

SOUTHERN REGIONAL PLANNING PANEL

COUNCIL ASSESSMENT REPORT

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| Panel Reference | PPSSTH-175 |
| DA Number | DA22/0214 |
| LGA | Wingecarribee Shire Council |
| Proposed Development | Demolition of existing structures, lot consolidation, the construction of a staged seniors housing development and associated works. |
| Street Address | 6-8 Wiseman Road, Bowral (Lot 4 DP 829578 & Part Lot 1000 DP 1117715) |
| Applicant/Owner | Applicant - Hogan Planning Owner - Pepperfield 6 Wiseman Road Pty Ltd |
| Date of DA lodgement | 02/08/2021 |
| Number of Submissions | Public Notification – 20 August 2021 to the 24 September 2021. 40 Submission Received |
| Recommendation | Refusal subject to the reasons outlined in this report |
| Regional Development Criteria (Schedule 6 of State Environmental Planning Policy (Planning systems) 2021) | Capital Investment Value (CIV) exceeds \$30 million for general development (\$31,450,465.00) |
| List of all relevant s4.15(1)(a) matters | <ul style="list-style-type: none"> • <i>Environmental Planning and Assessment Act 1979;</i> • <i>Environmental Planning and Assessment Regulation 2000;</i> • <i>Water Management Act 2000;</i> • <i>Biodiversity Conservation Act 2016;</i> • <i>State Environmental Planning Policy (Planning Systems) 2021;</i> • <i>State Environmental Planning Policy (Resilience and Hazard) 2021;</i> • <i>State Environmental Planning Policy (Transport and Infrastructure) 2021;</i> • <i>State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004;</i> • <i>State Environmental Planning Policy (Biodiversity and Conversation) 2021;</i> • <i>State Environmental Planning Policy (Koala and Habitat Protection) 2021;</i> • <i>Wingecarribee Local Environmental Plan 2010; and</i> • <i>Bowral Township Development Control Plan.</i> |
| List all documents submitted with this | <ol style="list-style-type: none"> 1. Architectural Plans 2. Landscape Plans 3. Civil Engineering Plans |

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| report for the Panel's consideration | 4. Statement of Environmental Effects 5. DCP Compliance Table 6. External & Internal Response Table 7. Recommended Reasons for Refusal |
| Report prepared by | Lachlan Rodgers and Jeremy Swan, The Planning Hub – Independent Town Planning Consultant on behalf of Council |
| Report date | 28 September 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? **No**
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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1. Architectural Plans
2. Landscape Plans
3. Civil Engineering Plans
4. Statement of Environmental Effects
5. DCP Compliance Table
6. External & Internal Response Table
7. Recommended Reasons for Refusal

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 demolition of existing structures, lot consolidation, the construction of a staged seniors housing development and associated works at 6-8 Wiseman Road, Bowral.

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 \$31,450,465.00 which exceeds the CIV threshold of \$30 million for general development.

2. SUMMARY OF RECOMMENDATION

That the Panel determine DA22/0214 consisting of the demolition of existing structures, lot consolidation, the construction of a staged seniors housing development and associated works by way of refusal pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979* in line with the recommended reasons for refusal outlined in this report.

3. EXECUTIVE SUMMARY

Council is in receipt of a Development Application from Hogan Planning submitted on 2/08/2021, seeking approval for the demolition of existing structures, lot consolidation, the construction of a staged seniors housing development and associated works at 6-8 Wiseman Road, Bowral.

The proposed development consists of the following works:

- Demolition of existing structures on 6 Wiseman Road;
- Lot consolidation;
- Staged construction of eighty one (81) single storey self-contained seniors living units;
- Construction of a community building with a gross floor area of 352m²;
- Construction of internal roads and associated pathways and infrastructure;
- Provision of landscaping and associated works.

The site is commonly known as 6 & 8 Wiseman Road, Bowral and legally described as Lot 4 in DP829578 and Part Lot 1000 DP1117715. A staged Seniors Housing Development known as 'Pepperfield Lifestyles Resort' was approved by the Land and Environment Court in 2004 under DA03/1717 at 8 Wiseman Road, Bowral. The Seniors Housing Development is currently operating onsite with the final stages currently under construction.

The site is zoned C3 Environmental Management under the provisions of Wingecarribee Local Environmental Plan 2010 (WLEP). Senior's housing is prohibited in the C3 zone however the site is subject to the additional permitted use of seniors housing in accordance with Schedule 1 of the WLEP 2010.

The development is intended to become part of the overall “Pepperfield Lifestyles Resort” that currently operates at no.8 Wiseman Road. The proposed development consists of Stages 5-11 of the overall development of the “Pepperfield Lifestyles Resort.”

The application was publicly notified from 20 August 2021 to the 24 September 2021. A total of 40 submissions were received. The submissions included 2 groups, Pepperfield Lifestyle Resort Residents Committee and Concerned Residents at Pepperfield. A detailed response to the issues raised in the submissions is provided in this report.

The application is classed as Integrated Development as works are proposed within 40m of a watercourse and require concurrence from the Natural Resources Access Regulator (NRAR) under the Water Management Act 2000.

An assessment of the development has been undertaken against the following relevant environmental planning instruments:

- *Environmental Planning and Assessment Act 1979*;
- *Environmental Planning and Assessment Regulation 2000*;
- *Water Management Act 2000*;
- *Biodiversity Conservation Act 2016*;
- *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 (Housing for Seniors or People with a Disability) 2004*;
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*;
- *State Environmental Planning Policy (Koala and Habitat Protection) 2021*;
- *Wingecarribee Local Environmental Plan 2010*; and
- *Bowral Township Development Control Plan*.

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.

The assessment has found that the proposed development is inconsistent with a number of key objectives and provisions of the relevant environmental planning instruments and the application is not supported by sufficient information to demonstrate the site is suitable for the proposed development or that it will not result in any adverse impacts on the built or natural environment. The development is therefore not considered to be in the public interest.

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* by way of refusal in line with the recommended reasons for refusal outlined in this report.

4. BACKGROUND

Application Background

The site is commonly known as 6 & 8 Wiseman Road, Bowral and legally described as Lot 4 in DP829578 and Part Lot 1000 DP1117715. A staged Seniors Housing Development known as 'Pepperfield Lifestyles Resort' was approved by the Land and Environment Court in 2004 under DA03/1717 at 8 Wiseman Road, Bowral. The Seniors Housing Development is currently operating onsite with the final stages currently under construction.

The site is zoned C3 Environmental Management under the provisions of Wingecarribee Local Environmental Plan 2010 (WLEP) in which seniors housing is prohibited.

In 2018 a planning proposal was submitted to Council to amend the Wingecarribee Local Environmental Plan (LEP) 2010 to include the additional permitted use of seniors housing at 6 & 8 Wiseman Road, Bowral.

The planning proposal was progressed to a Council meeting on May 9, 2018, with a recommendation by Council officers for the proposal to not be supported for proceeding to Gateway Determination. The application was not supported due to the following:

- The existing seniors housing development was not supported by Council during the assessment of the development application and was approved by the Land and Environment Court;
- The site is constrained and does not provide adequate access to services and facilities resulting in a reliance on private vehicular transport for residents;
- Support for the current proposal could set a precedent for further applications resulting in an extensive senior living enclave in a location where seniors housing is not permitted under LEP.

A subsequent rezoning review was submitted by the applicant and the proposal was reviewed by the Southern Regional Planning Panel. On 24 September 2018 the Panel supported the proposal and recommended it be progressed to Gateway Determination as it was considered to have strategic and site-specific merit.

In the Panel's decision they noted that no weight was given to the preliminary masterplan prepared as it did not appropriately respond to the character of the area - it did not place structures in a suitable landscape setting. While the use of the site is appropriate, significantly more work would need to be undertaken to ensure a sympathetic built form can be accommodated on site that responds to the site context and rural interface.

The proposed development is therefore subject to the additional permitted use of seniors housing in accordance with Schedule 1 of the WLEP 2010.

The development is intended to become part of the overall “Pepperfield Lifestyles Resort” that currently operates at no.8 Wiseman Road. The development is proposed to consists of Stages 5-11 of the overall development of the “Pepperfield Lifestyles Resort.”

The Site and Locality

The subject site is located on the northern side of Wiseman Road approximately 340m to the west of the intersection of Wiseman Road and Boardman Road. Wiseman Road ends in a cul-de-sac along the frotnage of 8 Wiseman Road. The site is commonly known as 6 & 8 Wiseman Road, Bowral and legally described as Lot 4 in DP829578 and Part Lot 1000 DP1117715.

Lot 4 in Deposited Plan No. 829578 (No. 6) Wiseman Road in Bowral maintains a land area of 3.991ha and supports a single dwelling with landscaped garden surrounds. A grazing paddock is located to the north of the dwelling and a water storage dam is located within the northeast of the site.

Lot 1000 in DP 1117715 (No.8) Wiseman Road at Bowral maintains a land area of 8.127ha and currently contains the Pepperfield Lifestyle Resort seniors living development. The two existing lots are proposed to be consolidated to create one development site with an area of approximately 12.118ha.

The surrounding area consists of the following:

- North – Low density residential development within C3 zoned land and R2 zoned land on the opposite side of Kangaloon Road forming the East Bowral Residential Precinct.
- South – Existing rural style residential development with extensive grazing land.
- East – The Southern Highlands Chirsitan School.
- West – Existing Pepperfields Lifestyle Resort with extensive grazing land located further to the west.

The site’s location and context is detailed in Figures 2 and 3 below.

