

Planning Proposal

In accordance with "Gateway" provisions of the Environmental Planning and Assessment Act, 1979.

May 2012



Local Government Area

Wingecarribee Shire Council

The Property

Eridge Park, Moss Vale Road, Burradoo

The Proposal

Zoning amendment to new zone to permit aged care facility (rezoning)

The applicant

Wongabri Burradoo Pty Ltd

The Owner

Wongabri Burradoo Pty Ltd

Document preparation

Bureaucracy Busters Town Planning Consultants



Annexure 1 – Sparke Helmore Lawyers

Annexure 2 – ARUP (ESD Principles)

Annexure 3 – Hayes Environmental Ecological Consultant



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EXECUTIVE SUMMARY

It is proposed to undertake a "land swap" between Bridge Park (approximately 30 acres) and Lot 3 DP 609703 & Lot 2 DP 258454 (70 acres). It is proposed to establish the sporting facilities that currently exist on Bridge Park to the Wongabri site, with additional facilities, including an amphitheatre, bike tracks, etc. The Wongabri site is zoned E3 under the provisions of WLEP 2010, where such uses are permissible with consent.

It is also proposed to construct a state of the art wet and dry leisure facility at the existing Mittagong Pool Facility. It is proposed that this facility would be constructed and operated by the applicant for a set period of time, before the facility is handed to the Council and community at no cost. The construction of this facility is permissible pursuant to the WLEP 2010 with Council consent.

It is further proposed that an ageing in place aged care facility be constructed on Bridge Park. The Village would offer a transition of Independent Living Villas, Low Care accommodation, Assisted Care accommodation, High Care accommodation and Special needs Dementia accommodation. This land is classified as Community Land and not zoned for such purpose; therefore a formal Planning Proposal is required to be undertaken. It is therefore formally requested that Council resolve to follow the due process of the "Gateway Determination" and refer the proposal to the NSW Department of Planning and Minister pursuant to section 56 of the EP&A Act, 1979.

Community consultation is expressly required pursuant to section 57 - and that consultation is required after the planning proposal has observed the procedural requirements of the Act and is in a form that can be considered by the public (for example it has been amended in accordance with any requirements imposed by the Minister pursuant to section 56).

The intent of the legislation is clear: the community consultation should only occur after the developer, Council and Department are all satisfied that the proposal should proceed and is a proposal that warrants consideration by the community.

BACKGROUND

As you are aware, the original proposal included all of the proposed uses within the Wongabri site. The site consists of 70 acres of privately owned land with a frontage to Moss Vale Road running down to the foreshore of the Wingecarribee River. The current land controls provide for subdivision into 4 hectare lots subject to Council approval.

An original proposal included an Aged Care Village, Leisure Centre and substantial open space on the Wongabri site. A web site was established to obtain feedback as to whether such a proposal would be embraced by the community and whether such a proposal would be financially viable. There had been significant feedback and community consultation conducted by the applicant with over 22,000 visits to the proposals web site including 11,900 comments made by the public of which 93% were positive.

However, there have been concerns raised by council with regard to the proposal, those being primarily related to flooding and the Green Belt, maintaining good spatial separation between the towns. It was primarily this issue that brought the applicant to offer the land swap proposal in endeavouring to retain this greenbelt.

THE PROCESS

The gateway process has specific steps that must be followed as outlined within the Environmental Planning and Assessment Act, 1979:

Planning proposal — upon review of the planning report and scheme lodged with Council, the local planning authority will prepare a formal planning proposal, which explains the effect of and justification for the plan pursuant to clause 55 of the EP&A Act 1979.

Gateway — The Minister (or delegate) determines whether the planning proposal is to proceed pursuant to clause 56 of the EP&A Act 1979. This gateway acts as a checkpoint to ensure that the proposal is justified before further studies are done and resources are allocated to the preparation of a plan. A community consultation process is also determined at this time. Consultations occur with relevant public authorities and, if necessary, the proposal is varied.

Community consultation — Pursuant to clause 57 of the EP&A Act 1979, the proposal is publicly exhibited (generally low impact proposals for 14 days, others for 28 days). A person making a submission may also request a public hearing be held.

Assessment — Pursuant to clause 58 of the EP&A Act 1979, the relevant planning authority considers public submissions and the proposal is varied as necessary. Parliamentary Counsel then prepares a draft local environmental plan — the legal instrument.

Decision — With the Minister's (or delegate's) approval the plan becomes law and is published on the NSW legislation website pursuant to clause 59 of the EP&A Act 1979.

