



# **Ordinary Meeting of Council**

**14 September 2022**

**UNDER SEPARATE COVER  
ATTACHMENTS**

**ITEMS 9.1 – 9.3**

**QUEANBEYAN-PALERANG REGIONAL COUNCIL  
ORDINARY MEETING OF COUNCIL**

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# QUEANBEYAN-PALERANG REGIONAL COUNCIL

## Council Meeting Attachment

14 SEPTEMBER 2022

ITEM 9.1 DEVELOPMENT APPLICATION DA.2021.1716 - ERECTION OF  
A DIGITAL ADVERTISING STRUCTURE - LOT 3 SP 93173  
KNOWN AS 3-5 GREGORY STREET, QUEANBEYAN  
WEST

ATTACHMENT 1 DA.2021.1716 - S4.15 ASSESSMENT MATTERS FOR  
CONSIDERATION - DIGITAL ADVERTISING STRUCTURE  
- 3/5 GREGORY STREET, QUEANBEYAN WEST



## DELEGATED REPORT - DA.2021.1716

### SUMMARY

<b>Proposal:</b>	Installation of a digital advertising structure
<b>Address:</b>	3/5 Gregory Street QUEANBEYAN WEST NSW 2620
<b>Property description:</b>	Lot 3 SP 93173
<b>Applicant:</b>	Kevin Malouf
<b>Owner:</b>	Nada Kovacevic
<b>Date of lodgement:</b>	19/11/2021
<b>Notification period:</b>	07/12/2021 to 11/01/2022
<b>Submissions received:</b>	0
<b>Assessment officer:</b>	Ross Jauncey
<b>Estimated cost of works:</b>	\$170,500.00
<b>Zoning:</b>	IN2 – Light Industrial
<b>Heritage:</b>	No
<b>Flood affected:</b>	No
<b>Bushfire prone:</b>	No
<b>Recommendation of officer:</b>	Refusal

### EXECUTIVE SUMMARY

The application is referred to Council to allow it to determine the subject application. The development application seeks approval for the erection of a single screen pole-mounted digital advertising structure to display third (3<sup>rd</sup>) party advertisements and community messages at 3-5 Gregory Street Queanbeyan West. The proposed advertising sign will operate 24 hours per day, 7 days per week. The site is situated on the corner of Canberra Avenue and Kealman Road. The structure will be north-facing servicing the traffic entering Queanbeyan from the ACT (Canberra City).

The advertising structure with a display area of 18.26 square metres will display third party advertisements. It is not a business identification sign.

The application has been referred to officers within Council and to external government bodies for comment. Further details on these processes are provided in the body of the report.

If Council were to approve this application it is felt that it would create a precedence for the Local Government Area and could create a proliferation of similar third party advertising structures throughout Queanbeyan and the region.

The development application has been considered using the heads of consideration listed in Section 4.15 of the *Environmental Planning & Assessment Act 1979*. Based on this assessment the application is considered to be unsatisfactory and the application be determined by way of refusal subject to reasons as detailed below:

*Reasons for refusal:*

1. The proposed development is not consistent with the following provisions of *State Environmental Planning Policy (Industry and Employment) 2021*:
  - a. Clause 3.6(a) – The proposed development is not compatible with the desired amenity and visual character of the area.
  - b. Clause 3.6(b) – The proposed development does not meet the following criteria specified in Schedule 5:
    - Character of the Area
    - Special Areas
    - Views and Vistas
    - Streetscape, Setting and Landscape
    - Site and Building
    - Illumination
    - Safety
2. Council considers the proposed development is contrary to the aims specified in clause 1.2(2)(d), (e) and (f) of *Queanbeyan Local Environmental Plan 2012*:

*(d) to recognise and protect Queanbeyan's natural, cultural and built heritage including environmentally sensitive areas such as Queanbeyan's native grasslands, the Queanbeyan River and Jerrabomberra Creek;*

*(e) to protect the scenic quality, views and vistas from main roads and other vantage points within Queanbeyan of the escarpment and Mount Jerrabomberra*

*(f) to maintain the unique identity and country character of Queanbeyan*
3. Council is not satisfied by the application and its accompanying documents that the proposed development is consistent with the objectives of Part 7 the Queanbeyan Development Control Plan 2012 specified by sections 7.1.2 (5):

*(5) Ensure development has a visually appealing appearance to the street.*
4. Council is not satisfied by the application and its accompanying documents that the proposed development is consistent with the objectives of Part 7 of Council's applicable Queanbeyan Development Control Plan 2012 specified by sections 7.2.2 (5):

*(5) Protect and enhance the visual amenity of entry points into Queanbeyan.*
5. Council is not satisfied by the application and its accompanying documents that the proposed development meets the Transport Corridor Outdoor Advertising and Signage Guidelines 2017 in respect of the safe distance of the sign from an intersection and Council considers that the proposal could have a significant safety impact on traffic on the corner of a priority-controlled T intersection (Corner of Canberra Avenue and Kealman Road).
6. Council considers the proposed location of the sign will reduce off-street parking spaces.
7. The proposal does not promote the aims of the Queanbeyan Local Environmental Plan 2012 particularly relating to vistas and visual amenity entering Queanbeyan City and as such Council considers there to be no overriding public interest in favour of granting consent for the proposed development.



Figure 1: Locality Plan

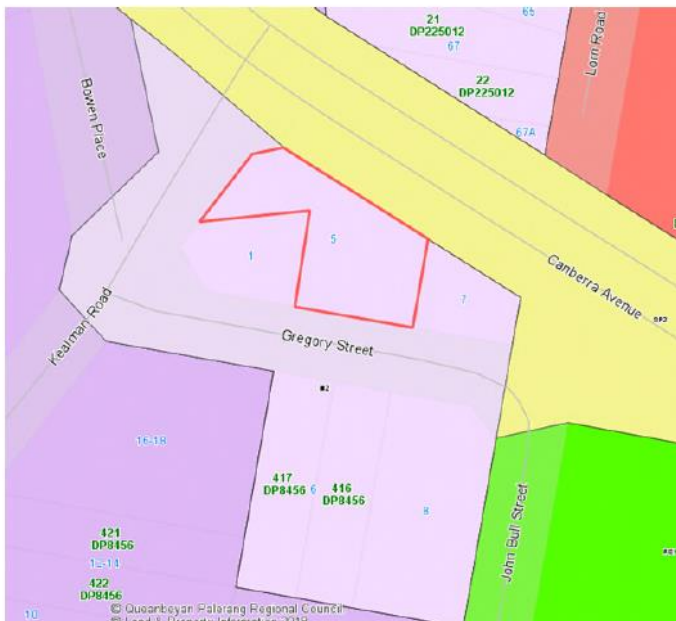


Figure 2: Zoning Map Extract



Figure 3: - Location of Strata Plan Lot 3



Figure 4 – Aerial View of Site

## BACKGROUND

The site has been the subject of compliance investigation for the erection of an unauthorised sign. As a result of the enforcement action the unauthorised sign has been removed and this development application lodged.

## DESCRIPTION OF THE SITE AND LOCALITY

**Figure 1** illustrates the land's location and general layout. The site is legally described as Lot 3 DP 93173, 3-5 Gregory Street Queanbeyan West. The subject site is located on the northern side of Gregory Street and is bounded by Canberra Avenue on the northern boundary, Kealman Road on the western boundary. Access to the property is from Gregory Street on the southern boundary.

The site has an approximate area of 1680 square metres.



**Figure 5: Location of Proposed development (Pole sign)**





**Figure 6:** Photo shows proposed amended location of digital advertising sign which partially blocks advertising sign on adjoining building. Also depicts proposed landscaping on Council's road reserve.



**Figure 7:** Photo shows proposed sign



**Figure 8: Photo shows proposed amended location of digital advertising sign which partially blocks advertising sign on adjoining building. Also depicts proposed landscaping on Council's road reserve**



**Figure 9: Shows impact of sign on right hand turning traffic into Kealman Road**



Figure 10: view sight lines of site driving from Canberra

#### PROPERTY BURDENS AND CONSTRAINTS

There are no easements or burdens on the land which could affect, or be affected by, the proposed development.

#### DESCRIPTION OF THE PROPOSED DEVELOPMENT

The development application seeks approval for the erection of a single screen pole-mounted digital advertising structure to display third (3<sup>rd</sup>) party advertisements and community messages.

The advertising structure will have a display area of 18.26 square metres and will display third party advertisements. It is not intended to advertise the business/s operating on the site but will advertise varied items as requested by third party advertisers. The proposed advertising sign will operate 24 hours per day, 7 days per week. The site is situated on the corner of Canberra Avenue and Kealman Road.

The advertising structure will be constructed on the north side of the site and will only be viewed by traffic on Canberra Avenue while heading south to Queanbeyan. The structure will be mounted on a single pole 1m in diameter and the base of the sign will be 4m above ground level. The display area of the sign will be 2.2m high and 8.3m wide. This will provide for an overall height of 5.2 metres.



Figure 11: Proposed amended location of pole sign

### **CONSENT AUTHORITY**

In accordance with the *Environmental Planning and Assessment Act 1979* (EP&A Act) the proposal is considered to be local development and Council is the Consent Authority.

### **SECTION 4.10 DESIGNATED DEVELOPMENT – EP&A Act, 1979**

The proposal is not designated development.

### **SECTION 4.47 INTEGRATED DEVELOPMENT – EP&A Act, 1979**

The proposal is not integrated development:

### **REFERRALS**

#### **INTERNAL REFERRALS**

**Development Engineer referral response dated 07 January 2022.**

#### **TfNSW Concurrence**

Under Clauses 17 & 18 of SEPP 64, this application must be referred to TfNSW for concurrence as:

1. The sign is proposed to be located within 250m of a classified road; and
2. The sign will be visible from a classified road.

As such, the application has been referred to TfNSW who have rejected the referral on the grounds that the proposal does not otherwise trigger a need for TfNSW concurrence (i.e. area less than 20m<sup>2</sup> and lower than 8m in height). This response is understood to leave Council as the consent authority on this matter without any input or comment from TfNSW.

#### **Location**

The location of the proposed sign is the corner of a priority-controlled T intersection. Whilst the location only provides viewing access to east bound traffic (travelling into Queanbeyan), the proposed location presents the possibility that the advertisements will distract motorists on the approach to the intersection. The Transport Corridor Outdoor Advertising and Signage guidelines 2017 (Department of Planning and Environment) require that location suitable for roadside advertising need to be a minimum of the safe distance (for the design speed of the road) from the intersection or decision/conflict point.

### 3.2.3 Proximity to decision making points and conflict points

It is important that drivers are not distracted near decision making points or conflict points to allow concentration to be focused on the driving task where the driver's attention requirements are greater.

Decision making points include areas in which merging, diverging, turning and weaving traffic manoeuvres take place. Conflict points are locations such as intersections or pedestrian crossings where crash risk is greater.

To minimise distraction near decision making points and conflict points, and ensure there is sufficient distance for a driver to recognise, react and, if required, stop safely before reaching one of these points, the following criteria apply to all advertising signage:

- a. The sign should not be located:
  - i. less than the safe sight distance from an intersection, merge point, exit ramp, traffic control signal or sharp curves
  - ii. less than the safe stopping sight distance from a marked foot crossing, pedestrian crossing, pedestrian refuge, cycle crossing, cycleway facility or hazard within the road environment
  - iii. so that it is visible from the stem of a T-intersection.

**Figure 8: Extract from the Transport Corridor Advertising and Signage Guidelines 2017 (Department of Planning and Environment)**

#### **Parking and Access.**

The proposed signage does not occupy a part of the subject land that was otherwise intended for vehicle manoeuvring or parking to meet existing use approval/s.

The development will not generate an increase in vehicle movements as it is signage only. The existing site access would suffice for maintenance purposes if the application was approved.

#### **Luminance Levels**

If approved, the signage would need to comply with the zone requirements of Table 6 of the Transport Corridor Outdoor Advertising and Signage Guidelines 2017 (Department of Planning and Environment).

### **Dwell Time**

The SEE accompanying the proposal indicates that the dwell time adopted for any advertisement would be a minimum of 10 seconds and that this is compliant with Palerang DCP (PDCP).

However, the PDCP does not apply to the subject site and the applicable standard for dwell time is 25 seconds for signage addressing a road with a speed limit of 80km/h or greater. This requirement is found in Table 3 of the Transport Corridor Outdoor Advertising and Signage Guidelines 2017 (Department of Planning and Environment). If the application was to be approved, a condition would be required to utilise minimum dwell times of 25 seconds in accordance with the above.

### **Summary**

The location of the proposed sign is not in accordance with the road safety prescriptions in the Transport Corridor Outdoor Advertising and Signage Guidelines 2017 (Department of Planning and Environment). Additionally, when assessed against the Assessment Criteria in Schedule 1 of SEPP 64, it is considered that the proposal could reduce the safety of Canberra Avenue (as a public road). As such, the author does not believe the proposed location is suitable for the development.

### **Development Engineer updated referral response dated 05 August 2022.**

#### **UPDATE 5 AUGUST 2022**

Council has received submissions from the Applicant (Dated 13 May 2022) and legal representatives for the Applicant (Dated 26 July 2022) addressing and contesting Council Staff's assessment of the application. For the assessment of Council's Development Engineer, the most pertinent rebuttal regards the location of the proposed signage.

#### **Location of the proposed signage:**

The applicant provided a revised location for the sign on 13 May 2022 in response to Council's assessment that the sign did not meet the location criteria of the Transport Corridor Outdoor Advertising and Signage Guidelines 2017 (TCOASG). This location is approximately 30m further east than the original proposed site. The change is accompanied by a supplementary road safety assessment prepared by ARRB and also dated 13 May 2022. This assessment finds that the location of the proposed sign with respect to the intersection of Kealman Road and Canberra Avenue is acceptable. Council contend that this is not true and that the Supplementary road safety assessment by ARRB has misconstrued the requirements of the TCOASG as well as the requirements of Austroads with respect to Safe Sight Distance.

Council contends that:

1. The TCOASG Section 3.2.3 a. i. requires that any signage be located at least the "Safe Sight Distance" from an intersection, merge point, exit ramp, traffic control signal or sharp curve.
2. The TCOASG specifically refers to "Safe sight distance" as per point 1 above. Council note that this specific term is not one used by Austroads Guide to Road Design. The ARRB supplementary road safety assessment refers to "Safe Stopping Distance" (SSD) without rationale and cites Austroads Guide to Road Design Part 3 as the source for the figures quoted. Additionally, this report attempts to use this parameter with respect to both Kealman Road and Canberra Avenue to argue acceptability.
3. The TCOASG Section 3.2.3 a. iii. specifically states that the signage should not be visible from the stem of a T-intersection. As such, if the sign is not visible from Kealman Road as required by this section of the TCOASG, then none of the sight distances (Neither SSD, ASD nor SISD as defined by Austroads Guide to Road Design) of the minor road are

appropriate guidance controls as drivers using this road could not be distracted by the signage in any case. This is seen as a poor attempt to produce some small “Safe Stopping Distance” figures in an attempt to misconstrue guidance documents in a manner that could support this application.

- As the road users, Council contends could be distracted by the signage proposal are the southbound travellers on Canberra Avenue, the appropriate sight distance to be used as a control in respect to TCOASG Section 3.2.3 should be the Safe Intersection Sight Distance as provided in Austroads Guide to Road Design Part 4a: Unsignalised and Signalised Intersections.

### 3.2.2 Safe Intersection Sight Distance (SISD)

SISD is the minimum sight distance which should be provided on the major road at any intersection. Designers should note that the object height for the application of SISD has been increased to 1.25 m (previously driver eye height was used i.e. 1.1 m) based on research by the Department of Main Roads (Lennie et al. 2008). The basis of the 1.25 m object height for cars is that this height is 0.2 m less than the 15<sup>th</sup> percentile height of passenger cars (1.45 m) as determined by the study.

Table 3.2: Safe intersection sight distance (SISD) and corresponding minimum crest vertical curve size for sealed roads (S < L)

Design speed (km/h)	Based on safe intersection sight distance for cars <sup>(1)</sup> $h_1 = 1.1$ ; $h_2 = 1.25$ , $d = 0.36$ <sup>(2)</sup> ; Observation time = 3 sec					
	$R_T = 1.5$ sec <sup>(3)</sup>		$R_T = 2.0$ sec		$R_T = 2.5$ sec	
	SISD (m)	<i>K</i>	SISD (m)	<i>K</i>	SISD (m)	<i>K</i>
40	67	4.9	73	6	–	–
50	90	8.6	97	10	–	–
60	114	14	123	16	–	–
70	141	22	151	25	–	–
80	170	31	181	35	–	–
90	201	43	214	49	226	55
100	234	59	248	66	262	74
110	–	–	285	87	300	97
120	–	–	324	112	341	124
130	–	–	365	143	383	157

Figure 1 - Extracts from Austroads Guide to Road Design Part 4A.

- The critical location within the intersection as it relates to this application is the conflict location where through traffic (in a southbound direction) may conflict with right turners out of Kealman Road (i.e. distracted southbound drivers may strike right turners out of Kealman Road. Such a collision would likely be found to be the fault of both drivers but is contended that it's likelihood could be greatly reduced by not providing distracting sensory input to the Southbound drivers.
- The proposed location of the sign (as measured along the centreline of the through road (Canberra Avenue) is approximately 50m which is less than half the “Safe Stopping Distance” of 114m specified by the ARRB supplementary road safety assessment. As demonstrated above, combining the requirements of both Austroads Guide to Road Design Part 4A and the TCOASG Council concludes that the signage should not be located within approximately 181m of the intersection (subject to small adjustment due to grade/vertical curves of Canberra Avenue).

Council conclude that not only has the Supplementary Road Safety Assessment by ARRB dated 13 May 2022 misconstrued the relevant requirements, but they have demonstrated that their proposal still does not comply with their own interpretation of the requirements let alone Council's assessment. Development Engineering maintain our objection to the proposal on road safety grounds as outlined above.

#### **EXTERNAL REFERRALS**

##### **Transport for NSW**

Transport for NSW advised that the sign has an area of 18m<sup>2</sup> which falls under the size trigger of greater than 20m<sup>2</sup> and the height proposed of 6.2m is less than the height trigger of 8m. On this basis TfNSW did not provide a comment.

##### **Department of Infrastructure, Transport, Regional Development and Communications (Canberra Airport)**

Flysafe – Airspace Protection have issued an approval for the subject pole sign subject to conditions dated 29 March 2022.

##### **Department of Defence (HMAS Harman)**

The Department of Defence have issued a concurrence for the development dated 15 December 2021.

#### **SECTION 4.15 CONSIDERATIONS – EP&A Act, 1979**

In determining a development application, the consent authority is to take into consideration the following matters of consideration contained within section 4.15 of the Environmental Planning and Assessment Act, 1979 as relevant to the development application:

Assessment against the provisions of the various environmental planning instruments applicable to the site/and the proposed development is undertaken in the following section:

##### **Section 4.15(1)(a)(i) – The provision of any environmental planning instrument that apply to the land**

##### **State Environmental Planning Policy No.55 - Remediation of Land**

This application was lodged with Council on 19 November 2021. The SEPP applicable at this time was State Environmental Planning Policy 55 Remediation of Land This SEPP has since been repealed with the new consolidated SEPP State Environmental Planning Policy (Resilience and Hazards) 2021 which commenced on 01 March 2022.

The new consolidated SEPP has picked up the controls from SEPP 55 and transferred them to the new SEPP. On this basis the application has been assessed under SEPP (Resilience and Hazards) 2021.



**State Environmental Planning Policy (Resilience and Hazards) 2021**

The aim of the policy is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Clause 4.6 of SEPP, is relevant to the assessment of this Development Application.

Clause 4.6 requires that consent not be granted until Council has considered whether the land is contaminated. If the land is contaminated, the Council needs to be 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.

The subject site has historically been used for industrial purpose. No evidence of contamination was observed during inspection of the site.

As there is no historical evidence of the site being previously used for a purpose which would result in the land being contaminated, further testing of the site in respect of contamination is not warranted in this instance.

**State Environmental Planning Policy No.64 (advertising and signage).**

This application was lodged with Council on 19 November 2021. The SEPP applicable at this time was State Environmental Planning Policy 64 (Advertising and Signage). This SEPP has since been repealed with the new consolidated SEPP State Environmental Planning Policy (Industry and Employment) 2021 which commenced on 01 March 2022 and repealed the following SEPP/s:

SEPP(Western Sydney Employment Area) 2009;  
SEPP 64 – Advertising and Signage.

The new consolidated SEPP has picked up the controls from SEPP 64 and transferred them to the new SEPP. On this basis the application has been assessed under SEPP (Industry and Employment) 2021.

**State Environmental Planning Policy(Industry and Employment) 2021**

Chapter 3 of the SEPP relates to Advertising and signage.

Chapter 3 of the SEPP applies to all signage that-

*(a) Can be displayed with or without development consent under another environmental planning instrument that applies to signage,*

*And*

*(b) Is visible from any public place or public reserve*

**Comment**

The proposed sign is visible from a public place (Canberra Avenue) therefore Chapter 3 applies to this application.

Section 3.6 states:

*A consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied-*

- (a) That the signage is consistent with the objectives of this chapter as set out in Section 3.1(1)(a), and*
- (b) That the signage the subject of the application satisfies the assessment criteria specified in Schedule 5.*

Comment

The proposed sign is not compatible with the desired amenity and visual character of the area as the main entry point into Queanbeyan from the Australian Capital Territory.

The proposed sign does not satisfy the assessment criteria specified in Schedule 5.

Section 3.1 states:

*(1) This chapter aims-*

- (a) To ensure that signage (including advertising)-*
  - (i) Is compatible with the desired amenity and visual character of an area, and*
  - (ii) Provides effective communication in suitable locations, and*
  - (iii) Is of high quality design and finish*
- (b) To regulate signage (but not content) under Part 4 of the Act, and*
- (c) To provide time-limited consents for the display of certain advertisements, and*
- (d) To regulate the display of advertisements in transport corridors, and*
- (e) To ensure that public benefits may be derived from advertising in and adjacent to transport corridors.*

*(2) This chapter does not regulate the content of signage and does not require consent for a change in the content of signage.*

Comment

The proposed sign is not compatible with the desired amenity and visual character of the area as the main entry point into Queanbeyan from the Australian Capital Territory.

Canberra Avenue is one of the key entrances to Queanbeyan and its gateway commences at the railway overpass and signalised intersection with Kendall Avenue North/Gilmore Road. The streetscape of this entrance corridor is characterised by single and two storey industrial buildings. There is landscaping contained within parts of the median and sparsely planted trees within road verges. From the intersection with Kealman Road which adjoins the proposed site, the character gives way from the industrial land uses to the vegetated bushland reserve of John Bull Street, the landscaped median and to the landscaped noise walls along the residential areas along Nimmitabel Street and Munro Road. This leads to the ridge from which the views of the city within Queanbeyan River Valley.

While the industrial nature of the first point of this of this entry may not be by some standards to have a high amenity, it does have a relative uncluttered character in terms of signage. The signage within this entry corridor is characterised by generally business and building identification signs that are predominantly attached to buildings and in the traditional medium of print. There are no free standing electronic billboard style signs supported on 1 metre diameter mono poles along this or any of the other entry corridors to Queanbeyan. There are also no other signs of this scale and dimension.

The desired amenity and visual character has been qualified in a number of documents including:

#### **Towards 2040 Queanbeyan-Palarang Local Strategic Planning Statement**

The statement references as part of the vision for Queanbeyan and the surrounds: 'The rich built, natural, indigenous and cultural heritage community continues to be protected and enhanced. Areas with high scenic qualities have been retained and protected from inappropriate development'.

#### **Queanbeyan Development Control Plan**

##### **7.1.2 Overall objectives for Industrial Development**

7.1.2 (5): Ensure development has a visually appealing appearance to the street.

##### **7.2.2 Building Design**

7.2.2 (5): Protect and enhance the visual amenity of entry points into Queanbeyan

#### **Queanbeyan Local Environmental Plan 2012**

##### **1.2 Aims of Plan**

1.2(2)(e) to protect the scenic quality, views and vistas from main roads and other vantage points within Queanbeyan of the escarpment and Mount Jerrabomberra

1.2(2)(f) to maintain the unique identity and country character of Queanbeyan

Schedule 5 provides the Assessment Criteria for an application and states:

##### **1. Character of the area**

- *Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?*
- *Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?*

##### Comment

- The proposed sign is not compatible with the existing or desired future character of the area or locality in which it is proposed to be located.
- Council has not established a particular theme for outdoor advertising in Queanbeyan.

Whilst Council has not established a particular theme for outdoor advertising in Queanbeyan the development controls aim to maintain the unique identity and country character of Queanbeyan and to ensure development has a visually appealing appearance to the street. The proposed pole mounted digital advertising sign does not meet these controls and particularly does not fit into or identify a country character. The country character of the Queanbeyan entrance corridors is exemplified in the lack of billboard style signage including digital version. The character is built from the relatively small scale non-digital signage attached to buildings and related to the Queanbeyan business premises upon which they are located.

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## 2. Special areas

- *Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?*

### Comment

The proposed sign does not recognise Queanbeyan's natural, cultural and built heritage. The proposed sign is located approximately 100 metres from the open space bushland reserve area bounded by John Bull Street and Canberra Avenue and is part of the entrance corridor leading to the Queanbeyan residential area. The proposal does not reflect the country character or have a visually appealing appearance to the street. The proposed sign does not protect and enhance the visual amenity of entry points into Queanbeyan

## 3. Views and vistas

- *Does the proposal obscure or compromise important views?*
- *Does the proposal dominate the skyline and reduce the quality of vistas?*
- *Does the proposal respect the viewing rights of other advertisers?*

### Comment

The proposed sign will obscure or compromise important views and dominate the skyline on the main entry point into the Queanbeyan CBD. The proposed sign does not respect the viewing rights of other advertisers.



**Proposed amended location of sign**

The above figure shows how the proposed digital advertising sign will dominate the skyline and does not respect the viewing rights of other advertisers, particularly the business identification sign located on the adjoining brick structure.

The applicant has advised that they will comply with luminance levels as scheduled under Table 6 of the Transport Corridor Outdoor Advertising and Signage guidelines.

It is still felt that this electronic digital advertising sign will still detract from visual aspects of the rural township of Queanbeyan.

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**4. Streetscape, setting or landscape**

- *Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?*
- *Does the proposal contribute to the visual interest of the streetscape, setting or landscape?*
- *Does the proposal reduce clutter by rationalising and simplifying existing advertising?*
- *Does the proposal screen unsightliness?*
- *Does the proposal protrude above buildings, structures or tree canopies in the area or locality?*
- *Does the proposal require ongoing vegetation management?*

Comment

The proposed sign is inappropriate for the streetscape and setting. The size, location and illumination of the proposed sign will dominate the streetscape on this main entry into Queanbeyan City. Refer to the comments on character above. The proposed sign does not contribute to the visual interest of the streetscape or setting. The sign does not screen unsightliness. The photo montage provided by the applicant in their SEE indicates that the proposed sign will protrude above the roof line of the existing structure. There are no trees located on the site as all landscaping was previously removed from the site, therefore the structure will not nor does it protrude above tree canopies. The applicant has submitted a proposed landscape plan which provides for the planting of low shrubs below the sign and the planting of trees on Council's road reserve in Kealman Avenue and Canberra Avenue.

**5. Site and building**

- *Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?*
- *Does the proposal respect important features of the site or building, or both?*
- *Does the proposal show innovation and imagination in its relationship to the site or building, or both?*

Comment

The proposed sign is not compatible with the scale, proportion and other characteristics of the site. The photo montage provided by the applicant in their SEE indicates that the proposed sign will protrude above the roof line of the existing structure and will totally dominate the corner and the illumination will detract from all other views.

The proposed digital advertising sign is free standing and has no integration with the existing buildings or landscaping located on the site.

The proposed sign does not show innovation or imagination in its relationship to the site. The location of the sign appears to be placed and sized for maximum exposure without real reference to the site, buildings or streetscape.

**6. Associated devices and logos with advertisements and advertising structures**

- *Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?*
- 

Comment

The proposed sign has a flat platforms designed as an integral part of the structure. The flat platform extends for the full width of the proposed sign.

### 7. *Illumination*

- *Would illumination result in unacceptable glare?*
- *Would illumination affect safety for pedestrians, vehicles or aircraft?*
- *Would illumination detract from the amenity of any residence or other form of accommodation?*
- *Can the intensity of the illumination be adjusted, if necessary?*
- *Is the illumination subject to a curfew?*

#### Comment

The illumination of the proposed sign would result in unacceptable glare in the locality. The illumination would affect the safety of drivers on Canberra Avenue and those turning from Canberra Avenue into Kealman Road. Please refer to comments provided by Council's Development Engineers.

The applicant has provided comments that they would comply with the requirements of Table 6 requirements for luminance Levels for digital Advertisements under the Transport Corridor Outdoor and Signage Guidelines.

### 8. *Safety*

- *Would the proposal reduce the safety for any public road?*
- *Would the proposal reduce the safety for pedestrians or bicyclists?*
- *Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?*

#### Comment

The proposed sign would reduce the safety for traffic on Canberra Avenue. Please refer to comments provided by Council's Development Engineers.

### **Queanbeyan Local Environmental Plan 2012**

The land is zoned IN2 – Light Industrial.

The objectives of the IN2 Light industrial zone are:

- To provide a wide range of light industrial, warehouse and related land uses.
- To encourage employment opportunities and to support the viability of centres.
- To minimise any adverse effect of industry on other land uses.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- To support and protect industrial land for industrial uses.

#### **Permitted with Consent.**

Boat building and repair facilities; Business premises; Car parks; Centre-based child care facilities; Community facilities; Depots; Flood mitigation works; Function centres; Garden centres; Hardware and building supplies; Health consulting rooms; Industrial retail outlets; Industrial training facilities; Information and education facilities; Kiosks; Light industries; Markets; Medical centres; Mortuaries; Neighbourhood shops; Oyster aquaculture; Places of public worship; Public administration buildings; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Respite day care centres; Roads; Self-storage units; **Signage**; Specialised retail premises; Take away food and drink premises; Tank-based aquaculture; Vehicle repair stations; Vehicle sales or hire premises; Veterinary hospitals; Warehouse or distribution centres

#### **Prohibited**

Pond-based aquaculture; Any other development not specified in item 2 or 3

---

The Land Use Table of the QLEP 2012 specifies developments for the purpose of Signage is permitted with consent in Zone IN2 – Light Industrial.

The Dictionary under QLEP 2012 defines signage as follows:

*signage means any sign, notice, device, representation or advertisement that advertises or promotes any goods, services or events and any structure or vessel that is principally designed for, or that is used for, the display of signage, and includes any of the following-*

- (a) an advertising structure,
- (b) a building identification sign,
- (c) a business identification sign

*but does not include a traffic sign or traffic control facilities.*

**Comment**

On this basis the proposed sign is permissible in the IN2 -Light industrial zone under the Land Use Table of QLEP 2012.

**Principal development standards**

An assessment of the proposal against the relevant provisions contained within Part 1 and Part 4 of the QLEP 2012 is provided below:

<b>Clause</b>	<b>Control</b>	<b>Assessments</b>	<b>Compliance</b>
<b>1.2 Aims of Plan</b>	1.2(e) to protect the scenic quality, views and vistas from main roads and other vantage points with Queanbeyan of the escarpment and Mount Jerrabomberra.	The proposed development does not protect the scenic quality, views and vistas from main roads.	Does not Comply
	1.2(f) to maintain the unique identity and country character of Queanbeyan	The proposed development does not maintain the unique identity and country character of Queanbeyan.  Reference is made to comments on character under the SEPP assessment.	Does not Comply
<b>4.3 Height of Buildings</b>	The maximum height of buildings for this site is 12m maximum height.	The proposed digital advertising sign will have a maximum height of 5.2m	Complies.
<b>7.1 Earthworks</b>	Earthworks	The proposed development will involve minimal earthworks to accommodate the footings for a 1m diameter monopole structure. Standard conditions would apply to minimise impacts and any disturbance of relics.	Complies

7.6	Airspace operations	Impacts on Canberra Airport. The application was referred to Canberra Airport for comment	See referral section in body of report
7.9. <b>Essential Services</b>	(b)the supply of electricity	There have been a number of studies on the high energy requirements of digital advertising signs.  These may lead to health and environmental concerns?	Does Not Comply
7.11	Development near HMAS Harman	Protection of the operational environment of HMAS Harman. Application referred to Department of Defence for comment.	See referral section in body of report.

#### **Queanbeyan Development Control Plan 2012 (QDCP 2012)**

The Queanbeyan Development Control Plan 2012 provisions are constructed into two components: objectives and controls. The objectives provide the framework for assessment under each requirement and outline key outcomes that a development is expected to achieve. The controls contain both numerical standards and qualitative provisions. Any proposed variations from the controls may be considered only where the applicant successfully demonstrates that an alternative solution could result in a more desirable outcome.

Part 7 of Queanbeyan Development Control Plan 2012 under subclause 7.1.2 – Overall Objectives for Industrial Development states:

(5) Ensure development has a visually appealing appearance to the street.

The proposal for a large illuminated pole sign along the main entrance to Queanbeyan City does not present a visually appealing appearance to the street and will detract from this entry corridor vistas of Queanbeyan. On this basis it is considered that the proposed sign is inconsistent with the objectives of Part 7 of Council's applicable Queanbeyan Development Control Plan specified by sections 7.1.2 (5).

Part 7 of Queanbeyan Development Control Plan 2012 under subclause 7.2.2 – Building Design for Industrial Development states

(5) Protect and enhance the visual amenity of entry points into Queanbeyan.

The proposal for a large illuminated pole sign on the main entrance to Queanbeyan City and rural NSW does not protect and enhance the visual amenity of the main entry point into Queanbeyan.

The size, scale and dominance of the sign on this entry site detracts from the visual amenity of the main entry into Queanbeyan and rural NSW. On this basis it is considered that the proposed sign is inconsistent with the objectives of Part 7 of Council's applicable Queanbeyan Development Control Plan specified by sections 7.2.2 (5).



