aboriginal cultural heritage assessment report (ACHAR) prepared by Biosis and dated 20 March 2019 (Biosis 2019a). The ACHAR is accompanied by an archaeological technical report and Aboriginal Heritage Management Plan both dated 20 March 2019. We have reviewed these reports in preparing the above GTAs.

Aboriginal community consultation

A complete record of the Aboriginal community consultation process has now been provided. Biosis (2019a, pp. 15-16) report that comments were received from Duncan Falk and Woronora Plateau Gundungara Elders on the proposed management strategy.

Mr Falk recommended archaeological salvage excavation, involvement of the RAPs in developing the plan of management and installing a temporary fence to protect the grinding grooves from impact during construction.

Woronora Plateau Gundungara Elders agreed with the report recommendations and recommended archaeological salvage if destruction of the site was unavoidable (Biosis 2019a, p.36). WPGEC recommended salvage occur at all test pits where over 5 artefacts were recovered.

Guunamaa Dreaming Sites and Surveying and Tharawal LALC also responded that they agreed with the report recommendations (Biosis 2019a, p.35).

The finalised recommendations reflect some of these recommendations: conservation of the highest artefact density portion of the site and temporary fencing during construction.

We advise the applicant to provide regular updates to the Registered Aboriginal



Parties (RAPs) during the DA process. This is to ensure the consultation remains current and continuous. We note that OEH guidelines state that breaks in consultation of over 6 months may not constitute continuous consultation.

Aboriginal heritage management plan

An Aboriginal heritage management plan (AHMP) has been developed. The AHMP was provided to RAPs in February 2019 with 14 days to provide comments. Biosis (2019a, p.22) report that they contacted all of the RAPs by phone about the AHMP.

Following that initial review period, the applicant decided that conservation of the north eastern corner was possible. This is the part of the site with the highest stone artefact density based on the test excavation results. The AHMP has been revised accordingly. Amended civil engineering plans have also been provided reflecting the increased buffer. A second draft was provided to the RAPs on 20 March 2019. Responses on the proposed second draft have not yet been provided (Biosis 2019c, p.33).

Archaeological salvage was previously proposed

Archaeological salvage excavation was previously proposed at the area of highest artefact density. However, given that the increased no-harm area now includes this higher density part of the artefact scatter, the archaeological salvage excavations are no longer required or proposed by Biosis (2019a).

Temporary fencing of the no-harm area is recommended

Temporary fencing of the no-harm area is recommended to prevent inadvertent impact during construction. This is in accordance with Strategies 3 and 4 of the AHMP (Biosis 2019c, p. 18). A temporary fence also reflects the advice of Duncan Falk Consultancy and Woronora Plateau Gundangara Elders Council during the consultation.

Proposed retaining wall and stormwater pipe

We note that the Siteworks and Stormwater Drainage Plan (Sheet 1) provided with the updated information shows a stormwater drain and retaining wall forming the boundary of the no-harm area. The construction and operation of these items must not harm the no-harm area (that land shaded and labelled "non-development area" in Figure 5 (Biosis 2019a)). This is included in our General Terms of Approval. We recommended Council and the applicant consider the practicality of constructing these items without harming the Aboriginal heritage proposed for conservation.

Test excavation results

The applicant should note that the AHIP application must include full test excavation profile and photographic records in accordance with Requirement 16a(11) of the Code of Practice.



Subsequent development stages and cumulative impact

We note that Stage 2 is intended to be assessed as State Significant Development (SSD). We recommend that planning for Stage 2 encompass the work to date on Aboriginal cultural heritage measures for Stage 1. Cumulative impacts on Aboriginal heritage must be considered given the staged nature of this development, and the two different approval pathways. Archaeological test excavation is likely to be required in the proposed Stage 2 area. Measures to ensure the grinding grooves site and associated stone artefact scatter are protected during construction of any subsequent stages must also be developed.

CONCURRENCE CONDITIONS

109. 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 site layout and works shall be as specified in the Environmental Impact Statement prepared by Willow Tree Planning Pty Ltd (dated May 2018) and shown on the Site Plan & Site Analysis Plan and Overall Floor Plan (Job No. 18102; Dwg. Nos. DA 102, DA 103; Rev B, dated 07/05/2018) prepared by SBA Architects. No revised site layout, staging or external works 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 the State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011 on this version of the development.

Stormwater Management

2. All stormwater treatment and management measures as specified in the Soil, water & Servicing Report (dated 30/4/2018) and shown on the Siteworks and Stormwater Drainage Plan Sheets 1 & 2 (Project No. 17-470; Dwg Nos. DAC010 & DAC011; Iss B; dated 7/5/2018), both prepared by AT&L, shall be incorporated in a final stormwater drainage plan to incorporate the revisions outlined in the MUSIC Model (dated 10 October 2018) also prepared by AT&L. The final plan shall also include design details for the proposed sediment basin and shall be approved by Council and Water NSW prior to the issuance of any Construction Certificate. The plan shall be implemented, in particular as elaborated or varied in the following conditions, and shall include the following stormwater treatment measures:

- Gross Pollutant Trap



- An appropriately sized and designed Sediment Basin
 - An appropriately sized stormwater Detention Basin
 - Cartridge Filter System (SPEL Filter or WaterNSW agreed equivalent)
 - Rainwater capture and re-use system, and
 - pH dosing mechanism.
3. A rainwater collection and reuse system for the building roof shall be installed that incorporates the following specifications and requirements:
- rainwater tanks with a minimum total capacity of 20,000 litres above any volume required for mains top-up
 - roofs and gutters designed so as to maximise the capture of rainwater in the tanks
 - the tanks plumbed to toilets, showers, industrial water needs, and other areas for non-potable use including use landscape watering
 - all rainwater tank overflow shall be directed to the detention basin on the site.
4. No variation to stormwater treatment or management shall be permitted without prior 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.
- Operational Environmental Management Plan**
6. An Operational Environmental Management Plan (OEMP) shall be prepared in consultation with and to the satisfaction of Water NSW by a person with knowledge and experience in the preparation of such plans prior to the issuance of an Occupation Certificate. The OEMP shall be implemented and shall include but not be limited to:
- details on the location, description and nature of stormwater management structures such as pits, pipes, gross pollutant trap, oil-water separator, sediment basin, detention basin, cartridge filter system and rainwater collection system
 - an identification of the responsibilities and detailed requirements for the inspection, monitoring and maintenance of all stormwater management structures, including the frequency of such activities
 - the identification of the individuals or positions responsible for inspection and



maintenance activities including a reporting protocol and hierarchy, and procedures for managing and notification of water quality emergencies, and

- checklists for recording inspections and maintenance activities.

7. All stormwater treatment devices shall be monitored, maintained and managed as per the Operational Environmental Management Plan referred in Condition 6 above.

Reason for Conditions 2 to 7 - To ensure appropriate stormwater treatment and quality control measures are designed, implemented and maintained so as to achieve a sustainable neutral or beneficial impact on water quality, particularly during wet weather, over the longer term.

Construction Activities

8. A Soil and Water Management Plan shall be prepared by a person with knowledge and experience in the preparation of such plans for all works proposed or required as part of the development. The Plan shall meet the requirements outlined in Chapter 2 of NSW Landcom’s Soils and Construction: Managing Urban Stormwater (2004) manual - the “Blue Book” and shall be developed in consultation with Water NSW prior to the issuance of any construction certificate.

9. A suitably qualified, certified professional shall oversee the implementation of the Soil and Water Management Plan and effective erosion and sediment controls at the site prior to and during any construction activity including site access and works within waterways and shall certify in writing to Water NSW and Council that erosion and sediment controls have been installed and maintained at the site in accordance with Condition 8 above. The controls shall prevent sediment or polluted water leaving the site or entering any stormwater drain or natural drainage system. The controls shall be regularly maintained and retained until works have been completed and ground surface stabilised or groundcover re-established.

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

END OF CONDITIONS

11 OPERATIONS FINANCE AND RISK

11.1 Investment Report - August 2019

Reference:	2104
Report Author:	Accounting Officer (Banking and Investments)
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 present Council's Investment Portfolio held at 31 August 2019.

RECOMMENDATION

THAT the information on Council's Investments as at 31 August 2019 be received and noted.

REPORT

In accordance with part 9, Division 5, Section 212 of the *Local Government (General) Regulation 2005*, the Responsible Accounting Officer must provide Council with a written report setting out details of all money that Council has invested under section 625 of the *Local Government Act 1993*.

This report provides details of Council's Investment Portfolio as at 31 August 2019.

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

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

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

Interest earned from investments totalled \$703,719.91 for two (2) months to 31 August 2019.

ATTACHMENTS

1. Investment Report Summary as at 31 August 2019

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 25 September 2019

REPORT DEPUTY GENERAL MANAGER OPERATIONS, FINANCE AND RISK



Wingecarribee Shire Council Investment Report Summary

For the period ending 31 August 2019

List of Investments

Council's investment portfolio as at 31 August 2019 consists of the following investments:

INVESTMENT PORTFOLIO AS AT 31 August 2019						
Institution	Type	Amount	Interest Rate	Investment Term - Days	Maturity Date	% Investment Portfolio
ME	Term Deposit	5,000,000	2.74%	365	6/09/2019	2.88%
MyState	Term Deposit	5,000,000	2.70%	365	12/09/2019	2.88%
WBC	Term Deposit	2,500,000	2.70%	365	20/09/2019	1.44%
Bendigo	Term Deposit	5,000,000	2.18%	120	25/09/2019	2.88%
NAB	Term Deposit	5,000,000	2.75%	365	27/09/2019	2.88%
Auswide	Term Deposit	5,000,000	2.75%	365	30/09/2019	2.88%
Rural	Term Deposit	5,000,000	2.75%	365	11/10/2019	2.88%
MyState	Term Deposit	5,000,000	2.40%	149	23/10/2019	2.88%
MyState	Term Deposit	5,000,000	2.80%	365	30/10/2019	2.88%
NAB	Term Deposit	4,000,000	1.83%	90	4/11/2019	2.30%
CUA	Term Deposit	3,000,000	2.77%	365	9/11/2019	1.73%
ME	Term Deposit	5,000,000	2.40%	182	15/11/2019	2.88%
AMP	Term Deposit	5,000,000	2.80%	270	18/11/2019	2.88%
Rural	Term Deposit	5,000,000	2.38%	183	20/11/2019	2.88%
CUA	Term Deposit	5,000,000	2.77%	365	26/11/2019	2.88%
NAB	Term Deposit	5,000,000	2.77%	365	30/11/2019	2.88%
Auswide	Term Deposit	5,000,000	2.45%	213	12/12/2019	2.88%
WBC	Term Deposit	4,000,000	2.73%	365	16/12/2019	2.30%
MyState	Term Deposit	5,000,000	2.40%	207	17/12/2019	2.88%
ME	Term Deposit	4,000,000	2.72%	364	3/01/2020	2.30%
NAB	Term Deposit	5,000,000	2.02%	210	10/01/2020	2.88%
CUA	Term Deposit	6,000,000	2.77%	365	24/01/2020	3.45%
WBC	Term Deposit	3,000,000	2.72%	365	31/01/2020	1.73%
NAB	Term Deposit	4,000,000	1.80%	181	3/02/2020	2.30%
NAB	Term Deposit	5,000,000	2.73%	365	7/02/2020	2.88%
NAB	Term Deposit	5,000,000	2.15%	270	24/02/2020	2.88%
NAB	Term Deposit	10,000,000	1.67%	181	24/02/2020	5.75%
NAB	Term Deposit	5,000,000	2.65%	364	28/02/2020	2.88%
NAB	Term Deposit	5,000,000	2.65%	366	4/03/2020	2.88%
NAB	Term Deposit	5,000,000	1.82%	270	20/04/2020	2.88%
Newcastle	Term Deposit	3,000,000	2.50%	365	29/04/2020	1.73%
BDCU	Term Deposit	5,000,000	2.55%	366	21/05/2020	2.88%
BDCU	Term Deposit	3,000,000	2.50%	366	24/05/2020	1.73%
BDCU	Term Deposit	5,000,000	2.20%	366	28/05/2020	2.88%
Auswide	Term Deposit	5,000,000	2.05%	365	26/06/2020	2.88%
NAB	Call Account	6,583,931	0.90%	NA	NA	3.79%
BDCU	Call Account	750,733	1.05%	NA	NA	0.43%
Total Investments		\$173,834,664				100.00%

Institution Legend

AMP = AMP Limited
ANZ = Australia & New Zealand Banking Group
Auswide = Auswide Bank
BQ = Bank of Queensland
BDCU = Berrima District Credit Union
Bendigo = Bendigo & Adelaide Bank

CBA = Commonwealth Bank of Australia
CUA = Credit Union Australia
IMB = IMB Bank
ING = ING Direct
ME = Members Equity Bank
MyState = MyState Bank

NAB = National Australia Bank
Newcastle = Newcastle Permanent
St George = St George Bank
WBC = Westpac Banking Corporation
Rural = Rural Bank



Wingecarribee Shire Council Investment Report Summary

For the period ending 31 August 2019

Policy Compliance

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

Individual Institution Limits

A summary of investments placed by institution is as follows:

Institution	S&P Short Term Rating	Maximum %	Actual %	Invested \$	Supports Fossil Fuels	Policy Compliance
NAB	A1+	40%	37.15%	64,583,931	YES	YES
WBC	A1+	40%	5.46%	9,500,000	YES	YES
AMP	A2	15%	2.88%	5,000,000	YES	YES
BDCU	A2	15%	7.91%	13,750,733	NO	YES
Bendigo	A2	15%	2.88%	5,000,000	NO	YES
Rural Bank	A2	15%	5.75%	10,000,000	NO	YES
CUA	A2	15%	8.05%	14,000,000	NO	YES
ME	A2	15%	8.05%	14,000,000	NO	YES
MyState	A2	15%	11.51%	20,000,000	NO	YES
Newcastle	A2	15%	1.73%	3,000,000	NO	YES
Auswide	A2	15%	8.63%	15,000,000	NO	YES
Total			100.00%	173,834,664		

Portfolio Credit Limits

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

S&P Short Term Rating	Maximum %	Actual %	Invested \$	Policy Compliance
A1+	100%	42.62%	74,083,931	YES
A1	80%	0.00%	0	YES
A2	60%	57.38%	99,750,733	YES
A3	20%	0.00%	0	YES
Govt	25%	0.00%	0	YES
Total		100.00%	173,834,664	



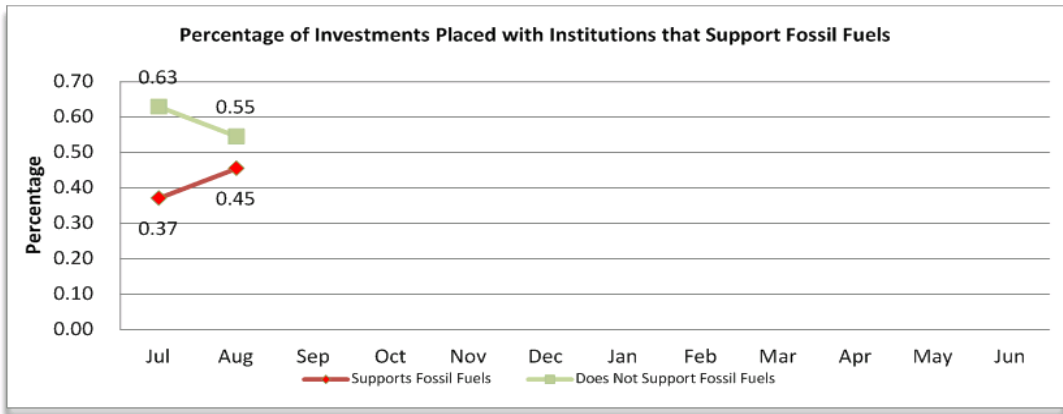
Wingecarribee Shire Council Investment Report Summary

For the period ending 31 August 2019

Non-Fossil Fuel Investment Preferencing

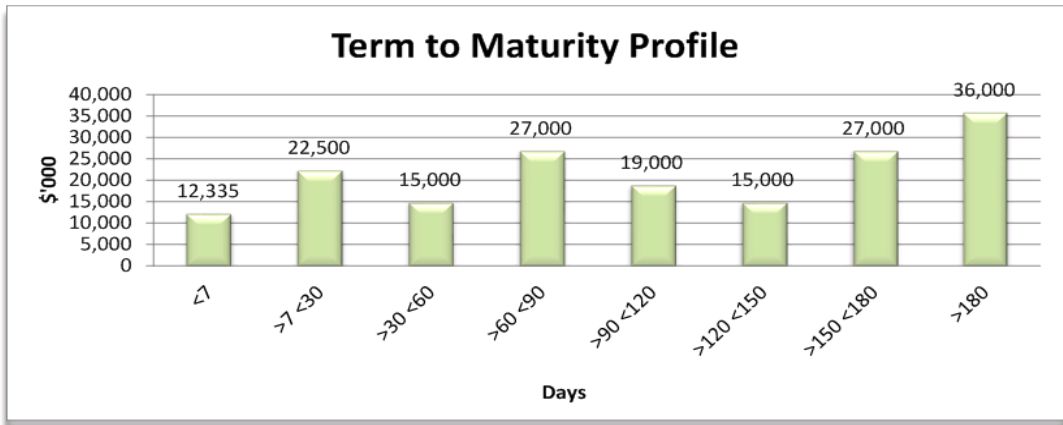
Council's adopted Investment Policy states a preference for placing funds with institutions that do not support the fossil fuel industry. The chart below identifies Council's percentage of investments placed with institutions that do not support the fossil fuel industry.

