



Ordinary Meeting of Council

AGENDA

26 October 2022

Commencing at 5.30pm

**Council Chambers
253 Crawford Street
Queanbeyan**

Despite the easing of COVID restrictions, it should be noted that there is a limited number of public gallery seats available in the Chambers. Presentations can be made in writing or via Zoom. A live stream of the meeting can be viewed at:

<http://webcast.qprc.nsw.gov.au/>

Statement of Ethical Obligations

The Mayor and Councillors are reminded that they remain bound by the Oath/Affirmation of Office made at the start of the council term to undertake their civic duties in the best interests of the people of Queanbeyan-Palerang Regional Council and to faithfully and impartially carry out the functions, powers, authorities and discretions vested in them under the *Local Government Act 1993* or any other Act, to the best of their skill and judgement.

The Mayor and Councillors are also reminded of the requirement for disclosure of conflicts of interest in relation to items listed for consideration on the Agenda or which are considered at this meeting in accordance with the Code of Conduct and Code of Meeting Practice.

On-site Inspections - Nil

Queanbeyan-Palerang Regional Council advises that this meeting will be webcast to Council's website. Images and voices of those attending will be captured and published.

A recording of the meeting will be archived on the website.

To view webcasts or archived recordings, please go to webcast.qprc.nsw.gov.au

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1 OPENING

2 ACKNOWLEDGEMENT OF COUNTRY

3 APOLOGIES AND APPLICATIONS FOR A LEAVE OF ABSENCE BY COUNCILLORS

4 CONFIRMATION OF MINUTES

4.1 Minutes of the Ordinary Meeting of Council held on 12 October 2022

5 DISCLOSURES OF INTERESTS

6 ADJOURNMENT FOR PUBLIC FORUM

7 MAYORAL MINUTE

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Confidential - Not for Publication

16 REPORTS FOR CLOSED SESSION

16.1 Quarterly Legal Report - 1 July 2022 - 30 September 2022

Item 16.1 is confidential in accordance with s10(A) (g) of the Local Government Act 1993 because it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege and discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

16.2 Tender Evaluation - Supply and Construct Pavilion at Queanbeyan Showground

Item 16.2 is confidential in accordance with s10(A) (c) of the Local Government Act 1993 because it contains information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business and discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

17 CONCLUSION OF THE MEETING

LIST OF ATTACHMENTS

Open Attachments

- Item 9.1 Development Application - DA.2021.1789 - Demolition and Construction - Seniors Living Housing - 16 Erin Street, Queanbeyan
- Attachment 1 DA.2021.1789 - Section 4.15 Assessment - Seniors Housing -16 Erin Street, Queanbeyan (Under Separate Cover)*
- Attachment 2 DA.2021.1789 - Plans - Seniors Housing -16 Erin Street, Queanbeyan (Under Separate Cover)*
- Attachment 3 DA.2021.1789 - Draft Conditions of Consent - Seniors Housing -16 Erin Street, Queanbeyan (Under Separate Cover)*
- Item 9.2 Modification Application - 2020.1154.B - Modification to Conditions of Consent Relating to Energy Supply - 44 Brooks Road, Road
- Attachment 1 DA.2020.1154.B - Section 4.55 Assessment Report - Modification Application - 44 Brooks Road, Bywong (Under Separate Cover)*
- Attachment 2 DA.2020.1154.B - Plans - Modification Application - 44 Brooks Road, Bywong (Under Separate Cover)*
- Item 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,

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- Braidwood
- Attachment 1* *REV.2022.1001 - Section 4.15 Assessment Matters for Consideration - The Albion - 119 Wallace Street, Braidwood (Under Separate Cover)*
- Attachment 2* *REV.2022.1001 - Plans - The Albion - 119 Wallace Street, Braidwood (Under Separate Cover)*
- Attachment 3* *REV.2022.1001 - Redacted Public Submissions - The Albion - 119 Wallace Street, Braidwood (Under Separate Cover)*
- Attachment 4* *REV.2022.1001 - Draft Conditions of Consent - The Albion - 119 Wallace street, Braidwood (Under Separate Cover)*
- Attachment 5* *REV.2022.1001 - Heritage NSW Section 60 Approvals - The Albion - 119 Wallace Street, Braidwood (Under Separate Cover)*
- Attachment 8* *Resolution from Council Meeting - 9 March 2022 - DA.2021.1240 - The Albion - 119 Wallace Street, Braidwood (Under Separate Cover)*
- Item 9.4 Review of Determination - REV.2022.1002 - Request for Review of Council's Refusal of DA.2020.1109 – Place of Public Worship – 128 Bicentennial Drive, Jerrabomberra
- Attachment 1* *REV.2022.1002 - Section 4.15 Assessment - 128 Bicentennial Drive, Jerrabomberra (Under Separate Cover)*
- Attachment 2* *REV.2022.1002 - Amended Plans for Review - 128 Bicentennial Drive, Jerrabomberra (Under Separate Cover)*
- Attachment 3* *REV.2022.1002 - Submissions Redacted - 128 Bicentennial Drive, Jerrabomberra (Under Separate Cover)*
- Attachment 4* *REV.2022.1002 - Draft Conditions of Consent - 128 Bicentennial Drive, Jerrabomberra (Under Separate Cover)*
- Attachment 5* *Original Report to Council - 13 October 2021 - DA.2020.1109 - 128 Bicentennial Drive, Jerrabomberra (Under Separate Cover)*
- Item 9.5 Better Building Finance
- Attachment 1* *Better Building Fund Flow Chart (Under Separate Cover)*
- Attachment 2* *Sustainable Australia Fund Media Release (Under Separate Cover)*
- Item 9.6 Reviewed Policies
- Attachment 1* *Guidelines for Referral of Development Applications to Council and Independent Assessment of Development Applications (Under Separate Cover)*
- Attachment 2* *Asset Management Policy (Under Separate Cover)*
- Attachment 3* *Sustainable Design for Council Buildings Policy (Under Separate Cover)*
- Attachment 4* *Shopping Trolley Management Policy (Under Separate Cover)*
- Item 9.7 Post-Exhibition Policy Report
- Attachment 1* *Unsealed Road Grading Policy (Under Separate Cover)*
- Attachment 2* *Managing Unreasonable Conduct by Complainants Policy (Under Separate Cover)*
- Item 9.8 Draft Submission to the IPART Issues Paper on the Review of the Rate Peg Methodology
- Attachment 1* *IPART Issues Paper- Review of Rate Peg Methodology (Under Separate Cover)*
- Attachment 2* *Rate peg for NSW Councils for 2023-24 (Under Separate*

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Cover)

Attachment 3 Draft QPRC Submission to the IPART Issues Paper on the Review of the Rate Peg Methodology

Item 9.9 Investment Report - September 2022

Attachment 1 Investment Report Pack - September 2022 (Under Separate Cover)

Item 10.2 WHS Quarterly Report

Attachment 1 StateCover Chief Executive's Report - QPRC (Under Separate Cover)

Item 11.1 Local Traffic Committee Meeting - 11 October 2022

Attachment 1 Minutes LTC 11 October 2022 (Under Separate Cover)

Closed Attachments

Item 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 6 REV.2022.1001 - Legal Advice - The Albion - 119 Wallace Street, Braidwood (Under Separate Cover)

Attachment 7 REV.2022.1001 - Further Legal Advice - The Albion - 119 Wallace Street, Braidwood (Under Separate Cover)

Item 16.2 Tender Evaluation - Supply and Construct Pavilion at Queanbeyan Showground

Attachment 1 Tender Evaluation Report - Supply and Construct Pavilion at Queanbeyan Showground (Under Separate Cover)



MINUTES OF THE ORDINARY MEETING OF THE QUEANBEYAN-PALERANG REGIONAL COUNCIL held at the Council Chambers, 253 Crawford Street, Queanbeyan on Wednesday, 12 October 2022 commencing at 5.30pm.

ATTENDANCE

Councillors: Cr Winchester (Chairperson)
Cr Biscotti
Cr Grundy
Cr Livermore
Cr Preston
Cr Taskovski
Cr Ternouth
Cr Webster (from 5.33pm)
Cr Willis
Cr Wilson

Staff: R Ryan, CEO
P Hansen, Portfolio General Manager Community Connections
M Thompson, Portfolio General Manager Natural and Built Character
J Richards, Portfolio General Manager Community Choice
J Staniforth, A/Portfolio General Manager Organisational Capability

Also Present: W Blakey, Clerk of the Meeting
L Ison, Minute Secretary

1. OPENING

The meeting commenced at 5.30pm.

2. ACKNOWLEDGEMENT OF COUNTRY

The Mayor acknowledged the traditional custodians of the land upon which the meeting was held.

3. APOLOGIES AND APPLICATIONS FOR A LEAVE OF ABSENCE BY COUNCILLORS

402/22

RESOLVED (Winchester/Biscotti)

That the apology from Cr Burton be received and leave of absence granted.

The resolution was carried unanimously.

4. CONFIRMATION OF MINUTES

4.1 Minutes of the Ordinary Meeting of Council held on 28 September 2022

403/22

RESOLVED (Winchester/Taskovski)

That the Minutes of the Ordinary Meeting of Council held in the Queanbeyan Council Chambers on Wednesday 28 September 2022 be confirmed.

The resolution was carried unanimously.

5. DISCLOSURES OF INTERESTS

404/22

RESOLVED (Winchester/Willis)

That Councillors and staff now disclose any interests and reasons for declaring such interest in the matters under consideration by Council at this meeting.

The resolution was carried unanimously.

Cr Webster joined the meeting at 5.33pm.

6. ADJOURNMENT FOR PUBLIC FORUM

At this stage of the proceedings, the time being 5.33pm, Cr Winchester advised that the meeting should now adjourn for the Public Forum.

405/22

RESOLVED (Winchester/Ternouth)

That the meeting be adjourned to conduct the Public Forum.

The resolution was carried unanimously.

ADJOURNMENT:

The meeting adjourned for the Public Forum at 5.33pm and resumed at 5.45pm.

7. MAYORAL MINUTE

There was no Mayoral Minute.

8. NOTICES OF MOTIONS OF RESCISSION

There were no Notices of Motions of Rescission.

9. REPORTS TO COUNCIL - ITEMS FOR DETERMINATION

9.1 Proposed Submission on Response to Submissions Report for State Significant Development Application - New High School at Bungendore (SSD-14394209)

MOVED (Winchester/Wilson)

That:

1. Council advise the NSW Department of Planning that it objects to the proposal for the development of the new Bungendore High School (SSD-14394209) for the reasons detailed in Attachment 1 of this report, noting that subject to satisfactory resolution of these items Council may withdraw its objection to the proposal.
2. Attachment 1 be forwarded to the Department as Council's formal submission on the proposal.
3. Council provide a copy of its recommended conditions of consent for the new Bungendore High School as detailed in Attachment 1 of this report.

AMENDMENT (Grundy/Biscotti)

That:

1. Council advise the NSW Department of Planning that it objects to the proposal for the development of the new Bungendore High School (SSD-14394209) for the reason detailed in Attachment 1 of this report, noting that subject to satisfactory resolution of this item Council may withdraw its objection to the proposal.
2. Attachment 1 be forwarded to the Department as Council's formal submission on the proposal with the following changes:
 - a) Item 5. Traffic and Roads. *Recommended Response:*
 - That Council have no objection to formalised parking along the northern and southern sides of Turallo Terrace.
 - b) Item 6. Pickup and Drop off. *Recommended Response:*
 - That Council include a notation indicating that if the 3 Pickup/Drop Off spaces on the northern side of Gibraltar St were to be reinstated (while retaining those proposed on Turallo Terrace – making a total of 21 Drop off/Pick up spaces) Council would withdraw this objection.
 - c) Schedule 1. Unacceptable loss of off-street parking spaces. *Recommended Response:*
 - Objection withdrawn
3. Council provide a copy of its recommended conditions of consent for the new Bungendore High School as detailed in Attachment 1 of this report.
4. A condition of consent be imposed to protect all trees that could be effected from carparking on Turallo Terrace.

The amendment (of Crs Grundy and Biscotti) was PUT and LOST.

For: Crs Biscotti, Grundy and Ternouth
Against: Crs Livermore, Preston, Taskovski, Webster, Willis, Wilson and Winchester

The motion (of Crs Winchester and Wilson) was brought forward.

AMENDMENT (Webster/Preston)

That:

1. Council advise the NSW Department of Planning that it objects to the proposal for the development of the new Bungendore High School (SSD-14394209) for the reasons detailed in Attachment 1 of this report, noting that subject to satisfactory resolution of these items Council may withdraw its objection to the proposal.
2. Attachment 1 be forwarded to the Department as Council's formal submission on the proposal with the following amendments:

Matter 1: Permissibility - *Recommended Response:*

That Council withhold comment pending any findings from current NSW Government Standing Order 52 and retain the right to object on permissibility grounds.

Matter 2: Crown Land Impacts - *Recommended Response:*

That the Submission Report response be noted and the objection remain pending any findings from current NSW Government Standing Order 52 and that Council retain the right to object on Crown Land impacts.

Matter 3: Stormwater - *Recommended Response:*

That DoE provide an independent report on storm water run-off from new building roof spans, including impact on the Mick Sherd Oval and that this be included in the proposed conditions of consent.

Matter 5: Traffic and Roads - *Recommended Response:*

That Council advise they do not support any formalised parking on Turallo Terrace North or South to be included in SiNSW plans. As such Council objects to the development on the basis that the required additional 58 parking spaces have not been provided.

That DoE to provide an independent Traffic and Road Safety Report encompassing a 500m circumference from the proposed site of all surrounding streets, terraces, roads and highways.

Matter 5: Roundabouts - *Recommended Response:*

That DoE provide engineered designs, noting any works to be carried out on verges adjacent to the proposed roundabouts on Gibraltar/Majara and Gibraltar/Butmaroo to facilitate turning curves for both 12 & 14 m buses, noting that these roads are on the public transport route and adjacent to the train station. It isn't clear in the transport assessment addendum. Nb: During rail

track works up to 3 full size coaches a day require to pull into the train station car park.

**Matter 9: Crossings and Pedestrian Movement -
*Recommended Response:***

That Council provide comments on the deficiencies in the design of the crossing and maintain its objection.

**Matter 12: Developer Contributions – Water & Sewer -
*Recommended Response:***

That the Department of Education, as an agent of the Crown, request and receive from the Minister for Urban Affairs and Planning, now the Minister for Planning, an exemption under s306(4) of the *Water Management Act* and further determination remain in the proposed conditions of consent.

3. Council provide a copy of its recommended conditions of consent for the new Bungendore High School as detailed in Attachment 1 of this report.
4. A condition of consent be imposed to protect all trees that could be effected from any works pertaining to Council's road reserves.

The amendment (of Crs Webster and Preston) was PUT and CARRIED.

For: Crs Livermore, Preston, Taskovski, Webster, Willis,
Wilson and Winchester
Against: Crs Biscotti, Grundy and Ternouth

The amendment (of Crs Webster and Preston) became the motion.

AMENDMENT (Preston/Willis)

That:

1. Council advise the NSW Department of Planning that it objects to the proposal for the development of the new Bungendore High School (SSD-14394209) for the reasons detailed in Attachment 1 of this report, noting that subject to satisfactory resolution of these items Council may withdraw its objection to the proposal.
2. Attachment 1 be forwarded to the Department as Council's formal submission on the proposal with the following amendments:

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Matter 2: Crown Land Impacts - *Recommended Response:*

That the Submission Report response be noted and the objection remain pending any findings from current NSW Government Standing Order 52 and that Council retain the right to object on Crown Land impacts.

Matter 3: Stormwater - Recommended Response:

That DoE provide an independent report on storm water run-off from new building roof spans, including impact on the Mick Sherd Oval and that this be included in the proposed conditions of consent.

Matter 5: Traffic and Roads - Recommended Response:

That Council advise they do not support any formalised parking on Turallo Terrace North or South to be included in SiNSW plans. As such Council objects to the development on the basis that the required additional 58 parking spaces have not been provided.

That DoE to provide an independent Traffic and Road Safety Report encompassing a 500m circumference from the proposed site of all surrounding streets, terraces, roads and highways.

Matter 5: Roundabouts - Recommended Response:

That DoE provide engineered designs, noting any works to be carried out on verges adjacent to the proposed roundabouts on Gibraltar/Majara and Gibraltar/Butmaroo to facilitate turning curves for both 12 & 14 m buses, noting that these roads are on the public transport route and adjacent to the train station. It isn't clear in the transport assessment addendum. Nb: During rail track works up to 3 full size coaches a day require to pull into the train station car park.

Matter 9: Crossings and Pedestrian Movement - Recommended Response:

That Council provide comments on the deficiencies in the design of the crossing and maintain its objection.

Matter 12: Developer Contributions – Water & Sewer - Recommended Response:

That the Department of Education, as an agent of the Crown, request and receive from the Minister for Urban Affairs and Planning, now the Minister for Planning, an exemption under s306(4) of the *Water Management Act* and further determination remain in the proposed conditions of consent.

3. Council provide a copy of its recommended conditions of consent for the new Bungendore High School as detailed in Attachment 1 of this report.
4. A condition of consent be imposed to protect all trees that could be effected from any works pertaining to Council's road reserves.
5. That the covering letter to the NSW Department of Planning include the following points:
 - i. That Council remains opposed to the proposed location for the Bungendore High School.
 - ii. That Council remains concerned about traffic safety around the site.

- iii. That a report on the final compulsory acquisition compensation amount remains outstanding.
- iv. That joint use agreements for Council property are yet to be completed.

The amendment (of Crs Preston and Willis) was PUT and CARRIED.

For: Crs Livermore, Preston, Taskovski, Webster, Willis,
Wilson and Winchester
Against: Crs Biscotti, Grundy and Ternouth

The amendment (of Crs Preston and Willis) became the motion, was PUT and CARRIED.

406/22

RESOLVED (Preston/Webster)

That:

1. Council advise the NSW Department of Planning that it objects to the proposal for the development of the new Bungendore High School (SSD-14394209) for the reasons detailed in Attachment 1 of this report, noting that subject to satisfactory resolution of these items Council may withdraw its objection to the proposal.
2. Attachment 1 be forwarded to the Department as Council's formal submission on the proposal with the following amendments:

Matter 1: Permissibility - Recommended Response:

That Council withhold comment pending any findings from current NSW Government Standing Order 52 and retain the right to object on permissibility grounds.

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That the Submission Report response be noted and the objection remain pending any findings from current NSW Government Standing Order 52 and that Council retain the right to object on Crown Land impacts.

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That DoE provide an independent report on storm water run-off from new building roof spans, including impact on the Mick Sherd Oval and that this be included in the proposed conditions of consent.

Matter 5: Traffic and Roads - Recommended Response:

That Council advise they do not support any formalised parking on Turallo Terrace North or South to be included in SiNSW plans. As such Council objects to the development on the basis that the required additional 58 parking spaces have not been provided.

That DoE to provide an independent Traffic and Road Safety Report encompassing a 500m circumference from the proposed site of all surrounding streets, terraces, roads and highways.

Matter 5: Roundabouts - *Recommended Response:*

That DoE provide engineered designs, noting any works to be carried out on verges adjacent to the proposed roundabouts on Gibraltar/Majara and Gibraltar/Butmaroo to facilitate turning curves for both 12 & 14 m buses, noting that these roads are on the public transport route and adjacent to the train station. It isn't clear in the transport assessment addendum. Nb: During rail track works up to 3 full size coaches a day require to pull into the train station car park.

Matter 9: Crossings and Pedestrian Movement - *Recommended Response:*

That Council provide comments on the deficiencies in the design of the crossing and maintain its objection.

Matter 12: Developer Contributions – Water & Sewer - *Recommended Response:*

That the Department of Education, as an agent of the Crown, request and receive from the Minister for Urban Affairs and Planning, now the Minister for Planning, an exemption under s306(4) of the *Water Management Act* and further determination remain in the proposed conditions of consent.

3. Council provide a copy of its recommended conditions of consent for the new Bungendore High School as detailed in Attachment 1 of this report.
4. A condition of consent be imposed to protect all trees that could be effected from any works pertaining to Council's road reserves.
5. That the covering letter to the NSW Department of Planning include the following points:
 - i. That Council remains opposed to the proposed location for the Bungendore High School.
 - ii. That Council remains concerned about traffic safety around the site.
 - iii. That a report on the final compulsory acquisition compensation amount remains outstanding.
 - iv. That joint use agreements for council property are yet to be completed.

For: Crs Livermore, Preston, Taskovski, Webster, Willis, Wilson and Winchester

Against: Crs Biscotti, Grundy and Ternouth

9.2 Draft Planning Proposal to Reclassify Part of Bunyip Park, Googong from Community Land to Operational Land

407/22

RESOLVED (Taskovski/Biscotti)

That the attached draft planning proposal to reclassify part of Bunyip Park, Googong from community land to operational land under the *Local Government Act (1993)* be forwarded to the NSW Department of Planning and Environment (DPE) to seek a Gateway determination.

The resolution was carried unanimously.

9.3 Draft Amendment to South Jerrabomberra Development Control Plan 2015

408/22

RESOLVED (Ternouth/Wilson)

That Council adopt the exhibited amendments to South Jerrabomberra Development Control Plan 2015.

The resolution was carried unanimously.

9.4 Proposed Road Naming - Braidwood Ridge, Braidwood

409/22

RESOLVED (Livermore/Willis)

That Council:

1. Endorse in principle the names Musgrave, McGrath and Feehan Streets as the proposed names for the new roads created by the subdivision approval for Stages 5, 6, 7, 8 and 9 under DA 2004/DEV-0074 known as Braidwood Ridge.
2. Advertise the names for public comment for 28 days.
3. Publish a notice in the NSW Government Gazette if no objections are received.

The resolution was carried unanimously.

9.5 QPRC Library Strategy 2022-2026

410/22

RESOLVED (Biscotti/Willis)

That Council:

1. Place the QPRC Library Strategy 2022-2026 on public exhibition via Your Voice for 28 days.
2. Adopt the QPRC Library Strategy 2022-2026 if no submissions are received.
3. If submissions are received, receive a further report considering the submissions made during the exhibition period.

The resolution was carried unanimously.

9.6 Register of Declarations of Pecuniary Interests and Other Matters - Councillors and Designated Persons

411/22

RESOLVED (Wilson/Ternouth)

That in accordance with s440AAB of the *Local Government Act 1993*, the register of annual returns of disclosures of pecuniary interest and other matters by councillors and designated staff for the period ending 30 June 2022, be tabled.

The resolution was carried unanimously.

9.7 Road Names Policy - Post-Exhibition Report

412/22

RESOLVED (Preston/Wilson)

That Council adopt the Road Names Policy as amended and attached to this Report.

The resolution was carried unanimously.

9.8 Reviewed Policies

413/22

RESOLVED (Wilson/Preston)

That:

1. Council place the following Policies on public exhibition for 28 days:
 - Backflow Prevention Policy
 - Parking and Enforcement Priority Policy
2. Council place the following Policy on public exhibition for 42 days:
 - Code of Meeting Practice
3. Following the exhibition period, proceed to adopt the policies if no submissions are received.

The resolution was carried unanimously.

9.9 Council Meeting Schedule

414/22

RESOLVED (Livermore/Preston)

That:

1. Council reaffirm the following meeting schedule:
 - i. Ordinary Council meetings be held on the second and fourth Wednesday of each month, except December and January, in the Council Chambers, Queanbeyan, commencing at 5.30pm and concluding no later than 9.30pm.
 - ii. An Ordinary Council meeting be held on the third Wednesday of December and January, in the Council Chambers, Queanbeyan, commencing at 5.30pm and concluding no later than 9.30pm.
 - iii. That pre-meeting briefing sessions be held at 4.00pm on the Tuesday prior to a Council Meeting.
2. The cost for a travelling meeting kit that enables full online participation at meetings held at other locations around the local government area be investigated and a report be brought back to Council.

