

21 November 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 27 November 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, 27 November 2019 at 3.30pm.

Time	Item
3.30pm	<b>Opening of the Meeting</b> – please remind all present that mobile phones must be switched off before the meeting and that the meeting is tape recorded <b>AND that the Council Chamber now has 24 hour Video Surveillance.</b>
	<b>Acknowledgement of Country – Cllr McLaughlin</b>
3.32pm	<b>Opening Prayer – Pastor Paul Crossman, Highlands Christian Church</b>
3.35pm	<ul style="list-style-type: none"><li>• <b>Apologies</b> (<i>if any</i>)</li><li>• <b>Adoption of Previous Minutes</b></li><li>• <b>Declarations of Interest</b> (<i>if any</i>)</li><li>• <b>Mayoral Minute</b> (<i>if any</i>)</li><li>• <b>Public Forum</b> (<i>if any</i>)</li><li>• <b>Visitor Item</b> (<i>if any</i>)</li><li>• <b>Council Reports</b></li></ul>
5.30pm	<b>Questions with Notice</b> <b>Notices of Motion</b>
7.40pm	<b>Closed Council</b>
8.00pm	<b>Meeting Closed</b>

Ann Prendergast  
**General Manager**

## Business

### 1. OPENING OF THE MEETING

### 2. ACKNOWLEDGEMENT OF COUNTRY

### 3. PRAYER

### 4. APOLOGIES

Leave of absence for this meeting was previously granted to Councillor G Markwart.

### 5. ADOPTION OF MINUTES OF PREVIOUS MEETING

Ordinary Meeting of Council held on 13 November 2019

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<b>15.</b>	<b>PETITIONS</b>	
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19.2	Tender for Customer Relationship Management and Workflow Management Systems <i>This report is referred to Closed Committee in accordance with s10A(2) of the Local Government Act, 1993, under clause 10A(2)d(i) as it contains commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it and the Council considers that it would be on balance contrary to the public interest to consider this information in Open Council.</i>	
19.3	Legal Report - Closed Council <i>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.</i>	

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## **AGENDA FOR THE ORDINARY MEETING OF COUNCIL**

Wednesday 27 November 2019



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### **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

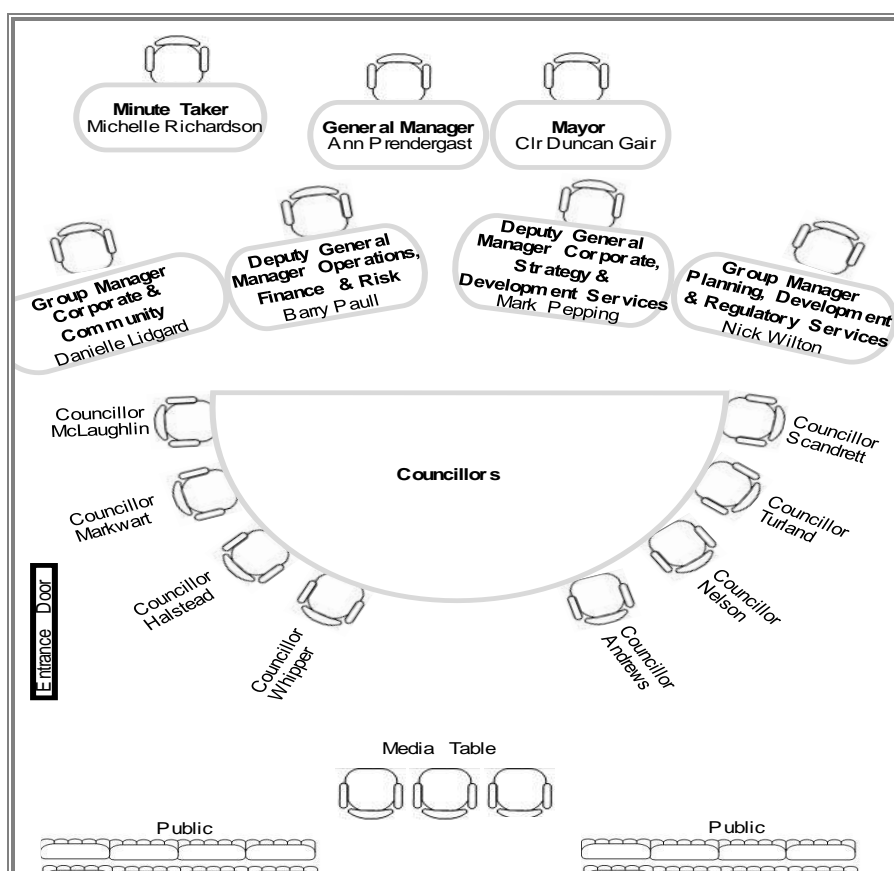
## Council Chambers

### 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.



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## ACKNOWLEDGEMENT OF COUNTRY

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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.

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## APOLOGIES

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Nil at time of print.

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## DECLARATIONS OF INTEREST

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101/3, 101/3.1

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

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

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

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



## 7 MAYORAL MINUTES

### 7.1 2019 Local Government NSW Conference

Reference: 101/7, 600/8, 204/2019

Report Author: Mayor T D Gair

Authoriser:

Link to Community

Strategic Plan:

#### PURPOSE

The purpose of this report is to brief Council on the outcomes of the Local Government NSW Annual Conference from Monday 14 to Wednesday 16 October 2019 at the William Inglis Hotel, Warwick Farm.

#### RECOMMENDATION

**THAT the report on the Local Government NSW Annual Conference held at the William Inglis Hotel, Warwick Farm from 14-16 October 2019 be received and noted.**

#### REPORT

##### **BACKGROUND**

At the Ordinary meeting of Council held on Wednesday 26 June 2019, Council resolved;

1. **THAT** Council confirms three (3) delegates will be authorised to attend the Local Government NSW Annual Conference to be held at The William Inglis Hotel, Warwick Farm from Monday 14 October to Wednesday 16 October 2019.
2. **THAT** the following delegates are nominated to attend the 2019 Local Government NSW Annual Conference:
  - a. Mayor of the Day
  - b. Cllr G Andrews
  - c. Cllr G McLaughlin
  - d. Cllr K Halstead (alternate delegate)
3. **THAT** the General Manager, or delegate, be authorised to attend the Local Government NSW Annual Conference as an observer.
4. **THAT** Councillors forward their proposed motions, with accompanying notes to the Mayor for consideration prior to Friday 26 July 2019.
5. **THAT** a report regarding the proposed motions be presented for consideration to the Ordinary Council Meeting of 14 August 2019 AND **THAT** the Mayor submit any proposed motions to the conference organisers by Monday, 19 August 2019.

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 November 2019

### MAYORAL MINUTES



### REPORT

Councillors Graham McLaughlin, Grahame Andrews and I attended the Conference on behalf of Wingecarribee Shire; Deputy General Manager Corporate and Strategy Mark Pepping also attended as an observer.

Wingecarribee Shire Council is allocated three (3) voting positions and each Councillor attended the Conference sessions to vote 127 motions as submitted by Councils from across New South Wales.

The following two (2) motions submitted by Wingecarribee Shire were debated at the conference.

1. *THAT the NSW Government undertake an urgent holistic review of the Developer Contributions system in NSW, with the aim of reducing the financial burden placed on Councils in providing infrastructure to support population growth and / or the changing needs of communities throughout NSW.*
2. a) *THAT the NSW Government reviews the methodology used when determining the level of funding distributed to councils and that councils be invited to be part of the review process.*  
b) *THAT the NSW Government considers an annual allocation of funding to all councils across the State to reduce the complexity of funding programs and that this annual allocation should take into consideration the size, population and infrastructure requirements of each council.*

Motion one (1) was fully supported by the majority of delegates present and the second motion was passed with the following amendment;

#### *THAT the NSW Government:*

2. a) *reviews the methodology used when determining the level of funding distributed to councils and that councils be invited to be part of the review process.*  
b) *give consideration of allocations of funding to council on an as needs basis.*  
c) *consider reducing the complexity of funding program application processes.*

Local Government NSW will now lobby the appropriate State and Federal Representatives on behalf of Local Councils to seek a positive outcome to the recommendations. It will be interesting to see if the State Government acknowledges the requests. Until this time councils will have to submit grant funding applications with no certainty of approval.

Most of the motions presented to the conference related to waste, water, roads and climate change issues. It is also noted that there was acknowledgement of the input from Local Government and LGNSW regarding the State Government announcement to increase the level of funding libraries across the state. Further information will be provided via a Mayoral Minute to the Ordinary Meeting of Council, to be held 11 December 2019.

Clr Duncan Gair  
**MAYOR**

### ATTACHMENTS

There are no attachments to this report.

## 9 VISITOR MATTERS

### OPERATIONS FINANCE AND RISK

#### 9.1 Seymour Park 2019 Draft Masterplan

Reference:	6546/20
Report Author:	Asset Planner - Parks and Buildings
Authoriser:	Asset Coordinator Parks and Buildings
Link to Community	
Strategic Plan:	Increase promotion of healthy lifestyle choices

#### PURPOSE

The purpose of the report is to seek Council approval for the Seymour Park 2019 Draft Masterplan to be placed on public exhibition with the community to be invited to provide feedback and comments.

#### RECOMMENDATION

1. **THAT** the Seymour Park 2019 Draft Masterplan be placed on public exhibition for a period of fifty-four (54) days.
2. **THAT** the final Seymour Park Masterplan incorporating community submissions be submitted to Council for adoption following the public exhibition.

#### REPORT

##### **BACKGROUND**

The Seymour Park Draft Plan of Management was prepared in 2011 and included a Masterplan (refer Attachment 1). The 2011 Masterplan was prepared in consultation with the community at the time and included improvements to the popular off leash dog area at Seymour Park.

Since 2011, Council has developed and adopted the Parks Strategy 2016 and the Public Toilet Strategy 2017. In addition, the NSW Government has developed the 2019 Everyone Can Play guidelines to assist with designing more inclusive play spaces for children and their carers of all abilities. The Seymour Park 2019 Draft Masterplan has been designed in accordance with the three aforementioned guiding documents.

##### **REPORT**

In 2016 consultants assessed the existing playground at Seymour Park as 23 years old and having a limited remaining life. The replacement of the playground is programmed in Council's 2019/20 Capital Works Program.

During the scoping of the playground project, Council's Assets Team decided to undertake a review of the existing Masterplan and engaged landscape architects to develop a Masterplan to align with Council's Parks Strategy 2016, Public Toilet Strategy 2017 and the NSW Government's 2019 Everyone Can Play guidelines.

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 November 2019

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



The existing amenities block is located behind a hedge within the off leash dog area and does not comply with the Public Toilet Strategy in terms of visibility, passive surveillance and easy access. The Seymour Park 2019 Draft Masterplan includes a new accessible amenities block located adjacent to the playground and accessible from the Spencer Street car park. The new proposed location promotes visibility of the Public Toilet facility and improves safety.

The Seymour Park 2019 Draft Masterplan (Attachments 2 & 3) contains a new inclusive play space located off Spencer Street, formalising of the existing car parking area, two accessible parking spaces, a new playground, nature play area, picnic tables, new amenities building with one accessible and one ambulant cubicle, the removal of the existing playground, demolition of existing amenities block and expansion of the off leash dog area. These park improvements are in line with Council's Parks Strategy 2016 meeting the criteria for a Community Park Level of Service 2.

During the development of the Masterplan three options were considered:

**Option 1** considered locating the playground and amenities building on the Lovelle Street side of the park. Whilst the existing playground is located on Lovelle Street, this location for the public toilet was not as visible from Spencer Street, which is the main access road. In addition, upon investigation it was determined that the existing sewer levels were too low to achieve a suitable connection.

**Option 2** considered locating the playground and amenities building on the Spencer Street side of the park. The playground was on the western side with the amenities to the east to provide shared access between the playground users and the off leash dog area users. Whilst this option offered a lot of positives, the location of the amenities block was screened by trees that would need to be regularly uplifted. It was felt that this option did not comply adequately with Council's Public Toilet Strategy 2017.

**Option 3** also considered locating the playground and the amenities building on the Spencer Street side of the park. However, this option saw the playground located centrally with the amenities block located to the west. This option is the preferred option as both assets are clearly visible from Spencer Street and offer better lines of sight between the playground and the amenities building as identified in Council's Parks Strategy 2016 and the Public Toilet Strategy 2017. Option 3 also complies with the NSW Government's 2019 Everyone Can Play guidelines by offering an inclusive play space with accessible paths linking the parking, amenities and playground. This addresses the key criteria of "Can I Get There", "Can I Play" and "Can I Stay" to a degree appropriate for a Community Park Level of Service 2.

The park has been designed to cater for the growing population of Moss Vale, whilst remaining a Level of Service 2 park. It is envisaged that an adventure style playground will be included the Chelsea Gardens development which is in near proximity to Seymour Park.

Whilst the playground upgrade is proposed for 2019/20 and the amenities upgrade for 2025/26, the Masterplan is a visionary document and unless grant funding is successfully obtained, some aspects of the Masterplan will be considered as visionary, long-term projects.

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## COMMUNICATION AND CONSULTATION

### Community Engagement

Community engagement was undertaken in 2011 during the exhibition of the Seymour Park Draft Plan of Management and Masterplan. The 2019 Draft Masterplan will be publicly

exhibited for 54 days to allow for further comments from the community. Typically the public exhibition period would be 28 days, however, in light of the exhibition period being over the December holiday period, an extended exhibition is recommended to provide the community ample opportunity to provide feedback.

#### **Internal Communication and Consultation**

Consultation has occurred with internal stakeholders including Council's Traffic & Transport Planning Engineer, Infrastructure Services - Parks & Open Space Team, Water & Sewer and the Assets Team.

Council's Access Committee will be consulted during the exhibition period.

#### **External Communication and Consultation**

Following approval from Council the Seymour Park 2019 Draft Masterplan will be placed on public exhibition for a period of 55 days and members of the public will be invited to provide feedback. The exhibition period has been extended to allow for comments over the December/January holiday period and will close on 24 January 2020. A report will be brought to Council on 26 February 2020.

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### **SUSTAINABILITY ASSESSMENT**

- **Environment**

The Seymour Park Masterplan, when adopted, will provide a consistent management framework to enhance the sustainable future of Council's public recreation assets. •

- **Social**

The inclusion of all-abilities play equipment, appropriate parking and access paths will enhance the social aspects of the park for the community. The Masterplan has been designed to ensure that all visitors to the park can access the amenities, the playground and the parking area via safe pathways that meet Australian Standards. The inclusion of all abilities play equipment and nature play aspects meet the Everyone Can Play guidelines and will ensure that Wingecarribee Shire is moving in step with the NSW Government's best practice recommendations. • **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.

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### **COUNCIL BUDGET IMPLICATIONS**

There is a construction budget for the Playground of \$205,900 in the 2019/20 Capital Works Program and \$300,000 is allocated in the long term financial plan for the replacement of the amenities block.

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 November 2019

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



Council intends to apply for grant funding via the Everyone Can Play Grant closing in December 2019 with the hope of obtaining funding to complete the playground, associated infrastructure, as well as the amenities block in 2020/21.

Should the grant application be unsuccessful, the capital program will proceed in the stages planned, being playground works in 2019/20 and public toilet works in 2025/26.

#### RELATED COUNCIL POLICY

- Asset Management Policy

#### OPTIONS

The options available to Council are:

##### Option 1

**THAT** Council endorse the Seymour Park 2019 Draft Masterplan for public exhibition.

##### Option 2

**THAT** Council does not endorse the Seymour Park 2019 Draft Masterplan for public exhibition.

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

#### CONCLUSION

Placing the Seymour Park 2019 Draft Masterplan on public exhibition and providing further opportunity for community feedback will enable the finalised Masterplan to be submitted to Council for adoption and for the playground and amenities upgrade to be undertaken, subject to successful grant application or as funding becomes available.

#### ATTACHMENTS

1. Attachment 1 - 2011 Seymour Park Masterplan
2. Attachment 2 - Seymour Park 2019 Draft Masterplan Prelude
3. Attachment 3 - Seymour Park 2019 Draft Masterplan

**AGENDA FOR THE ORDINARY MEETING OF COUNCIL**

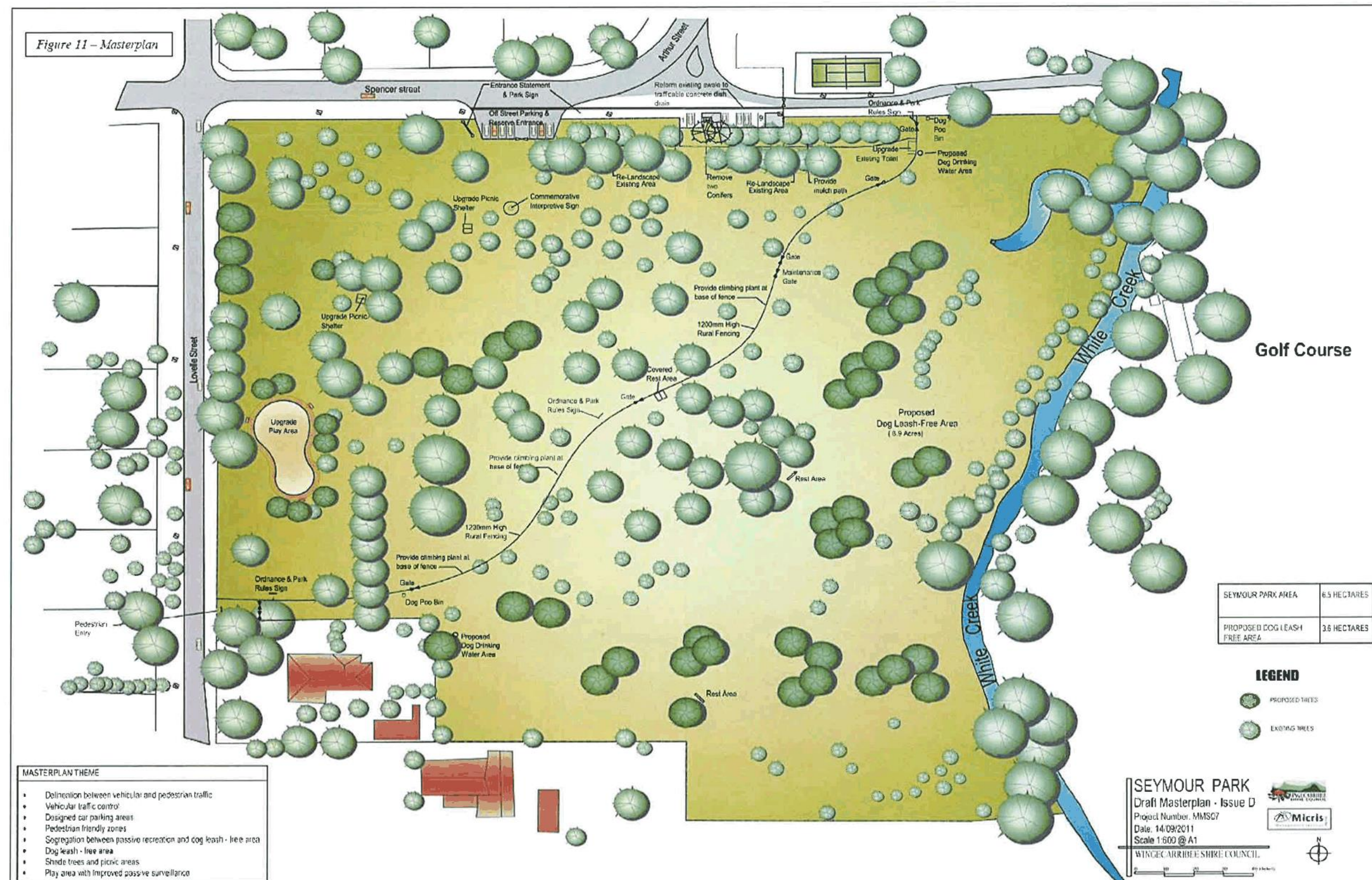
Wednesday 27 November 2019

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



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# SEYMOUR PARK MOSS VALE 2019 DRAFT MASTERPLAN





## **SEYMOUR PARK, MOSS VALE Proposed Draft Masterplan**

**COUNCIL MEETING  
Wednesday 27th November 2019**

### **BACKGROUND**

Seymour Park is located towards the southern end of Moss Vale and is the focal point for passive recreation for the area. The park and surrounding areas is known for its well-established ornamental trees, expansive off-leash dog area and large open space. Seymour Park is identified as a Service Level 2 Park in Council's 2016 Parks Strategy.

Due to the vast area of land within the park, a variety of passive activities can be developed without compromising the environmental and recreational values. The park provides an opportunity to develop a significant local recreational resource.

Seymour Park is significant due to:

- The location within the township of Moss Vale;
- The area of the park is greater than 5 hectares;
- It provides a suitable environment for an off-leash dog exercise area;
- It offers visitors a pleasant atmosphere for passive recreation;
- It is a popular location for family picnics;
- It is a popular and suitable venue for community gatherings.

### **MASTERPLAN DEVELOPMENT**

Landscape Architects were engaged to prepare a landscape masterplan for Seymour Park, Moss Vale. This plan was developed to accompany the Plan of Management for the Park

The project brief was to develop a masterplan for the park incorporating upgraded park facilities. The proposed upgrades include an accessible amenities building, a playground with all abilities play options and associated accessible infrastructure, including parking and pathways. The masterplan locates these proposed works along with the existing site elements and is in accordance with Wingecarribee Shire Council's Parks Strategy 2016 and Public Toilet Strategy 2017.

The playground has been designed to align with the NSW Government's Everyone Can Play guidelines. In a design suited to a range of ages and abilities, the plan incorporates nature play, informal play, traditional play equipment, a loop path and a variety of seating options.



The works indicated on the masterplan are designed to meet Council's proposed budget and the project staging. Stage 1 works include the all abilities playground, upgraded parking and connecting paths, with a budget of \$205,000. Stage 2 works include the accessible amenities block, accessible parking and associated pathways, with a budget of \$300,000 (year 2025-26).

The following project stages were undertaken during development of the masterplan:

- Project inception and site inspection
- Site analysis
- Concept option development and review by Council staff
- Amenities location options and connections to existing sewer location
- Workshop with Council staff to discuss the options
- Design development and concept review by Council staff
- Masterplan

## SITE ANALYSIS

The site analysis identified the existing site slope, suitable parking locations and the existing trees as factors limiting the selection of a suitable location for the playground, parking and amenities.

To provide accessible play, parking, amenities and pathway connections, the existing park grades are the most challenging feature, when a limited budget is considered. There are relatively few level areas which allow for accessible facilities, without the need for regrading works.

## Issues summary

### Location of accessible facilities on sloping site

- Budget restricts the ability to regrade sloping site
- Accessible paths require slopes less than 1:20
- Existing site grade / slope typically steeper than 1:15 to majority of park
- Accessible facilities require level areas, steeper slopes require regrading
- Provision of accessible links between facilities, need to consider slope and distance
- Accessibility of links between elements is limited by slope

### Proposed accessible parking location

- Proximity of parking to play and amenities
- Level area needed for parking and access paths
- Links required from parking to other accessible facilities, play and amenities
- Potential parking locations impacted by traffic, slope, existing drainage and existing maintenance access to golf course
- Traffic impacts from future development
- Future increase of traffic on Spencer Street
- Likely to be a roundabout installed on the corner of Lovelle Street and Spencer Street

**Amenities location**

- Existing sewer location
- Length of connection required and impact of excavation on trees
- Accessible links to other facilities and parking
- Passive surveillance
- Serviceability and maintenance access

**Existing trees and root zones**

- Retain and protect existing trees
- Tree locations restrict available site locations
- Extent of root zones, limit regrading and services connections locations

**Allow for passive surveillance**

- Select location to maximise passive surveillance
- Consider views into site
- Trees restrict views
- Allow views between facilities and activities

**Budget**

- Proposed works to be within budget
- Budget limits size of proposed works
- Budget restricts playground size, length of path connections, regrading, parking development and sewer and services connections.

**POTENTIAL LOCATIONS**

Three potential locations were identified as being suited to the development of an accessible play area with access to amenities and parking. The opportunities and constraints of each location were assessed and discussed with staff.

Option 3, close to the dog park and existing amenities was ruled out due to limited passive surveillance and potential conflicts with the proximity to the off-leash area. The two remaining options were explored more fully.

Location option 1, off Lovelle Street and option 2 at Spencer Street, were then further developed, with an outline of the benefits of each site prepared for Council staff. After staff feedback and discussions at a workshop with Council staff, the Spencer Street site was determined to be the preferred option for development of the accessible facilities. Lovelle Street, being steeper, less connected to the other park areas, requiring new parking and with difficult sewer connection was not developed any further.





## SELECTED SITE – SPENCER STREET

- Close to the existing access points and visible from Spencer Street
- Utilises existing parking area, upgrading to accessible should be more cost effective than a new parking area
- Potential to expand parking along street or towards golf course
- Views into the park can be improved with selective under-pruning or removal of trees.
- Off-leash users and dogs can bypass the playground
- Easily links to existing picnic facilities
- Amenities building close to parking and play for maximum usability for existing and proposed activities
- Accessible path grades achievable between facilities
- Path link shared by multiple users, picnic, play, amenities, off-leash
- Link to the open grass for informal games or area for potential future improvements
- Utilise existing trees for shade and play
- Large level areas suited to playground and informal games
- Provide flexibility for future expansion of the playground, picnic zone etc.
- Off-leash users of the amenities will need to leave dogs at 'hitching post' outside the 10m playground exclusion zone
- Location closer to busier street. Spencer Street busier than Lovelle
- Sewer connection, can be located to limit damage to tree roots

## MASTERPLAN DEVELOPMENT

A linework masterplan was developed for the selected site off Spencer Street. This plan was reviewed by Council staff and amended to reflect their comments. The masterplan and staging plans, as attached, were then prepared.



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NOTES

- 1. NEW PLAYGROUND: located on flatter section of the park, close to accessible parking and future amenities location.
- 2. EXISTING PLAYGROUND: to be removed once new play area is completed. Area to be incorporated into off-leash area.
- 3. ACCESSIBLE PARKING: Upgrade to existing parking area to provide accessible spaces close to proposed playground and amenities.
- 4. PARKING UPGRADES: Potential future upgrade to parking along Spencer Street
- 5. ROAD UPGRADES: Potential upgrades to provide kerb and gutter to Lovelle and Spencer Streets
- 6. LOVELLE STREET: Potential upgrades to Lovelle Street, including kerb and gutter, on-street parking, accessible parking and turning circle at end of street.
- 7. OFF-STREET PARKING: Potential for off-street parking area for park users and off-leash area. Retain existing maintenance access to golf course.
- 8. ENTRY: Accessible entry from carpark, links to playground and amenities.
- 9. AMENITIES: New accessible amenities. Stage 2 works
- 10. PICNIC AREA: Upgrade existing picnic settings and shelters, with additional accessible setting located at playground.
- 11. SEATING: Formal and informal seating for park users, with additional seats, stools and picnic settings complemented with informal seating on boulders and logs
- 12. SITE FURNITURE: New and upgraded bins, drinking fountain with bottle tap and hitching post.
- 13. EXISTING MAINTENANCE ACCESS: Relocated to Lovelle Street.
- 14. MAINTENANCE ACCESS: New access gate for maintenance.
- 15. OFF-LEASH AREA: Retain existing off-leash area including, entries and seating. Widen entry zone off Lovelle Street and provide additional seat. Retain or upgrade water bowl at northern entry, add water bowl to upper park.
- 16. NEW FENCE: New fence to expanded off-leash entry zone.
- 17. EXISTING FENCE: To be relocated to expanded off-leash area
- 18. EXISTING AMENITIES: To be demolished once new amenities building is installed. Water retained to allow for drinking fountain and dog

PROJECT  
**SEYMOUR PARK MASTERPLAN**

CLIENT  
**WINGECARRIBEE SHIRE COUNCIL**

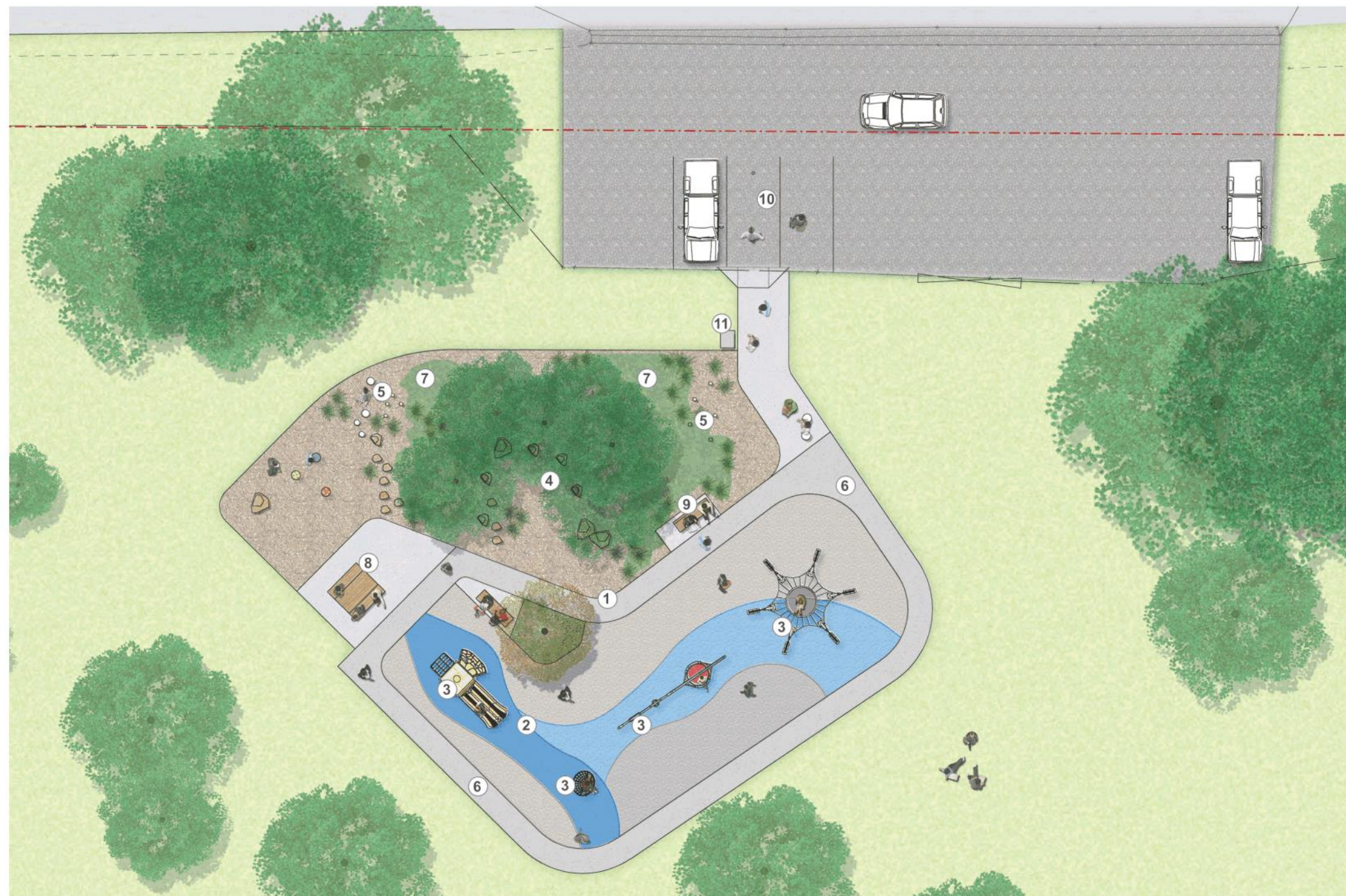
DRAWING  
**MASTERPLAN**

DRAWING No.	ISSUE	DRAWN	DATE
MP-1923-01	C	wl/hp	14.11.2019

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THIS DRAWING SHOULD BE READ IN CONJUNCTION WITH ALL RELEVANT CONTRACTS, SPECIFICATIONS, REPORTS AND DRAWINGS.





## NOTES

1. ACCESSIBLE PLAYGROUND: New playground with accessible entry and nearby accessible parking. Adjacent to future accessible amenities.
2. SOFTFALL: Rubber softfall provides access to play elements, with mulch softfall to remaining area
3. PLAY ACTIVITIES: Informal and formal activities including climbing, sliding, swinging and spinning.
  - Net climber
  - Swings with basket, strap & toddler seats.
  - Spinning Basket
  - Junior play structure with slide, steps and climber
4. NATURE PLAY: Utilising the existing trees to provide play opportunities, boulders, stepping stones and logs provide for imaginative play.
5. POLES: Pole feature provides accent to entry and elements for informal play.
6. LOOP PATH: The playground is edged with a 1200mm wide accessible path forming a loop for young riders.
7. PLANTING: Low planting complements existing trees and provides separation between amenities and play.
8. PICNIC SETTING: Accessible picnic setting adjacent to play zone and allowing easy access to carpark and amenities.
9. SEATING: Variety of seating including benches, seats with backs and stools.
10. ACCESSIBLE PARKING: Provide two accessible spaces with 2 coat bitumen seal.
11. GARBAGE BIN

## LEGEND

-  Site boundary
-  Existing trees to be retained
-  Proposed trees

## Precedent Images



Spinning basket



Junior play structure with slides



Swing with basket



Net climber



Mushrooms in nature play



Poles



Nature play

## PROJECT SEYMOUR PARK MASTERPLAN

CLIENT  
WINGECARRIBEE SHIRE COUNCIL

## DRAWING STAGE 1 WORKS - PLAYGROUND

DRAWING No. ISSUE DRAWN DATE  
MP-1923-02 C wl/hp 14.11.2019



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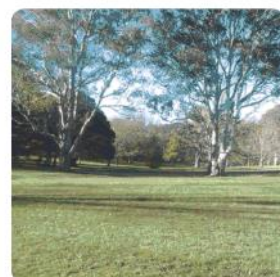
## NOTES

1. ACCESSIBLE ENTRY: New accessible parking located at accessible entry links to playground and adjacent accessible amenities with accessible pathways.
2. NATURE PLAY EXTENDS: Additional planting extends nature play area.
3. PATH: 1200mm wide accessible path to amenities forms additional loop path and link to play area.
4. PLANTING: Low planting complements existing trees and provides separation between amenities and play. Tree provides shade to picnic and seating.
5. AMENITIES: With one accessible cubicle and one ambulant. Allow to provide services connections and conduits where required during Stage 1 playground works.
6. DRINKING FOUNTAIN: Accessible drinking fountain close to amenities and playground.
7. ACCESSIBLE PARKING: Upgrade to existing parking area to provide formal parking area with accessible spaces close to playground and amenities.
8. HITCHING POST: Shaded location for waiting dogs, set away from play zone.