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



Term to Maturity

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

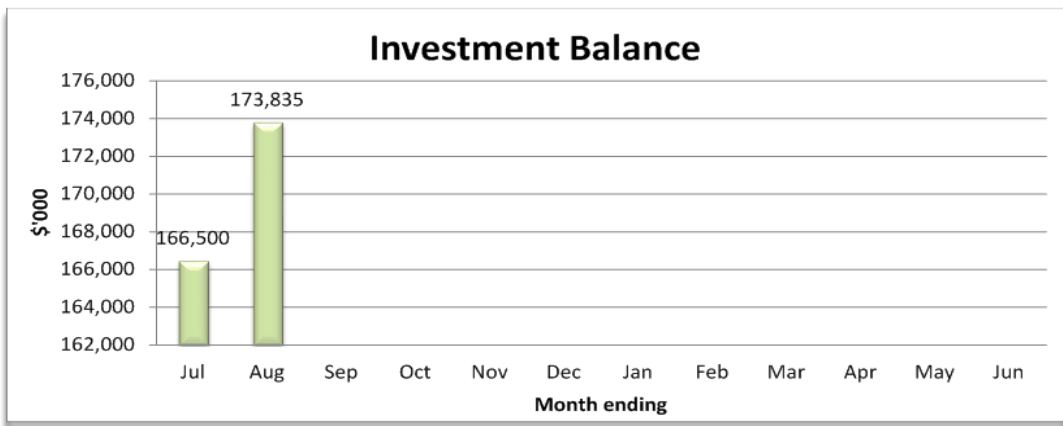




**Wingecarribee Shire Council
Investment Report Summary**
For the period ending 31 August 2019

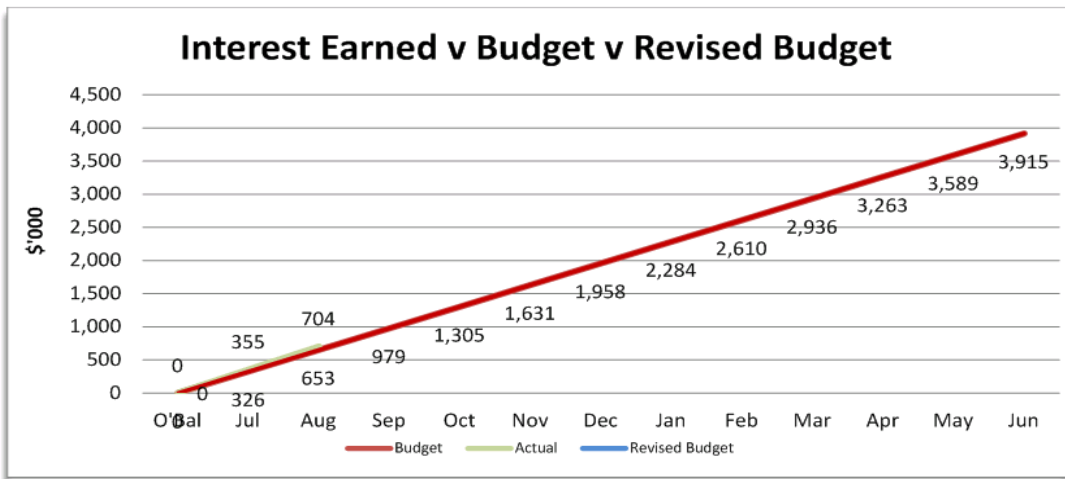
Portfolio Performance

Council's investment balance at the end of August 2019 was \$173.83 million. This has increased by \$7.33 million since the end of July 2019. This increase was primarily due to the 1st quarter rates instalment for 2019-20 being payable by the end of August 2019.



Interest Revenue

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





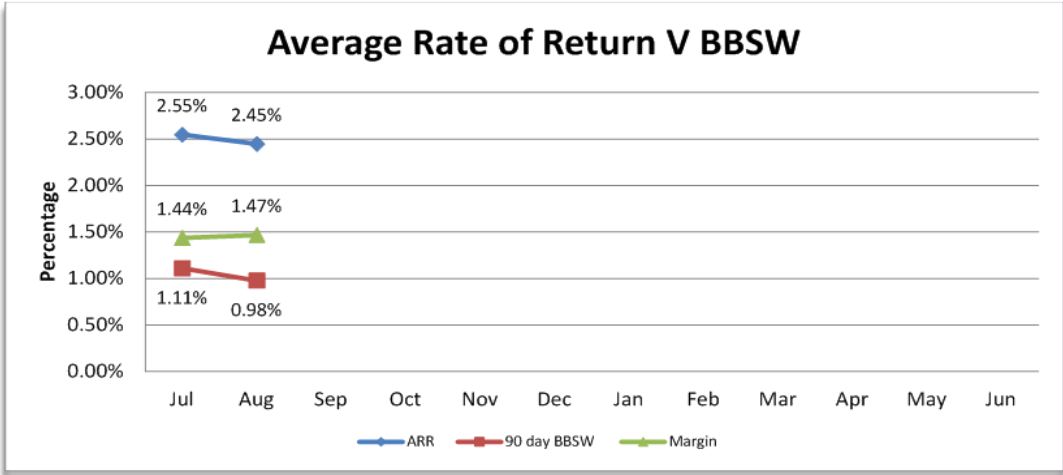
Wingecarribee Shire Council
Investment Report Summary
 For the period ending 31 August 2019

Performance against Benchmark

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

The average rate of return (ARR) achieved for August 2019 was 2.45% which is 0.1% lower than July 2019. There was a decrease in the BBSW to 0.98%.

The margin above BBSW has increased in August 2019 by 0.03% which shows Council continues to secure favourable interest rates on term deposits.



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**REPORT DEPUTY GENERAL MANAGER OPERATIONS, FINANCE
AND RISK**



Barry W Paull

Deputy General Manager Operations, Finance and Risk

Thursday 19 September 2019

12 CORPORATE STRATEGY AND DEVELOPMENT SERVICES

12.1 Development Application 20/0043 - The Use of Self Contained Seniors Housing Dwelling as an Exhibition Home as Approved in Stage 1 of DA 17/1822

Reference: 20/0043

Report Author: Development Assessment Planner

Authoriser: Group Manager Planning, Development and Regulatory Services

Link to Community

Strategic Plan: Manage development to ensure it does not impact on viable primary production and food security

PURPOSE

The purpose of this report is to consider Development Application 20/0043 which seeks approval for an Exhibition Home within the Seniors Housing Development Stage 1 approval under DA 17/1822 at Lots 1 & 2 DP 1101892 and Lots 4 – 11 DP 978826 being 2-18 Centennial Road Bowral. This report is prepared for determination, and recommends **APPROVAL**, subject to attached conditions of consent (**Attachment 1**).

RECOMMENDATION

THAT Development Application 20/0043 which seeks approval for an exhibition home in accordance with approved DA 17/1822 for Seniors Housing at Lots 1 & 2 DP 1101892 and Lots 4 – 11 DP 978826 being 2-18 Centennial Road, Bowral, be **APPROVED**, subject to attached conditions of consent as described in Attachment 1 to the report.

VOTING ON THE MOTION

Councillors are required to record their votes on this matter.

REPORT

BACKGROUND

The Development Application has been lodged as a component of the concept Development Application 17/1822, which was lodged under the provisions of Section 4.12 of the Environmental Planning and Assessment Act 1979 and approved by the Southern Regional Planning Panel at its meeting of 7 May 2019.

That Development Application was approved as a Concept Plan for Seniors Housing and Stage 1 with the following two stages identified in the approval:

Stage 1 Partial demolition, refurbishment and construction works within the main facilities building including the Priests Cottage, construction of fifty two (52) self-contained seniors housing dwellings, associated landscaping, restoration embellishment of the Riparian



corridor, site infrastructure and road works and construction of shared pathway and associated traffic safety measures

Stage 2 Construction of eighty three (83) self-contained seniors housing dwellings comprising twenty eight (28) dwellings generally in the western portion of the site and fifty five (55) dwellings generally in the eastern portion of the site.

Subject Site and Locality

The subject site is legally described as Lots 1 & 2 DP1101892 and Lots 4 – 11 DP978826. It has an address of 2-8 Centennial Road, Bowral, it also has street frontages to Kirkham Road and Mount Street (**Attachment 2**). The site has been colloquially referred to as the 'OLSH' site due to its long time ownership and occupation by the Daughters of Our Lady of the Sacred Heart, however, the site is now referred to as the Waterbrook site.

It is situated on the western side of the Southern Rail Line, approximately 400 metres north of the Bowral Railway Station and the Wingecarribee Street railway bridge. The site has a total site area of approximately 16.9 hectares and generally falls from west to east, with a general cross fall to the south east. The proposed exhibition home occupies a very small portion of the site and is situated within Lot1 DP1101892 (**Attachment 3**).

Proposed Development

Development Application 20/0043 seeks consent for a combination of exhibition home with sales office and on site car parking for visitors to the exhibition home. The purpose of the exhibition home is to showcase the proposed Seniors Housing development that will be constructed upon the site under Development Application 17/1822.

The exhibition dwelling will be in the form of one of the approved dwellings, fully fitted out internally as an example of one of the dwellings within the proposed Seniors Housing development. The associated sales and display suite will be within a similar structure, located in the same configuration as another of the approved dwellings.

The proposal also includes a small office component within the sales building for prospective purchasers to discuss potential sales with staff and there will be an audio visual display area to highlight the main features of the proposed Seniors Housing development.

Adjacent to display suite, on-site car parking has been proposed to accommodate the visitors and staff. The exhibition home is proposed to be open Monday to Saturday from 9.00am to 5.00pm. There is temporary signage proposed at the entrance in the form of light weight portable flags as well as two site identification signs built into the existing brick entry wall. Landscaping works to the entry have been proposed to enhance the overall attractiveness.

The site plan of the proposed development can be found at **Attachment 4**. The elevations of the proposed development can be found at **Attachment 5**. Plans showing entrance signage 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 58**).

State Environmental Planning Policy No BASIX 2004

As the proposed exhibition home will be used as a future dwelling, State Environmental Planning Policy BASIX 2004 must be considered in the assessment of Development Application 20/0043. A BASIX certificate has been submitted in support of the application, demonstrating compliance with energy, thermal comfort and water requirements.

Local Environmental Plans

Wingecarribee Local Environmental Plan 2010

Clause 2.3 Zone objectives and land use table

The location on which the exhibition home will be located is zoned **R5 Large Lot Residential** under the *Wingecarribee Local Environmental Plan 2010* and in this zone, Exhibition Homes are permissible with development consent.

The objectives of the **R5 Large Lot Residential** zone are:

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

The proposed Exhibition Home development is consistent with these zone objectives.

Development Control Plans

Bowral Town Plan Development Control Plan

The proposed Exhibition Home complies with numerous standards contained within the Part C section 9 of Bowral Town Plan Development Control Plan, including compliance with:

- Exhibition homes shall only be located in areas where Council is of the opinion that the proposed development and ancillary activities are unlikely to cause a negative impact on the amenity of the area. **The proposed development is located in an area which does not cause a negative impact on the amenity.**
- Maximum 5 years operation – **application been conditioned (Attachment 1 – Condition 49).**
- At the conclusion of the consent period, the exhibition home must be inspected to ensure that vehicle and pedestrian access to a public road complies with Council's standards, that the building(s) comply with the Building Code of Australia, and that essential service infrastructure is in place. **Application been conditioned (Attachment 1 – Condition 51)**
- A traffic impact assessment shall be carried out and submitted with the application for an exhibition home and shall address the potential impacts on the road system in the locality. The report should be detailed enough to enable Council's assessment of the cumulative impacts of exhibition homes and villages in the locality. **Traffic impact statement has been provided with DA 17/1822 detailing the traffic management plan. The proposed exhibition home will operate as to the original TMP and will not impact the stage 1 construction and the villages in the locality.**
- Off street parking – **10 provided including 2 disable parking**
- Hours of operation 9.00am to 6.00pm – **proposed 9.00am to 5.00pm Monday to Saturday**
- Advertising structures – **temporary signage at main entrance provided**

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 Exhibition Home development is permissible within the R5 Large Lot Residential zone under *Wingecarribee Local Environmental Plan 2010*, and satisfies the R5 Large Lot Residential zone objectives. The proposed development also complies with the provisions of State Environmental Planning Policy No 55 – Remediation of Land, State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011, and State Environmental Planning Policy BASIX 2004.

(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

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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 Exhibition Home complies with numerous standards contained within the Part C Section 9 of Bowral Town Plan Development Control Plan, which is mentioned above.

(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 19/1229.

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

Not applicable to Development Application 19/1229.

(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 proposed development is not expected to result in any significant impacts on the natural and built environment, or detrimental social or economic impacts in the locality. There are no additional impacts anticipated outside of those already addressed elsewhere in this report.

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

The site is considered suitable for the proposed Exhibition Home development as discussed in the other 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 Exhibition Home development is consistent with the objectives of Wingecarribee Local Environmental Plan 2010, and is considered to be in the public interest.

COMMUNICATION AND CONSULTATION

Internal Communication and Consultation

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.
Accredited Certifier	Council's Accredited Certifier raises no objection to the proposed Exhibition Home development and has provided conditions of consent.

External Communication and Consultation

Referrals/Notice	Advice/Response/Conditions
Water NSW	Water NSW supports the proposed Exhibition Home development, subject to conditions of consent addressing stormwater management and construction activities (condition 58).

Neighbour Notification (or Advertising)/Public Participation

The proposed Exhibition Home was neighbour notified to 37 surrounding property owners and residents. No submissions supporting or objecting to the proposal were received.

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 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, State Environmental Planning Policy BASIX, and the Bowral Town Plan Development Control Plan.

OPTIONS

The options available to Council are:

Option 1

THAT Council determine Development Application 20/0043 by way of approval subject to conditions of development consent contained in Attachment 1; or

Option 2

THAT Council determine Development Application 20/0043 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 20/0043 which seeks approval for an Exhibition Home for Seniors Housing at Lots 1 & 2 DP 1101892 and Lots 4 – 11 DP 978826 being 2-18 Centennial Road, 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, subject to the attached draft conditions of consent nominated in **Attachment 1**.

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ATTACHMENTS

1. Attachment 1 Draft Conditions 20.0043 - *circulated under separate cover*
2. Site Location 20.0043 - *circulated under separate cover*
3. Master Plan 20.0043 - *circulated under separate cover*
4. Site Plan 20.0043 - *circulated under separate cover*
5. Elevation Plans 20.0043 - *circulated under separate cover*
6. Entrance Signage 20.0043 - *circulated under separate cover*



12.2 Planning Proposal to Reclassify a Portion of Council Owned Land to Provide an Access Road to the Southern Highlands Regional Art Gallery

Reference:	PN1706883
Report Author:	Senior Strategic Land Use Planner
Authoriser:	Coordinator Strategic Land Use Planning
Link to Community Strategic Plan:	Support and promote the creative and cultural sector

PURPOSE

The purpose of this report is to seek a resolution of Council to proceed with a Planning Proposal to reclassify a portion of Council owned land adjacent to the David Wood Playing Fields in East Bowral for the purpose of providing an access road to the Southern Highlands Regional Art Gallery.

RECOMMENDATION

THAT a Planning Proposal be prepared to reclassify proposed Lot 3 being a portion of Lot 38 DP 882935, Rowland Road Bowral, from Community to Operational, for the purposes of constructing an access road to the Southern Highlands Regional Art Gallery as shown in Attachment 1.

VOTING ON THE MOTION

Councillors are required to record their votes on this matter.

REPORT

BACKGROUND

As part of the progression of the development of the Southern Highlands Regional Art Gallery (SHRAG), to be located in the Old Dairy within the Retford Park Estate, the approximate route for a public access road has been identified. The land over which most of the road will pass is identified as Lot 38 DP 882935, Rowland Road Bowral, located to the east of the David Wood Playing Fields at East Bowral. **Figure 1** below indicates the approximate location of this road extending from the intersection of Jonathan Street and Rowland Road, across an area of Council owned land and into the Retford Park Estate.

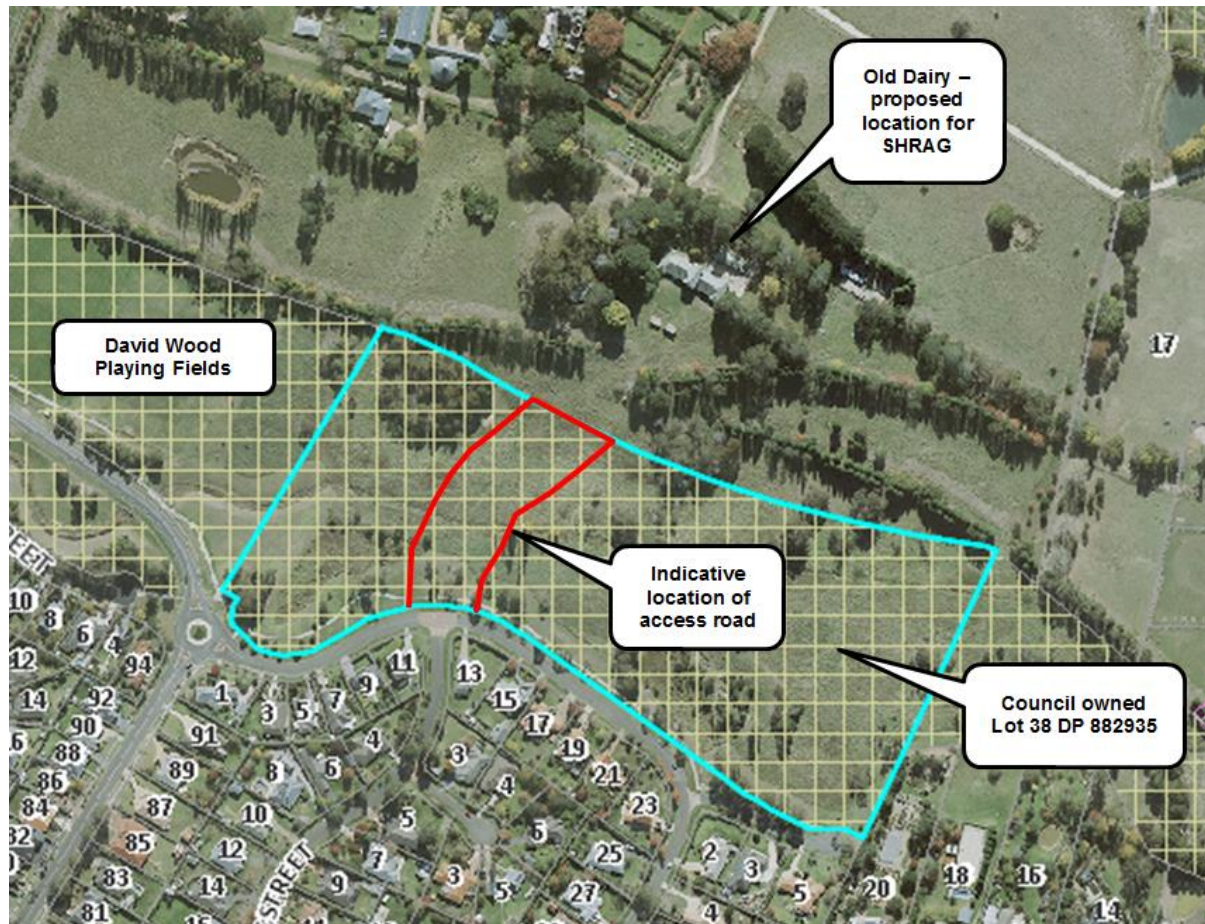


Figure 1 Indicative route of the access road

This land is Council owned and Council is required to classify all public land as either 'community' or 'operational' under the provisions of s25 and s26 of the *Local Government Act 1993*. Community land is land used for a public purpose. Operational land is land which facilitates the functions or 'operations' of Council.