The resolution was carried unanimously.

9.10 Organisational Structure

415/22

RESOLVED (Wilson/Willis)

That Council:

1. Approve the change of title for the Chief Executive Officer to General Manager.
2. Approve the change of titles for the Senior Executive Team to; Director Community, Arts and Recreation, Director Development and Environment, Director Infrastructure Services and Director Corporate Services.
3. Endorse the structure as proposed with functions and responsibilities of each Directorate in the organisational structure as recommended in the report.
4. Receive a further report following consultation with staff on the proposed changes to the reporting and service areas within each Directorate.

The resolution was carried unanimously.

10. REPORTS TO COUNCIL - ITEMS FOR INFORMATION

10.1 Councillor Workshops

416/22

RESOLVED (Willis/Preston)

That the report be received for information.

The resolution was carried unanimously.

11. REPORTS OF COMMITTEES

11.1 Audit, Risk and Improvement Committee - Minutes June and September 2022

417/22

RESOLVED (Biscotti/Wilson)

That Council note the minutes of the Audit, Risk and Improvement Committee held on 15 June and 21 September 2022.

The resolution was carried unanimously.

11.2 Bungendore Town Centre and Environs Advisory Committee Meeting Minutes

418/22

RESOLVED (Grundy/Preston)

That Council:

1. Note the minutes of Bungendore Town Centre and Environs Committee meetings held on 21 February 2022, 28 March 2022, 16 May 2022, 20 June 2022, 18 July 2022 and 15 August 2022.
2. Change the Terms of Reference to delete reference to the Chair of the Locality Committee such that Item 2, second point, reads: 'The Councillor nominated to the Committee shall be an ex officio member of the Committee with voting rights.'
3. Establish a review into de-cluttering road signage in the Bungendore Town Centre.

The resolution was carried unanimously.

12. NOTICES OF MOTIONS

There were no Notices of Motions.

13. REPORTS TO COUNCIL - DELEGATES REPORTS

There were no Delegates Reports.

14. QUESTIONS WITH NOTICE

There were no Questions with Notice.

15. NOTICE OF INTENTION TO DEAL WITH MATTERS IN CLOSED SESSION

At this stage of the proceedings Cr Winchester advised that there were items on the Agenda that should be dealt with in Closed Session.

Cr Winchester then asked if, in accordance with Clause 59.6 of the Council's Code of Meeting Practice, there were any presentations as to why the matters listed below should not be dealt with in Closed Session.

There were no presentations.

16. REPORTS FOR CLOSED SESSION

419/22

RESOLVED (Winchester/Preston)

That pursuant to Section 10A of the *Local Government Act, 1993* the following items on the agenda for the Ordinary Council meeting be dealt with in Closed Session for the reasons specified below:

Item 16.1 Proposed Enforcement Action - Result of Investigation

Item 16.1 is confidential in accordance with s10(A) (g) of the Local Government Act 1993 because it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege and discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

The resolution was carried unanimously.

The meeting then moved into Closed Session at 6.57pm to discuss the matters listed above.

16.1 Proposed Enforcement Action - Result of Investigation

420/22

RESOLVED (Biscotti/Wilson)

That Council commence enforcement proceedings by issuing a Notice of Proposed Order to bring the development into compliance with the consent.

The resolution was carried unanimously.

421/22

RESOLVED (Winchester/Willis)

That the meeting now return to Open Session.

The resolution was carried unanimously.

The meeting returned to Open Session at 7.08pm.

The doors of the Chambers were opened to allow the public to enter.

In accordance with Clause 253 of the Local Government (General) Regulations 2005, the Mayor then read out the decisions of Council made in Closed Session.

17. CONCLUSION OF THE MEETING

The time being 7.09pm, the Mayor announced that the Agenda for the meeting had now been completed.

**CR KENRICK WINCHESTER
MAYOR
CHAIRPERSON**

ITEM 5 DECLARATION OF CONFLICTS/PECUNIARY INTERESTS

The provisions of Chapter 14 of the *Local Government Act, 1993* regulate the way in which Councillors and nominated staff of Council conduct themselves to ensure that there is no conflict between their private interests and their public trust.

The Act prescribes that where a member of Council (or a Committee of Council) has a direct or indirect financial (pecuniary) interest in a matter to be considered at a meeting of the Council (or Committee), that interest must be disclosed as soon as practicable after the start of the meeting and the reasons for declaring such interest.

As members are aware, the provisions of the *Local Government Act* restrict any member who has declared a pecuniary interest in any matter from participating in the discussions, voting on that matter, and require that member to vacate the Chamber.

Council's Code of Conduct provides that if members have a non-pecuniary conflict of interest, the nature of the conflict must be disclosed. The Code also provides for a number of ways in which a member may manage non pecuniary conflicts of interest

Recommendation

That Councillors and staff disclose any interests and reasons for declaring such interest in the matters under consideration by Council at this meeting.

REPORTS TO COUNCIL - ITEMS FOR DETERMINATION

9.1 Development Application - DA.2021.1789 - Demolition and Construction - Seniors Living Housing - 16 Erin Street, Queanbeyan (Ref: ; Author: Thompson/Yeomans)

File Reference: DA.2021.1789

Reason for Referral to Council

This application has been referred to Council because it is for a major development exceeding \$5 million in value.

Proposal:	Demolition of existing accommodation and construction of 48 bed seniors housing at Baptistcare George Forbes House including signage, internal road works, 23 parking spaces and associated landscape works.
Applicant/Owner:	Bradley Yates / Baptistcare NSW & ACT/ NSW Department of Industry – Crown
Subject Property:	16 Erin Street, Queanbeyan, 2620
Zoning and Permissibility:	R3 Medium Density Residential under <i>Queanbeyan Local Environmental Plan 2012</i>
Public Submissions:	Nil
Issues Discussed:	Planning Requirements
Disclosure of Political Donations and Gifts:	Applicant declared no donations or gifts to any Councillor or Staff have been made

Recommendation

That Development Application DA.2021.1789 for demolition and construction of a 48 bed seniors housing complex at Baptistcare George Forbes House including signage, internal road works, 23 parking spaces and associated landscape works at 16 Erin Street, Queanbeyan be granted conditional approval.

Background

Baptistcare NSW & ACT has lodged a development application for demolition and construction of a 48 bed seniors housing development as an addition to the existing Baptistcare George Forbes House at 16 Erin Street, Queanbeyan.

The proposal will be integrated with the existing facility and the 30 dementia-specific units already accommodated on the site. In total, the residential aged care facility will provide 78 beds, staff facilities, a range of personal and nursing care services as well as a new internal road network, above ground parking, signage and landscaping.

Baptistcare NSW & ACT is a not-for-profit organisation, and its proposed facility will provide professional residential care for seniors and people suffering from dementia related illnesses.

9.1 Development Application - DA.2021.1789 - Demolition and Construction - Seniors Living Housing - 16 Erin Street, Queanbeyan (Ref: ; Author: Thompson/Yeomans) (Continued)

Proposed Development

The development application seeks approval for the following:

- Demolition of some buildings and removal of four (4) parking spaces, including two (2) accessibility spaces.
- Retention of the building fronting Erin Street containing 30 dementia-specific units with a gross floor area (GFA) of 1,583m² and 16 staff parking spaces.
- Construction of a two (2) storey addition for the purposes of seniors housing containing 48 bedrooms with ensuites, communal areas, kitchens, a chapel, hairdresser, and staff facilities with a GFA of 3,852m².
- Construction of pedestrian pathways and internal road infrastructure including a new driveway and entry & drop off area.
- Construction of one (1) ambulance parking space and seven (7) vehicle spaces, including one (1) accessible space resulting in a total of 23 parking spaces.
- Landscape works including tree removal and replacement planting
- Two (2) business identification signs along the frontages of Collett Street and Erin Street.
- Augmentation of existing infrastructure and relocation of the existing sewer easement.

The proposed development is shown Figures 1 to 4 below.

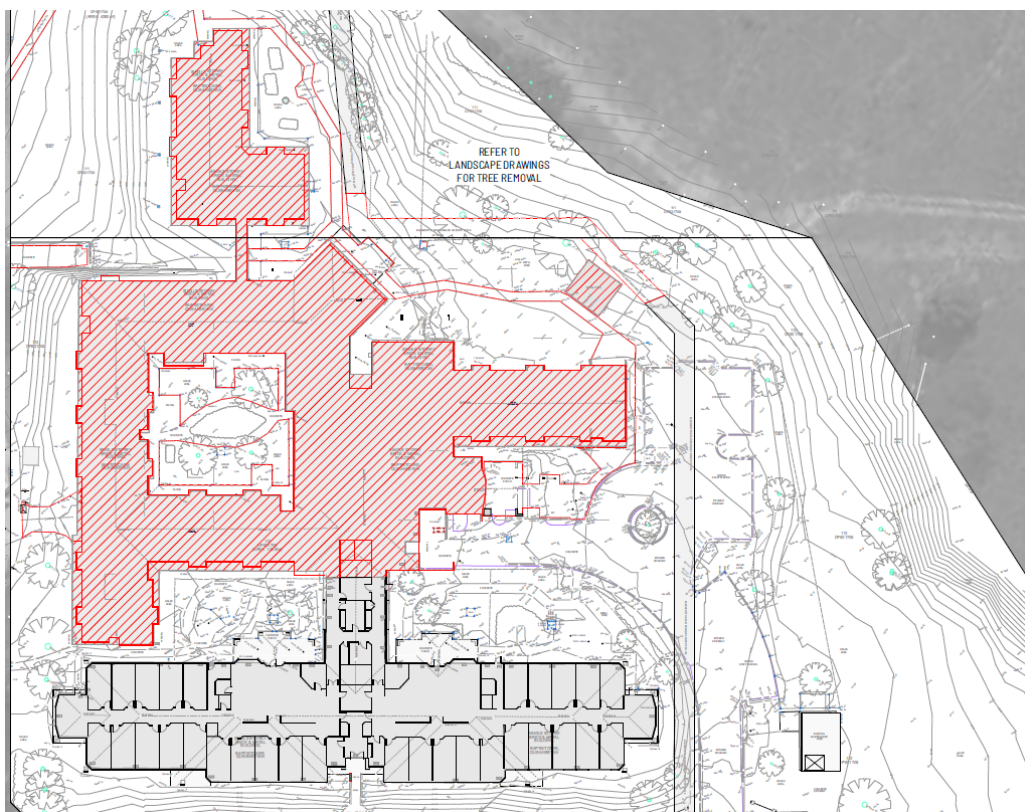


Figure 1 – Buildings to be Demolished Shown in Red

9.1 Development Application - DA.2021.1789 - Demolition and Construction - Seniors Living Housing - 16 Erin Street, Queanbeyan (Ref: ; Author: Thompson/Yeomans) (Continued)

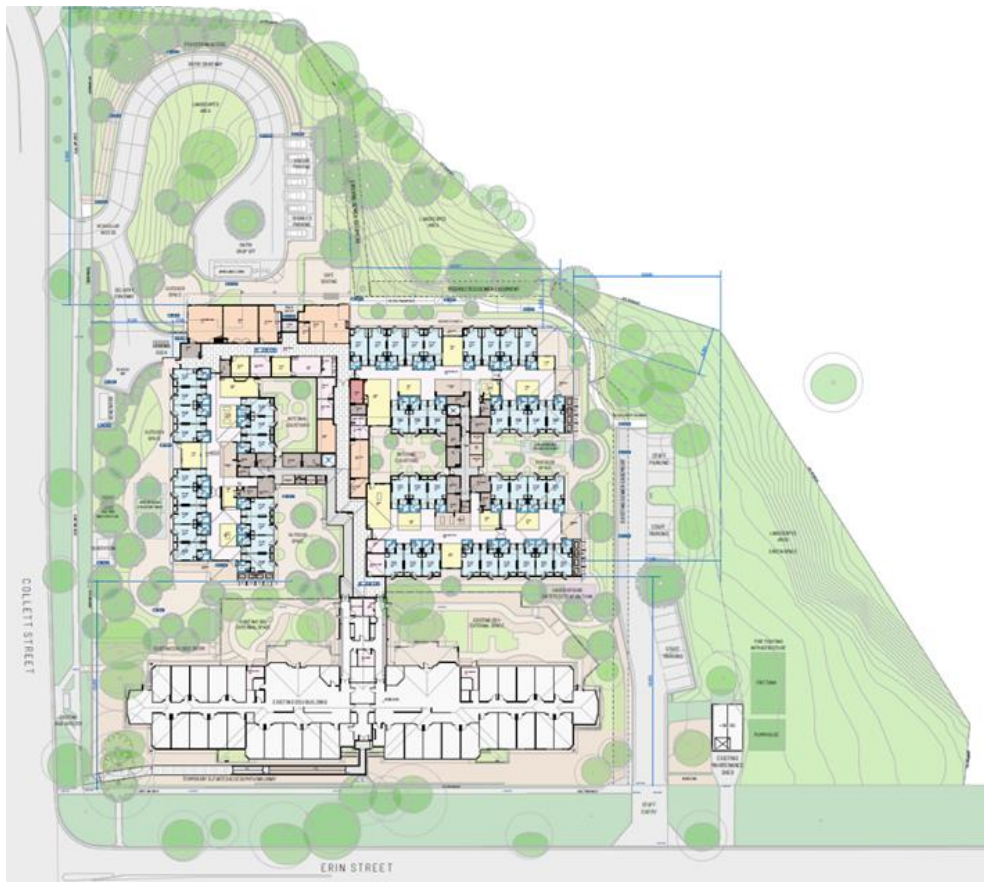


Figure 2: Proposed Ground Floor Arrangement and Internal Road Works

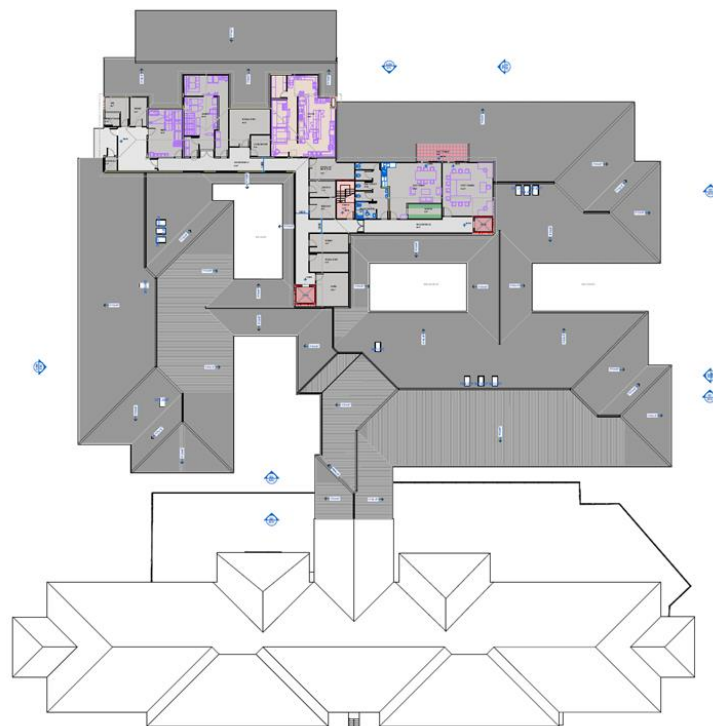


Figure 3: Proposed Second Level Floor Arrangement

**9.1 Development Application - DA.2021.1789 - Demolition and Construction -
Seniors Living Housing - 16 Erin Street, Queanbeyan (Ref: ; Author:
Thompson/Yeomans) (Continued)**



Figure 4: East Elevation Illustrating the Proposal's Integration with the Existing Development

Subject Property

The subject site is legally described as Lots 111 & 112 DP 821709 and is a residential aged care facility commonly known as Baptistcare George Forbes House. The site has an area of 17,670m² with the southern boundary having a frontage to Erin Street and the western boundary having a frontage to Collett Street.



Figure 5: Locality plan

9.1 Development Application - DA.2021.1789 - Demolition and Construction -
Seniors Living Housing - 16 Erin Street, Queanbeyan (Ref: ; Author:
Thompson/Yeomans) (Continued)



Figure 6: The Building's Entrance from Erin Street



Figure 7: The subject site looking to rear of site from Erin Street

**9.1 Development Application - DA.2021.1789 - Demolition and Construction -
Seniors Living Housing - 16 Erin Street, Queanbeyan (Ref: ; Author:
Thompson/Yeomans) (Continued)**



Figure 8: The Development to Collett Street

Pedestrian access to the site is currently available from Erin Street and Collett Street via dedicated pedestrian paths of travel. Vehicular access is permitted from Erin Street via a two-way egress/ingress point which permits access to an at-grade car park containing 20 spaces inclusive of two (2) accessible spaces. The development on the site comprises a single storey seniors housing development.

The portion of the development fronting Erin Street accommodates 30 dementia-specific units which are proposed for retention. The rear portion of the development proposed for demolition contains 55 existing hostel units and ancillary uses, including a library, specialist health services and a hairdresser.

Report

Planning Requirements

Assessment of the application has been undertaken in accordance with Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), as amended. The matters that are of relevance under Section 4.15(1) are summarised in the attached *Section 4.15(1) Table – Matters for Consideration*.

The following planning instruments have been considered in the planning assessment of the subject development application:

1. *State Environmental Planning Policy (Transport and Infrastructure) 2021*
2. *State Environmental Planning Policy (Planning Systems) 2021*
3. *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
4. *State Environmental Planning Policy (Resilience and Hazards) 2021*
5. *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*
6. *State Environmental Planning Policy (Industry and Employment) 2021*
7. *State Environmental Planning Policy (Housing) 2021*
8. *Queanbeyan Local Environmental Plan 2012 (QLEP 2012)*
9. *Queanbeyan Development Control Plan 2012 (QDCP 2012)*

**9.1 Development Application - DA.2021.1789 - Demolition and Construction -
Seniors Living Housing - 16 Erin Street, Queanbeyan (Ref: ; Author:
Thompson/Yeomans) (Continued)**

The development generally satisfies the requirements and achieves the objectives of these planning instruments. The key issues relating to the proposal for the Council's consideration are further detailed below.

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

The proposed development was lodged on the 24 December 2021 prior to the introduction of the *State Environmental Planning Policy (Housing) 2021* (Housing SEPP) and is therefore required to be assessed under the provisions of the former *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (Seniors SEPP). The provisions of the Seniors SEPP prevail to the extent of any inconsistencies with the provisions of the QLEP 2012.

The proposed development is considered to be seniors housing as defined under the Seniors SEPP as follows: -

Seniors housing – is residential accommodation that is, or is intended to be, used permanently for seniors or people with a disability consisting of –

- (a) a residential care facility, or*
- (b) a hostel, or*
- (c) a group of self-contained dwellings, or*
- (d) a combination of these.*

Pursuant to clause 11 of the Seniors SEPP, the proposed seniors housing is an addition to an existing residential care facility which is defined as follows: -

Residential care facility – is residential accommodation for seniors or people with a disability that includes -

- (a) meals and cleaning services, and*
- (b) personal care or nursing care, or both, and*
- (c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care,*

Not being a dwelling, hostel, hospital or psychiatric facility.

The proposal is consistent with the requirements of the Seniors SEPP. The proposal complies with the provisions of clause 40 contained within *Part 4 – Development Standards to be Complied With*.

The proposal also complies with the provisions under clause 48, *Part 7 - Development Standards that Cannot be Used as Grounds to Refuse Consent*. A detailed assessment against the full requirements of the SEPP Seniors is included within the attached Section 4.15 Assessment Report.

(b) Compliance with the State Environmental Planning Policy (Housing) 2021

The Housing SEPP consolidates five (5) former housing related policies, including the former Seniors SEPP. The general savings provision nominated under subclause 2 of the Policy specifies that its provisions do not apply to 'a *Development Application made, but not yet determined, on or before the commencement date*'. The Development Application was lodged on the 24 November 2021 prior to the Housing SEPP's commencement on the 26 November 2021. In consequence, the Seniors SEPP is the principal Environmental Planning Instrument (EPI) that applies to the assessment of the application.

**9.1 Development Application - DA.2021.1789 - Demolition and Construction -
Seniors Living Housing - 16 Erin Street, Queanbeyan (Ref: ; Author:
Thompson/Yeomans) (Continued)**

Notwithstanding the above, pursuant to clause 4.15(1)(a)(ii) of the EP&A Act, an environmental planning instrument is required to be considered by the consent authority in the determination of a development application where it has been the subject of public consultation and has been notified to the consent authority. The Housing SEPP was publicly exhibited from the 31 July to 29 August 2021 prior to the lodgement of the Development Application. Accordingly, it is required to be considered in the assessment of the application. No significant departures from the Housing SEPP were noted during the assessment.

(c) Compliance with LEP

Permissibility – The subject site is Zoned R3 Medium Density Residential under the *Queanbeyan Local Environmental Plan 2012 (QLEP 2012)*. The proposed alterations and additions will facilitate the delivery of a residential care facility. Residential Care Facilities are a type of Seniors Housing. Development for the purposes of Seniors Housing is permissible with consent in the R3 Medium Density Residential zone.

Biodiversity – The rear portion of the subject allotment is mapped as being terrestrial biodiversity. The applicant has provided a detailed assessment against the requirements of clause 7.3 of the *QLEP 2012*. The assessment confirms that the works required within the land mapped terrestrial biodiversity do not exceed the area of clearing that would trigger the need for a BDAR. The assessment concludes that there are no threatened species identified on the subject property and that no threatened fauna were noted as occupying the property. The proposal is therefore considered to be consistent with the requirements of the clause.

(d) Compliance with DCP

The proposal achieves a high degree of compliance with the *Queanbeyan Development Control Plan 2012*. The relevant parts being: Part 2 'All Zones', and 'Part 4- 'Heritage and Conservation'.

Internal Referrals

(a) Development Engineer's Comments

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

(b) Heritage Advisors Comments

The proposal was referred to Council's Heritage Advisor. The following comments were received:

'The aged care facility is a two-storey building that will be set well back from the church, with a substantial landscaped area and tree planting between the two. There is unlikely to be any adverse heritage impact on the church arising from the development'.

Council is satisfied that the proposal will have no impact on the adjacent heritage listed item.

(c) Waste Trade Officer's Comments

Council's Trade Waste Officer raised no objection to the proposed development subject to the imposition of the recommended conditions of consent.

(d) Waste Officer's Comments

Council's Waste Officer raised no objection to the proposed development subject to the imposition of the recommended conditions of consent.

**9.1 Development Application - DA.2021.1789 - Demolition and Construction -
Seniors Living Housing - 16 Erin Street, Queanbeyan (Ref: ; Author:
Thompson/Yeomans) (Continued)**

(e) Tree Management Officer

Council's Tree Management Officer raised no objection to the proposed development subject to the imposition of the recommended conditions of consent.

External Referral Agencies

NSW RFS (Rural Fire Service)

The application was referred to NSW RFS as a special fire purpose. NSW Rural Fire Service issued General Terms of Approval however note they have no specific conditions. They also issued a Bushfire Certificate on 22 April 2022, a copy of which will be attached to any consent. No objection was made in relation to the proposed development.

NSW Crown Lands

Lots 111 and 112 in DP 821709 are Crown Land and held by the State of NSW. Both lots are under lease (E906635) to Baptistcare NSW & ACT. The land to the immediate north west is also Crown Land.