THE PROPOSAL

Having heard the matters that council in particular have raised, we have reviewed the proposal and would look to put the following revised proposal to Council.

We propose (in summary) a "Land Swap" between Wongabri and Bridge Park. That swap would provide certainty to council with regard to the green belt ensuring no development is to take place on the site in the future along with opening the site to the public. Furthermore, we would seek as part of the arrangement, to relocate and upgrade the current facilities at Bridge Park across to Wongabri with the inclusion of new facilities for both the Rugby Club and netball courts. We would further look to provide an amphitheatre for the benefit of any outdoor theatre, concerts or public events as well as children's playground, bbq facilities and a bicycle/running track.

The land at Bridge Park would become the subject of an Aged Care Village application that would include the highest standard of facilities. The Village would offer a transition of Independent Living Villas, Low Care accommodation, Assisted Care accommodation, High Care accommodation and Special needs Dementia accommodation. The proposal would further include uses such as cinema, swimming pools, hairdressing salons, medical needs uses, recreational areas and facilities, large open space gardens and much more for its occupants.

The standard of accommodation would be of a level unequalled in the region. It is proposed that the Village would be delivered in stages over a 10 year period. Furthermore, we would maintain through the staging period significant areas of open space that could continue to be accessed and utilised by the community.

The proposal would also provide a new wet and dry leisure facility to be located at Mittagong on the current site of Mittagong Pool and The basketball/Gymnastics site. The LC would include a state of the art swimming facility designed to accommodate a variety of uses including, but not limited to deep diving events, along with children's leisure pool and programme pool as separate elements. The design would further incorporate a gymnasium and aerobics room along with first class change room facilities.

The dry component of the facility will include 2 indoor multi use courts, indoor cricket facilities, cafe and change room along with accommodating an upgrade area for the current gymnastic use.

WONGABRI RECREATIONAL PARK

WONGABRI RECREATIONAL PARK will become a diverse natural asset combining the Wingecarribee River with 70 acres of beautiful parklands featuring gentle hills, riverside meadows and soothing green vistas. The park will feature playgrounds, picnic shelters, BBQ, toilets and several car parks. It will be open every day of the year, sunrise to sunset.

- **WONGABRI RECREATIONAL PARK** has a spectacular waterside location alongside the Wingecarribee River and features gentle grassy slopes, playgrounds, picnic areas, and a contemporary café.
- **WONGABRI RECREATIONAL PARK** will offer a diverse range of sports fields in a beautiful setting, on the edge of the Wingecarribee River. The facilities will include a velodrome, two football fields, five netball courts and a multi use oval that can cater for diverse activities such as cricket, softball and outdoor theatre. There's the Potential for this large multi use oval to be utilised for occasional ceremonial/community/theatre group activities, functions etc

An amphitheatre utilising natural contours will be formed around the edge of the sports fields

Key features of the Park

- **Bike Paths**
- There will be over 3 kilometres of bike trails, walking paths and scenic boardwalks within the Park that can take you to beautiful parklands and wetland forest.
- The bike path weaves through the park connecting all the main activities through the park. A future bike path is proposed to link the park to the Bong Bong common
- **Picnic Area children's Play area/parkland**
- The playground is located conveniently near the café and river pontoon along the River's edge. The playground will provide an engaging and experiential experience for children; in imaginative play equipment will provide a safe and dynamic environment for a range of ages and abilities.
- This playground features an adjacent barbecue area, toilets and large shade trees around its boundary. It also has a cycleway ideal for young children learning to ride
- The playground will feature an adjacent barbecue area, toilets and large shade trees around its boundary. It also has a cycleway ideal for young children learning to ride
- On the northern edge of the park, a grove of trees will be planted to define the border of the park.
- **The river pontoon provides** an important link to the Wingecarribee River. Providing public access to the river for passive water recreation such as fishing and canoeing.

Environmentally Sustainable Design will also be used, including; solar panels, stormwater collection, bio-filtration basins and native plantings, all forming an important part of the sustainable design features of the park.

The Aged Care Village is a unique aging in place village offering retirement through to special needs dementia facilities. It is anticipated that the aged care village will be unrolled over a forecast 10 year period. The Village would offer a transition of Independent Living Villas, Low Care accommodation, Assisted Care accommodation, High Care accommodation and Special needs Dementia accommodation.

The Bridge Park site is designed very much with this history as its inspiration.

