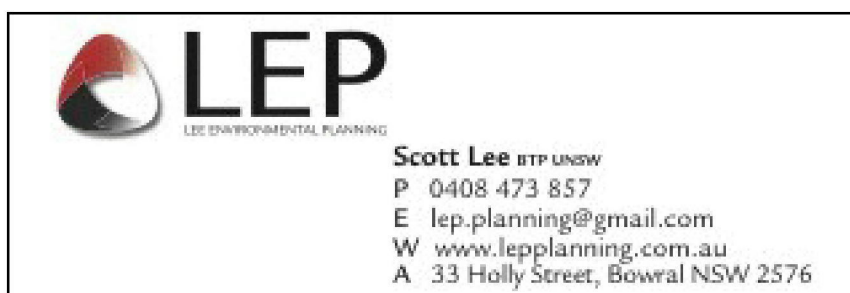


Statement of Environmental Effects
for
three (3) lot subdivision
of
Lot 38 DP882935
Council Public Reserve
to provide an access road to
Retford Park
Bowral

September 2019

prepared by



Introduction

This Statement of Environmental Effects has been prepared to support the lodgement of a Development Application for the subdivision of the subject land, being Lot 38 DP882935. The subdivision seeks to create three new lots from the one existing parcel.

The subject land is an existing public reserve, currently zoned RE1 Public Recreation under the provisions of the *Wingecarribee Local Environmental Plan 2010*. The land is owned and managed by the Wingecarribee Shire Council.

The purpose of the subdivision is to create a parcel of land that will accommodate a future public road across the public recreation reserve. The public reserve is classified as community land under the provisions of the *Local Government Act 1993*.

In this case, the purpose of the proposed public road is to provide access to private property and therefore that parcel of land is required to be classified as operational land under the provisions of the *Local Government Act 1993*.

Under the *Local Government Act* provisions it is not possible for one parcel of land to have two different classifications for the purposes of managing that land on behalf of the community. It is therefore necessary to create a separate parcel for the proposed road and separate parcels for the residue of the land that will remain as public recreation land.

The application has been made pursuant to Section 4.12 of the *Environmental Planning and Assessment Act 1979*. The development is of a local scale, it is not state significant or designated.

It is not integrated development under Section 4.47 of the Act, but it is acknowledged that a future Development Application that involves work to construct the public road within the newly created corridor, will be integrated development by virtue of the need to secure an activity approval for works within 40 metres of a watercourse under Section 91 of the *Water Management Act 2000*.

In addition to being the land owner, Wingecarribee Shire Council is the consent authority for this Development Application.

In addition to this Statement, the Development Application is supported by:

- Plan of Proposed Subdivision prepared by Richard Cox Surveyor
- Preliminary Civil Engineering Report - 1D Creek Flood Study prepared by Northrop Consulting Engineers.
- Preliminary Ecological Assessment prepared by Ecoplanning
- Preliminary Traffic Assessment prepared by Varga Traffic Planning

The proposed development is permissible under the provisions of the *Wingecarribee Local Environmental Plan 2010* and the proposal has considered other relevant matters.

The site is suitable for the proposed subdivision, there are no adverse impacts arising from the proposal and support for the development is requested.

Subject Site

The existing parcel of land that is the subject of the Development Application is legally described as Lot 38 DP882935.

The land is part of the open space network that extends along the northern boundary of the East Bowral residential locality and includes the David Woods playing fields.



Figure 1:
Site
Locality
Map
(Source
Sixmaps)



Figure 2:
Aerial
view of
site



Figure 3: View of intersection of Rowland Road and Jonathon Street



Figure 4: View of public reserve and riparian corridor across which the future road will traverse

Description of Proposed Development

The proposed development is the subdivision of one existing lot into three lots.

The existing Lot is currently described as Lot 38 DP882935. As noted it is a parcel of public open space that forms part of a extended area of unstructured open space between the residential development of East Bowral to the south and privately owned land to the north, being the Retford Park Estate. It was dedicated to Council as part of the East Bowral residential development.

The proposed subdivision is shown on the proposed plan of subdivision prepared by Richard Cox Surveyor.