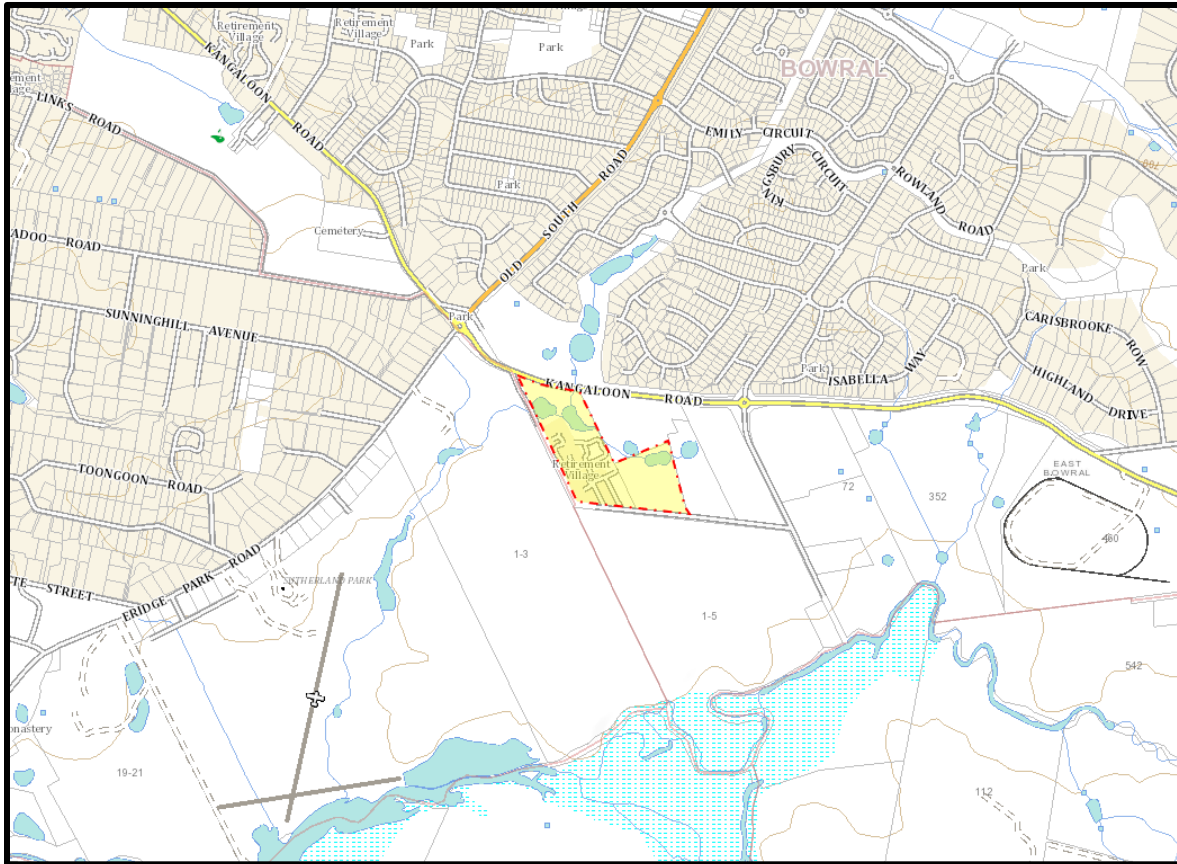


Figure 2 – Locality Plan (Source Six Maps)



Figure 3 – Site Aerial (Source: Nearmap)

The site is zoned C3 Environmental Management under the provisions of Wingecarribee Local Environmental Plan 2010 (WLEP). Senior's housing is prohibited in the C3 zone however the site is subject to the additional permitted use of seniors housing in accordance with Schedule 1 of the WLEP 2010.

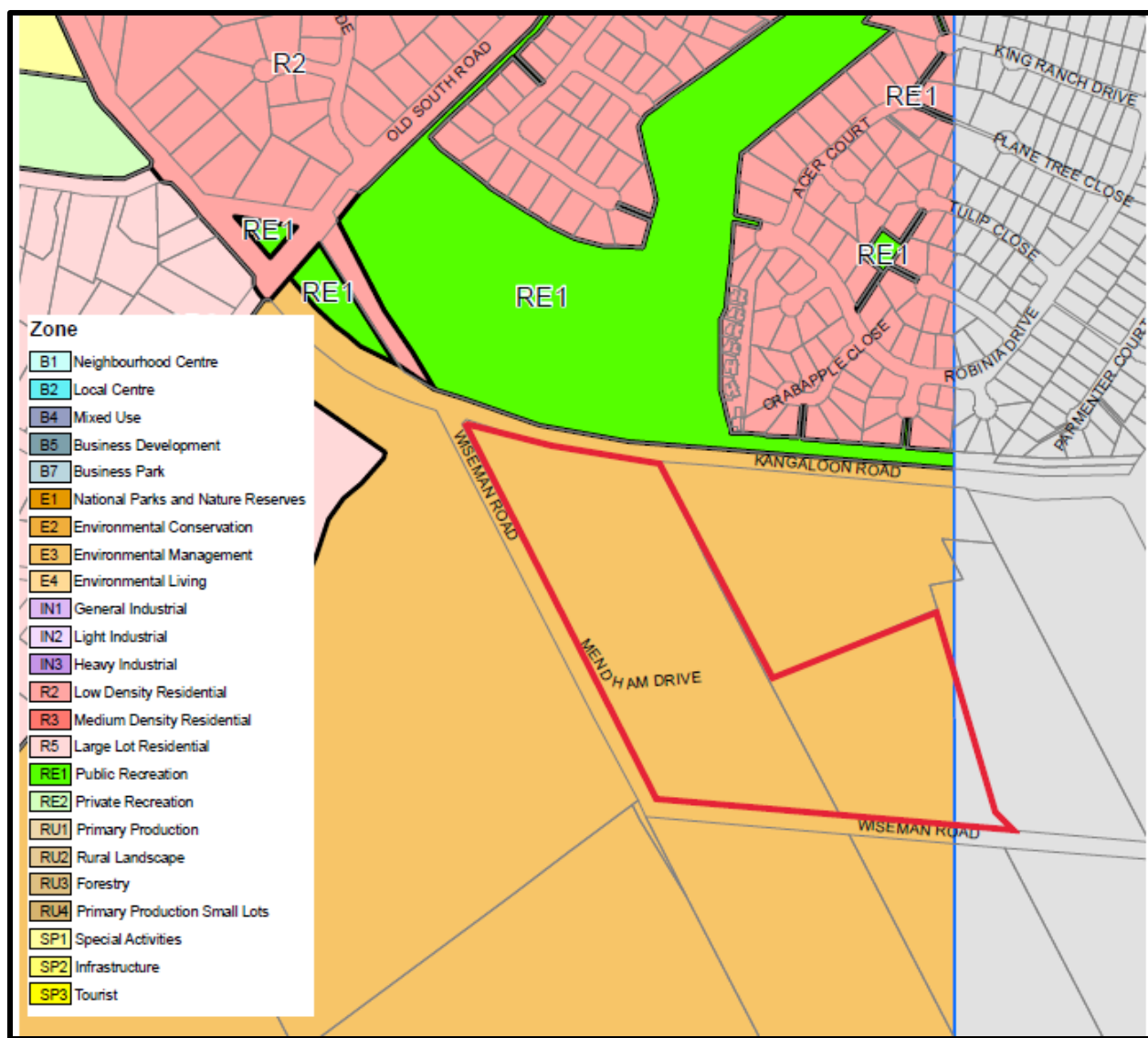


Figure 4 – Zoning Map (Source: NSW Legislation)

The Subject Application

The subject application was submitted to Wingecarribee Shire Council on 2 August 2021 seeking approval for the demolition of existing structures, lot consolidation, the construction of a staged seniors housing development and associated works at 6-8 Wiseman Road, Bowral.

Notification and Referrals

The subject application is classed as Integrated Development under Clause 4.46 of the Environmental Planning and Assessment Act 1979 (EP&A Act) and was referred to the relevant authorities for concurrence, as follows:

- Natural Resource Access Regulator (NRAR) - A controlled activity at a specified location in, on or under waterfront land (within 40m) (*Water Management Act 2000*).

In addition, the application was referred to a number of other internal and external agencies (refer **Attachment 6**).

The application was publicly notified from 20 August 2021 to the 24 September 2021. A total of 40 submissions were received. The submissions included 2 groups, Pepperfield Lifestyle Resort Residents Committee and Concerned Residents at Pepperfield. A detailed response to the issues raised in the submissions is provided in this report.

Panel Briefing

The Panel was briefed on the application on 7 September 2022. The key items discussed at the briefing consisted of:

- Zoning (C3) character, intent of zoning and the intent of the PP relating to the rezoning of the site
- Compatibility of scale and intensity with existing development and the character of the area;
- Development footprint;
- Acoustic and visual privacy;
- Increased density having regard to zone objectives;
- Location of the site having regard to accessibility and proximity to services;
- Accessibility and permeability to and within the site;
- Consistency and continuity of development footprint and setbacks;
- Lack of community facilities and public infrastructure within the site; and
- SEPP (Resilience and Hazards) 2021 requirement for preliminary site investigation given change of use.

A response to each key issue raised in the panel briefing is provided in the table below.

| Issue Discussed | Response |
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| Zoning (C3) character, intent of zoning and the intent of the PP relating to the rezoning of the site | <p>In the Panel's original recommendation for the planning proposal to be progressed to Gateway Determination they stated that the proposal has strategic merit however the following items were considered to be key elements for consideration in any future application:</p> <ul style="list-style-type: none">• Retention of landscape;• Flooding and stormwater requirements;• Scale, density and siting of built form;• Setbacks from boundaries; and• Rural interface. <p>The site and surrounding area is zoned C3 Environmental Management and is characterised by low density residential development (seniors housing) with significant landscaped setbacks and</p> |

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| | <p>rural residential development. The design of the development provides a significant increase in the density of development within the area with reduced setbacks between dwellings and the road frontages.</p> <p>The development does not appropriately recognise the desirable elements of the location's current character or contribute to the quality and identify of the area by providing a built form, scale and density that is compatible with existing development in the area or the C3 zoning of the site and adjoining land</p> <p>The proposed development in its current form is therefore considered to be inconsistent with the desired character of the C3 zoned area and the intent of the planning proposal as it is considered to be inconsistent with the aesthetic values of the existing landscape and development in the area.</p> |
| Compatibility of scale and intensity with existing development and the character of the area | <p>The design of the proposed development does not reflect the desirable elements of the locations current character or contribute to the quality and identity of the area.</p> <p>The site and surrounding area is zoned C3 Environmental Management and is characterised by Low density residential development (seniors housing) with significant landscaped setbacks and rural residential development. The design of the development provides a significant increase in the density of development within the area with reduced setbacks between dwellings and the road frontages.</p> <p>The development does not appropriately recognise the desirable elements of the location's current character or contribute to the quality and identify of the area by providing a built form, scale and density that is compatible with existing development in the area or the C3 zoning of the site and adjoining land.</p> <p>The development proposes the provision of 81 additional seniors living units to connect into the existing development at 8 Wiseman Road (approved for 87 units). The development will essentially double the number of seniors living dwellings located on the consolidated development site. The provision of the additional 81 dwellings on 6 Wiseman Road is being undertaken on a development site that is substantially smaller than the original development at 8 Wiseman Road</p> |

