

25 November 2021

Dear Panel Member,

You are kindly requested to attend the Wingecarribee Local Planning Panel to be held in **Nattai Room, Civic Centre, Elizabeth Street, Moss Vale** on **Wednesday 1 December 2021** commencing at **3.30pm**

Yours faithfully



Geoff King  
**Director Communities and Place**

## **Business**

### **1. OPENING OF THE MEETING**

### **2. ACKNOWLEDGEMENT OF COUNTRY**

### **3. APOLOGIES**

Nil

### **4. DECLARATIONS OF INTEREST**

---

### **5. DEVELOPMENT APPLICATIONS**

- 5.1 S8.2 Review of DA 21/1889.01 for the Change of Use from Ground Floor Garages to a Residential Flat at Lot 117 DP 870922, Old Hume Highway, Berrima ..... 2
- 5.2 s4.55 Modification Application 17/1174.03 - Commercial Alterations and Additions to Bowral Memorial Hall - 16-24 Bendooley Street Bowral - Lot 1 in DP1003910 ..... 16
- 5.3 Development Application 21/1043 - Subdivision of land and carrying out of works to create 23 residential lots and carrying out of works for the purpose of roads at 1 & 7 Reg Grundy Drive, Bundanoon - Lots 11 & 18 DP1219744 ..... 23
- 5.4 Development Application 22/0222 - Stage 1A Upgrade to Eastern Precinct Arrival of the Bong Bong Common at Lot 22 DP 1225783, Moss Vale Road Burradoo ..... 61

---

### **6. PLANNING PROPOSALS**

- 6.1 Planning Proposal to Rezone Willow Run, 105-119 Bong Bong Road, Mittagong - Post exhibition ..... 78
- 6.2 Planning Proposal to amend Wingecarribee Local Environmental Plan 2010 to enable the legal enforcement of Purchasers' Agreements (and associated Design Guidelines) for land within West Retford Park - Post exhibition. .... 92
- 6.3 Planning Proposal to amend Wingecarribee Local Environmental Plan 2010 with regard to Council owned Public Reserve land at Retford Park Bowral and Anembo Street Moss Vale - Post exhibition. 100
- 6.4 Planning Proposal to enable additional permitted uses for land at 233 Railway Parade Balmoral..... 112

### **7. 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 Wingecarribee Local Planning Panel Meetings**

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

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

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

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

The meeting must not be recorded by others.

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

**The Council Chamber has 24 Hour Video Surveillance.**



---

## **ACKNOWLEDGEMENT OF COUNTRY**

---

“Wingecarribee Shire Council acknowledge the Gundungurra and Tharawal people as the traditional custodians of this land we now call the Wingecarribee Shire. I pay my respect to Elders both past, present and emerging. I would also like to extend that respect to all Aboriginal and Torres Straight Islanders present here today.”

---

## **APOLOGIES**

---

Nil at time of print.

---

## **DECLARATIONS OF INTEREST**

---

101/3, 101/3.1

The provisions of Chapter 14 of the *Local Government Act 1993* regulate the way in which Panel Members 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 Meeting.

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.

---

## 5 DEVELOPMENT APPLICATIONS

### 5.1 S8.2 Review of DA 21/1889.01 for the Change of Use from Ground Floor Garages to a Residential Flat at Lot 117 DP 870922, Old Hume Highway, Berrima

Reference: DA21/1889.01  
Report Author: Consultant Planner  
Authoriser: Manager Development Assessment

#### PURPOSE

The purpose of this report is to consider a Review of Determination of Development Application 21/1889.01 which seeks development consent for the change of use from Ground Floor Garages to a Residential Flat at Lot 117 DP 870922, Old Hume Highway, Berrima. The subject application was determined by way of refusal under delegated authority on 15 July 2021.

Consultants:	Scott Lee, LEP Planning
Applicant:	George Koshakji
Land owner:	George Koshakji
Land zoning:	B1 Neighbourhood Centre
Applicant's estimated cost of proposed development:	Nil
Notification period:	16 June – 7 July 2021
Number of submissions:	1 submission objecting to the proposed development
Political donations:	None identified
Reason for referral to Panel:	Review of Determination

#### RECOMMENDATION

**THAT** the Local Planning Panel determines Review of Determination DA 21/1889.01 – Change of Use from Ground Floor Garages to a Residential Flat at Lot 117 DP 870922 being Old Hume Highway, Berrima by REFUSAL, subject to the recommended reasons for refusal in Attachment 1 to the report.

#### REPORT

##### EXECUTIVE SUMMARY

An 8.2 review of determination has been lodged by the applicant to the refusal of Development Application (DA) 21/1889.01 for the change of use from ground floor garages to a residential flat at Lot 117 DP 870922, Old Hume Highway, Berrima.

## AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

### DEVELOPMENT APPLICATIONS



On 15 July 2021 the DA was refused under delegated authority for the following reasons:

1. Pursuant to s4.15 (b) Environmental Planning and Assessment Act 1979 of that development:

#### *Insufficient Car Parking*

*Development Application LUA01/1719 was approved on 20/09/2002 for Shops and first floor residence. This development consent required the provision of eleven (11) off street car parking spaces to service the development.*

*Plans provided with this application indicate the location of five (5) at grade car parking spaces. Site inspection revealed that these spaces are not provided or marked and also adjoin an area that is obstructed by timber fencing limiting turning movements and safe access and egress for vehicles.*

*The lower ground floor space has been converted to a residential use reducing the car spaces under the building to zero.*

*This is inconsistent with the approved consent for the works related to the proposed change of use and non-compliant with associated planning controls.*

*The proposal would result in a shortfall of at minimum eleven (11) car parking spaces and no disabled parking spaces provided.*

2. Flood Planning Level non-compliant:

*The floor levels proposed do not meet the required flood planning level for habitable use and insufficient information has been provided in regard to this issue.*

3. Pursuant to s4.15 (e) Environmental Planning and Assessment Act 1979 -public interest:

*The proposed change of use to effectively re-purpose approved garages provided for off street parking and use them for residential purposes is not in the public interest and not supported.*

The applicant has submitted additional information in the form of a vehicular swept path analysis, a review of flood constraints and correspondence from the Applicant's barrister Anthony Strik.

The subject site is subject to a development control order as some of the works have already been completed. The applicant appealed the development control order which was subject to a S34 Conciliation Conference on 22 July 2021, no agreement was reached, and this appeal is set down for hearing on the 7<sup>th</sup> - 8<sup>th</sup> February 2021.

The review of determination is recommended for refusal for the following reasons:

- Insufficient information has been provided by the applicant to properly assess the application.
- The application has not clearly articulated the use of the land, for example the statement of environmental effects is inconsistent with the BCA report.
- The application proposes the use of Bedroom 2 as a habitable room which does not have access to any window. The application proposes a glazed door to Bedroom 2 to provide sufficient natural light, however this door provides access from the living/dining area is not an acceptable environmental planning outcome.

## AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

### DEVELOPMENT APPLICATIONS



- Insufficient information has been provided to determine whether parking complies with Council's DCP or whether the flood constraints of the site have been adequately addressed.
- The applicant has not demonstrated compliance with State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- The applicant has not demonstrated compliance with State Environmental Planning Policy No. 55 – Remediation of Land.
- The application is not in the public interest.

#### Site Description and Locality

The subject site (the site) is legally described as Lot 117 DP 870922, and known as Old Hume Highway, Berrima.

The site has a narrow frontage to the Old Hume Highway that provides pedestrian access only. Vehicular access is off Wingecarribee Street to the rear, via a right of carriageway that burdens adjoining Lots 118 DP 870922 and SP 55977.

Surrounding the site is SP 55977 that accommodates a one and two storey commercial building that presents to Old Hume Highway. It is occupied by a variety of businesses. Lot 118 accommodates the former Crown Inn, a two storey sand stock brick and pitched corrugated iron building. This building is a heritage listed building of local significance.

**Figure 1** and **2** illustrates the site's location and context (see also **Attachment 3**)





**AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL  
MEETING**

Wednesday 01 December 2021

**DEVELOPMENT APPLICATIONS**



**Figure 1: Locality Map (Attachment 3(Source: Six Maps))**



**Figure 2: Aerial Photo of Subject Site (Attachment 3 (Source: Nearmap))**

Photos of the subject site are provided below in **Figure 3 – 6** (See also **Attachment 4**)



**Figure 3 – Photo of Subject Site Looking North**



**AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL  
MEETING**

Wednesday 01 December 2021

**DEVELOPMENT APPLICATIONS**



**Figure 4 – Photo of Subject Site with new openings**



**Figure 5 – Photo of Subject Site with unauthorised works undertaken**

# AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

## DEVELOPMENT APPLICATIONS



**Figure 6 – Photo of Subject Site Looking South**

### BACKGROUND

The subject site is subject to a development control order as some of the works have already been completed. The applicant appealed the development control order which was subject to a S34 Conciliation Conference on 22 July 2021, no agreement was reached and this appeal is set down for hearing on the 7<sup>th</sup> - 8<sup>th</sup> February 2021.



## **APPLICATION FOR REVIEW OF DETERMINATION**

The applicant has lodged a Review of Determination under the provisions of Section 8.2 of the *Environmental Planning and Assessment Act, 1979*.

Clause 8.2(1)(a) of the Environmental Planning and Assessment Act, 1979 states:

*“(1) The following determinations or decisions of a consent authority under Part 4 are subject to review under this division –*

*(a) The determination of an application for development consent by a council, by a local planning panel, by a Sydney district or regional planning panel or by any person acting as delegate of the Minister (other than the Independent Planning Commission or the Planning Secretary)”*

Consequently, the purpose of this report is to consider a review of the determination having regard to the provisions of Section 4.15 of the *Environmental Planning and Assessment Act, 1979*.

## **DESCRIPTION OF PROPOSAL**

The proposed development as described on the application form is:

“Change of use from ground floor garages to residential flat”.

The Statement of Environmental Effects describes the proposed development as follows:

*“The proposed development involves the use of existing floor space within an established building for the purpose of a single dwelling. There is no additional work to the existing building required other than the internal fitout work.”*

The application is accompanied with the following documents in support of the application:

- A site plan which accompanied the original application;
- A ground floor plan which accompanied the original application;
- An east elevation which accompanied the original application;
- A BCA report which accompanied the original application;
- A Statement of Environmental Effects which accompanied the original application;
- A BASIX Certificate which accompanied the original application;
- A Review of Regional Flood Constraints prepared for this 8.2 Review;
- Vehicular Swept Path Analysis prepared for this 8.2 Review;
- Correspondence from the applicant’s Barrister, Anthony Strik prepared for this 8.2 Review.





## **INSUFFICIENT INFORMATION**

Clause 50(1) of the Environmental Planning & Assessment Regulation 2000 (**Regulations**) describes how a development application must be made as follows:

- (1) A development application, other than an application for State significant development, must—
  - (a) be in the form that is approved by the Planning Secretary and made available on the NSW planning portal, and
  - (b) contain all of the information that is specified in the approved form or required by the Act and this Regulation, and
  - (c) be accompanied by the information and documents that are specified in Part 1 of Schedule 1 or required by the Act and this Regulation, and
  - (d) be lodged on the NSW planning portal.

Schedule 1 of the Regulations specifies the information and documents that must accompany an application.

Applications should also be legible and clear as to the development consent sought.

### Comment

The review of determination is not considered legible or clear as to the development consent sought, in particular there are inconsistencies in the documents that make it unclear the use sought.

For example, the application for describes the change of use to a residential flat, which is not a defined land use, the Statement of Environmental Effects describes the land use as a dwelling house. This is contradicted by the BCA report which describes the building's lower ground floor classification as Class 3 transient accommodation for a number of unrelated persons, the upper ground floor as Class 6 shops and an attic level used for a Class 4 residence.

In addition, insufficient information has been provided to properly assess the application, in particular:

- The application is not accompanied with proper survey information;
- The application is not accompanied with a full set of architectural plans including full floor plans of the building, a proper site plan, detailed elevations with dimensions, a section.
- The BCA report makes a number of assumptions and details in their conclusion that further documentation is required which some are not included in the application including:
  - *A report is required, and design required from a suitably qualified plumber or hydraulic engineer to determine the suitable drainage system required to prevent the entry of surface water into the building.*
  - *Any penetrations through the floor system between the lower ground and upper floor are required to be protected from the spread of fire - and it is*

## AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

### DEVELOPMENT APPLICATIONS



*recommended that fire collars to any services passing through the floor are installed complying with C3.15 of the BCA.*

- *Client to provide documentary evidence demonstrating which particular system of ultrafloor is applied to the floor separating upper ground level and lower ground level to demonstrate compliance with airborne sound insulation rating.*
- *Install mechanical ventilation to the bathroom 2 ducting directly to outside air.*
- *A glazed door and ventilation system must be installed to bedroom 2 to comply with natural lighting and ventilation requirement of the National Construction Code.*
- *Energy efficiency consultant report is required under the NCC Part JO Energy Efficiency and J1 Building Fabric and external wall being of concrete block needs to be insulated to comply with energy efficiency and building fabric requirements.*
- *Wet area waterproofing certificate is required from the water proofer.*
- *A fire test report is required for the floor between lower ground floor and upper ground floor.*
- *External door to rumpus room requires self-closer to be installed and window within 1.5m of boundary must be fire protected.*
- *Opening in the bathroom at ceiling level between the external wall and subfloor space must be sealed with fire resisting materials.*
- *Internal loadbearing columns and beams supporting floor above must be fire protected achieving FRL of 60/-/-.*
- *Fire test report is required for the floor linings and floor covering materials demonstrating compliance with Specification C1.10 of the BCA.*
- *A bushfire consultant report determining the bushfire attack level is required and the building needs to be upgraded to comply with the relevant sections of AS 3959 if applicable.*

In addition, the review of regional flood constraints document prepared in support of the review of determination states “Our assessment doesn’t include a review of any other localised flooding that may occur adjacent to, or within the property that could otherwise be managed within the existing site’s stormwater drainage / management system.” As detailed above, no stormwater drainage plans have been submitted with the review of determination.

### PLANNING ASSESSMENT

The application has been considered with regard to the matters for consideration specified by section 4.15 (1) of the Environmental Planning and Assessment Act 1979, as detailed below.



**Section 4.15 (1) (a) (i)—The provisions of any environmental planning instrument that apply to the land**

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

SEPP (BASIX) applies to the subject site. SEPP BASIX requires applications in NSW to meet sustainability targets. A BASIX Report prepared for the proposed development (separately submitted) indicates that the proposed application will satisfy the relevant water and energy targets. However, this BASIX certificate has been prepared on the basis of a single dwelling. As detailed above, whilst the Statement of Environmental Effects describes the land use as a single dwelling house, the BCA report describes the building differently, therefore the BASIX certificate is considered invalid and any future application will need to make clear the land use, and BASIX certificate required.

State Environmental Planning Policy No 55—Remediation of Land

Clause 7 of SEPP 55 requires the consent authority to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land, and to be satisfied that the land is suitable for the proposed use.

The Statement of Environmental Effects does not address SEPP 55. No assessment has been undertaken whether the land is suitable for the proposed use. Given the change in land use, it would be expected that a Preliminary Site Assessment may be required.

State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011

The catchment SEPP aims are reproduced below:

- (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.'*

It is noted that no stormwater detail has been proposed when it is required. Details will need to ensure that the proposed development satisfies the SEPP.

## AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

### DEVELOPMENT APPLICATIONS



#### Wingecarribee Local Environmental Plan 2010 (the LEP)

The relevant provisions of the LEP are addressed in the table below.

Clause	Control	Discussion	Compliance
1.2 – Aims of Plan	Subclause (2) sets out the LEP's particular aims.	Insufficient information has been provided.	No.
2.3 – Zone objectives and Land Use Table	<p>The land is zoned E3 Environmental Management and the objectives of the zone are:</p> <ul style="list-style-type: none"><li>• To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.</li><li>• To generally conserve and enhance the unique sense of place of business centre precincts in villages and towns by ensuring that new development integrates with the distinct village scale, character, cultural heritage and landscape setting of those places.</li><li>• To ensure that new development has regard to the character and amenity of adjacent and nearby residential areas.</li></ul>	Insufficient information has been provided to determine whether the proposed development satisfies the objectives of the zone and complies with the land use table.	No.
5.10 – Heritage Conservation	<p>(2) Development consent is required for any of the following—</p> <p>(a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance)—</p> <p>(f) subdividing land—</p> <p>(i) on which a heritage item is located or that is within a heritage conservation area, or</p> <p>(4) The consent authority must,</p>	Insufficient information has been provided with the application.	No.

## AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

### DEVELOPMENT APPLICATIONS



	<p>before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned.</p> <p>(5) The consent authority may, before granting consent to any development—</p> <p>(a) on land on which a heritage item is located, or</p> <p>(b) on land that is within a heritage conservation area, or</p> <p>(c) on land that is within the vicinity of land referred to in paragraph (a) or (b), require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.</p>		
--	---	--	--

#### **Section 4.15 (1) (a) (ii)—The provisions of any proposed instrument that apply to the land**

No draft instrument is relevant to the proposed development.

#### **Section 4.15 (1) (a) (iii)—The provisions of any development control plan that apply to the land**

The Berrima Village Development Control Plan (DCP) is the applicable DCP which has been considered in this review of determination which are:

As detailed in this report, insufficient information has been provided to properly assess the application against the applicable controls therefore no assessment can be carried out.

#### **Section 4.15 (1) (a) (iv)—The provisions of any planning agreement that apply to the land**

No planning agreement or draft planning agreement applies to the land.



**Section 4.15 (1) (a) (v)—The provisions of the regulations (to the extent that they prescribe matters for the purposes of this paragraph) that apply to the land**

As detailed under the insufficient information section of this report, there is insufficient information to properly assess the application in accordance with the Regulations.

**Section 4.15 (1) (b)—The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality**

As detailed under the insufficient information section of this report, there is insufficient information to properly assess the application in accordance with the Regulations.

**Section 4.15 (1) (c)—The suitability of the site for the development**

As detailed under the insufficient information section of this report, there is insufficient information to properly assess the application in accordance with the Regulations.

**Section 4.15 (1) (d)—Any submissions made in accordance with the Act or the regulations**

Refer to the consultation section of this report for discussion on submissions received.

**Section 4.15 (1) (e)—The public interest**

The public interest is considered in the consultation section of this report below.

**INTERNAL AND EXTERNAL COMMUNICATION AND CONSULTATION**

**Internal Referrals**

No internal referrals have been undertaken given the lack of information to properly assess the application.

**External Referrals**

No external referrals were undertaken.

## AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

### DEVELOPMENT APPLICATIONS



#### Public Notification

The review of determination was publicly notified from 16 June 2021 to 7 July 2021. Council received 1 submission, objecting to the proposed development.

Issues	Response
The landowner has a history of serious non-compliance with the planning rules.	Noted. As described in the report, insufficient information has been provided by the applicant to undertake a proper assessment.
The applicant has de facto converted the garages into several residence, including the unit where, we understand, he lives / lived himself. The DA proposes to convert the garages into a single residential unit. This should be refused, illegal residential occupation of the garages should be the subject of a Council Order to stop.	Noted. The unauthorised works have been the subject of a development control order which the applicant has appealed to the Land & Environment Court with hearing dates on 7 & 8 February.

#### CONCLUSION

The application is considered insufficient in detail to allow a proper assessment of the application. The application is therefore recommended for refusal following an assessment against the matters specified by Section 4.15(1) of the Environmental Planning and Assessment Act 1979. It is recommended that the Panel determines the application by refusing the application, subject to the reasons specified in **Attachment 1**.

#### ATTACHMENTS

1. Draft Reasons for Refusal - *circulated under separate cover*
2. Proposed Plans - *circulated under separate cover*
3. Locality Map & Aerial Photo - *circulated under separate cover*
4. Photos - Site & Surrounds - *circulated under separate cover*



## 5.2 s4.55 Modification Application 17/1174.03 - Commercial Alterations and Additions to Bowral Memorial Hall - 16-24 Bendooley Street Bowral - Lot 1 in DP1003910

Reference: 17/1174.03  
Report Author: Consultant Planner  
Authoriser: Manager Development Assessment

### PURPOSE

This report presents Modification Application 17/1174.03 for the Panel's consideration and recommends approval subject to conditions specified in **Attachment 1**.

Consultants:	<ul style="list-style-type: none"><li>NBRS Architecture;</li><li>Andrew Martin Planning;</li></ul>
Applicant:	Wingecarribee Shire Council
Land Owner:	Wingecarribee Shire Council
Land Zoning:	B2- Local Centre
Applicants Estimated Cost of Works:	\$0
Notification Period:	The application was not notified in accordance with Council's Community Participation Plan.
Reason for referral to Panel:	<p>Council's Draft Code of Conduct states:</p> <p>CI 3.15</p> <p>(b) development for which the applicant or land owner is:</p> <p>(i) the council,</p> <p>CI 3.16 The assessment of development applications referred to in clause 3.15 must be undertaken by external consultants who have no pecuniary or non-pecuniary interest (as defined in this code) in the application. Such consultants are to prepare and provide an assessment report to the local planning panel to consider in determining the application.</p>

### RECOMMENDATION

**THAT** the Wingecarribee local Planning Panel determines Modification Application 17/1174.03 for Lot 1 DP 1003910, 16-24 Bendooley Street Bowral for modification of the original development consent dated 28 March 2018 and further modifies on 4 November 2019 by way of APPROVAL subject to conditions specified in ATTACHMENT 1 to this report.





---

## **REPORT**

### **EXECUTIVE SUMMARY**

The application is referred to the Wingecarribee Local Planning Panel (WLPP) as required under the Code of Conduct as the land is owned by Wingecarribee Shire Council.

Modification Application 17/1174.03 seeks consent for minor changes to the approval to:

- Changes to the walls and ceiling of the proposed stage area to form a sound shell for use as a concert hall;
- Change of pattern to the acoustic screens at high level within the auditorium for improved acoustic performance;
- Removal of the level 1 Store Room door and ceiling;
- Widening of the proposed opening to the back stage; and
- Rear external landscape pathway and steps widened for fire egress compliance.

This DA modification is for minor changes to the development under construction at Bowral Memorial Hall on Lot 1 DP 11003910, 16-24 Bendooley Street Bowral.

The DA was not notified to neighbors in accordance with Council's Community Participation Plan.

The DA has been referred to a number of officers within Council. No objections were raised from these referral officers. Further details on these processes are also provided in the body of the report.

The Modification has been considered using the heads of consideration listed in Section 4.55 and Section 4.5(1) of the *Environmental Planning & Assessment Act 1979*. Based on this assessment the modification is considered to be satisfactory and the modifications may be conditionally approved (in accordance with the attached conditions).

# AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

## DEVELOPMENT APPLICATIONS



Figure 1: Locality Plan

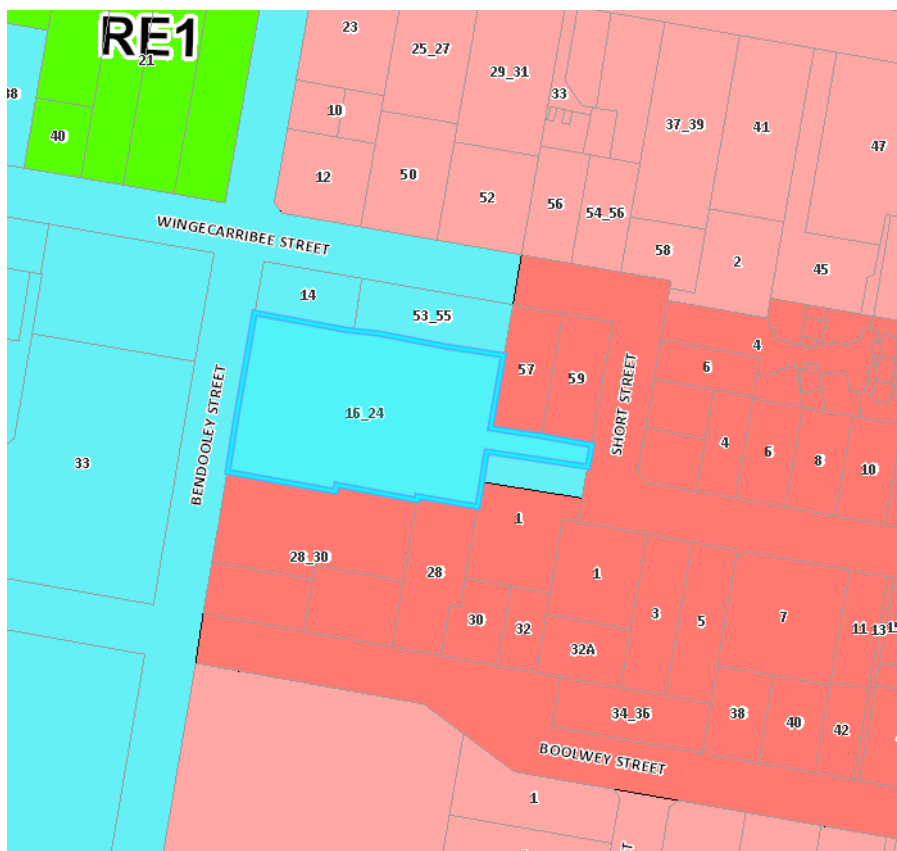


Figure 2: Zoning Map Extract

# AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

## DEVELOPMENT APPLICATIONS

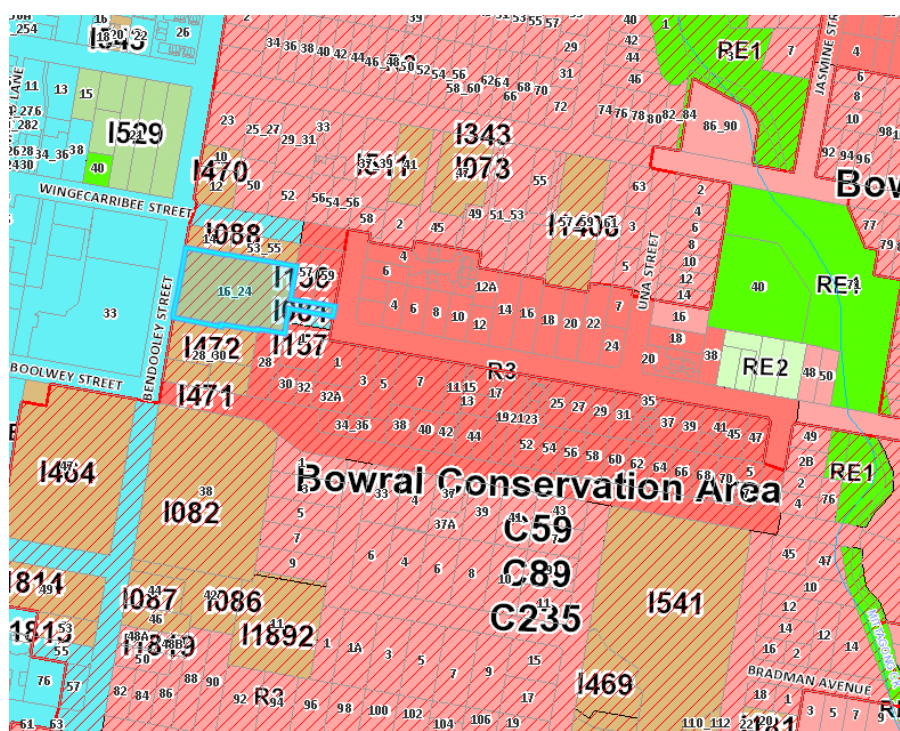


Figure 3: Heritage/Conservation areas

### SITE DESCRIPTION AND LOCALITY

Figure 1 illustrate the land's location and general layout. The site is legally described as Lot 1 DP 1003910, 16-24 Bendooley Street Bowral and known as Bowral Memorial Hall. The subject site is located on the western side of Bendooley Street one lot south of the corner of Wingecarribee Street and Bendooley Street.

