

# Wollongong Local Planning Panel Assessment Report | 14 August 2019

<b>WLPP No.</b>	Item No.2
<b>DA No.</b>	DA-2019/137
<b>Proposal</b>	Change of use - proposed community market on the old Bulli Bowling Club greens
<b>Property</b>	Bulli Bowling Club, Princes Highway, BULLI NSW 2516
<b>Applicant</b>	Bulli BC Pty Ltd
<b>Responsible Team</b>	Development Assessment and Certification - City Wide Team (BM)

## ASSESSMENT REPORT AND RECOMMENDATION

### Executive Summary

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#### Reason for consideration by Wollongong Local Planning Panel (WLPP)

The proposal has been referred to the WLPP for **determination** pursuant to part 2(b) of Schedule 2 of the Local Planning Panels Direction as the application is the subject of 10 or more unique submissions by way of objection.

#### Proposal

The proposal seeks consent for use of the former bowling greens for operating a Saturday Market comprising 72 stalls and associated parking area.

#### Permissibility

The site is zoned RE2 Private Recreation pursuant to Wollongong Local Environmental Plan (WLEP) 2009. The proposal is defined as a Market and is permissible in the zone with development consent.

#### Consultation

Details of the proposal were publicly exhibited in accordance with Appendix 1 of the Wollongong Development Control Plan (WDCP) 2009 and 11 submissions by way of objection were received. The submissions received are discussed at Section 1.5 of this report.

#### Internal

Details of the proposal were referred to Council's Stormwater, Traffic, Heritage, Environment and Health divisions for assessment. Satisfactory referral advice, comments and/or recommended conditions were provided in each instance.

#### External

Details of the proposal were referred to Rural Fire Service (RFS). Advice provided satisfactory comments subject to conditions.

#### Main Issues

The main issue resulting from the assessment process is the number of objections received following the notification. Concerns raised are mainly regarding the suitability of the site as related to traffic/parking, noise and safety.

#### Recommendation

It is recommended that DA-2019/137 be approved subject to a restricted consent period of 2 years and other conditions contained in Attachment 3.

## 1 APPLICATION OVERVIEW

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### 1.1 PLANNING CONTROLS

#### State Environmental Planning Policies:

- SEPP 55 – Remediation of Land
- SEPP (Infrastructure) 2007

#### Local Environmental Planning Policies:

- Wollongong Local Environmental Plan 2009

#### Development Control Plans:

- Wollongong Development Control Plan 2009

#### Other Policies:

- Wollongong City Wide Development Contributions Plan 2018

### 1.2 PROPOSAL

This application seeks consent for the use of existing Bowling Club greens to be used as Community Market. The proposal is to operate a weekly market to be held every Saturday with up to 72 stalls selling fresh local produce, food, local sustainable artisan and handmade products, re-purposed and recycled products.

Market stalls (each 3m x 3m) are to be temporarily installed within the 2 bowling greens facing Princes Highway. The third bowling green is to be used for parking for 39 vehicles. Minor changes to the greens areas and alterations within the building to add toilet facilities also form part of the development proposed.

The operating hours proposed by the applicant is from 8am to 6pm with set up time from 7am onwards.

### 1.3 BACKGROUND

: DA-2017/419, Change of use to indoor recreation facility  
: PC-2017/1276, Change of use to indoor recreation facility  
: DA-2018/43, Change of use to Community Facility  
: PL-2018/21, Change of use to community facility  
: PL-2018/183, Use of bowling green for Community Markets to be held every Saturday  
: DA-2019/137, Change of use - proposed community market on the old Bulli Bowling Club greens  
: PP-2019/3, Bulli Bowling Club, Bulli  
: DE-2019/86, Liquor Licence Exemption for Make-Do Library of Things

A pre-lodgement meeting was held for the proposal.

#### Customer service actions

There are no outstanding customer service requests of relevance to the development.

### 1.4 SITE DESCRIPTION

The site is located at Bulli Bowling Club, Princes Highway, BULLI NSW 2516 and the Title reference is Lot 360 DP 1214993.

The site adjoins the Princes Highway. It comprises of a recreational building currently used as a gym facility, 3 bowling greens and parking lots. Access to the lot is from Grevillea Park Rd to the north.

Bulli Raceway is located on the northern side across the Grevillea Park Rd which include a harness track and greyhound tracks, other amenities and holds Forager's Market and festival by Illawara Folk Club.

The other developments in the immediate vicinity of the site include the Bulli Brickworks development Bulli Showground and tennis courts.

The site is generally flat and located approximately 400m from the Bulli Town Centre and Bulli Train Station (by road).

### Property constraints

Council records list the site as being potentially impacted by the following constraints:

- Acid sulphate soils (Class 5)
- Flood Risk Precinct under Review
- Bushfire Prone
- Heritage Conservation Area
- Foreshore Building Line



**Figure 1: Aerial photograph**

## 1.5 SUBMISSIONS

The application was notified in accordance with WDCP 2009 Appendix 1: Public Notification and Advertising. This included a notice in The Advertiser. Eleven (11) submissions were received and the issues identified are discussed below.

**Table 1: Submissions**

Concern	Comment
<p>1. Traffic congestion and safety:</p> <p>Concerns are raised regarding the traffic congestion on roads, non-availability of parking, safety issues and Traffic management issues during other events on Bulli Showground</p>	<p>Council's Traffic Engineer has reviewed the submitted traffic study report. The Traffic Impact Assessment has found that the predicted traffic from the proposed development can be accommodated on the local road network without resulting in any significant issues.</p> <p>The development meets the DCP parking rates, therefore it is considered that the car parking demand would be contained within the site and would be unlikely to impact on residential streets, the markets and other events and traffic management plans held in the nearby Bulli Showground.</p> <p>Further, a condition of consent is recommended restricting the consent period for the markets proposal to a two year period. This would allow time to monitor and evaluate any potential parking impacts on nearby residential streets and the Bulli Showground, should they arise in the future.</p> <p>Should the market be demonstrated to result in unreasonable impacts on the locality during this period, this matter can be reviewed at the time should the applicant submit an application to extend the consent period for the market.</p>
<p>2. Noise and operating hours– Noise concerns due to proposed set up time of 7am and operating hours from 8am to 6pm</p>	<p>Council's Environmental Officer has reviewed the proposal and has assessed the proposed operating times on a Saturday to be satisfactory. Condition is included to this effect.</p> <p>Further, a condition of consent is recommended restricting the consent period for the markets proposal to a two year period. Should the market be demonstrated to result in unreasonable impacts on the locality during this period, this matter can be reviewed should the applicants submit an application to extend the consent period for the markets.</p>
<p>3. Suitability of site for another Market in the area</p>	<p>The use of the site for a Market is permissible under the zone. Events including Markets and festivals are being conducted in the area including Bulli Showground. The evaluation of the suitability of the site for another successful market and the economic viability is outside</p>

Concern	Comment
	the scope of planning assessment considerations for this development application.
4. Impact on local retailers	The Retail Hierarchy Statement submitted by the applicant demonstrates that the location and the temporary nature of the market and the products to be sold will not have an adverse impact on the Bulli Town Centre businesses.