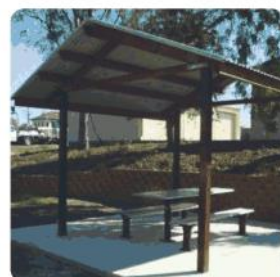
## LEGEND

- Site boundary
-  Existing trees to be retained
-  Proposed trees
-  Trees to be removed

## Precedent Images



Maintain site character



Upgrade existing picnic settings



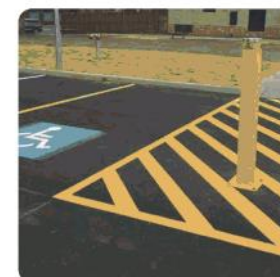
Expanded off-leash dog area



New drinking fountain



Low planting



Accessible parking



New amenities block

## PROJECT SEYMOUR PARK MASTERPLAN

CLIENT  
WINGECARRIBEE SHIRE COUNCIL

## DRAWING STAGE 2 WORKS - AMENITIES

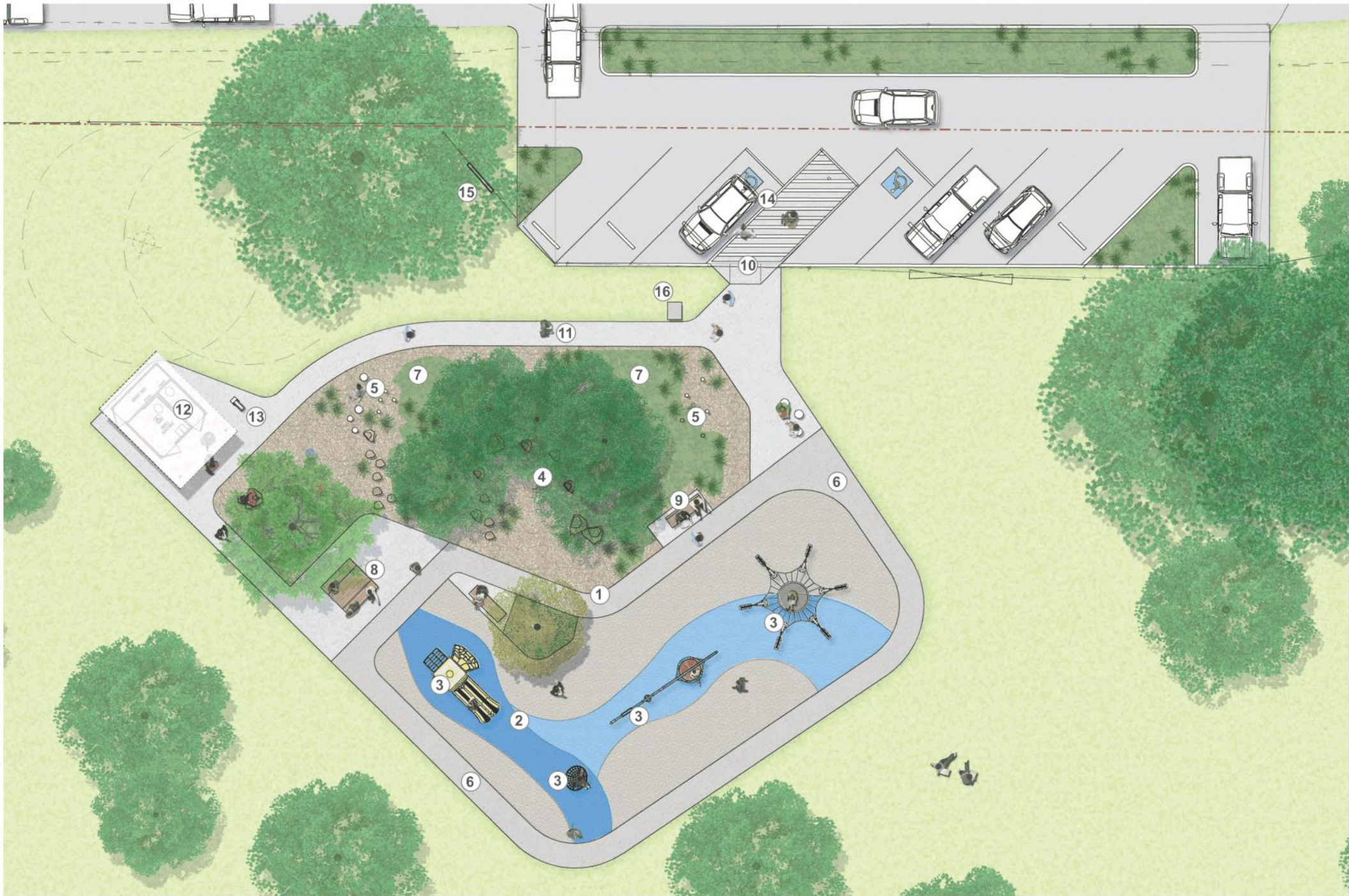
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MP-1923-03 C wl/hp 14.11.2019



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THIS DRAWING SHOULD BE READ IN CONJUNCTION WITH ALL RELEVANT CONTRACTS, SPECIFICATIONS, REPORTS AND DRAWINGS.





NOTES

- 1. ACCESSIBLE PLAYGROUND: New playground with accessible entry and nearby accessible parking. Adjacent to accessible amenities.
- 2. SOFTFALL: Rubber softfall provides access to play elements, with mulch softfall to remaining area
- 3. PLAY ACTIVITIES: Informal and formal activities including climbing, sliding, swinging and spinning.
  - Net climber
  - Swings with basket, strap and toddler seats.
  - Spinning Basket
  - Junior play structure with slide, steps and climber
- 4. NATURE PLAY: Utilising the existing trees to provide play opportunities. Boulders, stepping stones and logs provide for imaginative play.
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- 8. PICNIC SETTING: Accessible picnic setting adjacent to play zone and allowing easy access to carpark and amenities.
- 9. SEATING: Variety of seating including benches, seats with backs and stools
- 10. ACCESSIBLE ENTRY: New accessible parking links to playground and adjacent accessible amenities.
- 11. PATH: 1200mm wide accessible path to amenities forms additional loop path and link to play area.
- 12. AMENITIES: With one accessible cubicle and one ambulant.
- 13. DRINKING FOUNTAIN: Accessible drinking fountain located adjacent to path.
- 14. ACCESSIBLE PARKING: Upgrade to existing parking area to provide formal parking area with accessible spaces close to playground and amenities.
- 15. HITCHING POST: Shaded location for waiting dogs, set away from play zone.
- 16. GARBAGE BIN

LEGEND

- Site boundary
- Existing trees to be retained
- Proposed trees
- Trees to be removed

PROJECT  
SEYMOUR PARK MASTERPLAN

CLIENT  
WINGECARRIBEE SHIRE COUNCIL

DRAWING  
DETAIL PLAN - STAGES 1 & 2

DRAWING No.	ISSUE	DRAWN	DATE
MP-1923-04	C	wl/hp	14.11.2019

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THIS DRAWING SHOULD BE READ IN CONJUNCTION WITH ALL RELEVANT CONTRACTS, SPECIFICATIONS, REPORTS AND DRAWINGS.



## 9.2 Proposed Lease Update - Southern Highlands Botanic Gardens

Reference:	6500/22
Report Author:	Property and Project Officer
Authoriser:	Chief Financial Officer
Link to Community	
Strategic Plan:	Effective financial and asset management ensure Council's long term sustainability

### PURPOSE

The purpose of this report is to update Council on the Minister's consent for a proposed 30 year Lease to the Southern Highlands Botanic Gardens Limited for the Botanic Gardens site.

### RECOMMENDATION

1. **THAT** authority be delegated to the General Manager to negotiate the terms and conditions of a Lease with Southern Highlands Botanic Gardens Limited for the Council property known as Botanic Gardens, 1 Old South Road Bowral **AND THAT** it be noted that the term of the proposed lease be twenty one (21) years.
2. **THAT** Council give a minimum twenty eight (28) days public notice of its intention to enter into the lease of the Council property referred to in Resolution 1 above.
3. **THAT** if there are no objections received by Council during the period of public notice, the General Manager and Mayor be delegated authority to execute the Lease referred to in Resolution 1 above under the Common Seal of the Council (if required) **AND THAT** if any objections are received, a further report be forwarded to a future Ordinary Meeting of Council for determination, noting that an application will be required to be made to the Minister for Local Government for the Minister's consent to the grant of the lease.
4. **THAT** upon the execution of the new Lease referred to in Resolution 1 above, the Lessee simultaneously execute a Surrender of Lease in registrable form to enable the existing Lease to be terminated and the new Lease registered on the title to the Council property.
3. **THAT** authority be delegated to the General Manager and Mayor to execute the Lease and Surrender of Lease under the Common Seal of Council.

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## REPORT

### **BACKGROUND**

Council is the owner of the Southern Highlands Botanic Gardens site being Lot 1 in Deposited Plan 1231536 at East Bowral ('the Council property'). The Lessee of the Council property is Southern Highlands Botanic Gardens Limited.

At its meeting 13 May 2015, Council resolved to enter into a Lease with Southern Highlands Botanic Gardens Limited ('the Lessee') for occupation of the Council property located at the Corner of Kangaloon and Old South Road, Bowral. The Lease of the Council property commenced on 21 May 2015 for a term of 21 years (due to terminate on 30 May 2036).

The Lessee is an Australian Public Company, a non-profit company limited by guarantee. It has raised funds (and continues fundraising) for the ongoing development and operation of the Botanic Gardens site

In August 2018, Council was approached by the Lessee with a request to terminate the existing 21 year Lease and enter into a new Lease with a term of 30 years.

The primary reason for requesting a 30 year Lease was due to the opportunity to secure significant donations for the development of the site. The donors were seeking confidence in the tenure of the site for a term beyond the 17 years remaining on the existing 21 year Lease.

At its meeting on 24 October 2018, Council considered a report to terminate the existing Lease and enter in to a new 30 year Lease. Council resolved (MN434/18):

1. *THAT authority be delegated to the General Manager to negotiate the terms and conditions of a Lease with Southern Highlands Botanic Gardens Limited for the Council property known as Botanic Gardens, 1 Old South Road Bowral AND THAT it be noted that the term of the proposed lease be thirty (30) years, subject to the consent of the Minister for Local Government to that term.*
2. *THAT upon the execution of the new lease referred to in Resolution 1 above, the Lessee simultaneously execute a Surrender of Lease in registrable form to enable the existing Lease to be terminated and the new Lease registered on the title to the Council property.*
3. *THAT Council give a minimum twenty eight (28) days public notice of its intention to enter into the Lease of the Council property referred to in Resolution 1 above.*
4. *THAT if there are no objections received by Council during the period of public notice, the General Manager and Mayor be delegated authority to execute the Lease referred to in Resolution 1 above under the Common Seal of the Council (if required) AND THAT if any objections are received, a further report be forwarded to a future Ordinary Meeting of Council for determination, noting that*

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 November 2019

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



*an application will be required to be made to the Minister for Local Government for the Minister's consent to the grant of the Lease.*

#### **REPORT**

On 3 June 2019, Council submitted its application to the Minister for Local Government seeking Ministerial consent to grant the 30 year Lease.

On 8 July 2019, Council received advice from the Office of Local Government that the current Plan of Management prohibited Leases for more than 21 years. It was determined that in order for the Lease to be approved, Council would be required to amend the Plan of Management to allow a 30 year Lease.

A Councillor briefing session was held on 24 October 2019. A range of options were presented to Council, including an option which would involve terminating the existing 21 year Lease and entering into a fresh 21 year Lease, essentially providing a 25 year Lease (since the original Lease's registration in 2015).

As outlined in the Councillor briefing session, amending the Plan of Management would result in significant delays in proceeding with the proposed 30 year Lease due to the statutory requirements involved.

The Board of Southern Highlands Botanic Gardens Limited have stated that their preference is to continue to seek a 30 year lease period.

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#### **COMMUNICATION AND CONSULTATION**

##### **Community Engagement**

In respect of the proposal, no community engagement has occurred. If Council resolves to endorse the proposal for a new Lease, Council will be required to give public notice and exhibit the proposed new Lease.

##### **Internal Communication and Consultation**

Assets

Finance & Property

Executive

##### **External Communication and Consultation**

Lessee

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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.

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 November 2019

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



- **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.

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### **COUNCIL BUDGET IMPLICATIONS**

There are no budgetary implications in relation to this report.

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### **RELATED COUNCIL POLICY**

Lease and Licence of Council Policy – Not-for-Profit Organisations

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### **OPTIONS**

The options available to Council are:

#### **Option 1**

Amend the Plan of Management to permit a Lease beyond 21 years and resubmit the application to the Minister for consent. This will result in significant delays to progressing the 30 year Lease due to the statutory requirements for amending a Plan of Management.

#### **Option 2**

Terminate the existing 21 year Lease and enter in to a new 21 year Lease, essentially extending the Lease term by 5 years.

#### **Option 3**

Retain existing Lease arrangement. This would be inconsistent with Council's resolution from 24 October 2018.

Option 2 is the recommended option to this report.

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## **CONCLUSION**

The Lessee is a non-profit company and, as such, relies on the efforts of volunteers and fundraising. The Lessee's proposed future development of the Botanic Gardens site will require significant funding. As amending the Plan of Management is not achievable in the short-term, to give certainty to the Lessee and thereby enabling the Lessee and its donors and supporters to be confident of the long-term operations of the Botanic Gardens, it is recommended that Council grant a new twenty one (21) year Lease and terminate the existing twenty one (21) year Lease.

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## **ATTACHMENTS**

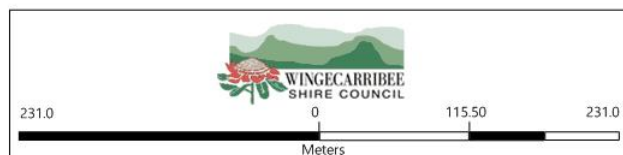
1. Aerial Map

Barry W Paull

**Deputy General Manager Operations, Finance and Risk**

Thursday 21 November 2019





Wingecarribee Shire Council

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## CORPORATE STRATEGY AND DEVELOPMENT SERVICES

### 9.3 S.8.2 Review of Determination of Refused Development Application 19/1645.01 - Dual Occupancy (Detached) and Subsequent Subdivision to Create Two Lots, Lot 210 DP1239600, 40 Sir James Fairfax Circuit, Bowral

Reference:	19/1645.01
Report Author:	Senior Town Planner
Authoriser:	Group Manager Planning, Development and Regulatory Services
Applicant:	PS Design & Construction Pty Ltd, trading as PS Design
Owner:	Paul Samulski
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 s.8.2 Review of Determination application 19/1645.01 for the Council's consideration, and recommends APPROVAL subject to the conditions specified in **Attachment 1**.

#### RECOMMENDATION

**THAT** s.8.2 Review of Determination application 19/1645.01 for erection of buildings and carrying out of works for the purpose of dual occupancy (detached), and subsequent subdivision of land at Lot 210 DP1239600, No 40 Sir James Fairfax Circuit, Bowral, be APPROVED subject to conditions as described in Attachment 1 to the report.

#### VOTING ON THE MOTION

Councillors are required to record their votes on this matter.

#### REPORT

##### **Subject Site and Locality**

**Figures 1 and 2** illustrate the land's location and general layout (see also **Attachments 2 & 3**). It is a vacant 1070m<sup>2</sup> low density residential corner lot on the southern side of Sir James Fairfax Circuit and the eastern side of Ginahgulla Drive in Bowral, around 2.5km east of the town centre. The land is accessible by vehicle from Sir James Fairfax Circuit and Ginahgulla Drive.



## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 November 2019

### REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



The land slopes gently and uniformly from south to north, towards the intersection of Sir James Fairfax Circuit and Ginahgulla Drive. There is no significant vegetation on the land.

The locality is characterised by emerging low density residential development.



Figure 1: Locality Map



Figure 2: Aerial image



### **History**

Development Application 19/1645 which sought Council consent for erection of buildings and carrying out of works for the purpose of dual occupancy (detached), and subsequent subdivision of land to create two lots was refused by Council at its meeting of 9 October 2019 for the following reasons:

1. Bulk and scale of the development.
2. Out of character with the surrounding development.
3. Not in the public interest.
4. Inconsistent with the aims and objectives of the design review panel and original developer of the subdivision.

### **S.8.2 Review of Determination application 19/1645.01**

S.8.2 Review of Determination application 19/1645.01 seeks approval for the erection of buildings and carrying out of works for the purpose of dual occupancy (detached), and subsequent subdivision of land to create two lots of 570m<sup>2</sup> and 500m<sup>2</sup>, being the same plans as previously refused by Council. An extract from the proposed development drawings is included as **Attachment 4**.

The applicant has provided the following comment from Lee Environmental Planning regarding the refused Development Application 19/1645:



The following paragraphs set out each of the four reasons provided by Council and comment as to why they do not provide solid grounds for refusal.

*1. Bulk and scale of the development*

Unsubstantiated and not supported by the facts. Reference to the assessment report prepared by Council officers is the best retort to this claim. On all measurable requirements related to the physical form of the development, it has been assessed as being well within the parameters set. It is of a lesser scale than other developments within this locality, including the single dwelling immediately to the south that is approximately 2 metres higher and of comparable floor space.

*2. Out of character with the surrounding development*

Unsubstantiated and not supported by any reasonable viewing of the emerging character of the Retford Park residential precinct.

Character is determined by both use of land and the physical nature of the built form.

In terms of use, the proposed development is low density residential, exactly the same as that on all other properties in this locality.

In terms of the built form, the proposed development is of a scale compatible with other adjoining dwellings. There are both larger and smaller built forms evident in the locality. In terms of building materials, the proposed development contains no external finishes that are not readily identifiable on other properties within the locality.

*3. Not in the public interest*

Unsubstantiated. The development is not offensive to the public interest because it is a demonstrated fact that it is permissible development and it is compliant with all required planning controls. It has not been demonstrated that it would result in any adverse impacts to any individual or to the broader public. It would not give rise to a situation where consequential or subsequent decisions would necessarily result in unsatisfactory outcomes for the public.

Council has confused isolated and personal objection to this Development Application as being the 'public interest'. During the initial formal notification period a total of seven objections were received. Subsequently, a further five were received. With reference to the assessment report prepared by Council, all of these submissions were acknowledged, yet none of them raised any issues that were considered by the Council planning staff to be of such significance as to warrant any changes to the development

as proposed. This is a clear indication that the development is not offensive to the public interest.

Therefore Council needs to be disabused of their incorrect understanding of the public interest and their consequential reliance upon it to support this refusal.

*4. Inconsistent with the aims and objectives of the design review panel and original developer of the subdivision*

Unsubstantiated and not a valid reason for refusal.

With demonstrated compliance with the built form guidelines within the DCP, that were formulated in conjunction with the original developer, it cannot be substantiated that the built form is inconsistent with the aims and objectives of the original developer.

The Design Review Panel was consulted, but it is more important to note that the Section 88B instrument relevant to the land does not require any approval from any design review panel in order to lodge a Development Application. Further and even if such approval was necessary, Clause 1.9A of *Wingecarribee Local Environmental Plan 2010* makes it clear that such covenants and private agreements are not the domain of Council. It is inappropriate therefore for this to be included as a reason for Council to refuse the development.

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## **STATUTORY PROVISIONS**

### **State Environmental Planning Policies**

#### **State Environmental Planning Policy No 55 – Remediation of Land**

SEPP 55 aims to promote the remediation of contaminated land for the purpose of reducing risk of harm to human health or any other aspect of the environment. The land is not considered likely to be contaminated, nor to require remediation to be made suitable for the proposed development.

#### **State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011**

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
- (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
- (c) to support the maintenance or achievement of the water quality objectives for the Sydney drinking water catchment.

The development is a Module 1 under the NorBE Guidelines, therefore Council has assumed concurrence to consider water quality. In accordance with clause 10 of the Catchment SEPP, the NorBE Tool has been used to determine that the carrying out of the proposed development would have a neutral or beneficial effect on water quality.



## Local Environmental Plans

### Wingecarribee Local Environmental Plan 2010

The relevant provisions of the LEP are discussed as follows.

#### Clause 1.2—Aims of Plan

The proposed development is considered satisfactory with respect to the particular aims specified by clause 1.2 (2).

#### Clause 1.4—Definitions

The proposed development comprises erection of buildings and carrying out of works for the purpose of *dual occupancy (detached)*, and subsequent subdivision of land and carrying out of works to create two lots.

#### Clause 2.3—Zone objectives and Land Use Table

The land is in Zone R2 Low Density Residential. The Land Use Table at the end of Part 2 of the LEP specifies developments for the purposes of *dual occupancies (detached)* are permitted with consent.

#### Clause 2.6—Subdivision—consent requirements

Clause 2.6 (1) effectively specifies the land may be subdivided only with development consent.

#### Clause 4.1—Minimum subdivision lot size

Where applicable, clause 4.1 specifies minimum permissible sizes of lots to be created by subdivision of land. However, the applicability of clause 7.2, discussed below, renders clause 4.1 not applicable to the proposed development.

#### Clause 7.2—Requirements for subdividing dual occupancies in Zones R2 and B1

Clause 7.2 (2) (a) and (b) specifies that despite any other LEP provision (including clause 4.1), consent may be granted for subdivision of a lawfully erected dual occupancy in Zone R2 if the development:

- (a) is on a corner allotment of not less than 1,000m<sup>2</sup>, and
- (b) has access to a reticulated town water supply and sewerage system.

The application proposes initial erection of a dual occupancy. The land is a 1070m<sup>2</sup> corner lot in Zone R2, and has access to Council's reticulated water supply and sewerage services. Clause 7.2 therefore facilitates the granting of consent for the proposed development.

Recommended consent **condition 62** specifies no subdivision certificate shall be granted for the proposed development's subdivision component unless a final occupation certificate has been granted for both dwellings in its dual occupancy component.



Clause 7.3—Earthworks

Recommended consent **condition 36** specifies Council's consent does not permit any earthworks other than indicated by the consent drawings or specified by an environmental planning instrument as not requiring prior consent.

Clause 7.10—Public utility infrastructure

Provided all recommended consent conditions are complied with, the proposed development will have access to water supply, electricity supply and sewerage infrastructure.

**Development Control Plans**

Bowral Town Plan Development Control Plan

The applicable sections of the Bowral DCP are addressed below:

Part A—Provisions applicable to all land

Section 2—General objectives

Section A2.2—Objectives of this Plan

Section A2.2.4—Residential amenity

The proposed development is considered satisfactory with respect to the residential amenity objectives specified by section A2.2.4 (a)-(e):

- (a) *Conserve the unique characteristics of existing residential areas of the Bowral township.*
- (b) *Encourage new residential development that is sympathetic to existing or desired future streetscapes and neighbourhood character.*
- (c) *Ensure that residential development includes sustainable principles such as energy and water efficiency, using sustainable building products where ever possible.*
- (d) *Contribute to the enhancement of the urban amenity*
- (e) *Ensure that there is no light spill from any new development which would adversely impact on surrounding residents, including diminishment of the night sky experience.*

Section A2.2.5—Residential diversity

The proposed development is considered satisfactory with respect to the residential diversity objectives specified by section A2.2.5 (a) and (b):

- (a) *Promote a mix of housing types to increase residential choice within the town, particularly around bus and rail connections.*
- (b) *Encourage appropriate site amalgamation and redevelopment to provide a range of residential opportunities throughout the town.*

Section A2.2.6—Visual amenity

The proposed development is considered satisfactory with respect to the visual amenity objectives specified by section A2.2.6 (a)-(c):

- (a) *Demonstrate an appreciation of the existing streetscape.*





- (b) *Enhance the character of individual streets within the town through appropriate built form design.*
- (c) *Provide areas of private open space which can make a positive contribution to the overall visual amenity of the locality.*

Section A2.2.8—Environmental sustainability

The proposed development is considered satisfactory with respect to the environmental sustainability objectives specified by section A2.2.8 (a)-(f):

- (a) *protect vegetation, threatened species, ecological communities, hydrological aspects, watercourses, significant natural features, and any other aspect of environmental quality.*
- (b) *no net loss of riparian condition, remnant vegetation, biodiversity values, wetland values, wildlife habitat or water quality.*
- (c) *Encourage on-site tree plantings which enhance the environment and provide additional wildlife habitat and connectivity of habitat*
- (d) *Maintain and enhance existing public open space areas*
- (e) *Practical incorporation of the principles of ecologically sustainable development into the development*
- (f) *Ensure that buildings are 'energy smart' and meet all BASIX requirements.*

Section 6—Vegetation management and landscaping

Section A6.2—Private landscaped open space

Section A6.2.1—Objectives

The proposed development is considered satisfactory with respect to the private landscaped open space objectives specified by section A6.2.1 (a)-(f):

- (a) *Provides a pleasant, vegetated environment for users of the site (workers or residents).*
- (b) *Contributes to the urban streetscape.*
- (c) *Provides a visual buffer between development and the surrounding neighbourhood.*
- (d) *Contributes to existing tree canopies and wildlife habitats.*
- (e) *Provides adequate ground cover to prevent erosion and assist storm water infiltration.*
- (f) *Contributes where possible to the enhancement of key vegetation and topographical features.*

Section A6.3—Controls

The proposed development is considered satisfactory with respect to the vegetation management and landscaping controls specified by section A6.3.

Section 7—Subdivision, demolition, siting and design

Section A7.1—Subdivision of land

Section A7.1.1—Minimum lot sizes

As discussed earlier, clause 7.2 of the LEP facilitates the granting of consent for the proposed development's subdivision component, despite the minimum lot size requirement otherwise applicable to the land under LEP clause 4.1. The proposed development is therefore considered satisfactory with respect to section A7.1.1 of the DCP.

Section 8—Safer by design

Section A8.3—Crime prevention through environmental design

The proposed development is considered satisfactory with respect to the provisions of sections 8.3.1, 8.3.2, 8.3.3 and 8.3.4, respectively regarding:

- Space and activity management
- Territorial reinforcement
- Surveillance
- Access control.

Section A8.4—Specific design requirements

The proposed development is considered satisfactory with respect to the safer by design requirements specified by section A8.4.

Section 9—Construction standards and procedures

Part C—Provisions applicable to residential-zoned land

Section 1—Introduction

Section C1.2—Objectives

The proposed development is considered satisfactory with respect to the objectives of Part C, specified by section C1.2 (a)-(d):

- (a) *Conservation of the unique characteristics of the residential areas of Bowral, particularly in the case of the identified Conservation Areas,*
- (b) *New residential development which is sympathetic with existing streetscapes and neighbourhood character,*
- (c) *New residential development that is energy efficient, provides good amenity, and is safe and attractive.*
- (d) *Residential development which meets the needs of a range of community and demographic types, including smaller households, older people, people with a disability or people requiring group accommodation.*

Section C1.5—Height of buildings

Section C1.5 notes that residential building heights are generally as follows, measured from natural ground level to roofline:

- (a) For one-storey development, 6.0m
- (b) For two-storey development, 9.0m

- (c) For three-storey development, 12.0m.

Section C1.6—Building materials

Section C1.6.1—Objectives

The proposed development is considered satisfactory with respect to the building materials objectives specified by section C1.6.1:

- *Ensure that durability, detailing and appearance are all considered when selecting building materials to ensure a high quality appearance over time*
- *Encourage the use of materials in the construction of new dwellings that are compatible with adjoining dwelling houses and the streetscape in terms of type, colour and form*
- *Encourage the adoption of an exterior colour scheme which complements the existing streetscape.*

Section C1.6.2—Specific controls

Drawings accompanying the application indicate external finishes being face brick with cladding, and corrugated Basalt Grey metal roof.

The proposed development is considered satisfactory with respect to the building materials controls specified by section C1.6.2 (a) and (b):

- (a) *The use of zincalume is not permitted and galvanised steel may only be used with specific Council consent*
- (b) *A detailed exterior colour scheme must be presented to allow Council to assess the proposed colours against the existing streetscape.*

Section 2—Low density housing

Section C2.2—Objectives of low density housing

The proposed development is considered satisfactory with respect to the low density housing objectives specified by section C2.2 (a)-(j):

- (a) *Maintain and improve the amenity and character of residential areas in (locality).*
- (b) *Ensure that development is of a type, scale, height, bulk and character compatible with existing streetscape characteristics.*
- (c) *Ensure that the heritage value of any property which is, or is within the vicinity of, an Item, or Draft Item of Heritage, or is within a Heritage, or Draft Heritage Conservation Area, is not compromised.*
- (d) *Promote ecologically sustainable development by requiring the construction of energy smart dwellings.*
- (e) *Maximise solar access to the proposed development.*
- (f) *Maximise privacy between existing development and proposed development.*
- (g) *Ensure that adequate on-site car parking is provided for residents and visitors.*

- (h) *Preserve existing mature vegetation and encourage the planting of native vegetation suitable for the area.*
- (i) *Ensure that adequate provision is made for high landscaped open space which complements the overall development and which assists in maintaining existing streetscape quality.*
- (j) *Where located near to road or rail corridors, provide an acceptable acoustic environment for residents through appropriate design, layout and construction measures.*

**Section C2.3—Dual occupancy and secondary dwellings**

**Section C2.3.3—Controls in the R2 low density residential zone**

Section C2.3.3 (b) effectively specifies that whilst no maximum floor area applies to the proposed development's dual occupancy component, its floor space ratio (FSR) must not exceed 0.5:1. Clause 4.5 (2) of the LEP defines FSR as the ratio of the gross floor area (GFA) of all buildings within the site to the site area. The proposed development's total GFA is 408m<sup>2</sup> and the land's site area is 1070m<sup>2</sup>. The proposed FSR is therefore 0.38:1.

**Section C2.3.5—Subdivision of dual occupancy and secondary dwellings**

As discussed earlier, clause 7.2 of the LEP facilitates the granting of consent for the proposed development's subdivision component.

**Section C2.4—Development density and scale**

**Section C2.4.2—Objectives**

The proposed development is considered satisfactory with respect to the density and scale objectives specified by section C2.4.2 (a)-(i):

*The height, scale and style of development shall:*

- (a) *Be compatible with the scale, appearance and character of any existing buildings on the site.*
- (b) *Retain important natural features of the site, including any significant existing trees.*
- (c) *Ensure that dwellings address the street in an appropriate way.*
- (d) *Be compatible with the scale of development of the established built environment and streetscape.*
- (e) *Ensure that the sides and rear of dwellings, which are generally viewed by neighbours, make a positive contribution to residential amenity,*
- (f) *Provide sufficient vehicle access and parking in accordance with standards contained within this Plan.*
- (g) *Ensure that the visual and acoustic privacy of adjoining dwellings are protected.*
- (h) *Ensure adjoining living areas are located to minimise overshadowing and overlooking.*
- (i) *Ensure windows in living areas are located to minimise and overlooking both within the site and between sites.*





#### Section C2.4.3—Controls

Section C2.4.3 effectively specifies the proposed development's footprint, which excludes open space areas such as verandahs, balconies and the like, must not exceed 65% of the land's area. The land's area is 1070m<sup>2</sup> and the proposed development's footprint area, including driveways and the like, is approximately 540m<sup>2</sup>, or 51% of the land's area.

The proposed development is considered satisfactory with respect to the controls specified by section C2.4.3.

#### Section C2.5—Dwelling orientation

##### Section C2.5.1—Objectives

The proposed development is considered satisfactory with respect to the dwelling orientation objectives specified by section C2.5.1:

- (a) *Ensure that all dwellings are orientated to optimise solar access to the main living areas of each.*
- (b) *Position the dwellings on the site to ensure that those open spaces most used by residents receive maximum access to sunlight.*
- (c) *Maximise opportunities for passive heating and cooling of dwellings to reduce reliance on artificial methods.*
- (d) *Ensure that no dwelling will adversely impact on the solar access of existing neighbouring dwellings.*

##### Section C2.5.2—Specific controls

The proposed development is considered satisfactory with respect to the dwelling orientation controls specified by section C2.5.2.

#### Section C2.6—Front setbacks

##### Section C2.6.1—Objectives

The proposed development is considered satisfactory with respect to the front setbacks objectives specified by section C2.6.1:

- (a) *Ensure the front setback of new infill development is consistent with the existing streetscape.*
- (b) *Provide areas for trees and vegetation to enhance the streetscape and provide privacy.*
- (c) *Preserve existing vegetation connections.*

##### Section C2.6.2—Specific controls

The proposed development would ultimately create two lots smaller than 900m<sup>2</sup>, one being a corner lot and each being occupied by a dwelling. Noting this, section C2.6.2 (c) (iii) effectively specifies minimum 4.5m front setbacks from Sir James Fairfax Circuit to the northernmost proposed dwelling and from Ginahgulla Drive to the southernmost proposed dwelling. The proposed development substantially complies; there is a minor encroachment by the southernmost proposed dwelling's porch, which the DCP recognises as part of the development's open space area.

