

# SOUTHERN REGIONAL PLANNING PANEL

## COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	PPSSTH-161
<b>DA Number</b>	DA22/1835
<b>LGA</b>	Wingecarribee Shire Council
<b>Proposed Development</b>	Construction of a community facility and an emergency services facility for the Wingecarribee Animal Shelter and State Emergency Services (SES) and associated works.
<b>Street Address</b>	1 Bowman Road, Moss Vale (Lot 2 DP 1269526)
<b>Applicant/Owner</b>	FIGGIS & JEFFERSON TEPA PTY LTD/ Wingecarribee Shire Council
<b>Date of DA lodgement</b>	02/06/2022
<b>Number of Submissions</b>	Public Notification – 06 June 2022 to the 08 July 2022.  0 Submission Received
<b>Recommendation</b>	Approve with conditions
<b>Regional Development Criteria (Schedule 6 of State Environmental Planning Policy (Planning systems) 2021)</b>	Capital Investment Value (CIV) exceeds \$5 million for Council related development (\$6,387,000)
<b>List of all relevant s4.15(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• <i>Environmental Planning and Assessment Act 1979;</i></li> <li>• <i>Environmental Planning and Assessment Regulation 2021;</i></li> <li>• <i>State Environmental Planning Policy (Planning Systems) 2021;</i></li> <li>• <i>State Environmental Planning Policy (Resilience and Hazard) 2021;</i></li> <li>• <i>State Environmental Planning Policy (Transport and Infrastructure) 2021;</i></li> <li>• <i>State Environmental Planning Policy (Industry and Employment) 2021;</i></li> <li>• <i>State Environmental Planning Policy (Biodiversity and Conversation) 2021;</i></li> <li>• <i>Wingecarribee Local Environmental Plan 2010; and</i></li> <li>• <i>Moss Vale Enterprise Corridor Development Control Plan 2008.</i></li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<ol style="list-style-type: none"> <li>1. Survey Plan</li> <li>2. Architectural Plans</li> <li>3. Landscape Plans</li> <li>4. Civil Engineering Plans</li> <li>5. Statement of Environmental Effects</li> <li>6. Updated Acoustic Report</li> <li>7. DCP Compliance Table</li> <li>8. External &amp; Internal Response Table</li> <li>9. Recommended Conditions of Consent</li> </ol>

	10. Legal Advice (confidential)
<b>Report prepared by</b>	Jeremy Swan, The Planning Hub – Town Planning Consultant
<b>Report date</b>	31 August 2022

#### **Summary of s4.15 matters**

Have all recommendations in relation to relevant s4.15 matters been summarized in the Executive Summary of the assessment report? **Yes**

#### **Legislative clauses requiring consent authority satisfaction**

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**

#### **Clause 4.6 Exceptions to development standards**

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **No**

#### **Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **No**

*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

#### **Conditions**

Have draft conditions been provided to the applicant for comment? **Yes**

*Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report.*

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## **Attachments**

1. Survey Plan
2. Architectural Plans
3. Landscape Plans
4. Civil Engineering Plans
5. Statement of Environmental Effects
6. Acoustic Report
7. DCP Compliance Table
8. External & Internal Response Table
9. Recommended Conditions of Consent
10. Legal Advice (Confidential)

## 1. PURPOSE OF REPORT

The purpose of this report is to seek the Southern Regional Planning Panel (the Panel) determination of a Development Application (DA) proposing the construction of the Wingecarribee Animal Shelter and State Emergency Services (SES) Centre at 1 Bowman Road, Moss Vale.

The Panel is the determining authority for this DA as, pursuant to Part 2.4 of State *Environmental Planning Policy (Planning System) 2021* and Part 2.15 of the *Environmental Planning and Assessment Act 1979*, the capital investment value (CIV) of the proposed development is \$6,387,000 which exceeds the CIV threshold of \$5 million for council related development.

## 2. SUMMARY OF RECOMMENDATION

That the Panel grant consent to DA/22/1835 consisting of the construction of the Wingecarribee Animal Shelter and State Emergency Services (SES) pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979* subject to the conditions contained in this report.

## 3. EXECUTIVE SUMMARY

Council is in receipt of a Development Application from Figgs & Jefferson Tapa Pty Ltd submitted on 2/06/2022, seeking approval for the construction of facilities for the Wingecarribee Animal Shelter and State Emergency Services (SES) at 1 Bowman Road, Moss Vale.

The purpose of the development application is to replace existing Council Facilities. The existing Wingecarribee Animal Shelter is located within the Resource Recovery Centre north west of the site and the existing State Emergency Services (SES) facility is located at 83 Parkes Rd, Moss Vale.

The Panel was briefed on the application on 2 August 2022. The key items discussed at the briefing consisted of:

- The permissibility of the proposed animal shelter use on the site and its classification as a community facility as opposed to an animal boarding or training establishment which is prohibited on the site; and
- The potential acoustic impacts of the animal shelter use on the surrounding area.

Subsequent to the Panel briefing legal advice was sought by the applicant and The Planning Hub (independent of the applicant) to resolve the permissibility issue regarding the animal shelter component of the application. The legal advice (refer to **Attachment 10**) clearly outlines that the proposed animal shelter is not defined as an animal boarding or training establishment as it is not for commercial purposes and is defined as a community facility and is permitted with consent. A detailed summary of the advice and permissibility is provided in Section 6 of this report.

Additional information was sought from the applicant regarding the potential acoustic impacts from the proposed animal shelter use. An Amended Acoustic Report (**Attachment 6**) was submitted and reviewed by Council's Environmental Health Officer who raised no objection to the proposal subject to conditions being imposed.

The application was referred to a number of internal Council departments and external authorities who raised no objection to the proposal subject to conditions being imposed and considered the site to be suitable for the intended use with no adverse impacts on the surrounding area.

The assessment has found that the development is consistent with the aims and objectives of and the following legislations and environmental planning instruments:

- *Environmental Planning and Assessment Act 1979*;
- *Environmental Planning and Assessment Regulation 2021*;
- *State Environmental Planning Policy (Planning Systems) 2021*;
- *State Environmental Planning Policy (Resilience and Hazard) 2021*;
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*;
- *State Environmental Planning Policy (Industry and Employment) 2021*;
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*;
- *Wingecarribee Local Environmental Plan 2010*; and
- *Moss Vale Enterprise Corridor Development Control Plan 2008*.

The proposal is generally consistent with all relevant environmental planning instruments and is considered satisfactory. It is satisfied that the proposed animal shelter is consistent with the definition of a community facility and is permissible with consent in the IN2 Light Industrial Zone.

The design provides a reasonable and sustainable response that allows for the protection of the environment, protection of industrial land, promotion of internal amenity and management of parking/access.

The proposed development has been assessed against the relevant matters for consideration pursuant to Section 4.15 of the *Environmental Planning and Assessment Act, 1979*, including likely impacts, the suitability of the site for the development, and the public interest, and the proposed development is considered appropriate.

Considering the above, it is recommended that the Southern Regional Planning Panel determine the Development Application pursuant to Section 4.16(1) of the *Environmental Planning and Assessment Act 1979* and grant consent subject to the conditions as provided at **Attachment 9**.

#### **4. BACKGROUND**

##### Application Background

The purpose of the development application is to replace existing Council Facilities. The existing Wingecarribee Animal Shelter is located within the Resource Recovery Centre. The applicant has detailed that the existing animal shelter facilities are no longer fit-for-purpose, approaching end of life and have compliance issues. In addition, the existing SES facility at 83 Parkes Rd, Moss Vale has been identified as 'requiring upgrade and infrastructure renewal which has prompted the need

to construct a new facility to satisfy the current SES requirements, the demands of a growing community and to provide quality services in the relevant disciplines.

#### The Site and Locality

The subject site is a corner allotment located to the south east of Bowman Road and south west of Berima Road. The site forms part of the Moss Vale Enterprise Corridor which is transitioning from rural residential to industrial land uses.

The site is commonly known as 1 Bowman Road, Moss Vale and is legally described as Lot 35 DP878862.

The site is currently vacant and contains easements for water mains, telecommunication lines and sydney pipelines. The site also contains an underground optus service and a water basin situated towards the northern boundary.

The subject site has a total site area of approximately 8,264m<sup>2</sup> with a gentle slope from the southern corner of the site to the intersection of Bowman Road and Berrima Road.

The surrounding areas generally comprises a range of industrial land uses associated Moss Vale Enterprise Corridor. Adjoining the site north east is the Wingecaribee Community Recycling Centre, Animal Shelter and Resource Recovery Centre. To the east of the site is the Moss Vale Cemetery.

The site's location and context is detailed in Figures 1 and 2 below.