The subject land is classified as 'community' and, because roads are not a permitted use for 'community' land unless directly benefiting a community on the community land its self, it is necessary to identify an access 'corridor' and reclassify it to 'operational'. This report outlines that process.

REPORT

The subject land is currently zoned RE1 Public Recreation under WLEP 2010 as indicated in **Figure 2** below. No change of zoning is required, as roads are permissible with consent in the RE1 zone. However, as explained above, the section of land required for the access road will need to be reclassified from 'community' to 'operational'.

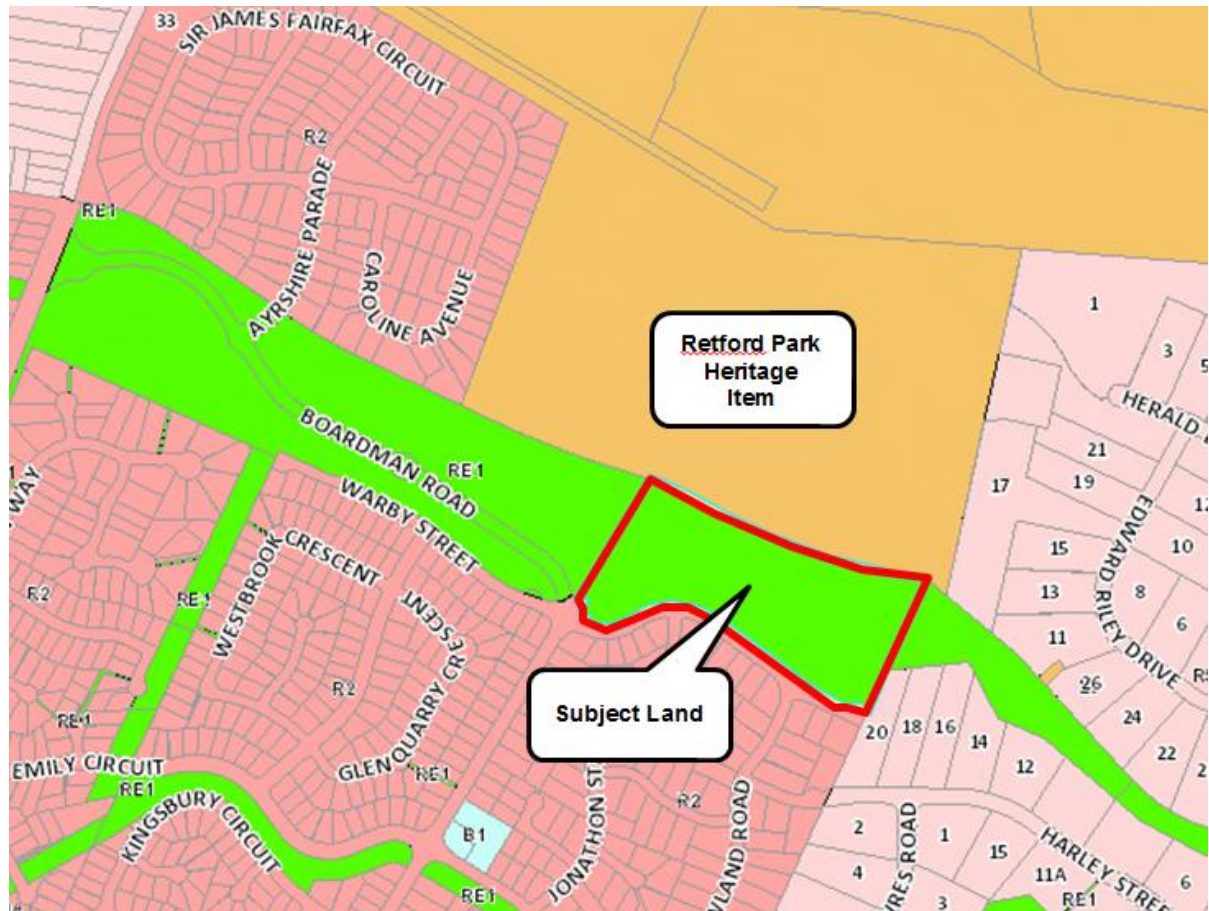


Figure 2 Location of Council Land over which access road will pass

To isolate the section of land required for the public road reserve it is intended to create a separate lot (Lot 3) as indicated in **Figure 3** below and a Development Application (DA 20/0272) has been lodged with Council to achieve this outcome. The remaining portions to either side of the road reserve will form Lot 1 and Lot 2 respectively. All three lots will remain zoned RE1 Public Recreation and Lot 1 and Lot 2 will remain classified as 'community' land.

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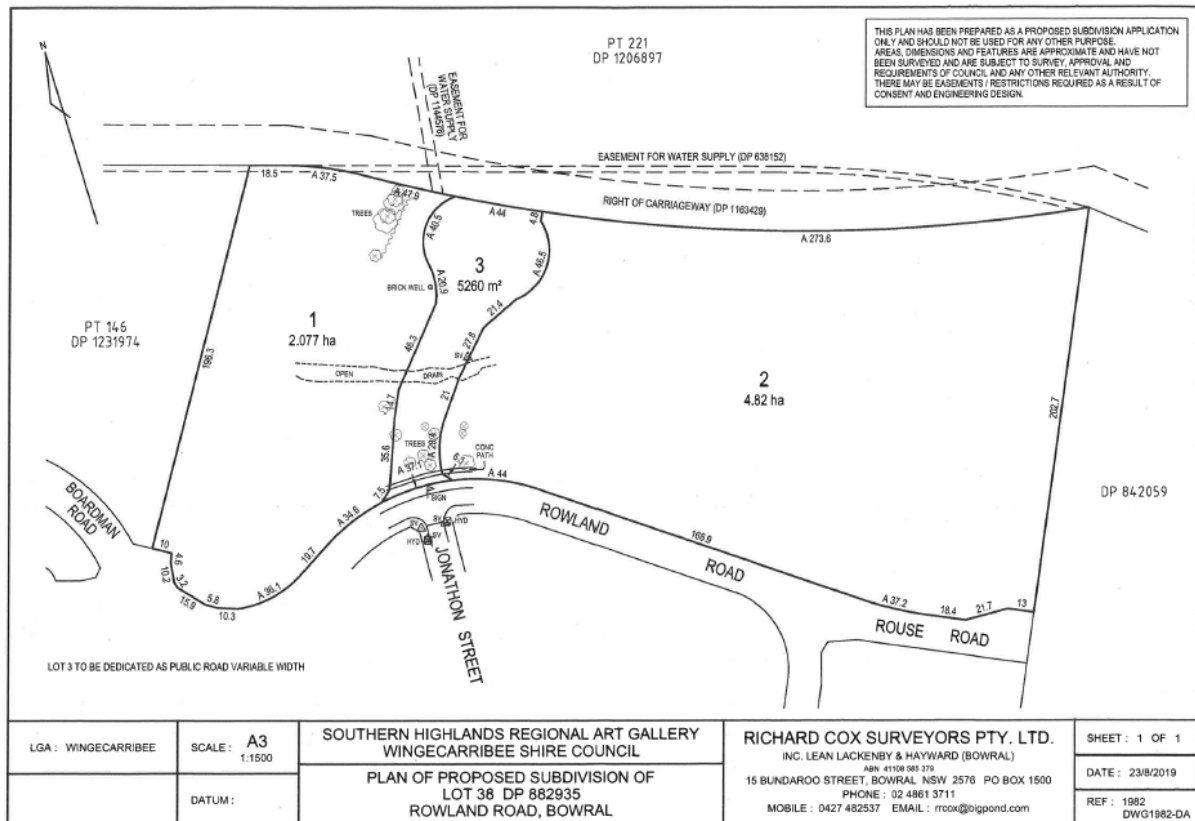


Figure 3 Plan of Proposed Subdivision (enlarged at Attachment 1)

It is intended that the access road would remain in Council ownership and, given the projected visitation of the proposed Gallery, it would be declared a public road up to the boundary of the National Trust owned Retford Park heritage listed property, at which time it would be a private road. As such, the road would need to be constructed to a public road standard in accordance with Council requirements.

The reclassification of public land through an amendment to Schedule 4 (Classification and reclassification of public land) of WLEP 2010 is subject to both the local plan-making process in the *Environmental Planning & Assessment Act 1979* and the public land management requirements of the *Local Government Act 1993*.

The process for achieving the reclassification of 'Lot 3' from 'community' to 'operational' is as follows:

- Council resolves to prepare a Planning Proposal under s3.33 of the *Environmental Planning & Assessment Act 1979*.
- The Planning Proposal is prepared and submitted to the Department of Planning, Industry and Environment (the Department) for a Gateway Determination to proceed.
- Agency referrals are completed as required under the Gateway Determination – always WaterNSW, generally NSW Rural Fire Service, and probably NSW Office of Environment & Heritage in this case. The Planning Proposal cannot proceed until any matters of concern raised by an agency are resolved.
- Community consultation is undertaken in accordance with the Gateway Determination - for a minimum period of 28 days.

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- A Public Hearing is arranged as required under s57 of the *Environmental Planning & Assessment Act 1979* and s29 of the *Local Government Act 1993* and held at least 21 days after completion of the public exhibition of the Planning Proposal. The Public Hearing is chaired by an independent facilitator who then submits a report to Council identifying issues raised.
- A report is prepared for Council addressing submissions received during the public exhibition and issues raised at the public hearing.
- Subject to Council Resolution, the Planning Proposal is forwarded to the Department for finalisation and amendment of WLEP 2010.

COMMUNICATION AND CONSULTATION

Community Engagement

Community Engagement would occur through public exhibition of the Planning Proposal and the holding of an independently facilitated Public Hearing.

Internal Communication and Consultation

Initial consultation has occurred with Council's Property staff and Transport and Traffic Strategic Planner.

External Communication and Consultation

Agency consultation would occur as required under the Gateway Determination.

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 issues in relation to this report.

- **Culture**

The proposed road will enable appropriate public access to be provided to the Southern Highlands Regional Art Gallery.

- **Governance**

The Planning Proposal and Public Hearing would be undertaken in accordance with legislative requirements under the *Environmental Planning & Assessment Act 1979* and the *Local Government Act 1993*.

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COUNCIL BUDGET IMPLICATIONS

There are no budget implications resulting from this report.

RELATED COUNCIL POLICY

There are no other Council policies associated with this report.

OPTIONS

The options available to Council are:

Option 1

Support the recommendation to this report - That a Planning Proposal be prepared to reclassify proposed Lot 3, being a portion of Lot 38 DP 882935, Rowland Road Bowral, from 'community' to 'operational' for the purposes of constructing an access road to the Southern Highlands Regional Art Gallery as shown in Attachment 1.

Option 2

Resolve to not proceed with a Planning Proposal to reclassify proposed Lot 3, being a portion of Lot 38 DP 882935, Rowland Road Bowral, from 'community' to 'operational', for the purposes of constructing an access road to the Southern Highlands Regional Art Gallery, and inform the Southern Highlands Regional Art Gallery of Council's decision.

Option 1 is the recommended option to this report.

CONCLUSION

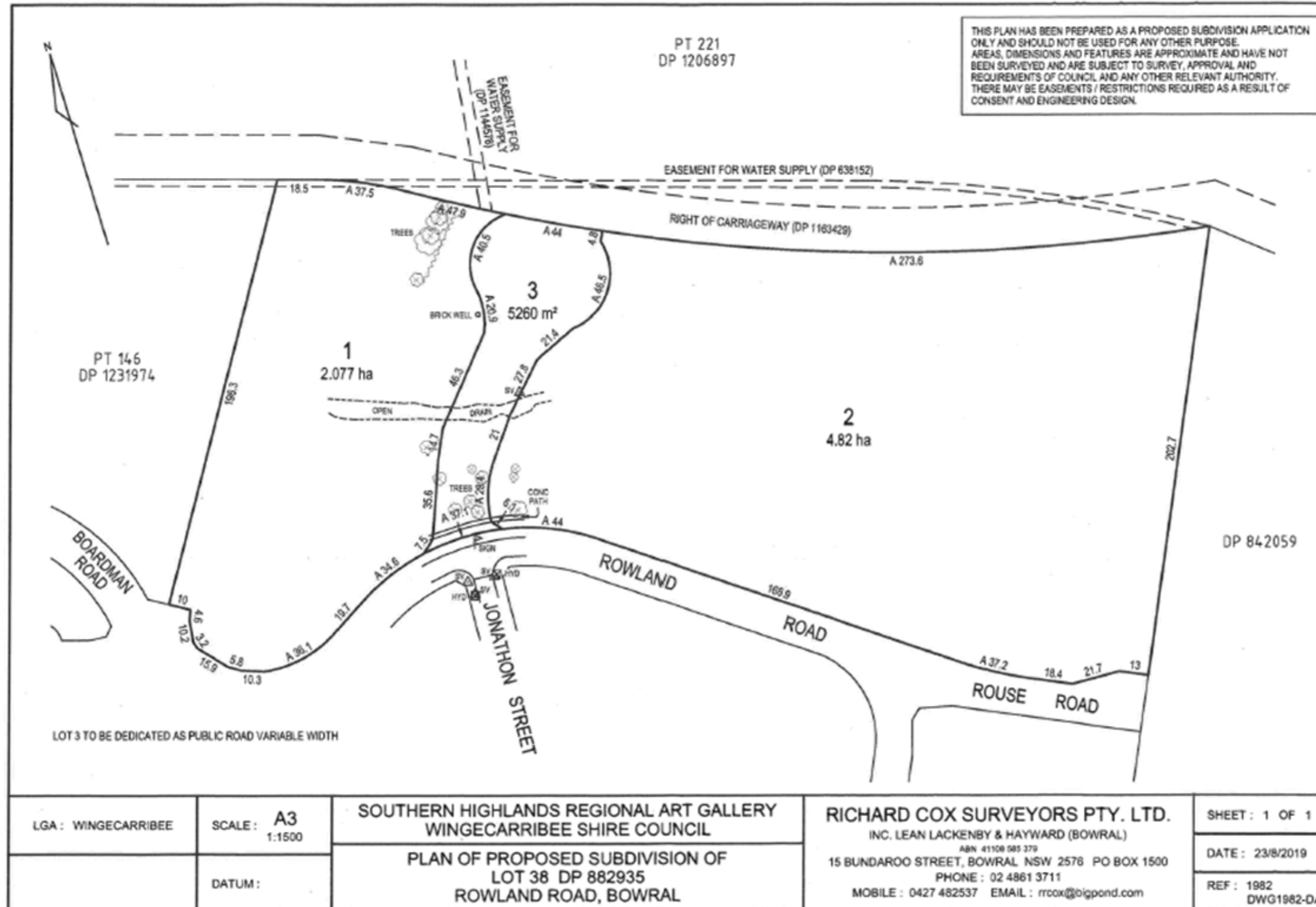
In order to achieve the proposed access road to the Southern Highlands Regional Art Gallery, a Planning Proposal must be prepared to reclassify proposed Lot 3, being a portion of Lot 38 DP 882935, Rowland Road Bowral, from 'community' to 'operational' and submitted to the Department of Planning, Industry and Environment for a Gateway Determination. The processing of the Planning Proposal would then proceed as outlined in this report.

ATTACHMENTS

1. Reproduction of Figure 3 - Plan of Proposed Subdivision



ATTACHMENT 1



Reproduction of Figure 3 Plan of Proposed Subdivision

12.3 Planning Proposal to Reclassify Lot 13 DP 601369, Kirkham Street Moss Vale, to Enable Future Sale

Reference: PN819550
Report Author: Coordinator Strategic Land Use Planning
Authoriser: Group Manager Planning, Development and Regulatory
Services

Link to Community Strategic Plan: Effective financial and asset management ensure Council's long term sustainability

PURPOSE

The purpose of this report is to seek a resolution of Council to proceed with a Planning Proposal to reclassify Lot 13 DP 601369, being a Council owned landlocked property on Kirkham Street, Moss Vale, from 'community' to 'operational'.

RECOMMENDATION

THAT a Planning Proposal be prepared to reclassify Lot 13 DP 601369, Kirkham Street Moss Vale, from Community to Operational to enable consideration of future options for sale of the land.

VOTING ON THE MOTION

Councillors are required to record their votes on this matter.

REPORT

BACKGROUND

The subject land is of triangular shape and has an area of 608.1m². It is 'landlocked' being located to the rear of 64 Kirkham Street, Moss Vale, with the Moss Vale TAFE on its western boundary and a private property at 13 Dormie Place on its eastern boundary. **Figure 1** below indicates the location of the subject property.