Section C2.7—Side setbacks

Section C2.7.1—Objectives

The proposed development is considered satisfactory with respect to the side setbacks objectives specified by section C2.7.1:

- (a) *Provide adequate building separation between new and existing development for the purposes of privacy, ventilation, fire safety and solar access.*
- (b) *Provide space between dwellings to maintain the detached housing character and for individual identity and visual interest.*
- (c) *Ensure consistent patterns of built and unbuilt spaces within the streetscape.*
- (d) *Offer opportunities for deep soil areas and landscaping.*

Section C2.7.2—Specific controls

Each of the proposed dwellings complies with the minimum 1.5m side setback effectively specified by section C2.7.2 (c).

Section C2.8—Rear setbacks

Section C2.8.1—Objectives

The proposed development is considered satisfactory with respect to the rear setbacks objectives specified by section C2.8.1:

- (a) *Provide private open space for both active and passive recreation which has good solar access.*
- (b) *Ensure sufficient area on the site for mature trees and vegetation.*
- (c) *Ensure mid block tree canopy can be established or conserved.*

Section C2.8.2—Specific controls

The proposed development would produce two lots smaller than 900m<sup>2</sup>, each being occupied by a dwelling. Section C2.8.2 (c) specifies a minimum rear setback of 3.0m to each dwelling. The proposed development complies.

Section C2.9—Building height

Section C2.9.1—Objectives

The proposed development is considered satisfactory with respect to the building height objectives specified by section C2.9.1:

- (a) *Retention of a low scale domestic residential character (or appropriate alternative depending on locality),*
- (b) *Minimal loss of privacy for existing development*
- (c) *Minimal overshadowing of neighbouring properties by new development*
- (d) *Minimal disruption to the views of existing development.*

Section C2.9.2—Specific controls

Section C2.9.2 (a) specifies the maximum height of a dwelling house shall not exceed two storeys. The proposed development complies, noting the southernmost of the two proposed dwellings is of two storey construction.

Section C2.10—Roof forms

The proposed development's roof forms are considered satisfactory with respect to section C2.10.

Section C2.11—Dwellings on corner allotments

As mentioned earlier, the proposed development would ultimately create two lots, one being a corner lot. The northernmost proposed dwelling, on the proposed corner lot, is therefore subject to the provisions of section C2.11.

Section C2.11.1—Objectives

The proposed development is considered satisfactory with respect to the objectives specified by section C2.11.1 regarding dwellings on corner allotments:

- (a) *Such development enhances the streetscape of both the streets involved.*
- (b) *The design of both dwellings is suited to a corner allotment in that it presents an attractive façade to both streets.*
- (c) *The design of both dwellings reflects the scale and density of surrounding development.*

Section C2.11.2—Specific controls

The proposed development is considered satisfactory with respect to the specific controls specified by section C2.11.2.

Section C2.12—Garaging and driveways

Section C2.12.1—Objectives

The proposed development is considered satisfactory with respect to the objectives specified by section C2.12.1 regarding garaging and driveways.

Section C2.12.2—Specific controls

The proposed development is considered satisfactory with respect to the specific controls specified by section C2.12.2.

Section C2.13—Landscaped open space

Section 2.13.1—Objectives

The proposed development is considered satisfactory with respect to the landscaped open space objectives specified by section C2.13.1:

- (a) *Meets the minimum on-site Open Space standards applicable to low density residential development.*
- (b) *Retains and protects both individual trees and/or identified Threatened Ecological Communities scattered throughout the locality.*
- (c) *Retains existing natural features on the site that contribute to the character of the site and/or the local area.*



- (d) *Seeks to create, maintain or enhance existing corridors of mature landscaping throughout the length of the residential block in order to contribute to existing tree canopies and wildlife habitats.*
- (e) *Protects the plantings on any site which is, or is in the vicinity of, an Item (or Draft Item) of Heritage or is within a Heritage Conservation Area or Draft Area.*
- (f) *Provides several generously designed outdoor spaces, rather than allowing such spaces to be simply 'left over' spaces after the siting of buildings.*
- (g) *Provides both passive and active recreation in private open space areas by providing a combination of hard surface, landscaping and deep soil areas.*
- (h) *Provides sufficient site area to support mature trees and vegetation and allow for water infiltration.*
- (i) *Creates attractive, landscaped front gardens that include a number of small trees and shrubs.*
- (j) *Encourages the use of the front garden and front of dwelling spaces such as verandas and porches, for both active and passive recreation.*
- (j) *Ensures that the dimensions of verandas and porches are sufficient to make a legitimate contribution to private open space.*
- (k) *Provides useable open space, located to maximise solar access.*
- (l) *Ensures ease of movement between living areas of dwellings and private open space.*

Section C2.13.2—Specific controls

The proposed development is considered satisfactory with respect to the specific controls specified by section C2.13.2 regarding landscaped open space.

Section C2.14—Fencing, gates and letterboxes

Section C2.14.1—Specific controls

Documents accompanying the application do not indicate any fencing proposed forward of the development's building line. Recommended **consent condition 3** specifies Council's consent does not permit erection of any fencing other than indicated on the consent drawings or specified by an environmental planning instrument as not requiring development consent.

Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the specific controls specified by section C2.14.1 regarding fencing, gates and letterboxes.



Section 22—Retford Park Precinct

Section C22.2—Development concepts

Section C22.2.1—Preferred development outcomes

The proposed development is considered satisfactory with respect to the objectives specified by section C22.2.1:

- (a) *To ensure the scale and character of development is respectful of the low density residential character of the East Bowral area and heritage significance of the adjoining Retford Park (Schedule 5 WLEP 2010).*
- (b) *To ensure the subdivision occurs as agreed in the Retford Park Planning Agreement in respect of:*
  - (i) *Staging*
  - (ii) *Infrastructure*
  - (iii) *Land dedications*
  - (iv) *Landscaping and Park Embellishments*
  - (v) *Provision of drainage management lands.*

Section C22.2.2—Character of the future development

The proposed development is considered satisfactory with respect to the controls specified by section C22.2.2.

**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 LEP's relevant provisions.

- (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 Council's applicable Bowral Town Plan Development Control Plan.

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

Not applicable.

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

Not applicable.

(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

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

The proposed development is considered generally compatible with the intended character and amenity of the locality, and no site attributes are considered to render the land unsuitable for it.

(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

The applicant did not seek formal pre-lodgement advice before making the application.

### External Referrals

Referrals	Advice/Response/Conditions
NSW Rural Fire Service (integrated development)	No objection or general terms of approval.

### Internal Referrals

Referrals	Advice/Response/Conditions
Accredited Certifier	No objection, subject to various recommended consent conditions.
Development Engineer	No objection, subject to various recommended consent

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Referrals	Advice/Response/Conditions
	conditions.
Coordinator Strategic Land Use Planning	Developer contributions payable, as specified by recommended consent <b><u>conditions 11 and 12.</u></b>

#### **Neighbour Notification (or Advertising)/Public Participation**

Council notified s.8.2 Review of Determination application 19/1645.01 to surrounding land owners, inviting submissions between 25 October and 12 November 2019. The Review of Determination application attracted 21 submissions, including one petition, all objecting to the proposed development. The various grounds for objection are identified and discussed below.

Issues	Response
Proposed development includes subdivision of the land to create lots smaller than the minimum size shown on the LEP Lot Size Map in relation to the land, being 1000m <sup>2</sup> . In accordance with Clause 7.2 of Wingecarribee Local Environmental Plan 2010, development consent may only be granted for the subdivision of a lawfully erected dual occupancy after it has been lawfully erected. After subdivision, the second dwelling will be on a lot of 500 sqm area, with a gross floor area of 255 square metres, exceeding the 0.5:1 floor space ratio.	<p>The application proposes initial erection of a dual occupancy in Zone R2 and subsequent subdivision of the land to create two lots of 500m<sup>2</sup> and 570m<sup>2</sup>. The land is a 1070m<sup>2</sup> corner lot in Zone R2, and has access to Council's reticulated water supply and sewerage services. Clause 7.2 of the LEP therefore facilitates the granting of consent for the proposed development's subdivision component despite any contrary other LEP provision. A condition of consent can be imposed requiring that no subdivision certificate shall be granted for the development unless an occupation certificate has been granted for both dual occupancy dwellings in the development (<b><u>condition 62</u></b>), ensuring that the subdivision only occurs after dual occupancy development has been lawfully erected.</p> <p>Clause 7.2 of the LEP does not require each proposed lot to contain a dwelling not exceeding 0.5:1 floor space ratio.</p>
Proposed development does not comply with relevant provisions of the LEP and Council's applicable Bowral Town Plan Development Control Plan (the DCP), including insufficient landscaped area, insufficient setbacks, and excessive floor area.	Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the relevant provisions of the LEP and DCP. Further the assessment included in this report confirms the development meets the LEP and DCP provisions.
The proposed development is not in keeping with the emerging or intended character of the locality and the wider Retford Park Estate, and not in the	The land is in Zone R2, within which development for the purpose of <i>dual occupancies</i> is permitted with consent. Furthermore, clause 7.2 of the LEP facilitates



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Issues	Response
<p>public interest.</p> <p>The proposed development does not constitute "low density" development as provided for by the land's R2 Low Density Residential zoning. The bulk, scale and character of the proposed development is contrary to character of the Retford Park Estate, and not in the public interest. The proposed development exceeds the scale of existing development upon the adjoining 42 Sir James Fairfax Circuit site. The proposed subdivision of the land to create lots of 500m<sup>2</sup> and 570m<sup>2</sup> contradicts an intention that the locality be characterised by single dwelling houses on lots of at least 1000m<sup>2</sup>. The proposed development is an overdevelopment of the land, the proposed development will prompt unwanted higher density residential development in the locality.</p> <p>Councillors' refusal of the application was justified. Whilst the proposed development is permissible, that does not mean it should be permitted. Council should exercise its discretion and reject the proposed Development Application.</p>	<p>consent being granted for the proposed development's subdivision component, despite any other LEP provision.</p> <p>The proposed development is also considered satisfactory with respect to the floor space ratio, site coverage and setbacks provisions specified by the DCP.</p> <p>The LEP and DCP facilitate development of lots exceeding 1000m<sup>2</sup> for the purpose of dual occupancy, and subdivision of R2 zoned corner lots of at least 1000m<sup>2</sup> strictly in circumstances specified by clause 7.2 of the LEP. The proposed development is not expected to necessarily prompt excessive development of land in the locality for dual occupancy purposes, and it is noted that of the 157 residential lots in Renwick Park Estate, 19 lots, including the subject land, are corner lots that might conceivably be developed and subdivided pursuant to clause 7.2 of the LEP.</p> <p>On balance, whilst the proposed development may not be entirely consistent with submitters' expectations for development in the locality, it is considered satisfactory with respect to the locality's character and amenity having regard to the relevant provisions of Council's LEP and DCP.</p>
<p>Proposal does not meet design guidelines specifically applicable to Retford Park Estate, and is contrary to the aims and objectives of the design review panel. Developers are bypassing the Design Review Panel. Contrary to the vision which J.O Fairfax had for this. The applicant has failed to comply with the contract written upon purchase of the land. The proposed side boundary setbacks do not comply with the estate's design guideline requirement of 2 metres.</p>	<p>It is understood that the purchase of residential lots in Retford Park Estate is subject to a contractual agreement that development will take place in accordance with design standards that are administered and enforced by a design panel. These standards are not specifically conveyed by any environmental planning instrument or development control plan, and therefore this is a private matter in which Council has no role to play in their enforcement.</p>
<p>Proposed development's two storey component will cause overshadowing of adjoining land and development. The second dwelling will also now block</p>	<p>Shadow diagrams accompanying the application indicate adjoining land will receive direct sunlight of periods exceeding three hours on 22 June (winter solstice) despite the proposed</p>

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Issues	Response
sunlight for the neighbour along Ginahgulla Drive.	development's erection.
<p>The proposal is not in the public interest. Should the subdivision on 40 Sir James Fairfax Cct go ahead, the residents face a number of imminent challenges in the wider Retford Park estate, including precedent will be created for all future corner blocks to be subdivided - there are 14 yet to be developed corner lots; key streets in the estate - Ayrshire, Sir James Fairfax, Betty Close, Caroline &amp; Ginahgulla were never planned or intended to accommodate increased vehicular traffic density due to double the number of residents, reduced street parking especially on street junctions due to increase in number of residents, their respective guests and their vehicles, increased noise levels because of the proximity of living areas from neighbours, due to significantly reduced setbacks required to accommodate the subdivisions, intrusion of privacy from neighbours will become huge issue for both the existing and new home owners due to these reduced setbacks and proximity of additional buildings, and significant blow to the Heritage style, look and feel of the estate because of inconsistent design and scale, which will have an immeasurable negative impact on the value of our asset. 2 storey dwelling allows the residents to look directly into the backyard of our property and therefore privacy reasons are an issue.</p>	<p>Wingecarribee Local Environmental Plan 2010 deliberately enables dual occupancy development and subsequent subdivision on corner lots exceeding 1000 square metres within the R2 Low Density Residential zone. This provision does increase development opportunity, and does increase traffic and noise, but not beyond that which is reasonably expected within an urban residential area. One upper level bedroom window will overlook the adjoining eastern property, however as this is not a living area window, its privacy impacts are reduced and considered acceptable. The proposed upper level retreat area and balcony face Ginahgulla Drive, and does not overlook backyards of adjoining properties.</p>

## SUSTAINABILITY ASSESSMENT

### • Environment

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

### • Social

There are no social issues in relation to this report.

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- **Broader Economic Implications**

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

- **Culture**

There are no cultural issues in relation to this report.

- **Governance**

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

### RELATIONSHIP TO CORPORATE PLANS

Operational Plan 2019/20: OP168 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 the relevant provisions of applicable state environmental planning policies, *Wingecarribee Local Environmental Plan 2010*, and the Bowral Town Plan Development Control Plan.



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## OPTIONS

The options available to Council are:

### Option 1

That the Council determines s.8.2 Review of Determination application 19/1645.01 by granting consent, subject to the conditions specified by **Attachment 1**.

### Option 2

That the Council determines s.8.2 Review of Determination application 19/1645.01 by refusing consent, and specifies the reasons for its determination.

Option 1 is the recommended option to this report.

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## CONCLUSION

It is recommended that s.8.2 Review of Determination application 19/1645.01 which seeks approval for erection of buildings and carrying out of works for the purpose of dual occupancy (detached), and subsequent subdivision of land to create two lots at Lot 210 DP1239600, No 40 Sir James Fairfax Circuit, 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. 19/1645.01 Draft Conditions of Consent
2. 19/1645.01 Locality Map - *circulated under separate cover*
3. 19/1645.01 Aerial Image - *circulated under separate cover*
4. 19/1645.01 Proposed Development Drawings - *circulated under separate cover*

Mark Pepping

**Deputy General Manager Corporate, Strategy and Development Services**

Thursday 21 November 2019

**9.3 S.8.2 Review of Determination of Refused Development  
Application 19/1645.01 - Dual Occupancy (Detached) and  
Subsequent Subdivision to Create Two Lots, Lot 210 DP1239600,  
40 Sir James Fairfax Circuit, Bowral  
ATTACHMENT 1 19/1645.01 Draft Conditions of Consent**



## ATTACHMENT 1 – DRAFT CONDITIONS OF 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 dual occupancy (detached), and subsequent subdivision of land to create two lots.

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

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

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

Drawing Title	Reference / Version	Prepared By	Dated
Site / Stormwater & Roof Plans	Job No 07-19, Page 1 of 3, Issue B	PS Design (drawn by PS)	19 June 2019
Ground Floor & Roof Plans	Job No 07-19, Page 2 of 3, Issue B		
Elevations, section & Roof Plans	Job No 07-19, Page 3 of 3, Issue B		
Proposed Draft Subdivision Plan	Issue A - May 2019	Paul Samulski	May 2019
Landscape Plan	Drawing #L/01	Bluegum Design Services (drawn by SL)	21 May 2019
Landscape Details	Drawing #L/02		

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

#### 3. Fencing

Council's consent does not permit erection of any fencing other than indicated on the stamped consent drawings or specified by an environmental planning instrument as not requiring development consent.

**Reason:** *To prevent unauthorised erection of fencing.*

#### 4. Inconsistency between documents

In the event of any inconsistency between the conditions of Council's 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*

**9.3 S.8.2 Review of Determination of Refused Development  
Application 19/1645.01 - Dual Occupancy (Detached) and  
Subsequent Subdivision to Create Two Lots, Lot 210 DP1239600,  
40 Sir James Fairfax Circuit, Bowral**



**ATTACHMENT 1 19/1645.01 Draft Conditions of Consent**

*submitted plans and documents (as amended).*

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

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

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

**6. Notification of Home Building Act 1989 Requirements**

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

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

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

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

**7. Home Owners Warranty Insurance**

No residential building work within the meaning of the *Home Building Act 1989* may commence until:

- (a) A contract of insurance in accordance with Part 6 of the *Home Building Act 1989* is entered into and in force, where such a contract is required under that Act (this is a prescribed condition of consent pursuant to clause 98(1)(b) *Environmental Planning and Assessment Regulation 2000*;
- (b) The PCA is satisfied that the principal contractor for the work is the holder of the appropriate licence and is covered by the appropriate insurance, in each case if required by the *Home Building Act 1989* (unless the work is to be carried out by an owner-builder);



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- (c) If the work is to be carried out by an owner builder, that the owner builder is the holder of any owner builder permit required under the *Home Building Act 1989*;
- (d) Written notice of the following information has been provided to Council (this is a prescribed condition of consent pursuant to clause 98B of the *Environmental Planning and Assessment Regulation 2000*):
  - (i) In the case of work for which a principal contractor is required to be appointed:
    - The name and licence number of the principal contractor, and
    - The name of the insurer by which the work is insured under Part 6 of the *Home Building Act 1989*,
  - (ii) In the case of work to be done by an owner-builder:
    - The name of the owner-builder, and
    - If the owner-builder is required to hold an owner-builder permit under the *Home Building Act 1989*, the number of the owner-builder permits.

Where Council is not the PCA, the PCA is responsible for notifying Council of the above matters.

Where arrangements for doing residential building work change while the work is in progress so that the above information becomes out of date, the PCA (where not the Council) must provide Council with written notice of the updated information.

**Reason:** *Statutory requirement in accordance with Home Building Act 1989.*

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

**8. Application for a Construction Certificate (Building Works)**

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

- (a) Architectural plans and building specifications complying with the National Construction Code (NCC) relevant Australian Standards, and the development consent and conditions.
- (b) If Council or a private accredited certifier issues the Construction Certificate, engineering details must be submitted for approval for all structural elements, including but not limited to, piers, footings, reinforced concrete slab, first floor joist layout, roof trusses, steel beams and the like. The details must be prepared by a qualified chartered professional practicing consulting structural engineer. Also a certificate from the engineer must be included certifying that the design fully complies with appropriate SAA Codes and Standards and the Building Code of Australia requirements.
- (c) Geotechnical report for the site, prepared by a qualified geotechnical engineer detailing the foundation conditions of the site and solutions for consideration by a structural Engineer.
- (d) Essential services plan outlining the existing and proposed fire safety measures.
- (e) Disabled access provisions to common and public areas in accordance with AS1428

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Design for Access and Mobility and the Premises Code.

(f) 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.*

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

**9. Appointment of Principal Certifying Authority**

No building 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

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- (c) the person having the benefit of the development consent has given at least 2 days' notice to the Council of the person's intention to commence the erection of the building.

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

**10. Section 68 Local Government Act 1993 Approvals**

Prior to the issue of any Construction Certificate for building work in the development, 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.*

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

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

The following Wingecarribee Shire Council Section 94 Developer Contributions Plans are applicable to the development:

- Roads & Traffic Management Facilities
- Resource Recovery Centre 2009
- Central Library Facility
- Section 94 Administration 2011 to 2031
- Open Space & Recreation Facilities

A "Developer Charges - Notice of Payment" is attached to the back of Council's notice of determination, and outlines monetary contributions and unit rates applicable at the time of consent. No construction certificate shall be granted for building work in the development unless the contributions listed in the Notice of Payment have been paid.

All contributions are indexed quarterly in accordance with upward movements in the Consumer Price Index (All Groups, Sydney) as published by the Australian Bureau of Statistics ([www.abs.gov.au](http://www.abs.gov.au)); Section 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](http://www.wsc.nsw.gov.au).*

**Note:** *Payment of the attached contributions is to be by BANK CHEQUE OR CASH and is to be accompanied by the attached sheet entitled "Notice of Payment - Developer Charges & Section 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).*



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

**12. Water Management Act - Certificate of Compliance**

No construction certificate shall be granted for building work in the development unless a Certificate of Compliance under Division 5 of Part 2 of Chapter 6 of the *Water Management Act 2000* has been obtained.

**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

A developer Charges - Notice of Payment is attached to the back of 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](http://www.abs.gov.au)); and Council's Development Servicing Plans.

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

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

CPI Period	Water DSP	Sewer DSP	Stormwater DSP
To 31 January 2020	\$11,134.77	\$10,794.76	N/A
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, <a href="http://www.abs.gov.au">www.abs.gov.au</a> .			

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).*

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### **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 = \$500.00.

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 issued for building work in the development until the *Water Management Act 2000* charges have been paid and/or secured and the approval of Council has been obtained.

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

### **13. 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

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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.*

**14. 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.*

**15. 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.*

**16. Energy Service Provider Requirements**

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



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

**17. Waste Management Plan**

No construction certificate shall be granted for any building work in the development unless a Waste Management Plan has been submitted to and approved by Council.

Requirements of the approved Waste Management Plan shall be complied with during site preparation and throughout the carrying out of works in the development. 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.*

**18. Erosion and Sediment Control Plan**

No construction certificate shall be granted for any building work in the development unless an Erosion and Sediment Control Plan has been prepared in accordance with "Landcom's Blue Book" for sedimentation and erosion control plan by a suitably qualified person, and approved by Council.

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.*

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**19. 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.*

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE SUBDIVISION WORKS CERTIFICATE**

**20. Application for a Subdivision Works Certificate**

Subdivision work in accordance with Council's consent shall not be commenced until a Subdivision Works Certificate has been applied for and issued by Council or an Accredited Certifier, pursuant to Section 6.13 of the *Environmental Planning and Assessment Act 1979*. The application for a Subdivision Works Certificate needs to be accompanied by detailed engineering plans and specifications and completed design checklists found in Council's Engineering Policies.

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

**21. Appointment of Principal Certifying Authority**

No subdivision work shall commence in connection with Council's Development Consent until:

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- (a) A Subdivision Works Certificate for the subdivision 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 subdivision work, and
  - (ii) notified the principal certifying authority that the person will carry out the subdivision work as an owner-builder, if that is the case, and
- (b1) the principal certifying authority has, no later than 2 days before the 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 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 subdivision 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 subdivision 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 subdivision work.

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

**22. Energy Service Provider Requirements**

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

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

**23. Electricity Connection**

Provision shall be made for connection to future underground distributions mains to the development. This shall be achieved by installing:

- An underground service line to a suitable existing street pole; or
- Sheathed underground consumers mains to a customer pole erected near the front property boundary (within 1 metre)

**Note:** *A limit of one (1) pole per site will apply.*

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Details shall be submitted with the application for a Subdivision Works Certificate.

**Reason:** *To ensure adequate electricity service is provided to the development.*

**CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORK**

**24. 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.*

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

**25. 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.*

**26. Construction Certificate**

No work in the development 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.*

**27. Subdivision Works Certificate & Appointment of Principal Certifying Authority**

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Subdivision work in accordance with a consent must not commence until:

- (a) A Subdivision Works Certificate has been issued.
- (b) The person having the benefit of the development consent has appointed the Principal Certifying Authority (PCA).
- (c) The PCA (if not Council) has, no later than two (2) days before the subdivision work commences, notified the Council (or other consent authority where applicable) of the PCA's appointment.
- (d) The person having the benefit of the consent has given at least two (2) days' notice to the Council of the person's intention to commence the subdivision work.

**Advice:** *Crown work certified in accordance with Part 6 of the Environmental Planning and Assessment Act 1979 is exempted from the above requirements.*

**Reason:** *Statutory requirement.*

**28. Developers Representative during Construction of Works**

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

Details to be submitted include:-

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

Prior to commencing any works on site the representative shall:

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

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

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

**Reason:** *Statutory requirement.*

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

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

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

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

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

**Reason:** *Statutory requirement.*

**30. Relocation of Existing Services**

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

**Reason:** *Statutory requirement.*

**31. 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.*

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**32. 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.*

**CONDITIONS TO BE SATISFIED DURING THE CONSTRUCTION PHASE**

**33. 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.*

**34. 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.*

**35. Survey Report - Minor Development**

In order to ensure compliance with approved plans, a Survey Certificate to Australian Height Datum shall be prepared by a Registered Surveyor as follows:

- (a) At the completion of the first structural floor level indicating the level of that floor and the relationship of the building to the boundaries.
- (b) At the completed height of the building, prior to the placement of concrete inform work, or the laying of roofing materials.
- (c) At completion, the relationship of the building and any penetrations thereto, to the

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boundaries.

Progress certificates in response to points (a) through to (c) shall be provided to the Council or the Principal Certifying Authority at the time of carrying out relevant progress inspections. Under no circumstances will work be allowed to proceed should such survey information be unavailable or reveal discrepancies between the approved plans and the proposed works.

**Reason:** *To ensure compliance with approved plans.*

**36. 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.*

**37. Retaining Walls and Drainage**

If the soil conditions require it:

- (a) retaining walls associated with the erection of a building or carrying out of works in the development, 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 are not indicated on the stamped consent drawings or 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.*

**38. Vehicular Access Point - Construction and Delivery Vehicles**

A suitable entry point shall be nominated on site and utilised by construction and delivery vehicles. This entry point is to be located so that the possibility of damage to Council's property is minimised during construction. The access point shall be surfaced with all-weather materials of a minimum of (WHAT SIZE) mm in size. Ballast or crushed gravel (minimum of 40mm rock) for the full width of the kerb from the edge of the road to the property boundary.

**Reason:** *To reduce the possibility of damage to public property.*

**39. 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/drainage that the following works are ready for inspection:

- (a) Piers associated with external drainage designed to distribute weight of structure away from sewer main prior to pouring of concrete.



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- (b) Final inspection of footpath, driveway, stormwater and utility construction works within the road reserve.

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

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

**Reason:** *Statutory requirement.*

**40. Stormwater - Connection to Kerb**

All stormwater connections to the kerb shall be done using minimum 2mm thick galvanised steel section in accordance with Wingecarribee Shire Council's Standard Drawing No SD102.

**Reason:** *To comply with Council standards.*

**41. 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.*

**42. 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.*

**43. 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.

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**Reason:** *Structural safety.*

**44. 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.*

**45. Soil and Water Management - Site Maintenance**

Roads servicing the construction site shall be maintained in a condition free of mud, soil and other construction/demolition materials at all times.

**Reason:** *To minimise construction / demolition materials being trucked off site.*

**46. Prevention of Nuisance**

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

**Reason:** *Health and amenity.*

**47. Dust Control**

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

**Reason:** *Environmental amenity*

**48. Council Reserve / Street Tree Retention**

All trees in Council's road reserve are to be preserved except where removal is separately approved by Council via a tree preservation order permit or development application, to ensure the continued amenity of the streetscape and to retain the ecological integrity of the roadside area.

**Advice:** *Reference should be made to Council's Urban Street Tree Master Plan.*

**Reason:** *To ensure the continued amenity of the streetscape and to retain the ecological integrity of the roadside area.*

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

The carrying out of building and other works in the development shall be limited to the following hours:

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

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

**50. Construction Traffic Management Plan**

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

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

**Reason:** *Compliance with condition of consent.*

**51. Building Operations**

Building operations such as brick cutting, washing tools or brushes and mixing mortar are not permitted on public roadways or footways or in any other locations which could lead to the discharge of materials into the storm water drainage system.

**Reason:** *To ensure that building materials are not washed into storm water drains.*

**52. 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.*

**53. Storage of Building Materials, Plant and Equipment**

All building materials, plant and equipment are to be placed on the site of the development so as to ensure that pedestrian and vehicular access in public places is not restricted and also so that the road reserve is not damaged.

No storage, or placing of any building materials to occur on adjacent public roads or footpath areas in association with the construction, maintenance or use of the development or site.

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**Reason:** *To ensure that pedestrian and vehicular access in public places is not restricted and also so that the road reserve is not damaged.*

**54. Protection of Public Places**

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

If the work involved in the demolition or construction of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or building involves the closure of a public place, a barrier, fence or hoarding shall be erected prior to the commencement of any work subject to approval of a Section 138 Roads Act 1993 approval (including submission of a Traffic Management Plan).

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

**Reason:** *Public safety.*

**55. 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.*

**56. Waste Management**

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

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

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

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

**57. Occupation Certificate**



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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 building work in the development and the relevant application fee paid. All building works specified in the development consent and approved Construction Certificate plans shall be completed and all related 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 any Section 138 (Roads Act) approval and Section 68 (Local Government Act) approval are completed and inspected by Council.*

**58. Smoke Alarms**

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

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

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

**59. BASIX Commitments**

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

In this condition:

(a) Relevant BASIX Certificate means:

- (i) a BASIX Certificate that was applicable to the development when Council's development consent was granted (or, if the development consent is modified under Section 4.55 of the *Environmental Planning and Assessment Act 1979*, a BASIX Certificate that is applicable to the development when this development consent is modified); or
- (ii) if a replacement BASIX Certificate accompanies any subsequent application for a Construction Certificate, the replacement BASIX Certificate; and

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

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

**60. House Numbering**

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

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

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE**

**61. Subdivision Certificate**

An application for a Subdivision Certificate shall be lodged with Council or an Accredited Certifier (in accordance with Section 6.15 of the *Environmental Planning and Assessment Act 1979*) for approval to enable the subdivision plans to be submitted to and registered with NSW Land Registry Services. Should the Subdivision Certificate application be lodged with Council, a final plan of subdivision and 3 copies shall be included with the application.

All works specified in Council's development consent and approved Subdivision Works Certificate plans shall be completed and all development consent conditions complied with prior to issue of the Subdivision Certificate.

The application for a Subdivision Certificate is to be accompanied by supporting documentation outlining how each condition of consent has been complied with.

The linen plans of subdivision shall be accompanied by a Section 88b Instrument stating:

- Lots 1 and 2 are allotments created as a result of subdivision of a corner site dual occupancy development, in accordance with Clause 7.2 of Wingecarribee LEP 2010 therefore Lot 1 shall contain no more than one dwelling and Lot 2 shall contain no more than one dwelling.
- Should alterations, additions or a replacement dwelling be proposed on either Lot 1 or Lot 2, these shall be designed in accordance with the Dual Occupancy development provisions of the Bowral Town Plan DCP.

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

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

**62. Occupation Certificate**

No subdivision certificate shall be granted for the development unless an occupation certificate has been granted for both dual occupancy dwellings in the development.

**Reason:** *To ensure the development's dual occupancy (detached) component is satisfactorily completed prior to any subdivision of the land.*

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**63. Energy Service Provider Requirements**

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

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

**64. Provision of Services**

A separate access, sewer connection, storm water drainage connection, water service and electricity supply shall be provided to each allotment within the subdivision at the applicants expense prior to the issue of the Subdivision Certificate.

All property services shall be located within the lots that they serve in accordance with Councils Engineering Standards. The applicant shall provide to Council written confirmation of compliance.

**Reason:** *To ensure that all available services are provided to each lot within the subdivision.*

**65. Residential Driveway**

A standard concrete vehicular gutter layback shall be constructed at the driveway entrances in accordance with Council's Standard drawing Nos SD107 and SD123 prior to the issue of the Subdivision Certificate.

**Reason:** *To comply with Council's Engineering Standards.*

**66. Provision of Reticulated Sewer to Each Lot**

Reticulated sewer service shall be constructed to each allotment in accordance with the approved civil engineering plans prior to the issue of the Subdivision Certificate.

Sewerage mains shall be constructed to serve the development.

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

**67. Construction of Sewer Sidelines**

Sidelines and junctions shall be installed for sewer connections to the development by Council at the Developer's cost prior to the issue of the Subdivision Certificate.

Council's application form shall be completed by the applicant and the appropriate fee paid.

If the sideline is to be extended from a sewer main in adjoining property, written permission of the affected landowner allowing work to be undertaken, shall be submitted with the application form.

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

**68. Construction of Water Mains to Lots**

A reticulated water service shall be constructed to each allotment in accordance with the

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approved civil engineering plans prior to the issue of the Subdivision Certificate.

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

**69. Construction of Water Service**

A water service shall be installed to the development by Council at the applicant's cost prior to the issue of the Occupation Certificate.

Council's application form shall be completed by the Developer and the appropriate fee paid.

**Advice:** *A water meter should be installed prior to construction commencing.*

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

**70. Landscaping Plan**

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

**Reason:** *To ensure that the landscaping is completed prior to completion of the subdivision.*

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

**71. 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.*

**INTEGRATED DEVELOPMENT CONDITIONS**

**72. General Terms of Approval - NSW Rural Fire Service**

The NSW Rural Fire Service has issued its Bush Fire Safety Authority for the development pursuant to section 100B of the Rural Fires Act 1997 without any specific conditions.