### Environmental Assessment

The site has been inspected (14 June 2022) and the application has been assessed having regard to Section 4.15 of the *Environmental Planning and Assessment Act, 1979*, as amended.

Section 4.15 'Matters for Consideration	Comments
4.15(1)(a)(ii) any draft environmental instruments planning	The draft Queanbeyan-Palerang LEP was publicly exhibited in June 2020. The draft plan has been considered as part of this assessment and has no effect on the proposed development
Section 4.15 (1)(a)(iii) – Provision of any Planning Agreement or draft Planning Agreement.	No planning agreement has been entered into or proposed under section 7.4 of the <i>Environmental Planning and Assessment Act 1979</i> in relation to the land
Section 4.15 (1)(a)(iv) – Provisions of the Regulations.	No provisions of Division 8 of Part 6 of the <i>Environmental Planning and Assessment Regulation 2000</i> are relevant to the proposed development.
Section 4.15 (1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality.	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in this report. This proposed digital advertising sign operating 24 hours per 7 days per week will consume large amounts of electricity.</p> <p>There are articles that purport that the carbon footprint of digital signage is larger than traditional print signs. They result in continuing carbon emissions once installed as well. Recycling of their components is more complicated than traditional signs.</p> <p>The proposed development is inconsistent with the dominant character in the locality. Refer to assessment under the SEPP (Industry and Employment) 2021.</p> <p>The proposal will result in detrimental social or economic impacts on the locality.</p>
Section 4.15 (1)(c) – The suitability of the site for the development.	<p>The site is located in an industrial zoned area on the main arterial road from Canberra leading into Queanbeyan and regional NSW. The site has sufficient area to accommodate the proposed pole sign. Therefore, the site is considered suitable for the proposed development.</p> <p>The proposed new location of the pole sign with landscaping will remove a number of off-street car parking spaces. It will also inhibit access to the paved area at the front of the existing building and restrict access to the access garage door. The photos below.</p>
Section 4.15 (1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation.	The proposal was notified pursuant to the Queanbeyan-Palarang Community Engagement and Participation Plan 2019 from 07 December 2021 to 11 January 2022.
Section 4.15 (1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation.	There was no submission made in regard to the Development Application

<p>Section 4.15 (1)(e) – The public interest.</p>	<p>The proposal for a large digital advertising pole sign along the main entrance to the Queanbeyan City and district which is a fast-growing city mixed with heritage buildings. The proposed sign does not promote the aims of the Queanbeyan Local Environmental Plan 2012 in regard to the following:</p> <ul style="list-style-type: none"><li>(a) to recognise and protect Queanbeyan’s natural, cultural and built heritage including environmentally sensitive areas such as Queanbeyan’s native grasslands, the Queanbeyan River and Jerrabomberra Creek;</li><li>(b) to protect the scenic quality, views and vistas from main roads and other vantage points within Queanbeyan of the escarpment and Mount Jerrabomberra</li><li>(c) to maintain the unique identity and country character of Queanbeyan</li></ul> <p>The proposal also has the potential to create a precedent for this type of large billboard style digital signs in Queanbeyan and along the main transport corridors of the local government area. The proliferation of these types and size of signs will change the character of the entrances to Queanbeyan and the country feel of the town. This is a real concern, particularly for Queanbeyan being adjacent to the ACT where on Territory land, billboard advertising is not permitted. Already there have been digital advertising billboards constructed at Canberra Airport (which is not subject to the Territory Planning laws) and this proposed development is the first for the Queanbeyan-Palarang Regional Council local government area. Council’s DCPs have not anticipated digital billboards and should be reviewed to ensure that the character and amenity of the town is retained into the future.</p> <p>Accordingly, the proposal is considered to be not in the public interest.</p>
---	--



Photos shows off street parking spaces that will be removed to locate proposed sign



Photos shows off street parking spaces that will be removed to locate proposed sign



Photo shows concreted area in front of existing building that will be difficult to access.



Photo shows access doors to building that will be restricted by the construction of the pole sign.

#### **SECTION 64 CONTRIBUTIONS**

Section 64 of the Local Government Act 1993 allows contributions to be levied towards the provision of water, sewerage and stormwater infrastructure.

Section 64 Contributions are not applicable to the proposed development.

#### **SECTION 7.11 CONTRIBUTIONS**

Section 7.11 of the *Environmental Planning & Assessment Act 1979* permits councils to require as a condition of development consent, the reasonable dedication of land or the payment of monies, or both, for development that is likely to require the provision of, or increase the demand for public amenities and public services within the area.

Section 7.11 Contributions are not applicable to the proposed development.

## CONCLUSION

That development application DA.2021.1716 for erection of a pole mounted, digital advertising structure at Lot 3 SP 93173, 3/5 Gregory Street, Queanbeyan West be refused for the following reasons:

1. The proposed development is not consistent with the following provisions of *State Environmental Planning Policy (Industry and Employment) 2021*:
  - a. Clause 3.6(a) – The proposed development is not compatible with the desired amenity and visual character of the area.
  - b. Clause 3.6(b) – The proposed development does not meet the following criteria specified in Schedule 5:
    - Character of the Area
    - Special Areas
    - Views and Vistas
    - Streetscape, Setting and Landscape
    - Site and Building
    - Illumination
    - Safety
2. Council considers the proposed development is contrary to the aims specified in clause 1.2(2)(d), (e) and (f) of *Queanbeyan Local Environmental Plan 2012*:
  - (d) to recognise and protect Queanbeyan's natural, cultural and built heritage including environmentally sensitive areas such as Queanbeyan's native grasslands, the Queanbeyan River and Jerrabomberra Creek;
  - (e) to protect the scenic quality, views and vistas from main roads and other vantage points within Queanbeyan of the escarpment and Mount Jerrabomberra
  - (f) to maintain the unique identity and country character of Queanbeyan
3. Council is not satisfied by the application and its accompanying documents that the proposed development is consistent with the objectives of Part 7 the Queanbeyan Development Control Plan 2012 specified by sections 7.1.2 (5):

(5) *Ensure development has a visually appealing appearance to the street.*
4. Council is not satisfied by the application and its accompanying documents that the proposed development is consistent with the objectives of Part 7 of Council's applicable Queanbeyan Development Control Plan 2012 specified by sections 7.2.2 (5):

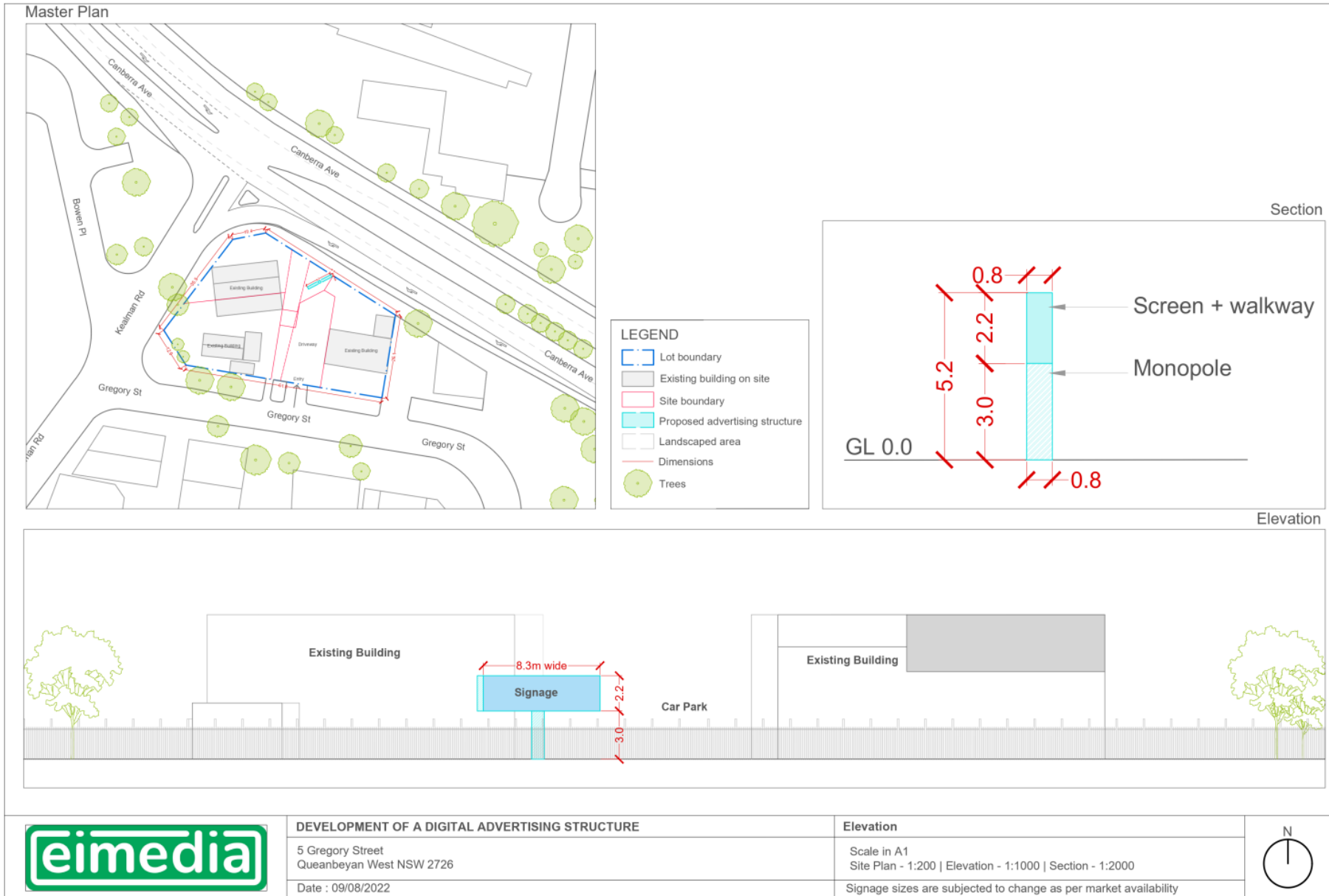
(5) *Protect and enhance the visual amenity of entry points into Queanbeyan.*
5. Council is not satisfied by the application and its accompanying documents that the proposed development meets the Transport Corridor Outdoor Advertising and Signage Guidelines 2017 in respect of the safe distance of the sign from an intersection and Council considers that the proposal could have a significant safety impact on traffic on the corner of a priority-controlled T intersection (Corner of Canberra Avenue and Kealman Road).
6. Council considers the proposed location of the sign will reduce off-street parking spaces.
7. The proposal does not promote the aims of the Queanbeyan Local Environmental Plan 2012 particularly relating to vistas and visual amenity entering Queanbeyan City and as such Council considers there to be no overriding public interest in favour of granting consent for the proposed development.

# QUEANBEYAN-PALERANG REGIONAL COUNCIL

## Council Meeting Attachment

14 SEPTEMBER 2022

- ITEM 9.1 DEVELOPMENT APPLICATION DA.2021.1716 - ERECTION OF  
A DIGITAL ADVERTISING STRUCTURE - LOT 3 SP 93173  
KNOWN AS 3-5 GREGORY STREET, QUEANBEYAN  
WEST
- ATTACHMENT 2 DA.2021.1716 - ELEVATIONS AND SECTION - DIGITAL  
ADVERTISING STRUCTURE 3/5 GREGORY STREET  
QUEANBEYAN WEST



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WEST

ATTACHMENT 3 DA.2021.1716 - PHOTO MONTAGE - DIGITAL ADVERTISING  
STRUCTURE - 3/5 GREGORY STREET QUEANMBEYAN  
WEST





## 5 Gregory Street

High Traffic Corridor, Highly Visible with Long Dwell Times

Proposed Site: 5 Gregory Street, Queanbeyan  
Screen Type: Removable 1 Side  
Screen Size: 8.3m x 2.2m



We are **eimedia** an **innovative digital billboard and out-of-home agency** with industry leading technology, superior and personalised customer service, attention to detail and a passion for helping businesses grow through **premium advertising and brand campaign strategies**.

As an advertising or landlord partner we hope your as excited as us to begin the journey towards advertising your own business/s this screen/s while also making a solid return in our partnership.

---





8.3m x 2.2m - Digital Screen





8.3m x 2.2m - Digital Screen

Before screen installation and landscaping









Before screen installation and landscaping

8.3m x 2.2m - Digital Screen



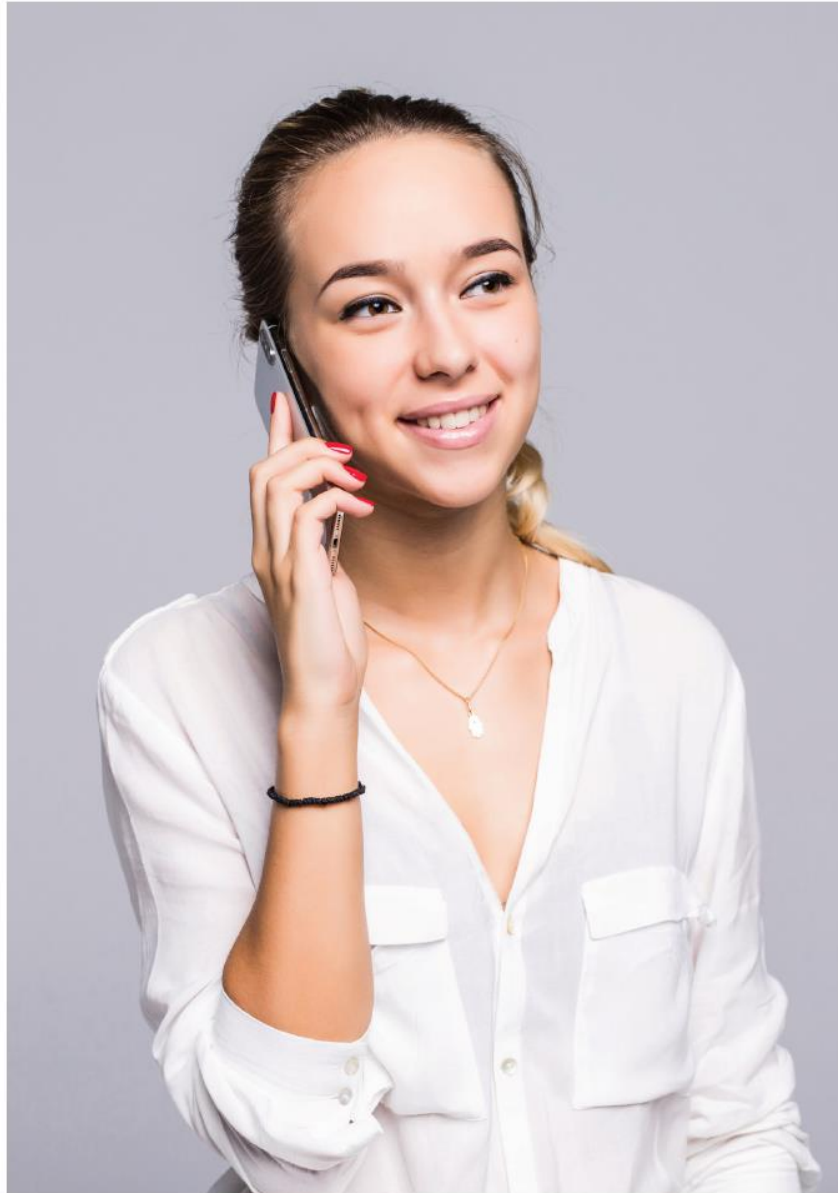


Before screen installation and landscaping

8.3m x 2.2m - Digital Screen







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A DIGITAL ADVERTISING STRUCTURE - LOT 3 SP 93173  
KNOWN AS 3-5 GREGORY STREET, QUEANBEYAN  
WEST
- ATTACHMENT 4 DA.2021.1716 - LANDSCAPE PLAN - DIGITAL ADVERTISING  
STRUCTURE - 3/5 GREGAORY STREET QUEANBEYAN  
WEST



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WEST
- ATTACHMENT 5 DA.2021.1716 - SUPPLEMENTARY ROAD SAFETY  
ASSESSMENT - 3/5 GREGORY STREET QUEANBEYAN  
WEST



## 5 Gregory St Queanbeyan, Digital Advertising Sign - Supplementary Road Safety Assessment

Author: Noha Elazar  
Prepared for: eimedia

13 May 2022

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## 1. Introduction

A traffic assessment of the digital sign at 5 Gregory Street Queanbeyan was carried out by Motion Traffic Engineers Pty Ltd, October 2021. Council has rejected this proposal (email dated 21/2/22) on the basis its location being within safe sight distance from the intersection or decision/conflict point.

This is based on the Transport Corridor Outdoor Advertising Guidelines – Assessing Development Applications under SEPP 64, NSW Department of Planning and Environment, November 2017 (SEPP 64); Section 3.2.3 - proximity to decision making points and conflict points.

An alternate location has been provided by Ei Media to address council's concerns and the basis of rejection of the initial location. Council has agreed that an assessment of the new location addressing this concern and submitted as a supplement to the initial report (October 2021) is acceptable.

### 1.1 Purpose of this Report

This report is a road safety assessment of the new location for the Proposed digital advertising sign.

The assessment has been carried out in accordance with the Transport Corridor Outdoor Advertising Guidelines – Assessing Development Applications under SEPP 64, NSW Department of Planning and Environment, November 2017 (SEPP 64); Section 3.2.3 - proximity to decision making points and conflict points.

Council has also raised concern regarding the Dwell time proposed in the October 2021 assessment report. Appropriate dwell times based on the speed environment is also addressed in this report.





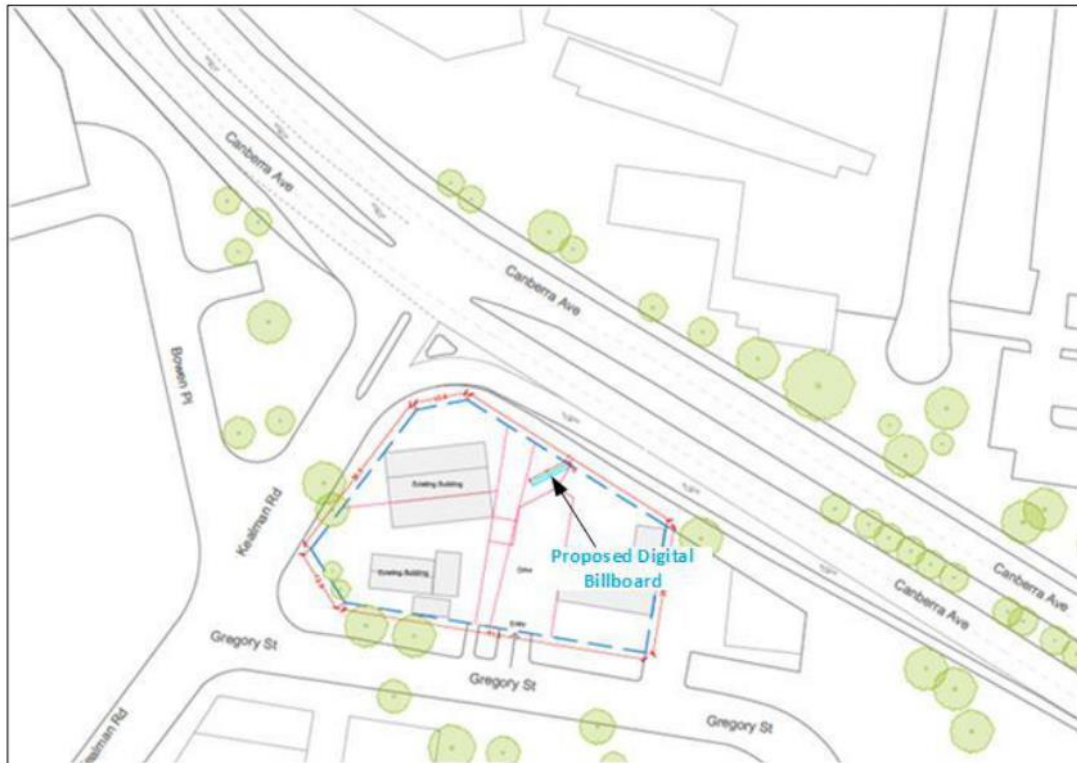
## 2. Proposal

### 2.1 Sign Location

The location of the proposed digital billboard is on the west side of Canberra Avenue, Queanbeyan inside the property at 5 Gregory Street. (Figure 2-1)

The proposed billboard will face southbound traffic along Canberra Avenue.

Figure 2-1 Location of proposed billboard



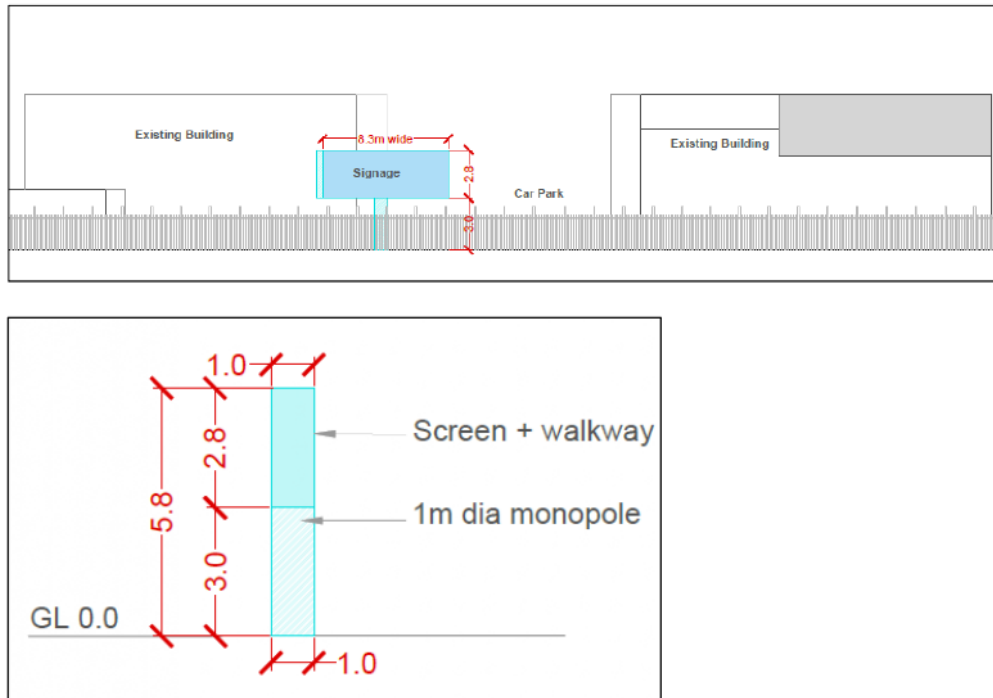
Source: eimedia

### 2.2 Sign Description

The proposed digital billboard sign is in landscape view, 8.3 m wide and 2.8 m high, with a sign face area of 23.24 m<sup>2</sup>. It will be located 3 m above ground level and supported on a 1 m diameter post as shown in Figure 2-2.



Figure 2-2 Proposed digital billboard size and location



Source: eimedia

### 3. Assessment

The proposed billboard will be viewed only along the southbound approach of Canberra Avenue. Refer to Figure 3-1.

Canberra Avenue is a divided road with two lanes in each direction. Along the southbound direction on the approach to the proposed billboard, the road has two southbound lanes and a right turn protected lane, into Kealman Road.

The speed limit along Canberra Avenue is 80 km/h with a stopping sight distance of 114 m. in accordance with Austroads Guide to Road Design part 3.

The speed limit expected in the right turn lane is a maximum of 50 km/h with a stopping sight distance of a maximum of 55 m. This speed limit as measured in the Motion Traffic Engineers Pty Ltd, October 2021 traffic impact assessment report, is considerably less than 50 km/h.

The stopping sight distance for a 50 km/h speed limit is 55 m.

Figure 3-1 Proposed sign location and existing road



### 3.1 Department of Planning and Environment, 'Transport Corridor Outdoor Advertising and Signage Guidelines' under SEPP 64 (the guidelines)

This section of the report assesses compliance of the digital billboard sign with the road safety assessment criteria established in the Department of Planning and Environment, 'Transport Corridor Outdoor Advertising and Signage Guidelines' under SEPP 64 (the guidelines). Specifically, under the following criteria:

1. Section 3.2.3 of the guideline - Proximity To Decision Making Points And Conflict Points
2. Section 3.3.2 of the guideline - Dwell Time and Transition Time

#### 3.1.1 Section 3.2.3 of the guideline - Proximity To Decision Making Points And Conflict Points

**This section states that - A sign should not be located:**

- (i) **Less than the safe sight distance from an intersection, merge point, exit ramp, traffic control signal or sharp curves.**
- (ii) **Less than the safe stopping sight distance from a marked foot crossing, pedestrian crossing, pedestrian refuge, cycle crossing, cycleway facility or hazard within the road environment.**
- (iii) **so that it is visible from the stem of a T-intersection.**

Along the approach to the proposed digital billboard there are two considerations in relation to the criteria in this section:

- A decision making point to take the right turn lane, to turn right into Kealman Rd
- A conflict point when waiting in the right turn lane at the intersection of Kealman Rd.

##### **Decision making point:**

This is located at a distance of approximately 145 m ahead of the location of the proposed billboard. Refer to Figure 3-1.

Due to this distance and the ability of a driver to clearly observe the sign from this distance considering the road alignment, the decision by a driver to take the right lane will not be affected by the proposed billboard.

Although the billboard is past the decision point and not before, which does not impact on the stopping sight distance, it can be noted that the stopping sight distance for an 80 km/h speed limit is 114 m, less than the available distance from the decision point at 145m.

##### **Conflict Point:**

The proposed billboard will be located approximately 55 m past the point at which a driver will stop to turn right into Kealman Road. Considering the measured speed limit as reported in the October 2021 is much less than the assumed 50 km/h, the stopping sight distance required is less than the 55 m for a 50 km/h speed limit. (Figure 3-2)

A driver waiting to turn right into Kealman Road will have a view of northbound traffic along Canberra Avenue to look for a gap in the traffic. The angle and location of the proposed sign will not be conflicting with the view of the approaching traffic.

Once turning into Kealman Road, the proposed billboard will no longer be visible to a driver.



Although the stopping sight distance is complied with it is however not considered to be an issue at this location due to the sign located past the point of consideration. It is more of the consideration of the conflict and the capacity of the sign to affect a drivers view of the approaching traffic and reduce the safety of the driver. This is found **not** to be the case due to the angle and location of the sign (both distance and angle inside the property) not being in competing view with the approaching traffic.

Figure 3-2 sight view from turning lane



Source: Motion Traffic Engineers Pty Ltd photo - Modified by Author

### 3.1.2 Section 3.3.2 of the guideline - Dwell Time and Transition Time

This section states that:

- (a) Each advertisement must be displayed in a completely static manner, without any motion, for the approved dwell time as per criterion (b) below.
- (b) Dwell times for image display must not be less than:
  - 10 seconds for areas where the speed limit is below 80 km/h.
  - 25 seconds for areas where the speed limit is 80 km/h and over.

The speed limit along Canberra Avenue at the location of 5 Gregory Street Queanbeyan is 80 km/h and a 25 seconds dwell time applies.

## 4. Conclusion

ARRB has undertaken a road safety assessment of a proposed digital billboard located at 5 Gregory Street Queanbeyan along the eastern side of Canberra Avenue. The proposed digital billboard is 8.3 m wide and 2.8 m high, with a sign face area of 23.24 m<sup>2</sup>, located 3 m above ground level and supported on a 1 m diameter post.

ARRB has assessed this proposal against two of the criteria requirements from the Transport Corridor Outdoor Advertising and Signage Guidelines, Assessing Development Applications under SEPP 64, NSW Government Department of Planning and Environment, November 2017. The two criteria are:

1. Section 3.2.3 - Proximity To Decision Making Points And Conflict Points
2. Section 3.3.2 - Dwell Time and Transition Time

This assessment supports the proposal for signage having not identified any increased risk to road safety for road users in the sign exposure distance along Canberra Avenue.



## References

*Transport Corridor Outdoor Advertising and Signage Guidelines – Assessing Development Applications under SEPP 64, NSW Department of Planning and Environment, November 2017.*

*Guide to Road Design Part 3 – Geometric Design, Austroads, September 2016.*



## CONTACT US

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# QUEANBEYAN-PALERANG REGIONAL COUNCIL

## Council Meeting Attachment

14 SEPTEMBER 2022

- ITEM 9.1 DEVELOPMENT APPLICATION DA.2021.1716 - ERECTION OF  
A DIGITAL ADVERTISING STRUCTURE - LOT 3 SP 93173  
KNOWN AS 3-5 GREGORY STREET, QUEANBEYAN  
WEST
- ATTACHMENT 6 DA.2021.1716 - APPLICANT'S REPRESENTATIONS RECEIVED  
26 JULY 2022 PRIOR TO ASSESSMENT OF AMENDED  
PROPOSAL



Bartier Perry Pty Ltd  
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ABN 30 124 690 053  
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Queanbeyan-Palerang Regional Council  
PO Box 90  
QUEANBEYAN NSW 2620

26 July 2022

Your ref DA.2021.1716

Our ref SXG 224090

Email: [council@qprc.nsw.gov.au](mailto:council@qprc.nsw.gov.au)

Dear Councillors,

**Development Application Number DA.2021.1716 proposing new signage  
Property: 3/5 Gregory Street, Queanbeyan West**

We act for EI Media, the Applicant for the development application number DA.2021.1716 (**DA**) on land legally identified as Lot 3 in Strata Plan 93173 and known as 3/5 Gregory Street, Queanbeyan West (**Site**).

The DA proposes the installation of **signage** at the Site, comprising an **advertisement** upon an **advertising structure (Proposal)**.

The Proposal will be located centrally along the north-eastern boundary of the Site (adjoining Canberra Avenue) with its display orientated to the north, as shown on the Site Plan prepared by EI Media and dated 14 April 2022 (**Site Plan**), which accompanies the DA.

We are instructed to make a submission on behalf of the Applicant, relating to the DA and responding to the issues raised in the assessment report published as part of the agenda for the Council meeting of 27 July 2022 (**Assessment Report**). We also make reference to the delegated report for the DA, being Attachment 1 to the Assessment Report (**Delegated Report**).

Both the Assessment Report and the Delegated Report recommend Council refuses the DA for six (6) reasons and, adopting the numbered reasons of the Assessment Report, we respond as follows.

**1. AIMS OF STATE ENVIRONMENTAL PLANNING POLICY (INDUSTRY AND EMPLOYMENT) 2021**

1.1 The Assessment Report states that the Proposal does not achieve the aim of section 3.1(1)(a) of *State Environmental Planning Policy (Industry and Employment) 2021 (SEPP)* which requires:

... to ensure that signage (including advertising)—

(i) is compatible with the desired amenity and visual character of an area

134974261 - 224090 (ALK)

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- 1.2 The Assessment Report provides no analysis of what the desired amenity and visual character of the area is and it is noted that, aside from the industrial development controls of Part 7 of the *Queanbeyan Development Control Plan 2012 (DCP)*, Council has not adopted any development controls that apply to the Site or the Proposal which were drafted with the intent of forming the desired amenity and visual character of the area.
- 1.3 Whilst not specifically applicable to the Proposal, as there are no controls regarding signage of this nature, the Proposal would not be inconsistent with the industrial controls of Part 7 of the DCP.
- 1.4 We say the Proposal is compatible with the desired amenity and visual character of an area as:
  - 1.4.1 The Proposal is located within the *Zone IN2 Light Industrial* land use zone (**IN2 Zone**) pursuant to the *Queanbeyan Local Environmental Plan 2012 (LEP)*.
  - 1.4.2 The Land Use Table of the LEP provides that development for the purposes of **signage** is permissible with consent (as detailed below) within the IN2 Zone.
  - 1.4.3 The objectives for development in the IN2 Zone, as set out at the Land Use Table in the LEP at Item 1, include the provision of a wide range of light industrial, warehouse and related land uses, to support the viability of centres, and to support and protect industrial land for industrial uses. In our submission, the Proposal and signage in general would be consistent with these objectives.
  - 1.4.4 Therefore, the desired amenity and visual character of the area is industrial and is sought to be retained and protected as industrial. The Proposal is consistent with the desired amenity and visual character compatible with the surrounding industrial uses, notably including the highly visible concrete plant located to the north of the Site.
  - 1.4.5 The Proposal provides effective communication in a suitable location where no impacts or safety issues would result.
  - 1.4.6 The Proposal is of a high-quality design and finish, would add visual interest and would complement the modern existing architectural quality of the surrounding buildings, being industrial buildings.
- 1.5 The Proposal is therefore consistent with the objectives of Chapter 3 of the SEPP (section 3.1(1)(a)).

#### Schedule 5 Assessment

- 1.6 Schedule 5 of the SEPP sets out the assessment criteria which are to be considered in relation to a proposal for an advertisement.
- 1.7 The Schedule 5 Assessment Criteria, the Council officer's consideration and our responses to each, are as follows:

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### 1 Character of the Area

- *Is the Proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?*
- *Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?*

1.8 On the character assessment criteria, the Assessment Report merely states, without analysis or explanation, that “[t]he proposed sign is not compatible with the existing or desired future character of the area or locality in which it is proposed to be located. Council has not established a particular theme for outdoor advertising in Queanbeyan”.

1.9 No analysis of the existing or desired future character of the area is provided and that a particular theme for outdoor advertising in Queanbeyan has not been formally established cannot, in our submission, be grounds for refusing all competent applications for signage that is permitted with consent and is satisfactory on the merits.

1.10 In response to the Assessment Report and the character assessment criteria, we submit that:

1.10.1 The existing character of the Site and its locality is industrial. Buildings are generally of high bulk and scale, reflecting their operational needs and utilitarian nature. Fencing and screening is common and where not provided, products and industrial materials and waste is commonly seen.

1.10.2 Council has not adopted planning controls which establish a particular desired future character for the Site or the locality. However, given the IN2 Zone and its objectives under the LEP for the support and protection of industrial land, it is reasonable to assume that desired future character of the Site and the locality is for development in accordance with the industrial development provisions of Part 7 of the DCP. These controls do not provide any controls for signage or advertising structures and so, where such are not inconsistent with the development controls, they can be considered “compatible”.