The proposed subdivision has a very specific purpose which is to create Proposed Lot 3 as a future public road reserve, with Proposed Lots 1 and 2 remaining as public recreation land.

The purpose of the road is linked directly to the proposal to establish a regional art gallery on land at the Retford Park Estate. The actual development of the regional gallery on the Retford Park Estate will be the subject of a complementary, but separate Development Application to be made to Wingecarribee Shire Council shortly.

Currently the public reserve land is classified as community land under the provisions of the Local Government Act 1993. This is correct and proper given the lands current function as a component of the public open space within the locality.

However, if land is to be used to provide access to private property, it is necessary that that land be reclassified to operational land. Reference is made to the *Local Government Act 1993*, Section 47F Dedication of community land as public road.

This Section does not allow community land to be dedicated as a public road unless:

- (a) the road is necessary to facilitate enjoyment of the area of community land on which the road is to be constructed or of any facility on that land, and*
- (b) the council has considered means of access other than public road access to facilitate that enjoyment, and*
- (c) there is a plan of management applying only to the land concerned and provision of the public road is expressly authorised in the plan of management.*

In this case, the road is not necessary to facilitate the enjoyment of the public reserve and there is no plan of management that expressly authorises the public road. In brief, the road is only necessary to provide access to the proposed gallery.

It is preferable that a single parcel of land only be classified as either community or operational rather than have a dual classification. Therefore in this case it is necessary that the proposed public road be contained within its own allotment of land to allow for that allotment to be classified appropriately as operational, while the majority of the land remains classified as community which is appropriate given its public recreation purpose.

If the road is to be constructed and dedicated as a public road, it will be necessary for Council to undertake a number of processes in order to satisfy the provisions of the Local Government Act.

Pursuant to Section 27 of the *Local Government Act 1993* the classification of land may be made by a local environmental plan. The process for a local environmental plan to be made is now through the process of a Planning Proposal.

Section 29 of the *Local Government Act 1993* subsequently requires the conduct of a public hearing into the reclassification of community land into operational land. Therefore in this case, the proposed subdivision could proceed and the lots created, but Proposed Lot 3 could not be put to its proposed use as a public road until such time as the reclassification process, inclusive of the Planning Proposal and public hearing, was complete.

Proposed Lot 3 for the future public road follows an alignment that has been considered by the gallery project team as being the most suitable from an engineering, traffic management and environmental impact perspective. This general alignment has been discussed with Council in DA pre lodgement discussions.

As shown on the Plan of Proposed Subdivision prepared by Richard Cox Surveyor, proposed Lot 3 will create a road reservation of varying width, following an alignment that commences at the intersection of Rowland Road and Jonathon Street, effectively creating the fourth leg to what is now a 'T' intersection at this point.

The lot then heads north towards the Retford Park land avoiding any major stands of remnant native vegetation. It crosses a mapped Category 2 water course approximately 50 metres north of the Jonathon Street intersection.

At the juncture with the Retford Park Estate, Lot 3 widens to create the width that may be necessary to accommodate a cul de sac or other turning facility at the termination of the public road. From this point access to the gallery would be across the Retford Park land. The final details of the road design are yet to be determined and this width may not in fact be required. However, the subdivision is being put forward in this manner in order to ensure that all possibilities can be catered for without the need to amend the dimensions of Lot 3 in the future.