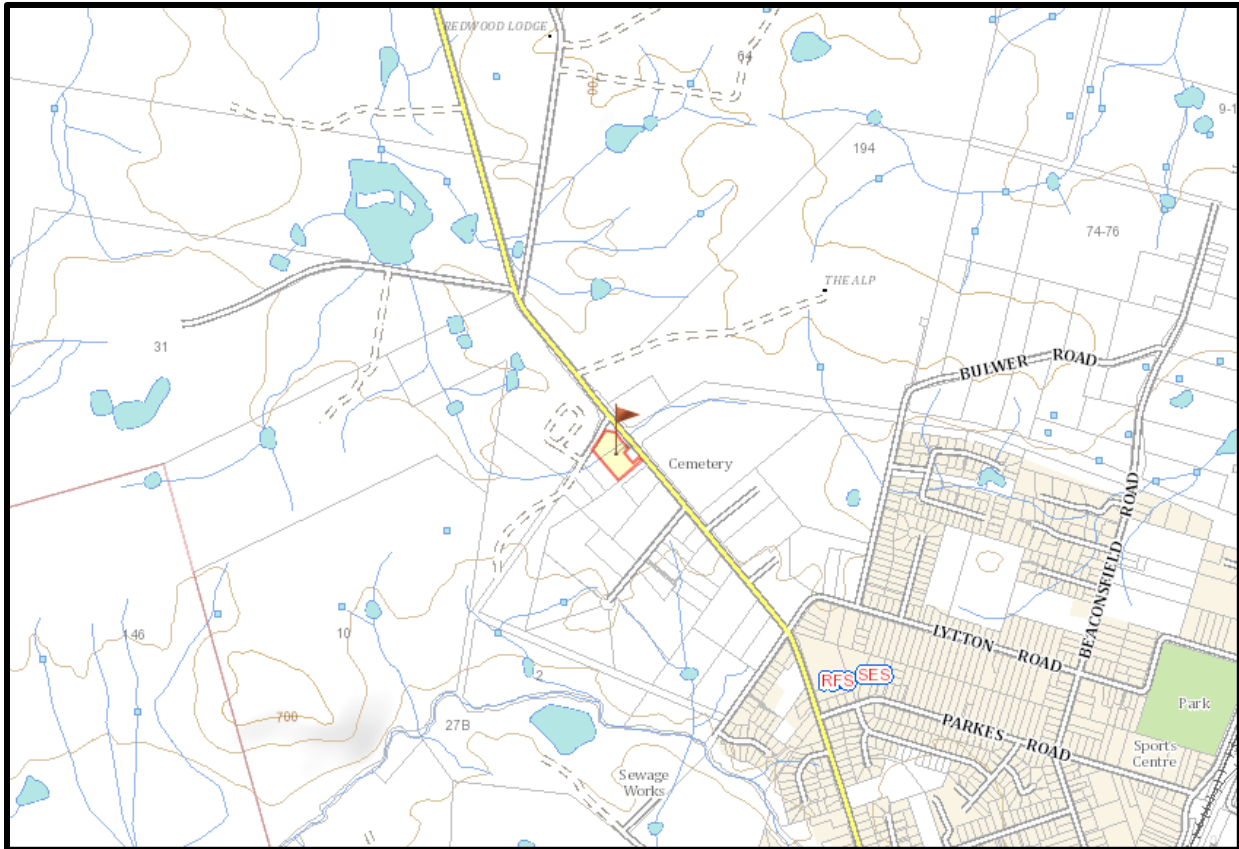


Figure 1 – Locality Plan (Source Six Maps)



Figure 2 – Site Aerial (Source: Nearmap)



The site is zoned IN2 Light Industrial pursuant to the Wingecarribee Local Environmental Plan (LEP) 2010. Emergency services facility and community facility are permissible with consent in the IN2 Zone.

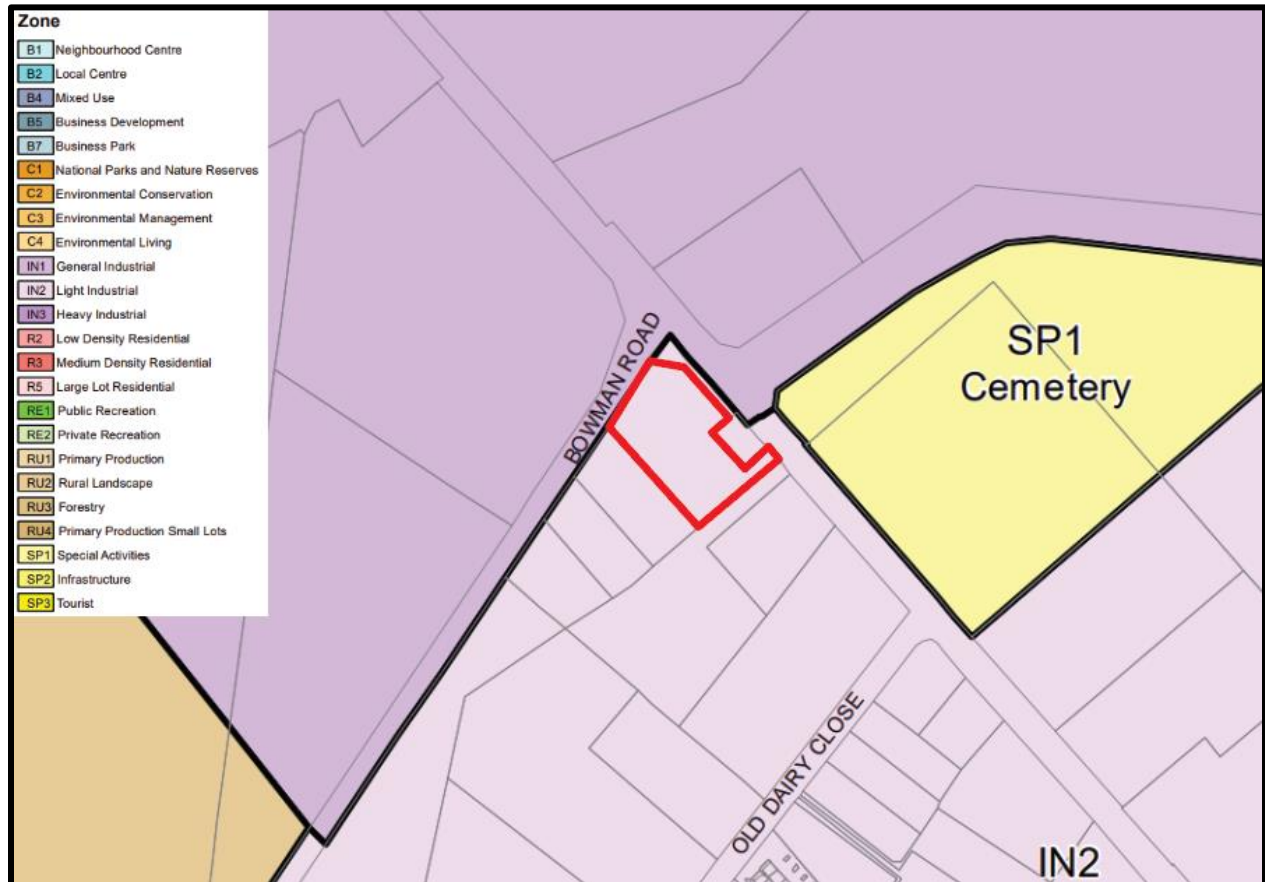


Figure 3 – Zoning Map (Source: NSW Legislation)

### The Subject Application

The subject application was lodged with Wingecarribee Shire Council on 2 June 2022 for the construction of facilities for the Wingecarribee Animal Shelter and State Emergency Services (SES) at 1 Bowman Road, Moss Vale.

### Notification and Referrals

The application was referred to a number of other internal and external agencies (refer **Attachment 8**).

The Development Application was advertised for a period of 30 days between 06 June 2022 to the 08 July 2022. 0 submissions were received during that notification period.

### Panel Briefing

The Panel was briefed on the application on 2 August 2022. The key items discussed at the briefing consisted of:

- The permissibility of the proposed animal shelter use on the site and its classification as a community facility as opposed to an animal boarding or training establishment which is prohibited on the site;
- The potential acoustic impacts of the animal shelter use on the surrounding area.

Subsequent to the Panel briefing legal advice was sought by the applicant and The Planning Hub (independent of the applicant) to resolve the permissibility issue regarding the animal shelter component of the application. The legal advice (refer to **Attachment 10**) clearly outlines that the proposed animal shelter is not defined as an animal boarding or training establishment as it is not for commercial purposes and is defined as a community facility and is permitted with consent on the site. A detailed summary of the advice and permissibility is provided in Section 6 of this report.

Additional information was sought from the applicant regarding the potential acoustic impacts from the proposed animal shelter use. An Amended Acoustic Report (**Attachment 6**) was submitted that addressed the potential noise impacts of the animal shelter use.

The amended Acoustic Report was reviewed by Council's Environmental Health Officer who raised no objection to the proposal subject to conditions being imposed.

The subject site is located within an industrial zone with the surrounding area consisting of existing industrial land uses and SP1 zoned land. There are no sensitive land uses located in proximity to the site and the application is supported by an Acoustic Report which ensures the proposed uses will not adversely impact on the acoustic amenity of the surrounding area.