The Department of Planning, Industry and Environment – Crown Lands has reviewed the development application in accordance with the principles of Crown land management (s 1.4 *Crown Lands Management Act 2016*) and raised no objection to the proposed development.

Essential Energy

Essential Energy has reviewed the application and provided general comments. Essential Energy raised no objection to the proposed development.

Risk/Policy/Legislation Considerations

The proposed development complies with the relevant development controls and is able to be approved.

Financial, Budget and Resource Implications

Section 7.11 and Section 7.12 of the EP&A Act 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.

On 14 September 2007, the Minister for Planning issued as Ministerial Direction titled '*Revocation of Direction in Force Under Section 94E and Direction Under 94E*'. This direction made Section 7.11 and Section 7.12 contributions not applicable to development undertaken by a 'social housing provider' for the purposes of 'seniors housing' as defined by the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.

The Applicant has demonstrated they are registered as a Community/Social Housing Provider and are a registered charity and as such section 7.12 contributions cannot be levied on the proposed development.

Further, Section 64 of the *Local Government Act 1993* allows contributions to be levied towards the provision of water, sewerage, and stormwater infrastructure. However, in this case the new development has a reduced impact on Council's sewer and water infrastructure due to an overall reduction from 85 beds to 78 beds. As such no additional load is anticipated and no additional contribution is required.

**9.1 Development Application - DA.2021.1789 - Demolition and Construction -
Seniors Living Housing - 16 Erin Street, Queanbeyan (Ref: ; Author:
Thompson/Yeomans) (Continued)**

Engagement

The proposal required notification pursuant to the *QPRC Community Engagement and Participation Plan* from 24 January 2022 to the 9 February 2022. No submissions were received.



Conclusion

The proposal for seniors housing at 16 Erin Street, Queanbeyan is supported by a Statement of Environmental Effects (SEE) and was notified to adjoining owners/occupiers. No submissions were received during the notification period.

The proposed development will have positive social and economic outcomes as it essentially provides for upgrades to an existing facility and new aged care accommodation to service the broader community.

The proposal has been assessed under Section 4.15 of the *Environmental Planning & Assessment Act* including the relevant provisions of applicable State Environmental Planning Policies, the *Queanbeyan Local Environmental Plan 2012*, Draft Queanbeyan Palerang Local Environmental Plan 2020 and Queanbeyan Development Control Plan 2012. The proposal satisfies the requirements and achieves the objectives of these instruments. It is therefore recommended for approval.

Attachments

- | | |
|--|--|
| Attachment 1 | DA.2021.1789 - Section 4.15 Assessment - Seniors Housing -16 Erin Street, Queanbeyan (<i>Under Separate Cover</i>) |
|  Attachment 2 | DA.2021.1789 - Plans - Seniors Housing -16 Erin Street, Queanbeyan (<i>Under Separate Cover</i>) |
|  Attachment 3 | DA.2021.1789 - Draft Conditions of Consent - Seniors Housing -16 Erin Street, Queanbeyan (<i>Under Separate Cover</i>) |

REPORTS TO COUNCIL - ITEMS FOR DETERMINATION

9.2 Modification Application - 2020.1154.B - Modification to Conditions of Consent Relating to Energy Supply - 44 Brooks Road, Road (Ref: ; Author: Thompson/Shumaker)

File Reference: DA.2020.1154.B

Recommendation

1. That approval be granted to a variation to Clause 6.11 – Essential Services of the *Palerang Local Environmental Plan 2014* to allow one lot of the approved three lot subdivision (DA.2020.1154) to be serviced by off-grid solar power installation for the following reasons:
 - (a) The installation of a reticulated electricity supply for the proposed Lot 112 is unreasonable due to site constraints.
 - (b) The solar panels, battery storage and backup generator for proposed Lot 112 will be supplied at the developer's expense and will be supplied at subdivision stage ensuring the lot will have a suitable electricity supply;
 - (c) The proposed use of solar power is consistent with QPRC's Climate Change Action Plan: Community.
2. That modification application DA.2020.1154.B to enable one allotment to connect to solar power, battery storage and backup generator instead of a reticulated electricity supply on Lot 11 DP 245149 at 44 Brooks Road, Bywong be approved with the following changes to the conditions of consent:

Conditions to be deleted

- Condition 28
- Condition 29

New Conditions of Consent to be modified***Condition 26A - Electricity Supply***

Prior to the issue of a Subdivision Certificate, the applicant is to provide a solar electricity system with a minimum generating capacity of 7.5kW to Lot 112. No infrastructure requiring tree removal is to be installed without prior consent from Queanbeyan-Palerang Regional Council. The applicant shall install the system at their own cost and prior to the issue of a Subdivision Certificate for the land. A specification document for each system should be provided to Council prior to the release of a Subdivision Certificate.

Reason: To ensure essential electrical supply is provided to the allotment.

Conditions of Consent to be modified***Condition 30 - Covenant on the Land (Amended)***

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) Creation of a Right of Carriageway 10m wide in favour of proposed Lot 111 over proposed Lot 110,
- b) Lot 112 will need an onsite system of power generation at the applicants cost as the land is unlikely to be serviced by a reticulated electricity supply system. The owner of Lot 112, at any point in time, is responsible for the

9.2 Modification Application - 2020.1154.B - Modification to Conditions of Consent Relating to Energy Supply - 44 Brooks Road, Road (Ref: ; Author: Thompson/Shumaker) (Continued)

ongoing maintenance and replacement of any panels, batteries, inverters, and any parts that form part of the operation of the solar electricity supply system and that it must be maintained in good working order and condition in perpetuity. Prior to any sale, evidence as to the age of the system and its maintenance status is to be provided to any potential purchaser(s).

- c) Nominating Council as the name of the person/authority empowered to release, vary or modify restriction or positive covenant numbered in the plan.
- d) Plantings on the entire site, including within the building envelopes, are to exclude species listed on the regional weeds lists.
- e) Ground covers are to be maintained at a minimum 70% in accordance with the guidelines contained in Queanbeyan-Palerang Regional Council's Palerang DCP 2015.

Reason: To ensure public utility services, access and restrictions are legalised over the land.

Summary

Reason for Referral to Council

This application has been referred to Council as it considers matters that may set or alter policy implications for similar requests in the future.

Proposal:	Section 4.55(1A) Modification DA.2020.1154.B to enable one proposed lot of an approved three lot subdivision to connect to solar power, battery storage and backup generator instead of reticulated electricity supply.
Applicant/Owner:	Cheryl Lorraine Le Mesurier & David Barry Le Mesurier
Subject Property:	Lot 11 DP 245149 - 44 Brooks Road, Bywong
Zoning and Permissibility:	C4 Environmental Living under Palerang Local Environmental Plan 2014
Public Submissions:	Nil
Issues Discussed:	Planning Requirements
Disclosure of Political Donations and Gifts:	Applicant Declared no Donations or Gifts to any Councillor or Staff have been made

Background

Previous Applications

DA.2020.1154 - Three lot Torrens title subdivision approved 4 January 2021.

DA.2020.1154.A – Modification application change to Condition 31 – Correct the Right of Carriageway width from 20m to 10m approved 12 August 2021.

9.2 Modification Application - 2020.1154.B - Modification to Conditions of Consent Relating to Energy Supply - 44 Brooks Road, Road (Ref: ; Author: Thompson/Shumaker) (Continued)

Proposed Development

The modification application seeks Council approval to modify consent conditions 28, 29 and 30 of the subdivision approval DA.2020.1154.A to:

- allow proposed Lot 112 to connect to solar power instead of a reticulated electricity supply, and
- provide battery storage and back-up generator.

The applicant's justification for not providing a reticulated electricity supply to proposed Lot 112 is that due to well established trees, infrastructure, distance and intrusion of power lines for future purchasers of proposed Lot 111, connection to the existing electrical supply via proposed Lot 111 to proposed Lot 112 is difficult.

A solar electricity supply could be achieved through the installation of either a ground mounted solar array or an array located on top of a building. Council does not have a preference as long as the electrical infrastructure is provided.

The applicant's preference is to mount 26 photovoltaic (PV) solar panels on the roof of a yet to be approved machinery shed, which will also house a battery to store the power (see Figure 1 below). For the purposes of the subdivision, the applicant will need to seek and gain approval for the machinery shed to enable mounting of the solar panels, prior to issue of the subdivision certificate.

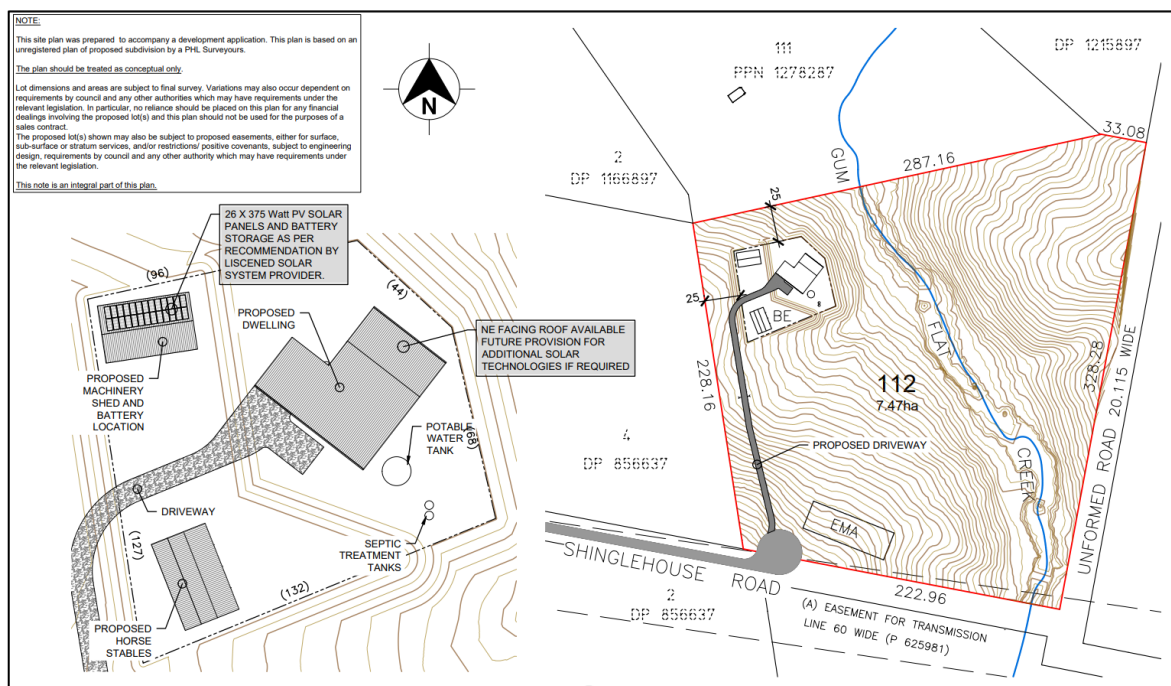


Figure 1 - Indicative site plan for proposed Lot 112, showing proposed locations of shed, solar panels and battery

Subject Property

The subject site, commonly known as 44 Brooks Road, Bywong, is described as Lot 11 on DP 245149, and is a single allotment with approval for a three-lot Torrens title subdivision. It has a total area of 19.61ha and has an existing, detached dual occupancy and ancillary structures constructed on the site. The approved subdivision will create lots that are 3.92ha, 8.22ha and 7.47ha in size. Two of the proposed lots will each contain one of the existing dwellings, while the third lot i.e. proposed lot 112, will include a building envelope for future development, subject to development consent. Proposed Lot 112 will be known as 83 Shinglehouse Road.

9.2 Modification Application - 2020.1154.B - Modification to Conditions of Consent Relating to Energy Supply - 44 Brooks Road, Road (Ref: ; Author: Thompson/Shumaker) (Continued)

Planning Requirements

Assessment of the application has been undertaken in accordance with Section 4.55 of the *Environmental Planning and Assessment Act (EPAA) 1979*, as amended. The matters that are of relevance under Section 4.55 are summarised in the attached *Section 4.55 Table – Matters for Consideration*.

The following planning instruments have been considered in the planning assessment of the subject development application:

1. *Palerang Local Environmental Plan 2014 (PLEP)*.
2. *Palerang Development Control Plan 2012 (PDCP)*.

The development generally satisfies the requirements and achieves the objectives of these planning instruments. The significant issue of the proposal for consideration by Council is discussed in the following report.

(a) Compliance with PLEP

Clause 6.11 - Essential Services states that:

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—

- the supply of electricity,

Essential Energy requires 3kW of power to rural blocks. Council's engineer proposes a new condition if the modification is approved, to require a solar electricity system with a minimum generating capacity of 7.5kW to Lot 112. This would exceed Essential Energy's requirements.

(b) Compliance with PDCP

Clause C1.2.9 of the PDCP outlines objectives for the provision of electricity as part of subdivisions including the provision:

- To promote opportunities for on-site generation of power.

The DCP also requires written evidence from the electricity supply body that the proposed electricity infrastructure is satisfactory prior to the release of the subdivision certificate. Essential Energy has indicated that it will provide a *notice of arrangement* on approval of this modification and once necessary arrangements to provide electrical services to the subdivision have been made.

(c) Development Engineer's Comments

Conditions 28 and 29 of the amended consent relate to reticulated electrical supply to the newly created lots prior to the issue of a Subdivision Certificate.

Council's policy is to have a reticulated electricity supply to all new subdivisions. However, section C1.2.9 (3) of the Palerang Development Control Plan 2015 provides for consideration of alternative power sources in the RU1 Primary Production, C3 (E3) Environmental Management and C4 (E4) Environmental Living zones. The proviso is that, like a reticulated power supply, the alternate power supply must be provided prior to the issue of the Subdivision Certificate i.e. the new allotment cannot be sold unless some form of electricity supply has been provided.

9.2 Modification Application - 2020.1154.B - Modification to Conditions of Consent Relating to Energy Supply - 44 Brooks Road, Road (Ref: ; Author: Thompson/Shumaker) (Continued)

Subsequently, the amendment of Conditions 28 and 29 and amendment of Condition 30 is supported through this modification to allow for the installation of a solar energy system in place of reticulated electricity supply, subject to provision of the electrical infrastructure being installed prior to the release of the subdivision certificate.

In order to achieve this the following conditions as per the amended consent, dated 12 August 2021, need to be removed or amended:

Condition 28 – Separate Connections & Services - *To be deleted.*

Condition 26A – Electricity Supply - *Replacement Condition as below.*

Condition 29 – Submission from Service Authority - *To be deleted.*

Condition 30 – Covenant on the Land - *To be amended as below.*

Proposed Condition 26A - Electricity Supply

Prior to the issue of a Subdivision Certificate, the applicant is to provide a solar electricity system with a minimum generating capacity of 7.5kW to Lot 112. No infrastructure requiring tree removal is to be installed without prior consent from Queanbeyan-Palerang Regional Council. The applicant shall install the system at their own cost and prior to the issue of a Subdivision Certificate for the land. A specification document for each system should be provided to Council prior to the release of a Subdivision Certificate.

Reason: To ensure essential electrical supply is provided to the allotment.

Proposed Condition 30 - Covenant on the Land (Amended)

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) Creation of a Right of Carriageway 10m wide in favour of proposed Lot 111 over proposed Lot 110,
- b) Lot 112 will need an onsite system of power generation at the applicant's cost as the land is unlikely to be serviced by a reticulated electricity supply system. The owner of Lot 112, at any point in time, is responsible for the ongoing maintenance and replacement of any panels, batteries, inverters, and any parts that form part of the operation of the solar electricity supply system and that it must be maintained in good working order and condition in perpetuity. Prior to any sale, evidence as to the age of the system and its maintenance status is to be provided to any potential purchaser(s).
- c) Nominating Council as the name of the person/authority empowered to release, vary or modify restriction or positive covenant numbered in the plan.
- d) Plantings on the entire site, including within the building envelopes, are to exclude species listed on the regional weeds lists.
- e) Ground covers are to be maintained at a minimum 70% in accordance with the guidelines contained in Queanbeyan-Palerang Regional Council's Palerang DCP 2015.

Reason: To ensure public utility services, access and restrictions are legalised over the land.

Financial Implications

There are no financial implications to Council as a result of approving this modification application.

Engagement

The application was notified between 21 January 2022 and 08 February 2022. No submissions were received.

9.2 Modification Application - 2020.1154.B - Modification to Conditions of Consent Relating to Energy Supply - 44 Brooks Road, Road (Ref: ; Author: Thompson/Shumaker) (Continued)

Compliance or Policy Implications

Over the previous two years Council has begun to receive some subdivision proposals where the installation of a solar array has been put forward as an alternative to connect to a reticulated electricity supply. Generally speaking, Council has resisted this move because:

- Some developers have tried to avoid the cost of providing electricity to a new property and transfer that cost to the new owner who has to install a solar array.
- There is an expectation from the purchaser of a new property that it will be provided with a reticulated electricity supply.
- A solar array may not be able to supply the electrical supply that the owner requires e.g. three phase power.

Where Council has allowed an alternate power supply to be provided it has been done on the following basis:

- Because the supply of reticulated electricity is unreasonable due to topography, biodiversity impacts, cost or similar constraints.
- The developer is required to install the infrastructure for the alternate power supply before the subdivision is released, thereby ensuring that the new owner does not have to bear those costs.
- A statement is included on the land title making any prospective purchaser aware that the property is provided with a solar electrical supply and obliging them to maintain that system should the property be sold in the future.

The proposed modification complies with these guidelines.

Links to QPRC/Regional Strategic Plans

Council has committed in the QPRC Community Climate Change Action Plan to a reduction of emissions and to encourage the community to install photovoltaic solar power systems. The modification is consistent with those objectives.

Conclusion



The submitted proposal is for a modification to a three lot Torrens title subdivision at Lot 11 DP 245149, 44 Brooks Road, Bywong. The modification proposes to change Conditions 28, 29 and 30 to enable one allotment to connect to solar power, battery storage and backup generator instead of electricity supply. The proposal was notified to adjoining owner/occupiers and no submissions were received.

The proposal has been assessed under Section 4.55 *Environmental Planning & Assessment Act 1979* including the relevant provisions of *Palerang Local Environmental Plan 2014* and *Palerang Development Control Plan 2015*.

The development satisfies the requirements and achieves the objectives of these instruments.

The proposed development is considered suitable for the site, is compatible with the neighbourhood and with amendments to the proposed conditions of consent can be mitigate any potential impacts.

Attachments

- | | |
|---|--|
| Attachment 1 | DA.2020.1154.B - Section 4.55 Assessment Report - Modification |
|  | Application - 44 Brooks Road, Bywong (<i>Under Separate Cover</i>) |
| Attachment 2 | DA.2020.1154.B - Plans - Modification Application - 44 Brooks Road, |
|  | Bywong (<i>Under Separate Cover</i>) |

REPORTS TO COUNCIL - ITEMS FOR DETERMINATION

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 (Ref: ; Author: Thompson/Yeomans)

File Reference: REV.2022.1001

Recommendation

1. That Council note that it is precluded from refusing an application on 'heritage grounds' under s.4.48 of the *Environmental Planning and Assessment Act 1979* where:
 - The application is for integrated development for which a heritage approval is required; and
 - The same development is the subject of a heritage approval.
 2. That the section 8.2 review application (REV.2022.1001) of development application DA.2021.1240 for a two lot Torrens title subdivision including ancillary demolition of two sheds and garage and associated works on Lot 1 DP 598830 at 119 Wallace Street, Braidwood be granted conditional approval.
 3. That Heritage New South Wales be forwarded a copy of Council's Notice of Determination.
-

Actions from Meeting 14 September 2022

This matter was previously considered by Council at its meeting of 14 September 2022 where Council determined the following.

That Council defer consideration of Review of Determination REV.2022.1001 (DA.2021.1240) to seek clarification on a number of legal issues including:

1. *Whether the scope of modifications to the original application for determination exceeds the variation permissible for a valid review application under the Environment Planning and Assessment Act 1979 given it now includes demolition of items listed on the Palerang Local Environmental Plan 2014, and*
2. *Whether the review application is a validly made Integrated Development Application, in particular, whether the review application is permitted to rely on Section 60 approvals which were granted prior to the lodgement for a review of determination of DA.2021.1240*

Additional legal advice was sought on the requested matters and has been provided to Councillors (closed Attachment 7). Councillors also had a further opportunity to discuss the information provided at a workshop held on 19 October 2022.

For the information of Councillors, the report on the original application that was refused was considered by Council at its meeting on 9 March 2022 (Item 9.1). A copy of the reasons for refusal are provided in Attachment 8.

With the provision of the information requested by Council's resolution this matter is now resubmitted to Council for determination. The report follows without alteration to that presented to Council on 14 September 2022.

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 (Ref: ; Author: Thompson/Yeomans) (Continued)

Summary

Where the original determination on a development application is made by the full Council and, a review of that application under section 8.2 of the *Environmental Planning and Assessment Act 1979* is requested, the full Council must also determine the review.

Proposal:	Two lot Torrens title subdivision including ancillary demolition of two existing sheds and garage and associated works.
Applicant/Owner:	Zen Ruby Pty Ltd. / Zen Ruby Pty Ltd.
Subject Property:	Lot 1 DP 598830 at 119 Wallace Street, Braidwood, NSW.
Zoning and Permissibility:	B2 Local Centre and B4 Mixed Use Zone under the Palerang Local Environmental Plan 2014.
Public Submissions:	Four (4)
Issues Discussed:	Clarification of Section 60 Approval under the <i>Heritage Act 1977</i> and Integrated Development under the <i>Environmental Planning and Assessment Act 1979</i> . Planning issues. Notification requirements.
Disclosure of Political Donations and Gifts:	Applicant Declared no Donations or Gifts to any Councillor or Staff have been made.

Following Council's refusal of development application DA.2021.1240 on 9 March 2022, the Applicant has lodged a review of determination application 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, including any modifications made 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 under the *Heritage Act 1977* has been issued for the subdivision to create 2 lots, demolition and ancillary works as now proposed in this application.

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 (Ref: ; Author: Thompson/Yeomans) (Continued)

Background

Recent Actions

Council at its meeting of 27 January 2022 (Minute No. 028/22) resolved in relation to development application DA.2021.1240:

That:

1. *Consideration of development application DA.2021.1240 for a two lot Torrens title subdivision and demolition of two existing sheds and garages on Lot 1 DP 598830, No. 119 Wallace St Braidwood be deferred until after a workshop has been held with representatives from Heritage NSW to ascertain:*
 - a. *The Heritage Council's view as to the necessity for the proposed subdivision boundary to pass through the T shaped sheds given that this results in the need to demolish those sheds.*
 - b. *The Heritage Council's view as to whether relocating the subdivision boundary clear of the T-shaped sheds would impact on the section 60 approvals already provided in relation to the proposed subdivision and demolition.*
2. *Prior to reconsidering this matter, Councillors conduct an onsite inspection in conjunction with the owner of the premises and that representatives from Heritage NSW be invited to attend.*

Following Council's resolution, an on-site inspection was conducted on Tuesday 22 February 2022. In attendance were the owner/applicant, Mayor Winchester, Councillors Grundy and Willis and Council staff.

The site inspection was followed with an online meeting with a representative of Heritage NSW. In addition to the previously mentioned Councillors, Councillor Preston joined that meeting as did the Acting Chief Executive Officer.

The Heritage NSW representative provided an overview of the process and confirmed consent for demolition of the sheds is to be determined under the *Environmental Planning and Assessment Act 1979*.

Consequently, a report on that development application was resubmitted to Council for its determination.