**Table 2: Number of concerns raised in submissions**

**Concern**    1    2    3    4

**Frequency** 10   3   7   2

## **1.6 CONSULTATION**

### **1.6.1 INTERNAL CONSULTATION**

#### **Stormwater Engineer**

Council's Stormwater Engineer has reviewed the application and provided conditionally satisfactory advice.

#### **Traffic Engineer**

Council's Traffic Engineer has reviewed the application and given conditionally satisfactory advice.

#### **Heritage Officer**

Council's Heritage Officer has reviewed the application and has provided a satisfactory advice on condition for any future advertising.

#### **Environment Officer**

Council's Environment Officer has reviewed the application and given a satisfactory referral subject to conditions of consent.

#### **Health Officer**

Council's Health Officer has reviewed the application and given conditionally satisfactory advice.

### **1.6.2 EXTERNAL CONSULTATION**

#### **Rural Fire Service**

The proposal was referred to Rural Fire Service for comments as the site is identified as Bushfire Prone. Satisfactory advice was provided subject to conditions which are imposed within Attachment 3.

## 2 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 – 4.15 EVALUATION

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### 2.1 SECTION 4.15(1)(A)(1) ANY ENVIRONMENTAL PLANNING INSTRUMENT

#### 2.1.1 STATE ENVIRONMENTAL PLANNING POLICY NO. 55 – REMEDIATION OF LAND

##### **7 Contamination and remediation to be considered in determining development application**

*(1) A consent authority must not consent to the carrying out of any development on land unless:*

*(a) it has considered whether the land is contaminated, and*

*(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*

*(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

The land is not identified to be contaminated as per Council records. A desktop audit of previous land uses does not indicate any historic use that would contribute to the contamination of the site. There are no significant earthworks proposed. Council's Environment Officer has reviewed the proposal and has raised no concerns. As such, the land is considered to be satisfactory for the intended use and the requirements of clause 7.

#### 2.1.2 STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

##### **101 Development with frontage to classified road**

*(1) The objectives of this clause are:*

*(a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*

*(b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*

*(2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:*

*(a) where practicable, vehicular access to the land is provided by a road other than the classified road, and*

*(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*

*(i) the design of the vehicular access to the land, or*

*(ii) the emission of smoke or dust from the development, or*

*(iii) the nature, volume or frequency of vehicles using the classified road 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 proposal has been assessed against the clause above and is considered to be satisfactory. The proposed market is not envisaged to have unacceptable impacts on the future construction or operation of the Princes Highway or result in significant increases in traffic flow from the lot. There is no direct access proposed from Princes Highway as the access to the market is off Grevillea Park Road. The proposal itself does not require any alterations to the access to the site.

Given the proposed layout and parking arrangement the market is not expected to adversely impact on the operation of the road. Due to the nature of the proposal, a referral to the RMS was not required in this case.

Council's Traffic Engineer has reviewed the application and the Traffic Impact Assessment Report and given satisfactory advice.

#### 2.1.1.3 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

##### a) Clause 1.4 Definitions

**Market** means an open-air area, or an existing building, that is used for the purpose of selling, exposing or offering goods, merchandise or materials for sale by independent stall holders, and includes temporary structures and existing permanent structures used for that purpose on an intermittent or occasional basis.

**Note.** Markets are a type of **retail premises**—see the definition of that term in this Dictionary.

**Retail premises** means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale), and includes any of the following;

- (a) bulky goods premises,
- (b) cellar door premises,
- (c) food and drink premises,
- (d) garden centres,
- (e) hardware and building supplies,
- (f) kiosks,
- (g) landscaping material supplies,
- (h) markets,**
- (i) plant nurseries,
- (j) roadside stalls,
- (k) rural supplies,
- (l) shops,

(m) timber yards,

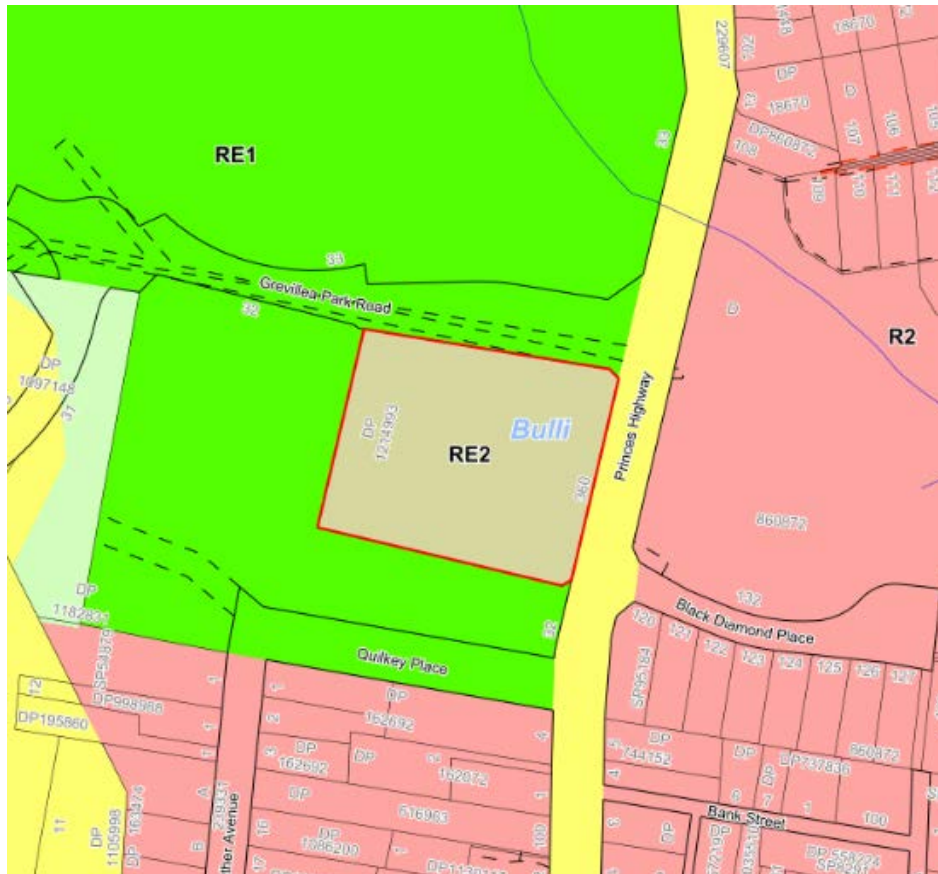
(n) vehicle sales or hire premises,

but does not include highway service centres, service stations, industrial retail outlets or restricted premises.