The application was referred to a number of internal Council departments and external authorities who raised no objection to the proposal subject to conditions being imposed and considered the site to be suitable for the intended use with no adverse impacts on the surrounding area.

## 5. THE PROPOSAL

The proposal seeks approval for the construction of facilities for the Wingecarribee Animal Shelter and State Emergency Services (SES) at 1 Bowman Road, Moss Vale.

Specifically, the development will comprise of the following:

- Construction and use of an Animal Shelter with a GFA of 562.56m<sup>2</sup>, comprising the following components:
  - Public areas -
    - Entry vestibule, reception and waiting room;
    - Interview room; and
    - Multi-purpose room.
  - Administrative areas –
    - Administrative offices; and
    - Staff room.

- Adoption area –
  - Holding areas with cubicles; and
  - Accommodation areas with cubicles with access to external exercise yard.
- Impounding areas -
  - Holding areas with cubicles
  - Accommodation areas with cubicles with access to external exercise yard.
- Support areas -
  - Assessment and processing area
  - Grooming area
  - Isolation areas
  - Food preparation and utility room
  - Laundry and cleaner's room
  - Storage areas
- Amenities
  - Accessible/ disabled toilet
- External area:
  - Outdoor enclosures (sheltered) and runs (2 off) linked to internal accommodation cubicles with exercise yards;
  - Exercise yards (6 off);
  - External meeting area;
  - Circulation paths;
  - Waste holding area;
  - Delivery area; and
  - Passive recreation area for staff and visitors.
  - Business identification signage.
- Operation –
  - 2 permanent staff.
  - Sporadic number of volunteers during the day to attend to exercising and interacting with housed animals.
  - Approximately 10 visitors per day from 10am-4pm.
  - Approximately 2-3 Walk-in visitors per day.
  - Approximately 4-5 Visitors via bookings per day.
- Construction and use of a State Emergency Services (SES) Unit with a GFA of 234.21m<sup>2</sup>, comprising the following components:
  - Internal areas -
    - 3 vehicular bays for SES vehicles;
    - Associated working, clothing and equipment storage;
    - Training room;
    - Meeting room;
    - Administrative Office;
    - Kitchen;
    - Change Room with lockers;

- Amenities of:
  - Male and Female toilets;
  - Male and Female shower area; and
  - Accessible/ disabled toilet with shower.
- External areas –
  - Recreational area (at rear of building);
  - Business identification signage; and
  - Provision of rotary vents, exhaust and solar panels on the roof.
- Operation –
  - Daytime - Minimal activity except during operational periods.
  - Night-time training: Approximately 20-25 people (once a week).
  - Responding: 2-3 people – for rescue jobs.
  - 4-5 people – for storm jobs.
  - Special events: Approx. 40 people.
- Associated works:
  - Provision of an on-site detention sedimentation basin; and
  - Provisions of RWT.

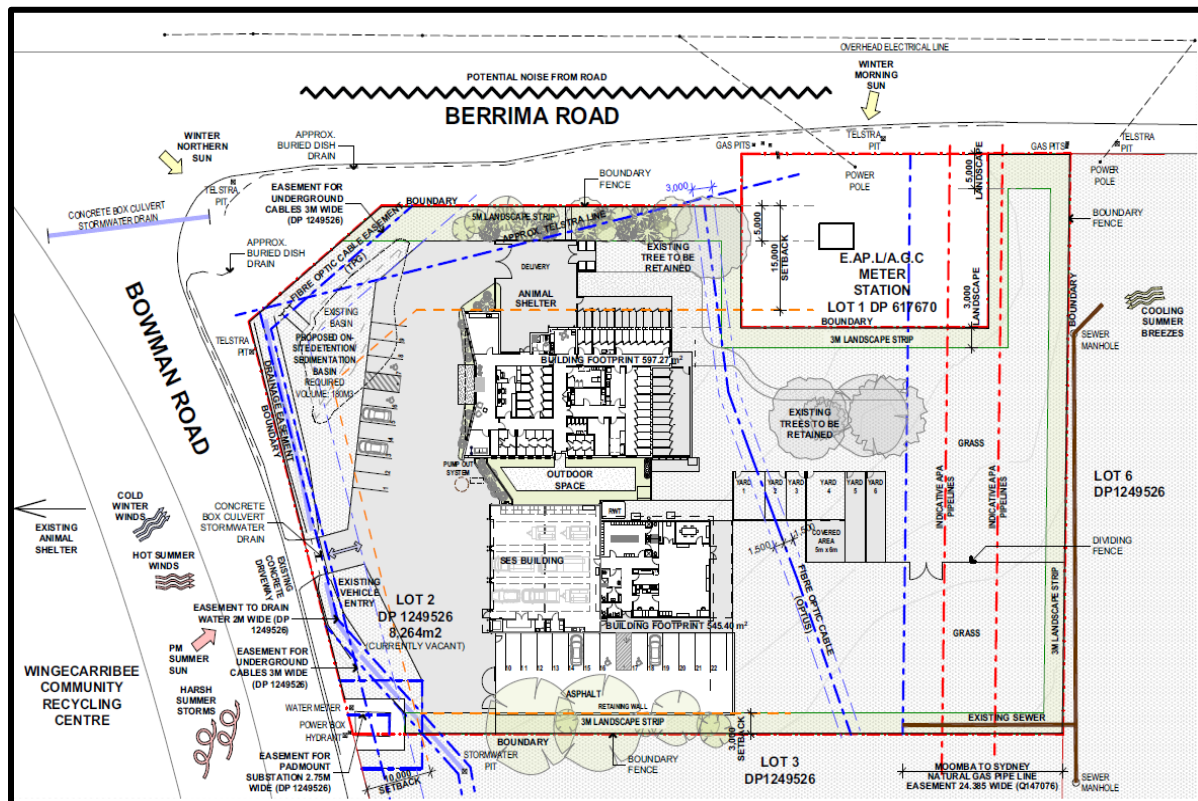
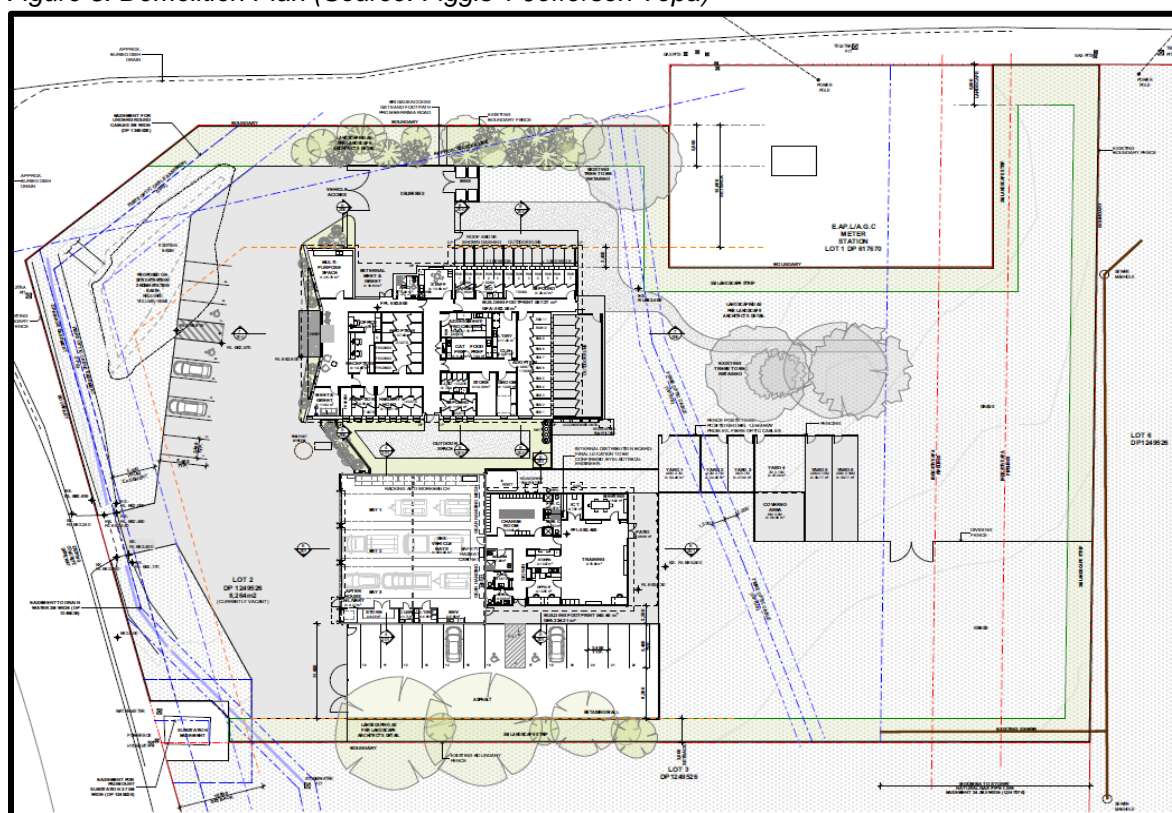
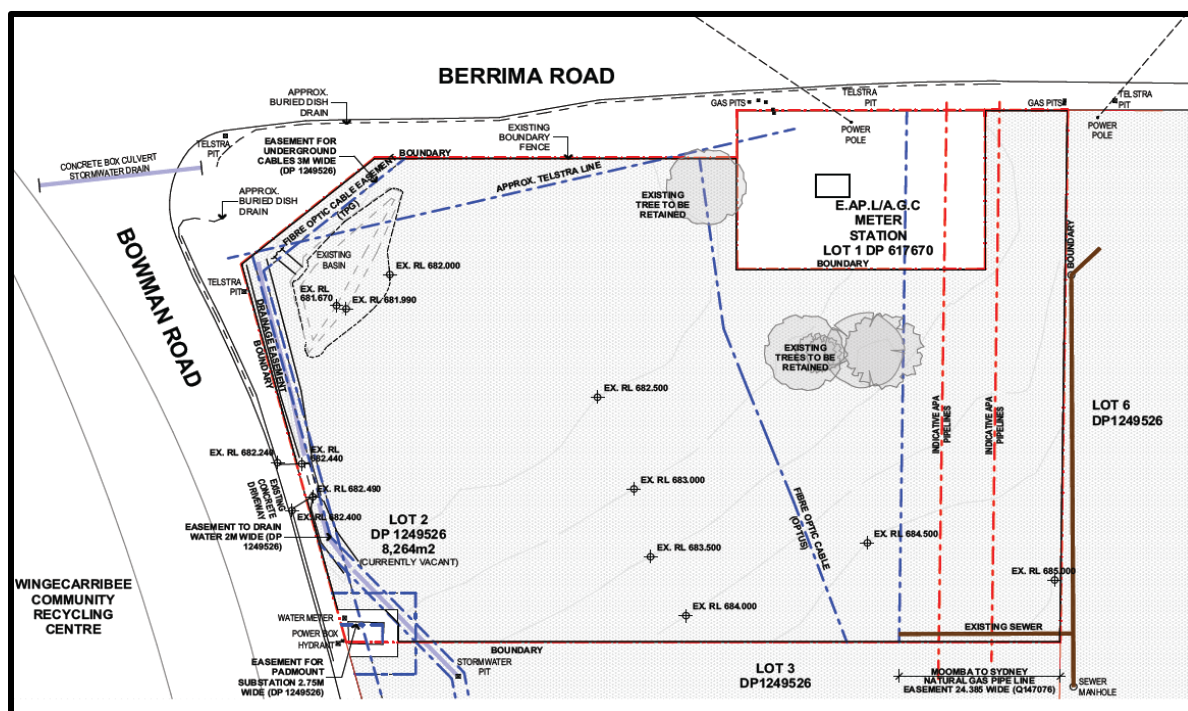