At its meeting of 9 March 2022 Council determined to refuse the Development Application for the following reasons:

- a. The proposed development is considered to have an unacceptable impact on the public interest.
- b. The proposed development is considered to have an unacceptable impact on two buildings considered to have local heritage significance.

The Applicant lodged a review of that determination on 11 April 2022 which is the subject of this report.

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 (Ref: ; Author: Thompson/Yeomans) (Continued)

Proposed Development

The proposed development is for the subdivision of land to create two Torrens title lots, demolition of two existing corrugated iron sheds and garages and works to existing buildings as approved by Heritage NSW.

Specifically, the proposal includes:

- Subdivision of the existing 2983m² Torrens title allotment into two lots:
 - Proposed Lot 1 at 1831m² fronts Wallace and Duncan Streets. The proposed lot will incorporate the existing Albion Hotel building, shops & offices. This allotment will also retain the brick stables structure in the north eastern corner of the proposed lot.
 - Proposed Lot 2 at 1152m² fronts Duncan Street. Following the proposed demolition the new allotment will be vacant.
- Demolition of two existing sheds (T-Shaped sheds) in the centre of the site and garage/carport at the rear of the lot.

Figure 1 below shows the proposed subdivision boundary with the existing structures to be demolished labelled in Figure 2.

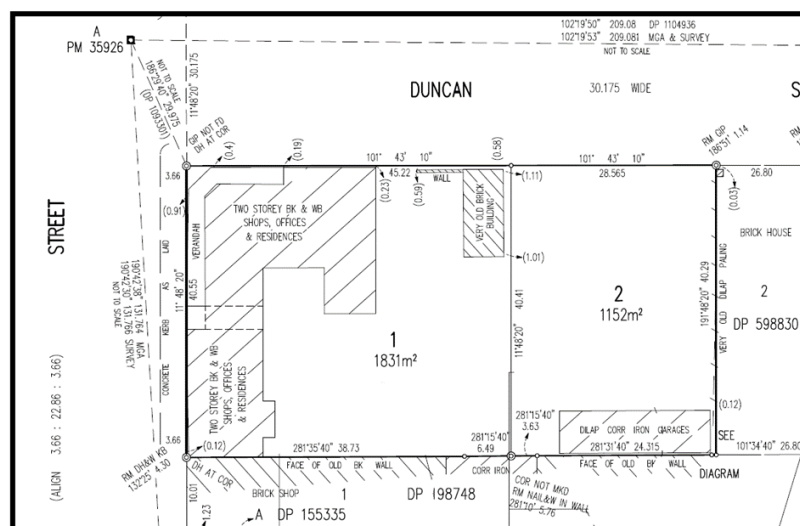


Figure 1: Proposed Subdivision Layout

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 (Ref: ; Author: Thompson/Yeomans) (Continued)

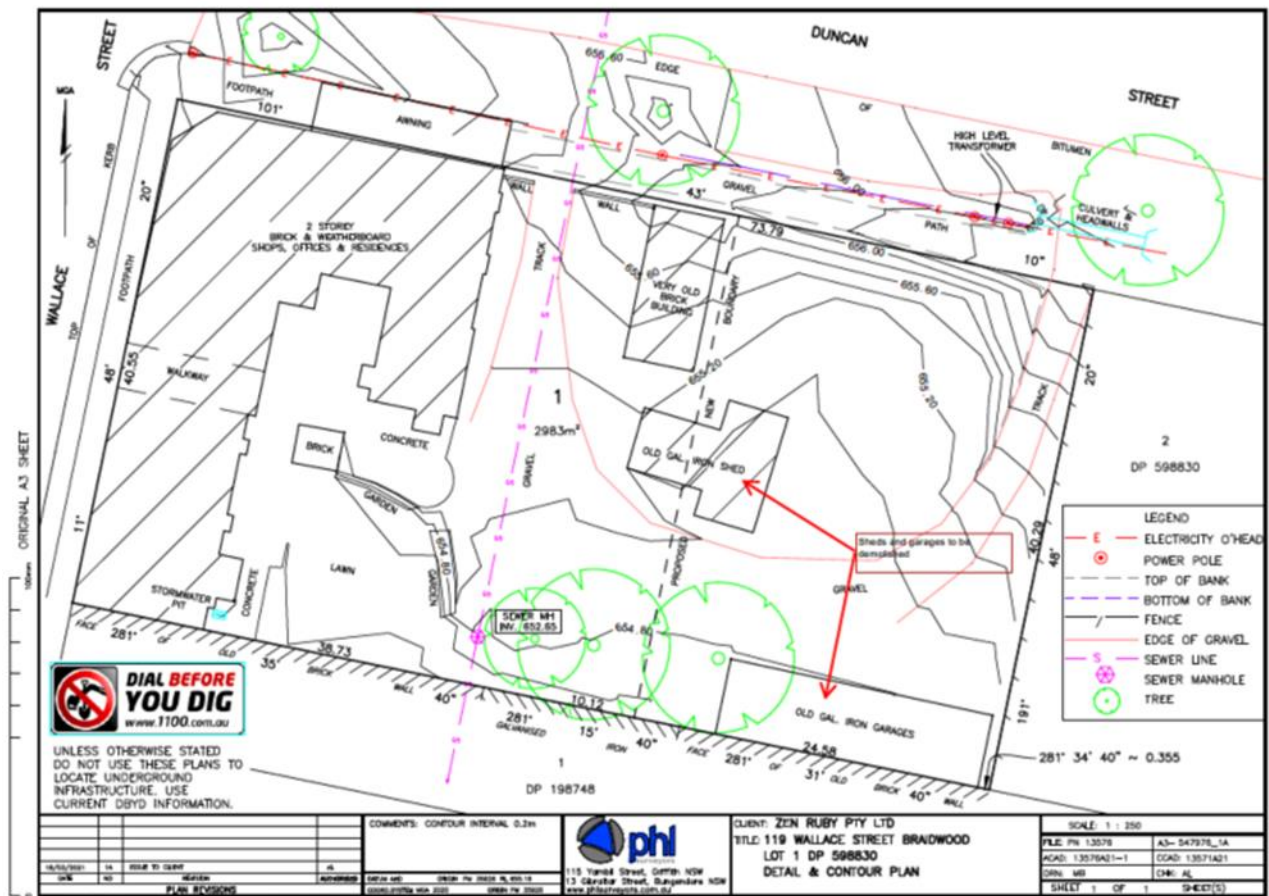


Figure 2 – Survey Plan showing proposed subdivision boundary (dotted black) and existing buildings to be demolished indicated by red arrows.

Heritage NSW issued a Section 60 (s60/2020/260) Approval for subdivision of the existing site into two lots. That approval included the subdivision consistent with the Figure 1 Proposed Subdivision Layout above. The approval did not include any physical works.

A subsequent approval was issued by Heritage NSW under Section 60 (s60/2021/102) for physical works as follows:

- Works to brick stables building involving a self-levelling cement compound over existing concrete floor
- Replacing the roof of the stables with like for like material
- Repairing the stables brickwork
- Installation of plumbing into stable for sink connection
- Reinstall previous fit out including sink, bench, installation of bathroom
- Extension to timber deck and slab off the stables to the west
- Removal of T- shaped shed
- Removal of sheds on south boundary line, and
- Construct awning to small brick storage shed.

These works are shown in Figures 3- through 7 below.

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 (Ref: ; Author: Thompson/Yeomans) (Continued)

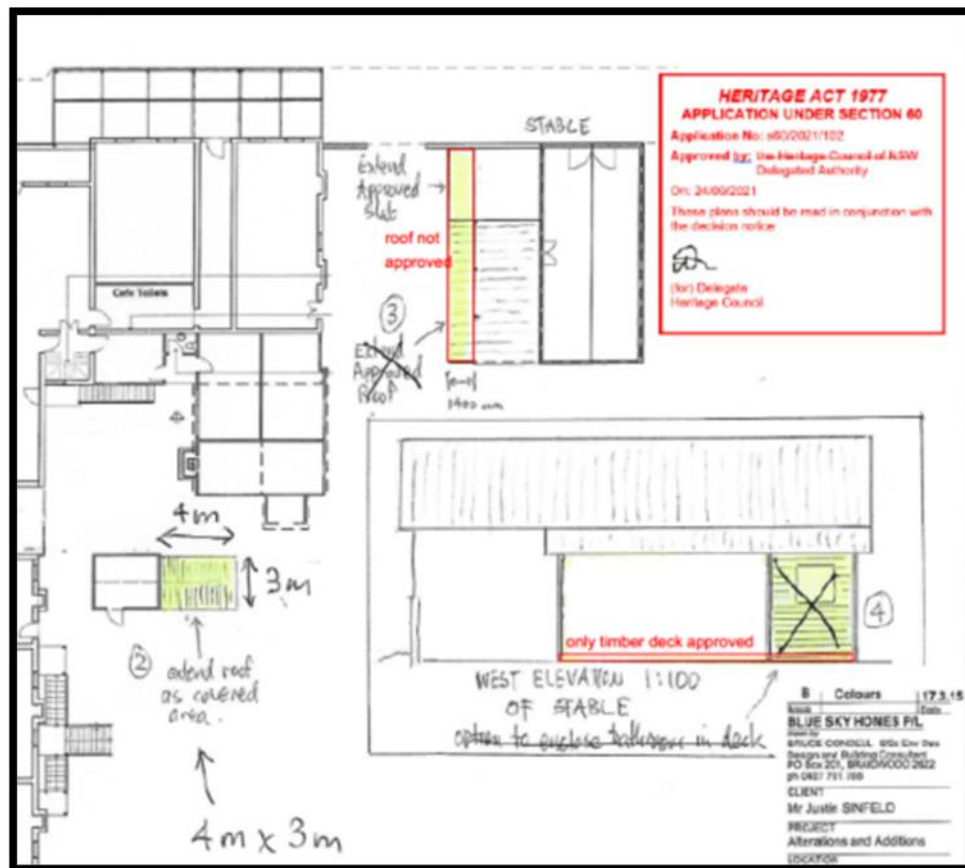


Figure 3: Proposed works – Extend roof to brick store, extend timber deck and slab to stables

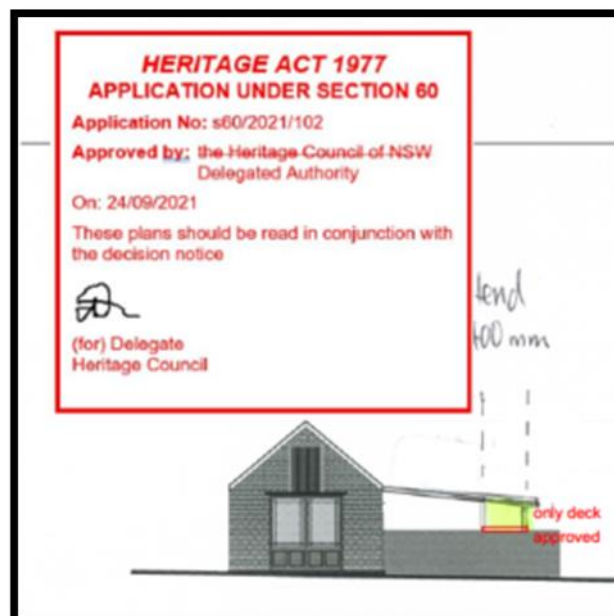


Figure 4: Proposed works –timber deck to stables

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 (Ref: ; Author: Thompson/Yeomans) (Continued)

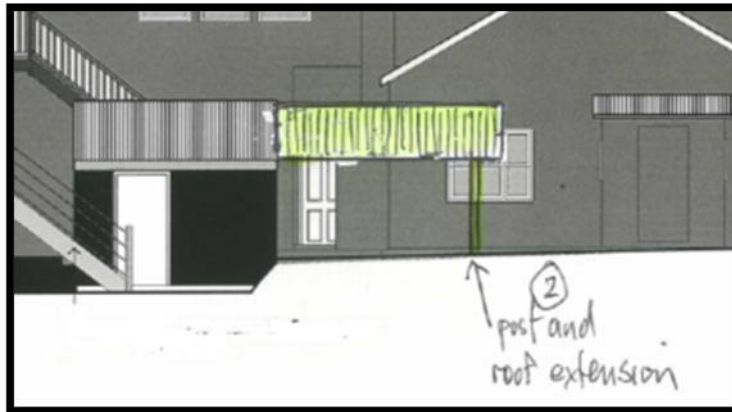


Figure 5: Proposed works – roof extension to brick store

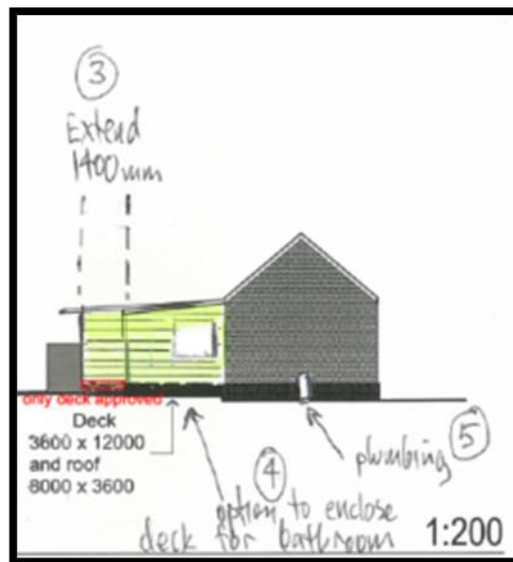


Figure 6: Proposed works - timber deck and existing plumbing

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 (Ref: ; Author: Thompson/Yeomans) (Continued)

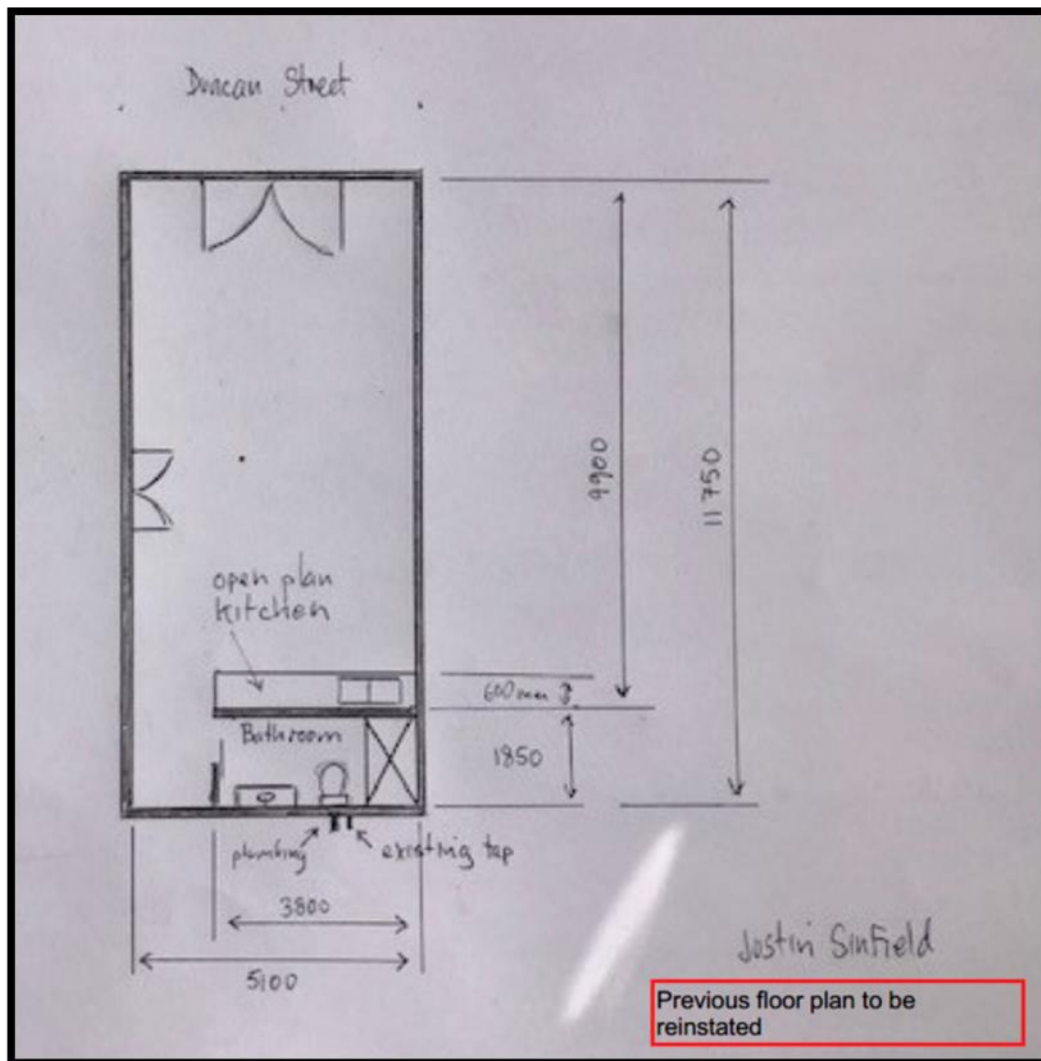


Figure 7 – Stables internal floor plan to be reinstated

Subject Property

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 2983m².

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 (Ref: ; Author: Thompson/Yeomans) (Continued)



Figure 8 –Aerial image of site with land use zoning overlaid

The site is relatively flat and contains minimal existing vegetation, except for two large trees on the southern side of the site. No vegetation clearing is proposed.

Existing development on the site comprises several structures including the Albion Hotel building which sits on the corner of Wallace Street and Duncan Streets. There is a 2 storey terrace building to the south of the Hotel on Wallace Street that accommodates shops, offices and dwellings above. The brick stables building adjoins the Hotel to the east and fronts Duncan Street.



Figure 9 – Albion Hotel to Wallace Street

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 (Ref: ; Author: Thompson/Yeomans) (Continued)

The site also accommodates 2 timber framed, corrugated iron clad sheds in a T-shape, central to the lot.



Figure 10 – View to site from Duncan Street with T shaped sheds (centre right) and brick stables (right)



Figure 11 – T shaped sheds (centre) and brick stables (rear left)

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 (Ref: ; Author: Thompson/Yeomans) (Continued)

A dilapidated timber and sheet metal open structure ('garage') is located to the southern boundary.



Figure 12 – Metal and timber 'garage'

A small stand-alone brick store is located adjacent to the rear of the shop, office & residence building.



Figure 13 – Rear of shop building (left) and Hotel with brick store in foreground

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 (Ref: ; Author: Thompson/Yeomans) (Continued)

Vehicular access is provided to the site via two existing driveways from Duncan Street. Existing development within the locality consists of a mixture of uses predominantly offices, business, retail and low-density residential premises.



Figure 14 – Existing entrance off Duncan Street with old garages to rear.

Site History

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 since the 1840s.

Shops / dwellings - The two storey terrace shops located to the south-west of the site were constructed in the 1920s and contain three commercial tenancies. Dwellings are upstairs.

Brick Stables - The existing brick stable structure previously operated as the offices for the Braidwood Times newspaper. The building is vacant and has been gutted and part of the roof is missing. It's most recent use appears to have been an unauthorised café for a short period of time. The structure is in need of repair.

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 (Ref: ; Author: Thompson/Yeomans) (Continued)



Figure 15 – Brick Stables from Duncan Street



Figure 16 – Stables internal

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 (Ref: ; Author: Thompson/Yeomans) (Continued)

T-Shaped Shed - A conjoined (T-shaped) pair of single-storey, timber-framed and gable roofed buildings clad in short-length corrugated metal sheeting (rusted in parts), are situated immediately south of the stables. Three single-leaf timber doors. Utilitarian character used as 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.



Figure 17 – T-Shaped Sheds (centre) and Brick Stables (right) from Duncan Street

Garage/Carports – Detached, low-slung, timber-framed structures, clad in short-length corrugated metal sheeting (rusted) are located along the rear boundary brick wall (at 103 Wallace Street), in the south-east corner of the site. Divided into six small bays. Ramshackle 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



Figure 18 – Old garages/carports to rear.

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 (Ref: ; Author: Thompson/Yeomans) (Continued)

Planning Requirements

Assessment of the application has been undertaken in accordance with Section 4.15 of the *Environmental Planning and Assessment Act (EP&AA) 1979*, as amended. The matters that are of relevance under Section 4.15 are summarised in the attached *Section 4.15 Assessment Report – Matters for Consideration* (Attachment 1).

The following planning instruments have been considered in the planning assessment of the subject development application:

1. *State Environmental Planning (Resilience & Hazards) 2021*
2. *State Environmental Planning Policy (Transport & Infrastructure) 2021*
3. *State Environmental Planning Policy (Biodiversity & Conservation) 2021*
4. *Palerang Local Environmental Plan 2014 (PLEP 2014)*.
5. *Braidwood Development Control Plan 2015 (BDCP)*

The development generally satisfies the requirements and achieves the objectives of these planning instruments. The significant issue relating to the proposal for the Council's consideration are the limitations under section 4.48 regarding work to state heritage items already approved by Heritage NSW. The other items to be considered are the issues raised in submissions received during the notification period objecting to the proposed development.

(a) Compliance with LEP

Generally

The proposed development complies with the requirements of the *Palerang Local Environmental Plan 2014*. Of particular relevance are the heritage considerations as discussed below. For a detailed assessment against the provisions of the LEP please refer to the attached *Section 4.15 Assessment Report* (Attachment 1).

The proposal is permissible and meets the minimum lot size requirement for the purposes of clause 4.1 of Part 4 of the PLEP 2014. The proposal is for a compliant development.

Heritage Considerations - Clause 5.10 - Heritage Conservation

The subject site is located within the C1- Braidwood Heritage Conservation Area (State listing) and also contains an individually listed State Heritage Item. The site is also listed as Item I126 in Schedule 5 of the LEP as having State significance.

Given Heritage NSW have approved the subdivision including demolition and minor works as listed, Council sought advice from its solicitors on the application of Section 4.48 of the *Environmental Planning and Assessment Act 1979* and its ability to determine the application 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, generally from a State government authority. 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 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.

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 (Ref: ; Author: Thompson/Yeomans) (Continued)

This is an important change that has legal implications for Council's determination of the application. Council's 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.

Most importantly the advice concludes that:

The Council has no authority to refuse the development application on heritage grounds where the same development is already the subject of heritage approvals issued by State Heritage NSW. If it were to refuse the application on heritage grounds, the Council would likely be acting beyond power, and its decision would be liable to be set aside if the validity of its decision were challenged in Court.

The full transcript of the advice is provided to Councillors as a confidential attachment to the Council report.

Clarification on Approval Pathway

The proposed development requires development consent pursuant to Part 4 of the *Environmental Planning and Assessment Act 1979* and *Palerang Local Environmental Plan 2014*. Council is the consent authority. It also requires consent under Section 60 of the *Heritage Act 1977* for the doing or carrying out of an act, matter or thing referred to in Section 60 that Act.

The Applicant sought an Integrated Development consent pathway which is available for applications that require both development consent and approval under the Heritage Act.

Integrated Development - The Applicant can elect to have Council process the Development Application (DA) as an 'Integrated Development Application' (IDA).

A copy of the approvals by Heritage NSW are attached to this report.

Council should also be aware of the provisions of section 4.48 of the *EP&A Act 1979*. This section provides that if an Integrated Development Application is lodged Council cannot refuse the application on heritage grounds if a heritage approval has already been issued.

4.48 Consent authority may not refuse certain development applications.

(1) This section applies to the determination by a consent authority of a development application for development that is integrated development for which a heritage approval is required.

(2) A consent authority must not refuse development consent on heritage grounds if the same development is the subject of a heritage approval.

This means that Council does not have the discretion to refuse this application on heritage grounds.