## (2) Part 2 Permitted or prohibited development

### b) Clause 2.2 – zoning of land to which Plan applies

The zoning map identifies the land as being zoned RE2 Private Recreation demonstrated by Figure 2 below.



**Figure 2: WLEP 2009 Zoning Map**

### c) Clause 2.3 – Zone objectives and land use table

The objectives of the zone are as follows:

- To enable land to be used for private open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.

The proposal is considered to be satisfactory with regards to the above objectives as the market is a compatible land use which is expected to have flow on benefits for the community including a potential increase in tourism. The proposal is not envisaged to have adverse impacts on the locality or the natural environment.



*The land use table permits the following uses in the zone.*

*Animal boarding or training establishments; Aquaculture; Boat building and repair facilities; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Centre-based child care facilities; Community facilities; Entertainment facilities; Environmental facilities; Environmental protection works; Extensive agriculture; Function centres; Kiosks; **Markets**; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Respite day care centres; Restaurants or cafes; Roads; Signage; Take away food and drink premises; Water recreation structures*

The proposal is categorised as a **Market** as described above and is permissible in the zone with development consent.

d) Clause 4.4 Floor space ratio

The site has no restrictions in terms of the Floor Space Ratio under the LEP. However no changes are proposed to the existing building foot print.

## **Part 5 Miscellaneous provisions**

e) Clause 5.10 Heritage conservation

The development is located within the Bulli Heritage Conservation Area and in the vicinity of several heritage listed items including the Bulli WWI Memorial, the Old Post Office and the Bulli Family Hotel. The impact of the development on these items have been assessed and considered not to result in impacts on the heritage values of the listed items.

The proposal does not include any signage for the market event. This is further discussed within Chapter E11 below. Council's Heritage Officer has reviewed the application and has provided satisfactory advice.

## **Part 7 Local provisions – general**

f) Clause 7.3 Flood planning area

The site is identified to be located within Flood Risk Precinct under Review. The proposal has been assessed by Councils Stormwater Engineer who has provided a conditionally satisfactory referral.

As the proposal is for a one day per week event, no significant adverse impacts on flood behaviour or significant effects on the environment are expected. The proposed markets are not expected to result in an increased flood risk for the site.

Proposed Condition 27 has been recommended requiring the market to be cancelled if the site is at risk of adverse weather conditions.

g) Clause 7.5 Acid Sulfate Soils

The site is identified as being affected by class 5 acid sulphate soils. An acid sulphate soils management plan is not required as the proposed markets do not require excavations or earthworks. Council's Environment Officer has assessed the proposal against this Clause and has not indicated any objection in this regard.

h) Clause 7.7 Foreshore building line

The subject land is affected by a foreshore building line as demonstrated at Figure 3 below. Though some of the market stalls will be located within the identified area, the impact is considered negligible as no permanent structures will be erected on site. The clause is of limited relevance in terms of the proposed use.



**Figure 3: Foreshore Building Lines**

## 2.2 SECTION 4.15(1)(A)(II) ANY PROPOSED INSTRUMENT

N/A

## 2.3 SECTION 4.15(1)(A)(III) ANY DEVELOPMENT CONTROL PLAN

### 2.3.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

#### CHAPTER A1 – INTRODUCTION

#### 8 Variations to development controls in the DCP

Clause 9 under Chapter C6 of the DCP stipulates the following requirement if the number of patronage for an event is less than 500.

Toilet Facilities	Wheelchair Accessible Facilities	Unisex	Females		Males		
			WC	Hand Basins	WC	Urinals	Hand Basins
Patron Number	WC	Hand Basin	WC	Hand Basins	WC	Urinals	Hand Basins
<500	2	1	10	2	2	8	2

The Clause also states that Council may permit a concession to the number of male and female toilet facilities where the duration of the event is less than 2 hours and / or the event does not provide alcoholic beverages. Any variation request to the provision of toilet facilities must be supported by

appropriate documentary evidence with the Development Application outlining the justification for this variation request.

The development proposes to provide,

- 1 accessible portable unisex toilet located to the rear of the existing building (with 1 handbasin)
- 2 unisex portable toilets located to the rear of the existing building (with 2 handbasins)
- 4 unisex toilets within the existing building (with 4 handbasins)

The applicant has submitted a request to vary the development control based on the following:

- There will be no provision of alcoholic beverages
- It is unlikely patrons will stay for longer than two hours
- The proposed use expects to attract approximately 200 people at any one time and applying a pro-rata the number of toilet facilities required is less (a total of 6 unisex toilets plus one accessible toilet).
- No strict requirement in toilet requirements recommended by authorities and commercial toilet rental companies. There is no uniform Australian standard for the number of toilets required at an event.
- Based on NSW Government Premier & Cabinet Health website for a patronage of 200 a total of 4 unisex toilets would be required.

Comment:

As part of the development it is proposed to include new toilets within the existing building providing access from outside adding 4 unisex toilets and 4 washbasins. 3 portable toilets are also proposed to the western side of the building. The proposal is considered satisfactory based on the justifications provided and variation is supported.

#### **CHAPTER C1 – ADVERTISING AND SIGNAGE**

No signage is proposed as part of this proposal. The applicant has advised that a permanent signage will not be proposed for the market. Temporary signage will be subject to a separate development application by the future market manager.

A condition to this effect is included within Attachment 3.

#### **CHAPTER C15: RETAIL MARKETS**

The objectives of Chapter C15 are to control the type, location and impact of retail markets within the Wollongong Local Government Area whilst reinforcing Council's retail hierarchy strategy. Retail market opportunities should be provided in appropriate locations to benefit residents of the Wollongong and the wider Illawarra region.

An assessment against the relevant provisions of this Chapter follows:

##### 3 Retail Impact Assessment

*Any Development Application for a proposed major retail market (i.e. involving more than 20 stalls) will require the submission of documentary evidence as to the reasons why the retail market is proposed in a specific location and evidence as to the proposal's relationship with Council's retail hierarchy strategy contained in Chapter B4: Development in the Business.*

The applicant has lodged information as to the proposal's relationship with the nearby Bulli Town Centre, stating that the market is located outside the designated business zones Precinct of Bulli Town Centre. The market will provide produces that is not necessary for daily or weekly necessities and hence is will not impact on other retail developments in Bulli. The produces or products sold will complement the businesses of the nearby town centre and provide an opportunity for small producers and artisans to sell their goods. The documentation also states that the market will

promote Bulli and the surrounding area as more visitors will come into the area on a Saturday as no other markets currently operates on that day in the locality.

It is considered that given the nature of the proposal, the products at the market will not be in direct competition with the existing retailers in the area.