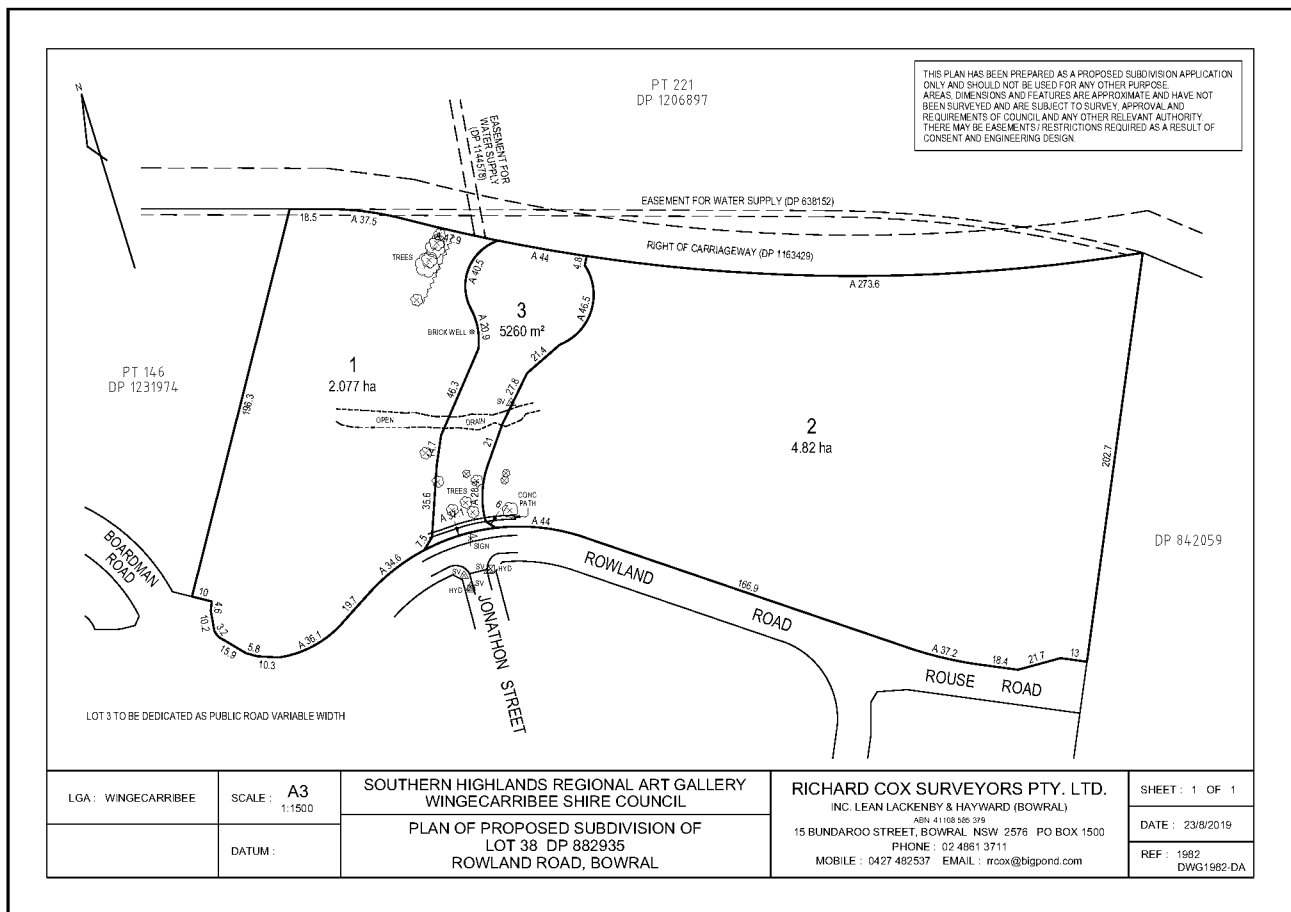


Figure 7: Plan of Proposed subdivision prepared by Richard Cox Surveyor

Assessment of Environmental Impacts

Every Development Application is subject to assessment under the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979*. In relation to the matters that are of relevance to this particular development application, the following comments are provided.

Federal and State Legislation

Biodiversity Conservation Act 2016

This Act requires a consideration of potential harm to biodiversity values of land that may arise from proposed development. The Act requires the implementation of the 'avoid, minimise, offset' method in relation to development that is proposed to be undertaken. In this case, adherence to this principle is demonstrated through the proposed lot layout.

In support of compliance with the Act, it is noted that the subdivision can proceed without the need for any removal or disturbance of any significant native vegetation. Two of the three proposed lots (Lots 1 and 2) will continue to provide passive open space areas and will not be the subject of any subsequent construction or works.

Lot 3 has the express purpose of providing for a public road reservation, within which a future public road is intended to be constructed. Preliminary engineering designs have been provided in support of this Development Application, but it is noted that no construction works are being considered as part of this subdivision. All future construction work will be the subject of the subsequent Development Application associated with the proposed Southern Highlands Regional Art Gallery.