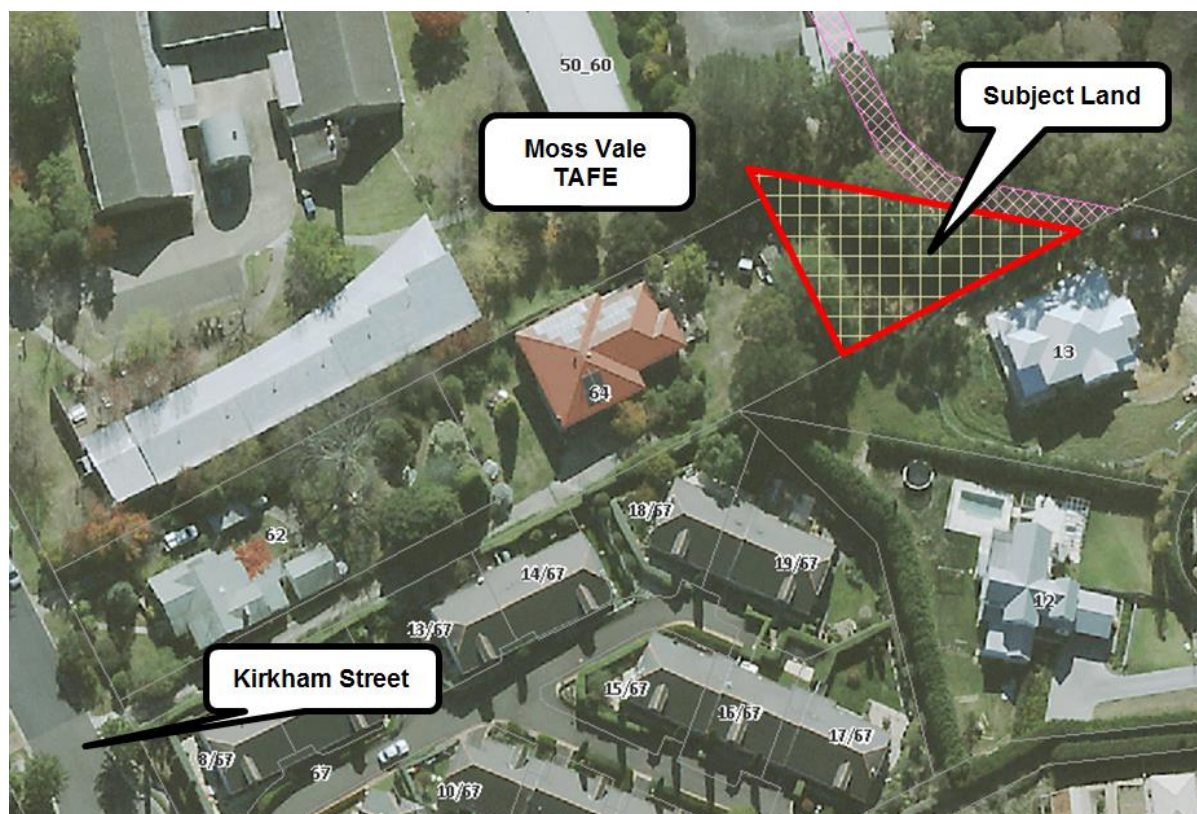


Figure 1 Location of subject land

The land is zoned R3 Medium Density Residential with a minimum lot size of 700m². The site is owned by Council and is classified as 'community' land. Given the size of the lot and the fact that the property is landlocked, with no physical access from a formed road, future uses for the land are limited. Council has previously considered options for either the lease or sale of the property to an adjoining owner. However, in order to facilitate any future sale of the land, it requires reclassification from 'community' to 'operational'.

Council is required to classify all public land as either 'community' or 'operational' under the provisions of s25 and s26 of the *Local Government Act 1993*. Community land is land used for a public purpose. Operational land is land which facilitates the functions or 'operations' of Council.

The subject land is classified as 'community' and, because 'community' land cannot be sold, it is necessary to reclassify it to 'operational' in order to consider any future option for its sale. This report outlines that process.

REPORT

The reclassification of public land through an amendment to Schedule 4 (Classification and reclassification of public land) of WLEP 2010 is subject to both the local plan-making process in the *Environmental Planning & Assessment Act 1979* and the public land management requirements of the *Local Government Act 1993*.

The process for achieving the reclassification of the subject land from 'community' to 'operational' is as follows:

- Council resolves to prepare a Planning Proposal under s3.33 of the *Environmental Planning & Assessment Act 1979*.

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- The Planning Proposal is prepared and submitted to the Department of Planning, Industry and Environment (the Department) for a Gateway Determination to proceed.
- Agency referrals are completed as required under the Gateway Determination – always WaterNSW and generally NSW Rural Fire Service. The Planning Proposal cannot proceed until any matters of concern raised by an agency are resolved.
- Community consultation is undertaken in accordance with the Gateway Determination - for a minimum period of 28 days.
- A Public Hearing is arranged as required under *s57 of the Environmental Planning & Assessment Act 1979* and *s29 of the Local Government Act 1993* and held at least 21 days after completion of the public exhibition of the Planning Proposal. The Public Hearing is chaired by an independent facilitator who then submits a report to Council identifying issues raised.
- A report is prepared for Council addressing submissions received during the public exhibition and issues raised at the public hearing.
- Subject to Council Resolution, the Planning Proposal is forwarded to the Department for finalisation and amendment of WLEP 2010.

COMMUNICATION AND CONSULTATION

Community Engagement

Community Engagement would occur through public exhibition of the Planning Proposal and the holding of an independently facilitated Public Hearing.

Internal Communication and Consultation

Initial consultation has occurred with Council's Property staff.

External Communication and Consultation

Agency consultation would occur as required under the Gateway Determination.

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 issues in relation to this report.

- **Culture**

The proposed road will enable appropriate public access to be provided to the Southern Highlands Regional Art Gallery.

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- **Governance**

The Planning Proposal and Public Hearing would be undertaken in accordance with legislative requirements under the *Environmental Planning & Assessment Act 1979* and the *Local Government Act 1993*.

COUNCIL BUDGET IMPLICATIONS

There are no budget implications resulting from this report.

RELATED COUNCIL POLICY

There are no other Council policies associated with this report.

OPTIONS

The options available to Council are:

Option 1

Support the recommendation to this report that a Planning Proposal be prepared to reclassify Lot 13 DP 601369, Kirkham Street Moss Vale, from Community to Operational to enable consideration of future options for sale of the land.

Option 2

Resolve to not proceed with the Planning Proposal which would result in the land remaining classified as Community.

Option 1 is the recommended option to this report.

CONCLUSION

Given the size of the lot and the fact that the property is landlocked, with no physical access from a formed road, future uses for the land are limited. Council has previously considered options for either the lease or sale of the property to an adjoining owner, but in order to facilitate any future sale of the land, it requires reclassification from 'community' to 'operational'.

ATTACHMENTS

There are no attachments to this report.

12.4 Short Term Rental Accommodation Draft Policy Framework

Reference:	1930/6
Report Author:	Coordinator Strategic Land Use Planning
Authoriser:	Group Manager Planning, Development and Regulatory Services
Link to Community Strategic Plan:	Ensure tourism balances the economic benefits with impact on environment and community

PURPOSE

The purpose of this report is to inform Council of the proposed new regulatory framework for Short Term Rental Accommodation in NSW and seek Council endorsement of a draft submission to the NSW Government on the proposed framework.

RECOMMENDATION

- 1. THAT Council endorse a submission (Attachment 1) to be sent to the Department of Planning, Industry and Environment in relation to the proposed Short Term Rental Accommodation regulatory framework; and**
- 2. THAT Council not seek to limit the amount of days an un-hosted Short Term Rental Accommodation activity can occur in the Wingecarribee Shire.**

REPORT

BACKGROUND

Short Term Rental Accommodation (STRA) has become increasingly popular in Wingecarribee and throughout NSW and is an important component of our tourist and visitor economy. It is estimated that there are over 750 STRA properties across the Wingecarribee Shire that play an important role in providing tourist and visitor accommodation and positively contribute to our visitor economy. Council recognises the positive economic and social contribution STRA properties can make.

However, STRA properties can also cause significant concern to neighbours and communities, and both real and perceived amenity impacts due to over population of the accommodation and/or the poor behaviour of guests. These concerns can be exacerbated in strata developments where noise and poor behaviour can be more directly felt by neighbours through adjoining walls and can result in damage to common property.

Council currently permits STRA in approved dwellings as exempt development under Clause 7.11 of Wingecarribee Local Environmental Plan 2010, and has a voluntary Code of Conduct for STRA operators in the Shire. While the vast majority of STRA properties in Wingecarribee operate without any significant impacts on adjoining owners, Council does receive a significant number of complaints about the use of residential dwellings for STRA purposes. In addition to the potential impacts on neighbourhood amenity, STRA also has

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the potential remove permanent housing stock from the market, which is a significant issue across NSW.

In response to the growing popularity of STRA, The NSW Government has investigated policy options to better regulate the industry and better manage the negative impacts associated with STRA.

This included a Parliamentary Inquiry into the Adequacy of the Regulation of Short-term Holiday Letting in New South Wales in 2015-16 and inviting feedback on an Options Paper between 21 July and 21 October in 2017.

On 5 June 2018, the NSW Government announced a new regulatory framework for STRA in NSW, including a state-wide planning framework, changes to strata legislation and a mandatory Code of Conduct. Following initial consultation at this time, the NSW Government has now released a more detailed policy framework and is seeking feedback from stakeholders.

The new regulatory framework was publicly exhibited between 14 August and 11 September 2019. Council requested and was granted an extension to the submission period, to allow a draft submission on the regulatory framework to be reported to Council for endorsement. This report provides an overview of the proposed regulatory framework and a draft submission to the NSW Government is provided as **Attachment 1** to this report.

REPORT

Short Term Rental Accommodation Regulatory Framework

The draft Regulatory Framework for STRA includes a range of new and amended Environmental Planning Instruments (EPI) and supporting information including:

- New and amended Environmental Planning Instruments:
 - State Environmental Planning Policy (Short Term Rental Accommodation) 2019 (new)
 - Environmental Planning and Assessment (Short-term Rental Accommodation) Regulation 2019
 - Short Term Rental Fire Safety Standards (new)
- A mandatory Code of Conduct and exclusion register
- Fair Trading Amendment Regulations (to declare the Code of Conduct)
- An industry led STRA Registration System

An overview of the regulatory framework is provided below.

State Environmental Planning Policy (Short Term Rental Accommodation) 2019

The proposed *State Environmental Planning Policy (Short-term Rental Accommodation) 2019* (STRA SEPP) is a new SEPP specifically created for STRA land use planning controls. The proposed SEPP will have a delayed commencement, to provide a suitable transition period and align with the commencement of the Code of Conduct.

The proposed SEPP introduces new definitions for STRA, as well as hosted STRA and un-hosted STRA, and repeals existing STRA provisions in local planning instruments, including Clause 7.11 of WLEP 2010.

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The SEPP will also introduce both exempt and complying development pathways for STRA, including general requirements and limits on the days the activity can take place depending on location and host presence.

STRA Definitions

The proposed definitions for STRA are detailed below:

short-term rental accommodation means an existing dwelling—

- a) that is lawfully used by the owner, tenant or permanent resident of the dwelling (the host) to provide accommodation on a commercial basis for a temporary or short-term period, with or without the host residing on the premises during that period, and
- b) that, if it were used predominantly as a place of residence, would be one of the following types of residential accommodation:
 - (i) an attached dwelling,
 - (ii) a dual occupancy,
 - (iii) a dwelling house,
 - (iv) multi dwelling housing,
 - (v) a residential flat building,
 - (vi) a rural workers' dwelling,
 - (vii) a secondary dwelling,
 - (viii) a semi-detached dwelling,
 - (ix) shop top housing.

hosted short-term rental accommodation means short-term rental accommodation provided where the host resides on the premises during the provision of the accommodation.

non-hosted short-term rental accommodation means short-term rental accommodation provided where the host does not reside on the premises during the provision of the accommodation.

Exempt and Complying Development Approval Pathway

The proposed STRA SEPP provides new exempt and complying development pathways for STRA, including general requirements and limits on the days the activity can take place depending on location and host presence. Where the host is present, STRA will be exempt development for 365 days per calendar year.

Where the host is not present, and the site is not on bushfire prone land or a flood control lot, STRA is 'exempt development' for:

- 180 days in Greater Sydney
- 365 days in regional areas; except where a council varies this to no lower than 180 days.

Therefore, Council can seek to limit the amount of days an un-hosted STRA activity can occur in the Wingecarribee Shire to a minimum of 180 days. Where a host is not present, and the land is either bush fire prone or a 'flood control lot', STRA can be undertaken as complying development.

The exempt and complying development approval pathways are shown in **Table 1** below.



Table 1 – Exempt and Complying Approval Pathways

Where a host is present		
Number of days	Bushfire Prone Land	Flood Control Lot
365 days a year	Exempt	Exempt
Where a host is not present		
Number of days	Bushfire Prone Land	Flood Control Lot
365* days a year	Complying	Complying

* Where the host is not present, and the site is not on bushfire prone land or a flood control lot, STRA is 'exempt development' for 365 days in regional areas; except where a council varies this to no lower than 180 days.

Where the host is not present, and the booking is for 21 or more consecutive days, the booking will not count towards the above day thresholds

Note: A planning certificate under section 10.7 of the EP&A Act issued by a council will state whether or not a lot is a flood control lot. In Wingecarribee, all land is identified as a flood control lot in a planning certificate, unless Council has undertaken a flood study which demonstrates that land is not within the flood planning level.

Under the proposed framework, the majority of land within the Shire is identified as a flood control lot, meaning STRA could only be undertaken as complying development. It is recommended that Council flag this as a concern in the submission, and recommend the Department investigate alternate mechanisms to ensure STRA does not occur on flood prone land, however, is not unnecessarily restrictive.

Environmental Planning and Assessment (Short-term Rental Accommodation) Regulation 2019

The proposed STRA SEPP is supported by amendments to the EP&A Regulations to provide for visitor and safety standards. The new safety standards shown in **Table 2** below are detailed in the 'Short-term Rental Accommodation Fire Safety Standard' and are partly duplicated in the SEPP.



Table 2 – Safety Standards

Dwelling type	Recommended standard
All dwellings	<ul style="list-style-type: none"> No more than 2 persons/bedroom or 12 persons, whichever is the lesser. Installation of smoke alarms in each bedroom, and the smoke alarms are interconnected where there is more than one alarm. Installation of a lighting system in hallways that is activated by the smoke alarm system.
Dwellings in multi-unit buildings only (Dwellings in Class 2 and 4 buildings)	<ul style="list-style-type: none"> Entry doors should be openable from inside the dwelling without a key. Installation of a self-closing device and smoke seals to all edges of the door, if the door opens onto a shared corridor and entrance doorway. Installation of a fire extinguisher and fire blanket in the kitchen. Making an Evacuation Plan, displaying 'evacuation signage' and familiarising guests with exit system.
Standalone dwellings only (Class 1a buildings)	<ul style="list-style-type: none"> Installation of heat alarms in single dwellings which are located above a garage. This would be required only where the garage is not accessible to the guest/s.

Code of Conduct

The draft regulatory framework includes a new mandatory Code of Conduct. The draft Code sets out the obligations of STRA industry participants and provides processes and enforcement mechanisms to manage and respond to Code breaches. The Code applies to all industry participants including booking platforms, letting agents, hosts, guests and facilitators.

The Code must be declared by proposed amendments to the EP&A Regulation to take effect, and the Amendment Regulation also contains other key elements to support the operation of the Code, such as the penalty unit amounts for offences under the Code.

The principal objectives of the proposed Code are set out in the Code itself, which are to:

- (a) set out the rights and obligations of STRA industry participants
- (b) provide for resolution of disputes and complaints concerning the conduct of STRA industry participants
- (c) outline the compliance and enforcement approach that applies for contraventions of the Code by STRA industry participants
- (d) facilitate the oversight of the STRA industry.

The Code sets out the overall obligations of STRA industry participants, as well as specific obligations for booking and leasing agents, hosts and guests. Under the Code, booking platforms and leasing agents will be required to, among other things, ensure that premises, hosts and guests that are on the exclusion register do not use the booking platform.

An industry host, or their representative will be required to be contactable at all times in case of an emergency under the provisions of the Code. Further, a host must give the



residential premises directly neighbouring the premises subject to the short-term rental accommodation arrangement the following information:

- that the host is operating short-term rental accommodation on the premises
- the contact details of the host or an authorised representative.

A host who is recorded on the exclusion register is either entirely prohibited from participation in the STRA industry, or prohibited only in relation to specific premises as listed on the exclusion register. A host must not enter into a short-term rental accommodation arrangement with a guest if the guest is recorded on the exclusion register as an excluded guest.

For the first time, the Code also puts obligations on STRA guests, where guests will be subject to specific behavioural standards. Where a guest breaches the behavioural standards, they can be investigated by the Commissioner of Fair Trading for potential breaches of the Code.

All breaches of the Code are to be reported to and dealt with by the Commissioner of Fair Trading, and not local Councils. There is some concern that the Department of Fair Trading will be insufficiently resourced to manage complaints, and that communities will continue to expect and rely on Council's to deal with complaints (despite Council having no power under the Code).

This has the potential to create significant confusion and unease in the community, and a further burden on Councils to manage the community's expectations in this regard. It is recommended that Council raise these concerns as part of the submission, and make the following recommendations on the draft regulatory framework:

- That the Department of Fair Trading be sufficiently resourced to manage complaints in an effective and timely manner, including in regional areas
- That the Department of Fair Trading undertake a community education process, to ensure the broader community understands the complaint handling process for STRA
- That the Department of Fair Trading ensures that the proposed regulatory framework does not increase the burden on Councils to deal with and manage the impacts of STRA
- That, in addition to providing contact details to adjoining owners, industry hosts also provide a complaint protocol which outlines the process for making complaints to the Department of Fair Trading.

Complaints, Compliance and Enforcement

Part 6 of the Code sets out the complaints handling process. It provides that a person may lodge a complaint with the Commissioner about an alleged Code contravention. Complainants may be industry participants such as hosts and guests, or non-industry participants such as neighbours and owners corporations.

The Code provides that the Commissioner for Fair Trading may take disciplinary action where an industry participant is found to have contravened the Code. Disciplinary action could include:

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- issuing a warning notice to an industry participant
- issuing a direction to an industry participant requiring them to act or stop acting in certain ways
- recording a 'strike' against a host, a host in relation to specific premises or a guest
- recording a host, a host in relation to specific premises or a guest on the exclusion register.

Part 7 of the Code requires the Commissioner to record a host, a specific premises or a guest on the exclusion register where they have received two strikes within a two-year period. The Code sets out the circumstances under which the Commissioner can record a strike, which include where:

- a guest fails to comply with an obligation to a neighbour and the failure is not minor. For example, where a guest is found to have acted violently towards someone in a neighbouring property
- a host misrepresented the state of STRA premises when advertising the premises for rent or in communications to guests
- a host failed to comply with their insurance obligations and the failure is not minor
- a serious contravention of the Code occurs
- the Commissioner is satisfied that it is appropriate to record a strike.

Exclusion Register

The draft regulatory framework also proposes the introduction of an exclusion register. Under the Code, a host, a specific premises or a guest who receives 2 strikes in a two-year period will be listed on the exclusion register for a period of five years.