**ADVISORY MATTERS**

**Dial Before You Dig**

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at [www.1100.com.au](http://www.1100.com.au) or telephone 1100 before excavating or erecting structures. (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

*Telecommunications Act 1997 (Commonwealth)*



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Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's mobile network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the *Criminal Code Act 1995 (Commonwealth)* and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800 810 443.

**END OF CONDITIONS**

## 11 OPERATIONS FINANCE AND RISK

### 11.1 Tender for Sewer Mains Renewal and Sewer Manhole Replacement

Reference:	6330/19.28
Report Author:	Project Engineer
Authoriser:	Group Manager Capital Projects
Link to Community Strategic Plan:	Plan and deliver appropriate and accessible local services for the community

#### PURPOSE

The purpose of this report is to present the evaluation of the Request for Tender for the Sewer Mains Renewal and Sewer Manhole Replacement for 19/20 and 20/21.

#### RECOMMENDATION

1. **THAT in relation to the report concerning Sewer Mains Renewal and Sewer Manhole Replacement for 19/20 and 20/21- Council adopts the recommendations contained within the Closed Council report – Item 19.1.**

OR

2. **THAT the report concerning Tender for Sewer Mains Renewal and Sewer Manhole Replacement for 19/20 and 20/21- be considered in Closed Council – Item 19.1. This report is confidential in accordance with s10A(2) of the Local Government Act, 1993, under clause 10A(2)d(i) as it contains commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it.**

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 November 2019

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



**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)*

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 November 2019

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



## REPORT

### **BACKGROUND**

Council is replacing a significant part of sewer mains and sewer manholes based on asset life or historical failures.

The tender was prepared on the basis of two (2) schedules of works to reflect the different scopes to be undertaken for the sewer main renewals and sewer manholes replacement, each schedule being evaluated separately under the tender. The tender was prepared as a term contract of four (4) years; two (2) years plus two (2) times one (1) year extensions (based on performance).

### **REPORT**

Council sought tenders from suitably qualified contractors to provide a lump sum and schedule of rates tender for the scope of works. The full scope of works was detailed in the design drawings and tender documents.

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

### **ADVERTISING**

The tender advertising period was from the 17 September 2019 to 5 November 2019(35 days).

The tender was advertised as follows:

Newspaper / Website	Date Advertised
Newspaper – Sydney Morning Herald	17 September 2019
Newspaper – Southern Highlands News	18 September 2019
Newspaper – Southern Highlands News	25 September 2019
Council's Website	For the duration of the advertising period
Council's eTendering Website	For the duration of the advertising period



## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

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



#### **TENDERS RECEIVED**

A total of three (3) tender submissions were received:

Company Name	Location	Postcode
Carve Earthworks & Construction Pty Ltd	Coledale	2515
Gill Contracting Trust	Bella Vista	2153
Killard Infrastructure Pty Ltd	Goulburn	2580

#### **LATE TENDERS**

There were no late tender submissions received.

#### **TENDER EVALUATION**

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

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

#### **SELECTION CRITERIA**

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

##### **Mandatory Criteria:**

Criteria
Public Liability - \$20 million
Workers Compensation
Professional Indemnity
Motor Vehicle- Comprehensive
Works Insurance
Bank Guarantee
Compliance with Licences, Trade Certificates

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

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

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



#### Non-Cost Selection Criteria & Weighting:

Criteria	Weighting
Capability & Experience	10%
Specifications, Service & Support, Fit for Purpose	15%
Quality Assurance & Innovation	5%
Community & Social(including local content)	10%
Work Health and Safety, Environment & Sustainability	10%
<b>Total</b>	<b>50%</b>

#### Summary of Selection Criteria & Weighting:

Criteria	Weighting
Total Non-Cost Criteria	50%
Total Cost Criteria	50%
<b>Total</b>	<b>100%</b>

#### **NON-COMPLIANT TENDERS**

Upon evaluation a total of one (1) tender submissions were determined to be non-compliant:

Company Name	Reason for Non-Compliance
Gill Contracting Trust	Prices incomplete, no plumber's licence and stated N/A for Professional Indemnity Insurance

#### **CONSULTATION**

##### **Community Engagement**

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

##### **Internal Consultation**

Extensive consultation has taken place between Council's water and sewer, assets, procurement area and project delivery areas. This consultation included scope, technical requirements and evaluation methodologies.

##### **External Consultation**

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

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## **SUSTAINABILITY ASSESSMENT**

- **Environment**

Council has conducted an Environmental Assessment for the project in accordance with WSC Environmental Assessment Procedure under Part 5 of the Environmental Planning and Assessment Act. All identified environmental impacts have been addressed.

- **Social**

The project work will upgrade sewer main and sewer manhole infrastructure for local residents.

- **Broader Economic Implications**

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

- **Culture**

There are no cultural issues in relation to this report.

- **Governance**

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

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## **RELATED COUNCIL POLICY**

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

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## **CONCLUSION**

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

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## **ATTACHMENTS**

There are no attachments to this report.

## 11.2 Investment Report - October 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 October 2019.

### RECOMMENDATION

**THAT** the information on Council's Investments as at 31 October 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 October 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 \$1,382,236.30 for four (4) months to 31 October 2019.

### ATTACHMENTS

1. Investment Report Summary as at 31 October 2019





## Wingecarribee Shire Council Investment Report Summary

For the period ending 31 October 2019

### List of Investments

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

INVESTMENT PORTFOLIO AS AT 31 October 2019						
Institution	Type	Amount	Interest Rate	Investment Term - Days	Maturity Date	% Investment Portfolio
NAB	Term Deposit	4,000,000	1.83%	90	4/11/2019	2.21%
CUA	Term Deposit	3,000,000	2.77%	365	8/11/2019	1.66%
ME	Term Deposit	5,000,000	2.40%	182	15/11/2019	2.76%
AMP	Term Deposit	5,000,000	2.80%	270	18/11/2019	2.76%
Rural	Term Deposit	5,000,000	2.38%	183	20/11/2019	2.76%
CUA	Term Deposit	5,000,000	2.77%	365	26/11/2019	2.76%
NAB	Term Deposit	5,000,000	2.77%	365	29/11/2019	2.76%
Auswide	Term Deposit	5,000,000	2.45%	213	12/12/2019	2.76%
WBC	Term Deposit	4,000,000	2.73%	365	16/12/2019	2.21%
MyState	Term Deposit	5,000,000	2.40%	207	17/12/2019	2.76%
ME	Term Deposit	4,000,000	2.72%	364	3/01/2020	2.21%
NAB	Term Deposit	5,000,000	2.02%	210	10/01/2020	2.76%
MyState	Term Deposit	5,000,000	1.70%	90	21/01/2020	2.76%
CUA	Term Deposit	6,000,000	2.77%	365	24/01/2020	3.32%
MyState	Term Deposit	5,000,000	1.70%	120	28/01/2020	2.76%
MyState	Term Deposit	5,000,000	1.70%	90	28/01/2020	2.76%
WBC	Term Deposit	3,000,000	2.72%	365	31/01/2020	1.66%
NAB	Term Deposit	4,000,000	1.80%	181	3/02/2020	2.21%
NAB	Term Deposit	5,000,000	2.73%	365	7/02/2020	2.76%
ME	Term Deposit	5,000,000	1.69%	150	17/02/2020	2.76%
NAB	Term Deposit	5,000,000	2.15%	270	24/02/2020	2.76%
NAB	Term Deposit	10,000,000	1.67%	181	24/02/2020	5.53%
NAB	Term Deposit	5,000,000	2.65%	364	28/02/2020	2.76%
NAB	Term Deposit	5,000,000	2.65%	366	4/03/2020	2.76%
NAB	Term Deposit	5,000,000	1.73%	180	10/03/2020	2.76%
CBA	Term Deposit	5,000,000	1.63%	210	30/03/2020	2.76%
NAB	Term Deposit	5,000,000	1.82%	270	20/04/2020	2.76%
Newcastle	Term Deposit	3,000,000	2.50%	365	29/04/2020	1.66%
BDCU	Term Deposit	5,000,000	2.55%	366	21/05/2020	2.76%
BDCU	Term Deposit	3,000,000	2.50%	366	24/05/2020	1.66%
BDCU	Term Deposit	5,000,000	2.20%	366	28/05/2020	2.76%
Auswide	Term Deposit	5,000,000	2.05%	365	26/06/2020	2.76%
WBC	Term Deposit	5,000,000	1.62%	364	4/09/2020	2.76%
ME	Term Deposit	5,000,000	1.63%	364	4/09/2020	2.76%
BDCU	Term Deposit	5,000,000	1.65%	365	24/09/2020	2.76%
BDCU	Term Deposit	5,000,000	1.65%	365	26/09/2020	2.76%
NAB	Call Account	6,226,431	0.75%	NA	NA	3.44%
BDCU	Call Account	750,669	1.00%	NA	NA	0.41%
<b>Total Investments</b>		<b>\$180,977,100</b>				<b>100.00%</b>

**Institution Legend**

AMP = AMP Limited  
ANZ = Australia & New Zealand Banking Group  
Auswide = Auswide Bank  
BOQ = 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 October 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%	35.49%	64,226,431	YES	YES
CBA	A1+	40%	2.76%	5,000,000	YES	YES
WBC	A1+	40%	6.63%	12,000,000	YES	YES
AMP	A2	15%	2.76%	5,000,000	YES	YES
BDCU	A2	15%	13.12%	23,750,669	NO	YES
Rural Bank	A2	15%	2.76%	5,000,000	NO	YES
CUA	A2	15%	7.74%	14,000,000	NO	YES
ME	A2	15%	10.50%	19,000,000	NO	YES
MyState	A2	15%	11.05%	20,000,000	NO	YES
Newcastle	A2	15%	1.66%	3,000,000	NO	YES
Auswide	A2	15%	5.53%	10,000,000	NO	YES
<b>Total</b>			<b>100.00%</b>	<b>180,977,100</b>		

### 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%	44.88%	81,226,431	YES
A1	80%	0.00%	0	YES
A2	60%	55.12%	99,750,669	YES
A3	20%	0.00%	0	YES
Govt	25%	0.00%	0	YES
<b>Total</b>		<b>100.00%</b>	<b>180,977,100</b>	



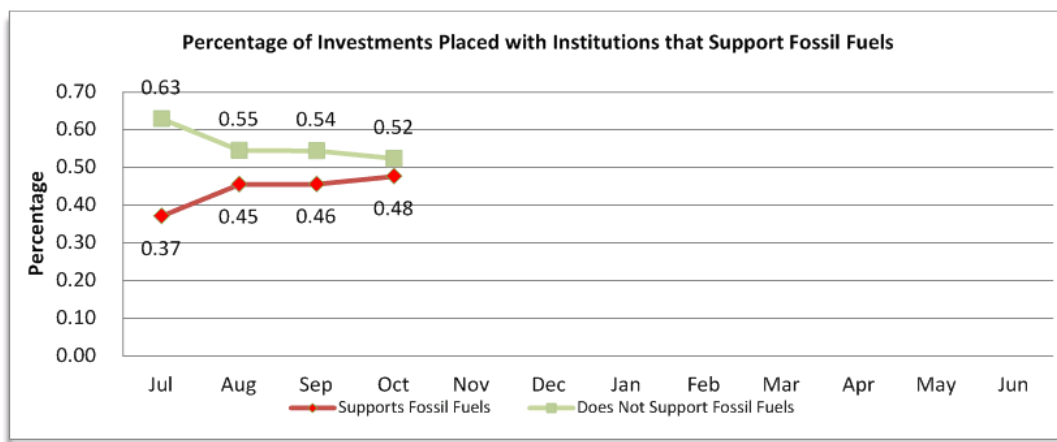
## Wingecarribee Shire Council Investment Report Summary

For the period ending 31 October 2019

### Non-Fossil Fuel Investment Preferencing

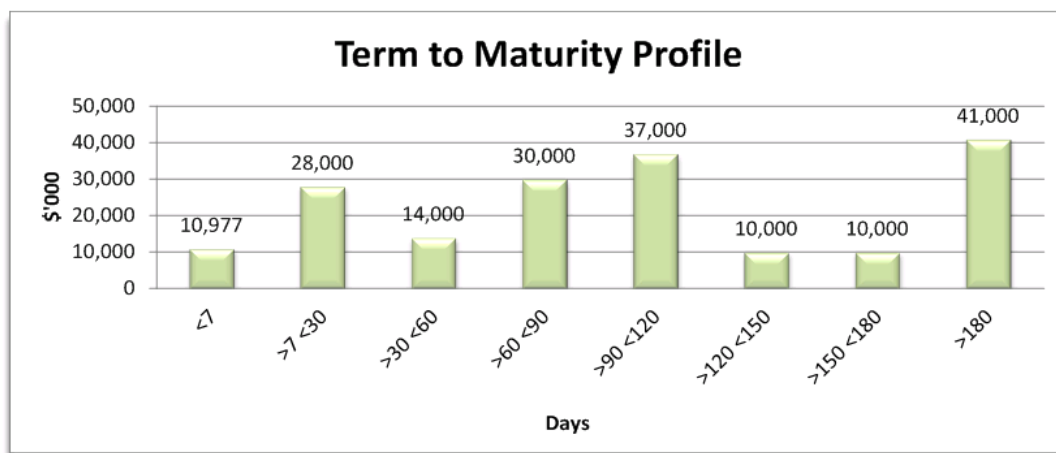
Council's adopted Investment Policy states a preference for placing funds with institutions that do not support the fossil fuel industry. The chart below identifies Council's percentage of investments placed with institutions that do not support the fossil fuel industry.

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.



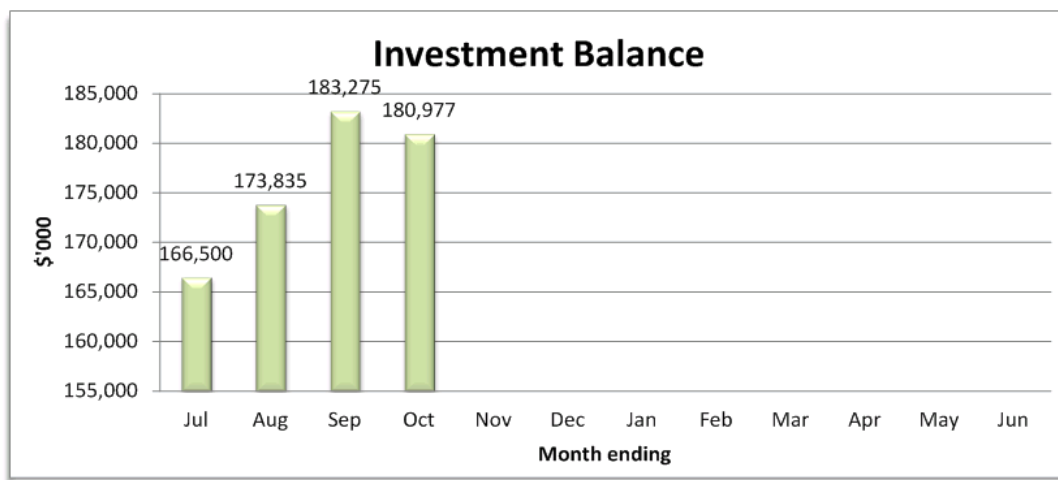


## Wingecarribee Shire Council Investment Report Summary

For the period ending 31 October 2019

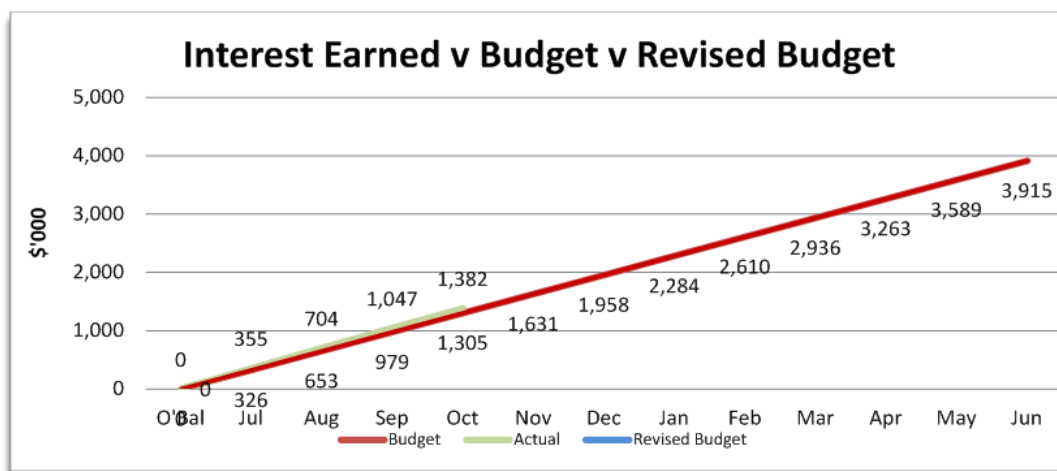
### Portfolio Performance

Council's investment balance at the end of October 2019 was \$180.977 million. This has decreased by \$2.298 million since the end of September 2019. The decrease in investments is a result of operational and capital expenditure payments during October and the absence of rates and water instalments during the month.



### 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

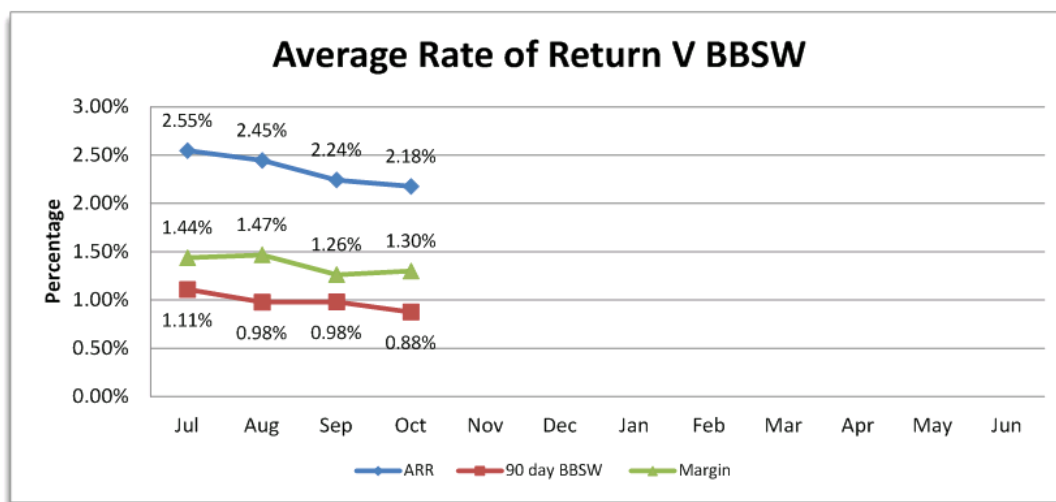
For the period ending 31 October 2019

### 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 October 2019 was 2.18% and the BBSW declined to 0.88%.

The margin above BBSW increased by 0.04% to 1.30% in October 2019 which shows Council continues to secure favourable interest rates on term deposits.



## 11.3 Public Exhibition of Draft Cemetery Policy

Reference:	7190
Report Author:	Business Services Officer
Authoriser:	Coordinator Assets – Water, Sewerage and Drainage
Link to Community Strategic Plan:	Effective and efficient Council service delivery is provided within a framework that puts the customer first

### PURPOSE

### RECOMMENDATION

1. **THAT** the 'Draft Cemetery Policy', included in Attachment 1 be placed on public exhibition for a period of fifty-four (54) days.
2. **THAT** the 'Draft Cemetery Policy', be submitted to Council for adoption following public exhibition.

### REPORT

#### **BACKGROUND**

The draft Cemetery Policy (draft Policy) has been developed to address a policy gap in the management of Council's cemeteries. Policies were developed and adopted in the 1990s to address individual issues, however these policies have since been rescinded. The draft Policy aims to provide a framework for the safe use and consistent management of Council's cemeteries. The draft Policy also ensures compliance with current legislation.

#### **REPORT**

Cemeteries are open to the public and used every day of the year and many visitors are unsure of the acceptable standards for undertaking work or placing of items within the cemeteries.

The commencement in June 2018, of Part 4 (interment rights) of the *Cemeteries and Crematoria Act 2013* has seen changes to both the terminology and the procedures for the granting of interment rights by cemetery operators.

The draft Policy has included a number of these changes to inform the community and increase understanding on the management of cemeteries.

The draft Policy will ensure a consistent approach for the community and will provide a standard for funeral directors and other service providers to follow.

### COMMUNICATION AND CONSULTATION

#### **Community Engagement**

It is proposed that the policy be placed on public exhibition with the community invited to provide feedback and comments.

### **Internal Communication and Consultation**

During development of this policy consultation was undertaken with the following staff:

- Manager Open Space, Recreation and Building
- Supervisor Parks and Open Spaces
- Strategic Planner Heritage Projects
- Environment Officer Bushfire Management
- Environment and Health Policy Officer
- Manager Assets

### **External Communication and Consultation**

Local funeral directors were engaged during the development of the draft Policy.

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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**

The policy aligns with current legislation.

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## **COUNCIL BUDGET IMPLICATIONS**

There are no budget implications in relation to this report

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## **RELATED COUNCIL POLICY**

Nil

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## **OPTIONS**

The options available to Council are:

### **Option 1**

THAT Council endorse the 'draft Cemetery Policy' for public exhibition.

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 November 2019

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



#### **Option 2**

THAT Council does not endorse the 'draft Cemetery Policy' for public exhibition.

Option 1 is the recommended option to this report.

---

#### **CONCLUSION**

A cemetery policy will ensure a consistent approach for the management of cemeteries and compliance with legislation.

It is recommended the draft Cemetery Policy be placed on public exhibition and a report, for adoption of the policy, be brought back to Council following the exhibition period.

---

#### **ATTACHMENTS**

1. Draft Cemetery Policy



## Cemetery Policy

### PEOPLE

**OUR COUNCIL HAS THE TRUST OF THE COMMUNITY AND WELL INFORMED DECISIONS ARE MADE TO ENSURE LONG TERM SUSTAINABILITY OF OUR SHIRE.**

1.1.3 Effective and efficient Council service delivery is provided within a framework that puts the customer first.

Adoption Date:	(Governance to insert)
Council Reference:	(Governance to insert)
Policy Owner:	Manager Assets
Next review date:	4 years
File Reference:	7190
Related Policies/Legislation:	

- *Local Government Act 1993*
- *Cemeteries and Crematoria Act 2013*
- *Cemeteries and Crematoria Regulation 2014*
- *Crown Lands Management Act 2016*
- *Public Health Act 2010*
- *Public Health Regulation 2012 (Part 8 Disposal of Bodies)*
- *Heritage Act 1977*
- *Environmental Planning and Assessment Act 1979*
- *Environment Planning and Assessment Regulation 2000*
- *Threatened Species Conservation Act 1995*
- *Funeral Funds Act 1979*
- *Coroner's Act 2009*

#### Related Documents:

- Wingecarribee Council Cemeteries Strategic Plan 2013
- Cemeteries Information Brochure
- Guidelines for Placing Flowers and Ornaments in our Cemeteries

# Cemetery Policy

## OBJECTIVES

The objective of this policy is to provide a management standard for the sustainable administration, operation and maintenance of Wingecarribee Shire Council's cemeteries by:

- Providing clear guidelines for safe, consistent and socially acceptable standards for those entering, working or visiting Council-managed cemeteries.
- Ensuring cemetery services and infrastructure are provided in a sustainable manner.
- Meeting legislative requirements and best practice standards for cemetery operations.

## POLICY STATEMENT

### 1. Introduction

Cemeteries are an important community asset and provide essential infrastructure and services to the community.

Wingecarribee Shire Council (Council) is the operator of sixteen cemetery sites across the Shire and is responsible for the administration, maintenance and conservation of environmental and heritage elements within these cemeteries. The cemeteries under Council's authority include:

OPERATIONAL	PARTIALLY OPERATIONAL / NON OPERATIONAL
Bowral General Cemetery	Myra Vale Cemetery
Moss Vale General Cemetery	Rowes Hill Anglican Cemetery
Welby General Cemetery	Glenquarry Cemetery
Berrima General Cemetery	East Kangaloon Cemetery
Bundanoon General Cemetery	Burradoo Wesleyan Cemetery
Robertson General Cemetery	Balmoral Cemetery
Burrawang General Cemetery	Wingello Cemetery Reserve
Penrose General Cemetery	Kangaloon Cemetery Reserve

## Cemetery Policy

### 2. Background

The cemeteries in Council's care are either located on Council, Church or Crown Land and were previously administered by church trusts. Responsibility for the administration and management of the cemeteries was transferred from various trusts to Council in 1967 under the *Local Government (Control of Cemeteries) Amendment Act 1966*.

The management and operations of all New South Wales cemeteries are now governed under the *Cemeteries and Crematoria Act 2013*.

This policy is aligned with the *Cemeteries and Crematoria Act 2013* to ensure that all cemeteries administered by Council operate within a legal framework.

### 3. Management

#### 3.1 Fees

Cemetery fees will be reviewed annually and published in Council's Fees and Charges.

#### 3.2 Records

In accordance with relevant legislation, Council will collect the information necessary to meet the requirements for the keeping of a cemetery register.

Information contained in cemetery registers and plans, held by Council is available on application.

#### 3.3 Burial Allotments and Ash Placement Niches.

Council will make provisions for the development of new types and styles of interment areas within a cemetery as required.

Allotment size and availability in all cemeteries will be determined by Council.

Restrictions on the type of monument and other memorialisation that can be placed on an allotment are applicable and dependent on the style of area. Information on these restrictions will be made available to all applicants for an interment right.

Council reserves the right to close an existing area to new interment rights once an area has reached capacity, or is deemed by Council to be unsuitable for further use.

A number of options for the interment or placement of ashes are available, however not all cemeteries will offer all options.

Cremated remains can only be scattered or interred in Council cemeteries upon the approval of an application to Council.



## Cemetery Policy

### 3.4 Natural Burial

Any area nominated by Council for use as a natural burial area within a Council cemetery will retain the natural vegetation with only minimal maintenance to remove weed species.

All interments in natural burial areas are to be single depth and the location recorded by Council staff.

No permanent memorials or physical markers are to be placed in a natural burial area.

All materials used in natural burial areas, including coffins, caskets, and floral arrangements, must be made of fully biodegradable or compostable materials.

### 3.5 Interment Rights

The granting of, transfer, or revocation of interment rights will be undertaken by Council in accordance with part 4 of the *Cemeteries and Crematoria Act 2013*.

An interment right gives exclusive entitlement to the holder to inter the remains of a deceased person in the place to which it relates.

All interment rights issued by Council are currently granted in perpetuity.

Council will not grant or transfer an interment right to a person if the granting or transfer of the interment right will result in the person holding (including jointly holding) interment rights in respect of more than two interment sites in a cemetery.

Refund of fees for unexercised interment rights transferred back to Council will be determined by Council. Council reserves the right to refuse to accept the transfer of an interment right from an interment right holder back to Council as the cemetery operator.

### 3.6 Applications for Burial under an Interment Right

Interments are only permitted with an interment order issued by Council. An application for an interment order must be lodged with Council before an interment order will be issued.

Interments may only be undertaken during the days and hours approved by Council. During bush fire danger periods, Council recommends interments prior to 11:00am at cemeteries located on bushfire prone land to reduce the risk to the public.

Council reserves the right to temporarily close a cemetery and/or defer funerals:

- when notified of a current bush fire incident within the vicinity of a cemetery;
- on bushfire danger days rated as catastrophic or extreme for cemeteries on bushfire prone land;
- when an emergency warning has been issued by emergency authorities; or
- force majeure events require the evacuation or repair of a cemetery.







## Cemetery Policy

### 4. Work Undertaken in Cemeteries

Works are considered to be any gravesite activity including, but not limited to, digging, interment and exhumation of remains, or the construction, repair, addition to or removal of a monument.

Anyone who wishes to conduct funeral or monument activities at a Council cemetery must hold appropriate qualifications and apply for a licence or permit to undertake the activity and receive approval from Council before commencing any work.

#### 4.1 Licence Application

An application for a licence to undertake works must be on an approved form, include all contractor documentation requested on the application form, and be accompanied by the appropriate fee.

The licence will apply to the service provider and their sub-contractors.

Council reserves the right to refuse to grant a licence or to withdraw a licence to undertake works in Council cemeteries.

#### 4.2 Service Provider Responsibilities

Service providers are not permitted to make any comments to the media on behalf of Council.

Service providers must at all times comply with all conditions of the permit or approval issued by Council.

Service providers must show due consideration for other contractors, staff and the public while working on site.

#### 4.3 Monumental Work Applications

A monumental works application is to be lodged by a licenced mason using the approved form before any monument work is undertaken.

All monumental work must comply with all conditions of approval issued by Council and meet the current Australian Standards; Headstones and Cemetery Monuments AS 4204:2019.

The overall height of headstones on lawn beams must not exceed 0.9m from ground level.

Council may request additional structural plans for monuments in monumental areas.

The care, maintenance and repair of monumental work are the responsibility of the interment right holder or the estate of the deceased. Only minor works may be performed by the





## Cemetery Policy

interment right holder or family of the deceased, all other work must be referred to a qualified stonemason.

Council may undertake work on monuments to ensure public and staff safety.

Works on monuments identified by Council to be of heritage significance are to be in accordance with the Burra Charter and may require additional assessment and referral to Council's heritage officer before any work may commence.

### 4.4 Maintenance of Cemetery Grounds

All maintenance and landscaping of cemetery grounds will be undertaken by Council staff or Council contractors as directed by Council.

Maintenance of cemetery grounds excludes the care and repair of monumental work which remain the responsibility of the interment right holder.

Landscape trees will be maintained as per Council's tree management procedures and practices.

The installation of memorial trees, memorial tree surrounds, or replacement of memorial trees must be approved by Council.

## **5. Miscellaneous**

### 5.1 Placing of Tributes, Ornaments or Objects

The placement of floral and non-floral tributes can be undertaken within the guidelines set by Council.

Council is not responsible or liable for the security of tributes, flowers, ornaments or other objects placed in any cemetery.

Planting of any tree, shrub or plant in the ground in any cemetery is not to be undertaken without the written permission of Council.

Due to safety issues, glass vases or other objects containing glass are not to be left in any area of Council cemeteries. Metal objects, wire, gravel, wood chip, netting or items likely to cause a risk to health or safety are not to be placed in an area specified as a lawn beam area.

Advertising and promotional material are not to be placed or left in any cemetery without written permission of Council.

Council reserves the right to remove, without reference to anyone, any item considered an immediate risk to the safety of the public or staff.



## Cemetery Policy

### 5.2 Vehicles

Vehicle movements within Council cemeteries are to comply with posted speed limits and other vehicle management signs.

Private vehicles are not permitted within burial areas and must stay within designated driveways and parking areas.

Overnight parking or camping is not permitted in Council cemeteries.

### 5.3 Organised Events (other than funerals)

Where an event or group activity is to be held in a Council cemetery, the organiser must contact Council's cemetery staff at least two weeks prior to the event.

Some events may require the submission of documentation, such as a risk assessment and public liability insurance. Written approval for the event must be given by Council before accessing the cemetery.

## SCOPE

This Policy relates to all cemeteries administered by Wingecarribee Shire Council.

## DEFINITIONS

**Burra Charter** means "The Burra Charter (The Australia International Council on Monuments and Sites (ICOMOS) Charter For Places Of Cultural Significance)".

**First interment** is the burial of the first person under the provisions of an existing interment right.

**Holder** in relation to an interment right means the person listed in the cemetery register, held by the cemetery authority, as the holder of the interment right.

**Interment order** is a permit allowing for the burial to take place at a time and location, specified on the order, within the cemetery.

**Interment right**, previously called a burial right, is a purchased right issued by a cemetery authority or manager. An Interment right confers to the holder an exclusive right to bury or inter the remains of a person in a specific grave allotment or plot and to place a monument over the grave.

**Joint holder** means two or more persons named as joint holders of a single interment right.



## Cemetery Policy

**Mason** means a tradesman, stone mason or person possessing the skills to carryout monument masonry work and offering them as a service.

**Minor Work** is work that is not structural or requires machinery or power tools to complete. Minor work would include activities such as hand cleaning a headstone or weeding.

**Monument** means any structure, plaque, headstone, ledger, masonry, metal work, casting or other item memorialising a person where that item is placed in a Council cemetery.

**Register** means Council's formal data repository containing all the required details relating to burials, cremations, memorial sites.

**Subsequent interment** is the burial of a second person in one allotment, under the provisions of an existing interment right. A second or subsequent interment fee will be applicable for all second interments exercised under the provisions of an existing interment right.

### RESPONSIBILITIES

Responsibilities for implementing this Policy are shared between Councillors, Executive and staff as follows:

**Mayor/Councillors:**

- To lead the community in their understanding of and compliance with this Policy.

**Executive:**

- To implement this Policy and related procedures
- To lead Council staff in their understanding of and compliance with this Policy.

**Manager Assets:**

- To implement this Policy and related procedures
- To provide advice and assistance to Councillors and staff in relation to this Policy.

**Staff:**

- To read, understand and comply with this Policy and related procedures.







## Cemetery Policy

### PERFORMANCE MEASURES

The success of this policy will be measured by:

High level of compliance by everyone working or visiting Council managed cemeteries.

### BREACHES OF THE POLICY

Enforcement of this Policy is primarily supported by community education, provision of information to cemetery stakeholders and self-policing by the community rather than punitive enforcement by Council.