A specific ecological assessment report is not necessary to conclude that there will be no significant loss of any native vegetation as a result of the subdivision.

Notwithstanding this issue, a report prepared by Ecoplaning has provided a preliminary review of the nature of the land across which the road corridor will traverse.

In particular the report has provided an overview of the potential habitat value of the land for the migratory bird species, Latham's Snipe (*Gallinago hardwickii*). This species is listed under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*.

The conclusion of this report is that potential roosting and foraging habitat for Latham's Snipe has been identified both upstream and downstream of the proposed road reserve (Lot 3). The watercourse area at the site of Lot 3 however provides minimal habitat.

The report recommends that the development and design of the proposed road should aim to retain drainage flow along the watercourse through the Council's public reserve. Some revegetation should also be undertaken.

Rural Fires Act 1997

The land the subject of this Development Application is not identified as bushfire prone land upon the Council's Bushfire Prone Land maps and therefore it is not necessary to obtain a Bushfire Safety Authority from the Rural Fire Service pursuant to Section 100B of the *Rural Fires Act 1997*, for the subdivision of the land.

Part of the Retford Park Estate land is mapped as bushfire prone land and therefore the issue of bushfire will be thoroughly assessed as part of the Development Application for the proposed Art Gallery.

State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011

The *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011* was considered. It requires the consent authority to be satisfied that the development would have a neutral or beneficial impact on water quality. With reference to the *Neutral or Beneficial Effect on Water Quality Assessment Guideline 2015*, the proposed development would fall within Module 1.

The Guidelines state that:

It is safe to assume that a development will have no identifiable potential impact on water quality if the development is unlikely to result in:

a concentration of flow of water

the impedance of flow of water

discharge of effluent, dust pollutants or stormwater, and

other matters considered to result in a water quality impact, such as the potential for contamination.

In this case, the neutral or beneficial effect test is satisfied and consent can be issued with respect to water quality, without further detailed assessment regardless of the development type.

There is no change in the physical characteristics of the land as a result of the proposed subdivision. This is because the subdivision itself results in no physical works being required. It is a procedural matter only to create Lot 3 for the purposes of a public road reservation.

There will be the need to submit a subsequent Development Application associated with the proposed Regional Art Gallery on the Retford Park Estate land and this will incorporate details of the proposed construction of the public road within Proposed Lot 3. It is this subsequent Development Application that will be required to be supported by more detailed assessment of water quality issues.

Council should be satisfied that this Development Application will have no identifiable impact on water quality and that the issues associated with the drinking Water State Policy will be properly considered at the appropriate time.

the provisions of any environmental planning instrument

Wingecarribee Local Environmental Plan 2010

The relevant environmental planning instrument for consideration of this Development Application is the *Wingecarribee Local Environmental Plan 2010* (the WLEP2010).

Part 2 Permitted or prohibited development

The land is within the RE1 Public Recreation zone of the WLEP2010.

This zone has the following objectives.

- *To enable land to be used for public open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*
- *To enable ancillary development that will encourage the enjoyment of land zoned for open space.*

The proposed development does not offend any of these objectives.

The proposed subdivision will not prohibit or restrict the use of the land for recreational purposes. It will assist in the longer term establishment of a range of recreational activities. It will not have any adverse environmental impacts.

Clause 2.6 confirms that the subdivision of land is permissible with the consent of Council.

Part 4 Principal development standards

Clause 4.1 is relevant. This Clause sets minimum lot sizes for the creation of new lots within a subdivision approved under WLEP2010. It does so with reference to the Lot Size Maps. For this land, there is no minimum lot size.

Part 5 Miscellaneous provisions

There are no miscellaneous provisions that are relevant to the site or to the development proposal.

Part 7 Additional local provisions

The site is not affected by Clause 7.4 Natural resources sensitivity - biodiversity.

The site is affected by Clause 7.5 Natural resources sensitivity - water. Refer to Figure 8.