Figure 4: Site Plan & Site Analysis (Source: Figgis + Jefferson Tapa)





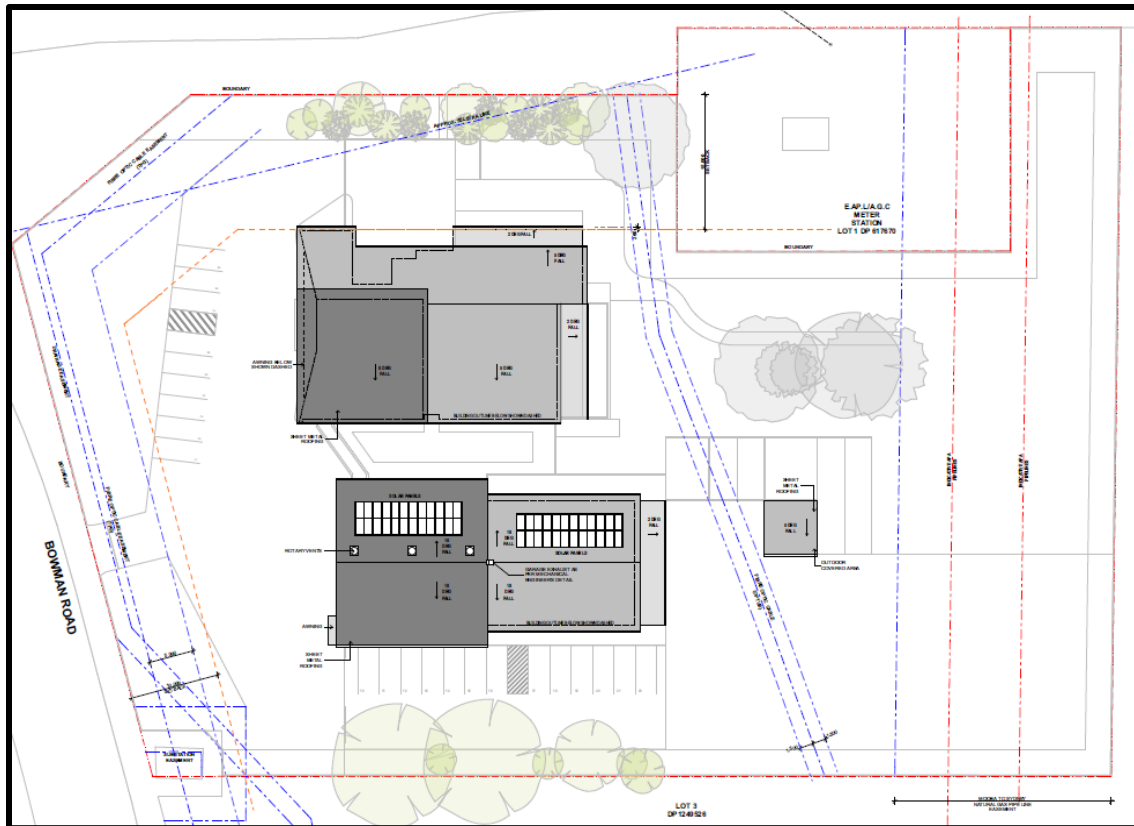


Figure 7 – Roof Plan (Source: Figgis + Jefferson Tepa)

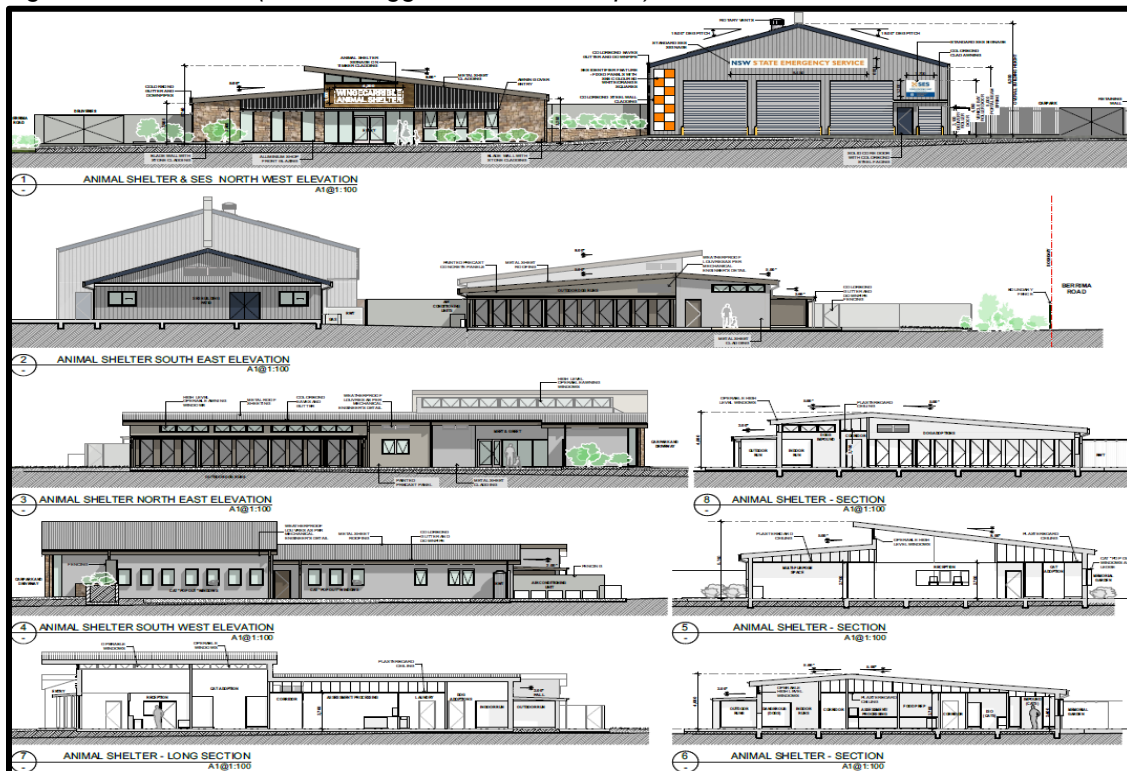


Figure 8 – Elevations and Sections (Source: Figgis + Jefferson Tepa)