The subject site is listed in Schedule 5 of the *Wingecarribee Local Environment Plan (LEP) 2012* as an individual heritage item, it is also located within C59/C89/C235 – *Bowral Conservation Area* and is in the vicinity of a number of other individually listed heritage items (See Figure 3).

The following Statement of Significance is sourced from the NSW State Heritage Register Inventory database, reference number 2680157:

*A Victorian "Free Classical" style former School of Arts library, which contributes to the impressive streetscape in the civic centre of Bowral. The building is historically significant.*

### DESCRIPTION OF PROPOSED DEVELOPMENT

It is proposed to amend DA 17/1174, dated 28 March 2018 being for commercial alterations and additions to the Bowral Memorial Hall.

The proposal seeks approval to modify the approved development as follows:

- Changes to the walls and ceiling of the proposed stage area to form a sound shell for use as a concert hall;
- Change of pattern to the acoustic screens at high level within the auditorium for improved acoustic performance;
- Removal of the level 1 Store Room door and ceiling;

## AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

### DEVELOPMENT APPLICATIONS



- Widening of the proposed opening to the back stage; and
- Rear external landscape pathway and steps widened for fire egress compliance.

### PLANNING ASSESSMENT

Assessment against the provisions of the various environmental planning instruments applicable to the site /and the proposed development is undertaken in the following section.

The proposed modification to the existing consent is considered to qualify for consideration under Section 4.55 of the *Environmental Planning and Assessment Act 1979 (the Act)*.

The modification application has been lodged pursuant to Section 4.55(2) of the Act, which states:

- (2) **Other modifications** A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—
- (a) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
  - (b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
  - (c) *it has notified the application in accordance with—*
    - (i) *the regulations, if the regulations so require, or*
    - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
  - (d) *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

*Subsections (1) and (1A) do not apply to such a modification.*

However, council considers the Modification to comprise a Modification under s4.55(1a) of the Act as follows:

**‘(1A) Modifications involving minimal environmental impact** A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—

- (a) *it is satisfied that the proposed modification is of minimal environmental impact, and*



## AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

### DEVELOPMENT APPLICATIONS



*(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*

*(c) it has notified the application in accordance with—*

*(i) the regulations, if the regulations so require, or*

*(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

*(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

*Subsections (1), (2) and (5) do not apply to such a modification.'*

#### **Assessment:**

##### **(a) Minimal Environmental Impact**

The proposed modifications have a minimal environmental impact. Most changes are internal. The most significant change is the external landscape pathway and widened steps, however this change is required for compliance with fire egress. In the context of the wider redevelopment scheme the modifications are found to comprise a Modification Application under s4.55 (1A).

##### **(b) Substantially the same**

The proposal does not change the concept or fundamental elements of the originally approved development and may be considered as substantially the same development for the purposes of s4.55 of the Act.

##### **(c) Submissions**

The application was not notified in accordance with Council's Community Participation Plan & Community Engagement Strategy which does not require such applications to be notified. The changes proposed form part of a wider scheme of works which the local community have been advised is underway and the plans and documentation has been made available via councils' website.

### **COMMUNITY CONSULTATION**

The application was not notified in accordance with Council's Community Participation Plan and Engagement Strategy.

### **INTERNAL AND EXTERNAL COMMUNICATIONS**

#### **Internal Referrals.**

##### **Heritage Advisor Referral response dated 10 November 2021**

The application is considered to be satisfactory in relation to heritage matters with the following comments:

*"the proposed external changes are to the southern elevation at the rear and are acceptable from a heritage perspective."*

## AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

### DEVELOPMENT APPLICATIONS

---



### CONCLUSION

The proposed development has been assessed using the heads of consideration listed in Section 4.55 and 4.1 of the *Environmental Planning and Assessment Act 1979* and is found to be satisfactory.

That Modification Application 17/1174.03 for Lot 1 DP 11003910, 16-24 Bendooley Street Bowral be APPROVED for the:

- Changes to the walls and ceiling of the proposed stage area to form a sound shell for use as a concert hall;
- Change of pattern to the acoustic screens at high level within the auditorium for improved acoustic performance;
- Removal of the level 1 Store Room door and ceiling;
- Widening of the proposed opening to the back stage; and
- Rear external landscape pathway and steps widened for fire egress compliance.

The proposal does not change the concept or fundamental elements of the originally approved development and may be considered as substantially the same development for the purposes of S4.55 of the *Environmental Planning and Assessment Act 1979*.

---

### ATTACHMENTS

1. Draft Notice of Determination - *circulated under separate cover*
2. Architectural Plans - *circulated under separate cover*

### 5.3 Development Application 21/1043 - Subdivision of land and carrying out of works to create 23 residential lots and carrying out of works for the purpose of roads at 1 & 7 Reg Grundy Drive, Bundanoon - Lots 11 & 18 DP1219744

Reference: 21/1043  
Report Author: Senior Development Assessment Planner  
Authoriser: Manager Development Assessment

#### PURPOSE

This report presents development application 21/1043 for the Local Planning Panel's consideration and recommends determination by **APPROVAL** subject to the conditions specified in **Attachment 1**.

<b>Consultants:</b>	Civil Development Solutions Narla Environmental Harris Environmental Consulting Urban Water Solutions Tree Survey.
<b>Applicant:</b>	R.G. Capital
<b>Land owner:</b>	R.G. Capital (Australia) Pty Limited
<b>Land zoning:</b>	R2 Low Density Residential
<b>Minimum subdivision lot size:</b>	2000m <sup>2</sup>
<b>Applicant's estimated cost of proposed development:</b>	Not indicated.
<b>Notification period:</b>	7 January to 11 February 2021
<b>Political donations:</b>	None declared
<b>Number of submissions:</b>	Seven.
<b>Reason for referral to Panel:</b>	Application was called up for determination by full Council, prior to the Council's suspension.

#### RECOMMENDATION

**THAT** the Local planning Panel determines development application 21/1043 for subdivision of land and carrying out of works to create 23 residential lots and carrying out of works for the purpose of roads by **APPROVAL**, subject to the conditions specified in Attachment 1 to the staff assessment report.

---

**REPORT**

**EXECUTIVE SUMMARY**

Development application 21/1043 relates to a vacant 10.31ha parcel of two lots in Bundanoon. It proposes subdivision of land and carrying out of works to create 22 lots and carrying out of works for the purpose of roads, as illustrated in **Figure 4** and **Attachment 4**.

The proposed development is integrated development requiring authorisation under section 100B of the Rural Fires Act 1997, and the NSW Rural Fire Service has notified Council of its general terms of approval.

Council notified the application to owners and occupants of surrounding properties, attracting seven submissions. The submissions' broad issues concern vegetation removal, Crown land, and proposed lot sizes.

Overall, the proposed development is considered satisfactory with respect to the relevant matters for consideration specified by section 4.15 (1) of the Environmental Planning and Assessment Act 1979.

**SITE DESCRIPTION AND LOCALITY**

**Figures 1 and 2** illustrate the land's location and layout (see also **Attachments 2 and 3**). It is a vacant 10.31ha parcel of two low density residential lots on the northern side of Reg Grundy Drive in Bundanoon, around 1km northeast of the town centre. The land is accessible by vehicle from Reg Grundy Drive.

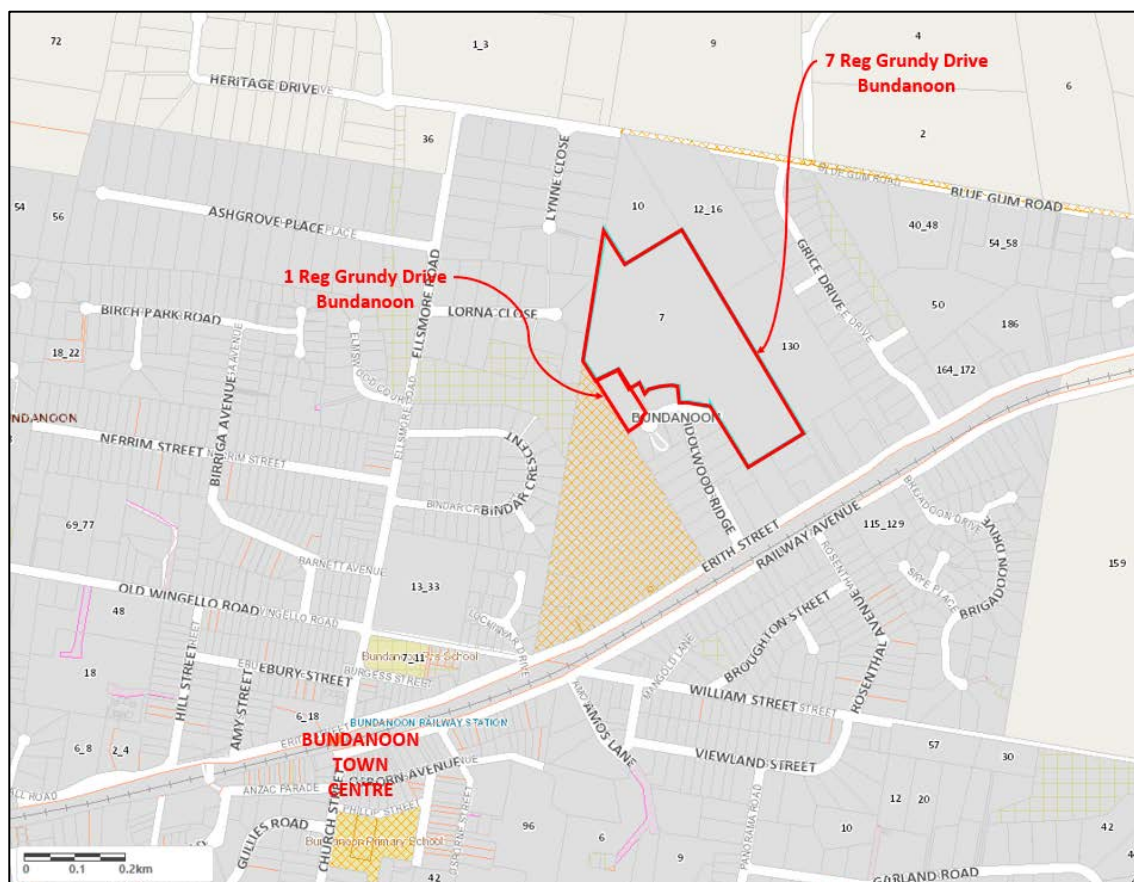
1 Reg Grundy Drive (5789m<sup>2</sup>) slopes moderately from southeast to northwest, away from Reg Grundy Drive and towards an unnamed watercourse that traverses 7 Reg Grundy Drive.

7 Reg Grundy Drive (9.731ha) generally falls northward and southward from a ridge in its northern portion. It includes the abovementioned unmapped watercourse as well as a dam to the south of the ridge; the watercourse flows westward and continues through Council's adjoining and adjacent Bundanoon and Jordan's Crossing Parks.



Wednesday 01 December 2021

## DEVELOPMENT APPLICATIONS



**Figure 1: Locality map.**

Vegetation on the land includes broad areas of cleared pasture with scattered mature native trees, along with areas of denser native open woodland in the land's northernmost corner and to the northeast of the abovementioned unnamed watercourse and dam.

Surrounding properties include very low density rural residential developments to the north and east, large lot residential developments to the west, a corridor of public open space to the southwest, and emerging low density suburban residential developments to the south.

The land was created in October 2019 by a subdivision of land the subject of Council's development consent 11/0724. An extract from the registered plan of subdivision is reproduced in **Figure 3**.

**AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL  
MEETING**

Wednesday 01 December 2021

**DEVELOPMENT APPLICATIONS**



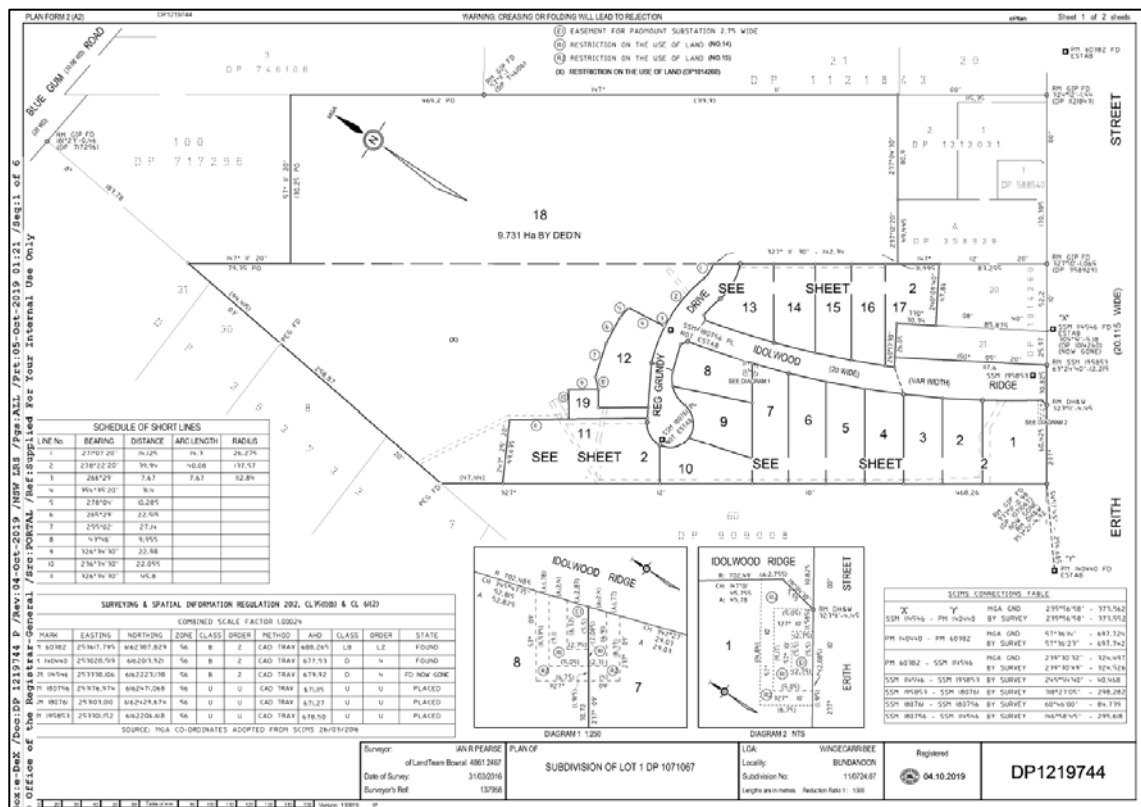
**Figure 2: Aerial image.**



# AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

## DEVELOPMENT APPLICATIONS



# AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

## DEVELOPMENT APPLICATIONS

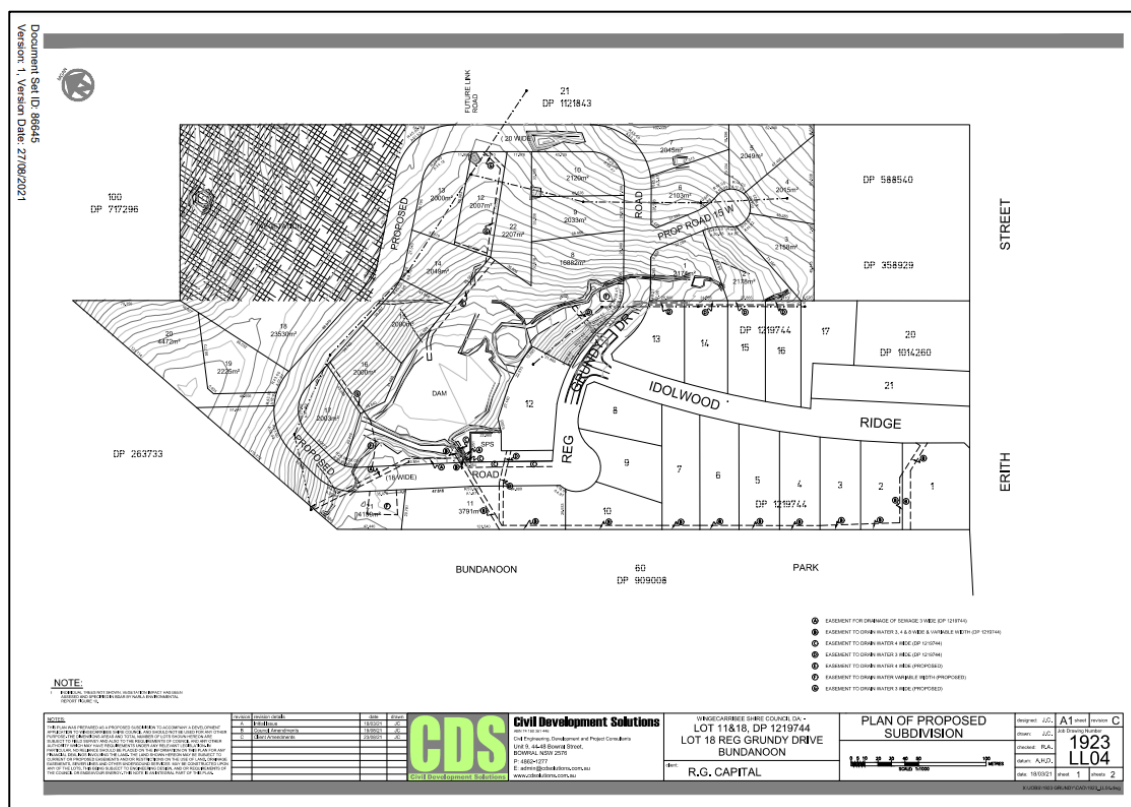


Figure 4: Extract from proposed development drawings.

## PLANNING ASSESSMENT

The application has been considered with regard to the matters for consideration specified by section 4.15 (1) of the Environmental Planning and Assessment Act 1979, as detailed below.

### Section 4.15 (1) (a) (i)—The provisions of any environmental planning instrument that apply to the land

State Environmental Planning Policy (Koala Habitat Protection) 2021			
Provision	Control	Discussion	Compliance
<b>Clause 3—Aim of Policy</b>	The Policy aims to encourage conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of	Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the Policy's aim.	Complies.

# AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

## DEVELOPMENT APPLICATIONS



	koala population decline.		
<b>Clause 4—Definitions</b>	<p>In the Policy—</p> <p><b>core koala habitat</b> means—</p> <p>(a) <i>an area of land which has been assessed by a suitably qualified and experienced person as being highly suitable koala habitat and where koalas are recorded as being present at the time of assessment of the land as highly suitable koala habitat, or</i></p> <p>(b) <i>an area of land which has been assessed by a suitably qualified and experienced person as being highly suitable koala habitat and where koalas have been recorded as being present in the previous 18 years.</i></p>	The application is accompanied by a koala assessment report that indicates the land includes core koala habitat.	Complies.
<b>Clause 11—Development assessment process—no approved koala</b>	Clause 11 applies because the land has an area of at least 1.0ha and is not subject to an	The koala assessment report accompanying the application contemplates potential direct and indirect impacts of the	Complies.

# AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

## DEVELOPMENT APPLICATIONS



<p><b>plan management for land</b></p>	<p><b>of</b></p> <p>approved koala plan of management.</p> <p>If Council is satisfied that the proposed development is likely to have low or no impact on koalas or koala habitat, Council may grant consent to the application.</p> <p>If Council is satisfied that the proposed development is likely to have a higher level of impact on koalas or koala habitat, Council must, in deciding whether to grant consent to the application, take into account a koala assessment report for the proposed development.</p>	<p>proposed development:</p> <p><i>"The residual direct impact to Koalas and Koala habitat associated with the proposed subdivision is the removal of feed trees. The proposed subdivision will impact approximately 4.9ha of vegetation representative of PCT 994. Of that 4.9ha, 2.7ha contains no trees of any species and is recorded as a disturbed, historically cleared condition class, providing no suitable habitat to Koalas. The remaining 2.2ha was comprised of canopy species representative of PCT 994. Approximately 1.3ha will require complete clearing, with 0.6ha being managed as an Inner Protection Area (IPA) and 0.3ha as an Outer Protection Area (OPA) to reduce bushfire hazard. The management of bush land for APZ purposes will not result in the wholesale clearing of vegetation but rather the select removal of trees and shrubs to achieve the required densities of an IPA and OPA as set out in the Planning for Bushfire Protection (NSW RFS 2019).</i></p> <p><i>"Koalas have not been recorded in the vicinity of the Site Area, with only two (2) records within 2.5km in the past 18 years. Therefore, it is not expected that the proposed removal of select feed trees will</i></p>	
--	---	---	--

**AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL  
MEETING**

Wednesday 01 December 2021

**DEVELOPMENT APPLICATIONS**



		<p><i>have a negative impact on the viability of a local Koala population, especially when considering the area of habitat that will be retained along with the restoration of the drainage reserve with Koala feed trees. The proposed subdivision has been designed in such a way to ensure that suitable Koala habitat remains within the Site Area”.</i></p> <p><i>“The most likely indirect impacts to Koalas and Koala habitat associated with the proposed subdivision are increased risks of vehicle strike, reduction in viability of adjacent habitat due to edge effects and the interruption of Koala behaviour due to an increase in noise and light. There is unlikely to be an increased risk of fire or introduction of disease. The aforementioned indirect impacts, although possible, are likely to be very localised and result in minor impacts to Koalas and their habitat. Therefore, it is not expected that the potential indirect impacts associated with the proposed subdivision will reduce the viability of a local Koala population”.</i></p> <p>The koala assessment report also suggests:</p> <p><i>“Despite the Site Area containing remnant stands of intact</i></p>	
--	--	---	--

**AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL  
MEETING**

Wednesday 01 December 2021

**DEVELOPMENT APPLICATIONS**



		<p><i>vegetation the historic clearing within the site and the greater locality has resulted in the vegetation present being significantly fragmented sharing no connectivity with any significant areas of potential habitat. The most intact section of bush land, in the norther extent of the site will remain unimpacted by the proposed works, continuing to provide a potential refuge, as well as foraging and resting habitat to Koalas. Given the low number of proximal records it is unlikely that the areas of vegetation within the site is regularly utilised by Koalas however, due to high levels of fragmentation within the locality these stands of habitat are important.</i></p> <p><i>“With the area of intact vegetation being retained in the norther extent of the Site area along with the drainage reserve proposed to be revegetated using Koala feed trees...The proposed subdivision will maintain Koala habitat values across the Site Area aiding in the recovery of Koalas across the locality”.</i></p> <p><i>“The subdivision has been strategically positioned to minimise impacts on native vegetation and Koala habitat as much as possible. A large portion of the proposed subdivision will be</i></p>	
--	--	---	--



**AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL  
MEETING**

Wednesday 01 December 2021

**DEVELOPMENT APPLICATIONS**



		<p><i>located in historically cleared land, with only a select amount of intact vegetation requiring wholesale clearing and modification to accommodate APZs, which protect the dwellings from bushfire.</i></p> <p><i>“Vegetation will be maintained within the northern corner of the site, with a drainage reserve to be revegetated...with listed Koala feed trees along the southern boundary. The vegetation within the site is already fragmented providing minimal connection to any surrounding bush land. The revegetation of the drainage reserve as well as the retention of the potential habitat in the north of the Site Area, will ensure that Koala habitat will remain across the site post works.</i></p> <p><i>“The strategic placement of the proposed works in combination with the desire of the proponent to maintain the natural bushland aesthetics of the site will avoid significant impacts to Koalas. In addition, any temporary structures required for construction works should be located within the development footprint. This will avoid unnecessary impacts on native vegetation and Koala habitat elsewhere within the site”.</i></p> <p>The koala assessment report specifies management and</p>	
--	--	--	--

**AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL  
MEETING**

Wednesday 01 December 2021

**DEVELOPMENT APPLICATIONS**



		<p>mitigation measures to be implemented in the carrying out of the proposed development:</p> <p>Prior to construction, the proponent should commission the services of a qualified and experienced Ecologist (minimum 3 years' experience) with a minimum tertiary degree in Science, Conservation, Biology, Ecology, Natural Resource Management, Environmental Science or Environmental Management. The Ecologist must be licensed with a current Department of Primary Industries Animal Research Authority permit and New South Wales Scientific License issued under the BC Act. The Ecologist will be commissioned to:</p> <ul style="list-style-type: none"><li>○ Undertake an extensive pre-clearing survey, delineating habitat trees and shrubs to be retained/removed, and</li><li>○ Supervise the clearance of trees and shrubs (native and exotic) in order to capture, treat and/or relocate any displaced Koalas.</li></ul> <p>Australian Standard 4970 (2009) Protection of Trees on Development Sites (AS-4970) outlines that a Tree Protection Zone (TPZ) is the principal means of protecting trees on construction sites. It is an area isolated from construction disturbance so that the tree remains viable. Ideally, works should be avoided within the TPZ.</p> <p>Temporary fencing should be erected around retained native vegetation that may incur</p>	
--	--	---	--

**AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL  
MEETING**

Wednesday 01 December 2021

**DEVELOPMENT APPLICATIONS**



		<p>indirect impacts on Koalas/ Koala habitat due to the construction works. This fencing will also deter Koalas from entering the construction area.</p> <p>Lost Koala feed trees within the Site Area will be compensated for by planting Koala feed, within the proposed drainage reserve within the Site Area. The trees to be planted will be comprised of listed Koala feed trees that also represent PCT 944, including:</p> <ul style="list-style-type: none"><li>○ Eucalyptus cypellocarpa</li><li>○ Eucalyptus quadrangulate</li><li>○ Eucalyptus globoides</li></ul> <p>Replanting should occur at a minimum ratio of 1:1, with &gt;90% survival rate. Moreover, the vegetation proposed for retention, especially in the northern extent of the Site Area, is considered to be in good condition and should therefore be maintained to this standard (e.g. undergo weed control, no planting of exotics and promotion of native shrub and canopy tree regeneration). If Koalas are observed during summer, tree mounted watering points can be used. The successful implementation of the compensatory measures outlined within this report will result in the continuance of suitable Koala habitat within the Site Area.</p> <p>All vegetation modification, maintenance and rehabilitation will be completed pursuant to the corresponding Vegetation</p>	
--	--	---	--

# AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

## DEVELOPMENT APPLICATIONS



		<p>Management Plan.</p> <p>The koala assessment report also identifies various proposed measures to regularly and consistently monitor for and report on koalas and their habitat on the land.</p> <p>The application was referred to Council's Ecology Consultant, who raises no specific concerns regarding the proposed development's potential koala habitat impacts, and recommends conditions of consent, if granted. Recommended conditions of consent require management, mitigation, monitoring and reporting measures to be implemented before, throughout and following the carrying out of the proposed development, in accordance with the koala assessment report's recommendations. Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to clause 11 of the Policy.</p>	
<b>State Environmental Planning Policy No 55—Remediation of Land</b>			
<b>Provision</b>	<b>Control</b>	<b>Discussion</b>	<b>Compliance</b>
<b>Clause 2— Object of this Policy</b>	The Policy aims to promote remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.	The land has not been used for a potentially contaminating purpose identified by Table 1 to the contaminated land planning guidelines. It is considered unlikely to be contaminated or to require remediation to be made suitable for the proposed development.	Complies.
<b>Clause 7— Contamination</b>	Council must not grant consent to the		

# AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

## DEVELOPMENT APPLICATIONS



<p><b>and remediation to be considered in determining development application</b></p>	<p>proposed development unless it has considered whether the land is contaminated. If the land is contaminated, Council must be satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out. If the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, Council must be satisfied that the land will be remediated before the land is used for that purpose.</p>		
<p><b>State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011</b></p>			
Provision	Control	Discussion	Compliance
<p><b>Clause 3—Aims of Policy</b></p>	<p>The Policy aims:</p> <p>(a) to provide for healthy water catchments that will deliver high quality water while permitting development that is compatible with that goal,</p>	<p>Water NSW is satisfied that the proposed development can achieve a neutral or beneficial effect on water quality provided appropriate conditions are included in any development consent and are subsequently implemented and concurs with Council granting consent for the proposed development subject to recommended consent conditions.</p>	<p>Complies.</p>



# AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

## DEVELOPMENT APPLICATIONS



	<p>and</p> <p>(b) to provide that a consent authority must not grant consent to a proposed development unless it is satisfied that the proposed development will have a neutral or beneficial effect on water quality, and</p> <p>(c) to support the maintenance or achievement of the water quality objectives for the Sydney drinking water catchment.</p>		
<b>Clause 9—Recommended practices and performance standards of Water NSW</b>	Any development or activity proposed to be carried out on land to which Policy applies should incorporate Water NSW's current recommended practices and standards.		
<b>Clause 10—Development consent cannot be granted unless neutral or beneficial effect on water quality</b>	Council must not grant consent to the proposed development unless satisfied that the carrying out of the proposed development would have a neutral or beneficial effect on		

# AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

## DEVELOPMENT APPLICATIONS



	water quality.		
<b>Clause 11— Development that needs concurrence of Regulatory Authority</b>	Council must not grant consent to the proposed development except with the concurrence of the Regulatory Authority.		
<b>Wingecarribee Local Environmental Plan 2010</b>			
<b>Provision</b>	<b>Control</b>	<b>Discussion</b>	<b>Compliance</b>
<b>Clause 1.2— Aims of Plan</b>	Subclause (aa)-(p) specifies the Plan's specific aims.	Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the particular aims specified by clause 1.2 (2).	Complies.
<b>Clause 1.4— Definitions</b>	The Dictionary at the end of the Plan defines words and expressions for the purposes of the Plan.	The proposed development comprises subdivision of land and carrying out of works to create 22 lots for the purpose of <i>dwelling houses</i> and carrying out of works for the purpose of <i>roads</i> .	Complies.
<b>Clause 2.3— Zone objectives and Land Use Table</b>	the Land Use Table at the end of Part 2 specifies purposes for which development is permitted without consent, permitted with consent, or prohibited in land Use Zones specified by the Plan. Council must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.	<p>The land is in Zone R2 Low Density Residential. The Land Use table at the end of Part 2 specifies subdivision of land and carrying out of works to create lots for the purpose of dwelling houses and carrying out of works for the purpose of roads, are permitted with consent in Zone R2.</p> <p>The proposed development is considered satisfactory with respect to the R2 zone objectives specified by the Land Use Table:</p> <p>To provide for the housing needs of the community within a low density residential environment.</p>	Complies.

# AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

## DEVELOPMENT APPLICATIONS



		To enable other land uses that provide facilities or services to meet the day to day needs of residents.	
<b>Clause 2.6— Subdivision— consent requirements</b>	Land to which the Plan applies may be subdivided, but only with development consent.	The application seeks consent to subdivide the land.	Complies.
<b>Clause 4.1— Minimum subdivision lot size</b>	The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.	The minimum size shown on the Lot Size Map in relation to the land is 2000m <sup>2</sup> . The 22 lots in the proposed development range from 2000m <sup>2</sup> to 2.353ha in area.	Complies.
<b>Clause 7.3— Earthworks</b>	<p>Development consent is required for earthworks in the proposed development. Before granting consent for earthworks, Council must consider:</p> <p>(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality</p> <p>(b) the effect of the proposed development on the likely future use or redevelopment of the land</p> <p>(c) the quality of</p>	<p>The proposed development will involve extensive earthworks. Provided all recommended consent conditions are complied with, the proposed earthworks are not expected to have any significant negative impact with respect to the matters for consideration specified by clause 7.3.</p> <p>Recommended consent conditions require lawful disposal of material removed from the land, prohibit importation to the land of any fill material other than virgin excavated natural material, and require notification of the NSW Office of Environment and heritage if earthworks uncover any archaeological relic.</p>	Complies.

# AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

## DEVELOPMENT APPLICATIONS



	<p>the fill or of the soil to be excavated, or both</p> <p>(d) the effect of the proposed development on the existing and likely amenity of adjoining properties</p> <p>(e) the source of any fill material or the destination of any excavated material,</p> <p>(f) the likelihood of disturbing Aboriginal objects or other relics,</p> <p>(g) proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.</p>		
<b>Clause 7.5—Natural resources sensitivity—water</b>	<p>Before granting consent for the proposed development, Council must consider any potential adverse impact of the proposed development on:</p> <p>(a) the natural flow regime,</p>	<p>The land is traversed by an unnamed watercourse identified by the Natural Resources Sensitivity Map as Category 3 riparian land (bank stability and water quality; within 10m from top of stream bank on each side).</p> <p>The proposed development requires Water NSW concurrence under clause 11 of State Environmental Planning Policy (Sydney</p>	Complies.

# AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

## DEVELOPMENT APPLICATIONS



	<p>(b) the water quality of receiving waters,</p> <p>(c) the waterway's natural flow paths,</p> <p>(d) the stability of the waterway's bed, shore and banks,</p> <p>(e) the flow, capacity and quality of groundwater systems.</p> <p>Development consent must not be granted for the proposed unless Council is satisfied that:</p> <p>(a) the development is designed, sited and managed to avoid any potential adverse environmental impact, or</p> <p>(b) if that impact cannot be avoided—the development is designed, sited and will be managed to minimise that impact, or</p> <p>(c) if that impact cannot be minimised—</p>	<p>Drinking Water Catchment) 2011. The application was accordingly referred to Water NSW, which is satisfied that the proposed development can achieve a neutral or beneficial effect on water quality provided appropriate conditions are include in any development consent and are subsequently implemented and concurs with Council granting consent for the proposed development subject to recommended consent conditions.</p> <p>The application was also referred to the NSW Natural Resources Access Regulator, which responded that the proposed development does not require a controlled activity approval under section 91 of the Water management Act 2000.</p> <p>Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the matters specified by clause 7.5.</p>	
--	--	--	--



# AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

## DEVELOPMENT APPLICATIONS



	the development will be managed to mitigate that impact.		
<b>Clause 7.10—Public utility infrastructure</b>	Consent must not be granted for the proposed development unless Council is satisfied that any public utility infrastructure essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when it is required.	Recommended consent conditions specify requirements for provision of essential public utility infrastructure to each lot in the proposed development, including water supply, electricity supply and sewerage services infrastructure.	Complies.

### **Section 4.15 (1) (a) (ii)—The provisions of any proposed instrument that apply to the land**

No proposed instrument is specifically applicable to the land.

### **Section 4.15 (1) (a) (iii)—The provisions of any development control plan that apply to the land**

The application has been considered with regard to the relevant provisions of the Bundanoon Town plan Development Control Plan, as tabulated below.

<b>Part A—Provisions applicable to all land</b>			
<b>Section 2—General objectives</b>			
<b>Provision</b>	<b>Control</b>	<b>Discussion</b>	<b>Compliance</b>
<b>Section A2.2—Objectives of this Plan</b>	Section A2.2 specifies the DCP's objectives for: <ul style="list-style-type: none"> <li>• economic function</li> <li>• urban function</li> </ul>	Provided all recommended consent conditions are complied with, the proposed development is considered	Complies.

# AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

## DEVELOPMENT APPLICATIONS



	<ul style="list-style-type: none"> <li>• heritage conservation</li> <li>• residential amenity</li> <li>• residential diversity</li> <li>• visual amenity</li> <li>• public views and vistas</li> <li>• environmental sustainability</li> <li>• the public domain.</li> </ul>	satisfactory with respect to the objectives specified in section A2.2.	
<b>Section 3—Biodiversity</b>			
Provision	Control	Discussion	Compliance
<b>Section A3.2—Flora and fauna assessment report</b>	<p>A flora and fauna assessment report must be lodged with a development application if:</p> <ul style="list-style-type: none"> <li>• the proposed development site: <ul style="list-style-type: none"> <li>○ contains native vegetation</li> <li>○ contains remnant native trees</li> <li>○ is adjacent to native vegetation if the study area has been extensively cleared</li> </ul> </li> <li>• the proposed development: <ul style="list-style-type: none"> <li>○ will directly or indirectly impact on native vegetation by clearing, runoff, waste-water irrigation, Bushfire Asset Protection</li> <li>○ contains natural features that sustain native species</li> </ul> </li> </ul>	<p>The application is accompanied by a biodiversity development assessment report (BDAR). Council's Ecology Consultant has identified some shortfalls in the BDAR but recommends conditions of consent to address them. Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to section A3.2.</p>	Complies.

# AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

## DEVELOPMENT APPLICATIONS



	<ul style="list-style-type: none"> <li>○ may directly or indirectly have a significant impact on native vegetation or sensitive environmental areas that may contain habitat for threatened species, populations or ecological communities</li> <li>○ is likely to have a significant impact on matters of national environmental significance under the (Commonwealth) Environment Protection and Biodiversity Conservation Act 1999.</li> </ul>		
<b>Section 4—Water management</b>			
<b>Provision</b>	<b>Control</b>	<b>Discussion</b>	<b>Compliance</b>
<b>Section A4.1—Protection of watercourses and riparian lands</b>	Refers to clause 7.5 of Wingecarribee Local Environmental Plan 2010.	Refer to earlier discussion of clause 7.5 of Wingecarribee Local Environmental Plan 2010.	Complies.
<b>Section A4.2—Vegetation management plan for riparian corridors</b>	When a development proposal will disturb or substantially modify a riparian corridor, its restoration or rehabilitation will be required. Details of proposed rehabilitation /restoration must be documented in a Vegetation Management Plan (VMP) submitted with the development application.	The application is accompanied by a vegetation management plan that encompasses the 10m riparian buffer adjoining the watercourse on the land and specifies ongoing management actions. The vegetation management plan is considered satisfactory with regard to section A4.2 of the DCP, and a recommended consent condition requires its adoption before, throughout and following the carrying out of the	Complies.

# AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

## DEVELOPMENT APPLICATIONS



		proposed development.	
<b>Section A4.3—Development in Sydney's drinking water catchments</b>	Refers to State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011.	Refer to earlier discussion of State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011.	Complies.
<b>Section A4.5—Stormwater management plan</b>	A stormwater management plan report will be required for all development that will result in an increase in the impervious area of the site or a change in the direction of overland flow.	Information accompanying the application indicates proposed methods of draining the land.	Complies.
<b>Section A4.6—Erosion and sediment control plans</b>	Where building or earthworks are proposed, an Erosion & Sediment Control Plan must be provided to Council.	The application is accompanied by a soil and water management plan that details proposed erosion and sediment control measures.	Complies.
<b>Section 6—Vegetation management and landscaping</b>			
<b>Provision</b>	<b>Control</b>	<b>Discussion</b>	<b>Compliance</b>
<b>Section A6.1—Preservation of trees and other vegetation</b>	<p>Objectives:</p> <p>(a) Preserve the amenity, biodiversity and ecology of the Bundanoon township through the preservation of trees and other vegetation as described in Clause 5.9 of WLEP 2010.</p> <p>(b) Preserve the amenity and heritage value of trees and other vegetation associated with Items of Heritage or within Heritage Conservation Areas.</p>	<p>Clause 5.9 of Wingecarribee Local Environmental Plan 2010 was repealed and subsequently reinstated to relate to replacement of lawfully erected dwellings damaged or destroyed by a natural disaster. It is therefore irrelevant to section A6.1 of the DCP.</p> <p>The application was referred to Council's Ecology and Arboriculture Consultants, each of</p>	Complies.

# AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

## DEVELOPMENT APPLICATIONS



	<p>(c) Clarify the meaning of Clause 5.9 of WLEP 2010.</p> <p>(d) Define and explain the terms used in Clause 5.9 of WLEP 2010. (e) clarify the assessment criteria under which exemptions will be determined.</p> <p>Assessment considerations:</p> <p>(a) Whether the community interest has been taken into account.</p> <p>(b) Whether the proprietary interest of the applicant has been duly respected.</p> <p>(c) Whether the enjoyment of neighbouring land will be detrimentally affected.</p> <p>(d) Whether replacement planting is proposed.</p> <p>(e) Implications for biodiversity.</p> <p>(f) Whether there are issues of personal or public safety.</p> <p>(g) Whether a need is demonstrated for solar access to habitable rooms in buildings, solar appliances, clothes drying and outdoor living areas.</p> <p>(h) Whether there are more practical or desirable alternatives.</p> <p>(i) Whether the proposed work should be carried out and/or supervised</p>	<p>whom responded with recommended conditions of consent. Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the objectives and assessment considerations specified by section A6.1.</p>	
--	---	--	--



# AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

## DEVELOPMENT APPLICATIONS



	<p>by a suitably qualified person.</p> <p>(j) Whether the application should more properly be part of a wider development and/or building works.</p> <p>(k) Whether there is a justified need.</p> <p>(l) Whether adverse impacts of the proposal have been adequately identified and will be satisfactorily mitigated.</p>		
<b>Section 7—Subdivision, demolition, siting and design</b>			
<b>Provision</b>	<b>Control</b>	<b>Discussion</b>	<b>Compliance</b>
<b>Section A7.1—Subdivision of land</b>	<p>Refers clause 4.1 of Wingecarribee Local Environmental Plan 2010 regarding minimum subdivision lot sizes.</p> <p>Suggests delineation and registration of building envelopes where warranted to ensure preservation of important public vistas and view corridors, energy efficiency, mitigation of visually obtrusive development and provision of efficient, approved on-site stormwater disposal.</p> <p>Specifies requirements for street tree planting.</p> <p>Specifies requirements for street lighting.</p>	<p>The proposed development satisfies clause 4.1 of Wingecarribee Local Environmental Plan 2010.</p> <p>The proposed development drawings delineate building envelopes that are expected to satisfactorily minimise or mitigate potential conflicts with significant vegetation and stormwater drainage. A recommended consent condition requires the proposed building envelopes to be registered with the final plan of subdivision.</p> <p>Recommended consent conditions specify requirements</p>	Complies.

# AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

## DEVELOPMENT APPLICATIONS



		for street tree planting in accordance with Council's Urban Street Tree Masterplan, and for provision of street lighting in accordance with relevant standards including Australian/New Zealand Standard AS/NZS 4282:2019 Control of the obtrusive effects of outdoor lighting.	
<b>Section 8—Safer by design</b>			
<b>Provision</b>	<b>Control</b>	<b>Discussion</b>	<b>Compliance</b>
<b>Section A8.3—Crime prevention through environmental design</b>	<p>CPTED aims to:</p> <ul style="list-style-type: none"> <li>(a) Maximise risk to offenders (increasing the likelihood of detection, challenge and apprehension)</li> <li>(b) Maximise effort required to commit crime (increasing the time, energy and resources required to commit crime)</li> <li>(c) Minimise the actual and perceived benefits of crime (removing, minimising or concealing crime attractors and rewards)</li> <li>(d) Minimise excuse making opportunities (removing conditions that encourage/facilitate rationalisation of inappropriate</li> </ul>	The proposed development is considered to facilitate future development design to minimise potential for criminal and anti-social behaviour.	Complies.

# AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

## DEVELOPMENT APPLICATIONS



	behaviour).  CPTED employs four key methods: space and activity management, territorial reinforcement, surveillance and access control.		
<b>Section A8.3— Specific design requirements</b>	<p>(a) Well-defined building entrances which are clearly visible from the street.</p> <p>(b) Internal spaces must be open and visible, eliminating hidden corners.</p> <p>(c) Walkways and connecting paths must be open with good visibility.</p> <p>(d) Signs and vegetation should be located so that they do not create 'entrapment' points where people are hidden from view.</p> <p>(e) On-site garaging must provide clearly defined exit points and be lit at night</p> <p>(f) Building entrances, walkways, connecting paths and garaging must be well lit to ensure such lighting is downward focussed and effective without generating glare or annoyance beyond the area being lit.</p>	Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the relevant requirements of section A8.3.	Complies.
<b>Section 9—Construction standards and procedures</b>			
<b>Provision</b>	<b>Control</b>	<b>Discussion</b>	<b>Compliance</b>

**AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING**

Wednesday 01 December 2021

**DEVELOPMENT APPLICATIONS**



			e
<b>Section A9.8—Stormwater disposal</b>	Final means of disposal of stormwater to Council's stormwater system must be approved by Council.	The application was referred to Council's Development Engineer, who raises no concerns regarding proposed methods of draining the proposed development, subject to recommended conditions of consent.	Complies.
<b>Section 11—Outdoor lighting</b>			
<b>Provision</b>	<b>Control</b>	<b>Discussion</b>	<b>Compliance</b>
<b>Section A11.2—Objectives</b>	<p>Council will have due regard to the following objectives:</p> <ul style="list-style-type: none"> <li>(a) Lighting for security purposes shall be adequate for that purpose without drawing unnecessary attention to the development</li> <li>(b) Lighting shall not adversely impact on surrounding development</li> <li>(c) Lighting shall not create 'twilight' impacts on the surrounding environment</li> <li>(d) Lighting shall not diminish the quality of the night sky.</li> </ul>	<p>Recommended consent conditions specify requirements for provision of street lighting in accordance with relevant standards including Australian/New Zealand Standard AS/NZS 4282:2019 Control of the obtrusive effects of outdoor lighting. Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the objectives and controls specified by section A11.2 and 11.3.</p>	Complies.
<b>Section A11.3—Controls</b>	(a) Outdoor lighting must be a "full cutoff light fixture", i.e. a type of fixture with no light emitted above the horizontal and no light		

# AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

## DEVELOPMENT APPLICATIONS



	<p>dispersion or direct glare to shine above a 90-degree, horizontal plane from the base of the fixture.</p> <p>(b) All outdoor lighting fixtures shall be designed, installed, located and maintained to avoid glare on to adjacent properties or streets</p> <p>(c) All direct illumination shall be kept within the boundaries of the subject property.</p> <p>(d) Accent lighting, when so approved, shall be directed downward on to the building or object and not toward the sky or on to adjacent properties. Direct light emissions shall not be visible above the roof line or beyond the building edge.</p> <p>(e) Spotlighting on landscaping and foliage shall be limited to 150 watts incandescent. The lamp shall be shielded and not create disabling or nuisance glare.</p> <p>(f) Timers shall be accurately set to ensure that lighting is used only when natural light is insufficient.</p>		
--	---	--	--



# AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

## DEVELOPMENT APPLICATIONS



Part C—Provisions applicable to residential-zoned land			
Section 1—Introduction			
Provision	Control	Discussion	Compliance
<b>Section C1.2—Objectives</b>	<p>This Part of the DCP aims to achieve:</p> <ul style="list-style-type: none"> <li>(a) Conservation of the unique characteristics of the residential areas of Bundanoon, particularly in the case of the identified Conservation Areas</li> <li>(b) New residential development which is sympathetic with existing streetscapes and neighbourhood character</li> <li>(c) New residential development that is energy efficient, provides good amenity, and is safe and attractive</li> <li>(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.</li> </ul>	The proposed development is considered to facilitate future residential development consistent with the objectives specified by section C1.2.	Complies.
Section 15—Blue Gum Road precinct			
Provision	Control	Discussion	Compliance
<b>Section C15.2—Preferred development outcomes</b>	(a) Retain and appropriately manage the Southern Highlands Shale	Provided all recommended consent conditions are complied with,	Complies.

# AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

## DEVELOPMENT APPLICATIONS



	<p>Woodland communities throughout the precinct</p> <p>(b) Protect the watercourses within the Precinct</p> <p>(c) Develop an integrated subdivision pattern across the northern portion of the precinct which allows for staged development in a cohesive manner.</p> <p>(d) Develop a road network to maximise connectivity for traffic and pedestrians and provide rational traffic circulation without creating a short-cut route between Blue Gum Road and Erith Street.</p> <p>(e) Develop an access plan which provides for a single entry point on Erith Street and another on Blue Guim Road.</p> <p>(f) Provide pedestrian and cycle access between Blue Gum Road and Erith Street and directly from the precinct to Bundanoon Oval.</p>	<p>the proposed development is considered satisfactory with respect to the preferred development outcomes specified by section C15.2.</p>	
<p><b>Section C15.3—Additional precinct specific controls</b></p>	<p>Council requires that individual applicants be prepared to work with Council to achieve a cohesive development of the Precinct which delivers:</p> <p>(a) A road network that provides efficient connectivity between</p>	<p>The proposed development is considered satisfactory with respect to the matters specified by section C15.3 (a) and (b).</p> <p>A recommended</p>	<p>Complies.</p>

# AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

## DEVELOPMENT APPLICATIONS

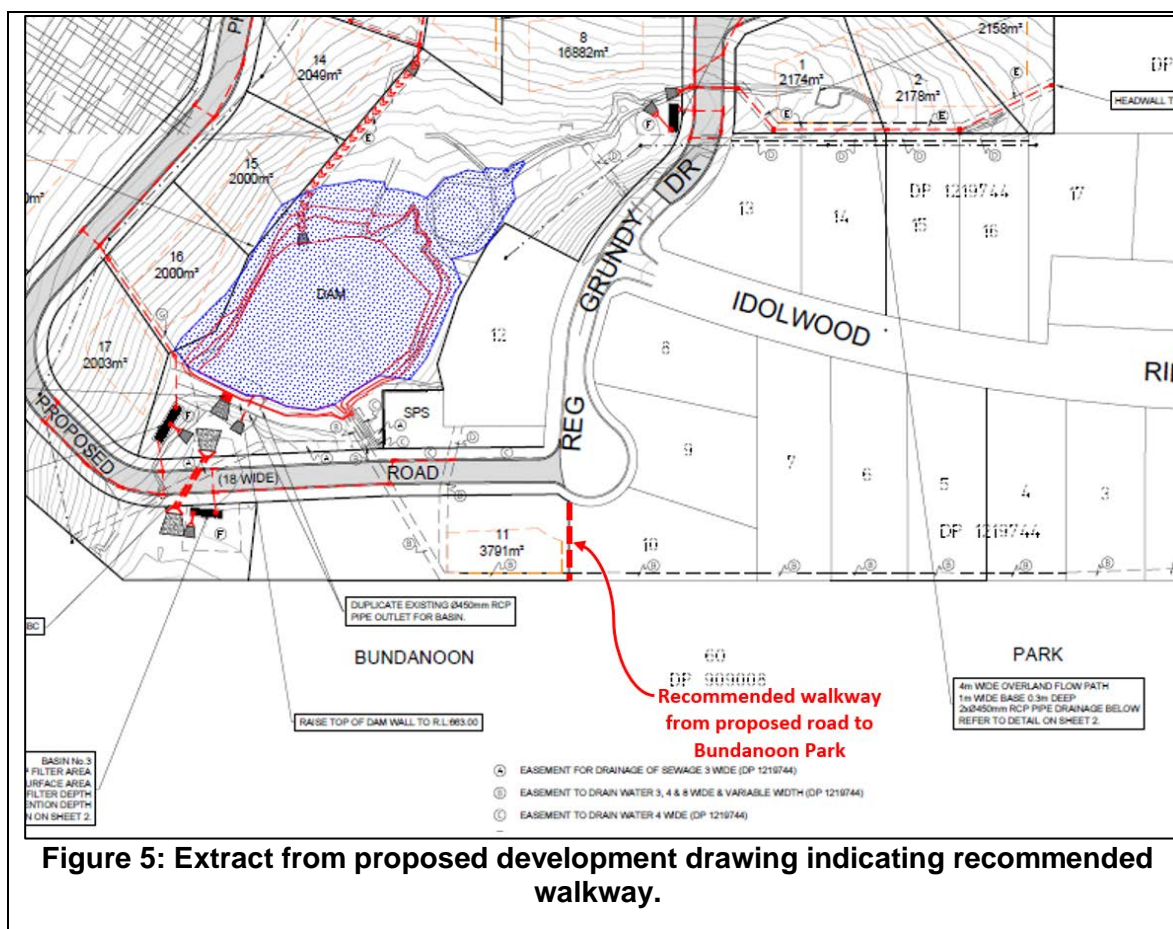


	<p>the various land parcels.</p> <p>(b) Continued pedestrian access between Blue Gum Road and Erith Street.</p> <p>(c) Pedestrian and cycle access through the precinct to Bundanoon Oval.</p>	<p>consent condition requires amendment of the proposed development to provide for a public walkway to link the proposed new road to the adjoining Bundanoon Park, located between proposed Lot 11 and the existing Lot 10 DP1219744, 2 Reg Grundy Drive (see <b>Figure 5</b>).</p> <p>Provided all recommended consent conditions are complied with, the proposed development is considered satisfactory with respect to the controls specified by section C15.3.</p>	
--	--	--	--

## AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

### DEVELOPMENT APPLICATIONS



#### **Section 4.15 (1) (a) (iiia)—The provisions of any planning agreement or proposed planning agreement that apply to the land**

No planning agreement or proposed planning agreement applies to the land.