Where a member of the public continually fails to comply with this Policy and any associated written notification, Council may serve a caution or penalty notice upon such individual/s under the relevant legislation.

### APPROVED BY:

**WINGECARRIBEE SHIRE COUNCIL**  
(Insert Date)

### ATTACHMENTS

1. Guidelines for Placing Flowers and Ornaments in our Cemeteries.
2. Cemeteries Information Sheet

Approved By:

**WINGECARRIBEE SHIRE COUNCIL**  
(Insert Date)



## 11.4 Post Public Exhibition Report - Proposed Lease to Southern Highlands Carriage Club

Reference:	PN544700
Report Author:	Property and Project Officer
Authoriser:	Chief Financial Officer
Link to Community	
Strategic Plan:	Effective financial and asset management ensure Council's long term sustainability

### PURPOSE

The purpose of this report is to advise Council of the submissions received following a period of public notice of intention to issue a 21 year Lease to the Southern Highlands Carriage Club for use of the Southern Highlands Carriage Club and Bundanoon Pony Club site, Bundanoon. The period of public notification was from 25 September 2019 to 1 November 2019

### RECOMMENDATION

1. ***THAT Council refer the Lease to the Minister for Local Government for consent as required pursuant to Section 47(5) of the Local Government Act 1993 as written objections to the proposed Lease have been submitted during the public notice period.***
2. ***THAT if the Minister grants consent to the Lease, the General Manager and Mayor be delegated authority to execute the Lease referred to in Resolution 1 above and to affix the Common Seal of Council to the Lease and any supporting documents.***
3. ***THAT if the Minister does not grant consent to the Lease a further report be forwarded to a future Ordinary Meeting of Council for consideration.***
4. ***THAT Council write to those residents who lodged a written objection advising them that the Lease will now be referred to the Minister for Local Government.***

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## **REPORT**

### **BACKGROUND**

At its meeting 12 June 2019, Council resolved to enter in to a twenty one (21) year Lease with Southern Highlands Carriage Club for the continued occupation and use of the Carriage Club and Pony Club site.

It was resolved by Council (MN265/19):

1. *THAT Council confirms its intention to consider entering into a Lease of part of the Council property known as Lot 1 in Deposited Plan 618233 at the corner of Ferndale Road and Quarry Road, Bundanoon to Southern Highlands Carriage Club for a term of 21 years.*
2. *THAT pursuant to Section 47(1) and (2) of the Local Government Act 1993, Council publicly exhibit the draft proposed Lease referred to in Resolution 1 above for a minimum twenty eight (28) day period AND THAT if no objections are received, the General Manager and Mayor be delegated authority to execute the Lease under the Common Seal of the Council.*
3. *THAT if there is any written objection/s to the proposed Lease referred to in Resolution 1 above, a further report be presented to a further Ordinary Meeting of Council.*

### **REPORT**

The proposed location of the leased area is classified as Community Land pursuant to section 26 of the *Local Government Act 1993*.

Following the resolution of Council made on 12 June 2019, the proposed form of Lease was drafted and placed on public notification from the 25 September 2019 to the close of business 1 November 2019.

Council must consider all submissions duly made. During the notice period a total of two (2) objections were received as outlined in **Attachment 1** to this report.

In accordance with Section 47(5) of the *Local Government Act, 1993* council must not grant the Lease, licence or other estate except with the Minister's consent, if:

- (a) a person makes a submission by way of objection to the proposal, or
- (b) in the case of a Lease or licence, the period (including any period for which the Lease or licence could be renewed by the exercise of an option) of the Lease or licence exceeds 21 years.

On receipt of the application by Council, the Minister must request the Secretary of the Department of Planning, Industry and Environment to furnish a report concerning the application within such period as the Minister specifies.

After considering the application and any report of the Secretary of the Department of Planning, Industry and Environment, the Minister, if satisfied the relevant legislation has been complied with and that such consent would not contravene section 46 of the *Local Government Act, 1993*, may consent to the grant of the Lease in respect of the whole or part

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of the land to which the application relates, subject to such terms and conditions as the Minister specifies.

The Minister's consent is conclusive evidence that Council has complied with its legislative requirements.

---

## COMMUNICATION AND CONSULTATION

### Community Engagement

Public notice of the revised leased area was exhibited from the 25 September 2019 to the close of business 1 November 2019

### Internal Communication and Consultation

N/A

### External Communication and Consultation

Southern Highlands Carriage Club

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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**

Due to the public submissions received Council must refer the matter to the Minister for Local Government in accordance with Section 47(5) of the *Local Government Act*, 1993.

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## COUNCIL BUDGET IMPLICATIONS

There are no budgetary implications arising from this report.

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## RELATED COUNCIL POLICY

Lease & Licence of Council Property (Not-For-Profit and Community-Based Organisations).  
**OPTIONS**



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The options available to Council are:

#### **Option 1**

Refer the Lease to the Minister for Local Government for consent as required pursuant to Section 47(5) of the *Local Government Act 1993* for approval.

#### **Option 2**

Determine an alternate term for a Lease to the Southern Highlands Carriage Club.

**Option 1 is the recommended option to this report.**

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#### **CONCLUSION**

As submissions have been received during the period of public notice for this Lease, it is recommended that Council refer the Lease to the Minister for Local Government for consent as required pursuant to *Section 47(5) of the Local Government Act 1993*.

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#### **ATTACHMENTS**

1. Submissions & Response
2. Aerial Map

Barry W Paull  
**Deputy General Manager Operations, Finance and Risk**

Thursday 21 November 2019

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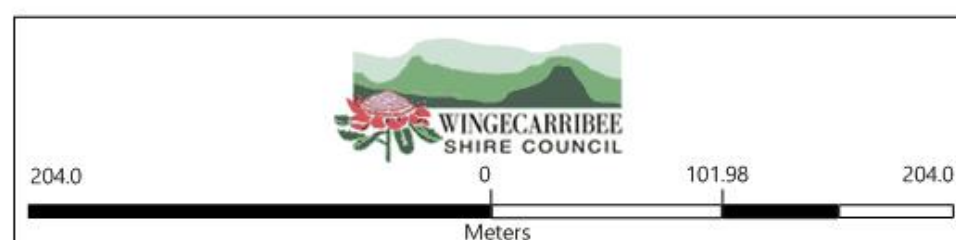
### 11.4 Post Public Exhibition Report - Proposed Lease to Southern Highlands Carriage Club

#### ATTACHMENT 1 Submissions & Response



	Submission	Response
1.	<ul style="list-style-type: none"><li>• Granting Lease will impact other potential users of the site on what is acknowledged as public land.</li><li>• Plan of Management identifies site as Park and for General Community Use, locking it away under a lease to one user group is potentially detrimental to the aims of the Plan of Management.</li><li>• Believes that parcels of public land should be available for use by the public and in particular for other users who may wish to include the land for running of compatible events.</li><li>• If lease is issued, then it has to be clear within that lease that other users can without difficulty, use the site.</li></ul>	<ul style="list-style-type: none"><li>• Comments noted.</li><li>• The Plan of Management expressly authorises the granting of Leases &amp; Licences and is not detrimental to the aims of the Plan of Management. The propose Lease, along with the activities run by the proposed Lessee is in a location that is compatible with the categorisation assigned in the Plan of Management.</li><li>• Comments noted.</li><li>• Comments noted.</li></ul>
2.	<ul style="list-style-type: none"><li>• Portion of area is classified as Natural Area Bushland. The lease has a community land clause, however, it is only referring to the premises and not the whole property. Suggests changing the word 'Premises' to 'Property'.</li><li>• Suggests to add to Maintenance Responsibilities that it does not extend to areas classified as Natural Area (general maintenance or plants/shrubs etc).</li><li>• Suggests to include a Bio Security section in the maintenance schedule of the lease noting that the club is responsible for identifying and managing any biosecurity risks (flora &amp; fauna) at the site.</li></ul>	<ul style="list-style-type: none"><li>• Council will agree to change 'Premises' to 'Property'.</li><li>• Comments noted</li><li>• Comments noted.</li></ul>





Wingecarribee Shire Council

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## 12 CORPORATE STRATEGY AND DEVELOPMENT SERVICES

### 12.1 Planning Proposal to Rezone and Amend the Minimum Lot Size Of Land at Old South Road and Bowral Street, Bowral

Reference:	5901/65 PN1811140
Report Author:	Senior Strategic Land Use Planner
Authoriser:	Coordinator Strategic Land Use Planning
Link to Community Strategic Plan:	Provide a mixture of housing types that allow residents to meet their housing needs at different stages of their lives and support affordable living

#### PURPOSE

The purpose of this report is to inform Council of the outcome of the public exhibition of a Planning Proposal to rezone land at Bowral Street and Old South Road Bowral from R5 Large Lot Residential to R2 Low Density Residential, and reduce the minimum lot size from 4,000m<sup>2</sup> to 1,000m<sup>2</sup>.

#### VOTING ON THE MOTION

Councillors are required to record their votes on this matter.



---

## RECOMMENDATION

**THAT** in accordance with s3.36 of the *Environmental Planning & Assessment Act 1979*, Council finalise the Planning Proposal to amend WLEP 2010 to rezone to R2 Low Density Residential and apply a minimum lot size of 1000m<sup>2</sup> to the following lots:

- Lot 13 Sec D DP192732,
- Lot 131 DP524470,
- Lot 1 DP708665,
- Lot 2 DP708665,
- Lot 3 DP708665,
- Lot 4 DP708665,
- Lot 5 DP708665,
- Lot 6 DP708665,
- Lot 1 DP626821,
- Lot 2 DP626821,
- Lot 8 DP770871,
- Lot 7 DP786212; and
- Lot 1 DP782827,

being 190, 196, 198, 200 and 202 Bowral Street Bowral and 146, 148, 150, 152, 158, 160 and 164 Old South Road, Bowral.

---

## REPORT

### **BACKGROUND**

In September 2018 a Planning Proposal was received by Council, the purpose of which was to rezone and amend the minimum lot size of several lots zoned R5 Large Lot Residential located at Bowral Street and Old South Road Bowral in the vicinity of 190 Bowral Street.

The lots identified in the Planning Proposal were:

- 190 Bowral Street, Bowral – Lots 13 and 22 Sec D DP192732 and Lot 131 DP524470;
- 196 Bowral Street, Bowral - Lot 1 DP708665
- 198 Bowral Street, Bowral - Lot 2 DP708665
- 200 Bowral Street, Bowral - Lot 3 DP708665
- 202 Bowral Street, Bowral - Lot 4 DP708665
- 146 Old South Road, Bowral – Lot 5 DP708665
- 148 Old South Road, Bowral – Lot 6 DP708665
- 150 Old South Road, Bowral – Lot 1 DP626821
- 152 Old South Road, Bowral – Lot 2 DP626821
- 158 Old South Road, Bowral – Lot 8 DP770871
- 160 Old South Road, Bowral – Lot 7 DP786212
- 164 Old South Road, Bowral, Lot 1 DP782827

The location of these lots is indicated in **Figure 1** below.



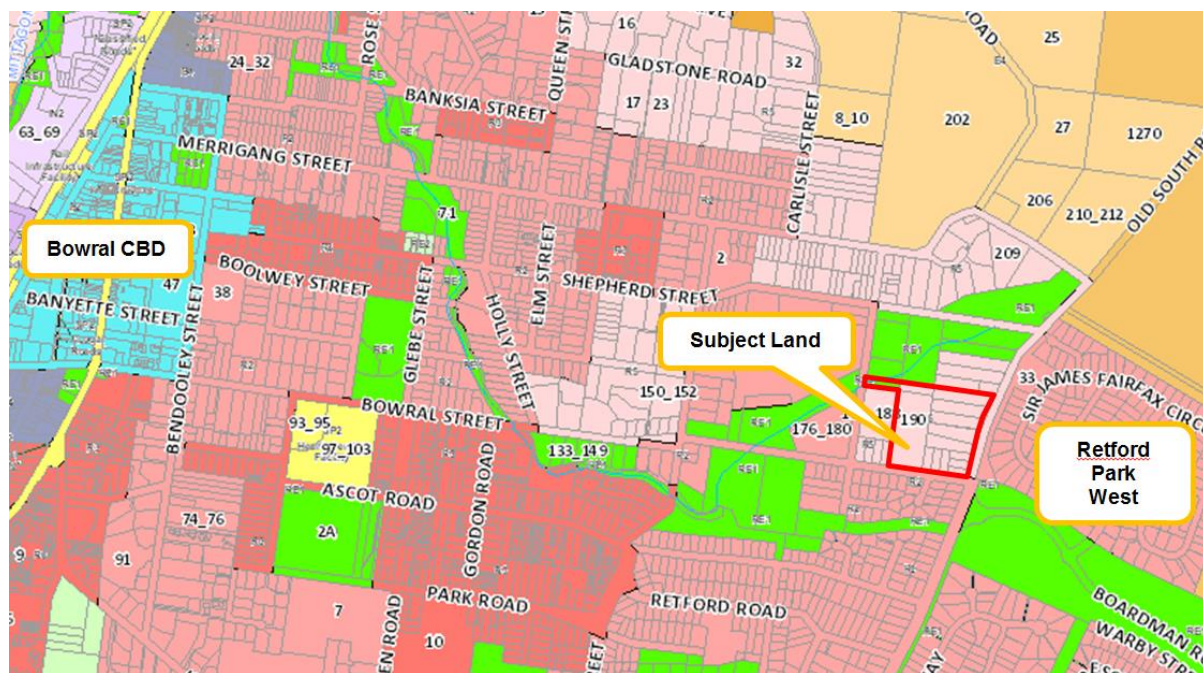


Figure 1 Location of Subject Land (enlarged at Attachment 1)

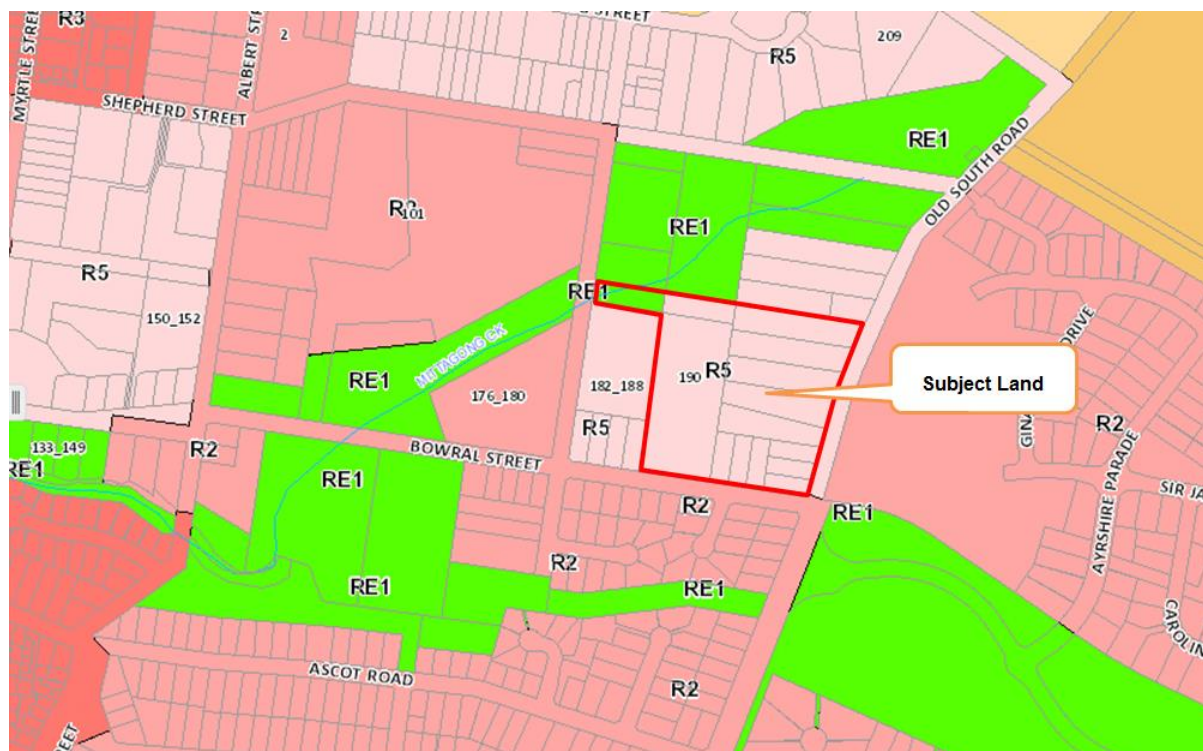


Figure 2 Zoning in locality of subject land (enlarged at Attachment 2)

The largest lot within the subject land, comprising the R5 zoned portion of 190 Bowral Street, is some 18,000m<sup>2</sup> in area and the primary outcome of the Planning Proposal would be to increase the subdivision potential for this lot.

**Figure 2** above provides a more detailed map of the zoning of, and around, the subject land. All but one of the lots which comprise the subject land is zoned R5 Large Lot



Residential. One lot, which forms part of 190 Bowral Street, is zoned RE1 Public Recreation, reflecting flood affection from the Mittagong Creek as indicated in **Figure 3** below. It is noted that this lot, Lot 22 Sec D DP192732, is not included in the list of lots recommended for rezoning and will therefore remain zoned RE1 Public Recreation.

Other land to the immediate north is also zoned RE1, due to flood affectation from Mittagong Creek. Land to the north of this RE1 zone is zoned R5 Large Lot Residential and provides a gradation to the E4 Environmental Living zone beyond. The subject land is surrounded to the east, west and south by R2 Low Density Residential zoned land.

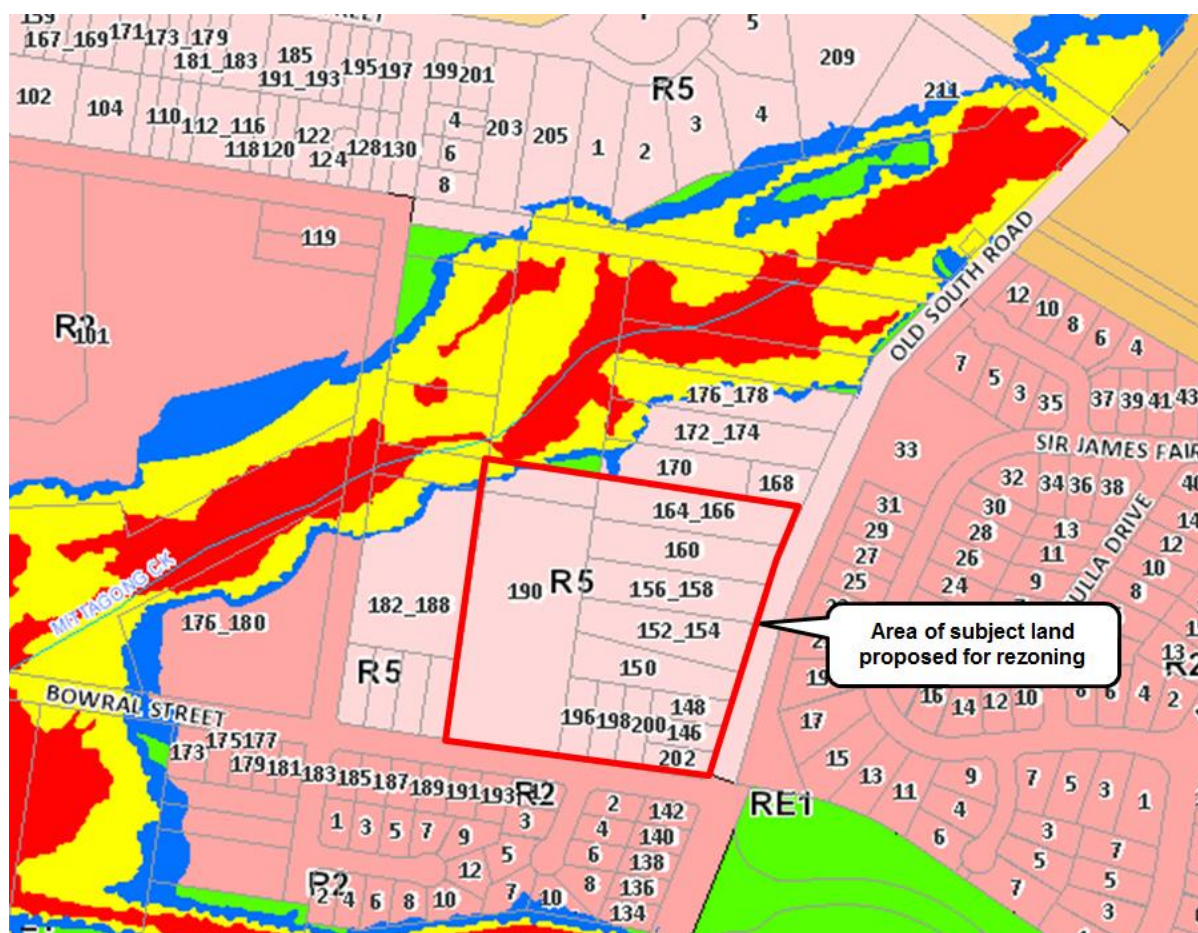


Figure 3 Extent of Flood Affection in the vicinity of the Subject Land (enlarged at Attachment 3)

Flood Hazard Level Index – Red = High, Yellow = Medium, Blue = Low.

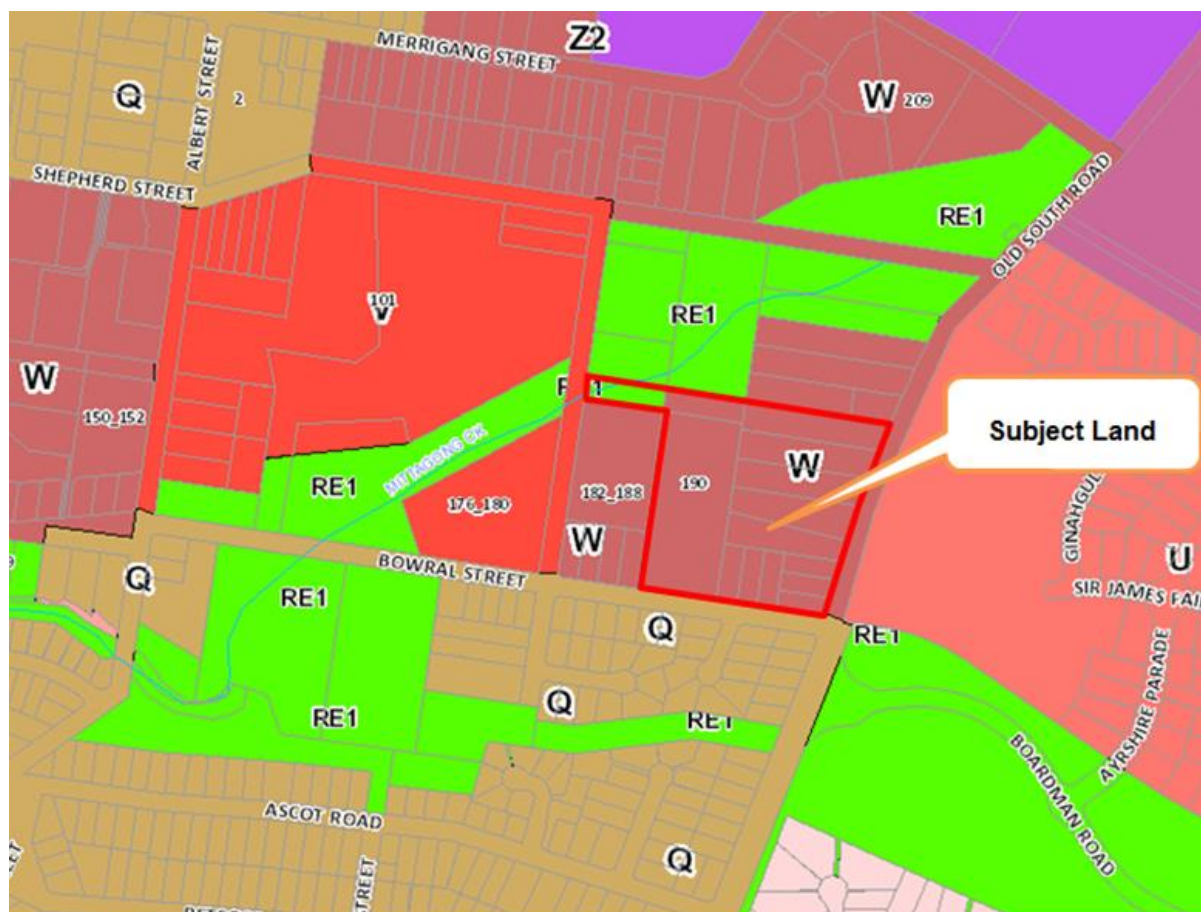


Figure 4 Current Minimum Lot Sizes (Q=700m<sup>2</sup>, U=1,000m<sup>2</sup>, V=2,000m<sup>2</sup>, W=4,000m<sup>2</sup>) (enlarged at Attachment 4)

As **Figure 4** above indicates, a minimum lot size of 4000m<sup>2</sup> currently applies to the R5 Large Lot Residential portion of the subject land and to the R5 zoned land on the northern side of the RE1 corridor. A 2,000m<sup>2</sup> minimum lot size applies to the R2 Low Density Residential zoned land to the west of the subject site where flood affectation continues, while 1000m<sup>2</sup> applies to the R2 zoned land in Retford Park on the eastern side of Old South Road.

The original intention of the Planning Proposal was to reduce the minimum lot size from 4000m<sup>2</sup> to 500m<sup>2</sup>. In assessing this Proposal it was noted that the rezoning of the former Retford Park site across Old South Road in September 2014 (WLEP 2010 Amendment 23) extended this area of the Bowral township to the north east of the subject land, resulting in the subject land being more contained within the township boundary than was previously the case. However, in reviewing surrounding minimum lot sizes it was concluded that a 1,000m<sup>2</sup> minimum would enable infill development, as supported in the Planning Proposal, while maintaining a consistent minimum lot size north of Bowral Street.

A report on the Planning Proposal was prepared for Council recommending that the Planning Proposal be supported, but that the proposed minimum lot size be amended to 1,000m<sup>2</sup> instead of 500m<sup>2</sup>. Council considered the report at its Ordinary Meeting of 28 November 2018 at which time it was resolved to submit a Planning Proposal to the Department of Planning, Industry and Environment for a Gateway Determination the purpose of which was to rezone the subject land to R2 Low Density Residential and apply a minimum lot size of 1,000m<sup>2</sup>.



## REPORT

Gateway Determination PP\_2019\_WINGE\_002\_00 was issued by the Department of Planning, Industry and Environment (the Department) on 23 May 2019. Referral was required to Water NSW and the NSW Rural Fire Service. These referrals were undertaken.

As indicated above, one aspect of the review of the Planning Proposal was the recognition that, with the development of Retford Park West, the subject land was now contained within a broader residential area, rather than being located on the eastern boundary of the Bowral Township as was previously the case.

It was further noted that, as indicated in **Figure 5** below, limited sewer services were currently provided to this land, with no sewer connection at all to the principal lot, 190 Bowral Street. One benefit of rezoning the land and enabling subdivision would be the requirement at subdivision stage that adequate water and sewer services be provided.



Figure 5 Water (blue) & Sewer (red) Connections (enlarged at Attachment 5)

Referral to WaterNSW resulted in the following response which supports Council's view in this regard.

*"Council has confirmed that 9 of the existing 13 lots are sewered.  
The four remaining lots, including the large 1.6 ha lot, are unsewered."*



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*“The Proposal may result in the replacement of septic and pump out systems with reticulated sewerage over time, including for the existing dwellings. Given the minimum lot size proposed it is essential that any future residential development on the site connects to the reticulated sewer. WaterNSW considers lots less than 2,000m<sup>2</sup> are not capable of accommodating a dwelling and on-site wastewater management in most cases”.*

The WaterNSW response concluded that *“provided all future development is seweraged, including redressing currently unsewered residences, then the Proposal is likely to reduce the risk to water quality over time”.*

It would be a requirement of any future Development Application for subdivision that the applicant model future demand for water and sewer and demonstrate that there was adequate capacity. No development approval would be granted until capacity is available, or would be capable of being provided.

The NSW Rural Fire Service response concluded that it raised no objections *“subject to a requirement that the future subdivision of the land complies with Planning for Bushfire Protection 2006”.* It is noted that none of the subject lots is mapped as being bushfire prone land and the provisions of *Planning for Bushfire Protection 2006* would be considered at the subdivision stage.

The Planning Proposal was placed on public exhibition for a period of 31 days from 7 August to 6 September 2019. The Planning Proposal and associated documentation was available for inspection at Council’s Customer Service Counter in the Civic Centre, as well as at the Bowral, Moss Vale and Mittagong Libraries. Exhibition material was also available to view via the ‘What’s on Exhibition’ page of Council’s website and details were included in the mail out of some 4,000 ‘e-newsletters’. Forty two (42) individual letters were also sent to surrounding residents. The public exhibition was advertised in the Southern Highland News for each week of the exhibition period.

Two written submissions were received. One sought confirmation that the proposed minimum lot size was 1,000m<sup>2</sup> stating that they had no objection to 1,000m<sup>2</sup> but would have objected to 500m<sup>2</sup>. Council confirmed that the proposed minimum lot size is 1,000m<sup>2</sup>.

The second submission did not support the proposal. The submitter expressed concern that such infill development had the potential to damage the existing character of the towns and villages throughout the Shire and that large lot residential zoning and lot sizes should be retained.

These comments are noted and Council does support and protect the R5 Large Lot Residential zones. However, in this case, the location of the land does provide a valid infill opportunity limited by Old South Road to the east and flood liable land to the north and west. Potential subdivision can provide a means by which water and sewer infrastructure can be upgrade, an outcome supported by WaterNSW.

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## COMMUNICATION AND CONSULTATION

### Community Engagement

Community consultation occurred as discussed above.

### Internal Communication and Consultation

Consultation has occurred with Council’s Development Engineers and Town Planners.

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### **External Communication and Consultation**

External consultation occurred as described above.

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### **SUSTAINABILITY ASSESSMENT**

- **Environment**

There are no bushfire or ecological impacts associated with the Planning Proposal. The Planning Proposal provides the opportunity for modest infill development with consequent environmental benefits.

- **Social**

A social-economic report accompanied the Planning Proposal. The Planning Proposal provides the opportunity for modest infill development.

- **Broader Economic Implications**

A social-economic report accompanied the Planning Proposal.

- **Culture**

There are no cultural issues in relation to this report.

- **Governance**

The Planning Proposal has been processed in accordance with legislative requirements.

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### **COUNCIL BUDGET IMPLICATIONS**

There are no budget implications associated with this report.

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### **RELATED COUNCIL POLICY**

There are no other related Policies associated with this Planning Proposal.

---

### **OPTIONS**

The options available to Council are:

#### **Option 1**

Support the recommendation of this report to proceed with the finalisation of the Planning Proposal.

#### **Option 2**

Not support progression of the Planning Proposal.

Option 1 is the recommended option to this report.

---

### **CONCLUSION**

The Planning Proposal seeks to amend WLEP 2010 to rezone that area of the subject land currently zoned R5 Large Lot Residential to R2 Low Density Residential. The report

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supports this proposal. The report also supports a minimum lot size of 1,000m<sup>2</sup> as being more appropriate than the 500m<sup>2</sup> originally proposed, more consistent with existing lot sizes on Bowral Street within the subject area and immediately adjacent, as well as with the Retford Park standard to the east.

Overall, the report concludes that the proposal provides the opportunity for modest infill development and upgrades to existing water and sewer infrastructure, the latter view supported by WaterNSW.

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#### ATTACHMENTS

1. Figure 1 Location of Subject Land - *circulated under separate cover*
2. Figure 2 Zoning in locality of subject land - *circulated under separate cover*
3. Figure 3 Extent of Flood Affectation in the vicinity of the Subject Land - *circulated under separate cover*
4. Figure 4 Current Minimum Lot Sizes - *circulated under separate cover*
5. Figure 5 Water & Sewer Connections - *circulated under separate cover*

## 12.2 Planning Proposal to Reduce the Minimum Lot Size of Land in North-West Moss Vale

Reference:	PN125700, PN1700395, PN1748440
Report Author:	Senior Strategic Land Use Planner
Authoriser:	Coordinator Strategic Land Use Planning
Link to Community Strategic Plan:	Provide a mixture of housing types that allow residents to meet their housing needs at different stages of their lives and support affordable living

### PURPOSE

The purpose of this report is to inform Council of the outcome of the public exhibition of a Planning Proposal to amend WLEP 2010 to rezone and reduce the minimum lot size of certain lands to the north-west of Moss Vale in order to permit residential development.

### RECOMMENDATION

**THAT** in accordance with s3.36 of the *Environmental Planning & Assessment Act 1979*, Council finalise the Planning Proposal to amend WLEP 2010 to:

- A) Rezone Lots 1-6 & 8 DP502535 and Lot 2 DP502535, 77 Beaconsfield Road, Moss Vale and that part of Lot 11 DP1084421, 74-76 Beaconsfield Road Moss Vale currently zoned RU2 Rural Landscape, to E4 Environmental Living and apply a minimum lot size of 2 hectares, and
- B) Rezone Lot 1 DP812628, 69 Bulwer Road Moss Vale currently zoned RU4 Rural Landscape to E4 Environmental Living and apply a minimum lot size of 1 hectare.