It is also expected that the markets are likely to attract more people to the town and has the potential to have mutual benefits for business owners in the town centre.

Council's Traffic Engineer has reviewed the proposal with specific regard to Traffic Impacts and car parking matters and raised no objection to the proposal. The site is considered to provide car parking in excess of what would be required under Schedule 2 of Chapter E3 for a market.

Given the nature and weekly operation of the market, the proposal is not expected to have a significant adverse impact on the operation of businesses located in the Bulli Town Centre. It is considered that the proposed location is appropriate with respect to Council's retail hierarchy.

#### 4 Hours of Operation

*The operation of retail markets will generally be limited to Fridays, Saturdays and Sundays and / or Public Holidays between the hours of 8.00 am to 6.00 pm. The setting up of any market stall may take place from 7.00 am on the day of the market, except where the land to which the proposed market, either directly adjoins or is opposite any residential zoned land, in which case stall holders will only be allowed to set up from 8.00 am onwards.*

Conditions are recommended restricting the hours of operation of the market to between 8.00am and 5.00pm, with the stallholders not permitted to commence setup prior to 7.00am and clean-up/vacation of the site required to be completed by 6.00pm on the market day.

#### 5 Car Parking Requirements

*The car parking requirement for a retail market is one (1) car parking space per 20m<sup>2</sup> of each stall area. However, major retail markets involving 20 or more stalls may require additional parking, taking into account the number of stalls proposed and the location of the markets and the availability of on-street parking or existing public car parking within the immediate locality.*

The proposal is to provide a total number of 72 stalls. The applicant has detailed on the plans that the area of each of these stalls will be approximately 3x3m, with the total stall area being 648m<sup>2</sup>. In considering the above rate of 1 space per 20m<sup>2</sup> of stall area, 33 car parking spaces are required.

Despite this, Clause 5 (1) stipulates that retail markets involving twenty (20) or more stalls may require additional parking. The submitted plans indicate 80 parking spaces on site. This means the site is capable of meeting additional parking including parking space for the users of the gym located within the premises.

Council's Traffic Engineer has reviewed the submitted information and Traffic Impact Assessment Report and has stated no objection to the proposal, being satisfied that the increase in traffic flow to the site will not result in unreasonable adverse impacts on the local traffic network. On-site car parking spaces is considered to be in surplus to accommodate potential visitors to the site.

#### 7 Sale of Goods

*In the event that the retail market application is ultimately approved, the market organiser will be responsible for the checking that all stall holders are appropriately licensed. For example, a second hand dealer's license may be required to be obtained from the Office of Fair Trading (NSW Department of Commerce) for stall holders involved in the purchasing and subsequent sale of certain second hand items or goods.*

Conditions are recommended to ensure that appropriate licenses of operation are obtained by stall holders.

## 8 Food Stalls/Mobile Food Vans

Conditions require each temporary food stall to be registered with Council's Regulation & Enforcement Division.

## 9 Amusement Devices

The proposal does not include amusement devices or rides. Conditions are recommended in this regard.

## 10 Accessibility to the Event by People with a Disability

A few changes to the bowling greens, parking area and toilet facilities are part of this proposal.

The site has existing disabled access, toilet facilities and designated parking. A condition is also to be imposed in this regard as within Attachment 3.

## 11 Copyright Issues – Live or Pre-Recorded Music

Conditions have been included which precludes amplified or live music as part of the market event.

## 12 Fundraising Market Events

The market is exempt from OLGR licencing requirements as they are not proposing to fundraise directly. Individual stall holders who propose to fundraise will need to obtain separate licenses from OLGR.

## 13 Public Liability Insurance

Conditions are recommended in this regard requiring the applicant to provide Council with proof of Public Liability Insurance of \$10 Million prior to the market commencing.

## 14 Incident Reporting

Conditions have been recommended requiring an incident reporting system and register to be in place during the market operation.

## 15 Emergency Response Plan

*A written Emergency Response Plan is to be provided at the Development Application stage for all large retail markets involving 40 or more stalls.*

As the proposal involves more than 40 stalls, an emergency response plan has been provided. Conditions have been recommended requiring this plan to be applied within the operation of the markets.

## 17 Minimum Information Required to be Lodged with a Development Application for a Retail Market

The applicant has submitted sufficient information to enable a detailed assessment of the proposal.

## **CHAPTER D1 – CHARACTER STATEMENTS**

### Bulli

*The Bulli showground and racing complex is a regional recreational and sporting facility. Other important open space areas include Slacky Flat Park, Bulli Park and Sandon Point Reserve and beach. The Bulli retail and business centre is situated on the Princes Highway approximately 1 kilometre south of the Princes Highway and Lawrence Hargrave Drive intersection. The Bulli centre is a traditional retail strip centre strip concentrated along the Princes Highway between the Bulli Railway Station to the north and the intersection of the Princes Highway and Park Road to the south and is a small traditional retail shopping strip which mainly serves the daily convenience needs of the surrounding local population.*

*The Bulli retail and business centre will continue to provide for the convenience needs of the surrounding population. A full line supermarket may be warranted, where it can be demonstrated that the primary trade area for the supermarket is limited to the surrounding residential catchment of Bulli. Higher order retailing and other higher order business services will continue to be provided by Corrimal town centre and Wollongong City Centre. Major developments on the old Bulli brickworks site and Sandon Point future stages will mean an increase in the future retail demand. The Bulli village centre should cater for this growth organically.*

The proposal is considered to be consistent with the existing and desired future character for the locality. The proposed markets are not expected to have a significant adverse impact on the retail centre of the suburb. It is also expected that the markets are likely to attract more people to the locality and has the potential to have mutual benefits for business owners in the town centre.

#### **CHAPTER E1: ACCESS FOR PEOPLE WITH A DISABILITY**

Changes to disabled access to the site are proposed to the stall area, parking and toilet facility. A condition is also to be imposed in this regard as with Attachment 3.

#### **CHAPTER E2: CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

<i>Control/objective</i>	<i>Comment</i>	<i>Compliance</i>
a) <u>3.1 Lighting</u>	Due to the proposed hours of operation of the market, no lighting is proposed or required.	Yes
b) <u>3.2 Natural surveillance and sightlines</u>	The proposal is not envisaged to impact on the natural surveillance and sightlines available at the site.	Yes
c) <u>3.3 Signage</u>	No signage proposed as part of this application.  Draft condition is recommended that an application must be lodged to Council for any signage for the market.	Yes
d) <u>3.4 Building design</u>	The proposal does not require the erection of any permanent structures.	N/A
e) <u>3.5 Landscaping</u>	No impacts to the existing permeable surfaces as a result of the proposal.	Yes
f) <u>3.6 Public open space and parks.</u>	The proposed market area and car parking is to be located on open space within the bowling greens which has existing/as proposed services and facilities.	Yes
g) <u>3.7 Community facilities</u>	The proposal does not include the construction of any new community facilities.	N/A

<i>Control/objective</i>	<i>Comment</i>	<i>Compliance</i>
h) <u>3.8 Bus stops and taxi ranks</u>	The proposal is located in reasonable proximity to major bus stops and Bulli Railway Station	Yes

### CHAPTER E3: CAR PARKING, ACCESS, SERVICING/LOADING FACILITIES AND TRAFFIC MANAGEMENT

Council's Traffic Engineer has assessed the proposal against the requirements of this Chapter.