#### **Section 4.15 (1) (a) (iv)—The provisions of the regulations that apply to the land**

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



**Section 4.15 (1) (b)—The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality**

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

**Section 4.15 (1) (c)—The suitability of the site for the development**

The proposed development is considered compatible with the locality's existing, emerging and intended character and amenity, and provided all recommended conditions of consent are complied with, no site attributes are considered to render the land unsuitable for the proposed development.

**Section 4.15 (1) (d)—Any submissions made in accordance with the Act or the regulations**

Council notified the application to owners and occupants of surrounding properties, inviting submissions between 7 January and 11 February 2021. Notification attracted seven submissions, including submissions received after the notified submissions period closed. The issues raised by the submissions are discussed in the table below.

Issue	Discussion	Response
<b>Vegetation removal</b>	Six submissions object to vegetation removal in the proposed development, suggesting it will have significant negative environmental impacts with respect to flora and fauna habitat as well as watercourse stability. One submission suggests delineation of building envelopes to avoid conflict with existing vegetation. One submission suggests planting of native vegetation to offset vegetation proposed to be removed, specifically along the proposed development's perimeter.	<p>The application was referred to Council's Ecology and Arboriculture Consultants, who responded with recommended conditions of consent for the proposed development.</p> <p>The proposed development includes delineated building envelopes to minimise conflict with drainage and retained vegetation, and a recommended consent condition requires registration of the proposed building envelopes with the final plan of subdivision.</p> <p>The application is accompanied by a biodiversity development assessment report (BDAR) that indicates drainage areas in the proposed development are to be revegetated with flora representative of the Southern Highlands Shale Woodland endangered ecological community. Recommended consent conditions require submission and approval of, and adherence to, a plan of</p>



**AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL  
MEETING**

Wednesday 01 December 2021

**DEVELOPMENT APPLICATIONS**



		proposed landscaping including revegetation of those areas in the development not occupied by building envelopes, roads and other works.
<b>Crown Land</b>	One submission (from the NSW Department of Planning Industry & Environment – Crown Lands) confirms no objection to the proposed development	Bundanoon Park, the land's southwest, is a Crown Reserve. The submission is noted.
<b>Lot sizes</b>	Two submissions suggest at least some of the proposed lots should be increased in size to at least 4000m <sup>2</sup> to complement adjoining properties of similar size and reduce vegetation removal necessitated by with future residential development.	<p>Council's Ecology and Arboriculture Consultants have provided recommended conditions of consent for the proposed development, and recommended consent conditions also require submission and approval of, and adherence to, a plan of proposed landscaping including revegetation of those areas in the development not occupied by building envelopes, roads and other works. The minimum subdivision lot size applicable to the land, adjacent land to the southeast, east and north is 2000m<sup>2</sup>, and recent developments in the locality have produced residential lots of approximately that size (e.g. adjoining Idolwood Ridge and Grice Drive).</p> <p>On balance, provided all recommended consent conditions are complied with, the proposed lot sizes are considered satisfactory.</p>

**Section 4.15 (1) (e)—The public interest**

There is not considered to be any overriding public interest opposing the granting of consent for the proposed development, provided all recommended consent conditions are complied with.

# AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

## DEVELOPMENT APPLICATIONS



### INTERNAL AND EXTERNAL COMMUNICATION AND CONSULTATION

Details of internal and external referrals of the application are tabulated below.

Internal referrals	
Referral	Response
Development Engineer	Recommended conditions of consent.
Water & Sewer Development Engineer	Recommended conditions of consent.
Contributions Officer	The proposed development is expected to require provision of or increase demand for public amenities and public services within the area, so conditions of consent are recommended to require payment of applicable developer contributions prior to any subdivision certificate being granted for the proposed development.
Transportation Engineer	No traffic concerns.
Stormwater and Flooding Engineer	No response; presumed no objection to proposed development (subject to conditions of consent as recommended by Development Engineer).
Ecology Consultant	Concerns regarding adequacy of biodiversity development assessment report accompanying application may be addressed through recommended conditions of consent.
Arboriculture Consultant	Proposed development is considered satisfactory, subject to recommended conditions of consent including explicit identification of trees permitted to be removed and trees required to be retained and protected.
External referrals	
Referral	Response
NSW Rural Fire Service (integrated development approval body)	General terms of approval under section 100B of the Rural Fires Act 1997.
Water (concurrency authority) NSW	Concurrence advice, subject to conditions to be conveyed by notice of determination.
NSW Roads and	No objection to proposed development.

## AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

### DEVELOPMENT APPLICATIONS



<b>Maritime Services</b>		
<b>NSW Resources Regulator</b>	<b>Natural Access</b>	Confirmed proposed development does not require controlled activity approval under section 91 of Water management Act 2000.

### CONCLUSION

Provided all recommended conditions of consent are complied with, the proposed development is considered satisfactory with respect to the relevant matters for consideration specified by section 4.15 (1) of the Environmental Planning and Assessment Act 1979. It is recommended that the Local planning panel determines the development application by granting consent, subject to the conditions specified in **Attachment 1**.

### ATTACHMENTS

1. Draft Conditions of Consent - *circulated under separate cover*
2. 21/1043 Locality map - *circulated under separate cover*
3. 21/1043 Aerial image - *circulated under separate cover*
4. 21/1043 Proposed development drawings - *circulated under separate cover*



## 5.4 Development Application 22/0222 - Stage 1A Upgrade to Eastern Precinct Arrival of the Bong Bong Common at Lot 22 DP 1225783, Moss Vale Road Burradoo

Reference: 22/0222  
Report Author: Consultant Planner  
Authoriser: Manager Development Assessment

### PURPOSE

This report presents Development Application 22/0222 for the Panel's consideration and recommends approval subject to conditions specified in **Attachment 1**.

Consultants:	<ul style="list-style-type: none"><li>• Northrop Wollongong;</li><li>• BPS Surveyors;</li><li>• Landscape Martrix Pty Ltd;</li><li>• Phillips Marler;</li><li>• Austral Archaeology Pty Ltd;</li></ul>
Applicant:	Wingecarribee Shire Council
Land Owner:	Wingecarribee Shire Council
Land Zoning:	E3 Environmental Management
Applicants Estimated Cost of Works:	\$75,000
Notification Period:	30/08/2021 to 20/09/2021
Number of Submissions	One (1)
Political Donations:	None Declared
Reason for referral to Panel:	Council's Code of Conduct states: CI 3.15 (b) development for which the applicant or land owner is: (i) the council, CI 3.16 The assessment of development applications referred to in clause 3.15 must be undertaken by external consultants who have no pecuniary or non-pecuniary interest (as defined in this code) in the application. Such consultants are to prepare and provide an assessment report to the local planning panel to consider in determining the application.

### RECOMMENDATION

**THAT** the Wingecarribee local Planning Panel determines development application 22/0222 for Lot 22 DP 1225783, Moss Vale Road Burradoo for the construction of a formalized carpark, foot paving, landscaping, tree removal, relocation of obelisk and interpretive signage by way of APPROVAL subject to conditions specified in ATTACHMENT 1 to this report.

## AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

### DEVELOPMENT APPLICATIONS



---

## REPORT

### EXECUTIVE SUMMARY

The application is referred to the Wingecarribee Local Planning Panel (WLPP) as required under the Code of Conduct as the land is owned by Wingecarribee Shire Council.

Development Application 22/0222 seeks consent for the construction of a formalized carpark, foot paving, landscaping, tree removal, relocation of obelisk and interpretive signage. This DA is for Stage 1A of the development on Lot 22 DP 1225783, Moss Vale Road Burradoo commonly known as Bong Bong Common.

The subject site is a large common area of Council land used for public recreation. The site is on the western side of Moss Vale Road Burradoo bounded by the Wingecarribee River on the southern side, and the Cecil Hoskins Nature reserve on the northern side. The area is commonly referred to as the Bong Bong Common and contains the remains of a convict period settlement that dates from 1821 to c.1843. The Council purchased the land in 2013 and the development is progressing under the Plan of Management for Bong Bong Common (Micris Management Services Pty Ltd 2012) and its associated Masterplan (Rappoport Pty Ltd 2008).

The DA was notified to neighbours in accordance with Council's Community Participation Plan, and one (1) submission was received. The DA has been referred to a number of officers within and external to Council. No objections were raised from these referral officers. Further details on these processes are also provided in the body of the report.

The DA has been considered using the heads of consideration listed in Section 4.5(1) of the *Environmental Planning & Assessment Act 1979* and is generally considered to be satisfactory. Approval is recommended subject to conditions.



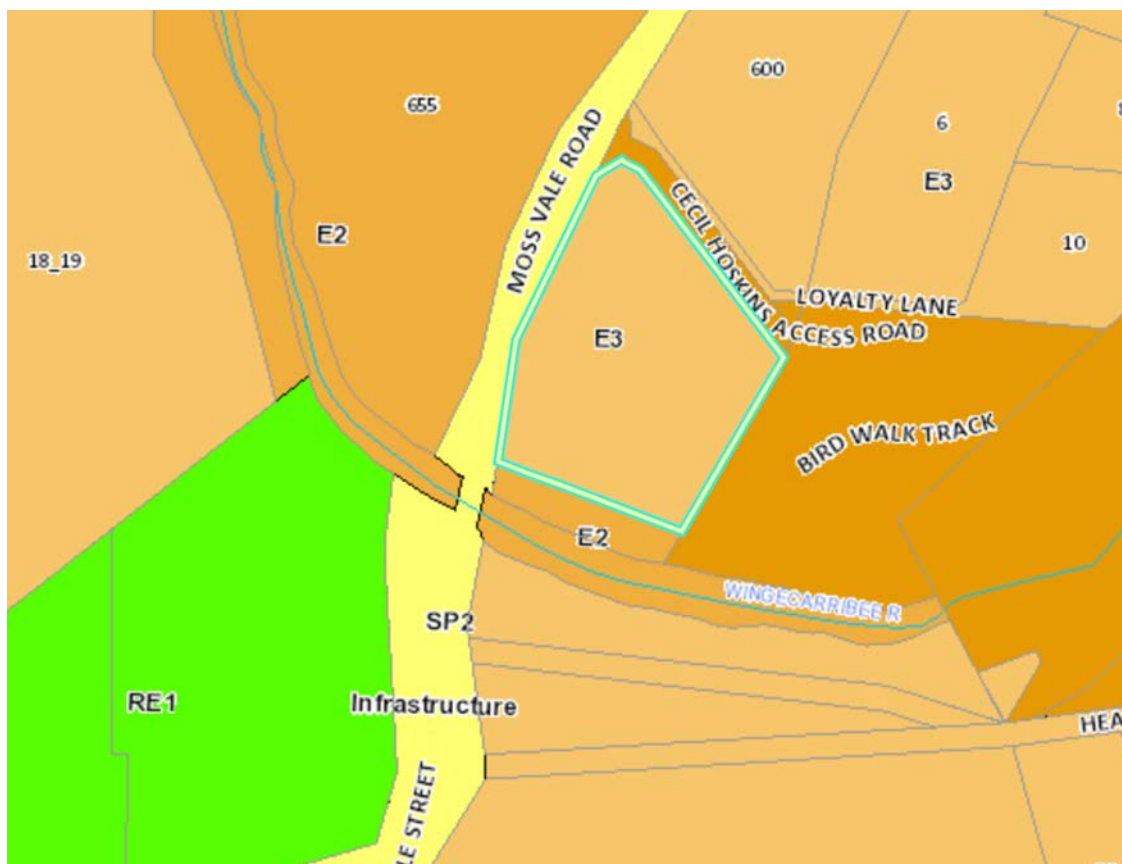
**AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL  
MEETING**

Wednesday 01 December 2021

**DEVELOPMENT APPLICATIONS**



**Figure 1: Subject Site**



**Figure 2: Zoning Map**

## **REPORT**

### **Site Description and Locality.**

**Figure 1** illustrates the land's location and general layout. The site is legally described as Lot 22 DP 1225783, Moss Vale Road Burradoo. The subject site is a large common area of Council land used for public recreation.

The site is on the western side of Moss Vale Road Burradoo bounded by the Wingecarribee River on the southern side, and the Cecil Hoskins Nature reserve on the northern side. The area is commonly referred to as the Bong Bong Common and contains the remains of a convict period settlement that dates from 1821 to c.1843.

Council purchased the land in 2013 and the development is progressing under the Plan of Management for Bong Bong Common (Micris Management Services Pty Ltd 2012) and its associated Masterplan (Rappoport Pty Ltd 2008) with this development of Stage 1A.



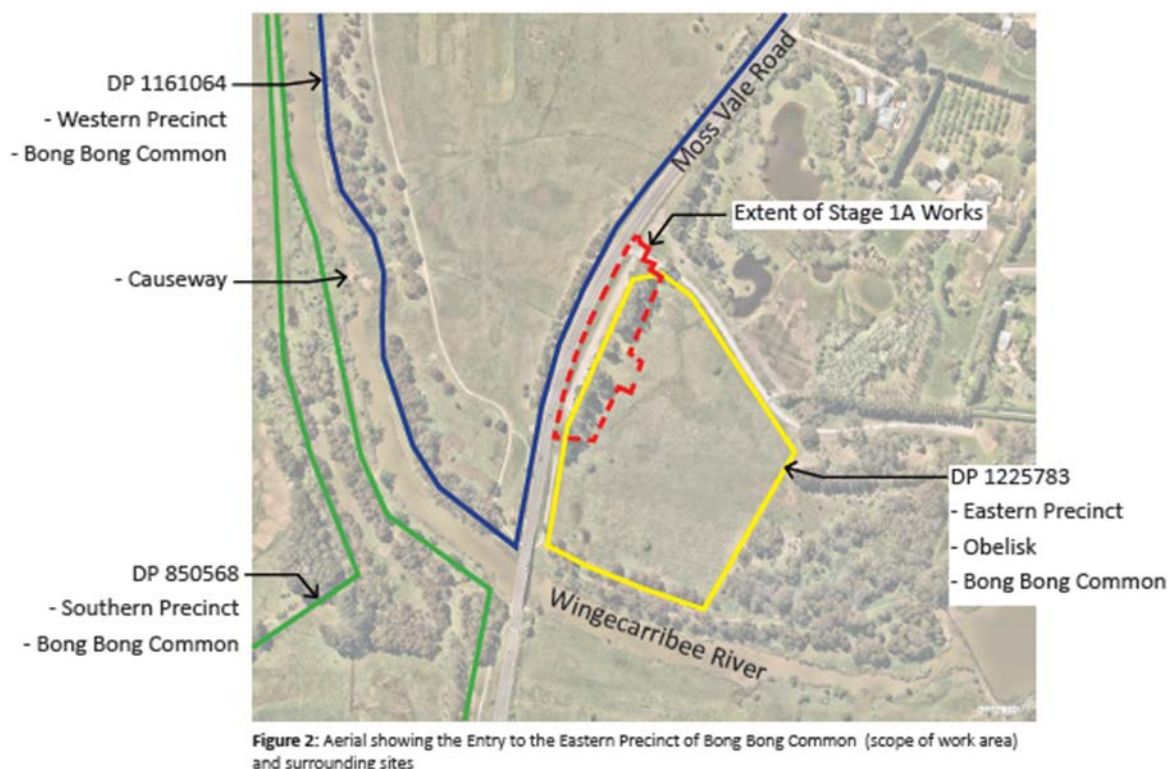
**Figure 3: Location of proposed works**



## AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

### DEVELOPMENT APPLICATIONS



**Figure 4: Details of proposed works**

### History – Bong Bong Common

The Bong Bong Common has high historical significance at the State level as it incorporates the site of Bong Bong township, the original European settlement in the Southern Highlands.

As the first government settlement south of the Cumberland Plain and at the frontier of colonial pastoralism, the Bong Bong Common is important in the history of expansion of NSW in the 1820's and 1830's. The area was visited by Governor Macquarie in 1820 and he allocated the area for a township which was to be a government stronghold in the district of Argyle. It demonstrates the way in which the central government reacted to the challenges of maintaining law and order in the far-reaching colony.

The Bong Bong Common has local historical significance as the area was used for grazing by Dr Charles Throsby and eventually became part of the Throsby family estate centres on Throsby Park.

Bong Bong Common has high significance at the State level for its associations with Dr Charles Throsby and Governor Macquarie. Dr Charles Throsby was a naval surgeon, magistrate, famed explorer and member of the first Legislative Council. His exploratory journeys, which not only earned him Government favour and wealth, resulted in the expansion of the Colony into the Southern Tablelands. Throsby was the first European to settle in the Bong Bong Common locality in 1817 and was also a District Magistrate at Bong Bong. Governor Macquarie travelled through the area in 1820, named Throsby Park while visiting Dr Throsby and camped in the area he set aside for the government township.



Further, the area has high local significance as it is associated with Charles Throsby Jnr, who took over the estate of his uncle in 1828 and was also a large local landholder and magistrate. In 1844 he purchased the site of the township.

The Bong Bong Common has high local aesthetic significance as the existing open, grassed cultural landscape has remained such for almost 190 years, since at least the early 1820's. This aesthetic significance is derived from its setting. The components of its setting are: the undulating nature of the topography; the Wingecarribee River with its associated ponds and the causeway; open grassland; and uncluttered view corridors south-west across the site from the Moss Vale Road (Old Argyle Road) and from the higher ground of the Common south and west to the Wingecarribee River and south-east towards Moss Vale and from the floodplain to adjacent and distant ridges. Further, it has distinctive pastoral quality which contributes to its "genus loci" or sense of place.

The Bong Bong Common site has high research potential at the State level. It could potentially yield valuable information about the settlement at Bong Bong and early colonial government towns generally as the site should contain intact archaeological remains deposited over a short period of time, (i.e. 1821-c1843). When the settlement was abandoned the buildings quickly became dilapidated and disappeared. The ruins would have eventually been covered by flood born silt and buried. As there has been no building on the site and it is unlikely it has ever been intensively cropped, there has been minimal disturbance to the site since the 1860's and as such the integrity of the sub-surface remains would be high.

The causeway of the Old Argyle Road over the Wingecarribee River also has high research potential at the State level as it is the earliest surviving in the State and therefore has the ability to provide information on early construction techniques for river crossings.

The Bong Bong Common, including the causeway, is rare at the State level in that the original settlement at Bong Bong was almost entirely an official settlement with no private residential component. The area did not thrive like other settlements of the colonial period and although there was an Inn, there was limited private enterprise in the locality. It is the oldest settlement in the Southern Highlands and there are no other settlements of the period that did not constitute a private residential and/or strong commercial component from its establishment. The causeway is thought to be the oldest river crossing of its construction type in the state.

### **Description of Proposed Development**

The proposed works to be undertaken in Stage 1A is to upgrade access to the Eastern Precinct arrival of the Bong Bong Common. The site was purchased by Council in 2013.

The eastern precinct provides the parking and the main arrival for the site. The formalisation of the existing car park at the eastern precinct of the Common creates a highly legible car park for visitors to experience the new arrival area for the Bong Bong Common Interpretive walk as outlined in the Masterplan prepared in 2019.

By relocating the obelisk, visitors to the Common are provided with an opportunity for an arrival place at the Common to experience the eastern archaeological site at the former Bong Bong settlement.

New works for Stage 1A will also link up with existing walking track connections into Cecil Hoskins Reserve to the east and the main areas of Bong Bong Common to the west and will allow for the connections of future walking tracks and interpretive signage/settings that will allow for greater exploration and understanding of the archaeology in the Eastern Precinct.

The list of major works Stage 1A is as follows:

**Upgraded entry and car park.**

- The existing threshold to the new car park area will be widened and the existing surface will be milled and re-sheeted with new asphalt to improve the road surface for deceleration from Moss Vale Road.
- The car park lanes and parking areas will receive a new and expanded asphalt surface to improve vehicle movement and safety and will consist of:
  - 20 standard parking spaces with line marking and wheel stops. Parking spaces are placed at 90° on the western edge of the site.
  - 2 disabled parking spaces with a shared area.
  - A 7 metre wide aisle allowing for 2-way unobstructed two-way access.
  - A dedicated vehicle turn-around bay and area at the southern end of the car park with line-marking and signage.
  - A 1.5m wide concrete footpath adjacent to parking on the west allowing for safe access to the gathering space at the southern end of the car park.
  - Wheel stops with reflectorized marker posts every six metres on the eastern side of the aisle to prevent vehicles from driving into the adjacent swale.

**Re-profiled Swales and drainage.**

- The car park will be edged by two open drainage swales that have been slightly excavated and re-profiled to improve drainage flow:
  - The swales will be lined with coir matting to prevent erosion.
  - The swales will be planted with native and locally occurring wetland sedges that will have a high tolerance for drought and frost.
  - New head walls and a larger drainage pipe under the car park will connect the two swales and will provide improved stormwater dispersion in flooding and heavy rainfall events.
  - The southern end of the swale will be turfed.

**Gathering Space/Pedestrian entry into Precinct.**

- At the southern end of the car park, a gathering space on a concrete slab will provide connections into the Eastern Precinct as well as link with existing connections to the western Precinct and Cecil Hoskins Nature Reserve.
- The gathering space will also include the following amenities/park furniture:
  - 11x hardwood timber bollards separating the car park from the gathering space. 2 x bollards will be removable, allowing for maintenance and emergency vehicle access.
  - 1 bench seat.
  - 2x bin enclosures for general waste, with a dog bag dispenser attached.
  - 5x steel bike hoops for bicycle parking.
- New planting of native grasses and sedges on the east and west sides of the Gathering Space highlighting the area as a formal entry space.

### **Extended Shared Path.**

- A new concrete shared path will connect the southern end of the gathering space with the existing shared path to the south of the site.
  - It will replace the remaining bitumen left between the gathering space and the existing shared path.
  - Loose gravel areas either side of the new shared path will be re-turfed
  - The shared path will be line marked as per section 12 of the RMS delineation guidelines (Pavement markings for bicycle facilities).
  - New signage at the southern end of the gathering space will mark the end of shared path and will indicate for cyclists to dismount before entering the space.
  - Provision has been made to extend the shared path through the gathering space and 2.5metres of free (turfed) space between the car park and eastern swale has been provided, allowing for the possible future extension of the shared path/cycleway link north to connect with the suburbs of Burradoo and Bowral.

### **New Boundary Fence**

- The car park edge to the west will be re-fenced. The existing agricultural fence with timber posts, star pickets, barbed wire dog mesh will be removed and replaced with a new 1.2 metre high fence that will demarcate the Common site from the car park and consist of the following:
  - 300mm dia hardwood timber strainer posts with stays on the ends and corners.
  - 150mm dia hardwood timber intermediate posts every 12 metres.
  - Steel star pickets at 3 metre intervals between each timber intermediate post.
  - 4 strands of galvanised plain wire at 200mm intervals from the top of the posts.

### **Interpretation Setting/Relocated Obelisk**

- An interpretive space for the relocated Obelisk will be located to the east of the car park, set approximately 20 metres into the Eastern Precinct:
  - The large stone Obelisk, which marks the location of the original settlement will be relocated from the edge of the car park into the interpretive setting within the paddock. OHM Consultants have prepared a Conservation and Recommendations report which has detailed each element and condition of the Obelisk.
  - The Obelisk will be relocated approximately 25 metres from its current location. It will be moved in one section with its footing, in a protective frame to prevent damage.
  - The item will be lifted into position in the same orientation as its current setting and grouted onto a new footing beneath its original footing.
  - The Obelisk is noted as being in good condition, with the lettering of the element needing infill colouring, general cleaning and repairs required to the pointing, after its relocation.



## AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

### DEVELOPMENT APPLICATIONS



- 4 connecting concrete stone block seats will be located in the interpretive area. This highly elemental piece was inspired by the blocks of stone found within the causeway located in the Western Precinct and is designed to be robust and low maintenance.
- 2 Water Gums (*Tristaniopsis laurina* 'Luscious') will be placed in the turf behind the relocated Obelisk, emulating the positioning of the Lombardy Poplars that were previously located behind the original location of the Obelisk.
- The existing plaques commemorating the planting of the original Lombardy Poplar trees will be relocated and placed into the new concrete slab, one adjacent to each side of the Obelisk. Context for the plaques will be provided on the nearby interpretive signage.

#### New tree Planting/Wind Break.

- The existing stand of Monterey Pines (*Pinus radiata*) will need to be thinned as some specimens are failing:
  - As per the Arboricultural report, 17 specimens have been recommended for removal for the Stage 1A works.
  - A new stand of trees consisting of 17 Himalayan Cedars (*Cedrus deodara*), will be located slightly set back from the original alignment.
  - The remaining Monterey Pines (*Pinus radiata*) will be crown raised by 10 metres to allow sufficient light and air for the new trees to grow and will be eventually removed during future stages of work or when they reach 'end of life'.

#### Interpretation Signage

- The site will have a family of interpretive and wayfinding signage with information and graphics direct printed on powder-coated aluminium plates attached to steel frames and footings which will consist of the following:
  - 1x Main Entry/Naming sign (ID1) 'Bong Bong Common' at the Moss Vale Road entry.
  - 1x Trail Head sign (ID2) with site map and interpretation info adjacent to the pedestrian path connecting to the new Obelisk setting.
  - 2x Information Signs (ID3) at the entry to the car park and new shared path connection with supplementary wayfinding and regulatory information.
  - 1x Large Interpretive Sign (IN1) in the interpretation setting for the relocated Obelisk.
  - 2x Ground Plane Signs (GP1) in the interpretation Setting for the Relocated Obelisk. Embossed precast concrete panels with lettering set into the concrete slab.

### PLANNING ASSESSMENT

Assessment against the provisions of the various environmental planning instruments applicable to the site /and the proposed development is undertaken in the following section.

Section 4.15(1)(a)(i) – The provision of any environmental planning instrument that apply to the land.



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 application was referred to Water NSW who have provided their concurrence under Clause 11 of the *State Environmental Planning Policy (Sydney Drinking Water Catchment) (2011)* for a proposal for the construction of approximately 50 metres of concrete pathway, relocation of Obelisk, signage, seating, removal of trees (21) and landscaping by letter dated 24 September 2021.

State Environmental Planning Policy No 55 – Remediation of Land

Clause 7 of SEPP 55 requires the consent authority to consider whether the land is contaminated and whether the land is or can be made suitable for the purpose for which development is proposed.

Based on Council's records, the site and immediately adjoining property have been historically used firstly as a convict settlement and then for recreational purposes. There is no evidence to suggest any potentially contaminating activities have taken place on or near the site. Accordingly, the site is considered suitable for the proposed recreational use and satisfies the provisions of SEPP 55.

State Environmental Planning Policy (Koala Habitat Protection) 2021

SEPP (Koala Habitat Protection) 2021 aims to encourage the conservation and management of area of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline.