1.10.3 The planning principle established in the Land and Environment Court in *Project Venture Developments v Pittwater Council* [2005] NSWLEC 191 (**Project Venture**) regarding the “compatibility” of a proposed development with its surrounds in an urban design context, is:

*... capable of existing together in harmony. Compatibility is thus different from sameness...*

*Where compatibility between a building and its surroundings is desirable, its two major aspects are physical impact and visual impact. In order to test whether a proposal is compatible with its context, two questions should be asked.*

- *Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.*
- *Is the proposal's appearance in harmony with the buildings around it and the character of the street?*

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- 1.10.4 Given the Site and the location of the Proposal within it are not located in proximity to land uses that could be physically impacted by it, as outlined further below, the Proposal's physical impacts can be said to be acceptable.
- 1.10.5 The Proposal's appearance would also be in harmony with the industrial buildings of the Site and its surrounds as it would be of a comparable scale and of a nature of advertising best suited to an industrial location.
- 1.10.6 The absence of a particular theme of advertising cannot mean that no advertising can thus be provided. Council must consider the DA on the merits and, in the absence of any non-compliances with planning controls, impacts on adjoining properties and a general compatibility with the Site and surrounds, the Proposal is, in our opinion, meritorious.

## 2 Special Areas

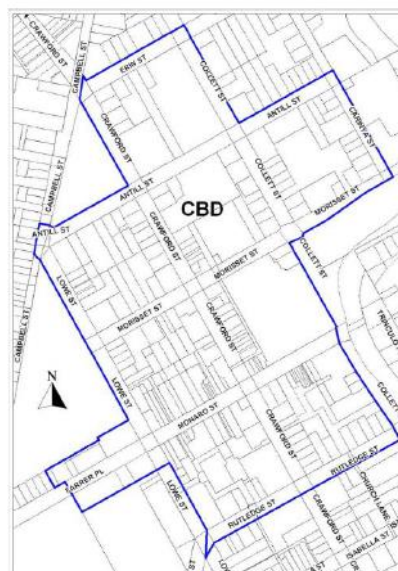
- *Does the Proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?*
- 1.11 On the special areas assessment criteria, the Assessment Report merely states, without any analysis or further explanation, that "[t]he proposed sign does not recognise Queanbeyan's natural, cultural and built heritage".
- 1.12 No analysis of Queanbeyan's natural, cultural and built heritage, how it exists at the Site or the immediate vicinity, and how it is impacted by the Proposal, is provided.
- 1.13 In response to the Assessment Report and the special areas assessment criteria, we submit that:
- 1.13.1 The Site is not located within an environmentally sensitive area, a heritage area, natural or other conservation area, open space area, waterway, rural landscape or residential area.
- 1.13.2 It is also not within the visual catchment of any such area and the proposal will only be visible from the immediate visual context of the Site, which is an industrial context that would be unimpacted by the Proposal.
- 1.13.3 Hence it cannot detract from the amenity or visual quality of any of the abovementioned areas.

## 3 Views and Vistas

- *Does the Proposal obscure or compromise important views?*
  - *Does the Proposal dominate the skyline and reduce the quality of vistas?*
  - *Does the Proposal respect the viewing rights of other advertisers?*
- 1.14 On the views and vistas assessment criteria, the Assessment Report merely states, without any analysis or further explanation, that "[t]he proposed sign will obscure or compromise important views and dominate the approach the (sic) main entry point into the Queanbeyan CBD. The proposed sign does not respect the viewing rights of other advertisers".

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- 1.15 No indication is given of what "important views" or "other advertisers" would be obscured by the Proposal.
- 1.16 In response to the Assessment Report and the views and vistas assessment criteria, we submit that:
- 1.16.1 No important views would be obscured or compromised by the Proposal.
  - 1.16.2 The Proposal would be viewed (briefly in most cases) against the rather undesirable backdrop of existing industrial developments from one particular vantage (the south-east bound approach).
  - 1.16.3 The physical barrier of the road corridor and the natural fall in topography to the north means that there would be little opportunity to view the Proposal from other vantages.
  - 1.16.4 The Proposal would screen some of the undesirable visual elements of the surrounding industrial developments and, thus, would have a positive visual impact.
  - 1.16.5 The Proposal would be commensurate in height with the existing industrial developments and so would not dominate skyline.
  - 1.16.6 Clause 4.3(2) and the Height of Buildings Map of the LEP prescribe a maximum height of building development standard of 12 metres for the Site and surrounding properties and so the Proposal would be significantly lower in height than any future development in the area.
  - 1.16.7 The Queanbeyan CBD is defined in Map 1 of Part 6 of the DCP to be the area within the blue bounds of the following extract from Map 1 of the DCP:



- 1.16.8 The Site is located approximately 2.6kms to the west of the closest bounds of the DCP-defined Queanbeyan CBD and well beyond its visual catchment.

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#### **4 Streetscape, Setting or Landscape**

- *Is the scale, proportion and form of the Proposal appropriate for the streetscape, setting or landscape?*
- *Does the Proposal contribute to the visual interest of the streetscape, setting or landscape?*
- *Does the Proposal reduce clutter by rationalising and simplifying existing advertising?*
- *Does the Proposal screen unsightliness?*
- *Does the Proposal protrude above buildings, structures or tree canopies in the area or locality?*

1.17 On the streetscape, setting or landscape assessment criteria, the Assessment Report merely states, without any analysis or further explanation, that “[t]he proposed sign is inappropriate for the streetscape and setting. The size, location and illumination of the proposed sign will dominate the streetscape on this main entry into Queanbeyan City. The proposed sign does not contribute to the visual interest of the streetscape or setting. The sign does not screen unsightliness, nor does it protrude above buildings, structures or tree canopies”.

1.18 In response to the Assessment Report and the streetscape, setting or landscape assessment criteria, we submit that:

1.18.1 The part of the Site at which the Proposal is proposed to be situated fronts Canberra Avenue, in a section where it has a highway character.

1.18.2 On the southern side, the streetscape is industrial and as addressed above, the Proposal would not be inconsistent with or detrimental to the industrial character as it would be of a compatible scale and form.

1.18.3 On the northern side, there is no particular streetscape to speak of as:

- a) No properties front Canberra Avenue on this side;
- b) The topography drops significantly below the road level;
- c) The visual context comprises a hard-shoulder, concrete crash barrier and vegetation.

1.18.4 The Proposal would add visual interest to the otherwise undesirable industrial appearance of the Site and would, to some extent, screen the general clutter and unsightliness associated with the industrial buildings and operations undertaken therein.

1.18.5 The Proposal could also simplify and rationalise existing signage within the Site.

1.18.6 We agree with the Assessment Report that the Proposal would not protrude above buildings, structures or tree canopies in the immediate vicinity.

#### **5 Site and Building**

- *Is the Proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?*

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- *Does the Proposal respect important features of the site or building, or both?*
- *Does the Proposal show innovation and imagination in its relationship to the site or building, or both?*

1.19 On the site and building assessment criteria, the Assessment Report merely states, without any analysis or further explanation, that “[t]he proposed sign is not compatible with the scale proportion and other characteristics of the site. The proposed sign does not show innovation or imagination in its relationship to the site”.

1.20 In response to the Assessment Report and the site and building assessment criteria, we refer to our comments at [1.14.1] to [1.14.5] in relation to “compatibility” and the Court-established interpretation for such in an urban design setting.

1.21 The Proposal is of a scale and form that would exist in harmony with the existing buildings and the industrial nature of the Site. The Proposal is not excessive in scale or proportion when viewed in the backdrop of the Site and its immediate surrounds, which includes large industrial buildings.

1.22 Therefore, on the Court’s interpretation, the Proposal can be considered compatible with the Site and the existing buildings.

#### **6 Associated Devices and Logos with Advertisements and Advertising Structures**

- *Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?*

1.23 The Assessment Report states that the Proposal “complies” with this assessment criteria.

#### **7 Illumination**

- *Would illumination result in unacceptable glare?*
- *Would illumination affect safety for pedestrians, vehicles or aircraft?*
- *Would illumination detract from the amenity of any residence or other form of accommodation?*
- *Can the intensity of the illumination be adjusted, if necessary?*
- *Is the illumination subject to a curfew?*

1.24 On the illumination assessment criteria, the Assessment Report merely states, without any analysis or further explanation, that “[t]he proposed sign would result in unacceptable glare in the locality. The illumination would affect the safety of drivers on Canberra Avenue and those turning into Kealman Road”.

1.25 In response to the Assessment Report and the illumination assessment criteria, we submit that:

1.25.1 The Proposal features a digital advertising panel which will not be of excessive glare.

1.25.2 Illumination will be limited to the immediate vicinity of the Proposal and would not affect any adjoining property. There are no residential properties nearby



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that could be affected and, again, this industrial location is ideal for the Proposal to be situated without impact.

- 1.25.3 Statement of Environmental Effects prepared by EI Media Pty Ltd (**SEE**) and the Traffic Assessment prepared by Motion Traffic Engineers Pty Ltd dated October 2021 (**Traffic Assessment Report**) which accompany the DA, consider the effects illumination from the Proposal.
- 1.25.4 There is no pedestrian access of footpaths in the vicinity, along Canberra Avenue, so there would be no impact on pedestrian safety.
- 1.25.5 The location of the Proposal within the Site, which is not the location cited in the Assessment Report but rather a revised location as shown on the Site Plan, is supported by the Road Safety Assessment prepared by the Australian Road Research Board (a nationally-accredited transport research organisation) and dated 13 May 2022 (**Road Safety Report**). The Assessment Report appears to give no consideration to the Road Safety Report and, thus, is incomplete in its assessment.
- 1.25.6 The Road Safety Report concludes that the Proposal, at the amended location within the Site (and shown on the Site Plan), would not increase any safety risks to road users approaching and passing the Site on Canberra Avenue.

## 8 Safety

- *Would the proposal reduce the safety for any public road?*
  - *Would the proposal reduce the safety for pedestrians or bicyclists?*
  - *Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?*
- 1.26 On the safety assessment criteria, the Assessment Report merely states, without any analysis or further explanation, that "[t]he proposed sign would reduce the safety for traffic on Canberra Avenue".
- 1.27 In response to the Assessment Report and the safety assessment criteria, we reiterate that the Proposal, as amended, is supported by the Road Safety Report, which concludes that the alternative location of the Proposal (as per the Site Plan) poses no increased risk to road users.
- 1.28 The Road Safety Report, prepared by a nationally accredited and respected road transport research organisation, provides an assessment of the Transport Corridor Outdoor Advertising and Signage Guidelines 2017 and concludes that the Proposal, as amended, is acceptable in relation to:
- 1.28.1 Proximity to decision-making points and conflict points; and
- 1.28.2 Dwell time and transition time.
- 1.29 Having a display area of less than 20sqm, the Proposal does not require concurrence from Transport for NSW (**TfNSW**). Despite this, Council referred the DA to TfNSW which raised no objection and declined to make any comment on the DA, as acknowledged in the Delegated Report.

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- 1.30 The referral provided by Council's Development Engineer clearly does not consider the Road Safety Report or the revised location for the Proposal within the Site.

#### Conclusion on Schedule 5 Assessment Criteria

- 1.31 The Assessment Report merely comprises statements of dissatisfaction with the DA and, generally, refers to the superseded location with the Site of the Proposal.
- 1.32 With respect to its author, the Assessment Report provides no assessment of the assessment criteria of Schedule 5 of the SEPP, or any indication of how conclusions of dissatisfaction have been reached. In this regard, it can only be said to reflect the subjective and unfounded views of the author of the Assessment Report.
- 1.33 An objective assessment of the Proposal, as amended, is required and in our submission, such demonstrates that the Proposal is satisfactory pursuant to the assessment criteria of Schedule 5 of the SEPP.

## **2. PERMISSIBILITY OF THE PROPOSAL**

- 2.1 The Proposal is permitted with consent in the subject land use zone.
- 2.2 Both the Assessment Report and the Delegated Report make erroneous statements that the Proposal is not a permissible form of development in the subject land use zone.
- 2.3 The Site is zoned IN2 Zone pursuant to the LEP.
- 2.4 The Land Use Table of the LEP clearly provides the following with respect to permitted and prohibited development in the IN2 Zone (our emphasis):

### **2 Permitted without consent**

*Environmental protection works*

### **3 Permitted with consent**

*Boat building and repair facilities; Business premises; Car parks; Centre-based child care facilities; Community facilities; Depots; Flood mitigation works; Function centres; Garden centres; Hardware and building supplies; Health consulting rooms; Industrial retail outlets; Industrial training facilities; Information and education facilities; Kiosks; Light industries; Markets; Medical centres; Mortuaries; Neighbourhood shops; Oyster aquaculture; Places of public worship; Public administration buildings; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Respite day care centres; Roads; Self-storage units; **Signage**; Specialised retail premises; Take away food and drink premises; Tank-based aquaculture; Vehicle repair stations; Vehicle sales or hire premises; Veterinary hospitals; Warehouse or distribution centres*

### **4 Prohibited**

*Pond-based aquaculture; Any other development not specified in item 2 or 3*

- 2.5 The above provides that **signage** is permitted with consent in the IN2 Zone. To demonstrate the above, we enclose an extract from Land Use Table of the LEP for the IN2 Zone.
- 2.6 Signage is defined in under the LEP as (with our emphasis):

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... any **sign**, notice, **device**, representation or **advertisement** that **advertises or promotes any goods, services or events** and **any structure** or vessel that is principally designed for, or that is used for, the **display of signage**, and includes any of the following—

(a) an **advertising structure**,

(b) a building identification sign,

(c) a business identification sign,

but does not include a traffic sign or traffic control facilities.

2.7 The Proposal includes:

2.7.1 An **advertising structure** (being the pole structure) which is defined under the *Environmental Planning and Assessment Act 1979 (EPA Act)* and the LEP as:

... a structure used or to be used principally for the display of an advertisement.

2.7.2 An **advertisement** (being a digital sign board for the display of advertisements for goods, services and/or events) which is defined under the EPA Act and the LEP as:

... a sign, notice, device or representation in the nature of an advertisement visible from any public place or public reserve or from any navigable water.

2.8 The DA seeks the requisite development consent for the Proposal.

### 3. AIMS OF THE LEP

3.1 The Assessment Report concludes that the Proposal is contrary to the aims of the LEP, as set out at clause 1.2(2)(d), (e) and (f). No assessment of basis for this conclusion is provided.

3.2 The objectives in question read:

(d) to recognise and protect Queanbeyan's natural, cultural and built heritage including environmentally sensitive areas such as Queanbeyan's native grasslands, the Queanbeyan River and Jerrabomberra Creek,

(e) to protect the scenic quality, views and vistas from main roads and other vantage points within Queanbeyan of the escarpment and Mount Jerrabomberra,

(f) to maintain the unique identity and country character of Queanbeyan,

3.3 The Proposal would not have a detrimental impact on any of the desired outcomes of these objectives. The visual catchment within which the Proposal will be seen is very confined and limited to an industrial backdrop that neither contains, nor adjoins, any sensitive areas, scenic views or vistas.

3.4 Hence the Proposal is not inconsistent with these aims of the LEP.

### 4. QUEANBEYAN DEVELOPMENT CONTROL PLAN 2012

4.1 Of all the provisions of the DCP, the Assessment Report cites only one objective and provides that an opinion of dissatisfaction the objective at section 7.1.2(5) of the DCP to:

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*Ensure development has a visually appealing appearance to the street.*

4.2 The DCP does not provide any controls for signage of this nature but the Proposal can be said to be generally consistent with the controls for industrial development, which apply to the Site.

4.3 Therefore, Council can be satisfied that on the merits the Proposal is satisfactory.

## **5. TRANSPORT CORRIDOR OUTDOOR ADVERTISING AND SIGNAGE GUIDELINES 2017**

5.1 The Assessment Report considers the Transport Corridor Outdoor Advertising and Signage Guidelines 2017 in the context of the original location for the proposal in the northern corner of the Site. This is incorrect and the Proposal was amended, per the Site Plan, to relocate the Proposal to a more appropriate location within the Site.

5.2 As detailed above, the Road Safety Report provides a detailed assessment (by a nationally accredited and respected road transport research organisation) of the Transport Corridor Outdoor Advertising and Signage Guidelines 2017 and concludes that the Proposal, as amended, is acceptable in relation to:

5.2.1 Proximity to decision-making points and conflict points; and

5.2.2 Dwell time and transition time.

5.3 Council can, therefore, be satisfied that the Proposal meets the Transport Corridor Advertising and Signage Guidelines 2017.

## **6. PUBLIC INTEREST**

6.1 The conclusion that the Proposal is not in the public interest appears to be based on (in our submission) erroneous findings with respect to the aims of the LEP.

6.2 As outlined above, the Proposal, as amended, can be considered consistent with the relevant aims of the LEP.

6.3 The public interest is also served greatly by the Proposal as the Applicant has offered to dedicate certain time slots in the advertising schedule to community causes, events, emergency information messages and/or Council-initiated schemes.

6.4 This offer remains and can be imposed as a condition of consent.

## **7. CONCLUSION**

7.1 In our submission, and as set out in detail above, the reasons for refusal in the Assessment Report are not well founded and should not be adopted by Council for the following reasons:

7.1.1 The Proposal is consistent with the provisions of Chapter 3 of the SEPP;

7.1.2 The Proposal is a permitted form of development in the IN2 Zone and on the Site pursuant to the LEP.

7.1.3 The Proposal is consistent with the aims of the LEP at clause 1.2, and all other applicable development standards relating to the Site.

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- 7.1.4 The Proposal is consistent with Part 7 of the DCP for industrial development.
- 7.1.5 The Proposal is consistent with the assessment criteria contained at Schedule 5 of the SEPP.
- 7.1.6 The Proposal meets the Transport Corridor Outdoor Advertising and Signage Guidelines 2017, as per the Traffic Assessment Report.
- 7.2 The Assessment Report does not consider the Proposal as amended and has ignored the Site Plan and the Road Safety Report.
- 7.3 Therefore, the DA should be considered meritorious and development consent should be granted for the Proposal.

We have registered to address Council at the meeting of 27 July 2022.

If the DA is determined based on the current Assessment Report, Council will fall into legal error and open itself up to both Class 1 and Class 4 proceedings in the Land and Environment Court.

If there are any questions prior to that meeting, they may be directed to the undersigned.

Yours faithfully  
**Bartier Perry**



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# QUEANBEYAN-PALERANG REGIONAL COUNCIL

## Council Meeting Attachment

14 SEPTEMBER 2022

- ITEM 9.2            MODIFICATION APPLICATION 452-2000.A - EXTENSION TO  
   OPERATING HOURS - JERRABOMBERRA HOTEL - 2  
   LIMESTONE DRIVE, JERRABOMBERRA
- ATTACHMENT 1    DA 452-2000.A - 4.55(1A) ASSESSMENT REPORT -  
   MODIFICATION: EXTEND HOURS OF OPERATION - 2  
   LIMESTONE DRIVE, JERRABOMBERRA



## DELEGATED REPORT - 452-2000.A

### SUMMARY

<b>Proposal:</b>	Construction of a commercial premises; modification: extend hours of operation for bar
<b>Address:</b>	2 Limestone Drive JERRABOMBERRA NSW 2619
<b>Property description:</b>	Lot 4 DP 1037309
<b>Applicant:</b>	Jerra Hotel Pty Limited
<b>Owner:</b>	Jerra Hotel Pty Limited
<b>Date of lodgement:</b>	30/05/2022
<b>Notification period:</b>	21/06/2022 to 07/07/2022
<b>Submissions received:</b>	0
<b>Assessment officer:</b>	Paul Verghese
<b>Estimated cost of works:</b>	\$380.00
<b>Zoning:</b>	B1 – Neighbourhood Centre
<b>Heritage:</b>	N/A
<b>Flood affected:</b>	N/A
<b>Bushfire prone:</b>	N/A
<b>Recommendation of officer:</b>	<b>Approval</b>

### EXECUTIVE SUMMARY

The application seeks to modify development consent 452-2000. The modification seeks to extend the hours of operation of the bar until 3:00am on Monday – Sunday.

The application was required to be notified in accordance with QPRC's Community Engagement and Participation Plan 2019 from 21/06/2022 to 07/07/2022. 0 submissions were received

There was one principle issue as the applicant proposed to modify the wrong development consent. The application was amended to modify the correct consent, application 452-2000.

The application is recommended for approval, subject to the imposition of the conditions of consent, as the proposal is considered to be substantially the same as the parent application, is consistent with the controls and objectives of the Queanbeyan Local Environmental Plan 2012 and the Queanbeyan Development Control Plan 2012, and is unlikely to result in a significant adverse impact on the natural and built environment or the character and amenity of the area.

## **BACKGROUND**

Previous approvals on the site include:

- Approved development application for a commercial centre and a subsequent modification under application number 452-2000 determined on 05 December 2000 and 09 February 2004.
- Approved DA for the fit out and conversion to a takeaway under application number 74-2002 determined on 19 February 2002.
- Approved DA for the fit out of a Bakers Delight store under application number 124-2002 determined on 28 February 2002.
- Approved DA for the fit out of a butcher under application number 148-2002 determined on 11 March 2002.
- Approved DA for the installation of a business identification sign under application number 281-2002 determined on 04 October 2002.
- Approved DA for the change of use from a hardware store to a restaurant under application number 66-2003 determined on 26 March 2003.
- Approved DA for the installation of two wall advertising signs and four building identification signs under application number 446-2003 determined on 26 September 2003.
- Approved DA for the construction of alterations and additions for the tavern under application number 39-2004 determined on 24 March 2004.
- Approved DA for the construction of a gaming area for the tavern under application number 124-2012 determined on 26 June 2012 and a subsequent modification to extend the hours of operation for the gaming area under application number 124-2012.A for which this application is a modification of.
- Approved DA for the construction of a paved extension for the tavern under application number 375-2014 determined on 28 July 2015.
- Approved DA for the construction of alterations and additions for the hotel under application number 399-2018 determined on 19 October 2018.

## **DESCRIPTION OF THE SITE AND LOCALITY**

The subject site is legally described as lot 4 DP 1037309 and is commonly known as 2 Limestone Drive Jerrabomberra. The site is located on the south eastern corner of Limestone Drive and has an area of 2759m<sup>2</sup>.

The site has a 0>5 degree slope towards the south east. Vegetation on site is predominantly comprised of managed vegetation. Existing development on the site comprises of the Jerrabomberra Hotel and a Bottlemart. Vehicular access is provided to the site via an existing right of carriageway from Limestone Drive.

Existing development within the locality consists of commercial premises.





Figure 1: Locality plan



Figure 2: Site Photo

**PROPERTY BURDENS AND CONSTRAINTS**

An easement for water supply pipeline 10m wide bisects the property from west to east. An easement for drain sewage bisects the property from west to east. An easement for drain water 2.5m wide is located along the majority of the north western boundary and bisects the property from north to south. An easement for water supply 2.5m wide is located along the north eastern boundary of the property. A right of carriageway provides access to the lot from Limestone Drive.

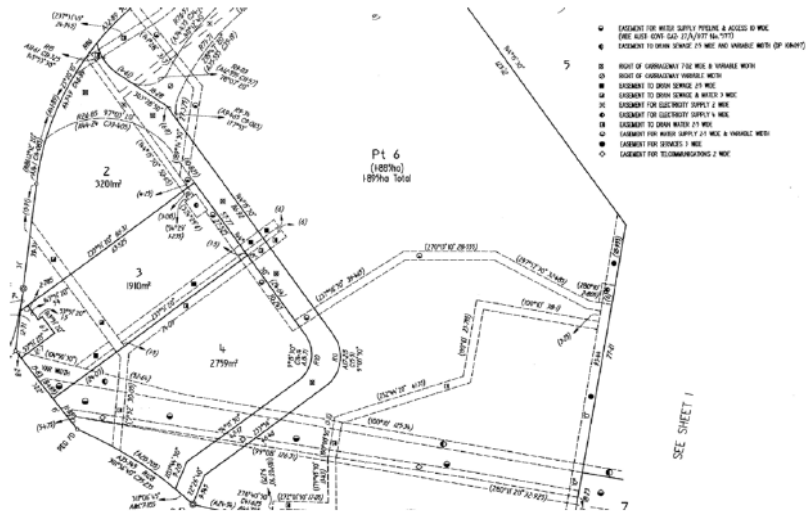


Figure 3: DP Snip

**DESCRIPTION OF THE PROPOSED DEVELOPMENT**

The application seeks Council approval to modify development consent 452-2000.

The specific elements of the proposal are:

- Increase the hours of operation for the bar until 3:00am on Monday to Sunday

**CONSENT AUTHORITY**

In accordance with the *Environmental Planning and Assessment Act 1979* (EP&A Act) the proposal is considered to be local development and Council is the Consent Authority.

**SECTION 4.10 DESIGNATED DEVELOPMENT – EP&A Act, 1979**

The proposal is not designated development.

**SECTION 4.47 INTEGRATED DEVELOPMENT – EP&A Act, 1979**

The proposal is not integrated development.

## REFERRALS

### INTERNAL REFERRALS

#### Engineering Comments

Council's Development Engineer offered no objections to the proposal, subject to the imposition of recommended conditions of consent.

#### Health Comments

Council's Health Officer has commented on the proposal as follows:

"The existing hours of operation from the previous DA and supporting acoustic report will not be impacted by the inclusion of the bar area."

### EXTERNAL REFERRALS

#### NSW Police

The NSW Police have commented on the proposed modification as follows:

#### Development Application Review

**WEBCOPS Event No:** E 89302352

**RMS Reference:**

**DA Reference No:** 124-2012.B

**Council:** Queanbeyan Palerang Regional Council

**Developer/Applicant:** Mr Kristy MUTCH on behalf of Mr Stephen BARTLETT  
**Private Certifier:**

**Property address:** 2 Limestone Street, Jerrabomberra, NSW

**Proposed development/use of space:** The plan approved as part of modification 124-2012.A only included the Gaming Area of the Jerrabomberra Hotel for extended trading until 3.00AM Monday to Sund however the intention of the modification was to also include the bar area immediately adjacent to that an The conditions of consent for 124-2012.A suggest that the council approved the use of the bar as well as Gaming area for extended trading as condition 6A states that 'alcohol consumption is to be limited to the gaming area..'

**Proposed new opening hours would be:**

Thursday 10.00am – 0300am

Friday 10.00am – 0300am

Saturday 10.00am – 0300am

Sunday 10.00am – 12.00am

#### 1. Introduction

In line with section 4.15 of the New South Wales Planning & Assessment Act 1979 and the New South Wales Planning Guidelines, the below report has been conducted on the Development Application No. 124-2012. B For the modification and extension of hours of operation for the bar & Lot 4 DP 1037309, 2 Limestone Drive, Jerrabomberra.

## **2.1 Current environment**

The Jerrabomberra Hotel is located at 2 Limestone Drive, Jerrabomberra, NSW. The hotel comprises a restaurant, lounge, indoor and outdoor gaming rooms, kitchen and amenities. The current trading hours are Monday to Saturday 10am to 1 am the following day and Sundays 10 am to Midnight. The Jerrabomberra Hotel is located in a mixed commercial area with residential areas being located towards the west in Franklin Court, to the east in Rosewood Glen and to the east in Bluestone Gardens the nearest of which is approximately 85 metres.

## **2.2 Proposed development**

Jerrabomberra Hotel proposes to extend their trading hours located at 2 Limestone Drive, Jerrabomberra to extend their close time on Thursday to Saturday 10.00am to 0300am and Sunday 10.00am to 12.00am

## **3. Crime risks and identified issues**

The current/trending crimes that are impacting the local area should be considered within this development/proposed use of space within this development application. The current crime trend for crime within the Jerrabomberra Hotel are alcohol related crimes including drink driving offences and assaults. The Jerrabomberra Hotel have also had a number of break and enters in the past.

**3.1.** The incidents which police attend at this location are offences which relate to the consumption of alcohol. These include patrons leaving the area under the influence of alcohol and driving their vehicles. Assaults as a result of patrons fighting each other either in the licence premises or the surrounding car park. The damage of property where alcohol is a contributing factor. Police have also attended the location in relation to drug offences however it should be noted that these offences are not higher than the average of the Monaro Police District, only that they are occurring and should be taken into consideration. There are also break and enters which have occurred at the location however these have occurred outside of operating hours.

**3.2.** Crimes that the current proposed development/change of operating hours will introduce or facilitate within this space are only those crimes that are already occurring as stipulated in 3.1.

**3.3.** Developments can introduce or facilitate certain issues that are not necessarily a crime, but impact on the ability to police a space. At this stage there are no other issues identified that will be introduced within the development.

## **4. Recommendations**

As part of my recommendations I have liaised with the Monaro Police District Licensing Officer and also have reviewed the article: <https://www.saxinstitute.org.au/wp-content/uploads/Community-impact-of-liquor-licences-1.pdf>. Evidence Check Community impacts of Liquor Licences- An Evidence Check rapid review brokered by the Sax Institute for the NSW Ministry of Health October 2015. Prepared by Michael Livingston, Claire Wilkinson, Robin Room.

"Alcohol is associated with a wide range of health and social problems in Australia, and regulating alcohol availability is a key component of a public health-oriented alcohol policy. There is a strong international evidence base that demonstrates links between the physical availability of alcohol (in terms of outlet numbers and hours of sale), alcohol consumption and alcohol-related harm." (Page 6 Evidence Check Community impacts of Liquor Licences)

The Jerrabomberra Hotel wishes to extend their trading hours from 1am to 3 am on Thursday, Friday and Saturday night and to 12.00am on Sunday night. According to the Floor plan for the extension of trading hours the area that will only be open in the extended trading hours proposal is the lounge area/gaming area, part of the bar area, TAB and the patio attached to the gaming area.

Police have concerns in relations to crime risks and identified issues which have been identified in 3.1. In November 2020, NSW police received a similar Development Application being No. 452-2000. A for the construction of a commercial premises and modification and extension of trading hours. As in November 2020, NSW police hold a similar view to the extension of trading hours in licence premises.

According to the Evidence Check Community Impacts of Liquor Licences trading hour studies state; "There are a series of robust, well-designed Australian studies that demonstrate that reducing the hours during which on-premise alcohol outlets can sell alcohol late at night can substantially reduce rates of violence. Increasing trading hours tends to result in higher rates of harm and restricting trading hours tend to reduce harm." (pages 7)

While there has been a trend over recent years to increase the trading hours of licence premises there has however been a trend to decrease trading hours as seen in the Kings Cross/Sydney CBD area's.

The Monaro Police District also support this decrease in trading hours as research has shown that an increase in trading hours and selling alcohol late at night can increase the rates of violence and anti-social behaviour.

Police have concern's the increased trading hours will increase in the amount of incidents that police will have to attend later in the night/early morning. This not only places more pressure on police resources but other emergency resources such as Ambulance officers. Currently Queanbeyan Police have two vehicles operating until 2.00am. However, after 2.00am Queanbeyan Police lose a vehicle and only have one vehicle to respond to emergencies and other incidents police attend. Due to having only one response vehicle after 2.00am police have concerns about the extension of the operating times and the potential for incidents to occur between the hours of 2.00am and 3.00am and further placing extra pressure on police resources.

Police also have concerns regarding increased foot traffic at that time of night/early morning with people walking home or with the newly established 7 Eleven service station KFC and McDonald's. People may walk to these areas and continue to socialise and further cause issues with these other establishments. In walking to these areas there is no footpath with persons required to walk on the nature strip which contain limited lighting causing a danger to the person's and other road users.

If the increased hours application s granted, I recommend that the Jerrabomberra Hotel maintains a security guard presence until at least 30 minutes after closure in order maintain a security presence when people are leaving the premises and also continue to run the free bus service to drive patron's home which could mitigate drink driving, assaults and other anti-social behaviours.

#### **Disclaimer**

The New South Wales Police Force has a vital interest in ensuring the safety of members of the community and their property. By using the recommendations contained in this assessment, any person who does so acknowledges that:

- It is not possible to make all areas evaluated by the NSWPF entirely safe for members of the community or the security of their property.
- It is based upon the information provided to the NSWPF at the time the assessment was made
- This assessment is a confidential document and is for use of the consent authority unless otherwise agreed.
- The contents of this assessment are not to be copied or circulated otherwise than for the purposes of the consent authority, unless otherwise agreed.

The NSW Police Force hopes that by using the recommendations contained in this assessment, criminal activity will be reduced and the safety of members of the community and the security of their

property will increase. However, it does not guarantee that all risks have been identified, or that the area assessed will be free from criminal activity if its recommendations are followed.

Should you have any questions in relation to the evaluation contact Senior Constable Emma Tubman Crime Prevention Officer, Monaro Police District, Phone 02 62980599



Yours sincerely,  
Emma Tubman  
Senior Constable  
Crime Prevention Officer  
Monaro Police District  
29/06/2022

## **SECTION 4.55 MODIFICATIONS – GENERALLY EP&A ACT, 1979**

### **4.55(1A) Modifications involving minimal environmental impact**

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) it is satisfied that the proposed modification is of minimal environmental impact, and
- (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and
- (c) it has notified the application in accordance with: (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and
- (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be. Subsections (1), and (2) do not apply to such a modification.”

#### **Comment:**

In regards subclause ‘a’, it is considered that the modification(s) sought as part of this application is of minimal environmental impact as the proposal does not propose any construction works.

In regards to subclause ‘b’, Council is satisfied that the development to which the consent as modified relates is substantially the same development for which consent was originally granted. In answering this threshold question, a comparative analysis of the approved development as modified has been undertaken. The application proposes only a change to the previously approved operating hours.

With regards subclause ‘c’ and ‘d’, the application was required to be notified in accordance with QPRC’s Community Engagement and Participation Plan 2019 from 21/06/2022 to 07/07/2022. 0 submissions were received.

## **SECTION 4.15 CONSIDERATIONS – EP&A Act, 1979**

In determining a development application, the consent authority is to take into consideration the following matters of consideration contained within section 4.15 of the Environmental Planning and Assessment Act, 1979 as relevant to the development application:

**4.15(1)(a) the provisions of:**

**(i) any environmental planning instrument**

**STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX ) 2004**

A BASIX certificate was not required to be submitted as the application does not propose the construction of a dwelling house or residential alterations and additions valued over \$50,000.

**STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCUTRE) 2021**

The proposed development meets the requirements of the SEPP as there are no proposed works which could adversely impact any existing infrastructure or the provision of infrastructure and services.

**STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021**

Council holds no record of the site having previously been used for any potentially contaminating activities.

**QUEANBEYAN LOCAL ENVIRONMENTAL PLAN (QLEP) 2012**

An assessment of the proposal against the general aims of QLEP 2012 is included below:

<b>Cl.</b>	<b>Aims</b>	<b>Complies</b>
<b>1.2(2)</b>		
<b>(a)</b>	<i>To facilitate the orderly and economic use and development of land in Queanbeyan based on ecological sustainability principles.</i>	<b>Yes</b>
<b>(b)</b>	<i>To provide for a diversity of housing throughout Queanbeyan.</i>	<b>Yes</b>
<b>(c)</b>	<i>To provide for a hierarchy of retail, commercial and industrial land uses that encourage economic and business development catering for the retail, commercial and service needs of the community.</i>	<b>Yes</b>
<b>(d)</b>	<i>To recognise and protect Queanbeyan's natural, cultural and built heritage including environmentally sensitive areas such as Queanbeyan's native grasslands, the Queanbeyan River and Jerrabomberra Creek.</i>	<b>Yes</b>
<b>(e)</b>	<i>To protect the scenic quality, views and vistas from main roads and other vantage points within Queanbeyan of the escarpment and Mount Jerrabomberra.</i>	<b>Yes</b>
<b>(f)</b>	<i>To maintain the unique identity and country character of Queanbeyan.</i>	<b>Yes</b>
<b>(g)</b>	<i>To facilitate the orderly growth of the urban release area in Googong in a staged manner that promotes a high level of residential amenity and the timely provision of physical and social infrastructure through appropriate phasing of the development of land.</i>	<b>Yes</b>

**Comments:** The proposal will facilitate the orderly and economic use and development of land in Queanbeyan. The proposal encourages economic and business development that will cater for the retail and commercial needs of the community. The proposal will not adversely impact Queanbeyan's natural, cultural and built heritage or the scenic quality, views or vistas within Queanbeyan.

**Suspension of Covenants, Agreements and Instruments**

Under Clause 1.9A, no covenants, agreements and instruments restricting the development have been identified.

### Permissibility

The subject site is Zoned B1 Neighbourhood Centre zone under Queanbeyan Local Environmental Plan 2012.

Development for the purposes of a registered club, such as is proposed, is permissible within the B1 Neighbourhood Centre zone with consent and is defined under QLEP 2012 as follows:

**“Registered club** means a club that holds a club licence under the [Liquor Act 2007](#).”

### Zone Objectives

An assessment of the proposal against the objectives of the B1 Neighbourhood Centre zone is included below:

<i>Objectives</i>	<i>Complies</i>
➤ To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.	<b>Yes</b>
➤ To allow for limited high density residential uses that are compatible with the neighbourhood centre.	<b>Yes</b>
➤ To provide for active retail, business or other non-residential uses at street level.	<b>Yes</b>

**Comments:** The proposal is generally considered to contribute to the range of small-scale businesses that serve the needs of people who live or work in the surrounding neighbourhood. The proposal is considered to provide for active business at a street level.

### Demolition

Under Clause 2.7 of the QLEP 2012, the proposal does not involve demolition of an existing structure.

### Part 4: Principal development standards

An assessment of the proposal against the relevant provisions contained within Part 4 of the QLEP 2012 is provided below.

#### Height of building

<i>Cl.</i>	<i>Standard</i>	<i>Controls</i>	<i>Proposed</i>	<i>Complies</i>
4.3	Height of building	12m	N/A	<b>Yes</b>

**Comments:** The application does not propose an increase to the height of existing development on the site.

### Part 7: Local Provisions

The relevant provisions contained within Part 7 of the QLEP 2012 are addressed below as part of this assessment:

#### 7.1 Earthworks

Clause 7.1 of the QLEP 2012 establishes a number of matters requiring consideration for development involving earthworks. Earthworks associated with the development are proposed and form part of this application. The proposed earthworks will not have a detrimental impact on drainage patterns and soil stability or the existing and likely amenity of adjoining properties. The development application will be condition to mitigate the potential impact of soil erosion and the like during construction.



## 7.2 Flood planning

Clause 7.2 of the QLEP 2012 makes provision for developments within the flood planning area. The site **is not** identified as "flood planning area" on the Flood Planning Map, and **is not** at or below the flood planning level.

## 7.3 Terrestrial biodiversity

Clause 7.3 of the QLEP 2012 makes for provision for developments that impact on terrestrial biodiversity. This clause **is not** considered relevant to the proposed development as the site **is not** identified as "Biodiversity" on the Terrestrial Biodiversity Map.

- (3) *Before determining a development application for development on land to which this clause applies, the consent authority must consider:*
- (a) *whether the development is likely to have:*
- (i) *any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and*
  - (ii) *any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and*
  - (iii) *any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and*
  - (iv) *any adverse impact on the habitat elements providing connectivity on the land, and*
- (b) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

## 7.4 Riparian land and watercourses

Clause 7.4 of the QLEP 2012 makes provision for developments within riparian land and watercourses. This clause **is not** considered relevant to the proposed development as the site **is not** identified as "Watercourse" on the Riparian Land and Watercourses Map".

## 7.5 Scenic protection

Clause 7.5 of the QLEP 2012 makes provisions for developments impacting on scenic protection land. This clause **is not** relevant to the proposed development as the site **is not** identified as "Scenic Protection Area" on the Scenic Protection Map. Subclause (3) of this clause is required to be assessed before the application is determined.

- (3) *Development consent must not be granted to any development on land to which this clause applies unless the consent authority is satisfied that:*
- (a) *measures will be taken, including in relation to the location and design of the proposed development, to minimise the visual impact of the development on the natural and visual environment of the land, and*
  - (b) *the development will incorporate conservation and rehabilitation measures to preserve the scenic qualities of the land.*

## 7.6 Airspace operations

Clause 7.6 of the QLEP 2012 makes provisions for developments located in areas that are affected by airspace operations and aircraft noise. The proposed development **will not** penetrate the Obstacle Limitations Surface Map for the Canberra Airport. Therefore the application **was not** required to be referred to the relevant Commonwealth body for comment.

## 7.7 Development in areas subject to aircraft noise

Clause 7.7 of the QLEP 2012 makes provisions for developments subject to aircraft noise. This clause **is** considered relevant to the proposed development as the site **is** located near the Canberra Airport or within an ANEF contour of 20 or greater. The lot is identified as being partially within the ANEF 20 band. The proposed extension to the hours of operation is unlikely to result in an increase in the number of people affected by aircraft noise.

### **7.8 Active street frontage**

This clause **is not** considered relevant to the proposed development as the site **is not** identified as “Active street frontage” on the Active Street Frontages Map”.

### **7.9 Essential services**

Clause 7.9 of the QLEP 2012 requires satisfactory arrangements to be made for water supply, stormwater drainage, solid domestic waste, sewage, and the treatment and disposal of effluent. Along with the supply of electricity and suitable vehicle access.

Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

- (a) *the supply of water,*
- (b) *the supply of electricity,*
- (c) *the disposal and management of sewage,*
- (d) *stormwater drainage or on-site conservation,*
- (e) *suitable vehicular access.*

Council’s Development Engineer has assessed the proposed development and confirmed that the site **does** have suitable vehicle access and adequate services are available.

### **7.10 Development near Cooma Road Quarry**

This clause **is not** considered relevant to the proposed development as the site **is not** identified as “Buffer Area” on the Quarry Buffer Area Map”.

### **7.11 Development near HMAS Harman**

This clause **is not** considered relevant to the proposed development as the site **is not** located within 2 kilometres of HMAS Harman or within Zone IN1 General Industrial or Zone IN2 Light Industrial.

### **4.15(1)(a)(ii) any draft environmental planning instruments**

There are no applicable draft planning instruments that are or have been placed on public exhibition, to consider as part of this assessment.

**4.15(1)(a)(iii) any development control plan**

<b>QUEANBEYAN DCP 2012 COMMENTS</b>		
<b>Section</b>	<b>Controls</b>	<b>Compliance / Conditions</b>
<b>PART 1 – ABOUT THIS DEVELOPMENT CONTROL PLAN</b>		
<b>1.8</b>	<b>Public Notification Of A Development Application</b> The application was required to be notified in accordance with QPRC's Community Engagement and Participation Plan 2019 from 21/06/2022 to 07/07/2022.	Complies
<b>PART 2 – ALL ZONES</b>		
<b>2.2</b>	<b>Car Parking</b> The application has been referred to Councils Development Engineer who has found the parking arrangements including access and manoeuvring areas to be satisfactory in this instance.	
<b>2.3</b>	<b>Environmental Management</b> A BASIX certificate was not required to be submitted for the proposed development as the proposal is not residential and does not have an estimated cost of works greater than \$50,000.	Complies
<b>2.4</b>	<b>Contaminated Land Management</b> The proposal is considered generally satisfactory with respect to State Environmental Planning Policy 55 – Remediation of Land (SEPP 55) and therefore also with respect to DCP clause 2.4. The land is not known to have been used for potentially contaminating activities.	Complies
<b>2.5</b>	<b>Flood Management</b> The subject site is not within a flood prone area.	Complies
<b>2.6</b>	<b>Landscaping</b> A landscaping plan was not required to be submitted with the application.	Complies
<b>2.7</b>	<b>Erosion and Sediment Control</b> Standard conditions relating to site management are not required as the proposal does not involve construction works.	Complies
<b>2.8</b>	<b>Guidelines for Bushfire Prone Areas</b> The site is not identified as bushfire prone land.	Complies
<b>2.9</b>	<b>Safe Design</b> The proposed development generally satisfies the relevant provisions of this clause.	Complies
<b>2.10</b>	<b>Subdivision</b> The proposal does not include subdivision.	Complies
<b>2.11</b>	<b>Airspace Operations and Airport Noise</b> The proposed development complies with the requirements prescribed for the site in Clause 7.5 Airspace Operations and 7.6 Development in areas subject to Airport Noise. of the QLEP 2012 – see previous discussion in this assessment.	Complies
<b>2.12</b>	<b>Preservation of Trees and Vegetation</b> The proposed development does not require the removal of any existing vegetation.	Complies

<b>PART 6 – Central Business District and Other Business Zones</b>		
As the proposal is for the extension of the hours of operation for an existing business and does not involve construction or a change of use, the controls of the <i>Queanbeyan Development Control Plan 2012 Part 6</i> are not considered applicable.		
<b>6.1.2</b>	<p><b>Objectives</b></p> <ol style="list-style-type: none"> <li>1) Compliance with clause 1.2 (c) the objectives to Zone B3 Commercial Core as well as with the objectives and relevant provisions of other applicable clauses in <i>Queanbeyan Local Environmental Plan 2012</i>.</li> <li>2) Retain the country town feel and human scale of the centre whilst maintaining and strengthening the status of the CBD as the major commercial centre for Queanbeyan and surrounding districts.</li> <li>3) Implement the key planning and urban design guidelines outlined in the adopted Queanbeyan CBD Master Plan 2009.</li> <li>4) Retain the streetscape qualities and retailing function of Monaro and Crawford Streets.</li> <li>5) Maintain, Protect and enhance heritage buildings.</li> <li>6) Acknowledge the river setting and civic precincts as part of future development.</li> <li>7) Facilitate shop top housing within the CBD.</li> <li>8) Maintain existing streetscape attributes and unify the built form with consistent materials and finishes.</li> <li>9) Ensure that the height of buildings complements the streetscape or the historic character of the area in which the buildings are located.</li> </ol> <p>The proposal is not located within the Queanbeyan CBD but is generally consistent with the objectives of the <i>Queanbeyan Development Control Plan 2012 Part 6</i> and the B1 zone in the <i>Queanbeyan Local Environmental Plan 2012</i>. The proposal will not have any physical impact and will adversely impact any heritage buildings or the existing streetscape of the area.</p>	Complies

**4.15(1)(a)(iiiia) any planning agreement or draft planning agreement**

No planning agreement has been entered into under section 7.4 of the *Environmental Planning and Assessment Act 1979*.

**4.15(1)(a)(iv) matters prescribed by the regulations**

Clause 92 of the *Environmental Planning and Assessment (EP&A) Regulation 2000* requires Council to take into consideration Australian Standard AS2601–1991: *The Demolition of Structures*, in the determination of a development application.

Having regard to this prescribed matters, the proposed development does not involve the demolition of a building for the purposes of AS 2601 – 1991: *The Demolition of Structures*.

Should this application be approved, appropriate conditions of consent are included within the recommended to ensure compliance with any relevant regulations.

**4.15(1)(a)(v) any coastal zone management plan**

Council is not subject to a coastal zone management plan.

**4.15(1)(b) the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality**

The proposal does not involve any construction work, and as such, will not result in any environmental impact or any impacts upon the existing streetscape and character of the area.

Council's Health Officer has re-reviewed the acoustic report prepared by Hardwood Acoustics on 16 March 2021 and submitted for application 124-2012.A. It was determined that there would be no significant noise impacts as a result of the extended hours of operation for the bar. The main noise emissions will be produced by patrons, gaming machines and traffic, however, it is unlikely that the noise produced will be unreasonable.

The NSW Police have identified that the current crime trend for the Jerrabomberra Hotel is alcohol related crimes, including drink driving and assaults. The extension to the hours of operation for the bar can be seen as further facilitating these alcohol related crimes as patrons will be granted increased access to alcohol for extended periods of time. Alcohol consumption is associated with a wide range of health and social problems and the NSW Police have identified that there is a strong link between physical availability of alcohol, alcohol consumption and alcohol-related harm. The NSW Police also have concerns that increasing foot traffic could result in patrons partaking in anti-social behaviour within the surrounding area, particularly at the nearby 7 Eleven Service Station, KFC and McDonald's. Additionally, increased access to alcohol in conjunction with the recently approved extended hours of operation to the gaming machines within the Jerrabomberra Hotel could result in increased rates of gambling addiction for patrons.

However, whilst there are a number of social impacts and concerns associated with the extended hours of operation for the bar at the Jerrabomberra hotel, it is unlikely that the venue will have a large number of patrons during the two additional hours in the morning, particularly on Monday – Thursday. Despite the social risks identified by the NSW Police, they have offered no objections to the increased hours of operation if the Tavern maintains a security presence until at least 30 minutes after closure and if they continue their free bus service as these measures will help to reduce antisocial behaviour. Additionally, the application was notified to adjoining owners and the Jerrabomberra Resident's Association from 21/06/2022 to 07/07/2022 with no submissions being received.

**4.15(1)(c) the suitability of the site for the development**

The subject site is relatively unconstrained and is considered to be suitable in its current state for the purposes of the proposed development.

**4.15(1)(d) any submissions made in accordance with this Act or the regulations**

The application was notified in accordance with QPRC's Community Engagement and Participation Plan 2019 from 21/06/2022 to 07/07/2022, with 0 submissions received, raising the following concerns:

**4.15(1)(e) the public interest**

The public interest is served through the detailed assessment of this development application under the relevant local planning controls and legislation and consideration of any submissions received relating to it by Council. The proposed development is not considered to be contrary to the public interest.

## **SECTION 64 CONTRIBUTIONS**

Section 64 of the Local Government Act 1993 allows contributions to be levied towards the provision of water, sewerage and stormwater infrastructure.

Section 64 Contributions are not applicable to the proposed development.

## **SECTION 7.11 CONTRIBUTIONS**

Section 7.11 of the *Environmental Planning & Assessment Act 1979* permits councils to require as a condition of development consent, the reasonable dedication of land or the payment of monies, or both, for development that is likely to require the provision of, or increase the demand for public amenities and public services within the area.

Section 7.11 Contributions are not applicable to the proposed development.

## **SECTION 7.12 CONTRIBUTIONS**

Section 7.12 of the *Environmental Planning & Assessment Act 1979* permits councils to require as a condition of development consent the payment of monies to be applied towards the provision, extension or augmentation of public amenities or public services (or towards recouping the cost of their provision, extension or augmentation).

Section 7.12 Contributions are not applicable to the application does not propose works valued over \$100,000.

## **CONCLUSION**

The application has been assessed having regard to Section 4.55(1A) of the Environmental Planning and Assessment Act 1979, and is considered to be satisfactory for approval, subject to the imposition of the recommended conditions of consent.

## **CONDITIONS OF CONSENT**

The following condition of consent is to be modified:

### **Condition 9**

9. The hours of operation for the commercial/retail part of the development are restricted to the following:

#### **Supermarket**

Trading hours - 7.00am to midnight Monday to Saturday and 8.00 am to 8.00 pm  
Sundays/Public Holidays

Delivery hours - 6.00am to 9.00pm Monday to Saturday and 7.00 am to 8.00 pm  
Sundays/Public Holidays.

#### **Jerrabomberra**

Trading hours - Sunday to Saturday 9.00am to 3.00am the following day

Delivery hours - 6.00am to 6.00 pm Monday to Saturday, no deliveries Sundays/Public  
Holidays.

#### **Drive-in take-away food shop**

Trading hours - Sunday to Saturday 6.00am to 12 midnight

Delivery hours - 6.00am to 6.00 pm Monday to Saturday, no deliveries Sundays/Public  
Holidays.

#### **Service station**

Trading hours - Sunday to Saturday 6.00am to 12 midnight

Delivery hours - 6.00am to 6.00 pm Monday to Saturday, no deliveries Sundays/Public Holidays.

*Reason: To ensure a noise problem does not result from the development.*

The following are new conditions to be added to the consent.

**Condition 1C**

**1C. Modified Plans**

The development referred to in the application is to be carried out in accordance with the original approved plans except as modified by the plans numbered 452-2000.A listed in the below table and in accordance with this schedule of conditions.

<b>Title / Description</b>	<b>Prepared by</b>	<b>Issue/Revision &amp; Date</b>	<b>Date received by Council</b>
Floor Plan	Darren Mah Design	Revision A dated July 2018	30 May 2022

*Reason: Development is undertaken in accordance with this consent & is used for the approved purpose only.*

**Condition 9A**

**9A. Security Presence**

The Jerrabomberra Hotel is to maintain a security guard on the premises until 30 minutes after closure of the venue.

*Reason: To mitigate anti-social behaviour by patrons*

**Condition 9B**

**9B. Courtesy Bus**

The Jerrabomberra Hotel is to maintain its courtesy bus service on Thursday, Friday, and Saturday until the closing time of 3:00am.

*Reason: To mitigate drink driving and anti-social behaviours*

# QUEANBEYAN-PALERANG REGIONAL COUNCIL

## Council Meeting Attachment

14 SEPTEMBER 2022

ITEM 9.2                    MODIFICATION APPLICATION 452-2000.A - EXTENSION TO  
OPERATING HOURS - JERRABOMBERRA HOTEL - 2  
LIMESTONE DRIVE, JERRABOMBERRA

ATTACHMENT 2        DA 452-2000.A - FLOOR PLAN - MODIFICATION: EXTEND  
HOURS OF OPERATION - 2 LIMESTONE DRIVE,  
JERRABOMBERRA



# QPRC



## DELEGATED REPORT - 452-2000.A

### SUMMARY

<b>Proposal:</b>	Construction of a commercial premises; modification: extend hours of operation for bar
<b>Address:</b>	2 Limestone Drive JERRABOMBERRA NSW 2619
<b>Property description:</b>	Lot 4 DP 1037309
<b>Applicant:</b>	Jerra Hotel Pty Limited
<b>Owner:</b>	Jerra Hotel Pty Limited
<b>Date of lodgement:</b>	30/05/2022
<b>Notification period:</b>	21/06/2022 to 07/07/2022
<b>Submissions received:</b>	0
<b>Assessment officer:</b>	Paul Verghese
<b>Estimated cost of works:</b>	\$380.00
<b>Zoning:</b>	B1 – Neighbourhood Centre
<b>Heritage:</b>	N/A
<b>Flood affected:</b>	N/A
<b>Bushfire prone:</b>	N/A
<b>Recommendation of officer:</b>	<b>Approval</b>

### EXECUTIVE SUMMARY

The application seeks to modify development consent 452-2000. The modification seeks to extend the hours of operation of the bar until 3:00am on Monday – Sunday.

The application was required to be notified in accordance with QPRC's Community Engagement and Participation Plan 2019 from 21/06/2022 to 07/07/2022. 0 submissions were received

There was one principle issue as the applicant proposed to modify the wrong development consent. The application was amended to modify the correct consent, application 452-2000.

The application is recommended for approval, subject to the imposition of the conditions of consent, as the proposal is considered to be substantially the same as the parent application, is consistent with the controls and objectives of the Queanbeyan Local Environmental Plan 2012 and the Queanbeyan Development Control Plan 2012, and is unlikely to result in a significant adverse impact on the natural and built environment or the character and amenity of the area.

## **BACKGROUND**

Previous approvals on the site include:

- Approved development application for a commercial centre and a subsequent modification under application number 452-2000 determined on 05 December 2000 and 09 February 2004.
- Approved DA for the fit out and conversion to a takeaway under application number 74-2002 determined on 19 February 2002.
- Approved DA for the fit out of a Bakers Delight store under application number 124-2002 determined on 28 February 2002.
- Approved DA for the fit out of a butcher under application number 148-2002 determined on 11 March 2002.
- Approved DA for the installation of a business identification sign under application number 281-2002 determined on 04 October 2002.
- Approved DA for the change of use from a hardware store to a restaurant under application number 66-2003 determined on 26 March 2003.
- Approved DA for the installation of two wall advertising signs and four building identification signs under application number 446-2003 determined on 26 September 2003.
- Approved DA for the construction of alterations and additions for the tavern under application number 39-2004 determined on 24 March 2004.
- Approved DA for the construction of a gaming area for the tavern under application number 124-2012 determined on 26 June 2012 and a subsequent modification to extend the hours of operation for the gaming area under application number 124-2012.A for which this application is a modification of.
- Approved DA for the construction of a paved extension for the tavern under application number 375-2014 determined on 28 July 2015.
- Approved DA for the construction of alterations and additions for the hotel under application number 399-2018 determined on 19 October 2018.

## **DESCRIPTION OF THE SITE AND LOCALITY**

The subject site is legally described as lot 4 DP 1037309 and is commonly known as 2 Limestone Drive Jerrabomberra. The site is located on the south eastern corner of Limestone Drive and has an area of 2759m<sup>2</sup>.

The site has a 0>5 degree slope towards the south east. Vegetation on site is predominantly comprised of managed vegetation. Existing development on the site comprises of the Jerrabomberra Hotel and a Bottlemart. Vehicular access is provided to the site via an existing right of carriageway from Limestone Drive.

Existing development within the locality consists of commercial premises.



**Figure 1: Locality plan**



**Figure 2: Site Photo**

**PROPERTY BURDENS AND CONSTRAINTS**

An easement for water supply pipeline 10m wide bisects the property from west to east. An easement for drain sewage bisects the property from west to east. An easement for drain water 2.5m wide is located along the majority of the north western boundary and bisects the property from north to south. An easement for water supply 2.5m wide is located along the north eastern boundary of the property. A right of carriageway provides access to the lot from Limestone Drive.

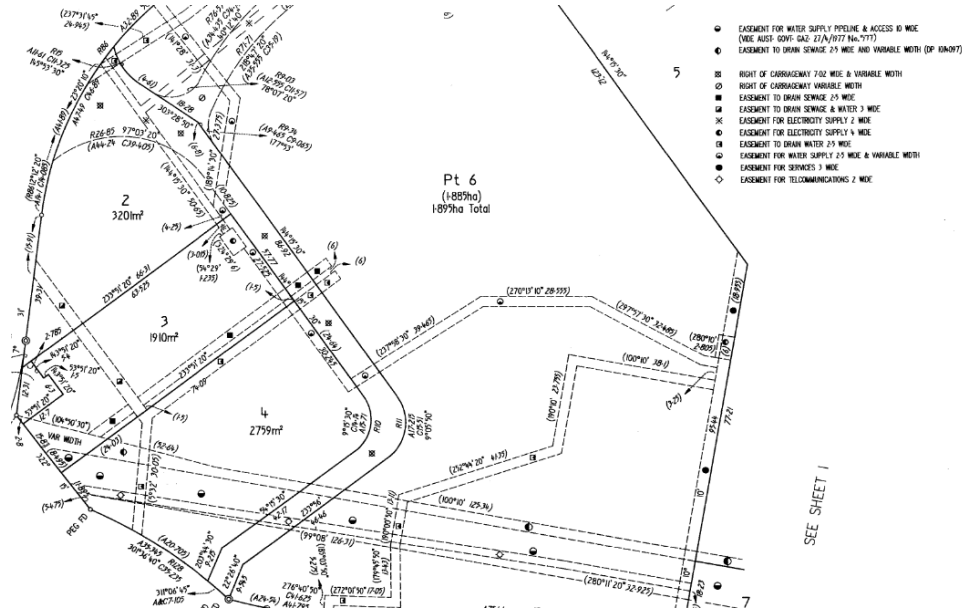


Figure 3: DP Snip

**DESCRIPTION OF THE PROPOSED DEVELOPMENT**

The application seeks Council approval to modify development consent 452-2000.

The specific elements of the proposal are:

- Increase the hours of operation for the bar until 3:00am on Monday to Sunday

**CONSENT AUTHORITY**

In accordance with the *Environmental Planning and Assessment Act 1979* (EP&A Act) the proposal is considered to be local development and Council is the Consent Authority.

**SECTION 4.10 DESIGNATED DEVELOPMENT – EP&A Act, 1979**

The proposal is not designated development.

**SECTION 4.47 INTEGRATED DEVELOPMENT – EP&A Act, 1979**

The proposal is not integrated development.

## REFERRALS

### INTERNAL REFERRALS

#### Engineering Comments

Council's Development Engineer offered no objections to the proposal, subject to the imposition of recommended conditions of consent.

#### Health Comments

Council's Health Officer has commented on the proposal as follows:

"The existing hours of operation from the previous DA and supporting acoustic report will not be impacted by the inclusion of the bar area."

### EXTERNAL REFERRALS

#### NSW Police

The NSW Police have commented on the proposed modification as follows:

#### Development Application Review

**WEBCOPS Event No:** E 89302352

**RMS Reference:**

**DA Reference No:** 124-2012.B

**Council:** Queanbeyan Palerang Regional Council

**Developer/Applicant:** Mr Kristy MUTCH on behalf of Mr Stephen BARTLETT  
Private Certifier:

**Property address:** 2 Limestone Street, Jerrabomberra, NSW

**Proposed development/use of space:** The plan approved as part of modification 124-2012.A only included the Gaming Area of the Jerrabomberra Hotel for extended trading until 3.00AM Monday to Sunday however the intention of the modification was to also include the bar area immediately adjacent to that area. The conditions of consent for 124-2012.A suggest that the council approved the use of the bar as well as Gaming area for extended trading as condition 6A states that 'alcohol consumption is to be limited to the gaming area..'

Proposed new opening hours would be:

Thursday 10.00am – 0300am

Friday 10.00am – 0300am

Saturday 10.00am – 0300am

Sunday 10.00am – 12.00am

#### 1. Introduction

In line with section 4.15 of the New South Wales Planning & Assessment Act 1979 and the New South Wales Planning Guidelines, the below report has been conducted on the Development Application No. 124-2012. B For the modification and extension of hours of operation for the bar at Lot 4 DP 1037309, 2 Limestone Drive, Jerrabomberra.

## **2.1 Current environment**

The Jerrabomberra Hotel is located at 2 Limestone Drive, Jerrabomberra, NSW. The hotel comprises a restaurant, lounge, indoor and outdoor gaming rooms, kitchen and amenities. The current trading hours are Monday to Saturday 10am to 1 am the following day and Sundays 10 am to Midnight. The Jerrabomberra Hotel is located in a mixed commercial area with residential areas being located towards the west in Franklin Court, to the east in Rosewood Glen and to the east in Bluestone Gardens the nearest of which is approximately 85 metres.

## **2.2 Proposed development**

Jerrabomberra Hotel proposes to extend their trading hours located at 2 Limestone Drive, Jerrabomberra to extend their close time on Thursday to Saturday 10.00am to 0300am and Sunday 10.00am to 12.00am

## **3. Crime risks and identified issues**

The current/trending crimes that are impacting the local area should be considered within this development/proposed use of space within this development application. The current crime trend for crime within the Jerrabomberra Hotel are alcohol related crimes including drink driving offences and assaults. The Jerrabomberra Hotel have also had a number of break and enters in the past.

**3.1.** The incidents which police attend at this location are offences which relate to the consumption of alcohol. These include patrons leaving the area under the influence of alcohol and driving their vehicles. Assaults as a result of patrons fighting each other either in the licence premises or the surrounding car park. The damage of property where alcohol is a contributing factor. Police have also attended the location in relation to drug offences however it should be noted that these offences are not higher than the average of the Monaro Police District, only that they are occurring and should be taken into consideration. There are also break and enters which have occurred at the location however these have occurred outside of operating hours.

**3.2.** Crimes that the current proposed development/change of operating hours will introduce or facilitate within this space are only those crimes that are already occurring as stipulated in 3.1.

**3.3.** Developments can introduce or facilitate certain issues that are not necessarily a crime, but impact on the ability to police a space. At this stage there are no other issues identified that will be introduced within the development.

## **4. Recommendations**

As part of my recommendations I have liaised with the Monaro Police District Licensing Officer and also have reviewed the article: <https://www.saxinstitute.org.au/wp-content/uploads/Community-impact-of-liquor-licences-1.pdf>. Evidence Check Community impacts of Liquor Licences- An Evidence Check rapid review brokered by the Sax Institute for the NSW Ministry of Health October 2015. Prepared by Michael Livingston, Claire Wilkinson, Robin Room.

"Alcohol is associated with a wide range of health and social problems in Australia, and regulating alcohol availability is a key component of a public health-oriented alcohol policy. There is a strong international evidence base that demonstrates links between the physical availability of alcohol (in terms of outlet numbers and hours of sale), alcohol consumption and alcohol-related harm." (Page 6 Evidence Check Community impacts of Liquor Licences)

The Jerrabomberra Hotel wishes to extend their trading hours from 1am to 3 am on Thursday, Friday and Saturday night and to 12.00am on Sunday night. According to the Floor plan for the extension of trading hours the area that will only be open in the extended trading hours proposal is the lounge area/gaming area, part of the bar area, TAB and the patio attached to the gaming area.

Police have concerns in relations to crime risks and identified issues which have been identified in 3.1. In November 2020, NSW police received a similar Development Application being No. 452-2000. A for the construction of a commercial premises and modification and extension of trading hours. As in November 2020, NSW police hold a similar view to the extension of trading hours in licence premises.

According to the Evidence Check Community Impacts of Liquor Licences trading hour studies state; "There are a series of robust, well-designed Australian studies that demonstrate that reducing the hours during which on-premise alcohol outlets can sell alcohol late at night can substantially reduce rates of violence. Increasing trading hours tends to result in higher rates of harm and restricting trading hours tend to reduce harm." (pages 7)

While there has been a trend over recent years to increase the trading hours of licence premises there has however been a trend to decrease trading hours as seen in the Kings Cross/Sydney CBD area's.

The Monaro Police District also support this decrease in trading hours as research has shown that an increase in trading hours and selling alcohol late at night can increase the rates of violence and anti-social behaviour.

Police have concern's the increased trading hours will increase in the amount of incidents that police will have to attend later in the night/early morning. This not only places more pressure on police resources but other emergency resources such as Ambulance officers. Currently Queanbeyan Police have two vehicles operating until 2.00am. However, after 2.00am Queanbeyan Police lose a vehicle and only have one vehicle to respond to emergencies and other incidents police attend. Due to having only one response vehicle after 2.00am police have concerns about the extension of the operating times and the potential for incidents to occur between the hours of 2.00am and 3.00am and further placing extra pressure on police resources.

Police also have concerns regarding increased foot traffic at that time of night/early morning with people walking home or with the newly established 7 Eleven service station KFC and McDonald's. People may walk to these areas and continue to socialise and further cause issues with these other establishments. In walking to these area's there is no footpath with persons required to walk on the nature strip which contain limited lighting causing a danger to the person's and other road users.

If the increased hours application s granted, I recommend that the Jerrabomberra Hotel maintains a security guard presence until at least 30 minutes after closure in order maintain a security presence when people are leaving the premises and also continue to run the free bus service to drive patron's home which could mitigate drink driving, assaults and other anti -social behaviours.

#### **Disclaimer**

The New South Wales Police Force has a vital interest in ensuring the safety of members of the community and their property. By using the recommendations contained in this assessment, any person who does so acknowledges that:

- It is not possible to make all areas evaluated by the NSWPF entirely safe for members of the community or the security of their property.
- It is based upon the information provided to the NSWPF at the time the assessment was made
- This assessment is a confidential document and is for use of the consent authority unless otherwise agreed.
- The contents of this assessment are not to be copied or circulated otherwise than for the purposes of the consent authority, unless otherwise agreed.

The NSW Police Force hopes that by using the recommendations contained in this assessment, criminal activity will be reduced and the safety of members of the community and the security of their

property will increase. However, it does not guarantee that all risks have been identified, or that the area assessed will be free from criminal activity if its recommendations are followed.

Should you have any questions in relation to the evaluation contact Senior Constable Emma Tubman Crime Prevention Officer, Monaro Police District, Phone 02 62980599



Yours sincerely,  
Emma Tubman  
Senior Constable  
Crime Prevention Officer  
Monaro Police District  
29/06/2022

## **SECTION 4.55 MODIFICATIONS – GENERALLY EP&A ACT, 1979**

### **4.55(1A) Modifications involving minimal environmental impact**

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) it is satisfied that the proposed modification is of minimal environmental impact, and
- (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and
- (c) it has notified the application in accordance with: (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and
- (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be. Subsections (1), and (2) do not apply to such a modification.”

#### **Comment:**

In regards subclause ‘a’, it is considered that the modification(s) sought as part of this application is of minimal environmental impact as the proposal does not propose any construction works.