From the first Oxley subdivision in the 1860's Bowral has grown as new subdivisions were released through the 1880's and beyond. The 'big town' of the Southern Highlands has well paved well proportioned streets. There are neat well mannered residences and proud public buildings, as well as grand houses with dramatically beautiful grounds like Retford Park, Bridge Park and Milton Park. 100 years of plantings of exotic deciduous trees gives these areas a unique English country feel.

The strong 200 m x 100 m Oxley subdivision pattern with lush planting of the streets is our inspiration. We envisage addresses in beautifully designed streets. We began with the design of memorable, well planted streets and only then the house frontages and the houses. None of the wigly worm streets we associate with new seniors living developments will be allowed here.

The proud houses, each as Retford Park, Bridge Park, Milton Park, and Kerover Park suggested, a powerful front door to this very Bowral feeling place.

We looked at Regent's Park in London, the Grand Terrace and Circus in Bath, and the Place Vendome in Paris as inspiration for the grand courtyard which forms the heart of the development. Why can't the arrival in the place be equal to the best, most beautifully designed places in the world? Why not be very, very proud of where you live?

This heart will have all the facilities you can imagine: cafe, retail, community, swimming and spas, gymnasium, croquet, and wonderfully 'English' gardens.

The new development is immersed in the historical development of this famous region and has been generated by it. It will be a powerful addition to the area.

MITTAGONG LEISURE CENTRE

The proposed leisure centre in Mittagong will be a state of the art indoor leisure facility for all residents within the Wingecarribee area.

Located at the base of Mount Alexandra the architectural treatment of this facility will be sympathetic to its bushland surrounds. Internally the architecture will be modern yet utilising natural products and finishes. Large windows will be incorporated into the hall enjoying views into the surrounding bushland reserve and beyond.

The building will employ the latest Environmentally Sustainable Development (ESD) principals. The building will be efficient in its usage of energy and resources which in turn will reduce running costs. It will use best practice principals in terms of the indoor air quality and usage of natural light, which in turn create a much better indoor environment for patrons.

It's proximity to the Mittagong Sports Field and the Highlands Golf Course will reinforce this precinct as a primary sporting hub for the district.

This facility will provide greatly needed indoor sports facilities for this district, replacing the tired and ageing facilities which currently exist on the site. It will include indoor:

- gyms
- fitness program rooms
- fully equipped Fitness Studio
- competitive sports hall
- rehabilitation and personal training
- water sports and competitive swimming
- swimming leisure pool and activities
- medical sports practitioner consulting rooms
- including spa, sauna and steam room
- crèche

The hall could be available for hire and would seat approximately 300 people. It would have the ability to facilitate various programs and competitions held throughout the year,

The hall is also suitable for corporate event hire. The space is large enough to accommodate a trade show or exhibition.

CONCLUSION

The proposal has many significant benefits in the provision of infrastructure for the Shire. The proposal is relatively straight forward from a procedural and process perspective, and fits well within the NSW Environmental, Planning and assessment Act. The process is clearly outlined within the attached correspondence from Sparke Helmore Lawyers.

The EP&A Act 1979 specifically details the relevant steps to be taken for the Planning Proposal process. **It is therefore requested that Council resolve to forward the Planning Proposal to the Minister as per clause 56 of the Act for consideration before going to any public consultation as per clause 57 of the Act.**

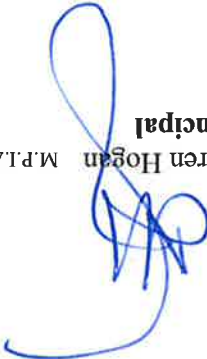
Support for the proposal will result in the following:

- To provide an increase in available Council owned land for the benefit of open space, leisure and recreation.
- To ensure the "Green" separation between the towns.
- To relocate the uses and infrastructure from Bridge Park to Wongabri
- To provide new amenities and facilities and infrastructure for the Bridge Park uses as relocated to Wongabri
- To further enhance the open space with the inclusion of bike tracks and children's play areas.
- To allow for the potential integration between the Bong Bong common and Wongabri
- To develop in stages a "legitimate" Aged Care Village
- To include along with independent Living lots, Low care, High care and Dementia facilities
- To create another Sothern Highlands attraction and destination within the boulevard style Central Square within the village.
- To deliver a New wet and dry Sporting facility at the gateway to the southern Highlands
- To hand the facility back to Council at no cost after an agreed period.
- To Create approximately 500 local jobs
- To generate between \$3,000,000.00 to \$5,000,000.00 of revenue into the local economy.