### VOTING ON THE MOTION

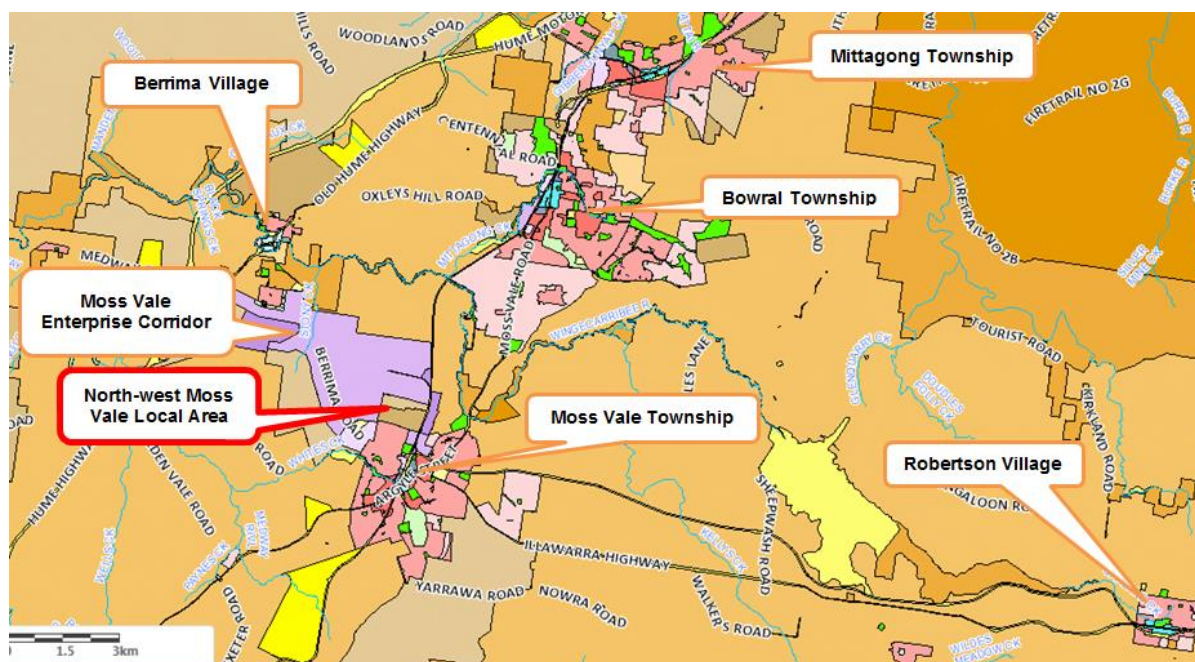
Councillors are required to record their votes on this matter.



## REPORT

### BACKGROUND

During the preparation of the Wingecarribee Local Planning Strategy 2015-2031 Council received three (3) Planning Proposals seeking to reduce the minimum lot size of land to the north-west of Moss Vale, the location which is indicated in **Figure 1** below.



**Figure 1 Location of NW Moss Vale (enlarged at Attachment 1)**

The three sites are as follows:

Site 1 - 77 Beaconsfield Road (Lots 1-6 & 8 DP502535 and Lot 2 DP502535) & 71 Beaconsfield Road (Lot 1 DP 502535) – No 77 covers an area of some 15.9 ha and No 71 covers an area of some 2.4 ha. The site is zoned RU2 Rural landscape with a minimum lot size of 40 ha.

Site 2 - 74-76 Beaconsfield Road (Lot 11 DP1084421) - comprises two portions separated by an unformed road. The northern portion is zoned IN1 General Industrial. The southern portion, covering an area of some 11.7 ha, is zoned RU2 Rural Landscape. To facilitate the subdivision of the IN1 portion from the RU2 land, Amendment 4 to WLEP 2010 on 11 May 2012 reduced the minimum lot size of the whole site to 10 hectares. This subdivision has yet to occur.

Site 3 - 69 Bulwer Road (Lot 1 DP812628) - covers an area of approximately 2.6ha and is zoned RU4 Primary Production Small Lots with a minimum lot size of 2ha.

The location of each site within the study area is indicated in **Figure 2** below.

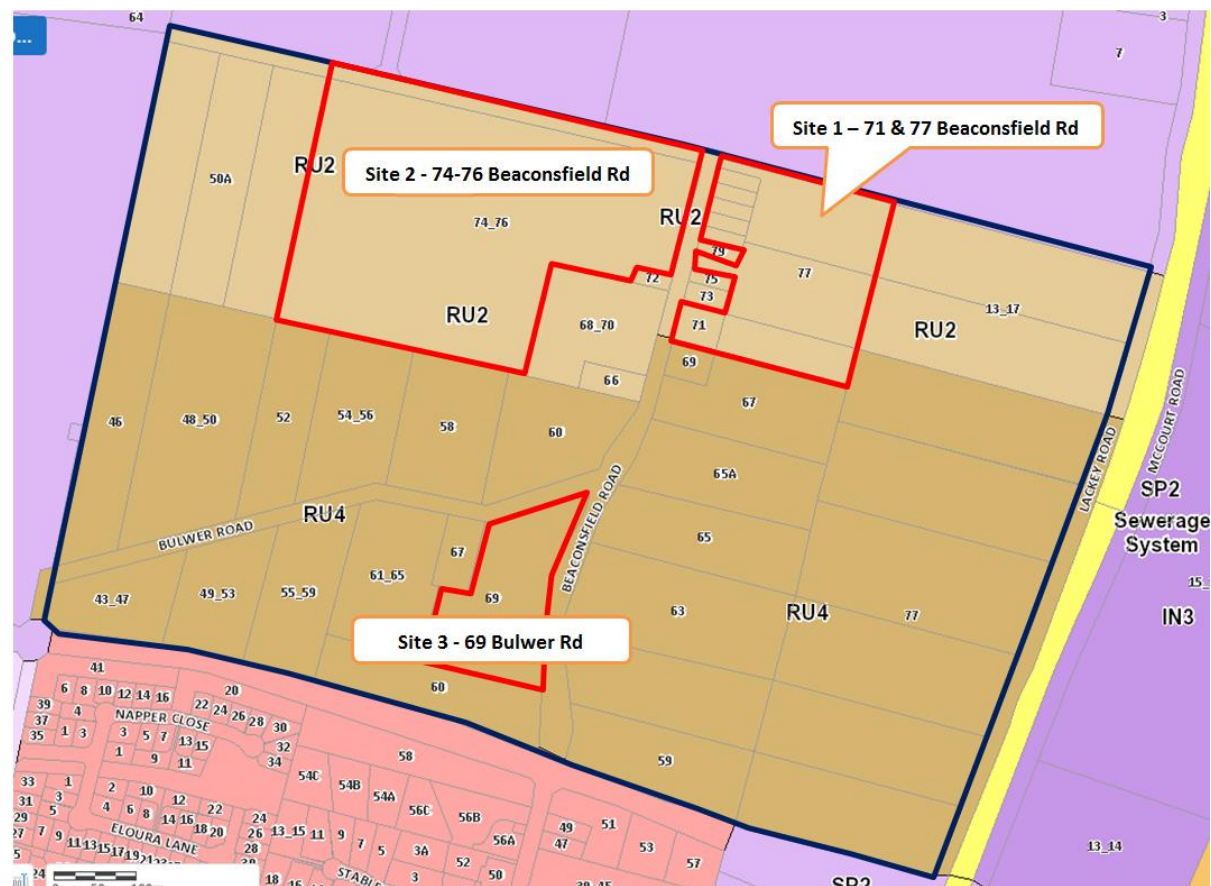


Figure 2 Location of Subject Sites (enlarged at Attachment 2)

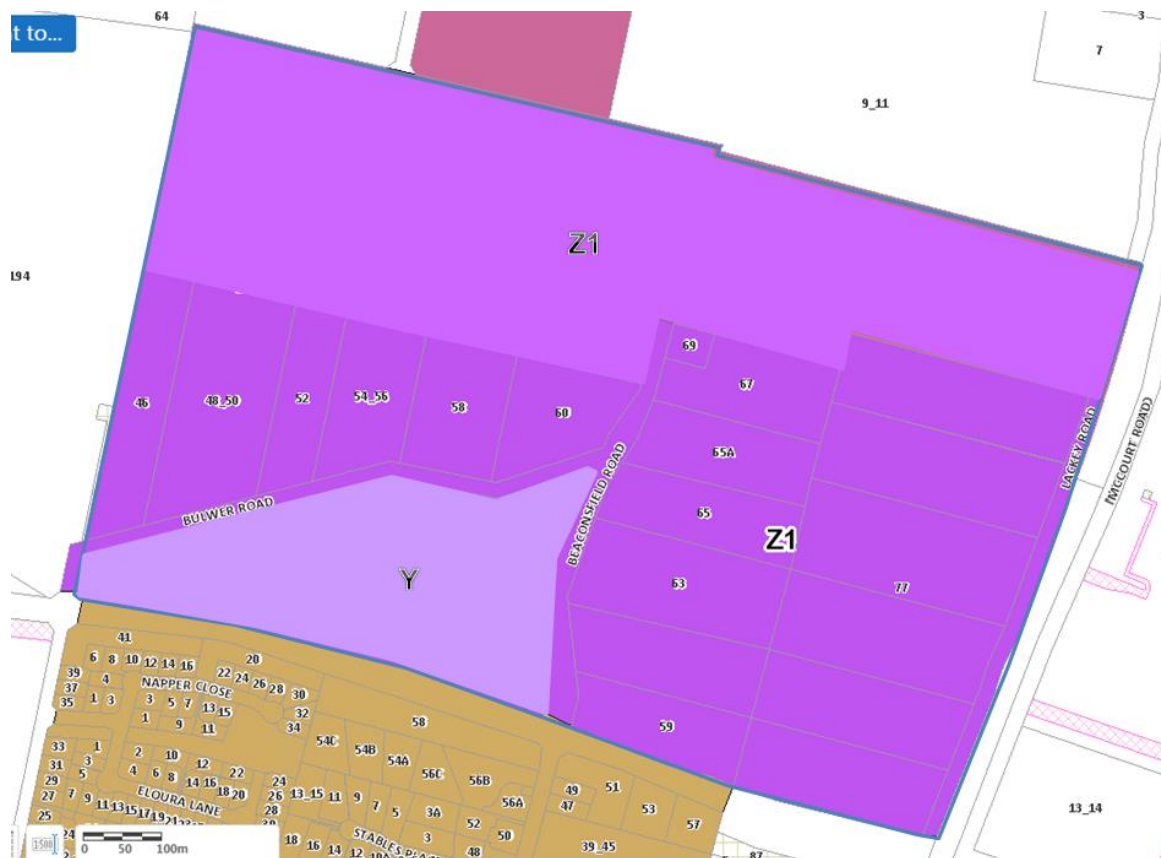
The Planning Proposals were assessed and ultimately included in the Moss Vale Precinct Plan of the Wingecarribee Local Planning Strategy 2015-2031. In response, a new Planning Proposal for each site was submitted to Council seeking to progress the proposed amendments. However, the new Proposals each sought to vary in some way the outcome from that supported under the Strategy. These variations prompted Council to adopt a more strategic approach to the future development of the entire northwest Moss Vale area.

**Figure 2** above also indicates that the northern portion of the NW Moss Vale area is zoned RU2 Rural Landscape under Wingecarribee Local Environmental Plan (WLEP). The remainder of the area is zoned RU4 Primary Production Small Lots.

The area is surrounded by IN1 General Industrial zoned land to the north and west and IN3 Heavy Industrial zoned land across Lackey Road to the east. To the south lies predominantly R2 Low Density Residential zoned land with a minimum lot size of 700m<sup>2</sup> although the south-eastern portion of the subject land is bordered by IN1 General Industrial zoned land.

The review of the northwest Moss Vale area indicated certain flood constraints and limited water and sewer infrastructure which did not support the extent of subdivision potential sought in the three Planning Proposals. In response the report to Council proposed that a Local Area Plan support the application of the E4 Environmental Living zone across the entire area. It was further proposed that a minimum lot size of 1 hectare be applied to the area south of Bulwer Road with a minimum lot size of 2 hectares be applied to the remainder of the land within the designated Local Area Plan. This minimum lot size pattern

proposed for the Local Area Plan, is indicated in **Figure 3** below, where Z1 is 2 hectares and Y is 1 hectare.



**Figure 3 Proposed minimum lot sizes (Y = 1 hectare, Z1 = 2 hectares) (enlarged at Attachment 3)**

Within the context of the proposed zoning and minimum lot sizes discussed above the three Planning Proposals under consideration were addressed.

With regard to Site 1 (77 Beaconsfield Road), a minimum lot size of 40 hectares currently applies. With regard to Site 2 (74-76 Beaconsfield Road) a minimum lot size of 10 hectares currently applies.

The 2 hectare minimum lot size proposed for these sites under the Local Area Plan would provide the opportunity for Sites 1 and 2 to progress a revised Planning Proposal to rezone their sites to E4 Environmental Living and apply a minimum lot size of 2 hectares. Development Applications for subdivision could then be considered subject to satisfactory provisions for water and sewer infrastructure and road access.

Site 1 (77 Beaconsfield Road) could achieve a potential lot yield of seven (7) or eight (8) lots and the RU2 portion of Site 2 (74-76 Beaconsfield Road) could achieve a potential four (4) or five (5) lots. The subdivision potential of Site 2 is particularly dependent on the creation of adequate road access to the site.

With regard to Site 3 (69 Bulwer Road) the proposed 1 hectare minimum would enable a revised Planning Proposal to seek a two-lot subdivision, i.e one (1) additional lot. Site 3 is the largest lot (2.6 ha) in this portion of the study area and no other lot would have



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subdivision potential, all being below the 2 hectare minimum required to meet the 1 hectare minimum lot size.

At its Ordinary Meeting of 12 December 2018, Council resolved as follows:

1. **THAT the proposed zoning and minimum lot size plan for the north-west Moss Vale study area be adopted.**
2. **THAT in accordance with the plan adopted at 1 above, a Planning Proposal be prepared and submitted to the NSW Department of Planning & Environment for a Gateway Determination to:**
  - A) **Rezone Lots 1-6 & 8 DP502535 and Lot 2 DP502535, 77 Beaconsfield Road, Moss Vale and that part of Lot 11 DP1084421, 74-76 Beaconsfield Road Moss Vale currently zoned RU2 Rural Landscape, to E4 Environmental Living and apply a minimum lot size of 2 hectares, and**
  - B) **Rezone Lot 1 DP812628, 69 Bulwer Road Moss Vale currently zoned RU4 Rural Landscape to E4 Environmental Living and apply a minimum lot size of 1 hectare.**

## **REPORT**

A Planning Proposal to progress these draft amendments was prepared by Council and submitted to the Department of Planning, Industry and Environment for a Gateway Determination which was received on 28 May 2019. Referral was required to WaterNSW and NSW Rural Fire Service. These referrals were undertaken.

In response, WaterNSW noted the infrastructure constraints of the northwest Moss Vale area and advised Council to ensure that adequate infrastructure could be provided for any future subdivision. This is noted and would occur at the Development Application stage.

WaterNSW also encouraged Council to undertake a full North-West Moss Vale Residential Study. This is also noted and will be addressed in the Local Housing Strategy.

The NSW Rural Fire Service response concluded that it raised no objections “*subject to a requirement that the future subdivision of the land complies with Planning for Bushfire Protection 2006*”. It is noted that none of the subject lots is mapped as being bushfire prone land and the provisions of *Planning for Bushfire Protection 2006* would be considered at the subdivision stage.

The Planning Proposal was placed on public exhibition for a period of 31 days from 7 August to 6 September 2019. The Planning Proposal and associated documentation was available for inspection at Council’s Customer Service Counter in the Civic Centre, as well as at the Bowral, Moss Vale and Mittagong Libraries. Exhibition material was also available to view via the ‘What’s on Exhibition’ page of Council’s website and details were included in the mail out of some 4,000 ‘e-newsletters’. Thirty five (35) individual letters were also sent to surrounding residents. The public exhibition was advertised in the Southern Highland News for each week of the exhibition period.

Three written submissions were received. One requested that access to any new lot at 69 Bulwer Road be off Beaconsfield Road to avoid additional traffic concerns on Bulwer Road.



This request is noted and would be addressed during consideration of any Development Application for subdivision.

The second submission also provided comment on the standard of Bulwer Road and the potential for traffic collisions. The submission made certain recommendations for improvement of the road which have been referred to relevant staff for further investigation. The submission also requested that certain development standards be applied to any future development to ensure that the objectives of the proposed E4 Environmental Living zone are maintained. This comment is noted.

The third submission generally supported the proposal subject to appropriate assessment processes at the Development Application stage to ensure that the objectives of the E4 Environmental Living zone are met, especially those relating to visual amenity and landscape protection.

In conclusion, it is the recommendation of this report that the Planning Proposal proceed.

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## **COMMUNICATION AND CONSULTATION**

### **Community Engagement**

Community consultation occurred as discussed above.

### **Internal Communication and Consultation**

Consultation has occurred with the Assets and Project Delivery Branch and Council's Traffic & Transport Planning Engineer.

### **External Communication and Consultation**

External consultation occurred as described above.

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## **SUSTAINABILITY ASSESSMENT**

- **Environment**

The proposed zoning and minimum lot size amendments to the subject area take into account its environmental sensitivities.

- **Social**

There are no social issues in relation to this report.

- **Broader Economic Implications**

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

- **Culture**

There are no cultural issues in relation to this report.

- **Governance**

The Planning Proposal has been processed in accordance with legislative requirements.

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#### COUNCIL BUDGET IMPLICATIONS

There are no budget implications arising from this report.

#### 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 proceed with the finalisation of the Planning Proposal.

##### Option 2

Not support progression of the Planning Proposal.

Option 1 is the recommended option to this report.

#### CONCLUSION

The adoption of the Local Area Plan which proposes an E4 Environmental Living zone across the whole area and a minimum lot size of either 1 hectare or 2 hectares, depending on location, has enabled Council to consider amending WLEP 2010 to provide for some residential development opportunities in keeping with current water and sewer infrastructure constraints. Any further potential will be addressed through the Local Housing Strategy.

#### ATTACHMENTS

1. Figure 1 Location of NW Moss Vale - *circulated under separate cover*
2. Figure 2 Location of Subject Sites - *circulated under separate cover*
3. Figure 3 Proposed minimum lot sizes - *circulated under separate cover*

## 12.3 Planning Proposal to Rezone Land at 66 Bong Bong Road Mittagong

Reference:	5901/56
Report Author:	Senior Strategic Land Use Planner
Authoriser:	Coordinator Strategic Land Use Planning
Link to Community Strategic Plan:	Identify and protect the unique characteristics of towns and villages to retain a sense of place

### PURPOSE

The purpose of this report is to inform Council of the outcome of the public exhibition of a Planning Proposal to rezone the northern portion of 'Suttor Cottage', 66 Bong Bong Road, Mittagong, from R5 Large Lot Residential to R2 Low Density Residential, and reduce the minimum lot size from 4,000m<sup>2</sup> to 800m<sup>2</sup> to achieve a maximum yield of seven (7) lots.

### RECOMMENDATION

**THAT** in accordance with s3.36 of the *Environmental Planning & Assessment Act 1979*, Council finalise the Planning Proposal to amend WLEP 2010 to enable a total of nine (9) lots to be created of which

- one (1) lot contains the Local Heritage Item of Suttor Cottage and Gardens over which the current heritage affectation would remain;
- one (1) lot of 4,000m<sup>2</sup> adjoining Suttor Cottage and to rezone the northern portion of the site from R5 Large Lot Residential to R2 Low Density Residential and reduce the minimum lot size from 4,000m<sup>2</sup> to 800m<sup>2</sup>;

to achieve a maximum yield of seven (7) lots in accordance with the draft Plan of Subdivision which forms Attachment 5 to this report.

### VOTING ON THE MOTION

Councillors are required to record their votes on this matter.

### REPORT

#### **BACKGROUND**

The subject land covers an area of approximately 2.5 hectares and is located on the northern side of Bong Bong Road on the south west boundary of Renwick as indicated in **Figure 1** below.

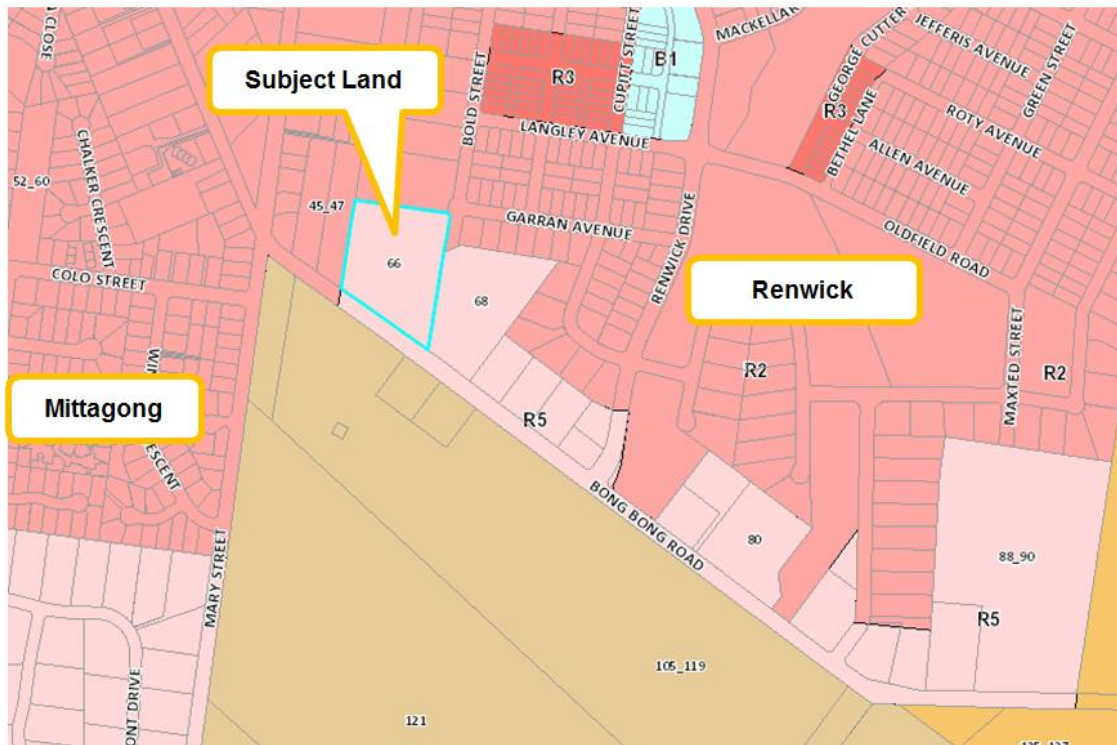


Figure 1 - Location of Subject Site (enlarged at Attachment 1)

The land is currently zoned R5 Large Lot Residential with a minimum lot size of 4,000m<sup>2</sup>. The site contains Suttor Cottage, an Item of Local Heritage included in Schedule 5 of WLEP 2010. Suttor Cottage was one of the residential cottages built as part of the former Mittagong Farm Homes which later became the Renwick Institution.

The cottage and gardens are located in the south east section of the site as indicated in **Figure 2** below.





Figure 2 – Location of Suttor Cottage (enlarged at Attachment 2)

There is also remnant Threatened Ecological Community (Southern Highlands Shale Woodland) on the site, as indicated in **Figure 3** below.

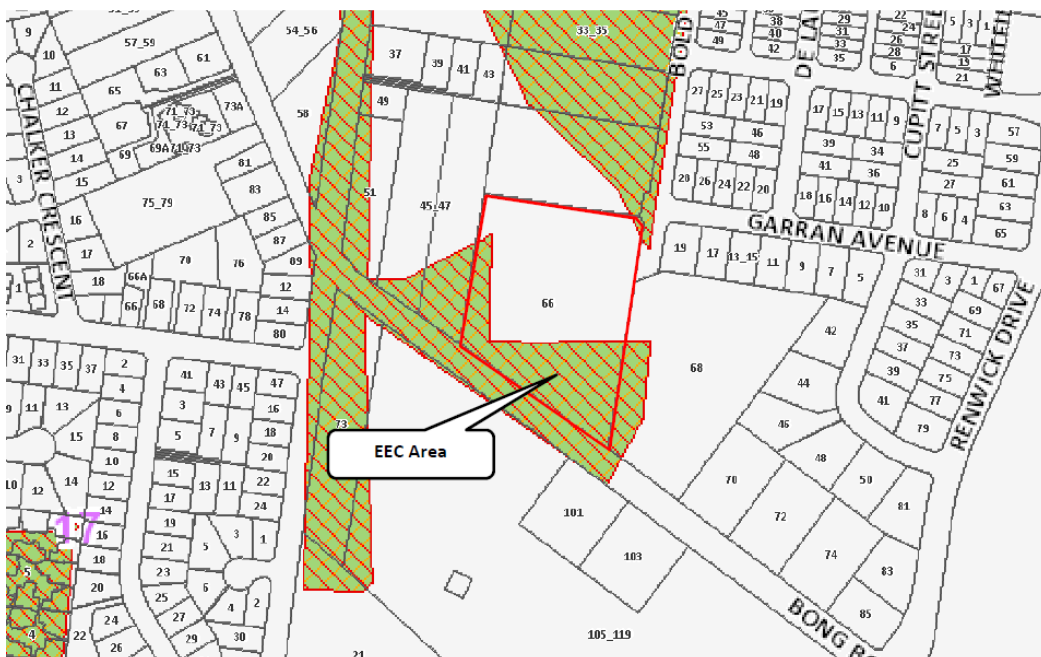


Figure 3 – Extent of Threatened Ecological Community (enlarged at Attachment 3)

A Category 3 Riparian Land corridor and dam are located on the north west corner of the site as indicated in **Figure 4** below.



**Figure 4 – Location of Riparian Corridor & Dam (enlarged at Attachment 4)**

At its Ordinary Meeting of 11 October 2017, Council considered a Planning Proposal to rezone the northern portion of the land and apply a minimum lot size of 700m<sup>2</sup> to enable the subdivision of that rezoned portion to achieve a maximum of 8 lots. The remaining portion of the site fronting Bong Bong Road would retain the current R5 Large Lot Residential with a minimum lot size of 4,000m<sup>2</sup> but would be subdivided into two larger residual lots, one of which would contain Suttor Cottage and its curtilage.

Assessment of the Planning Proposal noted that, by restricting subdivision potential to the northern portion of the site, the strong rural character of the Bong Bong Road frontage would be retained and Suttor Cottage would be provided with adequate curtilage, as supported through the Heritage Impact Assessment which accompanied the Planning Proposal. It was noted that any amendment to WLEP 2010 resulting from the Planning Proposal would retain this lot within Schedule 5 of WLEP 2010 as an Item of Local Heritage.

The curtilage would also afford protection to the area of Threatened Ecological Community. The location of the residual lot fronting Bong Bong Road adjacent to the lot containing Suttor Cottage and its gardens would maintain the current subdivision pattern in this section of Bong Bong Road, although the proposed residual lot was noted to be below the current minimum lot size of 4,000m<sup>2</sup>.



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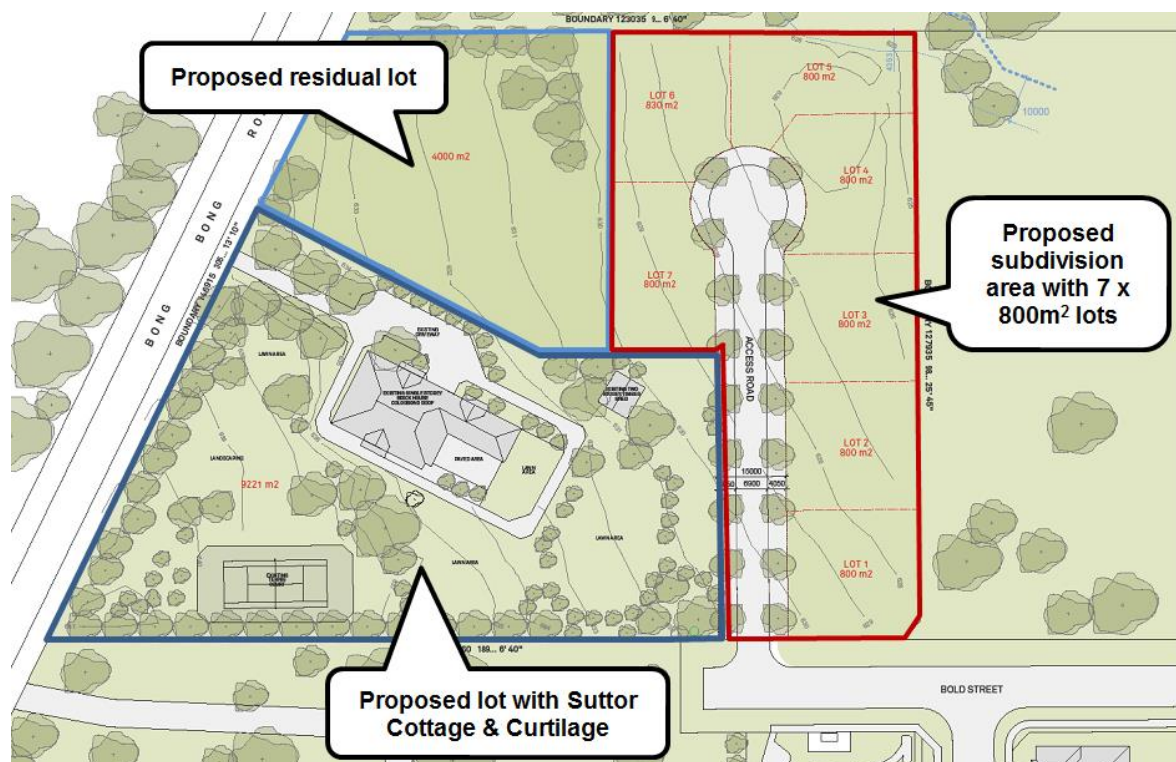
To the north and west of the site, in the vicinity of the portion of the proposed subdivision, minimum lot sizes are much lower, ranging from 450m<sup>2</sup> to the immediate north within the Renwick development, to 700m<sup>2</sup> on the western boundary. However, the assessment also concluded that a minimum lot size of 800m<sup>2</sup> should be applied to the subdivided land to achieve a maximum lot yield of seven (7) rather than the eight (8) lots originally proposed.

The report to Council was considered at the Ordinary Meeting of Council of 11 October 2017 when it was resolved as follows:

***THAT the proposal to rezone the northern portion of 'Suttor Cottage', 66 Bong Bong Road, Mittagong, from R5 Large Lot Residential to R2 Low Density Residential, and reduce the minimum lot size from 4,000m<sup>2</sup> to 800m<sup>2</sup> to achieve a maximum of seven (7) lots BE SUPPORTED.***

### **REPORT**

In response to this Resolution a revised Planning Proposal and draft subdivision layout were subsequently submitted to Council as indicated in **Figure 5** below. It is noted that the revised draft plan of subdivision also enlarges the size of the lot containing Suttor Cottage and its gardens and also the size of the residential R5 lot to meet the 4,000m<sup>2</sup> minimum lot size.



**Figure 5 – Draft Subdivision Plan (enlarged at Attachment 5)**

The revised Planning Proposal and associated documentation, including the Heritage Impact Statement, were submitted to the Department of Planning, Industry and Environment for a Gateway Determination. The Determination (PP\_2019\_WINGE\_004\_00) was issued on 21

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May 2019. Referral was required to WaterNSW and the NSW Rural Fire Service. These referrals were undertaken.

WaterNSW had no objection to the Proposal, but recognised that any future subdivision application would need to demonstrate that adequate water and sewer infrastructure could be provided. NSW RFS did not raise any objection noting that any future subdivision application and subsequent development would need to comply with *Planning for Bushfire Protection 2006*.

The Planning Proposal was placed on public exhibition for a period of 31 days from 7 August to 6 September 2019. The Planning Proposal and associated documentation was available for inspection at Council's Customer Service Counter in the Civic Centre, as well as at the Bowral, Moss Vale and Mittagong Libraries. Exhibition material was also available to view via the 'What's on Exhibition' page of Council's website and details were included in the mail out of some 4,000 'e-newsletters'. Thirty two (32) individual letters were also sent to surrounding residents. The public exhibition was advertised in the Southern Highland News for each week of the exhibition period.

Two written submissions were received. One provided details of the watercourse and dam located on the north western edge of the subject land. This information is noted and would be a consideration in any future Development Application for subdivision.

The second submission did not support the proposal. The submitter expressed concern that such proposals had the potential to damage the existing character of the towns and villages throughout the Shire and that the large lot residential zoning and lot sizes should be retained.

Council does support and protect the R5 Large Lot Residential zones across the Shire. In this case, the location of the land provides a valid infill opportunity adjacent to the Renwick Urban Release Area.

It is the recommendation of this report that the Planning Proposal be finalised.

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## CONSULTATION

### Community Engagement

Community consultation occurred as discussed above.

### Internal Consultation

Consultation has occurred with Council's Heritage Planner and Development Engineers.

### External Consultation

External consultation occurred as described above.

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## SUSTAINABILITY ASSESSMENT

- **Environment**

Environmental considerations are addressed in this report where relevant.



- **Social**

Social considerations are addressed in this report where relevant.

- **Broader Economic Implications**

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

- **Culture**

Heritage considerations are addressed in this report where relevant.

- **Governance**

The Planning Proposal has been processed in accordance with legislative requirements.

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## **COUNCIL BUDGET IMPLICATIONS**

There are no budget implications associated with this report.

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## **RELATED COUNCIL POLICY**

There are no other related Council policies.

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## **OPTIONS**

The options available to Council are:

### **Option 1**

Support the recommendation of this report to proceed with the finalisation of the Planning Proposal.

### **Option 2**

Not support progression of the Planning Proposal.

Option 1 is the recommended option to this report.