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| | resulting in a scale and density of development that is inconsistent and incompatible with the existing Pepperfields Resort. |
| Acoustic and visual privacy | <p>The proposed development has not been sited and designed to provide adequate visual and acoustic privacy for residents. The development involves the provision of the principle private open space (PPOS) area of dwelling type B and D at the front of the dwelling adjacent to the internal road network, visitor parking and the garages of the dwellings resulting in a poor acoustic and visual privacy for the residents. It is noted that the PPOS areas are provided with privacy screening however this is considered to be a poor design outcome and adversely impact on the character and amenity of the development. In addition, a number of the proposed bedrooms are located adjacent to the driveways, parking areas and paths within the development.</p> <p>In addition, no Acoustic Report was submitted in support of the application to demonstrate that the development can meet the relevant acoustic criteria.</p> |
| Increased density having regard to zone objectives | The proposed development is not considered to satisfy the relevant objectives of the C3 Environmental Management zone as the scale and density of the development proposed is considered to be inconsistent with the aesthetic values of the existing landscape and development in the area. |
| Location of the site having regard to accessibility and proximity to services | It is noted that the existing approval on 8 Wiseman Road has a condition of consent requiring the provision of a community transport bus to provide access to services and facilities. If the subject application is supported a similar condition could be imposed for the development. |
| Accessibility and permeability to and within the site | The proposed development does not provide obvious and safe pedestrian links within the site or for access to public transport services or local facilities. No specific details on pedestrian accessibility within the development has been submitted as part of the development and therefore the consent authority cannot be satisfied that the development provides a safe environment for pedestrians within the site or surrounding area. |

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| Consistency and continuity of development footprint and setbacks | <p>The proposed development provides a reduced front setback to Wiseman Road that is not in sympathy with the existing building line established by 8 Wiseman Road.</p> <p>The design of the development provides a significant increase in the density of development within the area with reduced setbacks between dwellings and the road frontages. The development does not appropriately recognise the desirable elements of the location's current character or contribute to the quality and identify of the area by providing a built form, scale and density that is compatible with existing development in the area or the C3 zoning of the site and adjoining land.</p> |
| Lack of community facilities and public infrastructure within the site | <p>The development provides an additional 81 dwellings and only includes 1 additional community building / common area (as part of Stage 7) with a gross floor area of 352m². A number of the public submissions received are from existing residents at 8 Wiseman Road who outlined an existing shortfall in community buildings and areas for the existing population.</p> <p>The proposed increase in density and population of development on the site will increase pressure on the existing community buildings / common areas. Insufficient information has been submitted to demonstrate that the proposed community building is of a sufficient size to accommodate the increase in population onsite and whether the existing services and facilities onsite are sufficient for the needs of the proposed community.</p> |
| SEPP (Resilience and Hazards) 2021 requirement for preliminary site investigation given change of use | <p>Insufficient information has been submitted with the application to adequately demonstrate that the site is considered suitable for the intended use as required under Clause 4.6 of SEPP (Resilience and Hazards) 2021. No Preliminary Site Investigation or Detailed Site Investigation has been submitted to demonstrate the site is suitable for its intended use.</p> |

5. THE PROPOSAL

The application seeks development consent for the demolition of existing structures, lot Consolidation, the construction of a staged seniors housing development and associated works at 6-8 Wiseman Road, Bowral.

Specifically, the development will comprise of the following:

- Demolition of all existing structures on 6 Wiseman Road;
- Lot consolidation to create one development site;
- Staged construction of eighty one (81) single storey self-contained seniors living units. Each unit contains two (2) bedrooms, bathrooms, living and dining areas, kitchen, single car garage and outdoor terrace. The construction of the proposed units will be staged as follows:
 - Stage 1 (Stage 5 detailed on plans)
 - Construction of internal access road from Wiseman Road and continuing through to the existing Pepperfields Development;
 - Construction of visitor parking;
 - Construction of 11 units.
 - Stage 2 (Stage 6 detailed on plans)
 - Construction of internal access road;
 - Construction of visitor parking;
 - Construction of 14 units.
 - Stage 3 (Stage 7 detailed on plans)
 - Construction of internal access road;
 - Construction of visitor parking;
 - Construction of 14 units.
 - Stage 4 (Stage 8 detailed on plans)
 - Construction of internal access road;
 - Construction of visitor parking;
 - Construction of 14 units.
 - Stage 5 (Stage 9 detailed on plans)
 - Construction of 10 units;
 - Construction of visitor parking;
 - Construction of garbage storage area;
 - Construction of mail pavilion.
 - Stage 6 (Stage 10 detailed on plans)
 - Construction of 11 units;
 - Construction of visitor parking;
 - Construction of garbage storage area.
 - Stage 7 (Stage 11 detailed on plans)

- Construction of 8 units;
 - Construction of visitor parking;
 - Construction of Community Building fronting Wiseman Road.
- Provision of landscaping and associated infrastructure.

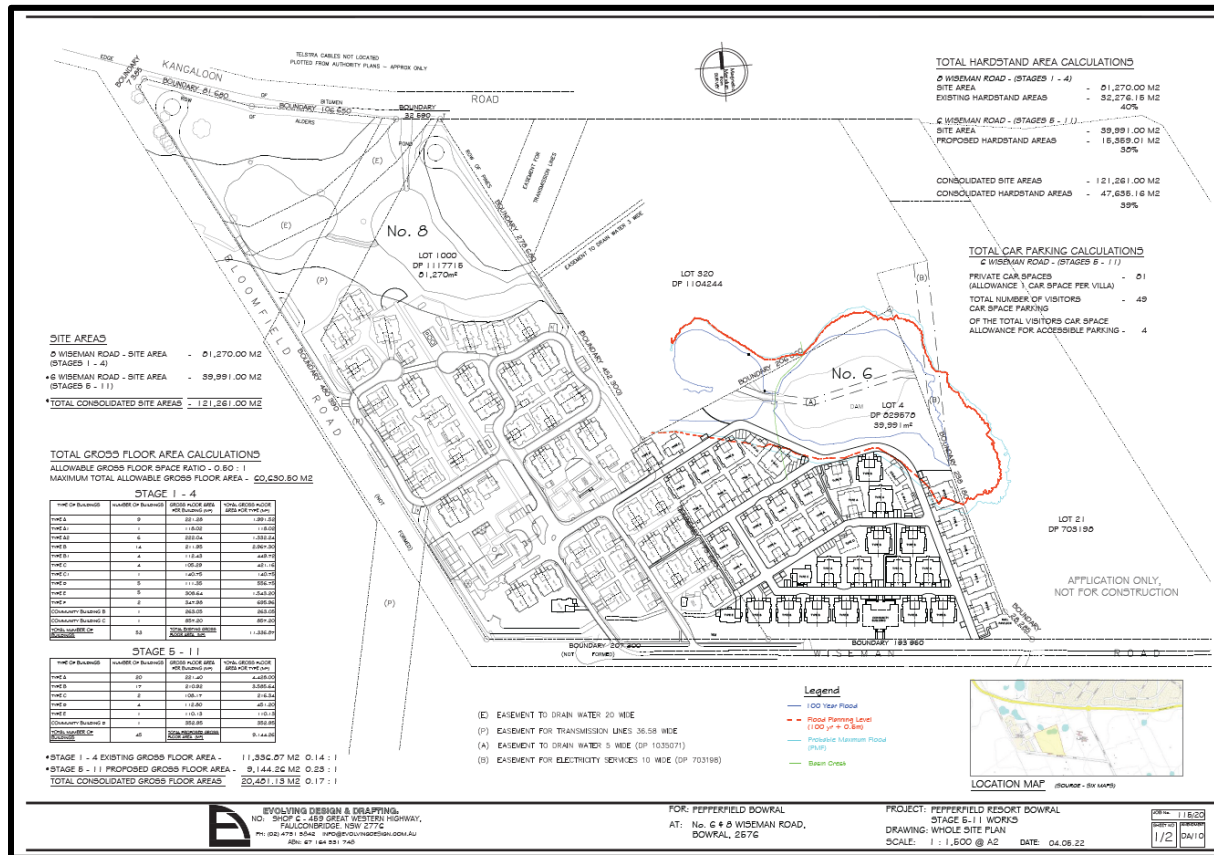


Figure 5 – Proposed Site Plan (Source: Evolving Design & Drafting)