In regards to subclause ‘b’, Council is satisfied that the development to which the consent as modified relates is substantially the same development for which consent was originally granted. In answering this threshold question, a comparative analysis of the approved development as modified has been undertaken. The application proposes only a change to the previously approved operating hours.

With regards subclause ‘c’ and ‘d’, the application was required to be notified in accordance with QPRC’s Community Engagement and Participation Plan 2019 from 21/06/2022 to 07/07/2022. 0 submissions were received.

## **SECTION 4.15 CONSIDERATIONS – EP&A Act, 1979**

In determining a development application, the consent authority is to take into consideration the following matters of consideration contained within section 4.15 of the Environmental Planning and Assessment Act, 1979 as relevant to the development application:



**4.15(1)(a) the provisions of:**

**(i) any environmental planning instrument**

**STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX ) 2004**

A BASIX certificate was not required to be submitted as the application does not propose the construction of a dwelling house or residential alterations and additions valued over \$50,000.

**STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCUTRE) 2021**

The proposed development meets the requirements of the SEPP as there are no proposed works which could adversely impact any existing infrastructure or the provision of infrastructure and services.

**STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021**

Council holds no record of the site having previously been used for any potentially contaminating activities.

**QUEANBEYAN LOCAL ENVIRONMENTAL PLAN (QLEP) 2012**

An assessment of the proposal against the general aims of QLEP 2012 is included below:

<b>Cl.</b>	<b>Aims</b>	<b>Complies</b>
<b>1.2(2)</b>		
<b>(a)</b>	<i>To facilitate the orderly and economic use and development of land in Queanbeyan based on ecological sustainability principles.</i>	<b>Yes</b>
<b>(b)</b>	<i>To provide for a diversity of housing throughout Queanbeyan.</i>	<b>Yes</b>
<b>(c)</b>	<i>To provide for a hierarchy of retail, commercial and industrial land uses that encourage economic and business development catering for the retail, commercial and service needs of the community.</i>	<b>Yes</b>
<b>(d)</b>	<i>To recognise and protect Queanbeyan's natural, cultural and built heritage including environmentally sensitive areas such as Queanbeyan's native grasslands, the Queanbeyan River and Jerrabomberra Creek.</i>	<b>Yes</b>
<b>(e)</b>	<i>To protect the scenic quality, views and vistas from main roads and other vantage points within Queanbeyan of the escarpment and Mount Jerrabomberra.</i>	<b>Yes</b>
<b>(f)</b>	<i>To maintain the unique identity and country character of Queanbeyan.</i>	<b>Yes</b>
<b>(g)</b>	<i>To facilitate the orderly growth of the urban release area in Googong in a staged manner that promotes a high level of residential amenity and the timely provision of physical and social infrastructure through appropriate phasing of the development of land.</i>	<b>Yes</b>

**Comments:** The proposal will facilitate the orderly and economic use and development of land in Queanbeyan. The proposal encourages economic and business development that will cater for the retail and commercial needs of the community. The proposal will not adversely impact Queanbeyan's natural, cultural and built heritage or the scenic quality, views or vistas within Queanbeyan.

**Suspension of Covenants, Agreements and Instruments**

Under Clause 1.9A, no covenants, agreements and instruments restricting the development have been identified.



## Permissibility

The subject site is Zoned B1 Neighbourhood Centre zone under Queanbeyan Local Environmental Plan 2012.

Development for the purposes of a registered club, such as is proposed, is permissible within the B1 Neighbourhood Centre zone with consent and is defined under QLEP 2012 as follows:

“**Registered club** means a club that holds a club licence under the [Liquor Act 2007](#).”

## Zone Objectives

An assessment of the proposal against the objectives of the B1 Neighbourhood Centre zone is included below:

<b>Objectives</b>	<b>Complies</b>
➤ To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.	<b>Yes</b>
➤ To allow for limited high density residential uses that are compatible with the neighbourhood centre.	<b>Yes</b>
➤ To provide for active retail, business or other non-residential uses at street level.	<b>Yes</b>

**Comments:** The proposal is generally considered to contribute to the range of small-scale businesses that serve the needs of people who live or work in the surrounding neighbourhood. The proposal is considered to provide for active business at a street level.

## Demolition

Under Clause 2.7 of the QLEP 2012, the proposal does not involve demolition of an existing structure.

## Part 4: Principal development standards

An assessment of the proposal against the relevant provisions contained within Part 4 of the QLEP 2012 is provided below.

### Height of building

<b>Cl.</b>	<b>Standard</b>	<b>Controls</b>	<b>Proposed</b>	<b>Complies</b>
<b>4.3</b>	<i>Height of building</i>	12m	N/A	<b>Yes</b>

**Comments:** The application does not propose an increase to the height of existing development on the site.

## Part 7: Local Provisions

The relevant provisions contained within Part 7 of the QLEP 2012 are addressed below as part of this assessment:

### 7.1 Earthworks

Clause 7.1 of the QLEP 2012 establishes a number of matters requiring consideration for development involving earthworks. Earthworks associated with the development are proposed and form part of this application. The proposed earthworks will not have a detrimental impact on drainage patterns and soil stability or the existing and likely amenity of adjoining properties. The development application will be condition to mitigate the potential impact of soil erosion and the like during construction.

## 7.2 Flood planning

Clause 7.2 of the QLEP 2012 makes provision for developments within the flood planning area. The site **is not** identified as “flood planning area” on the Flood Planning Map, and **is not** at or below the flood planning level.

## 7.3 Terrestrial biodiversity

Clause 7.3 of the QLEP 2012 makes for provision for developments that impact on terrestrial biodiversity. This clause **is not** considered relevant to the proposed development as the site **is not** identified as “Biodiversity” on the Terrestrial Biodiversity Map.

- (3) *Before determining a development application for development on land to which this clause applies, the consent authority must consider:*
- (a) *whether the development is likely to have:*
- (i) *any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and*
  - (ii) *any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and*
  - (iii) *any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and*
  - (iv) *any adverse impact on the habitat elements providing connectivity on the land, and*
- (b) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

## 7.4 Riparian land and watercourses

Clause 7.4 of the QLEP 2012 makes provision for developments within riparian land and watercourses. This clause **is not** considered relevant to the proposed development as the site **is not** identified as “Watercourse” on the Riparian Land and Watercourses Map”.

## 7.5 Scenic protection

Clause 7.5 of the QLEP 2012 makes provisions for developments impacting on scenic protection land. This clause **is not** relevant to the proposed development as the site **is not** identified as “Scenic Protection Area” on the Scenic Protection Map. Subclause (3) of this clause is required to be assessed before the application is determined.

- (3) *Development consent must not be granted to any development on land to which this clause applies unless the consent authority is satisfied that:*
- (a) *measures will be taken, including in relation to the location and design of the proposed development, to minimise the visual impact of the development on the natural and visual environment of the land, and*
  - (b) *the development will incorporate conservation and rehabilitation measures to preserve the scenic qualities of the land.*

## 7.6 Airspace operations

Clause 7.6 of the QLEP 2012 makes provisions for developments located in areas that are affected by airspace operations and aircraft noise. The proposed development **will not** penetrate the Obstacle Limitations Surface Map for the Canberra Airport. Therefore the application **was not** required to be referred to the relevant Commonwealth body for comment.

## 7.7 Development in areas subject to aircraft noise

Clause 7.7 of the QLEP 2012 makes provisions for developments subject to aircraft noise. This clause **is** considered relevant to the proposed development as the site **is** located near the Canberra Airport or within an ANEF contour of 20 or greater. The lot is identified as being partially within the ANEF 20 band. The

proposed extension to the hours of operation is unlikely to result in an increase in the number of people affected by aircraft noise.

### **7.8 Active street frontage**

This clause **is not** considered relevant to the proposed development as the site **is not** identified as “Active street frontage” on the Active Street Frontages Map”.

### **7.9 Essential services**

Clause 7.9 of the QLEP 2012 requires satisfactory arrangements to be made for water supply, stormwater drainage, solid domestic waste, sewage, and the treatment and disposal of effluent. Along with the supply of electricity and suitable vehicle access.

Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

- (a) *the supply of water,*
- (b) *the supply of electricity,*
- (c) *the disposal and management of sewage,*
- (d) *stormwater drainage or on-site conservation,*
- (e) *suitable vehicular access.*

Council’s Development Engineer has assessed the proposed development and confirmed that the site **does** have suitable vehicle access and adequate services are available.

### **7.10 Development near Cooma Road Quarry**

This clause **is not** considered relevant to the proposed development as the site **is not** identified as “Buffer Area” on the Quarry Buffer Area Map”.

### **7.11 Development near HMAS Harman**

This clause **is not** considered relevant to the proposed development as the site **is not** located within 2 kilometres of HMAS Harman or within Zone IN1 General Industrial or Zone IN2 Light Industrial.

### **4.15(1)(a)(ii) any draft environmental planning instruments**

There are no applicable draft planning instruments that are or have been placed on public exhibition, to consider as part of this assessment.

**4.15(1)(a)(iii) any development control plan**

<b>QUEANBEYAN DCP 2012 COMMENTS</b>		
<b>Section</b>	<b>Controls</b>	<b>Compliance / Conditions</b>
<b>PART 1 – ABOUT THIS DEVELOPMENT CONTROL PLAN</b>		
<b>1.8</b>	<b>Public Notification Of A Development Application</b> The application was required to be notified in accordance with QPRC's Community Engagement and Participation Plan 2019 from 21/06/2022 to 07/07/2022.	Complies
<b>PART 2 – ALL ZONES</b>		
<b>2.2</b>	<b>Car Parking</b> The application has been referred to Councils Development Engineer who has found the parking arrangements including access and manoeuvring areas to be satisfactory in this instance.	
<b>2.3</b>	<b>Environmental Management</b> A BASIX certificate was not required to be submitted for the proposed development as the proposal is not residential and does not have an estimated cost of works greater than \$50,000.	Complies
<b>2.4</b>	<b>Contaminated Land Management</b> The proposal is considered generally satisfactory with respect to State Environmental Planning Policy 55 – Remediation of Land (SEPP 55) and therefore also with respect to DCP clause 2.4. The land is not known to have been used for potentially contaminating activities.	Complies
<b>2.5</b>	<b>Flood Management</b> The subject site is not within a flood prone area.	Complies
<b>2.6</b>	<b>Landscaping</b> A landscaping plan was not required to be submitted with the application.	Complies
<b>2.7</b>	<b>Erosion and Sediment Control</b> Standard conditions relating to site management are not required as the proposal does not involve construction works.	Complies
<b>2.8</b>	<b>Guidelines for Bushfire Prone Areas</b> The site is not identified as bushfire prone land.	Complies
<b>2.9</b>	<b>Safe Design</b> The proposed development generally satisfies the relevant provisions of this clause.	Complies
<b>2.10</b>	<b>Subdivision</b> The proposal does not include subdivision.	Complies
<b>2.11</b>	<b>Airspace Operations and Airport Noise</b> The proposed development complies with the requirements prescribed for the site in Clause 7.5 Airspace Operations and 7.6 Development in areas subject to Airport Noise. of the QLEP 2012 – see previous discussion in this assessment.	Complies
<b>2.12</b>	<b>Preservation of Trees and Vegetation</b> The proposed development does not require the removal of any	Complies

9.2 Modification Application 452-2000.A - Extension to Operating Hours - Jerrabomberra Hotel - 2 Limestone Drive, Jerrabomberra  
Attachment 2 - DA 452-2000.A - Floor Plan - Modification: Extend Hours of Operation - 2 Limestone Drive, Jerrabomberra  
(Continued)

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	existing vegetation.	
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<b>PART 6 – Central Business District and Other Business Zones</b>		
As the proposal is for the extension of the hours of operation for an existing business and does not involve construction or a change of use, the controls of the <i>Queanbeyan Development Control Plan 2012 Part 6</i> are not considered applicable.		
<b>6.1.2</b>	<p><b>Objectives</b></p> <ol style="list-style-type: none"> <li>1) Compliance with clause 1.2 (c) the objectives to Zone B3 Commercial Core as well as with the objectives and relevant provisions of other applicable clauses in <i>Queanbeyan Local Environmental Plan 2012</i>.</li> <li>2) Retain the country town feel and human scale of the centre whilst maintaining and strengthening the status of the CBD as the major commercial centre for Queanbeyan and surrounding districts.</li> <li>3) Implement the key planning and urban design guidelines outlined in the adopted Queanbeyan CBD Master Plan 2009.</li> <li>4) Retain the streetscape qualities and retailing function of Monaro and Crawford Streets.</li> <li>5) Maintain, Protect and enhance heritage buildings.</li> <li>6) Acknowledge the river setting and civic precincts as part of future development.</li> <li>7) Facilitate shop top housing within the CBD.</li> <li>8) Maintain existing streetscape attributes and unify the built form with consistent materials and finishes.</li> <li>9) Ensure that the height of buildings complements the streetscape or the historic character of the area in which the buildings are located.</li> </ol> <p>The proposal is not located within the Queanbeyan CBD but is generally consistent with the objectives of the <i>Queanbeyan Development Control Plan 2012 Part 6</i> and the B1 zone in the <i>Queanbeyan Local Environmental Plan 2012</i>. The proposal will not have any physical impact and will adversely impact any heritage buildings or the existing streetscape of the area.</p>	Complies

**4.15(1)(a)(iia) any planning agreement or draft planning agreement**

No planning agreement has been entered into under section 7.4 of the *Environmental Planning and Assessment Act 1979*.

**4.15(1)(a)(iv) matters prescribed by the regulations**

Clause 92 of the *Environmental Planning and Assessment (EP&A) Regulation 2000* requires Council to take into consideration Australian Standard AS2601–1991: *The Demolition of Structures*, in the determination of a development application.

Having regard to this prescribed matters, the proposed development does not involve the demolition of a building for the purposes of AS 2601 – 1991: *The Demolition of Structures*.

Should this application be approved, appropriate conditions of consent are included within the recommended to ensure compliance with any relevant regulations.

**4.15(1)(a)(v) any coastal zone management plan**

Council is not subject to a coastal zone management plan.



**4.15(1)(b) *the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality***

The proposal does not involve any construction work, and as such, will not result in any environmental impact or any impacts upon the existing streetscape and character of the area.

Council's Health Officer has re-reviewed the acoustic report prepared by Hardwood Acoustics on 16 March 2021 and submitted for application 124-2012.A. It was determined that there would be no significant noise impacts as a result of the extended hours of operation for the bar. The main noise emissions will be produced by patrons, gaming machines and traffic, however, it is unlikely that the noise produced will be unreasonable.

The NSW Police have identified that the current crime trend for the Jerrabomberra Hotel is alcohol related crimes, including drink driving and assaults. The extension to the hours of operation for the bar can be seen as further facilitating these alcohol related crimes as patrons will be granted increased access to alcohol for extended periods of time. Alcohol consumption is associated with a wide range of health and social problems and the NSW Police have identified that there is a strong link between physical availability of alcohol, alcohol consumption and alcohol-related harm. The NSW Police also have concerns that increasing foot traffic could result in patrons partaking in anti-social behaviour within the surrounding area, particularly at the nearby 7 Eleven Service Station, KFC and McDonald's. Additionally, increased access to alcohol in conjunction with the recently approved extended hours of operation to the gaming machines within the Jerrabomberra Hotel could result in increased rates of gambling addiction for patrons.

However, whilst there are a number of social impacts and concerns associated with the extended hours of operation for the bar at the Jerrabomberra hotel, it is unlikely that the venue will have a large number of patrons during the two additional hours in the morning, particularly on Monday – Thursday. Despite the social risks identified by the NSW Police, they have offered no objections to the increased hours of operation if the Tavern maintains a security presence until at least 30 minutes after closure and if they continue their free bus service as these measures will help to reduce antisocial behaviour. Additionally, the application was notified to adjoining owners and the Jerrabomberra Resident's Association from 21/06/2022 to 07/07/2022 with no submissions being received.

**4.15(1)(c) *the suitability of the site for the development***

The subject site is relatively unconstrained and is considered to be suitable in its current state for the purposes of the proposed development.

**4.15(1)(d) *any submissions made in accordance with this Act or the regulations***

The application was notified in accordance with QPRC's Community Engagement and Participation Plan 2019 from **21/06/2022** to **07/07/2022**, with **0** submissions received, raising the following concerns:

**4.15(1)(e) *the public interest***

The public interest is served through the detailed assessment of this development application under the relevant local planning controls and legislation and consideration of any submissions received relating to it by Council. The proposed development is not considered to be contrary to the public interest.

## SECTION 64 CONTRIBUTIONS

Section 64 of the Local Government Act 1993 allows contributions to be levied towards the provision of water, sewerage and stormwater infrastructure.

Section 64 Contributions are not applicable to the proposed development.

## SECTION 7.11 CONTRIBUTIONS

Section 7.11 of the *Environmental Planning & Assessment Act 1979* permits councils to require as a condition of development consent, the reasonable dedication of land or the payment of monies, or both, for development that is likely to require the provision of, or increase the demand for public amenities and public services within the area.

Section 7.11 Contributions are not applicable to the proposed development.

## SECTION 7.12 CONTRIBUTIONS

Section 7.12 of the *Environmental Planning & Assessment Act 1979* permits councils to require as a condition of development consent the payment of monies to be applied towards the provision, extension or augmentation of public amenities or public services (or towards recouping the cost of their provision, extension or augmentation).

Section 7.12 Contributions are not applicable to the application does not propose works valued over \$100,000.

## CONCLUSION

The application has been assessed having regard to Section 4.55(1A) of the Environmental Planning and Assessment Act 1979, and is considered to be satisfactory for approval, subject to the imposition of the recommended conditions of consent.

## CONDITIONS OF CONSENT

The following condition of consent is to be modified:

### Condition 9

9. The hours of operation for the commercial/retail part of the development are restricted to the following:

#### Supermarket

Trading hours - 7.00am to midnight Monday to Saturday and 8.00 am to 8.00 pm  
Sundays/Public Holidays

Delivery hours - 6.00am to 9.00pm Monday to Saturday and 7.00 am to 8.00 pm  
Sundays/Public Holidays.

#### Jerrabomberra

Trading hours - Sunday to Saturday 9.00am to 3.00am the following day

Delivery hours - 6.00am to 6.00 pm Monday to Saturday, no deliveries Sundays/Public  
Holidays.

#### Drive-in take-away food shop

Trading hours - Sunday to Saturday 6.00am to 12 midnight

Delivery hours - 6.00am to 6.00 pm Monday to Saturday, no deliveries Sundays/Public  
Holidays.

#### Service station

Trading hours - Sunday to Saturday 6.00am to 12 midnight

Delivery hours - 6.00am to 6.00 pm Monday to Saturday, no deliveries Sundays/Public Holidays.

*Reason: To ensure a noise problem does not result from the development.*

The following are new conditions to be added to the consent.

### **Condition 1C**

#### **1C. Modified Plans**

The development referred to in the application is to be carried out in accordance with the original approved plans except as modified by the plans numbered 452-2000.A listed in the below table and in accordance with this schedule of conditions.

<b>Title / Description</b>	<b>Prepared by</b>	<b>Issue/Revision &amp; Date</b>	<b>Date received by Council</b>
Floor Plan	Darren Mah Design	Revision A dated July 2018	30 May 2022

*Reason: Development is undertaken in accordance with this consent & is used for the approved purpose only.*

### **Condition 9A**

#### **9A. Security Presence**

The Jerrabomberra Hotel is to maintain a security guard on the premises until 30 minutes after closure of the venue.

*Reason: To mitigate anti-social behaviour by patrons*

### **Condition 9B**

#### **9B. Courtesy Bus**

The Jerrabomberra Hotel is to maintain its courtesy bus service on Thursday, Friday, and Saturday until the closing time of 3:00am.

*Reason: To mitigate drink driving and anti-social behaviours*

# QUEANBEYAN-PALERANG REGIONAL COUNCIL

## Council Meeting Attachment

14 SEPTEMBER 2022

ITEM 9.2                    MODIFICATION APPLICATION 452-2000.A - EXTENSION TO  
OPERATING HOURS - JERRABOMBERRA HOTEL - 2  
LIMESTONE DRIVE, JERRABOMBERRA

ATTACHMENT 3    DA 452-2000.A - PROPOSED MODIFIED CONDITIONS OF  
CONSENT - MODIFICATION: EXTEND HOURS OF  
OPERATION - 2 LIMESTONE DRIVE, JERRABOMBERRA

**Proposed Modified Conditions of Consent**

**Application 452-2000.A**

The following conditions of consent are to be modified:

**Condition 9**

9. The hours of operation for the commercial/retail part of the development are restricted to the following:

**Supermarket**

Trading hours - 7.00am to midnight Monday to Saturday and 8.00 am to 8.00 pm  
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**Jerrabomberra**

Trading hours - Sunday to Saturday 9.00am to 3.00am the following day

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**Drive-in take-away food shop**

Trading hours - Sunday to Saturday 6.00am to 12 midnight

Delivery hours - 6.00am to 6.00 pm Monday to Saturday, no deliveries  
Sundays/Public Holidays.

**Service station**

Trading hours - Sunday to Saturday 6.00am to 12 midnight

Delivery hours - 6.00am to 6.00 pm Monday to Saturday, no deliveries  
Sundays/Public Holidays.

*Reason: To ensure a noise problem does not result from the development.*

The following are new conditions to be added to the consent.

**Condition 1C**

**1C. Modified Plans**

The development referred to in the application is to be carried out in accordance with the original approved plans except as modified by the plans numbered 452-2000.A listed in the below table and in accordance with this schedule of conditions.

<b>Title / Description</b>	<b>Prepared by</b>	<b>Issue/Revision &amp; Date</b>	<b>Date received by Council</b>
Floor Plan	Darren Mah Design	Revision A dated July 2018	30 May 2022

*Reason: Development is undertaken in accordance with this consent & is used for the approved purpose only.*

**Condition 9A**

**9A. Security Presence**

The Jerrabomberra Hotel is to maintain a security guard on the premises until 30 minutes after closure of the venue.

*Reason: To mitigate anti-social behaviour by patrons*

**Condition 9B**

**9B. Courtesy Bus**

The Jerrabomberra Hotel is to maintain its courtesy bus service on Thursday, Friday, and Saturday until the closing time of 3:00am.

*Reason: To mitigate drink driving and anti-social behaviours*

# QUEANBEYAN-PALERANG REGIONAL COUNCIL

## Council Meeting Attachment

14 SEPTEMBER 2022

ITEM 9.2            MODIFICATION APPLICATION 452-2000.A - EXTENSION TO  
OPERATING HOURS - JERRABOMBERRA HOTEL - 2  
LIMESTONE DRIVE, JERRABOMBERRA

ATTACHMENT 4    DA.452-2000.A - POLICE SUBMISSION - 2 LIMESTONE  
AVENUE, JERRABOMBERRA



## Development Application Review

**WEBCOPS Event No:** E 89302352

**RMS Reference:**

**DA Reference No:** 124-2012.B

**Council:** Queanbeyan Palerang Regional Council

**Developer/Applicant:** Mr Kristy MUTCH on behalf of Mr Stephen BARTLETT  
**Private Certifier:**

**Property address:** 2 Limestone Street, Jerrabomberra, NSW

**Proposed development/use of space:** The plan approved as part of modification 124-2012.A only included the Gaming Area of the Jerrabomberra Hotel for extended trading until 3.00AM Monday to Sund however the intention of the modification was to also include the bar area immediately adjacent to that an The conditions of consent for 124-2012.A suggest that the council approved the use of the bar as well as Gaming area for extended trading as condition 6A states that 'alcohol consumption is to be limited to the gaming area..'

Proposed new opening hours would be:

Thursday 10.00am – 0300am

Friday 10.00am – 0300am

Saturday 10.00am – 0300am

Sunday 10.00am – 12.00am

### 1. Introduction

In line with section 4.15 of the New South Wales Planning & Assessment Act 1979 and the New South Wales Planning Guidelines, the below report has been conducted on the Development Application No. 124-2012. B For the modification and extension of hours of operation for the bar at Lot 4 DP 1037309, 2 Limestone Drive, Jerrabomberra.

#### **Monaro Police District**

Queanbeyan Police Station 6-8 Farrer Place, Queanbeyan, NSW, 2620

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**TRIPLE ZERO (000)**

**POLICE ASSISTANCE LINE (131 444)**

**CRIME STOPPERS (1800 333 000)**





**NSW Police Force**

## **2.1 Current environment**

The Jerrabomberra Hotel is located at 2 Limestone Drive, Jerrabomberra, NSW. The hotel comprises a restaurant, lounge, indoor and outdoor gaming rooms, kitchen and amenities. The current trading hours are Monday to Saturday 10am to 1 am the following day and Sundays 10 am to Midnight. The Jerrabomberra Hotel is located in a mixed commercial area with residential areas being located towards the west in Franklin Court, to the east in Rosewood Glen and to the east in Bluestone Gardens the nearest of which is approximately 85 metres.

## **2.2 Proposed development**

Jerrabomberra Hotel proposes to extend their trading hours located at 2 Limestone Drive, Jerrabomberra to extend their close time on Thursday to Saturday 10.00am to 0300am and Sunday 10.00am to 12.00am

## **3. Crime risks and identified issues**

The current/trending crimes that are impacting the local area should be considered within this development/proposed use of space within this development application. The current crime trend for crime within the Jerrabomberra Hotel are alcohol related crimes including drink driving offences and assaults. The Jerrabomberra Hotel have also had a number of break and enters in the past.

**3.1.** The incidents which police attend at this location are offences which relate to the consumption of alcohol. These include patrons leaving the area under the influence of alcohol and driving their vehicles. Assaults as a result of patrons fighting each other either in the licence premises or the surrounding car park. The damage of property where alcohol is a contributing factor. Police have also attended the location in relation to drug offences however it should be noted that these offences are not higher than the average of the Monaro Police District, only that they are occurring and should be taken into consideration. There are also break and enters which have occurred at the location however these have occurred outside of operating hours.

**3.2.** Crimes that the current proposed development/change of operating hours will introduce or facilitate within this space are only those crimes that are already occurring as stipulated in 3.1.

### **Monaro Police District**

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**3.3.** Developments can introduce or facilitate certain issues that are not necessarily a crime, but impact on the ability to police a space. At this stage there are no other issues identified that will be introduced within the development.

#### **4. Recommendations**

As part of my recommendations I have liaised with the Monaro Police District Licensing Officer and also have reviewed the article: <https://www.saxinstitute.org.au/wp-content/uploads/Community-impact-of-liquor-licences-1.pdf>. Evidence Check Community impacts of Liquor Licences- An Evidence Check rapid review brokered by the Sax Institute for the NSW Ministry of Health October 2015. Prepared by Michael Livingston, Claire Wilkinson, Robin Room.

“Alcohol is associated with a wide range of health and social problems in Australia, and regulating alcohol availability is a key component of a public health-oriented alcohol policy. There is a strong international evidence base that demonstrates links between the physical availability of alcohol (in terms of outlet numbers and hours of sale), alcohol consumption and alcohol-related harm.” (Page 6 Evidence Check Community impacts of Liquor Licences)

The Jerrabomberra Hotel wishes to extend their trading hours from 1am to 3 am on Thursday, Friday and Saturday night and to 12.00am on Sunday night.. According to the Floor plan for the extension of trading hours the area that will only be open in the extended trading hours proposal is the lounge area/gaming area, part of the bar area , TAB and the patio attached to the gaming area.

Police have concerns in relations to crime risks and identified issues which have been identified in 3.1. In November 2020, NSW police received a similar Development Application being No. 452-2000. A for the construction of a commercial premises and modification and extension of trading hours. As in November 2020, NSW police hold a similar view to the extension of trading hours in licence premises.

According to the Evidence Check Community Impacts of Liquor Licences trading hour studies state; “There are a series of robust, well-designed Australian studies that demonstrate that reducing the hours during which on-premise alcohol outlets can sell alcohol late at night can substantially reduce rates of violence. Increasing trading hours tends to result in higher rates of harm and restricting trading hours tend to reduce harm.” (pages 7)

While there has been a trend over recent years to increase the trading hours of licence premises there has however been a trend to decrease trading hours as seen in the Kings Cross/Sydney CBD area's.

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The Monaro Police District also support this decrease in trading hours as research has shown that an increase in trading hours and selling alcohol late at night can increase the rates of violence and anti-social behaviour.

Police have concern's the increased trading hours will increase in the amount of incidents that police will have to attend later in the night/early morning. This not only places more pressure on police resources but other emergency resources such as Ambulance officers. Currently Queanbeyan Police have two vehicles operating until 2.00am. However, after 2.00am Queanbeyan Police lose a vehicle and only have one vehicle to respond to emergencies and other incidents police attend. Due to having only one response vehicle after 2.00am police have concerns about the extension of the operating times and the potential for incidents to occur between the hours of 2.00am and 3.00am and further placing extra pressure on police resources.

Police also have concerns regarding increased foot traffic at that time of night/early morning with people walking home or with the newly established 7 Eleven service station KFC and McDonald's. People may walk to these areas and continue to socialise and further cause issues with these other establishments. In walking to these area's there is no footpath with persons required to walk on the nature strip which contain limited lighting causing a danger to the person's and other road users.

If the increased hours application s granted, I recommend that the Jerrabomberra Hotel maintains a security guard presence until at least 30 minutes after closure in order maintain a security presence when people are leaving the premises and also continue to run the free bus service to drive patron's home which could mitigate drink driving, assaults and other anti -social behaviours.

**Disclaimer**

The New South Wales Police Force has a vital interest in ensuring the safety of members of the community and their property. By using the recommendations contained in this assessment, any person who does so acknowledges that:

- It is not possible to make all areas evaluated by the NSWPF entirely safe for members of the community or the security of their property.
- It is based upon the information provided to the NSWPF at the time the assessment was made
- This assessment is a confidential document and is for use of the consent authority unless otherwise agreed.
- The contents of this assessment are not to be copied or circulated otherwise than for the purposes of the consent authority, unless otherwise agreed.

The NSW Police Force hopes that by using the recommendations contained in this assessment, criminal activity will be reduced and the safety of members of the community and the security of their

**Monaro Police District**

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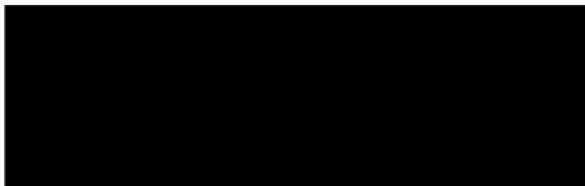
**CRIME STOPPERS (1800 333 000)**



**NSW Police Force**

property will increase. However, it does not guarantee that all risks have been identified, or that the area assessed will be free from criminal activity if its recommendations are followed.

Should you have any questions in relation to the evaluation contact Senior Constable Emma Tubman Crime Prevention Officer, Monaro Police District, Phone 02 62980599



Senior Constable  
Crime Prevention Officer  
Monaro Police District  
29/06/2022

**Monaro Police District**

Queanbeyan Police Station 6-8 Farrer Place, Queanbeyan, NSW, 2620  
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# QPRC



## REV.2022.1001 – SECTION 4.15 ASSESSMENT REPORT

### EXECUTIVE SUMMARY

The application is made as a review of determination under section 8.2 of the Environmental Planning and Assessment Act. It seeks development consent for the subdivision of land to create two Torrens title lots resulting in the demolition of two existing sheds and garage structure. Minor additional work proposed includes replacing the stables building roof, concrete treatment to the flooring and improvements to the stables brickwork, internal plumbing connection to the stable building to reinstate previous fit out for sink connection and installation of bathroom, minor timber deck and slab extension to the stables and extension to the roof of the existing brick store.

The subdivision seeks to create two lots with proposed Lot 1 at 1831m<sup>2</sup> and proposed Lot 2 at 1152m<sup>2</sup>. Lot 1 is proposed to retain the Albion Hotel building situated on the corner of Wallace and Duncan Streets, and a two-storey brick building comprising of shops, offices, and dwellings. Proposed Lot 2 has a frontage towards Duncan Street.

The existing hotel, shop and stables on the subject site are listed on the NSW State Heritage Register as Heritage item 00304. The subject site is also located within the state listed Braidwood and its setting heritage conservation area.

The proposal was notified for a period of 28 days from 27 May 2022 to 24 June 2022 in accordance with the Queanbeyan-Palerang Regional Council Community Engagement and Participation Plan. Four (4) submissions were received during the notification period. The submissions raised concerns with the potential impacts on built heritage from the demolition of structures, issues with stormwater management and concerns around the future use of the proposed vacant lot.

Principal issues related to the development include the impact of the proposed subdivision on structures associated with the sites' heritage listing and the objection to the proposal by Council's Heritage Advisor.

The review application has been made for Integrated Development. Given approval under the *Heritage Act 1977* has been issued the effect of s4.48 of the Environmental Planning and Assessment Act is that Council is not able to refuse the application on heritage grounds.

As a result, the application is recommended for approval subject to the imposition of the recommended conditions of consent.

### BACKGROUND

A summary of all relevant structures located on the site and their history is provided below:

#### Hotel

The existing hotel structure on the subject site currently operates as a café though Council records indicate that the structure has previously been utilised as a dwelling from the 1930s to 1980s and prior to that a hotel in varying forms has existed upon the site since the 1840s.

#### Shops

The two storey terrace shops located to the south of the site were constructed in the 1920s and contain three commercial tenancies.

#### Stables

The existing stable structure upon proposed Lot 1 previously operated as the offices for the Braidwood Times newspaper. The building is currently vacant and the internal fit out removed.

#### **Other**

Historical records indicate that the existing level area upon proposed Lot 12 form the previous foundations of a historical indoor skating rink that was subsequently adapted into a garage structure for patrons of the hotel. This structure was subsequently demolished.