#### Markets

	<i>Rate</i>	<i>Calculation</i>	<i>Required</i>	<i>Provided</i>
<i>i. Car parking</i>				
	1 car parking space per 20m <sup>2</sup> of each stall area	3x3 (stall area) x 72 (maximum number of stalls proposed) = 648	648/20 =33	80 provided on-site (this includes parking for the gym)
<i>Bicycle Parking</i>	1 bicycle space per 10 stalls	72/10	7	Provided. Also condition imposed in this regard
<i>Motorcycle</i>	1 motorcycle space per 25 car parking spaces	33 (required)/25	2 (rounded)	Sufficient area for motorcycle parking is available on the site.

Due to the proposed location of the market and proximity to public transport, the amount of car parking available on site is considered to be more than adequate to service the market in this instance.

The proposal is not envisaged to result in unreasonable impacts on access, public transport or traffic in the vicinity of the site.

### CHAPTER E6: LANDSCAPING

The site has no vegetation that will be impacted by the use. The applicant has proposed one of the bowling greens (bowling green 3 as identified on the submitted plans) to be used for parking. It is proposed to install grass reinforcement mesh over the grassed area ensuring a permeable surface is maintained. No adverse impact to the existing landscaping is expected from the proposed use on site.

### CHAPTER E7: WASTE MANAGEMENT

A Site Waste Minimisation and Management Plan has been provided and reviewed by Council's Environment Officer & Traffic Engineer. Conditions have been recommended in this regard requiring the applicant to ensure that the site is left in a clean and tidy state at the conclusion of each event.

The site waste minimisation plan also details that recyclable food and drink containers will be encouraged and waste recycled where possible by purpose specific bins.

#### **CHAPTER E11 HERITAGE CONSERVATION**

The subject site is located in close proximity to Local Heritage Items. However due to the nature of the site and the development proposed, the markets are not envisaged to result in adverse impacts on the heritage listed sites. Council's Heritage Officer has assessed the application in accordance with Chapter E11 of the WDCP and has not raised any objections. Condition 4 has been recommended to ensure that any future signage should be subject to a formal consent from Council.

#### **CHAPTER E13 FLOODPLAIN MANAGEMENT**

The subject site is located in an area listed as flood risk precinct under review. Due to the nature of the proposal and the time frame, the markets are not considered to increase the flood risk for the event. In the case of a flood event, conditions have been recommended requiring the affected market to be cancelled. A note will also be attached to the consent which states that during prolonged rainfall events, flooding of the site may occur and that the applicant is encouraged to take all necessary precautions to minimise the risk of damage to property. Council's Stormwater Engineer has also assessed the proposal and given a conditionally satisfactory referral response.

#### **2.3.2 WOLLONGONG CITY WIDE DEVELOPMENT CONTRIBUTIONS PLAN 2018**

The estimated cost of works is less than the threshold figure of \$100,000 and a section 94A levy is therefore not applicable.

#### **2.4 SECTION 4.15(1)(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**

N/A

#### **2.5 SECTION 4.15(A)(IV) THE REGULATIONS (TO THE EXTENT THAT THEY PRESCRIBE MATTERS FOR THE PURPOSES OF THIS PARAGRAPH)**

92 What additional matters must a consent authority take into consideration in determining a development application?

N/A

93 Fire safety and other considerations

N/A. No changes to the existing building use is proposed.

94 Consent authority may require buildings to be upgraded

N/A

#### **2.6 SECTION 4.15(1)(B) THE LIKELY IMPACTS OF DEVELOPMENT**

There are not expected to be adverse environmental impacts on either the natural or built environments. There are also not expected to be any adverse social or economic impacts in the locality.

This is demonstrated through the following:

- The proposal is satisfactory with regard to the applicable planning controls as detailed in the body of this report.
- Submissions raised following notification would not preclude the development.
- Internal and external referrals are satisfactory subject to appropriate conditions of consent



## **2.7 SECTION 4.15(1)(C) THE SUITABILITY OF THE SITE FOR DEVELOPMENT**

### Does the proposal fit in the locality?

The proposal is considered appropriate with regard to the zoning of the site and is not expected to have negative impacts on the amenity of the locality or adjoining developments.

### Are the site attributes conducive to development?

There are no site constraints that would prevent the proposal.

## **2.8 SECTION 4.15(1)(D) ANY SUBMISSIONS MADE IN ACCORDANCE WITH THIS ACT OR THE REGULATIONS**

Details of the proposal were publicly exhibited in accordance with Appendix 1 of the Wollongong Development Control Plan (WDCP) 2009. 11 submissions were received during the notification period. A detail discussion on submissions received is provided with this report.

## **2.9 SECTION 4.15(1)(E) THE PUBLIC INTEREST**

The application is not expected to have unreasonable impacts on the environment or the amenity of the locality. It is considered appropriate with consideration to the zoning and the character of the area and is therefore considered to be in the public interest.

## **3 CONCLUSION**

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This application has been assessed as satisfactory having regard to the Heads of Consideration under Section S4.15(1) of the Environmental Planning and Assessment Act 1979, the provisions of Wollongong Local Environmental Plan 2009 and all relevant Council DCPs, Codes and Policies.

Pursuant to clause 2.3 of WLEP 2009, Markets are permissible in the RE2 Private Recreation zone with development consent. The proposal is not considered to be inconsistent with the zone objectives and does not involve any departures from development standards. A variation request to the development control regarding the toilet facilities is supported for reasons outlined in this report.

All relevant internal and external referrals are satisfactory and there are no outstanding issues.

Condition 6 within Attachment 3 is recommended restricting the consent period to two (2) years. Should the applicant wish to continue to operate the markets beyond this period, they will be required to return to Council for further approvals.

It is considered that the proposed development is not inconsistent with the existing and desired future character of the locality and is unlikely to result in significant adverse impacts on the amenity of the surrounding area.