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## **CONCLUSION**

The Planning Proposal seeks to amend WLEP 2010 to rezone the subject land currently zoned R5 Large Lot Residential to R2 Low Density Residential. The report supports this proposal. The report also supports a minimum lot size of 800m<sup>2</sup> to achieve a maximum lot yield of seven (7) as being more appropriate than the eight (8) originally proposed. The revised draft plan of subdivision also enlarged the size of the lot containing Suttor Cottage and its gardens and also the size of the residential R5 lot to meet the 4,000m<sup>2</sup> minimum lot size. Overall, the report concludes that the proposal provides the opportunity for modest infill development.

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#### ATTACHMENTS

1. Figure 1 - Location of Subject Site - *circulated under separate cover*
2. Figure 2 – Location of Suttor Cottage - *circulated under separate cover*
3. Figure 3 – Extent of Threatened Ecological Community - *circulated under separate cover*
4. Figure 4 – Location of Riparian Corridor & Dam - *circulated under separate cover*
5. Figure 5 – Draft Subdivision Plan - *circulated under separate cover*

## **12.4 Tender for Customer Relationship Management and Workflow Management Systems**

**Reference:** 6330/19.27  
**Report Author:** Chief Information Officer  
**Authoriser:** Deputy General Manager Corporate, Strategy and Development Services  
**Link to Community Strategic Plan:** Effective and efficient Council service delivery is provided within a framework that puts the customer first

### **PURPOSE**

The purpose of this report is to present the evaluation of the Request for Tender for the Customer Relationship Management and Workflow Management System.

### **RECOMMENDATION**

1. **THAT in relation to the report concerning Customer Relationship Management and Workflow Management System - Council adopts the recommendations contained within the Closed Council report – Item 19.2.**

**OR**

2. **THAT the report concerning Tender for Customer Relationship Management and Workflow Management System - be considered in Closed Council – Item 19.2.**

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

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**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).

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## REPORT

### **BACKGROUND**

Council currently has several systems that perform a critical role in delivering services to its customers and the community. Council however has no single system that manages the relationship with the customer. These processes are currently managed disparately among several standalone systems.

Council in adopting the 2017 – 2021 Delivery Plan at the beginning of its term adopted 7 Strategic Priorities one of which is as follows:

**Business transformation** *We recognise that the community has an expectation that the way we interact with them should reflect modern business processes utilising modern technologies. We are committed to ensuring the systems and process that support service delivery and the way we interact with our customers is responsive and provides a variety of methods for interaction.*

The implementation of a Customer Relationship Management System and a Workflow Management System will enable Council to, in part, deliver this Strategic Priority. It is noted that there are a number of other projects within the Business Transformation Program which are currently being progressed. The tender for the two Systems is a significant component of the overall Business Transformation Program.

Council went to market for a system or systems that can bring together its customer management and assist in the digital transformation journey including website management, mobile application, amongst other functions.

An open Expression of Interest was run in April 2019 to investigate and understand solutions on the market. This process was used to understand the types of systems and obtain an indicative price range for the solution. Based on these findings a selective tender was released to three parties.

Council is committed to a digital transformation program and using technology as a tool to better service the residents and customers of Wingecarribee Shire Council with technology being used to drive a Customer First culture.

### **REPORT**

Council sought tenders from selective software providers to provide a lump sum tender for the provision of a suitable Customer Relationship and Workflow Management System. The Selective Request for Tender process was undertaken after Council called for Expressions of Interest (EOI) through public advertisement. The full scope of works was detailed in the EOI and tender specifications.



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In accordance with the *Local Government (General) Regulation 2005* Part 7, Clause 168, Council has chosen to undertake a selective tendering method after seeking invitations following a public advertisement via an Expression of Interest.

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#### **TENDERS RECEIVED**

A total of three (3) tender submissions were invited:

Company Name	Location	Postcode
Aten Systems Pty Ltd	Bella Vista, NSW	2153
Datacom Solutions Pty Ltd	North Ryde, NSW	2113
Technology One Limited	Gordon, NSW	2072

#### **TENDER EVALUATION**

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

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

#### **SELECTION CRITERIA**

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

##### **Mandatory Criteria:**

Criteria
Public Liability - \$20 million
Workers Compensation

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

##### **Non-Cost Selection Criteria & Weighting:**

Criteria	Weighting
Capability & Experience	15%
Specifications, Service & Support, Fit for Purpose	10%
Quality Assurance & Innovation	5%
Community & Social (including local content)	10%
Other Clarification Information	10%
<b>Total</b>	<b>50%</b>

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#### Summary of Selection Criteria & Weighting:

Criteria	Weighting
Total Non-Cost Criteria	50%
Total Cost Criteria	50%
<b>Total</b>	<b>100%</b>

#### CONSULTATION

##### Community Engagement

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

##### Internal Consultation

Various Branches across the organisation who utilise IT systems specific to the subject of the tender. Cross functional team participated in the vendor demonstrations, and overall feedback was used as part of the non-cost evaluation weighting.

##### External Consultation

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

#### SUSTAINABILITY ASSESSMENT

- **Environment**

There are no environmental issues in relation to this report.

- **Social**

There are no social issues in relation to this report.

- **Broader Economic Implications**

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

- **Culture**

There are no cultural issues in relation to this report.

- **Governance**

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

#### RELATED COUNCIL POLICY

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

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#### **CONCLUSION**

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

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#### **ATTACHMENTS**

There are no attachments to this report.



## **12.5 Code of Conduct Complaints - 1 September 2018 to 31 August 2019**

Reference:	101/15
Report Author:	Group Manager Corporate and Community
Authoriser:	Deputy General Manager Corporate, Strategy and Development Services
Link to Community Strategic Plan:	An enhanced culture of positive leadership, accountability and ethical governance that guides well informed decisions to advance agreed community priorities

### **PURPOSE**

This purpose of this report is to advise Council of the complaints received and finalised under Council's Code of Conduct during the period from 1 September 2018 to 31 August 2019.

### **RECOMMENDATION**

**THAT** the information in relation to the Code of Conduct Complaints – 1 September 2018 to 31 August 2019 be received and noted.

### **REPORT**

#### **BACKGROUND**

Under clause 11.1 of Council's Procedures for the Administration of the Code of Conduct ("Procedures"), the complaints coordinator must report certain statistics to Council regarding Code of Conduct complaints received and the outcome of complaints during the period from 1 September 2018 to 31 August 2019. Council must also provide these statistics to the Office of Local Government under clause 11.2 of the Procedures.

#### **REPORT**

Attachment 1 to this report is the information on Code of Conduct complaints required under clause 11.1 of the Procedures for the period 1 September 2018 to 31 August 2019. Pursuant to the confidentiality requirements of clause 12 of the Procedures, the detail of individual complaints is not included in this report.

### **CONSULTATION**

#### **Community Engagement**

Nil

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#### **Internal Consultation**

Nil

#### **External 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**

Clause 11.1 of the Procedures mandates annual reporting of Code of Conduct complaints.

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### **COUNCIL BUDGET IMPLICATIONS**

The total amount paid to conduct reviewers who dealt with Code of Conduct complaints during the reporting period was \$31,912 excluding GST with appropriate provisions made as a part of the 2018/19 Budget.

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### **RELATED COUNCIL POLICY**

Code of Conduct and Procedures for the Administration of the Code of Conduct.

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### **OPTIONS**

Council is required to receive and adopt the annual complaints report.

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### **CONCLUSION**

This report advises Council of the complaints received and finalised under Council's Code of Conduct during the period from 1 September 2018 to 31 August 2019.

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### **ATTACHMENTS**

1. Code of Conduct Complaints Report 2018-19



Model Code of Conduct Complaints Statistics Wingecarribee Shire Council		
Number of Complaints		
1 a	The total number of complaints <b>received</b> in the period about councillors and the General Manager (GM) under the code of conduct	6
b	The total number of complaints <b>finalised</b> in the period about councillors and the GM under the code of conduct	7
Overview of Complaints and Cost		
2 a	The number of complaints <b>finalised at the outset</b> by alternative means by the GM or Mayor	4
b	The number of complaints <b>referred to the Office of Local Government</b> under a special complaints management arrangement	0
c	The number of code of conduct complaints <b>referred to a conduct reviewer</b>	1
d	The number of code of conduct complaints <b>finalised at preliminary assessment</b> by conduct reviewer	1
e	The number of code of conduct complaints <b>referred back to GM or Mayor</b> for resolution after preliminary assessment by conduct reviewer	0
f	The number of finalised code of conduct complaints <b>investigated by a conduct reviewer</b>	2
g	The number of finalised code of conduct complaints <b>investigated by a conduct review committee</b>	0
h	The number of finalised complaints investigated where there was found to be <b>no breach</b>	1
i	The number of finalised complaints investigated where there was found to be <b>a breach</b>	1
j	The number of complaints referred by the GM or Mayor <b>to another agency</b> or body such as the ICAC, the NSW Ombudsman, the Office or the Police	1
k	The number of complaints being investigated that are <b>not yet finalised</b>	0
l	The <b>total cost</b> of dealing with code of conduct complaints within the period made about councillors and the GM including staff costs	31,912



Preliminary Assessment Statistics		
3	The number of complaints determined by the conduct reviewer at the preliminary assessment stage by each of the following actions:	
a	To take no action	1
b	To resolve the complaint by alternative and appropriate strategies	0
c	To refer the matter back to the GM or the Mayor, for resolution by alternative and appropriate strategies	0
d	To refer the matter to another agency or body such as the ICAC, the NSW Ombudsman, the Office or the Police	0
e	To investigate the matter	0
f	To recommend that the complaints coordinator convene a conduct review committee to investigate the matter	0
Investigation Statistics		
4	The number of investigated complaints resulting in a determination that there was <b>no breach</b> , in which the following recommendations were made:	
a	That the council revise its policies or procedures	0
b	That a person or persons undertake training or other education	0
5	The number of investigated complaints resulting in a determination that there <b>was a breach</b> in which the following recommendations were made:	
a	That the council revise any of its policies or procedures	1
b	That the subject person undertake any training or other education relevant to the conduct giving rise to the breach	0
c	That the subject person be counselled for their conduct	1
d	That the subject person apologise to any person or organisation affected by the breach	1
e	That findings of inappropriate conduct be made public	0
f	In the case of a breach by the GM, that action be taken under the GM's contract for the breach	0
g	In the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the Local Government Act 1993	1
h	In the case of a breach by a councillor, that the matter be referred to the Office for further action	0
6	Matter referred or resolved after commencement of an investigation under clause 8.20 of the Procedures and clause 7.20 of the new Procedures	0





Categories of misconduct		
7	The number of investigated complaints resulting in a determination that there was a breach with respect to each of the following categories of conduct:	
a	General conduct (Part 3)	1
b	Conflict of interest (FMCC Part 4) and Non-pecuniary conflict of interest (NMCC Part 5)	0
c	Personal benefit (FMCC Part 5 / NMCC Part 6)	0
d	Relationship between council officials (FMCC Part 6 / NMCC Part 7)	0
e	Access to information and resources (FMCC Part 7 / NMCC Part 8)	0
Outcome of determinations		
8	The number of investigated complaints resulting in a determination that there was a breach in which the council failed to adopt the conduct reviewers recommendation	0
9	The number of investigated complaints resulting in a determination that there was a breach in which the council's decision was overturned following a review by the Office	0

## 12.6 Children's Services Service Delivery Review

Reference:	200/11.1
Report Author:	Corporate Strategy Projects Officer
Authoriser:	Group Manager Corporate and Community
Link to Community	
Strategic Plan:	Effective and efficient Council service delivery is provided within a framework that puts the customer first

### PURPOSE

This report provides options for the delivery of Council's Children's Services, following completion of a Service Delivery Review.

### RECOMMENDATION

#### Submitted for Determination

### REPORT

#### BACKGROUND

The Children's Services Service Delivery Review was undertaken as part of Council's Fit for the Future Improvement Proposal. The focus of the review was an analysis of the following areas:

- Council's suitability to deliver Children's Services
- The impact of changes to funding model and impact of alternatives
- The capability for the service to meet the changes to market demand and competition
- The current and future availability of Family Day Care Educators.

In its Fit for the Future Improvement Proposal, Wingecarribee Shire Council committed to "undertake a comprehensive service review program to ensure that Council is delivering services in the most efficient and effective manner". Furthermore, the NSW Government has proposed amendments to the Local Government Act 1993, which foreshadow a mandatory requirement for all Councils to adopt a program of service reviews.

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#### **REPORT**

Council's Children's Services is comprised of two sub services:

1. Family Day Care: Providing care in a home-based setting by self-employed registered educators, who operate under Council's licence. Educators are recruited, monitored and supported by Council's Children's Services Coordination Unit, however the educators operate as sole traders
2. Wingecarribee Out of School Hours (WOOSH): A Before and After School Service located in the hall at Mittagong Public School, Pioneer Street, Mittagong. The service is open from 6:45am to 8:45am and 3:00pm to 6:00pm, Monday to Friday. Vacation Care also operates from the hall at Mittagong Public School during most weeks of school vacation periods.

While it is not mandatory for councils to directly provide Children's Services, Council has provided this service to the community for over 32 years.

Council's Children's Services aim to provide a suite of suitable education and care related services that support the families of the Shire.

Children's Services is operated from a coordination unit, situated in the East Bowral Community Centre.

The Children's Services programs offered by Council are funded through user pays agreements with families who access the education and care services. Most families using the services are in receipt of the Child Care Subsidy, which subsidises their fees.

Council had been receiving funding for this service through the Commonwealth Support Program (CSP). The CSP program provided a range of payments to eligible child care service providers, with the aim of establishing or maintaining services in disadvantaged or regional and remote areas.

With the cessation of the CSP foreshadowed, Wingecarribee Family Day Care obtained a grant from the Community Child Care Fund (Commonwealth) for a Sustainable Business Plan and Marketing Strategy. The \$157,870 grant over three years commenced in 2017/18.

The grant was executed in July 2018 with the following deliverables:

- Develop and implement a strategic business and marketing plan, by 30 June 2019.
- Undertake activities as described in the application to support the longevity and sustainability of the community service, by 30 June 2021.

The priorities for the business and marketing plan are to extend the educator pool to ensure that services are provided to the families, especially those living in these outlying rural and small villages where there are gaps in care (beyond preschool 9am-3pm hours) for under two's and Out of School Hours care for school age children.

Maintaining and growing family day care educator numbers has been a challenge for the service. The *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017* is a major constraint to attracting and registering new educators. The Policy is prescriptive regarding bushfire prone areas, of which large areas of the Shire are classified.

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After considering the issues identified in the review four alternate options were identified, as follows:

**Option 1:** Council continue in direct service delivery for Family Day Care and WOOSH

**Option 2:** Council continue with Family Day Care service and withdraw WOOSH service.

**Option 3:** Council continue with WOOSH service and withdraw from Family Day Care service.

**Option 4:** Council withdraw from service delivery to a policy model by withdrawing from Children's Services.

At the 11 September 2019 meeting Council resolved **MN 448/19:**

***THAT the Children's Services Service Delivery Review be DEFERRED, AND THAT meaningful discussions take place with the Children's Services staff and the Union Representative Organisation consulted prior to the matter being further considered by Council.***

Following Council's decision further meetings were held with staff to discuss the review recommendations. Staff members were advised submissions on the recommendations could be submitted for consideration.

A total of 15 submissions were received from stakeholders following Council's 11 September 2019 meeting.

A detailed summary of the feedback received in submissions from staff, educators and families is shown in **Attachment 1**. A summary is provided below.

A meeting was also held with the United Services Union, to discuss the Service Delivery Review Program and the Children's Services Service Delivery Review recommendations.

**Staff** - Eight submissions received and outlined as follows:

- Family Day Care
  - Business and Marketing Plan be implemented to grow educators numbers.
  - Budget reserves be utilised to fund service until exhausted.
- WOOSH
  - The WOOSH team are dedicated, qualified and experienced with strong links to family and community.
  - WOOSH is a highly valued and well attended service that has further potential to expand.
  - WOOSH can operate as a standalone service
  - Suggested operational model for WOOSH if service becomes stand alone.
  - Don't see State Government election pledge regarding Out of School Care as an issue.
  - Scope to expand services and provide WOOSH in additional areas.
- General
  - Suggestions for additional income utilising existing resources.
  - Services provide benchmark for care in the Shire. Councils are the right organisation to provide Children's Services.
  - Requested in interests of transparency that submission is forwarded in full to Councillors without redaction.
  - One submission noted option two as not being viable long term option due to loss of government funding.
  - One submission noted option three as being viable with review of staffing structure.



## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

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### REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



- Council has commitment to Children's Services, as outlined in Strategic Plans.
- Children of Shire deserve council that values and supports them.
- Noted Council does not have an option to outsource services, therefore no control over and cannot guarantee who may take the service over.
- Thankful for opportunity to provide submission.

A further seven submissions were received from Family Day Care Educators and families as outlined below. It is noted that Educators and families were not formally invited to make submissions as per Council's resolution.

#### **Family Day Care educators** – Four submissions received and summarised as follows:

- Business and Marketing Plan be implemented.
  - Could also explore offering additional before and after school care places.
- Have been financially independent and built reserves.
- Service should remain not for profit and Council needs to be proactive in childcare market.
- Concerned with lack of consultation and transparency.
- Made aware of report by chance the day before the Council meeting.
- Encourage Councillors to visit sites before making decision.

#### **Family Day Care families** – Three submissions received and summarised as follows:

- Recent experience with coordination unit was incredible, very supportive.
- Strong support for ongoing provision of service.
- Value the service provided by educator and understand educator is greatly facilitated by Coordination Unit.
- Impressed by professionalism, communication and care team provides.
- Play session hosted by Coordination Unit are valued, team put thoughtful consideration opportunities for children.
- Appreciate stability of personnel in Coordination Unit.
- Concerned if service is abandoned by council community would be significantly disadvantaged by loss of locally based, not-for-profit administrative structure.
- Have enthusiastically recommended council run family day care service for quality, affordability, professionalism and community minded approach.
- Coordination unit staff held in high regard which has benefitted the general reputation of council.
- Troubled by lack of transparency.
- Pleased further consideration was deemed necessary.
- Unsure why it is being considered to remove.
- Outraged, disappointed and embarrassed that council would consider stopping the service. Council should be doing more to support Family Day Care.
- Concerned that council is considering ceasing delivery of local family day care service.
- Need umbrella of Council scheme.

In consideration of the feedback received a further option (Option 5) has been included, reflecting stakeholder submissions.

#### **Option 5:**

1. **THAT** Council continue in direct service delivery for both Family Day Care and WOOSH for a period of three years, with the following focus:
  - a. Implement the Children's Services Business and Marketing Plan
  - b. Utilise existing service budget reserve

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### REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



- c. Develop and implement workforce plan for WOOSH; and
2. **THAT** a further service delivery review be conducted after two years, with the following scope:
  - a. Assess effectiveness of the Business and Marketing Plan
  - b. Reassess issues and risks identified in the 2019 service delivery review.
  - c. Consider the financial model of the service.

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## COMMUNICATION AND CONSULTATION

### Community Engagement

The 2016-2018 Family Day Care and WOOSH satisfaction survey results were considered as part of the review.

Four submissions were received from Family Day Care educators and three from service families.

A summary of the submissions is shown at **Attachment 1**.

### Internal Communication and Consultation

Internal consultation has taken place with the Chief Financial Officer, Group Manager Organisational Development and the Children's Services team.

Seven submissions were received from Children's Services staff members.

A summary of the submissions is shown at **Attachment 1**.

### External Communication and Consultation

Benchmarking with surrounding Councils and non-for profit service providers was undertaken as part of the comparative analysis included in the review.

Consultation between Council and the United Services Union has also been undertaken.

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## SUSTAINABILITY ASSESSMENT

- **Environment**

There are no environmental issues in relation to this report.

- **Social**

There are options included in this report that include Council withdrawing from some or all direct service delivery provided by Children's Services. It is not suggested that these services cease operating, or could not continue to operate.

- **Broader Economic Implications**

There are no broader economic implications in relation to this report. Whilst some options to this report include withdrawing from services, it is not suggested that the services cease.

- **Culture**

There are no cultural issues in relation to this report.

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- **Governance**

Operating in a highly regulated industry, maintaining compliance is onerous and resource intensive.

Following the cessation of the CSP funding Council needs to determine a funding model to address the gap. Council would need to carefully consider its funding priorities in future years should Option 1, 2 or 3 be chosen. Option 5 includes utilisation of the existing service budget reserve for three years, with a further service delivery review in two years.

Implementation of options outlined in this report may require probity and due process when considering staffing arrangements.

Redeployment within Council would be considered and accommodated where feasible.

#### **COUNCIL BUDGET IMPLICATIONS**

Council successfully obtained a Commonwealth grant as part of the Community Child Care Fund Program for its Family Day Care service, with the purpose to:

*'Support Child Care Services to address barriers to child care participation, particularly targeting disadvantaged and vulnerable families and communities, and to support services to transition to and operate viably under the new child care system and to support their longer term sustainability.'*

The total amount of the grant for the FDC service was \$157,870 (GST exclusive). A breakdown by financial year is shown below:

Financial Year	Amount (excl. GST)
2018-2019	\$78,106
2019-2020	\$54,540
2020-2021	\$25,224

While this grant has assisted in funding the service for the 2018/19 and 2019/20 financial years, a longer term funding model is yet to be developed to address the funding gap within the service.

Over several years, Council has established a reasonable level of cash reserves to manage any unexpected budget variations. The balance held in reserve as per Audited Statements at 30 June 2019 is \$310,100. As part of the 2019/20 budget and forward estimates, this reserve will be utilised to offset the reduction in operating revenues from the loss of the CSP.

While over the past two years, Council has realised operating surpluses from its WOOSH service, this surplus has not been factored into future budgets. This is primarily due to the conservative approach Council has adopted for forecasting revenue from parent levies. This can be extremely volatile and Council cannot adequately ensure that revenue levels will remain at 2017 and 2018 levels in the long term.

#### **RELATED COUNCIL POLICY**

Nil

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

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### REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



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#### OPTIONS

The options available to Council are:

##### Option 1

1. **THAT** Council continue in direct service delivery for Family Day Care and WOOSH, with a focus on the following:
  - a. Develop an appropriate funding model.
  - b. Develop workforce plan for the WOOSH service.
  - c. Implement the Children's Services Business and Marketing Plan

##### Option 2

1. **THAT** Council continue with Family Day Care service, and :
  - a. Implement the Children's Services Business and Marketing Plan
  - b. Utilise existing service budget reserve
  - c. Consider the service financial model.
2. **THAT** Council develop an exit strategy to withdraw from the WOOSH service.

##### Option 3

1. **THAT** Council continue with WOOSH service and develop and implement a workforce plan.
2. **THAT** Council develop an exit strategy to withdraw from Family Day Care.

##### Option 4

1. **THAT** Council withdraw from service delivery to policy model.
2. **THAT** Council develop an exit strategy to withdraw from services.

##### Option 5

1. **THAT** Council continue in direct service delivery for both Family Day Care and WOOSH for a period of three years, with the following focus:
  - a. Implement the Children's Services Business and Marketing Plan
  - b. Utilise existing service budget reserve
  - c. Develop and implement workforce plan for WOOSH; and
2. **THAT** a further service delivery review be conducted after two years, with the following scope:
  - a. Assess effectiveness of the Business and Marketing Plan
  - b. Reassess issues and risks identified in the 2019 service delivery review.
  - c. Consider the financial model of the service.

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#### CONCLUSION

This report details options for delivery of Council's Children's Services following a Service Delivery Review.

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#### ATTACHMENTS

1. Submissions

Mark Pepping

**Deputy General Manager Corporate, Strategy and Development Services**

Thursday 21 November 2019





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**Submissions**

A total of 15 submissions were received from stakeholders following Council's 11 September 2019 meeting.

**Staff** - Eight solicited submissions were received (including a group submission) and summarised as follows:

**Submission one:**

- Thank you for opportunity to submit.
- Privilege to work in team, very rewarding to participate in essential service. Provides quality, inclusive care within a nurturing environment, understanding individual needs.
- Pride ourselves on commitment to the children and families in our care. Make sure the children especially feel that they are valued and that their time with us feels like a home away from home.
- Service provides families and carers ability to work and participate within community, and is affordable, consistent, high quality care delivered in a financially effective manner. Families are able to stay within the Shire long term, knowing essential services are being provided and maintained by Council.
- Serious underestimation of how vital this service is to a significant number of rate and fee paying families.
- Strong need for continuity of care and provision of this service. Failure to do so would place families and children at risk, and fail to deliver on Council's stated purpose to provide "A vibrant and diverse community living harmoniously, supported by innovative services and effective communication with council."

**Submission two:**

- Thank you for opportunity to submit.
- Seen many industry changes over time. One thing that hasn't changed is customers desire to have their children educated and cared for in nurturing and safe environment.
- Young people will become our adult community, Council has opportunity to provides service to positively contribute to young children and families.
- Believe children deserve a Council that values and supports them no matter what the cost.
- **Continue OOSH and FDC:**
  - Some risks related to FDC are a result of several factors occurring over the past couple of years. Staff have been aware of these and actively working towards a resolution.
  - Service has been operational for over 32 years, accumulated a healthy reserve and has not cost Council financially.
  - Propose Council resolve to keep Children's Services as part of Council's core business for at least the next five years using the financial reserve and implement new Business and Marketing Plan, in consideration of Council's Community Strategic Plan.
  - Focus of next five years would be to attract new Educators, streamline process for assisting with bush fire compliance and continue lobbying for amendments to bush for legislation. Additionally, we should pursue equality across all service, ensuring the private sector is accountable for adhering to bush fire restrictions. Need to lobby Federal Government to place Children's Services on their agenda and ask for money to go to not-for-profit rather than relying on the private sector.
  - Staffing OOSH services is difficult due to the hours staff are required to work. However, Council's service now has an established, reliable and well-resourced team. Utilisation has increased rapidly over the past couple of years and continues to grow. Is currently financially viable.
  - Propose consideration of hiring out Children's Services play spaces (indoor, outdoor and kitchen space to groups e.g. playgroups, as way of generating income.



- **Continue FDC withdraw OOSH:**
  - Not viable option long term with the loss of government funding which previously sustained the service.
- **Continue OOSH withdraw FDC:**
  - Option could be viable with consideration of a review of staffing structure. Believe there is scope to expand services and provide OOSH in additional areas.
- **Move away from direct service delivery:**
  - Believe local government is in the best position to ensure quality outcomes for young children. If this option is chosen it needs to be clear that these services cannot be taken over by other services. FDC educators would need to find another scheme to work under if they want to continue and OOSH could only continue with an approved provider. To my knowledge no definitive plan for implementation of this option.

**Submission three:**

- In upholding Council's Mission Statement and Core Values, propose option to continue OOSH and withdraw from FDC in best interest of Council to our local community.
- OOSH has developed, strengthened and maintained essential and highly regarded education and childcare service.
- Dedicated and professional management, supervisor has guided service and educators through established operating model, with regulatory priority. Qualifications and ongoing training are highly valued. Clear links between developmentally appropriate learning experience catering to needs and interests of all children. Planning of activity program is constant priority, committed to teaching a broad range of skills matching educational learning outcomes.
- Community needs reflect demand and preference for OOSH service. OOSH has fostered valued relationships with families, local school communities and local business and supports children's learning, engagement and wellbeing.
- Strongly encourage Council to continue to support coordination role for OOSH.

**Submission four:**

- Work alongside friendly, dedicated and experienced team of OOSH staff.
- Get feedback that families and caregivers don't know what they would do without the service/staff and that staff are an extension of their family.
- Southern Highlands is rapidly growing in population, with many young families moving to the area. Most need or will need the service now and in the future. Some children attend before school, after school and vacation care. So many families would be affected if the service was to close.
- Highly regarded service, sincerely hope Council highly considers not to withdraw OOSH service.

**Submission five:**

- Thank Council for deferring decision for staff consultation. Warmly accept opportunity to submit.
- Bewildered why successful service that puts customers first is being considered for closure, considering strategic plan commitment ('Effective and efficient Council service delivery is provided within a framework that puts the customer first').
- OOSH staff are formally trained teachers, educators and librarians, rate payers long time residents and second generation Bowral Hospital babies. Know Shire and community, know customers and Children's Services is what the community and customer needs
- Children's Services should remain delivered by Council. Support option of continuing OOSH:
  - Structure – included suggested structural arrangements.
  - Administration – included suggested administrative arrangements.



- Growth – service seeks to extend licence (from 45 to 60) giving the service a growth option. Vacation care time opening time extended to more closely align with before school hours.
- Financial – a lot of hard work and better financial management of resources, increase in numbers and opening hours of before school care has seen surpluses achieve in past three years. This will continue this year and into the foreseeable future. There has been no cost incursion to Council.
- Staffing - has caused issues, however better use of office staff assisting the casual pool to full planned and emergency leave should alleviate problem.

#### Submission six

- Thank you for deferring decision to allow staff to be engaged. Gladly accept opportunity to put forward submission.
- Strong background in education, but OOSH brings a connection to child and family.
- Council's OOSH is the best the Shire has to offer, connecting with over 50 children a day and their caregiver from Mittagong Public School and St Michael's Primary. This net spreads further during vacation care.
- Staff see babies and toddlers grow and through the beginnings and the loss of loved ones with families. No other service Council provides gives this to its customers.
- Provision of OOSH extends the suite of Council services to community. Service provides something unique and is one of a kind community engagement that should be celebrated and cherished.
- Council is the right organisation to provide Children's Services (including OOSH), ensuring high standard and affordable care.
- Council processes ensure environments are kept safe, check and balances are created, funds used appropriately and community can trust measure taken to care for their children. Trust goes beyond legislation and regulations.
- Proud of OOSH team. Staff are of a high calibre and well regarded amongst families. They are ambassadors for Council, carrying themselves with great integrity.
- Team celebrate being a Council run service and regularly take children to Council run businesses, gardens and events.
- OOSH had needed financial propping up by FDC in the past. However, that has been clawed back each year and the surplus has grown. Cannot see any reason for this not to continue, are financially self sufficient.
- Service has potential to grow as school grows. Licence number should be extended from 45 to 60. Opportunities for extending vacation care opening time and taking year 7 students, which meet community needs.
- OOSH can operate as a stand alone service. Shire needs a OOSH run by Council, reflecting customer care standards, community needs and a value add.

#### Submission seven

- Appreciate opportunity to submit in response to recent review.
- Worked with Council and as an educator in scheme. Proud to be associated with the service. Seen in the community as trusted, high quality provision of child care (early childhood and OOSH sectors).
- Risks identified are things the Coordination Unit have been well aware of and continued to work towards overcoming for the longevity of both services.
- In history of service it hasn't cost Council anything financially. Reserve has been built up, last year was first time in history of service reserve was utilised to make up shortfall of the FDC budget, however OOSH made surplus.



- Despite withdrawal of Federal funding, a \$157,000 grant over three years was successfully obtained to build capacity and work towards being a sustainable service again. In second year of grant and have been working on developing Business and Marketing Plan, which was written in conjunction with Council's Community Strategic Plan 2031. Purpose of Plan is to identify target markets to increase FDC educator numbers, which would in turn generate more income in family and educator levies, bringing the service back to being self funded.
- Propose Council resolve to keep Children's Services as part of Council's Community Services portfolio. A commitment of at least five years to implement the Business and Marketing Plan first and foremost. Don't envisage a financial burden on Council as funds from reserve can meet any shortfall in operational cost. During five year period would also continue to lobby for changes to the bushfire legislation and implement a clear and simple process for new educators wishing to set up in a bushfire prone area.
- OOSH operations have been restructured in last couple of years to address staff turnover, which is not unusual given the nature and hours of work. Have established reliable, loyal and committed team. OOSH service is popular and grown exponentially in the past couple of years, and continues to do so.
- Service operates under Federal framework and legislation. Don't see how the State Governments announcement that all schools have an OOSH service can be identified as a risk. Proposed services would only be set up in schools here where there is no established service. Should the State Government proposal go ahead it could present an opportunity for Council to expand services and operate in other schools throughout the Shire.
- Worst decision Council could make would be to move away from delivery of Children's Services in our Shire. Children's Services has an excellent reputation in the community as the provider of quality and adorable child care across the whole sector. Council is the right organisation to deliver these services.
- Children are our future and deserve to be cared for in a safe, stable, nurturing and loving environment. Local government run childcare services set the benchmark for quality, as children are at the centre of the services, whereas private operators are prepared to cut corners.
- Two FDC educators in the Shire are with a private coordination unit four hours away. How can quality be ensured, back up provided and meaningful partnerships formed? This is something Council's Coordination Unit prides itself on. This valuable service is an asset to Council's reputation and should be retained and supported, regardless of cost.
- If Council was to move away from delivery of Children's Services what's left on offer for families in this Shire? Heard comment we are an aging community and needs to accommodate elderly into the future. If we are not doing anything to attract families to our Shire, who will look after the elderly. Children of today will care for the elderly of tomorrow, but if there's nothing here for young families to stay there will be no one to provide care.
- Service has been through lots of changes and been met with many challenges, but staff desire to make sure children we care for are educated in a safe, nurturing environment where they have a sense of belonging. We love what we do and do it well. Take advantage of the great reputation with have and let us keep doing it. Use the reserve to see us through to the other side.

**Submission eight**

- Thank you Councillors for requesting consultation.
- Council's commitment to service is outlined in Community Strategic Plan 2031 (strategies 2.1.5 and 2.1.6)
- FDC is only service in local government area. Educators choose service because of proximity, timely and responsive support, not-for-profit status and deep and embedded connections with local community.