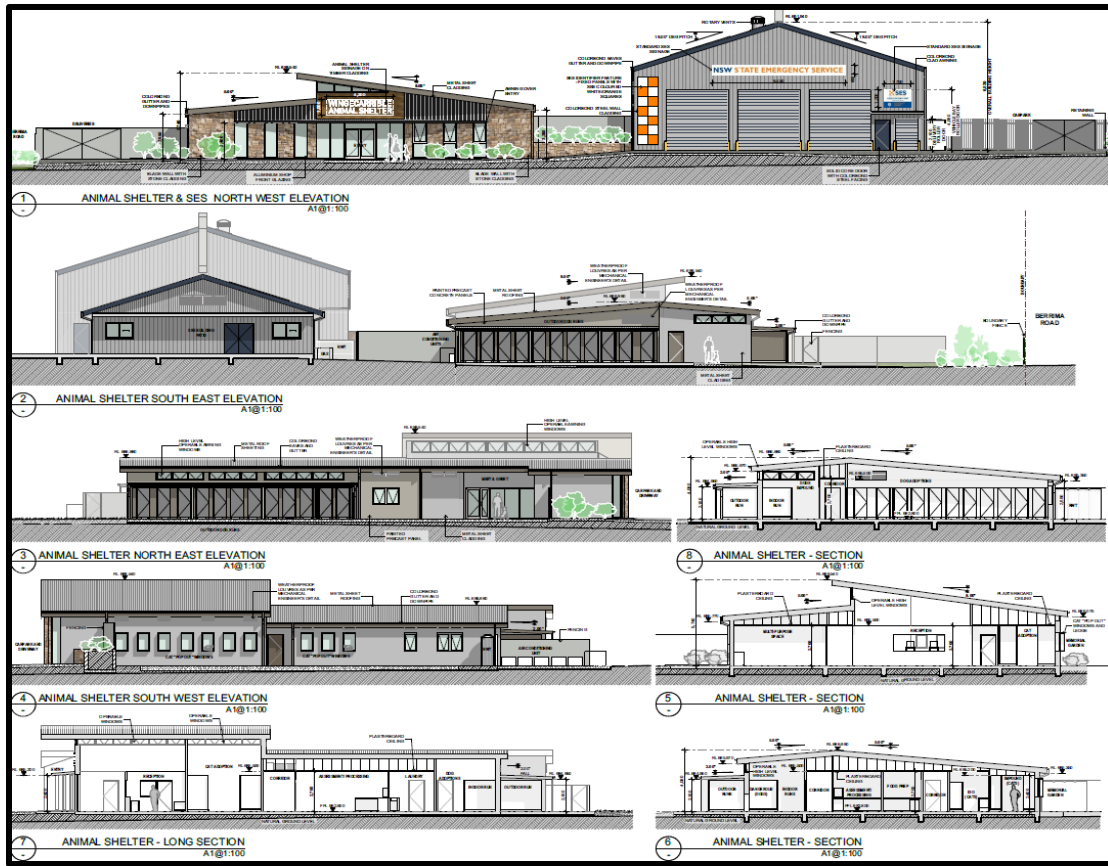


Figure 9 – Elevations and Sections (Source: Figgis + Jefferson Tepa)



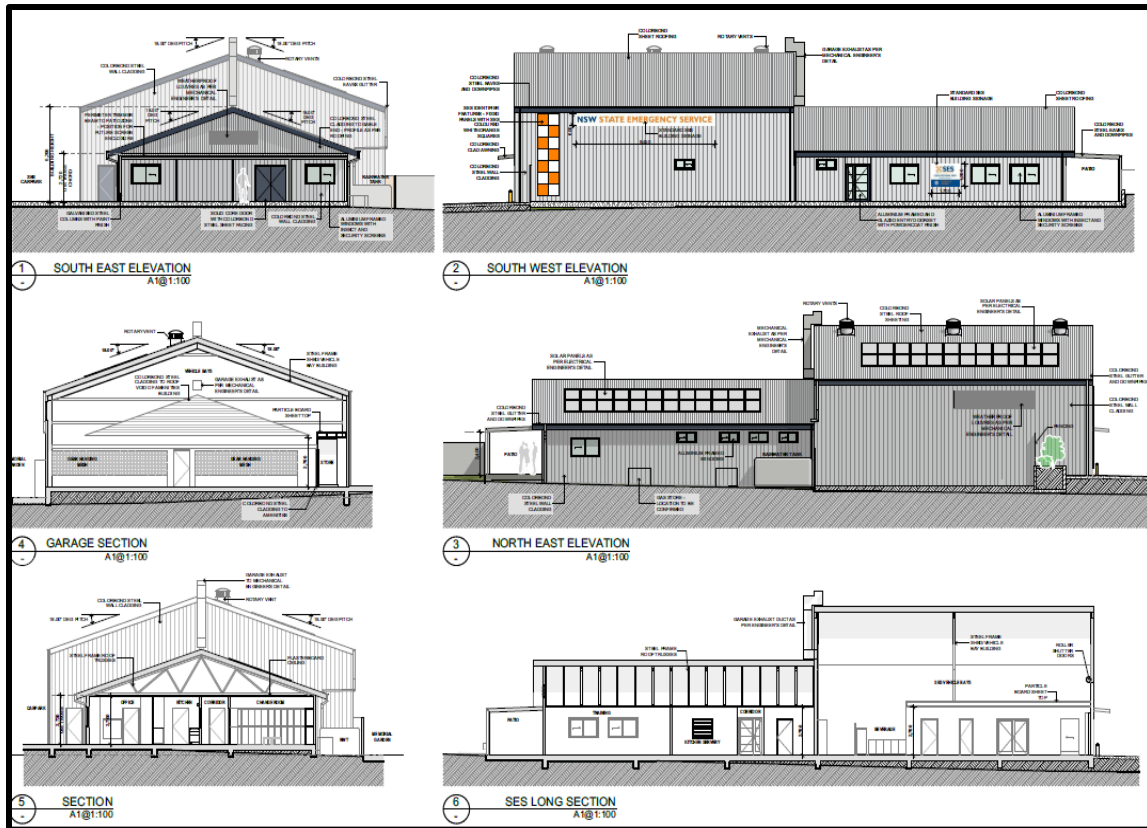


Figure 10 – Elevations and Sections (Source: Figgis + Jefferson Tepa)

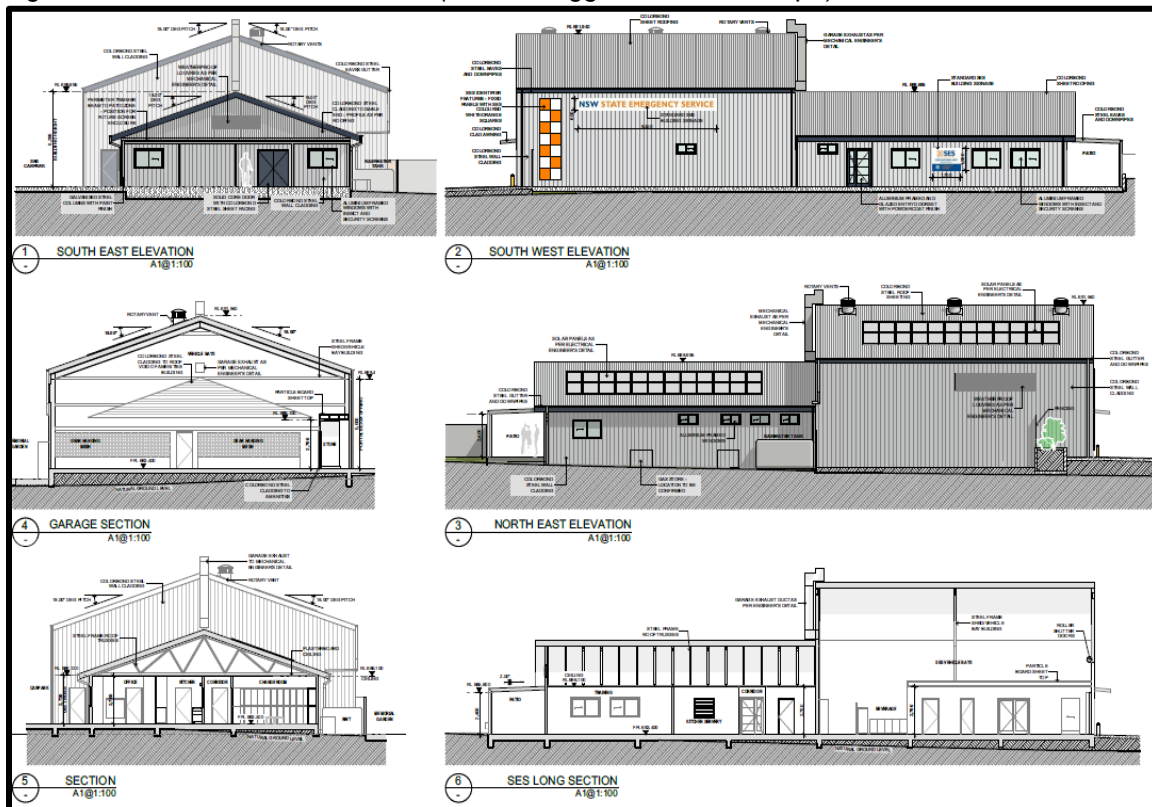


Figure 11 – Elevations and Sections (Source: Figgis + Jefferson Tepa)