## **4 RECOMMENDATION**

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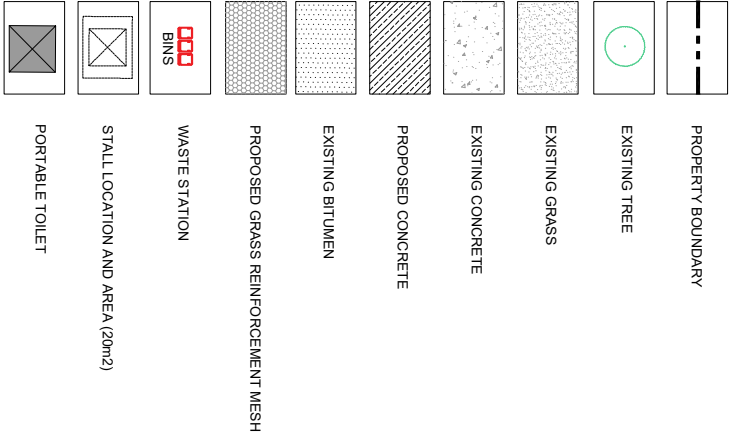
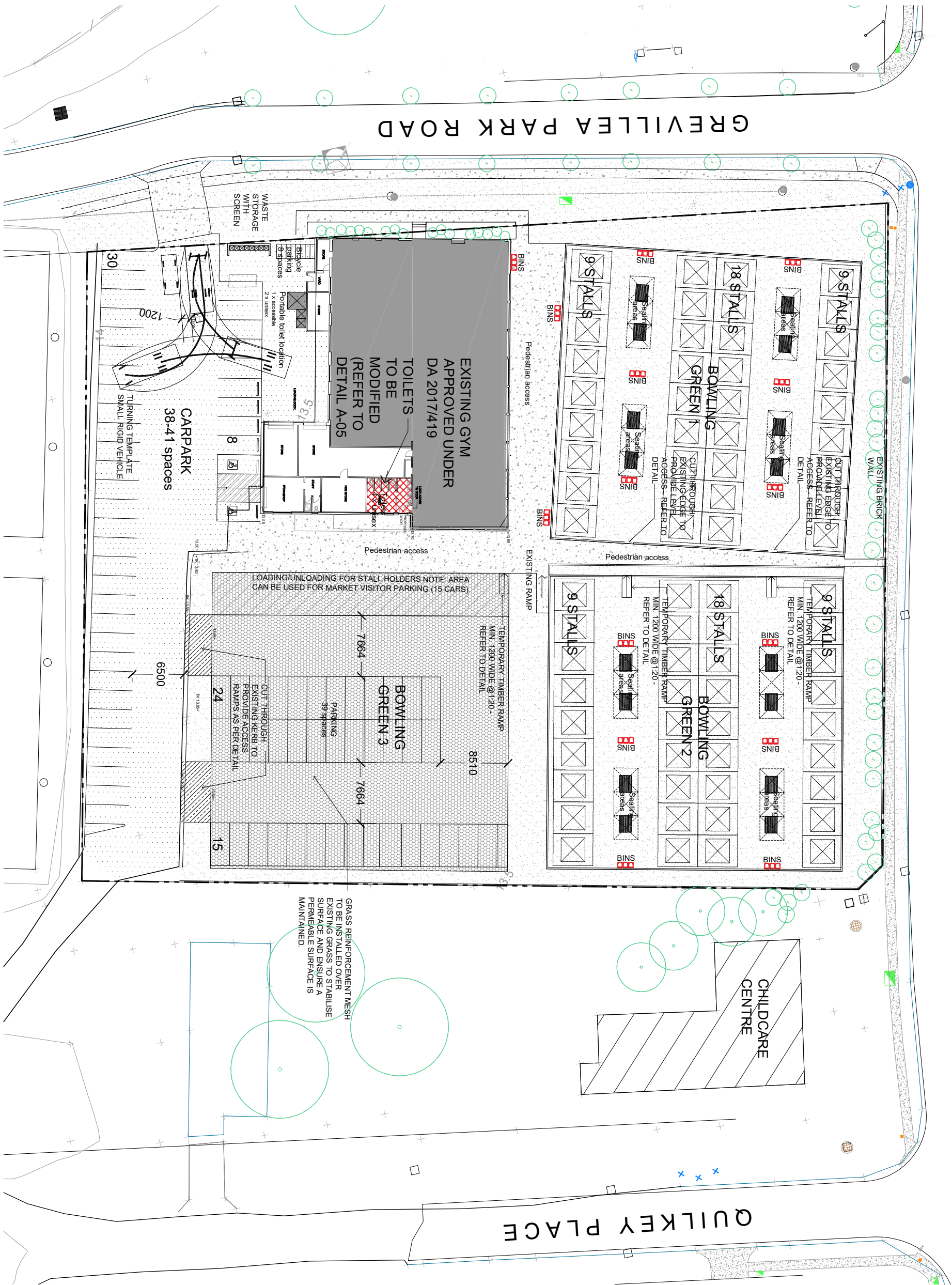
It is recommended that DA-2019/137 be approved subject to a restricted consent period of 2 years and other conditions contained in Attachment 3.

## **5 ATTACHMENTS**

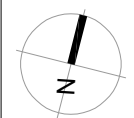
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- |   |   |
|---|---|
| 1 | Plan  |
| 2 | Statement of Variation to development control |
| 3 | Conditions                                    |

PRINCES HIGHWAY



DEVELOPMENT DATA			
SITE AREA	8300sqm		
STALLS (20 sqm)	72		
PROPOSED ON SITE CAR PARKING	77 spaces		
PROPOSED ACCESSIBLE PARKING	2 spaces		
TOTAL CAR PARKING	77 spaces		
BICYCLE PARKING	7 spaces		



PRELIMINARY  
NOT FOR CONSTRUCTION

Date	Issue	Revision
15.10.18	A	Issued for development approval
15.5.19	B	Additional information
1.8.19	C	Additional information

Legend



PROJECT:	Community Market
Drawing Name:	SITE PLAN
FOR:	HIGHES
Scale:	1:500 (A3)

Job No.	Dwg No.
DML 18016	A-02
Date	Rev
15.10.18	C



Wollongong City Council  
41 Burelli Street Wollongong

25<sup>th</sup> July 2019

**Attention: Brigit Mathai**  
**Development Project Officer**

**RE: DA 2019/137**

Dear Brigit,

Please find attached the additional information required for toilet facilities for the above Development Application along with a request for a concession to reduce the number of toilets required, as outlined below.

In accordance with the WCC DCP Chapter C6 – Events Management it is understood that based on a patronage of less than 500 people the following is required:

- 2 accessible unisex WC with 1 handbasin
- 10 female WC with 2 handbasins
- 2 male WC and 8 urinals with 2 handbasins

Section 9.6 of Chapter C6 states that "Council may permit a concession to the number of male and female toilet facilities where the duration of the event is less than 2 hours and/or the event does not provide alcoholic beverages. Any variation request to the provision of toilet facilities must be supported by appropriate documentary evidence with the Development Application outlining the justification for this variation request."