The T shaped sheds and garages have been approved for demolition by Heritage NSW under the Heritage Act. Council's merit assessment considerations cannot extend to whether they should be retained. Council does not have the discretion to refuse the application, on heritage grounds, including the proposed demolition of these structures.

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 (Ref: ; Author: Thompson/Yeomans) (Continued)

Council's Heritage Advisor's Position

Council's Heritage Advisor opposes the proposal given it will result in the demolition of the existing T-Shaped Shed located in the middle of the lot. The view of Council's Heritage Advisor is noted but is effectively negated by the Council's inability to refuse the application on heritage grounds.

Heritage NSW Position

The applicant has sought and obtained separate and associated minor works approval from Heritage NSW for the subdivision and demolition of the T shaped sheds and garage structure under Section 60 of the NSW *Heritage Act 1977*. Heritage NSW has subsequently issued Section 60 Approval for both the subdivision layout and demolition of the T shaped sheds and garage structure at the rear of the proposed Lot 2. They confirm that as Heritage Act approval has been given no further approvals are required by their Department.

The advice by BAL is to be noted here. Specifically, that the explanation of the bill that introduced s.4.48 explained that 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 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.* 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.

Council's legal advice confirms 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.*

As such they conclude that:

Consequently, in our view, the constraint imposed on the Council by s 4.48(2) prevents Council from refusing development consent to the application based on heritage grounds, notwithstanding that the Albion is listed as an item of environmental heritage under schedule 5 of the PLEP 2014 as well as being listed on the State Heritage Register. In our view, the practical effect of this is that any reasons for refusal (if the application is refused) must not be heritage related reasons.

(b) Compliance with DCP

The proposed development complies with the requirements of the Braidwood Development Control Plan. For a detailed assessment against the provisions of the DCP please refer to the attached Section 4.15 Assessment Report.

(c) Development Engineer's Comments

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

(d) Building Officer's Comments

Council's Building Officer offered no objection to the proposal, subject to the imposition of 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 (Ref: ; Author: Thompson/Yeomans) (Continued)

(e) Environmental Health Officers Comments

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

Financial, Budget and Resource Implications

Should consent be issued it would include a condition that the new lot pay development contributions.

Should consent not be issued the Applicant may elect to pursue legal action with associated legal costs anticipated for Council.

Engagement

The application was notified in accordance with the QPRC Community Engagement and Participation Plan from 27 May to 24 June 2022 with four (4) submissions received. In summary three (3) main issues raised were:

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*.

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 (Ref: ; Author: Thompson/Yeomans) (Continued)

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 repurposed as a condition of consent.

3) Additional proposed building work.

Comment: 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.

Conclusion

The submitted proposal for a two lot Torrens title subdivision and demolition of two existing sheds (T shaped sheds), garage and associated works on Lot 1 DP 598830 at 119 Wallace Street, Braidwood is supported by a Statement of Environmental Effects. The proposal was notified to adjoining owner/occupiers and four submissions were received during the notification period.

The proposal has been assessed as Integrated Development under Section 4.15 of the *Environmental Planning & Assessment Act 1979* including the relevant provisions of *Palerang Local Environmental Plan 2014* and Braidwood Development Control Plan.

Heritage NSW do not consider the buildings worthy of retention and have issued approvals for their demolition. The proposal complies with the relevant development controls of the Palerang Local Environmental Plan, State Environmental Planning Policies and the Braidwood Development Control Plan. The proposal is not contrary to the public interest.

Given that Council has no authority to refuse this application on heritage grounds the assessment has determined that there are insufficient grounds to refuse the application on any other matter.

The application should therefore be approved, subject to the imposition of the recommended conditions of consent.

Attachments

Attachment 1	REV.2022.1001 - Section 4.15 Assessment Matters for Consideration - The Albion - 119 Wallace Street, Braidwood (<i>Under Separate Cover</i>)
Attachment 2	REV.2022.1001 - Plans - The Albion - 119 Wallace Street, Braidwood (<i>Under Separate Cover</i>)
Attachment 3	REV.2022.1001 - Redacted Public Submissions - The Albion - 119 Wallace Street, Braidwood (<i>Under Separate Cover</i>)
Attachment 4	REV.2022.1001 - Draft Conditions of Consent - The Albion - 119 Wallace street, Braidwood (<i>Under Separate Cover</i>)
Attachment 5	REV.2022.1001 - Heritage NSW Section 60 Approvals - The Albion - 119 Wallace Street, Braidwood (<i>Under Separate Cover</i>)
Attachment 6	REV.2022.1001 - Legal Advice - The Albion - 119 Wallace Street, Braidwood (<i>Under Separate Cover</i>) - CONFIDENTIAL
Attachment 7	REV.2022.1001 - Further Legal Advice - The Albion - 119 Wallace Street, Braidwood (<i>Under Separate Cover</i>) - CONFIDENTIAL
Attachment 8	Resolution from Council Meeting - 9 March 2022 - DA.2021.1240 - The Albion - 119 Wallace Street, Braidwood (<i>Under Separate Cover</i>)

REPORTS TO COUNCIL - ITEMS FOR DETERMINATION

9.4 Review of Determination - REV.2022.1002 - Request for Review of Council's Refusal of DA.2020.1109 – Place of Public Worship – 128 Bicentennial Drive, Jerrabomberra (Ref: ; Author: Thompson/McManus)

File Reference: Rev.2022.1002/DA.2020.1109

Recommendation

That review Application REV.2022.1002 for Review of Determination for alterations and additions to existing dwelling for use as a Place of Public Worship, associated driveways, carparking and landscaping (DA.2020.1109) on Lot 166 DP 786394, No. 128 Bicentennial Drive, Jerrabomberra be approved subject to the recommended conditions of consent.

Summary

The subject application seeks a review of determination of DA.2020.1109 under Section 8.2 of the *Environmental Planning and Assessment Act 1979* for a review of the refused determination for a Place of Public Worship at Lot 166 DP 786394, No.128 Bicentennial Drive, Jerrabomberra. As Council determined the initial application, Council must also determine the Review Application.

Background

Development Application 98/91 – A single storey dwelling was approved on the site on 7 March 1991.

Development Application DA.2020.1109 – An application for a Public Place of Worship was refused by Council at its meeting of 13 October 2021 (Item 8.2 – Copy of report in Attachment 5).

The specific elements of the refused proposal were:

- Change of use from Dwelling to Public Place of Worship,
- On site car parking for eight (8) spaces,
- Meeting room, foyer, toilet & storage facilities.

The reasons for refusal included the following:

- a. The development application has not been able to demonstrate satisfactory compliance with Clause 1.2 (2)(a) Aim of *Queanbeyan Local Environmental Plan 2012* as it does not facilitate the orderly and economic use and development of land in Queanbeyan based on ecological sustainability principles.
- b. The development application has not been able to demonstrate satisfactory compliance to meet Clause 2.3 Objective 3 of the long term vision for the R2 Low Density Residential Zone of *Queanbeyan Local Environmental Plan 2012* as it does not encourage development that considers the low density amenity of existing and future residents.
- c. The proposed development is inconsistent with the R2 Low Density Zone Land Use Table as proposed in Draft *Queanbeyan Palerang Local Environmental 2020* which will prohibit a Place of Public Worship in the R2 Low Density Zone.
- d. The proposed development is inconsistent with Part 2.1.2(2) Objective 2 of the *Queanbeyan Development Control Plan 2012* as it is not considered able to maintain and improve the amenity of Queanbeyan.

9.4 Review of Determination - REV.2022.1002 - Request for Review of Council's Refusal of DA.2020.1109 – Place of Public Worship – 128 Bicentennial Drive, Jerrabomberra (Ref: ; Author: Thompson/McManus) (Continued)

- e. The proposed development is inconsistent with Part 2.3.6 Objective 1 of the Queanbeyan Development Control Plan 2012 as it is not considered able to provide effective management of noise.
- f. The proposed development is inconsistent with Part 2.3.6 Control (a) and Control (f) of Queanbeyan Development Control Plan 2012 as it is not considered to have acceptable noise impacts on sensitive receivers.
- g. The proposed design is considered unsatisfactory having regard to Objectives 3 and 4 of Part 2.12 Tree and Vegetation Management of Queanbeyan Development Control Plan 2012.
- h. The proposed development is considered to have an unacceptable impact under the following matters required to be considered under Section 4.15 of the *Environmental Planning and Assessment Act 1979*:
 - Context & Setting
 - Access, Transport & Traffic (relating to onsite car parking and tree management)
 - Noise
 - Site design and internal design
 - Cumulative impacts
 - Suitability of the site
 - The public interest.

Report

The application seeks a review of the refused determination under DA.2020.1109. In lodging the Review Application, the applicant has taken the opportunity which is available to the Applicant under section 8.3(3) of the Act, to amend the proposal in order to address the issues raised as reasons for refusal. The applicant states the following amendments have been made to the application to address the reasons for refusal:

1. Number of attendees have been reduced from 50 to 40 people.
2. Change in the hours of operations ensuring no offensive noise will arise from the vehicular movement.
3. Retention of a significant eucalypt tree located within the southeast corner of the site.
4. External alterations of existing building to facilitate onsite carparking and turning area behind the existing building to eliminate any potential visual impact on streetscape and any impacts on the eucalypt tree.
5. Widening of the existing driveway crossing to 6m wide in response to Council's engineering concerns.

Subject Property

The subject site is legally described as Lot 166 DP 786394 and is commonly known as 128 Bicentennial Drive, Jerrabomberra. The site is located on the southern side of Bicentennial Drive and has an area of 787.3m².

Existing development on the site comprises a single storey dwelling and a shed and development within the locality consists of residential dwellings with associated outbuildings and multi-unit dwellings.

9.4 Review of Determination - REV.2022.1002 - Request for Review of Council's Refusal of DA.2020.1109 – Place of Public Worship – 128 Bicentennial Drive, Jerrabomberra (Ref: ; Author: Thompson/McManus) (Continued)



Figure 1: Locality Plan

Planning Requirements

The provisions relating to Review Applications are set down in Section 8.2 of the *Environmental Planning and assessment Act 1979*.

The applicant has requested a review of determination of refusal for DA.2020.1109. The application can be considered under Section 8.2(1)(a) and has been made within the timeframe that applies under Section 8.3(2)(a).

The applicant has requested a review of the determination and in accordance with Section 8.3(1) the proposal is considered to be substantially the same as the development described in the original application. Pursuant to clause 8.3(3), in requesting a review, the applicant may amend the proposed development the subject of the original application for development consent. The consent authority may review the matter having regard to the amended development, but only if it is satisfied that it is substantially the same development. In this instance, Council is satisfied that the amendments proposed to address initial reasons for refusal do not result in the development being contradictory to its initial proposal as 'Change of use from Dwelling to Public Place of Worship'.

The review of determination is required to be notified under the *Environmental Planning and Assessment Regulation 2000*. The application was notified and advertised, and five submissions were received.

9.4 Review of Determination - REV.2022.1002 - Request for Review of Council's Refusal of DA.2020.1109 – Place of Public Worship – 128 Bicentennial Drive, Jerrabomberra (Ref: ; Author: Thompson/McManus) (Continued)

Assessment of the Determination

An assessment of the review of determination has been undertaken in accordance Section 8.2 with each matter raised by the applicant addressed below:

1. *Number of attendees have been reduced from 50 to 40 people.*

The number of attendees to each service is proposed to be reduced to 40 people (including children). Should the application be approved the consent will contain a condition limiting the number of people at each service.

2. *Change in the hours of operations ensuring no offensive noise will arise from the vehicular movement.*

Services were initially proposed to commence from 6.00am – 7.00am on a Sunday morning and 7.00pm – 8.00pm on a Monday evening.

The review is proposing to change these times to Sundays: 9:00 am to 10:00 am and Mondays: 6:00 pm to 7:00 pm. No other events are proposed.

Should the application be approved the consent will contain a condition limiting the hours of the services.

3. *Retention of a significant eucalypt tree located within the southeast corner of the site. Landscaped areas and retaining wall around the tree are also being retained.*

The initial application assessed that the existing street trees (*Gleditsia*) and cluster of small trees along the eastern boundary in the front yard including a *Crepe Myrtle* and some *Privet* could be conditioned to ensure the protection of the trees.

The larger *Eucalyptus Blakelyi* located in the rear of the yard was described as a significant native tree and bird nests within the canopy and hollows were observed. It was determined that the initial design of the car park would have an impact on the eucalypt tree, and it was recommended that it be retained and protected.

The car park has been re-designed to ensure the retention and protection of the eucalypt tree and two Council street trees. Referral was made to Council's Tree Management Officer with the amended Tree Management Report and comment was provided that trees 1-3 (see Figure 2) must be retained and protected throughout the proposed works. small trees along the eastern boundary in the front yard including a *Crepe Myrtle* and some *Privet* are still proposed to be removed.

Further comment was provided that *"I agree with the Tree Management Report that, if done in a tree sensitive manner, trees will remain viable under the proposed design. However, the Tree Management Report fails to specify how driveway removal is to occur within the TPZ of 2."*

Should the application be approved the consent will contain conditions for the protection of trees within the site, on adjoining land and the retention and protection of trees on public land. Furthermore, additional details will be required to be submitted (prior to construction) detailing how the driveway removal within the TPZ of Tree 2 will occur in a tree sensitive manner.

It is considered that the redesign of the car park and partial demolition of the building ensures that the three trees will be protected and retained.

9.4 Review of Determination - REV.2022.1002 - Request for Review of Council's Refusal of DA.2020.1109 – Place of Public Worship – 128 Bicentennial Drive, Jerrabomberra (Ref: ; Author: Thompson/McManus) (Continued)



Figure 2: Location of existing trees to be retained (prepared by Gold Leaf Tree Services)

4. *External alterations of existing building to facilitate onsite carparking and turning area behind the existing building to eliminate any potential visual impact on streetscape and any impacts on the eucalypt tree.*

Changes to the existing building will be at the rear minimising the impact on the streetscape. No structural changes are proposed to the front elevation of the building ensuring that the development retains the appearance of a single dwelling.

Council's Development Engineer has reviewed the application and raised no objection to the proposal and the redesign ensures protection of existing trees.

5. *Widening of the existing driveway crossing to 6 m wide in response to Council's engineering concerns*

Council's Development Engineer has reviewed the application and raised no objection to the proposal.

9.4 Review of Determination - REV.2022.1002 - Request for Review of Council's Refusal of DA.2020.1109 – Place of Public Worship – 128 Bicentennial Drive, Jerrabomberra (Ref: ; Author: Thompson/McManus) (Continued)

Additional Comments from Assessing Officer

The amendments proposed under the Section 8.2 Review are generally consistent with the relevant controls contained within the *Queanbeyan Local Environmental Plan 2012* and the Queanbeyan Development Control Plan.

The amendments seek to address the reasons for refusal by reducing the size of building from 173m² to 115.4m², reducing the number of attendees at each service, changes to the hours of operation and retention of a significant tree within the site.

The development is considered to be a small scale place of public worship and is considered compatible with the surrounding environment.



Figure 3: Front View of Proposal Under Rev.2022.1002 (prepared by Spaceful)

9.4 Review of Determination - REV.2022.1002 - Request for Review of Council's Refusal of DA.2020.1109 – Place of Public Worship – 128 Bicentennial Drive, Jerrabomberra (Ref: ; Author: Thompson/McManus) (Continued)

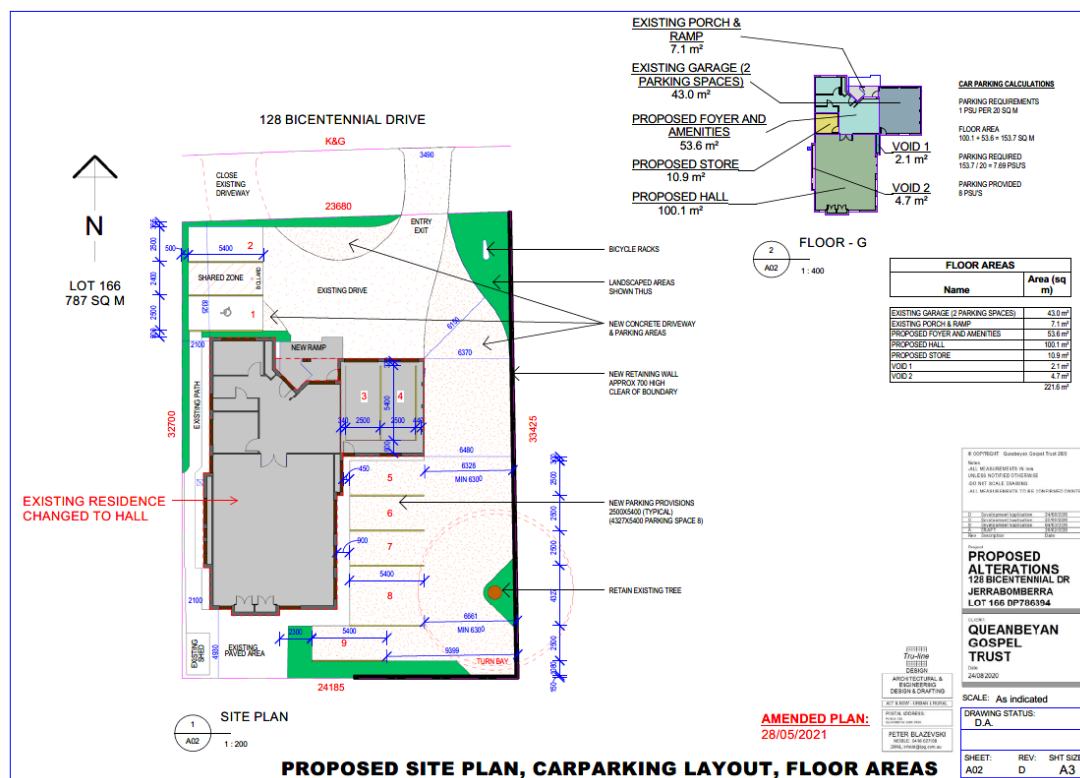


Figure 4: Original Site Plan Proposal Under DA.2020.1109 (prepared by Tru-Line Design)

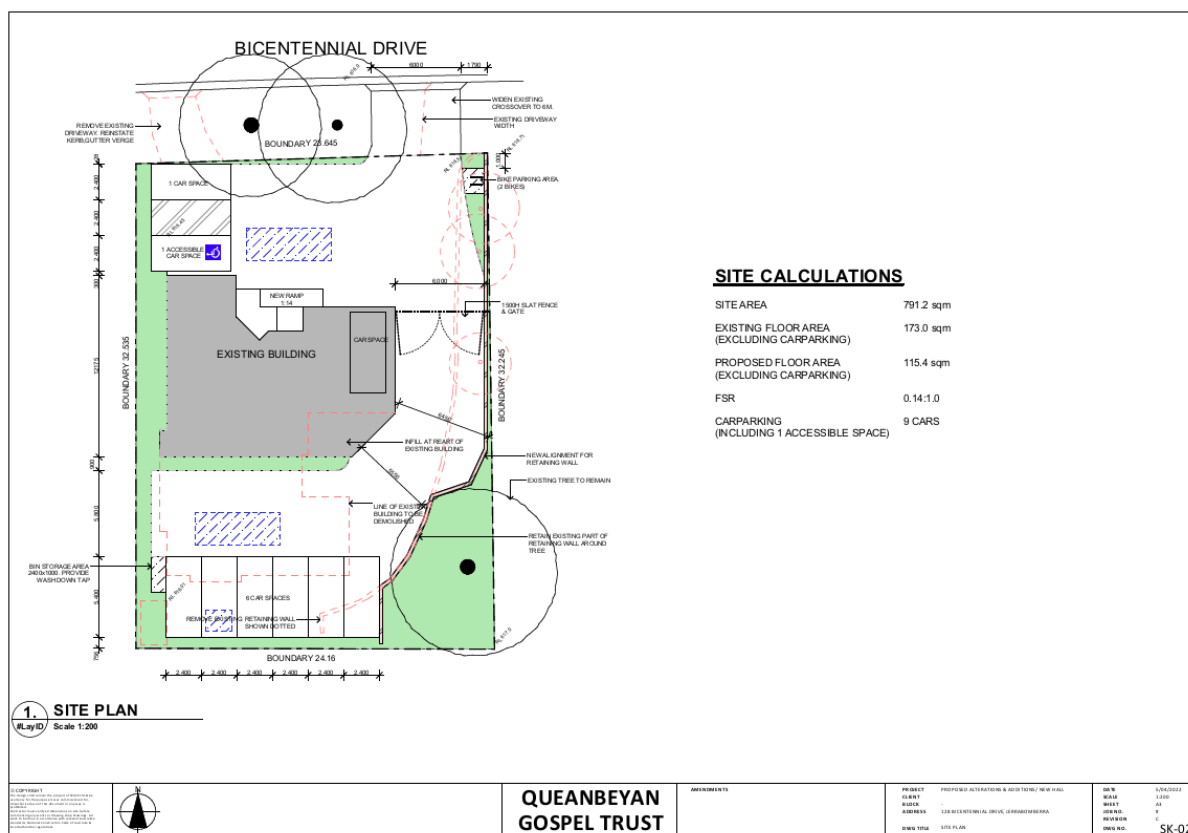


Figure 5: Proposed Site Plan Under Rev.2022.1002 (prepared by Spaceful)

9.4 Review of Determination - REV.2022.1002 - Request for Review of Council's Refusal of DA.2020.1109 – Place of Public Worship – 128 Bicentennial Drive, Jerrabomberra (Ref: ; Author: Thompson/McManus) (Continued)

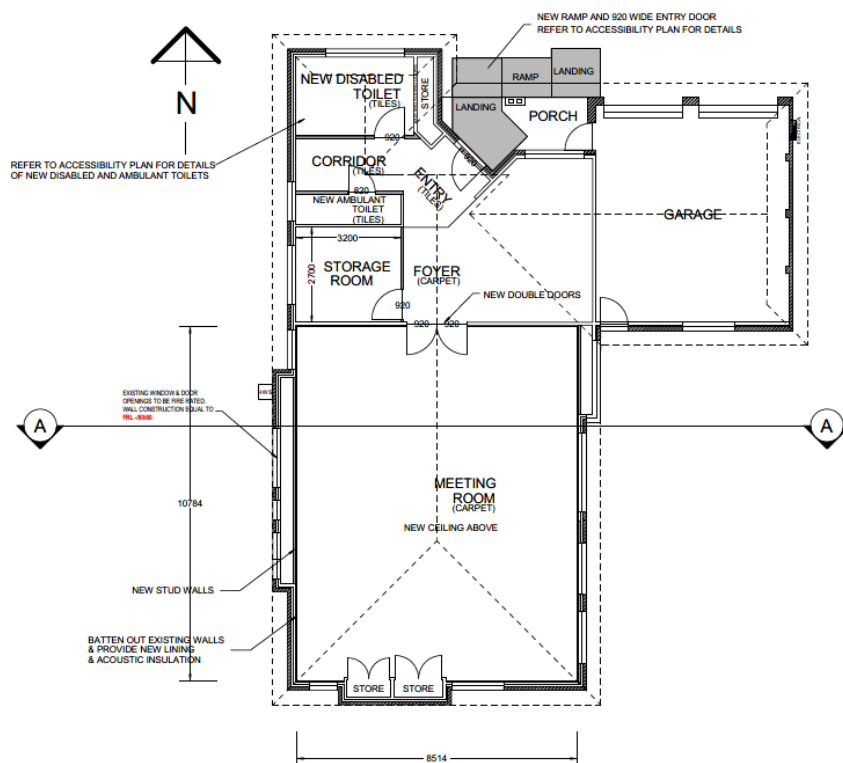


Figure 6: Original Floor Plan Proposal Under DA.2020.1109 (prepared by Tru-Line Design)