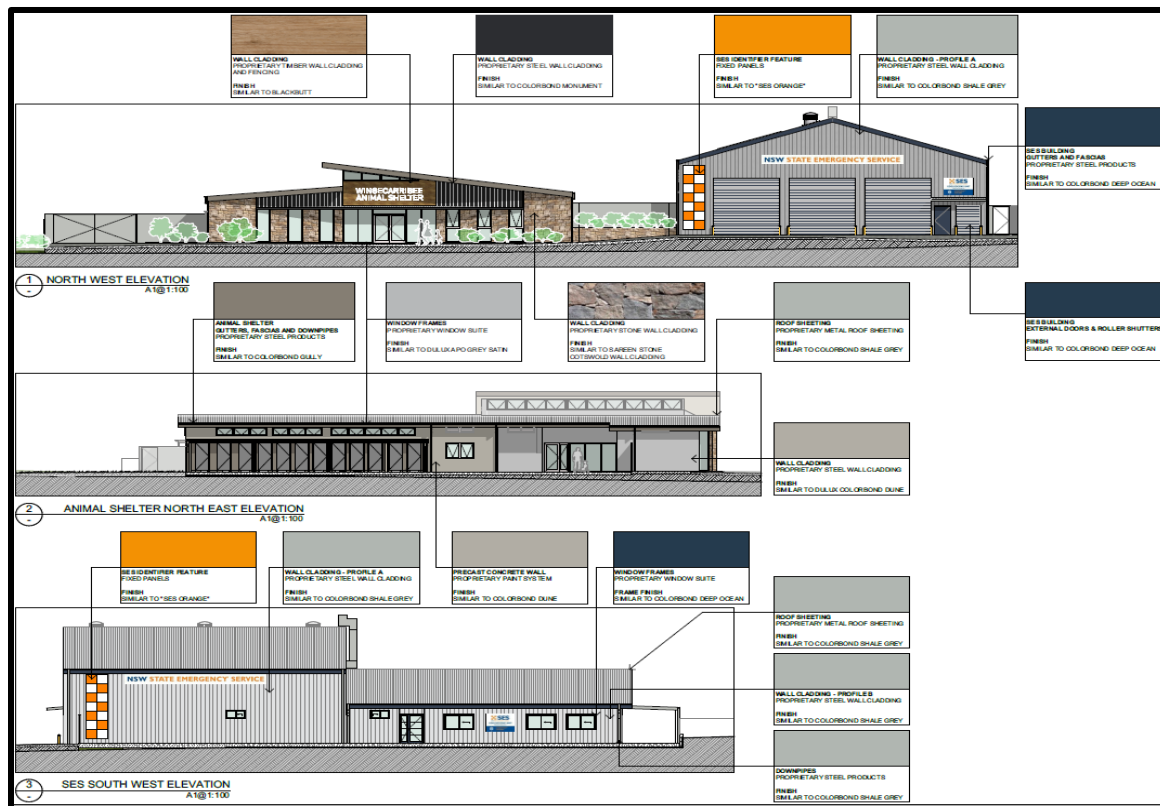


Figure 12 – Materials and Finishes Schedule (Source: Figgis + Jefferson Tepa)



Figure 13 – External Perspective (Source: Figgis + Jefferson Tepa)



Figure 14 – External Perspective (Source: Figgis + Jefferson Tepa)

## Access and Carparking

### *Access*

Vehicular ingress and egress are proposed to be serviced by an existing 5.4m wide driveway off Bowman Road. Pedestrian access is proposed of the Berrima Road frontage to the north east.

All service vehicles are capable of entering and leaving the site in a forward direction.

### *Car Parking*

The proposed development involves car parking associated with the individual uses. This includes:

- Animal Shelter - 9 car parking spaces are proposed and does not comply with the minimum of 19 spaces.
- State Emergency Service (SES) facility - 13 car parking spaces are proposed and complies with the minimum of 8 spaces.

## **6. ASSESSMENT**

An assessment against 4.15 of the Environmental Planning and Assessment Act 1979 is provided below.

## ***Environmental Planning and Assessment Act 1979 – Section 4.15***

In determining a DA, the consent authority is to take into consideration the following matter as are of relevance in the assessment of the DA on the subject property.

### ***(a)(i) The Provisions of any Environmental Planning Instrument***

The Environmental Planning Instruments that relate to the proposed development are:

- *Environmental Planning and Assessment Act 1979*
- *Environmental Planning and Assessment Regulation 2021*
- *Water Management Act 2000*
- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Resilience and Hazard) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *State Environmental Planning Policy (Industry and Employment) 2021*
- *State Environmental Planning Policy (Biodiversity and Conversation) 2021*
- *Wingecarribee Local Environmental Plan 2010;*
- *Moss Vale Enterprise Corridor Development Control Plan 2008*

An assessment of the proposed DA against the above instruments is detailed below.

#### ***Environmental Planning and Assessment Act 1979 (EP&A Act)***

The proposal does not contravene the Environmental Planning and Assessment Act.

#### ***Environmental Planning and Assessment (EP&A) Regulation 2021***

The proposal does not contravene the Environmental Planning and Assessment Regulation.

#### ***State Environmental Planning Policy (Planning Systems) 2021***

In accordance with Schedule 7 Regionally Significant Development of the SEPP, the proposed development constitutes 'Regional Development' as it has a Capital Investment Value (CIV) of \$6,387,000 which exceeds the \$5 million threshold for Council related development. Therefore, the consent authority is the Southern Regional Planning Panel.

#### ***State Environmental Planning Policy (Resilience and Hazard) 2021***

### ***Chapter 4 Remediation of Land***

The SEPP requires Council to be satisfied that the site is suitable for its intended use (in terms of contamination) prior to granting consent.

In particular, *Chapter 4 Remediation of Land* contains a number of objectives that aim to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health and the environment:

- a) *By specifying when consent is required, and when it is not required, for a remediation work;*  
*and*

- b) *By specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular; and*
- c) *By requiring that a remediation work meet certain standards and notification requirements*

Subject to Section 4.6 of the SEPP, a consent authority must not consent to the carrying out of development on land unless it has considered whether the land is contaminated.

No potentially contaminating activity have occurred, and the site is not within an investigation area. As such, the subject site is considered to be suitable for the intended development and further investigation is deemed unnecessary. The application was also considered by Council's Environmental Health Officer who raised no objection.

*State Environmental Planning Policy (Transport and Infrastructure) 2021*

*Chapter 2 – Infrastructure*

The subject site has frontage to Berrima Road which is identified as classified regional road. The application was referred to Transport for NSW who raised no objections and detailed that the regional classified road is under management by Council and the proposed development would not have a significant impact on the state road networks.

An assessment of the development against the relevant provisions of Chapter 2 of the Transport and Infrastructure SEPP is provided in the table below.

<b>State Environmental Planning Policy (Transport and Infrastructure) 2021</b>		
<b>Provision</b>	<b>Control</b>	<b>Discussion</b>
<b>2.118 Development with frontage to classified road</b>	<p>The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—</p> <ul style="list-style-type: none"> <li>a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and</li> <li>b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of— <ul style="list-style-type: none"> <li>(i) the design of the vehicular access to the land, or</li> <li>(ii) the emission of smoke or dust from the development, or</li> </ul> </li> </ul>	<p>It is proposed to maintain an existing vehicular access to Bowman Road.</p> <p>The safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development. The application was referred to Transport for NSW who raised no objection.</p>

	<p>(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and</p> <p>c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.</p>	<p>The development is not of a type that is sensitive to traffic noise or vehicle emissions.</p>
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### State Environmental Planning Policy (Industry and Employment) 2021

#### *Chapter 3 – Advertising and Signage*

Chapter 3 of SEPP (Industry and Employment) 2021 applies to the entire state to ensure that signage is compatible with the desired amenity and character of an area and to ensure that signs provide effective communication in suitable locations.

The proposed development seeks consent for the following:

- 1 x business identification sign associated with the Wingecarribee Animal Shelter; and
- 5 x business identification signs associated with the State Emergency Service (SES) facility.

The objectives of *Chapter 3 Advertising and Signage* are as follows:

- (a) *to ensure that signage (including advertising)—*
- (i) *is compatible with the desired amenity and visual character of an area, and*
  - (ii) *provides effective communication in suitable locations, and*
  - (iii) *is of high quality design and finish.*

#### Comment

The proposed signage has been designed and sited in a manner that ensures they are compatible with the desired amenity and visual character of the Moss Vale Enterprise Corridor. The proposed signage provides for affective signage in suitable location and is of high quality finish as demonstrated in the materials and finishes schedule.