RECOMMENDATIONS

That:

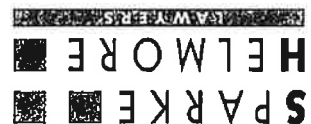
1. Council assess the proposal for the all three sites;
2. Support the conclusion that Eridge Park is suitable for aged care residential development on planning and development grounds;
3. Resolve to support the planning proposal and refer the matter to the next stage of the "gateway" process and forward the Planning Proposal to the Minister as per clause 56 of the Act for consideration before going to any public consultation as per clause 57 of the Act.


Darren Hogan M.P.L.A.
Principal

Annexure I

Sparke Helmore Lawyers

Land Swap Process



Our ref: LGS:WON004/2

23 April 2012

The Directors
Wongabri Burradoo Pty Ltd

Dear Sirs

**Wongabri Burradoo Pty Ltd (Wongabri Burradoo)
Wongabri Burradoo Site**

I refer to previous discussions and understand that there have been discussions with Council as to the possibility of a land swap of the Wongabri Burradoo site (the 70 acres of vacant land) for another site owned by Council known as Bridge Park which comprises an open space area of 30 acres. I further understand that this Council owned site is currently Community Land (Bridge Park).

I set out below a brief outline as to the process that will need to be undertaken in order for a land swap to be effected:

- As Bridge Park is community Land it will need to be converted to operational land (in accordance with the provisions of the *Local Government Act 1993*)(LG Act) in order to convert it, the process will require the preparation of a planning proposal which will lead to the making of an LEP. As a guide this process usually takes around 6 months.

- The preparation of a planning proposal, leading towards the making of an LEP, is a legal process provided pursuant to the *Environmental Planning and Assessment Act 1979* (Division 4 of Part 3) (EP&A Act). In this way the LG Act and EP&A Act work together to deliver a particular outcome.

- This process is also necessary because it is almost certain that the land at Bridge Park is *not* zoned to permit development for the purposes of a "retirement village" or similar purpose. That is, the Bridge Park land will need to be rezoned - and that rezoning will be undertaken through the making of an LEP.

- There appears to be no reason why the change in the classification, and the rezoning, of the Bridge Park land cannot be achieved through the same LEP.
- The process whereby the LEP is made will require community publication and consultation.

- A Land Swap Deed will need to be entered into between Wongabri Burradoo Pty Ltd (as owner of the Wongabri Burradoo site) and Council that will, subject to

Bridge Park being converted to operational land, be essentially swapped with the Wongabri Burradoo site.

- The relevant provisions of the LG Act that relates to "tendering" do not apply to a contract for the purchase or sale by Council of land (s.55 (3)(d) LG Act).

- The provisions of the LG Act that relates to "public private partnerships" may apply. A "public-private partnership" is defined in s.400B of the LG Act:

(1) For the purposes of this Act, a *public-private partnership* means an arrangement:

- (a) between a council and a private person to provide public infrastructure or facilities (being infrastructure or facilities in respect of which the council has an interest, liability or responsibility under the arrangement), and
- (b) in which the public infrastructure or facilities are provided in part or in whole through private sector financing, ownership or control,

but does not include any such arrangement if it is of a class that has been excluded from the operation of this Part by the regulations.

This aspect of the proposal may require further consideration and liaison with the Department of Local Government (even if only for the purpose of confirming that the proposal is *not* a public-private partnership).

It was formerly the case that:

- o the sale by Council to a private person of any property – including operational land; and
- o any lease or licence over any community land granted by Council to a private person;

were arrangements that could not be the subject of a public-private partnership. The Regulations were amended in 2007 to remove these restrictions on public-private partnerships (cls 408 LG (General) Regulations 2005).

- The public and ministerial scrutiny that arises under the making of an LBP may also apply with respect to the overall intention of the land swap (and development) having regard to the private and public purposes that are to be achieved through these arrangements.

- There will be conditions precedent that will need to be satisfied prior to the transfers being effected which will include obtaining any required rezoning / approvals and relocation of facilities. There will be further conditions precedent depending upon the specifics of the transaction.

- Once the conditions precedent are satisfied, the respective transfers will be entered into simultaneously; the consideration for each will be the swap of the respective sites.

The Land Swap Deed will include provisions to the effect that Wongabri Burradoo must promptly arrange for preparation of any incidental documents.