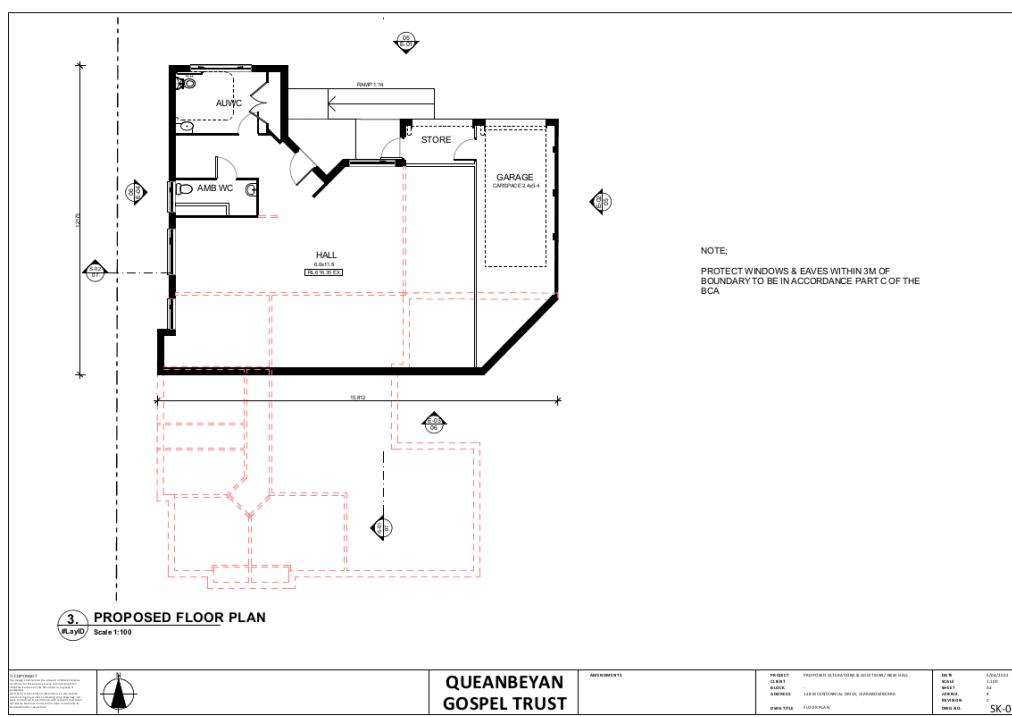


Figure 7: Proposed Floor Plan Under Rev.2022.1002 (prepared by Spaceful)

9.4 Review of Determination - REV.2022.1002 - Request for Review of Council's Refusal of DA.2020.1109 – Place of Public Worship – 128 Bicentennial Drive, Jerrabomberra (Ref: ; Author: Thompson/McManus) (Continued)

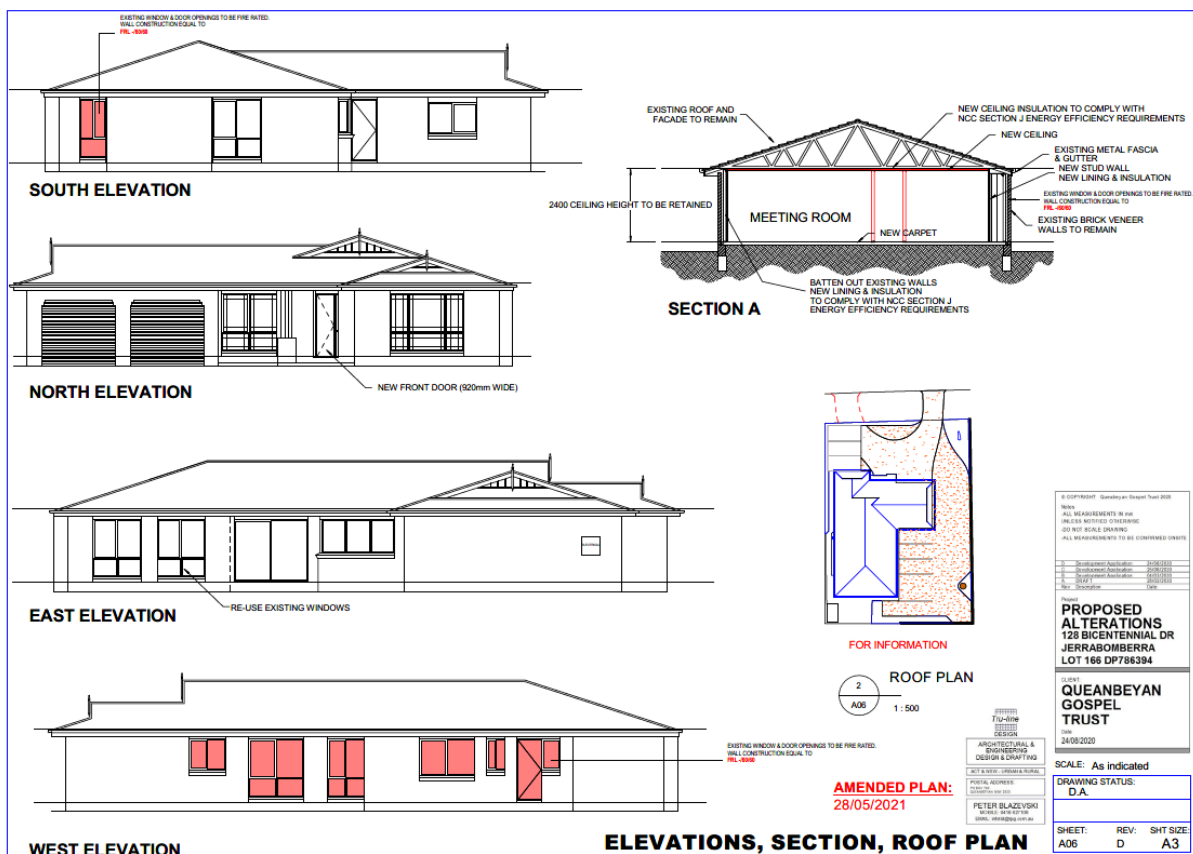
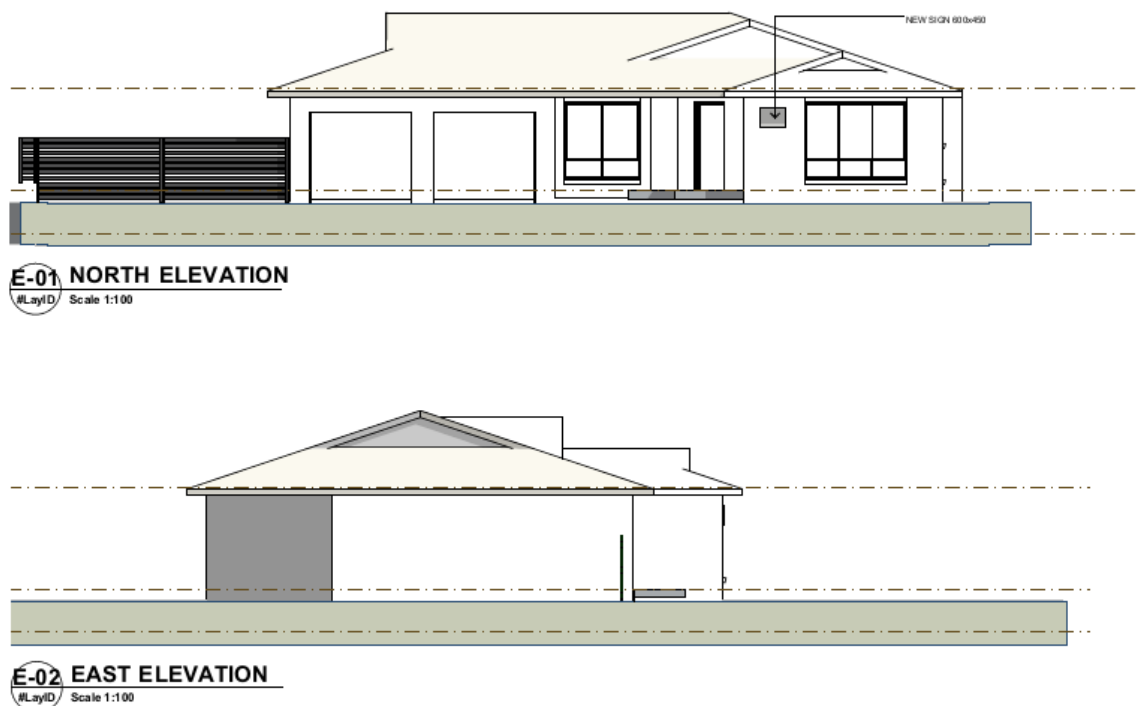


Figure 8: Original Elevations Proposal Under DA.2020.1109 (prepared by Tru-Line Design)



Figures 9 and 10: Proposed North and East Elevations Under Rev.2022.1002 (prepared by Spaceful)

9.4 Review of Determination - REV.2022.1002 - Request for Review of Council's Refusal of DA.2020.1109 – Place of Public Worship – 128 Bicentennial Drive, Jerrabomberra (Ref: ; Author: Thompson/McManus) (Continued)

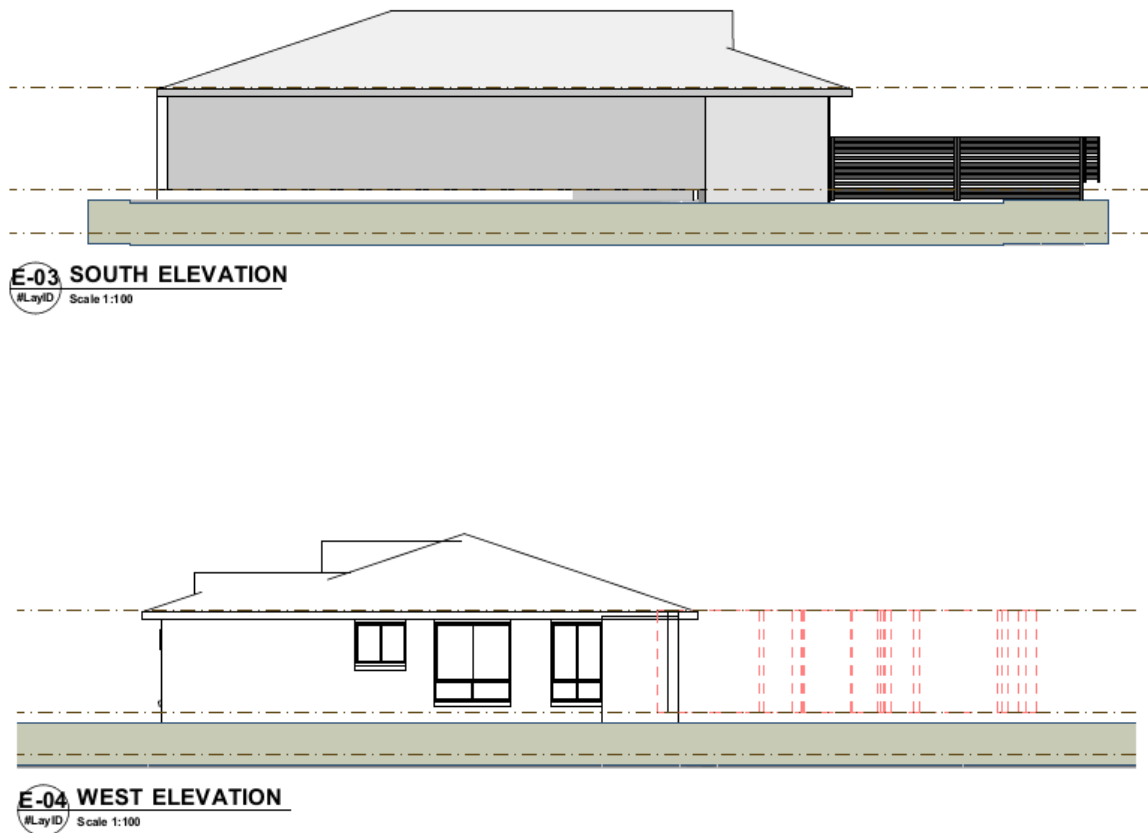


Figure 11 and 12: Proposed South and West Elevations Under Rev.2022.1002 (prepared by Excell Design Consultants)

Internal Referrals

Development Engineers Comments

Council's Development Engineer has reviewed the application and raised no objection to the proposed development subject to imposition of the recommended conditions of consent and provided comment that *"A review of the DA.2020.1109 engineering report and subsequent engineering car parking conditions for the change of use from a dwelling to a place of worship are not unreasonable and are consistent with similar change of use from dwelling to other uses within the QPRC LGA."*

Health Officers Comments

Council's Environmental Health Officer has reviewed the application and raised no objection to the proposed development subject to imposition of the recommended conditions of consent including the installation of acoustic measures as noted in the latest version of the acoustic report.

Building Surveyor's Comments

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

9.4 Review of Determination - REV.2022.1002 - Request for Review of Council's Refusal of DA.2020.1109 – Place of Public Worship – 128 Bicentennial Drive, Jerrabomberra (Ref: ; Author: Thompson/McManus) (Continued)

Tree Management Officer Comments

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

External Referrals

Essential Energy

The application was referred to Essential Energy in accordance with Section 2.48 of the *State Environmental Planning Policy (Transport and Infrastructure) 2021*. An email response was received on the 8 July 2022 providing comments for the development. These comments will be placed on the development consent as advisory notes.

Engagement

The review of determination was notified under the *Environmental Planning and Assessment Regulation 2000*. The application was notified and advertised from the 15 June 2022 to the 1 July 2022 (with an extension provided to 15 July for one submitter). Five submissions were received during the notification period.

The relevant issues raised are as follows:

1. ***Parking*** - Concern was raised over the car parking and that it does not meet the objectives of the Development Control Plan. The number of car parking spaces being proposed for the number of people attending the services is not adequate and that cars may be parked along Bicentennial Drive impacting on traffic flows and safety.

Comment was made that the parking layout and driveway proposes unsafe areas including vehicles reversing onto a pedestrian walkway, that stacked parking is unsafe and that an area for loading and unloading has not been provided.

Other comments were that the proposal is not clear how the traffic within the car park will be managed and that reversing out of the site will be unavoidable and will create on street queuing.

Furthermore, that the proposed car park area will impact the streetscape and remove vegetated front gardens with paving.

Comment: All vehicles parked on site will be able to enter and leave the site in a forward direction. There is no stacked parking proposed in the final layout. The need for a loading space is not deemed warranted for the very low use proposed at the premises. Council's Development Engineer has assessed relevant parking requirements and offered no objections subject to recommended conditions of consent. Should the application be approved the consent will contain engineering car parking conditions and limits to the number of people attending the services.

2. ***Disability Parking*** - Concern was raised that the proposed development does not indicate any adequate parking spaces for people with disability.

Comment: A revised car parking plan has been submitted with the application indicating one accessible car park space.

3. ***Road design*** - Concern was raised that the road design of the area is not suitable for traffic generating development and that the location is close to a major roundabout and busy intersection especially around peak times.

Comment: Council's Development Engineer has assessed relevant Engineering requirements and offered no objections subject to recommended conditions of consent. Bicentennial Drive and the surrounding intersections have more than adequate capacity to cater for the additional traffic which occurs during very limited hours.

9.4 Review of Determination - REV.2022.1002 - Request for Review of Council's Refusal of DA.2020.1109 – Place of Public Worship – 128 Bicentennial Drive, Jerrabomberra (Ref: ; Author: Thompson/McManus) (Continued)

- 4. Traffic** - *Concern was raised that the operating hours will be in peak traffic times and vehicles to the site will be within these times and that the large numbers of attendees will create noise issues arriving and leaving the site.*

Comment: Council's Development Engineer has assessed relevant Engineering requirements and offered no objections subject to recommended conditions of consent.

- 5. Hours of operation** - *Concern was raised that the hours of operation are inappropriate for a residential area.*

Comment: Amended operating hours have been proposed for Sundays from 9:00 am to 10:00 am (previously 6:00 am to 7:00 am) and Mondays from 6:00 pm to 7:00 pm (previously 7:00 pm to 8:00 pm) and no additional events such as Christmas or Easter will be held.

The amended hours are not considered unreasonable due to the infrequent use of the site and should the application be approved the consent will contain a condition relating to the hours of operation. The alteration of times to move away from a 6,00am start time effectively removes the previous noise concerns.

- 6. Noise and Vibration** - *Concern was raised that the noise and vibration created by the development including motor vehicles, meetings, singing and crowd noise will impact on the residential ambience and that it is not clear how these will be mitigated.*

Comment: Detail has been provided that the activities carried out within the building will consist of singing and sermons delivered by a small PA system and no amplified live or recorded music will be used.

Council's Environmental Health Officer has reviewed the application and raised no objection to the proposed development subject to imposition of the recommended conditions of consent including the installation of acoustic measures as noted in the latest version of the acoustic report.

Furthermore, if noise becomes an issue for adjoining properties then the POEO Act is enforceable.

- 7. Number of attendees** - *Concern was raised over the number of people attending the services and that if the increases it will not be able to be policed. That 40 people are not appropriate for a residential area and that there are no controls restricting the numbers of people and vehicles attending the site. Furthermore, that the size of the meeting hall has the ability to cater for larger numbers.*

Comment: Should the application be approved the consent will contain engineering car parking conditions and limits to the number of people attending the services.

- 8. Additional Uses** - *Concern was raised that other uses may be undertaken and that the services may go longer than proposed.*

Comment: Should the application be approved the consent will contain a condition relating to the hours of operation.

- 9. Existing types of development within the locality** - *Concern was raised that the area already has existing locations including the Jerrabomberra Community Centre and are available for residents to use. That the locations are within close proximity to the subject site with appropriate parking and facilities.*

Comment: The application has been lodged against the subject site and assessed on its merits. Council is not able to suggest an alternate existing location.

9.4 Review of Determination - REV.2022.1002 - Request for Review of Council's Refusal of DA.2020.1109 – Place of Public Worship – 128 Bicentennial Drive, Jerrabomberra (Ref: ; Author: Thompson/McManus) (Continued)

10. Lodgement of the Review of the Determination - Information was requested by a submitter as to whether the lodgement of the Review of the Determination was made within six (6) months of the date of determination as required in the Notice of Determination.

Comment: The Development application DA.2020.1109 for a Public Place of Worship was refused by Council at its meeting of 13 October 2021 and lodgement of the Review of the Determination was made on 12 May 2022.

The NSW Government as a response to the COVID-19 pandemic put in place temporary planning measures which included the period of time that an applicant had to make an appeal to the NSW Land and Environment Court. The increase was made from 6 months to 12 months for merit appeals and applied to determinations made from 6 months before 25 March 2020 and for those made 2 years after 25 March 2020.

11. Not substantially the same development - Concern was raised that the amended application is not substantially the same as the development under DA.2020.1109 due to the demolition component and changes to the numbers of attendees.

Comment: The proposed use under the review of the determination still remains a Place of Public Worship and although a larger area of the structure is proposed to be demolished, demolition was also a component of DA.2020.1109. The changes in the numbers of attendees have been reduced not increased.

12. Draft Queanbeyan-Palerang Regional Local Environmental Plan 2022 - Concern was raised that the land use of a "Place of Public Worship" is to be removed under the Draft Queanbeyan-Palerang Regional Local Environmental Plan 2022 within the R2 Zone and that the review should take into account its removal.

Comment: The Queanbeyan-Palerang Regional Local Environmental Plan 2022 (LEP) has been gazetted and will come in effect on 14 November 2022. The review was lodged under the current Queanbeyan Local Environmental Plan 2012 and a "Place of Public Worship" is a permitted use with the zone. While Council is required to consider the Draft LEP it is not determinative in Council's decision.

Furthermore, a "Place of Public Worship" on the subject lot under the LEP would have the ability to be considered under Clause 5.3 Development near zone boundaries under the new LEP.

Clause 5.3 of the LEP provides requirements for development near zone boundaries and details that:

5.3 Development near zone boundaries

- (1) *The objective of this clause is to provide flexibility where the investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone.*
- (2) *This clause applies to so much of any land that is within the relevant distance of a boundary between any 2 zones. The relevant distance is 20m.*
- (3) *This clause does not apply to—*
 - (a) *land in Zone RE1 Public Recreation, Zone C1 National Parks and Nature Reserves, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone W1 Natural Waterways, or*
 - (b) *land within the coastal zone, or*
 - (c) *land proposed to be developed for the purpose of sex services or restricted premises.*

9.4 Review of Determination - REV.2022.1002 - Request for Review of Council's Refusal of DA.2020.1109 – Place of Public Worship – 128 Bicentennial Drive, Jerrabomberra (Ref: ; Author: Thompson/McManus) (Continued)

- (4) *Despite the provisions of this Plan relating to the purposes for which development may be carried out, development consent may be granted to development of land to which this clause applies for any purpose that may be carried out in the adjoining zone, but only if the consent authority is satisfied that—*
- (a) *the development is not inconsistent with the objectives for development in both zones, and*
 - (b) *the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.*
- (5) *This clause does not prescribe a development standard that may be varied under this Plan.*

The subject site is located within an applicable zone and within the relevant distance of 20m.

The western boundary of the subject site adjoins land that is currently zoned as R3 - Medium Density Residential (see figure 11) and under the *Queanbeyan-Palerang Regional Local Environmental Plan 2022* a permitted use for the R3 zone includes a “Place of Public Worship”. Therefore, even under the new LEP a Place of Public Worship could be considered for the site if justification could be provided that it is not inconsistent with the R2 zone objectives.

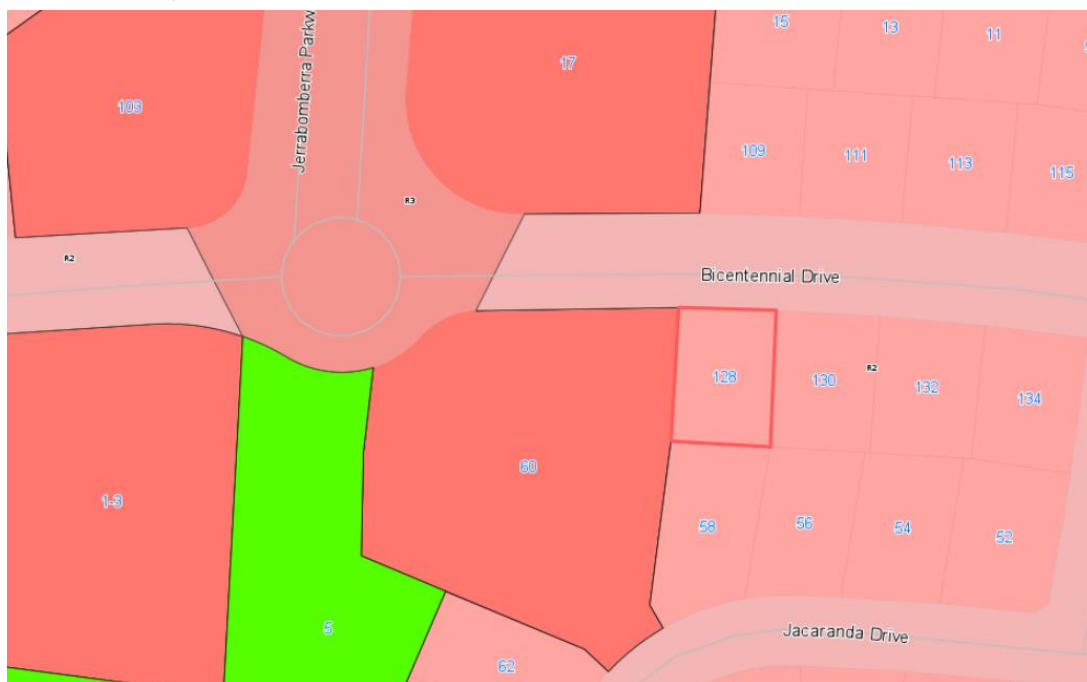


Figure 14: Snippet of zoning map figure

9.4 Review of Determination - REV.2022.1002 - Request for Review of Council's Refusal of DA.2020.1109 – Place of Public Worship – 128 Bicentennial Drive, Jerrabomberra (Ref: ; Author: Thompson/McManus) (Continued)

- 13. Objectives of the zone** - *Comment was made that the development does not meet the objectives of the zone. Including not providing for the day to day needs of Jerrabomberra residents as the development will be for a closed religious organisation. The development will also not provide housing needs and will impact on the amenity of existing residents.*

Further concern was raised that the development does not demonstrate how it can meet compliance with the orderly and economic use of the land

Comment: It is considered that the proposed development generally satisfies the objectives of the zone. Specifically, to provide facilities or services to meet the day to day needs of residents. The proposal is small scale and could provide a service to some local residents.