An assessment of the proposed signage against the assessment criteria of Chapter 3 of SEPP (Industry and Employment) 2021 is provided in the table below.

<b>State Environmental Planning Policy (Industry and Employment) 2021</b>		
<b>Provision</b>	<b>Control</b>	<b>Discussion</b>
<b>1. Character of the Area</b>	Is the proposal compatible with the existing or desired future character or the area or locality in which it is proposed to be located?	The proposed signage is compatible with the existing and future character of the area.
	Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The signage is considered consistent with the signage in the locality in terms of design and numbers of signs proposed.
<b>2. Special Areas</b>	Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The proposed signage will not detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas or other areas including residential.
<b>3. Views and vistas</b>	Does the proposal obscure or compromise important views?	The proposed signage will not obscure or compromise any important views lines.
	Does the proposal dominate the skyline and reduce the quality of vistas?	The signage will not dominate the skyline or reduce the quality of vistas.
	Does the proposal respect the viewing rights of other advertisers?	The proposed signage does not detract from the viewing of any advertising structure within the local.
<b>4. Streetscape setting on landscape</b>	Is the scale proportion and form of the proposal appropriate for the streetscape or landscape?	The scale and form of the proposed signage will not impact on the amenity of surrounding streetscape or landscape.
	Does the proposal contribute to the visual interest of the streetscape?	The signage will does not directly front a street and will not impact on the streetscape.
	Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The proposed signage has been designed to minimise visual clutter and provide simple directional signage.

	<p>Does the proposal screen unsightliness?</p> <p>Does the proposal protrude above buildings, structures or tree canopies in the area or locality?</p> <p>Does the proposal require ongoing vegetation management?</p>	<p>The proposed signage has been designed to complement the built form.</p> <p>The signage does not protrude above the building or tree canopy.</p> <p>No vegetation management will be required.</p>
<b>5. Site and Building</b>	<p>Is the proposal compatible with the scale, proportion and other characteristics of the site or building or both on which the proposed signage is to be located?</p> <p>Does the proposal respect important features of the site or building, or both?</p> <p>Does the proposal show innovation and imagination in its relationship to the site building or both?</p>	<p>The signage has been designed to reflect the scale and character of the use of the subject site.</p> <p>The proposed signage respects the important features of both the building and the site.</p> <p>The signage has been sited and designed to ensure it integrates into the overall design of the built form and site layout.</p>
<b>6. Associated devices and logos with advertisements and advertising structures</b>	<p>Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?</p>	<p>All signage has been designed as an integrated product.</p>

<b>7. Illumination</b>	<p>Would illumination result in unsightly glare?</p> <p>Would illumination affect safety for pedestrians, vehicles or aircraft?</p> <p>Would illumination detract from the amenity of any residence or other form of accommodation?</p> <p>Can the intensity of the illumination be adjusted, if necessary?</p> <p>Is the illumination subject to a curfew?</p>	<p>The proposed illumination will not result in unsightly glare.</p> <p>The proposed illumination will not affect safety for pedestrians, vehicles or aircraft.</p> <p>The proposed illumination will not detract from the amenity of the surrounding area.</p> <p>The intensity of the illumination will be able to be adjusted if necessary.</p> <p>The illumination will not be subject to a curfew. It has been sited and designed to ensure there are no impacts on the surrounding area.</p>
<b>8. Safety</b>	<p>Would the proposal reduce the safety on any public road?</p> <p>Would the proposal reduce the safety for pedestrians or bicyclists?</p> <p>Would the proposal reduce the safety for pedestrians, particularly children by obscuring sightlines from public areas?</p>	<p>The proposed signage will not impact on safety of motorists travelling on adjoining public roads.</p> <p>The proposed signage will not impact on the safety of pedestrians or cyclists.</p> <p>The proposed signage will not obscure sightlines from public areas.</p>

State Environmental Planning Policy (Biodiversity and Conversation) 2021

**Chapter 4 - Koala Habitat Protection 2021**

As no Koala Plans of Management are currently listed in the Wingecarribee LEP 2010 the development is subject to Section 4.9 Development Assessment Process - no approved koala plan of management for land of the Koala Habitat Protection SEPP 2021.

Section 4.9(2) – (6) states:

*(2) Before a council may grant consent to a development application for consent to carry out development on the land, the council must assess whether the development is likely to have any impact on koalas or koala habitat.*



*(3) If the council is satisfied that the development is likely to have low or no impact on koalas or koala habitat, the council may grant consent to the development application.*

*(4) If the council is satisfied that the development is likely to have a higher level of impact on koalas or koala habitat, the council must, in deciding whether to grant consent to the development application, take into account a koala assessment report for the development.*

*(5) However, despite subsections (3) and (4), the council may grant development consent if the applicant provides to the council—*

*(a) information, prepared by a suitably qualified and experienced person, the council is satisfied demonstrates that the land subject of the development application—*

*(i) does not include any trees belonging to the koala use tree species listed in Schedule 2 for the relevant koala management area, or*

*(ii) is not core koala habitat, or*

*(b) information the council is satisfied demonstrates that the land subject of the development application—*

*(i) does not include any trees with a diameter at breast height over bark of more than 10 centimetres, or*

*(ii) includes only horticultural or agricultural plantations.*

*(6) In this section—*

*koala assessment report, for development, means a report prepared by a suitably qualified and experienced person about the likely and potential impacts of the development on koalas or koala habitat and the proposed management of those impacts*

A Flora and Fauna Report accompanied the development application which detailed the following:

- The site contains one single tree (Eucalyptus rubida) that is listed as a feed tree species in Schedule 2 for the relevant management areas. Other trees present are a planted non-local species and are not listed in Schedule 2 for the relevant management areas.*
- No Koalas are known or likely to have visited the site. No indirect evidence (scratches on trees, scats) was found during a site inspection on 16<sup>th</sup> February 2022. The site is substantially isolated from areas of potential habitat and from previous records in the region.*
- The proposed development would retain all trees within the site.*

It is satisfied that the proposed development is likely to have low or no impact on koalas or koala habitat. The proposed development is considered to be consistent with the relevant objectives and control of the SEPP and consent may be granted for the development application.

## ***Chapter 8 – Sydney drinking water catchment***

Chapter 8 of SEPP Biodiversity and Conservations 2021 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 raised no objections subject to conditions attached. As such, it is satisfied that the proposed development can achieve a neutral or beneficial effect (NorBE) on water quality.

### Wingecarribee Local Environmental Plan 2010

The Wingecarribee Local Environmental Plan (LEP) 2010 applies to the site and proposed development.

#### *Permissibility*

The site is zoned IN2 Light Industrial pursuant to the Wingecarribee Local Environmental Plan (LEP) 2010.