Based on the following factors and justification, we would like to **apply for a concession** to reduce the number of toilets required:

- There will be no provision of alcoholic beverages
- It is unlikely patrons will stay for longer than two hours
- The proposed use expects to attract approximately 200 people at any one time. If we pro-rata the number of toilets Chapter C6 requires for 500 people, this equates to:
  - o 1 accessible unisex WC
  - o 5 female WC,
  - o 1 male WC and 4 urinals (or a total of 6 unisex toilets).
- There is also broad variation in toilet requirements by authorities and commercial toilet rental companies. For example, on the NSW Government Premier & Cabinet Health website it is noted that there is no uniform Australian standard for the number of toilets required at an event. However, as a guide, "[Safe and Healthy Mass Gatherings](https://www.dpc.nsw.gov.au/tools-and-resources/event-starter-guide/health/)" from the Australian Emergency Management, Attorney General's Department (<https://www.dpc.nsw.gov.au/tools-and-resources/event-starter-guide/health/>), the following number of facilities is suggested for outdoor events where alcohol is not available, for patronage less than 500:
  - o 1 male WC, 2 urinals, 2 handbasins,

- 6 female WC, 2 handbasins.

This would equate to a total of 7 unisex toilets. Based on 200 patrons, the pro rata number would be half – so a total of 4 unisex toilets would be required.

Based on the above justification, the following is proposed (refer also to the attached Toilet Facilities Plan A-05 prepared by Develop My Land):

- 1 accessible portable unisex toilet located to the rear of the existing building (with 1 handbasin)
- 2 unisex portable toilets located to the rear of the existing building (with 2 handbasins)
- 4 unisex toilets within the existing building (with 4 handbasins)

Kind Regards

A handwritten signature in blue ink, appearing to read 'Julia Coddington', with a long horizontal flourish extending to the right.

Julia Coddington

## ATTACHMENT 3

### Approved Plans and Specifications

- 1 The development shall be implemented substantially in accordance with the details and specifications set out on Job No DML 18/016 Drawing A02-C dated 1 August 2019 prepared by Develop My Land and any details on the application form, and with any supporting information received, except as amended by the conditions specified and imposed hereunder.

### General Matters

#### 2 Temporary Events-Registration

The food business is required to be registered with Council. A Food Business Notification Form must be submitted prior to business operations commencing. The appropriate form can be completed on Councils' web page by visiting:

<http://www.wollongong.nsw.gov.au/customerserviceonline/applyforit/Pages/foodpremises.aspx>

Alternatively, contact Council's Regulation and Enforcement Division on (02) 4227 7737 to obtain a registration form.

#### Food Outlets

Food outlets shall comply with Council's Guidelines for Food Handling at Temporary Events. This document can be found at:

<http://www.wollongong.nsw.gov.au/customerserviceonline/factsheet/Factsheets/Guidelines%20for%20Food%20Handling%20at%20Temporary%20Events.pdf>

Alternatively, contact Council's Regulation and Enforcement Division on (02) 4227 7737 to obtain a copy.

#### 3 NSW Rural Fire Service (RFS)

Pursuant to Section 4.14 of the Environmental Planning and Assessment (EP&A) Act 1979 – requirements imposed by the NSW RFS dated 29 March 2019 as attached shall form part of this Notice of Determination.

#### 4 Heritage- Signage

Any signage for the use of Market shall be subject to a separate development application to Council.

#### 5 Maximum Number of Stalls

The maximum number of stalls to be located on the site for each market event is seventy-two (72).

#### 6 Restricted Consent Period

This development is valid for a period not exceeding two (2) years from the date shown as “endorsement date of consent” on this notice unless otherwise approved by Council. At the end of this period the development must cease unless written approval from Council is obtained to recommence via a separate development application prior to the lapsing date of this consent.

Note: The Council may, upon receiving an application under section 4.55 of the Environmental Planning and Assessment Act 1979, prior to the lapse date of this consent extend the period in which this consent is valid.

Any application under section 4.55 of the Environmental Planning and Assessment Act should be made to Council at least four (4) months prior to the lapse date of the consent in order to allow adequate processing/assessment of the application. This application must be on the prescribed form. Any application received after the lapse date cannot be considered.

#### 7 Smoke-free Environment Act 2000

This consent does not imply or confer compliance with the requirements of the Smoke-free Environment Act 2000. It is the responsibility of the applicant to guarantee compliance with this Act.



8      **Disability Discrimination Act 1992**

This consent does not imply or confer compliance with the requirements of the Disability Discrimination Act 1992.

It is the responsibility of the applicant to guarantee compliance with the requirements of the Disability Discrimination Act 1992. The current Australian Standard AS1428.1 (2009) – Design for Access and Mobility is recommended to be referred for specific design and construction requirements, in order to provide appropriate access to all persons to the premises.

9      **Building Work - Compliance with the Building Code of Australia**

All building work must be carried out in compliance with the provisions of the Building Code of Australia.

10     **Construction Certificate**

A Construction Certificate must be obtained from Council or an Accredited Certifier prior to work commencing.

A Construction Certificate certifies that the provisions of Clauses 139-148 of the Environmental Planning and Assessment Amendment Regulations, 2000 have been satisfied, including compliance with all relevant conditions of Development Consent and the Building Code of Australia.

Note: The certifying authority must cause notice of its determination to be given to the consent authority, and to the council, by forwarding to it, within two (2) days after the date of the determination, the plans and documentation referred to in clause 142 (2) of the Environmental Planning and Assessment Regulation 2000.

11     **Occupation Certificate**

An Occupation Certificate must be issued by the Principal Certifying Authority prior to occupation or use of the development. In issuing an Occupation Certificate, the Principal Certifying Authority must be satisfied that the requirements of section 6.9 of the Environmental Planning and Assessment Act 1979, have been complied with as well as all of the conditions of the Development Consent.

12     **Public Liability Insurance**

The applicant must provide proof of Public Liability Insurance for an amount not less than \$10million to Council.

Written evidence of this insurance shall be supplied to Council prior to the commencement of the market.

**Prior to the Issue of the Construction Certificate**

13     **Site Filling**

No other increases in ground surface levels on the site within the floodplain are permitted unless an equivalent compensatory volume is removed from the floodplain within the confines of the site. This requirement shall be reflected on the Construction Certificate plans.

14     **Car Parking and Access**

The development shall make provision for a total of 80 car parking spaces and 8 (Class C) bicycle parking spaces. This requirement shall be reflected on the Construction Certificate plans. Any change in above parking numbers shown on the approved DA plans shall be dealt with via a section 4.55 modification to the development. The approved car parking spaces shall be maintained to the satisfaction of Council, at all times.

15     The parking dimensions, internal circulation, aisle widths, kerb splay corners, head clearance heights, ramp widths and grades of the car parking areas are to be in conformity with the current relevant Australian Standard AS2890.1, except where amended by other conditions of this consent. Details of such compliance are to be reflected on the Construction Certificate plans.