#### **Heritage Listing**

The subject site contains the following State heritage listing:

#### **Excerpt of Heritage Listing from Heritage NSW:**

*Hotel (c. 1872, on at least the foundations of a c. 1855-58 former hotel)*

*The Historical Archaeological Assessment (HAA) prepared by GML provides details and a historical sketch of a c. 1855-58 single-storey hotel, the "Cottage of Content" located on the footprint of the existing two-storey hotel. Judging by the location, form and placement of doors and fenestration along the facade of the c. 1855-58 hotel, it is likely that the existing c. 1872 hotel was built above, or at least on the foundations of the earlier hotel. Therefore, part of the Albion Hotel would date to c. 1855-58 (Heritage Council report, 7.8.2019).*

*Two-storey rendered brickwork hotel with two-storey timber veranda facing Wallace Street, Braidwood's main street, and Duncan Street, a side street. The corner splay parapet is decorated in stucco with urns, volutes and 'ALBION HOTEL'. The external masonry is otherwise undecorated. The two-storied veranda appears to be a partial reconstruction. The columns and beams are stop chamfered in a traditional Victorian manner. The balustrading is also timber in an 'X' pattern. The chimney and many openings appear to be original. The interior contains original mantelpieces and timber architraves (SOHI, 2015, 1).*

*The ground floor has an operating cafe and lawyer's office. The first floor has three residential flats. A fourth residential flat is on the ground floor behind the street front. The hotel roof is corrugated metal (ibid, 2015, 1).*

*Shops (c. 1920s)*

*Three brick shops of two storeys face Wallace Street to the main hotel's south. These are in Federation style and are linked to the hotel by a first-floor timber walkway. These shops are typical of c. 1920 construction. The shopfronts are original to this period. They have single-storey verandas of timber framing on concrete bases and fibre cement valences. Inside, the shops retain some pressed metal ceilings, cornices and rendered brick wall surfaces. The first floor above the shops has two residential flats (ibid, 2015, 1).*

*Terrace (c. 1920s)*

*The terrace is a typical c. 1920 Federation style and is linked to the hotel by a first-floor timber walkway (ibid, 2019).*

*Outbuildings:*

*There are existing outbuildings on site. Later outbuildings are present which date after 1929 (the exact date of each outbuilding is unknown). It is not clear whether any relate to the early 1846-1872 development phase of the site (ibid, 2019).*

*Stables (c. 1855-58)*

*A sandstock brick stables with gabled hay loft faces the side Duncan Street boundary. It was constructed on a rubble granite base. The softer bricks have deteriorated somewhat. The windows and doors appear to be original. Windows have flat arch brickwork with bricks rubbed to fit. The roof is corrugated steel (ibid, 2015).*

*The stables with gabled hay loft and tin metal roof is located to the east of the main hotel. The HAA provides early town plans of the area showing that an identical size structure was located on the footprint of the extant shed by 1859. Therefore, it is highly likely that the stables were built close to or at the same time as the c. 1855-58 'Cottage of Content' (ibid, 2019).*

*Shed:*

*A corrugated steel shed clad in characteristic short lengths was constructed in the rear of the hotel, possibly around the turn of the twentieth century. The door has a sculpted sandstone threshold, evidently reused from another project.*

**Recent DA history:**

**DA.2018.060** – Three lot subdivision – Refused (Heritage NSW refused to issue General Terms of Approval).

**DA.2015.138** – Alterations (renovations) to existing commercial premises (Albion Hotel) – Approved.

**DA.2021.1240** – Two lot subdivision – refused.

**DESCRIPTION OF THE SITE AND LOCALITY**

The subject site is legally described as Lot 1 DP 598830 and is commonly known as 119 Wallace Street, Braidwood. The site is located on the eastern side of Wallace Street and the southern side of Duncan Street and has an area of 2983m<sup>2</sup>.

The site is relatively flat. And contains minimal existing vegetation, except for two large trees on the southern side of the allotment. No vegetation is proposed to be removed.

Existing development on the site comprises of the Albion Hotel building on the corner of Duncan and Wallace Streets. There is a brick building facing Wallace Street that contains shops, offices and dwellings.

There is also a single storey stone stables, small brick store and an open shed structure ('garages'). Vehicular access is provided to the site via an existing driveway from Duncan Street.

Existing development within the locality consists of a mixture of uses predominantly office, retail, and low-density residential premises.



**Figure 1: Subject Site and Locality**



**PROPERTY BURDENS AND CONSTRAINTS**

There are no easements or burdens on the land which could affect, or be affected by, the proposed development.

**DESCRIPTION OF THE PROPOSED DEVELOPMENT**

The application seeks Council approval for the subdivision of land to create two Torrens title allotments and the demolition of two existing sheds located on the subject site.

- Subdivision of an existing 2983m<sup>2</sup> Torrens' title lot into two Torrens title lots:
  - Proposed Lot 1 at 1831m<sup>2</sup> (fronting Wallace and Duncan Street) and comprising of the existing Albion Hotel building and shops/offices,
  - Proposed Lot 2 1152m<sup>2</sup> (fronting Duncan Street)
- The demolition of two existing sheds (T-Shaped sheds) in the centre of the site and garage at the rear of proposed Lot 2,
- Minor ancillary works as approved by Heritage NSW.

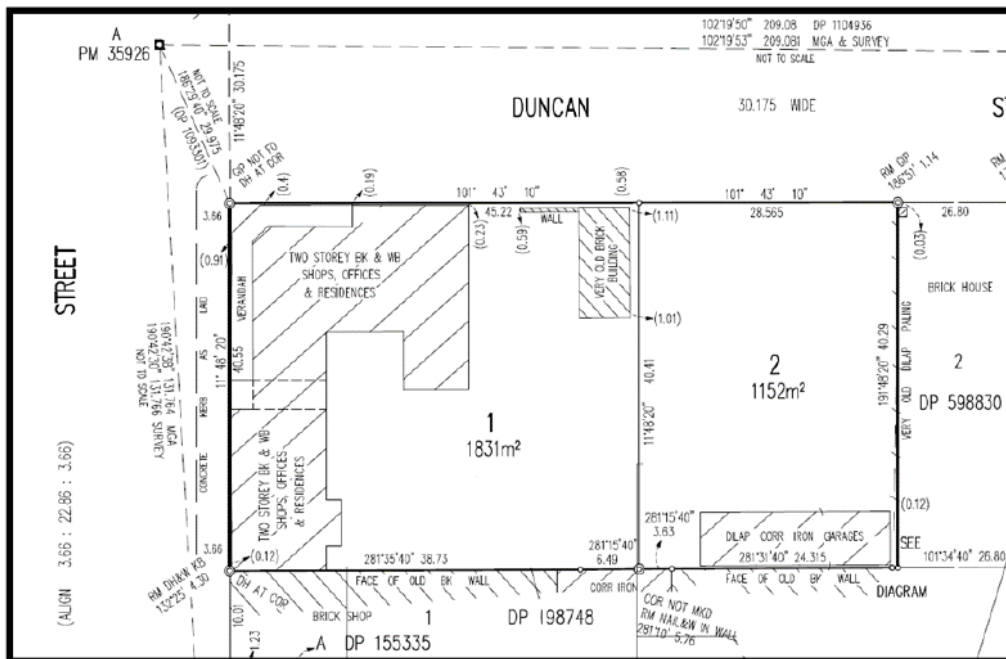


Figure 2: Proposed Subdivision Layout

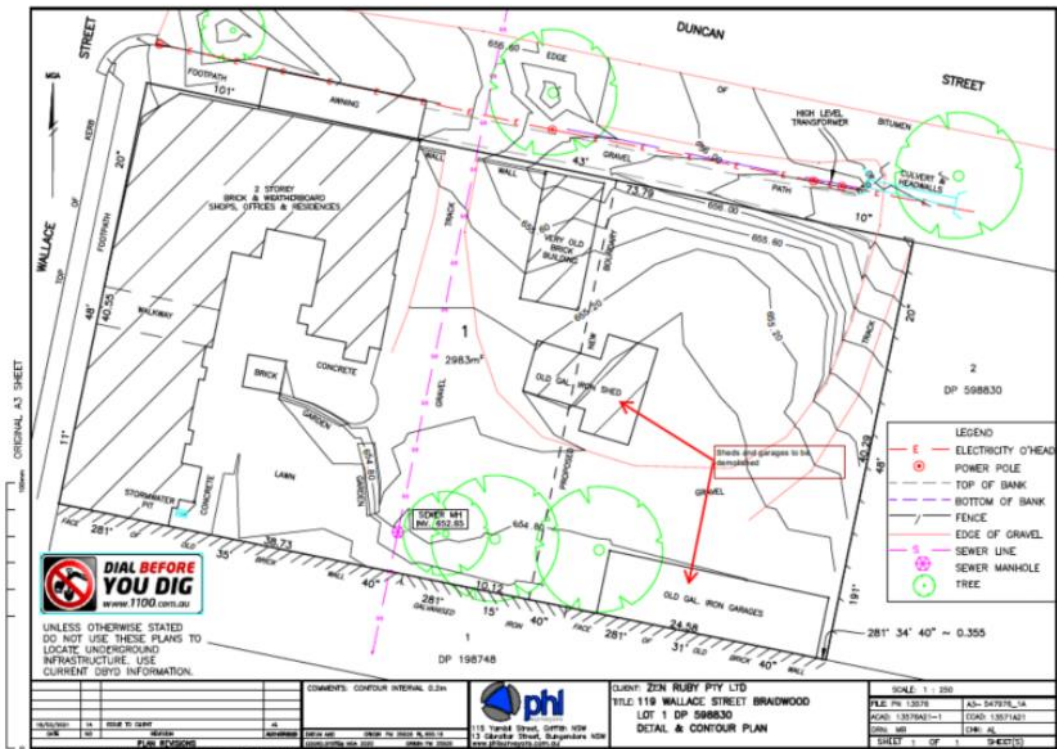


Figure 3: Survey Plan showing proposed subdivision boundary (black) and existing buildings to be demolished labelled.

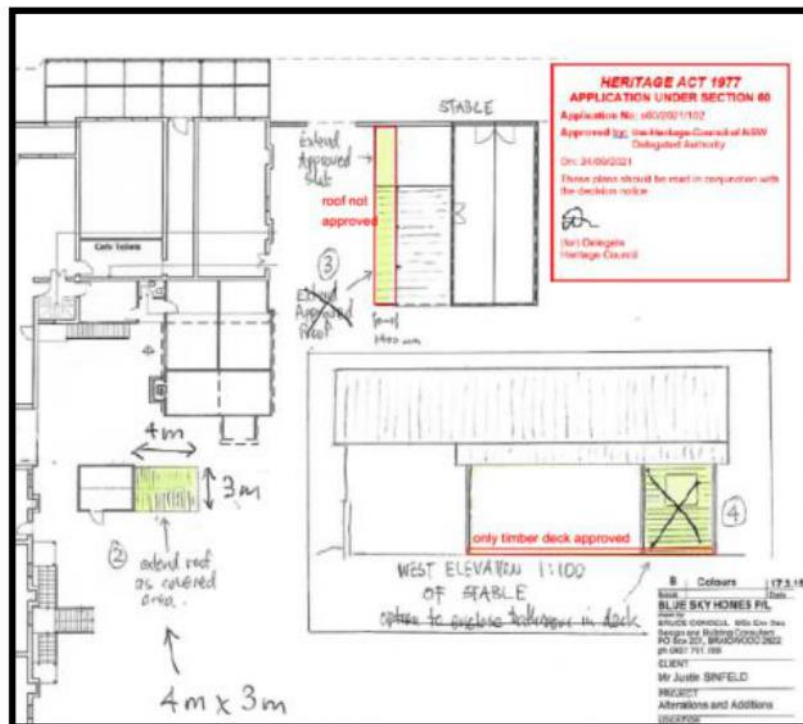


Figure 4: Proposed works – roof to brick store, timber deck and slab to stables

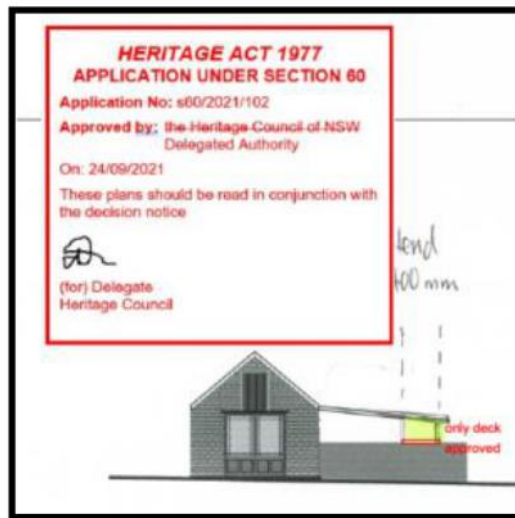


Figure 5: Proposed works –timber deck to stables

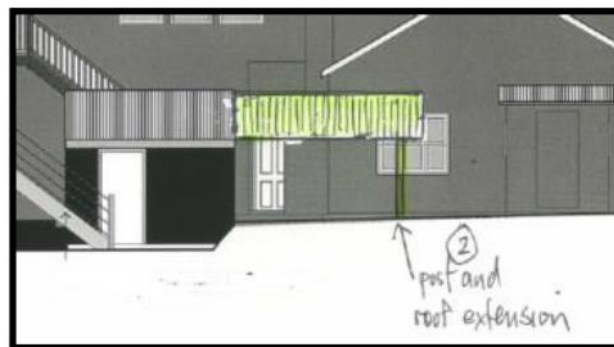


Figure 6: Proposed works – roof extension to brick store

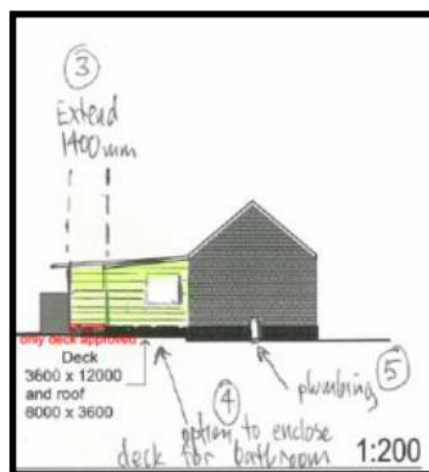


Figure 7: Proposed works - timber deck and existing plumbing

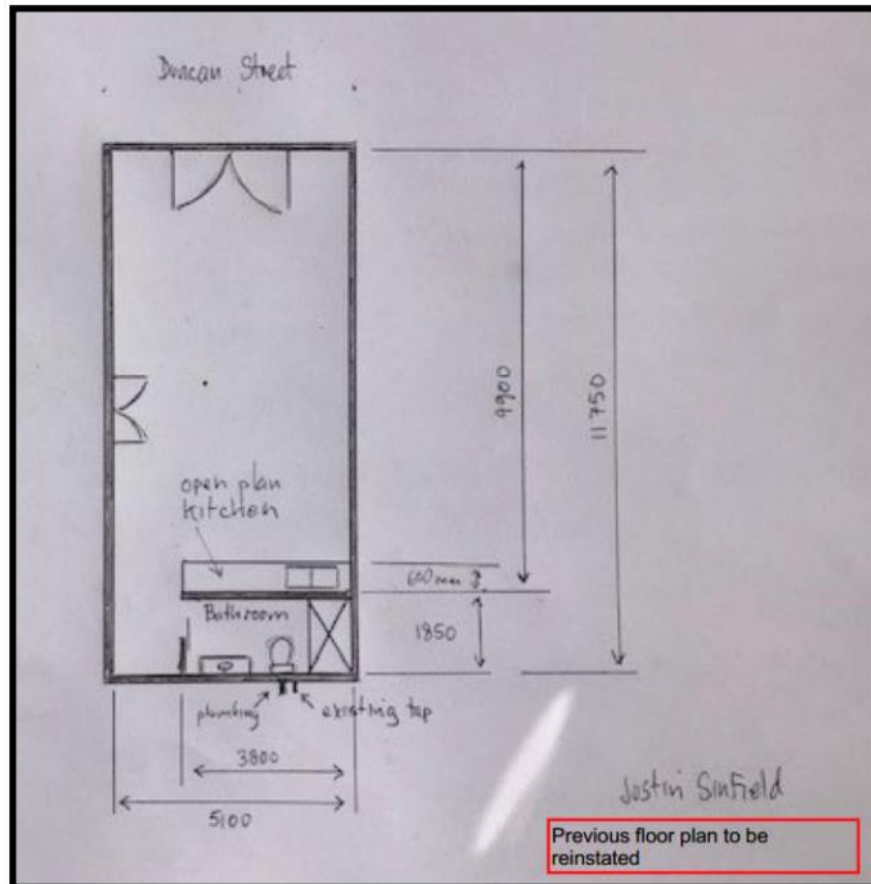


Figure 8 – Stables internal floor plan to be reinstated

#### CONSENT AUTHORITY

In accordance with the *Environmental Planning and Assessment Act 1979* (EP&A Act) the proposal is considered local development and Council is the Consent Authority.

#### SECTION 4.10 DESIGNATED DEVELOPMENT – EP&A Act, 1979

The proposal is not designated development.

#### SECTION 4.47 INTEGRATED DEVELOPMENT – EP&A Act, 1979

The review of determination has been made under section 8.2 of the *Environmental Planning and Assessment Act 1979*. The application has been properly made and the Applicant has demonstrated that the application as made is substantially the same development as originally considered in DA.2021.1240.

The Applicant has confirmed the application has been modified to include consent for demolition and minor works already approved by Heritage NSW as part of this application, which is available to the Applicant under section 8.3(3) of the Act.

The Applicant has also modified the application to follow the Integrated Development assessment path.

Council is required to process a review of determination application in the same way as the original DA, unless where modified by the Applicant. The application is now for Integrated Development so Council referred it to Heritage NSW for their consideration. Heritage NSW confirmed that Section 60 Approval has been issued for the proposed works included in this application.

**Section 60 Approval** – reference: **s60/2021/102** (issue date: 24 September 2021) includes the removal of the T-Shaped sheds in the middle of the lot to which the subdivision boundary line relates.

**Section 60 Approval** – reference: **s60/2020/260** (issue date: 18 November 2020) includes the subdivision layout to create two Torrens title lots (subsequently refused by Council DA.2021.1240).

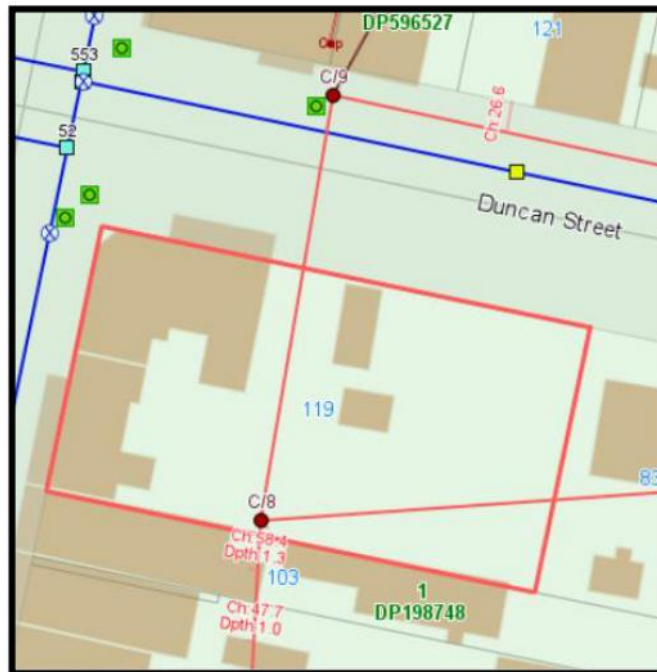
A copy of each Section 60 Approvals are attached to the Council report.

## REFERRALS

### INTERNAL REFERRALS

#### Engineering Comments

Council's Development Engineer offered no objections to the proposal, subject to the imposition of recommended conditions of consent.



**Figure 9 – sewer line location**

The proposed works are clear of the sewer line that traverses the site. A condition has been imposed that easements be created over the sewer infrastructure when the new lots are created.

#### Building Officer Comments

Council's Building Officer offered no objections to the proposal, subject to the imposition of recommended conditions of consent.

### **Environmental Health**

Council's Environmental Health Officer has assessed the proposal against the 'net or beneficial effect' guidelines of Water NSW and confirms the proposed subdivision is able to have a net or neutral beneficial effect.

Council's Environmental Health Officer offered no objections to the proposal, subject to the imposition of recommended conditions of consent.

### **EXTERNAL ADVICE**

#### **Heritage Advisor**

Council's Heritage Advisor opposed the proposed demolition of the existing structures (T-Shaped Sheds and garages) on the site. A detailed copy of the Heritage Advisor's comments is provided in the report to Council.

#### **Legal Advice**

Given Heritage NSW have approved the subdivision including demolition and minor works as listed, Council sought advice from BAL Solicitors on the application of Section 4.48 of the Environmental Planning and Assessment Act 1997 and its ability to decide this determination as now sought.

Section 4.48 applies to development that is "*integrated development for which a heritage approval is required*". The development the subject of the application meets this description.

Integrated development is development that requires development consent and one or more additional approvals. In this case, the development requires an approval under s 58 of the *Heritage Act 1977* for the doing or carrying out of an act, matter or thing referred to in s 57(1) of that Act. In lodging the review application REV.2022.1001, the proponent has amended the application to nominate the development as "integrated development".

Council is reminded that the Review of Development application now presented varies from the development application DA.2021.1240 previously refused. DA.2021.1240 was lodged as a Local Development and did not seek approval for integrated development. Council was not constrained by Section 4.48 in its consideration of that previous development application.

BAL Solicitors advise that;

*The Council is precluded from refusing the application on 'heritage grounds' under s.4.48 of the EPA Act. In our view this includes any heritage related considerations arising from the inclusion of the item in schedule 5 of the Palerang Local Environmental Plan 2014 (PLEP 2014).*

*If the Council were to refuse the application on heritage grounds the proponent may seek review of the merits of that decision in Class 1 Land and Environment Court Proceedings or challenge the validity of the decision in Class 4 judicial review proceedings in the Land and Environment Court.*

BAL's advice is provided to Councillors as a confidential attachment to the Council report.

### **CONSIDERATION OF THREATENED SPECIES**

Council is required under Section 4.15 of the *Environmental Planning and Assessment Act 1979* to make an assessment of whether the proposed development will have a significant impact on any threatened species, populations, or ecological communities, or their habitats. Such threatened species in NSW may be protected under the NSW Biodiversity Conservation Act 2016 or under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act).

Section 7.3 of the Biodiversity Conservation Act 2016 sets out what must be considered in determining whether a proposed development will have a significant impact. Section 7.3 requires the consideration of the following:

- any assessment guidelines applicable to the species, population, or ecological communities, or their habitats, and
- the application of the 'seven-part test' described in the Section.

The subject site is highly urbanised and contains no significant native vegetation. As such, the proposed development is considered unlikely to result in any significant or adverse impacts to any threatened flora or fauna community.

#### **SECTION 4.14 CONSULTATION AND DEVELOPMENT CONSENT – CERTAIN BUSHFIRE PRONE LAND – EP&A ACT, 1979**

The subject site is not bushfire prone.

#### **SECTION 4.15 CONSIDERATIONS – EP&A Act, 1979**

In determining a development application, the consent authority is to take into consideration the following matters of consideration contained within section 4.15 of the Environmental Planning and Assessment Act, 1979 as relevant to the development application:

##### **4.15(1)(a) the provisions of:**

##### **(i) any environmental planning instrument**

#### **STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021**

Chapter 3 Hazardous & Offensive development: This SEPP requires consideration to be given to potential contamination on site in recognition of the existing historical structures.

Conditions have been suggested to manage the potential impact of contaminants including asbestos through the demolition process.

#### **STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT & INFRASTRUCTURE) 2021**

Chapter 2 Infrastructure: This SEPP establishes a number of matters that require consideration for development fronting a classified road including the ability to obtain access from a non-classified road where practicable and compatibility of the development with its proximity to the classified roads and its operation.

The subject site fronts Wallace Street which is a classified road. Access to the site is via Duncan Street. Conditions have been imposed regarding driveway construction to each proposed lot and traffic management during demolition works.

The proposed development includes no actions considered to alter the compatibility of the development with the ongoing operation/ functionality of Wallace Street.

#### **STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY & CONSERVATION) 2021**

Chapter 2 – Vegetation in non-rural areas: The proposal does not require the removal of any native vegetation. The site is heavily disturbed and there is no native vegetation present on the property.

Chapter 8 – Sydney Drinking Water Catchment: The SEPP requires that for development within the Sydney drinking water catchment, such as the proposed development, that consent not be granted to development unless the development results in a neutral or beneficial impact upon water quality.

A NorBE assessment found the proposal to result in a neutral or beneficial impact. As such, the proposal satisfies the relevant provisions of the SEPP. Appropriate soil and erosion controls will be sought through conditions.

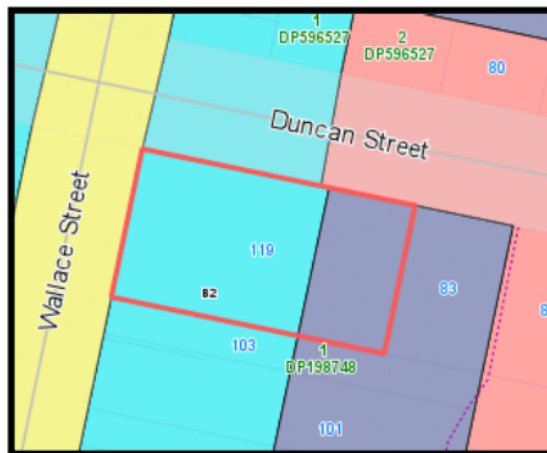
**PALERANG LOCAL ENVIRONMENTAL PLAN (PLEP) 2014**

An assessment of the proposal against the general aims of PLEP 2014 is included below:

<b>Cl. 1.2(2)</b>	<b>Aims</b>	<b>Complies</b>
(a)	<i>to protect and improve the economic, environmental, social and cultural resources and prospects of the Palerang community,</i>	<b>Yes</b>
(b)	<i>to encourage development that supports the long-term economic sustainability of the local community, by ensuring that development does not unreasonably increase the demand for public services or public facilities,</i>	<b>Yes</b>
(c)	<i>to retain, protect and encourage sustainable primary industry and commerce,</i>	<b>Yes</b>
(d)	<i>to ensure the orderly, innovative and appropriate use of resources in Palerang through the effective application of the principles of ecologically sustainable development,</i>	<b>Yes</b>
(e)	<i>to retain and protect wetlands, watercourses and water quality and enhance biodiversity and habitat corridors by encouraging the linking of fragmented core habitat areas within Palerang,</i>	<b>N/A</b>
(f)	<i>to identify, protect and provide areas used for community health and recreational activities,</i>	<b>N/A</b>
(g)	<i>to ensure that innovative environmental design is encouraged in residential development.</i>	<b>N/A</b>

**Permissibility**

The subject site is included partly in the B2 Local Centre zone and partly in the B4 Mixed Use zone under Palerang Local Environmental Plan 2014.



**Figure 10 – B2 and B4 zones**

Development for the purposes of subdivision as proposed is permissible with consent under Clause 2.6 of the PLEP 2014. Demolition is able to be approved under Clause 2.7. Minor ancillary works as proposed are associated with the existing approved uses of the site.

**Zone Objectives B2 Local Centre Zone**

<b>Objectives</b>	<b>Complies</b>
➤ To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.	<b>Yes</b>
➤ To encourage employment opportunities in accessible locations.	<b>Yes</b>



➤ To maximise public transport patronage and encourage walking and cycling.	<b>Yes</b>
➤ To ensure that new development has regard to the character and amenity of the locality.	<b>Yes</b>
➤ To strengthen the viability of Palerang's existing business centres as places for investment, employment and cultural activity.	<b>Yes</b>
➤ To support business development by providing parking and other civic facilities.	

**Comment:** The proposal principally seeks to create two vacant lots in a central location of Braidwood. Future uses will be required to demonstrate compliance with the zone objectives. There is no conflict with this proposal and the zone objectives.

#### Zone Objectives B4 Mixed Use Zone

An assessment of the proposal against the objectives of the B4 Mixed Use zone is included below:

<b>Objectives</b>	<b>Complies</b>
➤ To provide a mixture of compatible land uses.	<b>Yes</b>
➤ To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.	<b>Yes</b>
➤ To ensure that new development has regard to the character and amenity of the locality.	<b>Yes</b>
➤ To strengthen the viability of Palerang's existing business centres as places for investment, employment and cultural activity.	<b>Yes</b>
➤ To support business development by providing parking and other civic facilities.	<b>Yes</b>

**Comment:** The proposal principally seeks to create two vacant lots in a central location of Braidwood. Future uses will be required to demonstrate compliance with the zone objectives. There is no conflict with this proposal and the zone objectives.

#### Part 4: Principal development standards

An assessment of the proposal against the relevant provisions contained within Part 4 of the PLEP 2014 is provided below.

##### Minimum subdivision lot size

<b>Cl.</b>	<b>Standard</b>	<b>Controls</b>	<b>Proposed</b>	<b>Complies</b>
4.1	Minimum subdivision lot size	850m <sup>2</sup>	1831 m <sup>2</sup> Lot 1 1152m <sup>2</sup> Lot 2	<b>Yes</b>

#### Part 5: Miscellaneous Provisions

The relevant provisions contained within Part 5 of the PLEP 2014 are addressed below as part of this assessment:

##### 5.10 Heritage conservation

The subject site is located within the C1- Braidwood Heritage Conservation Area and also contains an individually listed State heritage item.

Council's Heritage Advisor opposes the proposal with the key issue relating to the demolition of the existing T-Shaped Sheds located in the middle of the lot.

It is considered that the proposed development will have an impact on the heritage value of the site. However, Heritage NSW has issued Section 60 Approval for both the subdivision layout and demolition of the T-Shaped Sheds and garages.

Pursuant to clause 4.48 of the Act, Council is unable to refuse the application on heritage grounds. A copy of the Heritage Advisor's referral is provided in the report to Council.

It is suggested that materials from the structures to be demolished as a consequence of the subdivision can be salvaged and reused if possible. A condition to this affect could be included in the consent.

**Part 6: Local Provisions**

The relevant provisions contained within Part 6 of the PLEP 2014 are addressed below as part of this assessment:

**6.1 Earthworks**

Clause 6.1 of the PLEP 2014 establishes several matters requiring consideration for development involving earthworks. The subject land is relatively flat and the proposal involves minimal earthworks.

**6.4 Drinking Water Catchments**

Clause 6.4 of the PLEP 2014 makes provision for developments within a drinking water catchment. A NorBE assessment was undertaken. The proposal is not anticipated to have any negative impact on the Sydney Drinking Water Catchment and will be connected to the reticulated water and sewer supply.

**6.11 Essential services**

Clause 6.11 of the PLEP 2014 requires satisfactory arrangements to be made for water supply, stormwater drainage, solid domestic waste, sewage, and the treatment and disposal of effluent. Along with the supply of electricity and suitable vehicle access.

Infrastructure is available to the site and is able to be extended to each lot as required through conditions. The proposal is able to be supported by Council's Engineer.

**4.15(1)(a)(ii) any draft environmental planning instruments**

The draft comprehensive *Queanbeyan-Palerang Local Environmental Plan 2020* is relevant to the proposed development. The draft LEP does not present any changes to permissibility or development standards that would result in any material changes to the proposal. Nor does the proposal rely on the draft instrument for permissibility.

**4.15(1)(a)(iii) any development control plan**

<b>BRAIDWOOD DEVELOPMENT CONTROL PLAN</b>	
<b>Section</b>	<b>Assessment</b>
<b>Part Two – Section 4. Precincts</b>	<b>Precinct 1A – Wallace Street Commercial Area</b>

**4.1 Precinct 1a – WALLACE STREET COMMERCIAL AREA**

The commercial area is located in the central and northern part of Wallace Street and to a small extent on adjacent cross roads as shown below.



Figure 2 Wallace St Commercial Area (shown hatched)

The subject site is located in Precinct 1A 'Wallace Street Commercial Area' of Braidwood. The site is listed as containing a State heritage item (s) and is located within the Braidwood Heritage Conservation Area.

**Objectives**

- (a) to preserve the historical character of the precinct's townscape and the contributory and individual significance of the individual heritage items within it;
- (b) to ensure development in the vicinity of buildings with historical importance is in harmony with the form and scale of those buildings; and
- (c) to encourage the location of retailing, office space, and other commercial enterprises which service local and regional needs.

The proposed subdivision will result in the demolition of sheds and garage associated with the Albion Hotel. Some items of contributory heritage value will not be preserved as a consequence of the proposed development.

The T shape sheds are a conjoined (T-shaped) pair of single-storey, timber-framed and gable roofed buildings clad in short-length corrugated metal sheeting (rusted in parts) situated immediately south of the stables. Three single-leaf timber doors and used for storage. Likely early 20th century in origin. The Heritage Impact Statement (Baseline Historical Archaeological Assessment by GML Heritage) indicates these buildings are not significant from a heritage perspective.

The garages are detached, low-slung, timber-framed structures, clad in short-length corrugated metal sheeting (rusted) are located along the rear boundary brick wall in the south-east corner of the site. They are divided into six small bays and are in very poor condition. Likely early 20th century in origin. The Heritage Impact Statement (Baseline Historical Archaeological Assessment by GML Heritage) indicates these buildings are not significant from a heritage perspective.

Approval has been granted by Heritage NSW that specifically permits demolition of these structures.