In this case, the Natural Resources Sensitivity Map shows a Category 2 water course (Aquatic & Terrestrial Habitat) requiring a minimum 30 metres clearance from the top of bank. The impact of this upon the proposed subdivision is that it flags the need for the proposed road to cross the water course. The preliminary engineering design of the road prepared by Northrop Engineering, gives an indication as to how this will be managed.

It is noted that development within 40 metres of a second order watercourse will require a Controlled Activity Approval under the NSW *Water Management Act 2000*, which may require a 20 m Vegetated Riparian Zone either side of top of bank (i.e. a 40 m Riparian Corridor) and development of a Vegetation Management Plan. With passive public open space on either side of the road corridor, such revegetation, if required, can be accommodated.



Figure 8: Extract from WLEP2010 Natural resources sensitivity maps showing one Category 2 water course that bisects the site

Clause 7.9 deals with Flood planning. It makes reference to the Flood Planning maps that identify flood planning areas. The site is not within these identified flood areas. However, the watercourse in this location is liable to flooding arising from storm events and therefore a preliminary flood analysis has been undertaken by Northrop Consulting Engineers to ensure that if a road corridor was to be created by the proposed subdivision of the land, the subsequent construction of a road in this location could be undertaken in a reasonable manner.

The Northrop report confirms the flood susceptibility of the land and identifies the extent of potential impacts that could arise from the construction of a new public road across the water course. It acknowledges that a road crossing of the water course may have impacts that need to be mitigated and/or managed.

It concludes however that a road crossing generally in accordance with Council requirements is achievable with no impacts upon flood extents and minimal environmental impact.

At this stage, this should be sufficient to enable the subdivision to proceed, with the development application for the proposed gallery at Retford Park to provide the detailed engineering design of the public road.

the provisions of any development control plan

The land is within the area covered by the Bowral Township Development Control Plan. However, because the site is within the RE1 Public Recreation zone, the majority of the DCP is not particularly relevant.

The following comments are made in relation to those aspects of the DCP that may have some applicability.

Section 3 deals with Biodiversity, specifically including flora and fauna associated with native vegetation. This has been discussed earlier in this Statement with reference to the Ecoplanning report.

Section 4 deals with Water Management that includes protection of watercourses and riparian corridors. The site is affected by a Category 2 watercourse mapped upon the WLEP2010 maps. Development within 40 m of a second order watercourse will require a Controlled Activity Approval under the *NSW Water Management Act 2000*, which may require some revegetation works in due course.

In relation to development within the Sydney Drinking Water Catchment, this has been discussed earlier. No works are proposed or required by this development application so there will be no impact upon water quality issues. These will be assessed in detail with the subsequent application to be lodged for the proposed gallery.

Section 5 deals with Flood Liable Land. Comments in relation to flooding have been made earlier in relation to the preliminary flood analysis has been undertaken by Northrop Consulting Engineers.

The design of the road that will be constructed within Lot 3, the road corridor lot, will need to take into account the potential of flooding of the water course in this location.

Section 6 deals with Vegetation Management and Landscaping. As discussed, the site has very few existing native trees that could be considered as significant. There will be a loss of a small number of existing trees near the intersection of Lot 3 and Rowland Road, however this loss can be readily offset by the replanting of new specimens. The overall loss of some existing trees is not considered to be significant given the opportunity to replant with species compatible with the locality and the plantings within the extended area of the public recreation reserve.

Section 7 deals with Subdivision, Demolition, Siting and Design

Part A7.1 deals with the subdivision of land and is therefore relevant to this proposal.

A7.1.1 deals with Minimum Lot Sizes. There is no minimum lot size that applies to this land.

A7.1.2 deals with Building Envelopes. This is not relevant to this particular subdivision which is not being undertaken for the purpose of providing future dwelling or building opportunity.

A7.1.4 deals with landscape embellishment. All lots provide the opportunity for additional or replacement tree planting if deemed necessary or desirable.

Part A7.4 deals with Cut and Fill. The topography of the site is not particularly challenging. Future construction of the proposed road within proposed Lot 3 will not require any significant or unreasonable level of earthworks. The preliminary design work undertaken by the gallery project team indicates this and the final design will be subject to further more detailed assessment as part of the Development Application of the gallery.