Clause 12 of this SEPP provides as follows:

***Development assessment process-other land***

*A council is not prevented from granting consent to a development application for consent to carry out development on land if-*

- (a) the land does not have an approved koala plan of management applying to the land, or*
- (b) the council is satisfied that the land is not core koala habitat.*

## AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

### DEVELOPMENT APPLICATIONS



Comment: The subject site does not have a koala plan of management and is not core koala habitat. The proposed development is for the removal of trees that are not core koala habitat and will be supervised by a fauna handler. Accordingly, the proposal is acceptable in terms of SEPP (Koala Habitat Protection) 2021.

### Wingecarribee Local Environmental plan 2010 (WLEP)

The land is in Zone E3 Environmental management. The Land Use Table at the end of Part 2 of the LEP specifies developments for the purpose of *Recreation Areas* are permitted with consent in Zone E3.

The proposal is consistent with the specific objectives of the zone in that the proposed activity enables the land to provide a range of recreational settings and activities and compatible land uses.

Clause	Control	Assessment	Compliance
<b>2.3 Land Objectives and Land Use Table</b>	<i>Provides objectives and permissible/prohibited landuses for the various zones under WLEP 2010</i>	The site E3 Environmental Management and the proposed development is permissible with development consent	Yes
<b>5.10 Heritage Conservation</b>	<i>(a) To conserve the environmental heritage of Wingecarribee</i>  <i>(b) To conserve the heritage significance of heritage items and heritage conservation area, including associated fabric, settings and views.</i>  <i>1. (c) To conserve archaeological sites.</i>	The proposed development will conserve the environmental heritage of the site	Yes

### Rural Lands Development Control Plan (DCP)

The Rural Lands DCP provisions are structured into two components: objectives and controls. The objectives provide the framework for assessment under each requirement and outline key outcomes that a development is expected to achieve. The controls contain both numerical standards and qualitative provisions. Any proposed variations from the controls may be considered only where the applicant successfully demonstrates that an alternative solution could result in a more desirable planning and urban design outcome. The relevant provisions of the Rural Lands DCP are addressed below:

## AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

### DEVELOPMENT APPLICATIONS



DCP Compliance Table			
Part A – All Land			
Section 2 – General Objectives			
Control	Standard	Proposed	Compliance
<b>A2.2.6</b> Visual Amenity	Every new development generates an impact on the visual amenity of the immediate environment which can in turn, affect the environment of the surrounding area.	The proposed removal of trees will have a visual impact upon the environment whilst the new trees are growing, however, the new trees will ameliorate this impact in time.	Yes

### Environmental Assessment

The site has been inspected (05 October 2021) and the application has been assessed having regard to Section 4.15 of the *Environmental Planning and Assessment Act, 1979*, as amended.

Section 4.15 'Matters for Consideration	Comments
Section 4.15 (1)(a)(iia) – Provision of any Planning Agreement or draft Planning Agreement.	No planning agreement has been entered into or proposed under section 7.4 of the <i>Environmental Planning and Assessment Act 1979</i> in relation to the land
Section 4.15 (1)(a)(iv) – Provisions of the Regulations.	No provisions of Division 8 of Part 6 of the <i>Environmental Planning and Assessment Regulation 2000</i> are relevant to the proposed development.
Section 4.15 (1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality.	The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.  The proposed development is consistent with the dominant character in the locality.  The proposal will not result in detrimental social or economic impacts on the locality.
Section 4.15 (1)(c) – The suitability of the site for the development.	The site is located in close proximity to local services. The site has sufficient area to accommodate the proposed land-use and associated structure. Therefore, the site is considered suitable for the proposed development.
Section 4.15 (1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation.	There was one submission made in regard to the Development Application

## AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

### DEVELOPMENT APPLICATIONS



Section 4.15 (1)(e) – The public interest.	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.
--	--

## COMMUNICATION AND CONSULTATION

### Community Engagement

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance the Notification of Development Proposals Policy – 14 November 2018. The application was notified from 30 August 2021 to 20 September 2021. There was one (1) submission received as a result of the notification process:

- Greg Boardley – Address not provided.

1.	I noticed on the advertisement that it is proposed to remove 20 pine trees? Surely most of these trees don't need to be cut down. I don't think we realise how old these trees are to get this big and they provide shade and habitat.
----	--

**Comment:** An arborist report has been provided that supports the removal of the trees and the replacement of those trees as they have reached their end of life. The trees will be removed under supervision of a fauna handler.

### External Communication and Consultation

#### **Water NSW**

Water NSW have provided their concurrence under Clause 11 of *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011* dated 24 September 2022 subject to appropriate conditions.

#### **Transport for NSW**

Transport for NSW has reviewed documents for the proposed development and requested additional information as detailed below along with comments from the applicant.

*TfNSW - A further description of the development which outlines what the existing space is currently being used for;*

Applicant response:

- The works which are the subject of the development application are solely located with Lot 22, DP 1225783 and include construction of approximately 50m of concrete pathway, relocation of the obelisk, signage, seating, the

## AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

### DEVELOPMENT APPLICATIONS



removal of 21 trees, and landscaping. All other works are the subject of an environmental assessment under Part 5 of the EP&A Act and rely on previous consultations with RMS, Crown and other stakeholders to inform the assessment. The Part 5 assessment considers the provisions of the ISEPP in relation to “development for the purpose of a road or road infrastructure facilities” by a public authority. The area within Lot 22 DP 1225783 is currently a disused pasture paddock.

- The area assessed under Part 5 is currently being used as an informal carpark that provides access to the Bong Bong Cycle track, Wingecarribee River and the Cecil Hoskins Nature Reserve walking trails. The informal carpark makes use of the road pavement from the abandoned previous road alignment. This forms the access road (carpark aisle) and supports perpendicular vehicle parking on the eastern grassed verge and parallel parking on the western grassed verge. A recent count of vehicles indicated 30 vehicles parked within the area.

*TfNSW - Existing and proposed traffic generation for the junction of Moss Vale Road and the access road;*

Applicant response:

- The traffic generation at the junction of Moss Vale Road and the access road has been determined as nil under the environmental assessment conducted under Part 5 of the EP&A act. This has been informed by Councils discussions with the RMS during the development of the Bong Bong Common Masterplan. It was identified that the (then) RMS could accept an existing parking capacity of 22 vehicles and it was agreed that if Council were to develop Stage 1A of the Bong Bong Common Masterplan with no more than 22 carpark spaces that this would not constitute ‘traffic generating development’. Council does have plans to develop Stage 1b, 2 and 3 but these do not form part of this development application. When these stages progress, they will be the subject of a separate development application which will include a BAR arrangement for the junction with Moss Vale Road and the access road. To confirm, the current proposal has been determined as not traffic generating development and this has been based on the input of RMS.
- The works which are the subject of the development application (i.e. approximately 50m of concrete pathway, relocation of the obelisk, signage, seating, the removal of 21 trees, and landscaping) are not expected to generate traffic.

*TfNSW notes there have been vehicle crashes in this location. It is also noted there is currently an RPA type arrangement at the junction of Moss Vale Road and the access road;*

*has there been any consideration to upgrades to this intersection, e.g. BAR treatment to allow through vehicles to pass right turning vehicles into the access road.*



## AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

### DEVELOPMENT APPLICATIONS



#### Applicant response

- The environmental assessment conducted under Part 5 of the EP&A act did consider the need for a BAR and took into consideration the input from RMS in determining this was not required for this stage of the works.
- Stage 1b, 2 and 3 are planned as a separate development application. It is expected that these stages will generate traffic and that a BAR treatment of the junction of Moss Vale Road and the access road will be included in the works. It is noted that Council is in the final stages of securing grant funding to progress with designing and then constructing Stages 1b and 2, so a BAR treatment would likely be developed in the next 2-3 years. Given that the current development application is not 'traffic generating development' a BAR treatment is not considered necessary as part of these works.

As a concluding comment, please note that Council is committed to continue to work with TfNSW in the ongoing development of the Bong Bong Common Precinct. It is expected that Stages 1B, 2 and 3 of the Masterplan will generate traffic and that a BAR and potentially other traffic treatments may be required as part of subsequent stages. We are committed to working with TfNSW to ensure these are properly planned, designed and implemented as the development warrants them.

TfNSW provided the following advice dated 19 October 2021:

- The works which are the subject of this DA (Stage 1A) are located within Lot 22 DP 1225783. This includes the construction of a concrete pathway, relocation of the obelisk, signage, seating, the removal of trees, and landscaping;
- All other works included in Stage 1A eg. Formalisation of existing car park, footpath, signage, and landscaping works within the road reserve, are subject of a separate environmental assessment under Part 5 of the EP&A Act;
- TfNSW also notes the subsequent stages (Stage 1b, 2 and 3) for this site are planned by Council as a separate DA. It is expected that these stages will generate traffic and that BAR treatment of the junction of Moss Vale Road and the access road will be included in these works, which have been based on previous discussions with TfNSW;

Given the above, TfNSW does not believe the subject development will have a significant impact on Moss Vale Road. On this basis, TfNSW does not object to the development application.

#### INTERNAL REFERRALS.

##### Development Engineer Referral response dated 06 October 2021

The application is considered to be satisfactory in relation to Engineering matters subject to conditions being imposed on the notice of determination.

##### Environment & Sustainability Referral response dated 02 October 2021

The application is considered to be satisfactory in relation to biodiversity subject to the following conditions being imposed on the notice of determination.

## AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

### DEVELOPMENT APPLICATIONS



*I note the proposal is to remove *Pinus radiata* and this is listed as an environmental weed. However, large trees can be breeding habitat for protected fauna. **Protected fauna** are listed under Schedule 5 of the Biodiversity Conservation Act 2016.*

*Based on previous experience, this tree can support nests of bird species such as Magpie and Currawong. Being close to Wingecarribee River, other birds may also use these trees for nests at different times. If tree hollows are present, then microbats may be using these.*

*Fauna occupation can be seasonal, and if checked today, changes may occur closer to tree removal time.*

*On this basis, I would suggest that the applicant provide a set of **safeguard/mitigation measures** that address:*

***Preclearing survey** by an ecologist to detect if protected fauna are using these trees for reproductive habitat. Survey to occur 1 week before planned tree removal. If fauna occupying trees, then identification and nesting duration will assist with programming of tree works to avoid harm to such fauna;*

***Staged tree removal**, to first determine if tree removal can be delayed until there is no longer a dependency of fauna on these trees (e.g. offspring have fledged – nest no longer required); if delay not possible, then remove trees not required for habitat leaving habitat trees until there is no longer a dependency. Preclearing survey may be required again;*

*Tree removal with fauna handler will be required if avoiding cannot be achieved. Fauna handler recommendations to be followed including delay of works in extreme weather conditions. Fauna handler must have all relevant approvals, licences and permits for these works including a biodiversity Conservation licence, and Animal Ethics approvals.*

***Unintentional harm**, in case an animal is injured or orphaned during works, there needs to be a plan of how the fauna will be treated or cared for.*

*Conditions have been provided in the draft consent conditions to cover these recommendations.*

### HERITAGE ADVISOR REFERRAL RESPONSE DATED 28 SEPTEMBER 2021

*The application is considered to be satisfactory in relation to heritage matters with the following comments:*

#### ***Heritage Exemption for obelisk relocation.***

- As council heritage advisor, I endorse a heritage exemption for the obelisk relocation, provided that an archaeological check of the new obelisk location is done;*
- Most practical could be for the archaeologist to monitor the excavation for the new obelisk location.*
- A more costly alternative could be for a hand dug archaeological test pit at the new obelisk location (before the mechanical excavator moves in).*

## AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

### DEVELOPMENT APPLICATIONS



**Note:** Council has carried out a hand dug archaeological dig of the proposed obelisk site in September 2021.

#### Discussion of Key issues.

In 2019 Wingecarribee Shire Council prepared a Masterplan for a multi stage upgrade of the Bong Bong Common.

The Stage 1A being undertaken is to upgrade the access to the Eastern Precinct arrival of the Bong Bong Common. The Eastern Precinct provides the parking and the main arrival for the site.

The formalisation of the existing car park at the Eastern Precinct of the Common creates a highly legible car park for visitors to experience the new arrival area for the Bong Bong Common interpretive walk outlined in the Masterplan in 2019.

By relocating the Obelisk, visitors to the Common are provided with an opportunity for an arrival place at the Common to experience the eastern archaeological site of the former Bong Bong settlement. New works for Stage 1A will also link up with existing walking track connections into Cecil Hoskins Reserve to the east and the main areas of Bong Bong Common to the west and will allow for the connection of future walking tracks and interpretive settings that will allow for greater exploration and understanding of the archaeology in the Eastern Precinct.

#### CONCLUSION

The proposed development has been assessed using the heads of consideration listed in Section 4.1 of the *Environmental Planning and Assessment Act 1979* and is found to be satisfactory.

That Development Application 22/0222 for Lot 22 DP 1225783, Moss Vale Road Burradoo be APPROVED for the construction of Stage 1A consisting of a formalized carpark, foot paving, landscaping, tree removal, relocation of obelisk and interpretive signage.

- The proposal is consistent with the relevant objectives contained within the Wingecarribee Local Environmental Plan 2010 and the relevant requirements of the Rural Lands Development Control Plan.
- The proposal is consistent with the specific objectives of the E3 Environmental Management zone in that the proposed works will have a low impact on the site, elements within it and the potential sub-surface archaeology. The transformation of the car park, and integration of the Eastern precinct into Bong Bong Common will create a highly legible arrival space for visitors to experience and provide a greater understanding of the site's relationship with the Western Precinct of Bong Bong Common.

The proposed Stage 1A works are consistent with Council's 2019 Masterplan for the site.

#### ATTACHMENTS

1. Draft Conditions of Consent - *circulated under separate cover*
2. Proposed Development Plans - *circulated under separate cover*

## 6 PLANNING PROPOSALS

### 6.1 Planning Proposal to Rezone Willow Run, 105-119 Bong Bong Road, Mittagong - Post exhibition

Reference:	PN204300, PP-2021-3881
Report Author:	Senior Strategic Land Use Planner
Authoriser:	Manager 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

To consider the public exhibition of a Planning Proposal and supporting draft Development Control Plan to amend Wingecarribee Local Environmental Plan (WLEP) 2010 to rezone a portion of 105-119 Bong Bong Road, Mittagong from RU2 Rural Landscape to R5 Large Lot Residential with a minimum lot size of 4000m<sup>2</sup>.

<b>Applicant / Proponent</b>	Lee Environmental Planning
<b>Owners</b>	PN Dunbier, PJ Dunbier, DA Dunbier, TJ Williams, KC Williams
<b>Consultants</b>	Lee Environmental Planning
<b>Notification</b>	20 October to 19 November 2021.
<b>Number Advised</b>	29
<b>Number of Submissions</b>	5
<b>Current Zoning / MLS</b>	RU2 Rural Landscape / 40 hectares
<b>Proposed Amendment/s</b>	R5 Large Lot Residential / 4000m <sup>2</sup>
<b>Political Donations</b>	N/A

#### RECOMMENDATION

1. **THAT** finalisation of the Planning Proposal to rezone part of Lot 115 DP 1067955, 105-119 Bong Bong Road, Mittagong from RU2 Rural Landscape to R5 Large Lot Residential with a minimum lot size 4000m<sup>2</sup> under s3.33 of the *Environmental Planning & Assessment Act 1979* **NOT PROCEED**.
2. **THAT** the draft Precinct Plan for the subject land as exhibited with the Planning Proposal **BE NOTED**.

## REPORT

### BACKGROUND

The subject land is identified as Lot 115 DP 1067955, located at 115 Bong Bong Road Mittagong, covers an area of some 35.6 hectares and is zoned part RU2 Rural Landscape and part E3 Environmental Management as indicated in **Figure 1** below. The RU2 portion covers an area of some 25 hectares and a minimum lot size of 40 hectares applies to both zones. The location of the subject land and its immediate zoning context are also indicated in Figure 1 below. It is noted that the RU2 portion of the site is located opposite the Renwick Urban Release Area separated by Bong Bong Road.

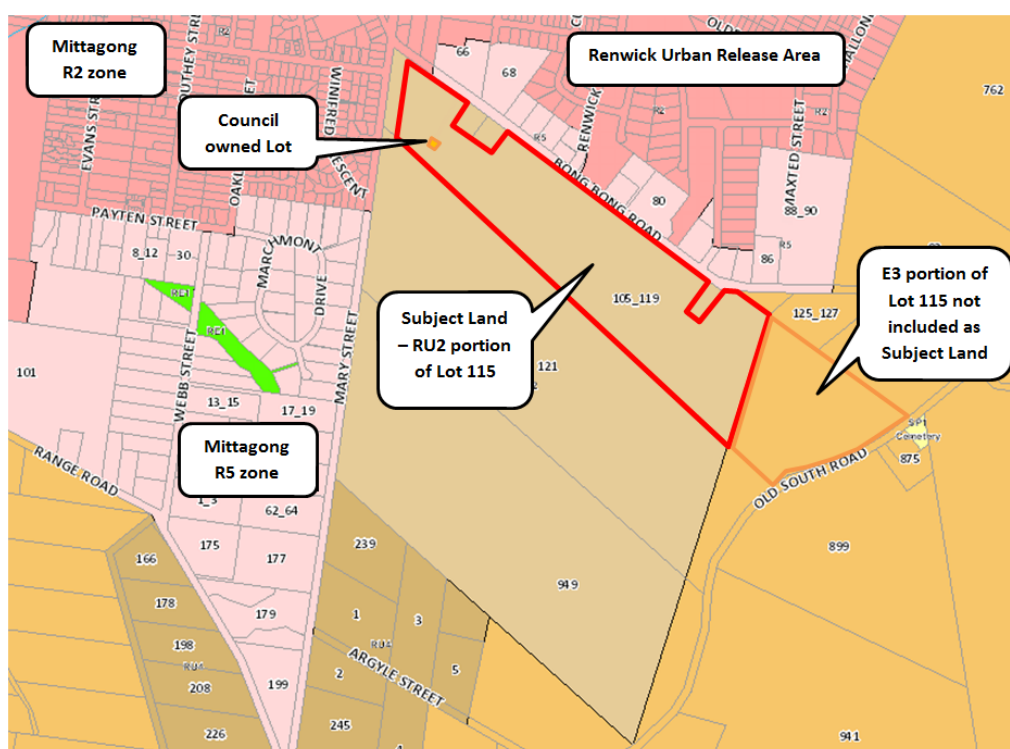


Figure 1 Location and Zoning under WLEP 2010 for subject land

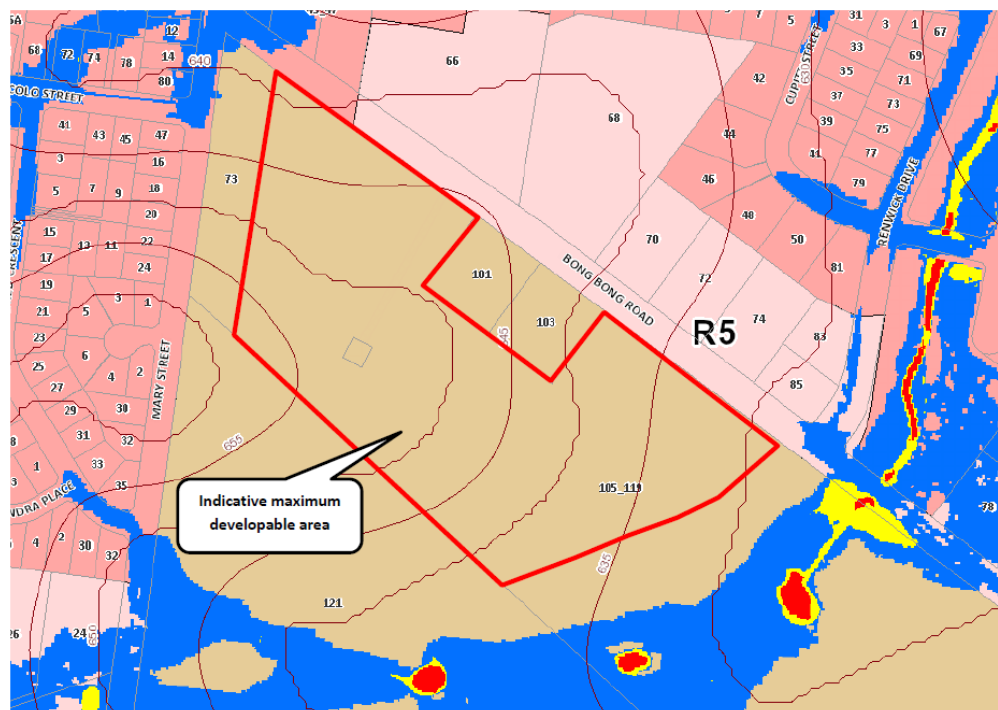
A Planning Proposal was submitted to Council in February 2019 by Lee Environmental Planning seeking to rezone a portion of Lot 115 to R2 Low Density Residential with a minimum lot size range from 1000m<sup>2</sup> to 4000m<sup>2</sup>. The proponent subsequently requested that consideration of the Planning Proposal be deferred until the Wingecarribee Local Housing Strategy was adopted. This occurred on 24 June 2020.

At its Ordinary Meeting of 26 August 2020, Council resolved to not support a rezoning to R2 Low Density Residential. However, Council did resolve to support rezoning a portion of the subject land (indicated in **Figure 2** below) from RU2 Rural Landscape to R5 Large Lot Residential and amend the minimum lot size from 40 hectares to 4,000m<sup>2</sup> over that portion, an area of some eight (8) hectares.

## AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

### PLANNING PROPOSALS



**Figure 2** Extent of potential residential area

The explanation why only this portion of the site was supported is summarised in the following background. In 2007 and 2008 the entire site, including the E3 portion, together with adjoining land, was the subject of rezoning applications during the drafting of WLEP 2010. Council resolved that the zoning and minimum lot size remain unchanged, but that the sites be included for further investigation in the Wingecarribee Local Planning Strategy (LPS) 2015-2031. At that time Council also identified the maximum extent to which it would consider any future residential development proposal, as indicated in **Figure 3** below.

This development extent was due in large part to the visual impacts which could result from more extensive development given the topography of the land and the visual prominence of any development beyond the identified eastern boundary of the identified area.

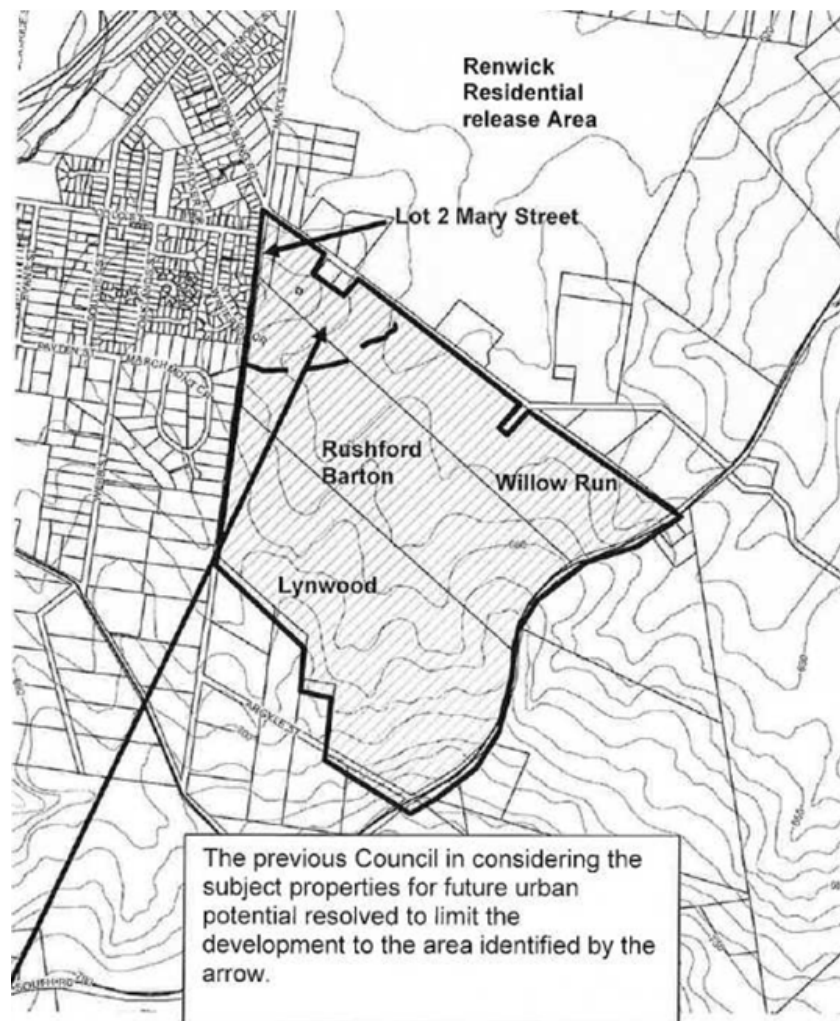
It was also recognised that the property is an Item of Local Heritage under WLEP 2010 with individual Items of Heritage located in the vicinity of the subject land along Bong Bong Road. It is noted that the area identified in Figure 4 includes adjoining land at 73 Mary Street (Lot 2 DP 157625) (identified as Lot 2 in Figure 4) to the west, and part of Rushford Park at 121 Mary Street (Lot 1 DP 1140914), the adjoining property to the south, but these properties are not included in this Planning Proposal.



## AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

### PLANNING PROPOSALS



**Figure 3 Original extent of potential residential development supported by Council during drafting of WLEP 2010.**

On October 2017 a Planning Proposal for the subject land only was submitted to Council seeking to rezone the entire RU2 Rural Landscape portion of the site to R2 Low Density Residential and apply minimum lot sizes ranging between 450m<sup>2</sup> and 1000m<sup>2</sup>. That Proposal was considered by Council at its Ordinary Meeting of 9 May 2018 at which time it was resolved:

***THAT** the Planning Proposal to rezone land at 105-119 Bong Bong Road, Mittagong from RU2 Rural Landscape to primarily R2 Low Density Residential NOT BE SUPPORTED.*

The report to Council of 9 May 2018 confirmed the original boundary of the area Council would be prepared to consider for potential residential development on the subject land, being that area identified in 2008 and indicated in **Figure 2** above, and consistent with that originally provided at **Figure 3** above.

In 2020, Lot 115 formed part of the Mittagong (East) 'investigation area' in the Wingecarribee Local Housing Strategy (LHS). The extent of this investigation area is indicated in **Figure 4** below.

## AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

### PLANNING PROPOSALS

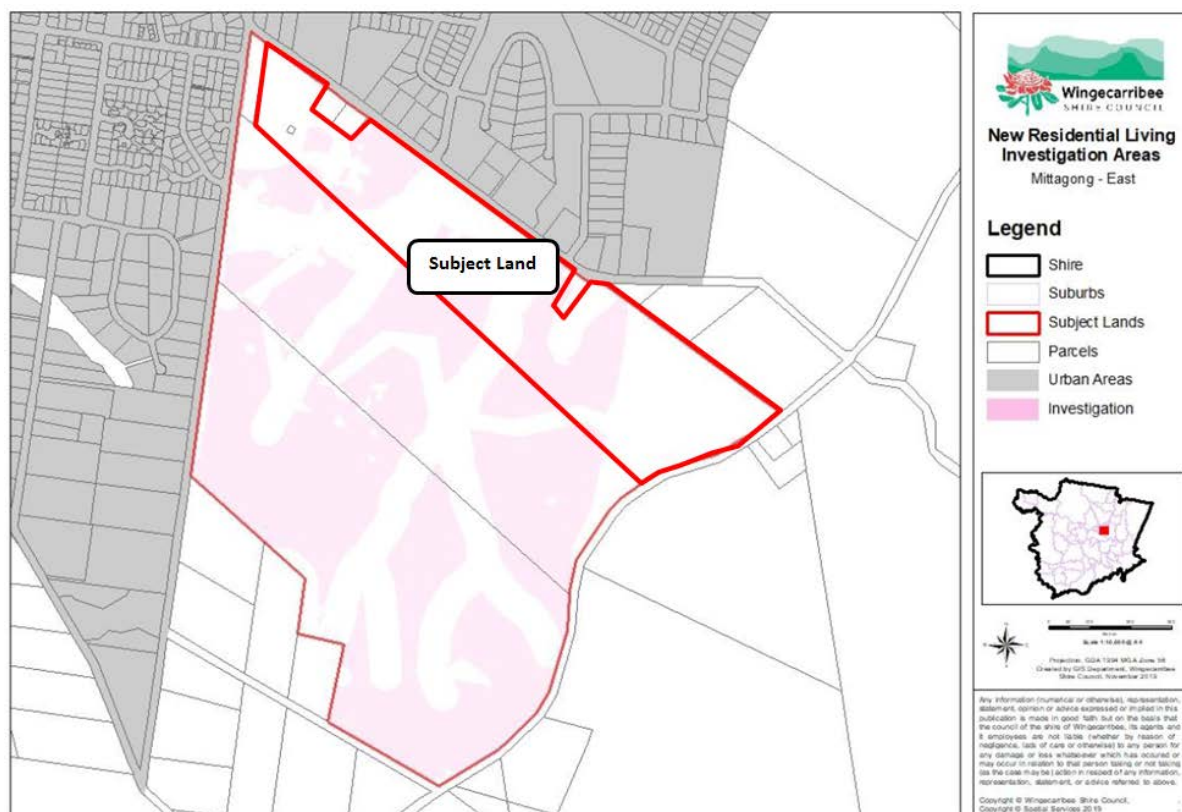


Figure 4 Mittagong East Investigation Area from LHS

The LHS analysis confirmed that there were several constraints across parts of the investigation area, including *“riparian areas, Endangered Ecological Communities, flooding, a heritage item and potentially contaminated land”*, and although other parts of the investigation area were not so constrained, they were *“highly visible from Old South Road and the Renwick residential area”*.

Based on this constraint analysis, the Investigation Area was ultimately deemed unsuitable as a future living area, however, the Strategy did note that *“a small area has previously been identified for residential development in the north western corner of the site and this Strategy maintains this area as a potential residential area.”* The subject land was included within the Strategy to the extent indicated by the pink area in **Figure 5** below. The Local Housing Strategy was adopted by Council on 24 June 2020.

# AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

## PLANNING PROPOSALS

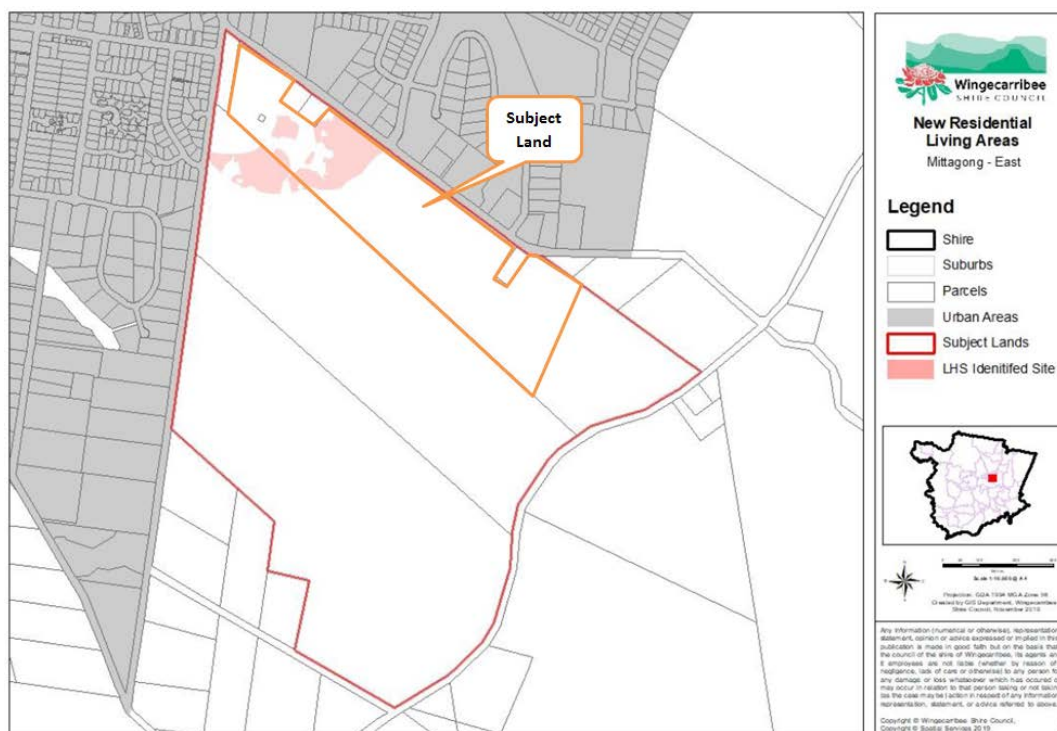


Figure 5 Adopted Mittagong East 'New Residential Living Area' from LHS

## REPORT

At its Ordinary Meeting of Council of 26 August 2020 Council considered the Planning Proposal submitted in 2019 which the proponents had requested be deferred until the Local Housing Strategy was adopted. Council resolved as follows:

1. ***THAT the Planning Proposal to rezone part of Lot 115 DP 1067955, 105-119 Bong Bong Road, Mittagong from RU2 Rural Landscape to R2 Low Density Residential NOT BE SUPPORTED.***
2. ***THAT the preparation of a Planning Proposal to rezone part of Lot 115 DP 1067955, 105-119 Bong Bong Road, Mittagong from RU2 Rural Landscape to R5 Large Lot Residential with a minimum lot size 4000m<sup>2</sup> under s3.33 of the Environmental Planning & Assessment Act 1979 BE SUPPORTED for progression to a Gateway Determination, subject to a Phase 1 Preliminary Site Investigation (Contamination) Report and a Heritage Impact Assessment being prepared by the proponent to Council's satisfaction in accordance with the Wingecarribee Local Housing Strategy.***
3. ***THAT a draft Precinct Plan for the subject land for inclusion in the Mittagong Township Development Control Plan be prepared and exhibited with the Planning Proposal should it receive a Gateway Determination.***

A revised Planning Proposal was prepared by Council staff reflecting the Resolution of Council and submitted to the Department of Planning, Industry and Environment for a Gateway Determination. A Gateway Determination was issued by the Department on 2 July 2021. Referrals to WaterNSW, the NSW Rural Fire Service and DPIE-Environment, Energy & Science were undertaken and responses addressed in the exhibited Planning Proposal.

Of particular note are comments contained in the response from WaterNSW, addressed below in the Communication and Consultation section of this report.





---

## **COMMUNICATION AND CONSULTATION**

### **External Communication and Consultation**

The Gateway Determination required referral to WaterNSW, the NSW Rural Fire Service and DPIE - Environment, Energy & Science prior to public exhibition. This was done and Part 5 of the Planning Proposal amended accordingly to reference their responses which were included with the exhibition material.

#### **1. WaterNSW**

The WaterNSW response included the following comments:

*WaterNSW believes that the proposal should only proceed on the basis that the site can be connected to the reticulated sewerage system. We believe that the capability and capacity for servicing should be resolved as part of the Planning Proposal process before any changes to the LEP are made. We hold a concern that if the rezoning and proposed change in MLS occurs without this issue being adequately resolved, the landholder may decide to lodge a development application (DA) for subdivision based on the new MLS but with the site still being unsewered.*

Due to the significance of this response, it is provided in full as **Attachment 1** to this report.

#### **2. NSW Rural Fire Service**

The Rural Fire Service provided the following response. It is noted that a bushfire report would accompany any subsequent Development Application should the Planning Proposal proceed and the subject land be rezoned.

*A bushfire report is required to be submitted to demonstrate compliance with Section 9.1(2) of the Environmental Planning and Assessment Act 1979 and Planning for Bush Fire Protection 2019.*

#### **3. Department of Planning Industry & Environment – Biodiversity & Conservation**

The response from Biodiversity and Conservation Division of the Department of Planning, Industry and Environment includes the following comments:

*In general, we do not object to the Planning Proposal, noting that further biodiversity assessment (including a Biodiversity Development Assessment Report) will be completed for the project at the development application (DA) stage.*

*However, we raise concerns with the potential clearing of Southern Highlands Shale Woodland (SHSW), which is an Endangered Ecological Community (EEC) under the Biodiversity Conservation Act 2016 (BC Act) for the reasons listed in the Attachment A. It is important that Council consider the cumulative impacts of proposals which result in the clearing of small patches of this EEC.*

These comments were noted, however in view of the WaterNSW advice, no further studies were sought from the proponent at this stage.

### **Internal Communication and Consultation**

Consultation with heritage staff and roads and traffic staff was undertaken during of the strategic assessment of the Proposal and comments incorporated into the report to Council of 26 August 2020.

Consultation with was undertaken with Assets staff, both prior to and post exhibition, with regard to sewage treatment capacity. At the time of exhibition, advice from Council staff

## AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

### PLANNING PROPOSALS



was that the Mittagong Sewage Treatment Plant was at capacity, however it was decided to proceed the Planning Proposal to exhibition to gauge community opinion on the Proposal and to identify any other potential concerns with it.

#### Community Engagement

Community consultation was undertaken for a period of 30 days from 20 October to 19 November 2021. The Planning Proposal and Draft Development Control Plan (provided as **Attachment 2 and Attachment 3** to this report) and supporting documentation was provided on the Your Say Wingecarribee website as well as the NSW Planning Portal, with the opportunity to make a submission through both.

Some 29 notification letters were mailed to adjoining and neighbouring property owners and notification was also provided on the Community Update page on Council's website during each week of the exhibition period and included in the Council e-newsletter sent to over 3,500 recipients.

#### Responses

Five (5) submissions were received in response to the public exhibition of the Planning Proposal. These are summarised below, but it is noted that copies of each submission have been provided to each Panel member.

Four (4) submissions did not support the Planning Proposal. Comments made included:

- *The proposed development has the potential to compromise the rural and scenic landscape along Bong Bong Road.*
- *The proposed development will spoil the rural outlook from Renwick with a further extension of rooftops.*
- *The proposed development would increase traffic along Bong Bong Road.*
- *The rural land opposite Renwick helps to offset that development scale.*
- *Like Old South Road, Bong Bong Road offers rural aesthetics for the locals which shouldn't be obstructed with development.*
- *Natural vegetation would be destroyed in the development of the site and this is sad.*
- *Please do not allow this development to proceed and instead keep the rural views and vistas which are an integral part of the history and heritage of the Southern Highlands.*

One (1) submission offers "initial support" for the Planning Proposal, but questions the accuracy of the flood data provided, stating it (the Planning Proposal) "fails to address the potential development of adjoining lands to the south, which form a large component of the drainage catchment and how drainage will be managed by the downstream property in various stormwater events."

These comments are noted. More detailed stormwater and drainage assessments would be undertaken at the Development Application stage for any subsequent subdivision.

The submission also noted that adjoining land was not considered as part of the Planning Proposal. As stated in the report to Council which accompanied the Planning Proposal and the Proposal itself, land to both the east and south of the subject land was considered by Council during the drafting of WLEP 2010 and an identified potential development area identified. It then became the responsibility of individual land owners to submit their own Planning Proposal to advance this recommendation. None has been received for any

adjoining land. A more detailed response and explanation has been provided directly to the submission maker.

## **SUSTAINABILITY ASSESSMENT**

- **Environment**

The Ecological Constraints Assessment Report which accompanied the Planning Proposal recommends that any identified potential environmental issues be addressed at the development application stage. However, as discussed above, the WaterNSW comments in particular significantly restrict the ability of the Planning Proposal to proceed to completion at this time.

- **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 associated with this report.

### **Governance**

The Planning Proposal has been processed in accordance with guidelines provided by the Department of Planning, Industry and Environment.

## **IMPACT ON COUNCIL'S FIT FOR THE FUTURE IMPROVEMENT PLAN**

There are no implications for Council's Fit for the Future Improvement Plan resulting from this report

## **COUNCIL BUDGET IMPLICATIONS**

There are no budget implications associated with this report.

## **RELATED COUNCIL POLICY**

There are no other Council related policies.

## **CONCLUSION**

The Planning Proposal and associated documentation were processed in accordance with the Gateway requirements. This included referral to certain agencies including WaterNSW. WaterNSW expressed the view that the Planning Proposal should not proceed to rezoning unless there was sufficient capacity within the Mittagong Sewage Treatment Plant for the development.

Post exhibition, further consultation with, and clarification from, Council's sewer assets staff confirmed that there is not sufficient capacity within the Mittagong Sewage Treatment Plant for the proposed development at this time. It was noted that there are plans to upgrade the



## AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

### PLANNING PROPOSALS

---



STP, but it was considered that, to accept any further development not already planned for, could compromise the STP's ability to meet the requirements of its EPA licence.

It is concluded therefore, that the Planning Proposal cannot proceed to rezoning at this time.

---

### ATTACHMENTS

1. Willow Run Planning Proposal - Response from WaterNSW
2. Willow Run Planning Proposal - version 3 for Public Exhibition - *circulated under separate cover*
3. Willow Run Planning Proposal - Draft Development Control Plan - *circulated under separate cover*

6.1 Planning Proposal to Rezone Willow Run, 105-119 Bong Bong Road,  
Mittagong - Post exhibition

ATTACHMENT 1 Willow Run Planning Proposal - Response from WaterNSW



PO Box 398, Parramatta NSW 2124  
Level 14, 169 Macquarie Street  
Parramatta NSW 2150  
[www.watnsw.com.au](http://www.watnsw.com.au)  
ABN 21 147 934 787

28 July 2021

Contact: *Stuart Little*  
Telephone: *0436 948 347*  
Our ref: *D2021/83411*

Susan Stannard  
Senior Strategic Land Use Planner  
Wingecarribee Shire Council  
PO Box 141  
MOSS VALE NSW 2577

Dear Ms Stannard,

**RE: Planning Proposal to amend Wingecarribee Local Environmental Plan 2010 to rezone and reduce the minimum lot size of part of Lot 115 DP 1067955 being land at Willow Run, 105-119 Bong Bong Road Mittagong**

Thank you for your email and letter of 15 July 2021 to rezone and reduce the minimum lot size of part of Lot 115 DP 1067955 at Willow Run, 105-119 Bong Bong Road Mittagong. The majority of the lot is zoned RU2 with the eastern portion zoned E3 Environmental Management. A minimum lot size (MLS) of 40 ha currently applies across both zones. The Proposal seeks to rezone the westernmost part of the lot to R5 Large Lot Residential with a corresponding MLS of 4,000 m<sup>2</sup>. For the purposes of clarity, in this submission we refer to the full lot as 'Willow Run' or 'the subject land' and the portion proposed for R5 rezoning as the 'proposed development area'.

We note that the Proposal currently refers to the boundary of the 'proposed development area' as being indicative only. The boundary will need to be firmly established in order to finalise the Planning Proposal and give effect to the proposed rezoning. To assist this, where relevant, we consider constraints across the entire Willow Run lot, to help ensure that the boundary is best placed with respect to the environmental constraints operating on the site and having particular regard to potential impacts on water quality.

We note that the 'proposed development area' forms part of the Mittagong (East) 'investigation area' in the Wingecarribee Local Housing Strategy, being the most northerly lot of the precinct. WaterNSW included comments on the Mittagong (East) 'investigation area' as part of our submission to the draft Strategy when exhibited during April and May 2020 (our ref: D2020/43306). We noted that the wider Mittagong East 'investigation area' was constrained by 1st, 2nd and 3rd order drainage features and only a small area in the north-east quadrant was suitable for urban residential development. This generally corresponds with the 'proposed development area' of this Planning Proposal.

Exploring the environmental constraints in more detail, we note that the eastern boundary of the 'proposed development area' borders a second order drainage feature with another first order drainage feature also positioned in close proximity (see Attachment 1). To protect water quality, we believe that the current indicative boundary of the proposed development area should not be extended any further eastward.



### **Sewerage**

In our submission on the Draft Local Housing Strategy we recommended that any Planning Proposal for the Mittagong (East) investigation area include a consideration of capacity and condition of the local sewerage infrastructure and the capacity of the sewage treatment plant (STP). The Planning Proposal notes that the proceeding the development stage is contingent on adequate servicing and infrastructure being provided for the site. The site is in direct proximity to the Renwick residential development area and that 'water, sewer and power can all be provided' although more detailed analysis is required to understand the exact requirements (p.34). However, the Proposal also notes that if there was inadequate public infrastructure and such infrastructure could not be provided, then the Gateway process would allow termination of the Proposal.

WaterNSW believes that Proposal should only proceed on the basis that the site can be connected to the reticulated sewerage system. We believe that the capability and capacity for servicing should be resolved as part of the Planning Proposal process before any changes to the LEP are made. We hold a concern that if the rezoning and proposed change in MLS occurs without this issue being adequately resolved, the landholder may decide to lodge a development application (DA) for subdivision based on the new MLS but with the site still being unsewered. We have not considered an unsewered development scenario in our response to this Planning Proposal and, as indicated, there are drainage features close to the development site.

Based on the information contained in the Preliminary Contamination Assessment report, we note that Willow Run has an existing residence and 'onsite wastewater management system located centrally on the site' which is intended by the owners to remain. The age and condition of the system are not stated. It would be useful for the Planning Proposal to clarify the location of the dwelling and the onsite wastewater management system with respect to the 'proposed development area' and whether the dwelling and system will be affected by the Proposal.

### **Stormwater**

The Planning Proposal notes that the range of issues to be managed under a rezoning and development scenario would include stormwater flows on site, retention and treatment and connection with downstream systems (p.34). It would be useful for the Planning Proposal to confirm whether stormwater runoff would also be connected to Council's stormwater network and the capacity of that system to accommodate the potential development. Details of stormwater flows on site, retention and treatment can be addressed at DA stage.

### **Special Area**

The eastern area of Willow Run occurs within land designated as Schedule 1 Special Area land under the *Water NSW Act 2014* and *Water NSW Regulation 2020*. This generally corresponds with the E3 zoning in the east of the Willow Run site. The proposed development area does not affect this part of the Willow Run lot.

### **Contamination Assessment**

We note that a Phase 1 Preliminary Site Investigation for Contamination has been prepared for the site. Based on available documentation and past land ownership and uses, the site has a low risk of contamination. The report notes that there is an existing above ground concrete tank located in the western portion of the site with unknown contents but which is to be demolished. The report identifies that the tank must be 'decommissioned by withdrawing any liquid from the tank and, unless it is tested to confirm the absence of potential pollutants, the liquid must be disposed at a licensed waste facility'. We support this approach and note that this matter can be addressed at DA stage.



### **Strategic Land and Water Capability Assessment**

WaterNSW has undertaken a Strategic Land and Water Capability Assessment (SWLCA) for the Proposed development area and wider Willow Run site, based on the development being sewered. For the Proposed development area, the water quality risk varies from LOW to MODERATE with most of the area having a LOW risk. Areas of MODERATE risk are associated with lands lying in proximity to waterways. The SLWCA indicates that that the Proposed land has a MODERATE to HIGH capability for residential sewered development. Please note that the SLWCA and resultant risks are not applicable to any land on Willow Run lot that is or remains unsewered.

### **Direction 5.2 Sydney Drinking Water Catchment**

The Planning Proposal responds to Direction 5.2 Sydney Drinking Water Catchment noting that the Proposal is consistent with the Direction. The Direction has the objective of protecting water quality in the SDWC. We believe the response is consistent with this direction so long as the Proposed development area is connected to the reticulated sewer. The response to this Direction will need to be updated in accordance with the information contained in this letter, including the information pertaining to the outcomes of the SLWCA.

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

The Planning Proposal (p.25) responds to State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011, noting that is consistent with the SEPP. Provided adequate sewer infrastructure is implemented, we do not object to this Proposal. This section will need to be updated in accordance with information contained in this letter. It would also benefit by acknowledging that any future development will need to have a neutral or beneficial effect (NorBE) on water quality.

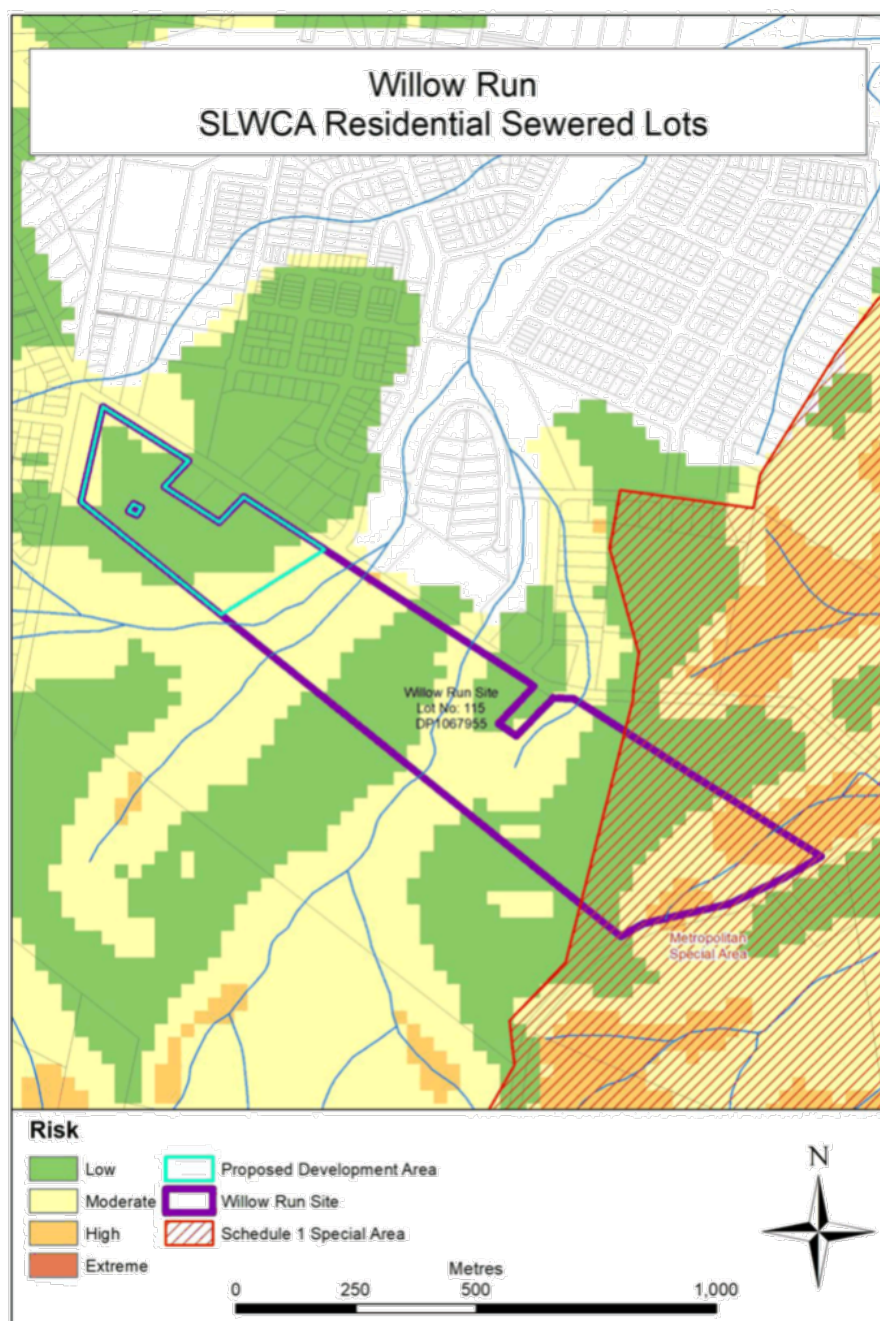
Should you have any questions on the above matters, please contact Stuart Little ([stuart.little@watersw.com.au](mailto:stuart.little@watersw.com.au)).

Yours sincerely

**ALISON KNIHA**  
**Catchment Protection Planning Manager**



**ATTACHMENT 1**



**Map 1.** Willow Run Proposed Development Area – SLWCA for Residential Sewered Lots.

## 6.2 Planning Proposal to amend Wingecarribee Local Environmental Plan 2010 to enable the legal enforcement of Purchasers' Agreements (and associated Design Guidelines) for land within West Retford Park - Post exhibition.

Reference: PP-2021-4816  
Report Author: Senior Strategic Land Use Planner  
Authoriser: Manager Strategic Land Use Planning

### PURPOSE

The purpose of this report is to consider the exhibition of a Planning Proposal to enable the legal enforcement of Purchasers' Agreements (and associated Design Guidelines) for purchasers of lots within the West Retford Park residential estate.

Applicant / Proponent	Wingecarribee Shire Council
Owners	N/A
Consultants	N/A
Notification	20 October to 19 November 2021
Number Advised	157
Number of Submissions	12
Current Zoning / MLS	R2 Low Density Residential / 1000m2
Proposed LEP Amendment/s	Amend clause 1.9A(2)
Political Donations	N/A

### RECOMMENDATION

**THAT** the Planning Proposal to amend clause 1.9A(2) of Wingecarribee Local Environmental Plan 2010 by adding the following:

(h) to any agreement or other relevant instrument applying to any parcel of land within Retford Park Estate, being the 26.63ha of land comprising the western portion of Lot 222 DP1206897.

be finalised under s3.36 of the *Environmental Planning & Assessment Act 1979*.



## **BACKGROUND**

At its Ordinary Meeting of 9 September 2020 Council considered a petition (Petition 5/2020) objecting to an application (DA20/0720) for a dual occupancy development and subdivision at 40 Sir James Fairfax Circuit, Bowral, located within the western portion of the Retford Park residential estate (the subject land). The location of the subject land is indicated in **Figure 1** below.