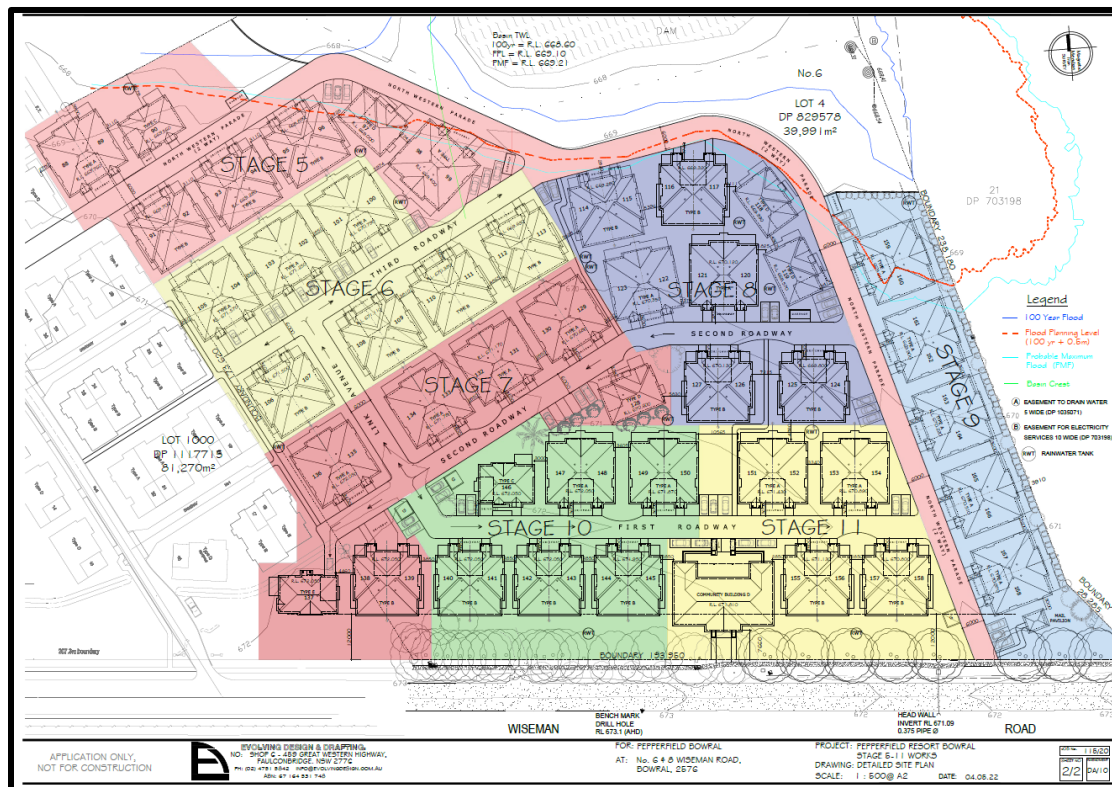


Figure 6 – Proposed Staging Plan (Source: Evolving Design & Drafting)

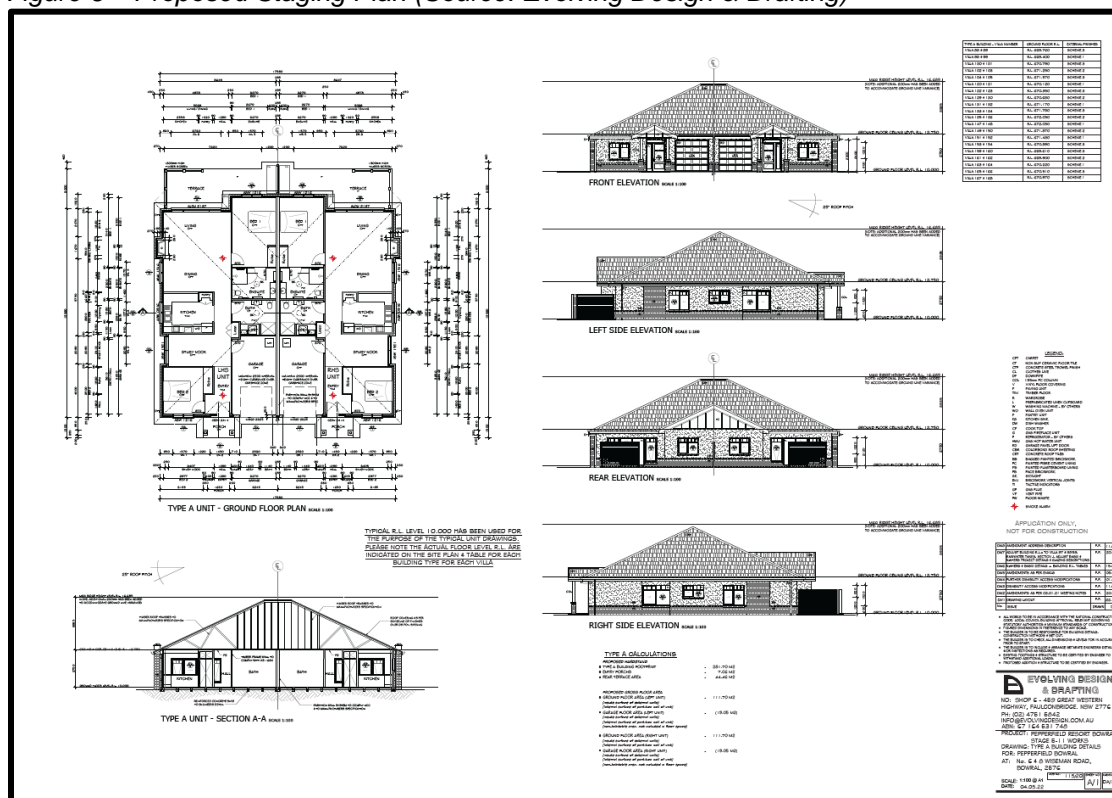


Figure 7 – Typical Dual Unit Floor Plan and Elevations (Source: Evolving Design & Drafting)

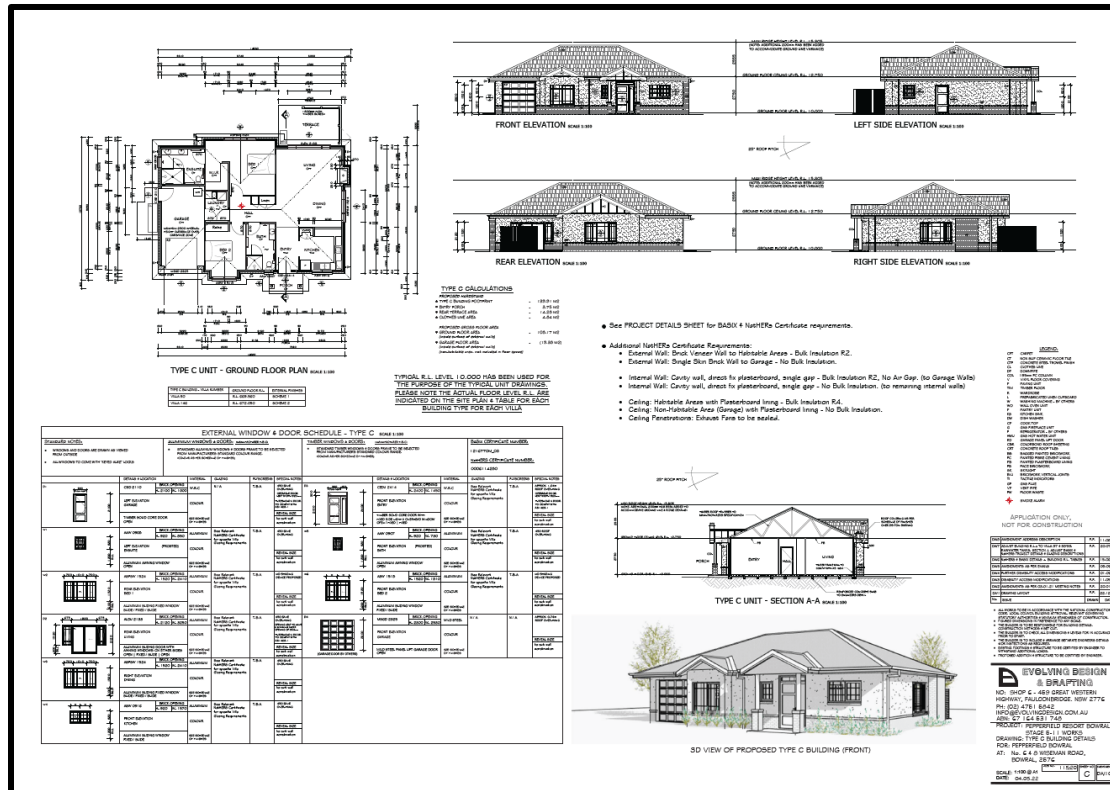


Figure 8 – Typical Single Unit Floor Plan and Elevations (Source: Evolving Design & Drafting)

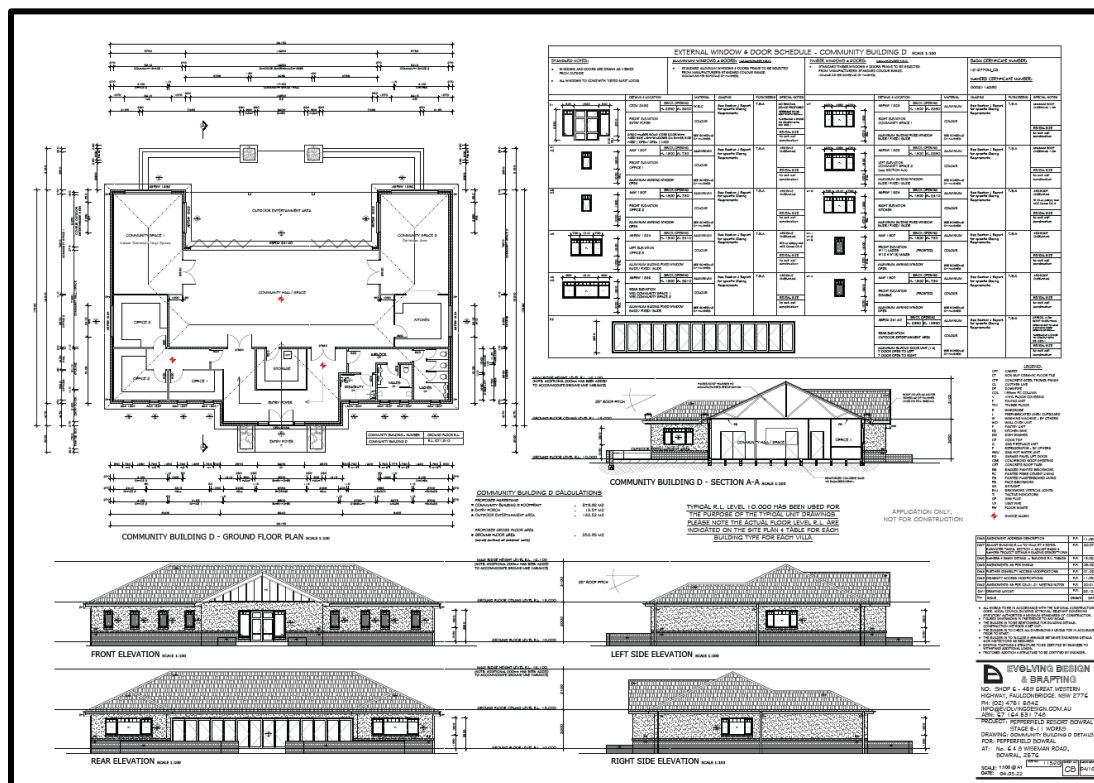


Figure 9 – Proposed Community Building Floor Plan and Elevations (Source: Evolving Design & Drafting)