Council must allow access to Bridge Park for the purpose of Wongabri Burradoo undertaking any investigations.

The forms of transfer will be attached to the Land Swap Deed and will provide that Wongabri Burradoo must transfer the Wongabri Burradoo site to Council for \$1 and Council must transfer the Erridge Park site to Wongabri Burradoo for \$1. Wongabri Burradoo will be responsible for payment of stamp duty in respect of the transfer of the Erridge Park site. In our view, Council should be exempt under s 277 of the Duties Act to payment of stamp duty in respect of its acquisition of the Wongabri Burradoo site. The transfers must be registered at the Land Titles Office once the relevant conditions precedent, which are to be determined, are satisfied.

Wongabri Burradoo will also arrange for works at the Wongabri Burradoo site to be undertaken. The Wongabri Burradoo works will determined by reference to a scope of works.

Wongabri Burradoo must also enter into an agreement with Council to grant Wongabri Burradoo a lease for a term to be agreed of the Mittagong facility and Wongabri Burradoo will undertake the Mittagong facility works.

If the Mittagong facility is community land, a lease can be granted in accordance with the relevant plan of management (s. 46 LG Act).

On the assumption that the Mittagong facility is community land, a lease of that facility for a period in excess of five years must be granted in accordance with section 47 of the LG Act. There is a particular process that must be observed with respect to such a lease, which includes public notification of the proposed lease. If an objection to the proposed lease is received during the course of public notification, the Minister's consent is required to the lease. There is a process that the Council and Minister must follow in those circumstances.

Please contact me if you wish to discuss or require elaboration on any point.

Yours faithfully

Leon Sakaris
Partner

Environmentally Sustainable Development Principles

ARUP

Annexure 2

Wingecarribee Sport, Leisure and Living

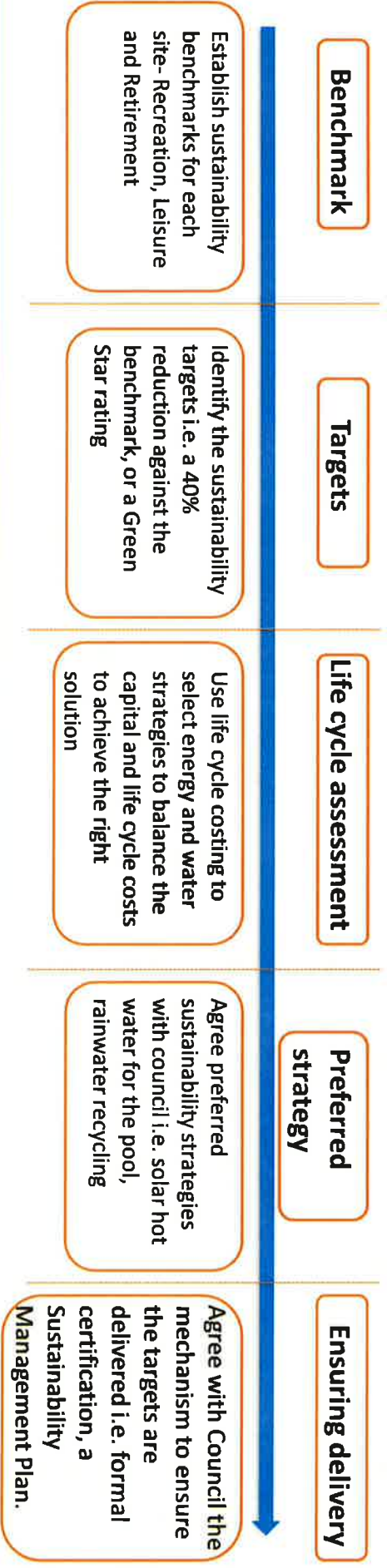
Key sustainability considerations for the development and Council-

- a smart development that balances capital costs with life cycle costs

Key long term considerations for Council

1. **Energy costs** of the Aquatic centre.
2. **Durability** of plant and ongoing operating, replacement and maintenance costs.
3. **Simple controls**- ease of operating plant.
4. **Resilience** to rising energy and water costs in the future.
5. **Public perception** and robustness of the sustainability. targets. Are the targets too high or too low and what is the benchmark?
6. **Confidence in the delivery** of the sustainability targets.
7. **Ease that the Council can condition the sustainability targets** during planning

Delivery framework →



Australian Best practice

- ✓ Rainwater tanks
- ✓ Efficient external lighting
- ✓ Plenty of waste separation/ recycling