**Figure 1 Location of Subject Land**

Accompanying the petition was correspondence from Hicksons Lawyers on behalf of the Executors of the Estate of the Late James O. Fairfax AC seeking to amend Clause 1.9A(2) of Wingecarribee Local Environmental Plan (WLEP) 2010 to include the subject land.

Clause 1.9A of WLEP 2010 addresses the suspension of covenants, agreements and instruments and states:

- (1) *For the purpose of enabling development on land in any zone to be carried out in accordance with this Plan or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.*

Subclause (2) lists those covenants, agreements and instruments to which subclause (1) does not apply.

The intent of this request was to enable the legal enforcement of the Purchaser's Agreement and Future Purchaser's Agreement (the Agreements) into which every purchaser of a lot within the Retford Park residential estate had entered with the Executors of the Estate of the Late James O. Fairfax AC (the Executors) at the time of purchase.

## AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

### PLANNING PROPOSALS



The intent of the Agreements was to establish and maintain a consistent standard of development within the estate through a set of Design Guidelines. The Purchaser's Agreement requires the purchaser to abide by the Design Guidelines and to ensure that any person they sell to also enters into a Further Purchaser's Deed of Agreement with the Executors.

In response, Council resolved at its Ordinary Meeting of 9 September 2020 (MN367/20) as follows:

1. ***THAT* Petition 5/2020 relating to Retford Park Estate be received and noted by Council.**
2. ***THAT* a report come to Council to prepare a Planning Proposal to amend clause 1.9A(2) of Wingecarribee LEP 2010 by adding the following:**
  - (h) ***to any agreement or other relevant instrument applying to any parcel of land within Retford Park Estate, being the 26.63ha of land comprising the western portion of Lot 222 DP1206897.***

A report was considered by Council at its Ordinary Meeting of 14 October 2020 and Council resolved as follows:

***THAT* a Planning Proposal be urgently prepared and submitted to the Department of Planning, Industry and Environment for a Gateway Determination under section 3.33 of the Environmental Planning and Assessment Act 1979, to amend clause 1.9A(2) of the Wingecarribee Local Environmental Plan 2010 by adding the following:**

***(h) to any agreement or other relevant instrument applying to any parcel of land within Retford Park Estate, being the 26.63ha of land comprising the western portion of the estate bounded by Old South Road Bowral, David Woods Playing Fields and Lot 221 DP1206897 known as Retford Park.***

The Planning Proposal was submitted to the NSW Department of Planning, Industry and Environment (the Department) on 22 October 2020.

Council subsequently received a response from the Department on 9 November 2020, advising that it (the Department) "*is uncertain the Proposal would obtain support from the Parliamentary Counsel's Office or the Governor*". The Department further noted that "*it is preferable to not use the LEP to enforce what is essentially a private matter between a developer and purchaser.*"

In response, a report was considered by the Independent Planning Advisory Panel at its Meeting of 7 July 2021. The Panel informed Council staff that there is precedent for the proposed amendment to clause 1.9A in at least one other Local Environmental Plan, namely Mosman LEP 2012, and that staff should seek a further review of the Planning Proposal by the Department. Staff supported this suggestion and the Recommendation of the Panel:

***THAT***

- 1. Council continue to seek a formal Gateway Determination for the Planning Proposal,***
- 2. Council provide the Mosman Local Environmental Plan 2012 as an example of a similar amendment to clause 1.9A(2),***
- 3. Should a Gateway determination recommend the Planning Proposal not proceed, Council investigate and pursue alternative options to enforce the site specific design guidelines over the subject area.***

**AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL  
MEETING**

Wednesday 01 December 2021

**PLANNING PROPOSALS**

---



This Recommendation was reported to the Ordinary Council Meeting of 14 July 2021 and carried.



---

## **REPORT**

A revised Planning Proposal was submitted to the Department still seeking to amend clause 1.9A(2) of WLEP 2010 as outlined above, but also referencing the Mosman LEP 2012 and providing more details on the relationship between the subject land and the adjoining heritage listed Retford Park.

In reviewing the Planning Proposal, the Department also asked Council to explore the option of incorporating the Design Guidelines into a 'site-specific' Development Control Plan (DCP) and the following draft clause was included in the Planning Proposal, although it was also noted that Council's preferred option, and the original Resolution for the Planning Proposal, was to amend clause 1.9A(2) of WLEP 2010.

### **7.12 Development of land at Retford Park West**

- (1) This clause applies to Lot, as shown edged heavy black and marked "Retford Park West" on the [Local Clauses Map](#).*
- (2) Despite any other provision of this Plan, consent may not be granted for land to which this clause applies unless the development is deemed by Council to meet the relevant standards contained within the Retford Park West Precinct of the Bowral Township Development Control Plan.*

A Gateway Determination was issued on 16 August 2021, its stated purpose being *to amend the clause 1.9A of Wingecarribee Local Environmental Plan 2010 to enable the legal enforcement of Purchaser's Agreements (and associated Design Guidelines) for purchasers of land lots within the West Retford Park residential estate.*

It is noted that the Determination also required, prior to exhibition, the Planning Proposal be updated to include Draft Local Clauses map/s in the event the option of a local clause is utilised to achieve the intended effects.

The exhibited Planning Proposal, Design Guidelines and draft Local Clauses Maps form **Attachment 1** to this report.

---

## **COMMUNICATION AND CONSULTATION**

### **External Communication and Consultation**

Prior to public consultation the Planning Proposal and supporting documentation was referred to those agencies identified within the Gateway Determination, namely WaterNSW and the NSW Rural Fire Service. Neither objected to the Planning Proposal. The WaterNSW response was received within the 21-day timeframe allowed through the Gateway and therefore that response could form part of the exhibition material. The NSW RFS response was not received until the final week of the exhibition period, but it is noted that no concerns were raised with the Planning Proposal.

## AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

### PLANNING PROPOSALS



#### Community Engagement

Community consultation was undertaken for a period of 30 days from 20 October to 19 November 2021. The Planning Proposal, Design Guidelines and other supporting documentation were provided on the Your Say Wingecarribee website as well as the NSW Planning Portal, with the opportunity to make a submission through both. Some 157 notification letters were mailed to all property owners within the Retford Park West residential area. Notification was also provided on the Community Update page on Council's website during each week of the exhibition period and included in the Council e-newsletter sent to over 3,500 recipients.

#### Responses

Twelve (12) submissions were received by Council during the exhibition period, 9 in support of the Planning Proposal and 3 were not in support. Copies of these submissions have been provided to the Panel.

Written submissions supporting the Planning Proposal generally expressed the following comments:

- *We purchased 'a lifestyle' and not just 'a block of land' and wanted to be part of the Retford Park 'vision'.*
- *We purchased in the estate in good faith and agreed at purchase to abide by the guidelines. We purchased with the expectation that we were buying into a community of likeminded people. We have since then invested heavily financially in maintaining the expectations of the guidelines. I am grateful Council is pursuing this issue. Please continue until you have found a way to ensure the integrity of our area is secured.*
- *No blocks should be allowed to be subdivided nor should any form of dual occupancy be allowed with the Retford Park Estate. We were very disappointed that the duplexes developed along Fairfax Drive were approved and constructed after we purchased land in the estate. The larger lots and open spaces are what attracted us to the area.*
- *We shared in the vision for the Retford Park precinct and committed time, money and emotion in building a high quality home.*
- *We unequivocally support the Planning Proposal and make the following observations –*
  - *The design guidelines are included as contractual obligations, initially with the Contracts for Sale and subsequently by Further Purchaser's Agreements.*
  - *At the time this system was developed it was not recognised that that clause 1.9A(1) of the LEP could override these obligations.*
  - *The design guidelines contain sensible provisions and have been accepted by purchasers keen to pursue the vision of Retford Park West.*
- *It is disappointing that the 'loophole' for further subdivision was not realised at the time of subdivision.*

It is noted that one submission was received on behalf of the Executors of the Estate of the Late James Fairfax AO. This submission included a summary of the history of the creation of the Retford park residential estate, its objectives and intended outcome. The submission emphasises that Mr Fairfax would have been deeply distressed if he had been aware that



## AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

### PLANNING PROPOSALS

---



the potential for further subdivision remained and would have taken steps to address this 'loophole' then had he been aware of it at the time. Mr Fairfax believed that 1000m<sup>2</sup> lots on the edge of Bowral was an appropriate and sympathetic edge between the new town boundary and the rural land beyond and would never have supported lots being further subdivided to 500m<sup>2</sup>.

Three (3) submissions were also received which did not support the Planning Proposal. These submissions included the following comments:

- *I am a strong advocate of the design guidelines and appreciate their benefits. The design guidelines do allow dual occupancies, but do not permit their subdivision, however the LEP does permit subdivision of a corner lot if at least 1000m<sup>2</sup>. Some lots in the estate are larger than 1000m<sup>2</sup>.*
- *The DCP controls provide Council with a means of determining the location of the development on the lot and its appearance.*
- *Most lots have already been built on so the potential for further subdivision is limited.*
- *The Department has already indicated that the LEP should not be used for a private arrangement.*
- *Property owners should not be subjected to litigation based on a set of guidelines that are written around subjective terms describing design elements.*
- *The Planning proposal should not proceed. Council's LEP should remain the determining planning document.*
- *The LEP should not be amended to introduce purchasers agreements when they are a private not a public matter.*

#### Council response –

All submissions received are noted and as stated above, copies of all submissions were provided to each panel member for their own consideration.

Some submissions do note that clause 7.2 of WLEP 2010 provides for the construction and subdivision of an approved dual occupancy on certain land of at least 1000m<sup>2</sup> zoned R2 Low Density Residential. This clause was established with the making of WLEP 2010 on 16 June 2010.

The subject Planning Proposal was initiated by Resolution of Council of 9 September 2020 following a submission to Council on behalf of the Executors of the Estate of the Late James O. Fairfax AC. Council staff have progressed the Planning Proposal in accordance with that, and subsequent, Resolutions.

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

Internal consultation was undertaken with Town Planning staff regarding previous development applications relevant to this matter.





---

## **SUSTAINABILITY ASSESSMENT**

- **Environment**

There are no environmental issues in relation to this report.

- **Social**

There are no social issues in relation to this report.

- **Broader Economic Implications**

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

- **Culture**

There are no cultural issues in relation to this report.

- **Governance**

There are no governance issues in relation to this report.

---

## **COUNCIL BUDGET IMPLICATIONS**

There are no budget implications in relation to this report.

---

## **RELATED COUNCIL POLICY**

There are no related Council policies in relation to this report.

---

## **CONCLUSION**

The original mechanism for achieving the primary outcome of the Planning Proposal - to enable the legal enforcement of Purchasers' Agreements (and associated Design Guidelines) for purchasers of land lots within the West Retford Park residential estate – was identified by legal advice to the Executors of the Estate of the Late James O. Fairfax AC. Subsequent advice from the department was that a local clause would be preferable. Submissions in support of the Planning Proposal indicate that any mechanism which achieves the intended outcome of the Planning Proposal would be acceptable. Council continues to support the original proposed amendment to clause 1.9A(2).

---

## **ATTACHMENTS**

1. Draft Map 1 - *circulated under separate cover*
2. Draft Map 2 - *circulated under separate cover*
3. Retford Park West - Guidelines - *circulated under separate cover*
4. Retford Park West - Planning Proposal - *circulated under separate cover*

### 6.3 Planning Proposal to amend Wingecarribee Local Environmental Plan 2010 with regard to Council owned Public Reserve land at Retford Park Bowral and Anembo Street Moss Vale - Post exhibition.

Reference: PP-2021-4964  
Report Author: Undergraduate Strategic Planner  
Authoriser: Manager Strategic Land Use Planning

#### PURPOSE

The purpose of this report is to seek to finalise the Planning Proposal to amend the Wingecarribee Local Environmental Plan 2010 with regard to Council owned Public Reserve Land at Retford Park West, Bowral and Anembo Street, Moss Vale. This amendment was necessitated following the subject land being identified as a Public Reserve through the registered plan of subdivision, therefore Council are intending to reclassify the land under the WLEP 2010 to remove the current minimum lot size provisions and rezone the land to RE1 Public Recreation.

<b>Applicant / Proponent</b>	Wingecarribee Shire Council
<b>Owners</b>	Wingecarribee Shire Council
<b>Consultants</b>	N/A
<b>Notification</b>	Wednesday 20 October to Friday 19 November 2021
<b>Number Advised</b>	(a) 157 (Retford Park West) (b) 75 (Anembo Street)
<b>Number of Submissions</b>	Six (6)
<b>Current Zoning / MLS</b>	(a) R2 Low Density Residential / 1000m <sup>2</sup> minimum lot size (Retford Park West) (b) R2 Low Density Residential / 700m <sup>2</sup> minimum lot size (Anembo Street)
<b>Proposed LEP Amendment/s</b>	<ul style="list-style-type: none"><li>• Rezone to RE1 Public Recreation</li><li>• Remove current minimum lot size provisions</li><li>• Confirm Classification as Community under Sect 31 of the <i>Local Government Act 1993</i></li></ul>
<b>Political Donations</b>	N/A



---

## RECOMMENDATION

1. **THAT** the Planning Proposal prepared under section 3.33 of the *Environmental Planning and Assessment Act 1979* to:

(a) rezone to RE1 Public Recreation Council owned Public Reserves at Retford Park West Bowral (Lot 439 DP1248107) and Anembo Street Moss Vale (Lot 1266 DP 1248764), and

(b) remove the current minimum lot size provision of 1000m<sup>2</sup> for the Council owned Public Reserve at Retford Park West Bowral (Lot 439 DP1248107) and 700m<sup>2</sup> for the Council owned Public reserve at Anembo Street Moss Vale (Lot 1266 DP 1248764,

Be finalised under s.3.36 of the *Environmental Planning and Assessment Act 1979*

---

## BACKGROUND

This report finalises the rezoning of two areas of Public Reserve created through the Registration of the relevant Plan of Subdivision. The first is Lot 439 of DP 1248107, being located at 33 Sir James Fairfax Drive Bowral. The second is Lot 1266 of DP 1248764, being located at 19 Anembo Street Moss Vale. Each site is addressed in turn.

### Retford Park West (Lot 439 DP1248107)

Amendment 23 to Wingecarribee Local Environmental Plan (WLEP) 2010 was made on 12 September 2014. The amendment rezoned land to either side of the State heritage property 'Retford Park' in Bowral from E3 Environmental Management to R5 Large Lot Residential on the eastern side and R2 Low Density Residential on the western side for the purposes of residential subdivision and development.

The Retford Park West Plan of Subdivision, registered on 16 November 2018 (DP1248107), included a lot (Lot 439) identified as Public Reserve as indicated in **Figure 1** and **Figure 2** below. This Public Reserve is owned by Council, but remained zoned R2 Low Density Residential with a minimum lot size of 1000m<sup>2</sup> following the initial rezoning of the land as indicated in **Figure 3** below.

# AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

## PLANNING PROPOSALS

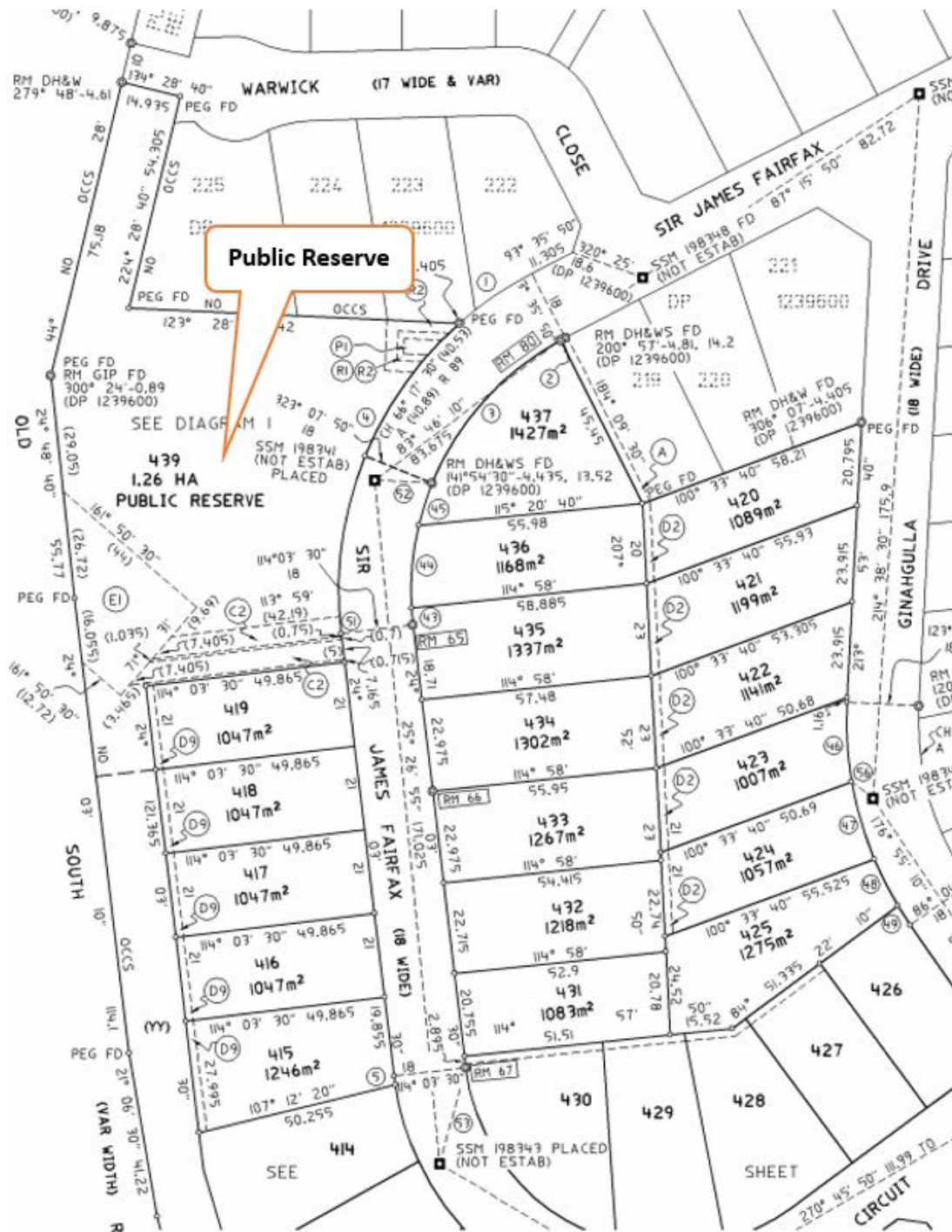


Figure 1 – Location of Public Reserve (northern section) on DP1248107

# AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

## PLANNING PROPOSALS

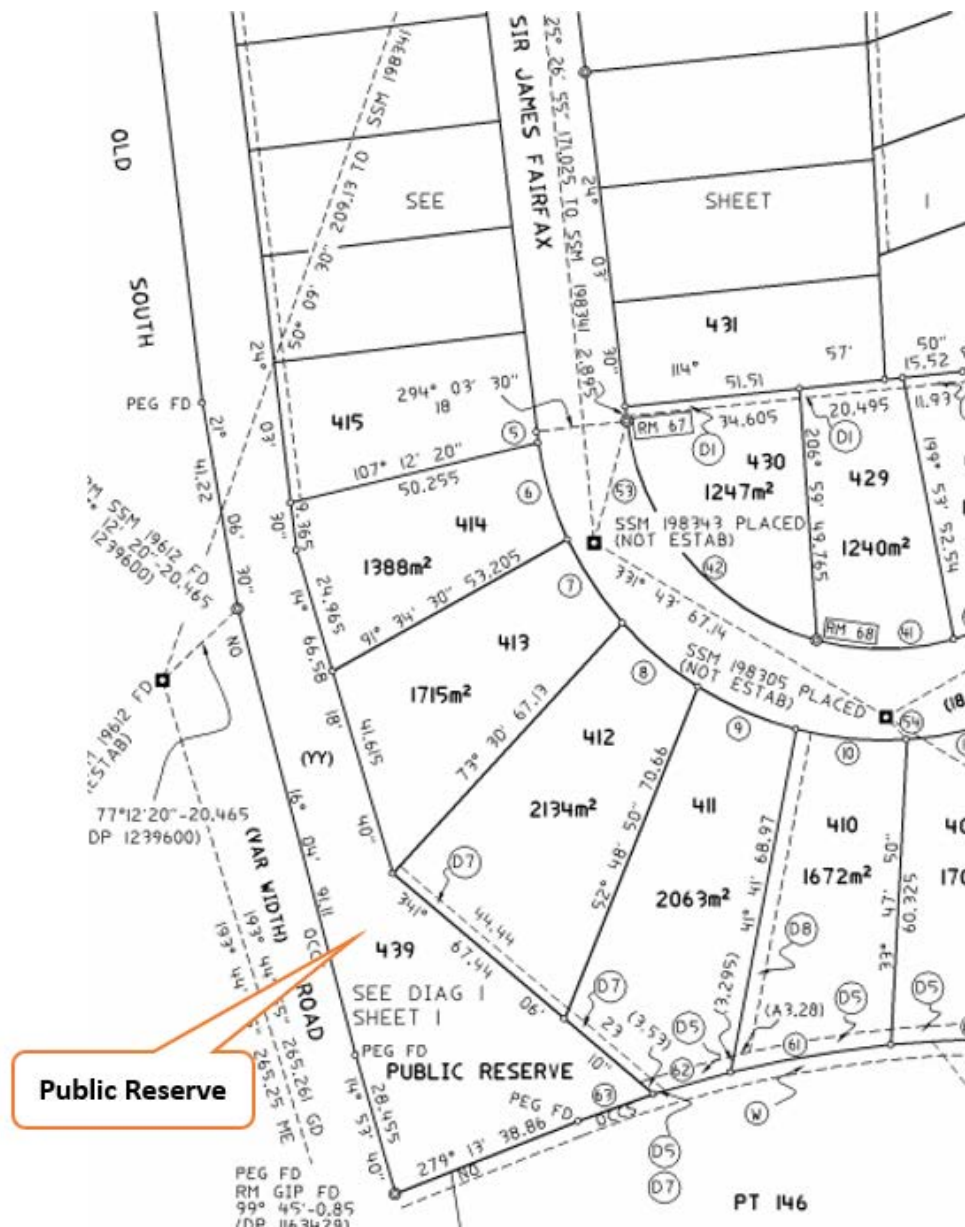


Figure 2 – Location of Public Reserve (southern section) on DP1248107



## AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

### PLANNING PROPOSALS



Figure 3 – Zoning of Public Reserve

#### Anembo Street, Moss Vale (Lot 1266 DP1248764)

At its Ordinary Meeting of 12 October 2011 Council resolved to prepare a Planning Proposal to amend Wingecarribee Local Environmental Plan (WLEP) to rezone a portion of Council owned land, Lot 126 DP 263356, Anembo Street, Moss Vale, from RE1 Public Recreation to R2 Low Density Residential and apply a minimum lot size of 700m<sup>2</sup> consistent with the existing surrounding minimum lot size. The purpose of the draft amendments to WLEP 2010 was to enable subdivision of Lot 126 to achieve five (5) residential lots with a residual lot to be retained as a Public Reserve and subsequently rezoned back to RE1 Public Recreation. The location of the land is indicated in **Figure 4** below.



## AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

### PLANNING PROPOSALS



**Figure 4 – Location and Zoning of Subject Land**

Amendment 36 to Wingecarribee Local Environmental Plan (WLEP) 2010 was made on 22 January 2016, resulting in the proposed map amendments described above and the inclusion of Lot 126 DP 263356 in Schedule 4 Part 2 (Land classified, or reclassified, as Operational land—interests changed) of the WLEP 2010 instrument.

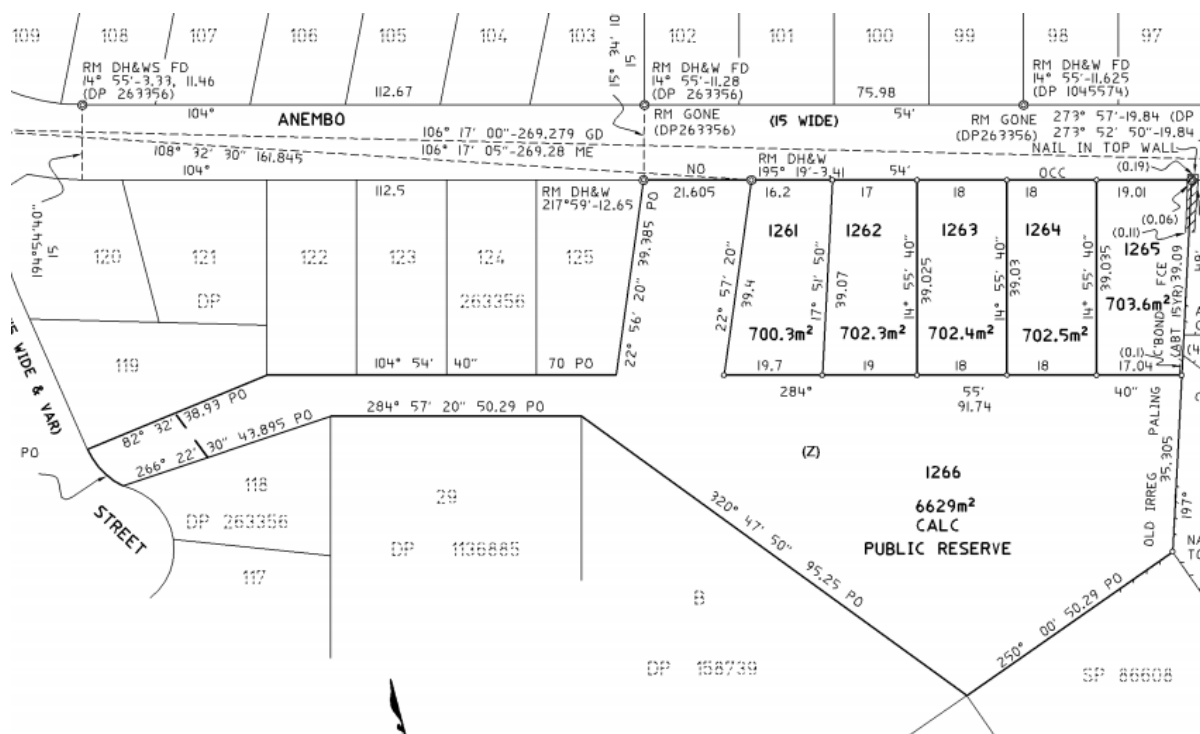
DA16/1290 was subsequently approved by Council staff and a six (6) lot subdivision was registered on 20 December 2018, comprising five (5) residential lots of approximately 700m<sup>2</sup> each and one (1) residual lot (Lot 1266 DP 1248764) of 6,629m<sup>2</sup> to be dedicated as Public Reserve.