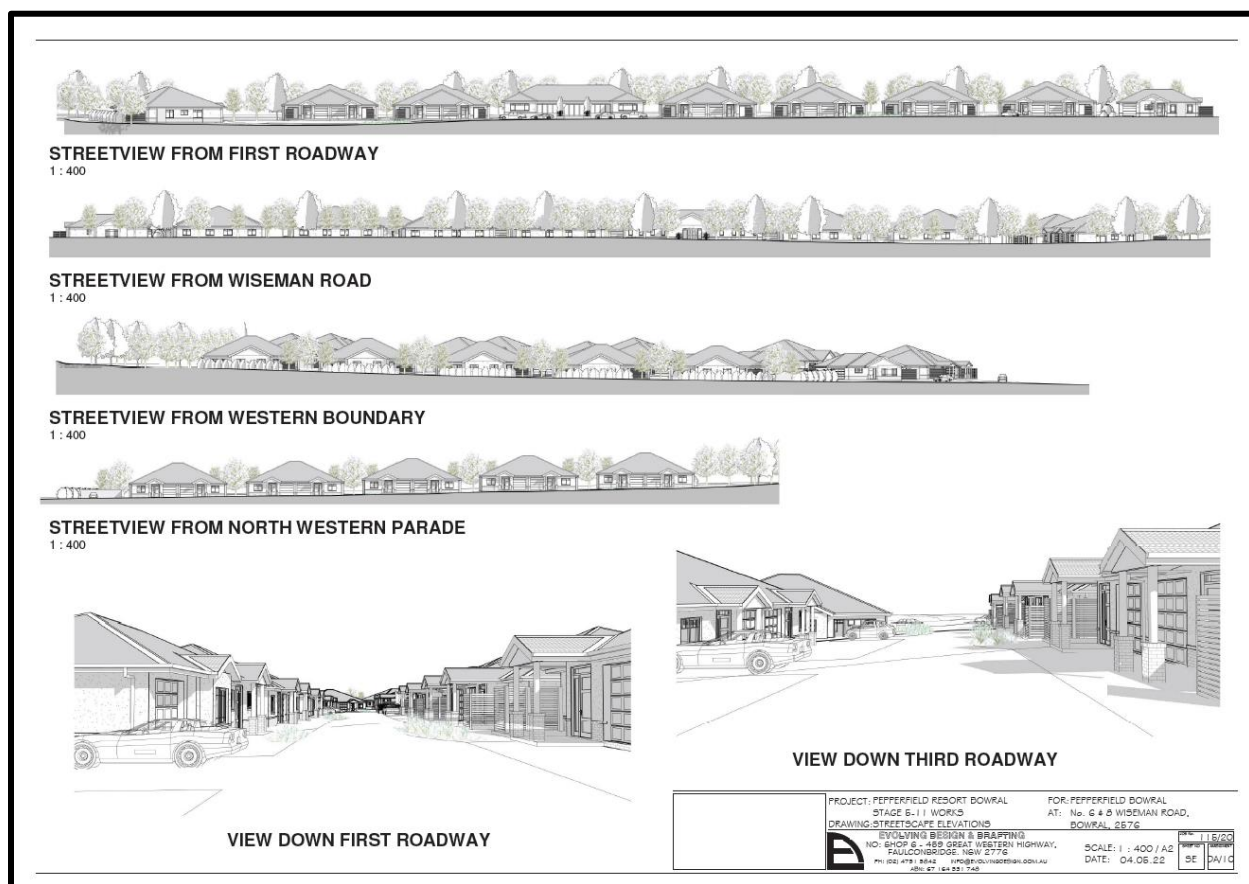


Figure 10 – Streetscape Elevations (Source: Evolving Design & Drafting)

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 2000;*
- *Water Management Act 2000;*
- *Biodiversity Conservation Act 2016;*
- *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 (Housing for Seniors or People with a Disability) 2004;*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021;*
- *State Environmental Planning Policy (Koala and Habitat Protection) 2021;*
- *Wingecarribee Local Environmental Plan 2010; and*
- *Bowral Township Development Control Plan.*

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

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

Section 4.46 of the EP&A Act defines integrated development as development that requires development consent and one or more approvals under other State Government Acts. In relation to the subject application the following Acts apply:

- Natural Resource Access Regulator (NRAR) - A controlled activity at a specified location in, on or under waterfront land (within 40m) (*Water Management Act 2000*).

NRAR issued their General Terms of Approval (GTAs) on 16 November 2021.

Environmental Planning and Assessment (EP&A) Regulation 2000

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

Water Management Act 2000

In accordance with Section 91 of the *Water Management Act 2000*, an application for controlled activity approval at a specified location in, on or under waterfront Land (within 40m) is to be made to NRAR. The site contains natural drainage lines.

The application was referred to the NRAR who issued their General Terms of Approval (GTAs) on 16 November 2021.

Biodiversity Conservation Act 2016

The Biodiversity Conservation Act 2016 applies to activities that will impact upon native vegetation or upon habitat for threatened species.

The proposed development would result in loss of native vegetation as follows:

- three mature individuals of *Casuarina Cunninghamia* with a canopy area of 185m²;
- two small individuals of *Acacia dealbata* with a canopy area of 38m²;
- several small patches (<900m² combined area) of mixed species lawn containing *Cynodon dactylon*.

The proposed development was referred to Ecological (private consultant undertaking Council's Environment Referral) who requested additional information to properly assess potential ecological impacts. The requested information was to confirm the location and extent of proposed

vegetation removal, including affected species and if native flora and fauna was to be removed an ecological impact assessment would be required.

A tree removal and retention plan and an ecological response were provided by the applicant.

The ecological response concluded that the development would not impact upon areas of habitat likely to be used by threatened species.

In relation to the Biodiversity Offset Scheme:

- The proposed development would not affect land identified as an Area of Outstanding Biodiversity Value (AOBV);
- BOSET - No part of the site is mapped on the Biodiversity Values Map. The area of clearing criteria for this site is 0.5ha. The area of native vegetation to be impacted by the proposed development is well below this threshold (<0.12ha).
- The site does not contain threatened plant species or ecological communities, and does not contain likely habitat for threatened fauna.

The Biodiversity Offset Scheme does not apply to the proposed development. A Biodiversity Development Assessment Report is not required.

Given the extremely limited extent and isolation of native vegetation present at 6 Wiseman Road, Bowral (most of which is planted), the response was regarded as sufficient for the purpose of assessing potential impacts of the proposed development upon biodiversity.

State Environmental Planning Policy (Planning Systems) 2021

In accordance with Schedule 6 Regionally Significant Development of the SEPP, the proposed development constitutes 'Regionally Significant Development' as it has a Capital Investment Value (CIV) of \$30 which exceeds the \$30 million threshold for general 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 Preliminary Site Investigation or Detailed Site Investigation has been submitted to demonstrate the site is suitable for its intended use. Insufficient information has therefore been submitted with the application to adequately demonstrate that the site is considered suitable for the intended use as required under Clause 4.6 of SEPP (Resilience and Hazards) 2021.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2 – Infrastructure

A portion of the subject site has frontage to Kangaloon Road. No works are proposed within proximity of Kangaloon Road. The application was referred to Transport for NSW who raised no objection stating the proposed development will be provided access from a local road (Wiseman Road) and the access and traffic generation will not adversely impact on the operation of Kangaloon Road.

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

| State Environmental Planning Policy (Transport and Infrastructure) 2021 | | |
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| Provision | Control | Discussion |
| 2.118 Development with frontage to classified road | <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> <p>a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and</p> <p>b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—</p> <p>(i) the design of the vehicular access to the land, or</p> <p>(ii) the emission of smoke or dust from the development, or</p> <p>(iii) the nature, volume or frequency of vehicles using the classified road</p> | <p>It is proposed to provide access from Wiseman Road (local 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> |

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| | to gain access to the land, and | |
| | 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. | The proposed development is located a substantial distance from Kangaloon Road and will not be adversely impacted by traffic noise or vehicle emissions. |

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

This Policy aims to encourage the provision of housing (including residential care facilities) that will—

- (b) increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and
- (c) make efficient use of existing infrastructure and services, and
- (d) be of good design.

In accordance with Clause 4(6) the SEPP does not apply to the subject development as it is located within a water catchment area which is identified as environmentally sensitive land under Schedule 1. Despite this the Bowral Township Development Control Plan (DCP) specifically refers to compliance with the SEPP and therefore the SEPP is to be used as a guide for the subject development in addition to the requirements of the Wingecarribee Local Environmental Plan (LEP) 2010 and the Bowral Township DCP.

An assessment of the development against the relevant provisions of the SEPP is provided in the table below.

| State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 | | |
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| Provision | Control | Discussion |
| 26 Location and access to facilities | (1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that residents of the proposed development will have access that complies with subclause (2) to— (a) shops, bank service providers and other retail | It is noted that the existing approval on 8 Wiseman Road has a condition of consent requiring the provision of a community transport bus to provide access to services and facilities. If the subject application is supported a similar condition could be imposed. |

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| | <p>and commercial services that residents may reasonably require, and</p> <p>(b) community services and recreation facilities, and</p> <p>(c) the practice of a general medical practitioner.</p> <p>(2) Access complies with this clause if—</p> <p>(c) in the case of a proposed development on land in a local government area that is not within the Greater Sydney (Greater Capital City Statistical Area)—there is a transport service available to the residents who will occupy the proposed development—</p> <p>(i) that is located at a distance of not more than 400 metres from the site of the proposed development and the distance is accessible by means of a suitable access pathway, and</p> <p>(ii) that will take those residents to a place that is located at a distance of not more than 400 metres from the facilities and services referred to in subclause (1), and</p> <p>(iii) that is available both to and from the proposed development during daylight hours at least once each day from Monday to Friday (both days inclusive), and the gradient along the pathway from the site to the public transport services (and from the transport services to the facilities and services referred to in subclause (1)) complies with subclause (3).</p> <p>(3) For the purposes of subclause (2) (b) and (c), the overall average gradient along a pathway from the</p> | |
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| | <p>site of the proposed development to the public transport services (and from the transport services to the facilities and services referred to in subclause (1)) is to be no more than 1:14, although the following gradients along the pathway are also acceptable—</p> <ul style="list-style-type: none"> (i) a gradient of no more than 1:12 for slopes for a maximum of 15 metres at a time, (ii) a gradient of no more than 1:10 for a maximum length of 5 metres at a time, (iii) a gradient of no more than 1:8 for distances of no more than 1.5 metres at a time. <p>(4) For the purposes of subclause (2)—</p> <ul style="list-style-type: none"> (a) a suitable access pathway is a path of travel by means of a sealed footpath or other similar and safe means that is suitable for access by means of an electric wheelchair, motorised cart or the like, and (b) distances that are specified for the purposes of that subclause are to be measured by reference to the length of any such pathway. | |
| 28 Water and sewer | <p>(1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that the housing will be connected to a reticulated water system and have adequate facilities for the removal or disposal of sewage.</p> <p>(2) If the water and sewerage services referred to in subclause (1) will be provided by a person other than the consent authority, the</p> | Suitable arrangements can be made to service the site from a water and sewerage perspective. |