- FDC is unique form of care offering small numbers, consistency of one educator, home setting and flexibility. Waitlist operates for service, demonstrating FDC is sought after and valued for those not comfortable in large centre based services.
- Local government has place to ensure high quality services are available to families, setting a benchmark to other services and the community. An increase in for profit schemes and reports of fraud and non-compliance in the sector has driven the perceived quality of the sector down and had a detrimental effect on long standing and exceptional services.
- OOSH is well utilised and with an 'Exceeding' rating under the Australian Children's Education and Care Quality Authority set a benchmark in the community and for other local OOSH.
- As part of our commitment to the community other OOSH and early childhood services are involved in professional development opportunities.
- 37 of the 128 NSW Council's provide 354 early childhood services (including OOSH). Council's provide 38 or 180 Family Day Care service in NSW. The quality delivered by government managed care centre is higher than and other services, including private not for profit services.
- Council does not have option to outsource services, does not get to determine who may or may not take the services over. FDC educators would choose if they continue and through which scheme. OOSH will cease to have licence and lease. Department of Education would conduct a competitive tender process.
- Staff, educators and families are passionate about the Service.
- Invite Councillors to visit services (just as you may visit a site when making a decision on a development application).

Barriers:

- Financing and funding
  - Commonwealth funding to help operation of the Coordination Unit ceased 30 June 2018.
  - FDC successfully obtained sustainability grant of \$157,870 over three years for development of a Business and Marketing Plan, plus staff resourcing for implementation of plan to be sustainable into the future.
  - Plan is now complete, staff are excited at potential to grow educator number to meet wait list demand.
  - Historically services have financially supported each other.
  - Service has successfully grown reserve with careful expenditure, budgeting and appropriate spending restraints. FDC and OOSH have never sought or used rate payer funds to operate services.
  - Sufficient surplus to ensure financial independence from Council for potentially the next 3-5 years. To consider closing service now (when there is a reserve), with a justification that there have been funding cuts totally undervalues the careful planning to provide a buffer during period of financial hardship.
- Retention and employment of staff
  - FDC has excellent historical record of staff employment and commitment.
  - OOSH staff by nature of work and varying hours can be difficult to staff and maintain. It is an issue not isolated to our service. Currently have a very stable, qualified and experience team, in the best position it has been in with regard to staffing.
- Family Day Care Educator Engagement
  - Changes to regulations in recent years regarding minimum qualifications (or working toward) and a reduction in child to educators numbers has made it more difficult to attract educators.
  - The State Planning Policy sets strict and potentially unrealistic requirements on FDC educators operating in bushfire prone areas. This has meant a loss of 25 prospective



educators. There is a need for Council and FDC industry to lobby policy writers to ensure safety and the most vulnerable, but also ensure requirements are reflective and realistic of the services operated in these zones. Requirements are the same standards as a 40 place child care centre would need to meet. Would like to work with other areas of Council on ways of supporting educators through the process.

- Should Council discontinue overseeing FDC, how will Council ensure private schemes aren't allowing FDC to operate in conflict with the SEPP?
- We have serious issue with educator recruitment because of the SEPP. Small outlying villages which may not sustain a long day care centre could benefit by appropriately qualified and supported FDC educators.
- Business and Marketing Plan:
  - Vision for FDC to provide flexible, quality childcare option. To be financial viable and sustainable to meet growing demand of local families. Aim to be recognised a quality leader in the industry, and FDC to be sought after career and business.
  - Marketing consultant listed and working on number of strategies to promote FDC, includes rebranding, significant social media strategy, website audit and strategy and reproduction of updated promotional material.
- State Government OOSH pledge
  - Confused why it is a barrier.
  - Conflicts with national legislation and regulation.
  - Is focussed on offering schools that don't currently have OOSH or don't meet demand.
  - Can't see how it would have any bearing on our existing service, except potentially provide opportunities to grow commitment to families in the community and offer OOSH at other school site.

**Recommendations:**

- Retain FDC and OOSH. Services support and complement each other professionally and financially.
- Afford FDC the opportunity to implement the recently developed Business and Marketing Plan to build educator numbers.
- Review the services again in 5 years or when reserves diminish, whichever comes first.
- Prior to preferred recommendation being determine by Councillors, as an absolute minimum, stakeholder including FDC educators, families, associate local agencies are consulted as part of a transparent review process. There has not been any consultation with these groups as part of the review process.

**Family Day Care Educators** - Four unsolicited submissions received and summarised as follows:

**Submission one:**

- Felt alarmed that the review was considered in a closed meeting. Only found out by chance the meeting was taking place, felt it was kept secret.
- Dedicated, enthusiastic and committed, providing high quality education and care for families who prefer small a group setting.
- Understand Children's Services has always operated financially independent of Council and accumulated a reserve.
- While educator numbers are currently low, with the provision of a grant for a business and marketing plan to grow capacity has been developed. There are definitely families in our community who want this form of care.
- Council has a commitment to community facilities and development, Children's Services has built a great reputation for Council. Would hope you value this in ongoing commitment to us.



- 
- Thank you for opportunity to express concerns, encourage to come and visit services and talk to educators and families before making decisions.
  - FDC use Council foyer for art exhibitions and promote the support Council gives to children and families.
  - Necessary and vital service for our working community.

**Submission two**

- Concerned about review process, became aware of the closed agenda item by chance. Relieved the decision was deferred for consultation. Increased concern when told decision was imminent and staff didn't want to cause unnecessary alarm to the educators and families. Believe there should be transparent, inclusive, open and timely consultation with stakeholders who will be impacted by choices made, This will help council make an informed decision about the future delivery and management of children's services
- Worked in childhood sector for over 20 years, deliberately moved from long day care to FDC. Want to provide essential, high quality care environment for very young children and their families.
- Decision to register with Council was also deliberate. Researched a number of schemes, chose only local, not-for-profit scheme. Knew I'd get the support that would allow me to run a quality service from my home.



- Council has a responsibility to continue managing and being an approved provider for Children's Services for the following reasons:
  - Only local, not-for-profit scheme
  - If service is outsourced, would be highly likely that the coordination unit would be no longer local, or not-for-profit, which is essential to keep the sector regulated and of a high educational quality.
  - Service has been cost neutral for a number of years. The Business and Marketing Plan established would help the scheme to continue as cost neutral.
  - Service has intimate understanding of the local community and family needs. Are better positioned to meet these needs than a more distant unit would.
  - Business and Marketing plan is designed to grow the scheme, which is a financial benefit but will also fill growing community need.

#### **Submission three**

- Acknowledge report was confidential, but request the report (or redacted version) be made available to team and staff.
- What methodology was used for the business review, including what consultation with staff, educators and customers was undertaken?
- Early education is an important element for any young child. The community in which children play, learn and grow is important to the foundation.
- Passionate and proud to be part of the team, a vital service to rural and rapidly growing community.
- Areas for opportunity and growth:
  - Additional before and after school services
  - Strategic Marketing Plan for recruitment of FDC educators to expand service.
  - Strategic Marketing Plan for service, exploring benefits, identify needs of community and assess competitors in the market.
- Encouraged to arrange to visit some educators in their work environment to see amazing work.
- Council needs to take a proactive role in the childcare market in the Southern Highlands. Council's childcare brand has a fantastic reputation and is well regarded.
- Need Councillors and Executive to continue to support delivery of service to ensure it remains honest, fair and childcare remains regulated in our community.

#### **Submission four**

- FDC Educator for 10 years.
- Bought to attention by chance the day before the closed meeting that Children's Services was on the agenda. Disappointed there was no consultation with staff and educators prior.
- Understand it was deferred to give staff opportunity to speak. Way in which it was handled cause uncertainty and many unanswered questions.
- Service is crucial within Shire as families can opt for small group, individualised care.
- Council policies and procedures ensure high quality and regulated, professional standards.
- Important service remains not-for-profit scheme to maintain high standards and affordability.
- With villages spread across the highlands the service is necessary.
- Hard to place younger children into care, with many preschools only accepting children over 2 or 3.
- A local scheme ensures local support in running service. Wouldn't make sense to be part of a scheme that is part of another Council. Where would we get support and how would local families access this scheme when they live here?



- No expenses for council in regard to running the scheme for over 30 years. Marketing and Business Plan in place should have the chance to put plans into place and execute.
- Urged to visit services and scheme to experience and see firsthand wonderful service delivered.

**Family Day Care parents** - Three unsolicited submissions were received and summarised as follows:

**Submission one:**

- Treasured local day care.
- Outraged that Council would stop supporting something so important. Need the umbrella and support of Council. Without it day care centres will pop up without having to be kept accountable.
- Next generation need support, shame council is not supporting families.
- Not all children are suited to big day cares.
- Disappointed to hear it is being considered, embarrassing to think beautiful community with many young families would not be supported.

**Submission two:**

- FDC is an obvious choice for this family, child has thrived under wonderful carer.
- Small group environment a perfect way to provide care to younger children.
- Recent experience with Council was incredible, so supportive. Whereas day care centres with 50+ children would often not even respond to a phone call.
- Not entirely sure why it would be considered to remove fabulous service from our area.
- Hope you reconsider decision and at least take the time to better understand the role they play for some families in this area where care is often tricky to find.

**Submission three:**

- Strong support for the ongoing provision of FDC service by Council.
- Concerned Council considering ceasing delivering of FDC.
- Troubled by lack of transparency regarding news.
- Pleased that further consideration deemed necessary by Councillors.
- Value the service the educator provides and understand her role is greatly facilitated by the Coordination Unit.
- Impressed with the professionalism, communication and care that the team and appreciated the stability of the personnel.
- Concerned that should FDC be abandoned by Council, community would be significantly disadvantaged by the loss of the locally-based, not-for-profit administrative structure.
- Have enthusiastically recommended WSC FDC for quality, affordability, professionalism and community-minded approach. Overwhelmingly positive experience due to role of Coordination Unit staff.
- Many people in community share high regard for the service, am aware this has benefitted the general reputation of Council also.





## 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 23 October 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 19.3.

**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 October 2019 for legal proceedings involving Council in the Land and Environment Court, including those matters completed since the last report to Council.

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.



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## **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 October 2019 – refer **Attachment 1**.

---

## **CONSULTATION**

### **Community Engagement**

Nil

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 27 November 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.

---

### **RELATED COUNCIL POLICY**

Council's Compliance and Enforcement Policy.

---

### **ATTACHMENTS**

1. Legal Costs - October 2019

Ann Prendergast  
**General Manager**

Thursday 21 November 2019

**AGENDA FOR THE ORDINARY MEETING OF COUNCIL**

Wednesday 27 November 2019

**REPORT GENERAL MANAGER**



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## Legal Costs – October 2019

## Attachment 1

Legal Matter	Legal Expenditure	Consultant Expenditure	Legal Expenditure	Consultant Expenditure	Total Expenditure
	Oct-19	Oct-19	Year to Date (YTD)	Year to Date (YTD)	Life to Date (LTD)
Catholic Health Care Pty Ltd Aitken Road, Bowral	\$ 1,257	\$ 9,900	\$ 10,562	\$ 9,900	\$ 22,161
K.N.D Nominees Pty Ltd Walker Street, Bowral	\$ 3,271	-	\$ 3,271	-	\$ 3,271
Morris Brigadoon Drive, Bundanoon	-	-	-	-	\$ 9,506
Reulie Land Co Pty Ltd Myra Vale Road, Wildes Meadow	-	-	\$ 239	-	\$ 19,138
Lend Lease Retirement Living Holdings Aitken Road, Bowral	\$ 632	-	\$ 1,737	-	\$ 10,045
ERF Hospice Pty Ltd Edward Street, Bowral	\$ 3,262	-	\$ 5,128	-	\$ 14,817
Paloma Blanca Pastoral Pty Ltd Colo Road, Colo Vale	\$ 1,123	-	\$ 7,922	\$ 3,240	\$ 146,666
Strathleigh Investments Pty Ltd Alice Street, Mittagong	-	-	\$ 10,572	-	\$ 54,181
Shelley Boyce Tyndall Street Mittagong	\$ 185	-	\$ 3,648	-	\$ 31,816
Michael Brown Planning Loftus Street, Bowral	\$ 9,321	-	\$ 21,072	-	\$ 245,235
Turland Mittagong Road Bowral	-	-	-	-	\$ 201,935
Bowral Garage Development Pty Ltd Bong Bong Street, Bowral	-	-	-	-	-
Sett Homes P/L Willow Street, Willow Vale	\$ 904	-	\$ 1,954	-	\$ 6,877
Fenwick v Woodside Properties Wingello Road, Bundanoon	\$ 3,494	-	\$ 8,749	-	\$ 50,164
Phoebe Hodgson Gordon Road, Bowral	-	-	-	-	-
Woodbine Park Nominees Wombeyan Caves Road, High Range	-	-	-	-	-
<b>Total Expenditure</b>	<b>\$ 23,449</b>	<b>\$ 9,900</b>	<b>\$ 74,854</b>	<b>\$ 13,140</b>	<b>\$ 815,812</b>

*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 – October 2019

Legal Matter	Fees Recovered Oct-19	Fees Recovered YTD	Fees Recovered LTD
O'Shanassy	\$500	\$2,250	\$16,228
<b>Total Recovery</b>	<b>\$500</b>	<b>\$2,250</b>	<b>\$16,228</b>

## 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 Traffic Committee Meeting 31 October 2019

Reference:	107/6
Report Author:	Traffic Engineer (Contractor)
Authoriser:	Manager Assets
Link to Community Strategic Plan:	Work in partnership to ensure a safe road network

#### PURPOSE

This report provides the Minutes of the Traffic Committee Meeting electronically held on Thursday 31 October 2019.

#### SUMMARY OF THE RECOMMENDATION AND ACTION FOR COUNCILLORS' ATTENTION AND ADOPTION

##### Item 1 2019-2020 Southern Highlands Cycling Club Race Program

TC51/19

*THAT*

1. The event organiser to comply with the attached police conditions.
2. The treatment to reduce the risk when motorists overtake cyclists on the cycle routes needs to be included in the TCP's for each route.
3. Additional static warning signs at the main intersections of side roads on the cycle routes are required and need to be added to the TCP's for each route.
4. The requirement for cyclists to increase their visibility to reduce risk be included in the application.

##### Item 2 Traffic Management Arrangements for 2019 Xmas Picnic and Plant Fair

TC52/19

*THAT* there is no objection to the traffic arrangements proposed for the 2019 Xmas Picnic and Plant Fair event on Saturday 7 December 2019 subject to the completion of all requirements detailed in the Guide to Traffic and Transport Management for Special Events for a class 2 event.

#### RECOMMENDATION

**THAT** recommendations Nos TC51/19 to TC52/19 – as detailed in the Minutes of the Traffic Committee Meeting electronically held on 31 October 2019 be adopted.

#### ATTACHMENTS

1. Police conditions
2. Minutes of the Traffic Committee Meeting held on 31 October 2019



## **NEW SOUTH WALES POLICE CONDITIONS**

### **FOR BICYCLE RACE**

#### **SOUTHERN HIGHLANDS CYCLE CLUB**

#### **2019- 2020 SUMMER & WINTER ROAD RACE PROGRAMME**

##### **GENERAL**

1. Permission of the relevant Local Government Authorities to be obtained and conditions adhered to.
2. Provisions of the Road Transport Legislation to be observed.
3. Any direction given by a member of the Police Force in accordance with the Road and Transport Legislation to be promptly obeyed.
4. Any conditions imposed and direction given by the officers of the Roads and Maritime Service must be obeyed.
5. Club Officials to have full control of competitors and support vehicles/personnel whilst any race is in progress.
6. Organisers, officials and participants to take all reasonable measures to reduce obstruction to pedestrians or vehicles during the course of the event.
7. The race is to be conducted in accordance with the race timing and route approved by Police.
8. The event is to be conducted during daylight hours only.

##### **ORGANISERS AND OFFICIALS**

9. Organisers to provide sufficient marshals to properly control participants in the event.



10. Organisers, competitors and support persons shall obey any Police direction given in the interests of safety of competitors or other persons.
11. The event organisers shall enforce immediate disqualification upon any competitor;
  - (a) Who fails to comply with any Police direction,
  - (b) Who fails to comply with any of these conditions.
12. Officials with large red flags shall be located at those locations where cyclists will be turning from one street into another, or at any point so requested by police
13. Organisers must brief competitors in regard to their compliance with the traffic regulations and the conditions set down by Police. Competitors must be fully aware they will be immediately disqualified from the event if non compliance is detected.

### **COMPETITORS**

14. Competitors are not permitted to ride on the carriageway during periods of poor visibility, due to inclement weather or fog, where there is insufficient daylight to render a person dressed in dark clothing discernible at a distance of 100 metres.
15. Participants who fall behind the Rear Escort Vehicle in their group, or who are outside the area controlled by Marshals, must remain on the correct side of the carriageway, and comply with the normal requirements of the Road Transport Legislation.
16. Whilst the event is travelling along dual lane carriageway competitors are to remain in the nearside lane and not enter the right-hand lane so as to allow traffic to overtake.
17. All entrants shall be issued with an individual identification number of not less than 100mm in height in black on a white background.



18. The race number allocated to each competitor is to be worn so that is conspicuously displayed throughout the race.

### **MARSHALS**

19. Marshals are to be suitably instructed as to their duties by the organisers.
20. Marshals and officials are to be provided with a copy of these conditions.
21. Marshals must be dressed in apparel which will instantly identify them as such

### **ESCORT VEHICLES**

22. The organiser shall provide escort vehicles as detailed below for each group which must be positioned so as to create a positive awareness of the presence of participants on the carriageway to other road users.

- (i) Lead Escort vehicle.
- (ii) Rear Escort Vehicle.

23. Unless otherwise directed by police, Escort Vehicles shall be positioned in the following order.

#### **(i) LEAD ESCORT VEHICLE**

On single carriageways, a Lead Escort Vehicle shall be positioned approximately 300 metres ahead of the participant leading in each group.

This vehicle shall display a sign directed to the front of the vehicle displaying the words "CAUTION CYCLISTS FOLLOWING" so as to provide advance warning to oncoming traffic and passing road users.

#### **(ii) REAR ESCORT VEHICLE**

This vehicle shall be positioned approximately 300 metres to the rear of





the Primary Escort Vehicle following the last group of participants.

This vehicle shall display a sign directed to the rear of the vehicle displaying the words "CAUTION CYCLISTS AHEAD".

24. Warning signs referred to above shall not be less than 900mm x 400mm in size with large lettering proportionate to the dimensions of the sign and in accordance with the Road and Transport Legislation.
25. Each escort vehicle shall also: -
  - (a) be fitted with flashing amber light on the highest point of the roof;
  - (b) have flashing amber lights operating at all times;
  - (c) have hazard and warning lights operating at all times;
  - (d) be equipped with sets of triangle signs which shall be displayed in the event of breakdowns;
  - (e) have no advertising material whatsoever affixed to the portion of the vehicle displaying the required " Caution " sign, i.e.: -
    - (i) the front of the Lead Escort Vehicle;
    - (ii) the rear of the Rear Escort Vehicle.
26. Escort or support vehicles are to move off the carriageway when required to wait for participants, so as not to obstruct traffic on single lane carriageways.

### **SUPPORT VEHICLES**

27. Official Support Vehicles to be clearly identified as such;
28. Official Support vehicles accompanying the cyclists shall be limited to those listed below:
  - (i) Support Vehicle - one per group.
  - (ii) Spares Vehicles - one vehicle per group.

All other vehicles to remain at rear of the procession, behind the rear Escort vehicle.

29. Apart from the Race officials Escort and Support vehicles, no other vehicle is to travel adjacent to the riders.

### **COMMUNICATION**



30. Radio communication is to be provided to each official, support or media vehicle which is permitted by the Race commissaire.
31. Radio call signs to be nominated for all escort and official vehicles and provided to The Hume PD Traffic Office, as part of the Traffic Management Plan.
32. In the interest of promoting road safety and public awareness of the conduct of the event, advertisements are to be placed in the local newspapers and other media along the route so to advise members of the public and forewarn them of the presence of the cyclists and support vehicles occupying the roadway.
33. All Officials to be fully conversant with the event route.

**SPECIAL CONDITIONS:**

The Hume PD Traffic Office to be advised of any proposed change of venue. Any alternative venue must be a location that has been approved in this application.

Police do not require road closures unless:

- a. Competitors exceed the posted speed limit (a condition may be placed not to exceed the speed limit)
- b. If the race is through an intersection with Traffic Control Lights or Stop/Give Way signs RMS/Police require control of that intersection and therefore this portion of the Road requires closure.
- c. Event organisers are to hold and provide proof of current Public Liability Insurance prior to the conduct of any event.

**FURTHER:**

- d. An exemption will be granted to Rule 151 (ride a bicycle alongside more than 1 other bicycle).
- e. Participants will not be permitted to cross the centre of the roadway into the path of other traffic.



- f. Participants will not be able to cross any double centre lines, unless they are entering or leaving a road.

S. Ferguson  
Senior Constable  
The Hume PD  
Traffic Services



# MINUTES

of the  
Traffic Committee Meeting  
Held electronically on

**Thursday 31 October 2019**

The meeting commenced at

*File No. 107/6*



**MINUTES OF THE TRAFFIC COMMITTEE MEETING**

Thursday 31 October 2019



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MINUTES OF THE TRAFFIC COMMITTEE MEETING

Thursday 31 October 2019



MINUTES OF THE TRAFFIC COMMITTEE MEETING OF WINGECARRIBBEE SHIRE COUNCIL HELD IN HELD ELECTRONICALLY ON THURSDAY 31 OCTOBER 2019

<b>Present:</b>	Clr Ken Halstead Mrs Jayd Marsh Chief Inspector John Klepczarek Mr Ian Armstrong Mrs Katherine Wood	Chair Roads and Maritime Services NSW Police Representing Member for Wollondilly Representing Member for Goulburn
<b>Council Staff:</b>	Mr Stace Lewer Ms Daria Chen Mr Naif Ahmed	Manager Assets Acting Traffic Engineer Coordinator Assets Roads & Traffic

1. AGENDA REPORTS

1.1 2019-2020 Southern Highlands Cycling Club Race Program

<b>Reference:</b>	7420/2
<b>Report Author:</b>	Traffic Engineer (Contractor)
<b>Authoriser:</b>	Manager Assets
<b>Link to Community Strategic Plan:</b>	Provide safe and efficient road, cycle and where appropriate, walking paths between and within town and villages, and conveniently located parking areas for cars and bicycles. Ideally, all road reserves to include provision for safe walking and cycling

PURPOSE

Requesting permission to conduct the Southern Highlands Cycling Club Summer and Winter Race Program for 2019-2020

RECOMMENDATION

THAT

1. The event organiser to comply with the attached police conditions.
2. The treatment to reduce the risk when motorists overtake cyclists on the cycle routes needs to be included in the TCP's for each route.
3. Additional static warning signs at the main intersections of side roads on the cycle routes are required and need to be added to the TCP's for each route.
4. The requirement for cyclists to increase their visibility to reduce risk be included in the application.

TC51/19

Unanimous support



MINUTES OF THE TRAFFIC COMMITTEE MEETING

Thursday 31 October 2019



**1.2 Traffic Management Arrangements for 2019 Xmas Picnic  
and Plant Fair**

Reference: 7450  
Report Author: Traffic Engineer (Contractor)  
Authoriser: Manager Assets  
Link to Community  
Strategic Plan: Work in partnership to ensure a safe road network

**PURPOSE**

Reporting on the traffic arrangements for the 2019 Xmas Picnic and Plant Fair event.

**RECOMMENDATION**

*THAT there is no objection to the traffic arrangements proposed for the 2019 Xmas Picnic and Plant Fair event on Saturday 7 December 2019 subject to the completion of all requirements detailed in the Guide to Traffic and Transport Management for Special Events for a class 2 event,*

TC52/19

Unanimous support

## 17 QUESTIONS WITH NOTICE

### 17.1 Question with Notice 24/2019 - DA 17/0816.09 – Station and Funston Streets, Bowral – Clause 14 – Dedication of Splayed Corner to Council

**Reference:** 100  
**Report Author:** Administration Officer (Meetings)  
**Authoriser:** Deputy General Manager Corporate, Strategy and Development Services

**Link to Community Strategic Plan:** An enhanced culture of positive leadership, accountability and ethical governance that guides well informed decisions to advance agreed community priorities

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**To:** General Manager  
**From:** Cllr Turland  
**Received:** 18 November 2019

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**Subject:** DA 17/0816.09 – Station and Funston Streets, Bowral – Clause 14 – Dedication of Splayed Corner to Council

**Question:**

How much compensation (money) was offered to the applicant under the *Just Terms Compensation Act 1991* for this land to be dedicated as it was private land not Council land.

**Response:**

The Land was not acquired under the Land Acquisitions (Just Terms Compensation) Act 2016.

Notwithstanding, Council considered a Question with Notice (21/2019) at its meeting held on 13 November 2019 in relation to this matter. Council subsequently resolved (MN521/19)

***THAT a report be brought back to Council in relation to DA17/0816.09 - Reekies Tyre Service, corner of Funston and Station Street on Condition 14 of the development application.***

As such the subsequent Question with Notice will also be addressed in the report to Council.

---

### RECOMMENDATION

**THAT the information in relation to Question with Notice 24/2019 - DA 17/0816.09 – Station and Funston Streets, Bowral – Clause 14 – Dedication Of Splayed Corner To Council - be noted.**

## 18 NOTICES OF MOTION

### 18.1 Notice of Rescission Motion 6/2019 - Frankland Street

Reference:	PN556900
Report Author:	Administration Officer (Meetings)
Authoriser:	Deputy General Manager Corporate, Strategy and Development Services
Link to Community Strategic Plan:	An enhanced culture of positive leadership, accountability and ethical governance that guides well informed decisions to advance agreed community priorities

#### PURPOSE

Councillors Turland, Whipper and Halstead have given notice that it is their intention to move the following motion at the Ordinary Meeting of Council on 27 November 2019 that the following resolution from the Ordinary Meeting of Council held on 13 November 2019 be rescinded:

*MN 1/19*

*MOTION moved by Mayor Cllr T D Gair and seconded by Cllr I M Scandrett*

1. THAT Council accept the tender from Willow Properties Pty Ltd and Paloma Blanca in relation to RFT 6330/19.29 Sale of Land - Frankland Street Mittagong for Proposed Lot 2 and Proposed Lot 3 being part Lot 1 in Deposited Plan 109208.
2. THAT in respect to the sale of Proposed Lot 2 and Proposed Lot 3 being part Lot 1 in Deposited Plan 109208, authority be delegated to the General Manager and Mayor to execute the Contract for Sale of Land, Transfer and any other associated real property dealing under the Common Seal of the Council.

*ON BEING PUT TO THE MEETING VOTING ON THE MOTION WAS TIED AT THREE VOTES ALL AND THEREFORE THE MAYOR GAIR USED HIS CASTING VOTE IN THE AFFIRMATIVE AND THE MOTION WAS PASSED*

#### Recommendation:

THAT the motion passed by Council on 13/11/19, being Item Number 19.1 Tender Sale - 10 Frankland Street Mittagong MN528/19, 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:

THAT Council not proceed with the sale until all councillors are present to participate on the debate and vote on the above land sale.



---

## 18.2 Notice of Motion 40/2019 - Code of Meeting Practice

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

---

### PURPOSE

Councillor Turland has given notice that it is his intention to move the following motion at the Ordinary Meeting of Council on 27 November 2019:

THAT Council extend the time for the public to present to Councillors on public forum and visitor items to 5 minutes from 3 minutes.

---

### RECOMMENDATION

**Submitted for determination.**

### **COMMENT FROM STAFF**

Currently, section 4.11 of Council's adopted Code of Meeting Practice (the Code) provides each Public Forum speaker five (5) minutes to address Council. Councillors are not allowed to ask questions of Public Forum speakers.

Section 5.5 of the Code provides each speaker at Visitor Items three (3) minutes to address Council, in addition section 5.6 allows each councillor to ask each Visitor Item speaker one (1) question. Answers to Visitor Item questions shall not exceed one (1) minute.

Public Forum is a non-mandatory provision of the Office of Local Government's Model Code of Meeting Practice as such Council determines the length of time allowed for each speaker during Public Forum as a part of its adopted Code.

Pursuant to section 363 of the *Local Government Act 1993* Council may amend its adopted Code. However, in accordance with section 362(2) "*If the council decides to amend its draft code, it may publicly exhibit the amended draft in accordance with this Division or, if the council is of the opinion that the amendments are not substantial, it may adopt the amended draft code without public exhibition as its code of meeting practice.*"





### **18.3 Notice of Motion 41/2019 - External Review of 13 Bolans Road, Balmoral**

<b>Reference:</b>	<b>100</b>
<b>Report Author:</b>	<b>Administration Officer (Meetings)</b>
<b>Authoriser:</b>	<b>Deputy General Manager Corporate, Strategy and Development Services</b>
<b>Link to Community Strategic Plan:</b>	<b>An enhanced culture of positive leadership, accountability and ethical governance that guides well informed decisions to advance agreed community priorities</b>

#### **PURPOSE**

Councillor Turland has given notice that it is his intention to move the following motion at the Ordinary Meeting of Council on 27 November 2019:

THAT Council undertake an external review of DA 20/0330 – 13 Bolans Road, Balmoral; of the concerns from the applicants.

#### **RECOMMENDATION**

**Submitted for determination.**

#### **COMMENT FROM STAFF**

Development Application 20/0330 in relation to the erection of a dwelling house at 13 Bolans Road Balmoral has not been finalised as yet as it is still under assessment. If Councillors wish to have the matter determined by full Council, a resolution of Council to bring a report to Council is required.

## **18.4 Notice of Motion 42/2019 Review of Berrima Overpass Project**

<b>Reference:</b>	<b>100</b>
<b>Report Author:</b>	<b>Administration Officer (Meetings)</b>
<b>Authoriser:</b>	<b>Deputy General Manager Corporate, Strategy and Development Services</b>
<b>Link to Community Strategic Plan:</b>	<b>An enhanced culture of positive leadership, accountability and ethical governance that guides well informed decisions to advance agreed community priorities</b>

### **PURPOSE**

Councillor Turland has given notice that it is his intention to move the following motion at the Ordinary Meeting of Council on 27 November 2019:

THAT Council refers to the Audit, Risk and Improvement Advisory Committee all documents that relate to the Berrima Overpass Project to undertake a review of this project because of its failure to be completed.

### **RECOMMENDATION**

**Submitted for determination.**

## 19. CLOSED COUNCIL

### MOVING INTO CLOSED SESSION

Section 10A of the *Local Government Act 1993*, empowers Council and Committees of which all the members are Councillors to close a part of a meeting in certain circumstances in accordance with the requirements of the Act, and relevant Regulations and Guidelines.

Subject to the provisions of Section 10 of the Act, so much of a meeting may be closed as comprises certain information as outlined in Section 10A(2).

However, the Act also contains the following provisions qualifying the use of Section 10A(2).

#### Section 10B

1. *[Time spent closed to be minimised]* A meeting is not to remain closed during the discussion of anything referred to in section 10A(2):
  - a. Except for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security, and
  - b. If the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret-unless the council or committee concerned is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.
2. *[Qualification of 10A(2)(g)]* A meeting is not to be closed during the receipt and consideration of information or advice referred to in section 10A(2)(g) unless the advice concerns legal matters that:
  - a. are substantial issues relating to a matter in which the council or committee is involved, and
  - b. are clearly identified in the advice, and
  - d. are fully discussed in that advice.
3. *[Qualification of 10A(3)]* If a meeting is closed during the discussion of a motion to close another part of the meeting to the public (as referred to in section 10A(3)), the consideration of the motion must not include any consideration of the matter or information to be discussed in that other part of the meeting (other than consideration of whether the matter concerned is a matter referred to in section 10A(2)).
4. *[Irrelevant matters]* For the purpose of determining whether the discussion of a matter in an open meeting would be contrary to the public interest, it is irrelevant that:
  - a. a person may misinterpret or misunderstand the discussion, or
  - b. the discussion of the matter may:
    - (i) cause embarrassment to the council or committee concerned, or to Councillors or to employees of the council, or
    - (ii) cause a loss of confidence in the council or committee.

Attention is also drawn to provisions contained in Part 15 of Council's Code of Meeting Practice.

Section 10B(5) of the Act requires that council have regard to these guidelines when considering resolving into Closed Session.

---

## **RECOMMENDATION**

1. **THAT Council moves into Closed Council in accordance with the requirements of Section 10A(2) of the *Local Government Act 1993* as addressed below to consider the following reports that are confidential for the reasons specified below:**

- 19.1 **Tender for Sewer Mains Renewal and Sewer Manhole Replacement**

Relevant Legal Provisions

This report is referred to Closed Committee in accordance with s10A(2) of the Local Government Act, 1993, under clause 10A(2)d(i) as it contains commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it and the Council considers that it would be on balance contrary to the public interest to consider this information in Open Council.

Brief description

The purpose of this report is to present the evaluation of the Request for Tender for the Sewer Mains Renewal and Sewer Manhole Replacement for 19/20 and 20/21.

- 19.2 **Tender for Customer Relationship Management and Workflow Management Systems**

Relevant Legal Provisions

This report is referred to Closed Committee in accordance with s10A(2) of the Local Government Act, 1993, under clause 10A(2)d(i) as it contains commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it and the Council considers that it would be on balance contrary to the public interest to consider this information in Open Council.

Brief description

The purpose of this report is to present the evaluation of the Selective Request for Tender for the Customer Relationship Management and Workflow Management System.

- 19.3 **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

## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

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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 23 October 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 21 November 2019