The proposal has been redesigned to meet compliance with car parking and noise impacts and will redevelop an existing site.

Provided that the use is carried out in accordance with the recommended conditions of consent the existing residents within the locality should not be adversely impacted.

- 14. Inappropriate development** - *Concern was raised that the development is inappropriate for the residential area.*

Comment: The review has been lodged under the current *Queanbeyan Local Environmental Plan 2012* and a "Place of Public Worship" is a permitted use with the residential zone.

Should the application be approved the consent will contain conditions relating to operating hours and number of people attending services to minimise any impact on the residential use of the area.

- 15. Visual amenity and the economic value** - *Concern was raised that demolition and the proposed 2.2m fence will impact on the visual amenity and the economic value on neighbouring properties.*

Comment: Changes to the existing building will be at the rear minimising the impact on the streetscape. No significant structural changes are proposed to the front elevation (small storage room and ramp are proposed) of the building ensuring that the development retains the appearance of a single dwelling.

The 2.2m fence is proposed to be located along the eastern boundary of the site and should the application be approved the consent will contain a condition that the fence is not to be located forward of the building to ensure minimal impact on the streetscape.

The issue of economic value on neighbouring properties is not a matter for consideration under the Act.

- 16. Good Neighbour Policy** - *Concern was raised that the proposed "Good Neighbour Policy" to be developed will not be enforceable and will not provide and solutions.*

Comment: The application has been submitted with a Social Impact Statement which recommends that the applicant develop a "Good Neighbour Policy". The document recommends that the policy 'would aim to mitigate the behavioural component of noise generation such as lingering and loud talking outside the premises.' and that together with the recommendations in the noise assessment report would significantly mitigate noise impacts

Should the application be approved the consent will contain condition a relating to the preparation of a Good Neighbour Policy to ensure the activity is harmonious within the neighbourhood.

While unlikely to be enforceable it does highlight the applicant's good will to consider the impacts of the development on the neighbourhood should there be any.

9.4 Review of Determination - REV.2022.1002 - Request for Review of Council's Refusal of DA.2020.1109 – Place of Public Worship – 128 Bicentennial Drive, Jerrabomberra (Ref: ; Author: Thompson/McManus) (Continued)

17. Target for crime - Concern was raised that as the building would no longer be a residential property and not occupied full time, that it will be a target for crime.

Comment: No significant structural changes are proposed to the front elevation (small storage room and ramp are proposed) of the building and the development will retain an appearance of a single dwelling.

Plans indicate that a 1.5m gate and fence is proposed on the eastern side of the building to control access to the rear of the property.

Occupation times of a residential property are not within Council's control and therefore sit outside of the scope of this review.

Financial Implications

Section 7.11 and Section 64 Contributions are applicable to the proposed development and will be calculated at the date of determination should the application be approved.






Conclusion

Following the assessment of the Section 8.2 Review the amendments made to the proposal have substantially addressed the reasons for refusal previously stated for the application. Having reviewed the amended proposal there appears to be no substantial planning reason to refuse the application.

The items raised in submissions have been addressed and outstanding issues can be overcome by conditions of consent.

The proposal is a permissible land use under the current *Queanbeyan Local Environmental Plan 2012* and the development generally complies with all relevant standards and controls in Council's environmental planning instruments and policies.

Attachments

Attachment 1 	REV.2022.1002 - Section 4.15 Assessment - 128 Bicentennial Drive, Jerrabomberra (<i>Under Separate Cover</i>)
Attachment 2 	REV.2022.1002 - Amended Plans for Review - 128 Bicentennial Drive, Jerrabomberra (<i>Under Separate Cover</i>)
Attachment 3 	REV.2022.1002 - Submissions Redacted - 128 Bicentennial Drive, Jerrabomberra (<i>Under Separate Cover</i>)
Attachment 4 	REV.2022.1002 - Draft Conditions of Consent - 128 Bicentennial Drive, Jerrabomberra (<i>Under Separate Cover</i>)
Attachment 5 	Original Report to Council - 13 October 2021 - DA.2020.1109 - 128 Bicentennial Drive, Jerrabomberra (<i>Under Separate Cover</i>)

REPORTS TO COUNCIL - ITEMS FOR DETERMINATION

9.5 Better Building Finance (Ref: ; Author: Thompson/Abbott)

File Reference: 25.4.1-19

Recommendation

That Council agree to Environmental Upgrades Finance for commercial properties and support a two-year trial period with Better Building Finance.

Summary

This report considers a proposal to offer Environmental Upgrade Finance to business and building owners within the Queanbeyan-Palerang Regional Council area, under a two-year trial period through Better Building Finance.

Environmental Upgrade Finance is a type of loan (made possible under NSW legislation- *Local Government Act 1993*) provided by a third-party lender such as Bank Australia or Credit Suisse, to fund environmental upgrades to a private property. At this time, the finance mechanism is most commonly applied to commercial properties, but discussions are under way with the NSW Government to expand it to residential properties.

Background

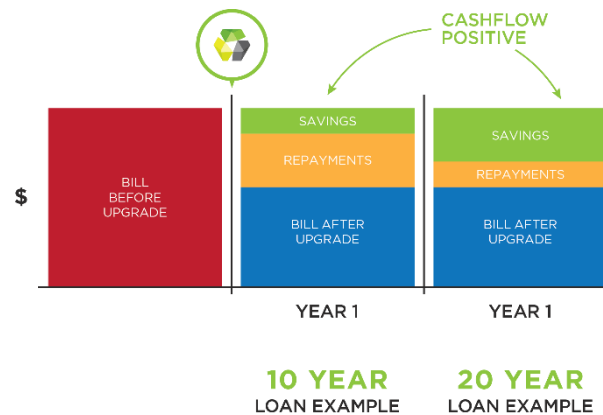
The loan is secured against the property by an Environmental Upgrade Charge raised against the land and quarterly repayments are collected, just like council rates, until the full amount has been paid off. The details of this loan are documented by an Environmental Upgrade Agreement.

Council's main role is to raise the full amount of the loan as a charge against the rateable land. Due to the security provided by the charge raised on the land, businesses can access finance and longer loan terms which may have otherwise been difficult to attain. Furthermore, by applying the loan to the property rather than the owner means that the loan sits "off" the books - rather than seen as a debt against the business.

This finance mechanism is specifically used to pay for works that improve the energy, water or environmental efficiency and overall sustainability of commercial and other buildings; a loan that is then repaid by the building owner alongside council rates over an agreed time period.

The finance can be used for a range of projects such as installation of renewable energy systems, new equipment or initiatives to improve energy and water efficiency, or projects that minimise waste, maximise resilience or improve resource efficiency. There just needs to be a measurable sustainability improvement over time, and councils do not pay anything for the service. Due to the reductions in utility charges and other expenses, most projects are cashflow positive for the business from the beginning, freeing up capital for the business.

9.5 Better Building Finance (Ref: ; Author: Thompson/Abbott) (Continued)



It is not envisaged that this will be taken up by many businesses across the Queanbeyan-Palerang area, but may assist those that have hoped to perform sustainable upgrades but found the work cost-prohibitive. This includes industrial and manufacturing firms, clinics, motels or accommodation stock, aged care, childcare or retail and distribution facilities.

Report

If Council agrees to support the program, finance will be established through a three-way contract known as an Environmental Upgrade Agreement (often referred to as “an EUA”) drawn up between the building owner, Council, and lender. Having a third-party provider like Better Building Finance means that the templates, forms, application process and finance assessment is automated and simplified, with consistent practices for building owners across the LGA.

Creation, distribution, payment and verification of quarterly Environmental Upgrade Charge Notices is automated through Better Buildings Finances online billing platform with repayment paid loan payments directly through to the finance provider. Council is provided with a regular tally of all payments made as well as economic and environmental benefits achieved, to measure the success of the initiatives.

Promoting, developing and implementing projects will require a limited amount of officer and administrative time, although Council will be paid an agreed Signing Fee and annual Administration Fee on a cost-recovery basis for time taken by Council staff on administering each ongoing project. Building owners pay a small administration fee that is based on the size of the loan, so smaller upgrades pay much smaller administration fees. As Better Building Finance does not charge a fee to council for their services, no tender process is necessary. All processing and administration fees are transparent to the building owner and council at all times, and all processes are undertaken in line with the NSW *Local Government Act* and any other legislation.

Better Building Finance will provide an accurate schedule of payments when an EUA is set up, to allow the Council’s rates and finance team to program the charge notices for the lifetime of the loan. In the unlikely event of a charge notice not being paid, Council does not take on any liability for the loan but is only requested to undertake ‘best endeavours’ to recover payments in line with the NSW Local Government Act and in the same way that it would for unpaid rates notices. In the worst-case scenario, whereby a property must be sold to recover unpaid debts, the charge notices would be placed alongside the rates notices for payment.

9.5 Better Building Finance (Ref: ; Author: Thompson/Abbott) (Continued)

Service area participation and resources would include:

- Natural Landscapes and Health: Promoting and ownership
- Business and Innovation: Promoting
- Communications and Engagement: Promoting
- Revenue Accounting: Levy the loan repayment and remit the payment when received to the lender.

Benefits to QPRC are many, as Environmental Upgrade Finance can:

- Assist local businesses to address increasing utility and other operational costs
- Unlock private sector finance so businesses of every size can invest in growth
- Maintain competitive edge by providing opportunities for many types of local businesses that are available in other council areas
- Incentivise local business to stay within or move into the Queanbeyan-Palerang Regional area
- Stimulate local economic activity and help improve business profitability in the region
- Reduce community emissions and improve environmental outcomes
- Help engage ratepayers to achieve Council's economic and sustainability objectives.

Business and building owners around the Queanbeyan-Palerang area can benefit through:

- Reduced utility bills with energy, water and waste efficiencies
- Reduced emissions
- Cashflow positive from day one, with savings exceeding repayments in most cases
- Becoming more self-sustainable and resilient, reducing costly economic impacts and stress on local infrastructure through electricity, water and waste demands
- Improved asset value and measurable sustainability gains
- Increased comfort, indoor environmental quality, or tenant attraction
- Long-term low-interest loans that enable better long-term budgeting and forecasting.

Risk/Policy/Legislation Considerations

Council has no financial stake in the projects and only acts to facilitate the loan between the property owner and lender. Loans are secured against the property and Council is not obligated to meet repayments. In the event that the property owner default or misses a payment; this remains the responsibility of the owner. Should a building owner default on repayments (this is extremely rare, with less than 1% occurrence, as the 24 due diligence measures are there to minimise any risks of this happening), Better Building Finance will look after the first 60 days of the recovery processes, which is where we are likely to see resolution. In the event that things cannot be cleared up in the first 60 days, Better Building Finance will work with Council to follow the same debt recovery processes used for unpaid Council rates. All of this is set out clearly within each Environmental Upgrade Agreement signed by Building Owner, Council and Finance Provider.

Financial, Budget and Resource Implications

There are two options for financial administration of the program.

- 1) Self-administer Environmental Upgrade Finance arrangements. Whilst this option may initially seem easier, Council would need to develop all of the documentation and templates, finance processes and legislative administration, and would need to undertake the business, economic development and communications processes associated with offering the Finance Mechanism to the local business community.
- 2) Appoint a third-party administration provider on a two-year 'trial' basis. There is currently only one third-party administration provider working in NSW. Better Building Finance

9.5 Better Building Finance (Ref: ; Author: Thompson/Abbott) (Continued)

currently works with over 50 councils across NSW, SA and VIC to offer these services, providing finance through Bank Australia and other lenders, and with support from ARENA has achieved over 115 projects to date.

This second option is recommended, and it is suggested that the Council works closely with Better Building Finance to measure the success of the trial period. This option will remove most of the administration burden from Council, making it easier for building owners and lenders to apply Environmental Upgrade Finance through streamlined processes. Council does not pay any money to Better Building Finance or the lender at any time.

The Executive Team considered this proposal on 25 August 2022 and agreed to present the initiative to Council for a two year trial.

Links to QPRC/Regional Strategic Plans

The QPRC Community Climate Change Action Plan (CCCAP) formed a framework for Council and the community to work together on addressing climate change issues.

QPRC has adopted the following emissions reduction targets for its internal operations (as established in the QPRC Operations Sustainability Policy) and the QPRC community. These targets are:

- Energy & Transports Emissions (Council Operations): 30% reduction in total greenhouse gas emissions by 2025 from 2012-13 baseline levels.
- Community Emissions: support the NSW Government in their goal to reduce the State's (communities) emissions by 50% by 2030 (from 2005 levels) and net zero emissions by 2050.

There are various actions in the CCCAP to assist or investigate potential opportunities for business and residents to help reduce emissions. Such as:

CU 6.1.1 – Provide information to residents about available support programs offered by the state and federal governments;

CU 6.1.6 - Encourage or help to provide energy audits for households and business to help reduce emissions;

CU 6.1.7 - Investigate opportunities for Council and the community to collaborate on a local renewable energy project as they arise.

Conclusion

Environmental Upgrade Agreements through Better Building Finance offer a potential funding pathway for local businesses to reduce their carbon footprint and operating costs, with little or no capital outlay. To facilitate the program Council is required to be involved in the project.

Attachments

Attachment 1 Better Building Fund Flow Chart (*Under Separate Cover*)



Attachment 2 Sustainable Australia Fund Media Release (*Under Separate Cover*)



File Reference: 52.5.4

Recommendation

That:

1. Council places the following Policies on public exhibition for 28 days:
 - Guidelines for Referral of Development Applications to Council and Independent Assessment of Development Applications
 - Asset Management Policy
 - Sustainable Design for Council Buildings Policy
 - Shopping Trolley Management Policy for Retailers
 2. If no submissions are received, the policies be adopted.
-

Summary

The attached Policies have undergone a review by the relevant business units and as a result, some amendments have been made. The intent of the Policies as they currently exist has not changed, but rather reflects updated best practice and timely revisions.

Report

Policy

Changes made to the policies as part of this review process are outlined below:

Guidelines for Referral of Development Applications to Council and Independent Assessment of Development Applications – legislative changes throughout the policy as well as the following:

Part A

1. Removal of criteria which stated "Six or more written submissions are received opposing a development."
2. Removal of criteria which stated "Where the applicant is a Councillor, a member of the Executive staff (CEO and Portfolio General Managers) or a staff member of the Development Service." – this will be managed through the development of an internal Probity Plan specific to the Development Assessment area.

Part B

1. Addition of points 3 and 4

Asset Management Policy – Simple review; no change to intent of Policy.

Sustainable Design for Council Buildings Policy – Added goal to reduce greenhouse gas emissions, legislative updates. No change to intent of policy.





Shopping Trolley Management Policy – addition of 'Aims', addition of 5.2. General rewording throughout the policy.

9.6 Reviewed Policies (Ref: ; Author: Monaghan/Flint) (Continued)

Conclusion

Within 12 months of an election, Council must review all Policies. This process is underway and it is recommended that revised versions of these Policies be exhibited for public comment before being formally re-adopted.

Attachments

- | | |
|---|---|
| Attachment 1
 | Guidelines for Referral of Development Applications to Council and Independent Assessment of Development Applications (<i>Under Separate Cover</i>) |
| Attachment 2
 | Asset Management Policy (<i>Under Separate Cover</i>) |
| Attachment 3
 | Sustainable Design for Council Buildings Policy (<i>Under Separate Cover</i>) |
| Attachment 4
 | Shopping Trolley Management Policy (<i>Under Separate Cover</i>) |

REPORTS TO COUNCIL - ITEMS FOR DETERMINATION

9.7 Post-Exhibition Policy Report (Ref: ; Author: Monaghan/Flint)

File Reference: 52.5.4

Recommendation

That Council adopt the Managing Unreasonable Conduct by Complainants Policy and Unsealed Road Grading Policy as attached to this Report.

Summary

On 14 September 2022, Council considered the Managing Unreasonable Conduct by Complainants Policy and Unsealed Road Grading Policy and resolved to place both policies on public exhibition for 28 days from 15 September 2022 to 13 October 2022. The exhibition period has been completed, submissions received, and policies in their current form are put back to Council for consideration. A summary of the issues raised in the submissions and recommended actions are shown in the below table.

Report

Submitter:	Submission:	Council Response	Recommendation
1	<p>Unsealed Road Grading Policy</p> <p>The Unsealed Roads Policy is currently being misused by council staff to claim that roads are not required to be maintained.</p> <p>Under the Roads Act 1993, QPRC is the owner of Council Roads.</p> <p>As the owner of a road (and the road reserve) Council are bound by Common Law to ensure that road users are warned of dangers and that dangers are mitigated.</p> <p>If a road is scheduled to be graded ever 2 years, but a danger emerges, Council must still fix the road even though the road is not due for scheduled grading.</p> <p>Similarly, if a road is Category 10 and has no scheduled grading, QPRC are still liable for damages to property and life if they know of a danger and fail to warn and mitigate.</p> <p>The Policy should be amended to make this clear so that staff</p>	<p>The Unsealed Road Grading Policy should not include legal opinions on possible liability issues.</p>	<p>No changes to policy proposed</p>

9.7 Post-Exhibition Policy Report (Ref: ; Author: Monaghan/Flint) (Continued)

Submitter:	Submission:	Council Response	Recommendation
	<p>understand their responsibility to public safety.</p> <p>Also, there are 3 criteria to establish if a road is Category 10. The last two criteria are and/or.</p> <p>This implies that there are different considerations that should be listed in the policy itself.</p>		
2	<p>Managing Unreasonable Conduct by Complainants Policy</p> <p>There are some regulatory issues presented within this Policy that breach a democratic process. Removing or appointing a person to be barred from further contact with Council is an extremely serious matter and it should be lawfully managed. I fully comprehend the merit in dealing with threats of harm to staff, those issues should be referred to NSW Police and Crime management authorities. It would seem that QPRC is moving away from communities and the welfare of communities by creating policies that validate whatever behaviours suit Council at their discretion. The underlying problem is that this can lead to coverup behaviour by staff and council management. Resultantly it can create unregulated discrimination which if left un-reviewed can assist in concealing corrupt conduct at Council.</p> <p>It is deeply disturbing that complainant policy has to be drafted with no third party over site. As communities drift into difficult times this form of policy only serves council for council's own benefit potentially at the harm to rural people with genuine issues that require support rather than isolation.</p>	<p>This Policy is based on the Model Policy issued by the NSW Ombudsman in July 2022.</p>	<p>No changes to policy proposed</p>

9.7 Post-Exhibition Policy Report (Ref: ; Author: Monaghan/Flint) (Continued)

Risk/Policy/Legislation Considerations

Nil

Financial, Budget and Resource Implications

Nil



Links to QPRC/Regional Strategic Plans

Community Strategic Plan – Output 5.2 - Council is an open, accessible and responsive organisation.

Conclusion

The matters raised in both submissions have been considered and no changes to the policies as they stand have been made. Both policies are now recommended for adoption.

Attachments

- | | |
|--|--|
| Attachment 1 | Unsealed Road Grading Policy (<i>Under Separate Cover</i>) |
|  Attachment 2 | Managing Unreasonable Conduct by Complainants Policy (<i>Under Separate Cover</i>) |
|  | |

REPORTS TO COUNCIL - ITEMS FOR DETERMINATION

9.8 Draft Submission to the IPART Issues Paper on the Review of the Rate Peg Methodology (Ref: ; Author: Ryan/Monaghan)

File Reference: 52.5

Recommendation

That Council make a submission to the IPART issues paper on the Review of the Rate Peg Methodology.

Summary

IPART is reviewing the methodology they use to set the local government rate peg. They have published an issues paper which sets out the issues identified for review and questions for stakeholders. Submissions are due on 4 November 2022 and staff are finalising a draft submission to be circulated to Councillors for review and feedback.

IPART will conduct workshops on the rate peg methodology during November with a Draft Report to be released in February. A public hearing will be held in 2023 after the Draft Report is released.

Report



IPART has been setting the rate peg for councils across NSW since 2010. The rate peg protects ratepayers from excessive increases in council rates by limiting the total amount by which councils can increase their income from rates each year. The current rate peg methodology uses various ABS indexes with a 2 year lag time between the price indexation and the year the rates are levied. For example, the recently released rate peg to apply from July 2023 uses ABS indexes for the year ended June 2021. The rate peg also includes a factor for population growth that is determined on a Council by Council basis.

Earlier this year, the Minister for Local Government asked IPART to review its methodology for setting the annual rate peg for NSW Councils.

On 29 September 2022, IPART announced the rate peg for the 2023-24 financial year as 3.7% plus a population factor for each council. On the same day, IPART released its Issues Paper on the Review of the Rate Peg Methodology, seeking feedback and submission from stakeholders.

The issues paper seeks feedback from stakeholder across 20 individual questions addressing a number of concerns that have been raised in respect of the existing rate peg methodology.

Attachments

- | | |
|--|---|
| Attachment 1 | IPART Issues Paper- Review of Rate Peg Methodology (<i>Under Separate Cover</i>) |
|  Attachment 2 | Rate peg for NSW Councils for 2023-24 (<i>Under Separate Cover</i>) |
|  Attachment 3 | Draft QPRC Submission to the IPART Issues Paper on the Review of the Rate Peg Methodology |

9.9 Investment Report - September 2022 (Ref: ; Author: Monaghan/Drayton)

File Reference: 43.6.5-02

Recommendation

That Council:

1. Receive the Investment Report for the month of September 2022.
 2. Note the investment return for September 2022 was -\$328,224.
 3. Note the investment portfolio has been made in accordance with the *Local Government Act (1993)*, the *Local Government (General) Regulation (2005)* and Queanbeyan-Palerang Regional Council's Investment Policy.
-

Summary

This report presents the investment result for September 2022.

Background

In accordance with *Clause 212* of the *Local Government (General) Regulation 2021*, the Investment Report is presented to Council monthly.

Report

A list of Council's cash and investments held on 30 September 2022 is detailed in the attached Investment Report Pack.

Market Update - The Reserve Bank (RBA) continued to tighten monetary conditions in Australia by raising the cash rate by 25 basis points to 2.60% at its October 2022 meeting. Given the cash rate has increased substantially in a short period of time, the Board decided a smaller hike was appropriate to allow it to assess the outlook for inflation and economic growth in Australia, but suggested further increases are likely over the period ahead.

Environmental Awareness - Market Forces is a campaign group focusing on environmental protection by exposing institutions financing projects that have a negative environmental impact. They have assessed over 115 banks, mutuals and credit unions to determine their position on lending to or investing in the fossil fuel (coal, oil, and gas) industry. Council's investment advisor, Laminar Capital has applied Market Forces' findings to Council's current investment portfolio with the results outlined in Section 5 of the attached Investment Report Pack.