A host or guest who is listed on the register will not be permitted to participate in the STRA industry for the duration of their listing. A host that is listed with reference to specific premises will not be permitted to rent out those specific premises for STRA for the duration of their listing.

The Code requires booking platforms and letting agents to prevent participation in the STRA industry by hosts, specific premises, or guests who are listed on the exclusion register. The Code also requires hosts not to rent out STRA properties to guests who are listed on the exclusion register.

Industry-led Short Term Rental Accommodation Register

The NSW Government is considering the introduction of a mandatory STRA registration system as part of the new regulatory framework. The register has the potential to greatly strengthen responses to complaints about STRA. This is because a register could provide information about which properties are used for STRA and the number of days that properties are let.

The register also has the potential to:

- support the integration of the STRA regulatory framework by consolidating data about all STRA properties, including their compliance with local council regulations and exclusion register status
- assist NSW Fair Trading to administer the Code of Conduct through, for example, confirming if a property that is subject to a complaint is registered for STRA



- assist with monitoring the effectiveness of the STRA regulatory framework and provide key data for the 12-month review.

Issues Included in the draft Submission

The draft regulatory framework is considered a positive step in the right direction in providing certainty to the STRA industry, while better managing the real and perceived negative impacts on STRA on local communities.

However, Council has major concerns about the practicality and implementation of the Code of Conduct. Council is concerned that the Department of Fair Trading is insufficiently resourced to manage the complaints, compliance and enforcement of the Code, and that the burden will fall back on Council to manage. To assist with the implementation of the Code, Council recommends the following:

- That the Department of Fair Trading be sufficiently resourced to manage complaints in an effective and timely manner, including in regional areas
- That the Department of Fair Trading undertake a community education process, to ensure the broader community understands the complaint handling process for STRA
- That the Department of Fair Trading ensures that the proposed regulatory framework does not increase the burden on Councils to deal with and manage the impacts of STRA
- That, in addition to providing contact details to adjoining owners, industry hosts also provide a complaint protocol which outlines the process for making complaints to the Department of Fair Trading.

While Council supports the concept of a mandatory STRA Register, there is insufficient detail to understand if and how the proposed register will be managed and maintained.

In addition to concerns related to the management and implementation of the Code, the submission seeks further clarification on the definitions for hosted and non-hosted STRA, and the use of the 'flood control lots' definition for the purpose of determining the appropriate approval pathway (i.e. exempt or complying development).

COMMUNICATION AND CONSULTATION

Community Engagement

The draft STRA regulatory framework was publicly exhibited by the NSW Government between 14 August and 11 September 2019. The consultation was undertaken wholly by the NSW Government and Council did not undertake any consultation with the community in this regard.

Council requested and was granted an extension to the submission period, to allow a draft submission on the regulatory framework to be reported to Council for endorsement.

Internal Communication and Consultation

Council staff facilitated a Councillor information session on 4 September 2019 in relation to the STRA regulatory framework. No additional internal consultation occurred on the matter.

External Communication and Consultation

There was no external communication and consultation in relation to this report.

SUSTAINABILITY ASSESSMENT

- **Environment**

There are no environmental issues in relation to this report.

- **Social**

STRA properties across the Wingecarribee Shire play an important role in providing tourist and visitor accommodation and positively contribute to our visitor economy. Council recognises the positive economic and social contribution STRA properties can make.

However, STRA properties can also cause significant concern to neighbours and communities, and both real and perceived amenity impacts due to over population of the accommodation and/or the poor behaviour of guests. The proposed regulatory framework is considered to be a positive step in the right direction in better managing the impacts of STRA on local communities.

- **Broader Economic Implications**

As outlined above, STRA properties across the Wingecarribee Shire play an important role in providing tourist and visitor accommodation and positively contribute to our visitor economy.

- **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

There are no budget implications in relation to this report.

RELATED COUNCIL POLICY

There are no Council Policy implication in relation to this report.



OPTIONS

The options available to Council are:

Option 1

THAT Council support the recommendation of this report.

Option 2

THAT Council endorse the submission (Attachment 1) to be sent to the Department of Planning, Industry and Environment in relation to the proposed Short Term Rental Accommodation regulatory framework; and

THAT Council seek to limit the amount of days an un-hosted STRA activity can occur in the Wingecarribee Shire to a maximum of 180 days.

Note: this option is not recommended. Limiting the amount of days an un-hosted STRA activity can occur will potentially undermine Council's objectives to increase mid-week tourism throughout the Shire.

Option 3

THAT Council not make a submission on the draft STRA regulatory framework.

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

CONCLUSION

The draft STRA regulatory framework is considered a positive step in the right direction in providing certainty to the STRA industry, while better managing the real and perceived negative impacts on STRA on local communities.

It is recommended that Council endorse the submission to the NSW Government, to flag Council's concerns over the management and implementation of the Code, and to encourage the NSW Government to undertake a community education process to better inform the community of the STRA framework and complaints process.

ATTACHMENTS

1. Short Term Rental Accommodation Policy Framework Submission



Submission to

NSW Government *Short Term Rental Accommodation Policy Framework* (published August 2019)



Version 2 - for Lodgement
File reference: 1823, 1930/6

Civic Centre, Elizabeth St, Moss Vale, NSW 2577.
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Introduction

Wingecarribee Shire Council appreciates the opportunity to make a submission to the State Government's draft regulatory framework for short term rental accommodation (STRA) in NSW.

It is estimated that there are over 750 STRA properties across the Wingecarribee Shire. They play an important role in providing tourist and visitor accommodation and positively contribute to our visitor economy. Council recognises the positive economic and social contribution STRA properties can make. However, Council is also aware that such properties can cause significant concern to neighbours and communities, and both real and perceived conflicts due to over population of the accommodation and/or the poor behaviour of guests. These concerns can be exacerbated in strata developments where noise and poor behaviour can be more directly felt by neighbours through adjoining walls and can result in damage to common property.

Therefore, Council agrees with the State Government's priority to achieve a balance between preserving the benefits of STRA properties within the tourism industry and the need to ensure that any adverse impacts on neighbours and communities are minimised and preferably avoided.

Draft Regulatory Framework

The draft regulatory framework is considered a positive step in the right direction in providing certainty to the STRA industry, while better managing the real and perceived negative impacts of STRA on local communities. However, Council has major concerns about the practicality and implementation of the mandatory Code of Conduct and industry-led STRA Register.

Council is concerned that the Department of Fair Trading is insufficiently resourced to manage the complaints, compliance and enforcement of the Code, and that the burden will ultimately fall back on Council to manage. To assist with the implementation of the Code, Council makes the following recommendations

The Department of Fair Trading be sufficiently resourced to manage complaints in an effective and timely manner, including in regional areas.

Wingecarribee Shire Council receives a significant amount of complaints about STRA properties, particularly in relation to noise and amenity impacts, and our community expect their concerns to be addressed in a timely manner. Council is concerned that the Department of Fair Trading will be insufficiently resourced to deal with these sorts of complaints across the State; and that the community will ultimately expect local Councils (who have no authority under the Code) to manage their complaints.

If the Department of Fair Trading is not sufficiently resourced to manage complaints and compliance, then the proposed Code of Conduct is unlikely to be effective in managing the impacts of STRA on local communities.

The Department of Fair Trading undertake a community education process, to ensure the broader community understands the complaint handling process for STRA

As outlined above, local communities will continue to expect Councils to handle complaints on STRA properties. This is likely to lead to frustration in the community, an unnecessary burden on Councils, and ineffective management of the Code of Conduct complaint / compliance process.

It is recommended that the Department of Fair Trading undertake a community education process, to ensure that the broader community is aware of and understands the complaint handling process for STRA.

**The Department of Fair Trading ensures that the proposed regulatory framework does not increase the burden on Councils to deal with and manage the impacts of STRA**

As outlined above, Council has concerns about the practicality and implementation of the Code of Conduct. It is anticipated that local communities will continue to expect Councils to handle complaints on STRA properties, despite Council having no authority to enforce compliance with the Code. This is likely to lead to frustration in the community, an unnecessary burden on Councils, and ineffective management of the Code of Conduct complaint / compliance process.

Further, Council is concerned that the Department of Fair Trading will be insufficiently resourced to deal with complaints on STRA properties, and the burden will ultimately fall back to Council to manage. It is recommended that the NSW Government take the necessary steps to ensure that the proposed regulatory framework does not increase the burden on Councils to deal with and manage the impacts of STRA properties.

The Code of Conduct be amended to require industry hosts to provide a STRA complaint protocol to adjoining land owners, which outlines the process for making complaints to the Department of Fair Trading

In addition to providing contact details to adjoining owners, industry hosts should also be required to provide a STRA complaint protocol which outlines the process for making complaints to the Department of Fair Trading. This will ensure that affected landowners are aware of and understand the process for making a complaint about a STRA property.

Industry-led STRA Register

While Council supports the concept of a mandatory STRA Register, there is insufficient detail to understand if and how the proposed register will be managed and maintained. Wingecarribee Shire Council currently has an optional register for STRA properties within the Shire, and only 75 of the estimated 750 STRA properties are currently on the register. This highlights the likely challenges associated with keeping an accurate STRA register.

STRA Definitions

The draft regulatory framework provides new definitions for 'hosted' and 'non-hosted' STRA. However, it is somewhat unclear what is meant by 'resides on the premises' for the purpose of determining whether a STRA property is hosted or non-hosted.

If a host resides in a primary dwelling, and rents out the secondary dwelling for STRA, is this considered to be hosted, or non-hosted? It is recommended that the further detail be provided in relation to the definition of hosted and non-hosted STRA.

Flood Control Lots

Under the draft regulatory framework, STRA on a 'flood control lot' cannot be undertaken as exempt development. A planning certificate under section 10.7 of the Act issued by a Council will state whether or not a lot is a flood control lot.

Council agrees that STRA should not be undertaken in a flood liable area. However, Wingecarribee Council, like many others, nominate all land as a 'flood control lot' on a section 10.7 Certificate, unless Council has done a flood study that demonstrates that the land is not within the flood planning area. Therefore, the majority of land within the Wingecarribee Shire is nominated as a flood control lot, irrespective of whether the land is impacted by flooding.



Submission to Short-term Rental Accommodation Framework

September 2019

The use of the 'flood control lot' definition to determine the approval pathway for STRA will significantly restrict the exempt development pathway for STRA in Wingecarrabee. It is recommended that the NSW Government explore alternate options to determine the STRA approval pathway that appropriately manages hazards such as flooding, but does not unnecessarily restrict the exempt development pathway for STRA in areas not impacted by flooding.

Conclusion

Council agrees with the State Government's priority to achieve a balance between preserving the benefits of STRA properties within the tourism industry and the need to ensure that any adverse impacts on neighbours and communities are minimised and preferably avoided.

The draft regulatory framework is considered a positive step in the right direction in providing certainty to the STRA industry, while better managing the real and perceived negative impacts of STRA on local communities. However, Council has major concerns about the practicality and implementation of the mandatory Code of Conduct and industry-led STRA Register.

Council is concerned that the Department of Fair Trading is insufficiently resourced to manage the complaints, compliance and enforcement of the Code, and that the burden will ultimately fall back on Council to manage.

Council appreciates the opportunity to make this submission. If you require any additional information in this regard, or would like to discuss the matter further, please contact Michael Park, Coordinator Strategic Land Use Planning, on (02) 4868 0830 or via email michael.park@wsc.nsw.gov.au.

Kind Regards

Mark Pepping
Deputy General Manager



Submission to Short-term Rental Accommodation Framework

September 2019

The use of the 'flood control lot' definition to determine the approval pathway for STRA will significantly restrict the exempt development pathway for STRA in Wingecarribee. It is recommended that the NSW Government explore alternate options to determine the STRA approval pathway that appropriately manages hazards such as flooding, but does not unnecessarily restrict the exempt development pathway for STRA in areas not impacted by flooding.

Conclusion

Council agrees with the State Government's priority to achieve a balance between preserving the benefits of STRA properties within the tourism industry and the need to ensure that any adverse impacts on neighbours and communities are minimised and preferably avoided.

The draft regulatory framework is considered a positive step in the right direction in providing certainty to the STRA industry, while better managing the real and perceived negative impacts of STRA on local communities. However, Council has major concerns about the practicality and implementation of the mandatory Code of Conduct and industry-led STRA Register.

Council is concerned that the Department of Fair Trading is insufficiently resourced to manage the complaints, compliance and enforcement of the Code, and that the burden will ultimately fall back on Council to manage.

Council appreciates the opportunity to make this submission. If you require any additional information in this regard, or would like to discuss the matter further, please contact Michael Park, Coordinator Strategic Land Use Planning, on (02) 4868 0830 or via email michael.park@wsc.nsw.gov.au.

Kind Regards

Mark Pepping
Deputy General Manager

12.5 Public Exhibition of Draft Community Engagement Strategy

Reference:	5704/9
Report Author:	Coordinator Community Engagement
Authoriser:	Group Manager Corporate and Community
Link to Community Strategic Plan:	Improve opportunities for people to 'have their say' and take an active role in decision making processes that affect our Shire through diverse engagement opportunities

PURPOSE

The purpose of this report is to seek Council endorsement to place the revised Community Engagement Strategy on public exhibition.

RECOMMENDATION

THAT Council endorse the draft Community Engagement Strategy included at Attachment 1, including community participation plan requirements for public exhibition for a period of 28 days.

REPORT

BACKGROUND

In 2014 Council engaged the services of local government communication specialist to evaluate Council's communication and community engagement practices, create consistent messages, provide long-term goals and develop a framework for improved interaction with our Shire's residents.

Complementary strategies for Communication and Community Engagement were subsequently developed and publicly exhibited in June and July 2014. Both strategies were adopted by Council on 26 November 2014 following a review of submissions received.

Action plans have been developed annually to support objectives of the Community Engagement Strategy with quarterly reports outlining progress completed from 2015.

REPORT

The Community Engagement Strategy is now due for review. This coincides with an amendment to the *Environmental Planning and Assessment Act 1979* which requires councils to prepare a Community Participation Plan for land use planning matters by 1 December 2019.

REVIEW PROCESS

A review of the Community Engagement Strategy has been completed with:

- Consideration of achievements since the Strategy was adopted in 2014,
- recommendations made by staff for future iterations of the Strategy, and
- consideration given for how to implement new planning requirements.

A desktop review of statutory changes, policies and other strategies was conducted which identified several new accountabilities such as the Wingecarribee Disability Inclusion Action Plan, NSW Information Commissioner's Charter for Public Participation and *Crown Land Management Act 2016*.

Consultation data was examined including:

- communication and community engagement survey (2018)
- community satisfaction survey (2017),
- survey for review of the Wingecarribee Community Strategic Plan (CSP), and
- CSP workshops with staff and the Community Reference Panel (2017).

Census 2016 data was consulted to obtain recent demographic information and a *Communication and Engagement Survey* conducted to identify current information about community preferences with regard to communication and public participation.

UPDATES REQUIRED

Consultation data and the 2018 survey responses generally confirmed that the objectives and approaches outlined in the strategy were still appropriate.

References, demographic data and information about technology use within the strategy needed to be updated and have been accommodated in the latest version.

Staff have also identified specific aspects of objectives and actions which needed improvement and these are outlined in the table below.

Four key objectives were set in the Community Engagement Strategy with fifteen action themes suggested for delivery.

The **objectives** remain relevant and no change is proposed for these:

1. Manage a proactive program of community engagement, ensuring all sectors of the community are included
2. Ensure engagement at an appropriate level is built into all key projects and decisions
3. Ensure Council staff have the tools they need for effective communication
4. Strengthen Council's partnership with the community through effective engagement

Changes recommended for **actions** are outlined in the table below.

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ACTIONS	CHANGES
<p>1a – Kiosks: Conduct an organised program of community kiosks throughout the LGA.</p>	<p>Replace 1a in the strategy with <i>'Face to face engagement – conduct information sessions, drop in kiosks or shopfronts to promote and engage with the community.'</i></p>
<p>1b - Social media: Use all available technological advancements to reach further into the community and ensure feedback gathered is integrated into Council projects and decisions.</p>	<p>Change this heading to <i>'Technology'</i> as the social media term is limiting</p>
<p>1c - Other channels: Ensure a broad mix of engagement channels are used including events, newspaper advertising, media releases, radio, website, public meetings, surveys and individual consultations.</p>	<p>No change</p>
<p>1d – Develop an annual calendar of community engagement activities</p>	<p>No calendar was developed as it was difficult for project managers to predict timeframes. Remove this action from the strategy.</p>
<p>1e – Community Assets Database: Create and maintain a database of community contacts for representative groups, venues and communication opportunities</p>	<p>No change</p>
<p>2a – Level of engagement: Develop and implement a process to determine the level of engagement appropriate for each project, decision and activity.</p>	<p>Combine 2a and 2b.</p>
<p>2b – Define the decision: Ensure the process clearly defines the decision applicable to each engagement activity, so the community is clear on what is being asked.</p>	
<p>2c - CE coordinator services: Implement a formal internal process for requesting the services of Council's Community Engagement Coordinator, to enable community engagement work to be prioritised and appropriately resourced.</p>	<p>No change</p>
<p>2d - Staff training: Ensure Council staff are appropriately trained in community engagement techniques and are informed about community engagement policies and guidelines.</p>	<p>No change</p>
<p>2e – Councillor and Committee briefing: Provide information about the tools and techniques used to undertake community engagement so recommendations and/or resolutions are appropriate.</p>	<p>No change</p>
<p>3a - Report on the outcome: Ensure the outcome of each community engagement activity is reported to participants in an appropriate way. This may include individual letters/emails or</p>	<p>No change</p>

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broad media releases or social media posts as required.	
3b – Council reports: Ensure the ‘community engagement’ section in the Council Business Paper template is completed for each key decision and project.	No change
3c - Celebrate successes: Report to the community on positive outcomes of engagement, through media releases, announcements and other appropriate channels.	Remove this action as it is addressed in 3a
4a - CE database: Create and maintain a database of community engagement activities to ensure valuable information about CE projects is collected for future reference.	No change
4b - Surveys on engagement and communication: Regularly seek feedback from the community on appropriate channels for engagement and communication, and refine activities accordingly.	No change

Section 09 of the strategy has been updated to include references for all relevant statutory changes, policies and other strategies developed since 2014.