Part A9 deals with a range of construction standards and procedures. There is no incompatibility between this Section of the DCP and the proposed development. Appropriate conditions of consent, including the need for a Construction Certificate for engineering works at the appropriate time, will ensure full compliance with Council requirements.

the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

Because the development proposal does not involve the actual construction of any road within Proposed Lot 3, nor does it not involve the change of use of any of the land within Proposed Lots 1 and 2, there are no direct or immediate impacts upon the built or natural environment.

The submitted report from Ecoplaning has highlighted the need to properly and sensitively manage the habitat of Latham's Snipe (*Gallinago hardwickii*) which is present in the area. Latham's Snipe is a migratory bird species listed under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

the suitability of the site for the development

The site is suitable for the proposed subdivision.

The subdivision does not give rise to any conflicts with any adjoining land uses nor adversely impact upon any environmental constraints of the land.

It will not adversely impact upon the land use pattern of the locality. There is a sound reason behind the need for the subdivisions and there is a thorough process to be followed in order to give final effect to the purpose of the subdivision.

There will be no impact upon the predominant and/or preferred land uses in the vicinity, which is a green corridor of passive open space.

The subdivision will not be incompatible with any existing or likely land uses within the immediate locality.

The subdivision itself will not have any impact upon the natural or physical environment. The identified constraints of the land, such as water courses and native species habitat, have been acknowledged and through the subsequent process of reclassifying the Lot 3 to operational and through the assessment of the Development Application for the regional gallery on the Retford Park Estate, all relevant issues can be thoroughly assessed.

There will be no direct impacts upon the environment as there will be no physical change to the existing site conditions arising from the subdivision itself.

A consequential impact of the subdivision, given its purpose is to create a future road corridor to service the proposed Southern Highlands Regional Art Gallery, is that of traffic. To address this issue at the earliest possible time, a Traffic Impact Assessment Report has been prepared by Varga Traffic Planning and submitted with the Development Application.

This report has considered the existing traffic conditions at the proposed intersection of the new road with Rowland Road and Jonathon Street and provided preliminary analysis of projected traffic generation from the proposed regional gallery.

The conclusions are that the proposed location for the new road is a suitable one from a traffic safety and traffic management perspective.

Further, it concludes that the increased traffic activity as a consequence of the art gallery development, will not have any unacceptable traffic implications in terms of road network capacity.

any submissions made in accordance with this Act or the regulations

It is understood that the Development Application could be notified in accordance with the Council's standard procedures. Any issues arising from the public exhibition process will be addressed as necessary.

the public interest

This Development Application is considered to be of a type that gives rise to issues of public interest.

The purpose of the subdivision is to be able to create a corridor for a future public road that will provide access to what will be an important public asset - the Southern Highlands Regional Art Gallery at the Retford Park Estate.

Without the proposed new road corridor, access to the new gallery may not be possible. Because the proposed new road needs to traverse public land, there should be some public purpose for that road. In this case the provision of a gallery, available to the public, should be viewed as a positive public outcome.

There are no impacts arising as a result of the subdivision. The creation of the new lots does not undermine the objectives of the Public Recreation zone or any other of Council's planning controls, nor do they allow for any significant change to the physical characteristics of the locality.

Overall, the development proposal should be seen as being in the public interest.

Conclusion

The proposed subdivision is a reasonable development that will have no adverse impacts.

There is a strong public purpose that underpins the need to subdivide the land, that being the creation of public access to what will be a valuable public asset in the form of the proposed Southern Highlands Regional Art Gallery.

The subdivision of the existing parcel of public recreation land is necessary in order to be able to classify the proposed road corridor land as operational under the provisions of the *Local Government Act 1993*, Section 47F Dedication of community land as public road, whilst retaining the majority of the public reserve as community land classification.

In undertaking the subdivision and the reclassification process, the necessary steps will allow a full and open opportunity for the public to comment.

No actual construction work is required as a result of the subdivision but sufficient information has been made available for Council to garner an understanding of the project as a whole, including issues such as works within the riparian area and traffic management.

Approval should be granted to enable the proposed new lots to be created.