Institutions that have lending to the fossil fuel industry can mitigate some of the impact by offering products that are environmentally aware.

The Climate Bonds Standard Board operates as an advisory committee of the Climate Bonds Initiative Board and oversees the development of the Climate Bonds Standard. The Climate Bonds Standard and Certification Scheme is a labelling scheme for bonds and loans. Rigorous scientific criteria ensure that bonds and loans with Certification are consistent with the 2 degrees Celsius warming limit in the Paris Agreement.

The scheme is used globally by bond issuers, governments, investors, and financial markets to prioritise investments which genuinely contribute to addressing climate change.

Council has \$8,000,000 (3.7% of the total portfolio) invested in deposits with Westpac which have been deemed suitable to carry the Climate Bonds Standard Certification badge.

9.9 Investment Report - September 2022 (Ref: ; Author: Monaghan/Drayton) (Continued)

Risk/Policy/Legislation Considerations

Council has a fiduciary responsibility to exercise the care, diligence, and skill that a prudent person would exercise in managing the affairs of other persons.

Council's investments, as listed in Table 2 of the attached Investment Report Pack, comply fully with section 625 of the *Local Government Act 1993*, clause 212 of the Local Government General Regulations 2021, and Council's Investment Policy.

Certified by Josh Staniforth, Responsible Accounting Officer, 14/10/2022.

The Investment Policy was adopted by Council on 9 September 2022 and is due for review in September 2023.

Financial, Budget and Resource Implications

Over the last 12 months, Council's portfolio produced an annualised rate of return of -0.81%, underperforming the benchmark Bank Bill Index by -1.33%.

On 30 September 2022, the principal amount invested was \$217,326,354 and the 2022/23 financial year to date return was \$1,003,001 which is 25.2% of Council's 2022/23 budgeted return.

Of the total \$217 million investment portfolio, Council holds \$26 million in TCorpIM long-term (LTGF) and medium-term (MTGF) funds. Both funds retreated to close to their 2022/23 opening valuations with respective falls of -\$504,031 and -\$212,626 in September.

The following table shows the funds' performances since the original deposit.

	LTGF	MTGF
	\$	\$
2017-18	981,891	-44,845
2018-19	1,160,462	635,485
2019-20	21,702	37,815
2020-21	2,557,413	927,076
2021-22	-1,300,450	-742,711
2022-23		
July	566,003	326,066
August	-79,823	-111,673
September	-504,031	-212,626
October		
November		
December		
January		
February		
March		
April		
May		
June		
Return since inception	3,403,168	814,587
Initial Placement	\$12,000,000	\$10,000,000

9.9 Investment Report - September 2022 (Ref: ; Author: Monaghan/Drayton) (Continued)

While these funds are exposed to additional investment risks to generate higher potential returns, they are structured with longer term time horizons. The minimum advised investment time frame for the MTGF is 3-7 years and 7+ years for the LTGF.

Paired with cash asset classes, these growth assets form a diversified portfolio within the restrictions of the Investment Policy.

Council's cash and investment balance is made up of restricted and unrestricted funds. Restrictions can be external eg Developer Contributions, or internal eg by resolution of Council. Restricted investments cannot be used for general purpose expenses as they are either subject to some form of external legislative or contractual obligation or are dedicated to future Council commitments.

The following tables show the 30 September 2022 cash and investments balance by fund and by restriction.

Fund	\$
General	92,382,560
Water	41,879,968
Sewer	81,622,881
Trust	141,678
Unrestricted*	1,299,266
Total Cash & Investments	217,326,353

Restriction	\$
Unexpended Loans	6,454,038
Developer Contributions	58,846,867
Unexpended Grants	20,371,826
External Restrictions (Other)	116,275,041
Internal Restrictions	14,079,315
Total Restrictions	216,027,087
Unrestricted*	1,299,266
Total Cash & Investments	217,326,353

Unrestricted funds are a working balance and fluctuate over time as Council's operational plan is carried out during the financial year.

Links to QPRC/Regional Strategic Plans

Financial management, accounting, and reporting are considered in Section 43.6 of QPRC's Operational Plan.

Conclusion

On 30 September 2022, the 2022/23 financial year to date investment return amounted to \$1,003,001. Investment returns are added to the associated restricted funds (e.g. developer contributions) that form Council's investment portfolio.

Attachments

Attachment 1 Investment Report Pack - September 2022 (*Under Separate Cover*)



REPORTS TO COUNCIL - ITEMS FOR INFORMATION

10.1 Summary of Road Renewal and Maintenance Activities - Quarter 1 2022/23
 (Ref: ; Author: Hansen/Harris)

File Reference: 31.1.98-02

Recommendation

That the report be received for information.

Report

Maintenance Grading of Unsealed Roads

The monthly grading schedule and unsealed road maintenance grading policy is published on the website:

<https://www.gprc.nsw.gov.au/Services/Roads-and-Footpaths?BestBetMatch=grading%20schedule%7C#section-2>

Note: Following the August 2022 rain event, roads were inspected and re-prioritised for emergency patch grading works. These roads are not shown in the maintenance grading table below as full-length maintenance grading was not undertaken.

The following table shows the maintenance grading works completed by Council and its Contractors during the first quarter of 2022/23 (between 1 July 2022 and 30 September 2022).

Road Name	Completion Date	Length Graded (km)
Sawyers Ridge Road	05/07/2022	7.40
Stewarts Crossing Road	15/07/2022	8.54
Nerriga Road	26/07/2022	6.67
Captains Flat Road	29/07/2022	20.50
London Bridge Road	11/08/2022	1.24
Elrington Lane	12/08/2022	0.48
Mulloon Road	15/08/2022	7.33
Manar Road	15/08/2022	7.02
Ningee Nimbell Creek Road	16/08/2022	2.86
Moore Road	16/08/2022	0.44
Araluen Street	17/08/2022	0.19
Plummers Road	17/08/2022	1.28
Williamsdale Road	17/08/2022	5.72
Gidleigh Lane	18/08/2022	6.87
Grey Gums Road	19/08/2022	1.10
Rugby Road	22/08/2022	0.16
Red Hill Road	24/08/2022	2.50
Telowar Road	25/08/2022	0.46
Neringla Road	26/08/2022	4.98
Burra Road	26/08/2022	4.22
Casuarina Lane	27/08/2022	0.56
Woolcara Lane	30/08/2022	11.79
Majors Creek Mountain Road	31/08/2022	3.95
Catholic Cemetery Road	01/09/2022	0.72

10.1 Summary of Road Renewal and Maintenance Activities - Quarter 1 2022/23 (Ref: ; Author: Hansen/Harris) (Continued)

Road Name	Completion Date	Length Graded (km)
Butmaroo Road	02/09/2022	11.49
Wallaces Gap Road	02/09/2022	11.40
Dirty Butter Creek Road	06/09/2022	0.43
Sun Cutting Road	07/09/2022	1.64
Lake Road	12/09/2022	8.66
Berlang Forest Road	12/09/2022	6.89
Quists Road	12/09/2022	2.64
Callans Lane	14/09/2022	1.72
Neils Creek Road	16/09/2022	4.07
Tates Lane	20/09/2022	1.37
Sandhills Road	23/09/2022	0.73
Mathews Lane	30/09/2022	0.94

Stabilisation/Rehabilitation

The following table shows the completed in-situ stabilisation and pavement rehabilitation works completed by Council and its Contractors during the first quarter of 2022/23 (between 1 July 2022 and 30 September 2022) as per various funding arrangements and Councils Capital Works Budget.

Road Name	Completion Date	Length Stabilised/Rehabilitated (km)
Captains Flat Road	30/08/2022	1.10

Attachments

Nil

File Reference: 41.9.1

Recommendation

That the report be received for information.

Report

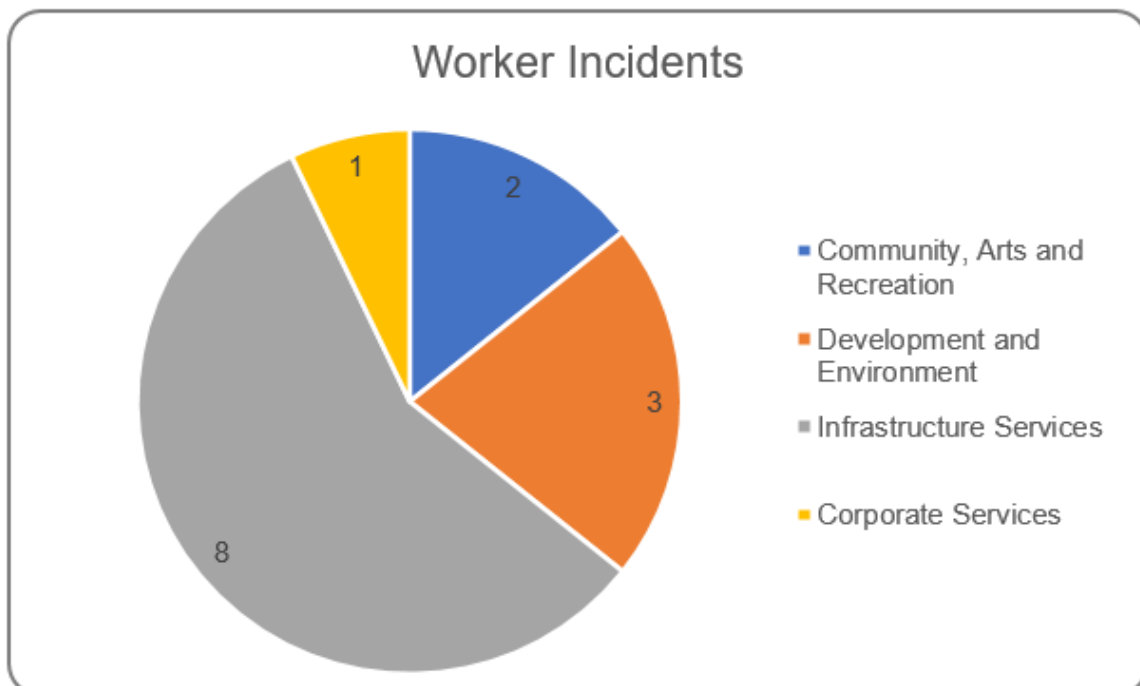
This report provides an overview of Work Health, Safety and Wellbeing for Quarter 1, 2022 with a focus on:

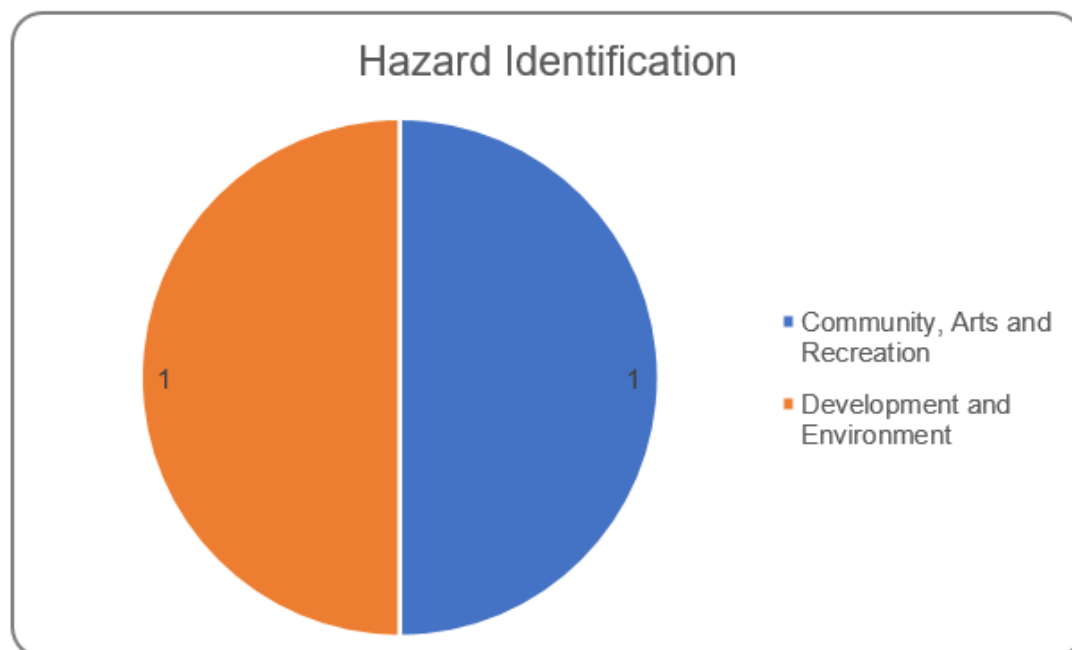
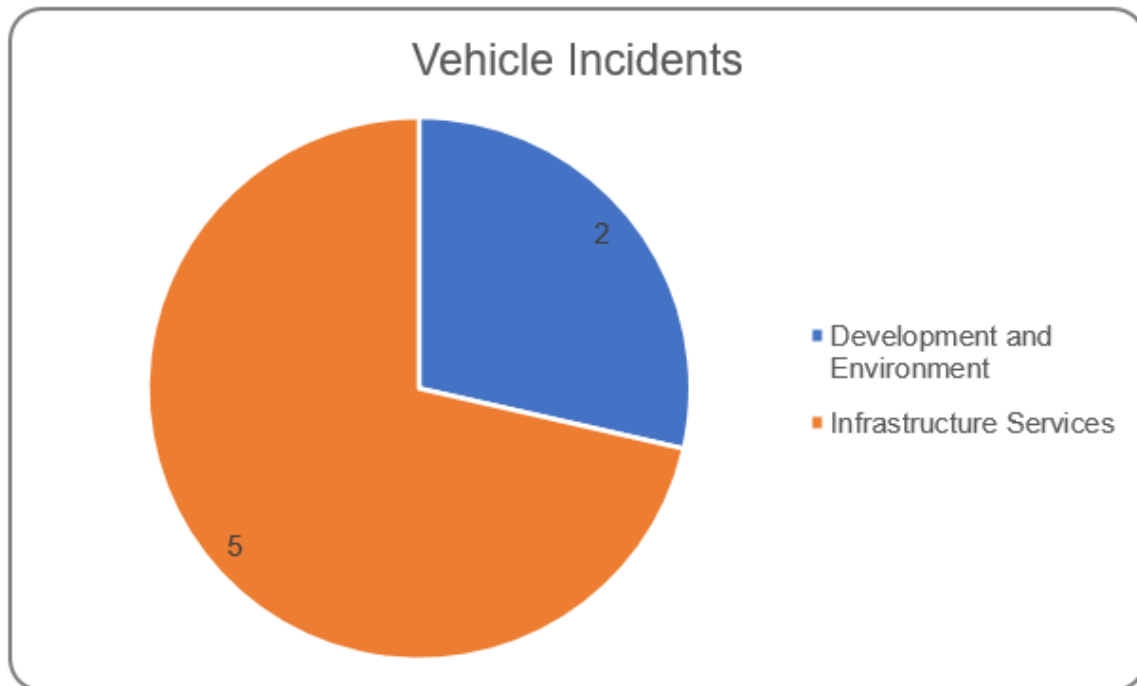
1. Notifiable Incidents
2. WHS report for quarter 1, 2022
3. Workers Compensation Claims Quarter 1, 2022
4. Wellbeing Initiatives for the quarter
5. 2022 HSEQ Surveillance Audit summary report
6. StateCover Chief Executive's Report

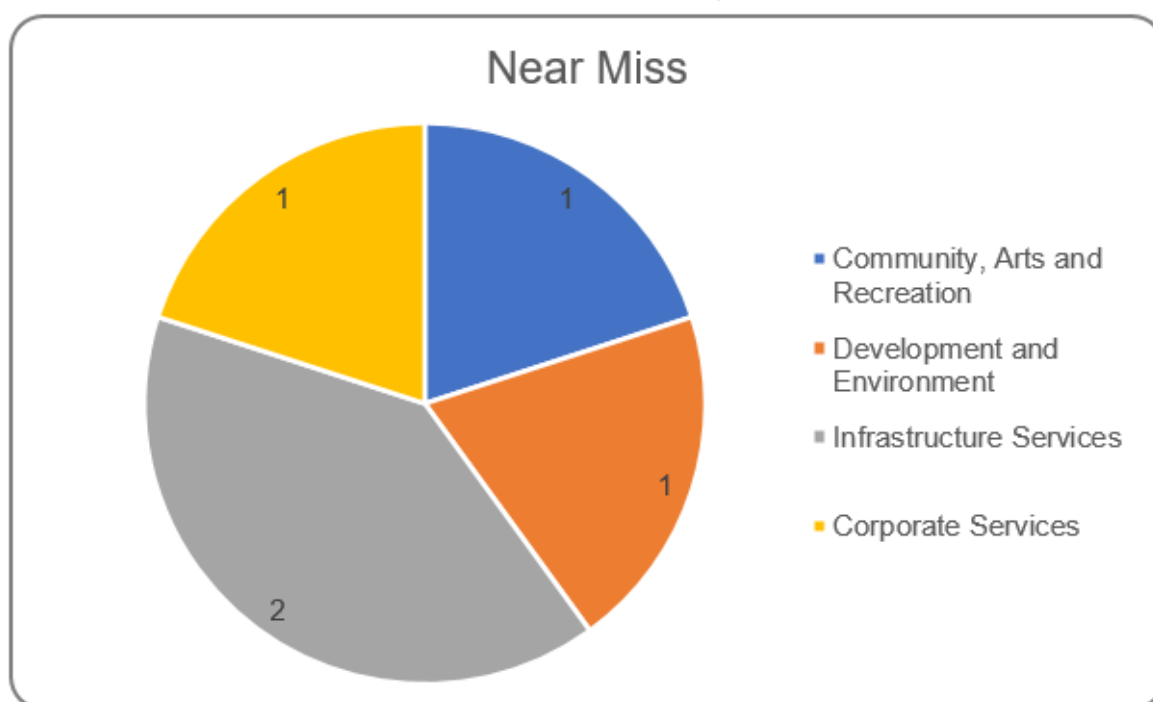
1. Notifiable Incidents

There were no notifiable incidents reported to Safework NSW in quarter one, 2022

2. WHS report for Quarter 1, 2022







3. Workers compensation claims for the period 1 July – 30 September 2022

4 claims submitted

Portfolio	Mechanism	Status	Premium Impacting cost (to date)
Infrastructure	Psychological	claim liability denied	\$0
Infrastructure	Muscular stress	Clearance obtained	\$6530
Infrastructure	Laceration		\$0
Infrastructure	Psychological	No lost time	\$0

4. Wellbeing Initiatives

Wellbeing Webinar – High Energy and positivity

Workplace Wellbeing Survey – Planning Team, and Planning Admin team

Steptember

RU OK day

5. 2022 HSEQ Surveillance Audit summary report

HSEQ Surveillance Audit raised two minor non-conformances and five observations.

Two minor non-conformances were identified at the Bungendore and Braidwood depots. Corrective actions and areas of responsibility have been addressed through Council's WHS Committee and HSEQ Advisory Group.

10.2 WHS Quarterly Report (Ref: ; Author: Monaghan/McNamara) (Continued)

Strengths identified in the report included the dedication of the management team into the success and implementation of the integrated management system and opportunities to improve are continually being sought through responding to results of audits and new customer requirements.

6. Statecover Annual Report

The Statecover Chief Executive's Report was presented to the General Manager, Manager Workplace and Governance and Program Coordinator WHS and Wellbeing in September by StateCover's member Services Manager. The report details Council's claims performance for the prior 12 months as well as safety and wellbeing, an overview of the Mutual performance and a look at the coming year and is attached to this report. This will be further discussed with councillors at a workshop during November.

Attachments

Attachment 1 StateCover Chief Executive's Report - QPRC (*Under Separate Cover*)



REPORTS TO COUNCIL - ITEMS FOR INFORMATION

10.3 Councillor Workshops (Ref: ; Author: Flint/Ison)

File Reference: 26 October 2022 reports

Recommendation

That the report be received for information.

Synopsis

Council at its meeting on 23 February 2022 resolved (*Resolution No 093/22*) to publish details of Councillor workshops in the Agenda of the next Council meeting.

Report

During the period 7 to 19 October 2022, the following workshops were held:

Date	Workshop Items	External Presenter/s (if applicable)
11/10/2022	1. SRV options and next steps	
18/10/2022	1. Titan Crane Noise Issue 2. Rollout of food organics and garden organics collection 3. QSTP Business Plan and Queanbeyan IWC 4. Policies for review next meeting	
19/10/2022	1. Cultural Interpretation Plan – Queanbeyan Showground 2. DA.2021.1240 119 Wallace Street Braidwood – Review	Trish Barnard from Arterial Design Alice Menyhart and Tomas Bush from BAL Lawyers

Attachments

Nil

11.1 Local Traffic Committee Meeting - 11 October 2022 (Ref: ; Author:
Hansen/Stewart)

File Reference: 31.4.1

Summary

The Local Traffic Committee has submitted the minutes and recommendations of its meeting held on 11 October 2022 for Council's information and consideration.

Recommendation

That Council:

1. Note the minutes of Local Traffic Committee held on 11 October 2022.
2. Adopt recommendations LTC 35/2022 to LTC 40/2022 from the meeting held on 11 October 2022.

LTC 35/2022:	Under <i>The Roads Act 1993</i>, Signage design for Meals on Wheels parking on Lowe Street is rejected. Revised design to be submitted to LTC following consultation with business and use of compliant regulatory signage.
LTC 36/2022:	Under <i>The Roads Act 1993</i>, approve the TGS/TMP for the 2022 Boogong event on Saturday 29th October with minor amendments as noted.
LTC 37/2022:	Under <i>The Roads Act 1993</i>, approve the TGS/TMP for the Back to the Flat event on Saturday 4th March 2023 from 8am to 10pm.
LTC 38/2022:	Under <i>The Road Transport Act 2013</i>, approve the TMP for Oktoberfest on Friday 28th and Saturday 29th October 2022, pending amendments noted.
LTC 39/2022:	Under <i>The Road Transport Act 2013</i>, approve the TMP for the Queanbeyan Community Christmas Party on Saturday 10th December 2022, with minor amendments.
LTC 40/2022:	Under <i>The Road Transport Act 2013</i>, approve the TMP for the Braidwood Community Christmas Party on Friday 2nd December 2022, with minor amendments.

Attachments

Attachment 1 Minutes LTC 11 October 2022 (*Under Separate Cover*)



15 NOTICE OF INTENTION TO DEAL WITH MATTERS IN CLOSED SESSION

It is necessary for the Council to adopt a resolution to formalise its intention to deal with certain matters in Confidential Session. The reports are incorporated in the “confidential” business paper which has been circulated to Councillors.

The *Local Government Act, 1993* requires the General Manager to identify those matters listed on the business paper which may be categorised as confidential in terms of Section 10A of the *Local Government Act, 1993*.

Recommendation

That pursuant to Section 10A of the *Local Government Act, 1993* the following items on the agenda for the Ordinary Council meeting be dealt with in Closed Session for the reasons specified below:

Item 16.1 Quarterly Legal Report - 1 July 2022 - 30 September 2022

Item 16.1 is confidential in accordance with s10(A) (g) of the Local Government Act 1993 because it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege and discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

Item 16.2 Tender Evaluation - Supply and Construct Pavilion at Queanbeyan Showground

Item 16.2 is confidential in accordance with s10(A) (c) of the Local Government Act 1993 because it contains information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business and discussion of the matter in an open meeting would be, on balance, contrary to the public interest.