BAL Lawyers advise that, according to the explanation of the bill that introduced s.4.48, the purpose of s4.48 was to *remove* the ability of a council to refuse a development on *heritage grounds when it has been rigorously*

	<p><i>assessed and approved by the Heritage Council, because it is logical that the states prime heritage body...should have a primary role in assessing the heritage impact of a development.</i> This reflects the hierarchy in heritage listings, with items on the State Heritage Register being of broader heritage significance than items listed on the Local register.</p> <p>The prime historical structures being the Albion Hotel and adjoining building will remain.</p> <p><b>Land use Preferred land uses:</b></p> <ul style="list-style-type: none"> <li>• shops</li> <li>• offices</li> <li>• hotels</li> <li>• cafes and restaurants</li> <li>• community hall</li> <li>• galleries</li> <li>• other compatible commercial development</li> </ul> <p><b>Other possible land uses:</b></p> <ul style="list-style-type: none"> <li>• dwellings and multi-unit housing (whether attached or not) associated with a preferred land use</li> <li>• cottage industries associated with existing dwellings</li> </ul> <p><b>New development</b>          New development shall:</p> <ul style="list-style-type: none"> <li>• be no higher than the maximum height of the adjacent building;</li> <li>• not obscure significant views of adjacent buildings;</li> <li>• be sympathetic to and consistent with the historic built form evident in the main street;</li> <li>• not be visually dominant in the streetscape; and</li> <li>• have direct access from the main street, i.e. a doorway opening onto the main street.</li> </ul> <p>The proposal is principally for the subdivision land. No new development is proposed. Any future uses on the proposed lots will be required to comply with relevant provisions of the local environmental plan in place when any application is made.</p>
<p><b>Part Four: Other Provisions</b></p>	<p>A majority of the general provisions contained within Part four Section 7 of the Braidwood DCP relate to buildings. Requirements for vehicular access are contained within the Development Engineer's referrals and will be required pursuant standard conditions of consent.</p>
<p><b>Part Eight – Heritage Listed Items</b></p>	<p><b>Section 8.3 – Demolition</b></p> <p>The demolition or partial demolition of a heritage listed item is classified as Integrated Development under section 91 of the Act and also requires the consent of the NSW Heritage Council.</p> <p>Heritage NSW has issued a Section 60 Approval for the demolition of the T-Shaped Sheds and garage located on the subject land.</p>
<p><b>Part Five: Subdivisions</b></p>	<p><b>Control</b></p> <ul style="list-style-type: none"> <li>• Subdivision shall not alter Braidwood's historic town plan, block and lot boundaries, roads, or lanes.</li> </ul> <p>The proposed layout of each lot will not alter the historic town plan and grid pattern layout. It is consistent with the historic development pattern.</p>

	<ul style="list-style-type: none"> <li>• New lot boundaries within the town shall be parallel with or at right angles to the historic grid.</li> </ul> <p>The proposed lot layout is consistent with this requirement.</p> <ul style="list-style-type: none"> <li>• New subdivision must not facilitate development which may block views from the town to the surrounding countryside.</li> </ul> <p>The proposed lot layout is not inconsistent with this requirement. Future applications for buildings will be subject to further assessment against the relevant provisions of this DCP.</p> <ul style="list-style-type: none"> <li>• The consent authority must be satisfied that the built forms that would be likely to arise from approval of a subdivision application will not have any detrimental impact on the town's heritage significance, or on the traditional patterns and rhythms of its streetscapes or roofscapes.</li> </ul> <p>The lot layout is not likely to allow development that is inconsistent with the heritage significance of Braidwood.</p> <ul style="list-style-type: none"> <li>• Subdivision shall not result in the creation of 'stacked battleaxes' or adjacent groups of battleaxe driveways, the building of structures across historic property boundaries or otherwise be considered likely to encourage non-traditional forms such as cluster housing</li> </ul> <p>No battle axe allotment are proposed. Not applicable.</p> <ul style="list-style-type: none"> <li>• Subdivision shall comply with the setback requirements in this DCP.</li> </ul> <p>Noted. No building envelope required. Future development subject to an assessment of relevant setback requirements.</p> <ul style="list-style-type: none"> <li>• The minimum lot size as set out in the LEP is not to be taken as a standard for all lots within a subdivision. It is likely that larger lots may be necessary to meet the character provisions in this DCP.</li> </ul> <p>The proposed lots exceed the 850m<sup>2</sup> minimum lot size.</p>
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**4.15(1)(a)(iia) any planning agreement or draft planning agreement**

No planning agreement has been entered into under section 7.4 of the *Environmental Planning and Assessment Act 1979*.

**4.15(1)(a)(iv) matters prescribed by the regulations**

Clause 92 of the *Environmental Planning and Assessment (EP&A) Regulation 2000* requires Council to take into consideration Australian Standard AS2601–1991: *The Demolition of Structures*, in the determination of a development application.

Having regard to these prescribed matters, the proposed development does involve the demolition of a building for the purposes of AS 2601 – 1991: *The Demolition of Structures*.

Should this application be approved, appropriate conditions of consent are suggested to ensure compliance with any relevant regulations.

**4.15(1)(a)(v) any coastal zone management plan**

Council is not subject to a coastal zone management plan.

**4.15(1)(b) the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality**

The proposal will have minimal environmental and social impacts. The demolition of contributory heritage buildings will be a consequence of this proposal. However, the Heritage Impact Assessment by GML Heritage confirms the buildings are not significant. Heritage NSW, the relevant state authority has also issued Section 60 Approval for this element of the DA.

**4.15(1)(c) the suitability of the site for the development**

The subject site is relatively unconstrained and is considered suitable in its current state for the purposes of the proposed development.

**4.15(1)(d) any submissions made in accordance with this Act or the regulations**

The application was notified in accordance with the QPRC Community Engagement and Participation Plan from 27 May 2022 to 24 June 2022 with four (4) submissions received arguing the proposal is not in the public interest and raising concerns with the proposed demolition and heritage impacts.

**1) The proposed development is considered to have an unacceptable impact on the public interest.**

*Comment:*

The 'public interest' is a specific test at law and can be considered 'something of serious concern to the public at large or a significant section of the public, such as a disadvantaged or marginalised group. For something to be of 'public interest' it must amount to more than a private right or individual interest. Also, it must amount to more than something merely 'of interest to the public'

The proposal complies with all statutory controls in the Palerang Local Environmental Plan, relevant State Environmental Planning Policies and the relevant Development Control Plan.

The proposed development therefore sufficiently demonstrates it is in the public interest despite the issue being raised by one individual submitter. There are no grounds for refusal based on public interest.

**2) The proposed development is considered to have an unacceptable impact on two buildings considered to have local heritage significance.**

*Comment:* Four (4) submitters raised issues with the consequential demolition of the T-Shaped Sheds and garage that would result from the approval of the proposed subdivision. Despite this Heritage NSW has issued a Section 60 Approval for the demolition of these structures and Council is unable to refuse the application on heritage grounds based on Section 4.48 of the EP&A Act 1979.

The concerns of the four (4) submitters on the impact to the contributory heritage listing is acknowledged however given the s60 approval and Council's inability to refuse the application on heritage grounds, it is recommended that the application be approved.

BAL Lawyers confirm there is a hierarchy in heritage listings, with items on the State Heritage Register being of broader heritage significance than items listed on the Local register. Further, that the State Heritage Council, in determining whether to issue a heritage approval under s 57, is required to consider impacts on local heritage including *the extent to which that application, if approved, would affect the significance of any item as an item of the environmental heritage*. "Environmental heritage" is defined in the Heritage Act as *those places, buildings, works, relics, moveable objects, and precincts, of State or local heritage significance*.

Council officers see no conflict with the hierarchy of listing with the State Heritage Register prevailing. Given the State has issued approval for demolition, Council officers recommend Council support this proposal for subdivision including demolition and ancillary works.

Council can seek that the materials be salvaged and repurposes as a condition of consent.

### **3) Additional proposed building work.**

As discussed above an applicant for a review of determination can modify their proposal. The Applicant confirmed all works approved by Heritage NSW are to be considered in this assessment.

#### **4.15(1)(e) the public interest**

The public interest is served through the detailed assessment of this development application under the relevant local planning controls and legislation and consideration of any submissions received relating to it by Council. The proposed development is not considered to be contrary to the public interest.

#### **SECTION 64 CONTRIBUTIONS**

Section 64 of the *Local Government Act 1993* allows contributions to be levied towards the provision of water, sewerage, and stormwater infrastructure. The contributions will be calculated at the date of determination.

#### **SECTION 7.11 CONTRIBUTIONS**

Section 7.11 of the *Environmental Planning & Assessment Act 1979* permits councils to require as a condition of development consent, the reasonable dedication of land or the payment of monies, or both, for development that is likely to require the provision of, or increase the demand for public amenities and public services within the area.

Section 7.11 Contributions are applicable to the proposed development and will be calculated at the date of determination.

#### **CONCLUSION**

The application has been assessed having regard to Section 4.15 of the *Environmental Planning and Assessment Act 1979* and is considered satisfactory for approval subject to the recommended conditions of consent.



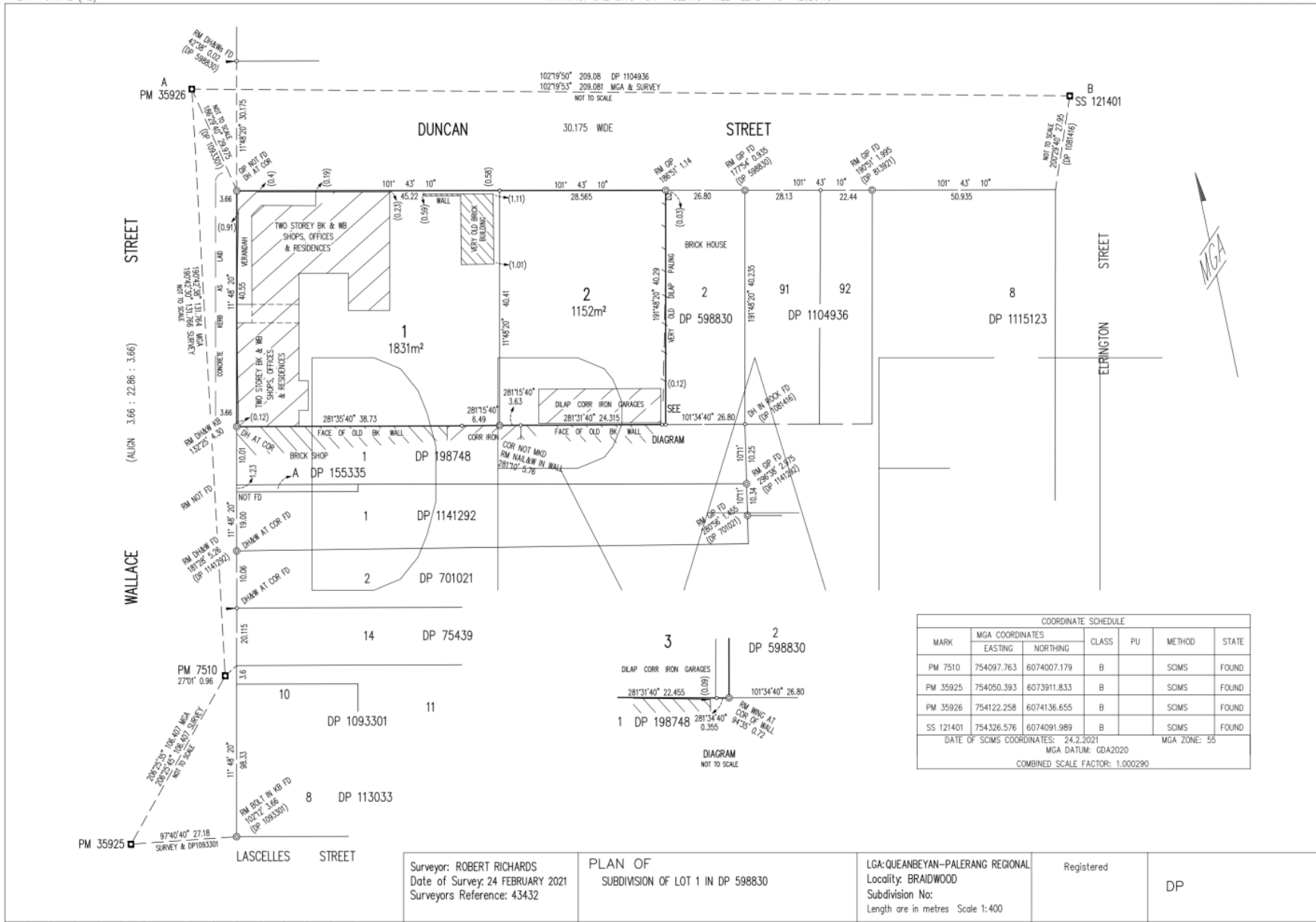


9.3 Review of Determination REV.2022.1001 - 2 Lot Subdivision with Associated Works - Review of Council's Determination of DA.2021.1240 - Albion Hotel - 119 Wallace Street, Braidwood  
 Attachment 2 - REV.2022.1001 - Plans - The Albion - 119 Wallace Street, Braidwood (Continued)

PLAN FORM 2 (A2)

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

Sheet 1 of 1 sheets



COORDINATE SCHEDULE						
MARK	MGA COORDINATES		CLASS	PU	METHOD	STATE
	EASTING	NORTHING				
PM 7510	754097.763	6074007.179	B		SCIMS	FOUND
PM 35925	754050.393	6073911.833	B		SCIMS	FOUND
PM 35926	754122.258	6074136.655	B		SCIMS	FOUND
SS 121401	754326.576	6074091.989	B		SCIMS	FOUND
DATE OF SCIMS COORDINATES: 24.2.2021						MGA ZONE: 55
MGA DATUM: GDA2020						
COMBINED SCALE FACTOR: 1.000290						

Surveyor: ROBERT RICHARDS  
 Date of Survey: 24 FEBRUARY 2021  
 Surveyors Reference: 43432

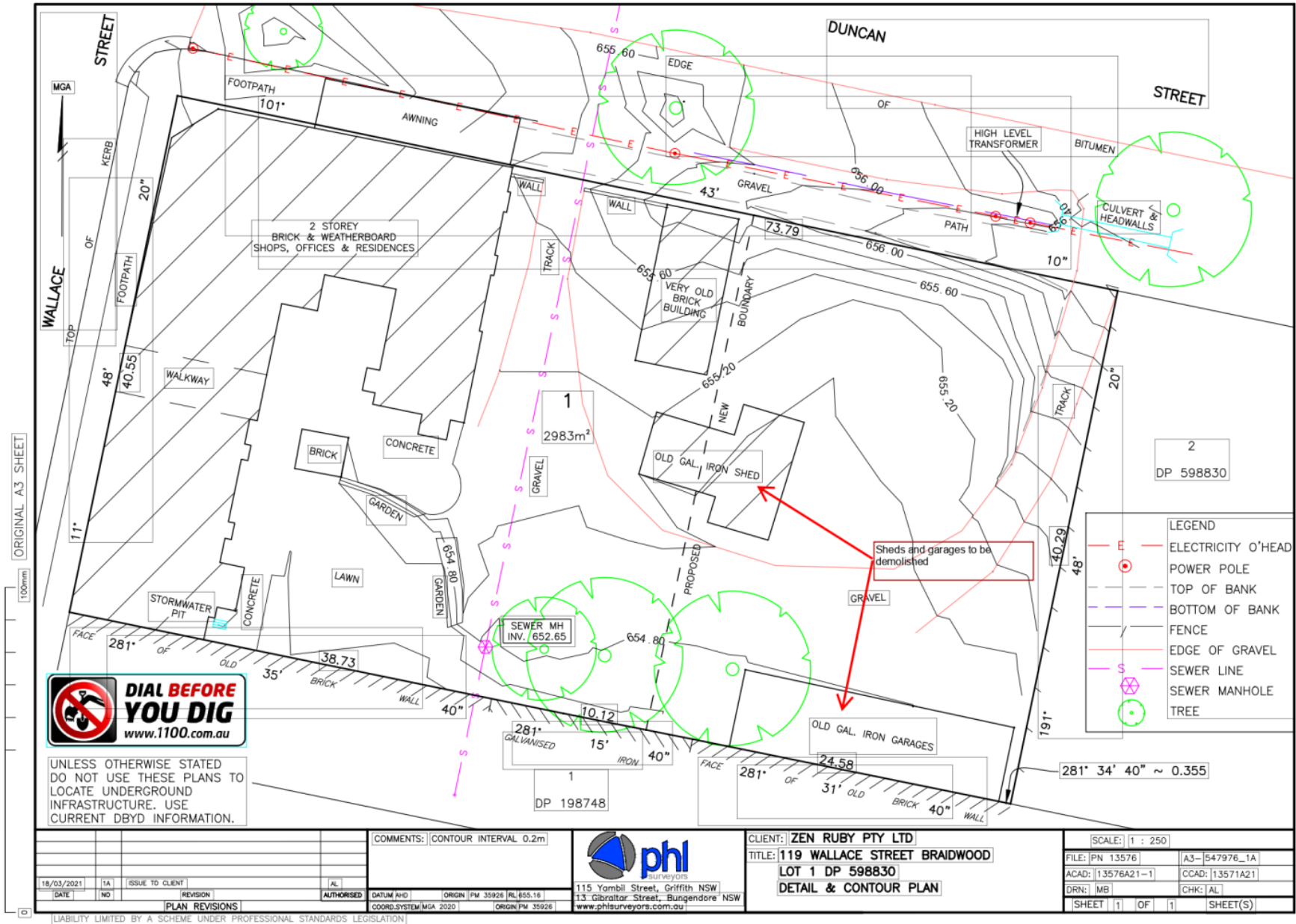
PLAN OF  
 SUBDIVISION OF LOT 1 IN DP 598830

LGA: QUEANBEYAN-PALERANG REGIONAL  
 Locality: BRAIDWOOD  
 Subdivision No:  
 Length are in metres Scale 1:400

Registered

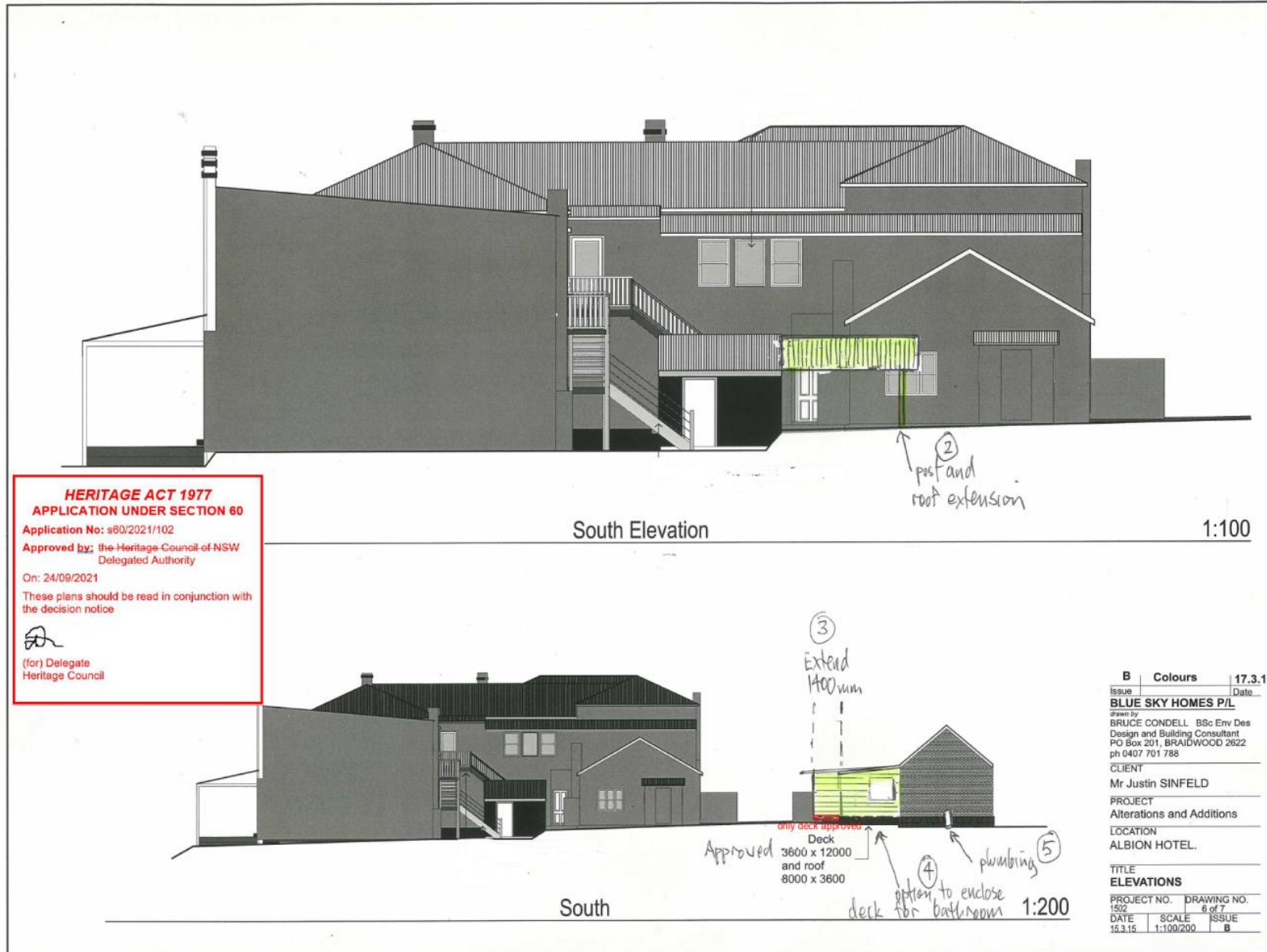
DP

10	20	30	40	50	Table of mm	80	90	100	110	120	130	140
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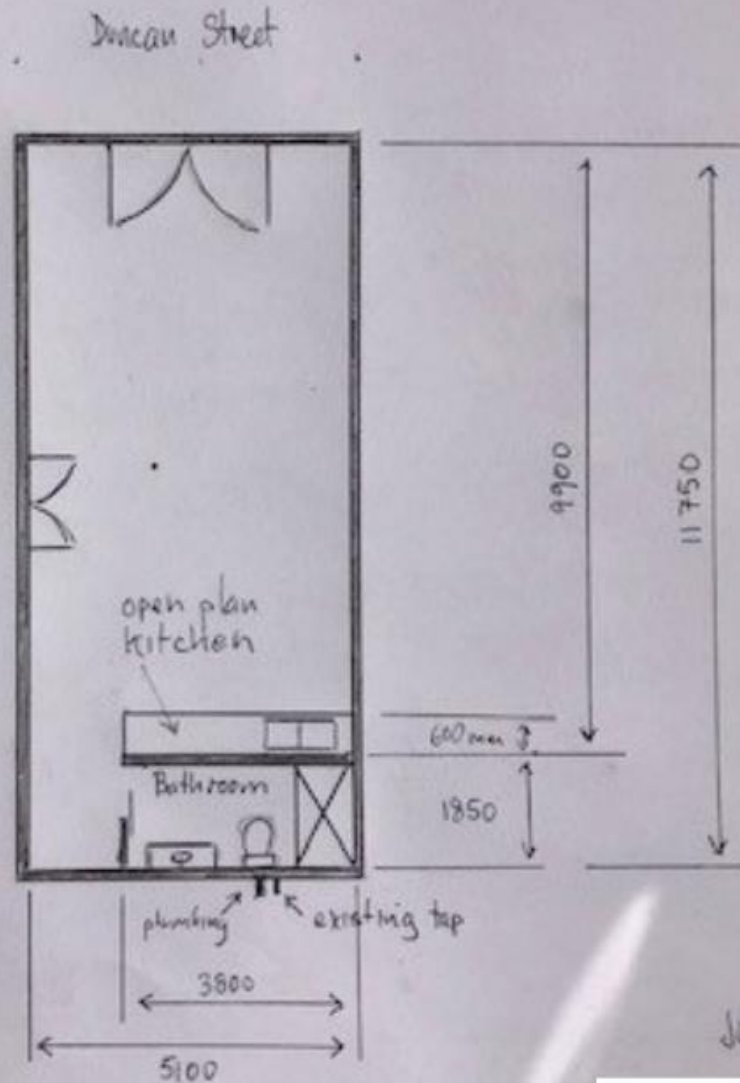


**HERITAGE ACT 1977**  
**APPLICATION UNDER SECTION 60**  
Application No: s60/2021/102  
Approved by: the Heritage Council of NSW  
Delegated Authority  
On: 24/09/2021  
These plans should be read in conjunction with  
the decision notice  
  
(for) Delegate  
Heritage Council

North  
↑

Albion Stable

Showing EXISTING  
enclosed area from  
long ago.  
Braidwood Times  
Had this fit out  
from a very long  
tenancy.



PREVIOUS FLOOR PLAN TO BE  
REINSTATED



**Objection to REV.2022.1001  
Review of Determination – DA.2021.1240 – Two Lot Torrens Title Subdivision  
119 Wallace Street, Braidwood**

At the QPRC General Meeting of March 9 2022, Council voted to refuse DA.2021.1240, Two lot Torrens title subdivision and demolition of two existing sheds and garages (Albion Hotel Site). I submit that Council should also reject this request for a Review of that Determination.

The reasons given for refusal of the DA.20221.1240 are:

- The proposed development is considered to have an unacceptable impact on the public interest. [SEP]
  
- The proposed development is considered to have an unacceptable impact on two buildings considered to have local heritage significance. [SEP]

There is insufficient evidence provided by the applicant in this objection to address a review of the Council's determination.

*1. The proposed development is considered to have an unacceptable impact on the public interest. [SEP]*

The applicant has submitted extensive repetitive documentation relating to the Albion Building. However there is no information demonstrating that the development would have a positive effect on the public interest, despite the community expressing its support.

*2. The proposed development is considered to have an unacceptable impact on two buildings considered to have local heritage significance.*

'The Albion Hotel, 3 adjoining shops and stables' is entered in the State Heritage Register (no. 00304) for its significance to the state of NSW. It is also located within the heritage conservation area of the State Heritage listing for Braidwood and its Setting (no. 01749).

It is separately listed as an item of environmental heritage under Schedule 5 of the Palerang Local Environmental Plan 2014 (LEP), identified as 'The Albion and Outbuildings'. The entry for 'The Albion and Outbuildings' in the LEP includes a statement of heritage significance:

*Historic aesthetic and social value. Prominent location, streetscape value, good condition, some modifications. Also includes brick barn, corrugated iron shed and stables. Place is listed on State Heritage Register.*

The applicant has resubmitted the Conservation Management Plan (CMP) for the Albion Hotel complex which supports the listing as an individual item on the State Heritage List. There is a revised Statement of Significance for three components of the site: the Albion Hotel, Stables and terrace row, as *All three make a positive contribution to the townscape of Braidwood. Other structures and landscape elements at the place, such as the pair of corrugated metal sheds, brick outbuilding, garages, well cap, gravel driveway, and plantings are not significant (CMP p 49).*



While the CMP recognises that the site is listed in the LEP and that it is subject to the Environmental Protection Act in Section 4.1, following the revised Statement of Significance for the State Heritage listing, it refers to 'likely' local significance:

*Overall, evidence associated with the site would be likely to be of local significance for historical, research and social values, as well as possibly of aesthetic value (CMP p 50).*

Despite this statement the CMP fails to discuss the local heritage values of the corrugated iron sheds and stables/garages with no acknowledgement of their loss if the proposed subdivision were to proceed; separation of the corrugated iron sheds and stables from the hotel complex and of their subsequent demolition.

There is no new information provided to address any potential loss of local heritage values in the documentation provided. Part 2, section 6 *Remove dilapidated sheds from rear of lot and on boundary line* discusses their demolition focusing on

- the application's assertion that the 'Heritage Council determined where they wanted the sub division boundary'
- the boundary line goes through the middle of a dilapidated shed
- removal for the dilapidated shed is requested
- it is not part of the heritage items and is in such a bad state of repair that it only serves as a danger to injury
- that sheds at rear of boundary are marked as 'very dilapidated and on a very serious lean posing risk to property and people'
- removal of the sheds would provide safe parking space, and
- the old sheds straddle the boundary.

There is no reference to the identified local heritage significance and any consideration of the potential impact the loss of these values may have on the Albion site. Options discussed are for potential economic benefits of land use.

There is insufficient evidence provided by the applicant to support a Review of the Determination. Therefore I do not support a Review of that Determination.

Thank you for the opportunity to provide a submission on this DA Review.

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# Make a submission on a Development Application



Submission date: 22 June 2022, 12:00PM  
Receipt number: 554  
Related form version: 14

Development Application Number	Rev.2022.1001
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

## Submission

The developer seems to have made no changes to the original submission. I therefore object the the subdivision on the same grounds as I previously advised. It was difficult to accurately assess any changes the applicant may have made but I surmised that the intention to demolish heritage items remains the same. The developer's submission is disjointed and hard to follow, full of obfuscation and irrelevant material. Much is made of proposed building works that are presumably the subject of another Development Application. All these references are irrelevant to the submission being discussed.

My objection remains the proposed demolition of the corrugated iron sheds. The sheds are protected under the local heritage register. Owners, Councillors and the community have a duty to ensure the protection of listed items classified as heritage items.

I have no other objections to the development and with the necessary protections in place will welcome the productive use of the subdivided block.

Attach your submission

Attach your Political Donations and Gifts Disclosure Statement

[Disclosure.jpg](#)

## Objection to REV.2022.1001

### Review of Determination – DA.2021.1240 – Two Lot Torrens Title Subdivision 119 Wallace Street, Braidwood

At the QPRC General Meeting of March 9 2022, Council voted to refuse DA.2021.1240. I submit that Council should uphold that decision and again refuse the application to subdivide the Albion Hotel site and demolish two metal sheds located behind the brick Stables building.

#### Reasons for Objection:

1. The Request for Review does not address the reasons for Council's refusal of DA.2021.1240. Council's determination was as follows:

1. *Development Application DA.2021.1240 for a two lot Torrens title subdivision and demolition of two sheds and garages on Lot 1 DP 598830, No. 119 Wallace Street, Braidwood be refused for the following reasons:*
  1. *The proposed development is considered to have an unacceptable impact on the public interest.*
  2. *The proposed development is considered to have an unacceptable impact on two buildings considered to have local heritage significance.*
2. *The applicant Zen Ruby P/L be invited to submit a fresh development application to sub-divide Lot 1 DP 598830, which incorporates a boundary line that retains the two existing sheds on the same lot as the Stables and Albion Hotel and meets the minimum lot size for Zone B4 under Palerang Local Environmental Plan 2014.*

2. In the documents supplied by the applicant, there is no reference to the 'unacceptable impact on the public interest'. Submissions opposed to DA.2021.1240 provided significant evidence of public opposition to the proposed demolition of the two metal sheds behind the Stables building. There were 357 names on a submission opposing the demolition of the sheds. All of those names were genuine.

3. The applicant claims that the sheds are dilapidated, in a bad state of repair, and a danger to injury.

*"The boundary line goes through the middle of a dilapidated shed. As such removal for the dilapidated shed is requested.*

*The CMP and Archaeology report make no reference to the dilapidated shed. It is not part of the heritage items and is in such a bad state of repair that it only serves as a danger to injury. Corrugated material can be salvaged and utilize intact pieces for other parts of the project such as awning."*

(Notification Plans Part 2, p19)

In fact the sheds behind the Stables are not dangerous, and are not beyond repair. They were used for storage by the most recent lessees of the Stables building. As the owner of a State Heritage Listed property, the applicant has an obligation to maintain all the buildings on the site. Neglect is not acceptable as a reason for demolition.

4. There is no reference to the identified Local Heritage Significance, and no consideration of the potential impact that the demolition of the sheds would have on the heritage values of the Albion Site.

5. The applicant continues to claim, erroneously, that the proposed subdivision boundary was specified by the Heritage Council. Below are some examples of these claims.

*"The proposal is outlined in a plan prepared by M & M Surveys, undated, which details a three-lot subdivision of Lot 1, DP 598830—the Albion Hotel complex. The 3 lot subdivision was denied by Heritage Council and instead approved a 2 lot subdivision specifying the subdivision line be 1 metre East of the stable."*

*"Heritage Council determined where they wanted the sub division boundary. Heritage Division were bound to go with the decisions of Heritage Council."*

*"in addition the Heritage Council and Heritage division after 2 years of consideration and a very extensive CMP decided on the position of the boundary line".*

The NSW Heritage Council Approvals committee did NOT specify that the subdivision boundary had to be located exactly 1m from the Stables. The determination of the Heritage Council Approvals Committee was that it

*"3. Supports the excising of the proposed lot 12, which establishes a similar, earlier boundary, as long as the boundary is set back by at least 1 metre from the eastern alignment of the stables building."*

*"4. Notes that arrangements other than subdivision can enable the economic adaptive reuse of the listed buildings, while maintaining clear responsibility for Conservation Management."*

(Extract from Minutes of the Heritage Council Approvals Committee meeting, 7th August 2019)

In refusing DA.2021.1240, Council suggested that the applicant should reconsider the location of the subdivision boundary. This Request for Review does not address that suggestion.

6. The applicant is relying in part on s60 approvals obtained from Heritage NSW before submitting DA 2021/1240 to Council. Heritage NSW have acknowledged that Council is the Consent Authority. Section 60 approvals do not override or negate Council's role in determining the application.

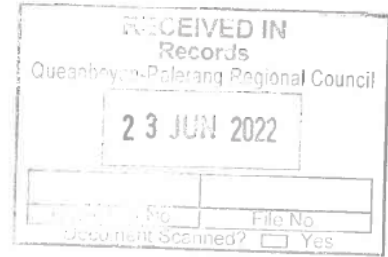
7. Some of the documents in this application refer to a proposal for construction work on the building known as "The Stables". While the work on the Stables has Section 60 approval from Heritage NSW, it has not been submitted to QPRC in any DA. It is not clear why this work is included, as it was not the development applied for in DA.2021.1240. Council cannot make any determination about this work until a DA is submitted for this. All references to this proposed work on the Stables are not relevant to this Application for Review.

8. The document in **Notification Plans Part 2** headed "**HERITAGE IMPACT STATEMENT Albion Hotel complex: 119 Wallace Street, Braidwood**", states that the author is 'Touring the Past', but it includes sections written by the applicant. It appears to be a cut-and-paste from an earlier HIS interspersed with comments by the applicant and quotes from other documents. It is hard to identify the author of different sections. The pages aren't numbered and the comments are not clearly referenced. The HIS by 'Touring the Past' was written for an earlier application for subdivision, so it cannot be used without being updated by the original author as part of this application.

I submit that there is no evidence in this Application for Review to support a change to the previous Determination by Council.

Thank you for considering my submission.





**DECLARATION OF POLITICAL DONATIONS AND GIFTS FOR SUBMITTERS**

Use this form to declare whether you have made a Political Donation to an elected member of Council or gift to an elected member of Council or Council staff

Has the person lodging this written submission made political donation or gift to the value of \$1,000 or greater, to an elected member of Council or staff of Queanbeyan-Palerang Regional Council?