The Registered Plan of Subdivision is contained in **Figure 5** below. The five (5) newly created lots have subsequently been sold and are now in private ownership.

# AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

## PLANNING PROPOSALS



**Figure 5 – Plan of Subdivision indicating newly created lots and residual Public Reserve**

At its Ordinary Meeting of 14 July 2021, Council resolved to prepare a Planning Proposal to rezone both designated Public Reserve lots (Lot 439 DP 1248107 at 33 Sir James Fairfax Circuit Bowral and Lot 1266 DP 1248764, 19 Anembo Street Moss Vale) to RE1 Public Recreation and remove the current minimum lot size applying to each lot.

### REPORT

In accordance with the Resolution of 14 July 2021, a Planning Proposal was submitted to the Department of Planning, Industry and Environment and a Gateway Determination to proceed was issued on 31 August 2021.

In accordance with the Gateway Determination, Council referred the Planning Proposal to WaterNSW and NSW Rural Fire Service:

#### 1. WaterNSW response dated 23 September 2021 in summary:

- has no objection to the Planning Proposal and acknowledges that the proposed RE1 zoning for both parcels of land is consistent with the SDWC SEPP and support greater opportunities for achievement of a neutral or beneficial effect on water quality.
- acknowledges that the Planning Proposal responds to Direction 5.2 noting that the objective of the Direction is to protect water quality in the SDWC.
- Further notes that the rezoning of the land to RE1 will also help secure the land for open space, protecting groundcover and therefore assisting in water quality protection.

## AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

### PLANNING PROPOSALS



2. NSW Rural Fire Service response dated 11 November 2021 references that the Planning Proposal was considered and 'subsequently raised no concerns or issues in relation to bush fire.'

The Gateway Determination required that the Planning Proposal and supporting documentation be placed on public exhibition for a period of at least 28 days. This public exhibition occurred for a period of 30 days from Wednesday 20 October to Friday 19 November 2021 inclusive. The Planning Proposal was notified by letter to all 157 residents in the Retford Park West development and to 75 adjoining and neighbouring residents of the Anembo Street site.

The Planning Proposal and supporting documentation were also included on Council's 'Your Say Wingecarribee' website and notified on Council's Community Update page on its website for each week of the exhibition period. The Community Update is also emailed weekly to over 3,500 recipients. It is noted that all exhibition material is also available to view on the NSW Planning Portal.

Six (6) written submissions were received which have been made available to the Local Planning Panel directly. For the purpose of this report a summary of all submissions lodged during the exhibition period are referenced below:

Submission	Comments and Staff Responses
1	<p><b>Comment</b> – With regard to the Public Reserve land located at 33 James Fairfax, Bowral the comments were supportive of the Planning Proposal, as the submission states that the identified parcel of land “should always remain open public space for the enjoyment of residents and visitors”.</p> <p><b>Response</b> – This comment is noted.</p>
2	<p><b>Comment</b> – This submission solely refers to Retford Park West, Bowral and notes that the Planning Proposal does not reference the intended use of the public reserve land following the reclassification to RE1 zoning and the removal of the minimum lot size. The submission notes that their “understanding is that an area to the south of Retford Park West, bounded by Boardman Rd, was donated by James Fairfax with the intention that it be developed as a major child friendly recreation area.” However, the submission details their objections to this, stating that if Council are intending to rezone the land with this specific use in mind they would not support the reclassification, as “Lot 439 is adjacent to Old South Rd, a busy arterial road which will become even more busy in the future. It is a dangerous location, permanently polluted with vehicle fumes and will afford limited use as only locals will have access. If it were intended as a play area for general community use, then the parking needed by visitors will greatly impact the local residents.”</p> <p>Further, if it is the intention of Council for the land to remain as a public reserve then the submission finds this acceptable, addressing that “The park which is already in Retford Park - Central Park - has been designed for</p>

## AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

### PLANNING PROPOSALS



	<p>passive recreation and is already being used for such. Families gather for picnics, ride bikes and scooters &amp; kick balls around.” The submission further recommends that “the only suitable and appropriate location for a major children’s play facility is Boardman Rd, adjacent to the David Wood playing fields where safe parking will be possible and the greater Bowral community will have ready access to the facilities.”</p> <p><b>Response</b> – Planning Proposal is primarily an administrative one which seeks to remove the minimum lot size provisions and rezone the Public Reserve land from R2 Low Density Residential to RE1 Public Recreation, which is consistent with the intent of the original registered plan of subdivision.</p> <p>Comments/concerns regarding the development of a child friendly recreation area have been passed on to relevant Council staff for their consideration.</p>
3	<p><b>Comment</b> – The submission addresses their concerns regarding the impact of altering the use of the land, stating that “Retford Park does not need another public recreation area. Please leave the reserve as is.” The submission further attests that the conversion of Retford Park into a Public Recreation Area will in turn “destroy the flora and fauna that survives there, change the intent of nesting homes successfully within the environment and leave Retford Park with a second public recreation area which will be underutilised.”</p> <p><b>Response</b> – As stated through the response above, the purpose of the Planning Proposal is to remove the minimum lot size provisions and rezone the Public Reserve land from R2 Low Density Residential to RE1 Public Recreation, which is consistent with the intent of the original registered plan of subdivision.</p>
4	<p><b>Comment</b> – The submission expresses their support for the Planning Proposal to rezone the subject land at Retford Park West, Bowral to RE1 Public Recreation and remove the minimum lot size provisions.</p> <p><b>Response</b> – This comment is noted.</p>
5	<p><b>Comment</b> – The submission addresses concerns regarding the proposed rezoning of the Public Reserve land at Retford Park West, Bowral. The three key concerns of the submission include:</p> <ul style="list-style-type: none"><li>• ‘A new zone should be implemented limiting the various usages to zone RE1. Public reserve - usages limited to Environmental facilities, Recreation facilities (minor), Water storage facilities.’</li><li>• ‘This proposed zoning and limited usages would be suitable for the other Lots in the Estate described as Public Reserve and also</li></ul>

# AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

## PLANNING PROPOSALS



	<p>suitable for other open space areas in the Shire.'</p> <ul style="list-style-type: none"> <li>'This would overcome the perceived piecemeal manner of correctly identifying Zoned open space areas throughout the Estate and generally the Shire rather than an individual approach to each open space which appears to be the case in our Estate.'</li> </ul> <p><b>Response</b> – Council are acting on an internal request to specifically address the subject lands. A full review of the zoning of all Council owned Public Reserve land across the Shire is planned and any additional sites identified as requiring rezoning to RE1 will be subsequently attended to in a single comprehensive Planning Proposal.</p> <p>Zoning comments are noted, however Council's ability to revise zones and land use permissibilities is limited. However, Council staff will give consideration to these comments in a future comprehensive review of WLEP 2010 zonings.</p>
6	<p><b>Comment</b> – While the submission is supportive of the public reserve land being rezoned to RE1 at Anembo Street, Moss Vale, the submission further expresses that "the only reason that this space still exists is that a number of local residents (Housing Department / Argyle Housing tenants) signed a letter asking that some access remain, and engaged with Council over this". The submission further notes that during previous consultation with Council the residents "were promised some proper pathing up and around the Reserve for walking and cycling. So far, the only improvements seen are some steps down to Stanley Terrace."</p> <p>The submission additionally makes note of the environmental significance of the Public Reserve, as there are a number of native trees on the land that are in good health (i.e. Eucalyptus cinerea - Argyle Apple). Further, the submission requests that a name be proposed for the Public Reserve land at Anembo Street and offers some recommendations in regards to potential options – "I believe an appropriate name would be Quarry Hill Park/Reserve, as there was a major basalt quarry on the top of the hill, where Council is currently placing clean fill."</p> <p>The comments conclude by further expressing their support and reiterating that "When that process is completed, the reserve will have a spectacular view to the west and could become a very pleasant picnic area if Council has the vision to develop it."</p> <p><b>Response</b> – Comments regarding the provision of infrastructure and the naming of the Public Reserve have been passed onto relevant Council staff for their consideration.</p>

In addition to the six (6) formal submissions that are addressed in the table above, general enquiries regarding the Planning Proposal were also received and were responded to accordingly.





Both sites located at Retford Park West, Bowral and Anembo Street, Moss Vale were formally identified as Public Reserve land and later rezoned to R2 Low Density Residential for the purpose of subdivision. The subject land (Lot 439 DP1248107 & Lot 1266 DP1248764) was later identified as a Public Reserve through the registered plan of subdivision, therefore, it is the intention of the Planning Proposal to rezone the land to RE1 Public Recreation and amend the relevant lot size map in order to remove current provisions.

The Planning Proposal recognises that these intentions are consistent with the objectives and actions of the existing strategic framework that is applicable to the subject land. It is therefore the recommendation of this report that the Planning Proposal as exhibited be finalised. A copy of the exhibited Planning Proposal forms **Attachment 1** to this report.

---

## **COMMUNICATION AND CONSULTATION**

### **Community Engagement**

Community Engagement was undertaken in accordance with the Gateway Determination as described in this report.

### **Internal Communication and Consultation**

Internal consultation was undertaken with Town Planning and Council's Property and Assets Branches.

### **External Communication and Consultation**

---

External consultation was undertaken in accordance with the Gateway Determination as described in this report.

## **SUSTAINABILITY ASSESSMENT**

- **Environment**

As indicated in each Plan of Subdivision, it is the intent that the subject land be dedicated to Council as Public Reserve. The Planning Proposal would complete this process.

- **Social**

The completion of the process of creating these Public Reserves would provide additional open space to the community, connecting with existing open space in each locality.

- **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.

## AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

### PLANNING PROPOSALS



---

#### COUNCIL BUDGET IMPLICATIONS

There are no Council budget implications arising from this report.

---

#### RELATED COUNCIL POLICY

There is no related Council Policy arising from this report.

---

#### CONCLUSION

The purpose of this report is to finalise the zoning of two public reserves in Council ownership following land subdivision. It is recommended that the Planning Proposal be finalised to ensure that Council's records with regard to public reserves are accurate and correctly maintained.

---

#### ATTACHMENTS

1. Planning Proposal as exhibited to rezone to RE1 Public Reserve land at Anembo Street Moss Vale and Retford Park West - *circulated under separate cover*

## 6.4 Planning Proposal to enable additional permitted uses for land at 233 Railway Parade Balmoral

Reference: PP-2021-5011  
Report Author: Senior Strategic Land Use Planner  
Authoriser: Manager Strategic Land Use Planning

### PURPOSE

To consider a Planning Proposal and supporting documentation submitted to Council seeking to amend Wingecarribee Local Environmental Plan (WLEP) 2010 to amend Schedule 1 (Additional Permitted Uses) to permit a boarding school on the subject land.

Applicant / Proponent	Lee Environmental Planning
Owners	Life Eternal Properties Pty Ltd
Consultants	Lee Environmental Planning
Notification	N/A
Number Advised	N/A
Number of Submissions	N/A
Current Zoning / MLS	E3 Environmental Management / 40 hectares
Draft LEP Amendment/s	Schedule 1 Additional Permitted Uses
Political Donations	Nil

### RECOMMENDATION

#### THAT

- 1. The Planning Proposal and supporting documentation be updated as recommended by the NSW RFS and DPIE-Biodiversity & Conservation in their preliminary responses to Council, and*
- 2. The purpose of the Planning Proposal be revised to include the subject land in Schedule 1 (Additional Permitted Uses) of WLEP 2010 for all purposes currently approved and proposed, and*
- 3. Subject to the satisfactory completion of 1 and 2 above, the revised Planning Proposal and supporting documentation be reported back to Council for a resolution to proceed to a Gateway Determination under s.3.33 of the Environmental Planning & Assessment Act 1979.*

### REPORT

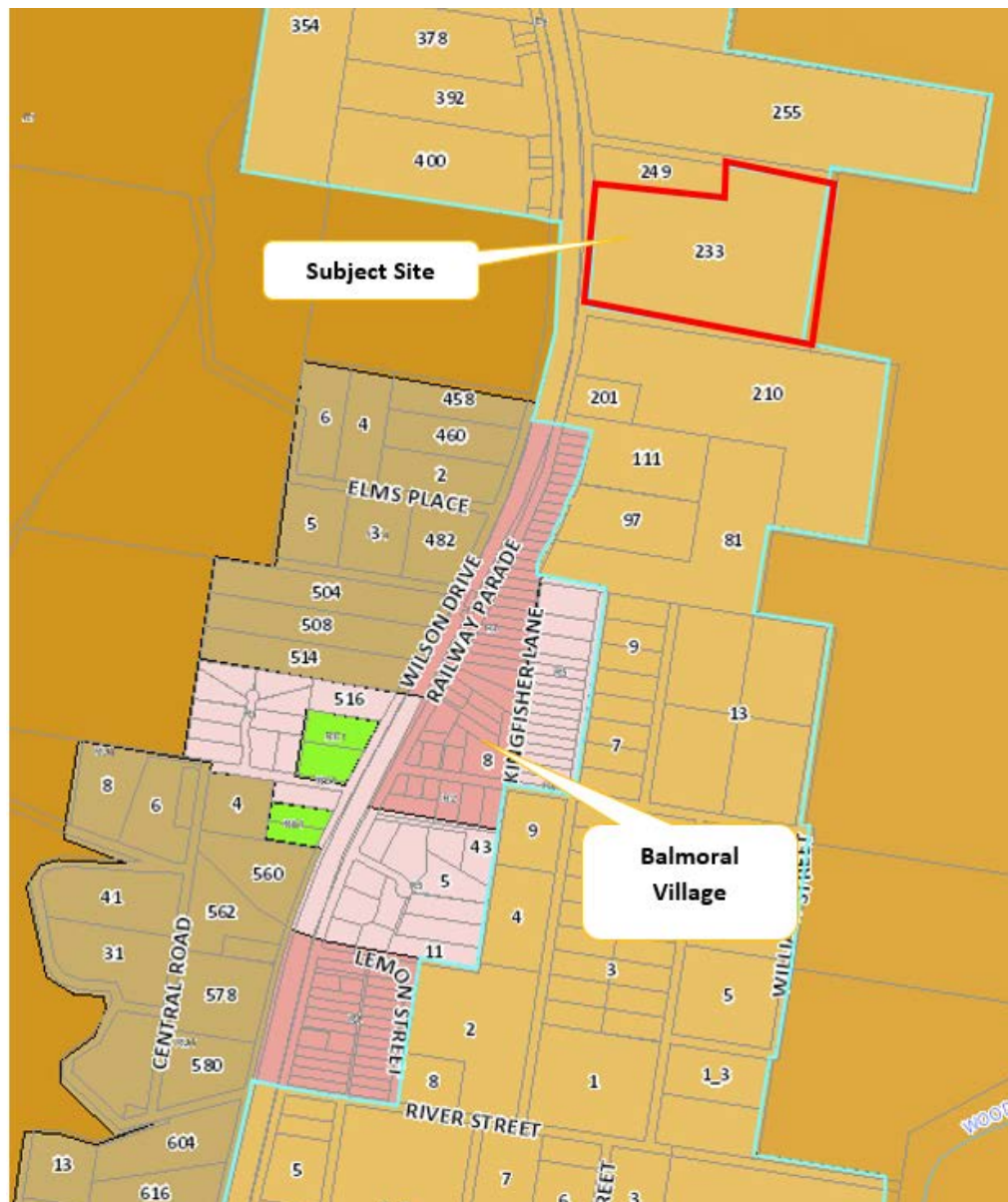
#### BACKGROUND

A Planning Proposal for the subject land was submitted to Council by Lee Environmental Planning in August 2021. The Planning proposal forms **Attachment 1** to this report. The intent of the Planning Proposal is to amend Schedule 1 (Additional Permitted Uses) of Wingecarribee Local Environmental Plan (WLEP) 2021 to enable a boarding school to be located on the subject land. The subject land is identified as Lot 1 DP 808623, located at 233 Railway Parade to the north of Balmoral Village as indicated in **Figure 1** below.

## AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

### PLANNING PROPOSALS



**Figure 1 Location of Subject Land**

Balmoral Village is located in the north of the Shire and the subject land covers an area of some 13 hectares. The site is zoned E3 Environmental Management under WLEP 2010 with a minimum lot size of 40 hectares. Surrounding land uses are predominantly rural and rural residential although the land does adjoin extensive Crown Land to the east. This broader locational context is provided in **Figure 2** below.



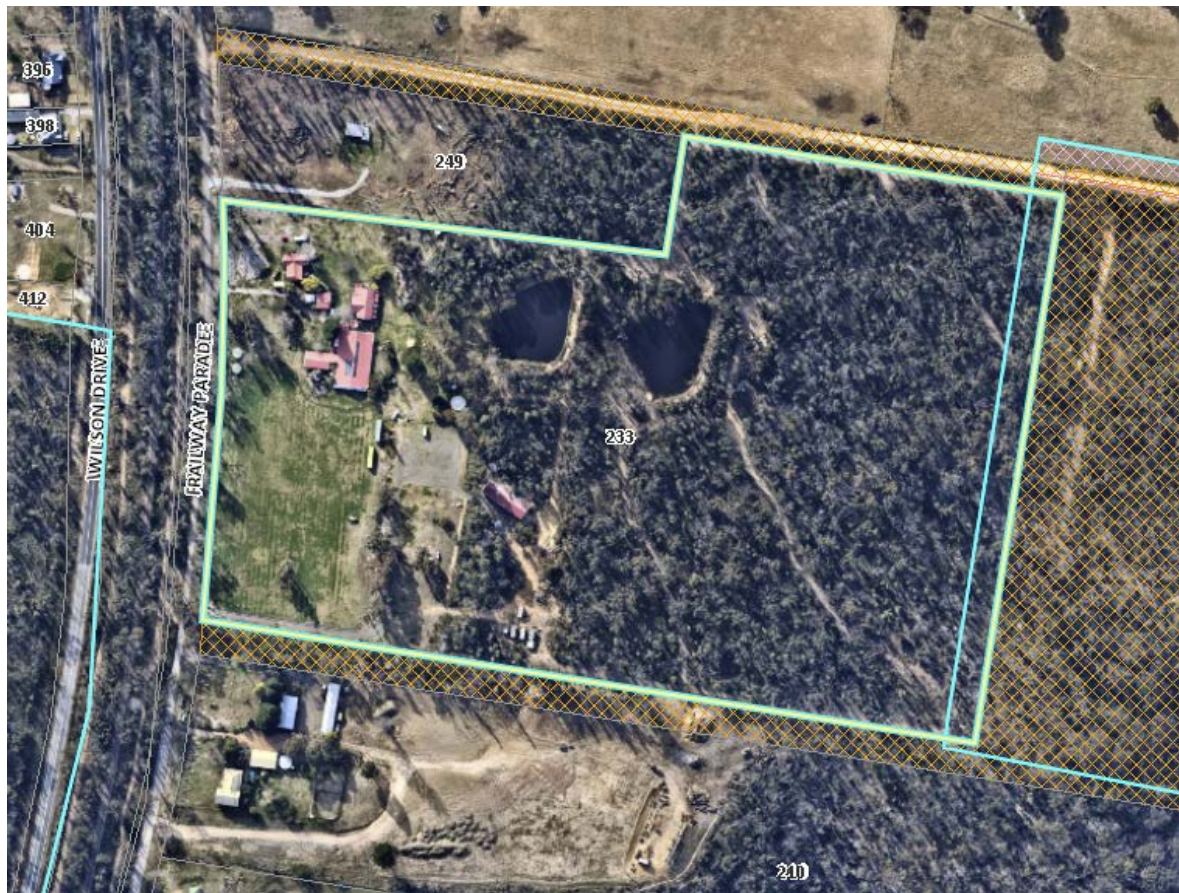




## AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

### PLANNING PROPOSALS



**Figure 3 Current Development Extent**

The Planning Proposal seeks to amend Schedule 1 of WLEP 2010 to include permissibility on the site for a boarding school for approximately 80 students aged between 5 and 11 years as well as some 20 staff. The intent of the school is to follow the 'Sahaja Yoga meditation' curriculum which will essentially integrate the proposed school with the current activities which have been operating on the site for over 20 years.

An extract from the Planning Proposal indicating the proposed location of the new school buildings (in blue) on the site within the context of the existing vegetation areas, is provided at **Figure 4** below.

## AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

### PLANNING PROPOSALS



Figure 4 Location of Proposed New Development (outlined blue)

### REPORT

It is noted that there are certain constraints over the site, principally potential bushfire threat and vegetation. To obtain preliminary feedback as to the significance of these constraints to a future assessment of a development application for the purposes of a boarding school, the Planning Proposal and supporting documents were provided to WaterNSW, Department of Planning, Industry and Environment – Biodiversity & Conservation Division and NSW Rural Fire Service. The response from each is summarised below.

#### WaterNSW

WaterNSW raised no objection to the Planning Proposal, noting that their main concern was with sewerage management. The Wastewater Management report which accompanied the Planning Proposal was reviewed to the satisfaction of WaterNSW and the organisation believes that sewerage can be effectively managed on site and that further consideration of effluent management could occur at the DA stage.

#### Department of Planning, Industry and Environment – Biodiversity & Conservation Division

In general, DPIE-Biodiversity & Conservation raised no objection to the Planning Proposal, noting that further biodiversity assessment, including a BDAR report would be required at the DA stage.

DPIE(B&C) supports the Planning Proposal suggestion to identify a student limit within the provisions of Schedule 1.



## AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

### PLANNING PROPOSALS

---



However, DPIE(B&C) also notes that the Planning Proposal addresses only goals and directives within the South East and Tablelands Regional Plan which support its intent. DPIE(B&C) suggests that priorities relevant to the protection of the environment and biodiversity within the Regional Plan, as well as Council's Local Strategic Planning Statement should receive the same level of assessment.

DPIE(B&C) also considers that the Planning Proposal should also be updated to demonstrate avoidance or minimisation of biodiversity impacts, including direct impacts from the operation of the proposed development, for example, students accessing the remaining vegetation onsite, given the proximity of the proposed school to intact vegetation which comprises known threatened plant species habitat. A Biodiversity Stewardship Agreement, Conservation Agreement or Vegetation Management Plan could be considered for protection of this retained vegetation.

DPIE(B&C) notes that according to the Ecological Assessment report, there are 23 recordings of koalas within "the locality" and that the Planning Proposal should specifically address if the site contains habitat for koalas and if so, what measures would be put in place to avoid and protect koala habitat. The EA should also address the State Environmental Planning Policy (Koala Habitat Protection) 2021 (Koala SEPP) and demonstrate that the proposal is consistent with requirements of this SEPP.

### **NSW Rural Fire Service**

The NSW RFS has advised Council that it has a number of concerns with the Proposal. In particular, it is critical of the inadequate addressing of Chapter 4 of *Planning for Bushfire Protection – A guide for councils, planners, fire authorities and developers*, published by the NSW RFS in November 2019 which addresses Strategic Planning matters. Of particular concern to the RFS is the potential location of the main school building against the western boundary and the ability to maintain adequate clearance on adjoining land on the northern boundary of the subject site.

The Planning Proposal was accompanied by a Bushfire Assessment report which does note that "*most of the surrounding forest vegetation burnt in the 2019/2020 bushfire season*", but RFS notes that the report does not clearly address the requirements of Chapter 4 with regard to the Table 4.2.1 – Bushfire Strategic Study.

Given the previous fire history of the site, access in and out of the site and the introduction of a vulnerable use into a high risk location, RFS recommends that the document be amended to address these shortfalls, in particular providing a clear justification for the proposed use of the site against the risk.

If such a justification can be provided, the following site specific bushfire measures would also need to be addressed:

- Creation of an easement on the adjacent lot to the north to ensure provision and maintenance of adequate vegetation clearing.
- Vegetation to the west would also require hazard assessment. The consultant's report shows high intensity burning within that vegetation.
- Traffic assessment would be required to demonstrate that Railway Parade is adequate to meet access needs during any bushfire emergency.



---

## **COMMUNICATION AND CONSULTATION**

### **Community Engagement**

Should the Planning Proposal be supported, community engagement would occur as required under the Gateway Determination.

### **Internal Communication and Consultation**

Should the Planning Proposal be supported, internal consultation would occur as identified through agency responses.

### **External Communication and Consultation**

Preliminary referral to key agencies has already been undertaken to determine whether there is merit in enabling the Planning Proposal to proceed. Responses are discussed in the body of the report. Further consultation would occur with an updated Planning Proposal and supporting reports, should the Planning Proposal be supported for progression to a Gateway Determination.

---

## **SUSTAINABILITY ASSESSMENT**

- **Environment**

Potential environmental issues have been identified and will require further consideration prior to any progression of the Planning Proposal.

- **Social**

There are no social issues in relation to this report.

- **Broader Economic Implications**

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

- **Culture**

There are no cultural issues in relation to this report.

- **Governance**

There are no governance issues in relation to this report.

---

## **COUNCIL BUDGET IMPLICATIONS**

There are no budget implications in relation to this report.

---

## **RELATED COUNCIL POLICY**

There are no Council Policies in relation to this report.

---

## **CONCLUSION**

The Planning Proposal and supporting documentation were accepted and reviewed by Council. The sensitivity and constraints of the land and the nature of the proposed

## AGENDA FOR THE WINGECARRIBEE LOCAL PLANNING PANEL MEETING

Wednesday 01 December 2021

### PLANNING PROPOSALS

---



development are acknowledged and it was therefore considered prudent to seek preliminary comments from key agencies, namely WaterNSW, NSW RFS and DPIE-Biodiversity & Conservation.

It is noted that WaterNSW expressed no significant concerns with the Planning Proposal. It is further noted that although DPIE-Biodiversity & Conservation did not object to the Planning Proposal, some helpful feedback with regard to improving the associated reports was provided and has been passed on to the proponent.

Of particular relevance are the expressed concerns of NSW RFS which identify significant short coming with the proponent's bushfire risk report. These comments have also been passed on to the proponent. NSW RFS observes that, even with full acknowledgment of the bushfire risk, it may not be possible to locate the proposed buildings to adequately address this risk.

On the basis of this feedback, it was concluded to report the Planning Proposal to Council, recommending that the proponents be given the opportunity to amend the Proposal and supporting documentation to address the concerns expressed by DPIE-Biodiversity & Conservation and particularly by NSW RFS, noting that any Gateway Determination would require further referral to these agencies before community consultation can proceed.

It was concluded that this approach offered the proponent the best and most timely opportunity to demonstrate that the proposed development could adequately address agency concerns.

It is further recommended that the purpose of the Planning Proposal be amended to incorporate all existing approvals issued under WLEP 1989 as well the proposed new development to consolidate existing and proposed land uses.

---

### ATTACHMENTS

1. Planning Proposal v1 for Council Assessment - Balmoral School - *circulated under separate cover*

---

Geoff King  
**Director, Communities and Place**

Thursday 25 November 2021