COMMUNITY PARTICIPATION PLAN ADDITION

In March 2018, changes to the *Environmental Planning and Assessment (EPA) Act 1979* (the Act) set out new requirements for Councils to prepare a Community Participation Plan (CPP). All Planning Authorities, including the Department of Planning, Industry and Environment and Councils, are now required to have a Community Participation Plan in place by 1 December 2019.

Section 2.23(4) of the Act gives Councils the option to prepare a standalone CPP or include the requirements in a community engagement strategy prepared under section 402 of the *Local Government Act 1993*.

Staff have information in the draft Community Engagement Strategy which clearly set out when and how Council will engage with its communities across all the planning functions it performs (strategic planning and development assessment) under the EPA Act 1979.

Reference is also made to the *Notification of Development Proposals Policy* (14 November 2018) which confirms the various types of notification and submission periods required for Development matters.

DRAFT STRATEGY DOCUMENT

A revised Community Engagement Strategy has been prepared based on the changes outlined above and it recommended that this draft Strategy be placed on public exhibition for a period of 28 days.

The draft strategy is included in **Attachment 1** to this report.



COMMUNICATION AND CONSULTATION

Community Engagement

Public exhibition of the draft Community Engagement Strategy is recommended for a 28-day period.

Internal Communication and Consultation

Individual interviews and briefings were undertaken with the General Manager, Deputy General Managers, key project managers and coordinators to identify any changes required to content and format.

External Communication and Consultation

The strategy review was informed by:

- telephone community satisfaction survey data (2017),
- telephone and online Community Strategic Plan (CSP) survey data,
- staff and Community Reference Panel workshops (review of CSP), and
- Communication and Engagement Survey (2012 and 2018).

More than 740 people were involved in the Community Strategic Plan review process in 2017 which demonstrated that there has not been a significant shift in aspirations or priorities, rather a need to refine goals and strategies.

A Communication and Engagement Survey was conducted between 16 July and 1 August 2018. Questions were based on a 2012 survey to ensure comparative data was available. 150 people completed the survey.

SUSTAINABILITY ASSESSMENT

• Environment

There are no environmental issues in relation to this report.

• Social

The strategy seeks to provide clear, consistent and reliable communications as well as opportunities to engage with Council.

• Broader Economic Implications

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

• Culture

The strategy seeks to provide equality of access regardless of cultural background.

• Governance

The proposed updates would supersede the previous Community Engagement Strategy developed in 2014. It would also address EP&A Act requirements.

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COUNCIL BUDGET IMPLICATIONS

There are no implications for the current community engagement allocations within Council's budget however specific funding may be sought in the future to manage resourcing issues and enable the take up of emerging technology or approaches.

The review was managed in-house to avoid unnecessary expenditure.

RELATED COUNCIL POLICY

- Community Engagement Policy (10 April 2019)
- Notification of Development Proposals Policy (14 November 2018)

OPTIONS

The option available to Council is to endorse the revised Community Engagement Strategy for public exhibition for a 28-day period.

This option would ensure that the 1 December 2019 deadline set by the Department of Planning, Industry and Environment for community participation requirements is met.

CONCLUSION

This report and its attachments seek to ensure that Wingecarribee Shire Council's strategy for community engagement is updated to meet statutory requirements and allow for effective, proactive and consistent implementation.

ATTACHMENTS

1. Draft Community Engagement Strategy



Wingecarribee Shire Council

Community Engagement Strategy

*draft for
public exhibition*





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draft for public exhibition - September 2019

This Community Engagement Strategy has been written in conjunction with the Wingecarribee Shire Council Communications Strategy.

Both of these documents can be accessed on the Wingecarribee Shire Council website: www.wsc.nsw.gov.au

Requests for information or feedback can be provided to the Community Engagement Coordinator by emailing mail@wsc.nsw.gov.au or by writing to PO Box 141, Moss Vale NSW 2527.

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Consultants



01/ INTRODUCTION

Community engagement is an umbrella term that covers information sharing, consultation and active participation between government and communities. It seeks to ensure people have an opportunity to participate in decisions that affect them.

In a local government context community engagement can take many forms, ranging from receiving a letter about a neighbour's development application or responding to a "have your say" advertisement, to attending a facilitated workshop on a major project.

Community engagement is any activity that helps Council:

- provide opportunities for the community to voice an opinion on any proposals, plans, services and activities;
- work more closely with the community to shape policy options and priorities.

Community engagement does not necessarily mean achieving consensus. However, community input into Council's decision-making process provides the potential for a better, more informed decision for everyone. This results in:

- Improving the relationship between the community and Council;
- Enhancing community ownership of decisions;
- Adding value to Council's decision-making processes by drawing on the skills and wisdom of people and groups in the community;
- Maximising the possible positive impacts of Council decision and minimising the possible negative impacts.





02/ OUR ENGAGEMENT

Wingecarribee Shire Council has an active program of community engagement, ranging from informal community feedback to structured consultation events.

Council's Community Engagement Coordinator works with all branches of Council to ensure the community is consulted at an appropriate level on key projects, decisions, events and activities. While community engagement is the responsibility of everyone in Council, the Community Engagement Coordinator manages the implementation of this Strategy and is not directly responsible for every specific consultation.

03/ CONTEXT

The Community Engagement Strategy reflects the vision and principles of the Community Strategic Plan, Wingecarribee 2031. It is strongly aligned with Council's Communication Strategy as many engagement activities link closely with broader communication. Engagement activities will reflect Council's key messages as set out in the Communication Strategy.

The Community Engagement Policy outlines the principles and commitments that will guide the planning, design, implementation and evaluation of community engagement practices at Council.



04/ IAP2 SPECTRUM

Council's community engagement activities are linked to the International Association of Public Participation (IAP2) spectrum. Council acknowledges that engagement may fall within five broad categories and different approaches are required for each category:

- 01. Inform** - To provide the public with balanced and objective information to assist them in understanding the problem, alternatives, opportunities and/or solutions;
- 02. Consult** - To obtain public feedback on analysis, alternatives and/or decisions;
- 03. Involve** - To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered;
- 04. Collaborate** - To partner with the public in the each aspect of the decision including the development of alternatives and the identification of the preferred solution;
- 05. Empower** - To place final decision-making in the hands of the public.



05/ THE ROLE OF COUNCIL

Elected councillors

A Councillor's role in community engagement is to participate as an elected member, listen to the views of the community and consider those views when making decisions.

Council staff

A Council staff member's role in community engagement is to organise and facilitate the discussion, record, provide feedback, evaluate the engagement and consider the community's views when making unbiased recommendations to Council.

06/ INCLUDING EVERYONE

When undertaking community engagement, Council will make every effort to:

- Attract and reach a cross section of the community by using a wide range of communication methods;
- Invite specific community interest and user groups as identified in particular projects;
- Accommodate participants' cultural, language and other specific needs;
- Involve community groups and individuals who may otherwise be difficult to reach.



07/ OBJECTIVES

While Council clearly has a strong program of communication and engagement activities, there are opportunities to build on relationships with key audiences and improve the consistency of communication across the organisation. To do this, it is proposed that Council pursues four objectives and associated actions over the life of this strategy. Each action will require more specific tasks and a timeframe for achievement.

01. Manage a proactive program of community engagement, ensuring all sectors of the community are included

- 1.1** - Face to face engagement - Conduct information sessions, drop in kiosks or shopfronts to promote and engage with the community
- 1.2** - Technology - Use technological advancements to reach further into the community and ensure feedback gathered is integrated into Council projects and decisions.
- 1.3** - Inclusive and accessible - Ensure a broad mix of engagement channels are used including events, newspaper advertising, media releases, radio, website, public meetings, surveys and individual consultations in order to make public participation in decision making convenient.
- 1.4** - Stakeholder Database - Maintain a database of community contacts for representative groups, venues and communication opportunities.

02. Ensure engagement at an appropriate level is built into all key projects and decisions

- 2.1** - Project planning - Implement a process to determine the level of engagement appropriate for each project and the techniques to be used.
- 2.2** - Community engagement coordinator services - Implement a formal internal process for requesting the services of Council's Community Engagement Coordinator, to ensure community engagement work can be prioritised and appropriately resourced.
- 2.3** - Councillor and Committee briefings - Provide information about the tools and techniques used to undertake community engagement so recommendations and/or resolutions are appropriate.

03. Ensure Council staff have the tools they need for effective communication

- 3.1** - Staff training - Ensure Council staff are appropriately trained in community engagement techniques and are informed about community engagement policies and guidelines.
- 3.2** - Council reports - Ensure the 'community engagement' section in the Council Business Paper template is completed for each key decision and project.
- 3.3** - Report on the outcome; Ensure the outcome of each community engagement activity is reported to participants in an appropriate way. This may include individual letters/emails or broad media releases or social media posts as required.

04. Strengthen Council's partnership with the community through effective engagement

- 4.1** - Community engagement database - Create and maintain a database of community engagement activities to ensure valuable information about community engagement projects is collected for future reference.
- 4.2** - Surveys on engagement and communication - Regularly seek feedback from the community on appropriate channels for engagement and communication, and refine activities accordingly.





08/ PARTICIPATION IN PLANNING

Council has a responsibility to deliver the objectives of the *Environmental Planning and Assessment Act 1979 (EP&A Act)* which stipulates mandatory and minimum requirements for community participation in decision making.

Community participation is an overarching term covering how Council engages with the community under the EP&A Act, including strategy development, plan making and making decisions on proposed development.

The level and extent of community participation will vary depending on the location, scope of the proposal under consideration and potential impact of the decision.

Council's discretion over types and levels of engagement is limited to some extent.

Schedule 1 of the EP&A Act identifies minimum requirements for the public exhibition of strategic planning and policy documents, as well as applications submitted to Council for determination. These minimum requirements are set out in **Table 1**.

Local Environmental Plans (ie: rezoning and alternative use) Development Control Plans and Development Contributions Plans must be advertised for a minimum of 28 days and submissions considered. But where relevant, Council will seek to extend this timeframe and also use additional forms of engagement in accordance with this Strategy.

Some Development Applications (DAs) are classified as 'Exempt' or 'Complying' Development, and may be assessed by private Certifiers rather than Council staff. In these cases there can be little or no consultation.

Consultation on other DAs is carried out in accordance with Council's Notification of Development Proposals Policy, and varies according to the scale and expected impacts of each proposal. Typically, these DAs are advertised for at least 14 days and submissions then considered before decisions are made – usually by a senior member of staff acting under delegated authority. However, for a small percentage of applications Councillors may require further public consultation and/or call up the matter to a Council meeting in order to make the decision itself.

Proposals for very large and/or costly developments are determined by the Joint Regional Planning Panel or by the State government. Consultation on these proposals is normally guided by the minimum statutory requirements.

Division 2.6, Section 2.23 of the EP&A Act lists community participation principles which complement the intent of this strategy.

- The community has a right to be informed about planning matters that affect it.
- Planning authorities should encourage effective and on-going partnerships with the community to provide meaningful opportunities for community participation in planning.
- Planning information should be in plain language, easily accessible and in a form that facilitates community participation in planning.
- The community should be given opportunities to participate in strategic planning as early as possible to enable community views to be genuinely considered.
- Community participation should be inclusive and planning authorities should actively seek views that are representative of the community.
- Members of the community who are affected by proposed major development should be consulted by the proponent before an application for planning approval is made.
- Planning decisions should be made in an open and transparent way and the community should be provided with reasons for those decisions (including how community views have been taken into account).
- Community participation methods (and the reasons given for planning decisions) should be appropriate having regard to the significance and likely impact of the proposed development.

Submission process

The method for making a submission and process for managing these is outlined in Council's **Notification of Development Proposals Policy**.

Reporting outcomes

In relation to applications for development consent, and applications for the modification of a development consent which was publicly exhibited, Council will publish details of:

- the land parcel and a description of the proposed development
- the decision and date on which it was made
- the reasons for the decision (having regard to any statutory requirements applying to the decision)
- how community views were taken into account in making the decision.



TABLE 1

PLAN MAKING MANDATORY REQUIREMENTS	(Schedule 1, Part 1, Division 1 (1) of the EP&A Act, 1979)
Draft community participation plans	28 days public exhibition
Draft local strategic planning statements	28 days public exhibition
Planning proposals for local environmental plans subject to a gateway determination	28 days public exhibition or: a) if a different period of public exhibition is specified in the gateway determination for the proposal—the period so specified, or b) if the gateway determination specifies that no public exhibition is required because of the minor nature of the proposal—no public exhibition.
Draft development control plans	28 days public exhibition
Draft contribution plans	28 days public exhibition

DEVELOPMENT ASSESSMENT MANDATORY REQUIREMENTS	(Schedule 1, Part 1, Division 2 (2) of the EP&A Act, 1979)
Application for development consent (other than for complying development certificate, for designated development or for State significant development)	14 days public exhibition or: a) if a different period of public exhibition is specified for the application in the relevant community participation plan—the period so specified, or b) if the relevant community participation plan specifies that no public exhibition is required for the application—no public exhibition.
Application for development consent for designated development	28 days public exhibition
Application for modification of development consent that is required to be publicly exhibited by the regulations	The period (if any) determined by the consent authority in accordance with the relevant community participation plan.
Environmental impact statement obtained under Division 5.1	28 days public exhibition

NOTIFICATION OF DEVELOPMENT PROPOSALS POLICY REQUIREMENTS Development Proposals Notification Policy (14 November 2018)

The instances and terms for provision of Notification are identified within Council's Development Proposals Notification Policy. The Policy also confirms how Council will consider and assess any submissions made in respect of a proposed development.

Any notification made under this Policy provides for fourteen (14) days for written submissions to be received by Council from the date of the notice of proposed development. In the case of advertised development, the advertisement period is 30 days.

Schedule 1 of the Policy identifies the various types of development and notification:

- a) Whether a Notice of Exhibition will be published within a newspaper;
- b) Whether a Notice will be issued to adjoining owners; and
- c) The minimum period for exhibition and submissions

Notes:

1. Clause 17 in Schedule 1 to the Act states that if a particular matter has a different exhibition or notification period that applies under Part 1 of Schedule 1, the longer period applies.
2. Division 3 (18) states a public authority is not required to make available for public inspection any part of an environmental impact statement whose publication would, in the opinion of the public authority, be contrary to the public interest because of its confidential nature or for any other reason.
3. Public exhibition involves a) giving notice to individual landowners, b) setting an appropriate exhibition timeframe, c) advertising the exhibition and how submissions can be made, and d) making documents publicly available.
4. The period between 20 December and 10 January (inclusive) is excluded from the calculation of a period of public exhibition.
5. Submissions relating to applications and other exhibited documents must be made in writing and be lodged with the Council within the period specified in the notice (the exhibition period).
6. View the Development Proposals Notification Policy at www.wsc.nsw.gov.au/policies.

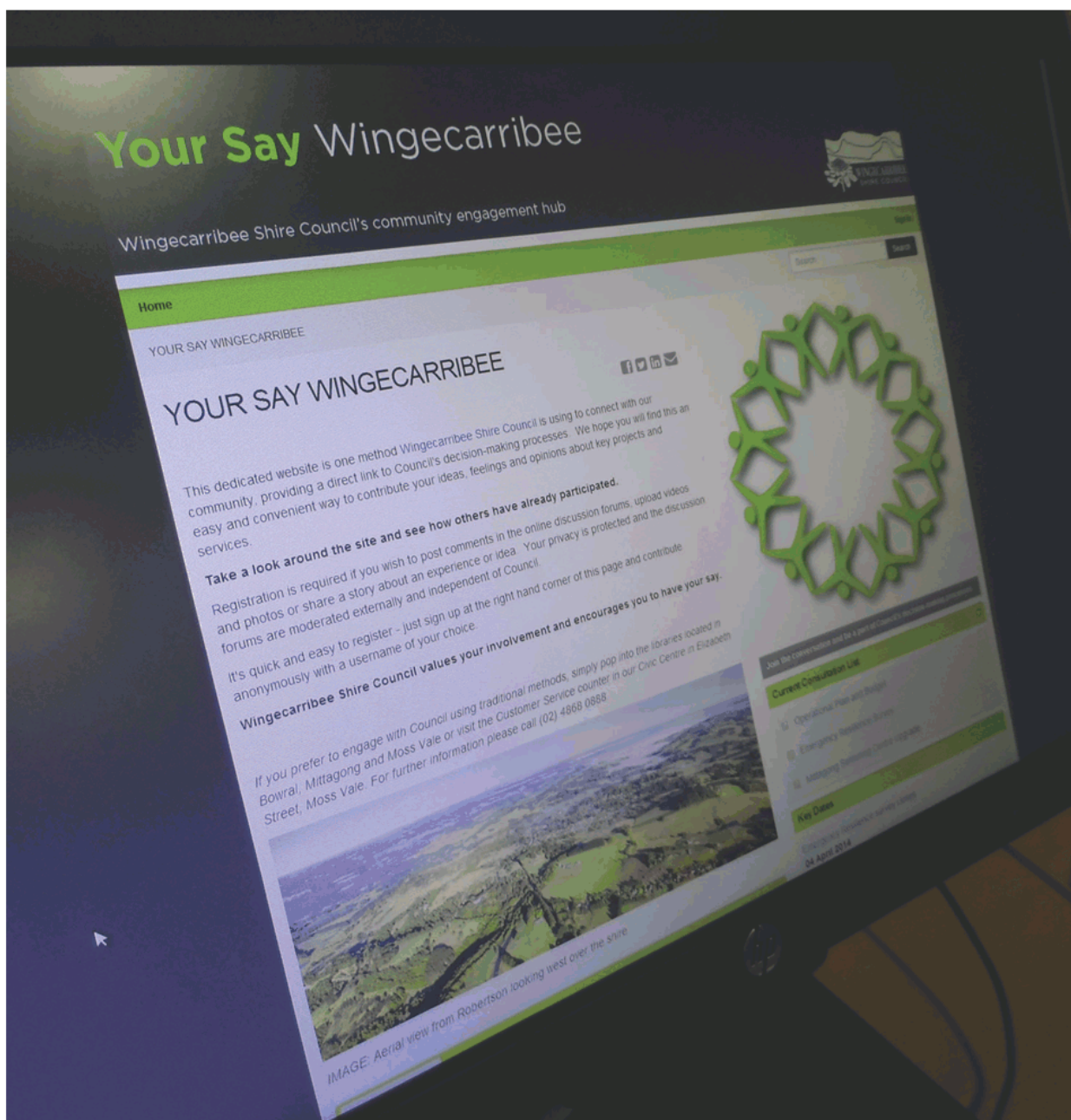


09/ EVALUATION

Along with the Communication Strategy, it is proposed this Strategy is reviewed annually and formally assessed three years after its adoption.