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| | consent authority must consider the suitability of the site with regard to the availability of reticulated water and sewerage infrastructure. In locations where reticulated services cannot be made available, the consent authority must satisfy all relevant regulators that the provision of water and sewerage infrastructure, including environmental and operational considerations, are satisfactory for the proposed development. | |
| 29 Consent authority to consider certain site compatibility criteria for development applications to which clause 24 does not apply | <p>(1) This clause applies to a development application made pursuant to this Chapter in respect of development for the purposes of seniors housing (other than dual occupancy) to which clause 24 does not apply.</p> <p>(2) A consent authority, in determining a development application to which this clause applies, must take into consideration the criteria referred to in clause 25 (5) (b) (i), (iii) and (v).</p> <p>(3) Nothing in this clause limits the matters to which a consent authority may or must have regard (or of which a consent authority must be satisfied under another provision of this Policy) in determining a development application to which this clause applies.</p> | <p>Noted. Clause 24 does not apply to the proposed development.</p> <p>The proposed development is not considered to satisfy clause 25 (5) (b) of the SEPP as the scale and density of the proposed development is considered to be incompatible with the existing and desired future character of the surrounding area. In addition, insufficient information has been submitted with the application to demonstrate that suitable and adequate access to facilities will be provided as part of the development as required by Clause 26.</p> <p>Noted.</p> |
| 30 Site analysis | A consent authority must not consent to a development application made | Insufficient site analysis details have been submitted with the |

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| | <p>pursuant to this Chapter unless the consent authority is satisfied that the applicant has taken into account a site analysis prepared by the applicant in accordance with this clause.</p> | <p>application detailing the existing character of the surrounding area from a built form perspective, overshadowing impacts and how the design of the development responds to the site analysis details.</p> |
| <p>33 Neighbourhood amenity and streetscape</p> | <p>The proposed development should—</p> <p>(a) recognise the desirable elements of the location's current character (or, in the case of precincts undergoing a transition, where described in local planning controls, the desired future character) so that new buildings contribute to the quality and identity of the area, and</p> | <p>The design of the proposed development does not reflect the desirable elements of the locations current character or contribute to the quality and identity of the area.</p> <p>The site and surrounding area is zoned C3 Environmental Management and is characterised by Low density residential development (seniors housing) with significant landscaped setbacks and rural residential development. The design of the development provides a significant increase in the density of development within the area with reduced setbacks between dwellings and the road frontages. The development does not appropriately recognise the desirable elements of the location's current character or contribute to the quality and identify of the area by providing a built form, scale and density that is compatible with existing development in the area or the C3 zoning of the site and adjoining land.</p> <p>The development proposes the provision of 81 additional seniors living units to connect into the existing development at 8 Wiseman Road (approved for 87 units). The development will essentially double the number of seniors living dwellings located on the consolidated development</p> |

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| | | <p>site. The provision of the additional 81 dwellings on 6 Wiseman Road is being undertaken on a development site that is substantially smaller than the original development at 8 Wiseman Road resulting in a scale and density of development that is inconsistent and incompatible with the existing Pepperfields Resort.</p> |
| | <p>(b) retain, complement and sensitively harmonise with any heritage conservation areas in the vicinity and any relevant heritage items that are identified in a local environmental plan, and</p> | <p>The proposed development does not impact on heritage items or conservation areas.</p> |
| | <p>(c) maintain reasonable neighbourhood amenity and appropriate residential character by—</p> <p>(i) providing building setbacks to reduce bulk and overshadowing, and</p> | <p>The proposed development does not provide setbacks that are consistent with existing development in the area resulting in an increase in scale and bulk of built form within the area. The reduced setbacks also have the potential to result in adverse residential amenity and solar access impacts. No Shadow Diagrams/Analysis was submitted with the application and therefore the consent authority cannot be satisfied that adequate solar access and amenity is provided for the development.</p> |
| | <p>(ii) using building form and siting that relates to the site's land form, and</p> | <p>The development has been designed to respond to the landform of the site where possible.</p> |
| | <p>(iii) adopting building heights at the street frontage that are compatible in scale</p> | <p>The development provides single storey-built form at the street frontage consistent with</p> |

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| | <p>with adjacent development, and</p> <p>(iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and</p> <p>(d) be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line, and</p> <p>(e) embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape, and</p> <p>(f) retain, wherever reasonable, major existing trees, and</p> | <p>development within the area however the reduced setbacks and increased density of development is incompatible with the scale and character of development within the area.</p> <p>The proposed development does not provide setbacks that are consistent with existing development in the area resulting in an increase in scale and bulk of built form and privacy and amenity impacts on existing development.</p> <p>The proposed development provides a reduced front setback to Wiseman Road that is not in sympathy with the existing building line established by 8 Wiseman Road.</p> <p>The proposed development includes the provision of landscaping that is in sympathy with existing planting in the streetscape.</p> <p>The proposed development involves the removal of vegetation to accommodate the proposed built form. The development involves replacement planting however the removal of vegetation along the Wiseman Road frontage and between the properties (6 & 8 Wiseman Road) results in the removal of screening and vegetation that establishes the character of the streetscape and provides privacy and amenity for the existing development at 8 Wiseman Road.</p> |
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| | (g) be designed so that no building is constructed in a riparian zone. | Noted. The application was referred to the NRAR who issued their General Terms of Approval (GTAs) on 16 November 2021. |
| 34 Visual and acoustic privacy | <p>The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by—</p> <p>(a) appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and</p> <p>(b) ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.</p> | <p>The proposed development has not been sited and designed to provide adequate visual and acoustic privacy for residents. The development involves the provision of the principle private open space (PPOS) area of dwelling type B and D at the front of the dwelling adjacent to the internal road network, visitor parking and the garages of the dwellings resulting in a poor acoustic and visual privacy for the residents. It is noted that the PPOS areas are provided with privacy screening however this is considered to be a poor design outcome and adversely impact on the character and amenity of the development. In addition, a number of the proposed bedrooms are located adjacent to the driveways, parking areas and paths within the development.</p> |
| 35 Solar access and design for climate | <p>The proposed development should—</p> <p>(a) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and</p> <p>(b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting by locating the windows of living and dining areas in a northerly direction.</p> | <p>Insufficient information has been submitted in support of the application to demonstrate that adequate daylight is provided to the living areas and private open space areas of the development and adjoining development. No Shadow Diagrams/Analysis was submitted with the application and therefore the consent authority cannot be satisfied that adequate solar access and amenity is provided for the development.</p> |
| 36 Stormwater | <p>The proposed development should—</p> <p>(a) control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by, for example, finishing</p> | <p>The application was referred to Water NSW who requested additional information on 6 September 2021. Water NSW requested that the applicant separate MUSIC Models for</p> |

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| | <p>driveway surfaces with semi-pervious material, minimising the width of paths and minimising paved areas, and</p> <p>(b) include, where practical, on-site stormwater detention or re-use for second quality water uses.</p> | <p>each stage of the development to demonstrate a neutral or beneficial effect (NorBE) on water quality. The request was provided to the applicant however no further information was provided.</p> <p>Therefore, insufficient information has been provided to demonstrate that the development (and each relevant stage) will have a neutral or beneficial effect (NorBE) on water quality</p> |
| 37 Crime prevention | <p>The proposed development should provide personal property security for residents and visitors and encourage crime prevention by—</p> <p>(a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and</p> <p>(b) where shared entries are required, providing shared entries that serve a small number of dwellings and that are able to be locked, and</p> <p>(c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.</p> | <p>The proposed development has been designed to allow for causal surveillance of all public areas from the proposed dwellings.</p> |
| 38 Accessibility | <p>The proposed development should—</p> <p>(a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and</p> <p>(b) provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors.</p> | <p>The proposed development does not provide obvious and safe pedestrian links within the site or for access to public transport services or local facilities. No specific details on pedestrian accessibility within the development has been submitted as part of the development and therefore the consent authority cannot be satisfied that the development</p> |

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| | | provides a safe environment for pedestrians within the site or surrounding area. |
| 39 Waste management | The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities. | The proposed development is provided with adequate waste and recycling facilities. |
| 40 Development standards—minimum sizes and building height | <p>(1) General A consent authority must not consent to a development application made pursuant to this Chapter unless the proposed development complies with the standards specified in this clause.</p> <p>(2) Site size The size of the site must be at least 1,000 square metres.</p> <p>(3) Site frontage The site frontage must be at least 20 metres wide measured at the building line.</p> <p>(4) Height in zones where residential flat buildings are not permitted If the development is proposed in a residential zone where residential flat buildings are not permitted—</p> <p>(a) the height of all buildings in the proposed development must be 8 metres or less, and</p> <p>(b) a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) must be not more than 2 storeys in height, and</p> <p>(c) a building located in the rear 25% area of the site must not exceed 1 storey in height.</p> | <p>The site is over 1,000 square metres.</p> <p>The site frontage is over 20m.</p> <p>All proposed buildings are single storey and less than 8m in height.</p> |
| 50 Standards that cannot be used to refuse development consent for self- | A consent authority must not refuse consent to a development application made pursuant to this Chapter for the carrying out of development for the purpose of a self-contained dwelling (including in-fill self-care housing and serviced self-care housing) | |