NO   
YES

Signature of Submitter: [Redacted]

Name: [Redacted]

Address: [Redacted]

Development Application Number: LOT 1 DP 598830  
DA 2021.1240 two lot subdivision

Property Address: 119 Wallace St Braidwood NSW 2622

If yes, you must complete and return with your submission the form entitled "Political Donations and Gifts Disclosure Statement to Council". This form is available on Council's website at [www.qcc.nsw.gov.au](http://www.qcc.nsw.gov.au)

The [Political Donations and Gifts Disclosure Statement to Council](#) can be obtained from Council's Natural and Built Character Service Counter at 256 Crawford Street, Queanbeyan.

Further details are available from the NSW Government Department of Planning website at [www.planning.nsw.gov.au/donations](http://www.planning.nsw.gov.au/donations)

**IMPORTANT**  
**You must complete and attach this form to your written submission to Council**

*I object to the removal of Braidwood's historic streets.* [Redacted]



**DRAFT CONDITIONS OF CONSENT**  
**DA.2021.1240**

**APPROVED DEVELOPMENT AND PLANS**

**1. Approved Development and Plans**

The development referred to in the application is to be carried out in accordance with the approved plans and documents including the following:

Title / Description	Prepared by	Issue/Revision & Date	Date received by Council
Subdivision Plan	Robert Richards	24 February 2021	11 April 2022
Survey Plan	PHL Surveyors	18 March 2021 Sheet 1 of 1	11 April 2022
Ground Floor Plan	Blue Sky Homes	17.3.2015 Sheet 2 of 7 Rev B (with mark ups and Heritage approval)	11 April 2022
Elevations North	Blue Sky Homes	17.3.2015 Sheet 4 of 7 Rev B (with mark ups and Heritage approval)	11 April 2022
Elevations South	Blue Sky Homes	17.3.2015 Sheet 6 of 7 Rev B (with mark ups and Heritage approval)	11 April 2022
Stables Floor Plan	Justin Sinfield	undated	11 April 2022

Except as modified by any of the following conditions of consent.

*Reason: Development is undertaken in accordance with this consent & is used for the approved purpose only.*

**SPECIAL CONDITION**

**2. Conservation of Demolition Materials and Reuse on Site**

The demolition of the T-shaped sheds and garages/carports will result in valuable building elements and materials becoming available for other heritage projects. Wherever possible flooring materials, wall linings, roof components, framing, doors, thresholds and external linings shall be conserved. Reuse of these materials on site is encouraged. Where those materials cannot be used on site they may be disposed of at the discretion of the owner but shall not be disposed of to waste. Prior to the issue of a subdivision certificate the applicant shall provide to Council a Schedule of materials recovered from the demolition works and where those materials were used or otherwise disposed of.

*Reason: To ensure that valuable heritage components and materials from the demolished buildings are retained for reuse.*

### **3. Access for People with Disabilities**

Access shall be provided to the refurbished brick stables in accordance with the Disability (Access to Premises-Buildings) Standards 2010 and NCC Part D3 Access for People with a Disability. Certification from a suitably qualified Access Consultant shall be provided prior to the issue of a Construction Certificate demonstrating compliance.

*Reason: To provide equitable access to facilities and services.*

## **GENERAL CONDITIONS**

### **4. Comply with the Building Code of Australia**

All work is to comply with the current edition of the Building Code of Australia.

*Reason: All building work is carried out in accordance with relevant construction standards.*

### **5. Unauthorised Use of Public Land**

No building materials are to be stored or construction activities undertaken on public or adjoining land without prior written approval from Council.

*Reason: To prevent unnecessary disturbance to public land.*

## **CONDITIONS TO BE SATISFIED PRIOR TO COMMENCEMENT OF WORKS / DEMOLITION**

### **6. Obtain a Construction Certificate**

Obtain a construction certificate from Queanbeyan-Palerang Regional Council or an appropriately accredited private certifier before undertaking any construction work. Forward a copy of any construction certificate issued by a private certifier to Queanbeyan-Palerang Regional Council at least 2 days before undertaking any building work in accordance with that construction certificate.

*Reason: Work is undertaken in accordance this consent & relevant construction standards.*

### **7. Appoint PCA (Building Works)**

Appoint a principal certifying authority before any work is undertaken. Provide details of the appointed principal certifying authority (if not Queanbeyan-Palerang Regional Council) to Queanbeyan-Palerang Regional Council at least 2 days prior to any work being undertaken.

*Reason: To provide for supervision of the building works.*

### **8. Obtain a Subdivision Works Certificate**

Obtain a subdivision works certificate from Queanbeyan-Palerang Regional Council or an appropriately accredited private certifier before undertaking any subdivision related work. Forward a copy of any subdivision works certificate issued by a private certifier to Queanbeyan-Palerang Regional Council at least 2 days before undertaking any subdivision work in accordance with that subdivision works certificate.

*Reason: Work is undertaken in accordance this consent & relevant construction standards.*



## 9. Appoint PCA (Subdivision Works)

Appoint Queanbeyan-Palerang Regional Council as the principal certifying authority for subdivision works before any work is undertaken.

*Reason: To provide for supervision of the subdivision works.*

## 10. Site Identification

The site where building work, subdivision work, or demolition work is proposed to be carried out shall be identified by a sign sited in a visually prominent position containing the following information:

- the development application number,
- name, address, and telephone number of the principal certifying authority,
- name of the principal contractor (if any) and 24-hour contact telephone number, and
- a statement that “unauthorised entry to the work site is prohibited”.

*Reason: To satisfy the provisions of Clause 136B and 227A of the Environmental Planning and Assessment Regulation 2000.*

## 11. Section 138 Consent

Prior to undertaking any works within a public road reserve or affecting the road reserve, a traffic management plan is to be submitted to and approved by Queanbeyan-Palerang Regional Council under Section 138 of the *Roads Act 1993*.

*Reason: To ensure that works carried out comply with the Roads Act.*

## 12. Sediment and Erosion Control

A Sediment and Erosion Control Plan (S&ECP) for all site works, including road works and access, is to be approved by the principal certifying authority prior to work commencing. The plan is to cover all measures to control erosion and sediment transport in accordance with the NSW Landcom publication *Managing Urban Stormwater - Soils and Construction (4th Edition 2004 - "Blue Book")*.

Erosion and sediment controls are to be in place before the disturbance of any soils on the site, and are to be maintained during the works and for as long as necessary after the completion to prevent sediment and dirty water leaving the site and/or entering the surface water system outside of the site as follows:

- (a) divert uncontaminated run-off around cleared or disturbed areas,
- (b) erect a silt fence to prevent debris escaping into drainage systems or waterways,
- (c) prevent tracking of sediment by vehicles on roads, and
- (d) stockpile topsoil, excavated material, construction and landscaping supplies and debris within the site.

*Reason: To minimise environmental impact associated with any works & to prevent soil erosion/water pollution.*

### **13. Submit Asbestos Inspection Report**

Prior to demolition works commencing an asbestos inspection report on each building to be demolished must be undertaken and submitted to Council.

*Reason: To satisfy the requirements of the Work Health and Safety Act 2011 and to protect public health.*

### **14. Asbestos Removal and Disposal**

Asbestos material found on the site must be removed and disposed of in accordance with the *Work Health and Safety Act 2011*, and the NSW WorkCover Guidelines.

Asbestos material must be disposed of to a lawful landfill site approved for that purpose by the Environmental Protection Authority of NSW or equivalent authority in the ACT. Written evidence that the material has been disposed of to the approved landfill must be submitted to the Principal Certifying Authority.

*Reason: To ensure the proper disposal of asbestos material.*

### **15. Retain and Protect Trees within Site and on Adjoining Land**

Trees nominated to be retained on the approved plans (marked green on phl survey plan 18/3/21) must be protected in accordance with 'AS4970-2009 *Tree Protection on Development Sites*' and the following measures:

- a) During construction/demolition works, ensure retained trees on the site or adjoining land (if impacted) are protected by cyclone/chain mesh fencing.

The fencing must:

- 1) extend around the drip line of the tree;
- 2) be a minimum of 1.8 metres high
- 3) consist of a minimum of 4 panels
- 4) be erected prior to commencement of any work; and
- 5) remain in place until all site works have been completed.

*Reason: To ensure that tree(s) are protected from damage during construction.*

## **CONDITIONS TO BE SATISFIED DURING DEMOLITION AND/OR BUILDING AND SUBDIVISION WORKS**

### **16. Hours of Operation for Works**

All works associated with the construction and/or demolition of this development must be carried out between the following hours unless Queanbeyan-Palerang Regional Council agrees in writing. A written application shall be made to Queanbeyan-Palerang Regional Council if a variation of hours is required.

Weekdays:	7.00am to 6.00pm
Saturdays:	8.00am to 4.00pm
Sundays and Public Holidays:	NIL

*Reason: To reduce the chance of offensive noise being created and to minimise the impacts of the development in its locality.*

## 17. Approval Documents

Keep a copy of all stamped approved plans, specifications, and documents on site while work is being undertaken.

*Reason: Relevant documentation is available for perusal on site by a council officer, for compliance check.*

## 18. Unexpected Finds

The development is to proceed with caution. If any Aboriginal objects are found, works should stop and DECCW notified. If human remains are found work is to stop, the site is to be secured and the NSW Police and NSW Office of Environment and Heritage are to be notified.

*Reason: To ensure objects discovered during construction are protected and notified in accordance with the Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales.*

## 19. All Works to Be Confined to the Site

All demolition, excavation, backfilling, construction, and other activities associated with the development must:

- a) Be carried out entirely within the allotment boundaries unless otherwise approved by Council.
- b) Comply with the requirements of AS 2601-2001 - The demolition of structures.
- c) If within one metre of the verge, the site must be protected by a hoarding which must be erected prior to the commencement of the demolition works.
- d) Be kept clear of stormwater, sewer manholes and service easements on the site.
- e) Any gates must be installed so they do not open onto any footpath or adjoining land.

*Reason: To ensure that all development activity associated with the development does not pose a hazard to life or property and that the effectiveness of public services is not impaired.*

## 20. Demolition Works

The demolition of the existing buildings must be carried out in accordance with the:

- a) requirements of the SafeWork Authority of New South Wales,
- b) *NSW Work Health and Safety Act 2011*, and
- c) *Australian Standard AS 2601-2001: The Demolition of Structures.*

*Reason: To ensure compliance with SafeWork and occupational health and safety requirements.*

## 21. Construction Waste Management

All waste materials generated on-site during construction are to be stored in enclosed containers and deposited in an approved landfill at regular periods.

*Reason: To ensure adequate waste management practices are in place during the construction phase.*

## **22. Works Sites to Be Fenced**

A fence be erected between the development site and public places before commencement of any other work.

*Reason: To ensure that an effective barrier is provided to preserve the safety of people and property in public places.*

## **CONDITIONS TO BE SATISFIED PRIOR TO ISSUE OF OCCUPATION/COMPLETION CERTIFICATE**

### **23. Obtain Occupation Certificate**

Do not occupy or use the premises until an occupation certificate has been issued by Queanbeyan-Palerang Regional Council or an appropriately accredited private certifier. Provide a copy of any occupation certificate, issued by a private certifier, to Queanbeyan-Palerang Regional Council no later than 2 days after the occupation certificate is issued.

*Reason: Ensure that the building complies with relevant standards.*

### **24. Occupation Certificate**

The occupation certificate must not be issued until all conditions of consent have been satisfactorily complied with and all mandatory stage/required plumbing inspections undertaken. Plumbing and drainage must be inspected by Queanbeyan-Palerang Regional Council at the relevant stages of construction in accordance with the attached inspection schedule and a final plumbing certificate obtained prior to issue of any occupation certificate.

*Reason: Development is safe & appropriate for occupation and is completed in accordance with the consent*

### **25. Compliance with Section 60 Approvals Issued by Heritage NSW**

Prior to the issue of the Occupation Certificate all works shall be carried out in accordance with the approvals issued under section 60 of the *Heritage Act 1977* under approval numbers:

- s60/2020/260
- s60/2021/102

*Reason: To ensure the works comply with the relevant heritage approvals.*

### **26. External Materials and Finishes to match existing**

The new roofing to the brick stables is to use colours and materials that match the existing. Any brickwork repairs to the stable building exterior is to be consistent with the existing.

*Reason: The works match the existing buildings.*

## 27. Fire Safety Certificate

Prior to obtaining the final occupation certificate, provide the final fire safety certificate to Queanbeyan-Palerang Regional Council (and to the principal certifying authority if not Queanbeyan-Palerang Regional Council). A final fire safety certificate is a certificate issued by or on behalf of the owner of the premises to the effect that each essential fire safety measure specified in the current fire safety schedule for the building to which the certificate relates:

- a) has been assessed by a properly qualified person, and
- b) was found, when it was assessed, to be capable of performing to at least the standard required by the current fire safety schedule for the building for which the certificate is issued.

**Note:** The assessment of essential fire safety measures must have been carried out within the period of 3 months prior to the date on which a final fire safety certificate is issued

As soon as practicable after the final fire safety certificate is issued, the owner of the building to which it relates:

- a) must provide a copy of the certificate (together with a copy of the current fire safety schedule) to the Fire Commissioner, and
- b) must display a copy of the certificate (together with a copy of the current fire safety schedule) prominently displayed in the building.

*Reason: To ensure compliance with the Environmental Planning and Assessment Regulation 2000.*

## **CONDITIONS TO BE SATISFIED PRIOR TO ISSUE OF A SUBDIVISION CERTIFICATE**

### 28. Application and Final Survey

An application to obtain a Subdivision Certificate must be made to Council. This must be accompanied by the following documentation:

- a) A final survey plan of subdivision,
- b) Any Section 88B instruments required by these conditions of consent,
- c) A letter outlining how compliance with each condition of this development consent has been achieved, and
- d) Engineering Construction Certificate Report in accordance with specifications.

*Reason: To enable registration of the subdivision and to ensure compliance with conditions of consent. To provide sufficient signed copies of the subdivision plan for Council, the applicant and the NSW Land and Property Information.*

### **29. Subdivision Certificate**

A subdivision certificate must not be issued until all conditions of consent have been satisfactorily complied with and all mandatory inspections undertaken. Plumbing and drainage must be inspected by Queanbeyan-Palerang Regional Council at the relevant stages of construction.

*Reason: Development is safe & appropriate for occupation and is completed in accordance with the consent*

### **30. Compliance with Section 60 Approvals Issued by Heritage NSW**

Prior to the issue of the Subdivision Certificate all works shall be carried out in accordance with the approvals issued under section 60 of the *Heritage Act 1977* under approval numbers:

- s60/2020/260
- s60/2021/102

*Reason: To ensure the works comply with the relevant heritage approvals.*

### **31. Contributions to Be Paid**

Prior to the lodgement of a Subdivision Certificate, the contributions specified in Schedule 1 of this consent must be paid to Council under the provisions of Section 7.11 of the *Environmental Planning and Assessment Act 1979*, Section 64 of the *Local Government Act 1993* and Division 5 of Part 2 of Chapter 6 of the *Water Management Act 2000*.

*Reason: To provide for the funding of augmentation and provision of services and community facilities.*

### **32. Stormwater Disposal Requirements**

All stormwater from the site must be captured and piped to the street swale/stormwater pit/interallotment or other via an on-site detention system to limit the discharge from the site to the pre-development rate in accordance with Council's Development Design Specification D5.

*Reason: To provide satisfactory stormwater disposal.*

### **33. Driveway Application Form**

A driveway application form must be submitted to and approved by Council prior to commencement of driveway works and construction of the driveway across Council's footway area must be undertaken by a Council approved contractor, at no cost to the Council.

*Reason: To ensure the construction of the driveway on public land meets Council's requirements.*

### **34. Driveway Location from Water Meter**

The driveway within the property must maintain a clearance not less than half a metre from the water service or the water service must be relocated by Council at no cost to Council.

*Reason: To ensure such service is not damaged by vehicle movements.*



### **35. Repair Damaged Public and Private Property**

All damage caused to public and private property during the establishment of the development must be repaired or reinstated prior to the issue of the Subdivision Certificate.

*Reason: To ensure that all public and private property in the vicinity of the development is maintained in its pre-development condition.*

### **36. Heritage Entrance Crossover - Braidwood**

Construct/retain existing entrances and to maintain appropriate historical aesthetics with the proposed development and pursuant to QPRC D13 Design Specification/Braidwood DCP 2006 the driveway cross-over shall be finished in either brick, clay pavers, stone flagging, crushed rock, cobbles or similar.

*Reason: Safe entry and exit to lots from the road.*

### **37. Electricity Supply**

Prior to Council issuing a subdivision certificate, a Notice of Arrangement (NOA) shall be requested from the electricity authority which states that satisfactory supply arrangements have been made for the provision of electricity to the proposed development.

*Reason: Ensures that satisfactory supply arrangements have been made and that all of the lots in the subdivision are suitably serviced.*

### **38. Separate Connections & Services**

A separate sewer connection, stormwater drainage connection, water service, electricity supply and communication service must be provided to each allotment within the subdivision at the Subdivider's expense.

*Note: The Subdivider may, at their own expense, provide a gas connection to such allotment within the subdivision subject to its availability.*

*Note: The Subdivider is responsible for all public utilities and services in the area of work and as such must notify all relevant Authorities and bear all costs associated with any repairs and/or adjustments as those Authorities deem necessary.*

*Reason: To provide access to services for each allotment.*

### **39. Submission from Service Authority**

Prior to the issue of any Subdivision Certificate written evidence from the relevant service authority or a suitably accredited person that satisfactory arrangements have been made for the supply of reticulated electricity, telephone services and natural gas to each lot must be submitted to Council.

*Reason: To satisfy relevant utility authority requirements.*



#### **40. Street Numbering**

In accordance with *Clause 60(c)* of the *Surveying and Spatial Information Regulation* a schedule of recorded street addresses on Plan Form 6A shall be submitted to Council prior to the release of the Subdivision Certificate.

**Advice:** Convey with Queanbeyan-Palerang Regional Council to determine the street numbering for newly created allotments in accordance with Council's requirements.

*Reason: To ensure compliance with the Surveying and Spatial Information Regulation.*

#### **41. Covenant on the Land**

Apply covenants under section 88B of the *Conveyancing Act 1919* to the new lots incorporating the restrictions listed below. Queanbeyan-Palerang Regional Council shall be nominated as the sole party with the power to vary or remove the required covenants.

- a) All easements specified below and contained in the subdivision must benefit Council as well as particular lots:
  - i. easements to drain sewer,
  - ii. easements which Council may require to provide or maintain other services, and
- b) Nominating Council as the name of the person/authority empowered to release, vary or modify restriction or positive covenant numbered in the plan.

*Reason: To ensure public utility services, access and restrictions are legalised over the land.*

#### **42. Work in Accordance with Engineering Specifications**

All construction and restoration work must be carried out strictly in accordance with the approved drawings and Council's Design and Construction Specifications.

*Reason: To ensure construction and restoration work is in accordance with Council's requirements.*

### **CONDITIONS TO BE SATISFIED DURING THE ONGOING USE OF THE PREMISES**

#### **43. Surface Water**

Do not re-direct surface water onto adjoining private land. Alterations to the surface contours must not impede or divert natural surface water run-off, so as to cause a nuisance to adjoining property owners or create an erosion or sediment problem.

*Reason: Stormwater disposal does not impact on the building or neighbouring properties.*

#### **44. Submit Annual Fire Safety Statement**

Each year, the owner of the building must submit to Council an Annual Fire Safety Statement for the building. The Annual Fire Safety Statement must address each Essential Fire Safety Measure in the building.

*Reason: To ensure compliance with the Environmental Planning and Assessment Regulation 2000.*

## **ACTIVITY APPROVAL - SECTION 68 OF LOCAL GOVERNMENT ACT 1993**

### **45. Carry Out Sewer Work, Carry Out Water Supply Work, Carry Out Stormwater Work**

All sanitary plumbing and drainage work is to be carried out in accordance with the requirements of the *Local Government (General) Regulation 2005, AS 3500 and the requirements of Plumbing and Drainage Act, 2011*. No alterations or additions are permitted without approval from Council.

*Reason: All plumbing and drainage functions adequately.*

Council must inspect the following stages of construction and installation:

- Internal and external plumbing and drainage,
- Installation of the on-site sewage management system and disposal area,
- Final inspection of plumbing, drainage and on-site sewage management system.

The top level of the sewerage service yard gully shall be located a minimum of 150 mm below the lowest fixture level and a minimum of 75 mm above ground level. Where it is not practicable to locate the top of the yard gully 150 mm below the lowest fixture level or 75 mm above the surrounding ground level, then a reflux valve shall be fitted to the sewer drainage system so as to prevent the backflow from the sewer entering the building.

The sewer junction inspection opening is to be located and raised to ground level.

*Reason: To ensure compliance with AS3500 - National Plumbing and Drainage Code and the requirements of Plumbing and Drainage Act, 2011.*

Three star and four star rated water conservation devices are to be installed in the bathroom and kitchen respectively.

*Reason: Water efficiency and minimisation of wastewater produced.*

A 'Notice of Work' (NoW) is to be issued to Queanbeyan-Palerang Regional Council no later than 2 business days before the work concerned is carried out.

*Reason: Council is informed prior to undertaking inspections and in accordance with requirements of Plumbing and Drainage Act, 2011.*

Licensees as the 'responsible person' must submit a Sewer Service Diagram(SSD) layout to Queanbeyan-Palerang Regional Council prior to or at the time of inspection.

*Reason: Council records are kept up to date and requirements of Plumbing and Drainage Act, 2011.*

A 'Certificate of Compliance' (CoC) is to be issued to the Queanbeyan-Palerang Regional Council and a copy to the person for whom the work is carried out on completion of the final inspection.

*Reason: Council records are kept up to date and requirements of Plumbing and Drainage Act, 2011.*





Our ref: DOC21/149578

Justin Sinfield  
58 Lagoon Street  
NARRABEEN NSW 2102

By email: [etalkj@yahoo.com.au](mailto:etalkj@yahoo.com.au)

Dear Mr Sinfield

**Application under section 60 of the *Heritage Act 1977*  
Albion Hotel, 3 adjoining shops & stables  
State Heritage Register No. 00304**

**Address:** 119 Wallace Street, Braidwood, NSW, 2622  
**Proposal:** Works to stables building involving a self-levelling cement compound over existing concrete floor, replace roof with like for like material, repair of brickwork, installation of plumbing into stable for sink connection, installation of bathroom and extension to approved roof and seating area to west of stables. Removal of T-shaped sheds, removal of sheds on south boundary line. Construct awning to shed at the rear of Albion Hotel.  
**s60 application no:** s60/2021/102, received 15 March 2021, following discussions and request for additional information, completed application received 25 June 2021.

As delegate of the Heritage Council of NSW (the Heritage Council), I have considered the above Section 60 application. Pursuant to section 63 of the *Heritage Act 1977*, approval is granted subject to the following conditions:

**APPROVED DEVELOPMENT**

1. All work shall comply with the information contained within:
  - a) Drawings originally prepared by Blue Sky Homes and marked up by the applicant to demonstrate proposed works, as listed below:

Dwg No	Dwg Title	Date	Rev
<b>Project Name: Alterations and Additions</b>			
2 of 7	Floor Plan Renovation	Submitted to HNSW on 18 June 2021	N/A
4 of 7	Elevations	Submitted to HNSW on 2 March 2021	N/A
6 of 7	Elevations	Submitted to HNSW on 2 March 2021	N/A

- b) Drawing of Albion Hotel Stables showing the proposed stables floorplan, provided by email 13 July 2021.
    - c) Site Survey titled, *11 Wallace Street, Braidwood*, prepared by PHL Surveyors, dated 18 March 2021.
    - d) Report titled, *Albion Hotel Complex: 119 Wallace Street, Braidwood*, prepared by Touring the Past and Justin Sinfield, dated February 2021.
    - e) Conservation Management Plan titled, *Albion Hotel complex: 119 Wallace Street, Braidwood*, prepared by Touring the Past, dated April 2020

- f) Report titled, *119 Wallace Street Baseline Historical Archaeological Assessment*, prepared by FML Heritage, dated August 2018.
- g) Letter titled, *Austech Cement Concrete Repairs Quote*, which identifies the description of works to stables exterior, undated.

**EXCEPT AS AMENDED** by the conditions of this approval:

**WORKS TO STABLES BUILDING**

- 2. The new self-levelling cement compound must be installed without impacting on the base and sandstock brick walls of the Stables building.
- 3. The bathroom fitout must not impact significant fabric and services should reuse existing service points.

*Reason: To protect significant fabric and prevent unnecessary removal of fabric.*

- 4. The extension to the deck is approved but must be a timber structure and not concrete.

*Reason: To retain consistency with previous section 60 determination for the deck, application no. 15/s60/03, approved 28 October 2014.*

**HERITAGE CONSULTANT**

- 5. A suitably qualified and experienced heritage consultant must be nominated for this project. The nominated heritage consultant must provide input into the detailed design, provide heritage information to be imparted to all tradespeople during site inductions, and oversee the works to minimise impacts to heritage values. The nominated heritage consultant must be involved in the selection of appropriate tradespersons and must be satisfied that all work has been carried out in accordance with the conditions of this consent.

*Reason: So that appropriate heritage advice is provided to support best practice conservation and ensure works are undertaken in accordance with this approval.*

**SPECIALIST TRADESPERSONS**

- 6. All work to, or affecting, significant fabric shall be carried out by suitably qualified tradespersons with practical experience in conservation and restoration of similar heritage structures, materials and construction methods.

*Reason: So that the construction, conservation and repair of significant fabric follows best heritage practice.*

**SITE PROTECTION**

- 7. Significant built and landscape elements are to be protected during site preparation and the works from potential damage. Protection systems must ensure significant fabric, including landscape elements, is not damaged or removed.

*Reason: To ensure significant fabric including vegetation is protected during construction.*

**UNEXPECTED HISTORICAL ARCHAEOLOGICAL RELICS**

- 8. The applicant must ensure that if unexpected archaeological deposits or relics not identified and considered in the supporting documents for this approval are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

*Reason: This is a standard condition to identify to the applicant how to proceed if historical archaeological deposits or relics are unexpectedly identified during works.*

#### **ABORIGINAL OBJECTS**

9. Should any Aboriginal objects be uncovered by the work which is not covered by a valid Aboriginal Heritage Impact Permit, excavation or disturbance of the area is to stop immediately and the Department of Planning, Industry and Environment is to be informed in accordance with the *National Parks and Wildlife Act 1974* (as amended). Works affecting Aboriginal objects on the site must not continue until the Department of Planning, Industry and Environment has been informed and the appropriate approvals are in place. Aboriginal objects must be managed in accordance with the *National Parks and Wildlife Act 1974*.

*Reason: This is a standard condition to identify to the applicant how to proceed if Aboriginal objects are unexpectedly identified during works.*

#### **COMPLIANCE**

10. If requested, the applicant and any nominated heritage consultant may be required to participate in audits of Heritage Council of NSW approvals to confirm compliance with conditions of consent.

*Reason: To ensure that the proposed works are completed as approved.*

#### **DURATION OF APPROVAL**

11. This approval will lapse five years from the date of the consent unless the building works associated with the approval have physically commenced.

*Reason: To ensure the timely completion of works.*

#### **Advice**

Section 148 of the *Heritage Act 1977* (the Act), allows people authorised by the Minister to enter and inspect, for the purposes of the Act, with respect to buildings, works, relics, moveable objects, places or items that is or contains an item of environmental heritage. Reasonable notice must be given for the inspection.

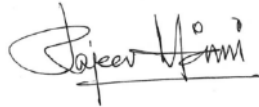
#### **Right of Appeal**

If you are dissatisfied with this determination appeal may be made to the Minister under section 70 of the Act.

It should be noted that an approval under the Act is additional to that which may be required from other Local Government and State Government Authorities in order to undertake works.

If you have any questions about this correspondence, please contact please contact Caitlin Stevens, Senior Heritage Assessment Officer, at Heritage NSW, on 9895 6582 or Caitlin.Stevens@environment.nsw.gov.au.

Yours sincerely



**Rajeev Maini**  
Senior Team Leader  
South Assessments  
Heritage NSW  
Department of Premier and Cabinet  
**As Delegate of the Heritage Council of NSW**  
24 September 2021

cc: Queanbeyan Palerang Regional Council,



Our ref: DOC20/729278

Justin Sinfield  
58 Lagoon Street  
NARRABEEN, NSW, 2101

By email: [etalkj@yahoo.com.au](mailto:etalkj@yahoo.com.au)

Dear Dr Sinfield

**Application under section 60 of the *Heritage Act 1977*  
Albion Hotel, 3 adjoining shops and stable  
State Heritage Register No. 00304**

**Address:** 119 Wallace Street, Braidwood, NSW, 2622  
**Proposal:** Subdivision of existing site into two lots  
**Section 60 application no:** s60/2020/260, received 9 October 2020  
**Additional information requested:** Yes, received 12 November 2020

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As delegate of the Heritage Council of NSW (the Heritage Council), I have considered the above Section 60 application. Pursuant to section 63 of the *Heritage Act 1977*, approval is granted subject to the following conditions:

**APPROVED DEVELOPMENT**

1. All work shall comply with the information contained within:
  - a) Survey drawing with mark-up identifying new Lot 12, titled *Subdivision of Lot 1 in DP 598830*, prepared by Robert Richards, dated 19 December 2017
  - b) Heritage Impact Statement report titled, *Proposed Subdivision Albion Hotel Complex: 119 Wallace Street, Braidwood*, prepared by Touring the Past, dated June 2020.
  - c) Conservation Management Plan titled, *Albion Hotel Complex: 119 Wallace Street, Braidwood*, prepared by Touring the Past, dated June 2020.
  - d) Baseline Historical Archaeological Assessment titled, *119 Wallace Street, Braidwood*, prepared by GML Heritage, dated August 2018.

**EXCEPT AS AMENDED** by the conditions of this approval:

**EFFECT OF SUBDIVISION**

This approval for subdivision of Lot 1, DP598830 to create a new allotment 12 does not:

- a) include any physical works to the site.
- b) Alter or reduce the gazetted curtilage of SHR item 00304.

**HERITAGE CONSULTANT**

2. A suitably qualified and experienced heritage consultant must be nominated for this project. The nominated heritage consultant must provide input into the detailed design, provide heritage information to be imparted to all tradespeople during site inductions, and oversee the works to minimise impacts to heritage values. The nominated heritage consultant must be involved in the selection of appropriate tradespersons and must be satisfied that all work has been carried out in accordance with the conditions of this consent.

Level 6, 10 Valentine Ave Parramatta NSW 2150 ■ Locked Bag 5020 Parramatta NSW 2124  
P: 02 9873 8500 ■ E: [heritagemailbox@environment.nsw.gov.au](mailto:heritagemailbox@environment.nsw.gov.au)



*Reason: So that appropriate heritage advice is provided to support best practice conservation and ensure works are undertaken in accordance with this approval.*

#### **SITE PROTECTION**

3. Significant built and landscape elements are to be protected during site preparation and the works from potential damage. Protection systems must ensure significant fabric, including landscape elements, is not damaged or removed.

*Reason: To ensure significant fabric including vegetation is protected during construction.*

#### **UNEXPECTED HISTORICAL ARCHAEOLOGICAL RELICS**

4. The applicant must ensure that if unexpected archaeological deposits or relics not identified and considered in the supporting documents for this approval are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

*Reason: This is a standard condition to identify to the applicant how to proceed if historical archaeological deposits or relics are unexpectedly identified during works. The site is located within the Town of 'Braidwood and Its Setting', an early colonial town in NSW which is listed on the State Heritage Register. It may contain unexpected archaeological deposits to those anticipated by the supporting archaeological assessment. In this circumstance this condition provides guidance on these requirements under the Heritage Act 1977.*

#### **ABORIGINAL OBJECTS**

5. Should any Aboriginal objects be uncovered by the work which is not covered by a valid Aboriginal Heritage Impact Permit, excavation or disturbance of the area is to stop immediately and the Department of Planning, Industry and Environment is to be informed in accordance with the *National Parks and Wildlife Act 1974* (as amended). Works affecting Aboriginal objects on the site must not continue until the Department of Planning, Industry and Environment has been informed and the appropriate approvals are in place. Aboriginal objects must be managed in accordance with the *National Parks and Wildlife Act 1974*.

*Reason: This is a standard condition to identify to the applicant how to proceed if Aboriginal objects are unexpectedly identified during works.*

#### **COMPLIANCE**

6. If requested, the applicant and any nominated heritage consultant may be required to participate in audits of Heritage Council of NSW approvals to confirm compliance with conditions of consent.

*Reason: To ensure that the proposed works are completed as approved.*

#### **DURATION OF APPROVAL**

7. This approval will lapse five years from the date of the consent unless the building works associated with the approval have physically commenced.

*Reason: To ensure the timely completion of works*

**Advice**

Section 148 of the *Heritage Act 1977* (the Act), allows people authorised by the Minister to enter and inspect, for the purposes of the Act, with respect to buildings, works, relics, moveable objects, places or items that is or contains an item of environmental heritage. Reasonable notice must be given for the inspection.

**Right of Appeal**

If you are dissatisfied with this determination appeal may be made to the Minister under section 70 of the Act.

It should be noted that an approval under the Act is additional to that which may be required from other Local Government and State Government Authorities in order to undertake works.

If you have any questions about this correspondence, please contact please contact Caitlin Stevens, Senior Heritage Assessment Officer, at Heritage NSW, on 9895 6582 or [Caitlin.Stevens@environment.nsw.gov.au](mailto:Caitlin.Stevens@environment.nsw.gov.au).

Yours sincerely



**Steven Meredith**

Regional Manager, Heritage Operations  
South

Heritage NSW

Department of Premier and Cabinet

**As Delegate of the Heritage Council of NSW**

18 November 2020

cc: Queanbeyan-Palerang Regional Council, [council@qprc.nsw.gov.au](mailto:council@qprc.nsw.gov.au)