Wongabri Recreational Park

Australian Leader

- ✓ Carbon neutral, ✓ water positive, ✓ waste zero
- ✓ LED lighting powered by solar electric
- ✓ Waste to energy recycling offsite
- ✓ Recycled water and integrated #WSUD into car parks



Mittagong Sports and Leisure

- ✓ High efficiency facade
- ✓ Efficient gas fired plant
- ✓ Pool covers
- ✓ Low level perimeter air supply

- ✓ Gas fired co generation for hot water and low carbon electrical supply
- ✓ Recycled rain water tops up pool water
- ✓ LED lighting
- ✓ Solar electric panels



Eridge Park Retirement Village

- ✓ BASIX compliance for energy and water for ILU's
- ✓ Solar hot water
- ✓ Good access to cross ventilation and winter sun
- ✓ Efficient AC
- ✓ rainwater recycling

- ✓ Centralised energy plant and district heating and cooling
- ✓ Solar electric throughout public domain
- ✓ Grey water recycling
- ✓ Food waste to energy generation

#WSUD- water sensitive urban design- integrated with the landscape

ARUP

Three sites joined as a community



Shared **social infrastructure**- information of community events, markets, gardening tips from the Retirees at the Recreation Park, energy performance displays, waste recycling, well being/ health tips.



Carbon offset strategies between the sites- the energy generated on the roof of the canopies in the Recreation Park can be used, at times, to offset the energy used in the Aquatic centre. The food waste from the Retirement Village could generate energy which could offset the public domain lighting at the Recreation Park.



Annexure 3

Hayes Environmental Ecological Consultant

Preliminary Flora and Fauna Inspection for Mittagong Facility



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4th May 2012

BUREAU CRACY BUSTERS
PO Box 2257
BOWRAL NSW 2576

Att: Darren Hogan

Dear Darren,

RE: Preliminary Flora and Fauna Inspection at Mittagong aquatic facility

I have conducted a preliminary desktop investigation and site inspection of the existing Mittagong aquatic facility, and have viewed plans for a proposed re-development of this site.

Existing vegetation on part of the site has been mapped by Wingecarribee Shire Council as Southern Highlands Shale Woodland, an ecological community listed as 'endangered' under the NSW *Threatened Species Conservation Act 1995* (TSC Act).

Council's vegetation mapping is based largely upon aerial photography with limited ground-truthing. Whilst useful as a tool, it does have some limitations and inaccuracies, and should be tested through botanical survey before being relied upon.

From my knowledge of the area, it is probable that Council's identification of the community is correct, and that the site does contain Southern Highlands Shale Woodland.

However, from my inspection of the site, some of the area mapped as Southern Highlands Shale Woodland by Council is in fact remnant trees within a paved carpark, and does not meet the scientific definition of this community. Similarly some of the area mapped consists of remnant trees interspersed with exotic ornamental and non-indigenous plantings, within an exotic mown lawn. These areas also do not meet the scientific definition of this community.

The proposed re-development of the site has been carefully designed to utilise existing cleared and disturbed land on the site. It appears that disturbance to native vegetation as a result of the proposal would be limited to removal of some trees bordering the existing development, and removal of remnant trees within existing carpark and lawn areas.

A detailed botanical survey and assessment of significance should be conducted to fully assess the significance of potential impacts upon Southern Highlands Shale Woodland.

However, it is not expected or likely that the impacts of the proposed re-development would be significant for this community. On this basis there would be no requirement for preparation of a Species Impact Statement, or for concurrence of the Office of Environment and Heritage (OEH).

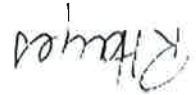
I have also considered the potential for impacts upon threatened fauna species which may utilise the subject area. It is possible that some threatened microchiropteran bats and/or threatened parrots could occur in the subject area and utilise trees and vegetation present on occasions. Further consideration of these species would be required at the development application stage.

However, it is also not likely that any threatened fauna species would be dependent upon the limited resources present within the subject area, particularly given that it is on the fringe of extensive areas of better quality and less noise affected habitat for these species. It is not likely that any threatened fauna species would be significantly affected by the minor disturbance that would occur.

On the basis of the above, I do not anticipate any significant ecological issues to arise with respect to the proposed re-development of the Mittagong aquatic facility.

Please do not hesitate to contact me with any queries.

Regards,



Rebecca Hayes
BSc (environmental biology) MengMngt MEIANZ MECA (NSW)
Principal, Hayes Environmental