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| <p>contained dwellings</p> | <p>on any of the following grounds—</p> <p>(a) building height: if all proposed buildings are 8 metres or less in height (and regardless of any other standard specified by another environmental planning instrument limiting development to 2 storeys),</p> <p>(b) density and scale: if the density and scale of the buildings when expressed as a floor space ratio is 0.5:1 or less,</p> <p>(c) landscaped area: if—</p> <p>(i) in the case of a development application made by a social housing provider—a minimum 35 square metres of landscaped area per dwelling is provided, or</p> <p>(ii) in any other case—a minimum of 30% of the area of the site is to be landscaped,</p> <p>(d) Deep soil zones: if, in relation to that part of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) that is not built on, paved or otherwise sealed, there is soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than 15% of the area of the site (the deep soil zone). Two-thirds of the deep soil zone should preferably be located at the rear of the site and each area forming part of the zone should have a minimum dimension of 3 metres,</p> <p>(e) solar access: if living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,</p> | <p>All proposed buildings are single storey and less than 8m in height.</p> <p>The proposed development has a FSR of less than 0.5:1.</p> <p>Insufficient information has been submitted with the application to demonstrate that at least 30% of the site is landscaped area.</p> <p>Insufficient information has been submitted with the application to demonstrate that at least 15% of the site is deep soil zones.</p> <p>Insufficient information has been submitted in support of the application to demonstrate that adequate daylight is provided to the living areas and private open space areas of the development and adjoining development. No Shadow Diagrams/Analysis was</p> |
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| | | submitted with the application and therefore the consent authority cannot be satisfied that adequate solar access and amenity is provided for the development. |
| | <p>(f) private open space for in-fill self-care housing: if—</p> <p>(i) in the case of a single storey dwelling or a dwelling that is located, wholly or in part, on the ground floor of a multi-storey building, not less than 15 square metres of private open space per dwelling is provided and, of this open space, one area is not less than 3 metres wide and 3 metres long and is accessible from a living area located on the ground floor, and</p> <p>(ii) in the case of any other dwelling, there is a balcony with an area of not less than 10 square metres (or 6 square metres for a 1 bedroom dwelling), that is not less than 2 metres in either length or depth and that is accessible from a living area,</p> <p>(h) parking: if at least the following is provided—</p> <p>(i) 0.5 car spaces for each bedroom where the development application is made by a person other than a social housing provider, or</p> <p>(ii) 1 car space for each 5 dwellings where the development application is made by, or is made by a person jointly with, a social housing provider.</p> | <p>Insufficient private open space areas have been provided for dwelling types C, D and E as they do not meet the minimum required area of 15m².</p> <p>Sufficient car parking has been provided.</p> |

State Environmental Planning Policy (Biodiversity and Conservation) 2021

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 requested additional information on 6 September 2021. Water NSW requested that the applicant separate MUSIC Models for each stage of the development to demonstrate a neutral or beneficial effect (NorBE) on water quality. The request was provided to the applicant however no further information was provided.

Therefore, insufficient information has been provided to demonstrate that the development (and each relevant stage) will have a neutral or beneficial effect (NorBE) on water quality as required by the SEPP.

State Environmental Planning Policy (Koala Habitat Protection) 2021

State Environmental Planning Policy (Koala Habitat Protection) 2021 aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas.

The site has an area of over 1ha and therefore the SEPP applies. As no Koala Plans of Management are currently provided for the site or Wingecarribee LGA the development is subject to Clause 11 of the SEPP.

Clause 11 of the SEPP 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

No information has been submitted by a suitably qualified person that demonstrates that the site does not contain core koala habitat and will not impact on koalas or potential koala habitat.

Therefore, insufficient information has been submitted with the application to demonstrate that the proposed development will not impact on koalas or potential koala habitat.

As such, the consent authority cannot be satisfied that the development is consistent with the relevant objectives and provisions of the SEPP.

Wingecarribee Local Environmental Plan 2010

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

Permissibility

The site is zoned C3 Environmental Management under the provisions of Wingecarribee Local Environmental Plan 2010 (WLEP). Senior's housing is prohibited in the C3 zone however the site is subject to the additional permitted use of seniors housing in accordance with Schedule 1 of the WLEP 2010.

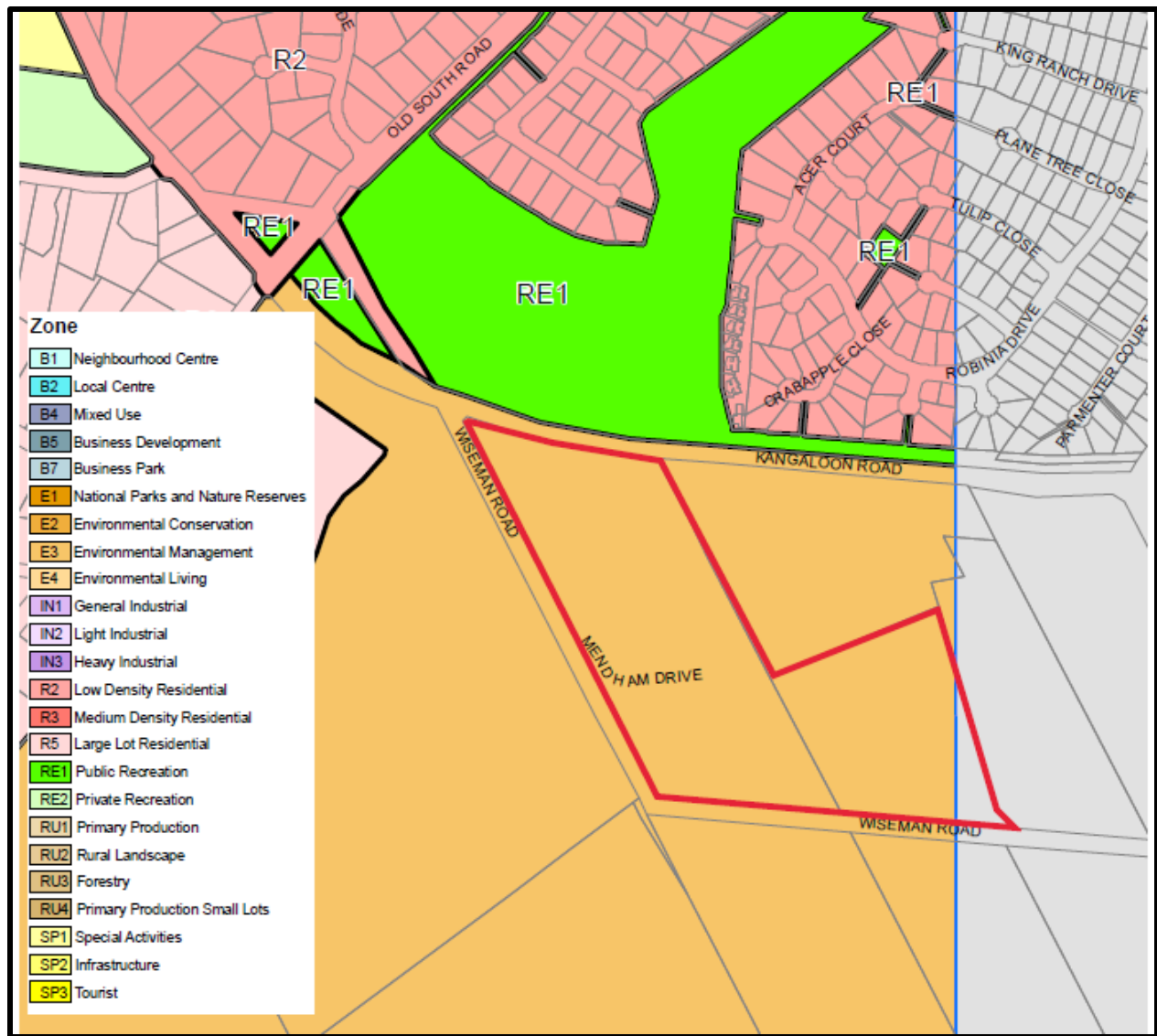


Figure 11 – Zoning Map (Source: NSW Legislation)

Zone Objectives

The objectives of the C3 Environmental Management zone are as follows:

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.
- To provide for a limited range of development that does not have an adverse effect on those values.
- To encourage the retention of the remaining evidence of significant historic and social values expressed in existing landscape and land use patterns.
- To minimise the proliferation of buildings and other structures in these sensitive landscape areas.

- *To provide for a restricted range of development and land use activities that provide for rural settlement, sustainable agriculture, other types of economic and employment development, recreation and community amenity in identified drinking water catchment areas.*
- *To protect significant agricultural resources (soil, water and vegetation) in recognition of their value to Wingecarribee's longer term economic sustainability.*

Officer Comment:

The proposed development does satisfy the relevant objectives of the C3 Environmental Management zone as the scale and density of the development proposed is considered to be inconsistent with the aesthetic values of the existing landscape and development in the area.

Relevant Clauses

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

| Clause | Requirement | Provided | Compliance |
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| 2.5 - Additional permitted uses for particular land | Development on particular land that is described or referred to in Schedule 1 may be carried out— (a) with development consent, or (b) if the Schedule so provides—without development consent, in accordance with the conditions (if any) specified in that Schedule in relation to that development. | The site is subject to the additional permitted use of seniors housing in accordance with Schedule 1 of the WLEP 2010. | Yes |
| 4.1 Minimum subdivision lot size | The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land – 4ha | The proposed lot consolidation will result in a total site area of over 12ha. | Yes |
| 5.21 Flood planning | Development consent must not be granted to development on land the consent authority considers to be within the flood | The application was referred to Council's Water and Sewer Development Engineers who requested that all dwellings floor levels be designed to be above the probable maximum | Yes |

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| | <p>planning area unless the consent authority is satisfied the development—</p> <p>(a) is compatible with the flood function and behaviour on the land, and</p> <p>(b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and</p> <p>(c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and</p> <p>(d) incorporates appropriate measures to manage risk to life in the event of a flood, and</p> <p>(e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.</p> | <p>flood level (PMF). Additional information was submitted to detail all dwellings with floor levels above the PMF.</p> | |
| 7.3 Earthworks | <p>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.</p> | <p>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.</p> <p>The application was referred to Councils Development</p> | Yes |

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| | | Engineers who raised no objections with the proposed earthworks. | |
| 7.5 Natural resources sensitivity—water | <p>Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—</p> <p>(a) the development is designed, sited and managed to avoid any potential adverse environmental impact, or</p> <p>(b) if that impact cannot be avoided—the development is designed, sited and will be managed to minimise that impact, or</p> <p>(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.</p> | The application was referred to the NRAR who issued their General Terms of Approval (GTAs) on 16 November 2021. | 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).