10/ REFERENCES

- Social Justice Principles
- IAP2 Framework
- Wingecarribee Communications Strategy
- Community Strategic Plan
- Community Satisfaction Survey 2017
- Wingecarribee Disability Inclusion Action Plan
- *The Privacy Act 1988*
- NSW Information Commissioner's Charter for Public Participation
- *Crown Land Management Act 2016*
- *Environmental Planning and Assessment Act 1979*





www.wsc.nsw.gov.au



12.6 Request for Financial Assistance from Bikes for Life

Reference:	2155/1
Report Author:	Coordinator Community Development
Authoriser:	Group Manager Corporate and Community
Link to Community Strategic Plan:	Actively foster a spirit of participation and volunteering by addressing key barriers

PURPOSE

The purpose to this report is to seek Council's position on a request from the Bikes 4 Life for financial assistance to assist with transport of recycled bikes overseas.

RECOMMENDATION

THAT Council determines its position with regard to the request for financial assistance from Bikes 4 Life.

REPORT

BACKGROUND

Bikes 4 Life is a not for profit organisation which relies on local volunteers to help restore pushbikes for needy communities. The Southern Highlands Branch of Bikes 4 Life operates from the Council Resource Recovery Centre (RCC) where they are led by the Shire's 2019 Australian Day Citizen of the year, Hans Radowitz.

Bikes 4 Life has requested \$1,000 to assist with costs to transport the refurbished bikes overseas.

Under the Contingency Fund Guidelines adopted 1 July 2018, this application is being viewed as a 'one-off' submission.

REPORT

Since starting in 2010, the Southern Highlands branch of Bikes 4 Life has restored around 2,500 bikes that have been donated. Once repaired the bikes are shipped to disadvantaged communities around the world and to remote Indigenous Australian communities.

The bikes are donated to health care professionals, education workers and school students to assist in covering distances which would normally be covered by foot.

COMMUNICATION AND CONSULTATION

Community Engagement

Nil

Internal Communication and Consultation

Nil

External Communication and Consultation

Nil

SUSTAINABILITY ASSESSMENT

• **Environment**

Bikes 4 Life seeks to recycle and restore discarded bikes to support marginalised and neglected individuals and communities with sustainable transport creating a positive impact on our environment by reducing landfill.

• **Social**

Bikes 4 Life support to communities and individuals provides transport to places of employment and education as well as access to remote sources of food, water, medicine and shelter. Put simply – a bike can change a life.

• **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 current balance in the Contingency Fund budget is \$32,657.

RELATED COUNCIL POLICY

Contingency Fund Guidelines 2018.

OPTIONS

The options available to Council are:

Option 1

Council support the request from Bikes 4 Life for \$1,000 to assist with transporting the bikes funded from the Contingency Fund.

Option 2

Council determine an alternate amount to be funded from Councils Contingency Fund.

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Option 3

Council not support the request.

Submitted for Determination.

ATTACHMENTS

There are no attachments to this report.



12.7 Local Government Election 2020

Reference:	105
Report Author:	A/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

This report recommends that Council resolves to enter into an arrangement with the NSW Electoral Commission (NSWEC) for the administration of the 2020 Local Government Election.

RECOMMENDATION

THAT pursuant to s. 296(2) and (3) of the Local Government Act 1993 (NSW) (“the Act”) Wingecarribee Shire Council (“the Council”) resolves:

1. **THAT** an election arrangement be entered into by contract for the Electoral Commissioner to administer the election of the Council for the 2020 Local Government Elections;
2. **THAT** a council poll arrangement be entered into by contract for the Electoral Commissioner to administer all council polls of the Council (if required); and
3. **THAT** a constitutional referendum arrangement be entered into by contract for the Electoral Commissioner to administer all constitutional referenda of the Council (if required).

REPORT

BACKGROUND

Section 296AA of the *Local Government Act 1993* (the Act) requires councils to plan for the administration of elections, polls and constitutional referenda by resolving to either enter into an arrangement with the NSWEC, by contract or otherwise, or to engage a commercial electoral services provider to administer them.

Under section 296(3) of the Act, councils are normally required to determine at least 18 months before a local government election whether they will engage the NSWEC to administer their election.

However, in February 2019, the NSW Government approved a review by the Independent Pricing and Regulatory Tribunal (IPART) of the costs for the NSWEC of conducting local government elections in NSW. Due to this review, the Act was amended by adding section 296AA(5) to extend the deadline for councils to make a decision on the administration of their election.

As a result, a resolution to engage the NSWEC to administer the 2020 election must be made by no later than 1 October 2019.

REPORT

Review of the 2016/2017 Election

During the Local Government Elections held in 2016 and 2017 (note that elections were split over two years due to council amalgamations), 122 out of 128 councils chose to have the NSWEC administer their election.

The NSWEC's *Report on the 2016 Local Government Elections* notes that the survey feedback from councils resulted in a high degree of satisfaction with 98.15% of respondents in agreement that the elections administered by the NSWEC were conducted impartially and fairly.

In the past, Council has engaged the NSWEC for the administration of its elections. It is noted that, in the experience of Council officers, the 2016 Wingecarribee Shire Council election was conducted effectively by the NSWEC.

IPART review of the costs of conducting local government elections

The purpose of IPART's review was to ensure that a robust methodology for determining costs is applied, in order to minimise the financial burden on councils and ratepayers and to ensure local government elections are conducted efficiently and cost-effectively.

Following IPART's review a draft report was issued for industry comment on 25 June 2019. IPART subsequently issued a final report to the NSW Government on 30 August 2019 which proposed that the NSW Government subsidise council election bills for the 2020 elections. On 18 September 2019, the NSW Government released its response to the IPART report and announced it intended to fund the NSWEC's core costs in relation to the administration of local government elections, thereby reducing councils' election costs.

Under the new funding model, costs will be assigned as either direct or core costs and allocated to councils or the NSW Government accordingly. The funding model will see costs allocated on the following basis:

- Direct (or marginal) costs are the costs that would not be incurred if an election was not held. These will be recovered from councils on a direct allocation and per elector basis. These include election staffing, venues, ballot paper printing, council-specific advertising and voter information products.
- Core costs are defined as head office costs such as staff payroll, training, election security, project management, drafting of election procedures and policies, core IT system development and maintenance and ongoing voter roll maintenance. These are the costs the NSWEC must incur to maintain its capacity to conduct local government elections. The NSW Government will fund these core costs of \$19.9 million.

The NSW Government's funding contribution will result in an indicative weighted average cost per elector of \$8.21, which will be passed onto councils, compared to a weighted average cost per elector of \$12.72 if no Government contribution was provided.

Although at the time of writing this report the NSW Government had not confirmed the exact cost to Council for using the NSWEC to administer the 2020 election under this funding model, Council is best guided by the figures collated in IPART's final report which include the proposed government subsidy of costs recommended by IPART.

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Table 1, below, sets out the indicative costs for the NSWEC to conduct the 2020 election for Council based on the IPART recommendations, exclusive of GST. Table 1 compares:

- (a) the actual bill Council received from the NSWEC for the 2016 election,
- (b) IPART's proposed costs for the NSWEC to administer Council's 2020 election, inclusive of a government subsidy as recommended by IPART.

Table 1

2016 Bill	IPART Proposed Cost	Difference – IPART Proposed Cost vs 2016 Bill	
\$263k	\$294k	+\$31k	+12%

Administration of the 2020 Election

If Council does not resolve to engage the NSWEC by 1 October 2019, it would need to conduct the election by using a commercial electoral services provider. Council staff have investigated the options available to Council. After considering a number of factors including indicative costs and the risk to Council if the election was not to be administered correctly, Council staff do not recommend using a commercial electoral services provider for the following reasons:

- The NSWEC provides no assistance to councils that choose not to use the NSWEC to administer the election.
- If the NSWEC is not used, the electoral services provider is responsible for the administration of the election. However, the ultimate responsibility for the election result rests with Council rather than the NSWEC. There are onerous obligations contained in the Act and its Regulations. A failure to comply with any of the legislative requirements opens the potential for the validity of the election to be called into question.
- Although at the time of writing the NSW Government had not confirmed the exact cost to Council for using the NSWEC to administer the 2020 election under the funding model announced on 18 September 2019, based on IPART's proposed costs it is apparent that engaging the NSWEC would result in significant financial savings compared with using a commercial electoral services provider.

Should Council resolve to enter into an election arrangement with the NSWEC, the contract must be finalised by no later than 1 January 2020.

COMMUNICATION AND CONSULTATION

Community Engagement

Nil.

Internal Communication and Consultation

This report was prepared with input from the Chief Financial Officer.

External Communication and Consultation

Nil.

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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**

Council is required to plan for the administration of the 2020 Wingecarribee Shire Council election in accordance with the *Local Government Act 1993*. This report fulfils this requirement.

If Council supports the recommendation to this report, it is to be noted that the wording of the proposed resolution was provided by the NSWEC.

COUNCIL BUDGET IMPLICATIONS

Council has budgeted \$375,000 for the administration of the 2020 Wingecarribee Shire Council election. Based on the funding model for the 2020 local government elections announced by the NSW Government, this budgeted amount will be sufficient if Council resolves to enter into an arrangement with the NSWEC. However, it would be insufficient to fund all the costs of the election if Council decides not to use the NSWEC and instead engages a commercial electoral services provider.

RELATED COUNCIL POLICY

There are no other related Council policies associated with this report.

OPTIONS

The options available to Council are:

Option 1

Support the recommendation of this report to resolve to enter into an arrangement with the NSWEC for the administration of the 2020 Local Government Election.

Option 2

Not support the recommendation to this report. This would mean that Council must enter into an arrangement with a commercial electoral services provider for the administration of the 2020 Local Government Election.

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

CONCLUSION

It is recommended that Council resolves to enter into an arrangement with the NSWEC to conduct the Wingecarribee Shire Council 2020 election and associated activities as:

- (a) NSWEC is a proven provider of election services and Council has previously been satisfied with its services,
- (b) under the funding model for the 2020 local government elections announced by the NSW Government, the costs of using the NSWEC are within the amount budgeted by Council for the election whereas that budgeted amount is insufficient to cover the costs of using a commercial electoral services provider, and
- (c) there are significant risks for Council in engaging a commercial electoral services provider that are mitigated if the NSWEC is engaged.

In accordance with section 296AA(5) of the Act, Council is required to make a resolution for the NSWEC to administer its 2020 local government election by 1 October 2019, otherwise Council must engage a commercial electoral services provider to administer the election.

ATTACHMENTS

There are no attachments to this report.

Mark Pepping

Deputy General Manager Corporate, Strategy and Development Services

Thursday 19 September 2019



13 GENERAL MANAGER

13.1 Legal Report

Reference: 107/22

Report Author: General Counsel

Authoriser: Group Manager Corporate and Community

Link to Community

Strategic Plan: An enhanced culture of positive leadership, accountability and ethical governance that guides well informed decisions to advance agreed community priorities

PURPOSE

The purpose of this report is to update Council on the status of legal proceedings reported at the ordinary meeting of Council on Wednesday 28 August 2019.

RECOMMENDATION

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

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

This report updates the current status and costs paid during August 2019 for legal proceedings involving Council in the Land and Environment Court, including those matters completed since the last report to Council. It is noted that this is the first legal report of expenditure in the 2019/2020 financial year.

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

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 25 September 2019

REPORT GENERAL MANAGER



REPORT

On 17 April 2013, Council resolved:

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

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

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

Consultants' Fees

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

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

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

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

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

There were consultants' fees for legal proceedings paid in the month August 2019 – refer **Attachment 1**.

CONSULTATION

Community Engagement

Nil

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 25 September 2019

REPORT GENERAL MANAGER



Internal Consultation

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

External Consultation

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

SUSTAINABILITY ASSESSMENT

- **Environment**

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

- **Social**

There are no social issues in relation to this report.

- **Broader Economic Implications**

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

- **Culture**

There are no cultural issues in relation to this report.

- **Governance**

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

COUNCIL BUDGET IMPLICATIONS

There are ongoing legal expenses incurred by Council relating to legal proceedings involving Council and legal advice obtained by Council.

RELATED COUNCIL POLICY

Council's Compliance and Enforcement Policy.

ATTACHMENTS

1. Legal Costs - August 2019

Ann Prendergast
General Manager
Thursday 19 September 2019

Legal Costs – Aug 2019

Attachment 1

Legal Matter	Legal Expenditure	Consultant Expenditure	Legal Expenditure	Consultant Expenditure	Total Expenditure
	Aug-19	Aug-19	Year to Date (YTD)	Year to Date (YTD)	Life to Date (LTD)
Catholic Health Care Pty Ltd Aitken Road Bowral	\$ 975		\$ 975	-	\$ 2,674
K.N.D Nominees Pty Ltd Walker Street Bowral	-	-	-	-	-
Morris Brigadoon Drive Bundanoon	-	-	-	-	\$ 9,506
Reulie Land Co Pty Ltd Myra Vale Road Wildes Meadow	\$ 239		\$ 239	-	\$ 19,138
Lend Lease Retirement Living Holdings Aitken Road Bowral	\$ 909	-	\$ 909	-	\$ 9,217
ERF Hospice Pty Ltd Edward Street Bowral		-	\$ 1,866	-	\$ 11,556
Paloma Blanca Pastoral Pty Ltd Colo Road, Colo Vale	\$ 6,248	-	\$ 6,248	-	\$ 141,751
Strathfield Investments Pty Ltd Alice Street Mittagong	\$ 10,572	-	\$ 10,572	-	\$ 54,181
Shelley Boyce Tyndall Street Mittagong	\$ 2,420	-	\$ 2,420	-	\$ 30,588
Michael Brown Planning Loftus Street Bowral	\$ 11,752	-	\$ 11,752	-	\$ 235,915
Turland Mittagong Road Bowral	-	-	-	-	\$ 201,935
Sett Homes P/L Willow Street, Willow Vale	\$ 1,050	-	\$ 1,050	-	\$ 5,973
Fenwick v Woodside Properties	\$ 2,250		\$ 2,250		\$ 43,664
Total Expenditure	\$ 36,415	-	\$ 38,281	-	\$ 766,098

Note: This report includes proceedings where legal and/or consultancy costs have been incurred in the 2019/20 Financial Year. It is important to note that the figure reported to the Finance Committee on a quarterly basis is projected expenditure for the entire financial year. The figure reported to the Finance Committee also includes non-development related legal expenditure.

Fees Recovered – Aug 2019

Legal Matter	Fees Recovered	Fees Recovered	Fees Recovered
	Aug-19	YTD	LTD
O'Shanassy	\$500	\$1,000	\$14,978
Total Recovery	\$500	\$1,000	\$14,978

Notes:

O'Shanassy - \$93,500 penalty (OSR recovery) plus Council has been awarded by the Supreme Court of NSW a costs order of \$379,000 plus \$4,999.23 being Council's costs in order to undertake the costs assessment.



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16 COMMITTEE REPORTS

16.1 Minutes of the Wingecarribee Floodplain Risk Management Advisory Committee Meeting held on 13 September 2019

Reference: 8100/11
Report Author: Administration Officer (Meetings)
Authoriser: Group Manager Corporate and Community
Link to Delivery Program: Conserve the key natural resources of the Shire water catchments, arable land, key wildlife corridors, vegetation and scenic landscapes

PURPOSE

This report provides the Minutes of the Wingecarribee Floodplain Risk Management Advisory Committee Meeting held on 13 September 2019.

SUMMARY OF RECOMMENDATIONS AND ACTIONS FOR COUNCILLORS' ATTENTION AND ADOPTION

Item 1 Adoption of Previous Minutes

WFRM 3/19

THAT the minutes of the Wingecarribee Floodplain Risk Management Advisory Committee Meeting held on Monday 06 May 2019 MN 1/2019 to MN 2/2019 inclusive, copies of which were forwarded to Councillors, be adopted as a correct record of the proceedings of the meeting.

Item 5 Agenda Reports

WFRM 4/19

THAT the draft report on the review of the Whites Creek Floodplain Risk Management Study and Plan be put on public exhibition for a period of 60 days.

RECOMMENDATION

THAT recommendation Nos WFRM3/19 to WFRM4/19 as detailed in the Minutes of the Wingecarribee Floodplain Risk Management Advisory Committee Meeting held on 13 September 2019 be adopted, save for any items which have budgetary implications **AND THAT** any item with budgetary implications and which is unfunded, be referred to the Finance Committee for consideration.

ATTACHMENTS

1. Minutes Wingecarribee Floodplain Risk Management Advisory Committee 13 September 2019



MINUTES

of the
Wingecarribee Floodplain Risk
Management Advisory Committee
Meeting

held in

Nattai Room

Civic Centre, Elizabeth Street, Moss Vale

on

Friday 13 September 2019

The meeting commenced at 11:30am

File No.

16.1 Minutes of the Wingecarribee Floodplain Risk Management Advisory Committee Meeting held on 13 September 2019

ATTACHMENT 1 Minutes Wingecarribee Floodplain Risk Management Advisory Committee 13 September 2019



MINUTES OF THE WINGECARRIBEE FLOODPLAIN RISK MANAGEMENT ADVISORY COMMITTEE MEETING

Friday 13 September 2019



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

- 5. AGENDA REPORTS3
 - 5.1 Draft report on the review of the Whites Creek Floodplain Risk Management Study and Plan.....3

- 6. CLOSED COMMITTEE4
 - Nil
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- 8. MEETING CLOSURE4

16.1 Minutes of the Wingecarribee Floodplain Risk Management Advisory Committee Meeting held on 13 September 2019

ATTACHMENT 1 Minutes Wingecarribee Floodplain Risk Management Advisory Committee 13 September 2019



MINUTES OF THE WINGECARRIBEE FLOODPLAIN RISK MANAGEMENT ADVISORY COMMITTEE MEETING

Friday 13 September 2019



MINUTES OF THE WINGECARRIBEE FLOODPLAIN RISK MANAGEMENT ADVISORY COMMITTEE MEETING OF WINGECARRIBEE SHIRE COUNCIL HELD IN NATTAI ROOM, CIVIC CENTRE, ELIZABETH STREET, MOSS VALE ON FRIDAY 13 SEPTEMBER 2019 COMMENCING AT 11:30AM.