- 16 Bicycle parking facilities must have adequate weather protection and provide the appropriate level of security as required by the current relevant Australian Standard AS2890.3 - Bicycle Parking Facilities. This requirement shall be reflected on the Construction Certificate plans.
- 17 Each disabled person's parking space must comply with the current relevant Australian Standard AS2890.6 – Off-street parking for people with disabilities. This requirement shall be reflected on the Construction Certificate plans.
- 18 The proposed car parking bays are to be defined by the installation of plastic car bay markers (100mm diameter plastic discs secured with fixing nails). Details of such compliance are to be reflected on the Construction Certificate plans.

#### **Prior to the Commencement of Market**

##### **19 Works in Road Reserve - Minor Works**

Approval, under Section 138 of the Roads Act must be obtained from Wollongong City Council's Development Engineering Team prior to any works commencing or any proposed interruption to pedestrian and/or vehicular traffic within the road reserve caused by the construction of this development.

The application form for Works within the Road Reserve – Section 138 Roads Act can be found on Council's website. The form outlines the requirements to be submitted with the application, to give approval to commence works under the roads act. It is advised that all applications are submitted and fees paid, five (5) days prior to the works within the road reserve are intended to commence. The Applicant is responsible for the restoration of all Council assets within the road reserve which are impacted by the works/occupation. Restoration must be in accordance with the following requirements:

All restorations are at the cost of the Applicant and must be undertaken in accordance with Council's standard document, "Specification for work within Council's Road reserve".

Any existing damage within the immediate work area or caused as a result of the work/occupation, must also be restored with the final works.

##### **20 Dial Before You Dig**

The applicant is to investigate service locations if erecting any marquee tents or stalls to ensure that no underground services are affected. It is essential that before any ground disturbance, including the installation of any star pickets, stakes, pegs or bollards, that a service supply scanner be used to verify there are no services located within the affected area. Dial Before You Dig must be consulted.

#### **During Construction**

##### **21 No Adverse Run-off Impacts on Adjoining Properties**

The design and construction of the development shall ensure there are no adverse effects to adjoining properties, as a result of flood or stormwater run-off. Attention must be paid to ensure adequate protection for buildings against the ingress of surface run-off.

Allowance must be made for surface run-off from adjoining properties. Any redirection or treatment of that run-off must not adversely affect any other property.

#### **Prior to Occupation Certificate**

##### **22 Bushfire Compliance Report**

A report showing compliance with the requirement of New South Wales Rural Fire Service (NSW RFS) for Arrangements for Emergency and Evacuation in accordance with Section 4.2.7 of Planning for Bush Fire Protection 2006 must be verified by the Certifying Authority prior to the issue of an Occupation Certificate.

## **During Operation of the Market**

### **23 Restricted Hours of Operation**

The hours of operation for the Market are restricted to Saturdays only and between 8:00am and 5:00pm. Any alteration to the approved hours of operation will require separate Council approval. Stall holders are prohibited from erecting of stalls prior to 7:00am and clean-up/vacation of the site to be completed by 6.00pm on the market day.

### **24 No Public Address Systems or Loud Music**

The use of public address systems or the playing of loud music is prohibited.

### **25 Site Kept Neat and Tidy**

During the operation of the market, the site must be kept in a neat and tidy condition at all times.

### **26 Waste Management**

An adequate number of waste receptacles for both general rubbish and recyclable materials shall be placed strategically around the site, and collected on the same day after the market. Waste shall not be allowed to accumulate on the site and the site shall be left clear of all waste material upon completion of the market.

### **27 Weather Conditions**

The event should not be held where there is a current forecast of heavy rain for the subject area or following a heavy rainfall occurrence where the land is severely waterlogged. The organiser must liaise with the current lessee of the site, the Bureau of Meteorology (BOM) and the local branch of the State Emergency Service (SES) on the day prior to each scheduled event day regarding weather forecasts and weather warnings affecting the site on the scheduled event day. On occasion when heavy rain is forecast or a warning for flooding has been issued, then the event day must be cancelled.

Should a significant storm occur on the day of the planned event, current lessee of the site in consultation with event organisers must contact relevant weather forecasters and emergency services authorities (BOM, SES) to determine the potential severity and estimated duration of the storm. Information obtained shall be used to determine if the event can continue or be cancelled. This determination shall be made by the current lessee and the organiser in consultation with the SES.

28 Parking and Traffic Marshalls shall direct vehicles to appropriate parking areas and ensure safe vehicular and pedestrian movement. Marshalls must ensure that all vehicles exit the site in a forward direction. All marshalls must wear reflective safety vests at all times and be positioned at the entry to the site, and throughout the car parking areas.

29 All servicing and waste collection is to be undertaken outside of the opening hours of the market in order to minimise any potential vehicular or pedestrian conflicts.

### **30 Loading/Unloading Operations/Activities**

All loading/unloading operations are to take place at all times wholly within the confines of the site or within the road reserve under an approved traffic control plan.

### **31 Alcohol Free Event**

The market shall be an alcohol free event.

### **32 Emergency Response Plan**

The Emergency Response Plan submitted with the application is to be applied during each market event.

### **33 Incident Reporting**

The applicant is to implement a systematic reporting method for incidents that have occurred. This should include a written incident reporting manual whereby staff are required to provide written details on the exact nature of the incident and what procedures were implemented to deal with the incident.



All communications to be addressed to:

Headquarters  
4 Murray Rose Ave  
Sydney Olympic Park NSW 2127

Telephone: 1300 NSW RFS  
e-mail: [records@rfs.nsw.gov.au](mailto:records@rfs.nsw.gov.au)

Headquarters  
Locked Bag 17  
Granville NSW 2142

Facsimile: 8741 5433



The General Manager  
Wollongong City Council  
Locked Bag 8821  
WOLLONGONG DC NSW 2500

Your Ref: DA-2019/137  
Our Ref: D19/633  
DA19022717507 AJ

**ATTENTION:** Brigit Mathai

29 March 2019

Dear Madam

**Development Application - 360//1214993 - Princes Highway Bulli 2516**

I refer to your correspondence dated 25 February 2019 seeking advice regarding bush fire protection for the above Development Application in accordance with Section 4.14 of the 'Environmental Planning and Assessment Act 1979'.

The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted and provides the following recommended conditions:

**Evacuation and Emergency Management**

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions shall apply:

1. Arrangements for emergency and evacuation are to comply with section 4.2.7 of 'Planning for Bush Fire Protection 2008'.

Should you wish to discuss this matter please contact Anna Jones on 1300 NSW RFS.

Yours sincerely

Martha Dotter  
A/Team Leader Development Assessment & Planning

For general information on bush fire protection please visit [www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au)