There is no draft Environmental Planning Instrument applicable to the proposed development.

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

Bowral Township Development Control Plan

The site is zoned C3 Environmental Management under the provisions of Wingecarribee Local Environmental Plan 2010 (WLEP). Senior's housing is prohibited in the C3 zone however the site is subject to the additional permitted use of seniors housing in accordance with Schedule 1 of the WLEP 2010. As a result, the Rural Lands Development Control Plan does not apply to the development.

The Wingecarribee Development Control Plan – Bowral Township applies to the site and to the development proposal by virtue of Part C Section 23 'Wiseman Road Precinct'. Section 8 of Part C of the DCP further sets out the requirements for seniors living.

An assessment of the proposal against the relevant development controls applying to the subject site and development is provided in **Attachment 6**.

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

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

Natural and Built Environment Impacts

The proposed development is considered to result in adverse impacts on the natural and built environment for the following reasons:

- The proposed development is inconsistent with the existing and desired future character of the surrounding area. The design of the development provides a significant increase in the density of development within the area with reduced setbacks between dwellings and the road frontages. The development does not appropriately recognise the desirable elements of the location's current character or contribute to the quality and identify of the area by providing a built form, scale and density that is compatible with existing development in the area or the C3 zoning of the site and adjoining land.
- The proposed development has not been sited and designed to provide adequate visual and acoustic privacy for residents.

- Insufficient information has been submitted in support of the application to demonstrate that adequate daylight is provided to the living areas and private open space areas of the development and adjoining development.
- Insufficient information has been submitted with the application to adequately demonstrate that the site is considered suitable for the intended use from a contamination perspective.
- Insufficient information has been provided to demonstrate that the development (and each relevant stage) will have a neutral or beneficial effect (NorBE) on water quality in the Sydney Drinking Water Catchment Area.

Social and Economic Impacts

The proposed development is considered to result in adverse social and economic impacts on the surrounding as the development in its current form will result in a built form that is inconsistent with the existing and desired future character of the area and the objectives of the C3 Environmental Management zone. The development has the potential to result in adverse amenity impacts on existing development within the area thus impact on the residential amenity and quality of life for residents.

(1)(c) The suitability of the site

The site is not considered to be suitable for the proposed development in its current form for the following reasons:

- The proposed development will result in a built form that is inconsistent with the existing and desired future character of the area;
- The proposed development is inconsistent with the objectives of the C3 Environmental Management zone;
- Insufficient information has been submitted with the application to adequately demonstrate that the site is considered suitable for the intended use from a contamination perspective; and
- Insufficient information has been provided to demonstrate that the development (and each relevant stage) will have a neutral or beneficial effect (NorBE) on water quality in the Sydney Drinking Water Catchment Area.

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

The application was publicly notified from 20 August 2021 to the 24 September 2021. A total of 40 submissions were received. The submissions included 2 groups, Pepperfield Lifestyle Resort Residents Committee and Concerned Residents at Pepperfield.

The issues raised in all received submissions are summarized and addressed below:

| Issue Raised | Number of times raised | Response |
|---------------------------------------|------------------------|--|
| Traffic, safety and congestion issues | 40 | <p>The application was referred to Transport for NSW and Council's Transport and Traffic Engineers who raised no objection to the development noting that it would not adversely impact on the operation of the surrounding road network.</p> <p>It is however noted that the proposed development does not provide obvious and safe pedestrian links within the site or for access to public transport services or local facilities. No specific details on pedestrian accessibility within the development has been submitted as part of the development and therefore the consent authority cannot be satisfied that the development provides a safe environment for pedestrians within the site or surrounding area.</p> |
| Flood Impacts | 32 | <p>The application was referred to Council's Water and Sewer Development Engineers who requested that all dwellings floor levels be designed to be above the probable maximum flood level (PMF). Additional information was submitted to detail all dwellings with floor levels above the PMF.</p> |
| Setbacks and Landscaping | 27 | <p>The proposed development provides a reduced front setback to Wiseman Road that is not in sympathy with the existing building line established by 8 Wiseman Road.</p> |

| Issue Raised | Number of times raised | Response |
|---|------------------------|---|
| | | <p>The design of the development provides a significant increase in the density of development within the area with reduced setbacks between dwellings and the road frontages. The development does not appropriately recognise the desirable elements of the location's current character or contribute to the quality and identify of the area by providing a built form, scale and density that is compatible with existing development in the area or the C3 zoning of the site and adjoining land.</p> |
| <p>Inadequate services and facilities to accommodate the increased population</p> | <p>40</p> | <p>The development provides an additional 81 dwellings and only includes 1 additional community building / common area (as part of Stage 7) with a gross floor area of 352m². A number of the public submissions received are from existing residents at 8 Wiseman Road who outlined an existing shortfall in community buildings and areas for the existing population.</p> <p>The proposed increase in density and population of development on the site will increase pressure on the existing community buildings / common areas. Insufficient information has been submitted to demonstrate that the proposed community building is of a sufficient size to accommodate the increase in population onsite and whether the existing services and facilities onsite are</p> |

| Issue Raised | Number of times raised | Response |
|--|------------------------|--|
| | | sufficient for the needs of the proposed community. |
| Increased density and incompatibility with existing built form and character of surrounding area | 34 | <p>The design of the proposed development does not reflect the desirable elements of the locations current character or contribute to the quality and identity of the area.</p> <p>The site and surrounding area is zoned C3 Environmental Management and is characterised by Low density residential development (seniors housing) with significant landscaped setbacks and rural residential development. The design of the development provides a significant increase in the density of development within the area with reduced setbacks between dwellings and the road frontages. The development does not appropriately recognise the desirable elements of the location's current character or contribute to the quality and identify of the area by providing a built form, scale and density that is compatible with existing development in the area or the C3 zoning of the site and adjoining land.</p> <p>The development proposes the provision of 81 additional seniors living units to connect into the existing development at 8 Wiseman Road (approved for 87 units). The development will essentially double the number of seniors living dwellings located on the</p> |

| Issue Raised | Number of times raised | Response |
|-----------------------------------|------------------------|---|
| | | consolidated development site. The provision of the additional 81 dwellings on 6 Wiseman Road is being undertaken on a development site that is substantially smaller than the original development at 8 Wiseman Road resulting in a scale and density of development that is inconsistent and incompatible with the existing Pepperfields Resort. |
| Residential Amenity for residents | 32 | <p>The proposed development has not been sited and designed to provide adequate visual and acoustic privacy for residents. The development involves the provision of the principle private open space (PPOS) area of dwelling type B and D at the front of the dwelling adjacent to the internal road network, visitor parking and the garages of the dwellings resulting in a poor acoustic and visual privacy for the residents. It is noted that the PPOS areas are provided with privacy screening however this is considered to be a poor design outcome and adversely impact on the character and amenity of the development. In addition, a number of the proposed bedrooms are located adjacent to the driveways, parking areas and paths within the development.</p> <p>Insufficient information has been submitted in support of the application to demonstrate that adequate daylight is</p> |

| Issue Raised | Number of times raised | Response |
|--|------------------------|---|
| | | provided to the living areas and private open space areas of the development and adjoining development. No Shadow Diagrams/Analysis was submitted with the application and therefore the consent authority cannot be satisfied that adequate solar access and amenity is provided for the development. |
| Inadequate Care Facilities | 4 | The proposed development only comprises the provision of self-contained dwellings for the purposes of seniors living. No specific information has been submitted with the application detailing the provision of any care facilities as part of the development or the ability of residents to age in place as part of the development or the potential impacts on care facilities within the region. The consent authority can only consider the development application before them in which only consists of self-contained dwellings. |
| Inconsistencies with the Bowral Township DCP | 2 | <p>The proposed development is considered to be inconsistent with a number of objectives and provisions of the Bowral Township DCP relating to the following items:</p> <ul style="list-style-type: none"> • Neighbourhood Amenity and Streetscape. • Visual and Acoustic Privacy • Solar Access and Design for Climate • Accessibility • Built form and Character |

| Issue Raised | Number of times raised | Response |
|--|------------------------|---|
| | | A detailed assessment against the relevant provisions of the Bowral Township is provided in Attachment 5 . |
| Inadequate parking | 10 | The proposed development provides sufficient car parking. The application was referred to Council's Transport and Traffic Engineers who raised no objection to the development. |
| The proposed development breaches the Contract that existing residents have with Pepperfield | 29 | This is not a matter for consideration by the consent authority. |
| Lack of consultation for the Planning proposal and subsequent Development Application | 18 | This is not a matter for consideration by the consent authority under the subject development application. |

(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 is not in the public interest.

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 6**.

In addition, the DA was referred to a number of internal officers and their responses are also summarised in in **Attachment 6**.

8. CONCLUSION

A Development Application has been received seeking approval for the demolition of existing structures, lot Consolidation, the construction of a staged seniors housing development and associated works at 6-8 Wiseman Road, Bowral.

The proposed development is considered unsatisfactory with respect to the relevant provisions of:

- Wingecarribee Local Environmental Plan 2010
- Bowral Township Development Control Plan.

The proposed development is also considered likely to have various significant negative environmental and social impacts in the locality, and the land is considered unsuitable for the proposed development. Advertisement and notification attracted significant objection with valid grounds, and there is not considered to be any overriding public interest in favour of the proposed development.

Given the above, the proposed development is considered unsatisfactory with respect to the matters for consideration specified by section 4.15 (1) (a) (i) & (iii), (b), (c), (d) and (e) of the Environmental Planning and Assessment Act 1979.

9. RECOMMENDATION

That the Panel determine DA22/0214 consisting of the demolition of existing structures, lot Consolidation, the construction of a staged seniors housing development and associated works by way of refusal pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979* in line with the recommended reasons for refusal outlined in this report.