Present:

Councillors: Clr K Halstead *Chair*
Clr P W Nelson

Community

Representatives: Mr Carl Peterson
Mr Mark Sainsbury
Mr Mark Williams

Agency

Representatives: Mr John Murtagh *NSW Planning, Industry and Environment*

Staff:

Mr Sha Prodhan *Floodplain & Stormwater Engineer*
Mr Tim Day *Coordinator Water, Sewer, Drainage*
Mr Mitchell Cunningham *Senior Development Engineer*
Mr Michael Park *Coordinator Strategic Planning*
Ms Amanda Lawrence *Risk Management officer*
Ms Sarah Oliver *Business Support Officer*

1. WELCOME AND APOLOGIES

There were no apologies for this meeting.

2. ACKNOWLEDGEMENT OF COUNTRY

Clr Halstead acknowledged country:

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

16.1 Minutes of the Wingecarribee Floodplain Risk Management Advisory Committee Meeting held on 13 September 2019

ATTACHMENT 1 Minutes Wingecarribee Floodplain Risk Management Advisory Committee 13 September 2019



MINUTES OF THE WINGECARRIBEE FLOODPLAIN RISK MANAGEMENT ADVISORY COMMITTEE MEETING

Friday 13 September 2019



3. ADOPTION OF MINUTES OF PREVIOUS MEETING

MINUTES OF THE WINGECARRIBEE FLOODPLAIN RISK MANAGEMENT ADVISORY COMMITTEE MEETING HELD ON MONDAY 6 MAY 2019

WFRM 3/19

MOTION moved by Clr P W Nelson and seconded by Mr J Murtagh

THAT the minutes of the Wingecarribee Floodplain Risk Management Advisory Committee Meeting held on Monday 06 May 2019 MN 1/2019 to MN 2/2019 inclusive, copies of which were forwarded to Councillors, be adopted as a correct record of the proceedings of the meeting.

PASSED

4. DECLARATIONS OF INTEREST

<Ref>

Clr P W Nelson declared a less than significant non-pecuniary interest in Item 5.1 Draft report on the review of the Whites Creek Floodplain Risk Management Study and Plan as he owns property in Kirkham Street, Moss Vale. The property is not affected by flooding by Whiter's Creek Floodplan and will remain in the chamber when this matter was discussed and take part in the debate and voting thereon.

16.1 Minutes of the Wingecarribee Floodplain Risk Management Advisory Committee Meeting held on 13 September 2019

ATTACHMENT 1 Minutes Wingecarribee Floodplain Risk Management Advisory Committee 13 September 2019



MINUTES OF THE WINGECARRIBEE FLOODPLAIN RISK MANAGEMENT ADVISORY COMMITTEE MEETING

Friday 13 September 2019



5. AGENDA REPORTS

5.1 Draft report on the review of the Whites Creek Floodplain Risk Management Study and Plan

Reference: 8100/6.1
Report Author: Floodplain and Stormwater Engineer

PURPOSE

The purpose of the report is to present the Draft report on the review of the Whites Creek Floodplain Risk Management Study and Plan before the Wingecarribee Floodplain Risk Management Committee.

For the benefit of the Committee Members, a copy of the draft Reports Executive Summary is provided attached.

Mr David Tetley made a presentation to the meeting.

WFRM 4/19

MOTION moved by Clr K Halstead and seconded by Mr C Peterson

THAT the draft report on the review of the Whites Creek Floodplain Risk Management Study and Plan be put on public exhibition for a period of 60 days.

PASSED

16.1 Minutes of the Wingecarribee Floodplain Risk Management Advisory Committee Meeting held on 13 September 2019

ATTACHMENT 1 Minutes Wingecarribee Floodplain Risk Management Advisory Committee 13 September 2019



MINUTES OF THE WINGECARRIBEE FLOODPLAIN RISK MANAGEMENT ADVISORY COMMITTEE MEETING

Friday 13 September 2019



6. CLOSED COMMITTEE

Nil

7. DATE OF NEXT MEETING

The date of next meeting is to be advised.

8. MEETING CLOSURE

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 12.30 PM

16.2 Minutes of the Arts and Culture Advisory Committee Meeting held on 3 September 2019

Reference:	1680
Report Author:	Administration Officer (Meetings)
Authoriser:	Group Manager Corporate and Community
Link to Community	
Strategic Plan:	Support and promote the creative and cultural sector

PURPOSE

This report provides the Minutes of the Arts and Culture Advisory Committee Meeting held on 3 September 2019.

SUMMARY OF RECOMMENDATIONS AND ACTIONS FOR COUNCILLORS' ATTENTION AND ADOPTION

ACC 20/19

THAT the apology of Clr P Nelson, Clr G Andrews and Mr M Pepping be accepted and leave of absence granted.ACC 11/19

MOTION moved by Mrs M Stapleton and seconded by Mr P Campbell

THAT the minutes of the Arts and Culture Advisory Committee Meeting held on Thursday 4 June 2019 MN AC12/19 to MN AC17/19 inclusive, copies of which were forwarded to the Committee, be adopted as a correct record of the proceedings of the meeting.

ACC 22/19

MOTION moved by Ms K Phelan and seconded by Mr H Hall

THAT the minutes of the Arts and Culture Advisory Committee Meeting held on Thursday 25 July 2019 MN AC18/19 to MN AC19/19 inclusive, copies of which were forwarded to the Committee, be adopted as a correct record of the proceedings of the meeting.

ACC 23/19

THAT in the absence of any formal request for Chalk Art Projects, the Committee judge no action required at this stage.

RECOMMENDATION

THAT recommendations Nos ACC 20/19 to ACC 23/19, as detailed in the minutes of the Arts and Culture Advisory Committee Meeting Meeting held on Thursday 3 September 2019 be adopted, save of any items which have budgetary implications AND THAT any item with budgetary implications and which is unfunded, be referred to the Finance Committee for consideration.

ATTACHMENTS

1. Minutes of the Arts and Culture Advisory Committee Meeting Meeting held on Thursday 3 September 2019



MINUTES

of the Arts and Culture Advisory Committee Meeting

held in

Nattai Room

Civic Centre, Elizabeth Street, Moss Vale

on

Tuesday 3 September 2019

The meeting commenced at 5:00pm

File No. 100/2019

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 25 September 2019

QUESTIONS WITH NOTICE



MINUTES OF THE ARTS AND CULTURE ADVISORY COMMITTEE MEETING

Tuesday 3 September 2019



1. **WELCOME AND APOLOGIES**
2. **ACKNOWLEDGEMENT OF COUNTRY**
3. **ADOPTION OF MINUTES OF PREVIOUS MEETING**
4. **DECLARATIONS OF INTEREST**

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 - 5.2 Art Trail 2020 Curatorium Committee4
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AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 25 September 2019

QUESTIONS WITH NOTICE



MINUTES OF THE ARTS AND CULTURE ADVISORY COMMITTEE MEETING

Tuesday 3 September 2019



MINUTES OF THE ARTS AND CULTURE ADVISORY COMMITTEE MEETING OF WINGECARRIBEE SHIRE COUNCIL HELD IN NATTAI ROOM, CIVIC CENTRE, ELIZABETH STREET, MOSS VALE ON TUESDAY 3 SEPTEMBER 2019 COMMENCING AT 5:00PM.

Present:

Councillors: Clr L A C Whipper *Chair*

Community Representatives: Mr Peter Campbell
Mr Harlan Hall
Mrs Maisy Stapleton
Dr Allan Stiles
Ms Kristie Phelan
Mr Michael Turczynski
Mr Mark Viner

In Attendance: Ms Erin Adams *Cultural Development Officer*
Ms Leesa Stratford *Mayor's PA*

1. WELCOME AND APOLOGIES

It was noted that apologies were received from Clr P Nelson, Clr G Andrews and Mr M Pepping.

ACC 20/19

MOTION moved by Councillor L A C Whipper and seconded by Mr M Turczynski

THAT the apology of Clr P Nelson, Clr G Andrews and Mr M Pepping be accepted and leave of absence granted.

2. ACKNOWLEDGEMENT OF COUNTRY

Clr L Whipper acknowledged country:

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

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 25 September 2019

QUESTIONS WITH NOTICE



MINUTES OF THE ARTS AND CULTURE ADVISORY COMMITTEE MEETING

Tuesday 3 September 2019



3. ADOPTION OF MINUTES OF PREVIOUS MEETING

MINUTES OF THE ARTS AND CULTURE ADVISORY COMMITTEE MEETING HELD ON THURSDAY 4 JUNE 2019

ACC 21/19

MOTION moved by Mrs M Stapleton and seconded by Mr P Campbell

THAT the minutes of the Arts and Culture Advisory Committee Meeting held on Thursday 4 June 2019 MN AC12/19 to MN AC17/19 inclusive, copies of which were forwarded to the Committee, be adopted as a correct record of the proceedings of the meeting.

PASSED

MINUTES OF THE ARTS AND CULTURE ADVISORY COMMITTEE MEETING HELD ON THURSDAY 25 JULY 2019

ACC 22/19

MOTION moved by Ms K Phelan and seconded by Mr H Hall

THAT the minutes of the Arts and Culture Advisory Committee Meeting held on Thursday 25 July 2019 MN AC18/19 to MN AC19/19 inclusive, copies of which were forwarded to the Committee, be adopted as a correct record of the proceedings of the meeting.

PASSED

4. DECLARATIONS OF INTEREST

There were no Declarations of Interest declared at this meeting.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 25 September 2019

QUESTIONS WITH NOTICE



MINUTES OF THE ARTS AND CULTURE ADVISORY COMMITTEE MEETING

Tuesday 3 September 2019



5. AGENDA REPORTS

5.1 Chalk Art in the Southern Highlands

Reference: 1660/1.1
Report Author: Cultural Development Officer

PURPOSE

To determine whether "Chalk Art" is a suitable project to investigate, suggest possible venues and outline a process.

A question has been raised by a Councillor around the process and procedure of "Chalk Art" and Council developing a process, fee structure and the means of advertising to the community.

ACC 23/19

MOTION moved by Mr M Viner and seconded by Mrs M Stapleton

THAT in the absence of any formal request for Chalk Art Projects, the Committee judge no action required at this stage.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 25 September 2019

QUESTIONS WITH NOTICE



MINUTES OF THE ARTS AND CULTURE ADVISORY COMMITTEE MEETING

Tuesday 3 September 2019



5.2 Art Trail 2020 Curatorium Committee

Reference: 1660/1.1
Report Author: Cultural Development Officer

PURPOSE

To select members of the Arts and Culture Committee that will make up the 2020 Art Trail Curatorium.

ACC 24/19

MOTION moved by Councillor L A C Whipper and seconded by Mr M Turczynski

THAT the following Arts and Culture Advisory Committee members be appointed to the Curatorium Sub-Committee;

Ms M Stapleton

Ms K Phelan

Mr P Campbell

Mr M Viner

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 25 September 2019

QUESTIONS WITH NOTICE



MINUTES OF THE ARTS AND CULTURE ADVISORY COMMITTEE MEETING

Tuesday 3 September 2019



5.3 Update on Arts and Culture Projects

Reference: 1660
Report Author: Cultural Development Officer

PURPOSE

To update the Arts and Culture Committee on current projects as part of the Arts and Culture Strategic Plan.

- Future of the Foyer Gallery
- Mayoral Schools Cabinet
- SHAF website

ACC 25/19

MOTION moved by Mr M Turczynski and seconded by Mrs M Stapleton

1. **THAT** the verbal report presented by Culture Development Officer, Ms Erin Adams, on the current status of Arts and Culture Projects be noted.
2. **THAT** the Committee acknowledge and thank Mr Peter Campbell for his presentation and work to date on the SHAF Website.

PASSED

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 25 September 2019

QUESTIONS WITH NOTICE



MINUTES OF THE ARTS AND CULTURE ADVISORY COMMITTEE MEETING

Tuesday 3 September 2019



5.4 2019 Southern Highlands Art Trail

Reference: 1660
Report Author: Cultural Development Officer

PURPOSE

To provide an update on the 2019 Art Trail:

- Art Trail Website Update
- Marketing Plan 2019
- Insurance 2019
- 2019 Opening Night

ACC 26/19

MOTION moved by Mr M Viner and seconded by Mr P Campbell

THAT the 2019 Southern Highlands Art Trail Update report be noted.

PASSED

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 25 September 2019

QUESTIONS WITH NOTICE



MINUTES OF THE ARTS AND CULTURE ADVISORY COMMITTEE MEETING

Tuesday 3 September 2019



6. DATE OF NEXT MEETING

The next meeting will be held on Tuesday 3 December 2019 in Nattai Room
Civic Centre, Elizabeth Street, Moss Vale commencing at 5:00pm.

7. MEETING CLOSURE

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 6.05 PM

In accordance with the provisions of Section 375(2) of the Local Government Act, these Minutes of the Meeting held Tuesday 3 September 2019 numbered M/N AC20/19 to M/N AC26/19 were signed by me hereunder at the Council Meeting held on Tuesday 3 December 2019.



17 QUESTIONS WITH NOTICE

17.1 Question with Notice 19/2019 - Farm Aid

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: General Manager
From: Clr Whipper
Received: 13 September 2019

Subject: Farm Aid

Question:

I forwarded an email through to yourself on 9 July 2019. This email requested an information session in relation to the hardship being faced by local farmers. I stated that in my line of work, I had observed not only financial and social stress but also psychological stress. I flagged the opportunity to invite the Rural Adversity Coordinator from the Local Health District to provide support for local farmers. I also stated that I had met with a representative of the local dairy farmers.

It has now been two months since I made that request and also requested local farmer representatives also attend the session for Council to consider what (if any) supports, we could provide, including advocacy.

Can I and my fellow Councillors now please have a scheduled meeting date.

Response:

That an information session be scheduled.

RECOMMENDATION

THAT the information in relation to Question with Notice 19/2019 – Farm Aid - be noted.

18 NOTICES OF MOTION

18.1 Notice of Rescission of Motion 6/2019 - Climate Change

Reference:	100/5
Report Author:	Administration Officer (Meetings)
Authoriser:	Group Manager Corporate and Community
Link to Community	
Strategic Plan:	An enhanced culture of positive leadership, accountability and ethical governance that guides well informed decisions to advance agreed community priorities

PURPOSE

Councillors Turland, Whipper and Halstead have given notice that it is their intention to move at the Ordinary Meeting of Council on 25 September 2019 the following resolution from the Ordinary Meeting of Council held on 11 September 2019 be rescinded:

THAT an information session be held with all councillors and delivered by staff addressing the actions currently being undertaken which addresses the issues as identified in the Notice of Motion 35/2019 regarding climate change.

Recommendation:

THAT the motion passed by Council on 11/9/19, being Item Number 18.1 Notice of Motion Climate Change MN446/19, be rescinded.

RECOMMENDATION

Submitted for determination.

Should the above motion of rescission be carried, we hereby give notice of our intention to move the following motion:

1. *THAT Council acknowledge the increased likelihood of bushfires, severe storms, drought and floods and the resultant effect on residents and council's operational budget particularly in relation to water supply and bushfire control.*
2. *THAT Council make a formal declaration of Climate Change Emergency, and an information session be held followed by a report to Council which considers how Council's plans, policies and works programs can address the climate emergency and ensure this is embedded into future Council strategic plans.*
3. *THAT Council take steps to develop a Shire-wide Community Climate Emergency Plan.*
4. *THAT Council examine how our community strategic plan, works program and planning documents may be able to address the climate emergency, and investigate the options available to Council to put this emergency declaration into operation.*

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 25 September 2019

NOTICES OF MOTION



-
5. *THAT Council write to Federal and State politicians expressing our concerns in relation to the social, environmental and financial impacts of Climate Change.*



19. CLOSED COUNCIL

MOVING INTO CLOSED SESSION

Section 10A of the *Local Government Act 1993*, empowers Council and Committees of which all the members are Councillors to close a part of a meeting in certain circumstances in accordance with the requirements of the Act, and relevant Regulations and Guidelines.

Subject to the provisions of Section 10 of the Act, so much of a meeting may be closed as comprises certain information as outlined in Section 10A(2).

However, the Act also contains the following provisions qualifying the use of Section 10A(2).

Section 10B

1. *[Time spent closed to be minimised] A meeting is not to remain closed during the discussion of anything referred to in section 10A(2):*
 - a. *Except for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security, and*
 - b. *If the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret-unless the council or committee concerned is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.*
2. *[Qualification of 10A(2)(g)] A meeting is not to be closed during the receipt and consideration of information or advice referred to in section 10A(2)(g) unless the advice concerns legal matters that:*
 - a. *are substantial issues relating to a matter in which the council or committee is involved, and*
 - b. *are clearly identified in the advice, and*
 - d. *are fully discussed in that advice.*
3. *[Qualification of 10A(3)] If a meeting is closed during the discussion of a motion to close another part of the meeting to the public (as referred to in section 10A(3)), the consideration of the motion must not include any consideration of the matter or information to be discussed in that other part of the meeting (other than consideration of whether the matter concerned is a matter referred to in section 10A(2)).*
4. *[Irrelevant matters] For the purpose of determining whether the discussion of a matter in an open meeting would be contrary to the public interest, it is irrelevant that:*
 - a. *a person may misinterpret or misunderstand the discussion, or*
 - b. *the discussion of the matter may:*
 - (i) *cause embarrassment to the council or committee concerned, or to Councillors or to employees of the council, or*
 - (ii) *cause a loss of confidence in the council or committee.*

Attention is also drawn to provisions contained in Part 15 of Council's Code of Meeting Practice.

Section 10B(5) of the Act requires that council have regard to these guidelines when considering resolving into Closed Session.



RECOMMENDATION

1. **THAT Council moves into Closed Council in accordance with the requirements of Section 10A(2) of the *Local Government Act 1993* as addressed below to consider the following reports that are confidential for the reasons specified below:**

19.1 Legal Report - Closed Council

Relevant Legal Provisions

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

Brief description

The purpose of this report is to update Council on the status of legal proceedings reported to Council at the meeting of 28 August 2019.

2. **THAT the minutes of the Closed Council part of the meeting (being the Council's resolution) be made public.**

Ann Prendergast
General Manager

Thursday 19 September 2019