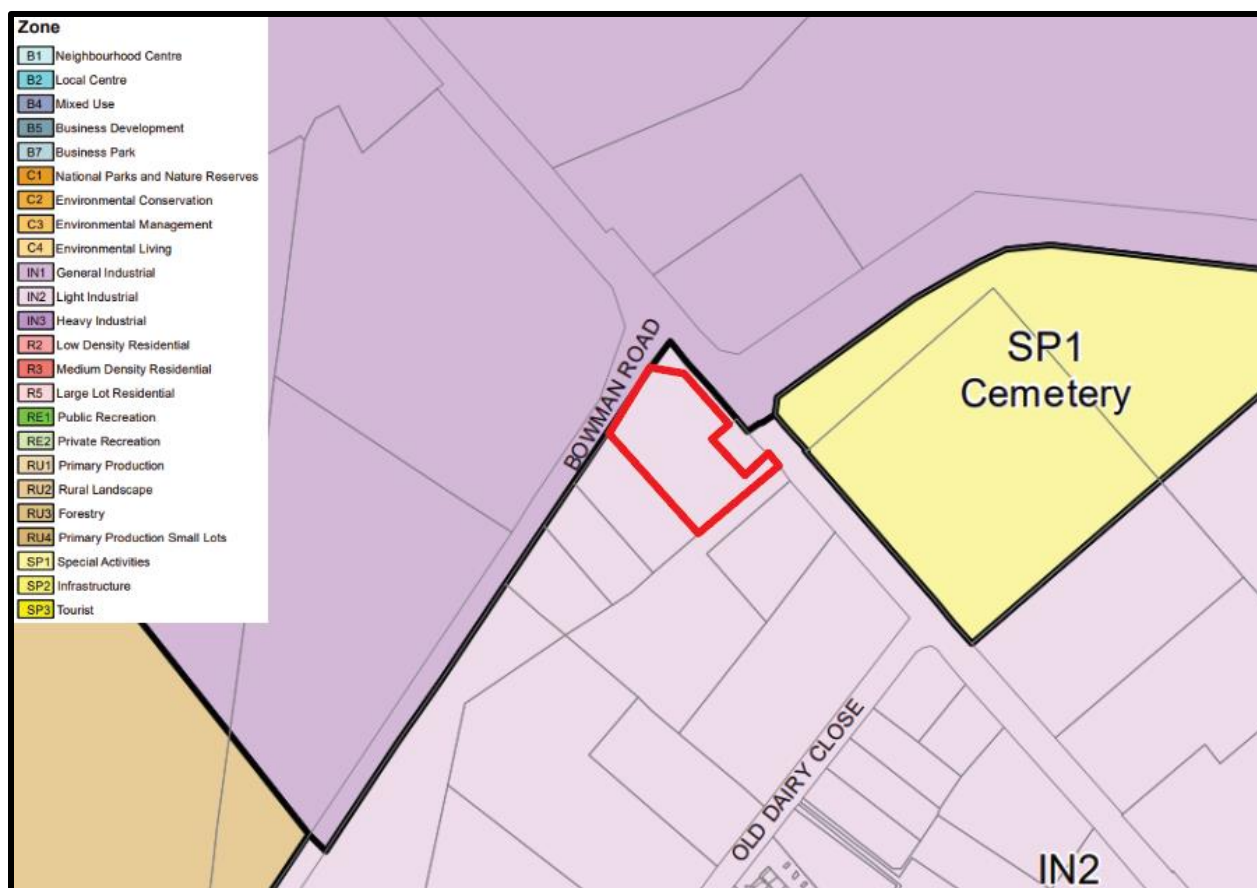


Figure 15 – Zoning Map (Source: NSW Legislation)

The proposed State Emergency Services (SES) is defined as an emergency services facility which is permissible with consent.

Legal advice was sought by the applicant and The Planning Hub (independent of the applicant) to resolve the permissibility issue regarding the animal shelter component of the application. Animal boarding or training establishments are prohibited in the IN2 zone and community facilities are permitted with consent in the IN2 zone. The legal advice (refer to **Attachment 10**) provided clearly outlines that the proposed animal shelter is not defined as an animal boarding or training establishment as it is not for commercial purposes and the use is defined as a community facility.

Both animal boarding or training establishment and community facility are defined below.

**animal boarding or training establishment** - means a building or place used for the breeding, boarding, training, keeping or caring of animals for commercial purposes (other than for the agistment of horses), and includes any associated riding school or ancillary veterinary hospital.

**community facility** means a building or place—

- (a) owned or controlled by a public authority or non-profit community organisation, and
- (b) used for the physical, social, cultural or intellectual development or welfare of the community,

*but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.*

The legal advice makes the following conclusions:

- The proposed animal shelter meets (a) and (b) of the animal boarding or training establishment definition as it will be used for the keeping and caring of animals;
- The development is not being carried out because of the prospect of returning a profit or for some other commercial benefit and the objective of the development is the keeping and caring of animals for animal welfare and community purposes. The proposed use therefore does not meet (c) of the animal boarding or training establishment and is not best defined as an animal boarding or training establishment;
- The proposed animal shelter meets (a) of the community facility definition as the site is owned by and the use will be operated by Council; and
- The proposed animal shelter meets (b) of the community facility definition as it involves the keeping and caring of animals which would be otherwise abandoned can be said to provide a social and physical benefit to the community, including by reducing the risk of disease, dangerous interactions between people and stray animals, impacts on wildlife from stray animals, and the risk of property damage and pollution from stray animals.

Therefore, the proposed animal shelter is best defined as a community facility which is permitted with consent in the IN2 zone.

### *Zone Objectives*

The objectives of the IN2 Light Industrial zone are as follows:

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

### Officer Comment:

The proposed development is consistent with the relevant objectives of the zone. Specifically, the proposed development will not have any adverse effect of industry on other land uses. The proposed development allows for non-industrial land uses of a type, nature and scale that is appropriate for the zone and will not impact viability of business and commercial centres in Wingecarribee.

In addition, proposed development and associated land uses have been designed and sited in a manner that take account their spatial context and mitigates any potential impacts on neighbourhood amenity and character or the efficient operation of the local and regional road system.

#### *Relevant Clauses*

The DA was assessed against the following relevant clauses of the Wingecarribee LEP 2010.

Clause	Requirement	Provided	Compliance
7.3 Earthworks	To ensure that any earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses or heritage items and features surrounding land.	Minor earthworks are proposed to facilitate the proposed development. The proposed development will not affect environmental functions and processes, neighbouring uses or heritage items and features surrounding land.  The application was referred to Councils Development Engineers who raised no objections subject to conditions attached.	Yes
7.10 Public Utility Infrastructure	Development consent must not be granted for development on land to which this clause applies unless the Council is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when it is required.	The subject site is capable of being serviced by public utility that are essential for the development.	Yes

***(a)(ii) The Provision of any Draft Environmental Planning Instrument (that is or has been the subject of public consultation under this Act and that has been notified to the consent***

**authority that the making of the proposed instrument has been deferred indefinitely or has not been approved).**

Nil

**(a)(iii) The Provisions of any Development Control Plan**

Moss Vale Enterprise Corridor Development Control Plan 2008

The Moss Vale Enterprise Corridor Development Control Plan (DCP) 2008 provides detailed provisions to supplement the Wingecarribee LEP 2010. An assessment of the proposal against the relevant development controls applying to the subject site and development is provided in **Attachment 7**.

The proposal is generally consistent with the relevant objectives and controls of the Moss Vale Enterprise Corridor DCP.

**(a)(iiia) Any planning agreement that has been entered into under Section 7.4, or any draft planning agreement that a developer has offered to enter into under Section 7.4.**

Not Applicable

**(a)(iv) The Regulations**

The Regulations do not prescribe any additional matters that are relevant to the proposed DA.

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

Key matters for consideration when considering the development's potential impact on the natural and built environment are deemed to be as follows:

**Natural Environment**

The proposed development is not considered to adversely impact on the natural environment and has been designed to ensure any potential impacts are appropriately minimised and mitigated.

The proposed development has been prepared and designed in line with the key environmental planning instruments and policies implemented to minimise impacts on the natural environment as evidenced in the preparation of the following specialist studies in support of the application:

- Flora and Fauna Assessment; and
- Acoustic Report.

The application was referred to Council's internal departments for review and no objections were raised.

Therefore, the proposed development is not considered to have any adverse impacts on the natural environment.

## **Built Environment**

### **Character, Bulk and Scale**

The proposal seeks approval for the construction of facilities for the Wingecarribee Animal Shelter and State Emergency Services (SES) at 1 Bowman Road, Moss Vale. In summary, works under the development include:

- The construction and use of an Animal Shelter with a GFA of 562.56m<sup>2</sup>.
- Construction and use of a State Emergency Services (SES) Unit with a GFA of 234.21m<sup>2</sup>.



*Figure 16 – External Perspective (Source: Figgis + Jefferson Tepa)*

The proposed bulk, mass and scale of the Animal Shelter and SES facility are considered to be compatible with the surrounding development and context of the Enterprise Corridor. In addition, the proposed materials, finishes and landscaping ensures the development blend with the natural environment and complement the character of the area.

### **Social and Economic Impacts**

The proposed development is considered to result in a positive social impact through the provision of animal shelter and emergency services in a suitable location.

The proposed facility will also provide short-term and long-term economic benefits through construction expenditure and employment.

### **(1)(c) The suitability of the site**

The proposed development has adequately addressed the key concerns including built form, traffic and car parking and servicing. The proposed development is compatible with the surrounding area; therefore, the consent authority can be satisfied that the site is suitable for the proposed development.

### **(1)(d) Any submissions made in accordance with this Act or the Regulations.**

The Development Application was advertised for a period of 30 days between 06 June 2022 and 08 July 2022. No submissions were received during the notification period.

### **(1)(e) The public Interest**

The public interest is served through the detailed assessment of this DA under *the Environmental Planning and Assessment Act 1979*, the *Environmental Planning and Assessment Regulation 2000*, Environmental Planning Instruments, Development Control Plan and policies.

That assessment has demonstrated that the proposed development has addressed the requirements of the relevant planning instruments and development controls applicable to it including the objectives of the zone.

The proposed development has also demonstrated that the site is suitable for the proposal and positively contributes to the provision of animal shelters and emergency services within Moss Vale and the wider LGA. Based on the above assessment, the proposal is in the interest of the public.

## **7. OTHER MATTERS**

### External and Internal Referrals

The subject DA was referred to a number of public agencies and their responses are summarised in in **Attachment 8**.

In addition, the DA was referred to a number of internal officers and their responses are also summarised in in **Attachment 8**.

## **8. CONCLUSION**

A Development Application has been received seeking approval for the construction of facilities for the Wingecarribee Animal Shelter and State Emergency Services (SES) at 1 Bowman Road, Moss Vale.

The development will not have an adverse impact on the natural or built environment and is suitable for the site, having regard to its consistency with the relevant planning controls applicable to it.



## 9. RECOMMENDATION

That DA/22/1835 seeking concept approval for the construction of facilities for the Wingecarribee Animal Shelter and State Emergency Services (SES) at 1 Bowman Road, Moss Vale be approved subject to the recommended conditions in **Attachment 9** to this report.